UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS
FIRST SESSION

GENERAL SERVICES ADMINISTRATION
LAW
LIBRARY
CENTRAL OFFICE

VOLUME 125—PART 17

JULY 31, 1979 TO AUGUST 3, 1979
(PAGES 21395 TO 22864)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1979

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96^{th} CONGRESS, FIRST SESSION

SENATE—*Tuesday, July 31, 1979*

(*Legislative day of Thursday, June 21, 1979*)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. CARL M. LEVIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O Lord, Thou hast been our dwelling place in all generations. This day and every day we put our trust in Thee. Give us clean hands, pure hearts, and honest motives. Help us to pray for one another, to help one another, and to strive together for the well-being of our country.

Amid the monotony and routine of daily duties make each of us a good comrade, a reliable friend, a cheerful workman, a true sportsman who plays hard and clean and fair. When weariness and discouragement overtake us help us to cast our burdens on Thee who careth for us, remembering Him who said, "Come unto me all ye that labor and are heavy laden, and I will give you rest." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 31, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL M. LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

METHANOL FROM COAL

Mr. ROBERT C. BYRD. Mr. President, as the motorists of this country discovered this summer, the United States has become dangerously dependent on other countries for the crude oil required to make gasoline. Fortunately, Americans need not always be dependent on the vagaries of the international oil market for their gasoline supply; nor will they always have to pay tens of billions of dollars to OPEC for this supply. The United States can use its abundant coal reserves, the largest in the world, to make an almost unlimited quantity of the liquid fuels the United States needs to run automobiles.

Coal can be converted to a methanol product which can be blended with gasoline or converted into a high octane gasoline. This can be done with existing technology—no long research period is necessary—and it can be done at prices very close to those which prevail currently. According to a recent report on alcohol fuels by the Department of Energy, gasoline can be produced from methanol at a cost of 65 to 80 cents per gallon. This can be compared with the average price of gasoline at the refinery which stood at 65 cents per gallon at the end of last year and has risen dramatically since then.

Moreover, using methanol would not have unacceptable environmental consequences. The burning of methanol in automotive engines instead of gasoline in automotive engines would reduce emissions of nitrogen and sulfur compounds and would increase only those pollutant emissions which can be controlled with catalytic converters. We also have the technology required to control the emissions of methanol plants.

Although building methanol plants is possible and economically attractive today, it appears unlikely that many will be built soon unless the Congress takes action. The problem the private sector faces is that a methanol plant of optimal size costs from $1½ billion to $2 billion. This is a very large sum of money for even the biggest firms to risk with no guarantee that the OPEC price will remain as high as it is now.

If this Nation is to have a significant methanol supply by the end of the next decade the Congress will have to take actions which reduce the risk that private firms now face when they contemplate construction of methanol plants. The synthetic fuels development bill which the House has passed would reduce this private risk. The proposed Energy Security Corporation would also do this.

The Senate Energy Committee is acting expeditiously on legislation to promote the construction of methanol plants. These plants would produce automotive fuels at prices we can afford and with environmental consequences we can readily tolerate.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized.

PROBABILITY OF AN ENHANCED RECOVERY FROM OLD OIL FIELDS

Mr. STEVENS. Mr. President, I noticed with interest an article printed in the Houston Chronicle this past Sunday which discussed the probability of enhanced recovery of oil from old fields using sophisticated, expensive techniques to flush out remaining oil.

I had occasion to discuss this proposal with the president of Pennzoil, Mr. Hugh Liedtke. He is one of those in the forefront of the industry because he urges the utilization of the recovery techniques that are available under existing technology, the so-called second-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ary and tertiary recovery techniques which, while expensive, will assist us in decreasing our reliance upon foreign sources of oil.

The majority leader has just discussed the proposal to convert coal into oil, or into methanol. Those proposals, of course, are very worthwhile. I think that the country as a whole will support the concepts the majority leader mentioned. They will take time, however, and the one area in which we could substantially increase our production in a short period of time, is to use these secondary and tertiary recovery techniques on existing old wells.

Mr. Liedtke estimated there are some 300 billion barrels of oil in existing oil wells which were not recoverable under the old techniques, a substantial portion of which could be recovered by secondary and tertiary means.

If the recovered oil is valued at world prices the economic incentive to go ahead with this type of recovery is apparent.

It is his position, as quoted in this article, that tertiary recovery is economically viable right now provided Government policies do not discourage it.

Mr. President, a massive capital commitment is required to convert these oil wells so that they can be used to recover the oil that was previously deemed unrecoverable.

Various forms of costly tertiary recovery proposals use chemicals or detergents or steam in order to push this oil into the portion of the reservoir where it can be recovered.

It would be my hope that Members of Congress would become better informed concerning the techniques that are now available for secondary and tertiary recovery and that, as we consider the President's energy proposals, we realize that the short-term solution of increasing production probably can best be met by following the advice of some of the experienced members of the industry, such as Pennzoil's president, Hugh Liedtke.

Mr. President, I ask unanimous consent that the article from the Houston Chronicle be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Enhanced Recovery Building U.S. Reserves

(By Susan Bischoff)

A partial answer to increasing the United States' domestic oil production lies in going back to old oilfields and using sophisticated, expensive techniques to flush out remaining oil.

Some oilmen, including Pennzoil's J. Hugh Liedtke, say the U.S. oil companies are already reclaiming oil by the so-called enhanced recovery processes and are poised to greatly expand such operations if the government allows them the world oil price and financing advantages for the oil recovered by the expensive methods.

Liedtke, chairman and chief executive officer of Pennzoil Co., projects that 300 billion barrels of oil are trapped in known reservoirs in the United States.

"You know it's down there and you know where it is because the fields have already produced," Liedtke said. "Then the question is how much and how you get out any proportion of that huge amount."

He estimates at least 10 percent can be extracted.

"The bogey is enormous. If some 300 billion barrels are left down there and if you can get 10 percent, then you're talking about more oil than the total oil reserves in the United States, including Alaska, which is something like 27 billion," Liedtke said.

Although President Carter didn't mention enhanced recovery of oil as a means of decreasing foreign oil dependence in his speech two weeks ago, a January publication of the U.S. Congress Office of Technology Assessment says:

"At the price at which synthetic oil or other alternative sources might become available, $22 a barrel, the potential for enhanced oil recovery appears to be between 25 billion and 42 billion barrels. Production rates might be between 900,000 and 1.3 million barrels in 1985 and 1.8 million and 2.8 million in 1990."

As Liedtke points out, with the world price for oil as much as $23.50 a barrel, the time is ripe for enhanced oil recovery.

"It's a fascinating area and it's an area of high cost, there's no question about it," he said. "The technology is not perfected in all cases. The same thing isn't going to work every place in the U.S. You need different techniques depending upon the reservoir."

Pennzoil has been working on enhanced recovery in Bradford Field for 10 years. In the Appalachian Basin, Bradford is the oldest oilfield in the U.S. of any major size. The Pennsylvania field was the first billion-barrel oilfield in the nation.

After a pilot program, Pennzoil put in a 42-acre field demonstration project at Bradford Field.

Originally, Liedtke said, the tract produced 2,660 barrels per acre in primary oil and another 2,660 barrels per acre was recovered by water flooding.

"Now we expect to recover, by chemical, 5,600 barrels per acre. At this moment, we've already recovered 4,500 barrels per acre, so it's working," he said.

In certain areas, Liedtke said Pennzoil hopes to recover up to 85 percent of the remaining oil.

When an oilfield is first discovered, natural gas trapped in the formation is the most common force which drives the oil out of the reservoir. After the natural gas escapes, there is no natural energy to get the oil out.

Oilmen began widely using water flooding, the first major enhanced oil recovery technique, around the time of World War II. In that process, the force of the water loosens some oil and pushes it out of the ground.

Liedtke said although water flooding has "generally been quite helpful" in some places, the industry is now working with more sophisticated forms of enhanced oil recovery.

These processes, commonly called tertiary recovery, can be used directly after the primary recovery (the natural expulsion of the oil) or secondary recovery, Liedtke said.

To Liedtke's way of thinking, the principal form of tertiary recovery uses various types of chemicals, one of which is a surfactant, to loosen the oil clinging to rocks. He says the chemicals function much like a laundry detergent.

In a chemical-type flood, an oilman puts a slug of the chemical in first and behind it polymerized water (a jellied water). The polymerized water is very thick where it hits the slug, then tapers off in thickness back to water. The whole mass is pushed with water, creating sort of a wave moving through the reservoir, Liedtke says. As the water pushes the chemical through, it washes the reservoir in varying degrees and pushes the oil out.

Another major method of tertiary recovery is the injection of carbon dioxide. It's pumped down and followed with water to form a wave, much like the chemical-type wave.

Injection of steam into a reservoir is also being used to clean more oil from the oil fields. Steam can be used two ways. In one process, steam is injected when the oil is very thick and heavy to make it more fluid. In the "huff, puff" method, the steam is pushed into a reservoir which still has a little pressure and then the pressure is taken off, bringing the steam and oil to the surface.

At Pennzoil's Bradford project, Liedtke said, "We feel we can get our money back at around $18. That's with no profit and based on current costs, which are going up."

One of the reasons costs are going up is that most of the chemicals that are used in enhanced oil recovery are made out of oil.

The projects are enormously capital intensive. Liedtke said an oil company has to put in $50 million to $100 million in a project and will not "get a nickel back" for a minimum of two to three years.

"We are in the range right now, I think, of economic viability for tertiary, provided we don't have government policies which discourage it," he said.

As Liedtke sees it, the problem is twofold:

Front-end capital requirements. A proposal is being discussed in Congress which would help finance tertiary projects by releasing varying amounts of old oil to the higher upper tier price until the operator covers his capital costs. Then the price would revert to the old oil price.

Ability to get the world price. There are discussions in Congress now about adding the Organization of Petroleum Exporting Countries' tax and another tax to the existing 46 percent corporate tax.

Liedtke supports the front-end capital proposal, but says added taxes are going to "lessen the financial viability" of tertiary projects "and they simply won't be developed."

Looking at the alternatives to lessen U.S. dependence on imported oil, Liedtke said drilling exploratory wells is the fastest, and tertiary recovery is the second fastest. Coal, he said, would rank third.

"If you had the proper atmosphere," he said, "it would take an absolute minimum of three or four years before new tertiary projects could be felt."

Liedtke said, "At this project at Bradford, we've been losing money for 10 years, but we know at this point if legislation is favorable economically, if we can get some front-end funding and the world price, then we know exactly where we want to go and we can expand that project very quickly and we intend to do it."

QUORUM CALL

Mr. STEVENS. Mr. President, I reserve the remainder of my time, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF S. 914, ECONOMIC DEVELOPMENT ACT OF 1979, AND S. 712. AMTRAK IMPROVEMENT ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, or, in the alternative, after the recognition of Senators for whom orders have been entered, the Senate proceed to the consideration of Calendar No. 287, S. 914, the EDA bill, and then to Calendar No. 194, S. 712, the Amtrak authorization.

Mr. STEVENS. There is no objection, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

Mr. STEVENS. I yield back the remainder of my time.

REGIONAL DEVELOPMENT ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 835, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 835) to extend the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act of 1965 and to provide for a nationwide system of multistate regional development commissions to promote balanced development in the regions of the Nation.

The Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works with amendments as follows:

On page 2, line 5, beginning with "(a)" strike through and including page 3, line 13;

On page 3, line 14, strike "(d) Therefore, it" and insert "It";

On page 3, line 14, strike "create a nationwide system" and insert "authorize creation";

On page 3, line 18, beginning with "(1)" strike through and including the period in line 6 on page 4, and insert in lieu thereof the following:

(1) planning and implementing programs to improve the capability of States and local governments to resolve shared and interstate regional problems of economic decline and dislocation due to rapid growth; (2) undertaking shared efforts to establish stable and diversified regional economies and meet basic service needs in areas and communities experiencing economic decline or dislocation due to rapid growth; (3) providing a mechanism for improving the ability of Federal programs and policies to function effectively, taking into account specific regional differences and perspectives; (4) establishing priorities from the regional perspective for public and private investment in areas affected by economic decline or dislocation due to rapid growth; (5) fostering creation of regional institutions to address shared problems and encouraging commonality of services on a regional basis where appropriate; and (6) meeting the special problems created in a region as a result of national policies or needs.

On page 5, line 23, after "Commission" insert ", to be available until expended,";

On page 5, line 24, after "the" insert "two-year";

On page 5, line 24, strike "September 30, 1983, to be available until expended, such sums as may be necessary."." and insert in lieu thereof the following: September 30, 1981, not to exceed $7,000,000 (of which not to exceed $1,100,000 shall be available for expenses of the Federal Cochairman, his alternate and his staff) and for the two-year period ending September 30, 1983, $8,500,000 (of which $1,400,000 shall be available for expenses of the Federal Cochairman, his alternate, and his staff).

On page 6, line 13, after "Commission" insert "and with any regional commission established or recognized under the Regional Development Act of 1979";

On page 7, line 3, strike "5445(a)" and insert "5334(a)";

On page 7, line 17, after "Act," insert "or pursuant to the Regional Development Act of 1979";

On page 8, line 1, beginning with "1979", strike through and including line 6, and insert in lieu thereof the following: 1980", and inserting in lieu thereof: "$350,000,000 for fiscal year 1981; $400,000,000 for fiscal year 1982; $450,000,000 for fiscal year 1983; $500,000,000 for fiscal year 1984; and $500,000,000 for fiscal year 1985.".

On page 8, line 14, strike "one hundred" and insert "fifty-eight";

On page 8, line 19, strike "30" and insert "31";

On page 8, line 23, after "107." insert "(a)";

On pag[illegible]ne 1, strike ", including grants for reason[illegible] administrative expenses,";

On page 9, line 23, after "appropriate" insert "to a maximum of 80 per centum";

On page 10, beginning with line 3, insert the following:

(b) The seventh sentence of section 202(c) of the Appalachian Regional Development Act of 1965 is amended by striking everything after "except" and through "child development demonstrations" and inserting in lieu thereof "that child development demonstrations assisted under this section during fiscal year 1979 may, upon State request, be approved under section 303 of this Act for continued support beyond that period".

On page 11, line 5, after "Commission" insert "in accordance with section 303 of this Act";

On page 12, line 4, strike ", including for reasonable administrative expenses,";

On page 13, beginning with the line 15, insert the following:

"(5) Assistance to communities in maintaining, restoring, or augmenting commercial air passenger service, but not including capital assistance or operating subsidies.

On page 14, beginning with line 10, insert the following:

Sec. 111. The last sentence of section 302(b)(1) of the Applachian Regional Development Act of 1965 is amended to read as follows: "No more than $5,000,000 shall be obligated for such energy resource related demonstrations in any fiscal year under this section or section 209(a)(4), and no more than $2,500,000 shall be obligated for such indigenous arts and crafts demonstrations.".

Sec. 112. Section 302(b) of the Appalachian Regional Development Act of 1965 is amended by adding the following new paragraph:

"(5) The Commission shall investigate, seek opportunities for, and report on the use of technical assistance and demonstration authority under this section and assistance under section 207 to increase the use of solar energy equipment in residences in the Appalachian region, to assist in the standardization of such equipment, to encourage financing by regional credit institutions and Federal programs of installations of such equipment, and to facilitate inclusion of solar energy equipment installation costs in residential mortgage financing. The Commission is authorized to conduct pilot projects to put in practice the findings of such investigation.".

Sec. 113. Title II of the Appalachian Regional Development Act of 1965 is amended to add a new section 304 as follows:

"Sec. 304. The Commission shall provide for the continuing evaluation of projects and programs authorized under this Act which shall include measures of their effectiveness in achieving the goals and objectives prepared pursuant to sections 102(a)(1) and 225 of this Act. The Commission shall prepare an annual evaluation program which (1) includes a statement of specific actions that have been or will be taken as a result of previous evaluations, and (2) lists those specific program evaluations to be performed during the current and succeeding years, including the estimated costs of conduct such evaluation.".

On page 15, line 23, strike "111" and insert "114";

On page 16, line 6, after "Act" insert "and the Regional Development Act of 1979";

On page 16, line 13, strike "207(c),";

On page 16, beginning with line 14, insert the following:

Sec. 115. Section 403 of the Appalachian Regional Development Act of 1965 is amended by adding the following:

"The Commission is authorized and directed to study whether, in view of the purposes set forth in section 2 of this Act and in the Regional Development Act of 1979, any counties contiguous to the Appalachian region should be added to the region or remain in regions established or recognized under the Regional Development Act of 1979, and whether, in view of such purposes, any such counties or blocks of counties currently in the Appalachian region should be transferred to a region established or recognized under the Regional Development Act of 1979. Such study shall be conducted in conjunction with the study required under the last sentence of section 308 of the Regional Development Act of 1979, and the results of such study together with any recommendations shall be submitted to the Congress not later than two years after enactment of the Appalachian Regional Development Act Amendments of 1979.".

On page 19, line 19, after the comma, insert "cultural resource development,";

On page 21, line 12, after "present" insert "to the Congress, the committee established under section 302 of this Act, other affected parties, and except in the case of the Appalachian Regional Commission, the Secretary";

On page 22, beginning with line 11, insert the following:

(G) assure that the Commission gives adequate attention to problems and solutions which are shared by two or more States in the region and preference to projects or programs for which effort by two or more States is useful in addressing needs effectively;

On page 22, line 16, strike "(G)" and insert "(H)";

On page 22, line 17, after "submission" insert "through the Secretary (except in the case of the Appalachian Regional Commission) and such persons as the Secretary may designate";

On page 22, line 22, strike "(H)" and insert "(I)";

On page 23, line 1, after "Cochairman" insert "or such Commission";

On page 24, line 7, strike "section" and insert "paragraph";

On page 24, beginning with line 9, insert the following:

(d) In addition to the duties set forth in subsection (a) of this section, the Alaska Regional Development Commission may—

(1) review resources inventories of Federal agencies;

(2) review and make recommendations to the President, the Congress, and the Alaska State Legislature on Federal, State, and local land use plans and proposed activities; and

(3) assist Alaska Native Regional Corporations established pursuant to the Alaska Native Claims Settlement Act (Public Law 92-203) in preparing land use plans.

On page 25, line 24, strike "directly";

On page 26, line 1, strike "or, indirectly,";

On page 26, line 11, after "human" insert ", cultural,";

On page 26, line 14, strike "innovative projects, demonstrations, and";

On page 27, line 10, after the period, strike through and including line 12;

On page 27, beginning with line 13, insert the following:

(2) In carrying out this subsection each commission is authorized to provide assistance to communities in maintaining, restoring, or augmenting commercial air passenger service, but not including capital assistance or operating subsidies.

(3) Each commission shall investigate, seek opportunities for, and report on the use of technical assistance and demonstration authority under this subsection and section 207 to increase the use of solar energy equipment in residences in its region, to assist in the standardization of such equipment, to encourage financing by regional credit institutions and Federal programs of installations of such equipment, and to facilitate inclusion of solar energy equipment installations costs in residential mortgage financing. The commission is authorized to conduct pilot projects to put in practice the findings of such investigation.

On page 28, line 15, after "recreation," insert "cultural resource development,";

On page 28, line 20, after "Governors" insert "and State legislatures";

On page 29, line 17, strike "regional development, as defined in this Act" and insert "the purpose of this Act as expressed in section 2(d)(1) and (2)";

On page 30, line 1, strike "promotion of" and insert "development of indigenous";

On page 30, line 3, strike "(b)";

On page 31, line 3, strike "(c)(1)" and insert "(b)(1)";

On page 31, line 4, strike "or regional organizations established by commissions";

On page 31, line 9, strike "(b)" and insert "(a)";

On page 31, line 9, after "section" insert "or any other Federal program";

On page 32, line 6, strike "(d)" and insert "(c)";

On page 32, line 7, after "under" insert "this";

On page 32, line 8, strike "(c)";

On page 32, line 8, strike "100" and insert "(80)";

On page 32, line 11, strike "Federal Cochairman" and insert "Commission as a matter of policy";

On page 32, beginning with line 17, insert the following:

(6) No more than 20 per centum of the funds available to any commission under this title shall be used for the purposes of this subsection or subsection (c) of this section, unless such commission determines that a greater percentage of such funds must be put to such use to implement a major objective of the regional development plan addressing a need shared by two or more States in the region.

On page 32, line 24, strike "(d)" and insert "(c)";

On page 33, line 2, after "personnel" insert a comma and "for which the Commission determines that funds for operation are not available under any other Federal, State, or local program";

On page 33, line 22, strike "(e)" and insert "(d)";

On page 34, line 3, strike "(f)" and insert "(e)";

On page 34, line 10, strike "(g)" and insert "(f)";

On page 34, line 12, strike "section" and insert "sections";

On page 34, line 12, after "505(a)" insert a comma and "509, 515, 516, and 517";

On page 34, beginning with line 15, insert the following:

(g) No commission shall provide financial assistance under this section for the purposes of allowing a recipient to use grant funds to make grants to profit-seeking business enterprises.

(h) No State and no political subdivision of such State shall be eligible to receive benefits under this Act unless the aggregate expenditures of State funds exclusive of local funds (other than those originated as revenues collected by the State) and Federal funds, and, in the case of the Appalachian Regional Commission, exclusive of expenditures for participation in the National System of Interstate and Defense Highways, for the benefit of the area within the State located in the region are maintained at a level which does not fall below the average level of such expenditures for its last two full fiscal years preceding the date of enactment of this Act. A commission may recommend a lesser requirement when it finds that a substantial population decrease in that portion of a State which lies within the region would not justify a State expenditure equal to the average level of the last two years or when it finds that a State's average level of expenditure, within an individual program, has been disproportionate to the present need for that portion of the State which lies within the region. Funds may be provided for programs and projects in a State under this Act only if the Commission determines that the level of Federal and State financial assistance under this Act, and under Acts other than this Act, for the same type of programs or projects in that portion of the State within the region will not be diminished in order to substitute funds authorized by this Act.

(i) Each commission in providing assistance under this section shall afford first attention to areas affected by economic decline, and in addition shall address basic service needs in areas experiencing dislocation due to rapid growth, as appropriate.

On page 36, line 10, strike "Council shall elect" and insert "Secretary shall elect, after consultation with the members,";

On page 36, line 17, strike "in" and insert "after";

On page 36, line 21, strike "requested by the commissions or as are";

On page 37, line 5, beginning with the comma, strike through including the word "development" in line 8;

On page 37, line 9, strike "Office, with the policy guidance of the Secretary and the Council," and insert "Secretary";

On page 37, line 11, after "management" insert a comma and "including uniform cost principles,";

On page 37, line 14, strike "Office" and insert "Secretary";

On page 37, line 15, after "standards" insert "in regulations";

On page 37, line 17, strike "Office shall adopt, with policy guidance of the Secretary and" and insert "Secretary shall adopt, after consultation with";

On page 38, beginning with line 4, insert the following:

(5) conditions under which the Secretary may withhold funds from a commission for violation of this Act or any regulations adopted under this Act.

(d)(1) Each commission shall develop and adopt administrative policies and procedures to prevent the overobligation of commission funds. Each commission, in accordance with this section, shall develop and adopt specific policies and procedures to promote economy and efficiency in the administration of its programs and operations and to prevent and detect fraud and abuse in such programs and operations.

(2) Each commission shall adopt specific policies and procedures to assure that any program or project which receives assistance is properly and efficiently administered, operated, and maintained.

(e) This section other than subsection (d) shall not apply in the case of the Appalachian Regional Commission. Such Commission shall consider adopting the minimum standards of fiscal responsibility and management and the procedures established under subsection (c) of this section.

(f) The Secretary shall evaluate on an annual basis the performance of the regional commissions, other than the Appalachian Regional Commission, in adhering to procedures and regulations established under this section and in implementing the provisions of this Act.

On page 39, line 13, strike ", subject to the conditions of any grant from the Secretary";

On page 40, line 1, after "Commission," insert "the";

On page 40, line 1, after "Secretary" insert "(except in the case of the Appalachian Regional Commission),";

On page 40, line 12, after "Secretary" insert "(except in the case of the Appalachian Regional Commission),";

On page 40, beginning with line 22, insert the following:

NONDISCRIMINATION

SEC. 211. No person in the United States shall, on the grounds of race, color, national origin, sex, or physical handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from a regional development commission.

On page 41, line 4, strike "211" and insert "212";

On page 41, line 16, strike "to" and insert "may";

On page 41, line 22, after "sections" insert "206(b),";

On page 42, beginning with line 3, insert the following:

(c) Funds appropriated under this section shall be provided by the Secretary to each of the Federal Cochairmen for the benefit of the appropriate regional commission, in accordance with the distribution established under subsection (b) of this section. Obligation of such funds shall be approved by each commission in accordance with section 205 of this Act. Each Federal Cochairman is authorized to receive and hold such funds, subject to the preceding sentence, on behalf of such Commission.

On page 42, line 18, after "committee)," insert "the Chairman of the Regional Development Council,";

On page 45, line 8, after "of" insert "State legislatures,";

On page 46, line 11, after "for" insert "periodically";

On page 46, line 11, after "evaluating" insert "in quantitive and qualitative terms, as appropriate,";

On page 46, line 15, after "programs" strike ", including, to the extent feasible, quantified measures of impact";

On page 48, beginning with line 14, insert the following: Wherever possible, areawide clearinghouses designated by either the Office of Management and Budget or the Governor pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 as amended or title IV of the Intergovernmental Coöperation Act of 1968, as amended, shall be certified as substate planning and development districts pursuant to this section.

On page 50, line 19, strike "should" and insert "shall";

On page 52, line 23, strike "ultimately based on" and insert "reflect";

On page 53, line 1, strike "The" and insert "To the extent practicable, the";

On page 53, beginning with line 11, insert the following:

(b)(1) To the maximum extent practicable, planning processes required or assisted under this Act shall be based on and not duplicate existing planning processes and institutions, and shall make appropriate use of any existing plans for the affected area. Planning assisted under section 302 of the Public Works and Economic Development Act shall be integrated to the maximum extent practicable with planning required or assisted under this Act, and such planning shall be conducted in conjunction with the review procedure required pursuant to title IV of the Intergovernmental Cooperation Act of 1968.

(2) Each commission shall establish a satisfactory process of consultation with general purpose local governments and local planning and development districts to assure compliance with section 303(a), (b)(1) and (b)(2) and section 304(a). Such process of consultation shall provide that any local government or development district may petition to the commission for review of any action of a State or the commission inconsistent with such sections.

On page 54, line 5, strike "(b)" and insert "(c)";

On page 54, beginning with line 15, strike through and including line 16;

On page 54, line 20, after "human" insert "and cultural";

On page 57, beginning with line 9, insert the following:

(c) Not later than one year after the establishment of the Alaska Regional Development Commission pursuant to section 203(a) of title II of this Act, the Secretary shall submit a report to the President and the Congress on the following issues:

(1) the desirability of creating a joint Federal-State Economic Development and Land Use Planning Commission for Alaska, with land use planning and classification powers;

(2) a proposed structure and recitation of functions and duties of such a commission;

(3) the extent to which such a commission should be integrated with the Alaska Regional Development Commission established pursuant to section 203(a) of title II of this Act.

This report shall be prepared in consultation with the Secretaries of the Interior and Transportation and the Governor of Alaska.

On page 58, beginning with line 22, insert the following:

SEC. 309. (1) There is hereby established a system of Border Resource Research Institutes under the jurisdiction of the Southwest Border Regional Commission. Within one year after enactment of this section, the Commission shall designate one university in each border State for membership in the system of Institutes.

(2) It shall be the duty of each such Institute to initiate and support research programs in the various fields relative to border problems and to provide for educational programs and the training of specialists through such research, investigations, and experiments. Some research, investigations, experiments and training may include population issues; water, land and air resource issues; and other aspects of border resource problems, including the dissemination of the results of research deemed potentially significant for the solution of border resource problems.

(3) The Commission is hereby charged with the responsibility for the funding and proper administration of the Institutes and shall prescribe such rules and regulations as may be necessary to carry out these provisions. The Commission shall furnish such advice and assistance as will best promote the purposes of the Institutes and encourage and assist in the establishment and maintenance of cooperation by and between the Institutes and between them and other research organizations.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regional Development Act of 1979".

SEC. 2. It is the purpose of this Act to authorize creation of regional commissions and to provide a framework for regional commissions to coordinate the efforts of Federal, State, and local governments in (1) planning and implementing programs to improve the capability of States and local governments to resolve shared and interstate regional problems of economic decline and dislocation due to rapid growth; (2) undertaking shared efforts to establish stable and diversified regional economies and meet basic service needs in areas and communities experiencing economic decline or dislocation due to rapid growth; (3) providing a mechanism for improving the ability of Federal programs and policies to function effectively, taking into account specific regional differences and perspectives; (4) establishing priorities from the regional perspective for public and private investment in areas affected by economic decline or dislocation due to rapid growth; (5) fostering creation of regional institutions to address shared problems and encouraging commonality of services on a regional basis where appropriate; and (6) meeting the special problems created in a region as a result of national policies or needs.

TITLE I

SEC. 101. This title may be cited as the "Appalachian Regional Development Act Amendments of 1979".

SEC. 102. Section 2 of the Appalachian Regional Development Act of 1965 is amended as follows:

(1) The fifth sentence of subsection (a) of such section is amended by inserting "including the provision of services to people in the region," after "special problems.".

(2) The sixth sentence of subsection (a) is amended to read as follows: "The public investments made in the region under this Act shall be concentrated in areas where there is a significant potential for future growth, including emerging small cities and urban centers and areas affected by energy development, where the expected return on public dollars invested will be the greatest, and in remote and hard-to-reach areas where there are special problems in providing for human service needs.".

SEC. 103. Subsection (b) of section 105 of the Appalachian Development Act of 1965 is amended to read as follows: "To carry out this section there are hereby authorized to be appropriated to the Commission, to be available until expended, for the two-year period ending September 30, 1981, not to exceed $7,000,000 (of which not to exceed $1,100,000 shall be available for expenses of the Federal Cochairman, his alternate and his staff) and for the two-year period ending September 30, 1983, $8,500,000 (of which $1,400,000 shall be available for expenses of the Federal Cochairman, his alternate, and his staff).

SEC. 104. Section 106 of the Appalachian Regional Development Act of 1965 is amended as follows:

(1) Paragraph (5) is amended by adding at the end, "The Office of Personnel Management is further authorized, under such terms and conditions as it shall prescribe, to contract with the Commission and with any regional commission established or recognized under the Regional Development Act of 1979 for coverage as of the date of the Appalachian Regional Development Act Amendments of 1979 in such retirement and other employee benefit programs of the Federal Government, of any employee of the Commission not covered in such programs who gives written notice to the Commission of his desire to come within the purview of such coverage.".

(2) Paragraph (7) is amended by striking out "1979" and inserting in lieu thereof, "1983".

SEC. 105. Title 5, United States Code, is amended as follows:

(1) The last sentence of section 5334(a) of title 5, is amended by striking out "was a Federal employee immediately prior to such employment by a commission and".

(2) Such title is amended by inserting after section 6312 a new section as follows:

"§ 6313. Accrual and accumulation for former Appalachian Regional Commission and title 5 regional commission employees

"Services rendered as an employee of the Appalachian Regional Commission under section 106(2) of the Appalachian Regional Development Act of 1965, or of a regional commission established pursuant to section 502 of the Public Works and Economic Development Act of 1965, under section 506(2) of such Act, or pursuant to the Regional Development Act of 1979 shall be included in determining years of service for the purpose of section 6303(a) of this title in the case of any employee as defined in section 6301 of this title. The provision of section 6308 of this title for transfer of annual and sick leave between leave systems shall apply to the leave system established for such employees.".

SEC. 106. (a) Section 201(g) of the Appalachian Regional Development Act of 1965 is amended by striking everything after "1980", and inserting in lieu thereof: "$350,000,000 for fiscal year 1981; $400,000,000 for fiscal year 1982; $450,000,000 for fiscal year 1983; $500,000,000 for fiscal year 1984; and $500,000,000 for fiscal year 1985.".

(b) The third sentence of section 201(a) of the Appalachian Regional Development Act of 1965 is amended by striking "three thousand twenty-five" and inserting in lieu thereof "three thousand fifty-eight".

(c) Subsection (h) of section 201 of the Appalachian Regional Development Act of 1965 is amended by striking "70 per centum" and inserting in lieu thereof "80 per centum" and by adding at the end the following: "Projects approved after March 31, 1979, and on or before the date of enactment of the Regional Development Act of 1979 may be adjusted to receive a Federal share not greater than 80 per centum.".

SEC. 107. (a) Section 202 of the Appalachian Regional Development Act of 1965 is amended by adding the following new subsection:

"(f)(1) The Commission may make grants to the States for innovative projects and for demonstrations approved pursuant to section 303, of methods and techniques for meeting human services needs of individuals and families in the region which the Commission determines cannot reasonably be accomplished under other provisions of this title or other Federal programs, and shall give special emphasis to demonstrations serving people in the more remote and hard-to-reach areas of the region and in areas impacted by energy development.

"(2) States may carry out such demonstrations directly, or through the employment of private individuals or firms under contracts entered into for such purposes, or through arrangements with public bodies and private nonprofit organizations.

"(3) Demonstrations may be funded entirely from appropriations to carry out this Act or in combination with funds available under other Federal grant-in-aid programs or from any source. Notwithstanding any provision of law limiting the Federal share in any such other program, funds appropriated to carry out this subsection may be used to increase such Federal share as the Commission determines appropriate to a maximum of 80 per centum. No component of a demonstration shall receive financial assistance under this title after five years following the commencement of the assistance for such component.".

(b) The seventh sentence of section 202 (c) of the Appalachian Regional Development Act of 1965 is amended by striking everything after "except" and through "child development demonstrations" and inserting in lieu thereof "that child development demonstrations assisted under this section during fiscal year 1979 may, upon State request, be approved under section 303 of this Act for continued support beyond that period".

SEC. 108. (a) Section 207(c) (2) of the Appalachian Regional Development Act of 1965 is amended by—

(1) inserting "(including land acquisition)" after "reasonable site development costs";

(2) striking "10 per centum" each place it occurs and inserting in lieu thereof "25 per centum"; and

(3) adding at the end thereof "The Secretary (or a State acting under subsection (e) of this section) shall assure that reductions in the cost of housing units due to the acquisition of land pursuant to this section shall accrue to the benefit of ultimate purchasers or tenants of such housing units and not to the financial benefit of any profit-making entity.".

(b) Section 207 of the Appalachian Regional Development Act of 1965 is amended by adding the following new subsections:

"(f) In furtherance of the purposes of this section, at the request of the Commission in accordance with section 303 of this Act the Secretary of Agriculture is authorized to use all of the authority to acquire land under the provisions of section 601(c) of the Powerplant and Industrial Fuel Use Act (Public Law 95–260). Funds for such acquisition shall be provided under this section or by the affected State.

"(g) The Commission is authorized and directed to undertake a demonstration of appropriate incentives or programs to attract large scale housing developers to operate in the central Appalachian region. In conducting such demonstration, the Commission, after consultation with potential developers and to the extent practical, shall select at least three sites or areas, and the Commission is authorized to use the authority of this section or section 302 of this Act.".

SEC. 109. Title II of the Appalachian Regional Development Act of 1965 is amended by inserting after section 208 the following new section:

"BUSINESS, RAILROAD, AND ENERGY RESOURCE ACTIVITIES

"SEC. 209. (a) In order to assist in stimulating agriculture, mining, construction, manufacturing, commercial, and other economic activities in the region, including the development of indigenous arts and crafts, the Commission is authorized to make grants approved pursuant to section 303 to the States; for—

"(1) Business related technical assistance, including entrepreneurial development, management advice, market analyses, and utilization or financial feasibility studies.

"(2) Establishing revolving funds to be used for business, agricultural and forestry enterprise development loans, with special emphasis on loans furthering development opportunities for entrepreneurs that are identified through technical assistance activities under this Act.

"(3) Making grants for—

"(A) Projects for the acquisition of rail properties by public bodies where critical to a State investment program approved pursuant to section 303. No such grant for a project shall exceed 80 per centum of the cost thereof, and the non-Federal share may be in cash or in kind, fairly evaluated, including but not limited to equipment and services.

"(B) Projects for the rehabilitation, repair, and modernization of rail properties (except rolling stock) where critical to a State investment program approved pursuant to section 303. No such grant for a project shall exceed 50 per centum of the cost thereof, and the non-Federal share may be in cash or in kind, fairly evaluated, including but not limited to equipment and services.

"(4) Demonstration projects in connection with the development, production, utilization, and conservation of the region's energy resources, including site development where necessary for the feasibility of projects.

"(5) Assistance to communities in maintaining, restoring, or augmenting commercial air passenger service, but not including capital assistance or operating subsidies.

"(b) States may carry out such activities directly, or through the employment of private individuals or firms under contracts entered into for such purposes, or through arrangements with public bodies and private nonprofit organizations.

"(c) Assistance under this section may be funded entirely from appropriations to carry out this Act or in combination with funds available under other Federal grant-in-aid programs or from any service. Notwithstanding any provision of law limiting the Federal share in any such other program, funds appropriated to carry out this section may be used to increase such Federal share as the Commission determines appropriate.".

SEC. 110. The first sentence of subsection (c) of section 214 of the Appalachian Regional Development Act of 1965 is amended by striking "December 31, 1978" and inserting in lieu thereof "October 1, 1983."

SEC. 111. The last sentence of section 302 (b) (1) of the Appalachian Regional Development Act of 1965 is amended to read as follows: "No more than $5,000,000 shall be obligated for such energy resource related demonstrations in any fiscal year under this section or section 209(a) (4), and no more than $2,500,000 shall be obligated for such indigenous arts and crafts demonstrations.".

SEC. 112. Section 302(b) of the Appalachian Regional Development Act of 1965 is amended by adding the following new paragraph:

"(5) The Commission shall investigate, seek opportunities for, and report on the use of technical assistance and demonstration authority under this section and assistance under section 207 to increase the use of solar energy equipment in residences in the Appalachian region, to assist in the standardization of such equipment, to encourage financing by regional credit institutions and Federal programs of installations of such equipment, and to facilitate inclusion of solar energy equipment installation costs in residential mortgage financing. The Commission is authorized to conduct pilot projects to put in practice the findings of such investigation.".

SEC. 113. Title II of the Appalachian Regional Development Act of 1965 is amended to add a new section 304 as follows:

"SEC. 304. The Commission shall provide for the continuing evaluation of projects and programs authorized under this Act which shall include measures of their effectiveness in achieving the goals and objectives prepared pursuant to sections 102(a) (1) and 225 of this Act. The Commission shall prepare an annual evaluation program which (1) includes a statement of specific actions that have been or will be taken as a result of previous evaluations, and (2) lists those specific program evaluations to be performed during the current and succeeding years, including the estimated cost of conduct such evaluation.".

SEC. 114. Section 401 of the Appalachian Regional Development Act of 1965 is amended to read as follows:

"SEC. 401. (1) In addition to the appropriations authorized in section 105 for administrative expenses, and in section 201(g) for the Appalachian development highway system and local access roads, there are authorized to be appropriated to the President, to be available until expended, to carry out this Act and the Regional Development Act of 1979, $340,000,000 for the two-fiscal-year period ending September 30, 1981, and $380,000,000 for the two-fiscal-year period ending September 30, 1983.

"(2) No more than 25 per centum of the funds available for obligation in any fiscal year under this section shall be obligated for direct grants by the Commission to carry out the purposes of sections 202(f), and 209.".

SEC. 115. Section 403 of the Appalachian Regional Development Act of 1965 is amended by adding the following:

"The Commission is authorized and directed to study whether, in view of the purposes set forth in section 2 of this Act and in the Regional Development Act of 1979, any counties contiguous to the Appalachian region should be added to the region or remain in regions established or recognized under the Regional Development Act of 1979, and whether, in view of such purposes, any such counties or blocks of counties currently in the Appalachian region should be transferred to a region established or recognized under the Regional Development Act of 1979. Such study shall be conducted in conjunction with the study required under the last sentence of section 308 of the Regional Development Act of 1979, and the results of such study together with any recommendations shall be submitted to the Congress not later than two years after enactment of the Appalachian Regional Development Act Amendments of 1979.".

SEC. 116. Section 405 of the Appalachian Regional Development Act of 1965 is hereby repealed.

TITLE II

SEC. 201. This title may be cited as the "Regional Commission Act of 1979".

SEC. 202. (a) The Secretary shall recognize appropriate "development regions" within the United States upon the written request of the Governors of the States in which such region will be wholly or partially located if the Secretary finds that there are common cultural, economic, geographic, natural resource, and social relationships among the areas within such region and that the region is of sufficient geographic size and population to warrant recognition.

(b) It is the intention of the Congress that each area of the Nation be included in not more than one development region.

(c) It is the intention of the Congress that every region consist of two or more States, except in the case of Alaska, which is hereby recognized as the Alaska Development Region.

(d) The boundaries of a region may be subsequently altered in the same manner as they were established.

ESTABLISHMENT OF REGIONAL COMMISSIONS

SEC. 203. (a) Upon the recognition of a development region, the States shall establish a regional development commission for such region. In the case of the Alaska Development Region, at the request of the Governor of Alaska, the Secretary shall take any action necessary to establish and operate the Alaska Regional Development Commission not later than October 1, 1979. Any such commission shall be established and shall operate in accordance with section 502 (b) through (e) of the Public Works and Economic Development Act of 1965. Sections 505(b), 506, 507, and 508 of such Act shall apply to each such commission.

(b) Each regional commission established pursuant to the Appalachian Regional Development Act of 1965 or title V of the Public Works and Economic Development Act of 1965 shall continue in operation under this Act unless boundaries or State membership of such commission are altered pursuant to this Act.

SEC. 204. (a) In carrying out the purpose of this Act, each regional commission shall, with respect to its region:

(1) in accordance with title III of this Act, develop and implement a regional growth policy process which shall include the preparation of (i) a multiyear regional development plan with policies and priorities for action programs to guide Federal, regional, State, private, and substate investments, and (ii) annual regional investment strategies which include specific policies and investment proposals affecting Federal, regional, State, and substate participation in support of regional growth policies and priorities;

(2) develop and implement mechanisms for coordinating the development and growth management activities of State governments and substate entities with regional policy development, including, but not limited to, economic development, coastal zone management, comprehensive planning, environmental protection, energy conservation and development, transportation, cultural resource development, outdoor recreation planning, and implementation programs;

(3) conduct, in cooperation with relevant Federal and State agencies and private resources, research on and analysis of interstate and shared problems, resources, and opportunities for advancing regional development;

(4) provide consultation to and continuing liaison with Federal Regional Councils and those Federal agency members whose planning and development activities bear on regional priorities, policies, and plans regarding the regional interest in such activities;

(5) advise Federal agencies that fund multistate organizations not covered by this legislation on the relevance of such funding to regional commission plans, priorities, policies, and programs and on the steps required to avoid duplication of activities;

(6) provide a working liaison (A) with private sector leadership, especially those which operate at the multistate level; (B) with other multistate organizations including other regional commissions; and (C) with substate entities engaged in functional or comprehensive planning which bears on the fulfillment of regional plans priorities; and policies;

(7) engage in cooperative activities with other regional commissions established under this Act, with other regional organizations, with local governments, and with Federal agencies.

(b)(1) As the Presidentially appointed Federal partner to the Governors, each Federal Cochairman has the dual responsibility of presenting the national perspective to the regional commission and of communicating the regional concerns of the State members to the Federal Government. Each Federal Cochairman is responsible for coordination and cooperation between the Commission and Federal departments and agencies. As a member of a commission, each Federal Cochairman has the responsibility for fostering the development of a collaborative institutional setting in which both State and Federal members jointly determine regional development policy.

(2) Each Federal Cochairman shall—

(A) present to the Congress, the committee established under section 302 of this Act, other affected parties, and except in the case of the Appalachian Regional Commission, the Secretary, on behalf of the Commission, the regional development plan, annual investment strategy, growth policy recommendations, legislative recommendations, and reports on the activities of the Commission;

(B) encourage Federal departments and agencies to apply their programs and policies to support development plans, programs and priorities established by the commission;

(C) involve Federal departments and agencies in the activities of the Commission, as appropriate;

(D) assist the Commission in its participation in the regional growth policy process;

(E) to the extent practicable, consult with appropriate Federal departments and agencies concerning significant programs and projects to be considered by the Commission prior to voting on such matters;

(F) represent, in dealings with the Commission, Federal policies affecting regional development established by the President and, except in the case of the Appalachian Regional Commission, the Secretary;

(G) assure that the Commission gives adequate attention to problems and solutions which are shared by two or more States in the region and preference to projects or programs for which effort by two or more States is useful in addressing needs effectively;

(H) take a leadership role in the preparation of the Commission budget for submission through the Secretary (except in the case of the Appalachian Regional Commission) and such persons as the Secretary may designate to the Office of Management and Budget and the Congress; and

(I) assure commission compliance with applicable Federal fiscal and management requirements established or identified under section 208 of this Act or in the case of the Appalachian Regional Commission established or identified by the Federal Cochairman or such Commission.

Nothing in this Act shall preclude the Federal Cochairman from presenting the Commission's budget to the Office of Management and Budget or from communicating with appropriate committees of the Congress.

(3) When a Federal Cochairman dies, resigns, becomes disabled, is removed, or is absent from the country, a designated assistant or the executive director of the Commission shall perform the routine administrative duties of the Federal Cochairman not involving the exercise of the vote of the Federal Cochairman, until a successor is confirmed or the absence or disability stops.

(c)(1) Each Commission shall employ an executive director as the chief administrative officer of the Commission and such other officers and staff as the Commission may determine. The executive director shall be responsible for carrying out the administrative functions of the Commission, for direction of the Commission staff and for such other duties as the Commission may assign. The executive director shall be appointed and may be removed by vote of the Commission. All other officers and employees of the Commission shall be appointed by the executive director under such rules of procedure as the Commission may determine.

(2) All appointments and promotions of officers and employees of the Commission shall be on the basis of merit and fitness and no test or qualification with respect to politics, race, color, sex, age, physical handicap, or religion shall be permitted or given consideration. Any officer or employee of the Commission who is found by the Commission to be guilty of a violation of this paragraph shall be removed from office by the Commission.

(d) In addition to the duties set forth in subsection (a) of this section, the Alaska Regional Development Commission may—

(1) review resources inventories of Federal agencies;

(2) review and make recommendations to the President, the Congress, and the Alaska State Legislature on Federal, State, and local land use plans and proposed activities; and

(3) assist Alaska Native Regional Corporations established pursuant to the Alaska Native Claims Settlement Act (Public Law 92-203) in preparing land use plans.

SEC. 205. (a) An application for a grant or for any other assistance for a specific project under section 207 of this Act shall be made through the State member of the Commission representing such applicant, and such State member shall evaluate the application for approval. No application for grants or other assistance for specific programs or projects under any provisions of this Act shall be approved unless it is certified by the State member and determined by the Commission, including the affirmative vote of the Federal Cochairman—

(1) to implement the Commission's regional development plan;

(2) to be described in the Commission's annual investment strategy;

(3) to be backed by adequate assurance and evidence that the project will be properly administered, operated, and maintained; and

(4) to otherwise meet the requirements for assistance under this Act.

(b) Nothing contained in this Act shall be interpreted as requiring any State or political subdivision thereof to engage in or accept any project under this Act without its consent.

SEC. 206. (a) In addition to other activities authorized by this Act, the Secretary is authorized to provide to commissions technical assistance and incentive grants to aid the commissions in carrying out their responsibilities under this Act and to undertake new program and policy objectives. In general, such assistance may be provided through members of the Secretary's staff or through incentive grants to the commissions; or, indirectly, through the payment of funds authorized for this section to other departments or agencies of the Federal Government; through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes; or through grants to institutions of higher education or nonprofit organizations. Technical assistance may include studies and plans evaluating the needs of, and developing potentialities for, regional development; administrative management; interregional cooperation; research on improving the conservation and utilization of the human, cultural, and natural resources of the region; planning, investigations and studies; economic and demographic information and analysis; and training programs which will further the purposes of this Act. Special provision shall be made to assure that newly formed commissions are able to function fully and effectively as soon as practicable.

(b)(1) In carrying out its functions under this Act, each commission is authorized to engage in planning, investigations, and studies, and to provide other technical assistance to States, substate areas and communities, both urban and rural, including the payment of administrative expenses to substate planning and development organizations (including economic development districts created under the Public Works and Economic Development Act), which will further the purpose of this Act, and which have been included in the approved annual investment strategy. Such activities may be carried out by the Commission through the payment of funds to departments, agencies, or instrumentalities of the Federal Government, or through the employment of private individuals, partnerships, firms, nonprofit corporations, or suitable institutions under contracts or grants entered into for such purposes or through grants-in-aid to agencies of State or local governments.

(2) In carrying out this subsection each commission is authorized to provide assistance to communities in maintaining, restoring, or augmenting commercial air passenger service, but not including capital assistance or operating subsidies.

(3) Each commission shall investigate, seek opportunities for, and report on the use of technical assistance and demonstration authority under this subsection and section 207 to increase the use of solar energy equipment in residences in its region, to assist in the standardization of such equipment, to encourage financing by regional credit institutions and Federal programs of installations of such equipment, and to facilitate inclusion of solar energy equipment installations costs in residential mortgage financing. The commission is authorized to conduct pilot projects to put in practice the findings of such investigation.

(c) The Secretary is authorized to make incentive grants to commissions for the following purposes:

(1) Encourage and enable States to develop and improve mechanisms for coordinating State development programs and planning within each State and with commission development programs and planning, with substate development activities and with State budget processes. Such grants are to enable Governors to develop among State agencies and levels of government a unified set of development objectives for programs such as economic development, comprehensive planning, outdoor recreation, cultural resource development, coastal zone management, transportation, and environmental protection.

(2) Encourage and enable commissions to develop procedures, including public hearings, consultations, and surveys program review, to enable Governors and State legislatures to participate in regional growth policy processes for the purpose of shaping Federal and State programs and policies necessary for the successful implementation of regional plans.

(3) Encourage commission and cooperative State actions augmenting national energy, export, urban, and rural community conservation, and similar policies whose effectiveness would be strengthened by commission and State participation.

(4) Encourage other special activities needed to strengthen the overall program including fostering interregional cooperation; creating regionally based systems for demographic and economic analysis; expanding activities of a multistate character; and increasing State Government financial and other support for commission plans.

SEC. 207. (a) In addition to any authority under the Appalachian Regional Development Act of 1965 or title V of the Public Works and Economic Development Act of 1965, each regional commission is authorized to provide financial assistance for projects which will further the purpose of this Act as expresed in section 2(d)(1) and (2). Such projects may include, but are not limited to, transportation, energy development and conservation, environmental and natural resource management activities, fisheries, agriculture, tourism, forestry, export promotion, business or industrial development, productivity improvements, community conservation and growth management, human resources, vocational, educational and training programs, development of indigenous arts and culture, and flood or other natural hazard protection activities. To the maximum extent practicable, each commission shall provide assistance under this section by transferring funds for programs or projects approved by the commission to the heads of Federal departments or agencies to be used for—

(1) all or any portion of the basic Federal contribution to programs or projects under any Federal grant-in-aid program authorized on or before September 30, 1983, and for the purpose of increasing the Federal contribution to programs or projects under such programs above the fixed maximum portion of the costs of such programs or projects otherwise authorized by the applicable law; and

(2) the Commission contribution to programs or projects and for grants management and technical assistance provided by the department or agency for projects at the request of the Commission.

Notwithstanding any other law, the heads of Federal departments and agencies are hereby authorized to accept such funds, to disburse them in accordance with policies adopted by the Commission, and to provide any assistance which may be necesary to carry out the approved program or project. The Federal portion, including the commission portion, of the costs of each program or project assisted shall not exceed 80 per centum of such costs.

(b)(1) Each commission may make direct grants to the States or to qualified multistate organizations for innovative projects and for demonstrations of unique methods and techniques for meeting the purposes of subsection (a) of this section which the Commission determines cannot reasonably be accomplished under subsection (a) of this section or any other Federal program and are in accordance with the regional development plan.

(2) States may carry out such projects and demonstrations directly, or through the employment of private individuals or firms under contracts entered into for such purposes, or through grants with public bodies and private nonprofit organizations.

(3) Such projects and demonstrations may be funded entirely from appropriations to carry out this Act which are apportioned to the commissions by the Secretary or in combination with funds available under other Federal grant-in-aid programs or from any source. Notwithstanding any provision of law limiting the Federal share in any such other program, funds provided to carry out this subsection may be used to increase such Federal share as the Commission determines appropriate. No component of any such project or demonstration shall receive financial assistance under this Act, the Appalachian Regional Development Act of 1965 or title V of the Public Works and Economic Development Act of 1965 after five years following the commencement of any assistance for such component under one of the above Acts.

(4) Except as provided in subsection (c), grants for innovative projects and demonstration under this subsection may be made for up to 80 per centum of the costs of any project.

(5) No grant shall be provided for an innovative program or demonstration project unless the Commission as a matter of policy determines in what respect the project is innovative and what it is intended to demonstrate and certifies that there is a reasonable plan to evaluate the results of the innovation or demonstration by an independent source and to disseminate the results.

(6) No more than 20 per centum of the funds available to any commission under this title shall be used for the purposes of this subsection or subsection (c) of this section, unless such commission determines that a greater percentage of such funds must be put to such use to implement a major objective of the regional development plan addressing a need shared by two or more States in the region.

(c) Each commission is authorized to make grants for the operation of any project, including initial operating funds which comprise, among other things, the cost of recruiting and training qualified personnel, for which the Commission determines that funds for operation are not available under any other Federal, State, or local program. A grant for the operation of any project shall be made only if the project or facility is not operated for profit. Such grants may be made for up to 100 per centum of the costs thereof for the two-year period which begins, for each component facility or service assisted under any such operating grant, on the first day that such facility or service enters into operation as a part of a project. For the next three years of operation, such grants shall not exceed 75 per centum of such costs. No grants for operation of any project shall be made after five years following the commencement of such initial grant for operation of the project. No such grants shall be made unless the Commission is satified that the operation of the project will be conducted under efficient management practices designed to avoid operating deficits. The Federal contribution may be provided entirely from funds authorized under this section, or in combination with funds provided under other Federal programs.

(d) Financial assistance under this section shall not be taken into account in the computation of the allotments among the States made pursuant to any other provision of law. Funds appropriated to carry out this Act shall be available without regard to any limitations on authorization for appropriation in any other Act.

(e) No financial assistance shall be provided under this Act to assist private establishments relocating from one area to another or to enable private contractors or subcontractors to undertake work theretofore performed in another area by other contractors or subcontractors. Section 704(e) of the Public Works and Economic Development Act shall apply to all financial assistance under this Act.

(f) The authorities and requirements of this section and section 206 of this Act shall supersede and replace the authority of sections 505(a), 509, 515, 516, and 517 of the Public Works and Economic Development Act of 1965.

(g) No commission shall provide financial assistance under this section for the purposes of allowing a recipient to use grant funds to make grants to profit-seeking business enterprises.

(h) No State and no political subdivision of such State shall be eligible to receive benefits under this Act unless the aggregate expenditures of State funds exclusive of local funds (other than those originated as revenues collected by the State) and Federal funds, and, in the case of the Appalachian Regional Commission, exclusive of expenditures for participation in the National System of Interstate and Defense Highways, for the benefit of the area within the State located in the region are maintained at a level which does not fall below the average level of such expenditures for its last two full fiscal years preceding the date of enactment of this Act. A commission may recommend a lesser requirement when it finds that a substantial population decrease in that portion of a State which lies within the region would not justify a State expenditure equal to the average level of the last two years or when it finds that a State's average level of expenditure, within an individual program, has been disproportionate to the present need for that portion of the State which lies within the region. Funds may be provided for programs and projects in a State under this Act only if the commission determines that the level of Federal and State financial assistance under this Act, and under Acts other than this Act, for the same type of programs or projects in that portion of the State within the region will not be diminished in order to substitute funds authorized by this Act.

(i) Each commission in providing assistance under this section shall afford first attention to areas affected by economic decline, and in addition shall address basic service needs in areas experiencing dislocation due to rapid growth, as appropriate.

COORDINATION

SEC. 208. (a) Taking into account all relevant national policies, the Secretary shall coordinate and provide for Federal policy guidance to the Federal Cochairmen.

(b) (1) There is hereby established the Regional Development Council, composed of the Federal Cochairmen of the regional development commissions, which shall serve as a mechanism for consultation regarding policy and administrative improvements in the program authorized by this Act. The Secretary shall select, after consultation with the members, one of its members to serve as chairman and one to serve as vice chairman. The council shall participate in the liaison and coordination responsibilities provided under section 302 of this Act.

(2) There is hereby established in the Department of Commerce an Office of Regional Development, which shall be headed by a Director, appointed by the Secretary after consultation with the Chairman of the Regional Development Council, and composed of such staff as may be necessary to carry out its functions. Such Office shall perform such duties in support of the regional commissions as are prescribed by the Secretary, provide staff for the Regional Development Council, perform reviews and studies, assist the Federal Cochairmen in the preparation of the budget for the commission program, facilitate intercommission relationships, and provide supplemental technical and support services as necessary for the Federal Cochairmen. In addition such Office shall, subject to the provisions of this Act, assist States in initiating Regional Commissions or proposed boundary modifications.

(c) The Secretary shall identify the basic areas in which minimum standards of fiscal responsibility and management, including uniform cost principles, must be adopted to assure that commission activities are consistent with the provisions of this Act. The Secretary shall specify such minimum standards in regulations and require each regional commission to adopt them as part of their internal regulations. In addition, the Secretary shall adopt, after consultation with the Council, procedures and regulations governing—

(1) the recognition of regions and changes in boundaries;

(2) records to be kept by commissions and recipients of commission funds;

(3) administrative policies and procedures developed by the commissions;

(4) the establishment and operation of a management information system covering activities authorized under this Act.

(5) conditions under which the Secretary may withhold funds from a commission for violation of this Act or any regulations adopted under this Act.

(d) (1) Each commission shall develop and adopt administrative policies and procedures to prevent the overobligation of commission funds. Each commission, in accordance with this section, shall develop and adopt specific policies and procedures to promote economy and efficiency in the administration of its programs and operations and to prevent and detect fraud and abuse in such programs and operations.

(2) Each commission shall adopt specific policies and procedures to assure that any program or project which receives assistance is properly and efficiently administered, operated, and maintained.

(e) This section other than subsection (d) shall not apply in the case of the Appalachian Regional Commission. Such Commission shall consider adopting the minimum standards of fiscal responsibility and management and the procedures established under subsection (c) of this section.

(f) The Secretary shall evaluate on an annual basis the performance of the regional commissions, other than the Appalachian Regional Commission, in adhering to procedures and regulations established under this section and in implementing the provisions of this Act.

BONDING, INSURANCE, LIABILITY

SEC. 209. (a) The executive director of a commission and such other employees as the Commission requires shall be bonded in such form and amounts as the Commission may require. The Commission may pay the premium for the bonds.

(b) The Commission shall purchase insurance and pay the premiums therefor against loss or damage to any of its personal property and against liability for injury to persons of property. Such insurance coverage shall be in such form and amount as the Commission may determine.

(c) The Commission shall be responsible for claims arising out of negligent acts or omissions of its officers, agents, and employees only to the extent prescribed by law generally with respect to officers, agents, and employees of the Government of the United States.

RECORDS AND AUDITS

SEC. 210. (a) Each Commission shall keep such records which will fully disclose the amount and disposition of the funds provided to the Commission, and such other records which will facilitate an effective audit. The records, books, and accounts shall be available for audit by any member of the Commission, the Secretary (except in the case of the Appalachian Regional Commission), and the Comptroller General of the United States or their duly authorized representatives.

(b) All recipients of assistance from a commission and all contractors of a commission shall keep such records which will fully disclose the amount and the disposition by each recipient of the proceeds of such assistance, the total cost of the project or activity for which such assistance is given or used, and the amount or activity supplied by other sources, and such other records which will facilitate an effective audit. The Secretary (except in the case of the Appalachian Regional Commission), the Commission, the Comptroller General of the United States or any of their duly authorized representatives shall have access for the examination and audit of any books, documents, and records of any and all recipients that are pertinent to assistance received under this title. Any recipient or contractor who fails to abide by this requirement or who refuses to readily make his books available for inspection and audit by those authorized to audit such records shall not be eligible for further funding under this title.

NONDISCRIMINATION

SEC. 211. No person in the United States shall, on the grounds of race, color, national origin, sex, or physical handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from a regional development commission.

SEC. 212. (a) There are authorized to be appropriated to the Secretary to carry out this Act other than title I, to be available until expended, for each of the fiscal years 1980, 1981, 1982, and 1983, not to exceed $250,000,000.

(b) After deducting such amounts as are required for the administrative expenses of commissions other than the Appalachian Regional Commission, the Secretary shall distribute the remainder of the sums appropriated under this authorization for any fiscal year as follows:

(1) beginning in fiscal year 1981 any funds in excess of the sums appropriated for fiscal year 1980, but not to exceed 20 per centum of the total sum appropriated each year, may be set aside for the purposes authorized under section 206 (a) and (c) of this Act;

(2) the balance of the sums appropriated to be provided to the eligible commissions (other than the Appalachian Regional Commission) to carry out the activities authorized under sections 206(b), 207, and 303 of the Act, according to a formula to be developed by the Secretary after consultation with the commissions and the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation.

(c) Funds appropriated under this section shall be provided by the Secretary to each of the Federal Cochairmen for the benefit of the appropriate regional commission, in accordance with the distribution established under subsection (b) of this section. Obligation of such funds shall be approved by each commission in accordance with section 205 of this Act. Each Federal Cochairman is authorized to receive and hold such funds, subject to the preceding sentence on behalf of such Commission.

TITLE III

SEC. 301. This title may be cited as the "Regional Growth Policy Process Act".

SEC. 302. (a) The President shall establish an interagency committee, or use an existing committee, composed of a senior White House official (who shall chair such committee), the Chairman of the Regional Development Council, and senior officials of the departments and agencies concerned with regional development activities, to provide means for program coordination and support for the regional commissions and the Federal Government in determining policies and recommendations which will further the purposes of this Act.

(b) The President shall assure the provision of effective liaison between the Federal Government and the regional commissions and access to Federal funding and technical assistance for regional development activities.

(c) The recommnedations contained in each commission's regional development plan and regional growth policy recommendations shall be brought to the attention of the heads of the Federal departments and agencies by the committee established under subsection (a) and its Chairman, acting together with the Federal Cochairman, and a schedule shall be established by the Chairman for review and response by the agencies and departments affected. The Chairman shall assure that discussions necessary to the resolution of any issues occur between representatives of the commissions and those of the affected Federal departments and agencies. The Chairman shall also attempt to identify and encourage solutions to regional issues which involve the participation of two or more departments or agencies. The Chairman, in transmitting such plans and policy recommendations to the Federal departments and agencies, shall assure that, to the extent practicable, adjustments in policies and procedures necessary to the successful implementation of each commission plan will be made.

(d) To the extent practicable, the Federal Cochairman of a regional commission shall be appointed as chairperson of the appropriate Federal Regional Council.

(e) Each Federal department or agency shall, consonant with law, cooperate with such commissions in assisting them in carrying out their activities under this Act and, to the maximum extent practicable, adjust its procedures and policies in order to assure—

(1) its participation in developing and implementing each Commission's regional development plan; and

(2) coordination among development programs and planning activities within States and between State and regional development programs and planning activities.

(f) Federal departments, agencies, and instrumentalities undertaking or providing financial assistance for programs shall take steps to assure that, to the maximum extent practicable, such programs are not inconsistent with the goals, objectives, plans, and strategies established by the commissions pursuant to this Act.

(g) Each Federal department and agency shall consult with the appropriate commission or commissions in advance of providing financial assistance to any multistate organization engaged in activities related to the purposes of this title.

Sec. 303. (a) Each Commission shall set requirements for State members to prepare and submit for Commission approval a development plan for their States in the region. Such plan shall be revised annually. Each State development plan shall reflect the goals, objectives, and priorities established in any regional development plan, shall be built upon an assessment of State problems and opportunities that involves the participation of State legislatures, local governments, the private sector, and substate planning and development organizations, and shall—

(1) describe the State organization and continuous process for comprehensive development planning, including the procedures established by the State for the participation of development districts in such process; the means by which such process is related to State budget processes; and the method of coordinating development planning, policies, and programs in the State under this Act and other Federal and State programs;

(2) set forth the development goals, objectives, and priorities of the State and identify the needs and opportunities on which such goals, objectives, and priorities are based;

(3) describe the development program for achieving such goals, objectives, and priorities, including funding sources and recommendations for an implementing investment program, including specific projects to receive assistance under this Act, in sufficient detail to explain their contribution to the goals, objectives, and priorities;

(4) describe the mechanisms established to assure appropriate opportunity for participation of the private sector in development planning and programing and to coordinate activities between public and private institutions;

(5) set forth a system for periodically evaluating in quantitative and qualitative terms, as appropriate, the effectiveness of plans, programs, and projects affecting the attainment of the goals, objectives, and priorities of the regional and State plans and programs,

(b)(1) Substate planning and development districts certified by the State under subsection (c) of this section provide the linkage between State and substate planning and development. In carrying out the development planning process, including the selection of programs and projects for assistance, States shall consult with local planning and development districts, local units of government, citizens, and private sector organizations, and take into consideration the goals, objectives, priorities, and recommendations of such bodies. The districts shall assist the States in the coordination of substate activities.

(2) Each Commission shall develop a plan for and as soon as practicable require the preparation and execution of areawide action programs which specify interrelated projects and schedules of actions together with the necessary agency fundings and other commitments to implement such programs. Such programs shall make appropriate use of existing plans affecting the area. To the extent permitted under this Act, State and substate planning processes shall be designed to coordinate and utilize to the maximum extent possible existing substate institutions and Federal, State, and local programs and projects in the affected areas and shall consider anticipated private as well as public investments.

(c) No entity shall be certified as a development district for the purposes of this Act, unless the Governor finds that—

(1) it is one of the following:

(A) a nonprofit public body organized or chartered under the law of the State in which it is located;

(B) an agency or instrumentality of a State or local government;

(C) an agency or instrumentality created through an interstate compact; or

(D) a combination of such bodies, agencies, and instrumentalities;

(2) the proposed district is geographically and politically structured to carry out a comprehensive planning and development program;

(3) the district and its governing body have responsibility for all or most of the relevant development planning activities being undertaken in its area;

(4) it is part of a single statewide system of development districts;

(5) the governing body of the district is composed of at least a majority of local elected officials of general purpose local governments from the affected area.

Wherever possible, areawide clearinghouses designated by either the Office of Management and Budget or the Governor pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 as amended or title IV of the Intergovernmental Cooperation Act of 1968, as amended, shall be certified as substate planning and development districts pursuant to this section.

Sec. 304. (a) Within eighteen months after its establishment or after enactment of this Act, whichever is later, each regional development commission shall prepare in consultation with Federal, State, interstate, private, and substate development organizations and local governments, a multiyear development plan for its region. The plan shall reflect and accommodate the goals, objectives, and priorities established in the State development plans accepted by the commission. The plan shall be built upon an assessment of regional problems and opportunities that involves the participation of State and local governments and the private sector in the regional development process and shall give due consideration to the planning and proposed activities of other Federal, State, interstate, substate, and local organizations and governments which may significantly affect the region. The plan shall include the following elements:

(1) a review of—

(i) prior regional studies of and plans for the region,

(ii) the current regional economy and the projected economy based on the best available data,

(iii) relevant plans of other public planning bodies and major private sector interests in the region,

(iv) multistate and shared problems requiring regional attention,

(v) the adequacy of existing Federal, State, and local programs and policies to meet the commission's goals and strategies;

(2) a framework for the continuing analysis of data needed to conduct effective regional development activities and to make decisions on programs and project selection;

(3) a determination of necessary and feasible regional goals, objectives, and priorities for regional development;

(4) a development program to achieve the commission's goals and objectives;

(5) strategies to implement the plan and recommended levels of Federal, State, and local funding for implementing Commission programs to attain the goals, objectives, and priorities; and

(6) criteria for the identification and selection of projects which are consistent with the goals of the Commission.

(b) Each Commission shall prepare an annual investment strategy on a Federal fiscal year basis to implement its regional plan. This strategy shall include (i) identification of specific Federal, interstate, State, and substate programs and projects which will assist the commission in regional development activities; (ii) proposed funding of activities under this Act or the Appalachian Regional Development Act of 1965; and (iii) proposed policies which may be adopted by Federal departments and agencies and State and local governments in order to reflect in the administration of their programs and regulations, insofar as applicable statutes permit, perspectives, conditions, and approaches particular to each region and necessary to the successful implementation of the regional plans. Such strategy shall be transmitted to the committee established under section 302 and, except in the case of the Appalachian Regional Commission, the Secretary, prior to the start of the new fiscal year, and shall be used as the basis of consultation with the heads of Federal departments and agencies through the interagency mechanism described in such section.

(c)(1) Prior to a commission vote to approve a regional development plan or annual investment strategy under this section, the Federal Cochairman shall have a maximum of seventy-five days in which to review the plan or strategy and seek review by the Secretary in accordance with paragraph (2) of this subsection. The Federal Cochairman shall vote on the plan or strategy only after consultation with appropriate Federal departments and agencies, in order to assure that—

(A) the plan or strategy is consistent with national economic and social policies and trends,

(B) the plan or strategy addresses shared and interstate regional problems and solutions and provides a mechanism for project or program funding selection which adequately attends to such problems and needs, and

(C) the plan or strategy reflects interregional consistency and compatibility, so that the activities of a commission will not adversely affect the conditions in or plans of another region.

(2) Except in the case of the Appalachian Regional Commission, the plan described in paragraph (a) of this section shall be reviewed by the Secretary and may be disapproved within sixty days of transmittal, only if the Secretary determines that the requirements of paragraph (1)(A) and (C) of this subsection are not met by the plan.

(d) Each commission shall review its multiyear plan annually and undertake a formal assessment of such plan every five years.

(e) Notwithstanding section 205(a)(1) of this Act, for a period not to exceed eighteen months after the establishment of a commission or the enactment of this Act, whichever is longer, assistance may be provided under this Act on the basis of State development plans and commission annual investment strategies.

Sec. 305. (a) The development planning

process and the regional growth policy process shall reflect the goals, objectives, priorities, and recommendations of development districts and local governments as reflected in State development plans. To the extent practicable, the regional development plan, and annual investment strategies shall be developed from and shall incorporate such goals, objectives, priorities, and recommendations. The State, in the preparation of a State development plan, and the Commission, in the preparation of the regional development plan and annual investment strategies, shall accommodate and to the extent practicable harmonize the diverse goals, objectives, priorities, recommendations, and needs identified by development districts and local governments.

(b)(1) To the maximum extent practicable, planning processes required or assisted under this Act shall be based on and not duplicate existing planning processes and institutions, and shall make appropriate use of any existing plans for the affected area. Planning assisted under section 302 of the Public Works and Economic Development Act shall be integrated to the maximum extent practicable with planning required or assisted under this Act, and such planning shall be conducted in conjunction with the review procedure required pursuant to title IV of the Intergovernmental Cooperation Act of 1968.

(2) Each commission shall establish a satisfactory process of consultation with general purpose local governments and local planning and development districts to assure compliance with section 303(a), (b)(1) and (b)(2) and section 304(a). Such process of consultation shall provide that any local government or development district may petition to the commission for review of any action of a State or the commission inconsistent with such sections.

(c) Public and private sector participation in the development of the goals, objectives, and priorities of regions, States, and development districts shall be provided for, encouraged, and assisted. Regional development commissions and member States shall prepare and publish guidelines to assure full opportunity and private sector participation in the establishment of such goals, objectives, and priorities.

SEC. 306. When used in this Act:

(1) The term "regional development" means the selective management of resources and activities toward the achievement of regional goals in the approved regional plan, including those goals affecting human and cultural resources, institutional, community, and economic development;

(2) The term "commission" refers to a regional development commission established pursuant to this Act, the Appalachian Regional Development Act of 1965, or title V of the Public Works and Economic Development Act of 1965, unless the context indicates otherwise;

(3) The term "Secretary" means the Secretary of Commerce;

(4) The term "State", "States", and "United States" include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories of the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands;

(5) The term "Governor" includes the chief executive officers of the territorial and political units included in the definition of the term "State";

(6) The term "regional growth policy process" means the process of developing and communicating recommendations affecting shared and interstate problems of growth and decline set out in the regional plan and annual investment strategy with specific reference to policy recommendations applicable to the Federal, State, and local governments and necessary to the successful implementation of the plan and strategy;

(7) The term "substate planning and development district" is a multijurisdictional entity certified to a regional development commission either by the Governor or legislature of the State in which such entity is located, or by the State officer designated by State law to make such certification, as having responsibility for continuous, coordinated, comprehensive public facilities and services planning. Unless otherwise provided under State law, local development districts previously certified pursuant to the Appalachian Regional Development Act of 1965 and economic development districts designated pursuant to the Public Works and Economic Development Act of 1965 shall be recognized as substate planning and development districts certified pursuant to this paragraph; and

(8) The term "annual investment strategy" means the annual project packages, investment programs, or proposed funding elements of the member States as approved by the Commission and certified by such Commission to be consistent with and in furtherance of an approved regional development plan.

SEC. 307. (a) Each regional commission shall make a full and detailed report each fiscal year to the Congress, each State member, and the Secretary with respect to the commission's past and proposed activities. The first such report shall be made for the first fiscal year in which a commission has been in existence for more than three months after enactment of this Act. Such reports shall be printed and transmitted to the Congress not later than six months after the end of the fiscal year for which the report is made.

(b) Each biennium, each regional commission, with the assistance of the Secretary (except in the case of the Appalachian Regional Commission), shall submit a report to the Congress of the economic trends, development inhibitors, growth opportunities, and other relevant economic and social data for each region.

(c) Not later than one year after the establishment of the Alaska Regional Development Commission pursuant to section 203 (a) of title II of this Act, the Secretary shall submit a report to the President and the Congress on the following issues:

(1) the desirability of creating a joint Federal-State Economic Development and Land Use Planning Commission for Alaska, with land use planning and classification powers;

(2) a proposed structure and recitation of functions and duties of such a commission;

(3) the extent to which such a commission should be integrated with the Alaska Regional Development Commission established pursuant to section 203(a) of title II of this Act.

This report shall be prepared in consultation with the Secretaries of the Interior and Transportation and the Governor of Alaska.

SEC. 308. Within six months after the first biennium after enactment of this Act, the President shall conduct a comprehensive review of the commissions operating under the authority of this Act. This review shall include, among other things, an evaluation of the commissions' program effectiveness, a determination of the effectiveness of Department of Commerce management and support of commissions, any recommendations for preferred placement of the program in the executive branch, and an assessment of the progress made in unifying and coordinating federally assisted regional, State, and substate development programs and planning activities. Within eighteen months after enactment of this Act, the President shall conduct a review of the appropriateness of regional commission and Federal Regional Council boundaries. The President shall report the results of such reviews to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation.

SEC. 309. (1) There is hereby established a system of Border Resource Research Institutes under the jurisdiction of the Southwest Border Regional Commission. Within one year after enactment of this section, the Commission shall designate one university in each border State for membership in the system of Institutes.

(2) It shall be the duty of each such Institute to initiate and support research programs in the various fields relative to border problems and to provide for educational programs and the training of specialists through such research, investigations, and experiments. Such research, investigations, experiments and training may include population issues; water, land and air resource issues; and other aspects of border resource problems, including the dissemination of the results of research deemed potentially significant for the solution of border resource problems.

(3) The Commission is hereby charged with the responsibility for the funding and proper administration of the Institutes and shall prescribe such rules and regulations as may be necessary to carry out these provisions. The Commission shall furnish such advice and assistance as will best promote the purposes of the Institutes and encourage and assist in the establishment and maintenance of cooperation by and between the Institutes and between them and other research organizations.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the consideration of and votes on S. 835:

Environment and Public Works Committee: John Yago, Bailey Guard, Phil Cummings, Richard Harris, Hal Brayman, Richard Greer, Lee Fuller, Steve Swain, Ann Garrabrant, Pete Rosenberg, Nina McClain, Jim Range, and Saundra Morten.

From Senator BENTSEN's office, Jim Rock: from Senator MUSKIE's office, Mike Aube; from Senator CULVER's office, Bill Strause; from Senator CHAFEE's office, Mimi Feller; from Senator SIMPSON's office, Dennis Stickley; and from Senator GRAVEL's office, Richard Aks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, do we have a time agreement on this bill?

The ACTING PRESIDENT pro tempore. There is no time controlled on this bill.

Mr. RANDOLPH. I interpose, if I may, that I certainly hope there will be. Legislation normally coming to the floor from a committee does have a time agreement and I hope, that a time agreement will be entered into. We have advocated it, but we cannot understand the reasons perhaps why it has not yet been a matter of agreement. I hope that it can be.

Does the Senator from Rhode Island have any thoughts on the matter?

Mr. CHAFEE. Mr. President, I say to the distinguished manager of the bill that it is my understanding we are seeking an hour-and-a-half on the bill with an hour on amendments and 30 minutes on second-degree amendments. By an hour I mean time evenly divided with 30 minutes on each side.

It is also my understanding they are checking with two other Senators to see if that is agreeable. Certainly I wish to move along. I do not see any great problems with this. I think we should be able to move rather swiftly, and frankly I do not think we will even take the hour-and-a-half but that was the proposal. We should know quite quickly.

Mr. RANDOLPH. I thank Senator Chafee. I appreciate his cooperation and his efforts to have the time agreement.

Is it the understanding, and I ask the majority leader, that pending a time agreement we move forward with the bill.

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. And its consideration.

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. I thank him very much.

Mr. ROBERT C. BYRD. I thank the distinguished manager of the bill.

I think it would be well to proceed with the opening statements, hoping that we can get a time agreement on the bill.

Mr. RANDOLPH. I thank the majority leader.

Mr. President, the Committee on Environment and Public Works brings to the Senate for our consideration S. 835. It is known as the Regional Development Act of 1979.

It is my responsibility to chair that committee. We have a spirit of cooperation within the committee, ofttimes differences but sometimes these differences later are compromised and become our strengths. I express my appreciation now, not later, to the 13 members of that committee who serve with me and for the work in the subcommittee structure which the members carry forward. For the Record, I would like the names of all the members of the committee to be shown. Edmund S. Muskie of Maine; Mike Gravel of Alaska; Lloyd Bentsen of Texas, Quentin N. Burdick of North Dakota; John C. Culver of Iowa; Gary W. Hart of Colorado, and Daniel Patrick Moynihan of New York join me in representing the Democratic side. Our ranking minority member, Robert T. Stafford of Vermont is joined by Howard H. Baker of Tennessee; Pete V. Domenici of New Mexico; John H. Chafee of Rhode Island; Alan K. Simpson of Wyoming; and Larry Pressler of South Dakota.

I, of course, am one of the Senators from the State of West Virginia. It is very natural and understandable that I take a certain satisfaction in connection with the development of title I that amends that Appalachian Regional Development Act.

Only for the Record, I say to my colleagues that it was my privilege and responsibility to stand where I now stand, and that was in 1965. At that time we passed the first Appalachian Regional Development Act, an act that we feel has been fundamentally sound and that has brought constructive results across a broad spectrum of the society that makes that 13-State region its home.

We have improved from time to time the legislation. Today, as this legislation unfolds here in the Senate, we will have a further effort to bring the regional commission comprising the Appalachian States in closer harmony with the title V commissions as we look throughout the country for continuation of this type of program.

Until the 1975 Regional Development Act, the regional commissions had always been treated separately. I recall, for the Record, that the former Senator from Arkansas who is now gone from his earthly service, Senator McClellan, asked me the question:

> We believe in this program for the Appalachian area. We are wondering what will be done in other areas of the United States, where there is a common thrust, a mutual interest, a concern that crosses the State lines as here in the Appalachian region.

And I assured him that in the Appalachian effort, which was here in the Senate, we had had a 2-year program of study and review and that that program was ready to move into action, but that we would create commissions, if the Senate and the House of Representatives approved, for these other areas of the country with their special interest.

So the title V commissions did come into being. These commissions, as I have said, came under title V of the Public Works and Economic Development Act.

Now, while the title V commissions were patterned after the Appalachian Regional Commission, they have not, for a number of reasons, had the constructive impact of ARC.

Under this new legislation presented today, all of the commissions are extended, they are strengthened, and they operate in a coordinated fashion.

In S. 835 we extend the regional commission concept to all sections of the United States, and we establish a regional growth policy process in which all of these commissions can have participation.

The philosophy underlying the commission concept is that some economic and other development problems are of such scale as to cross or transcend State boundaries. Frequently, no single State has the resources or the interest in effecting solutions to multi-State problems.

It is through regional development commissions that local, State, and Federal officials, in spite of their individual differences or concerns, can combine resources to address difficulties which are shared by contiguous units of government.

This kind of effort, stemming as it does directly from the people, the population, of the area is vital to the development of workable regional plans.

Mr. President, it has been a privilege for me to be active in these matters since 1965. I have tried, and we have been successful based upon the record, to extend and expand commission authorities.

I have brought forth from the committee, with the assistance of other members, the amendments to the act. Those came—for the record I want those dates—in 1967, 1969, 1971, and 1975.

So we have tried—and I believe successfully—to amend the act from time to time to meet the changing responsibilities in connection with the ARC program.

I think it is important for us to understand the reason for the creation, first of all, of the Appalachian Regional Commission. The accomplishments of this act to date are substantial. I will cite specifics of how some of the present needs of this region have been met, and how new efforts are underway to meet the emerging problems.

The Commission was created to address the severe and unique problems of the area. Appalachia, in spite of its very rich and rewarding human and natural resources, had traditionally lagged behind the rest of the Nation in its rate of growth and development.

In the 14 years since its inception, this program has come a very long way toward fulfilling the expectations in 1965. It has helped to change the face of the area dramatically in fostering new hope, new initiative, and new enterprise.

In general statistical terms, some of these advances are as follows:

Appalachia's poverty population has decreased since 1960 from 31 percent of the total populace to 14 percent in 1976. This represents a 55 percent decline in poverty incidence during a period when nationwide figures show a 48 percent decline.

In per capita income, between 1965 and 1976 Appalachian total personal income climbed from 78 to 85 percent of the national average.

An existing trend of outmigration has been reversed. An average of 58,000 persons per year have migrated to the area.

The region added approximately 1.35 million jobs between 1965 and 1977, bringing Appalachia's official unemployment rate down to a level more nearly approximating that of the rest of the Nation.

In education, as of 1960, only one-third of the region's adult population had completed high school. By 1976, the percentage is estimated to have risen to approximately 60 percent.

In the area of health, the average number of physicians in the region rose from 92 for every 100,000 residents in 1963, to 116 per 100,000 in 1976.

Another major accomplishment under the Appalachian program has been the development of vocational schools. To date, the Commission has invested more than $300 million in a regionwide system of vocational schools. There are now nearly 500 such schools serving 300,000 students.

The importance of the Appalachian Development Highway System to the economic growth of this mountainous region cannot be overemphasized. Of the entire 3,025 miles now authorized, approximately 1,700 miles, or 56 percent are either completed or under construction. An additional 680 miles of access roads have been built to service industrial sites, hospitals, schools, or other public facilities. When the entire system is completed, 85 percent of the people of Appalachia will be within 30 miles of a high quality highway. The highway program is vital to the development of Appalachia.

These are impressive statistics. But what do they mean in human terms? How have the lives of the citizens of Appalachia been improved? Sometimes we in this Chamber tend to overlook the human consequences of what we do here. This is not intentional. We are beset by the very real needs of our country in such areas as inflation and energy. We are very often buried in statistics. We lose sight of people.

I want to give you a few examples showing how the quality of life has been improved in Appalachia.

In the summer of 1977, Broome County, N.Y., lost 1,300 jobs in 1 week because 2 major plants closed down. The Broome County Chamber of Commerce immediately moved to meet this crisis by putting together an ambitious development program using assistance from the Appalachian Regional Commission, the Economic Development Administration, and the Department of Housing and Urban Development. In 1 year, these investments not only helped replace the 1,300 lost jobs but added 2,700 more. Five new plants located in the county in 1977. Appalachian dollars were essential in this effort because they were available outside of normal investment cycles and could be used almost immediately to assist in attracting new plants to the area.

The 500 vocational and technical schools assisted by ARC funds have equipped thousands of youths and adults for entry or advancement in the job market. Welding, pipefitting, mine equipment repair, railroading, solar energy design and fabrication are only a few of the new skills attained by Appalachians who otherwise might have been high school dropouts or unemployed adults.

In any area with much poverty, and particularly in an area that is largely rural, it is often the children who suffer the most. In testimony presented this year to the Subcommittee on Regional and Community Development, the director of a child development program in Ohio told of a mother who described her deteriorating family life and marriage. The parents and five children were living in a four-room house and felt their only avenue for help was welfare aid to dependent children. This would have required that the husband move out of the house. An ARC-supported day care center made it possible for this woman to seek and accept a job with the result that the family was able to purchase a larger house and substantially improve their family life.

Benefits are also flowing from other activities of the Appalachian program. The Appalachian Regional Commission has developed a truly unique regional demonstration for the delivery of public service information and instruction to our rural communities and homes. This program, called the Appalachian education satellite program, has been developed over the last 7 years by the Commission with fiscal assistance from the National Institute of Education.

The AESP program began as an experiment in attempting to provide via satellite graduate instruction to 1,200 teachers in the rural areas of Appalachia. Since that experiment, the program has grown to where it has delivered a wide range of public services, such as graduate and undergraduate courses and topical programs in child care, fire prevention, education and medical self-help to over 20,000 rural citizens in Appalachia.

This October, the system will be expanded to reach over 100,000 homes via satellite delivery to local cable systems. This means that hundreds of thousands of Appalachians will be able to receive information in their homes or at their work.

This public service access should help improve skills in a convenient, cost-effective manner allowing, for instance, young mothers to stay at home with their families and receive an education. Not only does it provide quality information and services to our citizens, but it should save a substantial amount of energy in the reduction of travel and time required to provide these services.

I believe it is important for the Appalachian Regional Commission to commit its own funds for the support of the satellite program, as a valuable regional service. As much as $500,000 per fiscal year should be considered for this support, in order to provide funding for the Commission personnel associated with the satellite program and assure continuing Commission influence over its service. The Commission is expected to develop a mechanism for collecting fees from users of the system such as cable subscribers. This may defray part of these support costs.

I understand the Commission is considering expanding the satellite program to serve other areas of the Nation, perhaps through the establishment of a nonprofit corporation. We talk often of Appalachian innovations being adopted elsewhere in the Nation. Here is another chance to demonstrate the value of Appalachian leadership. As long as the Appalachian region would continue to be served, an expanded satellite education program may be a healthy development.

In the area of highways, one example well illustrates the continuing, long-term payoff of the Appalachian Commission's investment in highways. In April of 1968, the Commission approved funds for a 2½-mile access road to a 450-acre industrial park in Carroll County, Ga. Total cost of the road was $810,000, of which the Commission invested $567,000. Since that time, industries have filled 170 acres of that park. Most have been relatively small, but a Columbia Broadcasting System manufacturing plant now under construction at a cost of more than $50 million will provide employment for approximately 3,000 people. Throughout the coming years, there will be an accumulating payoff from this investment of a decade ago.

Coming closer to home, the Clay-Battelle Primary Health Care Clinic, in Blacksville, W. Va., is an example of how the Commission used its resources to attract and put together other Federal, State, and local resources to provide ongoing basic health services in a very rural area. The Commission provided the initial costs of constructing the clinic and operating it for the first year. With such a facility in place, the National Health Service Corps provided a doctor and a dentist. The local communities provided over 25 percent of the operating and equipment costs. Finally, the rural health initiative program provides ongoing support. So, with this one-time effort initiated and put together by ARC, Blacksville and many other areas of rural West Virginia are assured of basic health services.

The ARC also awarded site-development grand funds totaling $198,778 toward the Stevenwood Subdivision in Raleigh County, W. Va., in November 1978, as part of the activities funded through an energy-related housing grant. The purpose of this grant program was to assist in providing housing in areas impacted by increased development of the mining industry, and the subsequent demand for additional housing. The 51-lot Stevenwood Subdivision will provide housing units affordable by low- and moderate-income families in the Raleigh County area. Construction is currently underway.

Now, there are many, many facts to substantiate this statement. There have been significant advances but much remains to be done, not only in Appalachia but throughout the country, frankly, in problems that affect the world.

Of the area's 19 million inhabitants, 2.7 million continue to live in poverty. Only 6 out of the region's 397 counties have a per capita income that has reached the national income average. Despite improvements in the availability of the health facilities, serious health problems continue. Infant mortality rates still exceed those in the rest of the country. There is a high incidence of diseases of hepatitis, streptococcus, and tuberculosis, measles, and rubella which remains and the 1976 ratio of 116 physicians to every 200,000 persons lags behind the national average of 174 per 100,000 persons.

This explains the situation—statistics, yes, but figures that must be clothed with the human side of the area in which I live.

Now, title I of the pending bill extends the Appalachian Commission for an additional 4 years. That would be through fiscal 1983. We provide for additional authorities, as I said at the outset and, of course, responsibilities.

The nonhighway program authorization for the Commission is $340 million for the 2 fiscal year periods of 1980 and 1981, and $380 million for the 2 fiscal year periods of 1982 and 1983.

The development highway program authorizations are $350 million for fiscal year 1981—that is an increase of $180 million; $400 million for fiscal 1982; $450 million for fiscal 1983; $500 million for fiscal 1984; and $500 million for fiscal 1985.

There are a number of new authorities incorporated in this legislation which address the continuing problems of Appalachia. One of these, a very, very vital problem, difficult to solve, is adequate housing. The problem of a basic housing program has been very severe. It has, in fact, surfaced to a greater degree, and it is worsening as I speak today. It is something that I hesitate to say, but I must say it: One million Appalachian homes are substandard, either unsafe, with insufficient plumbing or overcrowded; in some cases, of course, all three situations prevail.

This figure becomes more compelling when it is realized that in central Appalachia, 38 percent of the housing is inadequate.

Under the Commission's housing program, site development grants and planning loans have been used to assist in the construction of 8,400 homes. Other types of grants have resulted in the construction or repair of an additional 1,900 homes. Technical assistance funds have been used by all 13 States to strengthen the technical competence of low and moderate income housing sponsors, and 10 States have established an Appalachian housing fund to stimulate housing production in the region.

Mr. President, suitable land for housing is difficult to find in Appalachia, and for a number of reasons. In many areas the only land that is flat enough, frankly, to build on successfully is located in what we call the flood plain, and is subject to frequent floods, very devastating floods.

In other areas, particularly in West Virginia, a large percentage of available land is now owned by—well, let us say, a handful, but that is only an expression but, frankly—a very few landowners, and they have been until this date unwilling to sell. The mountainous terrain in most of the Appalachian country requires excessive development costs.

Together with the difficulty of assembling large tracts of land, this discourages the involvement of what I call the large-scale housing contractors. The stautory limitation of 10 percent on an ARC grant for development costs has been clearly insufficient.

It was at the suggestion of the Governor of West Virginia, Jay Rockefeller, that a provision has been incorporated into this bill to permit the commission to use its funds for land acquisition and to raise the 10 percent development limitation to 25 percent.

Now, I think that the Governor of West Virginia has given us a worthwhile goal to achieve. I am appreciative of his helpfulness in this regard. If industry is to be attracted to the Appalachian region, and an effective rural resident alternative is to be maintained for its citizens, a supply of adequate housing is essential.

One of the most valuable programs developed under the Appalachian program has been the child development demonstration program. The program was initiated to respond to the severe health problems and high mortality rates among infants and children of the region. Each of the States have begun early child development programs and are beginning to address the health needs of young children. This activity has enabled many low-income and single-parent families to augment their income by freeing family members to find employment while their preschool-children are being cared for. It is also an effective learning experience for these children.

The Appalachian Regional Development Act was amended in 1975 to allow Commission funding for the operation of child development centers to be continued for an additional 2 years beyond the 5-year limitation placed on all other demonstration projects. This extension was granted because many of the worthwhile programs were having difficulty finding other funding sources for continued operation. This, unfortunately, is still the case.

S. 835 further permits continued operational funding for child development centers upon the request of a State. The amendment applies only to those projects supported in fiscal year 1979, and is not intended to restore or resume funding for projects whose grant funds ceased prior to that time. Projects initially approved after September 30, 1979, must conform to the existing 5-year limitation.

A new authority is given to the Appalachian Regional Commission by this legislation to make grants for the stimulation of agriculture, mining, construction, manufacturing, commercial, and other economic activities. Such grants can be made for business related technical assistance, establishment of revolving funds for business, agricultural and forestry enterprise loans, acquisition and rehabilitation of rail properties by public bodies, and projects for development, production, utilization and conservation of energy resources. States may carry out such activities directly or through the private sector, public bodies, or private nonprofit organizations.

The other major feature of the bill under consideration today is a further extension of the philosophy behind the Appalachian Regional Commission to the commissions created under the authority of title V of the Public Works and Economic Development Act of 1965. That act recognized the fact that there were lagging regions in parts of the Nation outside of Appalachia. Title V of that act provided for the establishment of regional development commissions in other sections of the country which had special problems and needs demanding sound individual analysis and response. Like Appalachia, they were given broad authority to supplement other Federal grants, to undertake planning and studies, provide technical assistance, and encourage investment plans and the capability of State members to foster economic growth. Federal direction for these programs was placed in the Department of Commerce.

Currently, the title V commissions number eleven. They, together with the Appalachian Regional Commission, operate in all or part of 48 States. Their original mandate was to address the problem of economic decline in nonmetropolitan areas. We now see their value as an improved general mechanism for governmental decisionmaking, and as a means of managing dislocation due to rapid growth as well as economic decline. It is my feeling, shared by the majority of members of the committee, that all these commissions should be in a sense melded into a common framework. They should be made to demonstrate the viability and effectiveness of a well-conceived regional strategy.

In the Regional Development Act of 1975, Congress expanded the program authorities of the commissions in the fields of energy, transportation, health and education. These were comparable to authorities earlier provided the Appalachian Commission. Congress also attempted to upgrade regional development through the commissions by raising the anual authorization from $150 million in 1975 to the present $250 million level. By all accounts, program performance under the commissions has been significantly limited because past administrations have never requested adequate funding. This legislation again expands their authorities and provides a more clearly defined framework for their operation within the executive branch.

Title II of S. 835, as reported, provides for the creation of regional commissions to promote balanced development in all regions of the Nation to respond to economic stress. Most of these areas are already included in commissions established under title V of the Public Works and Economic Development Act. The regional commissions are authorized at not to exceed $250 million for each of the fiscal years 1980, 1981, 1982, and 1983.

Title III of this legislation is of great importance. It establishes a regional growth policy process to bring the Federal Government, regional commissions, States, and local governments into a cooperative structure for addressing regional issues.

Title III establishes an interagency committee to coordinate and support regional commissions and the Federal Government in determining policies and recommendations which will further the programs supported by this bill. In addition, it establishes the requirement for annual development plans for each State in each region and further requires each regional commission to prepare multiyear development plans and annual investment strategies.

It is gratifying and significant that the reauthorization of the Appalachian Regional Commission and the strengthening of the title V commissions has the solid support of the administration. As a result of the White House Conference on Balanced Growth and Economic Development last year, the President announced this January his intention to institute a regional growth policy process.

The President directed certain actions to be taken by the Secretary of Commerce, other Federal departments and agencies, Federal cochairmen of the Appalachian and title V commissions, the Interagency Coordinating Council, and the Federal Regional Councils. These entities were to work together in coordinating Federal efforts with commissions and States for regional development. This directive is further carried out in the legislation before us today.

Mr. President, I state my firm conviction that the regional commission concept is a sound one. It is workable. It is effective. It has been helpful. The members of the Committee on Environment and Public Works have been fully aware, in the development of this legislation, of reports such as the Department of Commerce audit on selected activities of the title V commissions released earlier this year. The committee was also aware of the General Accounting Office's report on nonhighway activities of the Appalachian Regional Commission, also issued early this year.

Both these reports, I am very factual and very fair when I say to the membership, that both these reports were critical of existing commissions from several standpoints. The Department of Commerce report was directed toward commission administrative activities rather than to specific programs. It found deficiencies in coordination, both at the Commerce Department level and with other Federal agencies. Problems were found in the planning, selection, and evaluation of projects, as well as operation and monitoring of completed projects. Inconsistencies in expenditures from program and administrative funds have existed.

Many of these same problems were also mentioned in the report of the General Accounting Office on the Appalachian Regional Commission. In addition, problems were cited concerning a possible decline in State participation in nonhighway programs and priority of program evaluation. The members of our committee recognized that many of the points raised in those reports were valid.

I recognized it, and I have never attempted to do otherwise. Specific language has been included in this bill which the committee members believe will alleviate existing problems. The procedure spelled out in title 3, the Regional Growth Policy Process, sets out in detail the role of the Federal Government in combination and coordination with the Regional Commission. The specific duties of the Commission are outlined in several sections of our bill, principally sections 204 and 304. State responsibilities, Mr. President, for maintenance of effort are set forth in the section 207(h) provision.

Fiscal responsibilities and management standards are required on the part of the Federal Government and the Commission.

I always want to approach legislation of this kind, as I have since 1965, recognizing that in the beginning we were plowing new ground; recognizing that in the changes, four or five, in the amendments to the act, we were also plowing new ground.

I recognize that there are the existing problems in Commission administration and programs. But what does this legislation seek to do? It seeks not to bring a hodgepodge to the floor, but it seeks to alleviate those problems while at the same time expanding the Regional Commission concept in the parts of the Nation which have no Commission, and where we believe the Commission program can successfully serve people.

I hope that my colleagues in the Senate, both Democrat and Republican, as within the committee itself, will be supportive of S. 835.

How much time have I consumed, Mr. President?

The ACTING PRESIDENT pro tempore. We are not keeping track of the time because there is no time agreement.

Mr. CHAFEE. Mr. President, I wonder if we might enter into a time agreement while we have Senator SIMPSON and everybody in the Chamber. My suggestion, Mr. President, would be that we have an hour and a half on the bill, 1 hour on all amendments except for Senator SIMPSON'S amendment, and he wanted 2 hours, with a half-hour on amendments in the second degree.

Mr. President, I suggest an hour and a half on the bill to be evenly divided, 1 hour on all amendments, and 30 minutes on amendments in the second degree. Senator SIMPSON wanted 2 hours on his amendment.

Mr. SIMPSON. That is correct. I have two amendments. The amendment to strike article 3 of the bill would require 2 hours, and I would appreciate having that consideration. The other amendment would take 1 hour. I could possibly yield back some time on both of them.

Mr. CHAFEE. All time to be equally divided.

Mr. RANDOLPH. The majority leader is in the Chamber and, because of other legislation programed or hoped to be considered today, I am sure he would like to consider this.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that with respect to the pending Appalachian regional development bill, S. 835, there be a 1-hour limit for debate on the bill to be equally divided between Mr. RANDOLPH and Mr. CHAFEE; that there be 1 hour equally divided on any amendment in the first degree; 30 minutes equally divided on any amendment in the second degree; that there be a 2-hour limitation on one amendment to title III by Mr. SIMPSON; provided further, that there be a time limit on any debatable motion or appeal of 20 minutes; that there be a time limit on any point of order if debate is entertained by the Chair of 10 minutes, and that when the bill is advanced to third reading it not be passed but be held at the desk and added as an amendment to Calendar Order No. 287, S. 914, the EDA bill, which will be before the Senate tomorrow; provided further, that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the manager and the ranking member of the bill. I thank Mr. SIMPSON and other Senators who have had a part in working out the time agreement.

Mr. RANDOLPH. I thank the leader very much.

Mr. BURDICK addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. I yield such time as the Senator from North Dakota may require.

Mr. BURDICK. I thank the Senator.

Mr. President, I serve as chairman of the Subcommittee on Regional and Community Development of the Committee on Environment and Public Works. This legislation was considered initially in the subcommittee. As Chairman RANDOLPH has indicated, this legislation extends the authority of the Appalachian Regional Commission and the other regional commissions presently authorized under title V of the Public Works and Economic Development Act. Senator RANDOLPH has discussed the programs of the Appalachian Commission and other parts of the bill. I shall limit my remarks to titles II and III.

Title II of the bill contains a 4-year authorization for continuation of the commissions' programs, other than Appalachia, at an annual level of $250 million. This is the same level as the previous authorization for the years 1977 to 1979.

The appropriations for the eight commissions have been modest compared to the authorizations. In 1977 they amounted to $63 million, and $64 million each in 1978 and 1979. The current administration budget request is $74 million, which includes funds for the startup of three newly designated commissions comprising all or parts of 13 States in the mid-Atlantic, mid-America, and Mid-South regions.

Let me describe briefly the regional commissions other than the Appalachian Commission. These commissions were established as early as 1966 and 1967 in sections of the country having special problems and needs. Like the Appalachian legislation, they were given authority to supplement other Federal grants, to undertake planning and studies, to provide technical assistance, and to encourage investment plans and the capability of State members to foster economic growth.

There are eight such commissions in existence today, comprising all or parts of the continental 48 States. Three others were designated in late 1978 but have yet to receive startup funds.

Commission programs for the most part are directed toward closing the income gap, creating jobs, and raising education levels. Program activities typically touch transportation, natural resources, regional economic analysis, State investment planning, energy development, vocational education, tourism, and health.

Mr. President, we held 3 days of hearings on the various commission programs. In general, we found great enthusiasm for the commissions among Governors who serve as commission members. They point most frequently to the flexibility commissions have in investing Federal funds. That same theme was expressed often by persons representing local levels, whether cities, counties, or multicountry districts. The emphasis was on the speed and lack of redtape associated with commission projects.

It should be noted that at a time when commissions' programs and activities have come under increased scrutiny in terms of accomplishment and accountability, the President has proposed an extension of the program that would permit any State that wished to join other States in forming commissions to be able to do so. And he has proposed the establishment of a regional growth policy process designed to bring the Federal Government, regional commissions, States, and local governments into a cooperative structure for addressing regional issues. This is contained in title III of the bill.

The committee considered the question of accountability to be of grave importance in the development of this legislation. The bill carefully spells out the specific responsibilities of commissions. Recent reports of the General Accounting Office and the Department of Commerce Audits Office criticized the operations of commissions. This legislation addresses those concerns.

For example, the Secretary of Commerce, in section 208, is required to identify instances in which minimum standards of fiscal responsibility and management must be adopted, including uniform cost principles. These standards are to be evaluated annually by the Secretary. Section 210 mandates the commissions to keep records which fully reflect the disposition of their funds for timely audits. Section 204(b)(2) requires all Federal cochairmen to assure commission compliance with applicable Federal fiscal and management requirements established under this legislation.

Mr. President, Senator RANDOLPH has provided an appropriate summary of the bill. I shall not detain the Senate by duplicating what he has clearly described in his presentation. But I should like to add a few remarks as subcommittee chairman.

In considering this legislation this year, I have not ignored the criticisms of the title V commissions. Perhaps the one most often made is: What do these commissions do? What do they accomplish? It needs to be said that it is difficult to accomplish much in the economic development field with resources for a multi-State region of $7, $8, or $9 million. Some have accomplished a good deal; others have been mediocre. Furthermore, in the past, these commissions have functioned in an indifferent atmosphere on the Washington end. This is the first President in recent years to have shown interest in the commissions. He has proposed that their charters be renewed, and he has suggested a process that will integrate each commission's plans and strategies with the various executive agencies that have resources to assist communities. He has proposed a more effective process to transmit local priorities through commissions to appropriate Federal sources for assistance.

It is said that the funds appropriated to these commissions are slush funds for Governors, to be used for their own political purposes. We examined that issue. We heard the Governors speak of their interest in projects and activities that had true "regional" or interstate relevance and impact. This bill and the report accompanying it emphasizes the committee's intention that commission investments must be for projects and programs that are of "shared interest," and that are guided by a multi-State strategy.

It has been said that the commissions have lost sight of their original mission—to assist the lagging areas of the region. This bill responds by redirecting assistance to lagging areas as a first priority.

Another criticism often heard was that commission plans and the planning process have been generally remote from the elected officials and others of the region below the State level. The bill before us attempts to rectify that shortcoming by incorporating a "bottoms-up" planning process, based in large measure on the process authorized in section 225 of the Appalachian Regional Development Act. It is apparent that greater involvement at the local and State levels will increase the acceptability and utility of plans and strategies.

It is often thought that regional commissions do the same thing. That is not true. There is great variety in the programs and investment decisions among the commissions, and I think that is a good thing. The problems of each region differ. Out in my country, agriculture and forestry are the most important source of economic growth and wealth. The Old West Commission focuses much program attention on that sector. In New England, the problems are transportation, energy, and commercial and industrial development. The New England Commission accordingly focuses on these problems. The commissions have adapted themselves to these needs. One might say there is considerable pluralism among them. I think their capacity to adapt is good.

Let me leave a few impressions I have gained as a subcommittee chairman regarding regional commissions and their programs.

First. Governors are enthusiastic about them. Federal cochairmen, to a person, find them useful and potentially more useful development agencies. Local officials often speak of the great flexibility of regional commissions.

Second. The commissions have contributed to a sense of regional identity and have provided forums for sharing experience and expertise among the States.

Third. There is little doubt that their impacts in economic development have been modest, but there is also evidence to suggest that many legitimate local and regional needs which might have been neglected have had assistance from regional commissions.

Let me conclude these remarks by saying that the critics of the regional commission approach have some points to make. The record of achievement is not clearly apparent. Yet the evidence suggests there is potential here. We are not spending that much money on these commissions. My view is: Let us reauthorize them for 4 more years. Let us watch them closely. Let us assess how they adapt and what they can achieve under this legislation. If, at the end of that time, it is clear that they are not worthy of renewal, let us not reauthorize them. I hope they will demonstrate their worth in the next 4 years.

Mr. RANDOLPH. Mr. President, will the Senator from North Dakota yield to me?

Mr. BURDICK. I yield to my able chairman.

This is not a cursory commendation, but since Senator BURDICK became chairman of our Subcommittee on Regional and Community Development, he has given very intensive study to these matters and has very thorough knowledge of the workings of the Appalachian Commission program and the title V Commission programs, both being considered today.

It is Senator BURDICK's understanding that the Governors of the 13 Appalachian States support this legislation. Is that true?

Mr. BURDICK. That is correct.

Mr. RANDOLPH. And, for the record, I indicate that Governors from these 13 States are: Alabama, Fob James; Georgia, George Busbee; Kentucky, Julian Carroll; Maryland, Harry Hughes; Mississippi, Cliff H. Finch; New York, Hugh Carey; North Carolina, James Hunt; Ohio, James Rhodes; Pennsylvania, Richard Thornburgh; South Carolina, Richard Riley; Tennessee, Lamar Alexander; Virginia, John Dalton; and West Virginia, John D. Rockefeller IV.

I think it is important to realize that those Governors are in nowise Democratic Governors, in nowise Republican Governors. They are a mixture of party affiliation.

But they are the Governors of these States and they recognize the problems within their States. They also recognize their responsibility as a State Governor within the region to cooperate and coordinate effort in projects and programs with the other Governors.

It is also important that the RECORD indicate that there have not been others voting for the Governors on vital, crucial matters. The Governors themselves have assembled. They have had their discussions, their in-depth session discussions. That was a provision that we, along the way, implemented the earlier 1965 legislation to insure. We felt the Governors were intensely interested, but we wanted to lay it into the law, and that was done.

There have been no formal endorsements, I want the RECORD to indicate, of the exact nature of this bill. But in the testimony given and in the legislation that has been discussed, all the Appalachian Governors without exception strongly support the continuation of this worthwhile program.

I appreciate the Senator's yielding to me at this point.

Mr. BURDICK. I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first, I ask unanimous consent that Rick Herod of the Environment and Public Works staff be granted privilege of the floor during consideration of S. 835.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I would like to pay tribute to the chairman of the Environment and Public Works Committee (Mr. RANDOLPH) who has been so intensely interested in this measure that comes before us today.

Indeed, it was the senior Senator from West Virginia who originally conceived and worked so hard for the passage of this legislation some 14 years ago. I think it is a great tribute to him that the act has come about and that it has continued to receive such solid support from the Congress ever since then.

I would like to pay tribute also to this same Senator for the splendid leadership he has given us in the Environment and Public Works Committee.

I have never sat in a committee where everybody is given a fairer chance to voice their views. Nobody is run over. Everybody is given an opportunity to object or to agree. Staff is very fairly distributed.

It is a great privilege for me to serve under the leadership of our very distinguished chairman. I am grateful to have this opportunity to pay tribute to him today.

Mr. RANDOLPH. I thank my colleague from Rhode Island.

I do believe that within the committee structure of 14 members that we come together. We disagree very often. But we attempt to be constructive in the legislation within our jurisdiction.

I especially thank the Senator from Rhode Island for his thoughtfulness in connection with the mention of its chairman.

Mr. CHAFEE. I thank the Senator.

Mr. SIMPSON. Mr. President, may I at this particular moment interject my remarks along this line?

Mr. CHAFEE. How much time does the Senator need?

Mr. SIMPSON. Just 2 minutes.

Mr. President, I state that as a new member of the committee, I have been treated in a most kind, generous fashion by the chairman.

I feel that sometimes I am not too objective in that area.

I think I am on the top rung of the JENNINGS RANDOLPH cheering society, the Wyoming division.

He is a very warm person, a gentleman in every sense, a fine friend and counselor to me.

Senator CHAFEE, my seatmate here to my immediate left and fellow member of the committee, has been, again, most kind to me in my early days here.

I have always believed in my legislative experience never to allow friendship to be intruded upon by the combat of legislative duties. I shall not do so, have never done so, and will not do so in the U.S. Senate.

I thank the Senator.

Mr. RANDOLPH. If the Senator will yield, I want to further express appreciation to the Senator from Wyoming (Mr. SIMPSON).

As he said he is a new member of this committee and of the Senate.

I had the privilege of serving with his very capable father in this body. We remember him, and that heritage has certainly continued with the activity of his son (Mr. SIMPSON).

I want it very thoroughly understood that as we approach a very crucial amendment of the Senator, possibly two amendments, in the latter period in this debate, we do it, of course, in the very best of purpose. I know that.

At the conclusion of that debate, when the decision is made, whatever it is, there will be that continuing, in fact, constant friendship that I have for the Senator from Wyoming as well as the Senator from Rhode Island.

These are not cursory remarks that I make. I believe very much in this body, in that understanding, in that realization of differences that can come, and we move forward, we move forward with belief and conviction.

I, of course, ascribe that to the Senator from Wyoming in the fullest degree in the matters that will be before us here in this debate.

Mr. CHAFEE. Mr. President, I want to thank our chairman and pay tribute to our ranking minority member, the Senator from Vermont (Mr. STAFFORD), who was an outstanding leader on the committee, and, of course, to Senator BURDICK, who is the chairman of this subcommittee.

Mr. President, I might say that throughout the deliberations on these Regional Commissions, I have had some serious reservations about their future. These reservations have been based in large part on their not only current, but past performance, as well as the broad new direction that was encompassed in the legislation as originally proposed that we are considering today.

During the committee consideration of this bill, I offered several amendments to the title V programs which were adopted. In my judgment, the bill is greatly improved over that originally introduced.

I might say my amendments to the bill dealing with Appalachia were not so successful.

Because I believe that the expansion of the Appalachian portion of the bill and the cost it involves were not justified at this time, I voted against reporting S. 835, the bill before the Senate.

Mr. President, the multi-State regional commission program—that is, these title V's we are talking about—were created in the mid-1960's. Their purpose was to encourage assistance for economically lagging areas. This all stemmed from the original bill, the Appalachian bill, which was ably proposed and supported by the distinguished senior Senator from West Virginia.

So we had the Appalachian bill, covering some 13 States. Of course, they were in the Appalachian region, extending from the lower tier of New York down through some sections of Pennsylvania and all of West Virginia, touching Maryland, down in the Carolinas, Georgia, and reaching into Alabama.

When that was proposed, the other States said, "We would like to have a regional commission. We would like to get part of this outpouring of funds from Washington." So various regions were set up—the New England Regional Commission, the old West Regional Commission, and so forth—and these were called the title V's.

The key rationale for these regional commissions, as I said, was a regional lag. These areas were lagging behind the rest of the country in employment and income and a lack of basic services.

However, suddenly we come into a funny, strange cycle in which now we have regional commissions throughout the Nation. It is a little hard to suggest that section is lagging behind the other. There must be some area in the country that is all right. Nonetheless, when we finish this piece of legislation today, every section of the country, wall to wall, may become part of a regional commission.

We will have a regional commission solely for Alaska. In other words, Alaska is a region by itself. Originally the commissions were to be multi-State areas, but the concept has been so turned around that now Alaska comes in alone.

I was very hesitant to propel the regional commissions into this new concept, that every area is lagging behind every other area. I think my concerns were shared by colleagues on the committee, as they supported amendments which were intended to draft a more realistic program and more realistic goals for the regional commissions.

As I mentioned, as originally introduced, the bill made very far-reaching and drastic changes in the regional program, giving them sweeping new mandates.

I believe that the track record of the commissions and their present funding levels do not support the vast new programs, do not justify them, but instead point out the need for these organizations to evaluate the programs they are engaged in now, from months of operation, and to dedicate their efforts once again to achieving the goals so originally set out.

I subscribe to the view of the chairman of the subcommittee, Senator BURDICK. These commissions are in a trial period. We have had them for several years. We have had reports from the GAO and from the Commerce Department criticizing them. Now we are saying to them, "All right; we're going to reauthorize them for 4 more years, but this is it"—at least, so far as I am concerned. If they do not shape up and improve their performance, I do not think we should continue them when they come up for renewal in 1983.

We worked over the bill in committee, as the chairman has mentioned. As introduced originally, the bill did not talk about giving priority areas being in a state of decline or economic recession. One of my amendments in the committee replaced an ambitious, all-encompassing goal and directed the commissions to focus on areas of economic decline.

Another area that bothered me in the bill as originally reported was that it did not stress regionalism. It seems to me that if you have a regional commission, the concept should be some regional cooperation, whether it is in the New England area or the Midwestern area or the Far West—wherever it might be. So we did add language to underscore the multi-State regional nature of the proposed legislation.

The third area of concern was the broadened program authority. It seemed to me that we were turning the commissions into operating agencies, duplicating a host of other Federal agencies and programs.

The commissions have served as catalysts in meeting new problems or existing problems with new approaches. The commissions were meant to work with other Federal agencies, not duplicate them; and the changes that were made in section 207 made clear that the basic program authority of the commissions was not changed.

Mr. President, as I said before, I tried some amendments in the committee, dealing with the Appalachian portions. There is no question that Appalachia is doing very well under this program. Listen to the statistics: Appalachia, the 13-State group, receives $368 million. The remainder of the country, the other 37 States, do not receive $368 million. Those 37 States divide $63 million. In other words, those 37 States receive 20 percent of what Appalachia receives.

As has been mentioned, the Governors are all very enthusiastic about title V's. It is a new source of money from the "Great White Father" in Washington. Money comes pouring out. So they would like the regional commissions moved up to parity with Appalachia. This could be a very costly proposition. It is not one for which I think the members of the committee showed much enthusiasm.

Questions of accountability have been raised, as Senator BURDICK mentioned, not only within each Commission but also between Commissions and the Department of Commerce. This bill does not resolve all those issues. However, as Senator BURDICK mentioned, the committee has added several sections to strengthen accountability.

For example, it requires the Secretary of Commerce to establish minimum standards for fiscal responsibility in management and authorizes the Secretary to withhold funds from a Commission for violation of the act or any regulations. It directs Commissions to tighten up their internal operations.

For example, section 210 requires each Commission to keep records which will disclose the amount and disposition of funds and any other records necessary to insure an effective audit.

I cannot stress enough that the Governors and the Federal cochairmen and the Department of Commerce must continue to give their full attention to the problems and efforts that have arisen within the commissions in the past.

Mr. President, I ask unanimous consent to have printed in the RECORD material I have dealing with the Department of Commerce audit.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FINDINGS AND RECOMMENDATIONS: RELATIONSHIP OF THE DEPARTMENT AND REGIONAL COMMISSIONS

Under existing legislation, the Department and the Commissions have a number of interrelating roles and responsibilities. Effective management and administration of the activities envisioned by the Act require a clear understanding of these relationships and a common frame of reference for conducting ongoing operations. There is a need for a clear understanding of the respective roles of all parties concerned in order to effectively manage the Commissions' significant funding levels, diversity of activities affecting Federal, State and local units of Government, and dispersion of personnel and offices throughout large parts of the United States. Moreover, the Secretary of Commerce shares the weight of overall accountability for the actions being undertaken by the Commissions.

Our findings and recommendations regarding this topic are described under the following captions:

Departmental Role in Commission Operations.

Coordination with Government Agencies.

Management Information System.

DEPARTMENTAL ROLE IN COMMISSION OPERATIONS

Summary

Departmental coordination, guidance and direction of Commission operations have not been effective. Rather than adopting an active approach in overseeing Commission operations, the Department has chosen to let the Commissions operate "on their own" to a major extent. In this regard, the Department has (1) conveyed little information to the Commissions explaining what standards they are expected to comply with, (2) requested relatively little information about the various programs being undertaken by the Commissions, and (3) opted, in general, not to closely monitor the Commissions' policies and management practices.

This approach has evolved, in part, because the Department has not fully exercised the control and oversight authorities set forth in the Act. Also, concerning the operational framework established by the Act, there has not been a clear meeting of the minds among Departmental and Commission officials regarding the relationship between the Department and the Commissions.

Essentially, the basic question facing Departmental managers appears to be "How far shall we go in attempting to monitor and control Commission operations?" Under the Federal-State partnership concept applicable to the Commissions, there are sensitive relationships to be recognized among the parties and, as with any partnership arrangement, there is always the question of power balances between the partners. We believe the combined effects of these factors, plus the frequent turnover of cognizant Departmental officials, have produced a difficult situation for developing and implementing a cohesive strategy for Departmental involvement in Commission operations.

Recommendations

We recommended that the Special Assistant to the Secretary for Regional Development (Special Assistant) provide for improved coordination and guidance of the Commissions' operations by undertaking the following actions:

1. Propose revised legislation to provide for greater clarity regarding the relationship between the Department and the Commissions. Such legislation should be structured to provide for a well-defined operational framework applicable to the parties involved in coordinating and managing Commission activities.

2. Provide for the development of written policies and procedures to guide the Commissions in carrying out their programmatic and administrative activities.

3. Provide for sufficient monitoring and oversight of Commission operations to remain abreast of ongoing operations and to determine whether established policies and procedures are being adhered to.

Reactions

In response to our draft report, the Special Assistant observed that the Department has failed to fully exercise its existing statutory authorities for administering Commission-related operations. Regarding recommendation No. 1, he advised that the audit is timely in that reauthorizing legislation is currently being drafted by the Department and that some of the troublesome issues raised in the report, such as the relationship of the Department and the Commissions, can be addressed in the new legislation. Also, regarding recommendation No. 2, he advised that the Federal Cochairmen are now working toward the development of a Uniform Commission Code for guiding the Commissions' future operations. When the contents of this document are satisfactory to the Secretary, the Code will then be issued as Department of Commerce regulations. Recommendation No. 3 was not specifically addressed in the Special Assistant's reply.

Details of condition

In authorizing the Title V program, Congress intended to establish Federal-State partnerships for designated economic development regions within the United States. Commissions established under the provisions of the Act are to plan and conduct programs and projects for future regional economic development.

Roles of the Department and the Commissions

The Act confers various authorities on the Secretary of Commerce relating to oversight of the Commissions' operations. For instance:

Section 503(c) states that "The Secretary shall provide effective and continuing liaison between the Federal Government and each regional commission."

Section 505(a)(2) authorizes the Commissions to engage in (various activities) * * * "which will further the purposes of this Act and which have been approved by the Secretary."

Section 604 states that "No Federal assistance shall be approved under this Act unless the Secretary is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained."

Section 701(12) states that the Secretary is authorized to "establish such rules, regulations, and procedures as (she) may deem appropriate in carrying out the provisions of this Act."

Section 714(a) requires that "Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, * * *."

Section 714(b) provides that "The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act."

On the other hand, however, the Commissions also have extensive authorities under the Act. For instance:

Section 506(a) states that "To carry out its duties under this Act, each regional commission is authorized to—

"(1) adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the performance of its functions;

* * * * *

"(7) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in carrying out its functions and on such terms as it may deem appropriate, * * *.

* * * * *

"(9) take such other actions and incur such other expenses as may be necessary or appropriate."

During our discussions with various Departmental and Commission representatives, we encountered widely differing viewpoints regarding the respective authorities and responsibilities of the Department vis-a-vis the Commissions. Cognizant Departmental officials indicated that some of the Department's problems in managing the Commission program stem, not from a lack of legislative authority, but from a failure to exercise fully the authorities given to the Secretary under the Act. Regarding these authorities, a Departmental official advised that:

"(A) Title V regional commission must follow all the requirements and limitations in the Act. This would include rules, guidelines and procedures prescribed by the Secretary under the authorities given to her in the Act. Therefore, the provision in section 506(7) which authorizes a commission to enter into agreements and transactions on terms it deems appropriate are subject to the requirements of the Act and the rules prescribed by the Secretary under the authorities given to her. All the program funds for the commissions come from Federal appropriations. The Department has a responsibility to ensure that such funds are properly used. * * *"

However, certain Commission officials did not share the view that Commission operations were subject to such close control by the Department. They were of the opinion that Section 506 of the Act provided broad authority for the Commissions to manage their own affairs.

There were also other factors cited to us as weakening the Department's leadership of the Commission program, as follows:

Continuing uncertainties of the future status, or existence, of the Commissions.

Frequent turnover of persons occupying the Departmental position of Special Assistant. (Twelve individuals held this position during a ten year span.)

Strong political complexities inherent in the Federal-State partnership concept.

Operating Guidance for the Commissions

Over the years, the Department has provided to the Commissions little information explaining what basic operating standards and procedures are to be observed. Some guidance is provided in Title 13, Code of Federal Regulations. Also, the Department issued a set of written operating instructions entitled "Guidelines to Federal Cochairmen and Regional Commissions." These Guidelines, approved by the Secretary in March 1970, were later realized to be inadequate and in need of major revision.

When initiatives were undertaken to revise and update these Guidelines several years ago, a decision was made to forego any revisions at that time because of the uncertain future status of the Commissions. Although the Title V program was continued and even expanded, no additional guidelines were issued.

It seems to us that prompt development of overall operating guides are important to the cohesive operation of the Title V program. Without some centralized point of reference, there is no established mechanism to ensure that the individual Commissions are controlling ongoing operations.

Monitoring and Oversight of Commission Operations

During the past few years, the Department has not taken an active role in remaining abreast of Commission operations. Relatively little information has been obtained about the Commissions' programs and projects, coordination needs, or specific management practices. In large measure, each Commission has operated in whatever manner was deemed most appropriate by its members. Under these circumstances, we believe the Department has become somewhat of a silent partner in administering its role in the Federal-State partnership concept and has not established an effective framework for carrying out statutory authorities assigned to the Secretary.

Mr. CHAFEE. Mr. President, I also mentioned that the President of the United States has shown some reluctance to go forward with these commissions. Senators perhaps will recall that on February 1 of this year, in one of those famous leaks, a memo signed "J. C."—Jimmy Carter—came out, in which he did approve with going ahead with the regional commissions. However, he said:

> Reluctant agreement. But in general I consider the regional commissions to be a waste of time and money. Very top heavy under the Federal and State cochairmen.

Of course, he is speaking from experience, having been a Governor.

The President continued:

> A source of a few dollars for Governors. Maybe it is improving. I hope so.

So the President, himself, showed skepticism; and I think that is a skepticism that many in the committee share and which I certainly share.

Mr. President, at this time I reserve the remainder of my time.

How much time do we have remaining on the bill?

The PRESIDING OFFICER. The Senator from Rhode Island (Mr. CHAFEE) has 14 minutes remaining on the bill. The Senator from West Virginia (Mr. RANDOLPH) has 17 minutes.

Who yields time?

Mr. SIMPSON. Mr. President, at this particular time I think it appropriate to call up my amendment and I will address my remarks to the bill and the amendment at the same time.

The PRESIDING OFFICER. The Chair will advise that until the committee amendments have been acted upon any other amendment will not be in order.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc.

Mr. CHAFEE. Mr. President, I reserve my right to object to that. We have not yet had an opportunity to discuss the committee amendments. Are there many?

Mr. RANDOLPH. They are reported.

Mr. CHAFEE. No objections, Mr. President.

Mr. RANDOLPH. And they be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, the committee amendments are considered en bloc, agreed to en bloc and considered as original text.

Now, the Senator from Wyoming.

UP AMENDMENT NO. 474

(Purpose: To strike title III, National Growth Policy Process)

Mr. SIMPSON. Mr. President, I have previously sent to the desk an unprinted amendment and request that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Wyoming (Mr. SIMPSON), for himself and Mr. BOSCHWITZ proposes an unprinted amendment numbered 474.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 42, beginning on line 13, strike all through line 17 on page 56 and renumber the remaining sections accordingly.
>
> On page 19, beginning on line 3, strike all through line 21 and renumber the remaining paragraphs accordingly.

Mr. SIMPSON. Mr. President, I wish to sincerely commend Senator CHAFEE for his remarks with regard to the issue of regional commissions. I think he has done an excellent job of portraying the problems.

The PRESIDING OFFICER. The Chair asks the Senator if this is the amendment on which he desires 2 hours.

Mr. SIMPSON. That is correct. This is the amendment to title III, Mr. President.

He has touched upon all of the issues that I would have commented upon and may touch upon lightly again as I discuss my amendment.

Mr. President, at the outset I believe it is most important to point out that this bill does not merely extend to the so-called title V regional commissions and the Appalachian Commission as we know them. Nor does the bill merely expand the number of commissions to simply cover the United States, as Mr. CHAFEE says, with a wall-to-wall layer of regional government.

The novel and rather bizarre element of this bill which most concerns me, the reason why I offer this amendment, is because it would effectually and effectively evaluate nominally successful title V commissions into managers of the Nation's economic development planning. I refer specifically to those sections in title III of the bill establishing a regional growth policy process.

I call to the attention of my colleagues sections 301 through 306, section 204(a)

(1) and (2) of the bill and also I refer my colleagues to pages 6 through 9 of the Committee Report 96–171, and to my minority views and other minority views contained there.

The extent of the awesome influence and control granted the commission is evident upon a reading of section 204 of the bill. As stated in subsection 1, each commissioner shall—and let me emphasize that the word "shall" is thoroughly larded throughout this bill—develop and implement a regional growth policy process which shall include the preparation of, first, a multiyear regional development plan, with policies and priorities for action programs to guide Federal, regional, State, private, and sub-State investments; and, second, annual investment strategies which include specific policies and investment proposals affecting Federal, regional, State, and sub-State participation in support of regional growth policies and priorities.

Subsection 2 gives the commission authority to implement schemes to coordinate the development and growth management of activities of the State governments and sub-State entities with regional policy development.

Their authority extends to such diverse fields as first, energy conservation and development; second, economic development; third, transportation; fourth, environmental protection; fifth, coastal zone management; and sixth, outdoor recreation and planning, and that includes planning of all kinds and types, including land use planning and cultural resources protection.

Mr. President, in my minority views contained in the Senate report accompanying this bill I labeled the regional commission as extended and expanded by this legislation as a shadow form of government. I do not believe that the analogy is totally inappropriate, for this proposal is indeed a radical alteration that if fully implemented would replace our constitutional form of government by the establishing of a new nonelected political order coordinating all the rest of duly elected government entities, from the grassroots in the States to Federal Government.

Perplexing enough, section 302 would require the President to establish an interagency committee headed by a "senior White House official." That assuredly loose delegation of authority is one which the Senate will surely want to reflect on in light of recent White House turmoils and thrashing and the present disarray that has engendered in the recognized chain of command in national Government.

This "senior" member of the White House staff is instructed to periodically apparently call onto the carpet the heads of various Federal departments and agencies in order to determine whether or not they are carrying out the regional development plans recommended by the Federal regional commissions who presumably, I suppose, will be knocking heads to see to the resolution "of any issues between the regional commissions and the line agencies," and who will then fix a schedule "for review and response" to commission plans by the rest of the Federal Government.

This senior White House official will also "identify and encourage solutions to regional issues" and assure adjustment in policies and procedures necessary to the successful implementation of each commission plan.

This Orwellian delegation of authority may indeed mean that big brother has indeed arrived but slightly ahead of schedule, but I think that actually the father of the idea is still unknown and perhaps will remain so.

Section 302(d) elevates to new heights the position of Federal cochairmen of regional commissions by instructing that they will be appointed as chairpersons of Federal regional councils. It is a realistic and crass observation to state, Mr. President, that these positions are occupied by the grace of political patronage and not merit.

This new effort will insure that all forms of accountability, political and administrative, will be discarded in favor of this new regional political higher picking order.

Section 302(e) mandates that the Cabinet Secretaries and highest officials of the Federal Government must "adjust its procedures and policies" to assure that regional—not local or State or national—goals are obtained by the regional participation.

I think I now want to come to that portion of title III which I personally have found to be the most blatant and offensive. Under section 303 of this bill State plans will be developed with the "participation of State legislatures, local governments, the private sector, and sub-State planning and development organizations." Yet each State, its elected officials, and citizens, are subservient to the regional commissions as "each State development plan shall reflect the goals, objectives, and priorities established in any regional development plan."

Mr. President, I very seriously question that this country has arrived at a dismal point in time when elected officials are merely participants and not the decisionmakers.

The defenders of regional commissions will argue that the indifferent or mixed results of the commissions to date are to be blamed upon a lack of Federal funds or upon some type of confused authority, except for the Appalachian Regional Commission which has been handsomely funded over the years.

In each remark here on the floor we have had apologies for the regional commissions, but hope they will get better. I choose not to wait that long. Yet this bill provides no more authorizations for appropriations than the commissions have received for a number of years.

While extending the commissions to a nationwide system, even the proponents of this concept would concede that funding is inadequate to do the job which this bill would sanction. I believe the American people do not wish Congress to enact vast new programs that promise wonderful cornucopias or panaceas and high-blown promises about the hope of an eventual successful accomplishment of a stated objective, a long ago stated objective.

While some may believe it is quite politic, I do not believe the voters of America really enjoy seeing their lawmakers promise and not deliver, and there is no way to deliver under this existing bill.

On the other hand, to swing open the doors of the Federal Treasury to additional largess for the regional commissions would also, I hope, incur the wrath of the American voter.

The Appalachian Regional Commission and the existing title V commissions have recently undergone the scrutiny of the Department of Commerce, the General Accounting Office, and the American press, and Senator CHAFEE has submitted those documents as part of the record.

In a series of 1979 reports by the Office of Audit of the Department of Commerce concerning title V commissions, it was revealed, first, that one such commission opened an international trade office in a major European city; second, there was no central point to provide information on the numerous studies, reports, and expenditures of the commissions; and in my research I could find very little that was presented to me in the way of expenditures simply because that information was "not available" or being shuffled in some far-off location.

Third, one commission advanced unearned funds to a contractor who was able to maintain a nice average checking account balance in excess of six figures; fourth, one commission has consistently funneled funds directly to States with little or no regional coordination. And there is much, much more.

The bottom line is that there has been little demonstration of sound financial management and coordination of public administration by regional commissions. Yet these are now the intended vehicles for coordination of private and public investment, transportation, energy conservation, environmental protection.

The list of proposed authority goes on and on in tedium and ad nauseam, when they cannot keep a set of their own books or supervise their own contractors. No wonder President Carter has so clearly expressed his skepticism about their effectiveness when he indeed said, as Senator CHAFEE has indicated, that they were "a waste of time and money," speaking of the regional commissions.

The Appalachian Regional Commission is supposedly the archetype regional body. The General Accounting Office probed the workings of this entity and concluded in its April 1979 report:

> A number of problems and issues need to be resolved by the Congress, the Office of Management and Budget, and the Commission before the Appalachian experiment can be expanded to a nationwide system of multistate regional commissions."

The GAO report showed, among other things, first, a lack of effective internal controls over Federal funds. As of March 1977 over 5,000 projects had been funded, and only 454 had officially been closed out; second, the disbursements of funds to the grantees in excess of need which occurred more frequently than imaginable. The GAO found 14 projects in 7

States for which the commission had failed to recover over $2 million. Furthermore, they stated there was no evaluation system to measure program effectiveness by the process of linking costs to the identification of benefits, which seemed to be a rather primary thing to do.

Proponents say this measure was called for by the 1978 White House Conference on Balanced National Growth and Economic Development. Mr. President, if one correctly reads the rollcall on the recommendations from the White House Conference, the following can be very readily determined: First, "the call was not for new or more government," but for a change in the structure. There was evidence of a very clear need for better data, forecasting, and policy analysis to aid State and municipal jurisdictions.

There was a call for an end to Federal policies that often conflict with each other. The participants called for a more effective decisionmaking process, not an overlapping system of sub-State, State, and regional plans.

Mr. President, as a freshman Senator I, perhaps, did an extraordinary thing. I read the bill in its entirety. I know that will shock many Members of this body. Nevertheless, in doing so, and especially with regard to title III, not only do I find this reference to this senior White House official continually throughout, but I am fascinated by the reference to the word "shall" which appears throughout the legislation. Six "shalls" on this page, seven on this one, four on this one, eight on this one, "shall" do this, "shall" do that, and actually some of the language in the definitions of what is proposed there has actually elevated vagueness and obfuscation to really a type of art form.

I noticed, if I might refer to just several sections of article III which my amendment, of course, would strike from the legislation, on page 46 we speak of describing the mechanisms established to assure appropriate opportunity for participation of the private sector. I know not what that is, but then we will go on to set a system for periodically evaluating in both quantitative and qualitative terms as appropriate, whatever that means, the effectiveness of plans, programs, and projects.

Then we get down into what will be listened to by the regional commissions, and we find that after all these local units from the ground up are established that at least the commission will take into consideration what they are doing.

It does not say that they will follow—and they are the ones, of course, doing the grassroots revision. It does not say they will follow or heed, or stronger; simply that they will take into consideration.

We talk about areawide action programs. I have no idea what that is. On page 47, we find that:

> State and substate planning processes shall be designed to coordinate and utilize to the maximum extent possible existing substate institutions and Federal, State, and local programs and projects in the affected areas and shall consider anticipated private as well as public investments.

I read that in a rather stentorian manner, because if I read further it would undoubtedly cause you to doze. That is the kind of language contained in title III.

To go on to page 48, we have this curious phrase:

> The governing body of the district is composed of at least a majority of local elected officials of general purpose local governments from the affected area.

I do not know what that is, but I do know that elected officials do not sit on local planning and zoning boards. Those people are not elected in most of the counties in America.

Then we will provide, in that same section, an areawide clearinghouse, which will be designated by either the Office of Management and Budget or the Governor. I do not have any concept of what is an areawide clearinghouse, but at least it will be good to encourage consultation.

Then we come to a phrase entitled "an assessment of regional problems and opportunities." That will be a curious task. Then we come back to "due consideration" again, and that is what we are going to give to the States and local governments; we are going to give them a tremendous amount of due consideration, but not much more.

Then we are going to get into specific elements. We are going to have a review of prior regional studies. We are going to rehash and redigest the ones that have gone on before. Then we are going to review the current regional economy and the projected economy based on the best available data, and that makes for one more think tank weapon.

Then we have the phrase:

> Multistate and shared problems requiring regional attention.

We will study, as one question, "the adequacy of existing Federal, State, and local programs," and you may bet that they will find them quite inadequate.

Then on page 50, we will establish "a framework for the continuing analysis of data," which indeed makes one conjecture as to the actual scope of that structure.

Then we have things that are just simply undefined, like "strategies to implement the plan," "criteria," "development programs," and "a determination of necessary and feasible regional goals," and there are seven "shalls," I might add, on that page.

Then we come to an interesting definition on page 51: "perspective, conditions, and approaches."

This is what this will permit:

> Insofar as applicable statutes permit, perspectives, conditions, and approaches particular to each region.

I must say that in each of these conditions being enlarged upon throughout title V, the Appalachian Regional Commission is omitted in each instance.

Then we go on to a definition of "national economic and social policies and trends which must be considered by the Federal departments and agencies," and again, a reference that this applies to all title V programs except the Appalachian Regional Commission, which is left out again.

Then we are told we will analyze these diverse goals. I assume that will mean after they have been homogenized. And there are six "shalls" on that page.

Then the term "regional development" on page 54, in section 306(1), is defined as "the selective management of resources and activities toward the achievement of regional goals in the approved regional plan, including those goals affecting human"—and please get this—"and cultural resources, institutional, community, and economic development."

How did we ever get in the concept of this legislation and its, say, admittedly thoughtful idea of a good thing to do for the human condition—how did we get off and insert in the legislation "cultural resources"? It is new language, and perhaps it may refer to cultural resources such as the National Track and Field Hall of Fame, which now has temporary headquarters in Charleston, W. Va. We find that is a project described in Forbes magazine as a "weirdo":

> Like the $1.2 million grant for a National Track and Field Hall of Fame in West Virginia or the hospital built in a rural Virginia county that already had an adequate one.

It makes you wonder, when you see that, whatever happened to "ye old original" regional commission. Apparently it is being stamped out by its own inadequacy.

There was another one of these that popped out to me, and then I will begin to wind down my efforts at having some thoughts about the results.

The term "sub-State planning and development district" is described in this fashion:

> A multijurisdictional entity certified to a regional development commission.

The very sound of "multijurisdictional entity" has a biological connotation. And we then define, as we end in the final portion of article III, which I am trying to remove, again, this language, which strikes me as vague, meaningless, and dilatory:

> Having responsibility for continuous, coordinated, comprehensive public facilities and services planning.

In the planning arena—and I do not share the tremendous emotion of some in the United States who feel that regional governments are a part of the grand Communist plot; I am not in that league, but I must say assuredly that they are an awesome force operated by unelected officials and, more importantly, oftentimes unelectable officials.

Well, those are some of my comments based on a thorough review of this proposed legislation. On top of that, of course, we now are going to make a regional commission for the State of Alaska. That I voted against in committee, and that I will vote against here. That is far removed from whatever we had in mind in the original thoughts and comments with regard to the regional commissions.

I want to share with you that I am a member (State) of the Old West Regional Commission, and I have watched some excellent investments there, without question quite adequate, some of them quite unnecessary, quite out of place with the original context of the concept of a regional commission.

Mr. President, in conclusion, this point: I think that prudence and commonsense and just a bit of plain sanity would seem to dictate that Congress itself reassess and restructure regional commissions—not wait 4 years to do that, not attempt to turn them into what this title III would do, an omnipotent and autonomous agency, accountable only to a presently phantom senior White House official.

The PRESIDING OFFICER. Does the Senator from Wyoming reserve the remainder of his time?

Mr. SIMPSON. Yes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I have 1 hour; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. RANDOLPH. Mr. President, I regret that my friend from Wyoming (Mr. Simpson) has chosen to rely, at least in part, on an ill-conceived controversial, and blatantly one-sided magazine article to support his attack on the concept of regionalism.

The Senator has referred to two projects, one in West Virginia and one in Virginia. I have always said that States can make errors in programing and projecting. But I hope that Members will read the article, that every Member of this Senate will read it. I think the fair-minded reader would conclude that it describes the issues in a reverse manner.

The article was obviously written with no objective other than placing in a bad light a program that has provided substantial—and I underscore "substantial"—benefits to millions of Americans during the past 14 years.

We have had again raised the familiar argument of "pork barrel" without examining how the expenditure of moneys has been channeled into those productive programs by the thousands in the 13-State region through an effort that relies in most cases on careful planning, careful allocation of Federal-State assets, in a way that has produced not only substantial but in many instances maximum results.

This article is an example of cynicism at its worst. It does not deserve a point-by-point rebuttal by the chairman of this committee.

Mention is made of a report by the General Accounting Office. No mention is made, however, of the internal bookkeeping changes that have taken place in the Appalachian Regional Commission, or of the way in which those GAO criticisms are addressed in the bill that is before us. We tighten the processes rather than allow them to be proliferated.

Certainly, as the Senator from Wyoming has said, he speaks of a couple of projects in the article, and that is certainly understandable to me. But the article and the Senator neglect to speak of those hundreds of other projects which have helped mightily to improve the standard of living, which have broadened the economic base of this Appalachian region.

This program, for instance, has assisted in the establishment of 496 primary medical and dental care projects since it came into being in 1965. Is that a good record or is that a bad example of the Appalachian Regional Commission work?

Nearly 500 vocational and technical schools have been given maximum support through the Appalachian Regional Commission.

The Appalachian highway program can be better understood if we understand the stimulus that program has given throughout the area to economic development.

Mr. President, the Appalachian program, as we know, was begun in 1965. There were several years of painstaking study. It was intended to address those unique problems in the sense of a region that was isolated to a considerable degree from the mainstream of American economic life. I recognized then, as I recognize now, that a similar approach could be helpful, would be helpful, in other parts of the country. For that reason, I support the title V regional commissions, as I said I would in 1965 in this body, in their effort to increase those resources that are available to them.

The concept, Mr. President, underlying all of the work is the regional approach of partnership, not competition, as I have indicated, between the States and the Federal Government. We certainly recognized early that we must work in unison to achieve these results that I have mentioned, constructive results, and the people of the region know it, not just the Governors of the respective 13 States. In the regional programs, we do not rely on an infusion of Federal funds from Washington to be spent, as indicated here in the argument, dictated from Washington, D.C. We do not look to a trickle-down approach. Instead, these regional problems are built from the ground up. Individual citizens and local units of government are the basis for the development of these programs. They move upward through the States and reach a final form at the table, not in a darkroom in the corner, where the States and the Federal Government sit as partners.

It is planning, yes, but it is not planning imposed from Washington, D.C. Planning is not a bad word. Planning can be very necessary, to see that the available money is spent wisely—with some errors, of course, understandably—to reach the maximum results. The results in Appalachia are positive, and I speak now in capital letters, and demonstrate the correctness of the approach that has been taken.

The title V regional commissions, particularly those that have been in existence for several years, are well on their way to creating individual and resourceful programs for the people of the regions that are covered.

Mr. President, it is important for Senator Simpson, for myself, the other Senators to remember that we have advanced far beyond the time when we are all looking at assistance for pockets of poverty or distressed areas. We are now seeing the evolution of a program intended to prevent these conditions from coming into being, from occurring. As in other programs, we have learned that preventive medicine is sometimes much more desirable than curing a disease after it has struck with devastating effect. That is the approach; that is the undergirding of the regional program as we envision it in the future.

We must work to prevent or lessen the violent fluctuations in local or regional economies. Concepts embodied in the commissions are aimed properly in this direction.

The Senator from Wyoming is entitled to debate a provision of any bill that is before us at this time. I must question the validity of his arguments, however, when he relies on support from what I believe to be misinformed and misdirected sources such as those of the Forbes article. He is not on solid ground but upon shifting sands.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. Pryor). Who yields time?

Mr. SIMPSON. Mr. President, let me just touch upon some of the remarks of Senator Randolph. I want to do that as fairly as I can.

I ask unanimous consent to have printed in the Record the article from Forbes magazine of August 6, 1979. I have found that magazine to be rather reputable in my past business experience. It does cover many other things than the one I have referred to and suggests some interesting deficiencies in the regional commission program. There are other documents that do that just as well or better.

One is the GAO audit; one is from the Commerce Office of Audits; the other an article from the Charleston, W. Va. Gazette, which I ask unanimous consent to have printed in the Record also. That article is dated Tuesday, December 26, 1978, and is entitled "Is New Layer of Government Needed?" That is from the home State of the Appalachian Regional Commission. Also, articles from the Boston Globe reflect on this type of government.

There being no objection, the material was ordered to be printed in the Record, as follows:

Brand New Rat Hole

There's a move in Congress to set up a new government layer called regional commissions. The General Accounting Office says they could cost $2 billion a year.

Eight such commissions already exist: one big $300 million independent agency and seven little ones, linked to the Commerce Department, that together spend some $63 million a year. The big one is the Appalachian Regional Commission, pet of Senator Jennings Randolph (D-W. Va.), chairman of the Senate's pork-barrel Public Works Committee. Since its creation in 1965, the 13-state ARC has doled out about $5 billion in federal money to nurture the depressed Appalachian economy.

Randolph, a portly septuagenarian who still fights the good New Deal fights of the 1930s, thinks so highly of ARC he wants everybody to have one. So legislation now plodding through Congress to extend ARC's life contains provisions to give the U.S. wall-to-wall commissions.

The idea has met little resistance—and no wonder. Run jointly by the state and federal governments, regional commissions provide governors and congressmen with a cache of easy-to-get federal money. Washington think-tankers see them as a source of endless study contracts. And perhaps most important, the commissions have a history of spending without caring too much about what political cronies get hired or how the money is spent.

President Carter reluctantly okayed the idea but in a private memo called the commissions "a waste of time and money." Still, he suggested adding three more—mid-Atlantic, mid-South and mid-America. The Senate bill would give a commission to any region requesting it and would even create one for a single state (Alaska).

How has the Appalachian model worked out? The GAO recently said ARC's bookkeeping is so poor it can't account for nearly $1 billion it has distributed. The GAO added that some of Appalachia's neediest areas got the least assistance, and that the region's economic gains could not be tied to the billions ARC has put into roads and construction projects.

"I don't think ARC has worked to make any substantive changes in Appalachia," says Tennessee resident and former Rhodes scholar John Gaventa, who is part of what may be the first indigenous group to get a study grant from the commission. Many ARC grants have gone to outside consultants who just happen to be former ARC executives; ARC's current executive director, lawyer Henry Krevor, has received $300,000 in consulting fees from ARC since 1969. Every President since Lyndon Johnson has used ARC as a convenient place to put campaign workers and cronies. The current crop includes a Jimmy Carter advance man from the 1976 campaign, a former Carter fundraiser and First Lady Rosalynn Carter's former press aide.

The commission's "economic development" projects are spotted with weirdos, like the $1.2 million grant for a National Track & Field Hall of Fame in West Virginia or the hospital built in a rural Virginia county that already had an adequate one. Now there is talk of a $500,000 arts and crafts center in prosperous Winston-Salem, N.C.—hardly one of Appalachia's poverty pockets, but in the home state of former ARC federal cochairman and former state Governor Robert Scott.

Harry Caudill, author of several classic texts on Appalachia, says the commission has done little to attack the region's real problems—land use, housing and the lack of good jobs outside mining. "I think the ARC ought to be put to work or abolished," he says. About two-thirds of ARC's money has gone to build admittedly needed roads. But the original idea was to bring in new industry, protect against boom-and-bust coal cycles and build the tax base. "The ability to pull in industry is not a very exact science," says ARC federal representative, William Albers. "We just don't know how to do it very well."

ARC is, to be sure, only one of the eight existing regional commissions. But it is by far the largest, with a staff of about 130 and a budget that is nearly five times as large as the other seven combined. And ARC isn't the only commission to have its troubles. The tiny (20 employees) Upper Great Lakes Regional Commission is in the throes of a $1 million-plus kickback scandal that has already sent one person to jail, with more indictments expected.

But all these drawbacks do not keep the bill to establish more regional commissions from grinding its way through Congress. And having been conjured out of the federal bottle, there seems no way to get them back. Bureaucracy, once born, tends to become immortal.

Is New Layer of Government Needed?

(By William H. Miernyk)

Does the country need another layer of government—one between Washington and the state capitals? Supporters of "wall-to-wall" regional commissions believe it does.

There are two kinds of regional commissions in the United States today. First is the unique Appalachian Regional Commission. The domain of the ARC includes all of West Virginia and parts of 12 other states. It was established in 1965, initially to tie Appalachia to the rest of the nation via a system of development highways linked to the interstate system. Three-fourths of the proposed 2,233 miles of development highways have been completed or are under construction. Engineering and right-of-way work is in progress on the remainder.

Once the development highways were assured, the ARC shifted its emphasis to "investment in human capital." This is the crass term economists use to describe investments designed to improve the efficiency of human beings. Practically, it means effort to improve education and the delivery of health services.

The ARC has invested substantial amounts in vocational education and health facilities, and in demonstration health programs, including those concerned with child development. Smaller amounts have been spent on reclamation projects and housing. Since federal grants require some matching state funds, the total investment in ARC projects is much larger than the published federal appropriations.

During its early days ARC was roundly criticized by some regional economists. The highway program was characterized as a gigantic boondoggle. I don't always bet on the right horse, but I was one of the early defenders of the initial ARC emphasis on highways. Today there is wide agreement that the ARC has made a difference in this region. It has been helped tremendously, of course, by the revival of coal. But ARC is now given high marks even by some former critics.

The other regional commissions are not as well-known as the ARC. They are the Regional Action Planning Commission authorized by the Public Works and Economic Development Act of 1965. In bureaucratic circles they are generally called "Title V Commissions," after the section of the law which permitted them to come into existence.

The 1965 act didn't designate specific commissions; it enabled groups of contiguous states which desired to do so to establish commissions. Within a year five of them had been set up. They are: the Ozarks, New England, Four Corners, Coastal Plains, and Upper Great Lakes. Like the ARC, Title V Commissions have federal co-chairmen. Unlike ARC, their headquarters aren't in Washington.

Not much is known about the activities of the Title V commissions. Some critics say they deliberately maintain low profiles. Through the years the New England Commission came to be known as the "best" of the Title Vs. In October 1972, however, the Boston Globe published a series of four long articles about the New England Commission.

The first article was headlined "Do-Nothing Bureaucracy Squaders Millions of Tax Dollars." These articles—which are outstanding examples of investigative journalism—make discouraging reading for anyone committed to the notion of federally-sponsored regional development programs. The Globe, incidentally, is Boston's liberal newspaper. In these articles it was attacking by indirection politicians it generally supports.

One of the more interesting revelations of the Globe articles is that the New England governors had subverted the legislative intent of the 1965 act. Like the ARC, Title V commissions were supposed to promote regionwide projects. In practice, the governors have used the New England Commission to funnel federal funds directly to their states. There has been little or no regionwide coordination—nothing comparable to the Appalachian Development Highway System.

The other Title V commissions haven't received the kind of attention given the New England Commission, for which their respective co-chairmen must be everlastingly grateful. They also haven't received any favorable comment in the journals that typically discuss regional affairs. Their accomplishments, if any, have attracted no attention.

Why bring all this up? Is it a reflection of "Proposition 13 fever"? I hope not, because I've tried to avoid contamination by that virulent malady. But it is a timely subject since there is now a proposal in the works for a nationwide set of regional commissions.

The proposal to expand the number of commissions is supported by the governors of the states which presently participate in Title V funding. And it has ardent support among some Washington officials who deal with the existing commissions. I'm not aware that anyone with any political clout is opposing them. The chances are good, therefore, that when a report on the commissions now being prepared in the Department of Commerce is presented to Congress, legislation will be proposed to blanket the country with similar agencies. Every state will then be eligible for some of the largess now limited to a few, so the commissions are likely to be established with little or no opposition.

Given their dreary record, one might expect the Title V commissions to be abolished. I recently heard a federal official state, however, that this isn't "considered to be a viable alternative." Whether we need them or not, whether they do anything or not, it seems that the country is about to get a complete new layer of government in the form of wall-to-wall regional commissions.

Mr. SIMPSON. I think when we get to this issue of benefits and accountability, we want to go back to the GAO report, which is suggesting to Congress its advice to go slowly and correct the problems. Indeed, I say to Senator RANDOLPH that our committee did address this issue, as it did deal with all issues, in a fair manner, under the chairman. As we addressed it, we never did determine exactly when those changes would be required to be made in the very serious bookkeeping areas. We do not really know what care they take in these regional commissions to allocate and to assess the use of their moneys. I have had a tremendous amount of difficulty obtaining adequate figures—not from this chairman, indeed not. He has been more than cooperative. Nor from the majority staff; they have been cooperative, as has the minority staff.

The regional commissions are less than cooperative. That is one of the reasons I am speaking. We have no way to assess their bookkeeping efforts. We are hopeful we shall see there will be bookkeeping benefits. I shall be watching that closely.

But again, coming back to the Appalachian Commission, we have had these 5,000 projects funded and only 454 of them have been closed out. I think the thing that does cause me a great deal of concern is that we are seeing that these regional commissions will now become the economic planning mechanism of the United States. It is not from the bottom up or the grassroots. We do not see this bill being processed at the State legislatures or city councils. If we did, then I would certainly subscribe to the fact that it is a grassroots operation.

But when we say that this is not Federal planning, I cannot chamber that remark, because I share this, Mr. President: Title III is a federally dominated procedure in every way simply because of these facts: The process exists by Federal law; the commissions are creatures of Federal law; the commission will be chaired by Federal cochairmen; the funds expended will be Federal dollars; and the requirement to develop various plans is set by Federal law and supervised by federally authorized regional commissions. That looks quite plain to me.

As we say in Wyoming on issues such as this amendment, which will soon be voted upon, perhaps this article III is one old turkey we could leave in the pen and hope the coyotes might get it.

I thank the Chair.

Mr. RANDOLPH. Mr. President, the able Senator from Wyoming says that the State development plan must reflect the goals and objectives of any regional development plan. I reply that State-elected officials are made subservient to a regional commission. Let us see who the regional commission is. It is, of course, the Governors of the States, the elected officials, to be sure, sitting as partners with a representative of the President of the United States. And the same language to which the Senator refers makes the regional plans largely a composite of State plans.

It is not accurate, as the Senator suggests—that the Appalachian Regional Commission is exempted from title III.

That Commission is part of every provision and covered by every requirement of that title. The only exceptions are provisions which would otherwise subject the independent Appalachian Regional Commission to some approval or control by the Secretary of Commerce.

The Senator from Wyoming has discussed title III almost line by line. He has professed a certain amount of ignorance, which I never attached to him, about words and phrases that are well defined and commonly used in the legislative process—used by the minority as well as the majority. Of course, I grant to him the right that he has exercised, but I assure him that the language in title III is precise.

On one point, I am going to take the time to alleviate his concern. On page 54 of the bill, the Senator refers to the goals of regional development. He called attention to the words, "and cultural," which the committee added to these goals. I believe that most people understand what cultural resources are all about.

But I remind the Senator, and this is with no reflection, that these words were added to the bill at the suggestion of the minority on our committee.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 44 minutes and 36 seconds remaining.

Mr. RANDOLPH. Mr. President, I oppose the amendment by Senator SIMPSON. I believe the distinguished Senator does not understand the intent or effect of title III. In fact, it is difficult to discern from his arguments that he is talking about title III of this bill at all.

The regional growth policy process and the planning provisions of title III are a modest refinement and consolidation of the process already underway in the Appalachian and other regional commissions. I will explain what title III provides, and who speaks for it, and just why it is necessary in this bill.

In a large part, the regional growth policy process is based on the successful areawide action program and State development planning of the Appalachian Regional Commission. The process envisioned by title III begins with the identification of problems and proposed solutions by elected officials and other participants in local communities. This is often done at the multicounty district level, and title III encourages the use of existing institutions.

Ultimately, the entire regional growth policy and development planning process must reflect the goals, objectives, priorities, and recommendations established at these local levels.

The next, and crucial part of the process, is the preparation of State development plans. Here Governors, in consultation with State legislators and other interested parties, accommodate and harmonize the diverse goals, objectives, needs, and recommendations identified at the local level.

The multiyear regional development plans and annual investment strategies are primarily State-prepared documents. They are not mere paper exercises, but they most realistically identify the State, local, and other Federal program dollars which can be used to implement the plans.

The Federal role in approving or directing these plans is limited to assuring that they do not patently conflict with national policies or the work of another region and that they truly address shared regional problems.

The products of this process, then the development plans, the annual investment strategies, and the specific regional growth policy recommendations contained in them are brought to the attention of the Federal agencies through an interagency committee.

The purpose of this process is to coordinate Federal assistance or other programs affecting regional development. We want to bring a regional focus to these national programs, so they can better serve State and locally identified needs. And our experience has shown that Federal agencies will pay attention to each other, and work best to coordinate their separate responsibilities, if it is the voice of the White House who calls them to the task.

That is why title III begins with an interagency committee to be chaired by a senior White House official. The President has already created such a body. In January of 1979 President Carter gave the Interagency Coordinating Committee chaired by Presidential Assistant Jack Watson responsibility for operating the regional growth policy process.

At that time the President said:

> Through planning and selective management of resources and activities, the commissions also afford a common framework within which the different levels of government can apply their energies to regional problems.
>
> In light of the changing patterns of economic activity across the country, and in order to extend the ability of states and localities to shape Federal policies in behalf of regional concerns, new processes for planning, coordination and policy support are required. To develop and carry them out will require cooperation on the part of the Secretary of Commerce, Federal departments and agencies, the Interagency Coordinating Council, the Federal Cochairmen of the Appalachian and Title V Regional Commissions and the Federal Regional Councils.
>
> By means of this memorandum, I am instituting a regional growth policy process to assist the regional commissions in developing and implementing their multi-year regional development plans and annual investment programs. These plans and, more importantly, the annual investment programs should be developed from the ground up, reflecting sub-state and state development plans.
>
> Through this policy process, the regional commissions will be given an opportunity to prepare recommendations to Federal departments and agencies for solutions to problems of regional growth and decline. In framing these recommendations, the commissions will consult with the Federal departments and agencies affected, taking advantage of the expertise available in the regional headquarters of each agency, as well as with sub-state, local and private interests.

The regional growth policy process is a direct result of the recommendation of the White House Conference on Balanced National Growth and Economic Development. This conference, which I attended and to which President Carter gave much personal attention, was held pursuant to legislation Senator DOMENICI and I originated. The recommendations of the conference precisely endorsed the kind of structure title III provides as a means to the balanced consideration of competing regional and national goals. The growth policy process was one of four principal themes of the conference, and one from which flowed a legislative initiative as well as the President's executive action.

The report of the White House Conference transmitted by the President in January 1979 contained these thoughts urging a process like that in title III:

> The proper role of the Federal Government is to establish a coordinated policy framework to guide regional, State and local planning and decisionmaking, seeking insofar as possible to anticipate change so as to enable all levels of government as well as private interests to take timely actions.
>
> Conferees asserted that growth policy processes should provide a systematic, consultative forum for the establishment of goals, the analysis of alternative policies and programs,

> and the reconciliation of conflicting laws, programs and regulations, thereby strengthening the capacity of elected officials to guide growth and development in beneficial ways. State and local governments should continue to have responsibility for planning, assuring participation of governmental and private interests, while responsibility for establishing policy processes, setting goals and reconciling differences should reside at the Federal, regional and State levels.
>
> Effective national growth policy processes require that regional, State and local growth policy processes be effective, too. Federal planning assistance programs have assisted State and local governments to develop workable systems for sensing public preferences on issues of growth and decline and translating these into long-term growth policies and development programs. In addition, however, Federal programs assisting development, direct Federal investments, and Federal regulatory actions must prove more sensitive to and support regional, State and local planning and investment policies.

Last October, before the close of the 95th Congress, I introduced S. 3626, an earlier version of S. 835, which contained provisions for a regional growth policy process. In April of 1979, based on the recommendations of the White House Conference, the administration submitted S. 912, its proposed extension of the regional commission program. That bill contains legislative support for the regional growth policy process already underway. In recommending this legislation, the Secretary of Commerce said:

> The strong action needed at the different levels of government requires new processes for planning, coordination and policy support not present in current legislation.
>
> Through planning and selective management of resources and activities, the regional commissions established under Title V of the Public Works and Economic Development Act of 1965, as amended, and the Appalachian Regional Development Act of 1965, as amended, have afforded a framework within which the different levels of government can resolve regional problems. The President, in his view of the regional commission program, has committed the Administration to support reauthorizing legislation which also gives commissions greater opportunities to accommodate regional differences in the development and implementation of balanced growth and development policies and to contribute to sub-national solutions of national growth and development problems.

The regional growth policy process does not call for a federally dominated "master plan" for national economic growth. It simply provides a forum for elected officials to consult and seek to reconcile conflicting goals and programs.

The dominant decisionmakers under title III are Governors and local elected officials. These are the people to whom the authority of title III is entrusted. The regional commission structure, the planning provisions and the growth policy process—all of which this bill would upgrade in response to recent criticism—are tools to help these elected officials better carry out their constitutional responsibilities.

Regional commissions are not an additional "layer" of government. The commissions, and the process created by title III are devices to enhance the capacity of existing governmental forms to deal with their shared problems and to harness the fragmented resources of the Federal Government.

The essence of the regional growth policy process is to make Federal programs the servant of regional needs, as identified by the States and local governments. Title III provides a framework for coordination of decisions that now take place in an ill-formed, haphazard way. It does not constitute a system of national economic planning.

During committee markups on this bill Senator CHAFEE and others criticized the commissions for making investments unrelated to regional needs or interstate problems. The planning structure of title III is needed to assure the relevance of Commission investments. Only if we have meaningful planning requirements with objective standards for measuring performance and achievement can we avoid the "no-strings" Federal money syndrome to which Senator SIMPSON refers. All the basic planning requirements for the Appalachian Regional Commission and the other regional development commissions are established in title III. Without them the protection of section 205 and many of the other improvements in commission functioning would not be possible.

Mr. President, we are not really talking about expanding the regional commission concept. The commissions are already there, in all or parts of 48 States. What is at stake in title III is whether we are willing to follow through to make the regionalism concept work. I have been informed that if the commissions cannot take this necessary next step, if the commissions are not given the opportunity to really affect national policies, if the commissions are not accorded the increased influence title III provides, then the administration is not likely to continue to support them. I agree. The commissions must become something of substance, or they should be abandoned.

In conclusion, Mr. President, I want to share the comments of two Governors who have broad experience with regional commissions and in trying to bring Federal programs to bear on State problems. In a July 11, 1979, letter to Jack Watson jointly signed with the Federal cochairman of the Old West Regional Commission, the Governor of Wyoming (Senator SIMPSON's home State), Ed Herschler, says this about the regional growth policy process his commission has already begun under the President's directive:

> We believe this pilot effort directed at regional policy identification and problem-solving is the key to a collaborative and effective Federal-State partnership capable of meeting challenges of grave concern to the Old West Region. We in the Region have made the process with its various planning, coordinating and policy support components one of the highest priorities in the Commission's history. We intend to see the process through to completion with vigor, and we hope our experience and yours will serve as a model for future title V Commission policy development.

And finally I offer these thoughts of the Governor of North Carolina, James B. Hunt, Jr. He was speaking as chairman of the National Governor's Association Working Group on reauthorization of the economic development legislation:

> For too many years now, most of us have lamented the fragmented, duplicative and often incomprehensible array of programs for strengthening the capacity of places to meet the needs of people. It has become uncommonly easy to point out instances where federal programs work at cross purposes with national policy, each other, or with state and local policies. The inevitable result is program impotence and frustrated people.
>
> I believe, however, we finally are about to find our way out of this thicket of overlaps and under-impacts. The path to linking policy and programs can be found in title III of S. 835 introduced by Senator Randolph. That title is the "Regional Growth Policy Process Act." It creates a process for coordinating regional growth policy, established through a nationwide system of multi-state commissions, with federal agency programs. And it further provides for state development plans as the implementing arm of regional growth policy.
>
> Mr. Chairman, this approach will work. We have had twelve years of experience in North Carolina with a similar approach under the Appalachian Regional Development Act and, to a somewhat lesser extent, under Title V of the Public Works and Economic Development Act of 1965. What has been missing, the linkage to federal agency programs, is now provided in title III.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, will the Senator yield me up to 5 minutes?

Mr. SIMPSON. Mr. President, what time do I have remaining?

The PRESIDING OFFICER. The Senator from Wyoming has 28 minutes and 14 seconds remaining on his time.

Mr. SIMPSON. I will certainly yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I note here that in the report of this bill, it points out, and I quote from page 7 of the report, which is dealing with this regional growth policy process:

> This important innovation expands the influence of the commissions beyond their limited funding base to all of the relevant Federal programs, including financial and technical assistance, direct development, and other Federal decisions. Use of the White House Interagency Coordinating Council assures that the regional commission point of view will have the attention of all units of the executive branch.

Mr. President, I think we recall that when the chairman of the subcommittee was speaking this morning, and I support his views, he said that these commissions are really on trial now, that they have had a great deal of problems since they were started way back in 1965. They are on trial to see if they can do the job they were originally set out to do.

It seems to me, Mr. President, this is not the proper time, when we have them on trial, to give them vastly expanded influence, to send them into new areas into which they have not been previously.

Mr. President, it seems to me—and I speak from some personal experience, having been a Governor and having dealt with one of these commissions—that they have many problems. One of their principal problems is really to be regional, to take some programs and make them regional programs, not just act as a group that doles out money proportionately, in accordance with the proportion of the populations of the various States—so many dollars to this State in the commission, so many dollars to that State.

If these commissions would adhere to their original objectives to provide regional, constructive activities—whether it is the Old West or New England or wherever, then I think they would be fulfilling the original mandate we gave them.

I believe the Senator from Wyoming has a good point here, when he shows concern about launching these commissions into an entirely new area. It is acknowledged in the report, where it says:

> This important innovation expands the influence of the commissions beyond their limited funding base to all the relevant Federal programs.

So I indicate enthusiasm for this, and I commend the Senator from Wyoming for the steps he has taken here this afternoon.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. I yield to the Senator.

Mr. WALLOP. Mr. President, I commend my colleague from Wyoming for the amendment he has offered here today. I think it is well taken and taken in time.

I hope the chairman of the Committee on Environment and Public Works will understand that my standing to speak is in no way directed at him, but merely the provision that has been written into title III.

I believe it is important we understand the present administration has promised to give the Government back to the people. What we see is the launching down the road of more and more Government and taking it from the people. Government is being centralized and withdrawing control back to a centralized position—in this instance, the regional commission, responsible to and appointed by the President.

It scares me as well when the Federal Government becomes involved in planning as we have in title III and with kind of specificity. It really scares me when the Federal Government becomes involved in planning in a way that takes into account and begins to direct a State's destiny through the Federal Government's own personal strawmen, the regional commission.

Planning as proposed in title III is getting government and the planning process away from the local, elected officials, to be done by nonelected Government staffs appointed by the President of the United States—of whichever party he may be at the moment.

The problem is that Congress has reaffirmed, time and time again, that the kind of planning addressed in title III is essentially a State and local function and belongs there, not in a regional commission.

Let us quote a couple of concerned pieces of language from the bill, language that concerns me specifically:

> Each commission shall set requirements for State members to prepare and submit for commission approval a development plan for their State in the region.

By what right does the Federal Government when seeking to return government to the people, require the above performance on the part of individual State members?

Next, it says:

> Each State development plan shall reflect the goals, objectives, and priorities established in any regional development plan . . .

Again, by what right is a regional commission going to establish those goals and objectives on a State, to the exclusion of their local, elected officials?

With the other titles of the bill, we are reauthorizing the Appalachian Regional Commission and the title V commissions, but I do not feel that we should allow the regional growth policy in title III to be enacted.

I offer my most sincere compliments and my utmost support to the Senator from Wyoming. I compliment him on discovering this and the potential impact not only on our State but on all the other States in the country that are involved in regional commissions.

Mr. SIMPSON. Mr. President, I thank my friend and colleague from Wyoming for his remarks, and I particularly thank the Senator from Rhode Island. I appreciate their comments in connection with this amendment.

I was somewhat taken by the remarks of the senior Senator from West Virginia in reading from the staff memorandum presented to him. I doubt seriously that the phrase about ignorance could have issued from my friend from West Virginia. I am well aware of the peril of the hurried presented .staff memorandum on the floor of the Senate. One might read such a document and later regret it.

I should like to address specifically the question of the Senator from West Virginia, about the fact that title III excepts the Appalachian Regional Commission. I refer Senators to page 51 of the bill, lines 6 and 7, where the Appalachian Regional Commission is specifically excepted. Certain requirements are to be met, and we find the language as to certain things to be done, and this language: "Except in the case of the Appalachian Regional Commission."

Then we go to page 52, and on line 7 we find another curious reference: "Except in the case of the Appalachian Regional Commission."

In fact, title III does not even apply to the Appalachian Regional Commission.

When we are talking about precision of language, I earnestly request the definition of the phrase "comprehensive planning." I never had the opportunity to have that defined carefully to me, because that means planning of every kind. It means what it says, I assume, which is comprehensive planning, which would mean land use planning and many, many other forms.

I was very interested in the comments of my friend, Gov. Ed Herschler. He was a colleague of mine. We served together for 8 years in the Wyoming Legislature. We participated in a great deal of legislation—he a Democrat and I a Republican—that was of great benefit to the State of Wyoming.

There is no partisanship in my mind when it comes to Ed Herschler. He administers our State exceedingly well. His comments are to be taken as assuredly sincere. They differ from mine with respect to our opinions in this matter.

I wish to touch on another issue that has come to light or has been reviewed: Are regional commissions elected bodies? Let us address that for a moment.

These regional commissions are composed of Governors of various States, but I remind Senators that the Governor of Wyoming was not elected to make decisions affecting Montana or North Dakota or West Virginia. However, that is what he has the power to do, under the regional commission theory of government.

Over the years, a much expanded role has been played by the alternates—a curious and bizarre definition—who approve projects and expenditures of funds, and they do that with great glee and alacrity.

On the State level, all courts, without exception, have consistently invalidated authorities, boards, and commissions which have been formed to wield a regional authority, simply because of the lack of constitutional accountability to their constituents—there is no other reason—removing them actually from the wrath of the voter which is attempted here.

Of course, there is a pronounced role played by the Federal cochairman who is appointed by the President, and various of these powers trickle down in title III into the hands of the "senior White House official," which may become a sinister reference in later years as we observe the workings of this, if title III is allowed to remain in this legislation.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I offer my apology to the Senator from Wyoming in connection with the use of the word "ignorance." I had said that he himself professed ignorance. He said he did not understand the words and phrases of what we believe to be well-defined and commonly used expressions in the legislative process.

Then I also said that in that connection I was nowise implying that the Senator from Wyoming is ignorant. In fact he is well informed. Also, he is well intentioned. I want the record to so show.

Mr. President, I do wish to reaffirm, however, what I earlier said. It is not accurate, as I understand it, as has been suggested by the Senator from Wyoming, that the Appalachian Regional Commission is exempted from title III. The Appalachian Regional Commission is part of every provision and covered by every requirement in title III. The only exceptions are provisions which would otherwise subject the independent Appalachian Regional Commission to some approval or control by the Secretary of Commerce.

Mr. President, what is the time remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 34½ minutes remaining.

Mr. RANDOLPH. On the amendment?

The PRESIDING OFFICER. On the amendment; the Senator is correct.

Mr. RANDOLPH. How much time is remaining on the bill?

The PRESIDING OFFICER. The Senator from West Virginia has 17 minutes remaining on the bill.

Mr. RANDOLPH. Mr. President, does the Senator from Rhode Island desire to use additional time in connection with the amendment?

Mr. CHAFEE. No; I do not. I have no desire to use time on this amendment.

Mr. SIMPSON. Mr. President, I do not want to disrupt the program of the majority leader, but I suggest the absence of a quorum for just a brief period of time, and I shall consult with my colleagues on both sides of the aisle.

The PRESIDING OFFICER. The Senator does understand that the time will come out of his allocation?

Mr. SIMPSON. I will accept that.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TITLE III OF REGIONAL ECONOMIC DEVELOPMENT ACT OF 1979

● Mr. DOLE. Mr. President, I would like to express my support for the amendment offered by the Senator from Wyoming (Senator Simpson).

Title III of the Regional Economic Development Act of 1979 would create a new and separate entity to be known as the Regional Growth Policy Process Act. Under this act, the President would create an interagency committee to coordinate at the Federal level the policies and activities of the regional commissions. The regional commissions would also be required to submit plans and strategies to be approved here in Washington. For the reasons already enumerated by Senators Simpson and Chafee, I feel compelled to oppose these provisions.

Essentially, this act provides for the formation of a federally dominated economic planning process. The interagency committee created by title III would be directed by a senior White House official who would oversee a scenario of national economic growth.

This Federal interference in an area where it undeniably does not belong can only lead to more problems. At a time when one of the primary concerns of the American citizen is the alarming rate at which the Federal bureaucracy engulfs his life, it seems highly inappropriate to contribute to Government domination with a federally directed scheme for economic development.

This useless and unneeded extra layer of bureaucracy—especially when organized at the White House level—will only fuel Government expansion and the problems which accompany it. It will place broad authority and power in the hands of those not adequately prepared to handle it. It will centralize the decisionmaking process in a program aimed at addressing problems and needs occurring at the local level.

The thrust of the Regional Development Act of 1979 is to provide Federal assistance to areas suffering economic hardship. However, the provisions of title III of this act will have the net effect of making this desired objective more difficult to attain. Because of the resulting increase in Federal control and centralization should title III be adopted, I urge my colleagues to approve the amendment of the Senator from Wyoming.●

Mr. SIMPSON. Mr. President, I yield back the remainder of my time on the amendment and I call for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RANDOLPH. Mr. President, I yield back the remainder of time I have on the amendment.

The PRESIDING OFFICER. All time is therefore yielded back. The yeas and nays have been ordered. The question is on agreeing to the amendment of the Senator from Wyoming. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. Ford) and the Senator from Kentucky (Mr. Huddleston) are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. Ford) would vote "nay."

The PRESIDING OFFICER (Mr. Bumpers). Are there any other Senators wishing to vote?

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—47

Armstrong
Baker
Baucus
Bellmon
Biden
Boschwitz
Byrd,
  Harry F., Jr.
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Exon
Garn
Goldwater
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Levin
Lugar
McClure
Metzenbaum
Packwood
Pell
Percy
Pressler
Proxmire
Roth
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—51

Bayh
Bentsen
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Eagleton
Glenn
Gravel
Hart
Hatfield
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Morgan
Moynihan
Muskie
Nelson
Nunn
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Tsongas
Weicker
Williams

NOT VOTING—2

Ford
Huddleston

So Mr. Simpson's amendment (UP No. 474) was rejected.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOYNIHAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

UP AMENDMENT NO. 475

(Purpose: To strike authority for acquisition of land by Secretary of Agriculture)

Mr. SIMPSON. Mr. President, I do have another amendment.

The PRESIDING OFFICER. Does the Senator from Wyoming seek recognition?

Mr. SIMPSON. I do, Mr. President. I previously submitted an amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. Simpson) proposes an unprinted amendment numbered 475:

On page 11, strike lines 4 through 10, and renumber later subsections accordingly.

Mr. SIMPSON. Mr. President, by this amendment I would propose to remove this particular section 108. The section, Mr. President, is a curious and I hope futile effort to graft authority created by the National Energy Act onto the tree of the Appalachian Regional Commission. Under the Powerplant and Industrial Fuel Use Act the Secretary of Agriculture can acquire land for public facilities or housing in areas where there is an increase in employment due to coal or uranium development.

The acquisition can be on the basis of voluntary sale or condemnation if the Governor of the State has issued written authorization for the Secretary to act.

The inclusion of this authority in S. 835 will, I think, improperly place a regional body between the Governor of a State and the Secretary of Agriculture in either the matter of the purchase or the condemnation of private property in that State. This measure was added to the National Energy Act since Federal grants could be used to finance up to 75 percent of acquisition costs. Under this proposal, acquisition costs are borne entirely by the affected State. I have been unable to fathom or comprehend the role which a regional commission can play in this particular matter when this issue of acquisition cost being borne entirely by the State is affected. So I would propose to remove that particular section of the bill, 108(f), which states:

> "(f) In furtherance of the purposes of this section, at the request of the Commission in accordance with section 303 of this Act the Secretary of Agriculture is authorized to use all of the authority to acquire land under the provisions of section 601(c) of the Powerplant and Industrial Fuel Use Act (Public Law 95–260). Funds for such acquisition shall be provided under this section or by the affected State.

We are dealing with a very highly complex and emotional issue of condemnation, Mr. President. I think when we deal with condemnation we must address it most cautiously.

I have several questions that I should like to pose. Among those questions would be my inquiry as to whether the written consent of the Governor would be required before the Secretary could act. Will the ARC contribute financing for the acquisition costs? Are there any States in the ARC which are not vested by their own constitutions with eminent domain authority? Why do we limit the application of authority contained in a national act to a single regional commission and not the others? Why do we not leave the question of condemnation of private property solely to the States if they have sufficient authority, and I am sure all of them do constitutionally by constitution and by statute, and, further, that they will bear all costs? Those are some inquiries I would like to make.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that Tom Dougherty, of the staff of Senator JOHN GLENN, be granted the privilege of the floor during the debate and votes on S. 835.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, clearly one of the most pressing problems in Appalachia is providing housing for the people who live in this region.

I said that earlier today in my opening statement. The 1975 amendments to the program expanded the authority of the Appalachian Commission to address housing needs but today—and I reaffirm this—38 percent of the housing in central Appalachia is substandard. In many areas of central Appalachia, suitable land is not readily obtainable for housing. That which can be purchased quite often is in the flood plain and subject to frequent and devastating floods. That land outside of the flood plain which is available is quite often highly priced because of competition with industrial and commercial firms or it is in private ownership by coal and timbering interests. The financial burden to acquire this land and develop it is often very great.

Land and development costs average $12,000 to $15,000 per unit and thus it becomes a cost of approximately $42,000 for permanent housing in this area. These prices are too expensive for most low- and middle-income residents of Appalachia. Basically, what we have at the present time is an unacceptable lack of available housing.

To address this problem, the committee bill increases the monetary limitation for grants for site acquisition from 10 to 25 percent and makes specifically clear that any reduction in cost of housing must be passed along to the ultimate purchaser or tenants.

The second amendment by the committee to deal with housing involves the use of eminent domain powers to acquire land suitable for housing development. The committee's bill expands the authority of section 601 of the Powerplant and Industrial Fuel Use Act to allow the Secretary of Agriculture to acquire land by condemnation at the request of the State.

Mr. President, during hearings before the Committee on Environment and Public Works, testimony was received regarding the need for adequate housing. Governor Rockefeller of West Virginia spoke of the problem facing his State and mine. He said:

> Land is held by either railroads or coal companies. This should not be a problem, but it is.

Governor Rockefeller went on to say:

> Section 601 gives another route to solving the problem. And I strongly support the right of condemnation in conjunction with the Farmers Home Administration.

This is a statement by the Governor of West Virginia.

He is interested in solving the Appalachian housing problems, not only in West Virginia but throughout a 13-State area. And he says, and I believe him, that the use of condemnation will assist this effort. I think it is important to note that this is based on reality.

The committee also heard from Ms. Deborah Tuck, executive director of the coal field housing project in southern West Virginia. Addressing the issue of condemnation, Ms. Tuck said:

> It is imperative. We are in a unique position in central Appalachia. I think it is imperative that this power be clearly outlined in the Appalachian Regional Act.

Mr. President, condemnation is an appropriate mechanism to acquire sites for housing which would otherwise be difficult to acquire. I emphasize that the State is involved in this process because it must ask the Secretary of Agriculture to use the power that is provided in section 601. It is well recognized in law that sovereign States have eminent domain authority unless limited by State constitution or law. As long as the State, through the Governor, is involved in requesting the action by the Federal Government, the appropriate State role is emphasized.

On October 12, 1978, the Appalachian Commission held a seminar on "Land Acquisition in Central Appalachia" to examine the housing issues that face not only this region, but our Nation as a whole. A treatise was prepared for that meeting entitled "Land Acquisition for Housing in Central Appalachia." That treatise discussed at length the use of eminent domain authority. The paper concludes that the authority is an appropriate authority of State governments. With the requirement of the bill for a State request—remember, a State request—the inclusion of condemnation authority is appropriate and I believe it to be necessary.

Mr. President, I suggest the absence of a quorum. I ask that it be taken out of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRADLEY). Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, there were questions which were properly asked by the Senator from Wyoming in reference to the matter of condemnation. We desire to respond. We have discussed this problem or problems with Senator SIMPSON.

Not only is the written consent of the Governor required before this authority can be used under section 303, but the Governor must request the use of this authority.

In the second instance the bill provides that funds available under section 207 can be used for land acquisition under this authority, or if the State desires, State funds can be used.

In the third instance, I am not aware of any States in the Appalachian region which do not possess the eminent domain authority, but the ability to use such authority in any State for housing is just being established.

The response to the fourth question: The provision is limited to the Appalachian Commission only, because the Appalachian Act is the only one that contains a specific housing program.

Personally, I would have no objection to making this authority even more extensive than it is. Housing is a very tragic problem in some instances in Appalachia.

To conclude: I have said that this authority will only be used by States that believe they do not have sufficient authority to acquire needed land under their own statutes. Of course, a State can proceed—it is free to proceed—if it uses its own resources.

I hope these responses, in a very substantial way, have answered the questions and the concerns addressed by the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I say to the Senator from West Virginia that I deeply appreciate the prompt and responsive manner in which he presented me with the answers to the questions I posed previously. I think that eminent domain in itself—just the phraseology, the term—is a charged word. It is indeed an emotional issue and a harsh procedure, one in which we should guard ourselves carefully in using.

I must say that the Appalachian Regional Commission having this authority in the area of housing is a departure from anything I would have granted it. I hope that the other regional commissions will not broaden their ability to enter this area of housing authority condemnation. However, so long as this issue is limited now to Appalachia—and inasmuch as I am from State of Wyoming, and the concerns of the 13 States in the Appalachian Commission are not mine—I would think the 13 States there will be determining very carefully whether they wish the Federal Government to have condemnation authority; and I suppose they will determine whether it will become a precedent.

It is a concept that startles me. However, the Senator has answered my questions quite honestly, and I appreciate his taking the time to do so. With the RECORD disclosing those answers to my inquiries, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. RANDOLPH. Mr. President, I do not wish to discuss this subject further, except to say that there is always the desire of the Senator from Wyoming to debate vigorously the issues, and then, when the concerns he has about a certain provision of the pending legislation are answered to his satisfaction, he is agreeable to having the matter resolved in this manner.

UP AMENDMENT NO. 476

(Purpose: To amend Section 309 to require State concurrence prior to the establishment of a Border Resource Research Institute)

Mr. DECONCINI. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 476:

On page 58, line 25, add a comma after "shall" and the following: "subject to the concurrence of the State,".

Mr. DECONCINI. Mr. President, the amendment I am proposing would allow the Southwest Border Regional Commission to establish a system of border resource research institutes. The bill as written would mandate such a system.

Mr. President, I find no fault with the concept of establishing special purpose institutions to provide research support programs, and other assistance, to be directed at our unique border resource problems. My concern is with the mandatory language of the bill. As written it sets a precedent regarding the conduct of Commission business, for it preempts the right and power of the Commission to ascertain need, and determine priorities in the implementation of its regional comprehensive plan. Also, it removes decisionmaking authority from the Governors and the Federal cochairman. It diminishes the State-Federal partnership and substitutes a system of categorical funding.

I am also concerned with the funding provisions, as the bill provides no authorization for additional appropriations. Funds for the institutes would come from the Commission's allocation, which is determined by a formula which governs all title V regional commissions. If all four institutes were to be funded at the recommended level, approximately 15 percent of the $6.5 million the Commission expects to have available in fiscal year 1980 for project funding would be earmarked for the institutes.

Mr. President, the Southwest Border Regional Commission is currently making an inventory and an evaluation of all university efforts focused on border resources and issues. Also, the Commission has funded, in cooperation with the Department of Commerce, the development of a technical design for a system of research centers. This project is presently being evaluated.

Mr. President, I would hope that the Senate will accept this amendment. It simply allows the Commission the flexibility originally intended by Congress in the establishment of the title V Regional Commissions, by affording the Governor of each State the right to accept, or reject, the establishment of an institute in that State.

I ask unanimous consent that a letter I have received from the Governor of Arizona be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Phoenix, Ariz., May 25, 1979.

Hon. JENNINGS RANDOLPH,
Chairman, Environment and Public Works Committee, United States Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing you regarding S. 835, the Regional Development Act of 1979, which was reported out of Committee on Wednesday, May 9th. As a member and the State Co-Chairman of the Southwest Border Regional Commission, I am concerned with Section 309 (Domenici amendment) which mandates the Southwest Border Regional Commission to establish four Border Resource Research Institutes to be funded and administered out of its budgeted program monies, since no separate authorization for funding is provided.

My concern with Section 309 revolves around the following major points: (a) Its passage would set a precedent regarding the conduct of Commission business for it preempts the right and power of the Commission to ascertain "need" and determine "priorities" in the implementation of their regional comprehensive plan; and (b) The Domenici amendment, Section 309, in removing decision-making authority from the Governors and the Federal Cochairman, in effect substitutes a system of categorical funding for the State-Federal partnership, contrary to the expressed congressional intent that established the purpose of the Title V regional commissions. Further, since there is no additional authorization for funding the Border Resource Research Institutes, monies for the institutes must come from the Commission's allocation under a predetermined formula which governs all the Title V regional commissions. For example, if all four institutes were to be funded at the recommended levels, approximately 15 percent of the $6.5 million the Commission expects to have available in the Fiscal Year 1980 for project funding would be earmarked for the institutes.

The Commission is sensitive to the need and supportive of efforts which may be undertaken to focus on special research activities related to border problems. In fact, we have funded, in cooperation with the Department of Commerce, the development of a technical design for a system of border research centers. This project is presently being evaluated.

Most important, however, is the fact that there presently exist, within various universities in the southwest, active and ongoing programs and institutes that already are doing precisely what Section 309 mandates. To avoid needless duplication, the Southwest Border Regional Commission is making an inventory and evaluation of all university efforts focused on border resources and issues. This is basic to our regional plan and we have been committed to this task from the very inception when we were chartered two years ago this August.

For all these reasons, Mr. Chairman, I would appreciate your support for the removal of Section 309, when this matter comes to the floor of the Senate, to enable us to maintain the integrity of the regional commission program as it has been defined by the Congress.

Your continued support and interest in the regional commission program is appreciated.

Sincerely,

BRUCE BABBITT,
Governor.

Mr. DECONCINI. Mr. President, I think the manager of the bill will have no problem with the amendment. It just makes certain that this mandate of "shall" will be subject to the concurrence of each State—in this case, the border States.

Mr. RANDOLPH. Mr. President, the able Senator from Arizona has an amendment which we have studied. We believe it to be one of equity, and there is no disposition to do other than to join in the argument made and to say that we accept the amendment.

Mr. DECONCINI. I thank the distinguished chairman, the manager of the bill.

Mr. CHAFEE. The minority concurs, Mr. President.

Mr. RANDOLPH. Mr. President, I yield back the remainder of my time.

Mr. DECONCINI. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DECONCINI. Mr. President, I

move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 477

(Purpose: To assure compliance with the National Environmental Policy Act)

Mr. STAFFORD. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) proposes an unprinted amendment numbered 477:

On page 51, line 14, insert the following after "section": "and after the preparation of any required environmental impact statement or assessment".

Mr. STAFFORD. Mr. President, this amendment is written to assure compliance under this act with the provisions of the National Environmental Policy Act. That act takes a minimum of 90 days to carry out the procedures specified for section 102(2)(c)—the check-list of topics to cover in an environmental impact statement. If language in this amendment is not added to the statute, an evasion of the NEPA requirements would result.

The U.S. District Court in Oregon has ruled that the 60-day limit on Federal review under the Local Public Works Act means that the Congress intended that NEPA should not apply to projects funded under the law—*1000 Friends of Oregon, et al.*, plaintiffs, v. *Juanita Kreps, Secretary, U.S. Department of Commerce*, defendants, No. 77-746, Nov. 23, 1977. Since this bill has various time limits shorter than the 90 days for NEPA, I believe we need this amendment to make it clear that the provisions of NEPA are not overridden by this bill.

I do not believe it was the intent of the committee to undermine the requirements of NEPA. This amendment would clarify the intent of the committee.

I urge adoption of the amendment.

Mr. President, I hope the managers of the bill are in a position to accept the amendment.

Mr. RANDOLPH. Mr. President, perhaps Senator CHAFEE would wish to speak.

Mr. CHAFEE. Mr. President, on behalf of the minority, we are pleased to accept the amendment.

Mr. RANDOLPH. Mr. President, we appreciate the ranking minority member of the Public Works Committee giving us this opportunity to reinforce, by agreeing to the amendment, the concern of the Senator from Vermont.

Mr. STAFFORD. I appreciate the statements of the distinguished Senators.

Mr. President, I yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 478

(Purpose: To assure that the Alaska Regional Commission has no land use planning)

Mr. STAFFORD. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) proposes unprinted amendment numbered 478:

On page 24, delete lines 9 through 21, and insert in lieu thereof the following:

"(d) Any regional commission established pursuant to this Act shall have no responsibility for the development or assessment of land use plans."

On page 57, beginning with line 9, delete all through line 3 on page 58.

Mr. STAFFORD. Mr. President, the amendment I have sent to the desk will assure that any Alaska Regional Development Commission established under this legislation will not be established as another layer of government for land use planning. I emphasize, Mr. President, that this amendment does not in any way limit the creation of the Alaska Regional Development Commission under this act.

The bill, as reported by committee, contains language in two places, which I have moved to delete, that creates what I believe are dangerous new precedents in Federal land-use planning. These are sections 204(d) and 307(c) in the bill. My amendment would strike those two sections. No hearings that this Senator recalls were presented during markup to the committee for its consideration of these two sections in the bill.

The issue is not whether Alaska should be eligible for a separate title V commission. I think it should. Rather, I believe the Senate should be concerned over the special character of this commission, as it now appears in the bill, for three basic reasons:

First, the language of this provision states that the Commission may "review and make recommendations—(on) local land use plans and proposed activities" and "assist Alaska Native Regional Cooperations"—in preparing land use plans. Such language, as I said, establishes a dangerous precedent for extending potential land use authorities to other title V Commissions. That is not, and should not be, the responsibility of these commissions.

It is difficult to find a more politically explosive issue than Federal involvement in local and State land use planning. The battles on this issue have been fought both in committees and on the floor over successive sessions of Congress. Regardless of the merits of Federal involvement—even at the request of the particular State in question—this bill presents neither an appropriate time or place for such legislation. The language I would delete is an attempt not only, it appears to this Senator to circumvent the congressional process with regard to Alaska lands, but also the congressional process with regard to Federal land use planning generally. It should be noted that a land use commission has existed for Alaska since the early 1970's. In fact, my amendment will make it clear that no regional commission shall have land-use authority.

Second, the language in the bill establishes the Secretary of Commerce, rather than the Secretary of the Interior, as the focus for this land-use intrusion in Alaska.

Third, the volatile issues relating to the designation and use of Alaska lands should be determined or affected in the fashion, without benefit of hearings or more thorough evaluation. While the Senate may have a sharp division on the issues relating to the proper use of Alaska lands, I would think we would agree that such a determination should not be considered in the context of the title V program. Resolving the Alaska lands issue is the responsibility of Congress, which has undertaken that process in other legislation through other committees, with hearings. To this Senator, it seems the back-door approach in this legislation merely muddies the water and could delay or subvert a reasonable solution.

For these reasons, Mr. President, I urge the adoption of the amendment and reserve the remainder of my time.

Mr. CHAFEE. Mr. President, will the Senator yield?

Mr. STAFFORD. Mr. President, I am happy to yield whatever time the Senator desires.

Mr. CHAFEE. Five minutes.

Mr. STAFFORD. I yield 5 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I agree with the amendment presented by the senior Senator from Vermont.

First, the special authorities granted the Alaska Regional Commission have no place, as has been mentioned by the Senator from Vermont, in this legislation. We are getting really far afield from the purposes of regional commissions. It goes far enough afield to say that we are having a regional commission for a single State. We accept that because this is a State that is separated from all other States. Having accepted that, let us go back and look at the purposes of the regional commissions. Namely, they were established in 1965 to aid lagging areas of the Nation, areas of chronic and substantial unemployment and low income.

That is the whole purpose of these commissions. It is to try and help those sections of the country that were falling behind other sections.

Although their scope and functions have been broadened considerably in recent years, the basic thrust of these commissions remains the same, assistance to lagging regions of the Nation.

With respect to Alaska, some of my colleagues are suggesting we should abandon these basic goals or at least "broaden" them to include the monitoring of an undetermined number of ill-defined Federal "resource inventories" and various land-use plans, programs, and activities. We are also being asked to grant this regional development commission in Alaska the authority to assist Native regional corporations in land-use planning activities.

Mr. President, as the senior Senator from Vermont pointed out, these authorities clearly exceed the scope of the legislation before us today. What we are trying to consider today is title V regional commissions and the Appalachian Regional Commission. Going into land planning gets far beyond anything we ever considered before.

Authority such as land planning will not promote regional economic development but will instead move the regional development commission concept squarely into the area of this land-use planning.

I submit that such a result is not a desirable one in and of itself and certainly not to be addressed in the context of the legislation before us today.

I am also concerned about the impact of these extraneous provisions in the current debate regarding the classification and management of Federal lands in Alaska, the so-called Alaska lands issue.

Mr. President, I do not think there is any Senator here in this Chamber who has not been approached from somewhere on the Alaska lands issue. It is an incredibly complex issue, no matter what our position is on it. It is being addressed in appropriate committees which have conducted literally hundreds of hearings, briefings, markup sessions. Lines have been drawn on the maps of Alaska showing this land for wilderness, this land for the State of Alaska, this land for the Natives. A common theme running through many of those meetings was the need to provide for an innovative, cooperative planning mechanism to help foster better Federal-State relations relative to the dispositions of millions of acres.

I had the pleasure of visiting Alaska a year ago and they told me there are a million acres for every day of the year, 356 million acres. It is a gargantuan State that exceeds the bounds of anything most of us can conceive. I think there are more glaciers in Alaska than there are in all the rest of the world put together. That massive piece of legislation dealing with those lands has been considered before the various committees that have spent hundreds of hours dealing with that matter.

As I said, Mr. President, I am sure many of us in this Chamber differ in our attitude toward the various facets of the Alaskan lands issue. We have had filibusters on this subject in the Chamber. We have had rather bitter feelings on both sides. And when the measure comes before the Senate again I am certain that there is going to be considerable disagreement—I suspect that might be the understatement of the day—regarding the amount of land to be included in the various conservation system units. We will disagree on access issues and where you are going to mine, where you are going to be permitted to get oil, where you are going to be permitted to get copper, and all those things. There will be a difference between the proper balance between the energy needs and the conservation goals.

But I do think we will all agree on the need for a comprehensive approach.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CHAFEE. I ask for 5 minutes more.

Mr. STAFFORD. Mr. President, I yield the Senator 5 additional minutes.

Mr. CHAFEE. The issue of land-use planning and cooperative management for Alaska lands should be decided in that context—the comprehensive Alaskan lands bill—not in terms of regional economic development, namely, regional commissions.

A fragmented approach to Alaska lands with numerous commissions and councils operating under a variety of conflicting mandates and authorities will simply not do the job. The provisions in the bill before us today encourage just the type of piecemeal approach to the Alaska lands issue that I think all of us want to avoid.

Therefore, Mr. President, I support the amendment presented by the senior Senator from Vermont.

Mr. STAFFORD. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. I yield such time as the Senator from Alaska may desire.

Mr. GRAVEL. I thank my colleague from West Virginia.

First, let me speak to the comments of the Seantor from Rhode Island, and then I will speak to the comments made by the Senator from Vermont, who essentially was using the minority report on the bill, which I will deal with at great length.

I just want to say to my good friend from Rhode Island I do not mind the Senator coming to the floor opposing something in which I have a deep interest, but I think it is important to get the record straight on some facts, because we cannot be too cavalier here with the facts. The facts are easy to ascertain.

When my colleague says there have been hundreds of hearings on the Alaska lands issue, he is totally wrong. There have not been hundreds of hearings, and I think it is most unfortunate that he would try to give his views on something like this when, in point of fact, this year there have not been any hearings prior to the scheduled markup. So the Senator from Rhode Island is in error, and I think it is most unfortunate that he would want to besmirch his credibility by that assertion.

Mr. CHAFEE. I wonder, Mr. President, if the Senator will yield for one comment?

Mr. GRAVEL. I yield.

Mr. CHAFEE. I was talking about those hundreds of hearings on the Alaska lands issue, not before this committee on this issue.

Mr. GRAVEL. No; I presume you are talking about the Senate.

Mr. CHAFEE. About the Senate in the past and the markups of all legislation.

Mr. GRAVEL. My colleague is saying there were hundreds of hearings in the Senate? My colleague is terribly wrong.

Mr. CHAFEE. Not before this committee.

Mr. GRAVEL. I am not saying before this committee. But is my colleague saying there were hundreds of hearings before any committee in the Senate?

Mr. CHAFEE. Before committees in the House and Senate.

Mr. GRAVEL. I want to correct my colleague, he is just totally wrong.

Mr. CHAFEE. If I am wrong, I deserve to be corrected.

Mr. GRAVEL. I correct the Senator.

Mr. CHAFEE. Before the Energy Committee there have been no hearings?

Mr. GRAVEL. There have been no hearings this year.

Mr. CHAFEE. I do not mean this year.

Mr. GRAVEL. Last year there were only hearings in Washington. There have been no hearings in the State of Alaska on this subject.

Mr. CHAFEE. What I said was there have been hundreds of hearings——

Mr. GRAVEL. There have not been hundreds of hearings. There have been a few hearings, but not hundreds of hearings. I think it is a gross exaggeration that certainly is not reflective of the fine work of my colleague from Rhode Island has done in the past.

Mr. CHAFEE. I stand corrected and I apologize.

Mr. GRAVEL. Fine.

My colleague has indicated another item: That the purpose of this legislation is to focus on economies that are lagging behind the rest of the Nation. I would like to ask my colleague from Rhode Island if he knows of any economy that has a higher rate of unemployment than the State of Alaska at this point in time?

(Mr. MOYNIHAN assumed the chair.)

Mr. CHAFEE. I think the Senator misunderstands. I am not opposed to the Alaska Commission. The Alaska Commission is designed to deal with the problems that are presented to all the other commissions, namely, unemployment and a whole host of duties that are assigned to these regional commissions. I do not object to Alaska having its regional commission.

Mr. GRAVEL. I would renew my request. Does the Senator know of any State that has a higher unemployment rate than the State of Alaska?

Mr. CHAFEE. I do not know what the unemployment rate is.

Mr. GRAVEL. Eighteen percent in Fairbanks and 12 percent in Anchorage.

Mr. CHAFEE. No, statewide.

Mr. GRAVEL. Statewide—those are the two largest communities in the State. It is worse in other parts of the State.

Mr. CHAFEE. Well, I am not sure what that has to do with this matter.

Mr. GRAVEL. I only raise it because my colleague indicated that I was doing something to veer away from the goals, of the legislation, and obviously one of the goals is to bridge the gap between areas that have difficulties and areas that do not have difficulties.

Mr. CHAFEE. Go ahead and proceed. What does the unemployment rate in

Alaska have to do with it? I have not touched on that.

Mr. GRAVEL. Maybe I can just read the comments in the minority views which the Senator from Vermont was referring to. The first point raised is, "No hearings were held on these provisions, and legislative language on these subsections was not presented during markup to the committee for its consideration."

Well, let me inform my colleague that on April 3 hearings began on S. 835 in the Subcommittee on Regional and Community Development. At that time I raised the issue of a single State commission for Alaska with Mr. Larry Houstoun, special counsel to the Secretary of Commerce, who was testifying at that time. I suggested that Alaska might best be served by a commission that provided linkage between economic development and the ultimate use of land in Alaska.

Legislative proposals are often formulated during the subcommittee or committee meetings, which are not presented in the form of statutory language. Many times the intent of a vague provision is made clear, and the staff is asked to draft statutory language. In addition, the provisions affecting Alaska were taken almost verbatim from the list of proposals presented to the committee for its consideration on May 9. So I do not understand the efficacy or the justice of that criticism.

Second, my friend from Vermont goes on to say, "We believe that such language establishes a dangerous precedent"—that is the word—"for extending potential land use authorities to other title V commissions."

Well, I think Congress can make a judgment in the future of what it wants to do with other title V commissions.

Let me just say to my good friend from Vermont that the committee report notes that commission programs, and I quote "for the most part, are directed toward closing the income gap, creating more jobs and raising education levels. Programs dealing with transportation, natural resources, regional economic analysis, State investment planning, energy development, vocational education, tourism, and health are examples."

The report says further, "activities, including transportation and energy development and conservation, environmental and natural resource management, agriculture and development of indigenous arts and culture," and that is the language of the report, and to that nobody has taken exception.

While the report does not specifically mention land use, there can be little argument that any planning body engaged in these activities will be considering existing land use patterns and proposed plans and making recommendations to the Federal agencies with respect to the highest economic usage of the resource in a particular region.

Let me just say it absolutely is preposterous to think you can deal with natural resources, deal with energy development, deal with transportation, deal with agriculture, deal with arts and culture and not consider land. This has to be the oddest interpretation I have ever heard of the duties of these commissions, and I ask if that is a "dangerous precedent"?

We want the people in these regions to have some intelligent, coordinated activity, but you say they cannot look at the possible use of land. It is like the transportation systems are not built on land; it is like the educational institutions are not built on land; it is like the factories and the resources that feed those factories are not on land. They must all be in the air, and we only consider what is in the air.

I think that I need not elaborate upon that unusually "dangerous precedent" that I am setting in Alaska, and let me quote what I am doing. All I am asking for is a review, a review and the ability to make recommendations. My God, the timbers of federalism in this country are shaking with a tremendously "dangerous precedent" that is being set by merely having a review and recommendations.

I go on with the report, the minority views, which state:

> It is difficult to find a more politically explosive issue than Federal involvement in local and State land-use planning . . . . this bill presents neither an appropriate time nor place for such legislation. These amendments are an attempt not only to circumvent—

Mind you—

> to circumvent the congressional process with regard to Alaskan lands, but also the congressional process with regard to Federal land-use planning generally.

My response to that, gentlemen, is that there is nothing in the committee bill that mandates Federal involvement in land-use planning. If the words or even the thought is sinful, gentlemen, do not think of it; but please do not accuse me of putting it in here, because it is not in here. There is no mandate of any Federal involvement in land-use planning. The bill provides the Alaska Commission with permissive authority to review resource inventories—and, of course, Alaska is a resource State. You do not do anything in Alaska unless you use a resource. We do not have manufacturing.

So it is permissive authority to review resource inventories, review and make recomendations to the Federal and State governments on land-use planning and proposed activities, and to assist the Alaska Native groups.

Here is an area where you have upward of 50 percent unemployment, and my colleagues on the minority take exception to this regional commission assisting the Natives in a land-use planning process and resource planning process. I really cannot understand the wisdom of what is being attempted here by my colleagues. These are people who cry out for help, for assistance; but they say that this is a terrible thing to even think of undertaking.

In addition, the language about the Natives is permissive again. Advisory powers do not constitute Federal involvement in land-use planning. Also it must be remembered that the commission is a joint commission; it is half Federal and half State, so it is not just the Federals coming in and telling the Natives anything. It is a joint commission that can come in, review the resource planning, review the land use, and make no more than a recommendation.

This bill is an appropriate vehicle for this legislation, in that economic development is linked to usage of land in Alaska, as it is linked to usage of land anywhere on this Earth, and to deny that is to deny the obvious. To the extent that any entity is concerned with closing the income gap, creating jobs, and raising income levels—I am quoting from the law—it should be concerned with the disposition of land.

No one who is familiar with the Alaska lands issue could argue that these amendments circumvent anything. My colleagues are not very knowledgeable about the Alaska lands issue, because they charge I am trying to circumvent. That charge is a lot of rot. Favorable committee action on this provision did not deter the House of Representatives from passing an Alaska lands bill this week. Favorable committee action on this provision will not deter the Senate Energy Committee from acting on Alaska lands legislation.

And I have indicated my intention to go to all those markup sessions and work with the managers of the bill. Pray tell me how this is circumventing the Alaska lands issue, by having a commission review and make recommendations.

This Alaska Commission has no land-use planning powers.

Let me state that again, because the minority may not have read this properly:

> This Alaska Commission has no land-use planning powers, no land-use classification powers, no lands under its jurisdiction, and no prior review of land-use plans, or ability to enforce its views on any governmental entity.

If that English has not been clear enough to my colleagues on the minority, I will be happy to reread to them another hundred times, but I think it is clear as to what it says, and I will just read it one more time, in case they do not have it clearly in their minds:

> This Alaska Commission has no land-use planning jurisdiction, no land-use classification powers, no land under its jurisdiction to classify if it even had the powers, and no prior review of land-use plans or ability to enforce its views on any governmental entity.

Another point raised by my colleagues on the minority:

> These amendments establish the Secretary of Commerce, rather than the Secretary of the Interior, as the focus for this land-use intrusion in Alaska.

I am glad to see they consider it an intrusion. Most of the land in Alaska is held by the Federal Government, so from that point of view it is certainly not a new intrusion:

> It should be noted that a land-use commission has existed for Alaska since the early 1970's.

I am very familiar with that Commission. I am the one who authored the legislation to create that Commission in 1971. It has done a very good job in Alaska. It expired on June 30 of this year, and that is why there is an obvious need for this regional commission, to fill the void now created by the absence of that Commission, which did nothing but inventory resources, look to the total possibility of land use in Alaska, and compiled an unusual compendium of knowledge which will be of great benefit to Alaska with respect to anyone undertaking any economic activity or State planning activity.

However the minority is wrong again. Secretary of Commerce is charged with promoting economic development. That is exactly what I am trying to do with this part of the bill, have a little economic development in the State of Alaska.

I can understand that my colleagues from the east coast may not be too sympathetic to this; they have an abundance of economic development, and do not have the problem of unemployment that we do. We have to put people to work. I hear a lot from New England about the cost of fuel oil to heat your homes, and how terrible it will be, that the cost will rise to a dollar a gallon. In the areas of Alaska where I am trying to get this commission in place, the cost of fuel oil is $2 a gallon, and the per capita income is $3,500 a year. This is the area where you want to deprive people of a planning device that would advise them on the use of their land.

To the extent that these two activities, planning economic development and the management of land, are to be conducted for the benefit of Alaskans and the Nation, it makes perfect sense to provide a mechanism for that coordination.

Finally, a simple reading of the provisions should make it clear that not one ounce of Federal authority is undermined in this legislation. The Secretary of Interior will be no less powerful in Alaska if this provision becomes law than he is right now.

I fail to see the problem with wanting to secure some knowledge and some wisdom, to possibly share that with people in Alaska, with the Natives, so that when they do something, they will do it in an informed fashion.

With respect to the Land-Use Planning Commission, as I indicated, it has expired. We no longer have any planning device, statewide, in the State of Alaska to perform that function.

Again, I appeal to my colleagues on the minority. I see nothing wrong with having a body go out and acquire some knowledge and share that knowledge in a recommendatory capacity. I see no great harm that can possibly be done, because the people, including the Federal Government and the State government, do not have to take that advice.

Fourth and last, the report of the minority goes on to say:

> We do not believe that the volatile issue relating to the designation and use of Alaska lands should be determined or affected in this fashion, without the benefit of hearings or more thorough examination . . . the back door approach in this legislation merely muddies the water.

Backdoor? The chairman of the Energy Committee, Senator JACKSON has scheduled markups in September. How can we be going through the back door when another committee is going to be dealing with this at great length? It is almost insulting to me to say that I am sneaking through the back door when I am trying to provide a device which acquires some knowledge. I can only come to the conclusion that the minority is not fond of acquiring knowledge. We used to have a group called the Luddites that went around protesting the steam engines when Fulton brought them on line. They were afraid. They felt that if God wanted us to move at 25 miles an hour he would have put burners in our stomachs. I can only add that if God wanted us to acquire knowledge, he would have given wisdom to the minority.

The Alaskan provisions are in no way related to the Alaskan land matters. They simply represent a recognition by the committee that economic development in Alaska is affected by the usage of land, and I might say this most respectfully to my colleagues on the minority, as it is in Vermont, as it is in Rhode Island. I guess I do not know how you have economic activity in those States. You may do it suspended from strings in Rhode Island. You may not walk on the ground in Rhode Island or Vermont when you do things. In Alaska you walk on the ground and that is why you have to deal with land in a very real fashion. But maybe it is different in Vermont. Maybe it is different in Rhode Island.

To the extent that the Commission must undertake a regional planning process, the Commission should be involved in land decisions. However, this involvement is in the context of enhancing regional growth and in no way subverts the effort to set aside Alaska lands.

My colleagues, let me tell you, the Alaska land issues will be before you, and do not worry, there is no back door approach to get rid of it. This is an approach which says that for one unusual part of our Federal domain, we are setting up one unusual commission which deals with only one regime. We are an undeveloped area. All of our activity is before us. So, before we can undertake any intelligent adjudication of that economic activity we must look to the land and the resources contained on that land with respect to fostering economic activity and providing a decent opportunity for human beings to make a living like they can make a living in any other part of the United States, whether it is the State of Vermont or the State of Rhode Island.

I thank the chairman for yielding me time. If my colleagues have some misunderstandings over this undertaking, I would be happy to respond to questions. If not, I am prepared to vote, unless they would like to comment on what I think are some very fine items in the proposal.

Mr. STAFFORD. Does the Senator from Alaska yield the floor?

Mr. GRAVEL. I yield.

Mr. STAFFORD. Mr. President, I am prepared to yield my time to the distinguished Senator from Wyoming (Mr. SIMPSON).

Mr. SIMPSON. I thank the Senator for yielding. I suppose in my tenure in the U.S. Senate I must become acclimated to this form of debate, but I hope I do not. Let me say that I think it would be too bad to leave any type of partisanship tinge in this particular arena. The remarks I am about to make I think would be concurred in totally by each member of the Energy and Natural Resources Committee, Democrat and Republican alike.

I support the amendment offered by Mr. STAFFORD, my fine colleague from Vermont, the ranking member of the Environment and Public Works Committee. I know what the amendment does. It deletes provisions in the reported bill which would give the Alaska Regional Development Commission broad powers not now enjoyed by any other regional commission, nor even contemplated by any of the several regional development acts passed by the Congress in recent years.

I am particularly concerned about the additional authority bestowed upon that Commission and the mandated 1-year study associated with it. Under section 204(d) of the bill as reported, the single State regional commission for Alaska would be empowered, and we have heard the language referred to, to review and make recommendations on a variety of unspecified "resource inventories and Federal, State, and local land-use plans and proposed activities."

The Commission is also given authority to assist the Native regional corporations in Alaska in preparing land-use plans.

Mr. President, since their inception in 1965, these commissions that we have been churning around in these past hours, have pursued an obviously wide variety of programs. Some, I think, are remarkable; some, I think, are absurd. They have certainly crossed the spectrum of the country, directed toward improving the standard of living of human beings in all regions of the United States, creating more jobs and raising educational and health care levels. Those are worthy goals.

However, the types of authority proposed here for the single State Alaska Commission I think exceed the scope and the purpose of these regional development commissions.

I think, and this is my personal view, this language is clearly an attempt to circumvent the legislative process relative to the Alaska national interest lands issue. I would hope we might just keep our eye on that rabbit.

My colleagues understand perfectly well what type of Federal "plans and activities" are contemplated for review here. This Commission, under the guise of an economic regional development entity, is being given the authority to review and comment on the myriad of actions and proposals relating to land classification and management of Federal lands in Alaska. I do not feel that this is an appropriate role for a commission such as this, and I feel strongly that the Senate should reject this approach.

I think one of the curious actions I found in reviewing the provisions of the bill which addresses the Alaska Regional Commission is on page 58. In line 11, where it tells what will happen when the President conducts a comprehensive review of the Commission's operating, and so on, the review to consider various things, it will also consider any recommendations for preferred placement of this program in the executive branch.

So there is an attempt there, I guess, and the language is quite clear, that would take it completely away from legislative control. That is a startling little aside that is contained exactly in the language of lines 11 and 12 of page 58.

I am concerned about section 307(c) of the bill as reported, that ability of the Secretary of Commerce to prepare a report to the President and the Congress on the desirability of creating a joint Federal-State economic development land-use planning commission for Alaska. I think that study has no place in this legislation. After hearings and public debate, the Senate committee—Energy and Natural Resources Committee, has twice reported comprehensive nationwide land use legislation. In 1971 the Congress passed, again based on legislation reported by the Interior Committee, legislation establishing the Land-Use Planning Commission for Alaska. The Commission's authority has recently expired. We have commented upon that in this debate. That was after 8 years of excellent work.

Those efforts on the part of the committee demonstrate our concern and interest in land-use planning in general and Alaska in particular. In fact, Mr. President, the various Alaska land bills which have been the subject of considerable debate in the Congress for the past 2 years all contain provisions establishing a broad-based Federal-State entity designed to provide an innovative approach to cooperative planning for Alaska lands.

In short, Mr. President, the House and Senate committees with responsibility for land use planning generally and the Alaska lands issue in particular have carefully considered the issue of cooperative planning with regard to Federal lands in Alaska and addressed it in the proper context. That proper context is the comprehensive Alaska national lands bill.

The PRESIDING OFFICER. Does the Senator from Vermont yield 5 additional minutes to the Senator from Wyoming?

Mr. SIMPSON. I only need 30 seconds.

Mr. STAFFORD. I yield 30 seconds to the Senator from Wyoming.

Mr. SIMPSON. I thank the Senator.

Mr. President, I said that the issue of cooperative planning with regard to Federal lands in Alaska was addressed in the proper context. That proper context will be a comprehensive Alaska national lands bill. The fate of that proposal and the future of Alaska lands will probably and properly be decided at that time.

Mr. GRAVEL. Will the Senator from West Virginia yield to me 5 minutes?

Mr. RANDOLPH. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from West Virginia has 6 minutes and 50 seconds.

Mr. RANDOLPH. I yield to the Senator that time.

Mr. GRAVEL. I thank the Senator.

Mr. President, let me ask the Senator from Wyoming on my time if he will be so gracious as to tell me how this circumvents the Alaska lands issue to be taken up in another committee. He has made the statement and I would like to have a response for the edification of the body as to how this circumvention takes place.

Mr. SIMPSON. Mr. President, I think that becomes obvious. We are discussing on this floor today the Appalachian Regional Commission. We are also discussing issues of title III and an interlayering of new commissions. We are discussing the Alaska lands and we are discussing the creation of an entirely new commission, a regional commission, in the face of the existence of a committee of this body which has been addressing this terribly vexatious issue for some years. Now we come to what I know will trigger demands and that is a backdoor approach. I do not favor that. Let us stick with the Energy and Natural Resources Committee.

Mr. GRAVEL. Mr. President, I do not think my colleague has responded to my question. I ask it again:

How does this circumvent? We can talk about SALT and we can talk about Alaska lands. That does not circumvent SALT, it does not circumvent Alaska lands. It was the minority that brought up the Alaska lands. What I am talking about in my proposal here is not the use of Alaska lands. All we do is review it and make recommendations. My colleague has made a bland statement that this circumvents the ability—I can only infer that it circumvents the ability of the Senate or of the Energy Committee—to do something on the Alaska lands issue. I am asking my colleague from Wyoming how?

I think reasonable people hearing this colloquy or reading this RECORD really want to make a judgment as to the views held by my friend from Wyoming—and I shall ask the question again: How is this a back-door approach and how does this circumvent the Alaska lands issue? Maybe he can edify us.

Mr. SIMPSON. I appreciate the opportunity to do that one more time. Perhaps we shall use book, page, and hymn number this time.

[Laughter.]

The PRESIDING OFFICER. The galleries will be in order. The galleries will cease any comment upon the proceedings of the Senate.

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, if we refer to S. 9, which is being considered, we shall find that this attempt is absolutely duplicative of the effort in that particular legislation. I should hope that from S. 9, we are to have recommendations of the appropriate officials of the governments of the United States and the State of Alaska with respect to ways to make sure that economic development is orderly and planned and is compatible with State and national economic, social, and environmental objectives. That is the existing language of S. 9.

I do not feel, in any form, that this is appropriate to be addressed when we are talking about regional commissions and authorization of those regional commissions. There are many, many other departures in the particular language of this bill, such as the intrusion of the Secretary of Commerce.

There are so many things that the Senator and I could have quite a chat about, and I look forward to that opportunity. I am saying it is duplicative. I am citing S. 9. I say this is just excess baggage.

Mr. GRAVEL. My colleague is now closer to the mark when he says it is duplicative. He is not charging me with circumventing the committee. He is not charging me with a backdoor approach. He is saying there is a possibility of duplication. My colleague is right and I am prepared to stipulate that.

I think the minority should really be careful of the charge it makes in that regard.

It is a possible duplication. The Commission in S. 9 is an advisory commission. However, we are also creating a single State regional commission in this bill. I am like my colleague from Wyoming: I am very concerned about spending money. I am like my friends from Vermont and Rhode Island: I do not want to see the Federal taxpayer have to pay for duplicatory costs. I want to see the buck go as far as it can go. So when I see us creating a single State commission, I do not want to have another advisory commission created to waste a lot of duplicatory money.

So all we are going to do is just add the ability to review and make recommendations with respect to land use for this commission, and we save all that money that is going to go into that other process.

It is interesting that I would live to see the day that the minority party, which prides itself on being able to cut the budget—not too successfully I might add—on being able to save money, standing here and making a case for duplication. They are prepared to admit that we need a regional commission because we are so large. Also, they want to have another advisory commission come out of the Energy Committee, so we shall have two commissions—both a Federal-State commission under this title and another Federal-State commission under the Department of the Interior. That is two commissions.

Mr. President, does that make sense, I ask you? That is the banner that the minority has hoisted up the flagpole and wants all of us to salute today.

Gentlemen, you should be ashamed of yourselves, wasting that kind of money. I just cannot understand you. What has become of your party? What has become of your philosophical approach to these problems? I think this is very tragic.

Mr. President, I shall just have to rest my case on that. I shall make an appeal one last time by quoting the distinguished chairman of the Energy Committee. I think it is a little exaggeration, when my colleague from Wyoming stated that each member of the committee takes his position. I cannot find each member of any committee in this body to agree to the same position.

Let me quote Senator JACKSON in 1970, when he was talking about the problem of planning:

> Increasingly we are finding instances where federal funds which have been expended to preserve a part of natural heritage or to create new recreational opportunities are coming into serious and, often totally unnecessary conflicts with other federally funded programs, such as highway and airport construction, communications, national defense facilities and water resource development.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAVEL. Mr. President, I ask for an additional 1 minute to finish this statement.

The PRESIDING OFFICER. There is no time remaining.

Mr. GRAVEL. I ask unanimous consent for 1 minute just to finish this?

Mr. RANDOLPH. Mr. President, I give the Senator 1 minute on the bill if that is agreeable.

The PRESIDING OFFICER. The Senator has that right.

Without objection, it is so ordered.

Mr. GRAVEL. I thank the distinguished Senator from West Virginia.

Mr. President, Senator JACKSON goes on:

> I am . . . very concerned that many of these conflicts which have centered around incompatible uses of the same land resources have been totally unanticipated and unintended. These conflicts have simply been the result of poor planning procedures. They have not placed at issue important questions of national priorities, goals and objectives. These conflicts have resulted from a lack of coordination, a failure to relate national programs to local aspirations and an institutional inability to factor in the full range of national and local values as part of the planning process for specific Federal projects.

I can only add to my colleagues in the minority; you do not plan in midair. You plan as you stand on the ground, because that is the only place where human beings can stand.

I thank my colleagues for their indulgence.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I will be very brief in my concluding remarks.

I do want to say to my good friend from Alaska that we have not often been on opposite sides of the debate. I do not enjoy handling this end of the debate which he considers might adversely affect his State.

I hope he has in mind that this Senator very much wants Alaska to have a title V commission. It has only been because of what this Senator perceives as the language which does create some land-use planning power in the commission that I have opposed that single part of the legislation in question.

The fact is that no other commission of the title V commissions, even though all of the others face many of the economic problems that my good friend's new commission will face in Alaska, has any powers in the field of land-use planning at all.

S. 835 does bestow on the Alaska Commission, therefore, greater powers than those given to any other title V regional development commission.

No matter how benign this language may appear in this bill, in the opinion of this Senator it does impose the Alaska Title V Commission on the land-use planning of that State.

With that in mind, Mr. President, I am forced to promote and promote this amendment to delete the sections of the bill which, in the judgment of this Senator, do provide land-use authority in the Alaskan Commission as proposed in the legislation.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STAFFORD. Mr. President, I am prepared at this point to yield back the remainder of my time.

Mr. RANDOLPH. We have no time remaining.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Vermont. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD) and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber who wish to vote and have not voted?

The result was announced—yeas 77, nays 21, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—77

Armstrong
Baker
Baucus
Bayh
Bellmon
Biden
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Cannon
Chafee
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Garn
Glenn
Goldwater
Hatch
Hatfield
Hayakawa
Heinz
Helms
Hollings
Humphrey
Jackson
Javits
Jepsen
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Lugar
Mathias
McClure
Melcher
Metzenbaum
Morgan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—21

Bentsen
Bradley
Burdick
Byrd, Robert C.
Chiles
Church
Culver
Gravel
Hart
Heflin
Inouye
Johnston
Long
Magnuson
Matsunaga
McGovern
Moynihan
Randolph
Stennis
Stone
Williams

NOT VOTING—2

Ford
Huddleston

So the amendment (UP No. 478) was agreed to.

Mr. GRAVEL addressed the Chair.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Several Senators addressed the Chair.

Mr. CHAFEE. I move to lay that motion on the table.

Mr. GRAVEL. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, I seek recognition before we vote on reconsideration. If I could have my colleagues' attention on this. There has been really a gross misunderstanding on this amendment, because there has been representation made at the well in writing that we were voting on plan planning.

There is nowhere in this legislation——

Mr. CHAFEE. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHAFEE. Is a motion to table debatable?

Mr. GRAVEL. I was seeking recognition before the motion to table. I was seeking recognition before reconsideration.

The PRESIDING OFFICER. The Senator from Alaska was seeking recognition before the motion to table was made.

Mr. GRAVEL. And before the motion to reconsider I was seeking recognition.

The PRESIDING OFFICER. The Senator from Alaska is correct.

Mr. GRAVEL. I wish to engage in a colloquy.

The PRESIDING OFFICER. If the Senator will kindly desist, the Chair must ask who yields time to the Senator from Alaska?

Mr. GRAVEL. Mr. President, will the Senator from West Virginia yield me time on the bill? I will not discommode the body needlessly. I think a misunderstanding has been perpetrated. I think it should be cleared up.

Mr. RANDOLPH. Mr. President, I ask what time remains?

The PRESIDING OFFICER. The Senator has 16 minutes remaining on the bill.

Mr. RANDOLPH. Mr. President, will 10 minutes be sufficient?

Mr. GRAVEL. Ten minutes I think will do it.

Mr. RANDOLPH. Mr. President, I yield 10 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator yields 10 minutes to the Senator from Alaska.

Will the Senate be in order? Will Senators desiring to converse retire to the cloakroom? The Senator from Alaska has the floor and wishes to be heard.

Mr. GRAVEL. Mr. President, if I could have the brief attention of my colleagues, there were two charges made on provisions already in the bill. The committee has already acted on this. We created a special commission for one State, and this is not in controversy. Alaska is so large. It meets the criteria for a single

State commission. Hawaii with some trust territories may also meet that criteria.

What I have added on in committee for the special commission, and I quote in this regard, "Is the ability to first review resource inventories of Federal agencies; second to review and make recommendations to the Federal Government and State legislature on land use plans and proposed activities; and third to assist Alaska Native corporations in preparing land use plans."

Nowhere is there a power to do any land planning. This is one of the things that scares people. They do not want to vote on the land planning process. That power is no way found in here and no one has taken that power out.

The confusion is with the Alaskan lands issue, and that was the charge that was made, that I am trying to circumvent the Alaska lands use issue.

I thought in debate I put that to rest very simply by this point. In the Alaska lands legislation in another committee there is a separate commission and that is a Federal-State commission to be used for land planning.

It just struck me that, if we are going to have a regional economic development commission of a Federal-State nature, that we also have a commission that can have some advisory powers with respect to land.

That is all this does. So the minority-led proposal is to have this regional economic development commission and then turn around and have another commission that is going to be created in the State of Alaska. One will handle economic matters and the other will handle land.

My colleague from Arkansas approached me at the well and informed me that, generically, these commissions probably have these powers in any event.

So I appreciate his views at this point in time.

Mr. BUMPERS. Mr. President, if the Senator from Alaska has time, will he yield a few minutes to me?

Mr. GRAVEL. I yield.

(Mr. McGOVERN assumed the chair.)

Mr. BUMPERS. I am certainly not an expert on this particular part of the bill, but certainly I do not think anyone here objects to Alaska having a regional commission, a title V commission, as we call them.

The genesis of the title V commissions stems from the establishment of the Appalachian Commission which served portions of something like 13 States or portions of States which were considered to be seriously economically deprived.

Then there was some resentment by some members of Congress about those particular States receiving funds under the Appalachian concept when they felt that poverty in their States or portions of their States was as severe as it was in Appalachia.

So my colleagues will recall that three or four of the so-called title V commissions were set up for the ostensible purpose of relieving economic deprivation wherever it prevailed.

One of those title V commissions was the Ozarks Regional Commission, of which my home State of Arkansas was a part. During my term as Governor, as I served as chairman of the Ozarks Commission, we received Federal funds, as do all the commissions, to do all kinds of things relative to economic development. Some of the projects that we supported in that commission were regional in concept and some of them would have to be described as purely State projects. But any project that you could conceivably justify on the basis of economic development was permissible.

In the case of Alaska, I just walked up to my colleague from Alaska before I voted and told him that I was going to vote for the amendment and against his position. I explained that in my opinion probably most of what he wanted in the field of land use planning would be permissible under the Organic Act of the title V commissions so long as it could be construed as a form of or related to economic development.

So I do not know that he has lost a great deal by losing the amendment as long as he can convince the members of that commission, whoever they may be, that land use planning assistance for Native corporations is in keeping with the genesis of the original bill.

Now, Mr. President, that is all I can add. As I say, I am not an expert on it, but I support Alaska to have a regional commission. Incidentally, I might say we have long since moved away from trying to help those areas of the country that are the most economically deprived. We have put almost every geographical section of the United States into these title V commissions, and certainly Alaska has a right to be included.

My only objection is that Alaska should not have any additional rights that the other title V commissions do not have. As everybody knows, the so-called Alaska lands issue is going to be presented to the Congress probably before we adjourn this session. Many of the things that concern the Senator will be addressed in that legislation.

I just want to say so far as the title V commission itself is concerned, in my opinion, Alaska will have precisely the same rights that the Ozarks Commission or any other title V commission has.

Mr. GRAVEL. If I might say to my colleague, that is fine, except now we are going to have less power because the amendment specifically excludes the Alaska Commission from doing any land-use planning. That is what the amendment does.

Mr. BUMPERS. No, Senator, if I might interrupt. I just got through saying that in my view it will not prohibit land-use planning if you can relate land-use planning, zoning or anything else to the economic development of a Native corporation or to any part of Alaska; it is not specifically excluded.

Mr. GRAVEL. I do not have it at my desk, but if I can get in my hand the specific language of the amendment of the Senator from Vermont, he specifically says you cannot do land-use planning. You are right—if you can get your commission to do it, you can do land-use planning, but we are discriminating against the Alaska Commission. The Stafford amendment states "(d) any regional commission established pursuant to this act shall have no responsibility for the development or assessment of land-use plans."

So that does tell them they had better stay away from it, and if it does not, then I do not know what does.

Mr. BUMPERS. I would simply address a question to the Senator from Vermont to find out whether or not it was his intention by the amendment to deprive the State of any rights that other title V commissions have.

Mr. STAFFORD. The Senator from Vermont would respond by saying it was not his intention in offering the amendment to change any of the authorities that the title V commissions have at the present time.

Mr. GRAVEL. Well, if that is the intention——

Mr. BUMPERS. I think the amendment, Senator, simply deletes that part of the language that specifically mentioned land-use planning but did not say specifically that it would be prohibited. It just struck this language from the bill, which puts you on an even keel with all the other title V commissions.

Mr. GRAVEL. Except the other title V commissions do not have this restriction. Is my colleague prepared to offer another amendment or will he join me in another amendment saying there is no power that the Alaska Commission will have that will be different from anybody else's? To leave it the way it is right now leaves it out in the open.

Mr. STAFFORD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STAFFORD. Is the understanding of this Senator that a motion to reconsider the vote by which the amendment was adopted has been made?

The PRESIDING OFFICER. That is correct. On that motion there are 10 minutes equally divided, 5 minutes on the side.

Mr. STAFFORD. It was the understanding of this Senator, Mr. President, that the distinguished chairman of the committee and manager of the bill for the majority yielded 10 minutes on the bill to the Senator from Alaska.

The PRESIDING OFFICER. The Senator is correct. The manager of the bill did, in fact, yield 10 minutes on the bill. But under the previous order on motions to reconsider there is a total of 10 minutes in addition to that, 5 minutes to the side.

Mr. STAFFORD. The Senator is grateful to the Chair.

Mr. DOMENICI. Mr. President, is there any time for debate on the motion to reconsider or has it all been used?

The PRESIDING OFFICER. There are 9 minutes presently remaining on the motion to reconsider.

Mr. BUMPERS. Mr. President, who has the time?

Mr. GRAVEL. I yield to my colleague.

Mr. STAFFORD. Mr. President, one more parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STAFFORD. How much more time remains to the Senator from Alaska and how much time remains to the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Vermont has 3½ minutes remaining and the Senator from Alaska has used his 10 minutes. And now the Senator from West Virginia has 5 minutes remaining.

Mr. BUMPERS. Mr. President, will the Senator from West Virginia yield me 1 minute?

Mr. RANDOLPH. Yes, I yield 1 minute.

Mr. BUMPERS. If I could make one additional point, Mr. President. I am advised that the Stafford amendment simply precludes the commission itself from involving itself in land-use planning, and every title V commission is prohibited from doing that. But title V commissions may make grants to consultants and other people as long as it is in keeping with the original organic law which permits these kinds of grants to consultants or others that promote or enhance economic development.

So I would assume that the Senator is again back on equal footing with all the other title V commissions, because no title V commission may itself engage in land-use planning.

Mr. RANDOLPH. Mr. President, I am not interested in moving into the debate. I only say it is my understanding that the Senator from Arkansas, as he states the question, is correct.

Mr. GRAVEL. I think I would accept that, accept his interpretation on that.

I cannot help but reflect—and that is reason I wanted to try to dovetail those commissions into the S. 9 commission, into the Alaska commission—that, accept his interpretation on that bodies is the fact that they cannot relate their economic activity to land. Maybe some day we will rise to that level of maturity to do that, and I think we will find the commissions much more effective.

Mr. RANDOLPH. Mr. President, commenting, in conclusion, the Senator from Alaska, I know, fights constantly for his State and his people. It is a vast area, it has unique problems. He knows that I have attempted always to accommodate programs to those problems in highway construction and other efforts.

We, of course, had several close votes within the committee on this subject matter, we know that.

I just hope, if it is agreeable with the Senator from Alaska, that we look to the future and bring these matters to the attention of the Senate at a later date.

Mr. GRAVEL. I want to join with my colleague, who has been most gracious in the giving of his time. I just want to put the minority on record that we will look to the future in this regard, more future than probably everyone will want to accept. There is going to be a lot of future in this, I can assure the Senator of that.

I do want to thank my colleague for his accommodation in this regard. I think this was an issue that was terribly misunderstood on the floor, and I think that time will correct it.

I think when we see the day that the Republicans can bring two commissions into being, then we will see the error of our ways.

I yield back the remainder of my time, and I have no objection to a reconsideration vote.

The PRESIDING OFFICER. Do Senators yield back all time?

Mr. RANDOLPH. I yield back the time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOMENICI. Mr. President, I want to ask the Senator from Alaska, I believe reconsideration was asked for in the usual form, so we could dispose of the matter. I am going to move to table because if you have no objection——

Mr. GRAVEL. I withdrew from the entire colloquy.

Mr. DOMENICI. I move to table the motion to reconsider.

The PRESIDING OFFICER. If all time is yielded back, the motion to table is in order.

The question is on agreeing on the motion to lay on the table the motion to reconsider the vote by which the amendment of the Senator from Vermont was agreed to.

The motion was agreed to.

Mr. RANDOLPH. Mr. President, it is my understanding there are no requests for further amendments to this legislation. It is my further understanding—and the majority leader, of course, is present—that we would call for a third reading.

Mr. ROBERT C. BYRD. That is automatic.

Mr. RANDOLPH. Is that automatic? I ask for a third reading of the bill. The measure, of course, which is being considered in the House in tandem, would call for us to consider, I believe, according to our schedule the Economic Development Administration tomorrow, and then we would be voting not only on ARC and the other commissions, but EDA as well.

Mr. President, on behalf of both Senator CHAFEE and myself, I would like to express appreciation to members of the Environmental and Public Works Committee staff—both majority and minority—who worked long and hard on this legislation. They are: John Yago, Philip Cummings, Richard Harris, Richard Greer, Ann Garrabrant, Janice Nace, Connie Koehmstedt, Judy Parente, Bailey Guard, Steve Swain, Hal Brayman, Jim Range, Nina McClure, and Saundra Morten.

The PRESIDING OFFICER. If there are no further amendments, then third reading of the bill.

The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed and to be read a third time, and was read the third time.

The PRESIDING OFFICER. Under the previous order, the bill having been read the third time, it will be temporarily laid aside and the Senate will proceed to the consideration of S. 265.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was advanced to third reading.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, in 1965 the Congress adopted the Appalachian Regional Development Act in response to the poverty and economic stagnation of that region. Having lived in that area over the years that the ARC program has been in effect, I have seen the improvement it has brought.

It has made a major contribution to economic improvement which has reduced overall poverty and increased the quality of life in the region. In 1960, 31 percent of the population of the region was below the poverty level, in 1976 that figure was down to 14 percent.

But the major impact of the program is not reflected in statistics. The people of Appalachia are a proud people with a strong affinity to their home as difficult as the geography may be. The Appalachian program has provided thousands of these people the opportunity to find employment and dignity in their home community.

I am pleased to have this occasion to once again endorse and support this excellent program.

Mr. ROBERT C. BYRD. Mr. President, when the Appalachian Regional Commission was established 14 years ago, it was estimated that it would take a generation for Appalachia to move into the mainstream of American economic growth. If we think of a generation as about 30 years, the Appalachian Regional Commission has reached the half-way mark.

With the bill which was before the Senate today, S. 835, the Regional Development Act of 1979, it seems appropriate to reflect upon the changing face of the Appalachian region. Appalachia comprises parts of 12 States and all of my own State of West Virginia. Despite the diversity of Appalachia—the tremendous human and natural resources in the region—the areas comprising the Appalachian region have severely lagged behind the rest of the Nation in economic growth. The Appalachian Regional Commission's creation was a unique means of forging a partnership between the 13 member States and the Federal Government, to jointly plan regional development.

Today, there is widespread recognition of the Appalachian Regional Commission's achievements in improving the standard of living throughout Appalachia. No longer are people leaving the region in search of better jobs, or better living conditions. The outmigration of the past few decades has been reversed. Since 1970, an annual average of 58,000 people have moved into the region.

Educational services are increasing in the region, paving the way for more and better job opportunities. The Appalachian Regional Commission has helped fund a regionwide system of 500 vocational schools serving 300,000 young people. Twenty years ago, only one-third of Appalachia's adult population had a high school education, while today more than half has completed high school.

The Appalachian Regional Commission has provided leadership in the field of rural health care delivery, helping fund more than 1,500 health projects in Appalachia. Health care clinics established by the Commission now serve as models for other federally funded rural medical clinics.

The Appalachian Regional Commission has invested in the region's economy in the form of water and sewage programs, housing projects, industrial parks, and in developing a telecommunications system which reaches into even the most isolated areas of Appalachia. Central to the success of the Commission's community and industrial development projects has been construction of a highway system. More than 50 percent of the miles of highway authorized under the act are now either complete or under construction.

Job opportunities are increasing in Appalachia and the unemployment rate has dropped to a level more closely approximating the national average. In the 1960's, the region's rate of unemployment was nearly double that of the rest of the Nation. Appalachia's poverty population has declined by more than 50 percent—from 31 percent in 1960 to 14 percent in 1978.

These changes in the region are, in part, the product of the work done by the Appalachian Regional Commission in conjunction with State efforts to develop the region. Since the Appalachian Regional Commission was established in 1965, $3.5 billion in direct Federal outlays have been funneled into the program. State and local governments have almost matched this amount in their contributions of $3.3 billion to the program.

Despite the tremendous social and economic change that has taken place, the Appalachian region remains one of the Nation's largest pockets of poverty with 2.7 million of its 19 million people living below the national poverty level. Many Appalachian families continue to be disadvantaged in terms of education, employment, income levels, adequate housing, and access to health care and other public services.

There are still wide gaps in per capita income. Only 6 of the region's 397 counties have an average per capita income equal to the national average. This income gap restricts the ability of State and local governments to meet the cost of public services essential to economic well-being and economic development. In the last decade, State and local governments have made significant contributions of their limited revenues and borrowing capacity to meet the cost of public services. Between 1966 and 1977, total State funds spent annually in Appalachia climbed from $2.4 billion to more than $7.6 billion.

Substandard housing persists as a unique regional problem. It is estimated that 35 percent of the housing in central Appalachia is substandard. Key to the lack of adequate housing is the lack of available land suitable for housing sites. In many cases, the rugged terrain of the region requires excessive development costs. In coal-producing areas, frequently the only available flat land for housing is in flood plains. The scarcity of land for housing and industrial construction, of course, drives up the price of land.

The legislation which the Senate considered today, S. 835, will extend the Appalachian Regional Commission for 4 years, and provide new funding and authority for regional commissions under title V of the Public Works and Economic Development Act of 1965.

As a Senator from West Virginia, both the real and potential value of the Appalachian Regional Commission is of particular concern to me. The legislation which the Senate considered today identified new opportunities as well as ongoing problems faced by Appalachia. The committee report clarified new areas of concern for the future.

I want to commend Senator BURDICK, chairman of the Regional and Community Development Subcommittee of the Environment and Public Works Committee and Senator RANDOLPH, chairman of the committee, for the able management of this bill. I also want to thank Senator STAFFORD, ranking minority member of the committee and Senator CHAFEE, the minority floor manager.

EQUAL ACCESS TO JUSTICE ACT

The PRESIDING OFFICER. Under the previous order, the bill having been read the third time, it will be temporarily laid aside and the Senate will proceed to the consideration of S. 265. which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 265) entitled "Equal Access to Justice Act".

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 2, line 3, strike "corporations labor," and insert "corporations, and labor";

On page 2, line 18, strike "unless the governmental action was substantially justified";

On page 2, line 21, after "law" insert "and statutory";

On page 4, line 12, strike "and"

On page 4, beginning with line 13, strike through and including line 19, and insert in lieu thereof the following:

"(B) 'party' means a 'person' as defined in section 551 of this title, but excludes any individual whose net worth exceeded $1,000,000 at the time the adjudication was initiated, and any sole owner of an unincorporated business, on any partnership, corporation, association, or organization whose net worth exceeded $5,000,000 at the time the adjudication was initiated; and

"(C) 'adjudication subject to section 554 of this title' does not include adjudication for the purposes of establishing or fixing a rate or for the purposes of granting or renewing a license.

On page 5, line 16, strike "an award for fees and other expenses as determined" and insert "the fee determination";

On page 6, line 2, strike "General Accounting Office out of the general fund" and insert in lieu thereof the following: particular agency over which the party prevails from any sums appropriated to such agency, except that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses awarded under this section

On page 6, line 24, after "repeal" insert a comma and the following: except that the provisions of that section shall continue to apply through final disposition of any adjudication commenced before the date of repeal

On page 7, beginning with line 20, strike through and including page 8, line 2, and insert in lieu thereof the following:

"(b) In addition to the costs which may be awarded pursuant to subsection (a) and unless otherwise specifically prohibited, a court may award reasonable attorney fees to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his official capacity, and the United States shall be liable to the same extent that a private party would be liable under the common law or under the terms of any statute which specifically provides for such an award.

On page 8, line 18, after "United States" insert "or any agency or official of the United States acting in his official capacity";

On page 8, line 20, strike "subsections (b) and (d)" and insert "subsection (b)";

On page 9, beginning with line 8, strike "or cases arising under the internal revenue laws of the United States";

On page 9, line 12, after the period, insert the following: The court, in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party, during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy.

On page 10, beginning with line 17, strike through and including line 21, and insert in lieu thereof the following:

"(B) 'party' means any individual whose net worth is less than $1,000,000 at the time the civil action was filed, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth was less than $5,000,000 at the time the civil action was filed, and

On page 11, line 10, strike "that agency adjudication" and insert "the administrative proceedings";

On page 11, line 12, strike "adjudication" and insert "proceedings";

On page 11, beginning with line 15, strike through and including line 20, and insert in lieu thereof the following:

"(4) Fees and other expenses awarded under this subsection shall be paid by the particular agency over which the party prevails from any sums appropriated to such agency, except that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses awarded under this section.

On page 12, line 19, after "repealed" insert a comma and the following: except that the provisions of that subsection shall continue to apply through final disposition of any action commenced before the date of repeal.

On page 13, beginning with line 4, insert the following:

(c) Section 1988 of title 31, United States Code, is amended by striking out "or in any civil action or proceeding by or on behalf of the United States of America, to enforce, or charging a violation of a provision of the United States Internal Revenue Code,".

SEC. 6. Nothing in section 2412(d) of title 28, United States Code, as added by section 4(a) of this Act, alters, modifies, repeals, invalidates, or supersedes any other provision of State or Federal law which authorizes an award of such fees and other expenses to any party, other than the United States, who prevails in any civil action brought by or against the United States.

SEC. 7. This Act, and the amendments made by this Act, shall apply to any civil action which is pending on the date of enactment of this Act, or which is commenced on or after the date of enactment of this Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Equal Access to Justice Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that certain individuals, partnerships, corporations, and labor and other organizations may be deferred from seeking review of, or defending against unreasonable governmental action because of the expense involved in securing the vindication of their rights in civil actions and in administrative proceedings.

(b) The Congress further finds that because of the greater resources and expertise of the Federal Government, the standard for an award of fees against the United States should be different from the standard governing an award against a private litigant, in certain situations.

(c) It is the purpose of this Act—

(1) to diminish the deterrent effect of seeking review of, or defending against, governmental action by providing in specified situations an award of attorney fees, expert witness fees, and other costs, against the United States; and

(2) to insure the applicability in actions by or against the United States of the common law and statutory exceptions to the "American rule" respecting the award of attorney fees.

AWARD OF ATTORNEY FEES AND OTHER EXPENSES IN CERTAIN AGENCY ACTIONS

SEC. 3. (a) Subchapter I of chapter 5, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties

"(a) An agency that conducts an adjudication subject to section 554 of this title shall award, to a prevailing party other than the United States, fees and other expenses incurred by that party in connection with that proceeding, unless the agency finds that the position of the agency as a party to the proceedings was substantially justified or that special circumstances make an award unjust. The agency may reduce the amount to be awarded, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. The decision of the agency under this section shall be made a part of the record and shall include written findings and conclusions and the reason or basis therefor.

"(b) (1) For the purposes of this section—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the agency to be necessary for the preparation of the party's case, and reasonable attorney or agent fees. The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the agency involved; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the agency determines by regulation that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee:

"(B) 'party' means a 'person' as defined in section 551 of this title, but excludes any individual whose net worth exceeded $1,000,000 at the time the adjudication was initiated, and any sole owner of an unincorporated business, on any partnership, corporation, association, or organization whose net worth exceeded $5,000,000 at the time the adjudication was initiated; and

"(C) 'adjudication subject to section 554 of this title' does not include adjudication for the purposes of establishing or fixing a rate or for the purposes of granting or renewing a license.

"(2) Except as otherwise provided in paragraph (1), the definitions provided in section 551 of this title apply to this section.

"(c) (1) Each agency shall by rule establish procedures for the submission and consideration of applications for an award of fees and other expenses. If a court reviews the underlying decision of the agency adjudication, an award for fees and other expenses may be made only pursuant to section 2412(d) (3) of title 28.

"(2) A party dissatisfied with the fee determination by the agency may petition for leave to appeal to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adjudication. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants the petition, it may modify the determination of the agency only if it finds that the failure to make an award, or the calculation of the amount of the award, was an abuse of discretion.

"(d) Fees and other expenses awarded under this section shall be paid by the particular agency over which the party prevails from any sums appropriated to such agency, except that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses awarded under this section.

"(e) The Office of the Chairman of the Administrative Conference of the United States shall report annually to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards. Each agency shall provide the Conference with such information as is necessary for the Chairman to comply with the requirements of this subsection.".

(b) The table of sections of subchapter I of chapter 5, title 5, United States Code, is amended by adding at the end thereof the following new item:

"504. Costs and fees of parties.".

(c) Effective three years after the date of enactment of this Act, section 504 of title 5, United States Code, as added by subsection (a) of this section, is repealed, except that the provisions of that section shall continue to apply through final disposition of any adjudication commenced before the date of appeal.

AWARD OF ATTORNEY FEES AND OTHER EXPENSES IN CERTAIN JUDICIAL PROCEEDINGS

SEC. 4. (a) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Costs and Fees

"(a) Except as otherwise specifically provided by statute, a judgment for costs, as enumerated in section 1920 of this title, but not including fees and other expenses of attorneys, may be awarded to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his official capacity in any court having jurisdiction of such action. A judgment for costs when taxed against the Government shall, in an amount established by statute, court rule, or order, be limited to reimbursing in whole or in part the prevailing party for the costs incurred by him in the litigation.

"(b) In addition to the costs which may be awarded pursuant to subsection (a) and unless otherwise specifically prohibited, a court may award reasonable attorney fees to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his official capacity, and the United States shall be liable to the same extent that a private party would be liable under the common law or under the terms of any statute which specifically provides for such an award.

"(c) (1) Any judgment against the United States or any agency or official of the United States acting in his official capacity for costs pursuant to subsection (a) shall be paid as provided in sections 2414 and 2517 of this title and shall be in addition to the compensation, if any, awarded in the judgment.

"(2) Any judgment against the United States or any agency or official of the United States acting in his official capacity for fees and other expenses pursuant to subsection (b) shall be paid as provided in sections 2414 and 2517 of this title unless the basis for the award is a finding that the United States acted in bad faith, in which case the award shall be paid by the agency found to have acted in bad faith and shall be in addition to the compensation, if any, awarded in the judgment.

"(d) (1) In addition to the costs which may be awarded pursuant to subsection (a) and except as otherwise specifically provided by statute, a court shall award fees and other expenses to any party other than the United States which prevails in any civil action (other than cases sounding in tort) brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust. The court, in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party, during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. A party seeking an award of fees and other expenses shall within thirty days of final judgment in the action, submit to the court an application which provides evidence of such party's eligibility for the award and the amount sought, including an itemized statement from attorneys and experts stating the actual time expended in representing such party and the rate at which fees were computed.

"(2) For the purposes of this subsection—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees. The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the United States; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee;

"(B) 'party' means any individual whose

net worth is less than $1,000,000 at the time the civil action was filed, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth was less than $5,000,000 at the time the civil action was filed, and

"(C) 'United States' includes any agency, and any official of the United States acting in his official capacity.

"(3) In awarding fees and other expenses under this subsection to a prevailing party in any action for judicial review of an agency adjudication conducted pursuant to section 554 of title 5, the court shall include in that award, the fees and other expenses for services performed during the administrative proceedings unless the court finds that during such proceedings the position of the United States was substantially justified, or that special circumstances make an award unjust.

"(4) Fees and other expenses awarded under this subsection shall be paid by the particular agency over which the party prevails from any sums appropriated to such agency, except that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses awarded under this section.

"(5) The Director of the Administrative Office of the United States Courts shall include in its annual report prepared pursuant to section 604 of this title, the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this subsection. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards.".

(b) The item relating to section 2412 in the table of sections for chapter 161 of title 28, United States Code, is amended to read as follows:

"2412. Costs and fees.".

(c) Effective three years after the date of enactment of this Act, subsection (d) of section 2412, as added by subsection (a) of this section, is repealed.

Sec. 5. (a) Subdivision (f) of rule 37 of the Federal Rules of Civil Procedure is repealed, except that the provisions of that subsection shall continue to apply through final disposition of any action commenced before the date of repeal.

(b) The table of rules of the Federal Rules of Civil Procedure is amended by deleting the item relating to subdivision (f) of rule 37.

(c) Section 1988 of title 42, United States Code, is amended by striking out "or in any civil action or proceeding by or on behalf of the United States of America, to enforce, or charging a violation of a provision of the United States Internal Revenue Code,".

Sec. 6. Nothing in section 2412(d) of title 28, United States Code, as added by section 4 (a) of this Act, alters, modifies, repeals, invalidates, or supersedes any other provision of State or Federal law which authorizes an award of such fees and other expenses to any party, other than the United States, who prevails in any civil action brought by or against the United States.

Sec. 7. This Act, and the amendments made by this Act, shall apply to any civil action which is pending on the date of enactment of this Act, or which is commenced on or after the date of enactment of this Act.

The PRESIDING OFFICER. Time for debate on this bill is limited to 2 hours, to be equally divided between and controlled by the Senator from South Carolina (Mr. Thurmond), and the Senator from Arizona (Mr. DeConcini), with 1 hour on any amendment in the first degree, with 30 minutes on any amendment in the second degree, and with 10 minutes on any debatable motion, appeal, or point of order.

Who yields time? What is the will of the Senate?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I be permitted to suggest the absence of a quorum without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES AUTHORIZATIONS, 1980

Mr. BAYH. Mr. President, I move that the Chair lay before the Senate a message from the House of Representatives on S. 975.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 975) entitled "An Act to authorize appropriations for fiscal year 1980 for intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Intelligence and Intelligence-Related Activities Authorization Act, Fiscal Year 1980".

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1980 for the conduct of the intelligence and intelligence-related activities of the following departments, agencies, and other elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

(b) The amounts authorized to be appropriated under this Act, and the authorized personnel ceilings as of September 30, 1980, for the conduct of the intelligence and intelligence-related activities of the agencies listed in subsection (a) are those listed in the classified Schedule of Authorizations prepared by the Permanent Select Committee on Intelligence of the House of Representatives to accompany this Act. The Schedule shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

(c) Nothing contained in this Act shall be deemed to constitute authority for the conduct of any activity which is prohibited by the Constitution or laws of the United States.

(d) Of the amounts authorized under subsection (a)(9), there is hereby authorized to be appropriated for fiscal year 1980, for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States: $13,400,000.

TITLE II—INTELLIGENCE COMMUNITY STAFF

Sec. 201. (a) There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1980 the sum of $11,500,000.

(b)(1) The Intelligence Community Staff is authorized 245 full-time personnel as of September 30, 1980. Such personnel may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(2) During fiscal year 1980, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(3) During fiscal year 1980, any officer or employee of the United States or member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(c) During fiscal year 1980, personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j) relating to personnel of the Central Intelligence Agency as if they are personnel of the Central Intelligence Agency.

Sec. 202. Effective October 1, 1979, section 201 of the Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979 (Public Law 95-370; 92 Stat. 626) is amended—

(1) by striking out the third sentence of subsection (b); and

(2) by striking out subsection (c).

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1980 the sum of $51,600,000.

TITLE IV—SUPPLEMENTAL AUTHORIZATION, FISCAL YEAR 1979

Sec. 401. In addition to the funds authorized to be appropriated under title 1 of the Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979 (Public Law 95–370; 92 Stat. 626), funds are hereby authorized to be appropriated for fiscal year 1979 for the conduct of intelligence and intelligence-related activities of the United States Government in the amounts listed in the classified Schedule of Authorizations described in section 101(b).

TITLE V—TECHNICAL PROVISION

Sec. 501. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

Amend the title so as to read: "An Act to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the United States Government, and for other purposes.".

Mr. BAYH. I move that the Senate disagree to the amendments of the House of Representatives and agree to the conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BAYH, Mr. INOUYE, Mr. STEVENSON, Mr. JACKSON, Mr. LEAHY, Mr. NUNN, Mr. HART, Mr. GOLDWATER, Mr. WALLOP, Mr. MATHIAS, Mr. CHAFEE, and Mr. DURENBERGER conferees on the part of the Senate.

Mr. BAYH. I thank the Chair.

EQUAL ACCESS TO JUSTICE ACT

The Senate continued with the consideration of S. 265.

Mr. DECONCINI. Mr. President, I am pleased to raise for the Senate's consideration S. 265, the Equal Access to Justice Act. Under this bill, individuals and small businesses which prevail in agency adjudications or in civil actions brought by or against the United States will be able to recover their attorney fees unless the Government can show that its action was substantially justified. The fee award will come directly from the operating budget of the offending agency. The bill is subject to a 3-year sunset provision.

Mr. President, this bill bears testimony to the perseverance and diligence of my colleagues, Senators DOMENICI and NELSON, with whom I have been pleased to work over the past 2 years. In fact, I first became interested in this legislation in October of 1977 when my distinguished colleague from New Mexico offered the text of the predecessor to S. 265, as an amendment to the Legal Services Corporation Act.

I might add that the Senator from New Mexico was able to defeat a motion to table the amendment by a vote of 55 to 36, and his amendment was accepted by the floor managers. It has been a long road since October 1977, and I want to particularly commend my distinguished colleague from New Mexico for his commitment, his tireless efforts, and his reasoned approach to this bill. He has been most persuasive and articulative in its defense.

The Subcommittee on Improvements in Judicial Machinery which I chair has held several days of hearings, both last Congress and this spring. The bill has been revised and refined, and it now has been reported by the Judiciary Committee with the unanimous approval of its members. I believe the product of this long process is worthy of the strong endorsement of the Members of the Senate.

The concept of the bill is simple. Through the device of fee-shifting, the bill attempts to overcome the financial obstacles which prevent citizens from contesting or challenging the unreasonable exercise of Government authority. At the present time, citizens do not have viable remedies against the Government because it simply costs too much to resort to agency or court proceedings to vindicate their rights. It is often much easier, much cheaper, and much more practical to give in to the Government than to challenge its vast resources and legal expertise.

In this regard, I would like to note that the purpose of this bill is not only to compensate people who have been the victims of arbitrary Government actions. It is also intended to affirmatively encourage citizens to challenge actions which they believe to be unreasonable or irresponsible. It recognizes that those who choose to litigate an issue against the Government are not only representing their own vested interests. They are also refining public policy, correcting errors on the part of the Government, and helping to define the limits of Federal authority. In short, these people are serving public policy and a public purpose.

By encouraging citizen access to courts and administrative proceedings, I believe the bill will become an instrument for making the bureaucracy more accountable in the exercise of its powers and more responsive to its citizens needs. It will help insure that administrative decisions reflect informed deliberation. It will make agencies take a closer look at their rules, their procedures, and their personnel. It will also aid effective congressional oversight by providing an objective measure of whether or not an agency is engaging in excessive, unreasonable regulation.

Mr. President, as I mentioned in the beginning of my remarks, this bill represents the culmination of a lengthy process of evaluation, reevaluation, and compromise. For this reason, I think it is important to put the bill in that perspective. The original bill introduced by my distinguished colleague from New Mexico in the 95th Congress provided for a mandatory award of fees. However, when the subcommittee held a hearing on the bill, the Department of Justice expressed concern over the bill's potential cost and its potential chilling effect on legitimate Government enforcement efforts. The Department drafted an alternative proposal which would allow fees where the Government action was "arbitrary, frivolous, unreasonable or groundless."

The bill we have before us today represents a middle ground between the mandatory award and the Department's standard. The mandatory award was rejected as too broad. It might prevent the Government from vigorously fulfilling its proper constitutional enforcement obligations. However, the Department's standard was simply too narrow to overcome the strong disincentives to the exercise of legal rights. It was based, in fact, on language from the Christiansburg Garment case which was narrowly drawn to address the limited situation of prevailing defendants in civil rights actions. Under its standard a party must prevail and must produce facts proving that the Government action had no legal or factual basis and that it was completely without foundation. Clearly, awards under this standard would be very difficult to obtain.

For these reasons, we chose instead language which had precedent in rule 37 of the rules of civil procedure. This standard has the benefit of some definition in case law. More importantly, it places the burden on the Government to justify its actions in order to defeat an award. It is therefore strong enough to encourage people to vindicate their rights. At the same time, it protects the Government when its case, though not prevailing, has a reasonable basis in law and fact.

Mr. President, I believe the bill before the Senate today represents a balanced, reasoned approach which will be fair to the Government and to the citizens who choose to litigate against the Government. I also believe that the enactment of this legislation will have a direct salutary effect on Government regulation as well as on citizens' perception of their relationship with the Government.

I again want to thank my distinguished colleagues, Senators DOMENICI and NELSON, and to commend them for their efforts on behalf of this bill. I urge the Senate's support of this important legislation.

I must add that members of the Judiciary Committee have partaken with great effort and time in working on this bill. There has been a good give and take.

I want to thank the minority members who supported this bill from the very beginning, as well as the majority members.

I also want to pay particular thanks to the Senator from Montana (Mr. BAUCUS) for his interest in fee awards involving the Internal Revenue Service and for his willingness to cooperate in this effort, as well as the distinguished chairman of the Judiciary Committee who supported this legislation and without whose support we would not be here today to debate and hopefully pass it.

Mr. CULVER. Mr. President, I am pleased to lend my support today to the Equal Access to Justice Act. This is a most important piece of legislation which addresses a subject that has long been a special interest of mine.

Under present law, a private party must bear all costs of litigation involving the Government—even if the Government's position is arbitrary, frivolous, or groundless.

This is grossly unfair. Many individuals and small businesses simply cannot afford the cost of fighting improper or abusive Government action. As a result, they may be coerced into submission not because they were wrong—but because they could not afford to prove they were right.

This bill is much like the Regulatory Fairness Act (S. 3331) which I introduced in July of last year. It would place the expense of unwarranted litigation where it belongs—on the offending Government agency. Unless the agency can prove its position was reasonable, it would have to pay the attorneys fees and other litigation costs of the prevailing small business, association, or individual.

While there are some differences between my bill of last year and S. 265, I believe the current proposal represents a fair and workable compromise. It redresses the wrong of present law which places the financial burden of correcting or resisting Government abuse on the victim—the small businessman—rather than on the offending Government agency.

The passage of this bill would go a long way toward ending governmental excesses without interfering with legitimate regulatory activities. I urge my colleagues to adopt this measure without delay.

Mr. DECONCINI. I thank the Senator from Iowa for his concern and interest in this legislation, and the work he has put forward on it.

The PRESIDING OFFICER. Under the order previously entered, the Senator from South Carolina is to control the time on his side of the aisle.

Mr. DOLE. Mr. President, will the Senator from South Carolina yield control of the time to the Senator from Kansas?

Mr. THURMOND. Mr. President, I yield control of the time to the distinguished Senator from Kansas.

The PRESIDING OFFICER. Without objection, it is so ordered. The time will be controlled by the Senator from Kansas. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, first let me take about a minute, and then I will yield to the distinguished Senator from New Mexico who has been identified as sort of the pioneer in this effort and who has certainly done an outstanding job.

I also commend the subcommittee chairman, the distinguished Senator from Arizona (Mr. DECONCINI).

As a new member of the Judiciary Committee, it has been a privilege and of great interest to learn about the problems of that committee and how they are addressed, and how the problems relate to the American people.

Our Nation is governed by laws that establish rules, rights, obligations, and responsibilities, and to interpret those laws the citizens of our country turn to the courts. Unfortunately, the cost for pursuing a question based upon those laws is frequently prohibitive for the average American.

Ironically, it appears that American justice has become too costly for the average American budget. The cost of attorneys fees, the cost of putting together a case and seeing it through an administrative proceeding or the courts, the cost of paying expert witnesses and developing facts, can all come to much more than the cost of simply giving in. Consequently, the rights of many Americans are not being protected. Due to formidable court costs, our system is losing the ability to act as a balancing factor between individuals and the Government.

The Equal Access to Courts Act would serve to alleviate this irony by creating a presumption in favor of an award which the Government could negate by showing that its position was substantially justified.

FEDERAL REGULATION

Mr. President, the Federal regulatory effort includes thousands of Federal employees who are interpreting over 45,000 pages of regulation for the 82 regulatory agencies that exist in Washington. There are vast resources that enforce the arbitrary decisions of autocratic bureaucrats, but there are very few individuals or small businesses that can afford to fight back. As these rules and regulations continue to multiply, Americans grow more and more reluctant to contest regulations because of the astonishing cost of litigation. This bill seeks to create an atmosphere in which citizens are not intimidated by litigation cost. The enactment of this legislation will make it financially possible for the citizens of our Nation to question the governmental decisions. This is a remedy that is simple and fair. S. 265 will make the Government more accountable, more responsible in the exercise of its regulatory powers.

BUREAUCRATIC ARBITRARINESS

The Senator from Kansas is certain the enactment of this bill will cure the current epidemic of arbitrary and unfair Government regulation. If bureaucrats knew that more of their actions would be subjected to questions in court, I believe that the tendency of many bureaucrats to be careless, arbitrary, and irresponsible would cease. S. 265 provides the tools that are sorely needed by most Americans to fight back when unreasonable rules and regulations are wrongly enforced.

Mr. President, the citizens of this country should not be forced to succumb to misinterpretation of regulations. The current dilemma that most Americans face when an incorrect governmental edict threatens their lives is best summed up by saying, "If I win in court, I still lose because of the cost." A balance needs to be established between the rights of Americans and Government regulation. This bill offers that balance by alleviating the wide disparity that exists between the resources and expertise of American citizens and their Government.

I again commend the distinguished Senator from New Mexico.

Mr. President, I yield now 30 seconds to the distinguished Senator from Alaska (Mr. STEVENS).

Mr. STEVENS. Mr. President, I wish to express my strong support for S. 265, the Equal Access to Justice Act. This legislation will give the individual the wherewithall to protect himself against the unreasonable exercise of governmental authority. The bill authorizes the payment of fees and other expenses to the prevailing parties in administrative adjudications and civil actions brought by and against the United States in certain circumstances.

Mr. President, the American citizen is increasingly regulated by administrative law, rather than legislation. Many of those regulations have become a tangled bureaucratic mess which is almost impossible to alleviate. Very few private citizens can afford to get involved in a court case over Government regulations. The cost has been simply too prohibitive and, because of this, Americans have been forced to comply with administrative rules which should be challenged. Because these cases are not challenged, the Government can simply outwait the citizen.

This legislation attempts to better balance the power between citizen and Government. It provides for the award of legal fees to litigants except where the governmental actions were substantially justified. This does not prevent the Government from promulgating further regulations which are, in fact, in the best interests of society, but, it does provide the necessary balance to determine that those regulations are in the best interests of society.

This change in our law will allow a court to treat the U.S. Government the same way that it would treat the award of fees against private parties. The Court will be able, in its discretion, to award legal fees to the prevailing party in an action against the Government, just as it is now able to award such fees in cases involving private parties.

This legislation will have a twofold benefit. In the short run, it provides individuals with a remedy which they do not now have, thereby releasing them to make decisions as to the advisability of litigation based on the merits of the case rather than the costs and, in the long run, it becomes a way to curb outlandish regulations issued by Government authority.

This bill represents an experiment. We are not making irreversible decisions. S. 265 sets up a 3-year test program. At the end of 3 years, all information can be reviewed. I personally believe we will find such a program of tremendous benefit and I urge my colleagues to support this bill.

Mr. DOLE. Mr. President, I yield whatever time he may consume to the distinguished Senator from New Mexico.

Mr. DOMENICI. I thank my good friend from Kansas.

Mr. President, in 1916, Elihu Root, in an address as president of the American Bar Association, made a statement that can hardly be improved upon even with the hindsight of more than half a century:

> There is one special field of law development which has manifestly become inevitable. We are entering upon the creation of a body of administrative law quite different in its machinery, its remedies and its necessary safeguards from the old methods of regulation by specific statutes enforced by the courts. . . .
>
> . . . The necessities of our situation have already led to an extensive employment of the method.
>
> . . . Before these agencies the old doctrine prohibiting the delegation of legislative power has virtually retired from the field and given up the fight. There will be no withdrawal from these experiments. We shall go on; we shall expand them, whether we ap-

> prove theoretically or not, because such agencies furnish protection to rights and obstacles to wrong doing which under our new social and industrial conditions cannot be practically accomplished by the old and simple procedure of legislatures and courts as in the last generation 41 A.B. A.R. 355, 368, 369 (1916).

At the same time, he uttered important words of caution:

> If we are to continue a government of limited power, these agencies of regulation must themselves be regulated. . . . The rights of the citizen against them must be made plain.

Today the volume of regulation of Federal agencies far exceeds the volume of the legislative output of Congress. For example, the accumulation of agency legislation by regulation in the Federal Register since 1934 fills three times more shelf space than the accumulation of congressional legislation since 1789.

The Comptroller General of the United States in a report issued on March 16, 1978, identified 120 Federal agencies with regulatory impact on the private sector.

Consequently, the average American is much more directly and more frequently affected by the administrative process than by the legislative or judicial process. The original tenet for administrative proceeding was the need of modern governments for the reasonable exercise of discretionary power and the public's demand for speedy, inexpensive, and procedurally simple adjudication.

As President Roosevelt stated in 1940:

> The administrative tribunal or agency has been evolved in order to handle controversies arising under particular statutes. It is characteristic of these tribunals that simple and non-technical hearings take the place of court trials and informal proceeding supersede rigid and formal pleadings and processes. A commonsense resort to usual and practical sources of information takes the place of archaic and technical application of rules of evidence and an informed and expert tribunal renders its decision with an eye that looks forward to results rather than backward to precedent and to the leading case.

However, this has not been the case. In 1955, the President's conference on administrative procedure was called to consider the problem of "unnecessary delay, expense and volume of records in some adjudicatory and rulemaking proceedings in the executive department and administrative agencies."

In 1971, a report on the President's advisory council on executive organization entitled, "Report in Selected Independent Regulatory Agencies," concluded:

> The judicial cast of agency review proceedings places too great an emphasis on legal perspectives to the detriment of economic, financial, technical and social perspectives. One result is a high level of legal skill among agency professionals and commissioners but generally insufficient capability in other disciplines. Over-judicialization encumbers the time and energies of commissioners and staff, causes undue case backlogs, imposes high costs upon litigants, prevents anticipatory action through rulemaking, deters informal settlements.

American administrative law has gone through three stages of development. The first focus was on constitutional underpinnings of the administrative process, with a good deal of emphasis on separation and delegation of powers. The next focus was on judicial review and the relationship between the agencies and the judicial branch of Government. The last major stage was the formalization of procedures for adjudication and rulemaking.

Now we have entered the age of pervasive Federal regulation and there are few elements of life, commercial or otherwise, where the Federal Government does not have some role to play. In fact, pollsters have indicated that the American people consider one of the major domestic problems to be the size and unresponsiveness of the Federal bureaucracy.

This legislation would mark the beginning of a new stage. It would mark the readjustment of the tension which exists between the citizen and the Federal agencies which govern their lives. The pendulum has swung too far to the side of the bureaucracy. Administrative agencies and administrative law are no longer in the development stage. As the concept of administrative law evolved it needed to be nurtured and encouraged. But that period has long since past. It is time to prune and cut back unproductive overgrowth.

This bill would also combat the growing tendency of escalating legal and related costs deterring Americans from enforcing and defending their legal rights against the Federal Government in its regulatory capacity.

The basic problem to overcome is the inability of many Americans to combat the vast resources of the Government in administrative adjudication. In the usual case, a party has to weigh the high cost of litigation or agency proceedings against the value of the rights to be asserted. Individuals and small businesses are, in far too many cases, forced to knuckle under to regulations even though they have a direct and substantial impact because they cannot afford the adjudication process. In many cases, the Government can proceed in expectation of outlasting its adversary. The purpose of the bill is to redress the balance between the Government acting in its discretionary capacity and the individual.

Today, the average American must be made to feel that he can question the exercise of the Government's discretionary power as to its reasonableness—without incurring large costs if he prevails.

Providing for award of legal fees to prevailing private litigants, except where the governmental action was substantially justified, will not deter the Government from pursuing meritorious governmental action. The purpose is to readjust the position between the Government acting in its regulatory capacity and individual rights. It is to insure against capricious and arbitrary Federal regulation.

There have been numerous documented cases of conflicting regulations in areas of overlapping jurisdiction of various agencies. Regulations have proliferated as agencies have expanded their jurisdiction, unchallenged, through regulatory fiat.

This bill will, as Elihu Root said, allow the agencies of regulation to be regulated by those affected by their regulation. Those who are affected by regulations will be given the incentive to challenge such regulations. Today, the prevailing attitude is, if I win in court, I still lose because of the cost." And when Americans give in, the arbitrary exercise of power by administrative agencies will continue to grow larger and stronger.

By requiring litigants who prevail to be entitled to fees will prevent spurious suits and insures the contesting of meritorious disputes with a fairer presentation of the issues.

Mr. President, I know that even though this bill has taken up a lot of my time and I started on it 3 years ago or more, the Senate does not want to have any lengthy delays today. But I want to go through a little background, and I thank my good friend for giving me some time to do that.

I guess I am most thankful that on that October 31, 1977, when the Senate considered my entire equal access bill as an amendment, Senator DECONCINI from Arizona happened to be on the floor and was on the subcommittee that had jurisdiction. We had never had anybody who wanted even to hear this bill and this concept. I am sure I was not the first to envision it as something needed. But nobody wanted to have any hearings.

The good Senator from Arizona was here when I said, "Well, since nobody wants to have a hearing, we will vote here in the Senate." I can recall that he said then and there that he was not going to table it, even though it was not germane and was out of order, and that we probably ought to have a hearing. He quickly said, "Something like this is needed and I am going to hold hearings in the Judiciary Committee."

We voted and sent a very loud and clear message, 55 to 37; the Senate, without any hearings on this concept, voted to attach it to a basic bill that would assure legal services to the poor people of America.

As I see it now, it was terribly relevant that, while we were providing for the poor in America, that day, here, in the Senate, we also woke up to the fact that the average American, the small businessman, the average citizen, is now besieged with regulatory bureacuracy, with arbitrary decisions, with small fines from the numerous agencies that are in charge of being sure that we are healthy and safe, and cannot afford to fight their own Government. That is true because, even if they win, they lose, because their attorneys' fees and accountants' costs are more than what they are going to lose to their Government; so they concede.

That group of Americans is entitled to fight against arbitrary and irrational and ever-growing agencies of Government so as to move that pendulum a little bit back toward the middle, toward rationality and reasonableness. That is what equal access to the courts means.

For 3 years, we are going to experiment in America with a brand new concept if the House will accept this bill.

That concept basically acknowledges that, with an ever-growing Government relying more and more on administrative decisions and rules and regulations, if an average citizen has to fight its Government or is fought by its Government and prevails, and the Government did not have any substantial reason for causing that citizen to litigate, then, for the first time in history, across the board, all small businessmen and average Americans are going to get reimbursed their attorneys fees, court costs, professional services, and fees.

We are not going to do this forever. It is sunsetted for 3 years, as my good friend from Kansas knows, because we really have no way of knowing just how big this endeavor by the average American is going to be. We have no idea how the courts are going to find in terms of the Government being arbitrary. We do not think it is going in any way to break the bank.

We also, in this bill, assess the cost to the agency that loses and is charged by the court. So they are going to know each year how many of their attorneys, their regulators, have been arbitrary and caused them to go after citizens who, in turn, beat the Government and get their attorneys' fees and court costs reimbursed.

So, for 3 years, we are going to experiment. We are going to see if citizens by the court. So they are going to know that if they win, they do not lose, can be the thrust for making the ever-growing administration and administrative bureaucracy of America make more sense. I think they will.

It has been a long, long time. I have appeared before six different committees and subcommittees and gone over to the House and testified. But, indeed, from my standpoint, I understand why the small businessmen of America, through their national organization, say this is the most vital piece of legislation pending before Congress now. I hope the House understands it to be that when we finish it here today, because there is no doubt in my mind that the Senate is going to approve it overwhelmingly.

THE EQUAL ACCESS TO JUSTICE ACT—ONE WAY TO CONTROL GOVERNMENTAL HIGH-HANDEDNESS

● Mr. GOLDWATER. Mr. President, it is my pleasure to be a cosponsor with Senator DOMENICI of his bill, S. 265, which may be one of the most important steps the Congress has taken in many years to help control arbitrary actions of the Federal bureaucracy.

Mr. President, the legislation has a self-descriptive title. What it will do, in a nutshell, is to allow private parties and businesses who prevail in civil litigation or administrative proceedings with the Federal Government to recover their full legal costs, including reasonable attorneys' fees.

Now, it might be asked why such a bill would be needed, since one would think that the law would already provide that the successful party in lawsuits or administrative actions against or by the Government could collect for all reasonable expenses of the case. This is no more than elementary justice.

But the present law is otherwise, and it turns out that Congress has enacted a statute, section 2412 of title 28, United States Code, which specifically denies private parties, in suits involving the Federal Government, from recovering their actual legal fees from the Government, even if the private party wins the case. A judge may award to the prevailing party a judgment for costs which includes court fees, printing and witness fees, and so forth, but Federal law expressly prohibits a court from awarding a judgment for the most expensive costs of all, the fees and expenses of attorneys.

As high as these attorneys' fees may be at the trial level, a private citizen who wins his case there against the Government and then is forced to defend his judgment in an appellate court after the Government appeals, cannot be reimbursed even when that person succeeds a second time upon appeal. We can take this a step further and notice that should the Government, with all its resources, chose to appeal a second negative decision up to the Supreme Court, then the private party must once again bear the entire burden out of his own pocket in order to pay the costs of counsel at this highest judicial level. Thus, a private individual or business could prevail three times in a case against the Government, and yet, never once could he recover the actual legal fees he has suffered to uphold his rights.

Mr. President, this glaring inequity of current law is an encouragement to governmental arbitrariness. What hope does a small citizen or business have to challenge all the resources of the mighty Federal Government when even if he wins the administrative or judicial decision, his legal fees virtually leave him in bankruptcy?

The bill before us today, S. 265, will correct this outdated loophole by treating the Federal Government in a lawsuit or administrative proceeding exactly the same as a private person.

Mr. President, this is the third time I have joined as a cosponsor of this proposal. The first was in early 1976, when former Senator Buckley introduced S. 2871, and then in 1977, I joined with my friend from New Mexico, Senator DOMENICI, when he introduced S. 1001, which is the predecessor to S. 265. I hope that now, after ample hearings and committee consideration of the legislation, the Senate and Congress will see fit to finally enact a necessary change that may well control flagrant abuses and governmental harassment of ordinary citizens and small businesses.●

Mr. DOMENICI. Mr. President, I have a list of original cosponsors who want to be made cosponsors of this final Senate bill 265. I ask unanimous consent that that be printed in the RECORD also and that their names be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF COSPONSORS

Nelson, DeConcini, Tower, Lubar, Goldwater, Johnston, Wallop, Melcher, Randolph, Thurmond, Schmitt, Moynihan, Boren, Stevens, Leahy, Stafford, Humphrey, Garn, Simpson, Helms, McClure, Boschwitz, Javits, and Hatch.

Mr. DOMENICI. Mr. President, I ask unanimous consent that George Romanos of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. With that, I want once again to thank the Committee on the Judiciary, in particular, my good friend (Mr. DECONCINI) and the ranking Republican (Mr. THURMOND). Knowing the problems and understanding its significance, he came to our rescue a number of times. I am glad he is here today to support this measure.

Mr. President, I yield the floor.

Mr. DECONCINI. Mr. President, I send to the desk the committee amendments and ask unanimous consent that they be considered en bloc. They are purely technical amendments.

I ask unanimous consent, Mr. President, that Burt Wides be granted the privilege of the floor during all debate and votes. He is a member of the Judiciary Committee staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from Arizona ask unanimous consent that the amendments printed with the committee bill be considered en bloc?

Mr. DECONCINI. I so ask, and that they be adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 479

(Purpose: To make certain technical amendments)

Mr. DECONCINI. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will state the committee amendments.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 479.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 24, insert "repealed," immediately before "except that".

On page 11, line 2, strike out the comma immediately after "filed" and insert in lieu thereof a semicolon.

On page 12, line 17, strike out the period and insert in lieu thereof a comma and the following: "except that the provisions of that subsection shall continue to apply through final disposition of any action commenced before the date of repeal".

On page 12, strike out lines 19 through 22, and insert in lieu thereof "Rules of Civil Procedure is repealed.".

Mr. DECONCINI. Mr. President, these are technical amendments. They correct certain errors in the printed bill.

Mr. DOLE. I have no objection.

The PRESIDING OFFICER. Do Senators yield back their time on the amendment?

Mr. DOLE. I yield back my time.

Mr. DECONCINI. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment (UP No. 479) was agreed to.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senator from Utah (Mr. HATCH) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, due to the absence of the Senator from Kentucky (Mr. FORD) who has to be in his State with the President today, I ask unanimous consent that his remarks appear appropriately in the RECORD regarding this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The remarks are as follows:

STATEMENT OF SENATOR FORD ON S. 265

I will be very brief. I would like to express my support for S. 265 as reported by the Senate Judiciary Committee.

I believe that it is extremely important to assure maximum protection to small businesses from unnecessary regulatory action by the Government. If the agencies choose their cases carefully they will be completely unaffected by this legislation. The only time that this legislation would be applicable is if the Government is unable to show that a case that it brought is "substantially justified." The Senate Judiciary Committee report makes some very important points in regard to this matter. The Senate Judiciary Committee report states: "The test of whether or not a Government action is substantially justified is essentially one of reasonableness. Where the Government can show that its case has a reasonable basis both in law and fact, no award will be made. However, where the Government's position is not reasonably based in the law or in fact, fees will be awarded."

The Senate Judiciary Committee report emphasizes and I believe that this is an extremely important point that, the standard, however, should not be read to raise a presumption that the Government was unreasonable simply because it lost the case. Nor, in fact, does the standard require the Government to establish its decision to litigate based on substantial probability of prevailing. Furthermore, the Government should not be held liable where, special circumstances would make an award unjust.

This safety valve helps to insure that the Government is not deterred from advancing in good faith the kinds of novel but credible extensions and interpretations in the law that often accompany vigorous enforcement efforts. Also, it gives the court discretion to deny awards where equitable considerations dictated in an award should not be made.

However, this legislation would stop the Federal Government from browbeating small business merely due to the fact that the case itself might cost substantial sums to litigate. If the small businessman believes that the Federal Government's case is not justified, he could litigate his claim knowing that there was a possibility of legal fees being awarded in his favor at the end of the case.

UP AMENDMENT NO. 480

(Purpose: To exclude agricultural cooperatives, as defined in the Agricultural Marketing Act (42 U.S.C. 1141j(a)) from the net worth test in sections 3 and 4 of the bill)

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk on behalf of myself and Senator GOLDWATER and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) for himself and Mr. GOLDWATER, proposes an unprinted amendment numbered 480.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 2, strike out "and" and insert in lieu thereof the following: "except that a cooperative association as defined in the Agricultural Marketing Act (42 U.S.C. 1141j(a)) may be a party regardless of the amount of its net worth; and".

On page 11, line 2, strike "and" and insert in lieu thereof the following: "except that a cooperative association as defined in the Agricultural Marketing Act (42 U.S.C. 1141j(a)) may be a party regardless of the amount of its net worth; and".

Mr. HAYAKAWA. Mr. President, on behalf of the agriculture cooperatives in California and elsewhere throughout the United States, my amendment would allow agriculture cooperatives to qualify for reimbursements under this act without regard to net worth.

Mr. President, this amendment is to S. 265, the Equal Access to Justice Act. I support this legislation, which provides that when a small business or individual citizen prevails in litigation with the Federal Government, that the individual would be reimbursed for attorney fees and costs, if the Government could not justify its position.

My amendment addresses a section of this bill that limits the applicability for reimbursement of fees to individuals whose net worth exceeds $1 million, or to corporations and other organizations whose net worth exceeds $5 million. My amendment would allow agriculture cooperatives whose net worth may exceed $5 million to qualify for reimbursements under this act without regard to net worth. The reason is as follows:

While this definition of corporations or organizations appears to work effectively for most groups, it fails to take into consideration the basic characteristic of agricultural cooperatives. Agricultural cooperatives generally operate at cost with respect to their dealings with members/patrons. These members are growers who are not simply investors or stockholders but are participants in the business. All benefits and risks assumed by the cooperative are shared equitably by each of the grower-members. The net worth of the cooperative as an entity is not significant for the purpose of the definition. This amendment would remove the net worth test for agricultural cooperatives which meet the definition of the Agricultural Marketing Act. In substance, compliance with the tests would insure that only legitimate self-help agricultural associations formed by the farmers would be entitled to this treatment under the bill.

I hope that my colleagues will support this amendment. As the Senator from California I represent many agricultural cooperatives in my State. They deal with avocadoes, almonds, walnuts, citrus fruit, tomatoes, and other crops. Such an exemption from the definition of corporate net worth has merit and I urge my colleagues to support this language.

Mr. THURMOND. Mr. President, I support the amendment offered by my distinguished colleague from California and suggest that the floor managers of S. 265 accept this change in the bill. Senator HAYAKAWA's amendment simply provides that an agricultural cooperative, as defined in the Agricultural Marketing Act, shall be regarded as a "party" under the provisions of S. 265 regardless of the amount of its net worth. Currently, this legislation is applicable only to individuals having a net worth less than or equal to $1,000,000 and to partnerships, corporations, associations, or organizations having a net worth less than or equal to $5,000,000.

Mr. President, agricultural cooperatives are often involved in administrative proceedings or in litigation with any one of several agencies, such as the Federal Drug Administration, the Environmental Protection Agency, the Occupational Safety and Health Administration, or the Federal Trade Commission. These proceedings are usually brought against the members collectively in the name of the particular cooperative to which they belong; and, as a group, they would undoubtedly exceed the $5,000,000 net worth limitation for associations or organizations. The cost of such proceedings is borne, however, not by the cooperative as a separate entity but by the individual members. Furthermore, the great majority of these farmers would qualify under the bill's current $1,000,000 net worth limitation for individuals. I feel it would be unfair to deny the benefits of S. 265 to these grower-members who would qualify individually simply because they are engaging in administrative proceedings or in litigation in the name of the cooperative itself.

I, therefore, am in favor of the amendment offered by Senator HAYAKAWA and urge my colleagues to support it as well.

Mr. President, I ask unanimous consent that Senator WARNER be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that I be added as a cosponsor on the amendment.

Mr. HAYAKAWA. I am honored to have the Senator added.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. GOLDWATER. Mr. President, I am pleased to be a cosponsor of the amendment offered by my friend from California, Senator HAYAKAWA, to exempt agricultural co-ops from the net worth ceiling of the bill.

The reason for making an exception in the case of these co-ops is that they generally operate on a nonprofit basis. They simply do not accumulate a lot of capital which can be used for defending themselves in lawsuits, like a corporation can do.

As a general rule, at least 95 percent of revenues received by agricultural co-ops go back to the farmers or growers, who are members. These individual growers are in a different situation from the stockholders of a for-profit business.

Farmers are not passive investors. Fully 100 percent of all legal costs of the co-op comes directly out of the pocket of growers. The co-op must assess its individual members to pay the bill of any legal actions necessary to defend their rights against Government abuse.

Mr. President, cooperatives have done business for over 75 years under the encouragement of Federal laws. These agricultural cooperatives have been leaders in the development of efficient farm export programs. They provide efficiencies of scale to small farmers which enable groups of farmers to effectively compete in world markets.

No single farmer, or small group of farmers could possibly compete as well by themselves. How could they provide the marketing capabilities, the consistency of supply, that is demanded in order to sell in the larger markets at home or abroad? Co-ops have helped to make American agriculture the success that it is and to enable family farmers to join together in this success. I urge that my colleagues accept this amendment which gives recognition to the unique characteristics of agricultural cooperatives and is in the best interests of the American consumer, as well as the agricultural community.●

Mr. DeCONCINI. Mr. President, the subcommittee looked carefully at this amendment of the Senator from California. We support the amendment.

We held hearings and took some testimony regarding this subject matter. The grower-members of cooperatives are not mere investors as stockholders are in a corporation. The individual grower-members will eventually absorb the costs of litigation.

We believe the amendment is appropriate from the majority side. We will accept the amendment without objection.

Mr. President, I yield back my time on the amendment.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent to be added as a cosponsor of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back on the amendment, the question is on agreeing to the amendment of the Senator from California.

The amendment (UP No. 480) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

Mr. DeCONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 481

Purpose: To amend the effective date provision to provide for a six month delay on the applicability to cases arising under the internal revenue laws of the United States.

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. Baucus) proposes an unprinted amendment numbered 481.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, strike out lines 16 through 19, and insert in lieu thereof the following:

Sec. 7. (a) Except as provided in subsection (b), this Act, and the amendments made by this Act, shall apply to any adjudication or civil action which is pending on the date of enactment of this Act, or which is commenced on or after the date of enactment of this Act.

(b) This Act, and the amendments made by this Act, shall apply to any civil action arising under the internal revenue laws of the United States which is pending on the date which is six months after the date of enactment of this Act or which is commenced on or after such date.

Mr. BAUCUS. Mr. President, the amendment I am offering to S. 265 is a very straightforward one. The amendment simply delays the effective date of the bill with respect to civil tax actions. The provisions of the legislation would take effect 6 months after the general effective date. The amendment only applies to civil tax cases.

As chairman of the Finance Committee Subcommittee on Oversight of the Internal Revenue Service, I am particularly concerned with the issue of the award of cost of attorney fees in civil tax court proceedings involving the IRS and the Department of Justice. As the distinguished subcommittee chairman from Arizona knows, I have taken a particularly active interest in this area. On June 27 of 1979 I introduced S. 1444, which would amend the Internal Revenue Code of 1954 and title 28 of the United States Code to provide for the award of reasonable court costs, including attorney fees, to prevailing parties in civil tax actions. That bill, known as the Taxpayer Protection and Reimbursement Act, was the subject of a day of hearings earlier this month. The distinguished Senator from Arizona is a cosponsor of that legislation, along with the chairman of the Finance Committee, the chairman of the Judiciary Committee, the ranking minority member of the Finance Committee, Senator Bentsen, Senator Domenici, Senator Nelson, and Senator Bradley. There is great support in the Senate for the general concept of that bill and I fully expect the Finance Committee to act on that legislation expeditiously.

The support for that legislation is in large part based upon the fact that there are special problems that need to be taken into consideration when designing an attorneys fees bill with respect to the Internal Revenue Service. And as chairman of the Finance Subcommittee on the oversight of the IRS, I believe it is my responsibility to make sure that legislation of this nature is drafted to take into consideration the special problems of that agency.

Therefore, I am offering this simple amendment to give the Finance Committee some additional time to consider S. 1444 and to have this body on record as recognizing the special problems of the Internal Revenue Service in the attorneys fees area.

Of course, if S. 1444 does not become law after the enactment of S. 265 then the general provisions of S. 265 will take effect. However, I do fully expect that S. 1444 will be affirmatively considered by the Senate Finance Committee and the Senate and Congress as a whole.

It is also my understanding that if S. 265 is enacted, that the provisions of S. 1444 will supersede the provisions of S. 265 inasmuch as S. 265 states that all specific attorneys fees provisions will supersede the general provisions contained in this bill. I want to get the assurance of the subcommittee chairman that the provisions of S. 1444 would supersede S. 265. Is that correct?

Mr. DeCONCINI. Yes.

Mr. BAUCUS. It is my understanding that the distinguished subcommittee chairman will accept this amendment. I want to thank him ahead of time for his accommodation. I want to commend the Senator from Arizona for his leadership in this important area and his willingness to specifically accommodate the concerns of those agencies that present the Senate with special problems in the attorneys fees area. I thank the Senator for his willingness to work out this matter and as always his fairness and openness.

Mr. DeCONCINI. Mr. President, we have worked with the Senator from Montana, and he is correct that when S. 1444 is enacted it will supersede the general provisions of S. 265.

I thank the Senator from Montana for holding some hearings on S. 1444 and permitting this Senator from Arizona to testify.

I happen to be a cosponsor of that legislation and feel it is extremely important to refine the threshold problem of when fees should be awarded in IRS cases.

The Senator from Montana's efforts in this behalf will not go unnoticed, I am sure, either by this body, or, certainly, not by the Judiciary Committee.

I am prepared to accept the amendment from the Senator from Montana.

Mr. DOLE. Mr. President, as a cosponsor of S. 1444, I share the same views just expressed by the distinguished junior Senator from Arizona.

I might add as an aside, I hope that maybe the combination will be more successful than that of the senior Senator from Arizona (Mr. Goldwater) who initiated this a number of years ago, and I joined the senior Senator from Arizona (Mr. Goldwater).

I think it is a good amendment. We have no objection to the amendment. In fact, we are happy to accept it on this side.

Mr. BAUCUS. Mr. President, I thank the manager and the ranking minority member for their acceptance of this amendment.

Both Senators have been most gracious and helpful. I wish to extend my appreciation to both Senators for their cooperation.

Mr. President, I yield back the remainder of my time.

Mr. DeCONCINI. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Montana.

The amendment (UP No. 481) was agreed to.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DeCONCINI. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I would like to express my strong support for S. 265, the Equal Access to Justice Act, of which I am a cosponsor. This legislation makes a relatively small but excellent beginning toward correcting what I believe to be one of the most serious problems of our governmental system today—that of excessive regulation of both individual citizens and businesses. Mr. President, the Federal Government for years has been steadily increasing its control in almost every facet of American life. Federal law has, therefore, become exceedingly complex and confusing, particularly to private citizens and small businesses who may not have the funds to hire an attorney to interpret it. Too often, because of the excessive costs involved, individuals and businesses capitulate to the Federal Government's unjust enforcement of a particular statute or regulation rather than litigate against an entity of greater financial resources and legal expertise in the area.

S. 265 would serve two basic purposes. The first is to assure that certain individuals and organizations are not deterred from seeking review of, or defending against, unreasonable governmental action because of the expense involved. S. 265 seeks to remove economic deterrents by providing that the prevailing party in agency adjudications or court actions will be able to recover attorneys' fees and other costs unless the Government action was substantially justified or special circumstances make such an award unjust. The burden is on the Government to prove the substantial justification of its position. The award of attorneys' fees, if no such justification is found, will be taken directly from the operating budget of the offending agency.

The second purpose of S. 265 is to encourage the agency to be as careful as possible in the exercise of its regulatory powers and to be more responsive to citizen needs. The implicit assumption in the approach taken by this legislation is that affecting the "pocketbook" of the agency is the most direct way to assure more responsible bureaucratic behavior.

Finally, Mr. President, I would like to point out that S. 265 only covers those individuals and businesses of more limited financial means. Its provisions extend to individuals whose net worth is less than $1,000,000 and to businesses and other organizations with a net worth less than $5,000,000.

I believe this bill is a good one and is necessary to stem the tide of increasing governmental overregulation. I hope that my colleagues will join in voting for S. 265.

Mr. DeCONCINI. Mr. President, I wish to pay special thanks at this time to the Senator from South Carolina. Since I have been in the Senate, and it is not very long, I have had associations with him, especially on the Judiciary Committee, and he is always available for counsel and assistance. Although we do not always vote in the same way, in this particular legislation, without his able support and assistance, we would not be on the floor today.

The same applies to Senator Dole, who joined the Judiciary Committee this year. It has been an extreme pleasure to work with him.

Also, I wish to pay particular thanks to some staff members of the committee—Pam Eldred, counsel to the subcommittee and Romano Romani, the staff director of the subcommittee—who have worked literally months trying to put this bill together, to compromise with the Justice Department and various sectors of business and consumer groups who have testified before the committee, in an effort to be fair and equitable to all sides in this legislation.

Mr. President, I know of no other amendments.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. DeCONCINI. I yield.

Mr. THURMOND. I thank the able Senator for his kind words. It has been a great pleasure to work with Senator DeConcini on the Judiciary Committee. I commend him for the masterful manner in which he has handled this as well as other important pieces of legislation coming from that committee.

Mr. DeCONCINI. Mr. President, I yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, the concept of equal access to justice is so fundamental to our society that it is difficult to understand why a bill such as the one we are presently considering was not enacted into law years ago. I am pleased to support it; I congratulate the Senate Judiciary Committee for unanimously reporting it to the floor, and I commend the Senators who have sponsored it for their thoughtful recognition of and response to the genuine need to put every American on the same footing as the Federal Government in terms of their ability to afford to seek redress of their claims agains the Government in courts of law or administrative proceedings. I am pleased to be among them.

In 1969, when I was serving as a Member of the U.S. House of Representatives, I became interested in this problem and introduced legislation in the House comparable to the bill now on the Senate floor. In 1969, the general concern with an overly oppressive Government was perhaps more isolated than it is today. But the direction in which we were heading in 1969 has continued to a point where the American people are so frustrated with their Government's intrusion into every aspect of their lives we in Congress, whose responsibility it is to set the policy of this Government, must respond. I am sorry we have had to reach this point in our history when so many Americans view the Government as their enemy. But having reached this point, we can now set about taking action to reverse that trend. This measure is one step toward doing just that. It is necessary to combat the tendency of escalating legal costs to deter Americans from enforcing and defending their legal rights against the U.S. Government.

There is no question that the Federal Government today possesses an institutional power comparable to no other in our society. It spends more than $370 billion annually, which constitutes more than one-quarter of the Nation's total annual expenditures. The Federal Government employs millions of persons, including thousands of lawyers assigned to enforce and defend the often lengthy arbitrary regulations and rulings of hundreds of Federal departments and agencies.

The annotated laws of the United States take up dozens of thick volumes. Furthermore, the Federal Government's departments, agencies, and bureaus propound regulations which are counted in the hundreds of thousands, mandating such disparate requirements as product safety standards, affirmative action programs, sewage plant specifications, marketing practices, and so forth. These thousands of regulations are too often subject to arbitrary interpretation and application by Federal functionaries who are now vested with very broad discretionary powers.

As a result, there are few elements of life, commercial or otherwise, where the Federal Government does not—at least potentially—have some role to play, a role which often leads the regulator to take the regulated to court on issues whose merits are highly questionable.

Concurrent with the growth of Government, there has grown up a feeling of helplessness among a large portion of the population. People do not know how to cope with an institution the size and complexity of which is so great that, literally, no one can come to terms with it. Whether one is involved with a question regarding social security entitlement or a highly technical income tax regulation, or complex antitrust practices, or welfare regulations, or the withholding of categorical grant formula funds, or Government contract disputes many of which have nothing to do with the commercial terms of the contract—there is literally almost no limit to how, where, and why a private party, State or local government, a labor organization ,or a business corporation might find itself confronted with the realization that the only practical way to protect one's rights under the law is to go to court.

The consequences of such a dilemma are that in the usual case, an aggrieved party has to weigh the high cost of litigation against the value of the rights to be protected. In far too many cases, a party will knuckle under to a Federal order he knows to be wrong because he cannot afford the cost of taking the matter to court. In the case of a private citizen it is only the most wealthy who could even begin to contemplate the possible costs.

State and local government, and therefore taxpayers, normally operate on tight budgets, as do labor organizations and business corporations. However, the Federal Government is not under similar constraints. Normally, the agency or bureau is funded to bring suits, to enforce the laws, to implement social policies. The imbalance is clear.

The problem is not just the fact that a taxpayer is required by law to support through his taxes the legal expenses of the adversary which wrongs him, and that the law therefore requires him to bear the financial burden of both sides of the litigation or criminal prosecution.

This problem is exacerbated by the fact that the income and assets of the private litigant or defendant are generally limited, and therefore can be subject to a war of attrition on the part of a determined Federal bureaucracy. Justice for the citizen requires that the cost of securing justice not outweigh the value of the right asserted by the citizen against the Government. It is important, also, that the expense of correcting error on the part of the Government—a task which could have wide-ranging beneficial implications for other Americans—not rest wholly on the party whose willingness to go to court has helped define the limits of Federal authority.

It can scarcely be any surprise that, when a government is capable of expanding its powers by exercising each novel imposition on the person or property of a citizen financially incapable of pursuing his legal rights in a court of law, the power of that government is going to continue to expand, irrespective of the niceties of legal or constitutional theory.

Because of the cost of court litigation, many issues of great importance—of importance in defining the relative rights of government and the governed in a free society—are never tested. Surely, if society has a sufficient interest in an issue to channel thousands of dollars into the Government's case, it has an equal interest in insuring that the lawsuit is decided pursuant to a fair presentation of the issues to the court.

Like air, government will expand to fill its container. Under our constitutional system, which has been evolving over a period of more than 200 years the parameters of this container are outlined by the litigation in the Federal court system. To the extent that the Federal court system is allowed to become a captive of the branch which it is counted on to limit, then we cannot reasonably expect that expansion will be halted.

Since the beginning of my involvement in the area of legal costs, I have received letters from people all over the country complaining of long and discouraging disputes with the Federal Government which eventually consumed more time and energy than the stake justified—each telling how the Government has been able to prevail—not on the merits—but through its ability to outspend or outlast its victim.

I do not need to recount the many instances of protracted litigation involving the Federal Government I have heard of personally. We all have stories about the length of time some cases have been in court.

One case in my own State which does come to mind involves the State and numerous private parties who have been involved in a complicated legal battle which has continued for over 3 years involving title to a State park. The State is obligated to continue the costly legal battle, but many of the private citizens are beginning to throw in the towel because of the financial burden.

In every case, Government has been able to overrule legitimate rights or interests because of its ability to prolong litigation which under ordinary circumstances would either have been dropped as without merit or allowed to come to an early conclusion.

As it now stands, Federal bureaucracies have, in effect, the power to money whip too many individuals, firms, and municipalities into submission, even when those agencies are in the wrong. The balance can be redressed to a degree if a person knows that if he is proven right, he will be reimbursed the full cost of litigation.

It was for the purpose of ending the injustice of requiring successful parties in such actions to bear their legal expenses without reimbursement that I introduced the Equal Access to Courts Act in 1969. I have continued to sponsor or cosponsor similar proposals in every Congress since that time. The principle behind these bills in now embodied in the Equal Access to Justice Act.

Since the beginning of history the story of government has been one of encroaching limitation on the freedom of man. Our Constitution was born of a unique idea—that Government holds only those powers which the people have given it. And concomitant with that is the idea that when the Government's exercise of power goes beyond what the people will bear, they shall, under our system, reclaim lost freedom in an orderly, legal manner.

I believe the American people are saying to us "the Federal Government is taking more than we have given." By passage of this measure Congress can let people know we hear what they are saying. This measure makes a valuable contribution toward securing justice for our citizens in their dealings with the Federal Government. I encourage my colleagues to support it.

Thank you, Mr. President.

Mr. DECONCINI. Mr. President, I thank the Senator from Idaho for his support of the bill.

Mr. President, one staff member that I failed to mention was Mr. George Ramonas of Senator DOMENICI's staff who has aided in this bill from its very inception, and I want the RECORD to show that the Senator from Arizona and his staff is most indebted to his effort.

Mr. President, I know of no other amendment to be proposed.

● Mr. HELMS. Mr. President, I am pleased to be a cosponsor of the Equal Access to Justice Act, S. 265. The rapid growth in Government regulations and Federal laws in recent years makes enactment of this legislation imperative. Taxpayers should not have to bear the costs of vindicating their rights against unreasonable Government action.

I am particularly gratified that this bill basically incorporates a key provision of the Taxpayers Bill of Rights Act which I introduced on April 10, 1979. My bill would provide for the award of reasonable attorney fees if a taxpayer wins his case against the IRS. This is an important consideration, because today, a taxpayer who believes he is in the right may just give up the fight rather than incur the legal costs of litigating. Under the legislation we are considering today, fees will be awarded unless the Government can show that its action was substantially justified or that special circumstances make an award unjust. It is important to note that this bill does not exempt cases arising under the internal revenue laws of the United States from its provisions.

We all recognize that enactment of this legislation will bring about a significant change in the general American rule that each party to a dispute must bear his own costs. Nevertheless, this proposal has been given full and serious consideration and Senate approval is both important and timely. The imbalance between the Government and the American people must be redressed. The Equal Access to Justice Act is a long overdue bill that will help to redress this imbalance.●

● Mr. NELSON. Mr. President, I am pleased to again cosponsor this legislation with Senator DOMENICI and to have Senator DECONCINI join us. This measure, like S. 2354, the Equal Access to Courts Act in the last Congress, will be of significant assistance to the Nation's small business community. It provides relief for individuals who are virtually powerless when confronted by the massive resources of the Federal Government. Federal actions are frequently unchallenged because, in many cases, individuals and small businesses do not have the financial resources to challenge administrative action in court. Frequently economic injury is simply imposed on small businesses through the regulatory process because the cost of challenging the Government exceeds the benefits that would be received even if the challenge were successful.

Testimony received at several different sets of hearings and the committee report itself indicate that there is strong evidence that small businesses are the target of agency action precisely because they do not have the resources to fully litigate the issue. The Government, on the other hand, has the luxury of time in promulgating rules, and vast legal and technical resources at its disposal to enforce its decisions.

There is a denial of "equal access to justice" when victims of the arbitrary, unreasonable, or unlawful exercise of power by the Federal Government do not have the resources to challenge the Government, even when the Government is wrong.

This legislation provides a simple and fair remedy. In a civil case, when an individual or small business successfully challenges an order, rule, or regulation on the merits, the Government may be required to reimburse the "victim" for attorney's fees and courts costs from the agency's operating budget.

This approach has two salutary effects. First, it redresses an injustice to the victim which was caused by the Government itself. Second, it will have a chilling effect on presently unrestrained regulators who have a tendency to be careless, insensitive, arbitrary, or irresponsible. By allowing an award of reasonable fees and expenses against the Government when an action is not substantially justified, this bill provides a remedy that does not now exist. Furthermore, it would have the far-reaching effect of putting individuals and small businesses in a position where thev can realistically and effectively challenge arbitrary demands of Government by giving them the tools and resources to fight back. Presently, small businesses are often forced to capitulate because it costs too much to fight. Providing an award of fees to a prevailing party represents one way to improve access to courts and administrative proceeding.

The burden of government regulations on business, particularly small business, continues to be of major concern to me, the Senate Small Business Committee and the administration. In an interview published in the October 1976 National Small Business Association newsletters, candidate Carter gave a brief but compelling description of the burden of regulation on small business:

> Because of their lack of ability and resources to defend themselves, small businesses are favorite targets for the 82 regulatory agencies in Washington who last year put out some 45,000 pages of regulations. This underscores the burden forced upon small business by Washington, and makes it difficult for the small businessman and woman to compete with big business who can afford the best in fulltime CPA's, attorneys and lobbyists.
>
> As a former businessman, I pledge to allow the small business man and woman to get back to running their business by completely reforming our Federal regulatory agencies, their reporting requirements and tax laws to get the Government off his back.

The administration has undertaken numerous efforts to reduce the complexity and volume of regulations, including the President's Executive Order 12044 mandating regulations to be written in plain English and that agency heads personally review the regulations before they are promulgated. Many obsolete and "nit-picking" regulations have been eliminated, particularly in OSHA. But certainly a vast amount more can be done.

There are several other proposals before Congress that would also provide needed relief. For example, Senator CULVER and I have reintroduced the "Regulatory Flexibility Act" (S. 299). Similar legislation (S. 1974) passed the Senate last year. That bill would, for the first time, authorize agencies to develop two-tiered or multitiered regulations to simplify the reporting and compliance requirements for small enterprises. I should note that the House Small Business Committee has reported a similar proposal to the one I introduced.

But these, as important as they are, do not, and cannot address one of the most important dangers of Government regulation—the inability of small businesses and individuals who are hit by an unjust fine or regulation to devote the time or accumulate or direct resources needed to wage an effective fight against the vast powers and resources of the Federal bureaucracy.

Many small business persons have advised us over the years that it is simply impossible for them to fight the bureaucracy, even when the bureaucracy is wrong. The cost of attorney's fees, the cost of putting together a case and seeing it through an administrative proceeding or the courts, the cost of paying expert witnesses and developing facts, can all come to much more than the cost of simply giving in to the will of the bureaucracy. Either way—give in or fight—the individual or small business loses, and it often makes more economic sense to "switch" than fight.

Justice simply will not be done when one side cannot afford to fight.

The Equal Access to Justice Act would help balance the scales of justice; it would help protect an innocent party from economic damage, or possibly economic ruin, when the Government has made a mistake, exceeded its authority or misconstrued the law.

As chairman of the Senate Small Business Committee, I have long been aware of the deep frustrations and resentment of small businesses around the country against excessive regulation by Washington bureaucrats. Most small business-owners and most individuals recognize the legitimate need for Government regulation in such areas as product or workplace safety. But many have found that even necessary regulations can be excessive and counterproductive. More often, regulations tend to be trivial, serve little purpose, and are too often enforced in an arrogant and arbitrary manner.

The horror stories of Government regulation are legion. Thousands of examples can be drawn from all across the country. For example, one careless bureaucrat at the Consumer Product Safety Commission caused 75 Wisconsinites to lose their jobs. The CPSC certainly did not suffer as a result of that erroneous decision.

In cases such as this, if the individual or business prevails over the Government, and the Government's action is wrong, there is no reason why the Government should not have to pay the attorney's fees and court costs of those who were injured, especially since the taxpayer is already paying the bill for the agency which caused all the trouble.

The argument has been made that this legislation could have an adverse effect on the enforcement efforts of the Federal agencies, deterring them for pursuing those cases which do involve violations of the regulations. In my view, this concern is unfounded.

The legislation is clear that fees will be awarded unless the Government can show that its action was substantially justified or that special circumstances make an award unjust. We are making it clear that the possible assessment of attorney's fees against the agency is part of the cost of doing Government business, and a worthwhile investment of funds to resolve an important policy question.

However, in those situations where the Government agency goes ahead without a strong case against a business; or where it is proceeding carelessly; or where it now imposes a fine, secure in the knowledge that its action will not be challenged because of the cost involved, I would be very happy if the enactment of this legislation caused some chilling effect on Government regulatory efforts. It is vital that we hold the Government to a strict standard of care in its enforcement efforts, deterring those abuses which can be prevented, and providing a mechanism for compensating individuals and businesses for those governmental mistakes which cannot.

The Equal Access to Justice Act will do just that.

Mr. President, while I fully support the bill, I am concerned that the automatic 3-year sunset provision may have an inhibiting effect on the merits of the legislation. A review of the legislative history of this bill makes it clear that the executive branch is less than enthusiastic in its support. I would prefer to see the changes made permanently, with the burden put on the Justice Department or other agencies to demonstrate why changes are necessary to this legislation.

Finally, Mr. President, I believe the Senate should again provide for the awarding of attorney's fees for small business in Tax Court cases. While this bill will provide for the fees to be paid in tax-related matters being heard in the U.S. district courts, it is not available in cases in the Tax Court. I have joined Senator BAUCUS and others in cosponsoring S. 1444, a bill to amend the Internal Revenue Code to provide for the award of reasonable attorney fees. That legislation should similarly be given rapid consideration by the Congress.●

● Mr. BAYH. Mr. President, I rise in support of S. 265, the Equal Access to Justice Act, a bill which would award attorney's fees to individuals and small businessmen who prevail in court or in an administrative proceeding when the Federal Government is unable to show that its case was reasonable. Legislation of this sort has been before this body in one form or another for several years, and I would like to commend my friend, the Senator from New Mexico, for his perseverance in the long process of compromise and refinement which has produced the measure before us today.

The need for legislation of this kind is clear. I hear frequently from my constituents in Indiana about actions brought against them by a Government agency which are in their view either unreasonable or unfair, but they find that the cost of paying an attorney to defend against a charge or appeal a ruling far outweighs the burden of paying the fine levied. Thus, we have a situation where some people in this Nation are forced to accept penalties for alleged violations in silence, even though they feel that they have done nothing wrong. This, in my view, is not the way in which our judicial system was intended to operate nor should our regulations be enforced in this manner.

S. 265 is a sensible approach to correcting the imbalance of financial resources between the Federal Government and small private litigants which deters many of our citizens from securing a vindication of their rights. It should also serve to force Federal agencies to consider more carefully the regulations they promulgate and the way in which those regulations are enforced, since the payment of fees to prevailing parties will come out of their own budgets.

I support this effort to improve citizen access to courts and administrative proceedings and am confident that it will help make for better enforcement of Federal regulations.

Mr. President, overregulation and foolish regulation by the Federal Government have in many instances become an intolerable burden for small businesses and others to carry. S. 265 seems to me a clear-cut and direct approach to lessening that burden. I urge my colleagues to support the legislation.●

● Mr. BUMPERS. Mr. President, I am pleased to support this bill which Senators DOMENICI and DECONCINI have spent so much time preparing for presentation in the Senate today. This bill is very much in line with the sentiment of two bills I have introduced in the Senate this session, S. 270 and S. 111. S. 111 would put the burden of proof in court cases on the agency rather than the taxpayer in an effort to make Government agencies more responsive to the intent of Congress and more responsible for their actions. My intent in S. 111, as in S. 265, is to give the private citizen more leverage in fighting unjust Government actions. My intent was also to put the burden on the Government to make sure that they assume responsibility for their actions.

Earlier this year I introduced S. 270, which would accomplish the same purpose as S. 265, but is more narrowly drawn to apply just to the Occupational Health and Safety Administration. My bill, S. 270, simply requires OSHA to pay all reasonable costs and attorneys' fees when it loses a case against an employer. As in S. 265, this legislation operates on the principle that if an employer is exonerated before an agency, he should not be forced to bear the burden of hidden financial penalties.

This legislation is another indication that Congress is trying to protect individuals from unwarranted interference by the Federal regulatory agencies. This bill takes a major step in helping the private individual and small businesses fight Government overregulation.

With the enactment of S. 265 the Government agencies such as OSHA should concentrate on the real violators of worker safety laws and leave the innocent and well-intentioned citizens alone.●

● Mr. KENNEDY. Mr. President, S. 265 marks an important effort to increase citizens' access to justice. I support this legislation.

We can no longer tolerate a legal system under which unreasonable governmental action affecting small businesses, other organizations, or individuals goes unchallenged because the victims are deterred by the legal expense involved. Such situations present an unfair denial of access to justice which we must remedy. We must find a way to equalize the great disparity in legal resources between agencies of the Federal Government, on the one hand, and small businesses and individuals on the other. Allowing small businesses and individuals to recover attorneys fees in instances where the Government has acted without reasonable justification, will help right the balance.

Congress has enacted numerous statutes allowing recovery of attorneys fees. We have recognized that attorneys fee awards can be an effective mechanism to insure that private citizens are not deterred from presenting their cause by the often enormous costs of litigation in agencies and the courts. Until now, however, attorneys fees have only been authorized in lawsuits brought under particular statutes designated by Congress. These specific statutes authorize fee awards to prevailing plaintiffs in a variety of areas. The common element is the congressional decision to promote a policy or particular interest protected by the statute. Such statutes include: Titles II and VII of the Civil Rights Act of 1964; title III of the Organized Crime Control Act; the Freedom of Information Act; the Consumer Product Safety Act; and most recently, the Civil Rights Attorneys' Fees Awards Act of 1976.

This legislation would authorize attorneys fees in agency proceedings or court suits not now covered by a fee provision in a specific statute.

Mr. President, feeshifting is a sensitive legal mechanism which should remain based upon careful judicial review of the facts and circumstances in particular cases. We must not undermine law enforcement or chill responsible regulation because an agency fears it will have to pay private legal fees, even though the agency acted reasonably in pursuing a dispute. At the same time people must feel confident that if the Government is acting unreasonably, they can afford to fight back.

The Senator from Arizona (Mr. DECONCINI) and other members of the committee have worked hard to develop a balanced, measured approach: Any eligible private party who prevails against the Government may apply for attorneys fees. However, fees would not be awarded if the Government shows that, while it lost, its position had been "substantially justified." As the committee report makes clear, the Government can meet that test of substantial justification by showing that there was "a reasonable basis in law and fact" for going ahead in the matter. The test is one of reasonableness.

I supported this legislation in committee on that basis. I believe that a Government agency can fairly be held liable for attorneys fees in the situations covered by S. 265, when it fails to prevail and cannot at least show that it had acted reasonably in the dispute.

I had other concerns about the bill's potential impact on vigorous regulation. However, working with the distinguished Senator from Arizona, we have reached the understandings reflected in the committee report which I believe adequately preserve the integrity of the enforcement process.

First, the report makes clear that the "special circumstances" which defeat entitlement to attorneys fees, include situations where the agency advances a novel extension of the law to areas and there is insufficient legal precedent to establish the reasonableness of the agency action. As the report states, if it is a "novel but credible" application of law to the facts at hand, then the agency would not be liable for attorneys fees.

A second concern was whether the "substantially justified" standard might be misinterpreted by the courts as requiring an agency to show that, before the trial, there had been a substantial probability it would win. I agreed with those who felt that this would be a very difficult analysis for a judge to undertake if he just ruled against the Government on the merits.

As the report indicates, however, under this bill, an agency could show its decision to go forward was reasonable, without establishing that prospectively there had been a substantial probability it would win.

Another aspect of the bill worth note is the computation of fees which are awarded. The bill provides that fees shall be based on the "prevailing market rate," subject to a maximum rate of $75 per hour. Higher rates may be awarded in the case of special circumstances or increases in the cost of living.

The report makes clear the committee's intent that the prevailing market rate apply regardless of the attorney's financial arrangement with their clients. The fact that the attorneys might otherwise charge or receive less than prevailing market rates is not a basis for determining the award under this section. The computation is to be based on the prevailing market rate in all instances, subject only to the $75 per hour cap.

In addition, the report makes clear that the $75 cap does not apply to the determination of fees under other specific statutes which are designed to promote the private enforcement of the policy involved in that statute, such as the civil rights law. In those cases, the concept of a fee cap would not be appropriate.

In general, statutes, such as the Freedom of Information Act and civil rights laws, which contain special fee-shifting provisions remain unaffected by this measure, even if the standard for awarding fees under the statute has evolved through case law and is not set out in the statute itself.

Clearly, Mr. President, we must be careful that we do not deter effective regulation where the government, in good faith and with a reasonable basis, pursues its enforcement responsibilities but ultimately finds the court ruling against its position. This bill is not designed to reach those cases. Its intended reach is limited to those situations where the agency should have been able to review its position and realize it was unreasonable to pursue it further.

Thus, this measure would provide an appropriate degree of protection for small businessmen and citizens who feel victimized by unreasonable bureaucratic action. I urge its adoption.●

BALANCING THE SCALES OF JUSTICE

Mr. WARNER. Mr. President, the purpose of S. 265 is to rectify a serious inequity which now exists in our judicial process. It would help bring judicial redress within the reach of ordinary citizens, when they are called upon to exercise their rights to prosecute or defend a lawsuit against the Federal Government—without the deterrent of enormous litigation expense hanging over their heads as they seek to vindicate their rights.

In my travels throughout the State of Virginia and elsewhere, I have listened to concerns expressed by countless citizens at the continuing encroachment of the Federal Government on their private lives.

These concerned citizens have told me that—when they seek legal recourse against unwanted and unreasonable Federal encroachments—they find that the costs of such action, coupled with their current inability to recover attorney fees, effectively deny them access to the adjudicatory process.

The ordinary citizen or small business is no match for the Federal Government, which has virtually unlimited personnel and resources at its disposal, no matter how justified his position may be.

Under rules currently in effect in American courtrooms, each party to litigation is responsible for the payment of his own attorney fees and other costs. In litigation against the Federal Government, the costs can be enormous.

In truth, the cost of protecting one's property, rights and beliefs against unwarranted Federal regulation can be ruinous.

In effect, big government with all its resources is able to coerce compliance with its position, no matter how unreasonable or arbitrary—simply because the small man or small business is unable economically to fight the Government in the legal process.

S. 265 has been proposed to overcome this inequitable imbalance of power. It would allow the courts wide discretion, in certain circumstances, to award attorney fees and other expenses to parties that prevail when they contest the decrees of Federal regulators.

The awarding of fees—unless the Government can show that its action was substantially justified or that special circumstances make an award unjust—would allow an aggrieved citizen the opportunity not to have to choose between acquiescing to an unreasonable Government or fighting it at extreme financial cost.

The awarding of fees would take away the ability of Government to economically coerce the public into compliance. It would allow for a concrete, adversarial test of governmental regulation, through adjudication or civil action which will prove whether the Government's action was lawfully based.

The Senate Judiciary Committee's report on S. 265 summarizes the bill's effect when it states:

> By allowing an award of reasonable fees and expenses against the Government when its action is not substantially justified, S. 265 provides individuals an effective legal or administrative remedy where none now exists.

Mr. President, the American public has demanded that their elected officials present them with some relief from unreasonable and unconscionable governmental intrusion into their daily lives.

S. 265, which imposes a standard of reasonableness upon the Federal Government, with a resultant penalty if this standard is not met, presents the public with a form of relief that it is seeking.

It is for these reasons that I am proud to have cosponsored S. 265 and vote for its passage.

The PRESIDING OFFICER (Mr. BAUCUS). The bill is open to further amendment. If there is no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time on the bill?

Mr. DECONCINI. Mr. President, I yield back all my time.

Mr. McCLURE. All time is yielded back.

Mr. THURMOND. Mr. President, I yield back my time on this side.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Indiana (Mr. BAYH) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) would vote "yea."

The PRESIDING OFFICER (Mr. TSONGAS). Is there any Senator in the Chamber who wishes to vote?

The result was announced—yeas 94, nays 3, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—94

Armstrong
Baker
Baucus
Belmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—3

Chiles
Proxmire
Roth

NOT VOTING—3

Bayh
Ford
Huddleston

So the bill (S. 265) was passed, as follows:

S. 265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Access to Justice Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that certain individuals, partnerships, corporations, and labor and other organizations may be deterred from seeking review of, or defending against, unreasonable governmental action because of the expense involved in securing the vindication of their rights in civil actions and in administrative proceedings.

(b) The Congress further finds that because of the greater resources and expertise of the Federal Government, the standard for an award of fees against the United States should be different from the standard governing an award against a private litigant, in certain situations.

(c) It is the purpose of this Act—

(1) to diminish the deterrent effect of seeking review of, or defending against, governmental action by providing in specified situations an award of attorney fees, expert witness fees, and other costs, against the United States; and

(2) to insure the applicability in actions by or against the United States of the common law and statutory exceptions to the "American rule" respecting the award of attorney fees.

AWARD OF ATTORNEY FEES AND OTHER EXPENSES IN CERTAIN AGENCY ACTIONS

SEC. 3. (a) Subchapter I of chapter 5, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties

"(a) An agency that conducts an adjudication subject to section 554 of this title shall award, to a prevailing party other than the United States, fees and other expenses incurred by that party in connection with that proceeding, unless the agency finds that the position of the agency as a party to the proceedings was substantially justified or that special circumstances make an award unjust. The agency may reduce the amount to be awarded, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. The decision of the agency under this section shall be made a part of the record and shall include written findings and conclusions and the reason or basis therefor.

"(b) (1) For the purposes of this section—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the agency to be necessary for the preparation of the party's case, and reasonable attorney or agent fees. The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the agency involved; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the agency determines by regulation that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee;

"(B) 'party' means a 'person' as defined in section 551 of this title, but excludes any individual whose net worth exceeded $1,000,000 at the time the adjudication was initiated, and any sole owner of an unincorporated business, on any partnership, corporation, association, or organization whose net worth exceeded $5,000,000 at the time the adjudication was initiated, except that a cooperative association as defined in the Agricultural Marketing Act (42 U.S.C. 1141j (a)) may be a party regardless of the amount of its net worth; and

"(C) 'adjudication subject to section 554 of this title' does not include adjudication for the purposes of establishing or fixing a rate or for the purposes of granting or renewing a license.

"(2) Except as otherwise provided in paragraph (1), the definitions provided in section 551 of this title apply to this section.

"(c) (1) Each agency shall by rule establish procedures for the submission and consideration of applications for an award of fees and other expenses. If a court reviews the underlying decision of the agency adjudication, an award for fees and other expenses may be made only pursuant to section 2412 (d) (3) of title 28.

"(2) A party dissatisfied with the fee determination by the agency may petition for leave to appeal to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adjudication. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants the petition, it may modify the determination of the agency only if it finds that the failure to make an award, or the calculation of the amount of the award, was an abuse of discretion.

"(d) Fees and other expenses awarded under this section shall be paid by the particular agency over which the party prevails from any sums appropriated to such agency, except that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses awarded under this section.

"(e) The Office of the Chairman of the Administrative Conference of the United States shall report annually to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards. Each agency shall provide the Conference with such information as is necessary for the Chairman to comply with the requirements of this subsection.".

(b) The table of sections of subchapter I of chapter 5, title 5, United States Code, is amended by adding at the end thereof the following new item:

"504. Costs and fees of parties.".

(c) Effective three years after the date of enactment of this Act, section 504 of title 5, United States Code, as added by subsection (a) of this section, is repealed, except that the provisions of that section shall continue to apply through final disposition of any adjudication commenced before the date of repeal.

AWARD OF ATTORNEY FEES AND OTHER EXPENSES IN CERTAIN JUDICIAL PROCEEDINGS

SEC. 4. (a) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Costs and Fees

"(a) Except as otherwise specifically provided by statute, a judgment for costs, as enumerated in section 1920 of this title, but not including fees and other expenses of attorneys, may be awarded to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his official capacity in any court having jurisdiction of such action. A judgment for costs when taxed against the Government shall, in an amount established by statute, court rule, or order, be limited to reimbursing in whole or in part the prevailing party for the costs incurred by him in the litigation.

"(b) In addition to the costs which may be awarded pursuant to subsection (a) and unless otherwise specifically prohibited, a court may award reasonable attorney fees to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his official capacity, and the United States shall be liable to the same extent that a private party would be liable under the common law or under the terms of any statute which specifically provides for such an award.

"(c) (1) Any judgment against the United States or any agency or official of the United States acting in his official capacity for costs pursuant to subsection (a) shall be paid as provided in sections 2414 and 2517 of this title and shall be in addition to the compensation, if any, awarded in the judgment.

"(2) Any judgment against the United States or any agency or official of the United States acting in his official capacity for fees and other expenses pursuant to subsection (b) shall be paid as provided in sections 2414 and 2517 of this title unless the basis for the award is a finding that the United States acted in bad faith, in which case the award shall be paid by the agency found to have acted in bad faith and shall be in addition to the compensation, if any, awarded in the judgment.

"(d) (1) In addition to the costs which may be awarded pursuant to subsection (a) and expenses to any party other than the United States which prevails in any civil action except as otherwise specifically provided by statute, a court shall award fees and other (other than cases sounding in tort) brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust. The court, in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party, during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. A party seeking an award of fees and other expenses shall, within thirty days of final judgment in the action, submit to the court an application which provides evidence of such party's eligibility for the award and the amount sought, including an itemized statement from attorneys and experts stating the actual time expended in representing such party and the rate at which fees were computed.

(2) For the purposes of this subsection—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees. The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the United States; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee;

"(B) 'party' means any individual whose net worth is less than $1,000,000 at the time the civil action was filed, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth was less than $5,000,000 at the time the civil action was filed, except that a cooperative association as defined in the Agricultural Marketing Act (42 U.S.C. 1141j(a)) may be a party regardless of the amount of its net worth; and

"(C) 'United States' includes any agency, and any official of the United States acting in his official capacity.

"(3) In awarding fees and other expenses under this subsection to a prevailing party in any action for judicial review of an agency adjudication conducted pursuant to section 554 of title 5, the court shall include in that award, the fees and other expenses for services performed during the administrative proceedings unless the court finds that during such proceedings the position of the United States was substantially justified, or that special circumstances make an award unjust.

"(4) Fees and other expenses awarded under this subsection shall be paid by the particular agency over which the party prevails from any sums appropriated to such agency, except that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses awarded under this section.

"(5) The Director of the Administrative Office of the United States Courts shall include in its annual report prepared pursuant to section 604 of this title, the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this subsection. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards.".

(b) The item relating to section 2412 in the table of sections for chapter 161 of title 28, United States Code, is amended to read as follows:

"2412. Costs and fees.".

(c) Effective three years after the date of enactment of this Act, subsection (d) of section 2412, as added by subsection (a) of this section, is repealed, except that the provisions of that subsection shall continue to apply through final disposition of any action commenced before the date of repeal.

SEC. 5. (a) Subdivision (f) of rule 37 of the Federal Rules of Civil Procedure is repealed.

(b) The table of rules of the Federal Rules of Civil Procedure is amended by deleting them item relating to subdivision (f) of rule 37.

(c) Section 1988 of title 42, United States Code, is amended by striking out "or in any civil action or proceeding by or on behalf of the United States of America, to enforce, or charging a violation of a provision of the United States Internal Revenue Code."

SEC. 6. Nothing in section 2412(d) of title 28, United States Code, as added by section 4(a) of this Act, alters, modifies, repeals, invalidates, or supersedes any other provision of State or Federal law which authorizes an award of such fees and other expenses to any party, other than the United States, who prevails in any civil action brought by or against the United States.

SEC. 7. (a) Except as provided in subsection (b), this Act, and the amendments made by this Act, shall apply to any adjudication or civil action which is pending on the date of enactment of this Act, or which is commenced on or after the date of enactment of this Act.

(b) This Act, and the amendments made by this Act, shall apply to any civil action arising under the internal revenue laws of the United States which is pending on the date which is six months after the date of enactment of his Act or which is commenced on or after such date.

Passed the Senate July 31 (legislative day, June 21), 1979.

Attest:

Secretary.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until order is restored.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the name of the Senator from Alaska (Mr. GRAVEL) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I ask unanimous consent that the bill as passed be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT OF THE TWO HOUSES DURING THE MONTH OF AUGUST AND OVER THE LABOR DAY HOLIDAY

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Senators wishing to converse will please retire to the cloakroom.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I am about to call up the adjournment resolution. I understand that Mr. WEICKER may wish to oppose the resolution or offer an amendment thereto, but he is present and can speak for himself.

I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 168.

The PRESIDING OFFICER. The Chair lays before the Senate House Concurrent Resolution 168, which will be stated.

The legislative clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, August 2, 1979, it stand adjourned until 12 o'clock meridian on Wednesday, September 5, 1979, and that when the Senate recesses on Friday, August 3, 1979, it stand in recess until 12 o'clock meridian on Wednesday, September 5, 1979.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the concurrent resolution.

UP AMENDMENT NO. 482

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 482:

On page 1 strike all the language on lines 5 and 6, and insert in lieu thereof the following:

"Thursday, August 2, Friday, August 3, or Saturday, August 4, 1979, pursuant to a motion made by the Majority Leader in accordance with this resolution, it stand in recess until 11:00 o'clock a.m. on Wednesday, September 5, 1979."

Amend the title to read: "Concurrent resolution providing for an adjournment of the House from August 2 to September 5, 1979, and a recess of the Senate from August 2, August 3, or August 4, 1979 to September 5, 1979."

UP AMENDMENT NO. 483

Mr. WEICKER. Mr. President, I send to the desk an amendment to the amendment offered by the Senator from West Virginia, and ask for its immediate consideration, and I ask for the yeas and nays.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) offers an unprinted amendment to the amendment (UP No. 482) of the Senator from West Virginia (Mr. ROBERT C. BYRD) numbered 483:

In lieu of the language proposed to be inserted by the Senator from West Virginia, insert the following:

"Friday, August 31, 1979, it stand in recess until 11 o'clock a.m. on Wednesday, September 5, 1979."

Amend the title to read: "Concurrent resolution providing for an adjournment of the House from August 2 to September 5, 1979, and a recess of the Senate from August 31 to September 5, 1979."

The PRESIDING OFFICER. Is there a sufficient second to the request for the yeas and nays? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, no debate is in order on this concurrent resolution, or on any motion or amendment in relation thereto. I ask unanimous consent, however, that Mr. WEICKER may have up to 10 minutes, and that I may have up to 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senate will be in order. Who yields time?

Mr. WEICKER. Mr. President, the amendment which I have proposed to the amendment of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) in effect knocks out the Senate recess, or, to put it in other words, it permits a recess commencing on Friday, August 31, through Labor Day, and no more.

I do not intend, very frankly, to stand here and demagog against my colleagues, because I think we are all engaged in serious work in committee, on the floor, and elsewhere, and have been for a considerable period of time; but due to certain events transpiring around us, that work has been somewhat impeded and we are off schedule.

It really is not realistic to say that matters have not changed within the last week or so. They have, and drastically so. I suggest, too, that when I take a look at the calendar of unfinished business just on energy alone—and I will read it to you—Senators might wish to reconsider as to whether or not this is an appropriate time to go on vacation.

The Interior Department appropriations bill, which includes all nonnuclear energy programs, including synthetic fuels, conservation, and other programs, has been reported by the House committee and passed the full House. There has been no Senate action.

The Department of Transportation appropriation, including mass transit and Amtrak, will pass the House this week. There has been no Senate action.

The Energy Mobilization Board legislation is in markup in the Senate Energy Committee. I hope we might be able to get it out of that committee this week, but certainly there will be no Senate action if we recess this week.

The Energy Security Corporation measure, no action by the Energy Committee nor by the full Senate.

Department of Energy authorization, reported out by the Senate Energy Committee but no action on the floor.

The windfall profits tax bill is in markup in the Senate Finance Committee. It has already passed the House.

And the standby gasoline rationing is on the House floor, having been passed by the Senate.

There it is, simply stated. Again, I have to repeat, being part of some of these committees I know that those that I sit on and others have been diligently working at the new tasks placed in front of us by the administration, and have been diligently working on legislative responses to the new circumstances presented to us around the world.

I wish I could say that we could walk away from all of this, and it could await our pleasure in the sense of performing our duties. It cannot.

The energy crisis is as severe today or even more so than it was yesterday, last week, or the week before that.

It is simply on that basis that I present my amendment to the Senate. I think it terribly important, not just for the matter of appearance, I might add, but because I think that during this intervening time we can accomplish a great deal. I might also add, especially with the prospect of SALT II and other matters before us which would pretty much occupy the fall, energy production, conservation, energy legislation in all its forms, needs to be acted upon today.

Therefore, I submit my amendment and I hope my colleagues will support it.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Connecticut has raised a question here which has already been carefully considered. Recently I called a meeting of members of the Democratic Policy Committee, the majority members of the Committee on Energy and Natural Resources, and of the Finance Committee. The respective chairmen and a number of members attended. The purpose of the meeting was to discuss the August recess.

It was the unanimous view of the chairmen of the Budget Committee, the Banking Committee, the Finance Committee, the Environment and Public Works Committee, the Governmental Affairs Committee, and the Energy Committee that the month of August could be better spent by having those committees, task forces thereof, and/or staff members thereof, work on the energy legislation and on the tax bill during the month of August.

This is an $88 billion energy bill. The Budget Committee has the responsibility of studying the budget implications of that bill.

Mr. LONG. Will the Senator yield at that point?

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. The $88 billion is just the energy, but there is a tax of $140 billion.

Mr. ROBERT C. BYRD. Yes. The Banking Committee has the responsibility for the financing and capitalization of the energy corporation. The Committee on Public Works and Environment has the responsibility to study the environmental impact of the legislation. The Governmental Affairs Committee has the responsibility to study the impact of the establishment of a new Government corporation. The Energy Committee, under Mr. JACKSON, has been working to report the energy bill which has in it the Energy Mobilization Corporation, the Energy Security Corporation, the synthetic fuels provision and so on. Mr. JACKSON hopes to report that bill this week.

But Mr. MUSKIE, the chairman of the Budget Committee, who is also here and who can speak for himself, said that his committee could not complete its study of this gigantic bill within a few days, but that instead it would take a few weeks.

So I met with the chairmen collectively to inquire if they would avoid requesting sequential referral, and I received their complete cooperation. They assured me they would not ask for sequential referral but that would have members of their staffs work with members of Mr. JACKSON's Energy Committee staff during August. By proceeding in that manner, by using the month of August to study the budget implications and all of the other ramifications of the energy legislation, it was determined that final action on the bill would be thereby expedited rather than delayed.

As Mr. MUSKIE said, if we do not take enough time in committee to study the budget implications of this bill, then it is going to result in delay when it reaches the floor. And this was the viewpoint of the other chairmen. They all felt that these matters needed study during the month of August by the respective committee staffs. Remember, committees can and will meet during the month of August.

It was the consensus of the chairmen that these problems could be better resolved before the legislation came to the floor, thus avoiding having to resolve the problems on the floor. It was agreed that it would be an exercise in futility for the Senate to stay in session when we could not have either the energy or tax bill ready for floor action before the 15th of September.

I have had numerous conversations with the distinguished chairman of the Committee on Finance about the excess profits tax. I have talked with Senator DOLE, the ranking member. It was the opinion of both the chairman and the ranking member that the committee should wait until all three parts of the package are here and that we should avoid bringing them to the floor one at a time, and that, in any event, if there were any effort to invoke cloture on the excess profits tax bill, so as to prohibit the calling up of nongermane amendments, Senators would not know what they were voting cloture on until they could see the shape and form of the entire package.

So, Mr. President, this is not a matter that has just come to my attention today. I discussed this matter with the appropriate chairmen and the members of the appropriate committees days ago.

Mr. President, in addition to what I have just said, which explains why the Senate will not be able to do anything on the energy legislation until around the middle of September, let me say that of the 67 authorization bills that should be passed this year, the Senate will have passed 58 of those by the time we go out this week. There are a few of the remaining nine bills that have not been reported from the committees yet but, as I say, committees can meet during the recess if they so desire.

Of the appropriations bills, the Senate has already passed six and there is only one that I see that the House has passed and sent over to the Senate which has not been acted upon by the Senate. That was reported by the committee today, the Treasury and Postal Service bill. The House does not intend to send the rest of those bills over until we get back in September.

The decks are being cleared. That has been the design behind the scheduling all along, to clear the decks, so that when the Senate comes back in September it will have only a few "must" bills remaining, such as the water resources bill; it will have the second concurrent budget resolution, the deadline for which is September 15. It will dispose of the remaining authorization bills and as I say, there are only nine of them, and it will dispose of the remaining appropriations bills. The Senate cannot dispose of those appropriations bills until they are sent over from the House, because by custom they originate in the House.

The decks will then have been cleared for the energy legislation. Whether we were to stay here 31 days in August or 41 or 51 days in August; the energy bills are not going to be ready for floor action until the committees have had ample time to study all of the implications—environmental, budgetary, and otherwise. And that will require the month of August. Then, the stage will be set for the SALT debate.

The committees—Armed Services, Intelligence, Foreign Relations—have been holding hearings on the SALT II treaty. They have been good hearings. Those hearings will not be complete until after very late in September. As to the SALT Treaty—I have never said it would be scheduled before October 1. I say to you, Mr. President, as one who knows a good bit about the Senate Calendar and whose constant duty it is to schedule the measures and to keep the legislative process moving——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, as one who has the duty of seeing that the legislative process goes forward, of scheduling the bills in an orderly way, I say to you, Mr. President, that if the action on the energy legislation could have been expedited by the Senate's staying in the whole month of August or 3 weeks in August or 2 weeks in August or 1 week in August, that would have been done. Because every Member who met with me on those committees that were represented indicated that if—if—the Senate could make progress by lopping off any portion of that August recess, he would be willing to do it.

Mr. President, I respect the distinguished Senator from Connecticut for the position that he takes here but, may I say, with all due respect, this matter has been fully considered, thoroughly considered, and, in my judgment, the Senate would be wasting its time, wasting the time of Members and probably delaying the final action on the energy legislation, if it stayed in session during the month of August.

There would be little work for us to do on the floor. The distinguished Senator has mentioned the Amtrak bill. That is scheduled for tomorrow. I think I have talked about the other bills that he mentioned—the DOE, Department of Energy authorization bill. The Budget Committee has a problem with that one. It reported out a budget waiver unfavorably. The bill is a billion dollars over the first budget resolution. The distinguished chairman of that committee feels that that measure should be delayed until the shape of other energy legislation has become clear.

The standby rationing proposal—I hope the House will send something over here on that today. I do not know what action the House may take. The Senate passed a standby rationing plan, sent it to the House, the House rejected it, and the Senate stands ready right now, if the House messenger would come in the door with that measure, to call it up today. It would be a privileged matter.

SALT II, I have already discussed.

So, Mr. President, I do not have any doubt that every Member of the Senate would not only be willing but would also want to stay during the month of August as much as would be necessary to dispose of energy legislation if it were ready for the floor and if, in the final analysis, it would contribute to a more thorough and realistic, more rational, and more reasonable final action on such legislation.

Mr. LONG. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes; I yield.

Mr. LONG. Mr. President, the Senator, I believe, knows that the proposed windfall profits tax bill has an effective date of January 1. The Senator also knows what has been on the ticker and what I have told him down at the White House, as well as in this Chamber, that we are not going to be ready with that bill for a while. Some of us do not quite like the bum's rush approach to legislation. We think that it is nice to have a lot of recommendations, but to cram it on through as though the Sun will not rise tomorrow, it usually winds up in a lot of mistakes that we regret.

I think if you want to know the No. 1 shortcoming in the Senate, it is not oratory. We have plenty of that. We just never find time to think. Some of us want, once in a while, to think a little bit about these things.

We absorb some knowledge from others, we get a chance to absorb some of the wisdom of our constituents around the Nation, many of whom know a lot more about some of these problems than we do, and then try to act in a way that makes good sense, where we are satisfied that we are doing what is best for the Nation.

I can assure the Senate that, as far as the chairman of the Committee on Finance is concerned, we shall pass out a windfall tax bill. It is up to the Senate to make it tough or not so tough, whatever the Senate wants to do. We shall bring our bill out here.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may proceed for an additional 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

Mr. ROBERT C. BYRD. I yield to the Senator from Louisiana.

Mr. LONG. I say to the Senator that the fact that we have a little time to think about the matter—I know for myself, I have papers stacked up over 3 feet that I want to read and study and mediate over. There are others who, I know, have the same situation. We shall move very expeditiously and push very hard to try to get that bill on the President's desk by October 1, if I can call the date. Of course, it is up to the Senate to decide whether it is going to move that rapidly.

I do think that when you tell everybody you are going to do something, you ought to try to do it. I know, as far as measures within the jurisdiction of the Finance Committee are concerned, we do not have any excuse for breaking our word, having told people this is how we are going to do business.

Mr. BENTSEN. Will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. Yes; I yield.

Mr. BENTSEN. Mr. President, this piece of legislation before the Finance Committee is a $14 billion bill. If we take some of the figures as to what the increase in price may be in the next 10 years, another estimate gets it up around $275 billion. I, for one, am not going to vote until I can have a better understanding of the economic impact on this country.

We have had some figures given to us by Treasury. I understand how Treasury can sometimes submit figures to try to prove their point of view. We want our own econometric models. We want to get our own calculations as to how much of an economic impact and how much revenue will be raised and get some idea of how it is going to be expended.

If we do not get that kind of staff work done in order to exercise the soundest of judgment that we can possibly exercise on this very important piece of legislation, I think, we would be derelict in our duty.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I know the Senator is going to be asked, I am going to be asked when I go home, Why are you not in session? I am ready to explain my position, I am ready to explain why the Senate is not in session.

The chairman of the Budget Committee is here. I should like to have him give his viewpoint, how he sees this legislation from the standpoint of the Committee on the Budget.

Mr. MUSKIE. Mr. President, I think the distinguished majority leader has accurately described the examination that was made of the possibility of using the August recess or some part of it in order to enact the energy program. Well, if August were the month for the recess or not, August would be premature. If no recess were scheduled, I do not see how we could bring the complex issues raised, not only by the revenue bill but by the bills from Senator Jackson's committee and Senator Proxmire's committee, into focus so that we can make balanced judgments by September 1—whether or not there is a recess.

From the point of view of the Budget Committee, we cannot even begin examination of the budgetary and economic implications of these bills until they come to us.

Senator Jackson's committee, hopefully, will approve markup by the end of this next week. Senator Proxmire's committee is in markup, I understand, on his piece of the package. Senator Long has already described the problems and the magnitude of it that faces his committee. We cannot even begin.

Before the distinguished majority leader approached us, Senator Bellmon and I agreed to set up a task force within our committee to begin analyzing the problems from the budget point of view. We began work on that this week. We could not begin earlier to try to complete that work. But the first week in September is going to be a very difficult challenge.

I would like to make one other point, if I may, and that is the notion that if we are not on the Senate floor we are not involved in the Senate business. To me that is a notion that we should challenge.

I find it possible to think more effectively, more comprehensively, more thoughtfully, about these big challenges we face if I am not constantly running all day long between committee rooms and the Senate floor, occupied in physical activity to demonstrate to the public that I am busy.

When I go home to my State, there are two plusses that I always count on. One exposure to my constituents' point of views; second, exposure to my own thinking.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. ROBERT C. BYRD. Three more minutes.

Mr. MUSKIE. I will take 30 seconds more.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. I do not think that is irrelevant in what we are trying to do.

From the perspective of the Budget Committee, I noted one thing about the habits of legislative bodies. We have to deal in the Budget Committee with the consequences of a lot of mistakes that have been made in policymaking in this Congress over the last 50 years. A lot of those mistakes were made because Senates and Houses of Representatives rushed to policy decisions before they had properly prepared themselves.

The budget would be immeasurably smaller today if we had taken more time in the first instance to make sure our decisions were wise.

I am for the Senate being what it likes to consider itself, a deliberative body, about these energy options that we consider.

I have not begun to consider the environmental implications of this legislation, the budgetary implications, the economic implications, the implications down the line for the CO_2 component of the atmosphere and its greenhouse effect and what that could do. Senator RIBICOFF has been studying that.

There are a lot of questions to be raised and answered. We cannot possibly raise and answer them by September 1, whether or not there is a recess.

Mr. RIBICOFF. Will the Senator yield?

I just came from hearings of the committee with Secretary Schlesinger and Mr. Curtis of the Federal Energy Regulatory Commission. It became very obvious that the worst thing we could do would be to try to rush through the synthetic fuel program by September 1 or September 15.

It became obvious to me that during the discussion that there were a host of major problems.

Yesterday we had before us the outstanding scientists in the world in climatology and geology and, for the first time, they raised an overwhelming and frightful problem that the world will face because of the use and development in synthetic fuels.

It becomes very obvious that while we could safely go to 2.5 million barrels of synthetic fuels a day, to go to 5 million would be courting disaster.

It is not just the problem of the United States, but the problem of the Soviet Union, the problem of West and East Germany, and South Africa.

Mr. Schlesinger today admitted we should consider a safeguard in writing this legislation with a constant monitoring of the CO_2 content to assure the safety features in this legislation.

It also becomes very apparent that we must consider the utilization of this $88 billion not only for a synthetic fuel, but alternate sources of fuel that would not be contaminating, and that we should be considering these new agencies we are placing into being to assure that since there is a problem for the environment, they establish a set of priorities of which energy synthetic or energy producing alternatives would be the least deleterious upon society as a whole.

The PRESIDING OFFICER. The time has expired.

Mr. RIBICOFF. One more minute.

Mr. ROBERT C. BYRD. I ask unanimous consent that we have 2 more minutes.

Mr. RIBICOFF. It is very obvious we have the responsibility not to rush to judgment because we are committing this Nation on a source of procedure and a source of production by the expenditure of this $88 billion, which may, by themselves, tend to destroy the very society we are trying to save.

Mr. JACKSON addressed the Chair.

Mr. ROBERT C. BYRD. I yield to the Senator.

Mr. JACKSON. Mr. President, I merely rise in support of the comments of Senator RIBICOFF and Senator MUSKIE, as well as the statements that have been made by the majority leader.

As chairman of the Energy Committee, I say that the fact we are staying in session all during the month of August could not speed up the process which will be underway by Senator MUSKIE's committee, by the Government Affairs Committee under the chairmanship of Senator RIBICOFF, the Committee on Banking and Currency and Urban Affairs chaired by Senator PROXMIRE, with the finance implications that are involved in connection with the President's comprehensive synthetic fuel program, and, of course, the expedited procedures that are involved in the President's proposal, as well as the earlier one that a number of us introduced here.

So I say that the leader is right in the approach he is taking. It is not going to change one iota, as far as I can see, the target date that we hope to meet in connection with the President's program.

Mr. ROBERT C. BYRD. Mr. President, I think we have stated the case. I think it is obvious from the standpoint of the facts that if the Senate were to stay in session during the month of August, it would be just for show and not for any constructive purpose.

There is a need for Senators to get back home and talk with their constituents. We should not be making laws in a vacuum.

We are elected to make decisions, but also to make decisions based on informed knowledge of what the problems faced by Americans are.

I myself plan to go back to West Virginia a number of times during the month of August.

I am for a vote.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, the first question I have to ask is, Has the all-clear sounded before I come out of my bunker here?

I paddled out here on the floor in my little *Zodiac*. It is like facing the *Bismarck*, the *Tirpitz*, and the *Graf Spee* all in one afternoon.

I have never seen so much power arrayed on one issue on the Senate floor as long as I have been here.

I want to make something clear. I repeat, I have no criticism at all related to my colleagues. The situation that confronts us is one that was presented by outside forces, either within the administration or by circumstances in the world.

The fact is that since these plans were made, a few things have happened, that is, thanks to the executive branch of Government, the whole Government ground to a halt for 2 weeks in July.

It is nobody's fault here on the floor.

We have half a new administration. Was there an Energy Mobilization Board bill up until a few days ago? Was there a synthetic fuels bill until a few days ago? This is not something that was initiated here. But you cannot say this just did not happen. It did. Unfortunately, it did.

If you are going to ask the American people to pay the price of what I call "the great navel gaze of 1979," in the sense of the executive being stalled, I think we have to pay the price, too.

The bottom line is that there is no legislation on the books when it relates to energy, with the exception of the heating and cooling stictures. That was passed. The great energy policy of 1978. Nobody even talks about that anymore. Nothing of any real consequence has been passed. That is the bottom line.

This is a crazy town, and I know that we give our own meaning to words, such as in the Middle East debate over military aid to the Arabs and Israelis: Peace means arms. So what we are saying today is that work means vacation. I am not going to accept that. I have not been here so long that I am going to accept these definitions. It is not that way.

Nobody is saying that the work has to be accomplished on the Senate floor. I think the best arguments that can be made for the amendment I have before the Senate is what the majority leader was discussing with respect to the tremendous volume of work that confronts this body. For the most part, it is a volume not imposed by ourselves but by the President of the United States, while he got his political house in order, and by other nations of the world who are taking advantage of our lack of self-discipline. That is what is involved, pure and simple.

I suggest to Senators that the way to handle this matter is to get to work, to continue to do it in committee and on the floor and wherever it occurs. If need be, fine, go home to your constituents on the weekends. I do not think they have many nice things to say to many of us, and they will have fewer nice things to say when we appear in our bathing suits or in our tennis shorts or whatever, while they are paying more for a gallon of gasoline, if they can get it.

I will show you how we act and why it looks ridiculous. In 1977, I offered my modified conservation proposal of a 6-day week for the automobile, and it was defeated by a vote of 83 to 7. One month ago, I had it up again—a few things changed—and I was beaten by a vote of 79 to 10. It was exactly the same result, the same piece of legislation, but a few things have changed; and the things that have changed, I think, have to change our style in the Senate and our attention to detail and to duty. I know we have that capacity.

I am sorry we had this done to us, but I am sure the American people are just as sorry about what has been done to them. So let us march along with them and do what has to be done.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. DOLE. I appreciate the Senator's yielding. I cannot vote with him.

Mr. President, I think we need to take the recess for many reasons. In fact, I think the American people may have been saved by the recess. We could have passed all the legislation which has been proposed, and then think where the American people would be. [Laughter.]

This gives us an opportunity to get out of here, breathe some fresh air, and get away from Washington. Some have plans to visit a number of States and some may visit only one. [Laughter.]

It seems to me that the best way to find out what the American people think about a windfall profits tax or a new energy bureaucracy is to go out and talk to the people. I think we are going to find out that 50 miles from Washington, few people have heard about an Energy Mobilization Board, and they probably do not want to hear about it.

I think the Senator has provided a great service, even though I cannot support him, because the American people are saved by this recess. It came just in time. We could have had this bill out here next week or the week after.

It was great wisdom on the part of the majority leader, a few years ago, in securing authorization for this recess. This is a sort of safety valve, a safety net, for the American people.

I would hate to think what would have happened if the Finance Committee, of which I am the ranking Republican, had rushed passage of just any windfall profits tax—without regard to its effect on American energy production.

I think this has been worth the effort. I was going to extend the recess. That was going to be my amendment. [Laughter.] Because an extension might actually help the American people. Make it October 1, and maybe extend the recess beyond October 1.

Mr. HELMS. January.

Mr. DOLE. That may be a little too far—at least, in New Hampshire. At least, let us be realistic. The American people have had enough of Washington telling them what is wrong with the Nation. Now, it is our turn to hear about what is wrong (or right) in Washington from the people.

The PRESIDING OFFICER (Mr. BAUCUS). The question is on agreeing to the amendment.

Mr. ROBERT C. BYRD. Mr. President, I move to lay the amendment on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table an amendment of the Senator from Connecticut. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, debate is not allowed during a rollcall vote, but there will be an automatic rollcall immediately following this, required by law, on the passage of the resolution.

The PRESIDING OFFICER. The Senator is correct.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD) and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

The PRESIDING OFFICER. Are there any Senators who wish to vote?

The result was announced—yeas 85, nays 13, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—85

Armstrong
Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Eagleton
Exon
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hayakawa
Heflin
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—13

Baker
Bayh
Cohen
Durenberger
Durkin
Hatfield
Heinz
Jepsen
Leahy
Mathias
Pressler
Schmitt
Weicker

NOT VOTING—2

Ford
Huddleston

So the motion to lay on the table Mr. WEICKER's amendment (UP No. 483) was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from West Virginia. (Putting the question.)

The amendment was agreed to.

The PRESIDING OFFICER. Is there further amendment? If not, the question recurs on agreeing to the concurrent resolution. Under the law, the yeas and nays are required, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, this is not the last vote today.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD) and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 89, nays 9, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—89

Armstrong
Baker
Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—9

Bayh
Cohen
Durkin
Hatfield
Jepsen
Leahy
Mathias
Pressler
Weicker

NOT VOTING—2

Ford
Huddleston

So the concurrent resolution (H. Con. Res. 168), as amended, was agreed to, as follows:

Resolved, That the concurrent resolution from the House of Representatives (H. Con. Res. 168) entitled "Concurrent resolution providing for an adjournment of the House from August 2 to September 5, 1979 and a recess of the Senate from August 3 to September 5, 1979", do pass with the following amendments:

Page 1, strike out lines 5 and 6 and insert: Thursday, August 2, Friday, August 3, or Saturday, August 4, 1979, pursuant to a motion made by the Majority Leader in accordance with this resolution, it stand in recess until 11:00 o'clock a.m. on Wednesday, September 5, 1979.

Amend the title so as to read: "Current resolution providing for an adjournment of the House from August 2 to September 5, 1979, and a recess of the Senate from August 2, August 3, or August 4, 1979 to September 5, 1979.".

The PRESIDING OFFICER. Without objection, the title will be appropriately amended.

There being no objection, the title was amended so as to read:

Concurrent resolution providing for an adjournment of the House from August 2 to September 5, 1979, and a recess of the Senate from August 2, August 3, or August 4, 1979 to September 5, 1979.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution, as amended, was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PANAMA CANAL ACT OF 1979

Mr. STENNIS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 111.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. STENNIS. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

Mr. BAKER. Mr. President, reserving the right to object, I do not see the distinguished Senator from Texas on the floor.

Mr. STENNIS. Mr. President, the Senator from South Carolina is acting for him. I just talked to him about it.

Mr. ROBERT C. BYRD. Mr. President, I understand the request has now been cleared by Mr. BAKER.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi.

The motion was agreed to; and the Presiding Officer appointed Messrs. STENNIS, JACKSON, EXON, LEVIN, THURMOND, WARNER, and HUMPHREY conferees on the part of the Senate.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Mr. Charles William Duncan, Jr., of Texas, to be Secretary of Energy. I ask that debate on the nomination not exceed 15 minutes, to be equally divided between Mr. PROXMIRE and Mr. JACKSON.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I simply want to tell the majority leader, as I told him privately, we have no objection on this side.

Mr. DURKIN. Mr. President, reserving the right to object, out of that 15 minutes, will the leader give me 5 minutes?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. DURKIN have control of 5 mintues deducted from the 15 minutes, and that Mr. THURMOND have 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The nomination will be stated.

DEPARTMENT OF ENERGY

The assistant legislative clerk read the nomination of Charles William Duncan, Jr., of Texas, to be Secretary of Energy.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Washington (Mr. JACKSON) is here to handle the nomination. I yield to him.

Mr. PROXMIRE. Mr. President, will the Senator yield so that I can ask for the yeas and nays on the nomination?

Mr. ROBERT C. BYRD. I yield.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the nomination of Mr. Duncan.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, the Senate Energy Committee unanimously reported the nomination of Charles Duncan to be the Secretary of the Department of Energy. We all know that Mr. Duncan has served as the Deputy Secretary of Defense since the new administration came into office in January 1979.

Mr. President, Mr. Duncan, prior to coming to the Department of Defense, had a distinguished career in business. He had managed very large operations in connection with the family enterprise, and later went on to be the head of the Coca-Cola Corp. I can only say to my colleagues that while I may not agree philosophically on every position that Mr. Duncan might take regarding various energy matters in the future, I can say that he is a man of outstanding competence. He is a man of great integrity. I believe he will do a good job as Secretary of the Department of Energy.

Mr. President, as one of our colleagues said, I think Senator JOHNSTON, in the future, as Mr. Duncan wades into the difficult problems that we face in energy, he will not receive any more unanimous votes, but I do believe that he has the courage, the determination, and he has had an outstanding record as a manager.

I would make this further observation: There was a question regarding whether or not the Secretary of the Department of Energy, as a result of a White House memo, would be interdicted in his duties by the White House staff. I asked that question of Secretary Duncan. He made available to us a copy of that White House directive. It is clear that, based on his testimony, he will be responsible to the President of the United States directly; he will not allow the staff to interfere with his duties and responsibilities in carrying out the policies of the President of the United States.

I believe that comment, Mr. President, is important in light of recent publicity about the role of the White House staff.

I am pleased to join with all of our colleagues on the committee in presenting this unanimous recommendation to the Senate, the nomination of Charles Duncan to be head of the Department of Energy.

I yield first to the ranking member of the committee, Senator HATFIELD.

Mr. HATFIELD. I thank the Senator from Washington.

Mr. President, I would like to affirm the comments made by the chairman of our Energy and Natural Resources Committee, Senator JACKSON, in relation to the hearings conducted to examine Charles Duncan.

I would like to assure my colleagues on the floor that even though Mr. Duncan had gone through the confirmation process before when he was confirmed to the position of Deputy Defense Secretary, the Energy Committee did not take this responsibility lightly. In fact, I believe that the full hearing lasted 3 hours, so Mr. Duncan was thoroughly examined.

I was very pleased to hear of Mr. Duncan having met with environmental groups and has already established, I believe, a reputation and a precedent for himself of being a very open kind of administrator, willing to sit down and talk with citizen groups without predisposition toward conclusions before he has heard all the facts.

Some have been questioning whether or not the President should have selected someone out of the energy field. I must say that in our own committee, and I am sure within the body of the Senate, some would feel that that would be a disqualification. I have been very interested to observe that, over the years, anybody who has expertise in the field of energy seems to have a handicap in the mind and thinking of some of our colleagues. I shall not go back and review the case of the solicitor or the chief legal counsel that was appointed here a year ago in the last Congress and, because he had had some previous connections——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. Mr. President, I ask unanimous consent to proceed for 10 more minutes so I may yield to my other colleagues.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Because he had had some previous connection with an oil company, he was considered not qualified to serve.

That is an old case, but it illustrates the point that I think Mr. Duncan does not have that kind of handicap. He does not have any background or tie or association with any energy corporation. I am not so sure that the Coca Cola Corp. qualifies him per se, except for his outstanding job as administrator as the president of the Coca Cola Corp.

He has great expertise in the field of administration. Therefore, he brings that special qualification to this office at a time when many have observed that the Department of Energy is in need of a strong hand and a strong administrator.

On behalf of the minority which joined the other colleagues on the committee to support the confirmation, I want to say we were unanimous in our support of Mr. Duncan.

I want to issue one word of caution. That is the same caution that I commented on in the confirmation hearing. That is, I think we may be over-expecting. I think we may be expecting this man to be a miracle worker when, after all, he is still only a human being. So I think we are going to have to be patient, we are going to have to be cooperative in every way because of the magnitude of this task. I think the man is well qualified in every way to take on the position of Secretary of Energy.

Mr. JACKSON. I thank my colleague from Oregon. I yield now to Senator BENTSEN, from Texas.

Mr. BENTSEN. Mr. President, I thank the distinguished chairman. I should like to speak in a personal way about Charles Duncan.

Charles Duncan and I have been friends for a great many years. I have been a long-time friend of his family. He is a man of integrity and a man of ability, a man who can master a complex subject, a man who understands the objectives of our Nation and can relate to them, a man who has no other reason to serve than service to his country.

He has an education in chemical engineering and that ought to be of great help to him in the business of trying to work out a synthetic fuels program. He has a degree in management and, certainly, we need administrative ability in that kind of job.

I believe he is an excellent choice and I fully recommend his nomination. I know that the Senator said he cannot be a miracle worker and there will be lots of problems he will be confronting, but if I were to choose among all of my acquaintances, with the unique talents this man brings to his job, having managed a major company and having lived abroad for several years and understanding international relationships, I would choose Charles Duncan for this job.

I thank the Senator.

Mr. JACKSON. I thank my colleague from Texas.

Mr. President, I yield to Senator STENNIS, then Senator PERCY.

Mr. STENNIS. Mr. President, I shall take just a minute.

Undoubtedly, this man is an exception. He is a terrific worker of outstanding ability. He knows how to approach and handle the hard ones. He has done an excellent job over there in the Pentagon as Deputy Secretary of Defense. The Deputy is the man who gets the hard ones. I have found him to be outstanding in his achievements.

The Lord be with him as Secretary of Energy. I know he will do a good job.

Mr. JACKSON. Mr. President, I am pleased to yield to the Senator from Illinois (Mr. PERCY).

Mr. PERCY. Mr. President, Senator JACKSON was very active in the Governmental Affairs Committee when the Department of Energy was created. Just today, we had oversight hearings on the Department of Energy to see what has happened 2 years later. I should like, on the floor of the Senate, to pay tribute to two key men, who have had the horrendous, thankless job of putting that organization together in its formative stages—Secretary Schlesinger and Deputy Secretary Jack O'Leary.

They are two highly qualified public servants, who have been somewhat controversial, but who have really devoted themselves to this job of trying to put together the Department of Energy.

Certainly, I pay tribute to them for their selfless service and for carrying out a mandate of Congress and the administration to carry forward a structure and organization that will, somehow, resolve this problem.

I have known Charles Duncan only since his tenure in Washington this time but, from everything I know of him—his background, his love of administration, the way he structures an organization, his ability to inspire confidence—he just may be exactly the right kind of person for this kind of job now.

I commend the Committee on Energy for the thoroughness of its investigation and for the unanimous report that it brought forth to this floor. I enthusiastically support this nomination and shall enjoy working with Secretary Duncan in his new capacity as Secretary of Energy. I offer to him the support and help, counsel and advice, for whatever that may be worth, of myself and many other Members of this body.

Mr. JACKSON. I thank my colleague from Illinois.

Mr. President, I yield now to the Senator from South Carolina, then the Senator from Wyoming.

Mr. THURMOND. Mr. President, I rise in support of the nomination for Charles Duncan to be Secretary of the Department of Energy. I did not know Mr. Duncan when he came into Government service, but I have been deeply impressed with him as a man of great intellectual capacity. His past experience in the private sector as head of a major corporation indicates that he has impressive administrative abilities as well.

He is also a man of courage. Since he has come to the Department of Defense, he has made many difficult decisions, some of which have been very controversial. I think this quality of the ability to make such decisions is a key one for anyone serving in Government.

Finally, Mr. Duncan has proved that he is courteous, frank, and open in his actions and in his dealings with people. I think that it is imperative for any person in government service to always be courteous and honest with the people with whom he deals.

I think the President has made a wise choice in selecting Mr. Duncan to be the Secretary of the Department of Energy. I look forward to working with him on energy legislation now pending before the Senate and wish him the best as he undertakes a very difficult task.

Mr. JACKSON. Mr. President, I now yield to the Senator from Wyoming (Mr. SIMPSON).

Mr. SIMPSON. Mr. President, let me very briefly say that Charles Duncan is a fine personal friend of mine. He and his wife, Anne, are very lovely people. America will find that out about both of them.

I have served on various boards with him and, more uniquely, the two of us share a very unique part of the Earth, called the South Fork of the Shoshone River near Cody, Wyo., where his ranch borders the ranch of my parents.

He is a man who has an uncommon degree of commonsense. He is a person devoid of pomposity and arrogance. He is, as Senator PERCY said, the right man for the right job at the right time.

I am fully aware of what lies ahead for him. He is a person who does not seek the spotlight, but it is certainly going to seek him out. He will try his best.

He is a listener. He is a very impatient doer. He will be a remarkable Secretary of Energy. I think that he will make us very proud, and I want to tell you that now that we have gone on with the August recess, I shall join him in casting a fly sometime during that month, which may well be his last period of relaxation in Washington, D.C.

I commend him to you; he is a remarkable gentleman.

(Mr. PELL assumed the chair.)

Mr. PROXMIRE. Mr. President, Senator DURKIN, also, I understand, has some time reserved for him.

Mr. President, I asked for a rollcall on this nomination. I wrote the majority leader and told him I wanted to rollcall on all the major nominations we have before us. This was an extraordinary action taken by the President in asking for the resignations of some members of his Cabinet. The appointments he makes are of the greatest importance.

We have a responsibility to advise and consent, to discuss these nominations.

From everything I have heard from the distinguished Senator from Washington and others, there is no question Mr. Duncan is a man of high quality, top integrity, and of ability.

Of course, he was approved by the committee 16 to 0. He has a fine record. He is head of one of the great corporations in this country—Coca-Cola.

I am puzzled, however, about two things, one of which the Senator from Washington has dealt with. I would like to ask the Senator about it further.

One is the relationship this man is going to have as a Cabinet officer with the President of the United States.

The Senator from Washington assured the Senate he would not be interdicted in his access to the President—at least I understood him to say that.

But I want to know from the Senator from Washington if, in the judgment of the Senator from Washington, that means that at all times, under all circumstances, the new Secretary of Energy will be free to talk to the President of the United States any time he wishes and to make his own position known without any clearance with the new Chief of Staff that President Carter appointed, or anyone else.

I ask that question because it was clear in the resignation of Transportation Secretary, Brock Adams, that he felt he could not get that assurance, and one of the reasons he quit is because he felt he did not have that access to the President.

So I think we should be assured, if possible, that Cabinet officers will be free to talk to the President of the United States at any time, whenever they wish to do so.

Mr. JACKSON. Mr. President, I received a telephone call on Sunday that a memorandum had been issued by the White House from Hamilton Jordan, Chief of Staff. I will read it into the RECORD.

I received it after I requested a copy of it because I did not have it. But I was told there was one and, obviously, I felt an obligation to ask Mr. Duncan about it on Saturday.

So I will read it into the RECORD, if that is agreeable:

THE WHITE HOUSE,
Washington, July 24, 1979.

Memorandum to Members of the Cabinet and Senior White House Staff.

From Hamilton Jordan, Chief of Staff:

The energy proposals that the President has outlined present us with a unique and important challenge. Accomplishment of our goals requires cooperation and coordination among and between the various Cabinet departments, agencies, and units within the White House. Therefore, Secretary Schlesinger, Secretary-designate Duncan and I have asked Eliot Cutler, Associate Director of OMB, to coordinate all staff and agency activities.

It will be Eliot's responsibility to coordinate the activities of all staff and agency units relating to the enactment of the President's proposals. Policy development and clearances will continue through the existing procedures under Stu Eizenstat and Jim McIntyre. Frank Moore will continue to oversee Congressional relations activities.

I am sure that Eliot can count on your cooperation as he undertakes these responsibilities.

Thank you.

That is the end of the memorandum.

Now, I asked Mr. Duncan what the ground rules are, and his relationship with the President and the White House staff.

I will attempt to paraphrase, as best I can, because I do not have the record.

Mr. PROXMIRE. Mr. President, I trust I will be able to get a little more time on this.

Mr. JACKSON. Mr. President, I ask unanimous consent that my response not be taken out of the Senator from Wisconsin's time.

The PRESIDING OFFICER. The Senator from Washington has no more time.

Mr. JACKSON. He informed me that he will have direct access. He informed the committee that——

The PRESIDING OFFICER. The Senator from Washington has no more time.

Mr. JACKSON. I ask unanimous consent for 3 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JACKSON. I asked him about his relationship with the President. He said he would have direct access to the President, that he would not have to go through the staff.

He did say that when the staff called him and the individual indicated, that the individual staff member was speaking for the President, then he would treat that as a Presidential response.

So it would be dependent entirely, of course, upon the reliability of the position taken by the White House staff member.

But he indicated very clearly that he would have direct access to the President and he would only respond when it was clear that the White House staff person was speaking for the President in the particular instance.

That is as best I can state it.

Mr. PROXMIRE. So if Mr. Jordan indicated he was speaking for the President and gave directions to the Secretary of Energy, that would be it?

Mr. JACKSON. He would take that as a directive from the President.

Mr. PROXMIRE. I appreciate that——

Mr. JACKSON. I cannot speak for Mr. Duncan, but, obviously, if it was a matter of great importance, I would think he would go directly to the President.

Mr. PROXMIRE. Mr. President, I will just ask a little bit further of the Senator from Washington.

The Senator knows this may well be the toughest job in town. The Senator knows what happened to Secretary Schlesinger, who is an extraordinarily able man with a tremendous background in administration. I think he is probably the most experienced appointee the President had. He served in the Defense Department, the CIA, and elsewhere.

He has been criticized more vigorously and vehemently than any Cabinet officer in my memory.

It is a very tough, difficult job.

I highly respect the Senator from Oregon. He is a splendid Senator. But saying that here is a man who may be better qualified because he does not have any specific qualifications in energy, I am concerned about that, because what professional capability does, a knowledge of the field does, is provide a degree of independence, a degree of confidence, a degree of ability to assert one's will.

That is lacking if he does not really understand the field that well.

To put a man, even with the fine business background that Mr. Duncan has, in this position seems to me, perhaps, to be a mistake in view of the overwhelming importance today of energy and getting an energy program that will go and will work. To put a man without experience here, a man with at least some problem with respect, in my view, to access to the President, may be asking for trouble.

I would like to ask the Senator how he would respond to the fact that Mr. Duncan does not have the background for energy that many others have.

Mr. JACKSON. First, let me simply say that I share the Senator's high regard for Dr. Schlesinger. He, I think has been one of our finest public servants.

I worked very closely with him. I have nothing but respect and admiration for the job he had to do under very difficult circumstances. He had to put together the Department of Energy that Senator Percy referred to and, at the same time, try to forge an energy policy.

But I say to my good friend from Wisconsin, I think this man does have a broad background of experience in the business community. I do believe that he is a good generalist. I think he has an understanding of Government. I think he has an understanding of our economy.

He understands the foreign policy aspects. He was, I believe, in England for a number of years as head of the export division of Coca-Cola, or some similar capacity. He is a good technical man. He has his degree in——

Mr. PROXMIRE. He has a degree in chemical engineering, but he has no real experience in the high technology area that involves energy.

Mr. JACKSON. No. But one of the problems, I would say, is that a scientist often lacks administrative capability. That always has been one of the tradeoffs we have to face. I have no doubt about his ability.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield briefly, but I think my time has about expired.

Mr. HATFIELD. When we had a man qualified by background and expertise, it was the majority party on the Energy Committee that said it is like putting the fox in to guard the henhouse, because he came from an oil company background, when we were considering him to be chief counsel. He had expertise and background. In fact, had it not been for the Republicans and the minority of the Democrats, we would not have gotten him as chief counsel.

We want someone totally devoid of that relationship so that they will not have any——

Mr. PROXMIRE. May I respond? I think the Senator has his tongue in his check on this one.

I would agree. We do not want a conflict of interest. But I think we can find people with expertise, competence, with knowledge of the field, who do not have a conflict of interest.

Mr. President, I reserve the reminder of my time.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. I yield 1 minute to the Senator from Ohio.

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. JACKSON. I ask unanimous consent that the Senator may have 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I did not intend to enter this debate, but I heard the Senator from Wisconsin addressing himself to the question of Mr. Duncan's experience and expertise. Nor do I wish to address myself to the subject of Jim Schlesinger, a subject to which I can only say, "Amen."

In connection with Mr. Duncan, I think it is true that he is an untested quantity and an untested quality, so far as being able to run the energy program is concerned. But I think the Senator from Oregon probably stated it accurately. If you get the best expert, he probably will come from the oil industry. I believe that is one of the problems in the Department of Energy now: Too many people from the oil industry have been running that Department. I would rather take a chance on a completely blank slate than take a chance on someone who came from the oil industry and hope that he will have the integrity, courage, and independence to run that Department without concern for his future employment. I think Mr. Duncan fits that bill, and I prayerfully hope that he will be able to do the job that this Nation needs somebody to do in the Department of Energy.

Mr. DURKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire has 5 minutes.

Mr. DURKIN. Mr. President, I intend to vote for the confirmation of the nomination of Mr. Duncan. I intend to work with him until I feel I am talking to myself.

Mr. Duncan's nomination has raised, once again, a very serious problem. It concerns home heating oil—the supply of home heating oil, and the cost of home heating oil in the Northeast.

On April 25, the President of the United States stood in Portsmouth High, on nationwide TV, before a cheering crowd, and promised that we would have 240 million barrels of home heating oil in stockpile by the 1st of October.

As a result of Mr. Duncan's nomination hearing, I was finally able to extract from the White House their idea of the President's commitment, and I ask unanimous consent that Mr. Eizenstat's letter of July 30 be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

THE WHITE HOUSE,
Washington, D.C., July 30, 1979.
Hon. JOHN A. DURKIN,
U.S. Senate, Washington, D.C.

DEAR SENATOR JOHN DURKIN: I understand that at Charles Duncan's confirmation hearing this morning you raised a question about the exact nature of the Administration's commitment to insure adequate home heating oil stocks this winter. The President has put in place a program to assure that home heating oil stocks are built to safe levels before the winter heating season. A key aspect of this effort will be to build distillate stocks at the primary level (including refiners, pipeline companies, and bulk terminal operators) to 240 million barrels by the end of October.

This target is designed to insure adequate stocks to meet the most difficult supply conditions. Since the seasonal stock drawdown of heating oil does not begin until about mid November, a build-up of 240 million barrels of distillate by the end of October will be satisfactory to meet a winter that is 20% colder than normal.

The Department of Energy has undertaken a comprehensive program to insure that this target is met:

1. Meetings have been held with the largest refiners to establish targets for each firm. On the basis of information provided by 32 of the largest refiners in a continuing series of meetings, it is estimated that the national target will be met.

2. In the event that sometime in the coming weeks refinery performance in meeting these targets is less than satisfactory, the Department of Energy has also prepared the necessary rules to require all or some refineries to increase distillate production in order to meet the target. The Department stands ready to use such procedures whenever that becomes necessary.

3. As part of this program, the Department of Energy is also taking steps to reduce distillate use, including removing regulatory impediments to switching from distillate to natural gas, encouraging electricity transfers to make better use of electricity generated from coal or hydro plants that can substitute for oil-fired plants, and implementing a national mandatory building temperature control plan for all public, commercial, and industrial buildings. These steps will reduce the demand for distillate during the critical summer and fall period necessary to build up heating oil stocks for the winter season, as well as reducing distillate requirements during the winter.

4. Finally, the Department of Energy will be monitoring the sales of distillate this summer and fall to distributors and end users, as well as conducting surveys of distillate stocks held by distributors, dealers, and major industrial users. If it is found that stocks at the secondary and user levels are lower than can be offset by primary stocks, or if there are not firm plans to move stocks into areas that rely on barging before the rivers freeze, DOE will require suppliers to resolve these problems expeditiously. If necessary, the Department of Energy will use its regulatory authority to require allocation of supplies for building home heating stocks to acceptable levels at the distributor and end user levels.

Since implementation of this overall program began several weeks ago, primary distillate stocks have increased by about 25 percent or some 30 million barrels. We are determined to see that this satisfactory progress continues.

In summary, we will continue to aggressively pursue our goal of 240 million barrels by the end of October. At the same time, we are taking the steps necessary to avoid nonessential use of distillate fuel.

Sincerely,
STUART E. EIZENSTAT,
Assistant to the President
for Domestic Affairs and Policy.

Mr. DURKIN. I read the concluding paragraph:

> In summary, we will continue to aggressively pursue our goal of 240 million barrels by the end of October.

What he is really saying is by November 1.

Once again, the President stood in front of a cheering crowd, saying what they wanted to hear; but when all the dust has settled, he has backed down on his promise.

The 240 million barrels is an illusory figure. Our secondary supply that our distributors have is only 50 percent of what they had last year.

I ask unanimous consent that a letter from Better Home Heating Council of New Hampshire, indicating the dire reserve situation, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BETTER HOME HEAT COUNCIL
OF NEW HAMPSHIRE, INC.,
Portsmouth, N.H., July 1979.

ANALYSIS OF FUEL OIL RESERVES IN NEW HAMPSHIRE

This analysis attempts to answer two questions concerning fuel oil reserves, as follows:

(1) What does New Hampshire have for fuel oil reserves?

(2) How much oil must be in total U.S. storage prior to winter, in order to supply U.S. needs during colder months?

(1) New Hampshire Oil Reserves:

Approximately 7 million bbls. of No. 1, No. 2 and No. 4 oils are used in the Granite State annually. Exhibit No. 1 shows that with customers' tanks ¾ full, dealer delivery vehicles ¾ full, and bulk secondary storage full, a theoretical 69½ million gallons or 1.65 million barrels of reserve exists. This is equal to a 26.6 percent reserve of annual usage.

In looking at such a figure one must realize its deceptions. First, a substantial portion of this 26.6 percent is probably not usable because of the necessity of utilizing tank "bottoms" of larger storage facilities and since some cushion against runout is required in customers' tanks, since all customers cannot be empty at a given moment as it would be impossible to fill them all at any given moment, due to limited delivery truck capacity.

Oil travels across state lines and some of this reserve is normally dedicated to surrounding states. For example, Piscataqua terminals also fuel southern Maine. One might assume this deficiency is equally offset by fuel oil reserves we get from Portland or Boston. Realistically, our dealers cannot invade the set-asides of these other states in time of shortage. Therefore, in normal times we consider this factor neutralized. In times of shortage an unknown skewing effect will occur. (This is unknown since there are no public statistics on how much oil is traded between states.)

Finally, the important factor in winter is how many days reserve New Hampshire has on hand. If one assumes we cannot totally exhaust reserves, a guesstimate of usable reserve might be 15 to 20 percent of annual consumption available at these secondary levels. This would amount to 1 million to 1.4 million barrels in this state.

With an average of 7,000 degree days existing in the state and calculating 95 percent of usage for heat (5 percent used for heating water in summer) would equal 6.65 million bbls used for heat divided by 7,000 degree days equal 950 bbls/per degree day usage. This represents 1,473 degree days. With maximum weather (70 degree days per 24-hour period) some 21 days of usable fuel would be on hand if all storage were filled to levels assumed in basic calculations.

In conclusion, we in New Hampshire appear to have 15 percent to 20 percent of annual consumption of heating oils in state if all levels of storage are reasonably full and this represents about 21 days reserve in maximum weather. Again, such figures are somewhat misleading because of interstate shipments, etc.

(2) How Much Oil Must be in U.S. Storage to Carry Us Through Winter?:

The historical base of Primary U.S. storage of 230 million to 244 million bbls/day storage by early October is accepted as a proper base based on historical stock levels at that time of year. The question is what amount of secondary storage if any is needed to support current consumption levels.

Exhibit No. 2 shows Distillate Sales in the United States (1977). For purposes of these calculations it is assumed all categories except heating are met with ongoing refinery production during summer months. It has been proven refiners are able to add 1 million bbls/day in heating oil storage during summer months and simultaneously take care of other types of user. This assumption will not hold if distillate is also short in other areas of consumption.

If one assumes 90 percent of distillate used for heating is consumed from October 1st to March 15th, some 483.8 barrels will be needed. If during this winter period (166 days) production of distillate for heating uses is 1 million bbls/day some 166 million bbls will be manufactured during the season. If one adds 240 million bbls storage on October 1st, available product is then 406 million barrels. This is 78 million bbls short of current annual heating needs of 484 million barrels. Thus we need 78 million additional usable barrels of storage available at secondary levels to meet demand.

Further, we also need replacement oil in transit not included in calculations since we are dealing with seasonal demand with a highly elevated consumption peak falling within a two-month period.

The conclusion suggested by these calculations is that we need 240 million barrels of distillate in primary reserve by October, but also need an additional 78 million barrel reserve at secondary locations in order to meet winter's demand on distillate.

Interestingly, if one takes the New Hampshire consumption of 7 million bbls x 15 percent reserve shown earlier and applies 15 percent to U.S. heating oil consumption of 537.5 million bbls, we arrive at 80 million bbls calculated in above U.S. calculations. It may be sheer coincidence that the figures come out so close due to various assumptions made in both calculations. However, there is absolutely no doubt that a 240 million barrel storage level at primary level is inadequate unless either of two events occurs:

(1) Secondary storage of some 80 million bbls is also simultaneously full by October 1st.

(2) Production levels of substantially over 1 million bbls a day dedicated to the heating market occur during winter.

CONCLUSION

The actual stock levels in secondary storage are unknown. Since 90 percent of the dealers in this state (and presumably elsewhere) are under allocation fractions and in the state set asides, it is assumed secondary storage is ¼ to ½ filled, certainly not more. Thus, of the calculated 80 million bbls needed by fall, the amount needed to fill these facilities is likely in a range of 40 to 60 million barrels.

Primary storage of 240 million bbls is currently filled to 150 million. Thus a deficit at this level is 90 million bbls. Adding both deficits of 90 million + 50 million, or 140 million bbls, are likely needed by October 1st. Since we have 80 days between now and October first, this means nearer 1.75 million bbls/day must be added each day to storage between now and October 1st, or winter production of distillates must increase well above 1 million bbls/day for heating or some combination of both must occur to provide adequate supplies of heating oil this winter.

EXHIBIT 1

NEW HAMPSHIRE FUEL OIL FACTS

	Amount
Consumption:	
Nos. 1, 2, and 4 oil sold for heating purposes annually (million of barrels)	7
or	
DOE annual statistics for kerosine (million gallons)	306.5
Users:[1]	
Single family dwellings	275,000
Other households	31,900
Commercial and industry	22,000
Farm accounts	6,300
Total	335,200
Gallons per user (306,500,000 gal ÷ 335,000 users)	915
Storage (millions of gallons):	
300,000 houses × 275 gal × 75 percent filled	6.2
60,000 others × 1,000 gal × 50 percent filled	30.0
826 delivery trucks × 2,500 gal × 75 percent filled	1.5
Distillate bulk storage in State (Census of Business)	31.8
Total, instate storage, estimated (1,650,000 bbl)	69.5

[1] Better Home Heat Council Survey, 1976.

EXHIBIT 1A

SECONDARY STORAGE CALCULATIONS (U.S. TOTALS)

[Does not include major or independent terminal operator storage]

	Amount
Jan. 1, 1978:	
Oil-fired boilers in United States	5,657,194
Oil-fired furnaces in United States	6,654,131
Total[1]	12,311,325
Customer tanks (million barrels):	
12,300,000 customers × 275 gal × 75 percent (4.9 bbl)	60.2
Fuel oil dealer trucks (million barrels):	
18,000[2] fuel oil dealers in United States average 3.8 trucks per dealer (New Hampshire average) × 2,500 gal × 75 percent ÷ 42 gal/bbl	.8
Fuel oil dealer storage tanks (million barrels):	
6,000,000 gal New Hampshire dealer storage ÷ 42 (220 dealers) = 649 bbl storage per dealer: 649 bbl × 18,000 fuel oil dealers	11.6
Total	72.6

[1] Fuel Oil & Oil Heat Magazine Survey 1978.
[2] Hub Mail, Boston 1978.

EXHIBIT 2

FUEL OIL SALES—DISTILLATE, 1977

[Thousands of barrels]

	Amount
United States:	
Heating	537,530
Industrial	104,244
Oil company	19,954
Electric utility	76,681
Rails	102,949
Vessel	33,512
Military	18,137
Diesel	266,903
Other	14,394
Total	1,230,993

	Nos. 1, 2, and 4 oil (for heating)	Kerosene
New England:		
Connecticut	18,619	260
Maine	11,778	1,019
Massachusetts	52,297	755
New Hampshire	7,382	412
Rhode Island	7,096	87
Vermont	4,006	328
Total	101,178	2,861

Source: Department of Energy.

EXHIBIT 3

CALCULATION ON SECONDARY RESERVES NECESSARY TO GET THROUGH NORMAL WINTER

	Million barrels
Barrels of fuel oil used for heating	537.5
Used Oct. 1 to Mar. 15 (percent)	(90)
Amount	483.8
Winter production at 1,000,000 bbl/day: Oct. 1 to Mar. 15 (166 days)	166.0
Storage level Oct. 1	240.0
Total available	406.0
Fuel oil used for heating	484.0
Available from primary stocks and production	40.6
Total	78.0
Secondary and tertiary reserves	78.0

Mr. DURKIN. I read from the letter:

> Primary storage of 240 million barrels is currently filled to 150 million. Thus a deficit at this level is 90 million barrels.

They are talking about barrels of home heating oil.

Adding both deficits of 90 million and 50 million, or 140 million barrels, it would require a subsidy of 1.75 million barrels a day—today and every day—to meet the October target that the President promised, which is the bare minimum necessary for a normally cold winter in our region of the country.

Furthermore, in the northern part of New Hampshire we have had a survey, and there is a dire shortage of kerosene in the middle of the summer—totally unheard of.

There is still a possibility——somewhat more remote now—that Shell Oil may pull out of the New Hampshire market, leaving Sprague Oil short, and leaving 45,000 homes in New Hampshire short of home heating oil this winter. Even if Shell stays in the market, we are faced with a very grim situation, because we ran short of home heating oil last winter; and had it not turned unusually warm the first 2 weeks in March, we would have been in serious trouble.

Today, we are 18 million to 20 million barrels behind where we were last year at this time.

I ask unanimous consent that the letter from Shell Oil of July 16 and a letter from Sprague Oil Co.'s president, Henry Powers, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SHELL OIL COMPANY,
Washington, D.C., July 16, 1979.

Hon. JOHN A. DURKIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURKIN: This is in reference to your concern about the ability of a heating oil jobber in your state, C. H. Sprague and Son, to supply heating oil to its customers during the next winter season, and your comment in the July 10, 1979 Congressional Record in that regard.

Please be assured at the outset Shell Oil Company is also concerned about Sprague's ability to obtain adequate supplies of heating oil for the home heating consumers. We feel confidence our past and on-going efforts with respect to Sprague will be evidence of our intent to assure that heating oil customers of Sprague Oil do not suffer undue hardships this winter.

Our purpose in writing at this time is twofold. First, we want to express our appreciation for your efforts to get the facts about Shell's actions with respect to Sprague Oil during our marketing withdrawal process and thereby alleviate undue fears on the part of your constituents that their heating oil needs will not be met.

Second, we want to clear up several points about Shell's notification to Sprague and other Shell jobbers in the Northeast market of its intention to gradually withdraw from that market.

Our initial notification was not made on June 30, 1977, as you were told by C. H. Sprague and Son and as was included in your Record statement. The fact is the initial announcement by Shell was made publically in 1975 and Shell jobbers were told by Shell then they would need to find alternate suppliers. This fact was, as you know, conceded by Sprague during the July 12 meeting you arranged for members of the New Hampshire Delegation and interested Senators from neighboring New England states to discuss this situation with representatives of both Shell and Sprague. It might be added several state and Federal agencies were also notified and have been kept apprised as our withdrawal has proceeded.

At no time during Shell's marketing withdrawal has Shell terminated any existing supply contracts. It was further pointed out at your July 12 meeting, Shell has continued to supply Sprague with heating oil during the last two years in the absence of a written, signed contract.

Since our withdrawal announcement in 1975, Shell has worked with numerous jobbers to maintain supply while they searched for and found alternate suppliers.

As was also announced at your meeting, a July 25, 1979 meeting has been arranged by Shell in the offices of C. H. Sprague and Son. The purpose of that meeting is to discuss details of future supply arrangements which will be on a month to month basis until Sprague obtains other suppliers. We cannot state at this time how much heating oil Shell will provide, at what price it will be made available, or what the schedule for deliveries will be. This is because it will be necessary for us to sit down at that meeting and determine what Sprague's anticipated needs will be, how much Sprague can manufacture from its own refinery, and how much other suppliers can contribute to meeting those needs. We will of course make you immediately aware of any supply agreement eminating from that meeting.

The above represents a completely accurate account of the events leading up to the July 12 meeting in your office. We feel the interests of the people in New Hampshire and neighboring states would best be served by making this clarification available to the public. Therefore, we trust you will see to it that this letter is inserted into the Congressional Record at the earliest possible date.

Sincerely,

DAVID B. GROSS,
Vice President.

C. H. SPRAGUE & SON CO.,
Portsmouth, N.H., July 2, 1979.

Hon. JOHN A. DURKIN,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR DURKIN: C. H. Sprague & Son Company, (Sprague Energy) has been a major supplier of No. 2 Home Heating Oil to resellers and distributors in the State of New Hampshire for the past 22 years. Our historic supplier for a substantial amount of this supply since the early 1960's has been Shell Oil Company.

The volume of No. 2 Home Heating Oil that we have supplied to the marketplace over the last ten years has averaged 70 million gallons per annum, of which 44 million gallons has been supplied to us by Shell, and for the last five years, approximately 26 million gallons have been supplied from our wholly-owned refinery in Newington, New Hampshire. Neary 90 percent of our total supply has been consumed in New Hampshire. This means that some 45,000 residential homes in your State have depended on Sprague for their heating requirements.

As you may be aware, Shell Oil Company announced on June 30, 1977, that they were leaving the No. 2 Heating Oil market in the Northeast portion of the United States in order to utilize their No. 2 oil as petrochemical feedstock in the Gulf Coast. The basic reason why Shell has continued to supply up to this date has been due to the Department of Energy's Allocation Program, which forced them to maintain historic supplier/customer relationships. That program no longer exists and Shell has notified us that beginning immediately, they will no longer supply No. 2 Home Heating Oil to Sprague Energy.

We have for some time been attempting to locate a substitute supplier but with no success. Our only real alternative to obtaining supplies would be to purchase quantities in the spot market where the price levels are currently twice the price of what our normal contract price would be. If we are forced into this situation in order to supply our customers, we would have to charge a price substantially in excess of the current price for deliveries of home heating oil, or alternately suggest to our customers that they attempt to obtain supplies from other terminal operators. Due to the shortage of No. 2 Home Heating Oil, we do not think our current customers would be successful in obtaining a new supply source, and, therefore, the health and safety of your constituents are in serious jeopardy at this time.

We have recently heard from Washington that the Department of Energy has no current intention of re-establishing mandatory allocations. Therefore, we request assistance in bringing this particular problem to the attention of your Congressional associates and, if necessary, the White House, in order to assist us in obtaining our required supplies at reasonable price levels to supply our historic customers.

Sprague Energy personnel will be happy to meet with you at your earliest convenience in order to help resolve this difficult and potentially hazardous problem.

Very truly yours,

Henry M. Powers,
President.

Mr. DURKIN. Mr. President, I am very appreciative of Mr. Duncan's responding to my question with respect to import quotas on residual fuel oil.

There is speculation that the President is going to put import quotas not only on crude but also on residual oil. Why am I concerned about that? Because up and down the entire Atlantic coast, we generate a tremendous amount of electricity by burning residual oil. The impact of misguidedly including residual oil in the import quotas will have the immediate effect of driving up substantially the cost of residual oil and the cost of electricity, not just in New Hampshire and New England but also all up and down the east coast.

I ask unanimous consent to have printed in the Record this response from Mr. Duncan, in which he indicates that he will recommend strongly to the President that there be public hearings before residual oil is included in the import quotas.

There being no objection, the letter was ordered to be printed in the Record, as follows:

General Counsel of the
Department of Defense,
Washington, D.C., July 30, 1979.

Hon. John A. Durkin,
Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

Dear Senator Durkin: Charles Duncan has asked me to deliver to you the answer to the question you asked at the hearing today with respect to public hearings on the implementation of the President's import quota program, the answer is enclosed.

If I can be of further assistance, please let me know.

Sincerely,

Deanne C. Siemer.

Enclosure.

Question and Answer

Q. Will the Department of Energy hold public hearings on the implementation of the President's import quota program, and in particular, on the inclusion of residual fuel oil in that program?

A. It is my understanding that the President asked the Secretaries of Energy and Treasury to forward to him recommendations on implementation and enforcement of the import quota system. I will recommend in this connection that we hold public hearings on all of the significant issues involved in the establishment of this program, including questions of how to treat petroleum products.

Mr. DURKIN. Mr. President, Mr. Duncan has pledged his cooperation. I am willing to give him the benefit of the doubt at this time and work with him, as long as his actions underscore his words with respect to alleviating what could be a very serious and extreme situation in the Northeast this winter.

Mr. PROXMIRE. Mr. President, will the Senator from Oregon yield for a question?

Mr. HATFIELD. I yield.

Mr. PROXMIRE. Was any evidence brought out in the hearing as to whether or not the Secretary-designate, Mr. Duncan, had anything to do with the President's proposed energy program that he has just given us, with the $88 billion synthetic fuels program, and so forth?

Mr. HATFIELD. No, there was no evidence whatsoever that Mr. Duncan——

Mr. PROXMIRE. I cannot understand that. Here is a man who is being appointed Secretary of Energy. Here is a program that he is going to have more to do with than anybody else in the Government, and he had no input at all?

Mr. HATFIELD. The Senator says he cannot understand it. I join him. There are a lot of things I cannot understand, either, that are going on down in that part of the Government.

Mr. PROXMIRE. I ask the Senator from Washington, because he was not on the floor at the time: Is there any evidence that the Secretary-designate, Mr. Duncan, had anything to do with the President's proposed energy program with respect to synthetic fuels, and so forth?

Mr. JACKSON. No. We did not ask him, because he was not in the Department at the time. He was in the Department of Defense.

Mr. PROXMIRE. Has the Secretary-designate, since obviously he is going to have enormous responsibility for this program——

Mr. HATFIELD. I suggest that there was a time factor here, too.

The President's energy program that he was devising, that came out of the summit, had not yet determined, according to, at least, the public understanding, who his new Secretary of Energy was going to be.

Mr. JACKSON. That is my understanding.

Mr. HATFIELD. And the program was already developed before he named Mr. Duncan. So it would have been after the fact.

Mr. PROXMIRE. I must say this is in his favor because this program, I think, is a badly conceived program that is going to have enormous difficulty here in Congress, and the fact that Mr Duncan had nothing to do with it is in his favor. On the other hand, I am still perplexed that he could not have found some way of having a man who is going to be responsible for the program having a voice in it.

It is another indication that they have picked a man who does not have any particular knowledge or competency in the field.

The PRESIDING OFFICER. All time has expired.

Mr. ROBERT C. BYRD. Mr. President, following this vote, the Senate will proceed to the consideration of S. 1119, a bill to direct the Secretary of the Interior to report to the Congress on plans or projects affecting the territories and possessions of the United States, and for other purposes, and Mr. Matsunaga will be managing that bill. He tells me he expects no rollcall votes on the bill, that it can be disposed of by voice vote.

So this will be the last rollcall vote for the day.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Charles William Duncan, Jr., of Texas, to be Secretary of Energy? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. Ford) and the Senator from Kentucky (Mr. Huddleston) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Texas (Mr. Tower) and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. Tower) would vote "yea."

The PRESIDING OFFICER (Mr. Exon). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 95, nays 1, as follows:

[Rollcall Vote No. 241 Ex.]

YEAS—95

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Garn
Glenn

Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NAYS—1

Proxmire

NOT VOTING—4

Ford
Huddleston
Tower
Young

So the nomination was confirmed.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move that the President be immediately notified of the confirmation of the nomination.

The motion was agreed to.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection it is so ordered

Several Senators addressed the Chair.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

GOVERNMENTAL AFFAIRS COMMITTEE HEARING ON S. 742, THE NUCLEAR WASTE MANAGEMENT REORGANIZATION ACT

Mr. PERCY. Mr. President, on July 5 the Governmental Affairs Committee held hearings in Chicago on S. 742, the Nuclear Waste Management Reorganization Act of 1979. I served as chairman at the hearings. S. 742 was written and introduced by myself and Senator Glenn, and is cosponsored by the distinguished Senator from Maine, Mr. Cohen, and the distinguished Senator from Rhode Island, Mr. Pell.

Although this Nation has been generating nuclear wastes for over 30 years, no method for permanently disposing of those wastes has been implemented and proven safe. Sadly, the Federal Government's efforts to develop a permanent disposal facility have been characterized by repeated failures and miscalculations. The result has been a gradual erosion of the credibility of Federal nuclear waste programs. Mistrust of those programs has been manifested in a number of ways, most strikingly by the dozen States which have limited or prohibited the disposal of nuclear waste within their borders.

It is my belief that the technical problems of nuclear waste disposal can be solved, if we follow a deliberate, broadly based research program which explores a number of different disposal options. I am concerned, however, that even though the technical problems may be solvable, we will be unable to obtain the social consensus needed to go ahead with construction of the first waste disposal facility. The technical decisions which must be made will inevitably contain elements of risk and uncertainty, and will provide an easy target for criticism. No one will be willing to trust blindly in the Federal Government's ability to carefully weigh those risks. If the Federal Government tries to make these decisions in a vacuum, as it has done in the past, then its efforts will be doomed to failure.

We must recognize this fact and come to grips with it soon. We must realize that these decisions will not get the support they need unless extraordinary modifications are made in the decisionmaking process. Toward this goal, Senator Glenn and I introduced S. 742. The bill would require that State and local officials and concerned members of the public be able to participate in the formation of Federal nuclear waste policy. It would establish a process for the siting of permanent nuclear waste repositories which would insure that the concerns of citizens living near such facilities will be thoroughly addressed. Lastly, it would require improved coordination, organization and planning by the Federal agencies working on waste disposal, including the preparation of a comprehensive annual nuclear waste management plan.

In short, the primary goal of S. 742 is to broaden the Federal nuclear waste decisionmaking process by establishing clear channels for participation by State and local officials and concerned members of the public. The purpose of the Governmental Affairs Committee's hearing on the bill in Chicago was to obtain first hand the views and suggestions of these groups.

The committee received testimony from a number of distinguished witnesses in Chicago. The first witness was the attorney general of Illinois, William Scott, who has long been an effective advocate of nuclear safety and States' rights in the nuclear area. He was followed by a panel consisting of A. David Rossin, system nuclear research engineer for Commonwealth Edison; Catherine Quigg, the research director of Pollution and Environmental Problems in Palatine, Ill.; and Peter Cleary, staff physicist with Citizens for a Better Environment in Chicago. The testimony of these witnesses illustrated the divergence of opinion which exists on the nuclear waste issue, and clearly showed the need for balanced legislation which responds to the legitimate concerns of both sides of the issue.

The leadoff witnesses in the afternoon were Frank Beale, the director of the Illinois Institute of Natural Resources, who presented the testimony of Gov. Jim Thompson of Illinois; and Dr. Phil Gustafson, the vice chairman of the Illinois Commission on Atomic Energy. Governor Thompson has been a leader in the National Governors' Association on the nuclear waste issue, and his testimony will be of great use to the committee. Both witnesses expressed very forcefully the need for increasing the involvement of State officials in key Federal nuclear waste policy decisions.

The final panel of the day consisted of four witnesses who, in addition to addressing S. 742, also discussed whether the Federal Government should provide away from reactor (AFR) storage capacity for spent nuclear fuel. These witnesses were Sheldon Myers, Director of Office of Nuclear Waste Management, U.S. Department of Energy; Dr. Thomas Cochran, Natural Resources Defense Council; Eugene Voiland, manager, Morris Spent Fuel Facility, General Electric Corp. and J. Dexter Peach, Director, Energy and Minerals Division, U.S. General Accounting Office. Mr. Myers argued that Federal AFR capacity will be needed as early as 1983. Mr. Peach discussed a recent GAO report which concluded that DOE has grossly overestimated the short term need for AFR storage capacity.

It is my belief that there is ample opportunity for expansion of spent fuel storage capacity at reactor sites. If such onsite expansion is pursued aggressively, then there will not be a need for a Federal AFR until the late 1980's. For this reason, I currently oppose any legislation which would allow the Federal Government to acquire AFR storage capacity.

On behalf of the members of the committee, I wish to thank all of these witnesses for their fine testimony. They have gotten the committee off to a good start in its consideration of this difficult issue. I believe that the hearing clearly established the need for legislation strengthening the role of States, localities, and the public in the nuclear waste disposal decisionmaking process, and showed that S. 742 is on the right track in attempting to provide for such increased input. It also suggested improvements which can be made in the bill in order to make it more responsive and workable. The committee is looking forward to exploring those improvements in further hearings on the bill, and expects to report it out to the floor during the fall.

Mr. President, both Governor Thompson's and Attorney General Scott's testimony on S. 742 were excellent, and I commend their testimony to my colleagues who are interested in the nuclear waste issue. I ask unanimous consent that the text of their testimony appear in the Record at this point.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY PRESENTED BY THE HONORABLE FRANK BEAL ON BEHALF OF GOV. JAMES R. THOMPSON

INTRODUCTION

It is my pleasure to provide testimony today, to commend Senator Percy for his efforts to resolve a difficult and sensitive issue and to express Illinois' desire to contribute to the national debate regarding the management of nuclear waste.

Nuclear energy policy is clearly at a crossroads. Events at Three Mile Island, as well as past failures to deal with waste issues, have called into question the national commitment to nuclear power. I do not intend at this time to address all of the questions raised by that commitment, but instead will confine my remarks to the issues raised by Senate Bill 742. We must all keep in mind one essential point: even if we built no more nuclear plants and decommissioned all existing plants, we would still have a problem of nuclear waste. To ignore this fact is to ignore reality. Previous generations have made decisions that have produced nuclear waste. Our generation must manage it responsibly.

At the outset, may I clearly state that I am biased: I cannot help but favor any effort to increase the participation of Illinois and the other forty-nine states in the policy- and decision-making processes regarding both temporary and permanent storage of spent fuel. While there has been no lack of opportunity for public discussion of nuclear waste management issues, there has been a troubling lack of opportunity for state and local governments to help shape the policies and decisions made in this area.

Senate Bill 742 offers the first real hope that past practices will be moderated. This bill promises to be more than cosmetic—its provisions would permit states to be directly involved at several points in the process of determining how—and where—both temporary and permanent sites could be established.

I will not go into the history of the national failure to deal responsibly with the problems of nuclear waste. I am sure you know it too well. Suffice it to say that we have a hodge-podge of practices, with temporary sites that appear likely to become permanent, a search for so-called permanent sites that will take decades, and a federal government that gives lip service to the principle of federal-state cooperation.

It is my understanding that the current position of the Department of Energy with respect to the disposal of spent fuel rods and other high-level nuclear waste is as follows:

Use on-site storage at nuclear power plants to the maximum extent feasible and use away from reactor sites at Morris (Illinois), Barnwell (South Carolina), and West Valley (New York) for emergency and overflow storage on a "temporary" basis. The away from reactor (AFR) sites would be owned by DOE.

Continue the search for "ultimate" storage sites, probably in deep, underground geologic formations. The earliest this would be done is "sometime in the 1990's."

Work with the states in a process of "consultation and concurrence" carried out by the creation of an Executive Planning Council established by the President.

Let me speak briefly to each one of these points.

First, as I have said on numerous occasions, since Illinois leads the nation in nuclear generating capacity, we must assume our share of responsibility for the problems created by that reality. I could, in principle, support federal ownership and management of away from reactor temporary storage sites. In fact, however, I would point out to you that the Morris site was never designed as a storage facility, but as a reprocessing facility. Furthermore, if the federal government wants Morris as a temporary storage facility, what assurances do we have that the temporary won't become permanent as the search for the ultimate storage site continues. I am also concerned that the federal government is only looking at three temporary sites, all in the eastern half of the nation. Why not locate sites in the different regions of the country? Finally, no one has approached me directly on the question of purchase of the Morris site. I have only heard rumors, and that is part of the problem; a problem that Senate Bill 742 should help alleviate.

The issue of "ultimate" storage troubles me deeply. It is not unlike the search for the Holy Grail. The technicians have completely run away with the issue, turning the challenge into a test of the adequacy of the scientific community. It isn't a test. All we are asking for is the best available answer now, not the ultimate answer sometime in the next century. Most of the recommended solutions are medieval in character: deep underground, out in space, or in the oceans—in other words, out of sight, out of mind.

Instead of this pursuit of the ultimate, I would recommend a more reasonable approach that develops long-term storage facilities. These would be sites with continuous monitoring, redundant safety systems, and retrieval capability, but with substantially greater physical integrity than now exists at the so-called temporary sites. The advantages of this approach are that it is realistic and it can be implemented rather than waiting another decade to produce another round of studies.

On the third point, that of "consultation and concurrence," I cannot emphasize too strongly that the Executive Planning Council approach being contemplated by the President is not sufficient. That approach is full of good intentions, but experience to date indicates that good intentions are not enough. This issue is too important to be left solely in the hands of the Federal government with only cosmetic contributions from the states. It is for this reason that I prefer the approach as outlined in Senate Bill 742.

FAVORABLE ASPECTS OF BILL

Senate Bill 742 could be at least the first step necessary to restore the state's faith in the federal process of dealing with spent fuel. It addresses the institutional and political issue long ignored in developing an adequate nuclear waste disposal and storage program.

The bill would create two new entities—a Nuclear Waste Management Planning Council and a Nuclear Waste Coordinating Committee. The Council would consist of state and local elected officials and private citizens appointed by the President, including a Governor appointed as Chairman. The Committee would have one member from each relevant federal agency and one member from the Council. If enacted, this legislation would create for the first time a formalized structure of federal agencies and local and state officials to deal with the process of selecting a nuclear waste storage or disposal site.

Of particular interest to the states is the provision (Title 2, Section 201 and 202) which would establish a Nuclear Waste Management Planning Council. The establishment of the Council would create a channel of communication that would, at minimum, insure that state views were heard.

The federal concept of "consultation and concurrence" which has been used to describe the process in which the federal government would first consult with any state in which it had identified a potential nuclear waste storage or disposal site and then seek the concurrence of that state has proved insufficient in incorporating state participation. Should Senate Bill 742 become law, there would be for the first time a strong possibility that the nation's states could play a significant role in the formulation of national policies and programs relating to nuclear waste management.

It would also formalize a relationship that would permit dialogue between the federal and state officials who have an interest in regulations, standards and practices. It could improve the state's ability to comment on proposals and could better the means by which federal officials receive those comments.

We recognize that the President, through his Interagency Review Group (IRG) report, supports the concept of "consultation and concurrence" and recommends establishing an Executive Planning Council to improve communication among states and federal agencies on nuclear waste management.

While we feel that Congressional action should be held as a last resort, we also feel that the process of "consultation and Concurrence" has not fulfilled or satisfied the needs of the states in dealing with the issue of nuclear waste management. In addition, it appears that the federal government lacks the will and support for the creation of an Executive Planning Council.

Another provision of the bill (Title 3, Sections 301 and 302), which would establish a Nuclear Waste Coordinating Committee composed of federal agencies with responsibilities in the area of nuclear waste management, could bring progress. This provision is significant because it could alleviate some of the confusion that arises from the multiplicity of regulations and requirements for nuclear issues that now exist. Simply establishing procedures by which various federal agencies could communicate with each other would yield benefits.

Also of great importance to the role of the states in the nuclear waste program, is the provision (Title 4, Section 401 and 402) that would allow the formation of Nuclear Waste Repository Review Panels by the Governor of any state in which the federal government is considering the location of either temporary or permanent nuclear waste repositories.

While we feel that the issue of nuclear waste and nuclear power is in many senses a federal and national issue, there must be a mechanism for states to express their concerns and reservations, if any, regarding possible nuclear waste sites. It is the responsibility of state government to manage resources and to protect their citizens to the best of their ability. In this regard, it is appropriate for states to have a technical veto over any proposed nuclear waste site. This veto should be based on the merits of the site and the health and safety of the surrounding population.

The opportunity of obtaining accurate, timely information relating to federal intentions, the opportunity to participate in determining whether or not a site is suitable, and the right to comment at an early date, are extremely important and lacking at present.

The Congressional Review Procedures (Title 3, Section 403) appear to offer adequate recourse in the event that state and local governments believe their interests have not been considered properly or that federal actions are being taken without due caution. Congressional Review essentially would constitute a Court of Last Resort where evidence could be weighed in the light of public scrutiny rather than within a particular federal agency not directly accountable to the nation or the states.

Senate bill 742 addresses for the first time the reality of the political process in siting nuclear waste repositories. While states must take a responsible view of nuclear waste management, they must also be afforded the opportunity of dealing with the federal government on an explicit and formalized level. I strongly favor the concept of making Congress rather than federal agencies the arbiter in the event that an impasse occurs regarding certain types of nuclear waste management decisions.

RECOMMENDATIONS

In light of what I have said thus far, it should be no surprise that I recommend the following: the provision establishing state participation and naming Congress as arbiter in the event of certain disputes must not be weakened, however slightly.

Indeed, I would support even stronger guarantees of the protection of state participation should reasonable measures of this nature be advanced for consideration.

But I recognize that there are risks involved in opening up the process to greater involvement by state and local governments; I know the delicate balance could be tipped too far and could result in stalemate.

There are difficult choices to be made; the ultimate disposal technology simply does not exist, despite the convictions of technicians; and it is unreasonable to expect that any state will accept the grave responsibilities of nuclear waste storage within its borders without seeking the strongest possible assurances that the material will be safely cared for by the federal government until permanent storage sites are developed.

CONCLUSION

Senate bill 742 is a step in the right direction, one that must be accompanied by other steps if we are to move forward.

If passed, it will mark the beginning of a new, more rational era of cooperation between the states and the federal government in coming to grips with one of our most difficult problems.

This legislation could benefit Illinois and the other states, and it is a privilege to voice support for Senate bill 742.

I do hope, however, that the host of other necessary steps follow quickly. We as a nation have far to go toward establishing both policies and programs that will help insure that the choices we have already made—to use nuclear energy to our benefit—do not pose unacceptable risks to society.

TESTIMONY OF THE HONORABLE WILLIAM J. SCOTT

Senator Percy, Senator Glenn, members of the Senate Subcommittee on Energy, Nuclear Proliferation and Federal Services, I would like to thank you for permitting me to present some of my concerns about nuclear waste. I am pleased that Senators of the caliber of our own Chuck Percy and John Glenn of Ohio have shown such leadership in attempting to solve some of the critical problems of nuclear waste management. I would also add that Senator Percy's decision to endorse a limited moratorium on new nuclear power plant licensing until some of the safety questions can be resolved is a further testament to his commitment to a safe nuclear energy policy.

The Subcommittee's choice of Illinois as the site for this hearing demonstrates its recognition that Illinois has an enormous stake in the development of a sound nuclear waste policy. There are at the present in Illinois seven operating nuclear reactors, eight under construction, more on the drawing boards plus a number of experimental reactors. In addition, Illinois is the home of both the low level waste site at Sheffield, which is now closed, the General Electric Morris Spent Fuel Storage Facility, and scattered spent fuel pools on reactor sites throughout the State. An unsafe or ill-conceived nuclear waste policy would be catastrophic to Illinois.

Before I discuss the problems of nuclear waste management I would like to bring a matter to the attention of the Committee which has received little if any attention on the national level. There are in Illinois as in other states abandoned radioactive waste sites. The sites are the result of industrial and defense-related activities many years ago which used radioactive material. The material was simply buried or piled at a site or carted away to some other dumping spot. In West Chicago, Illinois, for example, scientists have discovered almost 80 sites containing thorium, a radioactive rare earth element, which was used by a West Chicago corporation for many years for making gas mantles. Thorium has been discovered in people's yards, in a public park, in the town sewage treatment plant and migrating into drinking water supplies. The NRC has not accepted responsibility for the clean up of many of these sites because it contends that the material was not buried pursuant to an AEC or NRC license and the Department of Energy feels its responsibility to deal with abandoned nuclear waste sites is limited to those sites used for the old Manhattan project. No estimate exists of the number of such sites nationally but a conservative figure would be several hundred. No federal agency has been willing to deal with this problem and in the meantime our citizens continue to be exposed to this radioactive material.

The lack of a sound method for nuclear waste disposal is the most critical problem in the nuclear waste field today. Few groups aside from the nuclear industry itself argue that we have today a sound method of disposing of radioactive waste. Reports issued within the last two years by such bodies as the United States Geological Survey, the Office of Science and Technology Policy, the Jet Propulsion Laboratory, and a group of earth scientists on behalf of the United States Environmental Protection Agency all agree: uncertainties in the present state of technical knowledge make it impossible to conclude that we have a proven method of disposal of nuclear waste. In other words, technologically we cannot protect the public from the hazards of radioactive waste. Even the Interagency Review Group on Nuclear Waste Management (IRG) has acknowledged these uncertainties and admitted that disposal in salt—our primary candidate for geologic disposal—is fraught with more uncertainties than heretofore was thought. The Review Group's Report even expresses doubt about the Waste Isolation Pilot Project. This conclusion has been underscored by public pronouncements by such IRG leaders as Under Secretary of Energy Worth Bateman. In April at the meeting of the Nuclear Power Subcommittee of the National Governors Association he declared that WIPP may be dead because of the uncertainties about the use of salt.

While we struggle to develop a long term solution nuclear waste accumulates and we proceed at full speed with the development of new nuclear facilities. The implications of this policy are clear. In a couple of years we will be forced into making decisions about the disposal of nuclear waste which are environmentally undesirable because we will have backed ourselves into a corner! We cannot continue to refuse to address the question of whether future increased dependency on nuclear energy should be linked to the development of a proven nuclear waste disposal technology. The NRC—as it has acknowledged—has refused to entertain this question in rulemaking or in licensing proceedings. The Department of Energy will not deal with this question and the Interagency Review Group refused to even discuss the issue despite strong urging from countless States and other interested parties for it to do so. In addition, the President has not addressed the question. I hope you will take the initiative to see that this important matter is confronted on a national level.

The lack of technology has led to the adoption of a number of interim policies whose soundness is subject to debate. In 1977 the President announced that the Federal Government, for a one time fee, would accept commercial spent fuel for permanent disposal. Because we do not have permanent disposal capability the Department of Energy has proposed the creation of one or several away-from-reactor storage facilities ("AFR's")—places where spent fuel can accumulate on an interim basis forever! AFR's represent a non-solution to the problem of nuclear waste management. AFR's are a stop gap which make a permanent solution less likely because they relieve the pressure to develop a permanent solution. In addition, AFR's represent the further proliferation of nuclear facilities and create additional transportation hazards. Finally, the storage of spent fuel for long periods of time in large pools is an unproven technology which may create serious environmental problems. The creation of AFR's is not a sound idea and I urge that Congress defeat the Spent Nuclear Fuel Act of 1979.

It is critical that those who are affected by major decisions about nuclear waste have a voice in making those decisions. The states can and should play a major role in the development of nuclear waste policies and a host state should play a critical role in the decisions regarding the siting of a nuclear waste facility within its borders.

The role of the states in nuclear waste management decisions should be a major one, exercised at the highest levels of government on a continuous basis with the full range of state perspective represented. The mechanism for assuring the adequacy of the state input should not be dependent upon the sentiments of the President or the head of a government agency, rather it should be established by legislation.

A host state should play a major role in the decisions preliminary to the siting of a nuclear waste facility within its borders. Its input should begin early and cover all technological and institutional aspects of the project. Advancement from one step to the next in the project should be conditioned upon the lack of serious objection by that state, for technological and institutional reasons, to the project at that stage. In addition, suitable financial arrangements must be made to assure that a state has sufficient technical assistance to evaluate the project adequately.

In addition, there should be a mechanism for public hearings near the site of a proposed nuclear waste facility so that the public can express its opinions regarding the project.

Finally, the cost of nuclear waste management should be borne by those who have been recipients of the benefit of that nuclear power. To do otherwise is to create a subsidy for the power generating companies and the present users of power at the financial expense of consumer in future years. Sound fiscal planning, and good economics, demands that all costs incurred by such activities be internalized so that such costs are taken into account in the planning process.

Section 274, the Nuclear Waste Reorganization Act of 1979 introduced by Senators Percy and Glenn will provide a sound and a comprehensive basis for nuclear waste management decision making. Among the Bill's features are the following:

1. It centralizes nuclear waste responsibility within a single independent office;

2. Establishes procedures for the implementation of a nuclear waste management policy;

3. Establishes a nationwide council of states, for nuclear waste management decision making; and

4. Provides for the meaningful participation of a host state in the decision of

whether to locate a nuclear waste disposal site within its borders.

The Bill addresses many of the problems of nuclear waste management. I suggest several modifications to the Percy-Glenn Bill to strengthen it:

1. The bill should provide host state participation in decision-making in the creation of an AFR's within its borders. The establishment of AFR's raises numerous environmental, technical and institutional questions and the affected state should play a significant role in the development of such facilities in a manner similar to that proposed for the siting of permanent disposal sites.

2. There should be more than one opportunity for a state to non-concur. If a State has an objection to a nuclear waste site at an early stage in the project it is appropriate that it be able to raise that objection at that time so that the problem may be dealt with most effectively. Providing more than one opportunity for non-concurrence reduces the likelihood that a State will experience undue pressure to approve a project because a lot of time and money has gone into its development even if it does not feel the project is sound.

3. It is important that the Nuclear Waste Management Planning Council reflect the range of views of states and consist of a variety of different state officials, including the appointment of an Attorney General.

4. If a recommendation of the state Waste Management Planning Council is rejected by a Federal agency this should be brought to the attention of the President and the Congress.

5. A separate federal agency to manage nuclear waste should be established rather than using the Department of Energy. It is unwise to place waste management responsibility in the hands of the Department which has the conflicting additional role for providing nuclear power.

I have several other comments regarding S-274 which I have attached as an Appendix to this testimony. Thank you for allowing me to speak today.

GRIFFIN BELL: A REEVALUATION

Mr. PERCY. Mr. President, it is not easy nor is it a regular occurrence when an elected official admits that he made a mistake when casting a vote. However, I believe that it is important for legislators to acknowledge their mistakes; I have done so before and I do so again today. Griffin Bell's recent resignation prompts me to publicly state my reevaluation of him as a man and as the Attorney General of the United States.

On January 25, 1977, I expressed concerns about the nomination of Griffin Bell as Attorney General of the United States. At that time, I outlined what I believed to be the fundamental criterion for an Attorney General: "Will the Attorney General designate be independent of all outside political forces?" Given what I knew about Griffin Bell's lifelong friendship with the President, I concluded that this was not the best appointment that could be made. I believed that in an administration that promised a fresh start from the cozy relationships of the past, President Carter's appointment of Griffin Bell was a mistake. Therefore, I voted against his confirmation as Attorney General.

In keeping with my personal philosophy that an elected official must retain an open mind, I have paid particularly close attention to Griffin Bell's actions as Attorney General. Much of what I have seen has pleased me greatly.

He has made a series of distinguished appointments to high-ranking and important positions in the Justice Department. For example, his selection of Judge William Webster to head the FBI helped restore public faith in the revitalization of that agency. By bringing in a distinguished jurist who had no affiliation with the FBI during the Hoover era, Attorney General Bell demonstrated his sincere conviction that the integrity of that agency must be restored without duplicating the errors of the past.

Similarly, I applaud Judge Bell's decision to retain Peter Bensinger as Administrator of the Drug Enforcement Agency. I believe Mr. Bensinger has done an excellent job in carrying out the difficult mandate of this agency and I am gratified that Attorney General Bell has not allowed partisan politics to cloud any judgment of Mr. Bensinger.

With his own staff, Attorney General Bell selected a distinguished group of Assistant Attorneys General. He made a sincere effort to compile a high-quality and balanced staff. Selections such as Drew Days III as Assistant Attorney General in the Civil Rights Division, Pat Wald as Assistant Attorney General in the Office of Legislative Affairs, and Barbara Babcock as Assistant Attorney General in charge of the Civil Division won him high praise throughout the legal profession.

But Attorney General Bell's accomplishments go beyond simply selecting good people. Substantively, Attorney General Bell has been confronted with some very difficult issues, and he has not shirked his responsibility.

For example, he led the fight within the administration to require a criminal standard as the basis for obtaining a warrant to conduct electronic surveillance in countering foreign intelligence in this country. Attorney General Bell persuasively and properly argued that a weaker standard would do violence to our most basic principles of due process and justice, and that the Nation's judges could be trusted to review serious matters of national security. His arguments had a major impact upon the final version of the Foreign Intelligence Surveillance Act which passed overwhelmingly in the Senate last year and ultimately became law.

Most importantly, Attorney General Bell has demonstrated an independence of spirit and action that has placated even his most strident critics. Contrary to my own initial concerns, Attorney General Bell did not in any way misuse his close personal relationship with the President; in fact, he performed admirably in protecting the Department of Justice from political pressures.

All in all, I find that Attorney General Bell met the standards of nonpartisan justice that every great Attorney General must meet. If at the time of Attorney General Bell's nomination, I knew what I now know, I would have enthusiastically supported his appointment. Mr. Bell's resignation is not something that I welcome; he did a fine job as Attorney General.

Mr. President, at the conclusion of my remarks, I ask unanimous consent that an article by Nina Totenberg, entitled "For the U.S.: Griffin Bell, Esq.," which appeared in the Washington Post magazine of July 1, 1979, and an article entitled "Bell: How Will History Judge Him?" by Robert Pear, which appeared in the May 21 Washington Star, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

FOR THE U.S.: GRIFFIN BELL, ESQ.

(By Nina Totenberg)

A few days after Griffin Bell took office as attorney general, a staff aide came racing into Bell's office. "The White House just phoned," the aide said breathlessly, "and they want us to . . ." "Hold on there," drawled Bell, holding up his hand like a cop stopping traffic. "Buildings don't call. People call."

Since that day, Bell has made it clear to the White House staff that if they want to deliver a message to the Justice Department, it should be delivered to the attorney general or one of his two deputies.

"That phone message, 'The White House is calling,' is calculated to upset the people on the other end of the line," says Bell, "and I don't want my people being upset."

Griffin Bell upset plenty of people two years ago when he was appointed. Liberals and Republicans were critical of the appointment because they feared Bell would be too cozy with his old friend President Carter. And there was every reason to worry. In the past two decades the Justice Department has been strongly tied to the White House. Robert Kennedy, John Mitchell, Richard Kleindienst—each was a presidential campaign manager, or close to it, who became the top law enforcement official in the nation. The dangers of that arrangement were clearly demonstrated by Watergate. And in 1977 the worry was that the Justice Department, after a period of relative neutrality under Edward Levi, would once again become politicized under Griffin Bell. The Marston affair seemed to confirm that fear.

But as Bell prepares to leave the Justice Department now, he is proud of the fact that he has erected a giant barrier between his department and the White House. Whether the Justice Department will be as independent after Bell leaves remains to be seen.

Bell said from the beginning of his tenure that he would not stay on at the Justice Department until the 1980 election. And he hasn't loved life in the nation's capital. In fact, his wife has returned to Atlanta and Bell lives alone here, going home on the weekends. Bell misses law practice. Sometimes, he says, "I just long to have a client walk into my office and ask for my help."

In legal circles, Bell is not viewed as a "great" attorney general. But in terms of what he set out to do, to establish a "nonpartisan neutral zone," he may have left an important legacy.

Another legacy Bell leaves behind is 152 new judges to fill newly created judicial seats. No other attorney general in history has been responsible for choosing so many new federal judges. Presidents, of course, appoint judges, but in the Carter administration Bell has held almost all the power on judicial appointments.

On policy matters, Bell has emerged as nonactivist, middle-of-the-road, neither liberal nor conservative, but a hardliner on issues of national security and law and order.

He likes to let the various division chiefs run their own shops, but he is a strong man who is quick to act if something offends his sense of integrity, the rule of law, or his sense of patriotism.

Bell's emphasis on integrity, the rule of law and patriotism is not surprising in view of his background and his 15 years as a Court of Appeals judge. He has every reason for putting his faith in this system; it has been good to him. Griffin Bogette Bell has advanced in life from part-time clerk in his father's service station in South Georgia to being one of the most powerful men in America.

At 60, Griffin Bell looks something like a bemused bird, who watches the goings on in the nation's capital with alternating irritation and amusement. He clothes himself more in the trappings of Wall Street than Atlanta—Brooks Brothers suits, narrow ties, dark-rimmed glasses, and close-cut hair. But the face is right out of Huck Finn—eyes twinkling, nose twitching, ears sticking out from his head.

Bell's style is strictly informal. When he took office, for example, he immediately made public his daily appointment and telephone log—something no other cabinet officer has done. He starts each day at an 8 a.m. breakfast with his staff. It's not a business breakfast, and journalists, bar leaders, even congressmen are invited to join in. Ideas are tossed around, columnists occasionally berated, and jokes traded.

He uses humor artfully. Often to make a point or win an argument. When a cabinet officer pushed Bell hard to bring a case the attorney general thought was a loser, Bell finally said, "You're not asking me to be your lawyer, you're asking me to be your pallbearer."

Jokes at his own expense are a Bell specialty. When a federal district judge in New York cited Bell for contempt for refusing to turn over the names of FBI informants in the Socialist Workers Party suit against the FBI, a friend sent Bell a hacksaw. Bell, so far, has not had to saw his way out of jail (the contempt citation was reversed on appeal), but he had the hacksaw mounted on the door to his office. He gave the saw to Health, Education and Welfare Secretary Joseph Califano when Califano was threatened with contempt of court. Califano reportedly was not amused.

Bell also is not the least bit afraid to use his wit at President Carter's expense, as he did in a speech to the Alfalfa Club:

"President Carter . . . is a man of great courage. His entire career epitomizes courage. On his desk sits Harry Truman's great plaque—'The Buck Stops Here.' It was this courageous, steely-eyed, determined president who turned to his aid and said, 'Hamilton, you fire Bella.' "

Not many people can joke that way about the president and get away with it. But the consensus is that Griffin Bell and Charles Kirbo are the two men the president respects and trusts most. And it was Bell who first put Carter in touch with Kirbo. But the relationship between Carter and Bell is not one between two old pals chewing the fat together. There are even reports that Bell is frustrated because he is never invited over to the White House for a personal visit. Rather Carter seems to treat Bell more like a respected, distant and older brother. And like all older brothers, Bell does pretty much what he wants. He doesn't bend to pressure, even from the president of the United States. In fact, Bell has been so successful at insulating the Justice Department from political pressures that many in the White House complain they have no input on legitimate policy matters. "You elect a president because of a certain philosophy," argues one upper-level White House aide, "and you expect that philosophy to be carried out. The White House should have a role in determining what briefs the solicitor general files, what civil rights cases are brought, what civil cases are defended. To say, for example, that the White House shouldn't get involved in the Bakke case, as Bell originally did, is just crazy!"

So Griffin Bell's stewardship of the Justice Department is something of a case study in how an apolitical Justice Department can affect the body politic.

Perhaps no case tested Bell's resolve more than a police brutality case from Texas, known as Rodriguez. Bell's actions on the Rodriguez matter showed him willing to incur the wrath of the president and a powerful political group in order to preserve what Bell viewed as the rule of law.

Santos Rodriguez was a Mexican-American youngster killed by a Texas policeman in a game of "Russian roulette." The policeman was tried, convicted and sentenced to only five years in prison. The Mexican-American community wanted the Justice Department to intervene on federal grounds, and to prosecute the policeman on federal civil rights charges. President Carter got interested in the case when he was asked about it in Texas and shown pictures of the youngster's body.

The case came to Griffin Bell's desk last summer with a recommendation from the civil rights division that there be no second prosecution. The civil rights division felt that to try the policeman on federal charges would be a violation of the Constitution's ban on double jeopardy. Bell agreed with this conclusion and made the decision not to prosecute. Then he left on a trip to Australia.

By all accounts, while he was gone, all hell broke loose. President Carter called a Mexican-American state legislator in Texas and told him he was embarrassed by the attorney general's decision not to prosecute. A group of Mexican-Americans then met with Vice President Mondale and Mondale arranged for them to see Deputy Attorney General Benjamin Civiletti. The president called Civiletti to ask him to reconsider the decision, and Civiletti began a review of the file. Civiletti describes the president's tone of voice as "angry" and "concerned."

Later the same day Civiletti met with the Mexican-American group for several hours. As Bell aide Terry Adamson describes it, "We were in a quandary. We'd hoped to reach Judge Bell. While the Mexican-American group waited in Ben's office, we kept trying, but we couldn't locate the judge. Finally, Ben called the president back and told him he would stick with the attorney general's decision." The president and his staff were furious. Even the Justice Department's antitrust chief faced caustic remarks about the case when he went to the White House to discuss a wholly different matter. And a Bell aide quotes Carter's domestic adviser Stuart Eizenstat as remarking acidly one day. "You just cost us Texas."

When Bell returned from Australia, he was incensed. As Civiletti describes it, "Bell perceived this as an attempt by the White House to influence a decision which was properly a Justice Department case. He was particularly mad because it was done while he was away, and he saw it as an attempt to get the deputy to cave in in his absence."

Bell himself says the Rodriguez case was "the greatest crisis I've had with the president. The president felt strongly the policeman should be prosecuted by the federal government. We made a decision through the normal process not to prosecute. So the issue was, Could a prosecution be directed from the White House, or is that a decision vested in the attorney general? The president realized eventually that it was up to the attorney general, and that his remedy was to fire the attorney general." Bell drawls on, "The president didn't think my crimes were high enough for me to be removed." The end result of the Rodriguez case it that it showed everyone in the administration that Griffin Bell didn't mind getting fired to make a point, and that he wasn't going to get drawn into political consideration deciding whether to prosecute a case.

A footnote to the Rodriguez case: Bell was so impressed by Deputy Attorney General Civiletti's toughness in the face of White House pressure that Bell now wants Civiletti to replace him as attorney general. Some in the White House prefer Deputy Secretary of State Warren Christopher. Bell says he has recommended both men.

Bell is one of those people who learns lessons well, and the lesson he learned from the Marston affair is that the appearance of impropriety is what counts, even if the reality is proper.

David Marston was the Republican holdover U.S. attorney in Philadelphia who succeeded in humilitating the Carter administration with charges of playing politics with justice.

Justice Department officials insist that Marston was never involved in a Justice Department investigation, being run from Washington, of political corruption in Pennsylvania. In November 1977, one of the targets of that investigation, Democratic Rep. Joshua Eilberg, called President Carter to complain about the investigation. U.S. Attorney Marston was briefed on the call, and the story leaked to the press. A furor followed. Marston accused the administration of playing politics with law enforcement. Bell called Marston to Washington to tell him he would have to leave, but the attorney general asked Marston to stay on until a replacement could be found. Marston refused and went outside to tell a mob of waiting reporters that he'd been fired.

Eilberg was eventually indicted and convicted, but Bell was horrified by what he admits was his own "mishandling" of the affair. "I should have followed my first instinct," says Bell. "I should have let Marston go at the beginning when all the other U.S. attorneys were asked to resign. I got talked into letting him stay on." Bell says the Marston affair set back his getting a handle on the Justice Department by three months.

So when the Carter Warehouse investigation began to bubble ominously in the media, and when Republicans began demanding a special prosecutor, Bell decided it was time to forego his initial opposition to a special prosecutor. Still, Bell hated the term "prosecutor," and when he appointed New York's Paul Curran to head the Carter Warehouse investigation, he dubbed him a "special counsel." Originally Bell didn't give Curran all the powers that Special Prosecutor Leon Jaworski had had. But when the Republicans began to howl in protest, Bell readily relented. Why did he change his mind? "This thing was creating a distrust in the presidency," says Bell. "Something had to be done so that a responsible investigation could be made and a report given to the American public." Simply put, Bell had worked too long and too hard to bring back respect to the Justice Department for it to evaporate in the Carter Warehouse investigation.

Griffin Bell is an expert at protecting his territorial turf. When the White House staff quietly got President Carter to reverse a Justice Department position in a major environmental case before the Supreme Court, Bell went to Carter personally and prevailed. Then, to teach the White House staff a lesson, Bell argued the case before the Supreme Court.

In the Bakke case, Bell did not get his way so thoroughly. But the Bakke case illustrates more than internal policy pulls. It shows Bell's basic conservatism and his belief in meritocracy. The Bakke case tested whether affirmative action programs in university admissions discriminate unconstitutionally against whites. Originally, the Justice Department brief argued that Bakke should win the case and be admitted to the University of California Medical School at Davis. As one White House aide put it, "When we saw that brief, we got hysterical. We finally went to the vice president to get him to intervene with the president." Mondale did. And the pressure began to mount. HEW Secretary Califano asked Bell to change the brief. The Black Caucus met with Bell to protest. Mondale, Robert Lipshutz, the president's counsel, and Eizenstat, held a meeting with Bell. The three White House heavies were alarmed the administration would side with Bakke. Bell, according to his aides, was angry at being pressured, and he felt a special loyalty to the two men who had been working on the brief. Solicitor General Wade McCree Jr. and Assistant Attorney General for Civil Rights Drew Days. Bell ordered McCree and Days to lock themselves in a room and work out a final draft.

When McCree and Days settled on what they would say in the brief, McCree phoned Bell. It was Saturday, and Bell was in his office. Bell typed out a summary of the principles himself and sent aide Terry Adamson to deliver the summary to Eizenstat at the White House. That afternoon Bell flew with Vice President Mondale by helicopter to Blackhill Falls, W. Va. When the attorney general got off the helicopter, there was a message that the White House was calling.

Adamson went to the phone. It was Eizenstat with the message that the president had seen the memo of principles and was satisfied. The attorney general could proceed. The brief filed with the Supreme Court sided basically against Bakke. But while Bell may have lost the internal debate on the question of meritocracy and affirmative action, he at least felt he protected his own staff.

That loyalty to staff was illustrated again in the Feeney case, the case testing whether absolute preference for veterans in public employment unconstitutionally discriminates against women. The Justice Department filed a brief with the Supreme Court arguing that absolute preference is constitutional. Bell says he didn't know about the brief. When the president and his staff learned about it, they were appalled because the president had taken exactly the opposite position in his civil service reform legislation. "When the president asked me about it," Bell says, "I didn't know . . . It was the blind leading the blind." But Bell still refused to recall the brief, apparently feeling that such a move would unduly embarrass his solicitor general. Nonetheless, the flap over veterans preference led to a formal meeting between domestic adviser Eizenstat and Bell in which Bell agreed to institute a review system for briefs on major policy issues going to the Supreme Court.

Bell's decisions in these cases show his operating style on a day-to-day basis. He's independent, flexible, not afraid to change his mind, and loyal to his staff and his principles.

But politics is politics, and Bell is a good old-fashioned Southern politician. Some inside the administration view him as the second most powerful man in America, more powerful than Vice President Mondale. It is a testament to Bell's power that no White House staffer inteviewed for this article was willing to be quoted by name saying anything critical of Bell.

Bell carefully picks fights he thinks he can win, and there are some fights he thinks are not worth using his chips on. For example, when Carter named the first batch of judicial screening commissions, Bell was appalled. They were loaded with what Bell called ECSs—Early Carter Supporters. But Bell knew that the president's powerful political adviser Hamilton Jordan was responsible for the lists, and Bell didn't think he could win this fight with Jordan. So instead Bell insisted on appointing the committee chairmen. He figured he could control the commissions through them, and to a large extent, he has. Bell openly admits, "The saving grace was the chairmen I appointed."

Bell knows that the business of appointing judges is, by its very nature, political. He once observed that in his own case, "becoming a federal judge wasn't very difficult. I managed John F. Kennedy's campaign in Georgia. Two of my oldest and closest friends were the two senators from Georgia. And I was campaign manager and special unpaid counsel for the governor."

Today, Republicans grumble that under Bell less than a handful of Republicans have been appointed to the federal bench. Bell responds deadpan that the Carter administration doesn't have any "affirmative action program for Republicans."

The Carter administration will leave a giant imprint on the nation's judiciary because, by the time 1980 rolls around, this president will have appointed nearly half of the sitting federal judges in the country—and those judges have life tenure and will remain on the bench for decades.

So it was that women, blacks and Hispanics looked to these appointments as a rare opportunity to increase their meager numbers on the federal bench, and President Carter promised he would do just that. Carrying out that order, Griffin Bell publicly embarked on a campaign to bring more women and minorities into the federal judiciary. But in recent weeks, women and blacks have denounced the Carter administration for failing to carry out that promise.

Inside the Justice Department, women and blacks say that Bell is deeply committed to his affirmative action program, but they say he is having a hard time persuading senators—who traditionally control judgeships—to pass over their white male buddies in favor of women, blacks, and Hispanics. Bell can blame the senators for lagging on district court judgeships. But he cannot so easily blame senators for the record on circuit court judgeships. The screening panels that recommend these judicial candidates are appointed by President Carter, and senators have much less influence. The Circuit Court of Appeals screening process for 35 newly created appellate judgeships is now complete. The screening panels have recommended 138 names from which the 35 are to be chosen. Of the 138 names, 103 are white male.

Mildred Jeffrey, the chair of the National Women's Political Caucus, calls the record "a disgrace." Brent Simmons of the NAACP Legal Defense Fund calls it "an affront to blacks and Hispanics." He says the record is "appalling," that it "hardly qualifies even as a token." Junius Williams, the president of the black National Bar Association, calls it "a continuation of the good ol' boy corporate elite syndrome."

Attorney General Bell notes, with justification, that no other administration has ever appointed so many blacks, women and Hispanics to the federal bench. But the fact is the women and minorities expected more.

One Bell blind spot appears to be his home state of Georgia where his old friend Henry Bowden is chairman of the District Court screening commission and a member of the Fifth Circuit screening commission. On January 22, 1979 Bowden wrote a letter saying that the commissions "should make no effort to make sure that some black, some woman, some white, some man, or some Chicano should be included" in the selection process. Despite Bowden's forthright rejection of an executive order to seek out minorities and women, Bell has consistently defended his old friend, and the attorney general says he has no intention of asking Bowden to resign.

In the civil rights and civil liberties community, Bell has been heavily criticized for his judicial appointments record in his old circuit, the Deep South. The Southern Regional Council recently issued a report that concluded: "Race is still a burden and politics remains king in the appointment of federal judges in the South today."

On Capitol Hill, Bell is a glowing personal success. He has negotiated a number of legislative compromises, and this year he seems finally on the threshold of getting passed a major recodification of the nation's criminal laws. The key to this prospective turnaround is Bell's winning over of liberal Rep. Robert Drinan (D-Mass.), formerly a stalwart opponent of recodification, who chairs the House subcommittee handling the bill.

Sen. Edward Kennedy, the chairman of the Senate Judiciary Committee, treats Bell with uncharacteristic respect, avoiding embarrassing questions with a vengeance. Bell gets along with the minority Republicans well too, though Robert McClory, the ranking Republican on the House Judiciary Committee says he still views Bell as "a Democratic partisan."

Bell also wins highest praise for the people he has brought to the Justice Department, lawyers of the highest caliber, many of them from the public interest sphere.

He has proven himself perceptive and compassionate as a manager. He is not one of those people who put management goals above personal needs. The system has paid off, at least in the case of Assistant Attorney General Daniel Meador. Eighteen months ago, Meador went suddenly blind. He immediately sent his resignation to Bell. But Bell refused to accept it, saying that as long as there was nothing wrong with Meador's mind, he should stay on the job.

Meador stayed, and he now gives Bell credit for giving him the will to continue. As it turns out, Daniel Meador has been one of Bell's greatest assets. Meador drew up the court improvements legislation that Bell pushed through Congress—legislation that is one of Bell's proudest accomplishments.

Griffin Bell's greatest legacy, however, may be his work in the field of intelligence. The decisions he has made on cases and the policies he has set in this field will be remembered long after he has gone. Bell brings to the intelligence field his deep sense of old-fashioned patriotism, a judge's faith in the courts, and an insistence that the government must be protected at all costs.

He is not a knee-jerk patriot. For example, Bell and Vice President Mondale fought hard when the wiretap bill was being debated inside the administration. They wanted a criminal standard—a bill that would require the government to show a violation of federal law before it could get a warrant to conduct an electronic surveillance. They were opposed by Defense Secretary Harold Brown and CIA Director Stansfield Turner. Bell and Mondale won, in part because Bell argued so persuasively that federal judges could be trusted with the nations secrets, and that the rule of law required a criminal standard and a warrant system. The historic foreign intelligence wiretap bill passed Congress and now is the law of the land.

But in the actual cases that Bell has had to decide for the Justice Department, he has been a hardliner. Take the case of Vietnamese expatriate David Truong and USIA employe Ronald Humphrey, prosecuted for espionage. The documents Humphrey and Truong were charged with taking were of the lowest classification, almost all labeled only confidential and a couple labeled secret. In spy terms, that simply is not information worth having. But Griffin Bell prosecuted Humphrey and Truong to the limits of the law. Both Humphrey and Truong were convicted. Bell now admits that the Humphrey case was a "pitiful" one and that Ronald Humphrey was charged with stealing "marginally classified" documents. But Bell adds, "You have to go against an American citizen harder than a foreigner. He stole our secrets. He has to pay for it."

The Snepp case is another example of Bell's strong view of his role as government protector. Frank Snepp is an ex-CIA employe who wrote a book savaging the CIA's performance in Vietnam. Although CIA Director Turner testified that the book revealed no classified information, the Justice Department went ahead with a suit against Snepp, charging the former CIA man with breach of contract in writing a book without clearing it with the CIA. Griffin Bell personally authorized the suit despite reservations expressed at the lower levels of the Justice Department.

Just recently, in The Progressive case, Bell once again overrode department recommendations and took a hard line. This time his object was to stop publication of an article about nuclear weapons—even though the information appears to have been available to the public for years.

However, in two intelligence cases that Bell inherited from the Ford administration, Bell was more willing to make compromises.

The first case involved charges that former CIA Director Richard Helms lied to a congressional committee. During his confirmation hearings as ambassador to Iran, Helms allegedly testified falsely about the CIA's role in Chile. Edward Levi, then attorney general, couldn't bring himself to decide whether Helms should be prosecuted or not, and the question was left in Bell's lap.

The difficulty was that the case, if it went to trial, would require a discussion of some national security secrets in open courts. As Bell tells it, "The Helms case was almost impossible. The only way I ever got that case compromised was based on Helms' patriotism. He was accused of not telling the Senate the truth to protect the foreign intelligence. So there was no way I could ever believe he would defend himself by giving away the foreign intelligence secrets. I knew that somewhere along the way he and his lawyer would have to face that, and that's the way it worked out. Once it was faced, we worked out a compromise." (Helms pleaded no contest to a misdemeanor of failing to tell the full truth to a congressional committee.) "Helms could have gotten out of it," Bell maintains, "but that would have been contrary to his whole life."

There are those, like the ACLU's Mark Lynch, who say Bell's weakness is that he's a "patsy' for the intelligence community. Such charges that Bell is soft on the intelligence community when it commits wrongs are supported, at least in part, by his decisions on who to prosecute and for what, in the FBI case. That case, also inherited from the Ford administration, involved an investigation of some 60 FBI agents and higher-ups for illegal break-ins, burglaries, wiretaps, mail covers, and the coverup of those activities when they were investigated by the GAO and the Senate Select Committee on Intelligence. Bell says the decision on whom to prosecute and whom not to prosecute in the case was the toughest of his tenure. He sees FBI agents and CIA directors in an entirely different light than CIA men who write books. He has no tolerance for whistle-blowers in the nations intelligence community. But he has enormous sympathy for intelligence officials who violate the law in the course of their duties.

Thus, he insisted that only the three top former FBI officials be prosecuted, and he authorized only the most limited kind of prosecution. He did not want to indict any FBI men for perjury because he felt that, in law enforcement terms, perjury amounted to moral turpitude.

That, at least, is the view of the prosecution team which quit en masse rather than handle the FBI case the way Bell wanted. The five-man team headed by Justice Department Attorney William Gardner wanted to indict eight top current and former FBI officials.

In the FBI case Bell was faced with a highly controversial case, a case he has been criticized for handling too softly and too harshly. Bell thinks he resolved the case in an egalitarian way. Others disagree, most importantly his first prosecution team. In this case Bell chose to overrule his subordinates because he viewed them as shortsighted and because he thought that to follow their recommendation would damage his effort to rebuild the FBI.

When the Gardner team quit, Bell appointed a new prosecution team that did what he wanted. Paul Hoeber, a former team member, notes that Bell has shut down all but a very small part of the investigation. The prosecution now underway, say Hoeber, doesn't touch the illegal wiretapping, the illegal mail opening; it doesn't touch the coverup before the Senate Intelligence Committee or the GAO. Perhaps most important, says Hoeber, it doesn't touch the perjury before the grand jury.

Indeed, one of the men Bell decided not to prosecute was J. Wallace LaPrade, the former head of the 2,000-person New York FBI field office. Instead of prosecuting LaPrade for perjury as the Gardner team recommended, Bell met with LaPrade and begged him to tell the truth to the grand jury. Bell admits now that LaPrade disappointed him. LaPrade has called at least two press conferences to blast Bell as a political hack.

As the Gardner team sees it, Bell's decision to prosecute only the top three offenders was not only a moral mistake but a strategic one. "If this case goes to trial," says one former team member "the prosecution will be relying on a lot of witnesses who committed serious felonies and whose hearts and minds are with the defense. The prosecution will have no hammer to make them tell the truth in the most stark and damaging way."

Stephen Horn, another member of the Gardner team, views Bell's handling of the FBI case as "a sterling example of his approach . . . he's not an attorney general with vision, with a long perspective. He looks at things as a politician would. He has an innate sense of right and wrong. But as a politician his sense of the future is tomorrow or next week. His idea of doing right is to divide the baby in half, like Solomon, and get criticized by everybody. Then he knows he's done the right thing. In political terms he wanted to reform the FBI. He saw his tenure as a new day for the bureau—there was going to be a new FBI director—and he made no secret of his feelings. He felt that even if the felonies committed were serious ones, he couldn't allow years of trial and turmoil or he would never get the FBI back on track."

Few doubt that Griffin Bell is willing to take criticism from all quarters for his decisions. The unanswered question is what Bell will do when he comes face to face with the intelligence community and somebody has to blink. Philip Lacovara, former counsel to the Watergate Special Prosecutor, notes that "for years federal prosecutors have been unwilling to bite the bullet and tell the intelligence agencies that they have to compromise some information in order to set an example." The question is, Will Griffin Bell bite the bullet?

Bell is not an attorney general like Robert Kennedy; he's not a prosecutor's prosecutor, chasing the bad guys down to the ends of the earth. He's not a scholar like Edward Levi; and he's not a crusader like Ramsey Clark. Rather, Griffin Bell is a man who wants to be remembered as the attorney general who followed the rule of law, the man who brought respect and prestige back to the Department of Justice. He is a man who is quietly confident about his decisions and his judgment. It doesn't bother him that he is a friend of the president's. And perhaps only a crony could have the kind of independence that Bell does in the Carter administration.

Former Attorney General Nicholas deB. Katzenbach says that "given the damage an attorney general can inflict on a president, it is important that there be a special relationship and confidence. Otherwise the president will start shopping for legal advice elsewhere." Katzenbach laughingly proves his point by noting that "Lyndon Johnson had confidence in me most of the time. The rest of the time he went to Abe Fortas for legal advice."

Jimmy Carter doesn't go to anyone but Griffin Bell for legal advice. And one of the reasons Bell feels so free to give advice is that he's not afraid to leave Washington, to lose his big job.

There are those, like Vice President Mondale, who think Bell's next job will be even bigger—a seat on the Supreme Court of the United States. That, of course, presupposes that Carter has a chance to fill a vacancy. Bell says he's not interested in the Supreme Court, that he just wants to go back to Atlanta to practice law. But then, in 1976, he was saying he wasn't interested in being attorney general.

BELL: HOW WILL HISTORY JUDGE HIM?

(By Robert Pear)

"Somebody else could probably better judge me than I could judge myself," Attorney General Griffin B. Bell said at his confirmation hearings in January 1977.

Now, nearly 2½ years later as Bell makes increasingly explicit statements about his plans to leave office later this year, people have begun to review and analyze his tenure.

What sort of record has the former federal judge compiled as the country's 72nd attorney general?

A creditable but not a truly distinguished record—that is the consensus that emerged from interviews with more than 35 lawyers, law school professors, politicians and past and present Justice Department officials.

They made the following key points:

Bell is a decent man and has been an honest, conscientious attorney general—at a time when honesty in government cannot be taken for granted. He has been a model of civility in his dealings with Congress and with legal adversaries.

Despite his close personal ties to the president, Bell generally gets credit for depoliticizing and professionalizing the Department of Justice. He is candid and independent. He gives objective legal advice. He has extracted the department from the Watergate era and has tried to make it a "neutral zone" free from political pressures. But suspicions persist about the handling of any politically sensitive matter such as the investigation of Bert Lance or of President Carter's family peanut warehouse. Bell says he has removed himself from both cases.

Bell has not shown as much concern for the appearance of propriety as the most stringent standards might require, according to experts on legal ethics. He talked with Tongsun Park when Park was under indictment in 1977. He talks regularly with Charles Kirbo, Carter's trustee, even while a federal grand jury investigates the warehouse by examining records entrusted by Kirbo's custody. And Bell met privately with Sen. Herman Talmadge while Talmadge was under investigation.

Bell is praised for staffing the department with an excellent team of assistant attorneys general and then giving them free rein to run their divisions. Bell chose the first black assistant attorney general (Drew S. Days III of the Civil Rights Division) and selected others with experience in public interest law—a team, on balance, more liberal than Bell himself.

"Restraint in the use of power" is a hallmark of Bell's approach. He acts in accord with his stated belief that "the best use of power is not to use it at all except when absolutely necessary, and then to use it sparingly."

But, Bell has disappointed many close observers by not providing strong leadership or undertaking significant initiatives. This may be a corollary of his laissez-faire style of administration. Once his mind engages an issue, his judgment appears to be sound. But until then, say critics and co-workers, he can be unpredictable, inconsistent and superficial in his approach to serious, complex issues.

More perhaps than any other attorney general, Bell has tried to promote the quality and diversity of the federal judiciary. The 1978 Omnibus Judgeship Act, which established 152 new seats on the federal bench, created an unprecedented opportunity. But blacks, women and Hispanics have been bitterly disappointed, saying that politics as usual seems to dominate the selection process. Senators still largely control the selection of federal district judges

Bell has helped the FBI get over its crisis. The man he chose to be FBI director, William H. Webster, has done well in his first year. One hears less disparagement of the FBI. Bell has wavered in his support for a statutory FBI charter, although finally the department has finished drafting a charter for submission to Congress. Bell has shown more concern about rebuilding FBI morale than about prosecuting those accused of illegal break-ins, wiretaps and mail openings.

Bell has shown a quiet, constant concern for improving the administration of justice. He has expanded in-service training for Justice Department lawyers. He has established experimental neighborhood justice centers to resolve minor disputes through mediation. But some of his proposals to relieve court congestion would block individual access to the courts, and this prospect distresses some liberals.

Bell has set up an apparatus within the Justice Department to help handle his various duties in monitoring and advising the intelligence agencies.

Relations between the Justice Department and some client agencies, for which it conducts litigation, have been strained for years. Bell recognized the problem. He and Associate Attorney General Michael J. Egan have opened a dialogue with the client agencies, but the results so far are mixed.

The 60-year-old attorney general is described as congenial and charming, but many doubt whether his impression on the Justice Department will be deep or lasting.

"Overall he's done a very creditable job," said Nicholas deB. Katzenbach, attorney general in the Johnson administration, who called Bell one of the strongest members of the Carter Cabinet.

"He's been a very good attorney general, but I don't think he'll go down in history as a great one. I can't think of any new legislation or new practices in the past 2½ years that are tremendously significant to the system of justice—no major civil rights or criminal reforms."

Bell's immediate predecessor, Edward H. Levi, gave him credit for a "good job," but declined to elaborate.

Former Attorney General Ramsey Clark said that Bell's Justice Department was sending out "fairly unclear signals—not consistent or affirmative signals—in the fields of human rights, civil rights, crime control and civil liberties.

"I can't tell you that I've been able to detect significant initiative or imagination in expanding human rights or civil rights or public safety through law," Clark said.

Clark gave Bell high marks for many of his appointments, saying; "The most you can do is to give able and honest people a chance to perform independently. It has been a good department from that point of view."

Yale Kamisar, an authority on criminal and constitutional law at the University of Michigan, said he did not regard Bell as a particularly distinguished attorney general.

"I'm afraid that he's a guy who will soon be forgotten," Kamisar said. "Ten years from now no one will know he was attorney general. He's no intellectual leader. He can't be compared to Ed Levi, who was a distinguished academic."

Several law school professors and prominent attorneys said they could not comment on Bell's tenure because they had not noticed him much.

Kamisar said that Bell had "oversimplified the issue" when suing Frank W. Snepp III, an ex-CIA agent, for breach of contract in publishing an unauthorized account of the fall of South Vietnam. Bell treated it as "just a contract problem, never indicating there was any First Amendment problem," Kamisar said.

Mark H. Lynch, the American Civil Liberties Union lawyer who represented Snepp, said: "Bell is whimsical. He responds to the last person to talk to him. Levi was a principled conservative who managed the department better. Bell is all over the place. He blows in the wind."

Jesse H. Choper, a law professor at the University of California, Berkeley, said Bell had been a "fair, moderate attorney general," had helped restore confidence in the Justice Department and had introduced "some marked and observable improvements in the selection process for federal judges."

"A lot of people were disappointed when Bell was appointed," Choper said. "I think he has turned out much better than many people expected. He certainly is one of the stronger Cabinet members."

Former Sen. Sam Ervin said Bell has done "as good a job as any man can do."

Former Rep. Charles Wiggins of California, a conservative, gave Bell "relatively high marks, considering that he's a Democrat."

"He has conservative instincts and has been a moderating force within the administration," Wiggins said, praising Bell for his "middle ground" position on such controversial issues as the discipline of FBI agents and the use of electronic surveillance.

Outsiders and insiders alike sense that Bell is not completely on top of his department. It was front-page news earlier this year when prosecutors dropped perjury charges against an International Telephone and Telegraph Corp. executive accused of lying to Congress about ITT and CIA activities in Chile. But when a reporter asked Bell about the matter a few hours after the final court proceeding, the attorney general said he knew nothing of the details.

Irving Jaffe, a Justice Department lawyer for 34 years, said that Bell did not inject himself early enough into important matters pending before the various divisions.

"Judge Bell did not see to it that he was kept aware of policy decisions being made at the lower level," said Jaffe, a deputy assistant attorney general who left government to enter private practice last August. "Important decisions were made and not brought to his attention."

Bell handled individual problems well—but only when they were brought specially to his attention, Jaffe said, adding, "I respected his judgment."

Bell gets a monthly summary of important activities from each division and also has access to weekly summaries. While other attorneys general would flag specific items for follow-up, Bell rarely "initiated involvement" in policy matters, Jaffe said.

In one important respect, Bell is clearly a success: He retains the full confidence of President Carter and White House aides. White House staffers have a more favorable view of Bell than of almost any other Cabinet member—in part because he's a fellow Georgian, an old friend of Carter's. But also the White House staff sees Bell as smart and loyal, not out for his own gain.

In a wide-ranging interview with The Washington Star last year, Bell said he probably had "the greatest grasp of the job of anyone in modern times."

Justice Department Watch, a newsletter published by the Committee for Public Justice, a national civil liberties organization, commented that Bell's claim was completely at odds with his performance.

Stephen Gillers, a member of the committee's executive council, said the Justice Department does not suffer from the "cynical political manipulation that characterized it from 1969 to 1974," but does seem to lack another essential quality: leadership.

The committee's Washington representative, James A. Goodman, said that the department and Bell himself have operated in a "policy vacuum," often contradicting their statements with later actions.

Says a former deputy attorney general: "Bell has not been running the department in a coherent fashion. The policies don't stitch together with much consistency."

This, of course, is the same criticism often leveled at President Carter: a lack of leadership, the absence of a coherent vision. But Bell does not usually display the mastery of detail that even Carter's critics acknowledge he has.

Persons concerned about individual aspects of the Justice Department may nevertheless be quite satisfied.

Although some reformers regret that the Antitrust division has not been more aggressive, Ira M. Millstein, an authority on antitrust law, said: "The best contribution Bell has made is to leave the Antitrust Division alone. I don't think he's interfered in the activities of the division, except as he's been requested to. In that respect, he's a model attorney general. He has given the chief of the Antitrust Division his head and been very supportive."

Likewise, Clarence M. Mitchell Jr., longtime lobbyist for the NAACP, criticized Bell's nomination in 1977 because of his civil rights record, but now praises Bell for doing a "constructive job."

"It's apparent that he has great confidence in Drew Days and has given him considerable latitude in which to work," Mitchell said. "That is the best possible type of supervision."

"It's entirely possible," Mitchell said, "that the resurrection and airing of Bell's past associations at his confirmation hearings may have reminded him that in his new position, he had to be attorney general of all the people, not just attorney general of the white people or of the South."

Though uncertain at first, Bell also became a firm supporter of the Community Relations Service, a Justice Department agency that mediates civil rights disputes.

In general, Bell has tried to reorder the department's priorities by emphasizing the prosecution of white-collar crimes and official corruption. But in a time of fiscal austerity, when the department's budget is being cut, there is only so much that can be done. And results, in the form of successful prosecutions, have fallen short of expectations.

Bell says he has made the Justice Department "nonpartisan" and has institutionalized its independence from politics, but Republicans disagree.

Rep. Robert McClory of Illinois, ranking Republican on the House Judiciary Committee, while describing Bell as "an extremely honorable individual," said: "He has tried to maintain his party loyalty as a Democrat. He has endeavored to protect or enhance the reputation of the president. He has demonstrated himself to be a partisan, a Democrat, eager not to let down his boss, Jimmy Carter. These are understandable things."

McClory recalled the way Bell had removed Republican David W. Marston as U.S. attorney in Philadelphia, but McClory said Carter had "foisted" that problem upon Bell.

The investigation of Carter's Warehouse also put Bell in "an extremely awkward position," McClory said. Bell belatedly accepted the solution demanded by Republicans, appointing a special counsel with the powers of a special prosecutor.

Monroe Freedman, former dean of Hofstra Law School in New York, said that Bell had not avoided the appearance of impropriety as scrupulously as he should.

"He cannot be trusted in situations where he has personal views which create a conflict of interest," said Freedman, who has been retained by the Justice Department as an expert witness on legal ethics. "He is not the worst attorney general by any means, but he's far from what a first-rate attorney general should be."

TRUCK SAFETY ACT

Mr. PERCY. Mr. President, it was my privilege to testify before the Senate Committee on Commerce, Science, and Technology on July 17, 1979, concerning S. 1390, the Truck Safety Act, introduced jointly by myself and by my distinguished colleagues, Senators Kennedy, Packwood, and Magnuson. This is an issue about which I have great concern.

The committee (particularly Senator Cannon, chairman of the Committee on Commerce, Science, and Technology, and Senator Warner) is to be commended for moving so quickly with hearings on truck safety and for astute questioning on this increasingly serious matter.

To offer my insights as the debate on truck safety continues in the Senate, I ask unanimous consent that my testimony before the Committee on Commerce, Science, and Technology of July 17 be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Senator Charles H. Percy

Mr. Chairman and members of the Committee, it is my distinct pleasure to appear before you today concerning S. 1390, the Truck Safety Act. I commend the abiding interest which the Committee has devoted to addressing the ever-increasing problem of deficient trucking safety. The speed with which this Committee has convened hearings on this important matter speaks strongly of its commitment, and of the urgency of the issue. I am particularly grateful to you, Mr. Chairman, and to the other members of the Committee for the earnestness you bring to this matter.

The Truck Safety Act was introduced jointly by myself, my good friends and distinguished colleagues, Senator Kennedy, Chairman of the Judiciary Committee, Senator Packwood, Ranking Minority Member of this Committee, and Senator Magnuson, former Chairman of this Committee and now Chairman of the Appropriations Committee. I would like to commend these three cosponsors for the specially keen interest they have displayed in eliminating the slaughter that now plagues our highways.

The Truck Safety Act is designed to combat an urgent and life-threatening problem now running rampant on America's highways. Our roads are plagued by what appears to be an epidemic of unsafe trucks, which daily threaten the lives and health of the motoring public and of truck drivers, and are contributing to the destruction of our roadways. The state of our highways is horrendous. Each year more Americans are killed on the road than were killed in any year of the Vietnam War. And trucks have contributed disproportionately to this record. Hardly a day passes that a traveler does not see the horrifying wreckage of a big rig crashed on the side of a highway.

Urgent legislative remedies are now required. I believe S. 1390 would go far towards creating a truly effective program of upgrading trucking safety.

Senator Kennedy, in cooperation with the Carter Administration, has also introduced legislation to attack this safety problem. He is to be commended for his recognition of the importance of this issue, and for his concern in addressing it. S. 1400, a bill to deregulate the trucking industry, contains a long title devoted to truck safety. While this bill takes essentially the same approach as the Truck Safety Act, subtle and important differences exist between the two versions which merit close scrutiny. I will analyze these differences in greater detail later in my testimony.

In recent years, improper truck maintenance, unfit equipment, overloading, and often unreasonable driving schedules have contributed to the creation of severe hazards over the roads. Truck accidents and fatalities have increased at an alarming rate.

According to newly compiled figures from the Department of Transportation, of the 50,000 highway fatalities in this country in 1978, 17,578 (or nearly 35 percent) were caused by trucks and buses. Heavy trucks alone were responsible for 11 percent of these fatal accidents, despite the fact that they account for less than 1 percent of vehicles on the road. This is a significant increase, for in 1975 heavy trucks were involved in only 7.8 percent of fatal accidents. While the number of vehicle miles traveled by heavy trucks rose 14 percent from 1975 to 1977, the number of these trucks involved in fatal accidents increased 29.3 percent.

In 1978, 5,075 Americans were killed in accidents involving heavy trucks, an alarming increase of 53 percent over 1975. During the same period, the number of all highway fatalities increased 12.6 percent, of itself a significant climb.

Heavy trucks pose particularly severe hazards to automobiles and their occupants. In a fatal accident involving a heavy truck and a passenger car, 97 percent of the deaths are to the occupants of the car. Per hundred million miles, the involvement of heavy trucks in fatal accidents is 165 percent greater than the involvement of passenger vehicles.

An unfit truck can exact horrifying human tolls. For example, in 1976, in Valley View, Ohio, a tractor-semitrailer barreled down a steep grade approaching a stop light at the bottom of a hill. Unable to stop or slow down, it ploughed into ten cars parked at the intersection. The collision triggered explosions and fire. Eight people were killed, and 15 more seriously injured. Subsequent investigation by the National Transportation Safety Board revealed that, prior to the accident, the truck's brakes were wrongly adjusted and partly inoperative, making it impossible to stop. Proper maintenance and inspections would have detected this problem.

This rash of truck accidents has rendered truck driving one of the more dangerous occupations in America. The truck is a driver's job site, the road his workplace. They are both replete with hazards. In 1978, fatalities to occupants of heavy trucks numbered 1,010, a 41 percent increase over 1975.

A 1976 Wisconsin study showed that truck drivers were 9 times as likely as all other workers to be killed in work-related accidents.

Accident data compiled by the National Highway Traffic Safety Administration, an agency of the Department of Transportation, includes only those truck accidents which are actually reported by the States. Since many accidents go unreported, and since heavy trucks—those vehicles over 26,000 pounds—constitute a small percentage of the total truck population, it is fair to assume that annual accident figures are significantly higher than reflected here.

Another body of data is compiled by the Bureau of Motor Carrier Safety (BMCS), the arm of the DOT responsible for enforcing trucking safety. The latest data indicate that, in 1978, interstate motor carriers of property and passengers reported approximately 35,000 accidents, which resulted in 3,200 fatalities, 34,000 injuries, and $310 million in property damage. This represents, since 1975, an increase of 43 percent in fatalities, 29 percent in injuries, and a startling 96 percent in property damage. And, according to the Bureau, these figures are understated because a significant number of accidents went unreported.

In a series of Federal road-side spot checks conducted during 1978, over 42 percent of the 26,000 vehicles inspected by the BMCS were deemed "imminently hazardous" and were immediately ordered off the road until repaired. Yet the Bureau was able to inspect less than 1 percent of the 3 million commercial vehicles under its purview. It is reasonable to believe, therefore, that many more unsafe vehicles and conditions go undetected.

I also want to point out that, in my home State of Illinois, truck accident rates have skyrocketed in the last 4 years, according to the Illinois Department of Transportation. For all trucks (including sizes ranging from pickups to combination tractor-semitrailer rigs), the number of vehicles involved in fatal accidents increased 99 percent from 1975 to 1978. Combination vehicles alone, the so-called "big rigs," were involved in fully 10 percent of fatal highway accidents in the State last year.

In 1978 there was a 47 percent increase in the number of combination vehicle accidents on Illinois highways. The figure for all trucks indicate that there was a distressing 116 percent rise in the number of trucks involved in highway accidents.

Inadequate law enforcement is largely to blame for this shoddy record. Federal and State authorities currently lack the manpower and funds to deal adequately with the burgeoning number of heavy trucks. As a result, thousands of rigs zoom down the highways in bad repair, overloaded, and unsafely driven, because their operators and owners know that the odds of being stopped are about as good as finding a gas pump without a line.

Inadequate enforcement is in turn due in large part to shortcomings in present truck safety statutes. Outmoded and antiquated laws now bind the hands of the authorities, rendering them nearly helpless even when they do find violations. This bill aims to redress these shortcomings, and to strengthen the hand of safety authorities.

Civil fines can be an effective deterrent to safety violations. However, at present, civil penalties can only be assessed against a driver or a company for a failure to keep proper paperwork. They are not applicable to any other safety violation, such as the failure to maintain safe brakes or to load the truck within prescribed limits. In these instances, the BMCS can only bring formal criminal prosecutions in court or initiate a time consuming administrative hearing.

This has proved to be difficult and ineffective process. For instance, in 1978, BMCS detected over 110,000 safety violations during nationwide road checks of 25,695 vehicles and drivers. Yet Bureau investigators were able to develop only 319 cases warranting court or administrative action. The majority of these cases were not accepted by the Department of Justice for criminal prosecution.

The effectiveness of the Bureau's safety program could be greatly enhanced by expanding civil forfeiture authority to include all types of substantial violations of safety regulations.

Moreover, the maximum amount for fines for safety violations has not been revised since 1957. They are now seriously out of line with fines for violation of other Federal regulations. Low penalties, coupled with the lengthy process of criminal enforcement, do little to discourage future violations. It is imperative that we raise these fines and set realistic time limits for the prosecution of cases and processing of fines.

Concerned truck drivers and trucking employees are often a great boon to trucking safety. Because their lives and health depend upon the safety and fitness of their vehicles, many such drivers are anxious to point out defects in their rigs. But when these drivers refuse to drive a hazardous vehicle, or report a significant violation to the authorities, many times they find themselves fired or punished as a "reward" for their diligence.

The Interstate Commerce Commission now provides no restraints upon employers who retaliate against these whistle-blowers. The sad result is that trucking employees are extremely hesitant to report even the most flagrant safety violations. The Government has lost a potentially important ally in its fight to protect truckers and the public.

Historically, Congress has taken a keen interest in protecting the health and safety of America's workers. The Occupational Safety and Health Act protects nearly every worker in America, with the notable exception of many of those in the trucking industry. At the time it was argued that, since the Department of Transportation already had authority to regulate trucking indusry safety practices, no additional coverage was necessary.

However, experience has shown that occupational protections afforded truck drivers are woefully inadequate. The Federal Government has done little to stem the rapidly rising number of truck drivers killed on the highways. Working conditions inside the cabs of trucks are also deteriorating. Vibration, exhaust fumes, and extreme temperatures all make truck driving a serious risk to driver health, and to the safety of the public.

In light of these hazards, measures are urgently needed to protect this country's truck drivers. It is inexcusable that protections accorded truckers lag so far behind those offered to other workers. The Secretary of Transportation has experience in regulating and monitoring the safety of the trucking industry. He would be the logical and most effective choice to assume responsibility for protecting the health and safety of truck drivers.

Nearly three million heavy trucks roll down America's highways every day. And yet, the BMCS, the lead agency in enforcing trucking safety, has only 158 inspectors and safety officers. Finding the violator in this mammoth haystack is enormously difficult. Clearly, we need to bring far greater resources to bear.

In the name of effectiveness and economy, the individual states should be encouraged to actively assist the Federal effort. Each of the 50 states now has an existing program for the enforcement of highway safety. The State of California alone has more truck inspectors on the job than the BMCS has to patrol the entire country. Clearly, the vastly superior resources and manpower of the states would be a valuable addition to the Federal enforcement effort.

But the Federal Government now provides no funding to the States for this purpose, and thus no incentive exists for them to cooperate. With adequate incentives—for instance, reimbursement for a percentage of the cost of operating strong truck safety programs—much could be done to crack down on speeding, tailgating, sloppy maintenance and overloading.

With proper incentives, States could operate both more permanent and portable weigh scales to prevent heavy loads which are destroying our roadways, and which make vehicles dangerous to drive. Increased enforcement personnel would slow down *all* vehicles, not just trucks, with the result that thousands of lives would be saved.

Without prompt remedial action, the state of our highways will steadily worsen. This bill builds upon and expands past legislation to create what I consider to be a truly effective truck safety program. In drafting this legislation, we have sought to reduce the load on our already overburdened courts. We have tried to alleviate the unnecessary delays that so often plague our regulatory process. And we have sought ways to encourage compliance with safety regulations that do not plunge industry neck-deep in paperwork.

S. 1390 builds upon and focuses the general authority given the Secretary of Transportation to regulate truck safety and the health and safety of truck drivers. It directs the DOT to address those areas which have caused the gravest problems since the Department was created 11 years ago.

To accomplish these goals, S. 1390:

Raises civil fines from $500 to $2,500 maximum for each substantial violation and to $10,000 for serious safety violations.

Authorizes the Secretary of Transportation to regulate the health and safety of working conditions for truck drivers and to ensure that trucks are safely maintained and operated.

Provides for 1 year imprisonment and/or a maximum $25,000 fine for knowing and willful criminal violations.

Expands Federal truck safety jurisdiction to include all commercial motor vehicles, both interstate and intrastate, over 10,000 pounds.

Authorizes the Secretary to conduct on-the-job inspections and investigations.

Protects trucking employees from discipline, discharge, or discrimination for refusing to drive an unsafe vehicle or for reporting safety violations.

Authorizes a uniform reporting system to eliminate excessive paperwork required of trucking firms and truckers.

Encourages States to assist in the enforcement of truck safety by offering them financial incentives with funds appropriated from the Highway Trust Fund.

Allows States to apply for exemptions from particular Federal regulations if their proposed regulations do not diminish safety.

Requires the Secretary to report yearly to Congress concerning his efforts to improve truck safety, and assessing the advisability of establishing a national commercial driver register.

The provisions of this bill would greatly enhance the effectiveness and efficiency of DOT in regulating and enforcing truck safety. Abuse of present regulations has resulted in countless deaths, injuries, and loss of property This situation will not improve itself. The time to crack down is now. The Highway Users Foundation predicts that, during the next 15 years, the number of trucks on the roads will double. Our highways should not be death traps—they were built for the safe enjoyment and use of all Americans.

This legislation has been greatly enhanced by the diligence and concern of various driver representatives, namely the International Brotherhood of Teamsters and the Professional Drivers Council. From the start, they have provided keen insights and original ideas to protect the health and safety of their members and the motoring public. This legislation would not have been possible without the outstanding contributions of these conscientious advocates who have well-represented their member-employees with diligence and concern.

Likewise, the American Trucking Associations (ATA) is to be highly commended for the outstanding contributions they have made to the development of this legislation. The ATA has displayed a sincere and abiding commitment to upgrading the safety of its industry. The Executive and SCORE Committees of ATA, consisting of many highly dedicated, safety-conscious trucking executives, devoted hundreds of hours to poring over the provisions of this bill. Subsequent ATA endorsement is the result of an immense amount of interchange and consultation. It is a tribute to the ATA to have taken such a bold position of leadership on this important issue.

Allow me to turn briefly to the other legislative proposal before this Committee today.

Title II of S. 1400, the Trucking Competition and Safety Act of 1979, would establish a similar safety program to that of S. 1390. This bill would enable DOT to regulate all commercial motor vehicles over 10,000 pounds, significantly upgrade fine levels, expand civil penalty authority, protect trucking employees from retribution for reporting safety violations, and provide incentives to the States to aid in truck safety enforcement. However, significant differences do exist between the two bills.

For instance, S. 1400 would authorize the Secretary of Transportation to concur with the Interstate Commerce Commission on the granting or revoking of operating authority. After reviewing a carrier's safety record, DOT would make a binding recommendation to the ICC.

While the practical effect of creating this duplicative authority needs to be scrutinized, potentially this could be a key step. A real threat of revocation could be a strong deterrent to shoddy safety practices.

S. 1400 also would establish significantly higher fines than would S. 1390. While the penalty for most violations would be the same ($2,500), penalties for serious violations would be $25,000 (instead of $10,000 in S. 1390) and knowing and willful violations would carry a penalty of $50,000 (instead of $25,000 in S. 1390).

However, unlike S. 1390, S. 1400 would leave trucking employees liable for the full amount of these fines. Conceivably, a truck driver, with far less resources than a major carrier, could be fined $25,000 by administrative action.

S. 1400 would also allow the Secretary to waive compliance by an individual carrier if he determines that it would be in the public interest and would not diminish safety. It seems possible that application of this provision may create a pattern of unequal and uneven enforcement which might undermine safety. Further, it seems only logical that if compliance with a regulation can be waived without diminishing safety, then perhaps the regulation itself is superfluous and should be withdrawn.

But most critical is the fact that, unlike S. 1390, S. 1400 would offer no protection for the health of truck drivers—the bill covers safety only. As I stated earlier, the Secretary of Transportation is now responsible for regulating the job site of these workers, but his hand needs to be strengthened in this area.

Upgraded truck safety enforcement is vital for the protection of two parties: the motoring public and truck drivers. In keeping with this charge, it is imperative that the Secretary of Transportation assume responsibility for actively monitoring and regulating the safety and health of America's truck drivers.

I am confident that these differences should not be difficult to resolve, for the two bills agree largely on the most substantive matters. I look forward to working with Senator Kennedy and with members of this Committee in order to come up with the best and strongest truck safety package we can devise.

I thank you, Mr. Chairman, for allowing me to appear before the Committee today.

Mr. PERCY. Mr. President, I ask unanimous consent that Senator KENNEDY's statement in support of S. 1390 follow at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR EDWARD M. KENNEDY

I am pleased to join Senator Percy in sponsoring the "Truck Safety Act."

The development of this legislation is a tribute to the perseverance of Senator Percy in his long struggle to improve safety conditions on our nation's highways. It is a mark of his firm commitment to the health and welfare of drivers and other workers in the trucking industry.

The real achievement of this bill is the breadth of support it now enjoys among those who work in, as well as those who run, the trucking industry. It is especially gratifying to see, at last, broad agreement on the proposition that highway truck safety is in need of substantial improvement, and that workers who identify safety problems should be accorded our support and protection.

Truck safety is a problem of which we have yet to grasp the full dimensions. The factors which determine whether certain trucks are "safe," or whether certain driving practices are "safe," are the subject of considerable debate.

One thing is certain, however; truck safety is a problem which will not go away. Indeed, there is substantial evidence that it is growing steadily worse. In some road inspections in recent months, for example, it has been reported that as many as half the trucks inspected had safety violations serious enough to warrant impoundment until the defects were corrected.

Truck drivers are skilled workers. Safe-equipment and safe highways are issues about which they care deeply. It is a matter of self-interest; they know that safe working conditions improve the way they do their jobs.

Yet the fact is, Mr. President, that many trucks operating on our highways are not safe. And the drivers know it. They also know that the only way to promote safety is through vigorous enforcement, both at the federal and state levels. That is why they support this bill.

There may be many reasons trucks are not as safe as they should be. Some truckers utilize inadequate reporting and inspection procedures. Some tax equipment to its limits, to cut costs. And some truckers exceed the proper number of hours of driving time in order, they feel, to earn a decent living.

None of these factors can justify endangering the lives of motorists or other drivers. Truck accidents are tragic occurences, where the incidence of serious injury or cost of lives is much higher than in other traffic accidents. Thus, highway safety must concentrate on—as its highest priority—safe trucks.

There is a great deal of discussion these days about regulation of the trucking industry. The debate centers on the level of regulation that is appropriate to the goals a particular form of regulation is directed toward achieving. In the case of economic regulation, it is my firm belief that freer market conditions are more effective regulators of truck service and rates than is the Interstate Commerce Commission. In the case of highway safety, however, neither economic regulation by the ICC nor free market forces are effective in ensuring a high degree of safety. There is clearly a need for an increased governmental role in assuring safe highway conditions.

Two truck safety bills are now before Congress, and I am pleased to be a sponsor of both of them. The chief difference between the bill introduced by Senator Percy and that proposed by the Department of Transportation is in the scope of their coverage. The provisions of the Percy bill extend to matters affecting the health and safety of drivers and other workers in the industry, as well as their safety. The DOT bill is concerned chiefly with safety. Netiher approach is mutually exclusive. Both would substantially improve present conditions and practices in the industry.

I urge members of the Senate to pay close attention to the views of those both inside and outside the trucking industry who have advanced the ideas embodied in these bills. I know the Commerce Committee will be giving careful scrutiny to these issues in the months ahead. I intend to give my wholehearted support to efforts to increase public awareness of truck safety issues, and I am hopeful that we shall take giant steps during this Congress to remedy the problems they present.

SAVINGS AND INVESTMENT ENCOURAGEMENT ACT OF 1979

Mr. CHAFEE. Mr. President, two things concern me greatly about our economic situation today. One is that we are, in fact, in a recession. The other is that the Carter administration has no discernible policy to stabilize the economy and return it to a healthy growth path.

Republican members of the Senate have united to fill the void left by the lack of leadership from the administration. Yesterday afternoon, we proposed a major legislative initiative, the Savings and Investment Encouragement Act of 1979, to help correct serious and fundamental weaknesses in our economy.

The Savings and Investment Encouragement Act contains three basic modifications of our tax laws to deal with the certain prospects of negative GNP growth and higher unemployment resulting from the recession. But what the act really focuses on are the long-term, underlying problems that plague us: runaway inflation, low economic growth, low rates of saving by individuals, lagging investment by business, and declining productivity of U.S. workers.

Inflation, which ran at an alarming 9 percent last year, is now sprinting at a 13.2 percent annual rate for 1979.

United States gross national product has increased at a substantially slower rate than that of our major world competitors during the past two decades. In the 15 years between 1962 and 1977, GNP growth in the United States averaged 3.5 percent, in West Germany 4 percent, and in Japan 8.3 percent.

Consumer saving, as a percentage of disposable income, is also distressingly lower in the United States than it is in other countries. On a 5-year average from 1973 to 1977, saving in the United States was 6.7 percent, in West Germany 15 percent, and in Japan 25 percent. Figures show that personal saving in this country has continued its decline, reaching 5.3 percent of disposable income in 1978.

With savings on the decline, it is not surprising that business investment in our country is also lagging. Fixed capital formation as a percentage of gross domestic product from 1966 to 1976 was only 13 percent in the United States compared to 17 percent in West Germany, and 26 percent in Japan.

So, it is not accidental that since 1960 annual productivity growth in the United States has been less than 3 percent. That compares to 6 percent in Germany and 9 percent in Japan: two and three times faster than U.S. growth.

Mr. President, the Savings and Investment Encouragement Act bears no resemblance to the kind of tax proposal we have come to expect from the White House during the past 2½ years. It is not an offer to put a $50 bill in the pocket of every American. It is not a real wage insurance plan whose cost would go spiraling out of control along with our 13-percent inflation rate.

It is, instead, a solid proposal to strengthen the foundation blocks of our economy: savings and investment.

Title I provides an exclusion from personal income taxes of the first $100 of interest earned on a savings account. This would accompany the $100 exclusion for dividends already provided under current law. Title I also authorizes an additional $400 exclusion for interest and dividends if the amounts are reinvested.

Title II is an extremely important and long-overdue reform of our capital cost recovery system. It provides a simplified, accelerated system of depreciating new capital investments by American business and industry. Originally proposed with strong bipartisan support, this plan calls for a 10-year writeoff for commercial and industrial buildings, a 5-year writeoff for business machinery, and equipment, and a limited 3-year writeoff for automobiles and light trucks used for business purposes.

Title III provides a new tax credit equal to 10 percent of research and development expenditures by business.

There are two clear reasons why Americans are predominantly consumers rather than savers. One is the deepening expectation that prices will only go higher if one waits another day to buy that new refrigerator or that new suit. This consumer response to inflation has been so frantic that Americans are incurring debt at record levels: Consumers took on $45 billion more installment debt than they repaid in 1978, and total consumer debt, including mortgages, jumped 13 percent to a record $1.16 trillion.

The other reason Americans fail to save is a direct result of Federal tax policy which has created a strong bias against it. While interest earned on individual savings is taxed as ordinary income, the interest paid on money borrowed is tax deductible. While the $100 dividend tax exclusion in the current law equals a total $450 million tax break for investors, the tax deduction for interest paid on mortgage and installment loans yields a $12 billion tax break for borrowers.

If you have an income, it obviously pays to be in debt when it is time to pay taxes. But if you happen to be retired and you are trying to stay out of debt and live on your savings, the current tax laws work against you in every way. Mr. President, the proposal we have introduced will go a long way toward equalizing the tax treatment of interest earned and interest paid, and it will provide much needed balance between incentives to save and incentives to spend.

If Americans can be encouraged to save more, it will remove some of the pressures of inflation from our economy, and it will provide a larger pool of funds to invest in new plant and equipment. This will strengthen the supply side of our economy to help meet consumer demands. By encouraging new investment we will help produce new jobs and control inflation at the same time—a simultaneous effect which shortsighted Carter administration policies have failed to achieve.

Improving the level of investment in U.S. industry will increase our capacity to produce consumer goods and services at lower prices. New investment can also be encouraged by accelerating depreciation schedules as we are now proposing. Our 10-5-3 plan will enable businesses to recover the costs of new investments quickly enough to assure that we are providing our work force with the most modern and productive tools possible.

The 10-5-3 capital cost recovery portion of our bill is central to improving our competitive position in the world market. Among leading industrial nations, the United States has one of the longest capital cost recovery periods. The spectrum runs from 1 year in the United Kingdom and 2 years in Canada up to 10½ years in the United States. We cannot continue to save and invest only minimal amounts of our gross national product year after year and expect to retain our position as the world's foremost industrial power. We must provide for the future growth of our economy.

If our economic problems were only problems of the future, we would find them less urgent. The fact is, Mr. President, that our consumption oriented behavior of the past decade has caught up with us. That we have failed to renew and improve our capacity to produce at a rapid rate is evident from our diminished standing as a world economic power. The overwhelming superiority of U.S. industry during the early postwar years is gone. Since 1950, our share of the world's export market has dropped by half. During the same period, American share of the world's imports rose by 27 percent. In 1960, we imported $15 billion of goods; now we import $200 billion worth.

Looking at the figures more closely, we see indicators of our deeply rooted economic problems. Consider our historical trade surplus in manufactured goods. In 1976, we had a $12.5 billion trade surplus in that category. In 1977, the surplus dropped to $3.6 billion, and in 1978, we ran our first manufactured goods deficit—$5.8 billion.

All sorts of items we use—sweaters, cameras, watches, jogging shoes, color TV sets—are now made largely outside the United States. The result has been a loss of jobs and income to American workers in these industries. In a bizarre reversal of the oldtime charges of "capitalist imperialism," we are presently the world's largest exporter of farm products and the largest importer of manufactured goods.

Of all the possible approaches to this problem through our tax laws, 41 Republican Senators agree that accelerating depreciation rates would be the most effective.

Another of our economic problems has been evolving since the mid-1960's and has begun to reveal itself in our alarmingly low rate of productivity growth: Research and development projects which were receiving about 3 percent of GNP during the heyday of the space program 15 years ago are now getting only 2 percent—a decrease of one-third. With an average 10-year lag between the R. & D. stage and the marketing stage of a new product, we are now feeling the results of the slowdown in this important component of our economy. Overall productivity growth has come to a virtual standstill, fueling still further the pressures of inflation. For these reasons, we have proposed a new 10-percent tax credit for research and development expenditures by business. It will yield important long-term benefits to the economy.

Mr. President, the Savings and Investment Encouragement Act of 1979, S. 1597, is designed to return our economy to a stable and healthy growth path by applying tax reductions and incentives to basic structural economic problems. These are not brand new ideas nor are they the only good ideas under consideration by the Senate. But taken together, they form a balanced, workable approach to our dilemma. We sincerely hope we can work with President Carter and his administration to achieve these widely supported goals.

THE EFFECTS OF COMPETITION

Mr. DURENBERGER. Mr. President, no one understands the effect of competition better than a businessperson. The person whose livelihood is dependent on the marketplace knows that the most sure-fire method of improving sales is to offer a better product at a lower price than his or her competitor.

The successful businessperson also recognizes the clout consumers have on a company or an industry. To remain successful the entrepreneur knows he or she must respond to the legitimate demands of consumers.

With those facts in mind, it is not surprising that businesspeople throughout the country are becoming wise consumers of health care. Employers spent $40 billion last year on health care expenses—more than one-fifth of the Nation's total health care bill. Like any other wise consumer, businesspeople want more for their money.

Many corporation officials are using the traditional methods of the marketplace to accomplish their goal. No longer are they making their health care purchases on the basis of blind faith. They are questioning the products and services they are buying and making demands on insurance carriers and the medical profession to stretch their health care dollar without reducing benefits or quality of care.

Like other wise consumers, these corporate officials are finding strength in numbers. The clout of one business is multiplied by each company that joins in making cost-saving demands on the health care industry.

These innovative corporate officials are finding a receptive audience among insurance carriers and among some medical professionals. If health care costs can be controlled, everyone benefits: The employer who pays less for health care coverage; the employee who receives more benefits and finds less of his or her total compensation package devoted to health care; and, the insurance carrier and health care professionals who have an obvious stake in controlling health care costs.

This cooperative venture among employers, employees, and the health care industry—taken through private initiative without Government dictation—is meeting with success in many areas of the country.

The initiative these employers have taken can and must be expanded nationally. The Health Incentives Reform Act I introduced July 12 utilizes competition in much the same way to expand coverage and control costs.

HIRA is premised on the fact that employers have built a system that is insulated from cost consciousness by third-party payments for much of this Nation's health care. Employers have paid premium-benefits which have priced health care out of the reach of millions of Americans who are without regular employment.

Therefore, it is the employer who must change the system. The employer must make consumer choice a reality and competition in the health marketplace a necessity.

HIRA provides the employers of America—both large and small—the tools they need to encourage a competitive system:

All health care plans must be in readable language, easily understandable by the average consumer; and

All health benefit plans for which premiums are tax deductible or tax exempt must offer a minimum standard of benefits and provide for catastrophic coverage;

For health care plans offered through the work site, HIRA provides that:

Employer contributions must be equal;

There is a cap on tax exempt employer contributions; and

Employers of 25 or more employees must offer at least three health care plans, two of which, if available, must be alternative health care plans which have a limited set of providers and for which payment can be made on a prepaid basis.

HIRA also assures that the recently unemployed, spouses, dependents and others who have often gone without adequate health insurance will have the opportunity to be covered.

Health maintenance organizations and other innovative competitive health plans would be permitted under the bill to enroll medicare beneficiaries at a predetermined, prepaid rate. Beneficiaries participating in efficient plans will be rewarded with additional benefits.

Mr. President, I ask unanimous consent that an article from the August 6 Business Week on the inroads made by creative employers be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CORPORATE ATTACK ON RISING MEDICAL COSTS

Employers picked up the tab for about $40 billion of the nation's $183 billion in health care expenses in 1978. In fact, employee medical benefit costs have risen so rapidly that they account for as much as 10% of total compensation in some companies. This alarming trend has persuaded many large corporations to band together in regional groups to map cost-cutting strategies that may have greater impact than their individual efforts have achieved so far. "We are in this boat together, so we are working together," says Donald F. Crowley, manager of employee benefits at Xerox Corp. in Stamford, Conn.

Xerox is one of 15 companies that formed the Fairfield/Westchester Business Group on Health in March. The 15, whose medical benefit plans cover more than 100,000 persons in the two adjoining counties, include such important corporate citizens as IBM, Combustion Engineering, PepsiCo, Union Carbide, and General Telephone & Electronics—clearly, a group with clout. "As a concerned business group, we have the expertise to ask for and get some changes in our health care delivery system that will guarantee the same caliber of care on much more cost-effective terms," says William S. Woodside, president of American Can Co., the Greenwich (Conn.) company that spearheaded formation of the group.

Corporations in more than a dozen other parts of the nation have formed such groups in the last year or two. Some were inspired by senior-executive participation in the Washington Business Group on Health, an offshoot of the Business Roundtable. Others took their cues from a campaign launched early this year by the U.S. Chamber of Commerce. Most have been encouraged by their insurance carriers or, if the corporations are self-insured, by the companies that service and review their medical claims. All share a common goal: to contain the runaway cost of medical benefits.

SEARCHING

If nothing else, such efforts serve notice on the health care delivery system that the business establishment has abandoned its unquestioning role. "All this activity lets the medical-care industry know that people in real power centers are searching for ways to make the system more efficient," says Terence E. Carroll, executive director of the Comprehensive Health Planning Council of Southeastern Michigan.

"Let's face it," wrote Robert N. Pratt, general manager of Kenneth Copper Corp.'s Utah Copper Div. in Salt Lake City to the president of the Utah State Medical Assn. "The overabundance of technologies and services in the medical field is not conducive to cost control . . . if the provider or subscriber does not become involved."

For these emerging groups, involvement means promoting many of the programs already backed on a smaller scale by individual companies. These programs include:

Efforts to curb excessive use of hospitals through utilization reviews. Hospitals are primary targets since their bills account for 40 percent of health care expenditures.

Hospital bed reduction. As an average, 25 percent of hospital beds go unused each day. Although fluctuating seasonal usage makes a straight 25 percent cut impractical, a substantial reduction is obviously necessary, because maintaining a single bed can cost $30,000 a year.

Outpatient and surgi-center care. Blue Cross of California recently circulated a list of 700 simple procedures (such as most biopsies) that can be performed safely without hospitalization.

Insurance coverage of second and even third opinions on elective surgery.

Reimbursement for health services at home.

Greater use of preadmission testing and preauthorized hospital admissions.

More cost-sharing by employees.

Increasing private use of professional standards review organizations (PSROs), the medical peer review committees created originally to monitor hospital care paid for by medicare and other federal programs.

"Our intent is not to beat hospitals over the head," insists Rolland W. Wetzel, benefits supervisor at Rohm & Haas Co. and a member of the Joint Health Cost Containment Program of the Greater Philadelphia Chamber of Commerce. "We—industry—are part of the problem. We've bought rather complete benefits, and our people are used to them."

ROOM FOR IMPROVEMENT

Even the beneficiaries, however, might see room for improvement in the data supplied early this year to Wetzel's group by Blue Cross of Greater Philadelphia. The data, which reported length of stay for 30 ailments in 63 area hospitals by some 400,000 employees and dependents, showed clearly that people admitted on Fridays tend to stay longer for the same ailment than those admitted on Mondays and Tuesdays. The report also turned up the surprising discovery that almost a quarter of the hospital days were logged by patients with two types of problems: nervous and mental disorders, and alcoholism—ailments often treated effectively on an outpatient basis. A data analysis now under way could lead to significant changes in the benefits packages of some 50 major area employers, ranging from Du Pont Co. and Sun Co. to SmithKline Corp. and First Pennsylvania Bank. One change, for instance, could be a requirement that no admission for elective surgery be made over a weekend.

In California, the one-year-old Employers Health Cost Committee of San Diego has met with the county medical society to offer to help organize cost-containment measures consistent with employee and industry needs. This group includes such major employers as Rohr Industries, General Dynamics' Convair Div., NCR, and the city of San Diego. Through its 70,000 employees and dependents, it pours more than $70 million annually into the local health care system.

"We're the ones who pay the tab, so we're concerned about the costs of medical care," says Ray Mendoza, Convair's benefits manager and vice-chairman of the group. The organization seeks to reduce the cost escalation by two percentage points each year. Toward that end, members are experimenting with outpatient treatment, second opinions on surgery, preadmission testing, and preauthorized hospitalization. The last is a procedure that requires the employee to clear the length and type of a prospective hospital stay in advance to ensure that it conforms with medical norms.

KENNECOTT'S SUCCESS

Hospital utilization review, typically by a third party, raises the ire of some doctors and hospitals, even though both the American Medical Assn. and the American Hospital Assn. have endorsed it. It has produced some impressive results. After only one year of utilization review, Kennecott's hospital bill dropped 12 percent, in-hospital surgery dropped almost 11 percent, the use of assistant surgeons fell more than 22 percent, and patient hospital days dropped from 23,406 to 22,585. Kennecott's Blue Cross-Blue Shield costs, which had risen from $5.7 million in 1975 to $7.5 million in 1977, leveled off at $7.6 million in 1978 and are projected to drop slightly in 1979. "We attribute our improved cost performance to the abandonment of the passive role of financier to the aggressive role of the cooperative adversary, even to the point of being an antagonist," Pratt said in his letter to the Utah medical society.

Another convert to utilization review, Caterpillar Tractor Co., of Peoria, Ill., retained Mid-State Foundation for Medical Care, a PSRO, to review employees' hospital use in the Peoria area after Caterpillar's medical benefits bill soared from $35.5 million to $96 million in five years. After a single year of Mid-State's review, in 1978, average hospital stays were reduced by a full day. Now Caterpillar is planning to extend the reviews to additional locations. Mid-State reports that its reviews cost its clients less than $15 per hospital admission.

AVOIDING SURGERY

To Connecticut General Insurance Corp., second opinions are probably "the most productive" of the cost-containment measures. For 500 clients in three geographical areas—and at no additional premium—the company last year began to offer first-dollar coverage for surgery on policies that required second opinions. Forty-eight of the 79 persons who sought second opinions chose to avoid surgery and seek alternative treatment, resulting in savings of more than $110,000 and 117 weeks' potential disability time, says Ronald T. Hwalek, Connecticut General's director of administration and development for health care programs. The company will offer the program nationwide in 1980.

Prudential Insurance Co. recently began offering clients discounts up to 6 percent to adopt an employee incentive for second opinions. Under this arrangement, an employee who agrees to get a second opinion might receive 100 percent coverage of surgery costs instead of 50 percent or 80 percent. And New York Life Insurance Co. has begun to cover second and even third opinions. The insurance companies will pay for surgery that runs counter to the additional opinions, but few patients choose to undergo it.

In another attempt to avoid unnecessary

hospitalization, growing numbers of companies—among them Pitney Bowes Inc., of Stamford, Conn., and Shell Oil Co., of Houston—provide insurance coverage for home health care. Aetna Life & Casualty Co. is adding such coverage to all its group health policies as they come due; a third of its 20,000 groups, representing 10 million people, now have such coverage.

SHARING COSTS

Taking another tack, some regional groups promote increased cost-sharing by employees as one way to discourage excess use of medical benefits. The Cleveland (Tenn.) Associated Industries Health Care Committee, for instance, has designed a model health insurance plan under which employees pay 20 percent of hospital costs and 10 percent of outpatient costs. And last year, Metropolitan Life Insurance Co.'s own employees began contributing to the benefit plan for the first time in years. They also had their deductibles adjusted upward. As a sweetener, Metropolitan added dental insurance to its plan. "Employees were not all that delighted," grants Executive Vice-President Philip Briggs, "but they got more out of it than they were asked to give up."

Cost-sharing is anathema to unions that fought long and and hard to eliminate it. The 1976 auto labor talks ran aground over that issue. But with medical benefits taking an ever-larger share of employer funds that might otherwise be available for wage increases, the United Auto Workers and the Big Three auto makers agreed to a study of other cost-cutting ideas. This coalition was instrumental in the passage of state legislation that will phase out almost 10 percent of Michigan's 39,000 hospital beds over five years, an effort that could shave 4 percent from the state's $3 billion annual hospital bill. And the new law is only the beginning, the auto companies say. Adds Walter B. Maher, Chrysler Corp.'s director of wage and benefit administration: "We have not begun to maximize the leverage warranted by the hundreds of millions of dollars we contribute annually to the health care providers of Michigan."

THOMAS J. WATSON, JR.

Mr. MATHIAS. Mr. President, yesterday the Senate Foreign Relations Committee favorably reported the nomination of Thomas J. Watson, Jr., to be U.S. Ambassador to the Union of Soviet Socialist Republics. I was delighted when President Carter nominated Mr. Watson to this important post and I look forward to voting for his confirmation.

As many of my colleagues know, I have long advocated maintaining a very high percentage of career foreign service officers in our diplomatic posts abroad. I have sponsored legislation to achieve this end and I have urged successive Presidents of the United States to appoint career officers to at least 75 percent of our diplomatic posts and preferably more. My dedication to the principle of a career foreign service, however, has never precluded the appointment of superlatively qualified men and women from other walks of life as ambassadors.

In fact, I have consistently maintained that our diplomatic service can be enriched by the judicious appointment of highly qualified people from business, labor, and the professions. We have ample evidence that this is so, dating back to the days of Benjamin Franklin and continuing to the present. An outstanding recent example, of course, is found in Averell Harriman who was, himself, a distinguished Ambassador to the U.S.S.R. Mike Mansfield and Leonard Woodcock are contemporary examples of ambassadors who add a priceless dimension of worldly experience to their diplomatic service.

I believe that Thomas Watson will be another such ambassador. He brings to his new job a superb record in public and private life. In the private sector he was, for many years, chairman of the board of IBM. More recently, he has served the Nation as chairman of the General Advisory Commission on Arms Control and Disarmament. He will bring to his new post broad and appropriate experience on the issues of trade and arms control which are important in United States-Soviet relations.

He is also a rather remarkable human being. He is a jet pilot, a sailor on the high seas, and an artist with a camera. With such a spectrum of skills, he is unlikely to be caught short in Moscow.

I am confident that Mr. Watson will receive the solid endorsement of the Senate and that he will represent us wisely and well in a critical post at a very critical time.

HOME ENERGY CONSERVATION PROGRAM

Mr. BRADLEY. Mr. President, in the short term, the only way we can reduce oil imports is through improved energy efficiency in our homes, businesses, and transportation systems.

About 2 weeks ago, I proposed a plan for home energy efficiency that could lead to a savings of 1.6 million barrels of oil per day in the next 5 to 10 years.

Mr. President, today in the Subcommittee on Energy Conservation and Supply we received testimony that elaborates on my plan. The testimony shows that conservation is not a matter of sacrifice as much as it is applying the technological expertise that has made America great to the pressing national problem of overdependence on OPEC oil.

Mr. President, I ask unanimous consent that the testimony of Mr. Robert Williams, of the Center for Energy and Environmental Studies at Princeton University, and Mr. Harold T. McCormick, chairman and chief executive officer of the American Fine Wire Co., be printed at this point in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

Testimony of Harold T. McCormick

Mr. Chairman and Members of the Committee. I am Harold T. McCormick, the Chairman and Chief Executive Officer of the American Fine Wire Company. This is a company which specializes in the production of unique wire used in special electronic applications. It is the only company in the United States making these type wires and was created to meet the developing, broadening needs in the electronics industry. Prior to becoming Chairman and Chief Executive Officer of American Fine Wire, I was the President of Rust Engineering, one of the largest engineering companies in the United States which specializes in engineering energy projects. In addition to my duties at American Fine Wire, I serve on the boards of several corporations and am the President of a venture capital company. Thus, in my testimony today, I will be calling upon my knowledge of, and experience in, the business world as both a former manager of a large engineering company and as a person who has some familiarity with entrepreneurial endeavors.

I am honored to have been invited to appear before this Committee and offer my views on the proposed Home Energy Efficiency Program that has been outlined by Senator Bradley and having as its central theme energy conservation. As I understand it, you would have me to address myself to the question of how to make the Home Efficiency Program workable from the standpoint of the private sector. In order to respond to your request, I have prepared comments which:

1. Set forth what I believe to be certain necessary criteria for workability;

2. Suggest possible ways of satisfying the "workability" criteria.

CRITERIA FOR WORKABILITY

Let me state at the outset that I believe Senator Bradley's Home Energy Efficiency Program appears to me to be very promising. He has outlined an approach to, as he says, "produce" saved energy. His approach is politically more acceptable and potentially more capable of actual implementation than any plan that I have seen proposed to date. Unfortunately, a promising initial plan can become mired in private and public bureaucracy to a point where it is no longer viable. To assist this Committee in its development of the Bradley plan, I have attempted to set out below what I believe to be the criteria for workability for the Home Energy Efficiency Program.

1. The program must avoid imposing direct costs on consumers; must minimize the hassles which homeowners face during home energy retrofit; and must avoid government unilateral intrusion.

Senator Bradley has recognized that this is a basic criterion. Nevertheless, it is so central to the workability of any program that it is important to reiterate this criteria at the outset.

2. The program must properly identify measures which energy conservation companies are to retrofit.

The "proper" identification involves both the designation of measures which are effective in saving energy and those which save energy at an affordable cost. To meet this criterion it is necessary to know what measures are most effective in saving energy in particular types of buildings, and it is necessary to know how much the government is willing to spend per estimated unit of energy saved.

3. The program must provide for overall management of the identification, financing, installation, and quality control of retrofit measures.

This criterion has also been recognized by Senator Bradley. From the standpoint of workability, this criterion is critical. I know of no other energy conservation proposal which would enable retrofitting of residential dwellings to proceed on a systematic house-by-house, block-by-block, community-by-community basis. And yet, it is critical to the workability of any effective and extensive residential retrofit conservation operation as discussed below.

4. The program must provide sufficient financial incentives to entice the most competent segments of the private sector to participate in the program.

In stating this criterion, I am exposing my own bias in favor of the private sector as that sector which is most capable of executing a Home Energy Efficiency Program in the shortest period of time and at the least expense to the American public. And given this bias, and given my experience in what motivates the private sector, the Home Energy Efficiency Program must provide sufficient financial incentives to attract that segment of the private sector which is most capable of performing the tasks at hand. I use the words "most capable" advisedly. There are many unqualified segments of the private sector which would respond and aspire to become energy conservation companies. In my view, only companies with substantial experience in the management of substantial undertakings would be competent to execute the kind of program which Senator Bradley has outlined. In order to attract these kinds of companies, a framework of sufficient financial incentives would have to be created and permitted to function in the program.

5. The government's role in any workable program would have to be as "facilitator" not as "regulator" or "grantor."

There are several reasons why the workability of a plan might be harmed if the government were given too many regulatory responsibilities. In the first place, the most competent firms might avoid the activity and gravitate toward projects which were not subject to government regulation. Overregulation would have an obvious substantial impact upon workability in my opinion. Even if competent firms undertook to perform required tasks, their ability to exercise their competency and produce results in a timely and efficient manner could be substantially limited by government regulation. Suggestions that grants be given to people out of tax revenues strikes me as unnecessary and wasteful once one understands the self-financing mechanisms built into the Bradley plan.

6. The program should secure the cooperation of the electric and gas utilities, and the state public utility commissions.

As I understand Senator Bradley's proposal, its workability in the sense of producing saved energy without substantial cost to the taxpayer depends upon:

(a) The careful selection of those areas where the Home Energy Efficiency Program is to be undertaken at a given time;

(b) The initial estimating of what price could be paid by the government to purchase saved energy from energy conservation companies;

(c) The price which the utilities can pay to repurchase the saved energy from the government; and

(d) The measurement of how much energy was actually saved through the installation of energy conservation measures.

Each of these factors is central to the workability of the Home Energy Efficiency Program. And each requires that the Federal government, the utilities and the state regulatory commissions work in concert to make the effort productive and timely.

7. A program must provide for reasonable benefit as between various classes of persons affected by the program.

Even if a program is politically acceptable, it will not be workable if it does not provide flexibility for securing equitable benefits between various users of energy as it is implemented. For example, a program may have to compensate people who have undertaken their own retrofit activities in order to put them on a par with their neighbors.

MEETING THE CRITERIA

Can the program satisfy the criteria as to "workability" and hence effective implementation? I will now attempt to identify for the Committee some of the ways in which I believe Senator Bradley's Home Energy Efficient Program could be structured in order to satisfy the "workability" criteria which I have identified above.

1. No direct cost to consumers; elimination of hassle and government intrusion.

As stated above, Senator Bradley's program satisfies that criterion and makes it one of the most workable that has been proposed. I am concerned about other programs which avoid direct consumer costs but create a situation where utilities could be forced to foreclose on homes to enforce their conservation liens and/or by permissive regulatory administration, absolve, from this debt, some, few or all by enforcement default. Senator Bradley's plan does not force the consumer to do anything, but it creates an environment conducive to positive action.

2. Proper identification of measures to be retrofitted.

As Senator Bradley has pointed out, before a massive home energy efficiency program can proceed in earnest, precise and engineered documentation of the types of energy conservation measures which save energy and the amount of energy saved must be completed. I think the fastest way to get this documentation done is to combine the research documentation program with the energy doctor training program. I believe some qualified architect and engineering firms would be motivated to work with the researchers at Princeton and elsewhere to put together a combined "energy doctor" training program and research documentation program.

I do not believe that we need to wait two years until all program developments and research has been completed and all housing-types catalogued before the program can begin. There is a close connection between the training, the research, the development and the doing. "Energy doctors" trained to audit townhouses can return to the classroom for instruction on how to audit the next housing types and can use the knowledge they have gained in the field to improve the cataloguing process and the training curriculum for new recruits.

The documentation research, in my opinion, has to address more than anomalous heat loss. It should also develop values for storm doors, clock thermostats, and other readily available retrofit measures.

The identification of more esoteric and expensive retrofit devices should probably await a second round of retrofit activity in order to enhance the workability of the Program. By undertaking only those activities which are clearly cost beneficial, identification of measures would be simplified because "energy doctors" could concentrate on energy saving judgments and would not have to make difficult cost benefit analysis and judgments.

3. Overall management.

From a management standpoint, the "energy doctor" training, the identification of retrofit measures, and the financing, installation and quality control assurance should all be undertaken by the energy management company. That company could be required to employ local installers without interfering with efficiency of management. The "energy doctor" training and the identification of measures to be installed could also be separated if that were thought to be necessary but perhaps at some cost.

If I were designing the Program, I would put the energy conservation company in charge of training of the "energy doctors." If the energy conservation company were being paid a predetermined rate for each unit of energy saved, then the "energy doctor" activity which designates the measures to be installed would be enhanced if the energy conservation company were in charge. If the price of the saved energy were predetermined and the payments were based on actual energy saved, then there would be no danger of collusion between the energy doctors and the company.

Over-prescription by energy doctors under the control of energy conservation companies which did not produce cost-effective energy savings would not be tolerated for they would be unproductive. Under-prescription would cost the company revenues for they would not be energy saving to full potential savings. The marketplace would act as the proper balancer between the type of energy saving techniques used and energy savings.

If the "energy doctors" were separated from the company, there woud be a problem of assigning responsibility for judgmental errors in prescriptions. Would, for example, the government indemnify the energy conservation companies against misprescriptions? Tying the "doctors" to the companies makes them responsible at one focal point of culpability and/or reward as the energy audit confirms or denies the results.

The one task that should not be assigned to the energy conservation companies is the task of determining how much energy the conservation company actually saved, that task must be done by independent auditors employing actual measurements of savings for a large enough number of homes to construct a statistically valid sample, while providing latitude to allow for the different living and habit patterns of homeowners. These auditors could be sponsored by the government directly or could be contract employees of A & E firms.

I would envision the Bradley plan working this way. Company X enters into a contract with the Federal government to be paid annually for twenty years for the energy it saves by undertaking retrofit programs. Company X trains energy doctors, does the audits, manages, contracts and subcontracts with installers and hires quality assurance and quality control personnel to assure proper installation. Company X retrofits a particular community or area selected by the government. Government sponsored auditors measure nominal usage before and after retrofit to obtain a statistically significant sample. The government pays Company X each year a predetermined amount for the energy saved. If there are less savings than expected, Company X makes less money. If there are more savings than expected, Company X makes more money. The more efficient Company X becomes, the more benefit it delivers and more profit it makes under a given contract.

Company X would have to have a likelihood of performing or it would not be able to obtain front-end financing. Its contract would be bankable only if there was some reasonable likelihood that it would be able to save the potential amounts of energy identified. The plan would be self-policing. Fly-by-night operations could be eliminated by market forces before they began rather than by government policing. If no energy were saved, the government would make no payments.

4. Sufficient financial incentives.

As I have explained, I think that there are existing companies who could perform admirably as energy conservation companies if they could be enticed into the business. It goes without saying that the opportunity to make healthy profits offers the necessary enticement.

There are two possible approaches which could be pursued. One approach would be to offer a company a cost-plus contract with an attractive profit margin. The problem with this approach is that it would require the separation of the energy doctors from the conservation companies (to avoid having costs run-up to maximize profit without necessarily producing more saved energy). The self-policing aspects of the marketplace would also be blunted with a cost-plus approach. Anyone who got the contract could probably "bank" it and obtain front-end financing.

A far better approach would be to establish through negotiation a fixed price for each unit of energy saved—e.g., 10 mils per year for 20 years for each unit of energy saved. The only statutory standard that should be placed on the price that could be paid is the kind of statutory standard contained in section 210 of the Public Utilities Regulatory Policy Act of 1978—i.e., a standard of "fair and reasonable to consumers." In other words, the price cannot exceed the cost of the energy which the saved energy displaces including reasonable escalation into the future. This approach would protect consumers while creating profit opportunities that would attract the best companies into the business.

As the conservation industry developed, competition between companies and efficiency breakthroughs would act to properly control companies and the profits. However, if it were thought necessary to protect against excess profits directly rather than rely on market forces, the contract could provide for renegotiating of the price in future years based upon the achievement of some reasonably high profit level. Or the law could require companies to plow-back "excess" profits into investments in conservation and renewable resource technologies.

5. Government as "facilitator" not "regulator."

If the energy conservation company were set up as I have described above and if the pricing were established on a basis which was "fair and reasonable to consumers," then the marketplace would police most potential abuses and the government could act as facilitator rather than regulator. As a facilitator the government could assist in the research effort and work with the utilities, public utility commissions, and home heating oil suppliers to minimize their problems. The kind of facilitating role the government could and should play is discussed below.

6. Cooperation of electric and gas utilities, the Federal government, and state public utility commissions.

To satisfy this criterion it is necessary to determine what is in the Program for each of the participants. I have attempted to set forth the potential benefits and detriments for each group. If the benefits can be arranged so as to outweigh the detriments, then I believe cooperation can be achieved.

(a) Utilities:

While I do not claim to be a utility expert, I have a basic knowledge of utilities through various business experience. The Bradley Plan, in my opinion, could offer utilities several benefits. First, new, relatively inexpensive supplies of energy could be made available to utilities. Because of governmental constraints and other problems, utilities have not always been able to bring on line new capacity at a time when they needed that capacity. Recent problems with certain nuclear facilities have also negatively impacted the availability of energy. From the gas utilities' point of view, the saved gas could be used to meet substantial new demand for natural gas resulting from environmental constraints, the high price of oil, and the need to dramatically reduce imports.

Second, the Bradley Plan could offer the opportunity for the utilities, in consultation with the Federal government and the state utility commissions, to control the timing of conservation measures. As I see it, through the contract process, conservation efforts could be selected at a level to meet needed growth without creating excess capacity. Under any other plan, consumer response (to the extent there is any) cannot be controlled or predicted. Uncertainty is introduced. Under the Bradley Plan it would be much easier for the utilities to plan because they would be able to control the approximate amount of energy that would be saved and the timing of that savings.

Third, if the Bradley Plan were implemented, a number of onerous, expensive, and non-productive utility requirements under the National Energy Conservation Policy Act could be eliminated. This would permit utilities which are faced in the short term with regulatory and supply problems to concentrate on solving those problems without being forced to undertake NECPA conservation efforts which may, in fact, produce very little conservation.

Fourth, the plan could provide an opportunity for utility investors to maximize their rates of return on their current investments by insuring an adequate revenue stream for those investments. (See Attachment A)

The potential detriment to the utility is that the Bradley Plan, when legislatively implemented, would not give enough guidance to the Federal and state regulatory agencies to insure that the interests of the utilities were taken into account in planning conservation activities. The result could be too much conservation too soon which produced overcapacity and unnecessary expense for rate payers. Another potential detriment would be one caused by the fact that the state and Federal regulatory bodies would not permit the utility to maintain its revenue stream as energy was conserved. Therefore, utility investors could suffer.

I personally believe legislative direction could eliminate these potential dangers. Even with these potential dangers, I think the benefits far outweigh the detriments.

(b) State Regulatory Commissions:

The major benefit of the Bradley Plan for state utility commission is that the plan offers them a way to continue to provide energy for residential, commercial, and industrial consumers in their states without raising rates to a level that they would otherwise have had to raise them. In other words, it gives them a practical way to control costs without negatively impacting the availability of supply and hence maintaining the quality of service.

The potential detriment from the state regulatory standpoint is that the Federal government, exercising its authority to purchase and sell saved energy, would not be required to engage in a close working relationship with the state public utility commissions. The best way to minimize this detriment is to require in the legislation implementing the Bradley Plan cooperation between the Federal government entity and state regulators. That cooperation could be accomplished by having the Federal government set general standards which the state could implement as to specifics. The general Federal standards could assist state public utility commissions in overcoming state obstacles that might otherwise impede these commissions from making rational choices so as to properly implement the Bradley scheme. And state implementation of the standards would enable the state public utility commissions to maintain a primary regulatory role with respect to utilities.

7. Equitable benefits between classes of users.

The equity issue is posed most directly when one hypothecates a situation where neighbor A has just installed and paid for an energy conservation measure such as storm windows when the energy conservation company knocks at his door. The company saves him additional energy but provides neighbor B, C, and D with "free" storm windows. There are a number of ways that situation could be handled. One way would be to have the energy conservation company write neighbor A a check for his storm windows and permit the company to take credit for his saved energy. These kinds of equitable benefit decisions could be worked out by a contract between the government and the company after consultation with state public utility commissions. Because every rate payer benefits under the Bradley Plan through either lower present and/or future costs of energy, equity issues are more apparent than real.

The more interesting question is: Who pays for savings in home heating oil? As I understand the Bradley Plan, there is a "profit" which the government makes when it buys saved energy from the conservation company and sells that energy at a higher price to the gas or electric utility. As long as the resale price to the utility does not exceed the cost of producing the energy which is being replaced by the saved energy, then the utility user does not have a legitimate complaint against the plan. Since Senator Bradley's Plan does not permit sales by the government to the utilities to exceed replacement cost, the plan prevents any inequitable results vis-a-vis home heating oil users and electric and gas users.

My own curiosity has caused me to run some conservative projections to determine how much "profit" the government might make when purchasing and reselling saved energy. The "profit" level controls the number of heating oil heated homes that could be retrofitted; the larger the profit, the greater the retrofit.

The results are interesting. Let me explain.

Assume the government buys saved energy from an energy conservation company at 10 mils/kwhr per year for 20 years. (At 10 mils/kwhr for 20 years a conservation company should be able to save at least 50 percent of the energy used in the home.) Then assume that in each of the first ten years of the Home Energy Efficiency Program 5 percent of the energy in a utility is saved by the energy conservation company so that by the tenth year 50 percent of the residential energy is being saved. Applying these assumptions to Public Service Electric and Gas in New Jersey (based upon current residential energy use), the following government profit would be realized over the 20-year period if the energy purchased at 10 mils and resold at 25 mils/kwhr (a cost equal to about half the price PSE and G residential users are currently paying).

[Dollar amounts in millions]

Year	Percent savings	Profit	Cumulative total
1	5	$5.7	$5.7
2	10	11.4	17.1
3	15	17.1	34.2
4	20	22.8	57.0
5	25	28.5	85.5
6	30	34.2	119.7
7	35	40.5	160.2
8	40	46.8	207.0
9	45	53.1	260.1
10	50	59.4	319.5
11	50	59.4	378.9
12	50	59.4	438.3
13	50	59.4	497.7
14	50	59.4	557.1
15	50	59.4	616.5
16	50	59.4	675.9
17	50	59.4	735.3
18	50	59.4	794.7
19	50	59.4	854.1
20	50	59.4	913.5

(The table was produced by calculating the number of megawatt hours a 5 percent savings would free up in the PSG and E. system. Based on 7.6 million megawatt hours a 5 percent savings equals .38 million megawatts. If the government purchased the energy at 10 mils/kwhr and sold it at 25 mils/kwhr it would realize a 15 mils/kwhr ($15/Mwhr) savings. $15/Mwhr times .38 million megawatts equals $5.7 million.)

In other words, the government "profit" as purchaser and reseller would be almost $1 billion in one utility area. And that profit would be realized if saved energy were sold by the government to utilities at less than one-half its fair market value. The profit could be doubled if the energy were sold at its fair market value.

I have attempted to calculate how many oil heated homes might be retrofitted for $1 billion dollars. If each home cost $2,000 to retroprofit, 500,000 homes could be financed ($1 billion divided by $2,000 equals 500,000) from the profits presented above.

These numbers suggest to me that everyone could benefit under the Bradley Plan. The homeowner saves money because he is using less energy and because his future costs of energy are less expensive. The energy conservation company makes a reasonable profit saving energy. The Federal government makes enough money to finance the retrofit of oil heated homes, thereby furthering its objective of reducing oil imports. Electric and gas utilities receive what are, in effect, a new supply of energy to meet growth requirements as those growth requirements materialize. Those supplies could become available without fighting governments or environmentalists; and they could be secured at relatively low costs, improving the opportunity for utility investors to obtain reasonable rates of return from state utility commissions.

Isn't this a much better approach than helter-skelter throwing away of taxpayer's money to individuals to solve the problem? This approach brings order and productive results to our energy-oil crisis. This, in my view from the private sector, makes much better sense.

Attachment A

In order to gain some elementary understanding of how the Bradley Plan might affect utilities, consumers, and investors, I have made some calculations with respect to what might happen in one utility area over the next 10–20 years if the Bradley Plan were properly implemented. The chart that follows is built upon the following assumptions:

(1) The plan saves 5 percent per year of residential energy use for 10 years, providing a total of 50 percent savings.

(2) The utility is able to sell the saved energy at a cost of 60 mils/kwhr (its 1975 average residential price was 51 mils/kwhr), escalating at a rate of 7 percent per year. This is the Revenue Gain.

(3) The utility experiences revenue losses from: (a) people not using energy; (b) from the cost of purchasing the saved energy from the government; and (c) from added costs of reselling the saved energy (new connections and so forth) assumed to be 10 percent of the Revenue Gain.

(4) To the extent Revenue Losses exceed Revenue Gains, the utility is permitted to make up its Revenue Losses by charging those consumers who have experienced savings through the installation of energy conservation measures to make up for any losses.

(5) Consumer savings are equal to the utility's loss of revenue minus the amount by which Revenue Losses exceed Revenue Gain.

Using figures available for PSG and E in New Jersey where the residential usage equaled 7.6 million megawatt hours and the revenues equaled $413 million. I have prepared the following chart:

Year	Percent savings	Revenue gain	Revenue loss	Retrofitted home-owners consumer savings
1	5	22.8	32.43	11.02
2	10	48.8	65.2	24.9
3	15	78.3	88.3	41.9
4	20	111.7	131.7	62.6
5	25	149.3	165.65	86.9
6	30	191.7	200.1	115.5
7	35	239.4	234.9	149
8	40	291.8	270.4	186.6
9	45	352.26	306.6	231.56
10	50	418	343.3	281.2
11	50	493.2	350.8	348.9
12	50	574.6	358.9	422.2
13	50	666.9	368.2	505.2
14	50	766.08	378.1	594.48
15	50	877.8	389.2	695.1

It should be noted that the utility, based upon the calculations above, does not experience any Revenue Loss. The difference between Revenue Gain and Revenue Loss is made up by charging those consumers realizing the savings an amount equal to the amount Revenue Losses exceed Revenue Gains. For example, in year one Revenue Gains equal $22.8 million while Revenue Losses equal 32.43 (20.65 lost revenue because of conservation (which also equals gross consumer savings); 2.28 as additional costs to sell saved energy; and $9.5 million, the cost to purchase the 5% savings (.38 million megawatt hours x 25 mils/kwhr)). The difference between Revenue Gains and Loss (32.43−22.8=9.63) was subtracted from gross consumer savings (20.65−9.63) to produce an actual consumer savings of 11.02. In year seven when Revenue Gains begin exceeding Revenue Losses, the Gain is added to consumer savings to produce an even larger consumer savings. That gain could be distributed to other users, further lowering their bills as well.

The calculations lead me to conclude at least as to PSG and E the following:

(1) In the early years of the program any rate increases needed to have Revenue Gains equal Revenue Losses can be assigned to those consumers who have experienced savings on account of the retrofit program. Thus, no user pays more for his energy use;

(2) In later years Revenue Gains out pace Revenue Losses, producing even greater savings for the homeowner than result from the installation of the conservation measures themselves;

(3) Utility investors are protected because Revenue Gains can be made to equal Revenue Loss.

Toward a Fuel Efficiency Policy for Housing

(By Robert H. Williams)

A combination of measures involving added insulation, caulking and weatherstripping, window improvements, and furnace modifications could reduce the fuel needed to heat a typical residence by 50 to 75 percent, without loss of comfort. (Indeed comfort may be improved near exterior walls and windows.) Similar gains could be made in our schools, office buildings, stores, and other commercial buildings; however, in this testimony I will focus on residential buildings, which is also the focus of Senator Bradley's proposal.

My estimate of the fuel savings potential is much greater than the 10 to 30 percent savings most people believe is possible—for two reasons. First, my estimate is based on a definition of what is economically feasible that differs from the one most commonly used. Second, most other estimates do not take adequate account of unconventional but still relatively simple opportunities to have energy in buildings.

A NEW INVESTMENT CRITERION

The conventional approach to evaluating energy saving investments is to see if the payback period is "acceptable." The payback period is the number of years it would take to pay off the investment through the user's savings on fuel purchases. The judgment is usually made that the payback period must be less than 3 to 5 years to be acceptable. In contrast, I propose that investments in energy saving measures for a given energy consuming activity be pursued to the point of minimizing the total cost to the nation.

To illustrate my approach to the economics of investments to save energy it is useful to introduce the concept of the "cost of saved energy," which is simply the total cost of an investment (initial capital outlay plus interest) divided by the fuel savings over the expected life of the investment. Thus one can speak of the cost of saved energy in units like $/barrel of oil equivalent energy saved.

My criterion is that an investment is cost justified if the cost of saved energy for that investment is less than the replacement cost for energy. Starting with the most cost effective investment, one would pursue further investments until the cost of saved energy for the last investment (the marginal cost of saved energy) is equal to the replacement cost for energy.

This investment criterion is illustrated in my viewgraph, which describes the economics of energy efficiency improvements for the "Bowman" house near Washington, D.C., a house that was thermally tightened by a research team at the National Bureau of Standards. Here the cost of saved energy is shown for investments in storm windows, wall insulation, floor insulation, and extra attic insulation, in relation to the price of home heating oil and a range of estimates for the replacement cost of home heating oil. Note that as a higher and higher level of fuel savings is achieved the cost of saved energy goes up. By my criterion the first three of these investments would be economically justified, whereas the last investment in extra attic insulation may or may not be, depending on whether the actual replacement cost is higher or lower than the cost of saved energy associated with extra attic insulation. With only the first three investments, however, fuel savings amounted to more than 50 percent for the Bowman house. The average cost of saved energy for these three investments was $17/barrel, or about half the replacement cost for fuel.

UNCONVENTIONAL ENERGY EFFICIENCY MEASURES

Most people think of measures like those adopted for the Bowman house when you speak of housing energy efficiency improvement. These measures will save the consumer both energy and money—but they do not exhaust the possibilities.

Perhaps most important among unconventional measures are the vast opportunities for saving fuel through the elimination of obscure heat flows that bypass insulation. The magnitude of such heat flows is illustrated by the escape of warm air into the attics of houses—heat flow that bypasses the ceiling insulation. My colleague Dr. Dutt and his coworkers have estimated that heat losses through "attic insulation bypasses" in one and two story single family wood frame houses account for about 20 percent of total residential space heating energy use. It is worthwhile to put considerable effort into eliminating bypass heat losses because doing so is generally much cheaper than more conventional measures—costing typically $2 per barrel of saved oil equivalent energy, compared to $10–$30 per barrel of saved energy for more conventional measures.

An important example of what can be achieved with unconventional conservation measures in existing houses is a recent project at Twin Rivers, New Jersey, where a team of Princeton University researchers was able to reduce annual fuel requirements for space heating by ⅔ in a townhouse in the neighboring community of Twin Rivers. This achievement is especially remarkable in light of the fact that the house was already "well insulated" before the improvements were made: it had double glazing and ceiling and wall insulation. The "retrofits" introduced by the Princeton group included in addition to the elimination of bypass heat losses measures such as insulation around the perimeter of the basement and the installation of indoor shutters to be placed over large windows at night.

THE NEED FOR NEW INITIATIVES

Despite the large fuel savings potential and the favorable economics of investments in building energy efficiency improvements, most analysts expect that, because of formidable institutional obstacles, only a small fraction of the potential will be captured over the next decade.

Homeowners cannot be expected to base their investment decisions on replacement costs, when actual prices can be expected to be much lower. And many consumers will be unwilling to invest even to the level justified by actual energy prices because the dollar savings resulting from these investments will be judged insufficient to compensate for the considerable hassle involved in carrying out a home retrofit project:

A housing conservation audit must be arranged;

A reliable and competitive installer must be identified and contracted; and

The financing must be arranged.

In addition to this "hassle" problem there is presently a lack of technical capabilities for achieving highly efficient heating of residences and incentives are especially low for improving those rental buildings for which the fuel bill payer is someone other than the building owner.

The President's Import Reduction Program involves an important innovation that would help overcome these institutional obstacles: the requirement that electric and gas utilities finance energy conservation investments and include such investments in their rate bases as an alternative to supply expansion. In this proposal the homeowner would pay off the principal on the investment when the house is sold.

One attractive feature of this utility financing proposal (which is already in effect for two electric utilities in the State of Oregon) is that it provides a mechanism for valuing saved energy at the replacement cost for new energy supplies, since the utility would be comparing investments in energy efficiency improvements with supply expansion investments. Also "ratebasing" energy efficiency investments would provide consumers a substantial incentive to have these investments made in their homes and utility management could eliminate much of the "hassle" associated with arranging for retrofits.

The principal problem with this proposal is the concern that utilities, whose experience is primarily in providing energy supplies, may be ineffective in energy efficiency investment efforts. Indeed many people are openly hostile to the idea of the utilities becoming suppliers of "energy efficiency improvements." And as I was preparing this testimony I read in the Wall Street Journal that some utilities are already lobbying to eliminate from the President's Import Reduction Program the requirement of utility financing of building energy efficiency investments.

Senator Bradley's proposal, which involves establishing companies to arrange for housing audits, installation, and financing of housing energy efficiency investments would overcome these objections to direct utility involvement. Because these investments eventually would be sold to the utility to be included in the rate base, the principal advantage of utility financing would be preserved.

I believe that Senator Bradley's proposal, or some variation of it, could lead to both a high level of fuel savings in individual households and a high level of participation among households over the next decade. With such an innovation I believe that the goal I have set forth, of saving, on the average, half of space heating fuel in existing residences in 10 years is achievable.

There will undoubtedly be considerable discussion over the details of this proposal—for example, over whether the homeowner would pay nothing at all for these investments or would pay off the principal at the time the house is sold. It is important to keep in mind, however, that whatever program emerges it should satisfy the following minimal criteria:

The program should be capable of identifying and exploiting the most cost effective opportunities for saving energy.

The program should encourage investing to the point where the cost of saved energy for the last investment equals the replacement cost for energy supply.

The program should minimize the "hassle factor" that now inhibits housing efficiency improvement investments.

The program should have broad public support.

Unless all these criteria are met I expect that the overall effort will fall far short of the 10 year goal to reduce space heating fuel use in half—a goal that is both technically and economically justified.

Oil heating customers pose a difficult problem. Putting energy efficiency investments for these customers into the gas or the electric utility rate base cannot so easily be justified as a measure that would defer supply expansion. Accordingly the President's Import Reduction Program treats this problem separately by providing interest subsidies to oil heating customers on investments to improve energy efficiency or to convert to natural gas. The Administration's $2.0 billion program (the total for both residential and commercial customers) would amount to about a $75 subsidy per oil heating residence, on the average. Comparing this subsidy to the average level of investment which I believe is cost justified—about $1500/house—shows that the Administration's proposal is very weak indeed.

I would favor a variation on Senator Bradley's proposal for dealing with oil heating customers: let the same "energy efficiency" companies arrange for the audits, the installation, and financing but have the federal government assume the role of the utility. One possibility would be for the homeowner to pay off the principal when the house is sold, but have the government pay the interest in the meantime. This could be justified, for example, as a way to plow back the revenues of a windfall profits tax associated with oil price deregulation. To retrofit all 16 million oil heated households over 10 years would require about $12 billion in interest payments over this period and a comparable amount of interest thereafter.

One element of a successful housing energy efficiency program has not yet been adequately developed in any existing or proposed program: the training of competent and reliable house auditors. To capture the large fuel savings potential in housing at the least cost will require a substantial effort to upgrade the status of house auditors to "house doctors" through a vigorous training program. In his testimony my colleague Dr. Dutt will show why this is so important, and he will outline the elements of a house doctor program.

A buildings energy efficiency improvement program that involves an imaginative financing scheme and a high quality building audit program should be at the top of the Nation's list of priorities for reducing our dependence on foreign oil. I know of nowhere else where the Nation can find a new source of 2½ million barrels of oil per day over the next 10 years at an average cost of $15/barrel!

IN THE NAME OF ARMS CONTROL

Mr. PROXMIRE. Mr. President, the flexibility of our language and logic are a constant wonder to me. Consider that the U.S. Senate has before it one of the principle arms control agreements of the decade—SALT II. And what are the major themes of this debate about arms control? Do we find ourselves arguing over how to insure more arms control? Do we debate which type of reduction in armament is more appropriate? Do we disagree over the timing of a reduction or the quantity involved?

No. In the name of arms control we debate how to increase U.S. strategic power. In the name of arms control we justify developing the MX missile system. In the name of arms control we call for dramatic increases in the defense budget. In the name of arms control certain assurances are sought which will inevitably lead to more weapons, more verification problems, more uncertainty in the balance of terror.

What happened to the arms control community? Where has it gone? Who speaks for arms control? Where are the voices demanding more control and less arms?

Sadly the arguments all center on the opposite viewpoint. The debate swirls around building up not controlling down. The psychology of the moment rests firmly with the advocates of ruble matching, megatonnage equality, and displacement compensation.

Across the ocean, behind the walls of the Kremlin, similar debates are occurring. "What steps can we take to overcome the MX system? How advanced is our ABM work? How fast can we increase the accuracy of our fourth and fifth generation ICBM's? Should we not accelerate laser and particle beam research? We must compensate for the increased range of the Trident submarine by redoubling our efforts in antisubmarine warfare. Why did we give the Americans a unilateral advantage by excluding the FB-111 bombers from the Treaty totals? Or their forward based aircraft in Europe and on aircraft carriers?"

Perhaps it is asking too much for logic and reason to prevail. The history of mankind can be categorized by brief periods of lucidity and mammoth gaps of ignorance.

That is why we should not let our few opportunities for true arms control debate to be masked by the sweet sounds of strength at any price. It is a melody with a predictable end.

U.S. EXPORTS TO JORDAN

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication which I have received from the Export-Import Bank pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed direct credit of $63,750,000 to assist the export from the United States of four 727-200 jet aircraft and related spare parts and Pratt and Whitney engines to ALIA—the Royal Jordanian Airline Corp. (ALIA), the wholly government-owned national air carrier of Jordan. The Bank has also extended a preliminary commitment to ALIA to assist the purchase of U.S. manufactured wide-bodied aircraft. The direct credit for the 727's plus the financing which would arise if the preliminary commitment were consummated would exceed $100,000,000.

Section 2(b) (3) (i) of the act requires the Bank to notify the Congress of proposed loans and financial guarantees in the amount of $100,000,000 or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend a direct loan to cover 85 percent of the 727 transaction and the loan will be unconditionally guaranteed by the Hashemite Kingdom of Jordan. The sale will facilitate an estimated U.S. export value of $75,000,000. The Eximbank credit will bear interest at the rate of 8½ percent per annum and be repayable in 40 semiannual installments beginning January 31, 1981.

Mr. President, I ask unanimous consent that the letter from Eximbank pertaining to this transaction be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C. July 26, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b) (3)) (i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Jordan:

A. Description of Transaction.

1. Purpose.

Eximbank is prepared to make a credit of $63,750,000 available to ALIA—The Royal Jordanian Airline Corporation (ALIA) to facilitate the purchase in the United States by ALIA of four new Boeing 727–200 jet aircraft, spare engines and related parts and services. The engines for the aircraft are manufactured by Pratt and Whitney, a subsidiary of United Technologies Corporation. The total U.S. export value for this transaction is estimated to be $75,000,000.

In addition to the aircraft proposed for sale in this transaction, Eximbank also proposes to issue a preliminary commitment to ALIA in which it will indicate the terms and conditions under which it will be prepared to extend financing to ALIA to assist it in the purchase of wide-bodied aircraft of United States manufacture to meet its needs for increased traffic and an expanding route system. The sale of wide-bodied aircraft is subject to intense competition from the A–310 which is supported by official foreign government financing.

The Eximbank credit for this transaction, together with the Eximbank financing contemplated in the preliminary commitment would fall within the purview of cases to be referred to Congress under Section 2(b) (3) of the Eximbank Act.

2. Identity of the Parties.

(a) Borrower:

ALIA is the national air carrier of Jordan and is wholly owned by the government. Eximbank has previously made three loans to ALIA and repayments have been made on a timely basis. ALIA currently flies to 31 cities in 29 countries, mainly in Europe and the Middle East, and to New York and Houston.

(b) Guarantor:

The Hashemite Kingdom of Jordan will unconditionally guarantee payment of ALIA's indebtedness under the direct credit.

3. Nature and Use of Goods and Services.

The principal goods to be exported from the United States are four commercial jet aircraft to be used by ALIA on its regional and medium range routes. The airframes for the 727's will be manufactured in the Seattle-Renton-Everett area by The Boeing Company of Seattle, Washington. The engines for the aircraft will be manufactured by the Pratt and Whitney Aircraft Group of United Technologies Corporation in Hartford, Connecticut. In addition, other U.S. firms will furnish spare parts.

B. Explanation of Eximbank Financing.

1. Reasons.

The Eximbank credit of $63,750,000 will facilitate the export of $75,000,000 of United States goods. Sales, profits and employment for U.S. aircraft manufacturers and their subcontractors are heavily dependent upon exports. Through 1990, aircraft purchases by foreign airlines are expected to account for approximately 40 percent of total U.S. aircraft sales. Eximbank's financial support for exports of U.S. aircraft has assisted U.S. aircraft manufacturers in obtaining approximately 80 percent of the world market for commercial jet aircraft.

Boeing estimates that the export of the four financed aircraft will provide 1.5 million man/hours of work for Boeing and its subcontractors. Additional benefits which will flow to the United States from the transaction include sizeable follow-on exports of spare parts, ground support and other related equipment.

During evaluation of aircraft to serve its regional and medium range routes, ALIA received an offer from Airbus Industrie for the A-300 with favorable financing. Eximbank offered financing support for the Boeing 727's on terms similar to the official foreign government financing offered on the A–300 and ALIA selected the United States aircraft.

2. The Financing Plan.

The financing plan for the total U.S. procurement supported by Eximbank is as follows:

Percentage of U.S. Costs

	Totals
Cash Payment, 15.0	$11, 250, 000
Eximbank Credit, 85.0	63, 750, 000
	75, 000, 000

(a) Eximbank Charges:

The Eximbank credit will bear interest at the rate of 8½ percent per annum, payable semiannually. A commitment fee of ½ of 1 percent per annum will also be charged on the undisbursed portion of the Eximbank credit.

(b) Repayment Terms:

The Eximbank credit will be repaid by ALIA in two repayment schedules of 20 equal semiannual installments each beginning January 31, 1981 and January 31, 1982, respectively.

Sincerely,

H. K. ALLEN.

WILL GENOCIDE CONVENTION IGNORE CRIMINAL ACTS OF GOVERNMENTS?

Mr. PROXMIRE. Mr. President, on more than a few occasions I have stood before the Senate to answer criticisms of the Genocide Convention. I would like to take up this task again today.

Critics of the Genocide Treaty argue that it lacks strength because it fails to include measures for punishing an entire government for acts of genocide. They contend that governments themselves must be subject to prosecution, for it is unlikely that this crime would be committed without the approval of the government in power.

Mr. President, this criticism of the treaty is not valid. No international law or organization has the authority to punish an entire ruling government. Not one.

And well there should not be. I would not support an organization having such power over the sovereignty of this or any other nation. I am certain my colleagues share this view.

What I do support is the treaty's intent to punish guilty "persons." This includes not only private citizens but also constitutionally responsible rulers and public officials.

Second, the convention requires successor governments to bring former public officials and rulers to trial who have been accused of genocide.

Finally, means outside the treaty are present for bringing pressure on a regime to punish those in government responsible for committing genocide. If world opinion is not satisfied with the actions taken by a regime to try those accused of this crime, then that regime can be brought before either the U.N. or the International Court of Justice. At that time, economic sanctions or diplomatic pressure can be brought to bear on the government until it pursues the matter properly.

Mr. President, this treaty does not intend to ignore the possible complicity of a government in an act of genocide. However, rather than an unprecedented attempt to bring to trial an entire body of government, it provides for the punishment of individuals, including members of the present regime. The means also exist for bringing other forms of pressure on a nation to comply with the spirit of this treaty.

Therefore, I ask the members of the Senate to join me in supporting the ratification of the Genocide Convention.

PAUL HARVEY ON SACRED HONOR

Mr. THURMOND. Mr. President, recently I had the pleasure of reading the text of a broadcast by the noted commentator Paul Harvey. The subject of the text, honor, goes to the heart of many of the basic concepts which made our country great.

Honor has been the hallmark of our Nation and each generation has held honor as one of the highest virtues.

Throughout our history honorable conduct has been the accepted norm and anything else has been looked on with derision.

In Mr. Harvey's text, he suggests a shortage of honorable men and women in the public eye and, with the help of that great American, Gen. Mark Clark, adds some insight into this area of concern.

Mr. President, in order that I may share this fine article with my colleagues, I ask unanimous consent that a major excerpt from it be printed in the Record at the conclusion of my remarks.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

AND SACRED HONOR

Each Fourth of July at least we re-examine our nation's foundation and find it was sound. But . . .

Our cornerstone Declaration of Independence from foreign domination has since been diluted by half a hundred "declarations of dependence" on our own Government. . . .

So it is refreshing to reflect on those do-it-yourself patriots who asked nothing for nothing.

The signers of that Declaration pledged their lives, their fortunes and their sacred honor. . . .

And many lost their lives and most lost their fortunes . . . but none lost his honor. . . .

What is honor?

My admiration for General Mark Clark dates back over three wars and many visits in our respective homes.

In an era when there is such a dearth of giants. . . .

When politically we are up to our ankles in pygmies. . . .

Who better than Mark Clark holds to the principles that once guided our nation and have always guided his professional and personal life.

As commandant of the Citadel he founded the Honor Code.

In the wake of new exposes of pickpockets in public office, I asked General Clark, "What is honor?"

General Mark Clark says, "Honor is the capacity to control the instinctive selfishness that lurks in all of us. It is the tough case hardened ability to put morality ahead of expediency, duty ahead of deviousness—and to do it instinctively and every time. Honor also means pride in excellence—of every kind; especially excellence of performance."

However history has X-rayed the lives of our nation's founders focusing on imperfections, the consensus of historians has to be that that one of those rare times in the affairs of men when we had greatness to spare.

Where did our ancestors get this morality and selflessness and pride in performance—where did they get this sense of honor—which characterized them?

General Clark believes they got it from their parents, from their churches, from their teachers and from their political leaders. Their earliest learning separated rightness and wrongness. They grew up knowing it is wrong to cheat, it is wrong to lie, it is wrong to steal.

They grew up knowing that laws are made to be obeyed or changed or mended—but never broken.

And they matured into positions of leadership still knowing these things.

General Clark says there is so much latent nobility in us—that Americans are so starved for a leader of honor—that anyone wanting election to any office does not need to promise spoon-feeding for the lazy, he does not need to promise to give anybody anything for nothing.

He needs to promise only "honor" and "excellence."

It would be thrilling to have a chance to test that premise.

GENERAL WESTMORELAND ON MILITARY MANPOWER

Mr. THURMOND. Mr. President, the SALT II agreement is of vital importance to our Nation. Much has been heard from proponents and opponents of the treaty about the impact SALT will have on our Nation. With all this upon us it is imperative that we take the time to examine closely each aspect of the treaty before any action is taken.

A recent article in the Wall Street Journal by Gen. William C. Westmoreland points out the need for us to look deep into the treaty for underlying misconceptions.

Mr. President, in order to share this article with my colleagues, I ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Weakest Link in Defense Chain: Military Manpower

(By William C. Westmoreland)

The Soviet Union has learned from history that great military power pays off in political power. The Soviet leaders believe that weak nations will be profoundly influenced by perceptions of strength, and will accommodate themselves to reality. Understandably, insecure people want to be on the side of strength.

Recently, we have seen Norway bow to Soviet objections to West German troop deployments in Norway during a NATO exercise. Also, Turkey has refused to allow our intelligence-gathering airplanes to fly over its soil without Soviet approval. Singapore's prime minister, Lee Kuan Yew, put it this way: "The cumulative effect of instances of apparent loss of control in the direction of events leads America's friends to pessimism and her enemies to adventurism."

Deterrence is the foundation of America's defense policy and requires a military force of such size and readiness that it will serve to discourage military confrontation by an antagonist. If not, our strategy is potentially bankrupt. The Soviet nuclear build-up and the SALT negotiations were designed basically to cancel out our nuclear deterrent by the awesome capability of their arsenal. Such a development enhances the importance and potential of the Soviet Union's superior conventional forces in Western Europe and elsewhere, particularly in areas and along routes essential to our economic well-being.

I fear the SALT II debate will be concentrated in an unrealistic and deceptively narrow frame of reference and will lose sight of the basic risk. The SALT II treaty was conceived as a means of providing stability and enhanced security, but it could result in quite the contrary, if not accompanied and linked to a commitment by the Congress to restructure our nuclear forces and authorize and fund a less vulnerable weapon system.

This is essential because of the awesome SS-18 Soviet heavy missiles which make our principal retaliatory force dangerously vulnerable. We need a system that can provide an adequate second-strike retaliatory capacity. I am not convinced that the land-based MX system proposed by President Carter is the best such system. I lean more towards augmenting our submarine delivery capability.

But even if we could agree upon and build an adequate "second-strike" system, we will need to improve our conventional military power. If we arrive as a state of mutual deterrence in nuclear weapons, then conventional weapons could prove decisive.

The public would be wise to reflect on the era of SALT I. During those years of President Nixon's "detente," we carried out the letter and the spirit of an agreement which was expected to reduce tensions. Our leaders cut our military forces, starved them of funds to keep our weapons and equipment modern and set aside Selective Service. We lost our competitive edge. The Soviet Union acted quite differently; it continued and even increased its military build-up—both nuclear and conventional. The Soviets hope to witness a rerun of that scenario.

The current SALT II national debate should bring into focus the dangers we face and the hazards of substituting SALT II for military readiness. Central to military readiness is force in being—forces trained and equipped to act as required by the situation. That spells manpower. The military manpower problem is now, in my opinion, the weakest link in the military chain.

The standing forces are having difficulty getting men and women of the quality needed by a modern military force. In the last calendar quarter, all services fell substantially short of meeting their recruiting goals. The Army Reserve is now 15 percent short of requirements and the Army National Guard is down about 20 percent. The Individual Ready Reserve is only about 100,000 strong compared to over a million men several years ago, and rapidly falling. Minority groups and the lower economic groups are carrying a disproportionate share of the burden.

To make the numbers look better, the Carter administration has directed the military services to recruit more and more women with an objective of 12 percent by 1983. The administration has taken this questionable political action despite the fact that we have no combat experience data as to the performance of women in the many jobs to which they are now being assigned. But recruiting women is also falling short of assigned goals. Further, the number of males in the 18-to-21-year-old age group will drop by an estimated 25 percent during the late 1980s, making recruiting even more difficult.

Why this deplorable situation? Simply, the desire to serve at this time in our history is at a low ebb. From 1940 until 1973, the Selective Service system was in force and manpower was not a major problem. With the inducement of the draft, the volunteer rate was high. In my view, reinstatement of the draft would again induce volunteers in such numbers that draft calls would be low and frequently unnecessary.

Even if the draft were resumed tomorrow, it would be about seven months before the first trained man was available to join an organized unit. Much can happen in seven months. Our credibility and deterrence posture are being steadily eroded by our decaying military manpower situation.

We have created the problem ourselves. In recent years, we have gone overboard on rights of citizens and in the process deemphasized the responsibilities of citizenship. When the draft was stopped and, subsequently, draft resisters pardoned, we inadvertently transmitted a message to our youth that they had no obligation to serve. We are now paying the penalty and the damage may be greater than most suspect.

Democracy will not work unless our citizens—young and old—practice the principle that for every right there is a duty. We must revive that principle and restore our moral and our patriotic values. We cannot take our democracy and security for granted.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

FBI CHARTER ACT OF 1979—MESSAGE FROM THE PRESIDENT—PM 91

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on the Judiciary:

To the Congress of the United States:

I am transmitting today the FBI Charter Act of 1979, which will provide the first comprehensive Charter for the functioning of the Federal Bureau of Investigation. This legislative proposal will govern all the investigative and law enforcement functions of the Federal Bureau of Investigation.

The foreign intelligence and counterintelligence functions of the Bureau will be governed by a separate charter for the entire foreign intelligence community.

This proposal was developed by the FBI and the Justice Department and has received close scrutiny and personal approval from Attorney General Griffin Bell, Deputy Attorney General Benjamin Civiletti, and Director William Webster.

The law enforcement Charter would bring together in one statute the authorities and responsibilities that the FBI now exercises as a matter of custom and practice.

Although most departments and agencies operate under detailed statutory schemes, the FBI has lacked a statutory framework, although it is one of the most important and sensitive of all Executive Branch agencies. A one-paragraph 1908 law creating the Bureau is all that presently exists. The controversies in past years regarding particular actions of the Bureau, such as those directed at Dr. Martin Luther King, Jr., and various other persons and organizations, are to some degree attributable to this lack of statutory direction. It was these controversies which led me to call for a clear and binding charter for the FBI when I ran for President. Statutory safeguards would insure that the Bureau exercises its responsibilities in a manner sensitive to the fundamental rights of all Americans. The public must be assured that the FBI is acting properly under the law.

We need to recognize that the FBI serves a vital national function and that it has rendered distinguished service to the Nation. It has set a standard for competence, dedication and professionalism of which we should all be proud. We must be careful to maintain the fundamental capability of an institution which has served us so well. This Charter maintains that capability. Under Director William Webster the conduct of the Bureau has been exemplary and I applaud his leadership.

A clear definition of the authorities and responsibilities of the FBI is essential to its proper functioning and is in the best interest of national law enforcement and the proper administration of justice. Enactment of this Charter will enable FBI agents to carry out their duties with greater certainty, confidence, and effectiveness.

The bill I submit today reflects three fundamental objectives:

The Charter should be a document of broad principles, not a long detailing of procedures. It should enumerate the FBI's jurisdiction, functions and powers and set forth the limits on its activities, but should leave to the Attorney General the power to issue specific detailed procedures and guidelines.

With few exceptions, coupled with procedural safeguards, the investigative power of the FBI should be limited to the detection, prevention and prosecution of federal crimes. This will prevent the unrestricted accumulation of information concerning individuals not suspected of criminal conduct.

The Charter should strike a proper balance between the true needs of law enforcement and the civil liberties guaranteed by our Constitution. The greater the potential for impairment of rights, the stronger the authorization and accountability systems required.

The Charter authorizes the FBI to employ traditional and lawful investigative techniques in carrying out its responsibilities. These include confidential informants, undercover agents, and undercover operations.

Two primary types of criminal investigations are authorized: investigation of criminal acts that violate federal law and investigations into criminal enterprises that involve racketeering or terrorism. No investigation may be commenced unless based on "facts and circumstances that reasonably indicate" a criminal violation.

For the most part, this bill simply codifies current practices. However, FBI authority would be significantly expanded in two areas:

1. The FBI could issue "investigative demands" for financial records. This is a compulsory process enforceable in the courts comparable to the administrative subpoenas issues by agencies such as the Securities and Exchange Commission and the new Inspectors General in each Federal agency. This is essential if the FBI is to be effective in combatting white collar crime, fraud, corruption, and organized crime.

2. The FBI could investigate patterns of terrorist acts that involve violations of state criminal laws even without federal violations, following the model of current racketeering statutes.

The bill continues existing restrictions, procedural controls, and requirements for accountability on FBI activities. It adds, however, several new restrictions providing tighter controls over the use of informants. For example, infiltration of groups under investigation for terrorist activities and participation by an informant in criminal activity must now be approved by a supervisory FBI official.

The Charter requires that the Attorney General promulgate, and periodically review, operational guidelines for each of the Bureau's major activities. These guidelines will be filed with the Congress and made available to the public unless, in a specific case, their release would jeopardize the investigative process. The FBI is also required to report on important and sensitive activities to the Attorney General and the Congress.

This Charter strikes the proper balance between assuring both that the civil rights and liberties guaranteed to Americans by our Constitution are protected and that the FBI can fully pursue its appropriate functions.

I urge the Congress to give this bill the careful and urgent attention it deserves and to pass the first Charter for the FBI.

JIMMY CARTER.

THE WHITE HOUSE, *July 31, 1979.*

REPORT ON COAL MINE HEALTH AND SAFETY—MESSAGE FROM THE PRESIDENT—PM 92

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 511(a) of the Federal Coal Mine Health and Safety Act of 1969, I hereby transmit the Annual Report of the Secretary of the Interior.

Part I of the Report details the activities of the Mining Enforcement and Safety Administration. Part II describes the mining research activities of the Bureau of Mines.

JIMMY CARTER.

THE WHITE HOUSE, *July 31, 1979.*

MESSAGES FROM THE HOUSE

At 3:24 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 1146. An act to amend title XIV of the Public Health Service Act, as amended by the Safe Drinking Water Act (88 Stat. 1680, 42 U.S.C. 300j), to extend for three fiscal years the authorization for appropriations, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4476. An act to extend certain programs under the Higher Education Act of 1965 for one year, and for other purposes.

At 3:47 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House disagrees to the amendments of the Senate to H.R. 4394, an act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BOLAND, Mr. TRAXLER, Mr. STOKES, Mr. BEVILL, Mrs. BOGGS, Mr. SABO, Mr. STEWART, Mr. WHITTEN, Mr. COUGHLIN, Mr. McDADE, Mr. YOUNG of Florida, and Mr. CONTE were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 961. An act to amend the Speedy Trial Act of 1974.

At 6:57 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3361. An act to establish the true location of a portion of northerly boundary of the Angeles National Forest, located in Los Angeles County, Calif., on the common line between sections 16 and 17, township 4 north, range 10 west, San Bernardino meridian, and to establish the center quarter corner of said section 16; and

H.R. 4811. An act for the relief of the city of Nenana, Alaska, and to amend the Act of January 2, 1976, as amended, and for other purposes.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 3361. An act to establish the true location of a portion of northerly boundary of the Angeles National Forest, located in Los Angeles County, Calif., on the common line between sections 16 and 17, township 4 north, range 10 west, San Bernardino meridian, and to establish the center quarter corner of said section 16; to the Committee on Energy and Natural Resources.

HOUSE BILL HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 4811, an act for the relief of the city of Nenana, Alaska, and to amend the act of January 2, 1976, as amended, and for other purposes, be held at the desk pending further action.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–1890. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Efficiency of Reserve and Guard Training Has Improved Since 1974, But More Can Be Done," July 30, 1979; to the Committee on Armed Services.

EC–1891. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to the United Kingdom for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1892. A communication from the Director, Defense Security Assistance Agency reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to Jordan for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1893. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Servies.

EC–1894. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the Implementation of the Fishery Conservation and Management Act of 1976, March 1, 1979; to the Committee on Commerce, Science, and Transportation.

EC–1895. A communication from the Acting Administrator, United States Environmental Protection Agency, reporting, pursuant to law, on reprogrammings which exceeded the limitation in the Environmental Research, Development, and Demonstration Authorization Act of 1979; to the Committee on Environment and Public Works.

EC–1896. A communication from the President of the United States, transmitting the energy tax initiatives of his Oil Import Reduction Program; to the Committee on Finance.

EC–1897. A communication from the Chairman, National Commission on Unemployment Compensation, transmitting, pursuant to law, the Commission's second annual report; to the Committee on Finance.

EC–1898. A communication from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, on recommendations made to the Director, OMB, by the General Accounting Office in its final report HRD–79–11, dated May 8, 1979, "Federally Assisted Employment and Trainings: A Myriad of Programs Should be Simplified"; to the Committee on Governmental Affairs.

EC–1899. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 5911 of title 5, United States Code, to exclude trailer court spaces from the definition of the term "quarters"; to the Committee on Governmental Affairs.

EC–1900. A communication from the Director, Office of Personnel Management, reporting, pursuant to law, on exclusions or revocations of past exclusions from the Senior Executive Service made by the President under the authority of section 3132(f) of 5 U.S.C.; to the Committee on Governmental Affairs.

EC–1901. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the drug abuse prevention and treatment functions of the Department for fiscal year 1978; to the Committee on Labor and Human Resources.

EC–1902. A communication from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, a proposed plan for the use and distribution of the Nisqually Tribe judgment funds in Docket 197 before the Indian Claims Commission; to the Select Committee on Indian Affairs.

EC–1903. A communication from the Chairman, President's Commission on Executive Exchange, transmitting a draft of proposed legislation to amend section 109 of title 18, United States Code; to the Committee on the Judiciary.

EC–1904. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Reliable Local Unemployment Estimate: A Challenge for Federal and State Cooperation," July 27, 1979; to the Committee on Labor and Human Resources.

EC–1905. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the family contribution schedules for the Basic Educational Opportunity Grant Program for academic year 1980–81; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Governmental Affairs, without amendment:

H.R. 4616. An act to make certain technical and clerical amendments to title 5, United States Code (Rept. No. 96–276).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 1318. A bill to amend title 13 of the United States Code to provide a limited exemption in the Bureau of the Census from the provisions of section 322 of the Act of June 30, 1932 (Rept. No. 96–277).

By Mr. DeCONCINI, from the Committee on the Judiciary, without amendment, and with a preamble:

S.J. Res. 98. A joint resolution designating the week of October 8 through October 14, 1979, as "National Diabetes Week" (Rept. No. 96–278).

S.J. Res. 43. A joint resolution to proclaim March 21, 1980, "National Energy Education Day" (Rept. No. 96–279).

By Mr. MAGNUSON, from the Committee on Appropriations, without amendment, and without recommendation:

S. 689. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for their surviving spouses and children, and for other purposes (Rept. No. 96–280).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 200. A resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1125.

S. Res. 212. A resolution waiving section 402 (a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 914.

S. Res. 213. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 566.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

James Rosenquist, of Florida, to be a Member of the National Council on the Arts.

Robert Joseph Brown, of Maryland, to be a member of the National Mediation Board.

(The above nominations from the Committee on Labor and Human Resources were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. CHURCH, from the Committee on Foreign Relations:

J. Brian Atwood, of Maryland, to be an Assistant Secretary of State.

Douglas J. Bennet, Jr., of Connecticut, to be Administrator of the Agency for International Development.

Thomas Ehrlich, of California, to be Director of the U.S. International Development Cooperation Agency.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on the Judiciary:

Benjamin R. Civiletti, of Maryland, to be Attorney General.

Alan A. Parker, of California, to be Assistant Attorney General.

Irvin B. Smith, Jr., of Delaware, to be U.S. Marshal for the District of Delaware.

Jose A. Lopez, of Puerto Rico, to be U.S. Marshal for the District of Puerto Rico.

(The above nominations from the Committee on the Judiciary were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. CHURCH, from the Committee on Foreign Relations:

Harvey J. Feldman, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States to Papua New Guinea and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States to Solomon Islands.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Political Contributions Statement

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee, Harvey J. Feldman.

Post, Ambassador, Papua New Guinea.

Contributions, amount, date and donee:

1. Self, $25, June 1976, Carter Campaign Committee.

2. Spouse.

3. Children and spouses names: Ross & Peter Feldman, none.

4. Parents names: Irving & Bertha Feldman, none.

5. Grandparents names: Deceased.

6. Brothers and spouses names: None.

7. Sisters and spouses names: Mr. & Mrs. Carl Harnick, $200, 1978, Hugh Carey, $25 1976, Jerry Halperin.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

James W. Spain, of California, to be the Deputy Representative of the United States to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Political Contributions Statement

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee, James W. Spain.

Post, Ambassador.

Contributions, amount, date, and donee:

1. Self, none, $20 for 1975, 1976, 1977, 1978, and 1979 Democratic National Committtee.

2. Spouse, $100.00.

3. Children and spouses names: None.

4. Parents names: None.

5. Grandparents names: None.

6. Brothers and spouses names: None.

7. Sisters and spouses names: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

Thomas J. Watson, Jr., of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Union of Soviet Socialist Republics.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commit to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Political Contributions

Nominee, Thomas J. Watson, Jr.

Post, United States Ambassador to the Soviet Union.

Nominated, June 1979.

Contributor, amount, date, and donee:

1. Thomas J. Watson, Jr., $1,000, August 25, 1975, Shriver for President (campaign); $1,000, November 2, 1975, The President Ford Committee (campaign); $1,750, January 22, 1975, Salute to the Vice President Dinner (Nelson A. Rockefeller—for 1 table of 10 places); 10 shs. IBM stock, December 23, 1975, Commission on White House Fellows (President's Commission); $200, March 2, 1976, Pierre S. duPont IV (Governor's campaign—Delaware); $1,000, April 1976, John D. Rockefeller IV (Governor's campaign—West Virginia); $1,000, July 9, 1976, Jimmy Carter for President (Presidential campaign); $500, September 20, 1976, John H. Shafee (Senator from Rhode Island—campaign); $1,000. October 7, 1976, John Heinz for Senate Campaign (Senator for Pennsylvania); $1,000, October 22, 1976, Democratic National Committee; $250, October 27, 1976, William J. Lawless, Jr. (Representative from Connecticut-campaign); $1,000, October 14, 1976, Moynihan for Senate Campaign (Senator for New York); $1,000, November 4, 1977; Citizens for Percy (Senator from Illinois—campaign); $5,000, October 21, 1977, Committee of Americans for the Canal Treaties; $1,000, June 16, 1978, Moynihan for Senate Commitee (Senator from New York—campaign); $1,000, October 20, 1978, Cohen for Senate Committee (U.S. House of Representatives—campaign); $1,000, October 20, 1978, Campaign for U.S. Senate (Charles Ravenel's campaign); $1,000, October 20, 1978, Senator Jennings Randolph (West Va.—campaign); $1,000, April 10, 1978, Citizens for Percy Fund (Senate campaign); $1,000, April 10, 1978, Scranton for Lieutenant Governor (Pa.'s Lt. Governor's campaign); $1,000, May 25, 1978, The Re-elect Senator Pell Committee (Senator from R.I.—campaign); $5,000, April 24, 1979, The Democratic Congressional Dinner Committee.

2. Spouse: Olive C. Watson, $1,000, August 12, 1975, Shriver for President (Presidential campaign); $1,000, April 20, 1978, Citizens for Percy Fund (Senator from Illinois—campaign).

3. Children and spouses:

Thomas J. Watson, III and Margaret Watson, none.

Jeannette W. Sanger and Alexander Sanger, none.

Olive F. Watson, none.

Lucinda W. Mehran and Alexander Mehran, none; $1,000, September 16, 1977, John Fullham (campaign for election to Congress—Massachusetts).

Susan C. Watson, none.

Helen M. Watson, $500, November 22, 1977, Citizens for Percy (Senator from Illinois—campaign).

4. Sister: Helen W. Buckner, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

Frank George Wisner II, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Zambia.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Political Contributions Statement

Nominee, Frank G. Wisner.

Post, Zambia.

Contributions, amount, date, and donee:

1. Self: Frank G. Wisner.

2. Spouse: Christine.

3. Children and spouses (minors) names: Caroline, Olivier and Sabrina.

4. Parents names: Mrs. Clayton Fritchey.

5. Grandparents names: Deceased.

6. Brothers and spouses names: John Ellis Knowles Wisner and Florence; Graham G. Wisner (unmarried).

7. Sisters and spouses names: Mr. and Mrs. Bruce Hazard.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Frank G. and Christine Wisner, 1975, None.

1976, John Heinz for Senator, $25.00; Les Aspin for Congress, $50.00.

1977, None.

1978, Marion Barry for Mayor, $250.00; Women's Campaign Fund, $150.00; and Les Aspin for Congress, $50.00.

Graham G. Wisner (brother), 1976, Les Aspin for Congress, $50.00.

Elizabeth Wisner Hazard (sister), 1978, Richard Spencer for Congress, $200.

Bruce Hazard (brother-in-law), None.

ELLIS WISNER,
Washington, D.C., May 7, 1979.

Mr. FRANK WISNER,
Department of State, Washington, D.C.

DEAR FRANK: You asked for a list of political contributions I have made to candidates for Federal Offices from January 1, 1975 to the present.

I have reviewed my records and to the best of my knowledge the list here is complete.

JEKW 1975–76 political contributions

April 21, 1975, Committee for Wirth	$25.00
Nov. 17, 1975, Maine for Muskie Committee	100.00
May 10, 1976, Carter for President Campaign	100.00
May 15, 1976, Sarbanes for Senate 1976	100.00
June 7, 1976, Friends of Les Aspin	25.00
Sept. 17, 1976, Sarbanes for Senate 1976	250.00
	600.00

1977: None.

1978

Jan. 19, 1978, Ravanel for Senate Committee	$100.00
Jan. 26, 1978, Committee for Tim Wirth	50.00
Aug. 11, 1978, Friends of Les Aspin	100.00
Oct. 24, 1978, Miller for Senate	150.00

My wife, Florence Bryan Wisner, has made no contributions to candidates for Federal offices during this period of time.

Sincerely,

ELLIS WISNER.

MARY KNOWLES FRITCHEY (MOTHER)

	Amount
Citizens for Senator John Tunney	$100.00
Woman's National Democratic Club (Dues)	75.00
Total	175.00
National Democratic Committee	1,000.00
NWPC Campaign Support Committee	100.00
National Friends of John Brademas	50.00
Church for President Committee	100.00
Mankiewicz for Congress Committee	100.00
Edmund Muskie Senate Campaign	100.00
Paul S. Sarbanes Campaign Fund	100.00
Symington for Senate	250.00
Carter for President	500.00
Total	2,300.00
Dollars for Democrats	50.00
Democratic Party	200.00
Abner Mikva Committee	50.00
Montgomery for Lee Committee	500.00
Claiborne Pell for Senate Committee	500.00
Chuck Robb for Lt. Gov. Committee	50.00
Dick Spencer for Congress	250.00
Woman's National Democratic Club	100.00
Total	1,700.00
DuVal for Senate	100.00
Les Aspin Fund Raising	249.58
Marion Barry for Mayor	$300.00
Sloan for Governor Cte	100.00
Women's National Democratic Club dues	100.00
Total	849.58
Women's Campaign Fund	1,950.00

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MATHIAS (for himself and Mr. BAKER):

S. 1603. A bill to amend the Food Stamp Act to establish a home-heating stamp program to provide assistance to low-income and fixed-income households in meeting the cost of rising fuel bills; to the Committee on labor and Human Resources.

By Mr. RIBICOFF (by request):

S. 1604. A bill to provide for the transfer of certain additional energy functions to the Department of Energy, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MATSUNAGA:

S. 1605. A bill to exempt inflatable boats and rafts used for carrying passengers from the provisions of the coastwise laws requiring vessels to be built in the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN:

S. 1606. A bill to amend title 13, United States Code, to correct for undercounting in the 1980 census; to the Committee on Governmental Affairs.

By Mr. BAKER (for himself and Mr. SASSER):

S. 1607. A bill for the relief of the Camel Manufacturing Co.; to the Committee on the Judiciary.

By Mr. RIEGLE:

S. 1608. A bill to require business concerns which undertake changes of operations to give notice to the Secretary of Labor, and to affected labor organizations, employees, and local governments; to require business concerns to provide assistance, to employees who suffer an employment loss caused by changes of operations; to authorize the Secretary of Labor to provide assistance to such business concerns, and to such affected employees and local governments; and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WILLIAMS:

S. 1609. A bill to facilitate economic adjustment of communities and workers, to preserve jobs and stabilize communities, to require prenotification to affected employees and communities of closings and relocations of business concerns; to provide assistance (including retraining) to employees who suffer employment loss because of closings and relocations of business concerns; to the Committee on Labor and Human Resources.

By Mr. SCHWEIKER:

S. 1610. A bill to provide for a national blood exchange program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BAUCUS (for himself and Mr. CHURCH):

S. 1611. A bill to establish the national forest systems investment fund, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

By Mr. KENNEDY (for himself, Mr. BIDEN, Mr. DECONCINI, Mr. MATHIAS, and Mr. THURMOND):

S. 1612. A bill to create a charter for the Federal Bureau of Investigation, and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. MAGNUSON, Mr. HOLLINGS, and Mr. WARNER):

S.J. Res. 101. A joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 7, 1979, as "National Port Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS (for himself and Mr. BAKER):

S. 1603. A bill to amend the Food Stamp Act to establish a home-heating stamp program to provide assistance to low-income and fixed-income households in meeting the cost of rising fuel bills; to the Committee on Labor and Human Resources.

HOME HEATING STAMP ACT OF 1979

● Mr. MATHIAS. Mr. President, an editorial in the Washington Post asked the question "Why Not Fuel Stamps?" The editorial went on to point out that—

> The cost of home heating oil is now rising fast, and by midwinter it may well be nearly twice as high as a year earlier. The suffering among people who are poor, and who live in oil-heated homes, will inevitably increase. There is only one remedy that has any real chance of helping those people quickly, and that is a rapidly enacted program of fuel stamps.

I heartily concur and am introducing today, for myself and Mr. BAKER as I did in 1977, the Home Heating Stamp Act.

What I said in 1977 is as valid today as it was then, perhaps even more so. We had just passed the emergency natural gas legislation and the price of that commodity was going to rise, as a natural consequence of passage of that legislation. I noted then that—

> We must be certain in our rush to assure sufficient fuel to save lives and property under the emergency natural gas legislation that we do not overlook a related hardship. That fuel which is available, be it natural gas, kerosene, No. 2 heating oil, or any other home-heating fuel, costs so much more than it used to that some families may have to sacrifice food for fuel. This situation strikes most severely those who are least able to afford both the price of the fuel and the loss of nutrition.

The bill I introduce today is identical to the one I proposed in 1977. The only difference is that the case for its enactment is more compelling today than it was 2 years ago.

This bill amends the Food Stamp Act to provide for immediate implementation of a fuel stamp program. The bill requires that the existing administrative structure be used for this purpose to reduce delay and to hold administrative costs to a minimum. This existing machinery will be the means to help the elderly and other persons on limited or fixed incomes to obtain the fuel they need to stay warm and healthy.

This bill has a long history. It dates back to the initial stages of the oil embargo of 1973 and is the legislative aspect of a study by the then Federal Energy

Administration and the Department of Health, Education, and Welfare. That study was done pursuant to an amendment to S. 3221, the Energy Supply Act of 1974, which I introduced on September 17, 1974. That study was completed in December of 1974 and this bill is based upon the findings and recommendations of that work.

In 1977, columnist Kevin Phillips wrote in the Baltimore News American that fuel stamps or energy stamps "may be an idea whose time has come." He suggested that the idea should appeal to liberals and conservatives alike. His point was that "to assist retired and disabled people who have spent the better part of their lives working is a far cry from stimulating welfarism among those younger and able-bodied."

Others, such as Richard P. Nathan, a senior fellow at the Brookings Institution and Deputy Under Secretary in the Department of Health, Education, and Welfare under Elliot Richardson, have suggested that "food stamps be expanded to include fuel. Such measures to expand the benefits of the food stamp program should be seriously considered as part of a new system" to deal with the needs of the poor and those on fixed incomes.

For those of us who support the decontrol of oil and other related fuel products, this bill is an essential companion piece to those ideas. It is a fair way to help those least able to bear the burden of paying for increased fuel bills in the home, and it is an investment in stability. I urge my colleagues to join with me in this effort and move it to swift passage.

Mr. President, I ask unanimous consent that the text of the bill, a section-by-section analysis of the bill, the Washington Post editorial of this morning, and the articles by Kevin Phillips and Richard Nathan be printed in the RECORD at this point.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1603

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Home-Heating Stamp Act of 1979".

FINDINGS

SEC. 2. The Congress hereby finds that the recent rise in fuel prices and home-heating costs, occasioned particularly by the natural gas emergency and the consequent temporary lifting of price ceilings, is working a serious hardship on households living on fixed or low incomes and necessitates the establishment of a program of assistance to help such households meet rising fuel expenses utilizing the administrative apparatus of the food stamp program to simplify administration and speed implementation.

DECLARATION OF POLICY

SEC. 3. Section 2 of the Food Stamp Act of 1964, as amended, is amended to read:

"SEC. 2. It is hereby declared to be the policy of the Congress, in order to promote the general welfare, that the Nation's abundance of food should be utilized cooperatively by the States, the Federal Government, local governmental units, and other agencies to safeguard the health and well-being of the Nation's population and raise levels of nutrition among low-income households and that such households should have access to purchasing power adequate to permit them to obtain reasonable amounts of home-heating fuels. The Congress hereby finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households and that limited home-heating fuel purchasing power imposes serious health and safety risks on members of such households. The Congress further finds that increased utilization of food in establishing and maintaining adequate national level of nutrition will promote the distribution in a beneficial manner of our agricultural abundances and will strengthen our agricultural economy, as well as result in more orderly marketing and distribution of food. To alleviate such hunger and malnutrition and reduce the hardships imposed on low-income households by high home-heating costs, a food stamp program and a home-heating stamp program are herein authorized which will permit low-income households to purchase a nutritionally adequate diet through normal channels of trade and permit such households to obtain reasonable amounts of home-heating fuels through normal channels of trade.".

DEFINITIONS

SEC. 4. (a) Section 3(e) of the Food Stamp Act of 1964, as amended, is amended by adding, at the end thereof, the following sentences: "For the purposes of the home-heating stamp program authorized by this Act, the term "household" means a group of individuals who are not residents of an institution and are living as one economic unit, or a single individual living alone. For purposes of the home-heating stamp program authorized by this Act, restrictions on participation in the food stamp program by recipients of assistance under title XVI of the Social Security Act shall not apply.".

(b) Section 3(j) of the Food Stamp Act of 1964, as amended, is amended to read:

"(j) For the purposes of the food stamp program established pursuant to this Act, the term 'State' means the fifty States and the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States. For the purposes of the home-heating stamp program established pursuant to this Act, the term 'State' means the fifty States and the District of Columbia.".

SEC. 5. Section 3(k) of the Food Stamp Act of 1964, as amended is amended to read:

"(k) The term 'food stamp program' means any program promulgated pursuant to the provisions of this Act which relates to increasing food purchasing power among low-income households.".

SEC. 6. Section 3 of the Food Stamp Act of 1964, as amended, is amended by adding, at the end thereof, the following new subsections:

"(p) The term 'home-heating stamp program' means any program promulgated pursuant to the provisions of this Act which relates to increasing home-heating fuel purchasing power among low-income households.

"(q) The term 'home-heating fuels' means fuel or energy used in a household's heating system including, but not limited to, heating oil, natural gas, electricity, kerosene, wood, propane, and coal.

"(r) The term 'provider' means any business entity, public or private utility or individual that regularly provides, distributes, or delivers home-heating fuels.

"(s) The term 'heating season' means the period of time, not to exceed six consecutive months, which an allotment of home-heating stamps is intended to cover. Heating seasons shall be established for each State by the State agency and shall be in full calendar months.".

ESTABLISHMENT OF THE HOME-HEATING STAMP PROGRAM

SEC. 7. The heading preceding section 4 of the Food Stamp Act of 1964, as amended, is amended to read:

"ESTABLISHMENT OF THE FOOD STAMP PROGRAM AND THE HOME-HEATING STAMP PROGRAM".

SEC. 8. The Food Stamp Act of 1964, as amended, is amended by deleting section 4 (c) of such Act.

SEC. 9. Section 4 of the Food Stamp Act of 1964, as amended, is amended by adding the following new subsection:

"(c) the Secretary is further authorized to formulate and administer a home-heating stamp program under which, at the request of the State agency, eligible households within the State shall be provided with an opportunity to obtain reasonable amounts of home-heating fuels through the issuance to them of a home-heating coupon allotment which shall have a greater monetary value than any charge to be paid for such allotment by eligible households. The home-heating coupons received by such households shall be used only (1) to purchase home-heating fuels from providers which have been approved for participation in the home-heating stamp program, or (2) in the case of an eligible household which rents its residence and does not pay its home-heating fuel bill directly to a provider, to offset any rent due its landlord. Landlords accepting home-heating fuel coupons as partial payment of rent due shall use such coupons to pay all or a part of their fuel bills and shall not increase household rents in connection with or as a result of the use of home-heating coupons by an eligible household. Tenants utilizing home-heating coupons to offset any rent due a landlord shall not use more than one month's coupon allotment to offset rent due for any one month, unless an alternate arrangement is agreed to by the landlord. Home-heating coupons issued and used as provided in this Act shall be redeemable at face value by the Secretary through the facilities of the Treasury of the United States.

"(d) The Secretary shall issue such regulations, not inconsistent with this Act, as he deems necessary or appropriate for the effective and efficient administration of the programs authorized by the Act.".

ELIGIBLE HOUSEHOLDS

SEC. 10. Section 5(a) of the Food Stamp Act of 1964, as amended, is amended by adding, at the end thereof, the following new sentence: "Except for the temporary participation of households that are victims of a disaster as provided in the last sentence of subsection (b) of this section, participation in the home-heating stamp program shall be limited to households whose income and other financial resources are such that they are eligible for assistance under the food stamp program established pursuant to this act.".

SEC. 11. Section 5(b) of the Food Stamp Act of 1964, as amended, is amended by adding, at the end thereof, the following new sentence: "The Secretary may also establish temporary emergency standards of eligibility for the home-heating stamp program for the duration of the emergency, without regard to income or other financial resources, for households that are victims of a disaster which disrupts the normal distribution of home-heating fuels.".

SEC. 12. Section 5 of the Food Stamp Act of 1964, as amended, is amended by adding, at the end thereof, the following new subsection:

"(e) The Secretary shall establish uniform national standards of eligibility for households participating in the home-heating stamp program authorized by this act, consistent with those used for the food stamp program.".

ISSUANCE AND USE OF COUPONS

SEC. 13. Section 6(a) of the Food Stamp Act of 1964, as amended, is amended to read:

"(a) Coupons shall be printed in such

denominations as may be determined to be necessary, and shall be issued only to households which have been duly certified as eligible to participate in the programs authorized by this act.".

SEC. 14. Section 6(d) of the Food Stamp Act of 1964, as amended, is amended by deleting the word "Coupons" and substituting the words "Food coupons".

SEC. 15. Section 6 of the Food Stamp Act of 1964, as amended, is amended by adding, at the end thereof, the following new subsections:

"(f) Home-heating coupons issued to eligible households shall be used by them only in the manner prescribed in section 4 (c) of this act and subsection (g) of this section: *Provided*, That nothing in this act shall be construed as authorizing the Secretary to specify the prices at which home-heating fuels may be sold.

"(g) Each household eligible for the home-heating stamp program shall be issued monthly allotments of home-heating coupons for the entire heating season for the State as established by the State agency, or, in the case of households applying after the beginning of a heating season, monthly allotments for the remaining number of full months in the heating season: *Provided*, That each eligible household may elect to be issued monthly allotments of home-heating coupons for periods of time less than the entire heating season for the State. Home-heating coupons issued to eligible households may be used to pay part or all of a bill which includes the cost of home-heating fuels. Home-heating coupons issued to eligible households shall be valid for use by such households or their landlords only for the heating season established for the State by the State agency and one month thereafter and shall not be valid for use in more than one heating season. Cash in change, up to a value of $1, may be returned to eligible households or their landlords, pursuant to regulations which shall be issued by the Secretary.".

VALUE OF THE COUPON ALLOTMENT AND CHARGES TO BE MADE

SEC. 16. Section 7(b) of the Food Stamp Act of 1964, as amended, is amended by inserting the words "eligible for the food stamp program" immediately after the word "household" the first time it appears.

SEC. 17. Section 7 of the Food Stamp Act of 1964, as amended, is amended by adding, at the end thereof, the following new subsections:

"(e) The face value of the monthly coupon allotments which State agencies shall be authorized to issue to any households certified as eligible to participate in the home-heating stamp program shall be in such amount as the Secretary determines will reflect the monthly equivalent of the minimal cost of a reasonable amount of home-heating fuel for a single heating season. Coupon allotments shall only be established after consideration of the average cost of a reasonable variety of home-heating fuels over a single heating season and shall be set with due regard to minimizing the extent to which allotments might exceed the actual cost of home-heating fuels to eligible households. Coupon allotments shall be varied by household size and geographic location, as deemed appropriate by the Secretary: *Provided*, That such allotments shall be set so as to minimize the extent to which assistance provided under the home-heating stamp program might induce unnecessary consumption of home-heating fuels: *Provided further*, That such allotments shall be adjusted annually to reflect the Secretary's evaluation of changes in the costs of home-heating fuels.

"(f) Households participating in the home-heating stamp program shall be charged a standard percentage of monthly household income for the coupon allotments issued to them, and the amount of such charge shall represent a reasonable investment on the part of the household, but in no event more than the percentage of personal consumption expenditures shown to be spent on home-heating fuels by the best information available to the Secretary (including the most recent consumer expenditure surveys of the Bureau of Labor Statistics of the Department of Labor). In establishing the standard percentage charge to participating households, the Secretary shall give due consideration to the extent which home-heating costs reduce the charge to households who simultaneously participate in the food stamp program.

"(g) For the purposes of computing the amount of the charge to be made to each household participating in the home-heating stamp program, the household's net monthly income, as computed for food stamp program purposes, shall be used.

"(h) Notwithstanding any other provisions of law, home-heating coupon allotments may be issued without charge to households with income, as computed under subsection (g) of this section, of less than $30 per month for a family of four under standards of eligibility prescribed by the Secretary.

"(i) Notwithstanding the provisions of subsections (e) and (f) of this section, the Secretary may issue to eligible households, without charge, home-heating coupon allotments which have been reduced by a standard percentage of monthly household income if he deems this a more efficient, effective, and equitable method of providing home-heating cost assistance to eligible households.".

APPROVAL OF PROVIDERS

SEC. 18. The heading preceding section 8 of the Food Stamp Act of 1964, as amended, is amended to read:

"APPROVAL OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS, AND HOME-HEATING FUEL PROVIDERS".

SEC. 19. Section 8 of the Food Stamp Act of 1964, as amended, is amended by adding, at the end thereof, the following new subsection:

"(d) The Secretary shall approve home-heating fuel providers for participation in the home-heating stamp program under regulations patterned after those used to approve retail food stores and wholesale food concerns for participation in the food stamp program. Only providers approved by the Secretary, in consultation with the Federal Energy Administration, shall be authorized to accept and redeem home-heating coupons under the home-heating stamp program.".

REDEMPTION OF COUPONS

SEC. 20. Section 9 of the Food Stamp Act of 1964, as amended, is amended to read:

"SEC. 9. Regulations issued pursuant to this Act shall provide for the redemption of food coupons accepted by retail food stores through approved wholesale food concerns or through banks and for redemption of home-heating coupons accepted by providers through banks, with the cooperation of the Treasury Department.".

ADMINISTRATION

SEC. 21. Section 10(a) of the Food Stamp Act of 1964, as amended, is amended by adding, at the end thereof, the following new sentences: "All practicable efforts shall be made in the administration of the home-heating stamp program to insure that assistance provided under such program does not induce unnecessary additional consumption of home-heating fuels. The Secretary shall consult with and solicit technical assistance from the Federal Energy Administration and the Department of Health, Education, and Welfare in formulating and administering the home-heating stamp program and shall, in cooperation with such agencies, make all practicable efforts to carry out an informational program regarding insulation and other means of reducing home-heating costs.".

SEC. 22. Section 10(c) of the Food Stamp Act of 1964, as amended, is amended by inserting the words "or the home-heating stamp program" immediately after the words "food stamp program", wherever they appear.

SEC. 23. (a) Section 10(a) of the Food Stamp Act of 1964, as amended, is amended by inserting the words "or the home-heating stamp program" immediately after the words "food stamp program" the first time they appear.

(b) Section 10(e) of the Food Stamp Act of 1964, as amended, is further amended by deleting the words "food stamp" where they appear in paragraphs (5) and (8).

(c) Section 10(e) of the Food Stamp Act of 1964, as amended, is further amended by inserting the words "food stamp" immediately before the word "program" wherever it appears in the last two sentences of such subsection, and by inserting the words "for the food stamp program" immediately after the words "plan of operation" where they appear in the last sentence of such subsection.

SEC. 24. Section 10(f) of the Food Stamp Act of 1964, as amended, is amended by inserting the words "food stamp program or the home-heating stamp" immediately before the word "program".

SEC. 25. Section 10(h) of the Food Stamp Act of 1964, as amended, is amended by inserting the word "food" immediately before the word "coupons" wherever it appears.

SEC. 26. Section 10(i) of the Food Stamp Act of 1964, as amended, is amended by inserting the word "food" immediately before the word "coupons".

DISQUALIFICATION OF PROVIDERS

SEC. 27. The heading preceding section 11 of the Food Stamp Act of 1964, as amended, is amended to read:

"DISQUALIFICATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS, AND HOME-HEATING FUEL PROVIDERS".

SEC. 28. The first sentence of section 11 of the Food Stamp Act of 1964, as amended, is amended to read: "Any approved retail food store, wholesale food concern, or provider may be disqualified from further participation in the food stamp program or the home-heating stamp program on a finding, made as specified in regulations, that such store, concern, or provider has violated any of the provisions of this Act, or of the regulations issued pursuant to this Act.".

ADMINISTRATIVE AND JUDICIAL REVIEW

SEC. 29. Section 13 of the Food Stamp Act of 1964, as amended, is amended by deleting the words "retail food store or wholesale food concern" wherever they appear and substituting, in lieu, the words "retail food store, wholesale food concern, or home-heating fuel provider", and by deleting the words "store or concern" wherever they appear and substituting, in lieu, the words "store, concern, or provider".

CONFORMING AMENDMENT

SEC. 30. Section 17 of the Food Stamp Act of 1964, as amended, is amended by inserting the word "food" immediately before the word "coupons".

AUTHORIZATION OF APPROPRIATIONS

SEC. 31. There are authorized to be appropriated such funds as may be deemed necessary to carry out the purpose of this Act.

SECTION-BY-SECTION ANALYSIS

Section 1 provides that this Act may be cited as the "Home-Heating Stamp Act of 1977."

Section 2 sets forth the finding of Congress that the recent rise in home-heating costs is working a serious hardship on households living on fixed and low incomes and necessitates the establishment of a program of Federal assistance in meeting rising fuel expenses by utilizing the administrative apparatus of the Food Stamp Program to simplify administration and speed implementation.

Section 3 amends the Food Stamp Act's "Declaration of Policy" to include: (1) a policy declaration that low-income households should have access to purchasing power adequate to permit them to obtain reasonable amounts of home-heating fuels; home-heating fuel purchasing power imposes serious health and safety risks on low-income households; and (3) an authorization for a Home-Heating Stamp Program to reduce the hardships imposed on low-income households by high home-heating costs by permitting low-income households to obtain reasonable amounts of home-heating fuels through normal channels of trade.

Section 4(a) amends section 3 of the Food Stamp Act to establish a definition of "household" for the purposes of the Home Heating Stamp Program. A "household" would be a group of individuals who are not residents of an institution and who live in a single economic unit or an individual living alone. Recipients of assistance under the Supplemental Security Income Program would be eligible for the Home-Heating Stamp Program regardless of any restrictions on their participation in the Food Stamp Program.

Section 4(b) amends section 3 of the Food Stamp Act to establish a definition of "State" for the purposes of the Home-Heating Stamp Program. "States" allowed to participate in the program would be the 50 States and the District of Columbia.

Section 5 amends section 3 of the Food Stamp Act to clarify the meaning of the term "food stamp program."

Section 6 amends section 3 of the Food Stamp Act to establish definitions of the terms "home-heating stamp program," "home-heating fuels," "provider," and "heating season."

"Home-heating stamp program" would mean any program established under the amended Food Stamp Act which relates to increasing home-heating fuel purchasing power among low-income households.

"Home-heating fuels" would mean fuel or energy used in a household's heating system such as heating oil, natural gas, electricity, kerosene, wood, propane, and coal.

"Provider" would mean any business entity, public or private utility, or individual that regularly provides, distributes, or delivers home-heating fuels.

"Heating season" would mean the period of time which an allotment of home-heating coupons is intended to cover. Heating seasons would be established for each State by the appropriate State agency and could not be longer than six consecutive months.

Section 7 amends a section heading in the Food Stamp Act to include a reference to the Home-Heating Stamp Program.

Section 8 amends the Food Stamp Act by deleting section 4(c) of the Act (relating to the Secretary's authority to issue regulations).

Section 9 amends section 4 of the Food Stamp Act to include authority for the Secretary of Agriculture to establish, at State option, a Home-Heating Stamp Program. Eligible households within an opting State would be provided with an opportunity to obtain reasonable amounts of home-heating fuels through the issuance of monthly home-heating coupon allotments with a greater monetary value than any charge paid by recipient households.

Home-heating coupons are to be used only (1) to purchase home-heating fuels, and (2) to offset any rent due a landlord where the household rents its residence and does not pay its home-heating fuel bill directly to a provider. Landlords accepting home-heating fuel coupons as partial payment of rent due are not to increase household rents in connection with or as a result of the use of home-heating coupons. Tenants using home-heating coupons to offset rent due are not to use more than one month's coupon allotment to offset rent due for any one month (unless an alternate arrangement is agreed to by the landlord).

Home-heating coupons are to be redeemable at face value by the Secretary of Agriculture through the facilities of the Treasury.

Section 9 also amends section 4 of the Food Stamp Act by adding a new subsection (d) which gives the Secretary authority to issue regulations for the Food Stamp Program and the Home-Heating Stamp Program.

Section 10 amends section 5(a) of the Food Stamp Act to provide that, except in the case of households that are victims of a disaster, eligibility for the Home-Heating Stamp Program is to be limited to households whose income and other financial resources are such that they are eligible for assistance under the Food Stamp Program.

Section 11 amends section 5(b) of the Food Stamp Act to provide for temporary emergency standards of eligibility (without regard to income or other financial resources) for the Home-Heating Stamp Program in the case of households that are victims of a disaster.

Section 12 amends section 5 of the Food Stamp Act to provide authority for the Secretary to establish uniform national standards of eligibility for the Home-Heating Stamp Program which are consistent with those used for the Food Stamp Program.

Section 13 amends section 6(a) of the Food Stamp Act to provide for coupons to be printed for the Home-Heating Stamp Program.

Section 14 makes a conforming amendment in section 6(d) of the Food Stamp Act.

Section 15 amends section 6 of the Food Stamp Act to provide that home-heating coupons are to be used only as specified in the new section 4(c) of the Food Stamp Act (to purchase home-heating fuels or to offset rent due a landloard) and the new section 6(g) of the Food Stamp Act (relating to the issuance and use of monthly home-heating coupon allotments). It also provides that nothing in this Act is to be construed as authorizing the Secretary to specify the prices at which home-heating fuels may be sold.

Section 15 also amends section 6 of the Food Stamp Act to provide that, under the Home-Heating Stamp programs, each eligible household is to be issued monthly allotments of home-heating coupons for the entire heating season for the State or, in the case of households applying after the beginning of a heating season, monthly allotments for the remaining number of full months in the State's heating season. It also provides that each eligible household may elect to be issued monthly allotments for periods of time shorter than an entire heating season. Furthermore, it provides that home-heating coupons may be used to pay all or part of a bill which includes the cost of home-heating fuels, that they shall be valid only for the State's heating season and one month thereafter, that they shall not be valid for more than one heating season, and that cash in change (up to $1) may be returned to those using home-heating coupons.

Section 16 makes a conforming amendment to section 7(b) of the Food Stamp Act.

Section 17 amends section 7 of the Food Stamp Act to provide that the face value of monthly home-heating coupon allotments shall be "in such amount as the Secretary (of Agriculture) determines will reflect the monthly equivalent of the minimal cost of a reasonable amount of home-heating fuel for a single heating season." Home-heating coupon allotments are to be established only after consideration of the average cost of a reasonable variety of home-heating fuels and are to be set with a due regard to minimizing the extent to which allotments might exceed the actual cost of home-heating fuels to eligible households. Home-heating coupon allotments are to be varied by household size and geographic location, to be set so as to minimize the extent to which home-heating stamp assistance might induce unnecessary consumption, and are to be adjusted annually to reflect the Secretary of Agriculture's evaluation of changes in the costs of home-heating fuels.

Section 17 also amends section 7 of the Food Stamp Act to provide that households participating in the Home-Heating Stamp Program are to be charged a standard percentage of monthly income for their home-heating coupon allotments. This charge is to represent a reasonable investment on the part of the household, but may not exceed the percentage of personal consumption expenditures shown to be spent on home-heating fuels by the best information available to the Secretary of Agriculture. In establishing the standard percentage charge, due consideration is to be given to the extent to which home-heating costs reduce the charge to households which simultaneously participate in the Food Stamp Program.

For purposes of computing the charge to each household participating in the Home-Heating Stamp Program, the household's net monthly income (as computed for Food Stamp Program purposes) is to be used.

Section 17 also amends section 7 of the Food Stamp Act to provide for the issuance of home-heating coupon allotments free of charge to households with net monthly incomes of less than $30 per month (for a family of four). It also provides authority for the Secretary of Agriculture to authorize the issuance of home-heating coupon allotments without a purchase requirement, if these allotments are reduced by a standard percentage of household income and if he deems this a more efficient, effective, and equitable method of providing assistance.

Section 18 amends a section heading in the Food Stamp Act to include a reference to home-heating fuel providers.

Section 19 amends section 8 of the Food Stamp Act to provide authority for the Secretary of Agriculture (in consultation with the Federal Energy Administration) to approve home-heating fuel providers for participation in the Home-Heating Stamp Program. Only approved providers could participate.

Section 20 makes a conforming amendment to section 9 of the Food Stamp Act.

Section 21 amends section 10(a) of the Food Stamp Act to provide that all practicable efforts shall be made to insure that assistance provided by the Home-Heating Stamp Program does not induce unnecessary additional consumption of home-heating fuels, that the Secretary of Agriculture shall consult with and solicit technical assistance from the Federal Energy Administration and the Department of Health, Education, and Welfare, and that the Secretary of Agriculture shall make all practicable efforts to carry out an informational program regarding insulation and other means of reducing home-heating costs.

Section 22 makes a conforming amendment in section 10(c) of the Food Stamp Act.

Section 23 amends section 10(c) of the Food Stamp Act to require State Plans of Operation in the Home-Heating Stamp Program. It also amends section 10(e) to make the appropriate provisions of the Food Stamp Act relating to the content of State Plans of Operation applicable to the Home-Heating Stamp Program.

Sections 24, 25, 26, 27, 28, 29, and 30 make conforming amendments to sections 10, 11, 13, and 17 of the Food Stamp Act.

Section 31 authorizes such appropriations as may be deemed necessary to carry out the purpose of the Home-Heating Stamp Act of 1977.

WHY NOT FUEL STAMPS?

The cost of home heating oil is now rising fast, and by midwinter it may well be nearly twice as high as a year earlier. The suffering among people who are poor, and who live in oil-heated houses, will inevitably increase. There is only one remedy that has any real chance of helping those people quickly, and that is a rapidly enacted program of fuel stamps.

Like food stamps, fuel stamps would be a federal subsidy to ensure that the most vulnerable families are not cut off from one specific necessity. Fuel stamps would help buy not only heating oil but gasoline for that small number of poor people whose lives and jobs require automobiles. Ideally, this kind of aid might be extended better through reforms of either the welfare or the tax systems. But basic reform is slow work, and winter's coming. The great advantage of the stamp principle is that it could be introduced quickly, following procedures that have already been worked out for food stamps.

Currently the country's food policies are working a great deal better than its tortured attempts to come to terms with higher oil costs. It's worth examining the case of food to see what lessons it might offer for fuel.

Americans have generally regarded the steady inflation at the grocery store to be unfortunate and harmful but essentially uncontrollable. People recognize that the bad news at the supermarket's check-out counter originates far back in a worldwide production system, and it can't be cured by slapping on controls. Except in dire emergencies, as in wartime, people seem to agree that it's better to avoid shortages, let prices rise, and use direct aid to rescue the people who really can't pay. The food stamp program has its administrative shortcomings, but it has made a massive contribution to the nutrition of the American people in a time of severe and threatening inflation.

Regarding fuel, the administration continues to cling to price controls on both crude oil and gasoline—citing, usually, the need to protect the poor. As you watch the prices of oil and all the oil products shoot upward, perhaps you have wondered exactly how much protection the poor—or anybody else—are getting from those controls. It makes more sense to move rapidly to decontrol, and simultaneously to give poor people a kind of protection that will actually do them some good. Rising prices will be no less harmful in fuel than in food. But at least they will push the country toward the conservation, and the alternative energy sources, on which the rescue from oil inflation ultimately depends. It will work, just as a rising price also cuts down consumption of beef. The choice isn't between T-bone steak and starvation. It's between T-bone steak and something else. In fuel, as in food, with subsidized stamps for the least affluent families, there can be enough for everyone.

[From the News American, Feb. 18, 1977]

"ENERGY STAMPS" ARGUMENT

(By Kevin Phillips)

The first thing to say about the idea of giving certain needy Americans "energy stamps" or "heating stamps" is that the proposal is not new. Back in April, 1976, the Southern Conference of Black Mayors urged the creation of an energy stamp program. And others had pushed that concept even earlier.

The second thing to say about the energy stamp idea is that it may be an idea whose time has come. With Jack Frost as their most influential co-sponsor, Tennessee Senator Howard Baker and Maryland Senator Charles Mathias, both Republicans, recently introduced "The Home Heating Stamp Act of 1977" to permanently piggyback a fuel cost assistance program on the existing food stamp mechanism. This would go far beyond Congress' expected 1977 emergency assistance actions.

On the local level, energy stamps have been discussed in Ohio, Oklahoma and several other states. Even some utility companies—the Oklahoma Natural Gas Co., for one—have publicly stated a preference for energy stamps over alternative "lifeline" rates that require pricing discrimination in favor of small users.

After this winter's chill, some form of fuel user subsidy is shaping up as necessary, especially for senior citizens. And despite the obvious problems, scandals and abuses involved in the food stamp mechanism, energy stamps may just be the best bet.

There are legitimate philosophic counterarguments, to be sure. Many conservatives simply don't like the "stamp" form of income subsidies. They fear welfare state lithography—opening up Pandora's printing presses. And there is evidence that some liberals, given their head, would indeed start printing welfare philately in denominations, varieties and colors that would outdo even the active postal authorities of Monaco, San Marino or Liechtenstein.

For example, New York city official Wilbert A. Tatum, has proposed giving clothing stamps to the tens of millions now eligible for food stamps. Other persons have proposed health stamps, dental stamps, rent certificates, cultural vouchers (used in New York City for museums and cultural centers) and transportation stamps.

Several years ago, West Virginia launched a "travel stamp" program under which elderly and handicapped citizens could buy subsidized coupons spendable on mass transit or taxi transportation—isolated rural residents found it particularly helpful.

Politicians have been inclined to attack these "stamp" subsidy programs, arguing that food stamps and related schemes should be "cashed out" in favor of a negative income tax or a "single payment" scheme. Free-market advocates prefer that poor people "go into the marketplace" and spend their money on anything they choose.

I disagree. In the first place, many of the poor need to have their outlays specifically channeled to rent, food and fuel. Make unrestricted money available, and too much of it will go for pink shirts, blue suede shoes and offtrack betting.

Nor are my conservative colleagues entirely consistent here. When one of their own interest groups are involved—for example, private schools—they are not adverse to specific subsidies like education vouchers (not that anybody is willing to call them "education stamps").

To assist retired and disabled people who have spent the better part of their lives working is a far cry from stimulating welfarism among those younger and able-bodied.

All in all, embracing certain "welfare state" approaches—energy stamps for people on fixed incomes, transportation stamps for the elderly and disabled, forced-work reparations payments by criminals to victims—makes good sense for conservatives.

And the wisdom of supporting energy stamps is especially timely in the wake of winter's appalling fuel bills.

[From the Los Angeles Times, Feb. 27, 1977]

MODERNIZE THE SYSTEM, DON'T WHOLLY DISCARD IT

(By Richard P. Nathan)

Again there is talk of cleaning up the "welfare mess" by instituting a brand new system which would end red tape and save the taxpayers' money.

My suggestion is that we abandon the search for a utopian solution to welfare problems and instead build on the programs we have. Such a modernization approach is the best way this rich country of ours can provide adequate income assistance for the poor on a basis that is fair, firm and efficient.

Things have changed since welfare economists first began talking about a negative income tax as a way of reforming welfare. Need was greater then; in the past 10 years, however, welfare type programs have grown to such an extent that the "poverty gap" is closing. Today millions of poor people receive non-cash assistance in the form of medical care, food stamps and housing subsidies. While official Census Bureau statistics show that 11.4% of U.S. families are below the poverty level, the figure drops to 6.9% if such non-cash assistance is counted as income.

Thus the nation's progress in meeting social needs over the past decade has eliminated much of the argument for designing a completely new welfare system.

There are many other reasons why the modernization approach is better. Although some states still provide very low welfare assistance under federal programs, many of the wealthier states are providing a level of family aid which can be considered adequate. The institution of a single new national payment level as proposed under negative income tax plans could cause losses for many families and the aged in these wealthier states. This is one reason why I believe the negative income tax idea has become the favorite strategy of conservatives, such as economist Milton Friedman: They see it as a way to reduce and control welfare spending.

Furthermore, the existence of a "welfare mess" tends to be overstated. Any system that provides aid to people in the lowest-income groups, who are highly mobile and often have limited job and literacy skills, is going to be difficult to administer.

Currently there are three major income support programs for the poor: one program for families (Aid to Families with Dependent Children), one for the aged and disabled, and a food stamp program to supplement low welfare benefits (which in addition boosts the income of the working poor). The reason we have this three-part system is that as a nation we have diffierent ideas about the way in which aid should be provided to the aged and disabled as compared with able-bodied, unemployed heads of families.

Implementing a new supersystem under these conditions would be immensely difficult and controversial and would take at least five years. In the meantime, needed improvement in the management of current welfare programs would be neglected.

Yes, we do have management problems, and many eligible persons are not receiving adequate aid. We ought to attend to these problems now.

One immediate step we should take is to transfer food stamps from the Department of Agriculture to Health, Education and Welfare and merge it with Aid to Families with Dependent Children. Most AFDC recipients now receive food stamps, but must fill out completely different (and long and complicated) applications. Eligibiilty rules and waiting periods are different. Such a transfer, along with other important changes, would have far-reaching consequences and produce what I would call a new "Family Benefit System."

Under this approach, aid would be provided to all poor families headed by unemployed fathers. Today in many states, the family is not eligible for aid if the father stays with the family. This is why so many AFDC families are headed by women, and why our welfare system has been accused of weakening family ties. At the same time, welfare program links to employment agencies should be strengthened. Although such links appear on paper, in reality many welfare clients are given little assistance in finding jobs.

Increased child care services also should be part of the Family Benefit System. Although the mothers of children under 6 should not be forced to work outside the home, many women on AFDC, even these mothers, would prefer to be self-supporting if given the choice of a decent job backed up by child care.

For the working poor, not eligible for welfare, the food stamp program should continue to serve as a supplement to income on a basis (as it does currently) that embodies a strong work incentive. But we should remove the requirement that families purchase their food stamps. At present, a family with $300 monthly income must lay out $83 in cash to purchase $166 in food stamps, the theory being that a family should eat $166 worth of food. The program forces the poor to spend X dollars on food: In other words, we don't trust them to decide how much food they need. In the case just described, the family should be able to apply for and receive $83 in food stamps without having to lay out a matching sum in cash.

Sen. Charles McC. Mathias (R-Md.) has proposed that food stamps be expanded to include fuel. Such measures to expand the benefits of the food stamp program should be seriously considered as part of this new system.

Another improvement in efficiency would be made if we put the administration of welfare programs, including Medicaid, under state rather than county governments. Many states now have automated data systems. Under computerized state systems, it is much easier to check applications and eligibility across county lines, eliminating one source of error and abuse. States also could take advantage of economies in scale while at the same time relieving county units of administrative burdens.

The aged poor and the disabled receive welfare assistance under the Supplemental Security Income program (SSI), which is administered by the Social Security Administration along with (although not as part of) the social security system. Adopted in 1972, the SSI program is just beginning to work smoothly and should not be tampered with.

Besides combining food stamps and AFDC, and including families headed by unemployed fathers, we should also set a floor under the combined program; the states could then add to that minimum amount. The minimum should be adjusted for cost of living differences among states and urban areas and should be automatically and regularly increased when the inflation rate rises. Simplified national eligibility standards should also be adopted to cut red tape and error rates and make it easier for administrators to assure that only eligible persons receive assistance.

To summarize, the modernization approach would be less controversial and would avoid raising the emotional issue of income redistribution to such a high decibel level. With modernization, people in need would be helped sooner, and the public as a whole would benefit by faster action to make welfare programs operate more efficiently on a basis that eliminates opportunity for error and abuse.

By Mr. MATSUNAGA:

S. 1605. A bill to exempt inflatable boats and rafts used for carrying passengers from the provisions of the coastwise laws requiring vessels to be built in the United States; to the Committee on Commerce, Science, and Transportation.

● Mr. MATSUNAGA. Mr. President, I am introducing today a bill which I hope will help to resolve a problem that currently exists in several areas of our country, including my own State of Hawaii, where "rafting" has become a popular leisure time activity.

The bill as drafted is concerned with the small but thriving recreational water rafting industry. In most cases, participants in this activity rent inflated rubber boats and equipment—and sometimes the services of guides or boat operators—in order to take trips through generally uninhabited areas preserved and undisturbed in its natural beauty. Such areas are easily accessible only by water born transport. In the case of Hawaii, coastal rafting and exploration of ocean caves that were carved and sculptured by the wind and sea, leave the recreational rafter awed at nature's power and beauty. Oftentimes excursioners along the coast may catch sight of a porpoise show, a school of whales, or goats climbing the sheer but magnificent cliffs. Flying fish are also frequent company throughout the day.

I am informed, however, that a very large proportion of the 6 to 10 passenger inflatable boats and rafts in current commercial use are foreign built. Because they travel between points on navigable waterways in the United States, it has been suggested that they mav be technically engaged in the coastwise trade and thus subject to existing statutes requiring that they be U.S. owned and U.S. built, and properly licensed.

With respect to the licensing, I understand that a determination has already been made by the U.S. Coast Guard (USCG) that vessels under 5 net tons, the category in which most inflatable boats fall, are exempted from USCG licensing requirements; nevertheless, U.S. Customs Service regulations may still require them to be U.S. owned and U.S. built. Since, as I noted earlier, a majority of the inflatable boats now in commercial use are foreign built, there exists a potential legal problem. The Hawaii rafts, for example, are French made, designed and produced by Jacques Cousteau and specially suited to ocean use.

Mr. President, I do not believe the Jones Act was intended to applv to commercial vessels such as the ones described in my bill. By taking timely action and acting favorably in passing this legislation, Congress will reaffirm its interest and support for a small but thriving water recreation industry.●

By Mr. MOYNIHAN:

S. 1606. A bill to amend title 13, United States Code, to correct for undercounting in the 1980 census; to the Committee on Governmental Affairs.

● Mr. MOYNIHAN. Mr. President, the census is required by the Constitution and is our oldest source of information about ourselves.

It has never been and cannot be wholly accurate, but it should be as complete and reliable as possible, both in the actual enumeration and in the statistical processes that refine, analyze and evaluate the findings.

The issue of completeness and reliability became ever more important in the 1960's as more and more Federal programs were made dependent on formulas using population. In turn, the recipients of Federal aid came to rely more and more heavily on those programs and on the fairness and accuracy of the formulas through which the aid was distributed. These concerns acquired special significance for urban areas, which were themselves the object of increasingly focused Federal policies, and for minority groups and low-income persons who tend to be most heavily concentrated in cities.

It followed that as the 1970 decennial census drew near, the question of the urban undercount became serious. For if the residents of urban America were not completely counted, and especially if they were missed or omitted more frequently than other Americans, they would not receive their proper share of diverse Federal benefits.

In 1967, as director of the Joint Center for Urban Studies of MIT and Harvard, I organized the first conference on this subject. Our object was to improve the 1970 census. As I wrote in the foreword to the ensuing volume ("Social Statistics and The City," David M. Heer, editor, Joint Center for Urban Studies, 1968), the conference had—

> . . . the avowed purpose of arousing a measure of public concern about the difficulties encountered by the Census in obtaining a full count of the urban poor, especially perhaps the nonwhite poor. It became apparent, for example, that in 1960 one fifth of nonwhite males aged 25–29 had in effect disappeared and had been left out of the Census count altogether. Invisible men. Altogether, one tenth of the nonwhite population had been 'missed.' The ramifications of this fact were considerable, and its implications will suggest themselves immediately. It was hoped that a public airing of the issue might lead to greater public support to ensure that the Census would have the resources in 1970 to do what is, after all, its fundamental job, that of counting all the American people. . . .

The Bureau of the Census cooperated fully in the conference and in the preparation of the subsequent publication. And there is reason to believe that perhaps we had an impact. A limited one, to be sure, for an undercount problem persisted in the 1970 census but it seems to have been somewhat less severe than in 1960 and the Bureau conscientiously set about to measure it and make plans for reducing it further in 1980.

In 1970, according to the Census Bureau's findings, the national undercount rate was 2.5 percent, but again this fell unevenly among various demographic groups, chiefly minorities. For white males aged 25 to 33, for example, the undercount rate was 4.3 percent, but for black males in the same age group the undercount was 18.5 percent. For white female children under 5, the rate was 2 percent, but for black children under 5 it was 9.8 percent.

This remains a disturbing and inequitable situation both in principle and in practice. Not the least of its unhappy consequences is that, given the evermore prevalent practice of distributing much Government money on the basis of population and specific demographic characteristics, the undercount discriminates against residents of States and localities with substantial minority populations. Therefore, in "Counting the People: An Appraisal of the 1980 Census," the Panel on Decennial Census Plans, a distinguished group of statisticians appointed by Secretary Kreps, concluded:

> The issue of equity cries for attention. . . . The Panel is confident that the Census Bureau would also be able to respond in an appropriate and competent fashion to a directive to adjust the state and local population data for the undercount if a decision were made to adjust.
>
> The Panel believes that such adjustments in the population totals would lead to greater equity in the distribution of funds among states and local areas. . . .
>
> Whether to adjust the census estimates is largely a policy issue; how to do it is primarily a technical one.

Hence the bill I am introducing today. It instructs the Secretary of Commerce to conduct the 1980 census by adjusting the population figures to correct for the undercount. Every Federal official who administers a program under which money is distributed to States and localities must use these corrected population figures. No particular methodology is specified, except the "best available," and the bill would leave that choice to the Secretary of Commerce and the Director of the Bureau of the Census, where serious efforts are presently underway to develop both a suitable interim motion and a more sophisticated and complete set of statistical techniques. The latter, I am advised, is expected to be available for use by 1983.

This affords an opportunity to dwell on the mounting importance—and the splendid professional competence—of the Bureau of the Census, an offspring of what Ralf Dahrendorf has called America's "Applied Enlightenment." For many years, the Bureau went about its duties quietly and almost anonymously, carrying out the constitutional responsibility of the executive branch to enumerate the population every 10 years and knowing that the principal use made of this data by the Government was the periodic reapportionment of seats in the House of Representatives.

In the past quarter century, however, the uses of census data have multiplied. One major Federal program after another has been established around specific formulas that determine the distribution of funds and other benefits on the basis of demographic data. In earlier eras, Harold Lasswell's classic definition of American politics—"who gets what"—referred to the pull and tug of competing interest groups, most conspicuously expressed in annual decisions about the allocation of Government funds.

But as the domestic responsibilities of the National Government have enlarged, and as Government programs have proliferated, a conscious effort has been made to establish them on a more stable and objective basis, notably by devising ever-more-complex but surprisingly durable distribution formulae. These now determine the flow of tens of billions of dollars a year and are themselves often well known: The medicaid formula; the general revenue sharing formula; the ESEA title I formula; the title XX formula, and on and on. Today, 42 percent of all Federal aid to municipalities is determined at least in part on the basis of formulae that include population as a key variable. Hence "who gets what" in the United States depends ever more heavily on the quality of the Government's demographic data. Not surprisingly, the pressures on the Census Bureau, and the other major Federal statistical agencies, have mounted apace.

The bill I am introducing today will not diminish those pressures. But it would create a clear basis in legislative policy for a set of necessary corrections that the demographers and the statisticians are capable of making. Although statistical adjustments are never as satisfactory as a complete enumeration, and although the Census Bureau's redoubled efforts to solve the difficulties of enumeration in the decennial census show considerable promise and deserve our enthusiastic support, it is simply not possible in a society as large and mobile as this one to count every single person. So adjustments must be made, and they can be made, for the methodology is available. This bill asks that it be used, and that the many Federal programs that rely on census data benefit from its use so that every citizen who depends on the Government can do likewise. Equity demands no less.

Mr. President, I ask unanimous consent that the text of the bill, together with an article from the Washington Post, dated July 31, 1979, entitled "Counting All Americans," be printed in the Record.

There being no objection, the bill and article were ordered to be printed in the Record, as follows:

S. 1606

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 141 (a) of title 13, United States Code is amended by inserting after "surveys." the following: "In conducting that census the Secretary shall adjust the population figures, employing the best available methodology to correct for undercounting. These adjusted population figures shall be used by every Federal officer or employee administering a program under which funds or benefits are allocated or distributed among States or other units of government on the basis of population."

Counting All Americans

(By Eddie N. Williams)

Millions of Americans and their communities are shortchanged each year because the Census Bureau can't count straight and because many federal grant-in-aid formulas ignore a large population of "undocumented" Americans. This is a tragic result of the census undercount.

The undercount has plagued every decennial census since 1870. It is virtually impossible for the Census Bureau to count every inhabitant. In recent years, two factors have made the undercount discriminatory and punitive. One is the growing use of census population data in formulas to allocate federal funds. In fiscal 1975, for example, $33.7 billion was obligated for 75 formula-grant programs that used population or per-capita income data, in whole or in part, as a basis for distributing money. This sum amounted to 22 percent of all state and local expenditures. Clearly, the distribution of these funds would change if there were a change in the population count.

Another factor is that the undercount affects some groups more than others. While almost two-thirds of the 5.3 million persons missed in 1970 were white, the rate of undercount was four times as high for blacks (7.7 percent) as for whites (1.9 percent). The rate for black males was 9.9 percent. The undercount among Hispanics, native Americans, and Asian Americans, in all probability, was also disproportionately high. The undercount rate tends to be highest among blacks and whites who are already the most disadvantaged in the nation.

The undercount not only affects our social and economic well-being, but our political representation as well. Its impact on reapportionment is a complex constitutional issue that has not been resolved. However, the impact on fund allocations is a policy question for which there is an available policy remedy.

Thus, it is understandable that many elected officials, especially those from the cities with heavy concentrations of under-enumerated persons, complain that they are not getting their fair share of federal and state funds. The population data used in allocating those funds are based on the decennial census, which is admittedly inaccurate or incomplete. A Camden, N.J., official provided this perspective: "An undercount does [not] merely suggest that black Americans are being shortchanged, but the greater consequence is that all persons, black and white, poor and middle class, who live in cities like Camden . . . are being shortchanged."

Nearly everyone who examines this problem agrees that it is complex and freighted with inequities. Where, then, might one look for solutions?

Even though the Census Bureau has taken extraordinary steps to reduce the 1980 undercount, most experts and the Census Bureau itself agree there will be an undercount in 1980. Clearly there is a need for a procedure to adjust the 1980 census count so as to avoid financial loss to millions of Americans and to hundreds of cities. The Department of Commerce and its Census Bureau have been urged on numerous occasions to develop and implement an adjustment procedure. Among those who have made such recommendations are elected officials, the U.S. Conference of Mayors, the Black, Hispanic and Asian American Advisory Committees of the Census Bureau, and the National Academy of Sciences.

The recommendations of the National Academy of Sciences are especially noteworthy. Last year, the academy was awarded a contract by the Department of Commerce to determine whether there are feasible methods of adjusting or correcting the census count to assure greater equity in the allocation of federal funds. The academy determined that "methods of adjustment with tolerable accuracy are feasible" and recommended that the secretary of commerce direct the Census Bureau to develop and implement a plan to adjust the 1980 census count.

Secretary Kreps has yet to act on this recommendation. In a June 6 letter to Mayor Maynard Jackson of Atlanta, chairman of the U.S. Conference of Mayors census task force, Secretary Kreps expressed her views as follows:

"While the Panel on Decennial Census Plans of the National Academy of Sciences did recommend that such adjustments be made, it should be noted that the panel did not endorse a specific technique for accomplishing this task.

"As part of our continuing research, the bureau plans to convene a national conference of experts during the spring of 1980 to review this matter."

The negative consequences of an undercount have been known since at least 1950.

Definite studies have already been conducted. The academy was engaged to review those studies and to make a recommendation, which it did. Moreover, the proposed 1980 conference, at best, would offer relief in the 1990 census—a decade away—if at all. Certainly such a conference is no response to the NAS admonition that ". . . to meet the urgent demand for some greater degree of equity, a temporary expedient has to be considered." The NAS made it clear that it was talking about a "currently available" methodology to adjust the 1980 census.

The secretary's explanation that the academy report "did not endorse a specific technique for adjusting for under-enumeration" serves to cloud rather than to clarify the issue. The fact is that the Department of Commerce did not ask the academy to endorse a specific technique. Rather, it asked for and got a determination on feasibility. In fact, the academy cited three feasible adjustment techniques that could be used. The secretary may choose any one of them or initiate her own adjustment technique.

If the secretary does not act now to implement a "temporary," "expedient," "feasible" and "available" adjustment procedure, an awful lot of people, including needy low-income blacks and whites, will be shortchanged for another decade. This is a matter of national concern.

If the secretary of commerce continues to delay, the president and the Congress should intervene before the 1980 census undercount and its Catch-22 consequences further erode the people's confidence in the federal government.

By Mr. RIEGLE:

S. 1608. A bill to require business concerns which undertake changes of operations to give notice to the Secretary of Labor, and to affected labor organizations, employees, and local governments; to require business concerns to provide assistance to employees who suffer an employment loss caused by changes of operations; to authorize the Secretary of Labor to provide assistance to such business concerns, and to such affected empoyees and local governments, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL EMPLOYMENT PRIORITIES ACT OF 1979

● Mr. RIEGLE. Mr. President, today I am introducing the National Employment Priorities Act of 1979, which addresses the growing problem of large-scale plant closings and relocations across the country. This bill, which is also being introduced today in the House of Representatives by Representative WILLIAM FORD from my home State of Michigan, is designed to assure that large corporations take into account the interests of long-time workers and of communities when they consider closing or relocating large plants.

In today's complex society, major economic decisions by large employers have far-reaching effects on the workers who have put years into their jobs, and on the communities whose economic base is so dependent on private industry. These corporate decisions should take into account their external social and economic effects on workers and on their local communities.

Mr. President, earlier proposals for dealing with plant closings and relocations have commony focused on establishing a procedure for the Federal Government to determine which closings or relocations are economically justified and which are not. I do not believe that the Government should make this determination. Under the bill I am introducing today, business concerns would continue to make these basic economic decisions on their own, taking into account their impact on the workers and communities with so great a stake in the outcome of these decisions.

The heart of the National Employment Priorities Act is a requirement that workers, local communities, and the Government receive prenotification of impending plant closings or relocations. In addition, workers who lose their jobs as a result of these major employment disruptions would receive partial payments and continued benefits from their employer for a year, reduced by any unemployment compensation, trade adjustment assistance, or outside earnings they may receive.

This bill would also help forestall employment disruptions. Federal assistance for employee buyouts of plants targeted for shutdown, economic assistance to companies which might otherwise be forced to close, and help for local governments adversely affected by plant closings would help to alleviate these problems. Targeted Federal training programs would also help displaced workers find new jobs.

As a member of the Labor and Human Resources Committee, I am vitally interested in the success of this legislation, but I am even more interested as the senior Senator from Michigan. Our State is facing the awful picture of some 10,000 Chrysler workers possibly losing their jobs at the "Dodge Main" plant in Detroit next year.

What kind of feelings can these families have when the rug is suddenly pulled out from under them, and they have no new job to go to? The recession is already at work in Michigan, and there are not any jobs left there. Last week, General Motors laid off 1,200 workers temporarily, so how can workers who lose their jobs permanently have any hope when this is going on?

The "Dodge Main" and other autoworkers are protected to a point, but the plant shutdown problem is extremely serious to smaller plants and communities. Take the Chrysler Lyons trim plant—hundreds of workers and their families affected there when the town's largest industry suddenly quit. Another example is the Lazy Boy Chair Co. in Monroe, where 1,900 workers were suddenly put on the street. Another similar example can be found in Livonia, where workers—again in hundreds—have lost their pensions because their employer decided to shut down a plant and move elsewhere. My office is involved in their case, but we need this legislation so that all agencies can get involved automatically, ahead of time, to forestall the problems the workers will face when they become unemployed.

Plant closing announcements in Michigan and elsewhere have become too common and predictable these days. Without fail, a company leaving town cites adverse economic conditions as their reason for leaving jobless workers and empty, gutted buildings behind. What could be more adverse than the grim economic conditions they leave behind for workers and their families. They still have a home, food, education to pay for. They have a family life suddenly disrupted. Hardworking men and women have to swallow their pride and ask for help. But before they have to ask—before a plant has to leave town and disrupt their lives and possibly entire communities—let us give them that help.

I am pleased to note that the Chairman of the Labor and Human Resources Committee (Mr. WILLIAMS) is extremely interested in the desperate need to assure that economic decisions concerning plant closings and relocations take into account the interests of workers and communities. In the coming months, the committee will be holding an extensive series of hearings on this subject, and on effective ways of alleviating this severe national problem.

I ask unanimous consent that the text of the National Employment Priorities Act and a section-by-section analysis be printed in the RECORD at this point.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 1608

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "National Employment Priorities Act of 1979".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Definitions.
Sec. 4. Notice of intent to change operations.
Sec. 5. Investigation of intended change of operations.
Sec. 6. Report of investigation.
Sec. 7. Ineligibility of certain employees for assistance.
Sec. 8. Statement of employment status.
Sec. 9. Transitional assistance by business concerns.
Sec. 10. Secondary liability.
Sec. 11. Transfer of employees.
Sec. 12. Employee benefit plans.
Sec. 13. Federal assistance to employees.
Sec. 14. Related retraining assistance to employees.
Sec. 15. Eligibility of business concerns for assistance.
Sec. 16. Assistance to business concerns.
Sec. 17. Targeted Federal procurement.
Sec. 18. Eligibility of local governments for assistance.
Sec. 19. Assistance to local governments.
Sec. 20. Eligibility of certain employers and of cooperative associations of employees for assistance.
Sec. 21. Assistance to certain employers and to cooperative associations of employees.
Sec. 22. Priority for providing assistance.
Sec. 23. Liability for loss of revenue.
Sec. 24. Criminal violations and penalties.
Sec. 25. Civil violations and penalties.
Sec. 26. Violations of employees" rights.
Sec. 27. Recovery of overpayments.
Sec. 28. Reserves; recording requirements relating to loans.
Sec. 29. Congressional disapproval of rules.
Sec. 30. Reports; legislative proposals.
Sec. 31. General powers of Secretary.
Sec. 32. Implementation of employment policies through National Employment Priorities Administration.
Sec. 33. National Employment Priorities Administration.

Sec. 34. National Employment Priorities Advisory Council.

Sec. 35. Amendments to other laws.

Sec. 36. Authorization of appropriations.

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) unemployment is a major economic and social problem which causes great loss to individuals, communities, and the Nation,

(2) irresponsible and unnecessary changes of operations at establishments of business concerns disrupt commerce and cause unemployment to increase drastically in local areas, and

(3) economic planning is needed to avert the dislocation of employment opportunities, and new mechanisms of public control are needed to ensure that private investment decisions conform more closely to employee and community needs.

(b) It is the purpose of this Act to prevent or minimize the harmful economic and social effects of unemployment on employees and on local governments caused when business concerns undertake changes of operations.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "Administration" means the National Employment Priorities Administration established in section 33(a).

(2) The term "Administrator" means the Administrator of the National Employment Priorities Administration.

(3) The term "beneficiary" shall have the meaning given it in section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(4) The term "business concern" means any person who directly or indirectly owns a controlling interest in, or controls, a commercial enterprise which has an annual gross volume of sales made or business done of not less than $250,000.

(5) The term "change of operations" means the transfer of any operation from an establishment or the termination of any operation.

(6) The term "Council" means the National Employment Priorities Advisory Council established in section 34(a).

(7) The term "defined benefit plan" shall have the meaning given it in section 3(35) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(35)).

(8) The term "employee benefit plan" shall have the meaning given it in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(9) The term "employee pension benefit plan" shall have the meaning given it in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (2)) but shall not include a multiemployer plan.

(1) The term "employee welfare benefit plan" shall have the meaning given it in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1)) but shall not include a multiemployer plan.

(11) The term "employment loss" means with respect to an employee—

(A) the failure of such employee to receive for each week in any 26-week period from any business concern which employs him, wages that equal or exceed 85 percent of the average of the wages paid by such business concern to such employee for the 26-week period immediately preceding the first such week, or

(B) the functional equivalent of such employment of such employee by such business concern, which is in effect 26 consecutive weeks,

if such failure, suspension, or termination is caused by such business concern when such business concern undertakes a change of operations ordinarily performed at the establishment where such employee is employed.

(12) The term "establishment" means—

(A) any factory, plant, mine, business office, facility, or other single working place, or

(B) the functional equivalent of such working place,

at which the average of the number of employees employed on the last working day of each month in the calendar year immediately preceding the date the change of operations involved is undertaken exceeds 50.

(13) The term "executive agency" shall have the meaning given it in section 105 of title 5, United States Code.

(14) The term "individual account plan" shall have the meaning given it in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)).

(15) The term "multiemployer plan" shall have the meaning given it in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)).

(16) The term "nonforfeitable" shall have the meaning given it in section 3(19) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(19)).

(17) The term "normal retirement age" shall have the meaning given it in section 3(24) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(24)).

(18) The term "normal retirement benefit" shall have the meaning given it in section 3(22) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (22)).

(19) The term "Secretary" means the Secretary of Labor.

(20) The term "State" means the several States, the District of Columbia, and any territory or possession of the United States.

(21) The term "taxable year" have the meaning given it in section 7701(a)(23) of the Internal Revenue Code of 1954 (defining taxable year).

NOTICE OF INTENT TO CHANGE OPERATIONS

SEC. 4. (a) Whenever a business concern intends to undertake a change of operations at an establishment and such business concern determines, or reasonably should have determined, that the number of employees at such establishment who will suffer an employment loss in any 18-month period, as a result of such change of operations, equals or exceeds the lesser of 100 employees or 15 percent of the employees at such establishment, then such business concern shall give written notice, in accordance with subsection (b), of such intended change of operations.

(b)(1) The notice required in subsection (a) shall include a statement of—

(A) the nature of the establishment at which the change of operations described in subsection (a) is to be undertaken,

(B) the reasons for undertaking such change of operations at such establishment,

(C) any alternative to undertaking such change of operations,

(D) any request made by such business concern for assistance under section 16 with respect to such establishment,

(E) the estimated extent of the employment loss which will result from such change of operations,

(F) any plan to minimize the effects of such change of operations on employees at such establishment and on any unit of general local government having jurisdiction of the geographical area in which such establishment is located,

(G) the economic circumstances of such establishment, including the level of profitability of operations at such establishment, and any plans for future investment, employment, and production at such establishment,

(H) the economic circumstances of such business concern and the feasibility of transferring employees affected by such change of operations to other establishments of such business concern, and

(I) the names and addresses of all employees who will suffer an employment loss as a result of such change of operations.

(2) The notice required in subsection (a), shall be given to the Secretary of Labor, to the employees and any representative of any affected labor organization at such establishment, and to such units of general local government as the Secretary may require by rule.

(3)(A) Except as provided in subparagraph (B) and subparagraph (C), the notice required in subsection (a) shall be given before the business concern involved takes any action, in connection with any intended change of operations, to reduce the weekly wage, or to suspend or terminate the employment, of any employee and—

(i) not later than 2 years before taking such action, if 500 or more employees at such establishment will suffer an employment loss resulting from such change of operations,

(ii) not later than 18 calendar months before taking such action, if the number of employees who will suffer such employment loss equals or exceeds 100, but is less than 500, or

(iii) not later than 6 calendar months before taking such action, if the number of employees who will suffer such employment loss is less than 100.

(B) Upon the request of such business concern, the Secretary may allow such business concern to give the notice required in subsection (a) at a time later than the time required in subparagraph (A), but only if the Secretary finds that an increase in the number of employees at such establishment within the applicable time period required in such subparagraph makes it impossible for such business concern to comply with the requirements of such subparagraph.

(C) If in the 2-year period beginning on the date of the enactment of this Act sufficient time does not elapse to permit a business concern required to give notice under subsection (a) to comply with the applicable requirement in subparagraph (A), then such business concern shall give such notice—

(i) not later than 30 days after such change of operations begins if such change of operations begins in the 60-day period beginning on the date of the enactment of this Act, or

(ii) not later than 30 days after the date of the enactment of this Act if such change of operations begins after the expiration of such 60-day period.

(c) Not later than 30 days after the Secretary receives the notice required in subsection (a), the Secretary shall inform each employee at the establishment with respect to which such notice is given, of—

(1) all rights such employee may have to receive assistance under section 9 from the business concern involved, and

(2) the protection, services, and assistance available to such employee under this Act.

INVESTIGATION OF INTENDED CHANGE OF OPERATIONS

SEC. 5. (a) In the case of any change of operations at an establishment with respect to which notice is required in section 4(a)—

(1) the Secretary shall conduct an investigation into, and shall hold public hearings on, the matters described in subsection (b) if the Secretary receives, not later than 60 days after such notice is given, a written request for such investigation from any authorized representative of any affected labor organization, or from not less than 10 percent of the employees, at such establishment, and.

(2) the Secretary may conduct an investigation into, and may hold hearings closed to the public on, the matters described in sub-

section (b), without regard to whether such notice is given, if—

(A) the Secretary determines that such investigation would serve the purpose of this Act.

(B) the Secretary receives a request for such investigation from not less than 50 percent of the employees at such establishment.

(b) An investigation conducted by the Secretary under subsection (a) shall be directed to the following matters:

(1) The economic reasons for the intended change of operations at the establishment of the business concern which is the subject of such investigation.

(2) The estimated extent of any economic or social loss to the employees affected by such change of operations, including the number of employees who will suffer an employment loss as a result of such change of operations.

(3) The estimated extent of any economic or social loss to any affected unit of general local government and to any affected person in the geographical area in which such establishment is located.

(4) The recommendations of any authorized representative of any affected labor organization at such establishment, any representative of any affected unit of general local government, and any other interested person.

(5) The feasibility of preventing or minimizing such employment loss by the modification of product lines and production techniques at such establishment.

(c)(1) For the purpose of conducting any investigation under subsection (a), the Secretary may issue subpenas requiring the attendance and testimony of witnesses and requiring the production of any evidence. The attendance of such witnesses and the production of such evidence may be required from any place in any State at any designated place of hearing in any State. The Secretary and any administrative law judge designated by the Secretary under subsection (d) may administer oaths and affirmations, examine witnesses, and receive evidence. Witnesses summoned before the Secretary or such administrative law judge shall be paid the same fees and mileage as are paid witnesses in the courts of the United States. Witnesses whose depositions are taken by the Secretary or by any person designated by the Secretary, and any person so designated who takes such depositions, shall be paid the same fees as are paid for like services in the courts of the United States.

(2) In case of contumacy or refusal to obey a subpena issued to any person under paragraph (1), any district court of the United States for any judicial district in which such investigation is conducted or in which such person guilty of contumacy or refusal to obey resides, is found, or transacts business, upon application by the Secretary shall have jurisdiction to issue an order requiring such person to appear before the Secretary, or before any administrative law judge designated by the Secretary under subsection (d), to produce evidence, give testimony, or both, regarding any matter under investigation. Any failure to obey such order issued by such court may be punished as a contempt of such court.

(3) Any subpena issued by the Secretary may be served upon any witness in person, by registered or certified mail, by telegraph, or by leaving such subpena at the residence or at the principal office or place of business of the person required to be served. The verified return by the individual serving such subpena, setting forth the manner of such service, shall be proof of service of such subpena, and the return post office receipt or telegraph receipt for any subpena served by mail or by telegraph, as the case may be, shall be proof of service of such subpena.

(4) All process of any court to which application may be made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(d) The Secretary may designate any administrative law judge within the Department of Labor to conduct any administrative proceeding in connection with any investigation conducted under subsection (a).

REPORT OF INVESTIGATION

SEC. 6. (a) After any investigation conducted under section 5(a) is concluded, the Secretary shall prepare and publish a report containing his findings with respect to the matters described in section 5(b) and, subject to subsection (b), his recommendations regarding actions required to be taken in order to prevent or minimize the harmful economic and social effects which will result from the change of operations at the establishment with respect to which such investigation is conducted. Such recommendations shall include a description of the nature and extent of the assistance authorized under this Act which would be required to prevent or minimize such effects.

(b) No recommendations shall be completed by the Secretary for inclusion in any report required under subsection (a) unless the Secretary has consulted with the business concern undertaking such change of operations, any authorized representative of any affected labor organization at the establishment involved, and any representative of any affected unit of general local government.

INELIGIBILITY OF CERTAIN EMPLOYEES FOR ASSISTANCE

SEC. 7. An individual who becomes an employee of a business concern required to give notice under section 4(a)—

(1) by accepting employment at an establishment with respect to which such notice is required, after such notice is given, and

(2) with knowledge that such notice has been given, shall be deemed not to be an employee at such establishment for purposes of sections 9, 11, 12, 13, and 14.

STATEMENT OF EMPLOYMENT STATUS

SEC. 8. (a) Whenever a business concern required to give notice under section 4(a)—

(1) reduces the wages paid for any week to an employee to an amount less than 85 percent of the average of the wages paid in all weeks to such employee by such business concern during the 26-week period immediately preceding such week, or

(2) suspends or terminates the employment of such employee,

at an establishment with respect to which such notice is required, such business concern shall give such employee, not later than 7 days after the week for which such wages are so reduced or such employment is suspended or terminated, a written statement of employment status.

(b) If a business concern which gives a statement of employment status in accordance with subsection (a) to an employee fails to include in such statement an assurance that such business concern will increase the wages of or reinstate such employee, as the case may be, to prevent such employee from suffering an employment loss, then such employee shall be deemed to suffer an employment loss immediately preceding the week for which such business concern reduces the wages, or suspends or terminates the employment, of such employee as described in such subsection.

(c) If a business concern which gives a statement of employment status in accordance with subsection (a) to an employee includes in such statement an assurance that such business concern will increase the wages of or reinstate such employee, as the case may be, to prevent such employee from suffering an employment loss and if such business concern fails to prevent such employment loss, then such business concern shall pay such employee, in addition to any other payment required in this Act, a lump sum equal to the product of 26 and the amount described in section 9(a)(1)(A)(i).

(d) An employee with respect to whom a business concern required to give notice under section 4(a) fails to comply with subsection (a) shall be deemed to suffer an employment loss immediately preceding the week for which such business concern reduces the wages, or suspends or terminates the employment, of such employee as described in such subsection.

TRANSITIONAL ASSISTANCE BY BUSINESS CONCERNS

SEC. 9. (a)(1) Subject to subsection (c), any business concern required to give notice under section 4(a) regarding a change of operations at an establishment shall—

(A) pay to each employee who suffers an employment loss at such establishment as a result of such change of operations a weekly income maintenance payment—

(i) equal to 85 percent of the product of the weekly equivalent and the rate of pay, measured at the equivalent of an hourly rate of pay, in effect on the date such employment loss occurs for the position having the highest rate of pay so measured which such employee held at any establishment of such business concern at any time in the 2-year period immediately preceding such date, or

(ii) equal to 100 percent of such product if such employee is participating, during the week for which such income maintenance payment is required, in any training program provided or required by the Secretary under section 13(a)(1) or section 14, and

(B) make payments with respect to such employee as if such employee had not suffered such employment loss, to any employee benefit plan in effect at such establishment to which such business concern is obligated to contribute with respect to such employee for the week immediately preceding the 26-week period ending on the date such employment loss occurs, for the 52-week period beginning on the date such employment loss occurs.

(2)(A) A payment payable under paragraph (1)(A) to an employee who receives for the week with respect to which such payment is required wages from—

(i) such business concern, or

(ii) an employer other than such business concern for employment accepted with such employer after such employment loss occurs,

shall be reduced by an amount described in subparagraph (B).

(B) The amount by which such payment shall be reduced under subparagraph (A) shall be equal to the difference between—

(i) the sum of such wages and such payment payable without regard to this paragraph, and

(ii) the product of the weekly equivalent and the rate of pay, measured at the equivalent of an hourly rate of pay, in effect on the date such employment loss occurs for the position having the highest rate of pay so measured which such employee held at any establishment of such business concern at any time in the 2-year period immediately preceding such date.

(3) For purposes of paragraph (1)(A)(i) and paragraph (2)(B)(ii), the term "weekly equivalent" means the greater of the average number of hours per week such employee worked during—

(A) the 26-week period immediately preceding the date by which such business concern is required to give notice under section 4(a), or

(B) the 26-week period immediately preceding any reduction of wages, or any suspension or termination of the employment, of such employee resulting in such employment loss.

(4) A payment payable under paragraph (1)(A) to an employee who receives—

(A) compensation under any unemployment compensation law of any State or of the United States, or

(B) a trade readjustment allowance under part I of subchapter B of chapter 2 of title I of the Trade Act of 1974 (19 U.S.C. 2291–2294),

for the week with respect to which such payment is required shall be reduced by an amount equal to the sum of such compensation and such allowance.

(5) A payment made by a business concern under paragraph (1) (A) to an employee shall be deemed—

(A) not to be wages for the purpose of determining the eligibility of such employee to receive any payment under any unemployment compensation law of any State or of the United States, and

(B) to be wages for all other purposes, including the determination of any contribution to be made to, and any credit to be received and any benefit to accrue under, any employee benefit plan to which any payment is required in paragraph (1) (B).

(6) No business concern shall be required to make total payments under paragraph (1) (A) exceeding $25,000 for any 52-week period to each employee who suffers an employment loss.

(7) No business concern shall be required to make a payment under paragraph (1) with respect to an employee for any week beginning after such employee begins any employment offered under section 11(a) to such employee.

(8) No business concern shall be required to make a payment under paragraph (1) with respect to an employee for any week beginning after such employee refuses to accept employment offered by such business concern or by any employer other than such business concern, located within a reasonable commuting distance of the regular place of residence of such employee, if such employment—

(A) provides—

(i) wages that equal or exceed the wages, and

(ii) benefits (including benefits under any employee benefit plan) substantially equivalent to the benefits,

for the position having the highest rate of pay, measured at the equivalent of an hourly rate of pay, which such employee held at any establishment of such business concern at any time in the 2-year period preceding the date the employment loss of such employee occurs, and

(B) (i) is substantially similar in kind to such position, or

(ii) utilizes skills acquired by such employee as a result of any previous employment or participation in any training program.

(9) No business concern shall be required to make a payment under paragraph (1) with respect to an employee for any week during which such employee refuses to participate, or fails to make satisfactory progress, without good cause, in any training or placement program made available to such employee under section 13(a) (1) or section 14.

(10) No business concern shall be required to make a payment under paragraph (1) with respect to an employee for any week for which such employee receives a retirement benefit under any employee pension benefit plan to which such business concern made any payment with respect to such employee before such week.

(b) If an employee suffers an employment loss arising from the suspension or termination of his employment by a business concern required to give notice under section 4(a) and if such employee accepts employment offered by such business concern not later than 3 years after the date such employment loss occurs, then such business concern shall pay any reasonable expenses incurred by such employee in connection with moving to a new residence for the purpose of beginning such employment.

(c) (1) Notwithstanding the expiration of the 52-week period for which a business concern is required to make payments with respect to an employee under subsection (a) (1), such business concern shall continue to make, with respect to each employee who on the expiration of such 52-week period has attained 53 years of age and has not yet attained 61 years of age, the payments described in such subsection during the number of years specified in paragraph (2) if such payments would be required under such subsection with respect to such employee but for the expiration of such 52-week period.

(2) A business concern shall make the payments required in paragraph (1) with respect to such employee during the number of years equal to the number by which 5 exceeds the absolute value of the quantity 57 less the number of years of age such employee attains before the expiration of such 52-week period.

(3) The Secretary shall reimburse such business concern for any payment made in accordance with this subsection to an employee.

(d) Whenever a business concern fails to make any payment required in this section—

(1) the amount of such payment, other than a payment required in subsection (c), shall be deemed to be a debt owed to the United States by such business concern and shall bear simple interest at 9 percent per annum, and

(2) the Secretary shall make such payment with respect to the employee involved at the request of such employee or of any agent of such employee.

SECONDARY LIABILITY

SEC. 10. (a) A business concern which transfers, by sale or otherwise, ownership or control of an establishment for the purpose of avoiding any liability under section 9 with respect to an employment loss suffered by any employee at such establishment after such ownership or control is transferred shall be liable to the United States in accordance with subsection (b) for an amount based on the amount of assistance required to be provided under section 9, to the extent that the business concern which owns or controls such establishment at the time such employment loss occurs fails to provide such assistance.

(b) The amount of assistance required to be provided under section 9 with respect to an establishment by any business concern which is liable under subsection (a) shall be an amount equal to the difference between—

(1) the amount of assistance required to be provided under section 9 by the business concern which owns or controls such establishment at the time an employment loss occurs, and

(2) an amount equal to one-tenth of the product of—

(A) the amount of assistance required to be provided under section 9 by the business concern which owns or controls such establishment at the time such employment loss occurs, and

(B) the number of complete years which elapse during the period beginning on the date of the transfer of ownership or control of such establishment, described in subsection (a), and ending on the date of the termination of the liability under section 9 of the business concern which owns or controls such establishment at the time such employment loss occurs.

TRANSFER OF EMPLOYEES

SEC. 11. (a) (1) In accordance with rules promulgated by the Secretary, a business concern required to give notice under section 4(a) shall offer to any employee who suffers an employment loss at an establishment with respect to which such notice is required any employment which becomes available at any establishment of such business concern in the 3-year period beginning on the date such employment loss occurs and which such employee is qualified to perform, to the extent that such business concern can provide such employment under this paragraph without violating any provision of any collective bargaining agreement in effect with respect to such employment, such establishment, or such business concern.

(2) Such employment shall provide—

(A) wages that equal or exceed the wages, and

(B) benefits (including benefits under any employee benefit plan) substantially equivalent to the benefits.

for the position having the highest rate of pay, measured at the equivalent of an hourly rate of pay, which such employee held at any establishment of such business concern at any time in the 2-year period preceding the date the employment loss of such employee occurs notwithstanding the terms and conditions otherwise applicable with respect to such employment.

(b) Any employee who is aggrieved by any failure of a business concern to comply with subsection (a) may seek relief in accordance with section 26.

EMPLOYEE BENEFIT PLANS

SEC. 12. (a) An employee who participates in any employee benefit plan at an establishment with respect to which notice is required in section 4(a) and with respect to whom payments to such plan are required under section 9(a) (1) (B) shall be eligible to participate in such plan during any period for which such payments are required.

(b) If an employee participates under subsection (a) in any employee pension benefit plan, then such employee shall—

(1) receive credit for the purpose of the vesting of any rights in such plan, and

(2) (A) accrue benefits to the extent that such plan is a defined benefit plan, and

(B) receive credit to the account of such employee to the extent that such plan is an individual account plan,

for each period for which a payment is made under section 9(a) (1) (B). For purposes of determining credits to be received and benefits to be accrued under the preceding sentence, any week for which a payment is required under section 9(a) (1) (A) with respect to such employee shall be deemed to be a week during which such employee is employed.

(c) (1) If an employee suffers an employment loss at an establishment with respect to which notice is required in section 4(a) and if such employee is credited before such employment loss occurs with at least 5 years of vesting service in an employee pension benefits plan with respect to which subsection (a) applies in the case of such employee, then the rights of such employee in such plan shall vest completely and nonforfeitably for all purposes on the date such employment loss occurs. For purposes of the preceding sentence, any period during which any suspension or termination of the employment of such employee is in effect shall not be considered to be a break in service if such suspension or termination of employment results in such employment loss.

(2) A business concern required to make payments under section 9(a) (1) (B) to any employee benefit plan with respect to an employee shall be liable to such plan for any unfunded liability of such plan resulting from the operation of paragraph (1).

(d) Any employee who suffers an employment loss at an establishment with respect to which notice is required in section 4(a) and who attains 55 years of age before such employment loss occurs shall be eligible to retire and to receive any retirement benefit under any employee pension benefit plan with respect to which subsection (a) applies in the case of such employee, beginning on the date such employee attains 62 years of age, if the normal retirement age under such plan is any age greater than 62 years of age. The amount of such benefit payable in accordance with this subsection shall be an amount equal to the actuarial equivalent of the normal retirement benefit payable to such employee under such plan.

(e) Any violation of this section shall be deemed to be a violation of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001–1144) for which a civil action may be brought under paragraph (3) or paragraph (5) of section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a).

FEDERAL ASSISTANCE TO EMPLOYEES

SEC. 13. (a) The Secretary, in consultation with the National Employment Priorities Advisory Council, shall implement a comprehensive program in accordance with subsection (b) to provide assistance to employees who suffer or may suffer an employment loss at an establishment with respect to which notice is required under section 4(a). Such program shall include—

(1) training programs,

(2) job placement services,

(3) payments for reasonable expenses, not to exceed $600 for each employee, incurred by such employees in connection with searching for new employment if such employees cannot reasonably be expected to find such employment in the geographical area in which such establishment is located, and

(4) payments for reasonable expenses incurred by such employees in connection with moving to a new residence for the purpose of beginning employment, if the payment of such expenses is not required in section 9(b).

(b)(1) To the extent practicable, the Secretary shall provide assistance under subsection (a) to employees who may suffer an employment loss, before such employment loss occurs.

(2) To the extent practicable, the Secretary shall provide assistance under subsection (a) through existing programs established by law before the date of the enactment of this Act. To the extent that such assistance cannot be provided through any existing program, the Secretary may provide such assistance through new programs established by the Secretary for the purpose of furnishing such assistance, including programs to be carried out by grants to, or contracts with, private organizations.

(c)(1) Before the Secretary implements any program under subsection (a) to retrain employees who suffer or may suffer an employment loss at an establishment, the Secretary shall, to the extent practicable, consult with the business concern involved, and with any authorized representative of any affected labor organization at such establishment, for the purpose of developing a retraining plan which will meet the manpower needs of such business concern.

(2) Any employee who receives testing, counseling, training, or placement assistance under subsection (a) shall be paid allowances by the Secretary for reasonable and necessary expenses incurred for travel and subsistence when such testing, counseling, training, or placement assistance is provided at facilities which are not within a reasonable commuting distance of the regular place of residence of such employee. The Secretary shall prescribe by rule the amount of such allowances applicable with respect to the different geographical regions of the United States, taking into account regional variations in the general levels of such expenses.

RELATED RETRAINING ASSISTANCE TO EMPLOYEES

SEC. 14. (a) The Secretary may develop and implement, in cooperation with representatives of the business concern involved and with representatives of the employees at the establishment with respect to which assistance under section 16 is requested, a program to retrain employees to perform new employment tasks required in connection with implementing a proposal submitted by such business concern under section 15(b)(2).

(b)(1) Any program developed under subsection (a) may be implemented at such time as the Secretary deems to be appropriate.

(2) The Secretary may require as a condition to receiving assistance under section 16 that a business concern requesting such assistance implement, or assist the Secretary to implement, any program developed under subsection (a).

ELIGIBILITY OF BUSINESS CONCERNS FOR ASSISTANCE

SEC. 15. (a) A business concern required to give notice under section 4(a) which requests in accordance with subsection (b) assistance under section 16 shall be eligible to receive such assistance with respect to a change of operations at any establishment if the Secretary determines that—

(1) such business concern intends to undertake a change of operations at such establishment, and such change of operations will cause a substantial number of employees to suffer an employment loss,

(2) such business concern will make all reasonable efforts to prevent the occurrence of such employment loss, and such efforts and the resources of such business concern will be inadequate to prevent such employment loss unless assistance is provided by the Secretary under section 16,

(3) such assistance, if provided, will with reasonable certainty enable such business concern to operate such establishment on an improved economic basis within a reasonable period of time and without undertaking such change of operations, and

(4) such business concern has complied with the requirements of section 4(a).

(b)(1) To request any assistance under section 16 with respect to an establishment, a business concern shall submit an application in such form, and containing such assurances and information in addition to the information required in paragraph (2), as the Secretary may require by rule.

(2) Any application submitted in accordance with paragraph (1) shall include a proposal setting forth in such detail as the Secretary may require by rule the uses (including any modification of product lines and production techniques) to which such assistance will be put, and the anticipated effects of each such use.

(3) The Secretary may assist any business concern in preparing any application to be submitted in accordance with paragraph (1).

(c)(1) As soon as practicable and not later than 60 days after a business concern submits an application under subsection (b), the Secretary shall determine whether such business concern is eligible under subsection (a) to receive assistance.

(2) If the Secretary determines that such business concern is eligible to receive such assistance, then such business concern shall be considered to remain eligible to receive such assistance during such period as the Secretary may establish.

ASSISTANCE TO BUSINESS CONCERNS

SEC. 16. (a)(1) The Secretary may provide to a business concern which is eligible under section 15 such financial assistance, on such terms and conditions as the Secretary deems to be appropriate, as will substantially contribute to the economic viability of the establishment with respect to which such assistance is requested. Such financial assistance may include loans, loan guarantees, interest subsidies, and the assumption by the Secretary of any outstanding debt of such business concern.

(2) The assumption of any outstanding debt of a business concern by the Secretary under paragraph (1), with or without recourse, shall be considered to be a loan made to such business concern.

(3) A loan or loan guarantee shall be made by the Secretary under paragraph (1) only if the Secretary determines that the interest rate payable under the terms of such loan or the loan guaranteed, as the case may be, is reasonable.

(4) No financial assistance shall be provided under paragraph (1) unless the Secretary determines that substantially equivalent financial assistance is unavailable to such business concern with respect to such establishment from any conventional source other than the United States, and that there is a reasonable likelihood that such business concern will repay the Secretary the amount of any financial assistance provided under such paragraph.

(b) The Secretary may provide to a business concern which is eligible under section 15 such technical assistance, on such terms and conditions as the Secretary deems to be appropriate, as will substantially contribute to the economic viability of the establishment with respect to which such assistance is requested. Such technical assistance may include grants and contracts for research and development in connection with new production or marketing techniques which will create new employment opportunities at such establishment.

TARGETED FEDERAL PROCUREMENT

SEC. 17. (a) If the Secretary finds that a business concern which complies with the requirements of section 4(a) will offer additional employment opportunities if such business concern enters into any agreement with the head of any executive agency for the procurement of products or services for the United States, then the Secretary shall issue a certificate of procurement credit to such business concern to be valid for such period as the Secretary deems to be appropriate.

(b) For the purpose of selecting any person from whom products or services will be purchased or will be acquired by contract for the United States, the head of any executive agency making such purchase or contract shall treat the amount stated in any bid submitted by a business concern which holds a valid certificate of procurement credit issued by the Secretary under subsection (a) as if such amount were equal to 95 percent of the amount stated in such bid.

ELIGIBILITY OF LOCAL GOVERNMENTS FOR ASSISTANCE

SEC. 18. (a) Any unit of general local government of a State shall be eligible to receive assistance under section 19 with respect to a change of operations undertaken by a business concern at an establishment (without regard to whether such establishment is within the jurisdiction of such unit of general local government), if the chief executive officer of the State involved certifies to the Secretary, and the Secretary determines, that such unit of general local government has suffered, or will suffer, as a result of such change of operations—

(1) a substantial decrease in income resulting from a decrease in the amount of revenue paid to such unit of general local government by such business concern or by the employees of such establishment, (2) a substantial increase in the demand for, or utilization of, social services provided by such unit of general local government, or

(3) a substantial increase in the number of unemployed individuals who reside within the jurisdiction of such unit of general local government.

(b)(1) The Secretary shall make a determination regarding the eligibility of a unit of general local government under subsection (a) not later than 60 days after the Secretary receives the certification required in such subsection.

(2) If the Secretary determines that a unit of general local government is eligible under subsection (a) to receive assistance under section 19, the Secretary shall develop, in consultation with such unit of general local government, a program to provide assistance under such section.

ASSISTANCE TO LOCAL GOVERNMENTS

SEC. 19. (a) The Secretary may provide, on such terms and conditions as the Secretary deems to be appropriate, to a unit of general local government which is eligible under section 18 grants, loans, and loan guarantees, for purposes of—

(1) providing additional, or increasing the availability of, social services needed to satisfy the increased demand for such services referred to in section 18(a)(2), and

(2) implementing any plan for a public works project submitted to the Secretary by such unit of general local government and approved by the Secretary under subsection (b)(2).

(b)(1) The assistance authorized to be provided in subsection (a)(2) may be provided to implement a plan for a public works project only if—

(A) the unit of general local government requesting such assistance submits to the Secretary a plan for such project which includes a detailed statement of the purpose, budget, and construction schedule of such project, and the number and skills of the employees needed to implement such plan, and

(B) the Secretary approves such plan.

(2) The Secretary may approve any such plan which satisfies the requirements of paragraph (1)(A).

(3) For the purpose of determining whether to provide assistance under subsection (a)(2), the Secretary shall give priority to public works projects which will—

(A) be constructed in geographical areas in which the rate of unemployment is high,

(B) make such geographical areas more attractive for commercial investment,

(C) cause a long-term increase in employment opportunities in such geographical areas,

(D) provide an efficient means to increase the level of employment, and

(E) further other national goals, such as improving the quality of the environment and increasing the development and conservation of energy.

ELIGIBILITY OF CERTAIN EMPLOYERS AND OF COOPERATIVE ASSOCIATIONS OF EMPLOYEES FOR ASSISTANCE

SEC. 20. (a) Any employer (other than a business concern required to give notice under section 4(a)) or cooperative association of employees which requests in accordance with subsection (b) assistance under section 21 shall be eligible to receive such assistance if the Secretary determines that—

(1) such employer or cooperative association of employees will create or expand employment opportunities and will provide continuous employment over a substantial period of time, and

(2) substantially equivalent assistance is not reasonably available to such employer or cooperative association from any other source.

(b) For the purpose of requesting any assistance for which an employer or cooperative association may be eligible under subsection (a), such employer or cooperative association shall submit to the Secretary an application which provides such information and such assurances as the Secretary may require by rule.

ASSISTANCE TO CERTAIN EMPLOYERS AND TO COOPERATIVE ASSOCIATIONS OF EMPLOYEES

SEC. 21. The Secretary may provide, on such terms and conditions as the Secretary deems to be appropriate, to any employer or cooperative association of employees which is eligible under section 20 loans, loan guarantees, and technical assistance for the purpose of—

(1) expanding operations at, or acquiring ownership of, an establishment with respect to which notice is required under section 4(a),

(2) constructing new establishments, or

(3) undertaking research and development projects designed to identify new markets and additional employment opportunities related to entry into such markets, and new production and marketing techniques.

PRIORITY FOR PROVIDING ASSISTANCE

SEC. 22. The Secretary, in providing assistance under sections 16, 19, and 21, shall give priority to developing and implementing plans to enable employees at an establishment with respect to which notice is required under section 4(a) to continue to perform operations at such establishment if there is a reasonable likelihood that such operations will provide continuous employment over a substantial period of time.

LIABILITY FOR LOSS OF REVENUE

SEC. 23. (a)(1) If, after a hearing on the record, the Secretary finds that a business concern is required to give notice under section 4(a), then such business concern shall be liable as provided in paragraph (2) to each unit of general local government to which such business concern was liable for any revenue payable with respect to real or personal property at the establishment involved, in any of the 3 fiscal years of such unit of general local government preceding the first fiscal year of such unit of general local government in which such business concern undertakes the change of operations with respect to which such finding is made.

(2) The amount for which such business concern shall be liable under paragraph (1) to such unit of general local government shall be an amount equal to 85 percent of the difference between—

(A) the average of the amounts of such revenue for which such business concern was liable to such unit of general local government for the taxable years ending in such 3 fiscal years, and

(B) the amount of such revenue for which such business concern is liable to such unit of general local government for the first complete taxable year of such business concern occurring after the end of the period with respect to which such finding is made,

to the extent that such difference is directly related to such change of operations.

(b) Whenever a business concern fails to pay to any unit of general local government any amount for which such business concern is liable under subsection (a)—

(1) such amount shall be deemed to be a debt owed to the United States by such business concern and shall bear simple interest at 9 percent per annum, and

(2) the Secretary shall pay such amount to such unit of general local government at the request of such unit of general local government.

(c)(1) If, after a hearing on the record, the Secretary finds that a business concern is required to give notice under section 4(a) with respect to an establishment located in the United States and such business concern undertook a change of operations which involved the transfer of such operations from such establishment to an establishment outside the United States when an economically viable alternative to such transfer existed, then such business concern shall be liable to the United States as provided in paragraph (2).

(2) The amount for which such business concern shall be liable under paragraph (1) shall be an amount equal to 300 percent of the difference between—

(A) the average of the amounts of revenue allocable to such establishment for which such business concern was liable to the United States for the 3 taxable years of such business concern preceding the first or only taxable year in which such business concern transfers the operations with respect to which such finding is made, and

(B) the amount of revenue allocable to such establishment for which such business concern is liable to the United States payable for the first complete taxable year of such business concern occurring after the end of the period with respect to which such finding is made.

CRIMINAL VIOLATIONS AND PENALTIES

SEC. 24. (a)(1) Whoever knowingly makes any false statement of any material fact or knowingly fails to disclose any material fact, for the purpose of obtaining for any person or any unit of general local government any payment or other assistance under this Act shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.

(2) Any person—

(A) who is convicted of violating paragraph (1), and

(B) who receives any payment under this Act as a result of the conduct prohibited in such paragraph,

shall pay to the United States an amount equal to the amount so received.

(b) Any person who gives notice required in section 4(a) and who knowingly makes any false statement of any material fact or knowingly fails to disclose any material fact required to be disclosed under such section shall be fined not more than $10,000, imprisoned for not more than 5 years, or both.

CIVIL VIOLATIONS AND PENALTIES

SEC. 25. (a) It shall be unlawful for any business concern to fail—

(1) to give notice required in section 4(a),

(2) to provide assistance with respect to employees under section 9, or

(3) to pay any debt owed to the United States under section 9(d)(1) or section 23(b)(1) before the expiration of the 180-day period beginning on the date such debt is incurred.

(b) The Secretary may hold a hearing on the record to determine whether a business concern has violated subsection (a).

(c) If, after a hearing under subsection (b), the Secretary finds that a business concern has violated subsection (a), then the Secretary shall assess against such business concern a civil penalty not to exceed an amount equal to the sum of—

(1) an amount equal to any allowable credit claimed by such business concern under section 38 of the Internal Revenue Code of 1954 (relating to investment in certain depreciable property) with respect to any equipment transferred, disposed of, or abandoned as a result of the change of operations which is the subject of such violation,

(2) an amount equal to any allowable deduction for depreciation claimed by such business concern under section 167 of the Internal Revenue Code of 1954 (relating to depreciation) or section 611 of the Internal Revenue Code of 1954 (relating to allowance of deduction for depletion) with respect to any property transferred, disposed of, or abandoned as a result of such change of operations,

(3) an amount equal to any allowable deduction for ordinary and necessary expenses claimed by such business concern under sec-

tion 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses), to the extent such expenses are directly related to such change of operations,

(4) an amount equal to one-half of the value of any economic benefit given by any government of a foreign country to such business concern in the 2-year period beginning on the date such business concern concludes the change of operations with respect to which such violation is found, as an inducement to undertake such change of operations, and

(5) an amount equal to the amount by which the sum of the aggregate wages and the aggregate taxes imposed by chapter 23 of the Internal Revenue Code of 1954 (relating to the Federal Unemployment Tax Act) payable by such business concern for the taxable year—

(A) preceding the date which occurs 1 year before such change of operations is to begin, in the case of a business concern required to give notice within the time required in section 4(b) (3) (A) (i), or

(B) preceding the date which occurs 6 calendar months before such change of operations is to begin, in the case of a business concern required to give notice within the time required in clause (ii) or clause (iii) of section 4(b) (3) (A),

exceeds one-half of the sum of the aggregate wages and the aggregate taxes imposed by chapter 23 of the Internal Revenue Code of 1954 (relating to the Federal Unemployment Tax Act) payable by such business concern for the period of 2 taxable years beginning after the date such business concern concludes such change of operations, to the extent that any amount calculated in accordance with this paragraph is directly related to such change of operations.

VIOLATIONS OF EMPLOYEES' RIGHTS

SEC. 26. (a) It shall be unlawful for any business concern required to give notice under section 4(a) to fail to comply with section 11(a) in the case of any employee who suffers an employment loss at any establishment with respect to which such notice is required.

(b) It shall be unlawful for any business concern to discriminate against any employee because such employee participated in, assisted in any manner, or requested any investigation, hearing, or other proceeding under this Act.

(c) (1) If any employee of a business concern believes that any violation of subsection (a) or subsection (b) has been committed with respect to him, then such employee may file a complaint with the Secretary, not later than 180 days after the commission of such violation.

(2) (A) The Secretary may hold a hearing on the record with respect to any act, or failure to act, described in such complaint to determine whether such act, or failure to act, occurred and is in violation of subsection (a) or subsection (b).

(B) Not later than 180 days after such complaint is filed with the Secretary, the Secretary shall notify such employee whether a hearing under subparagraph (A) will be held.

(3) (A) If the Secretary finds in accordance with paragraph (2) (A) that a violation of subsection (a) or subsection (b) has occurred, then the business concern which committed such violation shall take such action with respect to such employee as the Secretary finds equitable and orders, including the transfer or reinstatement of such employee.

(B) Whenever the Secretary orders a business concern to transfer or reinstate an employee under subparagraph (A), such business concern shall pay such employee an amount equal to 300 percent of the amount of the wages such employee would have received from such business concern if such employee had been offered and had accepted the employment with respect to which a violation of subsection (a) is found or if such employer had not discriminated against such employee in violation of subsection (b), as the case may be.

(d) Subsection (a) and subsection (b) shall not be construed to authorize any private right of action with respect to any act or failure to act which may violate subsection (a) or subsection (b).

RECOVERY OF OVERPAYMENTS

SEC. 27. (a) If the Secretary has reasonable cause to believe that any recipient of assistance under section 13 has knowingly made, or has caused another person to knowingly make, any false statement of any material fact or has knowingly failed, or caused another person to fail, to disclose any material fact, and as a result of such action has received any payment of assistance under such section, then the Secretary shall—

(1) refuse to make any additional payment of assistance to such recipient if such recipient is ineligible to receive such assistance, or

(2) reduce the amount of such payment of assistance paid to such recipient if such recipient is eligible to receive a reduced amount, but shall deduct from any such payment an amount equal to the amount of any overpayment received by the recipient which is not repaid to the Secretary by such recipient.

(b) Any amount repaid to, or deducted by, the Secretary under subsection (a) (2) shall be returned to the Treasury and credited to the current applicable appropriation, fund, or account from which such payment was made.

RESERVES; RECORDING REQUIREMENTS RELATING TO LOANS

SEC. 28. (a) The Secretary shall maintain operating reserves with respect to anticipated claims under loan guarantees made under sections 16, 19, and 21. Such reserves shall be considered to constitute obligations of the United States for purposes of section 1311 of the Supplemental Appropriation Act, 1955 (31 U.S.C. 200).

(b) Any mortgage acquired by the Secretary as security for any loan made under section 16, 19, or 21 shall be recorded by the Secretary in accordance with applicable State law.

CONGRESSIONAL DISAPPROVAL OF RULES

SEC. 29. (a) Except as provided in subsection (b), no rule promulgated by the Secretary for the purpose of carrying out the provisions of this Act shall take effect unless the Secretary submits such rule to the Congress and until the expiration of a thirty-day period beginning on the date such rule is submitted, during which the Congress is in session and does not adopt a concurrent resolution disapproving such rule.

(b) Any rule promulgated by the Secretary when the Congress is not in session may take effect and may remain in effect unless the Congress adopts a concurrent resolution disapproving such rule before the expiration of a thirty-day period beginning on the date the Congress reconvenes.

(c) For purposes of this section, the Congress shall be deemed to be in session except during any period when either House is in adjournment sine die, in adjournment subject to call of the Chair, or in adjournment to a day certain for a period exceeding four consecutive days.

REPORTS; LEGISLATIVE PROPOSALS

SEC. 30. (a) After any program implemented by the Secretary under section 13, 14, 16, 19, or 21 has been in operation for a period of three years, the Secretary shall evaluate the effectiveness of such program and shall prepare a report describing the results of such evaluation. Such report shall be submitted not later than one year after such period to each House of the Congress and shall be referred to the appropriate authorizing committees of each House of the Congress.

(b) The Secretary shall prepare proposals for legislation designed—

(1) to provide such assistance as the Secretary deems to be appropriate to units of general local government adversely affected by changes of operations at establishments, and

(2) to require business concerns to report on a continuing basis available employment opportunities to the Secretary for inclusion in any nationwide computerized job bank and matching program established under section 312(f) of the Comprehensive Employment and Training Act (29 U.S.C. 880(f)).

Such proposals shall be submitted, not later than 1 year after the date of the enactment of this Act, to each House of the Congress and shall be referred to the appropriate authorizing committees of each House of the Congress.

GENERAL POWERS OF SECRETARY

SEC. 31. For purposes of carrying out the provisions of this Act, the Secretary may—

(1) hold any hearings and take any testimony at such times and places as the Secretary deems to be appropriate,

(2) request directly from any executive agency any information, suggestions, estimates, and statistics which the Secretary deems to be necessary to carry out the provisions of this Act, and each executive agency is hereby authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary.

(3) under rules promulgated by the Secretary, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his discretion and upon such terms and conditions as he determines to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by the Secretary in connection with loans made by the Secretary under sections 16, 19, and 21,

(4) extend the maturity of or renew any loan made by the Secretary under section 16, 19, or 21 beyond the period stated in such loan for additional periods not to exceed a total of 10 years, if such extension or such renewal will aid in the orderly liquidation of such loan,

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse such personnel for travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code,

(6) enter into contracts, grants, or other arrangements under this Act without entering into performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), and

(7) make advances, progress payments, and other payments which the Secretary deems to be necessary under this Act, without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529).

IMPLEMENTATION OF EMPLOYMENT POLICIES THROUGH NATIONAL EMPLOYMENT PRIORITIES ADMINISTRATION

SEC. 32. The Secretary shall carry out the provisions of this Act through the National Employment Priorities Administration and may delegate to the Administrator of the National Employment Priorities Administration any of the functions, powers, and duties vested in the Secretary in this Act.

NATIONAL EMPLOYMENT PRIORITIES ADMINISTRATION

SEC. 33. (a) There is hereby established in the Department of Labor the National Employment Priorities Administration.

(b) (1) There shall be an Administrator of the Administration who shall be appointed by the President by and with the advice and consent of the Senate. The Administrator shall perform the duties vested in the Administrator in subsection (c) and such other functions, powers, and duties as the Secretary may delegate to the Administrator under section 32.

(2) There shall be a Deputy Administrator of the Administration who shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Administrator shall perform such duties under this Act as the Administrator may delegate to the Deputy Administrator.

(c) In addition to performing any functions, powers, and duties delegated to the Administrator under section 32, the Administrator—

(1) may conduct research projects relating to any relationship between unemployment and changes of operations at establishments by business concerns, and

(2) shall, to the extent practicable, identify services and products which may profitably be provided by a business concern required to give notice under section 4(a) if such business concern receives assistance under section 16.

(d) The Administrator shall establish regional offices of the Administration at such places as the Administrator deems to be appropriate, for the purpose of carrying out the functions, powers, and duties of the Administrator under this Act.

NATIONAL EMPLOYMENT PRIORITIES ADVISORY COUNCIL

SEC. 34. (a) There is hereby established in the executive branch a National Employment Priorities Advisory Council.

(b) The duties of the Council shall be—

(1) to advise and assist the Secretary with respect to carrying out the provisions of this Act,

(2) to review and evaluate the effectiveness of specific programs carried out under this Act,

(3) to conduct studies and prepare reports which will identify areas of future economic activity in which the United States is expected to engage at a competitive disadvantage with other countries, and identify industries in which a substantial number of business concerns may undertake a change of operations during such future economic activity, and

(4) to conduct research and prepare proposals designed to provide new programs for assisting employees and units of general local government affected by changes of operations at establishments and for assisting business concerns to create or expand employment opportunities in geographical areas in the jurisdiction of such units of general local government.

(c) (1) The Council shall be composed of 15 members as follows:

(A) the Secretary,

(B) the Administrator of the Environmental Protection Agency,

(C) the Director of the National Commission for Employment Policy,

(D) the Secretary of Commerce,

(E) the Secretary of Health, Education, and Welfare,

(F) four representative members of the general public,

(G) three representative members of labor organizations, and

(H) three representative members of business concerns.

(2) (A) The members of the Council described in subparagraphs (F), (G), and (H) of paragraph (1) shall be appointed by the President for a term of 3 years, by and with the advice and consent of the Senate.

(B) A vacancy on the Council shall be filled in the manner in which the original appointment was made. Any member of the Council described in subparagraph (F), (G), or (H) of paragraph (1) who is appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(d) The chairman of the Council shall be the Secretary.

(e) The Council shall meet at least 4 times each year at the call of the chairman or of a majority of the members.

(f) Ten members of the Council shall constitute a quorum but 8 members shall constitute a quorum for the purpose of holding hearings under subsection (g).

(g) For purposes of carrying out subsection (b), the Council may hold any hearings and may gather any evidence at such times and places as the Council deems to be appropriate.

(h) Each member of the Council who is not an officer or employee of the United States shall receive—

(1) compensation at a rate not to exceed the daily rate payable from time to time for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the performance of duties as a member of the Council, and

(2) travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(i) (1) Subject to such rules as the Council may promulgate and, except as provided in paragraph (2), to the provisions of title 5, United States Code, governing appointments in the competitive service, the chairman of the Council may appoint such personnel as the chairman deems to be appropriate. Such personnel shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(2) Subject to such rules as the Council may promulgate, the chairman may—

(A) appoint and fix the pay of 20 percent of the number of regular, full-time technical and professional employees, and

(B) appoint for terms not to exceed 3 years and fix the pay of technical and professional employees in addition to the employees appointed under subparagraph (A) as the chairman deems to be appropriate,

without regard to the provisions of title 5, United States Code relating to appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(3) Upon the request of the Council, the head of any executive agency is authorized to detail, on a reimbursable basis, any personnel of such agency to the Council to assist the Council in carrying out the duties of the Council under subsection (b).

(j) The Administrator of General Services shall provide to the Council, on a reimbursable basis, such administrative support services as the Council may request.

(k) Not later than January 31 of each year, the Council shall submit to each House of the Congress a report describing the activities of the Council and summarizing the results of such activities during the previous calendar year.

(l) Section 14(a) (2) of the Advisory Committee Act (5 U.S.C. app.) shall not apply with respect to the Council.

AMENDMENTS TO OTHER LAWS

SEC. 35. (a) (1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(70) Administrator, National Employment Priorities Administration.".

(2) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(125) Deputy Administrator, National Employment Priorities Administration.".

(b) Section 523 of title 11, United States Code, is amended—

(1) by striking out "or" the last place it appears in paragraph (8),

(2) by striking out the period in paragraph (9) and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new paragraph:

"(10) to the United States under section 9(d) (1) or section 23(b) (1) of the National Employment Priorities Act of 1979.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 36. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Sums appropriated pursuant to this section shall remain available until expended.

SECTION-BY-SECTION SUMMARY

Sec. 1. Short Title; Table of Contents.

Sec. 2. Findings and Purpose.

Sec. 3. Definitions.

Sec. 4. Notice of Intent to Change Operations.—

Requires business concerns intending to undertake changes of operations causing employment losses for 100 employees or 15 percent of the workforce at an establishment, whichever is less, to notify the employees, any affected labor organizations, the Secretary of Labor, and local governments—

(1) at least 2 years in advance, if 500 employees or more will be affected;

(2) at least 18 months in advance, if from 100 to 500 employees will be affected;

(3) at least 6 months in advance, if fewer than 100 employees (but more than 15 percent of an establishment) will be affected.

Sec. 5. Investigation of Intended Change of Operations.—

Authorizes the Secretary of Labor to hold investigations into the economic reasons for the change of operations, the estimated extent of economic or social loss to employees and local governments, the feasibility of preventing or minimizing employment losses by modification of product lines and production techniques, and recommendations of local governments, labor organizations, and others to prevent or alleviate such losses.

Sec. 6. Report of Investigation.—

Instructs the Secretary of Labor to issue a report summarizing the findings and recommendations resulting from such investigations, including a description of the nature and extent of assistance which would be required to prevent or minimize losses.

Sec. 7. Ineligibility of certain employees for assistance.—

Disqualifies employees who entered employment after notice of the intended change of operations, if they were informed of the intended change.

Sec. 8. Notice of Employment Status.—

Requires business concerns suspending or terminating employment or reducing below 85 percent the wages of an employee as a result of a covered change of operations to notify such employee whether reemployment will be offered within 26 weeks. If reemployment is not pledged, the employee becomes eligible for assistance. If reemployment is pledged but not provided within 26 weeks, the employee receives lump-sum back benefits for the 26 week period and becomes eligible for assistance at the end of the 26 weeks.

Sec. 9. Transitional Assistance by Business Concerns.—

Requires business concerns to pay eligible employees 52 weeks of income maintenance payments equal to 85 percent of their previous weekly wage (or 100 percent if such employees are participating in approved training programs to prepare them for other employment) and to continue their benefits. Payments are reduced for outside earnings, unemployment compensation, and trade adjustment assistance, and are capped at $25,000 for 52-week period. No payments are required to employees who refuse comparable employment or who fail to participate satisfactorily in training or placement programs. Relocation assistance is required for transferred employees. Workers near retirement age receive payments for longer periods (depending on their age), with the federal government reimbursing companies for such extended payments.

Sec. 10. Secondary Liability.—

Provides that a company cannot escape liability for such payments by selling off plants scheduled for shutdown.

Sec. 11. Transfer of Employees.—

Requires companies to offer transfers within 3-year period to affected employees if comparable employment is available at other establishments of such company, to the extent such transfers do not violate collective bargaining agreements.

Sec. 12. Employee Benefit Plans.—

Continues coverage under employee benefit plans for period of income maintenance payments, and vests pension rights for workers with 5 years coverage who suffer eligible employment losses. Authorizes early retirement at reduced pensions for workers 55 and over.

Sec. 13. Federal Assistance to Employees.—

Instructs Secretary of Labor to conduct training programs, job placement services, relocation assistance, and job search assistance for eligible employees, through existing as well as new programs, after consultation with management and labor.

Sec. 14. Related Retraining Assistance to Employees.—

Authorizes programs of retraining to enable employees to perform new employment tasks to avert plant closings.

Sec. 15. Eligibility of Business Concerns for Assistance.—

Provides that companies intending to change operations may submit a request for assistance if their resources would be inadequate to prevent the employment losses and such assistance would enable the companies to operate the establishments on an improved economic basis within a reasonable period of time.

Sec. 16. Assistance to Business Concerns.—

Authorizes the Secretary of Labor to provide loans, loan guarantees, and interest subsidies to eligible businesses, plus technical assistance including research and development in connection with new production or marketing techniques to create new employment opportunities.

Sec. 17. Targeted Federal Procurement.—

Authorizes the Secretary of Labor to issue a certificate of procurement credit to companies able to avert employment losses through federal procurement contracts, which will discount such companies' bids by 5 percent.

Sec. 18. Eligibility of Local Governments for Assistance.—

Provides that local governments suffering a substantial decrease in tax revenue, a substantial increase in the demand for social services, or a substantial increase in unemployment are eligible for assistance.

Sec. 19. Assistance to Local Governments.—

Authorizes the Secretary of Labor to provide grants, loans, and loan guarantees to eligible local governments for providing social services and implementing public works projects, giving priority to public works projects in geographical areas of high unemployment which will make such areas more attractive for commercial investment, cause a long-term increase in employment opportunities, provide an efficient means of increasing employment, and further other national goals such as improving environmental quality and increases energy development and conservation.

Sec. 20. Eligibility of Other Employers and of Cooperative Associations of Employees for Assistance.—

Provides that employers or cooperative employee associations are eligible for assistance if they will create or expand employment opportunities over a substantial period of time and substantially equivalent assistance is not otherwise available.

Sec. 21. Assistance to Other Employers and to Cooperative Associations of Employees.—

Authorizes the Secretary of Labor to provide loans, loan guarantees, and technical assistance for expanding operations at or acquiring ownership of plants undergoing a covered change of operations, for constructing new establishments, or for undertaking research and development projects to identify new markets and new production and marketing techniques.

Sec. 22. Priority for Providing Assistance.—

Gives priority to operations with a reasonable likelihood of providing continuous employment over a substantial period of time.

Sec. 23. Liability for Loss of Revenue.—

Requires companies to pay local governments 85 percent of the tax revenue lost over the first complete taxable year after a covered change of operations. In the case of a transfer of operations outside the United States where the Secretary of Labor finds an economically viable alternative to such transfer existed, the company will be liable to the United States for 300 percent of the tax loss resulting from such transfer.

Sec. 24. Criminal Violations and Penalties.—

Provides penalties of up to $1,000 or 1 year in jail or both for knowingly making false statements or failing to disclose material facts for the purpose of obtaining assistance under this Act. Provides penalties of up to $10,000 or 5 years in jail or both for failing to give notice of knowingly making false statements of material fact or failing to disclose material fact required to be disclosed under this Act.

Sec. 25. Civil Violations and Penalties.—

Provides civil penalties for other violations of the Act equal to investment tax credits, deductions or depreciation, business expense deductions, half the value of economic benefits from foreign countries, and reduced wages and unemployment taxes related to establishments undergoing covered changes of operations.

Sec. 26. Violations of Employees' Rights.—

Prohibits discrimination against employees because of their exercise of rights or participation in activities under this Act.

Sec. 27. Recovery of Overpayments.—

Authorizes the Secretary of Labor to recovery (through reduced or withheld assistance or otherwise) overpayments resulting from false statements or concealed material facts.

Sec. 28. Reserves; Recording Requirements Relating to Loans.—

Instructs the Secretary of Labor to maintain operating reserves and to record mortgages in accordance with state law.

Sec. 29. Congressional Disapproval of Rules.—

Provides for invalidation of proposed rules through adoption of a concurrent resolution within 30 days following their proposal.

Sec. 30. Reports; Legislative Proposals.—

Instructs the Secretary of Labor to evaluate and report upon the effectiveness of programs after 3 years of operations and to prepare proposals for legislation to provide assistance to local governments and to require business concerns to report employment opportunities for inclusion in a nationwide computerized job bank and matching program under CETA.

Sec. 31. General Powers of Secretary.—

Sec. 32. Implementation of Employment Policies Through National Employment Priorities Administration.—

Authorizes the Secretary of Labor to delegate functions to the National Employment Priorities Administration.

Sec. 33. National Employment Priorities Administration.—

Establishes a National Employment Priorities Administration within the Department of Labor.

Sec. 34. National Employment Priorities Advisory Council.—

Establishes a National Employment Priorities Advisory Council of 15 government, labor, business, and public members.

Sec. 35. Amendments to Other Laws.

Sec. 36. Authorization of Appropriations.—

Authorizes such sums as may be necessary.●

By Mr. WILLIAMS:

S. 1609. A bill to facilitate economic adjustment of communities and workers, to preserve jobs and stabilize communities, to require prenotification to affected employees and communities of closings and relocations of business concerns, to provide assistance (including retraining) to employees who suffer employment loss because of closings and relocations of business concerns; to the Committee on Labor and Human Resources.

EMPLOYEE PROTECTION AND COMMUNITY STABILIZATION ACT OF 1979

● Mr. WILLIAMS. Mr. President, today I am introducing the Employee Protection and Community Stabilization Act of 1979, a bill to develop a comprehensive national policy for easing the economic dislocation caused by industrial plant closings.

Since the end of World War II, the United States has experienced a steady exodus of economic resources from older industrialized cities in the Northeast and Midwest to the South, the Southwest, and abroad.

In the last decade, plant shutdowns have occurred with alarming frequency and there is little reason to believe this trend will decrease in the near future. An estimated 500 industrial plants in my home State of New Jersey have closed their doors since 1965. Since 1969 New Jersey has lost over 115,000 factory jobs.

Michigan and Ohio have lost nearly 100,000 each in about the same period and one survey shows a 900,000 job loss in the Northeast and Midwest.

Plant shutdowns are not confined to major cities. They affect small towns and rural areas as well, often with more devastating effects. Other regions, including the South, are also affected.

An announcement by a local firm that it will close its doors sends a shock wave through a community. Workers who lose their jobs may not be able to find new ones. Those who do may find their wages drastically reduced. Families may be uprooted as workers are forced to find work in other parts of the country.

The mental and physical health of displaced workers declines at an alarming rate just when the community is least able to afford and provide social services. Joint studies conducted by researchers at Brown and Yale Universities over a 13-year period show that the suicide rate among workers displaced by plant closings is almost 30 times the national average. Such workers also suffer a far higher incidence of heart disease, hypertension and other ailments.

Plant closings in communities which already have high rates of unemployment further aggravate the problem and make economic revival much more difficult. The outflow of industry may erode an already weakened local tax base. Suppliers and retail stores may reduce operations or go out of business. And all of these factors discourage new investments.

In some cases, communities may be able to find new businesses to replace the old. But if this is not the case, younger and more skilled workers will leave the community. The least mobile, those who are older or less skilled, will remain, often without the prospect of finding a new job. Unemployment rolls will swell and drain scarce community welfare funds.

The causes of economic dislocation are many and varied. Demand for labor in a given industry may decline because of foreign competition or because domestic producers in related industries are competing for the same consumer dollar. Technological change may result in substitution of capital for labor.

For years most European countries have recognized the economic and social costs of these shifts in production and have dealt successfully with them.

In the United States, however, we have yet to carefully examine the problem, in part because of the belief of some who see the invisible but discerning hand of the market.

This view provides a good deal of comfort for those unaffected by the problem, but little for those who suffer from its very real consequences.

The difficulty with the strict market approach is that the local character of the effect of a plant closing gets lost in the aggregate picture of the market. The loss of a steel plant in Youngstown is trivial in a labor market of 90 million; it is not trivial to Youngstown.

Congress has responded only sporadically to the problems of economic dislocation, recognizing the need for special relief in specific industries.

We have enacted the trade adjustment assistance program, which compensates and retrains workers who lose their jobs because of increased imports. We have enacted legislation to protect railroad, transit, and airline workers whose working conditions have been drastically altered because of changes in Government policy. But we have yet to develop a comprehensive approach to the dislocations which result from private sector decisions.

The Employee Protection and Community Stabilization Act of 1979 is designed to ease the economic transition of communities and workers faced with plant shutdowns. The bill will encourage employees and employee/community groups to purchase and operate firms which would otherwise close their doors or, where such a solution is not feasible, require employers to provide protection for affected employees and communities.

The bill is divided into three parts: The first, requiring prenotification; the second, providing adjustment assistance to affected employees; and third, permitting firms to avoid liability when employees purchase and operate the firm.

In many cases the decision to close or relocate is made so abruptly that workers and the affected community have little or no opportunity to respond. Because time is needed for a community to plan for the transition and to determine whether or not a transfer of ownership is feasible, firms should be required to provide adequate notice of an intention to close or relocate. The bill therefore requires firms to provide a 1-year notice or, if impractical, to provide notice promptly.

Once notice is provided, within 30 days the firm must prepare an economic and social impact statement detailing the reasons for and projected consequences of its decision. This information will be used for two purposes: First, it will enable the Secretary of Labor to evaluate the information and recommend steps to alleviate the consequences of the action; second, it will enable the public to evaluate the costs of the move in comparison to the economic benefits to the corporation. The employees and community may decide that the abandoned firm can remain open and operate at a profit. This legislation permits them to file an application for assistance from the Economic Development Administration or the Department of Housing and Urban Development for purchasing and operating the firm.

The concept of employee ownership of industrial firms should be encouraged to preserve jobs and protect the local economy. There are numerous successful experiences of employee/community ownership of firms that would otherwise have shut down. The preliminary evidence suggests that employee ownership can stimulate productivity, assure individuals of a more secure financial future and promote a greater feeling among workers that they play an important role in the economy of their community.

In most cases, a transfer of ownership will be neither technically nor economically feasible. Accordingly, my bill requires firms which are terminating or transferring operations to provide the following protections for employees:

The right of transfer to the firm's new facility or any other comparable facility.

Relocation expenses for transferring employees.

Severance pay to supplement unemployment insurance to assure that each employee will receive 85 percent of his or her wage rate for up to 52 weeks.

Continuation of health and welfare benefit coverage for 1 year or until the worker finds new employment which provides similar coverage, whichever occurs first.

The bill contains three provisions designed to ease the transition of older workers. First, workers over 55 will be entitled to receive the severance pay supplement up to 104 weeks; second, workers may elect to receive an immediate annuity at an actuarially reduced rate if they are over 50 years of age; and third, an employer will be required to continue contributions if such contributions are necessary to enable the employee to become vested under his pension plan.

In addition, the bill targets existing Federal programs to assist terminated employees in finding new jobs and in obtaining new skills.

In the near future, the Senate Committee on Labor and Human Resources will conduct hearings in Washington and around the country to examine plant closings and how they affect American workers and communities. We intend to study very carefully the complex issues including employee ownership, adequate notification, severance pay, and benefit coverage. I expect these hearings to be very fruitful and informative to the Congress as it contemplates the proper legislative remedy.

I believe the economic dislocation of plant closings will become one of the major domestic issues this country will face in the 1980's. The Congress and the American people have the responsibility to develop a national strategy now and avoid economic turmoil in the future.

I ask unanimous consent that the text of the bill, together with a section-by-section analysis, be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1609

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Employee Protection and Community Stabilization Act of 1979."

DECLARATION OF FINDINGS AND PURPOSES

SEC. 2. (1) The closing of establishments of business concerns cause irreparable social and economic harm to employees, local communities and the nation, and should be prevented whenever possible by strengthening local initiative and responsibility, and by providing assistance to individuals and communities to use their own resources;

(2) In many cases plant closings create structural unemployment for older workers which presently available programs fail to fully alleviate;

(3) Federal initiatives to reduce unemployment should place more stress on measures designed to prevent the loss of existing jobs and thereby reduce excessive pressure on and cost of existing governmental assistance programs.

(4) Business concerns wishing to close establishments or transfer certain operations to other establishments should take into account the social and community needs of employees and citizens in the areas in which the establishments operate;

(b) It is the policy of this Act—

(1) to provide communities and employees with adequate notice of decisions by business concerns to terminate or transfer operations of establishments in order to permit individuals and communities affected time to develop a strategy to minimize the impact of that decision;

(2) to save jobs and stabilize communities through a program which will facilitate employee or employee-community ownership and control of establishments which would otherwise shut down; and

(3) to recognize that whenever continued operation of an establishment by an em-

ployee or an employee-community group is not a viable solution, business concerns have a responsibility to the affected employees to alleviate the social and economic costs which result from the decision to terminate or transfer operations.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(1) The term "affected community" means any unit of general local or county government in which an establishment is located.

(2) The term "business concern" means any enterprise engaged for profit in manufacturing, mining, transportation or wholesaling including the parent corporation together with any subsidiary which is owned in whole or in part by such concern and which owns in whole or in part more than one establishment.

(3) The term "employee benefit plan" shall have the meaning given it in section 3(3) of the Employeee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(4) The term "eligible organization" means an incorporated entity formed for the purpose of acquiring ownership of, or controlling interest in, a business concern or an establishment of a business concern which (A) intends to transfer or terminate operations or transfers or terminates operations and (B) meets the requirements of section 7.

(5) The term "eligible employee" means any employee other than an employee employed in an executive, administrative or professional capacity as defined by section 13(a)(1) of the Fair Labor Standards Act of 1938, who in any work week, by reason of termination of an establishment or a transfer of operations is unemployed or receives a wage which is less than 50 per centum of the average weekly wage such employees received during the three month period prior to the termination or transfer of operations.

(6) The term "establishment" means any factory, plant, mine, transportation, wholesaling or other storage facility, employing 50 or more individuals, of a business concern.

(7) The term "transfer of operations" means the relocation or reassignment of any activity conducted at an establishment of a business concern to another location beyond either reasonable commuting distance or outside the standard metropolitan statistical area in which that establishment is located, and which results or can reasonably be expected to result in a majority of the employees at such establishment becoming eligible employees.

(8) The term "taxable year" shall have the meaning given it in section 7701(a)(23) of the Internal Revenue Code of 1954 (defining taxable year).

(9) The term "Secretary" means the Secretary of Labor.

(10) The term "termination" means the closing of an establishment which results or can reasonably be expected to result in a majority of the employees at such establishment becoming eligible employees, except that such term does not include the closing of an establishment of a business concern whenever the closing results from seasonal factors and is customary in the industry of which the business concern is a part.

NOTICE REQUIREMENT

SEC. 4. (a) Whenever a business concern intends to terminate the operations of the concern or the operations of an establishment or to transfer operations of an establishment, the employer shall furnish to the community and the affected employees or any employee organization of the affected employees a notice of intent to terminate or transfer operations not less than one year prior to the date of such termination or transfer. If the intent to terminate operations of a business concern or operation of its establishment or transfer operations of an establishment is formed less than one year prior to the date of such termination or transfer the notice required by this section shall be given promptly.

(b) Within 30 days after the notification required by Section 4 has been provided, the business concern, in accordance with regulations issued by the Secretary, shall provide to the affected community, the affected employees or any employee organization of the affected employees, and to the Secretary, an economic impact statement which shall include:

(1) The reasons for undertaking the termination or transfer of operations at such establishment.

(2) Any alternative to undertaking such change of operations which were considered by the business concern.

(3) Any request made by such business concern for assistance available under the Public Works and Economic Development Act of 1965 as amended or the Housing and Community Development Act of 1977.

(4) The estimated extent of the employment loss which will result from such termination or transfer of operations.

(5) Estimated tax loss to any general unit of local and county government which will result from the termination or transfer of operations.

(6) Estimated increased cost to government funded income support programs.

(7) Estimate of the affect of such transfer or termination of operations on other business concerns or establishments located in the affected community.

(8) Any plan to minimize the effects of such change of operations on employees at such establishment and the affected community.

(9) The economic circumstances of such establishment including the level of profitability of operations at such establishment, and production at such establishment.

(10) The economic circumstances of such business concern and the feasibility of transferring employees affected by such change of operations to other establishments of such business concern, and

(11) The names and addresses of all employees who will suffer an employment loss as a result of such change and such other information as the Secretary may by rule require.

INVESTIGATION BY THE SECRETARY

SEC. 5. (a) In the case of any termination or transfer of operation at an establishment with respect to which notice is required in section 4(a)—

(1) the Secretary may conduct an investigation into, and shall hold public hearings on, the matters described in subsection (b) if the Secretary receives, not later than 60 days after such notice is given, a written request for such investigation from an authorized representative of the affected community, an employee organization representing the affected employees or from not less than 10 percent of the employees, at such establishment, and

(2) the Secretary may conduct an investigation into, and may hold hearings closed to the public on, the matters described (b), without regard to whether such notice is given, if—

(A) the Secretary determines that such investigation would serve the purpose of this Act, or

(B) the Secretary receives a request for such investigation from not less than 50 percent of the employees at such establishment.

(b) An investigation conducted by the Secretary under subsection (a) shall be directed to the following matters:

(1) The economic reasons for the intended termination or transfer of operations at the establishment of the business concern which is the subject of such investigation.

(2) The estimated extent of any economic or social loss to the employees affected by such termination or transfer of operation on the accuracy of the economic impact statement required by subsection (b).

(3) The estimated extent of any economic or social loss to any affected community and to any affected person in the geographical area in which such establishment is located.

(4) The recommendations of any authorized representative of any affected labor organization at such establishment, any representative of any affected community, and any other interested person.

(5) The feasibility of preventing or minimizing such employment loss by the modification of product lines and production techniques for the purpose of controlling interest in such establishment by an eligible organization as defined in Section 2 of this Act.

(c)(1) For the purpose of conducting any investigation under subsection (a), the Secretary may issue subpoenas requiring the attendance and testimony of witnesses and requiring the production of any evidence. The attendance of such witnesses and the production of such evidence may be required from any place in any State at any designated place of hearing in any State. The Secretary and any administrative law judge designated by the Secretary under subsection (d) may administer oaths and affirmations, examine witnesses, and receive evidence. Witnesses summoned before the Secretary or such administrative law judge shall be paid the same fees and mileage as are paid witnesses in the courts of the United States. Witnesses whose depositions are taken by the Secretary or by any person designated by the Secretary, and any person so designated who takes such depositions, shall be paid the same fees as are paid for like services in the courts of the United States.

(2) In case of contumacy or refusal to obey a subpena issued to any person under paragraph (1), any district court of the United States for any judicial district in which such investigation is conducted or in which such person guilty of contumacy or refusal to obey resides, is found, or transacts business, upon application by the Secretary shall have jurisdiction to issue an order requiring such person to appear before the Secretary, or before any administrative law judge designated by the Secretary under subsection (d), to produce evidence, give testimony, or both, regarding any matter under investigation. Any failure to obey such order issued by such court may be punished as a contempt of such court.

(3) Any subpena issued by the Secretary may be served upon any witness in person, by registered or certified mail, by telegraph, or by leaving such subpena at the residence or at the principal office or place of business of the person required to be served. The verified return by the individual serving such subpena, setting forth the manner of such service, shall be proof of service of such subpena, and the return post office receipt or telegraph receipt for any subpena served by mail or by telegraph, as the case may be, shall be proof of service of such subpena.

(4) All process of any court to which application may be made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(d) The Secretary may designate any administrative law judge within the Department of Labor to conduct any administrative proceeding in connection with any investigation conducted under subsection (a).

REPORT OF INVESTIGATION

SEC. 6. (a) After any investigation conducted under section 5(a) is concluded, the Secretary shall prepare and publish a report containing his findings with respect to the matters described in section 5(b) and, subject to subsection (b), his recommendations regarding actions required to be taken in order to prevent or minimize the harmful economic and social effects which will result from the change of operations at the establishment with respect to which such investigation is conducted. Such recommendations shall include a description of the nature and extent of the assistance authorized under this Act which would be required to prevent or minimize such effects.

(b) No recommendations shall be completed by the Secretary for inclusion in any report required under subsection (a) unless the Secretary has consulted with the business concern undertaking such change of operations, any authorized representative of any affected labor organization at the establishment involved, and any representative of any affected unit of general local government.

APPLICATION FOR ASSISTANCE

SEC. 7. If the recipients of a notice required by section 4 form an organization for the purpose of acquiring ownership of or controlling interest in a business concern or establishment required to provide notice under section 4, the organization may file or cause to be filed an application for assistance in obtaining ownership of or controlling interest in such concern or establishment as provided under title IX of the Public Works and Economic Development Act of 1965 or the Housing and Community Development Act of 1977.

ASSISTANCE TO ELIGIBLE EMPLOYEES

SEC. 8. (a) Whenever an eligible organization acquires ownership or controlling interest in a business concern or establishment of a business concern with assistance provided under the Public Works and Economic Development Act of 1965 or the Housing and Community Development Act of 1977, an eligible employee is entitled to—

(1) the right to obtain comparable employment at the establishment to which operations are transferred or to any other establishment of the business concern at which comparable production or operations are conducted for a period of one year following the date he becomes an eligible employee subject to the provisions of subsection (c); and

(2) relocation allowances substantially equivalent to and of the same type and kind provided to executive and managerial employees of the business concern or establishment.

(b) Whenever an eligible organization does not acquire ownership of or controlling interest in a business concern or an establishment of a business concern with the assistance provided under the Public Works and Economic Development Act of 1965 as amended or the Housing and Community Development Act of 1977 an eligible employee is entitled to—

(1) the right to obtain comparable employment at the establishment to which operations are transferred or to any other establishment of the business concern at which comparable production or operations are conducted for a period of one year following the date he becomes an eligible employee subject to the provisions of subsection (c);

(2) relocation allowances substantially equivalent to and of the same type and kind provided to executive and managerial employees of the business concern;

(3) maintenance of health and welfare benefit coverage provided at the time of closing or transfer for a one-year period or until the employee is employed in a position which provides substantially equivalent coverage, whichever occurs first, and for purposes of this clause an eligible employee who exercises the right of transfer shall not be deemed to have obtained substantially equivalent coverage;

(4) severance pay in an amount equal to the difference between the unemployment compensation insurance benefit to which such employee would be entitled under the law of the State in which he is employed and 85 percent of the full-time weekly equivalent of the hourly wage rate applicable at the time of layoff or termination, to the highest paying position such employee held during the preceding two-year period, payable weekly for a period not to exceed 52 weeks, except that an employee who has reached his 55th birthday on or before the date on which he becomes an eligible employee, shall be entitled to receive such payments for not more than an additional 52 weeks;

(5)(A) in the case of an employee who is a participant under an individual account plan (as defined in section 3(34) of the Employee Retirement Income Security Act of 1974) maintained by the business concern (or to which such business concern contributes), an immediate distribution from the plan in a sum equal to the balance in the employee's account, reduced by the extent to which any portion of such balance attributable to contributions by such business concern is not nonforfeitable; or

(B) in the case of an employee who is a participant in a defined benefit plan (as defined in section 3(35) of the Employee Retirement Income Security Act of 1974) maintained by the business concern (or to which such business concern contributes) the right, notwithstanding the terms of such plan, to elect to take early retirement benefits under such plan, commencing not earlier than the date on which the employee attains 50 years of age; except that—

(i) the benefits to which such an employee shall be entitled shall be the actuarial equivalent of the benefit to which such employee would have been entitled at the normal retirement age under the plan, and

(ii) such benefit may be reduced by the extent to which any portion of such employee's accrued benefit attributable to contributions by such business concern is not nonforfeitable.

(c)(1) In order to carry out clause (1) of subsection (a) or clause (1) of subsection (b), whenever a business concern transfers operations or opens a new establishment to produce comparable goods or to conduct similar operations previously performed at a terminating or transferring establishment the business concern shall, in cooperation with the Secretary of Labor, provide training to enable eligible employees who elect to transfer to adequately perform the duties required. Such employees shall be entitled to receive full pay and fringe benefits during the period of training required under this paragraph.

(2) A business concern or establishment of a concern required to provide notice under section 4 shall, from the date such notice is provided and in accordance with regulations promulgated by the Secretary, post at the terminating or transferring concern or establishment a listing of each employment opportunity which becomes or is likely to become available at the establishment to which operations are transferred or at any other establishment of the business concern at which comparable production or operations are conducted. Each listing shall be in writing and shall be prominently posted and shall describe with particularity the nature and classification of the employment opportunity, the training and skills required and shall in clear and concise language state the rights of eligible employees established under section 8 of this Act with respect thereto.

(d) Notwithstanding any other provision of this Act, the exercise of any right granted by this section shall be subject to the provisions of any collective-bargaining agreement in effect in any business concern or establishment to which such eligible employee transfers.

(e) Any eligible organization which becomes a successor to a business concern or establishment subject to the provisions of this Act shall be subject to the provisions of any collective-bargaining agreement in effect on the day before such acquisition or purchase.

(f) No business concern or establishment of a business concern shall be required to make a payment required under paragraph (4) of subsection (b) with respect to any employee for any week beginning after such employee—

(1) begins any employment offered under paragraph (1) of subsection (a) or paragraph (1) of subsection (b);

(2) refuses to accept employment offered by such business concerns or by any employer other than such business concern, located within a reasonable commuting distance of the residence of such employee, if such employment is commensurate with such employee's skills and experience;

(3) refuses to participate, or fails to make satisfactory progress, without good cause, in any training or placement program made available to such employee under section 10;

(4) receives a normal retirement benefit (as defined in section 3 (22) of the Employee Retirement Income Security Act of 1974), under any defined benefit plan to which such business concern or establishment of such business concern, made any payment with respect to such employee before such week.

(g) Any business concern or establishment subject to the provisions of subsection (b) of this section shall be liable to make payments to any employee benefit plan with respect to any eligible employee for the period during which such employee is entitled to receive benefits under paragraph (4) of subsection (b) of this section if such employee—

(i) has not, on or before the date on which he becomes an eligible employee, vested under such employee benefit plan; and

(ii) will, if such contributions are made during the period such employee is entitled to receive benefits provided under paragraph (4) of subsection (b), vest under the terms of such employee benefit plan.

For purposes of the preceding sentence, any period during which any suspension or termination of the employment of such employee is in effect, shall not be considered to be a break in service if such suspension or termination of employment results in such employment loss.

(h) Whenever a business concern fails to make any payment required in this section—

(1) the amount of such payment shall be deemed to be a debt owed to the United States by such business concern and shall bear simple interest at 9 percent per annum, and

(2) the Secretary shall make such payment with respect to the employee involved at the request of such employee or of any agent of such employee.

(i) Any amount received by an eligible employee during any week in accordance with the provisions of paragraph (4) of subsection (b) shall be reduced by—

(1) any amounts received by such eligible employees under the provisions of the Trade Act of 1974; and

(2) any other amounts received by such eligible employees in accordance with regulations promulgated by the Secretary.

ELIGIBLE ORGANIZATION

SEC. 9. (a) The Secretary shall certify as eligible any organization which:

(1) is incorporated in the State in which it is located;

(2) assures membership in the organization without regard to race, creed, color, national origin, sex or handicapped status;

(3) adopts an employee ownership plan which may include an employee stock ownership plan, provided that such plans conform to all requirements of the Internal Revenue Code of 1954, particularly those specified in section 401(a), and further provided that all employees of the concern will be offered an opportunity to particpate in the ownership plan, and that employees subject to a collective bargaining agreement will be included in such an offering, unless the union representing the employees in the bargaining specifically requests, in writing, exclusion from the plan.

(4) certifies to the Secretary that:

(i) the form of ownership and control has been freely adopted by the members of the organization;

(ii) no change in distribution of shares held in the business concern will occur without prior notice to the individual stockholders.

(5) provides to the maximum extent practicable, a method for the acquisition of a stock of persons no longer associated with the business concern in order to make such stock available to all employees of such concern on a nondiscriminatory basis;

(6) provides ample opportunity for membership by employees of the concern which the organization seeks to acquire or control; and

(7) complies with the stated purpose of this Act and the requirements of the Internal Revenue Code of 1954, as amended, and with such other requirements as the Secretary may prescribe.

TARGETED FEDERAL PROCUREMENT

SEC. 10. (a) Whenever an eligible organization acquires ownership of or controlling interest in a business concern or establishment of a business concern with assistance provided under the Public Works and Economic Development Act of 1965 as amended or the Housing and Community Development Act of 1977, the Secretary shall issue a certificate of procurement credit to such business concern to be valid for such period as the Secretary deems to be appropriate.

(b) For the purpose of selecting any person from whom products or services will be purchased or will be acquired by contract for the United States, the head of any executive agency making such purchase or contract shall treat the amount stated in any bid submitted by a business concern which holds a valid certificate of procurement credit issued by the Secretary under subsection (a) as if such amount were equal to 95 percent of the amount stated in such bid.

JOB PLACEMENT AND RETRAINING

SEC. 11. (a) The Secretary shall make every reasonable effort to secure for eligible employees counseling, testing, job placement services, and supportive and other services, provided for under any other Federal law.

(b)(1) If the Secretary determines that there is no suitable employment available for an employee but that suitable employment (which may include technical and professional employment) would be available if such employee received appropriate training, he may approve such training. Whenever possible, the Secretary shall provide or assure the provision of such training on the job and shall give priority consideration to such employees in the use of discretionary funds, except discretionary funds available for youth programs.

(2) The Secretary may, where appropriate, authorize supplemental assistance necessary to defray transportation and subsistence expenses for separate maintenance when training is provided in facilities which are not within commuting distance of a regular place of residence of the eligible employee.

(3) Any eligible employee who, without good cause, refuses to accept or continue, or fails to make satisfactory progress in, suitable training to which he has been referred by the Secretary shall not thereafter be entitled to payments under this part until he enters or resumes the training to which he has been so referred.

(c)(1) Any eligible employee may file an application with the Secretary for a job search allowance. Such allowance shall provide reimbursement to the employee of the cost of necessary job research expenses as further prescribed by the Secretary.

(2) A job search allowance may be granted only—

(A) to assist an eligible employee in securing a job within the United States;

(B) Whenever the Secretary determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which he resides; and

(C) When the worker has filed an application for such allowance with the Secretary not later than one year after the date of his termination before his application under this subsection or (in the case of an employee who has been referred to training by the Secretary) within a reasonable period of time after the conclusion of such training period.

(3) No reimbursement under this subsection may exceed $600 for any employee.

PROHIBITIONS

SEC. 12. It shall be unlawful for any business concern—

(a) to fail or refuse to provide the notice required by Section 4 of this Act;

(b) to fail or refuse to provide severance pay, health and welfare benefit coverage, pension payments, early retirement benefits, or relocation expenses as required by section 8 of this Act;

(c) to fail to offer or refuse to permit an eligible employee to exercise the right to transfer or to fail or refuse to provide retraining as required by section 8(c) of this Act;

(d) to discharge or in any manner discriminate against any employee because such employee has filed an application or instituted or caused to be instituted any proceeding under or related to this Act, the Public Works and Economic Development Act of 1965 as amended, or the Housing and Community Development Act of 1977, or has testified or is about to testify in any such proceeding, or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act or by the Public Works and Economic Development Act of 1977.

ENFORCEMENT

Sec. 13. (a) Any person aggrieved, or the Secretary, may bring a civil action—

(A) to enforce any provision of this Act and to redress any violation thereof;

(B) to obtain benefits due an eligible employee under section 8 of this Act;

(C) to enjoin any act or practice which violates any provision of this Act;

(D) for such legal and equitable relief as will effectuate the purposes of this Act; and

(E) to obtain other appropriate equitable relief, in the District Court of the United States wherein a business concern or the establishment of a business concern terminated operations or from which operations of a business concern or establishment will be or have been transferred.

(2) The Secretary may bring a civil action to collect the payment required under section 8(h).

(b) The Court shall have jurisdiction to determine that a business concern is required to provide notice under section 4 and to require a business concern to provide the benefits stated in section 8 and grant such other legal and equitable relief as will carry out the purpose of this Act.

(c)(1) If the Court finds that a business concern is required to give notice under section 4(a), such business concern shall be liable to any affected community for any revenue payable with respect to real or personal property or income at the establishment involved, in any of the three fiscal years preceding the first such fiscal year in which such business concern undertakes the termination or transfer of operations of the establishment with respect to which such finding is made.

(2) The amount for which such business concern shall be liable under paragraph (1) to any such affected community shall be an amount equal to 100 percent of the difference between—

(A) the average of the amounts of such revenue for which such business concern was liable to such affected community for the taxable years ending in such three fiscal years, and

(B) the amount of such revenue for which such business concern is liable to such affected communities for the first complete taxable year of such business concern occurring after the end of the period with respect to which such finding is made, to the extent that such difference is directly related to such change of operations.

(d) Whenever the Court finds that a business concern has—

(1) violated sections 4 and 8(1) of this Act, or

(2) willfully violated sections 8(2), 8(3), or 8(4) of this Act,

the Court may impose a civil penalty not to exceed an amount equal to the sum of—

(i) an amount equal to any allowable credit claimed by such business concern under section 38 of the Internal Revenue Code of 1954 (relating to investment in certain depreciable property) with respect to any equipment transferred, disposed of, or abandoned as a result of the change of operations which is the subject of such violation,

(ii) an amount equal to any allowable deduction for depreciation claimed by such business concern under section 167 of the Internal Revenue Code of 1954 (relating to depreciation) or section 611 of the Internal Revenue Code of 1954 (relating to allowance of education for depletion) with respect to any property transferred, disposed of, or abandoned as a result of such change of operations,

(iii) an amount equal to any allowable deduction for ordinary and necessary expenses claimed by such business concern under section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses), to the extent such expenses are directly related to such change of operations,

(iv) an amount equal to one-half of the value of any economic benefit given by any government of a foreign country to such business concern in the 2-year period beginning on the date such business concern concludes the change of operations with respect to which such violation is found, as an inducement to undertake such change of operations, and

(v) an amount equal to the amount by which the sum of the aggregate wages and the aggregate taxes imposed by chapter 23 of the Internal Revenue Code of 1954 (relating to the Federal Unemployment Tax Act) payable by such business concern for the taxable year—

(A) preceding the date which occurs 1 year before such change of operations is to begin, in the case of a business concern required to give notice within the time required in section 4(b)(3)(A)(i), or

(B) preceding the date which occurs 6 calendar months before such change of operations is to begin, in the case of a business concern required to give notice within the time required in clause (ii) or clause (iii) of section 4(b)(3)(A),

exceeds one-half of the sum of the aggregate wages and the aggregate taxes imposed by chapter 23 of the Internal Revenue Code of 1954 (relating to the Federal Unemployment Tax Act) payable by such business concern for the period of two taxable years beginning after the date such business concern concludes such change of operations, to the extent that any amount calculated in accordance with this paragraph is directly related to such change of operations.

ATTORNEYS' FEES

SEC. 14. In any action under this Act in which the Court finds that a violation has occurred, the Court may in its discretion allow a reasonable attorney's fee and costs to the prevailing party.

CRIMINAL VIOLATIONS AND PENALTIES

SEC. 15. (a)(1) Whoever knowingly makes any false statement of any material fact or knowingly fails to disclose any material fact, for the purpose of obtaining for any person or any unit of general local government any payment or other assistance under this Act shall be fined not more than $1,000, imprisoned for not more than one year, or both.

(2) Any person—

(A) who is convicted of violating paragraph (1), and

(B) who receives any payment under this Act as a result of the conduct prohibited in such paragraph, shall pay to the United States an amount equal to the amount so received.

(b) Any person who gives notice required in section 4(a) and who knowingly makes any false statement of any material fact or knowingly fails to disclose any material fact required to be disclosed under such section shall be fined not more than $10,000, imprisoned for not more than five years, or both.

RECOVERY OF OVERPAYMENTS

SEC. 16. (a) If the Secretary has reasonable cause to believe that any recipient of assistance under section 11 has knowingly made, or has caused another person to knowingly make, any false statement of any material fact or has knowingly failed, or caused another person to fail, to disclose any material fact, and as a result of such action has received any payment of assistance under such section, then the Secretary shall—

(1) refuse to make any additional payment of assistance to such recipient if such recipient is ineligible to receive such assistance, or

(2) reduce the amount of such payment of assistance paid to such recipient if such recipient is eligible to receive a reduced amount, but shall deduct from any such payment an amount equal to the amount of any overpayment received by the recipient which is not repaid to the Secretary by such recipient.

(b) Any amount repaid to, or deducted by, the Secretary under subsection (a)(2) shall be returned to the Treasury and credited to the current applicable appropriation, fund, or account from which such payment was made.

ADMINISTRATION

SEC. 17. The Secretary is authorized to make and amend such rules and regulations as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 18. This Act shall take effect 60 days after the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Sums appropriated pursuant to this section shall remain available until expended.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Title: "The Employee Protection and Community Stabilization Act of 1979".

Sec. 2. Declaration of findings and purposes: self-explanatory.

Sec. 3. Definitions: self-explanatory.

Sec. 4. (a) Notice requirement: provides that whenever a business concern intends to terminate or transfer operations of a covered establishment, it must furnish a one year notice of such intention to the community and the affected employees or their representative, unless the intention to transfer or terminate operations is formed later, in which case the notice must be provided promptly.

(b) Economic impact statement: requires that within 30 days of providing notice, the terminating or transferring firm must provide a statement to the community and its employees detailing the social and economic impact of its decision.

Sec. 5. Investigation by the Secretary of Labor: this provision permits the Secretary of Labor to conduct a public investigation of the circumstances surrounding the decision to close or relocate a facility and evaluate the firm's eonomic and social impact statement, if such investigation is requested by the community, or 10 percent of the affected employees or their representative.

Sec. 6. Report of investigation: based on the investigation conducted pursuant to Section 5 of this Act, the Secretary will issue a report recommending steps which can be taken to avoid or minimize the impact of the termination or transfer of operations, after consulting with the relevant labor and community representatives and affected employees.

Sec. 7. Application for assistance: permits the recipients of the notice who form an organization for the purpose of acquiring ownership or controlling interest in the business concern or establishment, to file an application for federal assistance under the Public Works and Economic Development Act of 1965, or the Housing and Community Development Act of 1977.

Sec. 8. Assistance to eligible employees:

(a) Benefits available to employees of firms purchased by employees or employee/community group: provides that when an employee group acquires ownership of, or controlling interest in an establishment required to provide notice under Section 4 of this Act, an eligible employee retains the right to obtain comparable employment at any other establishment of the business concern if he chooses to do so, and is entitled to relocation allowances which are substantially equivalent to those provided to executive and managerial employees of the concern.

(b) Benefits available to employees of firms which terminate or transfer operations: provides that if an employee group does not acquire ownership of the establishment, in addition to the right to:

(1) transfer,

(2) receive relocations expenses,

the employees also qualify for:

(3) Health and welfare benefits coverage: provides for maintenance of health and welfare benefit coverage for a period of one year or until the employee obtains substantially equivalent coverage at another position;

(4) Severance pay: provides for severance pay in an amount which, taken together with the unemployment compensation insurance benefit to which he would be entitled, would equal 85 percent of his weekly wage for a period of up to 52 weeks or, if the employee is over 55 years of age, for up to 104 weeks;

(5) Pensions: provide that an eligible employee may elect to take an immediate distribution from an IRA or, if he is a participant in a defined benefit plan and at least 50 years of age, the right to retire and receive benefits equal to the actuarial equivalent of normal retirement benefits. In addition, Section 8(f) requires a firm to continue contributions if the employee is not vested at the time of termination but will become vested if contributions continue during the period he is entitled to receive severance pay.

(c) Right to training: this subsection provides that:

(1) whenever an employee exercises his right to transfer, the employer must, in cooperation with the Secretary of Labor, provide training at full pay to enable employees to adequately perform the duties required at the new locations and receive full pay during the training period, and

(2) requires firms to post employment opportunities which become available at other facilities.

(d)(e) Applicability of collective bargaining agreements: these subsections provide that an eligible employee's rights are subject to the provisions of any collective bargaining agreement in effect at a location to which he transfers and assures that an employee organization which obtains ownership of or controlling interest in a business concern or establishment required to provide notice must honor existing collective bargaining agreements.

SEC. 9. Eligible organizations: spells out minimum standards which must be met by organizations which purchase firms with federal financial assistance from EDA or HUD if the termination or transferring firm is to avoid liability under the employee protective provision of Section 8(b). It requires that the organization must be incorporated in the state in which it is located; that it must assure membership in the organization without regard to race, creed or color; that if the organization adopts an employee ownership plan, which may include an ESOP, all employees must be given the opportunity to participate in the plan; that it must certify to the Secretary that the form of ownership and control has been adopted by the members of the organization and assures that no change in distribution of shares will occur without prior notice to the individual stockholders; and provide for a method of acquisition for the stock of persons who are no longer associated with the firm which will make such stock available to all employees on a non-discriminatory basis.

SEC. 10. Targeted federal procurement: provides that employees or employee/community groups which purchase firms which would otherwise close or relocate, shall be given priority consideration for purchases made by the Federal government.

SEC. 11. Job placement and retraining: requires the Secretary of Labor to make existing counseling, testing and placement services to any eligible employee and where he determines that no suitable employment is available, he shall authorize further training; the Secretary is also authorized to approve up to $600 in job search allowances; any employee who does not make satisfactory progress in the training program shall be denied subsistance payments.

Sec. 12. Prohibitions: makes it unlawful for any business concern to fail or refuse to provide notice, severance pay, health and welfare benefit coverage, early retirement benefits, or relocation expenses to an eligible employee or to deny an eligible employee an opportunity to exercise the right to transfer or receive retraining which will enable him to adequately perform the duties of a new position; subsection 12(d) makes it unlawful to discharge or in any manner to discriminate against an employee for exercising rights guaranteed by this Act, the Public Works and Economic Development Act of 1965, or the Housing and Community Development Act of 1977, or because he has filed a cause of action under the Act.

Sec. 13. Enforcement: subsection 13(a) permits any individual or the Secretary of

Labor to bring a civil action, to enforce any provision of the Act, PWEDA, or the Housing and Community Development Act of 1977, or to enjoin any act which violates either of those statutes; subsection 13(c) provides that where a court finds that a business concern is required to provide notice, the concern shall be liable to the affected community for one year's lost tax revenues directly attributable to the firm's decision to close or relocate a facility; subsection 13(d) authorizes Federal District Courts to impose a civil penalty up to the amount of the Federal tax advantage which the firm derived from terminating or transferring operations, if the court finds that the firm failed to provide notice or has willfully refused to provide any benefits due to an employee.

Sec. 14. Attorney's fees: permits the court to grant reasonable attorney's fees to a prevailing party when it finds that a violation of the Act has occurred.

Sec. 15. Criminal violation and penalties: provides for fines up to $10,000, and imprisonment of up to five years, for any who falsely obtains assistance provided by the Act.

Sec. 16. Recovery of overpayments: provides a method for the Secretary to recover any overpayments made under the Act.

Sec. 17. Rulemaking authorized for the Secretary of Labor.

Sec. 18. Effective date: the Act takes effect 60 days after enactment.

Sec. 19. Authorization: authorizes sums necessary to carry out the purposes of the Act.●

By Mr. SCHWEIKER:

S. 1610. A bill to provide for a national blood exchange program, and for other purposes; to the Committee on Labor and Human Resources.

BLOOD ASSURANCE ACT OF 1979

Mr. SCHWEIKER. Mr. President, I am today introducing the Blood Assurance Act of 1979. This act will assure the availability of blood and blood products for all Americans.

Over 6 years ago, the national blood policy of the United States was promulgated. It consists of four major goals: First, to insure an adequate blood supply; second, to provide the highest quality of blood available; third, to assure access to blood products; and fourth, to develop an efficient system of collection and distribution of blood.

The past 6 years have seen many successes in our pursuit to provide adequate quantities of safe blood. In 1971, 25 percent of all blood was obtained from paid donors with its attendant high risk of hepatitis and even death. By 1976, less than 3 percent of blood came from paid donors and in some States all blood is now obtained from volunteers. The last 6 years have seen major advances in the understanding of the etiology of post-transfusion hepatitis. Indeed, improved methods of detecting the presence of hepatitis B virus have decreased the prevalence of that agent causing disease in patients receiving blood. A new virus—the non A-non-B hepatitis agent—has now appeared and scientists are working to develop tests for its detection. Another major advance has been a reduction in the percentage of blood wastage due to outdating. Higher usage rates are due primarily to improved inventory management.

On June 7, 1979, the Health and Scientific Research Subcommittee, of which I am the ranking Republican held an oversight hearing to assess the progress of the national blood policy. The Blood Assurance Act of 1979 is an outgrowth of that hearing and seeks to remedy the problems uncovered at the hearing.

The American blood banking industry is dominated by two large organizations, each espousing a different ideology. The American Red Cross (ARC) collects nearly half the blood in this country and believes responsibility for the blood supply should be met by the community. The American Association of Blood Banks (AABB) has a membership comprised of blood banks and hospital transfusion services. They believe that each individual must be responsible for the blood he or she utilizes. A major tool used by some AABB members to recruit blood donors is the assessment of a penalty fee if the blood used is not replaced by the recipient. This penalty fee is waived only if the blood is replaced or the recipient has donated blood prior to his need. The imposition of a penalty fee after blood products are used is opposed by the ARC, as well as many physicians and consumers. At our hearing we received testimony that suggested that elimination of the penalty fee would not hurt donor recruitment efforts. In addition, with the GAO reporting significant abuse of the penalty fee for medicare beneficiaries, it is clear that the penalty fee may be inhibiting implementation of the national blood policy. Accordingly, this bill would prohibit any hospital or blood bank from charging a fee to any patient who receives blood or blood products as a penalty for not replacing the products used. I realize that this is a fundamental change for 30 percent of the blood banking community and, therefore the bill allows a 3-year phase-in before this provision becomes mandatory. Understanding that many persons donate blood as part of individual, family, or company blood plans, I want to make clear that this act would not prohibit a blood bank from recruiting these individuals by offering them a personal monetary incentive to donate blood. This discount from the normal processing fee would not exceed either the average cost of donor recruitment or 20 percent of the processing fee.

At our hearing we heard of blood shortages in metropolitan areas causing postponement of surgery and undue hardship on patients needing blood. Blood banks have demonstrated less than full cooperation in shipping blood or blood products from areas of excess to areas of need. This lack of cooperation was fundamentally based on the different ideologies of ARC and AABB. It is a situation that is contrary to the intent of the national blood policy and one that I find to be totally unacceptable. I am shocked that this Nation could allow such a precious and perishable commodity to became unusable when there are people who require it to successfully undergo surgery or other medical procedures. We must not allow ideology to stand in the way of compassion and commonsense.

Mr. President, this bill will remedy that situation by creating a national blood exchange program. This is not another Government bureaucracy which places a layer of redtape between providers of blood and consumers, but rather a consortium of providers whose charge is to foster the timely and efficient movement of blood. The consortium will have the authority to require the submission of the financial information necessary for them to determine a fair and equitable exchange rate for blood and blood products. The Secretary of HEW will have the authority to insure that this entity is created and properly maintained. I want to emphasize that policy decisions not explicit in this bill are to be the sole responsibility of the blood exchange program and not an arm of the Federal Government, provided that these policies are in concert with the goals and objectives of the national blood policy.

Blood is undoubtedly a national resource. To acquire it for therapeutic use requires the generosity of our citizens. Over the past few months I have learned that most of our citizens do not understand our national need for blood and blood products. In addition, the major blood banking organizations in our Nation do not fully understand what motivates people to donate blood. This act would instruct the Secretary of HEW to investigate donor motivation and resource recruitment strategies. This would include the study of various approaches to public education and solicitation of blood.

Seventy-five percent of all Americans over 30 know either a close personal friend or family member who has needed blood. Mr. President, I believe that the Blood Assurance Act of 1979 will assure that when they need blood or blood products they will be available. I am proud that this can be accomplished without increased societal costs and without creation of a new Federal bureaucracy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1610

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Blood Assurance Act of 1979".

PURPOSE

SEC. 2. It is the purpose of this Act to improve and assure the availability of blood and blood products as needed to all Americans, to facilitate the efficient transfer of blood and blood products throughout the United States, and to promote public awareness of the national need for safe and sufficient quantities of blood and blood products.

NONREPLACEMENT PENALTY PROHIBITED

SEC. 3. (a) No person shall, as a condition to the provision of blood to any individual—

(1) charge or collect any fee from, or on behalf of, such individual because such individual—

(A) does not replace, or provide for the replacement of, the blood he receives; or

(B) does not have blood credits to assure replacement of such blood from a blood supplier;

(2) require the donation or provision of blood by, or on behalf of, such individual; and

(3) require a guarantee that blood will be

transferred, or require the transfer of blood, on behalf of such individual.

(b) Nothing in this section shall be construed to prohibit a blood supplier from recruiting blood donors by offering such donors incentives to provide blood, such as a discount on the charge to an individual for the provision of blood as a result of a blood donation or blood drive, except that such discount shall not exceed, per unit, the greater of—

(1) the average cost of recruiting a donor in the area; or

(2) 20 percent of the cost of processing a unit of blood.

(c) For purposes of determining the discount allowed under subsection (b), the fair and reasonable regional recruitment and processing costs shall be determined under section 5(b)(1) of this Act.

(d)(1) Section 1813(a) of the Social Security Act is amended by striking out paragraph (2).

(2) Section 1833(b) of such Act is amended by striking out the last sentence.

(3) Section 1866(a)(2) of such Act is amended by striking out subparagraph (C).

(4) Section 1861(v)(1)(A) of such Act is amended (1) by striking out "and" before "(ii)", and (2) by inserting the following before the period at the end thereof: ", and (iii) take into account the processing fees incurred (other than fees paid to a donor of blood) by a provider of services in the replacement of blood (or equivalent quantities of packed red blood cells, as defined in regulations) furnished to an individual under this title, but only to the extent the provider furnishes documentation satisfactory to the Secretary demonstrating that it has been able to secure replacement of such blood only through the payment of such fees".

(e) This section shall become effective 3 years after the date of the enactment of this Act.

BLOOD EXCHANGE

SEC. 4. (a) No person shall deny to any health care facility or blood supplier the reciprocal exchange of available blood required as a result of patient needs, unless the exchange of such blood would, in the judgment of such person, deplete the available blood needed by such establishment. Such exchange shall be without regard for geographical location or affiliation of such establishment. The fair and reasonable charge for blood shall be determined under section 5(b)(1) of this Act.

(b) Nothing in this section shall be construed to require a health care facility or blood supplier to accept blood credits in lieu of blood in the fulfillment of a request for blood.

NATIONAL PROGRAM

SEC. 5. (a) It is the purpose of this section to encourage the continued operation of a private entity to facilitate the exchange of blood among health care facilities and blood suppliers as required under section 4 of this Act, and to ensure the maximum and efficient utilization of blood throughout the United States.

(b) In order to promote the purposes of this section, the Secretary, acting through a recognized private entity, composed of, in part, national blood suppliers, shall—

(1) foster the exchange and availability of blood;

(2) collect cost and charge data from blood suppliers, and analyze such data, to determine, among other things, the fair and reasonable exchange rates to be charged among blood suppliers for blood; and

(3) determine, and implement, any other actions that may be necessary to carry out the purposes of this section.

ENFORCEMENT

SEC. 6. (a)(1) If a person violates section 3 or 4 of this Act, and such person has a license for the maintenance of an establishment for the propagation or manufacture and preparation of blood under section 351 of the Public Health Service Act, the Secretary shall suspend or revoke such license for such period as he may prescribe.

(2) Section 351(d) of the Public Health Service Act is amended by inserting: "If any person having a license for the maintenance of an establishment for the propagation or manufacture and preparation of blood under this section violates section 3 or 4 of the Blood Assurance Act of 1979, the Secretary shall suspend or revoke such license for such period as he may prescribe under section 6 of such Act.", after the first sentence.

(b)(1) If a person violates section 3 or 4 of this Act, and such person is a provider of services within the meaning of section 1861(u) of the Social Security Act, such person shall be ineligible to receive payments under title XVIII of such Act for such period as the Secretary may prescribe.

(2) Section 1815 of the Social Security Act is amended by inserting the following new subsection at the end thereof:

"(d) No payment shall be made to a provider of services who violates section 3 or 4 of the Blood Assurances Act of 1979 for such period as the Secretary shall prescribe under section 6 of such Act.".

PUBLIC INFORMATION

SEC. 7. (a) Pursuant to his authority under section 1701 of the Public Health Service Act, the Secretary shall—

(1) analyze various aspects of donor recruitment;

(2) develop health education programs and materials and disseminate such information and materials to persons providing health care, to schools and businesses, and to the public generally;

(3) develop cooperative arrangements with private organizations to carry out the purposes of this section; and

(4) carry out a program to conduct studies and initiate demonstration projects to develop public information relating to the nature of, and need for, blood and blood donors.

(b) The Secretary shall submit, not later than 2 years after the date of the enactment of this Act, a report to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives respecting the implementation of this section and the results obtained from the activities authorized by it.

DEFINITIONS

SEC. 8. For purposes of this Act, the term—

(1) "blood" means human blood, and includes packed red blood cells and other products derived from human blood;

(2) "blood supplier" means any entity that provides for the collection, processing, distribution, or transfusion of blood;

(3) "blood credits" means a guarantee by a blood supplier that such blood supplier will offset any blood replacement requests made by a health care facility or blood supplier against blood requests owed to such health care facility, blood supplier, or its affiliate;

(4) "establishment for the propagation or manufacture and preparation of blood" does not include establishments licensed exclusively under 21 CFR 640.65; and

(5) "Secretary" means the Secretary of Health, Education, and Welfare.

By Mr. BAUCUS (for himself and Mr. CHURCH):

S. 1611. A bill to establish the national forest systems investment fund, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

Mr. BAUCUS. Mr. President, the national forest system is perhaps our most precious natural resource. We must use this resource wisely if the needs of our children and grandchildren are to be met. The national forest system provides a wide variety of services, activities, and products. The revenues derived from the forest system total over $1 billion annually. Adequate reinvestment in our national forest system will insure these benefits for years to come.

Today, I am joined by my colleague from Idaho, Senator CHURCH, in introducing legislation that would for the first time established a programed system for reinvesting the revenues, the Federal Government receives from activities on national forest lands, to improve those forests.

This bill, called the National Forest Investment Fund Act, would:

First, create the national forest system investment fund made up of the Federal Treasury's net cash receipts from timber sales, grazing permits, recreational use fees, and other activities on the national forest system;

Second, designate these funds for capital improvements such as reforestation, timber stand improvement, watershed development, grazing land improvement, wildlife protection and development of recreational facilities in the national forests.

Third, refine provisions of the Resource Planning Act (RPA) to request the Forest Service to prepare a separate capital expenditures budget and a long-range assessment of the current and future capital investment needs of the National Forest System.

Many of the capital investment needs of the national forests are long-term and continuing in nature. Yet, our natural resource budgets are presented incrementally on an annual basis. As a former member of the House Appropriations Committee, I confronted this dilemma for 4 years. We have frequently deferred needed investments on the national forests.

In recent years the Congress has made great strides in redirecting the course of our national forest policy. In 1974, the RPA was enacted. Two years later, in connection with reform of timber management procedures. The National Timber Management Act further strengthened the planning and budgeting concepts of the 1974 Act. In 1975, President Ford sent to Congress the first program and assessment under provisions of the RPA. This assessment delineated a 5-year program of forest management objectives. However, none of the budget requests presented to the Congress by either Presidents Carter or Ford have adhered to the concepts of the Resources Planning Act. These budget requests were drastically lacking in the program areas needing substantial long-term capital investment. Many budget requests were less than half the level recommended by the RPA. The Forest Service is currently preparing, as required by law, the next assessment and program to cover the 5-year period beginning in 1980.

The Resources Planning Act attempted to focus on the annual operating needs for multiple use management of our natural resources, along with an equally sharp focus on the capital investment needs of our National Forest System.

The budgets, as presented, fail to differentiate between operating activities and capital investments. In fact, they often mask and obscure the investment requirements with ongoing operating needs. This bill, when enacted, will permit identification of short- and long-term management requirements by defining each situation in a manner that forces budget developers in the executive branch to deal with each budget topic in in a substantive way.

This legislation does not disturb the arrangements that require a payment of revenues to governments from timber sales, grazing fees, land use fees, recreation charges, utility fees, mineral revenues, and admission and user fees. The local governments in Montana will receive over $8 million from this program during the current fiscal year. The net amount, remaining in the fund after distribution of these payments, will be matched by a budget presentation that outlines the investment accounts. Congress will have this total as a guide, along with an estimate of net revenues, so that each year it can consider and provide a level of investment necessary for current and long-term needs of national forest resource development.

Under the bill, funds would be expended only where appropriated by Congress. As a result, the fund would not create a situation that will foster unneeded or wasteful expenditures. Unappropriated revenues remaining in the fund, for a period of 4 fiscal years, would be returned to the general fund. The National Forest Investment Fund would focus attention on the need for wise investment, over the long haul, on the national forests.

The National Forest System is a major and vital part of America's economic and environmental structure. The System amounts to one-tenth of our land base. The Forest System produces direct revenues of nearly a billion dollars. It provides habitat for vital fish and wildlife species. Almost 4 million acre-feet of high-quality water produced annually on the national forests supplies water used by countless cities and municipalities and also irrigates 20 million acres of western cropland. Almost 4 million head of livestock graze on the System's extensive rangeland, coexisting with important and varied species of wildlife. Last year, over 200 million recreational visits were made to the national forests. There are campgrounds, natural areas, and wilderness, wild and scenic rivers, trails, and ski areas along with countless streams for fishing and areas for hunting.

I shall not seek to catalog all of the opportunities but a few bear mention. Revegetation and improved growth on the 190 million acres of forest and rangeland in the National Forest System can increase the yield of water, wood, browse for wildlife and livestock and enhance recreational and environmental values. Timely development of vitally needed roads and trails can improve protection and management.

The rangelands in the National Forest System have the capability with proper investment to improve—to almost double—the forage that they produce. Mounting costs for feed can, to some extent, be countered by creating the opportunity for more use of natural forage. All signs point to a continued increase in our population. The water and recreational yields on the 190 million acres of our national forests will be needed by our growing population. Yet in each and every category of the budget presented to the Congress over the years, investments are shorted and great opportunities are forever lost.

I make no secret of my interest in our renewable forest and range resources. In developing this bill, I have resisted the temptation to try and create a special earmark fund that would automatically pour money into this badly needed work. It is my overriding view that in the Federal process we need to have the tests and restraints causing us to not only focus on the issues we confront but also carefully choose the ways in which we pace the expenditure of tax dollars.

The concept of a Forest Investment Fund is not new. It is a concept which has been considered by the Congress on several occasions. What distinguishes this bill from the others is: First, the bill does not earmark capital investment funding only to one specific national forest activity. This legislation considers all the capital investment needs for the multiple activities on the forests. Second, funds can be expended only when they are appropriated by the Congress. In essence, the fund is subject to the congressional appropriations process.

Generally, when budgets are cut, capital outlays are the first budget items to be reduced. This is certainly the case on the National Forest System. Forest management is always at a disadvantage because of its nature. The results take an inordinate period of time to be realized. Long term is always pushed aside by shortrun concerns.

By continually taking this course of action we are shortchanging our future. If we are to maintain a sustained yield of benefits derived from our national forests, we must plow back a portion of the revenues derived from forest activities for badly needed capital investments and improvements.

The core concept of this bill is that it provides a way to make needed investments but in a manner that encourages fiscal responsibility. The funds for renewable resource investments thus will have to compete with each other and with other budget priorities that command our attention. However, this bill will give a broader picture of the benefits that can be gained, of the costs that will be incurred and of the needs we will face. Thus it seeks to rationally chart a path of well-founded capital investment on the forests.

This bill will not cure all of the capital investment ills of the national forest system. But it is, in my opinion, the next logical step to be taken by Congress toward the goal of reasoned and comprehensive forest management policy. I urge the relevant committees to carefully consider this important legislation and speed its enactment into law.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established in the Treasury of the United States a fund to be known as the "National Forest Systems Investment Fund" (hereinafter referred to as the "fund"). The fund shall consist of such amounts as may be credited to it as provided in this Act.

SEC. 2. (a) Except to the extent otherwise provided by subsection (b) of this section, commencing with the fiscal year ending September 30, 1980, and each fiscal year thereafter, all moneys received or net revenues received during each such fiscal year from lands, resources, and services provided by the National Forest System shall be credited to the fund. Any unobligated amounts remaining in any account or fund and for use in connection with the National Forest System as of October 1, 1980, shall be transferred to the fund.

(b) Nothing in subsection (a) of this section shall be construed as affecting, diminishing, or otherwise altering the obligation of the United States to make payments in accordance with the provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500), the Act of June 22, 1948 (16 U.S.C. 577g), or the Act of July 22, 1937 (7 U.S.C. 1012).

(c) As used in this section, the term "moneys received" shall have the same meaning as that provided under the sixth paragraph under the heading "Forest Service" in the Act of May 23, 1908, as amended (16 U.S.C. 500), section 13 of the Act of March 1, 1911, as amended (16 U.S.C. 500), and the term "net revenues received" shall have the same meaning as that provided under section 33 of the Bankhead-Jones Farm Tenant Act.

SEC. 3. (a) Commencing with the fiscal year beginning October 1, 1980, and each fiscal year thereafter, moneys in the fund shall be available, at such times and in such amounts, as provided for in Appropriation Acts, for expenditures for capital improvements in connection with the National Forest System land and resources, including the construction and reconstruciton of permanent improvements and facilities, reforestation, timber stand improvement, fish and wildlife habitat improvement, soil and water resource improvement, range improvement, permanent roads and trails comprising the National Forest Transportation System and established pursuant to the Act of October 13, 1964 (16 U.S.C. 532), and the Act of August 17, 1974, as amended (16 U.S.C. 1608), facilities to protect the National Forest System from fire and other damage, and facilities required for management of the National Forest System.

(b) Under the procedures set forth in the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600–1614), and as specifically provided in section 4(1) thereof, the program provided for under such Act for the National Forest System shall set forth those activities for the National Forest System which are capital in nature. The budget request presented by the President to the Congress governing Forest Service activities for the fiscal year commencing October 1, 1980, and each fiscal year thereafter, shall set forth the capital improvements currently required under such program for such fiscal year to meet present and anticipated future needs, and the amount available from the fund to provide for such capital improvements. Moneys appropriated from the fund shall be available for such capital improvements and shall remain available until expended. Any money credited to the fund and not subsequently authorized for expenditure by the Congress within two fiscal years in which such money was credited to the fund, shall be transferred to miscellaneous receipts of the Treasury of the United States.

Sec. 4. (a) It shall be the duty of the Secretary of the Treasury to manage the funds and (after consultation with the Secretary of Agriculture) to report to the Congress not later than the first day of March of each year on the financial condition and the results of the operations of the fund during the preceding fiscal year and on its expected condition and operations during each fiscal year thereafter. Such report shall be printed as documents of the Senate and the House of Representatives.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (A) on original issue at the issue price, or (B) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(c) Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by the Senator from Montana (Mr. Baucus), to establish the National Forest Systems Investment Fund, be jointly referred to the Committees on Agriculture, Nutrition, and Forestry, and Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. KENNEDY (for himself, Mr. Biden, Mr. DeConcini, Mr. Mathias, and Mr. Thurmond):

S. 1612. A bill to create a charter for the Federal Bureau of Investigation, and for other purposes; to the Committee on the Judiciary.

FEDERAL BUREAU OF INVESTIGATION CHARTER ACT OF 1979

Mr. KENNEDY. Mr. President, today, on behalf of Senators Thurmond, Biden, DeConcini, and Mathias of the Committee on the Judiciary, I am pleased to introduce the "Federal Bureau of Investigation Charter Act of 1979."

This legislation has its genesis in the extensive work done over the past 4 years by the Church committee, Congressman Edwards' Subcommittee on Civil and Constitutional Rights, as well as the individual efforts of many House and Senate Members. Support for a charter for the Federal Bureau of Investigation was given in early 1976 by both Attorney General Levi and Director Kelly. During the last Congress, numerous hearings on a charter were held in both the House and Senate. The FBI Charter Act is the culmination of over 15 months of intense effort by Director Webster, Attorney General Bell, Attorney General Designate Civiletti, and others to set forth a clear and comprehensive statement of the responsibilities and authority of the Federal Bureau of Investigation for the years to come. The administration bill, drafted by the Bureau, laudably attempts the delicate balance between legitimate law enforcement needs and legitimate civil liberties expectations.

The need for a legislative charter for the Bureau has been voiced repeatedly by Director Webster and Attorney General Bell as well as by Members of Congress and the American people. The strongest advocate has been the Director. In April of last year, during the first of a series of exploratory hearings which the Committee on the Judiciary held on the proposed charter, Director Webster stated:

> The FBI urgently needs a clear and workable statement of its responsibilities, power and duties. The men and women of the bureau need a charter that will allow them to act with confidence that what they are doing is lawful. It should be one that does not allow for any future misunderstandings of authority. The present statutory sources that establish our jurisdiction are not sufficiently definitive. There are not sufficient benchmarks to permit our agents to act or refuse to act with certainty that their conduct is correct.
>
> History tells us that reliance on inherent authority has been a major contributor to some of the sad events that have been fully chronicled. As I have stated previously before this committee, anyone asked to go out on that point ought to know that the order is based upon law and clear authority. Reliance on inherent authority presents the all-too-possible risk that legal authority may not, in fact, be there.

The need for a clear legislative statement of the Bureau's investigative mandate is well recognized, and such a statement is long overdue. The purpose of the charter legislation is to bring all of the myriad duties, responsibilities, and activities of the FBI under clear legal authority rather than relying on the confusing contours of inherent power. An analogous effort, which resulted in the enactment of the foreign intelligence surveillance act, was made last year by Congress and the administration.

From its very modest beginnings in 1908, as a small investigative unit organized within the Department of Justice, the FBI has evolved into one of the most capable, most sophisticated, and most respected law enforcement agencies in the world. From its inception, because of its own demand for excellence, it became and has remained the premier law enforcement agency in our country. This is an appropriate accolade which has been earned down through the decades by virtue of the exceptional accomplishments and the selfless dedication of its talented men and women.

This evolution has taken place in the absence of any clear or specific legislative determination of the Bureau's authority or statutory limitations on that authority. Over the decades, Congress has continued to increase the Bureau's responsibilities, especially in the criminal area, but during that time it has failed to provide direction or to define parameters for the Bureau to carry out those responsibilities. Today, over 70 years after it was first established, the FBI continues to operate with very little statutory guidance, and that which it has stated in only the most general terms.

Basically, only three statutes define its duties: 28 U.S.C. 533, 28 USC 534, and 42 USC 3744 These provisions authorize the FBI, through the person of the Attorney General, to detect and prosecute crime against the United States, assist in protecting the President, investigate matters under the control of the Department of Justice and the Department of State, collect and exchange crime records with Federal, State, and local agencies, and provide training to State and local law enforcement officials. As Attorney General Bell has stated:

> These limited provisions provided little assistance in understanding the role that the FBI performs today.

This is especially true in light of the fact that just as the Bureau's duties have evolved, so too have its priorities and its methods. Complex organized crime, white collar fraud, and political corruption cases have replaced stolen car and fugitive cases as priority matters. Greater use is being made of detailed financial analysis and sophisticated undercover operations to investigate these serious crimes. One may wonder whether the G-man of 1933 and 1934 would even recognize the special agent of 1979.

The Bureau performs other types of investigations as well within the framework of the limited and very general provisions I have mentioned. It conducts civil investigations at the request of the Department of Justice both when the Government sues or has been sued. It assists the Department in enforcing civil rights statutes and in conducting investigations when violations of those statutes have been reported. It collects information on potential civil disorders so that, the President will have adequate information to decide whether the use of Federal troops will be necessary to enforce a court order to assist the States to restore order. It conducts background investigations of persons who have been appointed to, nominated for, or hired for sensitive and important governmental positions. It provides various forms of assistance to State, local, foreign, and other Federal law enforcement agencies. It conducts technical, scientific, and analytical research so that it will be better prepared tomorrow to detect, prevent, and investigate criminal acts being planned today.

The legislation which I am introducing today defines for the first time both these duties and the requisite authority. The FBI Charter Act, however, is more than a mere catalog of responsibilities and powers. The charter symbolizes the fact that the Bureau has learned from its mistakes, has identified the causes of these errors and has come forward with a charter which contains provisions which will insure that the chronicled abuses and failures of the past will not be repeated in the future.

The charter sets forth a specific threshold for conducting investigations, especially those dealing with domestic terrorism. The focus is on conduct, but only such conduct which is in violation of law. The charter ensures that mere advocacy or the lawful exercise of first amendment and other constitutional rights will be protected. The charter establishes accountability procedures and standards, especially in those instances where either sensitive investigations are conducted or sensitive techniques are employed. The charter requires that detailed guidelines be promulgated by the Attorney General for the various types of investigations, investigative techniques, and other investigative activity authorized by the charter. Lastly, the charter clearly sets forth the role and responsibility of Congress to exercise effective oversight of the Bureau and its activities—a responsibility which Congress has ignored or shirked for too long.

This legislation also raises a number of important questions which we—the Congress, the Department, the Bureau, and the American people—will address together in the upcoming months. In certain areas, the charter would expand the authority and jurisdiction of the Bureau beyond its present status, most notably in terrorism investigations involving only State crimes, in transnational terrorism investigations involving no crime in the United States, in investigative assistance to State and local law enforcement agencies, and in protective assistance provided to the Secret Service. The legislation also raises a number of other issues about which many of us may have reservations and concerns, including the provisions dealing with the threshold and standards for both investigations and investigative techniques, the investigative demand authority to obtain access to certain third-party records, the provisions dealing with protecting the confidentiality of informants, investigative files, and guidelines, and the provisions setting forth congressional oversight, civil remedies, and penalties.

We must discuss these questions and debate these issues in the next few months. We must decide the adequacy, the clarity, the necessity, and the advisability of each of these provisions. Our final decision must insure not only that our citizens have adequate protection from future abuse or infringement of their rights, but also that the FBI agents have adequate guideposts defining what they should do and adequate techniques to accomplish their mission and carry out their mandate.

This task is both difficult and important. We gain nothing and lose much if, by our final decisions, we blunt or dull the investigative edge which the FBI has honed so sharply over the decades. At the same time, however, we must take care that the same edge is not allowed to cut deeply or carve broadly into the fundamental rights of our citizens.

This legislation is a tribute to the efforts of a number of people, but especially to Director Webster who has committed himself from the day he assumed his office to lead the Bureau into a new era and to provide the American people with a renewed confidence. This legislation is, in great part, a sign of that commitment to both the agents of the Bureau and the American people. No longer will the agents have to wonder if the way they are enforcing the law is itself lawful; no longer will our citizens have to wonder if those who are enforcing the law are following it. The importance of this legislation cannot, and should not be underestimated.

Bipartisan consensus and support for this legislation has developed because of the recognition of two equally important needs: The American people need the Bureau, and the Bureau needs a charter. The American people need the expertise, the professionalism, the dedication, and the excellence of the Bureau to challenge the continuous onslaught against our chosen form of Government and its developing rule of law by those who place private gain or personal power above the common and lawful good of our citizens.

The Bureau needs a charter so that its agents who are attempting to meet these expectations and achieve the desired results have unambiguous guideposts for accomplishing their mission and fulfilling their mandate. Expediency should never be a reason for action; ambiguity should never be a cause for inaction. The agents have an absolute right to know what they should be doing and how they should be doing it. The FBI Charter Act and the guidelines promulgated under it will end this quandry and truly strengthen the Bureau as it enters not only a new decade but also a new era in its developing history.

I ask all of my colleagues to join with me in this momentous task and work toward seeing that this legislation is promptly enacted.

Mr. President, I ask unanimous consent to have printed in the RECORD the FBI Charter Act of 1979 and the section-by-section analysis of the bill.

There being no objection, the bill and analysis was ordered to be printed in the RECORD, as follows:

S. 1612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Bureau of Investigation Charter Act of 1979".

SEC. 2. Chapter 33 of title 28, United States Code, is amended to read as follows:

"Chapter 33—FEDERAL BUREAU OF INVESTIGATION CHARTER

"Subchapter I—Purposes; Principles; Definitions

"Sec.
"531. Statement of purposes.
"531a. General principles.
"531b. Definitions.

"Subchapter II—The Federal Bureau of Investigation; Director; Duties of the Director

"532. The Federal Bureau of Investigation.
"532a. Director of the Federal Bureau of Investigation.
"532b. Duties of the Director.
"532c. General powers and duties.

"Subchapter III—Criminal Investigations

"533. Investigation of criminal matters.
"533a. Attorney General guidelines for investigation of criminal matters.
"533b. Restrictions on certain investigative techniques.
"533c. Retention, dissemination, and destruction of information.

"Subchapter IV—Undercover Operations

"534. Authorization of undercover operations.

"Subchapter V—Civil and Other Investigations

"535. Investigation of civil matters.
"535a. Collection of information on civil disorders and public demonstrations requiring Federal assistance.
"535b. Background investigations by Federal Bureau of Investigation of appointees, applicants, and employees.
"535c. FBI assistance in background inquiries by other Federal agencies.
"535d. Special service functions.

"Subchapter VI—Law Enforcement Support Functions

"536. Education, training and research.
"536a. Foreign liaison.
"536b. Technical assistance.
"536c. Cooperation with the Secret Service.
"536d. Identification, criminal history, and other records; exchange for criminal justice purposes.
"536e. Identification, criminal history, and other records; exchange for employment or licensing purposes.
"536f. Retention of unsolicited information.

"Subchapter VII—Miscellaneous

"537. Civil fines and penalties.
"537a. Civil remedies; non-litigability of guidelines and procedures.
"537b. Protection of the investigative process.
"537c. Congressional oversight and accountability of the FBI.
"537d. Periodic review of guidelines.

"Subchapter I—Purposes; Principles; Definitions

"§ 531. Statement of purposes

"The purposes of this chapter are—

"(1) to define the duties and responsibilities of the Federal Bureau of Investigation (FBI) except as to foreign intelligence collection and foreign counterintelligence investigations;

"(2) to confer upon the FBI and to codify the statutory authority necessary to discharge those duties and responsibilities; and

"(3) to establish procedures for the discharge of those duties and responsibilities.

"§ 531a. General principles

"(a) GENERAL RULE.—All authorities, duties, and responsibilities of the FBI, except those specified in Executive Order No. 12036, dated January 24, 1978, concerning the foreign counterintelligence and foreign intelligence activities of the FBI, or successor orders, shall be exercised in accordance with the provisions of this chapter and any other applicable law.

"(b) Minimal Intrusion.—The FBI shall conduct investigations with minimal intrusion consistent with the need to collect information or evidence in a timely and effective manner.

"(c) Investigation of Criminal Conduct Only.—The FBI, in conducting an investigation pursuant to subchapter III, shall be concerned only with conduct and only such conduct as is forbidden by a criminal law of the United States or State criminal law encompassed by section 533(b)(3) of this chapter, pertaining to investigation of terrorist activity.

"(d) Limitations.—The FBI shall not conduct an investigation solely on the basis of—

"(1) a religious or political view lawfully expressed by an individual or group,

"(2) the lawful exercise of the right to peaceably assemble and to petition the Government, or

"(3) the lawful exercise of any other right secured by the Constitution or laws of the United States.

"§ 531b. Definitions

"As used in this chapter—

"(1) 'aggravated property destruction' means significant damage to property or to a public facility, or the interruption or impairment of a public facility, through the use of a destructive device;

"(2) 'criminal history information' means information compiled by a criminal justice agency concerning an individual, consisting of notatons of arrest, detention, indictment, information or other formal criminal charge, together with any disposition thereof;

"(3) 'destructive device' means an explosive, an incendiary material, a poisonous or infectious material in a form that can be readily used to cause serious bodily injury, or a material that can be used to cause a nuclear incident as defined in section 11(q) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(q)) and includes a bomb, grenade, mine, rocket, missile, or similar device containing an explosive, an incendiary material, or a material that can be used as a chemical, biological, or radiological weapon;

"(4) 'Director' means the Director of the FBI;

"(5) 'enterprise' means—

"(A) a partnership, corporation, association, or other such entity; or

"(B) two or more individuals associated in fact for a common purpose whether or not they are a legal entity;

"(6) 'guidelines' means written statements issued by the Attorney General establishing investigative policy for the FBI;

"(7) 'informant' means any person or entity which furnishes information to the FBI on a confidential basis;

"(8) 'mail cover' means any systematic and deliberate inspection of the exterior of mail in United States postal channels, prior to delivery of such mail to the addressee, and the recording of information thereon;

"(9) 'pattern of terrorist activity' means two or more separate terrorist acts that—

"(A) have the same participants or methods of commission or have similar victims or other characteristics that create the appearance of an interrelationship; and

"(B) are committed for the purpose of influencing or retaliating against the policies or actions of the Government of the United States or any State or political subdivision thereof or of any foreign State, by intimidation or coercion;

"(10) 'procedures' means internal rules, directives or regulations, or manuals promulgated by the Director of the FBI;

"(11) 'proprietary' means a sole propietorship, partnership, corporation, or other business entity that is owned or controlled by the FBI and used by the FBI in connection with undercover operations but whose relationship with the FBI is not generally acknowledged;

"(12) 'racketeering activity' means activity that involves a violation of title 18, United States Code, sections 1961 through 1968, or a violation incorporated in section 1961 (1) of title 18, United States Code;

"(13) 'State' means a State of the United States, the District of Columbia, or a geographical area outside a State of the United States that is established under the Constitution or laws of the United States; and

"(14) 'terrorist activity' means activity that involves a violent act that is dangerous to human life or risks serious bodily harm or that involves aggravated property destruction, for the purpose of coercion or intimidation.

"Subchapter II—The Federal Bureau of Investigation; Director; Duties of the Director

"§ 532. The Federal Bureau of Investigation

"The FBI is in the Department of Justice and shall discharge its duties and responsibilities under the general policy control, general direction, and supervision of the Attorney General, and, to the extent the Attorney General directs, the Deputy Attorney General.

"§ 532a. Director of the Federal Bureau of Investigation

"(a) Director.—There shall be a Director at the head of the FBI.

"(b) Report to Attorney General.—The Director shall report to the Attorney General and, to the extent the Attorney General so designates, the Deputy Attorney General.

"(c) Appointment and Term.—The President shall appoint the Director, by and with the advice and consent of the Senate, for a term of ten years. A Director may not serve more than one ten-year term.

"§ 532b. Duties of the Director

"The Director of the FBI, under the general supervision and direction of the Attorney General, shall—

"(1) ensure that the duties and responsibilities of the FBI are carried out in accordance with the provisions of this chapter, the guidelines and procedures promulgated pursuant to this chapter, and with the Constitution and laws of the United States;

"(2) promulgate such procedures as are necessary to carry out the provisions of this chapter;

"(3) establish an effective system for imposing administrative sanctions for failure to comply with the provisions of this chapter and guidelines and procedures adopted pursuant to this chapter; and

"(4) ensure that the law enforcement activities and other functions of the FBI are properly and efficiently directed, regulated, coordinated, and administered.

"§ 532c. General powers and the duties

"(a) General Authority.—The Director, Associate Director, an Assistant to the Director, Assistant Director, Inspector, and Agent of the FBI may—

"(1) carry a firearm;

"(2) investigate a violation of a law of the United States or any other matter encompassed by the provisions of this chapter;

"(3) execute an order, warrant, subpoena, investigative demand, or other process issued under the authority of the United States for arrest, search, or seizure, or production of evidence;

"(4) make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States committed outside his presence if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

"(5) offer and pay a reward for services or information assisting in the detection or investigation of the commission of a violation of the criminal laws of the United States or the apprehension of an offender; and

"(6) perform any other lawful duty that the Attorney General may direct, consistent with this chapter.

"(b) Procedures for Unforeseen Emergencies.—Appropriations for the FBI are available for expenses of unforeseen emergencies of a confidential character, where appropriations are provided, to be spent under the direction of the Attorney General. The Attorney General shall certify the amount spent and his certification, to be filed in the records of the Department of Justice, is a sufficient voucher for the amount therein expressed to have been spent.

"Subchapter III—Criminal Investigations

"§ 533. Investigation of criminal matters

"(a) General Authority To Investigate.—The FBI is authorized to make inquiries to determine whether there is a basis for investigation and to conduct investigations for the detection, prevention, and prosecution of violations of the criminal laws of the United States, except violations for which responsibility is by law assigned solely to another investigative agency.

"(b) Basis for Exercise of Authority.—

"(1) Investigation of General Crimes.—The FBI is authorized to conduct an investigation on the basis of facts or circumstances that reasonably indicate that a person has engaged, is engaged, or will engage in an activity in violation of a criminal law of the United States.

"(2) Investigation of Criminal Enterprise Engaged in Racketeering Activity.—The FBI is authorized to conduct an investigation on the basis of facts or circumstances that reasonably indicate that two or more persons are engaged in a continuing enterprise for the purpose of obtaining monetary or commercial gains or profits wholly or in part through racketeering activity.

"(3) Investigation of Criminal Enterprise Engaged in Terrorist Activities.—The FBI is authorized to conduct an investigation on the basis of facts or circumstances that reasonably indicate that two or more persons are engaged in a continuing enterprise—

"(A) for the purpose of—

"(i) intimidating or coercing the civil population or any segment thereof;

"(ii) influencing or retaliating against the policies or actions of the Government of the United States or of any State or political subdivision thereof or of any foreign state, by intimidation or coercion; or

"(iii) influencing or retaliating against the trade or economic policies or actions of a corporation or other entity engaged in foreign commerce, by intimidation or coercion; and

"(B) such purpose is to be accomplished wholly or in part through—

"(i) terrorist activity in violation of a criminal law of the United States;

"(ii) a pattern of terrorist activity in violation of the criminal law of a State; or

"(iii) terrorist activity by an enterprise whose membership is based wholly or in part in the United States that—

"(I) occurs totally outside the United States or transcends a national boundary in terms of the means by which the terrorist activity is accomplished, the persons the terrorist activity appears intended to coerce or intimidate, or the locale in which the perpetrators operate or seek asylum; and

"(II) would constitute a criminal violation if committed within the jurisdiction of the United States or any State.

"§ 533a. Attorney General guidelines for investigation of criminal matters

"(a) Promulgation of Guidelines.—The Attorney General, as soon as feasible after enactment of this chapter, shall promulgate guidelines for inquiries and investigations conducted pursuant to section 533, that embody the principles that—

"(1) each investigation shall focus on criminal activity for the purposes of detection, prevention, and prosecution of crime;

"(2) each investigation shall be conducted on the basis of facts or circumstances that can be reviewed and evaluated; and

"(3) the scope and intensity of each investigation shall be determined by the nature and quality of information on which the investigation is based.

"(b) Review of Investigation of Terrorist Activity.—The Department of Justice shall be advised of all investigations initiated pursuant to section 533(b)(3). If any such investigation continues beyond one year it shall be reviewed at least annually by the Director and a report of such review shall be submitted to the Attorney General or his designee.

"§ 533b. Restrictions on certain investigative techniques

"(a) General Restrictions.—The investigative techniques described in this section shall be used only as permitted by this chapter and by guidelines established by the Attorney General. These guidelines shall protect constitutional rights and personal privacy, and shall ensure that—

"(1) investigations are conducted with minimal intrusion consistent with the need to collect information or evidence in a timely, effective manner;

"(2) as the likelihood for intrusion into privacy increases through the specific use of techniques, more formalized and higher level authorization and review procedures are required; and

"(3) information obtained in the course of an investigation is used only for lawful governmental purposes.

"(b) Informants and Undercover Agents.—The FBI is authorized to use informants and undercover Agents subject to the following restrictions:

"(1) An informant may be requested to collect information about an identifiable person on a continuing basis in a criminal investigation when a supervisory FBI official makes a written finding that the informant appears suitable for such use and that the information likely to be obtained is pertinent to and within the scope of investigative activity authorized by this chapter. Such finding shall be made in accordance with applicable guidelines and shall be reviewed periodically by the Director or his designee.

"(2)(A) The FBI shall advise each informant approved pursuant to paragraph (1) that he is neither an Agent nor employee of the FBI and that his relationship with the FBI will not protect him from arrest or prosecution for any violation of Federal, State, or local law, and that the FBI will not sanction his participation in criminal activity except insofar as a supervisory FBI or Justice Department official determines pursuant to clause (B) that his participation in criminal activity is justified. Each informant shall be advised that in carrying out his assignments he shall not participate in crimes of violence, use unlawful techniques to obtain information for the FBI, or initiate a plan to commit criminal acts.

"(B) In making the determination that participation is justified, the official shall determine in writing that the conduct is necessary to obtain information or evidence for prosecutive purposes or to prevent or avoid death or serious bodily injury and that this need outweighs the seriousness of the conduct involved, except that the use of unlawful techniques to collect information or initiation of a plan to commit criminal acts shall not be permitted. The Director or his designee shall at least annually review the determinations made under this subsection.

"(3) The FBI may request any person under an obligation of legal privilege of confidentiality, including a licensed physician, a person who is admitted to practice in a court of a State as an attorney, a practicing clergyman, or a member of the news media, to collect information as an informant pursuant to this subsection if—

"(A) expressly authorized in writing by the Director or a designated senior official of the FBI;

"(B) the Attorney General or his designee is promptly notified of the authorization in writing or an oral notification is promptly confirmed in writing; and

"(C) the person is advised that in seeking information from him, the FBI is not requesting the person to breach any legal obligation of confidentiality which such person may be under.

"(4)(A) The FBI shall conduct preliminary inquiries concerning any person who is being considered for use as an informant under this subsection or who may be requested to provide operational assistance to the FBI in order to determine such person's suitability for such assignment or assistance, if such collection does not involve the use of any investigative technique described in subsection (d), (e), (f), or (g).

"(B) The FBI shall determine in a timely manner whether such person will be used as an informant or requested to provide operational assistance to the FBI. If it is determined that such person will not be used in such manner, any information collected under subparagraph (A) without the consent of such person shall be promptly destroyed unless it is or may become pertinent to an investigation authorized by this chapter or the person is a potential witness in a criminal prosecution.

"(5)(A) Undercover Agents shall be assigned only for investigations authorized by section 533 of this chapter. Each undercover operation shall be approved by an appropriate supervisory official of the FBI. In carrying out an undercover assignment, each FBI employee used as an undercover Agent is bound by the provisions of this chapter and other laws, procedures, and guidelines governing the conduct of FBI Agents. In carrying out his assignment, no undercover Agent shall participate in any activity proscribed by Federal, State or local law except—

"(i) to obtain information or evidence necessary for paramount prosecutive purposes;

"(ii) to establish and maintain credibility or cover with persons associated with the criminal activity under investigation; or

"(iii) to prevent or avoid death or serious bodily injury or danger thereof to himself or another.

"(B) A written report of such participation shall be made to an appropriate supervisory official of the FBI and specific approval obtained if the agent is to participate in a serious criminal act that is not an integral part of the undercover operation or was not authorized at the time the operation was approved.

"(C) The exceptions established in clauses (i), (ii) and (iii) may not under any circumstances authorize an undercover agent to use investigative techniques in violation of the provisions of this chapter to obtain information or evidence, or to initiate a plan to commit criminal acts.

"(6) The FBI may use an informant or undercover agent to infiltrate a group under investigation or may recruit a person from within such a group as an informant. If the group is under investigation pursuant to section 533(b)(3), a senior official of the FBI shall make a written finding to the Director that such infiltration or recruitment is necessary and meets the requirements of this chapter and applicable procedures and guidelines. The finding shall include a statement of means reasonably designed to minimize the acquisition, retention, and dissemination of information that does not relate to the matter under investigation or to any other investigative activity authorized by this chapter.

"(7) Evidence of violations of criminal law by an informant contrary to the instructions provided in paragraph (2) which comes to the attention of the FBI shall be promptly reported in writing to the Department of Justice if it involves a Federal offense, or disclosed to the appropriate investigative or prosecutive authorities of the State or political subdivision having jurisdiction unless the Attorney General or his designee approves nondisclosure. Evidence of violations of the criminal law by an undercover agent contrary to the provisions of paragraph (5) which comes to the attention of the FBI shall be promptly reported in writing to the Department of Justice.

"(c) Physical Surveillance.—The FBI may direct physical surveillance against an identifiable individual only for the purpose of and within the scope of investigative activity authorized by this chapter.

"(d) Mail Surveillance.—A mail opening may be authorized only pursuant to applicable statutes. A mail opening or mail cover may be conducted by or on behalf of the FBI only pursuant to United States Postal Service regulations.

"(e) Electronic Surveillance.—The FBI may conduct electronic surveillance only in accordance with applicable law.

"(f) Access to Third Party Records.—

"(1) The FBI may have access to, or obtain copies of records identifiable to an individual, if the records are toll records from a communications common carrier, or insurance records from a licensed insurance carried, agent, or broker, or records from a credit institution not otherwise encompassed by the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) or may have access to information contained in such records, only if the records are reasonably described and—

"(A) the individual with whom the records are identifiable authorized the disclosure;

"(B) the records are disclosed in response to an investigative demand that meets the requirements of paragraph (4); and

"(C) the records are disclosed in response to a judicial subpoena, or to a court order issued in connection with proceedings before a grand jury.

"(2) The FBI may issue an investigative demand for access to the records of a 'financial institution', as defined in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401), which shall be used only in accordance with the provisions of section 1105 of that Act (12 U.S.C. 3405), and guidelines established by the Attorney General.

"(3) The FBI may issue an investigative demand to obtain records described in paragraph (1) pursuant to an investigative demand if—

"(A) there is reason to believe that the records sought are relevant to an investigation conducted pursuant to section 533;

"(B) except as provided in paragraph (5), a copy of the investigative demand has been served upon the individual whose records are sought or mailed to his last known address on or before the date on which the demand was served on the institution holding the records together with a notice that states with reasonable specificity the nature of the investigation.

"(4) An investigative demand shall not—

"(A) contain any requirement which would be unreasonable if contained in a subpoena duces tecum issued by a court of the United States in aid of a grand jury investigation; or

"(B) require the production of a record that would be privileged from disclosure if demanded by a subpoena duces tecum issued by a court of the United States in aid of a grand jury investigation.

"(5) The Attorney General or his designee may delay the notice required under paragraph (3)(B) for one or more successive periods, not to exceed 90 days each, if he makes a written finding that—

"(A) the investigation being conducted is within the lawful jurisdiction of the FBI;

"(B) there is reason to believe that the records sought are relevant to a lawful investigation pursuant to section 533; and

"(C) there is reason to believe that such notice will result in—

"(i) endangering the life or physical safety of any person;

"(ii) flight from prosecution;

"(iii) destruction of or tampering with evidence;

"(iv) intimidation of a potential witness; or

"(v) otherwise seriously jeopardizing an investigation or unduly delaying a trial or ongoing official proceeding to the same extent as would a circumstance described in clause (i), (ii), (iii), or (iv).

A request for delay and any written findings made by the Attorney General or his designee shall be made with reasonable specificity.

"(6) Any person who is the subject of a record who receives notice of an investigative demand may, within ten days from the date of service or fourteen days from the date of mailing of that notice, challenge the issuance of the demand before a United States magistrate on the grounds that the records are not relevant to a lawful investigation or on any other legal basis for objecting to the release of the records.

"(7) A custodian upon whom an investigative demand has been duly served shall make the records available to the FBI for inspection and copying or reproduction at the principal place of business of the recipient of the demand or the location of the records, or at such other place as the demand shall specify, on the return date specified. If the demand contains the finding described in paragrph (5) of this subsection, he shall take reasonable steps to prevent disclosure to the subject of the material of the issuance of the demand or compliance therewith.

"(8) The Attorney General or an attorney for the government may file with the United States magistrate for the judicial district in which the custodian resides, is found, or transacts business, a position for an order enforcing the demand. The United States magistrate shall have jurisdiction to hear and decide such petitions and enter appropriate orders, and no appeal shall lie from such decision or order.

"(9) No cause of action shall lie in any court against any person, corporation, partnership, association or other entity, or against the officers, or employees of such an entity, by reason of good-faith reliance upon an investigative demand issued by the FBI in accordance with this section.

"(10) The notice requirements of paragraph (3)(B) shall not apply when the FBI is seeking only the name, address, account number, or type of account of any individual or ascertainable group of individuals associated with toll records, credit records, or insurance records.

"(11) Nothing in this subsection shall apply when records are sought by the FBI under the Federal Rules of Civil Procedure or the Federal Rules of Criminal Procedure or comparable rules of other courts in connection with litigation to which the Government and the person whose records are sought are parties.

"(g) Access to Tax Information.—The FBI may obtain access from the Internal Revenue Service of the United States Treasury Department to a return, return information, or taxpayer return information as defined in section 6103(b) (1), (2), and (3), respectively, of the Internal Revenue Code of 1954 (26 U.S.C. 6103(b)(1), (b)(2), and (b)(3)) only in accordance with the confidentiality and disclosure provisions of section 6103 of the Internal Revenue Code of 1954 (26 U.S.C. 6103), and the regulations promulgated thereunder.

"(h) Other Sensitive Investigative Techniques.—The FBI may use other sensitive investigative techniques, such as trash covers, pen registers, consensual monitoring, electronic location detectors, covert photographic surveillance, and pretext interviews only in the course of a lawful investigation conducted pursuant to section 533.

"§ 533c. Retention, dissemination, and destruction of information

"(a) Retention of Information.—The FBI may retain information collected pursuant to this chapter if it is relevant to an investigation or pertinent to and within the scope of an authorized law enforcement activity or other responsobility of the FBI conferred by this chapter.

"(b) Dissemination of Information.—The FBI, pursuant to guidelines established by the Attorney General and consistent with the provisions of sections 552 and 552a of title 5, United States Code, may disseminate information obtained during an investigation conducted pursuant to section 533 to another Federal agency or to a State or local criminal justice agency if such information—

"(1) falls within the investigative jurisdiction or litigative responsibility of the agency;

"(2) may assist in preventing a crime or the use of violence or any other conduct dangerous to human life;

"(3) reflects on the integrity of a member of a criminal justice agency;

"(4) is required to be disseminated to a Federal agency pursuant to Executive Order No. 10450, as amended, dated April 27, 1953, or a successor order or other law; or

"(5) is otherwise permitted to be disseminated pursuant to section 552a of title 5, United States Code, Executive Order No. 10450, as amended, dated April 27, 1953, or any other law.

"(c) Destruction of Information.—The FBI shall destroy records compiled in connection with an investigation conducted pursuant to section 533 or deposit them in the Archives of the United States for historic preservation pursuant to section 2103 of title 44, United States Code, ten years after the termination of the investigation if there is no prosecution or ten years after termination of prosecution unless—

"(1) retention of the record is necessary to the conduct of pending or anticipated litigation;

"(2) the record is the subject of a pending request for access under a provision of section 552 or 552a of title 5, United States Code;

"(3) retention of the record is required by chapter 119 of title 18, United States Code; or

"(4) the Director approves retention of all or a portion of the records for a period necessary for (i) investigative reference, (ii) training, or (iii) administrative purposes.

"Subchapter IV—Undercover Operations

"§ 534. Authorization of undercover operations

"(a) Undercover Operations Generally.—The FBI is authorized to conduct undercover operations pursuant to guidelines established by the Attorney General when appropriate to carry out its responsibilities under section 533. If it is necessary to the successful conduct of undercover operations, the FBI may—

"(1) procure or lease property, supplies, services, equipment, buildings or facilities, or construct or alter buildings or facilities or contract for construction or alteration of buildings or facilities, in any State, including the District of Columbia, without regard to provisions relating to contract clauses, contract procedures, lease and alteration restrictions, or other provisions regulating procurement undertaken in the name of the United States;

"(2) establish, furnish, and maintain secure cover for FBI personnel or informants, by making false representations to third parties, and by concealing the Government involvement in the operation;

"(3) establish and operate proprietaries;

"(4) use proceeds generated by a proprietary or other undercover operation to offset necessary and reasonable expenses of that proprietary or other undercover operation, if the balance of such proceeds is deposited in the Treasury of the Untied States as miscellaneous receipts;

"(5) deposit appropriated funds and proceeds of an undercover operation in banks or other financial institutions; and

"(6) engage the services of cooperative individuals or entities in aid of undercover operations, and reimburse those individuals or entities for their services or losses incurred as a result of such operations, if any such assumption of liability for losses is specifically approved by the Attorney General or the Deputy Attorney General before any representations are made relating thereto, except in exigent circumstances.

"(b) Proprietaries.—

"(1) The FBI may operate a proprietary established under this section on a commercial basis to the extent necessary to maintain its cover or effectiveness.

"(2) Whenever a proprietary with a net value over $50,000 is to be liquidated, sold, or otherwise disposed of, the FBI, as much in advance as the Director or his designee shall determine is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(c) Continuation of Authority.—The authority provided in subsection (a) or (b) may be exercised notwithstanding any contrary provision of law generally applicable to Federal Government agencies and shall not be modified, limited, suspended, expanded or superseded by any provision enacted after the effective date of this chapter unless the subsequent provision expressly cites an intent to modify, limit, expand, or suspend this section.

"Subchapter V—Civil and Other Investigations

"§ 535. Investigation of civil matters

"The FBI is authorized to conduct investigations of matters within the civil enforcement or litigation responsibilities of the Attorney General, including the responsibilities described in sections 514 through 520 of this title, upon request of the Attorney General or his designee.

"§ 535a. Collection of information on civil disorders and public demonstrations requiring Federal assistance

"(a) Authorization Pursuant to Guidelines.—The FBI is authorized, pursuant to guidelines issued by the Attorney General, to collect information and report to the Department of Justice—

"(1) concerning an actual or threatened civil disorder that may require the presence of Federal troops or United States marshals to enforce Federal law or Federal court orders or that may result in a request for Federal assistance by State governmental authorities under section 331 of title 10, United States Code; or

"(2) relating to a peaceful public demonstration that is likely to require the Federal Government to take action to provide assistance or facilitate the demonstration or to provide public health and safety measures with respect thereto.

"(b) APPROVAL OF ATTORNEY GENERAL.—No information described in paragraph (2) of subsection (a) shall be collected without the specific approval of the Attorney General or his designee.

"(C) LIMITATIONS.—The FBI shall limit its collection of information under subsection (a) to information that will assist the Attorney General in determining whether the use of Federal troops or other Federal assistance is required.

"(d) ISSUANCE OF GUIDELINES.—The Attorney General shall issue guidelines designed to insure that—

"(1) investigative techniques used for collection of information under subsection (a) (1) shall be limited insofar as is practicable to collection of publicly available information, and shall not include those techniques described in subsections (d) through (g) of section 533b, except in exigent circumstances and with the approval of the Attorney General;

"(2) investigative techniques used for collection of information under subsection (a) (2) shall be limited insofar as is practicable to collection of publicly available information, but in no event shall include those techniques described in subsections (d) through (g) of section 533b, or the use of an informant or undercover agent to infiltrate a group or the recruitment of a person within such group as an informant; and

"(3) information collected is stored in such a way as to minimize retrievability of information about an identifiable person unless that person is the subject of an ongoing lawful investigation authorized by this chapter at the time of collection.

"§ 535b. Background investigations by Federal Bureau of Investigation of appointees, applicants, and employees

"(a) WRITTEN REQUEST FOR APPOINTEES.—The FBI, upon written request of the President or a President-elect or an official designated in writing by the President or an individual designated in writing by a President-elect, is authorized to conduct an investigation of an individual who has consented to be considered for—

"(1) nomination to an office requiring the advice and consent of the Senate; or

"(2) appointment to a position in the Executive Office of the President that the requesting individual certifies will require access to classified information.

"(b) OTHER CIRCUMSTANCES FOR INVESTIGATIONS.—The FBI may conduct an investigation of an individual who has—

"(1) consented to be considered for nomination by the President as a justice or judge;

"(2) applied for employment in the FBI or a position in the Department of Justice designated by the Attorney General or his designee as requiring such an investigation;

"(3) applied for a Presidential reprieve or pardon; or

"(4) been designated by the Attorney General as requiring access to classified information.

"(c) ACCESS TO CLASSIFIED INFORMATION.—Upon written request and if the individual consents to the investigation, and the official requesting the investigation certifies that the position is one requiring access to classified information, the FBI may conduct an investigation on a reimbursable basis, of an individual who has applied for or occupies a position on the staff of—

"(1) the Committee on Appropriations or the Committee on the Judiciary of the Senate or House of Representatives,

"(2) the Select Committee on Intelligence of the Senate,

"(3) the Permanent Select Committee on Intelligence of the House of Representatives,

"(4) the Speaker of the House of Representatives,

"(5) the President pro tempore of the Senate, or

"(6) the Majority or Minority Leader of either House.

"(d) APPOINTMENTS IN UNITED STATES COURTS.—Upon written request of the Director of the Administrative Office of the United States Courts or his designee, the FBI may conduct a backround investigation, on a reimbursable basis, of an individual who has consented to be considered for appointment as a United States magistrate, bankruptcy judge, or special prosecutor considered for appointment pursuant to the Ethics in Government Act of 1978.

"§ 535c. Federal Bureau of Investigation assistance in background inquiries by other Federal agencies

"The FBI is authorized to provide relevant information from its files, including fingerprint files, to a requesting Federal agency if the agency is authorized to make inquiry concerning or conduct a background investigation of—

"(1) an applicant for employment by or an employee of—

"(A) an agency; or

"(B) a contractor or prospective contractor for an agency;

"(2) a contractor or prospective contractor for an agency;

"(3) a person who requires access to information classified in the interest of national defense or foreign relations of the United States;

"(4) an individual who has access to a person or premises within the protective responsibility of the United States Secret Service if the requesting agency is the United States Secret Service;

"(5) an applicant for a Federal grant or loan, to the extent authorized by the Attorney General or his designee; or

"(6) a person requiring access to a Federal computer system or data in that system who is subject to investigation and determination of clearance.

"§ 535d. Special service functions

"In addition to other duties and responsibilities defined in this chapter, the FBI may—

"(1) provide investigative assistance, including personnel and support staff, to those committees of the Congress for which it is authorized to conduct background investigation of staff members, on a temporary and reimbursable basis, if the chairman of the committee requests, and the Attorney General or his designee approves, the provision;

"(2) provide investigative assistance and technical services to the Office of Professional Responsibility and other components of the Department of Justice, as authorized by the Attorney General or his designee, in connection with matters within the responsibilities conferred by law upon the Attorney General;

"(3) provide investigative assistance to a Federal grand jury on matters within FBI jurisdiction, upon request of an attorney for the United States;

"(4) provide investigative assistance to other Federal, State, or local law enforcement agencies in criminal investigations when requested by the heads of such agencies if the Attorney General or his designee finds that such assistance is necessary and would serve a substantial Federal interest; and

"(5) provide protective services as authorized by the Attorney General or his designee in connection with matters within the responsibilities conferred by law upon the Attorney General.

"Subchapter VI—Law Enforcement Support Functions

"§ 536. Education, training and research

"The FBI is authorized to—

"(1) establish, conduct, or assist in conducting programs to provide education and training for its employees and for law enforcement and criminal justice personnel of other Federal agencies, State, or local agencies, and foreign governments and members of the Armed Forces of the United States; and

"(2) conduct or contract for research and development of new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement and criminal justice and to procure such systems, equipment, necessary information and material, including technical systems and devices for its authorized law enforcement functions under sections 533, 533b, 533c, 534, and 535c of this chapter.

"§ 536a. Foreign liaison

"The FBI is authorized to establish and maintain liaison with, and to provide mutual assistance to a foreign law enforcement agency, consistent with the provisions of this chapter and in accordance with guidelines established by the Attorney General by—

"(1) stationing FBI liaison personnel abroad, with the approval of the Attorney General and the Secretary of State;

"(2) directing an inquiry to a foreign law enforcement agency in connection with a criminal or background investigation being conducted by the FBI or by another Federal agency that requests the FBI to make the inquiry and directing the response to the requesting agency;

"(3) directing an inquiry to a foreign law enforcement agency in connection with a criminal investigation being conducted by a State or local law enforcement agency that requests the FBI to make the inquiry and directing the response to the requesting agency;

"(4) making a preliminary inquiry or conducting an investigation within the United States, at the request of a foreign law enforcement agency, to locate a fugitive or obtain information required in connection with a criminal investigation being conducted by the foreign agency and furnishing the results to the requesting agency, except that the FBI may not conduct investigations of matters that would not be crimes if occurring in the United States and may use sensitive tehniques only as authorized by section 533b, and all such activities shall be approved by the Director or his designee;

"(5) exchanging criminal investigative, scientific, and technical information from its files with law enforcement and security agencies of foreign governments that are conducting criminal investigations for which such information is requested; and

"(6) furnishing assistance in background investigations at the request of a foreign law enforcement or security agency, except that such assistance shall be undertaken only upon assurance of the requesting agency that the investigation is for official purposes relating to government employment, security clearance, licensing, visas or immigration and that the individual involved has consented to such investigation.

"§ 536b. Technical assistance

"The FBI is authorized to—

"(1) provide identification assistance for humanitarian purposes, including disasters and missing person cases, at the request of another Federal agency or a foreign, State, or local governmental agency;

"(2) provide laboratory, identification, technical and scientific assistance in connection with—

"(A) an investigation being conducted by a Federal agency that requests such assistance; and

"(B) a criminal investigation being conducted by a State or local law enforcement agency that requests such assistance;

"(3) provide expert testimony in Federal, State, local or foreign proceedings in connection with assistance rendered pursuant to subsection (a) or (b);

"(4) provide technical examinations to detect clandestine surveillance devices, upon request of a Federal agency, a committee of the Congress, or a court of the United States; and

"(5) provide scientific or technical analyses of materials of historic significance upon request of a Federal, State, or local agency.

"§ 536c. Cooperation with the Secret Service

"Consistent with the provisions of this chapter, the FBI is authorized to provide personnel, informational, investigative, and technical assistance to the United States Secret Service in connection with its protective responsibilities. The FBI may conduct investigations at the request of the Secret Service provided the requirements of section 533 are met.

"§ 536d. Identification, criminal history, and other records; exchange for criminal justice purposes

"(a) Civil and Criminal Records.—The FBI is authorized to acquire, collect, classify and preserve—

"(1) civil fingerprint records, including those voluntarily submitted to it;

"(2) criminal fingerprint records and criminal history information;

"(3) records concerning fugitives for whom arrest warrants are outstanding;

"(4) records relating to stolen property;

"(5) records and related information concerning missing persons;

"(6) other records relating to crime, including statistics, to the extent authorized by the Attorney General or his designee.

"(b) Exchange of Record.—The FBI is authorized to exchange information described in subsection (a) with—

"(1) a criminal justice agency of the Federal Government;

"(2) a foreign law enforcement or security agency;

"(3) a State or local criminal justice agency;

"(4) a law enforcement organization authorized by State statute to investigate crimes or apprehend criminals on interstate common carriers; and

"(5) a State or local law enforcement or criminal justice agency in connection with the employment of law enforcement or criminal justice personnel.

"§ 536e. Identification, criminal history, and other records; exchange for employment or licensing purposes

"(a) Exchange of Certain Criminal Records.—Except as provided in subsection (b), the FBI is authorized to exchange criminal fingerprint records and criminal history information with—

"(1) a Federal agency that has reponsibility for the licensing or registration of individuals or businesses, or for the administration of visa, immigration, or passport laws;

"(2) a federally chartered or insured financial institution;

"(3) an organization that is required by section 17(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(f)), to exchange such records;

"(4) a State or local agency authorized by State statute to obtain such information for employment or licensing purposes, if the Attorney General or his designee has approved exchange under the statute; and

"(5) a foreign government for the administration of visa, immigration, and passport laws.

"(b) Time Limitation.—The FBI may not furnish arrest data more than one year old under this section or section 535c unless it is accompanied by disposition data.

"§ 536f. Retention of unsolicited information

"Unsolicited information about an identifiable person that does not pertain to any of the functions or responsibilities of the FBI, as defined by law, may be retained only for the limited period necessary for administrative processing, as authorized by guidelines issued by the Attorney General.

"Subchapter VIII—Miscellaneous

"§ 537. Civil fines and penalties

"(a) Violations of Charter.—In addition to any disciplinary action authorized by law, the Director may impose a civil penalty up to $5,000 on any person who, while acting as an employee of the FBI, intentionally uses any of the sensitive investigative techniques described in section 533b knowing that such use violates the provisions of this chapter. The penalty shall be in addition to any other penalty which may be prescribed by statute or regulation and shall be imposed in a manner consistent with the provisions of the Civil Service Reform Act of 1978. Recovery of a civil penalty against a former employee for a violation that occurred during the period of employment shall be made pursuant to the provisions of chapter 163 of this title.

"(b) Improper Dissemination of Records.—The FBI may modify, suspend or cancel the exchange of crime record information if the Federal, foreign, State or local agency or private organization receiving such information disseminates it outside the receiving agency or organization or a related agency or organization in violation of guidelines established by the Attorney General.

"§ 537a. Civil remedies; non-litigability of guidelines and procedures

"(a) No Civil Cause of Action Against United States.—Nothing in this chapter creates a civil cause of action against the United States not available under other provisions of this title, or a civil cause of action against any officer, agent, or employee or former officer, agent, or employee of the United States Government not otherwise available at law.

"(b) Effect of Failure to Follow This Chapter, Guidelines, or Procedures.—Nothing in this chapter, or in any guidelines or procedures established pursuant to this chapter, creates any substantive or procedural right and no court has jurisdiction over a claim in any proceeding, including a motion to quash a subpoena, suppress evidence, or dismiss an indictment, based solely on an alleged failure to follow a provision of this chapter or of guidelines or procedures established pursuant to this chapter.

"§ 537b. Protection of the investigative process

"(a) Public Disclosure of Guidelines.—Any guidelines promulgated by the Attorney General as required by this chapter shall be made available to the public unless the Attorney General determines that a particular guideline or portion thereof cannot be made public without assisting a criminal to avoid detection, compromising investigations or investigative techniques, or otherwise jeopardizing the investigative process, in which case the geuideline or portion thereof shall not be made public and shall be considered an investigatory record for the purposes of section 552(b) of title 5, United States Code.

"(b) Public Disclosure of Procedures.—Any procedure established by the Director to implement the requirements of this chapter, not otherwise exempt under section 552 (b) of that title, are exempt from public disclosure if the Director determines that the public knowledge of such procedures or any portion thereof would assist a criminal to avoid detection or would compromise sensitive investigative techniques.

"§ 537c. Congressional oversight and accountability of the Federal Bureau of Investigation

"(a) Duties of the Attorney General.—To the extent not inconsistent with all applicable authorities and duties, including those conferred by the Constitution and laws of the United States upon the executive and legislative branches, the Attorney General shall—

"(1) keep the Committees on the Judiciary of the Senate and the House of Representatives fully and currently informed concerning the implementation of this chapter; and

"(2) provide any information or material of the FBI within the jurisdiction of the Committees on the Judiciary of the Senate and the House of Representatives, in accordance with provisions agreed to by the respective chairmen of those Committees and the Attorney General.

"(b) Duties of the Director.—On an annual basis, the Director shall provide the following information to Committees on the Judiciary of the Senate and the House of Representatives:

"(1) The total number of investigations, specified by category, conducted in the preceding calendar year.

"(2) The total number of activities, specified by category conducted in the preceding calendar year which under this chapter, require approval of the Director or his designee or the Attorney General or his designee.

"(3) Any other report required by the Committee on the Judiciary of the Senate or the House of Representatives within its oversight functions.

"(c) Congressional Review of Guidelines; Nondisclosure of Guidelines.—As soon as feasible after the effective date of this chapter, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives for their review and comment on any guidelines established pursuant to section 533a, 533b, 533c, 534, 535a, 535b, 536a or 536f of this chapter and the reasons any portions thereof should not be publicly disclosed under section 537b.

"§537d. Periodic review of guidelines

"At such intervals as the Attorney General may prescribe, the Director shall conduct a periodic review and analysis of the application of all guidelines issued pursuant to this chapter to insure that such guidelines are complied with and effectively achieve the purposes for which they were issued.".

Sec. 3. Title 5 of the United States Code is amended as follows:

(a) Section 1304 is amended—

(1) by repealing subsections (b), (c), and (d); and

(2) in subsection (f) by striking out "or the Federal Bureau of Investigation" each time it appears.

(b) Section 102(a)(1) is amended by adding at the end thereof the following:

"(D) positions in the Federal Bureau of Investigation.".

(c) Section 5313 is amended by adding at the end thereof the following new paragraph:

"( ) Director of the FBI, Department of Justice.".

(d) Section 5314 is amended by repealing paragraph (44).

Sec. 4. Chapter 203 of title 18, United States Code, is amended—

(1) by repealing section 3052; and

(2) by amending the item relating to section 3052 in the table of sections at the beginning of the chapter to read:

"3052. Repealed.".

Sec. 5. Section 22 of the Peace Corps Act (22 U.S.C. 2519) is amended by striking out the second and third sentences.

Sec. 6. Section 45 of the Arms Control and

Disarmament Act (22 U.S.C. 2585) is amended by—

(1) striking out the third sentence in subsection (a); and

(2) striking out "or the Federal Bureau of Investigation" in subsection (b).

Sec. 7. Chapter 31 of title 28, United States Code, is amended—

(1) by adding after section 513 the following new section:

"§ 513a. Investigative authority

"(a) Protection of Confidentiality.—The Attorney General may conduct investiations regarding official matters under the control of the Department of Justice. He shall be responsible for protecting the integrity of investigative files and the confidentiality of informants, undercover operations, and other sensitive investigative techniques. In no event may a court order an attorney for the Government or any other official of the Department of Justice to disclose the identity of a confidential informant or information which would reveal such identity, except to the court in camera, if the Attorney General has made a determination that the informant's identity must be protected. However, the court may issue any other order in response to such a determination by the Attorney General.

"(b) Investigation of Federal Employees.—The Attorney General and the FBI may investigate any violation of title 18, United States Code, and other provisions of Federal criminal law, except violations of title 26, United States Code, involving a Government officer or employee—

"(1) notwithstanding any other provisions of law; and

"(2) without limiting the authority to investigate any matter which is conferred on them or on a department or agency of the Government.

"(c) Limitations on Investigation of Federal Employees.—Any information, allegation or complaint received in a department or agency in the executive branch of the Government relating to a violation of a criminal law of the United States involving a Government officer or employee shall be expeditiously reported to the Attorney General by the head of the department or agency, unless—

"(1) the responsibility to perform an investigation with respect thereto is specifically assigned otherwise by another provision of law; or

"(2) as to any department or agency of the Government, the Attorney General directs otherwise with respect to a specific class of information, allegation, or complaint.

"(d) Effect on Other Investigative Authority.—Subsections (b) and (c) do not limit—

"(1) the authority of the military departments to investigate persons or offenses over which the armed forces have jurisdiction under the Uniform Code of Military Justice (chapter 47 of title 10); or

"(2) the primary authority of the Postmaster General to investigate postal offenses.";

(2) by adding after the item relating to section 513 in the table of sections at the beginning of the chapter the following new item:

"513a. Investigative authority.";

(3) by adding at the end of the chapter the following new section:

"§ 528. Attorney General responsibility for FBI investigations

"It is the duty of the Attorney General to take all reasonable steps to insure that every investigation authorized by chapter 33 of this title is conducted in conformity with the Constitution, chapter 33, and other laws of the United States, and does not abridge any right protected by the Constitution or laws of the United States."; and

(4) by adding after the item relating to section 527 in the table of sections at the beginning of the chapter the following new item:

"528. Attorney General responsibility for FBI investigations.

Sec. 8. Section 145 of the Atomic Energy Act of 1954 (42 U.S.C. 2165) is amended by striking out subsections (d), (e), and (f).

Sec. 9. Section 304 (a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2455 (a)) is amended by striking out "; and if any such investigation develops any data reflecting that the individual who is the subject thereof is of questionable loyalty the matter shall be referred to the FBI for the conduct of a full field investigation, the results of which shall be furnished to the Administrator.".

Sec. 10. The Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.), is amended as follows:

(a) Section 402 (b) (6) (42 U.S.C. 3742 (b) (6)) is amended by striking out "404 of this Act" and inserting in lieu thereof "535d of title 28, United States Code".

(b) Section 404 (42 U.S.C. 3744) is repealed.

(c) Section 1101 (b) (28 U.S.C. 532 note) is repealed.

Sec. 11. Section 403 (a) of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2255 (a)) is amended—

(a) by striking out in the second sentence "the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and"; and

(b) by striking out the last two sentences.

Sec. 12. The provisions of this Act take effect 90 days after the date of its enactment.

THE FEDERAL BUREAU OF INVESTIGATION CHARTER ACT

SECTION-BY-SECTION COMMENTARY

Section 1 of the bill establishes the title for the legislation.

Section 2 establishes a new Chapter 33 in Title 28 which will consist of the FBI Charter. The description of the charter which follows uses the new numbering system as it would appear in Title 28.

Section 531 defines the scope of the charter itself and states the purposes for its enactment. The charter defines in statutory form the myriad functions the FBI performs, other than those functions relating to foreign intelligence collection and foreign counterintelligence investigations. It is contemplated that there will be a separate charter relating to the FBI's performance of these functions. The purpose of the charter is not only to define the FBI's mission, but to codify and confer the authority necessary to carry out that mission and to establish conditions, limitations and restrictions for the discharge of the FBI's duties and responsibilities.

Section 531a adopts as a fundamental principle that the charter is the exclusive statement of the authority, duty and responsibility of the FBI. Section 531a also states certain fundamental investigative principles. These principles govern all of the provisions of the charter dealing with particular types of investigations, including preliminary investigations (referred to in the charter as "inquiries"). FBI investigations should involve minimal intrusion into the lives of individuals under investigations, and as Attorney General Stone emphasized, should be concentrated on criminal conduct proscribed by law when the premise for investigation is the FBI's responsibility to detect crime. Underscoring this concept, section 531a states unequivocally that the lawful exercise of the right to dissent or other exercise of constitutional rights cannot justify an investigation where no criminal conduct is involved.

Certain key terms used in the charter are defined in section 531b. The terms "aggravated property destruction," "destructive device," "pattern of terrorist activity" and "terrorist activity" all relate to the provisions of section 533(b)(3) concerning the FBI's responsibility to investigate terrorism. "Terrorist activity" is that which is designed to intimidate or coerce through the use of criminal violence. Two or more such violent acts which share the same participants, methods, victims or otherwise appear interrelated, and which are designed to influence government policy by intimidation, constitute "a pattern of terrorist activity."

The term "enterprise", which is used in connection with the authorization for terrorism investigations and organized crime investigations, is defined to include group activity, whether by a formal organization or by a loosely structured group. The term is derived from the "Racketeer Influenced and Corrupt Organizations" (RICO) Statute (18 U.S.C. § 1961–68), which also provides the precedent for grounding federal jurisdiction on a "pattern of activity" in violation of state law.

The terms "guidelines" and "procedures" used throughout the charter are defined. "Guidelines" refers to written statements of policy issued by the Attorney General to govern the investigative activities of the FBI. "Procedures" are the internal rules and regulations, and the manuals established by the FBI concerning investigations and administrative matters.

"Informant" is defined as any person who furnished information to the FBI on a confidential basis, whether on a single occasion or on a continuing basis. This broad definition is used here to avoid a basis for claiming in litigation that the informant privilege is in any way limited to persons who have a continuing relationship with the FBI. Where provisions in the charter are limited to a particular type of informant, the limitations are described explicitly in the relevant section.

"Racketeering activity" is defined by reference to the provisions of the Racketeer Influence and Corrupt Organizations (RICO) Act to include a pattern of violations of specified state criminal statutes.

Section 532 restates the provision in the present 28 U.S.C. 531, establishing the FBI in the Department of Justice, and codifies the provisions of 28 C.F.R. 0.85 that the FBI is under the policy supervision of the Attorney General and, insofar as the Attorney General directs, the Deputy Attorney General.

Section 532a incorporates the provision in present 28 U.S.C. 532 placing a Director at the head of the FBI. It recognizes his responsibility to report to the Attorney General and, if the Attorney General directs, to the Deputy Attorney General. It also incorporates the provision of Public Law 90–351 providing for Presidential appointment of the Director, with the advice and consent of the Senate, for one ten year term.

The general duties and responsibilities of the Director are described in Section 532b. These include insuring that the activities of the FBI comport with the Constitution and laws of the United States and with the charter and related guidelines, and establishing any procedures necessary to carry out the charter. The Director is also charged with responsibility to establish an "effective" disciplinary system to enforce the charter and to insure the effective administration of the law enforcement responsibilities of the FBI.

Subsection (a) of section 532c restates the power to carry firearms, make arrests, serve warrants, and pay rewards now contained in 18 U.S.C. 3052 and 3059. Subsection (b) restates the authority now contained in 28 U.S.C. 537 to expend funds on a confidential basis for unforeseen emergencies, on the certification of the Attorney General.

Subchapter III of the new Chapter 33, Title 28, is the basic authorization for the FBI to conduct criminal investigations. The term "investigation" is used throughout subchapter III, except in subsection 533, to include "inquiries". Subchapter III also places restrictions on the use of certain techniques in the conduct of such investigations.

Section 533, containing the basic investigative authority, begins with an elaboration of the authority as now stated in 28 U.S.C. 533(1). It recognizes that the FBI is the primary criminal investigative agency of the federal government and has the authority to investigate all criminal violations of federal law not assigned exclusively to another federal agency. However, previously established arrangements concerning dual or non-exclusive jurisdiction are not altered by this charter.

The subsection also recognizes that there is a distinction between "inquiries" conducted to determine whether a full scale investigation is warranted and the actual conduct of "investigations" by the FBI. The authority to conduct inquiries short of a full investigation allows the government to respond in a measured way to ambiguous or incomplete information and to do so with as little intrusion as the needs of the situation permit. This is especially important in such areas as white-collar crime where no complainant is involved or when an allegation or information is received from a source of unknown reliability. It is contemplated that such inquiries would be short duration and be confined solely to that information which is necessary to make an informed judgment as to whether a full investigation is warranted. The techniques available for preliminary inquiries are generally less intrusive than those employed in the full investigation.

In no event would they include wiretapping, mail openings, mail covers or investigative demands. In addition, infiltration of groups by new sources or by undercover Agents is not permitted in an inquiry conducted pursuant to subsection 533(b)(3). Certain other intrusive techniques may be used only in compelling circumstances and when other investigative means are not likely to be successful. The use of such techniques during a limited inquiry will be carefully regulated by guidelines and internal regulations requiring approval by designed officials of the FBI.

The subsection provides that the purpose of FBI investigations is to detect either the existence of crime or the identity of a criminal, prevent further crimes by notifying prosecutive authorities, arresting the individual involved, or detecting a conspiracy before it achieves its final objective, and gather evidence for prosecution.

The remainder of section 533 defines with greater precision the basis on which the FBI may investigate specific criminal violations or criminal enterprises engaged in organized crime or terrorism activities. In each instance, investigation must be based on "facts or circumstances" that "reasonably indicate" the existence of the criminal conduct described.

Subsection (b)(1) authorizes investigation of federal criminal violations when facts or circumstances reasonably indicate that a person has engaged, is engaged or will engage in the activity proscribed. The word "will" is used not only to encompass the investigation of future crimes, but suggests that a greater likelihood of criminal activity is necessary to support such investigation. There must be an objective, factual basis for initiating the investigation; mere hunch is insufficient. The investigation is conducted to gather information necessary for a prosecutor to determine whether there is probable cause to take to a grand jury or use as the basis for filing an information.

The focus of the investigation may be either on the question whether behavior which is clearly occurring is, in fact, criminal or on identifying the perpetrator of a crime known to have occurred. It would not be necessary to focus at the outset on an identified individual. The reference to "a person" includes an individual whose identity is yet to be determined. An investigation may be initiated on the basis of an allegation, which has been checked through the initial inquiries described above, or a combination of circumstances, such as repeated complaints that a government warehouse is in short supply of items listed on an inventory, which lead to the reasonable inference that property is being diverted unlawfully.

Subsections (b)(2) and (3) authorize investigations of criminal enterprises engaged in racketeering and terrorist activities. The concept is drawn from the "Racketeer Influenced and Corrupt Organizations" (RICO) Statute (18 U.S.C. § 1961–68) which authorizes criminal prosecution of certain enterprises as a means of strengthening the government's enforcement powers against white collar and organized crime. These investigations differ from ordinary criminal investigations, authorized by subsection (b)(1), in several important respects. As a practical matter, an investigation of a completed criminal act is normally confined to determining who committed that act and with securing evidence to establish the elements of the particular crime. It is, in this respect, self-defining. An investigation of an ongoing criminal enterprise must determine the size and composition of the group involved, its geographic dimensions, its past acts and intended criminal goals, and its capacity for harm. While a standard criminal investigation terminates with the decision to prosecute or not to prosecute, the investigation of a criminal enterprise does not necessarily end, even though one or more of the participants may have been prosecuted.

In addition, the organization provides life and continuity of operation that are not normally found in regular criminal activity. As a consequence, these investigations may continue for several years. In addition, as Justice Powell noted, the focus of such investigations "may be less precise than that directed against more conventional types of crime." *United States* v. *United States District Court*, 407 U.S. 297, 322 (1972). Unlike the usual criminal case, there may be no completed offense to provide a framework for the investigation.

It often requires the fitting together of bits and pieces of information, many meaningless by themselves, to ascertain if there is a mosaic of criminal activity. For this reason, the investigation is broader and less discriminate than usual, involving "the interrelation of various sources and types of information." *Ibid.*

At the same time, it is recognized that group investigations present special problems, particularly where they deal with politically motivated acts. As Justice Powell pointed out, "There is often a convergence of First and Fourth Amendment values not found in cases of 'ordinary' crime." *Ibid.* Thus, special care must be exercised in sorting out protected activities from those which may lead to violence or serious disruption of society. As a consequence, the charter establishes special safeguards for group investigations of special sensitivity, including tighter management controls and higher levels of review.

Subsection (b)(2) focuses on investigations of organized crime. It is concerned with investigation of entire enterprises or groups, rather than individual participants in specific criminal acts, and authorizes investigations to determine the structure and scope of an organized crime group as well as the relationship of the members. Again, the investigation must be based on facts or circumstances that reasonably indicate the existence of such a group engaged in racketeering activities.

Similarly, subsection (b)(3) contains a separate authorization for terrorism investigations which are also concerned with the activities of groups. Again these investigations must be based on facts or circumstances which reasonably indicate that there is an enterprise, that the purpose of that enterprise is terrorism, and that the terrorism goal is to be achieved by violent criminal activity. The enterprise must exist. The activity often will have already occurred and may be attributable to a particular organization, as where a group claims credit for a series of bombings or kidnappings. There may be instances, however, in which no terrorist act has occurred, thus raising the delicate issue of whether the group is engaged in lawful First Amendment activity or unlawful terrorism. That issue is present whenever the government tries to anticipate future criminal conduct, but it is more acute when the enterprise has not previously engaged in terrorist crimes. Obviously, a prior record of violence is an important factor in determining whether an invesigation for future crimes is warranted. But the government may also look to other factors such as informant information, the stockpiling of weapons, an announced intent to engage in violence, and the full range of considerations that historically have been available to law enforcement officers.

The problem comes in knowing how far in advance of crime that government may properly initiate its inquiry. If the investigation begins prematurely, it may deal with marginal or speculative threats to society or with entirely innocent conduct. If commenced too late, it becomes difficult if not impossible to gather information that is needed for the government to respond effectively. It has been suggested that investigations dealing with future crimes should not be initiated without some showing that the persons are "planning or preparing" to engage in terrorist activities.

The precise meaning of those terms is unclear but they suggest that the individuals involved must have devised a scheme or are "making ready" to commit a specific terrorist act. That delays the investigation to a point that is dangerously close to the commission of the crime. In addition, it is not clear how the government would acquire that information without prior investigation, unless it is intended that a preliminary inquiry would serve that purpose.

In current practice those inquiries are very limited and not likely to produce the kind of information needed to satisfy that standard. The better approach is to recognize that the government must proceed with the utmost caution in such cases and perhaps to require a stronger factual basis for investigation if the enterprise has not previously engaged in terrorist crimes.

It is intended that guidelines or internal procedures will be adopted that will attempt, to the extent possible, to limit those investigations to situations which reasonably indicate that there is a serious intent to engage in terrorist activities; mere abstract advocacy would not be a basis for investigation. Evidence of "planning and preparing," of course, is one way that requirement can be satisfied, but it should not be the sole basis on which such an investigation can be initiated.

The terrorist activity might involve either a direct violation of federal criminal law, such as kidnapping a foreign official or violating the federal explosives statute, or a pattern of terrorist activity in violation of State law, such as assassination of governors. See, e.g., 18 U.S.C. § 1961 (5). The bill would also authorize investigation where the terrorist activity is multinational, or is being planned in the United States for "export" to other countries.

Precedent for this authority is found in the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. 1801 (c)(3), which permits electronic surveillance of certain groups whose terrorist activities transcend national boundaries. Thus, if a group with substantial U.S. membership were planning to engage in a series of bombings in Canada, the FBI would be permitted to investigate even though the terrorist activity occurs abroad.

The subsection describes the type of activity to be investigated in terms of acts designed to intimidate or coerce segments of the civil population (*e.g.*, the random bombing of restaurants), influence or retaliate against government (*e.g.*, assassination of a federal official to protest the conviction of a fellow terrorist), or influencing or retaliating against the trade or economic policies of a company engaged in international commerce (*e.g.*, kidnapping key officials of one of the multinational corporations because of its trade with a particular country).

The authority here is concerned with the investigation of a continuing enterprise that is terrorist in nature, not with the single act of an individual. Like organized crime investigations, these investigations may be of long duration and will be concerned with the relationship of the group members and the connection between individual criminal acts. However, the investigation must be confined to members of the criminal enterprise, particularly when such enterprise is a subgroup of a larger organization that engages in lawful political activities.

The enterprise may involve either a pattern of specific criminal acts or a conspiracy to commit a single criminal act such as detonation of a nuclear device. The focus of the investigation, however, must be criminal activity of a terrorist type. As a further safeguard, the decision to investigate will take into account such factors as the likelihood, immediacy and magnitude of the threatened harm.

Section 533a requires the Attorney General to establish guidelines for the conduct of the criminal investigations described in the preceding section. It also sets three criteria to be met by these guidelines: (1) investigations must focus on criminal activity; (2) there must be an objective factual basis for investigation; and (3) the breadth of the investigation and the manner in which it is conducted must be dependent on the nature and the quality of the information available.

This latter requirement essentially embodies the traditional concept that the lengths to which an investigator can go in trying to solve a crime will depend, in large part, on the certainty of the information he already has. In *Miranda* v. *Arizona*, 384 U.S. 436, 477–78, the Court suggested that an individual's mere presence at the scene of a crime might justify asking him to identify himself, even though there is no particular basis to suspect him.

To pat-down an individual, however, *Terry* v. *Ohio*, requires specific and articulable facts giving reason to believe he is engaged in criminal activity. The Fourth Amendment demands probable cause if an individual is to be arrested or searched. Similarly, the guidelines are expected to condition more intrusive investigative techniques on a stronger fact basis than is necesary to open the investigation initially.

Section 533a also contains special provisions for the periodic review of terrorist investigations. The Department of Justice must be advised of all such investigations and each that continues beyond one year must be reviewed by the Director. A report of such review must then be submitted to the Attorney General or an official the Attorney General designates. These special review provisions are included for terrorist investigations because they deal with groups who have, or allege, a political motive for their criminal activity and because the criminal activities may be coupled with political expression which is protected by the First Amendment.

Section 533b(a) contains special limitations on the use of sensitive investigative techniques. It requires that the Attorney General issue guidelines on the use of such techniques, either as separate documents or as part of the guidelines relating to particular types of investigations. The guidelines have a three-fold purpose: (1) to ensure that intrusion into the privacy of persons is not greater than necessary to conduct the investigation in a timely and effective manner; (2) to require formalized and higher levels of review and authorization as the use of specific techniques increases the likelihood of intrusion into privacy; and (3) to insure that information obtained by the techniques is used only for lawful governmental purposes.

The techniques encompassed within this section are: informants, undercover agents and operations, physical surveillance, mail surveillance, electronic surveillance, access to third party records, access to tax returns and return information, trash covers, pen registers, consensual monitoring, electronic locations detectors, covert photographic surveillance and pretext interviews. Some of these are, of course, already subject to statutory limitations which are cross-referenced in the charter.

Subsection (b) recognizes that the use of informants and undercover Agents by the FBI is lawful and may often be essential to the effectiveness of properly authorized law enforcement investigations. However, the technique of using informants to assist in the investigation of criminal activity, since it may involve an element of deception and intrusion into the privacy of individuals or may require government cooperation with persons whose reliability and motivation may be open to question, should be carefully limited. Thus, while it is proper for the FBI to use informants in appropriate investigations, it is imperative that special care be taken to ensure that individual's rights are not infringed and that the government itself does not become a violator of the law.

Where an informant is used on a continuing basis by the FBI, given specific assignment to collect information, and targeted against an identifiable person, special restrictions are included. These restrictions recognize a distinction between a source or informant who provides information on a single occasion or who provides generalized information over a period of time, and the informant who, in a sense, works for the FBI in carrying out specific assignments to obtain information.

While the latter is not an agent or employee of the FBI in a legal sense, the FBI bears a greater responsibility for the individual's conduct than is true of the occasional source of information. Thus, this section requires that a supervisory official of the FBI make a specific determination that the informant is suitable for use and that he is likely to provide information relating to an authorized investigation. The determination must be in writing and reviewed periodically by the Director of the FBI or his designee.

When an informant is given this type of assignment to collect information for the FBI on a continuing basis he must also be advised that he is not considered an agent or employee in the normal sense and that FBI cannot and will not protect him from arrest or prosecution for any criminal conduct he engages in. He must also be advised that the FBI will not condone his involvement in criminal activity unless his participation in criminial activity is itself found justified by an official of the FBI or of the Department of Justice.

Determinations that participation in crime is justified must be reviewed annually by the Director or his designee. He is also to be warned against participation in violent acts, serving as an agent provocateur to instigate crime, or using illegal techniques, such as burglary, wiretapping or mail opening, to acquire information for the FBI.

The provision recognizes that some of the most effective informants are themselves criminals and that their usefulness to the FBI frequently arises because they are engaged in criminal activities giving them access to the individuals who are the targets of the investigation. A bookmaker may be recruited to provide information on organized crime figures controlling gambling in the locality, or a "fence" may be asked to supply information on those engaged in the interstate theft of stolen property.

It would be unrealistic to expect that these informants would discontinue their illegal activity. Indeed, if they did, it is unlikely they would be in a position to gain the necessary information to aid the investigation. Similarly, an informant may be solicited to pay a bribe or invited to join in a cargo theft. Unless he goes along with this criminal activity, he will be unable to obtain the needed evidence for the FBI.

Accordingly, the section provides for the FBI or the prosecutor to make a determination that it is appropriate to recruit an individual engaged in a continuing pattern of criminal activity or to approve an informant's participation in a particular criminal act. The determination, however, must weigh the prosecutive need for the information and the seriousness of the offense under investigation against the seriousness of the criminal activity in which the informant is involved.

For example, use of a bookmaker to obtain evidence against a major organized crime figure may well be warranted where use of the same individual to obtain evidence on another minor bookmaker may not. Payment of a bribe to a corrupt official in order to expose him can be justified, where informant participation in a murder to obtain information on a thief is not.

Subsection 533b(b)(3) also places special limitations on the use of a licensed physician, a lawyer, a clergyman, or a member of the news media as an informant. There presently is no legal prohibition against using such persons as informants. Because of the obvious policy considerations, however, there have been relatively few instances in which the FBI has used persons in those professions to provide information on a continuing basis.

This subsection establishes safeguards by requiring that such use be expressly authorized in writing by the Director or a designated senior official of the FBI, and that the Attorney General or his designee be promptly notified. In addition, the FBI is required to advise each person that he is not being requested to breach any legal obligation of confidentiality.

The FBI would be required to obtain some information about individuals it proposes to use as informants on a continuing basis or those who provide operational assistance in areas such as undercover work in order to satisfy itself that the individual involved is suitable for use in this manner. The broad term "suitability" is used (rather than "reliability") to provide flexibility in assessing the use of informants. In some cases it may be extremely important to assess the reliability of an individual in advance; in other cases reliability is less important than the individual's relationship with the target of the investigation.

The use of the individual must be decided in the context of the case under investigation or the service he is expected to provide. The inquiries would not be full scale investigations and would not involve such intrusive techniques as mail covers, electronic surveillance or review of tax records. Moreover, any information collected about the individual without his consent would not be retained if the decision is made not to use him as an informant or in some other capacity, unless he is a potential witness and retention of the information is necessary to satisfy *Jencks* or *Brady* requirements.

Section 533b(b) also deals with the use of undercover agents by the FBI. It specifies that FBI personnel may be used in undercover assignments only in connection with criminal investigations and that they remain bound by the strictures that apply to law enforcement officers acting in an overt capacity. Thus, the law of entrapment and search and seizure, as defined by Congress and the courts, continues to apply to these agents. In carrying out assignments, undercover agents are not to engage in activities which are criminal under normal circumstances except to the extent necessary to obtain information or evidence necessary for prosecutive purposes, to maintain their cover and credibility, or to prevent serious bodily harm.

This provision recognizes that an undercover agent may have to participate in the receipt of stolen property, bribery of corrupt officials or similar conduct proscribed by law, as a part of his undercover assignment. At the same time, involvement in such activities is justified only where it serves a paramount prosecutive purpose, or is necessary to establish or maintain cover or to prevent death or bodily injury. In addition, a written report must be made to an appropriate official of the FBI and specific approval obtained when the agent participates in a serious criminal act that was not contemplated or authorized at the time the operation was approved. Approval may be delayed in exigent circumstances, but a prompt report must be submitted as soon as the situation allows. The work of undercover agents, will of course, be subject to guidelines established by the Attorney General under section 533(a).

When either an informant or undercover agent is infiltrated into a terrorist group, or an informant is recruited from its ranks, a senior official of the FBI designated by the Director is required to make a written finding that the infiltration meets the requirements of the charter and guidelines and is otherwise necessary. This finding is in addition to the basic determination of the suitability of an informant.

Since infiltration of groups whose motivation may be political raises unique First Amendment considerations, it is appropriate that this section requires higher level approval and by a higher standard than other informants. As a further safeguard, this provision requires the adoption of special written procedures to assure that the undercover agent or the informant limits his efforts to collect information to the unlawful activities of the group, not peripheral matters which may be entirely lawful.

These are similar to the "minimization procedures" required by the wiretap statutes to govern the collection of information obtained by electronic surveillance. While the use of informants does not raise the same Fourth Amendment concerns as a wiretap, the charter requires these procedures as a matter of sound policy.

The senior official who approves the infiltration is required to address these concerns in making a determination that it is appropriate to infiltrate the group. The aim of this requirement is to keep the focus of the investigative process on criminal activity, not legitimate First Amendment activities. At the same time, it is not so narrow as to require that information collection be confined to a single crime.

The subsection uses the phrase "matter under investigation" advisedly to permit collection of information on planned criminal activity as well as completed acts and to encompass such legitimate investigative inquiry as the approach of one terrorist group to another group with a similar pattern of violent activity.

The final paragraph of subsection (b) specifies that evidence of violation of criminal law by informants contrary to the warnings provided by the FBI are to be reported to the Department of Justice, if the offense is federal, or to the appropriate investigative or prosecutive authorities at the State or local level. The use of the phrase "comes to the attention of the FBI" is designed to reflect a concept presently contained in the guidelines on use of informants.

If the informant is acting for the FBI and violates instructions given him, there is a duty to report this whenever an experienced agent should realize that the violation has occurred. Concrete evidence sufficient to warrant a prosecution is not required. In those rare instances in which the needs of the government's investigation outweigh the normal responsibility of the FBI to report an offense to the local prosecutive authorities promptly, the approval of the Attorney General or his designee to withhold notification is required. This also reflects a concept embodied in the present informant guidelines.

Any violation of law by an undercover agent of the FBI must also be promptly reported to the Department of Justice. This would not include, of course, activities sanctioned by the charter as a necessary part of undercover operations.

Section 533b(c) requires that any physical surveillance of an individual by the FBI be only for the purpose of an investigation authorized by the charter and that it be only for the purpose of that investigation.

Subsection (d) of section 533b is designed to insure that the search warrant requirements of Rule 41 of the Federal Rules of Criminal Procedure are complied with in connection with any mail opening and that Postal Service regulations governing mail covers are followed. It also requires Attorney General guidelines governing the use of these techniques.

Subsection (e) restates the existing requirement that statutes requiring judicial warrants for electronic surveillance, such as chapter 119 and 120 of Title 18 of the Code, be complied with. While virtually all electronic surveillance under the charter will fall within the provisions of chapter 119 concerning criminal investigations, the broader reference to applicable law is used since some terrorist cases involving groups which cross international boundaries fall within the terms of the Foreign Intelligence Surveillance Act, the new chapter 120.

Subsection (f) authorizes the FBI to issue investigative demands for documentary materials that are in the custody of third parties such as communications common carriers, insurance carriers or agents, or credit institutions that fall outside the Financial Privacy Act of 1978. Precedent for this authority can be found in the Inspectors General Act of 1978. That Act created the position of Inspector General in a dozen federal agencies and granted subpoena powers for use in both civil and criminal investigations. Similar authority exists in seciton 1968 consents, an authorized investigative demand has been issued, or there is a subpoena or court order to produce the records.

There must be a reason to believe that the records are relevant to a criminal investigation under section 533 and a copy of the demand must be served on the subject of the records or mailed to his last known address prior to, or at the time the demand is served on the custodian. As described below, this notice may be delayed, in certain circumstances, only upon a written finding of the Attorney General. The provisions of this subsection will provide greater uniformity of procedures throughout the country, and more importantly, will end the practice of relying on informal access to acquire needed record information.

The reasonableness of an investigative demand would be measured by the same rules that apply to a subpoena duces tecum in connection with a grand jury investigation. Further, the applicability of a privilege barring disclosure of the records would also be measured by this same test.

The Attorney General or his designee would be empowered to delay notice to the record subject upon a written finding that the investigation is within the lawful jurisdiction of the FBI and there is reason to believe the records are relevant to the investigation and that there is also reason to believe that notifying the subject would result in: (1) endangering life or physical safety; (2) flight from prosecution; (3) destruction or tampering with evidence; (4) intimidation of potential witnesses; or (5) otherwise seriously jeopardizing the investigation or delaying a trial or other official proceeding then underway. Notice could be delayed for periods up to 90 days.

The record subject notified of an investigative demand by the FBI would be authorized to challenge the demand promptly before a U.S. Magistrate on legal grounds, including an argument that the records are not relevant to a lawful investigation.

A record custodian on whom a demand has been served would be obligated to make the records available for inspection or reproduction. If the demand includes a finding that notice to the subject must be delayed, the custodian would also have an obligation to take reasonable steps to prevent disclosure of the existence of the demand to the record subject. The Attorney General would be authorized to enforce investigative demands upon application to the U.S. Magistrate in the appropriate district. A Magistrate's decision on the lawfulness of the demand would not be appealable.

In addition to providing authority for investigative demands with respect to insurance, communications toll, and credit records outside the scope of the Right to Financial Privacy Act, the charter would also explicitly authorize the FBI to issue demands within the terms of, and in accordance with the procedures of, the Right to Financial Privacy Act. Unlike the Internal Revenue Service, the Securities and Exchange Commission, the Inspectors General, and certain other federal enforcement agencies, the FBI has never had such authority and thus is handicapped in enforcing the law in instances in which financial records are important. Without in any way altering the Right to Financial Privacy Act, the charter would permit the FBI to use investigative demand authority recognized in that Act.

The provisions of the charter, like section 1117(c) of the Right to Financial Privacy Act, protect a third party record custodian from liability for disclosure of a record in good faith reliance upon an investigative demand issued by the FBI.

Paragraphs (10) and (11) of subsection (f) also follow the Right to Financial Privacy Act in exempting from the requirement of notice to the record subject, requests dealing only with the name, address, account number or type of account, and in providing that the procedures provided under the Federal Rules of Civil and Criminal Procedure are not affected by the investigative demand provisions.

Section 533b(g) restates the existing requirement of compliance with the Tax Reform Act of 1976 in seeking tax returns or return information from the Internal Revenue Service. Thus, the formal request for records and the procedural requirements of that Act must be followed. Further use or dissemination of those records will continue to be governed by § 6103 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 6103) and any regulations promulgated thereunder.

Subsection (h) addresses generally the subject of sensitive investigative techniques not separately covered in the charter. It limits the use of techniques such as electronic location detectors (beepers), covert photographic surveillance and pretext interviews to criminal investigations authorized under section 533 and requires Attorney General guidelines governing the use of these techniques.

Section 533c acknowledges the authority of the FBI to retain information it collects when pertinent to and within the scope of the responsibilities defined in the charter. With respect to information collected in the course of criminal investigations under section 533, the FBI is authorized to disseminate the information to federal agencies, or state or local criminal justice agencies if the information is within the investigative jurisdiction of the agency, may assist in preventing a crime, reflects on the integrity of a member of a criminal justice agency, is required to be disseminated under Executive Order 10450 (concerning security of federal employees), or is otherwise permitted to be disseminated under the terms of the Privacy Act or Executive Order 10450.

It is important to note, however, that any such dissemination must be consistent with the provisions of the Freedom of Information Act and the Privacy Act and must comport with guidelines issued by the Attorney General. Further, the dissemination under Executive Order 10450 referred to here relates only to information collected in the course of a criminal investigation—not all information in the possession of the FBI.

Section 533c also contains an explicit requirement for the FBI to destroy records compiled in the course of criminal investigations ten years after the close of the investigation or of a prosecution in which it results. In lieu of destruction, the records could be transferred to the Archives for historic preservation, in appropriate cases.

Exceptions to the ten year retention period would be required when necessary to pending or anticipated litigation—civil or criminal—when there is a pending Freedom of Information or Privacy Act request, or when retention is required under the record keeping provisions of the electronic surveillance act. Further, the Director of the FBI could permit retention of records beyond the ten year period if the file is needed for "investigative reference" (for example, in the organized crime field), is to be used as a training aid, or is needed for an administrative purpose within the FBI.

Section 534 is designed to embody as permanent legislation the provisions to facilitate undercover operations temporarily adopted as part of the Department's 1979 authorization. In essence, it allows the FBI to exempt from normal procurement restrictions those undercover operations which cannot be successfully carried out under such restrictions. These are detailed in a lengthy memorandum to the Attorney General, dated July 27, 1978, which was furnished to the Congress.

They include such provisions as 31 U.S.C. 484 which would otherwise require that gross receipts of an undercover operation be deposited in the Treasury without any deduction of expenses; 18 U.S.C. 648 and 31 U.S.C. 521 which limit authority to deposit cover funds in a bank or financial institution; 31 U.S.C. 665(a) and 41 U.S.C. 11(a) which restrict government leases to the current fiscal year; 31 U.S.C. 529 and 41 U.S.C. 255 which could be construed to limit authority to make advance payments on leases; specific restrictions on leases in the District of Columbia, 40 U.S.C. 34 and 40 U.S.C. 71 *et seq;* provisions which require specific clauses to be contained in government contracts or leases, 41 U.S.C. 22, 254 (a) and (c); and similar provisions which cannot be complied with because the government must conceal its participation in an undercover activity. Section 534 specifies that these exemptions from existing law are to be used only when necessary and that their use is to be governed by Attorney General guidelines. Further, the liquidation of any sizeable proprietary would be subject to review by the Attorney General and the Comptroller General.

To safeguard against new procurement restrictions unintentionally limiting the conduct of undercover operations, section 534 requires that any such law express a clear intent to modify any of the authorities the section provides.

Subchapter V of the new FBI chapter deals with investigative responsibilities of the FBI outside the criminal field.

Section 535 confirms the authority of the FBI to investigate in civil cases within the enforcement responsibility of the Department of Justice, such as civil fraud, civil rights, and civil antitrust matters. It makes clear that this investigative authority is not limited to cases brought by the Department but extends to matters in which the United States is the defendant, such as tort cases, or matters in which the United States intervenes, as in certain civil rights cases. These investigations would be conducted on request of the Attorney General or his designee.

Section 535a permits the FBI to collect information relating to serious civil disorders and those demonstrations which require some form of federal permit or federal assistance. Under chapter 15 of Title 10 of the U. S. Code, the President is authorized to use troops to enforce federal law or protect civil rights and to provide troops to assist the States in the event of a civil disorder. The Attorney General advises the President whether the facts of a particular disorder warrant this form of intervention. Section 535a authorizes the FBI to acquire these facts.

The section also recognizes that certain entirely lawful and peaceful demonstrations impose responsibilities on the federal government to issue parade permits, restructure traffic and parking patterns, and insure adequate health and safety facilities. To discharge these responsibilities the government must have information concerning the number of demonstrators expected, how they plan to travel to the site, how long they will stay, etc. The charter would permit the FBI to acquire this information with the specific approval of the Attorney General or his designee.

Section 535a requires the FBI to limit its collection of information in these instances only to facts which will assist the Attorney General in determining whether the use of troops or the provision of federal assistance is required. The Attorney General would be required to enforce guidelines (which have already been issued) to insure that information is collected insofar as possible from publicly available sources and that mail surveillance, electronic surveillance, access to third party or tax records is not used to collect this information in connection with civil disorders except with his approval in exigent circumstances.

Under no circumstances may these techniques be used to collect information on demonstrations. Further the guidelines must provide that information will be stored in a manner that minimizes its retrieval by reference to a specific individual. Thus, information about a demonstration would be indexed by reference to the event, not the individuals participating.

Section 535b authorizes the FBI to conduct complete background investigations, as distinguished from simply checking existing files and records, under certain limited circumstances. It substantially reduces the FBI's role in this regard. As explained hereafter, statutes authorizing the FBI to conduct background investigations for certain agencies are being repealed.

Background investigations would be authorized for persons being considered for appointment to positions requiring the advice and consent of the Senate. These investigations would be initiated only on written request of the President or his designee or, in transition years, a President-elect or his designee. The individual to be investigated must have consented to being considered for the appointment.

If the President or his designee certifies that a position in the Executive Office of the President requires access to classified information, the FBI would also be authorized to conduct a background investigation of a person being considered for appointment to that position, but it would not investigate all appointments to the White House staff of other positions in the Executive Office of the President.

The FBI would also be authorized to investigate the background of those who apply for appointment in the FBI or those being considered for positions in other parts of the Department of Justice which the Attorney General determines require a full field investigation. Judicial nominees would also be investigated, upon request of the officials in the Department of Justice who process judicial appointments for the President. On request, the FBI would also continue to conduct background investigations of pardon applicants. It would also be authorized to conduct background investigations of others, such as defense attorneys in certain cases, who the Attorney General determines must be given access to classified information.

In 1977 and 1978, the FBI conducted background investigations for appointment to the staff of twelve separate congressional committees. The charter would reduce this number substantially by providing for investigation, at the request of the Committee Chairman, only for the Appropriations Committees and the Committees on the Judiciary of each House, and the two intelligence committees. It would also authorize investigations for members of the staff of the House and Senate leadership.

Investigation would be authorized only for those potential staff members the requesting official certifies must be given access to classified information. It is recognized that Congress may wish to provide for background investigations of the staff of certain other, temporarily created, committees but it is expected that this would be done by the resolution creating the committee. The FBI would be reimbursed for this service to the Congress.

Similarly, the FBI would continue to conduct background investigations, on request of the courts, but only for those being appointed to the quasi-judicial positions of magistrate or bankruptcy judge, or persons being appointed under the courts special authority relating to special prosecutors.

Section 535c authorizes the FBI to continue providing information from its files to assist other federal agencies conducting background investigations. This authority would extend not only to the traditional national agency checks connected with government employment, but also to security clearance checks of contractors and their employees, others having access to classified information, and persons being checked by the Secret Service in connection with access to the White House or other buildings under its protection.

Federal agencies checking applicants for grants or loans would also be permitted to request a review of FBI files if the Attorney General authorizes this practice. Presently, the Small Business Administration uses a check of FBI files to protect against inadvertent funding of businesses established by organized crime. This is an example of the type of check contemplated in section 535c.

Section 535d permits the FBI to perform special service functions, most of which it is already performing without explicit statutory recognition. For example, it authorizes investigative assistance to the Appropriations Committees of the Congress, the Judiciary Committees and the Intelligence Committees, if the Committee Chairman requests such assistance and the Attorney General or his designee approves.

Assistance to the Department's Office of Professional Responsibility and other components of the Department of Justice would be authorized, as well as assistance to Grand Juries conducting investigations of matters to which the investigative jurisdiction of the FBI extends. When approved by the Attorney General or his designee, the FBI could also provide investigative assistance to other federal law enforcement agencies or to state or local law enforcement agencies if the assistance is necessary and serves a substantial federal interest. Finally, section 535d authorizes the FBI to provide protective services on request of the Attorney General, either for the protection of officials of the Department itself, or the protection of witnesses of importance in Department cases.

Subchapter VI of the charter deals with the support functions which the FBI provides to the law enforcement community in general—foreign as well as federal, state and local.

Section 536 replaces the existing training authority of the FBI set forth in 42 U.S.C. 3744. It authorizes the FBI to train its own personnel as well as law enforcement and criminal justice personnel of other federal agencies, foreign governments, and state or local agencies. The term, law enforcement personnel, includes personnel who have responsibility for personnel and physical security of installations, agencies, foreign governments, and state or local agencies. The section also authorizes the FBI to conduct or contract for research and development related to law enforcement and to exercise procurement authority related to its investigative responsibilities.

Section 536a expressly authorizes FBI foreign liaison activities. It recognizes the presence of the FBI Legal Attachés abroad. It authorizes the FBI to make inquiries of foreign law enforcement agencies on its own behalf and on behalf of other federal agencies conducting criminal or background investigations. It permits the FBI to perform this same function of forwarding inquiries to foreign law enforcement agencies on behalf of state or local law enforcement agencies, but limits this authority to criminal investigations only.

The FBI would also be authorized to conduct investigations in the United States, at the request of foreign law enforcement agencies, to locate fugitives or obtain information to assist the foreign government in a criminal investigation but this could be done only with the approval of the Director or his designee. The FBI could investigate for a foreign agency only if the underlying conduct is proscribed in American criminal law (State or federal) and it would be subject to the same restrictions on sensitive techniques that govern its own investigations.

The FBI would be permitted to exchange criminal investigative information, technical and scientific information from its files with foreign agencies conducting criminal investigations. The reference to security as well as law enforcement agencies in connection with this particular provision recognizes that in some countries it is the security agency rather than the regular police agency that has responsibility for terrorist matters.

Finally, the FBI is authorized to assist foreign law enforcement and security agencies in conducting background investigations relating to government employment, security clearances, licensing, visas or immigration. The foreign agency would be required to give assurances that the individual has consented to the investigation and that it is being conducted for one of the enumerated purposes. With these assurances the FBI would provide the needed information to the foreign agency.

Section 536b expressly authorizes the technical assistance functions now performed by the FBI. It permits identification assistance in civil disaster and missing person cases, at the request of another federal agency or a foreign, state or local agency. Such assistance could also be provided on request of a railroad or airline. The FBI would be authorized to provide laboratory, identification, technical and scientific assistance in federal investigations, whether civil or criminal, and in state and local criminal investigations.

Expert testimony could also be provided in court proceedings in the United States and abroad to support the identification, technical or scientific assistance rendered. Further, section 536b would permit the FBI to conduct "sweeps" of federal buildings at the request of a federal agency, a congressional committee or a U.S. court to detect electronic surveillance.

Additional authority to provide scientific or technical analyses at the request of federal, state or local agencies would be provided where the material to be analyzed is of historic significance. While this authority would seldom be used, there are instances where the FBI's capability in, for example, the document inspection area, would make it appropiate to conduct such an examination.

Section 536c expands upon the authority in the present 28 U.S.C. 533 (2) to provide protective assistance to the Secret Service. It would authorize the FBI to provide such assistance in connection with all protectees of the Secret Service, not just the President, and would also explicitly provide for informational and investigative assistance in connection with protective responsibilities.

The FBI could only conduct investigations at Secret Service request, however, if the provisions of section 533 are met. It should be emphasized that this cooperation with Secret Service is in addition to the responsibility of all federal agencies to provide assistance to the Secret Service under Public Law 90–331.

Section 536d restates the authority contained in the present 28 U.S.C. 534 to exchange crime records with criminal justice agencies. It recognizes that the FBI collects civil fingerprint records (which includes, among others, military fingerprints of a non-criminal nature) as well as criminal records and that crime statistics, stolen property records and missing person records are collected also. The reference to criminal statistics specifies that these shall be collected only to the extent authorized by the Attorney General so as to insure that there will be no duplication of effort if a criminal statistics office is created elsewhere in the Department of Justice.

The FBI would be authorized to exchange the information collected with criminal justice agencies of federal, state or local government (including law enforcement prosecutors, courts and parole officers) and also with law enforcement or security agencies of foreign governments. Non-governmental law enforcement organizations, such as railroad police, who are authorized by state statute to investigate crimes and make arrests would also be able to obtain this information. The section makes is explicit that criminal justice agencies may obtain such information not only for law enforcement purposes but also in checking the background of persons they employ or intend to employ.

Exchange of records for purposes other than criminal justice are authorized in section 536e. Fingerprint records and rap sheets held by the FBI would be permitted to be exchanged with federal agencies having licensing, registration, visa, immigration or passport responsibilities. The authority contained in Public Law 92–544 to exchange such records with federally-chartered or insured banking institutions and with state or local agencies authorized by state statutes to obtain such information for employment or licensing purposes would be continued. Section 536e also cross-references the authority of securities industry clearing houses to obtain this information.

Finally, exchange with foreign governments for purposes of administering visa, immigration or passport laws would be permitted. With respect to all of these exchanges for purposes other than the administration of criminal justice (including the employment checks for federal agencies authorized by section 535c), no arrest record more than a year old could be disseminated if it failed to reflect the disposition of the charges, i.e., dismissal, acquittal, diversion, conviction, etc. This limitation on the exchange of stale arrest records expands the policy of 28 C.F.R. § 50.12 to cover exchanges with federal agencies as well as state and local.

Section 536f requires the Attorney General to adopt guidelines for the disposition of unsolicited information which is received by the FBI, but does not relate to its functions. Such information could not be retained except for the limited time period needed to determine whether in fact the information relates to FBI responsibilities and perform administrative duties relating to the logging of correspondence.

Section 537 authorizes the Director of the FBI to impose a civil penalty on any employee of the FBI who intentionally uses any of the sensitive investigative techniques described in section 533b in knowing violation of the charter. These techniques include the use of informants or undercover agents, physical surveillance, mail surveillance, electronic surveillance, investigative demands for records, trash covers, pretext interviews and covert photographic surveillance. The penalty would be in addition to the Director's normal disciplinary authority. With respect to present employees, the Director would be required to afford procedural due process equivalent to that provided in the Civil Service Reform Act. In imposing a civil penalty on a former employee, the Director would be required to follow the normal procedures of the Judicial Code governing the recovery of civil fines, penalties and forfeitures. 28 U.S.C. 2461–2465.

Section 537a makes clear that the FBI charter is not intended to create any new causes of action or to provide an independent basis for motions to quash or to exclude evidence. The disclaimer does not affect existing causes of action or suppression claims.

Section 537 also restates the penalty clause of the present 28 U.S.C. 534 concerning the cancellation of FBI records exchange with any agency which improperly disseminates records received from the FBI.

Section 537b provides that guidelines established to implement the charter and procedures, manuals and operational instructions developed by the FBI can be protected from public disclosure in those instances in which disclosure would jeopardize the investigative process. Otherwise, all guidelines shall be made public.

Section 537c affirms the obligations of the Attorney General and the Director of the FBI to keep the Judiciary Committees of the Congress advised of FBI activities in order to facilitate their oversight role. It requires an annual report to the Congress concerning the investigative activities of the FBI and reduces to statutory form the present commitment of the Attorney General to provide copies of proposed guidelines to the Congress for review and comment.

Most of the remaining sections of the bill consist of technical amendments to various portions of the U.S. Code and repealers of certain statutes.

Section 7 makes a number of conforming amendments in Title 28 to restate provisions displaced by the new chapter 33. It creates a new section 513A in Title 28 to make clear that the Attorney General retains the investigative authority presently conferred on him by 28 U.S.C. 533. In addition, it adds a new provision directly empowering the Attorney General to protect the confidentiality of informants and investigative sources and methods. This language makes explicit the authority of the Attorney General to assert a claim of privilege in the courts. It is not intended to affect the power of the federal courts to rule on claims of privilege or to apply presumptions or sanctions authorized by the Federal Rules of Criminal Procedure.

The remainder of the new section 513A restates the provision presently found in 28 U.S.C. 535 concerning the reporting by federal agencies of violations of law by their employees. Section 7 of the bill adds another new provision to chapter 31 of Title 28 making explicit the Attorney General's responsibility to insure that FBI investigations are conducted in accordance with law and do not abridge constitutional rights.

Section 12 establishes an effective date for the charter and related amendments, which would enter into effect 90 days from the date of enactment.

Mr. THURMOND. Mr. President, I join in the introduction today of legislation to establish a statutory charter for the Federal Bureau of Investigation. I have agreed to join in the cosponsorship of this legislation at the request of Judge Webster, Director of the FBI.

In my opinion, there is no finer law enforcement agency in the world than the Federal Bureau of Investigation. During its nearly six decade history as the chief investigative arm of the Department of Justice, the Bureau has established a distinguished and respected record of law enforcement activity.

Unfortunately, Mr. President, in the last several years the FBI has suffered a tarnished image as America's No. 1 Federal law enforcement agency. Much of the criticism comes, in my opinion, unjustly. Some of it, however, may be justified in light of the Watergate affair. But overall, the FBI does not deserve the disparagement and censure to which many have subjected it.

That is why I have agreed to support the legislative effort to establish a charter for the FBI. The Bureau needs to have its authority and mandate renewed and strengthened in view of the events of recent times.

For the greater portion of the Bureau's existence it gained its strength and respect from its founder and head, the late J. Edgar Hoover. It was Director Hoover who brought the FBI to its international status and set the tone and direction of the agency. Although the FBI had no original enabling legislation of its own, its presence as the chief law enforcement agency of the Federal Government within the Department of Justice made it directly responsible to the Attorney General, and in some cases, to the President of the United States. Fortunately, Director Hoover stood in the way of many Presidents who sought to use the FBI for their own political purposes.

Today, the Bureau is without Director Hoover. No Director since has been able, because of public opinion and politics, to regain the rigid control over the FBI and its activities as Hoover had. Thus, the FBI needs added authority from Congress to continue in its important duties and responsibilities.

The charter introduced today should serve as a congressional guide for the conduct of the Bureau. It should not be viewed as a list of congressional "do's" and "don't." The task of investigating and enforcing our numerous Federal laws should not be hampered by an ironclad statute to be obeyed like a religious decree. No law enforcement officer or agency can be expected to protect the citizens of this Nation if it must become bound by statutory restrictions and limitations. There must be room for flexibility within the overall purposes of the charter.

Mr. President, for the most part this proposed charter allows for guidelines to be set down as general congressional principles to be observed by the FBI. At the same time, the Bureau receives some direction from the Congress as well as authority to proceed in areas where recently inaction has been the rule.

The recent proliferation of Freedom of Information lawsuits, a rapid increase in civil actions against individual agents for their conduct while Federal agents, and the general contempt held by some for certain activities of the Bureau have caused a chilling effect on the FBI and diminished greatly the morale of its agents and employees. It is my sincere hope that this charter will help return some of the pride and esteem that FBI employees may have lost because of these recent actions.

Mr. President, there are some areas of the charter that I may wish to see amended, as I expect other Senators do also. For example, I am deeply concerned about the ability of the FBI to investigate the background of persons working in the Pentagon and other Federal agencies where classified and sensitive information is kept. There are doubts in my mind that adequate efforts are being made to screen Communist and Marxist agents who seek to gain employment in sensitive U.S. agencies.

I am also concerned about the efforts of the FBI and its ability to investigate and keep track of subversive and terrorist organizations that operate almost unfettered in this country. Domestic security investigations have been reduced substantially within the last few years because of first amendment considerations. I am sensitive to first amendment rights and the protections they deserve as guaranteed by our Constitution, but to permit either extreme left-wing or right-wing groups to operate within the borders of the United States unwatched concerns me. There have been too many acts of open violence and terror in recent years to let these groups go without investigation.

In addition, certain provisions of the proposed charter providing for the security and privacy of criminal justice information need improving. There should be additional authority and regulations governing the use and storage of fingerprint cards and other criminal history information. Standards should be established to assure the security and privacy of all information used by law enforcement agencies.

Mr. President, these and other concerns can be resolved, I think, during the consideration of the charter legislation in the Judiciary Committee. I look forward to the hearings on this legislation and eventual enactment by the Congress.

Mr. BIDEN. Mr. President, I am happy to join the distinguished chairman of the Judiciary Committee in introducing today legislation to create a statutory charter for the FBI. Senator KENNEDY and the administration, especially the staff of the Deputy Attorney General and the Director of the FBI should be congratulated for their tireless efforts to develop this historic document.

On the whole, I find that the bill meets the ultimate test for a legislative charter for a law enforcement or intelligence agency—it establishes the basic rights and responsibilities of the agency in clear and unambiguous terms without jeopardizing the rights of Americans. If enacted, this legislation will end the quandry of the FBI official who came before the Church committee and complained that FBI agents are "damned if they do and damned if they don't" by Congress. He was complaining about the predicament of the FBI agents in the absence of a charter, where critics depending upon their point of view either fault the FBI for doing too little or too much.

Although I am generally pleased with the outcome of the 9 months of negotiations between the Department and Senator KENNEDY's staff, as chairman of the Rights of Americans Subcommittee of the Intelligence Committee and the Criminal Justice Subcommittee of the Judiciary Committee, I do have some problems with the bill which I intend to pursue in committee. First, I believe the standard that the bill would use as a threshold for investigations of alleged terrorists may be too loose. Second, I am disturbed that there is no civil remedy or criminal penalty for violation of the charter. Third, I do not believe that the charter adequately addresses the matter of information sharing with State and local law enforcement agencies.

As a general proposition the FBI charter tracks the recommendation of the Church committee report on intelligence activities and the rights of Americans issued in the summer of 1976. That report was based upon the investigation and hearings of the Church committee on such FBI abuses as Cointelpro the smear campaign wage by the Bureau against Dr. Martin Luther King, Jr. It contained almost 100 carefully crafted recommendations for a charter to protect Americans from intelligence agency excesses. Almost half of those recommendations were specifically directed at the FBI and for the most part form the basis for this charter.

However, in one subtle but important respect the charter departs from the Church committee. In recommendation 44 the Church committee recognized the need to allow the FBI to go beyond the so-called "criminal standard" (limiting investigations to actual criminal acts) and allow the FBI to investigate activity which is not yet criminal. The Church committee recognized that some activity, primarily violent terrorist activitiy or clandestine intelligence activity by a hostile foreign power must be monitored even if the activity itself is not actually criminal. However, the Church committee insisted that there be reason to believe that the subject of the intelligence investigation will soon engage in the illegal terrorist activity. The purpose of this restriction is to keep the FBI out of the investigations of alleged "subversives" who have violated no criminal laws—the pretext under which Dr. King was investigated. Without the "soon" restriction the FBI could investigate a subject out of fear that he might engage in terrorist activity (overthrow of the Government) some time in the indefinite future.

Second, the Church committee assumed that any charter would be enforceable by a civil remedy. Victims would be able to sue the FBI and individual agents for damages and injunctive relief. Furthermore, the Church committee recommended that criminal penalties ought to attach to the more serious violations. The proposed charter contains neither sanction. Indeed, the charter explicitly provides that nothing be construed to even imply any new causes of action.

Proponents of the charter contend that criminal penalties are unnecessary and that internal disciplinary procedures are adequate to sanction violations. However, in truly heinous situations, such as the smearing of someone of the stature of Dr. King I am not sure that the American public would be satisfied with firing or reducing the pay of a responsible official.

On the matter of civil remedies proponents of the charter contend that the Department has been attempting to develop amendments to the Federal Torts Claims Act which would create a civil remedy against the Government for so-called "constitutional torts" which might be the same as some of the prohibitions in the charter. My two concerns are that the Justice Department's idea of what a constitutional tort is is so narrow that it would not create a remedy for an innocent American who is smeared by the FBI. Constitutional torts are often viewed as only violations of the fourth amendment not the first amendment. Therefore, an effort by the FBI to disrupt a legitimate political group although prohibited by the charter may not be the subject of a civil remedy. My other concern is that the tort claims bill may not be enacted. Therefore, I would rather that the tort claims bill be consolidated with the charter and that it be broadened to cover many of the more serious prohibitions covered in the charter.

Finally, the charter fails to deal with an issue which is of perennial concern to the FBI and State and local law enforcement officials. Since the late 1960's the FBI has been attempting to develop a centralized system for the collection and exchange of arrest records for all of the Nation's law enforcement agencies. This is an extremely laudable and important project. However, the system has never really gotten off the ground because it raises serious privacy and federalism issues.

For example, who should have ultimate control over records which actually belong to the States and may be subject to conflicting State privacy and records laws. Likewise civil liberties groups were concerned that this was the first step in the creation of a national databank on citizens. Furthermore, there was concern that the system would contain inaccurate and incomplete information on innocent people that would be used to deny them jobs or prompt police to suspect them of crimes they did not commit.

The resolution of the privacy and federalism questions raised by the FBI computer known as the National Crime Information Center (NCIC) was a project undertaken by former Senators Ervin and Hruska at the Constitutional Rights Subcommittee. They conducted hearings in early 1974 and developed legislation which resolved many of those concerns but the legislation died with their retirement. Since that time Senator THURMOND and I have become interested in their efforts and plan to propose amendments to the charter which would resolve many of these questions. I feel strongly that we must resolve these difficult questions so that the FBI can provide this much needed FBI service to State and local law enforcement.

In conclusion, although these concerns are significant I do not believe they vitiate the substantial contribution that this bill will make to the law. I am confident that with the adoption of amendments in the three areas I have described that this charter will be a major improvement from both the law enforcement and civil liberties perspective.

● Mr. BAYH. Mr. President, today the Congress begins consideration of legislation to provide a charter for the Federal Bureau of Investigation.

American democracy is solidly built on a legal system which is a contract between the people and their government. This contract is based on a collective social agreement which expresses the fundamental values upon which our society is founded and which provides a framework for the structure of our institutions.

The values which the Founding Fathers embodied in the Declaration of Independence, the Bill of Rights, and the Constitution are grounded in a basic belief in the dignity of individuals and the critical importance of freedom of action and thought as a prerequisite for individual development. They saw that a government which represses the individual spirit was antithetical to every principle for which the American Revolution had been fought, and this country founded. Thus, the basis for the American contract was the government's respect and support for individual rights, and an insistence that these rights would be the primary element in any balancing test which weighed the interests of society as a whole against the interests of the individual.

There are many situations where the interests of society must predominate over those of the individual. To paraphrase Justice Holmes, it is impermissible to allow people to falsely shout "fire!" in a crowded theater. This example illustrates the necessity of distinguishing between a situation which is clearly and immediately harmful to society from one which is not or is only speculatively so.

The FBI charter is another effort to clarify the contract between Americans and their government in an area which has serious implications for the rights of individuals in our society—that of law enforcement.

Since this is a Government of laws and not men and women, it is important to address both the principles of our law enforcement activities and their operation in a document which clearly describes the needs and conduct of the federal law enforcement process. In this way, it is possible to protect the individual from unknown intrusions into his or her activities or thoughts, and, as well, give guidance and encouragement to law enforcement officials to conduct their business with a high degree of sensitivity to the balancing process. By establishing a charter, these public servants will not be operating in the dark, as they have in the past, under vague statutory or Presidential exhortations which provide no guidance to the agent in the field, or the official who has to review the actions of that agent. They will have a statute, legislative history and guidelines developed and approved by the Attorney General which will make clear the intent of the statute.

Mr. President, this Charter is a long needed and awaited document. It represents the efforts of two administrations to come to grips with the problems of defining the FBI's proper role in our Government. That effort began under former Director Clarence M. Kelley and former Attorney General Edward H. Levi, who developed the first guidelines for FBI investigations. Under their leadership the FBI moved decisively away from its past investigations of lawful political activity and dissent.

Director William H. Webster deserves great credit for making the FBI charter one of his highest priorities upon taking office last year. He has made the vital commitment that the FBI will operate within the charter enacted by Congress, and will resist efforts to force the FBI to operate outside its bounds.

I also want to express my admiration for the contributions that have been made to the FBI charter enterprise by the outgoing Attorney General, Griffin Bell, and his successor, Benjamin Civiletti. They have worked with Director Webster to keep the FBI on track in its current activities and to lay the foundation for permanent charter legislation.

The distinguished chairman of the Committee on the Judiciary (Mr. Kennedy) has, through his insistence on the development of an FBI charter, played a key role in bringing these issues before the Congress. I look forward to working closely with him and with the other members of the committee in completing this task.

There is much work ahead of us. In addition to a charter for FBI law enforcement activities, there is also a need to define by law the FBI's intelligence responsibilities. The Select Committee on Intelligence, which it is my privilege to chair, is addressing this issue. Our objective must be to establish a firm statutory foundation for all FBI functions.

I fully support the concept of an FBI charter and the basic outlines of the measure that is introduced today. However, there are certain issues which need clarification before the charter is enacted into law. These issues appear to require changes in the language of the statute itself, so that they are resolved by the law and not merely by legislative history or guidelines. They fall into several general areas: Investigative techniques and standards in preliminary inquiries and full investigations, infiltration of groups, and the purposes and principles of the charter.

First, on the issue of investigative techniques and standards, I feel strongly that intrusive techniques such as infiltration, investigative demands and mail covers, should be prohibited across the board in preliminary inquiries. There is a substantive difference between a preliminary inquiry and a full field investigation. An inquiry may be started on the basis of mere allegations, or fragmentary information, without even a reasonable indication of any criminal activity. The standards for a preliminary inquiry, in contrast to a full field investigation should be described in the statute itself. Such a description should include the limitation on techniques described above.

With respect to full investigations, which may involve the use of intrusive techniques, the standard should be drawn from the Supreme Court's decision in Terry against Ohio. In that case the Court held that a law enforcement officer cannot engage in significant intrusions upon personal privacy, such as a "stop and frisk," without clear justification based on "specific and articulable facts." Attorney General Levi adopted this standard for the first FBI guidelines. Therefore, the fundamental statutory authority for all full field investigations using intrusive techniques should include the specific language "specific and articulable facts or circumstances," and the guidelines should also embody this principle. In addition, the duration of an investigation as well as its scope and intensity, should be determined by the nature and quality of information on which the investigation is based.

Special problems are posed by investigations of future crimes for the purpose of preventing those crimes. Such investigations must be carefully controlled so that law enforcement officials may act when criminal activity is anticipated in the future but with safeguards against open-ended investigations. If, within a reasonable period of time, the FBI cannot find enough evidence to show actual criminal activity, an investigation should be reviewed at higher levels.

Thus, in all investigations of future crime, the statute should require that:

> The guidelines for inquiries and investigations in which the person or enterprise has not engaged, or is not engaged, in criminal activity shall designate officials to review such inquiries or investigations at period intervals, at least annually. Such review shall consider the likelihood, immediacy and magnitude of the threatened criminal activity, and will be especially sensitive to any potential first amendment implications.

In full field investigations of general crime, I would propose that the standard for a future crime would be "about to" be committed, rather than "will be" committed in order to trigger an investigation. The word "will" is vague and open ended. The term "about to" conveys the idea of "clear and present danger" which may justify more significant intrusions into the privacy of an individual.

In terrorism investigations, "preparation" should be the standard for investigating alleged potential terrorist threats. This concept requires a specific intent to engage in terrorist activity. A similar "preparation" standard was adopted by the Congress in the Foreign Intelligence Surveillance Act of 1978 for dealing with international terrorist threats. It strikes the delicate balance between individual rights and the need to anticipate future terrorist crimes.

Infiltration of groups is one of the most intrusive investigative techniques and must be controlled by responsible officials who are sensitive to minimization principles. Proposals have been made for a warrant requirement to protect against abuses of this technique. However, in my judgment, a warrant is not necessary if the Congress establishes a workable substitute. The use of informants is key to the effective law enforcement efforts of the FBI, but it is also a technique which is a very serious intrusion by the Government into the privacy of association. The principles controlling the use of this technique must be in the language of the charter itself.

Those principles include a finding of necessity and minimization procedure for infiltration of any group that is under investigation. The charter should also clarify the safeguards with respect to infiltration of groups to investigate individual members.

I am convinced that all those engaged in the charter enterprise are committed to the development of a workable mechanism for independent audit and review in the area of informants, consistent with protecting the safety of FBI informants.

Finally, it is important that the charter clearly expresses the solid purposes and principles on which it is based not only as policy objectives, but also as points of reference for interpreting particular provisions. The purposes should include firm statements. First, that FBI activities are to be accountable to the Attorney General, the Congress, and the people of the United States, and second, that means are to be established to insure that the activities of the FBI are conducted in accordance with the statute and guidelines.

To clarify the principle that the lawful exercise of constitutional rights must be respected, in all FBI investigations, the statute should state:

> Nothing in this chapter shall be construed to authorize the FBI to conduct any activity to interfere with the lawful exercise of any right protected by the Constitution or laws of the United States.

In addition, the minimal intrusion rule should require "minimal intrusion consistent with the need to collect relevant information," and the rule that the FBI shall not investigate solely on the basis of lawfully expressed religious or political views should include "private association" to express such views. The charter should also state that information obtained by the FBI shall be used only for lawful governmental purposes.

In conclusion, I want to emphasize my support for the charter effort. I am sure that the concerns I have raised will be addressed in the legislative process. None of these proposals would interfere with the FBI's ability to fight crime effectively. They are designed to protect innocent citizens whose privacy might be invaded without such safeguards. I am confident that the Congress, the Department of Justice, the FBI and the American people will engage in a fruitful debate which will result in a charter which will achieve the goals we all seek.●

By Mr. INOUYE (for himself, Mr. Magnuson, Mr. Hollings, and Mr. Warner):

S.J. Res. 101. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 7, 1979, as "National Port Week"; to the Committee on the Judiciary.

NATIONAL PORT WEEK

● Mr. INOUYE. Mr. President, the Senate joint resolution which I am introducing today authorizes the President to proclaim the week of October 7–13, as "National Port Week." An identical measure (H.J. Res. 303) is currently pending in the House, and passage is expected imminently.

Since the days of its early settlement, the United States has been dependent on water transportation for its trade. Populations tended to locate around harbors, which rapidly became the economic centers of the New World. Now there are some 170 commercial seaports in this country, as well as numerous inland ports on our navigable inland waterways. The result has been the creation of a network of ocean and inland ports that includes many of the country's most important centers of industry, distribution, finance, and education.

Ports provide the vital link between land and water carriers. The port industry contributes enormously to the Nation's economy. It facilitates international trade, employs significant numbers of people, provides substantial personal and business incomes, and generates revenues for State and local governments.

Presently the American port industry provides direct and indirect benefits to the economy:

Employment for 1,046,800 Americans;

Generates annual personal income of $19.2 billion and business income totaling $7.4 billion;

Produces some $4 billion in State and local taxes; and

Accounts for gross sales within the total national economy of $56 billion and a $30 billion contribution to the GNP.

In addition to the vital force that our ports have served in contributing to our national economic development, "National Port Week" will recognize the importance that our ports have played in serving as a basis for our Nation's defense. In time of war, or other national emergency, our ports, which represent a vital link in the national transportation system, would immediately put into effect a plan for Federal port control for efficient operation and utilization of port facilities, equipment, and services. The strategic importance of our ports has been apparent in every war in which the United States has become engaged. World Wars I and II, Korea, and Vietnam required unprecedented port activity in supplying military and civilian needs during and after these conflicts.●

ADDITIONAL COSPONSORS

S. 259

At the request of Mr. Nelson, the Senator from Colorado (Mr. Hart) was added as a cosponsor of S. 259, the Emergency Paperwork Reduction Act of 1979.

S. 458

At the request of Mr. Stafford, the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of S. 458, a bill to amend title XVIII of the Social Security Act for the purpose of including community mental health centers among entities which may be qualified providers of service.

S. 487

At the request of Mr. Nelson, the Senator from Colorado (Mr. Hart) was added as a cosponsor of S. 487, the Small Business Private Investment Act of 1979.

S. 524

At the request of Mr. Morgan, the Senator from Arizona (Mr. DeConcini), the Senator from Indiana (Mr. Bayh), the Senator from Alabama (Mr. Stewart), and the Senator from Vermont (Mr. Leahy) were added as cosponsors of S. 524, the Solar Energy Bank Act.

S. 653

At the request of Mr. Nelson, the Senator from Colorado (Mr. Hart) was added as a cosponsor of S. 653, the Small Business Capital Preservation Act of 1979.

S. 689

At the request of Mr. Talmadge, the Senator from Montana (Mr. Melcher) was added as a cosponsor of S. 689, a bill to amend title 38 of the United States Code to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for their surviving spouses and children, and for other purposes.

S. 913

At the request of Mr. Matsunaga, the Senator from Missouri (Mr. Eagleton) was added as a cosponsor of S. 913, a bill to amend the Social Security Act with respect to health programs authorized under it, and for other purposes.

S. 1055

At the request of Mr. Durkin, the Senator from Montana (Mr. Melcher) was added as a cosponsor of S. 1055, the Gold Coinage Act of 1979.

S. 1090, S. 1091, AND S. 1092

At the request of Mr. Talmadge, the Senator from North Dakota (Mr. Young) was added as a cosponsor of S. 1090, S. 1091, and S. 1092, bills to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 relating to church plans.

S. 1129

At the request of Mr. Kennedy, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 1129, a bill to amend the Comprehensive Employment and Training Act to provide a youth employment incentive program.

S. 1295

At the request of Mr. Baucus, the Senator from Hawaii (Mr. Inouye) and the Senator from Wyoming (Mr. Simpson) were added as cosponsors of S. 1295, a bill to amend title XVIII of the Social Security Act to provide for a program of voluntary certification for health insurance policies sold in supplementation of medicare.

S. 1371

At the request of Mr. Johnston, the Senator from New Mexico (Mr. Schmitt) the Senator from Florida (Mr. Stone), and the Senator from Vermont (Mr. Leahy) were added as cosponsors of S. 1371, a bill to provide for the formulation by the Congress and the President of a comprehensive set of energy consumption and production goals for the future.

S. 1383

At the request of Mr. Melcher, the Senator from Idaho (Mr. Church), the Senator from Michigan (Mr. Riegle), the Senator from Arizona (Mr. Goldwater), the Senator from Oklahoma (Mr. Bellmon), and the Senator from Nebraska (Mr. Exon), were added as cosponsors of S. 1383, a bill to amend title 23, United States Code, to establish uniform national standards for weight and length of vehicles using the National System of Interstate and Defense Highways, and for other purposes.

S. 1435

At the request of Mr. Nelson, the Senator from North Carolina (Mr. Helms), the Senator from South Carolina (Mr. Hollings), and the Senator from Iowa (Mr. Jepsen) were added as cosponsors of S. 1435, the Capital Cost Recovery Act of 1979.

S. 1446

At the request of Mr. Durkin, the Senator from Alabama (Mr. Heflin) was added as a cosponsor of S. 1446, a bill to provide funds for medium, small and nonhub airports.

S. 1465

At the request of Mr. Talmadge, the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 1465, a bill to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes.

S. 1467

At the request of Mr. Dole, the Senator from Missouri (Mr. Danforth) and the Senator from Oregon (Mr. Packwood) were added as cosponsors of S. 1467, a bill to amend the Internal Revenue Code to provide that retirement-replacement-betterment methods of accounting be used by a common carrier.

S. 1488

At the request of Mr. Nelson, the Senator from Montana (Mr. Melcher) and the Senator from Mississippi (Mr. Cochran) were added as cosponsors of S. 1488, the Individual Savings Act of 1979.

S. 1523

At the request of Mr. Thurmond, the Senator from West Virginia (Mr. Randolph) and the Senator from Montana (Mr. Baucus) were added as cosponsors of S. 1523, a bill to amend title 38, United States Code, to establish demonstration centers of geriatric research, education, and clinical operations within the Veterans' Administration.

S. 1549

At the request of Mr. Boren, the Senator from Minnesota (Mr. Durenberger) was added as a cosponsor of S. 1549, a bill to amend the Internal Revenue Code of 1954 to change the period for the payment of taxes under section 4161(a) of such code.

S. 1563

At the request of Mr. Durkin, the Senator from Nebraska (Mr. Zorinsky) was added as a cosponsor of S. 1563, the Department of Energy Sunset Act.

S. 1572

At the request of Mr. Helms, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of S. 1572, a bill to exempt family farms from the Occupational Safety and Health Act of 1970.

S. 1598

At the request of Mr. Nelson, the Senator from Utah (Mr. Hatch) and the Senator from Kentucky (Mr. Ford) were added as cosponsors of S. 1598, the State Social Security Deposit Act of 1979.

SENATE JOINT RESOLUTION 41

At the request of Mr. Burdick, the Senator from Colorado (Mr. Armstrong) was added as a cosponsor of Senate Joint Resolution 41, a joint resolution authorizing "National Family Week."

SENATE JOINT RESOLUTION 85

At the request of Mr. Schweiker, the Senator from Alaska (Mr. Stevens), the Senator from Mississippi (Mr. Cochran), the Senator from Florida (Mr. Stone), and the Senator from Pennsylvania (Mr. Heinz) were added as cosponsors of Senate Joint Resolution 85, a joint resolution to authorize and request the President to proclaim the week of September 16-22, 1979, as "National Meals on Wheels Week."

SENATE JOINT RESOLUTION 97

At the request of Mr. DANFORTH, the Senator from Colorado (Mr. ARMSTRONG), the Senator from Texas (Mr. BENTSEN), the Senator from Oklahoma (Mr. BOREN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Florida (Mr. CHILES), the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. DECONCINI), the Senator from Kansas (Mr. DOLE), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Alaska (Mr. GRAVEL), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Michigan (Mr. LEVIN), the Senator from Indiana, (Mr. LUGAR), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from South Dakota (Mr. McGOVERN), the Senator from Ohio (Mr. METZENBAUM), the Senator from New York (Mr. MOYNIHAN), the Senator from Illinois, (Mr. PERCY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Maryland (Mr. SARBANES), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors to Senate Joint Resolution 97, a joint resolution designating April 13 through April 19 as "Days of Remembrance of Victims of the Holocaust."

AMENDMENT NO. 212

At the request of Mr. SCHMITT, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of Amendment No. 212 intended to be proposed to S. 1020, the Federal Trade Commission Authorization bill.

SENATE RESOLUTION 214—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. KENNEDY, from the Committee on the Judiciary, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 214

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 643. Such waiver is necessary due to unforeseen refugee emergencies and factors that developed subsequent to the introduction of this legislation, requiring slightly revised authorizations.

SENATE RESOLUTION 215—SUBMISSION OF A RESOLUTION PROPOSING AN AMENDMENT TO THE STANDING RULES OF THE SENATE

Mr. MORGAN submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 215

Resolved, That the Standing Rules of the Senate are amended—

(1) by striking out rule XLII, and;

(2) by adding a new rule XLII as follows:

"RULE XLII: PUBLIC FINANCIAL DISCLOSURE

For purposes of this Rule, the provisions of Title I of the Ethics in Government Act of 1978 shall be deemed to be a Rule of the Senate as it pertains to Members, officers, and employees of the Senate.

EXECUTIVE AMENDMENTS SUBMITTED FOR PRINTING

SALT II TREATY—EX. Y, 96–1

EX. AMENDMENT NO. 5

(Ordered to be printed and to lie on the table.)

Mr. HART submitted an amendment intended to be proposed by him to the resolution of ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms, done at Vienna on June 18, 1979, Ex. Y, 96–1.

Mr. HART. Mr. President, a number of critics of the SALT II Treaty have expressed concern over the Protocol, fearing that the restrictions due to expire at the end of 1981 will automatically be extended for the duration of the treaty. The Protocol was intended to separate issues that posed special counting and verification problems from those on which there was promise of early agreement. We are in no way obligated to continue the Protocol's restrictions after it expires.

Because the issues involved are so grave and complex, I today formally offer clarifying language to the Resolution of Ratification that restates that the Protocol expires on December 31, 1981.

On May 24, I made some remarks on this subject. I ask unanimous consent that my statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR GARY HART

Mr. President, in March of 1978, I addressed this body about the duration of the Protocol to the SALT II Treaty. Since piecemeal attacks still persist on issues involved in the Protocol, it is worth repeating points I raised more than a year ago.

I am today proposing specific clarifying language to the Protocol. In brief, this clarifying language to the Resolution of Ratification will confirm, in unmistakable terms, the limited duration of the Protocol. I hope it will place some of the SALT critics' arguments in perspective.

A piecemeal attack on a single provision, viewed in isolation, may seem telling, yet prove to be of little weight in the context of the treaty as a whole.

Certainly all of us in the Senate learned in the course of our deliberation on the Panama Canal treaties that full knowledge and information are essential to sound judgment. This will be even more true in weighing the yet more sober and difficult issues implicit in a strategic arms agreement.

Much past criticism has centered on the agreement of May 1977 to divide the SALT accord into two parts: an 8-year treaty that will embody the key numerical limits, and a protocol expiring in December of 1981 to cover some qualitative controls affecting new systems still under development.

Although the limits of the protocol are widely viewed as advantageous to the United States, critics quickly branded the strategy as a "distinction without a difference." They argued that, once an agreement is reached, it will automatically persist, even though it expires by its own terms on a date certain. Even more distressing, they have charged that this position was deliberately conceived to avoid airing the most difficult and controversial issues before the Senate and the American people.

The division of the accord into treaty and short-term protocol is a superb negotiating strategy that warrants commendation and support instead of criticism. It provided a way to segregate issues on which there was promise of early agreement from other, more long-term issues. Those longer term issues involve systems still under development, which pose special problems of counting and verification, at least under today's ground rules.

The difference between treaty and protocol is not, therefore, a cosmetic one. It is a sparation of issues that are inherently different in both technical and political implications. It is not a diplomatic dodge, a concession to the Soviets, or political eyewash. In a very real sense, resolution of problems treated in the protocol may point the way to SALT III.

The fact that this line of demarcation between protocol and treaty is substantive adds to the importance of maintaining the distinction. I do not accept the blanket charge of some critics that the mechanism provides a way for the Administration to avoid addressing the tough issues with the Senate, with our European Allies, or with the American public. But I would not wish to see essentially tentative and temporary decisions embodied in the protocol slide, by simple fact of their existence, into permanence.

If these constraints ultimately become part of the treaty, there must be a positive decision to that effect; it must not occur by default. For this reason, I am offering, for consideration at the appropriate time in the process, clarifying language to the resolution of ratification in the following form:

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the understanding that nothing in the Protocol shall bind either of the Parties after the date of the termination of the Protocol, unless the Parties otherwise agree and approve such agreement, in accordance with their constitutional processes."

The purpose of this clarifying language will be to confirm, in unmistakable terms, the limited nature of the protocol; and to ensure that any commitment to extend or alter the protocol or any of its provisions is reached through the full, unconstrained process of negotiation and Senate approval.

Because of the gravity and complexity of the matters at issue in the SALT protocol, I believe that such an unequivocal understanding is vital on several counts;

It is vital that the Soviet Union understand that these issues are not permanently resolved, and that serious negotiation must continue to seek mutually acceptable answers;

It is vital that our European allies be reassured that we understand their special concerns, and that we will not unilaterally foreclose options of importance to them;

It is vital that the Members of the Senate be assured that our exercise of the Constitutional responsibility and prerogative will not be impeded; and

Perhaps most important, it is vital that the American people have confidence that the public process will run its full course, and that they will, accordingly, have an opportunity to take part in those deliberations.

In addition to the intrinsic value of these reassurances, I would hope that they also serve to shift the debate from an unproductive focus on matters of form to an examination of the substance of the negotiations.

Much of the argument about the "automatic permanence" of the protocol is just such a manufactured issue. It is charged that any concession inevitably persists to condition and limit subsequent negotiations. Thus, for instance, the critics argue that the limitations on deployment of ground- and sea-launched cruise missiles for the duration of the protocol are really permanent. The Soviets, they say, implacably resist any alteration or amendment of treaties that does not materially and unilaterally enhance their own position. Implicit in this argument, though rarely stated, is the corollary charge that the United States, having made a temporary concession, inevitably lacks the will or tenacity to pursue the issue.

Any reasonable reading of recent history belies such arguments. The 1972 Treaty on the Limitation of Anti-Ballistic Missile Systems was amended just 2 years later to further reduce the number of allowable sites. Similarly, the Vladivostok Accords of 1974 posit a reduction of numerical limits from the 1972 SALT interim agreement. The accords require the Soviets to accept numerical symmetry—a concession that critics of SALT I argued would never occur. Even the decision by the United States and U.S.S.R. to continue to abide by SALT I limits after the expiration of the accord, pending the completion of SALT II, is brandished as proof of Soviet duplicity and American naivete. It ignores the fact that only the Soviets have had to make actual force reductions under SALT I, dismantling ICBM launchers as a tradeoff for submarine launchers, and that the Soviets are at the stage in weapons production which could, at the moment, be more rapidly escalated than our own if SALT I limits were suspended.

Thus, I find this train of thought both inaccurate and superficial. More important, though, it is irrelevant. It is not possible to prove a negative. No one knows what will—or even what should—become of the terms of the temporary accord of the protocol. And a debate that is comprised of assertions that they will or would not become permanent ignores the real issues at hand.

First, the protocol allows for our continued development and testing of new systems. Clearly, this right extends to both sides, but it is particularly important to the United States because the M-X, Ground-launched Cruise Missile, and Sea-launched Cruise Missile are at critical points in development, but are still some years short of full operational readiness.

Second, the timing of the protocol provides a point of leverage to secure Soviet agreement to reductions or constraints on other systems, including the possibility of securing some meaningful breakthroughs on theater weapons issues in the mutual balanced force reduction talks.

Third, the protocol buys time—time to attempt to find ways of dealing with the counting, verification and control problems introduced by mobile systems and by technologically new weapons such as cruise missiles.

In sum, then, the protocol offers much-needed breathing space. We can institute the absolutely fundamental numerical and other limits embodied in the SALT II treaty. We can strengthen our position in other arms control negotiations in progress. We can try to deal with problems of compliance monitoring and verification introduced by new technologies. And if we fail, we retain the right ultimately to deploy these weapons. For these reasons, I believe the protocol to be a welcome development which, on its merits, will deserve our support.

In this context, let me stress again the nature of the language I propose. It would apply, first of all, to the resolution of ratification, not to the treaty itself. It would not alter the treaty in any way, or call for any action or reaction on the part of the Soviet Union. It would impose nothing beyond that which we will already have committed ourselves to do; namely; to limit some elements of the accord to a shorter time span than others. Its purpose is, simply, to confirm—to assure and reassure.

But it will do something else as well. It will hopefully help refocus the debate on the sober, compelling considerations inherent in a treaty between the Soviet Union and the United States dealing with a subject no less important than national security and survival. The real issues are sufficient in and of themselves. There is no need to invent others.

I call on my colleagues to consider the course I propose. I invite their comments and, in due time, their support.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL EMPLOYEE PARKING ACT—S. 930

AMENDMENT NO. 387

(Ordered to be printed and referred to the Committee on Governmental Affairs.)

Mr. PERCY (for himself, Mr. Durenberger, Mr. Tsongas, and Mr. Zorinsky) submitted an amendment intended to be proposed by them, jointly, to S. 930, a bill to amend the National Energy Conservation Policy Act to prohibit free Federal employee parking.

Mr. PERCY. Mr. President, the energy crisis threatens both the economic strength and social fabric of America. It presents the greatest legislative challenge that we here in Congress have faced in this decade. We must move toward a strong and comprehensive national energy policy, but we must be sure that the burden of this policy falls equally on all segments of society. This position implies that we in Congress must be willing to share in this burden when questions arise concerning issues directly affecting us. Taxpayer subsidized parking for governmental employees is just such an issue.

Today, I am introducing, in the form of an amendment, the Federal Employee Parking Act of 1979. I am pleased that Senators Tsongas and Zorinsky have joined Senator Durenberger and myself in sponsoring this bill. I am reintroducing the bill merely for the purposes of making a few technical modifications which make the provisions and intent of the original bill more clear and concise. The only substantive change made is that registered handicapped drivers will be exempted from paying a fee.

Hearings on the bill will be held before the full Governmental Affairs Committee on August 1 from 9 a.m. until 10 a.m. We will reconvene in the afternoon at 2:30 p.m. Testifying will be: Mayor Marion Barry of Washington, D.C.; Edward Scott, Assistant Secretary of Transportation; Richard Page, general manager of the Washington, D.C., Metro; Donald McIntyre, national vice president of the American Federation of Government Employees; and Dr. Donald Shoup of UCLA and Dr. Donald Pickrell of Harvard. The measure mandates that the General Services Administration identify all Federal property in the United States which is used primarily for private parking. They would determine a fee schedule for the use of those properties based on the rates charged at similar commercial parking facilities in the general locality of the Government lots in question.

The Architect of the Capitol, the Administrative Offices of the U.S. Courts, and the General Services Administration would act together in an effort to coordinate the respective actions of all three branches. No fee would be assessed for parking in conjunction with employee housing, such as military housing, or for registered handicapped drivers.

This legislation would serve many beneficial purposes. First, it would promote energy conservation by encouraging carpooling, and the use of mass transit. Second, it would put an end to an unfair taxpayer financed subsidy. Third, it would decrease the extreme inequity in job related benefits that free parking offers to only some Government employees. Fourth, any reduction in auto traffic, particularly in cities such as Washington, would afford improvement in local air quality, a great problem here in Washington. Finally, and most significantly, it would demonstrate to our constituents that we here in Congress are willing to do our share for the cause of energy conservation by discouraging the useless squandering of precious fuel resources.

I was extremely pleased that as many as 25 of my colleagues demonstrated great foresight when voting in favor of this seemingly unpopular measure when the Senate first considered it in 1977. President Carter's recent initiative in this area is to be commended. My bill would extend paid parking to the Congress and the Judiciary. Further, it would make the effect of the Executive order binding on the executive branch. Thus, it would facilitate a total and permanent end to taxpayer financed parking for employees of all three branches of Government.

The issue is simple: Is our self-interest in maintaining the free favor of parking more important to us than the national interest of energy conservation? I hope that my colleagues will join me in voting to put an end to taxpayer subsidized parking for Government employees. I ask unanimous consent that the text of the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 387

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Federal Employee Parking Act".

Sec. 2. (a) Title V of the National Energy Conservation Policy Act is amended by adding at the end thereof the following new part:

"Part 5—Federal Employee Parking

"Sec. 571. (a) No real property located in the United States which—

"(1) is owned or leased by, or otherwise under the jurisdiction of, the United States Government, and

"(2) is principally utilized, as determined by the Administrator of General Services, to provide parking facilities for privately owned motor vehicles in connection with employment, business, or visitation at Federal offices or installations

may be utilized as a parking facility unless there is assessed against each vehicle using the parking facility a charge or fee which is within the range of charges or fees generally applicable for public parking purposes and similar parking facilities in the same general locality.

"(b) Subsection (a) shall not apply to—

"(1) vehicles operated by registered handicapped drivers, or

"(2) parking facilities which are provided in connection with any Federal employee's residence, including but not limited to, parking facilities in connection with housing and visitation at military bases and installations.

"(c) The Administrator of General Services, the Director of the Administrative Office of the United States Courts, and the Architect of the Capitol shall take such steps as may be necessary to coordinate the respective activities of the executive, judicial, and legislative branches of the Government in the implementation of the provisions of this section.

"(d)(1) For the purpose of this section, the term 'similar parking facility in the same general locality' means publicly available parking facilities in nearby business or commercial areas which are of the same kind (lot, garage, or on street parking), convenience, and quality as that granted as the parking facility on the Federal property.

"(2) If no fee or charge is assessed on vehicles at similar parking facilities described in paragraph (1) in the same general locality, no fee or charge shall be assessed under this section.

(e)(1) Except as provided in paragraphs (2) and (3), the provisions of this section shall take effect on the date of the enactment of this Act and shall apply to vehicles utilizing parking facilities on Federal property after September 30, 1979.

"(2) During the period beginning on October 1, 1979, and ending on September 30, 1981, the fee or charge assessed against any vehicle parking in a parking facility on Federal property shall be equal to 50 percent of the charge or fee otherwise determined under this section.

"(3) The Administrator of General Services may phase in the application of the provisions of this section with respect to any employees if the Administrator determines it is nceessary to meet any legal obligations.

"(f) All revenues collected pursuant to the provisions of this section shall be deposited into the Treasury of the United States as miscellaneous receipts.".

(b) The table of contents of such Act is amended by inserting immediately after the item relating to section 569 the following:

"Part 5—Federal Employee Parking

"Sec. 571. Federal employee parking.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. Chairman, I would like to announce that the Subcommittee on Federal Spending Practices and Open Government will be holding a joint hearing with the Special Committee on Aging concerning "Federal Paperwork Problems." This hearing will be held in St. Petersburg, Fla., on August 6, 1979, at the Senior Citizens' Sunshine Center from 9:30 a.m. until 1:30 p.m. Any questions concerning this hearing may be directed to the subcommittee office at 224-0211, or to the committee office at 224-5364.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce that the Committee on Energy and Natural Resources will hold a hearing at 10 a.m., on Thursday, September 6, in room 3110 of the Dirksen Senate Office Building, on the nomination of Mr. Louis F. Moret, of California, to be Director of the Office of Minority Economic Impact, at the Department of Energy.

Questions concerning the nomination hearing should be directed to Daniel A. Dreyfus, Staff Director, Senate Energy Committee, Washington, D.C. 20510, telephone 202 224-4971.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. JAVITS. Mr. President, the Committee on Governmental Affairs will continue its hearings on S. 503, the Privacy Act Amendments of 1979, and S. 865, the Privacy of Medical Information Act, on Friday, August 3, 1979. These bills are designed to protect the confidentiality of patient medical records.

Witnesses before the Committee will be:

Carolyn Kave RRA, Executive Director, American Medical Records Association, Chicago, Ill.

Dr. Marsha Goin, Chairperson, American Psychiatric Association Commission on Confidentiality, Los Angeles, Calif.

John Keeney, Deputy Assistant Attorney General, Criminal Division, Department of Justice, Washingtor D.C.

The hearings will be held at 9 a.m. in room 3302 Dirksen Senate Office Building. Anyone desiring additional information about the hearing should contact Alan R. Bennett of the committee staff at 224-0528.●

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

● Mr. CULVER. Mr. President, as chairman of the Subcommittee on Administrative Practice and Procedure, I announce that our subcommittee will hold a hearing in Des Moines, Iowa, on proposed regulatory reform legislation (S. 104, S. 262, S. 299, S. 755, and S. 1291). The hearing will be held on August 8, 1979, at 9:30 a.m., 120 County Administrative Office Building, Second and Court Avenue, Des Moines, Iowa.●

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. Chairman, I would like to announce that the Subcommittee on Federal Spending Practices and Open Government will be holding a hearing on Federal paperwork problems of State and local governments in Tallahassee, Fla., on August 23, 1979. The time and address of the hearing will be announced at a later date. Any questions concerning this hearing may be directed to the subcommittee office at 224-0211.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. PRYOR. Mr. President, I wish to announce that the Governmental Affairs Committee will begin hearings on S. 1340, the Federal Employees Compensation Act of 1979, on August 2, at 10 a.m., in room 3302 in the Dirksen Senate Office Building.

Anyone wishing additional information about the hearings should contact the committee office at 224-4751.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the Energy Conservation and Supply Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on home energy efficiency programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, August 1, 1979 to hold a mark-up session on S. 446, equal opportunity for the handicapped bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HEALTH AND SCIENTIFIC RESEARCH

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Health and Scientific Research Subcommittee of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, August 1, 1979 to hold an oversight hearing on women in science.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE 700 CLUB

● Mr. HATCH. Mr. President, millions of Americans devote several hours of every week to a unique talk show known as "The 700 Club." Produced by the Christian Broadcasting Network, the show is hosted by Pat Robertson and features guests from every walk of life, from every profession, and from every denomination of the Christian church. With Pat leading the conversation, and often the prayer, these guests discuss every major issue of the day and, of vastly greater importance, the way their lives have been changed by the marvelous blessings of the grace of Our Lord Jesus Christ.

Pat Robertson's following of devoted viewers reaches the millions and is growing every day with every telecast of "The 700 Club." I gladly count myself among those who watch this entertaining, inspiring program whenever the opportunity presents itself. It is interesting to know, though, that, besides being the telegenic host, Pat Robertson is also a perceptive, prudent observer, and student of the governmental and political process. Among his many supporters, a select group receives Pat's regular report, "Pat Robertson's Perspective." The report provides an outstanding educational analysis of current events and displays the kind of understanding and judgment so desperately needed among our opinion leaders. The mid-July issue is an excellent illustration and I commend it to my colleagues and submit it for printing in the RECORD.

The report follows:

PAT ROBERTSON'S PERSPECTIVE

The Strategic Arms Limitation Treaty (SALT II) recently signed by President Carter and Soviet Premier Brezhnev will neither limit the arms race nor promote peace. It will assure the Soviets absolute military dominance over the United States by 1982 while lulling our population into the false confidence that a true arms treaty has been entered into between the world's super powers.

SALT II does not classify either the Soviet "Backfire" bomber or its SS–20 missile as a strategic weapon. Therefore there is no limit on production of either of these weapons systems, despite the fact that "Backfire" with airborne refueling has a 9500 nautical mile range to all U.S. targets, and the SS–20 threatens all of Europe. With single warheads instead of triple warhead MIRVs, the SS–20 can also reach U.S. targets.

SALT II grants the Soviets over 300 mammoth SS–18 ICBMs. Each SS–18 carries 10 warheads equivalent to one million tons of TNT each. Guidance systems in the SS–18 are sufficiently precise to hit within 600 feet of a target after a 6000 mile trajectory. Only 100 of the Soviet SS–18s could destroy all of the U.S. land-based missiles, thus neutralizing the heart of our strategic counterforce capability, and leaving the Soviets ready for a second strike.

On the other hand, under SALT II the United States must include the aging B-52 bomber as an intercontinental weapons system in the same tally as the SS–18 missiles. The United States is not permitted to build any of these monster missile systems, may not develop an effective modern long-range bomber, and has agreed to limit the range of its most effective weapon, the cruise missile, to 600 kilometers—approximately 360 miles—which renders it virtually useless.

Besides the glaring strategic imbalance built into SALT II, the Soviets have refused any linkage between the SALT agreement and their frenzied build-up and use of conventional arms. When Carter attempted in Vienna to secure some assurance that the Soviets would cease their worldwide aggression, he met strong silence.

As a distinguished English journal said of the Vienna summit, "President Carter has been wasting Christian kisses on a heathen idol's foot."

In light of the realities of SALT II, the talk about verification evades the crucial issues. The director of the CIA, Adm. Stansfield Turner, has testified that it cannot be adequately verified. But who cares? The Soviets probably could not afford the money needed to build more weapons than SALT II allows them. And why would they cheat, when the written agreement gives them everything needed for military mastery?

More frightening for the United States than weaponry is the state of our civilian population. For years our civil defense has been guided by a concept known as MAD (Mutual Assured Destruction). The population of the United States was to be left totally unprotected, so that the Soviets could assuredly destroy us. The planners hoped that the Soviets would likewise expose their civilians to our destructive capabilities.

Unfortunately for us the Soviets weren't so stupid. For the past 10 years they have spent $1 billion annually on civil defense. Their industry is in hardened sites. Their shelters are ready. In the event of nuclear war Soviet Russia would lose no more than 20 million people. The United States would lose 150 million.

With our population hostage, our strategic forces inferior, and our conventional arms outnumbered three to one, we are inviting nuclear blackmail in the 1980s.

SALT II should not be ratified without far-reaching amendments. If it is, whoever occupies the White House in 1980 may find himself with a decision more horrible to contemplate than any in the history of our republic.

The OPEC cartel has struck again, moving the "posted" price of crude above $18 a barrel, with provisions for sales by Libya and others at $23.50 per barrel. Actually the "spot" rate in Europe has hit $40 per barrel on occasion this year, so OPEC was cashing in on the price squeeze resulting from shortages caused by the cutback in Iran's oil production. This will add 4 to 5 cents to the price of a gallon of gasoline, $6 billion to the U.S. import bill, and a boost to the present 13% U.S. inflation rate. Middle East oil sold for $1.80 per barrel in 1970. In one decade it has soared tenfold.

How much can the world stand? U.S. gas shortages have triggered truck strikes, perishable foods rot and prices soar; automobile sales are off nearly 25%; consumers aren't driving, so shopping and tourism fall dramatically; developing countries which owe over $200 billion are now forced to cut drastically or go bankrupt; U.S. banks which have recycled oil money to the Third World countries to the tune of $49 billion now face critical defaults. Europe and Japan import 95% of their oil. Shortages and price hikes will have devastating consequences on their economies.

How did this situation get so bad? First of all, powerful U.S. interests are profiting substantially by every turn of the OPEC screw. Big oil companies that experienced unbelievable profits last year may contemplate 100% increases this year. Major U.S. banks handle at a profit the funds of both the oil companies and the OPEC nations. The higher the price of oil, the higher the profits of these multinational banks. As the world price of oil and gas rises, so also rise the incomes of thousands of landowners, small oil companies, investors, and the state governments of Florida, Mississippi, Louisiana, Texas, Oklahoma, Illinois, Pennsylvania, West Virginia, New Mexico, Arizona, Colorado, Wyoming, Montana, North Dakota, South Dakota, Utah, and California. With the 34 U.S. senators representing these states —which will profit dramatically from high prices in oil, gas, coal, lignite, shale, and uranium—pulled toward a loose community of interest on the energy issue with "big oil" and "big banking," it is easy to understand why no effective counterattack has been launched against OPEC, and why all alternative energy solutions will call for a massive government floor under energy prices. It also accounts for the fact that any substance or device which promises plentiful honest-to-goodness cheap fuel or true energy saving will be either ignored, hindered or destroyed.

Given the realities of the situation, what should we do? First, production must be increased. Since price controls guarantee shortages, there should be immediate decontrol of all domestic oil and gas prices, and every effort should be made to flood the free market with oil and gas regardless of immediate profits. Second, the Department of Energy should be abolished, and in its place there should be created a small, independent, Energy Mobilization Board with power to mount a crash program to (1) develop a cheap, plentiful fuel from the sources available to us—whether hydrogen, coal, shale, solar, thermal, wind, or some other source; and (2) develop totally new power plants for motor vehicles. Third, the United States should enter into a full-scale North American energy common market with Mexico and Canada so that the three nations could pool capital, technology, available natural resources, pipelines, etc., for mutual advantage and independence from Middle East pressures. Fourth, we should immediately eliminate all tax preferences that would encourage domestic oil companies to import and refine OPEC crude instead of domestic crude. Finally, we should impose a substantial import duty on OPEC crude to discourage the use of imported oil. A $5 per barrel import duty on 8 million daily barrels would yield over $14 billion a year to help fund domestic oil and gas exploration and the development of alternate sources of energy.

On the other hand, the continuation of controls, the imposition of gasoline rationing, and punitive taxes on oil companies will be counterproductive—needlessly complicating the problem rather than solving it.

We can break the OPEC cartel—but not until we recognize present economic realities and then take bold, intelligent, and possibly painful action to change them.

Evangelical Christians are up in arms across the country because of what they perceive as a government-backed assault on religion and the family. Rev. Jerry Falwell, titular leader of 30,000 independent Baptist churches, is organizing the "Moral Majority." A group in Texas is organizing a prayer crusade, "Key 16," which looks ultimately to register all Christians for action in local precincts. "One Nation Under God," with powerful national support, plans a rally in Washington for up to one million people on April 29, 1980.

Leaders of the so-called "New Right" have realized that issues such as abortion will bring evangelicals and urban Catholics together at the polls. In the 1978 elections, 26 senators and representatives espousing abortion, ERA and anti-family legislation were defeated by carefully planned precinct-by-precinct organization.

A massive effort is underway in 1980 to turn the national conservative groundswell into a pro-family, pro-Christian government. A recent Senate vote in favor of prayer in the schools (forced by Sen. Jesse Helms of North Carolina) indicates how deeply the members of Congress are beginning to appreciate the tidal wave of latent Christian political sentiment in the country.

A note on the economy, inflation, and government spending: In 1869 the yearly spending for government in Great Britain (exclusive of colonies) was $350 million; the French empire, $425 million; Russia, $390 million. In 1979 the U.S. government is spending approximately $530 billion—almost 1700 times as much as Great Britain spent at the height of its power. This shows the enormous rise of governmental influence over people's lives and the incredible currency debasement that this influence has caused.

Gold has remained relatively constant in purchasing power since about 1500 A.D. Paper money obviously, has not. Gold has risen in a decade from $32 per ounce to about $290 per ounce. Although there may be some short-term declines in the price of gold, it would seem that the hyperinflationary cycle caused by oil price increases, dollar devaluation, federal deficits, compensating price increases, and subsequent devaluation, could lead to a time in the not-too-distant future when the U.S. dollar has so declined in value that it will take $800 to $1000 to purchase one ounce of gold. At that point the dollar would be worth about 30 cents in 1979 purchasing power, or 15 cents in 1967 value.

For this reason, beware of savings, whole life insurance policies, investments, and pensions which bear interest less than the rate of inflation and are to be paid back in future dollars.

Assuming Jesus tarries, Christians must find a savings and pension program backed by gold instead of dollars, so that their life savings will not be destroyed by inflation. Obviously for all of us the best savings program is to store our treasures in heaven "where thieves do not break in and steal." (Matthew 6:20).●

WEATHERIZATION PROGRAM FOR LOW-INCOME FAMILIES

● Mr. EAGLETON. Mr. President, a July 28 article in the Washington Post entitled "Insulation Funding for Poor Is Unused" highlights a grave program which is increasingly hampering our efforts to alleviate the disproportionate burden of the energy crisis on the poor.

In recent hearings of the Senate Subcommittee on Aging, which I chair, testimony was presented indicating that nine different Federal departments or agencies operate programs with low-income housing weatherization components. The largest of these is operated by the Department of Energy at a funding level of $200 million. It was estimated that those funds would allow insulation of some 320,000 housing units this year. Unfortunately, nowhere near that many units will be refitted. The major reason for the lack of success of this program is that it is, in fact, only half a program. The statute allows purchase of weatherization materials, but does not allow funds for purchasing the labor to install the materials. Instead, it requires that volunteers or CETA workers be used to install the materials. In many areas, volunteers or adequately trained CETA are simply not available.

In his July 16 speech to the National Association of Counties in Kansas City, Mo., President Carter advocated an expanded Federal role in weatherization. A White House task force is presently working to devise such a program. I commend the President's initiative in this area and urge that an appropriate manpower component be a part of a streamlined program.

As my colleagues know, for the past 3 years, the Community Services Administration has conducted an emergency energy assistance program for low income Americans. I think we have all agreed that this approach has been little more than a band-aid on the growing cancer of energy costs, a fact confirmed by the Department of Energy's Fuel Oil Marketing Advisory Committee's report estimating that $3.2 billion is needed to meet the energy needs of Americans living near the poverty level. President Carter has also recognized the inadequacy of our present approach, and is now calling for a program on the order of magnitude of $2.4 billion annually. I applaud the President's proposal. But in my view, an energy assistance program is at best only a partial solution.

High energy costs are here to stay. To simply subsidize fuel and utility payments without getting at the root causes of older, energy inefficient homes is to recognize only half the problem.

I urge my colleagues to read the Post article and support efforts to establish an efficient and effective weatherization program.

Mr. President, I ask that the text of the article be printed in the RECORD.

The article follows:

INSULATION FUNDING FOR POOR IS UNUSED

(By Stephen P. Engelberg)

A $200 million appropriation to provide insulation and other energy-saving help to the homes of low-income families may go largely unused this fiscal year, apparently because of administrative problems and a shortage of qualified labor.

Although state administrators interviewed said they probably won't be able to spend much of the money in the next year, however, Mary Bell, the director of the Department of Energy program, maintains that it is now running smoothly.

She said three-fourths of the appropriation would be used by next January. DOE officials have no estimate of how much of the money has been spent thus far.

Created under the Energy Policy and Conservation Act of 1976, the program is designed to conserve energy and cushion low-income people from the effects of sharply rising fuel costs. Under the program's income guidelines, an urban family of four making less than $8,375 per year would be eligible for insulation, caulking and other energy-saving improvements.

The legislation setting up the Department of Energy program requires that volunteers or Comprehensive Employment and Training Act (CETA) workers install the "weatherization" materials. DOE can't use the program money to hire laborers.

Many states have been unable to take much advantage of the federal funds because they cannot get enough qualified CETA workers, a number of local program directors said in interviews. In several instances, insulation materials bought by the states are sitting in warehouses awaiting installation, a DOE official said.

The fiscal 1979 appropriation would weatherize about 320,000 units. The residents of approximately 14 million units nationwide meet the program's income stipulations, DOE officials noted.

Maxine L. Savitz, DOE's deputy assistant secretary for conservation and solar applications, said that only a little over half of the 1977–78 national appropriation of $91 million was spent on weatherization.

The District, which has had enough money over a two-year period to weatherize about 17,070 units, has only worked on 572, officials said.

Like other jurisdictions, Maryland, Virginia and the District have also had their spending rates slowed by problems with CETA labor, their officials said.

From 1977 to fiscal year 1979, Washington has been allocated more than $1 million for weatherization but it has spent only 20 percent of those funds, according to DOE regional administrator Joseph L. DiBiase.

Patsy Harden, coordinator of the weatherization program for the D.C. Department of Housing and Community Development, and Virginia's acting assistant director of weatherization, Danny L. Chisom, said the program was particularly difficult to use in urban areas. Owners' signatures are required before work can begin and many buildings housing low-income tenants have either been abandoned by their owners or are held by absentee landlords.

Weatherization work in Northern Virginia has been hampered by a lack of CETA workers there, Chisom said, because unskilled laborers can generally get jobs in the construction industry.

DOE rules also forbid agencies from weatherizing "common areas" in buildings unless all the tenants fit the income guidelines. The mixture of tenants common in many Washington apartments prevents using the program to insulate roofs, said Lillian Durham, head of the community services division of the United Planning Organization, the District agency charged with administering the program.

All of the federal funds are sent to states, which in turn offer grants to community action agencies. District housing officials are administering public housing weatherization while UPO handles requests from homeowners and tenants.

Durham admitted that the program had gotten off to a slow start in the city, but said the pace of work has increased in recent months.

Under the program, Washington has weatherized multifamily dwellings, rowhouses and single-family houses as well as public housing, Durham said. District officials did not know how many units had been covered.

Theodore E. Brown Jr., deputy director of Maryland's Office of Community Services, said that the state can employ CETA workers for a maximum of 18 months but, he said, it takes six to 12 months to train weatherization workers.

Further, many of Maryland's CETA laborers "definitely were not quality workers," Brown said.

Mary Bell, DOE's weatherization director, conceded that the program has been hampered by changes in its regulations, fraud or mismanagement in some of the community agencies carrying out the work, and the states' tardiness in submitting their applications for the funds.

Bell said the states have not been able to document the existence of a labor shortage. DOE regional administrators have reported that their areas are adequately manning projects.

A White House task force studying energy conservation is now discussing ways to speed up DOE's weatherization efforts. President Carter called for an expanded insulation program to aid low-income persons in his recent Kansas City address.

The White House task force, which is expected to reach some decisions shortly, is focusing on the program's labor provisions. A lack of coordination between DOE and the Department of Labor, which administers the CETA program, may account for some of the local difficulties, a White House source speculated.

Rep. A. Toby Moffett (D-Conn.) recently introduced legislation that would allow DOE to spend up to $700 per unit to hire workers when sufficient CETA or volunteer labor is not available. In a letter to his colleagues, Moffett said it was time to "get equipment out of warehouses around the country and into homes."

Terming DOE's administration of the weatherization program "a ridiculous form of impoundment," Massachusetts Lt. Gov. Thomas P. O'Neill called Wednesday on the Hill for DOE to waive the CETA requirement when the workers aren't available. O'Neill spoke for a New England coalition of weatherization directors in a press conference here.

Bell said last week that such a change would be impossible under the present law because the program's exemption from the Davis-Bacon Act, which requires the government to pay prevailing wages for federally assisted construction, was dependent on its use of volunteer or CETA laborers.

Nearly every state program administrator interviewed last week said that the DOE effort has been severely slowed by a lack of manpower.●

ON SEIZING OPEC, GUNS BLAZING

● Mr. HATFIELD. Mr. President, an important issue that preoccupies the American people is our ever-increasing dependence on OPEC oil. As has happened too many times before in our young Nation's history, perceived threats from abroad are translated into an exercise in martial slogans. We can hear them even at the highest levels of Government. The familiar slogans include "arc of instability," "oil blackmail," "nobody can push us around," "they've got us over an oil barrel," and "where is our will to fight?" As the threat to western democracies is discussed, the tone of confrontation becomes unmistakable. The rhetorical introduction may vary, but the solution proposed is as predictable as it is irrational: More weapons, reinstate the draft, show the flag.

Despite the overwhelming evidence of the impracticability of such a scheme, the idea of satisfying our oil needs by means of armed aggression is still on the tongues of Americans, from Secretary Brown to the angry motorist waiting in line for a fillup he might not get. Even if we were to work our will by violent methods, how does that address the issue of continued inadequacy of energy production at home?

While the military option is being discussed, we are hearing precious little about the implementation of effective programs aimed at reducing our energy consumption, shifting toward renewable energy resources, and eliminating our dependence on foreign petroleum. The solution to those problems is a task we alone can accomplish. Brandishing threats against the sovereignty of other nations is no substitute for putting our own house in order.

The lead editorial in the New York Times on Friday, July 13, 1979, puts the issue in clear focus. Many of my associates in MCPL are equally concerned about this serious matter. As a long active member, I wish to cite this article which aptly summarizes our views.

I respectfully request that, for the benefit of my colleagues, the editorial be printed in the RECORD.

The editorial follows:

ON SEIZING OPEC, GUNS BLAZING

There might be reason, someday, for the United States to seize a foreign oilfield. If an oil producer were invaded, for instance, maybe then. But the recent talk about charging, guns blazing, into one or another OPEC country to keep the oil flowing is nonsense. This kind of talk may be understandable, no matter how misguided, from an angry driver waiting three hours for the privilege of paying $1.30 a gallon for OPEC petroleum he has been told costs a quarter to produce. But among supposedly thoughtful people, it is dangerously cynical and inflammatory. It is time to forget about a violent and quick fix for our oil problem and to get on with the job of putting our energy world in order.

Morality aside, the military difficulties involved in seizing and running the oilfields of the Persian Gulf would be staggering. If the Gulf's exit, the narrow Strait of Hormuz, were mined or blocked by a sunken tanker, oil shipments from Saudi Arabia, Iran, Kuwait, Iraq and Abu Dhabi would stop, no matter who held the wells. Most of those countries have in any case threatened to blow up their fields rather than let foreigners run them again.

It needs to be understood, therefore, that an uninvited American military intervention in the Persian Gulf would be a desperate act, promising no quick or certain supply of oil and pushing the Gulf states to turn to the Soviet Union for help.

In the present climate, there is an element of provocation even in the sober comments of American defense planners about the need for a new intervention force that could move swiftly anywhere in the world, including the Middle East. It is the planners' job to weigh contingencies; but they ought to add to the balance the frayed nerves of their countrymen and the sensitivities of oil-producing nations. Talk of war makes everybody angry.

Behind much of the bombast of strategic thinkers on the gas lines and the cocktail circuit there lies the impression that OPEC is *the* cause of the energy crisis. But the truth isn't nearly so simple and most Americans know it. There are other "enemies" of continued high energy consumption closer to home, such as the rapid historical depletion of our reserves, the country's persistent waste and insufficient domestic production. Is it quite sane to say the Amreican automotive way of life should be kept running exactly as it is today—or rather as it was in its energy-consuming heyday—by conquering others? And if that is our morality, why not begin by seizing Mexico?

The alternately swaggering and matter-of-fact talk about a violent oil grab is unnecessary and could lead to serious trouble. The very fact that such talk is in the air is one more reason for swiftly reducing our dependence on foreign energy.●

SACRED HEART UNIVERSITY AND ENERGY

● Mr. RIBICOFF. Mr. President, Sacred Heart University in Bridgeport, Conn. has taken some constructive steps to save energy. President Thomas Patrick Melady recently sent to me a copy of the university's letter to President Carter describing measures to reduce energy consumption. I think this positive course of action sets an example for other universities in America and ask that the letter be printed in the RECORD.

The letter follows:

PRESIDENT JIMMY CARTER,
The White House,
Washington, D.C.

DEAR PRESIDENT CARTER: Sacred Heart University fully accepts the responsibility of helping to solve our energy crisis.

We have made an all-out commitment to conservation and hope that the measures we are taking will serve as an example to other institutions, as well as an assurance to our own student body, that we can provide reasonable solutions to the energy crunch by working together.

Here's what we're doing . . .

1. We have organized car pools.
2. We are providing bus and train timetables to students.
3. We offer full cafeteria service so that students do not have to drive off campus between classes.
4. We are consolidating course schedules so that students make fewer trips.
5. We are looking into the need for a van pool to meet local trains.
6. We are conforming to building temperature regulations.

At all levels, SHU is totally dedicated to your challenge and happy to join Governor Ella Grasso in finding every possible way to support you in the drive to save energy.

THE STUDENTS, FACULTY,
AND ADMINISTRATORS.●

CAPITAL COST RECOVERY

● Mr. JEPSEN. Mr. President, today I am pleased to join as a cosponsor of S.

1435, the Capital Cost Recovery Act. This is an important bipartisan effort to revise our Nation's tax laws to encourage business capital investment by providing for faster depreciation of assets. It will simultaneously reduce corporate income taxes and reduce the distortion in business finances caused by inflation.

One of the most important reasons for the extremely low rate of capital investment in this country today is that inflation dramatically increases corporate taxes. Because taxes are levied on nominal profits, rather than real profits, and because inflation increases nominal profits while understating costs, such as depreciation, the effect is to increase the real burden of corporate taxation far above the statutory rate of 46 percent. At this point in the RECORD I ask that a table showing that corporate taxes as a percentage of real corporate profits, adjusted for inflation, has exceeded the statutory rate every year for the past 10 except for one. In every case, however, the real rate of taxation has greatly exceeded the nominal rate.

The table follows:

Taxation of corporate profits

[In percent]

	Ration of profits tax to:	
	Reported pre-tax profits	Reported profits adjusted for illusory profits
1969	47.5	48.6
1970	48.2	50.8
1971	46.0	48.8
1972	43.2	45.1
1973	42.1	49.1
1974	41.1	61.8
1975	41.4	51.9
1976	41.2	50.6
1977	41.3	49.8
1978	41.5	52.6
1979–I	39.3	53.5

NOTE.—Corporate profit figures as reported by the BEA include deficits reported by corporations. As a result, the ratio of profit taxes to reported profits may exceed statutory tax rates.

Data Source: Bureau of Economic Analysis, *National Income and Product Accounts*, Table 1.13.

Mr. President, when taxes are increased on business its ability to expand, modernize and grow is severely restricted. The ultimate result will be higher unemployment, low productivity, slow economic growth, and more inflation. Thus, rather than being excessively high, as President Carter and most of the press seems to believe, corporate profits are far too low for business to grow and modernize and still meet the many demands placed upon it for environmental protection, worker safety and the like. This point was recently made most forcefully by Harold Williams, Chairman of the Securities and Exchange Commission, who said:

> As a society, we are placing increased demands on our private enterprise system, particularly in reaching national objectives which are as important and as diverse as full employment, energy independence, and environmental protection. The problem of marshalling sufficient capital in order that business may discharge its role in accomplishing these goals is a serious one. Unfortunately, however, the effects of inflation, coupled with the present methods of reporting business performance, obscure the increasingly pressing need to bring forth additional capital and, indeed, may lull us—as government policy-makers, as decision-makers in private business, and as individual citizens—into a belief that corporations are generating more than adequate funds to satisfy our demands for capital.
>
> The public perception seems increasingly to be that American business profits—particularly those of the largest firms, those most able and most responsible for aiding in accomplishing our national objectives—are huge, growing larger, and accruing exclusively to the benefit of a small and select group of wealthy individuals. This mis-impression leads inevitably to demands that the government take steps—often through tax policy—to moderate those profits and to divert them to the common weal.
>
> In my judgment, American corporations, as a whole, are—rather than generating shockingly high profits—earning at dangerously low levels, if they are to discharge the responsibilities we expect them to shoulder. Further, profit trends—especially as they affect cash flow available to replenish, modernize, and expand assets and to pay dividends—are probably the most important set of factors in evaluating a stock in the market place. Despite their importance, however, I believe that the function and level of corporate earnings and cash flow are seriously misunderstood.

I believe that the Capital Cost Recovery Act goes a long way toward correcting the problem of overtaxation of business and of business underinvestment. S. 1435 establishes a 10–5–3 schedule for faster depreciation deductions:

Class I. Investment in nonresidential structures would be depreciated over a 10-year period.

Class II. Investments in machinery would be depreciated over 5 years and be entitled to the full 10 percent investment tax credit.

Class III. The first $100,000 of annual investments in certain automobiles and light duty trucks used for business purposes would be depreciated over a 3-year period and be entitled to a 6-percent investment tax credit.

The importance of these revised depreciation schedules to business is that it allows them to recover their investment costs much more quickly. This greatly reduces the tax burden of companies making heavy capital investments and reduces the inflation distortion on existing depreciation schedules. Thus Treasury Secretary William Miller has said:

> There are various ways to stimulate investment, but you get the biggest bang for the buck with faster depreciation.

Mr. President, I will just say in closing that although the Capital Cost Recovery Act is a step in the right direction, it is still only a first step. To really get capital investment in this country back on track I think there should be further reductions in the corporate tax rate, elimination of the double-taxation of dividends, some tax incentive for individual savings, a reduction of high marginal tax rates on individuals, and full indexation of the Tax Code to compensate for inflation.●

PUERTO RICO AND DEMOCRACY

● Mr. McGOVERN. Mr. President, a few days ago, the distinguished Senator from New York, Mr. MOYNIHAN, introduced Senate Concurrent Resolution 35, which calls upon the U.S. Congress: "to reaffirm its commitment to respect and support the right of the people of Puerto Rico to determine their own political future and to change their relationship with the United States, through peaceful, open and democratic processes."

At the time Senator MOYNIHAN came forward with this resolution, I asked that my name be added as a cosponsor. Briefly, I want to explain why.

Mr. President, it is no secret that a good deal of discussion is going on at the present time about the political future of Puerto Rico and its relationship with the United States. Where this discussion leads and what decisions come as a result of it are impossible to foresee at this juncture. But of this we can and must be sure—that this is a matter for the people of Puerto Rico to decide openly, honestly, and fairly. It is their choice and well it should be, for they are the ones who will have to live with it for better or worse. In other words, Mr. President, whether the people of Puerto Rico choose at some point down the road the course of statehood, independence, or commonwealth—whichever they select—we must be prepared to accept their judgment. The democratic imperative requires it. And this is the standard we honor.

Mr. President, regarding the issue of Puerto Rico, it is important at this time to reaffirm our adherence to this standard because of a number of allegations that have recently surfaced concerning FBI activities on the island, particularly during Mr. Hoover's tenure. I do not know whether those allegations are accurate, but I do know that when we deviate from democratic norms and our stated public position, we do great moral and political damage to ourselves and invite condemnation from others. This is as shortsighted as it is foolhardy because we can be sure that such invitation, as the case of Puerto Rico indicates, will be readily accepted, if not exploited, by Cuba and her Communist friends. And so they have and so we can expect Cuba and others to raise the issue of Puerto Rico again this year during the United Nations General Assembly meeting.

In anticipation of this meeting and the renewed Cuban effort to denounce our policy toward Puerto Rico, I think it is especially important to have Congress on record in support of the resolution offered by Senator MOYNIHAN. I am hopeful that strong congressional support for this resolution will undercut Cuba's determination to obtain U.N. action on this issue.

The Cuban effort deserves our strong condemnation and one way of expressing that is by quick and decisive action on Senate Concurrent Resolution 35. Congress should give this resolution its overwhelming endorsement.●

RURAL TELEPHONE SERVICE

● Mr. GOLDWATER. Mr. President, of all the subjects currently before the Congress, few, if any, have more direct bearing upon the daily routine and lives of ordinary Americans than the issue of telecommunications reform. An important aspect of that reform is concerned with telephone service.

There is no question that we Americans have the best and lowest cost telephone communications system in the world. The average citizen and business uses the telephone as an indispensable tool and service which is almost taken for granted like the air we breathe.

Mr. President, in a State such as Arizona, where some of our counties are as large as entire groups of States, the value of telephone service is even greater in some ways than in more populated areas. The ranchers, farmers, and residents of rural areas in my State are dependent upon the availability and performance of the telephone system. This means that any changes the Congress makes in the basic law, the Communications Act of 1934, must take full account of what effect these changes will have on the United States in general and rural telephone users in particular.

The underlying theme of all of the proposed bills pending in Congress to amend the communications law is to encourage competition in the telecommunications business. But there is another purpose of these bills which must not be overlooked, nor sacrificed on the altar of theoretically pure competition, and that is the continuation of universal service at reasonable rates.

Mr. President, this is an area where I feel the legislation currently before Congress must be carefully examined. Although all the bills reiterate the goal of universal service, the means of achieving that goal in a competitive environment must be spelled out in a workable manner. Accordingly, I have instructed the minority staff of the Communications Subcommittee to reexamine the legislation and draft language which will clearly and effectively accomplish this purpose.

Mr. President, when we speak of universal service, we should think of the availability of service to people living in rural areas. Here, the telephone companies, especially small independent companies, have problems that do not exist to any similar extent in populous areas. In rural America, area coverage is more costly and difficult to achieve. Pure competition and complete deregulation may never be achieved in rural America.

Unregulated competition implies the right of exit as well as entry; but universal service requires a supplier of last resort. Traditionally, the telephone companies have met that obligation, but in a regulated system and with a telephone rate structure which is based on "average cost" and "separations and settlement payments," each of which contributes to the costs of local service.

If these two elements of universal service are eliminated or drastically changed without an adequate substitute, the people living in rural areas may suffer the consequences. The way the law stands today, independent telephone companies and the Bell System must provide service to all who ask for it, no matter what the cost to the phone companies.

In all, there are more than 160 million telephones in 95 percent of the homes in America. Included among these telephone users are more than 11 million families who have incomes of less than $5,000. Universal service means that in remote, low-income places, a telephone company often will supply service to a single family at a cost of $1,200 a month, while collecting only $25 or less on the monthly phone bill.

The burden and the value of having the telephone companies as a supplier of last resort has received too little attention in Congress. Let me give a specific, recent example of this concept in practice.

One of the seven independent telephone companies in Arizona is Continental Telephone. They, like most independent companies, are often faced with the problem of serving a few customers in a remote location at a high cost.

This year, Continental has made the decision to rebuild the line going into Vernon, Ariz., a community of 266 people near Show Low and Pinetop. Vernon is presently served on 1 pair of open wire with 12 radio channel lines. Last October, a Vernon town meeting was held to discuss telephone service, particularly the prospects for upgraded service from party lines, which sometimes go as high as 10.

As a result of that town meeting between local citizens and representatives of Continental Telephone, the company has decided to invest $325,000 for rebuilding the line for primary four-party service, with other improvements. Now, there are only 57 customers in the Vernon area. According to Mr. David Bentley, public affairs director of Continental, the annual carrying charges for a new buried cable, which includes labor, cost of money, taxes, and earnings, amounts to 26.76 percent of the $325,000 investment.

Mr. Bentley writes:

> In other words, we must earn $86,970 annually from the facility to avoid having it subsidized by other customers. Of that amount interstate and intrastate toll settlements will contribute $71,128. This leaves $15,842 that must be generated from local service revenues. If all 57 subscribers upgraded to four-party service at the $10 rate [likely to be approved by the State Commission], only $2,565 in new local revenue would result. As a result, we would have a local service revenue deficiency of $13,277. Actually, we would need a four-party rate of $23.16 to fully support the investment or over 100 new subscribers. Although the project is still marginal and highly dependent on development in the area, it would be completely out of the question from an economic standpoint were it not for the contribution of toll settlements.

Mr. Bentley adds:

> There are two other remote areas in our Arizona operations that will receive improved service this year. The Sun Valley Project near Holbrook will serve 20 customers at a cost of $18,172, and the White Mountain Lakes Project near Show Low will serve 10 customers at a cost of $24,900.

And, Mr. President, Mr. Bentley concludes:

> Without cost settlements and averaged rates, new technologies and telephone service would probably not have spread to rural America. The entire rate structure is interwoven and interdependent upon many other elements. It is a good and fair system of providing universal service at reasonable rates.

Mr. President, these Arizona developments are not the only example of universal service by Continental in sparsely populated areas. A year ago four families in Echols County, Ga., received telephone service for the first time. To reach these four new customers, Continental buried 31 miles of cable at a cost of $67,000. This is another graphic example of universal service at work.

Nor is Continental the only telephone company providing telephones to homes in very remote areas. We have one company in my State, the Arizona Telephone Co., which has supplied dial telephone service to the Havasupai Indian Reservation at the bottom of the Grand Canyon since 1968. This small, independent company has a total of 900 rural customers and a total investment of plant in service of $3,000 per telephone, compared to the independent industry average of $885.

This company has 606 route miles resulting in an average of only 1½ customers per mile of cable and wire. The current base monthly rate for one-party service to a residential phone is only $7.50 and the maximum one-party monthly rate in the most distant zone is $15.

When we in Congress consider the term "universal service," we might remember this typical example of what the telephone companies charge their rural customers. Universal service does not merely mean installing the line and making telephone service available; it means providing that service at reasonable rates. Without reasonable rates, universal service would not be possible.

Now, how do the rural telephone companies provide widely available and improving telephone service to residents in rural areas at a low cost? I believe a strong case can be made that it is done because of the support for local service which is accomplished through the rate averaging and separations and settlement procedure. For example, in the case of Arizona Telephone Co., fully $532,000 out of total calendar year 1978 revenues of $635,000 was derived from long-distance message and settlement sources. This is 84 percent of total revenues.

Even a relatively minor loss of only 10 percent of these revenues would result in the requirement of a 48-percent increase in the company's annual local revenues. In fact, I am told by Rollie Nehring, of Arizona Telephone Co., that if contemplated changes in even a portion of the separations and settlement procedure were implemented, it would have the result of causing the telephone bills of residential users to increase by over 200 percent.

Mr. President, it must be remembered that many of the areas served by small companies, like Arizona Telephone Co., were only available because no one else wanted them. It is highly doubtful that any of the new competitive companies will be interested in these same areas, other than scooping off the few, large telephone users who happen to reside in a rural area. Thus, the question must be asked whether a pure unregulated situation will continue to make available low-cost, advanced telephone service in rural areas.

Mr. President, I strongly believe, and feel certain that most of my colleagues will agree with me, that the existing system of universal telephone service in rural areas must be treated as a resource which is vital to our Nation's communication system and that any change in the law must retain some effective procedure for providing support for local service and local distribution systems.

Accordingly, Mr. President, to the best of my ability, I will work to assure that whatever telecommunications amendments we in Congress might eventually agree upon will include a specific and workable mechanism to continue universal service at reasonable rates throughout all parts of the Nation.●

FEDERAL PAY COMPARABILITY

● Mr. RIEGLE. Mr. President, the Carter administration has proposed substantial changes in the procedures for establishing and adjusting Federal white-collar pay. These proposed changes, I have no doubt, will be the subject of considerable debate and controversy in the coming months.

In considering these proposals, we should keep in mind the basic principle behind the existing system—that Federal white-collar pay should be comparable with private enterprise pay for the same levels of work. Implementing this policy, however, is no simple task.

Recently, the Labor Department's professional journal, the Monthly Labor Review, published an analysis and explanation of the current pay comparability procedures. I believe that this clear and instructive summary, written by George L. Stelluto, Assistant Commissioner for Wages and Industrial Relations of the Bureau of Labor Statistics, will be helpful in the ongoing consideration of Federal pay policy, and ask that it be printed in the RECORD.

The article follows:

FEDERAL PAY COMPARABILITY: FACTS TO TEMPER THE DEBATE

(By George L. Stelluto)

Pay comparability adjustments for Federal white-collar (General Schedule) employees typically lead to annual debate over the size of the adjustment and its cost implications. The process of determining adjustment levels is complex, adding another dimension to the controversy.

Each October, the pay adjustment process affects more than 3 million workers (including the military), while creating a substantial impact on the Federal budget. A 1-percent increase in Federal white-collar pay, for example, currently costs about $540 million. Thus, in deciding between a 1978 pay adjustment of 5.5 percent and the 8.4 percent recommended by his Pay Agent, President Carter had to consider increased annual costs of approximately $3 billion and $4.5 billion—a difference of $1.5 billion.

Sums of this magnitude raise legitimate debate over the cost implications of the comparability process. But controversy and confusion also stem from the process' complexity. This article describes the Federal pay comparability process in a manner that should reduce some of the confusion.

A good starting point is a graphic summary of the comparability process as prescribed by the Federal Pay Comparability Act of 1970. Exhibit 1 traces the primary steps of the process resulting in the President's selection of a comparability pay adjustment—or the President's proposal of an alternative pay plan that can be blocked only by congressional action. The Federal Employees Pay Council and the Advisory Committee on Federal Pay (both established by the 1970 act) are advisory parties in the process. The Council makes recommendations on Federal pay to the President's Agent, while the Advisory Committee makes it directly to the President.

Missing from exhibit 1, however, are several essential details of the pay comparability process. For example, what does the act say about Federal pay? What specific roles do the major actors play in the comparability process? What is the white-collar pay survey used in the process? The following sections describe these and other pay comparability issues.

COMPARABILITY BECOMES LAW

The Federal Salary Reform Act of 1962 was the first formal expression of the principle of pay comparability for Federal white-collar employees. The act called for an annual report comparing Federal salaries with those for equivalent work in private enterprise. The report, forwarded to Congress with the President's recommendation on Federal salary adjustment, was often followed by a lengthy legislative process to determine the amount of Federal pay increases.

The Federal Pay Comparability Act of 1970 established procedures for adjusting Federal white-collar pay by Executive action, eliminating the need for special legislation each year. The 1970 act, which continued the principle of pay comparability, required interpretation before comparability procedures were established.[1] For example, Congress required that "Federal pay rates be comparable with private enterprise pay rates for the same levels of work."[2] This seemingly clear-cut directive creates the need for interpretations such as "What is comparable? private enterprise? same levels of work?"

The 1970 act also provides for an agent, as did the 1962 act, known as the President's Pay Agent. Congress granted the President wide latitude to choose any individual or organization (either within or outside government) to act as his Agent for pay comparability. The Agent has primary responsibility for interpreting the 1970 act. The agencies that are now the Office of Personnel Management and the Office of Management and Budget[3] have always shared a primary role in the Federal pay comparability process. The two agencies had major input in shaping the law, and since 1962 the heads of both bodies have acted as the President's Pay Agent. The Secretary of Labor, by a 1977 Executive order, joined them to create a tripartite Presidential Pay Agent.

The Pay Agent is empowered through the act to create a five-member Federal Employees Pay Council (most recently made up of officials from major Federal Government unions and the AFL–CIO).[4] The Pay Agent is required to provide for meetings with the Council, but, more importantly, it must "give thorough consideration to the views and recommendations of the Council" in three essential areas: the coverage of the annual salary survey conducted by the Bureau of Labor Statistics; the process used to compare Federal and private pay for the same levels of work; and the needed adjustment in pay rates to achieve comparability. The final recommendation on each of these issues, however, rests with the President's Agent.

Another part of the act attempts to balance the Agent-Council relationship. The Council's views, Congress said, shall be included in the Agent's report to the President recommending Federal pay adjustments. The 1970 act also established the Advisory Committee on Federal Pay. The Committee (three private-sector pay experts) makes direct recommendations to the President on Federal white-collar pay adjustments, based on a review of the Agent's and the Council's recommendations as well as on other information compiled by the Committee.

INTERPRETING THE LAW

The President's Pay Agent has the main responsibility for interpreting the pay comparability law as it applies to Federal white-collar employees and, as described earlier, for setting up the process to provide the President with recommendations on Federal pay adjustments.

In general, the comparability law seems to focus on equity. Congress sought to maintain an equitable balance among three areas: equity for Federal and private employers competing for labor resources, permitting the Federal Government to attract, retain, and motivate qualified employees by approximating private-enterprise pay levels; equity for Federal employees, insuring that their salaries take account of pay levels for their private-enterprise counterparts; and equity for taxpayers, assuring them that Federal services are provided by qualified employees whose salaries are determined fairly in relation to the labor market.

Achieving a more specific interpretation of the comparability law first requires definitions for the terms "comparable," "private enterprise," and "same levels of work." Private enterprise pay rates, even within narrowly defined work levels, vary substantially among the many types of establishments in which the work is performed. Entry-level professional engineers (recent college graduates), for example, had private-sector salaries ranging from about $975 to more than $1,600 a month in March 1977—a salary spread of more than 65 percent.[5] How then does the Federal Government make its salaries "comparable" to the widely dispersed rates paid by private enterprise?

The President's Agent chose average (mean) pay rates in private enterprise for use in the comparability process. This choice sets a point near the middle of the array of private enterprise pay rates. It means that the Federal Government will, in fact, pay higher than some employers and lower than others for the same level of work.

The selection of average pay rates in private enterprise, although a rational choice, has created some criticism and confusion about the pay comparability process. Perhaps a clearer description of what average private enterprise pay rates are would reduce some of the confusion.

Selection of the average implies that the Federal Government seeks a pay position that has the least impact—more or less neutral—in the labor market. Paying at the average is, in other words, a middle ground in pay competition with other employers.

"Private enterprise" and "same levels of work" also required interpretation before the

---

Footnotes at end of article.

pay comparability process was put into place. Should "private enterprise" include all private establishments in the United States, regardless of industry, employment size, and whether they operate for profit? Or was something other than economy-wide private enterprise intended? Some have argued, for example, that the Federal Government is the Nation's largest employer and, therefore, Federal salaries should be compared with only the largest private-enterprise establishments.

TABLE 1.—SCOPE OF NATIONAL SURVEY OF PROFESSIONAL, ADMINISTRATIVE, TECHNICAL, AND CLERICAL PAY, 1977

Industry division	Minimum employment size of surveyed establishment	Number of establishments	Estimated employment	
			Total	White collar
All industries		35, 719	21, 178, 053	8, 821, 128
Manufacturing	[1] 100/250	18, 155	12, 378, 811	3, 893, 886
Nonmanufacturing:				
Mining	250	429	305, 390	94, 485
Construction	250	588	243, 392	87, 151
Transportation, communication, electric, gas, and sanitary services	[2] 100/250	3, 726	2, 603, 734	1, 297, 069
Wholesale trade	100	3, 616	777, 252	422, 523
Retail trade	250	2, 887	2, 522, 964	828, 320
Finance, insurance, and real estate	100	4, 968	1, 864, 827	1, 818, 059
Selected services [3]	100	1, 350	451, 683	379, 635

[1] Minimum size is 100 employees for chemical and allied products, petroleum refining and related industries nonelectrical machinery electrical machinery, transportation equipment, and instruments and related products and 250 employees for all other manufacturing industries.

[2] Minimum size is 100 employees for railroad transportation, local and surburban transit, deep sea transportation, air transportation, communications, electric, gas, and sanitary services, and pipelines and 250 employees for all other transportation industries.

[3] Limited to engineering and architectural services, research and development and commercial testing laboratories, advertising, credit reporting and collection, management and public reactions, and noncommercial research organizations.

According to the law, the Agent (after considering the views of the Council) decides on survey coverage and design (industries, minimum establishment sizes, geographical areas, and occupational work levels to be surveyed); but other parties also influence these decisions.

In 1962, for example, the survey coverage was limited to specific industries in metropolitan areas of the United States. A few years later, a private research group was engaged to review the survey. It recommended expanding the survey coverage to nonmetropolitan areas, and the change was made in 1966.[6]

An extensive audit of the pay comparability process by the General Accounting Office (GAO) in 1972 also influenced the survey design.[7] GAO recommended, among other things, expansion of the survey's industrial coverage. As a result, new industries (for example, mining and construction) and smaller establishments in a number of manufacturing industries were added to survey coverage in 1977. Another group recommending changes in survey coverage was the President's Panel on Federal Compensation (the 1975 Rockfeller Panel).[8] These influences upon the Pay Agent's interpretation of the law are reflected in the current specifications of the annual white-collar salary survey conducted by BLS and in the Agent's long-range plans to broaden the base for measuring comparability.

SURVEY SPECIFICATIONS

In its pay comparability legislation, Congress authorized BLS to conduct "appropriate annual surveys," now known as the National Survey of Professional, Administrative, Technical, and Clerical Pay—the PATC survey. The terms "private enterprise" and "same levels of work" take on specific meaning in the design of the PATC survey.

Private enterprise. In 1977, the survey covered nearly 36,000 private enterprise establishments with 8.8 million white-collar employees. The industry scope and establishment size measured by the survey, as shown in table 1, reflect the interpretation of "private enterprise" at the time of the survey.

The survey's minimum establishment size designations are about midway between two opposing criticisms. As mentioned previously, some have argued that the Federal Government should compare its salaries with only the largest private enterprise establishments (requiring current minimum establishment size designations to be raised substantially). Others, including GAO, contend that the minimums should be further reduced, extending survey coverage to smaller (presumably lower paying) establishments.

The survey's minimum establishment sizes were selected, for the most part, on the potential return of data on salaries for white-collar employees in narrowly defined work levels. The data yield for a small (100 workers) apparel manufacturing plant, for example, would be minimal. Such a plant would most likely have fewer than a dozen white-collar employees with little occupational specialization (for example, general office help rather than the specific occupations surveyed such as file clerks, stenographers, typists, and secretaries). A bank with 100 workers, however, would have much greater potential for providing PATC survey data because it has a nearly all white-collar work force, with employees often found in narrowly defined occupations.

Work levels. Narrowly defined occupational work levels, as used in the PATC survey, are developed to reflect the "same levels of work" performed in GS grades 1 through 15 (except GS–10). The March 1977 survey included 19 occupations, comprising 81 defined work levels. The selection spans a broad spectrum of white-collar activities—ranging from messengers and file clerks to high-level attorneys, chemists, and engineers. The list of jobs and number of work levels follows:[9]

PROFESSIONAL CATEGORY

Accountants (five levels).
Attorneys (six levels).
Auditors (four levels).
Chemists (eight levels).
Chief accountants (five levels).
Engineers (eight levels).

ADMINISTRATIVE CATEGORY

Buyers (four levels).
Directors of personnel (five levels).
Job analysts (four levels).

TECHNICAL CATEGORY

Computer operators (six levels).
Drafters (four levels).
Engineering technicians (five levels).

CLERICAL CATEGORY

Accounting clerks (two levels).
File clerks (three levels).
Keypunch operators (two levels).
Messengers (one level).
Secretaries (five levels).
Stenographers (two levels).
Typists (two levels).

Selection of PATC survey occupations is based on three criteria: an occupation must be surveyable in private enterprise establishments, it must be representative of occupational groups numerically important in the Federal Government as well as in private enterprise and it must be essentially of the same nature in both the private and Federal sectors. Occupational work levels used in the survey reflect duties and responsibilities in private enterprise; however, they are also designed to be tranlatable into the specific General Schedule (GS) grades of Federal employees. In table 2, the private-enterprise work levels for professional engineers are shown in relation to Federal GS grades. The President's Agent is responsible for selecting PATC survey jobs, assuring that they appropriately represented a broad range of Federal white-collar occupations, and defining work levels to relate to specific GS grades. BLS must assure that work-level descriptions can be applied in private-enterprise establishments; for example, keeping the language current to reflect changes in occupational content.

Data delivery. The Bureau of Labor Statistics acts as statistical agent in the survey portion of the pay comparability process. A probability sample of approximately 3,600 establishments is selected by BLS from the PATC survey universe (about 36,000 establishments in the 48 contiguous States), which is classified by industry and number of employees per establishment. PATC survey data (straight-time salaries by occupational work levels) are gathered in personal visits to sample establishments by about 130 experienced BLS field representatives. Centralized training of these personnel began in 1975, based on the recommendations made by the General Accounting Office.

Personal visits by BLS field representatives insure a high degree of data reliability and permit use of a job-matching technique in the survey. Work-level descriptions that reflect major pay-determining duties and responsibilities are reviewed by both a BLS representative and an appropriate establishment official. A match is made when an establishment's occupational classification meets the requirements of a given work-level description. Information on salary rates for incumbents in the matched occupation is then obtained from establishment records.

TABLE 2.—RELATIONSHIP OF PRIVATE ENTERPRISE WORK LEVELS AND FEDERAL GRADE LEVELS FOR PROFESSIONAL ENGINEERS

Private enterprise work level	Functional responsibility	Federal General Schedule (GS) grade
I	Entry level	5
II	Development level	7
III	do	9
IV	Journeyman level	11
V	Supervisory or research specialist	12
VI	do	13
VII	Program management or advanced research	14
VIII	do	15

Although the survey provides statistically reliable average salaries for white-collar occupations among private-enterprise establishments, these averages do not automatically correspond with the alignment of salaries and work levels within private establishments. This occurs because sample establishments account for different proportions of workers in the occupations and work levels surveyed. About nine-tenths of the chemists surveyed, for example, are employed in manufacturing establishments, whereas three-fifths of the attorneys are found in public utilities and in finance, insurance, and real estate firms. Moreover, average salary levels differ significantly among these major industry groups. Public

---

Footnotes at end of article.

utilities are typically the highest paying group; finance, insurance, and real estate, the lowest paying.

COMPUTING PAY ADJUSTMENTS

The President's Agent must reconcile two facets of the 1970 act in making recommendations to the President on Federal white-collar pay adjustments: pay comparability with private enterprise must be achieved while maintaining "pay distinctions in keeping with work distinctions." A reconciliation, one of the most complex parts of the pay comparability process, is achieved through use of statistical paylines constructed to fit the central tendency of both private enterprise pay (provided by the PATC survey) and Federal Government pay data.

Construction of statistical paylines, requiring a complex set of calculations, is surrounded by controversy because there is no single, generally accepted method for computing them. The method currently used includes several stages, beginning with a double-weighting procedure (initiated by the President's Pay Agent in 1976) to estimate what the average salaries would be for GS grades if the Government paid the "private enterprise average." The calculations made for GS–5 in 1977 are shown in table 3.

First, an average is calculated for each of the four broad occupational categories that make up the grade (professional, administrative, technical, and clerical). Using PATC survey averages weighted by Federal employment for the survey work levels involved, the calculations for the GS–5 "professional category" produced an average of $13,439:

Occupational work level	1977 PATC survey average salary	GS–5 professional employment	Aggregate salaries
Accountant I	$12,155	302	$3,760,810
Auditor I	12,570	477	5,995,890
Chemist I	12,872	131	1,686,232
Engineer I	14,613	747	10,915,911
Total		1,657	22,268,843

Note: $22,268,843 divided by 1,657 equals $13,439 equals GS–5 professional category average.

Second, a grade average was calculated using each occupational category average weighted by total GS–5 employment in the category (for example, 3,765 professional employees) and dividing the sum of these products by total employment in the grade:

Occupational category	Category average salaries	Federal employment in category	Aggregate salaries
Professional	$13,439	3,765	$50,597,835
Administrative	12,346	8,748	108,002,808
Technical	11,770	46,119	542,820,630
Clerical	10,100	113,046	1,141,764,600
Total		171,678	1,843,185,873

Note: $1,843,185,873 divided by 171,678 equals $10,736 equals GS–5 private enterprise average.

This two-stage procedure is repeated for each GS grade represented in the PATC survey (grades 1 through 15, except GS–10). In the case of GS–5, it produced $10,736 as the, "private enterprise average" for the grade; this and similarly calculated averages for other grades will be used as data points for plotting the private enterprise payline later in the process.

Next, average Federal Government salaries are calculated by the Pay Agency for each GS grade, based on the present salaries of employees within each grade. The averages reflect the distribution of incumbents over the 10 within-grade steps and, thus, provide inconsistent relationships among GS grades. By using these weighted averages, within-grades increases received since the previous year's comparison with private enterprise are accounted for in the process. Without accounting for them, the adjustment required to attain comparability would be larger.[10]

Private enterprise and Federal Government average salaries by GS grade must be aligned to yield proper relationships in the General Schedule salary rates. Alignment is achieved through regression techniques that allow selection of a "best-fit" payline—one that balances Federal/private pay comparability with the need to maintain "pay distinctions in keeping with work distinctions" in the General Schedule. Table 4 shows the results of the alignment procedure for GS–1 through GS–18, with the intergrade spread in percent. The paylines provide orderly sequences of intergrade salary spreads, whereas private enterprise and Federal Government average salaries yield erratic intergrade relationships (table 4).

Footnotes at end of article.

The comparability pay adjustment for each GS grade is the percent difference between the "General Schedule Payline" and the "Private Enterprise Payline" for that grade. (See chart 1.) The adjustment for GS–5 salaries, for example, would be 6.34 percent. The salary for GS–5 (step one) would, thus, be increased from $9,303 to $9,893.

This procedure is carried out for each GS grade to arrive at proposed step-1 pay rates. Next, within-grade salary steps are made equal to 3.3 percent of the step-1 salary level, yielding a 30-percent range of nine equal-dollar increments above the step-1 rate. Within-grade GS–5 rates, for example, are calculated by adding $326 (3.3 percent of the $9,893 step-1 rate) to arrive at the step-2 rate of $10,219. Adding another $326 produces a step-3 rate of $10,545, and so on.

After the comparability increase is calculated for each GS grade, the Pay Agent prepares a recommendation for the President. The Agent may recommend an adjustment other than that produced by the statistical process. But, as noted earlier, the Agent must consider the views of the Federal Employees Pay Council before making any recommendation.

TABLE 3.—CALCULATING FEDERALLY WEIGHTED, PRIVATE ENTERPRISE AVERAGE FOR GS GRADE 5

PATC survey work level	1977 PATC survey average annual salary	Federal employment weight	Federally weighted private enterprise average
Total grade, GS–5		171,678	$10,736
Professional category		3,765	13,439
Accountant I	$12,155	302	
Auditor I	12,570	477	
Chemist I	12,872	131	
Engineer I	14,613	747	
Administrative category		8,748	12,346
Buyer I	12,346	251	
Technical category		46,119	11,770
Buyer I	12,346	1,569	
Computer operator II	9,463	1,571	
Drafter II	12,833	640	
Engineering technician III	13,151	1,477	
Clerical category		113,046	10,100
Secretary II	10,100	24,737	

Note: Totals for each category and the GS–5 total include Federal employees in addition to those shown separately by occupation.

TABLE 4.—ALINING PRIVATE ENTERPRISE AND FEDERAL GOVERNMENT AVERAGE SALARIES, 1977

	Private enterprise				General Schedule			
	Average salaries	Percent Intergrade spread	Payline	Percent Intergrade spread	Average salaries	Percent Intergrade spread	Payline	Percent Intergrade spread
GS grade:								
1	$6,572		$6,819		$5,917		$6,368	
2	7,387	12.4	7,718	13.2	6,775	14.5	7,225	13.5
3	8,888	20.3	8,711	12.9	7,955	17.4	8,171	13.1
4	10,144	14.1	9,805	12.6	9,259	16.4	9,120	12.7
5	10,736	5.8	11,005	12.2	10,567	14.1	10,348	12.4
6	10,942	1.9	12,317	11.9	11,928	12.9	11,589	12.0
7	14,284	30.5	13,746	11.6	12,993	8.9	12,937	11.6
8	13,971	−2.2	15,299	11.3	14,722	13.8	14,394	11.3
9	17,522	25.4	16,980	11.0	15,761	6.6	15,963	10.9
10			18,792	10.7	17,673	12.1	17,645	10.5
11	21,354		20,739	10.4	19,205	8.7	19,441	10.2
12	24,542	14.9	25,047	20.8	23,088	20.2	23,371	20.2
13	29,438	19.9	29,913	19.4	27,717	20.0	27,732	18.7
14	36,056	22.5	35,324	18.1	32,677	17.9	32,480	17.1
15	41,108	14.0	41,248	16.8	38,956	19.2	37,548	15.6
16			47,628	15.5			42,845	14.1
17			54,379	14.2			48,256	12.6
18			61,394	12.9			53,646	11.2

Note: Actual salary rates are limited to the rate for level V of the Executive Schedule which remains at $47,500. Jobs representing GS–10, 16, 17, and 18 are not included in the PATC survey; payline data points for these occupations are the result of statistical extrapolation by the pay agent. Percent intergrade spread is calculated by dividing the salary difference of 2 adjacent grades by the salary of the lower grade.

Under the General Schedule pay system, professional and administrative employees are normally hired and promoted only in grades 5, 7, 9, 11, and 12 through 18. The intergrade spread for GS payline salaries above grade 11, when employees advance one grade at a time (20.2 percent between GS–11 and GS–12, for example), was designed to be consistent with the intergrade spread between payline salaries of the lower professional grades. GS–5 to GS–7 (23.6 percent). GS–7 to GS 9 (22.2 percent); and GS–9 to GS–11 (20.7 percent).

THE PRESIDENT'S OPTIONS . . . AND DECISION

The President has two options in deciding on an October pay adjustment for Federal white-collar employees: a comparability for adjustment, or something other than full comparability because of national emergency or economic conditions affecting the general welfare.

If the President decides on a comparability adjustment, he still maintains a range of choices, including those based on recommendations from his Agent, the Advisory Committee, and the Federal Employees Pay Council. Any comparability increase the President selects takes effect the first pay period commencing on or after October 1. The President must send Congress a report of the pay adjustment, along with copies of reports issued by his Agent and the Advisory Committee.

Under the 1970 act, when the President considers a comparability pay adjustment inappropriate because of "national emergency or economic conditions affecting the general welfare," he must submit an alternative plan to Congress before September 1. The President's alternative plan becomes effective unless a majority of either House of Congress adopts a disapproving resolution within 30 days of its submission. If a disapproving resolution is adopted, then a pay adjustment based on comparability becomes effective in October, as though the President had not developed an alternative plan.

In 1977, the payline procedure yielded a comparability adjustment of variable increases by GS grade (ranging from 6.26 percent for GS–7 to 14.44 percent for GS–18). But, at the urging of the Federal Employees Pay Council, the Pay Agent recommended an across-the-board increase; however, the recommended 7.05 percent was less than the 8.8-percent increase advocated by the Council.

The Council's suggestions, included in the Agent's report to the President, cited concerns over new payline procedures, the expansion of PATC survey industrial coverage, and the lag between the reference of the PATC survey (March 1977) and timing of the Federal pay adjustment (October 1977).

The Advisory Committee endorsed the 7.05-percent pay adjustment recommended by the Pay Agent, but expressed reservations about the "across-the-board" rather than grade-by-grade nature of the adjustment. The Committee also commented on several issues debated by the President's Agent and the Federal Employees Pay Council that year.[11]

After reviewing these recommendations, the President selected the 7.05-percent accross-the-board increase as the comparability adjustment that became effective in October 1977.

In 1978, the President proposed an alternative pay plan for the October adjustment, and the plan was not disapproved by Congress. An excerpt from the President's message accompanying his alternative plan submitted to Congress follows:

"The pay act gives me the authority to propose an alternative pay adjustment which I consider appropriate in light of 'economic conditions affecting the general welfare.' Therefore, I am submitting to Congress an alternative plan for a 5.5-percent pay increase. This will allow the Federal Government to set an example for labor and industry and lead the fight against inflation by example, and not just words alone."[12]

A brief history of Pay Agent recommendations and the actual increases granted under the 1970 Federal Pay Act follows:

Date of change	Average increase	Comparability recommendation
January 1971	6.0	6.0
January 1972	5.5	6.5
October 1972	5.1	5.1
October 1973	4.8	4.8
October 1974	5.5	5.5
October 1975	5.0	8.7
October 1976	4.83	4.83
October 1977	7.05	7.05
October 1978	5.5	8.4

THE CUMULATIVE IMPACT

Examination of the Federal pay comparability process invariably leads to two questions: What has been the cumulative effect of Federal whitecollar pay adjustments? How do these adjustments compare with pay increases for private enterprise employees?

An initial observation of the process reveals that Federal salary increases over the past 17 years have outstripped those in private enterprise. The principle of comparability, however, was established at a time (1962) when Federal salaries were substantially below private enterprise pay levels. In 1961, the pay differential in favor of private industry ranged from 14 percent at GS–7 to 32 percent at GS–15; rates in the lower GS grades (1 through 6) were equal to or higher than those for comparable work in private industry.[13] A predictable result in achieving comparability, not reached until 1969, was greater growth in Federal pay.

Comparison of white-collar salary movements for private enterprise (using PATC survey results) and the Federal Government (average adjustment in General Schedule salaries) provides an interesting perspective.[14] From 1961 through 1978, private enterprise average salaries rose 144 percent; average Federal salary levels, 155 percent. During the 1961–69 catch-up period, the difference in the rate of salary increases for the Federal Government compared with private enterprise was pronounced—Federal salaries rose nearly 55 percent, contrasted with a 36-percent rise for private enterprise. After this catch-up, however, the trend reversed.

During 1969–78, Federal salary increases slowed in relation to private pay, largely the result of two factors: alternative Presidential pay plans not disaproved by Congress in 1975 and 1978 that were below the Pay Agent's recommended comparability adjustment;[15] and changes in the construction of statistical paylines that altered the measurement of comparability, such as occurred in 1976. Thus, between 1969 and 1978, Federal pay rose 62 percent, while private pay increased 80 percent.

POLITICAL DIMENSION

The political dynamics of Federal pay comparability provides another interesting perspective on the process. During the 1962–70 period, Congress retained final decisionmaking power over Federal white-collar pay adjustments, obtaining recommendations from the President based on PATC survey results. Thus, Congress was faced with annual decisions on equitable Federal pay adjustments, taking account of the President's recommendations as well as the position of Federal unions (including postal unions whose members' pay was tied to General Schedule adjustments at that time). Also, inflationary concerns created pressure to keep pay adjustments down because the cost of a 1-percent Federal pay increase was approaching $500 million.

The 1970 act moved decisionmaking on Federal pay adjustments to the President and created the Advisory Committee on Federal Pay and the Federal Employees Pay Council. Over the past 7 years, interaction between the President's Agent and the Council has taken on some elements of private-sector labor relations, even though the 1970 act cast the Council in an advisory role.

A summary of Council interaction in the pay comparability process since 1972 follows:

In 1972, the Council recommended increasing the minimum establishment size covered in the PATC survey. The President's Agent considered the proposal and raised the minimum establishment size from 50 to 100 employees in the finance, insurance, and real estate industry group.

In 1973, the Council opposed changes in payline procedures initiated by the Pay Agent. In addition, the Council recommended, without success, a $198 cost-of-living payment for each Federal worker. The Council's recommendations represented a total pay increase of 6.97 percent, compared with the Agent's recommendation of 4.8 percent that was selected by the President.

In 1974, the Council persuaded the President's Agent to remove secretaries and computer operators from payline calculations until survey job definitions could be restudied. It is estimated that this action increased the 1974 pay adjustment from 3.38 to 5.5 percent—an additional cost of about $1 billion.

In 1975, the Council persuaded the Agent to change its recommendation for a differential pay adjustment (ranging from 8.10 percent at GS–1 to 9.99 percent at GS–18) to an 8.66-percent across-the-board adjustment. President Gerald R. Ford, however, proposed an alternative plan (a 5-percent across-the-board adjustment) to Congress, and his plan was not disapproved.

In 1976, the Council was unsuccessful in persuading the President's Agent to reconsider an average 4.8-percent adjustment (a differential adjustment with higher grades getting larger increases). The 4.8-percent average adjustment reflected the inclusion of secretaries and computer operators, as well as new weighting procedures, in payline calculations.

In 1977, the Council persuaded the Agent to recommend a 7.05-percent across-the-board adjustment to the President, rather than a differential adjustment with higher grades getting a larger pay increase, as shown in chart 1.

In 1978, the Council did not participate in the pay adjustment process after an announced 5.5-percent pay "cap" precipitated the resignation of all members in early April. (See footnote 4.)

DEBATABLE ISSUES

Many issues concerning the pay comparability process have generated serious debate. Some issues relate directly to the process; others are tied to pay practices of the Federal Government.

Following are eight examples of the debate surrounding the pay process: Pay comparisons do not take account of the higher level of risk (or job insecurity) in the private setting; Federal pay adjustments have an upward influence on private enterprise salary increases, causing a built-in spiral in salary movements; the Federal Government, with nationwide white-collar salary rates, substantially overpays in certain labor markets and underpays in others; benefits as well as salaries should be included in the comparability process; nonproduction cash bonuses in addition to private-enterprise salaries should be included in the process; the white-collar pay survey should be expanded to the broadest possible establishment size and industrial scope, including State and local

---

Footnotes at end of article.

governments; the 6-month time lag between the reference date of the PATC survey (March) and the Federal white-collar pay adjustment (October) should be reduced; and the occupations surveyed should be made more representative of both the Federal Government and private-enterprise job structure.

Issue focusing on Federal pay practices include the following: Federal employees receive within-grade salary increases essentially based on length-of-service in addition to comparability pay adjustments; Federal employces in professional "career ladders" move to higher levels of responsibility (higher GS grades) at a faster rate than their professional counterparts in private enterprise; and merit should be given more emphasis in the adjustment of pay for individual employees.

The above issues, for the most part, have been addressed in several reviews of the Federal pay comparability process. They are reflected in the recommendations of the General Accounting Office, the 1975 President's Panel on Federal Compensation (the Rockefeller Panel), and more recently by the Personnel Management Project,[16] one of President Carter's task forces on reorganization of the Federal Government. These efforts, along with debate on the issues, are part of a continuing reassessment that is vital to the improvement of the pay comparability process.

Over the years, one of the comparability process' major strength has been its visibility. The October pay adjustment for more than 3 million Federal civilian and military employees receive extensive press coverage—an indication of broad public interest. The publicity often generates a significant response, as the public becomes aware of the amount of the Federal pay adjustment. Visibility of the pay process, therefore, adds to its strength by insuring more rational decisionmaking by public officials.

FOOTNOTES

[1] For a discussion of the 1970 pay act's interpretation in a policymaking context, see Thomas W. Gavett, "Policymaking and the role of labor statistics," *Monthly Labor Review*, September 1971, pp. 38–43.

[2] 5 U.S.C. Sec. 4301(a)(3)(1970).

[3] In 1978, the Office of Personnel Management assumed many functions of the former Civil Service Commission, including the responsibility of Pay Agent fulfilled by the agency's head. Similarly, in 1970, the Office of Mangement and Budget assumed the functions of the former Bureau of the Budget, including the director's responsibilities as Pay Agent.

[4] On April 12, 1978, the officials making up the Council withdrew from their appointed positions following the President's anti-inflation message of April 11, which included the announcement of a "cap" of 5.5 percent on the October 1978 Federal pay raise. The Council denounced this as "totally reprehensible and unacceptable."

[5] Data from 1977 are used to illustrate the comparability process throughout this article because 1977 was the last year when all the actors provided for in the law actually fulfilled their roles.

[6] For a discussion of the comparability process during the 1960's, see L. Earl Lewis, "Federal pay comparability procedures," *Monthly Labor Review*, February 1969, pp. 10-13.

[7] The GAO report (No. B–167266) is available for $1 from the U.S. General Accounting Office, Room 1518, 441 G Street N.W., Washington, D.C. 20548.

[8] For a brief discussion of the Rockefeller Panel's recommendations, see William M. Smith, "Federal pay procedures and the comparability survey," *Monthly Labor Review*, August 1976, pp. 27–31.

[9] In 1977, too few employees were found in three occupational work levels to warrant publication of average salary data: chief accountants V, directors of personnel V, and job analysts I. Occupational characteristics of buyers at the first two work levels in the private sector include elements of both administrative and technical positions in the Federal service. Thus, salaries of buyers I and II in the private sector are included in the comparisons for both of these Federal categories. Accounting clerks II is similarly used for both clerical and technical comparisons.

[10] Federal employees are eligible for within-grade step increases (when their level of work is competent) after meeting length-of-service requirements: 1 year each for advancement to steps 2, 3, and 4; 2 years each for advancement to steps 5, 6, and 7; and 3 years each for advancement to steps 8, 9, and 10. About 40 percent of all GS employees receive a step increase each year. Based on the Civil Service Reform Act of 1978, the procedures for granting step increases as outlined above have been modified for certain managerial and supervisory employees.

[11] See the *Annual Report of the Advisory Committee on Federal Pay*, appended to House Document 95–233, Sept. 6, 1977, Government Printing Office.

[12] *Message to Congress Transmitting the Federal Pay Comparability Alternative Plan*, House Document 95–378, Sept. 6, 1978, Government Printing Office.

[13] See Jeanne Griest, "Classification Act Employees' Salary Changes, 1962–64," *Monthly Labor Review*, October 1964, pp. 1150–54.

[14] Calculated from data in *National Survey of Professional, Administrative, Technical, and Clerical Pay, March 1978*, BLS Bulletin 2004, text table 1, p. 2; and various annual reports of the President's Pay Agent.

[15] The January 1972 average 5.5-percent increase was also below the comparability recommendation of the Pay Agent; however, this occurred as a result of Congress' Economic Stabilization Act Amendments of 1971.

[16] See *Personnel Management Project, Vol. 1* (final staff report), document number 0–253–052–6723, Government Printing Office, 1977.●

11TH ANNIVERSARY OF SOVIET INVASION OF CZECHOSLOVAKIA

● Mr. DOLE. Mr. President, Czechoslovakia presents the remarkable example of a land who achieved national identity centuries before independence and political nationhood became facts. Political sovereignty was achieved in 1918, when Prof. Thomas Masaryk submitted the Czechoslovak declaration of independence based on the principles of Abraham Lincoln. The constitution that was presented in 1920 was modeled after those of France and of the United States, and provided for a parliamentary form of government. In becoming the first true democratic state in eastern Europe, Czechoslovakia united Czechs and Slovaks who were thus able to join their common ethnic and linguistic backgrounds in the birth of a nation.

The Czechs were to enjoy a liberal and democratic rule for a period of 20 years, during which they embarked on a valiant effort to maintain their independence by entering into a series of alliances with other European nations between 1920 and 1935. During the Second World War, the exiled government attempted to maintain the legal continuity of Czechoslovakia and upon its return in 1945 to restore democratic basis.

One can only speculate on the different turn of events that might have changed the fate of Czechoslovakia, had its "liberators" been other than the Soviet forces, who brought about the establishment of a new government strongly influenced by Communist ideology. The situation that developed resulted in loss of independence and the creation of a satellite relationship vis-a-vis the Soviet Union, a pattern with which the free world has become all too familiar.

The Czech people did not resign themselves easily to the authoritarian regime under which they were forced to live, and in 1960 internal and external pressures for reforms brought Alexander Dubcek into power. The wheels for liberalizing reforms had been set into motion. That breathing period in the history of Czechoslovakia was of short duration. In August 1968, a military invasion followed by Soviet occupation was to crush brutally the aspirations of the Czech people.

Eleven years have elapsed since the rape of Czechoslovakia. For those who live under the yoke of the Soviets it is a long period indeed. But the Czechs have a remarkable record. As a people subjected to persistent foreign influence—through centuries of German domination—it has succeeded nevertheless in retaining its identity intact in spite of the many upheavals that have marked its history.

Rich indeed is the history of Czechoslovakia. The achievements of its people are many. To the distinction of becoming the first true democracy in eastern Europe under the leadership of Thomas Masaryk, its first President, Czechoslovakia added the foundation of the first university in central Europe, making Prague an important center of culture and learning as early as the 14th century, when Prague also became one of the most beautiful capitals in Europe, as a result of the ambitious program of public construction initiated under Charles IV. In our own time, men such as Smetana, Kafka, and Dvorjak have greatly contributed to the culture of the world, while becoming household names.

The liberal spirit of the Czechs has burned since times immemorial, when their inherent taste for freedom was kindled by the presence of foreign rulers on their soil, from the 15th century on. That spirit was to be sustained through the rule of the various European factions to that of the Hapsburgs in 1526. A series of political upheavals in the 17th century marked the decline of Czech liberties until 1918 when independence was achieved.

The Helskini final accords have afforded a glimmer of hope to those Czechs who have not abandoned their aspirations for freedom. The recent arrest on May 29 of 10 members of the Helsinki monitoring group, charter 77, has served to remind the world that the courageous fight goes on and that Communist attitudes have not changed. We can be confident that the fight will continue, as long as there will be men who, along with Patrick Henry, question whether "life is so dear or peace so sweet as to be purchased at the price of chains and slavery." Our own efforts on behalf of the Czechs in seeking ways to implement the spirit of the Helsinki agreements must be pursued as an indication to the Czechs that, yes, we do care.●

TOXIC WASTES

● Mr. DURKIN. Mr. President, this Nation is currently faced with a problem that could turn into an environmental disaster. I am speaking of the leaking of toxic and hazardous chemicals from inactive and abandoned waste disposal sites. The seriousness of this matter is reflected in the discovery of the toxic wastes at Love Canal near Niagara Falls, N.Y., where more than 200 families were evacuated because of the health risks. The Environmental Protection Agency has listed over 600 dumping sites which are known to threaten human health and 2,000 which are potentially harmful to our well-being.

Hazardous wastes are a concern in my home State of New Hampshire. Improperly operated dump sites and leakage have been found in Raymond and Nashua. The chemicals from the Raymond dump were discovered in a stream feeding the Exeter River, which supplies drinking water for several towns. Some chemicals from the illegal dump site in Nashua have entered the Nashua River and contaminated at least one well formerly connected to the city's water supply. In response to these incidents, the New Hampshire Senate has approved bills designed to increase control over the transportation, storage, and disposal of toxic materials in my home State.

But national action is needed to prevent another Love Canal tragedy. In New England alone, 100 million gallons of hazardous waste are generated every year, and yet there is not one single disposal facility to handle these wastes adequately.

As a New England Regional Commission study of hazardous wastes points out:

> Someone who wants to dispose of waste properly ships it at great expense. It is much cheaper to do it illegally or improperly.

I know my colleagues in the Congress share my feelings that something must be done about the way in which we dispose of 50 million tons of hazardous wastes each year. My esteemed colleague from New York, Senator MOYNIHAN, has submitted a comprehensive and well-constructed bill which addresses this pressing issue, and I am delighted to cosponsor with him. Senator MOYNIHAN's bill, S. 1046, does the following:

First. Establishes a procedure for the selection and regulation of sites for the future disposal of hazardous wastes.

Second. Creates a means for emergency financial assistance for cleaning up hazardous wastes which threaten the public health.

Third. Enables the Federal Government to bring legal action against those who have irresponsibly disposed of such wastes, both to force them to contribute to the cleanup costs and to compensate those who have been done some injury.

Fourth. Establishes a fund, not financed principally by tax dollars, to finance these programs. The source of the fund will include fees paid by the owners and operators of oil refineries and fees paid by private organizations which store or dispose of hazardous wastes and a contribution from the States to help defray the costs of each State's hazardous wastes program, equal to 5 percent of that State's program costs.

Mr. President, we are faced with the overwhelming threat of slowly poisoning our environment with toxic wastes. Without firm action by the Federal Government, the toll on the health and welfare of our citizenry will be devastating. We must make a firm commitment to ridding ourselves of these poisons, and that is why I am delighted to support this bill.●

COMMENDING THE NATIONAL WOMEN'S POLITICAL CAUCUS FOR THEIR RESOLUTION ON WORLD HUNGER

● Mr. McGOVERN. Mr. President, I wish to bring to the attention of my colleagues the recent adoption by the National Women's Political Caucus of a resolution to support public education efforts by the Presidential Commission on World Hunger. The resolution was adopted during a plenary session of the July 1979 Biennial Convention of the National Women's Political Caucus.

As one of those who assisted in the creation of the Presidential Commission on World Hunger, I commend the caucus' message to its membership; the alleviation of world hunger is critically urgent. It cannot be stressed strongly enough that while there have been increases in food production since the 1974 World Food Conference, the problem worsens. The world's undernourished people have increased from 400 million to approximately 450 million. Even in America, after a decade of real progress in alleviating hunger, millions of men, women and children still suffer from hunger and malnutrition.

As the Commission nears completion of its report recommending policy direction for developing comprehensive anti-hunger strategies, it is preparing to focus national attention on the causes and dimensions of world hunger. It is during this crucial second public education phase of Commission activities that we in Congress will have the opportunity to educate ourselves and our constituencies in the special concerns of the hungry in America and overseas.

Mr. President, I applaud the National Women's Political Caucus for its recognition of the need to eradicate hunger from the earth and I ask that the following resolution be printed in the RECORD.

The resolution follows:

RESOLUTION

Whereas, millions of American men, women and children suffer from hunger and malnutrition that result from poverty;

Whereas, these hungry Americans live in a country that has the wealth to raise the standard of living and assure an adequate diet for all its citizens;

Whereas, recent findings of a major national study demonstrate that progress can and has been made during the past decade toward eradicating hunger and malnutrition in America;

Whereas, numerous local groups have been committed to ending hunger and malnutrition in their communities and overseas for many years, and have worked faithfully toward that goal;

Whereas, the Presidential Commission on World Hunger was appointed by the President in September 1978, in response to Congressional resolutions calling for a Commission to study the causes and to recommend actions to reduce domestic and international hunger and malnutrition; and

Whereas, the Presidential Commission is currently analyzing the effectiveness of domestic and international programs, including the role of women in those programs, and is currently formulating recommendations for local, state, national, and international actions to eradicate hunger from the earth; therefore be it

Resolved, To educate ourselves to the special concerns of the hungry in America; to support efforts by the Presidential Commission on World Hunger to focus national attention on world hunger concerns and to educate local communities in the causes and dimensions of the world hunger problem and its affect on their individual lives; and to advocate those Commission recommendations that could assure an adequate diet for all Americans and for the hungry around the globe.●

HERBERT G. KOOGLE, P.E.

● Mr. DOMENICI. Mr. President, it is my pleasure to announce that Herbert G. Koogle, P.E., of Albuquerque, N. Mex., has been recently elected as the National Society of Professional Engineers' vice president of the southwestern region and selected as chairman of the legislative and government affairs committee. NSPE is a nationwide organization representing nearly 80,000 individual members involved in virtually every aspect of the engineering profession.

Herb is a registered professional engineer and land surveyor in New Mexico and president and chairman of the board of Koogle & Pouls Engineering, Inc., of Albuquerque.

Before taking on his current tasks at NSPE, Herb served as president of the Albuquerque chapter, president of the New Mexico Society of Professional Engineers, national director from New Mexico, and chairman of the professional engineers in private practice division of NSPE.

It is indeed an honor for the State of New Mexico for Herb Koogle to be selected for these positions. I wish to take this opportunity to wish him much success.●

KING SOYBEAN

● Mr. EAGLETON. Mr. President, on Tuesday, July 24, 1979 the Washington Post ran a front page story on "King Soybean", the crop that now brings more export revenue into the United States than any other crop. America exported $6.9 billion worth of soybeans in 1978.

The growth of soybeans from a minor crop in the 1920's to its position of king today in terms of both acres planted and revenue is directly linked to the resourcefulness of our Nation's farmers and to the highly successful system of agricultural research, extension, and international marketing which we have developed in this country.

I am proud that the Washington Post selected Missouri to illustrate the phenomenal growth of soybean production in this country. But then, why shouldn't they pick Missouri? Our State ranks third in the country in soybean production and third in soybean exports. Missouri bean exports brought our farmers more than $500 million in export revenues last year.

Mr. President, I ask that the Washington Post article be printed in the RECORD.

The article follows:

COTTON, WHEAT AND CORN BOWING TO THE REIGN OF KING SOYBEAN

(By Dan Morgan)

CARUTHERSVILLE, Mo.—Across the Bootheel of Missouri, cotton picking machinery is rusting in barns this summer and managers of the few remaining cotton gins are wondering if this will be their last year in business.

Thousands of acres that once grew cotton have been planted in neat, dark green rows of soybeans. Here and there new metal grain bins gleam in the sun. And down on the Mississippi River, barges pull up to huge terminals at such places as Cottonwood Point and Huffman's Landing to take on cargos of soybeans destined for Europe and Japan.

American farmers will harvest more acres of soybeans in 1979 than of either corn or wheat, the Department of Agriculture estimates. Soybeans are now the nation's leading cash crop, producing more revenue than corn for farmers in Iowa and more than cotton for growers in Mississippi.

Soybean exports bring in more revenue than any other U.S. crop—$6.9 billion in 1978 compared with $5.9 billion for feed grains and $4.6 billion for wheat.

"Soybeans are key to the economic health of the United States," says the American Soybean Association, a nonprofit organization that receives funds from the Federal Government and farmers to promote the use of soy products.

As production has increased from 15 million tons in 1960 to a predicted 50 million tons this year, a new industry has grown up around soybeans.

Soybeans are processed at multimillion-dollar plants to produce two primary products: one, a dry, high-protein meal, has become a principal ingredient for livestock feed; the other, soy oil, is used in margarine or as a cooking and salad oil.

The industry is experimenting with numerous exotic uses for soy products, from meat extenders to industrial solvents. And in Japan and some other Asian countries, soya is a mainstay of human diets.

The rise of soybeans to the status of glamor crop came about through changes in diets at home and abroad since World War II. In the 1920s, soybeans were a minor crop with little commercial value. Farmers often grew them only to plow them under to restore nutrients to cornfields.

As the nation's hog and poultry industry grew, however, soybeans became a handy source of protein. And as other nations developed their own meat industries, soybeans began to move off the fertile lands along the Ohio, Illinois and Mississippi rivers into export channels.

These developments have altered the agricultural landscape in Pemiscot County, an area of rich farmland created from swampy timberland after the turn of the century.

Farmers in these parts still recall with a touch of nostalgia the days when cotton was the main crop—when handpickers fanned out in fields to gather the cotton, and mules hauled the bales to local gins.

"Everything was cotton when I was young," says Robert O. Pierce, who now grows registered and certified soybean seed on 3,000 acres that he leases and owns.

Until recently, Pierce grew 1,000 acres of cotton or more a year, and he owns an interest in a local gin. But three years ago, he says, he put his three cotton pickers in the barn and went over to soybeans.

Economics, in one form or another, dictated his decision.

Pierce and other farmers around here say there hasn't been a good cotton crop locally since 1972. Yields that ran 700 pounds an acre in the 1960s have been averaging as little as 350 pounds.

Pierce attributes this to a series of wet, cool springs—adverse weather for planting cotton—and possibly to an accumulation of chemical weedkiller that some say has damaged the soil.

Pierce's father started raising soybeans in the 1940s. Today Pierce is one of the largest and most prosperous farmers in the county. He sells soybean seeds to local farmers and bags additional quantities for Pfizer, one of several pharmaceutical firms that have entered the seed business.

"Cotton is a good product, but we just couldn't make the profit we needed," says Pierce, whose son Bob says he has no intention of going back to cotton.

Horace Dunagan Jr., president of the First State Bank of Caruthersville, believes that the transition to soybeans might have been even more rapid were it not for old patterns of land ownership by local cotton gins. To ensure that there was an adequate supply of cotton for these gins, gin owners leased out the land on the condition that the tenant farmers continue to plant cotton. These arrangements appear to be disappearing, Dunagan said.

Robert Winston, manager of a local gin, says business has dropped from 6,765 bales in 1972 to 1,323 bales last year. Plants that produced vegetable oil from crushed cottonseed also are closing.

David Guethle, an extension service agronomist of the University of Missouri, confirms that farmers have had trouble growing cotton, but he says that the principal reason for the changeover is economic—the fact that the soybean "is a money-making crop."

Farmers here can produce more than 40 bushels of soybeans an acre. With prices last year running around $7 a bushel, earnings per acre have averaged $300, compared with $280 an acre for a typical field of cotton.

And raising soybeans tends to be cheaper and easier than growing cotton. In its early stages, cotton requires constant attention to guard against diseases and boll insects. A mechanical cotton picker costs about $80,000 and covers only two rows at a time, while a soybean combine can harvest seven rows each trip—meaning lower fuel costs for soybean growers.

Although soybean promoters note that "a hungry world needs protein," only a small percentage of U.S. soybeans are used in poor countries where malnutrition is prevalent. Half are used in the United States, and the rest are exported to Europe, Japan or to advanced developing countries in the form of meal, oil or unprocessed beans.

Because the Mississippi River—the "Main Street" of the world grain trade—flows right by Pemiscot County, most of the soybeans grown here will end up abroad.

To accommodate the growth, the Missouri Farmers Association, a cooperative, has expanded its depot in Caruthersville from a 300,000-bushel capacity in 1970 to 2.2 million bushels today.

Elevator manager Melvin Dowling says he sells most of the beans he buys to Farmers Export, another cooperative located downstream, north of New Orleans.

But for the most part soybean trade up and down the river is dominated by multinational grain companies.

In a 180-mile section of river between Osceola, Ark., and Sikeston, Mo., are 10 terminals belonging to Cargill, Continental and Bunge, three of the largest of these companies. Most of the beans moving into these terminals are shipped abroad—sometimes to processing plants owned by overseas subsidiaries of these same companies.

Not surprisingly, the grain companies and several cooperatives have moved aggressively into the processing of the beans—much as oil companies are involved in petroleum refining.

Private security analysts list Minneapolis-based Cargill, the world's largest grain company, as the leading U.S. soybean processor, with nearly 20 percent of the country's total crushing capacity.

Large agricultural firms such as Ralston Purina and Archer Daniels Midland also have invested in processing.

As the need for high-protein animal feeds has increased, new crushing plants have been built overseas. The problem has been how to market the vegetable oil byproduct, which competes with other oils made from palm, coconut, peanuts and cottonseed.

The Japanese government has limited soybean oil imports by domestic processors to amounts for which a local market can be found. This means that the Japanese may have to import meal, which in turn would curb purchases of unprocessed U.S. soybeans, unless the Japanese can be persuaded to use more soybean oil.

In West Germany soybean oil has gained wide acceptance and is produced by such major companies as Unilever.

But the oil has encountered strong resistance in France as a cooking oil because "the French prefer a richer, peanut smell and like butter," says the American Soybean Association's Michael A. Phillips.

Efforts to promote soybean oil in France also have encountered strong resistance from French agricultural interests.

Earlier predictions that Brazilian soybean products would supplant those of the United States in markets abroad have proved to be exaggerated.

Since the early part of the decade, foreign and local interests have invested massively in processing plants in Brazil. The Brazilian government backed this development with generous concessions to foreign investors and with enormous subsidies to exporters of meal. These subsidies have amounted to as much as $1 a bushel and have enabled exporters in Brazil to offer European and Japanese feed buyers discounts of $20 to $30 a ton below the U.S. price.

But this year U.S. trade negotiators—spurred by the powerful Midwest farm bloc—obtained a promise from Brazil to phase out the subsidies.●

INVESTING IN ENERGY AND THE ENVIRONMENT

● Mr. TSONGAS. Mr. President, there is another resource as irreplaceable as oil that the United States has wasted badly since the Arab oil embargo. The resource is time. Answers to the energy crisis cost much more in 1979 than they would have cost in 1973.

Economists and scientists can look back on the last 6 years lost as a time of irrational risktaking by public leaders.

Our easygoing energy policy has weakened us economically, socially and strategically. Any short-term benefits of continuing our wasteful ways are dwarfed by the large, long-term costs we all will pay. This Nation made a series of decisions—more like nondecisions—that disregarded economic inevitabilities. The cards were on the table way back then, and Washington willingly chose to play the dummy.

Why it happened this way is explained not by natural science, or by the "dismal science" of economics. It is explained by the unnatural science * * * political science. Public officials added up the benefits of serious reactions to energy shortages versus the estimated political risk of each initiative. They decided that an energy offensive would offend too many people.

I have always felt that officeholders underestimate the public's willingness to support strong, comprehensive action on energy. I have voted for tough measures—including every proposed gas tax increase—and I have found that my constituents react positively. But the perception has been that the public would not accept sacrifices. And so the last 6 years of wasted time and energy reflect a political risk/benefit analysis rather than an economic one.

Today my topic is economic analysis as it is used, unused, and abused in policymaking on energy and the environment. I will discuss the direction of our energy development efforts, in light of risks and benefits. Then I will discuss the difficulties of quantifying all the factors in setting environmental and energy policy. And I will look at Federal regulation of car gas mileage to conserve energy.

DIRECTION OF ENERGY DEVELOPMENT EFFORTS

This has been called the "Oversight Congress." One of the things its Members seemed content to oversee and overlook was the steady deepening of our energy dependence. Budget balancing has been the big issue, as domestic energy supply versus demand slipped further out of balance. Then the Shah fell and the Saudis backed away from the United States. We had gas lines again, which fueled public anger. Finally, this thin-skinned Congress broke out in a rash of new proposals.

Renewed gas lines and energy anxiety have raised interest in synthetic fuels, or "synfuels." These are liquid and gaseous fuels from coal, oil shale, tar sands, and biomass (and from unconventional natural gas). President Carter has just proposed a new Energy Security Corporation to invest $88 billion in synfuels during the 1980's. "Synfuel fever" has broken out all over the Congress.

In June the House passed a bill committing the Government to buy half a million barrels of synthetic fuels a day by 1985, and 2 million barrels a day by 1990. A substitute is pending in the House that would more than double these goals.

The Senate Energy Committee is marking up a bill that authorizes nearly $5 billion to build 15 synthetic fuel demonstration plants.

The synfuels euphoria has a lot going for it. It seems to promise fuels like our old favorites—oil and natural gas—from new technologies. And so it promises a new, scientific means to keep our old ways.

I support rapid R. & D. of synthetic fuels. I favor Federal support for all alternative energy technologies. But I am carefully examining the promise and consequent priority of synfuels relative to other energy sources—especially conservation, and solar energy. We must seek the best mix of alternative technologies, and be certain not to slough off environmental risks.

Snythetic fuels are a potential danger to the environment for many reasons:

Air pollution. There is general agreement among scientists, business leaders, and regulators that synfuel plants as envisioned at present cannot meet current air pollution standards. When extracted, converted, and used, these fuels would pollute the air with large amounts of particulates, sulfur dioxides, nitrous oxides, hydrocarbons, and other pollutants.

The greenhouse effect. The burning of hydrocarbons is causing increased levels of carbon dioxide in the upper atmosphere. This may cause dramatic changes in the climate. Use of synfuels creates more carbon dioxide than does direct burning of fossil fuels for energy.

Water pollution and supply. Synthetic fuels demand a vast amount of water, much of which is already committed to farming and other uses. The oil shale technology is particularly subject to water pollution.

Solid waste. All plants would create large amounts of solid wastes, containing many toxic substances and carcinogens.

Other costs. These include the disruption of land from strip mining, and the social problems of energy boomtowns.

If we plan to keep and improve the current quality of our environment, we must account for these environmental costs as carefully as possible. The promoters of synfuels are discounting these costs. We must look at all the undervalued and ignored externalities before we can know the true cost of each synthetic fuel. Environmental risks right now are being undervalued, but no one knows by how much.

COSTING ENVIRONMENTAL QUALITY

There are many reasons why we chronically underestimate the environmental risks of each technological advance. Bad consequences sometimes cannot be anticipated. They can take decades to develop. Their costs tend to be external, spread far beyond the technology's direct customers. Moreover, cost-benefit analysis has inherent limits. The actual value of good health, breathing, or life itself is distorted when changed into dollars and cents.

Federal regulations to reduce air pollution are just one intervention under attack by the force of opinion that there is too much Government regulation. But analyses of Federal regulation fail to make a complete accounting of the costs of not regulating, which often are paid by the Government. Federal regulations also can save industry huge amounts of money in product liability suits, workers' compensation, cleanup costs, and legal suits. These are not accounted for accurately.

One example is Life Science Co.'s kepone. A $200,000 investment in pollution control would have saved Life Science Co. $12 million in judgments against it for pollution of the James River in Hopewell, Va. It would also have saved the estimated $8 billion required to clean up the James River after the kepone pollution. Effective regulation for safety would have protected 70 persons from brain and kidney damage, and sterility.

Another case is Hooker Chemical's dumping of toxic chemicals at Love Canal near Niagara Falls. High rates of miscarriage, birth defects, liver cancer, hyperactivity, and other diseases in the area are being blamed on contact with these leaked chemicals. The cost of not regulating this operation will be in the billions.

Given the limits of cost/benefit analysis in such issues, Washington must continue to seek reasonable standards to protect public health. For example, the Clean Air Act Amendments of 1977 purposely did not require elaborate economic justifications. Public health was the explicit, overriding factor in setting air quality standards.

But the better that economists can evaluate the external, environmental risks in alternative technologies, the more they must turn toward conservation and solar for our energy future. Conservation is an energy source. It in particular suffers in the political marketplace because it sounds rinky-dinky. Major conservation efforts would be as if the entire Nation took up knitting. It sounds quaint.

There are at least three other reasons why the benefits of "conservation energy" are underutilized:

It is diffuse, the sum of millions of adjustments in how we do things. A synthetic fuel is something—a substance officials can put on display. Conservation is not as dramatic.

Also, conservation explicitly means changes in the way we do things. But it has been dragged down by an exaggerated association with calls for sacrifice in the energy crisis. To the contrary, the greatest energy conservation potential lies in increased energy productivity—getting more from the energy we use through more efficient and durable devices.

And there is virtually no conservation industry—insulation is the principal exception. The conservation field is virtually powerless to compete with the petroleum industry in molding opinion and shaping data favorable to itself.

Many careful studies have demonstrated that using existing energy more efficiently is a major alternative source of additional energy. The most recent is the report of the energy project at the Harvard Business School. It states:

> Conservation may well be the cheapest, safest, most productive energy alternative readily available in large amounts.

Strong political leadership is vital to get proper value for energy conservation. We must overcome one very strong misconception—that energy use correlates positively with gross national product. The experience of industry throughout Europe disproves this. A shift to greater energy efficiency actually can stimulate innovation, employment, and economic growth.

THE CASE OF AUTOMOBILE EFFICIENCY

Consider the automobile. Over the past two decades, Detroit has shown itself to be the dinosaur of our laissez-faire economy. The industry's indifference to the health and security of Americans has guaranteed Federal intervention—and major advances in car technology. Over the years automakers put style changes and easy money ahead of safer technology.

Without Washington, the danger of death inside an auto would have stayed needlessly high.

Without Washington, the health hazards from auto emissions would be larger, but less noticed.

And without Washington, the industry would have been even more poorly prepared to handle this year's demand for fuel-efficient cars.

Federal standards finally have jolted the industry into a drive for fuel efficiency. At this time, domestic demand for economical cars is growing. Six years after the Arab oil embargo, the need to conserve fuel is great. And so it has saddened me and outraged me to see the auto giants continue to toy with their mandate, and to play with delay.

Detroit's recent, relentless campaign to slow the annual pace of auto mileage improvements as required by law has failed. Former Transportation Secretary Brock Adams was right to stand fast on this, and he deserves our appreciation. The automakers' losing bid to loaf toward auto efficiency reveals that they are out of step with this Nation's needs.

For 2 years now, the auto industry has been on notice as to mileage minimums for the model years 1980 through 1985. The levels are 20 miles per gallon for 1980, 22 m.p.g. for 1981, 24 m.p.g. for 1982, 26 m.p.g. for 1983, 27 m.p.g. for 1984 and 27.5 m.p.g. for 1985. Late last year Ford and GM began lobbying hard for a slower increase of 1.5 miles per gallon each year.

The original standards are clearly cost-effective based on fuel savings relative to price increase of cars. Gas price hikes since the Transportation Department's decision was announced in June have strengthened the case for tough standards. Detroit's proposed dilution of standards would have caused an estimated 7.7 billion extra gallons of gas to be burned.

Our deepening dependence on foreign oil threatens us as seriously as any dangerously engineered, carcinogenic car. Vehicles that guzzle gas are hazardous to our health as a Nation. They are weapons that weaken our resources of survival. Wasting fuel is the worst kind of deficit spending, because it borrows from our future and our children's future to overpay for the present.

We must drive it into the heads of the auto companies that their narrow vision disserves our Nation.

Without Washington's intervention, the automobile industry was rushing to its own demise by wasting irreplaceable fossil fuel at a reckless rate. The average mileage for all cars was just under 14 miles per gallon in 1967. Mileage then dropped until the oil embargo. In 1977, it was back at the same level—just under 14 m.p.g. The executives who launched these inefficient four-wheelers hastened the day when the world will run out of petroleum.

Washington has helped automakers despite themselves. It has prodded them into effective competition with foreign manufacturers for the world market. Federal requirements have dragged the American auto industry into an escalating competition for international markets. Detroit's technological and financial resources make it likely that the dominant world car—economical, versatile, tough, and without built-in obsolescence—will be made in the United States of America.

Federal regulation of automobile fuel efficiency will save American consumers more than it costs. But even if the figures were ambiguous, the imperative for strong standards would remain. Oil is pumped through a fixed, foreign market; what sets the price is not an invisible hand. Detroit has wasted time with rhetoric about the free market, and passive dependence on bureaucrats and consumers to demand what the evidence makes inevitable. Inaction and inaccurate assumptions have been guiding principles.

In some instances, our national need to save energy will involve sacrifices. But the energy crisis will exact sacrifices from us no matter what. It is up to us to decide among the various choices. And in so choosing we must remember that our country's security from potential adversaries—which is affected by energy shortages—is something we cannot risk.

I understand from my father, who just returned from a visit to Greece, that the government there recently ordered that citizens can drive their cars on alternate Sundays only. (The ban is from 5:00 p.m. Saturday to 6:00 a.m. Monday.) I am not advocating such a law here, but this kind of serious response to shortages makes Congress look silly. On the President's standby gas rationing plan, the House of Representatives voted no, and it was not close.

Leaders in Washington and across the country must look as carefully as possible at risks versus benefits in policymaking. We must do so with a full awareness that some things of great value cannot be priced objectively. It is a test of our leadership to discount potential benefits and risks in political terms. We must move ahead at the margin of what is possible.●

SALT II STATEMENTS OF WITNESSES IN THIRD WEEK OF HEARINGS BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE

● Mr. CHURCH. Mr. President, I ask that the statements of the witnesses appearing before the Committee on Foreign Relations during its third week on the SALT II Treaty be printed in the RECORD.

The third week of witnesses included: The Honorable Stansfield Turner, Director, Central Intelligence Agency; Adm. B. R. Inman, Director, National Security Agency; Gen. Eugene F. Tighe, Jr., Director, Defense Intelligence Agency; the Honorable Malcolm Toon, U.S. Ambassador to the U.S.S.R.; the Honorable Helmut Sonnenfeldt, Brookings Institution, former counselor, Department of State; Prof. Richard Pipes, Harvard University; Mr. Robert Legvold, Council on Foreign Relations; Mr. Donald Zagoria, City University of New York; Mr. Adam Ulam, Harvard University; Mr. Evan Hineman, Director, Office of Weapons Intelligence, National Foreign Assessment Center, Central Intelligence Agency; Maj. Gen. James L. Brown, Assistant Chief of Staff, Air Force Intelligence; Mr. Walter Slocombe, Director, Department of Defense SALT Task Force and Principal Deputy Assistant Secretary for International Security Affairs, Department of Defense; Mr. James Timbie, Chief, Strategic Affairs Division, Arms Control and Disarmament Agency; Gen. Richard H. Ellis, Commander in Chief, Strategic Air Command; Gen. James E. Hill, Commander in Chief, North American Air Defense, Air Defense Command. Some of the above-listed witnesses did not have prepared statements.

The fourth and final week of the first phase of the Committee on Foreign Relations hearings on the SALT II Treaty will hear from former Secretary of State Kissinger on Tuesday, July 31; Mr. John J. McCloy, former U.S. military governor and high commissioner for Germany; and Gen. Alexander Haig (Ret.) on Thursday, August 2.

Mr. President, the statements follow:

STATEMENT BY MALCOLM TOON, U.S. AMBASSADOR TO THE U.S.S.R.

In my statement today, I would like to discuss SALT against the broader background of US-Soviet relations and in this context, to state my reasons for supporting the Treaty.

Since I will be speaking to you in my capacity as a "Soviet expert," perhaps I should give you my qualifications for doing so.

Our relationship with Moscow has occupied me for over thirty years, from the onset of the Cold War to the present. I am now on my third assignment in Moscow. I first served there in 1951–52 as political officer and again in the early 1960's as political counselor. I have served in Berlin. I directed Soviet Affairs in the State Department for a number of years. I have served as Ambassador in two Eastern European capitals, in Prague and in Belgrade. Finally, I have been Ambassador in Moscow for the past two and a half years. In all, I have served under nine US Administrations and have dealt with the Soviets under Stalin, Khrushchev and Brezhnev.

I am sometimes called a hard-liner. Personally I don't think I'm a hard-liner—nor am I anti-anybody. But since I made the transition from World War II PT-boat commander to career diplomat I have found that I served my country most effectively by speaking frankly to the people and governments I was accredited to about American views and values, and by expressing frankly to my own government and people my views on how best to advance American interests.

It is from this background that I speak today about US-Soviet relations and the role of SALT in that relationship. I believe I might usefully begin by talking about the Soviet regime and how I think we should deal with it.

At the risk of restating the obvious, let me start with some basic truths. The Soviet system reflects a view of history, a concept of man's relation to the state, a complex of values and principles totally different from our own. Historians can argue whether this view is traditionally a Russian one or a basically Soviet view imposed from above in 1917. I am inclined to think that Lenin and Stalin took an essentially Western philosophy, Marxism, and shaped it to fit Russian reality so that from Stalin's time until the present there has been no fundamental conflict between Soviet ideology and Russian nationalism.

In any case, the considerable resources of the Soviet Union are now, and will continue to be for the foreseeable future, effectively mobilized in support of a distinctive and, in my view, distorted historical world outlook. The Soviet regime does not accept and will not tolerate ideas of free expression and of free individual choice as we understand them. It will try to vindicate its ideology by stifling dissent at home and often by supporting abroad various repressive regimes which proclaim themselves Marxist-Leninist.

Beyond ideology, geography and historical experience have also shaped the Soviet system and the policies of its leaders in important ways. Centuries of invasions from both East and West have left their mark on the outlook of the Russian people and of its rulers. The Soviet leadership has invested massive efforts to achieve security on Russia's borders, in part by seeking to push those borders outward. This historic attitude, to which the Communists have added their preoccupation with military strength as a key element of political power, may explain, though it does not justify, why the Soviet Union presently maintains a military machine entirely disproportionate to any objective assessment of its needs. The cost of this quest for absolute security and for greater political influence by means of military strength has been enormous. It has meant deprivation for the Soviet people and strain and friction in the Soviet Union's relations with its neighbors, with sometimes dangerous consequences for world stability. Total security such as the Soviets seek can only mean insecurity for others.

The same passion for security extends to the Soviet domestic scene, although here some striking changes have taken place since my first tour in Moscow in the early fifties. Stalinist terror has ceased. Nonetheless, organized dissent still meets with official hostility, especially when it poses a direct challenge to the Party's official line. Yet I am inclined to believe that domestic repression would be much more severe if the Soviet Union were to give up its policy of détente because then it would be even less concerned about world public opinion.

A central question of U.S. foreign policy for the past thirty years—and one which is still very much with us—has been how we should deal with this complex and repressive system. I think we must begin by seeing the Soviet Union as it really is. Not, as some see it, 260 million people who want to be like Americans, nor, as others see it, 260 million Genghis Khans, ready, willing and able to conquer the world. It is a unique nation travelling slowly along a course of its own, exploiting powerful built-in strengths, yet beset by confounding weaknesses—most importantly in the economic sector—and pursuing objectives and methods profoundly different from our own.

We must also look at the Soviet Union and our relations with it in a long-term perspective. If we focus on the short term, we cannot be hopeful of changing either the direction of the Soviet Union's movement or its tendency to override both individuals and powerless countries that get in its way. If we continually ask ourselves how much progress we have made in the last 24 hours or in the last week or even in the last year, we will have to say frankly: not much. But if we take the longer view, if we look back at the period of the Cold War and the distance we have travelled since that time, then I believe that despite a succession of pendulum swings in our relations, we can see gradual forward movement. Over the past decade Soviet leaders have, out of their own self-interest, modified the way they deal with their own people. And as I mentioned, they are not indifferent to world public opinion. Despite fluctuations, there has been a long-term upward trend towards useful cooperation in those areas where our interests overlap. One of the most important of these is arms control.

For those who have watched the Soviet Union for thirty years, since the depths of the Cold War, as I have, there are grounds for cautious optimism that patience, persistence and hard-headedness on our part can eventually bring Soviet leaders to see that their interest is served less by a continual military build-up and by military adventures abroad and more by negotiated limits on arms and by restraint in other parts of the world.

Clearly, we must not expect too much too soon. As President Carter has said, we must avoid excessive swings in our public mood, from an exaggerated sense of compatibility with the Soviet Union to open expressions of hostility. In my view a troublesome misunderstanding about the real nature of detente developed in the early 1970's which led to uncritical and heedless euphoria. Detente does not mean that a millenium of friendship or mutual trust has arrived—which is impossible, in any case, without a basic change in Soviet philosophy and outlook. At most detente represents a growing sense in this nuclear age of the need to cooperate on some matters, to regulate competition on others and to agree on the means of defusing tensions which could lead to dangerous confrontation. And that is all, nothing more.

Bringing about any basic changes in the Soviet system must be viewed as a very long-term proposition. But the prospect for change, slight though it may be, is better served if there is some degree of engagement between our two countries. And in my view it is equally mistaken to question, as many are doing today, the value of trying to cooperate with Moscow at all.

We need to keep clearly before us our own objectives in our relationship with the Soviet Union. We want to minimize the likelihood of direct confrontation that could escalate into suicidal military hostilities. We want to minimize the chances of destabilizing superpower conduct in the developing world. We want to maximize mutual understanding—which is not, let me stress, dependent on mutual trust—which can contribute to the first two goals and also lead to beneficial cooperation in those areas where our interests overlap.

Having established what we want out of the relations with the Soviet Union, we must set out methodically, persistently and realistically to achieve it. Needless to say, I do not hold with the notion that all we have to do is sit down and reason with the Soviets to achieve our aims. I believe that on any given issue we should start with the assumption that we and the Soviets are at opposite poles and that they will seek to take advantage of us wherever possible. But at the same time, we should have enough confidence in ourselves to welcome a dialogue and to use our ingenuity to forge solutions which will attract the Soviets by meeting some of their interests, which at the same time are consistent with our own most essential objectives and, most important, which will not weaken our security or that of our Allies.

Our policies will continue to conflict. In my view, the present Soviet leadership continues to believe in the traditional Marxist-Leninist goals of "world revolution." But I also believe that the same leadership is convinced that their global aims will not be promoted by a nuclear war. While arguing for "peaceful coexistence" between East and West, the Soviet Union has continued to serve as protector and supporter of radical, essentially anti-Western currents in the Third World—which the Soviets have labelled "national liberation movements." Such a view of the world offers us little comfort. However, it should also not lead us to conclude that mutually beneficial cooperation is impossible. It is possible—if it is carefully conceived and executed without any illusions or utopian perceptions of what is feasible.

In my view, historical circumstances have combined to make real disarmament measures attractive to the Soviet leadership. Ten years ago, few knowledgeable Americans would have believed that we and the Soviets could sit down together and agree to limit strategic nuclear weapons.

Working out good agreements with the Soviets—ones which they will carry out because it is in their interest to do so, yet which serve our purposes also—can take years. In some instances it will become clear that there is no mutuality of interests—and when this happens we must have both the good sense to realize it and the will to walk away. But we need to keep in mind our long-range goals, to set a course and to stick to it.

II

Clear-eyed calculation of our national objectives is a prerequisite for dealing with the Soviet Union. That has been the approach of this and previous administrations in arms control matters, and especially in SALT.

I will not dwell on the contents of the SALT agreement. Let me just mention what I see, from my particular vantage point, as some of its main benefits. I think it will introduce a substantial element of stability in our relations with the Soviet Union. In my view, it is important that the Treaty places equal ceilings on the strategic arsenals of both sides, thereby ending a previous numerical imbalance in favor of the Soviet Union. It preserves our options to build the forces we need to maintain the strategic balance. It enhances our ability to monitor Soviet actions and is adequately verifiable—an essential feature in any agreement with the Soviets since we cannot rely on goodwill.

Here let me say that I had earlier stated publicly that I would actually oppose a treaty which could not be adequately verified. In light of the loss of our facilities in Iran, I reserved my position on the Treaty. Now that I have had a briefing by the experts here in Washington, the same briefing given the President, I agree with him and with the Secretary Brown and the Joint Chiefs of Staff. No militarily significant violations of SALT II could take place without detection. I would not be here today to recommend this treaty if I did not believe that.

Finally, a main benefit of the Treaty is that it leads directly to the next step in controlling nuclear weapons and establishes a basis for further cooperation with the Soviet Union in this important field.

I would like in this connection to say a few words about the negotiation of the Treaty. A view frequently expressed by those critical of the Treaty is that we could have gotten a better deal if only we had been more persistent, less eager to get an agreement—in a word, tougher. The corollary to this is that we still can seek a better deal and can rectify our past mistakes by going back to the Soviets and renegotiating the Treaty. I am convinced that both assumptions are profoundly wrong. They rest in my view on a fallacious view both of what actually happened and of what is possible and feasible in our relations with the Soviets. I think we will be dangerously deluding ourselves if we believe otherwise.

As regards the negotiation of the Treaty, I am confident that the Agreement is the best that could have been obtained. We could not have gotten more out of the Soviets on any specific issue without having to pay an unacceptable price in another part of the agreement. I say this on the basis both of my own involvement in the SALT negotiations and of my long experience with the Soviets.

I think we should also be clear-headed about the prospects for renegotiation. If we go back to the Soviets to demand that certain issues be negotiated in our favor, on the basis of amendments passed by the Senate, this will at best result in a reopening of those issues which were resolved in our favor—and there are many. Or they will turn us down flat. In either case, this would kill the Treaty. I do not think we should entertain any illusions on this score. The Soviets signed the Treaty because they believed it was in their national interest to do so, as we believed it was in ours. They want SALT and they have important reasons for wanting it. But I cannot imagine any circumstance under which we could persuade them to enter into a Treaty which they regarded as disadvantageous to them or to accept an agreement which, at our insistence, was revised in our favor. This simply will not work. From thirty years' experience dealing with the Soviets, I can tell you that I believe that to think otherwise would be not a leap of faith, but a leap of folly.

In this connection, I think it is important to understand why the Soviets want the Treaty. In my view they do want it and largely, I would say, for the same reason that we do. While basically antagonistic toward us, the Soviet leadership has come to realize that world war, involving nuclear weapons, cannot advance Soviet global aims. The Soviets therefore are interested in the development of a more stable relationship with us and in decreasing the likelihood of a dangerous confrontation between us. In addition, the Soviet leaders want to place some limits on the resources which now go into strategic weapons and to have additional resources to devote to other purposes. While they, as we, understand the need for strategic parity and second-strike capability, they are not interested in investing in nuclear weapons systems which they hope never to use—so long as they are convinced they can forego such systems without harming their national security.

At the same time, it is naive to suppose that the Soviet Union is in such a desperate economic state that the Soviets must swallow a SALT package disadvantageous to them. I think this is wrong, and I think the argument is dangerous. It would be equally naive to suppose that Brezhnev is so anxious for a SALT agreement that he would be prepared to override all opposition from his colleagues and enter into an agreement disadvantageous to the Soviet Union. No one with genuine experience of the Soviet Union would credit this for a minute. Under no conditions would Brezhnev go counter to Soviet interests, and even if he were so inclined, in the interests of self-aggrandizement, he would not have the power to do so.

And what if the Senate fails to ratify SALT II? In my opinion, this would be a severe blow to U.S.-Soviet relations generally and to the SALT negotiating process in particular. I would not go so far as to say that rejection of SALT II would either put a halt to all disarmament negotiations, or cause a permanent rupture in our bilateral relations. But the disarmament process as well as our overall bilateral relationship would be hurt, and at this point no one can say how much time would be needed to repair the damage.

Moreover, I believe the Soviets see an alternative to a SALT II agreement—a risky one but one with considerable appeal. If the Senate fails to approve the agreement or insists on changes unacceptable to the Kremlin, the result will be a crisis of confidence in U.S. leadership among our Western Allies. Driving a wedge between the U.S. and its European Allies is a goal of Soviet foreign policy which long predates arms control. I am persuaded that Moscow would exploit a breakdown in the SALT process to pursue this goal with a vengeance. And I believe that they would have some success in doing so. The result could be increased U.S. isolation and a breakdown in our efforts to stimulate improvement in the conventional and nuclear defenses of Western Europe.

III

Let me make clear that I do not expect that ratification of SALT II will produce a climate in which all will be sweetness and light in our relations with Moscow. Nothing could be further from reality. Ours is an adversary relationship, and we will always have a substantial measure of friction, problems, unpleasantness.

Looking ahead, what changes can we expect? Prediction in Soviet affairs is a notoriously risky business and ordinarily I studiously avoid trying to forecast Soviet behavior. But we can and should examine domestic Soviet factors that could have an influence on Soviet foreign policy and Soviet behavior abroad. We need to be aware of these, if we are not to be surprised at Soviet actions.

Before long we will be dealing with a post-Brezhnev leadership. Here we have a key variable in the Soviet political equitation whose exact weight is impossible to assess. We do not know when this will be or who will succeed him. The emergence of Brezhnev's real successor will take time. There will be a period of jockeying for position within the Politburo. Even if one personality emerges, it may take him several years to achieve Brezhnev's present preeminence, as was the case with Brezhnev himself. During part of this period we can expect some degree of turning inward and a reluctance to take initiatives or make bold moves. This may be accompanied by some hard-line posturing: both Brezhnev and Khruschchev took a hard line in opposing their predecessors only, of course, to espouse "peaceful coexistence" and "detente," respectively, once their positions were secure.

The Politburo has clearly not been free of disagreement during the past eight years. But at the same time, Brezhnev has—so far as we can tell—been careful not to get out too far ahead of his colleagues and to bring them along. His has been and continues to be essentially a consensus policy. This, I believe, makes a major repudiation of Brezhnev's policies unlikely, provided those policies are intact and viable when handed over.

My confidence in this, however, would be significantly reduced if the longstanding and painfully achieved undertaking to control and reduce strategic arms were to be in disarray.

There is speculation—mostly, in my view, uninformed—about competing interest groups within the leadership. There are those who argue that there are hard-liners and moderates in the Politburo and that we must strengthen the hand of the latter against the former. I think I know the current Soviet leadership as well as any Westerner, and I would find it difficult, if not impossible, to identify who belongs to which group.

There are those who are less interested than others in establishing a cooperative relationship with the United States—for example, the doctrinaire Party functionaries, the KGB, and perhaps the military. And the worst case in terms of American interests would be a stronger voice in policy making for these groups. The result would be a higher Soviet tolerance than during the Brezhnev years for temporary increases in U.S.-Soviet tension.

The best case for American interests probably would involve a stronger voice for relatively non-ideological technocrats, who perceive a need to increase imports of Western technology, who understand the economic and national security benefits of arms limitation, and who are relatively more inclined to defer or de-emphasize policies which increase U.S.-Soviet tension.

An important—perhaps the most important—preoccupation for any future Soviet leadership, as it has necessarily been of the present one, will be the performance of the Soviet economy. Here the prospects are not encouraging: all indicators point to a continued sluggish performance during the 1980's with increasing competition for scarce resources, a backward agricultural sector, and powerful vested interests in the bureaucracy opposing any change in the status quo. A declining rate of population growth will decrease the manpower pool available for labor—and incidentally for military manpower. Nationalism, combining with other frustrations, could become a prominent consideration for Soviet centralism.

But we should not delude ourselves that economic difficulties will moderate Soviet behavior abroad or, in themselves, curtail the Soviet defense effort. It would be a dangerous illusion to base our own policies—in SALT or elsewhere—on the assumption that the Soviets cannot afford to compete with us in an all-out arms race. It is dangerous, because it would dare Moscow to try to leapfrog up us in strategic arms. Moscow respects our technological ability, and certainly would not welcome a no-holds-barred arms race with us. But history has shown that the Soviet regime will demand any sacrifice from the Soviet people necessary to assure an adequate military posture. And the Soviet people, lacking any effective means to object, have little choice but to comply.

In dealing with the future leadership, as with the present one, I think we must continue to pursue our efforts at cooperation where possible and where consistent with our national security. SALT II will not produce a harmonious relationship with the Soviets. But even though it will not eliminate the abrasive elements of competition between ourselves and the Soviets, it will nonetheless enhance world stability and set the stage for further negotiations and on arms control and political issues. It will enable us to move forward to SALT III—to further reductions in our strategic arsenals and to continue efforts to lower the risk that our competition could erupt in nuclear war. History will not forgive us if we do not continue to probe—without in any way harming our own national security—the extent of Soviet sincerity in this critical field of strategic arms control.

PREPARED STATEMENT OF HELMUT SONNENFELDT

Mr. Chairman and Members of the Committee:

I am honored to appear before you and to be afforded the opportunity to participate in the deliberations concerning the Senate's action on the SALT II treaty completed and signed by Presidents Carter and Brezhnev at Vienna on June 18, 1979.

When you invited me to testify, Mr. Chairman, you asked that I comment on the place occupied by the SALT process, and the treaty before you, in the broad context of U.S.-Soviet relations. This is a complex question, but I welcome the fact that you have posed it in this way. It is often said that SALT II should be judged on its own merits. This is hardly a disputable proposition. The issue is how these merits are to be defined.

In my view, SALT negotiations and possible or actual agreements must be viewed as part of a broad range of policies and actions designed to protect our interests in a world where Soviet power has been steadily increasing and Soviet ambitions are actively asserted. Our purpose must be to see to it that the uses of Soviet power are restrained and that at any given moment and also over time, Soviet leaders recognize that the risks of assertive and aggrandizing uses of power outweigh the benefits. I believe this to be essential for a positive evolution of our relations with the Soviet Union.

Arms control, particularly as it may relate to the most destructive weapons, is frequently seen as having intrinsic value, since the incalculable damage that would result from nuclear war gives even adversary powers strong mutual incentives to stabilize military relationships in ways that would make the outbreak of such wars less likely. Much American arms control theory—and, indeed, of our approach to the SALT negotiations—has been based on this premise of mutual interest. I believe this premise to be only partly valid and still to be largely unproven. At any rate, the slow progress in arms control negotiations, and the modest accomplishments which they have produced to date, suggest that other factors than a mutual interest in preventing war are at work as well.

It is for this reason that I have stated what I believe to be our broad purpose in conducting our policies toward the U.S.S.R. in terms of our own, American, interests. These interests clearly include the prevention of war and may, in that respect, overlap to a degree with the interests of the U.S.S.R.

But they cannot ignore, and must centrally incorporate, the protection of our security and well-being in the face of challenges posed to us and other nations by the emergence of the Soviet Union as a major military power in the international arena. I see no sign that the impulses and ambitions which have carried the Soviet Union to the position and status it has reached to date are subsiding. On the contrary, they remain a central ingredient in Soviet conduct. Soviet interest in arms control, including SALT, remains subordinated to them.

It should be observed that since the Bolshevik Revolution in 1917 and the subsequent establishment of the Soviet state, advocacy of disarmament has been an important instrument of Soviet policy. In the early years, it was intended as one means of inhibiting external enemies from acting individually or in concert against the then still weak and fragile Soviet state. Soviet disarmament policies were agitational, and designed to mobilize the "masses" against governments. But their goals were quite concrete in a period when Soviet fears of foreign intervention, even if objectively exaggerated, were real. It was after all the Bolshevik leadership itself which had declared the surrounding "bourgeois" world as its enemies and which had proclaimed itself to be the agent of allegedly inevitable historical processes which would transform other societies, and the international system as a whole, in the image of the Bolshevik Revolution. Communist doctrine and the beliefs of its proponents anticipated that those destined to be superseded would resist by force. Their preparations and plans, imagined or real, needed to be undermined.

The stress on disarmament remained prominent in Soviet policy after World War II and continued to serve the quite practical and concrete aim of braking the defense efforts of nations feeling themselves threatened by Soviet ambition and pressure. The agitational content and methods of Soviet policy were, if anything, even greater in the post-War period than in the twenties as countries on the USSR's periphery reacted to the satelization of Eastern and Southeastern Europe, Soviet claims to territory elsewhere and the evident commitment of the Soviet Union to the building of massive military forces.

The decision of the United States to participate in collective security arrangements with nations threatened by potential Soviet expansion, and the reliance of the U.S. on atomic weapons as the ultimate sanction against such expansion, made these weapons a special target of Soviet disarmament policy. (In retrospect, it is perhaps paradoxical that the U.S., relying as it did on the nuclear sanction, also concentrated its disarmament efforts on the control of nuclear weapons. The Soviets, of course, saw these efforts as designed to perpetuate the U.S. monopoly.) Meanwhile, the Soviets themselves moved with vigor to equip themselves with nuclear weaponry and the requisite delivery systems in order gradually to neutralize the very weapons on which the U.S. and its allies relied to offset the traditional military power of the U.S.S.R. on the Eurasian landmass.

It was in the Khrushchev era that Soviet leaders began to recognize that agitation and extravagant disarmament proposals alone would be unlikely to block the defense programs of the West. Consequently, the decade from the mid-fifties to the mid-sixties saw the beginnings of exchanges at the negotiating table about more specific measures to limit arms. The Soviets evidently came to see that if binding limitations on Western programs were to be achieved, they would probably have to accept some restrictions on their own programs. There developed, too, a hesitant recognition that in the era of nuclear weapons some kinds of cooperation in reducing the risks of miscalculation might have merit. Thus, after tortuous negotiations, agreements such as those on limiting atmospheric testing, on non-proliferation and on the establishment of the Hot Line proved feasible.

For the Soviets, however, agreements of this kind did not take the place of military strength. While Khrushchev, like Brezhnev after him, was conscious of the economic burdens of amassing military power in all its dimensions, the long-term momentum of Soviet programs did not slacken. Disarmament negotiations—or "arms control" negotiations as we came increasingly to call them—were an adjunct of Soviet military policy. This has not changed, even as in subsequent years the subject matter and scope of negotiations has broadened to include strategic armaments. When limitations have been accepted, the Soviets have generally maintained vigorous programs within, and up to, the very margins of the limitations. Other programs not affected by agreements have been pressed to offset restrictions and prohibitions imposed by agreements.

There has been much debate in the West—and in your hearings—about the motivations underlying the persistent Soviet commitment to the accumulation of military power. Stalin's decisions in the mid-forties setting priorities, which in essence have changed little, might originally well have been due to his determination to ensure that the Soviet Union would never again suffer the catastrophies of invasion and occupation and that the Communist regime would never again be brought to the brink of destruction by external attack. But even if this "defensive" purpose of Soviet power and expansion was at first dominant in Stalin's time, the concept of security on which it was based in fact implied that other countries, particularly those near the Soviet Union, would be under constant pressure from the weight of Soviet power. As time went on, the Soviet definition of security became increasingly expansive, in part, no doubt, stimulated by the reactions of other countries which felt themselves threatened precisely by the broadening Soviet definition of security.

The Soviets have stressed that what they seek is equality or equal security, that they are "catching up". But the Soviet view of equality is heavily colored by the evident conviction that the threats to Soviet security are unending and somehow, despite its vastly enhanced military strength, always leave the U.S.S.R. in greater danger than the U.S. with its surrounding oceans and militarily unthreatening neighbors. The Soviet response is to seek "compensation" through more military power. Catching up seems to be a permanent process which, in the perspective of the outside world, looks like a quest for military advantage. Considering where the momentum of their military programs will carry them in the years to come, the notion that the Soviets are catching up, even if that is what they themselves believe, cannot be a source of comfort.

In addition, it has become apparent over the years that the sources of growing Soviet influence in the world were not to be found in the attractions and achievements of the Soviet domestic system but largely in the fact that increasingly diverse and far-ranging military capabilities enabled the U.S.S.R. to become more active in international politics. Although in the early stages of the decolonization process, the Soviet Union seemed to offer a source of economic and other support to new nations, and some of the latter seemed impressed by Communist doctrines and prescriptions, the Soviet model made little lasting headway. Moreover, the struggles and divisions within the so-called socialist camp raised serious questions about Moscow's ability to lead or even shape an international system of diverse nations, peoples and societies. Whether nearby, in Eastern Europe and Asia, or in remoter regions, it was military strength that was—and remains—the chief attribute of the Soviet Union's role.

It is hard to know to what extent Soviet leaders and elites acknowledge these realities to and among themselves. What is clear, however, is that Soviet politics, especially in periods of maneuver for succession but also in more normal times, is geared to preserving the priorities that sustain the military underpinnings of Soviet policies. It is evident also that, in these circumstances, arms control arrangements can have little intrinsic appeal to the Soviets. Of course, they want to see potential enemies constrained, particularly the U.S. with its impressive economic and technological resources. And they probably wish to have greater certainty in their economic planning. But they are unlikely to want to see the principal source of their international influence significantly curtailed.

From the American standpoint, the aspects of the Soviet evolution sketched so far will seem profoundly pessimistic. They do lead ineluctably to the conclusion that we cannot in the foreseeable future expect to avoid maintaining strong and diversified military forces of our own. Arms control arrangements may affect the pace and character of some military programs, but they are likely to be modest in effect and are almost certainly unlikely to contribute substantially to the balance we require for our security. But if we maintain our military strength, and if it is seen and known to be usuable in the numerous contingencies with which we may be confronted, we can still have considerable scope for policies that contribute to restrained and even constructive relationships with the Soviet Union.

Before turning to this latter aspect of the problem, it is necessary to address, briefly, the relationship between strategic, or intercontinental, military forces and those with other roles. For it is by examining this relationship, perplexing and intangible as it may be in some respects, that light can be shed on the oft-repeated question as to the utility of modern strategic forces.

As already noted, in the early post-War period, the United States relied chiefly on its monopoly, and then its superiority, in nuclear weapons and their delivery systems, to deter significant regional Soviet military aggression. Even then, however, the threat of nuclear retaliation was insufficient to prevent every form of Soviet pressure against neighboring areas or to contain entirely Soviet intrusions by means short of direct military actions into various parts of the world.

The Korean War led us to the recognition that we would require conventional military power to protect our interests in many circumstances; it brought about the increase in our stationed forces in Europe and the establishment of a number of military commands within NATO and elsewhere.

In due course, the development of early generations of Soviet long-range nuclear weapons delivery systems, required our introducing nuclear weapons to buttress our theater forces in Europe and elsewhere. Questions came to be raised, rightly or wrongly, whether the United States could be expected to put its own cities in jeopardy in the event of limited Soviet attacks in central Europe. This, among other reasons, led the French to develop their own nuclear weapons. The British maintained and modernized theirs.

With time, as they acquired more diversified nuclear weapons and means for their delivery, the Soviets moved to deploy them with their forces in central Europe. Medium and intermediate range nuclear weapons were targeted in increased numbers against Western Europe. These developments, along with the steady and cumulatively impressive improvements in Soviet conventional theater forces, in turn, obliged our Allies and us to undertake programs to strengthen our own conventional forces and to improve reinforcement capabilities. We now also have the urgent task of modernizing the theater nuclear forces within NATO. And the British and French are reported weighing modernization options for their respective nuclear forces in face of improving and increasing Soviet nuclear capabilities for use against targets in Europe.

NATO has continued to rely on conventional forces, nuclear forces in the theater and American strategic forces to deter attack. Moreover, it remains NATO doctrine that the Alliance would, if necessary, initiate the use of nuclear weapons in the event conventional forces are unable to repel attack. At the same time, whatever the adequacy of particular conventional, i.e. non-nuclear, capabilities and improvement programs in the European theater, there is widespread agreement that because of the evolving nuclear balance in all its elements, effective deterrence of non-nuclear attack requires large and modern non-nuclear forces on our side so that if deterrence fails we would not be confronted at once with the decision to resort to nuclear weapons.

Yet, as noted, the security of the Alliance continues to depend on the credibility of our nuclear posture, both within the European theater and in the form of our strategic forces. More particularly, it depends on a continued ability of the United States to control the process of escalation, if that has to be resorted to. It is in this perhaps esoteric but crucial respect that the most serious questions have been raised among those concerned with the defense of Europe. They have arisen because of the concern that at both the theater and intercontinental levels, the ability to control escalation may be shifting to the Soviet side—that our strategic forces may be "decoupled" from our and the Allies' other forces.

If NATO's strategy is to continue to have meaning, it is essential that at all levels of nuclear power we have survivable and flexible forces. And it is for this reason alone that we must be concerned about the future of each leg of our strategic triad, as well as the nuclear forces located in Europe. These concerns have been frequently voiced in these hearings. They are legitimate concerns.

To be specific: I believe, first, that an effective and credible American commitment to the defense of Europe demands that we act rapidly to equip ourselves with survivable ICBMs while also proceeding with the modernization of our SLBM and bomber forces. I believe there should be no shred of doubt not only that the U.S. is legally able under SALT to proceed with the MX program, including an optimal basing mode, but that it is actually doing so. I single out the MX in this context because questions as to the compatibility of certain of its possible basing modes with provisions of SALT II have been raised. I believe these doubts need to be removed by word and deed as promptly as possible. But I wish to stress also the urgency of proceeding on schedule with the other strategic programs.

A second specific point relates to the European nuclear theater forces. Since effective deterrence of attack in Europe requires diversified, accurate and modern nuclear weapons, I believe the U.S. should at this stage make clear in word as well as deed, i.e. in the programs Congress authorizes and funds, that it does not intend to renew the prohibition now contained in the Protocol to SALT II against deployment of ground and sea-launched cruise missiles beyond 600 km in range. There are other reasons for taking these actions, e.g. the needs of the Navy, but I consider them especially necessary in the context of European defense and our Alliance commitments.

Thirdly, I believe that the considerations just mentioned also require us to leave no doubt whatever that SALT provisions dealing with cruise missiles of whatever type do not preclude us from undertaking any kind of cooperation, from technology and other transfers to the coordination of forces, which we and our Allies may judge to be necessary.

I have dwelled on the relationship between strategic forces and European defense because it is in that context that the growth of Soviet capabilities has long posed the most complex problems of strategy and programs for us and our Allies. These problems will continue and will require constant attention. I see no prospect at the moment that arms control agreements either on strategic or on theater forces will alleviate our difficulties. My concern is that they should not make them greater.

But, in addition to the problems of European defense, we must also recognize that Soviet military deployments and actions can jeopardize our interests elsewhere. The direct relevance of the strategic force balance to such contingencies is harder to demonstrate than in the case of European defense. But there can be little doubt that the strategic balance that exists today and is projected to exist in the years to come at the very least makes decisions to use American forces more complicated and hazardous than they were even five or ten years ago. Above all, the changed and changing strategic balance does require us to give attention to the state of our naval and long-range intervention forces. It would be a dangerous situation indeed if the Soviets, under the umbrella of the developing strategic balance, saw increasing opportunities for uncontested uses of their own or proxy military forces.

Soviet arms control propositions bearing on these situations have generally sought to constrain us more than the USSR. In some instances, e.g. in connection with the establishment of facilities for our use on Diego Garcia, the Soviets have resorted to traditional agitational techniques and political pressures to impede us. It seems unlikely that arms control arrangements can be looked to for much help in safeguarding our interests. Not, at least until the Soviets judge the risks of intervention to be sufficiently great to make negotiated restraints that are equitable in their effects a more attractive alternative for them.

I should like to make some further comments on the Soviet view of the role of military power because of its bearing on an evaluation of SALT and other arms control efforts. It is frequently contended that a major difference between the US and the Soviet Union is that we tend to see military forces, particularly nuclear forces, as having chiefly a deterrent function whereas the Soviets intend and actually procure such forces to fight wars. Related to this difference, there is the further proposition that while we tend on the whole to see nuclear wars as unwinnable in any meaningful sense, the Soviets regard them as winnable and, if war were to come, would intend to fight it through to victory. Soviet doctrinal writings, military exercises and force dispositions suggest that Lenin's adaptations of Clausewitz remain valid for present Soviet leaders: political goals can still be pursued in war, indeed must be, even if destruction is unprecedented.

I believe that the distinction between deterrence and war-fighting is not one that the Soviets make. They, too, wish to deter or avoid war. They give every evidence of recognizing the catastrophic consequences of nuclear conflict, although they, far more than we, devote efforts and resources to limiting these consequences. How confident they are in such efforts, however, is difficult to determine. But the Soviets do proceed on the premise that war-fighting forces and war-winning doctrines are the most effective deterrent to attacks against themselves, and the most effective restraint on an enemy's recourse to military force in a crisis, whatever the origin of that crisis—precisely because such forces are usable if deterrence fails.

In many crises of the past, the Soviets found themselves deterred from pressing for major advantages; in some, indeed, they found themselves backing down when faced with a seemingly credible threat of military action against them. It is this kind of situation which the Soviets have sought, and continue to seek, to avoid by their military build-up. One of their purposes in pursuing arms control, including SALT, is to support this objective, although they place their main reliance on their own programs rather than on arms control.

While some Americans support what may be called a "deterrence-only" view of the role of military, particularly nuclear forces, this has not in fact been our dominant attitude to date. We, too, have sought to procure forces and weapons systems and to adopt doctrines that enable us to fight if necessary. But we have continued to have vigorous debates about the wisdom and morality of thinking in terms of fighting nuclear wars. Ironically perhaps, many of those most critical of "Strangelovian" war scenarios, have urged us to procure forces which could be used primarily for the most destructive attacks on population centers. The more vulnerable our cities (and those of the Soviets), it has in effect been argued, the more effective the deterrent.

As will be evident from my earlier comments on European defense, I believe that deterrence increases as the usability of weapons and the credibility of our commitments and doctrines for their use increase. I take this view not because it happens to be that of the Soviets but because by acting on it we do, in my judgment, have a more effective deterrent to attacks on our interests and, ultimately, to war, given the nature and direction of Soviet military programs. I believe that SALT agreements should in their terms and in their effects be compatible with the maintenance of our war-fighting capabilities or else SALT will detract from, rather than enhance deterrence.

More fundamentally, the time may well have come to review our arms control doctrines and approaches which now go back more than twenty years and still dominate our negotiating goals. "Stability", a key concept in arms control, does not appear to have impressed the Soviet greatly. While many Soviet analysts, especially in the Institutes with which many of us are familiar, have adopted American vocabulary, Soviet forces in practice bear no necessary resemblance to stability criteria.

For example,

While the Soviets accepted the ABM treaty, they have continued to assign major resources to research and development for anti-missile defense. Moscow's ultimate intentions in this field remain unclear. But anti-missile defense, anathema as it is to stability doctrine, is hardly so to the Soviets. Defense against aircraft is clearly a high Soviet priority, to the point that the bomber leg of our triad must now be drastically modified in order to penetrate to its (second strike) targets. How long the 25-year old B–52 force will remain an adequate launch platform in the face of Soviet air defense efforts remains to be seen.

The Soviets have not refrained from procuring counterforce weapons. Either the SS–19 or the SS–18, and certainly portions of both in combination, will threaten the most reliable and flexible part of our triad. We are now faced with acquiring less vulnerable land-based forces and adopting launch-on-warning or launch-under-attack doctrines. Some analysts believe the time has come to give serious fresh consideration to defending our land-based forces.

The Soviets have done work on anti-satellite systems which if developed and deployed could threaten the command, control and communications of our most numerous and secure retaliatory forces.

Given these developments and some of the responses we plan to make or may yet have to consider, it seems at least questionable that what should determine our policy are arms control doctrines (e.g. verifiability in the case of the MX deployment mode), rather than defense doctrines adapted to the realities of the eighties and nineties. Whatever the ultimate disposition of the present treaty by the Senate, it is urgently necessary to ensure that future SALT negotiations, and the purposes and doctrines that govern them, are the product rather than the determinant of our defense policy.

Military issues dominate much of our relationship with the Soviet Union but they are not the only ones involved in it. The Soviets seek influence and associations in the world to shift the geo-political balance, but in the process they also want to obtain a variety of other benefits and to meet needs which they cannot fill by themselves. Indeed, it is one of the characteristics of the present period that the Soviets have found it necessary and desirable to interact more extensively and intensively with the outside world than at any time in their history. These interactions remain marked by strong hesitations; the innate autarkic impulses of the Soviet system remain vigorous and Soviet resistance to external intrusion remains powerful. Nevertheless, the iron curtain of 30 years ago has become more porous in both directions. The Soviets are more active, if still reluctant and selective participants in international institutions, practices and agreements.

Many of these developments result from the shortcomings of the Soviet economy and its technological backwardness. Some are due to the fact that the Soviet resource base, while impressive, is no longer fully able, and will become less able, to meet the growing demands of a maturing economy. With the labor supply tighter than in the past, increases in production depend heavily on improved productivity. This, in turn, demands more and better technology. Soviet agriculture continues to be afflicted by uneven harvests and a seemingly chronic inability to meet the objective of the leadership to improve the population's diet. The consequent need for manufactured goods, commodities, technology and capital from the outside world, has increased Soviet hard currency requirements since exports, though growing, are inadequate to finance imports. This has led the Soviet Union to engage in more extensive international financial operations and has made it more sensitive to foreign currency fluctuations, interest rates and other commercial and economic trends.

Other concerns which have tended to bring the Soviet Union more actively into the international arena, include such problems as environmental pollution, nuclear proliferation, exploitation of the resources of the oceans, regulation of airspace, etc. In all such matters, the Soviet Union is unable to protect its interests unilaterally and therefore finds it desirable to participate in international arrangements and institutions.

More closely related to security, the Soviets have viewed the widening contacts between China and other nations, especially Japan, Western Europe and the US, with mounting uneasiness. Apart from military measures, calculated to keep China under threat, Soviet diplomacy also seeks to counteract these developments, which Moscow interprets as a hostile effort at encirclement. Sometimes, this takes the form of attractive political and economic overtures; sometimes it involves threats. Usually, both elements are present. Thus, the Japanese and West Europeans and the Americans are simultaneously offered the rewards of detente but sternly warned against military cooperation with China. Elsewhere, the Soviets seek to offset alleged Chinese-inspired encirclement by efforts of their own to surround China with Soviet allies. Soviet policies designed to build influence in Third World areas by military support for and intervention in behalf of, so-called liberation movements and regimes engaged in "just" wars, are in part intended to pre-empt China's influence and to acquire allies against it.

The Soviet emergence into the world in search of beneficial economic, political and security connections makes it important for us to devise and to pursue a comprehensive and consistent strategy aimed at strengthening the incentives for restraint in all aspects of relations. Put most simply, and perhaps somewhat crudely, we and others must be clear among ourselves, and make it clear to the Soviets, that assertive uses of power, and efforts to shift the geopolitical balance, are fundamentally incompatible with productive and constructive relations in other respects.

This is not the occasion to discuss in detail how these connections or "linkages" can and should be established and implemented. What is required is a broad and conscious attuning of cooperative projects and associations to military relations and the overall level of tensions and crises.

It is sometimes suggested that in the early seventies, the Administration of that day somehow deluded itself into believing that economc rewards and agreements on "rules of conduct", along with SALT I and other arms control agreements, would ensure moderate Soviet international conduct. This, I believe, is a caricature of what came to be called "detente".

Among the absolutely essential parts of the comprehensive approach developed in the early part of this decade were to have been (1) an effective balance across the whole range of military power and (2) the maintenance of high risks, if necessary by unambiguous demonstration of our readiness and ability to react to militant behavior. In both these crucial respects, we fell short of what we should have done. Important defense programs lagged, in part due to Congressional action and, more recently, also due to curtailments by the Administration. And in several instances of Soviet intervention, directly and by proxy, we failed to achieve the necessary consensus at home that our interests were threatened and that this required action on our part. The element of risk was kept excessively low. (It should be added that positive incentives for Soviet restraint were not particularly high either. There has, for example, been little in our trade and other policies to suggest to the Soviets that a coherent pattern of benefits is to be derived from moderation.)

In sum, Mr. Chairman, we must see our relations with the USSR in their totality. We must recognize that the Soviets are driven by powerful impulses to amass military strength and, on that basis, to consolidate and expand their status as a power with world-wide interests and ambitions. This quest for status is not limited by a desire to attain "equality" or "parity" but is dynamic and open-ended. The most effective way for us to deal with this aspect of Soviet reality is to maintain our own end of the military balance and to make certain that our military power is known and seen to be usable. Arms control agreements, including in the area of strategic weapons can play a modest role in contributing to military balance; but they may also make it more difficult to maintain balance. In any event, however, our own defense programs will remain the principal means by which we maintain balance and these must, therefore, be our overriding concern.

Military balance and maintaining high risks for predatory actions by the Soviets provide a basis for pursuing other policies utilizing the Soviet need for, and reluctant but real interest in, beneficial relations with the outside world. We must establish and pursue in practice more explicit connections between the state of military and security relations and these other aspects. It is possible that over time the economic shortcomings of the Soviets system, in part caused by its militarization, will induce Soviet leaders to practice greater military restraint and to seek more far-reaching arms control limitations. But this is likely, if at all, only as a result of sustained policies by us and others which make clear to the Soviets (1) the futility of seeking military advantage, (2) the risks of using military power, directly or indirectly, for aggrandizement and (3) that there is a direct connection between the relief and benefits the Soviet Union can expect from the external world on the one hand, and the manner in which it defines and pursues its interests and uses its power, on the other.

I believe, in conclusion, that SALT agreements pursued and concluded in isolation from these considerations, that is, on the basis of narrow technical "merits", are unhelpful and therefore undesirable. SALT, particularly, because of its at best marginal effects cannot carry the burden of regulating American-Soviet relations. The historical record does not bear out the proposition that arms control agreements, SALT included, lead to better, more restrained relations. On the contrary, the more poorly managed the relationship with the USSR the more prolonged and tortuous the negotiations, and the more likely that whatever results they may produce will be negated by intensified military programs.

SALT must support what we can fundamentally do only by our unilateral, and Allied, military programs. This is the military test that must be applied to the SALT process and the present treaty.

Completion of the ratification process for this treaty, in my view, requires that there should be precise answers to the questions that have been raised concerning the impact of particular SALT provisions on needed American programs and on various existing and future forms of cooperation with Allies. In addition, it is essential that Congressional action this year—before final disposition of the treaty—firmly establish these programs in our defense budget and force planning. It is not too late to act on the premise that SALT is a function of security policy, rather than the other way around.

Finally, within the context of our defense policies, SALT should be an integral part of a wider strategy encompassing all phases of relations with the USSR and designed to constrain the militant and aggrandizing aspects of Soviet conduct while maximizing stakes in more disciplined and beneficial relationships with us and in the world at large.

Testimony by Professor Richard Pipes

The purpose of my testimony is to explain Soviet attitudes toward nuclear weapons, toward the prospect of nuclear war, and toward the arms limitations process. I will address myself obliquely to several critical questions which have loomed behind these hearings from the outset: for example, why do the Russians insist on the right to the exclusive possession of modern heavy missiles? Why do they demand the Protocol and the "non-circumvention" clause? In other words, why do they make so much of all those things which, we are told by the advocates of SALT II, have no military value and, if conceded, will not in the least affect U.S. security? In dealing with my subject I shall draw on Soviet military literature as well as on what we know of Soviet strategic deployments, reinforcing both sources of information with references to Soviet history and politics. It clearly is essential to try to understand Soviet behavior in terms of Soviet traditions, values, and aspirations, which, unfortunately, is not always done by the more zealous advocates of the Treaty.

The Soviet regime has from its inception placed great reliance on military instrumentalities both to ensure its internal security and pursue its external goals. Russia is an inherently poor country, and the Communist system, by depriving the population of meaningful incentives, guarantees that it remains poor. At the same time, however, the Communist system which places the country's entire human and economic resources in the hands of a self-perpetuating elite of rulers is excellently suited for purposes of military mobilization. Such power as the Soviet Union enjoys in the world today is due almost exclusively to its military might. In a world from which all weapons would be banned, the USSR would at once become a second-rate power since it possesses neither the civilization nor the material wealth that would qualify it as a "superpower". Contrary to some of the sentiments expressed in the debate over SALT II, there is no contradiction between Soviet Russia's low living standards and its willingness to commit immense funds for armaments—the Soviet military drive is in fact a natural corollary of endemic poverty. These economic factors making for militarism are reinforced by an ideology which views the modern age as the time of a life-or-death struggle between "capitalism" and "socialism". Militarism is the very essence of the Communist mentality: it has aptly been said that Lenin put Clausewitz on his head by transforming politics into the pursuit of war by other means.

When nuclear weapons first made their appearance, the Soviet government found itself in a quandary. It realized their potential importance early enough: as we now know, Stalin had a research program to construct atomic weapons underway at the outbreak of World War II. But the United States forged ahead and hence for some time a tendency prevailed in the Soviet Union to denigrate the effectiveness of these new weapons. Immediately after Stalin's death a keen debate developed in Russia on this subject in which the professional military played a commanding role. The conclusion, reached sometime in the late 1950's and signalled by the establishment of the Strategic Rocket Forces as a separate, fourth branch of the armed services, was that nuclear weapons have indeed become the decisive weapons of modern warfare—the very opposite conclusion from the one reached more or less concurrently by America's civilian strategists.

Soviet nuclear strategy, as well as the political strategy that accompanies it, is internally consistent and intellectually impressive—at any rate, to anyone who is not *a priori* convinced that the Russian military have nothing to teach us. It rests on several related propositions:

1. The introduction of nuclear weapons with intercontinental delivery vehicles has revolutionized warfare in the sense that henceforth the ultimate objective of all war—incapacitating the enemy's military forces—can be attained directly and immediately rather than gradually, by means of many separate operations;
2. Within that context, the traditional principles of the science of war remain fully intact: the advantages of preemption, of superior quantity and quality, of good defenses, etc., are as valid in the age of hydrogen bombs as they had been in that of gunpowder;
3. Even under the most auspicious circumstances, however, nuclear weapons cause such widespread destruction that great power conflict which may lead to nuclear war ought to be avoided to the maximum extent possible: in the nuclear age, the struggle with "capitalism" must of necessity assume indirect forms (e.g. flanking movements, proxy wars, seizure of energy sources)—that is, such forms as are subsumed under the general term "détente";
4. It is, nevertheless, possible that "détente" may fail and an all-out war with the United States break out—either as a result of a local crisis getting out of control or the United States, isolated and driven against the wall, lashing out in a Samson-like act of universal destruction; this contingency calls for the ability to deliver a quick, surgical preemptive strike designed to eliminate as much of the enemy's nuclear arsenal as possible and thereby to reduce to the utmost his ability to inflict damage.

It is sometimes said that the Soviet "war-winning" strategy is "irrational" and need not be taken seriously in view of the indisputable fact that a Soviet first strike against the United States would invite a devastating counter-attack on Soviet cities and industrial centers. To say that, however, is to assume that a Soviet first strike would come about as the result of a cold-blooded calculation. Such an out-of-the-blue assault is not part of Soviet doctrine and no responsible specialist considers it likely. A Soviet decision to preempt would come under conditions of extreme crisis, after the Soviet leadership had concluded that general war had become unavoidable. It would be an act not of bold adventurism but of desperation; its aim would be to minimize inevitable casualties and losses. It must be realized that inasmuch as fractionalization of nuclear warheads allows one missile to destroy several enemy nuclear systems, under conditions of modern war preemption is even more attractive militarily than it has been in the past.

The Soviet strategic buildup must be understood in the light of these premises and expectations. The Soviet Union has never adopted our doctrine of Mutual Assured Destruction; nor was it ever content with "parity" or "essential equivalence". These are concepts of people who do not believe in the military and political utility of nuclear weapons. Once it had made up its own mind on the issue, the Soviet Union has consistently striven to attain overwhelming strategic superiority that would make allowance for all kinds of unforeseen contingencies as well as the prospect, which it takes seriously, of a protracted nuclear conflict.

In these calculations, SALT is assigned a role of some prominence: not as a vehicle for general disarmament, as it is with us, but as a device that inhibits the U.S. responses to Soviet long-term strategic programs.

1. On the most elementary level, SALT fixes the number of American systems and therefore facilitates the task of estimating what is required to render them harmless;
2. On a higher level, it alleviates in some manner Russia's recurrent nightmare lest an American technological breakthrough (such as ABM and the cruise missile) suddenly nullify the rather ponderous and incremental Soviet buildup; in this sense, the acronym SALT can properly be deciphered to read "Stop the American Lead in Technology";
3. Last but not least, SALT creates in the United States a political atmosphere that is not conducive to defense expenditures: it persuades much of the public that any improvements in strategic forces are "destabilizing", and, at the same time, inhibits the U.S. government from funding weapons programs which may be limited or even prohibited by future arms limitation treaties.

All these features of SALT are inherently so beneficial to the Soviet Union that it understandably likes to depict SALT as the "linchpin" of détente, as it depicts "détente" as the only alternative to nuclear "holocaust". It is not so apparent why an American administration would adopt this point of view, unless it believes that SALT can be translated into domestic political benefits at minimum military risk.

To conclude, let me address myself to the question what is likely to happen should SALT II, for whatever reason, not come into force.

There is no cause to believe that the Senate's assertion of its constitutional prerogative to amend or reject this treaty outright will result in any of the harrowing scenarios with which we are being regaled. The inability of the great powers to agree on the terms of a treaty resolving their differences does not, in and of itself, cause their relationship to deteriorate: for the latter to occur there must be other, more positive reasons driving them toward hostility. The Soviet leadership has entered into SALT negotiations not in order to maintain a favorable "climate" of US-Soviet relations: had it desired the latter, it would not have dispatched military "advisors" and mercenaries to the four corners of the world following the signing of SALT I. It has entered into these negotiations in the hope of securing the distinct military and political advantages enumerated above. Should SALT II fail, the Russians will promptly write it off as a bad investment and try to secure the same results by other means, if necessary, by a more equitable SALT. Their military programs, already operating at peak capacity, are not likely to be accelerated in any significant way as a result.

There is something unreal about the proposition, advanced by both the US and Soviet administrations, that we either ratify this treaty as written and march along the royal road to peace, or else risk growing enmity and war. Such doomsday scenarios are not only unrealistic—they place in doubt the very basis of the proposed accord. The viability of international treaties ultimately depends on a combination of self-interest and good will of the signatories. Either such self-interest and good will exist in respect to SALT II, in which case the parties ought to be willing to negotiate and renegotiate its terms until they arrive at a generally acceptable agreement; or else these qualities are lacking, in which case the treaty will not hold in any event and ought to be rejected. Realistically, no treaty can be said to advance the cause of peace if its sole alternative is hostility and all-out war.

TESTIMONY BY ROBERT LEGVOLD

As someone interested in Soviet affairs, I think I can best aid you by focusing on the attitudes that the Soviet side brings to SALT. These, of course, are not easily determined, but neither are they so inaccessible as we sometimes assume. Nor are they so crude as we sometimes imagine for want of knowing. They are a mix of subtlety, ambivalence, assertiveness, and concern roughly consistent with the complexity of strategic trends and the challenge of SALT, and, in my judgment, they are important to consider.

THE SOVIET AND AMERICAN APPROACHES TO WAR AND ITS AVOIDANCE

No factor more vexes the effort to negotiate arms control with the Soviet Union than the differences between us. Not the differences in ideology or political order, though these matter ultimately. The more fateful differences are in the structure of our military forces, in the nature of the threats we face, and in the strengths and vulnerabilities of the alliances we rely on and mean to defend.

The United States has built forces stressing diversity, flexibility, and technological prowess; the Soviet Union, numbers, firepower, and redundancy. Our means of nuclear attack comprise a TRIAD, a concept that has come to have considerable importance to us. The Soviet Union has persisted instead with essentially a DYAD, one resting heavily on land-based ICBMs. But Soviet ICBMs, in turn, being larger than ours, will pose a threat to this part of our deterrent sooner than we can threaten any part of theirs. Should both countries develop the ability to destroy the others' fixed ICBMs, however, the implications are graver for the Soviet Union because roughly three and a half times more of its forces are ICBMs. And should the competition turn toward acquiring invulnerable counterforce weapons, an increasingly likely prospect, the superiority of our next generation of SLBMs and mobile ICBMs over theirs makes the implications graver still.

Discrepancies like these—the practical consequence of the differences in the throw-weight of each side's ICBMs, in the levels of their SLBM technology, and in the versatility of their delivery vehicles—are SALT's great burdens. Add to these the effects of geography, the China factor, and allies who bring vastly different resources and concerns to the common defense, and the plight of SALT II or any other attempt to reach meaningful and negotiable strategic arms limitations emerges more clearly.

The asymmetries in capabilities, enemies, and alliances deeply influence the perspectives each side brings to the SALT process. But there is still another important asymmetry—this, in the way the two leaderships think about war and its prevention. The contrast stems not from a more cynical or cavalier attitude on the part of one leadership toward the risks of war. Nor, as some seem to suggest, from a Soviet willingness to treat war, even nuclear war, as an acceptable means to their political ends. No such willingness exists, not as reflected in what they say and write.

The real contrast is in the way the two nations cope with the theoretical possibility of nuclear war. Given the suicidal implications of using nuclear weapons, American strategists have concentrated on the psychology and framework of deterrence—that is, on the process of dissuading the Soviet Union from risking nuclear war or, if war comes, on cutting it short. Strengthening our ability to dissuade has not been divorced from defense—that is, from developing the ability to fight a war—but the stress has been on structuring choice and, if you will, "bargaining" in the shadow of nuclear conflict. By this I mean spinning out scenarios designed to convince the Soviet leaders in advance that we can and will attach too high a price to any prize they may wish to capture with military force. In the process, the civilian strategists, game theorists, and scientists who dominate strategic thinking in this country have come to worry most about the credibility of our deterrent, the stability of the nuclear balance in moments of crisis, and the raising or lowering of the nuclear threshold.

In the Soviet Union, the task of dealing with the specter of nuclear war belongs to military men. They, by tradition and profession, make it a matter of waging war. By preparing to prosecute war successfully, they assume, they are both deterring war and putting their country in the best possible position should deterrence fail. Nuclear weapons have revolutionized warfare, and this they recognize. But their inclination is still to approach the problem as traditionally as possible, committing themselves to victory on the battlefield and, to this end, the destruction of the other side's war-making potential.[1] The more abstract notion that the outcome of a nuclear war can be decisively shaped by launching a limited number of nuclear weapons at a selected set of (military) targets and then waiting to see whether the other side will desist remains largely alien to their way of thinking. Thus, where we tend to start with deterrence, pressing on to defense, ultimately subordinating defense to deterrence, they skip the issue of deterrence and concentrate on defense, assuming deterrence will follow.

THE CONSEQUENCES FOR SALT

Inevitably the different way Soviet and American leaders think about nuclear war influences the way they judge the strategic balance, the trends altering it, and the process of regulating it. Inevitably it also shapes their perspectives on the SALT II accords.

Some say that our original goals in SALT were doomed to failure because, as events turned out, the Soviet Union did not share them. We envisaged SALT as a chance to reduce and stabilize the strategic nuclear balance, to turn the competition from arms building, and to shift these resources in other directions. The Soviet leaders, in contrast, it is said, viewed the SALT process not so much as a joint enterprise to manage the arms race as an opportunity to codify their superpower status and, if possible, to improve their military position by impeding U.S. defense efforts. We were simply working on different levels.

It seems to me that this misstates the problem. For the Soviet leadership SALT has been preeminently a political exercise, but in the sense of the contribution that arms control efforts make to the over-all U.S.-Soviet relationship. From the beginning, the Soviet leaders have been more inclined to focus on the place of arms control in East-West relations than on the role of arms control in restructuring the military balance or in imposing a particular discipline on the arms competition. They have tended to urge SALT as a necessary and integral part of a broader process of easing tensions between our two countries, arguing the obvious proposition that not much progress can be made if both are locked in an unyielding arms competition. The challenge of using SALT to shape the strategic nuclear balance has concerned them less.

Indeed, by and large, their natural preference has been to define the objectives of SALT modestly, rather than get bogged down in the complexities and intractable dimensions of a far-reaching effort to regulate the strategic arms race. In SALT I, they would have been happy to settle for an ABM agreement, and it required considerable determination on the part of the Nixon Administration to negotiate the interim agreement limiting offensive weapons. In SALT II, they have generally sought the simplest and least arduous route to agreement, meaning inevitably a less ambitious one. They have not pressed to circumscribe or avoid new technologies, threatening to make the strategic arms competition more unmanageable, like MIRV or mobile ICBMs. And, when in March 1977 they were offered the opportunity to achieve major reductions, they angrily backed away. Their anger had to do with what they regarded as the one-sided nature of the 1977 proposals, but this did not fully explain their refusal to respond with counterproposals.[2]

This preference for unencumbered arms control, I think, in large part traces back to the Soviet Union's broader political stakes in SALT. True, another powerful syndrome is at work, a Soviet reluctance to constrain the other side if it means constraining yourself. But the same can be said of the American approach to SALT, and that has not prevented us from trying to push SALT in more ambitious directions. Rather, the further explanation is that the Soviet Union cares more about the political effect of a successful SALT process, and, for this, small steps, setting aside the hard choices that generate controversy, may be best.

It is also true that the Soviet Union has looked upon SALT as a mechanism for controlling American military programs. Preventing the United States from going forward with an elaborate ABM system was obviously a high priority for the Soviet Union in 1969. Limiting, even eliminating, the contemporary U.S. cruise missile program has also been a major Soviet objective in SALT. But, we, too, have sought to circumscribe through SALT Soviet Weapons that are particularly disturbing to us. The ceiling on SS–9s in SALT I is a case in point and so is our attempt to impede the development of a fifth generation of Soviet ICBMs in SALT II. The attempt to use SALT to hamper the other side's defense efforts is not what divides us.

Neither the self-serving aspects of the Soviet approach to SALT nor its political stake in SALT proves that the Soviet Union has no desire to stabilize the nuclear balance or to shrink both countries' strategic arsenals.

---

[1] "Winning" a nuclear war in this sense is scarcely as good in Soviet eyes. It is better than losing, but no Soviet leader in the last twenty years, military or civilian, has suggested that nuclear war would be anything than an unimaginable calamity, leaving victor and vanquished in virtually the same condition.

[2] They also resented the way the proposal was sprung on them and objected to an attempt, as they saw it, to throw over Vladivostok and the laboriously negotiated compromises of the intervening two and a half years. Still, the Soviet reaction was so swift and sharp that obviously they had not even paused over the prospect of making more of SALT.

The problem is in defining what it means to stabilize the balance, a problem that ultimately traces back to our contrasting way of thinking about nuclear war and its avoidance.

It is not merely that our attempts to give stability to the nuclear balance, that is, to reduce the incentives to squeeze the trigger first in crisis situations, come across to Soviet observers as self-seeking. Thus, from the original Option E proposed in the opening rounds of SALT I to the March 1977 scheme for "deep cuts," our efforts to increase crisis stability have seemed distinctly in our favor. Again and again we have come back to the notion of abandoning potentially vulnerable ICBMs, where so much of the Soviet effort is focused, and moving the competition to less vulnerable SLBMs, weapons of a more clearly second-strike character, but in which we hold a clear technological edge, not the least in the race to turn them into first-strike weapons. On the other hand, a Soviet might note, when the most "de-stabilizing" weapon of the last decade was introduced, that is, MIRV, we introduced it and we did so without giving much thought to SALT and an agreement to banish MIRVed forces on both sides.

There is, however, a more profound problem than notions of stability that appear to Soviet leaders as discriminatory and calculated to enhance U.S. advantage. The problem is that our notions of what is stabilizing and destabilizing in the strategic arms competition, to a large degree, remain alien to them. This, some would argue, arises out of the Soviet tendency to equate stability with the growth of Soviet military power. The point is not made derisively: Soviet speakers do suggest that a stronger Soviet Union is the surest guarantee of nuclear stability; indeed, it is the way they most commonly discuss the issue. (To say the least, it is not an approach that will get the two sides very far.)

Still, this does not gainsay the extent to which our own concept of stability is a function of the way we happen to think about nuclear deterrence. Worrying about a Soviet ability to destroy 90 percent of our fixed land-based ICBM force, while we can destroy only 60 percent of theirs, makes sense at a certain level of abstraction. For us, the abstraction is important, because we have predicated deterrence on ensuring that the Soviet Union cannot come out ahead in any nuclear exchange. This proposition has a significance of its own, independent of the question of what objective could activate a chain of events resting on this 30 percent margin, what fortuities would threaten to undo any calculus based on the 30 percent, and what other dimensions of war might prove more decisive.

For the Soviet leaders, however, given their approach to nuclear deterrence, this proposition has no significance independent of these other considerations. They are less sensitive to and, happily, less emboldened by Minuteman vulnerability, because of the difference in approach. Less sensitive, because they are inclined to view their ability to destroy a large part of the Minute man force as simply one component in a war-fighting strategy—that is, a measure, albeit a critical one, for reducing the damage a foe can inflict in the course of a war. They are less emboldened, because, as they judge matters, this ability affords them little leverage as long as they cannot launch and win a war at a tolerable cost.

By the same token, I think they are baffled by and more than a little mistrusting of the concern expressed by many in this country over trends in so-called "static indicators." They understand the psychological problem. They understand that numbers and seeming inferiorities in the tally of weapons—megatonnage, throw-weight, total warheads, numbers of delivery vehicles, and so on—have an impact on the public mind. But, when serious defense planners and analysts make the gap in the throw-weight of the two countries' forces decisive, arguing that by this gift the Soviet Union can launch a nuclear attack knowing that after each exchange its remaining forces will be fractionally larger than American forces, Soviet observers suspect ulterior motives.

Because Soviet defense planners make do with the science of war, abjuring the development of "strategic doctrine," they look upon our attention to doctrine as politically inspired. That is, they think the fussing we do with declaratory policy, replacing the "doctrine of massive retaliation" with "flexible response," modified by the "doctrine of limited nuclear options," is designed to squeeze the maximum political-psychological leverage out of a defense posture. Talk about the meaning of the discrepancy in throw-weight, translated into a concept like "escalation dominance," the language of American strategists, is lumped into the same category.

Soviet and American views of SALT II also derive to an important degree from their respective views of military trends, a further dimension shaped by our contrasting approaches to the challenge of nuclear war. In this country what different people think about the SALT II accords follows closely from their apprehension over the comparative momentum of Soviet and American military efforts. The fears generated by recent trends impinge constantly and heavily on judgments about SALT II, even where the connection, both for good and ill, is nearly nonexistent.

Not surprisingly, in the Soviet Union, the link between the evolution of the military balance and SALT matters less. Whatever the defects of the agreements—and from the Soviet perspective there are a number—these are softened by the general context. SALT or no SALT, the Soviet Union has made enormous strides in overcoming its strategic nuclear inferiority. In these circumstances, even the most equitable agreement looks different to the side losing ground than to the one gaining ground.

But the contrast has still deeper sources. Because we and our NATO allies place so much weight on U.S. strategic forces, accepting the abstractions of deterrence theory and neglecting other dimensions of our common defense, the erosion of our comfortable advantages in the nuclear competition is particularly disturbing. SALT may have very little to do with this situation and it may offer little solution—short of the futility of expecting it to re-establish American strategic superiority—but it becomes its victim. Suddenly everything, even at the margin, acquires significance: the chance that the Soviet Union could use its large medium-range BACKFIRE bombers in a nuclear attack on the United States, the chance that a disputed interpretation of the SALT protocol might impede our efforts to rectify a deteriorating theater nuclear balance, and the chance that the Soviet Union would cheat under the terms of SALT and, escaping detection, produce a larger and more accurate successor to the SS-19 two or three years earlier than it could if it waits for the Treaty to expire.

Both in its posture and in its concepts, the Soviet Union is less dependent on carefully calculated nuclear deterrence. Because the Soviet Union believes the decisive feature of any general war will be the ability of one side to triumph at all levels, from conventional to nuclear, and has designed a posture around the integration of capabilities for fighting at all levels, it worries less about precise calibration of the nuclear balance. Or, to put the matter another way, it has a different sense of what constitutes the basis for "nuclear blackmail." To a Soviet mind it is not the ability to wipe out one leg of a TRIAD that counts most, and even less is it a gap in throw-weight, translated into a scenario in which one of two devasted countries after a series of nuclear exchanges ends up with a fraction more weapons. Rather, the decisive consideration in the Soviet perspective is the over-all military balance. Provided one has a sufficient ability to survive a nuclear attack and strike back with a certain level of viciousness, the key concern is with prosecuting war, and that involves something much beyond the refinements of nuclear strategy.

Not that the Soviet Union has ceased to worry about trends in the strategic arms competition. In a looser fashion, the Soviet leaders do apparently fear the twists and turn that the competition may yet take. They are concerned with the implications of cruise missiles and what the introduction into Europe of large numbers of these weapons, blurring the line between conventional and nuclear, will mean. They are beginning to stir at the prospect of a race in counterforce weapons. And, in general, they continue to watch warily for the new directions in which we, with our technological superiority, will push the nuclear arms competition. But these are concerns for the future, for SALT III, and the Soviet leaders do not feel them so acuetly as we feel ours. For the moment, the two countries' anxiety over military trends is out of phase.

I have chosen not to address more directly the concerns that are usually debated, because I believe the problem runs more deeply. I could have made the case that, whatever our image of emerging Soviet superiority, the Soviet leadership does not share the same perception. I could have summarized for you the defects that the Soviet leaders see in the treaty. I could have reviewed for you the compromising the Soviet Union did to get this agreement, by way of disproving the impression that we have let ourselves be slickered. I could have commented on the faithfulness with which the Soviet Union keeps the contracts it signs or the likelihood that it wants an inadequately verifiable agreement. The reality in all these cases, I am convinced, is more reassuring than assumed by many of those who oppose SALT II or who would substantially rewrite it.

I did not because I think the factors that lead the two countries to view strategic trends and SALT II so differently—that make these agreements so controversial in our country and not in the Soviet Union—flow from far deeper considerations. Much of the trouble SALT II is in stems from our basic outlook, from the way we choose to define what counts in the nuclear balance, from the way we choose to define Soviet calculations, and, ultimately, from the way we choose to cope with the specter of nuclear war. Much of the trouble with SALT—and a challenge that we must deal with more effectively if the process is to come to really matter—stems from the fact that the Soviet Union does each of these things another way.

STATEMENT OF PROFESSOR DONALD S. ZAGORIA

Senator Church and Distinguished Members of the Committee:

As you continue your deliberations on the Salt II Treaty and the role of that Treaty in U.S.-Soviet relations, it is a privilege for me to be invited to present my views. As a student of Soviet foreign policy for three decades, and as one who has no illusions whatever about the nature of the Soviet system or about Soviet objectives in the world today, I have still felt uncomfortable with what I regard as the extreme views on the Soviet Union that often dominate our national discourse. On one extreme, Soviet power is frequently exaggerated and Soviet ideology is frequently confused with that of Nazi Germany. A "Chicken Little" school of American foreign policy thinks that the sky is falling down and that the

United States is powerless to reverse unfavorable trends. This school is nostalgic for the 1950s when the United States was the most powerful country in the world, and it seeks to turn the clock back to the situation that prevailed then when the U.S. enjoyed unquestioned military superiority over the Soviet Union. The Chicken Little school exaggerates the "Soviet menace." It minimizes the strength and vitality of the United States and the resources of our many friends and allies. It is incapable of devising a measured and discriminating response to the Soviet challenge. It confuses developments in Iran, southern Africa, Yemen, Afghanistan, Vietnam, and elsewhere, and sees only the Soviet hand behind all of the unfavorable trends in the world today. Instead of helping us to understand that the challenges we face in the Third World are varied and complex and cannot be met merely with guns and missiles, it encourages a mindless militarism. Generally opposed to SALT II, this school fails to tell us how the defeat of SALT and the escalation of the nuclear arms race will help to contain Soviet advances.

On the other extreme, the challenge of growing Soviet military power and the problems created by the Soviet offensive in the Third World are frequently minimized by the "so what" school of American foreign policy. This mindless anti-geopolitical school seems incapable of understanding that many of our friends and allies are adversely affected by changes in regional balances of power. Seven pro-Soviet communist parties have taken power or territory by armed force since the spring of 1975. Between 20,000 and 40,000 Cuban gendarmes are now in Africa with "guns for hire." To the extent that our friends and allies lose confidence in our ability to contain this offensive, they will be forced to reconsider their own foreign policy alignments. A substantial change in the foreign policy of Saudi Arabia, combined with the recent Islamic revolution in Iran, could, for example, imperil Western interests in the Middle East.

But rejecting SALT II is not the answer to this problem either. The challenge for the United States is to devise a steady, measured and broad response to these and other problems of foreign policy. But to do this, we must recognize first of all that many of these problems have been made or aggravated by our own erratic and indecisive national behavior in recent years. Many of the most serious problems we face in the global arena today are the result of a crisis of confidence in American leadership, a crisis that has spread throughout the world since Watergate, our defeat in Vietnam, and our continuing inability to meet some of our most pressing domestic problems. We can no longer afford the luxury of 102 different foreign policies, one for each Senator, one for the Department of State, and one for the National Security Council. Our first and highest priority should be to achieve some national consensus on a long range strategy.

We must recognize, secondly, that the world of the 1980s is different from the world of the 1950s. We no longer have, and are unlikely ever to regain, unquestioned strategic superiority over the Soviet Union. And, in many parts of the Third World, the Soviet Union has cleverly positioned itself on the side of parties and states that enjoy considerable support—in Rhodesia, on the side of the Patriotic Front; in the Arab world, on the side of the PLO against Israel; in the Persian Gulf, on the side of the rebels against conservative oligarchies; in Ethiopia, on the side of a government protecting the existing territorial status quo against internal dissidents supported by Somalia. Rejection of SALT II will not solve any of these problems. It will not help us to regain military superiority over the Soviet Union. Rather, it will lead us to a new and even higher level of the nuclear arms race, a level that will be much more dangerous because it will be out of control. And rejecting SALT II will not improve our position in the Third World. On the contrary, it will make our competition with the Russians in these regions fraught with much greater danger.

This is neither the time nor the place for me to spell out in great detail what I mean by a steady, broad and measured response to the problems we face in our dealing with the Soviet Union. To put the matter in shorthand, however, I would say that we need a policy that combines detente with containment. To achieve such a detente, the Administration must make two things clear to Moscow: first, that it will be to the Soviet advantage if they exercise greater self-restraint; second, that it will be risky if they don't. In the recent past, we have failed to provide the Russians either with positive or negative incentives for self-restraint. By foolishly imposing congressional restrictions on trade with the Russians, and by linking those restrictions to Soviet emigration policies—rather than to Soviet foreign policy—we have deprived ourselves of positive leverage on Soviet behavior. At the same time, we have not been able to demonstrate any kind of military or political response to Soviet activity in the Third World that might be a negative incentive for further Soviet advances.

There are three steps in particular that we need to take in providing Moscow with positive incentives for restraint. First, Congress should make the kinds of amendments in trade legislation that Senator Adlai Stevenson is now proposing. The effect of Stevenson's amendment would be to increase the President's flexibility to trade with Moscow and to use such trade for "linkage." Second, we should engage the Russians in preliminary discussions about regional security problems in various parts of the Third World. We cannot exclude the Russians from all negotiations on regional matters and then ask them for restraint in the regions. Finally, and not least important, we need to sign and to ratify the SALT II agreement as a symbol both of our desire to slow down the nuclear arms race and of our desire to pursue a more cooperative relationship with the Soviet Union. In sum, passing SALT II should be part of a larger strategic concept that makes it clear to Moscow that we, for our part, are anxious for a more comprehensive detente.

But along with the "carrots" there should also be some "sticks." The Senate, when it ratifies SALT II, as I hope it will, should warn Moscow in a "sense of the Senate" resolution that the United States will no longer accept a narrow and unreciprocal detente, and that future Soviet conduct in the Third World will influence the future development of detente, including the prospects for SALT III. And Moscow should understand that if it continues to conduct violent interventions in the Third World wherever the opportunity beckons, we will eventually be forced into consolidating our new relationship with China. In a word, the Russians must be forced to face a basic question. What is more important to them: a steady, stable and reasonably cooperative relationship with the United States, or a license to stir the boiling pot of the Third World, a license that will no longer be free of charge.

The case for SALT II, then, seems to me to rest on one very simple proposition. If we expect to make even modest progress in developing our political relations with the Russians and in getting them to exercise restraint in the pursuit of their overall foreign objectives, we must first obtain the needed strategic stability that only SALT can provide. Passing SALT is, in fact, a necessary precondition for devising a measured and broad response to the Soviet challenge in the world today. With it, we may be able to devise such a response. Without it, we have no chance. The absence of a SALT II agreement will make our competition with the Russians much more dangerous and even modest hopes for improving our political relations will be doomed.

But there is still another strong argument for SALT II that has not yet received sufficient attention. In our continuing competition with the Russians—competition that will continue as far into the future as we can now see—our biggest advantages are not in the military but in the non-military areas. These advantages are our economic and technological dynamism, our democracy which can count on genuine popular support, our ability to count on allies who join us freely, our society's openness, flexibility and ability to innovate, and our commitment to pluralism and diversity. In all of these respects, we have fundamental advantages over the Russians who, by contrast, have only one great strength—their sheer military might. And that is why, in pursuing their goals around the world, the Soviets rely primarily on their military power. They have very few other assets.

It follows from this that our long range political objective should be to lessen the military competition with the Russians and increasingly to divert that competition into areas in which we hold the lead and in which the Russians are behind and may never catch up. They can always match us in military power. They have demonstrated this during the past 15 years. By diverting massive resources away from their civilian economy, they can match, and perhaps, if we fell asleep, they can even surpass our military might.

But the Russians will have much greater difficulty in catching up to us in all other areas. Their economy is in serious trouble. Their technological lag continues. Their ability is motivate their own people to work harder and more efficiently is limited. Their ability to attract genuine allies rather than proxies or satellites will remain small. Consequently, by putting a cap on the strategic arms race in SALT II, and by moving in SALT III to cut those arms further, we will be diverting the competition between us into the economic, technological and moral arenas in which our advantage is incomparably greater. Can there be any doubt over the long run as to whose system—theirs or ours—is likely to prevail in protracted, peaceful competition?

Why, if this is the case, should the Russians be interested in SALT agreements? The answer, in my opinion, is not that they want to lull us. The answer, I believe, is that the Russians know even better than us how far behind they are the West in the economic and technological arena and they are determined to catch up there, too, just as they have caught up in the military field. But for them to have even the slightest chance of reducing the gap between us in these areas, they must begin to divert resources away from their massive military industrial complex and back into their civilian economy. For their great military strength is also their great economic weakness. They must soon pay much more attention to increasing productivity, to obtaining capital for investment, to increasing consumption, and so on, or their lag behind the West will grow even more. But to accomplish this goal, the Russians will need to change their present priorities. They will need to cut back on their huge military programs in order to catch up to the West in the non-military areas in which they are now so seriously behind.

In sum, in addition to our common interests in survival and in safely managing our competition, both we and the Russians have another reason for wanting to limit, and eventually to reduce, our strategic nuclear arsenals. We want the Russians to divert their resources away from the military and back into the civilian economy in order to divert our competition into areas in which we are superior. They have a stake in diverting resources back into the civilian economy because, in the long run, that is their only hope of catching up to us as an economic, as well as a military, superpower.

Before I turn to some concluding thoughts, there is one other consideration that deserves to be weighed in the SALT balance. If the Senate refuses to ratify SALT II, at the same time that Western Europe, with American acquiescence, begins to sell arms to China, and at the same time that the West begins to trade with China on a rather large scale, the Soviets will conclude that Washington is forming an anti-Soviet alliance against it. There is already a good deal of suspicion in the Kremlin that this is in fact our policy. Rejecting SALT II while embracing China is the surest way to confirm these suspicions in the minds of the Kremlin leaders. If the Soviets do come to the conclusion that we are forming an anti-Soviet entente that includes Europe, Japan and China, they will be forced to react in some way that is bound to be profoundly destabilizing. They might even be tempted to take military action against China before such an entente emerges.

The best way for us to take advantage of the Sino-Soviet conflict that has been developing for two decades is to pursue a policy of equidistance or balance between Moscow and Peking. Such a policy would exploit our unique position in the triangle and make it possible for the United States to improve its relations with both the Soviet Union and China at the same time. Such a policy would be a major contribution to global stability. It would be a policy dictated by our own national interests. And it would be a policy warmly endorsed by our allies. A policy that tilts sharply towards China, on the other hand, would be a major contribution to global instability. It would not be in accord with our own interests and it would lead to great strains within our own alliance system. Yet rejecting SALT II at the same time that we are warming up relations with China will mean taking a giant stride towards such an unbalanced policy.

Finally, with all due respect to the members of the Senate and other distinguished Americans who oppose SALT II, I must nonetheless say that none of the arguments I have heard so far against SALT II seem very convincing.

To those who say that SALT II does not go far enough in cutting strategic arms, the answer surely is that this is an admittedly imperfect but necessary step in the right direction. To those who say that this agreement will lead to our strategic inferiority, the answer is that this agreement does not prevent us from developing any of the weapons systems such as the MX, Trident submarine, and air-launched cruise missiles that we may need to ensure parity. To those who say that this agreement does not include the Backfire bomber which could reach the United States, the answer is that it also does not include our bombers based in Britain which could also be used against the Soviet Union. To those who say we cannot trust the Russians, the answer surely is that we could trust them even less if there is an unregulated and unrestrained nuclear arms race.

Some opponents of the SALT II Treaty seem to believe that unless the Treaty is defeated, the necessary military programs that we need to deter the Russians will never be mounted. They see defeat of the Treaty as a kind of shock therapy for the American public. But the effect of defeating the Treaty is more likely to be to shock the Russians into higher and higher levels of military spending while we continue at our more modest pace. Thus, defeating the Treaty may have precisely the opposite effect of the one intended by these Treaty opponents.

Some Treaty opponents evidently oppose the Treaty because they do not like the general character of Soviet foreign policy in Africa, the Middle East and elsewhere. As I hope I have made clear, neither do I. But although we should take this opportunity to warn the Russians that detente is incompatible with many of their actions in the Third World, we cannot reasonably ask them to suspend those actions as a precondition for accepting SALT II. After all, the Soviets for their part, do not like the new relationship that we are developing with the Chinese. What would be our response if they sought to link SALT directly to our China policy? To impose a direct linkage between SALT and the general character of either Soviet or American foreign policy would mean that each side would have to accommodate to the other on matters of concern as a precondition for agreement on strategic limitations. Such a procedure puts the cart before the horse. We cannot hope to resolve matters in which our interests are divergent, as they are in various parts of the world, if we cannot begin by resolving matters in which our interests coincide, as they do on the need to limit the strategic arms race.

We have a genius in this country for oversimplifying complex problems. But sometimes that same genius leads to phrases that cut through all the complexities to the heart of the matter. I do not know who among your previous witnesses said that SALT II is a small gift horse which we should not look in the teeth, but he was certainly right. SALT II is neither a panacea nor a disaster. It is a step in the right direction and it is a precondition for a long range response to the Soviet challenge that we desperately need to develop.

Statement of Adam B. Ulam

The treaty which is before you has been characterized by some as being essential to the security of the U.S., by others as posing grave dangers to it. There is, I believe, a general consensus that no strategic arms agreement can by itself guarantee our security. Weapons do not make wars; states do. What constitutes nuclear sufficiency or deterrence in a crisis lies not only in the objective data, but also in the eye of the beholder. And it does make a difference whether the beholder is a democratic society like ours, a small group of men making policies in secret and not subject to many external constraints, or a nervous ally of the U.S. whose statesmen are aware of how loath our leaders are, and rightly so, to incur even a slight risk of a nuclear confrontation. Hence it is regrettable that this country has allowed the Soviet Union to get ahead of it in certain categories of nuclear weapons. The current leaders of the U.S.S.R. are rational and prudent men, but those who come after them may not always be so. In any case our policies should be such as to give them every possible reason for additional prudence and restraint.

The treaty has been discussed mainly in terms of what it might do for our security in the most direct sense of the term: whether and to what extent it would safeguard the territory of the U.S. from a nuclear attack. Yet even under its most favorable interpretation the present treaty does not guarantee the security of our allies, nor our access to vital raw materials, nor some other elements which add up to national security in the broader, but essential, sense. Is the strategic arms agreement as currently framed likely to lead to more amicable relations with the Soviet Union, place restraints on its policies, and be productive of greater national security?

Here the record since SALT I has not been very encouraging. It was expected at the time that in addition to arms limitation, both powers would observe in their foreign policies a certain code of behavior which would inhibit them from encroaching on each other's vital interests. Hence SALT I was accompanied by a number of other agreements and declarations, the general purport of which was expressed in a statement signed by Messrs. Brezhnev and Nixon, the most salient part of which read, "The U.S.S.R. and the United States attach major importance to preventing the development of situations capable of causing a dangerous exacerbation of their relations. . . . Both sides recognize that efforts to obtain unilateral advantages at the expense of the other, directly or indirectly, are inconsistent with these objectives."

SALT I, it is said, made possible détente. The alternative to détente, it is added, is a relapse into the cold war. Whatever the causes of the cold war, and many people have some extraordinarily muddled ideas on the subject, it is instructive to reflect that at no period prior to 1972, with the exception of the Berlin crisis and the Korean war, had Soviet policies been as consistently expansionist, as purposefully designed to undermine Western interests and influence as has been the case during the last few years. Furthermore, Soviet actions on Berlin and in Korea could be rationalized to some extent by the fact that they affected areas and issues which the Soviets, by their lights, saw as crucial to their security. During the last few years, Soviet expansion and their search for "unilateral advantages" at the expense of the West, and of international stability in general, has been directed at areas where no crucial interests of the Soviet Union are involved. One can understand, if not justify, Soviet activities in the Near East—it is a region where historically the Russian state has long sought to obtain a foothold. But even old-fashioned imperialism cannot explain Soviet intrusions into Africa, South Yemen, and their support of the replacement of an already friendly regime in Afghanistan by an out-and-out pro-Soviet one. Economically such actions involve a not inconsiderable burden to the Soviet state. And so their only rationale must be that they undermine Western interests in those areas, and do harm to the prestige of the U.S. and its allies. . . .

What must be of even greater concern is the new character of Soviet intervention in, up to now, Third World areas. For long the Soviets have assumed the prescriptive right to license any conflict in a country whose regime is even mildly pro-West as a "war of liberation" and to provide the insurrectionists with arms and other supplies. Beginning with the mid-seventies this approach has been supplemented by large-scale (under the local circumstances) direct and open military intervention by the Soviet block forces, involving Cuban troops and Russian, East German, etc., officers.

Let me add hastily that there is no direct evidence of a causal link between the Soviet decision to intensify their anti-Western and destabilizing policies and SALT I. In fact, as Communist spokesmen have themselves occasionally admitted, their changed tactics have been influenced mainly by what they perceive to be the growing political and economic weakness of the West, the energy crisis and recession, and the debilitating effects of Vietnam and Watergate on America's society, and hence its ability and determination to protect its own and its friends' interests abroad. But what has been happening since SALT I throws some light on one argument used in support of the present treaty; without it we would not be able to continue our hitherto quite satisfactory relations with the Soviets.

In making this point to some of my friends in the Administration I often encountered the counterargument that by its very nature détente between the two such powers must imply a relationship partly competitive, and partly cooperative in its nature. The sad fact is that competition, if such it has been (quite often we scratched), has come mainly from the U.S.S.R., cooperation from the U.S. This country and other Western industrial nations have undoubtedly greatly helped the Soviets' economy at a time when its hitherto spectacular growth has begun to level off, by expanding their trade with the U.S.S.R., and by providing it with some of their most sophisticated technology. By contracting to ship great quantities of grain to the U.S.S.R., America has been helping the regime to avoid food shortages occasioned by periodically bad harvests, as well as by the inefficient organization of Soviet agriculture. When it comes to trade with the U.S.S.R., the distinction between goods with or without military significance is not very meaningful. Foreign help, by contributing to greater efficiency in any sector of its production or consumption, may enable the regime to divert more resources to military use. In addition to this direct help we assist the U.S.S.R. indirectly, but significantly, by credits to and commerce with the Soviet bloc countries. Without it the Soviet Union would have to shoulder at least part of the economic burden in shoring up the local Communist regimes.

There have been, in all fairness, some benefits to the West: expanded exports to the U.S.S.R. bring more jobs at home; increased contacts between Americans and Russians are valuable, and in the long run they may have beneficial political side effects; there has been some but rather marginal improvement in the way the regime has dealt with the dissidents. Yet on balance most of the benefits of détente have accrued to the Soviet Union, something I certainly would not begrudge it were not Soviet policies in practically every part of the world directed at undermining the position and interests of this country and of its allies.

The main premise behind those policies of the U.S.S.R. has been the assumption, alas for most part correct, that they have carried with them but little risk. Therefore, what must be of concern to us is not only the substance and verifiability of the treaty, but also whether through the process of negotiation and ratification this country will have been able to convince the Soviet leaders of the tenacity of its purpose; of its determination and ability to bar their further "efforts to obtain unilateral advantages" at the expense of the West. If the Kremlin becomes convinced of that, then the way indeed will be open for "the establishment of a more stable and constructive foundation for U.S.-Soviet relations." If it does not, and the present thrust of Soviet policies is allowed to continue, then, whether we do or don't have a strategic arms agreement, there is a high probability of our relations growing worse, and leading eventually to a dangerous confrontation.

STATEMENT OF GEN. RICHARD H. ELLIS

Mr. Chairman and Members of the Committee: I have been told the subject of this particular session of your hearings is the Soviet BACKFIRE bomber. A considerable amount of study over a long period of time has been expended at Strategic Air Command in an effort to better understand the BACKFIRE. Our analysis of its relationship to SALT II was undertaken in the context of the strategic force portion of the Treaty as a whole and of the entire US-Soviet strategic force relationship. My statement was prepared using this same comprehensive approach. Furthermore, since the security of our country, with or without a treaty, depends upon US strategic force modernization initiatives, I have also briefly described in my statement those things SAC believes must be undertaken. Finally, in the interest of time, I will read only portions of my statement. I believe you have copies of the entire statement and this summary.

SAC's interest in this Treaty is straightforward and relates solely to our mission of nuclear deterrence. We have two very basic questions:

The first question: During the life of the Treaty, will it be more difficult or less difficult to accomplish the objectives of our deterrent and emergency war missions with a Treaty utilizing the weapon systems we have and expect to have between now and the end of 1985?

The second question relates to the post-Treaty period: is SAC likely to be more capable of carrying out the objectives of its deterrent and emergency war missions during the post-Treaty period by reason of our country having abided by Salt II?

It is our assessment that during the period of the Treaty, SAC will have less difficulty executing its deterrent and emergency war missions with a Treaty than we would without a Treaty. Now the reasons for this positive assessment:

First, under the Treaty we will have approximately 250 less Soviet strategic delivery vehicles to contend with in our planning. Additionally, we undoubtedly would have a much larger number of Soviet weapons to consider in our planning if there were no Treaty.

Second: The Treaty places a limit of 10 warheads on each SS–18 missile or a total of 3,080 for the entire SS–18 force until 1985. In the absence of a Treaty, we believe the Soviets have the technology and production base not only to increase the number of SS–18s that could be deployed, but also to increase the number of weapons each SS–18 could carry during the 1980–85 time period. Additionally, such increases in SS–17s and SS–19s could also be achieved.

Third: the Soviets have follow-on modifications underway to existing fourth generation ICBMs, along with some fifth generation ICBMs under development, but under the Treaty they may test and deploy only one new system. Additionally, the Soviets undoubtedly have extra BACKFIRE production capacity but have agreed to limit production to 30 a year.

Fourth: under the Treaty it will be easier to verify Soviet actions than it would be without a Treaty. Our nation's current capability together with programs underway will preserve an ability to adequately verify Soviet activities. Whether "adequate" is sufficient for this Treaty could be a shaky judgment if taken in isolation. But when weighted with Treaty-imposed restraints that can be verified, I believe it is acceptable. However, the uncertain aspects of Treaty verification once again bring home the absolute requirement for more positive cooperative measures, including on-site inspection, if we are to expand qualitative limitations in SALT III.

Fifth, and most important, we are not restricted by the Treaty from doing those things we must in the way of strategic force modernization.

Now, to the second question regarding the performance of SAC's mission in the post-Treaty period. Our position in the post-Treaty period, from a war-planning and execution point of view, should be better by reason of having complied with SALT II because we will be better informed on the Soviet post-Treaty force structure and capabilities; and we will not be restricted from undertaking necessary modernizations. However, there are two areas of concern: the SS–18, the Soviet heavy modern ICBM which we are not permitted to duplicate, and the BACKFIRE bomber.

With regard to the SS–18, during SALT II we can expect the Soviets to concentrate on identification of methods for exploiting the enormous throw-weight available in the missile—almost twice that of the MX—in the post-Treaty period. The technology of fractionation is well known to the Soviets, and I expect them to progress in this area during the course of and within the limitations of the Treaty. The Soviet planner will also identify other techniques for utilizing this excessive throw-weight, such as accuracy improvements and increases in warhead yield. The question then becomes whether the US would prefer the Soviets to do them with an Agreement, or take the chance of them being done, plus fractionating and additional SS–18 deployments, without a Treaty. I choose the former with the hope that future negotiations will cancel out this clear Soviet advantage.

With regard to the BACKFIRE, I would echo the Joint Chiefs of Staff. This bomber has an intercontinental capability and should have been considered a strategic nuclear delivery vehicle. The promised production constraint can be monitored in peacetime, but whether the Soviets would use the BACKFIRE in a strategic role during a crisis is a matter for conjecture. The fact remains that in the post-Treaty period, the Soviets could have a force of some 300 or more BACKFIRES with which we will have to contend.

I am led to the conclusion that the SS–18 and BACKFIRE are central to the Soviet side of SALT II, and efforts to further constrain these systems could very likely delay the Treaty for an extended length of time or leave us with an incomplete Treaty during a period when Treaty constraints will be helpful—even necessary—to the strategic planner and commander.

Perhaps the most significant point to emerge from the nation's debate on SALT II has been the growing consensus on the need for US strategic force modernization. The best way to outline SAC's views in this critical area is to first comment on modernization programs now underway.

The Air-Launched Cruise Missile which will be integrated into our B–52G model force is now scheduled to go into production early next year. The ALCM promises to be a valuable supplement to our capability for the rest of this century.

We fully expect the ALCM-equipped B–52G to be employed in a "shoot and penetrate" role until 1985, at which time we recommend its transition to an all stand-off ALCM carrier. The B–52H model will be upgraded to ensure it has the ability to penetrate until the late 1980s. Then, SAC recommends that it, too, be converted to an ALCM stand-off carrier role, thereby permitting us to delay the costly introduction of a new cruise missile carrier until the 1990's.

President Carter's recent decision to authorize full-scale engineering development of the MX missile is encouraging. A basing decision is now required and, further down stream, a timely production decision.

Preliminary work on an advanced strategic-manned penetrator for the 1990s has just started and we will watch progress with interest.

At this point in time, the programs I have just described appear to be an effective hedge against the strategic threat projected for the post-1985 period . . . when these systems, plus the TRIDENT, will be entering the force in operational numbers.

I would now like to turn to the period before these new systems are available in the necessary quantity—1980–85—a timeframe when the US is very likely to lose strategic equivalence with the Soviet Union.

Several agencies have looked at various alternatives to offset the serious threat in this period of uncertainty during the early 1980s. SAC believes the most promising solution is the early modification of 155 FB– and F–111s into FB–111B/Cs with new engines, enlarged weapon capacity, and sharply increased range capabilities. This option would not only help in the early 1980s, but also replace the B–52s as they are phased out of the penetration role in the post-1985 period.

In closing, Mr. Chairman, the Treaty you are considering will be helpful to the SAC Commander. However, it must be realized that SALT II, or any reasonable modification thereof, can in no way be regarded as an alternative to strategic modernization. The modernization requirement matured during the past few years as we began to understand the full meaning and impact of the Soviet strategic buildup. Depending on what the Soviets do in the future, the Treaty can perhaps reduce the magnitude of our modernization, but the necessary minimum strategic modernization requirement has already been identified and is not coupled to approval or disapproval of the Treaty.

Thank you.

STATEMENT OF GEN. JAMES E. HILL

Mr. Chairman and Members of the Committee:

I am pleased to have the opportunity to discuss the Soviet BACKFIRE bomber and its effect on the North American Air Defense Command within the context of the Strategic Arms Limitation Treaty.

First, let me say I unequivocally support the concept of arms control and the philosophy of strategic arms limitations. This arms control agreement with the Soviet Union is a step toward the establishment of equal aggregates from which balanced and phased reduction can occur. Adjustments to force structure by the Soviet Union, as well as by the United States, must be made to achieve the levels of equality described by the Treaty. And the United States must, of necessity, be prepared to defend against those offensive forces that do and will exist. This, of course, will force a reevaluation of our defensive forces and strategies but one which will be able to be made in the context of agreed upon specifics.

The SALT II Treaty, in the short term, appears neither to improve nor to degrade the ability of the North American Air Defense Command, Norad, to perform its atmospheric defense mission. The Treaty does bring into focus some significant considerations peculiar to Norad which involve our atmospheric defense capability, especially as it relates to the Backfire bomber.

At the outset, let me state our basic Norad atmospheric defense missions. The first is to provide surveillance and control of the airspace of Canada and the United States; second, to provide warning and assessment of an air attack; and third, to provide appropriate response against air attack.

I will discuss the capabilities of the Backfire bomber and our present ability to defend against it, some implications that SALT II has for the atmospheric defense mission, and finally outline what we need to do to improve our atmospheric defensive capabilities.

For a number of years the Soviet Strategic Long-Range Aviation (LRA) force has included the four engine turboprop Bear and the four engine jet Bison. This force consists of about 150 aircraft. The LRA also has about 30 Bisons that are configured as tankers. These tankers can refuel the Bear, Bison, and Backfire bombers.

We at Norad view the Soviet bomber force as a more formidable threat with the introduction of Backfire. I would have preferred to see the Backfire treated within the formal constraints of SALT II; but in any case its capability and its availability are factors we must consider in the formulation of our atmospheric defense strategy. Although there is some disagreement in the intelligence community about the operational characteristics of the Backfire, even the most conservative estimates acknowledge its capability to reach the continental United States and Canada in an operational mode. Without aerial refueling, it is clearly capable of flying from Soviet Arctic bases across virtually the entire United States and Canada on one-way missions with recovery in third countries. With refueling, the Backfire could achieve similar target coverage and return to its home bases. On missions to Canadian and northern US targets, Arctic staging and tanker support would enable the Backfire to use supersonic dash or to fly low to avoid radar detection. All Backfire aircraft apparently are either equipped for, or actually carry, air refueling probes.

As the Chairman of the Joint Chiefs of Staff: has testified, the Backfire will be limited to a production rate not to exceed 30 aircraft per year. Over 100 Backfires have been produced to date, and we believe that the LRA force will eventually include several hundred Backfires.

In addition to Backfire production, the Soviets may be in the process of developing a new long-range bomber to replace the Bear and Bison. Since 1974, Soviet officials have, on several occasions, referred to such developments. If such a program is underway, this new bomber could appear in the early 1980s.

We at Norad have examined the SALT II Treaty in view of this trend in Soviet bomber modernization. The Treaty specifically spells out strategic systems limitations. The multiple, independently targetable reentry vehicle (MIRV) limits of the treaty provide for an aggregate of 1320 MIRV intercontinental ballistic missiles (ICBMs), sea-launched ballistic missile (SLBMs), air-to-surface ballistic missiles (ASBMs) and long-range cruise missile equipped heavy bombers.

Since the Treaty restricts the number of MIRV ballistic missiles to 1200, an attractive strategic expansion option for the Soviet planner, and one which is relatively inexpensive, would be the introduction of a long-range cruise missile equipped bomber force of at least 120 aircraft. Should the Soviets select this option, it will complicate significantly our ability to defend against a Soviet air attack, due to both increased weapons and standoff tactics.

Our national policy does not give major priority to strategic defense in general. The United States relies on a strong strategic offensive force to achieve deterrence goals. Strategic defense policy has changed since the 1950s and early 1960s when we had numerous fighter interceptor squadrons. The mid-1960s brought strategic defense resource reductions which were attributed to a shifting emphasis in military priorities, as well as budget constraints. This change in emphasis culminated in a policy guidance memorandum from the Secretary of Defense in March 1972. As a result of this change in policy our fighter interceptor force today stands at 315 aircraft. These interceptors are essentially the same aircraft we had in 1958—F–106s and F–101s, now augmented by some TAC F–4s and a few F–15s, and thus this fighter force is inadequate to stop a large determined attack. We have seen similar reductions in all atmospheric defense systems. In the past 20 years, Norad has been reduced 70.3 percent in long-range radars; 61.7 percent in Distant Early Warning Line radars; 83.3 percent in control centers; and 75.2 percent in manpower.

Given the dramatic decline of our atmospheric defense forces, the present Soviet force of 150 Bear and Bison bombers, even without Backfire augmentation, could pose a real threat to North America. It also provides greater flexibility for Soviet selection of strategic options and a usable strategic reserve force. The continued production of Backfire and development of new heavy bomber systems demonstrates continuing force modernization efforts in Soviet long-range aviation. We need to continue with our conversion to the Joint Surveillance System (JSS), to become operational in 1981, for peace-time sovereignty of North America; however, in view of the Soviet force modernization, it is essential for our warfighting capability that we rely on the Airborne Warning and Control System (AWACS) and a modernized fighter interceptor task force. In order for our fighter interceptor force and the AWACS to be responsive to an incoming threat, it is essential that we upgrade our long-range tactical warning system with the planned Over-The-Horizon-Backscatter radar (OTH–B) and Enhanced DEW Line (EDEW).

In view of the ongoing developments in the Soviet bomber force which includes the continued production of the Backfire, the options afforded the Soviet planner, and our very limited air defense capability, I believe that a reevaluation of our national policy for atmospheric defense is now required.

Thank you for the opportunity to appear before the Committee.●

ENERGY OVERVIEW

● Mr. GRAVEL. Mr. President, I think that we would all acknowledge that our Nation is facing a serious energy supply problem at the present time. President Carter has emphasized this problem time and time again in speeches, legislation, and private conversations. The Congress, since 1973, has passed at least four major pieces of legislation to solve our energy problems. But, Mr. President, the problems continue. In 1973 we faced the Arab oil boycott following the formation of the Organization of Petroleum Exporting Countries (OPEC) and for the first time Americans learned what gas lines were all about.

Recently, due to a combination of international events, we have been faced with another apparent shortage of fuels for our automobiles, homes, and offices. This at a time when just months ago we were talking about the world "oil glut." But, Mr. President, the international situation is not the sole cause of our energy problems as some would have us think. Over the past several years we have contributed mightily to our own problems. We have time and time again tried to legislate our way out of our energy problems. Our solution to inadequate supplies has been to layer on more and more Government. Mr. President, it is clear today that more Government is not the solution to the problem.

Mr. President, I have been searching for the answers to our energy supply problems. In my search I have read articles and books by many authors of diverse opinions. In my reading I have not come across any better explanation of our problem than that presented by Mr. Jude Wanniski in his book "The Way the World Works: How Economies Fail and Succeed." In this book Mr. Wanniski provides us with the historical perspective to view our current problems and sets forth a framework within which to resolve our crises of energy production. I strongly recommend this book to my colleagues seeking light in the dark forest of our energy situation.

Mr. Wanniski is a former editor of the

Wall Street Journal specializing in political economies and energy. He has been named the "petroleum writer of the year" in 1976 and is currently president of Polyconomics, Inc., an advisory organization to corporate and financial clients.

Polyconomics, Inc., has recently distributed to its clients an article by Jude Wanniski analyzing our current energy problem and President Carter's recent proposals. It is highly critical of the President's proposals and suggests that his program constitutes a surrender in the moral equivalent of war. I recommend this article highly and ask that it be printed in the RECORD.

The article follows:

ENERGY OVERVIEW

(By Jude Wanniski)

The Carter energy plan, to tax $140- to $200 billion out of the domestic energy industry to finance a crash, government synthetic-fuel program, stands as the most serious threat to the U.S. economy. Adoption would approach the seriousness of the 1929 Crash on dollar-denominated financial assets, although the decline would be masked by inflation. As in the 1929 adoption of the Smoot-Hawley Tariff, Big Business and Big Labor support this autarkic measure. As in 1929, the U.S. Senate is the best hope to block the move. The President clearly does not understand the nature of the global energy problem, which results from government impediments to exploration—in the United States, but more especially in the Third World. Even a small change in foreign and domestic policy toward exploration incentives would end the global energy problem and reveal the colossal inefficiencies of synfuels, which is why the private capital markets will not finance synfuel projects.

The most astonishing thing about President Carter's 10 days at Camp David, struggling to find a solution to the nation's energy problems, is that he moved farther away from understanding the nature of the problem. Like the fanatic who doubles his speed when he loses sight of his goal, the President concluded that only massive intervention by the federal government could solve the problem when it is precisely the energy and economic policies of the government that have created the problem. The discouraging outcome of Camp David seems less astonishing when we consider that for all his talk of having consulted a broad cross-section of American society during these deliberations Mr. Carter did not meet with a producer of any kind. Not an oil producer. Not even a farmer. He met with Democratic politicians, labor leaders, environmentalists, preachers, favorite corporate managers, obsolete Keynesian economists, stars of the news media, selected bankers, and state and local bureaucrats. The only energy "expert" consulted was Atlantic Richfield's Thornton Bradshaw, popular in the White House these days for having endorsed the "windfall profits tax" that ARCO no doubt imagines will finance the conversion of its vast coal holdings into synthetic oil and gas.

If there were a serious chance the President could find the support in the country and in the Congress to implement his program, there would be serious cause for alarm. Taxing $140 billion out of the private sector (to use the President's figure) to finance a synthetic-fuel, solar energy program in the next decade would so decrease the efficiency of the stumbling U.S. economy that the stock market would have to sharply discount the value of the U.S. capital stock; the ensuing recession cum inflation would further insure Jimmy Carter's departure from the White House.

The program is not likely to get anywhere in Congress, despite the early, perfunctory applause from Democratic congressional leaders, for the simple, basic reason that the President has no mandate to sustain it. Neither in his 1976 election nor in the 1978 congressional elections were the voters asked to consider and ratify such a grandiose government energy scheme. Indeed, in the 1976 Presidential election, President Carter was identified with government decontrol of energy and private-sector solutions. President Ford, although he did not beat the drums for it, was still identified with Vice President Rockefeller's $100 billion program of subsidies for energy alternatives. The 1978 congressional elections provided sharp gains for free-market candidates over government interventionists, especially in the Senate.

The Senate is where the President's energy program will unravel. In its instant analysis of the Carter energy speeches, the national press pointed out that Congress was "already ahead" of the President in legislating a mammoth synthetic-fuel program as well as the "windfall tax" revenues to finance it. But beneath the surface movement, the whole idea of an emergency energy scheme had been running out of gas. President Carter knew this, which is the chief reason he conceived of the Camp David theatrics.

There was an extraordinary vote on synthetic fuels on June 26 in the House of Representatives, a vote that created an artificial sense of vast support for synfuels. In 1975 and 1976, conservative free-marketeers and liberal environmentalists had combined to thwart the Rockefeller synfuel scheme in the House. But on June 26, with Washington, D.C., at the peak of the gasoline crunch that had rippled across the nation and had members of Congress in a panicky mood, House Democratic leaders whipped up an amendment to the Defense Production Act of 1950 that set as a goal the procurement of 2 million barrels a day of synfuel by 1990. Without hearings, with almost no debate, and with pleas by the leadership to strike this blow for energy independence prior to the Fourth of July, the House approved the amendment by 368-to-25. Even Rep. Richard Ottinger of New York, who had led the environmental assaults against the Rockefeller scheme, was swept up by the emotions of the hour and voted for the amendment.

The delight of the synfuel forces lasted only two days. On June 28, the "windfall profits tax" legislation came to the House floor from the Ways and Means Committee. It is the permanent excise tax on the domestic production of conventional petroleum that the President envisions raising $140 billion for his energy scheme, somehow selling the idea that this would be a tax on oil, not people. Given the public's angry identification of the gasoline crunch with the petroleum industry, the Ways and Means tax seemed like a juggernaut, and the anti-tax forces made no direct attempt to kill it. Instead, they put their energies behind a weakening substitute drafted by Democrats Jones of Oklahoma, Santini of Nevada and Republicans Moore of Louisiana and Brown of Ohio, the "Jones-Moore" substitute. The measure did not seem all that "weakening" on the surface.

The Ways and Means bill would have taxed real, as opposed to nominally inflated, increases in the world price of crude oil by 70 percent. The substitute cut this to 60 percent. But there were two important provisos. Instead of a permanent tax, it would be temporary, ending in 1990. More importantly, in its second year, it would annually permit a 2½ percent real increase in the world oil price before the tax would bite. Only if the real price of oil rose at a greater rate in the 1980s would the tax yield any revenues on newly discovered oil. Proponents of the measure were eminently aware that the world price of oil in dollars has risen largely in nominal terms since 1974, with OPEC price hikes merely offsetting inflationary U.S. monetary policy. As Laffer has pointed out, in the four years ending in December 1978, the real price of OPEC oil fell by 20 percent. Unless the real price would balloon in the 1980s, an event that would imply Global Depression, domestic producers would have this 2½ percent cushion to stay ahead of the tax collector and the revenue bonanza the President contemplates would wither.

The strategy behind Jones-Moore went further, though. If there is to be a tax bill in this session of the 96th Congress, it will be drafted in the conference committee of the Senate and House sometime this fall, or perhaps even later. There is no way Chairman Russell Long of the Senate Finance Committee relishes the idea of taxing $140-to-$200 billion out of the domestic energy industry in the 1980s to finance a government Synfuel Scheme. And unlike the Ways and Means Committee, which has been stacked with liberals since the departure of Wilbur Mills, Senate Finance is laden with Democrats who are in harmony with Long's thinking. But even if Long could work his magic in the Senate in hobbling the Synfuel-tax scheme, he would have to compromise with the House in conference, and he did not want to have to compromise with the Ways and Means version of the tax. If Jones-Moore could get a respectable showing, Long could at least argue in conference that the sentiment in the House was not as punitive as the Ways and Means version implied. He will have more to work with than that, for Jones-Moore was accepted by the House by the decisive vote of 236-to-183. The Jones-Moore strategists toasted each other in a champagne celebration the evening of June 28. The House Democratic leadership, particularly Ways and Means Chairman Al Ullman, had been whipped. These events signalled to the President an inevitable path of defeat unless he could conjure up something dramatic that would give him a grip on the Senate. Camp David followed.

It will soon be clear that Camp David did not succeed and in a way may have worked against the President. He did, after all, heighten public discussion about the energy issue to a level above the clogged service stations. And tempted to be bold, he placed that incredible pricetag of $140 billion on his program.

The major oil companies who see themselves as recipients of this largesse, either in peddling their coal to Uncle Sam—like ARCO and Exxon—or in getting government contracts to build synfuel plants, have applauded the program. So has George Meany of the AFL-CIO, who sees all that work for the building trades at cost-plus. We can also expect the National Association Manufacturers to do the same calculations, especially those companies which believe they are in good position to bite into the apple.

But that $140 billion will rattle around in the head of the electorate as the play unfolds on Capitol Hill. And the environmentalists have been roused again with the vision of dozens of synfuel plants pouring fumes into the atmosphere. Senator Proxmire calls the Synfuel Scheme the "SST of the Eighties," and can be counted upon to lead the charge against it in the Senate. Senator Gravel of Alaska, a liberal Democrat on Senate Finance, is alarmed at the implications of the windfall tax on his state's petroleum industry and vows to filibuster against it. Senator Ribicoff, Connecticut Democrat and member of Senate Finance, who is retiring next year, has been steadily becoming more outspoken against the idea of taxing domestic production. The mood of the committee at the moment is to exempt the taxation of newly discovered oil altogether, to exempt stripper oil, and to exempt small producers—up to 1,000 barrels per day, perhaps. With luck, the tax can still be beaten altogether.

This scenario does not take into account the grim determination and resourcefulness of the forces behind this mammoth tax and spending scheme. The parallels with 1929 are almost eerie. Fifty years ago exactly a Great Engineer was in the White House as the Smoot-Hawley Tariff Act was making its way through the legislative mill. The same "self sustain" autarkic forces that were behind the industrial independence of the Fortress America are now behind the Carter plan of energy independence. Big Business and Big Labor backed Smoot-Hawley, which would shut out foreign imports with a massive tax. Now, the President would hold crude imports to 1977 levels with a quota, imposing the tax internally, and Big Business and Big Labor eye the pork barrel. At this point in the summer of 1929, it still seemed as if the internationalists would win. October of 1929 is when it became clear that they had lost, thus causing the great Crash of 1929. Should the present Great Engineer win a similar victory for autarky in 1979, the difference would be in a less palpably dramatic stock market crash. In 1929, the United States still held to a monetary standard, so all declines of value were real, there being no inflation. Now, with no monetary standard to keep U.S. monetary authorities in check, inflation masks the decline in stock values. Crashes take place quietly. In the last 18 months, relative to gold, the value of dollar-denominated financial assets has crashed by 50 percent. The OPEC price increase of 50 percent this spring did not lead the price of gold, but trailed it. The price of oil in dollars is not set by OPEC, but by the U.S. monetary authority.

As Laffer has also pointed out, the Swiss monetary authority sets the price of oil in terms of Swiss francs, and between December 1973 and December 1978, the world price of oil in Swiss francs fell more than 40 percent, to 20.6 S.Fr. per barrel from 34 S.Fr. per barrel. We did not hear the Swiss complaining that the OPEC cartel had conspired to lower the price of their oil.

"Oil is found in abundance only if a great many people are looking for it at once in all sorts of unlikely places." Ruth Sheldon Knowles, In "The Greatest Gamblers."

The chief reason why there is an energy crisis in the world is not that insufficient numbers of people are looking for oil and gas in the United States, although the policies of the federal government certainly discourage domestic oil and gas exploration. The chief reason is that insufficient numbers of people are looking for oil and gas outside the United States, because the policies of foreign governments discourage domestic oil and gas exploration by many people searching in all sorts of unlikely places. This fact, which could change tomorrow or a year from now or five years from now, discourages the capital markets from financing the development of synthetic fuels, for an unanticipated change in foreign policies toward domestic oil exploration could instantly bankrupt all private synfuel schemes with a flood of inexpensive, conventional oil and gas.

Liquid petroleum that comes out of a manmade hole in the ground under its own pressure constitutes only 1 percent of all the petroleum in the earth's crust. The rest is "heavy," the shales and tar sands that must be extracted at great expense. If you took all the liquid petroleum produced from all the wells drilled on earth since the first, at Titusville, Pa., in 1859, and poured it into one lake of oil it would not seem so much.

If the lake were, say, the surface acreage of the city of Chicago, roughly 227 square miles, the 330 billon barrels the earth has yielded so far would fill the lake to a depth of only 300 feet. The estimated global petroleum that could be recovered at current price and technology would fill the lake to a depth of 2,000 feet.

Even this amount may seem worrisome, until we add in a number of important facts. In 120 years, about 3,200,000 oilwells have been drilled into the planet's crust. Of this number, 2,400,000 were drilled in the continental 48 states of the U.S. and most of these in the "oil patch." The rest of the world has been relatively unexplored, most especially the recent colonial nations that now constitute the bulk of the Third World.

DENSITY OF PETROLEUM DRILLING (AS OF END OF 1975)

[Per square mile]

Country or regions	Wells	Exploration wells
United States	0.98	0.20
U.S.S.R.	.15	.029
Canada	.053	.011
Western Europe	.019	.0094
Japan	.021	.0039
Australia and New Zealand	.0016	.0032
South and Southeast Asia	.0067	.0031
Latin America	.0021	.0029
China, P.R.	.010	.0022
Middle East	.0083	.0017
Africa	.0031	.0014

Source: Bernardo Grossling, U.S. Geological Survey, Reston, Va. "The Future Supply of Nature-Made Petroleum and Gas, Technical Reports," Pergamon Press, New York, 1977.

Of the 645,500 exploratory wells drilled on earth to the end of 1975, 616,000 or 95.4 percent were drilled in the developed world. Africa, Latin America, South and Southeast Asia and China have barely been scratched. The United States accounts for 482,000 of the exploration wells, 74.7 percent of the total, and 34.9 percent of the oil in that imaginary Chicago lake of oil. The reason is not simply that the U.S. has had the skilled manpower, technology, capital and market, but that it has had a government conducive to exploration, a stable government that has protected the property rights of its private landowners. And the landowners have possessed the mineral rights to oil discovered on their property. The indigenous exploration industry could develop here because individual explorers could lease the mineral rights from private landowners and drill, with the sure knowledge that he and the landowner would possess any oil discovered, and that high risk would be matched with high reward. Americans collectively benefitted by having the oil for their use. In addition, the U.S. government did not hoard land in the name of the collective interest, but sold the majority of western lands at $1.25 an acre in order to encourage settlement. Where this pattern was not followed, there has been scant exploration. The U.S. government, for example, "owns" more than 90 percent of Nevada's 100,000 square miles, and Nevada has been relatively untouched by oil exploration. Alaska, too, has been relatively untouched by oil exploration, and increasingly the environmentalists, with the eager assistance of President Carter, are keeping it this way, by closing off public lands to mineral exploration of any kind. The North Slope field, the second largest field discovered in the U.S. (next to East Texas), covers an area of only 400 square miles in a state of 566,000 square miles.

In most of the Third World, even where there are relatively stable governments, the conditions that brought forth multiple exploration of the United States are not present. Governments either keep title to most of the land or to the mineral rights of privately-owned land. Or, the progressive taxation of individual incomes is so confiscatory that should a native landowner possess mineral rights, he could not find native capital and labor willing to explore the land, for the government would confiscate the rewards through taxation. Governments will lease lands to the major international oil companies to explore, but in most cases the companies will look only in those places where there is the greatest probability of finding oil, where seismology can at least hint at probable finds.

Most oil cannot be tracked by seismology, for like the East Texas field, it is trapped in complex geology and will yield only to myriad explorers taking long shots. One rule of thumb among the international oil companies in going into unstable Third World countries is that you must try to recapture all costs in the first tanker of oil that leaves the country, on the historically reasonable assumption that the remainder will be nationalized or confiscated via taxation.

Madagascar, off the Southeast coast of Africa, is almost the size of Texas, and lies in one of the world's largest sedimentary basins where oil is likeliest to be found. Prior to 1975 the French controlled the island and there was no exploration, possibly because the French believed that if oil was discovered they would be pitched out. Since 1975, the government has been wary of the international oil companies, and vice versa, with the upshot that only 83 wells have been drilled on the island.

The point is that enormous amounts of conventional oil is sitting out there waiting to be discovered, and will be once governments around the world—including the U.S. government—are prepared to match the high risks of exploration with commensurate rewards. And here, President Carter wants to tax between $140 and $200 billion out of the domestic industry in the next decade, at the same time he is shutting off more and more government lands to exploration, in order to finance synfuel projects that can, at best, produce a dribble of oil with high costs to the environment. This is done in the name of energy independence, to free us from OPEC's alleged ability to set prices. Yet as Rep. David Stockman of Michigan has pointed out, even if by some miracle the government can produce 2½ million barrels a day of synfuel by 1990 it will still not be able to control the world price to any degree. This is because the synfuel supply will go into the world's base supplies of oil, and a country can only influence the world price if it can control the marginal supply. If, in other words, the U.S. were willing to shut down the synfuel plants when the world oil price got too low and crank it up again when the price got too high, it could influence the world price as the Texas Railroad Commission used to do, by regulating the output of the Texas oilfields. "Just one million barrels per day of reserve synfuels capacity would cost nearly $100 million per week to maintain idle, even at today's optismistic estimates of capital costs," says Stockman, the leading expert on domestic and global energy economics in the Congress. The same effect can be accomplished by a storage program "for substantially less that $1 per barrel in annualized storage and net interest costs."

The chief case against energy alternatives, including solar energy, is not that they will not free the U.S. from OPEC's pricing—since OPEC's pricing is only a function of U.S. monetary policy anyway. The chief reason is that the global and domestic potential for nature-made petroleum and gas is so enormous that synfuels will be uneconomic well into the next century and perhaps beyond. It is not a question, as Exxon's Clifford Garvin intimates, of having the government provide early start-up capital for synfuels (Exxon owns 9 billion tons of coal it would like to unload to Uncle Sam's synfuel plants, which Exxon would also like to build under contract.) If, in the 1980s, the U.S. were to only slightly increase the rewards for domestic exploration, or if a feeble attempt were made by Third World governments to do likewise, the relative price of oil in the world would resume its historic decline. The U.S. would then either be forced to scrap the uneconomic synfuel system or drain the rest of the economy through taxation for an interminable period in order to keep them operating.

In microcosm, the problem is precisely the same as that of the proposed natural-gas pipeline from Alaska to the Midwest, which President Carter accuses the Alaska oil companies of dragging their feet on. At the most optimistic estimates, the pipeline would cost $10 billion, and the gas delivered in Chicago would cost $3.50 per thousand cubic feet (mcf). The pipeline can't be built because no investor can count on anyone buying $3.50 gas five or 10 years from now. Should a supply-oriented President and Congress be elected in 1980, and government controls lifted from the production and pricing of natural gas at much less than $3 per mcf, by the Department of Energy's own study of 1977, the so-called MOPPS study that was suppressed by the Carter administration. Mr. Carter now proposes to chip in $1.5 billion to such a pipeline project, but even that will not do the trick. As Stockman has also pointed out, through 1974 "97 percent of the non-North American natural gas resource base had yet to be disturbed by a production-well bore. Nor was this potential resource negligible in dimension. The remaining natural-gas resource base outside of North America may total 1.4 trillion barrels equivalent, a quantity of energy equal to four times all of the crude oil that has ever been produced." Because the domestic price of natural gas has been held down by government control for 25 years, almost all domestic exploration has aimed at finding crude oil, not gas, which implies that a freeing of the natural gas price would produce serious exploration in the continental U.S., and this cleanest of fuels would be produced in such quantity that it would not only displace nuclear and coal as serious competitors, but also reduce demand for imported crude.

The Alaska pipeline could only be built if the government promises to buy $3.50 (or $4 or $5) gas that it transmits, when there are plentiful supplies at $2.25 (as MOPPS indicated), paying the difference out of general revenues. The only alternative would be to force the Midwest customers to pay the tab through regulated utility rates, but Midwestern commercial and farming interests would become marginally uncompetitive with areas not so bound, with explosive political implications.

How astonishing that President Carter would wrestle with the energy issue for three years, and 10 days at Camp David, and understand none of this. Worse, he does not seem to have any concept of the dimensions of the problem, the plan or the economics. During the 10 days at Camp David, the New York Times editorials and news columns, as well as those of The Wall Street Journal, warned of the enormous costs of synfuel and the limited payout, even under the most optimistic scenarios. With great luck, the scheme may yield 1 million barrels a day by 1990, these newspapers reported after consulting the leading experts in the field. Yet decontrol of crude prices, without a windfall tax on domestic production, would yield an additional 2 million barrels per day by 1985, according to testimony before the Senate Finance Committee by the Independent Petroleum Association of America. The calculations, based on historic relationships between price, exploration and finding rates, have not been challenged by the Department of Energy.

The Carter plan thus stands as the greatest threat to the economy, at the present moment, an opinion shared in the gold market as witnessed by the run-up to more than $300 in its price. The inflation thus implied will continue to melt dollar-denominated financial assets, and if the worst elements of the plan are enacted by Congress, even nominal values will decline on the stock markets. As in 1929, the Senate is the nation's best hope.

It will not be easy for the Senate to resist. Democrats and Republicans who have been held down by tightening budgets for several years now view the excise tax on domestic production as a windfall for themselves, to hand out in big batches. Here is just a smattering of how it works, from Bruce Bartlett, a Senate staff member, writing in the August 6 issue of Inquiry:

Senator HENRY JACKSON has come up with his own energy bill that would, among other things, authorize $5 billion to build fifteen synfuel plants. In order to spread the wealth around and attract cosponsors JACKSON made a point of specifying the following projects:

$550 million for the Solvent Refined Coal 1 project in Kentucky (supported by Senators WENDELL FORD and WALTER HUDDLESTON);

$700 million for the SRC II project in West Virginia (supported by Senator ROBERT BYRD);

More than $1 billion for high- and low-BTU coal gasification projects in Ohio and Louisiana (supported by Senators HOWARD METZENBAUM and BENNETT JOHNSTON);

Geothermal plants now tentatively set for Idaho, California, and New Mexico locations (supported by Senators FRANK CHURCH, ALAN CRANSTON, and PETE DOMENICI);

$300 million in loan guarantees for an urban and industrial waste conversion plant (supported by Senator BILL BRADLEY of New Jersey); and

$250 million for a new fuel-cell demonstration program pushed by United Technologies Corporation of Connecticut (supported by Senator LOWELL WEICKER).

Big Business and Big Labor can only see the first-order effects of such largesse, which benefit them as individual entities. They cannot see the colossal drain on the economy as a whole, which will drag down the standard of living for all Americans, themselves included, as the Tariff did in the 1930s.

We can only hope that unlike 1929, the Senate will hold against these narrow interests. As Stockman put it, in his important essay in the Fall of 1978 Public Interest:

"The decision to eschew an economic policy of trading on the world market for the 90 percent of the non-U.S. oil and gas resource base that remains to be developed in favor of a cramped, inward-looking policy of autarky may prove to be the most costly national error of the last half of the twentieth century—if it is not soon reversed."●

INDUSTRIAL WASTE RECYCLING

● Mr. HEINZ. Mr. President, on June 6, INMETCO—The International Metals Reclamation Co., Inc.—located in Ellwood City, Pa., was formally commissioned and presented to the public. INMETCO is an exciting new recycling plant which represents a dramatic breakthrough in its application to certain industrial problems. Briefly put, IN METCO recycles wastes from specialty steel plants. In doing so, it first eliminates a major solid-waste disposal problem; second, conserves energy; and third, uses coal as its major energy source, thus helping to relieve our dependence on foreign oil.

I am proud that this $30 million pilot plant is located in Pennsylvania, and believe it will increasingly have wider use in the steel industry throughout the country. As I understand it, the process can be applied not only to specialty steel production, but also the much larger volume carbon steel sector.

The July 2, 1979 edition of Iron Age includes an informative article on IN METCO, which I commend heartily to my colleagues. I ask that it be printed in the RECORD.

The article follows:

STAINLESS STEEL RECOVERY USES COAL-BASED REDUCTION

(By George J. McManus)

A coal-based direct reduction process has been unveiled by International Metals Reclamation Co., Inc. (INMETCO).

Part of a whole new system for handling steel mill waste products, the process is of interest for several reasons. First, coal has never been used in a commercial direct reduction process in the U.S. Since steelmaking is tied to coal, the horizon of direct reduction has been limited by the dependence of successful processes on natural gas.

The second big point is that the new system offers promise of handling the waste products now piling up at steel plants. Precipitators, bag houses and scrubbers are collecting large quantities of fine oxide material. The INMETCO process is designed to reduce this material and also to get rid of lead and zinc contaminants.

Owned by Inco United States, Inc., INMETCO has located its first plant at Ellwood City, Pa. The plant is strictly for the waste products of specialty steel producers. Flue dust, grinding particles and the like are pelletized, reduced and smelted. The refined metal is then cast into stainless steel pigs and returned to the producers.

Initial production of 25,000 tons of alloy is taken from 50,000 tons of alloy. The quantities retrieved initially are: 4 million pounds of nickel a year; 9 million pounds of molybdenum; and 32 million pounds of iron.

These values are not recovered without quite a bit of trouble. INMETCO has spent $30 million on its 18-acre facility. Located near Pittsburgh in what was once a U.S. Steel pipe mill, the new plant has four separate feed systems for the different kinds of waste. Two more systems convey the refining agents—coal and limestone.

All the ingredients are blended together and pelletized. The pellets are fed to a rotary hearth furnace where they are reduced. "We have a 95 pct metallization of the nickel and iron," says R. T. Grant, president of INMETCO. The furnace has a reducing atmosphere, but coal in the pellets plays a major role in heating and reducing the metallics.

The chromium is not fully oxidized. For the final refining, the pellets are smelted in a Lectromelt furnace. Out of this comes liquid stainless containing 18 pct chrome and 8 pct nickel. The metal is cast into pigs for shipment to producers.

The alloy application of the new process is important, but the big potential lies in the carbon steel field. It's estimated that 13 million tons of iron bearing waste products are generated every year by steel mills in the United States and Canada.

The mills are under pressure from the environmental agencies to stop dumping the wastes, but efforts at recycling have faced numerous difficulties. Much of the material is in the form of fine iron oxides. These will blow out of furnaces if charged directly.

There has been a great deal of work on agglomerating techniques. Oxide pellets have been charged in both iron and steel furnaces. The contaminants can be trouble in both cases. And the melting of oxides takes a large amount of heat.

In any case, the tonnage producers are taking a long look at INMETCO's process. "We have done pilot plant work on carbon steel," says Mr. Grant. "The direct reduction process is of interest and we are discussing this with producers."

In carbon steel application, the smelting phase of INMETCO's operation could probably be skipped. People are now charging metallized pellets in electric furnaces. As has been said, the rotary hearth at Ellwood City converts iron oxide to 95 pit metallic iron.

While it is reducing, the hearth can also get rid of the two big contaminants. "The lead and zinc can be volatilized," says Mr. Grant. Apart from purifying the iron, he notes, the system captures a potentially salable lead-zinc oxide.

At Ellwood City, INMETCO is handling the wastes from a number of specialty steel producers. For carbon steel, Mr. Grant indicates the quantities are such that an on-site plant would probably be dedicated to a single steel company.

The idea of a reduction plant to handle mill wastes has been discussed in the past. A central plant was proposed for the Chicago area at number of years ago. Capital costs were so high that a number of steel companies had to be involved to provide enough volume. It was never possible to work out an agreement that suited all the companies.

Mr. Grant sees no difficulty in scaling a reduction plant to the quantities of a single plant. "There's a nice payback," he states. One reduction plant might serve several company operations in the same general area, he adds, but long distance hauling of wastes is not practical.

"Transportation costs are prohibitive."

There is very definite interest by tonnage steel companies in the INMETCO system. While the interest centers on waste products, steel people would like very much to find a way of reducing iron ore with coal.

The most successful direct reduction process now in use employs natural gas. In this country, the limited supply of natural gas has discouraged wide use of solid state reduction.

"Coal is the way to go," says a top technical man.

He adds that many questions will have to answered before any coal based reduction process can be considered feasible for tonnage production. If low sulfur coal is needed, there will be supply restrictions. The availability of low silica ore and the ash properties of coal all have to be considered.

In past cycles, the price of scrap was an important factor. Every time people got steamed up over direct reduction, the price of scrap fell and interest waned.

There are those who feel we are entering a phase where reduced iron must be viewed as more than a substitute for scrap. "If you get serious about this," says the technical man, "you have to forget about scrap. You're going to overwhelm the scrap supply anyway."

By serious, he means a program that would base half the steel industry's capacity on direct reduction and electric furnances. There is already some movement in this direction. At its Pittsburgh Works, Jones & Laughlin Steel Corp, is now replacing blast furnances with electric furnaces. Bethlehem Steel Corp., Republic Steel Corp, and Crucible Steel are all in various stages of programs that would do the same thing.

In part, this activity is based on the belief that scrap will be cheap more often than not. At the same time, it's realized there could be too much of a good thing.

"There's a finite limit to the U.S. capacity that can be based on scrap," says T.C. Graham, president of Jones & Laughlin.●

REGULATORY IMPACT STATEMENT ON SENATE JOINT RESOLUTION 77

● Mr. HEFLIN. Mr. President, on July 10, 1979, the Committee on the Judiciary reported Senate Joint Resolution 77, a resolution which set aside the week of July 16 as U.S. Space Observance Week.

Through an oversight, the report filed on Senate Joint Resolution 77 did not include a regulatory impact statement, as required by rule 29.5 of the Standing Rules of the Senate.

Mr. President, in accordance with rule 29.5 of the Standing Rules of the Senate, the committee does not consider that enactment of Senate Joint Resolution 77 would have any regulatory impact.●

ADDITIONAL STATEMENTS

NUCLEAR SAFETY: A MUST

● Mr. BAYH. Mr. President, the Senate's deliberations this month on S. 562, the annual authorization for the Nuclear Regulatory Commission, marked the first time in years that the issues surrounding nuclear energy have been aired fully in this Chamber. No doubt, the length and quality of our debate were stimulated by the shocking events last spring at Three Mile Island, when a series of mechanical failures and human errors made a once obscure nuclear generating facility an international symbol of the dilemmas posed by unleashing the atom.

The promise of nuclear energy has always been clear—it is a clean, domestic source of energy that has, until recently, been a relatively efficient and cheap means of generating electricity. Yet the dangers associated with nuclear energy have not been as well understood as the advantages, nor received the attention they merit. These include safety and design defects at operating facilities; unpublicized releases of radioactive emissions; unanticipated mechanical and operator failures; the possibilities of terrorism; the need to store nuclear wastes for centuries; an issue which is still unresolved even as storage pools at nuclear facilities fill up; the costs of damaged plants and replacement power; accidents during transport of nuclear wastes; and our lack of preparation for evacuation of populations surrounding nuclear facilities in the event of accidents.

The Senate's action on S. 562 demonstrates that despite diverse views on the wisdom of heavy reliance on nuclear energy, all of us agree that if we are to have nuclear energy at all in this country, it must be made as safe as is humanly possible. S. 562 represents a first step in this direction. The outcome of pending investigations of Three Mile Island, and the Senate's study of safety related issues in general, will dictate future actions.

Mr. President, the jury is still out on Three Mile Island. The President has appointed a Commission to investigate the incident. Both Houses of Congress, as well as the NRC, are also studying the accident there. Yet, even without benefit of the results of these investigations, several lessons are already clear.

One nuclear accident can have potentially horrendous implications.

Despite the "defense in depth" strategy of the nuclear industry—which provides that each plant have a multitude of back-up systems to cushion the failure of a major system component—modes of failure are possible that have never been anticipated or analyzed, and current plant operators and engineers are unprepared to deal with them.

Emergency evacuation procedures, as they now stand, are woefully inadequate and can be critical in the event of an accident.

A conflict of interest exists when a utility, responsible only to its stockholders, is left to manage an accident with no need to involve public officials.

The NRC has not been vigilant in enforcing Federal safety standards.

Widespread design and safety problems exist at operating plants throughout the country, many of which the NRC has moved to shut down in the past few months as a result of the glare of public scrutiny.

No equitable system exists for assigning financial responsibility for damaged plants or replacement fuel costs.

No satisfactory procedures exist for responding to a nuclear accident.

Mr. President, that these realities pose unacceptable risks is acknowledged by both supporters and opponents of nuclear power. There are 70 nuclear power plants licensed for operation in the United States at this very moment. Another 94 are under construction, and 34 additional applications for construction permits are pending. Two of those under construction are in my State. One is sited in close proximity to a major metropolitan area.

The other has been ordered to halt construction in safety areas because of repeated quality control problems associated with concrete pours. In addition, just last week, allegations about noncompliance with American Society of Mechanical Engineers codes for the piping and plumbing system of this plant surfaced.

Mr. President, more than 20 million Americans now live within 30 miles of a nuclear powerplant, and 10 million live within 20 miles. Studies indicate that a catastrophic release of radiation from a nuclear powerplant could extend as far as 18 to 29 miles downwind from a reactor. Failure to evacuate such an area for 24 hours could mean death to half the exposed population. Yet, at the present time, 39 nuclear powerplants are licensed to operate in States without approved emergency evacuation plans. Ten more are under construction in such States, my own included.

The Senate has taken the first, minimal steps to reduce the risks inherent in nuclear energy by including a host of safety-related provisions in S. 562.

S. 562 requires all States with operating nuclear facilities to have an approved emergency evacuation plan in place by June, 1980 or face a shutdown of these facilities.

S. 562 requires the NRC to promptly develop a contingency plan for dealing with nuclear accidents.

S. 562 requires the NRC to promptly propose legislation to the Congress giving itself clear authority to make decisions at a plant during an emergency.

S. 562 requires utilities to notify the NRC immediately of any actual or likely accident.

S. 562 requires the NRC to establish a means of direct communication with a plant during an emergency.

S. 562 requires the NRC to promptly recommend a means for remotely monitoring safety and radiation equipment at licensed plants.

S. 562 requires an analysis of NRC communication problems with the Three Mile Island facility by January 1980.

S. 562 requires the President to promptly develop a national contingency plan to be triggered in the event of a nuclear emergency.

S. 562 requires the NRC to promptly issue regulations on acceptable population density around new powerplants.

S. 562 requires the NRC to promptly recommend to Congress a plan for improved training, retraining and licensing of reactor operators, with special emphasis on emergency response training.

S. 562 requires onsite NRC inspectors at all operating facilities by the end of fiscal year 1981.

S. 562 increases civil penalties for violations of safety standards from $5,000—an insignificant amount to a utility trying to cut corners—to $100,000 per violation and removes the ceiling on penalties for violations repeated over time.

EXTENSION OF CRIMINAL PENALTIES FOR SAFETY VIOLATIONS

In assessing the committee's work, Mr. President, it seemed to me that these steps were absolute requirements for minimizing the risks to the public stemming from nuclear generating facilities. Yet, in thinking long and hard about the question of nuclear safety, it seemed to me that the one thing which might do more to assure strict compliance with safety standards than any other option was the extension of personal liability to those who knowingly and willfully violate safety standards.

Mr. President, when somebody intentionally sets out to do bodily harm to another person, our system of justice holds that individual responsible by setting strict criminal penalties for such behavior. The Congress has adopted this principle in a number of safety statutes currently on the books—such as those dealing with toxic substances, or drugs, or air and water quality—by insisting on criminal penalties for those who knowingly violate public health and safety standards designed to prevent the poisoning of our water supplies, soil and air by careless disposal of the byproducts of our industrial society. Given these precedents, in statutes which deal with less dangerous risks than those intrinsic to nuclear power, I felt it made good commonsense to extend similar penalties to those who knowingly violate safety standards established to protect the public from risks associated with nuclear power.

Therefore, Mr. President, when S. 562 was on the Senate floor, I offered an amendment, which subsequently passed the Senate by a vote of 60–32, which extends criminal penalties of up to $25,000 per day, and up to 2 years in jail, to anyone who knowingly violates Federal safety standards for nuclear powerplants, uranium enrichment facilities, or reprocessing facilities. The amendment also levies fines of up to $50,000 per day, and as much as 2 years in jail, for a second violation of safety standards. Similar penalties were included in the 1974 Reorganization Act, setting up the NRC, when it passed the Senate, but were dropped in conference with the House. I very much hope that the conferees on S. 562 will see fit to retain these provisions in conference.

Mr. President, if nuclear energy is to play any role at all in our future energy mix, the public must be convinced that nuclear facilities will be safe. By extending criminal penalties, or personal responsibility, to those whose job it is to assure compliance with safety standards, we will have added a strong incentive for complying with Federal standards. We simply must say to the utility company executives and construction company officials, who are building these plants, that if they intentionally violate safety standards, they will be personally liable for a large sum of money and, perhaps, even may go to jail.

MORATORIUM ON NUCLEAR POWER

Mr. President, in the wake of Three Mile Island, there were suggestions that all nuclear powerplants should be shut down. In response to increased public interest and scrutiny, the NRC took it upon itself to halt operation of several plants with obvious design problems, and to order immediate safety related changes at others. Further, the Commission adopted an informal moratorium on issuing new construction permits or operating licenses in order to review the events at Three Mile Island and consider what, if any, modifications should be made in pending applications.

It is my view, Mr. President, that to ignore known safety hazards is to irresponsibly hide one's head in the sand. Testimony by Babcock & Wilcox employees to the President's Commission on Three Mile Island indicates that they warned their supervisors of the possibility of a Three Mile Island type incident, but were ignored. One of the most painful disclosures about Three Mile Island has been the revelation that exemption of the plant from new safety standards, developed after it received its construction permit, increased the odds of that accident occurring. Given the stakes involved, Mr. President, I believe that all facilities—those in operation as well as those in the pipeline—should be subject to whatever new standards evolve as a result of current Three Mile Island investigations.

During consideration of S. 562, Senators KENNEDY and HART offered an amendment to stop the NRC from issuing any new construction permits for 6 months, until the major investigations of Three Mile Island were completed and NRC had upgraded its safety regulations. This amendment was defeated. Opponents of the amendment argued it would be a "body blow" to nuclear energy, and would set back our efforts at energy independence.

Mr. President, I disagreed with this assessment. The future of nuclear energy in this country will largely depend on individual Americans having enough faith in the safety of nuclear facilities to accept them in their communities. I felt the 6-month pause in issuing new construction permits was a prudent, responsible course of action. It would have given us a chance to absorb what we have learned over the past few months, so that we can avoid potential hazards in the future.

In the years I have been in the Senate, Mr. President, I have come to understand the pressure that builds up to continue with a project as is, once the first spade of soil has been turned and the first dollar invested. While I have not supported a shutdown of operating nuclear plants, because of the economic disruption such a shutdown would involve, I felt that a 6-month pause in approving new construction permits was a good compromise: It would have caused little, if any, disruption, but could have resulted in safer plants down the road.

Scrutiny of NRC records since Three Mile Island indicates that we have come very close to perilous accidents at a number of facilities, due to design errors, equipment malfunctions, lack of quality control and effective oversight of both operating facilities and those under construction, as well as procedural and operator errors. These revelations led me to support the 6-month pause in new construction permits, so that future plants would be required to incorporate the lessons learned from Three Mile Island and mishaps at other facilities. While I am disappointed that the Senate did not go along with such a pause, I welcome the NRC's informal moratorium on permit and licensing actions, and hope the NRC will not return to business as usual, but will be mindful of preventing future accidents by subjecting applicants to rigorous requirements dictated by the Commission's study of Three Mile Island.

NUCLEAR WASTE FACILITIES: STATE'S RIGHTS

During consideration of S. 562, Mr. President, the Senate addressed a long festering issue associated with nuclear energy: Federal policy on nuclear waste disposal.

Last fall the administration issued a long-awaited Interagency Task Force Report on the question of disposal of nuclear wastes. This report recognized the need for a dialog between the Federal Government and the States over disposal decisions and, in fact, pointed to local opposition to such facilities as one of the most serious obstacles to solution of the nuclear waste problem.

In attempting to come to grips with this question, Mr. President, the task force developed the concept of "concurrence," meant to draw the States into siting decisions and prevent Federal action against the wishes of a State targeted for a disposal facility. The report stated that the Federal Government would not go ahead with a project with which a State did not concur after participating in a lengthy consultative process.

Mr. President, the administration was content to let the matter rest there.

Since then the General Accounting Office has indicated that in their judgment, Federal legislation is necessary to give the "concurrence concept" any teeth. In the absence of further Federal initiatives, many States have moved ahead to limit Federal siting prerogatives within their borders. This situation has created great uncertainty for utilities about the options available to them for storage, and heightened the public's concerns about disposal facilities, as well as their resistance to accepting facilities in their States.

Mr. President, we cannot afford to delay on this issue any longer. Wastes from our military weapons and research and development programs have been accumulating for 30 years, and now exceed 20 million cubic feet—enough to cover four highway lanes with 10 inches of waste for almost 100 miles. In addition, there are also about 4,000 metric tons of commercial nuclear powerplant spent fuels. DOE expects that by the year 2000 about 98,000 metric tons will be accumulated. This situation cannot continue without some resolution of the nuclear waste issue.

Mr. President, a June GAO report on nuclear waste siting concluded that previous attempts to site waste facilities have failed mainly because of public opposition, and not because of technical problems. As a result of past Federal efforts to locate and evaluate sites, which took place without adequate consultation with the public, there is understandable resistance on the part most Americans to having a waste disposal site in their community. I can understand this feeling from personal experience, having myself learned suddenly in 1976 that several sites in my own State were candidates for one of six repositories then being considered by ERDA. My reaction at that time to ERDA's announcement was the same as that of my affected constituents: I would do all I could to resist making Indiana the site of a waste disposal facility until I could be satisfied, without a doubt, that such a facility would be absolutely safe. At that time, ERDA made no efforts to respond to my concerns, or those of other Hoosiers. The situation was ultimately resolved by a change in administration's and Federal policy on nuclear waste storage.

Mr. President, there will be no public acceptance of waste disposal facilities, and thus no resolution of the waste disposal issue, until the public is brought into the decisionmaking process. As of this winter, nine States had enacted legislation that could prohibit waste repository siting. Nineteen other States had enacted, or were considering legislation, asserting lesser degrees of State control. These actions represent a real public concern, which must be addressed. GAO reports indicate that past resistance to disposal facilities has not been based on either the need for repositories, or the concept of geologic disposal. Rather, it has been based on opposition to specific sites, selected by the Federal Government, with no advance consultation or communication with local residents or officials.

It is clear that we cannot permit this situation to continue without resolution. Failure to resolve this problem has made it impossible for utilities to plan for their storage needs with any precision. At the time, Government inaction has heightened public concern about the safety issues surrounding waste disposal facilities.

Mr. President, the Senate last faced a vote on the role of the States in waste disposal siting decisions in 1977. At that time, Senator McGovern offered an amendment giving States an outright prerogative to ban all disposal facilities from their borders permanently. At the time, committee members and administration officials urged defeat of the amendment, arguing it was irresponsible—because it raised the spectre of all 50 States rejecting a facility—and promised that a nuclear waste policy, recognizing the legitimate role of States and localities in siting decisions, would soon make its way through the normal congressional procedures.

At that time, Mr. President, I acquiesced in these arguments because I believed that the Senate would soon take up legislation on this issue that had had the benefit of committee consideration. I did this with considerable reluctance because my own State had suddenly, with no advance warning or consultation, been listed as a potential disposal site, only several months earlier. Yet, Mr. President, it seemed to me a reasonable position at the time. A new administration had just assumed office and was in the process of reevaluating the Nation's nuclear policy. Our committee chairman seemed anxious to develop a waste disposal policy in concert with the President. ERDA officials assured us that there would be no more surprises with respect to siting decisions and that State wishes would be respected.

Mr. President, it is now 2 years later. We still have made no progress on the nuclear waste issue, but have only an ambiguous and uncertain interagency task force report. We have had no legislation reported out of committee. We have growing skepticism and resistance among the States with respect to siting of waste facilities. It is these factors, Mr. President, which argued so forcefully in support of the amendment which the Senator from South Dakota, Mr. McGovern, offered as an amendment to S. 562 this year.

As written this year, Mr. President, the McGovern amendment was designed to give statutory form to the administration's concept of State concurrence. Under the McGovern amendment, which was rejected by the Senate, any State under consideration for a nuclear waste disposal site could request the convening of a task force, comprised of the Governor and appropriate Federal, State, and local officials. The purpose of the task force would be to give the States and localities an opportunity to influence and interact with Federal officials with responsibility for site selection and evaluation.

This approach would have given Governors and other State and local officials a formal role in the site selection process, and enabled them to suggest and negotiate alternative disposal methods and sites if they had concerns about those put forth by Federal officials. It would have involved them in decisionmaking on all aspects of the siting process. It would have given them a chance to become fully educated about a proposed facility, and relay what they learned to those citizens most affected. It would have given them the opportunity for participation and concurrence in the fullest sense of those words.

Finally, Mr. President, the McGovern amendment would have put some teeth into the "concurrence concept" by formally establishing a State veto, rather than leaving the States dependent on a vague pledge, by this administration, to abide by their wishes. Under the McGovern amendment, if an impasse occurred during the prescribed consultative process, the Governor could file a report with the NRC stating his or her State's objections. In this case, the Federal Government could not proceed with a project unless the State's objections were addressed. The final resolution of this issue would have rested with the State legislature, which could overturn or affirm a Governor's decision on rejection or acceptance of a facility.

Mr. President, this year I decided to support the revised McGovern amendment for several reasons. First, because I felt it was necessary to send a signal to the administration and our congressional committees that it was time for action. We simply cannot afford to let our wastes keep piling up, in ever greater amounts, without making progress on the scientific and institutional problems that have prevented permanent off-site storage to date.

Second, I supported this amendment because it seemed a considerable improvement over the version offered in 1977. Senator McGovern's 1977 State veto amendment gave States a blanket right to ban all disposal sites—no matter what the peculiar attributes of any specific project. The amendment offered by my colleague from South Dakota this year was considerably refined, and tied a State veto to a specific project, after a long consultative process. It seems to me, Mr. President, that if a State's concerns about a project cannot be relieved after a process such as this, the Federal Government has no right to go ahead and foist that project down the throats of the citizens of that State.

Finally, Mr. President, it no longer seemed premature to enact a State's rights provision. The administration's own Task Force Report supported the concept of a State veto over nuclear waste disposal facilities. Nuclear waste legislation introduced this year recognizes the need for States to concur in projects before they are built. And there is no doubt that resolution of this issue, one way or another, is necessary in order to permit sensible planning by our Nation's utilities and safe handling and storage of current wastes. Mr. President, I urge the appropriate Senate committees to recommend legislation, recognizing the legitimate and important role of the States in siting decisions, to the Senate at the earliest possible date.●

NOMINATION OF PAUL A. VOLCKER AS CHAIRMAN OF THE FEDERAL RESERVE BOARD

● Mr. GARN, Mr. President, in connection with the Banking Committee's consideration of Paul Volcker as Chairman of the Federal Reserve Board, I have received a statement from Kenneth White, president of the Virginia Taxpayers Association, in opposition to Mr. Volcker's nomination. The Virginia Taxpayers Association was organized 6 years ago as a broad based organization working to reduce government taxes and spending at all levels of government. As such, the association is part of of the fast growing, nationwide taxpayers movement. In view of the interest of the Virginia Taxpayers Association in Mr. Volcker's nomination, particularly its concern about the effects of Federal Reserve policies on inflation, I wish to insert in the Record the following excerpts from Mr. White's statement:

Excerpts From Mr. Kenneth White's Statement

We are firmly convinced there can be no informed consideration of inflation without covering the all-important role of the Federal Reserve System, which Mr. Volcker has been proposed as the head of. The President of the Federal Reserve Bank of St. Louis, Darryl, R. Francis, admitted on May 22, 1974 in a speech in Minneapolis that the growth of the money supply, which the Federal Reserve supposedly regulates, "has been the primary cause of the acceleration in the average rate of inflation."

More bluntly, the noted atuhor and financial analyst, Dr. Martin Larson, in his 1975 book, "The Federal Reserve and Our Manipulated Dollar", said of the Federal Reserve ". . . by financing the huge deficits of the federal government and emitting a flood of fiat currency, it has created and continues to create irrepressible pressures for inflation, which, unless curbed and terminated, will bring this nation to economic ruin."

The question before this committee today is whether the President's nominee, Mr. Volcker, will in fact do anything to prevent the Federal Reserve from continuing to create these irrepressible and intolerable pressures for inflation, and we submit the record shows that he will not, and therefore should not be confirmed as Chairman of the Federal Reserve Board.

The Associated Press news story of July 26 announcing Mr. Volcker's nomination stated that: "While at Treasury, he helped to engineer the two formal devaluations of the U.S. dollar in 1971 and 1973 . . ." In other words, the Associated Press is openly telling us that Mr. Volcker as Undersecretary of the Treasury for Monetary Affairs deliberately helped to destroy the value of our dollar.

It appears clear to us that a chief task of the Chairman of the Federal Reserve Board ought to be not only to stop such record increases in the money supply as occurred in the week ending June 6, but to plan for an orderly phasing out of unredeemable Federal Reserve Notes and an orderly phasing in or a constitutional currency in which Americans and all the rest of the world could justifiably have confidence. While Mr. Volcker undoubtedly has a great deal of experience, unfortunately his kind of experience is the opposite of what is needed today, and despite his recent "conservative rhetoric" there is no real evidence in his record that he is interested in the goal of a constitutional currency. We need instead the competence, ability and true statesmanship of the kind displayed by the late renowned Louis T. McFadden, a successful Pennsylvania banker and for 12 years chairman of the U.S. House of Representatives Committee on Banking and Currency, whose historic and penetrating analysis of the Federal Reserve System on the floor of the House on June 10, 1932 has been reprinted many times.

The Associated Press story that was referred to earlier says that the 1971 and 1973 devaluations which Mr. Volcker helped to engineer were "forced on the United States because of its weakening position in the international economy." Members of this committee are well aware that instead of being "forced on the United States", the basic 1971 monetary situation was in fact brought about by the Federal Reserve System, by Mr. Volcker and the other senior officials in the Treasury Department, and by the reckless deficit spending of Congress.●

LIFE INSURANCE COST DISCLOSURE

● Mr. METZENBAUM. Mr. President, both the Washington Post and the New York Times have recently editorialized on a subject of great importance to the American consumer, life insurance cost disclosure. Both papers cite a major report released this month by the Federal Trade Commission. The Commission has documented the return whole life policyholders earn on the savings elements of their policies: An average of 1.3 percent. The Commission report—which is to be commended for both its rigor and its objectivity—carefully analyzes existing disclosure systems as instituted in a number of States. The report concludes that they do not provide consumers with the information necessary to evaluate cash value insurance as a savings vehicle or to compare dissimilar types of insurance policies.

Life insurance cost disclosure is not a new subject for the Subcommittee on Antitrust, Monopoly and Business Rights, which I chair. Under the leadership of the late Senator Philip Hart, the subcommittee conducted extensive hearings on this issue. In May of this year, the subcommittee renewed its investigation. Testimony was taken from government, consumer, academic and industry witnesses, as well as State regulators.

I believe that consumers—who spend $34 billion a year on life insurance—are entitled to know the rate of return on the dollars they save through this medium. I believe they are entitled to be given the basic information necessary to make intelligent decisions when they insure their lives. Although the States have had many years to act, not a single one yet requires rate of return disclosure.

I believe that Federal minimum standards are necessary to insure that consumers receive the information they are entitled to. I will soon introduce legislation to require full disclosure to every purchaser of life insurance of the true costs of this product, including its rate of return.

Mr. President, I ask that these editorials be printed in the Record.

The editorials follow:

The Whole Truth About Life Insurance

Would you put your money in a savings account paying 1.3 percent interest? According to a new Federal Trade Commission report, that's just about what many Americans do in purchasing life insurance. Life insurance companies hold more than $140 billion of the public's savings—roughly the amount held in passbook savings and loan association accounts—and generally pay returns far below the rate available in equally secure investments. The only plausible explanation is that policyholders don't realize how raw a deal they're getting. By the commission's reckoning, and ours, the most sensible solution is tough disclosure rules for life insurance companies.

The problem concerns "whole" life insurance. That is the most popular form, involving savings as well as insurance. In 1977 only about half of every insurance dollar was used to pay for death benefits and company expenses. The rest was socked away in insurance company investments on behalf of the policyholders or returned to them as dividends.

The holders of some of the policies examined by the Federal Trade Commission were paid a return, on the investment portion of their premiums, that was comparable to what they could have earned in the bank. But most policies, particularly those first written in the 1950's and early 1960's, paid far less. And virtually every purchaser of whole life insurance who allowed the policy to lapse within five years of purchase earned no interest at all.

Buyers can, of course, avoid the problem by avoiding whole life insurance and putting their savings in a bank. However, if people insist on buying whole life insurance—and more important, if agents insist on selling it—then it is only reasonable that they be required to disclose the true rates of interest. That would permit comparison shopping, or at least give buyers some idea of what they are buying.

In 1976, the National Association of Insurance Commissioners—the organization of state insurance regulators—prepared a model disclosure code for the states. But it is inadequate, providing no means to compare the interest return on individual policies or the return on whole life with other investments. The Federal Trade Commission thus argues for major changes.

The F.T.C.'s whole-life recommendations carry no legal weight; the McCarran-Ferguson Act delegates all insurance regulation to the states. But Americans spent $34 billion on life insurance in 1977. The market is so large and the inequities are so great that cost disclosure is imperative. If the states won't protect the consumer, there will be a strong case for Congress to do it for them.

"Savings" in Life Insurance

Talking of life insurance the other day, FTC Chairman Michael Pertschuk told a Senate committee, "I think it fair to say that no other product in our economy that is purchased by so many people for so much money is bought with so little understanding of its actual or comparative value." That is a harsh indictment, especially when you think of the products on the market. But a report by the FTC's staff indicates there is some truth in it.

The report claims that the rate of return paid on what it calls the "savings" of holders of whole-life policies was between 1.2 and 1.85 percent in 1977. Those numbers are very small, even though the return is tax free, when they are compared with the rates paid on savings by banks, savings and loan associations, and other places where money is invested.

The catch, of course, is that the life-insurance companies do not propose to be investment houses or to deal in savings. They insure you against death and, they argue, the cash values and annuity payments many policies build up if you live long enough are only incidental to that insurance.

The FTC study tries to break the premiums that are paid on certain kinds of policies into what is actually required for life insurance and what goes into forming those cash values and annuities. It is on this latter category—what the staff calls "consumer savings"—that the rate of return works out to be less than 2 percent.

Regardless of what you call it, the amount of money involved is huge. At the beginning of 1978, the study says, the life-insurance companies held more than $140 billion in "consumer savings," about the same amount as that held by savings and loans in passbook accounts. Of every premium dollar, about 15 cents is paid out in death benefits, another 30 cents goes for overhead, and the other 55 cents goes into the savings component.

Mr. Pertschuk's complaint is not that this happens but that the insurance companies don't give prospective customers enough information to compare one company or one policy with another or to compare one kind of insurance with other kinds of investments. There are wide differences, he says, between companies and policies, but the average consumer doesn't have the mathematical tools to figure them out.

His conclusions and those of the FTC study are remarkably similar to those reached in years past by committees on both sides of Capitol Hill. It is time for Congress and the state governments, which have the prime responsibility for regulating insurance companies, to act on them and make sure that consumers have as much information about the life insurance they buy as they do about bonds and other securities.●

SYNFUELS AND THE ENVIRONMENT

● Mr. ROTH. Mr. President, the administration proposes to spend $88 billion for a massive synthetic fuels program in order to reduce our dependence on imported oil. I am concerned what these 10, 25 or 50 synfuels plants will do to the environment, to clean air and clean water, to the carbon dioxide levels in the air we breathe.

Last week down at the White House, I asked the President what his $88 billion synfuels corporation was going to do to the environment. He, in effect, said,

> No problem, my Energy Mobilization Board will take care of it.

But you just cannot be all things to all people on this issue. You cannot repeal the Clean Air Act to build synfuels plants. And the Energy Mobilization Board, as proposed by the President, only gets you a quicker "No" or "Yes." When the 1977 Clean Air Act Amendments were debated up here, we had much discussion on areas of the country, mostly out West and in the national parks, where air quality is better than national standards require. One of the principal goals of the 1977 amendments was to protect these "pristine" areas in our country. The 1977 amendments and the States under their implementation plans have designated many of these pristine areas as class I areas where only very small increases in emissions are permitted and where major new powerplants are virtually prohibited. In fact, 113 out of the 154 pristine areas protected by the 1977 Clean Air Act are out West.

Now it just so happens much of our coal and oil shale resources are also out West, and that also happens to be where the President wants many of his 50 synfuels plants.

Each synfuels plant mines 25,000 tons of coal a day and uses up huge quantities of clean air and clean water.

In short, what we have here is an irrestible force meeting an immovable object, and I do not mean Congress and the President. I mean synfuels and our clean air. But nowhere in the President's program can I find out what he has in mind for the Clean Air Act.

Earlier this week, the Governmental Affairs Committee, of which I am a member, heard several distinguished scientists warn about the dangers of carbon dioxide buildup in the atmosphere resulting from the President's synfuels plants.

A year ago in June, a blue-ribbon panel of medical, environmental, and engineering experts reported to the President on the impact of increased coal use.

They listed the following six environmental issues as requiring "urgent attention":

(1) Public health effects of coal burning;

(2) Coal miner health and safety;

(3) Global effects of carbon dioxide in the atmosphere;

(4) Acid rain fallout in the northeastern U.S.;

(5) Toxic chemicals in coal mine wastes; and

(6) Reclamation of lands.

Again, I have heard nothing from the administration to address these issues in its synfuels program.

DOE is the only agency with any kind of track record on both building synfuels plants and assessing their environmental impacts. DOE already spends about $700 million a year on coal and synfuels R. & D. and about $250 million on environmental research. With that in mind, I hope the administration will soon tell us what happens to the President's $88 billion Energy Security Corporation and Energy Mobilization Board when the quick answer to the synfuels plants under the Clean Air Act is "No." I support regulatory reform and streamlining. But I have strong reservations about overriding State and local laws and the Clean Air Act.

I believe the President is stonewalling on this issue, and I hope he will answer these vital questions for the benefit of all Americans before Congress takes final action.●

THE MEASURE OF SALT: FIVE FUNDAMENTAL STANDARDS

● Mr. CRANSTON. Mr. President, yesterday Gen. George M. Seignious II, director, U.S. Arms Control and Disarmament Agency, testified before the Senate Committee on Armed Services with respect to the military implications of the SALT II agreement.

General Seignious emphasized that when he spoke for SALT he did not speak for goodwill, or for détente, or for a political party, or for trust. He spoke in favor of SALT because it was an arms control treaty that will "strengthen the national security of the United States." General Seignious condensed his testimony from his prepared statement. In his prepared statement the general set forth five fundamental standards against which he measured SALT II.

Mr. President, because of the importance of the full statement of General Seignious, and because of his thorough and professional analysis of the merits and demerits of SALT II as measured against those fundamental standards, I ask that this portion of his prepared statement be inserted in full in the RECORD. The prepared statement of General Seignious follows:

STATEMENT OF GENERAL SEIGNIOUS

I have studied SALT II carefully from three professional vantage points—as Director of the Joint Staff of the Joint Chiefs of Staff, as the at-large member of the SALT Delegation, and as Director of the U.S. Arms Control and Disarmament Agency. I want to focus the first part of my statement on five fundamental standards against which I have measured SALT II:

First, SALT II must place limits on Soviet forces;

Second, SALT II must permit us to undertake the military programs we believe are necessary for our security; we must be able to maintain the strategic balance under SALT II;

Third, SALT II must be adequately verifiable;

Fourth, SALT II must not interfere with existing patterns of cooperation and support for our NATO Allies; and

Fifth, SALT II must enhance strategic stability and reduce the risk of nuclear war.

Mr. Chairman, SALT II meets each and every one of these standards.

My first standard—limiting Soviet strategic forces—exemplifies a unique contribution that SALT II brings to our national security. In an arms race without limits, we can build more, but so can the Soviets. I am concerned about the Soviet build-up. We all are. It is massive and relentless. I believe we should meet it by maintaining military forces equivalent to whatever forces the Soviets build and by capping the Soviet build-up through SALT. We are going to have to do both at the same time if we want to maintain the strategic balance in a realistic, practical way.

The simple fact is that the Soviet Union has vast economic resources and a national will, no less determined than our own, to expend those resources for what it perceives to be necessary military purposes. Without arms control agreements, we cannot stop the Soviets from building as many strategic weapons as they wish, and we cannot force them to dismantle existing weapon systems. We can certainly match the Soviets in any nuclear arms race, but SALT is the only way I know to limit the number of Soviet missiles and nuclear warheads targeted at our country.

As a former military man, I believe that any time you succeed in limiting the destructive forces that could be marshalled against you by your adversary, you have accomplished something of significance. Let me detail for you some specific ways in which the SALT II Treaty accomplishes this objective:

Under SALT II, the Soviets must reduce the total of their central strategic systems (launchers of intercontinental ballistic missiles, launchers of submarine-launched ballistic missiles, and heavy bombers) from over 2,500 at present to 2,250 by the end of 1981. We estimate that without this limit, the Soviets could have as many as 3,000 such systems by 1985. Thus, what otherwise would probably be a 20 percent increase in Soviet strategic systems is converted by SALT II to a 10 percent decrease.

Under SALT II, the Soviets will be limited to 1,200 launchers of ballistic missiles carrying multiple independently targetable warheads or MIRVs. This figure is about 600 less than we estimate they could have by the end of 1985.

Under SALT II, the Soviets will be limited to 820 launchers of MIRVed intercontinental ballistic missiles—the most threatening part of their strategic force. We estimate that they could deploy at least three hundred more than this figure by the end of 1985 without SALT II.

Under SALT II, the Soviets will be permitted to flight-test and deploy only one new type of light ICBM during the Treaty period. This means that all but one of the fifth generation of Soviet ICBMs will be held to small modifications of earlier generations which will not represent a significant increase in military capability.

Under SALT II, Soviet intercontinental ballistic missiles (ICBMs) will be limited in the number of MIRVed warheads per missile to currently tested levels. And the one permitted new type of light ICBM will be limited to ten. This "fractionation" limit significantly restricts the use the Soviets can make of their ICBM throw-weight. We estimate that the SS–18 could carry 30 warheads instead of the 10 SALT II will permit. With over 300 SS–18's in their forces in the 1980's, that means that SALT II reduces the Soviet warhead potential by over 6,000 warheads—on just one type of missile.

Under SALT II, the production, testing, and deployment of the SS–16 ICBM will be banned. The United States proposed and the Soviet Union agreed to ban this system to avoid a verification problem. The SS–16 ICBM appeared to be compatible with the launcher for the shorter-range SS–20 which is not limited by SALT II.

Under SALT II, rapid-reload of ICBM launchers and storage of extra ICBM's at ICBM launch sites will be banned.

Thus, under SALT II, there will be many hundreds fewer Soviet strategic systems and many thousands fewer deliverable strategic warheads in their arsenal than they could have without SALT II.

These limits on Soviet systems are not all we would like to see if we could dictate to the Soviet Union. But they are also not meaningless restraints on totals already much too high.

I need hardly remind this Committee of the destructive power contained in the Soviet systems to be dismantled or of the destructive power we would have to face if Soviet programs went forward unimpeded. While some commentators have attempted to characterize the Soviet weapons likely to be dismantled as obsolescent, I want to note that the Soviets will be forced to select from among nuclear-powered submarines with missiles built in the early 1970's, aircraft carrying their largest multi-megaton bombs, and SS–11 ICBMs. Each strategic Soviet system to be destroyed is associated with a warhead many times more powerful than the one that leveled Hiroshima—in the case of the aircraft, a thousand times more powerful. The 250 systems in question could suffice to demolish the 250 largest American cities. The people of Houston or Seattle or Des Moines would take little comfort in knowing that the missile or bomber carrying a nuclear weapon toward their city was obsolescent. I believe that any limits on Soviet power and capabilities are a step in the right direction.

I also want to take exception to the view that SALT II only limits Soviet programs to already planned levels, or that they wouldn't exceed the SALT II levels anyway. This contention is totally at variance with our intelligence estimates, and it does not square with the pace and momentum that is causing such concern today. Anyone who looks at the Soviet buildup today and concludes that it won't continue unabated without SALT II is taking a rosy view of the Soviet Union to which I cannot subscribe.

My second standard concerns our own forces. We must be able to preserve the strategic balance under SALT II.

SALT II will not tie our hands. We will be able to proceed under SALT II with all of the force options we have decided are necessary for our security:

We have improved the accuracy and explosive yield of our existing Minuteman III land-based missiles. SALT II will not prevent similar improvements in the future.

We are about to fit some of our existing Poseidon nuclear submarines with the longer-range Trident I missile which means that these submarines can patrol and hide in vastly increased ocean areas, and still hit their Soviet targets. They will be even more difficult to detect. This program will be completed in 1982. SALT II does not hinder this in any way.

We have just launched the first of our Trident nuclear missile submarines, each of which can hit about 200 Soviet targets. By the end of SALT II, we plan to have seven of these submarines. SALT II does not hinder this in any way.

We are developing and testing air-launched cruise missiles for placement aboard approximately 150 of our heavy bombers. We plan to start installing these air-launched cruise missiles in 1981. By late 1985, we expect to have nearly 1,500 of these cruise missiles deployed. They are highly accurate and can be launched from outside the range of Soviet air defenses. SALT II will permit this deployment.

We are developing and testing long-range ground- and sea-launched cruise missiles (GLCM's and SLCM's). Deployment is prohibited by SALT II until after 1981, but these missiles would not be ready for deployment before this date anyway. When these are ready for deployment, it will be our decision to make whether deployment or negotiated restrictions, which also limit the Soviet Union, are in our best national security interests. During the Protocol period, SLCMs and GLCMs can be flight-tested to any range. I should add in this regard that when the United States insisted that the Protocol be of a short, fixed duration, we meant precisely that. The Protocol expires on December 31, 1981; nothing could be clearer. Any decision to put legal restrictions upon United States GLCMs and SLCMs after 1981 would require an entirely new negotiation, and another submission to the Senate for your consent.

And SALT II does not prevent us from developing a solution to the problem of the increasing vulnerability of land-based missiles. This vulnerability is not the result of SALT. It is due to the increasing capabilities, particularly improving accuracy, of the missiles of both nations. Under SALT II, we will be able to deploy our new ICBM, the MX, in a mobile, survivable mode. We have considered a number of basing schemes for the MX. It is a demonstration of the importance of arms control to national security that, with SALT II, the mobile missile land-based alternatives that we have considered are unquestionably more feasible and more economical. Without the SALT II limits on numbers of Soviet warheads, the Soviets could add more warheads over time which would necessitate a significantly larger number of shelters for our missiles.

The recent decision to proceed with the MX missile is clear, demonstrable evidence, for our friends and our adversaries, that we will proceed with the programs necessary for our security. Each part of our strategic forces will be survivable so that deterrence will never be in question. And each part will be adequately verifiable, so that confidence in strategic stability will accrue to both our nations.

I respect deeply those who are worried about present trends in the strategic balance, for I am concerned as well. But confidence is also vital to our freedom in the nuclear world when deterrence is the essence of stability and security. We have not built and maintained our strategic forces—at the cost of billions—in order to weaken their deterrent impact by telling the Russians and the world that we are inferior when, in fact, we are not.

There is no doubt that the Soviet strategic force is formidable and growing rapidly. But there is also no doubt that the Soviet Union does not have strategic nuclear superiority now, and they will not have it in the future if the will and determination of the United States persist, if we continue to modernize our strategic forces, if we do what we must do to maintain equivalence.

I want to make one point very clear. It is central to the debate over SALT II. SALT II will not prohibit us from proceeding with the programs we need to maintain the strategic balance. But, SALT II is not a substitute for national will. SALT II permits us to go ahead with necessary programs; it does not provide the programs themselves. The programs we undertake to keep our deterrent strong will be determined by the American people, their leaders, and their representatives. SALT II does not foreclose our choice.

We would be deluding ourselves as a nation if we believed that we will not have to increase our spending for strategic programs, with or without SALT II. The scope and pace of Soviet strategic programs leave us little choice but to modernize our own strategic nuclear forces. But there is no doubt that the cost without SALT II would be tens of billions of dollars more than it will be with SALT II. Within the framework of SALT II, we can maintain strategic equality and a more viable and more effective strategic force, with less risk and at a much more moderate cost. Furthermore, the danger of siphoning resources away from conventional forces is lessened.

My third standard for SALT II is adequate verification. If SALT II did not fulfill this requirement, then I could not support it. After careful study, I have concluded that SALT II is adequately verifiable and that it will be so from the day the agreement enters into force.

To verify SALT II, we rely on our own independent, national intelligence capabilities. We survey the Soviet Union regularly, thoroughly and accurately with a vast array of sophisticated and powerful intelligence-gathering systems, such as photo-reconnaissance satellites, radars, and other monitoring devices in space, on land, on sea, and in the air. The result is a network of collection systems which complement each other and provide us with overlapping coverage of the Soviet Union.

We have spent billions of dollars on these systems, and it has been money well spent. I find our intelligence capabilities truly astonishing in their technological capacity—especially to a soldier who began his career in World War II, when we seldom knew what was happening six hundred yards behind enemy lines, let alone six thousand miles away.

For example, we know where the Soviets build their submarines. It takes several years to construct a ballistic missile submarine. We carefully observe it during this period. We count its missile tubes as they are being built, and we determine which types of missiles will be installed in those launchers. When the Soviets launched their latest Delta class strategic missile submarine, it was no surprise to us. We had been aware of its construction for years.

Similarly, we know where Soviet ICBM launchers are deployed and what types they are. We observe new missiles as they are flight-tested, and they are tested extensively. We know whether a missile is tested with one warhead or more than one. We can count the number of Soviet reentry vehicles as they reenter the atmosphere.

We monitor the conversion of older Soviet ICBM launchers so they can handle new MIRVed missiles. Well before the conversion is finished and the launcher is again operational, we know not only whether it is a launcher for a MIRVed missile—but also the type of MIRVed missile it is designed to contain.

In the case of Soviet heavy bombers, we have an adequate count of how many bombers there are, where they are produced, and where they are based. We can observe important modifications that are made to these bombers.

Several factors help us in verifying the provisions of SALT II:

One factor is time. Many of the systems limited in SALT are very large and complex and cannot quickly be constructed. For example, it takes many months to construct an ICBM silo launcher and years to develop and deploy a new missile. This gives us time to monitor activities.

Another is the need for reliability. New strategic systems have to be tested to have operational reliability. We can observe these Soviet tests.

And a third factor is support requirements. Strategic systems need personnel to run them and extensive logistic and security support. These requirements compound the task of keeping deployments hidden, and they increase the chance that we will detect them, especially if such activities were to take place in significant numbers. Some charge that the Soviets could stockpile extra missiles and then one night change the strategic balance. Let me say that it is one thing to produce a missile in a factory; it is quite another to have the trained personnel, the logistics, the large amounts of heavy equipment to handle the missiles and the launchers themselves—without our being able to spot them.

I might add that the Soviets, if they wanted to violate the provisions of SALT II, would face another difficulty—uncertainty. Our use of multiple intelligence sources complicates any Soviet effort to disguise or conceal important activities. The Soviets know that we have a large, sophisticated intelligence operation, and they know a certain amount about how it works. They do not, however, know the full capabilities of our collection systems and analysis techniques. This uncertainty will further complicate any Soviet attempt to conceal an evasion of the SALT II limits.

The question has been asked: "What do we do if we discover a Soviet violation or if we even suspect one?" As a result of the SALT I agreements in 1972, we established at Geneva a U.S./Soviet Standing Consultative Commission (SCC) where any compliance questions, any suspected activities, can be challenged at once. We thus have an established forum where even the slightest suspicion of a violation can be raised with the Soviets. This forum has worked well under SALT I.

Some also question whether we actually would challenge the Soviets if they appeared to be in violation of SALT II. I believe our record under SALT I is solid proof that we would. We have not been hesitant to challenge the Soviets about questions of concern to us—eight times. The fact is, however, that there is not one outstanding challenge that we have made against the Soviet Union that has not been resolved to our satisfaction. If a violation persisted without correction or if a violation threatened our security, then we could abrogate the agreement and build the forces necessary to meet the threat. This would be a very serious development, and the Soviets know it.

In assessing the capabilities of our network of collection systems, it is important to recognize that intelligence is a dynamic process in which our effort will need continual improvement. We must be prepared to take the necessary actions to exploit the new opportunities that advancing technology offers us, and to offset the loss of sources, as happens from time to time. The recent loss of important intelligence stations in Iran is a clear example. Because of our extensive capabilities, we continue to be able to monitor adequately the testing of Soviet ICBMs, although some uncertainties are temporarily larger than we would like.

As you know, we are aggressively pursuing a number of alternatives and specific programs to collect the information formerly gathered in Iran in order to reduce these uncertainties to their previous, lower level. We expect to do this before a test program for any new or modified Soviet strategic missile could be completed.

The limits of SALT II are adequately verifiable with our own national technical means. By restricting launchers and not missiles, by counting rules, we have no need for more intrusive measures in SALT II. Onsite inspection is not mandatory for adequate verification of SALT II. For example, the SALT II MIRV counting rules are a better device than on-site inspection for counting MIRV's. We are able to use these rules to count Soviet MIRV's on a total, national basis. We will not have to rely on inspectors who can be deceived and who cannot watch all of the launchers all of the time.

We would monitor the Soviets even if there were no SALT agreement. It is essential for us to have good, solid intelligence on Soviet strategic forces, totally, apart from any arms control agreement. In fact, only a portion of the total intelligence we collect on Soviet strategic forces is related to SALT II limits.

There are specific provisions in SALT II, proposed by us and accepted by the Soviets, that make the job of monitoring the Soviets easier than it would be without SALT.

Under SALT II, the Soviets will not be allowed to interfere with the intelligence systems we use to verify SALT II.

Under SALT II, deliberate concealment, including encryption of telemetry, which impedes verification of compliance is banned. This ban applies not only to concealment of construction and deployment of systems limited by SALT but also to concealment of testing of those systems, because some provisions are verified by observing testing. Without this ban, the Soviets could use any and all means of concealment.

Under SALT II, neither side is allowed to conceal the association of a missile with its launcher. Without this provision, it could be much more difficult for us to assess which missile goes with each type of launcher.

These are just some of the SALT II verification provisions. Without them, it could be much more difficult to collect needed intelligence on Soviet strategic programs. Without the bans on concealment and interference, we could find it much harder to determine how many strategic missiles and bombers they are deploying, and what their military capabilities and characteristics are. The Soviets would be free to take steps to complicate our ability to predict accurately the size and capability of Soviet strategic forces.

No leader, military or civilian, wants to plan with less rather than more information about an adversary. I believe that in SALT we have used verification to good advantage—for our own security, for strategic stability, and to help turn uncertainity into confidence.

That is a clear, specific example of the contribution arms control can make to our national security.

My fourth standard by which I have measured SALT II concerns our NATO Allies. The NATO Alliance, basically, looks to the United States to accomplish two tasks:

To maintain a strong deterrent and a strong defense, and

To lead in managing the East-West relationship to avoid a war that would devastate the nations of Europe as well as our own.

SALT II contributes to both.

In 1944, I stepped ashore in Europe for the first time as a member of the 10th Armored Division. During the Berlin Wall crisis in 1961-63, I commanded a cavalry regiment at the Iron Curtain. In 1969, I commanded the 3d Infantry Division, and in 1970 I was U.S. Commander in Berlin. I am convinced that NATO's basic security interests are no different than our own—stability, prevention of nuclear war, and preservation of the strategic conventional military balance. The 20th Century has taught Europe, as much as any other region on earth, the destructiveness of war, the benefits of stability, and the necessity for a strong defense.

Stability is particularly important to Europe, where potent military forces are concentrated only a short distance apart, where thousands of nuclear weapons are deployed, and where an arena of historic confrontation is still today of the highest security interest to each superpower. The risk of nuclear war is as real to Europeans as it is to Americans, and stability a requirement, not a luxury.

Fundamental to European security is the preservation of the U.S./Soviet strategic nuclear balance. SALT II, in combination with our own defense programs, will enable us to maintain that balance.

Equally fundamental is the preservation of the European theater balance. NATO is currently embarked on an ambitious and expensive force improvement program. I believe that this program—important to European security—would be far more difficult to accomplish if our attention and our resources were focused instead on an unrestrained strategic nuclear arms race.

SALT II in no way handcuffs our cooperation with NATO or sells out our Allies' interests:

We have consulted extensively with our Allies. For example, we have had some forty meetings with the North Atlantic Council to discuss SALT II; half of these occurred in the last two years.

We have taken into account Allied security concerns in our negotiating positions. For example, SALT II places no restrictions on the nuclear forces of France and Great Britain, and it does not limit any of America's many nuclear weapons systems located in Europe.

SALT II does not interfere with traditional patterns of cooperation with our Allies, including the transfer of weapons systems and other sophisticated technology. The Soviets proposed a strict nontransfer provision early in SALT II. We rejected it and similar Soviet proposals. There is no nontransfer provision in SALT II.

And, as I said before, the Protocol limits on ground- and sea-launched cruise missiles will expire before we are ready to deploy them. We will have ample time to plan carefully—in concert with our European Allies—how best to modernize our theater nuclear forces in NATO. And that process is already underway.

After the Vienna Summit, I returned home by way of the North Atlantic Council in Brussels, and stopped by as well in Geneva, and London. At each stop I briefed Allied officials. I can say without exception that all were extremely supportive of SALT II.

The words of Europeans, however, speak to this point better than assurances I can give. In June, Chancellor Helmut Schmidt put it simply and clearly:

"SALT II is, of course, not only a domestic matter for the Americans. For that reason the United States Government informed its allies on the progress of the talks and also consulted with them. This treaty is a piece of world history. It is also a piece of world security and a piece of my own country's security. For the present it is a climax of co-operative arms limitation. The Federal Republic of Germany supports the SALT II Treaty and hopes that it will soon be ratified by Washington and Moscow."

My fifth standard for SALT II is that it must contribute to strategic stability and to reducing the risk of nuclear war. Nothing—I repeat nothing—is more fundamental to our security and our survival.

SALT II, with its clear ceilings and adequate verification, adds an essential element of predictability, a way of fencing in the threat and limiting uncertainty about Soviet programs. Neither rational planning nor nuclear stability are served by ambiguity.

We will still have to plan against the maximum Soviet capabilities possible under SALT II. Entrusted with the defense of our nation, we would not be doing our job if we did otherwise. But this is a far cry from the increased threat, and the worst case planning, that would confront this nation if there is no SALT II.

We have a long way to go in the SALT process. Nonetheless, we should be—and we are—proud of the accomplishments of SALT II:

We have established—for the first time—equal ceilings on strategic nuclear forces;

We have negotiated equal sub-ceilings on MIRVed systems;

We have begun the long-sought process of reductions;

We have taken the first steps in controlling the technological arms race;

We have placed limits on increases in three major indices of central strategic power—launchers, weapons, and throw-weight;

We have strengthened verification;

We have established a base of agreed definitions, counting rules, and even force data;

And we have renewed our commitment to the long-term process of strategic arms limitation. In crafting a framework of equality between two different strategic forces, SALT II is an essential bridge to deeper reductions and further qualitative restraints in SALT III.

Today, on a highly interdependent globe, cooperation is often a necessity. Ratification of SALT II would reinforce our efforts to maintain and enhance adherence to the Non-Proliferation Treaty and thus help prevent the spread of nuclear weapons. In these efforts we are joined by 109 other nations, including the Soviet Union. Apart from the collapse of the SALT process itself, the most important casualty of SALT failure could be our vitally important effort to prevent the spread of nuclear weapons.

As a former strategist for the Joint Chiefs of Staff, I can tell you that nuclear weapons proliferation would create a security nightmare of grave dimensions. Terrorism and local conflicts could escalate to threaten the security of every American. Those nations that have forsworn nuclear weapons for themselves by adhering to the Non-Proliferation Treaty are closely watching the two superpowers to see whether we are indeed credible in our own commitment to reduce the level of nuclear weaponry.

I would not come before you and promise that with SALT II we will prevent nuclear war, or state that without SALT II the holocaust will surely come. Both statements deserve short shrift in this debate. I do believe, however, that SALT II is an essential step toward nuclear stability and reducing the risk of war. I cannot comprehend how either can be served by rejection of SALT II.●

THE NEED FOR A CONSTITUTIONAL AMENDMENT TO CONTROL FEDERAL SPENDING

● Mr. ARMSTRONG. Mr. President, a few days ago our colleague, Senator DICK LUGAR, met with the Constitution Subcommittee of the Senate Judiciary Committee to discuss the need for a constitutional amendment to control Federal spending.

He spoke eloquently and knowledgeably. I believe every Member of the Senate will benefit from studying his remarks and ask that they be printed in the RECORD.

The remarks follow:

STATEMENT OF SENATOR RICHARD G. LUGAR

Mr. Chairman, it is a pleasure to be here today to testify on behalf of a balanced budget amendment to the Constitution. I appreciate the efforts which you and the other Members of the Subcommittee have made in scheduling hearings on such an amendment. I am especially heartened by your recent commitment to Senator Byrd of Virginia to bring a balanced budget amendment to a vote in this subcommittee. I urge you to do so with all deliberate speed.

It is important that the Subcommittee consider and vote out such an amendment for reasons that transcend the balanced budget issue, as important as this issue is. Respect for the leadership of the American Government is at an all-time low. Specifically, respect for the Congress is lower than for any other major institution in our society. I think that the American people have the impression that we go about our business as usual, and that our business does nothing to affect or improve the daily lives of most Americans. The Congress appears either unwilling or unable to act upon what concerns the American people—escalating inflation, real or prospective energy shortages, and so forth.

Mr. Chairman, the American people overwhelmingly desire a balanced budget amendment to the Constitution. Thirty States have called for a second constitutional convention if the Congress does not submit such an amendment to the States. Over thirty-five States have urged the Congress to propose an amendment to the States. In poll after poll, approximately 80 percent of the American public has consistently favored the adoption of a balanced budget amendment. The Gallup poll of March of this year reports that 78 percent of all Americans support a balanced budget amendment, while only 12 percent are opposed. When an "escape clause" is added to the amendment, half of those opposed would support it, bringing the total to 84 percent.

We are at a point in time when decisive action by this subcommittee would be a tremendous encouragement to the American people. The rate of inflation has now climbed to double-digits and shows no sign of abating. We may all disagree about the relative weights of different factors in causing inflation in the first place; but I think that we all agree that once inflation has begun, it assumes a life of its own. Virtually all thoughtful observers, including administration spokesmen such as Charles Schultze, have spoken of an "inflationary psychology." We need action now to counter this psychology and to prevent inflation from feeding on itself. Arthur Burns has spoken most clearly about this. He has said that we might reduce the Federal deficit by $5 billion, or $10 billion, or even $15 billion this year, by means of some budget cuts here and there, and by greater revenues deriving from a higher-than-anticipated rate of inflation. But what effect would this have on inflation, or upon the expectations of the American people? Chairman Burns has suggested that it would have a very small effect on inflation. The Government must demonstrate a willingness to combat vigorously the problem of inflation. As I suggested to then-Secretary Blumenthal several months ago, we have reached the point where a "blockbuster" approach—analogous to the rescue of the dollar last November—is necessary.

As we have failed to act decisively to combat inflation, we have gradually slipped into the trap of pervasive public and private indexing. The Congress has in recent years increasingly indexed spending programs to the cost of living. Indexing and quasi-indexing of Federal programs adds many billions of dollars to the budget each year.

A Library of Congress study has found that 27.6 percent of Federal spending is explicitly indexed to the cost of living, and that another 35 percent is implicitly indexed. Thus, over 60 percent of all Federal spending is tied to increases in the cost of living. For every 10 percent increase in the Consumer Price Index, then, Federal spending increases by at least 6 percent. This amounts to well over $30 billion in our current budget. The practice of indexing has fostered the expectation that such increases will exist forever, and that they are a matter of right.

Pervasive public and private indexing is a trap for two reasons. First, it destroys the incentive to save and to engage in long-term planning based on expectations of stability. We have witnessed in recent years a significant decline in capital formation, a decline which threatens the long-run capacity of our economy to provide meaningful employment for our citizens. This tendency must be arrested and reversed.

Second, indexing works against those who are neither clever enough nor powerful enough to be able to insulate themselves against the ravages of inflation. It works specifically against the poor and those workers who are at the lower end of the salary scale. As a practical matter, there is no possibility of achieving a uniform and general indexing across all wages, salaries, and profits. A balanced budget requirement will free the budgetary process from the rigidity and inflexibility of indexed increases.

To this point, I have spoken of the reasons for action on the balanced budget now. But an amendment to the Constitution is not for one time only; it is hopefully for all time. With this in mind, let me turn to the underlying political and structural realities of our system which demand a balanced budget amendment.

Congress has an endemic tendency to spend in excess of revenues. Spending in excess of revenues is the course of least resistance. Each day a Congressional office must confront many well-organized interests demanding consideration for their programs. These programs are not unworthy ones, and the members of these groups are not evil men and women. The pressures to spend are simply not counterbalanced by pressures for restraint, which are very diffuse, with the result that the Congress says "yes" to almost everyone.

Legislative rules frequently apply a familiar procedural device to situations in which restraint is difficult, pressures intense, and in which the subject matter involves departure from an important norm. The device is the supermajority—the requirement of more than a mere 50 percent plus one vote—and it is ideally suited to the most crucial single decision made by Congress each year, the passage of the Federal budget. I propose that the Constitution of the United States prohibit an unbalanced Federal budget, except by a ⅔ vote of those present and voting in both Houses of Congress. I submit that this amendment would address effectively the principal crisis confronting American Government in the modern era, and would do so with the dignity, clarity, and flexibility befitting any change in the basic charter of our democracy.

The Constitution abounds with precedent for such a "super-majority" requirement. Two-thirds majorities of both Houses are currently required to override a Presidential veto of a bill, or to propose a constitutional amendment to the State legislatures. A two-thirds vote of both Houses was required by the 14th amendment to admit to Congress any individual who had participated in the Civil War on the Confederate side. The votes of a four-fifths majority are required to block a listing of the yeas and nays on a congressional vote.

A two-thirds vote of the Senate is constitutionally required to convict a Federal official upon impeachment. Two-thirds of the Senate must approve any treaty. Two-thirds of either House must concur before a Member can be expelled, and, at the subconstitutional level, the Senate rules are filled with super-majority requirements for such issues as cloture of debate or the designation of a special order.

The framers of our Constitution knew well enough the truth that men often require institutions to help shape decisions in ways which enable them to do collectively what they cannot do as individuals. Indeed, there is every reason to believe that if the framers of our Constitution had envisioned our current budgetary policies, they would have written into the Constitution a special form of restraint.

I would support any reasonable and thoughtful balanced budget amendment. I have specifically favored a ⅔ requirement for the adoption of deficit budgets because I believe that it best combines the virtues of simplicity, dignity, practicality, and enforceability. It is clear and straightforward, and employs no technical language; it writes into the constitution no numbers or economic concepts such as the gross national product; it invites no discussions of national emergencies or other exemptions. By requiring two-thirds to adopt deficit budgets, it circumvents the problem of enforcement. It is true that we may miss the mark of perfect balance in our projections of spending and of revenues. But the point is surely not to require balance down to the last dollar, but to restore the idea of balance as a norm from which deviations require an extraordinary burden of proof.

In closing, let me address the main objection raised again and again by those who oppose a balanced budget amendment. That it takes from the Congress budgetary "flexibility." Such "flexibility" as we have seen, however, simply means "more spending." I submit that the Congress would enjoy more, rather than less, flexibility under a balanced budget requirement. We are presently on a course in which larger and larger portions of the budget are thought of as "uncontrollable," and therefore beyond the reach of serious scrutiny. This bizarre notion has vitality only because no binding limit on spending forces a re-examination of these spending programs or their automatic increases. A ⅔ requirement would liberate the budget process from the psychology of "uncontrollability," and provide some muscle for the concepts of "sunset legislation" and "zero-based budgeting."

What a balanced budget amendment will take from Congress is some of its power, specifically the power of simple majorities to vote huge budget deficits with impunity. Perhaps the prospective loss of some congressional power is why this amendment has found so many opponents in the Congress. Other amendments with less popular support, such as the equal rights amendment or the D.C. representation amendment, have been passed in the Congress and sent into the land to uncertain fates. The balanced budget amendment has found its most widespread support in the States and among the people.

The essence of a limited constitutional government is the restriction of the powers of that government. Constitutional government specifies in advance what the government may and what it may not do, and what are the prescribed modes in which it must do what it may do. In this sense, an amendment circumscribing the power of the Congress to adopt deficit budgets is in the best tradition of free and responsible government. Thank you, Mr. Chairman.●

DRILLING FOR OIL IN THE ATTIC

● Mr. KENNEDY. Mr. President, I will soon be introducing legislation designed to save 4.4 million barrels of oil per day by 1990. The residential grants program is designed to save 1.6 million barrels of oil per day. The cost to the Federal Government is expected to be on the order of $3.60 per barrel saved, easily the cheapest alternative in the whole array of energy choices facing us in the 1980's.

The estimated savings of this legislation is supported by work done at Princeton University's Center for Energy and Environmental Studies. Scientists there have also calculated a 1.6 million barrel savings through a stepped-up residential conservation effort.

The scientists rightly point out that homeowners are reluctant to make energy-saving improvements to their attics. walls, and so forth, given that the utility bills are based on the average cost of cheaper, existing sources and new, expensive sources. The national benefits dictate that each barrel of oil saved should be based on the replacement or marginal value. Under this criterion a large array of conservation measures makes sense, and drilling for oil in the attic looks much more feasible than drilling for oil in tight Devonian shale formations.

Articles on the Princeton findings have recently appeared in the Washington Post and the New York Times; I ask that they be printed in the Record.

The material follows:

[From the New York Times, July 22, 1979]

Physicists Devise a New Profession for Energy Saving

(By James Gorman)

American houses, according to scientists who study home heating, leak oil from almost every pore. President Carter's call last Sunday for cutting the nation's oil imports in half by 1990 was a call for sacrifices as well, asking Americans to resign themselves to being hotter in the summer and colder in the winter.

Results of such sacrifice would not be trivial; residential heating accounts for roughly 11 percent of energy use in the United States. But sacrifice may not be the best way to reduce that figure. Home heating, say two physicists in a paper published by The Center for Environmental Studies at Princeton University, is so inefficient that an investment of about $1,500 a house could cut that 11 percent in half by the mid-1980's—without touching a single thermostat.

Dr. Marc H. Ross of the University of Michigan at Ann Arbor, and Dr. Robert H. Williams of the Center for Environmental Studies, in "Drilling for Oil and Gas in Our Buildings," proposed to effect this drastic cut in energy use with a nationwide corps of "house doctors"—trained specialists who would conduct energy audits of houses, make spot improvements, and prescribe remedies to be implemented later. If the program were applied to businesses as well, say the scientists, Americans could save 2½ million barrels of oil a day by 1985, or more than a quarter of current imports.

Dr. Ross and Dr. Williams are more optimistic than most analysts. The conventional wisdom is that a homeowner can conserve 10 to 30 percent of heating energy use with such steps as weather stripping and installing insulation—if he can be persuaded to invest in these improvements. In Portland, Oreg., the City Council is considering abandoning persuasion and turning to coercion, requiring every homeowner to install energy-conserving improvements at a cost of about $1,350 within five years. Homeowners who hadn't complied at the end of that time wouldn't be able to sell their houses until they did.

The proponents of the Portland plan expect only a 30 percent energy saving. Dr. Ross and Dr. Williams say a 50 or even a 75 percent saving is not only possible but economical, using new discoveries about heat loss, and a different way of defining "economical."

Their plan is based partly on studies by Dr. Gautam S. Dutt, an engineer at the Center for Environmental Studies, and his co-workers, which suggests that fully 20 percent of the energy used to heat single family, wood-frame houses is lost in warm air leaks to the attic. The leaks are hard to find, says Dr. Dutt, but often easy, and cheap, to fix.

Dr. Dutt came to his conclusions after he investigated how theoretical models of heat loss stand up in practice. Of 30 or so houses he checked, all were losing three to seven times as much heat to the outside as the models predicted.

Dr. Dutt and his colleagues hung thermometers in attics, knocked down walls, looked under layers of fiberglass insulation, and peered through infrared scanners to find where the heat was going. They found different answers in each house—a hollow wall conducting heat up into the attic, a crack in the ceiling or a bathroom fan.

In one split-level colonial built in 1974 that Dr. Dutt described as a "sea of insulation," the culprit was a dropped ceiling over a bathtub. When he looked at the attic floor through an infrared scanner, Dr. Dutt said, the area over the bathroom was "glowing red." Oil, in a manner of speaking, was gushing through the attic floor. The dropped ceiling had not been properly insulated.

Dr. Ross and Dr. Williams first propose a research program conducted on several thousand houses to catalogue the principal housing types in the nation, the attic leaks and other causes of heat loss common to each type, and the means of correcting them. Given this information, house doctors could then be trained and sent out on their house calls, their black bags stuffed with thermometers, fiberglass, and rolls of plastic tape.

The usual way of determining what improvements are economical is to compute whether the investment will pay back the homeowner in reduced fuel costs. Some methods compute the payback over three to five years. Proponents of the Portland program expect their improvements to pay the homeowner back in 10 years. Dr. Ross and Dr. Williams say that the usual way of calculating the cost is wrong, that what counts is not the cost to the homeowner, but the cost to the nation. The homeowner's price for energy is the average of the cost of old, cheaper sources, and new, more expensive sources. But from the nation's point of view, each barrel of oil or kilowatt-hour of electricity saved should be valued at the higher cost of replacement.

Since many homeowners might prefer turning down their thermostats to spending money for the national interest, the scientists suggest that utilities or private investors, pay for the improvements when they are done. The utilities could raise their rates to charge the interest on their investment, as electric utilities do now in Oregon, still keeping rates lower than if they had to build new plants. Or proceeds from the President's proposed windfall profits tax could be used to pay interest on investments of private capital. Only when a homeowner sold his house would he pay and then only the initial cost of improvements, not the interest. In the meantime, of course, he would have the benefits of a smaller fuel bill.

Home heating efficiency, says Dr. Williams, not synthetic fuels or sacrifice, is where the energy war should begin. "It should," he says, "be the number one priority, before we do anything else."

[From the Washington Post, July 24, 1979]

Saving Energy at Home

Lost in all the talk about new and exotic energy sources—synthetic fuels from coal, oil from tar sands and shale, electricity from the sun, etc.—is a less exciting but very real and practical way to increase our energy availability. This energy resource comes not from the sky or from under the ground but from our homes. By eliminating energy waste in home heating, the equivalent of 1.6 million barrels of oil a day becomes available for gasoline and other energy needs. This is three times as much oil as we imported from Iran before their revolution, and almost half of what we now import from Arab and Iranian sources.

Despite the great potential that exists in boosting residential energy efficiency, relatively little attention has been paid to this alternative. Perhaps this is because people are not aware of how much could be saved. Perhaps energy efficiency is linked in people's minds to conservation, and to many people conservation means freezing in the dark. Or maybe it is because improving energy efficiency does not catch the imagination like advanced-technology programs, such as landing a man on the moon.

Although there has been no concerted effort to improve residential energy efficiency, the need for such improvement has not gone totally unrecognized. The Department of Energy has proposed a program to encourage the installation of energy-conserving measures in existing homes. The program is centered around "energy audits" similar to those being offered by some utilities. During an audit, a technician examines a home for energy-wasting defects, such as inadequate insulation, cracks around doors and windows and the lack of storm windows. The resident is left to follow up on the auditor's recommendations. DOE expects the program to benefit only a quarter of U.S. households and to save 200,000 barrels of oil a day by 1985. This is only one-eighth of the savings that could be achieved economically.

There are several reasons why DOE so greatly underestimated energy savings. A major reason is that its audit focuses only on some of the more obvious areas of energy waste. However, studies conducted by Princeton University researchers have shown that greater waste occurs because of heat lost through obscure air leakage paths. Although most obscure heat losses are difficult to detect, they can be eliminated with little extra effort when they are identified.

We recommend the following prescription for saving energy in the home. A pair of "house doctors," trained technicians, enter a house carrying diagnostic equipment and about $10 worth of building materials. As they walk through the house looking for obvious defects, they identify and eliminate obscure heat-loss paths, For example, when checking insulation levels in the attic, they seal openings around flues and pipes by stuffing them with glass fiber and close small cracks with caulking compound. They close larger air-leakage path, such as those above dropped ceilings and stairwells, by taping or stapling a sheet of polyethylene over the opening. They install foam gaskets to reduce air leakage through electrical switches and outlets on outside walls. They also tune up the furnance. According to our experiments, about 20 percent of the space heat may be saved in a typical house by just these on-the-spot improvements. Thus, sizable energy savings will be achieved in all houses visited, even if residents themselves take no follow-up action.

How can residents be encouraged to achieve the large energy savings that are nationally desirable? One way is to permit utilities to finance the conservation measures and to include the investment in their rate bases. The resident would pay for the conservation measures only when the house was sold, presumably at a higher price that reflected the improvements. Utilities would also benefit, because financing these improvements would be cheaper than expanding supply. A form of this plan is being tried in Oregon.

The process of upgrading the nation's homes can start today and yield results much sooner than most supply-increase options. The house-doctor calls would cost residents $10 billion, but would save them $102 billion at today's price of imported oil. This would be cheaper than importing oil at $2 a barrel! If all oil- and gas-heated homes were upgraded to the cost-effective limit, the nation would save $173 billion in foreign exchange over the life of the improvements. The fuel savings per household would average $280 per year.

Conservation through improved energy efficiency has many advantages. People will not have to sacrifice comfort or convenience to save energy. Increasing energy efficiency will also reduce pollution and inflation, create jobs and, perhaps most important, reduce our dependence on foreign oil. Given these benefits, can we afford not to undertake a major program to make our home more energy-efficient?●

EMERGENCY FUEL ASSISTANCE NEEDED BY SENIOR CITIZENS AND POOR

● Mr. BIDEN. Mr. President, I call to the attention of my colleagues, an editorial appearing in today's Washington Post entitled "Why Not Fuel Stamps?"

The editorial points out that the only way we will be able to alleviate suffering caused by high heating oil prices is to quickly enact a program of fuel stamps. The great advantage of the fuel stamp principle is that it could be introduced and implemented rapidly, using the administrative processes already in use for food stamps and, therefore, avoiding the establishment of another agency. With winter less than 5 months away, it is imperative that an effective delivery system for fuel assistance be created soon.

Last month, I introduced legislation creating a program of emergency fuel assistance. This program would be administered through the existing food stamp system. I hope that the Senate Labor and Human Resources Committee will soon open hearings on the various fuel assistance proposals so that Congress can enact a fuel assistance program before the end of this year.

Mr. President, I ask that the text of the Post editorial be printed in the Record.

The editorial follows:

[From the Washington Post, July 31, 1979]

Why Not Fuel Stamps?

The cost of home heating oil is now rising fast, and by midwinter it may well be nearly twice as high as a year earlier. The suffering among people who are poor, and who live in oil-heated houses, will inevitably increase. There is only one remedy that has any real chance of helping those people quickly, and that is a rapidly enacted program of fuel stamps.

Like food stamps, fuel stamps would be a federal subsidy to ensure that the most vulnerable families are not cut off from one specific necessity. Fuel stamps would help buy not only heating oil but gasoline for that small number of poor people whose lives and jobs require automobiles. Ideally, this kind of aid might be extended better through reforms of either the welfare or the tax systems. But basic reform is slow work, and winter's coming. The great advantage of the stamp principle is that it could be introduced quickly, following procedures that have already been worked out for food stamps.

Currently the country's food policies are working a great deal better than its tortured attempts to come to terms with higher oil costs. It's worth examining the case of food to see what lessons it might offer for fuel.

Americans have generally regarded the steady inflation at the grocery store to be unfortunate and harmful but essentially uncontrollable. People recognize that the bad news at the supermarket's check-out counter originates far back in a worldwide production system, and it can't be cured by slapping on controls. Except in dire emergencies, as in wartime, people seem to agree that it's better to avoid shortages, let prices rise, and use direct aid to rescue the people who really can't pay. The food stamp program has its administrative shortcomings, but it has made a massive contribution to the nutrition of the American people in a time of severe and threatening inflation.

Regarding fuel, the administration continues to cling to price controls on both crude oil and gasoline—citing, usually, the need to protect the poor. As you watch the prices of oil and all the oil products shoot upward, perhaps you have wondered exactly how much protection the poor—or anybody else—are getting from those controls. It makes more sense to move rapidly to decontrol, and simultaneously to give poor people a kind of protection that will actually do them some good. Rising prices will be no less harmful in fuel than in food. But at least they will push the country toward the conservation, and the alternative energy sources, on which the rescue from oil inflation ultimately depends. It will work, just as a rising price also cuts down consumption of beef. The choice isn't between T-bone steak and starvation. It's between T-bone steak and something else. In fuel, as in food, with subsidized stamps for the least affluent families, there can be enough for everyone.●

BROAD SUPPORT FOR TRUCKING DEREGULATION

● Mr. KENNEDY. Mr. President, I am submitting today several additional items from newspapers around the country which are representative of editorial opinion on the issue of deregulation of the trucking industry.

The editorials are from newspapers in the States of Florida, Hawaii, Idaho, Indiana, Illinois, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, and New York.

I commend them to the attention of my colleagues, and ask that they be printed in the Record.

The editorials follow:

[From the Miami (Fla.) Herald, June 25, 1979]

Green Light for President on Trucking Deregulation

Does it make any sense for the Government to so overregulate interstate trucking that one trucker may carry paint in two-gallon cans but not in five-gallon containers? Or may carry desks and chairs but not tables? Or may pass through a town but be forbidden to make deliveries there? Or may be forbidden to carry anything at all on his return trip, with the result that 20 per cent of all truck miles are driven empty?

Of course it doesn't. Excessive regulation costs U.S. consumers an unnecessary $5 billion a year, or $100 per average family, the White House says. It wastes precious fuel. It stifles competition. It requires 2,000 Interstate Commerce Commission bureaucrats just to keep track of the 7,000 pages of rate filings the ICC receives every day.

If common sense dictated its decisions, Congress would pass without delay the truck-deregulation bill introduced Thursday by President Carter. The bill would extend to ICC-regulated truckers a phased deregulation similar to the deregulation that has brought U.S. airlines record profits and record traffic while savings consumers $2.5 billion to boot.

But common sense won't dictate Congress' decision. Muscle will, and the trucking industry and the Teamsters Union have pledged to fight the bill with every ounce of political muscle they possess. Rest assured they possess it by the truckload.

The reason for the truckers' fondness for regulation is obvious. Last year the eight largest ICC-regulated truck lines earned an average return on their equity of 29 per cent. That's about double the earnings of unregulated manufacturing firms.

Moreover, the truckers operate under an antitrust exemption granted in 1948 when Congress overrode President Truman's veto. The ICC doesn't set truckers' rates. The carriers themselves do, and the ICC merely rubber-stamps them.

The Administration bill would repeal this antitrust exemption and thus stimulate competition through price-cutting. It would end immediately the restrictions on "backhauling," which now require many trucks to return empty. It would permit proprietary haulers, such as Sears, which carry their own goods to backhaul merchandise of their affiliates and subsidiaries. It would end by 1984 all restrictions on routes and permissible cargo.

Opponents say deregulation would enable big trucking firms to drive out competition by cutting prices, then raise their rates to exorbitant levels. This argument is specious. Deregulation instead would give the 100,000 independent truckers far more operating flexibility than they now have. And just as the airlines have done, truckers would find and enter markets where they can make a profit.

The industry also says deregulation would deprive small towns of truck-carried goods—which means most of what the average American family uses every day. But this argument doesn't hold water either. The ICC says its has had not one request to discontinue service to small towns in the present fiscal year, but several of the largest truck lines have applied for permits to serve small towns.

Yet it is true that the trucking industry has operated under the ICC's umbrella for 40 years, so total and sudden deregulation would be unwise. The Carter bill recognizes that; hence its phased-in steps to allow the industry time to adjust.

Among those supporting the truck-deregulation bill is Frank Borman, president of Eastern Airlines. Mr. Borman fought airline deregulation tooth and nail, and he now concedes that he was wrong. The trucking industry—and Congress—should bear Mr. Borman's change of heart in mind, because what deregulation did for the airlines, it can do for trucking too.

[From the West Palm Beach, (Fla.) Palm Beach Post, Apr. 3, 1979]

Follow Up on ICC

The Interstate Commerce Commission (ICC) did the right thing when it decreed de facto deregulation of the trucking industry in response to the Teamster walkout-lockout. Now Congress should follow up and make it official.

For all too long the ICC has frozen out competition, producing a cozy closed market in which the Teamsters could get whatever they wanted because the trucking companies could pass it on to the captive customer. Further, the ICC allows industry-controlled bureaus to set the rates and drives costs up even more with rules that require many trucks to make their return trips empty.

This year the trucking companies, presumably concerned about deregulation, have opted to stay within the president's voluntary wage guidelines while the Teamsters, citing the sharp recent rise in the cost of living, have been seeking about twice as much. When talks broke down last week, a cat-and-mouse game ensued.

The Teamsters, who have been fighting for years for national bargaining, changed tactics and decreed selective walkouts. This presumably would have two advantages: It would prevent the industry from mounting a united front, and it would avert a Taft-Hartley Act injunction, which can be issued only in a national emergency.

The truckers sidestepped the trap and called a national lockout. For a moment, it seemed as if the next move would be the president's.

Then the ICC acted. It announced that it would grant temporary permits to "all persons seeking to supply motor service." A spokesman said the effect of the action would be to "let anyone carry anything anywhere if they are a qualified trucker."

In light of that, and of the fact that little food is transported by truckers subject to the Teamster contract, there is no need for the president to rush into court. Perhaps a few weeks of no income for either side will lead to an equitable solution without further government intervention.

One thing the president should do, however, is urge Congress to get on with deregulating the industry. There is no good reason for the ICC to restrict entry into a business in which competition is not only feasible but clearly in the public interest.

[From the West Palm Beach, (Fla.) Post-Times, June 24, 1979]

Time for Deregulation

The combined clout of two strange political bedfellows, President Jimmy Carter and Sen. Ted Kennedy, should assure swift adoption of the administration's new trucking deregulation bill. We hope so.

Deregulation, to be accomplished over the next three years, would inject badly needed competition into the trucking industry. It would go a long way toward solving the problems of the independent truckers by removing senseless regulations that prevent them from taking the shortest route with the fullest load.

We can understand why the trucking industry and the Teamsters union will fight the legislation, for it threatens their monopolistic hold on the business. We find it harder to understand why about half of the independent truckers also oppose deregulation, fearing that lower freight rates will mean lower profits.

Trucking regulation was originally installed to protect the railroads, but in more than 40 years of bureaucratic growth it has been expanded to benefit virtually every economic interest in the country except the consumer.

If we have any complaint about the bill introduced by the president and drawn from information compiled by Sen. Kennedy's anti-trust subcommittee, it is that many of its provisions would not take effect until 1981. We say the sooner the better.

[From the West Palm Beach, (Fla.) Times, June 27, 1979]

Meeting the Newcomers

When Bennett Whitlock Jr., president of the American Trucking Associations, said "deregulation of the trucking industry will be completely counterproductive," there was a certain familiarity about his message. That's because all the major airlines were saying the same thing, with one exception, before they were cut loose for a measure of freedom—and competition.

But there aren't many complaints from the airlines now. They are vying for business with fare cuts and even coupons. Travelers are loving it, and all indications are that the airlines are too.

But when you have rates guaranteed and your routes safeguarded for a long time, it is doubtless frightening to think of having to sharpen the old pencil and meet the competition from newcomers who want to make money and oldtimers who want to do whatever is necessary to survive.

Fortunately President Carter has brought forward a proposal for deregulation of trucking. Miracle of miracles, Sen. Edward Kennedy is with the president on this one. In an era when the prices of everything seem to go in just one direction—up—the prospect that those in a key industry, truck transportation, may bring some relief is one that should be greeted with unbounded joy.

[From the Honolulu (Hawaii) Star-Bulletin, Mar. 4, 1979]

A Case for Deregulation

If the Legislature is serious about providing more freedom for business when that also seems clearly in the public interest, then it should look with favor on proposals to deregulate the motor carrier industry here.

There appears to be some danger it will again this year reject the idea—in part because of confusion with the matter of inter-island surface transportation where it is now felt continuing regulation is in the public interest.

But these are very different situations:

In the case of inter-island ocean service, there is probably room for only one carrier for most kinds of freight, and costs of going into that business are high, $20 million or more. So the essential choice as many see it is between having a regulated or an unregulated monopoly.

With the trucks and tour buses now regulated, the cost of going into business can be as low as buying one truck. And there are hundreds of such firms, which means competition could serve as an alternative to regulation.

In some ways, the trucking and tour bus situation is akin to the airline industry, where deregulation has been a clear success in lowering fares and still keeping carriers healthy while providing service that is safe and efficient.

In fact, advocates argue that motor-carrier deregulation is now a partial fact.

They note that the Public Utilities Commission does not have the staff or time to regulate, and, while the truckers work together on setting rates, tour bus operators are competing and not following tariffs.

Truckers and other opponents of deregulation charge that the result of it could be less safety and forms of cut-throat competition.

But safety standards would continue, as they are now, under the state department of transportation and police enforcement.

There could and should be more competition in prices, but there are now laws against excessive policies and any more toward monopoly situations could be closely watched by the state's new anti-trust division.

Consumers—and ultimately that means all of us including legislators—may be most impressed by reports that trucking rates are from 10 to 20 percent lower in unregulated Mainland areas.

There are several bills to either totally or partially deregulate motor carrier rates, and there are differences in and out of state government on how far and fast to go.

The state administration is on record for a partial deregulation, allowing operators to adjust rates 5 percent above or 40 percent below present tariffs.

That would be a step, but there is also a good and maybe better case for total deregulation, since that seems the inevitable direction and the cleanest way to get there.

Behind the push for legislative action by state officials is the potential for anti-trust action by the state or federal government.

But the case for deregulation doesn't have to depend on any court act. It can be passed on its merits by the Legislature.

[From the Boise (Idaho) Statesman]

EVANS AND TRUCKERS

Gov. John Evans handled himself well in his recent meeting with angry independent truckers. There's not much Evans can do to help the independents immediately, and the meeting was therefore short on solutions. But at least the governor let them know in no uncertain terms that while he sympathizes with their plight, Idaho will not tolerate violence, blockades or violation of state traffic laws. The governor was pleasantly assertive and we applaud that.

Evans also pointed out that an attempt was made to deregulate trucking in Idaho during the last legislative session. That effort failed. Where, we ask, were the independents with their parades and jawboning then, when advocates of deregulation needed their support?

The Idaho Motor Transport Association was certainly right there in the middle of things, howling like mad that deregulation would be bad for the trucking business and for the consumer. That's hogwash. The big carriers oppose deregulation not because it would be bad for consumers but because it would be bad for them, force them to compete. They're great on free enterprise so long as it doesn't apply to their business. Incredibly, the independents let them get away with bunkum like that.

The deregulation bill most likely will be back before the Legislature next year. We'd suggest that's when the independents should be in Boise parading around the streets. With a concerted effort, they could get that bill passed. Complaining's easy. Working to change the situation through the political process is more difficult. If the truckers are truly concerned, they'll be back to help deregulation through the Legislature.

[From the Fort Wayne (Ind.) News-Sentinel, June 27, 1979]

TRUCKERS FIGHT ON

The strike and other actions by the independent truckers may cause quick economic upheavals—some good and some bad.

The truckers have a number of complaints—the main one being the high cost of fuel. In that regard, the aim of bringing down prices is similar to that of the general public. If the truckers manage to cause problems for the petroleum industry and create a decline in gasoline and oil usage, there is a potential for a beneficial result. Nothing would bring down prices faster than a glut of petroleum products on the hands of oil distributors.

Other results of transportation interruptions, however, could be unpleasant. Shortage of food supplies would be the first to be felt—and is already in evidence in some localities. Wider economic problems and industrial production and job dislocations follow.

The feeling the driving public—truckers or otherwise—have been suckered by the oil industry is becoming pervasive. Some of the excuses, such as the daily quotas, don't add up. If service stations have daily quotas, why are they open only in the morning and closed in the evening. In a true competitive situation, some would see the advantage of adopting different hours. Some motorists say they have been told the stations only get supplies each day with so much gasoline; yet the delivery tank trucks obviously haven't increased many-fold in order to make daily deliveries. The simple truth is that the run-ups in costs of imported oil represent only a small portion of the gasoline price increases. The rest can be attributed to the greed of the shipping lines, the refiners, the distributors and the retailers.

It is unfortunate some of the independent truckers are confusing the main issue with demands for bigger trucks or exemptions from speed limits and other narrow goals. Such tactics will lose the truckers the sympathy of a wider public. It is interesting too that the truckers' actions come at a time when Congress is considering the deregulation of truck transportation and some other carriers.

The main aim of the deregulation is to reduce the inflationary impact of federal regulations. Regulation causes higher costs in trucking and high taxes. It is expensive for everyone. Peculiarly, it might seem to some, many trucking companies are strongly opposed to plans to deregulate the industry. They fear the increased competition and loss of profits. This odd attitude of some lobby groups should come as no surprise, however. For years, despite public pronouncements to the contrary, entrenched railroad interests actually pushed for regulations and government enforcement to hold down competition.

The independent truckers are not part of the entrenched interests. Their situation and aims are much closer to the general public which sees the advantages of open competition in the marketplace and the disadvantages of government policies which channel favors to influential big oil and shipping interests.

[From the Aurora (Ill.) Beacon-News, Mar. 17, 1979]

OURS: TRUCKERS DRIVE AT BENEFIT DEAL

There are disquieting reports out of Washington that the White House is holding back on legislation to deregulate the trucking industry because of current contract talks between the Teamsters and the industry.

We are told that the administration hopes the Teamsters will abide by the president's voluntary wage guidelines, which include a seven percent ceiling on annual increases in wages and benefits.

With the two-million member Teamsters union vehemently opposed to deregulation, the White House apparently believes that delaying introduction of the legislation might moderate the union negotiators' wage and benefit demands.

There is nothing new, of course, about such political tradeoffs.

The are the meat and potatoes of Washington politics.

And, if a modest delay in introducing the administration's deregulation bill could, in fact, induce the Teamsters to settle for a non-inflationary three-year contract, the public interest would be well served.

However, as the president and his aides cannot have but noticed, the Teamsters appear decidedly unmoved by the administration's stalling on deregulation.

It has been learned that the Teamsters are demanding a wage and benefit package that adds up to a whopping 71 percent increase over three years.

So much for observance of President Carter's seven percent per year voluntary guidelines.

Frankly, we never entertained any great hope that the Teamsters' traditional militance at the bargaining table would be bartered away for anything as transitory as a delay of a few months in the administration's laudable drive to deregulate the nation's trucking industry.

Nevertheless, it is hardly fair to rebuke the administration for trying. After all, the inflationary effects of a new Teamster contract anything like the one put forward by the union would be considerable.

These new inflationary pressures would far outweigh the deleterious effects of a brief delay in introduction and enactment of trucking deregulation legislation.

But now that the administration's strategy has proved barren, we see nothing to be lost by prompt introduction of the deregulation measure. Indeed, that is what we expect.

The only other possibility is that the administration might decide to scrap its deregulation proposal altogether in exchange for incremental moderation in the zeal with which Teamster negotiators pursue their 71 percent wage and benefit package.

We worry about this because it would be a deal the Teamsters might conceivably accept.

The Interstate Commerce Commission's regulation of the trucking industry shields Teamsters from the competitive pressures that help restrain wages in other industries.

Regulation is a golden goose for the Teamsters no less than for their protected employers.

Union negotiators might well be tempted to settle for much less than a 71 percent increase should the Carter administration quietly promise an indefinite stay of execution for their regulatory goose.

The Teamsters would be happy and the administration could claim a "victory" for the president's battered anti-inflation campaign.

Should signs of such a deal develop, Congress and the country ought to rise in indignation.

Washington's maladroit regulation of the trucking industry costs consumers up to $3 billion a year.

For the Carter administration to perpetuate this burdensome waste for the sake of an, at best, partial triumph in the Teamsters-industry negotiations would amount to a surrender of the public interest.

[From the Palatine (Ill.) Herald, July 2, 1979]

DEREGULATING TRUCK INDUSTRY THE ROUTE TO GO

Despite their political jousting on national health insurance and other issues, President Carter and Sen. Edward M. Kennedy managed to set aside their differences long enough the other week to join in proposing legislation to deregulate the trucking industry. The unusual cooperation results from their recognition that most federal trucking regulations do little else than contribute to inflation.

That, of course, was not the original intent of the regulations 44 years ago. Rather, it was to promote a fledgling trucking industry by preventing companies from underpricing one another and monopolizing the most lucrative routes. Through the years, though, government control over trucking grew to include nearly every aspect of the industry. The end result is an example of federal regulation gone wild:

Except for raw agricultural products, which are not regulated, the government restricts truckers to hauling certain commodities between specified points. A truck licensed to carry steel from Pittsburgh to Chicago, for example, may not haul a load of refrigerators back to Pittsburgh. That job must be handled by another trucker. And so the steel carrier returns home empty. An estimated 40 percent of all regulated trucks are empty at any time.

Truckers often are prevented from traveling the shortest distance between two cities. For instance, a company may be granted authority to travel from Denver to Albuquerque but only if it does so by way of Salt Lake City, a detour of 300 miles.

Anyone wishing to enter the trucking industry must seek an operating permit from the federal government. To receive permission, a company must prove that truckers already covering routes are not providing adequate service. To protect their routes from new competition, established companies can appeal both to the Interstate Commerce Commission and the courts. That often lengthy and expensive process is itself a discouragement to competition.

The legislation proposed by Carter and Kennedy would eliminate such inefficiencies and encourage competition, thereby reducing shipping costs that are passed along to consumers. The Carter administration estimates trucking deregulation could save consumers $5 billion a year.

Despite such a promise of savings, the deregulation proposal unfortunately faces a long and rocky road toward passage. Because the regulations limit competition and keep rates high, many truckers are content with the status quo. Another stumbling block is the powerful International Brotherhood of Teamsters, which fears that the greater efficiency created by deregulation would result in job losses for some members.

Congress would be smart to ignore such bellyaching and think more in terms of how trucking deregulation would help the general public. Although the savings is estimated at $5 billion a year, the actual amount, if airline deregulation is any guide, may be much larger.

[From the Arkansas City (Kans.) Traveler, Mar. 5, 1979]

TRUCKING INDUSTRY WANTS REGULATIONS TO CONTINUE

This nation's opposition to government regulation appears to be just about as consistent as our opposition to federal programs.

Namely, regulations are opposed by groups unless they benefit their pocketbook. Similarly, spending programs are opposed by everyone except those who they benefit.

The latest example of this political hypocrisy involves the trucking industry in the U.S.

Following the example of increased competition through fewer regulations in the airline industry, some persons have advocated decreasing regulation of the nation's truck lines which carry a majority of our manufactured goods to their final destination.

Presumably, those trucking firms would be so disgusted with federal regulations that they would be delighted at the prospects of being deregulated. Most of us would expect an adversary relationship between government regulators and the trucking industry.

But, if you have not noticed, trucking lobby groups such as the Kansas Motor Carriers Assn. are currently campaigning against deregulation. The KMCA has an advertisement running on television explaining how effective the current system of rate setting by government is.

So, individuals who probably go home at night and curse the television when governmental expenditures and interference is mentioned on the nightly news are also embracing the concept of governmental control when it benefits them.

We suspect the federal regulation of trucking operations is not an adversary relationship. We suspect truckers benefit from rate-fixing by the Interstate Commerce Commission. We suspect truckers fear the effects of competition.

Thus, the trucking lobbyists will be working hard to keep the status quo.

And, this nation continues to fail in its efforts to reduce government, reduce federal spending and reduce bureaucratic interference.

As long as each of us looks only at our own pocketbook, the governmental bog will continue.

[From the Wichita (Kans.) Eagle, June 18, 1979]

DEREGULATING TRUCKING INDUSTRY

Independent truckers hardly can be blamed for being upset about diesel prices, and the Interstate Commerce Commission made about the only logical move it could when it agreed to let regulated carriers tack a surcharge on shipped goods to help offset the high cost of fuel.

But it's a short-term solution at best. The action won't solve the root problems that have plagued the trucking industry, and it is certain to drive up prices to consumers who buy merchandise that has been shipped on trucks.

Unpalatable as it is to most truckers, one of the best way to get at the problems of higher overhead is to deregulate the trucking industry. Freed from the restrictive regulations, in many cases against their own will, the airlines are enjoying a surge in passengers and profits. If competition, spurred by deregulation, has helped the airlines, it can do the same for the truckers.

Unfortunately, the American Trucking Association, the industry's principal trade association, and the International Brotherhood of Teamsters—the nation's largest union with 2.3 million members—are militantly against deregulation.

President Carter and Sen. Edward Kennedy, D-Mass., have agreed to come up with joint legislation to deregulate the industry. It is expected to be announced this week. Details of that plan aren't known now, but it isn't likely to deviate a great deal from the Carter plan outlined earlier.

It called for immediate removal of "back-haul" restrictions, which prevent a truck from carrying cargo when it is returning to its original destination. It would be difficult to imagine a practice that wastes more diesel than that. But curiously, the industry is against deregulation.

The Carter plan would end routing restrictions, many of which require trucks to use longer, circuitous routes, by the end of 1981. This would save diesel fuel, but the trucking industry is against deregulation.

Deregulation also would allow trucking firms much more freedom in setting their own rates. This would foster competition, as it has in the airlines industry. A strong industry need not fear such freedoms.

The truckers have a legitimate complaint in higher fuel prices. All Americans are feeling that pinch. The best way to fight these and other problems is through the free hand of competition.

To eliminate waste and costly red tape, and to give the truckers a weapon to use against the relentless rise in overhead costs, the ICC, the administration and Congress should join in freeing the trucking industry of its regulatory ills. It will help the truckers whether they believe it or not, and it will help the consumers who buy the goods they haul.

[From the Louisville Times, July 2, 1979]

IT'S TIME TO STEER TRUCK LINES INTO THE FREE-ENTERPRISE SYSTEM

The Interstate Commerce Commission permits a trucking company to haul meat from Timberville, Va., to Florida. The truck must return empty.

Another trucker can serve Denver and Salt Lake City, which are 512 miles apart, but, must go via Phoenix and Flagstaff. That adds 630 miles to the trip.

The ICC allows yet another carrier to haul pineapples only if his truck is also carrying bananas. A company permitted to carry paint in two-gallon cans cannot haul it in five-gallon cans.

It's ridiculous, wasteful, costly—the kind of bureaucratic red tape the trucking industry should be screaming to have eliminated. Well, the industry is screaming all right, along with the Teamsters Union, but only to prevent anyone from disturbing the system that does these things, not to demand their elimination. They may not make sense. But they make money.

That's because freight rates for trucks that come back empty to Timberville, or travel 1,142 miles to go 512 miles, are set high enough to cover all the costs, plus pay a profit. The trucking industry, through 10 regional rate-making bureaus it finances, makes sure of it.

In most other businesses, of course, that kind of thing violates anti-trust laws. But in 1948, the railroad and trucking lobbies pushed a law through Congress allowing those industries to set their own rates. The only check on them was the industry-dominated Interstate Commerce Commission, which could refuse any rate it judged was not "in furtherance of the national transportation policy."

President Truman correctly called that "a vague and general standard," and insufficient reason for an anti-trust exemption, but Congress overrode his veto.

He was right. For three decades, the only check on the trucking industry has come from the railroad industry, its rival for control of the patsy ICC. Shippers added whatever rate they were told to, and the consumer paid the final bill.

The system hasn't done much to spur competition, of course. Although there are about 17,000 carriers licensed by the ICC, the giants of the business skim the cream. In each of 350 two-city markets in 1976, the four largest general freight carriers accounted for most of the business. That information came from the truckers' own rate bureaus, but Sen. Edward Kennedy had to threaten a subpoena to get them to give it up. They had refused to give the records to the ICC, which says a lot about just how tough the industry's federal regulator really is.

Although they are political rivals, President Carter and Sen. Kennedy have joined forces to seek to deregulate the trucking industry. They propose eliminating mandatory empty return trips, long-way-around routings and the other phony, expensive frostings in the industry. Such changes, said the President, would save huge amounts of fuel and cut consumer shipping costs by at least $5 billion a year.

But the most important feature of the bill is to steer the industry into the free enterprise system. The anti-trust exemption for cartel ratemaking would be eliminated and the doors opened to qualified competitors. That would include many of the hard-pressed independents who have been venting their frustrations on all of us. They are forced now to limit the number of shippers they can serve and are prevented from applying for common carrier licenses.

President Carter has begun the deregulation drive by appointing consumer-oriented people to ICC vacancies, rather than industry hacks. He used the same technique with the Civil Aeronautics Board, and it aided Senator Kennedy's drive for legislative deregulation of the airlines industry. That fat bird also resisted when the two men pushed it out of the federal nest. But to their surprise, the airlines not only did not fall under a competitive system, they are soaring. It's the truckers' turn now.

[From the Bay State (Mass.) Business World, June 27, 1979]

Memo From Monahan

SUBJECT: KENNEDY & TRUCKING REGULATION

Earlier this month, Senator Edward M. Kennedy spoke in Washington, D.C. to a conference sponsored by the National Federation of Independent Business, a national small business organization. He touched on many issues of interest to smaller businesses, an example of which is included in the excerpts reprinted below on trucking regulation which followed a section on the problems presented by large corporations. (A.M.M.)

But protection against corporate power is not enough. Protection against big government is also necessary. Small business knows, better than most, the stifling influence of endless government regulation. The burden is especially great for small businesses, because they can least afford the costs of compliance with a maze of complex and often contradictory requirements.

Between 1975 and 1978, the regulatory establishment more than doubled. It may cost American industry as much as $100 billion to comply with regulations. It may cost our economy as much as $50 billion in paperwork alone.

But no one can measure the additional costs in frustration to businesses trying to figure out the rules. One small business in Massachusetts spent over 1300 hours sending forms to different states and federal agencies.

Sometimes the frustration has a lighter side. A businessman wrote to Senator Culver that he had received a questionnaire which asked him "How many employees do you have, broken down by sex?" He wrote back: "None, our problem here is alcohol."

Economic regulations imposed by government are often self-defeating. They work against the basic principles of competition and free fair pricing. They work against small businesses trying to compete effectively in the market place by offering lower prices and better services . . .

For example, since 1935, we have regulated trucks. We have forced them to use listed routes. We have accepted the fiction that they must rely upon huge capital investments and need protection against wasteful competition. We have regulated their rates—not to keep them low but to keep them high—and thus to protect the monopoly value of their government licenses.

We have even gone so far as to legalize price-fixing behind closed doors, through rate agreements that would be a felony in other industries under the Sherman Act. But the trucking industry has an exemption from this most basic of all antitrust laws.

As a result, government regulation has effectively and systematically reduced competition in the trucking industry. And who gets hurt the most? Small businesses. They are frozen out.

Last month in committee, we heard testimony from the president of a small Massachusetts trucking company. He told us he had spent the last thirty years in a bottle. He says his company was frozen in the role of the small carrier—frozen by the I.C.C. itself. If he could ever make the I.C.C. understand, he says, he could provide better service at lower rates than other carriers.

Government regulation of trucking has two results—poorer service and more expensive service. Small trucking firms are prevented from competing. They are prevented from offering lower prices.

The way to ensure more service at lower rates—and lower prices for all consumers—is to rely more heavily on competition, free enterprise and the market place, rather than on the decisions of bureaucrats in Washington.

That's the way our system of free enterprise is supposed to work. And that's the way it can work again, if we are willing to do something about this present excessive regulation.

[From the Detroit News, Feb. 25, 1979]

Trucking and a Cutting Torch

The Carter administration's approach to the deregulation of the trucking industry reminds us of the demolition man perched on a bridge column 400 feet above the water, burning metal with a cutting torch ever so delicately, with a touch here and a touch there, hoping he can break off a 20-ton chunk without being pulled down with the piece.

The demolisher nibbles at the bridge because it has to be removed and the piece-by-piece method promises sure, eventual success for the persistent man. He knows that a huge charge of dynamite at the base of the column might have unexpected and unacceptable consequences.

Similarly, if deregulation can be partly accomplished by nibbling at the old rule book through administrative orders, then perhaps the White House should simply continue to nibble away—for the time being. This process will then set the stage for the legislative action that will be necessary to complete the job.

Sen. Edward Kennedy, D-Mass., is one of many legislators who recognize the eventual need for new laws in this area. He is ready to introduce a measure that would end the antitrust protections that permit truckers, in effect, to fix shipping charges.

There are compelling reasons for trucking deregulation. The consumer will gain two ways if the regulated truckers are plunged into the real world of free market competition after more than 40 years of ease and complacency nurtured in the hot house of government protection. They will be forced to compete for the market in the classic way—with sharp pricing and better service.

At the same time, deregulation supports both the energy and anti-inflation policies of government. Lower prices brought on by free market competition will help slow the rising cost of living because virtually everything we buy is moved at some point by truck. True, only part of the trucking fleet is regulated in Washington and the feds can therefore directly affect only that portion of the truck fleet. There is bound to be a ripple effect, however, and those ripples will be felt through the whole structure of the trucking industry.

Opponents of deregulation worry that free competition will destroy services to small towns. This isn't much of an argument. Small needs of small towns will be served with more efficient small trucks. If a village finds itself host to a major industry, it will have no transportation worries. Big truckers will come in on the instant, scrambling for every ton of that freight.

Last month, a ruling important to the energy policies of the country was made by the Interstate Commerce Commission (ICC). A Massachusetts box manufacturer, who carries his products to market in his own trucks, had been required to bring those trucks back from Georgia, empty. The order now allows him to load up with the biscuits of a Georgia company and come home fully laden.

Regulation, through the years, has been wasteful. Huge trucks run "deadhead"—that is, empty—all over the country because ICC regulations, written to protect the exclusive market of one trucker, forbid another to run down the same highway with a load.

The ICC has also decided in recent days that it will take price into consideration when it rules on applications from truckers seeking access to major routes. This decision is bound to wake up the moribund among established truckers.

Thus, two important policy changes are in place. The ICC will no longer force deadheading to protect another trucker's exclusive route and price competition will now be an important factor in route application cases.

It is regrettable that all the evident deficiencies in trucking cannot be corrected in one blow. But because the trucking lobby is big, rich, and persuasive on Capitol Hill, Mr. Carter's men can hardly be faulted for taking a "go slow" approach.

The movement to deregulate trucking deserves wide public support, because that support serves as oxygen and acetylene for the government's cutting torch.

[From the Pontiac (Mich.) Oakland Press, June 21, 1979]

Blame Feds for Strike by Independent Truckers

Oh, what a mess we make when first we seek to regulate.

With apologies to poets everywhere, that describes the protest by independent truckers against higher diesel fuel prices.

There is no need to elaborate here on the disruption those truckers are causing in Michigan and other states. Suffice it to say that they are blocking fuel distribution terminals. The end result is shortages of everything from gasoline to food products which are distributed by truck.

You can legitimately criticize the striking truckers on the one hand because they are trying to hold the rest of us hostage in order to win their demands.

That sort of thing inevitably leads to violence. And it imposes enormous costs on society in the form of lost work time, lost selling time and so forth.

But on the other hand, the truckers are as much victims as the rest of us.

They are victims of federal regulations.

Under a congressional mandate, the U.S. Interstate Commerce Commission (ICC) has regulated trucking freight rates for years. The trucker doesn't decide what his price is. The ICC does.

That works reasonably well when all prices are stable. A fair freight rate is determined. Truckers live with it. Everybody is happy.

But costs aren't stable now.

Prices of the diesel fuel used by most large trucks have gone the way of the price of gasoline. Fuel was 63.9 cents a gallon in January. Now it is 86.1 cents a gallon.

A motorist with a private car may gripe about the price of gasoline but, unless he uses his car a lot for his business, he can absorb the increase and get along.

Diesel fuel, however, is a cost of doing business for a trucker.

What the truckers are saying is that they cannot afford to absorb this year's price hike and continue to make a living.

The ICC finally did allow them to boost their rates by six percent to help cover the fuel costs.

Truckers say that isn't enough, though.

At the very least, the ICC could do for the truckers what most public service commissions do for public utilities; allow them to automatically "pass through" fuel price increases to customers.

It is rarely possible for any link in the chain of business to full absorb a major price increase and continue to operate. Profit margins are rarely high enough to allow that. The price of the end product almost inevitably has to reflect such things as increased costs of distribution.

All this would be so much simpler—there would have been no protest, no disruption—if the truckers were free to set their own rates.

That wouldn't mean they would like the high fuel prices. But at least they could try to recover them.

It might eventually turn out that the truckers' prices would be too high for some customers. Here and there freight might be hauled by railroads instead.

But there still would be plenty of business for trucks. Only 60 percent of Michigan communities are served by trains.

Understand that we cannot tolerate the blockading of fuel terminals. The governor must have the power to end it with the National Guard if necessary.

But also understand that none of this would have happened if the trucking industry had been deregulated.

Maybe this will make believers out of the congressmen.—Neil Munro.

[From the Winona (Minn.) News, Jan. 30, 1979]

Big Truckers Say: We Like the Regulations

Business is always telling you that government regulation is strangling it.

But here's a good example where business likes regulation. The American Trucking Association has been running big ads in big papers and magazines (and covering editors' desks with its propaganda) to throttle down the Carter administration's drive to deregulate the trucking industry.

It has an unsilent partner in this enterprise to continue stifling free enterprise. That's the Teamsters Union. But the trucking industry is a divided monster. The independent truckers are another breed; they don't like the government regulation that the association wants; they like the freer competition that deregulation would bring.

We asked a local industrial traffic manager what his reactions were to the American Trucking arguments, like its statement that "regulation doesn't stifle competition, three-quarters of all motor freight companies are small businesses, grossing under $500,000 a year. The top four companies account for less than 8½ percent of total industry revenues. Deregulation would result in the driving out of business or swallowing up of the small companies by the large, resulting in arbitrarily higher rates."

His reply:

"Under deregulation, the law of supply and demand may allow for more perfect competition."

The association attacks another "myth that regulation results in higher costs: From 1967 to 1977 the Consumer Price Index rose over 22 percent more than did the price for motor carrier service."

His reply:

"With more perfect competition possibly the price of motor carrier service would fare better."

The association answers the "myth" that "regulation creates empty backhauls and wastes fuel" with this ambiguous statement, "On the contrary deregulation would increase the number of trucks hauling the same amount of freight, thus creating excess capacity and using more fuel."

Compare that answer with its answer to the first "myth."

The traffic manager's reply to ATA:

"Deregulation probably would only shift the freight from Teamster-operated trucks to private and contract, or the smaller trucking company, explaining the ATA's reason for concern."

The trucking monopolists also might consider this opinion of the National Federation of Independent Business: More than two out of three of its members favor less control—A.B.

[From the Columbia (Mo.) Tribune, July 1, 1979]

Trucking Deregulation: Let Competition Set the Rates

The business of trucking is in the news. Independent operators are conducting sporadic strikes across the country in protest over rising costs and excessive government regulation. Interrupted shipments of perishable food products and fuel have caused near-emergency situations in some areas.

Meanwhile, Congress is taking up the controversial issue of trucking deregulation. The Carter administration is backing a bill introduced by Sen. Ted Kennedy to greatly reduce the amount of government control over routes and charges.

The issues are related. If regulation did not interfere with truckers' operations, rising costs could be reflected more readily in charges. Conversely, more open competition could be more of a factor in holding down costs.

As it is now, the government makes it hard for trucking companies to acquire new territories and impossible for anyone to undercut rates. Moreover, the rate setting is done largely by the truckers themselves through legal, regional cartels. The result over the years has been the development of what amounts to a series of lucrative franchises granted by the government to conglomerate trucking firms.

That it has turned out to be a sweetheart deal can be seen in the staunch opposition that deregulation is getting from both the large truck firms and the Teamsters union. The firms don't want their territories invaded, and the union does not want more competition from non-union drivers. As it is now, increasing costs—such as rising labor rates—can be used easily to justify rising charges. This kind of pass-through is approved quickly by the government regulators, and the public has to pay it. What a deal for the union. It no doubt has caused Teamsters rates to be higher than they would be if subject to direct competitive forces.

The experience with deregulation of the airline industry has been good. Increasing competition has brought rates down in many cases. The situation is very similar in trucking. We hope deregulation comes quickly.

[From the Springfield (Mo.) News, June 28, 1979]

Railroads and Trucking Split on Deregulation

It may come as a surprise, but in the United States the largest single percentage of freight moved is still transported by rail.

The nation's railroads, in 1978, moved 35.5 percent of the total goods moved by the modes of train, truck, pipelines, shipping and air.

Trucking is the second largest mover, with 26.8 percent. Oil pipelines moved 23.7 percent, ships and barges 15.8 percent and air (lumped together with "other" modes), moved only .2 percent.

Transporting goods from point of origin to point of use has become quite complicated and costly. So costly, in fact, that many officials of transportation organizations have been loudly complaining about the costs federal regulation adds to the transportation bill.

Proponents of deregulation of the trucking and railroad industries point to the apparent success of airline decontrol in October, 1978, and ask for similar government action.

Currently, President Carter and Sen. Edward M. Kennedy, D-Mass., have unveiled a joint proposal to limit government involvement in transportation. The bill would end the antitrust immunity for price-fixing that truckers now enjoy, knock down many barriers that prevent new trucking companies from entering the market, and would give carriers more freedom in setting rates and would lift many current restrictions on the kinds of freight trucks may haul. And all government control over shipping charges would terminate in 1985 when the authority of the Interstate Commerce Commission would end.

The prosperous trucking industry and the International Brotherhood of Teamsters are trying to defeat the Carter-Kennedy legislation; the financially hard-pressed railroads are largely in favor of the bill.

Will deregulation work as well for rail and trucking as it did for air transportation?

It is a difficult question to answer but, frankly, we doubt it. The web of rail and truck transportation is a complicated one, indeed, and the services the industry provide are too vital to the welfare of the nation to be left wholly unmanaged by the federal government to at least some degree.

However, the Carter-Kennedy deregulation package appears to be a fair compromise, promising the most relief while retaining a light hand on the reins. Any action that would reduce the cost of transportation would certainly be welcome to all segments of business—as well as the beleaguered consumer.

[From the Albuquerque (N. Mex.) Journal, June 24, 1979]

Free Market in Trucking

President Carter's proposal for phasing out federal regulation of the trucking industry, coming, as it does, in the face of a nationwide strike by independent truckers, was unveiled at a most opportune time.

And his initiative is directed aptly at the one industry in the nation that doesn't want deregulation: Its operators fear they cannot trust each other without the discipline of a heavy-handed federal referee.

In one of several very recent overtures toward reconciliation, Sen. Edward M. Kennedy, D-Mass., has agreed to sponsor the president's deregulation bill in the Senate.

Carter said the deregulation plan, to be phased in over a span of five years, "will restore the competitive spirit to the trucking industry, reduce inflation, minimize government regulation and save energy."

Administration spokesmen estimated that federal regulation of truckers is costing U.S. consumers $5 billion a year—approximately $100 annually for every family of four.

The plain for a slow but steady phase-out of regulations should be an adequate response to the dire warnings from the trucking industry and union teamsters of the bedlam that would accompany deregulation.

The administration's proposed removal of restrictions on "backhauls"—restrictions that require some trucks to travel empty on their return trips—could save both motor fuel and consumer costs. Repeal of the special immunity from anti-trust laws that permit regulated truckers, through their rate bureaus, to fix haulage, tariffs, should assure the renewed operation of free market forces.

Other features of the Carter-Kennedy proposal would ultimately end restrictions on routes traveled and the commodities to be carried, make it easier for new operators to enter new service markets, allow truckers, under some conditions, to raise or lower rates without approval of the Interstate Commerce Commission, and broaden the exemptions extended to the carriers of agricultural products and to farmer-owned cooperatives.

Partial deregulation of the airline industry has, in a relatively short time, favored the public with a wide range of competitive options and rate advantages. There is reason to believe that the same competitive benefits would be shared by patrons of a deregulated motor carrier industry.

[From the Las Cruces, (N. Mex.) Sun News, June 29, 1979]

TRUCKING DEREGULATION

It's hard to believe that the U.S. government is interested in fighting inflation and conserving fuel when its own regulations can force a truck bound from Denver to Albuquerque to go by way of Salt Lake City—a 300 mile detour. But that's the kind of costly and wasteful nonsense that occurs with the blessing of the Interstate Commerce Commission.

President Carter has now added deregulation of the trucking industry to the agenda of the 96th Congress. It should get a high priority to bring its benefits to bear as quickly as possible. The president estimates that over-regulation and lack of competition in truck transportation are costing consumers as much as $5 billion a year.

Among other things, the deregulation plan would allow easier entry into the trucking business, and provide greater freedom in raising and lowering rates. It would end many restrictions on what trucks can carry, permit them to take the most direct route to a destination, and lift the rules which often force trucks into long "deadhead" runs carrying no cargo.

The case for a free, competitive market in truck transportation speaks for itself, but major trucking companies and the Teamsters Union, which represents most of their drivers, are digging in for a fight. Deregulation would end route monopolies and the legalized price-fixing which protects established operators. On the other hand, the president's plan is supported by independent truck operators who stand to gain from being able to compete more directly with the bigger companies.

This poses the kind of clash between special interests which can immobilize Congress. If the lawmakers would look beyond the lobbyists to the public interest, however, they will see the necessity for dismantling an intricate and outmoded regulatory system which is perpetuating costly inefficiencies in the hauling of freight.

[From the Buffalo (N.Y.) News, June 22, 1979]

FREE THE RIGS FOR TRUCKING

President Carter's proposals to Congress for partially deregulating the trucking industry will not provide an immediate answer to the spreading protests and disruption caused by independent truckers. The program still must be debated and approved by Congress before taking effect, a process that will presumably consume weeks or even months.

Unquestionably, however, Mr. Carter has taken a welcome if belated step in the right direction. Deregulation would free truckers to rely less on the crutch of countless federal rules and more on their own entrepreneurial instincts in developing and serving their customers.

Our major question here is whether the presidential plan—which focuses on easing geographic limitations on where truckers can go, and the restrictions on what loads they can carry—ventures far enough. At first glance it appears less bold than a recent alternative suggested by Sen. Edward Kennedy. Our main regret is that this Carter move was delayed so long. Deregulation has benefited both consumers and carriers in the airline industry, and the latest proposals could yield equally constructive benefits in trucking. Indeed, had there been less red tape in recent years, the current chaos among independent truckers, many of them small owner-operators, might have been averted or lessened.

In an unregulated climate, it would at least not have been the federal Interstate Commerce Commission that for so long made it difficult for the independents to pass along their higher costs from the scarcity and rising prices of diesel fuel to their customers, many of them the large interstate carriers which are so awkwardly regulated now. In fact, deregulation could assist the independents to become more competitive with those same major carriers. But at least competition and economic realities would be governing the industry rather than an ICC administering clumsy, complex rules.

If many of the frustrations bothering the independent truckers are understandable, however, the tactics of violence and blockades employed by some of them across the nation's transportation corridors are not. It is difficult to believe that any independents really think rotting meat, dumped milk, spoiled vegetables and shooting at other drivers, who also must earn a living, win public support. "It's ridiculous," said a driver hauling meat, "when a guy has to carry a gun to make a living."

For the long haul, deregulation affords a convincing, constructive response to an over-governed industry trying to cope with dramatic changes in basic economic conditions. Fewer rules could also benefit consumers and help fight inflation. For the short run, the ICC needs to proceed as far as it responsibly can under existing law to soften these regulations, thus allowing truckers to pass along reasonable higher business expenses while promoting greater competition. As for lawbreakers on the road, they should be prosecuted for acts of violence that are intolerable in a society where might must not make right.

[From the Glenns Falls, (N.Y.) Post-Star, July 2, 1979]

TRUCKING DEREGULATION: IT'S IN PUBLIC'S INTEREST

It's hard to believe that the U.S. government is interested in fighting inflation and conserving fuel when its own regulations can force a truck bound from Denver to Albuquerque to go by way of Salt Lake City—a 300-mile detour.

But that's the kind of costly and wasteful nonsense that occurs with the blessing of the Interstate Commerce Commission.

President Carter has now added deregulation of the trucking industry to the agenda of the 96th Congress. It should get a high priority to bring its benefits to bear as quickly as possible. The President estimates that over-regulation and lack of competition in truck transportation are costing consumers as much as $5 billion a year.

Among other things, the deregulation plan would allow easier entry into the trucking business, and provide greater freedom in raising and lowering rates. It would end many restrictions on what trucks can carry, permit them to take the most direct routes to a destination, and lift the rules which often force trucks into long "deadhead" runs carrying no cargo.

The case for a free, competitive market in truck transportation speaks for itself, but major trucking companies and the Teamsters Union, which represents most of their drivers, are digging in for a fight. Deregulation would end route monopolies and the legalized price-fixing which protect established operators. On the other hand, the President's plan is supported by independent truck operators who stand to gain from being able to compete more directly with the bigger companies.

This poses the kind of clash between special interests which can immobilize Congress. If the lawmakers would look beyond the lobbyists to the public interest, however, they will see the necessity for dismantling an intricate and outmoded regulatory system which is perpetuating costly inefficiencies in the hauling of freight.

[From the New York News, June 22, 1979]

FIVE-YEAR PLAN

The long-awaited plan for deregulating the trucking industry has been launched with appropriate ruffles and flourishes by the White House. As a whole, it is a commendable effort.

President Carter recommends a five-year phaseout of government controls, beginning with an immediate lifting of restrictions on "backhauls." At present, trucks travel empty 20 percent of the time—wasting barrels of costly fuel—because of limits on what they can and cannot haul.

The plan would relax the rigid rate-making system. In addition, all curbs on what goods truckers may carry, and the routes they must follow, would be abolished by the end of 1983.

A powerful industry lobby is set to do battle on each and every reform. Big truckers predict calamity and chaos if they are driven from the friendly, protective shelter of the Interstate Commerce Commission.

The airlines said the same thing about deregulation. But with lower fares luring in more passengers, the carriers have found they can live pleasantly—and profitably—without Big Brother's benevolence.

According to government estimates, the present maze of trucking controls adds $5 billion to shipping bills, an extra expense consumers eventually pay.

That waste is an extremely powerful argument in favor of the kind of regulatory retreat from the highways that Carter has proposed.

In another matter involving truckers, the administration is trying to appease the independent operators who are waging a kind of economic guerrilla war to protest fuel shortages and rising prices. The government is moving to make more diesel fuel available, and an emergency 6 percent rate boost has been offered.

However, it remains to be seen whether the rambunctious truckers will be satisfied with the response to their more legitimate complaints. Many seem dead set on extorting other concessions, including higher load limits and a for-truckers-only national speed limit of 65 miles per hour.

To back those selfish demands, the militants have resorted to shooting, assaulting and threatening drivers who don't support their cause. Perishable foods are rotting on farms because of trucker boycotts, and movement of gasoline disrupted by public-be-damned blockades.

Truckers are entitled to an even break. But state and federal authorities must be prepared to use whatever measures are necessary to counter violence and extortion, and they should not under any circumstances yield to demands for special privileges.

[From the Rochester (N.Y.) Times Union, June 22, 1979]

FOOLISH TO DECONTROL OIL AND NOT TRUCKING RATES

With the benefit of hindsight, we can see that it was foolish to deregulate the price of gas and oil without at the same time deregulating the price of things that depend on fuel—such as trucking.

Because of that mistake, independent truckers who must take their expenses out of their pay checks find their expenses mounting and their take-home pay falling. Not satisfied with a 6 percent increase in rates granted by the Interstate Commerce Commission, they seek to dramatize their discomfort by discomforting us all.

The effects have not yet come home to this community or to consumers generally, although we may soon feel some inconvenience, particularly at the grocery store.

On the other end of the pipeline, though, there is more than inconvenience. Livelihoods are at stake.

Some farmers whose truck crops are ripe, whose livestock is fat, whose milk is in the can, cannot move their income-producing goods to market.

Some service station operators cannot operate because their supplies have been blockaded. Some factories and businesses that depend heavily on truck deliveries have laid off workers.

And truckers who do not wish to strike (many work on salary and their employers buy the fuel) have been intimidated and fired on. Already, one is dead because he chose to keep his rig rolling.

President Carter and some governors have recognized the situation for the emergency it is and have ordered the FBI, state police and National Guard units to patrol the highways and conduct truck convoys.

Indeed, the sternest measures are justified, because we cannot allow the nation's economy to be brought to a standstill by a relative handful of truck drivers.

Further, their demands are in part unjustified. They want permission to run at wastefully high speeds. They want states to lift load limits which are intended to keep highways from being pounded into rubble prematurely.

We can't let them bulldoze us into such foolish actions. The public cost would be greater than the public gain.

However, truckers should have nationwide weight and load standards, not different ones in various states. And we should make sure that the 6 percent increases in their rates does in fact cover the higher cost of fuel.

For the longer term, however, the solution is deregulation. Let the truckers charge what they can get and when the price of fuel goes up let them raise their rates themselves without throwing the nation into disarray.

President Carter is making just such a proposal. His plan, it is reported, is to end the federal price-fixing and limitations on the goods which each trucker can carry.

The greater efficienices and competition would save consumers some $5 billion a year, the administration believes.

Unfortunately, these steps would take five years under Mr. Carter's plan. If rate regulations were raised tomorrow, the truckers no doubt would be on the road by nightfall.

Truckers should be allowed a fair wage for their work, but they shouldn't be allowed to threaten livelihoods and sound public policy.

[From the Watertown, (N.Y.) Times, June 22, 1979]

TRUCK DEREGULATIONS

Congress should give immediate attention to President Carter's proposals to deregulate the trucking industry. The current strike by the independent truckers reflects to a degree the problems and difficulties created by an over-regulated business. However, even should the truck stoppage be ended soon, the changes the President has advanced must be examined and, where possible, adopted.

Deregulation will not come easy. The major truckers, long protected by many of the rules, will surely mount an intense lobbying campaign to retain all those features that have given them undisputed control of the highway freight-moving business.

The mass of regulations in the trucking industry is costing Americans almost $5 billion a year. If changes would slash that amount in half, they would be worth the effort.

There are many regulations which affect the public's pocketbook. Among the worst are the federal restrictions on "back-hauls," the loads truckers would like to carry on their return trips. At present, thousands of these huge vehicles return empty after having delivered their assigned load. This deadheading represents a huge waste of time and money, affecting both the trucker and the consumer. An idea of how much deadheading there is has been offered by the Interstate Commerce Commission which says that more than 20 percent of all truck miles are driven empty because of these regulatory restrictions.

Other regulations that ought to go are those restricting routes and commodities. Some freight lines must now go hundreds of miles out of their way to serve communities. And the business of one trucker permitted to haul two-gallon cans of paints but not five-gallon cans or to haul pineapples but only if they are mixed with a load of bananas must be ended.

Truckers applying to offer new services ought to be given far quicker approval then they get now. The Congress should throw out the procedures which drag these applications on, sometimes for years, while the applicants try to show that the service is "required" for the public's convenience and necessity.

There are more changes Mr. Carter wants, and at first glance they appear reasonable. Certainly farmer-owned cooperatives with trucks should be allowed to carry at least half their total cargo for non-farmers, another feature which would cut back on deadheading.

These changes will add a healthy competitive element regardless of how the industry may object. There will still be plenty of room for profits while at the same time giving the consumer a break in reduced prices.

But none of these improvements will be achieved unless Congress takes Mr. Carter's proposals seriously.●

PLANS AND PROJECTS AFFECTING THE TERRITORIES AND POSSESSIONS OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1119, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 1119) to direct the Secretary of the Interior to report to the Congress on plans or projects affecting the territories and possessions of the United States, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with amendments.

The PRESIDING OFFICER. The time for debate on this bill is limited to 1 hour, to be equally divided between and controlled by the Senator from Washington (Mr. JACKSON) and the Senator from Oregon (Mr. HATFIELD), with 30 minutes on any amendment with the exception of an amendment to be offered by the Senator from Ohio (Mr. GLENN), on which there shall be 1 hour, and with 20 minutes on any debatable motion, appeal, or point of order.

The Chair recognizes the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the time allotted to the Senator from Washington (Mr. JACKSON) be assigned to the Senator from Hawaii.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill, as thus amended, be treated as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, line 2, after "permission" insert "by any agency or instrumentality of the United States to any person";

On page 2, line 6, strike "United States by any agency or instrumentality of the";

On page 2, line 10, after "granted" insert "nor may any such transportation or storage occur";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That prior to the granting of any license, permit, or other authorization or permission by any agency or instrumentality of the United States to any person for the transportation of spent nuclear fuel or high-level radioactive waste to or for the storage of such fuel or waste on any territory or possession of the United States, the Secretary of the Interior is directed to transmit to the Congress a detailed report on the proposed transportation or storage plan, and no such license, permit, or other authorization or permission may be granted nor may any such transportation or storage occur unless the proposed transportation or storage plan has been specifically authorized by Act of Congress: *Provided,* That the provisions of this Act shall not apply to the cleanup and rehabilitation of Bikini and Enewetak Atolls.

For the purpose of this Act, the words "territory or possession" include the Trust Territory of the Pacific Islands and any area not within the boundaries of the several States over which the United States claims or exercises sovereignty.

UP AMENDMENT NO. 484

Mr. MATSUNAGA. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) proposes an unprinted amendment numbered 484:

On page 2, line 4, after "radioactive waste" and before "to" insert "for interim, long-term, or permanent storage".

Mr. MATSUNAGA. Mr. President, the amendment which I have submitted is technical and acceptable on all sides. The purpose of the amendment is to clarify that the legislation addresses only transportation associated with the storage of spent nuclear fuel. There apparently is some concern that the present language is not sufficiently clear, and the amendment will resolve that. The bill which this measure contemplates to authorize any proposed storage facility could include any transportation associated with such facility.

Mr. McCLURE. Mr. President, the minority fully supports the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. MATSUNAGA. Mr. President, it is with a sense of urgency that I rise to urge passage of S. 1119, a bill to direct the Secretary of Interior to report to the Congress on any proposal for the transportation to or the storage of spent nuclear fuel on any territory or possession of the United States, and to require the specific authorization of the Congress for the implementation of such a proposal. This legislation was introduced on May 10, 1979, by the distinguished Senator from Idaho (Mr. McClure), along with myself, Senator Jackson, Senator Hatfield, Senator Johnston, and Senator Church. Senator Bradley has since been added as a cosponsor of the bill.

Mr. President, introduction of the pending bill was prompted by an article which appeared in the Washington Post on March 28, 1979, entitled "U.S. Proposes Storing Spent Nuclear Fuel on Pacific Isle." The article related that the United States had proposed to the Government of Japan the use of a U.S. owned Pacific island territory for the storage of spent nuclear fuel.

As a Senator whose State lies in the middle of the Pacific Ocean, I was shocked with disbelief that I had not been informed by the administration about the possible storage of nuclear wastes in the Pacific, a proposal which certainly could have a profound impact on the State which I represent. I was also deeply concerned, as were many other members of the Energy and Natural Resources Committee, that the Congress, and the committee specifically, had not been officially notified, properly or in a timely fashion, of the Pacific island storage proposal and the negotiations with Japan already undertaken by the Department of State.

Shortly after the Washington Post reported the story, the chairman of the Energy and Natural Resources Committee (Mr. Jackson) requested and received from the Secretaries of State, Interior, and Energy, reports on the nuclear fuel storage proposal and negotiations. Let me highlight briefly the responses from the executive departments.

Secretary of State Cyrus Vance explained to Chairman Jackson that the administration is pursuing the concept of international spent fuel storage to deal with the accumulation of spent nuclear fuel projected to occur worldwide, and to do this in collaboration with other nations in ways to make the nuclear fuel cycle more proliferation resistant. Importantly, Mr. President, the Secretary assured our committee chairman that no major step would be taken on the proposal without consulting the Energy and Natural Resources Committee and other interested Members of Congress, and, as appropriate, without seeking congressional approval.

Secretary of the Interior Cecil Andrus, whose Department has administrative responsibility over the affairs of the U.S. territories and possessions, informed Chairman Jackson that the Department of the Interior had no prior knowledge of the proposal.

And, Secretary of Energy James Schlesinger, whose Department has statutory responsibility to keep the Congress fully and currently informed of all nuclear affairs of the Federal Government, explained that the Department of Energy had provided technical support to the Department of State under its authorized international spent nuclear fuel program in pursuing the proposal for an international storage site on a U.S. territory in the Pacific.

Mr. President, I ask unanimous consent that copies of the correspondence between the chairman and the Secretaries of State, Interior, and Energy, together with their responses be printed in the Record and appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATSUNAGA. Mr. President, on June 5, 1979, the Energy and Natural Resources Committee conducted a hearing on S. 1119, which, at the request of the Department of State, was held in executive session. At that time, administration officials provided the committee with a briefing on the Pacific nuclear waste storage proposal and a detailed account of the decisionmaking process which led to the administration's failure to notify the Congress of the proposal. Testimony was received that the Pacific storage proposal and the negotiations with Japan were in "very preliminary stages," and, therefore, it was decided that Congress would be notified at a later date. The administration officials were of the opinion that there was no legal requirement to notify the Congress of any plans of this type until such time as an authorization for the actual expenditure of funds was needed for the repurchase, transportation, and storage of spent nuclear fuel on the U.S. Pacific island chosen as the repository site.

Mr. President, in my view, and that of the Energy and Natural Resources Committee, the explanation provided by the administration for its failure to properly notify the Congress is just not acceptable. The fact of the matter is that the Departments of State and Energy totally disregarded their clear responsibilities to report to the Congress on matters such as this.

In view of the fact that the Energy and Natural Resources Committee has jurisdiction over both nuclear storage matters and territorial and insular affairs, the Department of State, which is the lead agency in this matter, should have properly advised the committee of the details of the Pacific storage proposal and the ongoing negotiations with Japan.

The Department of Energy, under existing statutory authority, should have kept the Congress and the committee fully and accurately informed of its involvement in the nuclear waste storage proposal.

And, very importantly, the Department of the Interior, as the agency with administrative authority over the affairs of the U.S. territories and possessions, should have been informed of the action being taken by the Departments of State and Energy involving U.S. possessions, and, in turn, kept in close communication with the Senate committee on the implications of the nuclear storage proposal on any U.S. territory.

Mr. President, on behalf of the Energy and Natural Resources Committee, I would like to emphasize that our concerns, as expressed in S. 1119, do not in any way reflect an opinion with respect to the goals and objectives of the Nuclear Non-proliferation Act of 1978, nor is the concern designed to limit in any way the conduct of negotiations by the administration pursuant to that act. Furthermore, I want to emphasize that it is not the intention of the committee to make any judgment on the feasibility or desirability of the use of island storage for spent nuclear fuel.

The committee's concerns expressed in S. 1119, are these:

First. The failure of the administration to notify and inform the Congress of the Pacific island storage proposal.

Second. The apparent insensitivity on the part of the administration to the concerns of the people of the U.S. territories and possessions and the entire Pacific community.

In response to these concerns, S. 1119 is designed to guarantee that the Congress is properly informed on matters involving nuclear waste storage in the U.S. territories, and to assure the people of the Pacific area that the United States will not sanction or approve any proposal for island storage of spent nuclear fuel without full public disclosure of the site and open consideration and formal approval by the Congress.

Mr. President, it is quite evident that the people of the U.S. Pacific territories and the entire Pacific community are very, very concerned about nuclear policies—and they have every cause to be. While we in the continental United States have only recently experienced a potential nuclear tragedy here at home, at Three-Mile Island, the people of the Pacific have lived with the reality of nuclear tragedy for more than 30 years.

Let us not forget that the Pacific Islanders of the Bikini Atoll in the Marshall Islands may never be able to return to their island homes because of the high levels of radiation that remain in the island after it was used as a nuclear test site in the mid-1950's. Other Pacific islanders will suffer for the rest of their lives from radiation-related sicknesses received as a result of nearby U.S. nuclear weapons testing.

Mr. President, to these unfortunate people and many others in the Pacific, the administration's proposal to build a nuclear waste storage facility in the Pacific reflects, I believe, America's apparent lack of understanding of the Pacific people and an insensitivity to their devotion to their land and sea, and to their dark nuclear legacy which continues to haunt their dreams for the future.

As my colleagues know, Mr. President, considerable attention has been focused in recent weeks on the authority and responsibility of State governors for the protection of their citizens from the risks posed by storage of spent nuclear fuel in their States. The members of the Energy and Natural Resources Committee strongly believe that the American citizens and nationals in the U.S. territories and possessions are entitled to the same consideration and protection. As my colleagues know, the territories do not have the full authority that States have over matters involving nuclear energy. The fact is that the inhabitants of the U.S. territories and possessions have limited authority over their own affairs. They are totally dependent upon the Department of the Interior, which has administrative authority over the affairs of the territories, and on the Congress as a whole, for the protection of their interests.

Mr. President, the Congress, under the Constitution, has a special responsibility for the welfare of those living in the U.S. territories and possessions. In order to fulfill that important responsibility, the Congress must have clear statutory authority over nuclear waste storage proposals involving U.S. territories. S. 1119, as reported unanimously by the Energy and Natural Resources Committee, would provide such authority. I, therefore, urge favorable consideration of this legislation.

EXHIBIT 1

U.S. SENATE,
March 28, 1979.

Hon. CYRUS R. VANCE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: I am writing concerning an article which appeared in this morning's Washington Post entitled "U.S. Proposes Storing Spent Nuclear Fuel on Pacific Isle". The article indicates that the State Department has been conducting negotiations with the government of Japan for the storage of spent nuclear fuel on American-owned islands in the Pacific.

I am writing to express my concern and displeasure that such negotiations would be conducted without any notification to this Committee. I am extremely concerned over one statement in the article that "A number of American islands are being studied as the possible site for spent fuel storage, some inhabited, some uninhabited. Administration sources said." I find that statement extremely disturbing and I would appreciate receiving as quickly as possible, a complete and comprehensive review of the entire negotiations, including copies of any and all documents. I would also appreciate receiving an explanation of what islands were and are being considered and what if any discussions were held with the inhabitants of such islands, as well as an explanation of why your Department presented such a proposal without notifying this Committee.

If you have any questions concerning this letter, please contact Mr. James Beirne, counsel for the Committee, at 224-2564.

Sincerely yours,
HENRY M. JACKSON,
Chairman.

SECRETARY OF STATE,
Washington, D.C., April 5, 1979.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate.

DEAR MR. CHAIRMAN: In response to your letter of March 28, 1979, regarding an article in the *Washington Post* entitled "U.S. Proposed Storing Spent Nuclear Fuel on Pacific Isles," let me emphasize that our recent discussions with the Japanese were preliminary.

As you know, the Nuclear Non-Proliferation Act of 1978 (Section 104) specifically asks the President to "institute prompt discussions with other nations" looking toward the establishment of spent fuel repositories "under effective international auspices and inspection." The Administration is pursuing the concept of international spent fuel storage to deal with the accumulation of spent fuel projected to occur worldwide and to do this in collaboration with other countries in ways which make the nuclear fuel cycle more proliferation resistant. Of course, no major step would be taken on this issue without consulting you, your committee and other interested members of the Congress, and, as appropriate seeking congressional approval.

In our February meeting with the Japanese we were seeking their comments on an interagency study which examines aspects of an international interim spent fuel storage facility in the Pacific Basin area and to begin to engage them in an examination of the concept. The study performed under the aegis of the NSC Ad Hoc Group on Non-Proliferation which is chaired by State includes preliminary technical and economic considerations and an initial environmental survey of one of the few sites considered as a possible location in the Pacific Basin for such a facility. The sites currently under consideration are undisputed U.S. territories, either uninhabited or having no indigenous population, and do not involve any location in the Trust Territories of the Pacific Islands.

I understand that Mr. Dreyfus, Committee Staff Director, and other staff were briefed last Thursday by officials of this Department and of DOE and ACDA, and that a more detailed briefing is scheduled for next week. We further understand that a set of documents related to this effort has been supplied to you on a confidential basis by DOE. If you or your staff have further questions about this matter, please do not hesitate to let us know.

Sincerely,
CYRUS VANCE.

UNITED STATES SENATE,
Washington, D.C., March 28, 1979.

Hon. CECIL D. ANDRUS,
Secretary of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: I am writing concerning an article which appeared in this morning's Washington Post entitled "U.S. Proposes Storing Spent Nuclear Fuel on Pacific Isle". The article indicates that the U.S. has proposed to the government of Japan the use of several United States islands "some inhabited and some uninhabited" for the storage of spent nuclear fuel.

I would like to express my deep concern and displeasure that I and this Committee were informed of this proposal through the Washington Post. I assume, since your Department has the responsibility for all inhabited U.S. possessions in the Pacific, as well as most of the uninhabited insular areas, that you have been involved in the negotiations and the development of this proposal. I find it inconceivable that this Committee has not been notified, even after the article appeared in the paper.

I would appreciate receiving, as promptly as possible, a comprehensive review of the decision-making process which led to the selection of the potential islands, a description of the islands, and what, if any, discussions were held with the inhabitants of the islands, together with any and all documents pertaining to the negotiations and an explanation of why this Committee was not consulted.

If you have any questions concerning this letter, please contact Mr. James Beirne, counsel to the Committee.

Sincerely yours,
HENRY M. JACKSON,
Chairman.

SECRETARY OF THE INTERIOR,
Washington, D.C., March 29, 1979.

Hon. HENRY M. JACKSON,
Chairman on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Like you, I too was informed of the proposal to store spent nuclear fuel on a Pacific Isle through the Washington Post. My Department does have responsibility for U.S possessions in the Pacific, therefore, you can understand that my reaction was much like yours when I read the headline.

I had no knowledge of it. The Under Secretary had no knowledge of it. The Director of the Office of Territorial Affairs had no knowledge of it. Dr. Menard, Director of the U.S. Geological Survey, who is one of the world's leading scientists with regards to the Pacific had no knowledge of it. I cannot therefore supply you any background on the decision-making process.

Sincerely,
CECIL D. ANDRUS,
Secretary of the Interior.

U.S. SENATE,
Washington, D.C., March 29, 1979.

Hon. JAMES R. SCHLESINGER,
Secretary, Department of Energy,
Washington, D.C.

DEAR MR. SECRETARY: On March 28, the Washington Post reported that the United States Government had proposed to Japan that the two governments conduct studies of various Pacific Islands as potential depositories for nuclear wastes from Asian countries. According to the article, negotiations have been under way for some time.

As you are aware, the Senate Committee on Energy and Natural Resources has jurisdiction not only over nuclear waste disposal programs but also over the territorial affairs of the United States. Such a proposal has profound policy implications for both areas, however, as far as I can determine no effort has been made to advise the Committee of this matter.

I am particularly concerned over the very grave issues of territorial responsibilities which may be involved in such a study.

I remind you of your statutory responsibility to keep the Congress fully and currently informed concerning the nuclear affairs of your Department. I hope that you will immediately take steps to inform the Committee of the complete history of any and all discussions which have been held with foreign entities concerning waste disposal in U.S. territories and the status of any studies presently under way.

Your staff can contact Dr. Dreyfus, Staff Director of the Committee for further discussion of this matter.

Sincerely yours,
HENRY M. JACKSON,
Chairman.

DEPARTMENT OF ENERGY,
Washington, D.C., March 29, 1979.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of March 29 concerning Department of Energy (DOE) activities relating to possible spent fuel storage in the Pacific Basin.

The DOE has been involved in providing support to the NSC Non-Proliferation Ad Hoc Committee, which directed studies of Pacific Basin storage. DOE's principal involvement was providing technical support under its authorized international spent fuel storage program in pursuing these possibilities, in particular with reference to one island, an unincorporated U.S. territory.

I regret that you and other Members of the Committee, as well as Committee staff, were not informed in a timely manner on this study since we are committed to and continually making the effort to keep you abreast of the many responsibilities on which we are working.

Accompanying this letter is a comprehensive book (classified Confidential) containing all information on DOE involvement in this matter. If you or your staff have further questions about the Department's involvement, please contact John Deutch.

Sincerely,

JAMES R. SCHLESINGER,
Secretary.

Mr. McCLURE. Mr. President, I am pleased, as the original sponsor of this legislation with several of my colleagues on the Energy Committee, to present this bill to the Senate at this time.

S. 1119 presents to the Senate a very simple and direct issue regarding the rights of the several peoples of U.S. territories and possessions. The bill would insure, as a matter of law, that no administration proposal to locate a nuclear spent-fuel or waste repository in the U.S. Pacific basin could be implemented, unless the proposal has been adopted in an act of Congress. Importantly, the bill does not take a position pro or con on the issue of such a proposal, and nor do I at this time. Rather, S. 1119 simply establishes a procedural requirement that Congress must affirmatively approve and authorize any such proposal in subsequent legislation. This procedure provides the important due process safeguards necessary to protect the rights of the populations in the territories and possessions of the United States, where such a storage facility might be located.

This legislation is a direct response to a series of unfortunate and saddening efforts by the administration to ignore the legitimate concerns and rights of the populations in the territories and possessions. This series of events is discussed in detail in the committee's report on this bill. Basically, the thrust of that discussion is that the Departments of State and Energy have been embarked over the last year in an effort to avoid all administrative and congressional procedures relating to a supposedly high-priority nonproliferation initiative. In the name of nonproliferation policy, the State Department with the assistance of the Energy Department has negotiated an informal understanding with the Japanese Government by which this country would agree to accept and store Japanese-origin nuclear spent fuel in a storage facility located in the U.S. Pacific basin. This offer to store the Japanese nuclear spent fuel is proposed as part of a larger accommodation involving Japanese forebearance from having the spent fuel reprocessed in Europe or Japan. Also, these understandings on spent fuel would be part of a larger potential accommodation involving a joint United States, Australian, and Japanese centrifuge enrichment arrangement, and other multinational or international arrangements for the future Japanese nuclear fuel cycle. I do not intend to discuss the merits or shortcomings of such proposals at this time.

All of this activity has gone forward without any effort to inform the Congress regarding the Pacific Basin storage facility, nor any effort to involve in an affirmative manner the populations of the Pacific Basin in the decision process relating to that storage facility and the transportation of foreign spent fuel to and from it. In fact, it is not unfair to say that the entire effort on the Pacific Basin storage, prior to a March 28, 1979, Washington Post article entitled "U.S. Proposes Storing Spent Nuclear Fuel on Pacific Isle," was in the nature of a "covert or clandestine operation." After the article in the Post, the committee requested that the Department of Energy provide all relevant files and memorandums on the proposal. A review of the Department's memos clearly documents that the administration consciously and intentionally chose not to inform the Congress, representatives of the U.S. Pacific Basin populations, nor the appropriate officials in the Department of Interior, who administer Federal responsibilities in those areas. Apart from any specific views which we may have on the importance or the advisability of the proposed facility, these actions by the administration were unconscionable in terms of the special responsibilities which the U.S. Government has for the native populations in the Pacific Basin.

It also is absolutely clear at this point that the administration has every intention of going ahead with a Pacific Basin storage facility in the near future. Survey teams have already visited at least one island and are in the process of visiting several other island candidates for location of the facility. The administration has continued these activities in the face of the strong congressional interest and concern expressed by the Energy Committee in public and closed hearings and without any apparent attempt to deal candidly and forthrightly with the legitimate concerns and rights of the Pacific Basin population. Rather, administration officials continue to argue that they have no statutory responsibility now to affirmatively involve the Congress or those populations in their planning process.

The administration and some congressional supporters of the nonproliferation initiatives have claimed that the special congressional review and concurrence procedures established by my amendments under the Nuclear Non-Proliferation Act of 1978, the Atomic Energy Act of 1954, as amended, and the 1978 Department of Energy Authorization Act for storage of foreign nuclear spent fuel in the United States are sufficient to preserve the prerogatives of the Congress and protect the rights of the native populations.

Our experience to date under those specific provisions suggests exactly the contrary result. In fact, were it not for the Washington Post article in March, the Congress at this very moment would not know about the proposed storage facility. In fact, were it not for that article, the populations in the Pacific Basin would not know about the proposed facility. In fact, the only people in the Pacific Basin who would have any idea about the proposed facility would be the representatives of the foreign governments in Japan, Australia and others involved in the nonproliferation initiative.

Not only are those conclusions of fact which I have stated, but the administration continues to claim that, as a matter of law, despite all of the requirements in existing laws for notification, review and concurrence by the Congress, the administration has no obligation to even inform us now of what activities are under way with regards to the proposed facility. Consequently, it is absolutely clear to this Senator, and to the members of the Energy Committee who have carefully and thoroughly reviewed all of the evidence in open and closed hearings, that this administration must be checked in its headlong rush to thrust that storage facility on the Pacific Basin populations.

We must have a statutory requirement for a subsequent act of Congress to insure that this administration proceeds with full recognition and acknowledgement of the legitimate rights of our citizens and the native populations under U.S. jurisdiction in the Pacific Basin. Just as clearly, we must have an act of Congress to preserve the legitimate role of Congress in making decisions on these administration proposals in our territories and possessions. The administration record to date simply does not provide any confidence that our special responsibilities to our Pacific Basin populations will be protected in the absence of this requirement.

Mr. President, the only issue before the Senate now is the protection of the native populations in the Pacific Basin and the role of the Congress in assuring that protection. Nonproliferation initiatives, as many other activities of the Federal Government are important to this Nation, but not so important that we must violate the responsibility which we have for the rights of those people. To do anything less than pass the reported bill with the requirement for an act of Congress would be to ignore that responsibility in the name of a momentary and highly questionable expediency. This Senate should not now nor hereafter act in such an irresponsible and ill-advised manner on such an issue of fundamental due process rights.

Mr. HATFIELD. Mr. President, I rise in full support of S. 1119. This proposal is relatively straightforward and noncontroversial. On June 5, the Committee on Energy and Natural Resources unanimously ordered S. 1119 reported. The bill simply requires that the administration report to Congress on plans to store or transport spent nuclear fuel in the territories of the United States. In addition, specific congressional approval would be required before implementation of any such plans.

As indicated earlier, both the committee and the Department of Interior learned of the administration's proposal to provide for interim storage of spent nuclear fuel on American-owned islands in the Pacific through the Washington Post. There was no consultation or notification to Congress of the preliminary siting studies underway on certain Pacific islands. Moreover, the Department of Interior which has responsibility for U.S. possessions also had no prior knowledge of these waste storage proposals. The Interior Department was apparently not consulted at any time during the site selection process.

The lack of notice and consultation with those who have primary responsibility for the welfare of U.S. territories was coupled later with an unwillingness by the State Department to even identify in public the potential sites under consideration. Further uncertainty and genuine concern were generated because of the reluctance of the administration to divulge which islands were potential sites. After frank discussions with members of our committee and as a result of congressional hearings on June 5, the Pacific community and others were notified of the specific islands which were currently under consideration. While this announcement helped eliminate some uncertainty and confusion, testimony from the administration indicated that the executive branch did not consider itself statutorily or legally bound to inform the Congress of any further plans until a request was made for the authorization of funds.

In my judgment, this set of circumstances clearly shows a lack of sensitivity on the part of the administration to the legitimate concerns of the Pacific community.

This lack of sensitivity underscores the need for enactment of S. 1119. We have a solemn moral obligation to U.S. citizens and nationals in the territories and possessions of the United States who have only the Secretary of the Interior and U.S. Congress to look to for protection. We must not abdicate our share of this responsibility in any way.

Mr. President, let me again emphasize, as the committee report does, that S. 1119 "does not in any manner reflect an opinion with respect to the goals and objectives of the Nuclear Nonproliferation Act of 1978, nor is the concern designed to limit in any way the conduct of negotiations pursuant to that act."

I am advised that one of the key features of the current U.S. nonproliferation policy is to develop a method for disposing of large amounts of spent nuclear fuel without resorting to reprocessing. Proposed interim storage plans are designed to reduce the pressure to reprocess spent fuel for waste management purposes. I generally support the President's stand against reprocessing, and there are those who may be tempted to oppose this bill because they are against reprocessing. I urge my colleagues not to be swayed by this kind of reasoning. The proposal before us today is neither proreprocessing nor antireprocessing. It will not affect our nonproliferation policy nor is it intended to prejudge the feasibility or desirability of using island storage for spent nuclear fuel.

The committee's major concern is the failure of the administration to notify and inform the Congress and the apparent insensitivity of the executive branch to the Pacific community. This proposal will simply guarantee U.S. citizens and nationals in the territories that the United States will not sanction or approve a proposal for spent fuel storage without full public disclosure of the site and open consideration and approval by the Congress.

Mr. McCLURE, Mr. President, I yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that a letter signed jointly by Senator JACKSON, Senator CHURCH, Senator HATFIELD, and Senator JAVITS be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 31, 1979.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, D.C.

DEAR MR. MAJORITY LEADER: We believe that it is important to ensure that any legislation introduced to authorize the transportation of spent nuclear fuel or high-level radioactive waste to or for the storage of such fuel or waste on any territory or possession of the United States is considered by the Senate with a view towards the impact of such legislation on the non-proliferation policy of the United States as well as the impact of such legislation on such territories and possessions.

Accordingly, we request that you propound a unanimous consent agreement providing that any such legislation be referred jointly to the Committees on Energy and Natural Resources and on Foreign Relations. If one Committee acts to report a jointly referred measure, the other must act within a reasonable period of time or be automatically discharged, with the specific number of days after which the other Committee would be discharged to be agreed upon at the time of introduction of the bill.

We appreciate your consideration of this matter.

Sincerely,

HENRY M. JACKSON.
MARK O. HATFIELD.
FRANK CHURCH.
JACOB K. JAVITS.

Mr. GLENN. Mr. President, one of the most serious threats to world peace is that posed by the proliferation of nuclear weapons.

A central concern running through the Nuclear Non-Proliferation Act, which we passed last year, and the Carter administration's policies to curb the spread of these weapons has been the fear that nations around the world will acquire, as part of their civilian nuclear activities, large stockpiles of plutonium, a material that may have some future use as a nuclear fuel but which is also directly usable in nuclear explosives. In the past 2 years the United States has been active on many fronts in seeking to gain international acceptance of the concept that reprocessing of used nuclear fuel to extract plutonium should be deferred until it is absolutely essential and until adequate international controls and, perhaps, new technologies are available to rule out the risk that plutonium might be diverted for military uses.

Obviously, a most effective means to insure that nations do not extract the plutonium from their spent nuclear power reactor fuel is to have them place that fuel in international custody beyond their borders. This is why the current efforts to find a location for such an international storage facility are of such importance. In this regard, I believe the preliminary studies undertaken by the State Department on the possibility of establishing on a U.S.-owned island in the Central Pacific an international facility for the temporary storage of spent fuel from countries in the Pacific basin area is a particularly promising approach. At the same time I fully concur with the sponsors of this bill that the people inhabiting U.S. territories and possessions, because they lack representation here, are entitled to certain added procedural safeguards to insure that any plan to place nuclear wastes in their area receives full consideration by the Congress.

I would like to ask the Senator from Idaho whether I am correct that the bill is neutral on the question of the overall desirability of establishing an international spent fuel storage facility on an isolated Pacific island which met all appropriate technical requirements?

Mr. McCLURE. Yes, that is my understanding, as well. It is not the purpose of this bill to in any way impede the administration's important initiatives in this regard or to suggest to any foreign government that the Congress is opposed to this concept. The bill merely provides for Congress to be fully informed and for the interests of persons living in the U.S. territories and possessions to be fully protected.

Mr. GLENN. I would also like to ask the Senator from Idaho whether I am correct that the basic purpose of this measure is to provide such added procedural safeguards for this particular group, which has no direct representation in the Congress, to insure that their concerns over the possible storage of foreign spent fuel in their vicinity receive adequate consideration.

Mr. McCLURE. Yes. The purpose of this measure is to insure that Congress will be kept fully and currently informed of the development of such proposals and activities designed to analyze specific sites, and to insure that no proposal will go into effect without the opportunity for full consideration of any concerns which the people of the area might have. The Congress has a special responsibility with respect to the territories and possessions of the United States, one which justifies the procedures embodied in this legislation.

Mr. GLENN. It is also my understanding that you would agree to a unanimous consent arrangement providing for a joint referral of any such legislation to the appropriate committees with the understanding that if one of the committees reports legislation authorizing such a spent fuel facility, the other committee would also be required to report the legislation within a reasonable period of time or be discharged, and that the specific number of days after which the other committee would be discharged would be agreed upon at the time of introduction of the bill.

Mr. McCLURE. I fully understand the Senator's concern that such legislation should not be permitted to languish in committee in light of the vital importance of nonproliferation to world peace and security. Consequently, I am prepared to agree to the unanimous consent agreement which the Senator has suggested in order to insure prompt consideration of any such measure consistent with the need to insure full consideration of the views of the interested parties.

Mr. JACKSON. I also am prepared to

agree to the unanimous consent agreement which the Senator from Ohio has suggested.

Mr. GLENN. Finally, I would like to clarify certain language of the bill. It is my understanding that this bill would only require a single authorization for any facility. That is, if legislation is enacted authorizing a proposed transportation and storage plan, such legislation would satisfy the requirements of this bill with respect to initial and subsequent shipments of spent fuel and radioactive waste and the storage of such materials at that facility.

Mr. McCLURE. It is my intention also that a single authorization would satisfy all requirements of the bill for the transportation of spent fuel or radioactive waste to any one facility and for the storage of such material at that facility. It is not my intention to require a series of authorizations related to the use of a single such facility.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I am prepared to yield back the remainder of my time.

Mr. MATSUNAGA. Mr. President, I urge passage of S. 1119 as a necessary bill in order to insure the role of the Congress in matters such as the storage of spent nuclear fuel in any of the U.S. possessions and territories. I ask for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Does the Senator from Hawaii yield back the remainder of his time?

Mr. MATSUNAGA. Mr. President, I yield back the remainder of my time.

Mr. McCLURE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1119), as amended, was passed, as follows:

S. 1119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That prior to granting of any license, permit, or other authorization or permission by any agency or instrumentality of the United States to any person for the transportation of spent nuclear fuel or high-level radioactive waste for interim, long-term, or permanent storage to or for the storage of such fuel or waste on any territory or possession of the United States, the Secretary of the Interior is directed to transmit to the Congress a detailed report on the proposed transportation or storage plan, and no such license, permit, or other authorization or permission may be granted nor may any such transportation or storage occur unless the proposed transportation or storage plan has been specifically authorized by Act of Congress: *Provided,* That the provisions of this Act shall not apply to the cleanup and rehabilitation of Bikini and Enewetak Atolls.

For the purpose of this Act, the words "territory or possession" include the Trust Territory of the Pacific Islands and any area not within the boundaries of the several States over which the United States claims or exercises sovereignty.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SPEEDY TRIAL ACT AMENDMENTS OF 1979

Mr. BIDEN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 961.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 961) entitled "An Act to amend the Speedy Trial Act of 1974", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "Speedy Trial Act Amendments Act of 1979".

SEC. 2. Section 3161(c) of title 18, United States Code, is amended to read as follows:

"(c)(1) In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs. If a defendant consents in writing to be tried before a magistrate on a complaint, the trial shall commence within seventy days from the date of such consent.

"(2) Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se.".

SEC. 3. (a) Section 3161(d) of that title is amended—

(1) by inserting "(1)" immediately after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2) If the defendant is to be tried upon an indictment or information dismissed by a trial court and reinstated following an appeal, the trial shall commence within seventy days from the date the action occasioning the trial becomes final, except that the court retrying the case may extend the period for trial not to exceed one hundred and eighty days from the date the action occasioning the trial becomes final if the unavailability of witnesses or other factors resulting from the passage of time shall make trial within seventy days impractical. The periods of delay enumerated in section 3161(h) are excluded in computing the time limitations specified in this section. The sanctions of section 3162 apply to this subsection.".

(b) Section 3161(e) of that title is amended—

(1) by striking out "sixty" wherever it appears and inserting in lieu thereof "seventy"; and

(2) by adding at the end the following: "The periods of delay enumerated in section 3161(h) are excluded in computing the time limitations specified in this section. The sanctions of section 3162 apply to this subsection.".

SEC. 4. Section 3161(h)(1) of that title is amended to read as follows:

"(1) Any period of delay resulting from other proceedings concerning the defendant, including but not limited to—

"(A) delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant;

"(B) delay resulting from any proceeding, including any examination of the defendant, pursuant to section 2902 of title 28, United States Code;

"(C) delay resulting from deferral of prosecution pursuant to section 2902 of title 28, United States Code;

"(D) delay resulting from trial with respect to other charges against the defendant;

"(E) delay resulting from any interlocutory appeal;

"(F) delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion;

"(G) delay resulting from any proceeding relating to the transfer of a case or the removal of any defendant from another district under the Federal Rules of Criminal Procedure;

"(H) delay resulting from transportation of any defendant from another district, or to and from places of examination or hospitalization, except that any time consumed in excess of ten days from the date an order of removal or an order directing such transportation, and the defendant's arrival at the destination shall be presumed to be unreasonable;

"(I) delay resulting from consideration by the court of a proposed plea agreement to be entered into by the defendant and the attorney for the Government; and

"(J) delay reasonably attributable to any period, not to exceed thirty days, during which any proceeding concerning the defendant is actually under advisement by the court.".

SEC. 5. (a) Section 3161(h)(8)(B)(ii) of that title is amended to read as follows:

"(ii) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section.".

(b) Section 3161(h)(8)(B)(iii) of that title is amended to read as follows:

"(iii) Whether, in a case in which arrest precedes indictment, delay in the filing of the indictment is caused because the arrest occurs at a time such that it is unreasonable to expect return and filing of the indictment within the period specified in section 3161(b), or because the facts upon which the grand jury must base its determination are unusual or complex.".

(c) Section 3161(h)(8)(B) of that title is further amended by adding at the end the following new clause:

"(iv) Whether the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), would deny the defendant reasonable time to obtain counsel, would unreasonably deny the defendant or the Government continuity of counsel, or would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.".

SEC. 6. Section 3163(c) of that title is amended to read as follows:

"(c) Subject to the provisions of section 3174(c), section 3162 of this chapter shall become effective and apply to all cases commenced by arrest or summons, and all informations or indictments filed, on or after July 1, 1980.".

Sec. 7. Section 3164 of that title is amended—

(1) by amending the section heading to read as follows:

"§ 3164. Persons detained or designated as being of high risk";

(2) by amending subsection (a) to read as follows:

"(a) The trial or other disposition of cases involving—

"(1) a detained person who is being held in detention solely because he is awaiting trial, and

"(2) a released person who is awaiting trial and has been designated by the attorney for the Government as being of high risk shall be accorded priority."; and

(3) by amending subsection (b) to read as follows:

"(b) The trial of any person described in subsection (a)(1) or (a)(2) of this section shall commence not later than ninety days following the beginning of such continuous detention or designation of high risk by the attorney for the Government. The periods of delay enumerated in section 3161(h) are excluded in computing the time limitation specified in this section.".

Sec. 8. Section 3165(e) of that title is amended—

(1) in paragraph (2), by striking out "subsequent" and inserting in lieu thereof "fifth", and

(2) by adding at the end the following:

"(3) Not later than June 30, 1980, each United States district court with respect to which implementation has not been ordered under section 3174(c) shall prepare and submit a plan in accordance with subsections (a) through (d) to govern the trial or other disposition of offenses within the jurisdiction of such court during the sixth and subsequent twelve-calendar-month periods following the effective date of subsection 3161 (c) in effect prior to the date of enactment of this paragraph.".

Sec. 9. (a) Section 3166(b) of that title is amended—

(1) in paragraph (7), by striking out "and" immediately after the semicolon;

(2) in paragraph (8), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(9) the impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the civil case calendar in the district.".

(b) Section 3166(c) of that title is amended—

(1) in paragraph (5), by striking out "and" immediately after the semicolon;

(2) in paragraph (6), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7)(A) the number of new civil cases filed in the twelve-calendar-month period preceding the submission of the plan;

"(B) the number of civil cases pending at the close of such period; and

"(C) the increase or decrease in the number of civil cases pending at the close of such period, compared to the number pending at the close of the previous twelve-calendar-month period, and the length of time each such case has been pending.".

(c) Section 3166 of that title is further amended by adding at the end the following new subsection:

"(f) Each plan may be accompanied by guidelines promulgated by the judicial council of the circuit for use by all district courts within that circuit to implement and secure compliance with this chapter.".

(d) Section 3168(a) of that title is amended by striking out "a private attorney experienced in the defense of criminal cases in the district" and inserting in lieu thereof "two private attorneys, one with substantial experience in the defense of criminal cases in the district and one with substantial experience in civil litigation in the district".

(e) Section 3167 of that title is amended—

(1) in subsection (b), by adding at the end the following: "Such reports shall also include the following:

"(1) The reasons why, in those cases not in compliance with the time limits of subsections (b) and (c) of section 3161, the provisions of section 3161(h) have not been adequate to accommodate reasonable periods of delay.

"(2) The category of offenses, the number of defendants, and the number of counts involved in those cases which are not meeting the time limits specified in subsections (b) and (c) of section 3161.

"(3) The additional judicial resources which would be necessary in order to achieve compliance with the time limits specified in subsections (b) and (c) of section 3161.

"(4) The nature of the remedial measures which have been employed to improve conditions and practices in those districts with low compliance experience under this chapter or to promote the adoption of practices and procedures which have been successful in those districts with high compliance experience under this chapter.

"(5) If a district has experienced difficulty in complying with this chapter, but an application for relief under section 3174 has not been made, the reason why such application has not been made.

"(6) The impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the civil case calendar in each district as demonstrated by the information assembled and statistics compiled and submitted under sections 3166 and 3170.";

(2) by adding at the end the following new subsection:

"(c) Not later than December 31, 1979, the Department of Justice shall prepare and submit to the Congress a report which sets forth the impact of the implementation of this chapter upon the office of the United States Attorney in each district and which shall also include—

"(1) the reasons why, in those cases not in compliance, the provisions of section 3161(h) have not been adequate to accommodate reasonable periods of delay;

"(2) the nature of the remedial measures which have been employed to improve conditions and practices in the offices of the United States Attorneys in those districts with low compliance experience under this chapter or to promote the adoption of practices and procedures which have been successful in those districts with high compliance experience under this chapter;

"(3) the additional resources for the offices of the United States Attorneys which would be necessary to achieve compliance with the time limits of subsections (b) and (c) of section 3161;

"(4) suggested changes in the guidelines or other rules implementing this chapter or statutory amendments which the Department of Justice deems necessary to further improve the administration of justice and meet the objectives of this chapter; and

"(5) the impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the litigation of civil cases by the offices of the United States Attorneys and the rule changes, statutory amendments, and resources necessary to assure that such litigation is not prejudiced by full compliance with this chapter.".

(f) Section 3170(a) of that title is amended in the first sentence—

(1) by striking out "and" after "process" and inserting in lieu thereof a comma;

(2) by inserting a comma after "limits";

(3) by inserting "continuous and permanent compliance with the" immediately before "objectives"; and

(4) by striking out "required by" and inserting in lieu thereof "described in".

Sec. 10. Section 3174 of that title is amended—

(1) by striking out the period after the first sentence in subsection (a) and inserting in lieu thereof the following: "as provided in subsection (b).";

(2) by striking the first two sentences of subsection (b) and inserting the following in lieu thereof: "If the judicial council of the circuit finds that no remedy for such congestion is reasonably available, such council may, upon application by the chief judge of a district, grant a suspension of the time limits in section 3161(c) in such district for a period of time not to exceed one year for the trial of cases for which indictments or informations are filed during such one-year period.";

(3) by striking out "arrangement" in the third sentence of subsection (b) and inserting in lieu thereof "indictment";

(4) by amending subsection (c) to read as follows:

"(c)(1) If, prior to July 1, 1980, the chief judge of any district concludes, with the concurrence of the planning group convened in the district, that the district is prepared to implement the provisions of section 3162 in their entirety, he may apply to the judicial council of the circuit in which the district is located to implement such provisions. Such application shall show the degree of compliance in the district with the time limits set forth in subsections (b) and (c) of section 3161 during the twelve-calendar-month period preceding the date of such application and shall contain a proposed order and schedule for such implementation, which includes the date on which the provisions of section 3162 are to become effective in the district, the effect such implementation will have upon such district's practices and procedures, and provision for adequate notice to all interested parties.

"(2) After review of any such application, the judicial council of the circuit shall enter an order implementing the provisions of section 3162 in their entirety in the district making application, or shall return such application to the chief judge of such district, together with an explanation setting forth such council's reasons for refusing to enter such order.";

(5) by adding at the end the following:

"(d)(1) The approval of any application made pursuant to subsection (a) or (c) by a judicial council of a circuit shall be reported within ten days to the Director of the Administrative Office of the United States Courts, together with a copy of the application, a written report setting forth in sufficient detail the reasons for granting such application, and, in the case of an application made pursuant to subsection (a), a proposal for alleviating congestion in the district.

"(2) The Director of the Administrative Office of the United States Courts shall not later than ten days after receipt transmit such report to the Congress and to the Judicial Conference of the United States. The judicial council of the circuit shall not grant a suspension to any district within six months following the expiration of a prior suspension without the consent of the Congress by Act of Congress. The limitation on granting a suspension made by this paragraph shall not apply with respect to any judicial district in which the prior suspension is in effect on the date of the enactment of the Speedy Trial Act Amendments Act of 1979.

"(e) If the chief judge of the district court concludes that the need for suspension of time limits in such district under this section is of great urgency, he may order the limits suspended for a period not to exceed thirty days. Within ten days of entry of such order, the chief judge shall apply to the judicial council of the circuit for a suspension pursuant to subsection (a).''; and

(6) by amending the section heading to read as follows:

"§ 3174. Judicial emergency and implementation".

SEC. 11. (a) The item relating to section 3164 in the table of sections for chapter 208 of such title is amended to read as follows:

"3164. Persons detained or designated as being of high risk.".

(b) The item relating to section 3174 in the table of sections for chapter 208 of such title is amended to read as follows:

"3174. Judicial emergency and implementation.".

Mr. BIDEN. Mr. President, it is with great pleasure that I rise in support of S. 961 as it passed the House today. In every respect, I believe the House has improved upon S. 961 as it passed the Senate.

In simplest terms the House has shortened the phase-in of the dismissal sanction from 2 years to 1 year. Furthermore, the House tightened up the process by which the Judicial Conference can declare a judicial emergency and thereby temporarily relax the time limits. The House bill requires an act of Congress before a suspension of the time limits can be renewed.

These changes are consistent with the basic thrust of the Senate bill which recognizes the need for additional time to comply with the act but at the same time resists changes in the ultimate time limits. The House amendments to S. 961 enjoy bipartisan support in both the House and Senate and I understand the Department of Justice find these changes acceptable.

Final implementation of the act in July 1980 means that the Department of Justice and the Judicial Conference must, within a very short period of time, provide Congress with the reports it needs to make a decision on the impact of the act. Therefore, it seems to me to be incumbent upon both institutions to commit all necessary time and resources to the gathering and analysis of the data now provided for in the amended reporting provisions of the act so that Congress can have an accurate picture of what is happening in the Federal criminal justice system before next July. I hope we will not be faced with the same problem next July that we were faced with this year—an absence of accurate information on the impact of the Speedy Trial Act on the quality of criminal and civil justice in the Federal courts.

A question has arisen regarding the impact on cases pending during the delay between the July 1, 1979 effective date of the dismissal sanctions in the 1974 act and the effective date of the Speedy Trial Act Amendments of 1979. I believe the legislation is clear in providing that if the 30-day time period (plus excludable time, if any) has begun but is not exceeded during the delay between July 1 and the effective date of the act, the dismissal sanction does not apply—even if the 30 day limit is exceeded after the effective date of the act.

In closing I must say, as chairman of the Subcommittee on Criminal Justice in the Senate, that proponents of further change in or delay in implementation of the statute will have a very heavy burden to carry next year. I hope we will not even have to consider such a request but I am putting potential proponents on notice, the data must be compelling if they expect this one Senator to take it seriously. As far as I am concerned the critics of the Speedy Trial Act have had their day in court and it is time for judges and prosecutors to get together and make this act work.

Mr. THURMOND. Mr. President, I am pleased to support the legislation now before the Senate, S. 961, as amended by the House, which is a bill to amend the Speedy Trial Act of 1974.

Mr. President, this measure is a compromise that was worked out between the Judiciary Committees of the House and Senate which, in my opinion, solves some immediate concerns, while at the same time, allowing for statutory changes in the Speedy Trial Act of 1974. The major change is the reduction of the deferral from 2 years to 1 year.

Some problems with the original bill, S. 961, were encountered. First, the Justice Department contended that with the effective day of July 1, 1979, the Speedy Trial Act and the dismissal sanctions imminent, there would be a rash of dismissals of criminal cases. Based on data put together by both the Justice Department and General Accounting Office, this contention seemed to be well founded. Further study during the hearings, however, indicated that these figures may be subject to differing interpretation and the problem may not be as bad as forecast.

The other objection of the Department centered on the length of time from arrest to indictment of 30 days as required by the Speedy Trial Act. The Department wanted an additional 30 days added to that period, as well as another 30 days between indictment and trial. These increases would have extended the time to 180 days overall for the Speedy Trial Act. The reasons given for these extensions were fewer arrests are being made because of the fear of dismissal and of the dismissal sanctions; and the final arrest-indictment time limits would prejudice the ability of the Government to investigate the charges fully before the time runs.

It was contended that certain investigative techniques take longer than can be properly conducted under a 30-day time limitation. Thus, an extension was sought to allow more time for investigations. Opponents of this extension feel that the excludable delays available under section 3161(h) of the act are adequate to accommodate any problems.

Mr. President, the compromise measure reported by the Senate Judiciary Committee passed by the House and Senate solves the most immediate problem—the July 1, 1979 effective date of the dismissal sanction provisions of the current law. A 1-year deferral, which is 1 year less than the Senate version, gives the Congress time, as well as the Federal Government and the Federal judiciary, to study further this statute and its impact on the Federal criminal justice system.

Mr. President, I support the compromise bill and urge its adoption.

Mr. KENNEDY. I rise to urge my colleagues to vote for passage of S. 961, as amended.

This bill represents a substantial effort by the Congress, working with the Justice Department, the private bar, the Judicial Conference, and other interested groups, to strengthen and refine the provisions insuring speedy trials.

The Senate decision that we should continue to require speedy trials within 100 days has been preserved. The important Senate changes in the 1974 act to increase the flexibility with which these time limits are applied have also been preserved.

The House made two amendments to the Senate's bill: the Senate had extended the deferral of the dismissal sanction for 2 years. The House amendments defer the sanction for only one year to July 1, 1980. While I believe the Senate position extending the deferral for 2 years is preferable because it would afford the Congress more time in which to obtain additional pertinent data on the implementation of the act's time limits, such disagreement does not merit a conference with the House.

The other House amendment requires affirmative congressional approval before any judicial district may obtain an additional suspension of the time limits.

We must act expeditiously to insure that these amendments become law, as soon as possible. Further delay is likely to result in the dismissal of persons arrested on or after July 1, 1979. This legislation insures that both the public and individual defendants benefit from the sixth amendment's guarantee of a speedy trial. This legislation, however, also provides the Congress additional time to further study the further impact of Speedy Trial Act on the criminal justice system.

Therefore, Senate approval of the House amendments is required to defer the dismissal sanction and thereby eliminate any ambiguity in the application of the Speedy Trial Act to pending criminal cases. I urge adoption of S. 961, as amended.

● Mr. BAYH. Mr. President, I am pleased that the House of Representatives today passed, by voice vote, the Speedy Trial Act Amendments of 1979, with amendments, S. 961. The distinguished chairman of the Senate Judiciary Committee, Senator KENNEDY, the distinguished chairman of the Senate criminal justice subcommittee Senator BIDEN, and myself were pleased to sponsor this legislation which was worked out in conjunction with the Department of Justice and the Judicial Conference in addition to the distinguished chairman of the House Judiciary Committee, Mr. RODINO, and the distinguished chairman of the House Subcommittee on Crime, Mr. CONYERS. We have in no way weakened the Speedy Trial Act initially signed into law in 1974.

Although today the Senate will be asked to accept the House amendments which I approve, this is with the full acceptance of the Department of Justice and the majority and minority of the members of the Senate Judiciary Committee. The House amendments substantially restate S. 961, with a few minor amendments and the following two substantive amendments: The House bill changes the effective date of the sanctions from July 1, 1981 to July 1, 1980; and the House bill requires an act of Congress before a suspension of the time limits can occur within 6 months of a previous suspension. S. 961 as it passed the Senate allows that second suspension if Congress does not act within 6 months of notification of the suspension request.

All the House amendments are consistent with the purposes of S. 961. Although we in the Senate preferred a 2-year deferral of the sanctions taking effect, this 1-year deferral will afford the Congress an opportunity to obtain concrete information about the types of cases which may present compliance problems. Furthermore, a deferral would allow time to fully assess the impact of such developments as the appointment of additional judges and U.S. attorneys and expanded magistrate authority which will take effect this year and next year.

Mr. President, as chairman of the Senate Subcommittee on the Constitution, with oversight responsibilities for the Speedy Trial Act, I am in a unique position to help assure that no criminal case be dismissed for failure to indict or try a defendant within the act's final time limits.

One area that has not been touched upon in the recent hearings on this bill in the Senate and in the press reports is that part of the system that no one talks about—the victims of crime and witnesses. If justice is to be done to the accused and the victims of crime and society are to be protected, criminal cases must be tried while witnesses are readily available and their recollections are fresh.

Trials must be speedy.

The cost of crime to our country and its people in terms of economic loss and physical and psychological suffering is beyond calculation. One of the most solemn and sacred responsibilities resting on our Government is to administer criminal justice. And, justice does prevail when every person gets his or her due. Our system of criminal justice has survived because it is based on the proposition that justice is due to society and the victims of crime as well as the accused.

The right to a fair trial is effected by the Bill of Rights through the fourth, fifth, sixth, and eighth amendments. Surely the right to a speedy trial is precious and vital to our constitutional form of Government.

The right to a speedy trial has a fourfold purpose. It protects the accused, if he or she is detained in jail while awaiting trial, against extended imprisonment before trial; it relieves him or her of anxiety and public suspicion arising out of an untried accusation of crime; it assures that he or she is to be tried while the witnesses are available and their memories are fresh; and it assures that the victim of crime or the victim's family sees the process of justice taking place with reasonable dispatch after the prosecution and the defense have had the adequate opportunity to prepare for it.

Mr. President, if Congress is to make the sixth amendment guarantee of a speedy trial effective at the Federal level, it must enact these amendments and effectively enforce the other provisions of the Speedy Trial Act of 1974. Congress cannot sit idly by while victims of crime, witnesses, judges, prosecutors, defenders, and society are doing their part. We must act now if justice for all our citizens is to prevail in a timely manner.

Mr. President, I would like to particularly thank Senators KENNEDY, BIDEN, and THURMOND for their efforts in the Senate and Congressmen RODINO and CONYERS for their efforts in the House of Representatives during these months of progress for the Speedy Trial Act. Also, I realize that this work could not have been completed if we did not have dedicated men and women assisting these Senators and Congressmen. Therefore, my special thanks go to Burt Wides and John Minor of Senator KENNEDY's staff; Mark Gitenstein, Tim Hart, and Cathy Zebrowski of Senator BIDEN's staff; Eric Hultman of Senator THURMOND's staff; Joe Nellis of Congressman RODINO's staff, and Hayden Gregory of Congressman CONYERS' staff. Of course, this list would not be complete if I failed to mention the support of Kevin Faley and Mary K. Jolly of my staff. I ask all of my colleagues to join me in warm praise for these staff people who daily toil on our behalf in this Congress.●

Mr. BIDEN. Mr. President, I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

INTERNATIONAL DEVELOPMENT COOPERATION ACT OF 1979—CONFERENCE REPORT

Mr. CHURCH. Mr. President, I submit a report of the committee of conference on H.R. 3324 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3324) to authorize appropriations for fiscal year 1980 for international development and economic assistance programs and for the Peace Corps, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 27, 1979.)

Mr. CHURCH. Mr. President, the conference report and accompanying statement of managers provide a detailed explanation of the recommendations of the committee of conference. I will highlight the most important provisions of the conference report.

Mr. President, we have held the line on increases in spending for foreign aid. This bill is $230 million below the executive branch request for these programs, and $19 million below fiscal year 1979 authorizations. Although we have nearly an even split with the House on authorization levels, the conferees agreed that additional requirements for aid would be met by reprograming funds included in this bill rather than through supplemental authorizations.

Mr. President, the committee of conference was faced with diametrically opposed votes on the issues of the establishment of the Institute for Scientific and Technological Cooperation and the transfer of Peace Corps from ACTION. The House, by an overwhelming majority, voted to establish the Institute, while the Senate, by a vote of 58 to 42, deleted ISTC from the bill. The Senate voted to retain Peace Corps as part of ACTION, while the House voted to establish Peace Corps in the International Development Cooperation Agency.

Mr. President, the Institute and Peace Corps were the most difficult issues facing the conference. The conference broke up twice before we agreed to adopt the House position on the Institute and the Senate position on Peace Corps. Peace Corps will remain in ACTION. The Institute is established, but its authorization was reduced by $1.25 million. I understand the concerns that many Members of the Senate have about the Institute, and I can assure them that the Committee on Foreign Relations will exercise careful oversight of its programs to insure that they are not duplicative of other aid efforts and that the research agenda of the Institute addresses the issues which directly affect people of developing countries.

Another difficult issue facing the conferees was whether to authorize appropriations for the economic support fund in this bill or in the international security assistance bill. The Senate position prevailed on this issue. ESF will be authorized in the security bill with the understanding that next year development and security assistance legislation will be included in a single bill.

Mr. President, this conference report represents a free, fair, and sound compromise between the positions of the House and the Senate. I believe that this legislation deserves the support of the Senate, and I urge its passage.

Mr. President, let me close by saying how indebted I am to the able Senator from New York, whose assistance at the conference proved invaluable and whose cooperation is always appreciated.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I thank my colleague very much. I feel exactly that way about him in the direction of the conference which he handled very ably.

Mr. President, it is always bad form and highly unwise to claim undue credit for conferees, but I would like to say that I believe in this case the conferees for the Senate stood with fidelity by the Senate position, and argued ably and forcibly. I speak primarily of the chairman and the majority with, of course, our cooperation on the minority side.

On the whole, with the matters which we had to concede, which Senator Church has referred to, I believe it came out fairly, obtaining those things which could be obtained, and those things things which could really not be obtained to have been worked out in the best possible way under the circumstances.

One thing is very important in these days of economy. This bill represented a real measure in that regard in terms of budget estimates, the administration's request, and the views of the House and the Senate. For that I give very great credit to Senator Church.

For that, I give very great credit to Senator Church, who fought for it in committee, fought for it on the floor, stood by it in conference, and, I believe, ended up as well as could possibly be expected.

For myself, I was deeply gratified by the position taken by the Senate on giving some military help for the Sudan, where I went as a special envoy for the President. It was sustained in the conference.

I was also very pleased that we were able to work out a matter that was of particular importance to many Senators, the provision of $4 million for the Sparkman Center for International Public Health Education, as a tribute to our former colleague, Senator John Sparkman of Alabama.

We were able to work out another matter which I found great satisfaction in being able to compromise. That was a Senator Helms amendment, which he placed great store by, to open the door to countries which would improve their human rights situation. He felt it ought to have some recognition if they did make significant improvements.

Senator Pell, I think, had a real success in his amendment prohibiting funds to Afghanistan.

All told, I think it was a very fair result in a very complicated matter, with lots of give and take. The results should prove highly beneficial to our country's foreign policy. I commend the conference report to the Senate and hope that it is approved.

Mr. President, the Senate conferees, under the able directon of the distinguished chairman of the Foreign Relations Committee, held their own in the conference with the House. In particular, I would like to draw the attention of my colleague to four issues: Peace Corps, ESF, the authorization levels, and the Institute for Scientific and Technological Cooperation (ISTC).

The House receded in the face of our insistence that Peace Corps remain in ACTION. While the House had an almost 2 to 1 vote in favor of moving Peace Corps into IDCA, we also pointed to the Senate floor votes in favor of keeping Peace Corps in ACTION, including a recorded 62 to 32 vote.

The House receded to the Senate position which excluded the provisions for the economic support fund from this bill and kept them in the security assistance legislation for fiscal year 1980, as had been the case in past years. While inclusion of ESF authorization in the economic development bill might appear to be innocuous and not to change the substance of the ESF authorizations, the Senate conferees argued successfully that such a move could have serious, long-term implications for the political justification underlying security assistance. The compromise for fiscal year 1981 worked out by the Conference Committee would place both the economic development and security and military assistance authorizations in one bill.

In arriving at the fiscal year 1980 authorization level of $1,977 billion, the conferees authorized an amount to be appropriated which is closer to the original Senate figure (by $130 million) than to the House figure (by $144 million) and $230 million less than the original executive branch request. In addition, the conferees recognized the concerns of the Congress—and especially of this body, which had authorized the lower aid figure—for fiscal responsibility by including in the statement of managers the following:

> The Committee of Conference is aware that the Executive Branch is considering the submission to Congress of requests for supplemental authorizations of appropriations to meet unexpected program requirements in several countries. The authorizations of appropriations included in this bill take into account those additional program requirements. The Committee of Conference urges the Executive Branch to provide any funds required for these unexpected program requirements through the reprogramming of Fiscal Year 1979 or 1980 funds rather than through the submission of a request for additional authorizations of appropriations.

This policy statement by the managers would not have been possible had it not been for the fact that the hand of the Senate conferees had been strengthened by the actions of the FRC and of the Senate in passing the bill.

The conference accepted the House provisions on the ISTC. While the Senate had rejected the ISTC by a recorded vote, the House especially insisted on its provisions and the Senate had to recede but in a lesser amount than the House had voted.

In addition, the conference agreed to my amendment authorizing $1.7 million for the MAP program in the critically important country of Sudan. The Senate position was also upheld by the conference on a number of issues of particular concern to certain Senators: the earmarking of $4 million for the Sparkman Center for international public health education; Senator Helms' amendment permitting funds under part I of the FAA to be made available to any country the President finds has made significant improvements in its human rights record warranting lifting prohibitions in furnishing such assistance in the U.S. national interest; and Senator Pell's amendment prohibiting funds to Afghanistan.

The Senate did well in this conference. Its positions were upheld in a majority of the issues that were of special concern to us and I urge my colleagues to approve the conference report.

Mr. PELL. Mr. President, I want to associate myself with the words of the Senator from Idaho and the Senator from New York in saying what a good conference it was. I thought we had a good foreign relations bill and a fair result came out. It was well fought and well handled.

● Mr. STONE. Mr. President, I support the amendments to the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) that are included in H.R. 3324, as reported by the Committee of Conference.

My Subcommittee on Foreign Agricultural Policy of the Committee on Agriculture, Nutrition, and Forestry developed the Public Law 480 amendments that were adopted by the Senate.

The Senate and House have resolved the differences relating to Public Law 480 in their respective bills, and the compromise provisions included in the final legislation are nearly identical to those previously passed by the Senate.

Mr. President, the Committee on Agriculture, Nutrition and Forestry and the Committee on Foreign Relations cooperated closely in developing this legislation.

In the Senate, changes in the food for peace legislation are developed and reported by the Committee on Agriculture, Nutrition, and Forestry and considered on the floor as an amendment to the foreign assistance legislation. We again successfully followed this procedure on the legislation here before us.

The legislation contains a "food for peace" title that would make a number of changes in Public Law 480. These changes, primarily in policy, reflect the determination that our food assistance be provided in a way that will not serve as a disincentive to the food production and marketing of the recipient country.

Under the legislation—First, the president would be required to give consideration to the development and expansion of markets for U.S. agricultural commodities and local foodstuffs by increasing the effective demand for agricultural commodities through the support of measures to stimulate development in the recipient countries;

Second, agencies that distribute title II grant food commodities are directed, to the extent feasible, to work with indigenous institutions and workers in designing and carrying out these feeding projects;

Third, H.R. 3324 would also broaden the use of currencies generated under title II sales in famine or extraordinary relief situations to include alleviating the causes of the need for the food assistance;

Fourth, technical changes are made in Public Law 480 to authorize the use of the commodities themselves in carrying out food for development programs, and the dollar sales value of agricultural commodities used by the recipient countries under title III would be applied against the repayment obligation of that country;

Fifth, consideration is to be given to using the expertise of American agriculture in developing and carrying out food for development programs under title III;

Sixth, the President is directed to assure that grants and credit sales under Public Law 480 will not displace or interfere with food production and marketing in the recipient country;

Seventh, country assessments are to be carried out, whenever necessary, to determine types, timing, quantities, and conditions under which commodities should be provided; the relationship between food and other development assistance; and the country's potential as a new or expanded market for United States and recipient country agricultural commodities; and

Eighth, to the maximum extent practicable, commodities provided for developmental purposes are to be made available on a multiyear basis.

The legislation also states that efforts by developing countries to enhance their national food security deserve encouragement by the United States.

Mr. President, the legislation strengthens the commitment of the United States to use our food aid to encourage economic development in needy countries. Our committee has indicated its commitment to developing and expanding markets for U.S. agricultural commodities, and this goal can be best accomplished by helping recipient nations develop economically.

The food for peace program has been reformed in numerous ways over the years. Mr. President, the amendments to Public Law 480 contained in H.R. 3324 represent a further attempt to improve the food for peace program. Our Nation can be proud of the role we have played in helping needy people abroad. These legislative changes will strengthen this important program.

I ask that a section-by-section analysis of title II of the conference substitute be printed in the Record.

The material follows:

SECTION-BY-SECTION ANALYSIS OF TITLE II OF THE CONFERENCE SUBSTITUTE ON H.R. 3324

Title II of H.R. 3324, the International Development Cooperation Act of 1979, makes changes in the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480).

Section 201.—Increasing Demand for Food and Encouraging Local Food Production.

Section 201 amends section 103(f) of the Agricultural Trade Development and Assistance Act of 1954 ("the Act") to require the President, in exercising his authorities under the Act, to give consideration to the development and expansion of markets for United States agricultural commodities and local foodstuffs, by increasing the effective demand for agricultural commodities through the support of measures to stimulate equitable economic growth in recipient countries, with appropriate emphasis on developing more adequate storage, handling, and food distribution facilities.

Section 202.—Role of Indigenous Institutions and Workers.

Section 202 amends section 202(b)(2) of the Act to provide that in order to assure both the effective use of title II commodities and their application to the areas of greatest need within the recipient country, the agencies that distribute title II commodities will be encouraged to work with indigenous institutions and employ indigenous workers, to the extent feasible to, assess nutritional and other needs of beneficiary groups, help these groups design and carry out mutually acceptable projects, recommend ways of making food assistance available that are most appropriate for each local setting, supervise food distribution, and regularly evaluate the effectiveness of each project.

Section 203.—Alleviating the Causes of the Need for Title II Assistance.

Section 203 amends section 206 of the Act to provide that no title II assistance will be provided under an agreement permitting generation of foreign currency proceeds unless the agreement provides that the currencies will be used for (1) alleviating the causes of the need for the assistance in accordance with the purposes and policies of section 103 of the Foreign Assistance Act of 1961 or (2) programs and projects to increase the effectiveness of food distribution and increase the availability of title II food commodities to the neediest individuals in recipient countries.

Section 204.—Incentives for Entering into Food for Development Programs.

Section 204 amends section 301(a) of the Act to authorize the President to apply the dollar value of commodities provided under title III, as well as the funds accruing from the local sales of such commodities, against the repayment obligation of governments receiving concessional financing under the Act. Commodities themselves could be used in title III projects in addition to local currencies generated by the sale of the commodities.

Section 303(a) of the Act is amended to make a technical change in the language of the composition of a Food for Development Program.

Section 205.—Participation of American Agriculture in Food for Development Programs.

Section 205 adds a new paragraph (4) to section 302(c) of the Act to require that, in developing and carrying out Food for Development Programs, consideration be given to using the capability and expertise of American agriculture, in partnership with indigenous individuals and organzations, in furthering economic development and increased food production.

Section 206.—Full Forgiveness of Repayment Obligations Under Food for Development Programs.

Section 206 amends section 305(a) of the Act to provide that disbursements equivalent to the value of the credit furnished by the Commodity Credit Corporation shall be deemed to be payment of all installments of interest and principal payable for commodities purchased under this title. Full forgiveness applies to all interest charges accruing after the date of the original dollar credit, and the participating country in receiving full forgiveness will not be affected by currency rate changes occurring after payment has been made into the special account. Thus, if all proceeds are disbursed, there will be full forgiveness. It is intended that full forgiveness be applicable to disbursement of the commodities themselves, as well as by proceeds from their sale, as provided for under section 204 and 207 of the conference substitute.

Section 207.—Reports Under Title III.

Section 207 amends section 306 of the Act by requiring participating countries to include in the report required under that section a detailed description of how the commodities under title III were used; and amends section 307(a) of the Act to require that the annual report under that section include information on the value of title III agreement commodities not fully disbursed during the preceding year.

Section 208—Avoiding Interference with Production or Marketing in Recipient Countries.

Section 208 amends clause (2) of section 401(b) of the Act to require that no commodity may be furnished under the Act except upon a determination by the Secretary of Agriculture that "the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production of marketing in that country".

Section 209.—Determination of Commodity Needs and Program Beneficiaries in Each Country.

Section 209 amends section 404 of the Act to specify that market development, developmental goals and humanitarian objectives be carried out in the national interest.

Section 209 also amends section 404 of the Act to add a new subsection (b) directing that assessments be made of recipient country commodity needs in order to encourage economic development and review the potential for expanded U.S. agricultural exports.

Section 210.—Commodities for Multiyear Development Purposes.

Section 210 adds a new section 413 to title IV of the Act providing that to the maximum extent practicable, commodities provided under the Act for development purposes shall be made available on a multiyear basis when necessary for the most effective accomplishment of these purposes.●

● Mr. TALMADGE. Mr. President, I support the amendments to the agricultural Trade Development and Assistance Act of 1954 (Public Law 480) contained in H.R. 3324 as reported by the Comittee of Conference.

The amendments to Public Law 480 would make needed changes in the food-for-peace program. The changes will serve to insure the continued success of this important program.

The food-for-peace program has been an important factor in U.S. agricultural and foreign policy for 25 years. It has benefited Americans, as well as foreigners. The food-for-peace program has helped American farmers by boosting exports of agricultural commodities, which in turn have helped alleviate and prevent malnutrition and hunger in more than 100 countries around the world. I am pleased that my colleagues designated this year as the food-for-peace year, and I urge everyone to join in celebrating this important occasion.

The Committee on Agriculture, Nutrition, and Forestry has again worked closely with the Committee on Foreign Relations on this year's foreign assistance legislation, H.R. 3324. The arrangement allows the Committee on Foreign Relations and the Committee on Agriculture, Nutrition, and Forestry to exercise independently their judgment on matters within their exclusive jurisdictions and then to bring that same expertise to conference with the House Committee on Foreign Affairs.

Special recognition must be given to Senator Stone of the subcommittee on foreign agricultural policy. Senators McGovern, Dole, Lugar, and the ranking minority member of the committee, Senator Helms, also made significant contributions in developing the Public Law 480 amendments contained in H.R. 3324.●

INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION, JULY 31, 1979

● Mr. DeCONCINI. Mr. President, today the Senate is considering the conference report on the International Development Assistance Act. It is with considerable regret that I must register my vote against this report. Last month the Senate took what I believe was a sound and foresighted action to delete from that bill the Institute for Scientific and Technological Cooperation.

The objective of the Institute is to study problems facing the less-developed countries with an eye toward their future industrialization. While studies of this sort are important, they have been done repeatedly. I agree with the Foreign Relations Committee which stated in its committee report:

> [i]n a year when AID programs must be reduced, assistance which directly benefits poor people in poor countries should have priority over research and studies whose benefits to the poor are delayed and, all too often, questionable.

The Senate decisively rejected this misguided and untimely "innovation" in our foreign assistance bureaucracy. I regret that the Senate's clearly expressed will was ignored in conference, and I feel compelled to register my vote against the conference report.

At a time when the American people are themselves struggling to make "ends meet" because of spiraling inflation and what promises to be a substantial recession, we can ill afford another well-intentioned but expensive agency to study and coordinate problems which are all too depressingly familiar. Although the funding requests associated with the Institute for Scientific and Technological Cooperation are not great, they involve the creation of a new bureaucracy that, once ensconced, will devour tax dollars at an ever-accelerating rate.●

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, I urge the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION FOR 1 YEAR OF PROGRAMS UNDER HIGHER EDUCATION ACT OF 1965

Mr. PELL. Mr. President, I call up H.R. 4476, the Higher Education Act bill. I understand there is no objection to it on either side.

I first call up the bill and ask that it be considered.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 4476) to extend certain programs under the Higher Education Act of 1965 for one year, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the bill.

The Senate proceeded to consider the bill.

Mr. PELL. Mr. President, H.R. 4476, the Higher Education Technical Amendments of 1979, which was passed overwhelmingly on voice vote by the House of Representatives earlier today. It is my hope that this bill, with a committee amendment, can receive speedy passage by the Senate.

There are two major reasons for such haste. The first concerns the controversy concerning the level of payment of basic educational opportunity grants to independent students. The Middle Income Student Assistance Act, passed by the Congress last fall, provided for a liberalized treatment of these students in determining their eligibility for basic grants. Before the enactment of this act, independent students had been asked to contribute an extremely high percentage of their discretionary income toward their education. This led to inequitable situations, with which I am certain my colleagues are familiar. A mother seeking to return to college would find that she was ineligible to receive a basic grant, while her child, in the identical economic circumstances, would get grant assistance. Students seeking to make their own way in the world, independent of their parents, would find that grant aid was unavailable to them.

The Middle Income Student Assistance Act sought to eliminate these inequities by making independent students eligible for larger grant amounts. However, HEW, citing restrictive language in the Labor-HEW Appropriations Act for fiscal year 1979 (to be spent on student grants for school year 1979 to 1980), promulgated a schedule of expected family contributions which ignored the liberalization of treatment of independent students required by the Middle Income Act.

The Subcommittee on Education, Arts, and Humanities held a hearing on the proposed schedule in April, with an eye toward rejecting it as inconsistent with the authorizing legislation. At that time we were assured by then-Commissioner Boyer that HEW had reconsidered its decision, and that the Middle Income Act would be followed.

On June 29, right before the beginning of the new program year for basic grants, HEW informed me that their lawyers had determined that the appropriations restrictions still held, and that independent students were to receive the lower amount for which they were eligible until passage of this legislation made their full entitlement available to them. The General Accounting Office concurred in this opinion.

As a result, independent students have been denied the full amount of their grants since July 1. This has meant substantial confusion on the campuses of those institutions which have students enrolled in the summer months. Student financial aid officers have been required to hand calculate reduced basic grant amounts for independent students, pending enactment of this legislation.

It is imperative that H.R. 4476 be enacted prior to the August recess, so that the confusion concerning independent students can be abated before most colleges start in the fall. Our action today can assure that the confusion will not be escalated by untold thousands of students who would otherwise arrive on campus to discover that the funds to which they are legally entitled are not available to them.

A second substantive provision of H.R. 4476 relates to the payment of special allowances to lenders participating in the guaranteed student loan program. This special allowance is paid by the Federal Government on a quarterly basis, to assure that the return to lenders, such as banks, credit unions, and savings and loan institutions, is sufficient to insure adequate student loan capital availability. Without this special allowance, the rate of return to lenders on student loans would be limited to 7 percent, an unrealistically low yield in light of today's money market.

Current law limits the special allowance to 5 percent above a figure tied to the average of bond equivalent rates paid on 91-day Treasury bills. This 5-percent level is figured over a 12-month period, so that for any given quarter it may exceed or be less than 5 percent. Until the present time, this ceiling has not caused problems for the continued flow of guaranteed student loans.

The special allowance rate paid for the first quarter of calendar year 1979 was 6.25 percent. The true rate for the third quarter—July, August, and September—would be approximately the same, except for the artificial statutory limitation. If the special allowance payments are not increased, to reflect the actual cost to lenders of making money available to students, the probable result will be a drying up of funds available for student loans. Since, traditionally, students have sought loans in the later summer months, as they face the hard realities of attaining funds to go to college, shortage of available loan funds could result in countless thousands of students who would be unable to get the money necessary to attend college.

The bill passed by the House would raise the ceiling on the special allowances beginning with the second quarter of calendar 1979. The amendment I am offering would make the change effective with the third quarter, the quarter that we are in at the present time. The special allowance payment is made at the end of the quarter, paid retroactively upon the entire portfolio held by the lender during the quarter. Since banks have already completed their lending during the second quarter, changing the amount of the special allowance at this time could have no effect on increasing or maintaining loan volume. In addition, it is estimated that eliminating the increase for the second quarter would result in a savings of more than $35 million. My amendment, which has been worked out with the cooperation of members of the Budget Committee, would prevent such a windfall to lenders, while focusing on the goal of making loan funds available to students during this summer, so that they can meet their college bills in September. I am confident that this amendment will be acceptable to the House, and will not delay the speedy passage of this legislation.

The remainder of the bill, in essence, provides for a 1-year extension of higher education programs. This is necessary if our budget and appropriations cycles are to be kept on track. Many programs and agencies, such as the National Institute of Education and the Fund for the Improvement of Postsecondary Education, have no authorization of appropriations for fiscal year 1981. In the absence of this extension, these programs and agencies could not be included in the President's budget next January and would not be considered in the regular appropriations cycle next spring.

I would like to reiterate the statement that I made upon introduction of S. 1350, the Senate version of the legislation before us—that this extension is not intended to substitute for a thorough examination of higher education programs by the Subcommittee on Education, Arts, and Humanities later in this session. We plan to hold hearings early this fall, and to have a bill for Senate consideration as early as possible. The enactment of this legislation will be without prejudice to our rights to make changes in the later substantive legislation.

This bill is not controversial. Its speedy enactment is necessary to make certain that students have necessary funds to attend school this fall. I urge its enactment.

UP AMENDMENT NO. 485

(Purpose: To make changes in the special allowance under the insured student loan program applicable to the third quarter of calendar year 1979)

Mr. PELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) proposes unprinted amendment numbered 485.

Mr. PELL. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 5(c)(2) strike out the exception and the second sentence and insert in lieu thereof the following: "except with respect to eligible loans held during the third quarter of the calendar year 1979, holders of such loans shall be entitled to a special allowance payment increased by the difference between (A) the special allowance determined with respect to such loans for such quarter under section 438(b)(2) prior to the amendments made by paragraph (1) of this subsection, and (B) the amount which would be determined with respect to such loans for such quarter under section 438(b)(2) as amended.".

Mr. PELL. Mr. President, this amendment has been agreed to by both sides. It eliminates the increase in the interest subsidy for lenders in the guaranteed loan program for the second quarter of the first calendar year. The bill, as amended, would provide for such an increase beginning with the third quarter of this calendar year. The bill itself is, I believe, unobjectionable.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PELL. Mr. President, I now move the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments, the question is on the engrossment and third reading.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 4476), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business and that Senators may be permitted to speak therein up to 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF MR. STEWART TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on tomorrow, Mr. STEWART be recognized for not to exceed 15 minutes, following the other orders.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, what orders are there for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. There are orders for Senators PROXMIRE and STEWART.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the two Senators be recognized in reverse order from that stated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO REDUCE TIME OF LEADERS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders on tomorrow be reduced to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR GOLDWATER ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. GOLDWATER be recognized for not to exceed 15 minutes on Thursday after the orders previously entered.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 285 and 286.

Mr. BAKER. Mr. President, reserving the right to object, I shall not object. The reservation is for the purpose of stating that these items are cleared on our calendar and we have no objection to their being considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

PHOTOGRAPH OF THE SENATE IN SESSION

The resolution (S. Res. 210) temporarily suspending paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the U.S. Capitol to permit a photograph of the Senate in session, was considered and agreed to, as follows:

S. RES. 210

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate chamber) be temporarily suspended for the sole purpose of permitting the United States Capitol Historical Society to photograph the United States Senate in actual session.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make necessary arrangements therefor, which arrangements shall provide for a minimum of disruption to Senate proceedings.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOHANNA B. SALVETTI

The resolution (S. 211 to pay a gratuity to Johanna B. Salvetti, was considered and agreed to, as follows:

S. RES. 211

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Johanna B. Salvetti, widow of Amelio Salvetti, an employee of the Architect of the Capitol assigned to duty in the Senate restaurant at the time of his death, a sum equal to eleven months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I understood the Chair to say there were two orders for recognition of Senators on tomorrow, each for not to exceed 15 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I believe the order has been entered that the Senate proceed to the immediate consideration, upon the conclusion of recognition of Senators on tomorrow, of the EDA authorization bill and that following that measure, the Senators take up the Amtrak authorization bill. There is a time agreement on the Amtrak bill.

I believe that states the program for tomorrow.

The PRESIDING OFFICER. The Senator is correct.

RECESS TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 7:20 p.m., the Senate recessed until tomorrow, Wednesday, August 1, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 31, 1979:

IN THE JUDICIARY

Albert Tate, Jr., of Louisiana, to be U.S. circuit judge for the fifth circuit, vice a new position created by Public Law 95–486, approved October 20, 1978.

William L. Beatty, of Illinois, to be U.S. district judge for the southern district of Illinois, vice a new position created by Public Law 95–486, approved October 20, 1978.

Hugh Gibson, Jr., of Texas, to be U.S. district judge for the southern district of Texas, vice Finis E. Cowan, resigned.

George J. Mitchell, of Maine, to be U.S. district judge for the district of Maine, vice a new position created by Public Law 95–486, approved October 20, 1978.

CONFIRMATION

Executive nomination confirmed by the Senate July 31, 1979:

DEPARTMENT OF ENERGY

Charles William Duncan, Jr., of Texas, to be Secretary of Energy.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Tuesday, July 31, 1979*

The House met at 10 a.m.

Rev. George Jackson Spangenberg, Holy Ghost Preparatory School, Bensalem, Pa., offered the following prayer:

Let us pray.

Almighty and everlasting Father, You guide all creation and establish the order which governs all the ages. It has been Your will to allow a nation to be established, where the peoples of this land may be united into one family. You have entrusted this special task to those assembled here; let them be ever conscious of this task by seeking to insure justice and equality for all their brothers and sisters.

O Lord, our God, You have created these men and women to become Your instruments; give them the wisdom to understand the greatness of Your plan and the courage to carry out Your plan in time. Inspire them this day and every day forward, that they may become an inspiration to the world. As always, we make this prayer in Your name, confident in Your abiding presence and everlasting love. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 389, nays 9, not voting 36, as follows:

[Roll No. 403]

YEAS—389

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—9

Coughlin
Dickinson
Goodling
Jacobs
Lloyd
Mitchell, Md.
Quayle
Schroeder
Wilson, Bob

NOT VOTING—36

Anderson, Ill.
Andrews, N.C.
Anthony
Ashbrook
Ashley
AuCoin
Beilenson
Boggs
Bolling
Breaux
Brown, Calif.
Burton, Phillip
Conyers
Crane, Philip
Dannemeyer
Dingell
Dougherty
Eckhardt
Edwards, Okla.
Flood
Ford, Mich.
Forsythe
Gephardt
Harris
Kemp
Marlenee
Pepper
Price
Railsback
Santini
St Germain
Treen
Walgren
Williams, Ohio
Wilson, C. H.
Young, Alaska

□ 1020

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 230) entitled "An act to amend title VIII of the Public Health Service Act to extend through fiscal year 1980 the program of assistance for nurse training, and for other purposes," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. WILLIAMS, Mr. NELSON, Mr. CRANSTON, Mr. PELL, Mr. SCHWEIKER, Mr. JAVITS, and Mr. HATCH to be the conferees on the part of the Senate.

REV. GEORGE JACKSON SPANGENBERG

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute.)

Mr. KOSTMAYER. Mr. Speaker, I welcome to the House Father George Spangenberg, who delivered the opening prayer this morning.

Father Spangenberg is not only a clergyman, but a teacher. He teaches literature and history at Holy Ghost Preparatory School in Bensalem, Pa., a community in my congressional district. He has ministered to congregations not only in Pennsylvania, but in North Carolina and New York. He is a new resident of my district.

Mr. Speaker, I am pleased and privileged to welcome him to the House this morning not only as a new constituent, but also as a new friend.

IN THE MATTER OF REPRESENTATIVE CHARLES C. DIGGS, JR.

Mr. BENNETT. Mr. Speaker, I call up a privileged resolution (H. Res. 378) in the matter of Representative CHARLES C. DIGGS, JR., and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 378

Resolved,

(1) that Representative Charles C. Diggs, Junior, be censured;

(2) that Representative Charles C. Diggs, Junior, forthwith present himself in the well of the House for the pronouncement of censure;

(3) that Representative Charles C. Diggs, Junior, be censured with the public reading of this resolution by the Speaker;

(4) that Representative Charles C. Diggs, Junior, is ordered to execute and deliver to the House an interest-bearing demand promissory note for $40,031.66, made payable to the Treasury of the United States;

(5) that Representative Charles C. Diggs, Junior, is ordered, for the remainder of the Ninety-sixth Congress, to require his employees to certify to the Committee on Standards of Official Conduct that the funds he or she receives from clerk-hire funds are received in full compliance with current House rules; and

(6) that the House of Representatives adopt the report of the Committee on Standards of Official Conduct dated July 19, 1979, In The Matter of Representative Charles C. Diggs, Junior.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to make a statement after which the gentleman from Florida (Mr. BENNETT) will be recognized for 1 hour.

The Chair must acknowledge the gravity of the pending resolution insofar as the House will be called up to discipline one of its Members. While there should of course, be an opportunity to debate all aspects of this matter, the Chair wishes to remind Members of the restrictions imposed by clause I, rule XIV, and by the precedents relating to references to Members in debate. These restrictions indicate that Members should refrain from using language which is personally abusive. While a wide range of discussion relating to conduct of the Member in question will be permitted, it is the duty of the Chair to maintain proper decorum in debate. It is the intention of the Chair to enforce the rules.

The gentleman from Florida (Mr. BENNETT) is recognized for 1 hour.

GENERAL LEAVE

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks in the extension of remarks section of the RECORD, and that this not include any revisions of remarks delivered in the House today.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BENNETT. Mr. Speaker, for the purposes of debate only I yield 20 minutes to the gentleman from South Carolina (Mr. SPENCE); and for the purposes of debate only I yield 20 minutes to the gentleman from Michigan (Mr. DIGGS), pending which I yield myself such time as I may consume.

Mr. Speaker, on February 1 of this year, as chairman of the Committee on Standards of Official Conduct, I communicated to the other members of the committee my intention, subject to their approval, to appoint a subcommittee of two to inquire into the conviction of Representative DIGGS. At the organizational meeting of the committee on February 7, the gentleman from Indiana (Mr. HAMILTON) and the gentleman from New Jersey (Mr. HOLLENBECK) were so appointed.

On February 2, the gentleman from Georgia, Representative GINGRICH, and 18 other Members filed a sworn complaint charging that Representative DIGGS had violated House Rule XLIII, clause 1, Code of Official Conduct, by reason of his misuse of clerk-hire allowances—essentially the same conduct which had led in 1978 to his indictment and conviction in the U.S. District Court.

On March 21, a formal resolution to conduct an inquiry into the official conduct of Representative DIGGS was adopted by the committee. These initiatives, and the investigation that ensued, culminated in the recommendation of the committee that the House adopt the resolution now under discussion.

During the preceding Congress, Representative DIGGS was the subject of an investigation by the Department of Justice into alleged violations of Federal law concerning the use of his clerk-hire allowance. On March 23, 1978, a grand jury sitting in the District of Columbia indicted Representative DIGGS on 14 counts of violating 18 U.S.C. 1341 (mail fraud) and 21 counts of violating 18 U.S.C. 1001 (false statement). All counts were related to an alleged scheme by Representative DIGGS to defraud the Government by either: First, inflating employees' salaries so that they could use the increase to pay his personal and congressional expenses; or second, adding individuals to his congressional payroll to compensate them for providing him with personal services.

On October 7, 1978, the jury returned a verdict of guilty on the 29 counts that were prosecuted. On November 21, 1978, Representative DIGGS was sentenced to 3 years imprisonment on each of these counts, the sentences to run concurrently. Between the time of the conviction and sentencing, on November 7, 1978, Representative DIGGS was reelected to Congress. Representative DIGGS has this conviction under appeal at this time; and a decision by the Court of Appeals for the District of Columbia is anticipated some time during the next few months.

Special counsel appointed by the committee undertook a thorough analysis of the transcript of evidence from the trial of Representative DIGGS and interviewed various potential witnesses, following which the committee unanimously approved and served upon Representative DIGGS a statement of alleged violations, charging violations of clauses 1 and 8, of the Code of Official Conduct. Clause 1 imposes an obligation on every Member "to conduct himself at all times in a manner which shall reflect creditably on the House." Clause 8 prohibits a Member from retaining a staff employee "who does not perform duties commensurate with the compensation he receives."

The summary of the trial testimony appears in the committee report, pages 9–16; and the statement of alleged violations appears as part of appendix A (pages 28–37).

Appendix F to the report (pages 148–177) contains various exhibits introduced during the trial of Representative Diggs which record the changes in salary of various staff members and disbursements by them to pay personal and office related expenses of the Member.

After the statement of alleged violations was served, counsel for Representative Diggs filed various motions, including a motion to defer all committee action pending the outcome of the judicial proceedings and a motion to dismiss for lack of jurisdiction.

The motion to defer was based upon the argument that any proceedings the committee might undertake would generate publicity that might prejudice the Member's criminal court proceedings. The motion was denied by an 8–3 vote, the majority being of the opinion that the possibility, that any publicity of the committee proceedings adversely affecting the rights of Representative Diggs in the ongoing judicial proceedings, was remote and insubstantial.

The motion to dismiss for lack of jurisdiction was based on the argument that the power of the House to punish for misconduct was terminated by the Member's reelection, at least where the alleged misconduct was known to his constituency prior to his reelection. Counsel for Representative Diggs maintained that the power to expel, conferred by article I, section 5 of the Constitution, conflicted with the right of his constituency under article I, section 2 to elect, and have him serve as their representative, even following his conviction; and that the conflict had to be resolved in favor of the Member's constituency.

Special counsel to the committee argued that any question about the power to expel was premature since the precedents were: That the House has jurisdiction under article I, section 5 to inquire into the misconduct of a Member occurring prior to his last election; and, under appropriate circumstances, to impose at least those disciplinary sanctions that fall short of expulsion. The motion to dismiss for lack of jurisdiction was unanimously denied, following which Representative Diggs filed a general denial to all counts in the statement of alleged violations.

The committee then ordered a disciplinary hearing, but before the date set for its commencement. Special Counsel for the committee and counsel for the Member engaged in discussions which led to the committee's recommended disposition of the proceedings.

The discussions between counsel culminated in an admission of guilt by Representative Diggs with respect to certain violations of House rules; and a further admission that he had personally benefited from the employment of some members of his staff; and an agreement to: First, make restitution of amounts from which he derived personal benefit; second, to apologize to the House for his wrongdoing; and third, to accept censure therefor. This was formally presented to the committee in open session by Representative Diggs' counsel; and Representative Diggs signed the letter—and orally before the committee acknowledged it to be his—which letter appears at page 16 of the report.

On recommendation of the committee's Special Counsel, Representatives Diggs' letter of admissions was accepted and the committee recommended that Representative Diggs be found guilty of violating rule XLIII, clauses 1 and 8, on the basis of his admissions; and that Representative Diggs be censured and required to make restitution by execution of an interest-bearing demand promissory note for the full amount of his personal benefit from the use of clerk-hire funds as disclosed in the evidence. Representative Hamilton moved the resolution, the full text of which appears in the report (pages 17–19). Representative Hamilton's resolution was unanimously adopted.

The committee did not proceed to conduct the evidentiary hearing originally contemplated because Representative Diggs' letter of admission of guilt, plus the evidence taken from the criminal proceedings, constituted a more than adequate record on which to judge the case. An evidentiary hearing—which would have been largely repetitious of the trial proceeding—would not have resulted in a different committee recommendation regarding punishment.

As to the punishment recommended, the committee concluded, after research of precedents, that expulsion, the most extreme penalty possible under the Constitution, would be inappropriate. More serious offenses have in the past not received this penalty; and in fact on only three occasions in the history of our country has this penalty been imposed. They were in the Civil War period when elected Members joined the Confederacy, which was an action viewed by some as treason. Further, Representative Diggs—as all Congressmen—is answerable also in the criminal and civil courts, in addition to proceedings in the House; and he may eventually lose his freedom if he loses his appeal in the criminal proceedings. Some feel that in that event he should be expelled; but the present proceedings do not address that question, which is at this time premature, since it is not now a certainty that he will not succeed in his appeal of the judicial proceedings.

The committee rejected recommending expulsion in this case as too severe and inappropriate for the offenses involved, serious as they are. We considered, among other things, the admission by this Member of violations of House rules and his apology therefor; and the respect owed his constituency which reelected him following his conviction. In sum, we believe that censure, together with the other obligations imposed on the Member by the resolution before you represents a just conclusion of these proceedings. This was the unanimous recommendation of the committee, following the unanimous recommendation of its subcommittee.

I reserve the balance of my time.

☐ 1030

The SPEAKER. The Chair recognizes the gentleman from South Carolina (Mr. Spence).

Mr. SPENCE. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, your Committee on Standards of Official Conduct is the committee which is charged with the responsibility of investigating matters involving the official conduct or ethics of the Members of this body, and recommending what punishment, if any, is deemed appropriate.

Our task is one of the heaviest responsibilities that can be placed on any one group—to sit in judgment on their fellow man. We, ourselves, are not perfect in every respect; neither are you, in whose behalf we have labored. Our ultimate duty is to represent others who are, themselves, beset with all the frailties of human beings.

Still, the job must be done. It is sometimes distasteful, but someone must do it. We must police ourselves—no one else or no other body can have this unique responsibility under our system of government.

There are 12 of us, as you know. Six of us are Democrats and six are Republicans—the only standing committee so constituted with equal numbers regardless of the ratio in the House. We are supposed to be nonpartisan and my experience has been that we are. We do not have majority and minority staffing. We are chosen by you of our respective party affiliations. While we have been criticized by some of our colleagues, you do not find them clamoring for membership on the committee, where their expertise is sorely needed. As a matter of fact, only the chairman, myself, and two other Members have served previously on the committee.

Most of us are lawyers, but not all of us. One is a former Federal judge and one a former prosecutor. Our permanent staff of lawyers and investigators and our special counsel in this matter are experts in their fields.

The committee could serve as an ideal platform for demagogs and people who seek headlines back home, but no one on your committee has sought to take advantage of this. I have been impressed with the fact that, without exception, this committee is more concerned with being fair and just and upholding the integrity of this body.

Mr. Speaker, what is expected of us in carrying out our duties?

That we set all passions aside;

That we examine all the facts;

That we study the precedents of the House;

That we review all pertinent law;

That we place justice above politics;

That we be fair but firm;

That we consider the wishes of a constituency but that we preserve the dignity of the House;

That we set no precedent that will not stand the test of time; and

That any recommended punishment be just, appropriate, and effective.

Mr. Speaker, we have followed these injunctions. We have worked long and hard and we have agonized, collectively and individually, over our decision.

I doubt very seriously that, even considering all of the collective wisdom of this body, there will be a point raised or a position taken today that has not been fully considered and found wanting during the committee deliberations on this matter.

I am sure there are a number here who qualify as expert constitutional lawyers or scholars, and who will want to avail themselves of this opportunity to discuss the constitutional question of the power of the House to expel a Member. Understandably, the arguments for and against expulsion were also advanced in committee where they were fully researched and considered from every viewpoint. All the authorities and legal arguments are printed in the report.

Yesterday's vote on the privileged resolution to expel Mr. Diggs told us clearly that not even a majority of this body, much less the required two-thirds, favors expulsion in this case. At least some who voted against tabling the resolution would not vote for expulsion but supported the resolution only to offer an opportunity to have it debated. At the same time, the sizable vote in support of the resolution, as well as the sentiments of many who opposed it, indicate the seriousness with which the House regards the matter under consideration.

Mr. Speaker, our unanimous committee recommendation is that Representative Charles Diggs be publicly censured by this House for the discredit he has brought to this body by his conduct in the misuse of his clerk-hire allowance.

☐ 1040

The SPEAKER. The Chair recognizes the gentleman from Florida (Mr. Bennett).

Mr. BENNETT. Mr. Speaker, I believe we should now hear from the gentleman from Michigan (Mr. Diggs).

Mr. DIGGS. Mr. Speaker, I yield my time to the gentleman from Ohio (Mr. Stokes).

The SPEAKER. The Chair recognizes the gentleman from Ohio (Mr. Stokes).

Mr. STOKES. Mr. Speaker, I reserve my time.

Mr. BENNETT. Mr. Speaker, I have found no further requests for time.

Mr. SPENCE. Mr. Speaker, I yield 2½ minutes for purposes of debate only to the gentleman from New Jersey (Mr. Hollenbeck).

Mr. HOLLENBECK. In the short time allotted me by the gentleman from South Carolina, I should like to respond to several oft-repeated questions posed to myself and my colleagues on the Committee on Standards of Official Conduct since our completion of the investigation of Congressman Diggs. Although the issues contained in these questions have, for the most part, been answered in the committee's report, it is my hope that a brief summary of the committee's position on several key points will better enable this body to evaluate the pending resolution.

First, there has been considerable controversy over the committee not recommending expulsion of the gentlemen from Michigan. The questions most often posed in this regard are: First, "Have we the power to expel? and second, "If so, why was expulsion not recommended in this case?"

The committee declined to recommend expulsion of Congressman Diggs for reasons stated at page 20 of the report. Probably the most important of those reasons was the opinion of the committee that the offenses charged, although very serious, simply did not warrant the ultimate punishment of expulsion—a punishment meted out only three times in the history of the House—a punishment which has never been imposed for an act short of treason, a punishment which has not been imposed in over a century. Viewing Mr. Diggs' cooperation with the committee's investigation, his apology to the House and his agreement to repay the full amount by which he personally benefited from misuse of his clerk-hire allowance, the committee determined that a fair disposition would not include a recommendation of expulsion. Since the committee determined that expulsion was not to be included in the recommended sanction, it was unnecessary to resolve the constitutional question of power to expel a Member.

This is not to suggest, however, that the committee did not consider the issue of this House's power to expel a Member. On the contrary, the limited precedents on the issue were briefed in detail by counsel and considerable debate was held on the matter. Contrary to the stated opinions of some of our colleagues, the power to expel a Member, articulated in article I, section 5, clause 2 of the Constitution, is not unlimited. In the instant case, where the Member was reelected after his conviction on criminal charges, a recommendation to expel could have directly conflicted with the constitutional right of Mr. Diggs' constituency to freely choose whomever they wish to represent them. In the interest of expediting a fair resolution of the issue at hand—that is, the question of Mr. Diggs' official conduct—the committee, after determining that expulsion was inappropriate, chose not delay the proceeding by further discussion of the power to expel.

Finally, with respect to the expulsion issue, I would like to associate myself with the remarks of the gentleman from South Carolina regarding the effect of yesterday's vote on H.R. 391. Clearly, as that vote indicates, the majority of the Members of the House agree with the Committee on Standards of Official Conduct that expulsion is not an appropriate remedy in this case.

A second question raised by a number of our colleagues regards the effect of this disposition on the power of the House to later consider a resolution to expel the Member if and when his criminal conviction is upheld and he is incarcerated. It is, first of all, my fervent hope and sincere anticipation that the gentleman from Michigan, who at his criminal trial emphasized his dedication to his constituency, would see fit under such circumstances to resign, so that a new representative could promptly be chosen to replace him. If that is not the case, nothing in the committee's recommendation or report, or in the committee's predisposition negotiation with Mr. Diggs, should be construed as precluding subsequent House action to expel the Member. That is, the recommended disposition of this matter is not intended to bar the House from expelling Mr. Diggs if he is incarcerated and unable to actively represent his constituency.

A third question of common interest concerns the relationship of the House's action today and the criminal proceedings involving the Member. It is the opinion of the committee that the two are totally independent, that the ultimate disposition of charges in each forum is unaffected by the other. The committee's action is not intended or expected to influence the U.S. court of appeals decision in the Member's pending appeal. Reversal by the appellate court of the criminal conviction would in no way affect the House action here under consideration.

A fourth question—or rather category of questions—which warrants only a brief response, concerns the issue of the Member's race. While some have suggested that racism fueled the investigation of Congressman Diggs, others have claimed that a racial "double standard" precluded serious consideration of a harsher sanction. The committee, of course, denies that the race of the Member had any bearing whatsoever on its investigation. We cannot prevent some persons, either in or out of the House, from making such insinuations, but we are confident that our record, as well as the record of the entire House, in dealing with disciplinary proceedings refutes any such suggestions. We have attempted to the best of our ability to observe justice and fairness in every case, judging each on the evidence presented. We have been extremely cognizant of our obligation to observe the due process rights of any Member or person involved in one of our proceedings. With regard to this specific case, it is most important to note that the Member has admitted guilt, apologized to the House, agreed to make restitution, and agreed to accept censure because of his misconduct. Believing that to be a fair disposition, the committee incorporated each of those points in its recommendations.

The suggestion that censure rather than expulsion was recommended so as not to offend the black vote is not worthy of a response.

Another question raised, which I shall examine today is:

What has happened to Representative Newt Gingrich's House Resolution 142?

House Resolution 142 was referred to the committee where it was subject to consideration during the committee's inquiry into the conduct of Representative Diggs, which inquiry commenced prior to House Resolution 142 on the committee's own initiative. Because of the committee's recommended resolution, House Resolution 378, which we discuss today, and assuming the resolution is adopted, no further action is scheduled by the committee with respect to House Resolution 142. In this connection, Representative Gingrich has been quoted as saying that the disposition of this case recommended by the committee satisfies him, particularly in view of the Member's admission of guilt, and his apology therefor.

In dealing with this matter did the committee consider in depth the issue of punishment for offenses committed prior to the most recent election? Some have asked.

The issue of punishment for offenses committed prior to a Member's election is dealt with in the report, including the supplemental views of the gentleman from Wisconsin (Mr. Sensenbrenner). The committee is of the unanimous opinion that the power of the House to punish for prior misconduct, at least the imposition of those sanctions that fall short of expulsion, is clear and well established by many legislative precedents. It is felt that this power can be invoked without conflicting with the right of each congressional constituency to select its representative, whereas the exercise of the power to expel obviously could conflict with those rights. Because of its recommended disposition of this case, the committee found it unnecessary to express an opinion on whether the power to expel extends to prior misconduct. My colleague's will expand upon this point.

I constantly overheard some colleagues asking why not recommend that Mr. Diggs be denied the right vote on the floor of the House until his appeals are final?

Any attempt to deny the Member the right to vote could raise serious constitutional problems because such action obviously interferes with the right of his constituency to have a voting representative. Most felt that allowing a Member to hold his seat in the House, but denying him a vote, is perhaps worse for his constituency than expulsion. At least following expulsion the seat is vacant and a special election can be held providing the constituency the opportunity to elect a voting representative.

Mr. Speaker, I also note that the committee does not express a viewpoint on whether Mr. Diggs may resume his chairmanships as that is a matter of party responsibility and under current practice would be a decision for the Democratic caucus. We specifically did not express a viewpoint on that matter.

I also note that the committee has acted while appeals are pending in the Federal courts concerning the Diggs conviction.

This subject is dealt with extensively in the memorandum filed by counsel for Representative Diggs in support of a motion to defer the proceedings, and the memorandum in opposition filed by special counsel to the committee. The House has responsibility to act in a totally independent disciplinary procedure with respect to allegations of misconduct, particularly of the kind relating to the Member's official duties. The committee has usually deferred initiating a formal inquiry during the course of the a criminal investigation, grand jury proceeding, indictment and trial. That was done in this case. However, the appellate process can be very lengthy, even extending over the terms of two or more Congresses. The factors contributing to a decision to defer an inquiry into the conduct of a Member who has been indicted but not tried, principally problems of pretrial publicity, substantially diminish thereafter.

If a Member eventually is imprisoned, he obviously will be unable to serve his constituency. If that event occurs and the Member does not resign, it will be a matter for the House to deal with at the time. As I stated before, there is nothing in the committee's recommended disposition of the case that limits or affects any action the House might wish to take under those circumstances, in my opinion.

Some have asked me about the costs involved in this matter. The cost of these proceedings thus far has been over $50,000.

The committee printed the original trial record to provide the Members with the opportunity to become fully acquainted with the nature of the offenses with which Representative Diggs was charged both by the Department of Justice in the criminal proceedings and the committee in its proceedings. Volume II is a transcript of the evidence taken at the trial and is very lengthy.

I have heard questions concerning the attention paid to this matter by the Members. I am pleased at the diligence of the committee on this matter. The chairman was initially and accidently ill advised by special counsel who suggested the proceeding could be concluded in 60 days. However, in defense of special counsel, he did not anticipate the challenge to the committee's jurisdiction and the efforts to defer the proceedings undertaken by counsel for Representative Diggs. Moreover, special counsel was of the opinion that the matter could be disposed of following the procedures outlined in committee rule 14 adopted earlier this year. That rule now provides that, following a conviction, if the conduct that was the subject of the criminal proceedings also involved the Member's official duties, an evidentiary hearing could be avoided and a phase two hearing immediately commenced. In a phase two hearing, only the question of the appropriate punishment is before the committee. However, the committee declined to proceed under this rule, which was adopted subsequent to the time of the occurrence of the offenses charged against Representative Diggs, retroactively.

The committee considered this matter on 14 separate occasions and adhered to the timetable of the rules as tightly as possible within the House schedule. I have added a synopsis of committee action at the end of my remarks.

It is disturbing that the recommended disposition of the case has been described by some as resulting from a "plea bargain." These terms are popularly used to describe the disposition of the vast majority of criminal proceedings. Whether or not this terminology is appropriate for the action taken in this legislative disciplinary proceeding is something over which the committee has no control. I can assure those people that the committee settled for no less than it felt was appropriate for the facts of the case.

The discussions which led to the resolution came up during procedural discussion by counsel. During the course of the discussions between special counsel and counsel for the Member, Chairman Bennett and ranking member of the committee, Mr. Spence, and the special subcommittee, consisting of Representative Hamilton and myself, were kept fully informed. Ultimately, one reason for proceeding as we did was the recognition that a lengthy evidentiary hearing would have been largely repetitious of the trial proceeding and would have contributed little or no additional evidence in support of the charges not available from the transcript of testimony received during the trial.

Mr. Speaker, I can recall that the gentleman from Virginia (Mr. Butler) said in debate on House Resolution 142 that Mr. Diggs defrauded the Government of more than $100,000. This gives rise to several questions. First, is the amount of restitution too low? Is conversion of clerk-hire to office related use now legal? What happens to money owed by the gentleman from Michigan if he is no longer a Member? Will there be salary deductions?

The precise amount of money involved in any alleged improper use of the clerk-hire allowance by the Member is difficult to determine, even upon the committee's careful analysis. The amount of the note ordered as restitution is the result of such an analysis.

But I hasten to add that any action here today in no way bars the Government from further civil remedies. Just as it is the responsibility of the Department of Justice to enforce any criminal statutes the Member may have violated, it is also the Department's responsibility, acting in accordance with established policies in such matters, to institute civil action on the part of the United States to recover any clerk-hire or other funds that were disbursed otherwise than in accordance with law. We understand the Department of Justice is considering a civil action to recover such funds.

It should be made clear that the committee charges alleged the Member inflated staff salaries for three different purposes. First, to pay clearly identifiable personal expenses of the Member. Second, to pay expenses related to the Member's official duties, but which exceeded the allowances otherwise provided therefor. This was prior to the present rules allowing transfer. The third category involved alleged overcompensation of staff to pay for services rendered for the personal benefit of the Member, for example, Ms. Jeralee Richmond, who, while apparently rendering some legitimate staff duties, devoted the majority of her time to the affairs of the Member's funeral home; and Mr. George Johnson, who rendered accounting services to the Member personally and to the funeral home.

In his final response, Representative Diggs has admitted guilt with respect to the first category and, without admitting guilt to the third category, has admitted that he personally benefited thereby. Regarding the second category, office related expenses, Representative Diggs steadfastly maintains that his use of clerk-hire funds for such purposes was not in violation of any House rules.

The amount of restitution to be made, approximately $40,000, includes the funds involved in the payment of personal expenses or staff salaries paid which inured to the personal benefit of the Member. It does not include funds used to pay office related expenses. This does not mean that the committee finds that the use of the clerk-hire allowance for those purposes did not involve a violation of House rules; only that we decided not to render an opinion or judgment on that issue as part of the entire context in which the disposition of the case was reached. Committee advisory opinion No. 2, on the subject of the use of clerk-hire funds, remains the official expression of the committee on the subject. If any Member of the House believes the opinion requires explanation in any given instance, there are procedures available to obtain an interpretation.

If Representative Diggs ceases to be a Member of the House, he still will be obligated to pay the note evidencing the amount of restitution he has agreed to make, and, as previously indicated, any civil judgment the United States might recover. It is contemplated that there will be salary deductions made to meet the obligation evidenced by the note as long as Representative Diggs is a member.

CHRONOLOGY

EVENT/ACTION

Feb. 1, 1979: Chairman circulated to Committee Members a statement advising of his intention to appoint subcommittee in matter of Charles C. Diggs, Jr.

Feb. 2, 1979: Complaint by Rep. Gingrich and 18 other Members received by CSOC.

Feb. 7, 1979: Organizational meeting of CSOC. Appointed Hamilton and Hollenbeck to subcommittee with authority to recommend Special Counsel.

Feb. 22, 1979: CSOC adopted Rules of Procedure for 96th Congress.

March 1, 1979: H. Res. 142 (to expel Diggs) referred to CSOC (322–77).

March 7, 1979: House approves funding resolution for CSOC—96th, 1st Session.

March 7, 1979: CSOC enters into legal contract with Pierson, Ball & Dowd as special counsel.

March 21, 1979: CSOC adopted motion to conduct inquiry and determine if Statement of Alleged Violations should issue.

March 30, 1979: House Administration Committee approved legal contract for Counsel.

April 4, 1979: CSOC approved Statement of Alleged Violations (10–0).

Triggered time schedule as provided by rules of procedure

1. 21-day period to file motions—Done Apr. 25.

2. 30-day period for CSOC to consider motions—Done May 16.

On May 16 an additional motion was filed and accepted although not timely. CSOC considered it on May 23.

3. 14-day period for Diggs to answer SAV—Done June 6.

4. CSOC acts as soon as practicable to hold hearings or defer action—Done June 7.

June 7, 1979: CSOC adopted final motion to hold disciplinary hearing.

June 25, 1979: Hearing scheduled but continued on day-to-day basis.

June 27, 1979: Date of Rep. Diggs' letter of admissions.

June 29, 1979: Hearing held to receive letter of admissions and adopt resolution recommending "censure".

July 17 and 18, 1979: CSOC met to mark up Report.

July 19, 1979: Resolution and Report In The Matter of Rep. Charles C. Diggs, Jr. filed.

July 25, 1979: Copy of printed Resolution and Report sent to 439 Members by CSOC.

COMMITTEE MEETINGS AT WHICH MATTER OF REPRESENTATIVE DIGGS WAS CONSIDERED

February 7, February 22, March 21, March 28, April 4, May 16, May 23, June 7, June 21, June 25, June 26, June 29, July 17, July 18.—A total of 14 meetings.

Mr. SPENCE. Mr. Speaker, I yield for purposes of debate only 2½ minutes to to the gentleman from Louisiana (Mr. Livingston).

Mr. LIVINGSTON. Mr. Speaker, I would like first to associate myself with the remarks of the distinguished chairman and ranking minority member of the committee as well as the gentleman from New Jersey.

The ranking minority member and the chairman have ably led all of the members of the committee to an objective and fair conclusion to this most unfortunate case. I believe the decision was a correct one and I join with them in making this recommendation to the full body.

Our decision will not satisfy all of the Members by any means. There will be those who believe that we reacted too harshly, as well as those who believe we failed to react strongly enough. Nevertheless, I feel very strongly that the decision of the committee should be upheld by this body.

The gentleman from Michigan (Mr. Diggs), in his letter of June 27, 1979, shortstopped the procedures of the committee and submitted a letter which admitted guilt to some of the allegations before the committee, admitted unjust enrichment from other of his activities as a Congressman, promised restitution of a significant amount of funds to the Clerk of the House, promised certification that there would be no further such abuses, and apologized to the House for the discredit brought upon it by his actions.

To my knowledge, this was the first time that such a plea has ever been tendered to our committee. In accepting that letter, the committee made a finding of guilty to those violations of House rule XLIII, clauses 1 and 8, obtained execution of a demand note for $40,031.66 plus interest, and recommended a penalty of censure, the most severe penalty permitted under the House rules, short of expulsion.

Such censure is to be accomplished with the Member appearing in the well of the House in accordance with House practice. It is the first censure to be undertaken by this body in almost 60 years and, in my opinion, it is a penalty which is both reasonable and commensurate with the nature of the offenses to which the gentleman from Michigan (Mr. Diggs) has admitted guilt.

In reaching a determination of sentence for any offense, such offense must be judged according to degree, in the light of all other possible offenses. The committee rule which governs reads as follows:

> With respect to the sanctions which the committee may determine to include in a recommendation to the House respecting a violation, reprimand is appropriate for serious violations, censure is appropriate for more serious violations, and explusion of a Member . . . is appropriate for the most serious violations . . .

In my opinion, and evidently in that of the rest of the committee, the degree of this offense to which the gentleman from Michigan (Mr. Diggs) has admitted guilt is among the "more" serious, but not among the "most" serious. In fact, the House has found expulsion warranted only three times in the history of this body.

□ 1050

In keeping with the rules of the House and our subcommittee, I submit this was an appropriate judgment and I recommend that my colleagues vote to censure the gentleman from Michigan (Mr. Diggs).

Mr. SPENCE. Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. Thomas) for purposes of debate only.

Mr. THOMAS. Mr. Speaker, I did not ask to serve on the Committee on Standards of Official Conduct. I was asked to serve, and as I think it is the duty of every Member of this House at times to take on tasks that are perhaps not the most pleasant; I accepted the assignment, these duties are nevertheless requirements if we as individuals are going to function together in a body as large as this.

Shortly after my assignment to the committee, I received a cartoon from the chairman. It said, "We are looking for a few good men." It was a picture of the Hall of Statues and Members were hiding behind pillars, hoping not to be selected.

As the ranking minority member indicated, we are not perfect. Hopefully, all of us are more good.

I am not an attorney. I sat through the discussions looking at the broader question, at the historical question. There was a clear indication that the decision should primarily be just and right, and that the punishment should fit the crime. However, in discussing with various Members the punishment that the committee unanimously arrived at, the indication was that censure is nothing, that the only thing that is significant is expulsion.

I would ask each of you sitting here today and those Members who were not able to be here, and I do wish all were here, but a significant number are, to ask yourselves if you would be able to sit through this kind of a proceeding with your colleagues, indicating primarily with a heavy heart, but with an indication that the House must judge itself and we must, in the eyes of the people who watch us, judge ourselves and do it fairly and equitably, ask yourselves if this is not difficult for an individual to go through when his colleagues decide that he has violated the rules of the House to the point that he must come before them and indicate guilt and then attach a significant fine with interest.

However, I want to indicate that the committee in no way has committed itself to a decision based upon subsequent court action in the case before us.

In my opinion, the decision that this House will arrive at today is not only just and fair and historically correct, but one that will begin to indicate to the people of the United States that not only can the House discipline itself, but it does it fairly and equitably.

Mr. SPENCE. Mr. Speaker, I yield 2½ minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the resolution and wish to associate myself with the remarks of the chairman of the committee, the gentleman from Florida (Mr. BENNETT) and also the ranking minority member, the gentleman from South Carolina (Mr. SPENCE).

The gentleman from Michigan (Mr. DIGGS) has admitted violating House rules by arranging to use clerk-hire funds for personal purposes. He has brought discredit upon the House of Representatives and should be censured. However, in addition to disciplining the gentleman from Michigan (Mr. DIGGS), adoption of this resolution clearly overrules the precedent that the House will not examine a Member's conduct which occurred prior to his last election, when the electorate had knowledge of the alleged misconduct.

The gentleman from Michigan (Mr. DIGGS) filed a motion to dismiss the proceedings for lack of jurisdiction because his conviction occurred prior to his last reelection before the Committee on Standards of Official Conduct. That motion was unanimously denied and this proceeding has been brought before us today.

The view that reelection constitutes forgiveness was most recently expressed by the Committee on Standards of Official Conduct in House Report 94-76, 94th Congress, 1st session, filed March 18, 1975. The view has been upheld by the full House on numerous occasions, many of which occurred early in the history of this country.

The time has come to end this precedent and adoption of this resolution will do just that. In the case before us today, the reelection involved was not really an election at all. For all practical purposes, the next Representative for the 13th District of the State of Michigan is chosen by the voters in the Democratic primary election, which was held in August of 1978. Mr. DIGGS conviction by the jury in the District Court for the District of Columbia occurred on October 7, 1978. At that time there was no way for a citizen of the 13th District of Michigan to become a candidate for Congress and the reelection which occurred in November was a mere formality.

Finally, the House action today has no bearing on the criminal proceedings against the gentleman from Michigan. If his conviction is affirmed by the U.S. Court of Appeals, he is still subject to a 3-year jail term.

This would be the second censure of a House Member this century and the note which the resolution requires Mr. DIGGS to execute will stand irrespective of how the appeal of the gentleman from Michigan (Mr. DIGGS) is decided and whether he remains a Member of Congress.

Mr. SPENCE. Mr. Speaker, I yield the remaining time to the gentleman from Wyoming (Mr. CHENEY) for purposes of debate only.

Mr. CHENEY. Mr. Speaker, it is unpleasant to have to rise to speak to this issue. Most of us who serve on the Committee on Standards of Official Conduct do not relish the task.

I believe most of us wish there were no need for such a committee at all. However, our experience has been that from time to time, people are elected to serve in this body who violate the rules of the House. House Resolution 378 addresses a violation of House rules by Representative CHARLES DIGGS.

This is not a criminal proceeding. That is already being taken care of in the courts.

Nor is this a partisan proceeding. I would remind my colleagues that the committee is bipartisan in its composition, having six Members of each party; and unanimous in its recommendation.

The Members of the House have had an opportunity to review the report of the committee and are therefore familiar with Mr. DIGGS' conduct. The Members all know that Mr. DIGGS has admitted violating rule XLIII, clauses 1 and 8.

Mr. DIGGS admits to having personally benefited from the use of more than $40,000 belonging to the American taxpayer—your constituents and mine.

He has dishonored himself.

And, more importantly, he has dishonored this House.

What occupies us here today is the question of what action should be taken by the House—what sanctions should be imposed, on the gentleman from Michigan.

Some have asked why we should tolerate someone guilty of such conduct as a voting Member of this body. They advocate expulsion of Mr. DIGGS on the grounds that any lesser penalty will be perceived by our constituents as condoning Mr. DIGGS' behavior.

I have a certain sympathy for that view. I do not believe that a man who has been convicted by a jury of his peers, a man who has admitted defrauding this body of more than $40,000, should continue serving in it.

A decent respect for the responsibility of a U.S. Representative to the American people would have dictated resignation as the only honorable course of action for most men. The same course would have been the inevitable result of a feeling for the honorable traditions of this House. Most men would have recognized a complete loss of respect as the ultimate judgment of their peers and would have immediately concluded that they had been found unfit to serve the people in this House. Honor would have required resignation of most men as the obvious act in these circumstances. I believe Representative DIGGS should have resigned long ago, and I believe he should do so now. Instead, he has forced us to take action against him.

In deciding what action to recommend, the committee carefully considered the full range of sanctions provided by the House Rules and the Constitution. We looked at all of the possibilities, up to and including expulsion.

For me personally, it has been a very difficult decision, but after giving the matter a great deal of thought, I concluded that "censure" is the appropriate sanction.

Several arguments have been advanced to support the committee's decision to recommend censure rather than expulsion.

It has been pointed out that there is no precedent for expelling a Member for the kinds of violations at issue in the Diggs matter; that expulsion has previously been imposed only during the Civil War as a sanction for treason; that if the House censures Mr. DIGGS, it will only be the second time in this century that such action has been taken against a Member.

All of these arguments are valid, but of even greater significance is the fact that expulsion as a sanction raises significant issues involving the right of the people to choose their representatives, as provided in article I, section 2, of the Constitution. Any time the House seeks to exercise its authority to expel a Member in accordance with article I, section 5, it is also accepting the awesome responsibility of overriding the decision of several hundred thousand Americans, about who shall represent them in the House. That is not an action to be taken lightly. That is why I believe expulsion is a sanction which must only be imposed under the most extraordinary circumstances, and why it is not appropriate in this instance.

In the case before the House, the gentleman was reelected overwhelmingly by the voters of the 13th District after the trial where he was found guilty. A vote to expel Mr. DIGGS would mean that we are going to set aside that electoral result and substitute our own judgment for that of the voters of the 13th District of Michigan.

My basic reason for supporting censure rather than explusion is that we must honor, in all but the most extraordinary circumstances, the right of the people to choose their representatives.

I deplore Mr. DIGGS' unethical behavior. I believe that he should no longer serve in the House of Representatives. I cannot, however, support the contention that this body should now take the grave step, in these circumstances, of setting aside the right of the voters of Michigan's 13th District to select the Congressman of their choice.

I must add, however, that implicit in the right of a constituency to choose its representative, is a corresponding responsibility to choose people whose qualifications for office are above reproach. I believe the people of the 13th district have done the rest of the Nation a distinct disservice in returning Mr. Diggs to the House, and I urge them to reconsider their decision at the earliest opportunity.

While I believe the House must wield its power to expel with utmost caution, if Mr. Diggs is unsuccessful with his appeal and is forced to serve his sentence, I believe the House would be justified in reopening his case and taking up the question of expulsion. If Mr. Diggs is in jail, he will no longer be in a position to represent his constituents and the question of disenfranchising his constituents would no longer apply.

Although the House has decided not to expel Mr. Diggs, the serious nature of his misconduct justifies the imposition of the sanction of censure, and a demand for restitution. I urge the House to adopt House Resolution 378 and the report, in the matter of Representative Charles C. Diggs, Jr.

● Mr. HAMILTON. Mr. Speaker, I would like to explain briefly why I believe that House Resolution 378 represents a just and sensible conclusion to the disciplinary proceedings against Mr. Diggs.

As you know, the resolution before you specifies three things in the main: First, that Mr. Diggs be censured for his misconduct; second, that Mr. Diggs repay more than $40,000 improperly gained from the misuse of clerk-hire funds, and third, that Mr. Diggs submit his clerk-hire records to the scrutiny of the Committee on Standards of Official Conduct for the remainder of the 96th Congress.

I support the resolution for several reasons:

INVESTIGATION COMPLETE

The work of the committee, which culminated in the pending resolution, was complete. For several months, an ad hoc subcommittee which I chaired undertook a comprehensive, independent investigation of the charges against Mr. Diggs. Principal employees were interviewed, the transcript of Mr. Diggs' trial was reviewed, and pertinent House precedents were studied. The result of the investigation was House Resolution 378, which carries the unanimous approval of the committee.

GUILT ADMITTED

On June 29 of this year, midway through the disciplinary proceedings whose outcome you will determine, Mr. Diggs admitted guilt to some of the charges against him. Moreover, he allowed that certain of his actions had cast discredit on the House. To my knowledge, never before in the history of the House have such admissions been made. They show that the evidence was probative, and they conform to the evidence as I am acquainted with it.

AGREEMENT SOUND

The agreement reached between the committee and Mr. Diggs did not lead to recommend sanctions lighter than those which might have been recommended had no agreement been reached. It is my firm belief that the committee would have acted exactly as it did had the proceedings run their full course.

SANCTIONS SEVERE

The sanctions proposed by the committee are severe. They make it plain that the Code of Official Conduct is a serious body of principles meant to be taken seriously. Only once before in the history of the House has more than one sanction been recommended at the close of a disciplinary proceeding.

Furthermore, the three sanctions I described at the outset of my remarks are intended to follow hard upon the discipline to which Mr. Diggs subjected himself. I call your attention to Mr. Diggs' self-disqualification from voting at the end of the 95th Congress, and to his acquiescence in the loss of his positions of authority at the beginning of this Congress.

Finally, I hasten to point out that nothing in the resolution before you bars the House from future action against Mr. Diggs should such action be warranted when his appeal in the courts has ended.

EXPULSION INAPPROPRIATE

The evidence available to the committee and the circumstances surrounding the disciplinary proceeding do not support the view that Mr. Diggs should be expelled from the House. There are four basic reasons why expulsion is not appropriate in this instance:

First. Violation not serious enough to warrant expulsion: Only three Members have been expelled in the history of the House. In each case, the Member expelled had joined the Confedracy and had taken up arms against the Government of the United States. Mr. Diggs' misconduct, while very serious, does not begin to compare with the treasonous behavior of Members who have been expelled in the past.

Second. Precedents for a sanction less serious than expulsion: Other Members convicted of offenses similar to Mr. Diggs' have not been expelled from the House. Also, the improper use of House funds is, in terms of seriousness of offense, more akin to the misconduct which had led to the censure of Members 17 times in the past.

Third. Expulsion after re-election questionable: Notwithstanding the 1914 report of the Judiciary Committee cited in the report on House Resolution 378, previous actions of the House show that it is questionable whether a Member can be expelled if he is re-elected to the House subsequent to his offense. Mr. Diggs' offense was committed during the 95th Congress, and he was re-elected to the 96th Congress by an overwhelming majority. In question is a conflict between the power of the House to punish by expulsion and the right of constituents to send whomever they wish to the House.

Fourth. Expulsion before completion of appeal questionable: Previous actions of the House indicate that it is questionable whether a Member should be expelled before his conviction in the courts is finally upheld. Mr. Diggs' appeal is still pending, and his conviction could possibly be overturned. In question is the policy, but not the power, of the House in the face of such an eventuality. The House could expunge a censure or make restitution of a fine if it determined that exoneration on appeal so warranted. However, it would not be possible for the House to lift the sanction of expulsion under any circumstances.

HOUSE INTEGRITY RESTORED

Finally, I favor House Resolution 378 because I believe that its acceptance would restore to the House some of the integrity lost as a consequence of Mr. Diggs' misconduct. Every Member should bear in mind that Mr. Diggs' admission of guilt and his public apology to the House are intimately related to the pending resolution. His forthcoming attitude is a sign that he desires to undo the damage he has done to the reputation of the House. His offer to make amends should not be rejected.

Mr. Speaker, the primary goal of a disciplinary proceeding is not punishment of an individual. It is restoration of House integrity. Therefore, admissions of guilt and public apologies such as Mr. Diggs' ought to be encouraged. Best for the House is the acceptance of House Resolution 378.●

● Mr. PAUL. Mr. Speaker, today the House will vote overwhelmingly to censure Mr. Diggs. This will be only the second time such disciplinary action has been taken in this century.

Yesterday, the House voted, 205 to 197, not to discuss the much more serious punishment of expulsion. Actually expelling Mr. Diggs would have required a two-thirds vote. The only previous expulsions have been for treason.

A lot has been said in the House over the past month about the merits of explusion against censure. No one seriously considered imposing a lesser penalty on this man who got caught with his hand in the till. Despite the uncomfortable feeling many of our colleagues had in dealing with the matter, the fact that Mr. Diggs was convicted in a criminal court, of 18 counts of illegal use of public funds for his personal benefit and 11 counts of mail fraud, prevented the House from sweeping the whole matter under the rug. Public opinion simply would not allow it.

Some have talked about none of us being without fault and "casting the first stone." But I believe the vote will justly show the seriousness of the offense and our feelings about having a convicted felon for a colleague.

As unpleasant as the issue is, it is clear to everyone that wrong has been done, the law has been broken, and public rebuke and punishment are appropriate and necessary.

A Congress that rates 10 percent below President Carter in the people's esteem cannot afford to let such conduct go unpunished.

In philosophic terms, the crimes committed by Mr. Diggs were theft and fraud. He deceived, and used property taken from others that he was not entitled to. In other words, and according to his own admission, he stole, and is now a known thief.

The taking of our neighbors' property through force and fraud is truly reprehensible and should be condemned.

The amount involved in the case of Mr. DIGGS was $40,031.66. But I am concerned also about a greater theft: The billions taken each year from the poor and the middle class and given to the rich. The mechanism for this is inflation and taxation and they are legislated by many of the same Members who will vote to censure Mr. DIGGS.

Should forced transfer of property from one group to another be tolerated just because a law allows it?

Should theft through taxation for this purpose be permitted, even if few recognize its unconstitutionality?

Should inflation—dilution of the money supply-promoted by ambitious politicians furthering their careers—be accepted as reasonable economic policy?

I say no, and make a point of order about our willingness to censure one among us for theft, while failing to recognize the greater evil this Congress has participated in.

Many Americans have already been robbed, through the fraud and theft of taxes and inflation. Most will lose much more before the destructive process of inflationary confiscation, pursued by Congress over the past 50 years, comes to its unhappy end.

Nothing will change, and our system of free government will be lost, if we as a people do not see the immorality of the theft that takes place in the redistribution of wealth, now going on in such a massive way.

This unconstitutional use of our neighbors' property is no different from the illegal use of clerk-hire funds that Mr. DIGGS engaged in. One is much bigger, more diluted, and harder to identify. The other is personal, easy to see, and smaller. Nevertheless, morally they are one and the same: Theft of our neighbors' property.

Government should be the protector of private property, not its greatest destroyer. Yet Government acts as the agent of those who, through legislation, steal from one to give to another. This will neither help those who have demanded what is not theirs nor those who are the victims of the Government's aggressive behavior.

If our free Nation is to survive, all force and fraud must be condemned, whether personal and in the tens of thousands, as in the case of Mr. DIGGS, or general and in the tens of billions, as in the welfare philosophy carried out through taxation and inflation.●

□ 1100

The SPEAKER. The time of the gentleman from South Carolina (Mr. SPENCE) has expired.

The gentleman from Florida (Mr. BENNETT) has 10 minutes remaining.

Mr. BENNETT. Mr. Speaker, I have no further requests for time.

The SPEAKER. The gentleman from Ohio (Mr. STOKES) has 20 minutes remaining.

Mr. STOKES. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I just want to take one moment to say that I am sure the matter before the House today is a matter that grieves every Member of this House. I want to commend especially the distinguished chairman of the committee, the gentleman from Florida (Mr. BENNETT), and also the ranking Republican Member, the gentleman from South Carolina (Mr. SPENCE), for the diligent manner in which they have presented a case that I am sure is very, very difficult for every Member of this House.

Let me say also that I think the high quality of the debate conducted here on the House floor today is certainly something I want to observe and point out as a Member of this House and as one who is proud of being a Member of this House. The high level of the debate has made me very proud.

Mr. Speaker, I would also like to take just a moment to commend the other members of this committee for what must have been a very difficult job for them. I think they did a conscientious job, and the House is indebted to them for having done the kind of job they did under very difficult circumstances.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BENNETT. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SPENCE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 0, answered "present" 4, not voting 16, as follows:

[Roll No. 404]

YEAS—414

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—0

ANSWERED "PRESENT"—4

Diggs
Garcia
Hawkins
Mitchell, Md.

NOT VOTING—16

Anderson, Ill.
Ashley
Bolling
Burton, Phillip
Flood
Forsythe
Jenrette
Jones, N.C.
Marlenee
Pepper
Price
Railsback
Rodino
St Germain
Treen
Vander Jagt

☐ 1110

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CENSURE OF REPRESENTATIVE CHARLES C. DIGGS, JR.

The SPEAKER. Will the gentleman from Michigan (Mr. DIGGS) kindly appear in the well?

Mr. DIGGS presented himself at the bar of the House.

The Speaker read House Resolution 378, as follows:

H. RES. 378

Resolved,

(1) that Representative Charles C. Diggs, Junior, be censured;

(2) that Representative Charles C. Diggs, Junior, forthwith present himself in the well of the House for the pronouncement of censure;

(3) that Representative Charles C. Diggs, Junior, be censured with the public reading of this resolution by the Speaker;

(4) that Representative Charles C. Diggs, Junior, is ordered to execute and deliver to the House an interest-bearing demand promissory note for $40,031.66, made payable to the Treasury of the United States;

(5) that Representative Charles C. Diggs, Junior, is ordered, for the remainder of the Ninety-sixth Congress, to require his employees to certify to the Committee on Standards of Official Conduct that the funds he or she receives from clerk-hire funds are received in full compliance with current House rules; and

(6) that the House of Representatives adopt the report of the Committee on Standards of Official Conduct dated July 19, 1979, In The Matter of Representative Charles C. Diggs, Junior.

The SPEAKER. The matter is closed.

PERSONAL EXPLANATION

(Mr. JENRETTE asked and was given permission to address the House for 1 minute.)

Mr. JENRETTE. Mr. Speaker, on rollcall 404, just preceding, I was away on official business. Had I been present, I would have voted "yea" on the resolution (H. Res. 378).

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4392, DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES, 1980

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 4392) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on July 30, 1978, the President approved and signed bills of the House of the following titles:

H.R. 2154. An act to revise the Strategic and Critical Materials Stock Piling Act, to require that appropriations for acquisition of strategic and critical materials be authorized by law, to establish a National Defense Stockpile Transaction Fund, and for other purposes; and

H.R. 3661. An act to increase the authorization of appropriations under the act of December 22, 1974 (88 Stat. 1712).

CLARENCE MANION

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, it was with sadness that I learned of the death last week of one of the best known of the constituents whom I have the honor to represent in Indiana.

I refer to Clarence E. Manion, for many years a prominent figure in conservative political movements in the United States and a former dean of the University of Notre Dame Law School.

Mr. Speaker, it will come as no surprise to most of my colleagues that Clarence Manion and I were not in agreement on most of the issues facing our country.

But I take this time nonetheless to pay tribute to a man whom members of my family and I knew for many years, someone whom I as a college student came to regard as a friend and a person whom I found to be unfailingly gracious in my associations with him.

As many of my colleagues here may not recall, Clarence Manion was not always a champion of conservative causes. He was in the early years of the Presidency of Franklin D. Roosevelt, Director of the National Emergency Council for Indiana, one of the agencies of the New Deal.

In 1934, he waged an unsuccessful campaign for the Democratic nomination for the U.S. Senate and, Mr. Speaker, my late grandfather, William C. Goble, a high school and college teacher and a delegate to the Indiana Democratic State Convention that year, was a strong supporter of Clarence Manion for the Senate nomination.

I remember very well, Mr. Speaker, during my days as a college student calling on Clarence Manion in his law office in South Bend for counsel and advice about a career in politics.

Two of Dean Manion's daughters, Marilyn and Carolyn, were students of mine when I was a teacher at St. Mary's College, Notre Dame, and Mr. Speaker, as I recall, I gave them both "A" in their courses in government because they were both excellent students.

Mr. Speaker, Clarence Manion was an articulate spokesman for his convictions and while I rarely shared them, I always respected him as a person and was grateful for his friendship.

To his widow and his children, I extend my profound sympathy.

"DOCTORS" IN THE HOUSE

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VAN DEERLIN. Mr. Speaker, a real-life drama was enacted on the House floor last Thursday when our veteran, well-loved pairing clerk, Tom Iorio, suffered a heart attack near the end of the day's session.

Every Member and House employee will be comforted to know that Tom is reported on the way to recovery at Washington Hospital.

And they can feel gratitude, too—both on Tom's behalf, and out of consideration for their own future welfare—that the incident has highlighted a little known reform instituted by the House Doorkeeper, James Molloy.

As the alarm over Tom Iorio's collapse spread across the chamber, one of Molloy's staffers, Leo Inglesby, dashed to the stricken man's side and began immediately to apply the newest techniques in cardio-pulmonary resuscitation. Although the breathing had stopped, Inglesby was able to restore respiration and keep the victim alive until an ambulance arrived.

That the likeable Leo Inglesby was able to bring more than good intentions to bear in this emergency was not by chance. It happens that when Jim Molloy was elected to what many in Congress had come to view as a political sinecure, he decided on some changes. One of these was to make improvements in the training and readiness of his staff. He required doorkeepers to be certified in cardio-pulmonary resuscitation. Each doorkeeper must attend an initial 6 hours of training, and a 2-hour refresher course each year to keep lifesaving skills sharp.

Leo Inglesby learned his lessons well. While many persons would have been immoblized by confusion, he was able to step in and keep the situation from deteriorating further.

On behalf of all of us, I congratulate both Leo and Jim Molloy. We can feel better knowing they are around.

ALICE PAUL, 1885–1978

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, Alice Paul was a revolutionary who marched along a single path for a lifetime. She waged dramatic warfare for women's rights. As a fiery young Quaker she learned her tactics from the Pankhursts in England. She became a very particular kind of suffragist—arrested and imprisoned, she never stopped, never relented in her insistent pursuit of equality and justice for women.

Alice Paul returned to America in 1910 and gave new life to the national suffrage movement. Working with the National Suffrage Association she organized demonstrations to dramatize the suffrage struggle at Woodrow Wilson's inauguration in 1913. As chairperson of the National Women's Party, Alice Paul focused upon the need for a national equal rights amendment, first introduced in 1923.

Alice Paul was an extraordinary organizer and bold politician. She held a vision. Within Alice Paul an entire history lives. She and the women's movement in America are one.

LEGISLATION TO REPEAL TAXES ON RADIAL TIRES

(Mr. WIRTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WIRTH. Mr. Speaker, today I will introduce legislation to repeal taxes on radial tires. I will be communicating with my colleagues about this important energy-saving legislation.

PRESIDENT'S PROGRAM WILL CRIPPLE ECONOMIC GROWTH

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, at his press conference last Wednesday, President Carter rejected out of hand the $36 billion tax cut proposed by House Republicans. Yet the press reported that the very next day he told congressional leaders of his own party he would probably send up a tax cut bill some time in October. This sort of doubletalk serves no useful purpose unless we are to assume that Mr. Carter has decided to forgo his Presidential responsibilities to devote full time to his reelection campaign.

If Mr. Carter tries to take credit for a subsequent tax cut, then it is only fair he take responsibility for the economic conditions he created. During his first 2 years in office, when he should have been bringing the budget into balance on the strength of a strong economy, he was instead stimulating the economy with a host of spending programs which resulted in deficits totaling $94 billion. By failing to give more than lip service to inflation, he succeeded—with the assistance of a Democrat-controlled Congress—in stimulating the economy into a recession with inflation running at over 13 percent, or three times the rate which existed when he became President.

Under Mr. Carter, we have seen productivity growth cease, the dollar virtually collapse abroad, and the highest rates of taxation in our history. Faced with the resulting recession, he proposes to increase taxes by anywhere from $140 to $270 billion over the next 10 years by slapping an excise tax on domestic crude oil. He intentionally, but incorrectly calls this a windfall profits tax to disguise the fact that each and every penny of this new tax will come from American consumers in order to finance vastly higher levels of Government spending program instead of new oil production. In short, he has created the potential for the longest, most devastating recession since the Great Depression. In the name of fighting inflation and OPEC, the President's program will cripple economic growth and throw millions out of work. Do such programs instill confidence in Government, Mr. President?

CONGRESSIONAL REVIEW OF RATIONING

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, Monday's Washington Post editorial missed the point of my one-House veto amendment to the bill giving President Carter emergency gas rationing authority.

The Post's criticism, and that of the President, should more appropriately have been directed at the committee's bill and its narrow view of what constitutes an energy emergency.

My amendment which permits the broader congressional consideration of the substance of any proposed plan, contains no roadblocks to its implementation in an emergency nor does it add 1 day of delay to the imposition of rationing.

All the House did in accepting my 30-day, one-House veto was to insist that the President's gas rationing proposal be acceptable to the American people. I believe that the Congress has a greater responsibility than to delegate a blank check to the administrative bureaucracy to devise any rationing plan it wants without appropriate oversight by the Congress.

At the time of any emergency the Post would probably—and quite properly—editorialize against any delay while debating the details of a rationing plan. The time, and the only appropriate time, for the representatives of the American people to discuss and decide on the merits of a rationing plan is in the cool, deliberative atmosphere well in advance of such an emergency.

I do not understand any reluctance to permit the Congress to scrutinize and to have a voice in such a vital decision.

CONGRESS MUST NOT ADJOURN UNTIL IT ENACTS ACROSS-THE-BOARD TAX RATE REDUCTION TO STOP RECESSION AND FIGHT INFLATION

(Mr. KEMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KEMP. Mr. Speaker, the greatest obstacle to restoring economic growth and stopping inflation is the continual tax rate increase on All Americans which occurs as inflation pushes them into higher tax brackets.

For several years I have worked in this House toward increasing the aftertax incentives of those who work, save, invest, and engage in any productive activity. Such incentives are necessary, not only to increase economic growth and employment, but to reduce inflation and raise our standard of living. Since inflation means too much money and too few goods, the way to end inflation is to tighten money and increase production.

In this morning's paper we read that as the recession develops, our national productivity has dropped in the past quarter by 3.8 percent, the largest drop since 1974 and the second successive quarter of decline. Along with this drop in our standard of living, we are told that as many as 2.7 million Americans will lose their jobs by next year under current policy.

The administration describes President Carter's refusal to change economic policy as a steady-as-you-go approach. Steady as we go, Mr. Speaker, means steadily more unemployment and a steady increase in inflation.

Congress must act immediately to reverse the policy mistakes which have led the country into recession, before inflation and unemployment worsen. The American people need a Congress which will restore incentives for real economic growth and preserve jobs by enacting a deep and permanent cut in income tax rates across the board. At the same time, pressure must be brought to bear on the Federal Reserve to tighten money creation enough to maintain constant value for the dollar.

The economic situation will not permit further delay, Mr. Speaker. I propose that Congress not adjourn for the summer until it enacts an immediate cut in tax rates to restore incentives for production.

CALL OF PRIVATE CALENDAR, THURSDAY, AUGUST 2, 1979

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to call the Private Calendar on Thursday, August 2, 1979.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

MARTIN LUTHER KING STATUE

Mr. NEDZI. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 80) authorizing a bust or statue of Martin Luther King, Jr., to be placed in the Capitol.

The Clerk read as follows:

H. CON. RES. 80

Resolved by the House of Representatives (the Senate concurring), That the Joint Committee on the Library is authorized and directed to procure a bust or statue of Martin Luther King, Junior, and to cause such sculpture to be placed in a suitable location in the Capitol as determined by the Joint Committee on the Library.

SEC. 2. Expenses incurred by the Joint Committee on the Library in carrying out this concurrent resolution, which shall not exceed $25,000, shall be paid out of the contingent fund of the House on vouchers approved by the chairman of the joint committee.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan (Mr. NEDZI) will be recognized for 20 minutes, and the gentleman from Georgia (Mr. GINGRICH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 80 authorizes a bust or statue of Dr. Martin Luther King, Jr., to be placed in the U.S. Capitol Building.

As many of you know, the proposal for a memorial honoring Dr. King is not a new one. Congressman JONATHAN BINGHAM first introduced legislation in the 92d Congress with 61 cosponsors and has reintroduced the bill in each successive Congress, with increasing numbers of cosponsors each time. House Concurrent Resolution 80, reintroduced in the 96th Congress, has 167 cosponsors to date.

As you may recall, legislation was passed by both the House and Senate during the 94th Congress, but because Senate passage was immediately prior to adjournment, the House was unable to consider the resolution as amended in the Senate. The resolution was passed again by the House in the 95th Congress but was not passed by the Senate.

House Concurrent Resolution 80 would authorize the Joint Committee on the Library to procure a bust or statue of Martin Luther King, Jr. The statuary will be placed in the U.S. Capitol in a suitable location as determined by the joint committee, in consultation with the Architect of the Capitol. The final format of the artistic design will necessarily influence the site for such a memorial in the Capitol. The expenses in carrying out the resolution shall not exceed $25,000, a modest sum, which will be paid out of the contingent fund of the House.

It is indeed fitting to honor Dr. Martin Luther King, Jr., in this manner, as well as honoring the varied and rich contributions by black citizens to our Nation's history and heritage. At this time, no work of art displayed in the Capitol memorializes a black American.

This bill has wide, bipartisan support. It has the support of the Congressional Black Caucus. It has passed the House of Representatives in the two preceding Congresses. I strongly urge passage of this legislation.

Mr. GINGRICH. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding and I rise in support of the resolution. It certainly is an appropriate resolution and I urge my colleagues to adopt the resolution.

Mr. Speaker, Dr. Martin Luther King is an American hero. Bringing black America through some trying times, he was a martyr for the cause of freedom from bigotry and oppression.

In the Halls of this Congress there are many statues honoring Americans who have given their gifts of intelligence and courage to preserve, enrich, and protect the American dream.

Martin Luther King was a man with a dream. He dreamed of eliminating social roadblocks against the black people of America. His dream was that black Americans could aspire to reach the top of their fields, just like other Americans. He had a dream of love and peace and brotherhood for all Americans, white and black. He was a man whose example of peaceful transition and social change will be with us for years, decades, and centuries to come.

He was a great American, a legend, and he is deserving of a lasting tribute, a tribute which I am sure the House will provide by authorizing the Joint Committee on the Library to procure a bust or statue of Martin Luther King, Jr., and to place the sculpture in a suitable location in the Capitol.

Martin Luther King was and is a vital force in America. It is an honor for this body to stand in support of authorizing this statue for a great American. Accordingly, I urge adoption of this measure which I have been pleased to cosponsor.

Mr. GINGRICH. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding. I think the record ought to be very clear this is not something that is unanimously supported in this House.

I have risen in opposition to this proposal in the past Congresses. I do exactly the same in this session. Like my colleague from Michigan, I am very sad that there is not a statuary memorial to a black American here in the Capital. I think time and history will show that there could have been much better choices. I would merely say there is no need to repeat the things that I have said in the past, but if history plays the same role in reappraising lives of leaders as it has in the case of President Kennedy, as it has in the case of Lyndon B. Johnson, as it has in the case of Richard Nixon, as it has in the case of J. Edgar Hoover, I think at a future time and in a future place it will be very well agreed that this was not an appropriate memorial to have been given to black Americans at this time, I want that on the record.

I speak as one who opposes this statue and I yield back the balance of my time.

Mr. GINGRICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a Representative from Georgia I just want to say that I think this is an important statue, it is an important symbol. It is very clear in the black community that this is the overwhelming choice of that community. This is the symbol they would like to have in this building. It is a symbol of our commitment to make this a country in which every American can walk through this Capitol and have a sense of identity and a sense of belonging.

I very strongly support this resolution and I urge the House to adopt it.

Mr. Speaker, I yield back the balance of my time.

Mr. NEDZI. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, the resolution before us, House Concurrent Resolution 80, authorizes the placement of a bust or statue of Dr. Martin Luther King, Jr., in the Capitol at a cost not to exceed $25,000.

I would like to express my appreciation to the gentleman from Michigan (Mr. NEDZI), chairman of the House Administration Subcommittee on Libraries and Memorials, the gentleman from New Jersey (Mr. THOMPSON), chairman of the House Administration Committee, and to the members of the committee for bringing this resolution before us today.

House Concurrent Resolution 80, which I introduced on March 20, 1979, and which I first introduced in 1972, has a total of 166 cosponsors, including Members of both political parties and all the members of the Congressional Black Caucus. Their names are appended at the end of this statement.

It is altogether fitting that we so honor Dr. King. He was a man who might have lived out a worthwhile but obscure life as a minister. Instead, he was beckoned by the challenge to win equality for all the people of this country.

On December 1, 1955, Mrs. Rosa Parks, a seamstress with tired feet, was arrested in Montgomery, Ala., for refusing to give up her seat on a local bus to a white man. Her arrest triggered the first great civil rights test of power, and launched Dr. King's quest for equality. Dr. King, then an unknown minister in Alabama, led the Montgomery black community that year. Mrs. Parks' arrest ended 382 days later with the capitulation of the Montgomery bus line to the doctrine of racial equality. Dr. King had begun his march.

In the years that followed, Dr. King's influence grew. He set out to correct specific injustices, but also to educate our country and win the hearts and minds of our people. His marches awakened our country and aroused our sympathy.

Who can forget that horrible spectacle in 1963 when Dr. King and his marchers, dressed in their Sunday clothes, met fire hoses, truncheons, and police dogs in Birmingham. A few months later, in his famous "I have a dream" speech, Dr.

King addressed thousands of people gathered at the Lincoln Memorial, and said:

> When we let freedom ring, we will speed the day when all God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing the words of the old Negro spiritual: "Free at last/Free at last/Thank God Almighty, we're free at last."

In 1964 Dr. King became the 14th American and the youngest man ever to win the Nobel Peace Prize.

A firm believer in Christian ideals and Gandhi's principle of peaceful nonviolent protest, Dr. King set out to fulfill a dream to give life to this country's highest ideals. He spoke for the present and the future, of "getting to the mountaintop" and "reaching the Promised Land." He was indeed one of the truly great figures of our American history.

But there are other reasons why this memorial should be authorized for placement in the Capitol.

Do you know that of all the black Americans who have contributed to our country's greatness, not one is featured among the 681 works of art in the Halls of the Capitol? Is it any wonder that, in the absence of any such recognition, so few black families are to be seen among the millions of tourists who flock to our Capitol Building each year? Is it not distressing that a nation, striving to set right the wrongs of the past, has blotted out, here at the very seat of our Government, any recognition of the role of black people in building this great country?

This memorial to Dr. King would present a perfect opportunity to begin to correct that injustice. This civil rights leader clearly deserves to receive this official recognition and appreciation, as the Black Caucus has recommended.

Although Dr. King's violent death is a tragic blot on our recent history, his life was a shining example for us all. He had the courage of his convictions, and for over a decade his hopes and his dreams guided the Nation in the struggle for equal justice, equal opportunity, and basic rights. He carried that struggle as far as any man or woman in this century.

A permanent memorial to Dr. King in the Capitol would remind America and the rest of the world over the years to come of the inspiring leadership of this great man.

I appreciate the action of the Speaker in placing this resolution on the suspension calendar and I confidently expect an overwhelming vote in favor of the resolution.

This will be the third time that the House of Representatives has passed such a resolution with little or no dissent. The Members of the Senate have never had the opportunity to vote on the House-passed resolution. In the last Congress, the resolution was not reported out of the Senate Committee on Rules. No hearings were held on the matter.

I have been advised that on June 30, 1976, the U.S. Senate Commission on Art and Antiquities issued a statement entitled "Acquisition Policy for Commemorative Portraits," which had to do primarily with the question of what Senators should be memorialized by portraits in the Senate wing of the Capitol. The Commission stated that it had adopted a "selection process," and that the process would include, before a decision could be made, a "waiting period" of 21 years "after the subject's retirement from active service to the Nation." A copy of the Commission's statement is appended to my remarks.

The "selection process" adopted by the Senate Commission in 1976 is not of course binding on the Senate or the House. In any case, its application is presumably limited to the Senate wing of the Capitol. The House, I am sure, would be proud to have a statue of Dr. King located in the House wing, and there are splendid sites available for such a statue.

□ 1140

In view of the special symbolic importance of this particular resolution, it is my hope that of the 166 cosponsors of the resolution that this year the Senate will be given an opportunity to vote on the matter. If that is done I am confident that, like the House, the Senate would approve the resolution by a resounding vote.

The list of cosponsors of House Concurrent Resolution 80 follows:

Cosponsors of Martin Luther King Statue Bill

1. Mr. Addabbo.
2. Mr. Akaka.
3. Mr. Albosta.
4. Mr. Anderson of California.
5. Mr. Anderson of Illinois.
6. Mr. Bailey.
7. Mr. Baldus.
8. Mr. Barnes.
9. Mr. Bedell.
10. Mr. Beilenson.
11. Mr. Benjamin.
12. Ms. Boggs.
13. Mr. Boland.
14. Mr. Bolling.
15. Mr. Bonior of Michigan.
16. Mr. Bonker.
17. Ms. Bouquard.
18. Mr. Brademas.
19. Mr. Brodhead.
20. Mr. Brown of Ohio.
21. Mr. Brown of California.
22. Mr. Buchanan.
23. Mr. John L. Burton.
24. Mr. Phillip Burton.
25. Mr. Carr.
26. Mr. Cavanaugh.
27. Mr. Cheney.
28. Ms. Chisholm.
29. Mr. Clay.
30. Mr. Coelho.
31. Ms. Collins of Illinois.
32. Mr. Conte.
33. Mr. Conyers.
34. Mr. Corman.
35. Mr. Corrada.
36. Mr. Cotter.
37. Mr. Coughlin.
38. Mr. Dellums.
39. Mr. Diggs.
40. Mr. Dixon.
41. Mr. Dodd.
42. Mr. Downey.
43. Mr. Drinan.
44. Mr. Duncan of Tennessee.
45. Mr. Duncan of Oregon.
46. Mr. Eckhardt.
47. Mr. Edgar.
48. Mr. Edwards of California.
49. Mr. Ertel.
50. Mr. Evans of the Virgin Islands.
51. Mr. Fascell.
52. Mr. Fauntroy.
53. Mr. Fazio.
54. Ms. Fenwick.
55. Mr. Findley.
56. Mr. Fish.
57. Mr. Fisher.
58. Mr. Flood.
59. Mr. Foley.
60. Mr. Ford of Tennessee.
61. Mr. Fowler.
62. Mr. Frenzel.
63. Mr. Frost.
64. Mr. Gibbons.
65. Mr. Gilman.
66. Mr. Gingrich.
67. Mr. Ginn.
68. Mr. Gore.
69. Mr. Gray.
70. Mr. Green.
71. Mr. Guarini.
72. Mr. Gudger.
73. Mr. Harris.
74. Mr. Hawkins.
75. Mr. Heftel.
76. Ms. Holt.
77. Ms. Holtzman.
78. Mr. Horton.
79. Mr. Howard.
80. Mr. Hughes.
81. Mr. Jacobs.
82. Mr. Jenrette.
83. Mr. Johnson of Colorado.
84. Mr. Kastenmeier.
85. Mr. Kildee.
86. Mr. Kogovsek.
87. Mr. Kostmayer.
88. Mr. LaFalce.
89. Mr. Lederer.
90. Mr. Lee.
91. Mr. Leland.
92. Mr. Long of Maryland.
93. Mr. Long of Louisiana.
94. Mr. Lowry
95. Mr. Luken.
96. Mr. Markey.
97. Mr. Marks.
98. Mr. Matsui.
99. Mr. Mavroules.
100. Mr. Mazzoli.
101. Mr. McCloskey.
102. Mr. McHugh.
103. Ms. Mikulski.
104. Mr. Mikva.
105. Mr. Miller of California.
106. Mr. Mineta.
107. Mr. Mitchell of New York.
108. Mr. Mitchell of Maryland.
109. Mr. Moffett.
110. Mr. Moorhead of Pennsylvania.
111. Mr. Murphy of New York.
112. Mr. Murphy of Illinois.
113. Mr. Myers of Pennsylvania.
114. Mr. Neal.
115. Mr. Nolan.
116. Mr. Nowak.
117. Mr. O'Brien.
118. Mr. Ottinger.
119. Mr. Panetta.
120. Mr. Patterson.
121. Mr. Pepper.
122. Mr. Peyser.
123. Mr. Price.
124. Mr. Pritchard.
125. Mr. Rahall.
126. Mr. Rangel.
127. Mr. Ratchford.
128. Mr. Reuss.
129. Mr. Richmond.
130. Mr. Rodino.
131. Mr. Roe.
132. Mr. Rose.
133. Mr. Rosenthal.
134. Mr. Roybal.
135. Mr. Sabo.
136. Mr. Scheuer.
137. Mr. Seiberling.
138. Mr. Shannon.
139. Mr. Sharp.

140. Mr. Simon.
141. Mr. Solarz.
142. Ms. Spellman.
143. Mr. Stanton.
144. Mr. Stark.
145. Mr. Stewart.
146. Mr. Stockman.
147. Mr. Stokes.
148. Mr. Studds.
149. Mr. Swift.
150. Mr. Thompson.
151. Mr. Traxler.
152. Mr. Trible.
153. Mr. Udall.
154. Mr. Van Deerlin.
155. Mr. Vento.
156. Mr. Volkmer.
157. Mr. Walgren.
158. Mr. Waxman.
159. Mr. Weiss.
160. Mr. Williams of Montana.
161. Mr. Wilson of Texas.
162. Mr. Charles H. Wilson of California.
163. Mr. Wolff.
164. Mr. Wolpe.
165. Mr. Won Pat.
166. Mr. Yates.

ACQUISITION POLICY FOR COMMEMORATIVE PORTRAITS, U.S. SENATE

(Adopted by U.S. Senate Commission on Art and Antiquities, 30 June 1976.)

From time to time the Commission on Art and Antiquities is asked for its recommendation regarding the acquisition of portraits of noted Senators and other distinguished Americans. Since its inception the Commission has supported the traditional policy, which has held that sculpture or paintings, no matter how renowned the subject, should be declined.

In reviewing this approach, it appears that a policy which is so prohibitive may be unsatisfactory. To many, the Capitol is the logical place to honor those who have distinguished themselves in service to the nation, even if the service is of relatively recent date.

A Congressional Research Service study, requested by the Commission on Art and Antiquities, indicated that there are no standard criteria followed by state legislation in the acquisition of portraits for their state capitols. Research has shown that the best model for the Senate in this regard is its own Special Committee on the Senate Reception Room, established in 1955, which developed a mechanism for selecting outstanding Senators whose likenesses were subsequently added to five unfilled spaces in the Senate Reception Room. To carry out its appointed task, the special committee, chaired by Senator John F. Kennedy, sought the recommendations of professional historians and political scientists, while reserving responsibility for the final decisions. The first group, headed by Professor Allan Nevins, was formed to suggest criteria for selection of the outstanding Senators. It also helped select a panel, comprised of more than 150 scholars representing every part of the country and both major parties. The panel was asked to make recommendations in accordance with criteria which stipulated that the "Senators should be chosen without regard for their services in other offices; second, that they should be distinguished for acts of statesmanship transcending party and state lines; and third, that the definition of statesmanship may well include leadership in national thought and constitutional interpretation as well as in leadership."

Counsel was also sought from former Senators, the general public, and incumbent Senators. On the basis of the recommendations, using the suggested criteria, as well as biographies prepared by the Library of Congress, the special committee made the final selection. Designated were Henry Clay, Daniel Webster, John C. Calhoun, Robert M. LaFollette, and Robert A. Taft, as five outstanding Senators whose portraits would be added to the Senate Reception Room.

In line with that precedent and to establish a balanced acquisition policy, the Commission has adopted a selection process, that includes the following elements:

1. The Commission on Art and Antiquities will maintain a journal listing those persons proposed for consideration. Final consideration will not be given until a substantial waiting period has elapsed after the subject's retirement from active service to the nation. The Commission has defined such a waiting period as a minimum of 21 years.

2. A group similar to that used by the Special Senate Reception Room Committee, will provide advice to the Commission on Art and Antiquities regarding selection criteria and the merits of nominees for representation. The Commission recommends that emphasis be given to those whose services to the nation were performed largely in the Senate and to those not presently represented in the Senate's paintings and sculpture collections.

After receiving the advisory group's recommendations, the U.S. Commission on Art and Antiquities, whose members include the majority and minority leaders of the Senate, the President pro tempore of the Senate, and the chairman and ranking minority member of the Committee on Rules and Administration, will make its determination and then report to the full Senate.

3. In the selection of an artist or the evaluation of the artistic merit of a proffered representation, the Commission on Art and Antiquities will receive advice from the Director of the National Gallery of Art, the Director of the National Portrait Gallery, and the Architect of the Capitol. This procedure will help to assure that works of high artistic quality are added to the Senate's collections.

● Mr. ADDABBO. Mr. Speaker, having cosponsored this measure calling for the authorization of a bust or statue in honor of Martin Luther King, Jr., to be placed in the Capitol, I wish to express to my colleagues here, today, my most enthusiastic support of its passage.

The passage of this resolution is important in the light of modern advances in civil rights, to the many Americans of all races whose lives have been directly affected by the tremendous work of Dr. Martin Luther King, Jr. The fact that Dr. King has yet to be memorialized in this, our Nation's Capitol Building, is inexcusable and merits rectifying.

Martin Luther King, Jr., through the practice of civil disobedience gave the constitutional rights to peacefully assemble and petition a new meaning. His relentless energy in the exercising of these rights for a justified cause was phenomenal. He never shunned the danger in which he was placed and to which he finally fell victim. He exhibited firm faith in his God, in his country, and in the right of his people to walk alongside their white brethren, heads high and unashamed of their heritage. American, like any white individual, the black man, placed in an inferior position in the society, saw in Dr. King the God-fearing leadership so sorely needed to appeal for what was rightfully his.

Dr. Martin Luther King, Jr., presented a manner of protest which, by its peaceful nature and gradual effectiveness, won him the Nobel Peace Prize. Considering the tribute paid this most dedicated individual by the international community, it is high time that we, here in the Congress, who have followed Dr. King's work by passing legislation to end the discrimination of the black man, should follow with our own long-overdue tribute here in our "hallowed halls."

We could never repay Dr. King for his tireless efforts in behalf of his fellow man but we should not hesitate for a moment to do everything in our power to recognize his colossal contribution to the advancement of our Nation.●

● Mr. RANGEL. Mr. Speaker, I rise in support of House Concurrent Resolution 80, a bill authorizing a statue of Martin Luther King, Jr., to be placed in the U.S. Capitol.

Martin Luther King was one of the great Americans of this century. He began his fight against racial and economic injustice in America when this country was covered in a veil of prejudice, resulting in much physical and mental discomfort for black citizens throughout this land. We have come a long way since that period of injustice and it is largely the result of Martin Luther King's fight for equal rights.

Martin Luther King, Jr., had a dream for America. He had a dream that black and white children, from one end of this country to another, would some day live in harmony; that the sons and daughters of former slaves and slaveholders would live side by side, attend schools of their choice and have an equal opportunity for the jobs of their choice.

Martin Luther King was willing to risk and even give up his life for that dream of equality. We should all be proud to be working toward the brotherhood Dr. King dreamt of years ago.

A statue commemorating this great American would serve as an eternal symbol for equal rights in this country. I urge my distinguished colleagues to pass this important resolution.●

● Mr. BENJAMIN. Mr. Speaker, as a cosponsor, I rise today in strong support of House Concurrent Resolution 80 to authorize a bust or statue of Dr. Martin Luther King, Jr., for placement in the Capitol.

While countless numbers of black Americans have contributed greatly to our Nation's rich history, Dr. King is one whose contributions and sacrifices accomplished more than any other single person toward setting our country on the road to racial equality and civil rights for all citizens. For this reason, it is more than fitting that a memorial to Dr. King should be the first such work of art to honor a black American in the Nation's Capitol.

Throughout this lifetime, Dr. King struggled at great personal sacrifice to further the cause of economic and racial justice. His methods to accomplish these goals were the embodiment of the noble character of this great leader. His leadership of nonviolent protests promoted the passage of the Civil Rights Act of 1964—a legislative landmark in U.S. history.

While Dr. Martin Luther King's sacrifices were great, the fruit of his labors spread slowly but surely across the country in the form of greater job and education opportunities for all black Americans.

His accomplishments were recognized when he became the youngest American ever to receive the Nobel Peace Prize in 1964.

It is inconceivable that Congress can delay any further the richly deserved memorial to this great American. I urge my colleagues to support this measure and to urge hasty passage in the Senate in order that tribute be paid to this courageous American leader who did so much to move and inspire a nation.

I congratulate my colleague from New York, Congressman JONATHAN BINGHAM, for his foresight and persistent efforts to realize this tribute.●

Mr. NEDZI. Mr. Speaker, I have no further requests for time.

Mr. GINGRICH. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. FASCELL). The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 80).

The question was taken.

Mr. BINGHAM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution, House Concurrent Resolution 80.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

SPEEDY TRIAL ACT AMENDMENTS ACT OF 1979

Mr. GUDGER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 961) to amend the Speedy Trial Act of 1974, as amended.

The Clerk read as follows:

S. 961

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Speedy Trial Act Amendments Act of 1979".

SEC. 2. Section 3161(c) of title 18, United States Code, is amended to read as follows:

"(c)(1) In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs. If a defendant consents in writing to be tried before a magistrate on a complaint, the trial shall commence within seventy days from the date of such consent.

"(2) Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se.".

SEC. 3. (a) Section 3161(d) of that title is amended—

(1) by inserting "(1)" immediately after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2) If the defendant is to be tried upon an indictment or information dismissed by a trial court and reinstated following an appeal, the trial shall commence within seventy days from the date the action occasioning the trial becomes final, except that the court retrying the case may extend the period for trial not to exceed one hundred and eighty days from the date the action occasioning the trial becomes final if the unavailability of witnesses or other factors resulting from the passage of time shall make trial within seventy days impractical. The periods of delay enumerated in section 3161(h) are excluded in computing the time limitations specified in this section. The sanctions of section 3162 apply to this subsection.".

(b) Section 3161(e) of that title is amended—

(1) by striking out "sixty" wherever it appears and inserting in lieu thereof "seventy"; and

(2) by adding at the end the following: "The periods of delay enumerated in section 3161(h) are excluded in computing the time limitations specified in this section. The sanctions of section 3162 apply to this subsection.".

SEC. 4. Section 3161(h)(1) of that title is amended to read as follows:

"(1) Any period of delay resulting from other proceedings concerning the defendant, including but not limited to—

"(A) delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant;

"(B) delay resulting from any proceeding, including any examination of the defendant, pursuant to section 2902 of title 28, United States Code;

"(C) delay resulting from deferral of prosecution pursuant to section 2902 of title 28, United States Code;

"(D) delay resulting from trial with respect to other charges against the defendant;

"(E) delay resulting from any interlocutory appeal;

"(F) delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion;

"(G) delay resulting from any proceeding relating to the transfer of a case or the removal of any defendant from another district under the Federal Rules of Criminal Procedure;

"(H) delay resulting from transportation of any defendant from another district, or to and from places of examination or hospitalization, except that any time consumed in excess of ten days from the date an order of removal or an order directing such transportation, and the defendant's arrival at the destination shall be presumed to be unreasonable;

"(I) delay resulting from consideration by the court of a proposed plea agreement to be entered into by the defendant and the attorney for the Government; and

"(J) delay reasonably attributable to any period, not to exceed thirty days, during which any proceeding concerning the defendant is actually under advisement by the court.".

SEC. 5. (a) Section 3161(h)(8)(B)(ii) of that title is amended to read as follows:

"(ii) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section.".

(b) Section 3161(h)(8)(B)(iii) of that title is amended to read as follows:

"(iii) Whether, in a case in which arrest precedes indictment, delay in the filing of the indictment is caused becaused the arrest occurs at a time such that it is unreasonable to expect return and filing of the indictment within the period specified in section 3161(b), or because the facts upon which the grand jury must base its determination are unusual or complex.".

(c) Section 3161(h)(8)(B) of that title is further amended by adding at the end the following new clause:

"(iv) Whether the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), would deny the defendant reasonable time to obtain counsel, would unreasonably deny the defendant or the Government continutiy of counsel, or would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.".

SEC. 6. Section 3163(c) of that title is amended to read as follows:

"(c) Subject to the provisions of section 3174(c), section 3162 of this chapter shall become effective and apply to all cases commenced by arrest or summons, and all informations or indictments filed, on or after July 1, 1980.".

SEC. 7. Section 3164 of that title is amended—

(1) by amending the section heading to read as follows:

"§ 3164. Persons detained or designated as being of high risk";

(2) by amending subsection (a) to read as follows: "(a) The trial or other disposition of cases involving—

"(1) a detained person who is being held in detention solely because he is awaiting trial, and

"(2) a released person who is awaiting trial and has been designated by the attorney for the Government as being of high risk,

shall be accorded priority."; and

(3) by amending subsection (b) to read as follows:

"(b) The trial of any person described in subsection (a)(1) or (a)(2) of this section shall commence not later than ninety days following the beginning of such continuous detention or designation of high risk by the attorney for the Government. The periods of delay enumerated in section 3161(h) are excluded in computing the time limitation specified in this section.".

SEC. 8. Section 3165(e) of that title is amended—

(1) in paragraph (2), by striking out "subsequent" and inserting in lieu thereof "fifth", and

(2) by adding at the end the following:

"(3) Not later than June 30, 1980, each United States district court with respect to which implementation has not been ordered under section 3174(c) shall prepare and submit a plan in accordance with subsections (a) through (d) to govern the trial or other disposition of offenses within the jurisdiction of such court during the sixth and subsequent twelve-calendar-month periods following the effective date of subsection 3161(b) and subsection 3161(c) in effect prior to the date of enactment of this paragraph.".

SEC. 9. (a) Section 3166(b) of that title is amended—

(1) in paragraph (7), by striking out "and" immediately after the semicolon;

(2) in paragraph (8), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(9) the impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the civil case calendar in the district.".

(b) Section 3166(c) of that title is amended—

(1) in paragraph (5), by striking out "and" immediately after the semicolon;

(2) in paragraph (6), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7)(A) the number of new civil cases filed in the twelve-calendar-month period preceding the submission of the plan;

"(B) the number of civil cases pending at the close of such period; and

"(C) the increase or decrease in the number of civil cases pending at the close of such period, compared to the number pending at the close of the previous twelve-calendar-month period, and the length of time each such case has been pending.".

(c) Section 3166 of that title is further amended by adding at the end the following new subsection:

"(f) Each plan may be accompanied by guidelines promulgated by the judicial council of the circuit for use by all district courts within that circuit to implement and secure compliance with this chapter.".

(d) Section 3168(a) of that title is amended by striking out "a private attorney experienced in the defense of criminal cases in the district" and inserting in lieu thereof "two private attorneys, one with substantial experience in the defense of criminal cases in the district and one with substantial experience in civil litigation in the district".

(e) Section 3167 of that title is amended—

(1) in subsection (b), by adding at the end the following: "Such reports shall also include the following:

"(1) The reasons why, in those cases not in compliance with the time limits of subsections (b) and (c) of section 3161, the provisions of section 3161(h) have not been adequate to accommodate reasonable periods of delay.

"(2) The category of offenses, the number of defendants, and the number of counts involved in those cases which are not meeting the time limits specified in subsections (b) and (c) of section 3161.

"(3) The additional judicial resources which would be necessary in order to achieve compliance with the time limits specified in subsections (b) and (c) of section 3161.

"(4) The nature of the remedial measures which have been employed to improve conditions and practices in those districts with low compliance experience under this chapter or to promote the adoption of practices and procedures which have been successful in those districts with high compliance experience under this chapter.

"(5) If a district has experienced difficulty in complying with this chapter, but an application for relief under section 3174 has not been made, the reason why such application has not been made.

"(6) The impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the civil case calendar in each district as demonstrated by the information assembled and statistics compiled and submitted under sections 3166 and 3170.";

(2) by adding at the end the following new subsection:

"(c) Not later than December 31, 1979, the Department of Justice shall prepare and submit to the Congress a report which sets forth the impact of the implementation of this chapter upon the office of the United States Attorney in each district and which shall also include—

"(1) the reasons why, in those cases not in compliance, the provisions of section 3161 (h) have not been adequate to accommodate reasonable periods of delay;

"(2) the nature of the remedial measures which have been employed to improve conditions and practices in the offices of the United States Attorneys in those districts with low compliance experience under this chapter or to promote the adoption of practices and procedures which have been successful in those districts with high compliance experience under this chapter;

"(3) the additional resources for the offices of the United States Attorneys which would be necessary to achieve compliance with the time limits of subsections (b) and (c) of section 3161;

"(4) suggested changes in the guidelines or other rules implementing this chapter or statutory amendments which the Department of Justice deems necessary to further improve the administration of justice and meet the objectives of this chapter; and

"(5) the impact of compliance with the time limits of subsections (b) and (c) of section 3161 upon the litigation of civil cases by the offices of the United States Attorneys and the rule changes, statutory amendments, and resources necessary to assure that such litigation is not prejudiced by full compliance with this chapter.".

(f) Section 3170(a) of that title is amended in the first sentence—

(1) by striking out "and" after "process" and inserting in lieu thereof a comma;

(2) by inserting a comma after "limits";

(3) by inserting "continuous and permanent compliance with the" immediately before "objectives"; and

(4) by striking out "required by" and inserting in lieu thereof "described in".

Sec. 10. Section 3174 of that title is amended—

(1) by striking out the period after the first sentence in subsection (a) and inserting in lieu thereof the following: "as provided in subsection (b).";

(2) by striking the first two sentences of subsection (b) and inserting the following in lieu thereof: "If the judicial council of the circuit finds that no remedy for such congestion is reasonably available, such council may, upon application by the chief judge of a district, grant a suspension of the time limits in section 3161(c) in such district for a period of time not to exceed one year for the trial of cases for which indictments of informations are filed during such one-year period.";

(3) by striking out "arrangement" in the third sentence of subsection (b) and inserting in lieu thereof "indictment";

(4) by amending subsection (c) to read as follows:

"(c)(1) If, prior to July 1, 1980, the chief judge of any district concludes, with the concurrence of the planning group convened in the district, that the district is prepared to implement the provisions of section 3162 in their entirety, he may apply to the judicial council of the circuit in which the district is located to implement such provisions. Such application shall show the degree of compliance in the district with the time limits set forth in subsections (b) and (c) of section 3161 during the twelve-calendar month period preceding the date of such application and shall contain a proposed order and schedule for such implementation, which includes the date on which the provisions of section 3162 are to become effective in the district, the effect such implementation will have upon such district's practices and procedures, and provision for adequate notice to all interested parties.

"(2) After review of any such application, the judicial council of the circuit shall enter an order implementing the provisions of section 3162 in their entirety in the district making application, or shall return such application to the chief judge of such district, together with an explanation setting forth such council's reasons for refusing to enter such order.";

(5) by adding at the end the following:

"(d)(1) The approval of any application made pursuant to subsection (a) or (c) by a judicial council of a circuit shall be reported within ten days to the Director of the Administrative Office of the United States Courts, together with a copy of the application, a written report setting forth in sufficient detail the reasons for granting such application, and, in the case of an application made pursuant to subsection (a), a proposal for alleviating congestion in the district.

"(2) The Director of the Administrative Office of the United States Courts shall not later than ten days after receipt transmit such report to the Congress and to the Judicial Conference of the United States. The judicial council of the circuit shall not grant a suspension to any district within six months following the expiration of a prior suspension without the consent of the Congress by Act of Congress. The limitation on granting a suspension made by this paragraph shall not apply with respect to any judicial district in which the prior suspension is in effect on the date of the enactment of the Speedy Trial Act Amendments Act of 1979.

"(e) If the chief judge of the district court concludes that the need for suspension of time limits in such district under this section is of great urgency, he may order the limits suspended for a period not to exceed thirty days. Within ten days of entry of such order, the chief judge shall apply to the judicial council of the circuit for a suspension pursuant to subsection (a)."; and

(6) by amending the section heading to read as follows:

"§ 3174. Judicial emergency and implementation".

Sec. 11. (a) The item relating to section 3164 in the table of sections for chapter 208 of such title is amended to read as follows:

"3164. Persons detained or designated as being of high risk.".

(b) The item relating to section 3174 in the table of sections for chapter 208 of such title is amended to read as follows:

"3174. Judicial emergency and implementation.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. Gudger) will be recognized for 20 minutes, and the gentleman from Wisconsin (Mr. Sensenbrenner) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. Gudger).

Mr. GUDGER. Mr. Speaker, S. 961 would amend the Speedy Trial Act of 1974 in several respects. Most significantly, it would suspend, until July 1, 1980, the imposition of the sanction of dismissal of cases not meeting the deadlines imposed by the act. Other significant changes are the merger of the present 10-day indictment to arraignment and the 60-day arraignment to trial intervals into a single 70-day indictment to trial interval, and the refinement of a number of provisions relating to grounds for "stopping the clock"—that is to say, for excluding certain periods of time from being counted against the 30-day arrest to indictment and the 70-day indictment to trial limits. Finally, changes are made in the planning, recordkeeping, and reporting requirements to give us a better picture of how implementation of the act is progressing, with particular emphasis on pinpointing the problem areas in meeting the time limits of the act.

In 1972, the Supreme Court, in a case interpreting the sixth amendment "speedy trial" guarantee, refused to read any specific time limits into the sixth amendment, saying, in effect, this must be done by Congress if it is to be done at all. The Speedy Trial Act of 1974 was enacted in part in response to this ruling. However, it was not designed solely for the protection of the sixth amendment rights of defendants. Studies made available to the Judiciary Committee at that time indicated that pretrial recidivism tends to go up when accused persons are not brought to trial within 60 days of indictment, and thus the act is designed to protect society as much as to protect the rights of the accused. For this reason, the act does not give a defendant an automatic right to waive the time limits of the act.

Let me explain the need for these amendments. The act as signed into law in January 1975, provided for a careful planning and phased in implementation period of more than 4 years. The first year was largely devoted to developing plans in each of the 94 districts in the country for the trial of Federal criminal cases under the time limits of the act. These time limits were phased in—shortened each year from a total of 250 days overall time from arrest to trial during the first year to a final time permanent limit of 100 days, which just went into effect on July 1 of this year. Significantly, and perhaps unwisely, the act also provided that the sanction of dismissal for failing to meet the time lines would not be imposed until July 1, 1979.

Thus, after a lengthy phase-in period, the two most important elements of the legislation were brought into effect at exactly the same time. In retrospect, it appears wiser to allow some period of time under the permanent limits without the dismissal requirement for cases running over the time limits, and the principal provision of this bill provides for that, by suspending the dismissal sanction until July 1, 1980. Courts that are prepared to go ahead with dismissal before that date are permitted to do so, and we expect many to do so.

The other major factor supporting this temporary delay in the final implementation of the act is the absence of the new judges authorized by the Omnibus Judgeship Act of 1978. With few exceptions, these 114 judges are not in place. They will be within the next year, and indications are their presence will have dramatic impact on clearing up the remaining difficulties in reaching full compliance with the Speedy Trial Act without slowing down the civil calendars.

In reporting these changes, the committee does not imply that the act cannot work without change in the major features of the act as designed in 1974. On the contrary, we rejected recommendations from both the Department of Justice and the Judicial Conference for an 80-percent increase in the time limits to an overall limit of 180 days from arrest to trial. We concluded that such an extension of time limits was simply not needed. This conclusion was supported by testimony of many Federal judges with whom we consulted, by a General Accounting Office study done at our request, by the Justice Department's own study, and by a similar conclusion of the Senate, reflected in S. 961 as sent to the House. Overall, the record of the districts in meeting the deadlines has been very good. The latest figures available reveal that the time limits are being met in well over 90 percent of the cases. The bill as reported reduces the 2-year period of suspension in the Senate bill to 1 year. Most of the problems seem to be concentrated in the districts with substantial judgeship vacancies, and, with the new 114 judges in place by the middle of next year, full implementation of the act should be feasible.

Mr. Speaker, it is my privilege at this time to yield 5 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I rise in support of these amendments to the Speedy Trial Act of 1974. The principal provision of these amendments, the suspension for 1 year of the dismissal sanction for cases not meeting the time limits of the act, is an excellent compromise in the finest sense of the word. It leaves intact the basic structure of the Speedy Trial Act as passed 5 years ago, but at the same time extends some temporary relief to the courts and the criminal justice system to meet what appears to be a temporary problem.

The Speedy Trial Act is often referred to as an act to give substance and specificity to a defendant's sixth-amendment right to a speedy trial. It is this, but it is much more as well. The act also gives specificity to the right of society not to have accused persons awaiting trial indefinitely, particularly since studies show that the longer the delay between offense and trial, the greater the chance of additional crimes by the accused, and the less likely conviction. Defense lawyers sometimes refer to the act as the Speedy Convictions Act; while I prefer to think of the law, in a more objective and neutral light, as a "speedy disposition" law, the fact is, for persons who will be adjudged guilty, speedy convictions are appropriate.

The basic structure of the act consists of time limits within which cases must be brought to indictment and to trial, with several specific enumerated bases for "stopping the clock" if certain events occur to justify such exclusions of time, and a broader "safety valve" authority for judges to grant continuances when needed to meet the "ends of justice." This basic structure, including the permanent time limits of 30 days maximum from arrest to indictment and 70 days from indictment to trial, is left undisturbed by these amendments.

Temporary relief is provided, however, by suspending until July 1, 1980, the provision of the act relating to dismissal of cases not meeting the limits. This will allow the additional new judgeships authorized in 1978 to be appointed and functioning before the dismissal sanction is applied, will give the courts a year's experience under the permanent time limits without the requirement of dismissal for cases running over, and will enable the Congress to examine operation under the permanent limits and make any final adjustments that might be needed before dismissal of cases out of compliance begins. Although courts are, by and large, doing an excellent job already in meeting the limits of the act—compliance is well over 90 percent according to the latest figures available—the more prudent course seems to be to delay the sanction. Even 2 or 3 percent of cases in noncompliance could translate into hundreds of cases being dismissed without adjudication, a result which is undesirable and unnecessary.

With cases out of compliance facing imminent dismissal if relief such as the suspension of the sanction is not forthcoming, the House has moved expeditiously but cautiously in bringing to final passage, with amendments, the Senate-passed bill. Chairman JOHN CONYERS, of the Subcommittee on Crime, and the members of the subcommittee, are to be commended for fashioning the final compromise position, reflected in subcommittee amendments that were accepted without change in the full Judiciary Committee; and we have every reason to expect it will be accepted in the House.

Mr. GUDGER. Mr. Speaker, I thank the gentleman from New Jersey for his comments.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the Speedy Trial Act Amendments of 1979 are being brought before the House. There is a great urgency that this bill be passed and enacted into law as soon as possible, since the dismissal sanctions that were contained in the original Speedy Trial Act became effective on July 1, 1979, and there still is a substantial backlog of criminal cases in many of the district courts around the country.

The important provisions of this bill are 12, and I would like to outline them very briefly today.

□ 1150

First of all, the bill suspends until July 1, 1980, the sanction of dismissal for failure to meet the time limits of section 3161 (b) and (c). Provision is made for earlier reinstitution of the dismissal sanction in districts prepared to do so.

Second, the bill merges the 10-day indictment-to-arraignment and the 60-day arraignment-to-trial time limits contained in section 3161(c) into a single 70-day indictment-to-trial period.

Third, the bill requires, in the absence of a waiver by the defendant, a minimum of 30 days time between the defendant's first appearance with counsel and trial.

Fourth, the bill requires that, if a defendant is to be tried on an indictment or information dismissed by a trial judge and reinstated on appeal, the trial shall commence within 70 days, with provision for extension of this time limit to 180 days if trial within 70 days is impractical.

Fifth, the bill clarifies certain periods of exclusion from the time limits of section 3161 (b) and (c), and clarifies provisions relating to authority for courts to order continuances when required to meet "the ends of justice."

Sixth, in the case of persons in custody or designated as "high risk" defendants, the bill makes permanent the interim limit of 90 days from commencement of custody or designation as a high risk defendant to beginning of trial, with provision for release from custody or review of the high risk designation if this time limit is exceeded.

Seventh, the bill requires all districts except those which elect to reimpose the dismissal sanction prior to July 1, 1980, to file one additional speedy trial plan. Provisions of section 3166 relating to the contents of such plans are amended to require the inclusion of certain information relating to the civil docket in the district, and by permitting the inclusion of circuit council guidelines to be used in the implementation of the act.

Eighth, the bill amends section 3167 relating to reports to Congress to require additional information to be included in the next report to Congress to be submitted by the Administrative Office of U.S. Courts, and by requiring a one-time report by the Department of Justice to be submitted to the Congress not later than December 31, 1979, detailing the experience of U.S. attorneys in implementing the act.

Ninth, the bill amends section 3168 to require that the membership of each district planning group include an attorney in private practice with substantial experience in civil litigation.

Tenth, the bill makes the data collection requirements of section 3170 permanent.

Eleventh, the bill amends the provisions of section 3174 relating to extension of time limits due to judicial emergency to provide for final approval of such extensions by the circuit councils, and by modifying the provisions for granting of additional extensions of time limits beyond the initial extension.

Finally, the bill authorizes the chief judge of each district to suspend the time limits of section 3161 for a period of 30 days when the need for such a suspension is found by the chief judge to be of great urgency.

I believe that passage of this bill will give the district courts throughout the country the degree of flexibility which they require in seeking extensions of the sanctions contained in the Speedy Trial Act that was passed by Congress a number of years ago.

Finally, the appointment and confirmation by the other body of the new judges that were authorized by the Omnibus Judges Act of 1978 will provide the district courts throughout this country the additional judicial manpower that should be required to take care of criminal and civil backlogs and to provide for speedy trials without the requirements of this act within a short period of time. So I would urge the membership of the House to give this bill overwhelming approval.

At this point I yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. I thank the gentleman for yielding.

First of all, I want to commend the gentleman from Wisconsin (Mr. SENSENBRENNER) for his valuable service in reporting this bill to the floor of the House, together with the distinguished gentleman from North Carolina (Mr. GUDGER), and to emphasize the importance of having prompt enactment of this legislation by the Congress. It is my understanding that unless this legislation is passed, there is a threat that 5,000 suspected felons would have to be released without bringing them to trial on the crimes with which they have been charged.

This legislation is recommended by the Department of Justice, by the Judicial Conference, as well as by both the House Committee on the Judiciary and the Senate Committee on the Judiciary. The objective of providing for speedy trials as required by the sixth amendment is a very laudatory one. But I question whether or not specifying a particular number of days is the way in which we should fulfill that constitutional mandate. I question that we should do that.

Hopefully, with the additional number of judges, with the additional authority that we have granted to magistrates, it may be possible to accelerate the time for bringing people to trial and, thus, to reduce the time below the number of days as specified in this legislation. For the time being it is extremely important for us to enact this legislation, and perhaps during the 2-year period before the legislation becomes effective to further review this concept and determine whether it might not be wiser to reconsider the question of a time limit which is specified in terms of number of days as set forth in the legislation which we are undertaking now to amend and extend.

So I commend the members and the Committee on the Judiciary for bringing this legislation to the floor, and I commend its passage to the Members of the House.

Mr. SENSENBRENNER. I thank the gentleman from Illinois (Mr. McCLORY) for his constructive comments. Mr. Speaker, at this time I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. I thank my colleague for yielding.

Mr. Speaker, I, too, rise in support of this legislation. I might have supported a little longer period of time and, in fact, in the conference it may be possible that the Senate will prevail in its 2-year cutoff period as against the 1-year cutoff period extension in the bill before us today. Be that as it may, it is a very reasonable piece of legislation. It was worked out adjusting to all the various interests involved. I think it should be well known that we do not want to send out to the judiciary a message that they can be dilatory, that they can be less than forthright in their efforts to bring their dockets up to date, and yet at the same time we recognize the realities in that once in a while theory must spare the phenomenon. The theory of setting an arbitrary date and, say, you have your dockets in shape at that cutoff time makes a lot of sense. But when you come up against that particular arbitrary period and you see the dockets have not necessarily been brought up to date in some of the jurisdictions, and you see the possibility that felons might escape proper judicial treatment simply because of an arbitrary date that we set, then I think at that point it is very reasonable to say at least for 1 year or 2 years this particular event shall not happen.

I particularly commend the chairman of the subcommittee. I know he recognized there are many diverse points of view. He had in many ways to compromise, to compromise in a right sense, not necessarily in a sense of giving in on an honest position.

There were divergent points of view, and I would say that what we ended up with is something we can all support, again throwing in the caveat that it would not infuriate me if in conference we were to go to the 2-year rather than the 11-year cutoff date.

Mr. GUDGER. Mr. Speaker, I thank the three distinguished gentlemen who have spoken so effectively for the minority and have added so materially to this record on this very important legislation.

□ 1200

At this time I would like to yield 3 minutes to the distinguished gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, I wish to rise also in support of this legislation and to commend the other members of the subcommittee and the committee for the diligent work they performed producing this legislation.

I personally feel that the 1-year removal or suspension of the sanctions is adequate. I also feel that by restricting it to 1 year instead of 2 years, but also giving to the various districts that are having difficulty a continuation of 1 year for suspension of the time limit is an adequate provision.

I believe this delay will work in two ways. It will: First, provide to those districts having difficulty an opportunity to try to adjust within this next year; and second, it give to us on the subcommittee an opportunity to hold additional hearings.

Mr. Speaker, we did have hearings but the hearings were not as complete as they needed to be and I look forward to having additional hearings on permanent changes which will involve both the Department of Justice and also the various district judges who are having difficulties, so we can learn the various types of difficulties that do arise in the various districts.

At this time I would like to yield to the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I thank the gentleman from Missouri. I compliment him because it is, after all, his amendment, it is the Volkmer amendment the committee ultimately adopted. Also, I wish to express my appreciation as a member of the subcommittee to the gentleman from North Carolina (Mr. GUDGER) for handling the bill in such able fashion today.

I would also say I think this is a reasonable approach. I know that some Members, including the gentleman from Michigan (Mr. CONYERS), our subcommittee chairman, probably on balance would have preferred no accommodation but he who was so instrumental originally in fashioning the 1974 Speedy Trial Act is to be complimented because in the final analysis this bill does not change the ingredients of the original proposal. We have preserved those.

I think the gentleman from Michigan (Mr. CONYERS) in a sense has a victory in this bill, notwithstanding the fact that we are extending the implementing of the sanctions for exceeding the trial time limits. It is reasonable, I would suggest, because we are at this time as a result of the omnibus judgeship bill, seeing the nomination and confirmation of new Federal district judges. This process will go on for some months if not a year or more and by the time these judges are effective, certainly a period of time will elapse during which I think there is good reason to defer the full implementation of this act.

● Mr. CORRADA. Mr. Speaker, I rise in support of S. 961, a bill to amend the Speedy Trial Act of 1974.

The Speedy Trial Act will require by July 1, 1979, the dismissal of certain criminal cases if not processed within a certain timeframe. The main reason that moved Congress to pass this legislation was the need to process criminal cases promptly. A timeframe totaling 100 days was selected as an ideal goal and a 4-year phase-in period was granted to allow district courts to move smoothly toward that goal. Four years later more work needs to be done by the justice system components to be able to reach the 100-day-limit goal.

If the act is not amended, a number of criminal cases will have to be dismissed. This will have an adverse and perhaps a damaging effect on the Federal criminal justice system.

I support and endorse S. 961. These are important and necessary changes to the Speedy Trial Act of 1974 and I urge you to vote for it. There are some differences between the House and Senate version which I trust will be solved in conference.●

Mr. GUDGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend each of those who have spoken on this legislation. I feel very sincerely that in this instance we have seen one of the best traditions of the legislative process fulfilled when Congress has confronted a time dilemma so well defined by the gentleman from Illinois (Mr. McCLORY). It has the ability to address the problem sympathetically, congenially, and harmoniously. Both the majority and minority have worked effectively together to deal with the problem in an effective way.

Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I have no further requests for time and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. GUDGER) that the House suspend the rules and pass the Senate bill, S. 961, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

HIGHER EDUCATION TECHNICAL AMENDMENTS OF 1979

Mr. FORD of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4476) to extend certain programs under the Higher Education Act of 1965 for 1 year, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4476

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Higher Education Technical Amendments of 1979".

COMMUNITY SERVICES AND CONTINUING EDUCATION PROGRAMS

SEC. 2. (a) Section 101(a) of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") is amended by striking out "fiscal years 1977, 1978, and 1979" and inserting in lieu thereof: "for the fiscal year 1977 and for each of the succeeding fiscal years ending prior to October 1, 1980".

(b) Section 101(b) of the Act is amended by inserting before the period a comma and the following: "and for each of the succeeding fiscal years ending prior to October 1, 1980".

COLLEGE LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

SEC. 3. (a) The first sentence of section 201(b) of the Act is amended by inserting before the period a comma and the following: "and for the succeeding fiscal year".

(b) Section 232 of the Act is amended by inserting before the period a comma and the following: "and for the succeeding fiscal year".

STRENGTHENING DEVELOPING INSTITUTIONS

SEC. 4. Section 301(b)(1) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

STUDENT ASSISTANCE

SEC. 5. (a)(1) Section 411(a)(1) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(2)(A) Section 411(a)(3) of the Higher Education Act of 1965 is amended by adding at the end thereof the following new subparagraph:

"(D) Notwithstanding any other provision of law, regulations required to be promulgated by the Commissioner under this paragraph for the academic year 1979–1980 shall be effective with respect to funds appropriated for the purpose of making payments under this subpart for that academic year.".

(B) Sections 411(b)(3)(B)(ii) and 411(b)(4)(B) of the Higher Education Act of 1965 shall not apply to funds appropriated for the purpose of making payments under subpart 1 of part A of title IV of such Act for the academic year 1978–1979, and any funds available at the end of that academic year shall remain available through September 30, 1981, for the purpose of making payments under that subpart with respect to entitlements for succeeding academic years.

(3) Section 413A(b)(1) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(4) Section 415A(b)(1) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(5) Section 417A(b) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(6) Section 418A(b)(1) of the Act is amended by inserting before the period a comma and the following: "and for the succeeding fiscal year".

(7)(A) Section 420(a)(1) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(B) Section 420(a)(4) of the Act is amended by striking out "1980" and inserting in lieu thereof "1981".

(b) Section 428(a)(8) of the Higher Education Act of 1965 is amended by adding at the end thereof the following new subparagraph:

"(C) If the Commissioner has not promulgated regulations pursuant to this paragraph on or before September 30, 1979, all eligible lenders (other than those excluded under subparagraph (A)) shall be deemed approved by the Commissioner for purposes of this paragraph.".

(c)(1) Section 438(b)(2) of the Act is amended—

(A) by striking out "(A) Subject to subparagraphs (B) and (C) and" and inserting in lieu thereof "Subject to", and

(B) by striking out subparagraphs (B) and (C).

(2) Notwithstanding any other provision of section 438 of the Higher Education Act of 1965, effective October 1, 1979, the Commissioner shall determine the special allowance pursuant to the provisions of section 438(b)(2) of that Act (as amended by paragraph (1) of this subsection), except with respect to—

(A) eligible loans held during the second quarter of the calendar year 1979, holders of such loans shall be entitled to a special allowance payment increased by the difference between (i) the special allowance determined with respect to such loans for such quarter under section 438(b)(2) (prior to the amendments made by paragraph (1) of this subsection), and (ii) the amount which would be determined with respect to such loans for such quarter under section 438(b)(2) as so amended; and

(B) eligible loans held during the third quarter of such calendar year, such holders shall be entitled to a special allowance payment increased by the difference described in subparagraph (A) (computed with respect to loans held during such third quarter).

Section 438(b)(4) of that Act shall not apply to any amounts payable with respect to the difference determined under subparagraph (A).

(d)(1) Section 461(b)(1) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(2) Section 461(b)(2) of the Act is amended by striking out "1979" each place it appears and inserting in lieu thereof "1980".

(3)(A) Part E of title IV of the Higher Education Act of 1965 is amended by adding at the end thereof the following new section:

"COLLECTION OF DEFAULTED LOANS

"SEC. 467. The Commissioner is authorized to attempt to collect any loan, which was made under this part and which is in default, referred to him by an institution, with which he has an agreement under subsection (a) of section 463, on behalf of such institution under such terms and conditions as the Commissioner may prescribe, including reimbursement for expenses he may reasonably incur in attempting such collection.".

(B) Nothing in the amendment made by this paragraph shall be construed to authorize the enactment of new budget authority for fiscal years 1979 or 1980.

(e)(1) Section 491(b)(1) of the Act is amended by striking out "and any proprietary institution of higher education" and inserting in lieu thereof "any postsecondary vocational institution; and any proprietary institution of higher education".

(2) Section 491(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(4) For the purposes of this subsection, the term 'postsecondary vocational institution' means a school (A) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (B) which meets the requirements of clauses (1), (2), and (4) of section 1201(a), (C) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, and (D) which has been in existence for at least two years. For the purpose of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authorities to the quality of training offered.".

TEACHER CORPS AND TEACHER TRAINING PROGRAMS

SEC. 6. (a) Section 511(b) of the Act is amended by inserting before the period a comma and the following: "and for the succeeding fiscal year".

(b) Section 531 of the Act is amended by inserting after "1979," the following: "and for the succeeding fiscal year".

FINANCIAL ASSISTANCE FOR THE IMPROVEMENT OF UNDERGRADUATE INSTRUCTION

SEC. 7. (a) Section 601(b) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(b) Section 601(c) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

SEC. 8. (a) Section 701(b) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(b) Section 721 of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(c)(1) Section 741(b) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(2) Section 745(c)(2) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

GRADUATE PROGRAMS

SEC. 9. (a) Section 901(c) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(b) Section 922(a) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(c) Section 941(a) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(d) Section 961(b)(1) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(2) Section 966(a) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

COMMUNITY COLLEGE ESTABLISHMENT AND EXPANSION

SEC. 10. (a) Section 1001(b)(1) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(b) Section 1011(b) of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

LAW SCHOOL CLINICAL EXPERIENCE PROGRAM

SEC. 11. Section 1103 of the Act is amended by striking out "1979" and inserting in lieu thereof "1980".

STATEWIDE PLANNING AUTHORIZATION

SEC. 12. Sections 1203(d) (1) and (2) of the Act are amended by striking out "1979" and inserting in lieu thereof "1980".

FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 13. Section 404(e) of the General Education Provisions Act is amended by striking out "1979" and inserting in lieu thereof "1980".

NATIONAL INSTITUTE OF EDUCATION

SEC. 14. The last sentence of section 405(j) of the General Education Provisions Act is amended by striking out "and" the first place it appears therein and inserting in lieu thereof a comma, and by inserting before the period at the end thereof the following: ", and $125,000,000 for fiscal year 1980".

NATIONAL DEFENSE EDUCATION ACT

SEC. 15. Section 604 of the National Defense Education Act of 1958 is amended by striking out "1979" and inserting in lieu thereof "1980".

MIDDLE INCOME STUDENT ASSISTANCE

SEC. 16. (a) Section 9 of the Middle Income Student Assistance Act (Public Law 95–566) is amended by striking out "August 1, 1979" and inserting in lieu thereof "July 1, 1979".

(b) Nothing in the amendment made by this section shall be construed to authorize the enactment of new budget authority for fiscal years 1979 or 1980.

EFFECTIVE DATE

SEC. 17. (a) The amendments made by section 5(c) shall take effect on October 1, 1979.

(b) The amendments made by section 5(e) shall take effect with respect to grants, loans, and other financial assistance made available to students for the academic year 1979–1980 and for academic years thereafter.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan (Mr. FORD) will be recognized for 20 minutes, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may continue.

Mr. Speaker, this legislation responds to two emergency situations that require action be taken before the August recess.

The first emergency arises because under current law the special allowance paid to lenders under the guaranteed student loan program may not exceed 5 percent when averaged over four consecutive calendar quarters. The special allowance is tied to the yield on 91-day Treasury bills, and it is designed to make student loans comparable in attractiveness to other lending opportunities. As a result of high Treasury bill rates this year and the 5-percent cap, lenders will receive a substantially lower yield on student loans in the second and third quarters of this year than the relationship of the special allowance to Treasury bills would otherwise justify.

If lenders receive this lower yield, they will make substantially fewer student loans. This problem is particularly critical in the third quarter of 1979, which began July 1, when approximately 50 percent of the annual volume in student loans occurs, as loans are made to students for the fall semester.

Right now, lenders, whose participation in this program is voluntary, are calculating their return on student loans for the just concluded second quarter and estimating their return for the third quarter, which just began. Unless they can be reassured in the very near future that student loans will continue to yield a return that is reasonably related to the cost of money, there is a substantial risk that many students and their families will be disappointed in their attempt to borrow for school this fall.

In a hearing before the Subcommittee on Postsecondary Education on May 30, Mr. Alfred Fitt, testifying on behalf of the Congressional Budget Office, predicted:

> If the present ceiling formula is retained, there will be strong downward pressure on the inclination of banks to make new student loans, just when there seem to be extraordinary upward pressures in the demand for such loans.

Testifying at the same hearing, Ms. Eileen Dickenson, president of the New York State Higher Education Services Corporation, argued that if the rate of return to lenders is sharply curtailed through the operation of current law, banks "may well prefer other investments to student loans and may precipitate a student loan capital crisis." She urged that "legislation should be passed as soon as possible to insure that students have access to loans to pay for fall 1979 educational costs."

In a statement filed with the subcommittee, Mr. John D. Wickert, speaking for the American Bankers Association, said:

> The concept of the special allowance floating free (no caps) with the Treasury Bill rate would allow the lender to cope with all market conditions over this extended investment period and is the approach that would most effectively encourage the lenders to invest the necessary funds in the Guaranteed Student Loan Program. This could assure that there would be sufficient loans available to meet the normal demands plus those additional loan requests generated by the Middle Income Student Assistance Act and thereby to provide families with the funds needed to finance the rising costs of education.

At a hearing on June 5, Mr. William Ihlanefeldt, testifying on behalf of the Consortium on Financing Higher Education, said:

> [T]he ceiling on the special allowance should be eliminated in order to retain the participation of financial institutions during periods of limited credit. At current interest rates, it is quite likely that in the last two quarters of this year, because of the ceiling on the special allowance, students may find that financial institutions will not lend.

Section 5(c) of the bill simply removes the 5-percent limitation for a 12-month period on the interest subsidy. This change in the special allowance is made effective for the second quarter of 1979 and for succeeding quarters.

It is important to note that when the Higher Education Act was enacted in 1965, the maximum interest rate permitted was 6 percent, with no special allowance. When interest rates rose in the spring of 1968, lender participation decreased and was only restored when Congress enacted Public Law 90–460 in August 1968, raising the maximum interest rate to 7 percent. Interest rates continued to rise and by the summer of 1969, a similar crisis occurred. The result was the enactment of the Emergency Insured Student Loan Act of 1969 which authorized a special allowance up to a maximum of 3 percent to be paid to lenders. As interest rates continued to rise and the 3-percent maximum special allowance was about to be reached, the law was modified by the Education Amendments of 1976 to the current provision providing for a maximum 5-percent special allowance averaged over four consecutive quarters. Thus, each time in the past when the statutory maximum yield on guaranteed student loans has made them unattractive to lenders because of generally higher yields available from other investments, the Congress has acted to increase the yield to lenders from student loans to insure their continued participation in the program.

The bill delays the payment to lenders of a special allowance in excess of what they would receive under current law until after October 1, 1979. This is done so that the budgetary impact of this change in the special allowance will occur in fiscal year 1980 rather than fiscal year 1979 in order to avoid potential problems under the Budget Act.

This provision of the bill incorporates H.R. 3554 introduced by Congressman BIAGGI on April 10, 1979. Congressman BIAGGI has been in the forefront of recognizing the urgent need for this legislation. His statement in the RECORD of May 16, further elucidates the importance of making this change in the law at the earliest possible date.

The cost of removing the cap is $78.1 million.

In a letter to the Speaker of June 19, 1979, the administration requested that the ceiling for the special allowance be raised from 5 to 6 percent for the second and third quarters of calendar 1979 and that the new 6-percent ceiling for these two quarters not be affected by the requirement of averaging four quarters. The cost of this proposal is approximately $75 million. The letter to the Speaker also notes that—

> This relief is necessary to ensure the continued availability of capital for the making of new student loans for the upcoming academic year.

The second emergency relates to the payment of increased basic grants to independent students.

Independent students are self-supporting students; generally widows, veterans, displaced homemakers, and other adult learners striving to improve their situation through education. Eighty percent of them are over the age of 22.

The Middle-Income Student Assistance Act, which was signed into law on November 1, 1978, provided for more equitable treatment of independent students. As a result of these changes about 70,000 new independent students became eligible for basic grants and approximately 612,000 independent students became eligible for larger grants.

In a letter of July 6, Acting Secretary of HEW, Fred Bohen, informed me that "in the absence of favorable action by the Congress on the technical amendment, we do not have the legal authority to fund fully the independent students provisions" of the Middle-Income Student Assistance Act. As a practical matter, this means that in the current summer school session, which began July 1, approximately 70,000 independent students will either not receive a basic grant or will receive a smaller basic grant than provided for by the Middle-Income Student Assistance Act. Since these students had already been notified of their eligibility for basic grants under the terms of the Middle-Income Student Assistance Act, their grants are now being recalculated to reduce their awards or to make them completely ineligible. Thus the promise made to these students by the Congress in the Middle-Income Student Assistance Act is being broken.

In addition, if this technical amendment is not adopted prior to the August recess, approximately 600,000 independent students will receive no basic grant or a smaller basic grant than provided for by the Middle-Income Student Assistance Act during the fall semester.

Recommendations from the administration to deal with these two emergency situations were provided in letters to the Speaker on May 7 and June 19, 1979. However, the full gravity of the situation with respect to independent students did not become apparent until Acting Secretary Bohen's letter to me of July 6.

Two provisions of the bill will solve the independent student emergency:

First, clarification of the Commission's regulatory authority under the basic grant program.—Section 5(a)(2)(A) of the bill makes it clear that the basic grant family contribution schedule issued by the Commissioner for the 1979–80 academic year governs the expenditure of funds appropriated in fiscal year 1979 as well as funds carried over from fiscal year 1978. This family contribution schedule implements the broadening of the basic grant program to students from middle-income families and the more equitable treatment of independent students as provided for by the Middle-Income Student Assistance Act (MISAA).

If this amendment is not adopted, HEW believes that the independent student provisions included in the Middle-Income Student Assistance Act could not be funded through the fiscal year 1979 appropriation.

While these changes in the treatment of independent students could be funded through the unexpended fiscal year 1978 money (assuming the waiver of the limitation on basic grant carryover amounts is adopted), the Office of Education would have to establish two separate funding tracks—one for dependent students from fiscal year 1979 funds and one for independent students from fiscal year 1978 funds. At the institutional level, schools would have to set up separate records, accounting procedures, and reporting mechanisms for the fiscal year 1978 and fiscal year 1979 funds. This would create a large and needless administrative burden.

This amendment was requested by the administration in a letter to the Speaker of May 7, 1979.

Second, waiver of the limitation on basic grants carryover amounts.—Current law (sections 411(b)(3)(II) and 411(b)(4)(B) of the Higher Education Act) requires that when appropriations for the basic grant program exceed the amount expended for basic grants in a given year by more than 15 percent of excess appropriations may not be carried over to the next year. Instead they must be allocated to students in that year if all students have not received the full amount of their entitlement. The appropriation for basic grants in fiscal year 1978 was $2.14 billion to be expended in the just-concluded 1978–79 academic year.

In large part because of the tighter administration of the basic grant program last year, $700 million of the fiscal year 1978 appropriation remains unexpended. Also, during the 1978–79 academic year appropriations were geared to a maximum grant of $1,600 rather than the $1,800 maximum in the law. Since the unexpended $700 million exceeds 15 percent of the fiscal year 1978 appropriation and since students did not receive the full amount of their entitlement in academic year 1978–79, the law prohibits the $700 million from being carried over for use in subsequent years and requires that this money be allocated to students who participated in the program in 1978–79. This would require, in practice, that the basic grant awards to the 1.9 million students who received basic grants in 1978–79 be recalculated based on a $1,800 maximum grant rather than a $1,600 maximum grant and that these students be given any additional amount for which they are eligible. It obviously would be an administrative nightmare to recalculate the awards of 1.9 million students for the past academic year. Students, or former students, would also receive, in effect, a windfall—an additional basic grant award after the academic year is over.

The administration's fiscal year 1980 budget recommendations, the first concurrent resolution on the fiscal year 1980 budget and the fiscal year 1980 Labor-HEW appropriations bill as passed by the House all anticipate that excess fiscal year 1978 basic grant funds be carried over to subsequent fiscal years.

In particular, the funds carried over from fiscal year 1978 are anticipated for use with the fiscal year 1979 appropriation for the basic grant program to implement the Middle-Income Student Assistance Act in the academic year 1979–80. Without these carryover funds the more equitable treatment of independent students provided for by MISAA cannot be accomplished. This amendment, section 5(a)(2)(B) of the bill, was requested by the administration in a letter to the Speaker on May 7, 1979.

In addition, H.R. 4476 includes four other technical amendments:

First, correction of error in the Middle-Income Student Assistance Act.—Section 16 of the bill modifies the periods of enrollment covered by the changes in the basic grant program made by the Middle-Income Student Assistance Act from "periods of enrollment beginning on or after August 1, 1979" to "periods of enrollment beginning on or after July 1, 1979." This change corrects a drafting error in the Middle-Income Student Assistance Act and conforms it to the current administrative practice of the basic grant program.

The 1979–80 family contribution schedule revisions submitted by the administration were not disapproved by the October 1 deadline stated in the law. These revisions, therefore, automatically become effective for the 1979–80 academic year (July 1, 1979 to June 30, 1980). The proposed revisions set the assessment rate on parental income at 12 percent. However, MISAA set the assessment rate at 10.5 percent and became effective on August 1, 1979.

Without this technical amendment, HEW reports that dependent students would have to have their awards calculated on the basis of a family contribution schedule which has a 12-percent assessment rate. This rate would apply for only that month. As of August 1, these students' awards would have to be recalculated on the basis of a family contribution schedule which uses a 10.5-percent rate to cover all periods of enrollment after August 1. This would present a significant administrative burden for schools and would cause confusion for students and schools.

This amendment was requested by the administration in a letter to the Speaker of April 11, 1979.

Second, implementation of interest subsidy and special allowance payments on multiply disbursed loans. Section 428 (a)(8) of the Higher Education Act, enacted by the Education Amendments of 1976, permits commercial lenders to provide guaranteed student loans to students in multiple disbursements. It also provides that these lenders can collect the interest subsidy and the special allowance on the entire amount of the loan, not only on the portion actually disbursed.

This provision was intended to provide a strong incentive for experienced commercial lends to make loans available to students in multiple disbursements. Multiple disbursement of student loans would help to reduce loan defaults since students who drop out during the school year would not yet have received all of the loan and would owe a smaller amount for repayment.

Implementation of section 438(a)(8) is tied to the issuance of regulations by the Commissioner. Although the Education Amendments of 1976 were enacted on October 12, 1976, the regulations to implement this section have not yet been promulgated. Section 5(b) of this bill states that, if these regulations have not been promulgated before September 30, 1979, all commercial lenders will be approved to receive the interest subsidy and special allowance on multiply disbursed loans without the benefit of the regulations. This provision would operate as an interim measure until the Commissioner promulgates the regulations required by section 428(a)(8).

In a May 30 hearing before the Subcommittee on Postsecondary Education, a representative of the U.S. Student Association called to the attention of the subcommittee the failure of the Commissioner to implement this provision of the Education Amendments of 1976. Joel Packer noted that implementation of section 428(a)(8) would "help increase lender participation * * * (and) capital availability, reduce amounts of default, and probably reduce the probability of default."

Third, improved collection of national direct student loans. Current law (section 463(a)(5) of the Higher Education Act) permits the Commissioner to collect defaulted national direct student loans only after they have been in default for at least 2 years and also requires that the institution "assign" the loan to the Commissioner and that any money which the Commissioner recovers be returned to the Treasury. This provision is a deterrent to the effective collection of defaulted national direct student loans for several reasons:

The Commissioner can only assist an institution in NDSL collections if a loan has been in default for at least 2 years. After a loan has been in default for 2 years or more, it is generally very difficult to locate the borrower or initiate an effective collection effort. Assistance from the Commissioner in collecting defaulted national direct student loans would be much more effective if it could occur sooner than 2 years after a loan has gone into default.

The requirement that national direct student loans be "assigned" to the Commissioner bars some public institutions from allowing the Commissioner to collect defaulted loans. Some States have laws prohibiting the assignment of State assets to another party. In the case of NDSL programs at public institutions, the 10-percent institutional matching required under the program is State money. In States with such laws these loans may not be assigned to the Commissioner for collection.

Since institutions cannot receive any of the money collected by the Commissioner, not even their 10-percent match, there is no incentive for them to assign them to the Commissioner even if there is not a State law barring such action in the case of public institutions.

The bill includes a new provision—section 5(d)(3)—allowing the Commissioner to collect defaulted national direct student loans which avoids these problems. Under this provision, the Commissioner could collect defaulted loans "on behalf of" the institution. Thus the loans need not be "assigned" to the Commissioner, and the problem of State laws barring the assignment of State assets is avoided. In addition, the Commissioner would return to the institutions any amounts he collects less any expenses of collection he incurs. Therefore, institutions would have a much greater incentive to seek the assistance of the Commissioner in collecting these loans. Finally, the loans would not be required to have been in default for 2 years.

Testifying on behalf of the National Association of Student Financial Aid Administrators on May 30, Mr. Arthur Fritz urged that the committee adopt legislative changes to deal with the problems in NDSL collections presented by current law. A similar recommendation was made to the subcommittee on June 19 by Mr. Charles Saunders, vice president for governmental relations of the American Council on Education.

It is our intent simply to improve the capabilities of the Commissioner to respond to requests from institutions for assistance in collecting defaulted student loans. We do not intend to require institutions to use this option or to preclude them from continuing to collect loans either through their own efforts or by contracting with private sector collection agencies.

Fourth, providing equal treatment for students at nonprofit postsecondary vocational schools. The new general regulations governing the basic grant program, which were published earlier this year, require that in order to be eligible for Federal student assistance students attending nonprofit postsecondary vocational schools must be enrolled in programs of at least 1 year's duration. On the other hand, to be eligible for Federal student aid students attending proprietary vocational schools need only be enrolled in programs of at least 6 months' duration. This disparity in the treatment of students in identical programs stems from the definition of these programs in section 491 of the Higher Education Act. An analysis of this situation prepared for the subcommittee by the Congressional Research Service indicates that there is no policy purpose for this disparity to be found in the legislative history of the Higher Education Act. It appears to be simply an oversight in legislative drafting. The unfairness of this situation has been most forcefully brought to the attention of the subcommittee by the gentleman from South Dakota, Congressman ABDNOR.

Section 5(e) of the bill simply conforms the treatment of nonprofit postsecondary vocational schools to that accorded to proprietary schools, requiring that they both offer programs of at least 6 months' duration.

Finally, Mr. Speaker, the authorizations for most of the programs in the Higher Education Act, as well as title VI of the National Defense Education Act, the fund for the improvement of postsecondary education and the National Institute of Education, expire at the end of fiscal year 1980. H.R. 4476 provides for a 1-year extension of the expiring programs.

This 1-year extension is being sought solely for the purpose of keeping the fiscal year 1981 appropriations for the higher education programs and NIE on track in the regular appropriations process while action is being completed on the major reauthorization bill. Without this 1-year extension, the appropriations for these programs would have to be provided in a fiscal year 1981 supplemental after action on the reauthorization is completed next summer. The appropriations committee will not consider appropriations for programs which are not authorized. Such a delay in the appropriations would be very disruptive to the programs, particularly to the forward-funded student aid programs.

It is not at all the intent of this 1-year extension to sneak the continuation of these programs by the House without providing for an opportunity to fully debate and to amend the programs. We expect to bring before the House a bill to reauthorize the programs later in this session. This reauthorization bill will be considered under an open rule. Therefore, within a few months the House will have the opportunity to fully debate and to amend the higher education programs. This 1-year extension is not intended to preempt or to prejudge that process.

In the last Congress, a similar 1-year extension (H.R. 8040/S. 1752) was provided for the forward-funded elementary and secondary education programs while action on that reauthorization bill was concluded. That bill passed in both the House and the Senate by voice vote.

The Congress has been moving expeditiously to meet the emergencies which this legislation addresses. H.R. 4476 was introduced on June 14. It was reported by the Education and Labor Committee on June 27. The committee report was filed on July 5 and the bill was subsequently referred to the Appropriations Committee because lifting the 5-percent cap on the GSL special allowance provides for new entitlement authority for fiscal year 1980 in excess of the new entitlement authority allocated to the Committee on Education and Labor by the first concurrent resolution on the budget for fiscal year 1980. The Labor-HEW Appropriations Subcommittee reported the bill by voice vote on July 17, and it was reported by voice vote by the Appropriations Committee on July 19.

Mr. Speaker, I urge the adoption of H.R. 4476.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. Yes, I yield to the gentlewoman.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

I am hoping very much that I may be allowed to testify concerning a bill I have introduced and, I believe, is before the gentleman's committee. It relates to the collection of defaulting student loans, a system that has been used in New Jersey by our department of higher education and found to be most useful, very simple, no expense and not very much paperwork involved, simply reporting the loan when it is in default to the credit bureaus, not the collection agencies.

There is a very fine letter I received this week which suggested an amendment I would be happy to put in the bill. It would allow the officials of the university or college or higher education institution not to report the loan as defaulting if there were extenuating circumstances, illness in the family, or anything of that kind which might suggest that default was accidental and not chronic and, therefore, would not have to be reported.

I hope that I may be allowed to come before the gentleman's committee to do this.

I was happy to see what the gentleman is doing about the educational opportunity funds. I was on that board when I was in my State. I know how valuable and how important those funds are and anything that facilitates their use is in my opinion highly desirable.

Mr. FORD of Michigan. Mr. Speaker, I thank the gentlewoman for her contribution.

We do have the gentlewoman's bill before our subcommittee, and it will be a part of the consideration of reauthorization. It is a part of several suggestions coming from the administration, from members of the committee, and Members of the House, that will be under consideration actively in September when we are marking the bill up.

Mrs. FENWICK. Oh, not this week? I thought the gentleman said they were having hearings this week.

Mr. FORD of Michigan. Hearings are to be concluded in Washington this week. We have an additional hearing in Burlington, Vt., and one or two others during the August recess. We will try to accommodate the gentlewoman's suggestions.

Mrs. FENWICK. Would there be any time in the hearings this week for me to appear on behalf of my bill?

Mr. FORD of Michigan. We will do the very best we can to accommodate the gentlewoman, and if the gentlewoman will chat with the gentleman from Alabama (Mr. BUCHANAN) we will work on that with the staff. I can assure the gentlewoman that she will have a priority.

Mrs. FENWICK. I thank the chairman.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, as an original cosponsor and member of our Postsecondary Education Subcommittee, I rise to implore my colleagues to pass H.R. 4476, the Higher Education Technical Amendments of 1979.

Let us not be mistaken for 1 minute—this is emergency legislation. Specifically, I refer to section 5(c) of the bill which proposes to lift the ceiling on the special allowance paid to lending institutions to insure their continued participation in the guaranteed student loan program (GSLP). Unless we are prepared to lift this ceiling—a move forced upon us solely because of the effects of inflation—the market for student loans through commercial lending institutions could dry up.

On April 10, 1979, I introduced H.R. 3554, in response to this problem which was brought to my attention by Eileen Dickinson, the president of the New York State Higher Education Services Corporation which services the guaranteed student loan program for New York State. It became apparent that the 12-month ceiling on the special allowance, the rate of which is set at 3.5 percent below the Treasury bill rate, must be lifted and allowed to float within prevailing interest rates. Since the special allowance is paid quarterly, any one of the computed quarterly payments may exceed 5 percent but the sum total of the four quarters cannot exceed 5 percent during any 12-month period.

Inflation has affected all of us, as reflected by the soaring interest rates which lending institutions must contend with. Because of this inflationary spiral, the computed quarterly payments of the special allowance have been very high for the last two quarters of this year—6.25 percent. If the 5-percent ceiling is not removed, the following two quarterly payments will be depressed, in order to remain within the 5 percent annual average, well below 5 percent. Student loans will be greatly affected by this because it will mean fewer loans at the time of greatest demand.

In my own State of New York, it is estimated that GSL applications will increase 35 percent from last year. If only half the demand for these loans in the third quarter of this year is not met, over 16,000 New York students seeking loans will not receive them. Even if there is no growth in the program, but an increase in demand from last year, it is likely that almost 33,000 students in my State will not be receiving loans, notwithstanding the fact that New York lending institutions will be committing $200 million to this program in the third quarter alone.

A crisis even if there is no decrease in lender participation will arise not only in New York, but in many other States in this Nation as well. According to the New York State Higher Education Services Corp., all of the other State guarantee agency representatives which they have spoken to have reported increases in excess of New York's 35 percent. Many State agencies have reported 50 percent increases in their GSL applications.

It is because of this impending crisis that I introduced H.R. 3554 when it became apparent that these students as well as the lending institutions which guarantee their loans would be adversely affected. The money which lenders commit to this program in the third quarter alone—last year it was nearly $1 billion—must also be protected.

The administration is to be commended for its insight into this problem as well. As outgoing Secretary of HEW, Joe Califano noted in his March 30 testimony to our Postsecondary Subcommittee:

> Guaranteed student loans vary greatly in availability for many reasons. First, the willingness of banks to commit capital to student loans is not uniform across the nation. The amount of loan money available varies from time to time as alternative investment options become more or less attractive. In addition, commercial lenders often set arbitrary limits on loan amounts, and many discriminate against students who are seen as "poor risks"—freshmen, vocational students, poor students and students whose families are not regular customers. For some students, this means they simply cannot get loan money. I am concerned about the substantial variation in loan availability and the potential inquiry which can result.

In a later hearing on the same issue, the New York State Higher Education Services Corp. noted that if the rate of return to lenders is sharply depressed with the current 5 percent ceiling on the special allowance, banks "may well prefer other investments to student loans and may precipitate a student loan capitol crisis." In the same May 30 hearing, Alfred Fitt from the Congressional Budget Office forecasted:

> If the present ceiling formula is retained, there will be strong downward pressures on the inclination of banks to make new student loans, just when there seem to be extraordinary upward pressures in the demand for such loans.

Two other groups at the hearing, the National Council of Higher Education Loan Programs and the American Bankers Association also urged immediate congressional action in this matter and expressed support for my bill.

The response to this bill has been equally enthusiastic from private banks as well as from institutions of higher education. Since I introduced this bill in April, many commercial lenders, from New York to California, urged its passage so that they may remain active in the GSLP. Presidents of universities, such as Father James Finlay of Fordham University which is in my own district in the Bronx, also wrote and asked that I urge my colleagues to support this measure.

I wish to commend my colleagues on the Education and Labor Committee, most especially BILL FORD, chairman of our Postecondary Education Subcommittee and our distinguished chairman from Kentucky, Mr. PERKINS, for their insight for recognizing this problem and guiding the committee in composing the package of technical amendments which we reported out of full committee on June 27 and what you have before you now as H.R. 4476. The main component of this technical amendment package is the special allowance provision.

This swiftness with which this legislation has progressed is an indication of how strongly we feel that this bill deserves passage. Also important is the fact that the Appropriations Committee also favorably reported this bill on July 19. I also want to thank my colleagues on that committee for their timely attention to this bill.

It is now July 31. Many students will be beginning or returning to school in less than a month. Many of these students are still waiting to see if their loan applications will be approved. Many of these same students depend on these loans to finance their entire educational costs.

I strongly urge my colleagues to support the Higher Education Technical Amendments of 1979 and assure the students of this Nation that their financial needs will be met for this September. Higher education is a basic right which all people of this country should freely have access to—a right which the Middle Income Student Assistance Act promised to insure when we passed it last year. The elimination of the special ceiling would serve to end once and for all discriminatory banking policy against students from lower income backgrounds, who would be the first to suffer if there were an insufficient amount of loan moneys available. The middle-income student, whose banking affiliations are limited, at best, and who is the first to be eliminated from competition for loans in lieu of higher income students who are better risks must be protected. We must make financial aid a profitable situation for both lenders as well as students from all income backgrounds.

Let us rededicate ourselves to the spirit of MISAA which proved the commitment of this body to the middle-income student, whose educational needs are equally as great but means and access to financial aid programs are so often limited. The lifting of the 5-percent ceiling on the special allowance would insure across-the-board participation in the Federal loan program by all interested students.

Mr. FORD of Michigan. Mr. Speaker, I thank the gentleman and would observe for the record and for the House that the provisions of this bill removing the ceiling on the special allowance for lenders in the guaranteed student loan program are, in fact, legislation introduced by the gentleman from New York (Mr. BIAGGI). We incorporated his bill into this legislation with his full cooperation and we appreciate very much his contributions.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I rise in strong support of H.R. 4476, the Higher Education Technical Amendments of 1979. I am pleased we are able to consider this bill in the House today because early and expeditious action is essential to prevent a predicted reduction in the availability of insured student loans.

Before going further, Mr. Speaker, I want to commend the chairman of our Subcommittee on Postsecondary Education, the gentleman from Michigan (Mr. FORD) for his efforts. Chairman FORD has once again exhibited extremely effective leadership as he swiftly moved the bill through subcommittee and full committee, from which it was unanimously reported on July 27.

Mr. Speaker, I want to pay tribute also to our distinguished colleague from New York (Mr. BIAGGI) who foresaw at an early date the necessity for amendments to the special allowance provisions in the insured program. On April 10, considerably before we received the administration's bill, Mr. BIAGGI introduced H.R. 3554 to remove the ceiling on the special allowance. Recognizing the potential crisis for college students and their parents, he has worked diligently to secure enactment of this change.

I want to compliment also the distinguished chairman of our Subcommittee on Select Education, the gentleman from Illinois (Mr. SIMON). H.R. 4476 proposes a 1-year extension of the National Institute of Education which is under the jurisdiction of the select subcommittee.

Chairman SIMON has urged such an extension in order to insure an orderly budget and appropriations process in the NIE.

Mr. Speaker, this has been a bipartisan effort and I wish to complement members of the committee from both sides of the aisle.

With respect to the guaranteed student loan program, I am pleased to advise my colleagues that there has been a considerable increase in the volume of lending, largely due to the Middle Income Student Assistance Act. Continuing high interest rates, however, are causing considerable problems at this time, the very time when traditionally the greatest number of applications for student loans are submitted. Roughly, 50 percent of all loans are processed between July and September each year. There is in current law a ceiling on the special allowance the Federal Government pays to participating lenders. That allowance is paid in order to hold down interest charges to students. In this period of high interest rates, the current ceiling is simply too low and the testimony before our subcommittee indicates that many lending institutions simply will not continue to process loans. This could very well lead to a crisis situation.

Accordingly, H.R. 4476 removes the current ceiling so that the special allowance will be determined according to market conditions without an arbitrary ceiling. The special allowance will fluctuate in its relationship to Treasury bills, increasing the payment as market conditions warrant.

H.R. 4476 also contains a number of technical but very needed changes in the basic grant program. These are necessary in order to provide for smooth implementation of the Middle Income Student Assistance Act. An amendment is also proposed to the national direct student loan program to take still another step in improving the collection of defaulted loans.

Finally, Mr. Speaker, the bill provides for a 1-year extension of education programs expiring in fiscal year 1980. The Subcommittee on Postsecondary Education has been involved in hearings on the reauthorization of the Higher Education Act for many months. It was the chairman's firm hope that by this time a reauthorization bill would have been through the House. However, the administration did not provide us with their recommendations, which are rather substantial, until last week. We want nothing to complicate the appropriations process. Therefore, a 1-year extension of expiring programs is proposed in order to allow for orderly funding. It will still be some time before we complete work on a reauthorization bill and we simply want to guard against any possibility of delaying the appropriations and budget processes.

Mr. Speaker, I urge approval of the bill.

☐ 1220

Mr. BUCHANAN. Mr. Speaker, I yield such time as he may consume to the distinguished ranking minority member of the Committee on Education and Labor, the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I want to join with the distinguished chairman of the Education and Labor Committee, Mr. PERKINS, and the distinguished Postsecondary Education Subcommittee chairman, Mr. FORD of Michigan, in urging the passage of H.R. 4476, the Higher Education Technical Amendments of 1979. Congress needs to take immediate action on this measure in order to insure that guaranteed student loans will be available to students this this fall and to provide independent students with basic grants to which they are entitled by the Middle Income Student Assistance Act.

In the guaranteed student loan program under the current law, the special allowance paid to lenders may not exceed 5 percent when averaged over four consecutive calendar quarters. The special allowance is tied to the yield on 91-day Treasury bills, and it is designed to make loans comparable in attractiveness to other lending opportunities. Because of high Treasury bill rates this year and the 5-percent cap, lenders are reluctant to loan students money when other loans would give higher yield.

H.R. 4476 removes the 5-percent cap and allows the special allowance to float in its relationship to Treasury bills. This will make guaranteed student loans particularly attractive to lenders in the critical third quarter of 1979 when approximately 50 percent of the annual volume in student loans occur.

The Middle Income Student Assistance Act which was signed into law on November 1, 1978, changes the treatment of independent students so that approximately 70,000 new independent students became eligible for basic grants and approximately 612,000 independent students became eligible for larger grants. In a July 6 letter from the then-acting Secretary of HEW, Mr. Fred Bohen, Congress was told that unless the technical amendments are passed, they did not have the legal authority to fully fund the independent student provisions of the Middle Income Student Assistance Act. Most of the students affected by the new treatment of independent students in MISAA have been notified of their enhanced eligibility, therefore, they are now making decisions based on the assumption they will receive larger basic grants for the fall. I believe it is critical that Congress keep its commitment to these students.

Many of my colleagues are probably concerned, as they should be, that we be voting on a bill here today under suspension of the rules that extends programs with authorizations of over $5 billion. Upon closer review, you will realize that H.R. 4476 only extends for 1 year, through fiscal year 1981, those higher education programs and the National Institute of Education which are currently authorized through 1980. The only reason for this 1-year extension is to maintain the normal appropriations process for the higher education programs and NIE while action is being completed on the major reauthorization legislation.

The Appropriations Committee will not consider appropriations for programs which are not authorized, therefore, without the 1-year extension, the appropriations for these programs would have to be provided in a supplemental appropriation late next year. This, of course, would seriously disrupt the normal funding process of these programs and would be injurious to the student recipients.

It is my understanding that the education and Labor Committee will begin markup on the Higher Education Act reauthorization bill sometime in September, and it is the intent of the committee to bring the reauthorization to the full House before the end of the first session. At this time, we will have every opportunity to amend the Education and Labor Committee bill, because it will be brought under an open rule. If my understanding of the future of the Higher Education Act reauthorization is correct, I urge immediate passage of H.R. 4476 so that the student aid programs will not be adversely affected this fall.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to associate myself with the remarks of the distinguished chairman of the Postsecondary Education Subcommittee and urge immediate passage of H.R. 4476. It is critical that this legislation be passed by both Houses of Congress before the August district work period and signed into law by the President as soon as possible thereafter. Literally hundreds of thousands of students are waiting for us to pass this bill, because it would provide increased loan opportunities for many students and higher basic grants for other students.

Many of my colleagues will wonder why a bill of this magnitude is being brought under suspension of the rules. One of the major provisions in the bill extends all those programs authorized by the Higher Education Act, as well as the authorization for the National Institute of Education for 1 year. This 1-year extension until the end of fiscal year 1981 provides for over $5.3 billion in authorizations. Let me assure my colleagues that this is not an effort to end-run the normal legislative process and that the 1-year extension is necessary in order to allow the Appropriations Committee to fully review these programs next year. The Appropriations Committee will not consider appropriations for programs which are not authorized. Therefore, if we do not extend these programs until fiscal year 1981, the committee could not review them under the normal appropriations process and a supplemental appropriations bill would be required.

As Chairman FORD noted in his opening remarks, the Subcommittee on Postsecondary Education has been involved in extensive hearings to review all the programs authorized by the Higher Education Act. To date there have been 30 days of hearings, and we expect to have an additional 5 days of hearings before marking up the reauthorization bill in the middle of September. I think it is obvious that the subcommittee is taking seriously its mandate to review these programs very carefully, and all Members of the House will be afforded the opportunity of commenting on the reauthorization bill and amending it, if it is their desire, by the end of the first session of the 95th Congress.

I want to take this opportunity to commend Chairman FORD for the outstanding manner in which he is conducting the reauthorization process. Last year he had the foresight to ask that all groups interested in the Higher Education Act programs to send to him their recommendations for reauthorization by February 15, 1979. This procedure resulted in the most comprehensive reauthorization recommendation documents I have ever seen and surely will provide for excellent legislation this fall. No one can truthfully say that their voice was not heard during this reauthorization process. If someone has a complaint about any of the programs which are being extended in the Higher Education Act as provided by H.R. 4476, I would urge them to communicate their concerns to the gentleman from Michigan (Mr. FORD) and myself as soon as possible so that we can reflect these concerns in the reauthorization bill.

The immediacy of passing the Higher Education Technical Amendments of 1979 results from problems in the guaranteed student loan program and the basic educational opportunity grant program. As noted before, the first problem arises because, under current law, the special allowance paid to lenders under the guaranteed student loan program may not exceed 5 percent when averaged over four consecutive calendar quarters. This special allowance, being tied to the 91-day Treasury bill, is used to make student loans attractive to lending institutions. Due to the high interest and high Treasury bill rates this year, the 5-percent cap has been exceeded in previous quarters, therefore, lenders would receive substantially lower yields on student loans in the second and third quarters of this year without this legislation. Participation of lenders in this program is voluntary, therefore, the lower yields will substantially curtail lending during the peak lending season between April and September when most students are preparing to finance their education for the academic year 1979–80.

The Subcommittee on Postsecondary Education has heard extensive testimony from the Congressional Budget Office, the State Guarantee Agencies, the Higher Education Institutions, and the American Bankers Association which indicates that without relief during these very critical quarters many students will not be able to obtain loans. H.R. 4476 removes the 5-percent cap and allows the special allowance to float in relationship to Treasury bill rates thus encouraging lender participation because of the higher yield.

The second significant problem has haunted the Subcommittee on Postsecondary Education for almost a year now. I will not deal with the chronology of this problem, but I would like to enter into the RECORD an article from a recent chronical of higher education which details the frustrations of Congress in trying to implement the independent student provisions of the Middle Income Student Assistance Act.

The article follows:

Just when you think you finally have straight in your own mind the latest fed-

> eral policy on aid to "independent" students, the Administration seems to change *its* mind.
>
> Two years ago, officials in the Office of Education decided they *should* help self-supporting students. With the approval of Congress, they liberalized eligibility for Basic Educational Opportunity Grants.
>
> A few months later, officials in the Department of Health, Education, and Welfare said they *couldn't* help—at least for a year. They got the approval of Congress to delay, until the fall of 1980, spending any more funds on students who are financially independent of their families.
>
> But, under pressure from key education leaders on Capitol Hill, the HEW officials changed their minds again and said they *would* help, after all. They proposed the Middle Income Student Assistance Act of 1978, which eased the requirements for self-supporting students to receive aid.
>
> When the fiscal 1980 budget proposals were released in January, however, senior Administration officials had decided they *couldn't* help. First, officials in the Office of Education insisted that they did not have the technical authority to put the liberalized criteria into effect. Later HEW officials argued they did not have the money to do so.
>
> By spring, Washington lawmakers were growing impatient. They said the Administration must help or they would hold up all basic grant funds.
>
> So HEW agreed once again they would help, until their lawyers discovered this spring they couldn't help. Congress must amend the Middle-Income Act, they said, to change the date for putting the liberalized eligibility criteria into effect. It must be shifted from Aug. 1, the date set in the law, to July 1, the time grants are handed out for fall, they said.
>
> But when July 1 came and went without Congressional action, the Administration decided it could go ahead and distribute the awards while Congress finished work on amendments to the Middle-Income Act. Then the General Accounting Office got into the act, saying officials could not proceed until Congress finished its work.
>
> "Meanwhile," one education official admitted in a bit of understatement, "we have a problem."

Last fall, in the Middle Income Student Assistance Act, Congress liberalized the treatment of independent students so that their consideration in financial needs analysis would be made more equitable, even though both the Education and Labor Committee and the Appropriations Committee have constantly indicated their intent to implement the independent student provisions in the 1979–80 academic year, we are faced, approximately 3 weeks before the opening of the fall semester, with not knowing whether these provisions will be implemented.

If we do not adopt these technical amendments prior to the August recess, approximately 600,000 independent students will receive no basic grant or a smaller basic grant than provided for in MISAA. This has complicated processing by the student financial aid administrators of not only basic grants but of all the student aid programs. The basic grant is the basis upon which all other student aid and packaging decisions are made, therefore, the aid officers must wait until the final basic grant award is determined before they can package the remaining student aid for the student. Not only has this complicated the processing, but it has confused the students who were anticipating the changes provided in MISAA. I feel it would be a grave injustice to the students not to take the action provided for in H.R. 4476.

In addition to solving the problems noted above, H.R. 4476 makes the following noncontroversial changes:

Clarifies the Commissioner's regulatory authority under the basic grant program in order to implement the Middle Income Student Assistance Act (MISAA);

Corrects an error in MISAA regarding the period of enrollment covered by the changes in the basic grant program;

Implements, as of October 1, 1979, the interest subsidy in special allowance payments on multiply disbursed loans as provided by the Education Amendments of 1976;

Permits the Commissioner to collect, on behalf of higher education institutions, national direct student loans which have been in default for less than 2 years and allows the collections to be returned to these institutions, minus administrative costs; and

Provides equal treatment for students in nonprofit post-secondary vocational schools and proprietary schools in the basic grant program.

It is my understanding that the Senate will consider our bill as soon as we can pass it here today and send it to the Senate. I hope that there will not be objections to the bill in the Senate so that it may progress through the legislative process as expeditiously as possible.

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Alabama (Mr. BUCHANAN) and I would like to say that anyone who has had an opportunity to observe the operation of our committee will recognize that we have worked together. The gentleman from Alabama (Mr. BUCHANAN), as the ranking minority member, has gone out of his way many, many times to make it possible for us to progress with this bill as we have.

The gentleman from Alabama has put aside other important matters on many occasions in order to make it possible for us to legally carry out our activities as a committee in developing the record for reauthorization. I think that this spirit of active cooperation by the minority members of my committee led by the gentleman from Alabama (Mr. BUCHANAN) should be noted, and it will contribute, I am sure, to the strong probability that we will meet the time schedule of bringing a reauthorization bill before the House this fall.

I would also like to note, in the passing of this bill, that it was necessary, because of the new entitlement authority, to refer this bill to the Commitee on Appropriations after it had been acted on by the Committee on Education and Labor. If you look at the time frame in which these technical amendments have been handled, you will realize that the full Committee on Education and Labor considered and acted on the legislation and then the Subcommittee and the full Committee on Appropriations acted on the legislation.

I might add that the Democratic policy and steering committee also gave clearance for this method of bringing the bill to the floor. All of this occurred within the span of approximately 4 weeks after we had the last recommendation from the administration with respect to the technical amendments they thought were necessary. I think this is indicative of how effectively the House has been able to cooperate with HEW when they tell us what it is they would really like to accomplish.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I thank the distinguished chairman of the subcommittee, and I take this opportunity to rise only because I guess one could say it is a matter of personal honor or defense. I have reference to the particular section that allows the increase in the allowance or increase in interest on the guaranteed loan.

Certainly I do so reluctantly because I hate to throw a little drop of sourness into what is obviously a very meritorious accomplishment by the subcommittee. This matter really motivates me only because I have held a very strong position and feeling throughout my congressional career about this type of expediency. I have fought this in my own Committee on Banking, Finance and Urban Affairs in the recent housing legislation that permitted what I consider to be the nationalization of usurious rates of interest.

This is a losing fight. I know it is tilting at windmills, but I am secure in the feeling that the Congress insistence on abdicating this very important defense is a very serious flaw.

I have waged the same fight with respect to the policies of the Small Business Administration. I have waged the fight on all of these basic programs, small business aid, housing, mortgage and construction aid, and, of course, student guaranteed loan aid.

This type of related issue in other areas of Federal activity reveals what I consider to be a complete surrender to the usurious interest rates that have literally taken over the country. I consider the question of interest rates to be the prime problem, and yet nobody seems to be addressing himself or herself to that issue on the national level.

Mr. Speaker, I feel that if through this policy we are going to suborn the basic principle of this type of aid, which is to provide below market interest rate loans, we are abdicating a trust.

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Texas (Mr. GONZALEZ) for his contribution, but I would like to observe that there is perhaps a little misunderstanding on his part. I am familiar with the gentleman's long and persistent protection of people of all kinds in this country against people who would take advantage of economic conditions to unjustly enrich themselves. I take some pride in being a follower of the gentleman many times when he has taken the lead on that issue.

But I would assure the gentleman that if this were the only interest rate on the money repaid in the loans, the committee would not have acted in this fashion. However, there are two thresholds in this program. One is the provision in the law that the special allowance will not exceed 5 percent when averaged over four quarters, so it gives inadequate flexibility for changes in the money market.

The second is that no matter what we do with the cap, the amount of the special allowance is really based on what the current cost of money is, at the time the loan is made. The special allowance is tied to the rate of return on 91-day Treasury bills.

It is interesting to note that all of the experts with whom we have checked on this seem to believe that 91-day Treasury bills will be at their peak in this current quarter, during which young people who are seeking to go to school this fall will be applying for loans. The rate for 91-day Treasury bills is expected to drop off in the very next quarter, and in the first quarter of 1980 it should drop even further.

☐ 1230

We have modified this cap several times since 1965. We decided this time not to take the chance on jeopardizing anybody's student loan this fall by playing with the numbers, since the numbers are really controlled by our Treasury bills, the cost of 91-day Treasury bills in the marketplace. We are allowing the special allowance to float with that cost.

I can assure the Members that, while it is important that we do this to restore and to reinforce the confidence of lenders, many of whom are being induced for the first time to come into this program, it is not going to amount to a long-range windfall.

The SPEAKER pro tempore. The time of the gentleman from Michigan (Mr. Ford) has expired.

Mr. BUCHANAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. Ford).

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I agree with everything that has been said about the importance of this litigation. I would just add a word or two. One is that we have had excellent leadership on this subcommittee. Until recently, the gentleman from Michigan (Mr. O'Hara) was the chairman of this subcommittee. The gentleman from Michigan (Mr. Ford) has moved in and has provided practical, knowledgeable, effective leadership there. On the Republican side, at that point the minority side was dominated by our former colleague from Minnesota, Mr. Quie, whom the gentleman from Minnesota (Mr. Erdahl) succeeds ably, and the gentleman from Alabama (Mr. Buchanan) and the gentleman from Ohio (Mr. Ashbrook) have moved in there and have done very well.

There are two points I would make. One is in response to my colleague, the gentleman from Texas (Mr. Gonzalez), whose name I remember reading in the Congressional Records years before I came here. He and Wright Patman were fighting this battle against higher interest rates long before I even knew either one of them. And they are correct. It is a factor we have to watch. One-sixth, roughly, in our inflation rate last year was caused by an increase in interest rates. But this legislation has to recognize the realities—not our hopes—and has to get loans to the students. We cannot say we would like to have artificially low-interest rates.

The second point I would make is that part of this legislation is reauthorization for 1 year for the National Institute of Education. It emerged from the subcommittee, which I happen to chair, and has become part of this legislation.

One of the things we did was to reduce the authorization level. That is not because there is any feelng that NIE is doing anything but an excellent job; but it is the prejudice of this Member, and some of the other members of the subcommittee, that we should not have these authorization levels artificially way above the appropriation levels. So we simply reduced that. NIE is doing an excellent job, and I think that is generally acknowledged. I am pleased to support this legislation.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume in order to associate myself with the remarks of the distinguished gentleman from Michigan (Mr. Ford) and the distinguished gentleman from Illinois (Mr. Simon) on the subject of the loan changes. I do not believe we here contribute to high interest rates, but we are recognizing this unhappy fact of life and its impact upon lenders and upon students.

Again, if we do not pass this legislation, what it is going to mean is that the many thousands of young people simply will not be able to get loans that they need for their education this fall. So I do believe that, while not contributing to the problem, we are recognizing its existence. I hope, like our distinguished friend, the gentleman from Texas, we can find a way to combat something that really is, in my judgment, a part of our problem of inflation itself and a contributing factor toward it.

Mr. SPEAKER, I yield 3 minutes to the gentleman from Illinois (Mr. Michel), the distinguished minority whip.

Mr. MICHEL. Mr. Speaker, I am certainly not going to oppose this legislation, but I think the Members ought to be aware of what it does regarding the increased special allowance to lenders under the guaranteed student loan program.

That current ceiling for special allowance payments is 5 percent, which, when coupled with the regular 7-percent interest subsidy, means that the banks can receive up to 12 percent interest on these loans. The bill would lift the ceiling on special allowance payments and in effect substitute a floating rate tied to the 91-day Treasury bill rate. The result will be the payment of interest in excess of 13 percent on these loans.

This action was undertaken to insure that lenders will continue to have an incentive to make student loans during a time of rising interest rates. There apparently is a concern that a sizable dropoff in the number of loans issued will occur if the ceiling is not lifted.

This may be justified in and of itself, but the problem is that the bill does not just apply this provision to future loans but also makes it retroactive, going all the way back to April 1. In other words, the banks will receive higher interest rates paid by the Federal Government for loans already made at lower interest rates.

We have heard an awful lot concerning what has been expressed in recent days over excess profits. Well, if this does not smack of the windfall profit, I do not know what does. It represents a bonanza to the banks, and the cost of these retroactive payments, according to the Budget Office, will be $38 million. If this defect in the bill is not corrected, we will, of course, have to appropriate through our Appropriations Committee the money at some point down the road. If the increase in the special allowance is intended to serve as an incentive to banks to continue making loans, it would hardly seem necessary to apply it to loans that have already been made.

The procedures under which we are considering the bill today prevents us, obviously, from amending it; however, I understand that there may be a move in the other body to delete this retroactive provision, and I hope that the Members of this body, when going to conference, will certainly give serious thought to agreeing to deleting that provision in conference, because, as I said, it is an undue windfall profit for the banks of $38 million. Those loans have already been made. In my judgment, to restore the integrity of the program, as I would like to support it, I think we ought to make it prospective rather than retroactive.

Mr. BUCHANAN. Mr. Speaker, I think the gentleman's point is well taken. I, for one, will certainly take a look at that. We do need to provide incentives to lending institutions. We are trying to do that. I urge the passage of the bill.

Mr. Speaker, I have no further requests for time.

Mr. FORD of Michigan. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. Ford) that the House suspend the rules and pass the bill, H.R. 4476, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: House Concurrent Resolution 80, and S. 961.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

MARTIN LUTHER KING STATUE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 80).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 80) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 408, nays 11, not voting 15, as follows:

[Roll No. 405]

YEAS—408

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—11

Ashbrook
Collins, Tex.
Hansen
Ichord
Kelly
McDonald
Paul
Rousselot
Stump
Symms
Young, Fla.

NOT VOTING—15

Anderson, Ill.
Ashley
Bolling
Conyers
Diggs
Dingell
Flood
Forsythe
Hutto
Marlenee
Mazzoli
Mitchell, Md.
Roth
Treen
Waxman

☐ 1250

The Clerk announced the following pairs:

Mr. Mitchell of Maryland with Mr. Anderson of Illinois.

Mr. Ashley with Mr. Forsythe.

Mr. Dingell with Mr. Marlenee.

Mr. Mazzoli with Mr. Roth.

Mr. Waxman with Mr. Conyers.

Mr. Hutto with Mr. Flood.

So (two-thirds having voted in favor thereof), the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MICA). Pursuant to the provisions of clause 3(b)3 of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

SPEEDY TRIAL ACT AMENDMENTS OF 1979

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 961, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. GUDGER) that the House suspend the rules and pass the Senate bill, S. 961, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 416, nays 1, not voting 17, as follows:

[Roll No. 406]

YEAS—416

Abdnor
Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich

Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—1

Murphy, Pa.

NOT VOTING—17

Akaka
Anderson, Ill.
Ashley
Bolling
Conyers
Diggs
Emery
Flood
Forsythe
Goodling
Hutto
Maguire
Marlenee
Mazzoli
Pepper
Roth
Treen

☐ 1300

The Clerk announced the following pairs:

Mr. Pepper with Mr. Anderson of Illinois.
Mr. Ashley with Mr. Marlenee.
Mr. Akaka with Mr. Roth.
Mr. Mazzoli with Mr. Forsythe.
Mr. Hutto with Mr. Goodling.
Mr. Maguire with Mr. Emery.
Mr. Conyers with Mr. Flood.

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BUCHANAN. Mr. Speaker, I ask unanimous consent that all Members may have up to 5 legislative days within which to revise and extend their remarks, and to include extraneous matter, on the bill, H.R. 4476.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT, ALONG WITH MINORITY OR SEPARATE VIEWS, DURING AUGUST RECESS ON H.R. 3712, AMENDING SECTION 103 OF INTERNAL REVENUE CODE OF 1954

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may be permitted to file a report, along with any minority or separate views, during the August recess on H.R. 3712, to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on mortgage subsidy bonds will not be exempt from Federal income tax.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, I was inadvertently absent for rollcall No. 224 on Wednesday, June 13, 1979. This vote was the automatic rollcall on closing to the public the meetings of the conference committee on S. 429, the supplemental military authorization bill for 1979. Had I been present, I would have voted "yes."

APPOINTMENT OF CONFEREES ON H.R. 4394, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1980

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes, with Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts? The Chair hears none and, without objection, appoints the following conferees: Messrs. BOLAND, TRAXLER, STOKES, BEVILL, Mrs. BOGGS, Messrs. SABO, STEWART, WHITTEN, COUGHLIN, MCDADE, YOUNG of Florida, and CONTE.

There was no objection.

PERSONAL EXPLANATION

Mr. PEPPER. Mr. Speaker, there being only five minutes allotted for the last vote, I failed to get to the floor in time to vote.

Had I been present, I would have voted "aye" on S. 961.

EMERGENCY ENERGY CONSERVATION ACT OF 1979

Mr. DINGELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill, S. 1030, with Mr. FASCELL in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, July 25, 1979, section 2 had been considered as having been read and open to amendment at any point.

Are there any further amendments to section 2?

AMENDMENT OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WRIGHT:

Page 17, strike out line 9 and all that follows down through line 18 and insert in lieu thereof the following:

"(A) the President—

"(i) has transmitted a copy of such contingency plan to the Congress;";

(2) by redesignating subparagraphs (A) and (B) as clauses (ii) and (iii), respectively;

(3) in clause (ii) (as redesignated), by inserting after "has found" the following: ", not earlier than 30 days of continuous session of Congress (determined in accordance with section 551(d)) after the transmittal of such plan,", and by inserting after "program" the following: "; subject to paragraphs (2) and (3)";

Page 19, strike out line 14 and all that follows down through line 25 on page 20 and insert in lieu thereof the following:

subparagraphs (A) and (B) of paragraph (2).".

(d)(1) As soon as practicable after the date of the enactment of this Act (but in no event later than 90 days after such date of enactment), the President shall prepare and transmit to the Committee on Interstate and

Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the measures taken after such date of enactment (and the costs thereof) to establish a system of rationing of gasoline and diesel fuel pursuant to sections 201 and 203 of the Energy Policy and Conservation Act (42 U.S.C. 6261, 6263), together with a description of the measures to be taken in establishing such system, a timetable for completion of such measures, and an estimate of the costs thereof.

(2) The report under paragraph (1) shall include—

(A) a description of the extent to which coupons or other evidences of right under such a rationing system would be distributed to each end-user of gasoline or diesel fuel on the basis of such end-user's needs, and an explanation of the extent to which such distribution may not be based on such end-user's needs;

(B) an analysis of providing that the entitlement under the rationing system to such end-user rights be granted on the basis of individuals licensed to operate motor vehicles on the public roads and highways, and explanation of the extent to which such entitlement will be granted on that basis;

(C) a description of the extent to which the rationing system would meet the needs and hardships of end-users by the use of local boards as provided for under section 203(d) of such Act (42 U.S.C. 6263(d)), and an explanation of the extent to which such boards may not be used;

(D) a description of how the rationing system complies with the objective of providing for the mobility needs of handicapped persons (including means for their obtaining such end-user rights) as required under section 203(a)(2)(A) of such Act (42 U.S.C. 6263(d)); and

(E) a description of the steps to be taken to provide adequate end-user allocation under the rationing system for the needs of those in suburban and rural areas, particularly mid-sized cities, small towns and rural communities in the countryside, not adequately served by any public transportation system.

(3) The President shall keep such Committees fully and currently informed, on a biweekly basis, about the progress of efforts to establish a system of rationing and of any problem and delays in establishing the system.

The CHAIRMAN. Does the gentleman from Ohio (Mr. Brown) insist on his point of order?

Mr. BROWN of Ohio. Mr. Chairman, if I may, I would still like to reserve a point of order at this point until we get a description of the amendment.

Mr. WRIGHT. Mr. Chairman, I will address myself at this time to the amendment, if I may.

Mr. Chairman, this amendment makes four significant changes in the legislation as it was amended last week.

It restores the language in the bill as it was reported by the Committee on Interstate and Foreign Commerce to permit the President to develop a rationing plan, subject only to a one-House veto at the time of implementation of the plan.

It preserves the possibility of a legislative veto, but it drops the requirement of a double legislative veto. It would remove the requirement inserted in the Gilman amendment that Congress vote twice.

That, it seems to me, was the evil inherent in the 1975 law. It required us to take possession at a given point in time, when we were ill prepared to do so, of a plan that had just been changed by the President himself. The administration had made those changes only days prior to that moment in order to gain approval in the other body.

The 1975 law set up an impossible criterion. It created unnecessary and overlapping opportunities for vetoing. It created opportunities for obstruction and, therefore, the plan failed of its own weight.

If we are going to give the President of the United States an opportunity to develop a rationing plan, then it seems fully adequate to me, Mr. Chairman, that the rights of the House and the Senate shall be protected by our right to veto the implementation of that plan. We will already understand the plan because my amendment requires that the President report to us fully on his progress in its development and on its final contents.

My amendment also contains some additional changes which I think are beneficial. It requires that in his report on any rationing plan, the President will submit to the Congress a report explaining how the plan will attend to the special needs of the handicapped for transportation. The report also must explain how the plan will meet the particular needs of rural areas and small towns which are not adequately served by public transportation.

I realize, Mr. Chairman, some Members have difficulty in comprehending the danger inherent in this double-veto opportunity, but I am certain it is real.

The provision that was inadvertently included in the 1975 bill for two legislative vetoes invited special interests to descend upon us before the plan was even presented, before there was even any real need for it. Each group was looking to gain special advantage.

The double-veto invites the worst kind of parochialism, pitting State against State, region against region, and city dweller against farmer.

Mr. VOLKMER. Mr. Chairman, I make the point of order a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1320

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 407]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Danielson
Dannemeyer
Daschle
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Downey
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn

Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee

Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels

Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1330

The CHAIRMAN. Three hundred and sixty-eight Members have answered to their names, a quorum is present, and the Committee will resume its business.

☐ 1340

The Chair will state that the gentleman from Texas (Mr. WRIGHT), at the time the point of order of no quorum was made, had 1½ minutes remaining.

(On request of Mr. DINGELL and by unanimous consent, Mr. WRIGHT was allowed to proceed for 4 additional minutes.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, my amendment would fully preserve the right of a legislative veto against a Presidential plan of rationing. It would allow the Congress to assert that right at the very time the plan was submitted for implementation. My amendment would require that the plan lay over a sufficient time for Congress to have the opportunity to assert that right.

That is the right time for Congress to have this privilege—when it can see and evaluate the conditions that the President's plan would seek to alleviate.

But my amendment would take away the redundancy of the double veto. My amendment would remove the temptation which already has scuttled one Presidential plan and made it appear that Congress was utterly incapable of agreeing on any plan. That happened because the double veto offered a temptation for the very worst form of parochialism.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to my friend, the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, I appreciate the gentleman's yielding.

Last week during the consideration of the standby rationing plan, I voted for the two-House veto provision. Arkansas as a State uses 24 percent more gasoline per vehicle than the national average. Inasmuch as no mention is made of allocation and given the tendency of some planners to favor the high density urban areas, I am concerned about the question of equity of distribution.

Unless equity of distribution is provided as a principle to be used in the formulation of a standby rationing plan there is a chance of discrimination against citizens living in midsized cities, small towns, and rural communities.

Mr. Chairman, I would like to ask the gentleman from Texas (Mr. WRIGHT) how he has addressed the question of the equity of distribution that I have raised.

Mr. WRIGHT. Mr. Chairman, if the gentleman will permit, I will say to the gentleman from Arkansas (Mr. ALEXANDER) that we have included in my amendment language which requires the President to describe in his report to Congress exactly what actions he proposes to meet the needs of people in rural, suburban, and small town areas which have no adequate public transportation. In many instances, these areas have no transportation facilities whatever.

Mr. Chairman, the gentleman from Arkansas (Mr. ALEXANDER) has consulted with me in advance, and the gentleman from Arkansas has indeed suggested language which is incorporated in this amendment to alleviate those fears and concerns which his people rightly feel.

Mr. ALEXANDER. Mr. Chairman, if the gentleman will yield further on this one point, does the gentleman feel that the language on page 3 added to section (E), which says that the description of the steps shall include "particularly midsized cities, small towns and rural communities in the countryside not adequately served by any public transportation system," cures my concern for this equity question?

Mr. WRIGHT. I surely do, and I think that is a needed addition to the bill.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman.

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to my friend, the gentleman from Texas.

Mr. GRAMM. Mr. Chairman, I would like to simply point out that in addition to the protections which have been added by this amendment which I support, we have in the bill itself an assurance of equal sharing among the States on the basis of a consideration of the most recent data available, which does assure that each State will share equally in the shortfall, and those States which are disadvantaged due to an absence of mass transit and alternative methods of transportation would be protected.

I think the amendment offered by the gentleman from Texas (Mr. WRIGHT) adds to this protection by assuring that handicapped people in the rural areas and suburban areas are protected by the plan that would come forth under these guidelines. I think it is important that we emphasize that we have here a stronger set of guidelines.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to my friend, the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, would the gentleman from Texas (Mr. WRIGHT) explain as to where it is stated in here that anyone would have the right of judicial review of the plan to assure that the concepts that were stated there by the gentleman from Texas and also the gentleman from Arkansas are in fact carried out?

Mr. WRIGHT. Mr. Chairman, if the gentleman would stop and ponder this, I think he would realize that there is not, and has not been, any review process other than what we are providing.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course, I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the assurances that the principles of fairness are carried out, I would advise the gentleman, are made through the mechanism of the one-House veto, and before the plan can be implemented the plan must be submitted by the President to the Congress. Under the accelerated review process of the Congress, the Congress would have the opportunity to veto the implementation of the plan if we found it in any fashion to be unfair.

So, Mr. Chairman, I commend the majority leader, and I support his amendment with great enthusiasm.

Mr. WRIGHT. Mr. Chairman, I thank the gentleman for his remarks.

Mr. Chairman, I believe the gentleman from North Carolina (Mr. BROYHILL) really would recognize, too, that this is a bill designed to meet emergency situations which we hope will not occur. If they should occur, it would be an emergency, and the question of judicial review or a separate review process would become important.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(On request of Mr. LEVITAS, and by unanimous consent, Mr. WRIGHT was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would like to ask the distinguished majority leader to expand a little bit further on the point he made in his original presentation.

First of all, I would like to state that I supported the President's plan when it came over here the last time, so it is not a question of whether I favor it or do not favor it. But as the gentleman knows, I am very interested in the mechanism of the legislative veto. I do not think we need to have two or three or four in the same program, but I think it is essential we have a legislative veto.

What assurance do we have that this vote—and I do not know how I am going to vote on this—is not a test of the legislative veto itself?

Mr. WRIGHT. Mr. Chairman, if the gentleman will let me respond, I will say to the gentleman from Georgia (Mr. LEVITAS) that all of our colleagues and I are fully aware of his deep concern about the increasing tendency of administrative personnel to want to write laws without the inconvenience of running for Congress. I think the gentleman from

Georgia has performed a noteworthy public service by bringing this again and again to the attention of the Congress.

As the gentleman is aware, I have been one of those who have supported his efforts. Certainly this does not in any way abrogate those efforts because it protects, as the gentleman from Michigan (Mr. DINGELL) will further explain, every right of legislative review.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think it is very clear that the legislative veto was included in the proposal as submitted to the House by the Committee on Interstate and Foreign Commerce. So this amendment is not and cannot be a test, because the bill originally had the one-House legislative veto before implementation which, as I understand it, is precisely the principle that the gentleman from Georgia (Mr. LEVITAS) so ably espoused.

The amendment now offered by our distinguished majority leader again provides that before the program of rationing can be implemented by the President there must be the one-House veto, so this cannot be viewed in any fashion as a test.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I will yield to the gentleman from New York (Mr. GILMAN) first, and then I will yield to the gentleman from California (Mr. JOHN L. BURTON).

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding.

I would like to address some questions to the gentleman from Texas (Mr. WRIGHT).

Essentially what the gentleman's amendment seeks to do—and I commend the gentleman for trying to strengthen this proposal—is to elaborate on what has to be in the President's plan when he submits it during that 30-day layover period; is that not correct?

Mr. WRIGHT. That is correct. The gentleman from New York (Mr. GILMAN) correctly interprets my intent. It further requires that he submit it even earlier than 90 days, if possible.

Mr. GILMAN. In addition to that, the gentleman's amendment strikes out my one-House congressional review of the plan at the time of its submission; is that not correct?

Mr. WRIGHT. Mr. Chairman, the gentleman is correct indeed. That is the purpose of the amendment.

☐ 1350

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(On request of Mr. GILMAN and by unanimous consent, Mr. WRIGHT was allowed to proceed for 3 additional minutes.)

Mr. GILMAN. Mr. Chairman, if the gentleman will yield further, essentially, then, what the gentleman is concerned about is the congressional scrutiny of the President's proposal at the time he initially sends the rationing plan to the Congress. The gentleman does not object to the veto during an emergency period, at which time we would have to then, for the first occasion, under the gentleman's plan, address ourselves to whether we feel the substance of the plan is in order; but the gentleman would prefer that we do not do that at the time the President submits the plan, when there could very well not be any emergency at all and we would have a cool, deliberative atmosphere in which to take a look at the President's proposal. Am I correct? Is that the gentleman's intent?

Mr. WRIGHT. Mr. Chairman, the gentleman states it in a way that I would not state it. But I cannot quarrel with what he said beyond the fact that it seems to me that my amendment gives us ample and adequate protection. It requires the President to lay before us a full and complete plan. Therefore, we will have ample opportunity to know what it consists of and can measure it then against the emergency with which it would be designed to cope.

Mr. GILMAN. If that be the case, I cannot understand why the gentleman would object to the House having a voice in the substance of that plan at the time the President proposes it, since he has taken such precautionary measures to make certain that the plan as submitted to the Congress is all-inclusive.

I would urge my colleagues to defeat the gentleman's proposal unless it includes an opportunity to review and veto that measure at the time of its initial submission so that the Congress does have a voice about the substance of the measure and not merely the implementation.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, my concern is this: Under the bill that is reported from committee, there has to be an emergency. The President submits a plan that we can veto in the middle of an emergency, which does not give you much of a cool, deliberative, rational discussion on the merits, and it is either like your backs are against the wall, you are either going to do something or you are going to drop over, and I would much prefer the approach that the gentleman from New York had, or maybe something in between. Once you are in an emergency, once he comes up with a plan, and it is either put up or shut up at that time, does not give Congress too much of a voice, unless you are in a lame-duck session and you do not have to worry about it much.

Mr. WRIGHT. Mr. Chairman, I appreciate the gentleman's concern. But I point out to the gentleman that, under the terms of this amendment, as under the terms of the bill itself, the President would have to submit this plan a minimum of 30 days prior to the finding of an emergency, and then the House would have 15 more days.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has again expired.

(On request of Mr. OTTINGER and by unanimous consent, Mr. WRIGHT was allowed to proceed for 3 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, I would like to point out to my good friends, the gentleman from California and the gentleman from New York, that consideration of a plan in advance is not going to be cool or deliberative. What you are going to do is to invite every interest in the country, which feels that somehow or another it has been shortchanged, to try and defeat that plan. In my opinion, judged on the experience based on the last time the plan was presented, we just will not get an emergency plan in place. I think this is an emergency plan. And the gentleman from Texas has provided that it will be available to the committees, having thorough consideration beforehand, and the House will be advised of that progress on a periodic basis, and we will have a chance to act if something is outrageously proposed. But to say that we have to have action on it in the Congress beforehand I think is just unrealistic.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, in the first place, let me ask the gentleman this: Is it 30 days or is it 30 legislative days?

Mr. WRIGHT. Thirty calendar days.

Mr. KAZEN. Thirty calendar days.

The second question I have is this: What is meant by a one-House veto? In the procedure the President submits to the Congress, the Speaker then sends it to the committee. Now, is a pocket veto by the committee sufficient, or must the House vote on it?

Mr. WRIGHT. Any Member may discharge the bill. The committee cannot keep it bottled up. The House can get a vote on the motion of any Member within 15 legislative days after the submission of the plan and the declaration of an emergency. It is 15 legislative days continuous session, so any Member could call it up for a vote. It cannot be bottled up. It could not be vetoed simply by the committee. It would have to be vetoed by the whole House.

Mr. KAZEN. I want a positive vote by the House. I do not want any Amtrak situation; in other words, where the committee did not bring anything out, and the Department downtown said, "The Congress approved of it simply because the Congress did not vote on it."

Mr. WRIGHT. It is precisely that concern so ably voiced by the gentleman from Texas that we address in this amendment. It would require that there be a vote on the floor of the House by a majority of the Members if the plan is to be rejected.

Mr. KAZEN. I thank the gentleman.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, further on the question just asked by the gentleman from Texas (Mr. KAZEN), it is my understanding, and I would like for the gentleman from Texas (Mr. WRIGHT) to confirm this, that the motion which would be offered is a highly privileged motion and one which would have to come to the floor of the House within the time period provided for so that the House could exercise a veto.

Mr. WRIGHT. The gentleman is absolutely correct.

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Washington.

Mr. PRITCHARD. I thank the gentleman for yielding.

Mr. Chairman, the gentleman had a colloquy with the gentleman from Arkansas, in which he talked about the President taking into consideration supposedly unusual circumstances. We do not know. What disturbed me with the last plan was that if you deduct the 8 gallons that you gave to the Governor, that the State of Texas would get some 51 gallons, the State of Arkansas would get, I think, 52 gallons, the State of Georgia was to get 50 or 51 gallons, but the State of Washington was to just get 38 gallons a month for their people. I could never straighten that out. What disturbed me is that this same type of approach, judging from what the gentleman said to the gentleman from Arkansas, will be presented to us again at a time when we are in a crisis. I think we have it just backwards. We ought to be perfecting the plan before the crisis comes, and I would prefer to give the President freedom to move in the crisis, but I would like to have something to say about this plan before we get into the crunch.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has again expired.

(On request of Mr. PRITCHARD and by unanimous consent, Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. WRIGHT. Mr. Chairman, I would like to respond to the gentleman by calling attention to the language on page 21, line 6:

> . . . the end-users rights specified in paragraph (1) shall be distributed on a basis that results in the degree of shortfall involved being equally shared among the various States, considering the most recent data available. . . .

It is just precisely the kind of parochial quarrel that ensued on the House floor and spelled the end of the most recently offered plan that we would seek to avoid. We would seek to guarantee that fairness and equity should apply among the States.

But, heaven knows, nobody is going to be satisfied, and it is going to avail us little if we fall into petty parochial quarrels among ourselves, State against State, region against region, town against city, city against farm.

Heaven knows, the problem will be a national problem if it were to occur—and we hope it does not occur—and that is why we ask that the President have all this time to perfect a plan and submit it to the Congress within, at the most, 90 days, so that we will know what it contains.

Mr. PRITCHARD. I think the gentleman is describing the legislative process.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Ohio (Mr. BROWN) insist upon his point of order?

Mr. BROWN of Ohio. Yes, Mr. Chairman, perhaps without a great deal of hope, but I do insist upon the point of order to this extent:

It seems to me that the rules of the House provide that, once an amendment to legislation under consideration of the committee is passed, once that amendment is passed, an amendment then to undo that amendment is not in order. There is a procedure to deal with that problem, and the procedure is that, when the consideration moves from the committee to the full House of Representatives, there can be a revote on the request of any individual Member of an issue that has been passed as an amendment.

The Gilman amendment was passed by this House, which provides for the opportunity for the House to veto the plan as submitted.

The amendment offered by the gentleman from Texas (Mr. WRIGHT), the majority leader, whose eloquence I admire, provides for the termination of the Gilman amendment; in other words, it just kills the Gilman amendment.

It seems to me that the gentleman has chosen an improper vehicle to try to kill the Gilman amendment. The vehicle should have been when we get into the full House, if he has his vote changed. he should ask for the Gilman amendment to be revoted and defeated at that time. But the amendment offered by the gentleman from Texas (Mr. WRIGHT), it seems to me, is merely that procedure, and that is not permitted under the rules of the House.

□ 1400

Mr. WRIGHT. Mr. Chairman, I would appreciate the privilege of being heard against the point of order.

I think there is ample precedent for striking out an amendment already agreed to and inserting a new provision where it is a different proposition, contains new provisions, and where the section has not been amended in its entirety.

For example, Deschler's Precedents in the instance of the Vietnam Humanitarian and Evacuation Systems Act, the date of April 23, 1975, states that while it is not in order to further amend an amendment previously agreed to, an amendment encompassing a more comprehensive portion of the bill, including original texts not yet amended, is in order. I suggest that the amendment I offer makes several substantive changes in section 2 of the committee bill, and therefore is fully in order.

First, the amendment requires that the report that is to be submitted to the committee shall be furnished as soon as possible after enactment so that the Congress does not need to wait for a full 90 days.

Second, the amendment adds a new provision requiring that the report describe the actions taken by the President to meet the mobility needs of the handicapped.

Third, it adds a new provision to require that the President describe actions taken to meet the needs of people in rural and smalltown and suburban areas, those that have no adequate public transportation services.

Fourth, it provides that the President keep the appropriate committees of Congress fully and currently informed, and that it seems to me is a viable substitute in the sense of language that would make fully acceptable the amendment that I have offered by the standpoint of parliamentary germaneness; and it requires that the President report to Congress during the implementation of any such plan on a biweekly basis, which strengthens again the oversight powers of the Congress.

And finally, the amendment provides an opportunity for either House of Congress to have one opportunity to disapprove implementation of the rationing plan.

For all those reasons, Mr. Chairman, in keeping with the precedents, I think it must be held that this amendment would be in order.

The CHAIRMAN. Does the gentleman from Ohio (Mr. BROWN) desire to be heard further?

Mr. BROWN of Ohio. Merely to state again, Mr. Chairman, that the precedents I do not think do provide for killing an amendment once adopted until we get out of the committee, and certainly not by the mere substitution of a meaningless report.

The CHAIRMAN. The Chair is prepared to rule.

The Chair has examined the amendment offered by the gentleman from Texas, and, indeed, while the gentleman from Ohio is correct that it would not be in order merely to further amend an amendment that had previously been agreed to, it is in order to consider an amendment which has substantive changes in the bill going beyond the original amendment; and in the matters which the gentleman from Texas has described, particularly in the first paragraph, in the second paragraph, and, indeed, all new subparagraphs (D) and (E) on page 3, those are entirely new, substantive matters, and, therefore, come within the precedents cited that a more comprehensive amendment may be offered notwithstanding the fact that a previous amendment had been adopted; therefore, the Chair overrules the point of order.

Mr. BROYHILL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would point out to the Members that all that the Gilman amendment attempted to do was to let the Congress have a reasonable period of time to have a logical look at the details of any rationing plan that the President might submit.

Then that plan would be stored away for such future time that it might be used, that is, if an energy emergency occurred, then the energy plan, rationing plan, could be taken off the shelf and implemented.

Now, the 15-day period that the gentleman from Texas includes in his amendment, that 15-day period which is included in the committee plan and also in the plan of the gentleman from Texas would be at the time that the President would implement this plan.

The catch is that in its review at that time the Congress would be focusing not on the details of the plan itself. The Congress would be focusing on the severity of the energy emergency and as to whether or not it is necessary to implement a rationing plan.

It seems to me that the Members of this House would want the substance of a rationing plan to be considered.

The Gilman amendment does give the Congress that right to consider the details of the plan before it is put into storage.

I would urge the defeat of the Wright amendment so that we can return to the Gilman amendment as it has been passed already.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is clear that the issue of whether there should or should not be a legislative veto in connection with a gas rationing plan has been resolved in favor of having a legislative veto. The issue before us at this time simply is where should that veto occur. At what point?

It is not whether we are going to have a legislative veto. We are. We are going to have a legislative veto. The question is when it will occur in point of time.

The gentleman from New York (Mr. Gilman) advocates, as does our colleague from North Carolina (Mr. Broyhill), that it occur at the time the plan is formulated.

The gentleman from Texas in his amendment suggests that it ought to occur not at the time of formulation, but at the time of implementation.

I must confess that I am somewhat torn between these two situations.

There needs to be, without a doubt, a mechanism for thorough congressional review of the plan prior to that plan being formulated and put on the shelf.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Would the gentleman not agree with me at the time it is being implemented if there is a severe energy shortage that the Congress is not going to be looking at details of the plan, but they are going to be looking at the severity of the energy emergency? That is why we are insisting that the review be at the time that the plan is initially submitted.

Mr. LEVITAS. I think that the gentleman is correct to a very large extent. I listened very carefully to the gentleman's remarks when he was addressing the Committee of the Whole just a few minutes ago.

He said there needs to be a mechanism for careful congressional review of the plan before it is put on the shelf.

In just a few minutes, I will offer an amendment to the amendment offered by the gentleman from Texas, which goes in that direction, and we will have an opportunity to discuss that mechanism for further congressional review.

The question of whether there should be a legislative veto or not has been resolved. There will be a legislative veto in this bill and the Wright amendment is no test of that issue except to underscore that there will be a legislative veto.

Reading the Washington Post editorial this morning, I find that they are opposed to legislative veto in this bill.

The Washington Post of course takes the position, most of the time, that there should be no legislative vetoes, so, therefore, it is not surprising that on this occasion, even though they obviously do not understand what this is all about, that this question of whether there should or should not be a legislative veto has anything to do with this bill.

□ 1410

The editorial says that the FTC legislation, which is moving through the House and the other body, is another example of how the Congress is interfering with the elitest acts of the bureaucrats. Well, they are just plain wrong. They do not even know that the FTC legislative is not a one-House veto. They ought to find out what the score is, notwithstanding their bias against legislative veto of bureaucratic rules. If they would just examine the facts and take their blinders off for a minute, they might understand why there will be more legislative vetoes and especially on the FTC rules.

Now, the fact of the matter is the laws in this country should be made by the elected officials and not by the unelected bureaucrats.

I find it also interesting and strange that when it suits their purpose the Washington Post and other elitists have no difficulties in supporting legislative vetoes. For example in February 1977 the Washington Post strongly supported the legislative veto when it was part of the President's reorganization authority. It just depends on which legislative vetoes we are talking about when the Washington Post is for or against the idea. That hypocrisy ought to be made a matter of record. At this point I include the three Post editorials I referred to:

Nay-Saying on Capitol Hill

In voting itself two chances to kill any future gas-rationing plan, the House last week went twice as far as usual—but on a well-trodden track. Provisions for vetoes of regulations, by one house of Congress or both, are being tucked into all sorts of bills these days. It's one reflection of Congress' fragmented, disgruntled state. The lawmakers have great trouble agreeing on what agencies should do, but various factions know what they don't like. Squelching and second-guessing regulations is an easy way to bring controversial agencies to heel. The one-house veto even allows a Senate or House majority to impose its will without having to reach accord with the other house.

Besides standing the legislative process on its head, the veto undermines all the efforts over the years to make regulatory processes open, fair and somewhat insulated from day-to-day political pressures. For instance, a great number of business groups have been lobbying hard in the Senate for a legislative veto over the Federal Trade Commission's rules. (The House has already agreed.) If such a law is passed, you can be sure that the same groups will be constantly appealing to one house or the other to reject FTC rules that they oppose. And the results could turn less on the merits of each issue than on the influence of contending lobbies and legislators, or even on the mood of the House or Senate on a given day.

That is no way to make regulation more consistent and sensible. It is a formula for more governmental confusion and delay and congressional irresponsibility. Congress already has enough techniques for curbing agencies that act rashly or seriously exceed their statutory authority. And it already spends too much time carping at regulators and taking them to task for their handling of problems that Congress has bucked. Instead of spinning further down this path, the legislators should concentrate on pulling themselves together, reaching more agreement among themselves on larger issues of regulation, and giving better overall direction to the agencies.

Sabotage

It has become fashionable to invoke Watergate as a way of arousing old political reflexes, much as orators used to "wave the bloody shirt" after the Civil War. House Government Operations Committee chairman Jack Brooks (D-Texas) has carried this tactic to ludicrous lengths in trying to justify his opposition to President Carter's request for limited power to reorganize the executive branch.

Mr. Carter seeks the authority to prune and consolidate federal agencies—but not to create or abolish Cabinet departments—by submitting reorganization plans that would take effect in 60 days unless disapproved by the Senate or the House. He is asking for no more flexibility than Congress gave previous chief executives between the early 1930s and 1973. Mr. Brooks, however, claims this is too much. The country has seen, he said the other day, "what can happen when Congress makes broad delegations of its powers to a President. I do not want any President to have the opportunity to abuse our governmental process that Mr. Nixon assumed he had."

Waving the specter of Watergate in this way is nonsense. Watergate was not about presidential abuse of the reorganization law. When Mr. Nixon set up the "plumbers" or endorsed the Huston plan, he was operating outside of any authority that Congress or the Constitution had actually conferred on him. This is not to say that Mr. Nixon ignored or abused his lawful authority to reorganize. He used it, for instance, to create the Environmental Protection Agency and the National Oceanographic and Atmospheric Administration. Far from being aspects of Watergate, those are good examples of how valuable the time-tested procedures can be.

Rep. Brooks, however, wants Congress to retain a larger role in future executive-branch overhauls. He advocates making reorganization plans contingent on approval by both the Senate and the House within 60 days. This could enable a few opponents of a plan, or even a single senator, to defeat it by blocking a floor vote until the deadline had passed. Even if such obstructionism could be precluded, as Mr. Brooks optimistically asserts, his approach would still require both houses to act on every plan. That could greatly reduce Mr. Carter's ability to abolish superfluous offices and committees, consolidate agencies whose functions overlap, and straighten out the lines of management and responsibility.

Mr. Brooks seems to be trying to stir up a great debate about the distribution of authority between the executive branch and Congress. But this quarrel is really about the allocation of power between the new administration and Mr. Brooks. House Republican leader John J. Rhodes (D-Ariz.) has already seized on the opportunity to embarrass the Democrats by introducing the administration bill, which Mr. Brooks has refused to endorse. The rest of the congressional majority will be even more embarrassed if they allow one cantankerous chairman to sabotage Mr. Carter's efforts to carry out the promise of more effective government that was central to his campaign.

Representative Brooks' Response

On the opposite page today, House Government Operations Committee Chairman Jack Brooks (D–Texas) takes exception to a recent editorial that criticized his opposition to the executive-reorganization law President Carter seeks. We welcome Mr. Brooks' arguments for the reorganization process he prefers, just as we welcome the recent news that he plans to open hearings on the subject on March 1.

We are especially glad to see that Mr. Brooks is playing down one idea that had loomed larger in his earlier statements. That is the notion that the reorganization procedure in effect until 1973 contributed in some fashion to the Watergate abuses and illegalities. To find the fallacy in this argument you need only examine the one Watergate "connection" he cites—that two of the more prominent Watergate conspirators, John Ehrlichman and Egil Krogh Jr., were on the staff of the Domestic Council which was created by a reorganization plan in 1970. While that is true, it is utterly irrelevant. They could have performed the same roles for Mr. Nixon in the Watergate affair while holding any of a number of equally influential posts unrelated to the 1970 reorganization plan—as did H. R. Haldeman, Charles Colson, John Mitchell and others in the Watergate crew.

Mr. Brooks' broader and more substantial concern involves, in his word, "our constitutional form of government, with its separation of powers, its checks and balances and its representative government." He agrees with Mr. Carter that Congress should grant the President some statutory power to reorganize agencies. He disagrees about what kind of check Congress should have over the President's specific uses of that delegated power. Under Mr. Carter's approach, reorganization plans would take effect unless disapproved by either house of Congress within 60 days. Under the Brooks bill, plans would die unless approved by both House and Senate within 60 days.

It is significant that neither proposal treats executive and legislative power as totally, rigidly separated by an impenetrable wall. Both fall into that middle ground of great constitutional and political complexity in which, over the years, a large variety of accommodations between the two branches of government has evolved. What is at issue here, in short, is not so much a matter of principle as it is a matter of degree. In our view, the time-tested approach favored by Mr. Carter does give Congress sufficient chance to exercise a check over the President's restructuring of agencies. The real question, though, is how much authority over this aspect of federal management a majority of this Congress wants to wield. We hope that Mr. Brooks will invite an answer from his colleagues by bringing the issue promptly to the House floor.

The issue now before us, which during the course of this debate, I, along with the rest of my colleagues, will have to resolve, is whether it will come at the time of the formulation of the plan, and whether the amendment that I will be offering shortly to Mr. Wright's amendment will be adequate to give us that type of oversight and control to make sure that the rationing plan which is formulated is one which we would be willing to implement when the severe shortages occur, as the gentleman from North Carolina has pointed out.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I am happy to yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding. I want to commend the gentleman from Georgia for his remarks and also for underscoring the need for a congressional voice in vital issues of this nature. For the Congress to abdicate its responsibility to the American people at a time when we are considering a critical proposal of this nature that is going to affect everyone's way of living would certainly be an irresponsible decision. I would hope that the proposal that the gentleman intends to offer will give the Congress an opportunity to review any rationing plan in an atmosphere removed from any emergency.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

(At the request of Mr. Panetta and by unanimous consent Mr. Levitas was allowed to proceed for 2 additional minutes.)

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to my colleague from California, if I may just make one comment on the remarks of my colleague from New York. I fully agree with what the gentleman has said. As important as the gas rationing plan is, and I support the need for this plan and, indeed, supported the President when he submitted his plan last time, and voted for it, the fact of the matter is gas rationing is going to have a major impact on the lives of all Americans and we would be remiss in our duty as elected officials, the lawmakers of the United States, to turn that legislative decision over to the administration and not to do it ourselves as elected lawmakers. I hope this amendment will achieve that purpose.

I will be happy now to yield to my colleague from California, Mr. Panetta.

Mr. PANETTA. I thank the gentleman for yielding. The gentleman obviously as the author of the legislative veto understands the process and, indeed, I have supported him. Is not the point here we are accepting the idea of the legislative veto per se in this legislation? The question, as the gentleman has indicated, is when will it take place, at the end of the 30-day period when we can evaluate the plan, or will it take place at the 15-day period? I agree we ought not to have two veto processes. But it seems to me we have gotten rid, at least in this amendment, of the wrong one, because at the point of 15 days we ought to let the President, with some guidelines, decide whether, indeed, that plan ought to be implemented. But if we are going to have the veto it ought to take place at a time when we can evaluate it carefully, and not at the point of the crisis.

Mr. LEVITAS. May I suggest to the gentleman that that is precisely the question we have to resolve. When I offer my amendment to the amendment of the gentleman from Texas (Mr. Wright) perhaps we will get a little more opportunity to make that judgment as to whether the mechanism I propose is adequate or is not. I think that is what the vote will ultimately be on the Wright amendment, with my amendment added to it.

The CHAIRMAN. The time of the gentleman from Georgia has again expired.

(At the request of Mr. Fithian and by unanimous consent Mr. Levitas was allowed to proceed for 2 additional minutes.)

Mr. FITHIAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman.

Mr. FITHIAN. I thank the gentleman for yielding. The gentleman from New York has raised the issue of irresponsibility in the event we would not review this plan. Would the gentleman in the well not concur with me and agree with me that the most irresponsible thing we could do is not to have a standby rationing plan? That is the most irresponsible action this House could take.

Mr. LEVITAS. I would agree with my colleague completely, that if we have a 20-percent shortfall in our gasoline supplies we are not just going to have inconvenience, we are not just going to have gas lines, we are going to have chaos and anarchy. We have got to have a standby rationing plan, in my opinion

Mr. FITHIAN. If the gentleman would yield further, would the gentleman not further agree when we considered this matter previously, a month or so ago, the various amendments that were offered here on the floor constituted a gallant effort on the part of the House to write a rationing plan by directing the administration and the President to give certain specific allowances here or there? Was that not an attempt by this body to write a rationing plan?

Mr. LEVITAS. Of course, the House and the other body also were trying to negotiate with the administration at that time, and regrettably we could not under the law even amend the plan. I think this will give us an opportunity to make those changes.

Mr. FITHIAN. My concern is that having had our day at trying to write a rationing plan, and now insisting upon a double jeopardy, double-veto arrangement, we are demonstrating clearly that by our division and our discord we may very well go on down to the time when we have a real crisis in the world, and that could come at any time. Then I would like to see who it is that will stand before his constituents and say yes, I voted to prevent a standby rationing plan. I do not believe there is a Member of this House who would dare do that.

Mr. LEVITAS. I would like to say I think the gentleman from New York has very reasonably said the Congress needs an opportunity to review a plan before it is put on the shelf.

The CHAIRMAN. The time of the gentleman from Georgia has again expired.

(At the request of Mr. LAGOMARSINO and by unanimous consent Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding. I want to commend the gentleman for his leadership in the role of presenting and having adopted many congressional vetoes and, indeed, I have joined with him many, many times in the past. As a matter of fact, on a few occasions I have even gotten ahead of the gentleman. I agree with him completely. I think if we are going to have a meaningful say about this legislation it has to be before the emergency that we all hope will never occur.

I think there is another consideration too, and that is if we are to back off of what we did last week I think it is going, in my own personal opinion, and I hope I am wrong, but I think it is going to encourage those in the Department of Energy and perhaps those in the White House to think what they submitted last time is a good bill. I very much fear that we are going to see that exact same bill back, perhaps with a few little cosmetic changes so they can say it is a compromise with the majority leader's new criteria. But I think we are going to see essentially the same thing because I for one have not heard anything from the White House or the Department of Energy that would indicate that they in any way think that the plan they presented to us was not fair in the first place. So I think if we are going to have anything to say about this we had better make sure it happens long before the crisis that we all hope will never occur does occur.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I am happy to yield to the gentleman.

Mr. OTTINGER. We have specifically provided that it cannot be the same kind of a plan by requiring that the burdens of this new plan be divided equally among the States and by providing that end users, to the maximum extent practicable, shall be considered, and by providing that the handicapped, and that the suburban and the rural areas' needs be taken care of under the Wright amendment. So it cannot be the same plan or the same kind of a plan that I agree was a very deficient plan, even though I voted for it because I thought we should have one in place. But I agree that the last plan was deficient; but it cannot be the same kind of a plan.

Mr. LEVITAS. I thank the gentleman for his contribution.

Again, let me say that the issue and the fight over whether there will be a legislative veto has been favorably resolved. The only question now is, and that is the question we have to resolve in the next few minutes or hours, the only question is should it come at the time of formulation of the plan or should it come at the time of implementation of the plan?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Michigan.

Mr. DINGELL. The logical time for having the legislative veto is at the time of the implementation. The most foolish thing in the world is to have a veto of the plan but not have a veto of the decision to implement the plan. The imposition of the plan may be unwise because the plan may be obsolete or the plan when viewed in light of changed circumstances may be undesirable in the view of the Congress. So the way that we handle that is by killing two birds with one stone, by having the veto at the time of the implementation.

The sad thing about the amendment of the gentleman from New York (Mr. GILMAN) is that it provides for two legislative vetoes, a legislative veto at the time the plan is formulated, and a legislative veto before it goes into effect.

The CHAIRMAN. The time of the gentleman from Georgia has again expired.

(At the request of Mr. GILMAN and by unanimous consent Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I am happy to yield to my colleague from New York.

Mr. GILMAN. I want to make it very clear to the gentleman from Michigan that there is no misunderstanding on this side of the aisle about my amendment. We have proposed a congressional veto to take effect at the time that the President initially submits his plan so that the Congress has a voice in the substance of such a rationing proposal.

☐ 1420

In addition to that consideration, there will be a veto at the time of implementation of the plan. We say that the time for Congress to look at the substance of any rationing plan is not when there is an emergency; but when we can look at it with cool, clear eyes, not a time when we have the heat of an emergency breathing down our necks.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman for yielding. I had supported the gentleman's commitment to the concept of legislative veto. I would disagree perhaps with the gentleman's analysis under the amendment we have before us, that we continue our commitment to the concept of a legislative veto, at least that we continue our commitment to the concept of meaningful legislative veto.

The other day I heard the President speak, and he accused the Congress of timidity. I did not agree with that characterization. There are many times when I disagree with what the Congress does, but I certainly do not think that the Congress is timid or that the leadership is timid. But, I wonder if perhaps maybe we are showing a bit of timidity here when, after the House has acted on the Gilman amendment, the President cries a little bit about it and we come rushing back to the floor of the House and say, "We did not really mean it, Mr. President," if we are showing a little timidity.

I would like to make one more point. I know the way this Congress operates, the way it works. What is going to happen if we do not insist on the right to a veto on the substance of this plan is, this plan is going to come back to us in a panic, in a big rush, and some of the leadership are going to take the well and say, "Gentlemen, we have to do this, we have to pass this plan. Hold your noses and vote for it."

I do not think we ought to be in that position.

The CHAIRMAN. The time of the gentleman from Georgia has again expired.

(At the request of Mr. DINGELL and by unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the thing my good friends and colleagues on the Republican side of the aisle constantly miss is that there is no assurance that the plan is not going to be implemented in a time of crisis, because we exist in a time of crisis. When we are subject to a shutoff of Arab oil today, Mr. Chairman, there is no assurance that that will not occur today or tomorrow or some time prior to the time the President can actually implement his plan. So, the assurance that we are going to be able to consider this thing calmly is not here. There is no way anybody can get the assurance that we are going to be able to consider this calmly, not in an atmosphere of crisis.

As a matter of fact, we are in an atmosphere of crisis. The possibility of something happening just at the snap of my finger, that is going to create a grave crisis, is very, very real.

Mr. LEVITAS. I would like to respond to my colleague from Oklahoma and his comment. I do not think when we take a second look at a measure we have adopted it as an act of timidity. That is the reason I specifically commended the gentleman from New York for saying that what we need is an effective mechanism for congressional review. Whether we will develop an effective mechanism, whether it will require a legislative veto or two vetoes, I think that is the question. I think what we need to address ourselves to is the amendments to the amendment, and at what time the legislative veto should occur.

I think the gentleman from New York will be the first to say that his amendment is not the only answer. It may not even be the best answer. We all should be working together, not as Democrats and not as Republicans, but as Americans, to develop a plan which is fair, but which can save this Nation from the chaos and anarchy that would occur in the event of a 20-percent shortfall of gasoline.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I do not dispute the gentleman. All I am saying is that if we are going to have a legislative veto, it is meaningless unless it is a substantive legislative veto and not something after the fact that is going to be conducted in an atmosphere of crisis where we are told, "Hold your noses and vote for it. We know it is bad, but we do not have any choice."

AMENDMENT OFFERED BY MR. STOCKMAN TO THE AMENDMENT OFFERED BY MR. WRIGHT

Mr. STOCKMAN. Mr. Chairman, I offer an amendment to the amendment.

Mr. OTTINGER. Mr. Chairman, I reserve a point of order against the amendment.

The Clerk read as follows:

Amendment offered by Mr. STOCKMAN to the amendment offered by Mr. WRIGHT:

On page 1 of the amendment, strike out lines 2 and 3 and insert in lieu thereof the following:

"(i) has transmitted a copy of such contingency plan to the Congress in accordance with section 551(b) and neither House of the Congress has disapproved (or both Houses have approved) such plan in accordance with the procedures specified in section 551;".

And on page 1 of the amendment, beginning on line 7 strike out the following: "not earlier than 30 days of continuous session of Congress (determined in accordance with section 551(d)) after the transmittal of such plan," and insert in lieu thereof the following: "if the plan is not disapproved during the period provided for such disapproval (or if the plan is approved) under clause (i),".

And on page 1 of the amendment, line 12, strike out the quotation marks and the period which follows and insert the following new paragraphs:

"(4) For purposes of considering the plan submitted to the Congress under paragraph (1)(A)(i), the 5 calendar days specified in section 551 shall be lengthened to 10 calendar days and the 15 calendar days shall be lengthened to 30 calendar days.

"(5) No amendment to any such plan may take effect unless that amendment is submitted and not disapproved (or is approved) as provided for under paragraph (1)(A)(i)." and any rationing contingency plan submitted by the President pursuant to this Act shall not be subject to the disapproval provisions of section 201(e) of such Act.

The CHAIRMAN. Does the gentleman from New York (Mr. OTTINGER) insist on his point of order?

Mr. OTTINGER. I do not, Mr. Chairman.

The CHAIRMAN. The gentleman withdraws his point of order.

Mr. STOCKMAN. Mr. Chairman, I ask unanimous consent to strike the last three sentences from the amendment as read. They are redundant. They are provisions already included within the amendment as written.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. STOCKMAN. Mr. Chairman, the purpose of this amendment is very simple. It is designed to resolve this whole argument that we have been having here this morning about double veto, double jeopardy, about the time at which the veto opportunity can appropriately occur. I am trying to do the logical thing that was suggested by the gentleman from Georgia and that was referred to by the gentleman from California.

That is simply to strike, to eliminate the veto upon implementation, because I think we can all agree that it is meaningless. It would serve no useful purpose. It would not be exercised. We have put the essential legislative veto in the place where it belongs, on the front end of the process during a period of time in which this Congress can consider the plan as proposed by the President under an atmosphere in which it could be considered calmly, deliberately, and rationally.

I think this meets the essential argument the majority leader so eloquently laid out when he presented his original amendment. He referred to double jeopardy; it is unwieldy, it is cumbersome. I would suggest to the Members of this House that the reality is that under the Gilman amendment as written, that there is really no double veto, and under the Wright amendment as presented, that there is no veto at all.

For, to have a veto upon implementation in the midst of a national and international crisis, in the midst of a worldwide oil shutdown, which would be required to meet the trigger level specified in the bill before us, to have a veto in those circumstances is about as useful as adding maternity benefits to the Medicare program. It would be nice to do, but it is not likely to be used. So, I would suggest that we read what is in this bill. The trigger level is a 20 percent shortfall of the total domestic petroleum supplies for a sustained period of time, not just gasoline for a month or two, but total petroleum for a sustained period of time.

Now, what does that imply? That implies that we would have upwards of a 40-percent cutoff in our oil imports on a daily basis. It implies a major shortfall in the entire world oil market, the likes of which we have never experienced. What we have before us is a way of putting emergency authority on the books so that, in a sense, we would have a civil defense emergency plan if we have a terrible international crisis. To achieve this 20 percent shortfall, the conditioning in which we really might want to use rationing, would require something far more significant than what happened during the embargo of 1973, and more certainly during the 2- or 3-month supply blib we had during the Iranian shutoff a few months ago.

I would just ask the House, under that kind of international crisis, under that kind of traumatic event, is it reasonable to think that if we were presented with a plan and given 15 days, that we would do anything but approve whatever was on the shelf, no matter how flawed, no matter how defective, no matter how inequitable?

□ 1430

So I would like to suggest to the House—and I will yield in a moment to the gentleman from New York (Mr. AMBRO) because I share his concern—that the real issue here is that if you want the veto opportunity for a measure which really is unprecedented in peacetime history, which would involve a massive regimentation of the daily lives of 110 million American motorists, if you want that veto opportunity, if you want a meaningful veto, if you want effective, full participation by Congress in a measure of this nature, then the veto must come before you put it on the shelf and not after you take it out of the holster. That is what my amendment does, and I would hope that the House would pass it because I think it is responsive to the majority leader's concern but still preserves our role.

Mr. AMBRO. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from New York.

Mr. AMBRO. I thank the gentleman for yielding. In other words, the gentleman's amendment preserves the Gilman amendment?

Mr. STOCKMAN. At the front end in terms of the veto, the 30-day veto opportunity when the plan is formulated.

Mr. AMBRO. Does it deal with the trigger percentage?

Mr. STOCKMAN. It does not. That stays the same in the bill as written. That is a consensus product from both sides of the aisle, and I think it reflects the fact that we want this as a weapon of last resort, nor for minor or even modest contingencies.

Mr. AMBRO. I must say to the gentleman that I have an amendment that does precisely the same thing with one exception, that it removes the 20-percent trigger and places a 10-percent floor for the President, after which he can certify to the Congress an emergency based on a plan on the shelf in terms of the Gilman amendment. So, therefore, I would certainly urge support of the gentleman's amendment, after which I would urge support of the removal of the 20-percent floor.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the gentleman's amendment.

Mr. Chairman, the gentleman from Michigan (Mr. STOCKMAN) declares that his amendment would restore the front-end veto and would do away with the veto at the time of implementation.

As I read the amendment, it would once again have a proliferation of vetoes. But let us assume that the gentleman is correct and that he has drafted it to achieve the objective that he describes.

If the House is to have one opportunity—and I think one opportunity is all that we really can afford to approve or disapprove what the President would suggest to us to cope with a serious emergency—which shall we have?

Do we want to approve or disapprove the plan in its final form, without the capacity for change, months or even years before the emergency occurs, and when we do not even know its dimensions? Or do we want to approve it at the time of the emergency with which it is designed to cope?

Would we set a plan in concrete without the capacity to amend or alter or change, not even knowing the conditions that we would have to cope with and respond to? I think not.

Some years ago we had a serious shortage of natural gas in this country. It caused dire suffering in the northern parts of our country in the winter. That condition does not exist today.

In certain shortages we have found that the shortage occurred primarily with regard to diesel fuels. We might discover a shortage where the farmer was most severely impacted, or another where the trucker felt its brunt most crucially.

But the President, under the gentleman's amendment, would be powerless to alter the rationing plan. Once approved by the Congress, it would become the only plan that he could submit to us. In other words, we would set ourselves in a deep freeze months in advance before we even knew the kind of an emergency we had, before we knew what shortages were most critical. It might not be a plan which would work at all.

So if we are to have one chance to veto it, surely—surely—the Congress would want to preserve its right to look at it and approve or disapprove based on the conditions that the plan sets out to correct. The veto should not come on some theoretical notion many months or even years in advance of the reality of an emergency.

I believe that the gentleman's amendment inadvertently would set in motion two vetoes and not one. I know the gentleman has declared that this is not his intention, and I accept his declaration in perfectly good faith.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Michigan.

Mr. STOCKMAN. I thank the gentleman for yielding. That certainly is not my intention. The concept is very clear: one veto, one opportunity at the front end. This amendment was drafted hurriedly, and there is a wording problem, but at the proper time I will ask unanimous consent that the wording be changed.

Mr. WRIGHT. I appreciate the gentleman's candor. That is the point that was unclear to me, and I think it is unclear in the way in which the gentleman's amendment is worded.

But let us assume, then, that it is just what the gentleman intends it to be. If we have one chance to look at it and approve or disapprove a plan, for heaven's sake, Mr. Chairman, let us preserve that one opportunity for the time when it will go into effect.

The only other occasion when we had rationing of gasoline and other commodities such as sugar and leather was World War II.

If we had required President Roosevelt to submit rationing plans months or years before that war began, and if we had required the approval of Congress for each of his plans' precepts and details in a peacetime atmosphere, Congress never would have given the President the authority to do what absolutely had to be done.

Those are the handcuffs that we place upon our Government by the kind of an amendment that the gentleman from Michigan offers. We would handcuff the Government to a program that we would approve in detail without even knowing the emergency with which we have to cope. That is why I urge that we reject the gentleman's amendment.

Mr. AMBRO. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I will yield first to the gentleman from New York (Mr. Ambro). Then I will yield to the gentleman from Georgia (Mr. Levitas), and then to the gentleman from Michigan (Mr. Dingell).

Mr. AMBRO. I thank the gentleman for yielding. I am always enthralled by the eloquence of the best speaker in the United States.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Ambro, and by unanimous consent, Mr. Wright was allowed to proceed for 2 additional minutes.

Mr. AMBRO. If the gentleman will continue to yield, I must tell the gentleman that what he is suggesting is that which the President himself said that he did not want when asked the question by maybe a misguided reporter 2 hours after the passage of the Gilman amendment:

> Question. Mr. President, the House of Representatives today amended a standby rationing plan bill that gives either House the authority to veto any rationing plans that you would come up with. Now, is that acceptable to you, or if that survives in both Houses would you veto the legislation?

The answer by the President of the United States, after a bit of timidity about Congress, was as follows:

> I don't object to the one House veto if it's done expeditiously—

Meaning the Gilman amendment.

Mr. WRIGHT. I do not yield further for that.

Mr. AMBRO. What I do object to are the other restraints that have been placed in the evolution of the bill, and one is the implementation veto. The President himself is opposed to what the gentleman suggests.

Mr. WRIGHT. If the gentleman would withhold, I do not yield for that interpretation of the President's remarks, nor do I believe it to be a fair and accurate interpretation of what the President intends. I do not think that is the President's position. I think it is quite the reverse.

Surely it is not the position of the committee that has considered this legislation and brought it to us. I would urge that we reject the amendment offered by the gentleman from Michigan.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

I would like some clarification from either the gentleman from Texas (Mr. Wright) or the gentleman from Michigan (Mr. Stockman) on this point, or the chairman of the subcommittee. In the event the President sends a plan for rationing over and there are procedures written into the law for a specific review and reporting to the Congress after that, if the committee recommends changes in the President's plan in order to accommodate the various concerns that are brought to the attention of the committee, would it be in order for the President then to be able to amend that plan to be able to respond to the desires of the Congress as expressed through its committee reviews?

Mr. WRIGHT. Under the committee bill, yes, it would, and under my amendment, yes, it would be possible and, indeed, that is what is contemplated.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Levitas, and by unanimous consent, Mr. Wright was allowed to proceed for 2 additional minutes.)

Mr. WRIGHT. Under the amendment offered by the gentleman from Michigan (Mr. Stockman), if I understand the situation, it would not be possible because the plan, once approved by Congress, would be the only plan authorized for implementation, notwithstanding the need for change.

□ 1440

Mr. LEVITAS. Mr. Chairman, will the gentleman yield further on this point?

Mr. WRIGHT. I yield to the gentleman from Georgia.

Mr. LEVITAS. In the event that the committees of the Congress reviewing the plan and making recommendations for its modification, finds that those recommendations strongly felt by the House or the Senate are not implemented by the President, is it not then available to the Congress to put restrictions in appropriations bills that would prohibit a plan from being implemented which did not contain those features recommended by the Congress back to the President?

Mr. WRIGHT. For practical purposes, I think what the gentleman suggests is correct. Of course the gentleman is fully aware it would depend upon the ruling of the Chair and it would depend upon the wording of the amendment itself. Some are so constructed that they are germane and others are constructed in a way that they are ruled out of order as legislation on an appropriations bill.

Generally speaking, yes, if it is a limitation upon the appropriation, it has been held that it would be germane on an appropriations bill.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Michigan.

Mr. STOCKMAN. I think it needs to be pointed out it would not be true that once approved, even if Congress looked it over and approved it, we would have our hands tied from that point forward. EPCA provides the standing procedure for the President to formulate a plan and he could very easily formulate another one if one set on the shelf and got musty and decayed for a period of time.

Mr. WRIGHT. If the gentleman is correct, then what purpose would be served by the gentleman's proposal? In the event he submitted another plan, an entirely different plan, would it have to come to us twice again?

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield further?

Mr. WRIGHT. I yield to the gentleman from Michigan.

Mr. STOCKMAN. It would have to be approved under the procedure.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Michigan for a unanimous-consent request.

Mr. STOCKMAN. Mr. Chairman, I ask unanimous consent to make minor modification on three lines of the amendment pursuant to the colloquy that I had with the majority leader.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. DINGELL. Mr. Chairman, I reserve the right to object.

Mr. STOCKMAN. Mr. Chairman, I think everyone understands, the concept is clear.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) reserves the right to object.

The Clerk will report the modification.

The Clerk read as follows:

> At the end of the amendment offered by Mr. STOCKMAN of Michigan to the amendment offered by Mr. WRIGHT of Texas, add the following three lines: "and rationing contingency plan proposed to be implemented by the President pursuant to this Act shall not be subject to the disapproval provisions of paragraph (1)(B) of this subsection.".

Mr. DINGELL. Mr. Chairman, I reserve the right to object.

Mr. Chairman, can my good friend, the gentleman from Michigan (Mr. STOCKMAN), tell me what he is doing here?

Mr. STOCKMAN. Very simply what we are doing is saying a plan that was approved by Congress pursuant to the procedure of this amendment would then not be subject to veto under the standing EPCA procedures at point of implementation. We are simply removing or nullifying that back-end veto, and that is the whole concept of the amendment and it has been thoroughly discussed here this morning.

Mr. DINGELL. Mr. Chairman, continuing my reservation, that is somewhat at variance with what the language says. The language says:

> Any rationing plan proposed to be implemented by the President pursuant to this Act shall not be subject to the disapproval provisions of paragraph (1)(B) of this section.

The amendment earlier requires two vetoes.

Mr. STOCKMAN. Mr. Chairman, I do not know how it can be resolved except to say that it does not require two vetoes. It requires opportunity for one of the two Houses to veto during the 30-day period and if that opportunity were not exercised it becomes an approved standby plan, it is on the shelf.

Mr. DINGELL. Mr. Chairman, I want to yield to the gentleman but I am not sure he is describing the amendment he has here because his amendment says:

> No amendment to any such plan may take effect unless that amendment is submitted and not disapproved (or is approved) as provided for under paragraph (1)(A)(i) and any rationing plan proposed to be implemented by the President pursuant to this Act shall not be subject to the disapproval provisions of paragraph (1)(B) of this subsection.

Unless I am in error what the gentleman is doing is obviating in its entirety the one-House veto that we are trying to provide in the bill.

Mr. STOCKMAN. I would disagree with the gentleman.

Mr. DINGELL. Mr. Chairman, the gentleman is entitled to disagree but I think my interpretation is correct. I think what the gentleman has here is a rather serious unanimous-consent request which amends his amendment in a fashion which he did not earlier describe and which creates a set of circumstances wherein he does things precisely the opposite of those which he has described to the House.

I yield to my friend if he can enlighten me.

Mr. STOCKMAN. I would be delighted to try to enlighten the distinguished chairman of the committee. I have stated it a number of times.

Mr. DINGELL. I know what the gentleman has said but I read the language and the language appears at variance with the comments of the gentleman from Michigan.

Mr. STOCKMAN. That is a matter of a difference of opinion. I think it clearly amends EPCA in the proper way to accomplish the purposes intended.

Mr. DINGELL. Mr. Chairman, continuing my reservation, it strikes me when we have an amendment so badly drawn in the first instance and is amended in the fashion which appears to be obscure to both the author, to me and to the counsel who sits to my left and on which there is such controversy, it appears to me we would be well served to reject the amendment. As first offered, it required two vetoes. As amended, it requires only one veto. But that veto applies to the plan, not to the implementation.

Although I am in opposition to the amendment, I withdraw my reservation of objection.

Mr. OTTINGER. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman from New York (Mr. OTTINGER) reserves the right to object.

Mr. OTTINGER. Mr. Chairman, is this language which the gentleman intends to add not virtually identical to the language in his original amendment that he asked unanimous consent to withdraw?

Mr. STOCKMAN. There is one wording change and that is what we have accomplished in the unanimous-consent request. We had to put in the word "proposed." That is the major thing changed from the original amendment I sent to the desk. It is very clear, as I tried to explain to the gentleman from Michigan, that the concept behind this amendment is one opportunity for veto at the time of submission. Clearly the language of this amendment does that. It removes the second veto at time of implementation under the existing EPCA procedure and I think an effort is being made here to create confusion where none exists.

Mr. OTTINGER. Mr. Chairman, further reserving the right to object, it seems to me that clearly two vetoes are still provided here.

Mr. BAUMAN. Mr. Chairman, I demand regular order.

The CHAIRMAN. Regular order is demanded.

Mr. OTTINGER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan (Mr. STOCKMAN) to modify his amendment?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. BROWN) has one-half minute remaining.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 5 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, I am a great admirer of the gentleman from Texas (Mr. WRIGHT) for his dramatic eloquence and the gentleman from Michigan (Mr. DINGELL) for his legislative prowess. I have the feeling what we have seen here today though is not the best of either, in that I think the amendment of the gentleman from Texas is an effort to frustrate the Committee's support of the opportunity to veto the plan submitted by the President. That is what the Gilman amendment, passed last week, did. The amendment of the gentleman from Michigan (Mr. STOCKMAN) is an effort to return to the amendment offered by the gentleman from New York (Mr. GILMAN). The Stockman amendment will put the veto power in the hands of the Congress at the time of submission of the plan rather than at the time of implementation, when we are going to have a 20-percent shortage of petroleum product supplies. The Congress is not going to be interested in vetoing anything under conditions of a 20-percent shortfall. We are going to take anything that is there, including the possibility of having as a proposal the same thing the Congress turned down a few weeks ago.

☐ 1450

Now, let me just say that I recall as a youngster an old song about a girl who was asked by the young man if she would be his bride and she did not think that he was such a hot number and she said, "I'll marry you only when apples grow on the pear tree."

They went to the dance that night. He took her home in the carriage. It was a long ride home, and the next morning found her tying apples to the pear tree, because he had apparently been persuasive over that long period of the evening.

Well, I have the same feeling that the distinguished majority leader has been a little persuasive with some of his colleagues and he has tried to tie apples to the pear tree in his amendment. But the amendment offered by the gentleman from Texas (Mr. WRIGHT) really does very little except repeal the action taken in the Committee of the Whole House to support the concept that the gentleman from New York (Mr. GILMAN) advanced, that we ought to have the right to veto the substance of the plan when it is submitted.

Now, the amendment of the gentleman from Texas (Mr. WRIGHT) takes that one-House veto over the merits of the plan out. It provides for a House veto within the same 15 days of the implementation of the plan and then it adds some language requiring nothing but a description in a report of how wonderful the President's plan is. I mean, it suggests a report that just is submitted by the President that says, "What I have submitted to you fellows and girls is a wonderful plan, wonderful plan and it takes care of rural and urban motorists and it takes care of the handicapped and you can be confident that it's OK."

But we do not get a chance to determine whether we are confident it is OK because we do not get to veto it or even look at it. We just get to read that wonderful, praiseworthy report.

Mr. Chairman, the gentleman from Georgia (Mr. LEVITAS), the father of the legislative veto, properly put his finger on it. The question is, do we as Members of the House get to veto the plan when it is submitted? If we do not have that opportunity, we get stuck with the plan and can only veto the plan when we get into an emergency. Of course, we are not likely to do that because it will be the only show in town. We either approve the President's rationing plan, bad as it may be, or there is not any plan to deal with the emergency. What kind of a choice is that for us?

The answer is clear. It is no choice and we will approve whatever turkey the President has plucked for us ahead of the day that we have to make the decision to put it into effect.

Now, what the gentleman from New York (Mr. GILMAN) has proposed, what the gentleman from New York (Mr. AMBRO) has proposed, what the gentleman from Michigan (Mr. STOCKMAN) has proposed, what the gentleman from Georgia (Mr. LEVITAS) has proposed, is a fairly broad spectrum of this House which wants not timidity but an opportunity to be in one the game. We want to share with the President the responsibility to be able to go home to our constituents and say, "We approved the plan and if there is an emergency, we will support that plan that the President submitted." That is what we are here for, to represent not only our people, but also to lead them when we have a problem in this country and do something in the national interest.

The gentleman from Texas (Mr. WRIGHT) is proposing we go back to S. 1030 as it was modified from the Senate by the House Committee on Interstate and Foreign Commerce. What the gentleman from Texas (Mr. WRIGHT) is proposing is that we say, "Well, the President has to come up with a plan. We are going to close our eyes and not know what is in that plan and then when the emergency arises we are going to say, "Oh, the plan doesn't work," and turn it down.

Oh, I think not. What we will do is approve the plan, no matter what is in it.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Then we will say when our people start complaining to us, we will then say, "Oh, but that is the President's plan. We did not OK that. We did not have anything to do with that. We did not even look when he proposed it. We only have the right to say whether it is implemented, or we do not have any plan."

Now, frankly, I think that is unfair to the President of the United States. Perhaps some of you find that unusual for me; but the President does not need any more enemies than he has. I would like to see us share with him the responsibility of devising the plan. That is what we are here for. We are here to legislate. If we are not going to legislate a plan, then at least let the President propose one and let us put our stamp of approval on it. Then we can stand like men and women and say when the emergency comes, "Yes, that is the plan we thought was OK and we have got the courage to stand by the President and say that there is an emergency and this plan is fair, will work and ought to be implemented."

Mr. Chairman, last week, this bill was quickly pulled off the floor when we adopted the Gilman amendment to section 2, the gasoline rationing part of the bill. The Gilman amendment, which simply provides for congressional review of the plan itself by means of a one-House veto period of 30 days, has been the subject of confusion and controversy. The Gilman amendment can best be understood as a compromise between current law, the Energy Policy and Conservation Act, and the House version of S. 1030, the committee bill. My colleagues should realize that the Gilman amendment does not obstruct the implementation of a rationing plan one single day. It provides the Congress with a 30-day review period over the substance of the plan so that we may assure our constituents that the national rationing plan will be capable of fairly managing a severe energy shortage of 20 percent of normal petroleum product supplies.

Mr. Chairman, we have put together a chart which clearly demonstrates what the Gilman amendment does and does not do. I ask unanimous consent that this chart be inserted at this point in the RECORD.

HOW THE GILMAN AMENDMENT TO S. 1030 REALLY WORKS

How A Gasoline Rationing Plan Would Be Approved By Congress, and Implemented under current law, under the Gilman Amendment, and under S. 1030 as reported without the Gilman Amendment. By this comparison, it is evident that the Gilman Amendment does *not* obstruct or even delay the implementation of a gasoline rationing plan, but rather is a reasonable compromise between current law and the Committee bill which allows Congress a 30-day review period over the merits of the plan to ensure that the plan will be capable of managing serious energy shortages.

CURRENT LAW (EPCA)

1. President develops plan, submits to Congress.
2. Both Houses of Congress must approve the plan within 60 days or plan is automatically rejected.
3. If approved, plan is held in standby status until called into effect by President, subject to one-House veto period of 15 days regarding the timing of implementation.
4. If not vetoed, plan is ordered into effect.

S. 1030 WITH GILMAN AMENDMENT

1. Same as Committee bill.
2. If neither House of Congress vetoes the plan on its merits within 30 days, plan is automatically approved. Congress is given the ability to review the plan, but not so much as current law—under whose provisions the rationing plan was rejected in May.
3. Same as current law.
4. Same as current law.

COMMITTEE BILL

1. President develops plan, submits to Congress. Plan must lay-over for 30 days before President may call it into effect.
2. Congress can "review" plan, but is precluded from taking any action over the merits of the plan. Plan automatically approved in advance, sight unseen.
3. Same as current law.
4. Same as current law.

This chart delineates the different procedures for planning, approving, and implementing a rationing program under current law, under S. 1030 with the Gilman amendment we accepted last week, and under the Commerce Committee version of S. 1030 minus the Gilman amendment.

Under current law (Energy Policy and Conservation Act): The President would develop the rationing plan and submit it to the Congress, where both Houses must approve it within 60 days, or it is automatically rejected. This is the procedure used when this House wisely rejected the administration's plan in May. If approved, the plan would be held in standby status until the President determined it was necessary for implementation. At that time, the Congress would have 15 days to veto the timing of implementation. The current law, therefore, allows the Congress an opportunity to review the plan itself, requires two-House approval before it can be held in standby status, and it provides for a 15-day one-House veto over the timing of implementation.

Under the committee bill without the Gilman amendment: The President would develop the plan, and submit it to the Congress where it must lay over for 30 days before the President can make his determination to implement rationing. The plan, yet to be developed by the Administration, is effectively approved sight unseen in advance.

The Commerce Committee's report says, on page 19, the following about the 30-day layover:

> Under the amendment to EPCA, there must be at least 30 calendar days between the transmittal of the plan to Congress and the finding that it is necessary to put the plan into effect. The purpose of the provision is to ensure that the Congress is not given copies of the plan only after it is

found necessary to implement the plan. The 30-day requirement is designed to ensure that the plan is ready before it is needed and available for review.

Mr. Chairman, while this 30-day layover is provided for "review," neither House is given any authority to make that review effective. Without the Gilman amendment, perhaps some congressional leaders would have the muscle to make changes in the plan, but the overwhelming majority of both Houses would simply have to "take it," without the ability to "leave it."

The implementation veto in the committee bill restates the current law. In this respect over the timing of the President's decision to use rationing, all three procedures are identical.

Under the Gilman amendment: The President would still have complete latitude to design the rationing as he sees fit. The plan would be sent to the Congress, subject to the 30-day layover period provided for in the House Commerce Committee of S. 1030. If neither House has vetoed the plan by the end of the 30-day period, then the plan is automatically approved. Therefore the Gilman amendment is a middle course between the two-House approval with no meaningful review of the committee bill.

Mr. Chairman, there has been some confusion over exactly what the Gilman amendment does. I hope I have been able to quiet that confusion long enough to point out that the Gilman amendment is nothing to fear. It is harmless, unless the rationing plan developed by the President—and he has yet to begin developing one—is so inequitable and so ineffective as to be nothing more than a sham. Should such a plan be developed, only the Gilman amendment could protect the Nation from being forced to rely upon a rationing plan worse, perhaps, than none at all. The Gilman amendment has an inherent ability to pressure the administration into producing, this time, a sound and fair plan. For all these reasons, I urge my colleagues to resist the effort to vote down this amendment accepted by the Committee of the Whole—and keep the Congress able to examine the administration's rationing plan so we may assure the Nation that we are well-equipped rather than ill-equipped to meet a severe energy crisis.

Mr. HEFTEL. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, if ever we reach the point that we are dealing with a 20-percent shortfall or a 40-percent foreign shortfall of oil, we are dealing with an enemy. You do not try to draft the battle plans for an enemy, you try to be ready to draft the plans when you see what the enemy is doing.

We will find out only when that kind of an emergency is striking us what, in fact, is going to be needed. The reason for the veto is so that we know something unreasonable cannot come down from any Presidency. At this moment we do not know which President from what party; but we do know that we have to have authority for a standby rationing plan in a method which will meet the emergency when it arises. If it is a plan that has been approved, not in the presence of an emergency, you have no way of knowing whether it needs modification; so the time to act is during those 15 days that the emergency strikes, because if for 30 days we have a 20-percent shortfall, we are dealing with an enemy; we are trying to figure out how to survive and we want to be prepared to act then with the best plan available at that moment in time.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. Gladly.

Mr. BROWN of Ohio. Would the gentleman agree that perhaps if back in 1941 we had been a little better prepared, we might not have been so badly damaged at Pearl Harbor? In other words, if we had had our battle plan ready and on its way, so that we could put it into effect immediately, Pearl Harbor would not have been quite as devastating.

Mr. HEFTEL. Unfortunately, as I recall Pearl Harbor, it was an example of a country and a Congress who thought they were prepared, did have their standby plan, and found out they were stripped naked.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman would yield further, I would suggest to the gentleman that perhaps if we had had our plan ahead of time at Pearl Harbor and had known what was going to happen to us, we would not have been quite so much in difficulty as we were after that attack occurred. In this case, it is my suggestion that we get behind the President with a plan. Let him submit a plan. Let us approve the plan and then we are all together when we get that emergency, rather than being surprised by it and then all of a sudden have a plan that does not work.

Mr. HEFTEL. If we were dealing with a plan to prevent the emergency, I would agree. We are only dealing with a plan which deals with what will be caused by the emergency, but in no way to attack the emergency directly.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman.

Mr. TAUKE. Mr. Chairman, as I understand what the gentleman is saying, he is actually questioning the need for a standby gas rationing plan. The gentleman is suggesting to us that what we really need is not a standby gas rationing plan, but the ability for the President to develop a plan at the time the crisis arises.

Mr. HEFTEL. I am suggesting that the President should have the prerogative to develop a plan, that the President should know that if an emergency strikes, he can decide what final form to put it into and to know that we will act to veto or not veto at that moment in time.

Mr. TAUKE. Mr. Chairman, if the gentleman will yield further, then the gentleman is really denying the need for a standby plan. All the gentleman wants is for the President to have the authority to create a plan. The standby plan by its very nature and by the name of it suggests that is going to be standing by for an emergency to occur. The gentleman is suggesting that we cannot have that kind of a plan, because that kind of a plan can never meet the type of emergency that may occur. What we need is a plan to be developed at the moment the emergency strikes.

Mr. HEFTEL. I am suggesting that in the same sense we have a military establishment, not knowing how we will use it until the emergency strikes, we would be in the same position here. That final decision how to implement and use would be made by the Presidency at that time and then submitted to us and we would be able to act in terms of the reasonableness of the plan in light of the emergency.

□ 1500

If we act before then, we do not know whether or not it will fit what will be occurring at the time of the emergency.

Mr. TAUKE. Under the gentleman's analysis of what a standby plan is, all that is needed in this legislation is for the President to have thought about an emergency situation and done all the necessary planning.

Mr. HEFTEL. Mr. Chairman, what has occurred in the past 6 months makes it eminently clear that great dialog was needed if ever we were to be prepared for any kind of a gas rationing program from the Congress and from the Presidency.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Michigan (Mr. STOCKMAN).

Mr. Chairman, the majority leader told us what the problem is with the amendment. That is that my good friend, the gentleman from Michigan (Mr. STOCKMAN), offers an amendment which would provide that a plan would be approved and then which could not be changed without the whole tedious, time-consuming set of events that would go on through proceeding under the one-House veto.

Under the changing circumstances in which we find ourselves, we might very well find that the President and the Congress would spend a very large percentage of their time engaging in the forming and the re-forming of the plan. But once the plan had arrived at the point where the triggers would go off if there was a 20-percent shortfall or the President found a 20-percent shortfall, then he would order it into effect without so much as a by-your-leave by Congress. Then citizens might say, "Wait a minute. Why is it you let this plan go into effect at this time? There is no shortfall." Or they might say, "The plan is inequitable as it affects us." And the Congress would have no say.

The bill before us is carefully crafted. It imposes a number of limitations on the President. First of all, he must find that there is a 20-percent shortfall in the supply of petroleum. That is a shortfall larger than the Arab crisis, which only reached about 15 to 17 percent. It is a shortfall that everyone tells us would create something on the border of serious economic and social disorder.

But equally important, before the President can implement such a plan, he must see to it that the end users' rights, as specified in the paragraph, will be distributed on the basis of the effects of the shortfall being equally shared among the various States, considering the most recent data. He must consider to the maximum extent practicable such rights as are available to each end user on the basis which takes into account the needs of the end users, and he must see to it that end user rights are available to carry out the requirements of paragraphs 1 (A) and (B). Those are the paragraphs which deal with the rights of business and other priorities. These are some of the tests the President has to reach.

But under the amendment offered by the the gentleman from Michigan (Mr. STOCKMAN), the Congress would have no say on implementation, but we would have a great deal to say about what the plan would contain and whether or not we would approve a particular plan.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I will yield in just a minute to my good friend, the gentleman from Michigan.

First let me say that this is simply getting the cart in front of the horse.

Let me state what the gentleman from Michigan (Mr. STOCKMAN) has offered. It is a one-House veto of the plan and no veto on the implementation. The amendment offered by the gentleman from Texas (Mr. WRIGHT) has a one-House veto of implementation but not a veto of the plan because we have laid out the criteria. The gentleman from New York (Mr. GILMAN) has offered two one-House vetoes, which absolutely assures that nothing will happen.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Mr. Chairman, I have mentioned the name of the gentleman from Michigan (Mr. STOCKMAN), so I will yield first to him, and then I will yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. STOCKMAN. Mr. Chairman, I appreciate the gentleman's yielding.

The gentleman has very eloquently stated the arguments for my amendment.

Mr. DINGELL. No, I stated the arguments against it.

Mr. STOCKMAN. The gentleman has pointed out the severity of the situation under a 20-percent disruption, and he describes it as social chaos.

Mr. DINGELL. Mr. Chairman, the gentleman from Michigan cannot have it both ways. If the gentleman wants to have safeguards and have the plan go into effect in the event there is a serious shortfall in supply, then that ought to be the criteria.

If the gentleman wants to say, "OK, we will have a one-House veto on implementation and we will reduce the shortfall," I think I might be able to go along with him, but the gentleman cannot have it both ways.

Mr. STOCKMAN. Mr. Chairman, if the gentleman will yield further, I think we have the best of both possible worlds in this compromise. What we need to affect the implementation, so it will not be used lightly in the wrong circumstances, is an objective test of the severity of the shortage. That is in the bill. The gentleman supported it, I supported it, and that is the 20 percent.

Mr. DINGELL. Mr. Chairman, that stands with the bill, but with all respect to my good friend, the gentleman from Michigan (Mr. STOCKMAN), I simply point out that the definition of the word, "compromise," is an agreement between two differing parties.

I would point out that the compromise which has been put forward by my good friend, the gentleman from Michigan (Mr. STOCKMAN), is a compromise between my good friend, the gentleman from Michigan (Mr. STOCKMAN), and perhaps some of his Republican colleagues. It is in no fashion a compromise which involves any Members on this side of the aisle of whom I am aware, and it is not based on any consultation with any Members on this side of the aisle of whom I am aware, including the gentleman from Michigan, the chairman of the subcommittee which is supposed to be handling this legislation.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Michigan (Mr. STOCKMAN) and in opposition to the amendment offered by the gentleman from Texas (Mr. WRIGHT).

Mr. Chairman, the majority leader has presented us an amendment on which he has labored for 6 days, and on the 7th day he has rested his case, and it has been found wanting.

I am surprised that he could not have done better in 6 days with all the staff he has available. A week is enough to come up with some sort of convincing argument.

The Wright amendment does one thing. It undoes the vote on the Gilman amendment that was taken about a week ago, and it returns the bill essentially to where it was before that.

What is it that the majority in this particular situation is afraid of? I say, "the majority" advisedly because last week theirs was a "minority" effort. What is it the majority leaders on that side of the aisle are afraid of? Apparently somewhere in the back of their minds they might recall that we swore an oath to the Constitution which in the very first section of the first article, says the Congress shall be composed of a Senate and a House of Representatives and they shall have all power to legislate.

What power? To write the laws of the land.

Can we imagine any law that would have more impact on, say, a lady in central Texas who has to drive miles to get her groceries, on a waterman on the Chesapeake Bay, or on the logger in Idaho? Is there any legislation that would have greater impact on the elderly who must go to drugstores miles away to get prescriptions? But you want to surrender your control to the President.

I suggest to the Members that we have no great unity in this House on the issue of rationing, because, stated simply, we are not convinced there is a need for it.

Apparently there are people in the executive branch who are very much convinced that there is a need for it.

But then we picked up the paper yesterday and read that there would be a world glut of oil in the next year. We are told by the gentleman from Michigan (Mr. DINGELL), on the other hand, that there is a gasoline crisis as we meet here today. On the other hand, we have been told by others that we should wait a while and only institute a plan if an emergency arises.

If there is a crisis that will arrive in the future, when will it be? No one seems to really agree.

But on one thing I think we can agree, and that is that when the final plan for rationing is applied as the law of the land on the backs of the American people, disrupting their lives or helping their lives, this Congress has a constitutional obligation to have some say about the plan. The only way that that duty—nay, that right that we have as Members of Congress can be vindicated is to adopt the amendment offered by the gentleman from Michigan. (Mr. STOCKMAN). That will allow the President to draft the plan, submit it to us, and then we can have some comment about it and consider the possibility of whether we agree or disagree.

We have heard the gentleman from Michigan telling us that we can have a series of plans, one after the other, but I refer the Members to the current law—and the gentleman wrote the things; I am sure he knows it is there somewhere—which says that in the case an amendment to a plan is needed after the Congress acts, 15 days is all it takes. I am sure the gentleman knows that to be the case. We are not going to string this things out.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think the gentleman from Maryland (Mr. BAUMAN) has also made one other eloquent point in his comments that truly describes where we are. And that is that there may be some reason for the low esteem in which the public holds a Congress which is unwilling to face up to an issue like rationing. The majority leader would have us say that we will just accept whatever the President proposes, and then be able to hide behind the fact that we would not address that issue and find fault with the President's offering.

I think that is an abdication of our responsibility to legislate, as the gentleman said, and it is perhaps why we seem to be in some trouble as a body in terms of public esteem.

☐ 1510

Mr. BAUMAN. I would say to the gentleman that in the last week we have been publicly accused by the President of timidity. We have been, if the newspaper account I read is correct, publicly accused by the majority leader of stupidity, which I felt was a rather unusual thing to apply to a Congress controlled overwhelmingly by his party. But the gentleman is right. We have a duty to our people to make sure we have some say in the final form that rationing will take. Under the majority leader's amendment we abdicate that completely to a President, a President about which questions have been raised so far as his energy policies, so far as his ability to manage his Cabinet. Certainly we ought to work with that President. He is going to be there for another year and one-half, at least. But in the meantime we should not surrender to an imperial Presidency. That is really the issue here.

Mr. BROWN of Ohio. I am not so timid as wanting to just yield all of this up to the President. I think maybe we ought to try to exercise something more than timidity, the courage to share the responsibility with him.

Mr. BAUMAN. I certainly urge a vote for the Stockman amendment and against the Wright amendment.

Mr. AMBRO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, one of the great advantages of speaking last is that most things that one wanted to say have been touched upon, but I do think that the debate is here and now. I think that what we do with respect to the Stockman amendment to the Wright amendment is really the essence of what we are going to do with the standby gasoline rationing plan, which I think all prudent people would want to give to the President.

But it seems to me that, when one talks about the Constitution, one must talk about where we are precisely now with respect to the Gilman amendment, which gives us, as was correctly said, the opportunity to legislate, if we have to, with respect to a plan. But with the language in the bill, as crafted by the gentleman from Michigan, and others, we intrude on the President's executive prerogatives to execute a plan which is in place and on the shelf. So indeed I am convinced that the President in this case, in response to a question from a reporter, was absolutely correct when he said, "I can live with a one-House veto," which was the Gilman amendment.

But he said, and I am going to get this in the RECORD:

> What I do object to are the other restraints that have been placed on the evolution of a standby gasoline rationing plan. Under the proposed plan, even before I got it to the floor of the House today, for instance, we could have a 50 percent shortfall of gasoline, which would almost devastate our Nation's economy, and unless that shortage lasted for 20 days I could not implement a rationing plan.

Implement is what he said.

Now, he takes issue with that which is in the bill now. It seems to me that what has been done here is the best of all worlds. I strongly supported the Gilman amendment because I thought it was the right way to go at the time. I will now strongly support an effort, maybe not the Stockman amendment—I am not convinced that the language is precise enough, and besides, I must say, parenthetically, it is devastating, to trigger the plan at 20 percent shortfall of product because if the previous shortfall at 6 percent caused such severe disruption, with three times that we might as well turn the key to the country and go home.

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. AMBRO. I yield to the gentleman from Texas.

Mr. GRAMM. I thank the gentleman for yielding.

Mr. Chairman, I commend to the gentleman the reading of this bill, as I commended it to the President when he made his statement concerning a shortfall and inability to act. The bill clearly says "has resulted or is likely to result * * *." Therefore, under the provisions of this bill, if the President had evidence that a shortfall would occur, that that shortfall would be of sufficient duration, he would then have the power to call on rationing, to hire the 50,000 bureaucrats.

Mr. AMBRO. Mr. Chairman, I do not think that the gentleman or anyone else can condemn a man, who is a brilliant, quick study, the reading of an amendment or the reading of a bill and not understand it. I think the President understands it. The example he gave was just that—an example. But it seems to me that whoever devised the 20-percent trigger could not have at all addressed the needs of this country. It seems to me that those who argue that the time to cast a legislative veto—whatever scare word that is—is at the time of implementation is just kidding oneself.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. AMBRO. I yield to the gentleman from New York.

Mr. OTTINGER. With respect to the inadequacy of draftsmanship, to which the gentleman referred, I would like to point out that the Stockman amendment does not necessarily do what either the gentleman in the well or the gentleman from Michigan claimed to want it to do.

Mr. AMBRO. My amendment, which I will bring up, depending upon what happens here on the floor, does indeed address this. It preserves the Gilman language. It sets a floor—not a trigger—at 10 percent, at which time the President can certify an emergency without coming back here for implementation and it does away with that devastating 20-percent trigger.

Mr. OTTINGER. I agree with the gentleman about the 20-percent figure. I would just like to point out that there is no requirement in the Stockman amendment that the plan be submitted in advance. In point of fact, the President could wait until the last minute, and you would have exactly the same emergency conditions at consideration of implementation.

Mr. AMBRO. That is a very strange argument, when all we have got now in the Wright amendment is the President describing to us what is going on, without any ability whatsoever to turn that description in the direction of more realistic legislation. It seems inadequate, at best.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Stockman amendment.

Mr. Chairman, we have boiled down this issue essentially to the number of congressional vetoes and to the timing of those congressional vetoes.

To briefly review, before we vote, my amendment provides for a 30-day consideration of any rationing measure after the President has submitted it during the 30-day layover period, giving the Congress an opportunity to look at the substance of the plan.

The Wright amendment strikes out the Gilman amendment, eliminating our 30-day congressional veto but does preserve the 15-day veto on implementation.

The gentleman from Michigan (Mr. STOCKMAN), by his substitute amendment, has reintroduced the Gilman 30-day amendment and has stricken the 15-day tail end implementation veto.

I urge my colleagues to vote yes on the Stockman amendment to the Wright amendment. That amendment restores the opportunity to the Congress to scrutinize any proposed plan in a cool, deliberative atmosphere, prior to any emergency.

I would hope that my colleagues would support the Stockman measure.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, without addressing the merits of the amendment, but just to put the parliamentary situation in perspective, I want to point out as I stated earlier during the debate, I have at the desk an amendment, which is not in order at this time. In the event that the Stockman amendment is not adopted, then I would at that time offer my amendment. But that depends on the action of the Committee of the Whole House in deciding on the Stockman amendment.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

Mr. Chairman, I am going to support the amendment offered by our colleague, the gentleman from Michigan. If there is to be just one approval or review by the Congress, the right time is, of course, when it is presented to Congress. It would be unfair with the President to have an authority or standby authority, a program presented to the Congress and Congress knew at the time it would not allow it to be implemented. It would be unfair to the country to have to wait until the time rationing was needed to then reject it.

If the Members will read the title of this bill we are considering, it is an emergency energy conservation act. Emergency. How in the world can we wait until implementation and then have 15 days to consider it if there is an emergency? I really felt, when I came to the floor today, that we probably needed only one opportunity to approve or disapprove and that would be at the time it would be presented to the Congress. But after the argument was made, particularly from the other side, that conditions could change in the country, I really do not foresee at this time what conditions might change that the President might not see also and revise his program. But I believe if we are to have it we ought to have an opportunity to disapprove at the time of implementation, because things could change. In no event, how can we possibly not consider the plan that will be presented to Congress and disapprove it if it is inconsistent with the wishes of this body or the other body? I think if there is only one review, then we should have it at the time it is presented. But I think what the bill now provides with the Gilman amendment is a better way to approach the problem.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for his contribution and for underscoring the importance of a congressional veto.

☐ 1520

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Stockman amendment. You know, we have been held up before in this House. We were faced not long ago with a measure—voting $662 million or else—and the "or else" was so terrible. It meant people left helpless without food stamps.

Under that kind of a gun, you have no choice. That is precisely what I think we have to avoid here.

When we think of the suffering of an oil shortage we know what we are talking about. This is not like a war, with an enemy that may attack on any front. It is a gas shortage. Our people know perfectly well what it is. Commonsense tells you what is going to happen with a gas shortage or heating oil shortage or any of these shortages. We know perfectly well what we are dealing with.

As far as a glut is concerned, we can have 2 million more barrels a day and have a glut. On the other hand, we know what happened when we lost 3 million barrels a day from Iran.

We cannot be without some kind of a standby plan, and we should be able to handle it here in the House.

We have all heard aspersions cast on the ability of the House to resist the political pressures that one group or another group may subject the Members to. But can we say in all honesty that we are weaker in resisting pressure than would be one man, a candidate, under pressure to promise one thing to one group or do one thing for one group and not another?

I think the House with its variety of people and variety of pressures is perhaps a safer place for such a program to be hammered out.

I hope very seriously that we will consider what we do. We must have some commonsense in our approach to the problems of the people of this country. The place we can exhibit it is in hammering out the kind of rationing plan we ought to have in the public interest.

I voted for the last standby rationing plan—many in this House did not—in May. I believe we must have one. Surely we ought to stand up and do what we know ought to be done.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. STOCKMAN), as modified, to the amendment offered by the gentleman from Texas (Mr. WRIGHT).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LOEFFLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 232, not voting 10, as follows:

[Roll No. 408]

AYES—192

Abdnor
Albosta
Ambro
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Bedell
Bereuter
Bethune
Breaux
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Fountain
Frenzel
Gilman
Gingrich
Goldwater
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harkin
Harsha
Heckler
Hightower
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hubbard
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Kazen
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Natcher
Nichols
O'Brien
Panetta
Pashayan
Paul
Perkins
Petri
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOES—232

Addabbo
Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Byron
Carr
Chisholm
Clay
Coelho
Corman
Cotter
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Hanley
Harris
Hawkins
Hefner
Heftel
Holland
Howard
Huckaby
Hughes
Hutto
Ireland
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
LaFalce
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCloskey
McCormack
McHugh
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whitley
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—10

Anderson, Ill.
Bolling
Conyers
Diggs
Flood
Forsythe
Marlenee
Mazzoli
Treen
Wilson, C. H.

☐ 1530

The Clerk announced the following pairs:

On this vote:

Mr. Marlenee for, with Mr. Flood against.

Mr. MOORE changed his vote from "no" to "aye."

So the amendment, as modified, to the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1540

AMENDMENT OFFERED BY MR. LEVITAS TO THE AMENDMENT OFFERED BY MR. WRIGHT

Mr. LEVITAS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Levitas to the amendment offered by Mr. Wright: At the end, insert the following new paragraph:

(4) Within 120 days after the date of the submittal of the report under paragraph (1) and, to the extent practicable, before the transmittal of the plan under sections 201 and 203 of such Act, each such committee shall conduct hearings on that report and such matters relating thereto as the committee considers appropriate, and to make such findings and reports to the House and Senate (as the case may be) as the committees consider appropriate.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of the amendment.

Mr. LEVITAS. Mr. Chairman, this is the amendment which I earlier described to the House, and that I said I would offer if the Stockman amendment—which I voted for—failed. It simply would give the House and the other body the opportunity to consider in detail the plan that is submitted by the President, to let the Members of Congress, Governors, and the interests, and citizens that are affected, come before us and explain their problems with the plan so that revisions can be made in it. Then, there will be a report by the committees to the House and other body with specific findings and recommendations about the plan.

This will be a means for getting changes made in the plan prior to implementation and will provide a mechanism for congressional control which the gentleman from New York (Mr. Gilman) was seeking to achieve.

If the President fails to accept these recommended changes we not only have a legislative veto prior to implementation, we also have other means to get them accomplished such as limitation written into appropriation bills.

By mandating oversight hearings and reports we achieve a large measure of control along with legislative veto.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I commend the gentleman on his amendment. I am happy to accept it, and I urge my colleagues to vote for it.

I point out that this is something the subcommittee would in any event plan on doing, and I commend the gentleman for his leadership.

Mr. LEVITAS. I thank the gentleman.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Chairman, I think the amendment offered by the gentleman is fully in order. I think it strengthens my amendment, in fact. It makes certain that we shall have adequate legislative oversight, and that we will have every opportunity to have a congressional veto, if that should be our desire, at the proper time, at the time that we can compare it with the emergency it seeks to cope with.

I commend the gentleman, and urge Members to vote for the amendment.

Mr. LEVITAS. I thank the distinguished majority leader for his comments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. Levitas) to the amendment offered by the gentleman from Texas (Mr. Wright).

The amendment to the amendment was agreed to.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I hope all of the members of the Committee of the Whole will get a copy of the Wright amendment. None of us saw it before today. It was not made available until the gentleman from Texas came to the floor and offered it. We had to go to the rostrum to get copies.

If Members are going to vote for Presidential rationing power, they ought to be able to go back and explain to their people that they were not stupid, they were not timid, but they swallowed rationing whole and handed Jimmy Carter, President of the United States, the right to write a rationing plan as he likes it, and gives the Congress no chance to have any legislative say over it.

That is what the Wright amendment does, pure and simple. All the talk about taking care of the various interests, I think Members will find when they read this amendment, is totally without meaning. This amendment is riddled with descriptive words like, "rural communities in the countryside." I live in one of those, a beautiful place.

"Handicapped persons; local boards; end user gasoline; equity; needs and hardships."

But those attractive words bear little relationship to the bill's grant of power to the President. If he chooses to include these things he may but he need not. The bill only provides an analysis and another description; a third description, a fourth description; and it says that the President will keep us informed about what he is doing. But, it does not say that Congress has even one right to put anything in his plan; that he can write the plan himself if he wishes.

This is the same President, the same Department of Energy—I will grant that it has a new "Coca Cola" executive at the head of the Department of Energy—but the same people who brought us the plan a few months ago that shortchanged the taxicabs in New York City, the farmers in the West and in my district, the people who drive long distances to work—it was a plan we rejected.

If Members want the President to have that kind of power just vote for the Wright amendment. That is precisely what is entailed. I think Members will live to regret it when they come to that day when the plan is finally imposed, and you will have abdicated your responsibility.

Mr. AMBRO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to say one thing very quickly. Where we stand now is, we have ensconced in the bill, by virtue of last week's vote, the Gilman amendment, which permits us to review a plan promulgated by the President. There is a flaw in the bill, it seems to me; that is the requirement that when the President has a plan on the shelf, as the result of the Gilman amendment and after that plan has been approved by this House, in effect, he then has to come back for a one-house veto or, in reverse, an approval of the Congress, for implementation of the plan.

Now that, it seems to me, intrudes on the President's ability to execute or implement a plan, which is his right. Now, lest Members think that their only choice is the Wright amendment. I must tell them that if the Wright amendment fails, in order to correct that deficiency I have an amendment which will preserve the language of the Gilman amendment, thereby giving the Members the opportunity to see what the President has, but then changing in almost a 180-degree fashion that which is installed in the bill.

I am sorry to intrude on the pride of authorship around here, but it seems to me that the 20-percent trigger is an outrageous figure. We can turn a key on the country if we ever get to that point. So that, what the amendment does is set up a 10-percent floor, after which the President, upon getting the approval of the Congress for a plan on the shelf, can implement or place into effect that plan merely upon the certification of an emergency to the Congress; dropping the trigger from 20 percent to a 10-percent floor, and do away with the one-House veto on implementation.

☐ 1550

It seems to me that they would take into account everyone's concerns. I think it is a most reasonable approach, but I just tell the Members this now because there is an alternative to the Wright proposal, and insofar as the Members think there might not be one, I assure them there will be.

Mr. GILMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the Wright amendment. I call to the attention of my colleagues who may not have been in the Chamber following this debate earlier that what this issue boils down to now is just when there will be a congressional veto. The Wright amendment preserves the 15-day tail-end implementation veto at the time of an emergency. As you may recall, my amendment which we adopted earlier, provides for a 30-day consideration by the Congress with the opportunity to veto during a calm, deliberative period when no emergency exists. It comes about right after the President submits his plan to the Congress for a 30-day layover period. There is no delay involved in my amendment. It is an opportunity for the Congress to have a voice in the consideration of the substance of any rationing plan. The Wright amendment strikes out the Gilman amendment. By adopting the Wright amendment, we will never have a congressional voice. We will only have a voice as to whether or not there is an emergency in the heat of an emergency without an opportunity, a real opportunity, to examine the merits of the program. Accordingly, I urge my colleagues to vote against the Wright amendment.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are back at that point again where we are being asked to change our minds and our vote and decide that we ought to have no right to look at any rationing proposal that the President is going to advance to us, and merely vote on its implementation. This is what the Wright amendment proposes. If we have a major shortfall of gasoline and oil in this country, I cannot think that anybody in this Congress is going to vote "no" on the implementation of any plan, whatever that plan is—good, bad, or indifferent. But it is very likely to be a bad plan because the last one that was proposed to us was a bad plan which did not balance the needs of our society equitably, and the Congress, this House, turned it down.

Now we are saying that that is too difficult a responsibility for us to review the President's plan. If we approve the Wright amendment, we are saying that we do not want to know what is in that plan, just, Mr. President, you propose it and put it on the shelf, and we will approve it if we decide that a 20-percent shortfall merits some kind of rationing proposal. If that is not reversing the legislative and executive process, I never saw it. We decide when it goes into effect—aha!—with a 20-percent shortfall. The Members know we will decide it will go into effect. But we give the President the right to legislate the plan. It is no wonder that people distrust the Congress. The Wright amendment gives us, of course, the opportunity to say after the plan is implemented, well, we did not know what was in the plan; we cannot be held responsible; it is the President's fault that the plan is not right. Maybe you want to do that; I do not. I would rather go with the Gilman proposal that lets us be in partnership with the President of the United States. Let him propose a plan. We should have the opportunity to say that we are for the plan or we are against it, and then when it is approved and put on the shelf, I do not care whether we approve its implementation or not. That is an executive decision. We are putting a 20-percent trigger in there, and if we have a 20-percent shortfall and that plan is in effect, we will be ready.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

For a point of clarification, I understood the gentleman from Maryland (Mr. BAUMAN) earlier to say the Wright amendment does not give the Congress the right to have a congressional veto, and now I understand the gentleman in the well to say the main difference between the Wright amendment and the Gilman amendment is that the Wright amendment requires reports to the Congress in the interim, but that there is a congressional veto before the plan can be implemented, and that the Gilman amendment requires two congressional vetoes, at the planning stage and the implementing stage.

Mr. BROWN of Ohio. Let me tell the gentleman what the Wright amendment proposes. The Wright amendment says that there will be no Gilman congressional review of the plan. That is, when the plan is proposed, we do not have a thing to say about it. The Wright amendment provides a one-House veto of the implementation of the plan when there is a 20-percent shortfall.

Mr. JONES of Oklahoma. There is a one-House veto, with the Wright amendment.

Mr. BROWN of Ohio. The gentleman will vote for it when there is a 20-percent shortfall, even if it denies any oil to Oklahoma.

Mr. JONES of Oklahoma. That is not true.

Mr. BROWN of Ohio. Because with that kind of a shortfall, we will all be for it. But the report that is required in the plan has no merit whatsoever because all it requires is that the President has to submit to us a report telling how equitable and wonderful the plan is, and that is it. There is nothing in that report that we either approve or disapprove when the plan is proposed. It has been legislated without our ever having laid a finger on it. Of course, it will give us the opportunity to say, "Ah! But the President is responsible for all these errors." I, frankly, am not terribly proud to do that. I think that maybe when I do that, I am saying I did not legislate very well; I did not even exercise my responsibility as a Member of Congress to try to protect the people in my constituency.

Mr. Chairman, I think what we ought to do is to vote down the Wright plan, and we will have the Gilman plan that we voted for last week, and which we voted for, I think, quite properly in the interest of trying to protect the concerns of the people whom we represent under the Constitution.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WYDLER, and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 3 additional minutes.)

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding.

The thing that has not been said here on the floor today and seems to be implied, it seems to me, is the fact that we do not know what the President's rationing plan is. As a practical matter, we know exactly what the President's rationing plan is. He has already proposed it, and that is the one he is going to send down to us if we vote for the Wright amendment today. That is the one that is going to go into effect when we have this tremendous shortfall. Is it not?

Mr. BROWN of Ohio. It is the one that he put his stamp of approval on before.

Mr. WYDLER. That is right.

Mr. BROWN of Ohio. It is the one that did not provide for people who have to drive 40 miles a day to work, or people who are traveling salesmen, or who live in the suburbs, or anyone else.

Mr. WYDLER. It is the one that the House voted down; is it not?

Mr. BROWN of Ohio. It is.

Mr. WYDLER. So today what the House is being asked to do by voting for the Wright amendment is to vote in favor of that Presidential rationing plan that we already rejected here on the House floor; is that not a fact? That is a result of what is going to happen?

Mr. BROWN of Ohio. The only way one can argue against that is to say that surely the President would not propose that plan. But the fact is he did. He did. And we voted against it.

Mr. WYDLER. So that a vote for the Wright amendment is a vote for the President's rationing plan. That is what it really comes down to here on the floor of the House today.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

Even assuming that the gentleman from New York (Mr. WYDLER) is wrong and the President did modify that plan to correct the problems that we had in the previous plan. If there was something else that was at fault with his new plan, this body or the other body would have no opportunity to recommend changes until rationing was needed, and what has been told to us time and time again here today is it would be too late then. Our backs would be to the wall. There might be something very obvious that Congress noted that the President did not, but we would have no opportunity to have a change until it is too late.

Mr. BROWN of Ohio. The fact is if we vote for the Wright amendment, we are voting to approve a plan that we have never seen. and we do not have any idea what it will contain.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WRIGHT), as amended.

The question was taken; and the

Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LOEFFLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 189, not voting 11, as follows:

[Roll No. 409]

AYES—234

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Byron
Carr
Chisholm
Clay
Coelho
Corman
Cotter
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Holland
Holtzman
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
LaFalce
Leach, La.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
McCloskey
McCormack
McHugh
Maguire
Markey
Marks
Mathis
Matsui
Mavroules
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
Whitley
Whitten
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki
Zeferetti

NOES—189

Abdnor
Ambro
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Breaux
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Frenzel
Gilman
Gingrich
Goldwater
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Heckler
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hyde
Ichord
Jeffords
Jeffries
Johnson, Colo.
Kazen
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lundine
Lungren
McClory
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marriott
Martin
Mattox
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Natcher
Panetta
Pashayan
Paul
Perkins
Petri
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
White
Whitehurst
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—11

Anderson, Ill.
Bolling
Conyers
Diggs
Flood
Forsythe
Marlenee
Mazzoli
O'Brien
Treen
Wilson, C. H.

☐ 1610

The Clerk announced the following pairs:

On this vote:

Mr. Flood for, with Mr. Marlenee against.

Mr. Anderson of Illinois for, with Mr. O'Brien against.

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MARKS

Mr. MARKS. Mr. Chairman, I offer an amendment.

Mr. DINGELL. Mr. Chairman, I reserve a point of order against the amendment.

The Clerk read as follows:

Amendment offered by Mr. MARKS: Page 18, strike out lines 6 through 13.

Page 18, line 14, strike out "(ii)" and insert "(i)".

Page 18, line 17, strike out "(iii)" and insert "(ii)".

Page 18, line 20, strike out "(iv)" and insert "(iii)".

Mr. MARKS. Mr. Chairman, each and every one of us is hopeful that a rationing plan will not have to be instituted by the President of the United States. I am satisfied that the President of the United States has the same hope. I sense that the American people if asked at this moment would be telling us here in the Congress that we should do nothing to restrict the option of the President of the United States to institute a rationing plan based on the information that he has, if in fact he believes and if in fact an emergency exists.

Section 2(A)1, lines 6 through 13 of this bill, does just that. It restricts the flexibility of the President of the United States to avert and overcome an emergency.

We have just now, Mr. Chairman, once again provided ourselves with an absolute right to stop dead in its tracks a rationing plan implemented by the President of the United States. We have done this, I assume, to insure that this House can exercise its responsibility, its constitutional responsibility to its constituents. No rationing plan, absolutely no rationing plan whatsoever can go into effect if we, the Congress, forbid it.

Having that safeguard, my amendment strikes out what I think is an illogical, irrational requirement, that before the President of the United States can implement any plan whatsoever, we have to have reached a crisis of such proportions that frankly I doubt that any plan or anything we could do could salvage the situation.

☐ 1620

Mr. Chairman, I suggest that considering the absolute veto that we have here in the Congress and the other safeguards that are in the bill, we must now eliminate the 20-percent shortfall requirement.

May I read to my colleagues what the bill suggests are the safeguards in addition to the 20-percent requirement. If the 20-percent requirement is eliminated, these safeguards exist: The President would have to find a severe energy supply interruption, which, according to the act, means a national energy supply shortage which he, the President of the United States, determines, if, first, it is not manageable under any emergency or energy emergency authority, including any energy conservation contingency plan approved under subsection (b); or second, is expected to persist for a period of time sufficient to seriously threaten the adequacy of domestic stocks of refined petroleum products; or third, is having or can reasonably be expected to have a major adverse impact on national safety or the national economy.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MARKS. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I rise in support of the gentleman's amendment.

I would like to point out that those necessary conditions to which the gentleman refers are not "ors"; they are "ands." Each one of those conditions must be met before the President can institute a plan.

I think that is adequate protection. I do not think we want this country on its knees before the President has the power to submit his plan to Congress for approval.

Mr. Chairman, earlier I submitted a limitation of a 15-percent shortfall. The gentleman from Pennsylvania (Mr. MARKS) is absolutely right. We must give the President this authority, and I support the gentleman's amendment.

Mr. PEASE. Mr. Chairman, will the gentleman yield?

Mr. MARKS. I yield to the gentleman from Ohio.

Mr. PEASE. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Pennsylvania (Mr. MARKS) and commend him for offering this amendment. It seems to me that if the problems we experienced this year resulted from a shortfall of less than 5 percent, we could have absolute chaos created in this country without enabling the President to act to institute rationing. I think the gentleman's amendment is an excellent one, and I commend him for offering it.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. MARKS) has expired.

(By unanimous consent, Mr. MARKS was allowed to proceed for 2 additional minutes.)

Mr. MARKS. Mr. Chairman, if in fact it is necessary for us to institute a rationing plan, if it is necessary for the President of the United States to do so, he does so under the most hazardous of all conditions. May I suggest to the Members that at least according to one if not both the authors of the 20-percent requirement, this country would be in chaos at that particular point. That would be a shortfall of approximately 40 percent of imported oil.

May I suggest that, if we forced the President of the United States at that time to wait until that moment, there would be no chance whatsoever of bringing us out of that tailspin, and there might not be any reason to have rationing.

It seems to me that we have to provide him with this authority. If we are going to criticize him for inaction, at least as some of my colleagues have done, then for goodness sake, let us not tie his hands in time of emergency. We have a right to expect him to act. He asks for the opportunity to do so.

Mr. Chairman, I suggest that the 20-percent requirement would in fact tie his hands.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. MARKS. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I want to congratulate the gentleman from Pennsylvania (Mr. MARKS) on his amendment and on his statement. I think he is absolutely correct. We need this to give the President some flexibility.

We do not have experience with managing shortfalls of over 15 percent. The trigger at least should be reduced to that figure, if not below, and it would be better to eliminate it.

Mr. Chairman, I hope the Members support the gentleman's amendment, and I congratulate him for offering it.

Mr. GRAMM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we voted on a proposal to lower the trigger from 20 to 15 percent, and this body very wisely voted 329 to 93 in opposition to that amendment. We are here asked to knock the triggers out altogether.

I think it is important to note that this is not just a standby rationing plan. In many ways rationing has gotten a disproportionate amount of play in the discussion of this bill. This is a conservation plan as well.

We have 28 pages of conservation measures to be used at the State and Federal levels to deal with shortfalls that are manageable under conventional means.

Our subcommittee held extensive hearings on rationing, and witnesses, both in the administration and outside of government, clearly concluded that rationing is a very expensive process, costing between $1.5 billion and $2.5 billion, requiring the employment of 50,000 bureaucrats. The consensus of those representing the private sector and those representing the administration was that with anything less than a 20- to 30-percent shortfall the cost of imposing rationing would greatly exceed the benefits of rationing.

This body voted down the President's standby bill on May 10 because it was not a standby plan. Despite all the discussion of the Stevens resolution in the Senate, there were no prohibitions against premature usage of rationing by the President. We have in this bill a protection against rationing, requiring that it be used only under the most severe circumstances, a protection that is dictated by the hard facts that rationing is not a panacea for all our problems. Rationing is very expensive and must be used only under the most severe circumstances.

I think it is imperative, Mr. Chairman, that we vote down this amendment and make it clear to the American people that we are not voting rationing in this bill, but that we are instead voting a standby plan only to be used in periods of emergency, and that this bill clearly contains conservation measures to be used to lessen the shortage.

Mr. MARKS. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Pennsylvania.

Mr. MARKS. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, I think the suggestion of the gentleman from Texas (Mr. GRAMM) that the bill we have before us or any amendment to that bill is anything more than bringing in place a standby rationing plan is not a fair summary of what is going on.

May I suggest that my amendment or any other amendment has no effect whatsoever on this being a standby plan or not being a standby plan.

Mr. GRAMM. Mr. Chairman, I will reclaim my time and simply point out that the 20-percent figure in this bill makes it a standby plan to be used only with a clear finding from the President that a 20-percent shortfall has existed for 30 days or that there is reason to believe that such a shortfall will occur. That provision makes it a standby plan, and I urge this body to keep those provisions in this bill.

Mr. MARKS. Mr. Chairman, will the gentleman yield again?

Mr. GRAMM. I am happy to yield to the gentleman from Pennsylvania.

Mr. MARKS. Mr. Chairman, may I suggest that the use of the term, "protection," by the gentleman from Texas (Mr. GRAMM) again does not seem to be a fair analysis of what is happening here. The absolute protection that this Congress has and the American people have through their representatives in Congress is that we have an absolute right to veto whatever program the President of the United States puts forth.

Mr. GRAMM. Mr. Chairman, reclaiming my time again, I point out that the best protection this body has against premature rationing is to clearly write the provision under which we will allow rationing to occur in this bill. The committee voted this language in, we held it in through the subcommittee and the committee and brought it to floor. I urge my colleagues to vote this amendment down.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, I would like to state that I agree with what the gentleman from Texas (Mr. GRAMM) is saying.

It is important to note that the committee has taken a twofold approach and has a twofold purpose. One is to deal with the near catastrophe, and that provides for rationing. The second is to deal with a sort of intermediate kind of situation with intermediate steps, the conservation steps the gentleman has mentioned. One of the surest ways to see that rationing does not go into effect is to have those conservation steps in there, as the gentleman has correctly pointed out.

I think another thing has to be said, and that is that there are those of us who care about passing the bill, and I know the gentleman from Pennsylvania does.

The CHAIRMAN. The time of the gentleman from Texas (Mr. GRAMM) has expired.

(On request of Mr. MOFFETT, and by unanimous consent, Mr. GRAMM was allowed to proceed for 1 additional minute.)

Mr. MOFFETT. Mr. Chairman, will the gentleman yield further?

Mr. GRAMM. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, I know the gentleman from Pennsylvania (Mr. MARKS) and the gentleman from New York (Mr. OTTINGER) do want a bill, but

I think the political equation is such that we only have to look at the number of votes we have had and how close they have been, and I refer to the amendment offered by the gentleman from New York (Mr. GILMAN), the amendment offered by the gentleman from Michigan (Mr. STOCKMAN), and the amendment offered by our majority leader.

We know that in order to get a bill through here, we are going to have to find some sort of trigger mechanism, and I think this is a fair one. The gentleman who was the author of the amendment in the subcommittee is absolutely correct in saying that we must keep this particular trigger in the bill.

Mr. GRAMM. Mr. Chairman, I thank my colleague, the gentleman from Connecticut (Mr. MOFFETT), for his support.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I am very happy to yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, is it the gentleman's understanding that if this amendment is adopted, there would be no trigger at all and the President would be able to establish an emergency at any time and declare that emergency so that rationing could be instituted?

Mr. GRAMM. In terms of the technical requirements of the bill, that is absolutely correct.

Mr. RUDD. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, the actions which this House is asked to take in the name of "energy conservation" never cease to astound me.

The provisions of S. 1030, if adopted, would trample over the individual rights of our citizens and over the prerogatives of the States, all in the name of "energy conservation."

The bill, as reported by the House Interstate and Foreign Commerce Committee, would bring the supply and use of energy consumed in the United States under the thumb of the President and Department of Energy bureaucrats.

Both the Congress and the individual State legislatures would be effectively precluded from any review or modification of State conservation measures.

The bill would grant the President authority to impose energy consumption conservation standards for every State if he deems that a "severe energy interruption" exists.

On the surface, such a proposal may seem laudable in view of our recent energy difficulties. However, I am reminded of the wise words of former President James Madison who cautioned—

> I believe there are more instances of the abridgement of the freedom of the people by gradual and silent encroachments of those in power than by violent and sudden usurpations.

I am not certain that the adjectives "gradual" or "silent" are characteristic in this analogy, but certainly a proposal including such sweeping Presidential authority is an encroachment on the liberties of the American people without just cause.

As has been pointed out under the vague and sweeping authority recommended by this bill, the Department of Energy may conceivably have the authority to set arbitrary restrictions on the operating hours of businesses, factories, and so forth, restrict the operating hours—or days—of gas stations; limit the use of recreational vehicles; and impose other restrictive requirements on our Nation's citizens.

Such restrictions on the mobility and independence of our people should not be imposed in the casual manner advocated by the proponents of this legislation.

This bill would grant to the Governors of the States vast power to supersede the wishes of their State legislatures in devising State conservation plans.

In turn, the Department of Energy would be granted enormous discretionary power to override or amend the Governor's plan and impose one to its own liking.

To further intimidate the States, the Secretary of Energy would be allowed the power to cut off Federal conservation funds from the States until they comply with the Washington-approved standards.

Surely each State knows best how to reduce energy consumption in light of the unique circumstances in that State. What works in Washington or New York might not necessarily work in Arizona.

The answer is to give unlimited discretionary authority to a burgeoning Federal Government. On the contrary, never has Henry David Thoreau's observation been more appropriate—

> This Government of itself never furthered any enterprise, but by the alacrity with which it got out of its way.

We need to eliminate the stifling rules and regulations which have strangled the production of oil and natural gas in this country. It would be the height of folly for this House to ignore past mistakes and compound these errors by adding yet another layer of misguided Federal intervention.

The people's individual liberties would be further restricted by the provision allowing the President to implement a 6-day driving week. Under this bizarre scheme, the Nation's drivers would "choose" one day of the week on which they would forego the use of their car.

A sticker designating that day would be placed on the car, and it would be an offense to drive the car on the prohibited day.

When the President spoke to the Nation several Sundays ago, his theme was an upbeat, optimistic one. Yet now, we find the legislation pushed by the administration, in actuality, promoting the same old negativism.

The President and the Department of Energy are still devising plans and contingencies for allocating shortages rather than developing the needed proposals for increased energy production.

Nothing in this bill will produce one drop of oil.

Our present energy situation has been exacerbated by horrendous bureaucratic judgments of the Department of Energy, and I cannot support legislation which would grant them yet more power over the American people.

Instead of imposing another layer of bureaucratic regulation, this Nation must return to the principles of the free enterprise marketplace. Only then can we realistically hope to have adequate supplies of energy at reasonable prices.

I urge defeat of the amendment, and of the bill.

□ 1630

The CHAIRMAN. Does the gentleman from Michigan (Mr. DINGELL) insist upon his point of order?

Mr. DINGELL. I do not, Mr. Chairman.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is not true that there are no other limitations with respect to putting into effect a rationing plan. Other than an imminent 20 percent shortfall. There is item 2, that the situation is not manageable under any energy emergency authorities, including any energy conservation provisions, et cetera; 3, there is expected to persist for a period of time a shortage sufficient to seriously threaten the adequacy of domestic stocks of petroleum products; and, 4, the shortage is having or can reasonably be expected to have a major adverse impact on the national safety or the national economy.

I would like to suggest to the Members that one of the most probable adverse impacts on national safety and on the national economy is not an actual 20 percent reduction in gasoline available. It is that there will be such an avaricious demand for gasoline at any given time, as there was this spring and summer, that the stocks of crude petroleum will be so reduced that there will not be sufficient petroleum stocks to produce both No. 2 fuel oil and diesel fuel.

We have been assured by the Department of Energy—and I think we have been assured openly and honestly—that there is not going to be a shortfall of No. 2 fuel oil this year. That is, of course, the prime humanitarian demand on such crude stocks. But to the extent that the avaricious demands for gasoline, plus the necessary human demand for No. 2 fuel oil, diminishes these stocks of crude oil, we magnify an extremely dangerous possibility of a severe shortfall of diesel fuel.

Diesel fuel is the lifeblood of our economy and our commerce. That is what drives our trains, that is what moves the trucks, that is what operates the mobile forces of the United States. A 1-percent shortfall of diesel could throw this economy into the grips of the worst depression that we have ever seen.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, the gentleman is so right. And it is not only what diesel would do to our economy, but the middle distillates for the home heating oil. This target of 240 or 249 billion barrels is not an adequate response to the home heating oil problem or the diesel problem, because the distributors have not got the storage in their tanks and they are not going to have it, and the customers have not got the storage in their tanks and they are not going to have it. By October 1, the general rule was the customer's tank full, the distributor's tank full, and then you had the refiners with their reserves for the winter. That is not going to happen.

The distributors in my State are 50 percent short now in their storage capacity, and the consumers are down 65 percent. That is the most that any of them have. This is not a sound situation. I am so glad the gentleman is bringing it to the attention of this House.

Mr. ECKHARDT. I thank the gentlewoman from New Jersey for her comments.

Mr. Chairman, the gentleman who has offered this bill is a member of my Subcommittee on Oversight and Investigation. We have gone into the question of the pending shortage of middle distillates. That is the important thing. We are missing the main point here when we are looking at gasoline as the grave danger. We could cut our use of gasoline by 20 percent and our economy would not come to its knees, but if we fall short of diesel fuel by 2 percent, our economy may be severely crippled.

I wish my colleagues would listen very seriously to the proposal of my colleague Mr. MARKS. I know that it may be politically advantageous to go ahead with the bill with this exception in it. But I want to warn you that we are not at the end of the crisis situation in this year and certainly we are not at the end of the crises at the end of this year. We are going to face the question of a shortage of middle distillates as sure as I am standing here. I hope that you consider this amendment seriously.

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Texas.

Mr. LOEFFLER. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the gentleman from Texas if he believes that the Department of Energy and the President would do a better job at rationing the so-called diesel shortage than they have in allocating the shortage.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(On request of Mr. LOEFFLER and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, let me answer the question in this way: I heard the speakers from the gentleman's side of the aisle saying a moment ago—and I think they said it with considerable force and persuasion—that to await a 20-percent shortfall is to await a situation which constitutes a fait accompli; whatever the President does will have to be followed at that point.

I suggest to the gentleman that, if that be true, then it is also true that it would be better to permit the President to anticipate a critical situation with a lesser shortfall of gasoline and consider the possibility of a shortage of diesel. Then he may come in with a plan, and if his plan is not acceptable, we can stop the implementation of that plan by the veto provided in the Wright amendment, which I do not disagree with and which I previously supported.

I frankly do not trust any bureaucracy nor any President alone always to make a right decision. But I suggest that a failure to have some trust in the agencies of Government that must, if anyone does, protect us in a crisis, is to create an extremely dangerous situation in this country.

Mr. LOEFFLER. If the gentleman will yield further, I might just say, however, that the Department of Energy, through the allocation program, has been trying to deal with the shortfall that we have with diesel to no avail, in the sense of trying to overcome the shortage situation. That is simply based upon the fact that we do not have an adequate supply of crude.

Mr. ECKHARDT. Not necessarily. It depends on how we husband crude. For instance, what we have done in the last period from the beginning of this year to the present time, is to create every incentive to take more gasoline from a barrel of crude, and that is one of the reasons why we may run into a shortfall in middle distillates.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has again expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. Mr. Chairman, on March 1, of this year, we provided an additional incentive to move crude oil toward gasoline by providing an additional 10-percent margin for passthrough of price of crude oil to gasoline. This does not exist in the case of middle distillates.

We also provided that, generally speaking, there can be about a 50-percent increase in the amount of markup from the processing of crude oil to gasoline in order to encourage gasoline production. I suggest that this may be extremely dangerous if there is an insufficient supply of crude to meet our middle distillate needs this fall.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has again expired.

(On request of Mr. OTTINGER and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, we have just been through a situation where, with less than a 10-percent shortfall, we had literally chaotic conditions in this country, with long lines in those areas which were suffering those kinds of shortfalls.

I would like to suggest that, with this 20-percent limitation, there is not a standby rationing authority; it really is a fraud on the public because you do not have a plan that the President could put into effect unless the country were on its knees. Particularly, as the gentleman points out, that is so with respect to our middle distillates.

There is adequate protection in here, by way of the one-House veto, to make sure the President does not exercise this authority frivolously. But failure to give him this kind of flexibility means that you have given the appearance of a rationing plan without really doing so.

I think, in order to really present the President with the tools he needs to face the kind of crisis we are very likely to confront, that this is a minimum requirement. We have enough protections in this bill. The President ought to be allowed to present the Congress the standby rationing plan with much less than the 20-percent shortfall.

Mr. ECKHARDT. Mr. Chairman, I would like to conclude the time that the gentleman has generously obtained for me by saying that I think it is time for us to quit making appearances of doing something about a problem and get to doing something about it.

I also feel that we are trailing the American people in our willingness to accept rationing. I think the people want us to give sufficient authority to meet a real problem, not to afford token authority with limitations placed on that authority which assure that it cannot be used until a crisis in fuel has chilled our houses and stilled our means of transport.

☐ 1640

I am told by the chairman of the subcommittee, the gentleman from Michigan (Mr. DINGELL) that there is a deal of flexibility within his proposal, and I take it for granted that there may be; but I want to be assured of it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MARKS).

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 7, noes 41.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 63, noes 356, not voting 15, as follows:

[Roll No. 410]

AYES—63

Ashley
Barnes
Bedell
Bingham
Boner
Bonker
Burton, John
Burton, Phillip
Corman
D'Amours
Dellums
Dodd
Downey
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Fenwick
Garcia
Gore
Gray
Harkin
Harris
Holtzman
Howard
Hughes
Kastenmeier
Lowry
Lujan
Lundine
McCloskey
McHugh
Maguire
Marks
Matsui
Mavroules
Mineta
Nolan
Obey
Ottinger
Pease
Pritchard
Reuss
Richmond
Rodino
Roybal
Sabo
Scheuer
Seiberling
Shannon
Simon
Solarz
Spellman
Stark
Swift
Thompson
Udall
Van Deerlin
Vanik
Vento
Walgren
Weaver
Weiss

NOES—356

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Drinan
Duncan, Tenn.
Edgar
Edwards, Ala.

Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman

Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Luken
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Markey
Marriott
Martin
Mathis
Mattox
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patten
Patterson
Paul
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp

Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman

Stokes
Stratton
Studds
Stump
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Trible
Ullman
Vander Jagt
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley

Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—15

Anderson, Ill.
Bolling
Conyers
Danielson
Diggs

Flood
Forsythe
Ichord
Marlenee
Mazzoli

Rosenthal
Treen
Waxman
Williams, Ohio
Wilson, C. H.

☐ 1650

Messrs. RICHMOND, HOWARD, LOWRY, ASHLEY, and McHUGH changed their vote from "no" to "aye."

Mr. ROE changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. DANIELSON. Mr. Chairman, this afternoon I missed rollcall No. 410, the vote on the Marks amendment to the rationing bill which was under consideration.

Had I been present, I would have voted no.

☐ 1700

AMENDMENT OFFERED BY MR. YOUNG OF MISSOURI

Mr. YOUNG of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Missouri: Page 17, line 2, strike out the period and insert in lieu thereof the following: "," and by adding at the end thereof the following new sentence: "The President to the maximum extent practicable shall consult with the Governors of the various States (or the representatives of such Governors) during the development of the rationing contingency plan under this section.".

Mr. YOUNG of Missouri. Mr. Chairman, we all recognize the need for development of a standby gasoline rationing plan with all possible speed. Nevertheless, I want to insure that the plan fulfills the conditions set forth in section 2(a) of this act—and I quote—

> That the burden of reduced supplies of motor fuel be shared by all groups in a fair and equitable manner and that the economic and social impacts be minimized.

Therefore, I am offering the amendment to section 2(b) to require the President to consult with the Governors (or their representatives) in developing a rationing plan.

I believe that this amendment, with its requirement for consultation, will provide a valuable input from those who best understand the needs of the people of their region.

We are all aware of the differing conditions which exist within our States and regions. Some of our communities are served by excellent mass transit systems. In other areas, no alternatives to the automobile are available to provide for the absolute necessities of life. Many suburban residents face this situation. In rural areas, the farmer must have adequate fuel not only to run his tractors, but also to transport workers to and from the fields at harvest time and to transport his produce. I believe my amendment will help insure that any standby gasoline rationing plan will address such problems in a fair, equitable and workable manner.

We have allowed for extensive reliance upon State judgment in the development of plans to meet the conservation targets. We should offer the States an opportunity to advise the President in the formulation of the standby gas rationing plan as well.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Missouri. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman from Missouri has made this amendment available to the committee. I think it is desirable that the President should consult with the Governors of the various States during the development of the emergency rationing plan.

I think the amendment is helpful, and I am happy to accept it.

Mr. YOUNG of Missouri. I thank the gentleman.

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Missouri. I yield to the gentleman from Texas.

Mr. LOEFFLER. Mr. Chairman, we have no objection to the amendment, and support the gentleman's amendment.

Mr. YOUNG of Missouri. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. YOUNG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OTTINGER

Mr. OTTINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OTTINGER: Page 19, strike out lines 10 through 14.

Page 17, line 18, strike out "paragraphs 2 and 3" and insert in lieu thereof "paragraph 2".

Page 19, line 9, insert after the period close quotation marks and a period.

Mr. OTTINGER. Mr. Chairman, I very much fear that this Committee is going to live to regret the actions that were just taken on the Marks amendment to eliminate the 20-percent figure, or my efforts the other day to reduce that 20 percent to at least a more reasonable 15 percent. We are very likely to have a situation of a shortfall much less than 20 percent which will produce chaos in the country, and because of the actions taken the President is going to be disabled from acting under that kind of a situation. Everyone who voted against those two amendments is going to have to bear a responsibility for the inability of the President to act.

This is one last endeavor to try to get some sensible flexibility in the hands of the President to be able to submit a rationing plan to Congress in a worldwide shortage situation. The triggers for instituting rationing, in addition to those that have been enumerated in the last discussion on the amendment by my colleague. Mr. MARKS, provide that the President can trigger sending a rationing plan to Congress if he finds it is necessary to do so in order to meet our international obligations under the international energy agreements. Now, the committee, at the instance of the same people who do not want to see rationing at all, has put in a paragraph which I have just stricken, that says:

"(3) As used in paragraph (1), the term 'necessary to comply with obligations of the United States under the international energy program' refers to a necessity which is determined to have impacts comparable with those provided for under subparagraphs (A) and (B) of paragraph (2).".

In other words, the 20-percent shortfall requirement is made to apply to disable the President from meeting our international agreement. Members will be told that the President, under these international agreements, can institute rationing with just a 7-percent domestic shortfall, but that simply is not so. The President still has to meet all the requirements that are put forward in this act, that there will be a severe energy supply interruption that is not manageable under our existing energy emergency authority, that is expected to persist for a time sufficient to seriously threaten the adequacy of our domestic stocks, that it would have or can reasonably be expected to have a major adverse impact on national safety and the national economy. In order to meet our international agreements, however, in a worldwide shortfall—even though we do not have a 20-percent domestic shortfall or a likelihood of a 20-percent shortfall in this country—we may still have to have rationing in order to meet those international agreements.

I pray of the Members to reconsider on this question, because the President must have that kind of authority. He is still subject to a one-House veto if the Congress feels that it is not proper to institute rationing, or that the plan is not proper at that time. We can still turn it down, but to tie the hands of the President in his best judgment in order to meet our international obligations would be exceedingly unwise.

So, I hope the Committee will approve this amendment.

Mr. GRAMM. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, this now is the third time we have voted on this basic amendment. We voted on this amendment five times in committee, twice in the subcommittee, three times in the full committee. On our first vote on the House floor it was voted down by a vote of 329 to 93. In the last vote just taken, it was voted down by a vote of 356 to 63. I think the intent of this body is clear, we are willing to give the President standby rationing authority, but standby authority only—only to be used in circumstances of a real shortage.

We have heard a lot of talk here today about tying the hands of the President, but the people who are tying the hands of the President are the people who continue to offer these amendments which clearly are not acceptable to this House.

I suggest that we get on with the job at hand and complete the rationing section, complete the conservation section, and get this bill out of the House.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. OTTINGER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. AMBRO

Mr. AMBRO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. AMBRO: Page 17, strike out line 3 and all that follows down through line 2 on page 18 and insert in lieu thereof the following:

(c) Section 201(e) of such Act (42 U.S.C. 6361(e)) is amended to read as follows:

"(e)(1) The President may put a rationing contingency plan into effect if the President—

"(A) has transmitted a copy of such contingency plan to the Congress in accordance with section 551(b) and neither House of the Congress has disapproved (or both Houses have approved) such plan in accordance with the procedures specified in section 551; and

"(B) if the plan is not disapproved during the period provided for such disapproval (or if the plan is approved) under subparagraph (A), has found that putting such contingency plan into effect is required by a severe energy supply interruption or is necessary to comply with obligations of the United States under the international energy program, subject to paragraphs (2) and (3)." .

Page 18, line 11, strike out "equal to 20 percent or more" and insert in lieu thereof "equal to 10 percent of more".

□ 1710

Mr. DINGELL. I reserve a point of order, Mr. Chairman, against the amendment.

Mr. BROWN of Ohio. Mr. Chairman, I would like to reserve a point of order also.

Mr. AMBRO. Mr. Chairman, in keeping with my image of being a compromiser, it seems to me, and even though we have had 10 or 11 or 12 attempts to reduce the trigger, this amendment does a couple of things. What it does, in the first place, is restore in part the language of the Gilman amendment which brings a plan developed by the President back to this House. What it does, in the second place, is remove the requirement for a veto at the time of implementation by having the President find that we have an emergency where the figure is in excess of 10 percent shortfall of product and in effect certify to that emergency, not have to go to 20 percent, and then implement without congressional approval. In other words, it meets the needs of the review process which was contained in the Gilman amendment. It does away with hamstringing the President with respect to requiring the legislative veto at a catastrophic 20-percent shortfall of product, and it meets the checks and balances in the Constitution by providing us the ability to legislate and the President to execute the policy. It seems to me that the amendment is a method of wending its way between what happened earlier in the passage of the Wright amendment on the one hand and the doing away with the Gilman amendment on the other; it is a proper course of action and I urge its adoption.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Michigan (Mr. DINGELL) insist on his point of order?

Mr. DINGELL. I do, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, this is the Stockman amendment which was just previously rejected by the House. It provides for a total change from the Wright amendment back to the proposal that was put forward by the gentleman from Michigan (Mr. STOCKMAN) so that the second one-House veto would be dispensed with on the question of implementation of the plan, and so that there would then be a one-House veto on the question of the preparation of the plan by the President. Since the rules of the House do not allow the offering of the same amendment twice, I make the point of order that the amendment is not properly made and does not conform with the rules.

The CHAIRMAN. Does the gentleman from Ohio (Mr. BROWN) desire to be heard on the point of order?

Mr. BROWN of Ohio. Mr. Chairman, only to make a point that I made earlier in the day on another amendment, and that is that this amendment seeks another vote on precisely the language on which we have already voted and in some respects on the same issue on which we have already voted. I would submit that if it is the desire of the gentleman to reverse the position of the committee previously taken when it was meeting in the Committee of the Whole that this effort should be undertaken in the full House and have another vote on that same amendment. It is the same point, I believe, that the gentleman from Michigan (Mr. DINGELL) made.

The CHAIRMAN. Does the gentleman from New York (Mr. AMBRO) desire to be heard on the point of order?

Mr. AMBRO. I do, Mr. Chairman. In the first place, the language is quite different from that of the Stockman amendment. In the second place, it deals with a trigger change with which the Stockman amendment did not deal. In the third place, it seems to me that the eloquent argument used against the gentleman from Ohio (Mr. BROWN) by the majority leader (Mr. WRIGHT) with respect to his point of order should prevail as well now, and I would like, without burdening the House with that argument, to rest on that as well.

The CHAIRMAN (Mr. FASCELL). The Chair is prepared to rule.

For the reasons stated by the gentleman from New York (Mr. AMBRO), the Chair overrules the point of order.

Mr. GRAMM. Mr. Chairman, I rise in opposition to the amendment. Mr.

Chairman, this amendment requires no real debate. We have debated both major portions of the amendment, we have voted on those subjects, and the House has spoken clearly on them. The amendment seeks to lower the trigger from 20 to 10 percent. The House has voted down the reduction overwhelmingly at the level of 15 percent. It also seeks to put the restrictions of the Stockman amendment and the Gilman amendment back into the bill. That has also been voted down by this House. I, therefore, urge that we vote this amendment down.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman for his remarks. We should save the time of the House and reject the amendment, as we have earlier today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. AMBRO).

The amendment was rejected.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. KRAMER: Page 22, after line 24, insert the following new subsection:
>
> "(g) Section 203(f) of such Act (42 U.S.C. 6263(f)) is amended by striking out "shall expire on the same date as authority to issue and enforce rules and orders under the Emergency Petroleum Allocation Act of 1973." and insert in lieu thereof "shall cease to have effect after September 30, 1980.".

Mr. KRAMER. Mr. Chairman, this is one part of a two-part amendment which, if this is successful, will be offered later on in the bill to the energy conservation section. Simply put, what this amendment does is limit the President's authority under the rationing aspect of this particular bill to 1 year. As it presently reads, that authority expires in September of 1981. This would reduce that expiration date to September of 1980. We have already abdicated our authority for making laws in this body to the President under the bill as presently constituted with the votes that have been taken earlier this afternoon. Let us not compound the effect of those votes by extending this authority beyond a reasonable period of time.

If you believe, as I do, that the particular rationing authorities as granted by the bill for emergency conditions are extraordinary, go far beyond anything we have ever given to the President in peacetime, and go far beyond the EPCA contemplation of what the President's power would be, then certainly a reasonable approach would be to allow us to look at the end of 1 year and see what we have done, and whether or not conditions have changed and whether circumstances are different; so that perhaps we ought to take a second look and reemphasize those things that need to be emphasized and change those things that need to be changed.

The conditions of energy emergency vary. They vary substantially as to degree, duration, and impact. It is really folly for us to expect that today's conditions will be the same as those conditions facing us a year from now. Therefore, it is imperative that the Congress assure itself the opportunity to meet the conditions facing us next year with a legislative remedy appropriate to those conditions. This amendment does not preclude an extension of the rationing authority as contained in this bill. It would simply guarantee that before such an extension was granted, the Congress would exercise its responsibility to review the authority and its impact and the conditions existing at that time. On the basis of that information, the Congress would be in a better position to determine the appropriate action to take to meet current conditions. Just as we cannot predict what the situation will be 1 year from now, we should not anticipate congressional reaction, as this bill does in its present form.

□ 1720

I would hope that because of the extraordinary nature of the power that is vested in the President by this legislation that at least we will be sufficiently responsible to reclaim the authority and power we have abrogated and at least hold this to a 1-year rather than a 2-year period. I hope the Congress will see fit to terminate the President's authority unless we see fit to extend it after that 1-year period has expired.

Mr. Chairman, I yield back the balance of my time.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words and will speak in opposition to the amendment.

Mr. Chairman, my colleagues should know that the Emergency Petroleum Allocation Act expires on September 30, 1981. The legislation before us is the amendment to EPCA, the Energy Policy and Conservation Act. That act provides that the rationing authority shall expire when the EPCA expires.

Now, the amendment of the gentleman from Colorado (Mr. KRAMER) is an expression of his desire and I think it is a proper one, that this legislation should expire at an appropriate time and should be subject to oversight and review by the Congress. I concur in that belief.

Mr. Chairman, I do not concur in the particular expression we have before us. The amendment would end the authority of the President to ration gasoline on September 30, 1980. Under the law I have just cited the Energy Policy and Conservation Act, the authority would continue to September 30, 1981, and the bill before us is an amendment to that statute. The date of the Emergency Petroleum Conservation Act, the Energy Policy Conservation Act of 1973, and the expression of the language in this legislation before us all expire on the same date.

It is likely that the Department of Energy will take at least 6 months to have a new plan ready and then it would take probably longer to have it in the state of readiness. If we adopt the amendment before us the rationing authority would expire just when it is available to be used.

Under present law it would expire in 1981. I see no reason for us to have to reconsider this before that time and I think that orderly housekeeping for this body and good use of the time of the House and good use of the time of the administration would allow us to at least have a standby plan which would be available for a reasonable period of time and would not suffer the unreasonable constraints that would be imposed upon it by the amendment of my friend from Colorado.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Colorado.

Mr. KRAMER. I thank the gentleman for yielding.

Mr. Chairman, it seems to me that to use the EPCA standards which contemplated Congress having a preexisting knowledge and a preexisting approval of the terms of a plan that they have seen is an entirely different proposition when we are now faced with a plan, imposition and the terms of which we have not seen basically prior to the imposition and it seems to me that to use the EPCA standard and the EPCA duration of 1981, when we have a totally new ballgame, is most inappropriate.

We have an extraordinary situation.

Mr. DINGELL. Mr. Chairman, I thank the gentleman.

I would simply observe if the amendment of the gentleman is adopted it will leave us practically no time to have in place a program for emergency standby rationing of gasoline. Let me just read from the basic statute to which the legislation before us is an amendment.

> Notwithstanding section 531, all authority to carry out any rationing contingency plan shall expire on the same day as the authority to issue and enforce rules and orders under the Emergency Petroleum Allocation Act of 1973.

The Congress has already addressed the question of when the power to ration should expire and terminate. I have just quoted from the statute which the Congress passed at an earlier time which dictated the time at which the expiration should occur. I would think an understanding of the reasoning of that time and an understanding of the fact that the gentleman's amendment would leave virtually no time for the plan to stay in readiness or availability and the time for the commencement of oversight and other things would be so short as to be almost unworkable, would make it apparent to the House we should reject the amendment and I urge my colleagues to reject the amendment offered by the gentleman from Colorado for the reasons just stated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The question was taken; and on a division (demanded by Mr. KRAMER) there were—ayes 15, noes 26.

Mr. KRAMER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The gentleman from Colorado (Mr. KRAMER) demands a recorded vote and makes a point of order that a quorum is not present.

Evidently a quorum is not present.

Mr. KRAMER. Mr. Chairman, I withdraw my point of order of no quorum.

The CHAIRMAN. Does the gentleman withdraw his point of order of no quorum?

Mr. KRAMER. Yes, Mr. Chairman.

The CHAIRMAN. The Chair has already ruled that a quorum is not present, and we will have to proceed with the quorum call.

Mr. KRAMER. Mr. Chairman, I ask unanimous consent to withdraw my point of order.

The CHAIRMAN. The Chair will advise the gentleman from Colorado that is not in order.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 411]

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1740

The CHAIRMAN pro tempore. (Mr. BENNETT). Four hundred and two Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Colorado (Mr. KRAMER) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. The Chair will remind the Members that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 162, noes 250, not voting 22, as follows:

[Roll No. 412]

AYES—162

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Findley
Fish
Frenzel
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Hillis
Hinson
Holt
Hopkins
Horton
Hyde
Ichord
Jeffords
Jeffries
Johnson, Colo.
Jones, Okla.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McDade
McDonald
Madigan
Marriott
Martin
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Pashayan
Paul
Petri
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOES—250

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Butler
Byron
Carr
Cavanaugh
Chisholm
Clay
Coelho
Coleman
Conable
Corman
Cotter
D'Amours
Danielson
Daschle
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
English
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Gonzalez
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Leath, Tex.
Leland
Levitas
Lloyd
Long, La.
Lowry
Luken
Lundine
McCloskey
McCormack
McHugh
McKay
McKinney
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules

Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Mcorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Rodino
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Satterfield
Scheuer
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Solarz
Spellman
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Weaver
Weiss
White
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—22

Alexander
Bolling
Burton, John
Conyers
Davis, S.C.
Diggs
Edwards, Calif.
Flood
Forsythe
Lederer
Lehman
McEwen
Marlenee
Mazzoli
Mikva
Mitchell, Md.
Murphy, N.Y.
O'Brien
Rcsenthal
St Germain
Treen
Waxman

☐ 1750

The Clerk announced the following pairs:

On this vote:

Mr. O'Brien for, with Mr. Lederer against.

Mr. Marlenee for, with Mr. Mitchell of Maryland against.

Mr. HALL of Texas changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYLIE: Page 22 at the end of line 24 add the following new section:

BUILDING TEMPERATURE RESTRICTIONS

SEC. 3. Section 202 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Any plan established under subsection (a) may not provide for any measures that would regulate building temperatures unless such plan permits an exemption for any building affected by such restrictions which will achieve an equivalent reduction in energy consumption by other means.

"(2) Any plan approved before the date of the enactment of this subsection shall be deemed to provide for the exemption required under paragraph (2)."

Mr. DINGELL. Mr. Chairman, I reserve a point of order against the amendment.

Mr. WYLIE. Mr. Chairman, what my amendment would do would be to provide for a comparable savings plan as an alternative to the 78-degree summer thermostat setting and the 65-degree winter thermostat setting.

What my amendment would do would be to allow maximum flexibility to achieve the target of energy reduction by other means.

Under standby conservation plan No. 2, the 78-degree thermostat settings are provided for and the 65-degree thermostat settings are provided for. They are designed to achieve a reduction in the use of oil by 3 to 5 percent.

In Ohio, our electricity is produced from coal. So it does not matter whether we set our temperature at 78 degrees or 65 degrees or not. We are not conserving oil.

This amendment would provide for an equivalent reduction in energy which must be shown to be feasible as an alternative to the 78-degree reading in the summer and the 65-degree reading in the winter, by rules promulgated as a part of standby conservation plan No. 2.

Various business people in the city of Columbus have contacted me and have said that the 78-degree thermal reading does not provide the optimum work situations, that in the middle of the afternoon the air becomes stale and the people become sluggish and they are, therefore, not as productive as they should be.

What my amendment would do would be to allow a business to, say, set the thermostat at 76 degrees in the afternoon, to circulate the air a little bit, to clear out some of the stale air in these buildings with these huge thermal windows, and it would allow a higher temperature setting in the evening. As I say, this amendment would allow businesses the flexibility to adjust the temperatures in buildings during nonoccupancy hours to meet the standard as prescribed by standby conservation plan No. 2.

An alternative plan may even be easier to administer. Compliance could be documented by a review of the utility bills or by a simple reading of the meter. No thermostat inspectors would be required to comply with the law. So what my amendment would say would be that the business would have to comply with standby energy conservation plan No. 2 unless a plan would permit an exemption which would achieve an equivalent reduction in energy consumption by other means.

Restaurants are especially hard hit by the 78-degree thermostat reading. As a matter of fact, with the high humidity that we have had in Columbus—and I just called a little while ago, and it is about 98 percent—the restaurant business is going to be off tonight because a 78-degree temperature thermostat reading translates into a temperature of about 86 degree or 90 degrees, with customers coming into that restaurant.

All of us want to be patriotic and, besides, we want the cheapest energy of all, which is conservation; but I think that if businesses can be allowed this alternative method to standby conservation plan No. 2 in setting the thermostats at 78 degrees, then we ought to allow it.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I would be glad to yield to the distinguished gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman might also point out, I think—because he is absolutely right on this amendment and absolutely right on the issue that that restaurant is not going to get business tonight because it is too warm in there to be comfortable and to eat with your coat on—with any kind of a cooling facility for some of the foods, such as desserts, it may in fact be using more energy to lower that temperature in that showcase because the outside temperature of the room is 78 degrees. The same thing applies to supermarkets and a lot of other places. You could achieve that saving if you turned off, say, the Coke machines at night elsewhere in the building where the restaurant is when the restaurant is closed. The gentleman is quite right.

Mr. WYLIE. I thank the gentleman very much for his remarks, and the gentleman is absolutely right.

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. On the gentleman's proposed tradeoff, as I call it, would it be possible to turn off the TV lights and turn the air-conditioning back on here on the House floor?

Mr. WYLIE. I suppose we could adopt an alternative energy plan if we could achieve an equivalent reduction of energy consumption by other means, yes. That is a distinct possibility.

☐ 1800

The CHAIRMAN. Does the gentleman from Michigan (Mr. DINGELL) insist on his point of order?

Mr. DINGELL. Mr. Chairman, I do not.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment offered by the gentleman from Ohio is offered in good faith. I certainly have the highest respect and greatest regard for the gentleman from Ohio.

There are a number of problems with the amendment that the committee ought to be aware of. The first is that under the basic legislation under which the President has issued his orders regarding thermostats, the States have the ability to come forward with alternative plans which would save a commensurate amount of energy.

To the best of my knowledge, none of the States has, and on checking, the State which is so ably represented by the gentleman from Ohio (Mr. WYLIE), has not come forward with an alternative plan which would save a commensurate amount of energy.

Now, the committee has heard my colleagues raise questions about the number of thermostat inspectors who would gallivant about the land dealing with the questions of thermostat settings. If you want to see thermostat setters and thermostat inspectors and you want to see paperwork and redtape relating to thermostat settings, then my counsel would be to adopt the amendment offered by my good friend from Ohio.

The problem is that it requires on a business-by-business basis that we establish the amount of savings, how much would be comparable savings. It is impossible to know. It would then require the finding as to how much energy the business has actually saved. This is impossible, but it would require the diligent labors day on end by a goodly number of Federal thermostat inspectors to find out what the saving was, what the comparable savings could be.

There would be massive disputes over what was conservation and what were the effects of other conditions such as changed business conditions, weather conditions and so forth.

Now, while the amendment appears to be fair and appears to be desirable and while it appears to permit businesses to use alternative means to conserve the same amount, it would make the requirements of the basic legislation to which this is an amendment totally unworkable, and it would deluge this country with armies of folks who would go about inspecting thermostats and making calculations as to what would be comparable savings and then comparing that with the individual who owned the business as to what in effect were the savings.

I would agree with the gentleman, if he would withdraw the amendment, that we would have the committee go into it, and we would inquire into the questions as to whether or not there are or not alternative methods through which we could achieve a commensurate saving of energy, and that we could accomplish I think much of that which the able gentleman from Ohio (Mr. WYLIE) seeks to achieve. But I would point out that what will be achieved by the amendment offered by the gentleman from Ohio is massive expenditures of money, massive paperwork, enormous burdens on businessmen, no conservation, but vast controversy and difficulty.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. My respected chairman, because of his position, is so close to the Department of Energy and to the administration in these matters, I wonder if he could advise me and the rest of my colleagues just how long the Department of Energy has had these regulations out in pursuance of, I think it was energy action No. 3 that we passed by this Congress, that allowed those standards to be set?

Unless I am in error, those regulations have only been out for less than a month, plus we also have got receipts of compliance and all those other fun things that the Department of Energy sends to people to indicate that they are complying with that energy action, and they have not even been sent yet. Of course they were sent in the mail, so they may not be there until later this winter, but the point is that the States do not know what the regulations are until lately.

I do not think the State of Ohio or, from my knowledge, any other State in the Union has been able to come up with an alternate energy plan because the DOE has just finished up forming this plan based on energy action No. 3. Am I not correct?

Mr. DINGELL. We have a new Secretary of Energy. I am sure he is going to solve all of those problems. I urge, for that reason, we should reject the amendment.

I will try to go into the matter and see to it that we correct it, because there are complaints that are legitimately raisable about the situation. The gentleman from Ohio (Mr. WYLIE), has raised some proper concerns, but I would think that an amendment of this kind is really just burning down the barn to cook the bacon. I do not think that is a desirable way to legislate.

Mr. LOEFFLER. Mr. Chairman, I rise in support of the amendment.

First of all, the existing thermostat control regulations which are currently being implemented do not significantly or effectively conserve oil. Basically, electrical power is generated not only by oil, but also nuclear power, hydro power, and gas.

Roughly throughout the United States 6 percent of electrical generation comes from hydro, 13 percent from nuclear, 40 percent from coal and 40 percent from oil and gas.

The first three, nuclear, hydro, and coal, are all derived as a result of domestic energy production. As we analyze electrical generators use of oil, of the remaining 40 percent, 20 percent is produced in the United States and 20 percent from abroad.

In addition, certain regions such as New England do generate the majority of their electricty with oil. They may be able to conserve some oil in those regions, but the plan itself is so rigidly and ineffectively enforced throughout the United States that little or no energy savings result.

The Wylie amendment would allow percentage reduction plans which can save far more energy than the current existing temperature restriction plan.

Further, it would achieve conservation in a more workable fashion and also would assist the individual businesses throughout the United States in maintaining necessary work productivity from its employees.

I am pleased to join the gentleman in support of his amendment.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman very much for his support. I think the gentleman, in speaking in opposition to this amendment, made a point which I would like to reiterate. That is the fact that we had a Secretary of Energy who promulgated rules and regulations which are now being laid on the States. That Secretary of Energy is gone. We think we know who the new Secretary of Energy is, but I believe that this is an issue on which this House should speak.

People across the United States right now are upset by the 78-degree/65-degree thermostat settings.

As I said before, we all want to be patriotic and we want to conserve energy, because that is the cheapest energy of all. But if there is a different way to conserve energy which this amendment would provide through an alternate means, then I think we should adopt it.

The regulations of the Department of Energy at the present time do provide for an alternate means if a State adopts a plan.

What my amendment simply does is says that if a business adopts a plan which would provide for an alternate means and would conserve the same amount of energy, 3 to 5 percent or whatever is suggested, then that plan ought to be adopted. I think it is a reasonable approach to standby conservation plan No. 2, which I might say was passed on a voice vote after the last time when we voted on rationing.

I want my colleagues to know there are a lot of people in my district very unhappy about it. I am sure that is true in the gentleman's district.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for yielding.

I think there is one point that ought to be very well made in this whole debate. That is that the Wylie amendment attempts to restore incentives to save back to the private sector of this country, whereas, the arbitrary amendment, the setting of 78 degrees, destroys any incentive.

You can set 78 degrees in a warehouse, and you can set 78 degrees in a building which has been well insulated, that has put in thermopane windows and done everything to conserve energy. We are destroying incentive with what the President has done at 78 degrees.

The Wylie amendment is trying to restore that incentive. I urge my colleagues to adopt it. I think this point should be made because of the business community, because of the ingenuity of the American people in rising to an occasion; and we cannot take that away from them. We cannot take that incentive away. That is what we have done.

□ 1810

Mr. LOEFFLER. I certainly agree with the gentleman from South Carolina, and he makes another good point when he speaks with respect to the ingenuity of the American people. I believe we will conserve on our own and that it is most difficult to respond adequately to such inept mandatory-type thermostat control procedures.

I might also add that the thermostat settings differ for various buildings and a mere across-the-board implementation of that program from Washington just is not effective.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I will yield to the gentleman from Michigan.

Mr. PURSELL. I thank the gentleman for yielding and I would like to support the amendment.

I talked to a major hotel owner in my congressional district just this weekend and he would like to have that flexibility, but he is dependent on a major turnout for his lunch and for his evening dinners, and his air conditioning is very important to attracting customers from the private sector. So I think this is an excellent amendment and I think we should allow that flexibility in the American economy.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. MOORHEAD of California and by unanimous consent Mr. LOEFFLER was allowed to proceed for 2 additional minutes.)

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from California.

Mr. MOORHEAD of California. Mr. Chairman, I rise in support of this amendment. As this matter came up on the floor to be voted on and to be considered immediately following the turndown of the gas rationing plan, I stood in the well here waiting to be recognized. The bill was passed in confusion with no one having an opportunity to speak, no one having a chance to voice opposition to the plan. This certainly is not the way to pass legislation.

I think it is time that we looked at this very carefully because there are many businesses in my district that are losing their products because they cannot withstand the 78-degree temperature. I know there are people that are doing less work than they would be able to do otherwise and many industries would be able to save more fuel efficiently in other areas if they were allowed to have the temperature in their workingplaces kept at a reasonable level.

Seventy-eight degrees is far too high for the health of the American people. I ask for an "aye" vote on the amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. The gentleman from California mentioned 78 degrees is too high a temperature. I would ask my colleagues to wait until we get into this winter and 65 degrees is as high as we can set the thermostats in the houses where there are old people and there are severe problems from the health standpoint of old people in that setting.

I might say to the gentleman from Texas that I rode on an airplane not very long ago with a young man who was part of a new business firm made up of a number of people from IBM, I think it was, about five of them, and they had developed a system whereby they can shut off all of the motor systems in a building at night when that building is unoccupied, and by keeping the building, in effect, totally turned off at night when it is not necessary to have things running, they saved much more than could be saved by raising the thermostat temperature on the air conditioning from 72 degree to 78 degrees. There are a lot of imaginative ways that we can do this that are less destructive than the one presented here.

Mr. MOFFETT. Mr. Chairman, I move to strike the last word and rise to speak against the amendment.

It should be noted that there are already exemptions to the thermostat controls. It is, of course, not a perfect regulation.

Our friends on the Republican side of the aisle, in most instances, are not for mandatory conservation measures. If they had had their way, we would not have had the automobile miles-per-gallon standards which are saving hundreds of thousands of barrels of oil and will save millions of barrels of oil in the future. If they had had their way, we would not have had appliance efficiency standards. If they had had their way, there would be no mandatory conservation whatsoever.

I would suggest to my colleagues that if they adopt this amendment they are putting even more uncertainty into the marketplace. Our Republican colleagues are fond of telling us that we should not have uncertainty in the marketplace; yet that is precisely what we are going to have, if we adopt this amendment. The small businessman, for example, will be in the position of being quite uncertain about whether or not he is in compliance because he cannot calculate what a comparable savings means.

I would urge my colleagues, particularly those who have voted in favor of mandatory conservation in the past, that it is in fact working, though it is quite unheralded.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to point out to my friend and respected colleague on the Energy and Power Subcommittee that I realize why he is so interested in appliance efficiency standards. But we do not have those standards yet. One of the reasons we objected to those standards is that it is going to take so long for those standards to be put into place the way the Federal Government was trying to do it, and we were having it done on a voluntary basis anyway. Once we got the Federal Government involved in the process, it was slowed up considerably, so we do not have appliance efficiency standards yet and have not saved anything on appliances in terms of energy.

I might say also to the gentleman from Connecticut if we had adopted some of the ideas that were suggested on this side of the aisle a couple of years ago we would not have the shortage of fuel we have in the country now, because we had a little bit more domestic production. We have lost something like 23 percent of our oil in this country since 1973, thanks to the systems that have been set up by this Congress.

The issue here is not whether we ought to be saving the fuel. Nobody argues that. We are all for trying to conserve and avoid the importation of foreign oil. The point is whether or not we are doing it in a sensible way, whether or not we are not mandating by Presidential authority or by act of this Congress, whichever, the specific method that we want to do something, and in that process not really accomplishing very much.

I will mention again, because I think it is important to mention, that where we have a building that has the necessity to have certain parts of that building cool, like in a supermarket where we have the cold frozen-food sections, but we set the temperature for the ambient air in the supermarket at 78 degrees, we may very well be chewing up more Btu's of energy to keep those frozen supermarket lockers down to that low temperature because the outside temperature is 78 degrees.

That is just the oldest problem in the world with government, and that is that we try to apply the same standard to everything all over the country and say "You shall do it or else." My guess is there are an awful lot of buildings that ought to be at 78 degrees, that inside of a few months will not be at 78 degrees, they will be down to 74, and 76, and maybe even 72 or 70. The same thing goes when we get to the 65-degree temperature in the winter, because people just are not going to do it as a matter of mandating that particular temperature setting. They might respect a little more if we mandated the savings goal, and that is precisely what we ought to be doing.

The gentleman from Ohio has a very logical amendment, and that is save the same amount of energy by trying to accomplish it in a way that is the best for that particular business or for that particular area or whatever it may be. It seems to me that it is essential good sense that the gentleman speaks to us on this amendment. I see no reason for us not to accept the goal of saving the energy as opposed to the goal of everybody having a 78-degree thermostat setting. I just have to say to the gentleman that it is a little bit like the prohibition amendment, it may be a wonderful goal, but I wonder how many people are actually going to welcome the government inspector to come in and look at their thermostat and see if it is at 78 degrees. My guess is there will not be very many government inspectors that will ever see a thermostat.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the last word and I rise in support of the Wylie amendment.

I would like to respond to my colleague from Connecticut. The gentleman is absolutely correct, the Standby Conservation Act No. 2 is clearly not a perfect regulation. As a matter of fact, it is a very defective regulation and my colleague, Mr. WYLIE, is merely trying to correct one element of that, especially as we approach, in the not too distant future, winter. If there is a better way to provide the regulated temperature and that will conserve energy, then I believe this amendment in place is a proper one. After all, we are told that this act before us is to save, to conserve energy.

The amendment of my colleague from Ohio, Mr. WYLIE, is very carefully drafted to do just that and to allow the State to have the basic responsibility to provide compliance for this act, primarily through building inspectors and otherwise, I am not saying they are the only ones, and I realize that there are plenty of people over at the Department of Energy running around, I understand that. I see my colleague from Michigan standing up quivering because I have eliminated or have not talked about all of those wonderful inspectors over at DOE.

☐ 1820

In any regard, my colleague from Ohio has very carefully drafted this amendment to comply with this law that is before us, and that is to encourage and provide incentive for conserving energy in a proper way and to overcome the substantial defects of the great act we passed the other day by voice vote.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding. The gentleman from Connecticut (Mr. MOFFETT) a little while ago said that compliance would be difficult under my amendment. I submit that compliance with standby energy conservation plan No. 2 with my amendment would be much easier because compliance could be documented through utility bills and through monthly reading of the meters rather than through inspection of thermostats to see if they are on 78 degrees at a particular time.

Also, my amendment would allow the maximum flexibility to achieve conservation through the use of other energy sources other than oil. As I said, in Ohio our electricity is produced from coal. Almost no electricity is produced from oil. Therefore, a 78-degree temperature is not doing what standby conservation plan No. 2 is designed to do in the first place.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague from Michigan.

Mr. STOCKMAN. Mr. Chairman, I want to associate myself with the gentleman's remarks. I think the point has not been crystallized by the House that as the rules stand today, they are actually anticonservation. They apply to about 5 million commercial buildings in this country. And what do we say? The 78-degree rule, what does that say to the owner of the building?

It says,

> No matter how much you spend for insulation; no matter how much you spend for a new, more efficient air conditioning system; no matter how much you spend to rip out the old heating system and put in a new heat pump system, which is far more efficient; no matter how much you spend to replace a roof that leaks; no matter how much you spend on any of the structural conservation devices that can help energy consumption reduction over the remaining life to that building, it will do you absolutely no good because the ambient temperature inside still has to be 78 degrees.

Here just last fall we passed a bill to give a conservation tax credit, to encourage business to do just these things. Now, we have an inflexible, rigid rule put in place that is discouraging businesses from responding to that tax credit, from responding to the price factors of the marketplace. It will encourage them for the duration of the life of this program to sit on their hands and not make any conversions to conserve energy in the long run.

So, I am suggesting that this amendment is a very much needed modification of the program. It will not result in any loss of energy savings, but it will permit the retrofit process to go forward so that when this program ends in a year—and that is all the authority they have—we will have buildings that are more efficient and will continue to reap the benefits of those gains for years into the future.

Mr. ROUSSELOT. Mr. Chairman, my colleague from Michigan makes eminent good sense, and I hope that will prevail in support of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WYLIE).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LOEFFLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 267, noes 152, not voting 15, as follows:

[Roll No. 413]

AYES—267

Abdnor
Addabbo
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bevill
Boggs
Boner
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dodd
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Flippo
Florio
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Horton
Howard
Hubbard
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lujan
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Marriott
Martin
Mathis
Mattox
Mavroules
Michel
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nichols
Nowak
O'Brien
Oakar
Pashayan
Paul
Pease
Perkins
Petri
Pickle
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Udall
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

NOES—152

Akaka
Albosta
Alexander
Ambro
Annunzio
Anthony
Ashley
Baldus
Barnes
Bedell
Beilenson
Bethune
Biaggi
Bingham
Blanchard
Boland
Bonior
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Carr
Cavanaugh
Chisholm
Coelho
Collins, Ill.
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Fascell
Fazio
Ferraro
Fisher
Fithian
Foley
Ford, Mich.
Ford, Tenn.
Garcia
Gephardt
Giaimo
Gibbons
Gore
Gray
Gudger
Hall, Ohio
Hawkins
Hefner
Heftel
Hollenbeck
Holtzman
Huckaby
Hughes
Hutto
Ireland
Johnson, Calif.
Kastenmeier
Kildee
Kogovsek
Kostmayer
Leach, La.
Lehman
Leland
Long, Md.
Lowry
Luken
McHugh
Maguire
Markey
Marks
Matsui
Mica
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelson
Nolan
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pepper
Peyser
Preyer
Price
Rangel
Ratchford
Reuss
Richmond
Rodino
Rose
Rosenthal
Roybal
Santini
Scheuer
Seiberling
Shannon
Sharp
Skelton
Solarz
St Germain
Stack
Stark
Stewart
Stokes
Studds
Swift
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Waxman
Weaver
Weiss
Whitley
Wilson, C. H.
Wirth
Wright
Yates
Young, Mo.

NOT VOTING—15

Anderson, Ill.
Bolling
Clay
Conyers
Diggs
Flood
Forsythe
Lederer
Lewis
Madigan
Marlenee
Mazzoli
Myers, Ind.
Treen
Williams, Ohio

☐ 1840

The Clerk announced the following pairs:

On this vote:

Mr. Lederer for, with Mr. Flood against.

Mr. LEVITAS and Mr. WYATT changed their vote from "no" to "aye."

Messrs. FORD of Michigan, BETHUNE, and RODINO changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to my good friend, the gentleman from New York (Mr. Biaggi), for purposes of colloquy.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I had intended to introduce an important amendment to S. 1030. This amendment sought to remedy what is, I am sure, an unintended ambiguity in this legislation—namely permitting those states which have instituted energy savings through conservation to be rewarded by sufficient allocation of gasoline if a rationing plan were to be imposed.

This legislation is less objectionable on this point than its predecessor, which I opposed and was defeated on May 10. There the definition of "need" was based solely on so-called historical use—or consumption. Nothing was said about allocation for states which have successfully reduced gasoline consumption conservation measures.

In S. 1030, the issue is only slightly better. The legislation leaves the term "need" open for interpretation by the President when he determines a plan. It was my intention in this amendment to insure that savings achieved through conservation measures by states be used as a criteria for allocation of gasoline under rationing. I have received assurances that the matter would be handled in due time. However, I feel it is imperative to reflect the congressional intent on this issue as clearly as possible at this time.

Mr. Chairman, I have noted that the primary criteria used to determine gasoline allocations under this bill is the "most recent data available." Certainly, I recognize that this emphasis is necessary to protect those States with high growth. In no way would this amendment seek to change this emphasis or take gasoline away from those States.

Rather, my amendment would only have sought to insure that those States which can prove energy conservation savings, will not be penalized. In other words, my amendment only sought to insure equity in formulating a fair gasoline allocation plan.

While I agree with the committee report that it is difficult for some States to determine their energy conservation savings, I have found that for many States, including New York, this is not the case.

The State of New York has informed me that pursuant to State energy conservation plans mandated by the Energy Conservation Act of 1975, New York's transportation energy savings alone, will total 31.23 trillion Btu's or the equivalent of 5.5 million barrels of oil a year by the end of 1980.

These figures are based on careful estimates of the effectiveness of New York's five major transportation energy savings programs, including: right turn on red (1.1 trillion Btu's saved); car pooling (.03 trillion Btu's saved); 55 miles per hour speed limit (16.6 trillion Btu's saved); local transportation systems management (10.2 trillion Btu's saved); and general outreach, which includes such things as keeping tires inflated, and keeping cars tuned (3.3 trillion Btu's saved).

I must emphasize that this amendment places the burden upon the States to show that it is practical to calculate conservation savings. If a State is unable to substantiate their energy savings with solid evidence, the President need not take such factors into account when determining a State's gasoline allocation.

Further, this amendment limits "the accounted" energy reductions to those achieved under a State conservation plan. The amendment does not attempt to take into account energy reductions attributable to demographics or business exodus. It is aimed only at measuring the effectiveness of a State's energy efficient efforts.

It is time that we recognized that conservation is an essential ingredient to any long- or short-term energy policy. It seems contradictory to talk about gas rationing on the one hand and consumption on the other. It seems even less logical for any rationing plan to reward those States using the most. Those who achieve savings through conservation should have the opportunity to compete fairly in this process. Otherwise, what incentive is there to conserve? On the basis of a previous discussion with the Chairman, Dr. Dingell, I will not offer my amendment but will engage in colloquy in order to obtain my objective an assurance that States that conserve energy are not penalized for doing same.

Mr. Chairman, in my home State of New York, significant savings in energy use have been achieved through conservation. Yet I am concerned that this might penalize my State in the distribution of a shortage under rationing. I would ask the chairman if my concerns are real.

Mr. DINGELL. I appreciate the concern of my distinguished colleague from New York. His State and others have taken steps to encourage conservation and have achieved savings.

When this committee drafted the amendment, we considered that problem and the problem of growth. We made it clear that end-users' rights shall be distributed on a basis that results in degree of shortfall involved being shared equally among the States, considering the most recent data available.

This is noted in the committee's report on page 22. Reflecting the use of such data should avoid the concerns expressed by my colleague. That data will reflect conservation, as well as growth.

Mr. BIAGGI. Would the most recent data available measure both consumption and savings achieved by conservation, which would result in lower consumption?

Mr. DINGELL. The answer is yes. It is not the intention of the committee that any State be penalized under the plan for its efforts in reducing energy demand.

Mr. BIAGGI. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read section 3.

The Clerk read as follows:

AMENDMENT TO NATIONAL ENERGY CONSERVATION POLICY ACT

Sec. 3. Title VI of the National Energy Conservation Policy Act is amended by redesignating parts 3, 4, 5, and 6 as parts 4, 5 6, and 7, respectively, by redesignating section 641 as section 651, and by inserting after part 2 the following new part:

"Part 3—Emergency Energy Conservation

"Subpart A—General Provisions

"Sec. 631. Findings and Purposes.

"(a) Findings.—The Congress finds that—

"(1) serious disruptions exist in the gasoline and diesel oil markets in various regions of the United States;

"(2) it is likely that such disruptions may worsen and spread to other regions of the United States;

"(3) interstate commerce is significantly affected by those market disruptions;

"(4) an urgent need exists for the conservation of gasoline and diesel oil;

"(5) emergency measures are required to respond to that need and to cope with the market disruptions; and

"(6) up-to-date information concerning the supply and demand of gasoline and diesel oil, and other related data, is not available to the President, the Congress, or the public.

"(b) Purposes.—The purposes of this part are to—

"(1) conserve gasoline and diesel oil and other energy sources which may be in short supply;

"(2) provide a means for States to establish emergency conservation measures with respect to gasoline and diesel oil and other energy sources which may be in short supply;

"(3) establish mechanisms to alleviate disruptions in gasoline and diesel oil markets; and

"(4) obtain data concerning such fuels.

"Sec. 632. Definitions.

"For purposes of this part—

"(1) The term 'severe energy supply interruption', when used with respect to motor fuel or any other energy source, means a national energy supply shortage of such energy sources which the President determines—

"(A) is, or is likely to be, of significant scope and duration;

"(B) may cause major adverse impact on national security or the national economy; and

"(C) results, or is likely to result, from an interruption in the energy supplies of the United States, including but not limited to, supplies of imported petroleum products, or from sabotage or an act of God.

"(2) The term 'international energy program' has the meaning given that term in section 3(7) of the Energy Policy and Conservation Act (42 U.S.C. 6202).

"(3) The term 'automobile' has the meaning given it in section 501(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(1)), as in effect on the date of the enactment of this part; except that the term 'automobile' includes any multipurpose passenger vehicle, within the meaning of that term under section 2(2) of that Act (15 U.S.C. 1901(2)).

"(4) The term 'motor fuel' means gasoline and diesel oil. The Secretary may, by rule, include any other liquid fuel or any gaseous fuel within the meaning of the term 'motor fuel' if the Secretary determines that such fuel is used in significant quantities as a fuel for vehicles and that such inclusion is consistent with the need of the Nation to conserve gasoline and diesel oil.

"(5) The term 'emergency services' means Federal, State, and local law enforcement, firefighting, snow removal, sanitation services, and emergency medical services. The Secretary may, by rule, include within the meaning of the term 'emergency services' any other category of public service if the Secretary determines that such category to be essential and that such inclusion is consistent with the need of the Nation to conserve gasoline and diesel oil.

"(6) The term 'person' includes (A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture or joint stock company and (C) the government or any agency of the United States or any State or political subdivision thereof.

"(7) The term 'operate,' when used with respect to any automobile, means the driving of that automobile on any public street, road, or highway.

"(8) The term 'vehicle' means any vehicle propelled by motor fuel and manufactured primarily for use on public streets, roads, and highways.

"(9) The term 'automobile capable of off-highway operation' has the meaning given it in section 501(3) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(3)), as in effect on the date of the enactment of this part.

"(10) The term 'rental automobile' means any automobile rented or leased in the regular course of business for periods of 14 days or less.

"(11) The term 'Secretary' means the Secretary of Energy.

"(12) The term 'Governor' means the chief executive officer of a State.

"(13) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

"(14) The term 'armed forces' has the meaning given it in section 101(4) of title 10, United States Code.

"Subpart B—Minimum Automobile Fuel Purchases

"Sec. 633. Minimum Automobile Fuel Purchases.

"(a) General Rule.—If the provisions of this subsection are made applicable under subsection (c), no person shall purchase motor fuel from a motor fuel retailer in any transaction for use in any automobile or other vehicle unless—

"(1) the price for the quantity purchased and placed into the fuel tank of that vehicle equals or exceeds $5.00; or

"(2) in any case in which the amount paid for the quantity of motor fuel necessary to fill the fuel tank of that vehicle to capacity is less than $5.00, such person pays to the retailer an additional amount so that the total amount paid in that transaction equals $5.00.

Any person selling motor fuel in transactions to which the provisions of this subsection apply shall display at the point of sale notice of such provisions in accordance with regulations prescribed by the Secretary.

"(b) $7.00 To Be Applicable in the Case of 8-Cylinder Vehicles.—In applying subsection (a) in the case of any vehicle with an engine having 8 cylinders (or more), '$7.00' shall be substituted for '$5.00'.

"(c) Applicability.—(1) Unless applicable pursuant to paragraph (2), the requirements of subsection (a) shall apply in any State only if—

"(A) the Governor of that State submits a request to the Secretary to have such requirements applicable in that State; and

"(B) the attorney general of that State has found that (i) absent a delegation of authority under a Federal law, the Governor lacks the authority under the laws of the State to invoke comparable requirements and (ii) under applicable State law, the Governor and other appropriate State officers and employees are not prevented from administering and enforcing such requirements under a delegation of authority pursuant to Federal law.

Subject to pragraph (2), such provisions shall cease to apply in any State if the Governor of the State withdraws any request under subparagraph (A).

"(2) The requirements of subsection (a) shall apply in every State if there is in effect a finding by the President that nationwide implementation of such requirements would be appropriated and consistent with the purposes of this part.

"(3) Such requirements shall take effect in any State beginning on the 5th day after the Secretary or the President (as the case may be) publishes notice in the Federal Register of the applicability of the requirements to the State pursuant to paragraph (1) or (2).

"(4) Notwithstanding any other provision of law, the authority vested in the President under this subsection may not be delegated.

"(d) Exemptions.—The requirements of subsection (a) shall not apply to any motorcycle or motorpowered bicycle, or to any comparable vehicle as may be determined by the Secretary by regulation.

"(e) Adjustment of Minimum Levels.—The Secretary may increase the $5.00 and $7.00 amounts specified in subsections (a) and (b) if the Secretary considers it appropriate. Adjustments under this subsection shall be only in even dollar amounts.

"(f) Civil Penalties.—(1) Whoever violates the requirements of subsection (a) shall be subject to a civil penalty of not to exceed $100 for each violation.

"(2) Any penalty under paragraph (1) may be assessed by the court in any action brought in any appropriate United States district court or any other court of competent jurisdiction. Except to the extent provided in section 640(c), any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

"(g) State Authority To Administer Requirement.—The administration and enforcement of this section shall be in accordance with section 640.

"(h) Coordination With Other Law.—The charging and collecting of amounts described in subsection (a)(2) under the requirements of subsection (a), or similar amounts collected under comparable requirements under any State law, shall not be considered a violation of—

"(1) the Emergency Petroleum Allocation Act of 1973 or any regulation thereunder; or

"(2) any Federal or State law requiring the labeling or disclosure of the maximum price per gallon of any fuel.

"Subpart C—Emergency Energy Conservation Program

"Sec. 634. National and State Emergency Conservation Targets

"(a) Determination and Publication of Targets.—(1) As soon as practicable after the date of the enactment of this part, the President shall establish monthly emergency motor fuel conservation targets for the Nation generally and for each State.

"(2) With respect to any energy source for which the President determines a severe energy supply interruption exists or is imminent or that actions to restrain domestic energy demand are required in order to fulfill the obligations of the United States under the international energy program, the President may establish monthly emergency conservation targets for the Nation generally and for each State. The President shall transmit to the Congress and make public the information and other data on which any determination under this paragraph is based.

"(3)(A) Each such State conservation target for motor fuel or other energy source shall be equal to (i) the State seasonally adjusted base period consumption reduced by (ii) a uniform national percentage conservation goal.

"(B) For the purposes of this subsection, the term 'State seasonally adjusted base period consumption' means, for any month, the product of the following factors, as determined by the President:

"(i) the consumption of the energy source for which a target is established during the corresponding month in the 12-month period prior to the first month for which the target is established; and

"(ii) a growth adjustment factor, which shall be determined on the basis of the change in the use in that State of such energy source during the 36-month period prior to the first month for which the target is established.

"(C) In establishing national percentage conservation goals under this subsection, the President shall take into consideration for the energy source involved the past and projected supply and demand, international commitments, and such other factors as the President considers appropriate.

"(4) The President shall notify the Governor of each State of each target established under this subsection, and shall publish in the Federal Register, the targets, the base period and other data on which the targets are based, and the factors considered under paragraph (3).

"(5)(A) In connection with the establishment of any national conservation target under this subsection, the President shall establish a separate emergency conservation target applicable to Federal installations and activities.

"(B) Before any executive agency adopts any rule or policy of general applicability, such agency shall make a finding that such rule or policy is consistent with conservation targets established under this section. Such finding shall not be reviewable.

"(6) From time to time, the President shall review and, consistent with paragraph (3), modify to the extent the President considers appropriate the National and State energy conservation targets established under this subsection.

"(b) Annual Review and Finding Required for Targets To Remain in Effect.—(1) Before the end of the 12th month following the establishment of any conservation target under this section, and annually thereafter, the President shall determine, for the energy source for which that target was established, whether a severe energy supply interruption exists or is imminent at that time or that actions to restrain domestic energy demand are required in order to fulfill the obligations of the United States under the international energy program. The President shall transmit to the Congress and make public the information and other data on which any determination under this subsection is based.

"(2) If the President determines such a energy supply interruption does not exist or such actions are not required, the conservation targets established under this section shall cease to be effective.

"(c) Determination and Publication of Actual Consumption Nationally and State-by-State.—Each month the Secretary shall determine and publish in the Federal Register (1) the level of consumption for the preceding month, nationally and for each State, of motor fuel and of any other energy source for which a target is in effect under subsection (a), and (2) whether the targets under subsection (a) have been substantially met or are likely to be met.

"(d) Presidential Authority Not To Be

DELEGATED.—Notwithstanding any other provision of law, the authority vested in the President under this section may not be delegated.

"SEC. 635. STATE EMERGENCY CONSERVATION ACTIONS.

"(a) STATE EMERGENCY CONSERVATION PLAN.—(1) Not later than 45 days after the date of the publication of any energy conservation target under section 634(a), the Governor of each State shall submit to the Secretary a State emergency conservation plan designed to meet or exceed the emergency conservation target or targets in effect for that State under section 634(a).

"(2) The Secretary may, for good cause shown, extend to a specific date the period for the submission of any State's plan under paragraph (1) if the Secretary publishes in the Federal Register notice of that extension together with the reasons therefor.

"(3) At any time, the Governor may, with the approval of the Secretary, amend a plan established under this subsection.

"(b) CONSERVATION MEASURES UNDER STATE PLANS.—(1) Each State emergency conservation plan under this section shall provide for emergency reduction in the public and private use of motor fuel or other energy source involved for which an emergency conservation target or targets are in effect under section 634(a). Such plan may provide for reduced use of that energy source through voluntary programs or through the application of one or more of the following measures described in such plan:

"(A) measures which are authorized under the laws of that State and which will be administered and enforced by officers and employees of the State (or political subdivisions of the State) pursuant to the laws of such State (or political subdivisions); and

"(B) measures—

"(i) which the Governor requests the Secretary to have implemented and enforced in accordance with subsection (d); and

(ii) which the attorney general of that State has found that (I) absent a delegation of authority under a Federal law, the Governor lacks the authority under the laws of the State to invoke, and (II) under applicable State law, the Governor and other appropriate State officers and employees are not prevented from administering and enforcing under a delegation of authority pursuant to Federal law.

"(2) In the preparation of such a plan (and any amendment to the plan) the Governor shall, to the maximum extent practicable, provide for consultation with representatives of affected businesses and local governments and provide an opportunity for public comment. In connection with the implementation of any plan for motor fuel, the Governor shall consult with affected businesses and business organizations to facilitate the creation of voluntary lawful arrangements for the staggering of the business hours maintained by motor fuel retailers in order to assure the availability of motor fuel to all segments of the public.

"(3) Each such plan shall contain such information as the Secretary may reasonably require.

"(c) APPROVAL OF STATE PLANS.—(1) As soon as practicable after the date of the receipt of any State plan, but in no event later than 30 days after such date, the Secretary shall review such plan and shall approve it unless the Secretary finds—

"(A) that, taken as a whole, the plan is not likely to achieve the emergency conservation target or targets established for that State under section 634(a) for the motor fuel or other energy source involved,

"(B) that, taken as a whole, the plan is likely to impose an unreasonably disproportionate share of the burden of restrictions of energy use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof,

"(C) that the requirements of this section regarding the plan have not been met, or

"(D) that a measure described in subsection (b)(1) is—

"(i) inconsistent with any otherwise applicable Federal law (including any rule or regulation under such law),

"(ii) an undue burden on interstate commerce, or

"(iii) a tax, tariff, or user fee not authorized by State law.

"(2) Any measure contained in a State plan shall become effective in that State on the date the Secretary approves the plan under this subsection or such later date as may be prescribed in, or pursuant to, the plan.

"(d) STATE ADMINISTRATION AND ENFORCEMENT.—(1) The authority to administer and enforce any measure described in subsection (b)(1)(B) which is in a State plan approved under this section is hereby delegated to the Governor of the State and the other State and local officers and employees designated by the Governor. Such authority includes the authority to institute actions on behalf of the United States for the imposition and collection of civil penalties under subsection (e).

"(2) All delegation of authority under paragraph (1) with respect to any State shall be considered revoked effective upon a determination by the President that such delegation should be revoked, but only to the extent of that determination.

"(e) CIVIL PENALTY.—(1) Whoever violates the requirements of any measure described in subsection (b)(1)(B) which is in a State plan approved under this section shall be subject to a civil penalty of not to exceed $100 for each violation.

"(2) Any penalty under paragraph (2) may be assessed by the court in any action brought in any appropriate United States district court or any other court of competent jurisdiction. Except to the extent provided in section 640(c), any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

"(f) REPORTS.—The Governor of each State shall submit to the Secretary, at such time as the Secretary shall prescribe, reports and information with respect to activities under its plan, as well as other information regarding supply, demand, and conservation within that State with regard to motor fuel and other energy sources for which a target is in effect under section 634.

"(g) FAILURE TO SUBMIT PLAN.—Notwithstanding any other provision of law, the Secretary may prohibit the obligation or expenditure of funds or other assistance under part D of title III of the Energy Policy and Conservation Act for any State if the Secretary has found that the Governor of the State has not submitted a plan complying with the requirements of this section.

"SEC. 636. FEDERAL EMERGENCY CONSERVATION ACTIONS.

"(a) IMPLEMENTATION WHERE STATE CONSERVATION ACTIONS INADEQUATE.—At any time after—

"(1) the 90th day after a State plan is approved under section 635, or

"(2) the 180th day after the date of the publication of the applicable energy conservation target, if such a State plan has not filed and approved before such day,

the President shall make all or any portion of the standby Federal plan described in section 637 effective in that State for such periods as the President determines appropriate, if—

"(A) the Secretary has determined under section 634(c) that any conservation target or targets in effect under section 634 for that State have not been substantially met and are likely to continue not to be met,

"(B) the President has affirmed that determination on the basis of the information published under section 634(c) and such other data and factors as the President considers appropriate, and

"(C) the President determines that for the 3-month period beginning after such determination a severe energy supply interruption exists that is likely to be equal to or greater than a 10 percent reduction in the total available supply of motor fuel or other petroleum products as compared to a prior corresponding 3-month period that the President determines to be appropriate.

"(b) STATE AUTHORITY TO ADMINISTER PLAN.—At the request of the Governor of any State, the President may provide that the administration and enforcement of all or a portion of the standby Federal plan made effective in that State under subsection (a) be in accordance with section 640.

"(c) PRESIDENTIAL AUTHORITY NOT TO BE DELEGATED.—Notwithstanding any other provision of law (other than subsection (b)), the authority vested in the President under this section may not be delegated.

"SEC. 637. STANDBY FEDERAL CONSERVATION PLAN.

"(a) ESTABLISHMENT OF STANDBY CONSERVATION PLAN.—Within 90 days after the date of the enactment of this part, the Secretary, in accordance with section 501 of the Department of Energy Organization Act (42 U.S.C. 7191), shall establish a standby Federal emergency conservation plan. The Secretary may amend such plan at any time.

"(b) REQUIREMENTS OF PLAN.—The plan established under subsection (a) shall—

"(1) be designed so that the plan, if implemented, would be likely to achieve the emergency conservation target or targets in effect under section 634 for which it would be implemented,

"(2) be designed so as not to impose an unreasonably disproportionate share of the burden of restrictions of energy use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof, and

"(3) not contain any measure which the Secretary finds—

"(A) is inconsistent with any otherwise applicable Federal law (including any rule or regulation under such law),

"(B) is an undue burden on interstate commerce,

"(C) is a tax, tariff, or user fee, or

"(D) is a program for the assignment of rights for end-user purchases of gasoline or diesel fuel, as described in section 203(a)(1)(A) and (B).

"(c) PLAN MAY INCLUDE SECTION 638 STICKER SYSTEM.—The plan established under subsection (a) may include a standby automobile sticker system described in section 638.

"(d) PLAN MAY NOT AUTHORIZE WEEKEND CLOSINGS OF RETAIL GASOLINE STATIONS.—(1) Except as provided in paragraph (2), the plan established under subsection (a) may not provide for the restriction of hours of sale of motor fuel at retail at any time between Friday noon and Sunday midnight.

"(2) Paragraph (1) shall not preclude the restriction on such hours of sale if that restriction occurs in connection with a program for restricting hours of sale of motor fuel each day of the week on a rotating basis.

"(e) CIVIL PENALTIES.—(1) Whoever violates the requirements of such a plan, once implemented under section 636, shall be subject to a civil penalty of not to exceed $100 for each violation.

"(2) In determining whether to impose a penalty under paragraph (1), or the amount of the penalty, the court shall take into consideration whether the violation was unavoidable by reason of health, safety, or other factors creating a justificable necessity.

"(3) Any penalty under paragraph (1) may be assessed by the court in any action brought in any appropriate United States district court or any other court of competent jurisdiction. Except to the extent provided under section 640(c), any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

"SEC. 638. STANDBY AUTOMOBILE STICKER SYSTEM.

"(a) EMERGENCY CONSERVATION STICKER SYSTEM.—A standby automobile sticker system described in this section is one designed to conserve motor fuel by restricting automobile usage through the use of a system of stickers required to be displayed on automobiles.

"(b) REQUIREMENTS UNDER SYSTEM.—Such a system, if made effective, would provide that—

"(1) no person may operate any automobile unless there is attached to that automobile (in such manner and location as determined under regulations prescribed by the Secretary) a sticker indicating (A) which day of each week that vehicle will not be operated or (B) indicating that the vehicle is exempted under subsection (c) from operation restrictions; and

"(2) no person may operate any automobile during any day for which the sticker for that automobile indicates it will not be operated, unless that vehicle operation is necessary to provide emergency services.

Such system may provide for a fee to recover the costs of administering the provisions of this section, which fee may be imposed and collected in any manner which the Secretary, in the Secretary's discretion, determines to be consistent with the purposes of this part.

"(c) EXEMPTIONS.—Under such system, the requirements of subsection (b)(2) would not apply with respect to any automobile—

"(1) used exclusively for emergency services;

"(2) capable of off-highway operation and used exclusively for agricultural purposes;

"(3) used exclusively for national defense purposes by one or more of the Armed Forces (unless that automobile has been designated by the head of the executive department involved to be covered by the requirements of subsection (b)(2));

"(4) used exclusively as a taxicab or similar common carrier;

"(5) used exclusively as a rental automobile;

"(6) used exclusively by the United States Postal Service for postal transportation or deliveries;

"(7) the majority use of which is for commercial purposes, as determined in accordance with guidelines which the Secretary shall prescribe by rule; or

"(8) within any other category which the Secretary determines, by rule, should be exempt from the requirements of subsection (b)(2).

"Subpart D—Study

"SEC. 639. STUDY.

"(a) STUDY OF COMMERCIAL AND INDUSTRIAL STORAGE OF FUEL.—Not later than 180 days after the date of the enactment of this part, the Secretary shall conduct a study and report to the Congress regarding the commercial and industrial storage of gasoline and middle distillates (other than storage in facilities which have capacities of less than 500 gallons or storage used exclusively and directly for agricultural, residential, petroleum refining, or pipeline transportation purposes).

"(b) CONTENTS OF REPORT.—Such report shall—

"(1) indicate to what extent storage activities have increased since November 1, 1978, and what business establishments (including utilities) have been involved;

"(2) the estimated amount of gasoline and middle distillates (in the aggregate and by type and region) which are in storage within the United States at the time of the study, the amounts which were in storage at the same time during the preceding year, and the purposes for which such storage is maintained; and

"(3) contain such findings and recommendations for legislation as the Secretary considers appropriate, including recommendations for improving the availability and quality of data concerning such storage.

"Subpart E—Administrative Provisions

"SEC. 640. ADMINISTRATION; DELEGATION TO STATES.

"(a) ADMINISTRATION AND ENFORCEMENT DELEGATED TO STATES.—There is hereby delegated to the Governor of any State, and other State and local officers and employees designated by the Governor, the authority to administer and enforce, within that State, any provision of this part which is to be administered and enforced in accordance with this section. Such authority includes the authority to institute actions on behalf of the United States for the imposition and collection of civil penalties under sections 633(f) and 637(e).

"(b) REVOCATION OF DELEGATION.—(1) All delegation of authority under subsection (a) with respect to any State shall be considered revoked effective (A) upon the receipt of a written waiver of authority signed by the Governor of such State or (B) upon a determination by the President that such delegation should be revoked, but only to the extent of that determination.

"(2) The Secretary shall administer and enforce any provision of this part for which a delegation of authority is considered revoked under paragraph (1).

"(c) RETENTION BY STATES OF CERTAIN RECEIPTS.—The Secretary may enter into an agreement with the Governor of any State under which amounts collected pursuant to sections 633(f), 635(e), and 637(e), may be collected and retained by the State to the extent necessary to cover costs incurred by that State in connection with the administration and enforcement of provisions of this part under authority delegated under this section or section 635(d).

"SEC. 641. INFORMATION.

"The Secretary shall use the authority provided under section 11 of the Energy Supply and Environmental Coordination Act of 1974 for the collection of such information as may be necessary to carry out this part. In carrying out his responsibilities under this part, the Secretary shall insure that timely and adequate information concerning the supplies, pricing, and distribution of motor fuels (and other energy sources which are the subject of targets in effect under section 634) is obtained, analyzed, and made available to the public. Any Federal agency having responsibility for collection of such information under any other authority shall cooperate fully in facilitating the collection of such information.

"SEC. 642. REGULATIONS.

"(a) INTERIM REGULATIONS.—Not later than 20 days after the date of the enactment of this part, the Secretary shall prescribe and make effective interim regulations necessary to carry out this part, notwithstanding section 501 of the Department of Energy Organization Act. Such regulations shall take effect on the date they are prescribed (except to the extent that a later date is determined to be necessary by the Secretary and is set forth in such regulations), and shall cease to have effect on the date final regulations prescribed under subsection (b) take effect.

"(b) FINAL REGULATIONS.—(1) Not later than 120 days after the date of the enactment of this part, the Secretary shall, in accordance with section 501 of the Department of Energy Organization Act, prescribe and make effective regulations necessary to carry out this part.

"(2) The Secretary, for good cause, may extend the time limit under paragraph (1) for an additional 60 days.

"(c) SCOPE.—This section shall not apply with respect to any authority vested in the President.

"SEC. 643. EFFECTS ON OTHER LAWS.

"No State law or State program in effect on the date of the enactment of this part, or which may become effective thereafter, shall be superseded by any provision of this part, or any rule, regulation, or order thereunder, except insofar as such State law or State program is in conflict with any such provision of section 633 or 636 (or any rule, regulation, or order under this part relating thereto) in any case in which measures have been implemented in that State under the authority of section 633 or 636 (as the case may be).

"SEC. 644. REVIEW; TERMINATION.

"(a) REVIEW.—During the 12 month beginning after the date of the enactment of this part, the Secretary shall conduct a review of this part and the actions taken pursuant to its provisions and shall prepare and transmit to each House of the Congress a report on such review. Such report shall contain such recommendations as the Secretary considers appropriate.

"(b) TERMINATION.—Unless otherwise provided by any statute enacted after the date of the enactment of this part, the preceding provisions of this part, including any actions taken thereunder, shall cease to have effect September 30, 1982. Such expiration shall not affect any action or pending proceeding, administrative, civil, or criminal, not finally determined on such date, nor any administrative, civil, or criminal action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such expiration date."

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 3 be dispensed with, that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

● Mr. DERWINSKI. Mr. Chairman, I want to express my strong opposition again today to the proposal to give the President standby gasoline rationing authority.

It is impossible to devise any rationing plan that will be fair to all the American people. Furthermore, any plan put into effect would inevitably be subject to manipulation and abuse and arouse intense irritation from the public. We do not need another Federal regulatory agency.

Second, the cost of administration, estimated at $2 billion annually, is outrageous at a time when we must be cutting, not adding to, the Federal budget.

But the most important reason for opposing rationing is that it will not solve the problem of a shortage of gasoline. It would not enforce or encourage conservation and would in no way contribute to the long-range solution of our energy problems. Only by stimulating increased domestic production of petroleum and development of alternative energy sources can the United States meet the gasoline and other energy needs of the future.●

● Mr. LUNDINE. Mr. Chairman, I am deeply concerned over the energy situation in this country. We should have a standby gasoline rationing plan ready for use during emergency periods of serious supply shortfalls. Our reliance on OPEC oil makes us vulnerable to supply cutoffs from abroad and we must be prepared to deal with this in some reasonable manner. In addition, we must make maximum efforts to conserve our available energy. To that end, there are provisions in S. 1030 requiring establishment of conservation targets for each State.

I am in favor of providing the President flexibility not allowed under current law to utilize a standby gasoline rationing plan and to manage an energy crisis situation. At the same time, I feel strongly that Congress must have the opportunity to review components of any standby gasoline rationing plan which this Nation will come to rely on in times of serious shortfall situations.

S. 1030, as reported from the committee, seeks to provide the President with exclusive authority to draw up a rationing plan with Congress only having an opportunity to act through blocking its implementation at a time of severe shortfall, which is defined as a 20-percent gasoline shortage for a period of 30 days. Such a procedure cannot insure that the plan drawn up by the President will be acceptable to the Congress or that it will be properly or carefully considered should the crisis situation defined in the bill arise.

I do not agree with the argument that the administration and Congress cannot cooperate to arrive at an acceptable standby gasoline rationing plan. Because there are a number of competing interests within the Congress on this matter makes it all the more important that a plan which does not shortchange any segment of the American public be adopted.

I represent a rural and tourist area whose lifestyle and economy is totally dependent on availability of gasoline supplies. Its vital interests must be protected under any rationing plan put forth by Congress or the administration. I come from a State which has already underway an aggressive effort at the State level to conserve oil and gasoline. Any rationing formula which is set forth by the Congress or the administration must not discourage continuation of conservation efforts such as these.

In an attempt to provide the President more flexibility in this matter, but yet insure that the Congress will retain some say over his decisions, I would support an effort providing the President with authority to draw up a standby gasoline rationing plan, which would be subject to a one-House congressional veto 30 legislative days after it is submitted to the Congress. Once approved by the Congress, the President would then have the authority to utilize the standby gasoline rationing plan without a second approval by the Congress and without specific trigger conditions being mandated by the Congress.

This gives the President's plan a presumption of fairness and places the burden of finding otherwise on the Congress. It gives the legislative branch some opportunity to act on the merits of a plan if we choose to do so. Most importantly this approach would give the President immediate authority to act in an emergency.

I, too, believe it is vitally important that we get on with the business of dealing with our energy situation, but I feel obligated to oppose legislation which will not provide the Congress an opportunity to review a standby gasoline rationing plan which ultimately, if used, will be an acceptable compromise which satisfies the vital interests of all segments of our constituencies.●

Mr. DINGELL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Brademas) having assumed the chair, Mr. Fascell, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes, had come to no resolution thereon.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 168. Concurrent resolution providing for an adjournment of the House from August 2 to September 5, 1979, and a recess of the Senate from August 3 to September 5, 1979.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 975) entitled "An act to authorize appropriations for fiscal year 1980 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Bayh, Mr. Inouye, Mr. Stevenson, Mr. Jackson, Mr. Leahy, Mr. Nunn, Mr. Hart, Mr. Goldwater, Mr. Wallop, Mr. Mathias, Mr. Chafee, and Mr. Durenberger to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1319. An act to authorize certain construction at military installations, and for other purposes.

CONFERENCE REPORT ON H.R. 3363, STATE DEPARTMENT AUTHORIZATIONS 1980 AND 1981

Mr. FASCELL submitted the following conference report and statement on the bill (H.R. 3363) to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency and the Board for International Broadcasting:

Conference Report (H. Rept. No. 96–399)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3363) to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

Sec. 101. This title may be cited as the "Department of State Authorization Act, Fiscal Years 1980 and 1981".

AUTHORIZATION OF APPROPRIATIONS

Sec. 102. (a) There are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law, the following amounts, subject to the limitation in subsection (b):

(1) For "Administration of Foreign Affairs", $849,423,000 for the fiscal year 1980 and $1,009,815,000 for the fiscal year 1981.

(2) For "International Organizations and Conferences", $502,945,000 for the fiscal year 1980 and $525,082,000 for the fiscal year 1981.

(3) For "International Commissions", $26,733,000 for the fiscal year 1980 and $26,081,000 for the fiscal year 1981.

(4) For "Migration and Refugee Assistance", $104,910,000 for the fiscal year 1979 (in addition to amounts otherwise authorized), $248,951,000 for the fiscal year 1980, and $254,188,000 for the fiscal year 1981.

(b) The aggregate amount appropriated under paragraphs (1), (2), and (3) of subsection (a) may not exceed $1,369,401,000 for the fiscal year 1980 and may not exceed $1,547,778,000 for the fiscal year 1981.

(c) Funds appropriated under paragraph (2) of subsection (a) may not be used for payment by the United States, as its contribution toward the assessed budget of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less—

(1) 25 percent of the amount budgeted for that year for the Committee on the Exercise of the Inalienable Rights of the Palestinian People (or any similar successor entity), and

(2) 25 percent of the amount budgeted for that year for the Special Unit on Palestinian Rights (or any similar successor entity).

ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

Sec. 103. Of the amounts authorized to be appropriated by section 102(a)(4) of this Act for the fiscal year 1980 and for the fiscal year 1981, $25,000,000 for each such fiscal year shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics and from Communist countries in Eastern Europe.

UNITED STATES-YUGOSLAVIA BILATERAL SCIENCE AND TECHNOLOGY AGREEMENT

SEC. 104. In addition to the amounts authorized to be appropriated by section 102(a) of this Act, there are authorized to be appropriated to the Secretary of State $1,400,000 for the fiscal year 1980 and $1,400,000 for the fiscal year 1981 for payment of the United States share of expenses of a five-year bilateral science and technology agreement between the United States and Yugoslavia, following entry into force of such agreement.

NONDISCRETIONARY PERSONNEL COSTS, CURRENCY FLUCTUATIONS, AND OTHER CONTINGENCIES

SEC. 105. (a) The Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, is amended by adding at the end thereof the following new section:

"SEC. 24. (a) There are authorized to be appropriated for the Department of State, in addition to amounts otherwise authorized to be appropriated for the Department, such sums as may be necessary for any fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

"(b) In order to maintain the levels of program activity provided for by the annual authorizing legislation for the Department of State, there are authorized to be appropriated for the Department such sums as may be necessary for any fiscal year to offset adverse fluctuations in foreign currency exchange rates occurring after November 30 of the preceding fiscal year.

"(c) Amounts authorized to be appropriated for a fiscal year for the Department of State or to the Secretary of State are authorized to be made available until expended.

"(d) Amounts authorized to be appropriated for the Department of State for a fiscal year for the 'Administration of Foreign Affairs' account, the 'International Organizations and Conferences' account, the 'International Commissions' account, or the 'Migration and Refugee Assistance' account may be appropriated for that fiscal year for any other such account, except that the total amount appropriated for a fiscal year for any such account may not exceed by more than 10 percent the amount specifically authorized to be appropriated for that account for that fiscal year.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

EFFECTIVE DATE FOR CERTAIN PROMOTIONS OF FOREIGN SERVICE OFFICERS

SEC. 106. The promotion for each of 64 Foreign Service officers of classes 8 and 7 to the next higher class, as the case may be, for which the Senate gave its advice and consent on March 31, 1979, and which was attested to on March 22, 1979, shall be considered for all purposes to take effect on December 17, 1978. Any payments made in implementation of this section shall be from funds previously authorized and appropriated for the fiscal year 1979.

IMPROVEMENT IN FOREIGN NATIONAL PAY PLANS

SEC. 107. (a) It is the sense of the Congress that the Secretary of State should—

(1) improve coordination between the Department of State and the Department of Defense and other departments and agencies of the United States operating outside the United States with respect to foreign national pay systems and wage schedules to the extent that—

(A) joint wage surveys and compatible pay schedules are adopted in countries where two or more departments or agencies of the United States directly employ foreign nationals, and

(B) Department of Defense wage rates are included in wage surveys of the Department of State where the Department of Defense operates under indirect-hire arrangements;

(2) monitor the establishment of wage rates outside the United States more closely to insure that United States missions—

(A) operate under salary schedules that reflect private sector average pay or average pay ranges,

(B) include the cost of severance in making pay adjustments, and

(C) survey jobs in the private sector which represent as closely as possible the work force of the mission; and

(3) substitute, whenever possible, prevailing local retirement plans for civil service retirement with respect to the retirement of foreign nationals employed by the United States.

(b) Section 444(b) of the Foreign Service Act of 1946 (22 U.S.C. 889) is amended by inserting before the period at the end thereof the following: "and such regulations as the Secretary may prescribe".

UNITED STATES CONSULATES

SEC. 108. (a) The following United States consulates shall not be closed or, if closed on the date of enactment of this Act, shall be reopened as soon as possible after such date: Salzburg, Austria; Bremen, Germany; Nice, France; Turin, Italy; Goteborg, Sweden; Adana, Turkey; Tangier, Morocco; Mandalay, Burma; Brisbane, Australia; and Surabaya, Indonesia.

(b) Personnel assigned to the consulates described in subsection (a) shall not be counted toward any personnal ceiling for the Department of State established by the Director of the Office of Management and Budget.

NONIMMIGRANT VISAS

SEC. 109. Section 21 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2691), is amended—

(1) by inserting "(a)" immediately after "Sec. 21."; and

(2) by adding at the end thereof the following:

"(b) This section does not apply to representatives of purported labor organizations in countries where such organizations are in fact instruments of a totalitarian state.

"(c) This section does not apply with respect to any alien who is a member, officer, official, representative, or spokesman of the Palestine Liberation Organization.

"(d) The Secretary of State may refuse to recommend a waiver for aliens from signatory countries which are not in substantial compliance with the provisions of the Helsinki Final Act, particularly the human rights and humanitarian affairs provisions.".

UNITED NATIONS TECHNICAL ASSISTANCE PROGRAMS

SEC. 110. Title I of the Department of State, Justice and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979 (Public Law 95–431; 92 Stat. 1021), is amended in the paragraph under the heading "Contributions to International Organizations" by striking out ", of which no part may be made available for the furnishing of technical assistance by the United Nations or any of its specialized agencies".

TITLE II—INTERNATIONAL COMMUNICATION AGENCY

SHORT TITLE

SEC. 201. This title may be cited as the "International Communication Agency Authorization Act, Fiscal Years 1980 and 1981".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 202. There are authorized to be appropriated for the International Communication Agency $432,547,000 for the fiscal year 1980 and $465,944,000 for the fiscal year 1981 to carry out international communication, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law.

ADMINISTRATIVE AUTHORITIES

SEC. 203. (a) (1) Section 1001 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1434) and section 104(f) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2454(f)) are repealed.

(2) Section 1304(a) of title 5, United States Code, is amended by striking out "209a, and 1434" and inserting in lieu thereof "and 290a".

(b) (1) Section 801(5) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471(5)) is amended to read as follows:

"(5) to employ persons on a temporary basis without regard to the civil service and classification laws, when such employment is provided for by the pertinent appropriation Act; and".

(2) Section 804(1) of such Act (22 U.S.C. 1471(1)) is amended to read as follows:

"(1) employ, without regard to the civil service and classification laws, aliens within the United States and abroad for service in the United States relating to the translation or narration of colloquial speech in foreign languages or the preparation and production of foreign language programs when suitably qualified United States citizens are not available, and aliens so employed abroad may be admitted to the United States, if otherwise qualified, as nonimmigrants under section 101(a) (15) of the Immigration and Nationality Act (8 U.S.C. 1101(a) (15)) for such time and under such conditions and procedures as may be established by the Director of the International Communication Agency and the Attorney General:".

(c) Section 602(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474) is amended—

(1) by striking out "or" at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; or"; and

(3) by inserting immediately after paragraph (20) the following new paragraph:

"(21) the Director of the International Communication Agency with respect to the furnishing of facilities in foreign countries and reception centers within the United States.".

(d) Section 108(a) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2458(a)) is amended—

(1) by inserting "(1)" immediately after "SEC. 108. (a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, the Director of the International Communication Agency may provide, on a reimbursable basis, services within the United States in connection with exchange activities otherwise authorized by this Act when such services are requested by a department or executive agency. Reimbursements under this paragaraph shall be credited to the applicable appropriation of the Agency.".

(e) Section 801(3) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471(3)) is amended to read as follows:

"(3) whenever necessary in carrying out title V of this Act, to purchase, rent, construct, improve, maintain, and operate facilities for radio transmission and reception, including the leasing of associated real property (either within or outside the United States) for periods not to exceed ten years, or for longer periods if provided for by an appropriations Act, and the alteration, improvement, and repair of such property, without regard to section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), and any such real property or interests therein which are outside the United States may be acquired without regard to section 355 of the Revised Statutes of the United States (40 U.S.C. 255) if the sufficiency of the title to such real property or interests therein is approved by the Director of the International Communication Agency;".

(f) Title VI of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1466–1468) is amended by adding at the end thereof the following new section:

"UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

"SEC. 604. (a) The United States Advisory Commission on International Communication, Cultural and Educational Affairs, established by section 8 of Reorganization Plan Numbered 2 of 1977, is hereby redesignated as the United States Advisory Commission on Public Diplomacy (hereafter in this section referred to as the 'Commission').

"(b) The Commission shall have a Staff Director who shall be appointed by the Chairman of the Commission. Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission may—

"(1) appoint such additional personnel for the staff of the Commission as the Chairman deems necessary; and

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code.".

TECHNICAL AMENDMENTS

SEC. 204. (a) Section 801(1) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471(1)) is amended by striking out "within the limitation of such appropriations as the Congress may provide".

(b) Section 804 of such Act (22 U.S.C. 1474) is amended—

(1) in paragraph (10) by striking out "five" and inserting in lieu thereof "ten";

(2) by striking out "and" at the end of paragraph (13);

(3) in paragraph (14) by striking out the comma and all that follows thereafter and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new paragraphs:

"(15) hire passenger motor vehicles;

"(16) purchase passenger motor vehicles for use abroad, and right-hand drive vehicles may be so purchased without regard to any maximum price limitation established by law;

"(17) procure services of experts and consultants in accordance with section 3109 of title 5 of the United States Code;

"(18) make advances of funds; and

"(19) notwithstanding section 5946 of title 5 of the United States Code, pay dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others.".

(c) Section 806 of such Act (22 U.S.C. 1475a) is amended by striking out "are authorized to be made" and inserting in lieu thereof "shall be".

(d) Section 108A(a)(2) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2458a(a)(2)) is amended by striking out "(E)" and "(F)" and inserting in lieu thereof "(F)" and "(G)", respectively.

(e) Title VII of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476–1477a) is amended by adding at the end thereof the following new section:

"NONDISCRETIONARY PERSONNEL COSTS AND CURRENCY FLUCTUATIONS

"SEC. 704. (a) Amounts appropriated for a fiscal year to carry out this Act are authorized to be made available until expended.

"(b) There are authorized to be appropriated for the International Communication Agency, in addition to amounts otherwise authorized to be appropriated for the Agency, such sums as may be necessary for any fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

"(c) In order to maintain the levels of program activity provided for by the annual authorizing legislation for the International Communication Agency, there are authorized to be appropriated for the Agency such sums as may be necessary for any fiscal year to offset adverse fluctuations in foreign currency exchange rates occurring after November 30 of the preceding fiscal year.".

BOARD OF FOREIGN SCHOLARSHIPS

SEC. 205. (a) Section 106(e) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2456(e)) is amended—

(1) in the second sentence, by striking out "the Board,";

(2) in clause (ii) of the second sentence, by striking out "such Board,"; and

(3) by adding at the end thereof the following: "Members of the Board shall be entitled to such expenses and per diem in lieu of subsistence as provided for under clause (i) of the preceding sentence and, while performing services for the Board, to compensation at a rate, prescribed by the Director of the International Communication Agency, not in excess of the daily rate for the first step of GS–15 of the General Schedule under section 5332 of title 5, United States Code.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1979.

DISTRIBUTION WITHIN THE UNITED STATES OF THE FILM ENTITLED "MARGARET MEAD—REFLECTIONS"

SEC. 206. Notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the International Communication Agency shall, upon receipt of reimbursement for any expenses involved, make available to the Administrator of General Services, for deposit in the National Archives of the United States, a master copy of the film entitled "Margaret Mead—Reflections" (including the unedited footage for such film), and the Administrator shall make copies of such film available for purchase and public viewing in the United States.

DISTRIBUTION WITHIN THE UNITED STATES OF THE FILM ENTITLED "ASPEN"

SEC. 207. Notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the International Communication Agency shall, upon receipt of reimbursement for any expenses involved, make available to the Administrator of General Services, for deposit in the National Archives of the United States, a master copy of the film entitled "Aspen", and the Administrator shall make copies of such film available for purchase and public viewing in the United States.

DISTRIBUTION WITHIN THE UNITED STATES OF THE ENGLISH TEACHING FORUM

SEC. 208. The second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) is amended by striking out "which may continue to" in the parenthetical clause and inserting in lieu thereof "and the 'English Teaching Forum' which may".

EFFECTIVE DATE

SEC. 209. The amendments made by sections 203 and 204 shall take effect on October 1, 1979, and to the extent that they provide new authorities involving the expenditure of appropriated funds, shall apply only with respect to funds appropriated after the date of enactment of this Act.

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

SHORT TITLE

SEC. 301. This title may be cited as the "Board for International Broadcasting Authorization Act, Fiscal Years 1980 and 1981".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 302. Section 8(a) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877(a)) is amended to read as follows:

"(a)(1) There are authorized to be appropriated to carry out the purposes of this Act—

"(A) $81,917,000 for fiscal year 1980 and $86,787,000 for the fiscal year 1981, of which amount for each such year not less than $790,000 shall be available only to carry out the provisions of this Act other than the provisions of paragraph (1) of section 4(a); and

"(B) such additional amounts for any fiscal year as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law.

"(2) In order to maintain the level of operations authorized under paragraph (1) for RFE/RL, Incorporated, there are authorized to be appropriated such additional amounts as may be necessary for any fiscal year to offset adverse fluctuations in foreign currency exchange rates occurring after November 30 of the preceding fiscal year. Amounts appropriated under this paragraph shall be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines (and so certifies to the Congress) is necessary, because of such fluctuations, in order to maintain the level of operation authorized under paragraph (1) for RFE/RL, Incorporated.

"(3) Amounts appropriated under this subsection are authorized to be made available until expended.".

REPORTING REQUIREMENT

SEC. 303. The Board for International Broadcasting Act of 1973 (22 U.S.C. 2871–2878) is amended by adding at the end thereof the following new section:

"SEC. 10. Under the authority of section 4(a)(3) of this Act, the Board shall prepare and transmit to the Congress, on or before October 1, 1979, a report setting forth alternative plans for the relocation to the territory of the United States of such activities of RFE/RL, Incorporated, as would result in the transfer to the United States of not less than 10 percent, 25 percent, and 50 percent, respectively, of the total personnel of RFE/RL, Incorporated. For each such alternative plan, the report shall include—

"(1) proposals for the timing of such transfer and the recommended location in the United States of such personnel;

"(2) estimates of the costs and amortization period for such plan;

"(3) a consideration of the impact of such plan on the operating efficiency of RFE/RL, Incorporated, and on the effectiveness of RFE/RL, Incorporated, in achieving its program objectives; and

"(4) any other significant anticipated consequences of such a relocation.".

TITLE IV—MISCELLANEOUS PROVISIONS

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SEC. 401. Section 7 of the Act entitled "An Act to establish a Commission on Security and Cooperation in Europe", approved June

3, 1976 (22 U.S.C. 3007), is amended by adding at the end thereof the following new subsection:

"(c) Not to exceed $6,000 of the funds appropriated to the Commission for each fiscal year may be used for official reception and representational expenses.".

CHANGE IN STATUTORY REFERENCE

SEC. 402. Any reference in any provision of law to the Committee on International Relations of the House of Representatives shall be deemed to be a reference to the Committee on Foreign Affairs of the House of Representatives.

EGYPTIAN-ISRAELI CULTURAL, SCIENTIFIC, AND ECONOMIC RELATIONS

SEC. 403. It is the sense of the Congress that it should be the policy of the United States to promote and encourage cultural, scientific, and economic relations between the Arab Republic of Egypt and the State of Israel.

APPLICATION OF THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT TO THE INTERNATIONAL LABOR ORGANIZATION

SEC. 404. Section 12 of the International Organizations Immunities Act (22 U.S.C. 288f-2) is amended by inserting "and may continue to be extended to the International Labor Organization" after "Unity".

MORATORIUM ON THE COMMERCIAL KILLING OF WHALES

SEC. 405. (a) The Congress finds and declares that—

(1) whales are a unique marine resource of great esthetic and scientific interest to mankind and are a vital part of the marine ecosystem;

(2) the protection and conservation of whales are of particular interest to citizens of the United States;

(3) in 1971 the Congress adopted resolutions requesting the Secretary of State to negotiate a ten-year moratorium on the commercial killing of whales;

(4) the United States, which effectively banned all commercial whaling by United States nationals in December 1971, has sought an international moratorium on the commercial killing of whales since 1972;

(5) the United Nations Conference on the Human Environment adopted a resolution in 1972 calling for a ten-year moratorium on commercial whaling;

(6) the United Nations Governing Council for Environment Programs in 1973 and 1974 confirmed such call for a ten-year moratorium, and the Council continues to support ongoing efforts relating to whale conservation;

(7) the International Convention for the Regulation of Whaling, signed in 1946, as implemented by the International Whaling Commission, is not providing adequate protection to whales;

(8) the data-gathering structure established under the International Whaling Commission has not provided all the available data necessary for sound whale conservation;

(9) there is strong evidence that the members of the International Whaling Commission continue to import, in some instances in increasing amounts, whale products from countries not members of the Commission; and

(10) defects in the implementation of the International Convention for the Regulation of Whaling by the International Whaling Commission allow harvests of the declining whale species.

(b) The Congress urges—

(1) the International Whaling Commission to agree to a moratorium on the commercial killing of whales; and

(2) Brazil, Denmark, Iceland, Japan, Norway, the Soviet Union, and the Republic of Korea, as parties to the International Convention for the Regulation of Whaling and which still engage in commercial whaling, and Chile, the People's Republic of China, Peru, Portugal, the Democratic Republic of Korea, Spain, and Taiwan, as countries which are not parties to the Convention and which still engage in commercial whaling, to recognize and comply voluntarily with a moratorium on the commercial killing of whales, as endorsed by the United Nations Conference on the Human Environment and the United Nations Governing Council for Environment Programs.

PRIVATE SECTOR REPRESENTATIVES ON THE UNITED STATES DELEGATION TO THE WORLD ADMINISTRATIVE RADIO CONFERENCE

SEC. 406. The provisions of sections 203, 205, 207, and 208 of title 18, United States Code, shall not apply to a private sector representative on the United States Delegation to the World Administrative Radio Conference to be convened in Geneva on September 24, 1979, who is specifically designated to speak on behalf of or otherwise represent the interest of the United States at such Conference with respect to a particular matter, if the Secretary of State or his designee certifies that no Government employee on the delegation is as well qualified to represent United States interests with respect to such matter and that such designation serves the national interest. All of such representatives shall have on file with the Department of State the financial disclosure report required for special Government employees.

UNITED STATES CITIZENS ABROAD

SEC. 407. Subsection (a)(2) of section 611 of the Foreign Relations Authorization Act, Fiscal Year 1979, is amended to read as follows:

"(2) United States statutes and regulations should be designed so as not to create competitive disadvantage for individual American citizens living abroad or working in international markets.".

(b) Subsection (b) of such section is amended—

(1) in the text preceding paragraph (1) by striking out "1979" and inserting in lieu thereof "1980";

(2) in paragraph (1) by striking out "discriminate against United States citizens living abroad" and inserting in lieu thereof "treat United States citizens living abroad differently from United States citizens residing within the United States, or which may cause, directly or indirectly, competitive disadvantage for Americans working abroad relative to the treatment by other major trading nations of the world of their nationals who are working outside their territory";

(3) in paragraph (3) by striking out "inequitable" and inserting in lieu thereof "competitively disadvantaging"; and

(4) in paragraph (3) by inserting "or working" immediately after "living".

SANCTIONS AGAINST ZIMBABWE-RHODESIA

SEC. 408. (a) The Congress finds that—

(1) it is in the interest of the United States to encourage the development of a multiracial democracy in Zimbabwe-Rhodesia based on both majority rule and minority rights;

(2) the elections held in April 1979, in which Zimbabwe-Rhodesians approved through elections the transfer of power to a black majority government, constituted a significant step toward multiracial democracy in Zimbabwe-Rhodesia;

(3) the Government of Zimbabwe-Rhodesia has expressed its willingness to negotiate in good faith at an all-parties conference, held under international auspices, on all relevant issues;

(4) it is in the foreign policy interest of the United States to further continuing progress toward genuine majority rule in Zimbabwe-Rhodesia and to encourage a peaceful resolution of the conflict; and

(5) the Government of Great Britain, which retains responsibility for Zimbabwe-Rhodesia under international law, has not yet taken steps to recognize the legality of the new government.

(b) In view of these considerations, the President shall—

(1) continue United States efforts to promote a speedy end to the Rhodesian conflict; and

(2) terminate sanctions against Zimbabwe-Rhodesia by November 15, 1979, unless the President determines it would not be in our national interest to do so and so reports to the Congress.

If the President so reports to the Congress, then sanctions shall be terminated if the Congress, within 30 calendar days after receiving the report under paragraph (2), adopts a concurrent resolution stating in substance that it rejects the determination of the President. A concurrent resolution under the preceding sentence shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 and in the House of Representatives in accordance with the procedures applicable to the consideration of resolutions of disapproval under section 36(b) of the Arms Export Control Act.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the bill.

CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
STEPHEN J. SOLARZ,
DONALD J. PEASE,
DANIEL A. MICA,
MICHAEL D. BARNES,
WM. H. GRAY III,
DAVID R. BOWEN,
WM. BROOMFIELD,
EDWARD D. DERWINSKI,
JOHN BUCHANAN,
JOEL PRITCHARD,
Managers on the Part of the House.

FRANK CHURCH,
CLAIBORNE PELL,
GEORGE MCGOVERN,
JOE BIDEN,
JACOB K. JAVITS,
CHARLES H. PERCY,
JESSE HELMS,
S. I. HAYAKAWA,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3363) to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate to the text of the bill with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House, bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached in the committee of conference, and minor drafting and clarifying changes.

TABLE I.—BUDGET ISSUES: FISCAL YEAR 1980

[In thousands of dollars]

	Executive branch request	House bill	Senate amendment	Conference
Department of State:				
Administration of foreign affairs	849,423	849,423	849,423	849,423
International organizations and conferences	502,945	502,945	502,945	502,945
International commissions	26,733	26,733	26,733	26,733
Migration and refugee assistance	223,951	[1] 248,951	[1] 248,951	[1] 248,951
Science and technological agreements	7,000	1,400	1,400	1,400
Subtotal Department of State	1,610,052	1,629,452	[2] 1,629,452 (1,610,052)	[3] 1,629,452 (1,619,752)
International Communication Agency	432,782	432,547	426,982	432,547
Board for International Broadcasting	86,917	81,917	86,917	81,917
Total	2,129,751	2,143,916	2,143,351 (2,123,951)	2,143,916 (2,134,216)

[1] Includes an earmarking of $25,000,000 for Soviet and Eastern European refugees migrating to Israel.

[2] Despite the fact that the line items total $1,629,452,000 for fiscal year 1980, the Senate amendment required the Secretary of State to make cuts necessary to bring the authorization down to the administration's budget request. Accordingly, the Secretary of State was authorized to reduce the amount authorized to be appropriated for administrative purposes by $19,400,000 for fiscal year 1980.

[3] The conference substitute places an aggregate ceiling of $1,369,401 on the appropriations for fiscal year 1980 for the following accounts: Administration of foreign affairs, international organizations and conferences, and international commissions.

TABLE II.—BUDGET ISSUES: FISCAL YEAR 1981

[In thousands of dollars]

	Executive branch request	House bill	Senate amendment	Conference
Department of State:				
Administration of foreign affairs	1,009,815	1,009,815	[1] (1,009,815)	1,009,815
International organizations and conferences	525,082	525,082	(525,082)	525,081
International commissions	26,081	26,081	(26,081)	26,081
Migration and refugee assistance	229,188	[2] 254,188	[2] (254,188)	[2] 254,188
Science and technological agreements		1,400	(1,400)	1,400
Subtotal, Department of State	1,790,166	1,816,566	(1,816,566)	[3] 1,816,566 (1,803,366)
International Communication Agency	466,179	465,944	(460,379)	465,944
Board for International Broadcasting	91,787	86,787	(91,787)	86,787
Total	2,348,132	2,369,297	(2,368,732)	2,369,297 (2,356,097)

[1] The figures in parentheses reflect the amounts authorized to be appropriated for fiscal year 1981 by the Senate amendment. However, according to sec. 407 of the Senate amendment, no funds are authorized by this act for fiscal year 1981.

[2] Includes an earmarking of $25,000,000 for Soviet and Eastern European refugees migrating to Israel.

[3] The conference substitute places an aggregate ceiling of $1,547,778 on the appropriations for fiscal year 1981 for the following accounts: Administration of foreign affairs, international organizations and conferences, and international commissions.

TITLE

The House bill contained a descriptive title encompassing both fiscal years 1980 and 1981. Short titles were provided for the separate titles of the bill.

The Senate amendment contained a descriptive title encompassing only fiscal year 1980 and the fiscal year 1979 supplemental authorization. One short title was provided for the bill.

The conference substitute is identical to the House provisions.

2-YEAR AUTHORIZATION

The House bill authorizes appropriations for both fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting.

The Senate amendment authorizes appropriations for these agencies only for fiscal year 1980.

The conference substitute is identical to the House provisions.

LIMITATION ON AUTHORIZATIONS OF APPROPRIATIONS

The Senate amendment (section 106) limited the total authorization for the Department of State for fiscal years 1980 and 1981 to the executive request level * * * accounts was greater than the executive request. In order to carry out this requirement, the Senate amendment authorized the Secretary of State to reduce accordingly the amounts authorized for administrative purposes. This would result in a $19.4 million reduction in the "Administration of a Foreign Affairs" account.

The House bill contained no comparable provision.

The conference substitute amends the Senate provision to place a ceiling of $1,369,401,000 on the appropriations for the following fiscal year 1980 Department of State accounts: "Administration of Foreign Affairs", "International Organizations and Conferences", and "International Commissions". An aggregate ceiling of $1,547,778,000 is also placed on the three accounts for fiscal year 1981.

PROHIBITION ON SALT LOBBYING

The Senate amendment contained a proviso that none of the funds authorized for the "Administration of Foreign Affairs" account could be used to lobby the U.S. Senate on behalf of any arms control treaty or agreement in contravention of 18 U.S.C. 1913 (relating to lobbying with congressionally appropriated moneys).

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this issue.

FISCAL YEAR 1979 REFUGEE SUPPLEMENTAL

The House bill authorized $104,910,000 for fiscal year 1979 for the "Migration and Refugee Assistant" account.

The Senate amendment amended the fiscal year 1979 Foreign Relations Authorization Act to authorize the same amount. The effect of amending the 1979 Act would be to raise the total amount available by $10.4 million over the $104,910,000 request, due to the annual 10-percent transfer authority.

The conference substitute is identical to the House provision.

The committee of conference feels that the designation of groups or classes of refugees to be admitted into the United States should take into account the underlying intent of the United Nations Convention and Protocol Relating to the Status of Refugees and, in particular, article 3, which requires that "the contracting states shall apply the provisions of this convention to refugees without discrimination as to race, religion or country of origin."

The United Nations High Commissioner for Refugees estimates that there are now 3 to 4 million African refugees, the highest number in the world for any continent and the fastest growing refugee population in existence.

In view of these growing problems, and their domestic implications, the new analysis of U.S. refugee and immigration policy which is being undertaken by the Select Commission on Immigration and Refugee Policy should strongly consider the matter of African and Caribbean refugees.

NONDISCRETIONARY PERSONNEL COSTS, CURRENCY FLUCTUATIONS, AND OTHER CONTINGENCIES (DEPARTMENT OF STATE)

A. The House bill provided permanent authorization (thus precluding the need for annual authorization) for currency fluctuations in order to maintain the "authorized level of program activity", thus giving the Appropriations Committees the authority to provide funds in anticipation of currency fluctuations.

The Senate amendment was similar, but required certification from the Director of OMB to the Congress that the currency fluctuation increases were necessary before funds could be appropriated to maintain the "budgeted level of operation of the Department of State".

The conference substitute is identical to the House provision.

B. The House bill provided that any funds appropriated to the Department of State or to the Secretary could be made available until expended.

The Senate amendment provided that only funds appropriated for nondiscretionary personnel costs and currency fluctuations were authorized to remain available until expended.

The conference substitute is identical to the House provision.

FOREIGN LANGUAGE STANDARDS FOR FOREIGN SERVICE OFFICERS AND OTHER U.S. EMPLOYEES

The House bill contained two provisions which expressed the sense of Congress with regard to langage proficiency of U.S. Government personnel abroad.

The first emphasized the need for language proficiency for Foreign Service officers assigned abroad. The second called upon the Secretary of State to conduct a comprehensive review and submit a report in 6 months concerning U.S. Government needs for personnel with foreign language competence and for services involving foreign languages. It also required him to establish standards for designating foreign language-required positions for U.S. personnel.

The Senate amendment did not contain comparable provisions.

The conference substitute contains no provisions on these issues.

The committee of conference believes that U.S. Government personnel abroad must be proficient in the language of the country in which they are serving, to the greatest extent possible, and that study of the kind provided for by the House bill ought to be undertaken.

The committee of conference, therefore, requests the General Accounting Office to conduct a study which evaluates the effectiveness of current programs and personnel practices with regard to foreign language needs in all agencies and to recommend standards for designating foreign language-required positions for United States personnel.

Such study shall include an estimate of the costs, if any, to be incurred in upgrading the language proficiency of U.S. personnel abroad. Within 8 months of the date of enactment of this legislation, the General Accounting Office shall submit a report to the Senate Foreign Relations Committee containing the results of this study and recommendations for correcting any deficiencies which might exist.

ISSUANCE OF VISAS TO MEMBERS OF PROSCRIBED ORGANIZATIONS

The House bill stated that the so-called "McGovern amendment" dealing with visas waivers shall not apply with respect to any alien who is associated with the Palestine Liberation Organization and aliens from signatory countries which are not in substantial compliance with provisions of the Helsinki Final Act, particularly the human rights and humanitarian affairs provisions.

The Senate amendment stated that the so-called "McGovern amendment" dealing with visa waivers shall not apply with respect to any alien who is associated with the Palestine Liberation Organization or to representatives of purported labor organizations in countries where such organizations are in fact instruments of a totalitarian state.

The conference substitute combines the language of the House bill and the Senate amendment.

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

The Senate amendment repealed the provision in the fiscal year 1979 Department of State Appropriation Act which precluded assessed funds for the U.N. and its specialized agencies from being used for technical assistance activities.

The House bill contained no comparable provision.

The conference substitute is identical to the Senate provision.

EFFECTIVE DATE FOR CERTAIN PROMOTIONS OF FOREIGN SERVICE OFFICERS

The Senate amendment provided retroactive effect to December 17, 1978 for the promotions of 64 Foreign Service officers of classes 8 and 7 to which the Senate gave advice and consent on March 21, 1979.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate provision.

WAIVER OF CERTAIN NONIMMIGRANT VISA REQUIREMENTS

The Senate amendment amended the Immigration and Nationality Act to authorize an expansion of existing authority to waive nonimmigrant business and tourist visa requirements for persons coming from countries where visa fraud was low and which extend reciprocal privileges to U.S. citizens.

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this issue. The committee of conference strongly endorses the concept of expanding visa waiver authority as envisioned by the Senate amendment. The Committee notes that under this procedure an estimated saving of $1.5 million and 65 positions could be realized within the Department of State. Such a procedure would also contribute to the further implementation of the Final Act of the Conference on Security and Cooperation in Europe. The members of the conference committee agree that the Senate amendment has considerable merit and express the hope that prompt consideration be given by the House Judiciary Committee to this proposed change in the Immigration and Nationality Act. If the House does not act on the waiver authority embodied in the Senate amendment, the committee of conference believes that any re-enactment by the Senate of the waiver authority should be favorably considered.

U.S. CONSULATES

The House bill stated the sense of the Congress that U.S. consulates in the following cities should remain open: Salzburg, Austria; Bremen, Germany; Nice, France; Turin, Italy; Goteborg, Sweden; and Adana, Turkey.

The Senate amendment mandated the continued operation of the same consulates included in the House bill, plus the following consulates: Tangier, Morocco; Mandalay, Burma; Brisbane, Australia; and Surabaya, Indonesia. The Senate provision also authorized "the allocation of additional positions as may be necessary".

The conference substitute incorporates the Senate language mandating the reopening of the consulates and including all the consulates mentioned in the Senate provision. In addition, the conference substitute clarifies the Senate language relating to allocation of personnel positions in order to make clear that personnel assigned to these consulates shall not be counted toward any personnel ceiling for the Department of State established by the Office of Management and Budget.

PERSONNEL STUDY AND REPORTING REQUIREMENT

The Senate amendment required the Secretary of State to conduct a study of the personnel needs and resources of the Department of State and to submit the report to the Congress together with recommendations by January 1, 1980.

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this lease.

IMPROVEMENT IN FOREIGN NATIONAL PAY PLANS

The Senate amendment expressed the sense of the Congress that the Secretary of State should implement, to the extent possible, the recommendations of the April 5, 1979 General Accounting Office report concerning improved coordination and greater uniformity in foreign national pay plans through regulations prescribed by the Secretary.

The House bill did not contain a comparable provision.

The conference substitute identical to the Senate provision with an amendment to change "uniform" pay schedules to "compatible" pay schedules and to add an amendment to provide for the substitution of local retirement plans for Civil Service retirement "whenever possible."

LEASEHOLDS FOR RADIO TRANSMISSION FACILITIES

The House bill authorized ICA, among other things, to acquire leaseholds for our radio facilities for periods of 10 years or longer if provided for in an appropriation act.

The Senate amendment authorized the acquisition and operation of radio facilities, but did not specify the duration of the leases, and also eliminated the provision of existing law that leases of radio facilities may not be for periods longer than 10 years unless provided for in an appropriation act.

The conference substitute is identical to the House provision.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

The House bill changed the name of the Advisory Commission overseeing ICA to the U.S. Advisory Commission on Public Diplomacy and provided authority for the Commission to hire staff.

The Senate amendment did not contain a comparable provision.

The conference substitute is identical to the House provision.

TECHNICAL AMENDMENT

The House bill corrected a reference in section 108(a)(2) of the Mutual Educational and Cultural Exchange Act of 1961.

The Senate amendment did not contain a comparable provision. The conference substitute is identical to the House provision.

NONDISCRETIONARY PERSONNEL COSTS AND CURRENCY FLUCTUATIONS (INTERNATIONAL COMMUNICATIONS AGENCY)

The House bill provided permanent authorization (thus precluding the need for annual authorization) for currency fluctuations in order to maintain the "authorized level of program activity" for ICA thus giving the Appropriations Committees the authority to provide funds in anticipation of currency fluctuations.

The Senate amendment was similar, but required certification from the Director of OMB to the Congress that the currency fluctuation increases were necessary before funds could be appropriated to maintain "the budgeted level of operation" of the Agency.

The conference substitute is identical to the House provision.

BOARD OF FOREIGN SCHOLARSHIPS

The Senate amendment established the compensation of members of the ICA's Board of Foreign Scholarships at a level not to exceed the daily equivalent of GS-15 rather than the current $50 per day.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate provision.

DISTRIBUTION WITHIN THE UNITED STATES OF CERTAIN FILMS

The House bill provided for the domestic distribution of the ICA film entitled "Aspen".

The Senate amendment further provided for distribution of the film entitled "Margaret Mead—Reflections".

The conference substitute is identical to the Senate provision, but also adds a clarifying amendment relating to the release of out-takes from the film "Margaret Mead—Reflections."

DISTRIBUTION WITHIN THE UNITED STATES OF THE ENGLISH TEACHING FORUM

The House bill provided for the domestic distribution of the ICA publication entitled "English Teaching Forum".

The Senate amendment did not contain a comparable amendment.

The conference substitute is identical to the House provision.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The House bill clarified the authority of CSCE to use up to $6,000 of appropriated funds each fiscal year for reception and representational expenses.

The Senate amendment did not contain a compabale provision.

The conference substitute is identical to the House provision.

CHANGE IN STATUTORY REFERENCES

The House bill conformed existing provisions of law to the change made in the House Rules in the name of the Committee on Foreign Affairs.

The Senate amendment did not contain a comparable provision.

The conference substitute is identical to the House provision.

PANAMA CANAL TREATIES

The House bill precluded the use of appropriated funds in this bill to implement the Panama Canal Treaties of 1977 until the Secretary of State had communicated to the Government of Panama our insistence that Panama must meet fully all its treaty obligations.

The Senate amendment did not contain a comparable provision.

The conference substitute contains no provision on this issue.

AUTHORIZATIONS OF APPROPRIATIONS (BIB)

The Senate amendment earmarked not less than $800,000 for the expenses of the Board for International Broadcasting for fiscal years 1980 and 1981.

The House bill did not contain a comparable provision.

The conference substitute earmarks not less than $790,000 for the expenses of the Board for International Broadcasting for fiscal years 1980 and 1981.

FOREIGN CURRENCY FLUCTUATION (BOARD FOR INTERNATIONAL BROADCASTING)

The House bill provided permanent authorization (thus precluding the need for annual authorization) for currency fluctuations in order to maintain the "authorized level of program activity" for RFE/RL, Inc. and required certification from the Director of OMB to the Congress that increases were necessary, thereby giving the Appropriations Committee the authority to provide funds in anticipation of currency fluctuations.

The Senate amendment was similar, but authorized funds to "maintain the budgeted level of operation".

The conference substitute is identical to the House provision.

USE OF BROADCASTING FACILITIES BY COMMUNIST COUNTRIES

The Senate amendment repealed section 307 of the fiscal year 1979 Foreign Relations Authorization Act relating to the prohibition of funds to RFE/RL, Inc. if Communist countires were permitted to use those radio facilities on a nonreciprocal basis.

The House bill did not contain a comparable provision.

The conference substitute does not contain a provision on this issue.

The committee of conference welcomes initiatives by the administration and the Board for International Broadcasting to encourage the Soviet Union and other governments to end jamming of RFE/RY broadcasts. Many in Congress are understandably concerned that a unilateral offer by the United States to permit Soviet or Eastern European governments to have a "right of reply" might be misused by Communist countries, providing them with access to U.S. facilities without achieving an end to jamming. The Congress would welcome a proposal by the President or the Board for International Broadcasting which would insure an end to jamming and which might permit foreign use of FRE/RL on a selective basis to provide a right of reply whenever the President deems such a reply appropriate.

REPORTING REQUIREMENTS

The Senate amendment required the Board for International Broadcasting to submit a report setting forth alternative plans for the relocation to the United States of 10 percent, 25 percent and 50 percent of RFE/RL, Inc. personnel and outlined issues to be covered in that report.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate provision.

EGYPTIAN-ISRAELI CULTURAL, SCIENTIFIC, AND ECONOMIC RELATIONS

The Senate amendment expressed the sense of the Congress that the United States should promote and encourage cultural, scientific, and economic relations between Egypt and Israel.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate amendment.

APPLICATION OF THE INTERNATIONAL ORGANIZATION IMMUNITIES ACT TO THE ILO

The Senate amendment amended section 12 of the International Organizations Immunities Act to authorize the continuation of diplomatic immunities and privileges to employes of the International Labor Organization even though the United States withdrew from the ILO in November of 1977.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate amendment.

The committee of conference notes that, while the United States was a member, the International Labor Organization was entitled to certain privileges and immunities (e.g., legal capacity to sue, tax exemption, immunity for its archives and for official acts of personnel) under the International Organizations Immunities Act. However, the application of that act is generally limited to international organizations to which the United States belongs.

Since the United States no longer belongs to the ILO, its status in the United States is ambiguous and legislation is necessary to clarify the situation. The ILO operates two offices in the United States, in Washington, D.C. and New York, with a total of 17 employees. The conference substitute simply authorizes the continuation of the application of the International Organizations Immunities Act to the ILO. The organization would not receive any new or additional benefits. The committee of conference notes that this action is consistent with prior actions taken by the Congress to extend the application of the statute to organizations to which the United States does not belong. The committee further notes that the adoption of the conference substitute in no way signifies support for or opposition to renewed U.S. membership in the ILO.

MORATORIUM ON THE COMMERCIAL KILLING OF WHALES

The Senate amendment stated several findings of the Congress with respect to the commercial killing of whales and urged the International Whaling Commission and all whaling nations to recognize and comply voluntarily with a moratorium on the commercial killing of whales as endorsed by the United Nations Conference on the Human Environment and the United Nations Governing Council for Environment Programs.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate provision.

ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS

The Senate amendment established within the Executive Office of the President an Assistant and a Deputy Assistant to the President for National Security Affairs, who would be appointed by and with the advice and consent of the Senate.

The House bill did not contain a comparable provision.

The conference substitute does not contain a provision on this issue.

The committee of conference is, however, deeply concerned about the role of the President's Assistant for National Security Affairs and the lack of his accountability to the Congress. The members of the conference committee believe it is essential that the Secretary of State be perceived clearly to be the principal officer other than the President with responsibility for formulation and implementation of foreign policy. The President clearly should have appropriate personal staff support in the White House to enable him to discharge his Constitutional responsibilities. Officers, however, who enunciate and shape U.S. foreign policy must be accountable to Congress. The committee of conference believes that a thorough review by both the Congress and the Executive of the function of the NSC structure and the specific role of the Assistant to the President for National Security Affairs is necessary and should be conducted in the near future.

ADDITIONAL TRAVEL EXPENSES FOR STATE AND ICA EMPLOYEES' DEPENDENTS

The Senate amendment provided for two, rather than one, annual round trips from the United States for dependents of the Department of State and International Communication Agency employees, who are obtaining an undergraduate college education, and whose parents are serving in a post overseas.

The House bill did not contain a comparable provision.

The conference substitute does not contain a provision on this issue, since the International Development Cooperation Act (H.R. 3324) contains a similar provision which includes the Department of State, the International Communication Agency, and the Agency for International Development.

UNITED STATES CITIZENS ABROAD

The Senate amendment amended section 611 of the Foreign Relations Authorization Act, Fiscal Year 1979, relating to United

States laws discriminating against U.S. citizens abroad. The Senate amendment would revise that provision to (1) change the required reporting date from January 20, 1979, to January 20, 1980, and (2) substitute the existing provision's policy statement with a statement that American statutes and regulations should be designed so as not to create competitive disadvantage for American citizens living abroad and working in international markets.

The House bill did not contain a comparable provision.

The conference substitute is similar to the Senate provision with an amendment to change "and" to "or" to make it clear that the report should include American citizens living abroad *or* working in international markets. It is the intent of the conferees that the word "citizens" not include corporations and other juridical entities.

PRIVATE SECTOR REPRESENTATIVES ON U.S. DELEGATION TO THE WORLD ADMINISTRATION RADIO CONFERENCE

The Senate amendment exempted from certain conflict of interest provisions a private sector representative, who is specifically designated to speak on behalf of or represent the interest of the United States, on the U.S. Delegation to the World Administrative Radio Conference in Geneva beginning September 24, 1979. Such repersentatives would have to file with the Department of State the financial disclosure report required for special Government employees.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

SANCTIONS ON ZIMBABWE-RHODESIA

The Senate amendment stated that no later than 14 days after the installation of a new government in Rhodesia or June 30, 1979, whichever was earlier, the President would submit to the Congress a report setting forth a determination with respect to section 27 of the International Security Assistance Act of 1978, together with his reasons for such a determination; and stated the findings of Congress with respect to section 27 of the International Security Assistance Act of 1978 that (1) the Government of Zimbabwe-Rhodesia had demonstrated its willingness to negotiate in good faith at an all parties conference, held under international auspices, on all relevant issues, and (2) Zimbabwe-Rhodesians had approved through free elections the transfer of power to a black majority government; and expressed the sense of the Congress that the President, within the time limits specified above, should determine that the requirements of that act have been met and should not enforce sanctions against Zimbabwe-Rhodesia.

The House bill did not contain a comparable provision.

The conference substitute incorporates the Senate provision with an amendment.

The committee of conference notes with approval the progress made in Zimbabwe-Rhodesia toward majority rule under the government installed as a result of the elections of April 1979. The Committee expresses its hope that additional progress will be made toward the establishment of majority rule and the protection of the rights of all the people in that troubled land.

Clement J. Zablocki,
Dante B. Fascell,
Stephen J. Solarz,
Donald J. Pease,
Daniel A. Mica,
Michael D. Barnes,
Wm. H. Gray III,
David R. Bowen,
Wm. Broomfield,
Edward D. Derwinski,
John Buchanan,
Joel Pritchard,
Managers on the Part of the House.

Frank Church,
Claiborne Pell,
George McGovern,
Joe Biden,
Jacob K. Javits,
Charles H. Percy,
Jesse Helms,
S. I. Hayakawa,
Managers on the Part of the Senate.

REQUEST TO MAKE IN ORDER ON AUGUST 1, 1979, OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON H.R. 3363

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that it shall be in order on Wednesday, August 1, or any day thereafter to consider the conference report on H.R. 3363, the State Department authorization for fiscal years 1980 and 1981, and said conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida (Mr. Fascell).

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

CONFERENCE REPORT ON H.R. 4389, MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES

Mr. NATCHER submitted the following conference report and statement on the bill (H.R. 4389) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies:

Conference Report (H. Rept. No. 96–400)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4389) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 4, 7, 10, 25, 27, 34, 35, 37, 38, 39, 43, 46, 47, 55, 57, 67, 68, 69, 70, 72, 73, 74, 84, 85, 86, 87, 89, 90, 91, 92, 93, 94, 95, 102, 106, 110, 116, 120, 121, 125, 126, 143, 144, 145, 146, and 147.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 8, 9, 12, 13, 14, 19, 22, 23, 26, 33, 36, 40, 41, 44, 61, 63, 66, 76, 81, 96, 97, 99, 100, 122, 123, 124, 128, and 141 and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$826,094,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$692,086,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$266,900,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$183,164,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows: ": *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to OSHA by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$140,747,000"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows:

Sec. 102. None of the funds appropriated under this title shall be used to pay any prisoner for work performed prior to 12 months before the presumptive release date of such prisoner.

And the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,325,278,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,800,000"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$282,415,000"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$405,243,000"; and the Senate agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$188,695,000"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,500,000"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,968,156,000"; and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$126,195,000"; and the Senate agree to the same.

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($3,330,343,000)"; and the Senate agree to the same.

Amendment numbered 58: That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,794,556,000"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($3,330,343,000)"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$15,000,000"; and the Senate agree to the same.

Amendment numbered 75: That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$315,298,000"; and the Senate agree to the same.

Amendment numbered 79: That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,000,000"; and the Senate agree to the same.

Amendment numbered 80: That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$881,880,000"; and the Senate agree to the same.

Amendment numbered 82: That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$124,817,000"; and the Senate agree to the same.

Amendment numbered 83: That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "*Provided further*, That $2,500,000 shall be made available for carrying out section 317 of the Adult Education Act, and that $2,500,000 shall be made available for carrying out section 318 of the Adult Education Act"; and the Senate agree to the same.

Amendment numbered 98: That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$399,730,000"; and the Senate agree to the same.

Amendment numbered 103: That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$268,488,000"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$171,000,000"; and the Senate agree to the same.

Amendment numbered 105: That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($3,617,000)"; and the Senate agree to the same.

Amendment numbered 107: That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$118,223,000"; and the Senate agree to the same.

Amendment numbered 108: That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$91,172,000"; and the Senate agree to the same.

Amendment numbered 109: That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$34,484,000"; and the Senate agree to the same.

Amendment numbered 114: That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows: In lieu of the matter stricken and the matter inserted by said amendment insert the following: "aid to Cuban Refugees within the United States and other domestic refugee assistance, $75,540,000.".

And the Senate agree to the same.

Amendment numbered 118: That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,557,981,000"; and the Senate agree to the same.

Amendment numbered 119: That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$6,000,000"; and the Senate agree to the same.

Amendment numbered 129: That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "202"; and the Senate agree to the same.

Amendment numbered 130: That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "203"; and the Senate agree to the same.

Amendment numbered 131: That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert "204"; and the Senate agree to the same.

Amendment numbered 132: That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "205"; and the Senate agree to the same.

Amendment numbered 133: That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "206"; and the Senate agree to the same.

Amendment numbered 134: That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "207"; and the Senate agree to the same.

Amendment numbered 135: That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "208"; and the Senate agree to the same.

Amendment numbered 136: That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "209"; and the Senate agree to the same.

Amendment numbered 138: That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "211"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 16, 17, 21, 30, 31, 42, 48, 51, 52, 62, 64, 65, 71, 77, 78, 88, 101, 111, 112, 113, 115, 117, 127, 137, 139, 140, and 142.

WILLIAM H. NATCHER,
NEAL SMITH,
EDWARD J. PATTEN,
DAVID R. OBEY
(except No. 114),
EDWARD R. ROYBAL
(except Nos. 61 and 137),
LOUIS STOKES
(except Nos. 61 and 137),
JOSEPH D. EARLY,
JAMIE L. WHITTEN
(with reservations),
EDWARD P. BOLAND,
ROBERT H. MICHEL
(except Nos. 68, 69, and 141),
SILVIO O. CONTE,
GEORGE M. O'BRIEN,
CARL D. PURSELL,
Managers on the Part of the House.

WARREN G. MAGNUSON,
ROBERT C. BYRD,
ERNEST F. HOLLINGS,
THOMAS F. EAGLETON
(with exception to the Senate language on No. 137),
BIRCH BAYH,
LAWTON CHILES,
QUENTIN N. BURDICK,
DANIEL K. INOUYE,
RICHARD S. SCHWEIKER,
CHARLES McC. MATHIAS, Jr.,
MARK O. HATFIELD,
LOWELL P. WEICKER, Jr.,
HARRISON SCHMITT,
MILTON R. YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4389) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

Amendment No. 1: Authorizes the expenditure of $33,791,000 from the Unemployment Trust Fund as proposed by the Senate, instead of $33,081,000 as proposed by the House. The additional funds are for the support of 52 full-time permanent secretarial positions for the Veterans Employment Service.

Amendment No. 2: Deletes language proposed by the Senate which would have earmarked $710,000 for the purpose of providing secretarial assistance. The conferees are agreed that $710,000 shall be available for the purpose of providing secretarial assistance to State Veterans Employment Representatives.

EMPLOYMENT AND TRAINING ASSISTANCE

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment appropriating $6,500,626,000, instead of $6,335,254,000 as proposed by the House and $6,423,055,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following changes from the amounts proposed by the House:

Youth employment and training program (YETP)	+$158,831,000
Young adult conservation corps (YACC)	+16,541,000
National programs (CETA title III)	−10,000,000

The conferees are agreed that the Apprenticeship Outreach Program is to be continued at the fiscal year 1979 funding level. However, the conferees direct the Secretary to conduct a thorough and complete evaluation of the goals and accomplishments of the program, as well as the manner in which it is being administered. The conferees expect a report from the Secretary concerning this evaluation by January 15, 1980.

Amendment No. 4: Deletes language proposed by the Senate which would have earmarked $5,000,000 for projects under section 308 of the Comprehensive Employment and Training Act. The conferees have elected not to earmark funds in the bill. However, the conferees direct the Department to utilize a significant portion of CETA title III resources to fund projects for middle-aged and older workers under section 308 of the Act.

Amendment No. 5: Provides that not more than $826,094,000 shall be available for title IV, part A of the Comprehensive Employment and Training Act, instead of $667,263,000 as proposed by the House and $931,982,000 as proposed by the Senate.

Amendment No. 6: Earmarks $692,086,000 for subpart 3 of part A of Title IV of the Comprehensive Employment and Training Act, instead of $533,255,000 as proposed by the House and $797,974,000 as proposed by the Senate.

Amendment No. 7: Deletes language proposed by the Senate which would have restated existing law with respect to the treatment of community-based organizations under the Comprehensive Employment and Training Act. The Conferees direct that the Secretary shall assure to the maximum extent possible that community based organizations which have demonstrated effectiveness in the delivery of employment and training services continue to receive special consideration from recipients of financial assistance in carrying out, with funds appropriated under this title, programs authorized by titles II, IV, VI, and VII (Private Sector Opportunities for the Economically Disadvantaged) of the Comprehensive Employment and Training Act of 1973, as amended.

Amendment No. 8: Deletes language proposed by the House which would have earmarked $5,000,000 for offender programs under title III of the Comprehensive Employment and Training Act. The conferees have elected not to earmark funds in the bill. However, the conferees direct the Department to utilize a significant portion of CETA title III resources to fund projects for offenders.

TEMPORARY EMPLOYMENT ASSISTANCE

Amendment No. 9: Appropriates $1,627,000,000 as proposed by the Senate, instead of $1,815,000,000 as proposed by the House.

Amendment No. 10: Deletes language proposed by the Senate which would have prohibited the allocation of public service employment funds under title VI of the Comprehensive Employment and Training Act to any prime sponsor whose unemployment rate was less than four percent. The conferees understand that, while unemployment nationally has improved, thereby justifying a reduction of the title VI countercyclical public service employment program, very high unemployment persists in some urban and rural areas, particularly among persons who are economically disadvantaged.

Therefore, the conferees believe that, to the extent possible, unutilized funds should be redistributed so as to insure maximum effectiveness in alleviating unemployment where it remains severe and in easing the effect of phasing down the title VI program in such areas.

Accordingly, the conferees direct the Secretary of Labor, pursuant to his authority under section 108 of CETA (Public Law 95–524), to give consideration to reallocating some portion of the unutilized funds for titles II–D and VI public service employment programs to prime sponsor areas experiencing severe unemployment which reasonably can be expected to make full use of such reallocated funds.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Amendment No. 11: Appropriates $266,900,000, instead of $258,550,000 as proposed by the House, and $275,250,000 as proposed by the Senate. The conferees expect the Department to obligate the increase over the House bill as soon as possible to achieve the 10 percent increase in enrollment.

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

Amendment No. 12: Authorizes the expenditure of $1,773,590,000 from the Unemployment Trust Fund, as proposed by the Senate, instead of $1,774,300,000 as proposed by the House.

EMPLOYMENT STANDARDS ADMINISTRATION

BLACK LUNG DISABILITY TRUST FUND

Amendment No. 13: Earmarks $434,072,000 for payment of benefits and interest on advances, as proposed by the Senate, instead of $436,171,000, as proposed by the House.

Amendment No. 14: Earmarks $21,628,000 for transfer to Employment Standards Administration, Salaries and Expenses, as proposed by the Senate, instead of $19,529,000, as proposed by the House.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 15: Appropriates $183,164,000, instead of $181,520,000 as proposed by the House, and $184,809,000 as proposed by the Senate. The increase over the House bill is for the support of 71 additional full-time permanent positions.

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows: "*Provided further,* That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten (10) or fewer employees who is included within a category having an occupational illness and injury incidence rate less than seven per one hundred employees as published in the 1977 Bureau of Labor Statistics survey of three-digit (or if unavailable, two-digit or one-digit) Standard Industrial Classification Code industries, except:

"(1) to take any action authorized by such Act with respect to any employer or group of employers within such category whom the Secretary determines to be engaged in an activity involving very substantial occupational hazards;

"(2) to provide requested consultation, technical assistance, educational and training services, and to conduct surveys and studies;

"(3) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

"(4) to take any action authorized by such Act with respect to imminent dangers;

"(5) to take any action authorized by such Act with respect to health hazards;

"(6) to investigate an employment accident which is fatal or results in hospitalization of one or more employees, and take any action pursuant to such investigation authorized by such Act;

"(7) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act. This proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which reads as follows: "*Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the 6 months preceding such inspection: *Provided further,* That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe".

Amendment No. 18: Deletes language proposed by the House relating to follow-up inspections by Federal OSHA inspectors with respect to employers who have already been inspected by State inspectors pursuant to section 18 of the Occupational Safety and Health Act. The conferees agreed to similar language proposed by the Senate in amendment number 17. Also restores language proposed by the House which prohibits OSHA from conducting any inspection or investigation on the Outer Continental Shelf which exceeds the authority granted to OSHA by the Outer Continental Shelf Lands Act.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 19: Earmarks $6,801,000 for the National Mine Health and Safety Academy as proposed by the Senate.

Amendment No. 20: Appropriates $140,747,000, instead of $131,710,000, as proposed by the House and $142,983,000, as proposed by the Senate. The increase over the House bill includes $6,801,000 for the National Mine Health and Safety Academy and $2,236,000 to support 96 additional positions.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows: "; *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirement, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate or surface limestone mine".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 22: Deletes House language which is similar to the language agreed upon by the conferees in amendment number 21.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

Amendment No. 23: Appropriates $101,797,000 as proposed by the Senate, instead of $86,197,000 as proposed by the House.

GENERAL PROVISIONS

Amendment No. 24: Modifies House language regarding use of funds in the bill to pay prisoners for work performed. The language as modified prohibits payment to any prisoner for work performed prior to one year before the presumptive release date of such prisoner.

Amendment No. 25: Restores section number proposed by the House.

Amendment No. 26: Deletes language proposed by the House which would have prohibited the Mine Safety and Health Administration from carrying out section 601(1) of the Powerplant and Industrial Fuel Use Act of 1978.

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICES ADMINISTRATION

HEALTH SERVICES

Amendment No. 27: Restores the citation proposed by the House which permits support of National Health Service Corps private practice grants authorized by Title VII of the Public Health Service Act.

Amendment No. 28: Appropriates $1,325,278,000 instead of $1,318,343,000 as proposed by the House and $1,342,642,000 as proposed by the Senate. The conference agreement includes the following changes from the amounts proposed by the House:

Community health centers	−$18,936,000
Research centers (Section 341)	+4,936,000
Comprehensive grants to states (Section 314(d))	+16,000,000
Hypertension	+2,739,000
Genetic information and counseling	+4,000,000
Migrant health	+1,700,000
National Health Service Corps:	
Private practice grants	−500,000
Home health services	−1,000,000
BCHS program support	−2,204,000
PHS Hospitals:	
Estimated excess DOD reimbursement (non-add)	(+16,800,000)
Payment to Hawaii	+200,000

The conferees are agreed that the Department should give first priority in allocating home health funds to training those qualified to provide these services. The conferees are further agreed that community health facilities supported by this appropriation shall not be located in areas where existing facilities providing comparable services are not being fully utilized.

Amendment No. 29: Earmarks $1,800,000 for payments to the State of Hawaii for care of persons afflicted with Hansen's Disease, instead of $1,600,000 as proposed by the House and $2,000,000 as proposed by the Senate.

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which clarifies that the limitation on the use of 314(d) funds added by the House and agreed to by the Senate applies only to State-level administrative employees.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the Senate amendment which requires the Department of Defense to reimburse the Health Services Administration for the cost of care provided to DOD personnel in Public Health Service Facilities. It is the intention of the conferees that this system be on a reciprocal basis with the Public Health Service reimbursing DOD from this appropriation for the care provided to PHS beneficiaries which might otherwise have been provided in PHS facilities.

CENTER FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

Amendment No. 32: Appropriates $282,415,000, instead of $264,915,000 as proposed by the House, and $298,415,000 as proposed by the Senate. The conference agreement includes the following increases over the amounts proposed by the House:

Venereal disease	+$6,000,000
Childhood immunization	+6,000,000
Rat Control	+1,000,000
Lead-based paint prevention	+1,000,000
Health education	+3,500,000

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

Amendment No. 33: Appropriates $1,000,000,000 as proposed by the Senate, instead of $961,158,000 as proposed by the House.

NATIONAL INSTITUTE OF DENTAL RESEARCH

Amendment No. 34: Appropriates $68,318,000 as proposed by the House, instead of $67,000,000 as proposed by the Senate.

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

Amendment No. 35: Appropriates $341,246,000 as proposed by the House, instead of $315,000,000 as proposed by the Senate.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

Amendment No. 36: Appropriates $242,000,000 as proposed by the Senate, instead of $240,622,000 as proposed by the House.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

Amendment No. 37: Appropriates $215,402,000 as proposed by the House, instead of $200,000,000 as proposed by the Senate.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

Amendment No. 38: Appropriates $312,478,000 as proposed by the House, instead of $304,000,000 as proposed by the Senate.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Amendment No. 39: Appropriates $208,981,000 as proposed by the House, instead of $204,000,000 as proposed by the Senate.

NATIONAL INSTITUTE ON AGING

Amendment No. 40: Appropriates $70,000,000 as proposed by the Senate, instead of $68,910,000 as proposed by the House.

NATIONAL EYE INSTITUTE

Amendment No. 41: Appropriates $113,000,000 as proposed by the Senate, instead of $107,528,000 as proposed by the House.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, which provides that $3,000,000 shall remain available until expended to carry out a program of grants for public and nonprofit private vision research facilities.

RESEARCH RESOURCES

Amendment No. 43: Appropriates $169,193,000 as proposed by the House, instead of $164,000,000 as proposed by the Senate.

NATIONAL LIBRARY OF MEDICINE

Amendment No. 44: Appropriates $44,000,000 as proposed by the Senate, instead of $42,431,000 as proposed by the House.

The conferees are agreed that the amount for the National Institutes of Health provided in the bill will support 28 additional positions for the National Cancer Institute, 70 additional positions for the National Institute on Aging, and 55 additional positions for the National Institute of Environmental Health Sciences. The conferees are also agreed that the amounts allocated to investigator-initiated research project grants should not be less than the amount provided for that purpose in the House bill.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

Amendment No. 45: Appropriates $405,243,000 instead of $393,017,000 as proposed by the House, and $598,618,000 as proposed by the Senate. The Conferees are agreed that the appropriation includes the following changes from the amounts in the House bill:

Capitation grants:	
Medicine, Osteopathy & Dentistry	−$7,132,000
Public Health	+550,000
Construction grants	+1,000,000
Student assistance:	
Loans	+3,500,000
Exceptional need scholarships	+3,000,000
Allied health	+10,000,000
Family medicine	+5,000,000
Interdisciplinary training	+1,500,000
National Advisory Committee on Graduate Medical Education	−500,000
Supply and distribution reports	−2,700,000
Program support	−3,992,000
Primary care residencies & training	+2,000,000

Amendment No. 46: Deletes language proposed by the Senate which would have earmarked $1,500,000 to be available only for the program relating to nutrition education for health professionals.

Amendment No. 47: Deletes language proposed by the Senate which would have provided that $1,000,000 shall remain available until expended by grant for expansion of clinical teaching facilities under section 720(a)(1) of title VII, which shall be made without regard to section 720(b) of title VII.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, which provides that the Secretary shall give special attention under section 788(d) of the Public Health Service Act to programs which address health manpower shortages in medically underserved areas.

ASSISTANT SECRETARY FOR HEALTH

SALARIES AND EXPENSES

Amendment No. 49: Appropriates $188,695,000, instead of $186,986,000 as proposed by the House, and $198,503,000 as proposed by the Senate. The conference agreement includes the following changes from the amounts proposed by the House:

Health Statistics:	
National health surveys	−$1,598,000
Cooperative health statistics	−2,000,000
Health Maintenance Organizations:	
Grants and contracts	+2,880,000
Program support	+500,000
Health Technology	+750,000
Adolescent Pregnancy	+2,500,000
Health Services Research:	
Research	−1,000,000
Program Support	−323,000

The conferees approve use of the general loan guarantee fund in Fiscal Year 1980 to implement Section 1305A of the Public Health Service Act for acquisition and construction of ambulatory health care facilities.

Amendment No. 50: Earmarks $1,500,000 for projects under section 1317 of the Public Health Service Act, instead of $1,000,000 as proposed by the House and $2,000,000 as proposed by the Senate.

HEALTH CARE FINANCING ADMINISTRATION GRANTS TO STATES FOR MEDICAID

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the amendment of the Senate which extends the availability beyond September 30, 1980 of any budget authority which is not required during fiscal year 1980.

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate as follows:

"No payment shall be made from this appropriation to reimburse State or local expenditures made prior to September 30, 1978.".

This language provides for a one year limitation on the time period available to the States during which they can claim federal matching funds for state or local expenditures.

PAYMENTS TO HEALTH CARE TRUST FUNDS

Amendment No. 53: Appropriates $7,968,156,000 instead of $7,966,406,000 as proposed by the House and $7,969,906,000 as proposed by the Senate. Funds added over the House allowance are for hospital review costs of the Professional Standards Review program (PSRO).

PROGRAM MANAGEMENT

Amendment No. 54: Appropriates $126,195,000 instead of $121,695,000 as proposed by the House and $134,695,000 as proposed by the Senate. The additional funds included over the House allowance are to expand the program of research related to long-term care.

Amendment No. 55: Deletes additional funding added by the Senate for the Professional Standards Review Program (PSRO's).

EDUCATION DIVISION

OFFICE OF EDUCATION

ELEMENTARY AND SECONDARY EDUCATION

Amendment No. 56: Earmarks $3,330,343,000 for title I, parts A and B of the Elementary and Secondary Education Act instead of $3,477,132,000 as proposed by the House and $3,328,343,000 as proposed by the Senate.

Amendment No. 57: Deletes legal citation proposed by the Senate.

Amendment No. 58: Appropriates $3,794,556,000 instead of $3,936,982,000 as proposed by the House and $3,787,418,000 as proposed by the Senate.

The conferees are agreed that the appropriation includes the following:

Evaluation and studies	$13,000,000
Bilingual education:	
Grants to school districts	107,263,000
Materials development	10,000,000
Research and studies	4,625,000
Basic skills improvement	35,000,000
Ethnic heritage studies	3,000,000
Aid to the Virgin Islands	3,000,000
Territorial teacher training	2,000,000

With regard to bilingual education grants to school districts, the Office of Education is directed to establish minimum eligibility criteria which each proposal must meet in order to qualify for funds.

Amendment No. 59: Provides that $3,330,343,000 for title I, parts A and B of the Elementary and Secondary Education Act shall become available for obligation on July 1, 1980 instead of $3,477,132,000 as proposed by the House and $3,328,343,000 as proposed by the Senate.

Amendment No. 60: Provides $15,000,000 for section 116 (Incentive grants) of the Elementary and Secondary Education Act instead of $30,000,000 as proposed by the Senate. The House bill included no funds for this purpose.

Amendment No. 61: Provides $200,000,000 for section 117 (Concentration Grants) of the Elementary and Secondary Education Act as proposed by the Senate, instead of $345,789,000 as proposed by the House. The conferees direct the Commissioner of Education to take steps necessary for the development of a clear plan on the use of concentration grants by local school districts.

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows: "; and of which $245,000,000 shall be for the purposes of subpart 1 of such part B, and $145,000,000 shall be for the purposes of subpart 2 of such part B, and any reductions in entitlements required thereby shall be proportionate among the States)".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 63: Earmarks $250,000 for section 417(a)(2) as proposed by the Senate instead of $1,250,000 as proposed by the House.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which appropriates $772,000,000 instead of $744,000,000 as proposed by the House and $700,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which earmarks $690,000,000 for entitlements under sections 2 and 3 of Public Law 81–874 instead of $662,000,000 as proposed by the House and $618,000,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 66: Earmarks $399,000,000 for entitlements under section 3(a) as proposed by the Senate instead of $371,000,000 as proposed by the House.

Amendment No. 67: Restores language proposed by the House relating to entitlements and payments under sections 3(a) and 3(b).

Amendment Nos. 68, 69 and 70: Deletes language proposed by the Senate relating to payments under section 3(b).

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment limiting payments for certain children under section 3(a) to the amounts paid in fiscal year 1979.

Amendment No. 72: Appropriates $33,000,000 for school construction authorized by Public Law 81–815 as proposed by the House instead of $25,000,000 as proposed by the Senate.

Amendment No. 73: Earmarks $13,000,000 for construction under section 10 (schools located on Federal property) as proposed by the House instead of $9,000,000 as proposed by the Senate.

Amendment No. 74: Earmarks $17,000,000 for construction under section 14 (schools located on Indian lands) as proposed by the House instead of $13,000,000 as proposed by the Senate.

EMERGENCY SCHOOL AID

Amendment No. 75: Appropriates $315,298,000 instead of $340,650,000 as proposed by the House and $299,569,000 as proposed by the Senate. The conferees are agreed that the appropriation includes $118,800,000 for grants to school districts, $95,769,000 for special projects, $42,604,000 for magnet schools, $5,000,000 for grants to non-profit organizations, $1,000,000 for evaluation, and $15,675,000 for civil rights training and advisory services.

Amendment No. 76: Deletes language proposed by the House which removes the statutory reservation on appropriations contained in paragraph 2 of section 604(b) of the Emergency School Aid Act.

Amendment No. 77: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which removes the statutory reservation on appropriations contained in section 604(b)(2) and the limitation contained in section 613 of the Emergency School Aid Act.

EDUCATION FOR THE HANDICAPPED

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows: "$1,049,025,000: *Provided*, That funds appropriated under P.L. 95–480 for Part C of P.L. 91–230, Education of the Handicapped Act, as amended, shall remain available through September 30, 1980".

This amount is in lieu of the $1,045,325,000 as proposed by the House and $1,054,025,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 79: Earmarks $25,000,000 for pre-school incentive grants instead of $20.000.000 as proposed by the House and $30,000,000 as proposed by the Senate.

OCCUPATIONAL, VOCATIONAL, AND ADULT EDUCATION

Amendment No. 80: Appropriates $881,880,000 instead of $879,880,000 as proposed by the House and $884,880 000 as proposed by the Senate. The conferees are agreed that the appropriation includes $562,266,000 for vocational education basic State grants and $4,800,000 for bilingual vocational training.

Amendment No. 81: Earmarks $10,000,000 for part B, subpart 2 of the Vocational Education Act (programs of national significance) as proposed by the Senate instead of $13,000,000 as proposed by the House.

The Conference Committee directs that within the programs of national significance that funding be continued for the National Center for Research in Vocational Education and maintain support for Curriculum Coordinating Centers, the National Occupational Information Coordination Committee, and various research and demonstration projects.

Amendment No. 82: Earmarks $124,817,000 for part A, subpart 3 of the Vocational Education Act (program improvement and supportive services) instead of $112,317,000 as proposed by the House and $137,317,000 as proposed by the Senate.

Amendment No. 83: Earmarks $2,500,000 for section 317 of the Adult Education Act instead of $5,000,000 as proposed by the Senate and earmarks $2,500,000 for section 318 of the Adult Education Act instead of $5,000,000 proposed by the Senate. The House bill contains no funds for these purposes.

STUDENT ASSISTANCE

Amendment No. 84: Earmarks $550,000,000 for part C (College work study) of the Higher Education Act as proposed by the House instead of $510,000,000 as proposed by the Senate.

Amendment No. 85: Earmarks $300,800,000 for part E (National direct student loans) of the Higher Education Act as proposed by the House instead of $242,800,000 as proposed by the Senate.

Amendment No. 86: Appropriates $3,056,935,000 for "Student assistance" as proposed by the House instead of $2,958,935,000 as proposed by the Senate.

Amendment No. 87: Earmarks $3,015,550,000 to remain available until September 30, 1981 as proposed by the House instead of $2,917,550,000 as proposed by the Senate.

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which deletes language proposed by the House reappropriating $726,000,000 of the fiscal year 1979 appropriation for basic opportunity grants and inserts language proposed by the Senate relating to the use of balances available from fiscal year 1978 and fiscal year 1979 appropriations for basic opportunity grants.

Amendment No. 89: Deletes language proposed by the Senate extending the availability of work study grants.

Amendment No. 90: Deletes language proposed by the Senate relating to funds appropriated for basic opportunity grants.

Amendment No. 91: Deletes language proposed by the Senate relating to the distribution of up to $20,000,000 of funds for national direct student loans.

HIGHER AND CONTINUING EDUCATION

Amendment Nos. 92, 93, 94 and 95: Restores legal citations proposed by the House.

Amendment No. 96 and 97: Insert legal citation proposed by the Senate.

Amendment No. 98: Appropriates $399,730,000 instead of $408,080,000 as proposed by the House and $361,380,000 as proposed by the Senate. The conferees are agreed that the appropriation includes the following:

Special programs for the disadvantaged	$147,500,000
Educational information centers	3,000,000
Developing institutions	110,000,000
Graduate/professional training	8,850,000
Law school clinical experience	4,000,000
Architectural barrier removal	25,000,000
National academy of peace and conflict	500,000

With regard to the program for developing institutions the conferees are agreed that each school shall not enter into a financial agreement with more than one assisting agency.

Amendment No. 99: Deletes earmarking of $8,000,000 for cooperative education demonstration programs proposed by the House.

The conferees urge the education authorizing committees which are considering the Higher Education re-authorization to give serious consideration to the Cooperative Education program, and in particular the need for a stepped-up commitment to Urban Initiatives Demonstration Grants. The conferees are very impressed with the success and viability of the cooperative approach, particularly as it is applied in large urban areas with a significant need for a highly trained and skilled work-force.

Amendment No. 100: Inserts earmarking of $10,000,000 for part A of title I of the Higher Education Act as proposed by the Senate.

Amendment No. 101: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which relates to the distribution of the appropriation for part A of title I of the Higher Education Act.

LIBRARY RESOURCES

Amendment No. 102: Deletes legal citations proposed by the Senate.

Amendment No. 103: Appropriates $268,488,000 instead of $264,475,000 as proposed by the House and $272,500,000 as proposed by the Senate.

Amendment No. 104: Earmarks $171,000,000 for title IV part B of the Elementary and Secondary Education Act, instead of $162,000,000 as proposed by the House and $180,000,000 as proposed by the Senate.

SPECIAL PROJECTS AND TRAINING

Amendment No. 105: Earmarks $3,617,000 for part G (Consumers education) of the Elementary and Secondary Education Act instead of $3,135,000 as proposed by the House and $4,100,000 as proposed by the Senate. The increase recommended by the conferees over the House bill will be used to support additional grants.

Amendment No. 106: Deletes legal citation proposed by the Senate.

Amendment No. 107: Appropriates $118,223,000 instead of $124,628,000 as proposed by the House and $110,706,000 as proposed by the Senate. The conferees are agreed that the appropriation includes $2,850,000 for cities in schools, $20,000,000 for career education incentives, and $30,000,000 for teacher corps.

NATIONAL INSTITUTE OF EDUCATION

Amendment No. 108: Appropriates $91,172,000 instead of $98.285,000 as proposed by the House and $84,058,000 as proposed by the Senate.

In light of the highly positive review of the lab and center program, the conferees direct that at least $29.8 million be used to continue and strengthen the program.

OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION SALARIES AND EXPENSES

Amendment No. 109: Appropriates $34,484,000 instead of $34,930,000 as proposed by the House and $34,037,000 as proposed by the Senate. The conferees are agreed that the appropriation includes $13,500,000 for the fund for the improvement of postsecondary education and $9,947,000 for the national center for educational statistics.

POPULATION EDUCATION

Amendment No. 110: Deletes appropriation of $2,000,000 proposed by the Senate.

SOCIAL SECURITY ADMINISTRATION
SUPPLEMENTAL SECURITY INCOME

Amendment No. 111: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the amendment of the Senate which extends the availability beyond September 30, 1980 of any budget authority which is not required during fiscal year 1980.

ASSISTANCE PAYMENTS PROGRAM

Amendment No. 112: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the amendment of the Senate which extends the availability beyond September 30, 1980 of any budget authority which is not required during fiscal year 1980.

Amendment No. 113: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate as follows:

"No payment shall be made from this appropriation to reimburse state or local expenditures made prior to September 30, 1978.".

This language provides for a one year limitation on the time period available to the States during which they can claim federal matching funds for State or local expenditures.

REFUGEE ASSISTANCE

Amendment No. 114: Appropriates $75,540,000 instead of $23,500,000 as proposed by the House and $91,500,000 as proposed by the Senate. This is the same amount as requested in the President's budget and will support 75% of the costs of the Cuban program. This agreement reinstates the six-year phase-out of the Cuban program agreed to by the House and Senate in P.L. 95–480, the fiscal year 1979 Labor-HEW Appropriations Act.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES GRANTS TO STATES FOR SOCIAL AND CHILD WELFARE SERVICES

Amendment No. 115: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which provides that the appropriation shall remain available until expended.

Amendment No. 116: Restores language proposed by the House and deleted by the Senate which provides that not to exceed $75,000,000 may be used for training authorized by section 2001 of the Social Security Act.

Amendment No. 117: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, which provides that no payment shall be made from the appropriation to reimburse State or local expenditures made prior to September 30, 1978.

HUMAN DEVELOPMENT SERVICES

Amendment No. 118: Appropriates $2,557,981,000 instead of $2.519,430.000 as proposed by the House and $2,602,073,000 as proposed by the Senate. The conferees are agreed that the appropriation includes the following:

Child welfare training	$7,575,000
Aging:	
Area agency services	246,970,000
Nutrition services	320,000,000
Indian Tribes	6,000,000
Rehabilitation:	
Basic State grants	817,484,000
Independent living	15,000,000
Research	31,500.000
Developmental disabilities, university affiliated facilities	7.000.000
Salaries and expenses	74,202,000

For child welfare training, the conference committee agrees on $7,575,000, which is $575,000 below the fiscal 1979 level and that provided by the Senate. This is $2,575,000 above the budget request and $575,000 more than that provided by the House. Included in the above is funding for Federal National and Regional Training Centers. The conferees are in agreement that child welfare training center grants shall be funded at the level of the budget request.

Amendment No. 119: Earmarks $6,000,000 for title VI of the Older Americans Act instead of $8,000,000 as proposed by the Senate. The House bill included no earmarking for this purpose.

Amendment No. 120: Appropriates $808,000,000 for activities under section 100(b)(1) of the Rehabilitation Act of 1973 as proposed by the House instead of $826,316,000 as proposed by the Senate.

Amendment No. 121: Deletes earmarking of $1,200,000 for section 100(b)(3) of the Rehabilitation Act proposed by the Senate.

Amendment No. 122: Earmarks $15,000,000 for section 711 of the Rehabilitation Act as proposed by the Senate instead of $10,000,000 as proposed by the House.

Amendment No. 123: Earmarks $43,180,000 for part C of the Developmental Disabilities Services and Facilities Construction Act as proposed by the Senate instead of $46,880,000 as proposed by the House.

Amendment No. 124: Inserts earmarking of $7,500,000 for section 113 of the Developmental Disabilities Services and Facilities Construction Act as proposed by the Senate. The House bill included no earmarking for this purpose.

Amendment No. 125: Deletes language proposed by the Senate authorizing use of funds to conduct a study focusing on the need for safe housing for the elderly.

WORK INCENTIVES

Amendment No. 126: Appropriates $365,000,000 as proposed by the House, instead of $385,000,000 as proposed by the Senate.

GENERAL PROVISIONS

Amendment No. 127: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment amended to read as follows:

"SEC. 201. Notwithstanding any other provision in this Act, the total amount of budget authority provided in this Act for the Department of Health, Education, and Welfare is hereby reduced in the amount of $500,000,000; *Provided*, That this reduction shall be achieved by the reduction of fraud, abuse, and waste as defined and cited in the annual report, dated March 31, 1978, of the Inspector General of the Department of Health, Education, and Welfare: *Provided further*, That this section shall not be construed to change any law authorizing appropriations or other budget authority in this Act: *Provided further*, That the requirements pertaining to AFDC and Medicaid error rates, as specified in the conference report on the fiscal 1979 Supplemental Appropriations Act (P.L. 96-38), shall be carried out except where the Secretary determines, in certain limited cases; that states are unable to reach the required reduction in a given year despite a good faith effort.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferences intend that reductions in waste, fraud, and abuse totalling $500 million be made in the individual accounts covering the programs cited by the Inspector General in his report of March 31, 1978, as containing waste, fraud, and abuse. These reductions shall be over and above any savings due to reduced waste, fraud, and abuse already included within these accounts in this Act. The total amount available for expenditure under this Act, therefore, shall not exceed the sum of the individual program allocations in the Act minus $500 million.

The conference agreement prohibits any reduction or elimination of benefits under these programs to those persons legitimately entitled to such benefits, and the conferees direct the Department not to undertake any action designed to contravene this requirement. The conferees also reaffirm the requirement pertaining to AFDC and Medicaid error rates contained in the conference report on the F.Y. 1979 Supplemental Appropriations Act (P.L. 96-38) except that the Secretary may grant a yearly waiver in certain limited instances if a state is unable to reach the required reduction in a given year despite a good faith effort. The conferees emphasize that this waiver process is to be limited to extraordinary circumstances.

In meeting the mandated reductions contained in this section, the Secretary of Health, Education, and Welfare may include savings made in F.Y. 1980 from prior year appropriations, provided that such savings are fully documented and presented to the House and Senate Appropriations Committees for approval. The conferees also intend that any Federally-developed savings in the non-entitlement programs shall be returned to the Treasury, rather than reallocated to the programs, and may be included as part of the reductions under this section, with the following exceptions: 1.) any increased collection on defaulted loans under the Federally Insured Student Loan program may be counted as reductions if returned to the Student Loan Insurance Fund, and 2.) under the Direct Student Loan Program, any increased default collections either returned to the Treasury or offset by the withholding from obligation of any equal amount of appropriated funds may be counted as reductions.

SYSTEM FOR HOSPITAL UNIFORM REPORTING (SHUR)

Amendment No. 128: Deletes language proposed by the House which would have prohibited implementation of the System for Hospital Uniform Reporting (SHUR) during fiscal year 1980. The conferees are concerned, however, with the unnecessary and unintended burden on health care facilities which would have resulted if the regulations originally proposed for this system had gone into effect. The conferees therefore direct that the Secretary not issue final regulations for the program until the Department's proposed revisions have been formally approved by the appropriate committee of each House designated by the Speaker of the House of Representatives and the Majority Leader of the Senate.

Amendments 129-136: Adjust section numbers.

Amendment No. 137: Reported in disagreement.

Amendment No. 138: Adjusts section number.

Amendment No. 139: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment, amended to read as follows:

"SEC. 212. None of the funds appropriated or otherwise made available in this title shall be used to implement section 15 (d) and (e) of the Small Business Act, as amended, or Executive Order number 12073, dated August 16, 1978, in regard to requests for proposals for research, rehabilitation, training or other highly professional health, education and social services which will not substantially affect employment levels.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 140: Reported in technical disagreement. The Managers on the part of the House will move to recede and concur in the Senate amendment, amended to read as follows:

"SEC. 213. Funds appropriated to the Department of Health, Education, and Welfare under title II may not be used to pay the compensation of experts or consultants (other than full-time employees) or organizations thereof, or to procure by contract the services of experts or consultants or organizations thereof, in excess of $170,000,000 during fiscal year 1980. Expenditures for all consultant services in the fourth quarter of fiscal year 1980 may not exceed 30 per centum of the total annual fiscal year 1980 expenditure for such consultant services.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees are agreed that in allocating funds for experts and consultants, first priority should be given to congressionally mandated studies and to the Inspector General and other activities relating to elimination of waste, fraud, and abuse.

TITLE III—RELATED AGENCIES

COMMUNITY SERVICES ADMINISTRATION

COMMUNITY SERVICES PROGRAM

Amendment No. 141: Appropriates $796,100,000 as proposed by the Senate, instead of $548,000,000 as proposed by the House. The conference agreement contains the following changes from the amounts proposed by the House:

Community action agencies	+$6,000,000
Community food and nutrition	+10,000,000
Emergency energy conservation services	+3,700,000
Energy Crisis intervention	+228,000,000
Program administration	+400,000

The conferees direct the agency to utilize $2,500,000 of the funds provided in the bill for demonstration for projects under the Demonstration Employment and Training Opportunity Program (section 222(a)(7) of the Act).

The conferees have agreed to provide the budget request of $250 million for the energy crisis intervention program. During the conference, the conferees received a letter from the Office of Management and Budget, dated July 30, 1979, requesting that level of funding. The pertinent portion of the letter follows:

Hon. WILLIAM H. NATCHER,
Chairman, Subcommittee on Labor-HEW, Committee on Appropriations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On July 12, 1979, we sent a letter to the Senate Committee on Appropriations in support of a $250 million amendment by Senator Eagleton to establish an energy crisis assistance program. It is important to have such a program for low income households in time for the coming winter. This type of emergency assistance can be of critical help to low income families facing energy crises.

We hope you will favorably consider the $250 million in your conference mark-up session today on the Labor-HEW Appropriations Bill. We support the increases with the understanding that after the Energy Security Fund is established, the general fund will be reimbursed from the trust fund. This would be the initial step of the Administration's low income energy assistance proposal; we are planning to request further increases for FY 1980 to:

Raise the energy crisis assistance program to $.4 billion; and

Initiate a new $1.2 billion energy cash assistance program for low income households, subject to enactment of authorizing legislation for this program and the Energy Security Fund.

The conferees direct that an allocation formula be developed immediately based on past severity of weather, relative increase in the cost of fuel, and the numbers of low-income individuals residing within the state. The conferees believe that a single allocation to the states in advance of the onset of cold weather will assist immeasurably in rational planning and efficient implementation of this program.

Funds would be provided to states for use as either cash grants or emergency assistance such as heaters, blankets, food, alternate shelter and the like to low income families. Governors will be given the flexibility to designate specific local delivery system. Included in the type of assistance allowed would be direct payments to eligible households or direct vendor payments for fuel costs of eligible households. State administrative costs are not to exceed 10 percent of the grant.

Aid under this program should be limited to households at or below 125% of the U.S. Census poverty level, and individuals eligible for Supplemental Security Income payments. Highest priority should be placed on serving the low income elderly.

Payments made under this program are not to be considered as income for purposes of determining eligibility or benefits under any income maintenance program including, but not limited to, public assistance, veterans' benefits, food stamps, or Supplemental Security Income. It is also the intent of the conferees that any assistance to the poor provided under state and local authority will not be reduced.

Finally, the conferees are aware that the Administration is formulating its policy for some form of energy assistance program, and understand that the recommendation may include administration of this program by another agency. Thus, the conferees would have no objection to CSA delegating all or part of these funds to another agency to administer a similar program. If a supplemental request for expansion of this program as a part of a comprehensive energy proposal is submitted by the Administration, the conferees will give further consideration to this matter early in the next fiscal year.

COMMUNITY DEVELOPMENT CREDIT UNIONS, REVOLVING FUND

Amendment No. 142: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment appropriating $6,000,000, instead of $12,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

FEDERAL MEDIATION AND CONCILIATION SERVICE SALARIES AND EXPENSES

Amendment No. 143: Restores the word "and" as proposed by the House.

Amendment No. 144: Deletes language proposed by the Senate for carrying out the Labor-Management Cooperation Act of 1978.

Amendment No. 145: Appropriates $23,075,000 as proposed by the House, instead of $28,075,000 as proposed by the Senate.

TITLE IV—GENERAL PROVISIONS

Amendment No. 146: Deletes language proposed by the Senate which would have permitted the Chairman of the National Mediation Board to spend $2,500 from appropriated funds for official reception and representation expenses.

Amendment No. 147: Deletes language proposed by the Senate which would have prohibited the use of funds in the bill in connection with the issuance, implementation, or enforcement of any rule, regulation, standard, guideline, recommendation, or order which includes any quota related to race, creed, color, national origin, or sex, and which requires any individual or entity to take any action with respect to the admissions policies or practices of any institution of higher education.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1980 recommended by the Committee of Conference, with comparisons to the fiscal year 1979 amount, the 1980 budget estimates, and the House and Senate bills for 1980 follows:

New budget (obligational) authority, fiscal year 1979	$73,422,491,000
Budget estimates of new (obligational) authority, fiscal year 1980[1]	73,687,742,000
fiscal year 1982	(172,000,000)
House bill, fiscal year 1980	72,779,333,000
fiscal year 1982	(172,000,000)
Senate bill, fiscal year 1980	72,821,245,000
fiscal year 1982	(172,000,000)
Conference agreement	72,352,613,000
Fiscal year 1982 advanced appropriation	(172,000,000)
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1979	−1,071,878,000
Budget estimates of new (obligational) authority, fiscal year 1980	−1,337,129,000
House bill, fiscal year 1980	−428,720,000
Senate bill, fiscal year 1980	−470,632,000

[1] Includes an additional $210,000,000 for energy crisis intervention services requested in a letter from the Office of Management and Budget on July 30, 1979; excludes $889,795,000 of estimates which were not considered due to lack of authorizations.

William H. Natcher,
Neal Smith,
Edward J. Patten,
David R. Obey
(except No. 114),
Edward R. Roybal
(except Nos. 61 and 137),
Louis Stokes
(except Nos. 61 and 137),
Joseph D. Early,
Jamie L. Whitten
(with reservations),
Edward P. Boland,
Robert H. Michel
(except Nos. 68, 69, and 141),
Silvio O. Conte,
George M. O'Brien,
Carl D. Pursell,
Managers on the Part of the House.

Warren G. Magnuson,
Robert C. Byrd,
Ernest F. Hollings,
Thomas F. Eagleton
(with exception to the Senate language on No. 137),
Birch Bayh,
Lawton Chiles,
Quentin N. Burdick,
Daniel K. Inouye,
Richard S. Schweiker,
Charles McC. Mathias, Jr.,
Mark O. Hatfield,
Lowell P. Weicker, Jr.,
Harrison Schmitt,
Milton R. Young,
Managers on the Part of the Senate.

PERSONAL EXPLANATION

(Mr. MURPHY of Illinois asked and was given permission to revise and extend his remarks.)

Mr. MURPHY of Illinois. Mr. Speaker, yesterday I was holding hearings in the city of Chicago of the Select Committee on Narcotics Abuse and Control for which I had official leave of absence. I was, therefore, surprised to see the Record shows me recorded on votes taken yesterday and I ask unanimous consent that the permanent Record reflect the fact that I was not present and did not vote on Monday, July 30.

I also request that the Committee on Standards of Official Conduct look into this matter and, being a member of the Committee on Standards of Official Conduct I will step aside while they look into the matter.

☐ 1850

MAKING IN ORDER ON AUGUST 2, 1979, OR ANY DAY THEREAFTER, CONSIDERATION OF CONFERENCE REPORT ON H.R. 3363

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that it shall be in order on Thursday, August 2, or any day thereafter, to consider the conference report on the bill, H.R. 3363, Department of State Authorization Act, 1980 and 1981, and said conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MESSAGE FROM THE SENATE

The SPEAKER pro tempore. The Chair lays before the House the following message from the Senate:

A message from the Senate by one of its clerks informed the House that the Senate had agreed to House Concurrent Resolution 168 entitled "Concurrent resolution providing for an adjournment of the House from August 2 to September 5, 1979 and a recess of the Senate from August 3 to September 5, 1979," with amendments in which the concurrence of the House is requested.

The Clerk read the Senate amendments, as follows:

> Page 1, strike out lines 5 and 6 and insert: "Thursday, August 2, Friday, August 3, or Saturday, August 4, 1979, pursuant to a motion made by the majority leader in accordance with this resolution, it stand in recess until 11 o'clock a.m. on Wednesday, September 5, 1979.".
>
> Amend the title so as to read: "Concurrent resolution providing for an adjournment of the House from August 2 to September 5, 1979, and a recess of the Senate from August 2, August 3, or August 4, 1979, to September 5, 1979.".

The SPEAKER pro tempore. The question is on the Senate amendments.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

ANNUAL REPORT OF THE SECRETARY OF THE INTERIOR—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor, and to the Committee on Interior and Insular Affairs:

To the Congress of the United States:

In accordance with Section 511(a) of the Federal Coal Mine Health and Safety Act of 1969, I hereby transmit the Annual Report of the Secretary of the Interior.

Part I of the Report details the activities of the Mining Enforcement and Safety Administration. Part II describes the mining research activities of the Bureau of Mines.

JIMMY CARTER.

THE WHITE HOUSE, *July 31, 1979.*

FBI CHARTER ACT OF 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–172)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on the Judiciary and ordered to be printed:

To the Congress of the United States:

I am transmitting today the FBI Charter Act of 1979, which will provide the first comprehensive Charter for the functioning of the Federal Bureau of Investigation. This legislative proposal will govern all the investigative and law enforcement functions of the Federal Bureau of Investigation.

The foreign intelligence and counterintelligence functions of the Bureau will be governed by a separate charter for the entire foreign intelligence community.

This proposal was developed by the FBI and the Justice Department and has received close scrutiny and personal approval from Attorney General Griffin Bell, Deputy Attorney General Benjamin Civiletti, and Director William Webster.

The law enforcement Charter would bring together in one statute the authorities and responsibilities that the FBI now exercises as a matter of custom and practice.

Although most departments and agencies operate under detailed statutory schemes, the FBI has lacked a statutory framework, although it is one of the most important and sensitive of all Executive Branch agencies. A one-paragraph 1908 law creating the Bureau is all that presently exists. The controversies in past years regarding particular actions of the Bureau, such as those directed at Dr. Martin Luther King, Jr., and various other persons and organizations, are to some degree attributable to this lack of statutory direction. It was these controversies which led me to call for a clear and binding charter for the FBI when I ran for President. Statutory safeguards would insure that the Bureau exercises its responsibilities in a manner sensitive to the fundamental rights of all Americans. The public must be assured that the FBI is acting properly under the law.

We need to recognize that the FBI serves a vital national function and that it has rendered distinguished service to the Nation. It has set a standard for competence, dedication and professionalism of which we should all be proud. We must be careful to maintain the fundamental capability of an institution which has served us so well. This Charter maintains that capability. Under Director William Webster the conduct of the Bureau has been exemplary and I applaud his leadership.

A clear definition of the authorities and responsibilities of the FBI is essential to its proper functioning and is in the best interest of national law enforcement and the proper administration of justice. Enactment of this Charter will enable FBI agents to carry out their duties with greater certainty, confidence, and effectiveness.

The bill I submit today reflects three fundamental objectives:

—The Charter should be a document of broad principles, not a long detailing of procedures. It should enumerate the FBI's jurisdiction, functions and powers and set forth the limits on its activities, but should leave to the Attorney General the power to issue specific detailed procedures and guidelines.

—With few exceptions, coupled with procedural safeguards, the investigative power of the FBI should be limited to the detection, prevention and prosecution of federal crimes. This will prevent the unrestricted accumulation of information concerning individuals not suspected of criminal conduct.

—The Charter should strike a proper balance between the true needs of law enforcement and the civil liberties guaranteed by our Constitution. The greater the potential for impairment of rights, the stronger the authorization and accountability systems required.

The Charter authorizes the FBI to employ traditional and lawful investigative techniques in carrying out its responsibilities. These include confidential informants, undercover agents, and undercover operations.

Two primary types of criminal investigations are authorized: investigation of criminal acts that violate federal law and investigations into criminal enterprises that involve racketeering or terrorism. No investigation may be commenced unless based on "facts and circumstances that reasonably indicate" a criminal violation.

For the most part, this bill simply codifies current practices. However, FBI authority would be significantly expanded in two areas:

1. The FBI could issue "investigative demands" for financial records. This is a compulsory process enforceable in the courts comparable to the administrative subpoenas issued by agencies such as the Securities and Exchange Commission and the new Inspectors General in each Federal agency. This is essential if the FBI is to be effective in combatting white collar crime, fraud, corruption, and organized crime.

2. The FBI could investigate patterns of terrorist acts that involve violations of state criminal laws even without federal violations, following the model of current racketeering statutes.

The bill continues existing restrictions, procedural controls, and requirements for accountability on FBI activities. It adds, however, several new restrictions providing tighter controls over the use of informants. For example, infiltration of groups under investigation for terrorist activities and participation by an informant in criminal activity must now be approved by a supervisory FBI official.

The Charter requires that the Attorney General promulgate, and periodically review, operational guidelines for each of the Bureau's major activities. These guidelines will be filed with the Congress and made available to the public unless, in a specific case, their release would jeopardize the investigative process. The FBI is also required to report on important and sensitive activities to the Attorney General and the Congress.

This Charter strikes the proper balance between assuring both that the civil rights and liberties guaranteed to Americans by our Constitution are protected and that the FBI can fully pursue its appropriate functions.

I urge the Congress to give this bill the careful and urgent attention it deserves and to pass the first Charter for the FBI.

JIMMY CARTER.

THE WHITE HOUSE, *July 31, 1979.*

REQUEST FOR CLARIFICATION OF UNANIMOUS-CONSENT REQUEST

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the gentleman from Illinois (Mr. MURPHY) just made a request, a notation earlier. Some of us were in the Chamber. We did not hear the Chair make a response to the unanimous-consent request at all.

Some of us noticed before, when the gentleman from Illinois made an observation about not having been here yesterday and yet having been recorded by a vote. If we heard correctly, the comment was made by the gentleman that he was asking the Chair to take certain action with unanimous consent. Some of us believe that there was nothing on the part of the Speaker by way of a response asking for anybody in the Chamber to object to that request for unanimous consent.

My question is this, Mr. Speaker. Is it not proper for a Member in the Chamber then to interpose an objection at this point, since the Chair has not made any ruling saying without objection, so ordered?

The SPEAKER pro tempore. The Chair would advise the gentleman that the gentleman to whom he refers did not make a unanimous-consent request, other than to address the House of Representatives for 1 minute and no objection was heard to that unanimous-consent request.

Mr. DANNEMEYER. We have no objection to that. I thank the Speaker.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2172, INTERNATIONAL SUGAR STABILIZATION ACT OF 1979

Mr. DODD, from the Committee on Rules, submitted a privileged report (Rept. No. 96-401) providing for the consideration of H.R. 2172, to implement the International Sugar Agreement, 1977, between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes, which was referred to the House calendar and ordered to be printed.

THE RADIAL TIRE EXCISE TAX REPEAL ACT OF 1979

(Mr. WIRTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WIRTH. Mr. Speaker, earlier today I introduced the Radial Tire Excise Tax Repeal Act of 1979. This measure would eliminate the Federal excise tax on radial ply tires, thus providing an incentive for consumers to purchase radials, thereby saving gasoline.

With our energy situation becoming increasingly serious, we must seek out and take advantage of every possible method to reduce this Nation's consumption of precious, and scarce, energy resources. Motor vehicles consume more than 25 percent of this Nation's fuel; therefore, one of the best ways to reduce energy consumption is to make vehicles more energy efficient.

Recent tests conducted by the Transportation Systems Center for the Department of Transportation, as well as a variety of other tests by the tire industry and other organizations, indicate that the use of radial ply tires can increase fuel economy 3 to 10 percent. This variance depends on the speed traveled, the age and tread wear of the tire, tire inflation, and other factors. Radials are most efficient with proper inflation at speeds of 50 miles per hour.

Twenty percent of vehicle consumption, or roughly 5 percent of the fuel consumed in the United States, is accounted for by tire rolling resistance—the lower the rolling resistance, the higher the fuel economy. The average rolling resistance of a radial ply tire is 12 pounds per foot per 1,000 pounds, compared to 16 pounds per foot per 1,000 pounds for the conventional bias ply tire. This reduction of the rolling resistance of 25 percent amounts to an average fuel savings of 5 percent, with a 10-percent savings for sustained speeds. This savings amounts to an extra mile per gallon and almost $2 per tankful. Today, with 50 percent of all cars on the road equipped with radials—80 percent of the new cars coming out of Detroit have radials—the fuel savings is over 3 billion gallons per year—if all cars traveled on radials, the fuel savings would be over 6 billion gallons per year. This is quite a substantial reduction in gasoline consumption.

The excise tax on radial tires is 10 cents per pound, or 5 cents per pound for offroad vehicles, such as farm equipment. This tax has been in place since 1932 with the advent of the automotive excise tax which taxed tires, tubes, and a variety of other accessories for cars, trucks, and buses. The revenue generated from this tax in 1978 was under $850 million. The gasoline savings that would derive from this repeal would more than make up for the loss of revenue.

The repeal of this tax would reduce the price of a radial tire by as much as $5. It is my hope that with this tax eliminated, consumers would be more inclined to purchase radials, thus improving automobile efficiency and saving gasoline.

This idea is not new—similar initiatives have been undertaken in the past. A provision of the Energy Tax Act of 1978 repealed the Federal excise tax on radials used by trucks and buses, with a resulting fuel savings of about 6 percent.

This measure is one of the many initiatives that must be taken in the drive to reduce the demand for energy resources. The Radial Tire Excise Tax Repeal Act of 1979 contains little cost, many benefits and no liabilities. I urge its swift adoption.

□ 1120

TRIBUTE TO KING KAMEHAMEHA III

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, it is with a sense of deep gratitude and hope for the future of our beloved Nation, and the nations, that I rise and offer this tribute to Hawaii's King Kamehameha III, who on July 31, 1843, 136 years ago today, spoke the words that are now the motto of the State of Hawaii:

> Ua mau ea o ka aina I ka pono—the life of the land is perpetuated by righteousness.

The righteousness of which he spoke is evident in the way he guided his nation. Where once the King of the Hawaiian Islands held absolute power over his subjects, King Kamehameha III, in 1840, gave to his people their first Bill of Rights and Constitution. This voluntary sharing of power through a new fundamental law of the kingdom is one of the great examples of justice, mercy, and good will in the history of mankind. The King began Hawaii's first code of civil laws, with the words of Holy Scripture:

> *God hath made of one blood all nations of men to dwell on the face of the Earth.* Book of Acts 17:26.

By sharing the privileges, responsibilities, and powers of government, King Kamehameha III exemplified the highest teachings of his new found Christian faith. In words that could well preface the constitutions of all nations today, the King declared in the preamble: "God has established governments for the purposes of peace."

His faith and trust in God was given noteworthy vindication in 1843. In February of that year, contrary to the views of London, the commander of the British frigate *Carysfort*, Lord George Paulet, forced the king by threat of cannon fire, to surrender his kingdom to the British Government. Upon London receiving word of Paulet's action, British Admiral Richard Thomas hastened to Honolulu to make amends to end Paulet's perfidy. The kingdom was restored to King Kamehameha III on July 31, 1843. It was on that joyous day, from the pulpit of historic Kawaiahao Church, the church that my brother, the Reverend Dr. Abraham K. Akaka now serves, that the king articulated the principle of righteousness contained in the Holy Scripture:

> *Righteousness exalted a nation, but sin is a reproach to any people.* Proverbs 14:34.

I invite our Nation to share in the gratitude of the people of Hawaii. For King Kamehameha III, whose belief that God's righteousness exalts any nation, calls us all to the universal source of hope for peace and security in our Nation and in all nations. Indeed, our Nation's motto and Hawaii's are one: "In God we trust."

FUEL STAMP ACT OF 1979

(Mr. SABO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, it is obvious to all of us that the days of cheap energy are gone forever. While many people can readjust their spending patterns to accommodate the rapidly rising costs of energy, a significant number cannot make these adjustments. These people are going to experience serious, life-threatening hardships in this and future winters.

Today I am introducing the Fuel Stamp Act of 1979. This bill is an attempt to alleviate some of the most severe hardships caused by rising energy prices. The proposal provides fuel stamps to low-income people which can be used to help pay heating bills. It is designed to work in a way which is simple for the recipient and requires no additional bureaucracy.

The proposal piggy-backs onto the food stamp program in the following ways:

First. Anyone whose income is low enough to qualify for food stamps automatically qualifies for fuel stamps. There is no new certification required, consequently no new bureaucracy is needed and no unnecessary complications are inflicted on the recipients.

Second. Fuel stamps would be available for the months of December, January, February, and March. In these 4 months food stamps recipients could receive fuel stamps at the same time they pick up their food stamps.

Third. The value of the fuel stamps offered is determined as simply as the eligibility. Fuel stamps would be available to a household in the same amount that the household receives in food stamps, with two exceptions:

No household would receive less than $20 in fuel stamps. For instance, if a household qualifies for only $10 in food stamps it would still qualify for $20 in fuel stamps in the four months when fuel stamps are offered.

No household will receive more than $50 in fuel stamps. Even though a household receives $100 in food stamps, it could only receive $50 in fuel stamps.

All households receiving food stamps of more than $20 and less than $50 in value would qualify for fuel stamps in the same amount as their food stamps.

Fourth. Fuel stamps may be used to pay heating bills to any utility dealer which provides fuel for heat. They may also be used to pay a portion of the rent to any landlord who includes heat in the rent.

This program will be administered through the Department of Agriculture by the same agencies which administer the food stamp program. It should be very easy to establish and will cost approximately $970 million in 1980.

TELLICO DAM PROJECT SHOULD BE COMPLETED

(Mr. DUNCAN of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DUNCAN of Tennessee. Mr. Speaker, as we in the Congress approach a vote on the Tellico Dam project in my district in Tennessee, I would like to bring to your attention three letters on the subject, that heretofore, for reasons unknown to me, have not been made public. The contents, to my knowledge, have not been referred to in any report. I do not know why this information was not made available to the Congress, to the press, the public or in reports to the Endangered Species Committee.

I quote from a letter from the Department of Energy, dated October 6, 1978:

> New evidence indicates that the snail darter fish can survive and reproduce in the Hiawassee River where it was transplanted in 1975.

The report also states that the reservoir development has a superior benefits-cost ratio—and the letter says:

> We support the early completion of the Tellico project.

The letter is as follows:

DEPARTMENT OF ENERGY,
Golden, Colo.

MR. S. DAVID FREEMAN,
Chairman, Office of the Board of Directors, Tennessee Valley Authority, Knoxville, Tenn.

DEAR MR. FREEMAN: Thank you for the invitation to review your draft report "Alternatives for Completing the Tellico Project." We wish to present the following comment for the official record.

We note that Congress approved the initial appropriation of funds for the Tellico Project in 1966. Currently construction of the projects as originally planned is 95 percent complete. Expenditures and obligations through May 1978 have totaled $109,000,000. Costs for completion of the original project are estimated as $19,400,000. Additional spillway capacity to handle a new inflow design flood as computed by the USBR would cost an additional $12,500,000.

New evidence indicates the Snail Darter fish can survive and reproduce in the Hiwassee River where it was transplanted in 1975. If additional studies prove that the Tennessee River would no longer be critical habitat, then the Snail Darter could be removed from the endangered species list and reservoir development could proceed.

The report also shows that reservoir development has a superior benefit-cost ratio. Although it stated that "benefit-cost comparisons often have been comprised by the unevenness and unreliability of benefit forecast," the proven and predictable benefits of clean hydro-power generation are apparent.

Since the oil embargo of October 1973, the National oil consumption has risen above pre-embargo levels despite a 75 percent increase in the retail price of gasoline. Oil imports have risen to the point that they total 43 percent of the oil consumed in this country, causing the attendant problems of inflation, balance of payment deficit, and weakening of the dollar abroad.

Our experience indicates that the demand for hydro-power resources in the Western Area Power Administration marketing area increases as the availability of nonreplaceable oil and gas fuel resources for electric generation decline. The development of new hydro-power resources and their integration with thermal generation provides a desirable and efficient use of the resources available for electric power production.

We trust the Snail Darter will be removed from the endangered species list, or other suitable solutions will be found and, therefore, support the alternative for reservoir development and early completion of the Tellico Project.

Sincerely,

Hon. ROBERT L. MCPHAIL,
Administrator.

A letter of October 17, 1978, from the Office of the Secretary of Transportation says in part:

> While the project has had a contentious history, present evidence appears to provide a basis for a decision to complete the project.

The full letter is printed below:

OFFICE OF
THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 17, 1978.

Mr. S. DAVID FREEMAN,
Chairman, Office of the Board of Directors, Tennessee Valley Authority, Knoxville, Tenn.

DEAR MR. FREEMAN: We appreciate having had the opportunity to review the joint Tennessee Valley Authority (TVA) and Department of Interior (DOI) report on the status of, and the available options, on the Tellico Dam project. We regret that our comments could not be made available within your suggested time frame but are submitted since your conclusions are not yet final.

We found the report to be most interesting and consider that it carefully balances the opposing possibilities of further development. However, we believe the substantial evidence of support by public officials including the U.S. Congress, the Governor of Tennessee and the Tennessee State legislature, when considered along with the potential economic benefit of completing the original project, is persuasive of the view that the project should be completed. We consider that the problem of danger to the Snail Darter is being adequately addressed and that a habitat can be developed in which that species can exist.

While the project has had a contentious history, present evidence appears to provide a basis for a decision to complete the project.

Sincerely,

RAY WARNER,
Director, Office of Intergovernmental Affairs.

A letter, dated September 20, 1978, from the Department of State, Agency for International Development had this to say:

> While the land used for the reservoir is indeed prime quality land, it is a small portion of the prime and good agriculture land available in the immediate and downstream area.
>
> The reservoir option offers a better mix of opportunities, including industrial and other development. The cost of removing the dam is greater than that required to complete the reservoir, while the reservoir options yield a higher benefit-to-cost ratio.

The letter follows:

AGENCY FOR INTERNATIONAL
DEVELOPMENT,
Washington, D.C., September 20, 1978.

Mr. S. DAVID FREEMAN,
Chairman, Office of the Board of Directors, Tennessee Valley Authority, Knoxville, Tenn.

DEAR MR. FREEMAN: Governor Gilligan has asked me to review and comment on the draft, Alternatives for Completing the Tellico Project, submitted with your letter of August 16, 1978.

The draft report establishes the baseline of evaluation of available options as the present condition of the Tellico project. Therefore the broad consideration is whether it is more beneficial to complete the project as planned, complete and operate it purely as a flood control facility or remove it.

On balance the difficult areas of judgment are the soft, unquantifiable areas such as the cultural, aesthetic and historical. These are highly personal and subjective. The report seems to give greater weight to these factors than would appear appropriate considering the present condition of the project and its history, including the extensive debates conducted in the region and in the Congress before construction started in 1967.

While the report was prepared jointly by TVA and Interior, the Interior team did not include water resources experts from the USGS and the Bureau of Reclamation.

Our overall assessment supports the reservior alternative based on the following considerations:

Agricultural benefits and programs can be achieved reasonably with any of the alternatives. The reservoir option providing flood protection and water management for supplemental irrigation should provide greater overall benefits for agriculture. While the land used for the reservoir is indeed the prime quality land, it is a small portion of the prime and good agricultural land available in the immediate and down stream area.

The reservoir option offers a better mix of opportunities including industrial and other development. Water transport and a power dimension are increasingly valuable in view of energy requirements. The multi-objective potential of this option is superior to the other options.

Most of the cultural and educational objectives can be adequately achieved with the reservoir option. The one constraint in educational and historical activities which cannot be entirely met is in the actual location of reconstructed and restored facilities on the exact original site. There is considerable disagreement on the critical value of this.

There is no guarantee that the snail darter would survive if nothing in its habitat were changed. The fact that reproduction at another site seems to be proceeding successfully supports this doubt. There is no evidence to indicate any economic or ecological benefit to be derived from protecting the snail darter from extinction. NEPA has definite economic objectives and considers the harmonious interaction of man and his environment important.

The benefit-cost evaluations show a smaller spread in calculated benefits for the reservoir option indicating a better basis for these values. The cost of removing the dam is greater than that required to complete the reservoir, while the reservoir option yields a higher benefit-to-cost ratio.

Sincerely yours,

FRANK A. DIMATTEO, P.E.,
Director, Office of Engineering.

☐ 1130

OIL COMPANY PROFITS

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, those of us in Congress who do not represent the wealthy stockholders of oil companies feel compelled, as elected officials, to stand and speak on behalf of the average citizen.

The average citizen in this country of 220 million does not have the luxury of clipping his oil company investment coupons. Rather, he is required to invest his time and energies in a daily employment routine in order to make ends meet. Once again, the newspapers herald the profit reports of major oil companies: Getty, 149 percent; Texaco, 132 percent; Cityservice, 90 percent; Standard Oil of California, 61 percent; Shell, 55 percent. This is the clearest indication that the Senate must now approve the windfall profits tax as passed by this Chamber.

How much longer will the beleaguered consumer who relies so heavily upon petroleum base products be subjected to these reports. How much longer will the person, who must pay escalating prices and who depends upon gasoline to get to and from work, No. 2 home heating oil to warm his residence in winter, No. 6 residual oil to power the utilities for electricity, hear of these huge reports. What are we to tell those on fixed incomes and pensions when the winter months bring the additional cost of home heating oil.

Mr. Speaker, I am aware that the increase in profits for the oil industry this first quarter of 1979 reflects some aberrations in the industry. I realize that the increased value in the dollar in Europe in 1979 caused the sales figures to be somewhat inflated. However, it must be stated that Fortune magazine has calculated a total return to investors for the major companies in its list of industrials for the last 10 years. The study revealed that investors in the 10 largest oil companies would have received an annual rate of return of 5.5 percent versus 4.4 percent for the nonoil group. This study assumed that one invested the same amount of money in 1968 and sold the stock in 1978.

In addition, the rate of return on stockholders' equity for the oil industry in 1974, just after the price hikes, averaged 18.4 percent verses 13 percent for nonoil industries.

Needless to say, this country is once again experiencing numerous OPEC-induced price increases. I can only assume that the rate of return for the oil industry will once again outstrip that for the nonoil industry. We must look to the remainder of 1979 to determine the severity of the rate of return. We are in the midst of a worldwide energy crisis. This is not the time to increase the rate of return on equity as well as profits at the consumers' expense.

AMERICA AND ALLIES OBSERVE CAPTIVE NATIONS WEEK 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, in all sections of our country and overseas the 1979 Captive Nations Week was successfully observed. Despite the somewhat overshadowing news of turbulent changes in the administration, Americans in various spheres of our society had let it be known, both with confidence and conviction that the natural bonds of our freedom and the aspirations of the captive nations for their regained freedom are unbreakable. This unquestionably represented rays of hope and determination in what was depicted as a crisis of confidence. The truth is that there are no limits to these rays in terms of the politico-economic ramifications of the captive nations ideology.

As further expressions of the 1979 observance, I submit the following in accordance with Public Law 86–90: First, a statement by Gov. Pierre S. Du Pont, of Delaware, and a certificate of recognition by Gov. John N. Dalton of Virginia; second, proclamations by Mayors E. Clay Shaw, Jr., of Fort Lauderdale, Fla.; Richard L. Berkley, of Kansas City, Mo.; and Tom Bradley, of Los Angeles, Calif.; third, a photographed description of the New York parade under the caption of "Captive Nations Week Begins" in the New York News; fourth, an account on "A New Life for V. Moroz," who participated in the Washington, D.C., activities, appearing in the July 18 Washington Star; fifth, two items in the China Post, of July 13, 14; and sixth, a Captive Nations appeal by the Bishop of Stamford, Conn., Basil H. Losten, in America:

STATE OF DELAWARE,
Dover, Del.

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Pierre S. du Pont, Governor of the State of Delaware, do hereby declare the week of July 16, 1979, as "Captive Nations Week" in Delaware, and call upon all citizens to join in observing this week by offering prayers and dedicating their efforts for the peaecful liberation of oppressed and subjugated peoples all over the world.

PIERRE S. DU PONT,
Governor.

CERTIFICATE OF RECOGNITION

By virtue of the authority vested by the Constitution in the Governor of the Commonwealth of Virginia, there is hereby officially recognized: Captive Nations Week 1979.

Many peoples, caught in the vice of totalitarian dictatorships, still look to America and her freedoms for their inspiration and understanding.

Reminding us of this, the President and the Congress have joined the National Captive Nations Committee in setting aside July 15–21 as "Captive Nations Week," and I call the message it suggests to the attention of all Virginians.

JOHN N. DALTON,
Governor.

OFFICE OF THE MAYOR, CITY OF FORT LAUDERDALE—PROCLAMATION

Whereas, the republican form of government—based upon "the consent of the governed"—which has existed in the United States of America for 203 years, has resulted in the development of a warm understanding and sympathy for the aspirations for freedom of peoples everywhere and in recognition of the natural interdependency of the peoples and nations of the world; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in conquered nations constitutes a powerful deterrant to any ambitions of aggressive leaders to initiate a major war; and

Whereas, the freedom loving peoples of the world look to the United States as a citadel of human freedom and to the people of the United States as leaders in bringing about freedom and independence; and

Whereas, it is vital to the national security of the United States and other free nations of the world that the desire for liberty and independence on the part of the peoples of the world should be steadfastly kept alive;

Now, Therefore, I, E. Clay Shaw, Jr., Mayor of the City of Fort Lauderdale, Florida, do hereby proclaim the week of July 15 to 21, 1979, as "Captive Nations Week" in the City of Fort Lauderdale.

Dated this the 9th day of July, 1979.

E. CLAY SHAW, JR.,
Mayor.

CITY OF KANSAS CITY, MO.—PROCLAMATION

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia. Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam Cuba, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples:

Now, Therefore, I, Richard L. Berkley, Mayor of Kansas City, Missouri, do hereby proclaim the week commencing July 16, 1979 as "Captive Nations Week" in Kansas City, Missouri and call upon all citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

Done this 16th day of July, 1979.

Richard L. Berkley,
Mayor.

City of Los Angeles—Proclamation

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the Captive Nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies, and activities; expressing their sympathy with and support for the just aspirations of captive peoples:

Now, Therefore, I, Tom Bradley, Mayor of the City of Los Angeles, on behalf of its citizens, do hereby proclaim July 16–21, 1979, as "Captive Nations Week" and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

Tom Bradley,
Mayor.

Captive Nations Week Begins

Paraders march down Fifth Avenue yesterday in kickoff of 21st Captive Nations Week. Third week in July is set aside as a special time to affirm efforts to bring about religious and political freedom in countries unwillingly dominated by Communists. Observance was begun in 1959.

A New Life for V. Moroz

(By Jurate Kazickas)

There is an old Ukrainian saying: "Last year's snowstorm does not interest me." And with that simple statement, Ukrainian dissident Valentyn Moroz explained why he does not think any more about the 12 years, 10 months, 26 days of his 43-year life he spent in Soviet prisons.

He would rather talk about his new life in America, his hopes and fears about the West, and his continuing efforts to make his homeland free again one day.

On April 27, Moroz arrived in New York with four other dissidents, including Alexander Ginzburg, after a dramatic exchange with Russia for two convicted Soviet spies. He begged American journalists at the first press conference not to call him a Russian dissident. "I am Ukrainian," he said.

These last 10 weeks, Moroz, who has taken a position as a research fellow at Harvard, has been traveling around the U.S., Canada and Europe talking to fellow Ukrainians and world leaders to gain support for his struggle for a free Ukraine and "to fight for the cause of freedom in general."

For his relentless and outspoken opinions about Soviet oppression, Moroz was put into solitary confinement for four years, beaten and tortured. Prison authorities attempted to have him declared insane and committed.

Throughout the years, his dark-haired wife Raisa fought to bring world attention to his plight. She sat next to Moroz yesterday during an hour-long interview, occasionally patting his arm as if trying to temper some of his statements. But Moroz is as outspoken as ever. He shushed his wife gently as the interpreter raced to translate his words about the man who helped to win his freedom.

"President Carter seemed to have a much more optimistic view of himself and America when he started his term," said Moroz in reference to Carter's speech Sunday night. "I would like to see him remain that Baptist preacher who is firm, knows what he wants and how to get it. He seems to have lost confidence in himself and his own convictions. Everyone in the East thinks America is the strongest nation in the world. It sure would be good if Americans thought so too."

Moroz feels that the U.S. has not taken advantage of what he calls "Moscow's critical situation" as Europe, the U.S., Japan, and China forge closer ties. He believes that if the U.S. really wanted, it could get the release of all political prisoners in the U.S.S.R.

"President Carter had a handful of aces he could have played when they dealt the cards in Vienna, but he left all the aces at home instead. Why, with one weapon—wheat—the U.S. and Canada could bring Moscow to its knees and gain concrete concessions, including general amnesty for political prisoners. An iron glove has to have an iron hand. Carter could have done so much more, beyond merely proclaiming human rights."

He was not impressed by the SALT agreements.

"They did not accomplish anything. What kind of real guarantees do we have from Moscow? It has never fulfilled any of its obligations," said Moroz, who is constantly amazed at the naivete of Americans about the Soviets.

"Americans ask me if I do not worry that my hard line about the Soviets will lead to a cold war. And I say, but the cold war has never ended. In fact, the third world war started in 1945. We should not fear Soviet missiles because they take over countries without firing a shot—Cuba, Angola, Ethiopia . . .

Moroz paused. He smiled, which he does often, and his gold teeth flashed. "I know that I take positions that are strange to some Americans but I only speak what I think," he said. "And I can see that in the U.S. they respect someone who has firm beliefs."

He has found that he feels more comfortable and less of a stranger in America than he thought he would "because Ukranians and Americans have that same individualistic character."

Although seemingly more reluctant to speak about his surface impressions of the U.S. than his political analyses, Moroz ventured after being asked that he was not surprised by dirty streets or slums because in the Soviet Union, that's all they ever write about life in the U.S.

"So when I came here, I saw less of those things than I imagined," he said, then added poetically, "I came to America dressed in psychic armor, so nothing I see will create a despairing impression."

Moroz, hardly any fatter than he was upon his release from prison—said he was impressed by the sleek women he saw everywhere. "When I went on a five month hunger strike in prison some considered it a great act but here, American women are on hunger strikes all the time and it is not considered heroism."

Moroz (and his prettily plump wife) laughed at the little joke, but he clearly preferred getting back to serious talk.

What is most important to him is to defend the Ukraine, which he calls a greater resource in the hands of the West than the oil reserves of the North Sea because "a free Ukraine would restore the balance of power in Europe and lock Russia forever to the East."

And for those who say that a free Ukraine, which has not been independent for more than three years since the 17th century, is an impossible dream, Moroz shrugs and smiles.

"It is not a question of principle, but a question of time."

[From the China Post, July 13, 1979]

Dr. Ku Off to U.S. Captive Nations Week Activities

Dr. Ku Cheng-kang, honorary chairman of the World Anti-Communist League flew to the United States yesterday for the American activities to mark the 1979 Captive Nations Week, organized by the U.S. National Captive Nations Committee.

Dr. Ku was invited by several U.S. Senators and the committee to take part in the activities and will attend the activities in New York and Washington, D.C.

Before his departure yesterday, Dr. Ku said the people on the mainland of China are stepping up their fighting for their freedom and their actions to fight for their freedom should be supported by the people of the free world.

The Captive Nations Week was resolved by the U.S. Congress in 1959 in a resolution stating that the third week of July will be Captive Nations Week.

[From the Ukrainian Catholic Daily, July 19, 1979]

Captive Nations Week Appeal to All Clergy, Religious and People of God

(By Most Reverend Basil H. Losten)

Sunday, July 15, 1979, commences the 20th annual observance of Captive Nations Week. After a number of wars one would hardly believe that nations would be faced with brutal suppression of people behind Iron Curtains in Europe, Asia and Africa. It seems that the just have died in vain. Godless oppressors have put many nations—among them, the Ukrainians—into bondage. Wake up, Free World, and guard our basic freedoms! Learn what Communism is all about and how the Communists operate.

Captive Nations Week will be observed across our Nation and abroad in the period of July 15–21, 1979. Public Law 86–90, passed by Congress and signed by President Eisenhower in July 1959, is really more applicable today than it was 20 years ago. This week has become a national institution, and who detests it vehemently are the Red

regimes across Euro-Asia and in the Caribbean. The basic reasons for this have been known for a generation by those who understood Public Law 86-90 and the analysis behind it.

Millions of our enslaved brothers and sisters await our help, but most of all our prayers for their perseverance in holy faith, for constancy and fidelity in religion and national ideals.

Let us commemorate Captive Nations Week with humble and sincere prayers to the Lord for a better fortune for all enslaved people. On Sunday, July 15th, after each liturgy, pray for our persecuted Church and suffering brethren; that God have mercy, enlighten the free, and give strength and guidance to those in cruel bondage.●

LEGISLATION TO REPEAL MARINE SANCTUARIES TITLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. BREAUX) is recognized for 5 minutes.

● Mr. BREAUX. Mr. Speaker, I am introducing a bill today to repeal the marine sanctuaries title (title III), of the Marine Protection, Research, and Sanctuaries Act of 1972. I have come to the conclusion that this Nation does not need, nor can it afford, a marine sanctuaries program. The program is not needed because the authority provided by title III of the 1972 act for the protection of the environment is redundant with other authorities, such as those provided by the Outer Continental Shelf Lands Act (OCSLA), the Clean Water Act, and the Fishery Conservation and Management Act (FCMA), among many others. The program cannot be afforded, because it substantially complicates and seriously impedes the work of the Federal Government and the activities of our citizens and provides no countervailing benefit that cannot be achieved through other programs.

Title III provides that the Secretary of Commerce may establish marine sanctuaries and regulate any and all activities in them where necessary for the purpose of preserving or restoring areas for their conservation, recreational, ecological, or esthetic values. A marine sanctuary is any area in the ocean which is set aside for the above listed protective purposes. To carry out the purposes of the title, the Secretary has the power to override any and all existing regulations for the area and to revoke any and all permits for activities in the area. That is very sweeping authority and there is no guidance in the act and very little in the very brief legislative history as to how the Secretary is to carry out the law—except that there should be a balance of competing interests. Other statutes which provide for protection of the marine environment have detailed provisions which are illuminated by extensive legislative histories.

The implementation of the program has been the very poorest performance of the executive branch in my experience. The Department of Commerce has foundered repeatedly when attempting to define a mission for its marine sanctuaries office. In short, there has been nothing approaching a consistent, coherent policy and, in my opinion, there is no prospect that such a policy will emerge. The Commerce Department has never demonstrated that title III provides any environmental protection beyond that which other, well established and relatively smoothly functioning programs can provide. The Department has almost completely ignored the views of the Congress on matters of policy.

Until now, I supported the marine sanctuaries program, because I hoped that it could be managed without duplication and confusion of bureaucratic effort and might provide useful augmentation to other programs to protect the marine environment. The Congress gave the executive branch maximum flexibility in title III and that has proven to be a mistake. I have personally attempted to provide policy guidance to bring the program into conformity with reasonable congressional intent in my capacity as chairman of the authorizing subcommittee, but these efforts have been to no avail. Certainly, sufficient time has been given to allow this program to work. I am now convinced that the executive branch cannot make it work, and I believe that the Congress should recognize this fact and repeal the law. The $3 million authorized for the program can be put to better use elsewhere without any environmental loss.

Since 1972, only two sanctuaries have been established: One to protect the wreck of the Civil War vessel, *Monitor*, the other to protect coral reefs off Key Largo, Fla. Each sanctuary is very small and has little impact on marine activities. In fact, there is no need for either sanctuary—the *Monitor* can be given special protection and Key Largo corals can be protected by Interior under the OCSLA and by Commerce under the FCMA, as well as by other agencies pursuant to other existing authority.

The program managers became more ambitious, however, based on the 1977 Presidential environmental message in which Commerce was directed to consider the establishment of sanctuaries where OCS oil and gas development was imminent. In almost no time, the Commerce sanctuaries program had more than 200,000 square miles of the OCS under consideration. There were no clear, uniform standards for deciding which areas would become sanctuaries and no criteria for balancing competing uses and protecting environmental values. In investigative oversight hearings in the House and the other body, there was severe congressional and private consternation and criticism. The compelling, but unanswered questions, were to what extent would commercial and recreational fishing activities, marine transportation and oil and gas operations be affected and what environmental values would be more effectively protected by this program than by others? There were very disturbing, contradictory answers by the agency on each point.

Congressional criticism resulted in the promulgation of new programmatic regulations which, while more detailed and comprehensible than the earlier ones, remained unsatisfactory on a number of very important points, including notably, providing a proper balance of competing interests and assuring that unnecessary regulation and expense would be avoided. While maintaining some serious reservations, I was on the whole, somewhat encouraged. I was prepared to see whether the program was able to prove its worth in a concrete case.

In its first draft environmental impact statement under the revitalized program, the Department has badly failed the test. The DEIS is on the Flower Garden Banks off Texas and Louisiana, an area with which I am very familiar, and concerning which there is a great deal known, by, among others, scientists, sport and commercial fishermen, environmentalists and oil and gas operators.

The DEIS demonstrates that the sanctuaries program really offers no means to protect the environment that is not already available under other programs administered by Commerce, Interior, and EPA, among others. The DEIS shows that recreational uses of the area, oil and gas operations, marine transportation, commercial and sport fishing, and any other foreseeable use of the area, all can be effectively regulated to provide strict environmental protection, without establishment of a marine sanctuary. A marine sanctuary on Flower Garden Banks would result in the imposition of a new layer of bureaucracy and duplicative regulatory requirements, with the attendant direct and indirect costs to the taxpayers and users of the area. There is no reason to believe that in any other marine area the situation would be any different.

There are other problems with the program, as reflected in the DEIS. Title III appears to invite bureaucrats to seek open-ended authority to regulate what they perceive, and in some cases, cannot demonstrate, to be threats to the marine environment. For example, Commerce cannot show that the very low level of spearfishing on the Flower Garden Banks—which are more than 100 miles off the coast—constitutes an environmental risk, but nevertheless, the administrator of the proposed sanctuary would have totally unlimited authority to restrict that activity.

Marine transportation is always an environmental risk. But on the high seas, that activity may be regulated only through international agreement, so far as foreign vessels are concerned. With respect to U.S.-flag vessels, there is already ample authority to assure protection of the banks without a sanctuary. Nevertheless, Commerce wants overriding authority (consistent with international law) to regulate vessel traffic in the area of the banks without showing any additional benefits to be gained.

Commerce would ban for at least 5 years new oil and gas development in a proven hydrocarbon province in a large area outside the Flower Garden Banks, in order to permit further research. Had Commerce not failed to consider more than 50 relevant, authoritative studies, had it not relied upon "personal communications" and "unpublished documents" and a great deal of speculation, the moratorium for the purposes of further study would never have been proposed. Moreover, the moratorium is, in my view, inconsistent with a well-conceived program for increased domestic hydrocarbon development.

The President has announced a policy to remove unnecessary Government redtape and unreasonable bureaucratic duplication with respect to energy development. The marine sanctuaries program, in my view, has proven to be the kind of program toward which that policy ought to be directed.

Lacking any in-house expertise, and ignoring the expertise of others, Commerce proposes additional restrictions on existing and future hydrocarbon operations in a large area surrounding the banks. Every one of those restrictions could be imposed by Interior or EPA, but Commerce wants to do the job with a whole new layer of bureaucracy and with overriding regulatory authority.

I should add two other criticisms. The Flower Gardens DEIS is frought with factual errors, not the least of which is the description of the proposed sanctuary area as being approximately 173 square nautical miles, when the area is in reality about 260 square nautical miles. Worse still, key elements of the DEIS were never discussed with vitally interested Federal agencies such as the Department of Energy, nor with members of congressional committees, notwithstanding clear commitments, on the record, by Commerce officials that such consultations would take place prior to the publication of this important document.

Other marine areas under consideration include those off California's Point Reyes and Farallon Islands, Monterey Bay and Big Sur and Santa Barbara Channel Islands. Each proposal involves a possible ban or curtailment of oil and gas development. Off Maine, Commerce is considering a sanctuary for Georges Bank (notwithstanding the Canadian claim to one-third of the bank), an area of 20,000 square miles. Commerce has requested that Interior delay lease sale No. 42 while a DEIS is prepared for the bank sanctuary and stated that Interior should specify that "designation of a marine sanctuary will, if required by sanctuary regulations, constitute a basis for modification, suspension, or cancellation of the affected leases with attendant rights to compensation for cancellation as provided in section 5 of the Outer Continental Shelf Lands Act." As in the cases of the Flower Garden Banks and California sanctuaries, there would be a significant impact on hydrocarbon development.

As if that were not enough, the Beaufort Sea frontier development areas and other OCS areas off Alaska will shortly be considered for sanctuary status.

I think that it is time that this program be repealed. Clearly, it is unnecessary to protect the marine environment, is a source of additional Government redtape and expense, and is run with little regard to either congressional or Presidential opinion on energy development and Government efficiency.

How many times has the Congress been asked to provide an agency with broad powers in the name of environmental protection and found that the results have been massive government and private expense and little, if any, demonstrable benefit to the environment? For how long will the American people have to complain before concrete steps are taken to reduce the burgeoning Federal bureaucracy to eliminate needlessly high taxes to support it, and to stop excessive government intervention in the lives of all citizens through overregulation and redtape? When will something really be done to remove unnecessary and costly impediments to the development of our domestic hydrocarbon resources? I believe that the repeal of the marine sanctuaries program would be a meaningful response to these problems. I intend to hold intensive hearings on the marine sanctuaries program and the proposal for its repeal. I expect controversy, but I believe that the Congress will repeal title III when all the facts are out on the table.●

U.S.S. "MONITOR"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 10 minutes.

● Mr. ALEXANDER. Mr. Speaker, next month, the National Oceanic and Atmospheric Administration, the principal civil oceans-related Federal agency, in cooperation with the State of North Carolina and the Harbor Branch Foundation, will begin a 3-week series of dives on the Union ironclad U.S.S. *Monitor*. This research project, using both divers and manned submersibles, will be the most complete investigation yet made of this famous ship which foundered in a gale and sank 117 years ago 16 miles off the coast of Cape Hatteras, N.C.

The U.S.S. *Monitor* site is the first marine sanctuary designated under the Marine Protection, Research, and Sanctuaries Act of 1972. Indeed, the *Monitor* represents an especially important part of this country's maritime heritage. The 2-day engagement at Hampton Roads, Va. in March 1862 between the *Monitor* and the Confederate ironclad *Virginia* (originally named the *Merrimack*) demonstrated the power of the ironclads and was critically studied by the navies of the world. Crude as these first ships of their type were, they introduced elements of naval construction in use even to the present day: The revolving turret, armor plate, protective deck, rifled guns, all heavy guns, and enclosed below deck anchor. No engagement since the time of Nelson was more significant in the development of naval science. France and England had already begun building armored ships, but their superiority had never been tested in battle. Hampton Roads furnished the demonstration. The *Monitor* gave birth to a whole class of *Monitor*-class vessels—the last of which was decommissioned in 1937.

Rear Adm. P. H. Colomb of the Royal Navy, a keen student of naval warfare, wrote in the London Times, December 1894:

> In the American Civil War, the deciding battle was between the *Monitor* and the *Merrimack;* and no one can doubt that . . . if the *Merrimack* had gained the victory there would scarcely now be the United States of America. The fate of that Nation was decided then and there.

I have often thought that my great-great Grandfather Raphael Semmes, commanding officer of the Confederacy's most successful commerce raider, CSS *Alabama,* would have welcomed the opportunity to have matched wits with the *Monitor*.

I would like to share with my colleagues an article which appeared in the Washington Post on July 24, 1979. The article describes the operation to investigate the *Monitor* but one correction is necessary. An opening will not be cut to gain entry into the ship. Rather, with the *Monitor* resting bottom-up, divers will attempt to enter the officers' quarters through the collapsed bottom plating.

The article follows:

[From the Washington Post, July 24, 1979]

BOARDING THE MONITOR

(By Karlyn Barker)

The USS Monitor, the ironclad Civil War vessel that sank in a storm 117 years ago, will be entered for the first time next month when scientists cut an opening in the sunken ship and attempt to remove artifacts from her officers' quarters.

This would be the first full-scale examination of the ship by researchers since it was discovered 20 miles—and 220 feet deep—off Cape Hatteras, N.C., in 1973. Scientists on the diving expedition also hope to learn whether the famed Union ship can be raised.

Spokesman for the National Oceanic and Atmospheric Administration yesterday announced plans for the month-long expedition, calling it "the most important underwater archeological event of this century."

The NOAA administrator, Richard Frank, said about 30 divers, scientists and technicians will photograph the wreck from every angle, retrieve artifacts and test the ship's structural soundness.

The Monitor made naval history on March 9, 1862, when it engaged the Confederate ironclad Merrimac in a battle that ended the era of wooden fighting ships. Nine months later, while being towed south for blockade duty, she foundered in a gale and sank with a crew of 16 men.

There have been two previous expeditions to the wreck site. In 1977, divers photographed the upside-down ship and retrieved a brass lantern and other small pieces of metal lying nearby.

But those underwater missions were intended to serve as preparation for the one next month, according to NOAA officials. They said no one has actually boarded the ship since its discovery.

"It's pretty crunched up," said Bill Brennan, a NOAA spokesman who described plans for the expedition. "Whether it can be raised or not we will begin to learn from this exploration. We don't know if it will fall apart, particularly if it is exposed to air."

The $265,000 August mission is jointly financed by NOAA, the state of North Carolina and the Harbor Branch Foundation, a private, nonprofit oceanographic research organization based in Pierce, Fla.

NOAA designated the Monitor wreck site a marine sanctuary in 1975 to protect the historic ship from damage by souvenir hunters.●

LEGISLATION TO CREATE CHARTER FOR FBI

The SPEAKER pro tempore. Under the previous order of the House, the gentleman from New Jersey (Mr. Rodino) is recognized for 10 minutes.

● Mr. RODINO. Mr. Speaker, I am today introducing legislation to create a charter for the Federal Bureau of Investigation.

At the outset, before commenting on any specific part of the FBI charter, I would like to say that I agree with its purposes and its general direction. I recognize the necessity for the charter. It is time that the important investigative work assigned to the FBI be spelled out in general principles for all to know so that the public will appreciate what is expected of the FBI and the men and women of the Bureau will know with reasonable certainty their duties and mission. The important work of the Bureau has been and will be done under this charter with honor and respect for constitutional guarantees for all citizens, with minimal intrusion into the rights of our citizens, and with full regard for the civil liberties of the American people.

The administration's proposal of the FBI charter, in its present form, addresses many of the issues which have been a subject of some debate in the past. This charter addresses those issues well and I believe it provides a firm and sound constitution for the future of the FBI.

The charter codifies for the first time the functions of the FBI which it has been performing for more than 40 years with little or no statutory framework. This charter will provide this long awaited and needed framework.

The American people deserve a strong, free and sure FBI. The concepts that are embodied in this charter to strengthen the FBI and to permit it to achieve the goals of the American people are as follows:

The focus of all FBI investigations is criminal conduct and not activities otherwise protected by the Constitution.

Investigative techniques are examined and a requirement for minimum levels of intrusiveness into protected activities is established, depending on the nature of the crime being investigated.

Periodic review of investigative activities is required. This review will help assure accountability of the agency and its employees.

The charter does not and cannot deal with every detail of investigation or direction in the operation of the FBI. It is a grant of authority with limitations. I have had concerns and reservation generally about the absence of the specific AG guidelines dealing with matters such as the identity of informants, the use of various techniques in investigation, the retention and use of information in the Bureau's criminal records, and other areas which touch on sensitive questions of civil liberties. Therefore I am particularly pleased that the charter calls for the promulgation of guidelines which will set forth with particularity the work rules in these and other important areas. I am confident that the Attorney General guidelines, work on which I understand has already begun, will deal with care and specificity to protect the full enjoyment of all constitutional rights, the freedoms against unreasonable intrusions by whatever technology, while at the same time providing safe, sound, and effective law enforcement.

I look forward to supporting this charter in its legislative process along with my colleagues in the House Judiciary Commitee and the Congress of the United States. I look forward to new strength in the FBI under this charter and I know the American people support the FBI and will support this charter.●

MAJORITY POLITICAL FACTION OF WEST GERMAN PARLIAMENT MAKES PRONOUNCEMENT ON SIGNING OF SALT II AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Charles H. Wilson) is recognized for 5 minutes.

● Mr. CHARLES H. WILSON of California. Mr. Speaker, the CDU–CSU, the majority political faction of the West German Parliament, has recently made an important pronouncement on the signing of the SALT II agreement.

As we consider the SALT II agreement I believe it is important to have the benefit of the views of one of our most important friends and allies on the subject. For that purpose I request that the CDU–CSU policy statement be placed in the Record at this time for the benefit of my colleagues:

Statement by the Chairman of the Christian Democratic Union of Germany, Dr. Helmut Kohl, on Today's Signing of the SALT II Agreement—June 18, 1979

1. As the CDU has already declared on a number of occasions in the past, it welcomes the American-Soviet negotiations on the limitation of nuclear strategic weapons. The SALT negotiating process of which SALT II only constitutes one stage and one segment can in fact stabilize the nuclear strategic balance and thus help to preserve peace inasmuch as the Western deterrent remains credible. At the same time, steps must also be taken to ensure under the cover of intercontinental strategic parity that the continental strategic disequilibrium in Europe is not aggravated in such a manner as to impair the credibility of the deterrent and the realization of the strategy of a flexible response. On these assumptions, SALT agreements could exercise a positive influence on the general development of East-West relations—a development in which we have a particular interest.

2. There can be no isolated assessment of SALT II. It must be viewed in the context of American nuclear policy as a whole as well as against the background of the given balance of forces and the world-wide relations between East and West. For this reason, crucial importance also attaches to the forthcoming fundamental and individual decisions to be taken in the USA and in the Alliance on modernizing the global strategic and the continental strategic theater nuclear systems. From our standpoint, the SALT Treaty only represents one element, though admittedly a weighty element, in the whole system of American nuclear policy. With this in mind, we also welcome the fact that the occasion of the ratification procedure in respect of the SALT II Treaty has revived a fundamental debate in the United States not only on the experience gained to date on American-Soviet arms control policy and its future prospects, but also on the USA's overall nuclear policy and its implications for the security of her allies.

As a number of statements made by the American Administration and the Congress go to show, there is clear recognition in the United States of the fact that American-Soviet arms control policy affects not only the security of the United States herself, but also that of the NATO states as a whole. A geographically and politically exposed ally like the Federal Republic of Germany—a state whose confidence in the American guarantee of nuclear protection led it upon its accession to NATO to renounce in principle vis-à-vis its allies any self protection through a nuclear deterrent of its own and moreover a state which assumed a corresponding obligation towards the Soviet opponent of the Alliance in the Non-Proliferation Treaty pursuant to American wishes—cannot fail to appreciate just how much is at stake for vital West European security interests in American nuclear strategy. These interests are only safeguarded in a credible manner if the USA at all times explicitly manifests her acceptance of them as her very own.

After all, psychological and political stability in Western Europe and thus also in the Federal Republic of Germany depends to a substantial degree on the general public's continuing belief in the credibility of the USA's nuclear shield.

Hence, the shaping of public opinion in Western Europe will not depend primarily on the issue of whether American-Soviet arms control negotiations and agreements are still possible and desirable. On the contrary, particular significance will attach to the consideration as to whether such negotiations and agreements are linked to an American nuclear strategy which is guided by the principles underlying the credibility of the deterrent, the essential equivalence of the nulear forces and the axiom of the indivisibility of the risks faced by the Alliance.

Hitherto, the view prevailed in Western Europe that the European NATO partners were allied with a world power who could rightly regard itself as "second to none". Yet the accelerated Soviet nuclear build-up gives rise to misgivings in this context. If the impression were to arise among the public opinion of Western Europe and the Federal Republic of Germany that the global strategic and the continental strategic balance of forces in Europe were to shift against the USA and the Atlantic Alliance, that might encourage trends towards a political adjustment with the Soviet world power—a move which the CDU has unequivocally opposed for decades and which she will continue to oppose.

Thus, the future basic line on foreign policy in Western Europe and Germany will largely depend upon the conclusions drawn by the peoples of the Alliance from the basic discussion on the whole make-up of American nuclear policy. That explains why clearness on the continuing credibility of all components of the Alliance strategy is just as important as the argument about the more technical aspects of SALT II such as the question of verification, an issue which must be primarily resolved by the USA herself.

The aim of the SALT Treaty is to establish approximate strategic parity between the two world powers. However, the payload advantage of Soviet intercontinental missiles and their improved accuracy may already lead in the early 1980s to a certain superiority on the part of the Soviet Union in the global strategic sector. According to the testimony furnished by the current American administration, there is a risk that the Soviets will obtain the capacity for a first strike against land-based American intercontinental missiles during the life of the Treaty.

Since these shortcomings cannot be rectified during the life of SALT II due to the long preparatory period prior to introducing new strategic systems, the actual nuclear strategic balance of forces after 1985—irrespective of the ratification of the SALT II Treaty—will hinge upon a timely making and implementing of the requisite decisions about modernizing and strengthening this potential needed to maintain the American deterrent.

Hence, the CDU explicitly welcomes President Carter's recent fundamental decision to produce an MX system.

We expect that the USA will also carry out further rearmament measures which serve to strengthen European confidence in the real basis of her nuclear guarantee.

The USA may well be able to live for a fairly long period of time in a position of significant inferiority vis-à-vis the Soviet Union in the nuclear strategic sector. But in the case of Western Europe, whose military strength compared with the Soviet Union is marked by inferiority in both the nuclear and the conventional sector, the situation would become intolerable in such a development and the political outcome incalculable.

3. However, any attempt to stipulate the approximate intercontinental strategic nuclear parity of the world powers invariably produces a situation whereby regional disequilibria become more and more dangerous—militarily, politically and psychologically. A world power may in future be sensitive or even vulnerable to blackmail in those areas where it cannot demonstrate its global interests to its international adversary with equal firmness by virtue of regional systems. But in such an event, the allies of a world power which fails to make intensive efforts to diminish regional disequilibria are less secure and even more susceptible to pressure. They are bound to entertain fears in these circumstances that the other side will attempt to use its capacity for applying pressure in order to obtain political influence.

The Soviet Union has clearly discerned the regional consequences of agreements to establish global nuclear strategic parity. Parallel with the negotiations on SALT II, she has been accelerating her build-up of nuclear weapons targeted on Europe during a period of "détente" and this process is in fact continuing. In consequence, the Soviet Union has attained a position of continental strategic superiority in Europe and this is still growing at an alarming rate.

The Federal Republic of Germany is thus faced by the imperative question as to what concrete measures the Alliance in general and the USA in particular should take to counteract the emergence of an escalation gap in medium-range nuclear weapons. In the opinion of the CDU, steps must be taken parallel with the ratification procedure to ensure that the Alliance counters the questioning of the concept of a flexible deterrent and to ascertain how to do this.

As things stand, this cannot be achieved solely by arms control: it calls for a modernization and calculated strengthening of the nuclear medium-range potential in Europe.

Past experience has taught us that East-West negotiations—such as the CDU also deems essential—on continental strategic theater nuclear weapons require a lot of time. On this account, the urgently necessary modernization and strengtening of NATO's theater nuclear potential cannot become dependent upon arms control negotiations betwen the USA and the Soviet Union. Furthermore, there are many signs that such arms control negotiations, carefully coordinated within the Alliance, only enjoy any real chance of success if the East is convinced of the seriousness of the Western intention to provide an appropriate reply to the Eastern challenge.

In this context, we would also emphasize the expectation and indeed confidence of the CDU that the USA will pay as much attention to the security interests of Western Europe as to her own in any possible incorporation of the nuclear weapon systems targeted on Europe within a continuation of the SALT negotiating process.

4. It is a matter of great moment in this regard that the SALT II Protocol closes the options on weapons for three years—a period of time which possesses decisive importance for re-establishing an appropriate capability of escalation. In particular, it prohibits the stationing of land and sea-based cruise missiles with a range over 600 kilometers, a factor whose significance for Western security needs no further explanation.

Since a re-establishment of the impaired balance of forces in Europe hardly seems feasible in the long run without this weapons system, steps must be taken to ensure that this Protocol does in fact expire without any sequel after the agreed term of validity so that the options are legally and politically kept open for all those systems which the West's deterrent potential cannot renounce if it is to retain credibility.

As previous Soviet pronouncements on this subject have intimated, the USSR will probably undertake the attempt after ratification of the Treaty to make any advance in future SALT negotiations dependent upon the actual continued validity of the SALT II Protocol. There is likely to be considerable Soviet pressure upon the USA to achieve this. Indeed, there is every likelihood that the Federal Republic of Germany would also be subjected to massive efforts designed to influence her toward inducing the USA to take a more pro-Soviet line "for reasons of detente" and in the interest of continuing the arms control dialogue.

The CDU proceeds on the assumption that the USA assigns the highest priority to the interests of the Alliance in this matter and that she will make it unequivocally clear during the ratification procedure that neither the threat of a change in the atmosphere surrounding arms control talks nor a marginal concession on strategic inter-continental weapons can prevent the expiry of the Protocol after three years.

5. The SALT II Treaty contains an ambiguous non-escape clause designed from the Soviet point of view to restrict the requisite military and technological cooperation between the USA and her European allies in sectors which are important for security reasons. Admittedly, the USA has explained her own interpretation of the non-escape clause during internal consultations with her European allies and she has given them appropriate concrete assurances. Yet in view of the growing Soviet potential to menace Europe—a potential capable of producing an arsenal of options for political intimidation, pressure, threats and blackmail—the SALT Treaty (if ratified) must not burden Western Europe with the political mortgage of American-Soviet differences over correct interpretation and application. As a world power, the USA might be able to indulge in a future dispute with the Soviet Union about interpreting SALT II. On the other hand, the impact of this on an exposed non-nuclear state like the Federal Republic of Germany wooed as she is by Moscow would be incalculable.

On this point, the suggestion has also been put forward that the American interpretation should already be made public during the ratification stage so as to remove any doubts and misunderstandings on either side. At all events, the CDU believes in the absolute need for watertight safeguards in respect of all the options underlying cooperation within the Alliance.●

PROTECTING INDEPENDENT CONTRACTORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, recently I testified before the House Subcommittee on Select Revenue Measures in support of H.R. 3245, Congressman GEPHARDT's legislation establishing criteria which would give independent contractors a solid basis on which to establish their tax status. I believe this issue is of the utmost importance, and in order to bring the issue to the attention of my colleagues, I would like to insert at this point in the RECORD a copy of my statement before the subcommittee.

In addition, I would like to say that I hope the subcommittee will act swiftly on this legislation in order to meet the December 31 deadline that was established by the Revenue Act of 1978. Clearly, we cannot permit the confusion that now exists to continue.

My statement before the subcommittee follows:

TESTIMONY OF THE HONORABLE LEON E. PANETTA BEFORE THE SUBCOMMITTEE ON SELECT REVENUE MEASURES JULY 17, 1979

Mr. Chairman, in my testimony today I would like to discuss the general issue of taxation of independent contractors, the nature of my own involvement in this issue, which was a result of unfair Internal Revenue Service (IRS) treatment of independent contractors, and the Gephardt bill, H.R. 3245, which I believe to be the best current approach to this entire situation.

As the members of this Subcommittee know, there are crucial differences in tax status between employees and independent contractors. The tax sequences are particularly important for the businesses involved. When an individual is classified as an employee, the employer is required to act as a collecting agent for the Federal government, withholding and remitting to the Treasury both income taxes and the employees' share of social security taxes, as well as paying unemployment taxes and the employer's share of social security taxes. If an individual is classified as an independent contractor, though, he is responsible for paying his own income taxes and self-employment taxes.

In years past, the determination of independent-contractor status was made under the common-law test. This system worked smoothly and fairly, providing certainty to all parties involved. Whether the classification was one of employee or independent contractor, all parties, including the IRS, knew at all times what their responsibilities were and thus had no unusual difficulty in carrying them out.

Unfortunately, in the early 1970's, the IRS arbitrarily decided to begin reclassifying as employees workers who previously had met the common-law test for independent-contractor status. This policy ran contrary not only to previous court decisions but also to published revenue rulings and private IRS letter rulings and tax audits of the very businesses whose employees were being reclassified. Obviously, this was an extremely unfair and irrational situation. These reclassifications were retroactive, and they presented many companies with huge back tax assessments. In addition, they removed the certainty upon which companies who made use of independent contractors had relied in the past. Of course, the redesignations also hurt the individuals involved, since they suddenly lost their status as independent contractors and became subject to the strictures of employee status.

In 1976, reacting to what they saw as an obvious injustice, both Houses of Congress backed a statement in the conference report on the Tax Reform Act of 1976 which urged the IRS "not to apply any changed position or any newly stated position which is inconsistent with a prior general audit position in this general subject area to past, as opposed to future taxable years" until the completion of a study by the staff of the Joint Committee on Taxation. The IRS, though, ignored this judgment and continued to initiate audits and to assess businesses with taxes resulting from these reclassifications.

This matter first came to my direct attention when I began receiving complaints early last year from small business people in my district regarding this problem. It was apparent to me then that by reclassifying independent contractors in over 14 industries, the IRS was in effect reversing 30 years of past audit practices. Real-estate brokers, insurance agents, direct sellers, beauticians, service-station operators, loggers, and others were being asked to pay these back taxes on hundreds of individuals who had historically considered themselves independent contractors. It was clear that a legislative remedy had to be found.

In response to this need, I introduced, as did Congressman Gephardt and Senator Dole, legislation to call an immediate halt to audits inconsistent with practices in effect as of January, 1976. This legislation drew a great deal of support in the House, and the entire Congress recognized the necessity for this kind of action by including in the Revenue Act of 1978 a provision prohibiting the IRS from applying any new or changed position from that of common-law determination with respect to an individual's status for employment tax purposes if the position was inconsistent with pre-1976 practices. This legislation also terminated any tax liabilities for taxpayers who had a reasonable basis for treating workers other than as employees. I was very pleased at the passage of this legislation, and as you know, it is that provision that has given this Subcommittee, and the entire Congress, the opportunity to do what is necessary to remedy the situation.

I am very pleased to be a cosponsor of Congressman Gephardt's bill, which is the main subject of these hearings. H.R. 3245 would establish criteria which, if met by an individual, would automatically qualify him to be classified as an independent contractor. However, failure to meet any of these five requirements would not preclude such a determination. In these cases, the IRS, under this legislation, would be required to use the common-law test, which was in effect prior to the IRS's arbitrary decision to change its rules in this area.

The five criteria written into the Gephardt bill include the following: (1) the individual must control both the amount and the scheduling of hours worked; (2) the worker must have his own place of work, or pay rent for it; (3) the individual must have a substantial investment in assets used in connection with the performance of the service, and he must risk fluctuations in income due to its dependence upon sales or other output; (4) there must be a written contract that spells out the individual's responsibilities as well as the fact that the individual will not be treated as an employee for tax purposes; (5) the individual must file the requisite forms with the IRS.

In my view, as important as these criteria are, their most important aspect is their very existence. In 1977, the General Accounting Office conducted a study of problems related to the taxation of independent contractors. It concluded—and the IRS stated its basic agreement with this principle—that Congress should amend the Internal Revenue Code to provide more precise criteria to define employees and self-employed persons. H.R. 3245 is a natural outgrowth of this suggestion, and it provides for specific and workable criteria.

The complaint I have heard over the past two years from independent contractors and from business people is that lack of certainty has made it difficult for them to plan financially and to know how to carry out their responsibilities with respect to Federal taxation. These taxpayers want to comply with the law; they do not want to avoid their fair share of taxes. What they need, though, is a set of specific rules which, if followed, will guarantee them the tax status to which they have rightfully become accustomed. I think this is the least that the Congress can do for these people.

As the members of this Subcommittee know, current tax law includes countless provisions that are discriminatory, unfair, or confusing. In my view, this legislation provides us with a chance to place in the Internal Revenue Code a provision that simplifies, that recognizes the reality of certain business relationships, and that provides a very large group of taxpayers with an opportunity to conduct their businesses and pay their taxes in a well-defined, fair manner. The Supreme Court ruled recently that regulations on withholding should provide taxpayers with certainty as to how to comply. This bill would adhere to that ruling and would make the jobs of the taxpayer and the IRS simpler. I certainly hope the Subcommittee will see fit to report it to the full Committee. Thank you very much.●

PERSONAL EXPLANATION

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, last Friday, July 27, prior commitments caused me to miss two important votes on the Nurse Training Amendments of 1979. In view of the controversy surrounding this legislation, resulting from the President's veto last year, I want to take this opportunity to explain how I would have voted had I been present. On rollcall No. 395 I would have voted "no." The amendment in question would have drastically reduced the amount of funds in the bill for nurse training programs which had already been significantly reduced by the Interstate and Foreign Commerce Committee. I fully accept the views and recommendations of the committee in providing sufficient funds to provide the necessary supply of trained nurses and nurse practitioners to achieve the desired goal of economical health care delivery. Obviously, therefore, I would have voted "yes" on rollcall No. 396, final passage of the bill.●

SYRACUSE "MOOSE" DEDICATE NEW BUILDING

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, on July 8, 1979, a new building was formally dedicated in Syracuse, N.Y., with high purpose by the Syracuse Loyal Order of Moose Lodge 625. Beyond its function as a convenient and appropriate social and business meeting place, it will serve as an outward sign of the stability and integrity which the Loyal Order of Moose lends to the Syracuse community.

Founded on the principle that love of neighbor under the fatherhood of God may best be channeled and expressed through organization, the Loyal Order of Moose was founded 80 years ago. With the exemplary goal of aiding one another in time of need and contributing to the communal good by civil involvement, the fraternal order has grown so that today it numbers nearly 2 million men and women worldwide.

The Syracuse lodge was chartered in 1911 and through unswerving commitment to the order's goals has achieved a membership of 1,900 today.

I am proud to salute these dedicated citizens, Mr. Speaker. Their sense of civic and fraternal responsibility is a model for all of us today.

The Syracuse lodge has more than a new building. They have a renewed spirit to pursue the goals they recognized as so worthy many years ago. That spirit speaks to all America today.●

FEDERAL TRAVEL PROCUREMENT POLICY

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, the report of the Subcommittee on Special Small Business problems dealing with Federal Travel Procurement Policy merits the attention of all persons in Government who administer and use travel services for official purposes. It is a detailed and comprehensive overview of the failure of agencies and individuals within the governmental structure to take best and most efficient advantage of the travel options which a diverse travel industry has available at reasonable and cost-reduced prices.

The catalog of misuse of air travel by several agencies for what appears to be personal convenience or stature enhancement of staff and administrators is an unacceptable alternative to prudent and expeditious use of travel opportunities. There has been abuse and misuse of air travel and a poor-cousin treatment for rail and bus travel by many agencies. This has resulted in cost levels for official travel not campatible with efficiency or energy conservation or cost effectiveness.

The judgment by individuals as to their travel arrangements—including mode, time consumed, lodging, meals—appears not to include any consideration for the combination of circumstances most readily available to accommodate conveyance and shelter needs at the lowest cost to the Government. This is particularly true of travel within the Northeast corridor where rail appears to offer equal services at a lower cost, yet seems to be shunned by official travelers.

What the report seems to argue for—the temporary lifting of the ban on the use of outside travel agents services by Federal agencies—offers some hope that there would be a greater utility of cost-saving travel options and a more efficient administration of travel budgets by the Government generally. A test of this idea may indeed prove the point to be true.

However, it does seem that the observations of the GAO have weight as well. There does seem to be a confusion about the misuse of travel options and the ability of private agent companies to redress that misuse. What appears to be needed from the recommendations of the subcommittee is a tightening up of the oversight function of existing travel regulations for all agencies and an encouragement—perhaps a mandate—for use of lowest fare, timely, and efficient travel options for individuals and groups; a training course in travel arrangements for existing Federal employees responsible for travel bookings; and the administrative centralization of travel information by agencies and for the whole Federal structure.

The lifting of the ban is not necessary to achieve these goals, though it may be that other advantages of travel agent service may occur if they are permitted to make their professional training and expertise available to agencies.

The problem that I see, however, is that they will have what is essentially a client-patron relationship and as such will not be in position to resist the selection of non-cost-saving travel by agency staff, especially by agency heads and those responsible for the selection of the private travel agency having exclusive contracts with that agency. Furthermore, the interpretation and enforcement of agency travel guidelines by an entity outside of Government raises questions of propriety and self-sufficiency concerning that agency's integrity.

Implementation of the recommendations of the subcommittee could well lead to results hardly intended by that body. In fact, the results could just as well backfire and achieve a result antithetical to the mandate of the subcommittee.

First, if travel agents displaced air carriers in the functions they perform, functions which have in and of themselves not been documented as abusive by the subcommittee, this could require an organizational capacity and financial strength beyond that of many agencies, beyond that of any small business in the travel field. This would be given since the ability to wait for repayment of Government vouchers would have to be underwritten to a degree by a steady cash flow from other sources.

Second, there is no differentiation made in the report between travel procured in the United States and that for travel commencing abroad. The latter instance could open the procurement of U.S. Government agency travel to foreign travel agencies at the expense of American flag carriers and even American travel agents. A provision to guarantee an "American First" policy with real meaning and mandate would seem an absolute necessity in this case.

In conclusion, I would agree that there is not adequate monitoring of travel by our Government agencies. There is not sufficient encouragement of lowest cost travel and most energy efficient travel opportunities. There is not sufficient documentation of total travel costs and utility by all agencies. The correction of these faults is within the capacity of the existing structure and could be effective in enhancing efficiency and savings even without opening up the Government travel mechanism to private agencies.

A limited relaxation may be more demonstrative of advantages to the Government than the speculations thus far advanced and I would endorse a testing of that advantage, but not without assurances that no negative features accrue to carriers or agencies.●

WINDFALL PROFITS

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, for the edification of my colleagues and the readers of the CONGRESSIONAL RECORD, I would like to share with them the material which the Gulf Oil Co. sent to its stockholders urging opposition to the "windfall profits" tax.

Certainly, Gulf has every right to mobilize its stockholders to support the company position, but it is also important for Members to understand the source of a portion of their mail on the issue.

Incidentally, the material was sent along to me by an angry constituent, a Gulf shareholder, who was not pleased with the strategy and tactics of the corporation.

The material follows:

POINTS YOU MAY WANT TO INCLUDE WHEN WRITING YOUR LEGISLATORS ABOUT CRUDE OIL PRICE DECONTROL/EXCISE TAX

1. Urge your legislators to vote against the so-called "windfall profits" tax and to vote for gradual decontrol of crude oil prices.

2. If you choose, identify yourself as a Gulf shareholder and tell your legislators that since you're familiar with the issues, you are confident the oil companies will use the great bulk of money that crude price decontrol will provide to finance the search for more gas and oil and to develop our alternate energy sources. You can point out that you also know oil company profits are not excessive; in fact, they are slightly below the average for all manufacturing industries.

3. Tell your legislators that the "windfall profits" tax will divert much of the money from decontrol away from the oil industry, which could better use it to search for and produce more domestic oil and gas, to the federal treasury where it could be diluted for countless social and political programs.

4. Point out that government, without any new taxes, would already get more than half of the decontrol revenues from existing taxes and royalties, which could be used for energy-related social and developmental projects.

5. The question comes down to whether industry or government can solve the energy problem. Explain to your legislators that the oil industry has proven by its past investments that it can do the job.

6. Ask your legislators for their views on the Decontrol/Tax issues, and tell them that you will be watching how they vote on this important question.

TIPS ON WRITING YOUR PUBLIC OFFICIALS

Your letter to a public official must compete for attention against other points of view on that subject and with hundreds of other letters on a wide range of topics. Here are some tips to help get your message across:

Use proper greeting: Address any legislator in the U.S. as "the Honorable" (or Hon., without "the" when abbreviated) on the envelope or the inside address. In the salutation, Senators are called "Dear Senator," U.S. Representatives are addressed "Dear Mr." or "Dear Ms."

If you know the Senator or Representative on a personal basis, you certainly may address him or her by first name and the complimentary close can be as warm a greeting as you care to use. The letter can be handwritten, but please make every effort to have it as legible as possible, particularly the signature and address portion.

Clearly identify yourself: If you are writing as an official representative of a company or organization, indicate so. If you are writing as a private citizen, indicate that and be sure to include your return address on the letter.

Keep to one subject: A many-subject letter tends to dilute the impact. Limiting your letter to one item makes it easier for the public official to deal with.

Get to the point: Summarize your position or problem in the first paragraph; use the balance of the letter to explain your views.

Try to be brief: A long letter is likely to be set aside to be read "when there is more time." Try to keep your letter to one page, two pages at the most.

Be factual: Avoid using argument that can't be substantiated with facts. Otherwise, you will hurt your credibility. If you have concise factual reference material for clarifying an issue, enclose it with your correspondence.

Personalize the argument: If you are writing about a legislative proposal, explain how it affects you or your business.

Timing your correspondence: Try to write your position on a bill while it is in committee and certainly before it comes to the Senate or House for a floor vote.

Use proper references: If writing about legislation, refer to the subject to which it pertains. Often there is more than one measure dealing with a particular subject. If the bill number is known, refer to it.

Ask for response: Ask the official to state his position on the issue in his reply. As his constituent, you're entitled to know.

Follow-up correspondence: Keep up your line of communication and let your legislator know you are aware of his voting position. Be sure to thank him if his vote on an issue pleased you. Everyone appreciates a complimentary letter—and remembers it.

Stimulate others to write: Urge others you know to write on this issue also. Despite the volume, letters from you and your friends could possibly make a difference, particularly if they are well reasoned and reflect personal views, especially as to how you and other persons close to you might be adversely affected if he or she doesn't vote in your favor.

Here is a point paper on the current U.S. fuel supply situation that was prepared by Gulf Oil Refining & Marketing Company to help explain Gulf's position on prices and supplies. We hope this will be helpful to you in discussions with your family, friends, and relatives. Feel free to duplicate the paper to makes copies for any interested parties:

POINTS ON GASOLINE SHORTAGES, ALLOCATIONS

Supplies of gasoline will be extremely tight this summer, but there probably won't be a "crisis." Unfortunately, it is likely that supplies next summer will be tighter, and tighter yet in 1981.

Unleaded gasoline supplies will be tighter than leaded.

There are two basic problems facing oil companies, dealers, and gasoline users:

1. There is now an absolute shortage of capacity to make enough unleaded gasoline to meet demand, and overall product demand is growing faster than refining capacity, making supply more vulnerable to unscheduled shutdowns.

2. Light crude oil availability is less than demand, resulting in lower gasoline production.

The Iranian situation has had some effect on the shortage, but shortages would have developed in the industry even had Iranian supplies not been reduced.

1. Iranian production cutbacks reduced U.S. imports in March an estimated 600,000 barrels per day of crude and products, according to the U.S. Department of Energy, about three percent of normal supply.

2. Federal pricing and environmental regulations have retarded the ability of refiners to add equipment to produce greater amounts of unleaded gasoline.

3. Because of shortages of crude oil and unscheduled shutdowns, U.S. refineries recently have been able to operate at only 83–84 percent of capacity. (Gulf has been able to operate at about 94 percent.)

4. Total U.S. gasoline demand in January and February was up 5.4 percent over 1978's corresponding months; jet fuel demand was up an astonishing 6.6 percent.

5. Demand for gasoline has been abnormally high because Americans continue to be encouraged to drive a record number of miles by the availability of what is still a very cheap commodity—gasoline.

6. The current shortfall is not a problem of stock levels, but rather the rate at which stocks are being depleted, of both crude oil and product. In the month of February, U.S. refiners were drawing down inventories at two and a half times the normal rate to make up for the reduction in anticipated imports and heavy increases in demand.

Demand has been particularly heavy for unleaded gasoline, which is increasing its share of the total gasoline pool by more than half percent a month, a rate that can be expected to increase to one percent per month later this year. Major reasons are:

1. An increasing number of cars on the road that require unleaded.

2. Newer cars are not achieving their hoped-for mileage rates.

3. Newer cars are more voracious in their octane appetites than auto manufacturers claim they are.

Gulf's refining capability and sales forecasts were fairly in balance for 1979—we expected to be able to meet our historic demand growth with refining capacity on gasoline running a few percentage points above projected sales. But customers of refiners who were experiencing shortages because of Iran and refinery problems turned to us for product and we were experiencing demand increases approaching 20 percent in January and February, more than we could manufacture and distribute, and drawing down our inventories.

Gulf went on allocation in March, even though it had not been using Iranian oil in this country. But even with March and April allocations based on 100 percent of year-ago sales, we still were experiencing a demand increase of 10 to 11 percent, and so we reduced our May allocation to 90 percent, based on government's revised base period regulations.

This reduction we expect will permit two things to happen:

1. We hope to be able to maintain inventory in anticipation of heavier demands in the summer driving months.

2. It allows us flexibility to build inventory of home heating oil, where there is potentially a very serious industry-wide problem facing us next winter.

Between 1975 and 1978, Gulf's ability to produce gasoline increased 6.7 percent, and to make unleaded, by 51.6 percent. Demand for all gasolines increased about 3.4 percent, but the unleaded segment of total demand went up almost 180 percent.

Unleaded gasoline made up 11.8 percent of Gulf's total gasoline sales in 1975, but was 31.8 percent of 1978 sales.

To meet these demands for more gasoline volume and to increase the octane of larger quantities without the use of lead and/or MMT requires additional refinery hardware —catalytic crackers, reformers, and alkylation units.

But refiners have not been adding that particular kind of capacity basically because government regulations provide little or no incentive to invest the capital.

Any investment in facilities to upgrade gasoline making capacity has not been allowed to provide profits above the fixed cents per gallon margin that existed in May, 1973.

Making unleaded gasoline produces less product from the crude oil barrel, so you make the same low, fixed margin on fewer gallons.

Costs of refining equipment have soared since 1973; a grassroots refinery that cost $200-250 million in 1973 would cost at least $600 million today.

Price controls have impeded the refiner's ability to recover the cost of new equipment he needs to increase gasoline production or to increase octane production, the key element in producing unleaded gasoline.

Until recently price regulations have made all but impossible the ability to earn a satisfactory return on the investment needed for this new equipment, i.e., putting the money in a savings account would at least earn interest for the company's shareholders.

The government's small refiner bias regulations have encouraged the construction or the resurrection of small, less efficient refineries that have at best limited gasoline production and little or no ability to produce unleaded. Crude oil allocation regulations assure them charge stock, depriving larger, efficient gasoline-producing refiners of some crude supply and creating insecurity in their planning for crude oil supplies.

Within the last decade, more than 30 companies have announced intentions to build refineries on the East Coast. Primarily because of environmental concerns, none has been built. There has not been a new refinery brought on stream on the East Coast since 1956.

Since gasoline is in tight supply the world over, opportunities for importing meaningful quantities are slim at best; in Gulf's case, they are non-existent.

If imports were available, national security and balance of payments problems encountered in crude oil imports would be even more harrowing for gasoline imports.

Gulf has been running its gasoline and home heating oil manufacturing facilities at maximum capacity since last fall, when it shook free from some serious mechanical problems.

Gulf has been able to invest in refining equipment over the last few years not because of the profit motive in increased sales, but because by putting in new equipment and expanding to a larger scale and using the latest technology, it has been able to achieve internal efficiencies and economies and to shut down obsolete equipment that was expensive to run. In other words, Gulf through cost reductions has self-generated the funds necessary to make these adjustments.

Gulf is near the end of its ability to subsidize cheap fuel with internal efficiencies.

Gulf at present has about leveled off in its ability to produce additional gasoline, at least in the short term, but a few projects still under way, such as a $60 million reforming unit being built at Port Arthur, will enable it to increase its octane production to some extent, meaning it will be able to increase production of unleaded gasoline for awhile to meet demand increases.

Gulf is an industry leader in its ability to produce gasoline volume from crude oil, and to produce octane; i.e., few, if any, companies can do better than Gulf in meeting demand under present circumstances.

The "Tilt" regulation, which was designed to help refiners recover more of their cost increases from gasoline and to spur additional investment in refining equipment, may be offset to some extent by the President's price stabilization guidelines.

Several things can be done to help increase refinery output in the short term:

1. President Carter has proposed an extension of the EPA's lead phase-down program. This will keep the industry from losing 500,000 barrels per day of gasoline, according to EPA estimates. In Gulf's case, it will conserve seven million barrels per year.

2. Lifting the ban on MMT as an octane booster in unleaded gasoline would conserve another 100,000 barrels per day of total U.S. supplies.

3. The government and Detroit should place a limit on the octane requirements of new engines. Those requirements have been climbing about one number per year and each octane number increase equates to a loss of about 800,000 barrels a day for the industry, 1.5 million barrels a year at Gulf.

4. Obviously, we also need to conserve energy, especially petroleum products, whenever and wherever possible.

Decontrol of gasoline prices and discontinuance of the crude oil allocation program are essential to overcome shortages in the longer term.

This would restore a free market in which the prospect of being able to profit from investment would encourage refiners to increase supply to meet demand.

Decontrol, it has been estimated, might add 3 to 5 cents per gallon to the wholesale price of gasoline if supplies were adequate.

Decontrol would create efficiencies by permitting refiners to adjust to actual market demand rather than an obsolete allocation formula, and by reducing the gigantic load of paperwork and auditing that controls demand.

Even at that, it still takes three to five years or more to plan, engineer, and build new refining equipment, so anticipate shortages until the profit motive is restored and then for some years beyond.

The lack of adequate refining capacity is a supply problem. The solution to a supply problem is profit.

There is little comfort in the fact that the gasoline one is unable to buy would be cheap if available.●

DANGERS IN CREATING A MASSIVE SYNTHETIC FUELS INDUSTRY

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, last month I voted with the majority of the House to pass the Moorhead bill, as modified by the Wright amendment, to create a 2,000,000-barrel-a-day synthetic fuels industry by 1990. I did so for two basic reasons.

First, it seemed to me to be important to start the wheels in motion to build some synthetic fuels plants on a commercial scale, so that we can evaluate the costs, and the associated problems and be prepared to go ahead to create a new industry if the economic, environmental, and strategic considerations make it necessary and appropriate. I do not see how we can evaluate these factors until and unless we have built several full-scale 50,000-barrel-a-day plants. At that point we will have presumably mastered the technological factors, so that they are not an obstacle.

Second, it seemed important, at a time of crisis in our gasoline supply, to demonstrate to the American people that the Congress is capable of moving ahead with programs to make the country less dependent on imported oil. While synfuels are certainly only one of the alternatives we must explore, they are an important one.

Having said and done that, it is important that we recognize the serious risks and dangers that may lurk in a synfuels program. It would be the height of folly to make synfuels the centerpiece of our national energy effort. Instead we should proceed in a careful, balanced way to develop all the energy options on a commercial scale, while focusing most on the one option that promises the quickest and most significant results at the lowest cost and the least environmental risk.

It may surprise many to learn that that option is not energy production but energy conservation.

Mr. Speaker, a letter in the New York Times for July 27, 1979, from Richard C. Bell, of the Energy Policy Information Center in Boston, Mass., summarized the situation well. Mr. Bell pointed out that a large synfuels program may have a disastrous impact on the environment—overheating the climate, melting the polar icecap, and flooding all coastal cities.

He also points out that such a program can be extremely costly, crowding other investments out of the capital market and adding to inflation. By contrast, he notes, most of the energy conservation options, such as home insulation, are far less costly, yet will result in significant reductions in energy consumption while creating thousands of new jobs.

A longer article by John M. Barry in the Washington Post for July 29, 1979, outlines at greater length the extraordinary economic costs, risks, and uncertainties of a massive synfuels program.

Mr. Speaker, we frequently hear statements to the effect that the World War II synthetic rubber program, in which we created a large new industry in about 4 years, shows that we can do the same with synfuels by a similar effort. I have considerable familiarity with the synthetic rubber industry, having made a continuing study of it during the years when I was an attorney for The Goodyear Tire and Rubber Co.

I can agree that the wartime synthetic rubber program involved a truly massive effort, including the construction of some 20 large plants. Nevertheless, the effort was small by comparison to a synfuels program of 2,000,000 barrels a day.

The output of the entire synthetic rubber industry at the close of World War II was in the range of 3,000 tons a day. This is the equivalent of around 20,000 barrels of oil per day, or 1 percent of the production of the proposed synfuels program. Nevertheless, it absorbed a sizable amount of skilled engineering manpower, money, and critical materials. Multiply that effort by 100 and you begin to have an idea of the scale of investment and effort of a 2,000,000-barrel-a-day synfuels industry.

Mr. Speaker, the full text of the Bell letter and the Berry article follow these remarks:

Dangers in Rushing To Embrace a Synthetic Fuels Program

To the Editor:

Do the American people really "seem to prefer the risks of synfuel production to the pain of conservation"? (Editorial July 11)

The speed with which the Congress and the Carter Administration have rushed to embrace synfuels has been nothing short of obscene. Here we are, about to set up paramilitary production control boards and commit as much as $100 billion to a totally unproved, dangerous and expensive technology, without even a fig leaf of public debate as to whether this is a wise course of action. How can the public be said to prefer these risks, when people are almost totally unaware of what a commitment to synfuels might mean?

A report of a group of scientists to the Council on Environmental Quality warns that a large synfuels program may have a disastrous impact on the environment within 50 years, causing global heating, melting of the polar icecaps and coastal inundation; and a Rand Corporation report to the Department of Energy warns that a crash synfuels program could result in billions of dollars in cost-overruns and crowding out of other investments in the capital markets (new stories July 11). What else don't we know about synfuels?

The idea that energy conservation must necessarily be painful is one of the most pernicious myths about our energy problems. Many of the most effective energy conservation techniques involve no "pain" at all.

Take residential building insulation, for example. A report completed in 1978 by the Massachusetts Energy Office calculated that a $1.6 billion investment (1978 dollars) to insulate homes in New England would cut residential energy use 30 percent by 1985 and reduce total New England energy use by 10 percent. This investment would also boost regional economic production by $1.2 billion (1974 dollars) and create over 28,000 new jobs. Using this report, the Energy Policy Information Center has calculated that such an investment would save the energy equivalent of about 66 million barrels of oil a year—about $1.3 billion a year at today's prices for oil.

The only "pain" that such conservation efforts might be said to involve is the cost of paying for them, costs that could easily be met if we were willing to invest our tax dollars in the most productive way possible.

Instead of multibillion dollar giveaways to the oil companies, we should be finding ways to help people insulate their homes, improve our transit systems, install cogeneration facilities and speed the introduction of other conservation technologies. These investments, with their relatively short pay-back periods, stand in complete contradistinction to synfuel investments, which will produce nothing for years.

The people of this country deserve more time to consider the implications of a synfuel program. We urge the Senate to resist the profoundly antidemocratic synfuel stampede and to enact a multibillion dollar conservation program instead.—Richard C. Bell, *Co-Director, Energy Policy Information Center, Boston, July 11, 1979.*

Goal May Prove Elusive, Cost Too High

(By John M. Berry)

President Carter and the Congress are fast committing the nation to a massive, expensive, risky new program to develop energy alternatives to imported oil.

The appeal is undeniable, for the goal is nothing less than to free America from the dictates of an avaricious world oil cartel that is using the "oil weapon" not just to extract dollars but foreign policy concessions as well.

But there is a real chance that the goal will prove elusive and the costs extraordinarily high, not just in government spending, but also in the form of higher inflation, added pollution, decreased non-energy investment by business and at least a temporarily lower standard of living for many Americans.

Opposition to some parts of the program has been overwhelmed by the sudden political need to respond to the long lines at gasoline stations and rapidly rising prices at the pump. Now, however, skeptics are emerging even in Congress. They are wondering out loud whether the nation may not be leaping unawares into the synthetic fuels production plans that are the heart of the new program.

Administration officials acknowledge the uncertainties, but say enough is known to push ahead. "There are no substitutes to imported oil other than the range of production alternatives we've proposed," says one.

Today, the Washington Post begins a series of occasional articles that will explore the costs, the risks and the benefits of this mammoth commitment of national purpose for the decade of the 1980s.

The first article deals with coal liquification—the process of turning part of the nation's abundant coal deposits into liquid fuel, either crude oil, a form of alcohol called methanol, or directly into gasoline. Five groups of companies with five different processes each claim to be able to do the job—if the government somehow will help to finance a $2 billion commercial-scale plant turning out 50,000 barrels of fuel each day.

No plant of that size using any of the five processes exists. The largest in the United States produces only about 150 barrels a day. There is a 20,000-barrel-a-day plant in South Africa that uses one of the processes to produce gasoline, and a larger plant under construction there will produce an estimated 120,000 barrels daily.

All of the synthetic fuels, like coal liquification, involve changing a source of energy from one form to another. All of them are expensive, with only oil shale likely to cost little more than oil at current prices.

Because something has never been done is hardly a sign that it cannot be, of course, But doing something for the first time, and in a great hurry, can lead to some unpleasant surprises, particularly in terms of costs.

President Carter put the cost of his program at $142 billion over 10 years, but that estimate is not really based on costs at all. Rather it is simply a figure close to the minimum amount of money the administration calculates its proposed windfall tax on domestic crude oil will bring in. "Any reduction in the receipts . . . will require reductions in these program levels," said a footnote to the White House fact sheet describing the program.

At this point, anybody's figures probably should be taken with a grain of salt. As a recent Rand Corp. study for the Department of Energy put it, "Estimates of capital costs of pioneer energy process plants have been poor predictors of actual capital costs."

Early estimates, even adjusted for inflation, "have routinely understated definitive-design or ultimate costs by more than 100 percent for oil shale, coal gasification and liquefaction (liquids), tar sands, solid waste and nuclear fuel reprocessing plants," the study warned.

Anyone can recall story after story about weapons systems cost overruns. Yet the Rand study concluded that, on average, the actual cost of weapons systems was much closer to original estimates than the actual cost of energy process plants to original estimates. First-of-a-kind plants always cost far more than expected, and building them on a tight schedule—as will have to happen to meet Carter's 1990 goals—"can cause both higher cost and poor system performance," the study concluded.

Building the plants—most of which will have to be located in relatively remote parts of Montana, Wyoming, Colorado and North Dakota—may strain the nation's supply of skilled construction manpower. Construction wages could soar, adding sharply to the costs not just of the plants themselves but also other projects such as chemical plants and oil refineries. Production of some of the equipment needed in the plants also could mean that other types of process plants might have to do without.

All that could add to inflation generally.

Nevertheless, Carter has earmarked $90 billion with which to spur production of the energy alternatives. About half of the remaining $50 billion is supposed to be used to help low-income families bear the burden of higher energy costs. More than $16 billion will be used for mass transit and some as yet unspecified program to increase automobile mileage efficiency. The remainder is destined to aid utilities in switching power plants from oil to coal, to speed energy conservation measures in residential and commercial buildings, and to give new incentives to use of solar energy.

Little of the $90 billion would be used directly by the government to construct the coal, oil shale and "biomass"—a catch-all phrase covering organic materials ranging from wood chips to corn to garbage—conversion plants. A new Energy Security Corp. is supposed to use a combination of loans, loan guarantees, price guarantees and purchase agreements to entice private industry to build the 30 to 40 plants with 50,000-barrel-a-day outputs needed to meet Carter's goal.

Even at $2 billion each, that's $60 billion to $80 billion. If the Rand study is right, the total could be far more. In addition, the continuing cost to the government as a result of its price or purchase guarantees could run into the billions of dollars every year once a plant starts operating.

Outgoing Energy Secretary James Schlesinger predicted last week, "It will be a hard struggle to get the Energy Security Corp. passed on Capitol Hill." Other administration officials are resigned to the fact that Congress will be making major changes in the ESC proposal. Those officials are worried that Congress may try to tie the new group's hands and require specific appropriations for the guarantees extended each plant.

Ironically, if the Organization of Petroleum Exporting Countries imposes big oil price increases in coming years, it will swell receipts from the windfall tax—unless Congress fails to make it permanent, as it well may do—and reduce any future outlays as a result of price and purchase guarantees.

In short, no one knows what the costs of Carter's program will turn out to be.

No one knows, either, what the environmental bill will add up to in the end.

A DOE study released July 12 found that only 31 counties in the entire country have coal reserves adequate to supply a 100,000-barrel-a-day plant for 25 years, with enough water resources within 50 miles, and with sufficient room under present federal air quality standards that the plants could be built.

Most of the sites are in the West where water is already in short supply. Obtaining enough rights to water use for the plants probably would mean buying large blocks of ranch and farm land whose owners now control those rights.

The coal and oil share supplying the plants would come largely from surface mines in semi-arid areas in which reclamation is still highly uncertain.

And most of the counties have only very small populations that might be overwhelmed by the influx of workers needed to build and operate the plants. Including workers, employes of support facilities and their families, a 100,000-barrel-a-day plant would mean a 20.500-person increase in population, the DOE study said. Some of the 41 counties have populations as low as 1,000 people.

To cope with the population influx associated with a single 50,000-barrel-a-day plant, the added community facilities could cost more than $70 million.

Beyond that sort of impact, the range of unanswered environmental questions is still enormous. The same DOE study cautioned:

The accelerated commercialization schedule (set by Carter) may require that the first commercial plants be constructed before environmental concerns are assessed fully.

If problems exist, the number of these first commercial plants in specific locales can lead to an increased risk that a primary health standard will be violated.

Small laboratory and pilot plant facilities may fail to indicate pollution problems that would surface in the larger scale of a commercial operation.

Carter is counting on displacing 500,000 to 1 million barrels of oil imports with such gas, which is locked so tightly in rocks that they generally must be fractured in some way before the gas will flow in any quantity. The gas dissolved in deep reservoirs of brine along the Texas and Louisiana coasts also falls into this category, but that gas carries with it far more uncertainties than that held tightly in the Devonian shales of West Virginia.

All of the energy alternatives—liquids from coal, "natural" gas from coal, oil shale, gasohol, garbage, wood, wind, geothermal, heavy oil and tar sands, and solar—will be covered in the articles to come. Some of the questions raised will be answered. Some will not be, because for them there are as yet no answers.●

STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED FOR CONSIDERATION OF H.R. 3712, THE MORTGAGE SUBSIDY BOND TAX ACT OF 1979

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. ULLMAN. Mr. Speaker, on July 30, 1979, the Committee on Ways and Means ordered favorably reported to the House H.R. 3712, the Mortgage Subsidy Bond Tax Act of 1979. As approved by the Committee on Ways and Means, the bill imposes reasonable limitations on the issuance of tax-exempt mortgage subsidy bonds by State and local governments. The bill was approved with strong bipartisan support in the Ways and Means Committee after a thorough and responsible review of the massive unrestricted proliferation of these bonds in the last 12 months. The further proliferation of these bonds without the limitations contained in the committee's bill would be an inefficient way to subsidize housing, resulting in a staggering revenue loss of billions of dollars and totally frustrating the American people's desire for a balanced Federal budget. The Committee on Ways and Means has acted responsibly to preserve the fiscal integrity of the Federal Government's revenue base, while permitting tax-exempt housing bonds to be issued in the future for low- and moderate-income families in targeted areas or where low-down-payment conventional mortgage financing is unavailable. In addition, the committee's bill provides generous transition rules for tax-exempt housing bonds caught in the pipeline when H.R. 3712 was introduced.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for consideration of H.R. 3712 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a modified open rule which would only provide for:

(1) Committee amendments, which would not be subject to amendment;

(2) If printed in the CONGRESSIONAL RECORD, the following amendments in the nature of substitutes for section 1 of the bill (relating to single-family, owner-occupied housing) which would be offered and considered in the following order, which would not be subject to amendment and each of which would be debated for not to exceed 30 minutes, equally divided:

(a) An amendment, if offered by Mr. Moore, which would

(i) prohibit the further issuance of tax-exempt mortgage subsidy bonds, and

(ii) provide, in lieu of mortgage subsidy bonds, a $200 exclusion ($100 in the case of single returns) for interest earned on a savings deposit in a financial institution, if such deposit is used to provide home mortgage loans;

(b) An amendment if offered by Mr. Jacobs and Mr. Fisher, which would

(i) prohibit the further issuance of tax-exempt mortgage subsidy bonds, and

(ii) provide, in lieu of mortgage subsidy bonds, a tax credit of a certain percentage for down payments and mortgage interest payments of first-time home purchasers;

(c) An amendment, if offered by Mr. Jones of Oklahoma, which would provide a moratorium on the further issuance of tax-exempt mortgage subsidy bonds until July 1, 1981, after which time bonds could be issued under the limitations and restrictions contained in the committee amendments;

(3) Two hours of general debate, to be equally divided;

(4) Waiving all necessary points of order; and

(5) One motion to recommit with or without instructions.

In addition, the Committee requests that the rule permit Committee amendments of a technical and conforming nature in the event that any of the substitutes is adopted by the House.

We intend to officially report H.R. 3712 to the House and file the official committee report during the August recess. It is our intention to request a hearing before the Committee on Rules at the earliest opportunity in September.●

CONFERENCE REPORT ON H.R. 4392

Mr. SLACK submitted the following conference report and statement on the bill (H.R. 4392) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

Conference Report (H. Rept. No. 96-402)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4392) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 10, 11, 13, 28, 46, 47, 48, 52. 58, and 66.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 5, 9, 14, 16, 17, 18, 19, 20, 30, 38, 39, 40, 45, 49, 53, 59, 61, 63, and 68, and agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$32,500,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$106,267,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$232,915,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$318,465,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$27,375,000"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$604,900,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$77,670,000"; and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$702,350,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$64,675,000"; and the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$99,672,000"; and the Senate agree to the same.

Amendment numbered 36: That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$96,528,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$17,305,000"; and the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$58,500,000"; and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$18,270,000"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$84,470,000"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$72,535,000"; and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$396,010,000"; and the Senate agree to the same.

Amendment numbered 55: That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$14,667,000"; and the Senate agree to the same.

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$15,130,000"; and the Senate agree to the same.

Amendment numbered 57: That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$300,000,000"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$4,000,000"; and the Senate agree to the same.

Amendment numbered 65: That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$565,000,000"; and the Senate agree to the same.

Amendment numbered 67: That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,474,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 7, 21, 22, 23, 24, 26, 29, 32, 41, 51, 62, 64, and 69.

John M. Slack,
Neal Smith,
Bill Alexander,
Joseph D. Early,
Jack Hightower,
Jamie L. Whitten,
George M. O'Brien,
Mark Andrews,
Silvio O. Conte,
Managers on the Part of the House.

Ernest F. Hollings,
Warren G. Magnuson,
Thomas F. Eagleton,
Daniel F. Inouye,
Quentin N. Burdick,
Dennis DeConcini,
Dale Bumpers,
Jim Sasser
(except for number 26),
Lowell P. Weicker, Jr..
Mark O. Hatfield,
Ted Stevens,
Paul Laxalt,
Jake Garn,
Milton R. Young,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4392) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPARTMENT OF STATE

Administration of Foreign Affairs

SALARIES AND EXPENSES

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $709,011,000 instead of $712,700,000 as proposed by the House and $712,322,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount agreed to by the conferees includes $2,600,000 for Middle East negotiations and reflects the transfer of $2,100,000 to the account entitled "Payment to the American Institute in Taiwan" and a reduction of $4,189,000 in funds for wage increases for Foreign Service national employees.

The budget estimates made provision for wage increases for foreign national personnel averaging 15.2 per cent and ranging up to 45 per cent. The Conferees cannot endorse such increases when the American wage earners are being requested to hold their wage increases to 7 per cent. If the Department feels it is compelled to increase wages above 7 per cent to overseas employees, it will have to find the wherewithal within the amount recommended.

Representation allowances

Amendment No. 2: Appropriates $3,090,000 as proposed by the Senate instead of $3,100,000 as proposed by the House.

Payment to the American Institute in Taiwan

Amendment No. 3: Appropriates $5,954,000 as proposed by the Senate.

International organizations and conferences

Contributions to International Organizations

Amendment No. 4: Appropriates $411,500,000 as proposed by the House instead of $411,552,000 as proposed by the Senate.

General Provisions—Department of State

Amendment No. 5: Deletes proposal of the House which stated that no more than 95 per cent of the funds appropriated by this title shall be expended.

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 6: Appropriates $32,500,000 instead of $25,550,000 as proposed by the House and $33,000,000 as proposed by the Senate. The amount agreed to by the conferees includes all of the items added by the Senate except funds for contract evaluations identified in the Senate report. However, the conferees agree that those projects, which include management analysis of the Immigration and Naturalization Service and preparation of a plan for case management and tracking systems for each judicial district, should be carried out with funds allocated for the Federal justice research program.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which gives the Attorney General the authority to make such provisions as are necessary and appropriate for the efficient and effective administration of funds included herein for State and local drug strike forces.

Legal activities

Salaries and Expenses, General Legal Activities

Amendment No. 8: Appropriates $106,267,000 instead of $100,900,000 as proposed by the House and $107,800,000 as proposed by the Senate. The amount appropriated include $474,000 for the Office of Special Counsel to investigate various loan transactions between the National Bank of Georgia and the Carter warehouse; $1,024,000 to fund 29 additional positions for dealing with an increase in the number of civil cases arising from enforcement and defense of Department of Energy regulatory programs; a total of $2,300,000 for investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals; and $1,235,000 to fund 30 additional positions for the Land and Natural Resources Division to deal with problems associated with toxic substances and hazardous wastes. In addition, funds above the budget are included as follows: $833,000, including funds for 18 additional positions, for the Civil Rights Division; $946,000 to fund 41 additional positions for the Criminal Division; and $970,000, including funds for 20 additional positions for the Land and Natural Resources Division. The conference action also reflects the reduction of $115,000 in funds for the Office of Legal Counsel, as proposed in a budget amendment.

Amendment No. 9: Deletes proposal of the House to earmark $2,300,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals. However 2,300,000 of the funds provided under this heading is for the Nazi program, as indicated in the previous paragraph.

Salaries and Expenses, Antitrust Division

Amendments No. 10 and 11: Delete proposals of the Senate to provide $5,000,000 for antitrust enforcement grants to States and language to earmark funds for that purpose. Although authorizing legislation to continue the program has passed the Senate, final enactment at this time is uncertain. If authorizing legislation is ultimately enacted, the Committees on Appropriations will be receptive to proposals for providing funds.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

Amendment No. 12: Appropriates $232,915,000 instead of $231,275,000 as proposed by the House and $233,700,000 as proposed by the Senate. The amount appropriated includes proposals of the Senate to provide $700,000 for continuation of the service of private process for indigents and an increase of $940,000 to fund 27 positions for the witness security program.

The amount provided reflects a reduction of $785,000 in funds requested for dealing with bankruptcy matters. However, the reduction is made solely in anticipation of delays in filling positions for this new program.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

Amendment No. 13: Appropriates $4,925,000 as proposed by the House instead of $4,473,000 as proposed by the Senate.

FEDERAL BUREAU OF INVESTIGATION

Salaries and Expenses

Amendment No. 14: Appropriates $584,408,000 as proposed by the Senate instead of $577,408,000 as proposed by the House.

IMMIGRATION AND NATURALIZATION SERVICE

Salaries and Expenses

Amendment No. 15: Appropriates $318,465,000 instead of $299,326,000 as proposed by the House and $318,854,000 as proposed by the Senate. The amount appropriated includes $3,000,000 to automate processing and recordkeeping in district offices and $1,600,000 to redesign, update and maintain the Nonimmigrant Document Control System. In addition, $14,500,000 above the budget is included to fund 495 positions for augmentation of the Border Patrol.

Amendments No. 16 and 17: Delete proposals of the House to earmark funds for automation in district offices and funds for the nonimmigrant control system. However, $3,000,000 is provided for automation in district offices and $1,600,000 for the nonimmigrant control system, as indicated in the previous paragraph.

FEDERAL PRISON SYSTEM

Salaries and Expenses, Bureau of Prisons

Amendment No. 18: Deletes portion of heading as proposed by the Senate.

Amendments No. 19 and 20: Appropriates $321,500,000 as proposed by the Senate instead of $311,600,000 as proposed by the House. The increase of $9,900,000 in new budget authority over the House amount is provided in lieu of the transfer of $9,900,000 from "Buildings and Facilities" proposed by the House.

Buildings and Facilities

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which deletes language permitting the use of unobligated balances for carrying out the 1980 program and inserts language making a direct appropriation of $5,960,000 for that purpose. Unobligated balances in the account result from cancellation of the Detroit Metropolitan Correctional Center. The conferees agree to leave funds provided for the Detroit facility intact until the issue of whether to resume the project is resolved.

No new construction projects are included in the 1980 budget, however, the conferees are concerned about the situation in the Los Angeles area. The House Committee report accompanying the 1979 appropriation bill alluded to problems in the Los Angeles area in contracting for the housing of federal prisoners, and indicated that the Department should report to the Committee on how it planned to deal with the problem. No report has been forthcoming. The Department is again directed to pursue the matter and report to the appropriate committees on the advisability of placing a federal facility in that area. The report should also indicate the estimated cost of such a facility and should present alternative sites.

OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a heading.

LAW ENFORCEMENT ASSISTANCE

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Law Enforcement Assistance Reform Act of 1979, or similar legislation, and title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and other expenses in connection therewith, $442,695,000, to remain available until expended: *Provided,* That $342,695,000 of said amount shall be available only upon enactment of the Law Enforcement Assistance Reform Act of 1979, or similar legislation.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount included in the foregoing amendment is the same as the Senate proposal, but the language has been revised slightly and has been amended to make the availability of funds not yet authorized contingent on the enactment of authorizing legislation.

RESEARCH AND STATISTICS

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

RESEARCH AND STATISTICS

For research, development, demonstration, statistical and related efforts directed towards the improvement of civil, criminal and juvenile justice systems authorized by the Law Enforcement Assistance Reform Act of 1979, or similar legislation, including salaries and other expenses in connection therewith, $43,768,000 to remain available until expendede: *Provided,* That these funds shall be available only upon enactment of the Law Enforcement Assistance Reform Act of 1979, or similar legislation.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amount included in the foregoing amendment is the same as the Senate proposal, but the language has been revised slightly and has been amended to make the availability of funds not yet authorized contingent on the enactment of authorizing legislation.

TITLE III—DEPARTMENT OF COMMERCE

General Administration

SALARIES AND EXPENSES

Amendment No. 25: Appropriates $27,375,000 instead of $25,715,000 as proposed by the House and $28,625,000 as proposed by the Senate.

The conference agreement provides $285,000 and 8 positions for management improvements in the Department's personnel and budget offices and for processing of antidiscrimination complaints, $125,000 and 3 positions for the Office of the Assistant Secretary for Tourism, and $1,250,000 and 25 positions for the Inspector General's Office.

PARTICIPATION IN UNITED STATES EXPOSITIONS

Amendment No. 26: Reported in disagreement. The managers on the part of the House will offer a motion to insist on its disagreement to the amendment of the Senate numbered 26.

Bureau of the Census

PERIODIC CENSUSES AND PROGRAMS

Amendment No. 27: Appropriates $604,900,000 instead of $582,900,000 as proposed by the House and $614,400,000 as proposed by the Senate.

The conference agreement provides $19,300,000 for the local review program, $1,700,000 for a post Census survey of disability, and $2,800,000 for the Census Promotion Plan. The conference agreement also reflects the full budget request for travel of enumerators for the 1980 Decennial Census.

The conference agreement does not provide any of the $19,000,000 requested for the allowance for contingencies in connection with the 1980 Decennial Census. However, the conferees are agreed that the Department of Commerce may submit a budget request for any emergency requirements for the 1980 Decennial Census should the need arise.

Amendment No. 28: Deletes language proposed by the Senate which would designate up to $2,800,000 for the Census Promotion Plan.

The conferees are agreed that out of the total amount provided for the 1980 Decennial Census, the amount available for the Census Promotion Plan shall not exceed $2,800,000, and that the Department is not to reprogram any additional amounts for this purpose.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which deletes the prohibition on the expenditure of funds for further dissemination of certain 1978 Agricultural Census forms, but retains the provision prohibiting the expenditure of funds for prosecution of any person for failure to return such forms or for preparation of similar forms for any future agricultural census. The text of the amendment is as follows:

In lieu of the matter proposed by said amendment, insert:

None of the funds made available to the Bureau of the Census under this Act may be expended for prosecution of any person for the failure to return 1978 Agricultural Census forms 78-A40A or 78-A40B, or 78-A40C or 78-A40D, or for the preparation of similar forms for any future agricultural census.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Economic and Statistical Analysis

SALARIES AND EXPENSES

Amendment No. 30: Appropriates $17,875,000 as proposed by the Senate instead of $17,725,000 as proposed by the House.

Industry and Trade Administration

OPERATIONS AND ADMINISTRATION

Amendment No. 31: Appropriates $77,670,000 instead of $77,394,000 as proposed by the House and $78,837,000 as proposed by the Senate.

The conference agreement provides $260,000 for continuation of the Sydney International Marketing Center, $150,000 for planning Federal participation in international expositions to be held in the United States, and $4,000,000 for the Worldwide Information and Trade System (WITS). The conferees are agreed that the Industry and Trade Administration will fully involve the private information industry in the development of WITS. The conferees also expect the Industry and Trade Administration to insure that private sector efforts are enhanced and that ITA does not duplicate or compete with the private sector.

The conference agreement does not provide any funds for travel data, policy, and coordination functions or for the trade promotion program in Taiwan, which is now funded through the Department of State.

United States Travel Service

SALARIES AND EXPENSES

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $8,000,000 for the United States Travel Service.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

Amendment No. 33: Appropriates $702,350,000 instead of $688,656,000, as proposed by the House and $711,939,000 as proposed by the Senate.

The conference agreement includes $1,800,000 for upgrading NOAA's central computer facility, $2,000,000 above the budget request for the MARMAP program and grants to the Regional Fishery Management Councils, and $3,500,000 above the budget for the Sea Grant program. The conference agreement also includes $915,000 for the U.S. contribution to the INPFC salmon tagging study with Japan, $2,950,000 for additional construction and operating costs for the aquaculture laboratory at Newport, Oregon, and $1,133,000 for design of the aquaculture laboratory at Manchester, Washington. In addition, the conference agreement provides $400,000 for the Precipitation Augmentation for Crops Enhancement (PACE) program; $250,000 for a radar at Beckley, West Virginia; $689,000 and 40 positions for maintaining and operating 22 weather stations proposed for closing; and $157,000 for the catfish aquaculture project in Stuttgart, Arkansas. The conference agreement also reflects the transfer of $100,000 to the Marine Mammal Commission for East Coast whale studies. Finally, the conference agreement provides for a total of $1,200,000 to develop, under contract, national applicable evaluation technologies for two types of operational weather modification projects—summertime rain enhancement and wintertime snowpack augmentation—based on the North Dakota and Utah ongoing, state-sponsored operational projects.

Coastal Zone Management

Amendment No. 34: Appropriates $64,675,000 instead of $63,575,000 as proposed by the House and $65,925,000 as proposed by the Senate.

The conference agreement includes $1,100,000 and four positions to begin a program of ocean use and assessment studies.

Patent and Trademark Office

SALARIES AND EXPENSES

Amendment No. 35: Appropriates $99,672,000 instead of $97,562,000 as proposed by the House and $102,000,000 as proposed by the Senate.

The conference agreement provides $2,038,000 for additional patent printing costs and $72,000 for additional trademark printing costs.

Science and Technical Research

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

Amendment No. 36: Appropriates $96,528,000 instead of $96,344,000 as proposed by the House and $97,825,000 as proposed by the Senate.

The conference agreement provides $200,000 for a study of the feasibility of integrating the Science Information Exchange program with the National Technical Information Service.

National Telecommunications and Information Administration

SALARIES AND EXPENSES

Amendment No. 37: Appropriates $17,305,000 instead of $15,315,000 as proposed by the House and $18,410,000 as proposed by the Senate.

The conference agreement provides $1,685,000 to fund a public service satellite network using commercial satellites and $305,000 and 4 positions to administer an increased level of public telecommunications facilities grants.

Public Telecommunications Facilities, Planning and Construction

Amendment No. 38: Appropriates $23,705,000 as proposed by the Senate instead of $12,000,000 as proposed by the House.

Maritime Administration

SHIP CONSTRUCTION

Amendment No. 39; Appropriates $101,000,000 as proposed by the Senate instead of $32,000,000 as proposed by the House.

TITLE IV—THE JUDICIARY

Court of Claims

SALARIES AND EXPENSES

Amendment No. 40: Appropriations $5,230,000 as proposed by the Senate instead of $5,290,000 as proposed by the House.

Courts of Appeals, District Courts, and Other Judicial Services

FEES OF JURORS AND COMMISSIONERS

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which permits funds to be used for refreshments for jurors.

Bankruptcy Courts, Salaries and Expenses

Amendment No. 42: Appropriates $58,500,000 instead of $57,000,000 as proposed by the House and $60,000,000 as proposed by the Senate.

TITLE V—RELATED AGENCIES

Arms Control and Disarmament Agency

ARMS CONTROL AND DISARMAMENT ACTIVITIES

Amendment No. 43: Appropriates $18,270,000 instead of $17,670,000 as proposed by the House and $18,870,000 as proposed by the Senate.

Board for International Broadcasting

GRANTS AND EXPENSES

Amendment No. 44: Appropriates $84,470,000 instead of $82,990,000 as proposed by the House and $84,700,000 as proposed by the Senate.

The amount provided in the conference agreement includes $790,000 for expenses of the Board for International Broadcasting, $80,430,000 for grants to Radio Free Europe/Radio Liberty (RFE/RL, Inc.) and $3,250,000 for fluctuations in foreign currency exchange rates.

Amendment No. 45: Designates $3,250,000 for fluctuations in foreign currency exchange rates as proposed by the Senate instead of

$2,000,000 for this purpose as proposed by the House.

Commission on Civil Rights

SALARIES AND EXPENSES

Amendment No. 46: Appropriates $11,230,000 as proposed by the House instead of $11,370,000 as proposed by the Senate. The six positions requested for implementation of age and handicap discrimination programs, authorized by Public Law 95–444, are to be funded within the total amount appropriated.

Equal Employment Opportunity Commission

SALARIES AND EXPENSES

Amendment No. 47: Designates not to exceed $15,000,000 for payments to State and local enforcement agencies as proposed by the House instead of $18,500,000 as proposed by the Senate.

Amendment No. 48: Appropriates $119,000,000 as proposed by the House instead of $125,000,000 as proposed by the Senate.

Federal Communications Commission

SALARIES AND EXPENSES

Amendment No. 49: Provides language proposed by the Senate which would permit the Federal Communications Commission to rent space in the District of Columbia and elsewhere:

Amendment No. 50: Appropriates $72,535,000 instead of $71,816,000 as proposed by the House and $73,255,000 as proposed by the Senate.

The conference agreement provides $99,000 and 10 positions above the House allowance for land mobile radio license processing and $400,000 and 10 positions above the House allowance for the Office of Science and Technology. The conference agreement also provides a total of $410,000 for an economic study of converting AM radio chanels from a 10 kilohertz to a 9 kilohertz system, of which $220,000 is to be allocated from the research budget. The conference agreement does not provide any funds for answering mail concerning the subject of religious broadcasting.

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides language that will permit the FCC to use funds deposited in the General Fund of the Treasury by the State of Florida as a result of the expense of the construction and relocation of the Fort Lauderdale Monitoring Station.

Federal Maritime Commission

SALARIES AND EXPENSES

Amendment No. 52: Appropriates $11,175,000 as proposed by the House instead of $11,217,000 as proposed by the Senate.

Foreign Claims Settlement Commission

SALARIES AND EXPENSES

Amendment No. 53: Appropriates $1,030,000, to be derived by transfer, as proposed by the Senate instead of $1,000,000, to be derived by transfer, as proposed by the House.

International Communication Agency

SALARIES AND EXPENSES

Amendment No. 54: Appropriates $396,010,000 instead of $399,200,000 as proposed by the House and $395,445,000 as proposed by the Senate. The reduction from the House amount reflects the transfer of $1,290,000 to the State Department appropriation for "Payment to the American Institute in Taiwan" and a decrease of $1,900,00 in funds for Foreign Service national employees.

As noted in the discussion under the Department of State, the budget estimates make provision for wage increases for foreign national personnel ranging up to 45 percent. The conferees cannot endorse such increases when the American wage earners are being requested to hold their wage increases to 7 percent. If the Agency feels it is compelled to increase wages above 7 percent to overseas employees, it will have to find the wherewithal within the amount recommended.

Center for Cultural and Technical Interchange Between East and West

Amendment No. 55: Appropriates $14,667,000 instead of $14,500,000 as proposed by the House and $14,835,000 as proposed by the Senate.

International Trade Commission

SALARIES AND EXPENSES

Amendment No. 56: Appropriates $15,130,000 instead of $14,106,000 as proposed by the House and $16,200,000 as proposed by the Senate.

Legal Services Corporation

PAYMENT TO THE LEGAL SERVICES CORPORATION

SALARIES AND EXPENSES

Amendment No. 57: Appropriates $300,000,000 instead of $305,000,000 as proposed by the House and $291,800,000 as proposed by the Senate.

Amendment No. 58: Restores proposal of the House which would prohibit the use of funds for aliens known to be in the United States illegally.

Marine Mammal Commission

SALARIES AND EXPENSES

Amendment No. 59: Appropriates $940,000 as proposed by the Senate instead of $640,000 as proposed by the House.

Office of the Special Representative for Trade Negotiations

SALARIES AND EXPENSES

Amendment No. 60: Appropriates $4,000,000 instead of $3,900,000 as proposed by the House and $4,273,000 as proposed by the Senate. The $100,000 above the House amount is for expenses of the U.S. representative to the Textile Surveillance Board in Geneva.

Securities and Exchange Commission

SALARIES AND EXPENSES

Amendment No. 61: Appropriates $68,986,000 as proposed by the Senate instead of $68,946,000 as proposed by the House.

Small Business Administration

SALARIES AND EXPENSES

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which amends the heading.

Amendment No. 63: Appropriates $182,300,000 as proposed by the Senate instead of $192,300,000 as proposed by the House. The funds appropriated under this heading are to be distributed as follows:

Procurement Assistance	$8, 100, 000
Technology Assistance	1, 800, 000
Advocacy	2, 000, 000
Public Communications	624, 000
Economic Research	3, 776, 000
7(j) Call Contracting	10, 000, 000
Management Assistance	19, 437, 000
Small Business Development Centers	6, 500, 000
Finance and Investment	49, 238, 000
Minority Small Business	11, 187, 000
Subtotal	112, 662, 000
All Other	69, 638, 000
Total	182, 300, 000

The program levels reflect a reallocation of certain agency salary and expense resources to reflect the mandates of Public Law 95–507 not taken into account in the President's budget. Four additional specific program activities are also enumerated.

The Conferees intend that $500,000 of those funds appropriated for the agency's Management Assistance program shall be used to fund an increase of 14 positions for the Office of International Trade. This increase includes ten regional export development specialists to be assigned to each one of the SBA regional offices.

The amount recommended includes $1,000,000 solely to further develop the small business indicative data base comprised of names and addresses and related information.

The increase in funding for small business development centers is based upon the assumption that legislative guidelines will be enacted into law. Accordingly, the conferees direct that no part of this appropriation shall be used to fund any small business development center or university business development center pilot program, or any combination thereof, in any state in excess of $300,000 per state until enactment into law of S. 918, or similar legislation.

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows: ", and in addition $11,650,000 for disaster loan making activities shall be transferred to this appropriation from the 'Disaster Loan Fund' and $5,000,000 for disaster loan servicing, as compensation for 275 temporary or permanent full time employees, shall be transferred to this appropriation from such 'Disaster Loan Fund' ".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment provided for the transfer of $11,650,000 from the "Disaster Loan Fund". The conferees agreed to that transfer and agreed to provide for the transfer of an additional $5,000,000 for 275 employees for disaster loan servicing.

Business Loan and Investment Fund

Amendment No. 65: Appropriates $565,000,000 for additional capital instead of $580,000,000 as proposed by the House and $411,000,000 as proposed by the Senate.

The amount appropriated is to enable the Small Business Administration to carry out programs under the Business Loan and Investment Fund at the following levels:

7(a) Business loans:	
Direct and immediate participation	$219, 000, 000
Guaranteed	3, 200, 000, 000
Total	3, 419, 000, 000
7(h) Handicapped loans:	
Direct and immediate participation	20, 000, 000
Guaranteed	5, 000, 000
Total	25, 000, 000
7(i) Economic opportunity loans:	
Direct and immediate participation	65, 000, 000
Guaranteed	70, 000, 000
Total	135, 000, 000
7(l) Energy loans:	
Direct and immediate participation	15, 000, 000
Guaranteed	30, 000, 000
Total	45, 000, 000
Development company loans:	
Direct and immediate participation	45, 000, 000
Guaranteed	100, 000, 000
Total	145, 000, 000

Investment company loans:	
Direct and immediate participation	27,000,000
Guaranteed	190,000,000
Total	217,000,000
Total, business loan and investment fund:	
Direct and immediate participation	391,000,000
Guaranteed	3,595,000,000
Total	3,986,000,000

Disaster Loan Fund

Amendment No. 66: Deletes proposal of the Senate to legislate changes in the disaster loan program. The conferees are agreed that these changes should be dealt with in authorizing legislation.

United States Metric Board

Salaries and Expenses

Amendment No. 67: Appropriates $2,474,000 instead of $1,613,000 as proposed by the House and $3,335,000 as proposed by the Senate.

The conferees are agreed that of the $861,000 provided in the conference agreement over the House allowance, $743,000 should be allocated to the Research, Coordination and Planning function and the remaining $118,000 should be allocated to other program areas as determined by the Metric Board.

TITLE VI—GENERAL PROVISIONS

Amendment No. 68: Deletes proposal of the House which would prohibit the Department of Justice from bringing any sort of action to require transportation of any student to a school other than the school nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

TITLE VII—SUPPLEMENTAL APPROPRIATIONS, 1979

Amendment No. 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $2,835,000 in 1979 supplemental funds for U.S. Attorneys and Marshals, to be derived by transfer.

Conference Total—With Comparisons

The total new budget (obligational) authority for the fiscal year 1980 recommended by the Committee of Conference, with comparisons to the fiscal year 1979 amount, the 1980 budget estimates, and the House and Senate bills for 1980 follow:

New budget (obligational) authority, fiscal year 1979	$9,148,933,000
Budget estimates of new (obligational) authority, fiscal year 1980	[1] 8,526,868,000
House bill, fiscal year 1980	7,695,007,000
Senate bill, fiscal year 1980	8,253,334,000
Conference agreement	[2] 8,345,091,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1979	−803,842,000
Budget estimates of new (obligational) authority, fiscal year 1980	−181,777,000
House bill, fiscal year 1980	+650,084,000
Senate bill, fiscal year 1980	+91,757,000

[1] Reflects $559,056,000 in budget estimates not considered by the House.

[2] Reflects House position of no allowance for Amendment No. 26 which is in true disagreement.

John M. Slack,
Neal Smith,
Bill Alexander,
Joseph D. Early,
Jack Hightower,
Jamie L. Whitten,
George M. O'Brien,
Mark Andrews,
Silvio O. Conte,
Managers on the Part of the House.

Ernest F. Hollings,
Warren G. Magnuson,
Thomas F. Eagleton,
Daniel K. Inouye,
Quentin N. Burdick,
Dennis DeConcini,
Dale Bumpers,
Jim Sasser
(except for No. 26),
Lowell P. Weicker, Jr.,
Mark O. Hatfield,
Ted Stevens,
Paul Laxalt,
Jake Garn,
Milton R. Young.
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Evans of Delaware) to revise and extend their remarks and include extraneous material:)

Mr. Thomas, for 60 minutes, today.

Mr. Collins of Texas, for 20 minutes, today.

(The following Members (at the request of Mr. Swift) to revise and extend their remarks and include extraneous material:)

Mr. Flood, for 5 minutes, today.

Ms. Holtzman, for 5 minutes, today.

Mr. Stokes, for 60 minutes, today.

Mr. Weaver, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Breaux, for 5 minutes, today.

Mr. Alexander, for 10 minutes, today.

Mr. Rodino, for 10 minutes, today.

Mr. Charles H. Wilson of California, for 5 minutes, today.

Mr. Panetta, for 5 minutes, today.

Mr. Glickman on August 1, for 5 minutes.

Mr. Glickman on August 2, for 5 minutes.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Danielson, personal explanation on vote to follow rollcall No. 410, Marks amendment.

Mr. Jenrette, immediately before rollcall No. 404.

(The following Members (at the request of Mr. Evans of Delaware) and to include extraneous matter:)

Mr. Carter in four instances.

Mr. Young of Alaska.

Mr. Clausen in two instances.

Mr. Derwinski in two instances.

Mr. Latta.

Mr. Hagedorn.

Mr. Symms.

Mr. Lujan.

Mr. Hopkins.

Mr. Dornan in two instances.

Mr. Paul in two instances.

Mr. Rhodes.

Mr. Daniel B. Crane.

Mr. Martin.

Mr. Rudd.

Mr. Bob Wilson in three instances.

Mr. Lewis.

Mr. Philip M. Crane.

Mr. McKinney.

Mr. Taylor.

Mr. Lott.

Mr. Guyer.

Mr. McEwen.

(The following Members (at the request of Mr. Swift) and to include extraneous matter:)

Mr. Wolff in two instances.

Mr. Benjamin.

Mr. Hamilton in two instances.

Mr. Frost.

Mr. Wirth in two instances.

Mr. Annunzio.

Mr. Patterson in five instances.

Mr. Ottinger.

Mr. Mazzoli.

Mr. LaFalce in two instances.

Mr. Patten.

Ms. Oakar in two instances.

Mr. Leland.

Mr. Weaver.

Mr. Rostenkowski.

Mr. Mineta in two instances.

Mr. Rahall in two instances.

Mr. Bonker in two instances.

Mr. Roybal.

Mr. Harkin.

Mrs. Schroeder in two instances.

ADJOURNMENT

Mr. SWIFT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 58 minutes p.m.), the House adjourned until tomorrow, Wednesday, August 1, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2160. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of defense equipment to Japan (Transmittal No. 79-65), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2161. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Japan (Transmittal No. 79-65), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2162. A letter from the Secretary of Health, Education, and Welfare, transmitting the first annual report on drug abuse prevention and treatment, pursuant to section 405(b) of the Drug Abuse Office and Treatment Act of 1972, as amended (92 Stat. 1268); to the Committee on Interstate and Foreign Commerce.

2163. A letter from the Secretary of Health, Education, and Welfare, transmitting the 1978 Annual Plan for fiscal years 1980 through 1984 on the national cancer program, pursuant to section 404(a)(9) of the Public Health Service Act (92 Stat. 3425); to the Committee on Interstate and Foreign Commerce.

2164. A letter from the Secretary of Commerce, transmitting the third report on the activities of the Regional Fishery Management Councils and the Department of Commerce concerning fishery management plans, pursuant to section 305(f) of of Public Law 94-265; to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FASCELL: Committee of conference. Conference report on H.R. 3363 (Rept. No. 96-399). Ordered to be printed.

Mr. NATCHER: Committee of conference. Conference report on H.R. 4389 (Rept. No. 96-400). Ordered to be printed.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 393. Resolution providing for the consideration of H.R. 2172. A bill to implement the International Sugar Agreement, 1977, between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes (Rept. No. 96-401). Referred to the House Calendar.

Mr. SLACK: Committee of conference. Conferee report on H.R. 4392 (Rept. No. 96-402). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BREAUX:

H.R. 5018. A bill to repeal title III, Marine Sanctuaries, of the Marine Protection, Research, and Sanctuaries Act of 1972; to the Committee on Merchant Marine and Fisheries.

By Mr. GARCIA:

H.R. 5019. A bill to amend the Energy Policy and Conservation Act to provide a means for reconciling differences in reports by the Department of Energy and the Bureau of the Census of the volumes of petroleum products imported and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. JENRETTE:

H.R. 5020. A bill to provide for an epidemiological study of fluorosis in certain areas where fluoride occurs naturally in drinking water systems to determine whether the presence of such fluoride presents any health problems, and if so, to what extent, and to suspend the application of the fluoride standard in such areas under the Safe Drinking Water Act pending the completion of such study, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. KEMP:

H.R. 5021. A bill to amend the National Flood Insurance Act of 1968 for the purpose of authorizing flood insurance for breakwalls and other flood-prevention structures; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LONG of Maryland:

H.R. 5022. A bill to amend the Communications Act of 1934 to provide that telephone receivers may not be sold interstate commerce unless they are manufactured in a manner which permits their use by persons with hearing impairments; to the Committee on Interstate and Foreign Commerce.

By Mr. MINETA (for himself, Mr. Thompson, and Mr. Conte):

H.R. 5023. A bill to amend the act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said Act; to the Committee on House Administration.

By Mr. NEAL:

H.R. 5024. A bill to amend chapter 53 of title 5, United States Code, to increase the salaries of the Chairman and members of the Federal Reserve Board; to the Committee on Post Office and Civil Service.

By Mr. NICHOLS:

H.R. 5025. A bill to amend title 10, United States Code, to provide that any person eligible for medical care under the civilian health and medical program of the uniformed services (CHAMPUS) who is a veteran with a service-connected disability may not be denied care and treatment for such disability under CHAMPUS solely because such person is eligible for care and treatment for such disability in Veterans' Administration facilities; to the Committee on Armed Services.

By Mr. OTTINGER:

H.R. 5026. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 5027. A bill to establish a commission to review certain regulations relating to aviation for the purpose of insuring that the interests of all persons involved in aviation in the United States are represented in the process of issuing the regulations, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 5028. A bill to amend the Federal Aviation Act of 1958 to prohibit the Secretary of Transportation and the Administrator of the Federal Aviation Administration from issuing any rule, regulation, or order relating to certain aspects of the control of navigable airspace; to the Committee on Public Works and Transportation.

By Mr. ROBINSON (for himself and Mr. Trible):

H.R. 5029. A bill to amend title 18, United States Code, to impose criminal penalties for the willful or malicious injury or destruction of a nuclear facility or appurtenance thereof, and for other purposes; to the Committee on the Judiciary.

By Mr. RODINO (for himself, Mr. McClory, Mr. Hyde, and Mr. Sensenbrenner):

H.R. 5030. A bill to create a charter for the Federal Bureau of Investigation, and for other purposes; to the Committee on the Judiciary.

By Mr. WIRTH:

H.R. 5031. A bill to amend the Internal Revenue Code of 1954 to eliminate the excise tax on radial tires; to the Committee on Ways and Means.

By Mr. WOLFF:

H.R. 5032. A bill to authorize the establishment of the Long Island Sound Heritage in the States of Connecticut and New York; to the Committee on Interior and Insular Affairs.

By Mr. WOLFF:

H.R. 5033. A bill to provide for the termination of the Interim Convention on the Conservation of North Pacific Fur Seals of February 9, 1957, to prohibit the taking of seals in the Pribilof Islands, and for other purposes; jointly, to the Committees on Foreign Affairs, Merchant Marine and Fisheries, and Interior and Insular Affairs.

By Mr. YATRON:

H.R. 5034. A bill to amend the Federal Food, Drug, and Cosmetic Act to assure the freshness of packaged foods sold to consumers; to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG of Alaska (for himself, Mr. Hughes, Mr. Lagomarsino, Mr. Murphy of New York, Mr. Evans of the Virgin Islands, Mr. Wyatt, Mr. Lowry, Mr. Studds, Mr. Oberstar, Mr. Forsythe, Mr. Bowen, Mr. Dingell, Mr. Pritchard, Mr. McCloskey, Mr. Clausen, and Mr. Evans of Delaware):

H.R. 5035. A bill to promote the transfer of various fisheries technologies and techniques and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. KOGOVSEK (for himself and Mr. Johnson of Colorado):

H.R. 5036. A bill to require the Secretary of the Interior to convey a parcel of land located in Colorado to the Ute Mountain Ute Tribe and to pay an amount to such tribe for economic development; to the Committee on Interior and Insular Affairs.

By Mr. MITCHELL of Maryland (for himself, Mr. D'Amours, Mr. Barnard, Mr. Mattox, and Mr. Cavanaugh):

H.R. 5037. A bill to amend the Federal Reserve Act respecting the positions of Chairman and Vice Chairman of the Federal Reserve Board; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RAHALL:

H.R. 5038. A bill to amend the Black Lung Benefits Act to provide that certain benefits paid to miners who originally filed claims under part B of title IV of such act shall not be considered workmen's compensation benefits for purposes of the Social Security Act; to the Committee on Education and Labor.

By Mr. SABO:

H.R. 5039. A bill to authorize the Secretary of Agriculture to assist participants in the food stamp program to pay the cost of fuel consumed for residential heating during the period of December through March; jointly, to the Committees on Agriculture and Interstate and Foreign Commerce.

By Mr. FORD of Michigan (for himself, Mr. Conyers, Mr. Wolpe, Mr. Carr, Mr. Kildee, Mr. Traxler, Mr. Bonior of Michigan, Mr. Diggs, Mr. Nedzi, Mr. Dingell, Mr. Brodhead, Mr. Blanchard, Mr. Perkins, Mr. Hawkins, Mr. Thompson, Mr. Clay, Mr. Gaydos, Mr. Brademas, Mr. Phillip Burton, Mr. Simon, Mr. Reuss, Mr. Vento, Mr. Roe, Mr. Bailey, Mr. Oberstar, Mr. Price, Mr. Moakley, Mr. John L. Burton, Mr. Sabo, Mr. Rahall, Mr. Murphy of Pennsylvania, Mr. Brown of California, Mr. Stark, Mr. Flood, Mr. Rodino, Mr. Miller of California, Mr. Stokes, Mr. Dodd, Mr. Patten, Mr. Edwards of California, Mr. Downey, Mr. Daschle, Mr. Murphy of Illinois, Mr. Lederer, Mr. Gray, Mr. Solarz, Mr. Maguire, and Mr. Zablocki):

H.R. 5040. A bill to require business concerns which undertake changes of operations to give notice to the Secretary of Labor, and to affected labor organizations, employees, and local governments; to require business concerns to provide assistance to employees who suffer an employment loss caused by changes of operations; to authorize the Secretary of Labor to provide assistance to such business concerns, and to such affected employees and local governments; and for other purposes; jointly, to the Committees on Education and Labor and Banking, Finance and Urban Affairs.

By Mr. RAHALL:

H.J. Res. 386. Joint resolution to authorize National Family Day; to the Committee on Post Office and Civil Service.

By Mr. LONG of Maryland:

H. Con. Res. 169. Concurrent resolution expressing the sense of the Congress that free or reduced cost parking spaces provided to Federal employees should continue to be provided free or at reduced cost; to the Committee on Public Works and Transportation.

By Mr. GLICKMAN (for himself, Mr. Sebelius, Mr. English, Mr. Rose, Mr. Jones of Tennessee, Mr. Daschle, Mr. Harkin, Mr. Huckaby, Mr. Cavanaugh, Mr. Hance, Mr. Hightower, Mr. Whittaker, Mr. Winn, Mr. Nolan, Mr. Jeffries, Mr. Stangeland, and Mr. Leath of Texas):

H. Res. 394. Resolution to establish a wheat set-aside for the 1980 crop year; to the Committee on Agriculture.

By Mr. OTTINGER (for himself, Mr. Fisher, Mr. Fuqua, Mr. Roe, Mr. McCormack, Mr. Harkin, Mr. Lloyd, Mrs. Bouquard, Mr. Blanchard, Mr. Walgren, Mr. Flippo, Mr. Glickman, Mr. Gore, Mr. Young of Missouri, Mr. Pease, Mr. Wolpe, Mr. Nelson, Mr. Anthony, Mr. Ertel, Mr. Hance, Mr. Winn, Mr. Fish, Mr. Dornan, Mr. Walker, Mr. Forsythe, Mr. Kramer, Mr. Davis of South Carolina, Mr. Whitehurst, Mr. Richmond, Mr. Lagomarsino, Mr. Florio, Mr. LaFalce, Mr. Hughes, Mr. McHugh, Mr. Kogovsek, Mr. Simon, Mr. Frost, Mr. Vento, Mr. Horton, Mr. Corcoran, Mr. Moakley, Mr. Carr, Mrs. Fenwick, Mr. Nolan, Mr. Weaver, Mr. Dellums, Mr. Bingham, Mr. Brown of California, Mr. Downey, Mr. Fazio, Mr. Mitchell of Maryland, Mr. Murphy of Pennsylvania, Mr. Pritchard, Mr. Scheuer, Mr. Pepper, Mr. Weiss, Mr. Gray, Mr. Wirth, Mr. Lehman, Mr. Howard, Mr. Mineta, Mr. Akaka, Mr. Daschle, Mr. Seiberling, Mr. Bonior of Michigan, and Ms. Holtzman):

H. Res. 395. Resolution expressing the sense of the House of Representatives that the President's proposal for solar energy credits should be enacted and made retroactive to April 5, 1979; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PATTERSON:

H.R. 5041. A bill for the relief of Morris Ohfuku McHenry; to the Committee on the Judiciary.

H.R. 5042. A bill for the relief of Guillermo Esteban Perez-Garcia; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 100: Mr. Annunzio, Mr. Bedell, Mr. Benjamin, Mr. Bonior of Michigan, Mr. Brodhead, Mr. Carr, Mrs. Chisholm, Mr. Clay, Mr. Conyers, Mr. Corman, Mr. Corrada, Mr. Davis of South Carolina, Mr. Dellums, Mr. Diggs, Mr. Dixon, Mr. Downey, Mr. Drinan, Mr. Eckhardt, Mr. Edwards of California, Mr. Evans of the Virgin Islands, Mr. Fauntroy, Ms. Ferraro, Mr. Florio, Mr. Goodling, Mr. Gray, Mr. Guarini, Mr. Hawkins, Mr. Hollenbeck, Mr. Leland, Mr. Long of Maryland, Mr. Lowry, Mr. McCloskey, Mr. Maguire, Mr. Markey, Ms. Mikulski, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Murphy of Pennsylvania, Mr. Nedzi, Mr. Ottinger, Mr. Price, Mr. Pritchard, Mr. Rangel, Mr. Richmond, Mr. Roe, Mr. Rose, Mr. Rosenthal, Mr. Roybal, Mr. Scheuer, Mr. Solarz, Mrs. Spellman, Mr. Stewart, Mr. Stokes, Mr. Traxler, Mr. Waxman, Mr. Weiss, Mr. Charles H. Wilson of California, Mr. Wolpe, Mr. Yates, and Mr. Young of Missouri.

H.R. 113: Mr. Stangeland.

H.R. 333: Mr. Bereuter, Mr. Edwards of Oklahoma, Mr. Fascell, Mr. Mitchell of New York, and Mr. Santini.

H.R. 393: Mr. Pritchard.

H.R. 605: Mr. Leach of Louisiana, Mr. Goodling, Mr. Lent, Mr. Nowak, Mr. Nichols, Mr. Pepper, Mr. Solarz, Mr. Santini, Mr. Charles H. Wilson of California, Mr. Thompson, Mr. Williams of Montana, Mr. Stokes, and Mr. Cleveland.

H.R. 739: Mr. Bauman, Mr. Robinson, Mr. Sawyer, Mr. Ashbrook, Mr. Philip M. Crane, Mr. Daniel B. Crane, Mr. Symms, Mr. Lott, Mr. Guyer, Mr. Shuster, Mr. Stump, and Mr. Dougherty.

H.R. 996: Mr. Dannemeyer, Mr. Ottinger, and Mr. Weiss.

H.R. 2255: Mr. Montgomery, Mr. Annunzio, Mr. Blanchard, Mr. Cavanaugh, Mr. Mattox, Mr. Watkins, Mr. Hammerschmidt, Mr. D'Amours, Mr. Derrick, Mr. Howard, Mr. Huckaby, Mr. Bereuter, Mr. Corcoran, Mr. Kildee, Mr. Leath of Texas, Mr. Neal, Mr. Rinaldo, Mr. Traxler, Mr. Wyatt, Mr. Bevill, Mr. McKinney, Mr. Collins of Texas, Mr. Patten, Mr. Duncan of Tennessee, Mr. McHugh, Mr. Cotter, Mr. Biaggi, Mr. Gilman, Mrs. Heckler, and Mr. Shelby.

H.R. 2392: Mr. Erdahl.

H.R. 2490: Mr. Patterson, Mr. Lagomarsino, Mr. Jones of North Carolina, Mr. Bonior of Michigan, Mr. Hutto, Mr. Bob Wilson, Mr. Benjamin, Mr. Carr, Mr. Yatron, Mr. Bedell, Mr. Coelho, Mr. Wyatt, Mr. Nowak, Mr. Livingston, Mr. Bevill, Mr. McEwen, Mr. Fazio, Mr. Clinger, Mr. Dannemeyer, Mr. Bailey, Mr. Hollenbeck, Mr. Tauke, Mr. Mitchell of New York, Mr. Evans of Delaware, Mr. Maguire, and Mr. Cleveland.

H.R. 2602: Mr. Waxman, Mr. Staggers, Mr. Carter, Mr. Preyer, Mr. Maguire, Mr. Walgren, Ms. Mikulski, Mr. Leland, Mr. Murphy of New York, Mr. Madigan, Mr. Lee, Mr. Van Deerlin, Mr. Eckhardt, Mr. Wirth, Mr. Moffet, Mr. Santini, Mr. Markey, Mr. Rinaldo, Mr. Roybal, Mr. Andrews of North Carolina, Mr. John L. Burton, Mr. Bonker, Mr. Ford of Tennessee, Mr. Lundine, Ms. Holtzman, Mr. Lloyd, Mr. Watkins, Ms. Ferraro, Mr. Ratchford, Mr. Mica, Mr. Stack, Mr. Synar, Mr. Atkinson, Mr. Regula, Mr. Dornan, Mr. Hollenbeck, Mr. Green, Mr. Shumway, Mr. Hopkins, Mrs. Snowe, Mr. Lungren, Mr. Whittaker, Mr. Marks, Mr. Addabbo, Mr. Akaka, Mr. Ambro, Mr. Anderson of California, Mr. Anderson of Illinois, Mr. Andrews of North Dakota, Mr. Anthony, Mr. Applegate, Mr. Ashley, Mr. AuCoin, Mr. Bailey, Mr. Barnes, Mr. Beard of Rhode Island, Mr. Bedell, Mr. Beilenson, Mr. Bennett, Mr. Blanchard, Mrs. Boggs, Mr. Boland, Mr. Bolling, Mr. Bowen, Mr. Brodhead, Mr. Brown of California, Mr. Buchanan, Mr. Phillip Burton, Mr. Butler, Mr. Carr, Mr. Chappell, Mrs. Chisholm, Mr. Clinger, Mr. Coelho, Mr. Conable, Mr. Conte, Mr. Cotter, Mr. Courter, Mr. D'Amours, Mr. Danielson, Mr. Davis of Michigan, Mr. Davis of South Carolina, Mr. Derrick, Mr. Dixon, Mr. Dodd, Mr. Donnelly, Mr. Duncan of Tennessee, Mr. Emery, Mr. Erdahl, Mr. Ertel, Mr. Evans of Virgin Islands, Mr. Fascell, Mr. Fauntroy, Mr. Fazio, Mrs. Fenwick, Mr. Fish, Mr. Fisher, Mr. Fithian, Mr. Flippo, Mr. Forsythe, Mr. Fountain, Mr. Fowler, Mr. Fuqua, Mr. Garcia, Mr. Gephardt, Mr. Gilman, Mr. Gray, Mr. Grisham, Mr. Guarini, Mr. Guyer, Mr. Hagedorn, Mr. Hall of Ohio, Mr. Hanley, Mr. Harris, Mr. Harsha, Mrs. Heckler, Mr. Hefner, Mr. Heftel, Mr. Hillis, Mr. Hinson, Mr. Horton, Mr. Hubbard, Mr. Huckaby, Mr. Hutto, Mr. Jenkins, Mr. Jenrette, Mr. Johnson of California, Mr. Jones of Tennessee, Mr. Kemp, Mr. Kildee, Mr. Kogovsek, Mr. LaFalce, Mr. Leach of Iowa, Mr. Lederer, Mr. Long of Louisiana, Mr. Lott, Mr. Lowry, Mr. McCloskey, Mr. McDade, Mr. McHugh, Mr. McKay, Mr. McKinney, Mr. Matsui, Mr. Mavroules, Mr. Miller of California, Mr. Minish, Mr. Mitchell of Maryland, Mr. Mollohan, Mr. Montgomery, Mr. Moorhead of Pennsylvania, Mr. Murphy of Illinois, Mr. Neal, Mr. Nedzi, Mr. Nowak, Mr. Oberstar, Mr. Panetta, Mr. Pashayan, Mr. Patterson, Mr. Pease, Mr. Petri, Mr. Peyser, Mr. Pickle, Mr. Price, Mr. Pritchard, Mr. Pursell, Mr. Reuss, Mr. Rosenthal, Mr. Rousselot, Mr. Royer, Mr. Sabo, Mrs. Schroeder, Mr. Seiberling, Mr. Shannon, Mr. Slack, Mr. Smith of Iowa, Mr. Solomon, Mrs. Spellman, Mr. Stangeland, Mr. Stanton, Mr. Stark, Mr. Steed, Mr. Stenholm, Mr. Stokes, Mr. Symms, Mr. Thompson, Mr. Traxler, Mr. Vander Jagt, Mr. Weaver, Mr. Weiss, Mr. Whitehurst, Mr. Williams of Montana, Mr. Charles Wilson of Texas, Mr. Wolpe, Mr. Won Pat, Mr. Yates, Mr. Young of Florida, Mr. Zablocki, Mr. Annunzio, Mr. Coleman, Mr. Daschle, Mr. Coughlin, Mr. Glickman, Mr. Goldwater, Mr. Gonzalez, Mr. Goodling, Mr. Gore, and Mr. Gramm.

H.R. 3227: Mr. Sharp.

H.R. 3246: Mr. Hubbard.

H.R. 3345: Mr. Phillip Burton, Mr. Edwards of California, Mr. Rinaldo, Mr. Simon, Mr. Stack, Mr. Zeferetti, Ms. Mikulski, Mr. Boland, Mr. LaFalce, Mr. Charles H. Wilson of California, Mr. Shannon, Mr. St Germain, Mr. Stark, Mr. John L. Burton, Mr. Moffett, Mr. Erdahl, Mr. Johnson of California, Mr. Dodd, Mr. Fazio, and Mr. Santini.

H.R. 3677: Mr. Leach of Iowa and Mr. Sabo.

H.R. 4211: Mr. Guarini, Mr. Fish, Mr. Yatron, Mr. Lent, Mr. Weaver, Mr. Pritchard, Mr. Ertel, and Mrs. Chisholm.

H.R. 4259: Mr. Fauntroy, Mr. Mitchell of Maryland, Mr. LaFalce, Mr. Cavanaugh, Mr. Hanley, Mr. Moorhead of Pennsylvania, Mr. Wylie, Mr. Green, Mr. Barnard, Mr. Hansen, and Mr. McKinney.

H.R. 4313: Mr. Clausen.

H.R. 4329: Mr. Edwards of Oklahoma.

H.R. 4411: Mr. Lagomarsino, Mr. Carter, Mr. Grisham, Mr. Bedell, Mr. LaFalce, Mr. Dannemeyer, Mr. Simon, Mr. Stokes, Mr. Cleveland, Mr. Frenzel, and Mr. Bonior of Michigan.

H.R. 4460: Mr. Kemp, and Mr. Grassley.

H.R. 4466: Mr. Symms.

H.R. 4549: Mr. Lloyd, and Mr. Shumway.

H.R. 4574: Mr. Stangeland, Mr. Rinaldo, Mr. Long of Maryland, Mr. Yatron, Mr. Gibbons, Mr. Beard of Rhode Island, Mr. Rosenthal, Mr. Scheuer, Mr. Goodling, Mr. Hollenbeck, Mr. Hanley, Mr. Edwards of California, Mr. Maguire, and Mr. Dodd.

H.R. 4597: Mr. Whitehurst, Mr. Burgener, Mr. Mitchell of Maryland, Mr. Dougherty, and Mr. Hinson.

H.R. 4789: Mr. Thompson, Mr. Maguire, Mr. Florio, Mr. Patten, Mr. Hughes, Mr. Forsythe, Mrs. Fenwick, Mr. Minish, Mr. Rinaldo, Mr. Guarini, Mr. Hollenbeck, Mr. Rodino, Mr. Howard, and Mr. Courter.

H.R. 4809: Mr. Barnes, Mr. Moakley, Mr. Weiss, Mr. Wolpe, Mr. Pickle, Mr. Jeffords, Mr. Clay, Mr. Gingrich, Mr. Carter, Mr. Sabo, Mr. Richmond, Mr. Vento, Mr. Mikva, Mr. Lloyd, Mr. Heftel, Mr. Marks, Mr. Bedell, Mr. Thompson, Mr. Downey, Mr. Maguire, and Mr. Dougherty.

H.R. 4986: Mr. Ratchford, Mr. Rosenthal, Mr. Maguire, Mr. Mineta, Mr. Rahall, Mr. Moffett, Mr. Pursell, Mr. Rinaldo, Mr.

Young of Alaska, Mr. Long of Maryland, Mr. Myers of Pennsylvania, Mr. Kastenmeier, Mr. Ford of Michigan, Mr. Ottinger, Mrs. Collins of Illinois, Mr. Stark, Mr. Edwards of California, Mr. Lee, Mr. Guarini, Mr. Mavroules, Mrs. Holt, Mr. Conte, Mr. Ford of Tennessee, Mr. Miller of California, Mr. John L. Burton, Mr. Lehman, Mr. Lloyd of California, Mr. Mollohan, Mr. Murphy of Pennsylvania, Mr. Albosta, Mr. Price, Mr. Stratton, Mr. Matsui, Mr. Coelho, Ms. Mikulski, Mr. Dornan, Mr. Corman, Mr. Rangel, Mr. Richmond, Mr. Patten, Mr. Panetta, Mr. Benjamin, Mr. Rodino, Mr. Early, Mr. McCormack, Mrs. Bouquard, Mr. Solarz, Mr. Atkinson, Mr. Nowak, Mr. Kostmayer, Mr. Donnelly, Mr. Young of Florida, Mr. Lagomarsino, Mr. Pepper, Mr. Biaggi, Mr. Charles H. Wilson of California, Mr. Weiss, Mrs. Snowe, Mr. Waxman, Mr. Stokes, Mr. Fisher, Mr. Boland, Mr. Bailey, Mr. Oberstar, and Mr. Nedzi.

H.R. 4998: Mr. Neal, Mr. Hansen, and Mr. Paul.

H.J. Res. 145: Mr. Moakley.

H.J. Res. 278: Mr. Gingrich, Mr. Kindness, Mr. Whitehurst, Mr. Dannemeyer, Mr. Symms, Mr. Lagomarsino, Mr. Miller of Ohio, Mr. Dornan, Mr. Lungren, Mr. Robert W. Daniel Jr., Mr. Badham, Mr. Charles Wilson of Texas, Mr. Burgener, Mr. Grassley, Mr. Brown of Ohio, Mr. Gradison, and Mrs. Holt.

H.J. Res. 383: Mr. Clausen and Mr. Marriott.

H. Res. 382: Ms. Oakar, Mr. Flood, Mr. Symms, Mr. Hyde, Mr. Winn, Mr. Roe, Mr. Hinson, Mr. Hughes, Mr. Stokes, Mr. Jeffords, and Mr. Stangeland.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3000

By Mr. VENTO:

—Add the following new section 202:

Sec. 202. (a) There are authorized to be appropriated such funds as may be necessary to the Department of Energy for the fiscal year ending September 30, 1980, for a study by the Department of Energy to consider exercising the authority granted to the President, and by delegation from him, to the Department of Energy, under section 12(g) of the Emergency Petroleum Allocation Act of 1973, as amended, pursuant to which the Energy Department may reimpose price and allocation controls.

(b) Not later than 15 days from the date of the enactment of this Act the Secretary of Energy shall file a report to both Houses of Congress in which the Secretary shall examine the middle distillate situation and, in so doing, make detailed findings with respect to all matters required to be addressed in findings made pursuant to section 12(d)(1) of the Emergency Petroleum Allocation Act of 1973. In making the report, the Secretary shall examine the middle distillate situation as though he were reaching an initial decision to decontrol the product, and shall, in the report, reach the conclusion that pursuant to the requirements of section 12(d)(1) of the Emergency Petroleum Allocation Act of 1973, such a decision is or is not warranted.

(c)(1) If the Secretary finds in accordance with section 12(d)(1) of the Emergency Petroleum Allocation Act of 1973 that a decontrol decision is not warranted he shall, without regard to any administrative procedural requirements which ordinarily apply to such action, immediately exercise the authority delegated to him under section 12(f) of the Emergency Petroleum Allocation Act of 1973 and order reimposition of price and allocation controls.

(2)(A) The controls the Secretary shall order reimposed pursuant to section 2(b)(1) of the Emergency Petroleum Allocation Act of 1973 shall be those which existed at the time middle distillate controls were effectively removed from the Emergency Petroleum Allocation Act of 1973 requirements in 1976, unless the Secretary shall find that any part of such requirements is inequitable or inappropriate, in which case the Secretary shall modify such part as he deems necessary and appropriate; provided however, that the Secretary shall submit a detailed explanation of each such modification to both Houses of Congress pursuant to the Procedures of section 551 of the Energy Policy and Conservation Act, and that such modification shall not take effect if either House of Congress disapproves such modification within 21 days under the Procedures of section 551 of the Energy Policy and Conservation Act.

(B) If the Secretary, pursuant to the requirements of this Act, orders the reimposition of price and allocation controls over middle distillate products, he shall also immediately order such other actions within his authority as may be necessary to alleviate problems caused by the shortage of such products, and, if he deems it necessary and appropriate, he may waive any and all administrative procedures which ordinarily must be followed before taking such actions.

(d) For the purposes of this Act, "middle distillate" and "middle distillate products" shall mean numbers 1 and 2 heating oils, numbers 1–D and 2–D diesel fuels and kerosene.

H.R. 4040

By Mr. HARKIN:

—Page 33, after line 8, add the following new sections:

Sec. 818. The President shall prepare and transmit to the Congress a plan of alternative transportation of the MX missile system. Such plan shall include recommendations with respect to the desirability and feasibility of floating the missiles up and down the Mississippi River on barges.

Sec. 819. The President shall prepare and transmit to the Congress a plan of alternative transportation of the MX missile system. Such plan shall include recommendations with respect to the desirability and feasibility of sending the missiles out to sea on presently mothballed ships.

Sec. 820. The President shall prepare and transmit to the Congress a plan of alternative transportation of the MX missile system. Such plan shall include recommendations with respect to the desirability and feasibility of transporting the missiles on abandoned Amtrak lines.

Sec. 821. The President shall prepare and transmit to the Congress a plan of alternative transportation of the MX missile system. Such plan shall include recommendations with respect to the desirability and feasibility of transporting the missile using gasohol-powered tractors.

Sec. 822. None of the funds authorized to be appropriated by this act shall be available for Army public-relations or publicity demonstrations of any kind.

Sec. 823. There is to be authorized $55,000,000 for research and development of a solar-powered cruise missile.

Sec. 824. The President shall prepare and transmit to the Congress a plan of alternative energy use in armed forces vehicles, including methane, gasohol, and wind-generated torpedoes, combat vehicles, missiles, naval vessels, and aircraft.

Sec. 825. Of the funds authorized to be appropriated by this act for nuclear attack submarines 10% of the funds must be used to develop a coal-powered attack submarine.

Sec. 826. This section shall authorize that 50% of the troops in each of the Army, Navy, Marine Corps, and Air Force must complete, as part of their educational training, a full course in Transcendental Meditation.

Page 33, after line 8 add the following new sections:

Sec. 827. The President shall prepare and transmit to the Congress an energy-use analysis and report of every armed services vehicle, including tanks, planes, and weapons systems.

Sec. 828. In an effort to preserve cultural and religious diversity within the Armed forces, troop strength shall include a 2 percent quota each of members of the Divine Light Mission, the Hare Krishna movement, the Worldwide Church of God, the Unification Church, and the Catholics.

Sec. 829. All personnel of the Selective Service System, including local boards and appeals boards, shall participate in periodic training exercises to simulate emergency mobilization procedures. Such training exercises shall include sit-ups, jumping jacks, running in place, and deep knee bends.

Sec. 830. Under the provisions of section 8 of this bill, the President is empowered to conscript into special service, on a rotating basis, all members of Congress who vote for the reinstatement of registration section of this bill.

Sec. 831. All members of Congress conscripted under section 830 of this bill, shall participate in periodic training exercises to simulate emergency mobilization procedures, which will include twice daily fast trots around the Washington monument.

Sec. 832. All Members of Congress conscripted under section 830 of this bill, shall eat together at a special training table, to be set up in the Longworth Cafeteria from 12 noon to 2 p.m. daily.

Sec. 833. Effective January 1, 1981, the President shall authorize registration and classification of male persons becoming eighteen years of age after December 31, 1981, for military service. Classification shall be based upon religious affiliation, dental history, political party, and high school athletic records.

By Mr. HUGHES:

—Page 33, after line 8, add the following new section:

PURCHASES OF GASOHOL AS FUEL FOR MOTOR VEHICLES

Sec. 818. To the maximum extent feasible and consistent with overall defense needs and sound vehicle management practices, as determined by the Secretary of Defense, the Department of Defense is authorized and directed to enter into contracts by competitive bid, subject to appropriations, for the purchase of domestically produced alcohol or alcohol-gasoline blends containing at least 10 percent domestically produced alcohol for use in motor vehicles owned or operated by the Department.

By Mr. VENTO:

—Page 33, after line 8, add the following new section:

RESTRICTION ON PROVISION OF COSMETIC MEDICAL CARE FOR DEPENDENTS

Sec. 818. (a) No facility of the Department of Defense may be used to provide, and no physician or other health professional who is a member of the Army, Navy, or Air Force or who is employed by the Department of Defense may provide, care or treatment to dependents of members or former members of the Armed Forces for the elective correction of minor dermatological blemishes and marks or minor anatomical anomalies.

(b) The Secretary of Defense shall prescribe regulations to carry out this section.

—Page 33, after line 8, add the following new section:

RESTRICTION ON PROVISION OF VETERINARY CARE

Sec. 818. The Department of Defense may not provide veterinary care or treatment for any animal (or bird, fish, or reptile) which is not directly used by the Department of Defense in a defense-related function.

By Mr. CHARLES H. WILSON of California:

—Page 27, strike out section 810 (lines 6 through 20) and redesignate the succeeding sections accordingly.

H.R. 4440

By Mr. HARSHA:

—Page 33, after line 21, add the following new section:

SEC. 317. None of the funds provided in this Act shall be available for the implementation of any aspect of the program contained in Notice of Proposed Rule Making No. 78-19, issued on December 27, 1978 (44 Federal Register 1322).

H.R. 4473

By Mrs. COLLINS of Illinois:

—Page 9, line 15, strike out "$14,250,000" and insert in lieu thereof "$28,500,000".

S. 1030

By Mr. AMBRO:

—Page 17, strike out line 3 and all that follows down through line 2 on page 18 and insert in lieu thereof the following:

(c) Section 201(e) of such Act (42 U.S.C. 6361(e)) is amended to read as follows:

"(e)(1) The President may put a rationing contingency plan into effect if the President—

"(A) has transmitted a copy of such contingency plan to the Congress in accordance with section 551(b) and neither House of the Congress has disapproved (or both Houses have approved) such plan in accordance with the procedures specified in section 551; and

"(B) if the plan is not disapproved during the period provided for such disapproval (or if the plan is approved) under subparagraph (A), has found that putting such contingency plan into effect is required by a severe energy supply interruption or is necessary to comply with obligations of the United States under the international energy program, subject to paragraphs (2) and (3).

Page 18, line 11, strike out "equal to 20 percent or more" and insert in lieu thereof "equal to 10 percent or more".

Page 19, in paragraphs (4) and (5), as inserted after line 14 by the amendment offered by Mr. Gilman, strike out "paragraph (1)(A)(i)" each place it appears and insert in lieu thereof "paragraph (1)(A)".

EXTENSIONS OF REMARKS

NATIONAL MUSEUM FUNDING

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. MINETA. Mr. Speaker, the existing authorization for the National Museum Act of 1966 expires at the end of fiscal year 1980. I am joining today with the two other Smithsonian Regents from the House of Representatives, Mr. THOMPSON and Mr. CONTE, to introduce legislation which would authorize 3 additional years at the existing authorization level.

With the National Museum Act of 1966, the Congress responded to the needs of museums across the Nation through grants and contracts for training museum professionals, training in museum practices, the study of museum problems and opportunities, the preparation of museum publications related to support management, research in museum techniques with special emphasis given to research and training in conservation, and cooperation with agencies of the Government concerned with museums.

Under the act funds are appropriated to the Smithsonian for implementation of the National Museum Act and are then made available to museums, professional associations and individuals after review by the National Museum Act Advisory Council. The membership of the Advisory Council encompasses the principal museum disciplines—art, science, and history—and is broadly representative of the various regions of the United States. The Council advises and assists in determining priorities and assessing the quality of proposals for which seeking support is requested under the act.

The Smithsonian Institution, the Institute for Museum Services, and National Endowment for the Arts, and the National Endowment for Humanities regularly consult and review programs and proposals in order to prevent duplication and to meet, insofar as possible, the increasing needs of museums and museum professionals. The programs of the endowments are concentrated on the public aspects of specific museums such as exhibitions, renovations, catalogs, and purchases; those of the Institute for Museum Services are related to direct operating costs; and those that the Smithsonian administers under the National Museum Act are designed to serve the needs of the museum profession in general.

The authority for appropriations under the National Museum Act has been extended for 3-year periods since 1966, and the program is looked upon as beneficial to the museum field. The authorized level has been fixed at $1 million per year for the past decade. The funding levels have been $793,000 in fiscal year 1978 and $798,000 for fiscal year 1979; the fiscal year 1980 budget request for the program is also $798,000. Existing authority for appropriations for the National Museum Act expires at the end of fiscal year 1980.

At its meeting on May 7, 1979 the Board of Regents of the Smithsonian Institution requested its congressional members to introduce and support legislation authorizing additional appropriations for purposes of the National Museum Act for 3 additional years at the existing level of funding.●

THE AMERICAN SPIRIT—OUR UNLIMITED, RENEWAL RESOURCE

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. ROSTENKOWSKI. Mr. Speaker, we are working long and late on problems that need solutions now. Distrust and change seem a part of our daily routine. But while there are some things wrong in America, there is a lot right, too. An editorial in Iron Age says just that. In short, it points out that we once had abundant natural resources and people with a strong work ethic. We had an "ingenious political system" that allowed a good relationship to thrive among our people, their material resources and their Government. Now, one of those elements is missing—our natural resources. We still have the people and the system, and with these two, we can find ways to make up for dwindling natural materials.

We can develop new ways to meet our energy needs; we can devise new ways to curb our energy demands; we can refuse to allow the erosion of every American's hope for a better life for his children. American determination is unlimited, renewable and can only be depleted by pessimism. I insert into the RECORD this rather cogent expression on our Nation's past and future:

TWO HUNDRED AND THREE YEARS LATER

This year the 203rd anniversary of our country slipped by rather somberly.

Unlike three years ago, there was little to compare with the flotilla of Tall Ships in New York Harbor, the four hours of stunning fireworks at Independence Hall and the rousing Pops concert by Arthur Fiedler in Boston.

Instead, there were incidents of civil disorder stemming from the gasoline shortage; punchouts at the gas pumps; cancelled vacation and travel plans; a rising discontent and suspicion directed mostly at government and business leaders; and, overall, the haunting fear that after 203 years of freedom and progress America's wheels were falling off.

No wonder.

After years of ineffectual jostling by America's leaders, the energy problem impacted the daily lives of people who still believed that there was really no problem.

Inflation, despite hollow assurances and economic tinkering, has reached the level Americans used to read about with shock when it happened in other countries.

Social problems remain unsolved and there is the growing feeling that they defy solution.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

As a result of all this, there is some feeling that the country is adrift and nobody seems to believe in anything or anybody any more.

But wait a minute.

Before we demoralize ourselves, let's not forget:

Our standard of living is the highest in the world;

Our economy is still unequalled by any measure;

Serious as they are, our social problems are not hidden from the world's view;

And our personal freedom is unmatched anywhere on this earth.

Don't forget, too, that the country which almost single-handedly rebuilt the world with the Marshall Plan is now taking in more "boat people" than anyone else—by far.

So, is America at 203 years of age all that bad?

Still, we cannot overlook the changes that have swept through America in recent years.

In its early years the country was built on a rich store of natural resources, a strong work ethic, and an ingenious political system, that melded the resources and the people's will to build a way of life that was—and still is—the wonder of the world.

Now our natural resources are thinning out. No longer can we count on the sheer abundance of our natural wealth to carry us through almost anything.

But the people are still here and the system, thankfully after 203 years, remains intact. Here lies the best promise for America's future.

After all, of the three things America had going for it in 1776, these two were—and are the best.●

NUCLEAR MISHAPS

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. WEAVER. Mr. Speaker, as a participant in the public information project on the little-known history of atomic accidents, I am today introducing the following excerpt from Leo Goodman's catalog of mishaps involving nuclear materials:

1944 ATOMIC ACCIDENT NO. 2

Excerpt source: Pharmacology and Toxicology of Uranium Compounds National Nuclear Energy Series, Division VI, Vol. 1, McGraw-Hill Book Company, Inc., 1949, pgs. 997–1002.

An accident occurred at an experimental laboratory where a very large amount of uranium hexafluoride escaped, resulting in the death of two employees, serious injury to three others, and slight injury to thirteen additional persons.

The cause of the accident was the sudden rupture of a large tank containing the hexafluoride and hydrofluoric acid, plus steam ture of high-pressure steam lines. This resulted in a very dense cloud of the compound and its hydrolysis products, uranium oxyfluoride and hydrofluoric acid, plus steam released from the broken lines.

A study revealed that the exposure of the various individuals differed remarkably, but, in general, injury was in direct proportion to the intensity of the exposure. The duration of the exposure was relatively short in all cases.

It is estimated that the average exposure was about 17 seconds. The characteristics of the individual exposures varied somewhat because of the different actions taken on the part of the individuals, e.g., holding the breath, closing the eyes, and removal from contaminated areas. A further variation in exposure resulted from the individuals' actions in showering and removal of clothes.

Case Reports of Fatally Injured Workers. Case No. 1. Clinical Observation. He was the more seriously injured of the two fatal cases and nearer to the point of explosion. He was in extremis when first seen, apparently having been sprayed with live steam containing liquid, solid, and gaseous material in large quantities. He died 16 minutes after the accident.

Case No. 2. Clinical Observations. Following the accident his condition appeared to be good. A short time after admission to the hospital (20 min.) he developed a progressive respiratory distress associated with considerable generalized pain. He expired 70 minutes after the explosion.

Description of Findings in the Nonfatal Cases. In addition to the two fatal cases previously described, 19 men were exposed to the huge chemical cloud that enveloped almost everything within a radius of approximately 100 yds of the center of the explosion. This cloud required several minutes to dissipate. Three of these individuals developed no symptoms. Fourteen were immediately hospitalized for observation and treatment (besides the one that died almost immediately and the other who died in slightly more than 1 hr.).●

SENATE—*Wednesday, August 1, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. BILL BRADLEY, a Senator from the State of New Jersey.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Father-God whose presence is the answer to every prayer, help us this day to think upon what is true and just and righteous in Thy sight. Grant us grace to speak prudently when we must speak; to remain silent when we have nothing to say; to learn by listening; to be unafraid of the hard decision; to act in accord with Thy will as we are able to discern Thy will, and to leave the consequences to Thy providence. Reward our faithfulness by souls at peace with Thee.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 1, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BILL BRADLEY, a Senator from the State of New Jersey, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BRADLEY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS FROM TOMORROW UNTIL 9 A.M. FRIDAY, AUGUST 3, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in recess until 9 o'clock Friday morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS FROM FRIDAY, AUGUST 3, UNTIL 9 A.M. SATURDAY, AUGUST 4, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday, it stand in recess until 9 o'clock on Saturday morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

COOPERATION BETWEEN THE PRESIDENT AND CONGRESS

Mr. BAKER. Mr. President, this morning, at 8 o'clock, the joint Republican leadership in the House and the Senate met with the President of the United States in a meeting that I think augurs well for future efforts at cooperation between the administration and the majority and the minority in Congress.

On previous occasions, I have advised the President that I thought some degree of cooperation between the majority and the minority had been the rule in the past and had been a useful adjunct to the governing process, and I hoped it might be extended and embellished in this administration.

A few days ago, the President proposed to arrange regular meetings with the Republican leadership, and I believe this morning was the first of what will be, in fact, a series of meetings with the minority.

I express my appreciation to the President for this meeting today, and I look forward to further meetings. I believe there is a good prospect that they will produce a higher level of understanding and in many cases will improve prospects for cooperation between the majority and the minority, and I am pleased that this result was obtained.

KISSINGER'S VIEWS ON SALT II

Mr. BAKER. Mr. President, yesterday the Committee on Foreign Relations heard the testimony of former Secretary of State Henry Kissinger on his views of the proposed Strategic Arms Limitation Treaty, SALT II.

Dr. Kissinger's brilliant analysis of the treaty in the context of current geopolitical and military trends is an extremely important contribution to the debate on SALT II, and it deserves the careful attention and consideration of every Member of the Senate.

I ask unanimous consent that the full text of Dr. Kissinger's testimony be printed in the RECORD today, so that all of my colleagues may have the benefit of this remarkably cogent statement on this most complex and crucial issue.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE HONORABLE HENRY A. KISSINGER

THE PROBLEM OF SECURITY

In his essay "Perpetual Peace" the philosopher Immanuel Kant wrote that world peace would come about in one of two ways: after a cycle of wars of ever increasing violence, or by an act of moral insight in which the nations of the world renounced the bitter competition bound to lead to self-destruction.

Our age faces precisely that choice. For the first time in history two nations have the capacity to inflict on each other and on mankind a level of destruction tantamount to ending civilized life; yet they have also before them unprecedented possibilities of cooperation to harness the wonders of technology to improve the human condition.

Both mankind's hopes and fears are bound up with the relationship between the United States and the Soviet Union. These two countries possess huge nuclear arsenals; they also espouse sharply opposing concepts of justice and hold conflicting visions of the future. The ideology of Soviet leaders does not make them content to practice their preferred social system at home; they strive for its victory worldwide. Hence the Soviet Union and America clash in areas that each considers vital. We have allies whose interests we will not sacrifice. Soviet allies such as Vietnam and Cuba are quite capable of generating crises of their own, all too frequently encouraged by Moscow to do so.

The peace we seek therefore must rest on something more tangible than a hope or a fear of holocaust. It must also reflect a military and geopolitical equilibrium. The notion of balance of power has always been unfashionable in America. But it is the precondition of security, and even of progress. If the mere avoidance of conflict becomes our overriding objective, and if our own military power is disparaged, the international system will be at the mercy of the most ruthless. If the desire to conciliate becomes the sole operational basis of policy, we run the risk that the threat of war will become a weapon of blackmail; our allies and our moral values will both be permanently in danger. The desire for peace will be transformed into a caricature of itself, and become instead the beginning of appeasement. How to strive for both peace and our moral principles; how to avoid nuclear war without succumbing to nuclear blackmail—this is the overwhelming problem of our period.

The United States must proceed simultaneously on three fronts:

First, we must maintain a military balance that does not tempt aggression against our friends or allies, against our vital interests, or in the extreme case against ourselves.

Secondly, beyond resisting naked aggression, we have a stake in the principle that political or economic pressure or military or terrorist blackmail, not become the arbiter of the world's political disputes. The geopolitical equilibrium must be maintained lest radical forces hostile to the West gain such momentum that they appear as the irresistible wave of the future.

And thirdly, on the basis of a balance thus achieved and preserved, we must be ready to explore routes to genuine peaceful coexistence. The great powers, having learned that they cannot dominate each other, must practice moderation and ultimately cooperation. The creativity of a world of diversity and peaceful competition can be the basis of unparalleled human progress. A stable balance is the most hopeful—perhaps the only—basis for the control and ultimately the reduction of weapons of mass destruction.

Too often these requirements are posed in the alternative. But the quest for security and for peace are inseparable; we cannot achieve one without the other. No democracy can court conflict. Our government will have support in resisting challenges to our vital interests only if confrontation is seen to have been unavoidable. Our people have a right to expect of their government that it will explore all avenues to a genuine peace. And our allies will insist on it.

The new Treaty poses a particularly complex problem for me. When I was a professor, I participated in the academic discussions of military doctrine and strategy that underlay early initiatives in arms control. I helped design the first SALT agreements in 1972. I was involved in the negotiations of the Vladivostok accord of 1974 which marked the first breakthrough of SALT II; I played a major role in the negotiations which came close to completing an agreement in January 1976. I have a long-standing personal commitment to the process of limiting strategic nuclear arms. As an historian I am conscious of the lessons of World War II when a global war resulted because the democracies disdained to maintain the balance of power. But equally we must not forget the tragedy of World War I: when disaster resulted even with an equilibrium of power, when technology and rivalry outran the control of statesmen.

Thus SALT cannot be considered in isolation. It is one element in our overall national security policy. It must be viewed in the context of the global balance that it reflects, or purports to affect.

Thus I regret to have to say that the present Treaty comes up for ratification at a time of grave danger to our national security and to the global equilibrium. The military balance is beginning to tilt ominously against the United States in too many significant categories of weaponry. The unprecedented Soviet use of proxy forces in Africa, the Middle East, and Southeast Asia, and the turmoil caused by radical forces and terrorist organizations sponsored by Moscow's friends, mark ours as a time of profound upheaval. We have learned painfully that we alone cannot be the world's policeman. But neither our moral values nor our safety can tolerate the Soviet Union's increasing tendency toward global intervention. As the United States nurses its wounds after Vietnam, radical forces are threatening regional stability and attempting the violent overthrow of moderate governments friendly to the West. If present trends continue, we face the chilling prospect of a world sliding gradually out of control, with our relative military power declining, with our economic lifeline vulnerable to blackmail, with hostile forces growing more rapidly than our ability to deal with them, and with fewer and fewer nations friendly to us surviving.

In addressing the Treaty before you, I respectfully submit, the Senate has a responsibility to examine the broader condition of our national security. The Senate has an opportunity at least to begin to reverse the unfavorable trends in the military balance and to put the Soviet Union on notice that we consider the constant probing of every regional equilibrium and the encouragement of subversive and terrorist groups as incompatible with any definition of coexistence. Without such an affirmation SALT will become a soporific, a form of escapism. I shall submit specific proposals to achieve this, later in the statement.

THE SHIFTING STRATEGIC BALANCE

The basic technical facts about the current military balance have been presented in great detail before this and other committees. Let me concentrate first on the serious transformation, adverse to our interests, that has taken place in the overall strategic balance during the last decade and a half.

For about the first twenty-five years of the postwar period, the problem of maintaining the military equilibrium was relatively straightforward. The Soviet Union was always superior in ground forces on the Eurasian continent; we were vastly ahead in strategic striking power as well as in theater nuclear forces. The reach of the Soviet Union was limited to regions accessible to motorized ground transport, generally adjacent territories in Europe and to some extent China, Africa, most of the Middle East, even Southeast Asia were beyond the capacity of major Soviet military intervention. And the areas which were hostage to Soviet ground armies were protected by three factors:

First, by the American preponderance in strategic nuclear striking power capable of disarming the Soviet Union or at least reducing its counterblow to tolerable levels while still retaining large residual forces for attacks on industrial targets;

Second, by a vast American superiority in so-called theater nuclear forces everywhere around the Soviet periphery;

And thirdly, in Europe by substantial American and allied ground forces that posed at least a major probability that Soviet ground attack would trigger the nuclear retaliation of the United States.

Not surprisingly, the major crises in the first twenty years of the postwar period—whether in Berlin, Korea, or Cuba—were ultimately contained, because the risks of pushing them beyond a certain point always appeared exorbitant to Moscow.

This state of affairs will soon have ceased to exist. Starting in the 1960's, the military balance began to change—almost imperceptibly at first, so great was our superiority—but with growing momentum in recent years. It is imperative that we recognize without illusion the dangerous trends that are emerging. It is crucial that we begin now to rectify them.

The growth of Soviet strategic nuclear forces has been inexorable for a decade and a half. In 1965 the Soviet strategic arsenal comprised about 220 Intercontinental Ballistic Missiles (ICBMs) and 100 Submarine-Launched Ballistic Missiles (SLBMs). By 1968 the number had grown to 860 ICBMs and over 120 SLBMs. We had stopped our build-up at 1054 ICBMs and 656 SLBMs in 1967. By mid-1970 the Soviets had caught up with us in numbers of launchers. Our intelligence estimates of their plans invariably turned out to be too low; contrary to popular mythology the Soviets did build on the scale of the "worst case" hypothesis of our intelligence community and not to the level that was defined as "most probable."[1] Instead of stopping when they reached parity with us, as the Johnson Administration expected, the Soviets continued their missile build-up—until they were frozen at the levels of the ceilings established by the first SALT agreement in May 1972. Then they switched energetically to qualitative improvements in their missile forces.

Our problem derives not only from the larger number of warheads on Soviet ICBMs but above all from the difference in the types of weaponry emphasized by the two sides. In the Sixties, the United States unilaterally decided to base its strategic forces on light but highly accurate ICBMs, the less vulnerable but also less accurate SLBMs, and the more versatile but more vulnerable manned bombers. The Soviets made the opposite decision, relying on large land-based missiles capable of delivering a far heavier payload. At first the crudeness of their technology and the lack of accuracy deprived these weapons of effectiveness against military targets. But as Soviet technology improved, its advantage in numbers and missile payload was bound to tell. For the land-based ICBM is always likely to be the most accurate and powerful strategic weapon, and the one most capable of a rapid attack against the military targets of the other side. In short the Soviets have emphasized quick reaction forces by modernizing their ICBMs; we concentrated on slow-reacting forces like air-launched cruise missiles. Thus the asymmetry in the capacity of the two sides to destroy each other's military targets has grown with every passing year.

There is now general agreement that their improvements in missile accuracy and warhead technology will put the Soviets in a position to wipe out our land-based forces of Minuteman ICBMs by 1982. Whether this capability is ever exercised or not—and I consider it improbable—it reverses and hence revolutionizes the strategic equation on which our security and that of our friends have depended through most of the postwar period.

The revolution in the strategic balance is aggravated by a comparable build-up of Soviet aircraft and missiles that threatens to overturn the American advantage in theater-based nuclear forces. The Soviet Union has deployed scores of new missiles of 2000-mile range—the SS-20—which carries a MIRVed warhead of three reentry vehicles. Several hundred supersonic Backfire bombers will threaten all peripheral areas in the Eighties (leaving aside for the moment their utility for intercontinental missions). A Soviet superiority in theater striking forces is therefore upon us. The inequality is demonstrated by the fact that we have had to assign part of our strategic forces—a number of Poseidon boats—to cover targets threatening NATO. Thus in case of war we are likely to be strained either with respect to our strategic or with respect to our theater nuclear coverage.

All this has been accomplished while the Soviet advantage in conventional forces has grown, and while the reach of Soviet power has been extended enormously by the rapid development of the Soviet Navy, an expanding long-range airlift capability, the acquisition of Soviet bases in countries like South Yemen and Vietnam, and the establishment of vast Soviet arms depots in such countries as Libya and Ethiopia, which will enable the Soviet Union to move its own or proxy troops rapidly to their prepositioned weapons. At the same time our Navy declines and our access to overseas bases shrinks.

Rarely in history has a nation so passively accepted such a radical change in the military balance. If we are to remedy it, we must first recognize the fact that we have placed ourselves at a significant disadvantage voluntarily. This is not the result of SALT: it is the consequence of unilateral decisions extending over a decade and a half: by a strategic doctrine adopted in the Sixties, by the bitter domestic divisions growing out of the war in Vietnam, and by choices of the present Administration. All these actions were unilateral, hence avoidable. They were not extracted from us by clever Soviet negotiators; we imposed them on ourselves by our choices, theories, and domestic turmoil. It is therefore in our power to alter them.

The prevailing American strategic doctrine of the Sixties went under the modest name of "assured destruction." According to it, deterrence was guaranteed so long as we possessed the ability to destroy a predetermined percentage of Soviet population and industrial capacity. Strategy thereby turned into an engineering problem, an economic analysis essentially independent of the size of the opposing forces. So long as enough of our weapons survived to wreak the theoretically calculated havoc, deterrence would be maintained; our military effectiveness was essentially independent of the threat we faced; the vulnerability of part of our forces—such as our ICBMs—was irrelevant so long as enough warheads would remain to inflict an "unacceptable" amount of damage on the Soviet Union.

This doctrine not only took for granted continued Soviet inferiority in technology; it also ignored the psychological inhibitions in the way of implementing such a strategy. The targeting scenarios developed from this doctrine left a President with no other options in a crisis but the mass extermination of civilians, or capitulation. This strategy was morally questionable even in an era when we had superiority. In an age of strategic equality it would be a formula for mutual suicide.

The emergence of a new strategic nuclear environment should have forced a reconsideration of this targeting doctrine and a renewed attention to regional nuclear and conventional balances. Unfortunately, at the precise moment that such a reexamination became urgently necessary, all our defense programs came under systematic attack as a byproduct of the bitter domestic debate over Vietnam. On the one hand, the Vietnam war reduced funds available for modernization of our military forces; even more important, the wholesale assault on defense spending and programs jeopardized even those major projects for which funds were available and budgeted. New weapons were decried as excessive, as symptoms of a military psychosis, as wasteful and dangerous. "Reordering national priorities" was the slogan of the day; it was the euphemism for cutting the defense budget. The ABM passed by only one vote and was then emasculated in the appropriations process; the C-5A transport aircraft which later saved an ally in the 1973 Middle East war was challenged repeatedly on budgetary grounds; MIRV's, the only strategic system available to us to offset the Soviet numerical superiority in the 1970's, were under constant attack. In the realm of strategic doctrine, paradoxically it was those most alarmed at the arms race who clung to the most bloodthirsty targeting strategies, in the hope that these would obviate the need to strengthen or increase our strategic forces.

In this atmosphere, maintaining even the strategic forces inherited from the Sixties absorbed the energies of the Administrations up to the end of the Vietnam war; obtaining funds for new programs was enormously difficult. The best that could be accomplished in the early 1970's was to alter the older strategic doctrine and shift targeting from civilian to military objectives. (Paradoxically, however, the decline of our capability for a counterforce strategy turned even the more sophisticated targeting into a high-risk tit-for-tat option with no logical stopping place.)

After the end of our involvement in Vietnam, new strategic programs could at last be funded: the B-1 manned strategic bomber, to become operational in 1979; the MX ICBM, to become operational in 1983; the Trident submarine and missile, expected to become operational in 1978; various kinds of cruise missiles for the 1980's—all of which would give the United States greater options and some of which would bring about a new counterforce capability.

Every one of these programs has been cancelled, delayed, or stretched out by the current Administration, so that we are at a point where only the Trident (with only the most limited counterforce capability) can be operational during the period of the projected SALT Treaty. In addition, even the Minuteman production line was closed down, leaving us without an emergency hedge for rapid build-up in unexpected contingencies. We now face the challenge of the early Eighties with forces designed in the Sixties. We have been able to develop new programs in only four years out of the last fifteen, and most of them have been held in abeyance since 1977.

Furthermore, a remedy will be more difficult if the Administration intends to return to the pure "assured destruction" strategic doctrine. In his State of the Union address last January 23, President Carter proclaimed that "just one of our relatively invulnerable Poseidon submarines . . . carries enough warheads to destroy every large and medium-sized city in the Soviet Union."

---

[1] See Albert Wohlstetter, "Is There a Strategic Arms Race?" *Foreign Policy*, no. 15 (Summer 1974), pp. 3-20; "Rivals, But No 'Race,'" *Foreign Policy*, no. 16 (Fall 1974), pp. 48-81.

But this truism demonstrates rather than solves our strategic dilemma. Even under SALT conditions we will have in the early Eighties at best equality in the capacity of our strategic forces to inflict civilian damage, and a clear inferiority in the ability to attack and destroy the land-based missiles of the other side. Our Minuteman missiles do not carry sufficient warheads or possess adequate throwweight for a disarming attack against Soviet ICBMs; our present strategic forces can put at risk less than one-half of Soviet ICBMs. All of our ICBMs will in the Eighties be vulnerable to an attack by the greater number of missiles and warheads, and improving accuracy, of Soviet land-based missiles.

Since our modern military doctrine and strategy have depended much more on strategic forces than those of the Soviets, even overall equality revolutionizes the postwar security and geopolitical structure. But in fact the situation is worse. My principal worry is not only the growing vulnerability of our land-based forces—though this must be remedied—but the growing invulnerability of Soviet land-based forces. The deterrent effect of our strategic forces in defense of allies will continually decline; our strategic forces will surely lose their ability to offset the Soviet capacity for regional intervention. And this capacity will be reinforced by the growing edge in Soviet theater nuclear forces, a naval and airlift capability which immeasurably extends the reach and preponderance of Soviet conventional power.

I want to reiterate that it is not necessary for present purposes to debate whether the Soviet Union would in fact run a risk of war on the global level; it will be grave enough if the Soviet willingness to run risks in regional conflicts is magnified. And that seems to me the minimum consequence of what is ahead. The side that can defend its interests only by threatening to initiate the mutual mass extermination of civilians will gradually slide toward strategic, and therefore eventually geopolitical, paralysis. The consequence, to put it bluntly, is that in the 1980's regional conflicts—whether deliberately promoted or not—threaten increasingly to grow out of control unless we drastically reverse the trend. We cannot possibly continue to gamble with inferior forces for regional defense, a shifting balance in theater nuclear forces, vulnerable land-based strategic forces, and invulnerable Soviet ICBMs without courting the gravest dangers. The decline in relative power must be dramatically reversed.

Even more important is a strategic doctrine which answers the following questions:

(1) How in the Eighties will we safeguard our national security when we face adverse trends in every significant military category?

(2) How will we fulfill our commitments to our allies in the absence of a significant counterforce capability, when strategic parity is at best tenuous and the theater nuclear balance is turning against us?

(3) How will we protect our vital interests in areas such as the Middle East with our present conventional forces, airlift, and declining naval capability?

(4) How will we prevent global blackmail?

Our safety and that of all of those who depend on us depends on the response. Every day we delay in dealing with the issue magnifies our peril.

The Senate therefore cannot deal with the SALT Treaty in a vacuum; it must simultaneously seek to restore the military and geopolitical balance. No responsible leader can want to face the 1980's with the present military prospects. This, and not SALT in isolation, is the principal problem facing us.

SALT IN THE CONTEXT OF AMERICAN STRATEGY

The idea of arms control developed in the late Fifties and early Sixties. The underlying rationale derived from the indisputable fact that thermonuclear weapons and intercontinental missiles have added a new dimension of peril to the historical problem of military rivalry. In the past it could be argued that weapons were a symptom rather than a cause of tension. Indeed it is difficult to find an historical example for the cliché that arms races cause wars. (What caused World War I was mobilization schedules, not the rate of increase of armaments.) But today, indeed, the nuclear age combines weapons of unprecedented destructive power, extremely rapid modes of delivery of intercontinental range, and high vulnerability to a surprise attack.

In these new and unprecedented circumstances, the conclusion seemed inescapable that the side whose capacity for retaliation was vulnerable must react in crises in ways which would heighten the likelihood of cataclysm; a country whose strategic forces were not secure could be driven, even against its will, to strike first rather than await the opponent's attack which it would know it could not survive. In the late Fifties, one of the most brilliant students of deterrence, Albert Wohlstetter, correctly perceived that what Churchill called the "balance of terror" was perilously delicate. Arms control sought to circumscribe and if possible eliminate this danger by measures that would enhance each side's "second-strike capability," that is, its secure capacity to retaliate, thereby reducing the incentive and capacity for surprise attack.

This analysis was essentially correct. At the same time this novel military doctrine—according to which an adversary's invulnerability was thought to add to stability—was combined with "assured destruction" reasoning to produce a kind of "minimium deterrence" theory by which we allegedly had no need to consider the threat posed by the level of Soviet forces. Even theorists of arms control who valued maintaining the strategic balance only dimly perceived that the strategic stability they sought implied a strategic revolution. For if attained, it would greatly magnify the danger at levels of violence below that of general nuclear exchange. If crises no longer produced fear of escalation to all-out war, they would also grow more likely. Thus even strategic stability (not to speak of a Soviet edge) would require new major military efforts by us on the regional level or else major political weakness would result. Above all it was erroneously assumed the Soviets held a similar view. In fact, there was no evidence that Soviet strategic planners—almost all military men—subscribed to the academic subtleties of American strategic theory. As Secretary Harold Brown has said, our unilateral restraint does not seem to be reciprocated by the Soviets: "We have found that when we build weapons, they build; when we stop, they nevertheless continue to build. . . ."[2]

As one of the architects of SALT, I am conscience-bound to point out that—against all previous hopes—the SALT process does not seem to have slowed down Soviet strategic competition, and in some sense may have accelerated it. The Soviets worked hard and successfully to enhance the first-strike capabilities of their land-based ICBMs despite our restraint and within the framework of SALT. The Administrations of the early 1970's of which I was a member sought to use SALT to demonstrate their commitment to easing tensions and thereby restore a public consensus behind a strong national defense; to some extent we succeeded. But we will not draw the appropriate conclusion if we do not also admit that SALT may have had a perverse effect on the willingness of some in the Congress, key opinion makers, and even Administration officials to face fully the relentless Soviet military build-up.

New weapons systems have long had to overcome the traditional objection of advocates of "minimum deterrence" that they were unnecessary (because we already possessed an "overkill" capability); they were now also attacked by arms control experts as endangering the prospects of SALT. Indeed, many new programs could be put through the Congress less on their merits than as a "bargaining chip"; they were needed, various Administrations argued, so that they could be traded in a negotiation. Whatever the tactical utility of this argument, it tended to reduce the energy with which such programs were pursued. The Pentagon found it difficult to muster enthusiasm—or scarce resources—for programs which were ephemeral by definition. After a while the Soviet Union began to play the game deliberately: from ABM to cruise missiles it systematically sought to use SALT to inhibit our military and technological development; it tried to fuel our domestic debate, adding its own propaganda pressures to domestic pressures against new weapons systems.

The theory that new American weapons weakened the prospects of arms control thrived despite all evidence to the contrary. In 1967, before we had an ABM program, when President Johnson suggested to Soviet Premier Kosygin at Glassboro that both sides renounce ABMs, Kosygin contemptously dismissed the idea as one of the most ridiculous he had ever heard. By 1970, after the Nixon Administration had narrowly won its Congressional battle for funding of an ABM, Soviet SALT negotiators refused to discuss any subject except ABM, and it required the most strenuous negotiating efforts to maintain the crucial linkage between offensive and defensive limitations. Conversely, neither the abandonment of the B-1 by the current Administration, nor its stretch-out of the MX missile, nor the slowdown in the Trident program, speeded up SALT negotiations or improved the terms.

The SALT negotiations have always proceeded against the background of the strategic balance as it existed, and must be considered in this context.

The negotiations for SALT I grew out of the ABM debate of the 1960s: whether the U.S. should follow the Soviet lead and build a defense against ballistic missiles, or try to head off such a new competition by negotiating some limits with the USSR. After considerable Soviet stalling, to see whether Congress might kill the ABM without any need for Soviet reciprocity, the SALT negotiations began in November 1969. Almost from the outset it was apparent that the only system the Soviets were eager to limit by negotiation was the sole system we were building—the ABM. In the 1972 ABM treaty both sides agreed in effect to leave themselves indefinitely vulnerable to missile attacks; AMBs were restricted to a token deployment at one site (which we then unilaterally abandoned for budgetary reasons). In effect we traded our superior ABM technology for a halt to the numerical build-up of Soviet offensive forces.

To restore equality in this critical area—strategic offensive forces—proved to be enormously difficult, largely due to the unilateral decisions of the Sixties that stopped both our ICBM and SLBM programs by 1967. As I have said, in pure numbers of offensive missiles the Soviets passed the United States in 1970; in this category we had no bargaining chips. Our only active program was adding multiple warheads (MIRVs) to our land- and sea-based missiles. The Soviet numerical building program was so considerable, and Congressional opposition to comparable American programs was so unrelenting, that it was the Defense Department which in July 1970 and then again in January 1972 urged a five-year mutual freeze on offensive weapons, primarily to arrest the momentum of the Soviet build-up and to give us an opportunity to catch up.

---

[2] Statement of Secretary Brown before the Senate Foreign Relations Committee, July 9, 1979.

The first SALT agreement on offensive weapons was thus a photograph of the existing balance, not an alteration of it: it froze the numbers of American and Soviet land- and sea-based missiles for five years. The numerical balance was favorable to the USSR in the same proportion that the previous decade of unrestricted arms competition had produced. Because of our MIRV program, the United States retained a substantial advantage in numbers of warheads for the lifetime of the Interim Agreement and beyond. The criticism later heard, that SALT I "gave" the Soviets unequal numbers, missed the central point: what had produced the Soviet numerical edge was not SALT I but the unilateral American decisions of the Sixties to stop our strategic building programs, and then the Congressional and public attacks on the defense budget growing out of the Vietnam war. The 1972 SALT agreement curtailed no American offensive program; it did halt the numerical growth of the Soviet strategic forces. It gave us an opportunity to catch up—which we sought to do by pushing the development of the BX1 slated to be operational in 1978, the Trident submarine and missile planned for 1979, the MX missile for 1983, and a variety of cruise missiles for the early Eighties.

But the simple Interim Agreement of SALT I could not deal with—nor did it pretend to address—the rapid evolution of technology. Modernization of existing weapons was allowed, and both sides proceeded apace with new programs. The U.S. funded its MIRV program, and the Soviets developed a new generation of ICBMs; in doing so they pushed to its outer limit the SALT I provision restricting conversion of "light" to "heavy" missiles. It was these larger missiles (the SS-17, 18 and 19), soon equipped with MIRVs, and with the potential of greatly improved accuracy, that were bound to give the Soviets for the first time in history a capacity to launch a first strike against our land-based missiles.

These trends, which would eventually put our force of ICBMs into jeopardy, led us first to undertake a complex but eventually fruitless negotiation to set a low, long-term ceiling on Soviet missile capabilities both in numbers and in quality. For a time these negotiations seemed promising; but they fell victim to the collapse of executive authority resulting from Watergate. In the wake of President Nixon's resignation, it seemed prudent to pick up the thread of a simpler agreement that at least consolidated numerical equality, and then to move as quickly as possible in SALT III into the more intricate discussion of the qualitative factors (missile accuracy, throwweight, number of warheads, testing limits and so forth). Thus, in November 1974 in Vladivostok, President Ford pressed for an agreement based on equal aggregate ceilings, and the Soviet Union accepted our proposal. A framework accord was reached specifying strict equality of 2400 missiles and strategic bombers for each side, and an equal limit of 1320 missiles with MIRVs, in an agreement to run through 1985.

The Ford Administration had first hoped that a treaty implementing the Vladivostok accord could be completed in 1975. But two new issues intervened to slow down the talks: first was the Soviet insistence that cruise missiles be entirely banned if they had a range of more than 600 kilometers (350 miles); second was the U.S. counter-demand that the Soviet aircraft called the "Backfire" be counted as a "heavy" bomber and thus be included in the SALT totals. Inevitably the two systems became linked in the talks. Throughout 1975 and into early 1976, the U.S. and the USSR made proposals to resolve the dispute. Basically, the Ford Administration was prepared to limit the range and number of some cruise missiles provided the Soviets would reciprocate by limiting the Backfire bomber in some comparable manner. In January 1976, we were close to a compromise along these lines which also would have lowered the Vladivostok ceilings of 2400 to "below 2300."

Two events prevented the completion of the negotiations. First, the introduction of 25,000 Cuban proxy troops in Angola raised serious doubts about Soviet motives and fueled a whole new debate in this country about U.S.-Soviet relations. And the imminent American Presidential election convinced President Ford that it would be best to keep SALT from turning into a partisan issue and so to wait to conclude an agreement after the election.

The advent of a new Administration brought with it the obligatory new approach. The first proposal to Moscow in March 1977 abandoned the negotiations as they then stood. An entirely new proposal was submitted, immediately rejected, and quickly withdrawn. The parties returned to earlier proposals, and over two more years were spent refining the agreement. Meanwhile the presuppositions of that agreement were daily challenged by technological change, the pace of the Soviet build-up, and the unilateral abandonment or stretching out of major American weapons systems, all of which further tilted the strategic balance dangerously against us.

Three conclusions emerge: The imbalances we now face, and which concern so many, stem in essence from unilateral American decisions rather than from the SALT negotiating process. This is important when we consider the provisions of the SALT Treaty. No negotiation can achieve through diplomacy that for which we have been unwilling to make unilateral efforts.

Second, SALT by itself cannot bring about parity; it can only ratify trends which exist. SALT cannot be a substitute for defense programs. If we fall behind by our own actions, SALT runs the risk of perpetuating an inequality. But whether that comes about is up to us; and to avoid it must be a principal concern of the Senate.

Third, SALT III cannot simply be an extension of the previous process. It must be explicitly related to our long-term strategic program. Its principles must be clearly worked out between the Administration and the Congress and settled with our allies before we launch ourselves into it.

THE VIENNA TREATY: HOW DOES IT AFFECT THE STRATEGIC BALANCE?

We must now ask, how does the SALT II agreement affect the strategic balance? The agreement is composed of three documents:

The Treaty itself, running until the end of 1985, would limit the total numbers of ICBM and SLBM launchers (though the term is not defined); heavy bombers; MIRVed missiles; and land-based MIRVed missiles. It also defines counting rules for MIRVed missiles and for heavy bombers equipped with air-launched cruise missiles.

Second is a Protocol that restricts cruise missiles other than on heavy bombers to a range of 600 kilometers (or 350 miles) and bans the testing and deployment of mobile ICBMs. The Protocol is supposed to expire on December 31, 1981.

Third is a set of principles to guide the negotiations for SALT III.

Any fair-minded analysis must recognize the beneficial aspects of the SALT II agreements. The overall ceiling of 2,250 will force the Soviets to get rid of 250 strategic systems, including some modern ones, while giving us the right to equalize the numbers. The permitted number of land-based Soviet MIRVs (820) is some 100 below the maximum number that they probably intended to build in the absence of SALT. There are some restrictions on missile testing procedures. There are limits on numbers of missile warheads on ICBMs and a prohibition on more than one "new" ICBM. There is for the first time an agreed baseline of information on the Soviet forces. The counting rules are a useful way of dealing with the MIRV problem.

Regrettably none of these very real achievements affects the grave strategic situation which I have described and which must urgently be reversed. The Treaty does not reduce the Soviet first-strike capability against our land-based forces, or improve our ability to survive a first strike. It does not diminish the Soviet residual capability to destroy civilian targets in the United States. And it does not enhance—indeed it may slightly inhibit—the possibility for the United States to catch up in the capacity of our strategic forces to attack military targets.

To be sure, the Soviets will be obligated after 1981 to reduce the total number of their launchers by about 250. But the new ceiling of 2,250 will not limit the Soviets' ability to destroy our ICBM force or to inflict devastating damage upon the United States. The reduction in Soviet numbers is irrelevant to our strategic problem. For the danger to our security derives from warheads, not from launchers, and the Soviet total of ICBM warheads will increase from 3,200 at the time of the signing of SALT II to over 6,000 even after the reduction in Soviet launchers is supposed to take place; the total number of Soviet warheads (including SLBMs) will approach 12,000 in 1985 as compared to 8,000 at the time of the SALT signing. (In fact, if the Soviets went all out they could get 8,000 MIRVed warheads in the permitted new land-based missiles.) Moreover, the total Soviet missile throwweight will increase from about 6 million pounds at the time of the signing of SALT I, to 7 million pounds at the signing of SALT II, to 9 million pounds (compared to our 2.5 million) in 1985. And improvements in Soviet accuracy will approach ours by 1982; the practical effect of this will be to reduce the number of warheads that need to be aimed at our ICBM silos, freeing a larger number of the ever-increasing Soviet warheads for other targets.

The agreed ceiling, of course, is some 200 above the 2060 operational systems we now possess. We thus have some considerable room for expansion of single-warhead systems. But given the cancellation of the B-1 bomber, the delay in the operational date for MX, and the slow pace of Trident production, there is almost no chance that the United States can reach the permitted total of 2250 except perhaps by keeping in service ten older Polaris submarines (with 160 missiles); this the Navy is likely to oppose because of the heavy cost of operation and relatively short range of its missiles. The result, therefore, is that in practice the overall aggregate numbers will continue to be unequal.

The limitation of land-based MIRVed launchers to 820, which may be some 100 below the probable Soviet program, is equally welcome and similarly without significance to our fundamental problem. The Soviet Union can destroy our land-based ICBMs with about half of the land-based MIRVs permitted by the Treaty; this would leave over 300 Soviet land-based MIRVed launchers, 380 seabased MIRVed systems, and some 500 single-warhead systems—or well over 5,000 warheads—aimed at our civilian population and industrial potential. (By contrast, if we expended our entire land-based force against the Soviet ICBM silos we could destroy less than half.)[3]

Nor is the threat to our forces and to the overall strategic balance reduced by the provision limiting new missiles during the time of the Treaty. The provision is drafted so as to permit the deployment of the MX for the United States, a comparable new missile for the Soviet Union, and the modernization of existing missiles allowing an increase in their volume of up to five percent in each direction. Except for setting a precedent for qualitative restraints, these limitations have little operational effect on the Soviet program—all the less so as there seems to be no definition of baselines. The testimony of Administration witnesses seems to confirm that no known Soviet program is affected.

In short, the Vienna Treaty will not diminish the threat to the strategic balance. During the life of the Treaty the Soviets will complete their counterforce capability against our ICBMs. This will coincide exactly with our period of maximum danger. To be sure, a good case can be made for the proposition that in the absence of the Treaty the relative numbers will be even worse. But the analysis here suggests that what is allowed to the Soviets will meet all their foreseeable counterforce and residual needs.

But I must repeat: any SALT treaty is likely to ratify existing strategic trends. SALT negotiators cannot produce what our military programs—for whatever reason—have neglected. The Soviets will never agree to unilateral reductions. If we want equality, we must build to equality. We must reverse the strategic trends if we are serious about an equitable SALT treaty. Nothing in the Vienna Treaty diminishes the need for a substantial military build-up by the United States. In fact, the situation which SALT reflects makes such a build-up imperative.

In fairness, it must be pointed out that the same was true of the SALT II aggregates worked out in the previous Administration. There are nevertheless three essential differences: first, the rate of advance of Soviet technology which has been unexpectedly rapid (the estimate at Vladivostok was that Minuteman would not become vulnerable to a Soviet counterforce strike until after 1985); second, the unilateral abandonment or stretch-out of almost every American strategic program inherited by the Carter Administration, which makes the Soviet threat even more ominous; and third, the Soviet geopolitical offensive in Africa, the Middle East, and Southeast Asia which has gained momentum since. But to help a bipartisan solution I am willing to concede that the problem we face has origins going back at least 15 years.[4]

The novel—and to me the most disturbing—feature of the current Treaty is its negative impact on the theater nuclear balance. The Soviet Backfire bomber is limited to production of no more than 30 per year, through an oral agreement outside the Treaty or Protocol. There has been dispute about the utility of the Backfire in carrying out unrefueled attacks against the United States. There is no doubt of its ability to threaten all our allies as well as China and the sea approaches to Eurasia. In addition, the Soviet Union is developing a large number of SS–20 missiles each with a range of 2000 miles and three MIRV warheads. Like the Backfire, the SS–20 is convertible to intercontinental range—in the case of the Backfire by adding fuel tanks, or an aerial refueling capability; in the case of the SS–20 by adding another stage, thereby converting it into the already tested mobile SS–16. These actions are prohibited by SALT II but they are not easily verifiable, and in any event they represent a rapid break-out potential should the Treaty be broken or lapse.

The most immediately available American counter to these weapons has been cruise missiles. In the negotiations conducted by the Ford Administration, proposed restrictions on cruise missiles were made conditional on comparable restrictions on the Backfire. The concept was to limit the number of cruise missiles of more than 600-kilometer range in some relationship to limits on the Backfire. The Protocol, on the other hand, prohibits the deployment of land- and sea-based cruise missiles and of air-launched cruise missiles of more than 600-kilometer range on other than heavy bombers altogether—even when they carry conventional warheads. The same Protocol prohibits the testing and deployment of mobile ICBM launchers, even though the Soviets have already tested a mobile system (the SS–16) and we have neither tested nor developed a comparable weapon.

The provisions of the Protocol with respect to cruise missiles, especially, restrict exclusively American programs; they affect not a single Soviet program. They amount to a unilateral renunciation of an American capability. The Protocol also for the first time limits American weapons relevant primarily to the theater nuclear balance—thus affecting important interests of our allies—in return at best for restrictions relevant primarily to the United States. This is something we have heretofore consistently refused to do as a matter of principle in the decade that SALT negotiations have been taking place. It is a dangerous precedent.

Two arguments are advanced on behalf of the Protocol: First, that it was necessary to induce the Soviet Union to go along with limits in the overall Treaty; second, that since the Protocol will lapse at the end of 1981 and since we will have no cruise missiles of more than 600-kilometer range before then, no real concession is involved. These propositions are mutually inconsistent; if the Protocol restrains nothing we can do before the end of 1981 and will lapse, then why are the Soviets so insistent on it?

The answer is that the Soviets know the history of moratoria and protocols very well; they are aware that such "provisional" agreements almost never end on their expiration date, especially if a negotiation is then taking place. At a minimum the Protocol's terms will be the point of departure for the next round of negotiations. The Soviets will have the option of offering a seeming concession—for example, reducing the SALT totals to 2150 (which we know they can accept since at one stage in the current negotiations they suggested it), or even lower. They can conversely threaten to abandon whatever negotiation is then taking place. Will we then insist on pursuing the development of cruise missiles, without which we have done for nearly three years? And if we do extend the moratorium, we will then have explicitly traded theater capabilities important to our allies in return for marginally reducing the threat against ourselves.

This deficiency of the Protocol would not be cured by a proposed Senate amendment or reservation stating that it may not be extended except with the Senate's approval. Such an amendment, to begin with, implies that the Protocol with its existing one-sided terms might well be extended, albeit with the Senate's consent. This will make it more difficult to appropriate significant sums for cruise missile programs which may at any moment be ended by a extension of the Protocol.[5] Moreover, if the Protocol comes up for extension independently of a broader consideration of the strategic balance, the temptation to extend it could easily be overwhelming.

To sum up: I have serious reservations about the Protocol. As for the Treaty, I conclude that its terms do not improve our strategic situation but neither do they prevent our remedying it during the remaining six years of its life. Undoubtedly it imposes some inhibitions on us—the prohibition against "heavy" missiles for the United States, for example, as well as the Protocol's ban on mobile missiles through 1981. But I believe that the Senate can deal with these during the ratification process. (The issue of heavy missiles seems to me most relevant to the period after the expiration of the Treaty since we could not build any before 1985 and since MX should take care of immediate needs.)

The crucial question is whether we can unite behind what is clearly necessary. Ratifying SALT—or rejecting SALT—makes sense only if it prompts a renewed dedication to our national defense and security. The Senate's judgment of the Vienna Treaty should hinge, in my view, on what will be done to remedy existing trends and on the international impact of ratification or rejection.

Let me turn, therefore, to the broader political context of this SALT II agreement.

THE GEOPOLITICAL PROBLEM

A. The Soviet Union

The awesomeness of modern weapons, and the aspirations of all peoples for peace, impose the imperative of peaceful coexistence. No democratic leader deserves the public trust if he fails to make a genuine effort to reduce the dangers of nuclear holocaust, and to free national energies for dealing with the many urgent problems of mankind. The temptation is overwhelming to view this common stake in peace as a common bond between us and the Soviet Union. It should be and someday it must be if a cataclysm is to be avoided. But we cannot in good conscience say that current evidence supports the proposition that the time has yet arrived.

---

[3] Though the permitted total of land-based MIRV's is some 300 above what we possess, we cannot expand our land-based MIRVs significantly since the Treaty also contains a subceiling of 1200 permitted MIRVed vehicles. We could thus increase the number of our land-based missiles only by reducing the number of submarine-based missiles. That sublimit will also force us to dismantle either one Poseidon boat (or 14 Minuteman III) when the seventh Trident submarine goes on sea trials, probably by 1983. If the eighth and ninth Trident were to become operational before December 1985, three more Poseidon boats or 48 Minuteman II or some combination of the two would have to be dismantled.

[4] On at least one occasion I contributed to the existing ambivalence. After an exhausting negotiation in July 1974 I gave an answer to a question at a press conference (which I have come to regret: "What in the name of God is strategic superiority?" I asked. "What is the significance of it . . . at these levels of numbers? What do you do with it?" My statement reflected fatigue and exasperation, not analysis. If both sides maintain the balance, then indeed the race becomes futile and SALT has its place in strengthening stability. But if we opt out of the race unilaterally, we will probably be faced eventually with a younger group of Soviet leaders who will figure out what can be done with strategic superiority.

[5] Apparently the Navy has virtually abandoned the development of cruise missiles aimed at land targets—a role still considered important enough in the Ford Administration to cause the Joint Chiefs of Staff in 1976 to withhold their consent to an agreement which did not protect that capability.

For a too brief period in 1972 and 1973, our insistence on restraint in the conduct of international relations seemed to bear fruit. SALT I was accompanied by a declaration of principles signed by the United States and the Soviet Union. It affirmed the necessity of avoiding confrontation, the imperative of mutual restraint, the rejection of attempts to exploit tensions to gain unilateral advantage, the renunciation of claims to special influence in any region of the world. These principles, of course, reflected an aspiration, not a contract, they defined a yardstick by which to assess Soviet behavior. The strategy of détente was to encourage observance of these standards by a combination of positive incentives for constructive behavior and firm responses to block adventurism. The principles agreed in Moscow were a paradigm of conduct which the Soviet Union could violate only to its political cost.

Whether the Soviet Union ever intended to comply with them, or whether it was tempted into an adventurous course by the collapse of our executive authority as a result of Watergate (which deprived us of both incentives and penalties), or whether a combination of all these factors was responsible, will never be known.

Whatever the cause, the fact is that since 1975 there has been an unprecedented Soviet assault on the international equilibrium. 1975 saw the introduction of Cuban combat forces into Angola, eventually reaching 40,000, backed by Soviet financing, airlift, and policy support. By 1977 Soviet planes and pilots were flying air defense missions out of Cuba so that the Cuban airforce could operate in Africa. 1977 witnessed the spread of Cuban forces to Ethiopia. East German military and intelligence advisers have now joined the Cubans all over Africa and the Middle East. There have been two invasions of Zaire—and there may yet be a third; there have been Communist coups in Afghanistan and South Yemen; and the occupation of Cambodia by Vietnam, preceded by a Soviet Friendship Treaty designed to secure Hanoi's rear during its aggression. Soviet arms depots in Libya and Ethiopia fuel insurgencies all over Africa. While the collapse of the Shah of Iran had many causes, one contributing factor surely was the demoralization of a pro-Western leadership group by the gradual and unopposed growth of Soviet power in nearby areas.

Nor is this all. Terrorist organizations supported by Communist funds, armed by Communist weapons, and trained by Communist instructors are becoming a systematic instrument of anti-Western policy threatening countries friendly to us on several continents. They are not, to be sure, all controlled by Moscow; but someone who has started a rockslide cannot avoid responsibility by claiming that the rock he threw was not the one that ultimately killed bystanders. These tactics, reinforced by a Soviet military build-up clearly threatening the strategic, theater, and conventional balances, are incompatible with any notion of détente or coexistence.

Some argue that SALT is necessary lest we risk a return to the Cold War. This is a curious argument. Whatever label we give to recent Soviet conduct—whether "Cold War" or opportunism—it must be ended if there are to be any prospects for East-West coexistence or cooperation. No leader serves his people by pretending that SALT is needed to perpetuate an acceptable state of affairs. It is not an acceptable state of affairs, and it cannot be continued.

The Vienna summit recorded no progress toward a clear understanding with the Soviet Union on the key issue of political restraint. It was not possible, of course, to settle in the space of three days all the outstanding issues of Africa, the Middle East, or Southeast Asia. Nor can the Senate responsibly delay SALT until these vexing matters are settled; they must be dealt with by intelligent and patient diplomacy and firm resistance to pressure. But it would have been important to give at least symbolic expression to what is the overwhelming political challenge of our period: The ultimate test of an improved relationship—the real turning away from the Cold War—must be restrained Soviet international conduct. The refusal of the Soviets even to discuss the subject at Vienna, the reiteration by Brezhnev of the commitment to so-called struggles of liberation, is worrisome indeed.

What is involved here is a profound issue in U.S.-Soviet relations which is both philosophical and practical. Can peace be realized exclusively by restraint in the field of arms? Or does the structure of peace require a geopolitical dimension as well? Is it possible to proceed in separate negotiations on their merits, or must there be some relationship between all the various interactions of two superpowers in the field of foreign policy? In the language of recent controversies, should there be "linkage" or not?

In my view, to seek to separate U.S.-Soviet relations into discrete compartments runs the risk of encouraging Soviet leaders to believe that they can use East-West cooperation in one area as a safety valve while striving for unilateral advantage elsewhere. The Administration, imagining that linkage was a personal idiosyncrasy of previous administrations, decided to "abolish" it. SALT was pursued for its own sake, unaffected by Cuban troops in Ethiopia and East German auxiliaries in Mozambique; by Communist coups in Afghanistan and South Yemen; or by Soviet Friendship Treaties such as the one with Vietnam that was a prelude to the occupation of Cambodia.

This raises several problems. First of all, it is not possible to "abolish" the simple reality that the two superpowers impinge on each other on a broad range of issues and areas. Moreover, the attempt to do so produces an almost compulsive commitment to whatever particular subject seems susceptible to solution, such as SALT, thus permitting the Soviets to dictate the pace of negotiations and to use it to reduce the risks of aggressiveness. And it simultaneously overloads the issue under negotiation. If SALT must bear the whole weight of East-West relations, it runs the risk of turning into escapism; it will eventually crumble under the strain.

No serious person would maintain that nothing should be settled until all issues are settled; nor should SALT become the hostage of every passing political tension of a world in flux. What is needed, however, is a broad recognition that in an interdependent world the actions of the major nuclear powers are inevitably related and have consequences beyond the issue or region immediately concerned. A demonstration of American impotence in one part of the world erodes our credibility and hence the stability of other regions; pressures against our friends, encouraged by the Soviet Union or its proxies, cannot be compensated for by other negotiations such as SALT. If we ignore these facts we paradoxically enhance the attractiveness of such adventures. It surely is not provocative to ask the Soviet Union to accompany restraint in arms with restraint in political conduct. Attention to this kind of linkage ensures that no agreement stands alone vulnerable to the next crisis, or turns into a soporific to lull the West while adventurism runs free.

I am inclined to agree that the failure to ratify an agreement negotiated over seven years by three Administrations would have a disruptive impact on East-West relationships, creating a crisis atmosphere for which we may have little public or allied support. This is undoubtedly one of the telling arguments in favor of ratification. But the Senate will also wish to consider that to deal with SALT in isolation runs the risk of seriously misleading the Soviet Union. Moscow cannot have it both ways: the slogan of detente and the reality of the systematic undermining of the geopolitical equilibrium. We should use the SALT debate to force a decision. The Senate will want to make clear that Soviet expansionism threatens the peace and that coexistence depends above all on restrained international conduct, for which the Senate should define some criteria.

In the long run this also in the Soviet interest, for current trends will make a confrontation inevitable sooner or later. Our country will not be defeated without noticing it and when it does take notice, it will resist. The course of inadequate defense preparation, gradual reduction of military capacity, and partial accommodation to Soviet expansionism must be reversed—on a bipartisan basis and by cooperation between the Administration and the Congress.

B. The concern of allies

All our allies have expressed support for ratification of the Vienna Treaty. But their endorsement results from a complex of factors of which approval of the provisions of the Treaty is by far the least significant. Each has been urged, if not pressed, by the Administration to express support. In some cases the Soviets have added their entreaties. Refusal to comply would thus risk relations with both superpowers over an issue that is of high technical complexity and has been under negotiation for seven years. If the Treaty failed as a result of their opposition, our allies might find themselves in the uncomfortable position of taking on both superpowers. Some governments are loath to expose themselves to domestic criticism as an "obstacle to detente"—especially over a Treaty which the United States has already declared compatible with Western security. Some allies want to keep open their own individual options for détente and increased East-West trade. Some are afraid lest their objection endanger their essential defense cooperation with the United States (even while worried about the non-circumvention clauses of the Treaty). Some sense the changing military balance but, unsure of our direction and unwilling to demand domestic sacrifice, seek to mitigate their perils by accommodation with the Soviet Union, staying one step ahead of us on the road to Moscow. All are reluctant to contribute to a further weakening of American executive authority, reasoning correctly that whatever their views on particulars their ultimate security depends on the self-assurance and credibility of the American President. There is no doubt that failure to ratify the Treaty will shake European confidence in an American government that for seven years assured them that it knew what it was doing.

At the same time, allied endorsement should be seen in the context of a pervasive ambivalence. Our allies, especially in NATO, fear an exacerbation of tensions—but they are also deeply worried about the military imbalance on the European continent which the ratification of the present strategic relationship brings to the forefront of concern. The thoughtful leaders among them know that the basis of their security is eroding as our strategic superiority ebbs—but they fear there is not enough domestic support for a really significant defense effort, especially when American attitudes on that score are so ambiguous. They do not want to be perceived as an obstacle to SALT II, but they are highly uneasy about the inevitable SALT III, in which some limitation of theater-based nuclear weapons has already been placed on the agenda.

The United States thus stands in danger of being blamed by our allies at one and the same time for risking detente and for paying inadequate attention to security, for provoking the Soviet colossus and for jeopardizing the defense of the free world. It has ever been thus in the postwar period. The ultimate test of our leadership cannot be a poll of our allies, which will always reflect a mixture of incommensurable motives. The test of our leadership is American willingness to give a clearcut signal of what we understand by Western security and how we intend to maintain it. No other country or group of countries, however closely associated, can take this burden from our shoulders. None of our allies will forgive us if we fail.

RECOMMENDATIONS

We thus return to our original problem. The Senate is in the anomalous position of being asked to ratify a treaty which is essentially peripheral to our basic security and geopolitical concerns but whose either simple ratification or simple rejection would have a profound and dangerous symbolic impact. Failure to ratify an agreement negotiated over seven years would compromise international confidence in our ability to perceive our own interests or to harmonize the various branches of our government. But it is equally true that if the custodian of free world security neglects its task, sooner or later panic will become inevitable. The Senate in considering ratification needs urgently to address our dangers in a comprehensive way:

First, how the Senate can take concrete steps to begin redressing the military balance;

Second, how to deal with the specific problems in the Treaty and Protocol; and

Third, how the Senate can put the Soviet Union on notice that continued attempts to upset the global equilibrium will not be tolerated.

Some, whose analysis I respect, have urged amendments to the Treaty to accomplish these goals. These amendments are of two kinds. The first category would not require any renegotiation with the Soviet Union. They would either express the Senate's interpretation of the meaning of ambiguous clauses of the Treaty, or instruct our negotiator on criteria to be applied in any follow-on negotiations, or reassure uneasy allies about our intentions in applying SALT provisions, for example, on non-circumvention. The second category of amendments would seek changes in the text. These amendments would require renegotiation of the Vienna agreement and they again fall into two categories: One type would alter the strategic balance during the term of the Treaty, for example, by forcing a reduction of Soviet throwweight or heavy missiles. The second type would represent a claim of equal "entitlement"—such as an American right to possess 308 heavy missiles—which cannot be exercised during the life of the Treaty and would therefore represent an assertion of principle rather than a contribution to the strategic balance.

The only amendments that would make any immediate difference are the kind which go to the heart of the problem: they would remove the Soviet counterforce capability against our ICBMs (by mandating a drastic reduction of throwweight, for example). Such amendments are almost certain to be rejected by the Soviets; they would be accepted, if at all, only after an actual build-up of our forces, which in turn might well be delayed by the very fact that renegotiations were underway. If we maintained current limits while negotiating, the result would be a continuation of the existing deterioration of the strategic balance. We might thus wind up without either SALT or a strengthened defense.

After much reflection I have concluded that I can support ratification only with the following conditions:

First, if it is coupled with a defense program representing an obligatory understanding between the Congress and the President which overcomes on an urgent basis the grave peril posed by the current military balance.

Second, if it is accompanied by amendments—not requiring renegotiation—clearing up ambiguities in the Treaty, defining the status of the Protocol, the meaning of non-circumvention, and setting guidelines for follow-on negotiations.

And third, if it is accompanied by a vigorous expression of the Senate's view of the linkage between SALT and Soviet geopolitical conduct.

This approach would avoid the negative consequences of a collapse of SALT. But ratification must not become an end in itself. In my view it can only be justified if the Administration is prepared to unite our country by demonstrating its determination to restore our military strength and the geopolitical equilibrium. This seems to me the sense of what Senator Nunn among others has proposed, and it points the way to a bipartisan resolution of the issue.

A. To redress the military balance

With respect to the military programs, I respectfully recommend that the Senate give its advice and consent to ratification of the Vienna Treaty only after the Administration has submitted, and the Congress has authorized and begun appropriating, a supplemental defense budget and a revised five-year defense program that will begin rectifying some of the shortcomings I have identified. The Congressional recess provides an opportunity to prepare such a program, on which work should already be far advanced as part of the normal budgetary process. If the Administration is unable to put forward such a program to this session of Congress, I recommend that the Senate delay its advice and consent until a new military program has been submitted to and authorized by the next session of Congress. I would be open-minded about other methods to achieve this end, provided they are unambiguous, and represent an obligatory commitment by both branches of our government.

Assurances that the Executive Branch intends to proceed with individual weapons systems like the MX are not enough, either for the reality of our danger or to reverse the political and psychological trends which will make the immediate future a period of great peril. Nor have the percentage figures of projected increases—such as the three-percent increase agreed with NATO—proved effective, because of ambiguities about the baseline and how to compute rates of inflation. I am worried that if the consideration of defense programs takes place after SALT is ratified, the debate over the proposed defense programs may stifle remedial actions or delay them beyond all relevance—all the more so as the Administration seems to have a far from settled view about the need for a strengthened defense. Witness the cancellation of the B-1, the nuclear carrier, and the neutron bomb; the closing down of the Minuteman III production line; and the stretch-out of the MX, Trident, and cruise missile programs. After ratification, Soviet propaganda pressures can be expected to multiply, particularly against any MX basing system that ensures survivability. Allied doubts about the security situation—especially with respect to theater forces—will grow.

It is not a question of balancing the insistence of conservatives for higher defense with the considerations of liberals for a reduction in our military spending. The issue is what our country needs for its long-term security. The President and the Congress must choose. After fifteen years of giving inadequate priority to defense, it is time for a serious long-term effort to prevent a menacing imbalance against us. The program must include accelerated development of a counterforce capability through the MX and Trident II, air defense against Backfire, immediate steps to restore the theater nuclear balance, and urgent measures to beef up our capacity for regional defense including accelerated modernization and expansion of our Navy. Our current five-year program is deficient in all these categories. My support for ratification is entirely conditional on the development of a new program and doctrine given some binding form by the Congress.

The Joint Chiefs have testified that the rapid improvements required cannot be achieved at expenditures representing less than a five percent real increase over current programs, for at least the next five years. The burden of proof to the contrary should rest with the Administration.

B. Clarifying the treaty and protocol

In addition to these military programs, I recommend that the Senate add the following amendments to its advice-and-consent resolution. None of them requires renegotiation with the Soviet Union:

First, as far as cruise missiles are concerned, that the Protocol may not be extended after 1981. The Senate should stipulate that its particular limitations can be submitted to the Congress again only as part of an equitable arrangement for theater nuclear forces. Specifically, no limitations may be negotiated for American theater weapons—such as cruise missiles—which are not matched by similar limitations on Soviet weapons performing comparable missions. This will bring cruise missiles into some equilibrium with the Backfire and the SS-20.

Second, the Senate should specify that as part of SALT III the United States be entitled to any weapons system permitted to the Soviets in the new agreement unless the Soviets agree to some compensation by giving up a weapons system of equivalent characteristics allowed to us. This should take care of the heavy missile inequity within the only framework—that of SALT III—which will give us a real option to produce it.

Third, that the non-circumvention clause be interpreted by the Senate as not interrupting cooperative relationships with allies with respect to technology needed to modernize their forces. No technology available to us should be barred for transfer.

I also suggest that the Senate reexamine the SALT Agreement every two years, specifically to determine its verifiability.

C. To address the geopolitical problem

Finally, I respectfully urge the Senate to use the ratification process to put the Soviet Union on notice that this country is prepared, nay eager, for peaceful coexistence that reflects true stability and equality in arms, and also political restraint. We are ready to pursue the control and reduction of arms with dedication. But we will brook no subterfuge, nor can we continue a conciliatory policy if Moscow chooses to exploit that policy as a convenient opening to Soviet predominance. The Senate should attach to its instrument of advice and consent an expression of the following principles:

That the absence of political restraint will seriously jeopardize continuation of the SALT process.

That the Senate understands this to include Soviet supply or encouragement of intervention by proxy military forces; the use of Soviet forces on the territory of its allies such as Cuba to free Cuban forces to fight in Africa; the support, financing, or encouragement by any member of the Warsaw Pact of groups and activities seeking to undermine governments friendly to the United States; or the exacerbation of regional conflicts.

That the Administration be required to submit an annual report to the Senate on the degree to which the Soviet Union is living up to these criteria.

That the Senate vote every two years its judgment whether the Soviet Union has lived up to these criteria. If the judgment is negative, the Senate should then vote whether whatever SALT negotiations are taking place should be continued.

Finally, if we thus reassess our strategic position, we must also take another look at the SALT process. Though the strategic conditions I have described result largely from unilateral American decisions, they have been reflected in the SALT process which was essentially a confirmation of them. The fact that I have participated in the process—and must share some of the responsibility—entitles me to warn against continuing it by rote. I urge that its long-term implications be carefully considered. Never in the postwar period has there been more disagreement and intellectual confusion about the requirements of strategic stability and the implications of arms control. A thorough reassessment and the fullest consultation with our allies are crucial before we launch ourselves into SALT III, which will directly affect our allies and hence may jeopardize our alliance.

CONFUSION

I recommend the approach outlined here because it gives this country an opportunity to address its dangers without abandoning an important negotiation that has already extended over seven years. And it gives us an opportunity to proceed as a united people. If the Administration rejects this approach, the Senate will have no alternative except to go to the route of farther-reaching amendments, either holding the Treaty in abeyance or forcing a renegotiation. The result will almost certainly be a diplomatic stalemate until the Soviets are convinced that we are determined to restore the strategic balance; it would be an indirect—and in my view less productive—route which, even if successful, would lead to the same result of a major new effort to meet our imperative security needs.

RECOGNITION OF SENATOR STEWART

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. STEWART) is recognized for not to exceed 15 minutes.

S. 1613—RURAL ENERGY INDEPENDENCE ACT OF 1979

Mr. STEWART. Mr. President, I am introducing today the Rural Energy Independence Act of 1979 for myself, for Senator TALMADGE, the distinguished chairman of the Committee on Agriculture, Nutrition, and Forestry, and for Senator LUGAR.

In the past several weeks the Nation has heard of little besides the energy crisis. The President has submitted major energy legislation which will require massive resources from our country. Virtually every committee of Congress seems to be considering energy legislation.

In the midst of this hue and cry, I am very concerned for the rural areas of this country. The rural people of America have unique energy problems. Shortages and price increases hit them harder than most residents of our cities. So, in consideration of any new energy policy, it is imperative that the interests of rural America be protected and promoted.

This bill will do just that. It will allow the rural areas of the country to develop their own energy resources. It will let many farmers of this Nation not only be self-sufficient for their energy needs, but will also let them actually be producers and contributors of energy.

This bill, drafted through the combined efforts of Senator TALMADGE, Senator LUGAR, and myself, would add a new title to the Food and Agriculture Act of 1977. This new title would establish programs necessary for the rapid development of renewable resources, including wood and wood wastes, as a source of energy production, as well as programs to insure that farmers and rural communities will have reliable supplies of energy as fossil fuels become less available and more expensive.

More specifically, this bill would direct the Secretary of Agriculture to make loans for on-farm or commercial projects for the production of energy from agricultural commodities and forest products. Up to $250 million in direct loans and $1 billion in guaranteed loans annually would be authorized.

Also, the Rural Electrification Administration would be authorized to make loans for electric power generation projects using previously abandoned hydropower facilities along small streams and rivers or energy derived from biomass, including wood and peat.

Mr. President, this bill does not create a new bureaucracy. It does not require the development of unproven and very expensive technologies. It does not have severe environmental problems. It is not a source that has to wait until the late eighties or the nineties. This bill provides for the production of alcohol fuels, made from everything from grain to wood to animal waste.

This program would be administered through existing agencies within the Department of Agriculture. It has the ability to reach every farmer in the country and to provide each farmer with an energy alternative.

According to experts in this area, alcohol fuels could offset the need for 2 million barrels of oil per day by 1985. This, Mr. President, is a full 25 percent of our imports. Surely we cannot overlook such a critical source of fuels.

Unfortunately, that is exactly what is happening. The President recently submitted his comprehensive legislation, with a massive commitment to exotic and expensive synthetic fuels. Alcohol fuels scarcely received a footnote.

This Nation is at a critical point in its history. We are about to make perhaps the most important domestic policy decision of this decade. We are talking about the very structure of our society. The decisions that are made by this Government in the next few months will have the most profound repercussions.

In light of the magnitude of the problem, what has happened? The President has decided that synthetic fuels are the answer, the pancea. If we create this huge Energy Security Corporation, he promises us, our energy problems will be solved through the expenditure of $88 billion of taxpayers money.

This proposal, I submit, is not the answer to our energy problems. In fact, there is a significant chance that the program submitted by the White House would worsen our energy crisis. If the crash program to produce synthetic fuels should not be successful, and we cannot forget that the technology is unproven, then the Nation will have spent massive amounts of time and money for no return.

Before we rush into this program, let us take a look at it. Who dreamed up this idea? If one can believe the local newspaper in Washington, this idea was hatched over lunch at one of Washington's fine French restaurants by two prominent lawyer-lobbyists. These men were not, to my knowledge, experts in the energy field. Yet, they devised the scheme that is now the cornerstone of the President's proposal.

If we follow the President's idea, what will be the result? Who will be making the energy decisions for this country? His proposal would tax the oil companies and then give that same money back to the oil companies to build coal gasification and liquefaction plants. These are the same multinational energy conglomerates that have been making the energy decisions for years. And, frankly, Mr. President, I am not pleased with all the decisions that have been made by them.

Synthetic fuels sound nice. They are a headline-grabbing idea. A bandwagon developed both in Congress and the Senate. But as more and more people take a look at where this wagon is leading us, there is more and more skepticism about the program.

Let us look for a moment at the problems of synthetic fuels. The environmental difficulties are severe. The amounts of water required are astronomical. The increase of carbox dioxide could radically affect our weather patterns.

Look at the cost. President Carter has proposed spending $88 billion to produce 2.5 million barrels of oil daily by 1990. Alcohol fuels could produce nearly that much by 1985 at one-tenth the cost.

If the technology does not work, we will be so committed to synthetic fuels that we have no alternative. These massive expenditures, $88 billion, will drain our capital markets so there will not be enough capital to develop other technologies, or for other business needs. We would be putting all of our energy eggs in one basket and hoping the eggs hatch. No nation should be so foolish to gamble its future on an unproven technology.

So, rather than spend $88 billion on synfuels, why do we not diversify our efforts? I do not believe that synthetic fuels should be ruled out. It should be explored, perhaps with five or six demonstration projects. Once these projects have proven themselves and once we have learned from them, then we could make a rational decision on whether to continue to pursue that course.

But, in addition to synthetic fuels, it is our belief that we must aggressively pursue many different methods of insuring our energy independence. We must look at every option we have available.

The foundation of our national energy policy must be built on two concepts: Conservation and solar energy. The recent study by the energy project at the Harvard Business School superbly documents the reasons why we must pursue these methods.

Based on the work done by this project and by other reputable sources, we find that our Nation could continue to grow and prosper while we were using, by the year 2010, 20 percent less energy. Thus, we are not talking about changing lifestyles or discomfort. We are talking essentially about technical changes in buildings and processes that will, for very low one-time capital costs, remove the need for massive amounts of energy.

Then, we have solar energy. A source that many say is a technology of the next century. In fact, solar energy is here today. This energy, from the sun, the wind, the ocean, from plants, from wood, can be the energy salvation of our Nation. By the year 2000, a full 20 percent of our Nation's energy supply can come from solar, if we make the right choices this year.

The greatest things about solar and conservation is that they do not have to wait until the next decade.

They can begin easing our energy problems within a matter of months, if the right Government policies are established.

Unfortunately, the President does not agree with my assessment. For some unknown reason, he and his people have hooked their fortunes and this Nation's energy future to the rising star of synthetic fuels. This star, Mr. President, may look bright at this time to them. I believe, however, that this star will flame out and disintegrate as this Congress considers the legislation that is placed before it.

And I, for one, will use every fiber in my body to oppose this synthetic fuels monstrosity, unless major modifications are made. Until the President submits a truly workable equitable program with large commitments to conservation and to fuels from renewable resources, I shall oppose these programs.

Mr. President, I send the bill to the desk at this time for appropriate referral and will yield at this time to Senator Lugar who has some comments to make.

The ACTING PRESIDENT pro tempore. Without objection, the bill will be received and appropriately referred.

Mr. ROBERT C. BYRD. I yield my remaining time to the minority leader.

Mr. BAKER. And I yield my time, Mr. President, to the Senator from Indiana.

Mr. LUGAR. Mr. President, it is a distinct honor to join with my colleague on the Agriculture Committee, Senator Stewart of Alabama, who also serves as chairman of the Subcommittee on General Legislation of the Agriculture Committee, and with the distinguished chairman of the Agriculture Committee, Senator Herman Talmadge, in introducing this morning the Rural Energy Independence Act of 1979.

Our subcommittee was privileged to hear testimony from many farmers in this country, from those associated with our great research efforts in agriculture research, and from citizens who are deeply concerned about the energy problems of the country, but with specific focus on those in the farm communities.

We were convinced after hearing this testimony that distinct possibilities could come about for energy independence for the farmers of this country if, in fact, some of the activities which are now a part of farming were recognized and if financial resources through appropriate loans were made available to others who are seeking energy independence on their farms.

Specifically, we have heard from farmers who have been involved in the production of alcohol on their farms which they use in tractors and various other agricultural vehicles, even in automobiles. The procedures often are unsophisticated. This led us to a belief that if in fact small units could be produced for farm use or other means discovered for production a great deal of the anxiety that now surrounds farm communities with regard to energy could be alleviated through the efforts of farmers themselves, through co-ops, through extension agents, and through universities that assist those farmers. Indeed we found that wood products are available in many parts of this country, wood products that otherwise will simply go to waste, which now do go to waste, due to lack of proper application on energy solutions.

So a major thrust of our legislation is to try to take a look at a frugal, prudent, and practical way for use of wood products in this country that can be a part of the energy solution on a small basis.

One of the characteristics of our legislation, Mr. President, is that it addresses the problems of common, ordinary people who are attempting to cope with a difficult economic situation, who have resources available but who need at least some of the coordination that the Federal Government, State government, and local government can give when they do work at their best to bring resources into proper focus and coordination.

For these reasons, Mr. President, we feel there is urgency in our legislation. This is the reason for the early introduction of this legislation today.

We are certain that this body will engage in a constructive and useful debate on energy solutions during September and October of this year. Certainly a mass of solutions has been suggested involving tens of billions of dollars.

Our legislation is a relatively modest effort. As a matter of fact, a case could be made, as some of us analyze it, that the economic good that will come from it will far overbalance any of the risks and costs of the processing of loans and grants that may be involved.

For these reasons we want to highlight the agricultural problem and suggest that rural energy independence is a very suitable and large subportion of the total independence situation we are trying to seek as a country with regard to energy. We are hopeful that our colleagues will give this legislation careful attention and, likewise, prompt action.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. Proxmire) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Wisconsin yield?

Mr. PROXMIRE. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I believe the minority leader is in the cloakroom and I want to dispose of this budget waiver, if someone will get him.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the action on the budget waiver and the time it takes not be taken out of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor and I thank the Senator from Wisconsin for his patience.

SENATE RESOLUTION 216—SUBMISSION OF A RESOLUTION RELATING TO CONSTRUCTION OF SENATE OFFICE BUILDINGS

Mr. PROXMIRE (for himself, Mr. Cannon, Mr. DeConcini, Mr. Sasser, Mr. McClure, Mr. Danforth, Mr. Humphrey, Mr. Goldwater, Mr. Hayakawa, Mr. Helms, Mr. Nunn, Mr. Simpson, Mr. Dole, Mr. Heinz, Mr. Pryor, Mr. Boren, Mr. Chafee, Mr. Zorinsky, Mr. Durkin, Mr. Pressler, Mr. Randolph, Mr. Armstrong, Mr. Roth, Mr. Morgan, Mr. Exon, Mr. Garn, Mr. Harry F. Byrd, Jr., Mr. Church, Mr. Baucus, Mrs. Kassebaum, Mr. Thurmond, and Mr. Bayh) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. Res. 216

Resolved, That it is the sense of the Senate that no office building should be constructed for the Senate after the date on which this resolution is agreed to, other than any office building which is under construction on such date.

Mr. PROXMIRE. Mr. President, I introduce for appropriate reference a resolution on behalf of myself and 31 other Senators. The resolution is one sentence long. It is clear, straightforward, and necessary. Quite simply, my resolution expresses the sense of the Senate that no new Senate office buildings should be built, other than the one currently under construction at such date.

The Hart Building controversy made it clear to me that many Senators want to curb wasteful Government spending. Unfortunately, the issue of new Senate office buildings is far from dead. Rather, each and every proposal for a new building seems to take on a life of its own.

At the end of this year, the Architect of the Capitol may recommend that the Congress build new Senate office buildings. In his most recent published report, the Architect pinpointed five "recommended building sites." Four of these he calls "basic elements" for development.

In total, the Architect has 2.5 million additional square feet in mind for the Senate—2.5 million over and above the space we will occupy after the Hart Building is completed. And if the Senate staff grows at past rates, the Architect says we will fill that additional space in 25 years.

Although the Architect's past estimates have been somewhat askew, he is correct in assuming that growth of the Senate's physical plant is inextricably tied to growth in staff. The more staff we have, the more space we need. But bear in mind that this is a two-way street.

As the junior Senator from Rhode Island (Mr. CHAFEE) has said, staff expands to fill the space available to it. And what I might refer to as the first law of congressional dynamics also holds true—space chasing staff and staff chasing space is the ultimate in perpetual motion. We seem to be caught in a vicious and costly circle. And if we do not extricate ourselves quickly, by the time we are through expanding we will have a hundred office buildings—one for every Senator.

Now, Mr. President, there is no reason for the Senate to expand. We have adequate staff. We are getting proper advice. But if we give ourselves room to grow, we will end up with more staff. Everyone in this Chamber knows that. And everyone knows that the congressional process will get more confusing and that Senators will do less of the personal and individual work we were elected to do.

Growth is not only unnecessary, it is economically unsound. We cannot expect simultaneously to balance the budget and spend millions of dollars on expansion. These are contradictory goals. Meanwhile, inflation is running rampant. Just last Friday the Bureau of Labor Statistics reported that the past 6-month inflation rate was the worst since 1951. And that was a war year.

If anybody thinks that is going to go away in a hurry, he is certainly out of step with the realities of life. Every indication is that inflation is likely to worsen as the years go on. And nowadays, a 13 percent loan from the bank looks like a good deal. Despite all of these pessimistic economic facts, we are thinking about fueling inflation and making things worse for the American people. This makes no sense.

Nor can we justifiably make cuts in the many good programs we are forced to trim and still manage to consider spending more money on ourselves. We have been called upon to cut health and housing and education and many of us have voted to do that. At the same time, we approved $142 million for the Hart Building. And now we have to consider that there may be more office buildings up the pike, that the Senate may expand even more.

In the midst of all these budget cuts, it is the height of hypocrisy for us to talk about and vote to cut spending on the health, education and housing of the hard-working American citizens, and then to build palaces without end to house ourselves.

Somehow every Senate office building we erect ends up being a palace. The $48 million Hart Building of 1972 is now $140 million castle; and we will probably be asked to spend even more.

A vote for this resolution is a vote against more bad estimates, more multimillion dollar boondoggles, and more monuments to congressional extravagance. Moreover, it is a vote for congressional responsibility to our constituents and to the future.

I would have a very embarrassing time, and I think most Senators would, telling their constituents—I would have an embarrassing time telling a Wisconsin taxpayer I voted to cut programs for him but not for myself.

This resolution enables the Senate to control its housekeeping. Let us avoid another tortuous discussion. Let us avoid a repetition of history. Furthermore, let us avoid being maneuvered into a position where bulldozers are buzzing away, gutting old structures, and building new ones just because we failed to act.

Each and every Senate office building we erect will be a symbol of our profligacy, a symbol of our self-indulgence. By expanding, the Senate would be publicly saying that everyone else should hold back spending. Everyone else. But not us.

Our past appetite for Senate office buildings has been insatiable. We voraciously gobble up every single square foot of space we can find. Now is the time for the Senate to go on a strict diet. We must not get fat devouring buildings while eating up all the taxpayers' dollars in the process.

Mr. President, I urge my colleagues to support this resolution.

Mr. President, one Senator told me he was opposed to the resolution because we cannot bind future Congresses. Now, that position is correct. But we can go on record now to serve notice on future Congresses and on the Architect that the intention of the Senate to date, as of now, is we want no more new buildings.

That means that if the Architect is to start a building, this body should be notified in advance, notified openly and clearly, and we should have a chance to go on record by rollcall as to whether we want the building or not, and go on record by rollcall before the money is committed, the land is cleared, and structures are put in place.

This resolution is necessary because Senator after Senator told me—at the time the Chafee motion to stop the Hart Building lost by the narrowest of margins—that they would oppose the building if it were not already half built, but that to stop it after the steel beams were in place would make the Senate look idiotic.

I disagreed with that viewpoint, but I understood it, and I understood why that was the only practical reason the Senate went ahead with this monument to extravagence. Now, how does the Senate avoid this kind of power play in the future?

I have been through this before, Mr. President. For many years I did my best, from the very beginning, to stop the Hart Building. I was unsuccessful. Once a project like this is initiated, somehow it disappears; it is hard to follow, and to know what is coming on.

How do we prevent ourselves from being forced into the same impossible box of being confronted with a commitment of bricks, mortar, and money that makes it impossible for us to persuade a majority of our colleagues to stop it?

The answer is to say no before any money is expended on such a project. This resolution is the way 32 Senators recognize first that the Senate should not build more office buildings, and, second, it is the way we are assured that we will be put on notice before, not after, the money is expended.

Mr. President, we have just asked for cosponsors in the last day or two. I am confident that a majority of Senators will support this resolution, and I suspect that other Senators will want to add their names as cosponsors when they know about the resolution and have had an opportunity to consider it.

Mr. President, before I yield the floor, I wish to say I intend to do all I can to persuade the Rules Committee to report this resolution out. I know these resolutions have a way of disappearing and being forgotten, but I hope the Rules Committee will not do that under these circumstances. In fact, there are members of the Rules Committee, prominent members, who are cosponsors of the resolution, and I am very hopeful that they will help bring it to a vote in the committee, so that we can have an up-or-down vote on the floor.

I had hoped we could bring it up directly on the floor, but I understand the objections to that. That would evade the normal procedure which the majority leader insists be followed properly on all resolutions.

But I am very hopeful we can take it up shortly after we come back from the recess. It should not require more than a very short debate. I think all Senators understand it. I would hope we could have a time limit, and handle it, maybe, in half an hour or less on the floor after we come back, if the Rules Committee reports it, which I hope and trust the committee will do.

The ACTING PRESIDENT pro tempore. The resolution will be received and appropriately referred.

● Mr. ROTH. Mr. President, I support the resolution offered by the Senator from Wisconsin.

Mr. President, the American people are tired of more costly Government and constantly increasing governmental size. They have spoken out clearly in the last few months all across this Nation. In over 30 States this year, citizens' movements rose to force State and local governments to cut back on their spending and reduce the tax burdens shouldered by the American taxpayer. Thirty States have passed resolutions asking the Congress to call a Constitutional Convention for the purpose of formulating an amendment to the Constitution which would place limits on spending by the Federal Government.

Yet, we in the Congress refuse to recognize the demands of the American people. We have decided we need a new marble and bronze guilded castle so we can coddle ourselves and work in palatial surroundings. The Senate moved on July 18 to approve an additional $57.5 million appropriation for the completion of the Hart Senate Office Building which, when added to the funding already approved, will bring the total cost of the building up to $142.6 million according to the latest projections. How can we expect labor, business and all sectors of our economy to make sacrifices in the fight against inflation when we spend $142 million dollars to add another building to the eight we already occupy? How can we expect the bureaucracy to cut back on wasteful spending when we spend lavishly on ourselves?

Yet, the Senate has approved the latest installment of the "Congressional Palace Mortgage and Self-Indulgement Act" and we are now committed to completion of the project. The Hart Building will contain more floor space than would be available in 580 average American homes sold this year. The cost of the building when money was first appropriated in 1972 was $48 million and now it will cost the taxpayer at least $143 million to complete. Perhaps we could help pay off some of the huge Federal deficit if we simply completed the building and left it unoccupied to be sold in 5 or 10 years time to the highest bidder. With Washington real estate values the way they are, who knows how much of the deficit we could pay off?

Mr. President, I have spoken out many times before against this marble barn raising we are funding by plowing the taxpayers under. Last year, I supported Senator CHAFEE and others as we offered an amendment to remove funding for the building proposed in a supplemental appropriations bill. I have opposed this project since its inception.

Unfortunately, I have been overruled by the majority of my colleagues and the building will be finished. It is time now to look to the future, to prevent such unnecessary expenditures from happening again. It is time the Senate went on record to crush its creeping construction psychosis and halt our "congressional public works program." I urge my colleagues to support this resolution.●

MINOR OBJECTIONS TO GENOCIDE CONVENTION ARE NOT SUBSTANTIVE

Mr. PROXMIRE. Mr. President, the Genocide Convention has been before the Senate for 30 years. We have been afforded more than an ample opportunity to scrutinize this treaty. Yet there still seems to be a necessity for reclarification of some of the minor, though important clauses.

Today I would like to address criticism about possible ambiguity surrounding the phrase "as such" in article II of the Genocide Convention. The phrase "as such" in context reads "genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such."

Does this language create an ambiguity? Could it provide a technical loophole for persons who killed with intent to kill a group of people not covered by the Genocide Convention? For example, would persons responsible for intending to kill and actually killing a group of teachers, who actually comprised a religious group in a particular country, be excluded from prosecution under the Genocide Treaty?

This seems highly unlikely almost to the point of absurdity.

Past cases of "genocide" have not been disguised. Rather, they have been bold actions. There is no reason to expect that in the future masqueraded cases would ever arise. The nature of genocide as a crime does not lend itself to such subterfuge.

There can actually be little cause for concern with respect to the phrase "as such." Rather, objections to ratification of the treaty based on this phrase seem to be feeble attempts to cling to a point that actually causes little confusion. Continued discussion on this point serves only to unnecessarily lengthen consideration of the Genocide Convention.

Once again, I would urge my colleagues to give the Genocide Treaty the careful consideration which it deserves, and subsequently to vote in support of ratification of this treaty.

CONVEYANCE OF CERTAIN LANDS LOCATED IN BELL COUNTY, KY.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 41.

The ACTING PRESIDENT pro tempore (Mr. BRADLEY) laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 41) entitled "An Act to require the Secretary of Agriculture to convey any interest held by the United States in certain lands located in Bell County, Kentucky, to the Board of Education, Bell County, Kentucky", do pass with the following amendments:

Page 2, line 2, strike out "in deed book numbered 120, page 460,", and insert: "in deed book numbered 159, page 550,"

Page 2, line 4, after "*Provided,*", insert: "That this conveyance in no way affects the undivided interest of the United States in coal, oil, gas, and other minerals (not outstanding or reserved in third parties) reserved by the United States in said deed: *And provided further,*"

Amend the title so as to read: "An Act to require the Secretary of Agriculture to convey a reversionary interest held by the United States in certain lands located in Bell County, Kentucky, to the Board of Education, Bell County, Kentucky.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed for not to exceed 5 minutes to the the consideration of the House amendments.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, S. 41 directs the Secretary of Agriculture to release a reversionary interest of the United States in a 47.04-acre parcel of land owned by the Bell County, Ky., Board of Education in order to permit construction of an urgently needed high school. If this reversionary interest is not released, Bell County will be unable to issue the revenue bonds needed to finance construction because prospective bond purchasers will not accept as security land that is subject to such an interest. In addition, the bill provides that mineral rights in the land would be retained in the name of the United States and would allow the subsequent orderly disposition of the minerals under the authorities vested in the Secretary of the Interior.

The House amendments are merely technical in nature.

I yield to my colleague from Kentucky.

Mr. FORD. I thank my distinguished colleague.

Mr. President, I am pleased to be a sponsor of S. 41 legislation to transfer 47.04 acres of Forest Service land to Bell County, Ky. There is a most commendable reason and urgent need for this measure. Currently, the Bell County Board of Education is operating two high schools that are located within a flood plain. Consequently, these schools have in the past suffered significant amounts of damage from flood waters.

Congress would provide a great service to the people of Bell County by passing this piece of proposed legislation. The ultimate benefit would be that the Bell County Board of Education would be able to replace both of the current high schools with a new, more secure facility which would be located outside the flood plain.

Alternative solutions to this problem have been attempted, all of them unsuccessfully. The problem is compounded by the fact that suitable sights located outside the flood plain and not controlled by the Federal Government are unavailable. Administrative attempts to release the Forest Service land were not successful. So, after 12 months of futile effort to solve this problem, the Department of Agriculture has concluded that S. 41 is necessary.

I agree, Mr. President, because without it the Bell County Board of Education will be forced to continue without a school where staff and students may function in a safe environment. With it, on the other hand, the taxpayers of Bell County, Ky., will be able to start supporting a school secure from flooding, not paying for repairs of flood damages in their present facilities.

Mr. President, let me immediately assure my colleagues in the Senate that S. 41 does not affect mineral rights to the 47.04 acres involved in this transaction. This was insured by a House amendment, which I am prepared to accept.

The Bell County Board of Education is ready to act immediately upon learning that it may have access to this land. In fact, the board had hoped to see construction work begin this spring. That dream is behind them, but with the passage of S. 41, the Bell County Board of Education will be able to begin construction before winter comes.

Mr. HUDDLESTON. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENVIRONMENT RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 2676.

The ACTING PRESIDENT pro tempore laid before the Senate a message from the House of Representatives announcing its disagreements to the amendment of the Senate to the bill (H.R. 2676) to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1980, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore appointed Mr. CULVER, Mr. GRAVEL, Mr. HART, Mr. STAFFORD, and Mr. CHAFEE conferees on the part of the Senate.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 299.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, this item is cleared on our calendar, and we have no difficulty with it.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 212) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 914.

The resolution was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 914. Such waiver is necessary because this legislation was not transmitted to the Congress until April 4. This did not allow sufficient time for the committee to give full consideration to the bill before May 15. The committee notified the Budget Committee of this fact and, as an interim measure, reported by May 15 a bill, S 1150, containing the major authorizations but leaving other matters unresolved. S. 914, as amended, provides for a slightly higher authorization level but is still substantially below the amount provided in the First Congressional Budget Resolution.

The effect of defeating consideration of this authorization will be to impede the extension of the Public Works and Economic Development Act and to prevent the establishment of a major new development financing program under that Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar Order No. 298.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 200) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1125, was considered and agreed to, as follows:

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. 1125, a bill to improve and expand the Federal crop insurance program, and for other purposes. Such waiver is necessary to permit consideration of crop insurance subsidies to become effective in a fiscal year for which the first concurrent resolution on the budget has not yet been adopted. Sufficient time must be allowed for the Department of Agriculture to establish and implement the all-risk crop insurance program under S. 1125, of which the subsidies are an integral part.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR SENATE TO PROCEED ON WEDNESDAY, SEPTEMBER 5, 1979, TO CONSIDERATION OF H.R. 4393, APPROPRIATIONS FOR TREASURY, POSTAL SERVICE, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on September 5, after the two leaders have been recognized under the standing order and any orders for the recognition of Senators which may have been entered prior to that time, the Senate proceed to the consideration of the Treasury, Postal Service appropriations bill.

Mr. BAKER. Mr. President, reserving the right to object, and I do not plan to object, I reserve for the purpose of saying that this is a measure that was on the list that the majority leader and I discussed of those measures he wished to complete before the August break. It is also on the list of legislation that I had noticed to the Republican Members of the Senate that we would have to dispose of before the break occurred.

I frankly think this is a better arrangement, and I am pleased the majority leader has made the request.

The Treasury-Postal Service bill would be controversial in many respects and I think this would be a more orderly way to handle it.

So I will not object to the request and, indeed, I think it is an appropriate piece of legislation to have pending when we return.

I thank the majority leader for rescheduling that event.

Mr. ROBERT C. BYRD. I thank the minority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, before I yield the floor, may I say that it would be impossible to bring it up in any event before we go out this week. I understand Mr. SCHMITT has requested 3 days in which to file minority views.

Mr. BAKER. Mr. President, if the majority leader will yield, I think that is correct. That is indicative of the problems we might have with the bill, and I think this is a better part of discretion in scheduling.

Mr. ROBERT C. BYRD. Anyone who supported it would have to run the gamut of the 3-day rule.

NATIONAL PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 914, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 914) to provide public works, business financing, and other development assistance to alleviate economic distress.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs and the Committee on Environment and Public Works, jointly, with amendments to strike and insert new language.

Mr. BURDICK. I ask unanimous consent that the following staff members of the Environment and Public Works Committee be granted the privilege of the floor during consideration of votes on S. 914: Richard Harris, John Yago, Dick Greer, Phil Cummings, Bailey Guard, Jackee Schafer, Steve Swain, Ann Garrabrant, Jim Range, Lee Fuller, and Pete Rosenburg.

I also make the same request for Mike Aubey of Senator MUSKIE's staff, Mimi Feller of Senator CHAFEE's staff, and Lee Strause of Senator CULVER's staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BURDICK. Mr. President, I ask unanimous consent that Jim Rock of Senator BENTSEN's staff be granted the privilege of the floor during consideration and votes on this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the Senator yield at that point?

Mr. BURDICK. Yes.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Elinor Bachrach and Kenneth McLean, of the Banking Committee staff, be granted the privileges of the floor during the consideration of the pending legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BURDICK. Mr. President, the bill before us, S. 914, amends the Public Works and Economic Development Act and thereby extends the programs of the Economic Development Administration—EDA for 4 years beginning October 1, 1979.

S. 914 was introduced on April 5 as the administration's long-awaited National Public Works and Economic Development Act. It represented a substantial overhaul of the present law. It was not sent to the Congress earlier because the President had not decided whether to fold EDA into a newly formed department with other economic and community development agencies. As we know, he decided against such a reorganization.

As introduced in April, S. 914 represented a significant increase in the dollar volume of EDA programs. Public works grants were increased to a level of $595 million the first year. The modestly funded business development programs of title II were replaced by a greatly expanded development financing program including some features of the earlier National Development Bank proposal. The first year's budget authority requested was $569 million, with authority to guarantee loans up to $1.8 billion. More than $90 million was requested for an augmented planning and technical assistance program authorized under title III. The administration bill called for $1.259 billion in authority the first year of a 6-year authorization.

However, the Committee on Environment and Public Works reported a 1-year extension (S. 1145) of the EDA programs in order to comply with the May 15 deadline under the Congressional Budget Act. The Senate Banking, Housing and Urban Affairs Committee likewise reported a 1-year extension as S. 1150. The reported bill before us, S. 914, is the product of extensive consideration by two committees. At the time of referral and by unanimous consent, title III, the development financing program, was referred exclusively to the Banking, Housing and Urban Affairs Committee. Those parts of the bill dealing with research and demonstration, eligibility, and administration were referred jointly to the two committees. The remainder of the bill—public works, planning and technical assistance—was referred exclusively to the Environment and Public Works Committee.

Mr. President, the Subcommittee on Regional and Community Development, of which I am chairman, held a number of days hearings on the proposal. The subcommittee recommended that, rather than proceeding with an entirely new act as proposed in S. 914, with new titles and unsettled meanings, it made sense to amend existing law, adding improvements from the administration's proposal and other changes recommended by the committee.

The bill before us, therefore, amends the existing Public Works and Economic Development Act. It is being considered in lieu of S. 1145 and S. 1150. It is a composite bill, representing the recommendations of the two committees. The report on the bill is likewise a joint report setting forth the views of the two committees. The differences in the areas of joint jurisdiction are commendably few. I wish to extend my thanks to the Senate Banking Committee and its staff for their cooperation in this effort.

Mr. President, I shall speak now about those parts of the bill under the jurisdiction of the Environment and Public Works Committee. The most significant changes proposed as amendments to the Public Works and Economic Development Act are: First, the increase in authorization for public works and development financing, and second, a complete revision of eligibility criteria.

The Public Works Committee proposes an authorization for public works grants totaling $615.2 million in fiscal year 1980 and $715 million in each of fiscal years 1981, 1982, and 1983. The administration requested $595 million for fiscal year 1980. Fiscal year 1979 appropriations for public works grants and adjustment assistance were, however, $335 million. I will return shortly to a more detailed consideration of the various public works programs.

The second major change in the present law is a complete revamping of eligibility criteria contained in section 401. Under present law, approximately 85 percent of the population of the country is eligible for assistance. By adopting the eligibility criteria proposed in the bill the coverage is reduced to 67 percent—still a very broad coverage.

The effect of the recommended changes in the eligibility criteria is to improve the ability to target assistance to distressed areas and to simplify the procedure for designating areas. Controversial measures, such as population growth or decline, have been eliminated from the designation criteria since they have been shown to be of questionable validity as indicators of distress.

The revised criteria provide for recognizing long-term economic distress, sudden and severe economic dislocation, and anticipated or threatened dislocation. The criteria recognize the necessity that unemployment data cover a sufficient period of time to have statistical validity. New criteria simplify existing criteria by reducing them to four measures: low per capita income, high unemployment, low employment growth rate, and large population—16½ percent—of population below the poverty level.

The poverty criteria have been added to improve targeting to areas where a large proportion of the residents have low incomes but where the conventional average income and unemployment statistics do not reflect this condition.

There is also a provision for "Pockets of Distress." This gives EDA considerable flexibility in going into small areas of highly concentrated need within larger areas that otherwise do not qualify.

The criteria, contained in section 401 also includes a definition of economic adjustment areas which provide formal requirements absent in the existing law. Community economic development areas under title VII of the Community Services Act of 1974 are also giving redevelopment area status and are thus eligible for EDA assistance.

The reported bill provides that areas presently designated which fail statistically to qualify under these new criteria will nevertheless be permitted to retain eligibility for EDA programs—except title II—for a period of 2 years after enactment of this act.

TITLE I—PUBLIC WORKS GRANTS

Mr. President, I return now to a more detailed description of title I since the committee recommends certain significant changes. Section 101 authorizes direct grants not to exceed 80 percent of the eligible costs for the design, engineering, acquisition and development of land and improvements for public works, public services or development facilities. This is the tried and tested basic EDA grant program. The largest portion of the $555 million authorized for all of title I will be allocated to this basic grant program.

Section 102 authorizes a new program of grants to eligible applicants to establish non-Federal revolving loan funds in accordance with an approved development plan. The grant is to be used for loans to carry out the development objectives of the plan, including loans for industrial land assembly and land banking; for acquisition of surplus government property; for acquisition of industrial sites or abandoned properties with redevelopment potential; for the rehabilitation of historical buildings and empty factory buildings and the recycling of land for and facilities for job creating economic activities. Repayment of these loan funds must be placed in the revolving fund for reloaning for similar purposes.

This is essentially the same program that is currently contained in section 204, which was added to the law in 1976. The difference between section 102 and 204 is that the latter has EDA lending the money to an eligible applicant. Most generally such an applicant would be a city. But most cities are forbidden by State constitution or their own charters from borrowing in such manner. The 204 program never got off the ground, except that the few millions appropriated for it were recycled through title IX's economic adjustment program. Placing the 204 program in section 102 in title I as a grant program insures fulfillment of its original purposes. For fiscal year 1980, EDA projects, $30 to $35 million will be expended for such projects.

Section 103 authorizes EDA to make grants to eligible applicants to pay the cost of any private sector economic development project which would not be undertaken in an area without such assistance. Assistance would be limited to 15% of the total project cost, that is, public and private financing.

Grants under this section may be made in tandem with EDA development financing assistance under title II, or they may be made without such packaging. The basic difference between these and basic public works grants is that these grants may be used to benefit a single firm. Eligible grant activities that directly benefit private business include acquisition and development of land; construction, alteration, rehabilitation, expansion of a commercial or industrial plant; access roads; and other infrastructure improvements.

The committee recommends that this program function on a demonstration basis for fiscal year 1980. It is a new and untested program. The committee expects that not more than $50 to $75 million of title I funds will be used in this program the first year.

Section 104 is simply the present title IX economic adjustment program transferred to title I to join the other public works grants programs. It will be remembered that title IX provides assistance for areas experiencing or about to experience a sudden and severe loss of employment and resultant local economic dislocation. The title IX program has provided assistance to areas experiencing the unemployment impacts of military base closures, or the shutdown of industrial facilities because of Federal pollution control requirements or import competition. This authority will continue under the transplanted section 104. An amendment to section 104 was added in committee that provides that adjustment assistance may, in clearly defined instances, be provided to areas adversely impacted by energy development. The bill provides that not less than 5 percent nor more than 35 percent of title I appropriations can be spent for economic adjustment projects.

PLANNING

Mr. President, the Environment and Public Works Committee has been concerned about the overlap and duplication in planning in this country. EDA funded planning for economic development purposes at the local economic development district, and State levels in recent years has received emphasis by EDA on what is called in the trade "capacity building." I take that to mean the development of a process that realistically assesses needs, gives them priority one to the other, clearly identifies the resources needed to implement proposals, and does so within a realistic time frame involving the people that are sure to get the tasks done.

The bill adds language to present law that calls for greater coordination among "plans, programs and investment strategies" in order to minimize duplication and to provide a more informed basis for economic development decisions.

Amendments to the planning sections refine planning requirements which aim to insure that every recipient of an EDA planning grant have an active economic development strategy. Amendments to the section 304 State grant program provide that distribution of these funds may be made on a discretionary basis by EDA. The committee presses for greater compatibility between the section 302 State economic development planning programs and the section 304 grants that may be used to supplement a variety of Federal projects.

Further amendments to the planning sections in title III call for the definition and enforcement of performance standards among EDA planning grantees. The committee was of the opinion that annual grants would not be considered an entitlement, that in some cases in which planning and development organizations perform consistently poorly, their grants ought to be reduced or terminated.

The bill contains no amendment setting down requirements for the composition of the governing boards of economic development districts. The committee does not believe such requirements should be frozen in the law. Rather an amendment provides guidance in calling for broad participation of all important elements of the economy as part of the district development process. The ideal is a board with a majority of elected officials together with representatives of the local economy such as business, agriculture, labor, and representatives of the disadvantaged, including disadvantaged minorities. And I think EDA ought to be sure that women are active participants in these organizations. Where State law sets out requirements not adaptable to these guidelines, EDA has regulations soon to become effective that permit the granting of waivers in such hardship situations.

It should be emphasized that economic development is a public sector/private sector undertaking. Both are needed. Both ought to play decisionmaking roles in the determinations of funded development organizations.

UNFAIR COMPETITION

This provision in section 702 of existing law is often referred to as the excess capacity provision. Quite simply, it prohibits EDA from assisting a business when such assistance would result in an increase in production of goods, services or facilities where there is insufficient demand to absorb the production of existing competing enterprises. Put another way, this provision was to prevent unfair competition which would lead to the creation of jobs in one location at the expense of employment elsewhere in the country.

The committee adopted an amendment to this existing law. The modification permits the Secretary to provide financial assistance to projects when that assistance will not result in a significant increase in existing production, capacity, or services and when modernization of existing productive facilities is essential to retain employment in an economically distressed area.

ENERGY ASSISTANCE

Section 704(e) of existing law prohibits the use of EDA financial assistance for facilities to generate, transmit, or distribute electrical energy or to produce or transmit natural gas except when such projects are authorized by Congress or the Secretary finds that project financing is not available from private lenders. Not more than $7 million from titles I and II could be expended annually for such projects.

The reported bill contains an amendment, appearing as section 703 in the bill, which provides that financial assistance may be extended to projects supporting the development of small-scale hydroelectric plants at existing dams, facilities in rural areas for the production of gasohol, expanded use of solar equipment, and coal gasification units for small industrial application. These projects must contribute to the creation or preservation of jobs. Not more than 5 percent of titles I and II funds of this act may be spent annually on such projects.

Mr. President, I wish to conclude this lengthy recitation by calling attention to a few more amendments of significance to the present Public Works and Economic Development Act. Section 17 of the bill amends title V of the present law to authorize the Southwest Border Regional Commission to make grants to eligible local school districts in the Mexican border States of Texas, California, New Mexico, and Arizona. These grants are for the construction of much needed classrooms for the education of Mexican alien resident children. Senator BENTSEN has made a persuasive case for a 2-year authorization of $45 million. I am sure he will provide a more thorough explanation of the amendment.

We have added an amendment authorizing assistance to employee ownership plans in section 715. Section 701(9) permits the Secretary to forgive certain outstanding public works loans, principally to Indian tribes and Alaskan Native villages under the Area Redevelopment Act. Section 714(c) requires the Comptroller General to undertake a thorough review of the administration of these programs and report back to Congress early in 1981.

Mr. President, in general we did not set out to substantially change the overall programs of the present act. We set out to improve them, to update them to current national realities and needs, and to preserve that which has worked in the past. I hope we have achieved that much.

The committee was unanimous in reporting the bill. I wish to extend my thanks to the chairman, Senator RANDOLPH, to Senator STAFFORD, the ranking minority member of the full committee, to Senator CHAFEE, the ranking minority member of the subcommittee, who was most diligent in staying at my side through long hearings, and to other members of the committee. Thanks are due also to the staff who worried about getting quorums to do business to get this bill out and moving before the August recess.

Finally, I wish to thank the members of the Senate Banking Committee and staff who cooperated to such a degree that we were able to report a joint bill with few differences where we share jurisdiction and a joint report on the bill.

Mr. President, I ask unanimous consent that Judy Bardacke of Senator MOYNIHAN's staff be granted privilege of the floor during consideration of this bill.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

Mr. BURDICK. Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, I yield the

floor to the senior Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, as the distinguished Senator from North Dakota has indicated, there is shared jurisdiction on this bill.

The Public Works Committee has jurisdiction over titles I and II exclusively. The Banking Committee has jurisdiction over title III exclusively. The shared jurisdiction is on the rest of the titles.

Mr. President, I must confess, to begin with, that I oppose this bill for a number of reasons. It is too much money. It is money that is very badly targeted. But I have the responsibility as chairman of the committee to do my best to assist in getting the bill through. I will do that up until the end, when I will vote against it.

Mr. President, the bill before us today, S. 914, the National Public Works and Economic Development Act of 1979, is the product of a joint referral and a cooperative effort between the Committee on Banking, Housing, and Urban Affairs and the Committee on Environment and Public Works. Titles I and II of the administration bill were referred exclusively to the Committee on Environment and Public Works, title III was referred exclusively to the Committee on Banking, Housing, and Urban Affairs, and all other parts if the bill were considered jointly by the two committees.

The joint bill, as reported, contains amendments to existing law, rather than the new language proposed by the administration. Nonetheless, the bill makes a number of significant changes in existing law. These are intended to make the program more effective. They include tighter eligibility criteria and a new and expanded business financing program.

The purpose of this legislation is to aid economically distressed urban and rural areas through programs to create and retain jobs and to benefit socially and economically disadvantaged people. The bill provides for targeting assistance to areas which meet certain specific meassures of economic distress. It offers a package of programs, including planning and technical assistance, development financing for private business, and research and demonstration.

ELIGIBILITY CRITERIA

Mr. President, the eligibility criteria are the key to this effort. They define which areas can get assistance and how efficiently the resources can be allocated. This part of S. 914, which is now under section 401, was referred jointly to the two committees. I am pleased to say that the Committee on Banking, Housing, and Urban Affairs and the Committee on Environment and Public Works were in complete agreement on the need to amend and tighten those criteria. Under existing law, as it has evolved—or eroded—over the years, 84.5 percent of the population is eligible for assistance.

Get this, 84.5 percent of the population eligible for assistance—84.5 percent of the population. That is ridiculous. It is a joke. It means that seven out of eight people in this country are now in areas eligible for assistance under this program. I think about six of those seven would be willing to agree they should not be eligible for assistance. They do not want it. They do not need it.

I do not know how you can run a reasonable economic development program if you have to define 84.5 percent of the population as eligible and as living in distressed areas.

Well, the program has been tightened, cut back to 67.6 percent, so that just two-thirds of the people would be eligible. That is still much too high. I would prefer to see it cut back even more. Then maybe the program would really be targeted. Still, it is a major improvement—one which I hope the Senate will approve without changes.

I should add here that the Committee on Banking, Housing, and Urban Affairs, in its consideration of this matter, took note of the fact that EDA has discretion to target assistance more directly within the bounds of the criteria set out in the bill. I certainly hope and pray they will do this. Accordingly, the committee directed EDA to give primary emphasis in allocating assistance to those areas which are the most distressed in terms of the eligibility criteria established under section 401. A reasonable guideline would be that 75 percent of the assistance provided go to areas in the lower 50 percent in terms of distress, as measured by the eligibility criteria.

Maybe it should even be the lowest 10 percent because of the limited resources we have in the bill and the enormous size of the problem.

Mr. President, it is vital that the development financing and other assistance provided under this legislation go first and foremost to the neediest areas, in terms of the criteria set out in S. 914. Otherwise, there will be the risk of simply substituting Government financing for private financing and of not really achieving the purpose of the act.

Nobody questions the fact we are a capital-rich country with tremendous financial resources available to competent businesses throughout the country. What we should do is fill in the areas where, because of unfortunate economic circumstances, the capital needed is not available. We have 16,000 financial institutions in this country and we should not try to substitute for them.

This bill retains the specific procedures for reviewing area eligibility contained in existing law. These require annual review of each area, and modification or termination of the designation if the area no longer meets the criteria, except that no area can be terminated less than 3 years after its designation. The primary reason that eligibility has gone so high in recent years is that a moratorium was placed on dedesignation of areas. According to EDA officials, that moratorium means that there are 40 million people living in over 800 areas that are eligible for assistance even though they no longer meet even the existing eligibility criteria. I understand that that moratorium expires on September 30, just as this bill is slated to come into effect.

This means that EDA will institute the new criteria at the same time that the new development financing program gets underway. For this reason, areas declared ineligible under the new criteria will not be entitled to a 2-year phaseout for development financing, although they are for existing programs.

DEVELOPMENT FINANCING

The Committee on Banking, Housing, and Urban Affairs was particularly involved in shaping the development financing program, which is now title II of the joint bill. The purpose of this title is to create or maintain jobs in distressed areas by providing financial assistance to businesses in order to encourage them to remain, locate, or expand in such areas. It does this through providing a variety of financing tools and some specific requirements for selecting projects to receive that assistance.

Under title II, EDA is authorized to provide loan guarantees, direct loans and interest subsidies to finance eligible projects which meet the purposes of the act. A project must involve one or more eligible activities. These can include the purchase, development of modernization of land, buildings and equipment, and the provision of working capital.

The loan guarantee program under section 203 is intended to be the heart of the expanded development financing effort. It is authorized at $1,800,000,000 for fiscal year 1980 and the same amount for fiscal year 1981. Guarantees can be for no more than 90 percent of the loan, which means that private lenders are expected to bear a portion of the risk, as well as to do much of the processing of the applications. The bill requires that a guarantee be provided only to the extent that the financing needed is not available from other sources. Various other conditions are attached to the guarantee program, including the requirement that the borrower put up a 15-percent equity share.

Certain provisions included in section 203 are intended to encourage private lender participation and to provide liquidity to financial institutions making EDA-guaranteed loans. In order to stimulate the growth of a private secondary market in these loans, the bill makes it clear that the guarantees are backed by the full faith and credit of the United States, and that their validity is incontestable.

Mr. President, this loan guarantee program is now authorized at the level proposed by the administration in S. 914—$1,800,000,000—rather than at the $1,000,000,000 level originally approved by the committee. I myself have strong doubts about EDA's ability to use this large amount of guarantee authority effectively in the first year of the program. It represents a 429-percent increase over the present fiscal year 1979 level—think of that, more than four fold—and a 324-percent increase over the level originally proposed for fiscal year 1980. Nonetheless, this amount is in the bill.

Direct loans are authorized under section 204 of this title: $150,000,000 in fiscal year 1980, and the same amount in fiscal year 1981. This is below the $191,430,000 requested by the administration, but still considerably higher than the $91,430,000 originally requested for fiscal year 1980. These loans may only go to projects which could not be accomplished with a guarantee. This means generally smaller projects, and especially those which involve minority-owned firms. In order to encourage sound projects, the bill provides that direct loans can cover no more than 65 percent of the project and that the borrower must put up a 15-percent equity share.

Interest subsidies are authorized under section 205 of the bill. They can only be provided if they are used in conjunction with a loan made or guaranteed under this title and if they are found to be necessary to accomplish the project in an area. These subsidies can be used to reduce interest payments by up to 5 percentage points, and down to as low as 5 percent.

Mr. President, in the Banking Committee's hearings, we encountered more opposition to this program than to any other aspect of S. 914. Witnesses told us that the cost of capital is just a small fraction of the cost of doing business—6 to 10 percent. Therefore, you will not get any investments that would not have happened otherwise if you subsidize interest rates.

That was the consensus of expert witnesses appearing before us, people of experience in the field, who knew what they were talking about, and they were not contradicted.

Moreover, guaranteed loans and direct loans already carry an implicit subsidy. Guaranteed loans, of course, automatically have a lower rate of interest because there is no risk involved. Direct loans are made at close to Treasury borrowing rates.

So any project that needs an explicit interest subsidy as well is probably not very sound to begin with and should not qualify. Even the administration witnesses said they did not expect to create any new jobs that would otherwise not have existed through this program. They simply hope to influence locational decisions.

In view of all this, the Banking Committee decided to restrict the authority for interest subsidy contracts to $50,000,000—well down from the $350,000,000 requested in the administration bill—and to confine that authorization to one year. The committee indicated further that the program should be treated as a demonstration project, to see whether it produces results which warrant its continuation.

Selection criteria for projects to be financed under this title are set out in section 208. These criteria are vitally important for achieving the purposes of the act. They require the Secretary to give primary consideration in selecting projects to such factors as the extent to which the project will provide long-term private sector jobs, the degree of economic distress in the area involved, and the degree to which the project will benefit socially and economically disadvantaged persons. Other factors must be taken into account as well. The committee intends that the Secretary direct the assistance provided toward the areas of greatest need, and toward projects most likely to generate jobs and alleviate distress.

Section 207 of the bill places certain conditions on providing assistance under the act. The Secretary must determine that credit is not otherwise available on terms adequate to accomplish the project. There must also be a reasonable assurance of repayment.

Section 208 places limitations on the assistance provided under the loan guarantee and direct loan programs. The Banking Committee feels that these limitations are very important for achieving the purpose of the act. The intent is to target most of the resources available toward small- and medium-sized businesses—which are the biggest creators of new jobs—while at the same time leaving some flexibilty to aid a few larger firms. These limitations include the following: $10,000,000 limit on direct loans to any one firm; $20,000,000 limit on guarantees to any one firm, except that up to 10 percent of the guarantee authority available may be used for larger amounts, with an absolute cap of $50,000,000; and a requirement that not more than 10 percent of the assistance available go to firms with more than $50,000,000 in assets.

In making use of those exceptions, the committee directs that EDA select only those projects which best meet the selection criteria under section 206 and which are located in the most distressed areas under section 401.

RESEARCH, EVALUATION, AND DEMONSTRATION

Section 303 provides for an expanded research, evaluation, and demonstration under title III of the act, along the lines proposed by the administration. However, it authorizes $10 million for each of the fiscal years 1980, 1981, 1982, and 1983. This represents an increase over the $4,000,000 requested by the administration. The committee intends that EDA use some of this money to do ongoing evaluation of the programs authorized under the act and research into improving their effectiveness. In addition, the committee authorized a specific equity financing demonstration program, to explore ways of giving smaller firms access to equity capital.

Mr. President, this summarizes the main actions taken by the Committee on Banking, Housing, and Urban Affairs with respect to S. 914, the National Public Works and Economic Development Act of 1979. Other actions are described in some detail in the joint committee report on the bill, a copy of which is on the desk of each Senator.

Mr. GARN. Mr. President, we have before us S. 914, the National Public Works and Economic Development Act of 1979, with amendments from the Environment and Public Works and the Banking, Housing, and Urban Affairs Committee. This bill is basically a major increase in funding for the programs of the Economic Development Administration and revisions to the eligibility criteria which determine the areas that can apply for EDA assistance.

My view of this legislation boils down to the simple reality that it is out of step with the need for budgetary restraint. The most critical economic problem facing the Nation is continuing inflation fueled by excessive Government spending, and yet this bill authorizes for fiscal year 1980 a 63-percent increase in spending for EDA programs compared to 1979 appropriations plus a 429-percent increase in business development loan guarantees.

The Banking Committee had exclusive jurisdiction over the expanded business development financing in section 3 of S. 914 and joint jurisdiction with the Public Works Committee over the revised eligibility criteria in sections 12 and 13, the research and demonstration programs in section 9, and the general administrative provisions in sections 15 and 19. I will confine the rest of my remarks to those areas.

The development financing programs in section 3 of the bill are the principal areas of expansion in EDA activity. These loan guarantees, direct loans, and interest subsidies are intended to develop the private economies of distressed areas. Can that objective be achieved though?

First, the programs do not create any new capital investment which is essential for permanent economic growth. This bill rather lets EDA use Government borrowing and guarantees to shift credit from one area or sector to another.

Second, the premises of the legislation seem inherently flawed. If the assistance is successful in attracting businesses to economically distressed areas, then it will either give a Federal subsidy to investments that would have been made anyway, or it will subsidize business projects that simply may not be economically viable. With either result the assistance would not achieve the objective of creating long-term improvement in the area's economic health.

Finally, the development finance program authorizations are simply too much too fast.

The bill provides $1.8 billion in loan guarantees, $150 million for direct Federal loans, and $50 million for interest subsidies which amounts to a fivefold expansion from the fiscal year 1979 EDA program for business finance assistance. There is serious doubt whether EDA can effectively implement such a massively increased program. EDA must not only assess the financial viability of projects but also the potential for job creation and whether the project could occur without the EDA assistance.

The $1.8 billion in loan guarantees is a 430-percent increase over last year for EDA and is another example of how Federal credit programs are expanding out of control. In the 10 years since 1969, outstanding Federal loan guarantees have grown from $177 billion to over $440 billion.

Fortunately, the Banking Committee pared down the administration's request for $350 million in interest subsidies to $50 million for fiscal year 1980, but this still is too much authority for a new program. EDA has never administered an interest subsidy program and many witnesses before the Banking Committee heavily criticized interest subsidies as inevitably being a temporary, expensive crutch to business projects that are so financially risky they should not proceed.

Equally unsettling is the rhetoric from the administration about why they propose the changes in area eligibility criteria now incorporated in sections 12 and 13 of this bill. The administration indicates these changes will achieve targeting of aid to economically distressed areas. I have more faith in the underlying strength of the U.S. economy and more common sense than to believe that two-thirds of our population live in economically distressed areas. These new criteria somewhat reduce eligibility from the present 85 percent of the population, but by no means have EDA's computers developed factors that identify the most distressed areas of the country. I point out to my colleagues that even with these new criteria so much of the country is eligible that we leave great discretion for EDA to decide where to extend the assistence in this bill. I hope these changes in eligibility criteria will not disguise substantial shifts in the relative distribution of EDA assistance, for example, from the sun belt to the snow belt.

In conclusion, I find two particular provisions of the bill to be especially troubling.

First, in authorizing EDA research, evaluation and demonstration programs, the Banking Committee has required a demonstration to test the feasibility of an equity financing program. Although the author of this amendment and the committee report state that Federal Government ownership of private firms is not the intent of the provision, it is difficult to conceive how else EDA can finance equity shares in business. Direct Government financing of equity in firms would be a serious change to the role of Government in our economic system. Furthermore, firms which cannot meet the equity requirements of credit markets without Government assistance are likely to be so risky that EDA should not participate in their projects.

Second, the goals of this legislation are clearly contradicted by application of Davis-Bacon wage requirements to projects receiving assistance. Davis-Bacon requirements reduce the likelihood that low-skilled and disadvantaged people will be hired on construction work because contractors simply cannot afford to pay them wages prevailing for full-time, skilled construction workers. Furthermore, the General Accounting Office finds that Davis-Bacon wage determinations are often higher than rates prevailing in the local area with the result that nonlocal contractors hire nonlocal labor. Employing low-skilled, disadvantaged, local residents of distressed areas is, however, precisely one of the primary purposes of projects to be assisted by this legislation.

Mr. CHAFEE. Mr. President, I ask unanimous consent that two members of the staff of Senator GLENN, Mr. Tom Doherty and Mr. Edward Furtek, be allowed the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Albert Eisenberg, Don Campbell, and Charlesetta Griffin, of the Committee on Banking, Housing, and Urban Affairs, have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, when I ran for the Senate, economic development was an issue which deserved great attention. It deserved attention then and it deserves attention now. Economic development means jobs. But that does not mean that we can afford to do a less-than-well-crafted piece of legislation. In line with this, I am happy to report to my colleagues that the Committee on Environment and Public Works unanimously approved the bill before us today. We report this bill jointly with the Senate Committee on Banking, Housing, and Urban Affairs, which has exclusive jurisdiction over the development financing authorities. We share jurisdiction over eligibility criteria, research and demonstrations, and a variety of administrative provisions in the program.

Mr. President, I must say that one of the reasons a bill of this size made it through the committee unanimously is due to the leadership of our chairman, Senator RANDOLPH. He is a longstanding supporter of economic development and has worked hard to pass the program before us. I also wish to highlight the role of our Regional and Community Development Subcommittee chairman, Senator BURDICK, who presided over lengthy hearings on the bill and faithfully participated in all of our working sessions. And of course the ranking minority member, Senator STAFFORD, has a deep interest in the programs of the EDA and has sought to make sure that the agency's attention to rural as well as urban problems does not diminish.

The Public Works and Economic Development Act was first passed in 1965. The Congress was attempting to focus the resources of the Federal Government to assist areas in the country which did not share in the general economic prosperity of those times. Let me quote from the purpose section of that act, which still remains the basis of economic development law:

> Some of our regions, counties, and communities are suffering substantial and persistent unemployment . . . that to overcome this problem, the Federal Government, in cooperation with the States, should help areas and regions of substantial and persistent unemployment and underemployment to take effective steps in planning and financing their public works and economic development.

Fourteen years later, we find that these problems persist and new problems have developed. The complexity of our economy has increased immensely during the past few years. At the same time, we have learned more about what does and does not work to promote economic development and prosperity among our people.

Policymakers used to operate on the assumption that areas were lagging behind because public entities lacked adequate infrastructure—good roads, adequate water supply, suitably developed land—to attract private commercial and industrial firms who would bring jobs and income into an area. Direct assistance to individual businesses was a relatively small part of EDA's program throughout most of that agency's history. More recently, however, the Economic Development Administration has increased assistance to individual firms to help them and their host communities adjust to economic dislocations caused by foreign competition, cutbacks at defense installations, or other forces.

The trend of increasing direct, rather than indirect assistance to commercial and industrial firms is dramatically accelerated in the bill before us today.

Beginning next fiscal year, EDA will administer a greatly expanded program of direct business assistance. The Banking Committee's part of this bill includes $228 million in budget authority for direct loans and interest subsidies. It also authorizes the Economic Development Administration to guarantee $1.8 billion in loans in fiscal year 1980 and the same in fiscal year 1981.

Likewise, the Committee on Environment and Public Works proposes two new grant programs that may directly assist individual firms. Section 102 provides for the establishment of non-Federal revolving funds to enable a State or city to lend money to businesses that will create jobs in distressed areas. Section 103 of our bill establishes a new program of direct grants to a public body which may be used to defray up to 15 percent of the capital expenses of a firm agreeing to locate or remain in a distressed area.

I must reassure my colleagues that our bill also provides additional funds for the more traditional purpose of public works and similar development facilities. But, Mr. President, the big dollars—the "real money" as they say—will go toward direct assistance to businesses. I am not decrying this trend. I am highlighting it as an important change in character of the Economic Development Administration and of Federal economic development efforts generally.

Now, Mr. President, I would like to get into the particulars of the bill before us. First I want to talk about money.

The authorizations in this reported bill are within the targets contained in the first concurrent budget resolution. Also, due to economies imposed by the Banking Committee, the bill is about $317 million under the adminstration's request. Furthermore, S. 914 as reported does not include a separate new program of inland energy impact assistance, which the administration requested and which was contained in S. 1145, reported by this committee on May 15. That bill met the Budget Act deadline and represented this committee's tentative effort to estimate the costs of extending the economic development program.

On the other hand, this bill will support a program significantly larger than what the Economic Development Administration presently operates. We provide budget authority 50 percent greater than the appropriation for this program in the current fiscal year. In addition, the bill authorizes EDA to guarantee $1.8 billion in private loans and such sums as necessary to cover defaults, in 1980 and the same in 1981. This is four to five times the value of loans EDA expects to guarantee this fiscal year. The bill before us increases grants for public works and economic adjustment projects from a level of $335 million this year to $615 million in fiscal year 1980 and $715 million in each of fiscal years 1981, 1982, and 1983.

The committee believes that these increases are justified by conditions of poverty and unemployment that characterize our inner cities on the one hand, and by similar conditions in some rural areas. It is also needed for flexible Federal assistance to help communities overcome sudden and severe economic dislocations. The bill also provides increases for planning, for technical assistance to communities and businesses, and for research and evaluations which contribute to promoting economic development. In sum, Mr. President, S. 914 authorizes $943 million for fiscal year 1980 and $1,016 million in fiscal year 1981 for all of these purposes. Similar amounts are provided for fiscal years 1982 and 1983, except for the development financing program in title II, which is only authorized for 2 years. At this point, Mr. President, I ask unanimous consent to have printed in the RECORD two tables that illustrate the breakdown of funds in S. 914.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

S. 914—NATIONAL PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AUTHORIZATIONS FISCAL YEARS 1980-83

[In millions of dollars]

	Fiscal year—			
	1980	1981	1982	1983
Economic development and adjustment grants	615.2	715.0	715	715
Sec. 106 (Public works: revolving fund, adjustment)	(555.2)	(600.0)	(600)	(600)
Sec. 304 (State grants)	(20.0)	(75.0)	(75)	(75)
Sec. 403 (10 percent bonus grants; economic development centers)	(40.0)	(40.0)	(40)	(40)
Other grants	99.78	105.0	115	125
Planning, technical assistance (sec. 305)	(89.78)	(95.0)	(105)	(115)
Research and demonstrations (sec. 303)	(10.00)	(10.0)	(10)	(10)
Business development financing[1]	227.923	195.920		
Direct loans	(150.0)	(150.0)		
Interest subsidies	(50.0)	(0)		
Reserve against default	(27.923)	(45.920)		
Administrative expenses[2]	62.181	NA	NA	NA
Total	942.903	1,015.92	830	840
Total including administrative expenses	1,005.084			

[1] Banking committee jurisdiction. Does not reflect $1,800,000,000 in loan guarantee authority (90 percent of face value of loans).

[2] Revised administration request. No specific limit on authorization.

Note: Sec. 17 of S. 914 authorizes a non-EDA program of grants to local education agencies for the construction of school facilities to assist in providing education to immigrant children, $45,000,000 to be available in fiscal years 1980 and 1981 is authorized to be appropriated to the Southwest Border Regional Commission for this purpose.

NATIONAL PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT—COMPARISON OF S. 914 AND PREVIOUS AUTHORIZATIONS

[In millions of dollars]

	Authorization fiscal year 1979	Appropriation fiscal year 1979	Administration request (S. 914) fiscal year 1980	S. 914 (as reported) fiscal year 1980
Public works and economic development and adjustment	670	334.5	595.2	615.2
Title I (public works)	(425)	(196.0)		(555.2)
Sec. 304 (State grants)	(75)	(20.0)		(20.0)
Sec. 403 (10 percent bonus; economic development centers)	(45)	(30.0)		(40.0)
Title IX (Special economic adjustment)	(100)	(88.5)		
Sec. 404 (Indian economic development)	(25)	(0)		
Planning, technical assistance, research	75	61.425	94.78	99.78
Planning (sec. 302)	(47)	(38.245)	(37.28)	(40.40)
Technical assistance (sec. 301)	(20)	[1](15.180)	(53.50)	(49.38)
Research and evaluations (sec. 301)	(8)	(8.00)	(4.00)	(10.00)
Business development	325	191.758	569.35	[2]227.923
Title II (loans and guarantees)	(325)	(21.0)		
Trade Act		(95.758)		
Appropriations		(75.000)		
Total	1,170	618.104	1,259.33	942.903
Administration		30.601	[3]62.181	

[1] Additional $19,400,000 for technical assistance to businesses included in Trade Act appropriation.

[2] Banking Committee jurisdiction. Does not reflect $1,800,000,000 in loan guarantee authority (90 percent of face value of loans).

[3] Revised administration request. No specific limit on authorization.

Mr. CHAFEE. Mr. President, I would like to say a few words about eligibility, which is of vital concern to every Member. In considering this bill we learned that, under current law, about 85 percent of the population in this country lives in so-called distressed areas. My opinion is this is a patently absurd proposition. Clearly, there is something wrong with the process of becoming designated for financial assistance under current law. Recognizing this, the administration proposed a new set of eligibility criteria which would more precisely define the characteristics of areas suffering economic distress. The effect of the recommended changes in the eligibility criteria is to simplify the procedure for designating areas, and to improve EDA's ability to target assistance to truly distressed areas.

In general, the revised criteria provide for recognizing: First, long-range economic distress; and second, anticipated sudden and severe economic dislocation. The new criteria identifying long-term economic deterioration have been simplified to four measures: low per capita income, high unemployment rates—both short-term and long-term unemployment—low employment growth rate, and high proportion of an area's population with income below the poverty level. This last criterion is an important indicator which will target assistance to areas where a large proportion of the residents have low incomes but where the conventional average income and unemployment statistics obscure this form of distress. In other words, poor people in healthy communities are targeted for assistance.

Under the present system, areas can become statistically qualified under nine overlapping and occasionally meaningless criteria. Even worse, Congress in 1970 enacted a moratorium on the process by which EDA redesignates areas, making them ineligible for financial assistance. Consequently a number of economically healthy areas continue to qualify for Federal assistance. Many of these areas became qualified when, for a short period of time during the last recession, a very loose unemployment criterion allowed easy designation. Thus at present there are 2,231 places eligible for EDA assistance. Of this number 823 areas do not meet any of the statistical tests contained in current law.

The new criteria proposed in this bill are simpler, better balanced, and better targeted to places with substantial economic distress. Using recent statistics, these criteria cover about 68 percent of the United States population compared to 85 percent under current law. On a commonsense level, this percentage may still seem far too high.

However, it is very important to remember that eligibility is not entitlement. Under this act EDA is given broad authority to target assistance to areas of severe economic distress where projects will directly benefit the unemployed and the poor. It is also important to note that the proposed bill phases out areas that are not statistically eligible under the new criteria. It does not cut them off in the middle of a project development process. Specifically, in fiscal years 1980 and 1981 EDA may continue to assist areas designated under the current eligibility criteria. Thereafter, however, assistance will be limited to areas designated under the new eligibility criteria. On the other hand, financial assistance for new programs created in this legislation—title II and sections 102 and 103—is limited to applicants in areas statistically qualified under the terms of this bill.

In addition to areas that qualify under the new criteria, other areas may receive assistance in special circumstances. In the first place, pockets of distress in otherwise healthy areas may receive assistance if they can demonstrate extreme need to the Secretary using statistical information peculiar to that area. Pockets of distress may be found in otherwise healthy cities or in particularly distressed areas of a rural county.

Second, the bill provides for the designation of adjustment areas. Upon application, the Secretary must determine that the area has recently suffered or is threatened with a severe economic adjustment problem. Furthermore the area must have the Secretary's approval of an economic adjustment plan to address those problems. Eligibility for adjustment assistance may be warranted by the closing of a major private employer or defense installation, by pollution control requirements, or when a community faces rapid growth associated with energy resource development.

An adjustment area may, or may not, be an area otherwise qualified for assistance as a redevelopment area. I should also note that adjustment assistance is limited to between 5 percent and 35 percent of the appropriations under title I of the act. Thus the maximum amount of money available for adjustment assistance is $194 million in fiscal year 1980 and $210 million in each fiscal year 1981 through 1983. As a practical matter, however, EDA expects that only between $40 to $50 million will be needed for adjustment projects.

Next, Mr. President, I would like to talk a little bit about one of the new programs authorized in this bill that I believe will be especially helpful.

Aside from the new and expanded loans, loan guarantees, and interest rate subsidies, which have been amply described by my colleagues from the Banking Committee, the bill before us includes two new programs. One of these establishes a grant program which will finance non-Federal revolving loan funds.

An eligible applicant—a State, a city, a county government, an economic development district—may apply for a grant to capitalize a revolving loan fund to encourage job-creating economic activity.

These activities include:

Loans for industrial land assembly and land banking;

Acquisition of surplus government property;

Acquisition of industrial sites or abandoned properties with redevelopment potential;

The rehabilitation of historical buildings for industrial and commercial use;

The rehabilitation of empty factory buildings for industrial and commercial use; and

Other investments which will accelerate the recycling of land and facilities.

Repayment of these loans must be placed in the revolving fund to be used solely for other loans to support the economic redevelopment of an eligible area. EDA has some experience with this kind of activity under its title IX adjustment program. This bill provides additional resources to expand this activity. On a parochial note I might mention that the industrial development corporation recently established by the city of Providence, R.I., is a good example of a candidate for this type of assistance. Next year EDA expects to spend up to $35 million on this program.

Mr. President, that concludes the comments that I have on the bill before us. My colleague, Senator BURDICK, and my friends on the Banking Committee have described for Senators other major parts of this legislation. By and large, I believe we have reported a good bill to the Senate. It is one which will be very beneficial to areas of economic distress in this country and will contribute to meeting the economic needs of all our people.

Mr. President, this is a measure that I believe deserves our closest oversight during the years to come.

For example, as the distinguished Senator from Wisconsin pointed out, under these eligibility rules, we really have something that seems a bit ridiculous. As he pointed out, under the current law, 85 percent of the population of the United States are considered to live in distressed areas. No matter how we slice it, I do not think that only 15 percent of Americans are not living in distressed areas and that the other 85 percent are living in distressed areas. I just cannot believe that.

We have tried to tighten up the criteria that characterize what, in effect, is an area suffering economic distress. Even so, when we are through with this measure, it only gets down to 67 percent, and that only after 2 years.

However, I believe the important point to make is that, even though this estimate of the vast percentage of the people of this country—67 percent—living in distressed areas seems foolish, nonetheless, I do believe there are sufficient restraints within the bill—fiscal restraints, for one—that prohibit EDA from granting assistance to areas that by no criteria are considered distressed.

Mr. President, I believe it behooves the Committee on Environment and Public Works to exercise a good deal of oversight over the EDA's administration of this act—and, indeed, all the measures we take up. One of the problems I believe we all encounter is that we are so busy wrestling with legislation, the wording of it, and reauthorizations, that unfortunately, we cannot give the time to oversight that we should .

Mr. RANDOLPH. Mr. President, with other members of the Committee on Environment and Public Works, I have been intensely interested in this subject as it affects our action in 1979 and in prior years.

I know the philosophy of the able Senator from Wisconsin who has spoken. I say this advisedly: I think we are fortunate in the Senate to have his expertise and understanding and commitment in the committee he chairs so well.

From time to time through the years, we have had colloquy on matters that have to do with public works—the Federal highway programs and others that fall into the category of assisting the growth of this country and the well-being of its people. I am sure the Senator from Wisconsin will not be too upset with me when I say that the opposition he expresses today is a continuing opposition. It comes not only in 1979 but also in the other years. I do not fault him for that. That is his conviction.

However, I do want us to know for the record that the opposition he expresses here is not something new. It has been his philosophy through the years, and I think we have to understand that as we bring this measure from the Committee on Environment and Public Works, and from the Committee on Banking, Housing, and Urban Affairs.

There were differences within our committee. There were very thorough hearings before the subcommittee chaired by Senator BURDICK. There were long sessions within the committee itself. If we want to use the voting process as an indication, there was within the committee a strong feeling that this was very important legislation and that it should be considered and passed in the Senate.

I take this opportunity to commend the 13 members of this committee who served with me, Democrats and Republicans. We who bring to the floor not a mish-mash of legislative history, but documented belief, supported by the hearings, which causes us to have the measure before us today in its present form.

This measure continues assistance to areas suffering economic decline or lack of growth. These programs are designed to create infrastructure so that a community can retain existing job opportunities and attract new employers to build a stronger economic base.

As an area begins to lose employment opportunities and drops from the economic mainstream, investment in new job creating enterprise is often difficult to obtain. The Public Works and Economic Development Act has since 1965 performed an important role in seeing that areas of our country receive assistance to plan and develop public works projects which encourage investment by the private sector in such communities.

The act, administered by the Economic Development Administration, has proved to be a catalyst in bringing together assistance for lagging areas and distressed places. That mission will continue under the bill reported by the members of the Committee on Environment and Public Works. The changes made by the committee in the program authority are more in the nature of refinements than substantive. The basic act is one that works and the committee chose not to adopt recommendations from the administration which would have substantially rewritten the program. Why alter the basic form of a program which has met needs of many areas for 14 years?

The changes recommended in the legislation under consideration consolidate public works grants and adjustment assistance into title I of the bill without radical changes in authority. The bill also improves and coordinates the planning process for economic development.

There are many agencies at the local and State levels which are involved in economic development planning. They receive funding from various Federal programs. This bill begins the process of requiring coordination in the planning efforts of these various bodies. The expectation is that one overall planning process can be developed from which investment decisions can be made by various Federal agencies which fund economic development programs. This is especially true of a coordinated effort between the regional commissions and the public works and economic development program. The bill specifically requires that coordination be undertaken by the Secretary of Commerce in the grant making decision process.

The most significant change, however, is in the eligibility criteria for the program. Under existing law approximately 86 percent of the population of the country is eligible for assistance under the Public Works and Economic Development Act. Through the legislation recommended to the Senate approximately 67 percent of the Nation's population ultimately will be eligible. This effort is a response to the need to target assistance more carefully to those areas suffering the greatest need. Under the criteria recommended by the committee, unemployment, poverty, per capita income, and rate of employment growth are the factors which will be examined to determine area eligibility. These are factors which measure the problem facing lagging communities and are the best measure of a continuing need for Federal economic development assistance.

This legislation affirms, in section 403 (a)(5), that all elements of the economy within economic development districts should participate in the development process.

In many areas such participation is assured by including representatives of the local business community, the long-term unemployed, and socially and economically disadvantaged minorities in the membership of district governing boards. EDA has, in fact, interpreted the law to require that district boards include such representation. I do not believe this to be a necessary interpretation.

It is possible, and may even be preferable, to assure participation of local businesses and the economically disadvantaged by other means than board membership. If districts can meet this participation goal in any other way, they should be permitted to do so. I see no reason why districts taking part in this program who can meet this goal with alternative to board membership should have to comply with the cumbersome waiver procedure currently required by EDA.

Mr. President, it is very important that we understand that there is hardly an area of the United States of America—Wisconsin, Rhode Island, Utah, all the States; not West Virginia alone or a dozen States, but all the States—that has not benefited from the economic administration of the program in the public works area.

I was thinking of EDA earlier today, how much it has meant to the smaller communities, not just the great metropolitan areas of our country. I am thinking now of Keyser in Mineral County, W.Va. That is the hometown of Mary, my wife, who has worked with me for a period of almost 35 years in various capacities in the House of Representatives and Senate. We often think of that hometown area in which she was born and what happened there. We were able to develop an industrial park through EDA assistance. What did that grant do? Did it just bring in a piece of land and acreage?

That grant and the subsequent development have meant much in that area of West Virginia, very, very much as the industrial park, the water and sewer lines, helped the plants, the factories of the area of which I speak.

Another important project funded by EDA was the Civic Center in Charleston, our State capital city. Completion of this facility will do much to encourage development of facilities in the downtown area.

Of importance to West Virginians has been the loan and loan guarantee program administered by EDA under this act. Important employers in several of our communities have remained open through the assistance of an EDA loan. Two of the best examples are a loan to Fourco Glass Co. in Clarksburg and Rockwell in Morgantown. These two facilities remained in operation because of the loan package put together by EDA. Jobs were saved and a strong employment base continued.

While the examples that I have cited are important, so too is the loan program undertaken by EDA to assist the steel industry in becoming a viable competitor with foreign companies. EDA has set aside $500 million in loan guarantees to assist smaller steel companies in meeting pollution control requirements and in modernization of facilities. These loan guarantees assure that smaller steel companies will be able to compete and continue to be employers in the areas in which they are located. Without this assistance several of these smaller companies may have failed. The result could have been catastrophic for local economies because of the loss of jobs and a reduced tax base.

With respect to loans under this program, the committee has clarified in section 702 the test for determining if EDA assistance will unfairly favor one company over another. The language inserted in section 702 will allow EDA to continue to fund through loans or guarantees those facilities in redevelopment areas which will retain existing employment. The Secretary of Commerce need only find that a significant increase in production of goods will not occur as a result of such a loan. This modification brings the statute into conformity with existing law.

Mr. President, this extension of the Public Works and Economic Development Act comes at a time when it is clear that the past program for declining or stagnant local economies are those with a long range goal of creating jobs and raising income. The programs authorized by this Act have demonstrated in all levels the soundness of this approach. Local officials and private citizens are involved in fashioning economic development plans which when funded bring forth new opportunities. I recommend to my colleagues the amendments to this Act from the Committee on Environment and Public Works.

I hope that the purpose of this legislation will receive the approval of the Senate and, ultimately, after a conference with the House, will be signed into law.

Someone may say, "Well, Senator RANDOLPH rises and he tries to rewrite again in other language the New Deal days."

There was nothing wrong with the New Deal days, nothing whatsoever wrong with them. Nothing was wrong with the programs that came out of the New Deal. They were created because there was a desire to help people, to help people to place the country on its feet.

That is what we continue to do here. It is not to scuttle the programs that have been effective, but through experience to bring into this body well-reasoned and productive legislation.

I appreciate the work of all the members of this committee. We have never allowed the surfacing of politics within the committee, never.

I commend Senator BURDICK, chairman of our Subcommittee on Regional and Community Development, for his efforts to bring this important bill to the Senate floor. Senator CHAFEE, ranking minority member of the subcommittee, is also to be commended, as is Senator STAFFORD the ranking minority member of the full Committee. I also thank all members of the Committee on Environment and Public Works for their diligence and enthusiasm as the committee brought forth this major 4-year extension of the Public Works and Economic Development Act.

I hope for the approval of the pending bill.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURDICK. Mr. President, I ask unanimous consent that the committee amendments in the nature of a substitute, except that language appearing on page 113, line 11, through page 113, line 25, and the language appearing on page 142, lines 3 through 11, be agreed to as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 486

Mr. BURDICK. Mr. President, I offer an amendment and send it to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from North Dakota (Mr. BURDICK) proposes an unprinted amendment numbered 486:
>
> On page 112, after line 12, insert the following:
>
> Sec. . Section 404 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3172) is amended by striking out the "and" following "September 30, 1978" and by inserting after "1979" the following:
>
> "September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983".

Mr. BURDICK. Mr. President, inadvertently the committee did not extend authority under section 404, Indian economic development. It was not our intention not to extend the guarantee providing the Indians are guaranteed $25 million each year from the appropriated funds.

The PRESIDING OFFICER. The amendment at this point is not in order, until all of the committee amendments have been disposed of. The only exception would be amendments to the remaining committee amendments.

Mr. BURDICK. Very well. Then we will offer it again.

There are no committee amendments pending.

The PRESIDING OFFICER. It is the understanding of the Chair that there are two remaining committee amendments.

Mr. BURDICK. There are none. There are amendments pending from the floor. There are no committee amendments.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURDICK. Mr. President, I move that the language appearing on page 113, lines 11 to 25, and on page 142, line 3 through line 11, be deleted.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BURDICK. Now, Mr. President, I will reoffer the other amendment I have previously sent to the desk.

The PRESIDING OFFICER. The Chair informs the Senate that with the disposition of the two remaining committee amendments, the amendment offered by the Senator from North Dakota from the floor is now in order.

Mr. BURDICK. Mr. President, inadvertently the committee did not extend the authority in section 404 under Indian Economic Development. There is no intention not to extend this provision. It provides that Indian communities are guaranteed $25 million each year of the appropriated funds.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Dakota.

Mr. CHAFEE. Mr. President, we have no objection.

The PRESIDING OFFICER. Without objection, the amendment (UP No. 486) is agreed to.

UP AMENDMENT NO. 487

(Purpose: To clarify the effective date of the act)

Mr. RANDOLPH. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. RANDOLPH) proposes an unprinted amendment numbered 487:
>
> On page 93, after line 17, insert the following:
>
> "(d) The amendment to Title II of the Public Works and Economic Development Act of 1965 made by this section shall not apply to any loan guarantee project for which a Guaranty Agreement is executed on or before September 30, 1979."
>
> On page 142, after line 11, insert the following:
>
> "Sec. . This Act shall become effective October 1, 1979, or upon enactment, whichever is later."

Mr. RANDOLPH. Mr. President, section 3 of the bill rewrites title II, development financing, of the Public Works and Economic Development Act. In the process, it makes a number of changes in existing law including the establishment of statutory limits on amounts which may be guaranteed; also, funds held in the economic development revolving fund currently authorized by section 203 of the act would be transferred to the Secretary of the Treasury.

This entire bill relates to authorities beyond the current fiscal year. It is, I believe, the intent of both the Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs that these changes should not be effective until fiscal year 1980 and should have no retroactive effect which might jeopardize projects now under development. My amendment would make it clear that these changes in the law would be effective on October 1, 1979, the first day of the new fiscal year, or on the date of enactment, whichever is later.

Another concern is that EDA has under negotiation or is committed by executed guaranty agreements to guarantee loans which may be drawn down by the borrowers in fiscal year 1980 and beyond. My amendment would make it clear that execution of a guaranty agreement by the agency is the operative date for determining the applicable law and that the changes in title II made by this bill would not affect any project for which a guaranty agreement is executed on or before September 30, 1979.

I ask the managers of the bill, Senator BURDICK and Senator CHAFEE, what is their feeling about this amendment? Would the Senator from North Dakota comment on the amendment?

Mr. BURDICK. I believe this is under title II, which would be under the jurisdiction of the Banking Committee. Senator PROXMIRE would be more familiar with it than I would be.

Mr. GARN. Senator PROXMIRE is not on the floor at this time. I see nothing wrong with this amendment. The Senator is only dealing with dates, with no substantive changes that I can see in title II. As far as the minority on the Banking Committee, I would have no objection to it, but I cannot speak for Senator PROXMIRE.

Mr. CHAFEE. As far as the minority is concerned, we are willing to accept the amendment.

Mr. GARN. I understand from Senator PROXMIRE's staff member that the amendment has been cleared with him.

Mr. RANDOLPH. I appreciate the comments of the Senator from Utah (Mr. GARN) and the minority manager of the bill from our committee (Mr. CHAFEE). I appreciate that these matters have been cleared. I did not realize Senator PROXMIRE was not in the Chamber.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I must say I rise today with considerably mixed feelings about this bill. There is no doubt that EDA has, in some measure, been extremely helpful to my State and many other States. There is no doubt that the managers of this bill and the committees which are handling this bill have done, I believe, a very workmanlike job and worked very hard in bringing us this legislation. I commend the Senator from North Dakota (Mr. BURDICK), the Senator from Rhode Island (Mr. CHAFEE), the chairman of the committee (Senator RANDOLPH) and the chairman of the Banking Committee (Mr. PROXMIRE).

In the comments I am about to make, I am not aiming at any of the committees or people who have brought this legislation before the Senate. I believe they have done an excellent job in every regard. But I am aiming at the Economic Development Administration and the way it operates.

What we have before us, Mr. President, in S. 914, the National Public Works and Economic Development Act of 1979, is a bill reauthorizing the EDA public works and business financing programs at considerably higher funding levels. There is little question that the programs contained in the legislation are important to the economic health and progress of the Nation.

Assuming that the various grants, loans, loan guarantees, and subsidies are administered in an efficient manner, considerable progress can be achieved in revitalizing our economically distressed regions.

So I am in concept, in spirit, and in philosophy, supportive of the programs in this bill.

However, I am deeply concerned that EDA may not have the expertise in whole, in part, or in any degree, to administer these programs properly.

I must say, Mr. President, I have been absolutely surprised, shocked, and disappointed throughout the Banking Committee's hearings and markup sessions on this bill. I was continually frustrated by the inability of top-ranking EDA officials who, even after I met with them 2 days before the hearings, were unable to provide any information at the hearing for thoughtful policy decisions. Requests at the hearings for data and other material brought few results. Requests were often ignored, or information was provided only after the longest possible delay. Broad, sweeping statements have time and again been substituted for detailed analysis. Members' questions were often, and I speak not for myself as much as I do for other members of the committee, left unanswered.

(Mr. EXON assumed the chair.)

Mr. HEINZ. The administration is asking Congress to significantly increase EDA funding levels and broaden its mandate. Program expansion should not be taken lightly at a time when we are trying to limit Government expenditures and move toward a balanced budget. Hard facts, clear justification, and detailed analyses are needed to make the decision, implicit in this legislation, of whether we will substantially expand funding for EDA's activities. Unfortunately, as far as I can tell, EDA has delivered none of the above, except a large bill which Congress and the taxpayers are expected to pay.

Let me be more specific for the benefit of my colleagues, especially for the members of the Committee on Public Works and Environment, who, I do know, want the EDA to perform at the highest possible level. During Banking Committee deliberations on this legislation, considerable debate centered on what size firms should receive development assistance. We had a considerable amount of testimony which centered on the growing realization that assistance should be targeted to small firms because they are central to job creation and because these businesses have the greatest amount of difficulty in gaining access to the capital markets.

Indeed, David Birch, of MIT, has found that firms with 20 employees or less created 66 percent—two-thirds—of all the new jobs created in the United States. Beldon Daniels, of Harvard, has concluded that corporations with less than $1 million in assets are excluded, for all intents and purposes, from both long-term debt and equity markets. In the light of these findings on small firms, the committee attempted to find out from EDA whether this kind of firm was the kind of firm receiving assistance. But what we found from EDA is that they do not have on hand the necessary data to make such determinations. In fact, we could not even get a consistent answer out of EDA on a suitable definition of a "small firm."

I finally asked EDA, during the committee's markup session, to provide some detailed information on the distribution of EDA's business assistance over the last 4 years. It turns out—I find this incredible, Mr. President—that the data maintained on firm size by employees, assets, revenues are simply not routinely maintained by EDA.

As a result, it took EDA over a month to obtain what has to be among the most basic data that any analyst could ever ask for. I conclude, therefore, that there is not one analyst at EDA who knows what he is doing, because they do not even have the information that the most elementary analysis would require. So, Mr. President, I question how EDA can even make rational decisions, let alone policy judgments, on its business assistance programs if it does not have the very basic data it needs.

In reviewing the material provided, which I ask unanimous consent to have printed in the RECORD, Mr. President, I have found it to be seriously flawed and, I am sorry to say, not particularly helpful.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—EDA BUSINESS LOANS AND LOAN GUARANTEES, DISTRIBUTION OF FIRMS AIDED BY NUMBER OF EMPLOYEES (FISCAL YEARS 1976–79) [1]

Number of employees [2]	Number of firms	Percent of firms	Loans	Guarantees	Amount of loans	Average loan	Amount of guarantees	Average guarantee	Percent of total aid	Jobs created [3]	Jobs saved [3]
A. 1 to 20	6	2.80	3	3	$2,090,000	$696,667	$4,806,000	$1,602,000	1.97	945	64
B. 21 to 50	29	13.55	22	10	8,827,558	401,253	4,265,950	426,595	3.75	1,474	590
C. 51 to 100	41	19.16	36	9	28,253,567	784,821	8,132,538	903,615	10.42	3,441	1,408
D. 101 to 250	59	27.57	43	24	41,980,730	976,296	19,820,500	825,854	17.69	6,806	2,821
E. 251 to 500	50	23.36	32	21	51,570,289	1,611,571	67,294,000	3,204,476	34.02	8,207	8,863
F. 500 plus	29	13.55	17	16	31,956,000	1,879,765	80,373,400	5,023,338	32.15	14,143	16,397
Total	214	100.00	153	83	164,678,154	1,076,327	184,692,388	2,225,209	100.00	35,016	30,143

[1] For fiscal year 1979 data includes loans and loan guarantees made through May 1979.

[2] Includes 56 firms with no workforce at the time of aid—either new ventures or businesses put back into operation. For those firms "Number of employees" is projected by the firm at fully operational level.

[3] Applicant estimates.

TABLE II.—EDA BUSINESS LOANS AND LOAN GUARANTEES, DISTRIBUTION OF FIRMS AIDED BY AMOUNT OF ASSETS (FISCAL YEARS 1976–79) [1]

Amount of assets (millions)	Number of firms	Percent of firms	Loans	Guarantees	Amount of loans	Average loan	Amount of guarantees	Average guarantee	Percent of total aid	Jobs created [2]	Jobs saved
A. Under $1	51	23.83	42	12	$34,884,513	$830,583	$13,429,200	$1,119,100	13.82	5,940	1,510
B. $1 to $5	88	41.12	70	30	58,250,151	832,145	32,824,288	1,094,143	26.16	10,068	6,622
C. $5 to $10	30	14.01	17	16	27,327,000	1,607,471	30,609,900	1,913,119	16.58	4,927	5,007
D. $10 to $25	29	13.55	18	13	38,834,740	2,157,485	46,539,000	3,579,923	24.63	5,647	9,705
E. $25 to $50	12	5.61	6	8	5,381,750	896,958	39,060,000	4,882,500	11.25	3,188	4,866
F. $50 to $100	2	0.94	0	2	0	0	14,400,000	7,200,000	4.22	2,452	2,433
G. $100 to $250	2	0.94	0	2	0	0	7,830,000	3,915,000	2.34	2,864	0
Total	214	100.00	153	83	164,678,154	1,076,327	184,692,388	2,225,209	100.00	35,016	30,143

[1] For fiscal year 1979 data includes loans and loan guarantees made through May, 1979.

[2] Applicant estimates.

TABLE III.—EDA BUSINESS LOANS AND LOAN GUARANTEES, DISTRIBUTION OF FIRMS AIDED BY AMOUNT OF REVENUES[1] (FISCAL YEARS 1976–79)[2]

Amount of annual revenues (millions)	Number of firms	Percent of firms	Loans	Guarantees	Amount of loans	Average loan	Amount guarantees	Average guarantee	Percent of total aid	Jobs saved[3]	Jobs created[3]
A. Under $1	23	10.74	16	9	$12,893,768	$305,861	$12,967,950	$1,440,833	7.40	5,271	1,536
B. $1 to $5	77	35.98	65	22	42,022,429	656,600	14,992,538	681,479	16.32	6,688	3,797
C. $5 to $10	37	17.28	25	16	26,868,575	1,074,743	27,733,000	1,733,313	15.63	4,596	2,375
D. $10 to $25	42	19.62	28	15	48,555,632	1,734,129	36,275,900	2,418,393	24.28	7,345	7,500
E. $25 to $50	21	9.81	11	18	14,456,750	1,314,250	54,743,000	4,211,000	19.81	5,241	8,764
F. $50 to $100	14	6.54	8	8	19,881,000	2,485,125	37,980,000	4,747,500	16.56	5,875	6,171
Total	214	100.00	153	83	164,678,154	1,083,275	184,629,388	2,225,209	100.00	35,016	30,143

[1] Revenues for new ventures and firms not operating at the time aid was granted are projected by the firm at fully operational level.

[2] For fiscal year 1979 data includes loans and loan guarantees made through May 1979.

[3] Applicant estimates.

Mr. HEINZ. Mr. President, Let us take a brief look at these statistics, and I think Senators will agree that they do not do very much—in fact, they do far too little—to answer our questions on the size of firms receiving EDA assistance. First of all, there is no correlation provided by EDA between the numbers of employees and assets and revenues. Accordingly, we are still confused over any acceptable criteria or the relationship between criteria for defining a small business.

Second, no statistics are provided on the age or the type of firm assisted. Lacking information on whether the firm is young or old, or involved in manufacturing, wholesaling, or retailing, it is impossible to target assistance to firms which are the most likely to grow and the most likely to create the largest number of new jobs. The lack of information on defaults also raises questions as to whether EDA is truly assisting firms with some risk or is merely substituting taxpayer dollars for private market capital.

We had a long discussion in the committee about EDA and it was suggested that the default rate that they were experiencing, which was relatively low, might be a measure of a typical bureaucratic failure to take any risks. When you are engaged in job creation, you can be pretty sure of one thing, that not every business is going to succeed—indeed, most small businesses do not—and that if you have zero risk, chances are, your net increment of gain in creating jobs is probably not far away from the same number—zero. So there is a considerable amount of subjective as well as objective evidence that, by having extremely low-risk levels and thereby protecting bureaucratic posteriors, what EDA is doing is merely substituting taxpayer dollars for private market dollars.

Third, Mr. President, a close examination of the statistics reveals that the information provided on jobs created and jobs saved is all applicant estimates—applicant estimates. I have nothing against applicant, but it seems to me inconceivable that EDA would not at least make, at one time or another, their own independent estimate on what jobs might be created or might be saved. Indeed, it seems to me incredible that EDA keeps no actual records at all—none at all—on actual jobs created or saved, even measured against what the applicants originally said.

Fourth, the data provided do not allow any correlation between the jobs created or saved and the percent of aid received.

Finally, in this chronicle of bureaucratic horrors and perhaps indicative of the effort EDA has put into the charts that I trust they made available to everyone, table III has the jobs saved and the jobs created columns confused—or at least, I hope they are confused because, if they are not confused, the totals in the other tables are incorrect and that will raise considerable doubt over the validity of all the other figures.

The committee may not want to know this, but I could go on citing inadequacies in this information somewhat indefinitely, but I trust that I am making a point. However, if I have not made a point, I am prepared to continue at greater length.

Let me say, Mr. President, that if the administration and EDA in particular, are going to testify on legislation, they must be prepared to provide detailed information on existing programs and the need for change. I, for one, frankly, am just not willing to spend a lot more money on behalf of our hard-pressed taxpayers based only on an agency chief's belief, his hope, his desire, that a program is working well. Simply because he is saying it is working well and simply because he says so or dreams that it is working well does not necessarily make it so.

We have done too much of that wishful thinking in this Congress over the years. I do not think my colleagues should be asked to legislate blindly.

If EDA cannot provide the materials needed for informed decisionmaking, I do not see how it can be so confident it can handle its fourfold increase in funding. I do not see how it can evaluate those programs or target its business assistance programs to those most in need and, therefore, be effective.

I can assure Senators that when it comes time to review this legislation, I will be asking these questions again. If EDA does not provide more suitable responses, we need to evaluate whether the Agency can handle its role in our economic development efforts.

Mr. President, I am happy to yield to the Senator from Utah.

Mr. GARN. I thank the Senator from Pennsylvania. I want to make two quick comments to follow up what the distinguished Senator is saying.

On June 7, the Banking Committee, at the request of EDA, adopted some revised eligibility requirements.

I have before me the booklet from them dated July 30, 1979, showing the effect of those revisions. It is rather thick.

We adopted the requirements and requested more information. It took them about 7 weeks to come up with what was asked to be done on June 7.

The Senator from Pennsylvania asked some questions of them, which the Banking Committee directed they answer within a week, and it took 5½ weeks for them to answer the questions.

Mr. HEINZ. If the Senator will yield, they said they would have the data within a week or two.

Mr. GARN. That is correct.

Mr. HEINZ. We asked for a week. They said, "We can do it in 2 weeks," and they took 5½ weeks.

Mr. GARN. This is one of the reasons I oppose this bill. Their past activities, even though we have had some great benefit in my own State, have been extremely inefficient and bureaucratic. Here we have a 63-percent increase in funding when they have not handled very well the previous appropriations.

I thank my colleague.

Mr. HEINZ. Mr. President, I think we really need to do something much more effective on EDA than we have done.

I want to ask the committee to what extent they are aware of these kinds of problems and what the committee might constructively do, or what we, together with the managers of the bill and the committee, might constructively do, because I think we all like to see the EDA program succeed, but I do not think we want to see it succeed in the way in which it is now succeeding, which is receding backward.

Mr. RANDOLPH. Will my colleague yield?

Mr. HEINZ. I am pleased to yield to the Senator.

Mr. RANDOLPH. I think what the Senator is saying is very salutary.

I do not want to indicate that I know the situations that developed with him individually, and members of the Banking Committee, because I do not know those facts. I presume, and have every reason to believe exactly, that what he is saying is true.

We have not had that problem within our committee insofar as I know. I have not heard that problem raised by members, individual members, of the committee.

I do say this, and I say it in no attempt to divert from the issue the Senator is addressing, which is very timely, but I find that I have difficulty in having a letter answered by the White House.

I send a specific request to the right person, I hope, to the President, and feel that the President will route it.

Mr. PROXMIRE. Will the Senator yield?

Mr. RANDOLPH. Yes.

Mr. PROXMIRE. I presume that trouble at the White House occurred before 1977, as well as since January 1977, is that correct?

Mr. RANDOLPH. I am going to say something about that.

Mr. President, as to one agency of Government, the Environmental Protection Agency, Mr. Costle, when he was before us, I said that I think he is a good administrator. Frankly, I have been able to work better with him than I have with the Department of Energy. He actually sits and talks with us and tries to work with us, rather than individuals who are, let us say, concerned with problems that have to do with possible creation of more energy and some of the restraints that perhaps they can discuss.

I want to come back, however, to the Environment and Public Works Committee. I did not write for myself, I wrote for the committee. But from EPA I have had no response in over 3 months.

This is another agency of the Federal Government. I find that throughout the agencies there sometimes is a failure to realize that we do not look upon ourselves here on Capitol Hill as demanding something. That is not the posture that I shall ever assume. But when I write a letter and ask for information from an agency, very frankly, the committee through its chairman has a right to have a reply. If the information is not available very quickly, a letter, certainly, should come in a few days saying that the information is being collected and we shall receive it.

I do not believe there is a Member of this Senate who has not had, in one way or another, the personal experience which the able Senator from Pennsylvania is discussing.

Now, someone might say back home, "Yes, but, Senator, you don't always reply to your constituents too quickly," and that is an actual fact.

There are times when there are pressures of work or the volume of mail is great.

A man called the other day. He said, "Jennings, I have not heard from you." I said, "When did you write me?" He said, "Well 3 days ago."

Of course, as the mails now move, I may have gotten the letter 7 days after its dispatch.

Mr. HEINZ. The Senator would be lucky.

Mr. RANDOLPH. We understand that.

I do not want to jump from Government to private business, but when the Congress turned over the postal system to business people, we thought everything would be all right. We all remember that. It was discussed here, that we take it out of Government and place it in the private sector and there would be a better administration of the mails.

I am not trying to leave the Senator's point. I am trying to come to it by way of saying that there are experiences which happen to us, the Senator from Pennsylvania and other Senators, which thoroughly illustrate the concerns that Senators have in this body.

Now, this is what I want to say. There is every reason to believe, and I shall follow through, not a year from now but weeks from now, I say to the Senator from the Commonwealth of Pennsylvania—they have all the wealth in Pennsylvania, that is why I used the word "Commonwealth"——

Mr. HEINZ. West Virginia has all the coal.

Mr. RANDOLPH. And we have all the problems.

But I say that as to Senator STAFFORD, although I have no right to speak for him, we are ready to not just have a namby-pamby review session, no. We are not ready just to have an oversight get-together. But we will ride herd—and I use the word advisedly, although, I am not from the West—we will ride herd on the agency officials in connection with the matters the Senator has mentioned. Information has a right to be in his hands and the hands of the committee, whichever committee may have jurisdiction.

Having said all this, I now come to a pleading position.

I hope the Senator, knowing of the reason for this legislation, the effectiveness of it in his own State and throughout the country in the past, will not allow this sort of situation, as real as it is, to deter him from voting for the measure. We make this promise, and I am sure that the Committee on Banking, Housing and Urban Affairs would want to move in concert with us: It will be done. It will be done.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. HEINZ. First, I thank the Senator from West Virginia, the distinguished chairman of the committee, for his very thorough understanding of these problems and his appreciation of the difficulties they pose for all of us. He is characteristically understanding and generous in his response, and I thank him for getting to the heart of the matter.

I particularly thank the Senator for his suggestion that there be some comprehensive oversight hearings on EDA. I believe this would be extremely valuable.

I had considered the possibility of a General Accounting Office investigation, but I think it would be better to wait and see what we might achieve through oversight.

It would be my request, if the chairman of the committee and ranking minority member would agree, that members of the Banking Committee submit, for the record, questions that will elicit the answers we are looking for to these problems. I have a list of approximately 11 areas of inquiry which I would like to share with my colleagues for the record.

Mr. RANDOLPH. May I interrupt for a moment?

I think it would be most appropriate and helpful, and I would advocate that members of the Committee on Banking, Housing, and Urban Affairs sit with us during the oversight hearings. I do not think it would violate any rules of the committee of which I am chairman. It has been done before. Frankly, I have been asked, as have other members of our committee, to sit in and even question witnesses. I want to make it that type of hearing which will adduce the facts.

The Senator does a service, not a disservice. He comes not as a carping critic; he comes in a constructive manner.

I hope that with this sort of agreement and understanding, we can have his support for the proposed legislation.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HEINZ. First, I thank the Senator from West Virginia for his constructive comments.

I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the Senator from Pennsylvania is a valued member of the Banking Committee, and he is a very vigorous member.

Of course, he knows that whatever requests he makes of the chairman of the Banking Committee will be honored, particularly a request of this kind.

I want the Senator to know that we do intend to have vigorous oversight hearings on those sections of the bill over which we have jurisdiction. We do not have jurisdiction over titles I, but we certainly will get into the development financing program authorized under title II. As an active and veteran member of the committee, we would expect the Senator from Pennsylvania to take an aggressive part.

Mr. HEINZ. I will.

Mr. PROXMIRE. Very good.

Mr. HEINZ. Mr. President, I am delighted to hear that we will have hearings on that.

I should like to set forth what I think are some constructive areas of inquiry.

First, development by EDA—absent to date—of a working definition of a small business, based on assets, revenues, employees, the sector of the economy in which that small business operates, and other relevant factors.

Second, we need a detailed analysis of EDA's past business financing efforts, examining the type and size of firms assisted, by category of type and size, and the impact on jobs created and/or saved.

Third, I think we need to know what types of firms are in the greatest need of various development finance tools.

Fourth, I think an assessment of the proper amount of risk that should be assumed by EDA is long overdue.

Fifth, a clearer examination of the role of the private sector in meeting the financial needs of small business firms would appear necessary.

Sixth, an assessment is needed of whether, in fact, EDA is the most appropriate vehicle to deliver the proposed development programs and whether they have adequate number of personnel, and whether the personnel are adequately trained to deliver the proposed programs.

Seventh, an assessment is needed of the kind of corporations eligible to receive this kind of financing.

Eighth, I think an analysis of whether NPWEDA's geographically targeting maximizes the impact of the programs must be carried out.

Ninth, we need an analysis of whether the financial assistance lowers costs sufficiently to change the location decisions of corporations.

Tenth, although this is not an all-inclusive list, I believe we need an analysis of whether EDA's business financing programs correct the critical market failures that particularly small businesses fall prey to.

Those are the areas where I hope we could elicit some detailed responses, thoughts, policy, and so forth, from EDA.

I hope that the Committee on Banking, Housing, and Urban Affairs and the Committee on Environment and Public Works, as we hold oversight hearings—as apparently we now plan to do—will require from EDA something much better than they have provided to us in the past.

I thank the Senator from West Virginia, the Senator from Wisconsin, and the Senator from Utah for their constructive comments and additions to the colloquy.

UP AMENDMENT NO. 488

Mr. GLENN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 488:

On page 90, between lines 6 and 7, insert the following new subsection (e):

(e) In order to permit the orderly phase-out of the special Economic Development Administration steel loan guarantee program, the limitations contained in subsections (a) and (c) of this section shall not apply during fiscal years 1980 and 1981 to any loan guaranteed under such program, provided that the aggregate amount of such guarantees shall not exceed $100,000,000.

Mr. GLENN. Mr. President, I support limitations on loan guarantee programs contained in S. 914.

I want to reduce Government spending wherever possible and to limit the scope of Government intervention in the private sector. However, such limitations should not disrupt economic development programs in progress—I repeat, economic development programs in progress—such as the special EDA steel loan guarantee programs.

That program is the product of the President's task force on steel known as the "Solomon Report." It addressed the serious long-term problems of those steel communities most severely affected by the steel crisis in 1977.

Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

In an effort to prevent the closing of facilities that could prove viable and the substantial economic dislocation these closings would cause, the Task Force recommends that additional funds be made available for the current and future budget of the Economic Development Administration of the Department of Commerce for industrial loan guarantees and continue to provide further appropriations for this loan guarantee fund in the next few years.

The Task Force suggests that steel firms meeting all of the following criteria be considered eligible for loan guarantees and be given priority: firms with serious financial problems, with little or no access to capital markets; firms seeking funds for modernization of plants located in areas of high and rising unemployment or threatened massive layoffs; and firms with viable plans for modernization.

The Task Force has examined the available alternative means for providing funds to smaller depressed steelmakers for projects that are economically justified. We feel the use of EDA loan guarantees is the simplest and most direct way to assure that viable modernization projects of these firms actually receive the funds necessary for their completion. These funds may be complemented to some degree by those now available in other government programs that relate to communities with steel making facilities that require, and can justify on an economic basis, modernization projects in steelmaking.

Mr. GLENN. Mr. President, the communities affected by the steel crisis of 1977 need a reasonable amount of time to develop programs in response to that crisis.

Among the communities affected by that crisis, the Youngstown community was among the hardest hit for nearly 5,000 steelworkers in Youngstown lost their jobs as a result of that crisis.

Moreover, the Youngstown community has demonstrated great courage and initiative in its efforts to develop an economic development program.

The Youngstown community was promised $100 million in a loan guarantee for a viable steel project in Youngstown in a letter from Mr. Robert Hall, Assistant Secretary for Economic Development, Department of Commerce, dated March 29, 1979.

Mr. President, I ask unanimous consent that his letter in its entirety be printed in the RECORD so that the RECORD will be complete on what the people of Youngstown have been depending on if they can get replacement for what they have lost there in the steel industry.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY FOR
ECONOMIC DEVELOPMENT,
Washington, D.C., March 29, 1979.

Most Reverend JAMES W. MALONE,
Chairman, Executive Committee, Ecumenical Coalition of the Mahoning Valley, Youngstown, Ohio
Hon. PHILLIP RICHLEY,
Mayor of Youngstown,
Youngstown, Ohio

GENTLEMEN: As Chairman of the Interagency Task Force appointed by Jack Watson to study the proposals submitted by the City of Youngstown and the Ecumenical Coalition of the Mahoning Valley, I am writing to inform you of our conclusions.

Although the Coalition's Plan is presented in three phases, we have evaluated the proposal for the first two phases as a single project, since almost everyone concerned agrees that Phase I is not viable for more than a few years without Phase II. In addition, since the first phase of the project would not involve steel-making facilities, it would not qualify for the program, which was established for basic steel producers. Only by including the proposed steel-making facilities in the project, can we qualify it for consideration at all.

The principal and overriding difficulty we have with your proposals is the eventual requirement for EDA guarantees of some $245 million, a sum which is well in excess of the $100 million amount which had been set as the maximum loan guarantee for any one company under the special steel program.

It may be helpful to review the history of the steel loan guarantee program, so that all concerned can better understand why it is virtually impossible to provide a guarantee of this amount. The possibility of a steel loan guarantee program was first raised in connection with the so-called Solomon Report, transmitting the findings of the Federal government in response to the serious problems facing the United States steel industry. The proposal to use the EDA program was somewhat unconventional since it proposed to use a revolving fund which had never previously been used to make or guarantee loans. Moreover, the scale of the program encompassing loan guarantees of $500 million for a single industry, was far in excess of EDA's previous experience. It was agreed by all those who had a part in the decision that the maximum EDA guarantee for any single company would be $100 million. Since that time, the Administration has further indicated its unwillingness to participate in large financing for private industry by limiting Federal participation to $50 million in programs other than steel, without Congressional approval.

Since the steel loan guarantee program went far beyond anything which had been envisioned at the time EDA's budget for the year had been approved by Congress, it fell within a provision in the reports of the appropriations subcommittees of both Houses which directed EDA to secure the approval of both appropriations subcommittees for any program changes which were significantly different from those which had been used to justify the budget. Where this approval was requested, both subcommittees required EDA to present testimony in justification of the steel program. EDA also testified on the program before the Trade Subcommittee of the House Ways and Means Committee.

Thus, EDA is on the record before Congress as well as the public at large with testimony stating that the agency would not approve any guarantees in excess of $100 million. It would be improper for EDA to approve $245 million in loan guarantees in the face of this record. This commitment to $100 million maximum formed the basis for my announcement last October that EDA would reserve $100 million in loan guarantees for a viable steel project in Youngstown. This commitment was confirmed by Jack Watson's letter of October 18, 1978.

EDA considered whether it ought to go to Congress and seek the approval of the appropriation subcommittees for the larger loan guarantees being sought in this instance. EDA has concluded that it should not go before Congress to seek approval for a project whose cost is so significantly in excess of the $100 million loan guarantee target and which lacks adequate assurance of economic viability.

It is important to note that the total amounts in EDA's revolving fund presently stands in the neighborhood of $250 million, of which some $100 million is required as a reserve for existing loans, either approved or under consideration. This leaves something in the neighborhood of $150 million for the project in question.

While it has been EDA's practice to obligate 20% of the amount guaranteed as a reserve, that practice is based on a large number of guaranteed loans averaging somewhere in the neighborhood of $2 million. We believe that it would be improper to set aside a similarly small percentage where a single loan guarantee, by itself, could wipe out the entire revolving fund in the event EDA was required to reimburse the lenders as a result of default.

Moreover, we are not considering a project where the chances of default are minimal. For reasons stated below, the prospects of default in this case warrant caution in committing resources. In fact, we have grave doubts about the viability of the project. These doubts go to the following issues:

1. *The availability of additional funds.* We believe that the opinion of the Coalition's financial counsel is so carefully hedged and conditioned that we cannot rely on its assurances that financing can be obtained. Indeed, EDA's own experience in the administration of its steel loan guarantee program leads EDA to the conclusion that the necessary additional equity funding could not be obtained.

With $245 million in loan guarantees requested, EDA's regulations require an equity of 15 percent, or over $36 million in equity. Even if the proposed UDAG and EDA grants, totalling $27 million, were counted as equity, a practice of doubtful propriety, and even if it were possible to raise $3 million in private purchases of stock as proposed, the project would be short an additional $6.75 million in equity funds.

Moreover, we believe that the capital cost estimates may be considerably underestimated. The allowance for contingencies is less than one percent, which allowance is far below standard practice, and particularly dangerous for a project where there are no recent price quotes for the equipment to be purchased. If additional capital funds are needed, it will become even more difficult to secure the necessary private funds.

2. *The market study.* While we agree with the general conclusion that the demand for steel will be strong in the years ahead, the only basic conclusion of the market study is that the reopened facility can sell its output if the price is competitive, the quality is good and delivery is reliable. It is our judgment that this means that the reopened facilities will regain markets slowly and over a long period of time as it establishes a reputation for a quality product and good delivery service. It is questionable whether the company will have the financial staying power to reach this point.

3. *Management.* While assurances have been provided that management is available, there is no documentation that a qualified in-depth management loan can be assembled for this project.

4. *Financial feasibility.* We believe that the financial feasibility of the project rests largely upon assertions about increased labor productivity which cannot be documented. We admit that a strong case has been made, but the expectation for cost savings through increased labor productivity remains only a hope. The proposal puts too much at risk on the basis of this hope. The financial studies do not make allowances for cyclical swings in the steel industry and there is little likelihood that the weak financial posture of the new company could withstand any extended period of heavy losses due to a downturn in the steel industry. It should be emphasized, however, that even if these doubts about the viability of the project were to be resolved by further work and research, the project, as presently conceptualized, cannot be funded under EDA's steel loan guarantee program because of the $100 million ceiling.

We recognize and are sensitive to the large amount of devoted, intelligent and skillful effort which has gone into the development of this project. There are few efforts more worthy of sympathetic support than those which go to the alleviation of unemployment, particularly when those who are unemployed have had so many years of faithful service to a particular industry. We commend the Ecumenical Coalition and the City of Youngstown for their valiant efforts to find a way by which the Campbell Works can be reopened. While we cannot encourage continued efforts along the lines of the present proposal, consistent with Jack Watson's letter of October 18, 1978, we are willing to continue to reserve $100 million of our authority to guarantee loans for a viable steel project in the Mahoning Valley, either in connection with the Campbell Works or on some other site. Jack Watson has asked that I advise you of his and my willingness to meet with you to discuss in detail the basis of our decision and alternative approaches to meet the needs of the Mahoning Valley.

We stand ready to work with the Coalition and the City to develop and find appropriate financing for other proposals directed toward the alleviation of the area's unemployment. It should be noted here that EDA has provided $700,000 for the preparation and administration of an economic development recovery plan. A revolving loan fund of $1 million to help small business has been made available to the Western Reserve Economic Development Agency. A number of proposals for new industries in the area are under consideration, and we plan to continue working closely with you and other local leaders to bring these proposals to reality.

EDA is also supporting activities which deal with the long range future of steel production in the Mahoning Valley. These include research on coking capability, direct reduction facilities and establishment of a research center utilizing the available blast furnaces. It is still too early to know whether any of these proposals are viable, and if so, when they can be put into operation.

While it is disappointing to realize, after so much effort and community commitment, that there seems to be no viable plan for the reopening of the Campbell Works, we believe that these other efforts can result in restoration of economic health to the Mahoning Valley.

To that end, we pledge continued cooperation and support from the Federal agencies. We will continue to work with you and with other community officials and leaders to attain our common goal—the relief of excess unemployment in the Mahoning Valley. If you desire to meet with us, please call me at 202-377-5081.

Sincerely,

ROBERT T. HALL,
Assistant Secretary for Economic Development.

Mr. GLENN. Mr. President, this amendment insures that the Government's commitment to Youngstown, one that they have taken very, very seriously, will be kept and provides for an orderly completion of the special Economic Development Administration steel loan program.

It is my understanding that this amendment is acceptable to the managers of the bill, and I am prepared to yield back the remainder of my time after whatever appropriate comments the Senator from Wisconsin wishes to make.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. PROXMIRE. Mr. President, it is my understanding that this particular amendment goes to a section of the bill, section 208, over which the Banking Committee has jurisdiction and a considerable amount of interest.

I might say to my good friend from Ohio that I congratulate him on the amendment. I think it makes sense under the circumstances. I will accept it, but I am reluctant because, as the Senator knows, one of the main purposes of title II of this bill is to target the financial assistance to small- and medium-sized firms. They need the assistance most. It is certainly most difficult for them to get the capital they need. Therefore, the bill places dollar limitations on the amount of loan guarantees and direct loans to any one firm and the size of company to be assisted.

But I understand that this section raises a problem for the ongoing Economic Development Administration (EDA) steel loan program. As the Senator says, it is a loan program in progress. He wishes to make sure that a project already well underway will not be interrupted because of this action we are taking today, and particularly not for one specific project which is unable to qualify for a guarantee before September 30, 1979. The steel program was supposed to end on that date, after which the new act will go into effect.

This amendment, as I understand it, would permit an exception to the limitations in section 208 for this one steel project only. I wish to emphasize that that is a very narrow exception. It applies only to this one steel project. The exception is limited to $100 million in loan guarantee authority to be available during fiscal years 1980 and 1981. Is that correct?

Mr. GLENN. This is to the community and not to an individual steel company. It would be for the community in its attempts to try and get replacement for the company that has closed down there.

Mr. PROXMIRE. That is fine. In fact, I think that makes it more acceptable.

I certainly have no objection. Although I am, as I say, reluctant to open this up, because we do want to have these limitations, I congratulate the Senator on a very needy and necessary amendment and I am happy to support it.

Mr. GLENN. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I will not take the Senate's time other than to say I concur with what my distinguished chairman of the Banking Committee has stated. We did have a limit in our bill of $50 million but because of the narrowness of the exemption going to $100 million I will also accept it.

Mr. GLENN. I thank the distinguished Senator.

Mr. RANDOLPH. Mr. President, will the Senator from Ohio yield?

Mr. GLENN. I yield.

Mr. RANDOLPH. Mr. President, how many workers were employed in the Youngstown steel company?

Mr. GLENN. There were 4,650 who were laid off their jobs and, of course, when you double this or triple it, depending on what the multiplier factor is on jobs in the whole community, it was a real blow to the Youngstown community when that situation developed.

Mr. RANDOLPH. That is true, and we have had that in varying degree even in other areas where steel plants are in operation or frankly in the process of being closed.

I do not want to bring into this debate the problems that we have had with dumping of steel into this country from overseas at prices less than it costs to make the steel in Japan. Our steel caucus, of which the Senator from Ohio is a valued member, and the Senator from Pennsylvania is a member, with some 35 Members now of the Senate, has attempted to work and successfully so that those steel imports have dropped 35 percent in the first 3 months of 1979 over the first 3 months of 1978.

But here is the situation that is different in degree, but it was caused frankly, I am sure, in substantial degree because of the dumping of the steel from overseas. Is that correct?

Mr. GLENN. That is correct.

There are some hopeful signs in the steel community, as the distinguished Senator from West Virginia, who has taken such an active part and lead in the steel caucus, knows. The steel industry has had some protection and is recovering. So there are hopeful signs in that area.

I think that perhaps it might even be we might even say that the odds of some of these loans being exercised are perhaps receding and I hope that is the case because I want to see businesses developed there. I think it is good that we are diversifying apart from the steel industry perhaps in some of those areas.

Mr. RANDOLPH. I thank the Senator. Although the matter is within the jurisdiction of the Committee on Banking and Currency, from the standpoint of the Committee on Environment and Public Works, not only in connection with this measure, but also personally as well, we are in approval of the amendment.

Mr. GLENN. I thank the distinguished Senator from West Virginia for his comments.

Mr. CHAFEE. Mr. President, the minority has no objection to this and commends the Senator for his amendment.

Mr. GLENN. Mr. President, I am prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

(Putting the question.)

The amendment was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. STAFFORD. Mr. President, I yield, asking unanimous consent that I not lose my right to the floor, to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Dennis Sheed and Ed Twilley, of Senator THURMOND'S staff, be accorded the privilege of the floor during the consideration and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I suggest a time limit as follows: 1 hour on the bill, one-half hour on amendments, and 40 minutes on an amendment to be offered by Mr. STEVENS, divided in the usual fashion.

I will withdraw that.

Go ahead with the amendment. I yield back the floor to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

UP AMENDMENT NO. 489

(Purpose: To assure that this Act is not utilized for the purpose of stream channelization)

Mr. STAFFORD. Mr. President, I send an unprinted amendment to the desk and ask that it be stated and for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) proposes an unprinted amendment numbered 489.

On page 72, line —, insert the following: at the end of line 11, strike the period, then insert a semicolon and the following:

"and

"(g) No grant shall be made under this title for any project having as its principal purpose the channelization or dredging of any natural watercourse, or the construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historical site) and having as its permanent effect the channelization or dredging of such watercourse or construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historical site)."

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, the amendment which has just been stated and is being immediately considered seeks to prevent the use of EDA funds for stream channelization.

Mr. President, one of the most environmentally destructive activities is the channelization of the streams. While it may be done occasionally following careful environmental and congressional review, I believe it is generally a poor practice. We certainly should not encourage its use, and this amendment provides for such a limitation. This restriction, I might add, is similar to language included in section 106(a) of the Public Works Employment Act of 1976, which is Public Law 94–369.

Mr. President, I offer this provision to be consistent with the Senate's past insistence on adequate protection of our water resources.

Mr. President, I urge the adoption of the amendment and I believe the managers of the bill may be in position to accept it.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. BURDICK. Mr. President, I would like to ask the Senator a question about this amendment.

Mr. STAFFORD. Certainly.

Mr. BURDICK. As the Senator well knows, he is the sponsor and author of the small low-head dam electrical generation in the area, and I was wondering if his amendment would in any way interfere with that development.

Mr. STAFFORD. In the opinion of this Senator this amendment in no way would interfere with the construction of low-head hydroprojects where a project already exists and is being refurbished and put back into use as a generating facility.

I would call the attention of the distinguished manager of the bill to the fact that I deleted from the amendment the words "damming, diversion" in two different places in the amendment to assure myself and the Senator that this amendment is not intended to make it difficult or impossible to construct any low-head hydroprojects in the future that have not yet been developed but which we might want to very well develop in view of our energy shortages today.

So were the amendment to make it impossible to develop low-head hydroprojects in the future, should we wish to find some way to do that, I would not be able to offer the amendment, and I make that as part of the legislative history.

Mr. BURDICK. As a further question, part of the Senator's language reads, "One of the most environmentally destructive activities is channelization of streams." I would like to have the legislative history developed here to indicate that that does not include, let us say, snagging of a river to make a hydrosite possible.

Mr. STAFFORD. The amendment, in the opinion of this Senator, would permit the clearing of underbrush that may have fallen into a water course so long as the water course itself is not altered. So if I understand the word "snagging" it would permit the snagging of a stream.

Mr. BURDICK. In other words, you can assure the Senate that there is nothing in your amendment that would impede the development of these low-head hydro dams.

Mr. STAFFORD. That is correct.

Mr. BURDICK. I have no objection.

Mr. CHAFEE. Certainly, the minority of the Public Works and Environment Committee has no objection.

Mr. GARN. Mr. President, I will not object to this amendment because I think the outcome is clear. Even if I did I know it would pass easily.

But I do want to express concern over the language which states "channelization is one of the most environmentally destructive activities." This would be an absolute prohibition of ever using the money for such projects which disturbs me.

The situation may be different in Utah. I do not like channelization, but sometimes channelization includes projects that do not have great environmental impacts but that prevent destruction from flooding.

While I would not object, I want to make the point that just to bar channelization and say it has adverse environmental impacts, is not correct. Some people who have been flooded in the dry desert areas in my State where streams run rampant, would not be convinced that channelization would always be bad environmentally.

Mr. STAFFORD. I am sure the distinguished Senator has in mind that in this piece of legislation we are only talking about channelization where EDA funds might be employed in the reconstruction of existing low-head hydroprojects that are no longer being used, and I did not want to offer an amendment which might in the future make it impossible for other low-head hydroprojects to be developed which do not now exist.

Mr. GARN. I understand that, so I will not object. I just wanted to express my concern.

Mr. STAFFORD. I presume all time has been yielded back? At least I yield back mine.

The PRESIDING OFFICER. There are no time restrictions, so it is not necessary to yield back time.

Mr. STAFFORD. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 490

(Purpose: To assure adequate public and environmental review of projects under this Act)

Mr. STAFFORD. Mr. President, I have another brief amendment I would like to get action on at this time. I have an unprinted amendment which I send to the desk and ask that it be stated and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) proposes an unprinted amendment numbered 490:

On page 119, at the end of line 3, strike the period, then insert a semicolon and the following:

"and

"(14) determine whether the projects proposed for the Secretary's approval are consistent with federal, state and local environmental regulations and plans, and have been developed with adequate public participation in the planning process. The Secretary shall have a *minimum* of 90 days in which to review any proposal under this Act. Approval shall not be granted until the Secretary has consulted with relevant Federal departments and agencies, has issued adequate public notice, and has solicited and reviewed public comments.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, the amendment which I sent to the desk and which has been read and is under consideration, clarifies the section on the "powers of Secretary," enabling the Secretary to carry out a public works program so that it is compatible with the requirements of other Federal laws. We need to be certain that this legislation will not undermine the laws the Congress has enacted for the protection and improvement of environmental quality.

This amendment requires that any project under the act shall involve local planning, and must also involve review of Federal, State and local environmental laws and regulations.

The provision gives the Secretary a minimum of 90 days to review proposals, a time needed to assure that the process under the National Environmental Policy Act has time to run, and making that NEPA information available to the public and the Secretary. And, it is important that the Secretary be required to undertake adequate public reviews.

This amendment, I believe, would be consistent with the action of the Senate yesterday when it incorporated protection for the National Environmental Policy Act into the Appalachian Regional Development bill.

Mr. President, I move the adoption of the amendment.

Mr. GARN. Mr. President, I do have some concerns about this amendment. I just received a copy of this for the first time. The amendment states: "The Secretary shall have a minimum of 90 days in which to review any proposal under this act." Now, in all of the testimony we heard, one of the biggest problems was delays and bureaucratic redtape, fueling the inflation in project costs, while trying to get these projects underway.

I do not know where you draw the line, but to make a blanket 90-day time for review will only add to that problem. There are some very small projects, and to go to this 90-day minimum review period for all projects will not serve such purpose. Much as I respect my distinguished friend and colleague from Vermont, I am not willing to agree to the language of a 90-day minimum on every single project assisted under this act, regardless of how big or how small. So I will insist, as it is written, that we have a rollcall vote.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. STAFFORD. Certainly.

Mr. BURDICK. I was concerned about the same sentence, that "the Secretary shall have a minimum of 90 days in which to review any proposal under this act." Of course, the purpose of this bill is to get movement, to stimulate the economy.

Now, as I read that language there is no maximum. That is a minimum; there is no maximum. It might take longer than 90 days to get this together; would this not involve unnecessarily delaying projects?

Mr. STAFFORD. In the opinion of the staff, it will not involve any unnecessary delay.

Mr. BURDICK. We are not talking about maximal; we are talking about minimal.

Mr. STAFFORD. Yes, Mr. President, it may be that we need a minute to confer. I would be willing, subject to my right by unanimous consent to resume on this amendment, to temporarily set it aside so that the Senator from Ohio (Mr. METZENBAUM) might proceed with an amendment he has.

Mr. METZENBAUM. I am very grateful to my friend from Vermont.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 491

Mr. METZENBAUM. Mr. President, I call up an amendment that is at the desk and ask unanimous consent that the names of the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Vermont (Mr. LEAHY) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM), for himself, Mr. LEAHY, and Mr. WILLIAMS, proposes an unprinted amendment numbered 491.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, after line 24, insert the following:

(3) Whenever notice is given of an anticipated closure or realignment of any military installation under 10 U.S.C. 2687, the Secretary shall provide, upon application, appropriate technical or other financial assistance under this section, including planning funds, for the purpose of preserving or creating jobs in the affected area. Notwithstanding any other provision, this section shall apply to any military installation closure or realignment which has been announced under 10 U.S.C. 2687 and which has not been completed upon date of enactment of this act: *Provided, however,* That no assistance under this section may be provided that is otherwise available through programs administered by the Office of Economic Adjustment in the Department of Defense.

Mr. METZENBAUM. Mr. President, the amendment I am offering is designed to provide special assistance to local communities who are affected when the Department of Defense announces it plans to close a military base or installation. I have been informed that this amendment is acceptable to both the committee majority and the committee minority, and the Department of Commerce has informed me that it does not oppose this language.

The Department of Commerce, through its Economic Development Administration, has assisted many communities that have been hit with the closing or realinement of a military installation. But for a variety of reasons, many such communities that need and deserve the assistance that EDA can provide are simply not getting that help. In my State of Ohio, the Defense Department has announced that it will close military installations in Columbus, Dayton, and Cleveland involving more than 4,000 jobs. Yet at this time, EDA is not involved in local efforts to save civilian jobs in those areas and to help revive those local communities except in the case of Dayton, where EDA officials are involved in an overall effort to revive the area following the loss of over 5,000 jobs at the Frigidaire plant.

Under this amendment, the EDA will be required to provide technical assistance and, if appropriate, planning funds and financial aid to a community which is hit with a base or installation closing. In my opinion, EDA is the most appropriate agency to provide that assistance. The agency has a wide variety of assistance programs, both to help revive a community that has suffered from a short-term economic setback and in those cases where communities need assistance for long-term economic development.

The need for this language is best illustrated by the closing of the Rickenbacker Air Force Base that is currently underway in Columbus, Ohio. Earlier this year, the Department of Defense announced that it will close almost all of the military operations of that facility, a move that will affect over 1,700 military personnel and another 400 or more civilian employees. But that is only the direct economic loss. When the ripple effect of that cutback is felt through the local community, there will be an overall loss of at least 3,000 jobs. The Columbus area has already been hit in the past year with the closing of the Federal Glass plant, which resulted in the loss of 1,600 employees and by the administration's decision to stop production of the B–1 bomber, which resulted in the loss of hundreds of jobs at the nearby Rockwell International plant. There is no question that the Columbus area has been hard hit by these independent Federal actions and needs assistance under EDA programs.

The people of Columbus have not been passive about these cuts. As soon as the community was notified that the Rickenbacker Air Force Base was to be closed, a community task force, chaired by Dr. Sherwood Fawcett, who is president of the Battelle Memorial Institute, was formed in an effort to save jobs and revive the local economy. As a result of those efforts, the task force is now engaged in an attempt to utilize the abandoned Air Force site as a new air-industrial park which would serve as a magnet to attract new private firms to the area.

Mr. President, here is a community that has been hit by the closing of a military base and which has attempted to get back on its feet, but still it is not getting assistance from EDA. Any long-term recovery will require assistance of the type that is available under EDA programs, including sewer and water systems, access roads, planning and engineering studies and runway improvements. At this time, the local task force has not even received assistance in the planning efforts.

Following my inquiries this week, I have been informed that Robert Hall, Administrator of the EDA, will personally examine these developments at Rickenbacker. I expect to hear from him on this matter by the end of the week and at that time I am hopeful we can get EDA to assist the Columbus efforts. I am very pleased with EDA's willingness to cooperate on this matter. But I am offering this language to prevent such a lapse from occurring in the future and to require that EDA provide appropriate levels of assistance when such base installations are closed or realined.

This amendment will also assist other Ohio communities, and communities throughout the country, that have been notified of military installation closings. In Cleveland, where the Defense Department has announced plans to realine the Defense Contract Administration services region headquarters, efforts are already underway to save the 500 jobs that will be lost by that move. I support efforts to keep that military installation in Cleveland, but at the same time we should provide every assistance possible to help reduce the negative impact that such a cutback would have on the local economy.

Local businessmen and community leaders are already involved in efforts to strengthen that economy, and this amendment will greatly assist those efforts. Similarly, the Defense Department has announced plans to eliminate about 600 jobs at the Defense Electronics Supply Center (DESC) in Dayton. We have been fighting with the Defense Department for over a year now to keep those jobs in Dayton, because the Defense Department has not made a good case to transfer them out of Ohio. But efforts are underway to assist that community. Both because of the DESC closing and the loss of the Frigidaire plant, and this amendment will assist in those efforts as well.

Finally, I would emphasize that this is not intended to duplicate or circumvent the work that is currently being performed by the Department of Defense Office of Economic Adjustment (OEA). Instead, it is intended to supplement those efforts. At the present time, the OEA hires an outside consulting firm to draw up an economic plan for a community that has a military installation closed, but that agency does not have a variety of programs at its disposal to implement those plans. Under this amendment, local communities can get assistance from EDA to develop their own economic strategy, and, significantly, those communities will be working with EDA to tailor their recovery plans along the lines that will best allow them to take advantage of the EDA programs. By working with both EDA and the Defense OEA, local communities that are hit with military installation cutbacks will be in a much improved position to rebuild their local economies.

I am informed that this amendment is acceptable both to the majority and the minority.

Mr. BURDICK. Mr. President, will the Senator yield for a question?

Mr. METZENBAUM. I yield for a question?

Mr. BURDICK. In your language, you say "the Secretary shall provide, upon application, appropriate technical or other financial assistance."

Does the Senator interpret that as a mandate?

Mr. METZENBAUM. It is a mandate only to provide assistance, but it does not mandate the kind of assistance. It might be financial, it might be planning, it might be some other kind of cooperation. It mandates the EDA to move in, but it also has an exception at the end providing that if other assistance is available by the Office of Economic Adjustment or the Department of Defense, then the EDA would not be called upon for this assistance.

Mr. BURDICK. In other words, the word "appropriate" there involves also discretion; it still lies with the Secretary?

Mr. METZENBAUM. That is correct. The Senator from North Dakota is correct.

Does the Senator from Rhode Island——

Mr. CHAFEE. Mr. President, this amendment is revised as the Senator from Ohio and I discussed it, as I understand.

Mr. METZENBAUM. That is correct.

Mr. CHAFEE. To provide that the Secretary shall provide appropriate technical or financial assistance?

Mr. METZENBAUM. That is correct.

Mr. CHAFEE. Fine. The minority has no objection to the amendment.

Mr. GARN. Mr. President, may I ask a question of the Senator from Ohio?

The PRESIDING OFFICER. Does the Senator from Ohio yield?

Mr. METZENBAUM. I yield for a question.

Mr. GARN. Does the Senator's amendment also apply to financial assistance under the development financing title, or only title I?

Mr. METZENBAUM. Only title I.

Mr. GARN. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 491) of the Senator from Ohio.

The amendment was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I would like to express my appreciation to the Senator from North Dakota handling the bill, to the Senator from Rhode Island representing the minority, and to my good friend the Senator from Vermont for permitting me to go forward.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Vermont.

Mr. STAFFORD. Mr. President, we need another minute. I suggest the absence of a quorum.

Mr. TSONGAS. Mr. President, will the Senator withhold that, and yield to me for a statement on the bill generally?

Mr. STAFFORD. Will the Senator indicate how long his statement might be

Mr. TSONGAS. Under 30 seconds.

Mr. STAFFORD. Mr. President, the Senator from Vermont again will be glad to have his amendment temporarily set aside, without losing his right to bring it up again. I make that unanimous-consent request so that I may yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator may yield to the Senator from Massachusetts. It is not necessary to set aside his amendment.

Mr. STAFFORD. I thank the Chair.

Mr. TSONGAS. Mr. President, I want to express my strong support for S. 914, The National Public Works and Economic Development Act of 1979, and for the business development finance program, which is contained in title II of the NPWEDA legislation. The business finance program holds great promise for our Nation's distressed urban and rural areas.

I think it is vital to view this legislation in the context of the urban policy announced by President Carter 16 months ago. I would point out to my colleagues that so far the urban policy has produced only one significant economic stimulus program to create new jobs and promote new business activity in areas experiencing economic decline—the urban development action grant program. I am pleased that the Senate has approved an increase in funding for that program. I hope that we can approve this important second piece of economic development legislation today.

The business finance program has one major goal—to create new private sector jobs in distressed areas.

In hearings on the legislation, Prof. Beldon Daniels of Harvard told the Senate Banking Committee that if fully funded, the EDA program would have assets equivalent to the 60th largest bank in the country.

In designing a limited Federal program that would have impact in a private capital market in excess of $1 trillion, the Banking Committee considered the following factors:

Targeting to areas which need new private sector jobs to reverse economic decline.

Targeting to firms which create new jobs.

Providing firms with assistance which is not available in private markets.

This legislation is far from perfect, but I feel that we have made some progress in each area.

First. Targeting to distressed areas. My personal view is that targeting assistance to 68 percent of the population is not strict enough. The UDAG program targets to roughly 32 percent of the population, and I would like to have seen the same guidelines for EDA. However, I urge the Senate to adopt the 68-percent figure, which has been agreed upon by both the Banking and Public Works Committees, and which reflects the administration's request. At this point, our real effort will be to prevent our distinguished colleagues on the House Public Works Committee from broadening eligibility even further. It is important that we take a firm stand on the issue of targeting if we are to deliver assistance only where there is real distress.

Second. Targeting to firms which create new private sector jobs. Research shows that the overwhelming number of new jobs are created by small firms. The business finance program contains a number of provisions which target funds directly to those firms. No more than 10 percent of the EDA program funds can be used to assist firms with more than $50 million in assets. Within that scope, there are further limitations on the amount of assistance that EDA can provide to a firm for one transaction, and on the total amount of assistance a firm can receive for multiple transactions. The legislation provides EDA with some flexibility in this area, but makes it clear that EDA must begin to direct the majority of funds to small firms.

Third. The provision of assistance which is either unavailable or too costly in private markets. The major portion of assistance provided under this program is in the form of loan guarantees. However, the legislation also provides direct loans and a small program of interest subsidies to be used in assisting firms which cannot obtain private financing even with the loan guarantee. These three categories of assistance are for fixed asset and operating capital. Senator Heinz and I have also included a provision which will allow EDA to test the feasibility of providing equity financing to small firms.

This type of assistance is almost completely unavailable to small firms in today's private markets. I am hopeful that EDA will move quickly to implement this program, and that it can be fully funded in future years.

Finally, language which I included in the report accompanying this legislation directs EDA to decentralize the business finance program, using the resources and capabilities of State and local public and private development corporations. Senator Riegle and I have offered an amendment to this legislation requiring EDA to report to the Congress on the specific mechanisms which can be used in the future to decentralize the business finance program further.

I congratulate Senator Proxmire and his staff for the excellent work they have done on this legislation. I think it is more effective than the administration's proposal and will have greater impact. It is a good first step toward a truly comprehensive economic development program for the creation of new jobs in distressed areas.

Mr. President, I ask unanimous consent that a letter from James M. Howell, senior vice president of the First National Bank of Boston, relative to this measure, be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The First National
Bank of Boston,
May 22, 1979.

Hon. William S. Moorhead,
Rayburn House Office Building,
Washington, D.C.

Dear Congressman Moorhead: I am writing to express my views on the EDA reauthorization legislation, HR 4099 and 4100, now before the Subcommittee on Economic Stabilization. This legislation is of particular concern to me in my capacity as Chief Economist of The First National Bank of Boston, the largest bank in New England. From this special vantage, I have witnessed first-hand—and documented through numerous empirical surveys—the economic problems of our older industrialized cities, specifically the sharp decline in manufacturing capital spending. Moreover, during the past five years, I have taken part in several task forces which have examined business development financing in the context of local economic development and regional capital market needs.

In my view, the issues raised in the legislation under consideration by your subcommittee are national, not regional in scope. Let me briefly explain why. A study entitled Urban Fiscal Stress, released by the Bank and Touche Ross and Co. in March, showed quite dramatically that older industrially aged cities are most likely to be fiscally stressed. The root cause appears to be stagnation in the local economy.

The study further revealed that industrially maturing cities are found in significant numbers in all regions, and that the potential for economic stagnation is not a unique feature of one region. I emphasize this point because the need for improved business development financing tools to strengthen stagnating local economies—the heart of the debate over this year's EDA reauthorization legislation—should not be seen exclusively, or even largely, as a regional issue.

Before turning to my specific comments on the legislation, I would like to state emphatically that, in my view, EDA is the appropriate agency to administer the new financing provisions set forth in both bills. The legislation provides for a consolidation and better coordination of existing programs with which EDA has had considerable experience, while avoiding the government layering and likelihood of greater inefficiency in capital markets that would arise from the creation of a National Development Bank. I might add that EDA loan programs are well known among businessmen in the Northeast as having the fastest turn around time among Federal loan programs and the last cumbersome regulations.

In the remainder of this letter I want to raise five points of special concern pertaining to the EDA reauthorization legislation.

First, geographic targeting is of paramount importance if the array of business financing tools in HR 4099 and 4100 are to benefit areas experiencing decline as a result of disinvestment. Ironically, legislation which seeks to hasten economic growth could be detrimental to distressed areas if the eligibility net is spread too broadly. For example, if 90 percent of the country were deemed eligible for assistance—as in the version of the bill voted by the House Public Works Committee, HR 2063—businesses might well make use of the loans, loan guarantees and other financing provisions of the legislation to locate out of older cities in favor of those growing areas which are also eligible. Similarly, there would be little incentive for start-ups to take place in areas encountering long-term distress if the new capital development tools could be utilized elsewhere.

In short, I am arguing for refinements in the spatial targeting under the legislation. I support the EDA statutory criteria which would encompass roughly 60 percent of the country, and am hopeful that refinements via administrative guidelines would provide further adjustments in targeting to distressed urban areas. To be sure, a politically appealing program is often one which maximizes eligibility. Nonetheless, in terms of program effectiveness the more targeted criteria are clearly preferable.

Second, there is another dimension to the concept of targeting which goes beyond the spatial allocation of capital. Namely, new business development financing mechanisms must also respond to identifiable gaps in capital markets. HR 4099 and 4100 meet one of two distinct capital gaps identified by our research at the Bank: the nonavailability of long-term debt financing for small- to medium-sized business firms. These are firms that do not have access to the bond market because of a lack of recognition and shorter track record. Traditional sources of financing, such as insurance companies, show little interest in financing these firms because of the costs involved in packaging and servicing their smaller capital needs. Moreover, banks often view these firms as nonbankable because of a banker's preference for short-term lending.

The EDA reauthorization legislation would make long-term financing more readily available to these firms. The direct loans will help meet the financing needs of small- and medium-sized firms, while the loan guarantees will encourage lending facilities to give longer-term loans to less established business firms.

Third, HR 4099 and 4100 only indirectly recognize what we have identified as a second important capital gap: the shortage of equity funds for new business start-ups. In the past decade, there has been a prolonged weakness in the equity market which has all but closed off the new issue market for small firms. As a result, venture capitalists have been frozen into their start-ups, unable to recycle their money and engage in new start-ups.

Congressman Robert Edgar has sought to require EDA to use a portion of the R&D money authorized in the legislation for experiments in equity financing. The EDA reauthorization legislation passed by the House Public Works Committee, HR 2063, as you know, allows but does not require EDA to engage in such experimentation. Whether through statutory language or administrative action, I would strongly encourage EDA to use a sizeable portion of its R&D funds for innovative uses of equity financing. I personally believe that the payoff for small- and medium-sized businesses would be substantial.

Fourth, this legislation would be particularly helpful to small businesses, the very firms which have proven to be the greatest source of job growth in the central cities during the '70's. Recent studies have shown that fast-growing small firms are more likely to be influenced by capital incentives in their locational decisions than other kinds of firms. These new small firms initially undergo a difficult survival period and the rate of failure is remarkably high. Their need for capital is great and while all firms look for the same advantages in locational decisions, these rapidly growing firms cannot afford to scatter production facilities. Consequently, they depend heavily on supporting infrastructure and services already in place, typically found in the more highly-agglomerated cities.

Both H.R. 4099 and H.R. 4100 are far more geared to the needs of these small businesses than was the National Development Bank legislation introduced during the 95th Congress. In particular, the sums authorized for direct loans, the higher loan guarantees, and direct technical assistance are especially attractive to small, less well-established firms.

Moreover, working capital is provided in both bills, another improvement over earlier development banking legislation which included only capital for fixed assets.

H.R. 4100 is more closely targeted to small businesses, although its substantially lower funding levels would make less capital available in the aggregate to these firms than would H.R. 4099.

Finally, I would like to call special attention to those components of the legislation which facilitate the leveraging of public capital to increase private investment.

The provision of development grants to localities to help defray the cost of a private investment project—through land acquisition, site preparation, development of commercial or industrial facilities, or infrastructure improvements—necessitates a close working relationship between the private and public sectors.

My recent experience studying the economic development process in eleven older industrialized New England cities—and the role of the commercial banker in particular—demonstrates that in those communities where revitalization efforts have been successful, there is a strong public-private sector partnership.

This partnership has effectively exploited opportunities to maximize private capital investment through leveraging governmental funds and packaging a variety of loan and grant programs available to both municipalities and businesses.

The opportunities for leveraging and packaging funds in the program design of the business development financing provisions are a unique strength of this legislation.

A number of additional issues and proposed changes have been raised during the deliberations of the Senate Banking Committee and The House Public Works Committee. I hope, however, that timely enactment of the EDA reauthorization legislation, largely along the lines of the Administration bill, will be the outcome. In this connection, I am well aware of the concern voiced over the needs for more information on the capital requirements of small- to medium-sized businesses, as well as the importance of capital as a factor in business locational decisions.

To this end, the Economic Department of The First National Bank of Boston in conjunction with The First National Bank of Minneapolis and Continental Bank in Chicago, has launched a mail-out/mail-back survey of approximately 20,000 manufacturing and non-manufacturing firms in the Northeast and Midwest. The survey results will yield new insights into the pattern of spatial location, capital availability and the asset structure and financing needs of businesses throughout the country. This information could be used by EDA in implementing the new business development financing provisions of the reauthorization legislation.

Nonetheless, the compelling issue today is the passage of this legislation. Distressed areas, especially older central cities, in all parts of the country, sorely need fresh business investment. Small- to medium-sized businesses have a clear need for the kinds of incentives provided in this legislation, and we should not overlook the possibility that passage of this legislation will help to restore the momentum towards a national urban policy.

In closing, I look forward to furnishing you and members of your Subcommittee with additional information, as your deliberations on this important legislation continue.

Sincerely

J. M. HOWELL.

Mr. TSONGAS. I thank the Senator from Vermont.

Mr. RIEGLE. Mr. President, will the Senator yield briefly?

The PRESIDING OFFICER. The Senator from Vermont has control of the floor.

Mr. RIEGLE. I wonder if the Senator from Vermont will yield to me for a question.

Mr. STAFFORD. I will be glad to do that. We are in the process of preparing a change in an amendment that the Senator from Vermont has offered.

Mr. RIEGLE. All right. I, too, would like to insert in the RECORD my statement in support of this legislation.

Mr. President, the Senate now has before it S. 914, the National Public Works and Economic Development Act of 1979.

This bill would reauthorize the programs of the Economic Development Administration. It would consolidate and greatly expand the Nation's ability to address persistent problems of our economy.

It would help correct the problems of economic decline or lagging growth of many local economies. Some areas suffer from chronic decline. Some are burdened by persistent underdevelopment and low income. Others show signs of incipient economic deterioration. Still others have highly localized and concentrated economic distress in otherwise stable and growing areas.

These are problems for the Nation. They leave the Nation with underutilized resources and manpower. They undermine the confidence that private firms need if they are to take full advantage of business opportunities before them. They can also weaken the ability of U.S. firms to compete in international markets.

These are problems that require a national response. Some are created by major developments in technology, some are caused by profound changes in international trade, others result from Government policies or imperfections in the private markets. Most of the solutions are beyond the resources of individual firms or State and local governments.

I am pleased that I could participate in bringing this bill before the Senate.

The programs that would be authorized by this bill are programs that work. I know they have worked in my State of Michigan.

In project after project I have seen a relatively small amount of Federal assistance from EDA serve as the catalyst for much larger investments by private firms and State and local governments. I have seen how these programs have helped turn the tide in economically distressed localities to build new confidence and make possible new growth. I have seen jobs saved and I have seen new jobs created.

These achievements do not come easily. But I am sure that most, if not all, of my colleagues have also seen specific instances where the EDA programs work.

It is always hard to demonstrate conclusively what would happen if we did not have a particular Federal program—especially when that program is underfunded and stretched thin as EDA has been since its inception.

However, a 1979 study of B. F. Kiker and Randolph C. Martin of the University of South Carolina found that counties receiving ARA–EDA (Appalachian Redevelopment Administration and Economic Development) assistance were demonstrated to have faster growth rates than their counterpart counties in the same regions. During the pre-ARA period of the 1950's, the growth rate of the pre-aided counties was lower than the unaided groups. This result demonstrates a definite association between EDA assistance and the rate of economic development.

The study also found a significant relationship between the amount of aid a county receives relative to its economic size and its level of economic development. There is a direct link between the degree of EDA assistance and the degree of economic growth.

The proposed bill will give this agency the capacity to influence large amounts of private resources through the effective use of a relatively small amount of public funds. Even in this time of budget constraint, this program is one that warrants full funding. And the first budget resolution targets would accommodate that funding.

This expanded program will provide a variety of business development tools.

Direct loans will make credit available to firms which are either considered risky or lack adequate access to local bank resources. Loan guarantees will reduce the lender's risk of loss on a loan, and will make lenders more likely to charge a lower rate of interest and set a longer term. Interest subsidies will enable EDA to encourage private investment in distressed places where such investment would not otherwise occur. Grants to local public entities to defray up to 15 percent of the fixed asset costs of eligible private sector projects will provide important cost savings to firms at those critical times when they are either starting up or in the process of expanding. And technical assistance grants will aid firms in improving their management and planning capabilities.

This bill would expand the programs of EDA so that they will more nearly match the program needs. This is productive spending, spending now to avoid spending in the future. By increasing the productivity of stagnant declining local economies and creating jobs for the structurally unemployed, it reduces over time the need for "welfare" spending and addresses the problems of people and places in the least inflationary fashion possible.

I strongly support this bill and urge my colleagues to vote for it.

I wonder if I might also say to the Senator from Vermont, I do not know how long his amendment is going to take. The Senator from Massachusetts and I have a minor amendment which is prepared to be accepted, which at some point we would like to offer. I do not want to delay the Senator from Vermont if he is ready to go, but if he is not, maybe we can do it in a minute or two.

Mr. STAFFORD. The Senator from Vermont does not want to stand in the way of progress; so once again I ask unanimous consent that my amendment be temporarily set-aside, and I yield without losing my right to the floor to the Senator from Michigan.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Chair recognizes the Senator from Michigan.

Mr. RIEGLE. I thank the Senator very much, and will be brief. If this develops into something that will require some time, I will ask that it be taken down, so that the Senator from Vermont will not be delayed.

UP AMENDMENT NO. 492

Mr. RIEGLE. Mr. President, I ask that the clerk report an amendment I have sent to the desk on behalf of myself and the Senator from Massachusetts (Mr. TSONGAS).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE), for himself and Mr. TSONGAS, proposes an unprinted amendment numbered 492:

On page 123, line 5, insert the following:

Mr. RIEGLE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 123, line 5, insert the following: after the period: "Not later than March 1, 1980, the Secretary shall transmit to the Congress a detailed report reviewing plans for implementing Title II, Section 303, and Section 401 of this Act.

(1) plans for delegating decisionmaking to regional offices of the Economic Development Administration for the purpose of cutting down on processing time and making the programs authorized under this Act responsive to local development needs;

(2) plans for using, as appropriate, the resources of State and local development financing agencies, multi-State agencies, financial institutions, private investment companies, and such other entities as may be designated by the Secretary;

(3) actions taken by the Secretary to implement research and demonstration programs, including the equity financing demonstration program, pursuant to Section 303; and

(4) efforts undertaken to assure the effectiveness of regulations to provide for targeting the assistance authorized under this Act according to Section 206(a)."

Mr. RIEGLE. Mr. President, I am joined in offering this amendment today by my good friend and colleague on the Banking Committee (Mr. TSONGAS).

Our amendment makes no substantive change in the bill now before the Senate. It directs the Secretary of Commerce to report to Congress by March 1, 1980, on her plans for implementing the business development financing programs that will be authorized by this legislation.

This amendment reflects my conviction that this is very important legislation. In my judgment, this legislation will benefit local communities, it will strengthen the national economy and it will invigorate productive partnerships across the country among private business, States, localities, and the Federal Government.

Mr. President, because of its promise, this legislation poses a challenge to the administration and to the Congress. The task of implementing the programs that are authorized by this bill will be difficult. The programs require a myriad of sensitive decisions that match long-term development strategies with the needs of local economies which differ profoundly from one another.

I want to state, Mr. President, that the present leadership of the Economic Development Administration has earned my deep respect. I am pleased to note that they recently have told the Congress that—

By the end of the first quarter of fiscal year 1980, EDA will have an operational delivery system that will:

Rely heavily upon private lenders for loan processing,

Make maximum use of local and State planning and development agencies and other development organizations for project development and loan packaging.

Delegate decisionmaking to the EDA regional offices to cut down on processing time, and

Use a simplified set of processing procedures.

The top administrators of EDA recognize the profound implications that this legislation has for the agency's organizational structure and decisionmaking procedures.

I believe Congress should lend visibility and force to the efforts of EDA management. The policies included in this legislation and the actions to implement these policies are integral parts of the same national initiative.

Mr. President, when I came to the Congress 13 years ago, my training and experience had been in management in the private sector. During my years in Congress, I have noted with concern that those in Government tend to behave as if policymaking and program implementation can be considered in isolation from one another.

The pressures on us here in the Congress and the chronic turnover in the top levels of the executive branch greatly complicate efforts to form program policy and carry out program implementation as one enterprise. The issues of program implementation by their nature require detailed, long-term attention.

Nevertheless, Mr. President, I am sure that sound public action on complicated problems such as those addressed by this bill, will result only if those who form policy remain sensitive to the demands of policy implementation.

There are, of course, important distinctions between the responsibilities of the executive branch and the legislative branch. Those distinctions must be maintained. I am troubled by the tendency to involve the Congress formally in detailed review of program regulations and in second-guessing of administrative decisions.

Mr. President, the important new initiatives included in this bill require an ongoing dialog between the Congress and the administration. I believe that the report requested in my amendment would be a useful part of that dialog.

The programs authorized by this bill are very important to me and I look foward to that dialog. I intend to involve private businessmen, public officials, and others from my own State of Michigan in that dialog.

I yield to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, with the passage of this legislation, EDA will undertake a number of important new initiatives.

Program resources will be targeted not only to areas of distress, but to small firms wishing to remain or relocate within those areas.

A program will be undertaken to test

the feasibility of equity financing for small firms.

Current efforts to use the capabilities of local development finance agencies will be expanded.

This amendment will provide for a report on the implementation of new EDA programs, and will allow both EDA and the Congress to assess ways in which EDA assistance can be delivered more effectively.

Clearly this is an important bill. It is important that we be able to assess which way it is going. I thank the Senator from Michigan for his initiative on this amendment.

Mr. RIEGLE. Mr. President, it is my understanding that both sides have been sold on this proposal, and are prepared to accept this amendment requiring a report next March.

Mr. RANDOLPH. Mr. President, may I respond?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. I think that perhaps the State of Michigan, in a sense, has had as much upheaval from the standpoint of unemployment as any State in the Union. We do know that in Michigan, with its impact of unemployment in the automotive industry and other industrial situations, EDA has been helpful with this problem. That is true, I am sure, in the Commonwealth of Massachusetts as well. I ask the Senator from Massachusetts, is that not so in his State?

Mr. TSONGAS. Yes, it is so.

Mr. RIEGLE. Profoundly so in Michigan.

Mr. RANDOLPH. Yes. I feel that this amendment is a perfecting or strengthening amendment, and we are ready to accept it, as I understand; is that correct?

Mr. CHAFEE. Mr. President, I would like to ask the sponsors of this amendment a couple of questions.

First, going to the last line of their amendment, and I will direct these remarks to the Senator from Michigan, if I might read (4):

> efforts undertaken to assure the effectiveness of regulations to provide for targeting the assistance authorized under this act according to section 206(a).

Section 206(a) solely refers to the criteria which are to deal with title II. Yet they have these criteria applying for the targeting of assistance authorized under the entire act. I would suggest that for the words "this act" they substitute "title II," rather than the entire act.

Mr. RIEGLE. I will accept that modification, and ask that our amendment be so modified to reflect the change as suggested by the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. Will he send his modification to the desk?

The amendment, as modified, is as follows:

> On page 123, line 5, insert the following after the period: "Not later than March 1, 1980, the Secretary shall transmit to the Congress a detailed report reviewing plans for implementing title II, section 303, and section 401 of this Act—
>
> "(1) plans for delegating decisionmaking to regional offices of the Economic Development Administration for the purpose of cutting down on processing time and making the programs authorized under this Act responsive to local development needs;
>
> "(2) plans for using, as appropriate, the resources of State and local development financing agencies, multi-State agencies, financial institutions, private investment companies, and such other entities as may be designated by the Secretary;
>
> "(3) actions taken by the Secretary to implement research and demonstration programs, including the equity financing demonstration program, pursuant to section 303; and
>
> "(4) efforts undertaken to assure the effectiveness of regulations to provide for targeting the assistance authorized under title II according to sections 206(a) and 401."

Mr. RIEGLE. The amendment, with that change striking "this act" and inserting "title II" has been noted.

Mr. CHAFEE. Mr. President, if I might direct a couple more questions to the Senator from Michigan, I was a little reluctant to place Secretaries in positions where they must come forward with detailed reports on various subjects at specific times. It seems to me it presents problems in paperwork and in straitjacketing Secretaries into performing functions which perhaps are not totally necessary. Nevertheless, I can understand the thrust of this amendment. Furthermore, since it deals with title II, which is a Banking Committee provision, I would be interested to hear from the Senator from Utah.

I was wondering if the Senator from Michigan discussed this with the ranking member of the Banking Committee, the Senator from Utah.

Mr. RIEGLE. Yes, the Senator advises that that has been done. Senator TSONGAS and I are both on the Banking Committee. I can report that he has no objection to this.

Let me also say in response to the Senator that in his first comment he has spoken like a true former Secretary, concerning the lament about reporting requirements which I am not totally unsympathetic with. But I believe it is important to note here that EDA has indicated that they have set for themselves certain specific performance objectives by the end of the first quarter of fiscal 1980. They have indicated that they will have an operational delivery system in place at that point. They have spelled out several things that they intend to have accomplished by that time. All this would do is to make sure that they stay on that track. It would have them convey to us a report at that time which will simply bear out the fact that they have accomplished what they have announced as their intentions. So it really imposes no new requirements. It is simply a way for us to make sure that we are on track.

I offer this amendment as a strong supporter of EDA. I believe it actually puts us in a position to give them greater support. In other words, it is an affirmative connecting link and not in any way designed to be a contentious amendment. I speak as a strong supporter of the program.

Mr. CHAFEE. Mr. President, I note that it is a one-shot deal. In other words, the Secretary just makes this report on March 1, 1980. It is not continuous.

Mr. RIEGLE. That is exactly right. It is only because it is a new addition. This is a major, new approach. I would like to see it move toward a heavier partnership with the private sector. I believe if they can make this change, it is a reasonable step to make. But the point is I think we need to know how it is going. I think they should know that we are not only paying attention to what their intentions are but we want to sit down with them at a fixed point up the road at a time of their own choosing, when they say they want to have this implemented. It creates the kind of positive oversight connecting link which is good for them and good for us.

Mr. TSONGAS. Will the Senator yield?

Mr. RIEGLE. I yield.

Mr. TSONGAS. Let me give an example. One of the new phenomena is the development of private, nonprofit, and quasi-governmental institutions which tend to be much more effective in channeling Federal moneys toward private sector investment. We have tried to get EDA to look at these institutions and perhaps use them as a viable channel for their funds. This amendment is a way of making sure that EDA's review and analysis of this proposal takes place in a timely fashion rather than waiting for the authorization to come up the next time.

Mr. CHAFEE. I would like to address another question to the sponsors of the amendment. I have the concern that when the report comes forward the Secretary will be, in accordance with paragraph 3, delineating the actions taken to implement this program. I have some concern that when this is all set down on paper, people in the Senate might squabble over the division of the pie. In other words, has everybody gotten their little bit? I am not suggesting that that is the objective of the sponsors, but I am just worried whether, when the information comes before us, we will want equal geographical distribution, whether we will want it spread around in such a fashion that it may not be really achieving the goals we are all seeking through this title II. Will the Senators direct their answers to that?

Mr. RIEGLE. I think we both want to comment. I will yield to the Senator from Massachusetts.

(Mr. STEWART assumed the chair.)

Mr. TSONGAS. I think this legislative history will be important because we are not looking to issues such as geographical distribution. We are looking at concepts and how the concepts are evolving. That is what the report will include. I do not want to speak for the Senator from Michigan, but I do not believe this will get into the kinds of concerns that the Senator from Rhode Island was just voicing.

Mr. RIEGLE. Also, these organizational changes involve changing in part the delivery system. Those are always difficult things to implement. I want to make sure it is working. I would want the

RECORD to be clear that this is not aimed in some way at trying to press in on the question of how funds are divided, although I might also say we all have an interest in that. I would not want to see us basically take the reverse presumption that says that a lack of knowledge of things is somehow more helpful to us than having knowledge. In other words, I think we are better off, especially when we are implementing a new approach, to be able to keep track of how it is going.

As I say, I am a supporter of this program. I fight for its funding in the Budget Committee, I fight for its funding in the Banking Committee, and I will be doing so later today in the Budget Committee. So I rise as a friend of this legislation. But to better the linkage here between the Congress and these new initiatives can only help. To have the information at the time when they say they will have this implemented I think is not an unreasonable request.

Mr. CHAFEE. Mr. President, I have no objection. The minority has no objection.

Mr. GARN. Mr. President, representing the Banking Committee minority, I have no objection to this amendment.

Mr. RIEGLE. I thank the Senators. I know of no objection on the majority side.

Mr. PROXMIRE. That is right. I have no objection. I am happy to accept it.

Mr. RIEGLE. I thank the Senators. Therefore, there being no objection, I ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question occurs on amendment No. 490.

Mr. STAFFORD. Mr. President, unless the Senator from Michigan wanted to say something, I shall suggest the absence of a quorum.

Mr. RIEGLE. If the Senator will withhold that, I just want to be clear that the amendment has been adopted.

The PRESIDING OFFICER. The amendment of the Senator from Michigan has been adopted.

Mr. RIEGLE. I thank the Senator from Vermont for his courtesy in allowing us to do this.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 493

(Purpose: To permit eligible recipients to use Federal grant funds to acquire surplus Federal Government property)

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. There is an amendment pending. It will take unanimous consent to set that amendment aside. It is the amendment of the Senator from Vermont.

Mr. CHAFEE. Mr. President, I think the amendment of the Senator from New York is very brief. It has been agreed to. I suggest that, with unanimous consent, we proceed with the amendment.

Mr. RANDOLPH. I agree with that, Mr. President.

Mr. JAVITS. Mr. President, I ask unanimous consent that the amendment may be considered and that it may temporarily displace the pending amendment, which will immediately follow.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 493:
>
> On page 67, line 6, add a comma after the word "improvements" and insert the following "including surplus Federal Government property,"

Mr. JAVITS. Mr. President, the purpose of this amendment is to make available aid in a redevelopment area plan according to section 101 of title I of the bill, Federal grants for the purpose of acquiring surplus Federal property. Though the law is not explicit on the subject, the present policy of the EDA is not to allow such grants to be used for that purpose.

Mr. President, the purpose of the amendment is to get the most out of these grant dollars because, in many cases, there are many parcels of surplus Federal property—shipyards, air and naval bases—which are closed, which could be modernized and renovated and made available again for a fraction of the cost of building brandnew facilities. So, really, we are dealing with an opportunity clause as far as the Federal Government is being concerned, its objective being to get these properties used for redevelopment purposes. It is defeating itself when a nonprofit organization or a municipality simply is unable to find the the money for the purpose of acquiring that property for that purpose under every one of the conditions of the law and utilizing it, simply because the only kind of money it has is grant Federal money under this law and from the EDA.

Mr. President, I have, in New York, a very specific example; I am sure it is true in other places. The Brooklyn Army Terminal has a great potential to be used for warehousing and other industrial development, two large buildings totaling 4 million square feet. The city of New York estimates that if it could acquire the property and cause it to be used for redevelopment, it could create 1,200 new jobs for each 1 million square feet renovated, and the terminal could be an important source of industrial development for years to come. It is prohibited from doing it because of EDA's policy, which is based upon the law, though, as I say, not specifically in words under the law.

It is for that reason that I have discussed this amendment, Mr. President, with the managers of the bill. I have discussed it as well with the agency itself, the EDA, and I believe it is acceptable to them. I hope the managers can accept it.

Mr. RANDOLPH. Mr. President, we have studied the amendment offered by the able Senator from New York (Mr. JAVITS). We believe that what he is doing is a further practical way to approach the use of those surplus properties, whatever they may be, that can well benefit people. That is the intent of the Senator, is it not?

Mr. JAVITS. It is, Mr. President.

Mr. RANDOLPH. With that intent, and the language properly drafted, I am very happy to have the majority accept his proposal.

Mr. JAVITS. I thank the manager very much.

Mr. CHAFEE. Mr. President, as I understand the amendment, the property so acquired would be owned by the eligible applicant, namely, the public body, be it a State, a city, or county, whatever it is.

Mr. JAVITS. That is correct.

Mr. CHAFEE. Subsequently, the eligible applicant might lease it out to a private firm, but the ownership would be in the eligible applicant?

Mr. JAVITS. That is exactly right, and it would only be as an element of the redevelopment plan.

Mr. CHAFEE. Mr. President, the minority of the Environment and Public Works Committee has no objection.

Mr. BELLMON. Mr. President, will the Senator yield for a question?

Mr. JAVITS. I yield.

Mr. BELLMON. Mr. President, I have not seen the amendment. Does the amendment apply only to parcels of real estate? Would it apply to surplus property, also—say, trucks, bulldozers, office equipment, that sort of thing?

Mr. JAVITS. It applies only to structures and lands.

Mr. BELLMON. I thank the Senator.

Mr. JAVITS. Mr. President, I am ready for action on the amendment. I yield back my time if necessary.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. CHAFEE. Mr. President, just on that last point, I am not sure that I understand the intention of the Senator from New York. It was to have his amendment apply solely to real estate?

Mr. JAVITS. That is correct, Mr. President.

Mr. CHAFEE. Mr. President, is that clear in the amendment?

Mr. JAVITS. We drafted it in consultation with the managers and the agency, but I am happy to do anything the managers feel is necessary to make it clear.

Mr. CHAFEE. I was interested in the question of the Senator from Oklahoma. I do not have any interest, one way or the other, as to real versus personal property. If the Senator from Oklahoma wanted it definitely to cover that, I suppose the word "real" could be inserted in there.

Mr. JAVITS. Or we could say, "Including such surplus Federal Government property," as it follows the words "land and improvements."

Including such surplus Federal property, if the Senator would rather have me do that, I will be happy to do it.

Mr. CHAFEE. I will stay out of the middle and let the Senator from Oklahoma decide.

Mr. BELLMON. I have not seen the amendment, but it sounds to me from what was said that that might clear up what might otherwise be an ambiguity.

Mr. JAVITS. Mr. President, I modify the amendment by inserting after the word "including" the word "such."

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

> On page 67, line 6, add a comma after the word "improvements" and insert the following: "including such surplus Federal Government property,"

Mr. JAVITS. Mr. President, if that is agreeable to Senator BELLMON, I am ready to vote.

Mr. BELLMON. That is right.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York, as modified.

The amendment (UP No. 493, as modified) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. I thank the managers and Senator BELLMON very much.

UP AMENDMENT NO. 490

The PRESIDING OFFICER. The question recurs on amendment No. 490.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, the understanding of this Senator is that the pending business is an amendment which the Senator from Vermont has offered.

The PRESIDING OFFICER. The Senator is correct.

Mr. STAFFORD. Mr. President, the Senator from Vermont further understands he has the right to amend the amendment which is pending before the Senate.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. STAFFORD. The Senator from Vermont then moves to modify his pending amendment as follows: after the third word of the pending amendment, which is preceded by (14), insert the words "public works" so that part of the amendment reads:

> whether the public works projects proposed for the Secretary's approval.

The Senator from Vermont moves to further modify his amendment by striking the word "adequate" wherever it appears in the amendment, and to delete the second sentence of the amendment which begins with the words "the Secretary" and insert in lieu thereof the following:

> The Secretary shall assure the preparation of any required Federal environmental impact statement or assessment on any proposal or project.

Other than that, the Senator from Vermont urges adoption of the amendment.

The PRESIDING OFFICER. Will the Senator please send those suggested modifications to the desk?

Mr. STAFFORD. The Senator will be glad to do so.

The amendment, as modified, is as follows:

> On page 119, at the end of line 3, strike the period, then insert a semicolon and the following; "and
>
> "(14) determine whether the public works projects proposed for the Secretary's approval are consistent with federal, state and local environmental regulations and plans, and have been developed with public participation in the planning process. The Secretary shall assure the preparation of any required Federal environmental impact statement or assessment on any proposal or project. Approval shall not be granted until the Secretary has consulted with relevant federal departments and agencies, has issued adequate public notice, and has solicited and reviewed public comments.

Mr. STAFFORD. Mr. President, the Senator from Vermont believes the amendment is now acceptable to the managers of the bill from both Banking and Currency and Environment and Public Works.

Mr. GARN. Mr. President, with the suggested modifications made by the Senator from Vermont, I remove my objection to his amendment.

Mr. PROXMIRE. Mr. President, I have no objection to the amendment.

Mr. BURDICK. Mr. President, there is no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Vermont.

The amendment (UP No. 490, as modified) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further amendment?

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I support section 518 of the proposed bill, southwest border education assistance. This section provides much needed emergency construction assistance to school districts located on the United States-Mexico border that are impacted by substantial enrollments of legal alien children.

Mr. President, it is Federal policy that has caused the need for this assistance in these border communities. Last year, Federal immigration policy admitted 187,000 legal aliens from the Western Hemisphere, 44,000 of them from the Republic of Mexico. Many of these legally admitted Mexican immigrants tend to settle in southwest border communities, which have traditionally been among the poorest and least advantaged regions of this country. In Texas border counties, for example, the average personal income is only about 60 percent of the national average while unemployment is generally twice the national figure.

These same counties are being asked to absorb a legal alien population in their public school systems that averages almost 10 percent of total student enrollment, and nearly 30 percent in some school districts. This situation is repeated all along the border area of the four States that border the Republic of Mexico, and this percentage goes even higher.

Of all the counties in the four States located in the southwest border region, only one reaches the national average in per capita personal income. In one county, average personal income is only 36 percent of the national average. And nearly all must contend with a flow of legal immigration that strains their economic position even further.

Mr. President, most of the these immigrants are "poverty refugees," and add little to the tax base of already distressed border communities. In Texas border counties, 82 percent participate in the free lunch program. Those of school age come with the hope of and the legal right to the quality education that will be their passport to success, and a better, more productive future in their new country.

But this influx of legal immigration from Mexico places real and substantial hardships on communities least able to afford the expense of educating additional children. Because of their proximity to the border and because of Federal immigration policy, a disproportionate share of the cost of constructing school facilities falls on these communities that plainly and simply lack the resources to respond adequately. This system is inherently unfair to both the legal alien and American children of the region, and both groups suffer accordingly.

Overcrowded facilities in school districts along the border are prevalent. This condition is greatly aggravated by the presence of legal alien students, and is already severe in many of these districts. In the Brownsville Independent School District in Brownsville, Tex., for example, there are nearly 4,000 legal aliens attending public schools. This represents the equivalent of eight average size elementary schools. Currently, the Brownsville district has 158 portable buildings, a condition that has become very common at border schools. In a survey recently completed for the Southwest Border Regional Commission, nearly 75 percent of the border school districts in California, Arizona, New Mexico and Texas that responded reported that they have had to purchase or rent portable facilities.

Our Government has traditionally provided substantial assistance to communities impacted by the children of Government and military employees, on the theory that such children are present in the various jurisdictions because of Federal Government policy and employment practices. I would submit that the same logic should apply to the Southwest border communities. Legal immigrants are admitted to this country, and rightfully so, as a result of official Government policy. To the extent that they cluster in specific areas, such as the border communities, the Government has an obligation to help relieve the costs incurred by local jurisdictions.

Mr. President, this proposal provides for emergency classroom construction assistance to Southwest border school districts that are heavily impacted by legal alien students. To qualify, a district must have a minimum enrollment of 7 percent of Mexican alien children, and at least 20 such alien children. It is my intention that for the purposes of this section, the most recent available data be utilized. As I have already stated, this type of impact falls on the communities of this Nation that are least able to respond to it. The Committee on Environment and Public Works has determined it appropriate and justified that the Federal Government share in this burden. I hope my fellow colleagues determine likewise and recognize the clear and urgent nature of this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 494

Mr. RANDOLPH. Mr. President, pursuant to the order of the Senate on yesterday, I move that S. 914 be amended by adding the text of S. 835 as amended by the Senate.

Mr. President, we report to the majority leader, and through him to the Members of the Senate, that we considered carefully the bill dealing with the Appalachian Regional Commission and other commissions on yesterday and went to third reading. At this time, with the action on the Economic Development Administration measure, with the cooperation of the Committee on Banking, Housing, and Urban Affairs, which has jurisdiction in the matter, we are prepared to act in the fashion I have requested.

I thank the majority leader for his understanding during this entire debate yesterday and today. I commend to my colleagues, the reading of the remarks of the majority leader yesterday, as I had the opportunity to do this morning, with respect to this measure—its constructive impact not only on West Virginia but the country as a whole.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished senior Senator from West Virginia for his kind statement, and I commend him for his work on this bill.

I also commend Mr. Burdick and Mr. Chafee on the skill and expertise they have demonstrated in the passage of the bill.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. Randolph) proposes an unprinted amendment numbered 494, which incorporates the language of S. 835, as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

● Mr. MUSKIE. Mr. President, the bill before us, S. 914, represents a significant rewrite and extension of the Economic Development Act of 1965. I strongly support this bill, and I would like to express my admiration for the excellent work and long hours put in on this legislation by all the members of both the Environment and Public Works Committee and the Banking Committee.

SECTION 402(A) WAIVER

Mr. President, because S. 914 authorizes appropriations for fiscal year 1980, but was reported after May 15, 1979, it required a waiver under section 402(a) of the Budget Act in order to be taken up in the Senate.

The Budget Committee favorably reported Senate Resolution 212 and recommended that the waiver be granted. It took this position for several reasons. First, without passage of the legislation, EDA's legislative authority will expire at the end of fiscal year 1979. Second, funding at the level authorized in S. 914 could be accommodated within the function 450 targets of the first budget resolution. Third, the legislation was not submitted by the President until April, leaving the committees inadequate time before the May 15 deadline to resolve questions of jurisdiction and to consider and issue their recommendations on major new initiatives.

BUDGETARY IMPACT

Mr. President, full funding of S. 914, as reported, could be expected to be accommodated within the fiscal year 1980 targets of the first budget resolution. However, I feel I must alert my colleagues to the fact that full funding of just the counterpart EDA provisions in companion House legislation, H.R. 2063, could cause the targets to be exceeded by $0.8 billion in budget authority and $0.2 billion in outlays. Further, the House bill also provides up to $2 billion for standby local public works projects, an authorization which could boost the fiscal 1980 budget overages of the bill to as much as $2.8 billion in budget authority and $0.6 billion in outlays.

Mr. President, I urge the Senate conferees on this legislation to vigorously oppose the House's local public works provision. The administration opposes it, and—as I have just indicated—there obviously is no allowance for it in the first budget resolution.

But it is not simply on budgetary grounds alone that I believe the Congress must reject the local public works initiative. We passed a similar program just 3 years ago, and our experience with that one should prove to us that the program simply does not work as advertised. It was intended to help solve our economic problems, and instead it worsened them. It was intended to be countercyclical, and instead it contributed to an overheated economy. The principal problem was that the spendout was so slow that the intended countercyclical effect was defeated, and in fact a significant portion of the spending served only to stimulate the economy during a period when fiscal restraint was needed. Further, the program increased demand in tight labor markets, thereby contributing to the horrendous inflationary problem that now confronts us.

NEED FOR EDA

Mr. President, this bill, S. 914, is important to the well-being of America's urban and rural areas. First, most of the money authorized in the bill is intended for the revitalization of the economies of depressed areas, through the provision of direct loans, loan guarantees, and interest subsidies to businesses, and through public works grants, supplementary grants and other economic adjustment assistance to public bodies. The legislation gives EDA a comprehensive set of tools, to use in close cooperation with local officials, to design and implement economic development programs that will attract jobs and investment to areas that are experiencing difficulty maintaining healthy economies.

Second, under part B of title I of the bill, EDA is authorized to carry out the important function of providing readjustment assistance. Specifically, EDA is authorized to provide assistance in communities that "have experienced, or that may reasonably be foreseen to be about to experience, a special need to meet an expected rise in unemployment, or other economic adjustment problems, including those caused by any action or decision of the Federal Government." I should like to give an example of how important, and how crucial, this readjustment assistance can be, by citing an example that has occurred in my State just recently. It involves Loring Air Force Base, a SAC base in the northern part of Maine, the military value of which has never been challenged by the Air Force.

Loring is the closest SAC airbase to the Soviet Union. Virtually every plane that flies to Europe flies over this base. The Air Force is now seeking to convert Loring to a forward operating base at a cost of an 85-percent reduction in personnel that would be expected to raise the unemployment rate in the local area—Aroostook County, which covers an area about the size of the State of Massachusetts—from 12 percent to 23 percent almost immediately.

Mr. President, I was a member of the Maine legislature in 1946 when it was announced that the Loring base was to be built. The manager of the town nearest to where the base was to be located was also a member of the legislature. He begged us to help him keep the base out of the country, because he foresaw what would happen. He foresaw that the new base would establish an infrastructure, that the private economy would develop around it, and that some day in the future, when the base was reduced in size or closed, those people who had invested their money, their energy, and their lives in the area would be left with the economic dregs.

And that is exactly what has happened. Already the airline that flies into the county, and makes a profit on its flights, has applied for elimination of this route in anticipation of the closing of the base.

To add further to the decline of the area's economy, the potato growing industry has been in a difficult period, compounded by the possibility of lower tariffs on potatoes because of a trade agreement that will make it possible for the few potato processing plants we have to lose even more money.

Every decision the Federal Government has made over a period of many years—there was an earlier military closing in the county as well—has driven these people further and further into the dirt. The Defense Department counts the cost of closing these bases only in terms of its budget. But I want the people of this country to understand that there is another and perhaps more serious cost, one that must be measured in human terms. And because of this cost, we have to create programs like the EDA readjustment assistance program to enable local communities to survive in the face of abrupt Federal policy changes.

In the case of northern Maine, the Economic Development Administration moved quickly to provide to the area, not only their financial resources, but also their planning and technical assistance. And, in just a period of a few weeks, EDA has succeeded in changing the attitude of the citizens of northern Maine from one of depression to one of hope and opportunity. Clearly, the past successes of EDA programs established in Maine contributed tremendously to reestablishing confidence in the ability of local people to improve their economic health.

Although the Air Force decision to reduce Loring may be reversed because of the clear strategic value of the facility, the attention given to the area by the EDA and the immediate success that has arisen, only convince me further of the important role of this agency.

I believe that when the Government moves into any area in any State, transforms its economic base to serve a national purpose, and then disappears, that the Government has the responsibility to help that area to remain economically viable.

TARGETING

Another important feature of the EDA bill, Mr. President, is how well it is targeted upon the communities and areas it is supposed to benefit. This program emerged as a successor to the Area Redevelopment Administration that Senator Paul Douglas supported for so many years, with its central policy objective of investing in depressed areas, to help them get on their feet.

In the years since the basic EDA legislation was passed in 1965, this underlying targeting concept has frequently been challenged. The result is that provisions have been enacted that allow an area to remain eligible for EDA assistance even when it no longer meets the criteria for declaring it eligible in the first place.

Under these provisions, after EDA has come in and done its job and the community is back on its feet once again, no matter how healthy that community becomes, it remains eligible for the grants and low-interest loans that taxpayers originally agreed to finance on the understanding that they would go to communities in need. As a result, 85 percent of the U.S. population now lives in areas eligible for EDA assistance.

I am pleased to be able to say that S. 914 adopts new eligibility criteria, proposed by the President, which over a 2-year phaseout period would reduce the eligible percentage of the population to 68 percent. I must point out to the Senate, however, that the companion House bill, H.R. 2063, simply adds the new eligibility criteria to what is already in existing law, thereby increasing the population percentage to 90 percent.

In my estimation this is an irresponsible course of action and makes a mockery of efforts to target this program efficiently on those whom it was intended to help. However attractive it may be politically to scatter EDA assistance into virtually every city and town in the country, as the House bill does, there are important economic and budgetary results from doing so that must be understood.

First, in order to provide the necessary amount of assistance to distressed areas where it is most needed, more dollars would have to be appropriated. If they were not, and appropriations instead remained the same, the neediest areas simply would receive less assistance.

Second, the basic underlying concept of EDA's programs are that they are to provide a small incremental amount of assistance to distressed areas, above what is available to everyone else, to give them a little push down the road to economic self-sufficiency. But if virtually every community in the country receives EDA dollars on the same basis, that incremental assistance disappears, and the basic conceptual underpinning of EDA assistance disappears along with it.

Third, to the extent that EDA is spread across the entire country, it becomes a general subsidy for development anywhere and everywhere, and there simply is no rationale for that kind of Federal assistance.

I urge the Senate conferees to stand fast to the Senate position and not adopt the House bill's new eligibility criteria. I also repeat, Mr. President, my hope that they will also vigorously oppose the House's ill-advised local public works provision. Federal public works projects do much that is good for the country, but there is sufficient evidence now available to tell us clearly that public works spending should not be used as a part of fiscal policy to influence economic conditions. There simply is too little control over the timing of its expenditures.

Finally, I would reiterate that I strongly support this bill as reported, and I again congratulate the two authorizing committees which have drafted it for an excellent job well done. I urge my colleagues to join me in voting for its passage.

THE MILWAUKEE RAILROAD

● Mr. BAUCUS. Over the course of the past 7 months I have devoted a substantial portion of my time studying the economic significance of the Milwaukee Railroad. I have done that for two reasons: First, the current management of the railroad would like to abandon operations in Montana thereby providing substantial economic dislocations for the shippers, employees, and communities in Montana that depend so heavily on service by the Milwaukee, and, second, the future of the United States will depend in no small part on the ability of railroads to transport—at competitive rates—essential food and energy commodities from Montana to other parts of the Nation—and for worldwide export—that continue to depend with increasing frequency on these commodities.

This leads me, then, to ask whether or not some of the funds in this $1 billion annual authorization bill before us today can be devoted to either save the Milwaukee by providing funds for employee and shipper stockownership programs, or in the event that that becomes unfeasible, to help mitigate the substantial economic hardships that will be thrust upon the State of Montana in the event that the Milwaukee Railroad is allowed to die.

Before responding to that question, I ask that there be included in the RECORD at this point several communiques I have had with the Economic Development Administration in connection with the possible roles that EDA could play in assisting on the Milwaukee problem.

The material follows:

Memorandum for Bert Carp, Deputy Director, Domestic Policy Staff; Lynn Daft, Associate Director; Katherine Schirmer, Associate Director; Bill Johnston, Associate Director; Michael H. Chanin, Deputy Assistant to the President.

From Lawrence O. Houstoun, Jr., Assistant to the Secretary.

Subject Department of Commerce role in the Milwaukee Railroad.

Tuesday, July 24, 1979, Secretary Kreps discussed the economic ramifications of the proposed abandonment of the Milwaukee Railroad with her top staff. George McCarthy, Federal Cochairman of the Old West Regional Commission, discussed the importance of this issue to the northern tier States, and the actions which his Commission and the Pacific Northwest Regional Commission had taken. (See attachments.)

Because of the Department's responsibilities in the areas of expanding export opportunities, encouraging port development and preventing economic dislocation, we agreed to assist the Regional Commissions in the development of a viable solution to this problem. The Economic Development Administration had already written Senator Baucus on July 11, 1979—"We are supportive of efforts to develop a viable solution to this problem, and we would be willing to participate, within the limits of our authority and resources, in the implementation of a program if an economically viable solution were developed." The Maritime Administration agreed to review how to target technical assistance and programs to enhance rail/port efficiency on the Milwaukee Road, and the Industry and Trade Administration will review how to assist shippers and exporters along the Milwaukee line in the movement of their goods.

The Department of Commerce intends to work closely with the Department of Transportation on this issue, and will seek the assistance of the Department of Energy in identifying how this effort can be coordinated with the President's recent energy program.

George McCarthy (634-3907), Frances Phipps (377-5017) or I would be pleased to provide you with further information.

Attachments.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., July 11, 1979.

Hon. MAX BAUCUS,
Chairman, Subcommittee on Oversight of the Internal Revenue Service, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR SENATOR BAUCUS: The Department of Commerce was pleased to have been able to appear before the Subcommittee on Oversight of the Internal Revenue Service to discuss ways of possibly averting the abandonment of the western lines of the Milwaukee Railroad. As we indicated in our testimony, the Department of Commerce is very concerned about the economic ramifications of abandoning the western portion of the Milwaukee Road. We are supportive of efforts to develop a viable solution to this problem, and we would be willing to participate, within the limits of our authority and resources, in the implementation of a program if an economically viable solution were developed. We would, of course, wish to work closely with the Department of Transportation in any such effort.

If maintenance of the Milwaukee Road were deemed not to be economically advisable, EDA would stand ready to work with firms and communities impacted by the dislocation.

Enclosed are answers to the six questions forwarded under cover of your letter of June 26. We will be happy to provide additional information as necessary.

Sincerely,

ROBERT T. HALL,
Assistant Secretary for Economic Development.

Enclosure.

1. Question: Although it is true that the Federal Railroad Administration has the primary responsibility for railroad transportation matters, the Department of Commerce has primary responsibility for port developments, and this may have some considerable bearing on the Milwaukee situation. Particularly, what impacts would abandonment of the Milwaukee Road have on port development and operations in the Far West and Midwest? (The Department should respond in writing with specific reference to the ports of Tacoma, Seattle, and Portland in the Far West, and Great Lakes ports in the Midwest.)

Answer:

A. Far West Ports.

The Milwaukee Road is one of three primary transcontinental railroads serving the port communities of the Pacific Northwest. The other rail services are the Burlington Northern and Union Pacific. Of the three, the Milwaukee Road is the prime mover of grain exports. Additionally, the grain storage infrastructure is more developed along the Milwaukee Road. An inventory of rail service to northwest ports is presented below.

Transcontinental service

Port:	Milwaukee road	Total rail service
Tacoma	1	3
Seattle	1	3
Portland	1	4
Vancouver	1	3
Kalama	1	3
Longview	1	3
Grays Harbor	1	3
Port Townsend	1	1
Port Angeles	1	1
Everett	1	2

As indicated above, the potential shutdown would have a severe impact on northwest ports, in terms of both service and cost, through the elimination of competitive service. It is quite evident that the most dependent ports, such as Port Angeles and Port Townsend, and their respective communities would be drastically affected.

B. Great Lakes Ports.

The Milwaukee Road (CMSTP & P) has trackage from Louisville and Kansas City on the south to the west coast of Lake Michigan on the east, by Lake Superior on the north and the Pacific Ocean on the west. Its major ports are Chicago, Milwaukee, and Green Bay, which serve 22 states as the westernmost ports of the Great Lakes.

The Milwaukee Road has approximately 480 freight connections and junction points to 88 other transportation companies, barge, rail and drayage. It is said that half of the gross national product of manufactured goods is produced in the ten states immediately adjacent to the Great Lakes. The Milwaukee Road is west and south of that area.

The Milwaukee Road owns and operates 22,872 cars of which approximately 4,500 are hoppers. These are used to handle basic commodities from farm products to coal. In 1978 CMSTP & P's gross freight revenue figure was $425.6 million. Percentage by commodity and carloads are as follows:

	Percent of total	Carloads
Farm Products	14.3	118,142
Lumber and Lumber Products	14.3	126,683
Transportation Equipment	12.0	51,186
Food Products	11.9	49,694
Pulp & Paper	8.6	69,916
Coal	8.1	111,258
Chemicals	6.4	44,359

The economic impact on the states adjacent to the Milwaukee Road's tracks rights would be very difficult to measure, although it probably would be substantial.

2. Question. The Department of Commerce has explicit responsibilities in maintaining and expanding export opportunities to the Far East. Two particular commodities that play an extremely large role in future economic opportunities for the Northern Tier are the exports of grain, coal, and lumber to the Far East. In light of these factors, what is the Department's position about the impact that the abandonment of Milwaukee would have on export opportunities over the affected states?

Answer. It is difficult to project the impact that abandonment of the Milwaukee Road would have on exports of grain, coal, and lumber from the Northern Tier States. The Burlington Northern runs parallel to the Milwaukee Road through much of the Northern Tier. Arrangements might be able to be made with both the Burlington Northern and the Union Pacific to service much of the area currently being served by the Milwaukee Road. However, given the volume of freight carried by the Milwaukee Road (the 1978 figures are 118,142 carloads of farm products, 126,683 carloads of lumber and lumber products, and 111,258 carloads of coal), a significant amount of economic disruption along the area serviced by the Milwaukee would have to be anticipated.

3. Question. The Department of Commerce in general, and the Economic Development Administration in particular, have responsibility for dealing with economic dislocations and displacements. Assuming that the abandonment of the Milwaukee will cause significant economic dislocation not only among the employees of the Milwaukee Road, but more importantly, among the industries and their employees that rely on the Milwaukee as a shipper, what steps does the Department of Commerce anticipate taking in insuring that these dislocations are minimized?

Answer. The Economic Development Administration (EDA) would work with the States and individual communities whose economies would be particularly disrupted as a result of the abandonment of the western portion of the Milwaukee Road. Assistance is available under the Agency's Economic Adjustment Program (Title IX) to enable these communities to prepare a comprehensive plan to minimize the affects of the dislocation on the area economy. In addition, a limited amount of adjustment assistance is available to carry out the specific adjustment activities identified in the plan. These activities could include, for example, the construction of public facilities or provision of business financing to facilitate the expansion of an existing employer, or the location of a new employer. The Maritime Administration (MarAd) in its role as Federal advisor on port development is available to work with the affected communities, railroads and other Federal agencies to rectify this situation. In its program of cooperative port planning, MarAd has joined with northwest ports, as in other regional areas, to identify future waterborne cargo movements and the respective marine terminal requirements. Its first cooperative assessment of these Pacific Northwest ports was completed in 1975. MarAd expects to update this long range cooperative plan during FY 1980. Certainly, the existence of a competitive rail service as important as the Milwaukee Road is a critical issue in any future development of the ports of regions and, thus, the mission of MarAd.

4. Question: The Department of Commerce has a statutory responsibility to minimize the impact of energy developments. The State of Montana has perhaps the most progressive energy impact program of its own. One facet of that program, for instance, provides substantial funds generated from severance tax revenues to minimize the adverse impacts that occur from coal development and "boom towns." On the other hand, many Western states that have substantial coal developments do not have adequate energy impact programs, and it seems safe to assume that in the event the Milwaukee Road is closed, greater coal development will occur in other states where inadequate protections are available for adverse energy impacts. In light of the above, and considering the existence of the Department of Commerce's Energy Impact Mitigation Program, what steps is the Department of Commerce taking with respect to the Milwaukee Road to insure that coal development impact situations are minimized?

Answer. Under present law, EDA has the authority, but very few resources, to provide assistance to areas for the purposes of minimizing the impacts of energy developments. However, there is an Administration-endorsed proposal, now pending before the Senate Environment and Public Works Committee, that would enable EDA to provide a substantial amount of mitigation assistance. Should this Inland Energy Impact Assistance Program become law in its present form, states such as Montana that have their own energy impact programs would not be penalized; rather, these states would be given credit for their efforts under the state allocation formula. You can be assured that, if this program becomes law, EDA would work closely with the State of Montana in any area where it could provide assistance.

5. Question. Two regional commissions (i.e., the Old West Regional Commission and the Pacific Northwest Regional Commission) are actively pursuing a positive role in exploring opportunities for ways to save the Milwaukee Road. As a Senator representing a state that would be severely adversely affected if the Milwaukee Road were abandoned, I want to state that I am particularly pleased by the roles of those two Commissions. How does the Department of Commerce plan to support the initiatives undertaken by its two regional commissions that are working to help maintain and improve the Milwaukee Road?

Answer. As is evidenced by the responses to the other questions, EDA, MarAd, and the Industry and Trade Administration would cooperate fully, within the limits of their authorities and resources, to support an economically viable initiative which might be undertaken to help maintain and improve the Milwaukee Road. We would, of course, be guided in our efforts by the judgements and determinations of the U.S. Department of Transportation.

6. Question: Please provide a detailed description of assistance, both technical and financial, that the Department of Commerce, including the Economic Development Administration, could provide to an employee and shipper organization attempting to purchase and operate portions of the Milwaukee Road property. Please also describe any assistance that could be provided jointly with other agencies including the Farmers Home Administration, the Department of Transportation, and the Federal Railroad Administration.

Answer. EDA's Private Sector Investment programs provide a wide range of financial assistance to almost any type of industrial or commercial venture. The nature of the applicant does not present any problems for EDA, so long as the venture being financed would generate sufficient profits to repay all debt, and the project is located in a geographic area eligible for assistance.

EDA is receptive to innovative financing techniques involving, for instance, ownership of certain assets by a tax exempt entity such as an LDC, with operation of the project by a profit making entity; SBA, FmHA or other Federal Agency financing of a portion of a project with complementary EDA financing of the remainder; and partial financing by way of employee stock ownership plans.

EDA's business financing tools include direct loans, guaranteed loans, guaranteed leases and interest subsidies. Proceeds of EDA (direct or guaranteed) loans can be used for either working capital, fixed assets, or both. Since any reasonable EDA involvement in this project would necessitate business development financing in excess of $10 million, the only practical EDA tool would be that of a guaranteed loan.

Any EDA project of this magnitude will involve many technical details tailored to the specifics of any effort that might be agreed to by all the parties. EDA's major concerns would be the financial viability of the project including its overall repayment ability, adequate equity to give the project financial strength, and EDA's ability to justify the size of the investment in relationship to the number of jobs to be created or saved in the EDA designated redevelopment area(s).●

● Mr. BURDICK. Mr. President, the Economic Development Administration could consider proposals for assistance using funds under this act, where such assistance might either help the Milwaukee remain a viable railroad or mitigate the economic dislocation that would result from the Milwaukee's abandoning operations.●

● Mr. EXON. Mr. President, I rise with a question for the distinguished chairman of the Environment and Public Works Committee, regarding the proposed legislation before us, to extend the authorization for the Economic Development Administration and the various regional economic development commissions.

My question concerns a set of proposed regulations promulgated by the Department of Commerce in the Federal Register of June 7, 1979. The proposal would—in the words of the Department—

> . . . amend existing regulations on the Regional Action Planning Commissions to include requirements governing Commissions' administrative responsibilities and the administrative requirements they apply to financial assistance recipients.

August 6 is the deadline for comments on the proposals.

If the distinguished chairman has had an opportunity to scrutinize this proposal, I would like to ask his opinion of its effect on the future operation of the commissions. In fact, I would urge all Members of this body who support the commission concept to look carefully into the proposal because I believe its adoption will effectively eliminate the regional commissions from the arena of Federal-State relations.

Whether deliberately or unwittingly, I do not know, but in either case the bureaucrats in the Department of Commerce—under the guise of improving accountability and strengthening the State-Federal partnership embodied in the commissions—would by enactment of these regulations put an end to the commission structure. There is basically one reason for that statement.

The proposed regulations would convert what is now an effective and successful partnership into another element of the Federal bureaucracy with the same overbearing requirements and intolerable redtape which removes so much of the potential good in so many other well-intentioned Federal programs.

Specifically, the proposed regulations would:

First. Entrap the commissions within the existing system for Federal grants. The commissions would cease to have their current character, comprising an equal partnership of enlightened Federal support on one hand, and an emerging dynamism among States and local governments on the other.

Second. Reduce the role of Federal cochairman to that of an administrative assistant to the Secretary of Commerce and the Director of the Office of Management and Budget. Work-a-day decisions would become the responsibility of these latter officials, neither of whom has a fraction of the time necessary to devote to effective administration of commission activities.

Third. Remove any flexibility and responsiveness in administration of the programs. In their place, the proposal would substitute an unacceptable burden of paperwork such as that encumbering other Federal grant programs. The popularity of the commissions at the State and local level is the direct result of the rapid response of which they are capable, and the flexibility with which they can operate to meet regional needs. If their programs become intertwined with the weeks and months of paperwork involved in EDA grants, for instance, responsiveness will be greatly diminished. The States and local governments like the commissions the way they are, but they will not accept any more bureaucratic headaches.

It is my view that such stifling regulation by the Department of Commerce was not the congressional intent when this measure came before the Senate 4 years ago. I ask the Senator from West Virginia if my memory is not correct? I also ask the distinguished chairman if there is anything in the authorization which directs the Department of Commerce to draw up these regulations? My reading of the legislation fails to turn up such authorization.

I suggest that anyone who is interested in the continued effective operation of the commissions should add provisions in the current legislation which would prohibit the Department of Commerce from frustrating the intent of Congress by adding bureaucratic layers of redtape to what is now an effective Federal-State partnership.

I ask to have printed in the Record a statement of facts on Department of Commerce proposed title V regulations.

The statement follows:

Facts on Department of Commerce Proposed Title V Regulations

ISSUE

Regulations proposed by the Department of Commerce in the Federal Register June 7, 1979 relating to "requirements governing (Title V) Commissions administrative responsibilities and the administrative requirements they apply to financial assistance recipients." Comments are invited until August 6.

PROBLEMS

1. While the regulations permit the Commissions to adopt a code of operating procedures, that Code will not be permitted to depart in any way from the Department's proposed regulations. Simultaneously with issuance of the proposed regulations, the Commissions have developed in cooperation with the Department a Code of Operating Procedures but before it has been given an opportunity to work, the Department is imposing its own restrictive regulations.

2. Attorneys who read the regulations agree that they would effectively turn the Commission program into "just another Federal grant program" which will be unacceptable to administratively-overburdened state and local governments. The proposed regulations

> would entrap the Commissions entirely within the existing system for Federal grants, negating the will of the Congress which designed the program to be a true Federal-State partnership.
>
> 3. The proposed regulations would reduce the Federal Cochairman to a role of administrative assistant to the Secretary of Commerce and the Director of OMB, destroying the concept of equality between Federal and State partners. By involving the Secretary in work-a-day Commission activities, they will place on that office a responsibility it is not prepared or interested in fulfilling. Congress intended that the Secretary be the coordinator of the program, not the manager.
>
> 4. The proposed regulations would remove any opportunity for flexibility in administering Commission programs and impose a burden of paper work on States and local govments which will be unacceptable to them.
>
> 5. No such regulations are proposed for the Appalachian Commission (which is not administered through the Department of Commerce) but if the Congress is indeed to seek an ultimate equality among all Commissions, as it consistently maintains it does, the Title V Commissions should have the same authorities as the Appalachian Commission. Appalachia adopts its own operating regulations and the Title V Commissions deserve the same authority.
>
> 6. The regulations propose to authorize the Secretary of Commerce to make incentive grants to Commissions, but if the program is effectively an equal partnership, why should the Secretary be authorized to usurp part of the appropriated funds for restrictive grants which may not be acceptable to the State partners.
>
> 7. The State Cochairman and gubernatorial members of the Commission are vociferously objecting to the imposition the proposed regulations on the basis of the above points, especially at the same time the Department has sought Commission approval of an operating Code which would be superseded by the regulations before it has had an opportunity to function.
>
> 8. The proposed regulations are inconsistent with the President's executive order of March 23 seeing "regulations . . . as simple and clear as possible . . . (which) shall not impose unnecessary burdens on . . . States and local governments."

Mr. RANDOLPH. Mr. President, I share many of the concerns voiced by the Senator from Nebraska. It is critically important that the regional commissions not be subjected to any overbearing dominance by the Secretary of Commerce.

For many years we in fact sought to remove the title V commissions from the Department of Commerce and to have the Federal cochairmen report directly to the President.

Now, however, and in the pending legislation, we support the continued presence of these regional commissions in the Department of Commerce. For the first time we have a Secretary who has taken a personal interest in the regional interest in the regional commissions, and senior department personnel who support and encourage the commissions.

But even though the commissions remain in the Commerce Department, there are some clear limitations on the Secretary's power over them. The committee specifically rejected the idea of a grant relationship between the Secretary and the commissions or the Federal cochairmen.

To clarify the statute on this point, the bill contains section 212(c), which requires the Secretary to provide the Federal cochairman of each commission with the funds due it under the distribution formula.

This is an allocation or apportionment, not a grant. The Federal cochairman holds the funds on behalf of the commission, and the commission approves their use without any interference or approval by the Secretary of Commerce, the Office of Management and Budget, or other Commerce officials. So the grant relationship contemplated by the pending regulations is unacceptable and inconsistent with the intent of the current law or the language of the pending bill.

The bill makes several changes to make the Federal cochairmen more powerful as well as more responsible and more accountable officials. The decisions of the Federal cochairmen are independent and final, not subject to approval or review by higher officials.

At the same time, however, the committee has tried to make the Federal cochairmen and the commissions more accountable. The recent Department of Commerce internal audit revealed several problems with the fiscal management of the commissions. We took steps in this legislation to correct many of these problems, including in section 208 (c) authorizing the Secretary to establish by regulation minimum standards of fiscal responsibility and management. Because of the serious nature of some of the problems, however, with our knowledge and support in principle, the Secretary has proposed regulations under the existing law to address them. We felt we could not wait for the passage of this legislation to put these reforms into effect.●

● Mr. GRAVEL. Mr. President, I rise in support of final Senate approval of S. 914, the EDA reauthorization bill and S. 835, the Regional Development Act of 1979.

Shortly after S. 914 was introduced, I announced my opposition to the bill. This opposition was based upon eligibility criteria included in the administration bill which would have virtually cut Alaska off from EDA assistance, despite the State's extremely high unemployment rate and many areas of poverty. The proposed eligibility criteria were designed to exclude areas with extremely high per capita income and rapid employment growth. However, because of the high cost of living and seasonal nature of the economy, Alaskans have both high per capita income and very high unemployment.

The impact of these new criteria were dramatic. Where almost 95 percent of Alaska is now eligible for EDA programs, only 10 percent would qualify under the original S. 914. At present, there are 27 areas in the State which can apply for EDA assistance—under the new bill only 9 would have been eligible.

Upon learning of my opposition, EDA came forward and admitted that the new eligibility criteria were inappropriate for Alaska. On June 1, EDA sent a letter to the Congress requesting that S. 914 be amended so that Alaska would be excluded from per capita income and employment growth criteria. Accompanying that proposal was a very fine statement of the unique nature of Alaska's problems:

> The income and employment growth trends in Alaska are volatile, unique and not readily comparable to the rest of the United States. Alaska's "roller coaster" economic change, producing boom and bust conditions, makes income and job growth impossible to employ as dependable exclusion indicators. Elsewhere the per capita income and job growth ceilings accomplish a sound purpose. We have concluded that in Alaska they are not reflective of a clear picture of economic conditions and, therefore, should not be applied.

It is my hope that other Federal agencies will take note of these conclusions prior to consideration of future changes in eligibility criteria and formula grant programs.

Following adoption of the Alaska exception, the following census areas again become eligible for EDA assistance: Bristol Bay Borough Division, Cordova, Fairbanks, Fairbanks City, Haines, Juneau City/Borough Division, Kenai-Cook Inlet, Ketchikan Borough, Kodiak, Matanuska-Susitna Borough Division, Prince of Wales, Census Division of Seward, Sitka Borough Division, Skagway-Yakutat, Southeast, Upper Yukon, Valdez-Chitina, Wrangell, and Yukon-Koyukuk.

Mr. President, the bill contains other provisions which are important to my State. Section 106 of the bill contains a provision which requires that not less than 40 percent of EDA's funds must be expended in rural areas. This is designed to assure EDA's traditional rural grantees that the agency is still strongly committed to rural America and intends to maintain a level a financial commitment in keeping with its past history of service.

Section 701(9) includes authority for the Secretary to forgive outstanding public works loans which show little likelihood of repayment. This matter was brought to my attention by the communities of Klawock and Saxman, which were provided financial assistance in the form of loan funds prior to 1970, at which time Congress changed the grant rate from 80 to 100 percent for Indian tribes and Alaska Native communities. In other words, those loans would now be full grants under revised EDA procedures. It is my hope that the Secretary will exercise this authority and allow those communities which are eligible for forgiveness to wipe the slate clean and get back to the job of economic development.

Finally, Mr. President, I am pleased to note that the bill contains a provision authorizing EDA assistance to employee stock ownership plans. The committee report notes:

> Recent studies have shown that when a business would otherwise close or relocate, but could possibly be profitable as an employee owned firm, it is very much in the Government's interest to provide financial assistance to aid the employees in purchasing the company. By doing so, millions of dollars can be saved in foregone taxes, trans-

fer payments and job creation programs. The savings compare very favorably to the small risk the Government undertakes by providing financial assistance when the employees are unable to secure private financing.

It is my fervent hope that EDA will become actively involved in this area and promote efforts to broaden the ownership of capital among the workers of America.

I know that enactment of S. 914 will provide a substantive benefit to the people of my State and the Nation.

I also support approval of S. 835, a bill to provide for a nationwide system of multi-State regional development commissions to promote balanced development in the regions of the Nation.

Mr. President, the Environment and Public Works Committee included in this bill a provision that would mandate the creation of an Alaska Regional Development Commission. Despite the fact that this Commission would be the only single-State Commission, the committee decided that Alaska constituted a region unto itself and deserved a planning body that would focus its attention on the subcontinent of Alaska. Included in that provision was permissive authority for the Commission to review and make recommendations with respect to resource inventories and land use patterns. Also included was a study to find out how the linkage between economic development and the disposition of the land resources could be strengthened within the institution of the regional commission.

In floor action yesterday, the Senate decided to drop the permissive land evaluation authority and the study. In my judgment, this action was taken because of a misplaced fear that these provisions constituted Federal involvement in land use planning. However, following the vote, a short colloquy between myself, Senator **Bumpers** and Senator **Stafford** made it clear that the Alaska Commission is not prohibited from examining land disposition questions as long as they are related to the economic development function of the Commission.

Mr. President, I look forward to the formation of the Alaska Regional Development Commission and particularly look forward to it playing a major role in addressing the unique problems in the Alaskan economy.

Mr. President, I urge passage of both these measures.●

● Mr. BAUCUS. Mr. President, I would like to say a few words about the regulations proposed by the Department of Commerce in the Federal Register June 7, 1979, relating to "requirements governing (title V) commissions administrative responsibilities and the administrative requirements they apply to financial assistance recpients."

While the regulations permit the commissions to adopt a code of operating procedures, that code will not be permitted to depart in any way from the Department's proposed regulations. Simultaneously with issuance of the proposed regulations, the commissions have developed in cooperation with the Department a code of operating procedures but before it has been given an opportunity to work, the Department is imposing its own restrictive regulations.

Attorneys who read the regulations agree that they would effectively turn the commission program into "just another Federal grant program" which will be unacceptable to administratively overburdened State and local governments. The proposed regulations would entrap the commissions entirely within the existing system for Federal grants, negating the will of the Congress which designed the program to be a true Federal-State partnership.

The proposed regulations would reduce the Federal cochairman to a role of administrative assistant to the Secretary of Commerce and the Director of OMB, destroying the concept of equality between Federal and State partners. By involving the Secretary in work-a-day commission activities, they will place on that office a responsibility it is not prepared or interested in fulfilling. Congress intended that the Secretary be the coordinator of the program, not the manager.

The proposed regulations would remove any opportunity for flexibility in administering commission programs and impose a burden of paperwork on States and local governments which will be unacceptable to them.

No such regulations are proposed for the Appalachian Commission—which is not administered through the Department of Commerce—but if the Congress is indeed to seek an ultimate equality among all commissions, as it consistently maintains it does, the title V commissions should have the same authorities as the Appalachian Commission. Appalachia adopts its own operating regulations and the title V commissions deserve the same authority.

The regulations propose to authorize the Secretary of Commerce to make incentive grants to commissions, but if the program is effectively an equal partnership, why should the Secretary be authorized to usurp part of the appropriated funds for restrictive grants which may not be acceptable to the State partners.

The State cochairman and gubernatorial members of the commission are vociferously objecting to the imposition the proposed regulations on the basis of the above points, especially at the same time the Department has sought commission approval of an operating code which would be superseded by the regulations before it has had an opportunity to function.

The proposed regulations are inconsistent with the President's executive order of March 23 seeking "regulations * * * as simple and clear as possible * * * (which) shall not impose unnecessary burdens on * * * States and local governments."●

● Mr. BUMPERS. Mr. President, I want to take this opportunity to express my support for the Economic Development Administration and the way it operates. Unfortunately, in most of my dealings with the Federal bureaucracy, I have experienced extreme frustration, chagrin, discouragement, and anger at the lack of sensitivity and compassion expressed for people at the grassroots level.

But the Economic Development Administration is one of the exceptions to those experiences. Its service delivery is one of the most successful of any Federal Government program. This is because EDA recognizes that any successful effort to stabilize or improve local economic conditions cannot be handled from Washington and cannot be based on occasional, unconnected, EDA-financed development projects.

The effort must be locally based and have the commitment and support of the local political structure. It must proceed according to a locally produced strategy that contains clear priorities and coordinates resources and activities that go far beyond those supported directly by EDA. It must closely involve the private sector and disadvantaged groups that are usually the targets of the job creation process. And, most often, this local economic development effort must be carried out in the context of regional and State cooperation, because economic problems transcend the boundaries and capabilities of individual local governments.

These are the elements of an effective local economic development process that form the basis for EDA's approach to economic development. EDA works with the various State and local agencies, to help them determine and implement their own economic development. When some of the projects selected are not considered good EDA investments, the Agency works closely with the State and local governments to find another source of Federal assistance.

In my home State of Arkansas, EDA has spent on the average of $6 million a year over the last 10 years for more than 200 projects. In fiscal year 1979, it will spend in excess of $7 million. This money has not been spent on fluff projects, but on projects which have had a dramatic impact on employment and economic development.

Two of the more important EDA projects in my State are the Pine Bluff Port Authority and industrial park and the Jefferson County industrial park where EDA contributed a total of approximately $2 million. The result of these projects in one county was the location of 23 industries employing 1,150 people and a private investment of $41 million.

Another instance involved the city of Monticello, Ark., where EDA supported three separate water and sewer improvement projects. As a result of an EDA investment of approximately $500,000, 3 new Burlington mills located there, creating 1,400 jobs. Since the completion of this project and the opening of the mills, Monticello's population has more than doubled.

Mr. President, the EDA experience proves that a Federal agency can be responsible, flexible, and supportive of grassroots decisionmaking. The administration of the program in my State has been outstanding, reflecting a sincere concern for responsible economic development in those areas where assistance is needed. I only regret that we do not see these qualities in more agencies, and I hope this body will continue to support the types of efforts EDA represents.

Mr. WILLIAMS. Mr. President, I would like to express my support for the National Public Works and Economic Development Act. This legislation extends the current public works grant program at a slightly higher funding level, and greatly expands the Commerce Department's economic development activities. I am pleased to single out for special mention the bill's economic development sections, which have been grouped under the heading of "Development Financing."

Mr. President, while our national economy continues to produce one of the world's highest per capita incomes, and standards of living, there are numerous urban and rural communities throughout the United States that have not shared fully in this prosperity. Across the country, many communities face economic underdevelopment and deterioration. Many factors contribute to the steady decline of these local, and in some cases, regional economies, but foremost among them is the unwillingness of private enterprise to undertake new investments or to retain existing investments in these areas. The loss of businesses, jobs, and skilled and professional workers can severely undermine tax bases which in turn limits the extent to which localities can provide essential public services. Contrary to media reports, middle-class households are not returning to cities in numbers great enough to shore up dwindling tax bases. Urban decline and poverty combine to limit opportunities in our Nation's cities, thus, creating increasingly dependent populations.

A common denominator for economically troubled areas is the unfavorable climate for private enterprise to grow, operate profitably, and produce enough jobs to maintain a sound economic and social environment. As a result, many areas still experience unemployment rates more than double that of the Nation as a whole. Cities in my home State of New Jersey provide ample evidence that this is the case. For example, in March of this year, Atlantic City's unemployment rate stood at 13.5 percent; in Camden it was 12.1 percent; and in Newark, 13 percent. Rural areas in New Jersey have experienced equally severe unemployment. Among youths and minorities, the rates typically reach above 20 percent to as high as 40 percent.

The long-term solution to this problem is not welfare payments, or public jobs, or fiscal assistance to local governments, or even general community improvements. The solution for these areas, Mr. President, is direct and forceful action to encourage private investment and job creation. For with private investment and jobs come the personal dignity of productive work, and personal income to buy housing and health care, and tax revenues to support public services, and renewed confidence in the community's future. Mr. President, the legislation before us today provides part of the framework of the resources to pursue this course of action.

The National Public Works and Economic Development Act would reauthorize and significantly expand programs of the Economic Development Administration, whose job it has been for the last 13 years to generate private investment and job creation in distressed areas of the country. This legislation symbolizes a new era for the Commerce Department's Economic Development Administration (EDA) for it marks the "coming of age" of Federal economic development policy, in terms of both focus and reach. While the bill before us does not fully fund the President's request, which I have supported, I recognize that the measure does represent a substantial increase in funding over present economic development programs. For development financing, the legislation would authorize $1.8 billion in loan guarantees, $150 million for direct loans, and $50 million in contract authority for loan interest subsidies.

These tools will be used to make credit more available, and to reduce the cost of credit where necessary in order to encourage private firms to remain, expand, or locate in eligible rural and urban areas. Credit access, and the high cost of borrowing, combined with the aversion of many businesses to operating in distressed areas, can present major obstacles to the continued existence of firms in those areas, or to the entry of new ones. The funding under this bill greatly expands the ability of EDA to form Government-private sector partnerships that can aid in removing these obstacles.

Mr. President, as I have noted, the business development financing program expands rather than creates EDA programs authorities. Under the existing loan guarantee program, there are many fine examples of EDA's effectiveness in attracting resources from other sectors of the economy. One notable project in my State involves a $100 million business development financing package to Raritan River Steel Co., to help establish a ministeel mill in Perth Amboy, N.J. EDA guaranteed 75 percent or $9 million of a $12 million private loan. The State economic development authority guaranteed an additional $1.5 million.

The remainder of the package—about $70 million—came from a commitment from a range of private sector interests. For example, Prudential Insurance Co., based in the heart of Newark, N.J., committed $23 million in an unsecured loan. Company officials anticipate a total of 500 new permanent jobs in addition to 400 short-term construction jobs. This project will do much to promote long-term economic stability not only in Perth Amboy but also in areas surrounding the community.

Mr. President, for every funded project there are literally scores of eligible and worthwhile applications for business development assistance that go unfunded each year because the funds for such assistance are limited. The development financing program will greatly increase the opportunities for funding these worthwhile projects.

In addition to the new development financing activities, the bill contains other significant provisions critical to effective economic development action. The bill reauthorizes and expands EDA's authorities to build the basic economic development capabilities of States, local governments, sub-State regional agencies and community-based organizations. Under expanded public works resources included in this bill, grants would be provided not only to undertake land preparation and public facilities work connected with immediate "targets of opportunity" but also for the longer term effort to create an environment that will influence the future plans and decisions of private entrepreneurs.

The bill also provides for a broader research, evaluation and demonstration program for economic development. It specifically authorizes an equity financing demonstration program. In addition, the Secretary is authorized to provide assistance to employee-ownership plans.

Finally, the new or redesigned eligibility criteria included in this bill will aim the assistance provided under the act to those areas and people suffering the most serious economic distress or persistent unemployment. Currently eligible areas that do not meet the new criteria will be gradually removed from the program but subareas within otherwise healthy places may be designated as pockets of distress if they meet certain criteria.

Mr. President, the tools provided in this legislation will not, by themselves, reverse the economic decline of areas targeted by the legislation. Rather, their effectiveness will depend upon the ability of localities to coordinate credit and finance incentives with land and facility development and with the many other resources and authorities that must be strategically employed.

But this is the goal of the legislation before us today: To set in motion and sustain a comprehensive and coordinated local economic development process which can lead to new hope and prosperity for communities now beset by disinvestment and job loss.

Mr. President, as a member of the Banking Committee, I am very pleased to associate myself with this legislation, and I urge its acceptance.

ALTERNATIVE ENERGY ASSISTANCE FOR RURAL AREAS

● Mr. CULVER. Mr. President, I wish to express my support for S. 914, the Public Works and Economic Development Administration Act of 1979.

This legislation contains a provision sponsored by Senator Stafford and myself during consideration of this bill by the Committee on the Environment and Public Works which greatly expands the funds that the Economic Development Administration (EDA) can earmark for energy-related projects.

Under existing law, EDA can only spend as much as $7 million for grants, loans, and loan guarantees for private sector development of alternative sources of energy. This restriction is entirely inadequate. The current energy situation underscores the importance of developing efficient, economical, and viable alternatives. The need is particularly critical throughout small towns and rural America, where residents are especially hurt by rising fuel costs.

The amendment offered to section 704(e) of S. 914 by Senator STAFFORD and myself removes the $7 million for projects that stimulate the development of alternative energy, including gasohol, solar energy, and small dam (low-head) hydroelectric power. Once this arbitrary and inadequate ceiling is eliminated, the administration is prepared to spend a minimum of $10 million to support the development of up to 100 gasohol plants, $50 million for solar energy development, and $60 million to build electric generating plants near low-head dams. These funds would be principally directed toward rural areas where the needs are greatest.

I especially endorse the administration's decision to support the private sector development of facilities to produce gasohol. This fuel is already a growing alternative in Iowa, where more than 600 service stations are expected to sell over 40 million gallons of gasohol this year. This consumer interest demontrates that the American people are ready to use this fuel, and the government should continue to take positive action to eliminate the remaining barriers blocking the wide-scale development of this major energy source.

Gasohol can be a stable and inexpensive source of fuel that will be of increasing importance to the economic development of small and rural areas. It also represents a renewable resource that will help reduce our reliance on increasingly scarce and costly sources of energy.

I also want to emphasize that the amendment does not increase the total authorization in the EDA bill or violate the budget committee function. It merely assures that funds already contained in S. 914 will be specifically earmarked for projects that will stimulate the development of gasohol, solar energy, and hydroelectric power.

Mr. President, I believe that this provision expanding EDA's authority to make energy-related private sector grants and loans is one of the most effective tools at our disposal to stimulate alternative fuel production. Distressed areas require plentiful and economical fuel, and the amendment allows EDA to make the investments so that communities can develop the necessary infrastructure.

Thank you, Mr. President.●

Mr. ROBERT C. BYRD. Mr. President, today the Senate acted on S. 914, the National Public Works and Economic Development Act of 1979. The bill extends and amends programs under the Public Works and Economic Development Act for an additional 4 years. Authority for the programs—administered by the Economic Development Administration in the Department of Commerce—expires September 30, 1979. I want to thank members of the Environment and Public Works Committee and the Banking, Housing, and Urban Affairs Committee for their diligent work in reporting the bill in a timely fashion.

The legislation, as approved by the Senate, tightens the eligibility criteria for Federal assistance under the Public Works and Economic Development Act. This revision is an important and constructive change from current law. It targets assistance to those communities which need it most.

The bill continues the public works grant program and expands business development financing assistance. These programs are designed to maintain, locate, or expand business investment in economically distressed areas. Changes in the programs will provide the Economic Development Administration with a broad range of tools for strengthening the economies of urban and rural communities.

I want to thank the members of the committees on Environment and Public Works, and Banking, Housing, and Urban Affairs for their contributions to this bill. I want to extend my appreciation to Senator PROXMIRE, chairman of the Banking Committee, and Senator GARN, the ranking minority member, for their valuable participation in the debate today. I also want to thank Senator RANDOLPH, chairman of the Environment and Public Works Committee, as well as Senator STAFFORD, the ranking minority member, for their contribution in managing the bill. Finally, I would like to express my appreciation to Senator BURDICK, chairman of the Regional and Community Development Subcommittee, and Senator CHAFEE, the ranking minority member, for their capable leadership on this legislation.

● Mr. BAYH. Mr. President, I would like to take this opportunity to offer my support for S. 914, the National Public Works and Economic Development Act of 1979. I am especially pleased with the outstanding record of EDA in its efforts to reach out and help many of America's distressed areas. EDA has established a history of responding fairly and flexibly to the particular needs of all types of areas and regions in the country. The agency began with a primary emphasis on rural economic development during a time when our major urban centers still appeared to be flourishing economically and was still the major area of migration.

However, Mr. President, we all realize that there has been a change and that the need has expanded. When the problems facing our cities first surfaced around 1975, EDA responded appropriately by focusing an increasing level of resources in distressed cities, while maintaining a strong commitment to rural economic development. I commend the staff at EDA for their flexibility in responding to the problems of the cities, while still focusing a great deal of their emphasis on rural concerns. Now, Mr. President, I realize that some of my colleagues feel that the EDA program does not utilize an effective targeting method. But in all deference to my colleagues, I feel that one of the more unique and attractive features of the EDA targeting formulas is that it drafts eligibility criteria that includes all areas of the country suffering from a real or potential economic crisis. For example, I know that EDA has aided two areas of my State, one being urban, South Bend, and one being rural, Bedford. Because of the program's flexibility both communities were aided in their struggle to improve the fiscal conditions through the use of EDA funds.

It is also important to note that EDA funding is done on a one-time needs basis. Because an entity is considered eligible 1 year, does not mean that same entity will be eligible the following year. I feel this is fair and equitable because it directs EDA money toward those areas in most need of assistance. Finally, Mr. President, I would like to point out that under the present EDA formula which attempts to be as broad as possible, it does take in 67 percent of the entire U.S. population, which includes a good mix of urban and rural communities.

So in conclusion, I would stress that the present method of reaching out and touching as many communities as needs help is a good one and I feel one of the most efficient ways to assure equal distribution of EDA funds for the continued economic development of both our rural and urban communities.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 83, nays 17, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—83

Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Goldwater
Gravel
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Tower
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—17

Armstrong
Biden
Byrd,
  Harry F., Jr.
Garn
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
McClure
Proxmire
Roth
Simpson
Thurmond
Wallop

So the bill (S. 914), as amended, was passed, as follows:

S. 914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. This title may be cited as the "National Public Works and Economic Development Act of 1979".

SEC. 102. Title I of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.) is amended to read as follows:

"TITLE I—GRANTS FOR PUBLIC WORKS, DEVELOPMENTAL FACILITIES, AND ADJUSTMENT ASSISTANCE

"PART A—PUBLIC WORKS AND DEVELOPMENT FACILITIES

"SEC. 101. (a) Upon the application of any State, or political subdivision thereof, Indian tribe, or private or public nonprofit organization or association representing any redevelopment area or a part thereof, or any pocket of distress, the Secretary of Commerce (hereinafter referred to as the Secretary) is authorized—

"(1) to make direct grants (including grants for design, engineering, environmental analyses, and related expenses) for the acquisition or development of land and improvements, including such surplus Federal Government property, for public works, public service, or development facility usage, and the acquisition, construction, rehabilitation, alteration, demolition, expansion, or improvement of such facilities, including related machinery and equipment, within an eligible area, if he finds that—

"(A) the project for which financial assistance is sought will directly or indirectly (i) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities, (ii) otherwise assist in the creation of additional long-term employment opportunities for such area, (iii) assist in mitigating economic conditions resulting from long-term economic deterioration, or (iv) primarily benefit the long-term unemployed and members of low-income families or otherwise substantially further the objectives of the Economic Opportunity Act of 1964;

"(B) the project for which a grant is requested will fulfill a pressing need of the area, or part thereof, in which it is, or will be, located; and

"(C) the area for which a project is to be undertaken has an approved overall economic development program as provided in subsection (e) of this section and such project is consistent with such program.

"(2) to make direct grants for the renovation of existing facilities and the construction of new projects which will provide immediate useful work for unemployed and underemployed persons in redevelopment areas under section 401(a)(1), pockets of distress under section 401(a)(2), and special impact areas as set forth in section 401(a)(5). In making such grants, the Secretary shall give priority to public works impact projects that involve maintenance of basic facilities, energy conservation, or historic preservation; and

"(3) to make supplementary grants in order to enable the States and other entities within designated areas to take maximum advantage of designated Federal grant-in-aid programs (as hereinafter defined) for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share.

"(b)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of any direct grant under this section for any project may not exceed 80 per centum of the eligible costs of such project. The amount of direct grants, within the 80 per centum maximum, shall be as determined by the Secretary by regulation.

"(2) The following types of projects may receive Federal funding of up to 100 per centum of their eligible costs:

"(A) a project sponsored by an Indian tribe;

"(B) a project under subsection (a)(2) sponsored by a State or a political subdivision of a State which can demonstrate that its effective borrowing and taxing capacity is exhausted;

"(C) a project under subsection (a)(2) sponsored by a public or private nonprofit organization or association which can demonstrate that its effective borrowing and funding capacity is exhausted and that there are no other feasible means for accomplishing the project; and

"(D) a project for an environmental analysis.

"(c) The amount of any supplementary grant under this section for any project shall not exceed the applicable percentage established by regulations promulgated by the Secretary, but in no event shall the non-Federal share of the aggregate cost of any such project (including assumptions of debt) be less than 20 per centum of such costs except in the case of a grant to an Indian tribe. Supplementary grants shall be made by the Secretary, in accordance with such regulations as he shall prescribe by the payment of funds appropriated under this Act to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of the applicable Federal programs. Notwithstanding any requirements as to the amount or sources of non-Federal funds that may otherwise be applicable to the Federal program involved, funds provided under this subsection shall be used for the sole purpose of increasing the Federal contribution to specific projects in designated areas under such programs above the fixed maximum portion of the cost of such project otherwise authorized by the applicable law. The term 'designated Federal grant-in-aid programs,' as used in this subsection, means such existing or future Federal grant-in-aid programs assisting in the construction or equipping of facilities as the Secretary may, in furtherance of the purpose of this Act, designate as eligible for allocation of funds under this section. In determining the amount of any supplementary grant available to any project under this section, the Secretary shall take into consideration the relative needs of the area, the nature of the projects to be assisted, and the amount of such fair user charges or other revenues as the project may reasonably be expected to generate in excess of those which would amortize the local share of initial costs and provide for its successful operation and maintenance (including depreciation).

"(d) The Secretary shall prescribe rules, regulations, and procedures to carry out this section which will assure that adequate consideration is given to the relative needs of eligible areas. In prescribing such rules, regulations, and procedures the Secretary shall consider among other relevant factors (1) the severity of the rates of unemployment in the eligible areas and the duration of such unemployment, (2) the income levels of families, and (3) the extent of underemployment in eligible areas.

"(e) No assistance shall be extended under this title unless there shall be submitted to and approved by the Secretary an overall program for the economic development of the area or an economic adjustment plan and a finding by the State, or any agency, instrumentality, or local political subdivision thereof, that the project for which financial assistance is sought is consistent with such program. Such overall program shall contain a multiyear economic development strategy and annually prepared investment programs identifying projects or other activities to be undertaken each year with assistance under this Act or other identified sources of funding except a redevelopment area within and participating in a designated economic development district shall not be required to have a separate overall economic development plan. Nothing in this Act shall authorize financial assistance for any project prohibited by laws of the State or local subdivision in which the project would be located, nor prevent the Secretary from requiring such periodic revisions of previously approved overall economic development programs as he may deem appropriate.

"(f) The Secretary shall prescribe regulations which will assure that appropriate local governmental authorities have been given a reasonable opportunity to review and comment upon proposed projects under this section; and

"(g) No grant shall be made under this title for any project having as its principal purpose the channelization or dredging of any natural watercourse, or the construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historical site) and having as its permanent effect the channelization or dredging of such watercourse or construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historical site)."

"SEC. 102. (a) If an eligible applicant prepares a plan for the redevelopment of the eligible area or a part thereof and submits such plan to the Secretary for his approval and the Secretary approves such plan, the Secretary is authorized to make a grant to such applicant for non-Federal revolving loan funds for the purposes of carrying out such plan. Such plan may include industrial land assembly, land banking, acquisition of surplus Government property, acquisition of industrial sites including acquisition of abandoned properties with redevelopment potential, real estate development including redevelopment and rehabilitation of historical buildings for industrial and commercial use, rehabilitation and renovation of usable empty factory buildings for industrial and commercial use, and other investments which will accelerate recycling of land and facilities for job creating economic activity. Any such grant shall be made on condition (1) that the applicant will use such grant to make loans to carry out such plan, and (2) the repayment of any loan made by the applicant from such grant shall be placed by such applicant in a revolving fund available solely for the making of other loans by the applicant for the economic redevelopment of an eligible area. This section shall not apply to any applicant located in an area not statistically qualified under section 401(a) (1), (2), or (5), of this Act.

"(b) Interest rates for revolving fund loans shall be consistent with rates charged under the area's existing authorities or may reduce the effective interest rate up to 7 percentage points per annum. In no event shall the interest rate payable on such direct loans be less than 3 per centum per annum.

"(c)(1) Each eligible recipient which receives assistance under this section shall, every six months during the period such assistance continues, make a full and complete report to the Secretary, in such manner as the Secretary shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this section in alleviating economic distress in the redevelopment area and in meeting the purposes of this section.

"(2) The Secretary shall provide an annual consolidated report to the Congress giving a full and complete accounting of all assistance provided under this section, which shall contain the Secretary's independent evaluation of the effectiveness of such assistance in alleviating economic distress in each redevelopment area and in meeting the purposes of this Act. The first such report to Congress under this subsection shall be made not later than September 30, 1980.

"SEC. 103. (a) The Secretary is authorized to make grants to enable eligible applicants under section 101 of this Act to pay up to 15 per centum of the cost of any private-sector economic development or adjustment project. Funds authorized by section 106 of this Act may be expended for the purposes of this section.

"(b) Activities eligible for assistance under this section include acquisition of industrial sites including abandoned properties with redevelopment potential, rehabilitation, and renovation of usable empty factory buildings for industrial and commercial use, acquisition of fixed plant equipment or other activities which facilitate job creating economic activity.

"(c) Projects must be in areas designated under section 401(a) (1), (2), or (5) or (b) of this Act and would not be undertaken without the assistance authorized by this section.

"PART B—ADJUSTMENT ASSISTANCE

"SEC. 104. (a) (1) The Secretary is authorized to make grants directly to any eligible recipient, as set forth in section 101(a), in an area designated under section 401(b) of this Act which the Secretary has determined has experienced, or may reasonably be foreseen to be about to experience, a special need to meet an expected rise in unemployment, or other economic adjustment problems (including those caused by any action or decision of the Federal Government), to carry out an economic adjustment plan which meets the requirement of subsection (e) of section 301 of this Act and which is approved by the Secretary, and to use such grants for any of the following: public facilities, public services, business development, planning, rent supplements, mortgage payment assistance, research, technical assistance, training, relocation of individuals and businesses, and other assistance which demonstrably furthers the economic adjustment objectives of this section.

"(2) Such grants may be used in direct expenditures by the eligible recipient or through redistribution by it to public and private entities in grants, loans, loan guarantees, payments to reduce interest on loan guarantees, or other appropriate assistance, but no grant shall be made by an eligible recipient to a private profitmaking entity.

"(3) Whenever notice is given of an anticipated closure or realignment or any military installation under section 2687, title 10, United States Code, the Secretary shall provide, upon application, appropriate technical or other financial assistance under this section, including planning funds, for the purpose of preserving or creating jobs in the affected area. Notwithstanding any other provision, this section shall apply to any military installation closure or realignment which has been announced under section 2687, title 10, United States Code, and which has not been completed upon date of enactment of this act: *Provided, however*, That no assistance under this section may be provided that is otherwise available through programs administered by the Office of Economic Adjustment in the Department of Defense.

"(b) The Secretary to the extent practicable shall coordinate his activities in requiring plans and making grants under this section with regional commissions, States, economic development districts, other appropriate planning and development organizations, and shall make such grant in accordance with the plan developed pursuant to the process required under section 301(e) of this Act.

"(c) No economic adjustment problem for which assistance may be provided under this section may include increases in energy development-related employment which has led to a deficit in public facilities or services or in housing, unless—

"(1) the State in which the affected area is located has enacted or adopted a siting procedure requiring economic mitigation, a fiscal or revenue raising mechanism, or other comparable mechanism intended and administered to assure that the owners and operators of energy resources developments directly or indirectly assume the costs of providing public facilities and services and needed housing made necessary by such energy resource development;

"(2) funds provided under this section are only for costs which cannot be met or recovered by means identified under paragraphs (1) and (2) of this subsection; and

"(3) the economic adjustment plan for the area prepared under section 301(e) of this Act (A) identifies all funds or other resources from State or local governments or other Federal programs which can be made available to meet needs identified for such area and the contributions towards meeting such needs to which the owner or operator of the energy development is committed, and (B) such plan is prepared with adequate participation by all appropriate Federal, State, Indian tribal, and local elected officials.

"SEC. 105. Not more than 15 per centum of the appropriations made pursuant to this title may be expended in any one State.

"SEC. 106. There is hereby authorized to be appropriated to carry out this title not to exceed $500,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1971, not to exceed $800,000,000 per fiscal year for the fiscal years ending June 30, 1972, and June 30, 1973, not to exceed $200,000,000 for the fiscal year ending June 30, 1974, and not to exceed $200,000,000 for the fiscal year ending June 30, 1975, and not to exceed $250,000,000 for the fiscal year ending June 30, 1976, not to exceed $62,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $425,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, and not to exceed $555,200,000 for the fiscal year ending September 30, 1980, and not to exceed $600,000,000 per fiscal year for the fiscal years ending September 30, 1981, September 30, 1982, and September 30, 1983. Any amounts authorized for the fiscal year ending June 30, 1972, under this section but not appropriated may be appropriated for the fiscal year ending June 30, 1973. Not less than 25 per centum nor more than 35 per centum of all appropriations made for the fiscal years ending June 30, 1972, June 30, 1973, and June 30, 1974, and not less than 15 per centum nor more than 35 per centum of all appropriations made for the fiscal years ending June 30, 1975, and June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, and not less than 5 per centum nor more than 25 per centum of all appropriations made for the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983, under the authority of the preceding sentence shall be expended in redevelopment areas or pockets of distress for impact assistance under section 101(a) (2) of this title. Not less than 5 per centum nor more than 35 per centum of all appropriations made for the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983, under the authority of this section shall be expended for special economic adjustment assistance under section 104 of this title. Notwithstanding any other provision of this section, not less than 40 per centum of all appropriations made for the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982, under the authority of this section for grants authorized under sections 101, 102, and 103 of this title shall be expended in rural areas as defined by the Secretary.

"FINANCIAL ASSISTANCE FOR SEWER FACILITIES

"SEC. 107. No financial assistance, through grants, loans, guarantees, or otherwise, shall be made under this Act to be used directly or indirectly for sewer or other waste disposal facilities unless the Administrator of the Environmental Protection Agency certifies to the Secretary that any pollutant or waste material carried by such facilities will be adequately treated before it is discharged on land or into the waters of the United States so as to meet applicable Federal, State, interstate, or local effluent limitations, water quality standards, and land disposal regulations.

"CONSTRUCTION COST INCREASES

"SEC. 108. In any case where a grant (including a supplemental grant) has been made under this title for a project and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has been increased because of increases in costs, the amount of such grant may be increased by an amount equal to the percentage increase, as determined by the Secretary, in such costs, but in no event shall the percentage of the Federal share of such project exceed that originally provided for in such grant.".

DEVELOPMENT FINANCING

SEC. 103. (a) Title II of the Public Works and Economic Development Act of 1965 is amended to read as follows:

"TITLE II—DEVELOPMENT FINANCING

"STATEMENT OF PURPOSE

"SEC. 201. The purposes of this title are—

"(1) to generate and retain private sector employment opportunities in distressed areas through guaranteed loans, direct loans, and interest subsidies in order to encourage and enable businesses to remain, locate, or expand in such areas; and

"(2) to provide liquidity to financial institutions through guarantees of long-term loans to such businesses.

"ELIGIBLE ACTIVITIES

"SEC. 202. A project is eligible for assistance under this title if it consists of one or more of the following activities, and if the Secretary determines that such activities are related to industrial or commercial purposes and will generate or retain private sector employment:

"(1) the purchase or development of land and facilities including demolition; the construction of new buildings; and the rehabilitation, alteration, conversion, or modernization of abandoned or occupied buildings;

"(2) the purchase or modernization of machinery or equipment;

"(3) the provision of working capital; and

"(4) the payment of debts with respect to which a legally enforceable lien has been obtained to secure the payment of money for the purchase of or improvement to real or personal property or for working capital.

"GUARANTEED LOANS

"SEC. 203. (a) The Secretary is authorized to guarantee the payment of the principal amount of, and interest on, loans made to finance projects upon application of the makers of such loans. The obligation of the United States under a guarantee pursuant to this section may not exceed 100 per centum of 90 per centum of the principal of and unpaid interest on such loan, except that no guarantee may exceed the guaranteed portion of the amount of the outstanding unpaid balance of such loan, including reasonable costs as determined by the Secretary. The amount of any guarantee may not exceed the amount the Secretary determines is necessary to accomplish the project in the area. The full faith and credit of the United States is pledged to the payment of all guarantees made under this section, including interest as provided for in the guarantee accruing between date of default on a guaranteed obligation and the payment in full of the amount guaranteed.

"(b) The Secretary may not guarantee any loan under this section if—

"(1) the rate of interest on either the portion to be guaranteed or the portion not to be guaranteed is determined by the Secretary to be excessive when compared with loans bearing similar terms and conditions: and

"(2) the interest on the loan is exempt from Federal income tax under section 103 of the Internal Revenue Code of 1954.

"(c) A guarantee under this section may be made only on the condition that at least 15 per centum of the aggregate project cost is to be supplied as equity capital or as a loan repayable in no shorter period of time and at no faster an amortization rate than the loan guaranteed under this section is being repaid, and any security for such other loan is subordinated to the loan guaranteed under this section.

"(d) A guarantee under this section may be made only for a project which is located in an area designated under section 401 (a) or (b) or section 403(a)(2) of this Act and which is consistent with an approved economic adjustment plan or overall economic development program.

"(e) The Secretary shall consult with the Secretary of the Treasury with respect to the interest rate, timing, and other terms and conditions of the financing of guaranteed obligations, in any case where the Secretary of Commerce determines that such financing will have a significant impact on the market for Government and Government-guaranteed securities.

"(f) The Secretary shall assess a fee of not less than one-quarter of 1 per centum of the amount of each guarantee to cover administrative and other costs of the loan guarantee program under this section.

"(g) The Secretary of the Treasury is authorized to purchase loans guaranteed under this section through the Federal Financing Bank only if, and to the extent that, the Secretary of Commerce determines that the private secondary market for such loans is not adequate to achieve the purposes of this Act.

"DIRECT LOANS

"SEC. 204. (a) The Secretary is authorized to make direct loans to finance projects which are located in areas designated under section 401 (a) or (b) or section 403(a)(2) of this Act and which are consistent with an approved economic adjustment plan or overall economic development program.

"(b) A loan under this section shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of the loan, adjusted to the nearest one-eighth of 1 per centum, plus an additional charge of not less than one-quarter of 1 per centum of the amount of the loan to cover administrative and other costs of the loan program under this section. A loan under this section may not exceed 65 per centum of the aggregate project cost to the applicant, excluding all other Federal aid, for all eligible activities.

"(c) A loan under this section may be made only if 15 per centum of the aggregate project cost is to be supplied from other sources as equity capital or as a loan which is repayable in no shorter period of time and at no faster an amortization rate than the loan extended under this section is being repaid, and any security for such other loan is subordinated to any lien securing the loan made under this section.

"(d) The Secretary is authorized, under regulations prescribed by the Secretary, to take such actions as may be necessary or appropriate to collect on or otherwise deal with any loan made under this section.

"(e) The Secretary may provide a direct loan only if the Secretary determines the project could not be accomplished in the area with a guaranteed loan under section 203.

"INTEREST SUBSIDIES

"SEC 205. (a) In the case of any loan guaranteed under this title, the Secretary is authorized to contract to pay annually, or at such shorter intervals as the Secretary deems appropriate, for a period not to exceed ten years, on behalf of the borrower a portion of each interest payment with respect to the principal amount of such loan, except that such payments may be made by the Secretary only if—

"(1) the interest on the loan is not exempt from Federal income tax under section 103 of the Internal Revenue Code of 1954; and

"(2) the loan is not the subject of any other guarantee, interest subsidy, or other form of financial assistance from any other Federal agency, or any State or local government, or any agency, department, or instrumentality thereof.

"(b) In the case of a direct loan under section 204, the Secretary is authorized to provide an interest subsidy by reducing the interest rate established in section 204(b) in accordance with subsection (c) of this section.

"(c) An interest subsidy payment or reduction of interest may be made only if, and to the extent that, the Secretary finds such action necessary to accomplish the project in the area. A payment under subsection (a) or reduction of interest under subsection (b) may not reduce the effective rate of interest payable by more than 5 percentage points, nor may the rate be reduced to a rate lower than 5 per centum per annum.

"PROJECT SELECTION

"SEC. 206. (a) The Secretary shall establish, by regulation, criteria for selecting projects for assistance under this title. In deciding among applications for assistance under this title the Secretary shall give primary consideration to the following factors:

"(1) the extent to which the proposed project will provide long-term private sector employment opportunities to residents of the area, particularly unemployed, long-term unemployed, low-income, and socially and economically disadvantaged residents;

"(2) the degree of economic distress in the area in which the project is to be implemented, as demonstrated by the criteria listed in section 401 and section 403 of this Act;

"(3) the level of private sector equity investment committed to financing the proposed project; and

"(4) the degree to which the proposed project will benefit socially and economically disadvantaged individuals and firms owned by such individuals.

"(b) The Secretary shall also consider other factors, including but not limited to—

"(1) the extent to which the proposed project is consistent with local and statewide development plans or priorities;

"(2) the extent to which the appropriate State and local governments have undertaken or agree to undertake other related actions to encourage economic development and the provision of employment opportunities in the distressed area;

"(3) the extent of the contribution to the economic and fiscal base of the distress area to be made by the project; and

"(4) the appropriateness of the proposed project in view of the area's labor force.

"CONDITIONS OF ASSISTANCE

SEC. 207. The Secretary shall not furnish assistance under this title unless—

"(1) the Secretary determines that credit is not otherwise available on terms adequate to accomplish the project consistent with the purposes of this Act;

"(2) the Secretary determines through an appropriate method that there is reasonable assurance of repayment;

"(3) the Secretary provides the chief elected official or his designee responsible for economic development in the area where the project will be located a reasonable time concurs in the project, (B) such official fails to respond within a reasonable time, or (C) the Secretary grants a waiver of the requirement for concurrence. Such a waiver may only be granted where the Secretary determines that there is an unavoidable conflict of interest or in such other cases may as be specified in regulations which may be prescribed by the Secretary; and

"(4) the loan or guarantee, including renewals or extensions thereof, does not exceed the lesser of thirty years or the expected life of the asset financed, except that the foregoing restrictions on maturities shall not apply to securities or obligations received by the Secretary as a claimant in bankruptcy or equitable reorganization or as a creditor in other proceedings attendant upon insolvency of the obligor, or to an extension of the maturity of any loan or guarantee made under this Act, beyond the periods stated in such loan, guarantee, or debt or in this Act, for an additional period of not to exceed ten years, if such extension will aid in the orderly liquidation of such loan, guarantee, or debt.

"SEC. 208. (a) With respect to loans guaranteed under section 203—

"(1) the amount of any single guarantee may not exceed $10,000,000; and

"(2) the total principal amount of guaranteed loans outstanding for any one firm may not exceed $20,000,000, except that such limitation shall not apply to not to exceed 10 per centum of the total principal amount of loan guarantees authorized and approved for any fiscal year. In no case shall the amount of such guaranteed loans outstanding for any one firm exceed $50,000,000.

"(b) With respect to direct loans made under section 204—

"(1) the amount of any single direct loan may not exceed $5,000,000; and

"(2) the total principal amount of direct loans outstanding for any one firm may not exceed $10,000,000.

"(c) Of the aggregate amount of loans which may be made or guaranteed in any fiscal year, not more than 10 per centum may be provided for projects involving firms which had assets in excess of $50,000,000 in their most recent fiscal year.

"(d) Not more than 30 per centum of the aggregate principal amount of loans which may be made or guaranteed in any fiscal year may be used to provide working capital.

"(e) In order to permit the orderly phaseout of the special Economic Development Administration steel loan guarantee program, the limitations contained in subsections (a) and (c) of this section shall not apply during fiscal years 1980 and 1981 to any loan guaranteed under such program: *Provided*, That the aggregate amount of such guarantees shall not exceed $100,000,000.

"ADMINISTRATIVE PROVISIONS

"SEC. 209. (a) Any guarantee or interest subsidy agreement shall be conclusive evidence of the eligibility of the obligation for such guarantee or interest subsidy, and the validity of any guarantee, or interest subsidy agreement shall be incontestable.

"(b) To the extent the Secretary finds such action necessary to encourage financial participation in a particular project by private lenders and investors, and except as otherwise provided in section 204(c) of this title, any direct loan extended under this title may be repayable only after other loans not receiving Federal financial assistance made in connection with such project have been repaid in full, and the security, if any, for such direct loan, may be subordinate and inferior to the lien or liens securing such other loans made in connection with the project. The provisions of the preceding sentence may also be applied to not to exceed 10 per centum of loan guarantees authorized and approved for any fiscal year.

"(c) For any direct or guaranteed loan made under the authority of this title, the Secretary is authorized to enter into arrangements for the servicing, including foreclosure, of such loans or evidences of indebtedness on reasonable terms and protecting the financial interests of the United States.

"ELIGIBILITY

"SEC. 210. Notwithstanding any other provision of this Act, an applicant located in an area eligible for designation under section 401 (a) or (b) or section 403(a)(2) of this Act is eligible for assistance under this title during fiscal year 1980, even if such area does not have an overall economic development program approved by the Secretary.

"CONFIDENTIAL INFORMATION

"SEC. 211. To the extent the Secretary deems it appropriate, consistent with section 552(b)(4) and section 552(c)(4) of title 5, United States Code, that portion or any record, material, or data received by the Secretary in connection with any application for financial assistance under this title which contains trade secrets or commercial financial information regarding the operation or competitive position of any business shall be deemed to be 'privileged or confidential' within the meaning of those sections.

"AUTHORIZATIONS

"SEC. 212. (a) The aggregate principal amount of loan guarantees made under section 203 may not exceed $1,800,000,000 for for fiscal year 1980, and $1,800,000,000 for fiscal year 1981, subject to such limitations as may be contained in an appropriation Act.

"(b) For direct loans under section 204, there are authorized to be appropriated not to exceed $150,000,000 for fiscal year 1980, and $150,000,000 for fiscal year 1981. The amount of such loans during any fiscal year may not exceed the amount approved in an appropriation Act.

"(c) The aggregate amount of contracts for interest subsidies under section 205, including reductions in interest payable pursuant to section 205(b), which may be entered into may not exceed $50,000,000 during fiscal year 1980, over the life of the contracts, but only to such extent or in such amounts as are provided for in advance in appropriations Acts. There are authorized to be appropriated such sums as may be necessary to liquidate such contracts.

"(d) To pay the outstanding unpaid balances of loans guaranteed under the authority of section 202 of the Public Works and Economic Development Act of 1965, as such section was in effect on the day preceeding the effective date of the National Public Works and Economic Development Act of 1979, and under section 203, there are authorized to be appropriated not to exceed $27,923,000 for fiscal year 1980, and $45,920,000 for fiscal year 1981. To make any additional payments required under any guarantee under section 203, there are authorized to be appropriated such sums as may be necessary.

"(e)(1) The authority to guarantee or make loans under this title expires at midnight on September 30, 1981.

"(2) The authority to contract to make interest subsidy payments under this title expires at midnight on September 30, 1980.".

(b) All funds under section 203 of the Public Works and Economic Development Act of 1965, as such section was in effect on the date preceding the date of enactment of this Act, shall be transferred to the Secretary of the Treasury and all payments that otherwise would be deposited into that revolving fund shall be deposited in the Treasury.

(c) Any reference in any other provision of law to section 202 of the Public Works and Economic Development Act of 1965 shall be deemed to be a reference to title II of such Act, as amended by this section.

(d) The amendment to title II of the Public Works and Economic Development Act of 1965 made by this section shall not apply to any loan guarantee project for which a Guaranty Agreement is executed on or before September 30, 1979.

SEC. 104. Section 301(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3151) is amended to read as follows:

"SEC. 301. (a) The Secretary is authorized to provide technical assistance to any eligible applicant as defined in paragraph (3) of this subsection. Such assistance may include project planning and feasibility studies, management and operational assistance, management training, studies evaluating the need and potential for economic development and growth, industrial analyses and productivity studies relating to particular industries, and environmental impact analyses and other studies required in connection with projects financed under this Act.

"(1) Such assistance may be provided by the Secretary through members of the Secretary's staff, through the payment of funds authorized for this subsection to other departments or agencies of the Federal Government, through the employment of private individuals, partnerships, firms, corporations, or other suitable institutions, under contracts entered into for such purposes, or through grants.

"(2) The Secretary may require the repayment of assistance provided under this subsection and prescribe terms and conditions for such repayment.

"(3) Eligible applicants for assistance under this subsection are multi-State organizations, States, Indian tribes, political subdivisions of States, sub-State planning and development organizations, area or local private nonprofit organizations, individuals, partnerships, firms, corporations, or other appropriate entities.

"(4) The amount of any grant under this subsection may not exceed 80 per centum of eligible costs, except that grants for environmental impact analyses may be for up to 100 per centum of eligible costs. The Secretary may waive the non-Federal share for Indians and in exceptional cases of need.".

SEC. 105. Section 301(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3151) is amended by adding the following new sentence at the end thereof: "Continued assistance under this subsection shall only be available if a development program appropriate to individual State and local economies and institutional settings has been designed and accomplishment of tasks contained in the development program has resulted along with implementation of actions and investments consistent with strategies of the development program.".

SEC. 106. Section 301(e) of the Public Works and Economic Development Act of 1965 is amended to read as follows:

"(e) The Secretary is authorized to make grants to multi-State organizations, States, Indian tribes, political subdivisions of States, economic development districts, and other sub-State planning and development organizations, and area or local private nonprofit organizations which are representative of the area or locality to help defray reasonable costs associated with such organizations for adjustment planning, the preparation of an impact assessment or an economic adjustment plan. Administrative expenses incurred in connection with the overall area coordination and management of adjustment planning are eligible for assistance. Adjustment planning shall be coordinated with an area's or locality's comprehensive development strategy where such a strategy exists. Impact assessments and economic adjustment plans shall be submitted to the Secretary for approval. The Secretary may not approve an economic adjustment plan unless such plan shall—

"(1) identify each economic development and adjustment need of the area for which assistance is sought under this subsection;

"(2) describe each activity planned to meet each such need;

"(3) explain the details of the method of carrying out each such planned activity;

"(4) contain assurances satisfactory to the Secretary that the proceeds from the repayment of loans made by the eligible recipient with funds granted under section 104 of this Act (if any) will be used for economic adjustment; and

"(5) be in such form and contain such additional information as the Secretary shall prescribe by regulation.".

SEC. 107. Subsections (c) and (f) of section 301 of the Public Works and Economic Development Act of 1965 is hereby repealed.

SEC. 108. Section 302 of the Public Works and Economic Development Act of 1965 is amended by adding new subsections (d) and (e) as follows:

"(d) Continued assistance under section 302 shall only be available upon the design of a development program appropriate to individual State and local economies and institutional settings and the accomplishment of tasks contained in the development program. The implementation of actions and investments consistent with strategies resulting from the program must also be demonstrated to the satisfaction of the Secretary.

"(e)(1) Each State shall use the assistance provided under this section in coordination with economic development planning conducted under title III of the Regional Development Act of 1979, and may use such assistance to support such planning. The Secretary shall consider State and regional development plans and investment strategies and areawide action programs prepared under such title III in determining the provision of any assistance under this Act.

"(2) The Secretary shall to the extent practicable assure coordination among plans, programs and investment strategies developed pursuant to this section, section 301 (b) and (e), and section 101(e) of this Act, in order to provide in such plans, programs, and strategies an informed basis for economic development investment decisions and avoid duplication of planning effort.".

SEC. 109. Section 303 of the Public Works and Economic Development Act of 1965 is amended to read as follows:

"RESEARCH, EVALUATION, AND DEMONSTRATION

"SEC. 303. (a) The Secretary is authorized to conduct programs of research and evaluation, including program evaluation, to—

"(1) assist in determining the causes of unemployment, underemployment, severe economic adjustment problems, and chronic distress in areas and regions of the United States;

"(2) assist in formulating, implementing, or improving programs at the National, State, regional, or local levels which are designed to raise income levels, increase employment in private firms, assist depressed industry sectors, or otherwise promote economic development or adjustment.

"(b)(1) The Secretary is authorized to conduct any demonstration program which the Secretary determines is designed to foster regional productivity and growth, prevent outmigration, alleviate problems of economic distress, assist depressed industry sectors, broaden the economic base, or otherwise carry out the purposes of this Act.

"(2) Such demonstration programs may include programs which are intended to test the fesibility of new and innovative approaches which hold promise for general solutions to problems of economic distress in areas and regions of the United States.

"(3) In extending assistance for a demonstration program, eligible activities include any form of assistance authorized under any of the titles of this Act or any other activity, including assistance for employee stock ownership trusts, which demonstrably furthers the objectives of this Act.

"(c) The Secretary shall, under the authority of this subsection, conduct a demonstration program to test the feasibility of establishing an equity financing program to carry out the purposes of title II of this Act.

"(d) The Secretary is authorized to provide assistance under this section—

"(A) in areas designated under section 401 (a) or (b) or 403(a)(2), of this Act; and

"(B) in other areas which the Secretary determines have a substantial need for such assistance.

"(e) Programs authorized under subsections (a), (b), and (c) of this section may be carried out by the Secretary acting through the staff of the Department; in cooperation with or by the provision of funding to other departments or agencies of the Federal Government; or through any form of assistance authorized by this Act to multi-State organizations, State and local agencies, profit or nonprofit corporations, institutions, or other associations, partnerships or persons, whether public or private. The Secretary shall make available to interested individuals and organizations the results of such research. The Secretary shall include in his annual report under section 705 a detailed statement concerning the research, evaluations, and demonstrations conducted under this section together with his findings resulting therefrom and his recommendation for legislative and other action.

"(f) There are authorized to be appropriated for the purposes of this section $10,000,000 for each of the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.".

SEC. 110. Section 304 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3153) is amended to read as follows:

"SEC. 304. (a) There are hereby authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending June 30, 1976, $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $75,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, $20,000,000 for the fiscal year ending September 30 1980, $75,000,000 per fiscal year for the fiscal years ending September 30, 1981, September 30, 1982, and September 30, 1983, for allocation by the Secretary among the States for the purpose of supplementing or making grants and loans authorized under titles I, II, III (other than planning grants authorized under sections 301(b) and 302), and IV of this Act and for the purpose of providing the non-Federal share of project funding required by this Act except under title II or by other Federal Acts for projects in areas designated under title IV of this Act.

"(b) Funds allocated to a State under subsection (a) shall be available for supplementing or making such grants or loans if the State makes a contribution of at least 25 per centum of the amount of such grant or loan in each case. Funds allocated to a State under subsection (a) shall remain available to such State until obligated or expended by it.

"(c) Funds allocated to a State pursuant to this section may be used by the Governor in supplementing grants or loans with respect to any project or assistance authorized under titles I (other than grants made under section 103), II, III (other than planning grants authorized under sections 301(b) and 302), and IV of this Act, and approved by the Secretary after July 1, 1974. Such grants also may be used to reduce or waive the non-Federal share otherwise required by this Act except under title II or, notwithstanding any other provision of law, by other Federal Acts for projects which meet the economic development purposes of this Act, subject to the requirements of subsection (b) of this section. In the case of grants or loans under this subsection for projects which receive funds under another Federal Act, the State shall certify to the Secretary that the project meets the economic development purposes of his Act and the requiremens of other Federal laws.

"(d) In the case of any grant or loan for which all or any portion of the basic Federal contribution to the project under this Act is proposed to be made with funds available under this secton, no such Federal contribution shall be made until the State certifies that such project meets all of the requirements of Federal law and could be approved for Federal contributions under this Act if funds were available under this Act (other than section 509) for such project.

"(e) After June 30, 1975, funds allocated to a State under this section shall be used by the Governor in a manner which is consistent with the State planning process assisted under section 302 of this Act, if such planning process has been established in the State.

"(f) Where an economic development district exists, a grant for a project made by a State from funds allocated to it under this section shall be made only if such project is in conformance with the development plan of the economic development district.".

SEC. 111. Title III of the Public Works and Economic Development Act of 1965 is amended by adding the following new section:

"SEC. 305. There is hereby authorized to be appropriated $25,000,000 annually for the purposes of sections 301 and 302 of this Act for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1969, $50,000,000 per fiscal year for the fiscal years ending June 30, 1970, June 30, 1971, June 30, 1972, and June 30, 1973, and $35,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 per fiscal year for the fiscal years ending June 30, 1975, and June 30, 1976, $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $75,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, and $89,780,000 for the fiscal year ending September 30, 1980, $95,000,000 for the fiscal year ending September 30, 1981, $105,000,000 for the fiscal year ending September 30, 1982, and $115,000,000 for the fiscal year ending September 30, 1983: *Provided*, That, not less than 45 per centum of the funds appropriated for the fiscal years ending September 30, 1980, through September 30, 1983, shall be used for planning under sections 301(b) and 302 of this title.".

SEC. 112. Section 401 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161) is amended to read as follows:

"SEC. 401. (a) Upon the application of any area which meets criteria established by the Secretary by regulation and which has an overall economic development program approved by the Secretary or which is located in an economic development district with such a program, the Secretary is authorized to designate:

"REDEVELOPMENT AREAS

"(1) A developed area suffering chronic economic distress, an area with persistent underdevelopment, or an area exhibiting incipient decline or short-term economic distress as a redevelopment area. Such area shall be eligible for all forms of assistance authorized by titles I, II, III, and IV of this Act. In order to be designated, an area must meet one of the following criteria:

"(A) have a per capita income of 80 per centum or less of the national per capita income as determined by statistics from the Department of Commerce;

"(B) for the most recent five-calendar-year period for which statistics are available from the Department of Labor, suffer an average unemployment rate above the national average unemployment rate;

"(C) for the most recent twenty-four-month period for which statistics are available from the Department of Labor, suffer an average unemployment rate at least 1 per centum above the national average unemployment rate, and suffer an average unemployment rate for the same twenty-four-month period of at least 7½ per centum;

"(D) an employment growth rate that is 20 per centum or less of the national average for the most recent five-year period for which statistics are available from the Secretary of Labor; or

"(E) the percentage of population living in poverty exceeds 16½ per centum of the area's population for the most recent year for which statistics are available.

In the case of a local government which encompasses, or is within a standard metropolitan statistical area or central city for which current population surveys were used to determine annual unemployment rates before January 1, 1978, the Secretary of Labor, for the purposes of clauses (B), (C), and (D) of this subsection, shall determine or assign the unemployment rates for such government calculated by the current population survey methodology, if such rates are higher than rates determined or assigned by the Secretary of Labor for that government for the appropriate six-month periods without applying the current population survey methodology. This methodology shall be used until such time as the Secretary of Labor determines that current population survey data is available for use on a satisfactory basis for such areas and the remaining area of each State.

"POCKETS OF DISTRESS

"(2)(A) An area as a pocket of distress if such area has severe economic distress as indicated by the criteria of paragraph (1) (A), (B), (C), (D), or (E) of this subsection but the appropriate Department of Labor or Department of Commerce statistics are not available or, in areas of extreme need, such area does not otherwise meet the definition of area established by the Secretary by regulation. An area requesting designation as a pocket of distress shall submit the statistical information on which it relies for qualification to the Secretary: *Provided, however*, That the designation of an area which is defined without regard to political boundaries shall be requested by the chief executive officer or the officer's designee of the political subdivision(s) within which it is contained. The Secretary shall evaluate the accuracy and reliability of such statistics and shall determine if such statistics qualify the area for designation. A pocket of distress is eligible for all forms of assistance under titles I, II, and III of the Act.

"(B) Notwithstanding any other provision of this Act, the Secretary shall have the authority to waive or modify the overall economic development program requirement for pockets of distress in circumstances where the capacity of the area and the nature of the assistance sought make the requirement inappropriate.

"AREA INELIGIBILITY

"(3)(A) Any area which has a per capita income in excess of 125 per centum of its group average national per capita income is not eligible for designation under the criteria of clause (B), (C), or (D) of paragraph (1) and under paragraph (2).

"(B) A project may not be located in any community which is in a designated area and which has a per capita income in excess of 125 per centum of its group average national per capita income, except where the area's overall economic development program specifically sets forth the proposed project and the project will have substantial benefits to the unemployed and underemployed of the area.

"(C) The percentage of its group average national per capita income used to limit designations in clause (A) shall, for local governments in the State of Hawaii, be increased by the average State percentage of basic pay which civilian employees of the United States Government receive as an allowance under section 5941 of title 5, United States Code. Such average State percentage shall be determined for the most recently completed calendar year for which data are available based on data provided by the Office of Personnel Management and reported to the Secretary.

"(D) Any area which has for the most recent five-year period for which statistics are available an employment growth rate exceeding 200 per centum of the national group average employment growth rate is not eligible for designation under the criteria of clause (B), (C), or (E) of paragraph (1) or under the criteria of paragraph (2), unless the area's average unemployment rate for that five-year period exceeds 150 per centum of the national average unemployment rate for that period.

"(E) The provisions of clauses (A), (B), and (D) of this paragraph shall not apply to areas which are located in the State of Alaska.

"(4) A project may not be located in a nonqualified balance of central county area in a redevelopment area unless the Secretary determines that such project shall provide substantial direct benefits to the population of the qualified areas within such counties.

"SPECIAL IMPACT AREAS

"(5) An area receiving financial support from the Community Services Administration as a special impact area under the provisions of part A of title VII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2981) shall be eligible for all forms of assistance authorized by titles I, II, III, and IV of this Act.

"CONTINUED ELIGIBILITY

"(6) Areas designated under the authority of title IV of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3161 et seq) which are or remain designated in fiscal year 1979 shall be eligible to receive assistance under titles I, III, and IV of this Act except as otherwise provided for fiscal years 1980, and 1981.

"ECONOMIC ADJUSTMENT AREAS

"(b)(1) Upon the application of an area, the Secretary is authorized to designate such an area as an economic adjustment area eligible for assistance authorized by section 104 of this Act if—

"(A) the Secretary determines that the area has recently suffered, or is threatened with, a severe economic adjustment problem; and

"(B) the Secretary approves the area's economic adjustment plan.

"(2) A designation under this subsection shall expire in three years unless the Secretary approves an application for continued designation.

"(3) The Secretary shall terminate or modify such designations whenever such areas no longer satisfy the designation requirements of this subsection.".

Sec. 113. (a) Section 403(a)(1)(D) is amended to read as follows:

"(D) the proposed district has a district overall economic development program which includes adequate land use and transportation planning and contains a specific program for district cooperation, self-help, and public investment and is approved by the State or States affected and by the Secretary and such overall program shall contain a multiyear economic development strategy and annually prepared investment programs identifying projects or other activities to be undertaken each year with assistance under this Act or other identified sources of funding,".

(b) Section 403(a)(2) is amended to read as follows:

"(2) to designate as 'economic development centers', in accordance with such regulations as he shall prescribe, such areas as he may deem appropriate, if—

"(A) the proposed center has been identified and included in an approved district overall economic development program and recommended by the State or States affected for such special designation;

"(B) the proposed center is geographically and economically so related to the district that its economic growth may reasonably be expected to contribute significantly to the alleviation of distress in the redevelopment areas of the district; and

"(C) the proposed center does not have a population in excess of five hundred thousand according to the last preceding Federal census.

No project shall be funded in an Economic Development Center unless the applicant demonstrates that the project will provide benefit to an area designated as a redevelopment area within the district.".

(c) Section 403(a)(3) is amended by deleting "sections 101, 201, and 202" and insert in lieu thereof "titles I and II".

(d) Section 403(a) is further amended by adding a new paragraph (5) as follows:

"(5) to provide for participation in district activities by all important elements of the district economy, including appropriate local governmental authorities, the private sector, minorities, and representatives of the disadvantaged and long-term unemployed.".

(e) Section 403(e) is amended by deleting "sections 101, 201, and 202" and inserting in lieu thereof "titles I and II".

Sec. 114. Subsection (g) of section 403 of the Public Works and Economic Development Act of 1965 is amended by inserting after "September 30, 1979," the following: "and not to exceed $40,000,000 per fiscal year for the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983,".

Sec. 115. Section 404 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3172) is amended by striking out the "and" following "September 30, 1978" and by inserting after "1979" the following: "September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983".

Sec. 116. Title VI of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3201) is amended to read as follows:

"TITLE VI—ADMINISTRATION

"CONSULTATION WITH OTHER PERSONS AND AGENCIES

"Sec. 601. The Secretary is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment.

"ADMINISTRATION, OPERATION, AND MAINTENANCE

"Sec. 602. No Federal assistance shall be approved under this Act unless the Secretary is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

"COORDINATION AMONG PROGRAMS

"Sec. 603. The Secretary is authorized to take such actions as are necessary to ensure coordination with activities assisted under the Comprehensive Employment and Training Act of 1978 (29 U.S.C. 801), and to provide employment opportunity in activities assisted under this Act for persons eligible under the provisions of the Comprehensive Employment and Training Act of 1978.".

Sec. 117. Title VII of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3211) is amended to read as follows:

"TITLE VII—MISCELLANEOUS

"POWERS OF SECRETARY

"Sec. 701. In performing his duties under this Act, the Secretary is authorized to—

"(1) adopt, alter, and use a seal, which shall be judicially noticed;

"(2) hold such hearings, sit and act at such times and places, and take such testimony, as he may deem advisable;

"(3) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics needed to carry out the purposes of this Act; and each department, bureau, agency, board, commission, office, establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary;

"(4) under regulations prescribed by him, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his discretion and upon such terms and conditions and for such consideration as he shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with loans or guarantees made or evidences of indebtedness purchased under this Act, and collect or compromise all obligations assigned to or held by him in connection with such loans, guarantees, or evidences of indebtedness until such time as such obligations may be referred to the Attorney General for suit or collection;

"(5) further extend the maturity of or renew any loan or guarantees made or evidence of indebtedness purchased under this Act, beyond the periods stated in such loan, guarantees, or evidence of indebtedness or in this Act, for additional periods not to exceed ten years, if such extension or renewal will aid in the orderly liquidation of such loan, guarantees, or evidence of indebtedness;

"(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any real or personal property conveyed to, or otherwise acquired by him in connection with loans or guarantees made or evidence of indebtedness purchased under this Act;

"(7) pursue to final collection, by way of compromise or other administrative action, prior to reference to the Attorney General, all claims against third parties assigned to him in connection with loans or guarantees made or evidences of indebtedness purchased under this Act. This shall include authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Secretary. Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Secretary as a result of loans or guarantees made or evidences of indebtedness purchased under this Act if the premium therefor or the amount thereof does not exceed $1,000. The power to convey and to execute, in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the Secretary pursuant to the provisions of this Act may be exercised by the Secretary or by any officer or agent appointed by him for that purpose without the execution of any express delegation of power or power of attorney;

"(8) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), whenever deemed necessary or appropriate to the conduct of the activities authorized by this Act;

"(9) in addition to any powers, functions, privileges, and immunities otherwise vested in him, take any and all actions, including the procurement of the services of attorneys by contract, determined by him to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with or realizing on loans or guarantees made or evidences of indebtedness purchased under this Act and the Secretary is authorized to cancel loans made under the authority of the Area Redevelopment Act and under the authority of section 201 of this Act prior to the enactment of the National Public Works and Economic Development Act of 1979 if the Secretary determines that such loans cannot be repaid and are uncollectable;

"(10) employ experts and consultants or organizations therefor as authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 3109), compensate individuals so employed at rates not in excess of the per diem rate authorized for GS-18 of the General Schedule, including traveltime, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5 of such Act (5 U.S.C. 5703) for persons in the Government service employed intermittently, while so employed: *Provided, however*, That contracts for such employment may be renewed annually;

"(11) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or his property. Nothing herein shall be construed to except the activities under this Act from the application of sections 507(b) and 2679 of title 28, United States Code, and of section 367 of the Revised Statutes (5 U.S.C. 517);

"(12) in making grants, retain an amount not to exceed 10 per centum of the grant until the recipient provides assurances satisfactory to the Secretary that the project meets all the requirements imposed pursuant to this Act;

"(13) establish such rules, regulations, and procedures as he may deem appropriate in carrying out the provisions of this Act; and

"(14) determine whether the public works projects proposed for the Secretary's approval are consistent with Federal, State, and local environmental regulations and plans, and have been developed with public participation in the planning process. The Secretary shall assure the preparation of any required Federal environmental impact statement or assessment on any proposal or project. Approval shall not be granted until the Secretary has consulted with relevant Federal departments and agencies, has issued adequate public notice, and has solicited and reviewed public comments.

"PREVENTION OF UNFAIR COMPETITION

"SEC. 702. No financial assistance under this Act shall be extended to any project when the result would be to increase the production of goods, materials, or commodities, or the availability of services or facilities, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises. Nevertheless, financial assistance may be provided in those instances where the extension of financial assistance will not result in a significant increase in existing production, capacity or services and where the project is located in an economically distressed geographical area and when modernization of such existing productive services or facilities is essential for the retention of existing employment in that area.

"ENERGY ASSISTANCE LIMITATIONS

"SEC. 703. No financial assistance authorized under this Act shall be used to finance the cost of facilities for the generation, transmission, or distribution of electrical energy, or to finance the cost of facilities for the production or transmission of gas (natural, manufactured, or mixed), except (1) for projects specifically authorized by Congress, and (2) for local projects for industrial parks and industrial or commercial areas in communities where the electrical energy or gas supply is, or is threatened to be interrupted or curtailed resulting in a loss of jobs, or where the purpose is to save jobs, or create new jobs, on condition that (A) the Secretary finds that project financing is not available from private lenders or other Federal agencies on terms which, in the opinion of the Secretary, will permit accomplishment of the project, and (B) the State or Federal regulatory body regulating such service determines that the facility to be financed will not compete with an existing public utility rendering such a service to the public at rates or charges subject to regulation by such State or Federal regulatory body, or if there is a determination of competition, the State or Federal regulatory body must make a determination that in the area to be served by the facility for which the financial assistance is to be extended there is a need for an increase in such service (taking into consideration reasonably foreseeable future needs) which the existing public utility is not able to meet through its existing facilities or through an expansion which it agrees to undertake; and (3) for projects supporting the development of small-scale hydroelectric plants at existing dams, facilities for the production of alcohol for use as a supplement to motor fuel, expanded use of solar energy equipment, and coal gasification units for small industrial application, where such projects will contribute to the creation or preservation of jobs. Not more than $7,000,000 of the funds available to carry out titles I and II of this Act may be expended annually for projects under clause (2) of this subsection, and not more than 5 per centum of the funds available to carry out titles I and II of this Act may be expended annually for projects under clause (3) of this subsection.

"SEPARABILITY

"SEC. 704. Notwithstanding any other evidence of the intent of Congress, it is hereby declared to be the intent of Congress that if any provision of this Act or the application thereof to any persons or circumstances shall be adjudged by any court of competent jurisdiction to be invalid such judgment shall not affect, impair, or invalidate the remainder of this Act or its application to other persons and circumstances, but shall be confined in its operation to the provision of this Act or the application thereof to the persons and circumstances directly involved in the controversy in which judgment shall have been rendered.

"ANNUAL REPORT

"SEC. 705. (a) The Secretary shall make a comprehensive and detailed annual report to the Congress of his operations under this Act, including section 718 relating to employee ownership, describing the implementation of the programs authorized by this Act and assessing the extent to which such programs are achieving the purposes of this Act, for each fiscal year beginning with the fiscal year ending June 30, 1966. Such report shall be printed and shall be transmitted to the Congress not later than February 1 of the year following the fiscal year with respect to which such report is made.

"(b)(1) Either separately or as part of the report required under subsection (a) of this section, the Secretary shall make an annual consolidated report to the Congress giving a full and complete accounting of all economic adjustment assistance provided under section 104 of this Act, which shall contain an evaluation of the effectiveness of such assistance in solving the economic adjustment problem or problems for which assistance was provided to each eligible recipient. The first such report to Congress under this subsection shall be made not later than September 30, 1980.

"(2) In order to carry out this requirement, the Secretary is authorized to require each eligible recipient which receives economic adjustment assistance under section 104 to make a full and complete report to the Secretary, in such manner as the Secretary shall prescribe. Not later than March 1, 1980, the Secretary shall transmit to the Congress a detailed report reviewing plans for implementing title II, section 303, and section 401 of this Act.

"(A) plans for delegating decisionmaking to regional offices of the Economic Development Administration for the purpose of cutting down on processing time and making the programs authorized under this Act responsive to local development needs;

"(B) plans for using, as appropriate, the resources of State and local development financing agencies, multi-State agencies, financial institutions, private investment companies, and such other entities as may be designated by the Secretary;

"(C) actions taken by the Secretary to implement research and demonstration programs, including the equity financing demonstration program, pursuant to section 303; and

"(D) efforts undertaken to assure the effectiveness of regulations to provide for targeting the assistance authorized under title II according to section 206(a) and 401.

"USE OF OTHER FACILITIES

"SEC. 706. (a) The Secretary is authorized to delegate to the heads of other departments and agencies of the Federal Government any of the Secretary's functions, powers, and duties under this Act as he may deem appropriate, and to authorize the redelegation of such functions, powers, and duties by the heads of such departments and agencies.

"(b) Departments and agencies of the Federal Government shall exercise their powers, duties, and functions in suuch manner as will assist in carrying out the objectives of this Act.

"(c) Funds authorized to be appropriated under this Act may be transferred between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

"APPROPRIATION

"SEC. 707. There are hereby authorized to be appropriated such sums as may be necessary to carry out those provisions of the Act for which specific authority for appropriations is not otherwise provided in this Act. Appropriations authorized under this Act, except under title II, shall remain available until expended unless otherwise provided by appropriations Acts.

"PENALTIES

"SEC. 708. (a) Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any financial assistance under this Act or any extension thereof by renewal, deferment or action, or otherwise, or the acceptance, release or substitution of security therefor, or for the purpose of influencing in any way the action of the Secretary or for the purpose of obtaining money, property, or anything of value, under this Act, shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

"(b) Whoever, being connected in any capacity with the Secretary in the administration of this Act (1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether beloning to him or pledged or otherwise entrusted to him, or (2) with intent to defraud the Secretary or any other body politic or corporate, or any individual, or to decieve any officer, auditor, or examiner, makes any false entry in any book, report, or statement of or to the Secretary, or without being duly authorized draws any orders or issues, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof, or (3) with intent to defraud participates or shares in or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, grant, commission, contract, or any other act of the Secretary, or (4) gives any unauthorized information concerning any future action or plan of the Secretary which might affect the value of securities, or having such knowledge invests or speculates, directly, or indirectly, in the securities or property of any company or corporation receiving loans, grants, or other assistance from the Secretary, shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

"EMPLOYMENT OF EXPEDITERS AND ADMINISTRATIVE EMPLOYEES

"SEC. 709. No financial assistance shall be extended by the Secretary under this Act to any business enterprise unless the owners, partners, or officers of such business enterprise (1) certify to the Secretary the names of any attorneys, agents, and other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the Secretary for assistance of any sort, under this Act, and the fees paid or to be paid to any such person; and (2) execute an agreement binding such business enterprise, for a period of two years after such assistance is rendered by the Secretary to such business enterprise, to refrain from employing, tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof was rendered, or within one year prior thereto, shall have served as an officer, attorney, agent, or employee, occupying a position or engaging in activities which the Secretary shall have determined involve discretion with respect to the granting of assistance under this Act.

"PREVAILING RATE OF WAGE AND FORTY-HOUR WEEK

"SEC. 710. All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary shall not extend any financial assistance for projects under this Act without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 FR 3176; 64 Stat. 1267; 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1964, as amended (40 U.S.C. 276c).

"RECORD OF APPLICATIONS

"SEC. 711. The Secretary shall maintain as a permanent part of the records of the Department of Commerce a list of applications approved for financial assistance under this Act, which shall be kept available for public inspection during the regular business hours of the Department of Commerce. The following information shall be posted in such list as soon as each application is approved: (1) the name of the applicant and, in the case of corporate applications, the names of the officers and directors thereof, (2) the amount and duration of the loan or grant for which application is made, (3) the purposes for which the proceeds of the loan or grant are to be used, and (4) a general description of the security-offered in the case of a loan.

"RECORDS AND AUDIT

"SEC. 712. (a) Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act.

"(c) Not later than February 1, 1981, the Comptroller General of the United States shall conduct a thorough review of the programs authorized by this Act and shall transmit to the Congress a detailed report on his findings, including therein the Comptroller's evaluation of the administration and effectiveness of the programs authorized by this Act in achieving the purposes of this Act, a description of any failure to comply with the requirements of this Act, and recommendations for corrective legislative or administrative action.

"ASSISTANCE LIMITATION

"SEC. 713. All financial and technical assistance authorized under this Act shall be in addition to any Federal assistance previously authorized, and no provision hereof shall be construed as authorizing or permitting any reduction or diminution in the proportional amount of Federal assistance to which any State or other entity eligible under this Act would otherwise be entitled under the provisions of any other Act.

"NONRELOCATION

"SEC. 714. Financial assistance under this Act shall not be extended to assist establishments relocating from one area to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts theretofore customarily performed by them. Such limitations shall not be construed to prohibiting assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area which it conducts such operations.

"EMPLOYEE OWNERSHIP

"SEC. 715. Assistance may be provided in accordance with this Act to aid employee ownership plans, including employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954, in order to preserve jobs and business activity. The Secretary shall issue rules to assure that the interests of participants and beneficiaries in an employee ownership plan established with assistance provided under this Act will be adequately safeguarded.

"NONDISCRIMINATION AND AFFIRMATIVE ACTION

"SEC. 716. (a) No person in the United States shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance under this Act.

"(b) The Secretary shall administer the programs under this Act in a manner affrmatively to further participation in those programs, and in the projects they support, by socially and economically disadvantaged individuals and by firms owned by such individuals.

"(c) The Secretary may require each State or political subdivision of a State, applying for assistance under this Act, to demonstrate reasonable progress in providing socially and economically disadvantaged individuals with opportunity for equal employment.

"INTERSTATE COMPACTS

"SEC. 717. In order to fulfill the purposes of this Act, an eligible applicant located in one State or a State itself is authorized to enter into agreements with an eligible applicant located in another State or another State to apply jointly for assistance under this Act.

"AVAILABILITY OF FINANCIAL ASSISTANCE

"SEC. 718. It is the intent of Congress that the financial assistance under this Act shall be available throughout the United States, notwithstanding State laws which may restrict the lending of public credit in certain localities.

"DEFINITIONS

"SEC. 719. As used in this Act, the term—

"(1) 'area' means any political jurisdiction or group of political jurisdictions, or any community or neighborhood defined without regard to political or other type of boundary, that meets criteria established by the Secretary;

"(2) 'balance of central county area' means the area of the central county of a metropolitan area excluding that county's central city and the other separately qualified areas within the county;

"(3) 'business owned and controlled by socially and economically disadvantaged individuals' means a business—

"(A) which is at least 50 per centum owned by one or more socially and economically disadvantaged individuals; and

"(B) whose management and daily business operations are substantially controlled by one or more socially and economically disadvantaged individuals.

Socially and economically disadvantaged individuals include black Americans, Hispanic Americans, Native Americans, and other minorities or any other individual found to be disadvantaged by the Small Business Administration pursuant to section 8 of the Small Business Act;

"(4) 'economic adjustment plan' means a document that discusses the nature, causes, magnitude, and impacts of an economic dislocation; the adjustment needs arising from a dislocation; the proposed actions for responding to the adjustment needs, including the immediate reemployment or other needs of the dislocated workers; and the method of carrying out an adjustment program;

"(5) 'group average national per capita income' when used to limit eligibility under section 401(a)(3) of this Act means the separately computed national per capita incomes for standard metropolitan statistical areas and for areas outside standard metropolitan statistical areas;

"(6) 'impact assessment' means a document that identifies the magnitude and specific impacts of an economic adjustment problem;

"(7) 'Indian tribe' means the governing body of a tribe, an Indian authority, or tribal organization or entity, an Alaskan Native Village, or any Indian group which is recognized as an Indian tribe by the Secretary of the Interior;

"(8) 'overall economic development program' means a document that describes—

"(A) the organizational structure, operating procedures, and proposed planning and coordinative activities necessary to support an ongoing economic development effort, and

"(B) a multiyear economic development strategy that is based on an analysis of economic problems and potentials and lays out development goals and the public and private actions and investments needed to achieve them;

"(C) an annually prepared investment program identifying projects or other activities to be undertaken each year with assistance under this Act or other identified sources of funding;

"(9) 'Secretary' means the Secretary of Commerce;

"(10) 'severe economic adjustment problem' means the sudden and permanent loss of a significant number of jobs resulting from direct actions of the Federal Government; import competition; a disaster that permanently destroys a significant part of the employment base and for which other recovery assistance is unavailable; or other reasons:

"(11) 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

"(12) 'underemployed, disadvantaged, and long-term unemployed' shall be defined in regulations by the Secretary of Commerce in consultation with the Secretary of Labor to assure consistency among Federal programs.

"SEC. 118. Title V of the Public Works and Economic Development Act of 1965 (as amended), is amended by adding the following new section:

"SOUTHWEST BORDER EDUCATION ASSISTANCE

"SEC. 518. (a)(1) The Southwest Border Regional Commission established under this title (hereinafter in this section referred to as the 'Commission') shall, in accordance with the provisions of this section, make a grant to each eligible local educational agency for the construction of school facilities in order to assist such agencies in providing education to immigrant children.

"(2) The amount of the grant to which a local educational agency is entitled under this shall be equal to the number of immigrant children aged five to seventeen, inclusive, who are enrolled at the schools of that agency and for whom that agency provided free public education during the school year 1978–1979, multiplied by $1,000.

"(3)(A) A local education agency shall be eligible to receive a grant under this section if the number of immigrant children enrolled during such school year at the schools of that agency is equal to or greater than twenty and is equal to 7 per centum or more of all children aged five to seventeen, inclusive, who are enrolled at such school during each year.

"(B) No immigrant child may be counted for the purpose of this section by any local educational agency unless—

"(i) the parents of such child reside within the school district of such agency.

"(ii) the guardian of such child resides within the school district of such agency.

"(iii) the individual having lawful control of the immigrant child resides within the school district of such agency, or

"(iv) such child resides within the school district of such agency.

"(C) Determinations with respect to the number of immigrant children by the Commission under this section shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimation, to deprive any local educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

"(b) Notwithstanding the other provisions of this section, a local educational agency shall not be eligible for a grant under this section if the Commission determines that the amount determined for such agency under subsection (b) is not adequate to provide such agency with any meaningful assistance in the education of immigrant children.

"(c)(1) In addition to sums available under section 509 of this title, for the fiscal years ending September 30, 1980, and September 30, 1981, there are authorized to be appropriated to the Southwest Border Regional Commission not to exceed a total amount of $45,000,000 for grants pursuant to this section. These funds shall be available until expended.

"(2) If the sum appropriated for making grants under this section is not sufficient to pay in full the total amount which local educational agencies are entitled to receive under this section, the entitlements of such local educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such entitlements within the limits of the amount so appropriated.

"(d)(1) No local educational agency shall be entitled to any grant under this section unless that agency submits an application to the Commission at such time, in such manner, and containing or accompanied by such information, as the Commission may require. Each such application shall—

"(A) provide that the grant made under this section be used for the construction of school facilities to be administered by such agency;

"(B) provide assurances that the application will be submitted to be the appropriate State educational agency for comment;

"(C) provide that such fiscal control and fund accounting procedures will be established as may be determined by the Commission to be necessary to insure the proper disposal of, and accounting for, Federal funds paid to the agency under this section; and

"(D) provide for the furnishing of such other information and reports as the Commission may reasonably require to perform its functions under this section.

"(2) The Commission shall approve an application which meets the requirements of paragraph (1) of this subsection. The Commission shall not finally disapprove an application of a local educational agency except after reasonable notice and opportunity for hearing to such agency.

"(3) Whenever the Commission after a reasonable notice and opportunity for a hearing to any local educational agency, finds that there is failure to meet the requirements of this section, the Commission shall notify that agency that further payments will not be made to the agency under this section until the Commission is satisfied that there is no longer any such failure to comply. Until the Commission is so satisfied no further payment shall be made to the local educational agency under this section.

"(e) As used in this section—

"(1) the term 'construction' means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (B) acquisition of existing structures not owned by any agency making application for assistance under this section; or (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (D) a combination of any two or more of the foregoing;

"(2) the term 'elementary school' means a day or residential school which provides elementary education, as determined under State law;

"(3) the term 'secondary school' means a day or residential school which provides secondary education, as determined under State law;

"(4) the term 'free public education' means education which is provided at public expense under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State;

"(5) the term 'local educational agency' means a public board of education or other public authority legally constituted within a State which is a member of the South West Border Regional Commission, for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivisions of such State, or such combination of school districts or counties as are recognized in such State as an administrative agency for its public elementary or secondary schools, and such term also includes any other public institution or agency in such State having administrative control and direction of a public elementary or secondary school;

"(6) the term 'immigrant child' means a child born in the Republic of Mexico and who has legally immigrated to the United States, or born of parents who have legally immigrated from the Republic of Mexico and are not citizens of the United States (other than a child in a family which is in the United States for the purpose of representing another government in a diplomatic or similar capacity), and who is provided free public education by a local educational agency of a State;

"(7) the term 'school facilities' includes classrooms and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for school purposes; but such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public; and

"(8) the term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.".

SEC. 119. Titles VIII, IX, and X of the Public Works and Economic Development Act of 1965 are hereby repealed.

AMENDMENT TO TITLE 18, UNITED STATES CODE

SEC. 120. Section 665 of title 18, United States Code, is amended to read as follows:

"§ 665. Theft or embezzlement; improper inducement

"(a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any agency or other entity receiving financial assistance under either the Comprehensive Employment and Training Act or the Public Works and Economic Development Act of 1965 or embezzles, willfully misapplies, steals, or obtains by fraud any other moneys, funds, assets or property which are the subject of a loan guarantee, grant, or contract of assistance pursuant to such Acts shall be fined not more than $10,000 or imprisoned for not more than two years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) Whoever, by threat of procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a grant, loan guarantee, or contract of assistance under the Comprehensive Employment and Training Act or the Public Works and Economic Development Act of 1965, induces any person to give up any money or thing of any value to any person (including such grantee agency) shall be fined not more than $1,000, or imprisoned not more than one year, or both.".

SEC. 121. This Act shall become effective October 1, 1979, or upon enactment, whichever is later.

TITLE II

SEC. 201. This title may be cited as the "Regional Development Act of 1979".

SEC. 202. It is the purpose of this title to authorize creation of regional commissions and to provide a framework for regional commissions to coordinate the efforts of Federal, State, and local governments in (1) planning and implementing programs to improve the capability of States and local governments to resolve shared and interstate regional problems of economic decline and dislocation due to rapid growth; (2) undertaking shared efforts to establish stable and diversified regional economies and meet basic service needs in areas and communities experiencing economic decline or dislocation due to rapid growth; (3) providing a mechanism for improving the ability of Federal programs and policies to function effectively, taking into account specific regional differences and perspectives; (4) establishing priorities from the regional perspective for public and private investment in areas affected by economic decline or dislocation due to rapid growth; (5) fostering creation of regional institutions to address shared problems and encouraging commonality of services on a regional basis where appropriate; and (6) meeting the special problems created in a region as a result of national policies or needs.

PART A

SEC. 210. This part may be cited as the "Appalachian Regional Development Act Amendments of 1979".

SEC. 211. Section 2 of the Appalachian Regional Development Act of 1965 is amended as follows:

(1) The fifth sentence of subsection (a) of such section is amended by inserting "including the provision of services to people in the region," after "special problems,".

(2) The sixth sentence of subsection (a) is amended to read as follows: "The public investments made in the region under this Act shall be concentrated in areas where there is a significant potential for future growth, including emerging small cities and urban centers and areas affected by energy development, where the expected return on public dollars invested will be the greatest, and in remote and hard-to-reach areas where there are special problems in providing for human service needs.".

SEC. 212. Subsection (b) of section 105 of the Appalachian Development Act of 1965 is amended to read as follows: "To carry out this section there are hereby authorized to be appropriated to the Commission, to be available until expended, for the two-year period ending September 30, 1981, not to exceed $7,000,000 (of which not to exceed $1,100,000 shall be available for expenses of the Federal Cochairman, his alternate and his staff) and for the two-year period ending September 30, 1983, $8,500,000 (of which $1,400,000 shall be available for expenses of the Federal Cochairman, his alternate, and his staff).

SEC. 213. Section 106 of the Appalachian Regional Development Act of 1965 is amended as follows:

(1) Paragraph (5) is amended by adding at the end, "The Office of Personnel Management is further authorized, under such terms and conditions as it shall prescribe, to contract with the Commission and with any regional commission established or recognized under the Regional Development Act of 1979 for coverage as of the date of the Appalachian Regional Development Act Amendments of 1979 in such retirement and other employee benefit programs of the Federal Government, of any employee of the Commission not covered in such programs who gives written notice to the Commission of his desire to come within the purview of such coverage.".

(2) Paragraph (7) is amended by striking out "1979" and inserting in lieu thereof, "1983".

SEC. 214. Title 5, United States Code, is amended as follows:

(1) The last sentence of section 5334(a) of title 5, is amended by striking out "was a Federal employee immediately prior to such employment by a commission and".

(2) Such title is amended by inserting after section 6312 a new section as follows:

"§ 6313. Accrual and accumulation for former Appalachian Regional Commission and title 5 regional commission employees

"Services rendered as an employee of the Appalachian Regional Commission under section 106(2) of the Appalachian Regional Development Act of 1965, or of a regional commission established pursuant to section 502 of the Public Works and Economic Development Act of 1955, under section 506(2) of such Act, or pursuant to the Regional Development Act of 1979 shall be included in determining years of service for the purpose of section 6303(a) of this title in the case of any employee as defined in section 6301 of this title. The provision of section 6308 of this title for transfer of annual and sick leave between leave systems shall apply to the leave system established for such employees.".

SEC. 215. (a) Section 201(g) of the Appalachian Regional Development Act of 1965 is amended by striking everything after "1980", and inserting in lieu thereof: "$350,000,000 for fiscal year 1981; $400,000,000 for fiscal year 1982; $450,000,000 for fiscal year 1983; $500,000,000 for fiscal year 1984; and $500,000,000 for fiscal year 1985.".

(b) The third sentence of section 201(a) of the Appalachian Regional Development Act of 1965 is amended by striking "three thousand twenty-five" and inserting in lieu thereof "three thousand fifty-eight".

(c) Subsection (h) of section 201 of the Appalachian Regional Development Act of 1965 is amended by striking "70 per centum" and inserting in lieu thereof "80 per centum" and by adding at the end the following: "Projects approved after March 31, 1979, and on or before the date of enactment of the Regional Development Act of 1979 may be adjusted to receive a Federal share not greater than 80 per centum.".

SEC. 216. (a) Section 202 of the Appalachian Regional Development Act of 1965 is amended by adding the following new subsection:

"(f)(1) The Commission may make grants to the States for innovative projects and for demonstrations approved pursuant to section 303, of methods and techniques for meeting human services needs of individuals and families in the region which the Commission determines cannot reasonably be accomplished under other provisions of this title or other Federal programs, and shall give special emphasis to demonstrations serving people in the more remote and hard-to-reach areas of the region and in areas impacted by energy development.

"(2) States may carry out such demonstrations directly, or through the employment of private individuals or firms under contracts entered into for such purposes, or through arrangements with public bodies and private nonprofit organizations.

"(3) Demonstrations may be funded entirely from appropriations to carry out this Act or in combination with funds available under other Federal grant-in-aid programs or from any source. Notwithstanding any provision of law limiting the Federal share in any such other program, funds appropriated to carry out this subsection may be used to increase such Federal share as the Commission determines appropriate to a maximum of 80 per centum. No component of a demonstration shall receive financial assistance under this title after five years following the commencement of the assistance for such component.".

(b) The seventh sentence of section 202 (c) of the Appalachian Regional Development Act of 1965 is amended by striking everything after "except" and through "child development demonstrations" and inserting in lieu thereof "that child development demonstrations assisted under this section during fiscal year 1979 may, upon State request, be approved under section 303 of this Act for continued support beyond that period".

SEC. 217. (a) Section 207(c)(2) of the Appalachian Regional Development Act of 1965 is amended by—

(1) inserting "(including land acquisition)" after "reasonable site development costs";

(2) striking "10 per centum" each place it occurs and inserting in lieu thereof "25 per centum"; and

(3) adding at the end thereof "The Secretary (or a State acting under subsection (e) of this section) shall assure that reductions in the cost of housing units due to the acquisition of land pursuant to this section shall accrue to the benefit of ultimate purchasers or tenants of such housing units and not to the financial benefit of any profit-making entity.".

(b) Section 207 of the Appalachian Regional Development Act of 1965 is amended by adding the following new subsections:

"(f) In furtherance of the purposes of this section, at the request of the Commission in accordance with section 303 of this Act the Secretary of Agriculture is authorized to use all of the authority to acquire land under the provisions of section 601(c) of the Powerplant and Industrial Fuel Use Act (Public Law 95-260). Funds for such acquisition shall be provided under this section or by the affected State.

"(g) The Commission is authorized and directed to undertake a demonstration of appropriate incentives or programs to attract large scale housing developers to operate in the central Appalachian region. In conducting such demonstration, the Commission, after consultation with potential developers and to the extent practical, shall select at least three sites or areas, and the Commission is authorized to use the authority of this section or section 302 of this Act.".

Sec. 218. Title II of the Appalachian Regional Development Act of 1965 is amended by inserting after section 208 the following new section:

"BUSINESS, RAILROAD, AND ENERGY RESOURCE ACTIVITIES

"Sec. 209. (a) In order to assist in stimulating agriculture, mining, construction, manufacturing, commercial, and other economic activities in the region, including the development of indigenous arts and crafts, the Commission is authorized to make grants approved pursuant to section 303 to the States, for—

"(1) Business related technical assistance, including entrepreneurial development, management advice, market analyses, and utilization or financial feasibility studies.

"(2) Establishing revolving funds to be used for business, agricultural and forestry enterprise development loans, with special emphasis on loans furthering development opportunities for entrepreneurs that are identified through technical assistance activities under this Act.

"(3) Making grants for—

"(A) Projects for the acquisition of rail properties by public bodies where critical to a State investment program approved pursuant to section 303. No such grant for a project shall exceed 80 per centum of the cost thereof, and the non-Federal share may be in cash or in kind, fairly evaluated, including but not limited to equipment and services.

"(B) Projects for the rehabilitation, repair, and modernization of rail properties (except rolling stock) where critical to a State investment program approved pursuant to section 303. No such grant for a project shall exceed 50 per centum of the cost thereof, and the non-Federal share may be in cash or in kind, fairly evaluated, including but not limited to equipment and services.

"(4) Demonstration projects in connection with the development, production, utilization, and conservation of the region's energy resources, including site development where necessary for the feasibility of projects.

"(5) Assistance to communities in maintaining, restoring, or augmenting commercial air passenger service, but not including capital assistance or operating subsidies.

"(b) States may carry out such activities directly, or through the employment of private individuals or firms under contracts entered into for such purposes, or through arrangements with public bodies and private nonprofit organizations.

"(c) Assistance under this section may be funded entirely from appropriations to carry out this Act or in combination with funds available under other Federal grant-in-aid programs or from any service. Notwithstanding any provision of law limiting the Federal share in any such other program, funds appropriated to carry out this section may be used to increase such Federal share as the Commission determines appropriate.".

Sec. 219. The first sentence of subsection (c) of section 214 of the Appalachian Regional Development Act of 1965 is amended by striking "December 31, 1978" and inserting in lieu thereof "October 1, 1983".

Sec. 220. The last sentence of section 302 (b)(1) of the Appalachian Regional Development Act of 1965 is amended to read as follows: "No more than $5,000,000 shall be obligated for such energy resource related demonstrations in any fiscal year under this section or section 209(a)(4), and no more than $2,500,000 shall be obligated for such indigenous arts and crafts demonstrations.".

Sec. 221. Section 302(b) of the Appalachian Regional Development Act of 1965 is amended by adding the following new paragraph:

"(5) The Commission shall investigate, seek opportunities for, and report on the use of technical assistance and demonstration authority under this section and assistance under section 207 to increase the use of solar energy equipment in residences in the Appalachian region, to assist in the standardization of such equipment, to encourage financing by regional credit institutions and Federal programs of installations of such equipment, and to facilitate inclusion of solar energy equipment installation costs in residential mortgage financing. The Commission is authorized to conduct pilot projects to put in practice the findings of such investigation.".

Sec. 222. Title II of the Appalachian Regional Development Act of 1965 is amended to add a new section 304 as follows:

"Sec. 304. The Commission shall provide for the continuing evaluation of projects and programs authorized under this Act which shall include measures of their effectiveness in achieving the goals and objectives prepared pursuant to sections 102(a) (1) and 225 of this Act. The Commission shall prepare an annual evaluation program which (1) includes a statement of specific actions that have been or will be taken as a result of previous evaluations, and (2) lists those specific program evaluations to be performed during the current and succeeding years, including the estimated cost of conduct such evaluation.".

Sec. 223. Section 401 of the Appalachian Regional Development Act of 1965 is amended to read as follows:

"Sec. 401. (1) In addition to the appropriations authorized in section 105 for administrative expenses, and in section 201(g) for the Appalachian development highway system and local access roads, there are authorized to be appropriated to the President, to be available until expended, to carry out this Act and the Regional Development Act of 1979, $340,000,000 for the two-fiscal-year period ending September 30, 1981, and $380,000,000 for the two-fiscal-year period ending September 30, 1983.

"(2) No more than 25 per centum of the funds available for obligation in any fiscal year under this section shall be obligated for direct grants by the Commission to carry out the purposes of sections 202(f), and 209.".

Sec. 224. Section 403 of the Appalachian Regional Development Act of 1965 is amended by adding the following:

"The Commission is authorized and directed to study whether, in view of the purposes set forth in section 2 of this Act and in the Regional Development Act of 1979, any counties contiguous to the Appalachian region should be added to the region or remain in regions established or recognized under the Regional Development Act of 1979, and whether, in view of such purposes, any such counties or blocks of counties currently in the Appalachian region should be transferred to a region established or recognized under the Regional Development Act of 1979. Such study shall be conducted in conjunction with the study required under the last sentence of section 308 of the Regional Development Act of 1979, and the results of such study together with any recommendations shall be submitted to the Congress not later than two years after enactment of the Appalachian Regional Development Act Amendments of 1979.".

Sec. 225. Section 405 of the Appalachian Regional Development Act of 1965 is hereby repealed.

PART B

Sec. 230. This part may be cited as the "Regional Commission Act of 1979".

Sec. 231. (a) The Secretary shall recognize appropriate "development regions" within the United States upon the written request of the Governors of the States in which such region will be wholly or partially located if the Secretary finds that there are common cultural, economic, geographic, natural resource, and social relationships among the areas within such region and that the region is of sufficient geographic size and population to warrant recognition.

(b) It is the intention of the Congress that each area of the Nation be included in not more than one development region.

(c) It is the intention of the Congress that every region consist of two or more States, except in the case of Alaska, which is hereby recognized as the Alaska Development Region.

(d) The boundaries of a region may be subsequently altered in the same manner as they were established.

ESTABLISHMENT OF REGIONAL COMMISSIONS

Sec. 232. (a) Upon the recognition of a development region, the States shall establish a regional development commission for such region. In the case of the Alaska Development Region, at the request of the Governor of Alaska, the Secretary shall take any action necessary to establish and operate the Alaska Regional Development Commission not later than October 1, 1979. Any such commission shall be established and shall operate in accordance with section 502 (b) through (e) of the Public Works and Economic Development Act of 1965. Sections 505 (b), 506, 507, and 508 of such Act shall apply to each such commission.

(b) Each regional commission established pursuant to the Appalachian Regional Development Act of 1965 or title V of the Public Works and Economic Development Act of 1965 shall continue in operation under this title unless boundaries or State membership of such commission are altered pursuant to this title.

Sec. 233. (a) In carrying out the purpose of this title, each regional commission shall, with respect to its region:

(1) in accordance with part C of this title, develop and implement a regional growth policy process which shall include the preparation of (i) a multiyear regional development plan with policies and priorities for action programs to guide Federal, regional, State, private, and substate investments, and (ii) annual regional investment strategies which include specific policies and investment proposals affecting Federal, regional, State, and substate participation in support of regional growth policies and priorities;

(2) develop and implement mechanisms for coordinating the development and growth management activities of State governments and substate entities with regional policy development, including, but not limited to, economic development, coastal zone management, comprehensive planning, environmental protection, energy conservation and development, transportation, cultural resource development, outdoor recreation planning, and implementation programs;

(3) conduct, in cooperation with relevant Federal and State agencies and private resources, research on and analysis of interstate and shared problems, resources, and opportunities for advancing regional development;

(4) provide consultation to and continuing liaison with Federal Regional Councils and those Federal agency members whose planning and development activities bear on regional priorities, policies, and plans regarding the regional interest in such activities;

(5) advise Federal agencies that fund mul-

tistate organizations not covered by this legislation on the relevance of such funding to regional commission plans, priorities, policies, and programs and on the steps required to avoid duplication of activities;

(6) provide a working liaison (A) with private sector leadership, especially those which operate at the multistate level; (B) with other multistate organizations including other regional commissions; and (C) with substate entities engaged in functional or comprehensive planning which bears on the fulfillment of regional plans, priorities, and policies;

(7) engage in cooperative activities with other regional commissions established under this title, with other regional organizations, with local governments, and with Federal agencies.

(b)(1) As the Presidentially appointed Federal partner to the Governors, each Federal Cochairman has the dual responsibility of presenting the national perspective to the regional commission and of communicating the regional concerns of the State members to the Federal Government. Each Federal Cochairman is responsible for coordination and cooperation between the Commission and Federal departments and agencies. As a member of a commission, each Federal Cochairman has the responsibility for fostering the development of a collaborative institutional setting in which both State and Federal members jointly determine regional development policy.

(2) Each Federal Cochairman shall—

(A) present to the Congress, the committee established under section 251 of this title, other affected parties, and except in the case of the Appalachian Regional Commission, the Secretary, on behalf of the Commission, the regional development plan, annual investment strategy, growth policy recommendations, legislative recommendations, and reports on the activities of the Commission;

(B) encourage Federal departments and agencies to apply their programs and policies to support development plans, programs and priorities established by the commission;

(C) involve Federal departments and agencies in the activities of the Commission, as appropriate;

(D) assist the Commission in its participation in the regional growth policy process;

(E) to the extent practicable, consult with appropriate Federal departments and agencies concerning significant programs and projects to be considered by the Commission prior to voting on such matters;

(F) represent, in dealings with the Commission, Federal policies affecting regional development established by the President and, except in the case of the Appalachian Regional Commission, the Secretary;

(G) assure that the Commission gives adequate attention to problems and solutions which are shared by two or more States in the region and preference to projects or programs for which effort by two or more States is useful in addressing needs effectively;

(H) take a leadership role in the preparation of the Commission budget for submission through the Secretary (except in the case of the Appalachian Regional Commission) and such persons as the Secretary may designate to the Office of Management and Budget and the Congress; and

(I) assure commission compliance with applicable Federal fiscal and management requirements established or identified under section 237 of this title or, in the case of the Appalachian Regional Commission, established or identified by the Federal Cochairman or such Commission.

Nothing in this title shall preclude the Federal Cochairman from presenting the Commission's budget to the Office of Management and Budget or from communicating with appropriate committees of the Congress.

(3) When a Federal Cochairman dies, resigns, becomes disabled, is removed, or is absent from the country, a designated assistant or the executive director of the Commission shall perform the routine administrative duties of the Federal Cochairman not involving the exercise of the vote of the Federal Cochairman, until a successor is confirmed or the absence or disability stops.

(c)(1) Each Commission shall employ an executive director as the chief administrative officer of the Commission and such other officers and staff as the Commission may determine. The executive director shall be responsible for carrying out the administrative functions of the Commission, for direction of the Commission staff and for such other duties as the Commission may assign. The executive director shall be appointed and may be removed by vote of the Commission. All other officers and employees of the Commission shall be appointed by the executive director under such rules of procedure as the Commission may determine.

(2) All appointments and promotions of officers and employees of the Commission shall be on the basis of merit and fitness and no test or qualification with respect to politics, race, color, sex, age, physical handicap, or religion shall be permitted or given consideration. Any officer or employee of the Commission who is found by the Commission to be guilty of a violation of this paragraph shall be removed from office by the Commission.

(d) Any regional commission established pursuant to this title shall have no responsibility for the development or assessment of land use plans.

SEC. 234. (a) An application for a grant or for any other assistance for a specific project under section 236 of this title shall be made through the State member of the Commission representing such applicant, and such State member shall evaluate the application for approval. No application for grants or other assistance for specific programs or projects under any provisions of this title shall be approved unless it is certified by the State member and determined by the Commission, including the affirmative vote of the Federal Cochairman—

(1) to implement the Commission's regional development plan;

(2) to be described in the Commission's annual investment strategy;

(3) to be backed by adequate assurance and evidence that the project will be properly administered, operated, and maintained; and

(4) to otherwise meet the requirements for assistance under this title.

(b) Nothing contained in this title shall be interpreted as requiring any State or political subdivision thereof to engage in or accept any project under this title without its consent.

SEC. 235. (a) In addition to other activities authorized by this title, the Secretary is authorized to provide to commissions technical assistance and incentive grants to aid the commissions in carrying out their responsibilities under this title and to undertake new program and policy objectives. In general, such assistance may be provided through members of the Secretary's staff or through incentive grants to the commissions; through the payment of funds authorized for this section to other departments or agencies of the Federal Government; through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes; or through grants to institutions of higher education or nonprofit organizations. Technical assistance may include studies and plans evaluating the needs of, and developing potentialities for, regional development; administrative management; interregional cooperation; research on improving the conservation and utilization of the human, cultural, and natural resources of the region; planning, investigations and studies; economic and demographic information and analysis; and training programs which will further the purposes of this title. Special provision shall be made to assure that newly formed commissions are able to function fully and effectively as soon as practicable.

(b)(1) In carrying out its functions under this title, each commission is authorized to engage in planning, investigations, and studies, and to provide other technical assistance to States, substate areas and communities, both urban and rural, including the payment of administrative expenses to substate planning and development organizations (including economic development districts created under the Public Works and Economic Development Act), which will further the purpose of this title, and which have been included in the approved annual investment strategy. Such activities may be carried out by the Commission through the payment of funds to departments, agencies, or instrumentalities of the Federal Government, or through the employment of private individuals, partnerships, firms, nonprofit corporations, or suitable institutions under contracts or grants entered into for such purposes or through grants-in-aid to agencies of State or local governments.

(2) In carrying out this subsection each commission is authorized to provide assistance to communities in maintaining, restoring, or augmenting commercial air passenger service, but not including capital assistance or operating subsidies.

(3) Each commission shall investigate, seek opportunities for, and report on the use of technical assistance and demonstration authority under this subsection and section 236 to increase the use of solar energy equipment in residences in its region, to assist in the standardization of such equipment, to encourage financing by regional credit institutions and Federal programs of installations of such equipment, and to facilitate inclusion of solar energy equipment installations costs in residential mortgage financing. The commission is authorized to conduct pilot projects to put in practice the findings of such investigation.

(c) The Secretary is authorized to make incentive grants to commissions for the following purposes:

(1) Encourage and enable States to develop and improve mechanisms for coordinating State development programs and planning within each State and with commission development programs and planning with substate development activities and with State budget processes. Such grants are to enable Governors to develop among State agencies and levels of government a unified set of development objectives for programs such as economic development, comprehensive planning, outdoor recreation, cultural resource development, coastal zone management, transportation, and environmental protection.

(2) Encourage and enable commissions to develop procedures, including public hearings, consultations, and surveys program review, to enable Governors and State legislatures to participate in regional growth policy processes for the purpose of shaping Federal and State programs and policies necessary for the successful implementation of regional plans.

(3) Encourage commission and cooperative State actions augmenting national energy, export, urban, and rural community conservation, and similar policies whose effectiveness would be strengthened by commission and State participation.

(4) Encourage other special activities

needed to strengthen the overall program including fostering interregional cooperation; creating regionally based systems for demographic and economic analysis; expanding activities of a multistate character; and increasing State Government financial and other support for commission plans.

SEC. 236. (a) In addition to any authority under the Appalachian Regional Development Act of 1965 or title V of the Public Works and Economic Development Act of 1965, each regional commission is authorized to provide financial assistance for projects which will further the purpose of this title as expressed in section 202 (1) and (2). Such projects may include, but are not limited to, transportation, energy development and conservation, environmental and natural resource management activities, fisheries, agriculture, tourism, forestry, export promotion, business or industrial development, productivity improvements, community conservation and growth management, human resources, vocational, educational and training programs, development of indigenous arts and culture, and flood or other natural hazard protection activities. To the maximum extent practicable, each commission shall provide assistance under this section by transferring funds for programs or projects approved by the commission to the heads of Federal departments or agencies to be used for—

(1) all or any portion of the basic Federal contribution to programs or projects under any Federal grant-in-aid program authorized on or before September 30, 1983, and for the purpose of increasing the Federal contribution to programs or projects under such programs above the fixed maximum portion of the costs of such programs or projects otherwise authorized by the applicable law; and

(2) the Commission contribution to programs or projects and for grants management and technical assistance provided by the department or agency for projects at the request of the Commission.

Notwithstanding any other law, the heads of Federal departments and agencies are hereby authorized to accept such funds, to disburse them in accordance with policies adopted by the Commission, and to provide any assistance which may be necessary to carry out the approved program or project. The Federal portion including the Commission portion, of the costs of each program or project assisted shall not exceed 80 per centum of such costs.

(b) (1) Each commission may make direct grants to the States or to qualified multistate organizations for innovative projects and for demonstrations of unique methods and techniques for meeting the purposes of subsection (a) of this section which the Commission determines cannot reasonably be accomplished under subsection (a) of this section or any other Federal program and are in accordance with the regional development plan.

(2) States may carry out such projects and demonstrations directly, or through the employment of private individuals or firms under contracts entered into for such purposes, or through grants with public bodies and private nonprofit organizations.

(3) Such projects and demonstrations may be funded entirely from appropriations to carry out this title which are apportioned to the commissions by the Secretary or in combination with funds available under other Federal grant-in-aid programs or from any source. Notwithstanding any provision of law limiting the Federal share in any such other program, funds provided to carry out this subsection may be used to increase such Federal share as the Commission determines appropriate. No component of any such project or demonstration shall receive financial assistance under this title, the Appalachian Regional Development Act of 1965 or title V of the Public Works and Economic Development Act of 1965 after five years following the commencement of any assistance for such component under one of the above Acts.

(4) Except as provided in subsection (c), grants for innovative projects and demonstrations under this subsection may be made for up to 80 per centum of the costs of any project.

(5) No grant shall be provided for an innovative program or demonstration project unless the Commission as a matter of policy determines in what respect the project is innovative and what it is intended to demonstrate and certifies that there is a reasonable plan to evaluate the results of the innovation or demonstration by an independent source and to disseminate the results.

(6) No more than 20 per centum of the funds available to any commission under this part shall be used for the purposes of this subsection or subsection (c) of this section, unless such commission determines that a greater percentage of such funds must be put to such use to implement a major objective of the regional development plan addressing a need shared by two or more States in the region.

(c) Each commission is authorized to make grants for the operation of any project, including initial operating funds which comprise, among other things, the cost of recruiting and training qualified personnel, for which the Commission determines that funds for operation are not available under any other Federal, State, or local program. A grant for the operation of any project shall be made only if the project or facility is not operated for profit. Such grants may be made for up to 100 per centum of the costs thereof for the two-year period which begins, for each component facility or service assisted under any such operating grant, on the first day that such facility or service enters into operation as a part of a project. For the next three years of operation, such grants shall not exceed 75 per centum of such costs. No grants for operation of any project shall be made after five years following the commencement of such initial grant for operation of the project. No such grants shall be made unless the Commission is satisfied that the operation of the project will be conducted under efficient management practices designed to avoid operating deficits. The Federal contribution may be provided entirely from funds authorized under this section, or in combination with funds provided under other Federal programs.

(d) Financial assistance under this section shall not be taken into account in the computation of the allotments among the States made pursuant to any other provision of law. Funds appropriated to carry out this title shall be available without regard to any limitations on authorization for appropriation in any other Act.

(e) No financial assistance shall be provided under this title to assist private establishments relocating from one area to another or to enable private contractors or subcontractors to undertake work theretofore performed in another area by other contractors or subcontractors. Section 704(e) of the Public Works and Economic Development Act shall apply to all financial assistance under this title.

(f) The authorities and requirements of this section and section 235 of this title shall supersede and replace the authority of sections 505(a), 509, 515, 516, and 517 of the Public Works and Economic Development Act of 1965.

(g) No commission shall provide financial assistance under this section for the purposes of allowing a recipient to use grant funds to make grants to profit-seeking business enterprises.

(h) No State and no political subdivision of such State shall be eligible to receive benefits under this title unless the aggregate expenditures of State funds exclusive of local funds (other than those originated as revenues collected by the State) and Federal funds, and, in the case of the Appalachian Regional Commission, exclusive of expenditures for participation in the National System of Interstate and Defense Hghways, for the benefit of the area within the State located in the region are maintained at a level which does not fall below the average level of such expenditures for its last two full fiscal years preceding the date of enactment of this title. A commission may recommend a lesser requirement when it finds that a substantial population decrease in that portion of a State which lies within the region would not justify a State expenditure equal to the average level of the last two years or when it finds that a State's average level of expenditure, within an individual program, has been disproportionate to the present need for that portion of the State which lies within the region. Funds may be provided for programs and projects in a State under this title only if the commission determines that the level of Federal and State financial assistance under this title, and under Acts other than this title, for the same type of programs or projects in that portion of the State within the region will not be diminished in order to substitute funds authorized by this title.

(i) Each commission in providing assistance under this section shall afford first attention to areas affected by economic decline, and in addition shall address basic service needs in areas experiencing dislocation due to rapid growth, as appropriate.

COORDINATION

SEC. 237 (a) Taking into account all relevant national policies, the Secretary shall coordinate and provide for Federal policy guidance to the Federal Cochairmen.

(b) (1) There is hereby established the Regional Development Council, composed of the Federal Cochairman of the regional development commissions, which shall serve as a mechanism for consultation regarding policy and administrative improvements in the program authorized by this title. The Secretary shall select, after consultation with the members, one of its members to serve as chairman and one to serve as vice chairman. The council shall participate in the liaison and coordination responsibilities provided under section 251 of this title.

(2) There is hereby established in the Department of Commerce an Office of Regional Development, which shall be headed by a Director, appointed by the Secretary after consultation with the Chairman of the Regional Development Council, and composed of such staff as may be necessary to carry out its functions. Such Office shall perform such duties in support of the regional commissions as are prescribed by the Secretary, provide staff for the Regional Development Council, perform reviews and studies, assist the Federal Cochairman in the preparation of the budget for the commission program, facilitate intercommission relationships, and provide supplemental technical and support services as necessary for the Federal Cochairman. In addition such Office shall, subject to the provisions of this title, assist States in initiating Regional Commissions or proposed boundary modifications.

(c) The Secretary shall identify the basic areas in which minimum standards of fiscal responsibility and management, including uniform cost principles, must be adopted to assure that commission activities are consistent with the provisions of this title. The Secretary shall specify such minimum standards in regulations and reqiure each regional commission to adopt them as part of their internal regulations. In addition, the

Secretary shall adopt, after consultation with the Council, procedures and regulations governing—

(1) the recognition of regions and changes in boundaries;

(2) records to be kept by commissions and recipients of commission funds;

(3) administrative policies and procedures developed by the commissions;

(4) the establishment and operation of a management information system covering activities authorized under this title.

(5) conditions under which the Secretary may withhold funds from a commission for violation of this title or any regulations adopted under this title.

(d) (1) Each commission shall develop and adopt administrative policies and procedures to prevent the overobligation of commission funds. Each commission, in accordance with this section, shall develop and adopt specific policies and procedures to promote economy and efficiency in the administration of its programs and operations and to prevent and detect fraud and abuse in such programs and operations.

(2) Each commission shall adopt specific policies and procedures to assure that any program or project which receives assistance is properly and efficiently administered, operated, and maintained.

(e) This section other than subsection (d) shall not apply in the case of the Appalachian Regional Commission. Such Commission shall consider adopting the minimum standards of fiscal responsibility and management and the procedures established under subsection (c) of this section.

(f) The Secretary shall evaluate on an annual basis the performance of the regional commissions, other than the Appalachian Regional Commission, in adhering to procedures and regulations established under this section and in implementing the provisions of this title.

BONDING, INSURANCE, LIABILITY

SEC. 238. (a) The executive director of a commission and such other employees as the Commission requires shall be bonded in such form and amounts as the Commission may require. The Commission may pay the premium for the bonds.

(b) The Commission shall purchase insurance and pay the premiums therefor against loss or damage to any of its personal property and against liability for injury to persons of property. Such insurance coverage shall be in such form and amount as the Commission may determine.

(c) The Commission shall be responsible for claims arising out of negligent acts or omissions of its officers, agents, and employees only to the extent prescribed by law generally with respect to officers, agents, and employees of the Government of the United States.

RECORDS AND AUDIT

SEC. 239. (a) Each Commission shall keep such records which will fully disclose the amount and disposition of the funds provided to the Commission, and such other records which will facilitate an effective audit. The records, books, and accounts shall be available for audit by any member of the Commission, the Secretary (except in the case of the Appalachian Regional Commission), and the Comptroller General of the United States or their duly authorized representatives.

(b) All recipients of assistance from a commission and all contractors of a commission shall keep such records which will fully disclose the amount and the disposition by each recipient of the proceeds of such assistance, the total cost of the project or activity for which such assistance is given or used, and the amount or activity supplied by other sources, and such other records which will facilitate an effective audit. The Secretary (except in the case of the Appalachian Regional Commission), the Commission, the Comptroller General of the United States or any of their duly authorized representatives shall have access for the examination and audit of any books, documents, and records of any and all recipients that are pertinent to assistance received under this part. Any recipient or contractor who fails to abide by this requirement or who refuses to readily make his books available for inspection and audit by those authorized to audit such records shall not be eligible for further funding under this part.

NONDISCRIMINATION

SEC. 240. No person in the United States shall, on the grounds of race, color, national origin, sex, or physical handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from a regional development commission.

SEC. 241. (a) There are authorized to be appropriated to the Secretary to carry out this title other than part A, to be available until expended, for each of the fiscal years 1980, 1981, 1982, and 1983, not to exceed $250,000,000.

(b) After deducting such amounts as are required for the administrative expenses of commissions other than the Appalachian Regional Commission, the Secretary shall distribute the remainder of the sums appropriated under this authorization for any fiscal year as follows:

(1) beginning in fiscal year 1981 any funds in excess of the sums appropriated for fiscal year 1980, but not to exceed 20 per centum of the total sum appropriated each year, may be set aside for the purposes authorized under section 235 (a) and (c) of this title.

(2) the balance of the sums appropriated to be provided to the eligible commissions (other than the Appalachian Regional Commission) to carry out the activities authorized under sections 235(b), 236, and 252 of this title, according to a formula to be developed by the Secretary after consultation with the commissions and the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation.

(c) Funds appropriated under this section shall be provided by the Secretary to each of the Federal Cochairmen for the benefit of the appropriate regional commission, in accordance with the distribution established under subsection (b) of this section. Obligation of such funds shall be approved by each commission in accordance with section 234 of this title. Each Federal Cochairman is authorized to receive and hold such funds, subject to the preceding sentence, on behalf of such Commission.

PART C

SEC. 250. This part may be cited as the "Regional Growth Policy Process Act".

SEC. 251. (a) The President shall establish an interagency committee, or use an existing committee, composed of a senior White House official (who shall chair such committee), the Chairman of the Regional Development Council, and senior officials of the departments and agencies concerned with regional development activities, to provide means for program coordination and support for the regional commissions and the Federal Government in determining policies and recommendations which will further the purposes of this title.

(b) The President shall assure the provision of effective liaison between the Federal Government and the regional commissions and access to Federal funding and technical assistance for regional development activities.

(c) The recommendations contained in each commission's regional development plan and regional growth policy recommendations shall be brought to the attention of the heads of the Federal departments and agencies by the committee established under subsection (a) and its Chairman, acting together with the Federal Cochairman, and a schedule shall be established by the Chairman for review and response by the agencies and departments affected. The Chairman shall assure that discussions necessary to the resolution of any issues occur between representatives of the commissions and those of the affected Federal departments and agencies. The Chairman shall also attempt to identify and encourage solutions to regional issues which involve the participation of two or more departments or agencies. The Chairman, in transmitting such plans and policy recommendations to the Federal departments and agencies, shall assure that, to the extent practicable, adjustments in policies and procedures necessary to the successful implementation of each commission plan will be made.

(d) To the extent practicable, the Federal Cochairman of a regional commission shall be appointed as chairperson of the appropriate Federal Regional Council.

(e) Each Federal department or agency shall, consonant with law, cooperate with such commissions in assisting them in carrying out their activities under this title and, to the maximum extent practicable, adjust its procedures and policies in order to assure—

(1) its participation in developing and implementing each Commission's regional development plan; and

(2) coordination among development programs and planning activities within States and between State and regional development programs and planning activities.

(f) Federal departments, agencies, and instrumentalities undertaking or providing financial assistance for programs shall take steps to assure that, to the maximum extent practicable, such programs are not inconsistent with the goals, objectives, plans, and strategies established by the commissions pursuant to this title.

(g) Each Federal department and agency shall consult with the appropriate commission or commissions in advance of providing financial assistance to any multistate organization engaged in activities related to the purposes of this part.

SEC. 252. (a) Each Commission shall set requirements for State members to prepare and submit for Commission approval a development plan for their States in the region. Such plan shall be revised annually. Each State development plan shall reflect the goals, objectives, and priorities established in any regional development plan, shall be built upon an assessment of State problems and opportunities that involves the participation of State legislatures, local governments, the private sector, and substate planning and development organizations, and shall—

(1) describe the State organization and continuous process for comprehensive development planning, including the procedures established by the State for the participation of development districts in such process; the means by which such process is related to State budget processes; and the method of coordinating development planning, policies, and programs in the State under this title and other Federal and State programs;

(2) set forth the development goals, objectives, and priorities of the State and identify the needs and opportunities on which such goals, objectives, and priorities are based;

(3) describe the development program for achieving such goals, objectives, and priorities, including funding sources and recommendations for an implementing in-

vestment program, including specific projects to receive assistance under this title, in sufficient detail to explain their contribution to the goals, objectives, and priorities;

(4) describe the mechanisms established to assure appropriate opportunity for participation of the private sector in development planning and programing and to coordinate activities between public and private institutions;

(5) set forth a system for periodically evaluating in quantitative and qualitative terms, as appropriate, the effectiveness of plans, programs, and projects affecting the attainment of the goals, objectives, and priorities of the regional and State plans and programs.

(b)(1) Substate planning and development districts certified by the State under subsection (c) of this section provide the linkage between State and substate planning and development. In carrying out the development planning process, including the selection of programs and projects for assistance, State shall consult with local planning and development districts, local units of government, citizens, and private sector organizations, and take into consideration the goals, objectives, priorities, and recommendations of such bodies. The districts shall assist the States in the coordination of substate activities.

(2) Each Commission shall develop a plan for and as soon as practicable require the preparation and execution of areawide action programs which specify interrelated projects and schedules of actions together with the necessary agency fundings and other commitments to implement such programs. Such programs shall make appropriate use of existing plans affecting the area. To the extent permitted under this title, State and substate planning processes shall be designed to coordinate and utilize to the maximum extent possible existing substate institutions and Federal, State, and local programs and projects in the affected areas and shall consider anticipated private as well as public investments.

(c) No entity shall be certified as a development district for the purposes of this title, unless the Governor finds that—

(1) it is one of the following:

(A) a nonprofit public body organized or chartered under the law of the State in which it is located;

(B) an agency or instrumentality of a State or local government;

(C) an agency or instrumentality created through an interstate compact; or

(D) a combination of such bodies, agencies, and instrumentalities;

(2) the proposed district is geographically and politically structured to carry out a comprehensive planning and development program;

(3) the district and its governing body have responsibility for all or most of the relevant development planning activities being undertaken in its area;

(4) it is part of a single statewide system of development districts;

(5) the governing body of the district is composed of at least a majority of local elected officials of general purpose local governments from the affected area.

Wherever possible, areawide clearinghouses designated by either the Office of Management and Budget or the Governor pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 as amended or title IV of the Intergovernmental Cooperation Act of 1968, as amended, shall be certified as substate planning and development districts pursuant to this section.

SEC. 253. (a) Within eighteen months after its establishment or after enactment of this title, whichever is later, each regional development commission shall prepare in consultation with Federal, State, interstate, private, and substate development organizations and local governments, a multiyear development plan for its region. The plan shall reflect and accommodate the goals, objectives, and priorities established in the State development plans accepted by the commission. The plan shall be built upon an assessment of regional problems and opportunities that involves the participation of State and local governments and the private sector in the regional development process and shall give due consideration to the planning and proposed activities of other Federal, State, interstate, substate, and local organizations and governments which may significantly affect the region. The plan shall include the following elements:

(1) a review of—

(i) prior regional studies of and plans for the region,

(ii) the current regional economy and the projected economy based on the best available data,

(iii) relevant plans of other public planning bodies and major private sector interests in the region,

(iv) multistate and shared problems requiring regional attention,

(v) the adequacy of existing Federal, State, and local programs and policies to meet the commission's goals and strategies;

(2) a framework for the continuing analysis of data needed to conduct effective regional development activities and to make decisions on programs and project selection;

(3) a determination of necessary and feasible regional goals, objectives, and priorities for regional development;

(4) a development program to achieve the commission's goals and objectives;

(5) strategies to implement the plan and recommended levels of Federal, State, and local funding for implementing Commission programs to attain the goals, objectives, and priorities; and

(6) criteria for the identification and selection of projects which are consistent with the goals of the Commission.

(b) Each Commission shall prepare an annual investment strategy on a Federal fiscal year basis to implement its regional plan. This strategy shall include (i) identification of specific Federal, interstate, State, and substate programs and projects which will assist the commission in regional development activities; (ii) proposed funding of activities under this title or the Appalachian Regional Development Act of 1965; and (iii) proposed policies which may be adopted by Federal departments and agencies and State and local governments in order to reflect in the administration of their programs and regulations, insofar as applicable statutes permit, perspectives, conditions, and approaches particular to each region and necessary to the successful implementation of the regional plans. Such strategy shall be transmitted to the committee established under section 251 and, except in the case of the Appalachian Regional Commission, the Secretary, prior to the start of the new fiscal year, and shall be used as the basis of consultation with the heads of Federal departments and agencies through the interagency mechanism described in such section.

(c)(1) Prior to a commission vote to approve a regional development plan or annual investment strategy under this section and after the preparation of any required environmental impact statement or assessment, the Federal Cochairman shall have a maximum of seventy-five days in which to review the plan or strategy and seek review by the Secretary in accordance with paragraph (2) of this subsection. The Federal Cochairman shall vote on the plan or strategy only after consultation with appropriate Federal departments and agencies, in order to assure that—

(A) the plan or strategy is consistent with national economic and social policies and trends,

(B) the plan or strategy addresses shared and interstate regional problems and solutions and provides a mechanism for project or program funding selection which adequately attends to such problems and needs, and

(C) the plan or strategy reflects interregional consistency and compatibility, so that the activities of a commission will not adversely affect the conditions in or plans of another region.

(2) Except in the case of the Appalachian Regional Commission, the plan described in paragraph (a) of this section shall be reviewed by the Secretary and may be disapproved within sixty days of transmittal, only if the Secretary determines that the requirements of paragraph (1)(A) and (C) of this subsection are not met by the plan.

(d) Each commission shall review its multiyear plan annually and undertake a formal assessment of such plan every five years.

(e) Notwithstanding section 234(a)(1) of this title, for a period not to exceed eighteen months after the establishment of a commission or the enactment of this title, whichever is longer, assistance may be provided under this title on the basis of State development plans and commission annual investment strategies.

SEC. 254. (a) The development planning process and the regional growth policy process shall reflect the goals, objectives, priorities, and recommendations of development districts and local governments as reflected in State development plans. To the extent practicable, the regional development plan, and annual investment strategies shall be developed from and shall incorporate such goals, objectives, priorities, and recommendations. The State, in the preparation of a State development plan, and the Commission, in the preparation of the regional development plan and annual investment strategies, shall accommodate and to the extent practicable harmonize the diverse goals, objectives, priorities, recommendations, and needs identified by development districts and local governments.

(b)(1) To the maximum extent practicable, planning processes required or assisted under this title shall be based on and not duplicate existing planning processes and institutions, and shall make appropriate use of any existing plans for the affected area. Planning assisted under section 302 of the Public Works and Economic Development Act shall be integrated to the maximum extent practicable with planning required or assisted under this title, and such planning shall be conducted in conjunction with the review procedure required pursuant to title IV of the Intergovernmental Cooperation Act of 1968.

(2) Each commission shall establish a satisfactory process of consultation with general purpose local governments and local planning and development districts to assure compliance with section 252(a), (b)(1) and (b)(2) and section 253(a). Such process of consultation shall provide that any local government or development district may petition to the commission for review of any action of a State or the commission inconsistent with such sections.

(c) Public and private sector participation in the development of the goals, objectives, and priorities of regions, States, and development districts shall be provided for, encouraged, and assisted. Regional development commissions and member States shall prepare and publish guidelines to assure full opportunity for public and private sector participation in the establishment of such goals, objectives, and priorities.

SEC. 255. When used in this title.

(1) The term "regional development"

means the selective management of resources and activities toward the achievement of regional goals in the approved regional plan, including those goals affecting human and cultural resources, institutional, community, and economic development;

(2) The term "commission" refers to a regional development commission established pursuant to this title, the Appalachian Regional Development Act of 1965, or title V of the Public Works and Economic Development Act of 1965, unless the context indicates otherwise;

(3) The term "Secretary" means the Secretary of Commerce;

(4) The term "State", "States", and "United States" include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories of the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands;

(5) The term "Governor" includes the chief executive officers of the territorial and political units included in the definition of the term "State";

(6) The term "regional growth policy process" means the process of developing and communicating recommendations affecting shared and interstate problems of growth and decline set out in the regional plan and annual investment strategy with specific reference to policy recommendations applicable to the Federal, State, and local governments and necessary to the successful implementation of the plan and strategy;

(7) The term "substate planning and development district" is a multijurisdictional entity certified to a regional development commission either by the Governor or legislature of the State in which such entity is located, or by the State officer designated by State law to make such certification, as having responsibility for continuous, coordinated, comprehensive public facilities and services planning. Unless otherwise provided under State law, local development districts previouusly certified pursuant to the Appalachian Regional Development Act of 1965 and economic development districts designated pursuant to the Public Works and Economic Development Act of 1965 shall be recognized as substate planning and development districts certified pursuant to this paragraph; and

(8) The term "annual investment strategy" means the annual project packages, investment programs, or proposed funding elements of the member States as approved by the Commission and certified by such Commission to be consistent with and in furtherance of an approved regional development plan.

SEC. 256. (a) Each regional commission shall make a full and detailed report each fiscal year to the Congress, each State member, and the Secretary with respect to the commission's past and proposed activities. The first such report shall be made for the first fiscal year in which a commission has been in existence for more than three months after enactment of this title. Such reports shall be printed and transmitted to the Congress not later than six months after the end of the fiscal year for which the report is made.

(b) Each biennium, each regional commission, with the assistance of the Secretary (except in the case of the Appalachian Regional Commission), shall submit a report to the Congress of the economic trends, development inhibitors, growth opportunities, and other relevant economic and social data for each region.

SEC. 252. Within six months after the first biennium after enactment of this title, the President shall conduct a comprehensive review of the commissions operating under the authority of this title. This review shall include, among other things, an evaluation of the commissions' program effectiveness, a determination of the effectiveness of Department of Commerce management and support of commissions, any recommendations for preferred placement of the program in the executive branch, and an assessment of the progress made in unifying and coordinating federally assisted regional, State, and substate development programs and planning activities. Within eighteen months after enactment of this title, the President shall conduct a review of the appropriateness of regional commission and Federal Regional Council boundaries. The President shall report the results of such reviews to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation.

SEC. 258. (a) There is hereby established a system of Border Resource Research Institutes under the jurisdiction of the Southwest Border Regional Commission. Within one year after enactment of this section, the Commission shall, subject to the concurrence of the State, designate one university in each border State for membership in the system of Institutes.

(b) It shall be the duty of each such Institute to initiate and support research programs in the various fields relative to border problems and to provide for educational programs and the training of specialists through such research, investigations, and experiments. Such research, investigations, experiments and training may include population issues; water, land and air resource issues; and other aspects of border resource problems, including the dissemination of the results of research deemed potentially significant for the solution of border resource problems.

(c) The Commission is hereby charged with the responsibility for the funding and proper administration of the Institutes and shall prescribe such rules and regulations as may be necessary to carry out these provisions. The Commission shall furnish such advice and assistance as will best promote the purposes of the Institutes and encourage and assist in the establishment and maintenance of cooperation by and between the Institutes and between them and other research organizations.

Mr. BURDICK. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read as follows:

A bill to extend the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act of 1965 and to provide for multistate regional development commissions to promote balanced development in the regions of the Nation.

Mr. BURDICK. Mr. President, I ask unanimous consent that 200 copies of S. 914 be printed for the use of the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

FISHERY CONSERVATION AND MANAGEMENT AUTHORIZATIONS

Mr. PACKWOOD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 917.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 917) entitled "An Act to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1980, 1981, and 1982, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That section 406 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1882) is amended by inserting at the end thereof the following:

"(6) $33,000,000 for the fiscal year ending September 30, 1980.

"(7) $40,000,000 for the fiscal year ending September 30, 1981.

"(8) $47,000,000 for the fiscal year ending September 30, 1982.".

SEC. 2. (a) The last sentence of section 302(a)(6) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852(a)(6)) is amended to read as follows: "The Pacific Council shall have 15 voting members, including 10 appointed by the Secretary pursuant to subsection (b)(1)(C) (at least 2 of whom shall be appointed from each of the States of California, Oregon, and Washington, and 1 of whom shall be appointed from the State of Idaho).".

(b) Of the 2 additional voting members of the Pacific Regional Fishery Management Council provided for by subsection (a), the Secretary of Commerce shall appoint one such member to serve an initial term of 1 year beginning on August 11, 1979, and one such member to serve an initial term of 2 years beginning on such date.

Mr. PACKWOOD. Mr. President, I would like to commend Senator MAGNUSON for the strong support he has given to this legislation in the Commerce Committee. I would also like to thank Senator MAGNUSON for his help and his leadership on section 3 of this bill, an amendment which he has named the Packwood-Magnuson amendment.

Mr. President, the policy of our Nation for many years has been to support international conservation agreements. Among the conservation efforts which the United States has supported is the worldwide effort to protect the great whales from extinction. The Packwood-Magnuson amendment puts real economic teeth into our whale conservation efforts.

The core of the Packwood-Magnuson amendment is simply that any foreign nation which directly or indirectly conducts whaling operations or allows its nationals to conduct whaling operations or engage in trade in whale products in disregard of the conservation regulations of the International Whaling Commission shall be denied access to the rich fishery resources of our 200-mile zone. This amendment has been drafted and redrafted to incorporate provisions suggested by Members of the House of Representatives and by administration officials, and others, but the core of the amendment remains unchanged.

There is widespread public support for this action, and the amendment is consistent with our national policy of support for the IWC. Finally, Mr. President, I want to thank Chairman MAGNUSON again for his support and urge passage of the legislation.

Mr. President, this is a relatively simple bill. It is the reauthorization of the Fishery Conservation and Management Act. There is one very important amendment in it which would take the United States a long way toward prohibiting illegal whaling in the world. This amendment that Senator MAGNUSON and I are offering which the House is going to accept will prohibit those nations which violate the conservation regulations of the International Whaling Commission from fishing within our 200-mile zone. As Senator MAGNUSON and I had initially drafted it, it would have prohibited them from totally fishing in the zone if they violated the conservation regulations, but it would not have prohibited it until their permit to fish within the zone had to be renewed, and that would be up to a year.

Consequently, in working with the House managers we have reached a compromise which says that if any nation that fishes within the 200-mile zone violates the whaling conservation regulations, they will immediately, not having to wait until their permit can be renewed, lose 50 percent of their allocation for fishing within our 200-mile zone. If between that time and the time of the renewal of the permit they have not brought themselves in compliance with the regulations of the International Whaling Commission they will totally lose the right to fish in our 200-mile zone.

The reason that this amendment will be so effective is because it is going to force Japan and Russia, which are the two principal violators of the International Whaling Commission regulations, to choose between the continued taking and/or buying of illegal whale meat, to choose between that privilege and the privilege of fishing in our 200-mile zone. The privilege of fishing in our 200-mile zone is an infinitely superior economic privilege and any country in its right mind when forced to the decision between fishing in the 200-mile zone and giving up illegal whaling is going to give up illegal whaling. This amendment would have the effect of forcing that decision, and it is probably the most significant step this country can take toward protecting the remaining whales of the world.

Mr. MAGNUSON. Will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. MAGNUSON. Mr. President, I support the amendment concerning whaling just discussed by the Senator from Oregon. I think we have come a long way in the international whaling agreement. I think it is because of the efforts of the Senator from Oregon, and others of us, that the Japanese decided not to proceed with their whaling operations. The major part of the bill, of course, is reauthorizing appropriations for the Fishery Conservation and Management Act of 1976. It merely extends the so-called 200-mile-limit zone for a 3-year period. This amendment has been agreed to by almost everyone. The amendment is in the nature of a substitute to the bill as it passed the House. I do not think there will be any problem at all in the House. The time is running out for the 200-mile-limit and must be extended.

Mr. President, this bill reauthorizing appropriations for the Fishery Conservation and Management Act of 1976 is an important piece of legislation. This is an amendment, in the nature of a substitute, to this bill as it passed the House.

Section 1 of this bill reauthorizes the FCMA for 3 years, in the amounts of $33 million for fiscal year 1980, $40 million for fiscal year 1981, and $47 million for fiscal year 1982.

Section 2 of this bill is an amendment to section 4311 of the Revised Statutes. Its purpose is to remedy an unforeseen inconsistency in the relationship between the U.S. vessel documentation requirements and the FCMA. This issue is explained in more detail in the Senate report on S. 917. (S. Rep. 9672) The amendment merely remedies an unforeseen and certainly unintended interpretation by the Coast Guard that would have allowed foreign-built fishing vessels to operate with all the privileges of U.S. fishing vessels between the 3-mile territorial sea and the 200-mile limit of our fishery management jurisdiction.

It bears repeating that this amendment does not apply to processing vessels. It applies only to vessels engaged in harvesting fish from our 200-mile jurisdiction. I also want to redirect the National Marine Fisheries Service's attention to the Senate Commerce Committee's request to study all the implications of using foreign-built processing vessels in our zone. It is only appropriate that there a thorough study of this matter and the consequences of a U.S. construction requirement extending to processing vessels before any recommendation be made to limit the stay of such vessels in our waters. It is also imperative that this study be made in close cooperation with the affected segments of the fishing industry and with the Marine Fisheries Advisory Committee.

The administration in comments on section 2 of this bill has stated:

> With respect to international fisheries matters, it is our understanding that this amendment is not intended to affect foreign fishing under the Fishery Conservation and Management Act (FCMA), the Governing International Fishery Agreements (GIFA's) or other fishery agreements to which we are party. It is also our understanding, which we believe should be made clear in the amendment process, in light of the provisions of the Covenant to Establish a Commonwealth of the Northern Mariana Islands, in Political Union with the United States of America, that Section 2 of S. 917 would not preclude the use of foreign-built vessels by fishermen of the Northern Mariana Islands (NMI) when fishing in the fishery conservation zone or from landing their catch. Bearing in mind the great importance of these vessels to the development of indigenous NMI fisheries, the Department is particularly concerned that the proposed amendment is clear in this respect.

The administration is correct in both regards. First, the amendment does not affect foreign fishing under the FCMA, GIFA's or other such agreements. And second, the amendment is not intended to preclude the use of foreign-built vessels by fishermen of the Northern Mariana Islands when fishing in the FCZ or from landing their catch.

The last important amendment to this bill, section 3, is the Packwood-Magnuson amendment designed to provide important teeth to this country's commitment to provide greater worldwide protection for the world's whale populations. If a foreign country is certified by the Secretary of Commerce for violating or diminishing the effectiveness of international whaling regulations or for engaging in trade that diminishes the effectiveness of the international regime regulating the taking of whales, then that nation will be denied access to fish in our 200-mile fishery conservation zone. This amendment is a significant addition to the sanctions presently available under the Pelly Amendment (22 U.S.C. 1978).

There are several things that should be pointed out in this regard. First, the Japanese Government recently prohibited the importation of whale products from non-International Whaling Commission member nations. This action of the Japanese should be sincerely commended—it is a significant step forward. However, this does not mean that the Japanese traders should become complacent now or misread the intent of this amendment. If Japan or any other nation imports whale products from IWC member countries and this trade is merely a routing mechanism for whales taken outside international regulation, such as by the pirate ship *Sierra*, or otherwise diminishes the effectiveness of whale programs described earlier, then this amendment will still be invoked.

The other feature of this amendment is that it provides some flexibility to the administration so that a nation so certified by the Secretary is not completely excluded from our 200-mile zone on the date of certification. That nation's allocations must be immediately reduced by at least 50 percent but if the nation remedies the situation quickly it can regain its full allocation. However, if the situation is not fully remedied within 1 year, that nation will be completely banned from our fishery conservation zone.

Mr. President, S. 917 is a significant and important piece of legislation, and I urge my colleagues to support its immediate passage.

Before closing, Mr. President, I would like to commend the commitment and hard work of Senator PACKWOOD, who has worked so hard during his years in the Senate to provide the maximum protection we can to the world's whale populations. Senator PACKWOOD deserves great credit for his efforts.

I thank the Senator from Oregon.

Mr. PACKWOOD. I thank the Senator.

Mr. CANNON. Mr. President, the amendment to be offered by Senator MAGNUSON to S. 917 has been agreed to by both the majority and minority members of the Senate Commerce Committee and the House Merchant Marine and Fisheries Committee, and I urge my colleagues to support its immediate passage.

Section 1 of the bill reauthorizes the Fishery Conservation and Management Act for 3 years. Section 2 of the act is an amendment by Senator MAGNUSON to amend a loophole that has developed in the interplay between the FCMA and the vessel documentation laws. Section 3 is the Packwood-Magnuson amendment that will significantly increase the U.S.

ability to protect the world's whale populations.

This bill is an important step forward for demonstrating our concern over the fate of the ocean's whale populations and its immediate passage is important.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, I move the adoption of the amendment in the nature of a substitute.

The PRESIDING OFFICER. The question is on a motion to concur in the amendment of the House.

Without objection, the motion is agreed to.

AMTRAK IMPROVEMENT ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 712, which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 194, a bill (S. 712) to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes.

The Senate proceeded to consider the the bill, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Amtrak Improvement Act of 1979".

DEFINITIONS

SEC. 2. Section 102 of the Rail Passenger Service Act (45 U.S.C. 502) is amended—

(1) in paragraph 4 thereof, by striking out "Act." and inserting in lieu thereof "Act until October 1, 1979, on or after which date 'basic system' means the system of intercity rail passenger service designated by the Secretary under section 4 of the Amtrak Improvement Act of 1978 (Public Law 95–421) and approved by the Congress, and changes thereto made by the Corporation using the Route and Service Criteria."; and

(2) by adding at the end thereof the following new subsection:

"(10) 'Route and Service Criteria' means the Criteria and Procedures for Making Route and Service Decisions established pursuant to section 403(d) of this Act.".

PURPOSE OF CORPORATION

SEC. 3. The second sentence of section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended by inserting immediately after "intercity rail passenger service," the following: "to improve the ratio of revenues to expenses incurred in providing such service,".

GENERAL POWERS OF THE CORPORATION

SEC. 4. Subsection (i) of section 305 of the Rail Passenger Service Act (45 U.S.C. 545(i)) is amended by striking out the words "security guards" each place they appear and inserting in lieu thereof the words "railroad police".

APPLICABILITY OF OTHER LAWS

SEC. 5. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended—

(1) in subsection (a) thereof, (A) by striking out the period in paragraph (3) and inserting in lieu thereof the following: ";

"(4) the issuance of securities or the assumption of any obligation or liability in respect of the securities of others.";

(2) in subsection (j)(2) thereof, by striking out "motor carrier." and inserting in lieu thereof "domestic or international motor, air, or water carrier."; and

(3) by adding at the end thereof the following new subsections:

"(l) The Corporation shall not be subject to any State or local law pertaining to pay periods or days for payment of employees.

"(m) The Corporation shall be deemed to be qualified to do business in each State in which it performs any activity authorized under this Act. In connection therewith the Corporation shall accept service of process addressed by certified mail to its Corporation Secretary at its principal office and place of business located in Washington, District of Columbia.".

SERVICE CHANGES

SEC. 6. Section 403 of the Rail Passenger Service Act (45 U.S.C. 563) is amended to read as follows:

"Sec. 403. Service Changes.

"(a) After October 1, 1979, all route additions and discontinuances by the Corporation shall be in accordance with the Route and Service Criteria.

"(b)(1)(A) Any State, regional, or local agency may request of the Corporation rail passenger service beyond that included within the basic system. The Corporation shall institute such service under an agreement if the State, regional or local agency agrees to reimburse the Corporation for 50 percent of solely related costs and associated capital costs of such service if service can be provided with the resources available to the Corporation and if it is consistent with the following requirements:

"(i) The State or agency must make an adequate assurance to the Corporation that it has sufficient resources to meet its share of the costs of such service for the period such service is to be provided under this section.

"(ii) The State or agency has conducted a market analysis acceptable to the Corporation to insure that there is adequate demand to warrant such service.

An agreement made pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years. Any decisions which are likely to have a significant effect on the scheduling, marketing, or operations of the service provided pursuant to this section shall be made by contract or other agreement between the Corporation and the State or agency which is obligated to reimburse the Corporation for all or part of the operating loss, and associated capital costs, of such service. The State or agency shall be entitled to reimbursement for staff services in an amount equal to 3 percent of the Corporation's share of operating losses and associated capital costs.

"(B) If more than one application is made for service and all applications are consistent with the requirements of this subsection, but all the services applied for cannot be provided with the available resources of the Corporation, the Board of Directors shall decide in its discretion which application or applications best serve the public interest and can be provided with the available resources of the Corporation, except that a proposal for State support of a service deleted from the basic system in effect prior to October 1, 1979, or the basic system in effect after such date, shall be given preference.

"(C) The Board of Directors shall establish the basis for determining the solely related costs and associated capital costs and the total revenue of the service provided pursuant to this subsection. The Corporation, at the request of States, may conduct studies during the fiscal year ending June 30, 1976, to determine benefits of seasonal routes to recreational areas.

"(2) The Corporation is authorized to operate commuter rail passenger service under an agreement with a State (or local or regional transportation agency) if such State or agency agrees to reimburse the Corporation for the avoidable cost of operating such commuter rail passenger service. For purposes of this subsection, the term 'commuter rail passenger service' means rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations. The Board of Directors shall establish the basis for determining the avoidable cost of the service provided pursuant to this section. An agreement made pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years. Funds appropriated for capital costs of the basic system pursuant to section 601(b)(1)(B) of this Act shall not be available to purchase equipment or make capital improvements to facilities principally for the purpose of providing commuter rail passenger service.

"(3) Five percent of all revenues generated by each particular route operated under the authority of section 403(b) of this Act, shall be dedicated to advertising and promotion of such service on a local level.

"(c) Unless it has entered into a contract with the Corporation pursuant to section 401(a)(1) of this Act, no railroad may discontinue any intercity passenger train whatsoever prior to January 1, 1975, the provisions of any other Act, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before a Federal or State court, agency, or authority to the contrary notwithstanding. On and after January 1, 1975, passenger train service operated by such railroad may be discontinued under the provisions of section 13a of the Interstate Commerce Act. Upon filing of a notice of discontinuance by such railroad, the Corporation may undertake to initiate passenger train operations between the points served.

"(d)(1) Within 120 days after the date of enactment of this subsection, the Board of Directors of the Corporation shall study, develop, and submit to the Secretary, to the Commission, and to the Congress an initial proposal setting forth criteria and procedures under which the Corporation would be authorized to add or discontinue routes and services. Such criteria and procedures shall include, but need not be limited to—

"(A) methods for evaluating the economic and environmental impact of any addition or discontinuance of intercity rail passenger service including an evaluation of the economic impact to the Corporation and to the Nation of the addition of new service points along existing or new intercity routes within the Northeast corridor;

"(B) methods for evaluating the effects of any such addition or discontinuance on connecting parts of the national system of intercity rail passenger service;

"(C) methods for estimating, with respect to any such addition or discontinuance, the population to be affected, the demand for intercity rail passenger service, the revenue per passenger mile, and the effect on capital costs and revenue of the Corporation;

"(D) methods for evaluating the availability of alternative modes of transportation;

"(E) methods for giving public notice of, and obtaining public comments on, any such addition or discontinuance; and

"(F) methods for establishing a priority ranking system for routes and trains to meet the needs of the public convenience and necessity for a balanced transportation system, taking into consideration the criteria and procedures referred to in subparagraphs (A) through (E) of this paragraph, together with such other criteria as the Board of Directors deems appropriate.

"(2) Within 150 days after the date of enactment of this subsection, the Secretary and the Commission shall submit to the Congress and to the Board of Directors of the Corporation their comments on the initial proposal setting forth criteria and procedures developed by the Board of Directors of the Corporation, together with such recommendations, as they may deem appropriate.

"(3) Within 30 days after receipt of comments submitted by the Secretary and the Commission under paragraph (2) of this subsection, the Board of Directors of the Corporation shall consider such comments and shall submit to the Congress a final proposal setting forth the criteria and procedures under which the Corporation would be authorized to add or discontinue routes and services within the national system of intercity rail passenger services. The criteria and procedures set forth in such final proposal shall take effect at the end of the first period of 60 calendar days of continuous session of the Congress after the date of its submission, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not approve such a final proposal. If no resolution is adopted as providing in the preceding sentence, the Corporation may add or discontinue routes and services in accordance with the criteria and procedures set forth in the final proposal, notwithstanding the provisions of section 13a of the Interstate Commerce Act or of section 404(b)(3) of this Act, relating to discontinuance of service within the basic system. Service beyond the basic system referred to in section 404(b)(2) of this Act shall not be discontinued under this subsection until March 1, 1977. For purposes of this paragraph, continuity of session of the Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded from the computation of the 60-day period."

CONFORMING AMENDMENT

SEC. 7. Section 404 of the Rail Passenger Service Act (45 U.S.C. 564) is hereby repealed.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

"(b)(1) There are authorized to be appropriated to the Secretary for the benefit of the Corporation:

"(A) for the payment of operating expenses of the basic system, including the Northeast corridor, and for operating and capital expenses of rail passenger service provided pursuant to section 403(b) for those trains in operation on September 30, 1979, not to exceed $581,300,000 for the fiscal year ending September 30, 1980, and not to exceed $610,000,000 for the fiscal year ending September 30, 1981;

"(B) for the payment of the costs of capital acquisition or improvements to the basic system, not to exceed $122,000,000 for the fiscal year ending September 30, 1980, and not to exceed $223,000,000 for the fiscal year ending September 30, 1981;"

"(C) for the payment of the principal amount of obligations (other than leases) of the Corporation which are guaranteed by the Secretary pursuant to section 602 of this Act, not to exceed $25,000,000 for the fiscal year ending September 30, 1980, not to exceed $25,000,000 for the fiscal year ending September 30, 1981;

"(D) for the payment of operating and capital expenses for service commenced pursuant to section 403(b) of this Act on or following October 1, 1979, not to exceed $10,000,000 for the fiscal year ending September 30, 1980, and not to exceed $10,000,000 for the fiscal year ending September 30, 1981; and

"(E) for labor protection payments required pursuant to section 405 of this Act, not to exceed $59,000,000 for the fiscal year ending September 30, 1980, and not to exceed $32,000,000 for the fiscal year ending September 30, 1981. Any sums authorized by this subparagraph which remain available after such labor protection payments are made shall be made available to the Corporation for use in the payment of expenses and costs in accordance with subparagraphs (A) and (B).

"(2) Funds appropriated pursuant to this section shall be made available to the Secretary during the fiscal year for which appropriated except that appropriations for capital acquisitions and improvements may be made in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation. Funds appropriated shall remain available until expended. Appropriated sums shall be paid by the Secretary to the Corporation for expenditure by it in accordance with (A) the Secretary's budget request as approved or modified by Congress at the time of appropriation and (B) guidelines established by the Secretary. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.

"(3) Funds appropriated for capital grants pursuant to this subsection shall be paid to the Corporation in each fiscal quarter, and such grants may be used by the Corporation for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of this Act.".

TECHNICAL AMENDMENT

SEC. 9. Subsection 602(d) of the Rail Passenger Service Act (45 U.S..C 602(d)) is amended by inserting the words "or clause (C) of section 601(b)(1)" immediately after the words "section 601(a)".

ADEQUACY OF SERVICE

SEC. 10. Section 801 of the Rail Passenger Service Act (45 U.S.C. 641) is repealed.

INTERMODAL TERMINAL PROGRAM

SEC. 11. The first sentence of paragraph (5) of section 4(i) of the Department of Transportation Act (49 U.S.C. 1653(i)(5)) is amended by striking out "within two years following the approval of the application for Federal financial assistance under this subsection." and inserting in lieu thereof "within such a time period as is established by the Secretary.".

REPORT ON REVENUES AND EXPENSES

SEC. 12. Title VIII of the Rail Passenger Service Act is amended by adding at the end thereof the following new section:

"REVENUE REPORT

"SEC. 808. Within 60 days of the end of each fiscal year beginning with fiscal year 1981, the Corporation shall report to the Congress on the ratio of revenue to total expenses on all routes in the basic system. As part of such report, the Corporation shall specifically identify those train routes which did not achieve a 50 percent revenue-to-expense ratio, and the Corporation shall include statements explaining the reasons which prevented such ratios from being achieved.".

SYSTEMWIDE SPEED GOAL

SEC. 13. The Secretary of Transportation, in consultation with the Corporation, shall study the potential benefits of a 55-mile per hour speed goal, and determine the desirability and costs of attaining such a goal. Within 12 months of the date of enactment of this section, the Secretary shall report to the President and the Congress on the results of such study.

IMPLEMENTATION OF THE NEW ROUTE PLAN

SEC. 14. Section 4(g) of the Amtrak Improvement Act of 1978 (Public Law 95-421) is amended by adding before the period at the end of the sentence the following: ": *Provided, however,* That implementation of the Secretary's recommendations which require: (1) operation over rail lines not used in intercity passenger service upon the date of approval thereof; (2) use of new facilities; or (3) new labor agreements, may be deferred by the Corporation until any necessary capital improvements in such rail lines or facilities, or required labor agreements, are made, to permit service that is equivalent or improved service and is consistent with the goals contained in subsection (a) of this section: *And provided further,* That pending deferred implementation of such recommendations, the Corporation may provide substitute service over existing routes without reference to the Criteria and Procedures for Route and Service Decisions issued pursuant to section 403(d)(3) of the Rail Passenger Service Act".

EXTENSION OF AUTHORITY TO ISSUE AND SELL FUND ANTICIPATION NOTES

SEC. 15. (a) Section 505(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(e)) is amended by striking "1979," and inserting in lieu thereof "1980".

(b) Sections 507(a) and 507(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 827 (a) and (d)) are amended by striking out "1979" and inserting in lieu thereof "1980".

(c) Section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is amended by striking "1979" each place it appears therein and inserting in lieu thereof "1980".

The PRESIDING OFFICER. The Senate will be in order.

Time for debate on this bill is limited to 2 hours, to be equally divided between and controlled by the Senator from Louisiana (Mr. LONG) and the Senator from Oregon (Mr. PACKWOOD), with 40 minutes on any amendment except an amendment on train fares to be offered by the Senator from Tennessee (Mr. SASSER), on which there shall be 20 minutes; and 20 minutes on any debatable motion, appeal, or point of order.

Who yields time?

WINDFALL PROFITS AND THE ENERGY PROGRAM

Mr. DANFORTH. Mr. President, before we get to the question of Amtrak, I would like to——

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I yield myself 1 minute.

Before we get to the Amtrak question, I would just like to point out some facts that were elicited in the Finance Committee today with respect to the windfall profits tax.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators desiring to carry on conversations are asked to leave the floor.

Mr. DANFORTH. Mr. President, the justification that the administration has put forth for a windfall profits tax, which heretofore I have supported, is that $142 billion will be needed between now and 1990 to pay for the administration's energy program.

Mr. President, may we have order?

The ACTING PRESIDENT pro tempore (Mr. BRADLEY). The Senate will be in order.

Mr. DANFORTH. The justification put forth for the windfall profits tax was that $142.5 billion was needed by 1990 to finance the administration's energy program.

It was elicited in the Finance Committee today, from the staff of the Joint Committee on Taxation and from the Treasury Department, that without any windfall profits tax, increased income taxes by virtue of decontrols plus royalties would produce for the Federal Government additional income of $173 billion over this period of time.

In addition to that, the windfall profits tax would produce another $105 billion, or a total of $278 billion by 1990, to be raised by a combination of income taxes, royalties, and windfall profits taxes. That amount of $278 billion exceeds the administration's needs for an energy program by $135.5 billion.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, the unanimous-consent order provides that the time on this measure be equally divided between the Senator from Louisiana (Mr. LONG) and me, for 2 hours. Senator DANFORTH will be handling the bill in behalf of the minority; therefore I ask unanimous consent that the 1 hour of controlled time in behalf of the minority be transferred to him.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that Bill Johnson of the staff of the Commerce Committee be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Mr. President, I ask unanimous consent that Pam Weller of my staff have the privilege of the floor during the debate and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. I yield myself such time as I may require.

Mr. President, the bill we are now calling up (S. 712) authorizes appropriations for Amtrak for 2 additional years.

I would like to begin my remarks today by clearly stating that the purpose of this legislation is to improve Amtrak operations—and I want to emphasize the word "improve." In reporting this legislation, it was not the intent of the Commerce Committee, nor do I believe that it was the intent of the administration in recommending a smaller Amtrak route system, to impede the development of a first-class rail passenger system in this country. In calling for a reduction in the Amtrak system the intent was to eliminate those trains representing an unreasonable waste of limited resources. Amtrak's President, Alan Boyd, has stated on numerous occasions, including in testimony before the Surface Transportation Subcommittee, that Amtrak must have a smaller system if it is to have any hope of providing improved service.

It is my own belief that we do much greater harm to the cause of improving rail passenger service if we continue to press for higher and higher operating subsidies for a system that Amtrak cannot possibly manage and operate. The more logical and prudent approach is to bring the Amtrak system into line with the realities of the marketplace and the resources available to Amtrak.

Mr. President, I asked unanimous consent 15 minutes ago that Bill Johnson be permitted to be in the Chamber during the consideration of this measure. I am informed that the Doorkeeper is keeping him outside. I ask that the Sergeant-at-Arms be directed to find Mr. Johnson and bring him in here.

The ACTING PRESIDENT pro tempore. The Sergeant-at-Arms will find Mr. Johnson and bring him into the Chamber.

Mr. LONG. All right.

In order to fully understand the need for a reduction in the Amtrak route system, I would like to briefly review Amtrak's 8-year history. Amtrak was created in 1970 as a way of maintaining and improving rail passenger service in this country. The Government gave Amtrak $40 million in direct "seed money" subsidies and another $100 million in guaranteed loan authority. Over the years, the deficit grew yet service deteriorated. During the energy crisis in 1973–74 ridership increased substantially, but dropped immediately after the crisis ended. Throughout the 8-year period, Amtrak continued to add new routes without any ability to effectively evaluate the performance of the new or even existing routes. The gap between revenues and expenses continued to widen to the point where Amtrak was this year only recovering one-third of its costs through the fare box—the remainder was coming from taxpayer subsidies, Compared to the $40 million subsidy Amtrak began with, its operating subsidy alone reaches $600 million today.

In an effort to reduce its growing subsidy needs and eliminate unproductive routes, Amtrak in 1977 attempted to eliminate some of its low performance trains. The congressional response to that management initiative was to demand that Amtrak continue to operate all trains, regardless of the cost, regardless of the poor ridership figures, and regardless of the energy inefficiency inherent in those ridership figures. As a result, Amtrak has kept the trains running—all 27,000 route miles—at a total cost of some $3 billion in direct subsidies and another $900 million in loan guarantees.

Last year, Congress said enough is enough. If the majority of intercity passengers will not support rail passenger service through usage, how can the Federal Government continue to justify compelling the 99 out of 100 taxpayers who do not ride the trains to pay two-thirds the fare for the less than 1 in 100 who patronizes the rail passenger system. This is an appalling level of subsidy and the taxpayer has every right to demand that we produce an efficient, effective, and beneficial passenger rail system and quit throwing good money after bad.

The decision was made to try and rationalize the route system—an approach supported by a General Accounting Office study entitled "Amtrak's Subsidy Needs Cannot Be Significantly Reduced Without Reducing Service." And what is the alternative to the rationalization of Amtrak's routes—the expenditure of billions of dollars for new facilities and equipment. Several weeks ago, we heard one of our colleagues tell us that if we had only provided billions of dollars 5 years ago in subsidies for equipment, we would have a much better system today. My answer to that is simply this: how in the world can anyone justify the expenditure of billions of taxpayer dollars on a system that less than three-tenths of 1 percent of the traveling public is using? Furthermore, how can we justify such subsidies in the public section when we have an intercity bus system, operating in the private section, that is totally capable of providing energy efficient, low cost, public transportation?

There has been a great deal made of the direct and indirect subsidies that have gone into both our highway and air systems. The fact of the matter is that people are using these other modes: until very recently, people were not using Amtrak. In point of fact, Amtrak carried less passengers in 1978 than it did in 1977. No one is seriously arguing against subsidies to Amtrak or any other mode: the issue is whether or not the public benefit offsets the expenditure. It only takes a quick trip to the beltway or out to National Airport to confirm that people are using the highways and airports. Until the recent energy problem the same could not be said for Amtrak. But let me say that for my part, I would rather see us eliminate a substantial part of the system rather than continue on our present course of spending billions of dollars on a system that is only utilized in crisis situations.

I might add at this point that even with the energy shortage and increased ridership on Amtrak, many of the trains in the current system are still running less than half full. The fact remains that as long as people can ride their automobiles or airplanes, they will prefer those modes over Amtrak or any other rail passenger service.

What then should be the solution? I believe in the short term, Amtrak must rationalize its route system so that management can run the railroad the way it ought to be run. In the long run, if public demand warrants it, the Federal Government should provide the necessary funds for capital improvements and new equipment for a totally modernized rail system. But for the moment, we cannot escape the problem that Amtrak has too much mileage and not enough equipment or manpower to provide decent service.

Mr. President, I would like to now turn to S. 712, the authorizing legislation that will provide funds for a reduced, manageable Amtrak system. While it is true that, in reporting this legislation, the committee accepted the Secretary's route recommendations terminating a substantial portion of Amtrak's more costly and unproductive route miles, the committee has not shut its eyes to the problems associated with the route plan or to the fact that external factors have changed since the publication of the route recommendations and since S. 712 was reported out of committee. On the contrary, the committee has attempted to deal fairly and honestly with new information concerning ridership increases, energy problems, and other problems associated with implementation of the new route structure.

Since S. 712 was reported out of committee, we have experienced an energy shortage which produced a surge in Amtrak ridership. The Department of Transportation has since abandoned its original proposal to cut 43 percent of the Amtrak system and has recommended to the committee that additional money be provided for the inclusion of routes which meet certain objective criteria. Many of our colleagues share our concern that S. 712 as reported may be too rigid to adjust to any sustained increase in ridership. As a result the committee has worked with various Members to develop appropriate amendments to the committee's bill which I expect to accept at the appropriate time. At this time I will yield to the Senator from Vermont who will offer a substitute amendment to S. 712, which has the full support of myself and Senator CANNON, and which, after discussion, I will accept for the committee and urge its adoption.

Mr. CANNON. Will the Senator yield to me first for a brief statement?

Mr. LONG. Let me yield to the Senator from Vermont first.

Mr. LEAHY. I yield to the Senator from Nevada without losing my right to the floor.

Mr. CANNON. Mr. President, I rise in support of S. 712, the Amtrak Improvement Act of 1979. In my judgment, the passage of this bill, along with the implementation of a restructured Amtrak route system would be in the best interest of rail passenger service and our Nation's overall transportation and energy goals. Pursuant to the Amtrak Improvement Act of 1978, the Secretary of Transportation undertook an indepth study of the Amtrak route system. As a result of that study, along with the findings of the Rail Services Planning Office, which conducted extensive public hearings, the Department developed a final route plan. On February 1, 1979, the Department submitted its "Final Report to Congress on the Amtrak route system."

After an extensive period of analysis and evaluation, the committee, on May 1, voted not to disapprove the Department's plan as it believes that a restructured route system offers the only reasonable solution to the dilemma facing the Federal Government with respect to Amtrak: How to maintain an essential and viable national rail passenger system and yet minimize the burden on the American taxpayer of supporting that system.

I am sure all of you are aware that Amtrak's subsidy needs have been steadily increasing since its inception in 1971. At that time, the annual subsidy was only $40 million. While some will make the point that this seed money was insufficient for the job demanded, the fact remains that Amtrak has now reached the point where in 1979 its operating subsidy alone amounts to $600 million.

Since the creation of Amtrak, the Federal Government has contributed more than $2 billion in operating grants, $500 million in capital grants and $900 million in loan authority to Amtrak.

And what does Amtrak have to show for all of this?

The railroad industry has spent a considerable amount of money in catching up on its deferred maintenance on their right-of-way, new service contracts have been renegotiated with the contracting railroads, schedules have been adjusted and yet the on-time performance of Amtrak trains is getting worse. New equipment has been added to the system and yet the average speed of Amtrak trains is less now than it was 30 years ago.

And finally, with this investment and with the commitment to maintaining rail passenger service, the Federal Government is faced with the hard fact that after 8 years of operations Amtrak is still carrying less than 1 percent of intercity passengers, while the taxpayer has to pay, in due course, a billion dollars per year for something that 99 out of 100 of them do not use.

It was clear last year, and it is clear now that the only road to improved rail passenger service in the United States is a smaller, more manageable system with improved facilities that will encourage intercity passengers to abandon their cars and to seek public transportation.

Amtrak's financial performance is of particular concern to me. I have long since accepted the fact that Amtrak will never be a financially viable and profitable corporation. However, I cannot and will not, in the best interest of Amtrak and the American people, sit by quietly and allow the declining trend of Amtrak's ratio of revenues to expenses continue. The current ratio is 37 percent, compared to the 50 percent ratio which existed when Amtrak was created in 1971. To state this another way, for every 37 cents a passenger pays for an Amtrak ticket, the American taxpayer must finance the other 63 cents. There is no way we can justify such an outrageous subsidy, particularly in light of the fact that our Nation is currently facing a head-on collision with recession.

S. 712, as reported, contains a number of provisions designed to encourage Amtrak to improve its financial performance and to assist Congress in monitoring that improvement. In its report on the recommended route structure, DOT set a goal for Amtrak to improve its ratio of revenues to expenses to 50 percent by fiscal year 1985. I believe this goal is attainable, even before 1985, but not under the current Amtrak system. Fares must be increased so the traveling public pays a fairer share of the costs of operation and the system must be restructured to drop those trains which are clearly a financial drain on the entire system.

The new route plan would increase the number of passenger-miles per train-miles—a measure of the number of passengers who are on any given train at any given moment—from the present systemwide average of 141 to an average of 173 on the new system. In terms of cost savings, the DOT plan would provide an overall savings of $1.3 billion over the next 5 years. Most important, the new route plan maintained a national rail passenger service grid that would provide service to every region of the country.

Some people would argue that the DOT plan would eventually lead to a collapse in the entire system. On the contrary, the DOT plan will strengthen it. The routes proposed to be cut averaged just 78 passengers per mile in fiscal year 1978, not enough to fill a single Amfleet coach which holds 80 passengers. By pruning out these routes, which have proven they are not financially viable or energy efficient, Amtrak's management will be able to concentrate its time, good equipment, and scarce resources on building up those trains that people are using.

It is important to note that the new route system will result in an improvement in Amtrak energy efficiency on a passenger-mile basis, reducing Btu's—British thermal units (about 125,000 Btu's are contained in a gallon of gasoline)—from 3,601 to 3,381, a reduction of 6 percent. Even with this improvement, the new Amtrak system will remain less energy efficient than the private automobile and the bus.

As compared with other transportation modes, with similar load factors, the intercity bus achieves 129 passenger miles per gallon, while Amtrak achieves only 44 passenger miles per gallon. In the air, the passenger miles per gallon is 26.7. The average Amtrak train, in fiscal year 1978, carried 128 passengers. Amtrak would have to average over 138 passengers to compete with an average automobile, and over 400 passengers to compete with the bus industry.

Furthermore, in the event of a national energy emergency, the simple fact is that Amtrak does not have the equipment or the manpower to handle significantly higher ridership levels. Even if Amtrak were to triple its present ridership, it would still carry less than 1 percent of intercity passengers.

While recognizing the need for a cut in Amtrak's current system, the committee is well aware that the market demand for rail passenger service is undergoing some change due to the increased energy problems facing our Nation. Since none of us can accurately predict the full impact of these changes, it is important that Amtrak have some flexibility to add and delete routes affected by such changes. Although S. 712 provides $5 million in each fiscal year for Amtrak's Board to use for this purpose, I am willing to support a number of amendments which will be offered today with the full consent and endorsement of the Commerce Committee to increase the funding in S. 712 to permit Amtrak to add additional trains to the recommended route structure that meet certain designated criteria. These amendments have been the result of the efforts by Senators Leahy, Church, Magnuson, Packwood, Eagleton, Weicker and many others working closely with the committee and I commend the cooperative and constructive manner in which the proposals have been developed.

In closing, Mr. President, I would again like to reemphasize my support for a restructured route system. I realize the social and economic value of trains and their as yet unmet potential to be a more energy efficient and cost effective mode of transportation. A collapse in the rail system would work a grave hardship on the Nation, but that is what we are headed for with the current energy losing and costly system intact today.

Furthermore, it is time that those people who ride Amtrak begin to bear an increasingly larger share of the cost of its operation than the 99 percent who do not. Amtrak's revenues have risen 205 percent since 1971, but expenses have risen over 290 percent. We cannot allow this trend to continue and S. 712 is designed to reverse it.

S. 712 as amended today will reduce Amtrak's present system of 27,408 route miles by 5,322 miles, a reduction of about 20 percent (19.4). This will be a major first step toward establishing a more energy-efficient, cost effective and reliable rail passenger service for our Nation.

I thank the Senator for yielding.

UP AMENDMENT NO. 495

(Purpose: An amendment in the nature of a substitute for the text of S. 712, together with an amendment to the title of the bill)

Mr. LEAHY. Mr. President, I send to the desk an amendment in the nature of a substitute and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. Leahy) for himself, and Mr. Stafford, Mr. Magnuson, Mr. Church, Mr. Robert C. Byrd, Mr. Bayh, Mr. Eagleton, Mr. Kennedy, Mr. Williams, Mr. Durkin, Mr. Schmitt, Mr. Levin, and Mr. Weicker proposes an unprinted amendment numbered 495 in the nature of a substitute.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment in the nature of a substitute is as follows:

In lieu of the language intended to be proposed by the Committee insert:

SHORT TITLE

"Section 1. This Act may be cited as the Amtrak Improvement Act of 1979.

"DEFINITIONS

"Sec. 2. Section 102 of the Rail Passenger Service Act (45 U.S.C. 502) is amended—

(1) in paragraph 4 thereof, by striking out 'Act' and inserting in lieu thereof 'Act until October 1, 1979, on or after which date 'basic system' means the system of intercity rail passenger service designated by the Secretary under section 4 of the Amtrak Improvement Act of 1978 (Public Law 95–421) and approved by the Congress, and changes thereto made by the Corporation using the Route and Service Criteria'; and

"(2) By adding at the end thereof the following new subsection:

'(10) 'Route and Service Criteria' means the Criteria and Procedures for Making Route and Service Decisions established pursuant to section 403(d) of this Act.'.

"PURPOSE OF CORPORATION

"Sec. 3. The second sentence of section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended by inserting immediately after 'intercity rail passenger service,' the following: 'to improve the ratio of revenues to expenses incurred in providing such service,'.

"GENERAL POWERS OF THE CORPORATION

"Sec. 4. Subsection (i) of section 305 of the Rail Passenger Service Act (45 U.S.C. 545(i)) is amended by striking out the words 'security guards' each place they appear and inserting in lieu thereof the words 'railroad police'.

"APPLICABILITY OF OTHER LAWS

"Sec. 5. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended—

"(1) in subsection (a) thereof, (A) by striking out the period in paragraph (3) and inserting in lieu thereof the following: ';

'(4) the issuance of securities or the assumption of any obligation or liability in respect of the securities of others.';

"(2) in subsection (j)(2) thereof, by striking out 'motor carrier,' and inserting in lieu thereof 'domestic or international motor, air, or water carrier,'; and

"(3) by adding at the end thereof the following new subsections:

'(l) The Corporation shall not be subject to any State or local law pertaining to pay periods or days for payment of employees: *Provided,* That no employee shall be paid any less frequently than such employee is paid as of the date of enactment of this subsection, unless pursuant to an applicable collective bargaining agreement.

'(m) The Corporation shall be deemed to be qualified to do business in each State in which it performs any activity authorized under this Act. In connection therewith the Corporation shall accept service of process addressed by certified mail to its Corporation Secretary at its principal office and place of business located in Washington, District of Columbia. The Corporation shall be deemed to be a citizen of the District of Columbia for the purpose of determining the original jurisdiction of the district courts of the United States in civil actions to which the Corporation is a party.'.

"SERVICE CHANGES

"Sec. 6. Section 403 of the Rail Passenger Service Act (45 U.S.C. 563) is amended to read as follows:

'Sec. 403. Service Changes.

'(a) After October 1, 1979, all route additions and discontinuances by the Corporation shall be in accordance with the Route and Service Criteria.

"(b)(1)(A) Any State, or group of States, or any regional or local agency, may submit an application to the Corporation requesting the institution of rail passenger service in addition to that service provided in the basic system. The Corporation shall institute such service under an agreement if the State, group of States, regional or local agency agrees to reimburse the Corporation for 20 percent of the solely related costs of such service in the first year of operation, 35 percent of such costs in the second year of operation, and 50 percent of such costs in each subsequent year of operation, and 50 percent of the associated capital costs of operating such service; if service can be provided with resources available to the Corporation; and if it is consistent with the following requirements:

'(i) The State or agency must make an adequate assurance to the Corporation that it has sufficient resources to meet its share of the costs of such service for the period such service is to be provided under this section.

'(ii) The State or agency has conducted a market analysis acceptable to the Corporation to insure that there is adequate demand to warrant such service.

An agreement made pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years. Any decisions which are likely to have a significant effect on the scheduling, marketing, or operations of the service provided pursuant to this section shall be made by contract or other agreement between the Corporation and the State or agency which is obligated to reimburse the Corporation for all or part of the operating loss, and associated capital costs, of such service. The State or agency shall be entitled to reimbursement for staff services in an amount equal to 3 percent of the Corporation's share of operating losses and associated capital costs."

(B) If more than one application is made for service and all applications are consistent with the requirements of this subsection, but all the services applied for cannot be provided with the available resources of the Corporation, the Board of Directors shall decide in its discretion which application or applications best serve the public interest and can be provided with the available resources of the Corporation, except that a proposal for State support of a service deleted from the basic system in effect prior to October 1, 1979, or the basic system in effect after such date, shall be given preference.

'(C) The Board of Directors shall establish the basis for determining the solely related costs and associated capital costs and the total revenue of the service provided pursuant to this subsection. The Corporation, at the request of States, may conduct studies during the fiscal year ending June 30, 1976, to determine benefits of seasonal routes to recreational areas

'(2) Five percent of all revenues generated by each particular route operated under the authority of section 403(b) of this Act, shall be dedicated to advertising and promotion of such service on a local level.

'(c) Unless it has entered into a contract with the Corporation pursuant to section 401(a)(1) of this Act, no railroad may discontinue any intercity passenger train whatsoever prior to January 1, 1975, the provisions of any other Act, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before a Federal or State court, agency, or authority to the contrary notwithstanding. On and after January 1, 1975, passenger train service operated by such railroad may be discontinued under the provisions of section 13a of the Interstate Commerce Act. Upon filing of a notice of discontinuance by such railroad, the Corporation may undertake to initiate passenger train operations between the points served.

"(d)(1) Within 120 days after the date of enactment of this subsection, the Board of Directors of the Corporation shall study, develop, and submit to the Secretary, to the Commission, and to the Congress an initial proposal setting forth criteria and procedures under which the Corporation would be authorized to add or discontinue routes and services. Such criteria and procedures shall include, but need not be limited to—

'(A) methods for evaluating the economic and environmental impact of any addition or discontinuance of intercity rail passenger service including an evaluation of the economic impact to the Corporation and to the Nation of the addition of new service points along existing or new intercity routes within the Northeast corridor;

'(B) methods for evaluating the effects of any such addition or discontinuance on connecting parts of the national system of intercity rail passenger service;

'(C) methods for estimating with respect to any such addition or discontinuance, the population to be affected, the demand for intercity rail passenger service, the revenue per passenger mile, and the effect on capital costs and revenue of the Corporation;

'(D) methods for evaluating the availability of alternative modes of transportation;

'(E) methods for giving public notice of, and obtaining public comments on, any such addition or discontinuance; and

'(F) methods for establishing a priority ranking system for routes and trains to meet the needs of the public convenience and necessity for a balanced transportation system, taking into consideration the criteria and procedures referred to in subparagraphs (A) through (E) of this paragraph, together with such other criteria as the Board of Directors deems appropriate.

'(2) Within 150 days after the date of enactment of this subsection, the Secretary and the Commission shall submit to the Congress and to the Board of Directors of the Corporation their comments on the initial proposal setting forth criteria and procedures developed by the Board of Directors of the Corporation, together with such recommendations, as they may deem appropriate.

'(3) Within 30 days after receipt of comments submitted by the Secretary and the Commission under paragraph (2) of this subsection, the Board of Directors of the Corporation shall consider such comments and shall submit to the Congress a final proposal setting forth criteria and procedures under which the Corporation would be authorized to add or discontinue routes and services within the national system of intercity rail passenger services. The criteria and procedures set forth in such final proposal shall take effect at the end of the first period of 60 calendar days of continuous session of the Congress after the date of its submission, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not approve such a final proposal. If no resolution is adopted as provided in the preceding sentence, the Corporation may add or discontinue routes and services in accordance with the criteria and procedures set forth in the final proposal, notwithstanding the provisions of section 13a of the Interstate Commerce Act, relating to discontinuance of service within the basic system. For purposes of this paragraph, continuity of session of the Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded from the computation of the 60-day period.

'(e)(1) The Corporation is authorized to operate commuter rail passenger service under an agreement with a State (or local or regional transportation agency) if such State or agency agrees to reimburse the Corporation for the avoidable cost of operating such commuter rail passenger service. An agreement made pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than two years. For purposes of this subsection, the term 'commuter rail passenger service' means rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations. The Board of Directors shall establish the basis for determining the avoidable cost of the service provided pursuant to this section.

'(2) Any rail passenger service which is operated by the Corporation on January 1, 1979, and which constitutes commuter rail passenger service as defined in paragraph (1) of this subsection shall, until April 1, 1981, continue to be operated by the Corporation and funded in accordance with the method of funding in effect for that service on January 1, 1979. In addition, any rail passenger service which (A) is operated by the Consolidated Rail Corporation, (B) is the subject of an application for discontinuance filed with the Commission before July 15, 1979, and (C) constitutes commuter rail passenger service as defined in paragraph (1) of this subsection shall, until April 1, 1981, be operated by the Corporation and funded by the Corporation in the same manner as service operated under the preceding sentence.

'(3) The Corporation shall, until April 1, 1981, continue to accept commuter based fares for any rail passenger service which it operates and for which such fares were accepted on January 1, 1979. Nothing in this paragraph shall be construed as prohibiting the Corporation or any other railroad from increasing the amount of any fare charged for rail passenger service.

'(f) Where reductions in operating expenses can be obtained, the Corporation shall operate rail passenger service over any long distance route which is recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrak Improvement Act of 1978, with or without any restructuring of such route to serve major population centers as end points or principal intermediate points, in order to maintain a national intercity rail passenger system, if—

'(1) the short term avoidable loss per passenger mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not more than 7 cents per passenger mile; and

'(2) the passenger mile per train mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not less than 150.

Short term avoidable loss per passenger mile calculated by the Corporation for purposes of this subsection shall be based upon consistently defined factors for all types of routes, and such short term avoidable loss and passenger mile per train mile shall be calculated in the same manner for all routes. The Corporation shall make its calculations under this subsection on the basis of the most recent available statistics for a 90-day period, except that the Corporation may also utilize historical data (such as seasonal fluctuations in ridership) as long as such data is adjusted to reflect the most recent available statistics. The Corporation shall, no later than 30 days after the date of enactment of this subsection, submit a report to the Interstate and Foreign Commerce Committee of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the methodology, equations, factors used, assumptions, and results in connection with the calculation of short term avoidable loss per passenger mile and passenger mile per train mile under this subsection.

"(g) Notwithstanding any other provisions of this Act (including the requirements of section 403(d)), the Corporation is authorized, to the extent available resources permit, to operate short-haul trains, on a demonstration basis for the purpose of determining the feasibility and benefits of such services, on additional routes of 200 miles or less which link two or more major metropolitan areas.'.

"CONFORMING AMENDMENT

"SEC. 7. Section 404 of the Rail Passenger Service Act (45 U.S.C. 564) is hereby repealed.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 8. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

'(b)(1) There are authorized to be appropriated to the Secretary for the benefit of the Corporation:

'(A)(i) for the payment of operating expenses of the basic system, including the Northeast corridor, and for those trains operated pursuant to section 403(e), not to exceed $576,300,000 for the fiscal year ending September 30, 1980, and not to exceed $605,000,000 for the fiscal year ending September 30, 1981;

'(ii) for the payment of operating expenses for rail passenger service provided pursuant to section 403(f) of this Act, not to exceed $25,000,000 for the fiscal year ending September 30, 1980, and not to exceed $25,000,000 for the fiscal year ending September 30, 1981;

'(B) for the payment of the costs of capital acquisition or improvements to the basic system, not to exceed $122,000,000 for the fiscal year ending September 30, 1980, and not to exceed $223,000,000 for the fiscal year ending September 30, 1981;

'(C) for the payment of the principal amount of obligations (other than leases) of the Corporation which are guaranteed by the Secretary pursuant to section 602 of this Act, not to exceed $25,000,000 for the fiscal year ending September 30, 1980, not to exceed $25,000,000 for the fiscal year ending September 30, 1981;

'(D) for the payment of operating and capital expenses for service commenced pursuant to section 403(b) of this Act on or following September 30, 1979, not to exceed $20,000,000 for the fiscal year ending September 30, 1980, and not to exceed $20,000,000 for the fiscal year ending September 30, 1981; and

'(E) for labor protection payments required pursuant to section 405 of this Act, not to exceed $30,000,000 for the fiscal year ending September 30, 1980, and not to exceed $32,000,000 for the fiscal year ending September 30, 1981. Any sums authorized by this subparagraph which remain available after such labor protection payments are made shall be made available to the Corporation for use in the payment of expenses and costs in accordance with subparagraphs (A) and (B).

'(2) Funds appropriated pursuant to this section shall be made available to the Secretary during the fiscal year for which appropriated except that appropriations for capital acquisitions and improvements may be made in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation. Funds appropriated shall remain available until expended. Appropriated sums shall be paid by the Secretary to the Corporation for expenditure by it in accordance with (A) the Secretary's budget request as approved or modified by Congress at the time of appropriation and (B) guidelines established by the Secretary. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more-frequent payment before the expiration of any 90-day period.

'(3) Funds appropriated for capital grants pursuant to this subsection shall be paid to the Corporation in each fiscal year, and such grants may be used by the Corporation for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of this Act'.

"TECHNICAL AMENDMENT

"SEC. 9. Subsection 602(d) of the Rail Passenger Service Act (45 U.S.C. 602(d)) is amended by inserting the words 'or clause (C) of section 601(b)(1)' immediately after the words 'section 601(a)'.

"ADEQUACY OF SERVICE

"SEC. 10. Section 801 of the Rail Passenger Service Act (45 U.S.C. 641) is repealed.

"INTERMODAL TERMINAL PROGRAM

"SEC. 11. The first sentence of paragraph (5) of section 4(i) of the Department of Transportation Act (49 U.S.C. 1653(i)(5)) is amended by striking out 'within two years following the approval of the application for Federal financial assistance under this subsection' and inserting in lieu thereof 'within such a time period as is established by the Secretary.'.

"REPORT ON REVENUES AND EXPENSES

"SEC. 12. Title VIII of the Rail Passenger Service Act is amended by adding at the end thereof the following new section:

'REVENUE REPORT

'SEC. 808. Within 60 days of the end of each fiscal year beginning with fiscal year 1981, the Corporation shall report to the Congress on the ratio of revenue to total expenses on all routes in the basic system. As part of such report, the Corporation shall specifically identify those train routes which did not achieve a 50 percent revenue-to-expense ratio, and the Corporation shall include statements explaining the reasons which prevented such ratios from being achieved.'.

"SYSTEMWIDE SPEED GOAL

"SEC. 13. The Secretary of Transportation, in consultation with the Corporation, shall study the potential benefits of a 55-mile per hour speed goal, and determine the desirability and costs of attaining such a goal. Within 12 months of the date of enactment of this section, the Secretary shall report to the President and the Congress on the results of such study.

"IMPLEMENTATION OF THE NEW ROUTE PLAN

"SEC. 14. Section 4(g) of the Amtrak Improvement Act of 1978 (Public Law 95-421) is amended by adding before the period at the end of the sentence the following: ': *Provided, however*, That implementation of the Secretary's recommendations which require: (1) operation over rail lines not used in intercity passenger service upon the date of approval thereof; (2) use of new facilities; or (3) new labor agreements, may be deferred by the Corporation until any necessary capital improvements in such rail lines or facilities, or required labor agreements, are made, to permit service that is equivalent or improved service and is consistent with the goals contained in subsection (a) of this section. *And provided further*, That pending deferred implementation of such recommendations, the Corporation may provide substitute service over existing routes without reference to the Criteria and Procedures for Route and Service Decisions issued pursuant to section 403(d)(3) of the Rail Passenger Service Act.'.

"EXTENSION OF AUTHORITY TO ISSUE AND SELL FUND ANTICIPATION NOTES

"SEC. 15. (a) Section 505(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(e)) is amended by striking '1979,' and inserting in lieu thereof '1980'.

(b) Sections 507(a) and 507(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 827 (a) and (d)) are amended by striking out '1979' and inserting in lieu thereof '1980'.

(c) Section 509 of the Railroad Revitalization and Regulatory Act of 1976 (45 U.S.C. 829) is amended by striking '1979' each place it appears therein and inserting in lieu thereof '1980'.".

Amend the title so as to read: "A bill to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 2 additional years, and for other purposes.

Mr. LEAHY. Mr. President, I ask that the following of our colleagues be included as cosponsors of the amendment: Mr. STAFFORD, Mr. MAGNUSON, Mr. CHURCH, Mr. ROBERT C. BYRD, Mr. BAYH, Mr. EAGLETON, Mr. KENNEDY, Mr. WILLIAMS, Mr. DURKIN, Mr. SCHMITT, Mr. LEVIN, and Mr. WEICKER.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, my amendment, which is in the nature of a substitute amendment to the committee bill S. 712, represents what I feel is a fair and balanced compromise between those who would prefer no changes in the current Amtrak system and those who advocate wholesale reductions of rail passenger service.

It is an amendment which, if accepted, will go a long way toward establishing a first-rate national rail passenger system. My amendment would eliminate only those routes which have never been, and never would be, successful in terms of ridership and cost efficiency. It would, by eliminating costly, underutilized routes, insure that those routes which have been successful, or which have shown a potential for success, receive sufficient levels of funding to provide first-rate, energy-efficient passenger service.

Mr. President, before I describe the specific provisions of my amendment, I want to compliment the Commerce Committee chairman (Mr. CANNON) and the Surface Transportation Subcommittee chairman (Mr. LONG) for their efforts to bring this Amtrak authorization bill to the Senate floor before the August recess. They have worked hard to see that a compromise was reached which will provide for a strong Amtrak system—a system which is based on objective performance criteria, and which has the capacity to accommodate recent increases in demand for passenger rail service.

I also wish to compliment my distinguished colleague from Idaho (Mr. CHURCH) for his efforts in support of a strong national rail passenger system. At a time when fuel prices are rising, and reserves falling, his efforts on behalf of Amtrak, and the equally ardent efforts of the Senator from New Mexico (Mr. SCHMITT) have done much to create support for a strong national Amtrak system. These Senators, and others of our colleagues have worked hard on this issue, and it is because of their efforts that this legislation is now before the Senate.

Mr. President, when in January of this year the Department of Transportation announced its recommendation that 43 percent of Amtrak's current system be curtailed, I introduced a resolution disapproving that recommendation. I did so for two reasons.

I was extremely concerned because the DOT plan proposed the elimination of my State's only passenger train, the Montrealer. That concern quickly turned to anger when I discovered that in recommending the elimination of the Montrealer, DOT was proposing to discontinue a train which in fact was outperforming many trains in the recommended system.

My second cause for concern was the overall size of the proposed reductions. I was convinced that in light of this Nation's growing need for adequate mass transportation alternatives, 1979 was not the appropriate year to cut out 43 percent, or 11,825 miles, of our national rail passenger system. Mr. President, I ask unanimous consent that the full text of my statement upon introducing the resolution of disapproval be inserted in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Mr. President, the compromise worked out with the committee and with a number of the other Senators who have demonstrated a strong interest in Amtrak, fully satisfies both of the concerns I have just described.

It authorizes both a well balanced route system which is sufficient to meet our national needs, and a level of capital funding which is sufficient to provide for the equipment necessary to service those routes in a timely, comfortable, and energy efficient manner.

For my train, the Montrealer, it offers all I ever asked for. Namely, a chance to compete fairly, on the basis of well defined, objective criteria, against other routes in the Amtrak system.

If I might get a bit parochial for a moment, I would like to point out that the Amtrak ridership statistics just released show a passenger-mile per train-mile for the Montrealer in April of 194, and a year-to-date passenger mile per train-mile of 164. These figures place the Montrealer well above all but two trains in the entire Amtrak system. It would appear, therefore, that the Montrealer is a strong candidate for being added back into the system under the provisions of this compromise. What is more important, however, is that if it does get added back, it will be because it was supported where it counts most—at the ticket window.

Mr. President, in all fairness I must state that I have felt all along that the DOT plan took a much needed step in the right direction. My quarrel has been only that DOT simply went too far.

I have never questioned the need to reduce the size of the current system. Not even Amtrak's president, Mr. Alan Boyd, disputes the fact that, given the available level of resources, the Amtrak system must be reduced if the quality of service is to be improved.

Mr. President, before I launch myself into a discussion of the details of my proposal, I want to clarify a couple of terms I will be using. When I refer to my amendment, I mean the Leahy substitute amendment as introduced. When I refer to the compromise package, I mean the Leahy amendment as modified by amendments which I understand will be offered by Senator CHURCH and Senator WEICKER, and which I, and I believe the committee, are prepared to accept at the appropriate time.

Mr. President, my amendment would reduce the size of the Amtrak system by 25 percent. It would authorize a total of $798.3 million for operating and capital grants in fiscal year 1980, that is, $1 million more than S. 712 as reported by the Commerce Committee, and $171.7 million less than would be needed to operate the current Amtrak system.

The entire compromise package, again that is the Leahy amendment as modified by amendments to be offered by Senators CHURCH and WEICKER, would result in a 20-percent reduction in the size of the Amtrak system. It would authorize a total of $867.3 million for operating and capital grants in fiscal year 1980, or $70 million more than S. 712, and $112.7 million less than the cost of operating the current system.

Mr. President, the compromise package would result in savings of $112.7 million in fiscal year 1980, and yet it would eliminate only 20 percent of Amtrak's route miles, all of which are lightly traveled and thus energy inefficient.

I must admit to a sense of pride in being able to sponsor this amendment which strengthens the Amtrak system, and at the same time conserves $112 million of scarce Federal resources.

I would like to describe in some detail the ways in which my amendment differs from the committee bill, S. 712, for which it is a substitute.

First my amendment adds $20 million both in fiscal year 1980 and fiscal year 1981 to the $5 million already contained in S. 712 for the purpose of providing service in addition to that recommended in the DOT system. My amendment also sets up objective performance criteria which trains must meet in order to qualify for funding out of this $25 million "criteria train" pool. Those criteria are: 150 passenger miles per train mile—a measure of ridership—and 7-cent loss per passenger mile—a measure of cost. The data which is to be used for the purpose of deciding which trains meet these criteria is the "most recent available statistics for a 90-day period," or as Amtrak informs me, the April, May, and June ridership and cost statistics.

Mr. President, it is extremely important to note that both these criteria, and the data which will be applied to them, are identical to those in the House passed bill, H.R. 3996. By accepting my amendment today, the Senate will insure that Amtrak can proceed with the crucial business of deciding what system they will operate come this October. To impress upon my colleagues the importance of enabling Amtrak to proceed with the business of deciding on routes, I might point out that if Amtrak cannot do so, if the compromise is not accepted and if Amtrak remains uncertain as to what trains it will run next year, that uncertainty alone may cost the taxpayers upward of $15 million per month.

While the pool for "criteria trains" in my amendment is only $25 million in both fiscal year 1980 and fiscal year 1981, I must point out that Amtrak should have a full $45 million available to them for the purpose of operating criteria trains in both fiscal years. This is because, through increased fares and ridership, and improved management practices, Amtrak will have a $10 million operating surplus in fiscal year 1979, and expects a similar surplus in fiscal year 1980. Thus in fiscal year 1980 the $25 million authorized in this compromise plus the $10 million surpluses for fiscal years 1979 and 1980 should result in a $45 million pool for operating criteria trains.

In addition to adding $20 million for criteria trains, and establishing the criteria by which those trains are to be added, my amendment includes $10 million more in fiscal year 1980 and fiscal year 1981 than S. 712 for 403(b), State-assisted trains. The 403(b) trains are funded by a formula which accounts for financial support from both Amtrak and individual States. The compromise being offered today not only increases the funds available for these trains, it also changes the operating subsidy for 403 (b) trains from the current 50 percent Federal/50 percent State formula, to 80 percent Federal/20 percent State in the first year, 65 percent Federal/35 percent State in the second year, and 50/50 in subsequent years.

Mr. EAGLETON. I commend the distinguished Senator from Vermont (Mr. LEAHY) for his amendment and his fine leadership in fashioning a consensus on this legislation.

One of the sections of the Leahy proposal incorporates part of my amendment No. 239 which I introduced together with Senators DANFORTH, TSONGAS, HAYAKAWA, JAVITS, HEINZ, PRYOR, MATHIAS, and SARBANES. I would like to ask the Senator from Vermont whether the basic thrust of my amendment which is to liberalize the terms under which a State may enter into a section 403(b) agreement with Amtrak has been preserved under his proposal.

Mr. LEAHY. The answer is "Yes." My proposal adopts the Eagleton formula for sharing operating deficits under any 403 (b) program. It is presently a 50–50 cost-sharing arrangement. Under the Eagleton amendment and my own proposal, that formula would change to an 80 percent Federal share and 20 percent State share in 1980, a 65 percent Federal share and 35 percent State share in 1981, and thereafter a 50–50 cost-sharing for all new 403(b) routes.

Mr. EAGLETON. I note that the Leahy amendment reduces the overall authorization from the $25 million in fiscal year 1980 and $30 million in fiscal year 1981 provided in my amendment to $20 million in both years. Is the Senator satisfied that this will be adequate to meet the need?

Mr. LEAHY. I believe it is sufficient, but I would note that the House bill provides authorization levels similar to those proposed by the Senator from Missouri. House conferees may have a different view and I am sure that the issue will be discussed thoroughly in the conference.

Mr. EAGLETON. The only other difference between the Eagleton and Leahy amendments is the deletion of my provision for an 80-percent Federal and 20-percent State sharing of capital improvement costs in a 403(b) program. I have no objection to that change but I would like to have the Senator's assurance that the intent here is to retain the present 50–50 cost-sharing for capital improvements and not to eliminate that aspect of the 403(b) program altogether. Given the structure of the Leahy amendment, I have some concern that that could be the unintended effect of this change.

Mr. LEAHY. The intent is to preserve the existing 50–50 formula for capital costs. I am satisfied that my amendment does that.

Mr. EAGLETON. May I ask the distinguished chairman of the Commerce Committee, Senator CANNON, whether he is prepared to accept this modified version of the Eagleton amendment.

Mr. CANNON. I am prepared to accept the amendment.

Mr. EAGLETON. On that assurance, I am prepared to withdraw my amendment although my cosponsors will have to speak for themselves.

Mr. President, finally, my amendment provides for $29 million less than S. 712 for labor-protection payments. This is because, with more trains running, there will be less need for labor-protection payments. The $29 million reduction assumes that my amendment will be further amended by Senator CHURCH, and thus reflects the labor protection savings of the entire compromise package.

There is one other provision contained in my substitute amendment which is not in S. 712, and which, though it involves no additional money, deserves mention. My amendment authorizes current Amtrak-operated commuter trains to be fully funded for an additional 18 months. These commuter trains will be funded out of the operating grant for the basic system.

● Mr. BAYH. Mr. President, I compliment the Commerce Committee chairman Mr. CANNON, and the Surface Transportation Subcommittee chairman Mr. LONG, for their efforts to bring this Amtrak authorization bill to the Senate floor at this time. I know it has been very difficult to try and accommodate all the various, conflicting views on Amtrak as to how extensive a system we should have; how much funding should be authorized; which trains should be legitimate candidates for inclusion into the system, et cetera. The bill as reported, plus the amendments that will be offered by Senators LEAHY, CHURCH, and WEICKER, I believe, represents a good compromise between those who want to freeze the present Amtrak system and those who feel that no long-distance trains should be operated. There will obviously be some disruption and discontinuance of train service under the bill as it will be amended under the amendments of Senators LEAHY and CHURCH, but those adjustments are held to a minimum.

We are told by Amtrak that they could not offer good service if we did not cut some of the trains which are presently being operated, but which hold out no hope for meeting the ridership criteria of those trains which will be continued. By adding additional operating funds above what is necessary to run the basic DOT restructured system and giving the Amtrak Board of Directors the authority to add back trains which now meet the 150 passenger mile per train mile criteria, as well as the loss per passenger mile criteria, we are recognizing that some of the trains scheduled for abandonment under DOT's recommendations may now be meeting the same criteria as those in their system. In light of the recent upsurge in ridership, we should allow for such additional service. As far as freezing the current system, such action would cost an additional $100 million this year and Amtrak would not have the necessary equipment to run good, efficient service. So, I support the DOT restructured system plus the additional service that will be operated under the amendments of Senators LEAHY and CHURCH.

As a cosponsor of the Leahy amendment, I would like to point out that a portion of the amendment will enable Amtrak to operate the ConRail commuter service from Valparaiso to Chicago. I worked with Congressman BENJAMIN to have a similar provision included in the House bill. I am convinced that Amtrak will do a much better job of operating this service than ConRail has done. Since ConRail took over the operation of this commuter service, there have been numerous operational and maintenance problems. Reports come in almost every week about the poor service, the bad air-conditioning and heating, nonfunctioning toilets, late departures, and so forth. Because of these problems, ridership has dropped since ConRail took over in 1976. But, still some 700 people depend on this train to get to work each day. I am certain that number will quickly double when people see that Amtrak is willing and able to provide more dependable service.

Another portion of the Leahy amendment which I welcome and gladly join in cosponsoring is a provision that enables Amtrak to initiate additional short-haul service between city pairs of no more than 200 miles, within available funds. This type of service appears to me to be the kind that Amtrak can do the best job at. They can effectively compete in such short-haul service with the energy efficiency of intercity buses and with the airlines on trip time. In talks with Amtrak's President, Alan Boyd, I have stressed the importance of such service. He agrees with me that Amtrak should do very well in such markets. I believe that a train between Indianapolis and Chicago, the Nation's 3d and 11th largest metropolitan areas in the country, would be a very worthwhile service. I would like to ask the author of the amendment, Mr. LEAHY, if this is the type of short-haul service he has in mind under the language contained in his amendment.

Mr. LEAHY. Yes, the distinguished Senator from Indiana, as chairman of the Appropriations Subcommittee on Transportation, is very familiar with the Amtrak system and the past difficulties we have faced on the Appropriations Committee with the Amtrak budget. Every year, it seems we have faced a situation where Amtrak has come back for more funds and threatened to cut service unless those funds were provided. I am hopeful that this bill is the beginning of a new period for Amtrak. A period where more people will use the trains that are being operated. I agree with the Senator from Indiana that one of the most obvious places where short-haul service makes sense is in the corridor between Indianapolis and Chicago. I believe that Amtrak should do all that they can to market the trains that they will be operating under this new bill and then go out and do a good job of providing service. That, coupled with the increased level of capital that the bill provides for equipment purchases, will enable us to get the most out of the dollars that are necessary for our Nation's rail passenger system.●

● Mr. WILLIAMS. Mr. President, Senators MATHIAS, SARBANES, ROBERT C. BYRD, BAYH, BRADLEY, HEINZ, WEICKER, and TSONGAS join me in strong support of the commuter service provision of the Leahy substitute to S. 712. This provision will assure the continuation of Amtrak's commuter services for 18 months. During that time, Amtrak will be required to continue accepting commutation fares. This provision is the same as the commuter provision included in the House-passed bill.

Mr. President, I wish to thank Senator CANNON, chairman of the Committee on Commerce, Science, and Transportation, Senator LONG, chairman of the Surface Transportation Subcommittee, and Senator LEAHY, sponsor of the substitute, for their great cooperation in accepting this provision. I compliment each of them for their fine efforts in fashioning the fair and reasonable compromise that is now before us.

Mr. President, Amtrak currently operates some 24 trains per day which primarily serve commuters. These are among Amtrak's most heavily patronized trains. They carry over 2½ million commuters annually between cities all along the Northeast corridor, and also between Washington and Martinsburg, W. Va., and between Detroit and Jackson, Mich. They include the "clockers" between New York and Philadelphia, which have by far the highest ridership of any trains in Amtrak's system.

Most of these commuter trains were already running at or beyond full capacity before this year's gasoline shortage. In many cases, they have simply not been able to meet the increased demand brought by long gas lines and dollar-a-gallon gas.

Clearly, this is not the time to cut back on these essential commuter services. Yet, the Department of Transportation plan proposes to do just that. The plan would require Amtrak to discontinue all commuter services by October 1, unless State or local transit authorities agree to subsidize them.

As the chairman of the subcommittee with jurisdiction over mass transit, I know only too well that State and local budgets are already strained to maintain existing commuter programs. And it has been a constant struggle to get the Department of Transportation to live up to the Federal commitment to these programs. Thus, DOT has recommended that Amtrak drop its commuter service without proposing any realistic alternative for picking it up.

The commuter provision of the Senate substitute would correct this unwise and ill-considered recommendation. It would allow time for all parties—DOT, Amtrak, and State and local commuter authorities—to work out a fair means of subsidizing service, without raising the specter of thousands of stranded commuters.

Mr. President, I urge my colleagues to support this important provision and to approve the substitute bill before us.●

Mr. LEAHY. Mr. President, as I have stated, my amendment would authorize a total of $798.3 million in fiscal year 1980 and $930 million in fiscal year 1981.

I have also stated that the Senator from Idaho, Mr. CHURCH, and the Senator from Connecticut, Mr. WEICKER, have amendments to my substitute amendment which I believe strengthen this legislation and which it is my understanding the Commerce Committee is prepared to accept.

Again, Mr. President, I might point out that both Mr. CHURCH and Mr. WEICKER have been working closely with the group I mentioned before, along with Mr. SCHMITT and others, to try to put together a package which is not only fiscally responsible, but one which makes some sense out of rail passenger service in this country.

The Church amendment would add money in each of the next 2 fiscal years for the addition of short distance and regional "criteria" trains, and would establish criteria for the addition of trains in those categories. In my view, it would insure that the Amtrak system is truly a national one, and would allow Amtrak to operate additional short distance trains which have the potential to be very profitable.

The Weicker amendment would add money for capital. This money is essential in light of the increased number of trains Amtrak will be required to operate, and in view of Amtrak's chronic equipment shortages.

Mr. President, this entire compromise package, that is the Leahy amendment as amended, would authorize $867.3 million in fiscal year 1980, and $945 million in fiscal year 1981.

In fiscal year 1980, the $867.3 million total breaks down briefly into the following general categories: $576.3 million for operating expenses, out of which will be funded the basic DOT system as proposed by Amtrak, $508.5 million; payments on the interest on Amtrak's debt to the U.S. Government, $38 million; operation of existing commuter systems for a period of 18 months, $7.5 million; the costs of implementing DOT's restructured system and continuing certain lines pending the restructuring, $22.3 million.

In addition, $40 million is provided for the operation of long- and short-haul "criteria" trains, plus regional quadrant trains; $176 million for capital expenditures; and $25 million for the reduction of Amtrak's Federal debt; $20 million for section 403(b) State-assisted trains and $30 million for labor protection.

The fiscal year 1981 authorization breaks down in general terms as follows: $605 million for operating expenses; $40 million for the "criteria," regional balance trains; $223 million for capital expenditures; $25 million for payment of Amtrak debt; and $20 million for the operation of 403(b) State-assisted trains; and $32 million for labor protection provisions.

Mr. President, my amendment and the entire compromise, has the full support of the committee, Amtrak, and the Department of Transportation. I urge that my colleagues support my amendment, and the compromise, and thus insure the operation of an efficient and effective national rail passenger system.

EXHIBIT 1

AMTRAK ROUTE STUDY

Mr. LEAHY. Mr. President, agencies of the Federal Government have been accused often of shortsighted rulings. When the Department of Transportation last month recommended the abolition of almost a half of the Nation's passenger rail system, it earned the dubious distinction of making a blindsighted ruling. My resolution today asks that the Senate send the Department's study on the Amtrak system back to the agency so that huge bureaucracy can put some sense, logic, and even foresight into its next set of recommendations.

Less than 1 year ago, the Congress instructed DOT to recommend "an optimal intercity railroad passenger system. * * *" A procedure was developed for a preliminary report, public hearings and then a final recommendation. Nowhere in these congressional deliberations was DOT told that the Congress wanted the system to meet a specific cost requirement. No dollars were discussed, no minimums, no maximums. The instruction was clear—DOT was to design the optimal system.

Somewhere along the way things got confused.

Instead of responding to this congressional instruction, DOT, in cahoots with the Office of Management and Budget, arbitrarily selected a figure, $552 million in operating subsidy, and designed a national rail passenger system within that figure. This is not only unresponsive to the congressional request, it raises serious political and legal questions as well.

Congress, not the Executive, is responsible for creating national policy. Elected officials, not anonymous bureaucrats or political appointees, were entrusted with this task, because we have a direct responsibility to the people of this Nation, our constituents. This is a basic, constitutional requirement. It is not to be ignored, bypassed, or forgotten.

However, this DOT plan represents an Executive power play designed to usurp the constitutional delegation and separation of power. Make no mistake, when DOT and OMB decided how much they would spend on an Amtrak system, they were declaring national policy. In addition, once they decided to form policy, they decide to go all the way.

Not only have these executive agencies decided how large Amtrak will be, not only have they decided which trains will run and which will not, not only have they decided how much we the Congress will spend on Amtrak next year, they are attempting to dictate a national transportation policy which will have a direct impact on our lives and the lives of our children well into the next century.

By reducing Amtrak by 43 percent, by allowing over 10,000 miles of usable track to quickly deteriorate to a stage where future use becomes economically prohibitive by raiding Amtrak's capital account for nearly $100 million to cover labor protection costs, and by making false and empty promises to have new lines ready to replace the existing lines they have decided to terminate, DOT is attempting one of the biggest political fast shuffles I have witnessed in years.

The transportation needs of our country, although not a politically exciting project, is crucial to shaping the future. Although we know it works sort-of-sometimes, rail passenger service has never been truly tested. Every other developed country has made a commitment in time, money, and priority which puts our efforts to shame. It is clear that DOT's proposal, if it is accepted by the Congress, will eliminate rail passenger service as a major component in meeting our present and future transportation needs. That is a big decision. And I believe it is one too big for DOT to make through administrative fiat.

When Congress instructed DOT to recommend the optimal railroad passenger system, we asked that the route structure be based upon current and future market and population requirements. In addition, the Secretary of DOT was told to consider—

First, any unique characteristics and advantages of rail service as compared to other modes of transportation;

Second, the role that rail passenger service can play in helping meet the Nation's transportation needs while furthering national energy conservation efforts;

Third, the relationship of benefits of given services to the costs of providing such services, computing the costs in loss or profit per passenger mile rather than total loss or profit per route;

Fourth, the transportation needs of areas lacking adequate alternative forms of transportation; and

Fifth, frequent alternatives and the impact of such alternatives on ridership, revenues, and expenses of rail passenger service.

I have read the DOT preliminary report. I have read the contradictory final report. I do not believe the agency has fulfilled the congressional mandate.

The Department of Transportation is foisting this proposal on our country at a time when the call for cutting the budget is popular and easy. Cutting the budget is politically expedient, but not always sensible. DOT is taking advantage of this money-conscious mood and using it as a smokescreen to cripple our national passenger rail system.

By now we are also acutely aware of our responsibility to cut the budget, because our constituents demand lower taxes and inflation is fueled by Government spending. Passenger rail systems are an easy target, but will we save money in the long run if we show a quick reduction in costs now?

I would like to elaborate on three points of economy with regard to the transportation study of Amtrak.

If 43 percent of the lines are abandoned as proposed by the agency, those tracks will deteriorate rapidly and become irreparable.

The Department of Transportation recommends that a number of new lines be added, and estimates of contract costs paid to private railroads for this run as high as $100 million, and yet DOT has allocated only $10 million.

Labor contracts for existing lines set for nonrenewal contain labor protection clauses which will cost an estimated $69 million out of Amtrak capital expenditures next year alone and may total nearly $100 million within 4 years.

Besides the folly in false economics and poor policy, Mr. President, I have to admit to a personal gripe with the Transportation Department. It ignored New England in its hearing schedule, it failed to notify me or my New England colleagues of its study results, and the agency suggests that the only passenger rail system to northern and central New England be terminated. That is the Montrealer, Vermont's only passenger rail line.

I do not want to defend wanton Federal spending or unnecessary $100 million programs. However, we cannot abrogate our responsibilities while we examine our expenditures. We cannot be so shortsighted as to fail to realize that the short-term solution of a lower Federal subsidy this year, might well be saddling our children's generation with much more serious, and expensive, transportation problems in the future.

The Amtrak subsidy must also be considered against the Federal subsidies other transportation modes receive. For example, we do not know how expensive an airplane ticket would be if it included the cost of FAA air comptrollers, the cost of operating the airports themselves, and the other Federal largess which is absolutely crucial to the air industry's survival, but is never listed as a budget line subsidy item. I understand that a report on these costs for all transportation modes is being prepared and should be available in about 1 month. I, for one, will be most interested in reading that report and urge all my colleagues to do the same.

By now we are acutely aware of this Nation's need to conserve energy. Automobiles are prime consumers of petroleum products and more efficient mass transit systems become more attractive as energy reserves diminish. When then are we slashing one of the best long-distance, mass transit systems available?

No wonder we are developing inferiority complexes.

Risking the label of "parochial," I want to wander a little about the Montrealer, because the tradition of iron horses is closely ingrained in my State's history.

The Boston and Maine Railroad used to ply the track up the Connecticut Valley for years. Dairy farmers woke to the whistle and began their daily chores of milking cows and fixing fence and cutting hay and milking the herd again at day's end when the train would run by the other way. In 1966, the Interstate Commerce Commission forced the B. & M. to stop its Vermon run. The State was without passenger rail service until 1972 when the Montrealer ran the route up the Connecticut.

But that route was established only after years of work by Senator Winston Prouty and my esteemed predecessor Senator George Aiken. Vermonters will not easily lose their rail line again.

To reiterate, last year Congress asked the Transportation Department to assess the rail system and report on an optimal system. Then, OMB stepped in and set an arbitrary ceiling on the amount of money this system could use. Simply by setting this limit, OMB instructed the transportation agency to curtail by almost one-half the existing service.

Mr. President, I shall submit a resolution to disapprove of the final recommendations of the Secretary of Transportation designating the basic route system for Amtrak.

Mr. MAGNUSON. Mr. President, with respect to section 403(g), it is my understanding that this provision will allow Amtrak the flexibility to operate short-haul trains on routes of 200 miles or less which link two or more major metropolitan areas. A prime example of such service, and one that I sincerely hope Amtrak will give consideration to under this provision, is the Pacific International operating between Seattle, Wash., and Vancouver, British Columbia.

This line shows increasing promise, and is particularly important because of its status as an end point to the Canadian rail system. Am I correct in assuming that section 403(g) is intended to be applied to this type of service?

Mr. LEAHY. That is correct.

Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Idaho (Mr. CHURCH) without losing my right to the floor.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 496

(Purpose: To preserve Regional balance in the National intercity rail passenger system, and for other purposes)

Mr. CHURCH. Mr. President, I send to the desk an amendment to the substitute and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment is not in order until time on the pending amendment is used or yielded back.

Mr. CHURCH. I ask unanimous consent that, notwithstanding, this amendment might be considered in order.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) for himself, Mr. MAGNUSON, Mr. PACKWOOD, Mr. JACKSON, Mr. TOWER, Mr. BENTSEN, Mr. PRYOR, Mr. HATFIELD, and Mr. BUMPERS proposes an unprinted amendment numbered 496.

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 9, of the Leahy amendment UP-495

In proposed section 403(f), insert "(1)" immediately after "(f)".

In proposed section 403(f), strike "(1)" and insert in lieu thereof "(A)"; and strike "(2)" and insert in lieu thereof "(B)".

At the end of proposed section 403(f), strike the quotation mark and the period, and insert in lieu thereof the following: ".

"(2) Where reductions in operating expenses can be obtained, the Corporation shall operate a rail passenger service over any short distance route which is recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrak Improvement Act of 1978, with or without any restructuring of such route to serve major population centers as end-points or principal intermediate points, in order to maintain a national intercity rail passenger system, if—

"(A) the short-term avoidable loss per passenger mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not more than nine cents per passenger mile; and

"(B) the passenger mile per train mile, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not less than 80.

"(g) (1) In order to preserve regional balance in the national intercity rail passenger system and to ensure that long distance routes recommended for discontinuance by the Secretary pursuant to section 4 of the AMTRAK Improvement Act of 1978 which provide service to regions with few population centers in a large geographic area have equal opportunity to qualify for continued operation, the Corporation shall operate a long distance route in each section of the United States (with sections being determined by dividing the United States into four quadrants) if—

"(A) service is not maintained on any long distance route in that section under the criteria set forth in subsection (f) (1) of this section; and

"(B) the Corporation determines that (i) a long distace route exists in that section which has shown and will show improvements in performance under the criteria set forth in subsection (f) (1) of this section, and (ii) such route shows potential, under such criteria, to warrant maintenance in the system.

"(2) The Corporation shall not continue to operate any route under this subsection if service is provided on a significant part of that route by any other route.

"(3) Service operated on a route under this subsection shall continue to be operated after October 1, 1981, only if such route meets the criteria set forth in subsection (f) (1) of this section.".

In proposed section 601(b) (1) (A) (ii), strike "$25,000,000" wherever it appears, and insert in lieu thereof "$40,000,000" in each such place

At the end of proposed section 14 of the bill, strike the quotation mark and the period and insert in lieu thereof the following: "Substitute service provided over an existing route under this paragraph shall continue to be operated after October 1, 1981, only if such route meets the criteria set forth in section 404(f) (1) of the Rail Passenger Service Act.".

Mr. CHURCH. Mr. President, the amendment I offer to the Leahy substitute is designed to preserve a regional balance in the availability of rail passenger service. I am pleased to be joined by Senators MAGNUSON, JACKSON, PACKWOOD, HATFIELD, MCCLURE, BENTSEN, TOWER, PRYOR, and BUMPERS in offering this amendment.

The substitute now before us, as I understand it, goes a considerable distance toward restoring many of the route cuts called for in the Department of Transportation's original route restructuring package. The distinguished Senator from Vermont is to be commended for recognizing the need to retain an adequate level of rail passenger service.

The effect, however, of the route retention criteria in this substitute, would be to deprive major regions of our land of rail passenger service. Under the original Department of Transportation route plan, the rural and western segments would have been left virtually devoid of service. The bill before us rectifies this situation, except for the Pacific Northwest and the Southwest quadrants of our country.

Mr. President, I feel strongly that the Senate should not permit rail passenger service, which is supported by taxpayers of all regions, to be so heavily concentrated east of the Mississippi River. Citizens in the West are quick to point out that over 70 percent of Amtrak's operating deficit is incurred east of the Mississippi. A subsidized national rail passenger system must be truly national.

The amendment I offer is responsive to these concerns for equity and regional balance in our national rail passenger system. And it is reflective of the fact that certain routes which currently serve the West have experienced strong gains in ridership during the past 7 months.

This amendment provides that if no other long-distance route is to be retained in a significant portion of any quadrant in the country, then that quadrant will be entitled to at least one train. This entitlement is to be for a 2-year period. The thrust of the amendment is to allow at least one train in each quadrant an opportunity to reach the continuation criteria contained in the substitute before us. Since this substitute would allow such service to continue in the Northeast and the Southeast, the practical impact of this amendment is to provide for comparable service in the Southwest and the Northwest. The amendment also addresses the need to retain short-haul service in a balanced fashion. Criteria are provided to allow continuation of those short-haul trains which have demonstrated the capacity to provide useful service in the future.

Mr. President, the addition of this amendment to the substitute bill will provide fairness to each region. I understand that the amendment is acceptable to the administration, and that it parallels action already taken by the House. I hope that the amendment can be agreed to by the author of the substitute. I assure him that it is important to the West and deserves the Senate's endorsement.

Mr. SCHMITT. At this time, I would like to raise a point of clarification with the distinguished chairman of the Surface Transportation Subcommittee and the Republican floor manager. It is my understanding that the Church amendment, which is being offered as a substitute to S. 712 as reported out of the Commerce Committee, contains our committee's original language regarding the implementation of the new route plan located at page 22, lines 1 through 18 of S. 712. Further, it is my understanding that the Church amendment does not add any language or change the intent of the original section 14 of S. 712. Am I correct?

Mr. LONG. The Senator is correct.

Mr. DANFORTH. I agree; there are no changes to the original section 14 which is preserved in toto in the Church amendment.

Mr. SCHMITT. Mr. President, I raise this point of clarification because of the extreme importance in maintaining the text and the intent of section 14 of S. 712 as reported out of the Commerce Committee. While the committee expects that new routings will result in improved service, both in terms of the ridership and financial performance, we recognize that it would be counterproductive to the achievement of the goals of the route restructuring process to mandate service that may result in lower levels of service than is presently being provided over existing train routes. It is my hope that the conferees on behalf of the Senate will insist on the Senate language that was reported out of the Senate Commerce Committee as section 14 implementation of the new route plan, page 22, lines 1 through 18 of S. 712.

Mr. LONG. I agree with the Senator from New Mexico and I share his position on this issue.

Mr. DANFORTH. I concur.

Mr. PACKWOOD. Mr. President, the amendment offered by the Senator from Idaho (Senator CHURCH), the Senator from Washington (Senator MAGNUSON), and myself is a most rational approach to solving the Amtrak route restructure dilemma the Congress now faces. During consideration of the Amtrak Improvement Act of 1978, the Congress was working with a history of ridership and subsidy statistics which were less than favorable. Ridership on the Amtrak route system grew only 20 percent from Amtrak's first year of operation in fiscal year 1972 through fiscal year 1978. In addition, Amtrak's total annual costs rose from $306 million in fiscal year 1972 to $891 million in fiscal year 1978, an increase of $585 million. In addition to these increased costs, Amtrak's revenues rose only $160 million, from $153 million in fiscal year 1972 to $313 million in fiscal year 1978. The result has been that the annual deficit funded by the Federal Government has more than tripled since fiscal year 1972. The total Federal investment through the end of the current fiscal year will total more than $4 billion, including guaranteed loans for capital acquisitions.

It was a most logical step for the Congress to order the Secretary of Transportation to reexamine the present route structure and submit a recommendation for a more efficient, economical, and responsive national rail passenger system. Unfortunately, the Department of Transportation did not have a crystal ball to predict the severity of an energy shortage, reductions in air service to small communities, and the discontinuance of many intercity bus routes to small communities throughout the United States. All these factors contributed to a most welcome result—substantially increased ridership on every Amtrak intercity route. As I mentioned earlier, Amtrak has only experienced a 20-percent ridership increase from its early operations in 1971 through the end of fiscal year 1978. However, ridership from the beginning of fiscal year 1979 through the end of June 1979, has increased almost 12 percent over the identical period a year before. Further, ridership during the month of June 1979 is up 24.2 percent above the level of ridership in June 1978. Mr. President, the trend is continuing throughout the Nation and must not be considered just a temporary trend.

The Secretary's redirection study was most critical of many of the long-haul trains traveling through the more sparsely populated areas of the Nation. My own train, the Pioneer, was one of the trains that received the most criticism. It was argued in the redirection study that we should not be channeling our funds to long-haul trains traveling through the sparsely populated areas of our Nation. It is argued that they are not considered essential, and the ridership, which has been low in the past, has emphasized that point. Mr. President, the public support for Amtrak in the last several months of this fiscal year has been clear. The passenger mile per train mile total on the Pioneer is up over 33 percent through April of this fiscal year. I mentioned the ridership through April because that is before the gasoline shortage reached its critical stages.

Long-haul trains have all experienced substantial increases that must not be overlooked. The Secretary's redirection study did not have the benefit of these most recent statistics; accordingly, it is most appropriate that we revise the redirection recommendation by the Secretary with this amendment.

Essentially, our amendment will divide the United States into four quadrants, and each quadrant will be entitled to one long-haul train in addition to any long-haul train provided in the Secretary's route restructure for that particular quadrant. It will be up to the discretion of the Amtrak Board of Directors to determine which long-haul train shall continue.

Each of these "quadrant trains" will be given a 2-year "trial period" to reach a passenger mile per train mile level of 150 and a loss of no more than 7 cents per passenger mile, as provided in the Leahy substitute. Mr. President, the rail passenger public will then make the final decisions. If their support continues as it has been throughout this fiscal year for rail passenger service, the trains will certainly satisfy the criteria provided in the Leahy substitute. The trains will then continue beyond the 2-year trial period so long as they maintain the qualifying criteria. However, if the increased ridership trends decline and the qualifying criteria are not met, the trains will be discontinued after the 2-year trial period.

Mr. President, the Secretary's route recommendation was the culmination of a year-long study by the Department of Transportation, the Interstate Commerce Commission, and the Rail Services Planning Office and was a monumental undertaking. However, the substance of that route restructure was essentially decided in May 1978; the final report on January 31, 1979 had many refinements, but the substance of the recommendation was the same as the one presented in May 1978. The ridership statistics and the most welcome public support for Amtrak must not and cannot be overlooked during consideration of the Secretary's route recommendation. Accordingly, our amendment provides the necessary opportunity for these long-haul trains to prove themselves; a chance they would not have under the Secretary's route recommendation.

Mr. President, I urge my colleagues to support this amendment. Thank you, Mr. President.

● Mr. TOWER. Mr. President, in consideration of the amendment to preserve a regional balance in the Amtrak system offered by my distinguished colleague from Idaho (Mr. CHURCH), I wish to express my concern that certain routes retained for this purpose might not be preserved in their integrity. For instance, if it is objectively determined that regional balance is best served by retention of the Inter-American route between Chicago and Laredo, Tex., rather than my State's other threatened route, the Lone Star, I would hope that the criteria used to assess the surviving route or routes are applied uniformly to all segments of the routes, and that a surviving route is not fragmented in determining which portions of the route are to survive and which are to be eliminated.

The original Amtrak legislation before the House last week laid open the possibility that the 150-mile segment from San Antonio to Laredo, on the border, could be eliminated on the basis of a different set of criteria than used for the rest of the Inter-American route. This segment was saved by approval of an amendment offered by my colleague in the House, Mr. KAZEN, which stated that the Inter-American train should continue to operate to the Mexican border, provided, of course, that such train meet the criteria contained in the amendment calling for regional balance in the Amtrak system.

Mr. President, my expression is not intended to prejudge the merits of retaining one route over another in furnishing rail passenger service in my State. In fact, it would be my desire that both the Inter-American and Lone Star routes be spared by the Amtrak cutback. The Church amendment to which I speak sets forth certain criteria by which Amtrak routes are to be analyzed on the basis of geographic distribution and service. Should this measure carry, the decision is going to be made as to whether the Lone Star or the Inter-American survives. My remarks are directed only to the contingency that, should the Inter-American be retained, then this route should be preserved in its integrity, thus assuring continued rail passenger service from San Antonio to the border.●

Mr. LEAHY. Mr. President, I find myself in total agreement with the Senator from Idaho, and wish to accept this amendment to my substitute. If the managers have no objection, I ask unanimous consent that the amendment of the Senator from Idaho be made part of my substitute amendment.

Mr. LONG. We certainly can accept the amendment.

Mr. McCLURE. Mr. President, reserving the right to object, and I shall not object, I only reserve the right in order that I may associate myself with the remarks of my senior colleague from Idaho and to indicate that, in the Appropriations Commitee, we have looked at this issue. Increased ridership on some of these routes as a result of the change will fully justify continuation.

The ACTING PRESIDENT pro tempore. The Senator has a right to modify his amendment. Does he so modify it?

Mr. LEAHY. Mr. President, I modify it by including the amendment of the Senator from Idaho.

The ACTING PRESIDENT pro tempore. The amendment is so modified.

Mr. LEAHY. Mr. President, I ask unanimous consent that I may yield to the Senator from New Mexico without losing my right to the floor.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The Chair points out that, under this arrangement, the time counts against the Senator from Vermont.

Mr. LEAHY. I understand.

Mr. MAGNUSON. Will the Senator yield?

The ACTING PRESIDENT pro tempore. The Senator has 3 minutes.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from Washington.

Mr. MAGNUSON. Mr. President, I rise to support the amendment offered by the Senator from Idaho. The amendment stands as a reasonable compromise among those who would ignore the recent changed circumstances to follow the original DOT regulation.

Events of recent months have made it clear that the original Department of Transportation recommended Amtrak system as reported by the Committee on Commerce, Science, and Transportation is no longer adequate. There has been a dramatic increase in ridership coincident with rising gasoline prices and declining availability of supplies. Even Amtrak's most vocal critics will concede that now is not the time to reduce the system by almost 43 percent.

This amendment stands as a reasonable compromise between those who would, on the one hand, prefer to freeze the existing system, and those who would ignore the recent changed circumstances and follow the original DOT recommendation.

Mr. President, a 1-year moratorium on cutting back the Amtrak system would have considerable appeal were it not for two factors. Alan Boyd, the President of Amtrak, has made it clear on numerous occasions that he does not have the equipment to continue operating the existing system. Additionally, the Secretary of Transportation, while willing to support this amendment, would recommend that the President veto this legisaltion if it contains a moratorium provision.

Mr. President, if Amtrak is to succeed, it is essential that we maintain a truly national rail-passenger system. This compromise will provide the type of regional balance necessary to meet that goal, and I urge my colleagues to support this amendment.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. McCLURE. It has been indicated by the Chair that under this arrangement, the time consumed by the Senator from Idaho would be charged to the Senator from Vermont. Is that correct?

The ACTING PRESIDENT pro tempore. It has been.

Mr. McCLURE. Mr. President, I ask unanimous consent that the time that would otherwise have been allotted to the Senator from Idaho for offering an amendment would be added to the time of the Senator from Vermont.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to yield to the Senator from New Mexico without losing my right to the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, as many are aware, there has been a great deal of water, a great number of trains, a great many words, that passed by since this issue was raised by the restructuring proposals of the previous Secretary of Transportation.

Mr. President, I am pleased to join with Senator LEAHY in offering this substitute to the Amtrak Authorization Act of 1979 (S. 712). I feel that this compromise is a rational alternative to the original Commerce Committee bill which was reported out before the American public began to demonstrate their strong support for the Amtrak system. This support has not only been in the nature of letters, telegrams, and numerous personal contacts to congressional offices; their support has been in the form of increased ridership on every route in the Amtrak system.

Mr. President, this substitute gives every route on the Amtrak system a chance to prove itself—a chance not available under the proposed route restructure by the Secretary of Transportation. Under this substitute, any route, regardless of geographic area, can "qualify" for inclusion in the Amtrak system if its ridership has reached a level of 150 passenger miles per train mile and if its operating losses are no more than 7 cents per passenger mile. Although 150 passenger miles per train mile are less than the 173 passenger miles per train mile goal set by the Secretary's route restructure, it is an increase above the current system of passenger mile per train mile average of 141. Mr. President, many of us have long advocated the need to rationalize the Amtrak route system and to increase our support for the routes which are growing and have a definite potential for increasing ridership. There is no question about the fact that the substitute we are offering is a step in the right direction.

Mr. President, since the Secretary's route reexamination process began, ridership on many routes has increased far beyond anyone's expectations. For example, the Southwest Limited, is a train that I am extremely familiar with that provides long haul services between Chicago and Los Angeles, and it provides a most necessary transportation service to my State. This train was originally scheduled to be cut by the Secretary's restructure proposal. However, since the Secretary's restructuring proposal was announced on January 31, 1979, ridership on the Southwest Limited has already gone beyond the 173 passenger mile per train miles projected average for the Secretary's restructured system. Further, it is projected that the Southwest Limited will reach a 215 passenger mile average in fiscal year 1980. Amtrak also predicts that this particular train will have a cents per passenger mile loss of 5.13 cents. Mr. President, this comes very close to the low cents-per-passenger-mile average for the Northeast Corridor.

My example of the Southwest Limited is indicative of the trend across the Nation. Virtually every route recommended for discontinuance by the Secretary of Transportation has shown market ridership increases. Granted, many of the ridership increases have been minimal and may not have reached a point that would indicate potential for future increases to justify retaining the lines.

However, many of the lines have demonstrated that they have a tremendous ridership potential which must not be overlooked. Without the benefit of this substitute amendment, these trains would be gone forever. This new rail passenger market, which is crucial to Amtrak's survival, would also be lost. The Secretary's basic system would result in a reshuffling of routes and finally result in ridership chaos and diversion to other modes.

The cutbacks in Amtrak service proposed by the administration would have been a deathblow to passenger rail service in the United States rather than the cure claimed by its advocates. Contrary to the Department of Transportation's position, modern rail transportation is at the current time an infant industry in the United States. This becomes more apparent when we consider, that 150-mile-per-hour trains are either operational or in the planning stages in Japan, France, Germany, and Great Britain. While the rest of the world forges ahead with more research and development into new technology for faster, safer, more efficient, and more comfortable rail transportation, we languish behind, insuring the eventual phase-out of our existing rail service to the detriment of all transportation service.

The distingushed Senator from Illinois and others have pointed out at other times the dangers of our current technological depression; our attitude toward rail transportation is symptomatic of this problem. Amtrak trains today travel no faster than they did over 30 years ago.

But if we were to develop safe, efficient, comfortable, highspeed, reliable trains and support systems along the coasts of this continent and between the major cities in each of the United States, I have little doubt that the interest of the public would be stirred and that these trains would be well used. Trains can be enjoyable as well as efficient.

The critics of Amtrak have accurately pointed out that we cannot return to the railroad system of the past. We cannot afford to just satisfy the nostalgic yearnings of a handful of railroad buffs. What we can do, however, is to build the railway system of the future—a system that will attract people away from their cars, not because it is a train system, but because it is safer, faster, more comfortable, cheaper, more fuel efficient, and more fun.

I urge my colleagues to give this substitute careful consideration. It is a cost saving measure, as well as a rational extension of the original bill reported by the Senate Commerce Committee. Almost $30 million in labor protection will be saved in view of additional trains that will continue to run. In turn, the substitute increases operating grants by $20 million to accommodate the additional routes that will be preserved by this substitute amendment. The original Commerce Committee bill preserved the Montrealer route and the Cardinal route for limited periods to monitor ridership trends. The substitute includes those routes as well as the Southern Crescent, the Inter-American, and one of the two Florida-to-New York trains.

Mr. President, this is a most reasonable approach, and I urge my colleagues to give it their full support.

Mr. President, it is extremely important that we not take precipitate action to destroy a rail system that I believe eventually this country will find it not only needs, but clearly desires to have.

The people are very supportive of such a concept. I think we will, in fact, find this action is warranted by time and by circumstance.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to yield to the Senator from Connecticut time on the bill without losing my right to the floor.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 497

Mr. WEICKER. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection to the amendment being in order at this time?

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. BUMPERS. Is the Leahy amendment now an amendment to the Church amendment, which is the pending business?

The ACTING PRESIDENT pro tempore. The Church amendment was incorporated into the Leahy amendment.

Mr. LEAHY. The Church amendment, as modified.

The ACTING PRESIDENT pro tempore. The amendment, as modified, on which time has not expired. So the amendment is not in order.

Mr. WEICKER. I ask unanimous consent, Mr. President, that my amendment to the Leahy substitute, as modified, be in order at this time.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Connecticut (Mr. WEICKER), for himself, Mr. HATFIELD, and Mr. HEINZ, proposes an unprinted amendment numbered 497 to the amendment intended to be proposed by Mr. LEAHY:
>
> On page 11, in proposed section 601(b) (1)(B), strike "$122,000,000" and insert in lieu thereof "$176,000,000".

Mr. WEICKER. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. WEICKER. What is the time situation relative to this amendment?

The ACTING PRESIDENT pro tempore. There are 20 minutes on each side for each amendment. The Senator has the floor at the sufferance of the Senator from Vermont.

Mr. WEICKER. Mr. President, I ask the Chair, am I using up the time of the distinguished Senator from Vermont.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. WEICKER. Mr. President, I ask unanimous consent that the time allotted to me on this amendment be added to the time of the Senator from Vermont.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. WEICKER. Mr. President, first, I commend the distinguished Senator from Vermont (Mr. LEAHY), the distinguished Senator from Idaho (Mr. CHURCH), the distinguished Senator from Louisiana (Mr. LONG), the distinguished Senator from Nevada (Mr. CANNON), for their efforts in getting all parties together and arriving at the legislation that is now before the Senate.

I cannot let the moment go by, however, without giving vent to my feelings on the subject of rail passenger service in the United States, which feelings have been compromised in the sense of the legislation which I have put before the Senate.

It is probably my unwillingness to compromise that does not make me as good a legislator as the Senator from Louisiana, the Senator from Nevada, or the Senator from Vermont. But at least I can say what is on my mind. That is, that I feel very strongly that this Nation should have a first-class passenger rail system, which system shall not or should not be expected to make a profit, or even break even. In short, I believe in the nationalization of rail passenger service in this country.

I feel every section of the country, not just the Northeast corridor, but every section of the country, regardless of population, should have decent, first-class rail passenger service.

Over the past several years, the Senators from the northeastern part of the United States were alone in supporting rail passenger services. We were accused of defending our parochial interests. But here we stand today, the Senator from New Mexico, the Senator from Idaho, the Senator from Nevada, the Senator from Louisiana, in addition to the Senator from Vermont and the Senator from Connecticut. This is a problem now that concerns the entire Nation. It is no longer solely a Northeast problem.

It will continue to be a problem as long as we expect from Amtrak in its delivery of this passenger service, concepts of profit as would attach to private enterprise.

None of the free enterprise nations of the world, with their strong economic systems, demand a profit from their rail passenger systems. I do not think the United States should, either.

So I want to make clear that I think the eventual answer to this situation lies only in the nationalization of rail passenger service. I am not including the freight, but rail passenger service alone.

I do not expect rail passenger service to turn a profit. I do expect it to exist in every corner of this Nation, and to have it available to every citizen of this Nation.

So much for the undiluted feelings of the Senator from Connecticut. I now arrive at my brief comments on the compromise.

Mr. President, last year Congress directed the Secretary of Transportation to recommend "an optimal intercity railroad passenger service." In developing the recommendation, the Secretary of Transportation was directed, pursuant to section 4(a) of the Amtrak Improvement Act of 1978, to consider:

First, any unique characteristics and advantages of rail service as compared to other modes of transportation;

Second, the role that rail passenger service can play in helping meet the Nation's transportation needs while furthering national energy conservation efforts;

Third, the relationship of benefits of given intercity rail passenger services to the costs of providing such services, computing the costs in loss or profit per passenger mile rather than total loss or profit per route;

Fourth, the transportation needs of areas lacking adequate alternative forms of transportation;

Fifth, frequency and fare structure alternatives and the impact of such alternatives on ridership, revenues, and expenses of rail passenger service; and

Sixth, the adequacy of other transportation modes serving the same points to be served by the recommended route system.

In addition to the criteria set forth in the legislation, the conference report on the bill indicated that:

> The Conferees wish to point out the importance of tourism and the impact rail passenger service may have on the tourism industry. Many States . . . do not exhibit high concentrations of population, but rely heavily on tourism to maintain their economic growth. In areas where alternative modes of transportation are lacking, the relative importance of rail passenger transportation to tourism should be weighted heavily in the Secretary's final recommendations.

On January 31 of this year, former Secretary of Transportation Brock Adams submitted to Congress his final recommendations, which called for the elimination of 12,000 miles, or 43 percent, of the present rail system. When asked to explain the criteria used in making the final recommendations, Mr. Adams stated in a letter dated April 30, 1979 that:

> The final decisions were predicated primarily on the quantitative ridership and cost economics of the various components of the system.

Mr. President, in light of the serious energy crisis facing this Nation, it makes no sense to cut nearly in half what little rail passenger service the Nation has. With every sign pointing to increasing restraints on future private auto travel, Amtrak should be strengthened, not truncated.

I am amazed that the administration has not only proposed to cut rail passenger service, but also has proposed to shift money saved in rail passenger funding to highway funding. At the same time the administration recommended slashing Amtrak funds for fiscal year 1980, it requested a 6-percent increase to $6.93 billion in highway construction money. I might add that the $1.4 billion that the administration hopes to save over the next 5 years in Amtrak costs is approximately the amount it will cost for New York City's proposed Westway highway.

Mr. President, alternatives to automobile travel must be developed. Amtrak offers a potentially energy-efficient mode of intercity transportation. As DOT itself recognized in its preliminary report on the reexamination of the Amtrak route structure which was submitted to Congress in May 1978:

> One of the primary benefits to the public of maintaining Amtrak is its availability as an alternative to the automobile in an era of increasing energy problems. Therefore, of special note in any review of Amtrak history is its performance during the 1973–1974 energy crisis . . . during the period from November 1973 to April 1974, as compared with the equivalent 6-month period in 1972–1973, Amtrak registered gains in passenger miles across all major categories of routes (+36 percent in the NEC Northeast Corridor, +50 percent on long-distance routes and +54 percent on short distance routes). Fur-

> ther, the corporation managed in so doing to reduce the system wide deficit per passenger mile by 19 percent.
>
> While the positive ridership increases of the energy crisis period did not continue in later periods and while the deficit per passenger-mile soon began to increase again, it is clear that during the 1973–1974 period of reduced availability of gasoline, people turned to the train. It is also clear that an unexpected surge in traffic was accommodated by Amtrak and a portion of that increase (19 percent) was retained in the following year.

Mr. President, when Amtrak was created in 1971, it had no employees, no tracks, no rolling stock, no stations. Only $40 million was appropriated for starting the system. The failure of the Federal Government to provide adequate financial assistance to rail passenger service is quite evident. From 1789 through the end of World War II, direct Federal aid to transportation was approximately $7.3 billion for highway transportation, $1.1 billion for air, $4 billion for domestic water and $0.5 billion for rail transportation. During this same time period, the Federal Government took in approximately $5.8 billion in the form of highway user charges and $1 billion from the railroads in reduced rates on the Federal Government's freight and passenger traffic.

Since the end of the Second World War, the Federal Government has contributed heavily to highway and air transportation. However, a longstanding network of institutional support at the Federal level has not existed for railroads, with the Federal Railroad Administration only being created in 1967. The railroads have not been able to use public rights of way as other modes of transportation have, and they have also not utilized any federally guided system planning.

A comparison of the different modes and the level of Federal obligations for the post-war period points out some dramatic differences:

[In billions]

Mode:	*Obligations*
Highways	$102.8
Air	30.6
Domestic water	13.3
Ocean shipping	7.4
Mass transit	13.3
Rail	5.9

Thus the Federal highway spending has been about 19 times greater than rail funding, airways spending 5 times greater, and domestic water spending more than twice as great.

Since 1971, when Amtrak was created, the Federal Government has spent $76 billion in transportation subsidies. $41 billion have gone for highways, $14 billion for aviation, $9.5 billion for mass transit and only $3 billion each for Amtrak and Ocean shipping.

Mr. President, the Federal Government has done little to help the rail passenger systems. In fact, the Federal transportation policy has hurt rail transportation. As pointed out in a 1977 DOT study of Federal aid to rail transportation:

> Federal involvement, which enables mobilization of resources on a scale that cannot be matched by the private sector and the states, permits the compression of time. The great disadvantage of Federal direct aid policy vis-a-vis the railroads is not so much that this industry received no Federal assistance, but that the Federal aid provided to the competitive modes vastly accelerated and increased the adjustment problems which the railroads had to face from the new technologies, further compounded by the deaf Federal ear turned to the notion of simultaneously providing the railroads any form of transitional assistance and allowing the railroads to meet the new competitive environment they were encountering.

Despite the poor performance recorded by the Federal Government, Americans have recognized the value of rail passenger services during times of energy shortages. During the 1973 to 1974 energy crisis, Amtrak registered gains in passenger miles across all major categories of routes. Similarly, Amtrak has registered significant gains in ridership and passenger miles during the present energy crisis. Amtrak recently released data comparing ridership, passenger-miles, average trip length, and passenger-mile per train-mile for the second week in May of this year with the second week of May in 1978. Ridership was up 19.6 percent in 1979, the average trip length was up nearly 10 percent, the total passenger-miles increased by 31 percent, and the passenger-miles per train-mile increased over 28 percent this year.

Mr. President, I would also like to call to the attention of my colleagues the tremendous increases registered by Amtrak in May 1979 in reservations, ridership and sales. For the month of May 1979, compared to the same month in 1978, the following increases were experienced: reservations went up by 127.8 percent; denials due to sold-out conditions rose by 1,011. 5 percent; there was a 301.8 percent increase in calls to Amtrak Central Reservations Offices; and total sales for the month of May rose nearly 28 percent to $36.1 million. Clearly, the American public is willing to turn to Amtrak as an alternative mode of transportation.

As the people of our Nation get out of their automobiles, which they are going to have to do, they must have an alternative method of transportation. Amtrak provides an energy efficient alternative. The House Committee on Interstate and Foreign Commerce in its report on the Amtrak authorization bill stated that:

> Despite the conflicting studies and statistics advanced by proponents of various modes of transportation, it is widely recognized that with sufficient ridership levels and modern, state-of-the-art equipment, the passenger train is the most energy-efficient of all modes. The engineering characteristics of the train are superior to those of other modes. A steel wheel rolling on a steel rail produces significantly lower friction than is possible with rubber-tired highway vehicles. The train is also the only passenger transportation mode with inherent size flexibility in that train consist can be varied. Additional cars added to railroad locomotives produce minimal additional aerodynamic drag. This drag must be overcome by each highway vehicle, resulting in relatively lower energy-efficiency as transportation capacity is added. Moreover, passenger train energy superiority is more pronounced at greater speeds.

Mr. President, transportation consumes 30 percent of all energy consumed in this country and 96 percent of the movement of people and goods runs on liquid petroleum fuel. The automobile consumes 53 percent of all petroleum used in transportation, and this does not include the vast amounts of energy required for the production of automobiles and for construction of the roads and other property upon which they operate.

No form of present day transportation designed for the mass movement of passengers in intercity service is as energy effective as Amtrak's new Amfleet trains.

An automobile which gets 20 miles per gallon can move one passenger 20 miles on 1 gallon and an automobile which gets 40 mpg can move four passengers at the rate of 160 pmg (passengers miles per gallon) and six passengers at the rate of 240 pmg. The effective fuel consumption of automobile travel lies somewhere between 20 and 40 pmg. These optimum limits are affected significantly by stop-and-go driving and other less-than-the-best circumstances. The average auto gets less than 20 mpg and the average passenger load is 2.2; therefore, the average fuel efficiency of the automobile today is less than 44 passenger miles per gallon.

According to the Boeing Commercial Airplane Co., a 747–200B, one of the most efficient aircraft ever built, can carry 385 mixed-class passengers at the rate of 62.1 passenger miles per gallon and the 727–200, the most popular aircraft ever put into commercial service, can carry 134 passengers at the rate of 36.2 pmg. These aircraft exceed the average fuel efficiency of the automobile and because of their speed and range, provide passenger service which is unparalleled in passenger movement irrespecting of energy efficiency.

For comparison, an Amtrak Amfleet train of eight cars behind a modern diesel locomotive with two Amcafe cars to provide food service and six Amcoaches can carry 624 passengers at 50 mph with a fuel efficiency of 380 seat miles per gallon. It takes 15 big intercity buses, with 15 drivers, stretching out over one-half mile of highway at 50 mph to carry the same number with a fuel efficiency of 265 seat miles per gallon.

To carry 1,560 passengers at 50 miles per hour requires a 20 car Amtrak train of 4 Amcafe and 16 Amcoach cars. To move the same number of passengers by bus requires 36 loaded buses with 36 drivers and more than 1½ miles of roadway at the same speed. The Amtrak train's fuel efficiency will rise to 525 seat miles per gallon while the bus efficiency remains the same at 265 seat miles per gallon.

This comparison demonstrates how the train's flexibility increases fuel efficiency. As passenger cars are added, fuel efficiency goes up appreciably. In a 1974 report to the Department of Transportation, the Mitre Corp. pointed out "the only mode (of passenger transportation) with inherent size flexibility is the railroad where the makeup of the train can be varied to suit the expected load of the day. The train has the best potential for fuel economy of any major transportation mode. The slender shape of a multicar train minimizes aerodynamic drag and involves small penalty for adding additional cars." The report also noted that "the steel-on-steel rolling friction of the train is lower than is possible with rubber-tired highway vehicles. Finally, the exclusive right-of-way of the trains can minimize both grades and stop-and-start traffic losses."

Mr. President, among the routes included on the list of proposed cuts was the Montrealer, which provides service between Washington, D.C. and Montreal via the inland route through Connecticut, central Massachusetts, and Vermont.

The Montrealer provides the only passenger service to many rural communities in the New England region, thereby establishing an essential link to large metropolitan and industrial areas. The proposed elimination of this route caused widespread reaction in this region, which relies heavily on the tourist industry and small businesses to sustain its economy. The residents of the region were concerned that without the alternative of rail services, coupled with inevitable restrictions on automobile use, tourist and service-oriented businesses would disproportionately suffer.

As ranking Republican on the Select Committee on Small Business, I chaired a hearing held in Burlington, Vt., on May 11 concerning the impact of the proposed termination of Amtrak's Montrealer service on small businesses in New England. Eighteen witnesses testified on the important role played by the Montrealer in the New England economy.

Congress, in the Amtrak Improvement Act, emphasized the importance of public input into DOT's restructuring process. Accordingly, prior to DOT making its final recommendations, the Rail Service Planning Office held over 50 public hearings around the country. However, there were no hearings held in Vermont, New Hampshire, western Massachusetts, or Connecticut. Thus, the people in the region primarily affected by the termination of the Montrealer did not have the opportunity to express their views and needs prior to the elimination of the route. Moreover, the Secretary of Transportation did not have the benefit of this input prior to making his recommendation.

Mr. President, the witnesses who appeared before the committee at its hearing made a compelling argument in support of the retention of the Montrealer. Ralph DesLauriers, chairman of the New England Council, quite eloquently summarized the sentiment of the witnesses about the proposal to eliminate the Montrealer:

> The public, the private sector, individual businesses and the individual states have heard the call from the administration and from Congress that there is a national energy emergency, and have taken steps to implement energy-efficient transportation plans. They have invested both time and money toward achieving this goal, and now, with a single almost irrational stroke, the Department of Transportation suggests we eliminate the "Montrealer", an energy-efficient means of transportation that serves the heavily-populated northeast corridor and its vacationland.
>
> In times of energy shortage, it is easy to add cars or even a second train to an established route. However, if the "Montrealer" were dropped, it would be almost impossible to restore train travel to this region. The public and customer acceptance of this train is strong, and would, in fact, argue for a second train over the same route, rather than a cutback. It is a good safe, energy-efficient essential means of transportation through New England and Vermont, and should be retained.

Mr. President, it has become increasingly obvious that the Department of Transportation's recommendation to cut 43 percent of the Amtrak system was erroneous. Amtrak ridership increased 20 percent this past May over May 1978 and advanced reservations soared 128 percent. Amtrak service, which offers a potentially energy-efficient alternative mode of intercity transportation, should be expanded, not contracted.

Unfortunately, as Amtrak President Alan Boyd has noted, the Amtrak fleet is composed of "traveling antique museums" and Amtrak simply does not have enough equipment to provide efficient service on all existing routes.

This compromise amendment recognizes the inability of Amtrak to, at present, efficiently accommodate all routes. This amendment, which is similar to printed amendment 283 that I had intended to propose, provides for retention of service, based on objective criteria, on many of those routes scheduled to be terminated pursuant to the DOT recommendation. Using economic performance and ridership levels as the criteria for qualifying routes, the amendment would require Amtrak to operate service over routes which would not be continued under the DOT plan. Based on these criteria and present projections, Amtrak would be required to maintain, in addition to those routes in the basic system recommended by DOT, the Montrealer, the Crescent, a New York to Florida line, and a version of the Inter-American. In all, 80 percent of the present system would be retained.

Mr. President, the $54 million increase in Amtrak's capital budget authorized by the amendment that I am offering to the compromise would enable Amtrak to purchase the equipment it will need to accommodate its increased ridership and to make it a more attractive transportation alternative.

If Amtrak is indeed going to provide a viable alternative to automobile travel, it must have a reliable fleet of equipment. As Alan S. Boyd, Amtrak's president, stated in a letter to me dated June 19 of this year:

> If it is the policy of the United States to discourage unnecessary consumption of gasoline through voluntary conservation, we can expect a further increase in gasoline prices or some form of gasoline rationing. I would certainly hope that in this event, the American public could turn to a safe, efficient, comfortable and reliable rail passenger transportation system. In terms of the long-range future of rail, it is obvious that a reliable fleet of equipment is essential. Without modern equipment Amtrak will never attract sufficient passengers to make it viable, nor will it be able to serve the many individuals who may ultimately depend on rail to meet their personal mobility needs.

Mr. President, we in Congress have never given Amtrak a chance. We have denied it the funds it needs to provide efficient service, and when passengers have not stampeded to use the old, inefficient Amtrak equipment, we have responded by saying "We told you so," and further cut funds. However, this country is now faced with a severe energy crisis that will not go away at the end of the summer. It will be with us for the next 20 years.

Alternatives to automobile transportation must be developed. Amtrak offers a potentially energy-efficient alternative. Yet, it does not have the equipment it needs to attract, or accommodate, new riders.

When Amtrak began in 1971, it had a fleet of equipment, which it leased and purchased from private railroads, that averaged 20 years old. The vast majority of the rolling stock Amtrak inherited was in disrepair, and intercity railcar production capacity in this country had been virtually abandoned. Most cars badly needed renovation and mechanical overhaul, which Amtrak began in November 1971.

As ridership increased, Amtrak bought 606 more old cars from the railroads. During the first 3 years, Amtrak spent over $114 million to purchase and repair this vintage equipment. Of this original rolling stock of 1,881 cars, about 1,230 cars are now used on a daily basis. However, due to the age of the equipment and high cost of repair, Amtrak loses an average of three cars a week from the total pool.

Due to the advanced age of the fleet, Amtrak has developed a capital program to purchase turbine trains for short distance routes, Amfleet cars for corridor and medium distance routes and newly designed bi-level cars for long-distance routes. However, nearly two-thirds of the 1,200 serviceable Amtrak cars average more than 29 years of age. The Eastern and Southern long hauls—the Broadway, the Florida lines, and the Crescent—are currently equipped with cars built between 1948 and 1952 which are approaching the end of their serviceable life.

In addition, Amtrak is supplementing new equipment purchases with programs to upgrade and extend the life of older equipment until it, too, can be replaced. While upgrading is essential to maintain a fleet, it ultimately adds only 3–5 years of service and postpones recognition of the real problem. Fully 28 percent of Amtrak's operating budget for fiscal year 1978 ($235,591,000) was spent on maintenance of equipment.

Mr. President, Amtrak's basic locomotive fleet is powered by diesel fuel, although in the corridor electric locomotives are used between Washington and New Haven, and on the Harrisburg, Pa. spur line. Amtrak's diesel locomotive fleet consists of 292 locomotives averaging over 8 years of age.

Amtrak's capital program anticipates purchasing approximately 70 Swedish designed electric locomotives which will eventually replace existing 37-year-old electric locomotives. Fifteen of these lightweight locomotives are now on order and being built by General Motors. The

Swedish electric locomotive is the first locomotive designed specifically to haul passenger equipment that Amtrak has purchased. The remainder of the fleet are essentially freight locomotives and considerably heavier, and as a result, not as responsive to passenger service.

Furthermore, because of delays in the delivery of the superliner equipment (over 2½ years) and the shortage of conventional cars due to upgrading programs and necessary basic maintenance, Amtrak's equipment availability may in fact worsen before it improves. The energy shortage and increased demand for rail will exacerbate this problem.

Mr. President, the negligence of the United States in providing adequate equipment for efficient rail passenger service is apparent when one looks at the record of other countries. Britain has 17,463 locomotives and cars for 11,258 miles of track; France has 15,320 pieces of equipment for 22,478 track miles; Japan has 26,099 for 13,218 track miles. What is our record? The United States has only a total of 1,913 cars and locomotives to serve 26,000 miles of track.

Mr. President, I would like to call to the attention of my colleagues the manner in which the capital budget for Amtrak was determined. During the budget process, Amtrak, in December 1978, requested a budget mark of $213 million, plus such amounts as might be necessary for new track connections. However, it subsequently agreed that $171 million capital budget proposed by DOT would meet the needs of the reduced national system recommended in the DOT's final restructuring report. Yet, after Amtrak agreed on the $171 million, the Carter administration decided to recommend that Congress require that an estimated $69 million in fiscal year 1980 labor protection payments associated with reducing the system, come out of the $171 million. Thus, the capital funding was reduced to $102 million. The Commerce Committee subsequently added $20 million to the capital figure, giving Amtrak a capital budget of $122 million.

Mr. President, Amtrak's capital needs are critical. I would like to draw to my colleagues' attention some of the impacts of the DOT capital budget proposal.

First. The DOT budget mark would reduce Amtrak's proposed $62 million for lightweight locomotives to $36 million. This would interrupt the production line, breaking Amtrak's contracted right to purchase these locomotives at prices agreed upon with the Electro-Motive Division of General Motors; would significantly increase the eventual cost for these new locomotives; would defer Amtrak plans to retire obsolete, energy-inefficient, expensive-to-maintain GG-1 locomotives; and could result in Amtrak's having insufficient new electric motive power which the Northeast corridor improvement project will institute.

Second. The DOT budget mark would delay $8 million in fiscal year 1980 funding which Amtrak had proposed for conversion of 65 conventional coaches to head-end power in order to meet the need to free Amfleet equipment currently in use throughout the system for use in the Northeast Corridor. This will delay introduction of less energy-consuming cars which are both more attractive to the public and more economical to operate. It would also cause inefficient, unproductive cycles in utilization of facilities and labor.

Third. The Amtrak-proposed capital budget for fiscal year 1980–81 would program $51 million in fiscal year 1981 to begin acquisition of new passenger equipment needed for eastern routes outside the Northeast Corridor, including New York-Florida service and Broadway (New York/Washington-Chicago) service, which have never been provided with new equipment. The DOT budget mark for fiscal year 1980 would delay the ordering of this new equipment, thereby delaying receipt until at least fiscal year 1984.

Fourth. The DOT budget mark would delay $9 million out of a total of $23 million in proposed capital improvements at Amtrak maintenance facilities in Chicago, which is intended to increase productivity and improve efficiency of these operations, as well as at other maintenance facilities to improve environmental protection.

Fifth. The DOT budget mark would delay $12 million of a proposed $21 million in fiscal year 1980 capital improvements at Amtrak stations in Baltimore, Philadelphia, Newark, New York, Providence, Harrisburg, Boston, Portland, Alexandria, Los Angeles, Tampa, Fayetteville, Altoona, Charlottesville, Memphis, El Paso, and San Antonio.

Mr. Alan S. Boyd, the president of Amtrak, wrote me on June 19 to express his concern for the inadequacy of the authorization for Amtrak's capital acquisitions. I would like to share his concerns with my colleagues:

> Since our original agreement with DOT, circumstances have changed considerably. First, the Administration decided to recommend that Congress require that the estimated $69 million in FY 1980 labor protection payments associated with reducing the system come out of the $171 million capital funding. This resulted in a real capital budget of $102 million (S. 712 would separate labor protection payments from capital funding and provides $122 million for capital—$49 million short of our original agreement with DOT and $83 million less than what Amtrak originally believed was necessary). Second, it now appears that the Amtrak system in FY 1980 will be somewhat larger than either Amtrak or DOT had considered it would be when we worked out the capital budget for FY 1980.
>
> Third, no one can predict how long the current surge in ridership will continue or how long gasoline availability may be a problem.
>
> In terms of the long-range future of rail, it is obvious that a reliable fleet of equipment is essential. Without modern equipment Amtrak will never attract sufficient passengers to make it viable, nor will it be able to serve the many individuals who may ultimately depend on rail to meet their personal mobility needs.
>
> I appreciate the fact that you have recognized that one of the most serious problems facing Amtrak is the lack of modern, safe and efficient equipment. I, therefore, support your efforts to improve Amtrak's equipment inventory and reduce the associated problems by increasing our capital funding. I hasten to add that capital dollars utilized now will defray the inflationary impact that we will certainly experience by deferring capital expenditures. In addition, I should point out that capital expenditures for equipment will be partially offset by a reduction in our operating budget as a result of the reduced cost of maintenance. This becomes evident when you consider the fact that in 1978, maintenance of equipment was almost equal to the cost of transportation ($236 million for maintenance vs. $289 million for transportation), fully 28 percent of Amtrak's operating budget. This percentage would be unheard of in any other transportation mode. I strongly believe that we will never really know the real potential of Amtrak as long as we have locomotives built in the 1930's, passenger cars built in the 1940's and 1950's, stations which are falling apart and a fleet which can never be responsive to peak demand.

Mr. President, the amendment which I am now offering would increase the authorization level for Amtrak capital acquisitions and improvements in fiscal year 1980 from the $122 million contained in S. 712 to $176 million. I had originally intended to offer an amendment which would have increased the authorization levels for Amtrak's capital appropriations by $100 million in both fiscal years 1980 to 1981, to levels of $222 million and $323 million respectively.

Mr. Boyd indicated in his June 19 letter that the additional funds to be provided by the amendment I had intended to offer would have been used as follows:

> Amtrak would use the entire increased funding to speed up the acquisition of 285 new low-level medium distance and long haul coaches, sleeping cars, lounges and diners. This will allow replacement of failure plagued conventional cars that range in age between 20 to 35 years with modern attractive and efficient new equipment. Acquisition of this equipment is currently called for in Amtrak's 5-year capital program; however, scarcity of capital funding delayed the proposed inception of the program to FY 81 with the conclusion of funding in FY 84.
>
> Much of the Amfleet equipment currently being used on the Amtrak network outside the Northeast Corridor on trains such as the Panama Limited, the Inter-American and the Cardinal, is essentially on loan. When the NEC improvements are completed in FY 82, the Amfleet equipment will have to be recalled to the NEC to handle passenger loads generated by the NEC projects. The trains which will lose Amfleet equipment will require equivalent replacement equipment, none of which has been contracted for or produced. (The Superliner equipment has already been fully allocated to the major Western longhauls.) In addition, the Eastern and Southern longhauls—The Broadway Limited, the Florida trains, and the Crescent—are currently equipped with cars built in 1948–52. This fleet of cars has approached the end of its serviceable life and in order to continue such services beyond the next two years, modern replacements would be required.
>
> Amtrak has found that equipment is the greatest single stimulant to increasing ridership and revenues. If Amtrak is to substantially improve its ratio of revenue to cost, new and improved equipment must be slotted on the production line as soon as possible. This would be accomplished with the proposed increase in the Senate's capital authorization level.

Mr. President, the $54 million increase in the authorization for Amtrak's capital acquisitions which this amendment would provide represents a compromise between the $100 million increase which I feel is appropriate and the authorization level which the Commerce Committee desires. Amtrak estimates that it will cost them at least $15 million a month in additional expenses until Congress indicates which lines will be continued after October 1, 1979. This compromise is being offered in an attempt to insure passage of the Amtrak authorization bill prior to the August recess.

Mr. President, this amendment will authorize funds to enable Amtrak to purchase the new equipment that it needs. People are now turning to Amtrak in increasing numbers as a result of the gasoline shortage. As the people of our Nation get out of their cars, which they are going to have to do, they must have an alternative method of transportation. Amtrak provides an energy-efficient alternative, and we must make sure that Amtrak has the equipment it will need to accommodate its increased ridership.

That is the problem in a nutshell. I would hope that we would now concentrate on the capital requirements of Amtrak, with the knowledge that only when we meet these needs will we even stand a chance of arriving at a break-even proposition. It is only when we provide Amtrak with the capital equipment it needs that we will even stand a chance of delivering the type of service which I believe the people of this Nation have a right to expect.

Maintenance of old cars is not the answer. Just keeping their nose above the water, in an operating sense, is not the answer. The answer lies in capital investment. It does in industry, and it does insofar as Government operation of a system such as Amtrak is concerned.

We cannot avoid this any longer. Otherwise, yes, the answer will be a dismal answer, year after year, as Amtrak loses more and more in the sense of funds, more and more in the sense of ridership.

Rather, the time has come for energy conservation, while protecting the environment, and preserving mobility. We must have the rail systems of the United States not just the equivalent of the other advanced nations of the world, but the best in the world.

I strongly urge the adoption of the amendment.

Mr. President, I ask unanimous consent that, without losing my right to the floor, I may yield for comments on this amendment to the distinguished cosponsor, the Senator from Pennsylvania (Mr. HEINZ).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HEINZ. I thank the Senator from Connecticut.

Mr. President, I ask unanimous consent that the time I may take, not to exceed 5 minutes, be on the bill.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. LONG. Mr. President, might such time be yielded?

Mr. DANFORTH. Mr. President, I am happy to yield to the Senator from Pennsylvania.

Mr. HEINZ. I thank the Senator from Missouri.

Mr. President, I commend the Senator from Connecticut for offering this amendment to meet the absolutely essential—and, I emphasize, it meets only the very essential—capital needs of Amtrak.

We all know that as a result of a considerable awakening by the administration and by Congress, the administration's original proposal, which would have cut back about 43 percent of our national rail passenger service, is now viewed not only as a grave error, but also, in view of the energy situation, which was then developing, as a totally shortsighted and even irresponsible decision.

We all recognize that the Leahy amendment, of which this will be a part and which I expected to be adopted, will increase substantially the configuration of the Amtrak system. Amtrak, in order to provide service on all the routes of this expanded system will need to refurbish, to put into operating state, to purchase new equipment. In other words, without improved equipment, Amtrak will be incapable of meeting the passenger needs that I think we will wisely decide must be met.

Thus, I am a very strong supporter of the amendment offered by Senator WEICKER, of which I am pleased to be a cosponsor.

I point out that, regrettably, the amendment does not at this point go as far as perhaps we need to go, which is to provide more funds for the purchases of new equipment. Nevertheless, I am satisfied that new car needs may be accommodated through an arrangement in the appropriations process that will allow us to meet those needs as they arise.

Mr. President, overall, I would like to comment on the Leahy amendment and on the bill.

As part of our effort to resolve the energy problems which have burdened our citizens so profoundly, I am convinced that we must establish without delay a national transportation policy which provides the traveling public with alternatives to the automobile. Rail passenger service is such an alternative. It has proved itself in the past, having played an important role in the economic development of our country.

For some inexplicable reason, we have turned away from rail passenger service. I have mentioned that the administration proposed at the beginning of this year a 43 percent cutback in the rail passenger transportation system; and now the energy crisis, manifested most visibly by long gas lines and increased Amtrak ridership, has established the total folly of that policy for all to see.

To drastically reduce rail passenger service would be a step backward in the effort to solve the energy problem.

It would be worse than a retreat. It would be total capitulation.

We should be looking for ways to put people back on public transportation, not back in their cars. In a time of long gas lines and of efforts to conserve energy, we can neither justify, nor explain the elimination of public transportation. Such short-sighted public policy can only exacerbate the energy problems facing our country and defeat our efforts to escape the economic strangulation inherent in our dependence on foreign oil.

A viable, effective rail passenger system must be part of our national transportation network. Thus, I opposed the drastic cuts in the Amtrak system initially proposed by the administration. Not only did those wholesale cuts in the Amtrak system concern me, but the abrupt elimination of Federal assistance to commuter lines and inadequate level of funding for the 403(b) program, the local rail service program, also struck me as being short-sighted.

With respect to the former, the commuter service, it would have clearly been impossible for State and local authorities to make arrangements for the continuation of vital commuter lines under the scenario initially proposed by the administration. The amendment proposed by the Senator from Vermont includes a provision extending Federal assistance for various commuter lines for 18 months.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. HEINZ. Mr. President, I ask unanimous consent for 2 additional minutes on the bill.

Mr. DANFORTH. I am happy to yield 2 additional minutes to the Senator from Pennsylvania.

Mr. HEINZ. The Senator from Missouri is more than kind.

The amendment proposed by the Senator from Vermont includes a provision extending Federal assistance for various commuter lines for 18 months. That provision is responsive to our public transportation needs, and I wholeheartedly support it.

The level of funding for the local rail services program proposed by the administration was also clearly blind to the transportation needs of many localities throughout the country. Such local service can serve as a complement to the national rail passenger network and to mass transit systems. These considerations, and the impact that such service could have on reducing the consumption of gasoline, led me to cosponsor, along with Senator EAGLETON and several other colleagues, an amendment increasing the level of 403(b) funding and the percentage of the operating expenses which the Federal Government would pay. Although the compromise contained in the amendment offered by the Senator from Vermont does not go quite as far as the amendment we initially proposed, it does provide for an increase in the level of funding for local rail service and a change in the Federal share. I strongly support the provision offered by the Senator from Vermont concerning 403(b) funding.

Without adequate funding we will not be able to move forward with needed ideal rail service. For example, an application for local rail service in my home State between Pittsburgh and Altoona has been under analysis by Amtrak for not 1 year, not 1½ years, but for over 2 years.

It is time that this service was established, and this amendment increasing the level of local rail service assistance will bring it one step closer to reality.

Finally, the Senate will today adopt, I am certain, a national rail passenger system which reflects our transportation and energy needs and which represents at the same time a wise expenditure of the tax dollars of Americans. The configuration of the final system will be broader than that initially proposed by the administration. The increases in Amtrak ridership, up almost 20 percent in May of this year compared to May of last, justify a broader configuration. However, in order to insure that Amtrak has the capability to provide this increased service, I have joined Senator WEICKER on an amendment adding $54 million to the Amtrak authorization for capital needs. I hope the Senate will adopt this amendment.

The amendments to the Amtrak authorization which will be considered today, the continuation of Federal assistance to commuter lines for another 18 months, the expansion of the local rail service assistance program, and the addition of more funds for Amtrak's capital needs, are responsible steps toward the development of a sound national transportation system. Such a system will contribute to the resolution of our energy problems.

I am hopeful that the Senate will see the wisdom of these amendments and I urge my colleagues to adopt them.

I thank the Senator from Connecticut for yielding.

Mr. BUMPERS. Mr. President, I strongly support the amendment of the Senators from Vermont, as amended by the amendment by the Senators from Idaho and Washington, Mr. CHURCH and Mr. MAGNUSON.

This is the wrong time and the wrong place to cut down on an efficient transportation system.

With this fuel crisis upon us, it would be an outrage to discontinue one of the more efficient transportation systems we have in the country.

Mr. President, whenever we have experienced a gasoline supply disruption, the American people have turned to trains in record numbers. When OPEC reduced the supply and increased the price of fuel, Americans crowded onto Amtrack and many have been turned away because seats were not available.

In 1972, Amtrak moved 16.6 million passengers, and this year the figure will top 20 million. The latest figures provided by Amtrak for its automatic reservations and ticketing system are for May. In that month, space was denied to 756,246 prospective ticket buyers because trains were full. This is an increase of 1,011.5 percent over last May. Ridership was up 20 percent over May 1978. Average trip length was up 10 percent. Passengers per train mile were up 28 percent.

Calls to Amtrak have also increased dramatically. More than 6.8 million calls were made in May, almost 5 times as many as 1 year ago. Reservations are booming even though Amtrak operators were only able to answer 1.5 million of these calls.

	May 1978	May 1979	Increase (percent)
Automatic reservations and ticketing system:			
Reservations	194, 000	443, 000	127.8
Denial space due to soldout conditions	68, 040	756, 246	1, 011.5
Central reservations offices:			
Calls attempted	1, 695, 731	6, 812, 827	301.8
Busy signals received	92, 937	4, 865, 588	
Calls handled	1, 550, 235	1, 503, 173	−3.0
Reservation and ticketing activity:			
Ridership	1, 651, 000	1, 975, 000	19.6
Average trip length (miles)	197	216	9.6
Passenger miles (millions)	325	426	31.0
Passenger miles per train mile	121	155	28.1
Total sales for May (millions)	$26.7	$36.1	27.7

Amtrak has a rail pass that allows people to ride on the trains for up to 2 weeks at one price. They had to discontinue it because everybody wanted one and there was not enough room for all of the people who wanted the 2-week passes.

The fuel crisis should drive us toward developing a modern and truly national passenger rail system. It is not an accident that every other industrialized nation in the world has achieved efficient rail passenger service. The Japanese are spending $4.1 billion this year on their passenger trains system. France is spending almost $1 billion subsidizing its passenger train system. Britain is spending $728 million.

For a railroad system that includes 27,500 miles, Amtrak operates only 1,234 cars. This point really becomes dramatic when compared to other countries' rail-to-route-mile ratios. For example, Great Britain operates 17,000 cars over 11,000 miles of track. France operates 15,000 cars over 23,000 miles of track.

According to the DOT, petroleum products account for more than 95 percent of the energy consumed in transportation and transportation uses more than 50 percent of the national annual petroleum consumption. When this Nation is spending more than $40 billion to import oil, can we seriously consider abandoning parts of our mass transportation system—a system that offers the greatest potential for moving our citizens in an energy efficient way?

We hear a lot about the advantages of short-haul trains, but with modern equipment, or even with old equipment, the long-distance trains are capable of producing 70 passenger-miles per gallon, compared to about 33 passenger-miles per gallon for automobiles, and 24 for airplanes. Modern trains can now achieve over 100 passenger-miles per gallon.

Mr. President, one of my principal interests in the Amtrak system is the preservation of the Inter-American line. Ridership on the Inter-American has increased dramatically this year. In January, the route posted an increase of 40.2 percent over January of last year. In February, the increase was 15 percent over the previous February. A slight decrease in March may very well have reflected the fact that not one of the 24 trains run in February arrived on time. In April, ridership rebounded, gaining 30.7 percent over April 1978.

At the request of the Department of Transportation, Amtrak compared the performance of 12 selected routes for a week's period in May. The Inter-American showed an increase of 35.9 percent over a comparable week last year. In 1978, the passenger mile per train ratio was 69.7 for that week; this year, the ratio was 100.9, an increase of 44.8 percent.

The Little Rock Amtrak ticket office indicates that in June, ridership and revenues were the largest in the history of the Inter-American. At Little Rock, 2,574 passengers got on or off, bringing in $38,728 in revenue which is up from $10,500 in June, 1978.

The Inter-American has been plagued with slow operating speeds, schedule deficiencies, recurring equipment failure, and inadequate station facilities.

The Marketing Research Department of Amtrak has recently recommended changes in the Inter-American schedule which should vastly improve the ridership on the route. It is estimated that these proposed changes would increase ridership by 146,800 passengers per year and revenues would increase by $3,588,819 per year.

Ingenuity and commonsense would improve the operations of Amtrak considerably. For example, the "Hog-trains"—packaged football specials to University of Arkansas football games using the existing Inter-American schedules—resulted in increased revenues at the Little Rock ticket office by about $13,000. This effort was the result of a brainstorming session of the officers of the Arkansas Association of Railroad Passengers. I encourage the officials of Amtrak to follow the Arkansas example in stimulating Amtrak ridership.

Mr. President, I am pleased to join with Senators CHURCH and MAGNUSON in their amendment to the Leahy and Weicker amendment which offers a rational approach to preservation of viable routes of the Amtrak system.

Mr. WEICKER. Mr. President, the distinguished Senator from Pennsylvania in his remarks is right on target.

I point out to my colleagues that the $54 million which I ask for capital improvements in this amendment is down from the $100 million which was in the original amendment.

Let me say clearly that even the $100 million was inadequate. In order to get a first-class rail system in this country we would have to spend exactly what we spend on highways, and we are talking about $6 billion a year. Then we would have ourselves a rail system which would be first class, such as the highway system is first class in this Nation.

So understand that those of us who believe in the concept are trying to build slowly toward this goal, block by block, from the ground up. We are very much inhibited by the highway trust fund spending its $6 to $8 billion on more highways. Yet we know that the people of America are going to get kicked out of the automobile.

We are expected to do with $54 million to start from scratch what a highway system, which is already first class, is getting $6 to $8 billion a year to do. It does not make much sense.

But in any event, there has to be a starting point, and this is it.

I ask unanimous consent that my amendment be accepted as a modification of the Leahy substitute.

Mr. LEAHY. Mr. President, I have no objection to accepting as a modification to my substitute amendment the amendment offered by the distinguished Senator from Connecticut and the distinguished Senator from Pennsylvania. I think it is an improvement to the substitute, and I am perfectly willing to accept it.

The ACTING PRESIDENT pro tempore. The Senator from Vermont has the right to modify his amendment, and it is so modified.

Mr. LEAHY. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 19 minutes remaining.

Mr. LEAHY. Mr. President, I ask unanimous consent to be able to yield to my distinguished colleague how much time he needs without losing my right to the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I strongly support the amendment which I coauthored with my colleague from Vermont, Senator LEAHY. The more it gets modified, I might say, the better I like it and the more pleased I am to be an enthusiastic cosponsor with Senator LEAHY.

Mr. President, for nearly a decade, I have urged the Federal Government to modernize our Nation's railroad system, rather than to scrap it.

Everything that has happened in this decade has served to convince me that Congress made the right decision in 1970 when it created the National Railroad Passenger Corporation, which is known as Amtrak.

Today, as the Senate begins to consider S. 712, the Amtrak Improvement Act of 1979, it appears that the administration is paralyzed by indecision, ineptitude and an inability to recognize that times have been changing.

We are facing another gasoline pinch and some agencies of this administration are urging conservation, while others are calling for a cutback in rail passenger service—the method of transportation that can be the most fuel efficient of all.

Americans are responding to the gasoline crunch by turning to Amtrak in record numbers. Amtrak tells us that ticket sales increased by more than 72 percent during May and that advance reservations are running 90 percent ahead of 1978 levels, and some trains are carrying standing passengers. Other trains are turning away potential passengers.

Amtrak President Alan Boyd tells us that he is unable to keep pace with increased demand because of a shortage of equipment. Back during the Arab oil embargo of 1973–74, Roger Lewis, who was then president of Amtrak, told me he was short of equipment.

It seems we have not learned very much in 6 years.

Stated simply, the spectacular increase in Amtrak demand cannot be calculated by the statistics that have been made available to us because the entire Amtrak system has broken down under the surge in demand.

Amtrak has not had enough telephone lines to handle calls or enough employes to handle the telephone lines that were needed. Amtrak has not had enough equipment to handle the number of Americans who have wanted to turn to fuel efficient trains for transportation.

We are, in short, reaping the bitter fruits of our short-sighted policies. We still do not have enough modern equipment to encourage ridership, and we still are unwilling to make the necessary investment in rail passenger service.

Americans do not know whether they will be able to get enough gasoline to meet their needs this summer and autumn, and they do not know whether enough trains will be available this summer—or whether trains will be running at all after October 1—to provide an alternative form of transportation.

Now, the so-called experts who have delivered us into this condition are telling us that the best solution is to lop off 43 percent of Amtrak's service mileage, and not to spend too much money to buy new equipment.

It is clear that events and forces that are beyond the control of this paralyzed administration are demanding that we develop a balanced transportation system that places a premium on energy conservation.

Amtrak is that system. But, we are being told that we must scrap a significant part of that system and that we must allow the remaining portion of the system to continue to disintegrate and to be sent to the junkpile.

We are being told that Americans will lose their affection for Amtrak when the gasoline crunch is ended, just as they did after the 1973–74 shortages ended.

Who says the current gasoline crunch is going to end? Who can predict when it will end, if it does?

Americans may be discouraged from using Amtrak because they cannot get reservations, or because there are not enough modern coaches, or because some overnight trains do not have sleeping cars.

The recent history of Amtrak has demonstrated that.

But, is not it about time that we gave Amtrak and the American traveling public a chance to make their attraction a permanent one?

I am aware that the administration's proposed cutback of Amtrak service will save an estimated $280 million a year in rail passenger subsidy payments.

But, unless we act now—before we scrap a vast portion of our existing rail passenger system—we will find that it will cost us a lot more than $280 million a year to replace a rail network that has been allowed to turn to rust.

On virtually every domestic front, this administration appears to have been paralyzed by the fear of making a mistake. It has responded to inflation with inaction. It has responded to the gasoline shortage with inaction.

Now it proposes the same formula—no changes to meet changing circumstances—in response to Amtrak's problems.

Clearly the time has come for decisive action. Clearly we cannot expect any action or leadership from the administration.

The Senate has the opportunity to take the kind of action the American people deserve. We have that opportunity as we consider S. 712, which is now before us.

I have joined in support of several proposals that will be offered in an attempt to preserve Amtrak's present system and to improve both the quality and quantity of its equipment. I am prepared to support other proposals that seek to improve Amtrak, not to send it to the scrap heap.

I urge my colleagues to join me in the kind of positive action that seems to find no favor in the executive branch these days.

Mr. LEAHY. Mr. President, I welcome so much the cosponsorship of my distinguished senior colleague. For months and months Senator STAFFORD has been a bulwark of strength in trying to work out the problems within the Amtrak system and to work out a viable alternative to DOT's proposed plan.

I really do not think it would have been possible to come this far and work out the compromise we have without his help. It is a case where we obviously looked at parochial interests. Congressman JEFFORDS from Vermont worked so very hard with Senator STAFFORD and myself. But we looked also at the broad overview of the whole country. I think the fact we have had cosponsors in support from across the country shows that parochialism has not been the watchword here but what is best for the country has. With the help of my distinguished colleague, it has made a great difference in that regard.

● Mr. HEFLIN. Mr. President, in May of this year I supported, along with the majority of the Commerce Committee members, the Department of Transportation plan to reduce the Amtrak route system by 43 percent. The Secretary of Transportation correctly perceived a need to cut back on certain inter-city passenger trains based on the studies presented to him by his staff. These studies reflect 1977 and 1978 figures. Both trains from Alabama were designated to be terminated by this plan, I might add.

As an economic conservative, I simply could not justify increased subsidies to an underused, energy inefficient system. The Department of Transportation statistics for 1977–78 showed that the Government could fly first class every man, woman and child riding the Southern Crescent from Birmingham to Washington free of charge to the passengers and then give them each $41 to boot compared to the cost of running the train service. The subsidy for the trip from Birmingham to Chicago amounted to $163 per person.

These statistics made it impossible for me to support such an economically wasteful system. By the Department of Transportation's own figures the Southern Crescent needed a ridership increase of a dramatic 84 percent in order to equal the performance of the average long distance train in the Amtrak system. No one at that time believed that such a leap in ridership was imaginable.

Almost immediately following the administration's presentation of S. 712, the supply of gasoline in this country began to tighten. What almost no one predicted might happen has become all too real. This country has a critical fuel shortage which is likely to persist. This fuel shortage has resulted in an enormous increase in ridership on many Amtrak trains previously marked for retirement.

At the present time, Amtrak is operating many of these same trains on a standing room only basis. Amtrak's operators cannot handle the volume of requests for advance reservations. The percentage of people denied space on Amtrak trains due to sold out conditions according to Amtrak's May figures is up 1,000 percent in 1979 as compared to 1978. The passenger ridership figures on some trains, such as the Southern Crescent, is up as much as 85 percent over last year. As a consequence of these increased ridership figures, it is no longer true that the Government is subsidizing a grossly underused system.

Given the change in the energy forecast for the future in this country, coupled with the dramatic demand for Amtrak services, I have become convinced that this is not the time to reduce the Amtrak system by a full 43 percent. However, I intend to watch carefully the quality of service and the cost to the taxpayer of the Amtrak system in the coming year.

It is with these thoughts in mind that I have cosponsored the Leahy amendment to S. 712.●

Mr. LEAHY. Mr. President, I yield to the distinguished Senator from Idaho.

Mr. McCLURE. Mr. President, I rise to endorse this amendment that establishes regional balance criteria to achieve more balanced passenger train service. Every American taxpayer in every State shares the cost of operating our national passenger railroad system. It is fair and reasonable to insure that every region has access to Amtrak service, not on a permanent basis, but on a 2-year trial basis, during which period of time they must meet the same criteria as other lines.

If we want to overcome our energy shortage and meet our tremendous future transportation needs effectively, then we cannot afford to preclude railroad mass transportation in our planning. The long gas lines and recent Amtrak ridership increases undeniably prove the necessity that we have a well-equipped system which will serve America's many dynamic markets. To ignore these realities is to invite disaster in the crucial days ahead.

Not only is it imprudent not to acknowledge the significant role which Amtrak can play in alleviating our energy and transportation concerns, but it is also wishful thinking to assert that Amtrak's present fleet can efficiently serve our regional demands. Indeed, one of the problems that Amtrak is faced with is the lack of adequate equipment. They are operating a 27,000 mile system with approximately 2,000 passenger cars. This is less than 1 car per 13 miles and over 50 percent of these cars are over 20 years old—thus contributing to the poor reliability of the service. It is significant to note that other nations such as Japan, England, France, and South Africa have one or more cars per mile servicing their passenger rail systems. Unless we are ready to provide massive Federal funding for the purchase of new equipment, it is unlikely that we will be able to attract the ridership that could decrease the per passenger Federal subsidy.

Aside from increasing her fleet, Amtrak can do much more to satisfy the growing ridership demands throughout out Nation. For instance:

First. Increase advertising. Many passengers have reported that they have never seen an advertisement in a newspaper or magazine, either about Amtrak or a particular line.

Second. Gain intermodal cooperation. Ridership on buses and trains would increase were there more intermodal cooperation, with direct across-the-platform connections at conveniently scheduled times. Now, there is precious little cooperation between Amtrak and the major bus companies, primarily due to paranoia about Amtrak's alleged stealing passengers away from bus companies. Bus ridership might well increase if they cooperated in interchanging with Amtrak in a meaningful way.

Third. Improve stations. Parking facilities at some stations are poor. At one station in Idaho there is no night-time illumination, no real security, no public restroom, and an unmanned glass cage depot which is locked 24 hours a day. There is no drinking water available, no trash receptacles, no telephone, no attendant.

In addition, I submit the following considerations to meet the rising demand for Amtrak across the country:

Fourth. Increase cooperation with travel agencies.

Fifth. Keep ticket windows open longer.

Sixth. Carry more mail.

Seventh. Honor bank cards aboard trains.

Eighth. Let patrons know that you can buy a ticket on-board.

Ninth. Emplace large signs along roads pointing to Amtrak stations.

Mr. President, by proceeding aggressively to improve Amtrak's nationwide service, we will be securing an option for the future. There is no doubt that the cost of rail transportation will look increasingly more favorable as the price of gasoline climbs. There is no doubt about the potential benefits of rail transportation from an energy standpoint. Let us give Amtrak and America the opportunity they deserve—and pass the Amtrak bill with the regional balance amendment.

Mr. LEAHY. Mr. President, I ask unanimous consent to be permitted to yield to the Senator from Maryland without losing my right to the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

UP AMENDMENT NO. 498

(Purpose: To provide for a route allocation study)

Mr. MATHIAS. Mr. President, I ask unanimous consent that it may be in order for me to offer an amendment to the Leahy substitute.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. BUMPERS. As I understand, was the Senator from Connecticut's amendment accepted?

The ACTING PRESIDENT pro tempore. As a modification.

Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

Mr. LEAHY. Parliamentary inquiry, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. LEAHY. Is it in order for the Senator from Maryland to propose his amendment without it being on my time?

The ACTING PRESIDENT pro tempore. It would be in order.

Mr. MATHIAS. I so request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 498.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Insert the following at the appropriate place:

AMTRAK ROUTE ALLOCATION STUDY

SEC. 16. (a) (1) Not later than December 31, 1979, the President of the National Railroad Passenger Corporation shall establish a system of uniform cost allocation for the Corporation which shall include—

(A) the avoidable cost by route;

(B) the revenue (including mail and State subsidies, if any) by route;

(C) the fully allocated cost by route;

(D) the number of passengers carried by route;

(E) the avoidable profit or loss by route;

(F) the fully allocated profit or loss by route;

(G) the profit or loss per passenger by route; and

(H) the profit or loss by revenue passenger mile.

(2) For the purposes of this section the term—

(A) "avoidable profit or loss" means the result of all revenue attributable to a route minus all reasonable and necessary expenses (including use of tracks and other facilities) which would be incurred by a carrier in providing a service which the carrier can establish that it would not incur if such service were not operated, and all other services were continued; such costs shall be restricted to costs solely related to the service and variable portion of common costs which would not be incurred but for the existence of the service; such costs shall exclude fixed common costs, allocation of any common costs which do not vary as a consequence of providing the service, return on investment, rent, and any other costs which the carrier cannot establish that it would not have reasonably and necessarily incurred but for the existence of the service;

(B) "fully allocated profit or loss" means the avoidable costs plus all other costs, other than unallocated costs, allocated to a route according to the Corporation's current accounting practices; and

(C) "unallocated costs" means those corporate interest, general, and administrative costs not assigned to particular routes.

(b)(1) The Corporation shall prepare and submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and the Committee on Interstate and Foreign Commerce and the Committee on Appropriations of the House of Representatives not later than February 15, 1980, a report containing—

(A) a profit and loss table by route for the upcoming fiscal year, assuming a 50 per centum Government reimbursement of the fully allocated losses experienced by each such route; and

(B) the average ticket subsidy required to show a systemwide public service profit (above and beyond such 50 per centum Government reimbursement) for the upcoming fiscal year.

(2) Such reports shall be based on the best possible data available to the Corporation including, but not limited to, historical ridership trends, marketing studies, general economic conditions, ticket pricing policies, levels of services and equipment availability among other factors.

(3) For the purposes of this section the term "public service profit" means the profit or loss experienced on each route after the Government subsidies (both operating and ticket) are added to such route's revenues.

(c) The Corporation shall also include in each report pursuant to subsection (b), a five year financial plan which shall contain—

(1) the steps and conditions necessary to realize a public service profit on each of its routes based on the combined Federal reimbursements and subsidies described in subsection (b)(1);

(2) recommendations or route restructuring, based primarily on the public service profit calculations described in subsection (b)(1)(B); and

(3) a description of the routes, services, marketing, and pricing actions necessary to operate the system for each of the five years with assistance limited to such Federal reimbursements and subsidies as determined for the first fiscal year of the planning period.

(d)(1) In determining the ticket subsidy the President of the Corporation shall identify those tickets which are eligible for such a subsidy. In making such a determination the President of the Corporation shall identify those factors such as mileage and ticket price that would be used to determine eligibility. The President of the Corporation shall apply those factors uniformly without reference to route for each eligible ticket the amount of the subsidy shall be the same, regardless of route or the costs involved.

(2) The President of the Corporation shall submit with his February 15, 1980 report the proposed subsidy per ticket, the means used in determining such amount, the means used in determining ticket eligibility for the purposes of this section, and an estimate by route of the number of eligible and ineligible tickets which will be sold during such year.

(e) The President of the Corporation shall evaluate the value of instituting the allocation system, developed through this study, on an annual basis. In making his evaluation the President of the Corporation shall document the benefits of establishing such a "contractual" relationship with the Congress and any technical changes that would increase the benefits of such an allocation procedure. The President's February 15, 1980 report should contain his assessment of the cost allocation system.

Mr. DANFORTH. Mr. President, whose time is the Senator from Maryland being charged against?

Mr. MATHIAS. No time.

The ACTING PRESIDENT pro tempore. Every amendment has 40 minutes. There will be 40 minutes on the amendment.

Mr. MATHIAS. Mr. President, let me advise the Senator from Missouri that I will not be more than about 2 minutes, so it will not be a matter of great importance one way or the other.

Mr. President, the time has come for the Congress to provide guidelines for Amtrak's management that clearly specify what we expect from our National Rail Passenger System. Our continuing energy crisis dramatizes this need. The more dependent we become on fuel-efficient modes of transportation, such as passenger rail, the more we need some assurance that they are being operated as they should be. I am pleased that the Senate Commerce Committee has addressed this situation through the Amtrak authorization bill by proposing ridership and cost criteria for trains included in the Amtrak system. These are steps in the right direction. But more must be done. Once Amtrak's route structure is defined through the procedures specified by the committee, we still face the problem of determining what service should be provided by each individual route and how to make it cost effective.

In March, I introduced S. 800—the Amtrak Cost Allocation Act—which gave birth to the concept embodied in the amendment I now offer. This amendment would provide a framework for uniform cost allocation by which Congress and Amtrak could evaluate the performance of each route. It would also lead to a much-needed "contractual" relationship between Amtrak management and the Congress, and it would help the American people equate rail service provided with tax dollars expended. Had such a mechanism been in place when the administration proposed route restructuring, we might have avoided that long, agonizing process.

The Amtrak route allocation study, established by this amendment, would direct Amtrak to explore the merits of basing its annual subsidy request on the total number of tickets sold the previous year together with a projection of anticipated increase in ridership. As the managers of the bill know, under the current procedure, the Federal subsidy is based solely on the projected yearly operating loss.

Under the new procedure and the public service value formula contained in this amendment, at least half of all the Amtrak route would show a public service profit annually. This would enable Amtrak to direct its management decisions, such as fare restructuring, schedule changes and equipment improvement, to those individual routes not producing a public service profit with the objective of improving their accountability within the entire system.

This amendment also provides that a public service value formula be used, containing two basic components. First, there will be a Federal Operating Contribution (OC) amounting to 50 percent of the fully allocated loss on each of Amtrak's routes. The Federal Operating Contribution (50 percent) would remain constant.

The second component of the formula is a ticket subsidy. The Federal Government's subsidy to Amtrak under this component would be predicated on the number of riders carried on each of the routes. The effect of a direct ticket subsidy would be to encourage Amtrak to increase ridership on their routes.

The concepts embodied in this formula have precedent in the urban mass transit legislation passed in the 95th Congress where the Federal mass transit subsidy is determined by ridership rather than by mileage. I am proposing the extension of this model to the Amtrak arena.

I think it would also lead to a much-needed contractual relationship between Amtrak management and Congress, and it would help the American people equate rail service provided with tax dollars for expenditures. Had such a mechanism been in place when the administration proposed route restructuring we might have avoided that long ago agonizing process.

Adoption of this amendment would require Amtrak to submit reports on the feasibility and effects of such a cost allocation system to the authorizing and appropriating committees in the House and Senate. Amtrak will also submit a 5-year financial plan which would include an analysis of what needs to be done to realize a public service profit on each of its routes. This plan would describe the route service, marketing and pricing actions necessary to operate the system for each of the 5 years based on the allocation formula contained in the amendment.

The passage of this amendment will help bring order to an otherwise chaotic process. It would establish clear goals and objectives for Amtrak and it would provide an incentive to efficient management and to increasing ridership.

Many of the programs that we in America will have to undertake in order to become energy secure will pay no benefits for years and even decades to come. But we can realize immediate and considerable energy savings by putting our passenger rail system on a firm foundation. It is inevitable that we turn to more fuel-efficient modes of transportation as our energy problems deepen. In order to introduce a much needed element of stability into the Amtrak system, I urge passage of this amendment.

Mr. LEAHY. Mr. President, I think

the proposal of the Senator from Maryland has a great deal of merit, and I accept it as a modification of my amendment, which is pending, in the nature of a substitute.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. MATHIAS. I thank the Senator from Vermont.

Mr. LEAHY. Mr. President, I yield to the Senator from Connecticut, and I ask unanimous consent that I do without losing my right to the floor, and ask unanimous consent that the time for his amendment not be taken out of my time.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 499

(Purpose: To provide for a feasibility study of restoration of certain intercity passenger trains)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask unanimous consent that it be read.

The PRESIDING OFFICER (Mr. Boren). Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. Weicker) proposes an unprinted amendment numbered 499.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

Sec. 16. Not later than January 31, 1980, the Corporation shall submit to Congress a study of the feasibility of restoring any intercity rail passenger train operated on February 1, 1979, which is not in service on October 1, 1979, and of operating any other trains on a portion or segment of any such discontinued route which the Corporation determines may produce social benefits which would warrant the costs of providing such additional service. The study shall include a detailed analysis and statement of the following information for trains on each route studied:

(1) for trips to and from locations on a particular route, the availability and cost of alternate modes of transportation, with special emphasis on significant changes in the cost or availability of gasoline which have occurred recently or might reasonably be expected to occur in future periods;

(2) changes in energy consumption by all modes which would occur if a particular train were operated;

(3) other positive or negative social and environmental effects which may be caused by a decision with respect to restoration or addition of train service on a particular route;

(4) the type of rail passenger car and the different car configurations within each type would be required to provide appropriate services on a particular train;

(5) the propulsion and mechanical systems of locomotives to be operated on each train;

(6) the amount of equipment required to provide train service on a particular route, or on several connecting routes, including the source, cost, and time required in order to obtain such equipment;

(7) the ridership (in both number of riders and passenger train miles) which can reasonably be projected for a particular train, and the revenues of all types which would be obtained from operation of such train; and

(8) the total cost (including necessary capital acquisitions or improvements) which would be incurred in operating a particular train, including the amount of each of the cost elements of which such total is comprised.

Mr. WEICKER. Mr. President, this amendment, which would require Amtrak to study the feasibility of restoring service to areas affected by the elimination of services, is contained in part (g) of printed amendment 301.

Today the Senate has before it a plan which would retain 80 percent of the present Amtrak system. This is a vast improvement over the DOT recommendation which would have slashed 12,000 miles, or 43 percent, of present rail services.

Yet, even under the Senate plan, people who are presently riding Amtrak will be unable to do so come October 1. Based upon the criteria contained in the plan approved by the Senate, and projected ridership figures, people who are riding the Hilltopper, the Hiawatha, the National Limited, the Floridian and the Lone Star will not have Amtrak service after September 30.

In essence, what this amendment does is to make sure there is still an opening in the future for bringing service to areas which might lose that service under the DOT plan, as modified here on the Senate floor.

Mr. President, in light of the serious energy crisis facing this Nation, Amtrak service should be expanded, not truncated. The Senate plan, however, recognizes that Amtrak simply does not have enough equipment to provide efficient service on all routes and accordingly eliminates certain nonproductive routes.

Although it would not be practicable for Amtrak to continue to run, at this time, all existing routes, we should not forget those riders who will be deprived of Amtrak service. Accordingly, I am offering this amendment which directs Amtrak to study the feasibility of restoring service, when it has sufficient equipment to provide efficient service, to areas affected by the elimination of existing routes.

Pursuant to this amendment, Amtrak would be required to submit to Congress by January 31, 1980, a study of the feasibility of restoring any intercity rail passenger train which is eliminated, and of providing rail service over a portion or segment of any such terminated route. This would enable the Commerce and Appropriation Committees to make necessary adjustments for fiscal year 1981. This study will include information on: First, the availability and cost of alternate modes of transportation to the affected areas; second, changes in energy consumption of all modes of transportation, such as automobiles and taxis, which would occur if a particular train were operated; third, social and environmental effects; fourth, ridership projections; and fifth, costs.

Mr. President, the House adopted a similar study in the Amtrak authorization bill which they passed last week. The Senate should do likewise. I strongly urge that this amendment be adopted.

Mr. LEAHY. Mr. President, I have no objection to the Weicker amendment. Again, I believe it is helpful to the overall thrust of the Leahy substitute, and I ask that my amendment in the nature of a substitute be modified by the addition of the Weicker amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Several Senators addressed the Chair.

Mr. SARBANES. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. It would probably be appropriate to yield to the managers of the bill, and I so yield the floor.

Mr. THURMOND. Mr. President, will the Senator yield 5 minutes to me?

UP AMENDMENT NO. 500

(Purpose: To amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for three additional years, and for other purposes)

Mr. DANFORTH. Mr. President, could I dispose of an amendment first? Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

Is there objection to the consideration of the amendment? The Chair hears none, and it is so ordered.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. Danforth) proposes an unprinted amendment numbered 500.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete section 308(a)(1) of the Rail Passenger Service Act of 1970 and in lieu thereof, insert the following:

"(a)(1) Not later than the thirtieth day following the end of each calendar month, the Corporation shall transmit to the Congress and release to the public the following information applicable to its operations for such calendar month:".

Mr. DANFORTH. Mr. President, one of the problems with the existing relationship between Amtrak and Congress is the lengthy delay in reporting of operating statistics to Congress. For example, a good part of the argument, and one which I will address later on in the afternoon, concerns alleged changes in the usage of Amtrak, in the ridership of Amtrak, as a result of gasoline lines.

Because of the long delay, 80 days, in making reports to Congress now found in the bill, it is difficult, if not impossible, to get enough factual evidence to either confirm or rebut such allegations.

Therefore, in order to prevent us from getting into the same situation in future years with respect to knowledge as to ridership, and so forth, this amendment is designed to cut 80 days to 30 days the reporting time between Amtrak and Congress.

The amendment has been checked with the chairman of the committee and the chairman of the subcommittee. I have also spoken with the Senator from Vermont about it, and hope it will be acceptable to him as an amendment to his amendment.

Mr. LEAHY. Mr. President, I ask that the amendment be accepted as an amendment to my amendment in the nature of a substitute, which is pending.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 501

(Purpose: To provide provisions relating to retention and maintenance of facilities)

Mr. DOLE. Mr. President, I send to the desk an amendment to the amendment of the Senator from Vermont, and ask for its consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the amendment? Without objection, the amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 501.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following:

RETENTION AND MAINTENANCE OF FACILITIES

"SEC. 16. Title IV of the Rail Passenger Service Act (45 U.S.C. 561) is amended by adding at the end thereof the following new section:

"SEC. 406. RETENTION AND MAINTENANCE OF FACILITIES.

"(a) No facilities of a railroad (including a regional transportation agency) which are used in the operation of rail passenger services by the Corporation on February 1, 1979, shall be downgraded or disposed of without obtaining the prior approval of the Secretary under this section.

"(b) Whenever any railroad intends to downgrade or dispose of a facility referred to in subsection (a) which is not currently being used in the operation of services by the Corporation, such railroad shall first notify the Corporation of its intention to take such action. If, within sixty days after receipt by the Corporation of such notice, the Corporation and such railroad are not able to enter into an agreement for the retention or maintenance of such facility or for the conveyance to the Corporation of such facility or an interest therein, the railroad may apply to the Secretary for approval of the downgrading or disposal of the facility.

"(c)(1) If the Corporation does not object to an application of a railroad to downgrade or dispose of a facility within thirty days after the date such application is submitted, the Secretary shall promptly approve such application.

"(2) If the Corporation makes a timely objection to such an application, the Secretary shall, within one hundred and eighty days after the date of such objection, determine the costs which the railroad could avoid if it were not required to maintain or retain the facility in the condition requested by the Corporation. If the Corporation does not, within sixty days after the date of the Secretary's determination, agree to pay such avoidable costs to the railroad, the Secretary shall approve such application.

"(d)(1) In electing whether to enter into an agreement pursuant to this section to pay a railroad the avoidable costs of maintaining or retaining a facility, the Corporation shall consider—

"(A) the potential importance of restoring rail passenger service on the route on which such facility is located;

"(B) the market potential of such route;

"(C) the availability, adequacy, and energy efficiency of alternate modes or alternate rail lines for providing passenger transportation to or near the points which would be served by the route;

"(D) the extent to which major population centers would be served by such route;

"(E) the extent to which the provision of service over such route would encourage the expansion of a national intercity rail passenger system; and

"(F) the possibility of increased ridership on lines of railroad connecting with such route.

"(2)(A) In order to prepare for a valid and timely analysis of a facility, after a railroad gives notice pursuant to this section that it intends to downgrade or dispose of such facility, the Corporation shall conduct a survey of population centers with railroad passenger service facilities and shall update such survey from time to time as may be necessary or appropriate. Within ninety days after the date of enactment of this section, the Corporation shall take steps to prepare a survey plan which shall provide for—

"(i) a target completion date for the survey of population centers of not later than three hundred and sixty days after the ninetieth day after such date of enactment; and

"(ii) a system of collection, compilation, and storage of information gathered pursuant to the survey according to geographic region and according to whether a facility would be part of a short- or long-haul route.

"(B) The survey should facilitate an analysis of—

"(i) ridership potential by ascertaining existing travel patterns or changing travel patterns which would maximize efficiencies of railroad passenger service;

"(ii) the quality of service of competitors or likely competitors;

"(iii) the likelihood of the corporation offering service at a competitive fare;

"(iv) opportunities to target advertising and fares to potential classes of riders;

"(v) economic characteristics of railroad passenger service associated with a facility and the extent to which such characteristics are consistent with sound economic principles of short- or long-haul railroad operations; and

"(vi) the feasibility of applying effective internal cost controls to a facility and the route which the facility would serve in order to improve over time the ratio of transportation expenses, excluding maintenance of track, structure, and equipment and depreciation, to passenger revenue.

"(e) For purposes of this section—

"(1) the term 'facilities' means railroad tracks, rights-of-way, fixed equipment and facilities, and real property appurtenant thereto, and includes signal systems, passenger station and repair tracks, station buildings, platforms and adjunct facilities such as water, fuel, steam, electric, and air lines;

"(2) the downgrading of a facility means a reduction in track classification as specified in the Federal Railroad Administration track safety standards (46 C.F.R. 213), or any other change in such facilities which may increase the time required for a passenger train to operate over the route on which such facility is located; and

"(3) approval of downgrading or disposal under this section shall not be construed as relieving a railroad from compliance with its other common carrier or legal obligations with respect to a facility.".

Mr. DOLE. Mr. President, I have discussed this amendment with the distinguished Senator from Vermont. I do not know of any objection to it. It is a "rail bank" amendment. It simply says that we provide that the track and facilities owned by private railroads and used by Amtrak for passenger service now recommended for discontinuance this fall shall not be downgraded or disposed of until Amtrak has assessed the importance of preserving such tracks or facilities in passenger condition.

Under the provisions contained in the 1971 agreement between Amtrak and the railroads, a railroad cannot downgrade or dispose of track currently being used for passenger service if Amtrak continues to use the line. However, elimination of passenger service over a line segment permits a railroad to modify its trackage and eliminate certain facilities, such as signal lights and platforms. Railroads frequently take advantage of this by downgrading track and eliminating facilities when passenger service is discontinued.

Although it is impossible to accurately predict the costs of upgrading track and facilities once downgraded, an example illustrates the potential expense. The Department of Transportation is proposing a new line segment between Cumberland and Pittsburgh for the restructured Broadway Limited. Present estimates for upgrading this segment range between $30,000 and $60,000 per route mile. By comparison, Amtrak estimates that it will cost only $1,000 per route mile per year to continue to maintain track at existing levels.

Under the House version of the Amtrak bill, 4 to 5,000 miles of track will be discontinued this October 1. The Senate version will affect nearly the same amount of track. Once service is discontinued, some of that track is likely to be downgraded to such an extent that passenger trains would be unable to use the track in the future.

However, recent Amtrak sales trends show that future passenger service needs are still in doubt. For a variety of reasons, primarily gasoline shortages, total passenger miles traveled in May were up 31 percent over a year ago. Total sales increased 27.7 percent and ridership increased 19.6 percent over 1978. These trends are encouraging and significant, however, right now we simply do not know if these trends will continue. If gasoline shortages continue and prices rise, it is possible that Amtrak ridership will increase even more. However, Amtrak patronage could return to normal as gasoline lines disappear and the pumps are full. The only thing that is clear is that substantial uncertainties still exist with respect to future levels of rail passenger transportation demand.

In light of this uncertainty, it is important that we have the option of reinstating passenger service on some of the routes now scheduled to be discontinued this fall. My amendment would preserve that option by insuring that passenger track is available in adequate condition should the need for additional service arise. This could be a relatively inexpensive way of maintaining flexibility while rail use is changing, without continuing to subsidize presently nonviable portions of the system.

This would work in the following manner. The railroad would first notify Amtrak of its desire to downgrade track. Amtrak and the railroad would then have 60 days to reach an agreement for retention, maintenance or conveyance of that track. If no agreement was reached, the railroad could apply to the Secretary of Transportation for approval of the downgrading. If Amtrak did not object within 30 days, the Secretary would approve the downgrading. If Amtrak did object, the Secretary would determine the costs to the railroad of continuing maintenance. If Amtrak did not agree to pay those costs, the railroad could downgrade the track. Because of monetary constraints, Amtrak would have to establish priorities as to which track would most likely be needed for passenger service.

The cost of maintaining this track is a small price to pay to insure that our rail passenger service is adequate to meet the potential demands of the future. This "rail banking" provision recognizes the possibility that some of the lines being discontinued this year may be needed next year. However, it also recognizes the view that it would be wasteful of our tax dollar to continue to operate all of this track merely because of a short-term increase in Amtrak ridership. The rail bank is a reasonable and limited safeguard to guarantee that we have sufficient railroad facilities standing by if they are needed.

As I say, I know of no objection to the amendment.

Mr. LEAHY. Mr. President, again, the amendment of our distinguished colleague from Kansas is offered as an addition to my amendment. I ask unanimous consent that my pending amendment in the nature of a substitute be modified to incorporate the amendment of the Senator from Kansas (Mr. Dole).

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. Mr. President, I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, I commend the chairman of the committee (Mr. Cannon), the chairman of the subcommittee (Mr. Long) and the Senator from Vermont (Mr. Leahy) for working out the proposal now before us and in particular, for responding to a very serious problem concerning Amtrak commuter service. Under the plan put forward by the Department of Transportation Amtrak would have discontinued all commuter service by October 1 of this year unless State or local transit authorities agreed to undertake the financing of those services.

A provision in the Leahy substitute requires Amtrak to maintain that service for 18 months. It is extremely important provision, and I want to thank the Senator from Vermont and others who have worked on this matter and ensured the continuation of commuter service.

Second, it has been reported that the Amtrak board would cease to accept commutation fares on Amtrak trains. The substitute bill contains a specific provision which would require that such fares be accepted until April 1, 1981.

Maryland citizens have been particularly attracted to rail travel and continuing the Blue Ridge intercity week-day service is an important step in presenting the option of increased commuter rail travel and sustaining the enthusiasm for intercity rail travel. The Blue Ridge is an important intercity train serving Martinsburg and Harpers Ferry, W. Va.; Brunswick, Gaithersburg, and Rockville, Md., and Washington, D.C. as well as patrons from Virginia and Pennsylvania. Patronage of this train has increased from 118,900 in fiscal year 1974 to 253,900 in fiscal year 1978. This increase has occured in the absence of any real marketing effort. In addition, the Blue Ridge generates more passenger miles per train than any of the State-assisted trains listed in the DOT Amtrak Report and, according to DOT's own figures, loses less per passenger mile than most of the 403(b) services. For these reasons it is my belief that the service offered by the Blue Ridge should be continued, and the commuter service amendment in the Leahy substitute will insure this service for 18 months.

The hundreds of Blue Ridge passengers from each of these jurisdictions will therefore not be faced with the prospect of returning to automobile usage after October 1, 1979—a prospect which does not comport with a national policy of transporting intercity travelers by energy-efficient transportation modes.

In addition, section 6(e)(3) of the Leahy substitute would require Amtrak "to continue to accept commuter based fares for any rail passenger service which it operates and for which such fares were accepted on January 1, 1979."

This section would permit the several hundred passengers who commute between Baltimore and Washington to continue to have their commutation tickets honored by Amtrak.

I therefore again commend the Senator from Vermont for including in his substitute these two critical provisions for maintaining important rail services.

Mr. President, in closing I also want to commend the distinguished senior Senator from Idaho (Mr. Church) for the fine leadership he has shown with respect to the critical question of rail service, and the very active and vigorous part he has played in helping to bring about a strong legislative response to the many problems that many Members saw in the Department of Transportation's proposal to eliminate important rail service all across the country.

Because of the action of the Senator from Idaho and the response of the Senator from Vermont, the Senator from Nevada, and the Senator from Louisiana, I think we are now moving in the proper direction—we must insist on maintaining needed rail service, while also developing the option of improving and expanding the Nation's rail transportation system.

I thank the Senator from Vermont for yielding.

Mr. LEAHY. Mr. President, I thank the Senator from Maryland. I appreciate his help in getting together the substitute amendment in all respects, and particularly in the two areas he mentioned here. His efforts were invaluable.

Mr. MELCHER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Vermont yield to the Senator from Montana?

Mr. LEAHY. Mr. President, I believe the more appropriate thing to do would be for me to yield the floor.

Mr. MELCHER. Mr. President, I ask for time to be yielded by the managers from the time on the bill.

Mr. McCLURE. Mr. President, will the Senator from Vermont yield for a question?

Mr. LEAHY. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

UP AMENDMENT NO. 502

(Purpose: To provide for continuation of the Amtrak system until a route plan responsive to energy shortages is developed)

Mr. MELCHER. Mr. President, I have a perfecting amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment be will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. Melcher) for himself, Mr. Boren, Mr. Stone, Mr. Sasser, and Mr. Baucus, proposes an unprinted amendment No. 502 to unprinted amendment No. 495.

Mr. MELCHER. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 2 is amended by striking "1979" from line 5 thereof and inserting "1980"; and by striking lines 7, 8, and 9 and line 10 to the semicolon and inserting "the Corporation in accordance with the provisions of this Act."

Section 5 is amended by striking lines 31 through 36 on page 2 and by inserting "(1)" in place of "(m)" in line 1 on page 3.

Section 8 is amended by striking "576,300,000" from line 6 on page 11 and inserting "$718,000,000"; by striking "$605,000,000" from line 7 on page 11 and inserting "$753,450,000"; by striking "not to exceed $30,000,000 for the fiscal year ending September 30, 1980," and from lines 27, page 11 and lines 1 and 2 on page 12; by striking $20,000,000" from line on page 12 and inserting "$10,000,000"; by striking the quotation mark and period (".) at the end of line 10 on page 13; and, by adding a new subparagraph "(4)" as follows:

"(4) During the fiscal year ending September 30, 1980 the Board of Directors of the

Corporation shall analyze each of its routes and the passenger trains operating thereon and shall determine, on the basis of that analysis those trains and routes which will continue in operation during the fiscal year ending September 30, 1981: *Provided*, That any reductions in trains, routes or service shall not exceed $30,000,000 in the aggregate: *And provided further*, That the Board's analysis must give weight, among other factors, to the present and future energy needs of the Nation, the percentage of increase or decrease in ridership of each train examined, and the potential for each train given a minimum reasonable quality of service in terms or roadbed, track, equipment, on-time performance and scheduling.".

Section 14 is stricken in its entirety and section 15 is renumbered as section 14.

On page 3, line 17, insert "established by the Comptroller General in accordance with subsection (d)" after "Criteria".

On page 6, strike lines 1 and 2 and substitute the following:

"(d) (1) Not later than February 1, 1980 the Comptroller General".

On page 7, line 7, strike "Board of Directors" and substitute "Comptroller General".

On page 7, lines 17 and 18, strike "Board of Directors of the Corporation" and substitute "Comptroller General".

Mr. MELCHER. Mr. President, I strongly support the continued operation of the present Amtrak system. The 1-year moratorium before the Senate is a reasonable response to the rapidly changing environment in which Amtrak is presently operated.

Mr. President, we have accepted, under the substitute which is before us, some 80 percent of the present Amtrak system. What I am proposing to do is to have a 1-year moratorium to consider the balance of 16 percent of the present Amtrak system.

The PRESIDING OFFICER (Mr. CHURCH). The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, I ask the managers of the bill to yield to me 1 hour of the time allotted for consideration of the bill.

The PRESIDING OFFICER. The Senator has 13 minutes remaining on the amendment in his own right.

Mr. MELCHER. I ask the managers now, to clear this up, to yield to me 1 hour off the bill. There have been many requests of other Senators to speak on this.

Mr. CANNON. Mr. President, how much time remains on the bill?

The PRESIDING OFFICER. The Chair is informed that there are 100 minutes remaining on the bill, 50 minutes allocated to each side.

Mr. CANNON. Mr. President, there has been an agreement that the Senator from Montana would be given 1 hour on his amendment. He has 13 minutes left, I understand.

The PRESIDING OFFICER. He has 12 minutes now.

Mr. CANNON. I have 20 minutes left in opposition to his amendment. I yield him 15 minutes of the 20 minutes remaining there. That will give him a total of 25 minutes. I yield him 35 minutes off the bill, for a total of 1 hour.

Mr. MELCHER. I thank the Senator.

Mr. President, although the administration had recommended a 43-percent cut in the Amtrak system, President Carter recently modified the administration's position and is now recommending continuation of a larger system than the 57 percent it originally proposed. It is not quite clear just how large that will be, but as the price of gasoline goes up and the calls to Amtrak for tickets continues to rise in this fuel crunch, it is obvious that the administration's position is changing, if not daily, at least by the week and by the month, on how much of the Amtrak system they would like to have continued. Action here rather parallels what happened in the House, where the House system, as they passed it, leaves intact 80 percent of the present 27,000-mile route structure. I think by the adoption of the modifications to the Leahy amendment, we are getting up to about 83 or 84 percent if that is accepted.

So, Mr. President, what I am asking now is that the Senate consider a year's moratorium on the remaining 16 to 18 percent that would be lopped off if we accept what has already been indicated would be accepted here, in the Senate.

The House very narrowly, in voting on that a week or two ago, lost the year's moratorium by a vote of 214 to 197, a very close vote. I believe a strong case can be made for continuing all of the current Amtrak trains for another year.

Now, Mr. President, I yield to the Senator from Oklahoma without losing my right to the floor.

Mr. BOREN. Mr. President, I rise today in support of this amendment by the Senator from Montana. As the Senator has pointed out, decisions have already been tentatively reached which would grant subsidies for continuation of over 80 percent of the passenger rail service in this country. To discontinue the rest would be an arbitrary decision not warranted by the current situation which we face.

Mr. President, in January of this year, when the Secretary of Transportation submitted his plan to restructure the Amtrak passenger route system, no one was aware of what the next few months would hold in terms of large increases in ridership that our Nation's passenger trains have experienced. Reports are coming in from all across the country of trains running at "standing room only," of trains booked for several weeks ahead of time, and of continuous busy signals on the telephone lines when seeking reservations from Amtrak reservation clerks. It has been estimated that Amtrak reservation clerks put nearly 50,000 prospective customers across the country on hold in a recent week, and bookings on some trains are running 50 percent ahead of last year. This does not even take into account the numbers of people who were not able to get through because of busy signals.

Under the proposed Amtrak restructuring and under the House version of the bill we are considering today, there is the distinct possibility that some States, like my home State of Oklahoma will lose their last remaining rail passenger service. This could have serious economic consequences for those States that are left with no rail passenger service. Many jobs could be lost in areas that cannot afford to lose them.

With current high prices and serious shortages of gasoline that many parts of the country are experiencing, it is imperative that another look be taken at the rail passenger service system.

The amendment offered by the Senator from Montana would do this. It would allow the present route structure to be retained through the 1980 fiscal year so that the restructuring could be reevaluated in the light of the gasoline situation and the resulting large increase in ridership. I think it is important that Amtrak have the opportunity to do this so that one of our country's mass transit systems can be maintained, and even improved.

Oklahoma is one of the States that may lose its last rail passenger service. I know that many other Senators could stand here today and quote statistics about how the trains in their States have experienced large increases in ridership and advanced bookings. The fact is, these arguments are true and these factors should be taken into consideration and reevaluated before any trains are eliminated from the system. In my home State this week, it was reported that the Lone Star left Oklahoma City with standing room only for some 75 passengers. Ridership is up this year by 25 percent. It is hard to estimate the potential ridership because many people never try to go by train because they have heard the factual accounts of a shortage of equipment and reservation personnel which creates crowded conditions.

It will be much more difficult and expensive to return to passenger service on some of these rail lines if we later change our minds than it will be to maintain them at their present levels so that this new era of passenger train use can be studied. Several years ago, we almost killed the railroads by over regulation. We severely crippled them. Now we badly need them again for energy-efficient freight transportation. But once they were allowed to fall into disrepair, the cost of revitalizing them became much greater than if they had never been allowed to get sick in the first place.

Mr. President, Amtrak will continue to play an ever-increasing role in our mass transit system. We have seen this to be true in the past several months. For this reason, I intend to support this amendment so that the system can be adequately evaluated on the basis of new ridership figures.

Mr. MELCHER. Mr. President, I yield now to the Senator from Tennessee without losing my right to the floor.

Mr. SASSER. Mr. President, I thank the distinguished Senator from Montana for yielding.

During the past several weeks Mr. President, I have risen on a number of occasions to advocate a stay of execution for passenger railroad service in the United States. Today I reiterate my opposition to the Department of Transportation's plan to cut 43 percent of the Nation's intercity train service.

Action last week in the House of Representatives does not bode well for the future of passenger railroad service. If we do not take action today, the future will indeed be dark.

A few days ago, our President spoke to the American future about the need to conserve energy. He extolled the virtues of mass transportation. He asked us to turn our thermostats to 80 degrees in the summer and 65 degrees in the winter. He has asked for the authority to ration gasoline. He has asked us to drive our cars less.

Mr. President, I support the President's efforts to cut back on the national consumption of fuel. We are becoming indentured servants of Arabian oil sheiks and the multinational oil companies, who are taking a larger and larger share of our expendable income. Most of us do not like that. Now we have a chance to do something about it.

The people of this country are doing something about the energy crisis. As it becomes harder to find a gas station open, and when drivers have to pay a dollar a gallon when they do find a station, they are seeking alternatives to driving four tons of steel.

The people of this country want to ride the trains. They do not want massive cutbacks. I know that from my conversations with the people of Tennessee. I see it in my mail. We can all see it clearly in the demand for train service.

Amtrak has never been so busy. Passengers are being turned away by the thousands and there are not enough employees at Amtrak to answer the calls for reservations.

There could be no more unsuitable time to cut almost half of the passenger railroad service in the United States. We need to upgrade railroad service. For many years, the Europeans have understood the importance of rail service in energy conservation. As we debate a proposal to cut 43 percent of our service in the midst of a terrible energy crisis, the Europeans are in the process of improving 8,000 miles of track and laying 3,500 miles of new track.

Those trains do not make money for anyone, not for the governments or for any private corporation. No one expects them to do so. Rather, it is understood that passenger trains are a vital, sensible, fuel-efficient means of transporting people. I hope that we Americans can recognize that. I believe that the thousands of new passengers taking advantage of Amtrak service do. I believe that more people will realize the benefits of Amtrak service if that service is available. However, if we give support to the DOT plan, millions of Americans will have no passenger service.

I do not think that the Amtrak plan is a good plan and I do not think that the study it is based on is a good study. Some routes are saved because they have histories of high ridership rates. But, the Department of Transportation cannot tell you how many passengers on those trains have transferred from other trains that will be cut by the current plan.

Mr. President, I support a delay in cutting routes because we are at an uncertain time. It is uncertain what the future demands for rail service will be, and the current plan is based on uncertain information.

As I said before, the American people are coming to realize the importance of mass transportation for intercity travel. I hope that my colleagues here in the U.S. Senate will not be too far behind.

(Mr. BOREN assumed the chair.)

Mr. MELCHER. Mr. President, I yield now to the Senator from Kansas without losing my right to the floor.

Mrs. KASSEBAUM. Mr. President, first, I commend those who have guided the Amtrak restructuring through the Committee on Commerce. As a member of the Committee on Commerce, I have strongly supported the Department of Transportation's proposals on the restructuring of Amtrak. We have been subsidizing Amtrak at $800 million a year and it has been running at a deficit of $300 million. I felt, as we were trying to address fiscal responsibility as well as efficient transportation, the time had come to take a long, hard look at Amtrak.

I was dismayed by the action of the House last week when they began adding back on various routes so that, now, we have almost 80 percent of the total route structure back on. There was a great deal of talk around here about 2 months ago about a moratorium, but as trains have been added back on, that talk has dissipated.

It is my belief now that it would be far more beneficial to hold the present structure in place for a year, that this will enable us, in fact, to address the needs of our transportation system more effectively in a year's time than if we grant the compromise proposal for 2 years, which is simply a bandaid measure which in no way, addresses the basic needs of either fiscal responsibility or efficient transportation. That is why, at this point, I am strongly supporting a moratorium, in the hope that we shall be better able, in a year's time, starting again with the structure that we have, to address the needs that we have.

Also, we have a change in the Department of Transportation. With that change of administration there, I think we can also expect to see different approaches to our transportation problems.

It is a difficult position for me to take, believing that we need to make cuts to address the deficit, to address the inefficiency of the Amtrak system. On the other hand, I see no point in going to this solution with the politics of compromise, which is business as usual. I fully appreciate the importance of compromise, but I think this one does not address the needs of our transportation system.

I thank the Chair.

Mr. MELCHER. Mr. President, I yield now to the Senator from Montana without losing my right to the floor.

Mr. BAUCUS. I thank my colleague for yielding.

Mr. President, I rise to support my senior colleague's amendment and to thank Senator MELCHER for his service in trying to protect Amtrak service across the country.

Mr. President, what this debate really boils down to is does it make sense for Congress to cut out a large portion of America's rail passenger transportation service at this time? All Americans are trying to find ways to cope with the energy crisis. And here we are today, eliminating one of the most efficient forms of passenger service in a very large portion of the country.

We in the Western States do not have alternative forms of passenger transportation. We have virtually no air transportation in vast portions of the Western States.

Major airlines and the feeder airlines serve some cities, but miss a good number of communities in Montana.

Beyond that, we have very little bus service. Many other States with very vast expanses face a similar situation.

We are taking a very myopic view of budget problems by cutting public transportation service to a large portion of America.

I suggest, Mr. President, that the United States should be just that—united. We have to have a solid united Amtrak system to provide that national unity.

Mr. President, the Secretary of Transportation's plan to eliminate great portions of our existing passenger rail network made little sense when it was announced last January, and the proposals to cut back the route structure have even less credibility now.

Rising fuel prices and continued shortages have caused Americans to turn to rail travel in unprecedented numbers, rendering the statistics and projections on which the plans were drawn meaningless. Thanks to OPEC and our national energy conservation goal, it is a whole new transportation ball game, and we cannot win it without the availability of travel alternatives to the family car—nationwide.

The public has dramatically demonstrated a renewed interest in train travel. The latest available figures show that in May bookings soared 128 percent over the previous year, and more than three-fourths of a million people were turned away because accommodations were completely full. The telephone reservation system was so flooded with calls that almost 5 million prospective customers received busy signals, with less than one-third that number actually getting through—most often after extended waits. Despite this poor service, ridership and trip length made sizable gains and dollar sales rose an impressive 28 percent.

All this is happening, Mr. President, in spite of not only a woefully inadequate reservation system, but also antiquated locomotives and cars with frequent heating and cooling malfunctions, deteriorating on time performance and little or no advertising or promotional efforts.

Let me speak for a moment about the Northwest—where distances are great and the travel options limited—and the situation I know best, my own State of Montana. Currently, this market is served by two trains operating between

Chicago and Seattle, with service on alternate days across different sectors of my State. The DOT plan eliminates the southern route now serving the population centers of Billings, Bozeman, Butte, Missoula and points in between, including Livingston—one of the gateways to Yellowstone National Park.

Bookings have increased dramatically on this route, with Amtrak's own advance reservations report showing the train, as of July 22, 96 percent sold out for the next 2 weeks and 88 percent 6 weeks ahead. Yet, under the so-called compromise plan being offered today, it is highly questionable whether this line would survive.

I call on my colleagues to recognize that circumstances have changed dramatically, rendering obsolete the premises and predictions on which these proposals are based. Time is needed to develop the data necessary to correctly blend the public's changing travel habits and our energy conservation goals into a national route structure truly meeting America's needs for the future.

The cost of a 12-month delay while this information is gathered and evaluated will be small indeed compared to the huge outlays needed should these same circumstances force us in the years ahead to face the necessity of resurrecting those lines shortsighted expediency caused to be abandoned.

Mr. President, I strongly urge passage of the amendment proposed by my colleague from Montana.

Mr. MELCHER. Mr. President, I yield to the Senator from Kansas without losing my right to the floor.

Mr. DOLE. Mr. President, I thank my colleague from Montana.

I commend my colleague from Kansas (Mrs. KASSEBAUM) for her statement. I think we find ourselves in somewhat the same situation.

I remember very well when Secretary Adams announced the proposal to cut Amtrak rail passenger service.

My staff rushed in with a press release condemning Adams and his action. I did not issue that press release because, like many others, I feel that somewhere along the line we have to stand up without being parochial and say that we have to cut spending.

That was some months ago and much has happened since that time. Many of the happenings have been discussed on the Senate floor.

This Senator from Kansas offered the "rail bank" amendment to the Leahy substitute on the theory that the best alternate would be a 1-year moratorium, but if that fails, as it could, then as a fallback, the "rail bank" proposal would be part of the substitute which I assume will be adopted.

So I say very honestly that when Secretary Adams made his statement, I was quietly supporting that statement. But since that time, about 80 percent, as I think the Senator from Montana pointed out, of the trains affected have been restored.

So those of us who were not included in the compromise are now——

Mr. CANNON. If the Senator will yield on that point, I am sure he would not want the record to be incorrect.

There have not been 80 percent of those proposed to be continued to be restored. The proposal originally was to discontinue 43 percent of the track lines. The proposal now, as amended by the Leahy proposal, would have about 20 percent of the track lines discontinued.

Mr. DOLE. That is right. His arithmetic is better than mine.

I thank the distinguished Senator from Nevada.

Mr. President, I would like to express my support for the amendment offered by the Senator from Montana. The proposed cuts in Amtrak rail passenger service are scheduled for the wrong time, and the cuts have been made in the wrong way.

It just does not make sense to me to kill passenger trains that are running full almost every day and are experiencing the most dramatic increases of rail history, especially as our Nation faces energy shortages that threaten to alter our transportation habits. Amtrak ridership figures have skyrocketed since the Department of Transportation announced its proposed cutback earlier this year. When the changes were first announced, I must admit that I was leaning in favor of them. We in Congress need to do all that we possibly can to cut wasteful or marginal Federal spending, and some of the less efficient trains seemed like the perfect place to begin. My own State of Kansas stood to lose two trains, but my first thoughts were that parochial concerns should not stand in the way of directing our tax moneys where they were most needed.

But things have changed since January. Amtrak trains have been running full. When the lines at the gas stations started forming, so did the lines at the Amtrak ticket offices. Figures released by Amtrak in May reveal this undeniable trend. Passenger ridership increased 20 percent over 1978. Passenger miles rose 31 percent. Total sales rose 27.7 percent. Reservations increased 127 percent. Most impressively, denial of space because trains were sold out skyrocketed 1,011 percent.

The trains serving my home State of Kansas have been a part of this phenomenal interest in riding Amtrak. The Lone Star running from Chicago to Houston saw an increase in passenger miles of over 100 percent, and the National Limited running from New York to Kansas City had a 12-percent increase in passengers and an 86-percent increase in passenger miles. As of June 3, reservations alone on the Lone Star were running at 84 percent of capacity. This does not reflect sales closer to and on the day of departure. Yet, both of these trains will be discontinued under this bill.

These figures tell us that people want to ride Amtrak. In fact, thousands of potential riders are being turned down. This simply is not the time to cut service. Our country needs alternatives to the gas-guzzling automobiles. We talk of a massive development of synthetic fuels. We talk of increasing mass transportation. Yet, the train is about the only mass transit the rural areas of our country have. Hutchinson, Wichita, and Garden City, Kans., just do not have the facilities of New York and Washington, D.C.

As the Senator from South Carolina just pointed out, we can all cite statistics and figures when we are trying to preserve something that could even be marginal, in some cases. I have cited the figures on the Lone Star route, running from Chicago to Houston. We saw an increase in passenger miles of over 100 percent on that particular route.

So I suggest that there is a need for these trains.

I think it is well to point out that some of us live in rural States. As I said earlier we do not have the mass transit systems that they have in Chicago, or Washington, D.C., or New York. We are talking about cities the size of Hutchinson, Kans. and Garden City, Kans. Even Wichita is not all that large in relative terms.

It just seems to me that what is being suggested does not do violence to those who are concerned about the Federal budget.

I think it would indicate to those who administer Amtrak the great concern there is.

The increased demand forces me to conclude that we should keep these trains running. They may not all be moneymakers, but few train systems in the world run at a profit. We must simply set our priorities. Since Amtrak was created in 1971, we have subsidized all modes of transportation to the tune of $94.5 billion. Amtrak has only received $2.6 billion of that, less than 3 percent. That is undeniably a great deal of money, but as our energy concerns grow and Amtrak demand skyrockets, it is money well spent. This moratorium will cost about $150 million more than the committee compromise. That is a small price to pay for this service.

It seems to me that with all the energy concerns and gas lines, and many Americans listening to the President of the United States and others talk about the crisis of confidence and the need to conserve energy, that we are looking for alternatives. They believe the President when he says we must save.

One way to make that possible for us is keep every mode of transportation we can.

So I suggest that what may be a different attitude on the part of this Senator was caused in large part by the deepening energy crisis.

The proposed changes have also been made in the wrong way, with an eye toward politics and compromise so that this bill could be agreed to before the August break. I agree that we must move quickly to give Amtrak direction for the coming year, but not at the price of a reasoned and rational approach to the problem. Some trains may need to be cut, but no one pretends that this compromise cuts only the worst trains and saves only the best. Of course compromise is necessary in Congress, but lines must be drawn. Our train system is too important to be altered in such a haphazard way.

Mr. President, the Senator from Kansas hopes that this body will recognize our future transportation needs. We should be open to the changing facts that confront us and be willing to continue service that is needed. During the next year, many unanswered questions will be resolved as ridership trends stabilize in light of our changing energy situation. We should adopt this moratorium and reassess the Amtrak system a year from now.

I hope that the amendment of the Senator from Montana will be adopted.

Mr. President, with all due respect for the difficult decision the Wichita Chamber of Commerce had to make, and with the understanding that their views may have changed in recent months, as circumstances have changed, I ask unanimous consent to have printed in the RECORD an editorial published in the Wichita Eagle of April 18, 1979. I believe it accurately discusses the reasons for saving the Lone Star. Events since its publication only emphasize the need.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LONE STAR ROUTE IS NEEDED

The Wichita Area Chamber of Commerce is wrong to support federal Transportation Secretary Brock Adams' proposal to eliminate the Lone Star Amtrak train that runs through Wichita.

We applaud the chamber's conclusion that mere "community pride or selfishness" should not be allowed to undercut any orderly effort to reduce federal deficit spending, and we acknowledge that it has made a careful study of transportation alternatives available to Wichita.

But we believe that the chamber's willingness to give in so easily on loss of the Lone Star, which runs between Chicago and Houston, has been based partly on faulty information.

And it overlooks one extremely important factor: the growing need for conservation of energy fuels. Train travel is, or can be, the most energy efficient mode of transportation. All energy fuels are going to be, in the future, increasingly expensive and in limited supply.

Instead of limiting the opportunities for train travel, the government should, in the interest of long-term efficiency and energy conservation, be encouraging the public to ride trains more, and should be developing the kind of rail travel service that people will want to utilize.

Because of all this, the chamber is right to oppose changes in the Southwest Limited route, which now angles across Kansas on it way from Chicago to Los Angeles.

But the chamber apparently has been misinformed about the extent of ridership decline on the Lone Star. It seems to have accepted without question a Department of Transportation assertion that Lone Star "usage declined 17 percent in fiscal 1978."

A check of Amtrak ridership figures for fiscal 1978 and fiscal 1977 shows that the decline actually was about 7 percent, not 17. Amtrak's totals for the two years are, respectively, 245,100 and 263,711—a difference of 18,611.

Lone Star ridership since has taken an upturn, and for the period of October through January, this year's total was 1.2 percent ahead of the same period a year earlier.

It should be remembered that the Lone Star competes, for Texas passengers, with a train called the Inter-American, which also runs to the Fort Worth-Dallas area by way of St. Louis and Little Rock. It offers connections with Mexican National Railways at Laredo.

It also was on Mr. Adams' list for elimination, but Texans have been fighting hard for its retention. If it is retained and the Lone Star dropped, there still will be a Chicago-Texas train, but it won't serve Wichitans or Oklahomans.

The chamber notes that travelers along the Wichita-Oklahoma City-Houston corridor are well servd by airlines and bus lines. This is true, but air travel is expensive and a long bus ride is not everybody's idea of pleasure.

The chamber points out that it worked vigorously several years ago to insure that the Wichita area would have Amtrak service. Newton isn't far away, and continuation of the Southwest Limited on its present route still would give this area good rail service to the West Coast and to Chicago.

But good service to points south is important, too, and we wish the chamber had put more stress on a couple of points made near the end of the letter to Secretary Adams.

"We support the DOT position to raise the level of revenue Amtrak generates. . . .

"We believe there is an unserved demand for quality passenger train service. If Amtrak will develop passenger trains of quality, it will attract passengers who will pay a competitive price for it. To efficiently serve the public, strides must be made by Amtrak to: reduce costs, streamline work schedules, upgrade employee productivity, modernize equipment, and improve passenger service—including on-time performance and passenger amenities both on the trains and in the depots. . . ."

That, we think, makes sense. Killing the Lone Star doesn't.

Mr. MELCHER. Mr. President, I appreciate the remarks of the Senators in support of the amendment.

I think it is appropriate to note at this time the broad geographic range of the Senators who are speaking on behalf of the amendment.

I believe a strong case can be made and is being made by us in support of the amendment for continuing all concurrent Amtrak trains for another year.

First, the much higher price presently being paid for gasoline is projected to increase another 20 to 25 percent before the end of the year if all the recent OPEC price increases on oil will have been absorbed.

Mr. President, the continuing strong ridership numbers on Amtrak can no longer simply be attributed to the lack of gasoline supply. On the contrary, the high price of gas is now the driving force. No one expects the price of gas to come down, and concurrently Amtrak ridership is unlikely to decrease.

Second, the increased ridership on Amtrak cannot be assessed properly on the routes that are proposed for discontinuance until Amtrak has met the marketing needs required by the rapidly increasing demand for passenger service on these lines. Currently, the Amtrak reservation system is swamped with calls, and literally no one has been answering the phone when hundreds of thousands of would-be Amtrak passengers have called for train reservations. Yet, reservations are required on the five major routes which the compromise amendment would discontinue.

Consequently, no proper assessment of the needs of the people wishing to use these trains can be computed at this time. Amtrak admits that only 22 percent of the calls were actually answered during May of this year. It is obvious that while additional personnel are being added by Amtrak to handle the business of making reservations and selling tickets, the rapid growth of demand nevertheless indicates the possibility that the lines considered for discontinuance may become viable when all passengers who desire service are given a chance to use Amtrak.

Third, most of the routes that are projected for discontinuance are in sparsely populated areas where Amtrak is comparable to mass transit. Both the administration and Congress have advocated more Federal responsibility for mass transit. We believe that Amtrak routes in sparsely populated areas should have sufficient recognition by Congress to give those people an opportunity to use a transportation system that is more fuel efficient than automobiles. While bus service may be available in some of these States, we believe it is also equitable and a wise fuel conservation move to provide the additional availability of Amtrak.

Excluding Amtrak, these sparsely populated areas receive very little in the way of mass transit money from the Federal Government. Amtrak is a means of providing some equity.

Fourth, the advance booking report for nine Amtrak trains illustrates that demand on the five trains eliminated even under the compromise proposal is greater as a percentage than those proposed to be served under the compromise. Simply put, the compromise proposal will still eliminate five major trains running at or near capacity and based on the advance booking reports, these trains will continue to operate at or near capacity. Let me read from the advance booking report. Here are five of the proposed discontinued routes:

The Floridian: The advance booking for the next 2 weeks, or the 2 weeks following July 22, is 77 percent. For the 6 weeks following that date, it is booked 61 percent. For the 13 weeks after that date, it is booked 36 percent. It is interesting to note that that advance booking may well be ahead of any advanced booking for comparable airline service between those points which are served by this train.

The National Limited is another one that is to be executed and deleted by the compromise that is before us now. The National Limited has an advance booking for the next 2 weeks following July 22 of 85 percent of full capacity; 6 weeks from that date, 72 percent of full capacity, and 13 weeks from that date, 42 percent.

The Lone Star, another one to be executed under the terms of the proposal before us, had advanced booking of 86 percent for the 2 weeks following July 22. Sixty-six percent of total capacity is already reserved for the 6 weeks following July 22, and 42 percent for the 13 weeks following that date.

The North Coast Hiawatha—and that one really hits home with me, because it winds its way from Chicago, the Twin Cities, through North Dakota and Montana, and across the tip of Idaho, and out to the coast in Washington—is 96 percent filled for the 2 weeks following July 22; 88 percent filled for the 6 weeks following that date, and 52 percent already booked up for the 13 weeks following that date. Even Northwest Airlines cannot match that in percentage of reservations for those periods of time.

Finally, two trains in the South, the Champion and the Silver Meteor, also are showing such advance booking as has been described adequately previously by the Senator from South Carolina (Mr. THURMOND), so I will not repeat how they are involved.

Mr. President, I now yield to the Senator from Idaho.

THE MORATORIUM

Mr. CHURCH. This amendment is the so-called freeze or moratorium amendment. When the Department of Transportation released its recommended route plan, many of us in the Senate were deeply troubled by the direction this plan would have taken.

First, the proposal called for a drastic slashing of service on the Amtrak system. Approximately 43 percent of the route miles were to be cut. Many of our major cities were to be without rail passenger service. Even more shocking was that this proposal reached the Congress during a time when our Nation was entering an era of spiraling gasoline prices and chronic fuel shortages.

One of the first of my colleagues to recognize the shortsighted nature of the DOT proposal was the distinguished Senator from New Mexico (Mr. SCHMITT). I was pleased to join with him in supporting his efforts within the Commerce Committee to air the weaknesses of this misguided route plan. Attempts to obtain a resolution of disapproval nearly succeeded and my colleague from New Mexico is to be congratulated for his persistence in the committee.

Mr. President, when this bill was reported 3 months ago, we were faced with a drastic reduction in rail passenger service just when our trains were becoming more important. Across the land, Amtrak trains were experiencing an explosion in ridership. People needed the trains. Virtually every route witnessed a surge in ridership. I believed then, and I believe now, that we need these trains.

While gasoline lines have eased recently, we still face a very uncertain supply in the future. I know of no one who believes that gasoline prices are going to level off any time soon. All of these factors make the retention of the current system sensible.

In response to that situation, I offered this moratorium amendment. Senator SCHMITT and 18 of our colleagues joined as cosponsors. The moratorium is designed to retain the current system for an additional year while the route structure is restudied in light of the boom in train ridership and our bleak petroleum supply outlook.

Mr. President, it has been gratifying to see the response to this amendment. Senior citizens, working men and women, and a broad range of organizations and individuals rallied behind this effort to reverse the major cut in rail passenger service that was pending. As my colleagues know, Representatives GORE and FOWLER offered this amendment last week in the House and made a powerful argument for it. The House, however, narrowly rejected this approach. Yet it is to be noted that the effect of the "freeze amendment" led to a House-passed bill which would result in a 20 percent route reduction instead of the proposed 43 percent cut. The Senate substitute, as now modified by inclusion of another amendment of mine, would result in a 19 percent reduction. Moreover, the funding and formula for joint State-federally supported trains has been improved and additional capital has been added to the bill.

Mr. President, I wish it were possible to retain every train we now have operating on the Amtrak system. However, the House has rejected the freeze, while the Commerce Committee and the administration have agreed to restore about two-thirds of the routes that had been scheduled for termination. The Congress has until October 1 to resolve this issue before the 43-percent cut plan would come into effect. I am aware that the response shown by the committee to the concerns raised by those of us who have advocated continuation of the complete system has lessened the necessity for and the prospects of approval of this amendment.

Nevertheless, I commend the able Senator from Montana (Mr. MELCHER) for pressing the moratorium to a vote and assure him of my full support.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. MELCHER. I yield.

Mr. MAGNUSON. Mr. President, I have struggled with this Amtrak matter for some time, and I temporarily agreed in the Commerce Committee that possibly we should not ask for a freeze of the whole system but that we should make some compromises as proposed by the Senator from Idaho. However, that was some time ago.

As a matter of fact, the Department of Transportation started this study more than a year ago, I believe, and had no idea of the gas shortage at that time. Conditions have changed.

The Hiawatha, of course, is a train that comes into Seattle. Although we fare well in the compromise, I am constrained to vote for this amendment, because I did not realize that the bookings on the Hiawatha were as high as they are, until the Senator from Montana called it to my attention. Therefore, I am going to vote for the amendment.

Mr. MELCHER. I thank the Senator, and I yield to the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I agree with Senator MAGNUSON that things have changed, and we are adding a few trains.

I again appeal to those Senators who originally supported the position of the administration to make effective cuts in the Amtrak program to consider this moratorium in the light of being able to address effectively a transportation system, which I do not think we will be able to do for at least another year, and probably 2, if we do not keep in place the present structure and give it time.

Then, next year, with the changes that have occured in administration, in ridership, in energy, and in the continual flux we are meeting in this problem, perhaps we can come up with something more than the mandate approach we have taken.

Mr. MELCHER. Mr. President, I ask unanimous consent that the name of the Senator from Minnesota (Mr. DURENBERGER) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, those who are supporting the compromise cannot be guaranteed that trains will remain in the system. Under the quadrant approach, the Lone Star and the Inter-American will be pitted against each other. Guarantees aside, the advance booking report illustrates that those who are supposedly assured that their train will stay in operation may face court action from the States left out if the criteria for those States left out is better. Consequently, those who are supporting the compromise thinking that the trains are in may have an unpleasant surprise.

Also, Mr. President, I have the most recent consist figures for the five routes to be cut under the compromise.

I ask unanimous consent that this information be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

	Normal assignment per April consist book coach seats only	Actual for July 22–28
Trains to be cut:		
North Coast Hiawatha	222	190, 206, 212, 200.
Lone Star (Houston)	140	145 on July 23–24.
National Ltd	240	324, 240.
Floridian	192	220, 192, 254, 208.
Silver Meteor	284	288, 290.
Champion	284	282, 338.
Trains to be saved:		
Southwest Ltd. (No. 3)	280	352 Su–F; 328 Sa.
San Francisco Zephyr (No. 5).	178	248, 260, 234, 262, 238, 238, 244.
Coast Starlight (No. 11)	378	406, 434, 408, 478, 408, 438, 402.
Panama Ltd. (No. 59)	352	377, 485, 369, 401, 431, 444, 549.
Montrealer (No. 61):		
Monday–Thursday	208	392, 288, 222, 308.
Friday–Sunday	268	344, 428, 512.

Mr. MELCHER. Mr. President, this information clearly proves that the trains proposed to be cut are running at their near-capacity levels. I wish to read from a summary of these figures.

As to the trains to be cut listed, first of all, the North Coast Hiawatha, the April consist book seats only 222 and the actual for July 22 to 28 for those 4 days is 109, 206, 212, and 200. So there were a few seats left available on the North Coast Hiawatha during that time.

I am citing these figures because they are like last week and I think it is important to know how much these trains are being used now.

For the Lone Star, with 140, which is a normal assignment, that was listed per April on the consist book 140. There are actually 145 seats used between July 23 and July 24. Those were the only 2 days we could get on that particular train.

For the National Limited April on the consist book there are supposed to be 240 seats available, but that figure ran 324, way above the consist and then 240 right at the consist level; for the Floridian 192 which is supposed to be the seats available as listed as of April, but in these days of July it was listed as actually having passengers amounting to 220, 192, 250, 208, and only one of those days was it actually running at the proposed full capacity. The other days there were additional tickets sold and people riding the train.

The Silver Meteor and the Champion have like figures, and I think this points out that these trains indeed are running very, very close to capacity.

Mr. President, there are other factors that need to be considered. Do we really want more people forced back on our Nation's highways at a time when we all know how much of an impact the importation of foreign petroleum has had on our dollar and the economy in general? But there are other costs on turning the public back on the highways. The Office of Technology Assessment in a recent report found that automobile accidents during 1975 cost this country $75 billion, composed of $37.6 billion in car repairs, $13.3 billion in lives, if the value of human life can be enumerated, $6.1 billion in injuries, and $18.2 billion in other property damage.

No one died as a result of an Amtrak accident during 1977 or 1978. We did lose 97,880 lives on our highways.

I think those figures would be a useless statistic if people were not using the trains.

I am delighted to yield the floor to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I support the amendment proposed by the Senator from Montana and I would like to join him as a cosponsor.

There is one important point that has not been mentioned here. That is weather conditions across the northern part of the United States. There are days in almost every winter when because of weather conditions, blizzards, etc., there is no airline service at all and even the buses cannot run. The trains then are the only means of transportation we have sometimes for days at a time.

I mention that one extra need for passenger service in that part of the United States. I think it is very important.

Mr. MELCHER. I thank the Senator from North Dakota for making that very pertinent observation because it indeed is a problem that we share in the northern tier States in the winter belt of having availability of passenger train service when nothing else can move, including the airlines. It is very helpful to us.

I yield to the Senator from Florida.

Mr. STONE. I thank the Senator.

Mr. President, as the author of a resolution disapproving the Department of Transportation's plan for "restructuring" Amtrak and a cosponsor of the Church amendment proposing a 1-year moratorium on any cuts in Amtrak service, I am both happy for my many colleagues who will benefit from the Senate compromise and dismayed that my own State of Florida has profitted so little from the private negotiations.

What we have in the compromise is the temporary restoration of almost the entire Amtrak system. While DOT and others would stress that no one can predict which trains will be kept because that will depend on ridership statistics not yet available, we all know that private assurances have been made to various Members of Congress and the list of trains to be eliminated has been circulated widely.

It seems rather ridiculous that the Senate is now down to squabbling about the retention of a handful of trains. The fact that so few trains are still in danger and that the statistics on most of those trains compare very favorably with trains kept in the compromise, makes a 1-year moratorium on route cuts seem like the sensible course.

With most of the Amtrak system being retained, you can imagine that many Floridians are not pleased to see 50 percent of their rail passenger service being threatened. There are trains being retained in the compromise that cannot compare with the New York-to-Florida trains in terms of ridership, and if Amtrak were required to apply the proposed criteria in such a way that the trains with the best statistics would have to be retained over trains with worse statistics, both New York-to-Florida trains (the Champion and the Silver Meteor) would have to be retained. However, because there is only so much money in the pot and other Members whose trains do not rank as high might lose their trains, only one of the New York-to-Florida trains will be kept in the compromise.

I can appreciate the sentiments of other Members who do not want to lose their train at the expense of a train which goes to my State (even if the latter has a better passenger mile to train mile ratio and a lower avoidable loss per passenger mile). And I am sure they can appreciate my feelings. Let us be candid. If we are going to fund trains that are not yet doing as well as we would like, let us not do it at the expense of better trains in the system.

I do not particularly want to take on the majority leader over the Cardinal, or the New England Senators over the Montrealer, or the Senator from Idaho over the Pioneer, because I think there may be very valid reasons to keep those trains. But if those trains were required to met the same criteria the New York to Florida trains had to meet, they would be eliminated in October.

I think rail passenger service has a future in this country if we are willing to make the investment.

Maybe some routes do need restructuring. Certainly the Floridian (which I might note had an increase in ridership of 52 percent this April over April of 1978) needs to be rerouted. The Amtrak board of directors agrees with this. But given the contradictory assertions over energy efficiency, the great demand for rail service in recent months and the obvious reluctance in Congress to jettison a national rail passenger network, would it not be better to postpone any curtailments in Amtrak service until we have an opportunity to assess our energy-related transportation needs and this year's ridership increases?

I think so and I hope that a majority of my colleagues will agree, even if their particular concerns have been taken care of by the compromise proposal.

Mr. President, in a recent editorial in the Washington Star a few days ago appears this accurate analysis of the situation we are in at this moment:

AMTRAK: WHEN LESS IS LESS

The House had a better idea, rejecting by a resounding 397–18 vote the Carter administration's proposal for radical surgery on Amtrak. It would have been even better had the House approved an amendment for a year-long moratorium on any Amtrak amputations. That notion was defeated by only 17 votes.

There is a second chance. A moratorium amendment, by Sen. Frank Church, D-Idaho, is expected to be before the Senate in a few days when the Amtrak authorization bill comes to the floor.

As the gasoline lines dismally bloomed in the spring, the administration moderated the extent it wanted to lop off Amtrak segments. But President Carter still threatens to veto a bill that would retain Amtrak's status quo for a year—a short-sighted way to run a railroad. Indeed, the administration's disdain of rail-passenger service as a centerpiece of energy mobilization is inexplicable.

The original proposal by the Department of Transportation would have slashed Amtrak's route structure by 43 percent, from a 27,500-mile system to about 15,000 miles. The administration's plan was like the punchline to an old joke: You can't get there from here. The House-approved bill would retain a 22,000-mile operation.

The past few months have dramatically supported the arguments for a rejuvenated passenger-rail system. The gasoline shortage caused multitudes of travelers to remember the railroad and Amtrak's business boomed; in May, the last month for which figures are available, Amtrak had to turn away more than 750,000 prospective passengers. But Amtrak's ridership already had been increasing over the past few years, despite antique rolling stock, decrepit facilities and deteriorated roadbeds.

There is a problem of perception here, a rather critical one: Whether the eruption of rail passenger demand is temporary or a reasonable indicator that Americans are becoming convinced the energy crisis is real, severe and continuing. We think it is the latter.

The case for retaining—indeed undertaking a long-term expansion—of passenger rail service seems to us overwhelming. By every criterion railroads justify themselves as a re-integrated part of a balanced national transportation system.

Those reluctant to see the nation commit itself to a robust rail system contend that Amtrak has not been cost-efficient and cannot be as the 27,500-mile system is constituted. One of the familiar melodies has been that on particular Amtrak routes it would be cheaper to buy every passenger a first-class plane ticket to his destination and give him a chunk of cash to spend when he gets there.

The argument is wobbly. After all, other forms of public transportation are significantly subsidized—cars and trucks on the interstate highways, air travel to an enormous degree. The public bill last year for transportation subsidy was $14 billion: Of that, a mere 5 percent went to railroads. Which might be called the moral equivalent of indifference.

The House bill is a decent effort to stimulate Amtrak's vital signs. It would authorize $2.7 billion over the next three years, including more money to buy desperately needed equipment. The bill would generally favor short-haul routes; a number of longer-distance trains would almost certainly be dropped under a passenger "per mile-per train" formula—a formula which begs a number of questions. The House also dictated that there be a "regional balance" in Amtrak operations.

The defeated House amendment, offered by Reps. Albert A. Gore Jr., D-Tenn., and Wyche Fowler, D-Ga., and Senator Church's pending proposal, would provide time for more precise study and thought about Amtrak. Nothing would be forfeit by a year's pause, and we might avoid consigning a vital resource to a role far below its potential. This is not nostalgic or romantic.

There are awful problems in rehabilitating rail-passenger service. There may be irreparable losses in not making a full and ambitious effort.

Mr. President, the Florida Times-Union published an editorial recently, the headline of which states "It's no time to cut Amtrak as riders are turned away." It then cites two Florida trains in only 1 week, a week for which recent figures are available, the Silver Meteor, which carried 5,443 passengers the 3d week in May compared to 4,897 the same week the previous year, and the Champion which a year earlier of that week carried 3,503 and it rose to 4,077 passengers.

I myself rode one of the Florida trains a few weeks ago. It was at capacity. I wished to have a few reporters travel with me to observe the conditions of ridership, and I had to negotiate for as many as four reservations on that trip. The train was full. It was full leaving Florida, not just coming to Florida.

Mr. President, we need all of these trains to be looked at for another year in the light of the gasoline crunch, the lines at the gas pumps, and the very real threat that those lines will be repeated.

It seems ridiculous that the Senate is now down to scrapping about the retention of a handful of trains.

May I point out that a number of the trains being kept under the so-called compromise, which is better than nothing, but a number of those trains being kept would not measure up in ridership to a number of the trains—notably those going to Florida from New York—which are up for the ax. That is wrong. It is not fair. And we should be candid with each other.

I do not wish to cancel some of these trains at the expense of Florida trains. I wish to have these trains analyzed in the light of the current circumstances which were far different than the circumstances under which the Department of Transportation promulgated its formula and against which this compromise now in the bill had to be negotiated.

So I support the pending amendment.

Mr. President, I ask unanimous consent to print in the RECORD an editorial of Monday, July 2, 1979, from the Florida Times-Union entitled "It's No Time To Cut Amtrak As Riders Are Turned Away"; an editorial of Monday, February 5, 1979, from radio station WIOD in Miami; and an editorial of Thursday, June 14, 1979, from television station WTVJ in Miami to the same effect.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Florida Times-Union, July 2, 1979]

IT'S NO TIME TO CUT AMTRAK AS RIDERS ARE TURNED AWAY

The U.S. Department of Transportation's second thoughts—about cutting two Amtrak New York-to-Florida routes (both of which pass through Jacksonville)—are sound thoughts.

The two trains are the Silver Meteor, which carried 5,443 passengers the third week in May compared to 4,897 the same week the previous year; and the Champion, which rose from 3,503 to 4,077 passengers in the same period.

These aren't the only encouraging Amtrak statistics. Some others:

Last May there were only 1.7 million calls to Amtrak's five central reservations offices; this May there were 6.8 million calls. So many, in fact, that 4.8 million callers got a busy signal (compared to only 92,000 the previous May).

The Chicago Amtrak station recorded a travel increase this past Memorial Day weekend of more than 40 percent compared to the same holiday last year.

Ridership on the six daily Amtrak trains between San Diego and Los Angeles has increased by more than 40 percent since April of last year.

Overall nationally, reservations this May were up more than 72 percent over last May.

In dollar volume, the May '79 income jumped to $33 million from only $19 million the previous May.

And all of the above happened even though Amtrak had to turn away more than three quarters of a million would-be passengers (756,246 to be exact) during that month.

It seems apparent that the worsening gasoline shortage and soaring prices have spurred use of Amtrak—and much more of the same, not less of it, appears ahead in the future.

The second thoughts that DOT is having should be shared by Congress, which has the final word on such matters.

The Carter administration's plan to cut 11,800 miles of Amtrak's 27,500 miles of routes by this Oct. 1 could hardly have been more poorly timed.

Indeed—if it has not happened already—surely the White House too will start to have some second thoughts.

Thirty-five years ago about 75 percent of all inter-city travel was by train.

Today it's less than three-tenths of one percent.

Conditions today are not (at least yet) like those of the railroad's passenger peak during World War II with tight gas rationing. (Remember the standing space only with "Is this trip necessary?" signs posted everywhere?)

But the fact that gasoline supply is inevitably going to be tighter in the future surely indicates that it is, if anything, a time to expand—not contract—Amtrak routes.

WIOD EDITORIAL

Passenger train service in this country has been cut to the bone already. But Transportation Secretary Brock Adams wants to wipe out nearly half of what we have left, claiming it would save over a billion dollars in five years. Now, we have always been in favor of cuts in government spending and tax savings. However, the Amtrak plan is short-sighted. The same government that proposes side-tracking our trains is trying its best to force us from using our cars. How are we supposed to get around? With gasoline climbing toward a dollar a gallon—and expected to keep climbing—we are going to need passenger trains, or else stay at home. We've sunk millions of dollars into foreign aid and what has it done for us? It hasn't bought us many friends. We'd much rather see these millions spent on the railroads than some ungrateful foreign country. We're going to need a good rail system in the not-too distant future. Perhaps we should seek aid from our European allies or Japan. Maybe they can help us for a change. They all have crack railroads. And, one thing is certain . . . we don't know how to run a railroad.

[From TV Station WTVJ, June 14, 1979]

MIAMI NEEDS ITS THREE AMTRAK TRAINS

When you can't go by car . . . there is always the plane, the bus and the train.

Persons who normally get into the family car for the drive to Florida are rightfully nervous about running into a lack of gasoline en route.

So it's no surprise that Greyhound reports a 25% increase in bus passengers in this area since the gas crunch hit.

The company is being pressed to put more buses into service as is its competitor . . . Trailways.

The airlines also report a passenger increase in and out of Miami-Fort Lauderdale.

But an equal winner in all of this is Amtrak. The demand for tickets on the three trains serving Miami has caused a passenger volume of 89% of capacity.

Across the nation last month Amtrak was forced to turn away some three-quarters-of-a-million people who wanted to buy tickets. There just wasn't space available on the 28,000-mile Amtrak system.

But, come October first, Amtrak plans to cut back 12,000 miles of track. Two of the three trains to and from Miami would be eliminated.

The Floridian . . . serving Chicago and the Silver Meteor to New York would go . . . leaving only the Silver Star to New York.

A year ago those three trains were operating half empty. Now the Floridian is at 89% of capacity . . . the Star is at 85%.

The government got into the railroad passenger business in an effort to provide a meaningful nationwide rail service for the public. Now that the public needs such service . . . Amtrak should revise its cutback order.

Miami is showing that it needs and can support three trains. Let them continue to operate!

Mr. STONE. Mr. President, I ask Senators to reconsider this and let us support this amendment and look at these trains during this year in the light of the ridership, the current ridership, and above all uniform standards for the trains to be canceled as compared with the trains retained.

The PRESIDING OFFICER (Mr. TSONGAS). Who yields time?

Mr. MELCHER. Mr. President, I reserve the remainder of my time.

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. How much time is remaining, Mr. President, on this amendment?

The PRESIDING OFFICER. The Senator has 5 minutes remaining. The Senator from Montana has 13 minutes.

Mr. DANFORTH. How much time do I have?

The PRESIDING OFFICER. Whether or not the Senator has time on the amendment will be determined by whether the Senator from Nevada is opposing the amendment.

The Chair will also advise the Senator he has 50 minutes on the bill.

Mr. DANFORTH. Fifteen?

The PRESIDING OFFICER. Fifty.

Mr. DANFORTH. All right. Supposing the Senator from Nevada is opposed to the amendment. How much time would I have in opposition to the amendment?

The PRESIDING OFFICER. Only the time you have on the bill.

Mr. CANNON. I yield myself 5 minutes on the bill.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. I want to get the attention of some of my distinguished colleagues who have just spoken, particularly the Senator from Florida, who is the latest to speak, and who pointed out that in Florida they were very disturbed about these trains being discontinued.

I can well image they might be. I can tell you why, because the taxpayers subsidized the Champion to the extent of $109.57 per passenger so far this year.

The taxpayers subsidized the Floridian to the tune of $140.39 per passenger so far this year. That is one way, Mr. President, so I do not think it is reasonable to come here and say, "We would like to have this train continued because it is having such great ridership."

Yes, the ridership has increased, but that is the loss per passenger so far this year on those two trains.

Mr. STONE. Mr. President, will the Senator yield for a question?

Mr. CANNON. I will yield on the Senator's time.

Mr. STONE. I just have one question.

The PRESIDING OFFICER. The Senator from Florida has no time unless it is yielded to him.

Mr. MELCHER. Mr. President, at this time I ask for additional time from the managers of the bill so that we can have an adequate debate on this subject. I ask for another 10 minutes on the bill.

Mr. CANNON. I only have 25 minutes left myself. The other side has 50 minutes.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the time be extended 10 more minutes.

The PRESIDING OFFICER. Is there objection to 10 more minutes?

Mr. DANFORTH. Mr. President, reserving the right to object, where will the 10 minutes come from?

The PRESIDING OFFICER. It would be in addition to.

Mr. DANFORTH. In addition to the time on the bill?

Mr. LEAHY. Evenly divided?

Mr. DANFORTH. Further reserving the right to object, Mr. President, would that be evenly divided?

The PRESIDING OFFICER. It has not been so requested, the Chair will advise.

Mr. MAGNUSON. Mr. President, I ask that the time be extended 20 minutes, 10 minutes on each side to be equally divided.

The PRESIDING OFFICER. Is there objection to the request, 20 minutes, 10 on each side? If not, it is so ordered.

Who yields time?

Mr. MELCHER. I yield to the Senator from Florida as much time as he will require.

Mr. STONE. I thank the Senator.

I ask the Senator, Is it not the case that the Floridian, the most berated of all the trains, and one to be canceled, rose in ridership 19.6 percent during the last fiscal year? And is it not the case that the New York-to-Florida trains, all three New York-to-Florida trains, rose from 381,777 passengers to 426,700 passengers, an increase of 21.2 percent in ridership? And is it not the fact that all the riders on the long-distance trains are subsidized by the taxpayers?

And is it not the fact that if you do not want ridership because it costs the taxpayers money then why have any trains, particularly long-distance trains? And why have a new train through the Senator's home State?

Mr. CANNON. The Senator has asked me so many questions, I will make an attempt to answer them en bloc, if I may.

First, the ridership has increased somewhat, and it has on all of the trains. But a 100-percent increase of 1 is the figure of 2, so you have to look at the figure you start with.

These starting figures, the Senator's percentage of ridership, are very low on those trains. As a matter of fact, if they were high they would not be excluded under the criteria test that the Secretary has established. The trains can be continued if they can be justified, and they will be——

Mr. STONE. Senator, is it not true——

Mr. CANNON. Does the Senator want me to answer the question?

Mr. STONE. Yes.

Mr. CANNON. They will be continued if they can be justified.

The Secretary and Mr. Boyd have set forth the criteria that would apply to continuing the ridership on these trains. Some of them may be able to meet that. If they are able to meet the criteria they will be continued. If they do not meet the criteria they will be discontinued and let off, and we will be reducing that subsidy, as I said in the case of the Floridian, by the sum of $140 per passenger.

The Floridian, which runs from Chicago to Florida, according to the Department of Transportation, lost over $25 million in 1978. Its revenues were less than $4 million, and it could only achieve 60 passenger-miles per train-mile.

Mr. STONE. How about the New York trains, Senator?

Mr. CANNON. The figure today on the Floridian—the Floridian now has increased very substantially, it is up to 100 passenger-miles per train-mile, but far, far below the criteria for continuing the train.

Mr. STONE. How about the New York-to-Florida trains, one of which is up to be canceled. compared to the trains to the West which are to be retained under the so-called compromise?

Mr. CANNON. Well, the New York-to-Florida train, the Silver Star, is to be continued. It has a passenger-mile per train-mile of 263.6, which is more than double that of the Floridian to which I just referred. It is more than double. It is almost three times.

Mr. STONE. How about the other New York to Florida trains?

Mr. CANNON. Give me the names of them.

Mr. STONE. The Silver Meteor, and the Champion.

Mr. CANNON. The Silver Meteor——

Mr. MELCHER. Mr. President, will the Senator yield while he is looking it up? Might I just say that none of these criteria are objective. They are weighted against these very trains that are going to be lopped off, and that is why the amendment contains a requirement that during the year of moratorium the GAO will look at this whole thing and establish some criteria that make sense for the traveling public and is in the best interests of the country.

Mr. STONE. I could not agree more that what we need are objective criteria after all, and if the train, the Floridian, cannot cut it at the end of the year, off it goes. But for us in Florida to be cut while other trains with worse ridership and worse figures will be retained, that is not fair.

Mr. CANNON. Well, the point I think the Senator should recognize is that two of the three Florida trains would remain. One train would go out. I cannot tell you which one of those three. It would be the one with the lowest criterion.

Mr. STONE. That is the problem, Senator. If all three New York to Florida trains have better ridership and better figures than any of the trains to be retained, it is not fair. I will live with a cancellation of a Florida train which is not as good as the trains being retained. But I do not think it is right for any of the Florida trains to be canceled when any of the other trains with worse ridership and worse figures are to be kept, and that is the point of the 1-year period of the Senator from Montana, which will allow us to find out objectively which are the political trains.

I say a train is a political train if it is retained, when the figures are worse than a train canceled whose figures are better. That is a political train.

Mr. CANNON. Well, the Senator is not correct in his facts in the first instance. Second, the criteria are developed fairly; and, third, let me tell you what alternatives are, and I hope everyone will listen to this. Here are the alternatives. If you freeze this system in place this year, the President will veto the legislation. That means—and if you have any doubt about that we have been told that by the prior Secretary of Transportation—and I have a letter here from the present Acting Secretary of Transportation.

Mr. MELCHER. Mr. President——

Mr. CANNON. I have the floor, Mr. President. I have here a letter from the Acting Secretary of Transportation.

The PRESIDING OFFICER. The Senator from Montana's time is being used.

Mr. MELCHER. Mr. President, I just ask that the time the Senator from Nevada is using be charged against him. I would like to have it half and half on this colloquy, and I know the Senator from Nevada wants it that way.

Mr. CANNON. I thought that was charged to me. I yield myself 2 minutes on this point. Here is a letter from Graham Claytor, who is the Acting Secretary of Transportation, who says:

I must reiterate the position taken by Secretary Adams on the freeze. If Congress passes legislation freezing the existing Amtrak route system, I will recommend to the President that he veto the legislation containing the freeze.

I believe that there is no basis to add trains unless sustained ridership growth provides the sound economics to do so. If we are forced into a veto situation and into a continuing resolution, Senators should know that we will have to operate a much smaller Amtrak system than reflected in either H.R. 3996 or S. 712.

I ask unanimous consent that Secretary Claytor's full letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C.

DEAR SENATOR CANNON: As interim sucessor to my friend, Brock Adams, I would like to reaffirm the position of the Department of Transportation and the Administration opposing any attempt to freeze the present Amtrak route structure. Instead, we support the substance of H.R. 3996, as amended and passed by the House of Representatives. This would maintain the basic route structure proposed by the Administration with additional supplemental routes which meet ridership (based on 150 passenger miles per train mile) and cost criteria (based on a short term avoidable loss per passenger mile of 7¢ projected to fiscal year 1980), and would ensure in addition a long-distance train in each of the nation's quadrants. The Amtrak Board would be responsible for the selection of routes based on criteria contained in the legislation.

I believe that any amendment, such as that proposed to the pending Amtrak bill, S. 712, to freeze the existing system would do a great disservice to rail passenger service in this country. It would force Amtrak to operate its entire present route system with its insufficient equipment, perpetuating the past unacceptable level of Amtrak performance. It would require the expenditure of substantial sums on routes which cannot be justified either economically or on the basis of energy efficiency. Good Amtrak routes would suffer, and the entire Amtrak system would appear as inefficient as in the past.

Accordingly, while we have reservations about several provisions in the bill as adopted by the House that we have reviewed with the Commerce Committee staff, including particularly Section 105 which provides that Amtrak's debt held by the Federal Financing Bank be eliminated in return for the issuance of preferred stock, I want to emphasize that the Department and the Administration endorse this middle ground position of maintaining those trains that have a real potential for saving energy for this country. I urge your support for this approach.

I must reiterate the position taken by Secretary Adams on the freeze. If Congress passes legislation freezing the existing Amtrak route system, I will recommend to the President that he veto the legislation containing the freeze. I believe that there is no basis to add trains unless sustained ridership growth provides a sound economic base to do so. If we are forced into a veto situation, and into a continuing resolution, it should be recognized that we may well end up with a much smaller Amtrak system than reflected in either H.R. 3996 or S. 712.

As you may know, I have something of a reputation as a passenger train buff. I also have the responsibility for avoiding waste of the taxpayers' money. I feel very strongly that the proposal summarized above would be in the public interest as well as in the interest of passenger train users throughout the country. I am personally interested in doing everything possible to improve the quality of our passenger train service, and believe this approach will be most effective in accomplishing this goal.

I urge that we move forward as rapidly as possible due to Amtrak's real need to implement the new system by the beginning of fiscal year, October 1. Amtrak requires sufficient time to prepare for its implementation.

Sincerely,
W. GRAHAM CLAYTOR,
(*Acting*) *Secretary.*

Mr. STONE. Mr. President, there was an amendment offered, and it was not accepted——

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Mr. President, I yield to the Senator from Florida.

Mr. STONE. I thank the Senator from Montana. There was an amendment offered on the House side and rejected, and I would ask whether the managers of this bill would be willing to accept it in order to demonstrate that we are using objective criteria.

That is, that if there is a shortfall and it is necessary to cancel trains, the way you will cancel trains will be that the route which has the lowest avoidable short-term loss per passenger mile and the highest passenger total per train mile would be retained. If we do it that way, and it proves that the train to our areas are canceled, we can say, "OK, it just did not cut it," but we would not have to worry about retention of trains to areas that are the areas most needing to be served, if our areas are canceled.

Several Senators addressed the Chair.

Mr. MELCHER. Mr. President, I have the floor. I yielded to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Montana has the floor.

Mr. MELCHER. I will only take 1 minute, Mr. President, just to say that the letter that has been read was written by the Acting Secretary of Transportation, who would recommend a veto.

I do not know how heavy that recommendation is, but if the Acting Secretary of Transportation can speak for the administration as of next week, the week after, or next month, whenever this bill happens to hit the President's desk, I would be surprised, because the continuation of these advance bookings which we have already shown on these routes is up to 50 percent 13 weeks from now, and up to 79 and 80 percent 6 weeks from now, in advance bookings.

I would think that the President is going to look at those figures and be delighted that we have given him an opportunity to make a worthwhile move to help in the energy crisis.

Mr. STONE. Mr. President, will the Senator yield for a question?

Mr. MELCHER. I am delighted to yield.

Mr. STONE. I have in front of me the advance booking report as of July 2, 1979, and for the 2-week period, would the Senator believe this figure: For the Champion, which is one of those trains that might be canceled, there is an increase in advance bookings of 94 percent; for the Super Meteor, which might be canceled, there is an increase in advance bookings—these are Amtrak figures—of 95 percent.

I just have a hunch that the advance bookings on some of the western trains—I will not read the names of the trains, but which will be retained—the advance bookings increased 40 percent in one instance; the advance bookings increased 50 percent for that great train that will be retained going to our northern neighbor. For another train which is to be retained, 59 percent.

All I can say, Senator, is that if those figures are correct—and they come from Amtrak—the trains that are getting the greatest increase are the ones that are up for cancellation, and the trains which are going along with some modest increase will be retained.

Mr. MELCHER. Mr. President, I ask unanimous consent that the names of Senators YOUNG and NELSON be added as cosponsors, and I reserve the remainder of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I yield myself an additional 2 minutes.

Reservations are one thing, and riders are another. Using the advance booking report has no relation to ridership, because it has relation to only one segment of the route. I will give you now some of the ridership on these routes, if I can find it.

Mr. MELCHER. Mr. President, if there is a lull here, I will read the figures.

Mr. CANNON. Why not do it on your time while I am trying to find it?

Mr. MELCHER. All right; I am delighted to do it. I have already cited some of them, but I want to talk about it. If the real criterion is how many people are on board, I think we are meeting that test.

We look at the Hiawatha, which, on July 7, on Saturday, left Chicago with 168 passengers out of a total capacity of 190, and on Monday, July 23, left with 129 occupied seats out of a total of 206. On Wednesday, July 25, 181 seats were full out of a total of 212, and last Saturday, 190 seats were full out of a total of 200.

Mr. President, I point out that those are people who came down to the train despite the fact that they could not get through on an 800 number, or any number, to find out whether they could get a reservation, and you have to have a reservation on that train; they fought the system that Amtrak has set up, and went down and got on. That is a pretty big obstacle. If they were running the business like they should, these people could call a number and find out whether they could get on it, and go down, get a ticket, and get on. We get letters in my office, as I suppose other Senators are, about how difficult it is to get a ride on Amtrak these days.

Mr. STONE. Mr. President, will the Senator yield

Mr. MELCHER. I yield to the Senator from Florida.

Mr. STONE. Is not the suggestion that every time there is a prospect of important trains showing increased ridership, the argument against them is that it costs taxpayer money every time you have a passenger? If that is the case, why have any train system at all?

Mr. MELCHER. I think that is exactly right, Mr. President. They want to get a ticket, they come down, there is some question about whether they can even get on, but they buy a ticket, and then the train goes out practically as full as you can get it.

People ought to pay their way when they buy a ticket. The real issue here is that gasoline prices are going up. They are going to continue to go up, at least the rest of this year, and because of that fact we are driving up the demand for the use of Amtrak. I think that is the real issue.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield myself 1 minute on the bill.

These questions about percentage of increase can be misleading. For example, here are figures on the Floridian, a train discussed a few minutes ago. In May 1978, it had an average ridership of 50.2. That is a 50-rider average on that train. Then in May 1979, this year, it had an average of 72 riders. That is an increase of 43.4 percent. But, Mr. President, that is a whole train. You have a train crew of about five men—changing crews, by the way, every 100 miles.

Mr. MELCHER. Mr. President, will the Senator repeat those figures?

Mr. LONG. These are figures I have here on ridership. The Floridian, 50.2 in May 1978, and in May this year, 1979, 72.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LONG. I yield myself 1 more minute.

A bus driver can drive lots of miles. The average teamster drives a truck 90,000 miles.

The average crew member on a railroad crew goes 1/6th that number, about 15,000 miles. They change crews about every 100 miles and put another crew on. It costs a great deal of money to do that. You have to pay for five of those guys, or four, in some cases, if you are lucky.

If that were a bus, it would not weigh one fraction what that pullman car weighs or what the coach car weighs, as the case may be, and you would have one driver drive the thing 300 or 400 miles. So here we are paying this money, we are paying three times the cost——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LONG. I yield myself 1 more minute. For every dollar these things take in it costs you about three. For each one of these trains, for each dollar you take in, it costs you $6. So here you have 99 people in the country paying the tab for one guy. The 99 who are paying, what are they doing? They are riding on the airplane or the bus, which are taxpaying organizations.

Mr. MELCHER. Will the Senator yield?

Mr. LONG. On the Senator's time.

Mr. MELCHER. Yes, on my time.

We have the figures under the coach seats that are listed in April, which are 192. Taking the last figures available, July 22–28, from Amtrak, they are 220, 192, 254, 208. Out of a system of 192, it is obvious they have not only increased the ridership over what it was previously, but they have increased the ridership over what were the total available seats in April. Who is paying the way? Those folks are paying the way and they are making a profit for Amtrak. It is absolutely unfair to be representing this as some sort of a drain on the Treasury when they are kicking money into the till which makes a profit for Amtrak. They are doing that, Mr. President, because gasoline prices have gone up and they want to ride Amtrak.

Mr. DANFORTH. Will the Senator yield?

Mr. LONG. I will yield in just a few minutes.

Mr. President, for April I am told the figure was 100, an average of 100, in April, for the Floridian. Mr. President, take 100. At best that is about two busloads. For two busloads, you put a driver on each bus, two people, and they will drive you a long way, just one driver on a bus. You put these trains out there and you have to put people inside the trains, the conductors and porters, and in addition to that you have to put a four- or five-man crew on that and change that crew every 100 miles or so. Compared to the number of miles an ordinary teamster takes a truck, it is a very low percentage of miles that you get for the crew.

When you are losing $6 for every $1 that comes in, or you are losing $3 for every $1 that comes in, 99 people are not using the service and paying taxes to support it for every one that is, there comes a limit as to how much imposition we ought to impose on the taxpayers. The rates on this thing should be increased, and, if so, you would not have as many people using it.

When we started out, we were losing about $40 million a year in operating subsidies for Amtrak, $40 million a year when they sold us this turkey. Now it is losing $600 million a year and scheduled to go up to $1 billion a year.

Mr. President, once this energy crisis subsides, there will be just a lot less people using those Amtrak trains than there are now. Right now when people cannot get gas, they will buy a ticket on the train when they would not otherwise buy one.

There is a limit as to how much imposition these people should make on the taxpayers.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LONG. I yield myself an additional 30 seconds. What is the answer the proponents of this amendment propose to give 99 percent of the taxpayers not riding on this thing, paying all this money in taxes for service they are not going to use? What do they propose to give them? Nothing, no relief at all. It all goes to the small number who are riding it. There comes a time when we ought to cut back on the imposition on the 99 percent of the people who are paying taxes to support something which is an overall money loser.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, the issue here is money. The issue here is how much can we put into Amtrak by way of subsidy. If we were to freeze the system as the Senator from Montana is suggesting in his amendment, the subsidy would be $702 million.

Mr. MELCHER. Will the Senator yield?

Mr. DANFORTH. Under the proposal of the Department of Transportation, the subsidy would be $550 million. Under the amendment offered by the Senator from Vermont, the subsidy would be about $605 million.

Mr. MELCHER. Will the Senator yield?

Mr. DANFORTH. Therefore, Mr. President, the difference between the amendment offered by the Senator from Vermont and the Senator from Montana is about $115 million. That is the issue that is before us right now.

Mr. MELCHER. Will the Senator yield?

Mr. DANFORTH. If the Senator from Montana will withhold, I would like to just make a few points. It will not take me very long. But I have been waiting to do it and I would appreciate the Senator's help.

The story of Amtrak's history, Mr. President, has been as follows:

In the first full year of operation Amtrak was subsidized in the amount of $153 million. At that time it was anticipated that the subsidy would not last forever, that eventually Amtrak would be a profitmaking system, or at the very least it would be able to hold its own, that it would be able to operate without further subsidy. But instead the fact is that the subsidies have been going up steadily since 1972. Whereas in 1972 the subsidy was at $153 million, the projected subsidy for 1979 is $670 million. Now we are talking about the difference between $600 million and $720 million in subsidy.

When the Department of Transportation made its proposal to cut back the rail system by 43 percent, I thought, despite the fact that I had a lot of criticism within my State, that that was a reasonable proposal. I thought that it was a reasonable proposal for the reason that it would have saved $170 million at a time when we have substantial deficits in the Federal budget. The aggregate deficit in the Federal budget from 1970 through 1978 was $413 billion. Therefore, it was my view, and the view of many other people, that this was an opportunity to save at least some money and still serve 91 percent of the passengers on Amtrak.

Forty-three percent of the track was to be cut but only 9 percent of the passengers were to be affected.

If Amtrak were to operate its present route system at full capacity, absolutely full capacity, what percent of intercity transportation would that cover? If every seat on Amtrak were full, on every route, every day, we are talking about 1.2 percent of intercity travelers. So the original proposal of the Department of Transportation would have cut nine-tenths of 1.2 percent of intercity transportation and would have saved $170 million doing that.

Politics and legislating are the business of compromise. I would have preferred to stay with the original proposal of the Department of Transportation, but there are others who feel differently. Therefore, I am willing to go along with the amendment offered by the Senator from Vermont, but I am not prepared to go any further than that.

The Amtrak system in 1978 was a system in which the passengers, the riders, paid only 37 percent of the cost of riding Amtrak. The taxpayers paid the additional 63 percent of the cost. And the subsidies——

Mr. MELCHER. Will the Senator yield on that?

Mr. DANFORTH. If I could pursue this line for just a minute, I would very much appreciate it.

The subsidies on the routes that have been terminated by the Department of Transportation have already been adequately covered by the Senator from Nevada. They are very, very substantial subsidies per passenger. When the taxpayer is paying up to $193 for a passenger, just to subsidize one passenger's transportation from Chicago to Florida, that is a very substantial subsidy.

The point is that, at a time when we have a 13.2 inflation rate, the time has come, I believe, to start taking a hard look at some of the frills in the Federal budget. These routes to be terminated have to be classified as frills.

The argument has been made, well, maybe the Department of Transportation had some logic behind it, just considering the use of the trains last winter. But it is a whole new ball game now, it is said. The rules have changed. We have an energy problem, it is said. We have gasoline lines and because of the gasoline lines, we are going to have more people riding Amtrak and Amtrak is going to start getting itself out of the hole.

Well, the response to that is, think, in several forms: First, last March, when the President of Amtrak testified before the Senate Committee on Commerce, he stated at that time that if Amtrak were running at 110 percent of capacity—that is, standing room only on every single train—it still could not cover its expenses. It still could not break even on the present system.

The second thing that should be said is that the projections that have been made as to increased ridership are projections which are made, really, on the basis of speculation, on the basis of advanced bookings and decisions as to who will be using those tickets several months down the road. They are speculations; they are projections made at a time, in May and June, when gasoline lines were especially long.

Now, then, the gasoline lines are no longer so long. As a matter of fact, the Secretary——

Mr. MELCHER. Will the Senator yield?

Mr. DANFORTH. If I can just finish this.

Mr. MELCHER. The Senator is making some errors.

The PRESIDING OFFICER. The Senator from Missouri has the time.

Mr. MELCHER. Will the Senator yield?

Mr. DANFORTH. The Secretary of Energy has stated as follows:

> Expectations are that July gasoline supplies will be somewhat higher than those for May and June. Current gasoline stock levels at 232.6 million barrels are in the normal range for this time of year and are, in fact, slightly above last year's inventory level for this date.

I do not want to try to persuade the Senate that we do not have an energy problem. We certainly do have an energy problem and it is going to come back. But to project ridership to say that the trains are suddenly going to be full and everybody is going to be using Amtrak, on the basis of 1 month's gasoline lines, I think, is an unreasonable projection.

Mr. STONE. Will the Senator yield?

Mr. DANFORTH. Finally, then I shall be happy to yield the floor, I say this: It is said that, at a time of energy crisis, people should be encouraged to use the trains because trains are energy-efficient. That is the argument that is made. For the Nation's good, it is said, we are going to have to put more people on railroad trains and somehow, this 1.2 percent of total intercity transportation, total intercity passengers, this 1.2 percent, if they are all riding the train, is supposed to help our energy situation.

But the facts are as follows: Trains, it turns out, are not so energy-efficient. As a matter of fact, assuming all seats are occupied, the Btu consumption per passenger mile on railroads is somewhat higher than in automobiles and is about three times higher than on buses. So, as a matter of fact, it turns out that trains are less energy-efficient than alternate modes of transportation.

In May of 1979, when the allegations began to be made that the energy crisis is starting a whole new ballgame with respect to Amtrak, at that time the Congressional Budget Office issued a report entitled "The Current and Future Savings of Energy Attributable to Amtrak." The report made conclusions on the basis of three assumptions. One was simply what it called the current situation; that is, the current energy crisis without any changes by Amtrak. The second set of assumptions was what would happen if Amtrak substantially invested in new equipment, as the Senator from Connecticut (Mr. WEICKER) has proposed in his amendment.

The third set of circumstances that was described by the Congressional Budget Office was assuming there is a major energy emergency in another part of the world, another Iran, then what would happen. I want to read some excerpts from this report. Under the current energy situation, the report concluded as follows, that even with the increased ridership and with an energy crisis, it said:

> Outside the Northeast Corridor, the nation would save energy if no rail service were operated. Amtrak outside the Northeast Corridor is less energy-efficient than the average auto. The energy losses from people who have switched to Amtrak from auto or bus are larger than the gains from those who switched from air.

Then it was asked, well, supposing there are substantial equipment improvements in Amtrak. The Congressional Budget Office concluded as follows:

> Trains could use considerably less energy per passenger-mile than at present if they made use of new, become more efficient equipment and were able to attract enough passengers to operate cars more nearly filled. By the time these improvements could be realized, however, autos will have become efficient in their use of fuel, partly in response to the fuel economy standards embodied in the Energy Policy and Conservation Act of 1975. Airlines will also be more fuel-efficient as they phase in new aircraft. Under optimistic assumptions about future improvements for rail relative to other modes—that is, assuming rail passengers per car improve by 25 percent but there is no change for other modes—rail is far less fuel-efficient than bus and far more fuel-efficient than air, both inside and outside the Northeast Corridor. Rail appears to be more fuel-efficient than the typical auto inside the Northeast Corridor, but not outside it.

We are talking here about proposed cuts only outside the Northeast Corridor, and according to this, even if there were a massive investment in new equipment, as the Senator from Connecticut has proposed, even under those circumstances, outside the Northeast Corridor, automobiles would be more fuel-efficient than the Amtrak train.

Finally, the report of the Congressional Budget Office addresses what would happen if there were an emergency, a real shutoff of energy supply. The report says as follows:

> If imports of petroleum were severely curtailed, tight restrictions could be placed on the amount of petroleum allocated to airlines and autos. Under these circumstances, both bus and rail could provide emergency transportation. In such a crisis situation, savings of petroleum are more important than savings of other forms of energy. Rail service in the Northeast is at an advantage in this regard since it runs chiefly on electricity, and electrification of additional track is planned for that region. Under assumptions that are very optimistic for rail service—namely, that the fuel efficiency of vehicles will increase by 20 percent and that trains will run absolutely full, including a large number of standing passengers—it appears that rail service in the Northeast Corridor can operate using only one-third as much petroleum per passenger-mile as buses. Even under these assumptions, rail service outside the corridor uses more than twice as much petroleum per passenger-mile as buses.

So, Mr. President, the problem with the Senator from Montana's amendment is that it costs the American Government money when we do not have money to spend and that it costs us fuel when we do not have fuel to waste.

Mr. President, I yield the floor.

Mr. MELCHER. Will the Senator yield on his own time for me to respond to a couple of the points?

The Senator has about 40 minutes remaining. We only have about 7 or 8 minutes remaining.

Mr. DANFORTH. Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator from Missouri has 33 minutes. The Senator from Montana has 9 minutes.

Mr. LONG. Mr. President, prior to that, we should permit the Senator from Maine to get his statement in. He is needed elsewhere. I will yield the Senator 1 minute.

Mr. MUSKIE. Mr. President, I have listened with a great deal of interest to the debate. I am sorry I could not get over earlier, but we are in the midst of budget markup.

I think it appropriate to point out that in that markup, on the basis of what Congress has done up to this point, our budget deficit is going to climb to $34 billion, probably close to $35 billion, by the end of the markup this week.

Here we are, adding, if we were to support the Melcher amendment, another $300 million a year in budget authority and $300 million in outlays to the transportation function, adding that much more to the deficit.

Mr. President, the Senate now has before it S. 712, the Amtrak Improvement Act of 1978. As reported this bill represents a sound approach to Amtrak. I want to compliment the Commerce Committee on the responsible approach it took toward a very difficult legislative problem. Under the leadership of its chairman, Senator CANNON, and the chairman of the Surface Transportation Subcommittee, Senator LONG, the Commerce Committee reported a bill I believe is deserving of the Senate's support. Unfortunately, there are floor amendments—that I will discuss later—which could transform the bill such that it would not be worthy of support.

Mr. President, as I understand it, S. 712 as reported basically supports the implementation of the Department of Transportation plan for restructuring Amtrak's routes and services. That DOT plan was requested by the Congress in 1978 after several years of frustration in trying to improve Amtrak's operating results and to control the level of Federal subsidies required by Amtrak. The DOT plan recommends a responsible reduction in Amtrak's route mileage through elimination of the least economic, least patronized routes.

The Commerce Committee modified some aspects of the DOT plan, primarily in recognizing problems in restructuring certain routes and in providing an expanded opportunity for State governments to support continuation of services they wished to see continued.

This resulted in an increase of $49 million in the amounts authorized in S. 712. These additional amounts were not assumed when the first budget resolution targets were approved by the Congress, but I accept the committee's judgment and I support that particular increase because it appears to still provide for a reasonable approach to the Amtrak situation.

I believe that all Senators share my desire for restraint in the growth of Federal spending, and that they also recognize the need to devote available resources to areas providing substantial public benefit. Therefore, if they will take a dispassionate view of the DOT restructuring proposal, I believe that they must agree that funding should be concentrated where rail service shows some evidence of being a reasonable transportation alternative, and not on routes that DOT has called hopeless.

Mr. President, I cannot support pouring ever-increasing Federal funds into services which meet no objective criteria. I note that Amtrak's revenue contribution toward operating costs has been falling since fiscal year 1973, and has now reach a ratio of approximately 1 to 3. That is, on the average, Amtrak collects only about $1 of revenue for each $3 of operating expenses which it incurs! And I would remind you that this is the average. The least economic routes, those which would be eliminated by the DOT plan, show considerably worse results than this system-wide average. Fortunately, S. 712 wisely includes a provision that seeks to improve Amtrak's ratio of revenue to operating expenses, and sets a goal of 1 to 2.

It is also worthwhile to consider Amtrak's overall cost levels that underlie these ratios. In fiscal year 1978, Amtrak's average cost of service came to 25.5 cents per revenue passenger mile, and the deficit or loss associated with that service was 16.5 cents per passenger mile. That means that Federal taxpayers provided Amtrak with operating subsidies of 16.5 cents for each mile travelled by each Amtrak passenger.

Mr. President, we have other modes of transportation that are willing and able to provide passenger service at considerably less cost, and to make a profit while doing so. For example, the airlines were able to make a handsome profit in 1978 while charging fares that averaged only 8.5 cents per passenger-mile. Another example is provided by the intercity bus industry, which consistently has been able to realize a profit, in spite of heavy Federal subsidies to one of its principal competitors, Amtrak, while charging fares equal to or slightly less than Amtrak.

Speaking of the intercity bus industry, it is worth a brief aside to note that the willingness of this industry to compete against a rival transportation mode that is being excessively and unfairly subsidized by the Federal Government is steadily evaporating. Therefore, I for one am certain that if we continue to subsidize Amtrak in an unreasonable and extravagant manner, then we can be sure that the intercity bus industry is going to demand and may eventually get similar subsidies. The effects on the Federal budget, of course, would be disastrous.

Mr. President, I would like to remind the Senate of the budgetary consequences for Federal subsidies to Amtrak that would be expected to result if we were to continue the Amtrak rail network as it exists today. According to estimates by the Congressional Budget Office, the additional subsidies required in order to continue to support Amtrak's current rail network would exceed congressionally-approved budget targets by up to $0.3 billion for fiscal year 1980, and by $1.4 to $1.7 billion over the next 5 years. Mr. President, the Congress has approved budgetary targets in the first budget resolution that assume restraint in the Amtrak deficit, and I believe that we should make a serious effort to stay within those targets. I therefore strongly urge the Senate to reject any attempt to freeze the existing Amtrak system.

I take this position with full awareness of recent energy shortages. Those trains that would be discontinued under the DOT plan carry few passengers and are not energy efficient. In fact, a CBO study shows that trains outside the heavily traveled Northeast corridor actually waste energy. I quote:

> On average, Amtrak outside the Northeast corridor is less energy efficient than the avererage auto.

Even with substantial improvements in ridership and other optimistic assumptions about the future, operation of the current Amtrak system will not save energy. If, on the other hand, the proposed route reductions do take place, then real energy benefits could be realized. This is because Amtrak, relieved of the requirement to service low-ridership routes, could shift equipment to where it is needed to carry additional passengers on high-ridership routes.

Now, Mr. President, before I comment on the amendments that are pending to S. 712 as reported, I would like to discuss briefly the companion legislation under consideration in the House. In particular, I want to warn my colleagues that there are serious problems with the House-reported Amtrak bill. The House bill, H.R. 3996, contains several unacceptable provisions that do violence not only to the budget targets just adopted by the Congress, but also to sound budgetary principles and procedures. I will discuss briefly the three most serious problems with the House bill.

First, the House bill, when measured on a comparable basis, implies direct authorizations which exceed the budget resolution assumptions by almost $200 million, to permit continued Amtrak operations over numerous routes scheduled to be eliminated under the DOT plan. Taken in conjunction with its treatment of Amtrak debt, my next point, full funding of the House bill would amount to a rejection of the DOT plan. Its enactment, therefore, could essentially eliminate the potential savings of the DOT plan, and insure that the Congress will not be able to live within the fiscal year 1980 and future-year budget targets approved for transportation.

Second, the House bill would end the current policy of making annual appropriations for the repayment of Amtrak debt. Amtrak capital expenditures have been financed in large part through Federal loan guarantees. These guarantees have been transformed into off-budget direct loans through purchase by the Federal Financing Bank. Amtrak's current loan balance with the FFB is roughly $680 million, but existing additional commitments assure that the loans eventually will exceed $800 million. Because Amtrak has literally no prospects of ever repaying these loans from operating revenues, they are essentially bad debts. The Senate bill recognizes this fact by continuing the practice established in 1978 of authorizing appropriations of $25 million annually to retire the debt. That is to say, S. 712 recognizes that off-budget loan guarantees were an inappropriate funding mechanism, and provides for gradual budget recognition of the Government's losses on its Amtrak investment.

The House bill, by contrast, would end this responsible approach, and instead would simply wipe the slate clean on Amtrak's bad debts. It would do this by creating a form of so-called preferred stock which Amtrak would issue to the FFB, which would be required to accept it in satisfaction of its loans. Next, the FFB would give the stock to the Treasury, which would be required to accept it in payment of its loans advanced to the FFB to finance the FFB's loans to Amtrak. The end result of this financial sleight of hand would be that the Federal Government had loaned to Amtrak and lost over $800 million which was never reflected in any Federal budget.

Mr. President, this not only would constitute extremely bad budgetary practice, but also would establish a very dangerous precedent in the treatment of off-budget Federal loans and loan guarantees, over $200 billion of which are now outstanding. If off-budget direct and guaranteed loans need never be reflected on budget, even when they go bad, then the incentive to abuse their exemption from the budget will be increased immeasurably, and the definition of the budget as a statement of the Federal Government's fiscal operations will be eroded to the point where it has no real meaning. The FFB was not created to facilitate this sort of financial manipulation and budgetary gimmickry, and such perverted use of its financing mechanism is probably the best way I can think of to assure that the agency is eliminated altogether.

One further point on forgiveness of Amtrak's outstanding debt. As proposed by the House bill, forgiveness of Amtrak's debt would eliminate Amtrak debt service expenses of about $63 million per year which are now funded from the overall Amtrak authorization. Therefore, one additional effect of the House provision is to raise the Amtrak authorization available for operating subsidies by another $63 million, yielding a total effective authorization that is very close to that which is estimated as required to continue all existing Amtrak routes and services. This underscores what I indicated before—the nature of the House bill strongly suggests that it represents no intention whatever of implementing the DOT plan.

Mr. President, the third aspect of the House bill that I find particularly troublesome is its authorization of Federal payment of state and local real estate taxes owed by the bankrupt railroads in the Northeast and Midwest. Apparently, this provision was added at the request of various State and local governments which, like numerous other creditors to bankrupt railroads, are seeking Federal assumption of their claims. CBO estimates the cost exposure of this provision to be $400 to $500 million in fiscal year 1980 alone for currently bankrupt railroads eligible under this bill. Further, if the precedential nature of the provision were ultimately to affect all rail bankruptcies, or bankruptcies in other industries, the budgetary implications clearly could amount to billions of dollars per year. Clearly, therefore, this is not the kind of provision we can afford in this time of necessary fiscal restraint.

Taken together, these three House provisions could cause the first budget resolution targets for transportation to be exceeded by $0.6 billion to $0.7 billion in both budget authority and outlays, while at the same time opening a budgetary loophole which could generate abuse involving additional billions of dollars.

Mr. President, these provisions, which are currently included in the House version of S. 712, are not acceptable as part of a responsible approach to dealing with Amtrak's continuing difficulties. I strongly believe that a bill that included these provisions would be worse than no bill at all. I would, if necessary, urge the Senate to reject a conference agreement which incorporated them. Further, I believe that the President should and would veto any legislation that included such questionable provisions.

I strongly urge the Senate conferees to stand firm against further increases in the authorization levels, and against incorporation of any of the other budget-breaking, and budget-mocking, items which are in the House bill.

In sharp contrast to the approach taken on the House side, the Senate Commerce Committee in the legislation which it reported, steered a prudent course toward improving the Amtrak program while recognizing budgetary considerations. S. 712 as reported pulls no budgetary punches. However, I am sorry to say that amendments are now being considered that could seriously compromise the responsible approach which the Commerce Committee selected when it voted to report S. 712.

Mr. President, I have followed with interest the development of these amendments to continue on a trial basis the operation of additional trains. I recognize that many Senators were concerned about reducing train service in light of the energy shortages and Amtrak ridership increases that occurred early this summer. And indeed, it seems to me that the continuation, on a trial basis, of trains that are in fact experiencing real, sustainable, increases in ridership which would place them on an equal footing with the poorest performers included in the DOT plan warrants serious consideration. I was prepared to support a modest increment for routes in this category and the administration expressed its willingness to request additional funding.

Unfortunately, the amendments that are before us go much further and could be detrimental to the preservation and improvement of Amtrak services over those routes where rail service might be a reasonable and appropriate transportation alternative. The criteria have been weakened to include trains that, even with ridership increases, would not have qualified for the original plan. Other trains will be operated based on regional balance, a euphemism for trains that cannot meet even the weaker criteria. Worst of all, I find little assurance that the performance of these additional trains will be measured against objective criteria or that they will be eventually discontinued if they are found lacking.

Taken all together, the amendments that represent the final compromise position will increase funding authorizations by $120 million over the level requested by the administration for the original Amtrak plan. Measured on a comparable basis, the House-passed bill increases authorizations by almost $200 million. I am not prepared to support funding increases of this magnitude. We face an extended period of tight budgets, and our limited Federal assistance must be applied where it makes sense, both with regard to our overall transportation system and with regard to energy conservation. These amendments do not measure up in either context.

Burdened by several amendments which increase funding authorizations and permit the continued operation of questionable trains, trains that do not save energy and are unlikely to attract riders, I cannot support the overall legislation. Further, I do not believe that the Budget Committee will be willing to accommodate funding for all of these authorizations in the second budget resolution ceilings in light of the overall budgetary picture. Therefore, I intend to vote against any amendments that would serve to increase the cost of S. 712 as reported, and I urge other Senators to do likewise.

Mr. President, I think my statement's relevance to this amendment and to other amendments that have been considered in the Senate will be clear to those who read the RECORD. I do not think it is necessary for me to say anything further.

This is a very closely contested debate. I think the issues in which I am interested have been reported.

I am opposed to the Melcher amendment because of the budget prospects, and to the Leahy amendment for the same reason.

I am for the bill as it came out of committee, and my complete statement indicates why.

Mr. MELCHER. Mr. President, before the chairman of the Budget Committee leaves the Chamber, I think it is important to note that what we are talking about is an increase on figures that are already outdated. But if we use those outdated figures, the increase is about up to $112 million over and above what we are talking about with the Leahy amendment.

I know what the Senator from Maine meant to say when he said——

Mr. MUSKIE. I made it clear that I am against the Leahy amendment.

Mr. MELCHER. But the Senator identified my amendment as entailing $350 million.

Mr. MUSKIE. Let me clarify it.

Mr. MELCHER. All right.

Mr. MUSKIE. The original Amtrak plan, largely adopted by the committee-reported bill could have saved up to $300 million, budget authority and outlays. Any additions would reduce those savings.

The Leahy amendment, which is a combination of several, I have not priced out. If I had the pricetag, I would put it in.

Mr. MELCHER. I can supplement that, about $112 million——

Mr. MUSKIE. The Senator's, amendment, which would freeze the system, he has explained his rationale in offering it—would restore us to the present system and cost up to $300 million a year more than assumed in our budget targets.

It is not to suggest it is that much more costly than the Leahy amendment.

Mr. MELCHER. I thank the Senator.

Mr. President, I ask the Senator from Missouri if he is willing to yield on his time so we can direct some questions.

Mr. DANFORTH. Mr. President, the Senator from Montana has some 9 minutes of his time. I think that would be pretty well adequate to respond to my statement. I did not take very much time.

Mr. STONE. Mr. President, will the Senator from Montana yield?

Mr. MELCHER. Mr. President, I ask unanimous consent that we have an additional 5 minutes to be allotted our side so that we can direct some questions to the Senator from Missouri on some of his statements.

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STONE. Mr. President, I ask the Senator from Montana for 2 minutes.

Mr. MELCHER. I yield to the Senator from Florida for 2 minutes.

Mr. STONE. I thank the Senator from Montana.

Mr. President, the CBO report which the Senator from Missouri quoted was rebutted rather firmly and effectively by a letter to the chairman of the Subcommittee on Transportation in the House, May 14, by Amtrak.

Among other things, it pointed out that fully 50 percent of passenger riders on Amtrak ride on electrified trains.

So to say that the oil situation would not impact is at least 50 percent inaccurate.

Second, all of the figures in the CBO report are rather effectively analyzed and, to a great extent, rebutted.

Mr. President, I ask unanimous consent that that letter be printed in the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL RAILROAD
PASSENGER CORPORATION,
Washington, D.C., May 14, 1979.

Hon. ROBERT B. DUNCAN,
Chairman, Subcommittee on Transportation, Committee on Appropriations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We have received a copy of the Congressional Budget Office report you requested entitled "The Current and Future Savings of Energy Attributable to Amtrak." We take exception with many of its findings, as the attached response indicates.

The fundamental problems with the report, however, are three-fold:

1. It uses historical data, key parts of which predate either Amtrak or our new equipment.

2. Most of the data attempts to measure operational efficency rather than energy efficiency. I have already testified many times to the fact that Amtrak's present operations are not at optimal efficiency—how could it be with old low-density equipment, old facilities and poorly maintained track, and

3. Unbalanced comparisons are made with the other transportation modes. Amtrak trains, for example, are depicted as energy inefficient at varying speeds. Yet no data is presented to compare one-passenger automobiles at low, stop and go speeds, or a bus negotiating in and out of downtown New York, or an airplane waiting in line at La Guardia at 5:00 p.m. on a Friday night.

With today's gas lines and tomorrow's oil shortages, that are certain to come, this report is misleading.

P. vi:

"If imports of petroleum were severely curtailed, tight restrictions could be placed on the amount of petroleum allocated to airlines and autos. Under these circumstances, both bus and rail could provide emergency transportation. In such a crisis situation, savings of petroleum are more important than savings of other forms of energy."

Fact:

Amtrak generally agrees. Rationing of fuel for autos is already being considered by the government. But, in the future—and that is what Amtrak is concerned about—buses, airlines and trains will be called upon for more than "emergency" transportation. All the public modes will have to fill the intercity transportation gap caused by the reduction of travel by auto. Since DOT has already acknowledged that the commercial modes cannot now handle even a 5–10 percent shift from auto travel, it follows then that more, not less capacity will be needed over the long term.

P. viii:

"Amtrak rail service may be helpful in conserving energy within the Northeast Corridor. In the rest of the country, however, Amtrak appears to be an energy-loser, both now and in the future. Both within and outside the Northeast Corridor, rail appears to be far outperformed by bus in its use of energy."

Fact:

Amtrak is either energy efficient or it isn't. Use of the words "may be helpful," "appears to be an energy loser," and "appears to be far outperformed by the bus" should be totally unacceptable to the Congress. As will be shown in the following sections, simplified assumptions and manipulation of "data" produced inaccurate conclusions.

P. 1:

"Answers to these (energy) questions are necessarily somewhat speculative because of variations in the performance of locomotives, differences in the number and type of cars in each train, differences in the quality of road beds, variations in the number of passengers per train and the distances they travel, and so forth."

Fact:

Amtrak agrees and these aspects were not considered. Yet, the report goes on to say "Nevertheless, some approximate answers can be constructed from the actual operating experience of Amtrak computer simulations and estimates of the improvements likely to be realized in the future."

P. 3:

"A consistent index for gauging the potential performance of a technology is the energy consumed per seat mile. This should not, however, be considered as a measure of the efficiency of energy used in actual service, since no mode of intercity transportation is able to fill its vehicles to capacity on a regular basis."

Fact:

This statement indicates one of the fundamental flaws in the report: the authors' attempt to measure energy efficiency when in fact they construct their case on historical, operational efficiency factors. Energy efficiency is what is designed and built into a locomotive, an airplane, an automobile or a bus. The rate of fuel consumption is determined by the way the vehicle is engineered and manufactured. The amount of fuel it uses in operations is the result of how it is operated, how many people it carries, how well the track is designed, what the headwind for an airplane is and other similar factors. But these are all operational factors. If petroleum shortages are coming in the outyears, should historical data analyzing old equipment and inefficient operating practices drive national energy policy decisions?

P. 5 and figure 1:

The Mittal study shows a Metroliner at different speeds and concludes the least energy is required at 20–30 mph.

Fact:

This case is absurd. To compare energy efficiency, one must compare various modes with each other with a common base point. It makes no sense to study a set of railroad cars, designed for speeds up to 150 mph, at 20–30 mph in isolation. What compounds the exercise is that the authors' data reflects the alleged inefficiency of the electrical generating plant (33 percent) and charges that against the train's efficiency. Did they also charge against the auto and the bus the inefficiency of the internal combustion engine and the inefficiency of the crude oil refining process?

P. 6.—Table 1:

"Factors Influencing the Use of Energy in Intercity Transportation: Current Operations"

The authors base their case on DOT rail data taken from the "Final Programmatic Environmental Impact Statement" which analyzes different types of equipment, both electrical and diesel-electric, used in the Northeast Corridor in 1975. The range of BTUs per seat mile of each class of equipment was 743 to 1615. Yet, the authors selected the Metroliners—which make up less than 20 percent of the daily NEC service and are the most inefficient because of high speeds—as the reference point for train efficiency. Amtrak's own engineering data of Metroliner efficiency at the same 80 mph cruise speed used in the report is 365 BTUs per seat mile, not 1019.

Amtrak also disputes the off-corridor train data. The DOT report cited above, (which uses data from a 1973 private engineering paper), shows that diesel-electric engines between New Haven and Boston consume 914 BTUs/seat mile. Amtrak engineering data shows BTUs per seat mile on all the different mixes of equipment powered by diesel-electric engines strikingly below that and fall in the 284–522 BTU range. What base data did the authors use to arrive at 1737 BTUs? Moreover, what data was used for auto, bus and air? No sources were cited and are therefore suspect also.

P. 9:

"This computation assumed that all Amtrak trains experience a load of 44.1 percent.'

Fact:

"Load factor" is a term best applied to aircraft operations and when used for trains, it must be used wisely or not at all. A train may pull out of one city with standees, i.e. more than 100% load factor. At the next city, it must accept more standees or hope that some people disembark. Hours later when the train is running through the night, its load may dwindle to 10 or 20 percent. Then in daylight, the load factor may build again. This is normal train operations and does not lend itself to the same type of analysis as the "load factor" measurements in the airline business where a plane bound from Washington to Chicago has one load for the trip and it does not change.

Furthermore, the CBO study treats the "load factor" concept differently for different modes. Automobiles, which the CBO study finds are more energy efficient than trains outside of the corridor, have a nationwide average ridership of 2.2 passengers per auto (U.S. DOT-1977). This means the average 6 passenger car has a 36.6% load factor and the average 5 passenger car has a 44% load factor. These are the kinds of statistics which are there, but they mean almost nothing.

The conditions under which Amtrak trains are required to run as a result of its inadequate equipment inventory brings about long-distance, once-a-day operations which are obviously inefficient, but that does not mean that "rail passenger service" when operated efficiently with speed and frequency would be the same. CBO's fixation on historic figures, rather than on modern railroad figures, provides unrealistic conclusions.

P. 10:

"Air operations in the Northeast Corridor utilize short-haul aircraft, which tend to be smaller planes that are relatively energy-intensive on a seat mile basis."

Fact:

This statement completely misreads all known air operation facts. The commonest and best commercial aircraft ever built is the Boeing 727–200 for short-haul service. This aircraft, in Boeing's own publications, gets a 36.2 passenger mile per gallon rating when all 134 seats are full. This plane uses, on average, 1,750 gallons of fuel per hour in flight, and it uses more than 540 gallons per hour when it is on the ground taxiing and waiting for take-off. This second point is most important in crowded areas such as at LaGuardia, Kennedy, Newark and Washington National, where there are thousands of hours of aircraft delays on the ground.

CBO's statement of "relatively energy intensive" for such planes simply is not correct.

On the other hand, an Amtrak train with Amfleet cars can produce 330 to 525 passenger miles per gallon, or better, in the same type of short-haul runs anywhere in the country.

P. 10:

"There is relatively little dispute about the numbers for energy used per seat mile by the air, auto, and bus modes. Minor variations (typically 5–10 percent) can be found, depending upon the year of the estimate and details of the estimation procedure."

Fact:

This statement ignores the obvious that can be seen in almost every report issued on energy. There is widespread disagreement as to which mode is efficient under what conditions. Dozens of studies have been made with few agreeing on the results. In the 1973–74 oil embargo era, for example, the following estimates were made on the efficiency of the bus:

1. Greyhound advertising, 85 pm/g;
2. National Science Foundation, 85 pm/g;
3. DOT/SRI, 215 sm/g;
4. DOT/Greyhound, 260 sm/g;
5. DOT–TSC–OST–75–4 (43 seats at 8.8 mpg), 378.4 pm/g;
6. DOT–TSC–OST–75–4 (47 seats at 8.8 mpg), 417.7 pm/g.

The widespread discrepancies shown continue today because most of the data being used is historical, based on various reports using different assumptions, and based on operations that will differ substantially in a petroleum-short society.

P. 13:

Circuity—The CBO study uses as an argument for the efficiency of aircraft the idea of circuity and the fact that aircraft fly a direct great circle route.

Fact:

This thought was presented in a Boeing Company paper some years ago to extol the advantages of aircraft. In that context, it is useful. As a tool for comparing aircraft with other modes of transportation, it is unreliable.

There is an advantage of going directly from city to city, but the argument is simply one of scale. Trains go from city to city on a direct line, but the communities they join are relatively close. Aircraft go from city to city directly, but the cities they join are far apart. It is not economical to land a plane 32 times between New York and Chicago, but it is the thing to do with a train.

The circuity argument is contrived and presents no reasonable relationships among modes.

It would be as unreasonable and as inefficient to expect a train to go from Seattle to Denver directly as it would be to expect an airplane to land at 20 or 30 communities en route. On this issue the characteristics of the various modes are so different as to make this comparison invalid.

P. 13:

"Single-person parties make up 40 to 60 percent of travel on air, bus, or rail, while less than 20 percent of auto travel is by single-person parties; see U.S. Bureau of the Census, National Travel Survey of 1967, TC67–N1, p. 37."

Fact:

Use of 1967 data when making judgments to fit 1979 and beyond is very questionable. The latest available National Travel Survey, based on 1977 data and released in February 1979, shows a totally different picture on auto travel. Over half of the 202 million trips made by auto in 1977 were by single-person parties.

P. 16:

Energy used for construction and access.

CBO chose to gloss over this item and in so doing, talks only of trains in a disparaging manner.

The use of asphalt and concrete in highways and airports creates tremendous demands upon energy resources. The manufacture of cement is one of the most energy-consuming industries and much of its product goes into highways. Asphalt is derived from petroleum.

On the subject of access. New airports long under consideration for New York City are 14,000 and 20,000 acres in size (by comparison, the Northeast Corridor from Washington to Boston is about 6,000 acres) and these airports are 10 to 30 miles from the city center.

Trains have always been regarded as having the very best access because they service the city center. And more importantly, from an energy point of view, the trains have direct access to the city center with no traffic and no stop lights, etc. Buses and automobiles must fight their way through traffic into the city center and in this process, consume tremendous quantities of petroleum.

P. 20:

"In order to estimate the fraction of passengers that would use each of the other modes if there were no rail service, the figures in Table 3 were used. These reflect the results of the latest Amtrak survey, which asked riders which mode they would use if Amtrak were not available."

Fact: Amtrak's actual study, done in February 1979, shows entirely different numbers than used in the report. Major categories were omitted. For example, 14.9 percent of those surveyed said they would go by train over another route if the one they were riding was not available (see chart).

P. 23: "New autos will achieve an average of 27.5 mpg for a combination of city and highway driving by 1985."

Fact: The Office of Technology Assessment, February 1979, states that "automobile fleet fuel economy (mpg) in 1985 (will be) 19.4." This is a more credible figure than the one used by CBO and different by a wide margin.

Furthermore, CBO could have found from General Motors, the leading manufacturer of locomotives, that two F40PH locomotives pulling 14 Amfleet passenger cars with 1,100 passengers at 100 mph can produce 330 pm/g, or the same train at 80 mph can give 400 pm/g. And, with only one locomotive on the same train at 50 mph, it can produce 525 pm/g.

More important than any of the above, Congress must take into account the fact that all other modes studies are dependent upon portable liquid fuel and none of them presently operate on anything else. Petroleum is running out and no matter what those modes produce in energy effectiveness today, with no portable fuel, they must undergo costly, if possible changes. Trains do not totally rely on portable liquid fuel. In fact, 50 percent of our riders today are on electrically powered trains.

A NOTE ON CBO FOOTNOTES

Many of the CBO sources are outdated, inadequate, and some irrelevant. A good example of the problem is on p. 11, Eric Hirst, "Energy Intensiveness of Passenger and Freight Transportation Modes: 1950–1970" Oak Ridge National Laboratory, April 1973. This report is called by CBO "representative of a wide body of research."

This report, which in its time and for precisely what it was written to show, is a good report, but the use of such outdated (1950–1970) data for *current* energy considerations is inexcusable. That era predates Amtrak and predates our new equipment.

AMTRAK PASSENGER ASSESSMENT SURVEY, FEBRUARY 1979

[In percent]

	Fallback transportation mode				
	Total survey	Long distance	Short distance	NEC	Non-NEC
Automobile	38.3	29.6	46.9	37.5	39.3
Bus	22.5	13.2	23.2	25.2	18.8
Plane	17.5	34.3	16.6	12.6	24.4
Reroute on other train	11.5	10.4	3.9	14.9	6.7
Not gone	4.1	6.2	5.4	2.9	5.8
Other	1.1	.7	1.1	1.3	.9
Not answered	5.0	5.6	2.9	5.6	4.1
Total	100.0	100.0	100.0	100.0	100.0

When you have had the time to read our reply, I would welcome the opportunity to discuss it further with you.

Sincerely,

ALAN S. BOYD,
President.

AMTRAK CRITIQUE ON CBO ENERGY REPORT
MAY 1979

P. ii:

"In weighing the merits of federal spending on passenger rail service in the United States, the Congress has considered costs, environmental benefits, effects on highway and airway congestion, impacts on urban and regional development, and benefits to persons without other forms of public transportation available to them."

Fact:

This initial statement, which sets the tone for the whole report, totally misrepresents the facts. While Congress is now reviewing the cost implications of Amtrak, Congress has not fully considered the merits of passenger rail service vis a vis environmental benefits, effects on highway and airway congestion, impacts on urban and regional development, and benefits to persons without other forms of public transportation available to them. The only consideration of any of these aspects regarding Amtrak has been done by a DOT consultant—DeLeuw,

> Cather/Parsons—and reported in an Environmental Impact Statement to DOT. Even then, the study directed itself only to selected cities along routes DOT proposes for discontinuance. No consideration was given, for example, of the impact of reduced air service to small and medium-sized communities that has occurred since air deregulation. Nor was any consideration given to the fact that over 200 cities served by Amtrak have no air service.
>
> P. iii:
>
> "Trains could use considerably less energy per passenger-mile than at present if they made use of new, efficient equipment and were able to attract enough passengers to operate cars more nearly filled."
>
> Fact:
>
> Amtrak agrees. This statement acknowledges what the corporation has said all along. The train is the most efficient mode when it carries high volumes of people. New locomotives and passenger cars now operating on many routes are substantially more efficient than the 10, 20 or 30 year old equipment the report uses as "base cases."

Mr. STONE. Mr. President, the Senator from Missouri made the rather startling statement that trains are less energy efficient than automobiles.

The Department of Transportation in its report of May 1978, before this operation commenced, said as follows:

> The passenger train, if it is operated well and if it carries a reasonable number of passengers, is energy efficient. The 1973–74 fuel crisis demonstrated that the American people will ride trains when automobile fuel is in short supply. We probably will reach a time when supplies will be permanently limited. In the meantime, we must work at improving the Amtrak system and its operations so that the American people will, when the time comes, have available an energy efficient alternative.

Mr. President, anyone who has read the newspaper in the last several days and noticed the cutbacks announced of——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. STONE. One more minute.

Mr. MELCHER. I yield to the Senator from Florida for 1 more minute.

Mr. STONE. They will not be so confident in saying that the gas lines will not return.

For us who are asking only 1 year to prove that there are some trains now to be canceled that can be both energy and financially efficient is pennywise and pound foolish.

Mr. President, this amendment does not propose to continue all trains forever. It says, for these few months, let us look at which trains, under the current energy situation, can prove that they can make a valuable contribution to our energy situation and our financial situation.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I again say that the decision to cut back on Amtrak in any way, even a modest way, is going to be an unpopular decision for many of us to make.

Better to do so in a nonelection year than in an election year.

My fear, Mr. President, is that if we put this off another year and then decide we are going to make a decision then, we would simply not go ahead and make the cuts that I think a $30 billion budget deficit requires.

Mr. LONG. Mr. President, it is my understanding that under the unanimous-consent agreement and the understandings that were entered into pursuant to them, it was generally agreed that the Senator from Montana was to have more time than has been allocated to him.

In order to fulfill that understanding in good faith to the Senator from Montana, I ask unanimous consent that he be allowed an additional 20 minutes.

Mr. DANFORTH. Mr. President, reserving the right to object, may I inquire how much time the Senator from Montana has had so far?

The PRESIDING OFFICER. There is no record as to how much time has been consumed; rather, how much time remains.

Mr. DANFORTH. How much time does the Senator from Montana believe he would have?

Mr. MELCHER. I believe our side has used up a little more than an hour, about an hour and 5 or 10 minutes.

Mr. LONG. It is understood that the Senator is to have an hour and 20 minutes, and I will keep the commitment.

Mr. LEAHY. Mr. President, reserving the right to object—and I may—we have a substitute amendment before the Senate. My time on it, as I recall, was 40 minutes, evenly divided. We have added several amendments to it, keeping within that time. I have been waiting here for a vote on this matter so that we could determine whether my amendment is going to be accepted.

I have been patient, and would like to point out that we have gone about an hour and 20 minutes here. I believe we can reach a conclusion one way or the other. I think all the arguments have been heard back and forth. At least, I have heard them a half-dozen times this afternoon.

I wonder whether the unanimous-consent request of the distinguished chairman of the subcommittee can be shortened somewhat.

Mr. LONG. Mr. President, I do not expect to use more than a few minutes, but I also want to keep faith with my colleague.

Mr. LEAHY. I have made my observation. I will not object.

Mr. METZENBAUM. Mr. President, reserving the right to object—and I will not object—many of us have been waiting on the floor for a considerable period of time, thinking this matter was coming to a vote.

I ask the majority leader: Is it possible to obtain a unanimous-consent agreement to have a time certain when we will vote on this amendment?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote occur 20 minutes from now.

Mr. LONG. I object, because that would not give us any time to respond. Make it 25 minutes.

Mr. ROBERT C. BYRD. I ask unanimous consent that the vote occur at 5:30.

The PRESIDING OFFICER (Mr. SARBANES). Is there objection to the request that the vote occur at 5:30? The Chair hears none, and it is so ordered.

Mr. METZENBAUM. I thank the majority leader.

The PRESIDING OFFICER. Is there objection to the request for 20 minutes by the Senator from Louisiana?

Mr. ROBERT C. BYRD. That is included, is it not? That was included in the half hour. So that is objected to.

Mr. MELCHER. Mr. President, I say to my colleagues that it may not be necessary to use all that time, but there are some points that have been raised by the Senator from Missouri and some of the opponents of the amendment, and I think it is only appropriate that we have some response on some of those points.

If the Senator from Missouri will yield, is it not true that the figures that have been cited are figures that had been cited long before there was this increased ridership on Amtrak which was brought about by the increasing prices of gasoline and, in some cases, by shortages of gasoline?

Mr. DANFORTH. Mr. President, in response to the Senator from Montana, the projection by the President of Amtrak, that if all trains were operated at 110 percent of capacity every day, Amtrak still could not break even, was made in March.

Mr. MELCHER. My question is, is it not true that the figures of projected loss for Amtrak were figures based on data that are out of date now because of increased ridership due to gasoline shortages or higher prices of gasoline?

Mr. DANFORTH. In response to the Senator from Montana, the projection made by the president of Amtrak last March assumes not only absolutely full ridership but also standing room only ridership on every train. So that the projection that was made by the president of Amtrak, that the present route structure still would be a loser, assumes the most far out projections as to the results of any energy crisis.

Mr. MELCHER. I appreciate that response from my friend from Missouri, but that probably should be related to how much equipment is available to Amtrak and how many extra seats could be added that people want to buy. That was not my question.

My question was this: The Senator cited some figures, ranging from $500 million to $720 million or $730 million, as a projected loss for Amtrak. Those were March figures. Is that not correct? That was well ahead of the time when the upsurge in ridership in Amtrak occurred because of either higher prices of gasoline or shortages of gasoline.

Mr. DANFORTH. That is correct; that is right. These projection figures——

Mr. MELCHER. I think that is very important. I thank the Senator for making that clear, because what we are really doing now is citing figures for ridership as of the week of July 22 to 28. I will not repeat them, because Senators who have been listening to the debate are aware that the ridership during that week on the trains that would be lopped off under the proposal was at or near full capacity.

Surely, the Senator from Missouri

would not want to leave the impression that those figures that were cited on ridership during the most recent week available were ridership figures for some other time.

Mr. DANFORTH. I am not sure what figures the Senator from Montana has for what week. I will say this——

Mr. MELCHER. The week is from July 22 to 28.

Mr. DANFORTH. One can pick out the most favorable week, when the gasoline lines are the longest, and then use those figures and project at that time, on the basis of future orders, not actual ridership, and make just about any case one would want to make.

I say to the Senator from Montana that the point I have been trying to make is that on the route structure as it exists now, assuming total capacity plus standing room only—that is, making an assumption that would exceed the wildest dreams of anybody—the facts in those cases are two: first, that Amtrak would be a loser, would lose money; second, that according to the Congressional Budget Office, it would consume more energy under those circumstances than either the bus or the car.

Mr. MELCHER. I thank the Senator for that observation, which he has made previously. It is one that probably none of us would agree with.

I do want to make clear that we were talking about the week of July 22 to 28, which is last week, the last week available. I think the Senator from Missouri will agree that that is not when the gas lines were the longest. In fact, in most areas, the gas lines were nonexistent.

If the Senator cares to indicate that there is something wrong or faulty with that, I would be glad to have a response.

Mr. DANFORTH. I would, because we have been trying to get figures on actual ridership for June and July, and we have not succeeded in doing so. So I think the Senator from Montana is not using actual ridership figures but only anticipated figures.

Mr. MELCHER. I inform the Senator from Missouri that these are actual ridership figures acquired from Amtrak, from the horse's mouth. They are not anything we pulled out of the air. They are not reservations. They are actual ridership figures. I would like to read from the report that has been submitted.

Mr. DANFORTH. Mr. President, if the Senator from Montana will yield at this point——

Mr. MELCHER. I will be delighted to yield on the time of the Senator from Missouri. He has much more time than I have.

Mr. DANFORTH. Mr. President, on my time I will make the following statements.

The sheet that I have has a heading on it: "Coach Passengers Anticipated Per Advanced Reservations as Train Left," which is not the same as actual ridership figures.

I believe that is the table that the Senator from Montana is relying on.

Further, these figures are not provided by Amtrak.

Mr. MELCHER. Mr. President, I think the Senator is correct on that last point. They are figures obtained for Amtrak through the National Association of Rail Passengers.

Despite how misrun at times Amtrak is on getting a reservation on it, I think it is fair to say they generally can total up the number of seats that are occupied when the train pulls out of the station.

I wish to read some excerpts from the report from Boyd, who runs Amtrak, to the Honorable ROBERT DUNCAN, chairman of the Subcommittee on Transportation of the House of Representatives because they are enlightening and it refers to the CBO report Mr. DUNCAN requested about Amtrak. Mr. Boyd says:

> The fundamental problems with the report, however, are three-fold:
>
> 1. It uses historical data, key parts of which predate either Amtrak or our new equipment.
>
> 2. Most of the data attempts to measure operational efficiency rather than energy efficiency. I have already testified many times to the fact that Amtrak's present operations are not at optimal efficiency—how could it be with old low-density equipment, old facilities and poorly maintained track.
>
> 3. Unbalanced comparisons are made with the other transportation modes. Amtrak trains, for example, are depicted as energy inefficient at varying speeds. Yet no data is presented to compare one-passenger automobiles at low, stop and go speeds, or a bus negotiating in and out of downtown New York, or an airplane waiting in line at La Guardia at 5:00 p.m. on a Friday night.

Or I might say out at Chicago, either to take off or to land.

> With today's gas lines and tomorrow's oil shortages, that are certain to come, this report is misleading.

I think it is fair to say that the figures that have been based on projected costs are faulty because they are outdated and do not take into consideration the true events that have taken place.

The point was made by the Senator from Missouri about how many people want to ride trains as compared to some other form of travel. The Secretary of Transportation—and those are the figures I think the Senator from Missouri was relying on—has relied on a low figure, trying to justify the severe cut in Amtrak service.

The fact is that of the markets Amtrak serves, 14 percent of the inner-city passengers travel by train and, considering that many of the major markets are served in the middle of the night, 14 percent is a pretty healthy figure. I think people should have that opportunity to travel.

Mr. President, I reserve the remainder of my time.

Mr. LEAHY. Mr. President, I yield myself 1 minute of my time on my amendment.

Mr. President, if we enact the freeze today, as the Senator from Montana proposes, we are, in effect, asking for a veto. It will cost Amtrak millions of dollars, and we will cause a tremendous disruption of the entire system.

The PRESIDING OFFICER. The Chair observes to the Senator from Vermont that he must be yielded time to speak on the time allocated to this amendment.

Mr. LONG. Mr. President, I yield the Senator 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. LEAHY. If we enact the freeze, Amtrak estimates the following consequences:

Employees to be laid off could not be identified and given required notice by October 1, and could receive up to 45 days full pay despite not working—30 days required notification plus 15 days to implement.

No printed timetables would be available to the public or to sales agents for up to the first 2 months of operation.

Mail contracts yielding $4 million in revenue would be canceled, and Amtrak would not be able to regain this revenue during fiscal year 1980.

Amtrak would be exposed to penalty costs and breach of contract suits for insufficient notice of changes. Contractors affected would include railroads—30 day notification needed—maintenance contractors—30 days needed—and construction contractors—10 days notice needed.

Excess costs would result from delays in final auditing and/or revision of internal cost control reporting system.

Mr. President, when you add to this cost the cost of adding at least $112 million for a handful of trains, trains with high cost and low ridership, it is painfully evident that the worst service we could do Amtrak and our national rail passenger system at this time would be to support this amendment to my amendment.

Mr. President, having demonstrated broad geographical and bipartisan support for the Leahy amendment, I hope we will stay with the Leahy amendment and not add this amendment to it.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, how much time remains?

The PRESIDING OFFICER. On the amendment of the Senator from Montana, the Senator from Louisiana has 4½ minutes, and the Senator from Montana has 9 minutes.

Who yields time?

Mr. BAYH. Mr. President, I wish a couple of minutes to be yielded to me from the Senator from Louisiana to speak in opposition to the Senator.

Mr. LONG. I yield to the Senator 1 minute.

Mr. BAYH. I would as soon not have any. I cannot say what I have to say in 1 minute.

Mr. LONG. Mr. President, I yield to the Senator 2 minutes.

Mr. BAYH. Two minutes are fine.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. BAYH. Mr. President, I thought we had an agreement worked out here in which everyone had a little give and take and we were going to do something about the fact that the cost of Amtrak is going right through the ceiling.

The reason I left the HUD conference to come up here is that I happen to have the responsibility of providing for the money for what we decide up here in the Chamber right now.

We asked the people down at the Department of Transportation to come up with a study so we could get rid of some of these losers. I thought most of us were going to have courage enough to say, if the train happens to go through our State, it is a dog, it is a dog, it is a dog.

Here at the last minute we are going to try to freeze in this system some of those that are costing the taxpayers hundreds of millions of dollars.

It is not easy for me to have a major train run through my State and say I am going to cancel it, but the fact of the matter is you could buy someone a first-class airplane ticket to Miami cheaper than the taxpayers could afford to subsidize the program.

I am just going to say I am only one Senator and I am one who happens to chair one subcommittee, and the whole Subcommittee on Appropriations may go along with me. But I am not going to sit there and vote to authorize the kind of subsidy for this program that is going to cost us a billion dollars to subsidize a program that is hauling fewer citizens than it should. It is not as efficient as buses, and I think the people of the country better recognize what they are getting for their money.

I wish to have a good Amtrak that people are using. The fact of the matter is even if they were using it, it is not as efficient as bus transportation in many of these instances. Buses are not as glamorous, but if we are talking about saving energy and tax dollars then it seems to me we better take a good hard look where we go before we freeze in this system for another year.

I say that with all respect to my good friend from Montana who has a very important reason for doing this.

But looking at that whole picture and being asked to write the check once a year on this in the Transportation Appropriations Subcommittee I am not going to continue a program that loses more and more and more.

I am just one Senator speaking with one voice, but I thought it was incumbent upon me to come in here at this time when we are authorizing this to ask the Senate to look at where we are going to be when we get ready to pay the bill for what we are now authorizing.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MELCHER. Mr. President, I am delighted at the point the Senator from Indiana has made. I want to relieve his mind. What we are really talking about is whether or not we are going to cut out some 18 percent of the trains which we have demonstrated here this afternoon have high ridership on them, where we have shown actual ridership for the last week available, showing them almost full, and we have shown through the projected reservation of these trains that even looking 6 weeks in advance they are 50 percent booked.

We can compare this to anything we want to. If you want to compare it to what is booked on airlines, and you can show that 13 weeks from now—I misspoke myself a little bit ago, I said 6 weeks are 50 percent booked—it is 13 weeks from now they are booked—and if we can look at airline routes and show they are 50 percent booked, then we would say that is a pretty good airline route.

If we could look 6 weeks in advance and say it is 75 to 80 percent booked we would say that is a good airline route.

Yet these very trains that are being eliminated in this 18 percent cut—and that is all it amounts to—are these types of trains.

These are not trains going empty. These are not trains that currently are being subsidized. These are trains making money for Amtrak, and I think it is appropriate to keep them in place for another year, and have the General Accounting Office survey the criteria that go into this and find out whether or not these trains we are talking about are not, truly not, dogs, but very good moneymakers for Amtrak, as they appear to be at this moment.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Here is the kind of losses we are talking about with this program. From Chicago to Seattle you have two trains running. One is the Hiawatha and the other the Empire Builder. Both of them lost a lot of money. But under the present plan the Hiawatha would be discontinued. They would still have the Empire Builder available to them.

Now, on the Hiawatha, for a passenger to go from Chicago to Seattle it loses $138.87. Anywhere along the Hiawatha route a person can and does buy tickets to ride on the bus. It costs $73, about one-half of what the loss is on the Hiawatha, about one-half of what we pay to subsidize a person to take the Hiawatha. That is what it costs for a person to buy a bus ticket all the way through, and people are riding on buses at their own expense, and paying taxes to do so, and the buses are paying taxes.

How can we justify continuing to run up this cost? We started out—I say we, the Congress started out—with this program losing $40 million a year for operating costs. Now it has worked up to $600 million a year, projected to go up to $1 billion a year. How long can we justify those kinds of losses? How can we justify doing nothing to protect the taxpayers against these rising increases, where losses on this thing have increased 15-fold and are scheduled to go up to 25-fold, how can we justify those kinds of increases without any kind of a cutback?

No wonder the President is threatening to veto the bill if this thing is frozen in place. I would hope, Mr. President, that the amendment would not be agreed to.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Montana.

Mr. MELCHER. Mr. President, the Senator from Louisiana has presented some figures based on the criteria that have been used by the Department of Transportation.

But there are also—whether or not they are faulty is a question of argument, a question of debate, here this afternoon, and we feel that there probably should be some improvement on those criteria and that, indeed, we ask the General Accounting Office to look at this during the year to see whether or not they cannot be improved on.

But beyond that, it is so evident that the figures cited have nothing to do with the current situation. They are figures that were computed prior to the time gasoline prices began to rapidly increase, and will continue to increase during the remainder of the year.

I would like to point out also that something is wrong in their figures. I am going to read a memorandum that was prepared for myself and Senator BAYH, Senator EAGLETON, and Senator METZENBAUM, as well as Senator GLENN. It was prepared by Jim Snyder, national legislative director of the UTU. He said, to begin with, that there is incorrect reporting on the number of passengers handled on the Amtrak National Limited between Indianapolis and St. Louis.

Conductor Victor Tryon, regularly assigned to train numbers 30 and 31 of the National Limited furnished me the following information today, and that is as of August 1, on the incorrect passenger count given to Members of Congress by Amtrak:

> In July, 1978—Train No. 31 handled 119.93 passengers in coaches; 16.56 passengers in sleepers.
>
> Train No. 30—Handled 113.51 passengers in coaches; 11.10 passengers in sleepers.
>
> In July, 1979—Train No. 31 handled 168.34 passengers daily in coaches; 19.93 passengers daily in sleepers.
>
> Train No. 30—Handled 160.56 passengers in coaches; 13.03 passengers in sleepers.
>
> The sale and use of rail passes and the reduced rates were eliminated in July 1979 and based on the 1978 figures, there could have been approximately 30 passengers or more daily, if these reduced rate rail passes had been in use.
>
> To show how Amtrak figures are inaccurate which are given to the press and others—

Including Congress:

> Conductor Tryon has retained copies of the manifests furnished him, which is supposed to show the number of passengers on the train, and he has placed on these manifests the correct number of tickets collected on July 22, 1979, the manifests showed 148 passengers out of St. Louis and 162 actual tickets were collected. Conductor Tryon says that typically there will be 15 or 20 more ticketed people on board than is shown on the manifest.

I think it is apparent that there are some basic wrongs in not only the criteria that are set up for determining which trains should be kept on but there are some basic wrongs also of how Amtrak keeps track of actually how many people are on board.

I think at a time when people are having extreme difficulty getting on Amtrak trains, at a time when all the main trains we are looking at that would be eliminated if we do not accept this amendment I have offered, are running full or 95 percent full, it would be simply unconscionable for us to eliminate that opportunity for the traveling public.

I would hope, Mr. President, that we could take note of the changing conditions that exist, the fact that we are only talking now about the difference between 82 percent of the full route and 100 percent, a mere 18 percent, that we would allow the continuation of Amtrak as it exists and for the next year and during that year's moratorium, having the GAO review for the Congress better criteria to examine what trains we really need, and whether, indeed, we are running into the time in the United States when we really and truly want to go back to ride on a very vibrant and very worthwhile passenger system in this country.

If we do not accept this amendment we are going to lop off some trains that are running full now and are projected to run full for at least the next 6 weeks, and probably run full for the next 13 weeks. I think that means money in the till for Amtrak, and I think we can forget about losses on these trains. We can look at profits, break even or profits, hopefully in the future on these trains.

I hope we can accept the amendment. Mr. President, I think I have used up all my time and, unless somebody is requesting more time, I am prepared to yield back the remainder of my time.

Mr. CANNON. Mr. President, I speak in opposition to any amendment which would propose to freeze the Amtrak system as it is presently constituted. The increasing burden on the American taxpayer of supporting the national rail passenger system must be minimized. The taxpayer has been faced with Amtrak's increasing operating subsidy, which by 1979 has reached $600 million. Even though Amtrak's revenues have risen 205 percent since 1971, expenses have risen over 290 percent. The widening gap between costs and revenues for the Amtrak system must be narrowed if the Federal subsidies are to be decreased. A freeze would only prevent the changes in the system necessary to decrease these subsidies.

S. 712 as amended today would provide for the maintenance of the trains necessary for an efficient and effective system and would be in the best interest of rail passenger service and our Nation's overall transportation and energy goals. Rail passenger service in the United States can only be promoted through a smaller, more manageable system with improved facilities which will encourage intercity passengers to use the rail system.

S. 712 as amended today would establish specific and objective criteria of ridership and costs to determine which trains should be part of the Amtrak system. The committee is well aware of the impact which the energy situation has had on demand for rail passenger service. If use of certain trains has increased dramatically in recent months, such trains could be maintained under the proposed criteria. However, there are trains, even in this time of increased ridership, which would not meet the criteria. Those trains should be eliminated, since they have been draining resources which could be used to improve overall service. A freeze would do no more than perpetuate this drain on the system.

Take, for example, the Floridian. Unfortunately, it ranked next to last in ridership per passenger mile of all long-distance trains, with only 60 passenger miles per train in 1978. According to the Department of Transportation, its costs in 1978 were $25.2 million. Fares covered only $4.7 million, leaving a loss of $20.5 million. The Federal subsidy amounted to $163 per passenger, more than the cost of a first class plane ticket from Chicago to Miami. There is no justification for continuing trains such as this one by freezing the system.

A freeze on the system would insure that the system would not survive unless further Federal funding were provided. It has been estimated that there would be an additional $200 million needed under a 1-year moratorium to provide the capital for those trains which would otherwise be discontinued. Are we ready to vote for even more subsidies? I think not. Today we should vote for a more economic and efficient system, and a 20-percent cut is a major step in that direction.

I also would like to read a letter just received from Amtrak endorsing the criteria in the Leahy compromise as the only reliable criteria for determining the retention of trains in the route system:

NATIONAL RAILROAD PASSENGER CORPORATION,
Washington, D.C., August 1, 1979.

Hon. HOWARD W. CANNON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CANNON: In the debate over how specific Amtrak routes should be judged and on what basis a train should be included in the system, there have been conflicting and sometimes incompatible numbers used to support various positions.

This is disturbing to me, but I must admit understandable. Assessing train performance is a complex task. We have and use many different measures: ticket sales; advance bookings; space denial; ridership by segment; passenger miles; seat miles; avoidable loss; fully allocated costs and many more. Each of these must be examined in context, some, like advance bookings, must be carefully adjusted for considerable seasonal fluctuations.

I am convinced, and I know that DOT agrees, that passenger miles per train mile and loss per passenger mile (using both a long-haul and a short-haul measure) is the fairest, soundest and most reliable criteria of train performance.

This is not to say that these statistics would be relied on to the exclusion of all other data, but they form the foundation for primary judgment as to the viability of a given route. There are operational and marketing considerations which are also critical in assessing as well as predicting train performance.

All of which is to say that I am totally satisfied that the data base and criteria specified in the compromise Amtrak bill (which duplicates that of the House passed bill) is the best measure possible. We have worked with your Committee, as we have with the House Committee, and will continue to do so, assuring that the methodology and application of these criteria meets the full intent of the Congress.

Sincerely,

ALAN S. BOYD,
President.

Alan Boyd, president of Amtrak, has appropriately summarized the arguments in opposition to a freeze as follows:

> Amtrak cannot handle a freeze of its current system, and I am opposed to efforts, however well-meaning, which would do this. We must have a smaller route system if we are ever to be able to offer the public the level and quality of service it expects and deserves.

I urge my colleagues to vote against such a freeze.

● Mr. NELSON. I support the amendment offered by the Senator from Montana (Mr. MELCHER). The committee bill would authorize $581 million for Amtrak's operating expenses in fiscal 1980 and $610 million in fiscal 1981. This amendment would increase those authorizations to $718 million in fiscal 1980 and $750 million in fiscal 1981. The amendment would preserve the existing Amtrak system for 1 year while Amtrak's Board of Directors can analyze each route and each of its trains. During the second year, fiscal year 1981, under the terms of this amendment, the Amtrak Board of Directors would be empowered to order up to $30 million in cuts of uneconomical trains and routes. I consider this amendment to be eminently sensible and worthy of support.

Last winter witnessed a spirited debate concerning the relative fuel efficiency of automobiles, buses, and trains. The administration argued that Amtrak would have to average more than 140 passengers on its trains to compete with automobiles for intercity fuel efficiency and 400 or more to compete with buses. In fiscal year 1978, the administration argued that the average Amtrak passenger load (128) was well below the number required for fuel efficiency. The pro-Amtrak forces countered by challenging the administration's fuel efficiency figures and by saying that Amtrak's ridership would greatly increase if service were improved or if automobile travel became markedly more expensive and inconvenient.

It seems clear that in light of growing uncertainty about energy supplies, our country must maintain a viable network of passenger railroad lines.

However, whatever the merits of each position, the debate has simply been overtaken by events. In my judgment, our various energy woes of the past 2 months, ranging from truck stops blocked by enraged truckers to endless and frustrating lines in front of gasoline stations, add up to a national crisis whose effects will be profound and long lasting. I believe that for the first time since the Second World War, the American people's reliance on the private automobile as our basic transportation mode has been fundamentally shaken. These last 2 months have marked a revolution in popular attitudes toward transportation, and we ought to recognize and act on this change.

What is happening can perhaps best be glimpsed in Amtrak's systemwide figures for May, which are just in. In May of 1978, Amtrak sold 194,000 reservations. Last month, it sold 443,000, an increase of 127.8 percent. In May of 1978, 68,040 persons were denied reservations on Amtrak trains due to lack of space. Last month, 756,246 persons were denied seats because of sold-out trains, a staggering increase of 1,011.5 percent over May 1978. In May of 1978, Amtrak's central reservations office recorded 1,695,731 incoming calls. Last month, there were 6,812,827.

The full meaning of these astonishing figures has yet to be digested. It may be that some Amtrak routes will still not prove to be cost effective and should be eliminated. The Melcher amendment gives Amtrak the flexibility to do just that in 1981. But to reiterate the main point, no studies of Amtrak's future made before April 1979, are now worth anything. We are now in a new energy era, and to cripple Amtrak at the outset of such an era appears to me to be the height of folly.●

A FALSE ECONOMY

● Mr. SCHMITT. Mr. President, the amendment being offered by the distinguished Senator from Montana and myself would provide for the Amtrak route structure to be maintained in its current status for the next 2 years while the Congress, Amtrak, and the Department of Transportation jointly consider the system's future.

It would be unjustifiable for the proposed restructuring of Amtrak's routes to be approved in full by the Congress in the midst of the current energy crisis and demand for space on trains. It would be more rational for rail transportation to be expanded at such a time.

The full cutbacks in Amtrak service proposed by the administration could be a death blow to passenger rail service in the United States rather than the cure claimed by its advocates. Contrary to the Department of Transportation's position, modern rail transportation is at the current time an infant industry in the United States. This becomes more apparent when we consider that 150 mile-per-hour trains are either operational or in the planning stages in Japan, France, Germany, and Great Britain. While the rest of the world forges ahead with more research and development into new technology for faster, safer, more efficient, and more comfortable rail transportation, we languish behind, insuring the eventual phaseout of our existing rail service to the detriment of all transportation services.

The distinguished Senator from Illinois and others have pointed out the dangers of our technological depression; our attitude toward rail transportation is symptomatic of this problem. Amtrak trains today travel no faster than they did over 30 years ago. But if we were to develop safe, efficient, comfortable, high-speed, reliable trains and support systems along the coasts of this continent and between the major cities in each of the United States, I have little doubt that the interest of the public would be stirred—that these trains would be well used. Trains can be enjoyable as well as efficient.

The critics of Amtrak have accurately pointed out that we cannot return to the railroad system of the past. We cannot afford to satisfy the nostalgic yearnings of a handful of railroad buffs. What we can do, however, is to build the railway system of the future—a system that will attract people away from their cars, not because it is quaint, but because it is safer, faster, more comfortable, cheaper, more fuel efficient, and more fun.

I admit to a certain parochial interest in this matter. Under the administration's plan, New Mexico would lose the Southwest Limited, formerly the famous Super Chief. Although the Department of Transportation has claimed that the ridership on this train cannot justify its continued operation, the passenger volume for this train—in Albuquerque alone—grew from 48,000 in 1976 to over 62,000 in 1978—and this is with equipment that is 25 years old and virtually no local Amtrak advertising. Ridership is expected to increase significantly in the coming year with the delivery of new sleeping cars, dining cars, lounges, and chair cars.

To prematurely amputate this route and other routes from the system without allowing it an opportunity to operate with modern equipment does not make any logical or economic sense.

The rerouting of the Chicago-Los Angeles train will not only lengthen the distance of this strip—a questionable move in a system seeking to increase the speed of its trains—but it will also require the rehabilitation of many miles of deteriorated track at considerable expense. This move not only appears to be devoid of any benefit for the public—but it will impose difficulty, expense, and in many cases, even hardship on those who are dependent upon Amtrak for their basic transportation needs.

DOT has made it clear in private meetings that they feel that rail transportation can only be effective in the Northeastern States and that trains in the West are relics of the past. DOT has no problem with spending $2.4 billion for the Northeast corridor, but tells the people of my State and many others to forget it; I cannot accept this attitude.

Mr. President, I believe in two principles relative to the railroads: First, passenger rail transportation is an essential component of a national transportation network for the use of the American public; second, modern technology and modern management techniques can provide this Nation with an economical high-quality passenger rail system.

The question is how to provide for an expansion and improvement of passenger rail service, not how to terminate such services for all except the favored few.

At a time when the use of our Nation's energy resources has become a matter of critical national importance, it has been proposed that our potentially most energy-efficient form of passenger transportation be cut by some 43 percent. Because it can be electrified, rail is the only form of transportation that can be run without petroleum. But DOT has openly admitted that the possibility of an energy crisis was in no way factored into the proposal before the Congress.

Proponents of the full Amtrak cut point out that they would reduce existing ridership by only 9 percent. What they do not point out is that the savings generated amounts to only 8 percent of Amtrak's budget in fiscal year 1980. This is the same false economy used to justify other reductions in Federal services to rural areas of the country.

This proposal also ignores what the route reductions do to potential ridership. The Amtrak system is in the process of being upgraded significantly with the purchase of new cars and the improvement of track. Ridership is expected to grow. These cuts drastically limit the capacity for future growth of Amtrak ridership, and, in fact, will in the long run reduce it. This move lays the foundation for future route reductions and opens the possibility for outright elimination of Amtrak in every area of the country save a heavily subsidized Northeast corridor.

It is unfortunate that DOT has failed to take into account these and other factors in their development of a proposed "optional" passenger rail network. It is apparent, however, that the route terminations in the final proposal announced on January 31, 1979, are significantly different than those originally envisioned by DOT. The first Amtrak proposal announced in May 1978, was a far more moderate approach which would have maintained a reasonable level of passenger train service in America.

What happened to change DOT's perception of an "optional" system between May of 1977 and January 1978? The answer was provided by Charles Swinburn, Deputy Director of the Federal Railroad Administration, who stated recently that negotiations with the Office of Management and Budget resulted in a "compromise" that would allow for an Amtrak authorization of $552 million in fiscal year 1980. DOT then developed a new "optional" system within this ceiling. This arbitrary budgetary reorganization is hardly what the Congress had in mind when we directed DOT to prepare a recommendation, and this action raises questions as to who formulates national transportation policy: Congress or OMB?

Finally, I do not question the possible need for some restructuring of Amtrak routes. But we must recognize that only 31 percent of Amtrak's costs are related to passenger transportation. As the ICC noted in its report on Amtrak of March 15, 1978:

> Surprisingly, the cost to Amtrak of actual passenger transportation (including train crews, station agent, and on-board personnel) represents only 31.4 percent of Amtrak expenses, or $266.3 million of $847.9 million. . . . We are concerned that the share of expenses attributable to transportation is so low. . . . Even reductions in service over unprofitable routes *would have a minimal impact on Amtrak's operating deficit, as the burden by transportation expenses is minimal.* (Emphasis added)

The proposed route restructuring is premature and should have been preceded by a significant Amtrak effort to reduce its nontransportation related costs. To propose the elimination of Amtrak routes all over the country, as the administration has, before examining the alternatives, is like amputating a patient's limb before a thorough diagnosis has been performed. The result may be needlessly crippling.

We must remember that, once abandoned, passenger rail routes are not easily reestablished; the rail bed deteriorates rapidly and cannot be quickly restored. We must remember that, at present, some 84 percent of the American public lives within 50 miles of Amtrak services, but under the DOT proposal, this would decline to 65 percent. We can hardly call it a national rail network if it fails to serve over a third of the people, desperately in need of efficient, low-cost mass transportation.

The proposal by DOT is irresponsible—it is poor management—it ignores the reordering of national transportation priorities that are necessary to respond to the energy crisis, and it should be rejected outright by the Congress.

Mr. President, it is clear that this amendment will not be accepted. The compromise that has been developed by Senator LEAHY and members of the Commerce Committee has reduced the support for an outright moratorium on Amtrak route changes. While the proposed compromise does not satisfy all of my objections to the administration's proposal, it is a step in the right direction. Hopefully, continued improvement in Amtrak's service and performance will allow for the Congress to consider an expansion of the route system in the future, rather than the ill-advised cutbacks proposed by the administration at this time.●

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Montana in substitution of the amendment of the Senator from Vermont.

Mr. LEAHY. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays having been ordered on the amendment of the Senator from Montana, the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Members in the Chamber who desire to vote?

The result was announced—yeas 35, nays 65, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—35

Baker
Baucus
Boren
Boschwitz
Bumpers
Burdick
Church
Cranston
DeConcini
Dole
Domenici
Durenberger
Durkin
Goldwater
Gravel
Hatfield
Inouye
Jackson
Jepsen
Kassebaum
Magnuson
McGovern
Melcher
Morgan
Moynihan
Nelson
Packwood
Pressler
Pryor
Sasser
Schmitt
Stevens
Stone
Tower
Young

NAYS—65

Armstrong
Bayh
Bellmon
Bentsen
Biden
Bradley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Culver
Danforth
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Javits
Johnston
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
McClure
Metzenbaum
Muskie
Nunn
Pell
Percy
Proxmire
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stewart
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

So Mr. MELCHER's amendment (UP No. 502) was rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DANFORTH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 503

Mr. BAUCUS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Will the Senator suspend?

Will the Chamber please be in order? Will Senators please clear the well?

The amendment will be stated.

Mr. LEAHY. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. Is an amendment appropriate without unanimous consent to my amendment, all time not having been yielded back?

The PRESIDING OFFICER. It is not in order except by unanimous consent.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

Mr. BAUCUS. Mr. President, will the Senator withhold his request?

Mr. LEAHY. Yes.

Mr. BAUCUS. Mr. President, this amendment is not addressed to the amendment of the Senator from Vermont. I suggest that it be deferred until the amendment of the Senator is dispensed with.

Mr. LEAHY. Mr. President, I am not necessarily going to object. I just want to know what the amendment is.

Mr. BAUCUS. This amendment, for the Senator's information, addresses a section of the bill which extends section 505 of the 4-R Act for another year.

Mr. LONG. Mr. President, the Senator has discussed this amendment with me. I have not had the opportunity to discuss it with other Senators, but basically, this amendment would make it discretionary with the Department of Transportation——

The PRESIDING OFFICER. The Chair inquires of the Senator from Montana, to what is the amendment being offered?

Mr. BAUCUS. The amendment being offered is an amendment to the 4-R Act portion of the bill. It is not an amendment to Senator LEAHY's amendment.

Mr. LONG. Then the time in opposition would be under the control of the manager.

The PRESIDING OFFICER. Is the amendment to the bill or to the committee substitute?

Mr. BAUCUS. Whatever is appropriate.

Mr. LONG. Mr. President, I would just as soon consider the amendment to the bill. It is in order.

Mr. BAUCUS. Mr. President, the amendment is to add a new section. It is my understanding that it is, therefore, an amendment to the bill.

The PRESIDING OFFICER. The Chair informs the Senator from Montana that his amendment could be offered to the bill, the committee substitute, or the Leahy substitute, but it cannot be done except by unanimous consent at this point, because there is still time outstanding on the Leahy substitute.

Mr. LONG. Mr. President, how much time is outstanding?

The PRESIDING OFFICER. Twenty-nine minutes.

Mr. LONG. I ask unanimous consent that the amendment may be offered at this time.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, Mr. President, how much time will the Senator from Montana consume?

Mr. BAUCUS. No more than 2 minutes.

Mr. LEAHY. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized.

The PRESIDING OFFICER. The clerk will state the amendment of the Senator from Montana.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS), for himself, Mr. CHURCH, Mr. MELCHER, Mr. YOUNG, Mr. MAGNUSON, and Mr. MCGOVERN, proposes an unprinted amendment numbered 503.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, after line 8, add a new section 16—

Section 505(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by redesignating the existing paragraph (3) as (4) and inserting the following new paragraph (3):

"(3) In the case of a railroad in reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205), or other railroads which may acquire properties of that railroad, the Secretary may agree to purchase trustee certificates or redeemable preference shares of such railroads, as appropriate, for purpose of acquiring, improving, or maintaining such properties. In determining the extent to which a project will provide public benefits, the Secretary shall give priority to projects that will improve or maintain competitive freight services, regardless of present levels of traffic on lines that may be affected.

Mr. BAUCUS. Mr. President, this amendment is very simple. The bill presently before us extends the authority, under section 505 of the 4-R Act, of the Department of Transportation to provide financial assistance for railroad rehabilitation. The program would expire otherwise.

The purpose of my amendment is to instruct the Secretary of Transportation to provide funds based on criteria other than the ones currently used. The amendment states that the Secretary, in allocating funds at his discretion, can use other criteria regardless of historic use or density of traffic. Thus, the Milwaukee Railroad, which is in severe financial straits, is more likely to be entitled to funds.

As DOT regulations are now written, section 505 funds are not available for a large portion of the Milwaukee system, even though these portions are potentially viable and of national importance for grain and coal transportation.

Next Monday, August 6, the Milwaukee bankruptcy trustee intends to file with the bankruptcy court a plan of reorganization. I sincerely hope that the trustee takes into account the fact that section 505 funds may be available under the amendment I have proposed.

It is my understanding that the amendment is acceptable to the manager of the bill and also to the ranking minority member of the committee. At this time I would like to thank Senators CHURCH, MELCHER, YOUNG, and McGOVERN, who have joined me as cosponsors of this amendment.

If I have time, Mr. President, I reserve the remainder of it. I hope that the amendment will be accepted.

Mr. LEAHY. Mr. President, I note that it is a good amendment. I certainly have no objection to its being a modification to my amendment. I ask unanimous consent that my amendment in the nature of a substitute which is pending before the Senate be modified to incorporate the language of the Senator from Montana.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, on behalf of the managers of the bill, I have no objection to the amendment.

The PRESIDING OFFICER. The substitute of the Senator from Vermont has been appropriately modified to encompass the amendment which has just been offered by the Senator from Montana pursuant to the unanimous-consent request.

The amendment was further so modified.

AMENDMENT NO. 210

(Purpose: To require that the National Railroad Passenger Corporation establish a reduced fare program for the elderly and handicapped individual)

Mr. SASSER. Mr. President, I call up my amendment No. 210 and ask for its immediate consideration.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Is the amendment of the Senator from Tennessee an amendment to the Leahy substitute or an amendment to the bill?

The PRESIDING OFFICER. The Chair would inform the Senator from Tennessee that unanimous-consent request is required in order to offer the amendment at this point.

Mr. SASSER. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. SASSER. Under the unanimous-consent agreement which was entered into to take up this bill, I was allotted 20 minutes for the amendment.

I ask the Chair, would it be in order for me to offer this?

Mr. President, I ask unanimous consent——

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Chair would inform the Senator from Tennessee that time is still outstanding on the Leahy substitute. Until that time has been used, the amendment is not in order except by unanimous consent.

Mr. LONG. I ask unanimous consent, Mr. President, it be in order to consider the amendment.

Mr. McCLURE. Reserving the right to object, we have gotten ourselves involved in a rather strange parliamentary situation here, in which, as I understand it, the Senator from Vermont is offering what is, in essence, a substitute, has attempted to allow those with whom he had already had conversations, to offer amendments which would be accepted to his substitute. We would then vote on the Leahy substitute.

It was my intention at that time to suggest that the Leahy substitute be adopted, or voted upon, upon the condition it would then be treated as original text for the purpose of further amendment, which would then permit the Senator from Tennessee to offer his amendment to the Leahy substitute after the Leahy substitute had been adopted.

Mr. President, I might ask of the managers of the bill if there is any objection to that process so that we could then go ahead and vote on the Leahy substitute and reserve the rights of the Senator from Tennessee and others who have perfecting amendments to offer.

Mr. LONG. I think the Senator has a good suggestion.

I ask unanimous consent that the Senate be permitted to agree to the Leahy amendment and that if the amendment is agreed to, it would be regarded as original text and remain subject to amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. ROBERT C. BYRD. Reserving the right to object, would the original text be subject to amendment in one degree only, or in two?

Mr. LONG. It would be subject to amendment in two degrees, first and second, just like original text.

Mr. McCLURE. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, and I hate to object to having my own amendment accepted by unanimous consent, but I want to make sure I understand what is happening here.

Does this mean there would not be a vote on my amendment?

The Leahy amendment would be accepted, in effect, as though having been voted on unanimously by the Senate?

Mr. LONG. It is all right with me to vote on it, but I am just asking consent that when the Leahy amendment is agreed to, that it remain subject to amendment.

When it is agreed to, it remains subject to amendment.

Mr. ROBERT C. BYRD. Mr President, reserving the right to object, it does not matter to me either way, but at the moment the Senator's amendment is not open to amendment in two degrees.

I just want the Senator to know what we are doing. We are going to make it subject to amendment in two degrees. That is fine with me. If he wants to make it subject to amendment in one degree, which it is now, it is all right with me.

Mr. LONG. The Senator might want a record vote on his amendment, as far as I am concerned, but I ask unanimous consent that, if the Leahy amendment is agreed to, it be regarded as original text and be subject to amendment as original text, which means in the first and second degree.

The PRESIDING OFFICER. The Senator from Louisiana is not asking that the amendment be agreed to——

Mr. LONG. Not at this point.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

Mr. LEAHY. Mr. President, with that unanimous-consent out of the way, I wonder whether it might be wise, with most of our colleagues here, to yield back the remaining time on the Leahy amendment, ask for the yeas and nays, have the vote on that, and then anybody who wants to move amendments within the confines of that agreement, go ahead.

Mr. BENTSEN. Will the Senator yield on the unanimous-consent request?

Mr. LEAHY. Without losing my right to the floor.

Mr. BENTSEN. Mr. President, I rise today to urge support for the modified Church amendment, which I cosponsor, and the Leahy amendment, which I support. This is a responsible compromise that will terminate a number of routes while continuing others that have experienced improved ridership and can be justified economically. I will oppose any amendment that would restore each and every route, because some have not attracted sufficient ridership while others we simply cannot afford to continue.

I support the Leahy amendment. It sets a rational criteria for continuing some trains. Long-haul trains would have to attract 150 passengers for each mile of service. They would have to lose less than 7 cents for each passenger mile. Additional funds would be provided under the 403(B) formula to enable States to join the Federal Government in continuing other routes of major importance to localities.

I cosponsor the Church amendment because it will guarantee a national system that preserves the spirit of the National Railroad Passenger Corporation. This amendment would continue several trains, including one of the two Texas trains now set to be cut, that provide important regional service and attract strong passenger support.

We must continue a national system. We must make improvement in service and equipment that can make such a system attractive. We should make strong and sound investments in short-haul service between populated areas such as Houston, Dallas, San Antonio, and Austin.

We cannot afford to make such improvements if we continue every train now running. Some trains are grossly uneconomic and should not be continued, period. Others have shown potential but we cannot afford them right now. We must make some cuts today, so we can improve overall service in the days to come. Only then can we build passenger support for the system. Only then can we make sound investments that enable us to plan for the future.

To summarize, I support the Leahy amendment which provides sound criteria and standards for continuing some trains now set to be terminated. I cosponsor the Church amendment, which would provide for regional balance. I oppose any amendment to retain the entire current system, which, if such an amendment passed, would be spread too thin. I support increased efforts to improve short haul service between major markets that show great promise, and I will work toward this in the years ahead. This compromise, by blending policies that preserve some promising routes and terminate others, is in the long term interest of rail passenger service.

Some trains, including one that serves Texas, will be retained. Others, including one that serves Texas, will be cut. Across the Nation some routes will be eliminated, including the Hilltopper, Boston to Kentucky; the North Coast Hiawatha, Chicago to Seattle; the National Limited, New York to Kansas City; one New York to Florida train, and one of the trains now serving Texas.

Mr. President, before coming to the Senate in 1971 I ran a business for 16 years. We had to make some tough decisions. We had to provide quality, and we had to do so in a cost efficient manner. I strongly supported the initial efforts to establish rail passenger service and I support this program today.

To do it effectively, to attract paying customers, we must end some routes and improve others. We must recognize that some routes make no economic sense and we should not continue them. We should recognize that for others improvements are needed and we should make them.

Amtrak's operating deficit has grown from $153 million in fiscal 1972 to over $521 million in 1977. Losses were $9 per passenger mile in 1972 and by 1977 they rose to $27. In the end, the taxpayer was left subsidizing perhaps two-thirds of a system that went unused by the vast majority of our people.

Until the spring of 1979 the American people failed to provide sufficient support. They voted with their tickets and too often they voted no. Gasoline prices were around 60 cents a gallon and the dark days of the Arab oil embargo were long forgotten.

As prices rose and supply dwindled, riders came. In this summer of energy discontent, ridership boomed. Nationwide it is up some 15 percent from last year. On the three Texas trains it is up over 27 percent. Look at the InterAmerican, which runs from Chicago to Laredo. A fair indicator of passenger support is the number of passenger miles per train miles. Comparing last year to this year, until April, passenger miles per train miles are up on the InterAmerican 41 percent. Comparing April to April, it is up over 66 percent. For 1 selected week in May, it is up almost 45 percent. Will it last? Will there be a major shortfall in energy supplies that could increase ridership even more? Or could we go the other way, and see ridership decrease? The compromise before the Senate today will give some trains 2 years to meet the established criteria to continue. I think this is reasonable. I think it is fair. Time will tell.

With our national energy and transportation needs we must make every effort to provide rail passenger service in a fiscally responsible manner. To this end I support the Leahy-Church proposals and the committee position today. It is realistic. It insures nationwide rail passenger service. It sets a firm and fair criteria for continuing such service. It allows for improvement in service and equipment for routes that show great promise. It saves some routes and cuts some others and does so in a careful manner that serves both the taxpayer and the passenger.

This legislation will encourage the citizen to vote with his tickets, and hopefully, more than in the past, to vote yes.

Mr. EAGLETON. Mr. President, I commend the distinguished Senator from Vermont (Mr. LEAHY) for his amendment and his fine leadership in fashioning a consensus on this legislation.

One of the sections of the Leahy proposal incorporates part of my amendment No. 239, which I introduced together with Senators DANFORTH, TSONGAS, HAYAKAWA, JAVITS, HEINZ, PRYOR, KENNEDY, MATHIAS, and SARBANES. I would like to ask the Senator from Vermont whether the basic thrust of my amendment, which is to liberalize the terms under which a State may enter into a section 403(b) agreement with Amtrak, has been preserved under his proposal.

Mr. LEAHY. Mr. President, if we could just have order, if I am going to be praised so well by the Senator from Missouri, I should like to have quiet so everybody can hear.

The PRESIDING OFFICER. The Chair understands the request of the Senator from Vermont. The Senate will be in order.

Mr. LEAHY. I thank the Chair.

Mr. President, the answer is "Yes." My proposal adopts the Eagleton formula for sharing operating deficits under any 403 (b) program. It is presently a 50–50 cost-sharing arrangement. Under the Eagleton amendment and my own proposal, that formula would change to an 80-percent Federal share and 20-percent State share in 1980; a 65-percent Federal share and 35-percent State share in 1981, and thereafter a 50–50 cost sharing for all new 403(b) routes.

Mr. EAGLETON. I note that the Leahy amendment reduces the overall authorization from the $25 million in fiscal year 1980 and $30 million in fiscal year 1981 provided in my amendment to $20 million in both years. Is the Senator satisfied that this will be adequate to meet the need?

Mr. LEAHY. I believe it is sufficient, but I would note that the House bill provides authorization levels similar to those proposed by the Senator from Missouri. House conferees may have a different view and I am sure that the issue will be discussed thoroughly in the conference.

Mr. EAGLETON. The only other difference between the Eagleton and Leahy amendments is the deletion of my provision for an 80-percent Federal and 20-percent State sharing of capital improvement costs in a 403(b) program. I have no objection to that change but I should like to have the Senator's assurance that the intent here is to retain the present 50–50 cost sharing for capital improvements and not to eliminate that aspect of the 403(b) program altogether. Given the structure of the Leahy amendment, I have some concern that that could be the unintended effect of this change.

Mr. LEAHY. The intent is to preserve the existing 50–50 formula for capital costs and I will modify my amendment to make that clear if the committee staff agrees there is ambiguity in the language.

Mr. EAGLETON. May I ask the distinguished floor manager (Mr. LONG) whether he is prepared to accept this modified version of the Eagleton amendment?

Mr. LONG. Mr. President, I am prepared to accept the amendment, with that understanding.

Mr. EAGLETON. On that assurance, Mr. President, I am prepared to withdraw my amendment, although my cosponsors will have to speak for themselves.

Mr. CANNON. Mr. President, the essential objectives of the amendments to be offered today by Senator LEAHY and Senators CHURCH, MAGNUSON, and PACKWOOD are to provide Amtrak with additional discretion and flexibility to add to the route structure originally proposed by the Department of Transportation those additional trains which may meet specified criteria to be set out in the law. We are all aware that there has been an increased use of our Nation's rail passenger service because of the energy crisis. None of us are absolutely certain as to what the long-term impact will be on Amtrak's operation. We do not yet have reliable data from Amtrak regarding their ridership levels for the months of May, June, or July, but selected data for the month of May together with crowded trains and clogged reservation lines make it apparent that Amtrak trains are experiencing a significant volume increase.

These amendments will authorize a total of $40 million to permit Amtrak to run additional long-haul trains which meet a criteria of 150 passenger miles per train mile and an avoidable loss of 7 cents per passenger mile and short-haul trains which meet a criteria of 80 passenger miles per train mile and 9 cents loss per passenger mile. These amendments will also insure a long-distance train in each of the Nation's quadrants in the event that one is not run by Amtrak under any of the above criteria. However, any train designated in such a quadrant, which after a 2-year period does not meet the specified criteria, will have to be discontinued. Finally, the exact identity of each of these trains to be run under either the criteria or the quadrant selection is a decision to be made solely by the Amtrak Board of Directors.

There is an additional amendment—Weicker—which will increase the authorization for Amtrak's capital expenditures in the amount of $54 million for fiscal year 1980 to a total of $179 million to assist in the capital needs which will be necessary for Amtrak to buy the equipment needed to run these additional trains.

The net effect of all these amendments together with the bill as reported out of the committee will result in a reduction in Amtrak's 27,408-mile route system by 5,322 miles, which is a reduction of about 20 percent—19.4.

I might add that this approach, which is essentially the same as that adopted by the House of Representatives, is one which has the endorsement of the Department of Transportation and I would like to include at this point to follow my remarks a letter from Acting Secretary W. Graham Claytor, Jr., supporting the compromise amendments that are being considered by the Senate today and strongly reaffirming the Department's and administration's opposition to freezing Amtrak's route structure in its present form.

Finally, for the general information of my colleagues, I would point out that the total funds which this bill would authorize for Amtrak's operations in fiscal year 1980 with these amendments added to S. 712 as reported by the committee would amount to $867.3 million. This total breaks down briefly into the following general categories: $576.3 million for operating expenses, out of which will be funded the basic DOT system as proposed by Amtrak, $508.5 million; payments on the interests on Amtrak's debt to the U.S. Government, $38 million; operation of existing commuter systems for a period of 18 months, $7.5 million; the costs of implementing DOT's restructured system and continuing certain lines pending the restructuring, $22.3 million.

In addition, $40 million is provided for the operation of long- and short-term criteria trains plus regional quadrant trains; $176 million for capital expenditures; and $25 million for the reduction of Amtrak's Federal debt; $20 million for section 403(b) State-assisted trains and $30 million for labor protection.

S. 712 together with the amendments that would be adopted today would also provide an additional total of $945 million for the operations of Amtrak in fiscal year 1981. The fiscal year 1981 authorization breaks down in general terms as follows: $605 million for operating expenses; $40 million for the criteria, regional balance trains; $223 million for capital expenditures; $25 million for payment of Amtrak debt; and $20 million for the operation of 403(b) State-assisted trains; and $32 million for labor protection provisions.

The letter follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., July 27, 1979.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science, and Transportation, Washington, D.C.

DEAR SENATOR CANNON: As interim successor to my friend Brock Adams I would like to reaffirm the position of the Department of Transportation and the Administration opposing any attempt to freeze the present Amtrak route structure.

The amendment to S. 712, as proposed by Senator Church would do a great disservice to rail passenger service in this country. It would force Amtrak to operate a route system with insufficient equipment, perpetuating the past unacceptable level of Amtrak performance. It would require the expenditure of substantial sums on routes which cannot be justified. Good Amtrak routes would suffer, and the entire Amtrak system would appear as inefficient as in the past.

H.R. 3996, as amended and passed by the House of Representatives, would maintain the basic route structure proposed by the Administration with additional supplemental routes which meet ridership (based on 150 passenger miles per train mile) and cost criteria (based on a short term avoidable loss per passenger mile of 7 cents projected to fiscal year '80), and would ensure a long-distance train in each of the nation's quadrants. The Amtrak Board would be responsible for the selection of routes based on criteria contained in the legislation.

Accordingly, while we fully support the fundamental approach taken by H.R. 3996, we do continue to have reservations about several provisions in this bill, as adopted by the House, which we have reviewed with your staff. Particularly, we are strongly opposed to Section 105 which provides that Amtrak's debt held by the Federal Financing Bank be eliminated in return for the issuance of preferred stock, thus turning a loan into a grant. In addition, we prefer the provisions of S. 712 concerning the Section 403 (b) state assistance program. I want to emphasize again, however, that the Department and the Administration endorse the approach to maintain all trains that have the potential for saving energy for this country and we urge your support for it.

I must reiterate the position taken by Secretary Adams on the freeze. If Congress passes legislation freezing the existing Amtrak route system, I will recommend to the President that he veto the legislation containing the freeze. I believe that there is no basis to add trains unless sustained ridership growth provides a sound economic base to do so. If we are forced into a veto situation, and into a continuing resolution, Senators should know that we will have to operate a much smaller Amtrak system than reflected in either H.R. 3996 or S. 712.

As you may know, I have something of a reputation as a passenger train buff. I also have the responsibility for avoiding the waste of the taxpayer's money. I personally feel very strongly that the proposal summarized above would be in the public interest as well as in the interest of passenger train users throughout the country.

I urge that we move forward as rapidly as possible due to Amtrak's real need to implement the new system by the beginning of the fiscal year, October 1. Amtrak requires sufficient time to prepare for its implementation.

Sincerely,

W. GRAHAM CLAYTOR, Jr.,
Acting Secretary.

Mr. PELL. Mr. President, I am pleased to support the Amtrak Improvement Act of 1979. I believe the Commerce Committee has achieved an excellent compromise over the original route restructuring plan proposed by the Department of Transportation. This bill eliminates less than 20 percent of the current mileage, instead of the 43 percent cutback originally proposed. While I was a supporter of the original route restructuring plan, the very encouraging increase in ridership on all trains in recent months more than justifies the action we are taking today.

As one who has been advocating improved rail passenger ever since I first came to the Senate in 1961, I very much hope the ridership increases continue. If they do, I know the Congress will continue to support the kind of national rail passenger network this bill embodies. At the same time, a note of caution is in order. One of the primary reasons Congress directed the Secretary of Transportation to make a study of the Amtrak route system was the concern that rapidly mounting Amtrak deficits were eroding overall support for rail passenger service. The route restructuring plan presented to Congress earlier this year was a response to the need for consolidating service in areas where the level of ridership justified continued public investment. Without a continuation of the currently very robust ridership on nearly all trains, the Congress will be faced again with the need to justify spiraling deficits. So I sincerely hope that we are not just in a temporary situation, but rather the beginning of a new era of public support and patronage of trains.

I particularly support the increased funding for Amtrak's capital budget, which will promote the purchase of badly needed new equipment. One of the reasons that we as a country have turned our backs on rail passenger service is the fact that, too often, the service is unreliable and uncomfortable. Aging equipment which frequently breaks down has given passenger service a bad name. The best investment we can make is in new rolling stock and improved track conditions. Today's action by the Senate takes a small step in the right direction, which I hope future Congresses will expand upon.

Faced with our present energy crisis, I do not believe any Member of this body needs to be convinced of the value of public investment in rail transportation. In other countries, the trains are a first rate and heavily utilized alternative to highways. Sadly, we have allowed rail passenger service to fall into relative disrepair and disuse. The gasoline supply crisis has led us to the long overdue realization that the Federal Government must do more to make trains attractive to the American public. We have a long way to go before we can emulate the rail passenger service found in other western countries. But I am convinced that this bill is an important step toward a more rational rail transportation policy, and I urge my colleagues to join me in supporting S. 712, the Amtrak Improvement Act of 1979.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by Senator LEAHY.

As the Senate is considering S. 712, the Amtrak Improvement Act of 1979, we must bear in mind that the deliberations on this bill and our decision to accept or reject the Department of Transportation's proposed route restructure for Amtrak will determine what role rail passenger service will play in meeting this country's intercity transportation needs not only for next year, but for the next decade and, indeed, the next generation.

Mr. President, recent increased usage of Amtrak service plus the energy efficiency of rail transportation have convinced me of the need for continuation and improvement of our Nation's rail passenger service. Intercity rail transportation should be made an efficient, economical, and dependable service that will attract and retain users. Rail passenger service can and should be made to further national energy conservation efforts by providing a uniquely comfortable means of long-distance travel.

Passenger trains are more energy efficient than buses, airplanes, and automobiles. According to several studies, even with old equipment, long-distance trains are already producing in the neighborhood of 70 passenger miles per gallon, compared to about 24 by airplanes and 33 by automobiles. Modern trains can easily achieve about 100 pmpg on long-distance runs and 150 pmpg in corridors. At a time of rising fuel costs and fuel shortages, the passenger train is a good alternative to less energy efficient modes of transportation. There is also a need for train service to serve communities that do not have other types of commercial transportation service.

With the proposed route cuts, there would be no passenger train service at all in eight States and train service would be severely curtailed outside of the Northeast Corridor.

Amtrak, the National Railroad Passenger Corporation, provides most intercity rail passenger service in the United States. This is now and has been the case since the enactment of the Rail Passenger Service Act of 1970. Amtrak took charge of the intercity rail passenger network after 20 years of steady decline of rail passenger revenues and patronage.

Since Amtrak initiated service in 1971, rail ridership has increased and service on trains has improved. These increases have occurred despite a lack of sincere commitment to rail passenger service by either Congress or the executive branch.

Recognizing the need to further improve Amtrak, Congress included in the Amtrak Improvement Act of 1978 (Public Law 95-421) a directive for the Secretary of Transportation to formulate and implement an optimal intercity route system for Amtrak. The legislation directed Secretary Adams, in cooperation with Amtrak, to develop a preliminary recommendation for a route system for the Corporation which would provide an optimal intercity railroad passenger system based on current and future market and population requirements.

Secretary Adams complied with the congressional mandate by recommending a new basic route system for Amtrak in the final report to Congress on the Amtrak route system, submitted to Congress at the end of January 1979. His recommendation included a cut of 11,800 miles from Amtrak's present 27,500-mile system—a 43-percent reduction in route miles.

Since that report was submitted, the Nation's gasoline shortage has brought travelers back to the trains in waves. Amtrak's nationwide computerized information and reservations system has been swamped with calls seeking Amtrak reservations. Advance reservations, already up nearly 50 percent over last summer, are rapidly filling reserved long-distance trains for the early summer months.

Mr. President, the National Railroad Passenger Corporation recently conducted a survey and issued the following report:

SELECTED RIDERSHIP DATA: MAY 1979 VERSUS MAY 1978

At the request of the DOT, Amtrak recently tabulated the ridership for twelve selected trains for the third week of May 1979 and compared the data for these trains to the ridership of these same trains for the third week of May 1978. The third week of May was selected in both instances since the week is traditionally not a peak travel period, nor is traffic affected by a major national holiday. The twelve trains surveyed are all long-distance trains slated for discontinuance October 1, 1979.

Almost all trains showed a substantial growth in passenger miles and average trip length. The latter statistic is significant in that not only were more passengers riding, but they were riding considerably longer distances.

Several parallel routes were examined, such as Chicago-Texas, where both the Inter-American and the Lone Star showed growth in all categories; and New York-Florida, where the Silver Meteor and the Champion experienced growth in nearly every category. It should be pointed out that even higher growth—in ridership and passenger mile per train mile—could be expected if, instead of two services, one train were to connect these end points.

On the basis of these tabulations, and the surge in advance bookings Amtrak is currently experiencing, substantial ridership growth over last year is expected to continue. However, as Amtrak heads into its traditionally heavy summer travel season, the percentage growth of ridership of each train should taper off as Amtrak exhausts the capacity available for each train.

I think this survey dramatically demonstrates the American people's willingness and desire to travel by rail. Given these developments, the Government's response ought to be to expand the services of Amtrak to meet the needs of the American people.

It is amazing that Amtrak has been able to increase ridership at all considering the enormous problems it inherited from the railroads whose passenger service it acquired. Old equipment, deteriorating roadbeds, and a poor public image of rail transportation are three of the major obstacles Amtrak has had to overcome. Amtrak has only 1,250 cars in operation on any given day to serve its 27,000 route mile system—compared to British Rail which has 18,000 cars for 11,000 miles of track and the West German Federal Railroad which has 17,000 cars for 17,000 miles. Poor frequency of runs (largely due to the chronic shortage of cars), less than admirable ontime performance, and unnecessarily time-consuming trips (due to the slow speed most of the trains must maintain because of bad track) are but a few of the problems Amtrak has had to overcome.

Of course, we must be prepared to face the fact that there will be some cost to the taxpayers from having a Government-subsidized corporation providing passenger service. This is not, however, a new policy in transportation assistance. Our Government has in the past invested the taxpayer's money to build the best highway and air traffic systems in the world. Considering the energy-efficiency advantages of rail travel, perhaps the time has come to do the same, within the framework of a balanced Federal budget, for rail passenger service.

Recently, the U.S. Conference of Mayors prepared a report on Federal aid to transportation. This report reflects the levels of Federal subsidies obligated each year to the major modes of transportation. I found this report informative and wish to share the findings with my colleagues.

This report shows that from 1971, when Amtrak was created, through 1978, the Federal Government alone has provided $94.5 billion in subsidies to all modes of transportation. Of this amount, Amtrak has received $2.6 billion—less than 3 percent.

A comparison of the different modes and the level of Federal obligations for the postwar period points out some dramatic differences:

[In billions]

Mode:	*Obligations*
Highways	$102.8
Air	30.6
Domestic water	13.3
Ocean shipping	7.4
Mass transit	13.3
Rail	5.9

Thus the Federal highway spending has been about 19 times greater than rail funding, airways spending 5 times greater, and domestic water spending more than twice as great.

USER CHARGES AND TAXES

Any study of gross direct aid to transportation must be tempered by a look at the revenue or "user charges" that each transportation mode generates. For example, loans are not considered subsidies if they are repaid; Federal outlays for building any kind of transport facilities are not subsidies if the outlays are returned through fees levied on the users of the facility.

While large amounts of direct aid from Federal, local and State governments have supported the various transportation modes, significant amounts of funds have also been collected from the system users by levying a series of Federal taxes. According to the DOT's Study of Federal Aid to Rail Transportation, rough estimates show that the biggest "gap" between Federal obligations and user charges has occurred in the air system, with obligations exceeding revenues by nearly $19 billion when taking into account all years including 1975 and earlier. The domestic water transportation "gap" is about $14.5 billion; rail, as of 1975, shows $1.8 billion in obligations as compared to $6.1 billion in user revenues. (For the period from 1971–1978, all rail obligations represent about

11 percent of the total obligations for all modes, with Amtrak obligations coming to approximately 2.7 percent).[2] Highways show no "gaps" since user revenues by 1975 had exceeded Federal obligations by over $10 billion. However, these figures must be considered in the context of other institutional support provided to each mode by Federal, State or local governments.

CONCLUSIONS

In review, direct Federal aid to transportation has played a crucial role in building up the U.S. transportation system. A major point made by DOT's Study of Federal Aid to Rail Transportation is that the money provided by this Federal aid allowed improvements to be made to transportation modes at a faster pace than if the private sector had provided all the financing. The report continues:

> "Federal involvement, which enables mobilization of resources on a scale that cannot be matched by the private sector and the States, permits the compression of time. The great disadvantage of Federal direct aid policy vis-a-vis the railroads is not so much that this industry received no Federal assistance, but that the Federal aid provided to the competitive modes vastly accelerated and increased the adjustment problems which the railroads had to face from the new technologies, further compounded by the deaf Federal ear turned to the notion of simultaneously providing the railroads any form of transitional assistance and allowing the railroads to meet the new competitive environment they were encountering."

Mr. President, the Secretary of Transportation has often suggested that his plan eliminates only low-ridership routes. In fact, it eliminates many routes which are experiencing increasingly heavy ridership. For example, the Secretary claims the Washington-New Orleans "Southern Crescent," which makes several stops in the Piedmont section of South Carolina, was ideally operated but that it still had low ridership and high deficits. He says one recent trip departed Washington with only 28 passengers. Actually, the train averaged over 231 passengers per trip in 1978. It seems highly improbable that the train could have left here—the heavy end of the run—with only 28 passengers, and the Secretary's staff has not been able to document such a trip.

Crescent ridership rose every year since the end of the last energy crisis; revenue ridership in 1978 was 168,865—up 7.8 percent from 1975. This increased ridership has come about despite no advertising since mid-1976, despite aged cars with unreliable heating and air-conditioning, and despite only triweekly service southwest of Atlanta. Southern maintained stations separate from Amtrak in Birmingham and Charlottesville. When Amtrak took over on February 1, it consolidated stations, cutting costs and improving passenger convenience. Amtrak also eliminated switching in Atlanta, using the savings to establish daily service all the way to New Orleans, which has improved revenues.

February marked the first month the Crescent was included in Amtrak's system. The train served 12,083 passengers, a 48-percent increase over 8,146 aboard when it was operated by Southern Railway in the same month last year. In the third week of May this year, the Crescent carried 5,849 passengers as compared with 3,157 passengers carried the same week last year. This is an 85.3 percent increase in one year.

Elimination of the Crescent Limited would leave the thickly populated and fast-growing corridor from Washington to Atlanta without passenger train service.

With the exception of the Boston-Washington Corridor, there is no section of the country more justified in having passenger train service than the areas served by the Crescent.

Mr. President, we cannot ignore the relationship between the growing gasoline crisis and Amtrak. It is essential that we reduce our dependence on foreign oil. To do this, we must develop alternative modes of transportation and encourage efficient mass transportation wherever practicable rather than use of individual cars. In the near future, I believe Amtrak could become a significant element in U.S. intercity travel.

While we may have to continue some Federal subsidy to Amtrak in the short run in order to save certain routes, I believe it will be less expensive in the long run to subsidize these routes now, rather than to abandon them and then later try to resurrect rail passenger service. Once these passenger trains are lost, it will be extremely difficult and probably prohibitively expensive to reinstate them.

Furthermore, Mr. President, the cost of maintaining these needed routes is really only a matter of getting our priorities in order. We can, I am convinced, balance the budget and still provide an effective passenger train system for this Nation. On this point, Mr. President, I would like to share with my Senate colleague an astute observation made by Congressman BILL YOUNG from the Sixth District of Florida while testifying before the House Commerce Transportation Subcommittee. He said:

> While the Administration is willing to deny railway passenger service to many parts of our country, the Administration seeks to increase our foreign aid program to India (by $45 million), to a proposed Fiscal Year 1980 level of $135 million, and our appropriations for the World Bank Group (by $690.1 million), to a proposed FY 1980 level of $2.15 billion. You may ask, "What does this have to do with railroads?" Well, this is the same India which only recently agreed to provide Vietnam with credits amounting to $50 million, mostly for the purchase of railroad equipment. Also. it is the same World Bank/IDA which recently approved the 14th loan to India for railway development. With this loan, total World Bank/IDA lending to Indian railways alone amounts to $1.09 billion. As you know, the United States is the largest single contributor to these international institutions. Incidentally, it is this same IDA (International Development Agency) which is currently considering a $40 million soft loan to Vietnam for the purpose of assisting in their railroad development. Needless to say, if the Administration can find the scarce resources necessary to assist foreign governments with their railroad needs, the American taxpayers should expect their government to do the same for them.

Mr. President, the immediate past President of Amtrak, Mr. Paul Reistrup, recently wrote an article entitled "Amtrak and the Rail Passenger System of the Future," which appeared in the Indiana Business Review. I commend this article to the attention of my colleagues and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMTRAK AND THE RAIL PASSENGER SYSTEM OF THE FUTURE

(By Paul Reistrup)

Secretary of Transportation Brock Adams has long been a proponent of getting it all together in transportation. In the February 1975 *Readers Digest,* he wrote, "The action: convert our present every-industry-for-itself transportation system into an interlocking network in which all the parts work together." This is a good statement of the objectives of Amtrak. Congress created Amtrak to be a part of a balanced transportation system that works together efficiently for the benefit of the public.

Shortly after Secretary Adams moved from Congress to the Department of Transportation in 1977, he formed task forces and sent them across the country to listen to state and local government officials, their staffs, and interested private citizens talk about their transportation systems and their ideas abou federal transportation programs. To add to this beginning, he wanted further detailed information, so in December 1977, his department commissioned Hart Research Associates to conduct a nationwide poll. When Adams released the findings of this poll on March 24, 1978, he said:

> "The public expects that changes in our life styles will be necessary in the future, and transportation is an area of change specifically cited by some four in ten of the people queried."

It is considered especially significant that despite infrequent usage of rail passenger service, over 50% of the people queried responded that there should be continued subsidization of rail passenger service to preserve it as an option. In a special sense, this reaffirms, the balanced transportation concept of Congress and recognizes the more recent pressures of the energy shortage.

It is important that we sense this grass roots groundswell across the country and interpret what it means for the future of transportation. The public tends to believe that change is in the wind and wants to keep its options open.

This is not only a grass roots movement. In some of the highest offices of our government, essentially the same ideas are being voiced. In a year-end wrap-up statement last December, Energy Secretary James R. Schlesinger said that oil and gas are the key to our future and "facing Americans is the need to adapt the nation's entire capital stock—its buildings, factories, ways of doing business and ways of daily living—to the fast-approaching day when their won't be enough oil and gas to go around." It carries great impact to hear this from the one person at the top who is charged with the responsibility to prepare this country for a future in which there will not be oil and gas enough to go around. Such a future has a direct impact upon transportation. We know that transportation consumes 25 percent of all the energy and 60 percent of all the petroleum used in this country. We know that 96 percent of the movement of people and goods runs on petroleum and that the most knowledgeable experts warn we will begin feeling the petroleum pinch seriously by 1982–1985. The pinch does not begin when the last drop of oil has been extracted from the earth. It begins when the daily demand begins to exceed the daily supply derived from available resources. Then prices will rise abruptly and general availability of petroleum will have to be curtailed. It is this condition that will tell us we must change our way of living and our way of travel. Secretary Schlesinger's statement contains a message of fundamental urgency. A nation of 220 million people does not change its "ways of doing business and ways of daily living"—either easily or overnight. Nevertheless, change is underway and the need for it will accelerate.

ALTERNATIVES TO THE AUTO

The automobile consumes 37 percent of all petroleum used in this country, and it accounts for 95 percent of all local travel and 87 percent of all intercity passenger travel. When the oil barrel begins to run dry, the consumer is not going to have the automobile available for short runs to the store, a trip to grandmother's house, and that vacation in the Rockies. There are going to have to be alternatives available.

In Great Britain, the automobile is utilized for only 77 percent of all intercity passenger travel, compared to the 87 percent total in the United States. A modest drop of 10 percent in this country would have tremendous impact. Today, the airlines carry 10 percent of intercity travel, the motorbuses carry 2 percent, and Amtrak carries 1 percent. It may be estimated for purposes of example that if automobile travel did drop 10 percent bus and rail travel might be selected to fill the gap, and if so, they would triple to 6 percent and 3 percent, respectively. The estimated split would then be 77 percent auto, 11 percent air, 6 percent bus, and 3 percent trains.

At first glance, a drop from 87 to 77 percent in automobile travel would appear to be rather insignificant. But, if most of those travelers did choose to travel by bus or by train, bus and train passenger loads would triple. Amtrak, running today at about 20 million passengers per year, could expect a load of 60 million or more. Actually bus ridership has been declining precipitously during the past decade while Amtrak ridership has been gaining. It is quite possible then that the 10 percent shift from the automobile would be more toward trains than buses. If so, we could expect an even heavier burden to fall upon the relatively small rail passenger system. This prospect underscores the urgency underlying Amtrak's need for growth now.

BALLOONING RIDERSHIP

A 1977 report from the U.S. Department of Transportation, forecasts that all passenger travel will more than double from 1975 to 1990. If this prediction proves to be correct the bus and rail modes will also have to pick up their share of that extra volume of expanding ridership. Hence, Amtrak's ridership might balloon to 120 million or more by 1990. In sum, intercity passenger travel modes are going to have to contend with the energy crisis as it looms larger and larger each year and drives millions of travelers to public carrier systems. Barry Commoner wrote recently, "Transportation dominates the energy picture. It is the largest single end use of energy, consuming twenty-five percent of the total energy budget."

As the necessity to conserve petroleum assets intensifies, we are going to have to find ways to utilize the more energy-efficient modes of travel and reduce the use of those that are not. As long as some useful fuel is available, the airlines will have to have it, even if its must be apportioned to them because there is no more reasonable way to travel far and fast than by modern airliner. But what about other trips?

THE BENEFITS OF TRAIN SERVICE

The most energy-effective modes of passenger transportation are the bus and the train. For the short, two-to-three-hour trip with a 30- to 40-passenger load, the bus is efficient. For longer moves and for larger groups of people, the train is without peer. An intercity bus, fully loaded with 44 passengers, delivers approximately 265 passenger miles per gallon of fuel. An Amtrak "Amfleet" train with five cars, one of them an "Amcafe" car, carrying approximately 400 people, delivers 300 passenger miles per gallon. This figure rises as more cars are added to the train. When a second locomotive is added, it continues to rise until, with 20 cars and more than 1,600 passengers, it delivers over 500 passenger miles per gallon. The train benefits in fuel efficiency because of its flexibility and low aerodynamic drag (see the accompanying chart).

These statistics reveal that rail passenger transportation is, of necessity, going to increase, because of fuel efficiency. With that in mind, what kind of service should Amtrak provide in the next five, ten, or fifteen years in order to best serve the traveling public?

We must start at some base point, such as passenger car inventory. Amtrak cannot do any more than its fleet capability, and that capability is the total of its earning power. Today Amtrak owns 1,925 rail passenger cars of all types, plus 61 Metroliners, 65 Turboliner cars, and 12 Rail Diesel cars. With this small and mostly ancient inventory, Amtrak must serve a nationwide, coast-to-coast passenger network of more than 26,000 miles. This huge infrastructure is too big and too costly, and the car inventory is too small. One of the first changes that must be made is to increase Amtrak's earning capacity by increasing its inventory of cars and thereby to come closer to covering the cost of its fixed base infrastructure. A farmer who could not recover the cost of his orchard with 100 trees will not improve his income by cutting down some of the trees. He would come closer to covering costs or even making a profit if he had 1,000 trees. It is a basic economic principle that, to continue corporate existence, there must be a balance between earning capacity and the cost of doing business. Then income must increase or costs must decrease to produce a profit.

How big should a system like Amtrak be? In 1929, there were about 62,000 cars of all kinds in passenger service in this country. Of course, at that time we did not differentiate between "intercity" service and "commuter" service as we do today, but still the difference is so great that it tells us something. Amtrak's tiny fleet is too small. Even at the end of World War II when the passenger fleet had been overworked and no new cars had been built, there were still 45,000 cars in service. Of these, more than 9,000 were Pullman cars alone.

The figures underscore the question, "How big should an Amtrak be?" In the Union of South Africa, there are 9,700 rail passenger cars; in France, 15,320; Germany, 17,726; Great Britain, 17,463; and Japan, 26,099. All of these countries have route networks of from one-third to two-thirds the size of Amtrak. Again, we do not have the number of commuters in those systems, but we have to be impressed by the ratio of Amtrak's small fleet to these other passenger fleets. They have 5 to 15 times greater earning capacity than Amtrak and fixed cost infrastructures that are much smaller.

In addressing the question, "What should Amtrak provide in the near future?" it appears to be indisputable that it must first provide many more cars than it has now. This will cost money and will require *considerable* lead time to accomplish. Consider the fact that on April 2, 1975, Amtrak contracted to purchase the first 235 of a 284 car order from the Pullman Company for more than $200 million; more than three years later not a single one of those cars is yet in revenue service.

WHY THE DELAYS?

When Amtrak was created in 1970 and began operations on May 1, 1971, it was setting out to breathe life back into an almost dead industry. The rail passenger industry, which had been losing money at the rate of $200–$400 million per year and which had been negotiating with the government for a decade to get out of the passenger business, is not the kind of an industry that places orders for new equipment. With few exceptions, new cars had not been ordered for a generation or more. As a result, when Amtrak began, it discovered that the passenger car industry had been dead for a long time. No one in the United States was making the type of car required, and foreign cars could not be utilized without modifications.

When a parent industry expires, the important subcomponent industry drifts into other pursuits or it dies too. And when both of them, prime and subcomponent, are gone, research and development stagnate. Amtrak discovered this fact of life when it went to the old standby manufacturers, the Budd Co. and the Pullman Co., to order cars.

In spite of all this, an agreement was arranged with the Budd Co., and today Amtrak has in service 492 new, though rather austere, cars. Now that production has stopped again, Amtrak does not know whether or not Congress shall appropriate enough funds to enable it to place orders for more Amfleet cars—not just to build a much-needed inventory, but also to keep that bit of the industry alive. As stated above, Amtrak has not received any of the Pullman cars, but they are expected this year. As the only purchaser in this country for this type of equipment, Amtrak cannot support such a manufacturing industry alone unless its flow of capital funds is great enough and steady enough to keep it a profit-making business for them. Amtrak is caught between the grips of a vise: Congress must provide those funds and the industry must have them to exist.

All of this underscores an important fact of this business. When Amtrak came into existence, it was able to purchase from the railroads an inventory of about 2,000 cars. They were good cars, but they were old, and they had come from many sources. They were hard to stock supplies for and difficult and costly to maintain. About three-quarters of Amtrak's inadequate fleet consists of these costly antiques. The influx of new Amfleet cars served only to permit the retirement of the oldest and most unreliable of that original fleet. Hence, those 492 cars did not increase the size of Amtrak's inventory. Without an inventory increase, it is all but futile to consider an increase in service at this time, in terms of either new trains and new routes or increased frequencies on established routes.

THE DEMAND FOR MORE TRIPS

Frequency of service is a fundamental factor in passenger transportation. A 1978 British Rail survey, "Marketing Case," has this to say for frequency of service:

"Regular train service frequency has been the key feature of the intercity package, as time waiting for a train—which good frequency reduces—is seen by the passenger as part of the total journey time. Principal cities and towns are linked with London at least every hour. Cross-country service intervals are often as good, and where there is lower traffic potential, a frequency of at least every two hours is usual."

In another section of this same survey, British Rail says:

"Research confirms convincingly that reduced journey times resulting from higher speed coupled with good frequency have been the most significant factors in attracting more rail passengers."

Modern rail passenger service cannot meet the demand of busy and frequent travelers unless it can provide a frequency of service that will assure a train when needed and, what's more important, the convenience of a return trip without the necessity of spending the night away because there was no other way to catch a return train. When Amtrak makes a contract with a passenger to travel in one direction and that passenger leaves his automobile at home, Amtrak should provide a convenient option for the return trip.

This service is a fundamental part of Amtrak's future plans. Today, the great majority of the communities served by Amtrak are served only once a day in each direction. In most cases, the scheduled time of arrival of that train is merely a function of when that train departed from some distant endpoint city many hours or even days before. This kind of operation results in an almost impossible round-trip situation for all intermediate community passengers, and it results in many schedules that fall during the most inconvenient hours of the day and night. The solution to this serious problem requires cars.

Transportation planners know about the essential value of frequency, but with a severely limited inventory the only choice is to do the best with what is available. The existing system must be changed if Amtrak is ever to have the capability to meet current needs and to prepare for the heavy demands that can be expected in the next decade of diminishing petroleum supplies.

ACHIEVING HIGHER SPEEDS

Essential to better service in the world of transportation is higher speed. No one at Amtrak expects to see three and four hundred mile-an-hour trains crisscrossing the country. We would like to have trains run at what used to be called "express train" speeds, which average about 75 mph. In corridor-type passenger service, modern trains should be able to run between 110 and 120 mph, if not a little faster. Speeds in excess of 100 mph are offered by blue-ribbon services in many countries today. It will be 1981 before the improvement of the Northeast corridor will enable Amtrak to schedule trains to New York City from Washington in 2 hours and 40 minutes. At that time, it will also be possible to go from New York to Boston in 3 hours and 40 minutes. In order to make this schedule, with the prescribed five stops, the trains will have to hit 120 mph en route. Even higher average speeds will be achieved in the future.

The complex physical and engineering problems with track are very costly to solve. Amtrak trains of today, running over a system of 26,000 miles all over the country, do so on schedules that must accept an overall average speed of about 45 mph. This is much too slow. There are many reasons for this poor average. First of all, there are too many unprotected grade crossings. In many municipalities and townships speed restrictions have been instituted for the safety of motorists where thousands of these dangerous grade crossings exist. These safety "slow orders" cause countless reductions in speed and very slow overall schedules. Second, an increase in track maintenance work all over the country has produced another wave of maintenance "slow orders" and Amtrak's trains are slowed by that essential work. Third, Amtrak trains are delayed on far too many miles of track for no other reason than the fact that the track and its roadbed are not good enough and safe enough to permit the operation of faster trains. This is deplorable, but cost and other factors have created a situation that seems all but beyond resolution.

The subject of speed in the railroad business brings up other important matters. A faster track is generally a more comfortable track. When safety regulations permit a train to run faster, it is usually because the track is in better condition; and if it is in good condition, it is comfortable. Amtrak's trains on many miles of slow track are uncomfortable; this problem cannot be rectified unless the track is improved by the private freight railroads that own it. In actual practice, Amtrak can do nothing about it.

Higher speeds are also essential for more economical operation of trains. When it takes a train 20 hours to go 800 miles, Amtrak loses the service of the crews, the cars, and the locomotives for 20 hours. If a train could run that 800 miles in 10 hours, overall costs would be reduced considerably. Such a step forward must wait, however, until the railroads improve the track sufficiently to permit that type of operation in comfort—reliably and safely.

Speed means a lot to the passenger, too, of course. The trip between New York City and Kansas City takes about 30 hours. The average speed is under 45 mph. If Amtrak could run that trip at an average speed of 75 mph, it could do the trip in about 18 hours. At today's speeds, the passenger must have dinner on the train, have breakfast the next morning, then lunch, followed by another dinner. For an individual or family on a through trip, that food cost adds up appreciably, as does the cost of the bedroom. On an 18-hour schedule, costs to the traveler would be greatly reduced.

In sum, Amtrak must find some way to meet these fundamental requirements during the next five, ten, and fifteen years: a larger inventory; greater frequency of service and more routes; ability to support a manufacturing industry and, in turn, have that industry capable of supporting research and development; and more speed, which implies more comfort, more safety, more reliability, and lower costs to Amtrak and to the passenger.

IMPROVING PASSENGER SERVICES

In a service industry there is always room for improvement in personal service, although Amtrak has already made some great strides in this area. Amtrak has done much with its computerized information and reservations system. If that system could be integrated with the electronic data processing systems of other modes of transportation, the entire transportation network would be improved. These changes come with professionalism and dedication to the task at hand. They begin to fall into place if the major elements of the overall development can be achieved. In final analysis, Amtrak's management can accomplish results to the extent it is given the money, the means, and the authority required.

When Amtrak was created in 1971 many people supported it because they felt that it would be nice to have trains again. Today there is a more pressing need. The energy crisis tells us that we are going to have to have a better rail passenger system in this country than we have ever had before. Those who know the most about our energy situation say that we will run out of petroleum, in inexpensive and ever-ready quantities, no later than 1982–1985. In terms of the time it takes to generate an industry as large as a nationwide rail passenger system, 1982 is tomorrow. We are already behind that schedule and we are going to have to run hard to catch up.

Because most passenger trains run on electricity, (the majority of them in the Northeast) they offer the only present mode of transportation for large groups that is not dependent upon petroleum fuel sources. As long as petroleum fuels are available, trains will do the most to help conserve that valuable asset. The rail passenger train is therefore the most energy efficient means of transportation available. The significance of these two facts is going to become more meaningful in the next decade. Amtrak's job is to do everything possible to get ready for the demand that is just around the corner.

Mr. THURMOND. Mr. President, the public outcry to save Amtrak train service has been tremendous. I wish to bring to the attention of my colleagues the following Time magazine essay, which is but one of many similar editorials in newspapers and magazines throughout the country.

I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the essay was ordered to be printed in the Record, as follows:

The Sad State of the Passenger Train

Certain public services are so obviously desirable that they are beyond debate in modern urban societies. The thought of doing without schools, parks, hospitals, street lighting and such could scarcely enter a civilized mind. The ever wandering human species recognized roads as obvious necessities soon after man began meandering across the earth. Later, mechanical wonders that aided travel were put in the same category. Today every ranking industrial nation nurtures the use of cars, buses and airplanes. Along with these, railroads are treated as indispensable in every well-developed country—except one.

The amazing exception happens to be the U.S., a nation that pioneered in railroading with more vigor and daring than any other in the 19th century. It also did so on a grander scale, binding an immense continent with tracks and producing trains of such magnificence that they moved Nathaniel Hawthorne to exclaim: "They spiritualize travel!" Most Americans once agreed, and even today travelers lucky enough to wind up on a good train find this way of traveling superior in every way to the fumes and peeves of the throughways and the sardine-can intimacy of the time-rupturing jet planes. Yet, in spite of the heroic past, the U.S. has let its passenger rail travel system fizzle and sputter down into a national embarrassment.

Today service is scant, schedules are unreliable and amenities are often sparse. The equipment includes, in the forthright phrase of Amtrak President Alan Boyd, "a lot of junk." The situation might be called ridiculous if only in light of the universal recognition of the passenger train as the most expedient mode of moving large numbers of people from city to city. In an energy-short era, the railroad, fully exploited, offers the most fuel-efficient means of public transport.

The plight of U.S. passenger travel is downright humilitating when it is compared with the superb services of, say Japan, France and Britain. British trains run so close to the mark that passengers carp about a five-minute overdue arrival. Japan's celebrated bullet trains, at up to 130 m.p.h., make the U.S. counterparts seem like earthworms. Naturally such service does not come free. Britain subsidizes its trains at a yearly rate of $728 million, Japan (with less than half the U.S. track mileage) at $4.1 billion and France at $930 million.

When Amtrak was created eight years ago there was hope for improved U.S. passenger trains, and there was even some progress. But now, with the country still needing to do a great deal better, it stands at the verge of deliberately doing worse. Reason: a Department of Transportation plan that would amputate 12,000 miles from Amtrak's 27,500-mile system. It would also wipe out some popular trains, including the Washington-New Orleans Crescent and New York-Canada Montrealer. This would be accompanied by slashes in Amtrak funds, forcing the company into offering truncated services at higher fares.

Though the plan would likely reverse the recent trend of growing ridership. Transportation Secretary Brock Adams insists that it is, constructive. Still, he has pushed it in Congress mainly as a handy device for saving perhaps $300 million a year. Congress, which must reject or acquiesce in the scheme by May 22, has so far seemed woefully ready to let it go into effect without substantial changes.

Rail travel advocates fear that, on top of the sudden loss of almost half of Amtrak's system, the plan might mark the beginning of the end for all significant intercity rail services in the U.S. Even if it may be too late to stop the DOT plan, it is not too late to examine how the U.S. came to such a shabby pass.

The amputation plan embodies a whole bundle of questionable notions that have long clouded the prevalent American view of passenger rail service. A conspicuous one among them was evident in the chartering of Amtrak, which was directed to function as a profit-making organization. The cold fact is that no national passenger system, in the final accounting, ever pays its own way. Amtraks succession of deficits ($600 million this year) was inevitable, and the DOT reaction rested on yet another flawed notion: the remedy for an insufficent passenger system is to cut it back and make it even less sufficient. These and other peculiar notions—including the specious belief that Americans do not really like to ride railroads—add up to a sort of official mythology of passenger travel in the U.S.

The odd thinking that has long held sway in national rail travel policy springs out of a stubborn resistance to rail travel as a public service justified not by profits but by its contribution to social convenience and well-being. After all, municipalities everywhere subsidize local mass transit and recognize the obvious need to do so. Washington still thinks of automobile transportation as strictly private, even though the Federal Government alone has invested some $48.6 billion in roads since 1971. Airlines are similarly considered private, even though they would be as financially strapped as Amtrak if they were billed for only the nearly $2 billion the public pays each year for the air traffic control systems. Every attentive citizen, finally, becomes aware of the inextricable public-private money mix that sustains all transport. But the strangest thing—and perhaps the most revealing—is that nobody gets worked up about it except when the issue of railroads comes up.

This peculiar official sentiment is linked, underneath, to a mental picture of the railroad industry that lingers from the past. The trains that used to inspire novelists and songwriters were contrivances of freebooting laissez-faire capitalism, and they became symbolic monuments to a time that believed that any enterprise that could not make a profit deserved to die. In fact, though, an extensive passenger-train network tenuously survived into the 1940s, when, suddenly needed for war duty, it worked profitably at capacity. Then, in the postwar period, when the nation lavished attention and money on the development of air and highway transport, rail travel sank into the red. One reason was that the mail subsidies that used to help pay the basic cost of a passenger train were increasingly handed to truckers and airlines. Passenger trains fell into the trend of continual service cutting that both reduced chances for a comeback and encouraged Americans to turn more and more to cars.

Despite this unfortunate history, the nation that has so superbly cultivated highway and air travel could plainly do just as well by rail travel if it chose. The energy crunch alone, which is already creating a surge of new riders on Amtrak's long-run trains, is good cause for so choosing. But there are many other reasons for doing so, not least that train travel at its best, in addition to being highly efficient, is perhaps the most attractive form of travel for millions. Before any obviously desirable passenger system can be built, however, the country will have to realize that it is not the passenger train, but only its thinking about it, that is obsolete.

—FRANK TRIPPETT.

Mr. THURMOND. Mr. President, I also wish to point out the following article that appeared in Spartanburg Herald-Journal, Sunday, July 8, 1979 and ask that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"AMTRAK WORKS," SAYS PROFESSOR

It takes patience and willingness to adapt, but train travel is alive and well in the United States. In fact, it might even be the best way to see the country these days, with automobile travel plagued by fuel shortages and high prices.

That's the verdict of Jim Sloan, assistant professor emeritus of political science at the University of South Carolina at Spartanburg. He spent the month of June traveling more than 9,000 miles on such Amtrak runs as the Southern Cresent, the Broadway Limited, the Empire Builder, the Coast Starlight and the Southwest Limited.

"Amtrak works," Sloan said after arriving back in his native Clinton with his wife Alice on June 30. "Especially if you are on a coast to coast tour like we were. You get to see a lot more of the sights than if you were driving, and you can sleep through a lot of the miles that tire you out so much when you're in a car.

"That doesn't mean that there aren't problems though," he added. "If we Americans want a passenger rail system that is really meaningful, in terms of the total number of people carried, it's going to take better administration and more money."

Sloan says the biggest problem with the rail systems on this particular trip was the inability of the trains to stay on schedule. "In one case we were 3½ hours late, and we usually were running behind. It didn't make much difference to us, but it did to some others around us who didn't have quite as much time or patience."

The USCS professor also said that Amtrak definitely shows the effects of two decades of neglect of the nation's rail system. "The newer coaches are more comfortable than either airplanes or buses, but the increase in business caused by the fuel shortage caused Amtrak to put a lot of World War II vintage coaches back on line, and these leave something to be desired. (Some stations were clean and modern—others were not). Some of the roadbeds out west were in such bad shape that the train could only run 20 miles per hour."

According to Sloan, these problems were offset by several pluses for train travel. He said Amtrak officials tried very hard to be helpful, including providing alternative transportation when he and his wife missed a connection in Los Angeles. The porters and conductors, now often young men and women, proved to be friendly and helpful, giving a good measure of personal attention. The food was reasonably priced and offered a variety often not available to the traveler.

But the Sloans say the thing they enjoyed most about the train was the chance to move around while traveling and meet people. "Taking a trip like this reaffirms your faith that the United States is bigger than Watergate or Vietnam. It's a big rich country with good friendly citizens," said Sloan. "We've been to Latin America and Europe on our summer tours the past few years, but I think we enjoyed this tour more than any other we've taken."

Mr. THURMOND. Mr. President, we must not abrogate our responsibilities while we examine and seek to reduce our expenditures. We cannot be so short-sighted as to fail to realize that the short-term solution of a lower Federal subsidy this year, might well be creating serious and expensive transportation and energy problems in the future.

Mr. President, I stand for fiscal responsibility and my position on Amtrak is no deviation from this policy. By proper promotion and service, proper route structuring and upgrading, and the purchase of essential equipment, the Nation's rail passenger service can be continued without any great loss to the Federal Treasury and with tremendous benefit to the American people. The amendment offered by Senator LEAHY will accomplish this by establishing criteria to insure that profitable and well-patronized routes will be continued while insuring that those routes that are not utilized shall be discontinued. I intend to vote for this amendment and urge my colleagues to also support this amendment.

● Mr. McGOVERN. Mr. President, I rise in support of the amendment offered by my distinguished colleague, Senator LEAHY, and ask that I be added as a cosponsor.

The provisions of this amendment represent a long overdue compromise between those of us who firmly believe that rail passenger service can play a major role in our Nation's transportation as well as reducing our dependence on foreign fuels, and the administration, which has determined that extensive cuts are necessary from a budget perspective. I find the administration's position difficult to understand when they are prepared to invest over $140 billion of the taxpayers' money in an energy program based on technologies that may be infeasible as well as creating irreparable impacts to our environment.

We must keep in mind that Amtrak was created on the premise that the Government was making a large investment that, over time, would generate sizable economic and social benefits for the American people. I believe that we can and will reach that goal, but not under the administration's program.

Amtrak was created because the Congress perceived a desire on the part of the American public for a continuation of some level of rail passenger service. It was also evident at that time that the United States could not rely solely upon further massive construction and maintenance of highways and airports to meet its long-term transportation needs.

Creation of a national rail passenger system, therefore, was viewed as a method to save for the future an alternate form of transportation that possessed a priceless asset—existing tracks and rights-of-way into major population centers of the Nation.

At the inception of Amtrak, in 1971, it inherited a dying business. The corporation had virtually no employees. The majority of the passenger cars were old, many of them in disrepair. Train stations and maintenance facilities had been severely neglected. The Corporation did not own any railroad tracks, stations, terminals, switching yards, locomotives, or other rail equipment.

Today, 8 years later, we must remember how Amtrak began before we make critical decisions impacting on its future. Although the administration insists that Amtrak has not met its goals, I think we have come a long way since 1971, when all we really possessed was a "paper corporation."

True, some trains have proved to be inefficient and cost-ineffective—and some trains may continue to lose money. Some of these routes may be cut, but the proposals offered by the Department of Transportation reflect no understanding of the need to provide essential transportation services.

Therefore, Mr. President, I support this amendment as well as an amendment offered by Senator CHURCH. These amendments offer a fiscally responsible approach to preserving essential passenger rail service, while preserving the original premise upon which Amtrak was founded. Such massive Federal investments rarely result in overnight successes, but over time, provide for critical social and economic needs of the American public.●

Mr. LEAHY. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I yield to the Senator.

Mr. DANFORTH. Mr. President, I ask unanimous consent that Dave Moran, of Senator DOMENICI's staff, be granted privilege of the floor.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. LEAHY. Mr. President, I ask the distinguished managers of the bill whether there is any objection to yielding back our time, if nobody objects.

Mr. LONG. If I have any time, I yield it back.

The PRESIDING OFFICER (Mr. NUNN). All time has been yielded back. The question is on agreeing to the amendment of the Senator from Vermont. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 89, nays 11, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—89

Baker
Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Inouye
Jackson
Javits
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—11

Armstrong
Bellmon
Goldwater
Humphrey
Jepsen
Johnston
Kassebaum
Muskie
Proxmire
Simpson
Wallop

So Mr. LEAHY's amendment (UP No. 495) was agreed to.

Mr. LEAHY. Mr President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY and Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I shall just take 30 seconds.

I do wish to thank the distinguished leaders of the bill for their help in this. Certainly my distinguished senior colleague put innumerable hours in on this measure.

I make a personal mention of two staff members, Michael Choukas and David Julyan of my staff, who worked weekends, evenings, throughout the day, working with other Senators in putting in the coalition for this amendment. Without their help it would have been impossible. I thank them and my colleagues.

AMENDMENT 210

(Purpose: To require that the National Railroad Passenger Corporation establish a reduced fare program for elderly and handicapped individuals)

Mr. SASSER. Mr. President, I have at the desk an amendment and I ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. SASSER) proposes an amendment numbered 210.

Mr. SASSER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

REDUCED FARE PROGRAM

SEC. . Section 305(c) of the Rail Passenger Service Act (45 U.S.C. 545(c)) is amended—

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) Within ninety days after the date of enactment of this paragraph, the Corporation shall establish a reduced fare program for elderly and handicapped individuals. Such program shall establish a fare for elderly and handicapped individuals for rail passenger service provided by the Corporation which is not in excess of 75 per centum of the regular fare for such service.

"(B) For purposes of this paragraph—

"(i) the term 'elderly individual' means a person who has attained the age of sixty-five years; and

"(ii) the term 'handicapped individual' means any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has record of such an impairment, or is regarded as having such an impairment, but the term handicapped individual does not include any person who is an alcoholic or drug abuser.".

STUDY REQUIRED

SEC. . Within one year after the date of enactment of this section, the National Railroad Passenger Corporation shall prepare and transmit a report to the Congress concerning the effect of the amendments made by this section 16. The report shall include an analysis of the social and economic impacts of providing a reduced fare program for elderly and handicapped individuals.

The PRESIDING OFFICER. Will the Senator from Tennessee answer a question for the Chair?

Mr. SASSER. Yes.

The PRESIDING OFFICER. Is this the amendment on which there was to be a time limit of 20 minutes?

Mr. SASSER. That is correct.

The PRESIDING OFFICER. I thank the Senator.

Mr. SASSER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Mr. President, I yield to the distinguished Senator from Michigan (Mr. RIEGLE).

Mr. RIEGLE. I thank the Senator for yielding.

Let me just advise my colleagues that the Senator from Tennessee is yielding for the purposes of myself, Senator LEVIN, and Senator JAVITS to engage in a brief colloquy on a matter with the chairman of the committee. So this should not take long. I appreciate very much the Senator from Tennessee for yielding. This colloquy concerns the intent of section 4 of the bill.

My remarks are intended to follow up on a dialog that occurred in the House between Mr. FLORIO the chairman of their Subcommittee on Surface Transportation and several members of the New York delegation.

I notice in the proposed restructuring plan submitted by the administration that a direct Detroit-Buffalo passenger line called the Lakeshore Line is under consideration. Currently, passengers traveling from Detroit to New York must travel to Chicago in order to get a train that goes directly to New York. Anyone can look at a map and see the absurdity of going west in order to get to the east coast, and the Lakeshore Line will remove this ridiculous situation.

My reading of the language in section 4 indicates that the corporation will have some discretion under limited circumstances to defer the implementation of routes recommended by the Secretary for restructuring. I interpret this language to read that the implementation must take place as expeditiously as possible.

It seems to me that the language supposes that the rerouting will occur unless the corporation makes a demonstration that the new routes fail to provide "equivalent or superior service." In other words, the burden of proof will be on the corporation to show that a new route, such as the Lakeshore Line, will not meet the criteria of "superior service," otherwise the plan will be implemented.

We have received indications that Amtrak does not intend to make this restructuring decision, and our dialog is intended to remove any doubt as to the meaning of this section. Rail service is very important to my State, we support passenger and rail operations in a large way, and the addition of the Lakeshore Line will enhance rail service for Michigan and for the country.

I thank the Senator from Tennessee and I now yield to my colleague from Michigan.

Mr. LEVIN. I thank my senior colleague and also thank the Senator from Tennessee.

Mr. President, it is most important that we clarify the impact of the new language added by this bill to section 4(g) of the Amtrak Improvement Act of 1978.

Mr. President, I ask unanimous consent that the remainder of my written remarks appear at this point in the Record.

Mr. HEINZ. Mr. President, reserving the right to object, I wish to know what the Senator is going to be saying on this issue. We are writing legislative history and I do not want the history just to be put into the Record. I want to be able to say that I agree or disagree with it.

So I must respectfully object if any of the material that the Senator puts into the Record bears on the issue of what is intended by the section of this bill giving Amtrak the ability to chose when it should or should not commence service recommended by the route restructuring, but which is presently impossible or inadvisable to commence because of track or other difficulties.

Mr. LEVIN. I thank the Senator from Pennsylvania.

I shall read an additional portion which I think will answer his question.

Let me first provide a little background to this request. I am proud to say that Michigan is one of four States (the others being New York, Illinois and California) that has actively worked with Amtrak to develop and improve rail passenger service. Last year the State of Michigan spent a total of $51 million on railways in our State. Over $6 million went for passenger service. Just recently the legislature appropriated over $200,000 for a feasibility study of very high speed rail service. So Michigan is committed to improved passenger service.

When the DOT plan first appeared, although it cut the national system by 43 percent, I did not work to disapprove it, but to improve it—to add more money for capital and operating expenses, to expand section 403(b) funding, and to guarantee a smooth implementation. In looking at that plan, I relied on the fact that the plan contained a rerouting of the Lakeshore Limited that connected Detroit to Buffalo and on to New York and Boston. That is an essential link for not only my State but for residents of New York, Illinois, and points west. DOT estimated 228 passenger miles per train mile as a result of the rerouting and as opposed to 163 passenger miles per train mile on the present Lakeshore Limited route.

Under the current system, as it exists today, to get from Detroit to New York or Boston, you have to go by way of Chicago. For those unfamiliar with American geography, that means today you have to go 250 miles west in order to go even 1 mile east from Detroit on Amtrak.

I followed this bill in the Surface Transportation Subcommittee and knew of the language submitted by Senator Exon which, at that time, we thought was to insure the operation of the current system only until such time as the new system would be implemented. That made sense and I even sent a letter to the committee which spoke, in part, on that subject. I did not know at that time that Amtrak was considering not implementing the Lakeshore rerouting.

I then started to hear the rumors that Amtrak planned not to implement the Lakeshore rerouting. I could not believe it. Detroit is the fifth largest city in this country, and Amtrak wants to leave this major metropolitan center without an east coast connection. In following up these rumors, I was told that the reason Amtrak would not implement the Lakeshore restructuring was because there was a problem in securing the track and routing permission in Canada. I then found out that the track in Canada is owned and operated by ConRail. I was then told that the rerouting would not take place because the ConRail track had been downgraded to a 30-mile an hour track and that it would cost too much to bring it up to passenger service level. In chasing down the facts behind that allegation, I was told by ConRail that the track—which is actually double track—is in excellent shape and that the average train could run at about 50 mph. I further found out that ConRail did intend to downgrade one of the tracks and that it had petitioned the Canadian Transportation Commission to do so. My office along with Senators Javits, Riegle, and Governor Milliken's offices then met with ConRail—Amtrak had not approached ConRail on this subject to my knowledge—and asked them to postpone the downgrading until January 1, 1980, in order to provide us some time to clear up the confusion with Amtrak and to avoid additional and substantial costs of rehabilitating the track. ConRail is meeting on this decision this week in Philadelphia.

What I am puting in is background, and if there is anything other than that, it is not intended.

To continue my remarks, however, after those written remarks, they are as follows: I read section 4(g), Mr. President, to mean that the deferral is just that, a deferral, and deferral is allowed under that section only until needed improvements are made on the new routes to achieve equivalent or improved service.

Now I have two questions of the chairman: Is it the intent of this legislation that the rerouting contained in the DOT plan be effectuated if a proposed new route is equal to or better than an existing route?

Mr. LONG. Yes, the Senator is correct.

Mr. LEVIN. Is there any language in this bill that would permit a permanent deferral of the rerouting if the proposed new route is equal to or better than an existing route?

Mr. LONG. No, there is no language that would permit a permanent deferral.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. HEINZ. I think it is very important that we be very clear on what we are talking about.

The Senator from Michigan has propounded the question whether a deferral may continue for an extended period of time. The Senator from Louisiana has said no, it may not. It, in fact, as I read section 14, does not say either yes or no to that question.

It simply says, as I understand it, that until such time as necessary improvements are made—not stating that they ever have to be made—then Amtrak may defer establishing new service, in this case, via a Canadian route rather than the present route which, for the sake of full disclosure, happens to run through Erie, Pa., and not through Canada, and obviously will not. So I have a personal interest in this matter.

I might only just add that I think it would be a mistake, and I say this to my chairman most respectfully, to read into this legislation something that really is not there plain for all to see in the section we are discussing.

The chairman is entitled, as we all are, to express his opinion as to what the legislation does or does not mean. But if the chairman's opinion is that Amtrak has to every year explain why in detail that it costs too much money and that it does not want to put millions and millions and millions of dollars of the American taxpayers' money into Canada, then I would have to say that that is a needless example of foreign aid.

I know the Senator from Louisiana's attitude on foreign aid. He is 100 percent American so far as that is concerned, and I salute him for that attitude.

I just do not want to load this gun in favor of Canada here.

I do not understand why we want to give Amtrak encouragement to just slash away some more at what is left of the U.S. route structure.

So I would hope, Mr. President, that there is no confusion about what, in fact, the legislation says. It says neither yes nor no, as I read it, to the Senator from Michigan's question.

Mr. RIEGLE. I yield briefly to the Senator from New York.

Mr. JAVITS. Mr. President, I think my point goes to this discussion. There is one defect in Mr. HEINZ' argument, and that is if, in fact, the service from New York to Detroit or Detroit to New York is superior to the existing service on a given train, to wit, the Lakeshore Limited, then it seems to me that section 14 of this bill enables Amtrak to accomplish the restructuring expeditiously. That is all we are really talking about.

This depends upon whether Senator RIEGLE's assertion is correct, and they will test that out as a professional railroad matter. But if it is then correct, in our judgment—and that is all we are saying and asking the chairman the same thing—then the restructuring should be accomplished.

As I understand it, in the first place, this Canada business, as the Senator knows, is pure rhetoric. He knows that as well as I do. Canada is our closest neighbor. We need her and she needs us. What is this business? We might as well prohibit our planes flying over her airspace or our planes landing in Montreal or Toronto or their planes in our airports. I do not think this is a credible argument to make in this problem where you have a serious problem in my State and in Michigan, and your State is not going to be hurt, as I understand it because of rerouting of the Broadway Limited.

So that is the only thing. We are trying to lay down a set of criteria which can be dealt with, which can be based upon the fundamental assertion of the Senator from Michigan that it is a superior service, if it is.

Mr. HEINZ. Mr. President, if the Senator would yield, and I will ask——

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. SASSER. Mr. President, I yielded to the Senator from Michigan a moment ago for a 3-minute colloquy.

The PRESIDING OFFICER. The Senator from Tennessee has 5 seconds left.

Mr. RIEGLE. I ask unanimous consent that the time of the Senator from Tennessee be restored, and that the colloquy that has taken place, which has taken longer than was anticipated, not be charged against his time. I ask unanimous consent that his time on his amendment be restored.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. Seven minutes will be restored.

Mr. HEINZ. Mr. President, I do not know who yields time. I would like a chance to complete the colloquy with the Senator from New York, who raised a good point.

Mr. JAVITS. If we may, Mr. President, I think we want to hear from the chairman, too. I ask unanimous consent that we go on for 5 minutes, and yield 2 minutes to the Senator and 2 minutes to the chairman.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Mr. President, would this preclude any statement I might wish to make? I would like to get involved in this colloquy.

Mr. JAVITS. We could ask for 10 minutes.

The PRESIDING OFFICER. Is the Senator from New York asking for 5 additional minutes beyond that allocated?

Mr. JAVITS. Is there any allocated to us? I thought our time was up.

The PRESIDING OFFICER. There are 10 minutes in opposition to the amendment controlled by the Senator from Louisiana.

Mr. JAVITS. That is fine. If he would be kind enough then to yield just 1 or 2 minutes to the Senator——

Mr. GLENN. Mr. President, I ask unanimous consent——

Mr. HEINZ. I thank the Senator from New York, the Senator from Louisiana, the Senator from Michigan, the other Senator from Michigan, the Senator from Tennessee for yielding me 2 minutes.

Mr. GLENN. While we are having these unanimous-consent requests, might I ask that I be allotted 5 minutes of this time?

The PRESIDING OFFICER. I think the unanimous-consent request will have to be reposed, because the Chair understood the Senator from Ohio to object when he took the floor, so I think——

Mr. JAVITS. Mr. President, I ask unanimous consent——

The PRESIDING OFFICER. That is no longer necessary. The Senator from Louisiana has the time and he has yielded, and I am sure he will yield the rest of it.

Mr. SCHWEIKER. I would like 2 minutes, too, Mr. President.

The PRESIDING OFFICER. Does the Senator from Louisiana yield time?

Mr. LONG. I yield 2 minutes to the Senator from Pennsylvania, 2 minutes to the other Senator from Pennsylvania, and 2 minutes to the Senator from New York.

Mr. HEINZ. I thank the Senator.

Mr. LONG. Three minutes to the Senator from Ohio.

Mr. HEINZ. Mr. President, let me quickly claim my 2 minutes and not stand around until they expire.

Mr. President, the issue here is, very frankly, a question of what the legislation says. I listened carefully to what the Senator from New York said, and he is a master politician and wordsmith, and he is saying very carefully he wants Amtrak to move expeditiously, and that is the key question—whether the section at issue here requires any movement at all.

What section 14 says, no matter what we may say it says, is that Amtrak has the right to continue service on existing routes until such time as it is able to do the various things necessary, points 1, 2 and 3 in section 14, so that equivalent or improved service or service that is consistent with the goals contained in subsection (a) can be provided.

It does not say that Amtrak has to do it tomorrow, has to do it next year or has to do it in 10 years. The word "until" is neutral, and all the expedition or immediacy or tomorrowness that the Senator from New York or the Senator from Michigan would wish to put into the language simply is not there.

At present I do not wish to argue with anybody, except to make the point that we should not say something about legislation which creates an impression that simply would not be correct, based on the language of the legislation.

I thank the Senator from New York and I thank the Senator from Louisiana for the time.

Mr. SASSER. I yield the Senator from Pennsylvania such time as he may require.

Mr. SCHWEIKER. Mr. President, I am concerned over the rerouting of the Lake Shore Limited, a New York-Boston to Chicago train. This train has served Erie, Pa., well for a number of years. I seriously question the rationale for rerouting it through Canada. It will not even make any stops in Canada. Erie, Pennsylvania's third largest city, needs the essential service provided by Amtrak.

The cost of rerouting the Lake Shore could be as much as $7 million, which will have to come out of the Amtrak capital budget. Amtrak could make better use of this money by purchasing new rolling stock or improving railroad stations.

In addition, rerouting of the Lake Shore is contingent on the rerouting of the Broadway Limited between Pittsburgh and Cleveland. This will cost up to $19 million. All told, we are talking about a capital expenditure of $26 million. Beyond this, however, annual operating expenses will increase by millions of dollars if those trains are rerouted. Why reroute the Lake Shore at this high price in taxpayer dollars when it performs well on its present route?

In May 1978, an analysis by the Federal Railroad Administration showed that the Lake Shore was "considerably above the Amtrak total system average of 138 passengers." Most of these passengers ride for long distances; this high average is not increased by short distance commuters. Yet shortly after the FRA did this analysis of the Lake Shore, the Department of Transportation, in its final report on the Amtrak route structure, decided it wanted to reroute the Lake Shore.

In a letter to me, dated May 2, 1979, then-Secretary Adams stated that much of the patronage increase estimated by DOT for a rerouting of the Lake Shore would occur not because of the rerouting—rerouting had nothing to do with it—but because of two other factors. First, 15 percent of the anticipated increase would occur due to the use of new equipment—they could use that on the present line; and second, the Department of Transportation assumes a 2 percent higher ridership in fiscal year 1980, even without the rerouting. In other words, 17 percent of the anticipated patronage increase would not be due to rerouting but to other factors.

It is also interesting to note that ridership in April was up 35 percent over last year.

For all these reasons, I would urge Amtrak to go slow in rerouting the Lake

Shore Limited. I think it might well be a mistake to reroute a train that has already proved its merit.

Mr. JAVITS. Mr. President, Senator LONG has kindly yielded 3 minutes to Senator CANNON, so that we may hear from the chairman of the committee on this question. I would like to hear from him; I ask his views.

Mr. CANNON. Mr. President, as chairman of the committee, it is my position that if Amtrak agrees with the Senator's judgment, the Senator is correct, that section 14 would permit an expeditious restructuring; but that would depend on whether Amtrak actually did agree that the particular service was superior to another service. If they made that determination and agreed to those changes, they would have the authority to accomplish an early restructuring.

Mr. JAVITS. I thank the Senator. I think that answers it, because my question was conditioned on exactly the provisional answer that Senator CANNON has given. I thank him very much.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I would like to ask the distinguished Senator from New York, since I came in, in the middle of the colloquy, I was concerned about the Lakeshore Line. Is it assumed that the colloquy would encourage the abandonment of the Lakeshore Line as soon as the Canadian route was available?

Mr. JAVITS. Mr. President, in the first place, the colloquy was initiated by the Senator from Michigan (Mr. RIEGLE), who uttered those words. I did not.

Nevertheless, I will reply. There are no implications of any kind beyond those specified by Senator CANNON. He predicated those words on the finding that this is a superior route.

All we say is that when an agency is told that it has the authority to do something if the findings are right, we have a right to expect it to do it expeditiously, and not to kill it by dragging it out. That is all we say. But all of the questions will still have to be answered in the affirmative. That is all Senator CANNON says, and that is all we say.

Mr. GLENN. I was concerned that this perhaps would be superior between New York and Detroit, along the northern side of Lake Erie, but it may eliminate some of the service we now have between Cleveland and points west, and if that were true, I would be strenuously against it.

Mr. JAVITS. Senator, there is nothing in the world to keep you from being strenuously against it, or anybody else. If it is demonstrated to be superior, we are going to be for it, assuming that the word "superior" is true. That is all we say.

Mr. GLENN. I do not see how you could say that we would have superior service for the people of Cleveland, Lorain, Elyria, and Toledo, when you go along a Canadian route.

I ask the Senator from Michigan, when is it anticipated that these decisions would be made?

Mr. RIEGLE. Mr. President, I do not know that anyone can answer that question. That is a judgment that Amtrak would have to make. I am not familiar with their determination process, but only that they have spelled out that that is a criterion for final judgment. I do not know of anyone who can give you that answer.

Mr. GLENN. I submit the way it begins to look to me is that if we do not fund the Broadway Line, which runs to Cleveland from central Pennsylvania, and we are about, some of these days, to eliminate the Lake Shore Line, that leaves us in northern Ohio with virtually no train service through there, if we are transferring that over to the Canadian side of Lake Erie in order to facilitate better service between Cleveland and New York.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The 1 minute remaining belongs to the Senator from Louisiana.

Mr. GLENN. I can only say I am going to have to look at this very closely.

Mr. LONG. Mr. President, having yielded on my time on the amendment—how much time do I have remaining?

The PRESIDING OFFICER. Forty seconds.

Mr. LONG. I take my 40 seconds to ask that my time be restored to me, because I have yet to use any of it.

The PRESIDING OFFICER (Mr. PRYOR). Is there objection? Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent that the time allotted to my amendment be increased to 40 minutes. A number of Senators have indicated they wish to speak.

Mr. LONG. Mr. President, reserving the right to object, I must object to that, because I believe we are going to accept the Senator's amendment. If that is the case, I believe an amendment will be offered to it to fund it, but as modified I believe we are going to accept it, and I do not think we need all that time; and I am anxious to get home this evening.

I would ask the Senator, if he is confident that we are going to agree to his amendment, does he want more time to talk people out of it? Because I believe it will be accepted, with an amendment.

Mr. DANFORTH. Mr. President, further reserving the right to object, I was going to suggest to the Senator from Tennessee that, given the fact that his amendment will be accepted on both sides, he might consider vitiating the order for the yeas and nays.

Mr. SASSER. Mr. President, I am reluctantly going to have to stick with my request for the yeas and nays.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SASSER. Yes.

Mr. JAVITS. I just wish to express my strong support of Senator SASSER's amendment.

Mr. President, I strongly support the Sasser amendment, of which I am a cosponsor. Our elderly and handicapped citizens are too often impeded by transportation barriers not faced by more mobile individuals, and even our most modern systems of mass and inter-city transit, systems which should reflect the landmark efforts made in providing other services to these persons, continue to be inaccessible.

The physical obstacles to the handicapped and elderly are manifold. A 4-inch curb becomes a mountain to one in a wheelchair, to an older person who must carry a cane to support arthritic limbs. Our older mass transit systems present often insurmountable barriers to the mobility of these persons, who cannot climb the 3 steps into a bus, or descend the 40 steps into the subway station.

While we must make reasonable accommodation for the intracity transit needs of these individuals, so too can we encourage intercity ridership of the elderly and handicapped by promoting reduced fares on Amtrak, as proposed by our amendment. This need not result in any increased cost to taxpayers, for the reduced fares should be compensated for by a significantly increased ridership. Furthermore, it should result, where the tradeoff is between the use of the rail system or driving in automobiles, in the reduced use of fuel by those who would now find it cheaper to take the train to their destination. Moreover, with this fare reduction, we might expect to see the survival of routes which have not been self-sustaining in the recent past. I urge the adoption of this amendment, which is not only economically reasonable, but will enable the handicapped and elderly members of our society to participate fully in its mainstream.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I yield 3 minutes to the Senator from Nebraska.

Mr. EXON. Mr. President, I have asked for 3 minutes basically to get involved in this colloquy, because section 14 was essentially an Exon amendment adopted in the Commerce Committee. I believe our chairman has alluded to it. This was an amendment that I worked out with the—could we have order in the Senate, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. EXON. This is an amendment we worked out with the leadership of Amtrak, to give them the flexibility we thought they needed.

However, when you talk about the language in section 14, I would point out that Amtrak feels the Southwest Limited, the Lakeshore Limited, the Broadway Limited, and the Zephyr are key trains, and it should not be interpreted that this was something to essentially restructure those routes. Those are four trains that they believe should be continued as part of the Amtrak service, and this is one place where they fundamentally disagreed with the Department of Transportation.

Also, I would point out that we are not talking about superior service, but the amendment says "to permit service that is equal or improved service."

I thank the Chair, and I thank my friend from Missouri.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. I yield 2 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kansas is pleased to support the amendment offered by the distinguished Senator from Tennessee which would require Amtrak to provide reduced fares to the elderly and handicapped. I would think that because of the broad support this amendment has we might avoid a rollcall vote.

I want to say a word for the handicapped because they are included in this amendment. I might say that I have mixed emotions about the amendment because I think handicapped Americans want to be part of the mainstream, not always segregated or set aside or given some special treatment because somebody may think they are handicapped. We in Congress have placed the emphasis on common needs and concerns which handicapped individuals share with everyone else in an effort to assimilate handicapped individuals to the fullest extent possible. For too long they have been singled out for some kind of protective this or protective that. We understand the need for that in some cases, but it can become too much of a habit.

I am also convinced that one reason the handicapped individuals are fighting for their civil rights and equal opportunities is because through the years the public attitude has kept them from assuming their full responsibilities within society. So it is with some mixed feelings that I support this amendment.

It is not so much the ticket prices that keep the handicapped people from riding Amtrak. It is the accessibility. They may not be able to get on Amtrak, on the bus, or anything else. Even free tickets cannot resolve the problem of physical barriers which restrict their movement.

But in the final analysis, I would urge handicapped Americans to take advantage of this amendment, not because they are handicapped, but because it is an opportunity to demonstrate that this is an area of concern and a type of transportation that should be used. It is a fact that handicapped individuals do not have equal access to educational opportunities as do the nondisabled. It is a fact that, on the average, the disabled have lower incomes than the nondisabled. And, it is a fact that many nondisabled persons fail to recognize that many disabled persons can move about freely and travel extensively if given the opportunity.

When all is said and done, I believe that it is a good amendment, but I want the record to show that it is not a patronizing amendment directed to handicapped Americans. The handicapped Americans are going to make it all right. They do not have to be segregated. They do not have to be patronized. The handicapped Americans just need the same opportunities as everyone else. But reduced fares can certainly be advantageous to encourage a disabled person to travel more. For that reason, I think it is a good amendment.

Finally, I would like to recognize that this statement has addressed primarily issues affecting the handicapped. I am pleased that older persons will also benefit by this amendment, and support attempts to bring some relief to those who are living on fixed incomes. The high rate of inflation we have experienced poses many hardships on older Americans. To the extent that this amendment will help soften the effects of inflation in even one small way, then I believe it is worthwhile.

I appreciate being a cosponsor of the amendment offered by the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I rise to support the amendment, which I cosponsor, which has been offered in this body by the able Senator from Tennessee.

I certainly can agree with what Senator Dole has said. That is the feeling of the members of the Subcommittee on the Handicapped in the Senate, five Members of this body. We work under the framework of the Committee on Labor and Human Resources.

But there is an equity which is involved here. We do know that the airline fares, I believe I am right, and I will ask Senator Dole, are reduced in certain instances for the elderly and for the handicapped. We do want the handicapped to be in the mainstream of American life. We fight for that, we work for it.

I remember that in this past year we had 3,900 blind people who were operating the vending facilities in the cafeterias, not only in Federal buildings but in State buildings and in private industry as well. For this past year, they averaged more than $10,000 in earnings. Think of it. They sold $132 million worth of items and articles to the public.

We believe in the handicapped, of course, being in the mainstream, as the Senator from Kansas has said, of the American society. They are certainly in the marketplace and they are succeeding. But in this instance I think the equities are with the amendment and I cosponsored it.

Mr. President, as I said, I support the amendment offered by the able Senator from Tennessee (Mr. Sasser) which requires that Amtrak establish a reduced fare program for the elderly and the handicapped. Through my work as chairman of the Subcommittee on the Handicapped, I have supported opportunities for the handicapped. This amendment is a vehicle for enhancing mobility for handicapped and elderly citizens.

Many handicapped persons have taken advantage of the reduced air fares program the Congress created a few years ago. I believe the same opportunity should be afforded to rail travelers.

As many Members know, Amtrak was given the authority in 1973 to take steps to improve and facilitate rail travel for elderly and handicapped persons, but Amtrak has not exercised that authority to date. A few months ago, Amtrak did develop a program in this area, but decided not to implement it.

This amendment would require that a reduced fares program be established by Amtrak. We would provide a 25 percent reduction for elderly and handicapped persons. According to a study by the Congressional Budget Office, such a program will not add to the Amtrak deficit.

Approval of this amendment will further our national goal of providing greater opportunities for full participation in our society by elderly and handicapped persons. With reduced fares available, trains will increase their ridership. Most importantly, the elderly and handicapped who often have limited incomes, will have the mobility they need.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, it is my amendment and I am running out of time.

Mr. DOLE. Will the Senator yield 30 seconds?

Mr. SASSER. I yield.

Mr. DOLE. I just wanted to say that many handicapped Americans are in the mainstream because of the efforts of the distinguished Senator from West Virginia (Mr. Randolph).

Mr. SASSER. Mr. President, I offer this amendment on behalf of myself and Senators Riegle, Javits, Burdick, Jepsen, Dole, Durkin, Church, Pryor, and the distinguished chairman of the Subcommittee on the Handicapped (Mr. Randolph).

This amendment is similar to legislation I introduced earlier this year with Senator Javits, S. 752. The amendment would require the National Passenger Railroad Corporation to establish a reduced fare at least 25 percent below the full fare for elderly and handicapped passengers.

Mr. President, our country and the Congress have a long history of commitment to programs that reflect the compassion and commonsense that our society shows toward those who most need assistance.

We are now in the process of considering a $1.7 billion bill to keep Amtrak afloat. Yet without my amendment we will be giving no special attention to the people who most need a national commitment to facilitate their movement and transportation. These people are the elderly and the handicapped.

Mr. President, it seems obvious to me that, if we are going to spend $1.7 billion of the taxpayers' money, we should make a point of saying that the elderly and handicapped should receive a reduced fare.

Mr. President, we are facing a crisis in this country for citizens on fixed incomes. Many will be unable to afford gasoline much longer—especially for long-distance trips.

These intercity trips are very important to the health and well-being of our Nation's senior citizens. They need to see family or friends instead of being confined to their own homes. Many need to travel to other cities to receive medical care should comparable services not be available in their city.

Many elderly and handicapped persons are unable to drive automobiles. Passenger trains are an essential mode of intercity transportation for these individuals.

So my amendment makes a minimum 25-percent reduction in fares for the elderly and handicapped. I do not think there is any doubt that, if we reduced fares by 25 percent, more of our Nation's elderly and handicapped individuals will travel between cities to visit family, seek medical care, or for other purposes.

AMENDMENT NEEDED TO PROD AMTRAK

Now, Mr. President, I offer this amendment only because the current management of Amtrak has refused to take this commonsense step on its own. When I first began my efforts in this area, my staff was working with Amtrak under the assumption that this reduced fare plan would be put into effect on May 15 of this year. The plans were drawn. The studies were made. The details had been worked out. Yet when May 15 came along, we were informed by Amtrak that it had decided not to implement the reduced fare structure. Thus, I am concerned that without this congressional action, we may never see an increase of ridership on Amtrak by those who most need passenger rail service between cities.

Mr. President, this amendment is not some new idea or hastily drawn concept. Amtrak has been under a congressional mandate since 1973 to improve the ridership of the elderly and the handicapped. It has made some minor improvements in its facilities and in its advertising, yet Amtrak has not taken the most logical step of all—fare reduction—to meet its congressional mandate.

Let me quote from the 1973 law—a 6-year-old law—which authorizes the step which I propose today:

> (C) The corporation is authorized to take all steps necessary to insure that no elderly or handicapped individual is denied intercity transportation on any passenger train operated by or on behalf of the corporation, including but not limited to, acquiring special equipment and devices and conducting special training for employees; designing and acquiring new equipment and facilities and eliminating architectural and other barriers in existing equipment and facilities to comply with the highest standards for the design, construction, and alteration of property for the accommodation of elderly and handicapped individuals; and providing special assistance while boarding and alighting and in terminal areas to elderly and handicapped individuals.

That is a 1973 law, Mr. President.

Let me describe the legislative history of that section. It was not included in the original bill introduced. Rather, it was added in committee in the Senate after the subject of the elderly and handicapped had come up at a hearing. The provision then passed the Senate, and the Senate prevailed in conference with the House. So the idea of using Amtrak to facilitate the travel of the elderly and the handicapped is an idea which came out of the Commerce Committee 6 years ago and which was endorsed by the Senate 6 years ago.

And where did the impetus for the 1973 section come from, from Amtrak. Let me read from an Amtrak executive memorandum dated March 15, 1972, which was included in the 1973 Commerce Committee hearings:

The subject of this memorandum is "policy for the aged and handicapped," and it is addressed to "corporate staff."

> It is the policy of Amtrak to make the right of travel a reality for all people. We want to carry all passengers safely, with a minimum of expense and inconvenience while providing whatever services are needed to make travel safe and enjoyable.
>
> Amtrak will achieve a combination of service, assistance, accessible facilities and equipment that will enable most aged and handicapped—those with non-ambulatory disabilities, semi-ambulatory disabilities, slight disabilities, hearing disabilities, disabilities of incoordination—to travel without an attendant.

Mr. President, I ask unanimous consent that the remainder of this executive memorandum be printed in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

[From Commerce hearings, May 18, 1973]

NATIONAL RAILROAD PASSENGER CORPORATION

EXECUTIVE MEMORANDUM NO. 72-4, MARCH 15, 1972

Subject: Policy for the Aged and Handicapped

To: Corporate Staff.

Intent:

It is Amtrak policy to make the right of travel a reality for all people. We want to carry all passengers safely, with a minimum of expense and inconvenience while providing whatever services and facilities are needed to make travel safe and enjoyable.

Amtrak will achieve a combination of service, assistance, accessible facilities and equipment that will enable most aged and handicapped—those with nonambulatory disabilities, semiambulatory disabilities, slight disabilities, hearing disabilities, disabilites of incoordination—to travel without an attendant.

Amtrak will overcome mobility barriers, to the extent possible, by providing service and assistance to the aged and handicapped passengers when barriers are present, and by reducing these barriers in equipment and facility renovation. Barrier-free design will be a mandatory requirement for future equipment and facility construction.

Service:

Employee training will include instruction for the proper assistance of disabled passengers.

Amtrak will provide information for the aged and handicapped regarding trains, boarding time, scheduling, special facilities available at the station and any design barriers which may exist.

Employees will assist disabled passengers with their baggage into and through the station and aboard the train at departure. They will assist in seating, feeding, and use of the rest rooms aboard trains. They will further assist disabled passengers out of the seat, off the train, and through the station upon arrival.

Equipment design:

Amtrak design specifications for all new equipment will include barrier-free access for aged and handicapped persons in at least the following areas:

Access between cars;

Vestibules wide enough for wheelchairs;

Negotiable aisles and vestibules;

Storage and securing space for folder wheelchairs, braces, crutches;

Available seat belts and shoulder harnesses;

Serving tray for in-seat dining;

Adequate support for aisle movement;

Audio announcements in the train car;

Rest rooms with handrails and wider doors.

Renovation:

Recognizing that present day equipment does not adequately provide access for the disabled, Amtrak will, where practical and economically feasible, renovate older passenger cars to assure barrier-free access in the following areas:

Aisles;

Vestibules;

Storage and securing space for wheelchairs, braces, and crutches;

Adequate support for aisle movement;

Rest rooms;

Meal service;

Special sized wheelchairs on board for narrow aisles.

Facility design:

Amtrak design specifications for all new facilities will include barrier-free access for aged and handicapped persons as prescribed by the American National Standards Institute and will include at least the following:

Entrance walks uninterrupted by steps or abrupt changes in level;

Parking spaces large enough to accommodate passengers with wheelchairs;

Ramps and handrails leading to the entrance;

No slip and textured surfaces for all walkways;

One primary entrance usable by nonambulatory people;

A meeting area for employee-passenger interface;

Audio signals and announcements for blind passengers;

Color coding or symbol identification of pathways, platforms, rest rooms;

Rest rooms equipped with at least one stall usable by wheelchair passengers;

Phones, water fountains, counters, and mirrors at wheelchair level;

One approach to the tracks by elevator or ramp, not stairs or escalators;

Raised platform for easy entrance by wheelchair or crutches;

A mobile passenger lift or ramp for platforms that are not raised;

Accessible snack and beverage facilities.

Renovation:

Recognizing that some facilities do not adequately provide access for the disabled, Amtrak will, where practical and economically feasible, renovate such stations to assure barrier-free access in the following areas:

Entrances;

Extra-wide parking slots;

Textured surfaces for walkways;

Audio announcements in the station;

Access to the platform by elevator;

Rest rooms with usable facilities for the handicapped;

Amenities, (phone, mirrors, etc.) at wheelchair level;

A mobile passenger lift or ramp for platforms that are not raised.

Mr. SASSER. Mr. President, so all my amendment is doing is carrying forward a policy advocated by Congress, developed by Amtrak, and written into law by the Commerce Committee. That is, a truly national rail passenger transportation network should encourage ridership by all Americans—including those elderly and handicapped persons now unable to use Amtrak services.

Mr. President, I am concerned that Amtrak, after all of its well-intentioned plans to institute a reduced fare for the elderly and the handicapped, declined to do so and has indeed opted to oppose my amendment.

And, Mr. President, I am disturbed that the administration, which has done so much to promote the well-being of the elderly and the handicapped, would oppose such a sensible step toward assuring intercity rail transportation. The Department of Transportation has just recently completed an exhaustive effort to bring DOT policies into line with the national effort to break down barriers for the elderly and the handicapped, and yet they oppose this sensible amendment.

COST NOT A FACTOR

Mr. President, this brings me to my final point, and then I shall listen to my colleagues' statements on this amendment. Of all of the billions of dollars we have put into saving Amtrak, my amendment is not expected to cost one single penny, according to the Congressional Budget Office.

Amtrak, since it opposes the amendment, has circulated figures showing the amendment to cost a million or more dollars, which is still not bad for such a worthwhile cause. But the Congressional Budget Office questions Amtrak's assumptions and data and says that the Sasser amendment is just as likely to bring in money for Amtrak as it is to bring about a revenue loss. Let me quote from the CBO report:

> Little information is available to precisely estimate revenue changes of this type. The magnitude of two key factors, the number of new passengers generated and the number of passengers diverted from higher fares, is particularly uncertain. However, Amtrak's elasticity of demand figure appears low, relative to other estimates.
>
> With adjustments for the elasticity and other factors, we project that the revenue change resulting from a 25 percent discount could range from a decrease of up to $1.5 million to an increase of a similar amount. The range for a 33 percent decrease would be plus or minus $2 million. In both cases, revenues would vary based on the number of routes to which the discount applies and the way the program is marketed. The revenue gains or losses would also be balanced somewhat by additional marketing costs, and a small amount of added operating costs.

Mr. President, this is a CBO report to me dated June 15, 1979, and I ask unanimous consent that the entire letter be printed in RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 15, 1979.

Hon. JIM SASSER,
Chairman, Legislative Subcommittee, Committee on Appropriations, U.S. Senate Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR: At the request of the Subcommittee staff, we have examined the effects of a reduced fare program for elderly and handicapped riders on the Amtrak system. Any change in fares will directly affect Amtrak's revenues, and any revenue loss must be covered by a reduction of service on the Amtrak system, increased fares for other travelers, or increased federal subsidy.

The fare reductions will alter Amtrak revenues by attracting new riders to the system and by drawing current riders from the use of higher price tickets to the discount fares. The former effect will increase revenue, while the latter reduces revenue. The net result of these two factors will be the cost to Amtrak of the discount program. Amtrak estimates this cost to be $0.9 million for a 25 percent discount and $1.6 million for a 33 percent discount.

Little information is available to precisely estimate revenue changes of this type. The magnitude of two key factors, the number of new passengers generated and the number of passengers, diverted from higher fares, is particularly uncertain. However, Amtrak's elasticity of demand figure appears low, relative to other estimates. With adjustments for the elasticity and other factors, we project that the revenue change resulting from a 25 percent discount could range from a decrease of up to $1.5 million to an increase of a similar amount. The range for a 33 percent decrease would be plus or minus $2 million. In both cases, revenues would vary based on the number of routes to which the discount applies and the way the program is marketed. The revenue gains or losses would also be balanced somewhat by additional marketing costs, and a small amount of added operating costs.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

Mr. SASSER. Mr. President, let me quote again the pertinent sentence from the Congressional Budget Office on the cost:

> We project that the revenue change resulting from a 25 percent discount could range from a decrease of up to $1.5 million to an increase of a similar amount.

Now, Mr. President, these are independent figures submitted by economists who neither support nor oppose the amendment, and I consider these figures more reliable than Amtrak's figures under the circumstances.

And, even if the amendment ends up costing money, which I do not believe it would if the program were well-administered, my amendment provides that Amtrak shall report back to Congress after a year on the effects of the reduced fare structure, and Congress can determine at that time whether or not the program should be continued.

So, Mr. President, I believe that the amendment is sound policy. It is consistent with a policy long advocated by the Senate Commerce Committee and the Congress, and it is consistent with Amtrak's recent plans. I hope the Senate will adopt this amendment.

Mr. President, before concluding, I ask unanimous consent that a telegram from the American Coalition of Citizens with Disability, and a letter from William R. Hutton, executive director of the National Council of Senior Citizens, Inc. be printed in the RECORD. I also wish to thank Michael Walls, Irwin Kuhn, and Howard Orenstein of my staff who worked on this amendment.

Finally, I wish to praise the Honorable CLAUDE PEPPER of Florida for his leadership in offering this amendment in the House.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *July 31, 1979.*

Sen. JAMES R. SASSER,
Senate Office Building,
Washington, D.C.

The American Coalition of Citizens with Disabilities (ACCD) strongly supports your proposal to amend S. 712 by adding a provision which would require Amtrak to reduce the fares it charges Americas disabled and elderly citizens. At a time when gasoline prices are sky rocketing, ACCD believes that such a measure is a critical means of enabling America's vast number of disabled and elderly citizens to travel throughout this country.

JOHN JAY DYSTEL,
Director of Advocacy for ACCD.

NATIONAL COUNCIL OF
SENIOR CITIZENS, INC.,
Washington, D.C., June 5, 1979.

Hon. JAMES R. SASSER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SASSER: The National Council of Senior Citizens strongly supports your amendment to S. 712, the Rail Passenger Services Act providing reduced fares for the elderly and handicapped.

Because many elderly and handicapped persons cannot drive an automobile their mobility is greatly restricted. Easy access, both in terms of eliminating physical as well as social and economic barriers to transportation, is second in importance only to guaranteeing the four basic necessities—energy, food, housing and health care—to our nation's elderly and handicapped.

If there is anything th National Council can do to help you in this effort, do not hesitate to contact us.

Sincerely,

WILLIAM R. HUTTON,
Executive Director.

Mr. SASSER. Mr. President, I yield 1 minute to the distinguished Senator from Idaho.

Mr. CHURCH. Mr. President, I am proud to be a cosponsor of this amendment and I commend the distinguished Senator from Tennessee for offering it.

In my years in the Senate there has been no work that has given me greater satisfaction than the work I have been able to do on behalf of senior citizens. I know that these citizens have greater reliance upon rail transportation than any other group of citizens in the country. They need this kind of discount if they are to use the trains and derive the benefit from rail transportation that we wish to furnish them. The discount is entirely in line with their own capacity to pay, and the restrictions on their retirement income. I am very hopeful that the Senate will approve this amendment overwhelmingly. Again, I commend the able Senator for offering it.

Mr. SASSER. I thank the distinguished Senator from Idaho for his remarks.

Mr. President, I urge the adoption of this amendment. I yield back the remainder of my time.

Mr. McCLURE. Mr. President——

The PRESIDING OFFICER. The Senator from Louisiana has 23 seconds remaining.

UP AMENDMENT NO. 504

Mr. McCLURE. Mr. President, I send an amendment to the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator from Louisiana has not yielded back his remaining time.

Mr. LONG. Mr. President, I yield back my remaining 23 seconds so the Senator can offer his amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 504 to the amendment by Mr. SASSER, amendment number 210.

Mr. McCLURE. Mr. President, I ask unanimous consent to dispense with further reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend amendment No. 210 by Mr. Sasser to S. 712 by adding at the end thereof a new section as follows:

SEC. 18. The Federal Railroad Administration of the Department of Transportation is authorized to pay to the National Railroad Passenger Corporation not less than quarterly the amount in dollars of the total differential between full fare and the reduced fare for elderly and handicapped individuals, as provided herein, not to exceed $4,500,000 per annum.

Mr. McCLURE. Mr. President, the Senator from Tennessee and the floor managers have copies of the amendment. I will summarize it quickly by saying that it provides that whatever the fare differential is it will be reimbursed to Amtrak so that the other customers of the system and the system itself will not have to absorb this cost. Whatever the social benefit is from the amendment by the Senator from Tennessee, whatever the cost may be, not to exceed $4.5 million a year, will be reimbursed to Amtrak so that the system does not bear the cost.

I understand the Senator from Tennessee has no objection to it and the managers of the bill have no objection to the amendment. If that is the case, I am prepared to yield back the remainder of my time.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the Sasser amendment, as amended.

Mr. SASSER. Mr. President, I ask unanimous consent that the Senator from Iowa (Mr. CULVER) be added as a cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I also ask unanimous consent that the distinguished Senator from Nebraska (Mr. EXON) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. May I suggest to my distinguished colleague that if he were to waive the yeas and nays he would win the support of his colleagues as well as the handicapped for this particular amendment.

Mr. SASSER. Mr. President, I am impressed by the eloquence of the Senator from Nevada and I will waive the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask unanimous consent that I be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment, as amended.

Without objection, the amendment, as amended, is agreed to.

Mr. CANNON. May the record show that the vote was unanimous, Mr. President.

● Mr. PRYOR. Mr. President, in May I spoke on the Senate floor outlining the reasons I think the Amtrak system should not be reduced by 43 percent at this time. Today my convictions are even stronger. The recent long gasoline lines and prospects of further fuel problems is convincing evidence that the automobile will continue to become a less and less reliable and practical means of transportation.

We must recognize the fact that the picture has changed drastically since the Department of Transportation first released its route restructuring proposal on March 1. The studies on which the Secretary based his decision to cut back on intercity passenger train services are now outdated and of no value in judging Amtrak's future. I think that most of us will now agree that gasoline shortages will be a recurrent feature in our society, rather than a one-time, temporary problem. With this in mind, it simply makes no sense to reduce by almost half the most energy-efficient system of mass transportation we have.

Mr. President, I was very disappointed that the full Senate did not have an opportunity to vote on the disapproval resolution before the deadline in May. An issue of this magnitude should have the close and careful consideration of all Members of this body. I am glad that we have this second opportunity today to look at DOT's proposal in light of the worsening fuel situation. I sincerely hope that the conclusion of this body will be that we simply cannot afford to reduce our Amtrak system to the degree proposed by the DOT.

The rationale for cutting back the Amtrak system by 43 percent was that many of the trains were not used heavily enough to justify the trains economically. Time and time again DOT has pointed out that trains are not fuel efficient if they have no riders. I know of no one who will disagree with this, but I ask my colleagues and my friends at the Department of Transportation to take a look at Amtrak's fuel efficiency figures this summer.

People are clamoring to ride the trains, in spite of poor train station facilities, unpredictable and inconvenient departure and arrival times, poor on-board services, and other drawbacks. This evidences a strong desire—almost an insistence—to utilize whatever services Amtrak has to offer.

Gasoline shortages and fears about the ability of many people to travel this summer by automobile have, in fact, brought more customers to Amtrak than at any time since it was established by Congress in 1971. During the month of May, the dollar volume of ticket sales soared 72½ percent to $33 million, compared with $19 million in the same month last year. Advance reservations are running 90 percent ahead of the 1978 levels and some trains are now carrying standing passengers.

In this light, I wholeheartedly support the amendment offered by my colleague from Idaho. I had signed as a cosponsor to the amendment he first proposed, which would have frozen the entire Amtrak system for 1 year. I admit that I looked on the current amendment with a bit of skepticism at first, but further investigation has convinced me that it is a good compromise, and I am pleased to join as a cosponsor. Mr. President, it is only right that the trains chosen for continuance be required to meet certain requirements, and Mr. CHURCH's amendment, combined with Mr. LEAHY's substitute bill, sets up a fair mechanism for this.

Naturally, I am very concerned about the status of the Inter-American train, which runs through Arkansas. This train clearly deserves to be continued. Even more so than many other long-distance trains, the Inter-American has experienced phenomenal gains in ridership since the inception of the gasoline shortage. Arkansas, lacking an alternate mass transportation system, needs the services of the Inter-American, and I am sure that the ridership increases reflected at the Little Rock station will continue as people realize that fuel problems are here to stay.

To handle the huge increase in traffic on the Inter-American, the Little Rock Amtrak ticket office recently expanded its station hours substantially. In June of this year, the office set an all-time record in both ridership and sales revenues. For some comparitive figures, in June of 1978 the Little Rock station handled an average of 18 passengers per train for a total ridership of 1,104. For this same period in 1979, the number of Amtrak passengers handled per train increased 238 percent, for an average of 61 passengers per train and a total ridership of 2,574 passengers. In June of 1978, I might add, there were 60 trains running, but only 42 trains accounted for the higher ridership in June of this year.

It is interesting to note that Little Rock is third, following only Chicago and St. Louis, in the number of passengers handled on the Inter-American.

The month of June was the greatest sales producing period in Amtrak's entire 5-year history at Little Rock. The station produced a total of $38,728 in sales, compared to $10,150 for June of last year, for a 282 percent increase. There is no doubt that these phenomenal increases have been spurred by the gasoline crisis. According to the agent in charge of the Little Rock office, 75 percent of those calling in to make reservations mentioned the gasoline shortage as their primary reason for traveling on Amtrak.

The amendment now under consideration, by retaining all but 16 percent of the current Amtrak system, recognizes this renewed need for train service and provides an additional $15 million for short distance and regional balance trains additional to the ones which the DOT proposal leaves intact. After 2 years, trains authorized by the amendment would be terminated unless they met Amtrak's performance criteria, outlined in Mr. LEAHY's substitute bill. To achieve his regional balance, one of the trains serving the mid-Southern region of the country would be maintained. A look at ridership statistics for this spring and summer leaves me convinced that the Inter-American would most likely meet the criteria.

At the request of the Department of Transportation, Amtrak recently tabulated the ridership for 12 selected trains, including the Inter-American, for the third week of May 1979 and compared the data for these trains to the ridership for these same trains for the third week of May 1978. The trains surveyed are all long-distance trains slated for discontinuance in October. The Inter-American showed growth in all categories, and its performance record was better in all categories than most of the other trains for this representative week.

In the number of passenger miles per train mile, the Inter-American experienced a 53.7-percent increase, second only to the Crescent from New York to New Orleans. Ridership for this period increased 35.9 percent on the Inter-American, again second to only one other long-distance train.

The ridership increases on the Inter-American are repeatedly throughout the Amtrak system, ironically on many of the routes DOT plans to cut. Systemwide, total Amtrak revenues rose 29½ percent from May 1978 to May 1979, but many cities which would lose service under the DOT plan had much larger increases, including Little Rock (291 percent), Fort Worth (210 percent), and Dallas (90 percent).

Amtrak is so busy, in fact, that many people are unable to get reservations. In May, Amtrak actually turned away 756,000 requests for reservations and made reservations for 443,000 people. This inability to reserve space for would-be riders is over 1,000 percent worse than last year's record, and is proof that many more people would ride the trains if only the services were available.

Focusing on the U.S. position in world energy consumption, it is evident that we must reduce our consumption of oil and gas, and that reducing private auto usage is one of the best ways to do this. According to DOT figures, the United States, with 6 percent of the world's population, uses 35 percent of its energy. American cars and trucks use one-seventh of all oil used in the world every day, of 14 percent. Utilizing our passenger train system to its fullest is clearly an option which would improve these fuel consumption figures. It should be obvious that we need, not only to retain most of the present system, but to seek ways to expand and improve it.

I know of no reason that any of my colleagues would want to support the DOT proposal, short of a belief that the fuel crisis is merely a passing vapor. I sincerely hope that my colleagues are more realistic than this.

Mr. President, I think I can summarize the important issue before us today somewhat simply: First, there is and will continue to be a fuel shortage, second, as the fuel shortage continues, Amtrak ridership will continue to increase, as long as the facilities are there to handle it; third, passenger trains are potentially the most fuel efficient of all modes of transportation. Fourth, we should recognize these realities and allow those trains whose recent performances show that they deserve to be continued to remain a part of our only rail passenger system.●

● Mr. EXON. Mr. President, I rise in support of the compromise substitute to S. 712, amending the Rail Passenger Service Act and authorizing appropriations for Amtrak for 3 additional years.

Mr. President, as a member of the Committee on Commerce, Science, and Transportation, I had the opportunity to attend the many days of hearings on this bill and the route restructuring plan over the past few months. I want this body to know, the Commerce Committee made every attempt to objectively look at the Department of Transportation's proposed restructuring plan and act on this proposal in light of the information which continued to come to the members during their deliberations. Our discussions on this matter went to the very heart of the Amtrak system, its operational difficulties, its management problems, and its financial condition. Mr. President, upon completion of these extensive and very telling hearings on S. 712 and the restructuring plan, the Senate Commerce Committee reported to the floor of this body a bill which at that time was believed to have addressed Amtrak's needs in the best way possible.

I must point out to the membership of the U.S. Senate that committee consideration of the act brought to light information which began the evolution of change from its original draft. Amtrak officials, concerned with certain proposed route restructures investigated and found that certain of the proposed restructured lines were impossible to complete before the October 1 deadline. One of these four routes is the San Francisco Zephyr which is the major link between Chicago and the west coast. Accordingly, upon further supportive investigation and with agreement between the Department of Transportation, Amtrak, and the Commerce Committee membership, I offered an amendment which was adopted to give Amtrak the flexibility it should have had all along to determine the feasibility of such proposed route restructurings which will permit service that is equivalent or improved. As a result, service will be maintained on the Broadway Limited, Southwest Limited, Lake Shore Limited, and the Zephyr.

Mr. President, today the distinguished Senator from Vermont has offered this compromise substitute which continues this evolution of Amtrak. This proposed substitute, I understand, is acceptable to both Senators CANNON and LONG, chairman of the full committee and the chairman of the Surface Transportation Subcommittee, respectively. This proposal contains the same provisions as the bill reported by the committee with two major exceptions: First, it contains an additional $20 million for the operation of criteria trains which would bring the total for these trains to $25 million, and second, it reduces the authorization for labor protection from $59 to $30 million, certainly a significant savings. Thus, in addition to those trains recommended in the DOT system and those trains continued due to restructuring impossibilities, six additional routes will be continued.

Now, Mr. President, critics of this proposal may ask: Why include these additional routes to a system which is already in a state of financial crisis, a system which has consistently lost substantial, yes, even exorbitant sums in recent years? Four months ago, justification for such action would have been difficult if not impossible. However, today in light of the energy crisis which plagues our Nation and the need for our citizens to remain mobile, we have seen what some may call a renaissance in rail passenger travel. Estimates place ridership over the last few weeks at well over 90 percent of capacity, certainly a figure which cannot be taken lightly. Reservation centers for the Amtrak system have been unable to answer the flood of calls for tickets. The American people desire and need to remain mobile and have shown that rail travel is a viable alternative to the automobile.

I must interject at this point, Mr. President, that while the bloom is still on the Amtrak rose through increased ridership, we must still move cautiously. We must not obligate ourselves to other segments of the current system which we know will never attain a status of financial well-being. We must instead move, as this compromise proposal suggests, reasonably and responsibly.

I therefore ask my colleagues for their support of the proposal offered by the Senator from Vermont. I believe it is reasonable and responsible and will allow Amtrak to continue to service the vast majority of the American people.●

AMTRAK SERVICE TO IOWA

● Mr. CULVER. Mr. President, I want to state my support for the action taken by the Commerce Committee to continue the present routing of the San Francisco Zephyr through Iowa for at least another year.

As you know, this line was scheduled for consolidation under the Department of Transportation's initial Amtrak reorganization plan. However, the railroad will not be able to complete the necessary track maintenance, and institute needed signaling and communications facilities in time for the new route to begin service by May 1980. Rather than providing no rail service until the new route is in service, the Amtrak authorization bill authorizes continued operations of the San Francisco Zephyr along its current route until the consolidated Southwest Limited/Zephyr is ready for operation some time in 1981.

This action also preserves the option of keeping the San Francisco Zephyr running indefinitely. As a result of the recent energy shortage, ridership for the Zephyr has increased during the last several months. If this trend continues, I am hopeful that Amtrak will reconsider its initial decision to consolidate the line. The committee's action gives the Zephyr one last opportunity to demonstrate its capability to offer efficient and cost-effective service, and demonstrate the viability of long-distance rail passenger service.●

Mr. PROXMIRE subsequently said. Mr. President, earlier today when the Amtrak bill was being considered, the distinguished Senator from Maine spoke on the floor.

Mr. President, I share the reservations of the Senator from Maine regarding the potential use of the Federal Financing Bank to wipe out some $800 million in loans to Amtrak which are not likely to be paid back. This would not only be a serious violation of the principles of the budget process. It would also be a serious violation of the intended role of the Federal Financing Bank (FFB).

The Bank comes under the jurisdiction of the Committee on Banking, Housing and Urban Affairs. As approved by the committee and passed by the Congress in 1973, the FFB is supposed to act as a conduit for Federal financing transactions. Its main role at that time was intended to be to coordinate the borrowings of various Federal agencies, in order to achieve lower interest rates and more orderly procedures.

Since that time, some concerns have developed regarding the role actually played by the Federal Financing Bank and its impact on the budget. In particular, there is the problem that Federally guaranteed loans which are purchased by the FFB are in effect transformed into direct loans. Since direct loans are on-budget but guaranteed loans are off-budget, this means that the Bank can be used to make off-budget direct loans and thus escape the budget process.

I have expressed my concerns about this end-run around the budget process before, and I will repeat them here today. I do not believe that the Banking Committee intended to have the Federal Financing Bank used for backdoor, off-budget direct loans.

However, that appears to be one of the problems that we face with Amtrak today, and there are more problems besides. It is my understanding that Amtrak's capital expenditures have been financed largely through federally-guaranteed loans, which have subsequently been purchased by the FFB and thereby converted into direct loans. These FFB-held loans will be about $680 million at the end of fiscal year 1979, and with additional commitments the total comes to over $800 million. I understand further that Amtrak is basically unable to pay back these loans, and that the practice was begun in fiscal year 1978 of authorizing appropriations to repay the debt.

Now I judge that it is being proposed to use the Federal Financing Bank to actually retire that debt—off-budget. Under the House bill, H.R. 3996, the outstanding loans to Amtrak would be converted into preferred stock which would be issued to the FFB in satisfaction of the loans. The FFB would then give the stock to the Treasury in payment for the borrowings the Bank made in order to provide those loans to Amtrak. And presto—the $800 million debt would disappear without a trace—no sign in the budget that it had ever existed. And the U.S. Treasury through the FFB would become a major stockholder in Amtrak, along with being the major bill-payer.

Mr. President, this would be a most alarming development, and a terrible precedent to set. It would say that loan guarantees not only are off-budget but may not even have to be paid back—and there are over $200 million in Federal loan guarantees outstanding.

It also says that the Federal Financing Bank can be used to wipe out debts, simply by helping to convert them to stock and then selling them to the Treasury. This is a mammoth distortion of the proper role of the Federal Financing Bank, which is supposed to have an absolutely neutral impact on the budget. It is not supposed to affect the budget in any way.

If the Senate adopts a provision along the lines discussed, then we may be creating a monster. We will have a Federal Financing Bank that can overturn the budget process and that can convert Federal loans and guarantees into stock and turn the Treasury into a stockholder in large corporations. The next thing we know, the Treasury will be buying billions of dollars in Chrysler stock off-budget.

Mr. President, I wish to state here most emphatically that the Committee on Banking, Housing and Urban Affairs, which authorized the Federal Financing Bank to begin with and which has a continuing interest in fiscal responsibility and proper budget treatment—the committee did not intend in any way the use of the Federal Financing Bank described above. And I urge the Senate to reject any attempts to use the FFB in this way either on the bill before us today or in conference with the House.

Mr. CANNON. Mr. President, so far as I know, there are no further amendments. I will not personally insist on the yeas and nays, though I do not know whether someone else wants them or not. We have already voted on the substitute.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. CANNON. Mr. President, I ask unanimous consent that after the bill is voted on, the bill as passed be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The bill (S. 712), as amended was passed.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

A bill to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 2 additional years, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, on February 1, 1979, the Secretary of Transportation presented to the Congress his plan for reducing the number of trains and track mileage operated by Amtrak. Since then this plan has received close scrutiny in both the House and the Senate. Either body could have vetoed this plan, but did not. Consequently, it is to be effective on October 1, 1979.

A rapid escalation in motor fuel prices this spring has resulted in a return by Americans to the use of our trains. Some of the trains that had been proposed for termination have experienced dramatic increases in ridership. These increases mark the biggest enlargement of usage in almost 30 years. Ridership is up 72 percent over a comparable period in 1978. Currently, there is some erosion in usage of short-haul routes, which has resulted in a reduction of standees only. But overall ridership is being maintained at a new high level.

In June 1979, the Secretary of Transportation proposed a modification of his original plan, which would increase the Federal operating subsidy for Amtrak by $35 million and would maintain in the route system some of the trains proposed for termination. This amendment to his plan was a direct result of the dramatic increase in popularity and use that Amtrak has been experiencing. This proposal has helped to allay fears expressed by rail travel advocates, who viewed the DOT Amtrak plan as the beginning of the end for all significant intercity rail services. I fully understand these rail advocates in their fears as they are applied to my State of West Virginia. The DOT Amtrak plan proposes to terminate all intercity trains serving my State.

West Virginia, like other Appalachian States, has a rugged terrain that makes travel by bus and automobile slow and difficult. Also, as a direct result of the Airline Deregulation Act of 1978, air service has been drastically curtailed or eliminated at many of our smaller cities. Therefore, I believe it imperative that rail transportation be maintained in West Virginia and in other States that are facing similar difficulties in maintaining mass transportation systems.

At my request, the distinguished chairman of the Committee on Commerce, Science, and Transportation, Senator CANNON, included an amendment to the operating budget, which will continue rail service to the Cardinal—a train, which serves the end points cities of Washington and Chicago and traverses the central portion of West Virginia including Charleston, our capital city, and Huntington, our largest city, as well as smaller cities across the State.

Both the Congress and the administration have taken a hard look at the facts and an equally hard look at the defined role that Amtrak is to play in meeting the transportation needs of our citizens. I am hopeful that this legislation will reflect the best results of these labors and that the Cardinal and Shenandoah will be maintained when the Joint Conference Committee reports a bill back to the Senate and the House.

There are many Senators who deserve commendation and thanks for their work on the Amtrak bill. Senator CANNON, chairman of the Commerce Committee Senator LONG, chairman of the subcommittee on Surface Transportation, Senator LEAHY, and—on the other side of the aisle—Senator PACKWOOD, the ranking minority member of the full committee and Senator DANFORTH, the ranking minority member of the Surface Transportation Subcommittee.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 AMENDMENTS

Mr. MAGNUSON. Mr. President, I move that the Senate concur in a House amendment with an amendment as follows——

Mr. STEVENS. Will the Senator from Washington explain which bill he is referring to? I have no objection, but I am a little bit at a loss as to what bill we are addressing.

Mr. MAGNUSON. The earlier action of the Senate on the 200-mile limit had a technical error which I want to correct.

Mr. President, I ask unanimous consent that the earlier action of the Senate on S. 917 be vitiated and that the Chair lay before the Senate a message from the House.

The PRESIDING OFFICER (Mr. LEAHY) laid before the Senate a message from the House on S. 917.

Mr. MAGNUSON. Now, Mr. President, I move that the Senate concur in the House amendment with an amendment. It is a technical amendment, I say to my friend.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. No, I am delighted to support what the Senator from Washington is doing. I just want to make sure I understand what it is.

UP AMENDMENT NO. 505

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 505.

Mr. MAGNUSON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

That section 406 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1882) is amended by inserting at the end thereof the following:

"(6) $33,000,000 for the fiscal year ending September 30, 1980.

"(7) $40,000,000 for the fiscal year ending September 30, 1981.

"(8) $47,000,000 for the fiscal year ending September 30, 1982.".

SEC. 2. Section 4311(a) of the Revised Statutes of the United States (46 U.S.C. 251 (a)) is amended by adding at the end thereof the following new sentence: "For the purposes of this subsection, the term 'fisheries' shall include the planting, cultivation, catching, taking, or harvesting of fish, shellfish, marine animals, pearls, shells, or marine vegetation at any place within the fishery conservation zone established by section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).".

SEC. 3. (a) Section 201(e) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) and (D), respectively;

(2) by inserting "(1)" immediately after "Allocation of Allowable Level.—"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) For the purposes of this paragraph—

"(i) The term 'certification' means a certification made by the Secretary that nationals of a foreign country, directly or indirectly, are conducting fishing operations or engaging in trade or taking which diminishes the effectiveness of the International Convention for the Regulation of Whaling. A certification under this section shall also be deemed a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

"(ii) The term 'remedial period' means the 365-day period beginning on the date on which a certification is issued with respect to a foreign country.

"(B) If the Secretary issues a certification with respect to any foreign country, then each allocation under paragraph (1) that—

"(i) is in effect for that foreign country on the date of issuance; or

"(ii) is not in effect on such date but would, without regard to this paragraph, be made to the foreign country within the remedial period;

shall be reduced by the Secretary of State, in consultation with the Secretary, by not less than 50 percent.

"(C) The following apply for purposes of administering subparagraph (B) with respect to any foreign country:

"(i) if on the date of certification, the foreign country has harvested a portion, but not all, of the quantity of fish specified under any allocation, the reduction under subparagraph (B) for that allocation shall be applied with respect to the quantity not harvested as of such date.

"(ii) If the Secretary notified the Secretary of State that it is not likely that the certification of the foreign country will be terminated under section 8(d) of the Fishermen's Protective Act of 1967 before the close of the period for which an allocation is applicable or before the close of the remedial period (whichever close first occurs) the Secretary of State, in consultation with the Secretary, shall reallocate any portion of any reduction made under subparagraph (B) among one or more foreign countries for which no certification is in effect.

"(iii) If the certification is terminated under such section 8(d) during the remedial period, the Secretary of State shall return to the foreign country that portion of any allocation reduced under subparagraph (B) that was not reallocated under clause (ii); unless the harvesting of the fish covered by the allocation is otherwise prohibited under this Act.

"(iv) The Secretary may refund or credit, by reason of reduction of any allocation under this paragraph, any fee paid under section 204.

"(D) If the certification of a foreign country is not terminated under section 8(d) of the Fishermen's Protective Act of 1967 before the close of the last day of the remedial period, the Secretary of State—

"(i) with respect to any allocation made to that country and in effect (as reduced under paragraph (B) on such last day, shall rescind, effective on and after the day after such last day, any harvested portion of such allocation; and

"(ii) may not thereafter make any allocation to that country under paragraph (1) until the certification is terminated.".

(b) Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) by amending subsection (a) by redesignating paragraph (3) as paragraph (4), and by inserting immediately after paragraph (2) the following new paragraph:

"(3) In administering this subsection, the Secretary of Commerce or the Secretary of the Interior, as appropriate, shall—

"(A) periodically monitor the activities of foreign nationals that may affect the international programs referred to in paragraphs (1) and (2);

"(B) promptly investigate any activity by foreign nationals that, in the opinion of the Secretary, may be cause for certification under paragraph (1) or (2); and

"(C) promptly conclude; and reach a decision with respect to; and investigation commenced under subparagraph (B)."

(2) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(3) by adding immediately after subsection (c) the following new subsection:

"(d) After making a certification to the President under subsection (a), the Secretary of Commerce or the Secretary of the Interior, as the case may be, shall periodically review the activities of the nationals of the offending country to determine if the reasons for which the certification was made no longer prevail.

Upon determining that such reasons no longer prevail, the Secretary concerned shall terminate the certification and publish notice thereof, together with a statement of the facts on which such determination is based, in the Federal Register."

Section 4 notwithstanding the provisions of section 4132 of the Revised Statutes of the United States (46 U.S.C. 11), or any other provisions of law, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel Widow Maker, owned by Strohe Brothers of Lake Charles, Louisiana, to be documented as a vessel of the United States, upon compliance with the usual requirements, with the privilege of engaging in the coastwide trade and the fisheries so long as such vessel is owned by a citizen of the United States.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

BISHOP MUZOREWA OFFERS TO RECEIVE 1,000 BOAT PEOPLE

● Mr. HELMS. Mr. President, yesterday in Parliament, Prime Minister Abel Muzorewa announced that Zimbabwe-Rhodesia was prepared to receive 1,000 of the boat people of South East Asia, and he called upon the other African nations to follow in like example.

This is a very generous offer by Bishop Muzorewa, when his own nation is in the midst of great difficulties and suffering. But it is highly significant that the Zimbabwe-Rhodesian Government is able to be outward-looking and perform an act of global statesmanship and humanitarian concern. Indeed, there has been far too little inclination on the part of most African nations to take a broader perspective on world affairs. This is an act of leadership which demonstrates that Zimbabwe-Rhodesia can and will make a significant contribution to peace and harmony through the world.

Bishop Muzorewa said:

> The government of Zimbabwe-Rhodesia is very conscious of the human problems of South East Asia and in particular of the tragedy caused by Viet Nam's brutal expulsion of its own people, the so-called "boat people."
>
> In fact this matter has been considered at meetings of the executive council over the last three weeks.
>
> The government has decided that in the interests of humanity and Christian principles it will accept up to 1,000 Vietnamese "boat people" into the country.

Mr. President, as a nation, the United States ought to be very supportive to a nation which avowedly acts upon Christian principles instead of Marxist principles. Our own Western heritage calls out upon us to respond to the leaders of a nation that has cast its lot with our highest spiritual and moral traditions.

Instead, we seem to be continuing to demand of Zimbabwe-Rhodesia concessions that are all but impossible of fulfillment in the midst of an external Marxist-Leninist attack, supplied and directed by the enemies of the West. The Senate-House conference on the Foreign Relations Authorization Act has come to an agreement under which the lifting of sanctions will occur by November 15, a date which approximately correlates with the last date under which British sanctions will be applied. This is a great improvement in that it at least gives a target date for the end of the officially imposed ordeal of Zimbabwe-Rhodesia.

Yet the setting of a deadline, particularly a deadline so far from the present, contributes every day to the needless deaths of loyal Zimbabwe-Rhodesians—now occuring at the rate of one every hour. Had sanctions been lifted in June, the work of reconstruction could have been started immediately, and the nation's enemies would have known that the game was up. This would have thoroughly demoralized the rank and file of the guerrillas, and contributed greatly to seeking amnesty and an end to the war.

Moreover, had we made a positive decision to end the war, the United States could have used its considerable influence on nations such as Tanzania, Botswana, and Zambia to end their support of the guerrillas.

Instead, what has resulted is an open-ended situation, in which the Marxists knew that they had an indefinite period to apply pressure, hoping to destabilize the Muzorewa government. The United States and Great Britain are directly responsible for giving the terrorists a period of carte blanche for terror.

It now appears fairly certain that the middle of November is the terminus and quem for legal sanctions. The United States can help to redress the balance for its mistakes by helping to plan for the revival of the economy, and by removing the untoward diplomatic pressures which we have been applying on the Muzorewa government. This would be an act that is both humanitarian and practical. It would help end the war, and help relieve suffering.

Meanwhile, as I have already pointed out, Bishop Muzorewa is already taking a worldview that transcends the particular problems of his nation. I find it incredible that the U.S. press—at least that which I have seen today—has not seen fit to report this important development to the American people. Instead, we read only trivia datelined Salisbury about government personnel, and highly selective man-in-the-street interviews, as in this morning's Washington Post.

Mr. President, I ask unanimous consent that the Prime Minister's speech, delivered in Parliament at 2:30 p.m. yesterday, be printed in the Record at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Prime Minister Muzorewa, July 31, 1979

The Government of Zimbabwe Rhodesia is very conscious of the human problems of South East Asia and in particular of the tragedy caused by Viet Nam's brutal expulsion of its own people. The so called 'boat people'.

In fact this matter has been considered at meeting of the executive council over the last three weeks.

The government has decided that in the interest of humanity and Christian principles it will accept up to 1000 Vietnamese 'boat people' into the country.

It wishes that it could make a greater contribution to alleviate the suffering of the Vietnamese people, but because of economic sanctions and the war which has disrupted the lives of so many of its innocent civilians it feels that it cannot make a greater contribution at this time as its prime consideration must be for its own people.

The Government calls for a greater international awareness of the problems of refugees including those made homeless by the war in this country. In regard to the 'boat people' it calls upon its fellow African states to follow its example and give a home to thousands of Vietnam refugees suffering terrible privation in refugee camps and on the high seas.●

ADDRESS BY GOV. JAY HAMMOND AT WESTERN GOVERNORS' CONFERENCE

Mr. STEVENS. Mr. President, at a recent meeting of the Western Governors' Conference, Jay Hammond, Governor of the State of Alaska, addressed the conference. Governor Hammond's remarks focused on Alaska's continuing reluctant, unconsulted role as an unpitied, battleground for developers and environmentalists. He feels Alaska would be able to be both our Nation's oil barrel and the world's park if only the two sides were not so polarized and uncompromising. He knows neither can have their own way totally without facing debilitating consequences.

Although Governor Hammond is adamant that Alaskans be allowed to wield more influence on the future direction of their home, he feels strongly that Alaska should not stand alone. He solicits the aid of the other Western States in particular, because the resolution of Alaska's present problems will surely be used as a precedent for resolution of similar, existing and future situations in these States. The lack of a balanced, reasonable legislative settlement of the Alaska lands issue and the absence of any concerted, comprehensive national energy plan can only doubly hurt not only Alaska, but other Western States since they are both consumers and producers; can only stall the problem which entails tremendous, potentially irrevocable ecological and economic consequences; and can only promote further misunderstanding about the public lands of our Nation.

I ask unanimous consent that Governor Hammond's remarks be inserted in the Record immediately following my statement.

There being no objection, the address was ordered to be printed in the Record, as follows:

Public Lands and the Energy Crises—The Challenge for the 80's

Early in my first term, I tried to capture Alaska's public land and energy frustrations by suggesting that we were being asked to be both oil barrel for the nation and national park for the world. Since then I have had occasion to invoke this phrase much, much too often. It was invoked when we were fighting to slow down the imprudent, accelerated federal OCS/Alaska leasing schedule. It was invoked during all our struggles of the last two years to bring some rationality and greater balance into the emotional Congressional debates surrounding treatment of Alaska lands. It was invoked when urging the federal policy permitting oil swaps and exchanges when such could benefit us all.

Unfortunately, however, rather than reducing our frustrations, they seem to multiply while the opportunity to play that dual role effectively has substantially diminished. During these past few years, what has happened to Alaska may well be an unhappily accurate precursor of what may happen elsewhere as the conflicts which now shake Alaska reverberate throughout your states.

We Alaskans have been expected to be all things to all people. As a pawn of those who would attempt to make us such, we have suffered both the consequences and the blame for decisions we played little part in. We, in Alaska, have been the unhappy guinea pigs for radical political experiments to which all the western states may well be subjected. Accordingly, I am glad to have this opportunity to share a few thoughts with you and to suggest strongly that we adopt the unified approach based on sane and solid principles designed to help us through the upcoming period of increasing stress. Certainly one paramount issue now confronting all of us is how to reconcile our obligation to help meet our nation's energy needs with increased environmental consciousness, while yet retaining our prime lifestyle. As that lifestyle is threatened, whether by too much development, too much government regulations, or too much land use restriction, we have become acutely aware of what we have and more determined than ever to keep it and enhance it.

One natural manifestation of this determination is, of course, an increased environmental conscience. The recent rapid development of this environmental conscience was closely tied to the high quality of our lifestyles and affluence. People could afford to worry more about such things. Thus, in essence, our expanded environmental conscience developed as a luxury.

We were able to worry about such things as quality of life and cleaner air and water because energy was cheap; the nice little economy was booming and there seemed more than enough to go around. With changing circumstances calling these presumptions into question, new questions now confront us. Is our escalated environmental conscience a luxury we cannot now afford? Or is a necessity we cannot now afford to do without? I believe it to be the latter. However that conclusion does not mean that we cease mineral extraction, timber harvest, industrial growth, revert to 19th century modes of transportation, and all go back to living off the land.

Not only is there no longer enough land to go around, but the bulk of what land remains unencumbered is found in our western states and I for one am not entranced at the thought of Alaska's Matanuska Valley metamorphosizing into a semblance of Manhattan. Accordingly, I would hope we western states would stand together and strive for proper balance between rational resource development and adequate environmental protection.

On one hand we must ever recognize that unless rational development is accommodated, irrational development will, no doubt, someday be thrust upon us. On the other hand, should we permit desecration of our wonderous natural values for short-term monetary gain, we will not deserve the stewardship to which we had been entrusted.

Rational development and adequate environmental protection are objectives to which most give lip service when they speak of proper balance. Unfortunately, however, we western states seem ever trying to steady a wildly fluctuating balance beam which first tilts dangerously one way and then the other as extremists, oftentimes from elsewhere, keep up the popular political ballast of the moment in an effort to outweigh and overwhelm their extremist opposition.

Too often in the process reason is abandoned because it wins few political points for those who would promote it. Instead it becomes far too easy and politically expedient to pander to one extreme position or another in recognition of the fact that the middle ground of reason is occupied by few passionate believers who rise in militant support. Conversely, of course, such support is easily achieved if one is willing to engage in demagoguery which appeases at least one extreme or the other.

As one who was supported by environmentalists, opposing development extremists charged that I, too, was an environmentalist in hope of catching some advantage from the backlash which that charge now, in some quarters, can envoke. Yet that charge is one to which I willingly plead guilty. Of course I am concerned with the environment. Are there those in public office who will confess that they are not?

However, my concerns are for environs social, spiritual and economic as well as physical. Unless all are given adequate consideration, the primacy of anyone alone will not long endure.

It is too often overlooked that the words ecology and economics have common roots which must be nurtured by reason rather than politically polluted if they are to flourish. No doubt other western governors have been buffeted by both extremists, developers and preservationists. In my own case, that buffeting has been accompanied by some pain and no little hazard at the polls for unlike the consummate politician who could convince both ends of the spectrum that he is with them, I seem to convince them both that I am in total opposition. Thus, when I bought back hallowed oil leases previously conveyed in a marine environment of extreme sensitivity, it was charged by some that I was a pawn of preservationists. Yet later when I proposed elsewhere another oil lease, some charged that I had sold out to an oil interest.

I suppose that proper balance is achieved when both extremists are equally unhappy, and so, perhaps, I have achieved that. At least, insofar as alleged offenses inflicted on them by my administration are concerned, I find no special interest which feels that they have been short changed.

Yet for all of this, I remain convinced that we in the west can yet approximate the most aspired to of all circumstances—the capability of both having our cake and eating it. But only if we prevent one extreme interest or another from scrapping off the icing, leaving naught but crumbs for all the others. Regrettably, in that regard, too often the federal government and Congress compound the difficulty of both achieving balance and assuring that the cake is properly apportioned.

Thus, one issue already passed the Congress, one issue yet before them, as well as one action by the President should be of prime concern to those who would strive for balance. I refer, of course, to the implications and the pending application of Rare II, the Alaska lands bill, and the unprecedented arbitrary and excessive Presidential abusage of the Antiquities Act to accomplish that which Congress should properly address. All western governors should be distressed at the establishment of this latter, most dangerous precedent. For such arbitrary Congressional bypass may some day in the future rise up to haunt each and every one of you.

Consider, for example, the fact that no matter what the Congressional resolution of your Rare II situation might entail, there is no assurance whatsoever that the President won't again use the Antiquities Act in a manner which may well dismay you. Similarly, Alaska land legislation recently emerging from the House should also give you pause. Embodied in that action is not only a virtual reneging of commitments made at statehood and undue federal intrusion into a sovereign states' basic right to manage fish and game, but also an insensitivity to views of those who must live most closely with decisions rendered.

Remember, what the Congress and the President are permitted to get away with in regard to Alaska, has great bearing on what they may well do to you. Unfortunately, the bombast regarding the Alaska d(2) lands bill has created the presumption that it is a simplistic issue of environment vs. development, oil vs. caribou. As some extremists tell it, the only question is whether we lock it all up or louse it all up.

So polarized have people become that even in my state there are those that believe anything short of demanding secession from the Union is an unacceptable capitulation to an oppressive federal government, while some others charge that anything short of instant wilderness for Anchorage is excessive environmental degradation. Yet, what most Alaskans really want is not irrational no more than what each of you would demand were our roles reversed.

The resolution which I have introduced does not ask that environmental sensitivity be sacrificed. Rather, it seeks to assure that we indeed will have the tools to reconcile economy with ecology. It also seeks to assure perpetuation of states' rights in a belief that only through their retention and exercise will any sovereign state be capable of assuring that we can fulfill our roles as suppliers of our nation's energy needs without squandering the very qualities which have caused most of us to choose to locate where we are. Instead, the resolution cites the major consensus points aspired to by most Alaskans. Taken one by one, I am sure you would support them.

For example, we believe that any Alaskan lands legislation should revoke fully the President's excessive and arbitrary usage of the Antiquities Act for purposes other than to which it was intended. We believe, as well, that such legislation at long last should fulfill commitments made to Alaskans some 20 years ago with statehood when we were promised some 104 million acres of land, of which some 70 million acres is yet to be conveyed.

We believe it is not unreasonable that there be a mechanism to provide for adequate access across federal lands to lands belonging to private parties and the state. Anything less makes mockery of the conveyance process.

We believe that in view of this nation's crucial and expanding energy needs, that it is imprudent to place known, highly valuable resource commodities within overly restrictive federal systems which would preclude even the most environmentally responsible development.

We believe also that insofar as possible traditional uses of land such as commercial trapping, which is the mainstay of many of our native peoples, should be permitted to continue so long as they are conducted in an environmentally responsible manner which does no violence to the national interest.

Finally, we believe that just as do all other sovereign states, Alaska should retain full rights to manage fish and game. Unfortunately, some who live elsewhere believe it necessary to save Alaska from Alaskans. Too often their conclusions and inconsistencies are based on ignorance. Take for example the extreme concern exhibited by Congress and the Administration relative to the proposal to explore the Arctic wildlife range for oil. If such exploration would decimate the caribou, I would be the first to fight it. Yet, as a fish and wildlife biologist who some 30 years ago made caribou surveys on what is now the Arctic Range, I must admit that under the constraints proposed, there would be little hazard to the caribou.

I draw that conclusion also from experience as a biologist, guide, and bush pilot who has been privileged to live for over 30 years on the Alaska Peninsula where I was first sent to monitor the resident grant caribou herd. During that time, far less sensitive oil exploration activities were conducted on prime caribou habitat than that which would have been permitted under the constraints contained in legislation rejected by the Congress. Yet, rather than a decline in the herd, there was almost a tenfold increase.

Thus, pardon me, if I have little patience for persons hard pressed to state with assurance which end of the caribou wears the antlers rejecting these conclusions and asserting that not even the most environmentally sensitive assessment of the range might be conducted.

More preferable, it seems to me, that some by the numbers environmentally sensitive approach to exploration be accommodated rather than finding that some day under the press of energy demands exploration is undertaken on insensitive crash basis. Most professional biologists agree that under terms and conditions stipulated in legislation rejected by the Congress—incidentally, legislation which better met Alaska's so-called consensus points—constraints on oil exploration were so restrictive as to make significant adverse impact upon the caribou most unlikely.

Nonetheless, this proposal prompted ardent administrative opposition. And yet subsequently, I've learned, that the same national administration which viewed any incursion whatsoever into the Arctic Wildlife Range as sort of an environmental watershed which, if permitted in d(2) legislation would incur veto, that same administration has just sanctioned invasion of the far more environmentally sensitive waters of Bristol Bay.

Yet most biologists conclude that these waters are much more vulnerable than the Arctic Wildlife Range and should be among the last to be explored for oil, since they harbor the world's largest red salmon run, entire populations of certain water fowl, multitudes of sea mammals, and have certain tidal peculiarities which make them especially vulnerable.

So concerned have been Alaskans in this regard that we have created a fish sanctuary in Bristol Bay and have protested any OCS leasing there. And yet here we find a federal government ardently supporting d(2) legislation far more restrictive. Who, pray tell, is going to protect us from an inconsistent federal government? I submit that we can do so collectively only. We must stand together each time there are proposals to strip away, anyone of us of our born rights, deny us input on critical issues or upset the balance we must strive for.

As western governors, we spend much time juggling this nation's energy needs with our desires for prime environment and lifestyle. Certainly collectively we can operate from a strong position with knowledge gleaned from experience. We know, in other words, that we need never again sell our race horses at bargain basement prices in order to entice development and jobs. We know that we do now have to beg development and pay for it through undue environmental or economic subsidies. We know that we can, for the most part, have development on our own terms if we are well enough prepared to state those terms clearly from the start.

We are sellers in the sellers market and have the capability to ensure that Alaska development within our state will pay its way and be environmentally sound. Forces that affect our future stem from both national and international considerations. Unless we stand together, these may well overwhelm us. Together we should demand simple, rational decisions regarding energy development on public lands. We must increase communications with each other on these matters and determine how we can respond constructively, coherently, and effectively to federal actions.

If I may, I would like to summarize two major goals we western states should strive for. First, it is absolutely crucial that we demand a clearcut energy policy from Congress. Every school child knows that this is a major problem facing the U.S. Yet sometime one wonders if that message is getting through to Congress. We need desperately a clearcut policy which lays out production and use incentives and restrictions for various types of energy, provides aggressive research for new or more readily available energy resources, strong energy conservation guidelines.

Congress seemingly has been doing little but whistling past the graveyard or condemning the President for failing to come up with some sort of simplistic popular solution. If Congress does not like the President's energy policy proposals, what is their alternative?

Westerners, as both producers and consumers, were placed in double jeopardy by this inconsistency and lack of policy. Without a coherent national energy policy, how can we possibly plan to bring our various energy resources on line in the future? What will really be the demand for coal for 1990, the year 2000? How can we program oil and gas lease sales when we are kept in the dark on the most fundamental issues, such as what prices will the Federal Government allow us for our oil and gas? Will they permit rational exchanges of crude oil when such can benefit both producer and consumer? Will they or won't they expeditiously approve needed facilities for production and transportation? How will the Federal Government treat foreign natural gas when that treatment hinders the viability of some proposed U.S. gas production or transportation project? This list goes on and on, as does the indecision.

It becomes dismayingly clear that federal and Congressional inaction on these issues makes it impossible for western states to act aggressively on their own and in the national interest, no matter how much they want to. Westerners must have a coherent national energy plan which gives us both as producers and consumers enough security to make those decisions which must be made to assure rational environmentally sensitive development.

Secondly, we must somehow force this nation into a truly rational resolution of today's monumental public land issues. Only if we westerners will stand together can we force the President and Congress to weigh accurately the alternatives and maximize the positive aspects of public land decisions in a way that best accommodates the legitimate concerns of westerners who must live most closely with those land decisions.

In closing, black or white decisions to today's problems are less tolerable perhaps than they once were. When we had the luxury of some flexibility, radical solutions offended nothing more than logic. Yet today irrational or radical decisions, or indicisions, which could block a viable environmentally acceptable development project for purely frivolous or philosophical considerations can offend far more than logic. It can lead to genuine and unnecessary economic hardship, blacklash, and, in the long term, even to a greater loss of the philosophical point of view that might have been the case had the project been permitted under proper guidelines.

One of the ironies of recent years that I would like to point out to my environmental friends, is that the environmental movement these days is suffering from the same overreaching inertia that the laissez faire capitalists suffered from before.

Environmentalism is still, in many instances, a movement more of ideology that pragmatism. A game of giant poker stakes where the gamble is either lost overwhelmingly or won overwhelmingly.

Once again I suppose this was exciting and acceptable when we had the flexibility to absorb setbacks and still survive. However, in this day and age when energy problems are very real and backlashes occur almost overnight, environmental and economic resource Russian roulette is at best outdated, and at worst suicidal.

Thank you.

TRANSPORTATION OF NUCLEAR WASTES IN THE PACIFIC

Mr. ROBERT C. BYRD. Mr. President, yesterday the Senate passed S. 1119, a bill to require the Secretary of the Interior to report to Congress on projects affecting the territories and possessions of the United States. I would like to express my appreciation to the distinguished Senator from Hawaii (Mr. MATSUNAGA) for his expert handling of this matter. As a member of the Energy Committee and as the Senator from Hawaii, he has clearly acted in the best interests of the Congress and the Pacific community by managing this bill for the majority.

The distinguished Senator from Idaho (Mr. McCLURE) the original sponsor and minority manager for the bill, has performed admirably in ironing out problems with the bill.

As amended, S. 1119 will ensure that the Congress is kept fully informed as to the activities of the Departments of State, Energy, and Interior with respect to the transportation of nuclear wastes in the Pacific region and elsewhere.

This bill will protect the policymaking prerogatives of Congress in the critical area of nuclear power. At the same time, the people of the Pacific community will be assured that their interests are being represented, and their voice heard.

Once again, Mr. President, I thank Senator MATSUNAGA for his efforts, as well as Chairman JACKSON, and Senators McCLURE and HATFIELD for their cooperation.

THE FIGHT TO KEEP IDAHO'S PIONEER RAIL PASSENGER SERVICE

Mr. CHURCH. Mr. President, a little over 2 years ago, service was inaugurated on the Pioneer, an Amtrak route serving southern Idaho. Having fought hard to see this service brought to the citizens of Iadho, I was pleased to participate in the inauguration ceremonies and to ride the Pioneer across southern Idaho.

From its hopeful beginning, the Pioneer has consistently shown an ability to steadily increase ridership. Despite the difficulties any new route encounters, the Pioneer has displayed a continuous rise in utilization. This route is not perfect. It crosses my State at awkward hours and the small service conveniences that add so much to a pleasant journey have not always been present.

I was therefore astounded to learn last year that the Department of Transportation was recommending termination of this promising new route over a year before the end of its 2-year trial period. The Pioneer was unfairly compared to well-established routes because ridership data from its early, struggling months of operation was compared to data from routes that had been in service for years. Like many Idahoans, I believed that the Pioneer should have been given its full period to prove its worth. The prejudgment rendered on the Pioneer was undeserved and unfair.

During the current fiscal year, which commenced in October 1978, ridership on the Pioneer has been very impressive. During several of these past months, the increase in ridership on the Pioneer has been the highest of all long-distance routes in the Nation. The Pioneer now generates sufficient revenue to pay all direct costs, including fuel, labor, and food services. The Pioneer has redeemed its proponents faith in the promise this new route offered for Idaho.

Faced with extinction under the Department of Transportation's route slashing plan, the Pioneer's future looked bleak. Like citizens across our land, Idahoans knew that a drastic reduction of an energy-efficient mode of transportation during the beginning of an era of spiraling gasoline prices and chronic supply shortages would be exactly the wrong decision.

In response to this situation, I requested that the Amtrak authorization bill be delayed in the Senate so that I could attempt to reverse this course. I proposed an amendment to this bill which would have retained the current system for 1 year while the energy outlook was assessed and consideration given to the remarkable surge in passenger train ridership. Second, I prepared a backup amendment designed to insure that the West was not stripped of its fair share of rail passenger service.

The response of my colleagues in the Senate to these efforts has been gratifying. A strong coalition of Senators from all regions and of all political persuasions joined in this effort to restore as much of the Amtrak system as feasible. Idahoans responded to a citizen initiated petition circulated by "the Emergency Coalition to Save the Pioneer." Within weeks, I received the signatures of thousands of Idahoans who expressed the strong desire to see the Pioneer given a fair opportunity to continue to serve Idaho. A coalition of senior citizens, environmental groups, working men and women and just plain concerned citizens joined in support of these efforts to retain the Pioneer and other threatened Amtrak routes.

In April, a group of 97 senior citizens boarded the Pioneer in Dalles, Oreg., and traveled on it to Salt Lake City, Utah. These were not wealthy people. Like all of our citizens on fixed or limited incomes, they were feeling the increasing bite of the inflation. This voluntary trip to show their support for retention of the Pioneer cost them almost $10,000.

The fight to retain the Pioneer has been a tough uphill struggle. But it has been a fight worth making. By its action today in approving my amendment to retain the Pioneer and other trains in the West, the Senate has shown a clear understanding of the concerns raised by Idahoans. A recent editorial in the Idaho Statesman, supporting retention of the Pioneer summed up the feelings of many in Idaho. I ask unanimous consent that this editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FACTS ON PIONEER

Fairness of the Department of Transportation's Amtrak route re-evaluation depends, as we said recently, on the test DOT applies to the trains being re-evaluated. It is quite easy for Secretary of Transportation Brock Adams to devise an unfair test that Pioneer, the Amtrak train running through Idaho, does not stand a chance of meeting.

Adams has mandated that just such a biased test be used in most measurements of train efficiency. This measure is called average passenger miles per train mile, or pm/tm. Pm/tm sounds complicated but it is not. It is derived by dividing the number of passengers served by the miles traveled. If Adams insists on applying only this unfair measure to the threatened trains, Pioneer might well not survive. We remain convinced this is precisely what he wants.

The pm/tm test is discriminatory against rural, long-distance trains by definition. If 100 people board a train for a 100 mile trip in the East, the passenger miles per train miles is 1. If the same 100 people board a train for a 200 mile trip in the West, the pm/tm is .5, or half that for the Eastern train. That doesn't tell you much about the efficiency of the train, but it certainly skews the evaluation against Western trains.

Given the bias of pm/tm measurements, Pioneer is still doing quite well. It is not as good as some other trains, but it is better than others. The projected pm/tm for Pioneer in fiscal 1980, a projection that will prove conservative because of the rapid ridership gains of the past few months, is 91. The projected pm/tm for the Cardinal from Washington to Cincinnati, not a threatened train, is 67.

Pioneer pm/tm has increased 49 percent in the first 6 months of fiscal 1979, the best increase for any train in the Amtrak system. Since pm/tm is up that amount, it can be argued that Pioneer revenue will also increase in the same range, since fixed costs of operation remain relatively stable.

But the pm/tm standard gives no consideration to revenue, although it would certainly seem proper, if you are concerned with the size of subsidy to Amtrak trains, to include in the evaluation some recognition of the level of subsidy for each train.

Pioneer has the fourth-lowest subsidy of any long-distance Amtrak train, and a lower subsidy than many shorter routes. Pioneer's loss per passenger mile was 9 cents in fiscal 1978. That is better than many of the Amtrak routes to be retained. And as we said, that 9 cents figure should drop significantly when ridership increases for 1979 are figured in. In total ridership, Pioneer also looks good. It has one of the highest ridership per capita ratings for the area it serves of any Amtrak train. In the first 6 months of fiscal 1979, Pioneer carried 78,428 passengers, an average monthly increase of 15.1 percent. In February, ridership jumped an incredible 29.6 percent. Only four long-distance Amtrak trains are growing at a faster rate than Pioneer. And if you exclude the Portland-Seattle passengers on Pioneer, ridership for the first 6 months of fiscal 1979 increased an average of 24 percent per month.

This is all fairly technical, but as you can see, by any measure but that chosen by Brock Adams, Pioneer is a good buy that is getting better. It deserves continued life as a regular link in the Amtrak route system.

THE PIONEER

Mr. CHURCH. Mr. President, those of us who have been honored by having the opportunity to serve in the U.S. Senate have, on occasion, received letters from constituents which earn a special place in our hearts.

Recently I received such a letter. During the past 3 months I have heard from thousands of Idahoans urging me to keep fighting to retain the Pioneer passenger train. Eric Barchas, a 7-year-old resident of my hometown of Boise, recently wrote to me urging that the "Pionear" be retained. His message was simple, direct, and warm. It is the kind of delightful letter which is reassuring in its honesty and refreshingly to the point.

I wanted to share Eric's letter with the Senate as we consider the future of our national passenger system. If we make the right decision now, the "Pionear" may still be carrying Eric to "Seatel" and back when he is 17. I ask unanimous consent that the text of Eric's letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Sat. July 14, 1979.

Dear sen. Cherch, my name is Eric Barchas I'm 7 years old. My famly and I love to ride the train.

We ride it whenever we get a chans to. I'm glad that you are trying to save the Pionear. I hope you succeed so I can ride lots more. I have wriden the Pionear leght times ones to Nampa, ones to Berdleton and back Portland and back Seatel and back and back from Seatel again and my Dad even went to Saft lake city.

Signed Eric Barchas, 803 Locust st., Boise, I.D. 83702.

FRANCIS SCOTT KEY BICENTENNIAL

Mr. MATHIAS. Mr. President, today is the 200th anniversary of the birth of Francis Scott Key, the author of our National Anthem, a great American and one of western Maryland's most distinguished native sons. On August 1, 1779, Francis Scott Key was born on his family's farm, "Terra Rubra" in Frederick County near Taneytown, Md. He is buried at Mount Olivet Cemetery in Frederick, Md.

Every schoolchild in America knows the dramatic details of how Francis Scott Key composed "The Star Spangled Banner," but I wonder how many know that Mr. Key was an early and vigorous opponent of slavery? A contemporary account of Mr. Key arguing a case before the Supreme Court tells us that:

> (H)e closed with a thrilling and even an electrifying picture of the horrors connected with the African slave-trade which would have done honor to either Pitt or Wilberforce in their palmiest days.

Francis Scott Key did not confine his opposition to slavery to rhetoric alone. During his lifetime he freed all his slaves and was a founding member of the African Colonization Society, an organization set up to help freed slaves return to Africa. Even Thomas Jefferson, the towering moral and intellectual figure of the age, did not free all of his slaves in his lifetime although he provided for their freedom in his will. George Washington, whom we honor with the title "Father of his country", never freed his slaves but bequeathed them to his heirs in his will.

In many other ways, Francis Scott Key was a remarkable figure for his, or any other age. From the distance of 200 years, it is difficult to look back and accurately appraise the measure of a man. Fortunately, however, Francis Scott Key so impressed his contemporaries that a number of accounts of his activities and descriptions of his personal endowments survive. For example, Governor Foote of Mississippi in his Reminiscences provides this description:

> Mr. Key was tall, erect, and of admirable physical proportions. There dwelt usually upon his handsome and winning features a soft and touching pensiveness of expression, almost bordering on sadness, but which in moments of special excitement, or when anything occured to waken the dormant heroism of his nature or to call into action the higher power of vigorous and well-cultivated intellect, gave place to a bright ethereality of aspect and noble audacity of tone which pleased while it dazzled the beholder.

Clearly, Francis Scott Key was a man of heroic proportions to his contemporaries and, as we mark the bicentennial of his birth, it seems appropriate to review the highlights of his life not in the prosaic language of our own age, but in the elegant and evocative phrases of his time. For this reason, I ask unanimous consent that the account of Francis Scott Key's life, contained in J. Thomas Scharf's "History of Western Maryland" be printed in the RECORD at the conclusion of my remarks. That admirable history, first published in 1882, relies very heavily on primary sources which makes it, at least to my taste, more lively and interesting than the bare bones history we read in school nowadays.

As a native of Frederick County, I take special pride in the contributions Francis Scott Key made to our Nation and special pleasure in the fact that his name will live in the hearts of all Americans for as long as this "land of the free and home of the brave" endures.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

BIOGRAPHY OF FRANCIS SCOTT KEY

(By J. Thomas Scharf)

Francis Scott Key, author of the "Star-Spangled Banner," and a distinguished lawyer, was born at the residence of his father, John Ross Key, near Pipe Creek, in Frederick County, a short distance from Emmittsburg, on the 1st of August, 1779, and died in Baltimore while on a visit to his son-in-law, Charles Howard, on Wednesday, the 11th of January, 1843. His father was a Revolutionary officer, who died in Frederick County, Oct. 12, 1821. Francis S. Key was educated at St. John's College, Annapolis, and studied law in that city in the office of his uncle, Philip Barton Key. In 1801 he commenced the practice of law at Frederick, but in a few years removed to Washington City, D.C., where he was chosen United States District Attorney. Mr. Key was a gentleman of the highest order of talent, of ardent feelings, and benevolent mind . . .

His chief title to fame, however, rests on his patriotic and soul-stirring poem, "The Star-Spangled Banner," written to commemorate a Maryland triumph, but so thoroughly impregnated with the true spirit of patriotism that it has become a national lyric. The circumstances under which it was composed are as follows:

"On the retreat of the British army from Washington through Marlborough," says Mr. Gleig, who was with them, "though there appeared to be no disposition on the part of the American general to follow our steps and to harass the retreat, the inhabitants of that village, at the instigation of a medical practitioner called Beanes, had risen in arms as soon as we were defeated, and falling upon such individuals as strayed from the column, put some of them to death and made others prisoners.

A soldier whom they had taken, and who had escaped, gave this information to the troopers just as they were about to return to headquarters; upon which they immediately wheeled about, and galloping into the village, pulled the doctor out of his bed (for it was early in the morning), and compelled him, by threat of instant death, to liberate his prisoners, and mounting him before one of the party, rode into the camp in triumph."

Dr. Beanes was the leading physician in Upper Marlborough, and an accomplished scholar and a popular gentleman. It is said his house, which was one of the best in Upper Marlborough, was selected by Admiral Cockburn and some of the principal officers of the army as their headquarters when the British troops encamped there on their march to Washington. As the British officers had shown him much courtesy and protected his property, they were greatly incensed at his actions.

Mr. Taney says the British "entered Dr. Beanes' house about midnight, compelled him to rise from his bed, and hurried him off to their camp, hardly allowing him time to put his clothes on; he was treated with great harshness and closely guarded; and as soon as his friends were apprised of his situation they hastened to the headquarters of the English army to solicit his release, but it was peremptorily refused, and they were not even permitted to see him, and he had been carried as a prisoner on board the fleet."

Alarmed for the safety of Dr. Beanes, a number of his friends hastened to Georgetown to procure the assistance of Francis S. Key, who was then serving as a volunteer in Maj. Peter's artillery. Mr. Key promptly undertook to obtain the release of his friend, and immediately obtained the President's permission to visit the British fleet, Mr. John S. Skinner, the government's agent for the exchange of prisoners in Baltimore, who was well known as such to the officers of the fleet, being directed to accompany him.

As soon as the necessary arrangements were made they embarked at Baltimore and sailed for the British fleet, which was then at the mouth of the Potomac, preparing for the expedition against Baltimore. Mr. Taney says that Mr. Key "was courteously received by Admiral Cochrane and the officers of the army as well as of the navy. But when he made known his business his application was received so coldly that he feared it would fail.

Gen. Ross and Admiral Cockburn, who accompanied the expedition to Washington, particularly the latter, spoke of Dr. Beanes in very harsh terms, and seemed at first not disposed to release him. It, however, happened, fortunately that Mr. Skinner carried letters from the wounded British officers left at Bladensburg, and in these letters to their friends on board the fleet they all spoke of the humanity and kindness with which they had been treated after they had fallen into our hands.

After a good deal of conversation and strong representations from Mr. Key as to the character and standing of Dr. Beanes, and of the deep interest which the community in which he lived took in his fate, Gen. Ross said that Dr. Beanes deserved much harsher punishment than he had received; but that he felt himself bound to make a return for the kindness which had been shown to his wounded officers whom he had been compelled to leave at Bladensburg, and upon that ground, and that only, he would release him.

But Mr. Key was at the same time informed that neither he nor any one else would be permitted to leave the fleet for some days, and must be detained until the attack on Baltimore, which was then about to be made, was over. On the other hand, he was assured they would make him and Mr. Skinner as comfortable as possible during their detention. . . .

"Mr. Key and Mr. Skinner continued on board the 'Surprise,' where they were very kindly treated by Sir Thomas Cochrane, until the fleet reached the Patapsco and preparations were made for landing the troops. Admiral Cochrane then shifted his flag to the frigate, in order that he might be able to move farther up the river and superintend in person the attack by water on the fort; and Mr. Key and Mr. Skinner were then sent on board their own vessel, with a guard of sailors and marines, to prevent them from landing.

They were permitted to take Dr. Beanes with them, and they thought themselves fortunate in being anchored in a position which enabled them to see distinctly the flag of Fort McHenry from the deck of the vessel. He (Mr. Key) proceeded then, with much animation, to describe the scene on the night of the bombardment. He and Mr. Skinner remained on deck during the night, watching every shell from the moment it was fired until it fell, listening with breathless interest to hear if an explosion followed.

While the bombardment continued it was sufficient proof that the fort had not surrendered. But it suddenly ceased some time before day, and as they had no communication with any of the enemy's ships, they did not know whether the fort had surrendered or the attack had been abandoned.

They paced the deck for the residue of the night in painful suspense, watching with intense anxiety for the return of day, and looking every few minutes at their watches to see how long they would have to wait for it; and as soon as it dawned, and before it was light enough to see objects at a distance, their glasses were turned to the fort, uncertain whether they should see the Stars and Stripes or the flag of the enemy.

At length light came, and they saw that "our flag was still there," and as the day advanced they discovered, from the movements of the boats between the shore and the fleet, that the troops had been roughly handled, and that many wounded men were carried to the ships. At last he was informed that the attack on Baltimore had failed, and that the British army was re-embarking, and that he and Mr. Skinner and Dr. Beanes would be permitted to leave them and go where they pleased as soon as the troops were on board and the fleet ready to sail.

"He then told me that, under the excitement of the time, he had written the song, and handed me a printed copy of 'The Star-Spangled Banner.' When I read it and expressed my astonishment, I asked him how he found time, in the scenes he had been passing through, to compose such a song.

"He said he commenced it on the deck of their vessel, in the fervor of the moment, when he saw the enemy hastily retreating to their ships, and looked at the flag he had watched for so anxiously as the morning opened; that he had written some lines of brief notes, that would aid him in calling them to mind, upon the back of a letter which he happened to have in his pocket, and for some of the lines, as he proceeded, he was obliged to rely altogether upon his memory, and that he finished it in the boat on his way to the shore, and wrote it out as it now stands at the hotel on the night he reached Baltimore, and immediately after he arrived.

"He said that on the next morning he took it to Capt. Joshua N. Nicholson, commander of the Baltimore Fencibles and chief justice of the Baltimore Court, and one of the judges of the Court of Appeals of Maryland, to ask him what he thought of it; that he was so much pleased with it that he immediately sent it to a printer and directed copies to be struck off in hand-bill form; and that he, Mr. Key, believed it to have been favorably received by the Baltimore public."

The song was first set in type by Mr. Samuel Sands, who was then an apprentice-boy at the office of the Baltimore *American*, on the east side of Harrison Street near Baltimore, and who afterwards became the proprietor and editor of the *American Farmer*. It was set to the tune of "Anacreon in Heaven." It is said it was first sung in camp, afterwards nightly in the Holliday Street Theatre.

While studying law at Annapolis Mr. Key became the intimate friend of Roger Brooke Taney, afterwards chief justice, who, as previously stated, married Mr. Key's only sister. Besides the "Star-Spangled Banner," Mr. Key wrote a number of other verses, but it is doubtful whether he ever intended them for publication, as they appear to have been hastily composed on the impulse of some passing fancy. Mr. Key was a contemporary of Edward Coote Pinkney, and contributed to the same periodicals for which Edgar Allen Poe wrote. He was a thorough gentleman, and a man of cultivated tastes, but literature was not the serious business of his life, his time being mainly occupied with the practice of his profession . . .

"Everybody who knew Frank Key loved him, and there was not a more agreeable companion to be found." Mr. Key was a member of the Episcopal Church, and for many years taught a Sunday-school class at Rock Creek Church. His wife was Mary Taylor Lloyd, daughter of Col. Edward Lloyd, of Talbot County, Md., a charming lady, who contributed greatly to the attractiveness of their hospitable home. During the Nullification troubles in South Carolina he was sent in an unofficial capacity to that State, and it is said contributed not a little by his personal efforts to the peaceful settlement which was finally obtained.

Mr. Key conducted the prosecution of the would-be assassin of Gen. Jackson in 1835, and acted with great circumspection and a due regard for the rights of the prisoner.

The man was adjudged insane and sent to an asylum. Of Mr. Key's appearance in an important case in the United States Supreme Court, ex-Governor Foote, of Mississippi, in his "Reminiscences," says, "I was very much entertained with the whole argument, but I was particularly with the speech of Mr. Key and that of Mr. Berrien.

Mr. Key was tall, erect, and of admirable physical proportions. There dwelt usually upon his handsome and winning features a soft and touching pensiveness of expression, almost bordering on sadness, but which in moments of special excitement, or when anything occurred to waken the dormant heroism of his nature or to call into action the higher power of vigorous and well-cultivated intellect, gave place to a bright ethereality of aspect and noble audacity of tone which pleased while it dazzled the beholder.

His voice was capable of being in the highest degree touching and persuasive. His whole gesticulation was natural, graceful, and impressive, and was completely free from everything like affectation or rhetorical grimace as any public speaker I have known. . . . On this occasion he greatly surpassed the expectations of his most admiring friends. The subject was particularly suited to his thoughts, and was one which had long enlisted in a special manner the generous sensibilities of his soul.

It seemed to me that he said all that the case demanded, and yet no more than was needful to be said, and he closed with a thrilling and even an electrifying picture of the horrors connected with the African slave-trade which would have done honor to either a Pitt or a Wilberforce in their palmiest days." One of the most convincing proofs of Mr. Key's great benevolence and kindness of heart is found in the fact that he manumitted all his slaves and was one of the founders of the African Colonization Society.

While visiting his daughter, Mrs. Charles Howard, in Baltimore, Mr. Key was seized with pneumonia, and died suddenly in January, 1843. The United States Supreme Court adjourned in his honor on being acquainted with his death, and next day the Attorney-General of the United States, Mr. Legaré, of South Carolina, presented resolutions of condolence passed by the bar, and made an address testifying to Mr. Key's great intellectual attainments, and to his admirable qualities of heart and mind.

Similar action was taken by the bar of Frederick and of Baltimore City and County, and his remains were borne to the grave universally regretted and beloved. Mr. Key was buried at Greenmount Cemetery, Baltimore, but subsequently the remains were removed to Frederick, where they lie beside those of his wife in the cemetery of Mount Olivet. His grave is marked by a simple slab.

WARSAW UPRISING 35TH ANNIVERSARY

Mr. DURENBERGER. Mr. President, today marks the 35th anniversary of the Warsaw uprising, an event that was a tragic, yet noble, celebration of the human spirit. It is fitting that we, as representatives of the greatest bastion of freedom and democracy, pause in commemoration of those brave and proud people who made the ultimate sacrifice in the name of justice and integrity.

Our country is faced with pressing issues today. Yet, our perspective becomes clearer during this moment of reflection. An ounce of the courage and dedication to ideals that marked the members of the proud Home Army would serve us well as we confront the challenges of 1979.

The anniversary of the Warsaw uprising has special meaning to me. My heritage lies in the countryside of Poland. My relatives suffered the tragedy of occupied Poland. Their strong wills, their love of freedom, and their commitment to survival as proud men and women were traits they shared with members of the Home Army.

I pray that the story of the Warsaw uprising is never forgotten. It is a reminder of the unspeakable horrors of war, and a 35-year-old plea for peace.

Mr. President, I ask unanimous consent that an article by Ted Humes be printed in the RECORD. Even though the article was published in 1974, it is a timeless story.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RESISTANCE ITSELF NEVER PERISHES IN POLAND

(By Theodore L. Humes)

Yesterday marked the 30th anniversary of one of the most noble, futile, and tragic episodes in the history of military endeavor; the Warsaw Uprising.

By mid-July, 1944, Rokossovsky's 1st Belorussian and Konev's 1st Ukrainian Fronts were advancing westwards and cross the Vistula on a broad 130 mile front toward Warsaw and to the south.

The Vistula, although a broad river about 200 yards wide, had in places a depth of not more than six feet and was only a minor obstacle with many of the great Russian rivers which the Red Army had already crossed.

To the north, Radzievsky's 2nd Tank Army had reached the Warsaw suburb of Praga just across the Vistula to the east and had attempted a bridge crossing into Warsaw proper.

The Home Army (Armja Krajowa), the oldest and largest resistance organization in Poland, at the pinnacle of its development in the first half of 1944, consisted of 350,000 soldiers.

In the four years of its existence it lost almost 5,000 officers, 29,000 non-commissioned officers and 28,000 enlisted men in sporadic battles with the Nazis or through arrests and execution.

Its Commander-in-Chief was the intrepid General Tadeusz Komorowski, alias Forest (Bor) acting under orders of the Polish-Government-in-exile under Prime Minister Stanislaw Mikolajczyk in London.

On Aug. 1, 1944, the streets of Warsaw were full of Home Army youths. Women with suspicious parcels were hurrying about. Everywhere, in street cars, on bicycle-rickshaws, in doroshkas, conspirators sped toward unknown destinations. Those in on the secret warned each other, and their numbers grew with every minute.

As Stefan Korbonski described the scene:

"The streets were unusually animated. The tramcars were crowded with young boys, who unconcernedly occupied even the front platform, reserved 'Nur Fur Deutsche' without the Germans present doing anything about it.

"On the sidewalks women in two, or threes were walking along briskly with obvious haste carrying heavy bags and bundles.

"They are transporting arms to the assembly points," I muttered to myself. A stream of bicycles followed along the roadway. Boys in top boots and jackets were pedalling as hard as their legs could go.

"I noticed that one of the boys carried a rucksack from which protruded something resembling a walking stick, wrapped in a newspaper and tied with a piece of string. Anyone could see it was the end of a rifle. (Fighting Warsaw).

The uprising started officially on August 1st, at 5 p.m., to the following command:

"Soldiers of the Capital!"

"Today I gave the order, desired by you, for an open fight with the eternal enemy of Poland—the German aggressor.

"After almost five years of continuous hard struggle led by the Underground, you rise today openly with arms in your hands to restore freedom to your country and to deal out to the German criminals exemplary punishment for the terror and crimes committed on Polish land.

COMMANDER OF THE HOME ARMY BOR

By August 2nd, Warsaw for the most part was occupied by the insurgents. In the liberated streets, the Varsovians joyfully removed all traces of the German occupation. All inscriptions, all posters, announcements, portraits of the Hitlerite dignitaries and German flags quickly disappeared.

Polish and Allied flags emerged, and handmade posters were displayed on the walls, appealing for a fight for freedom.

On the second day bulletins and war communiques appeared on the walls. On Aug. 3rd, commanders of the individual regions reported further insurgent victories. On that day the Home Army's position was most advantageous.

Almost three-quarters of Warsaw was under Home Army control, and many German dignitaries found themselves under siege, notably Governor Fischer and General Stahel, Commander of the Warsaw garrison, trapped at Pilsudski square.

However, the Home Army was lamentably short of weaponry while the Germans were well armed with no supply problems. The population of Warsaw believed implicitly in ultimate help from the Allies and that their effort and the blood they sacrificed would be rewarded.

On August 4th, Bor Komorowski sent the following message to London: "I categorically request aid in ammunition and anti-armor weapons. A few days struggle at least is awaiting us and we have to get supplies for this period. We have put everything at stake to hold the Capital; and let you in London make some effort."

To the east, the Soviet Government, well understanding the mentality and aspirations of the Polish Government in London hardly wished the uprising well. If it had supported the insurgents with all the means in its power and had succeeded in occupying Warsaw during August, it would have been faced with the existence of a formidable patriot army which would have been an embarrassment to the Soviet-sponsored Lublin Government.

At the height of the battle, Moscow informed the British Government that it proposed to have nothing to do with the uprising, and on August 19 a British-American request for landing facilities in Soviet territory to land arms, ammunition and food was refused.

Meanwhile, brave Poles fought on against insuperable odds with no hope whatever of outside relief. The futility of the situation was expressed by General Bor in a report of September 30, 1944:

"Our struggle is dying. Today only an immediate successful assault by the Soviets on Warsaw can save us."

Warsaw no longer resembled a normal city. Rows of graves lay silently amid the ashes and ruins in the streets, the squares and among the blasted buildings. There was persistent fighting throughout the days in almost every house, on every floor and the Germans took a fearful toll of civilians, young and old. On October 2, 1944, the struggle was over.

Home Army losses were about 35,000 while the Germans lost 26,000 men; losses among the civilian population was in excess of 150,000.

On the next day, the Polish Government in exile in London issued a proclamation a portion of which said:

"On 1st August 1944, we undertook an open struggle in Warsaw against the Germans. We did this at the moment when the Russian forces were approaching Warsaw; when our Western Allies had started a decisive march on Berlin; when the Home Army could no longer remain hidden; when the desire for freedom after long years of occupation, grew and could no longer be held in check."

The uprising has failed because we have received no effective help, at a time when our Army is helping to liberate France, Belgium, Italy and Holland.

Soldiers, whose only weapons against tanks, planes and cannons were pistols and gasoline filled bottles, are heroes. Women who, in spite of the bullets bandaged the wounded, carried reports; who in bombed cellars prepared meals and fed children and adults; and kept up their good spirits are heroines. The people of Warsaw are heroes.

And immortal is the nation which can afford such universal heroism. Those who have died have conquered already, and those who live on shall continue to fight and will bear witness again to the truth that Poland is alive while Poles are alive.*

General Bor the tragic leader of Polish Resistance died years ago.

Resistance itself never perishes in Poland.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Arizona (Mr. GOLDWATER) as congressional advisers to the World Administrative Radio Conference of the International Telecommunications Union, to be held in Geneva, Switzerland, convening September 24, 1979 for 10 weeks.

RELIEF OF THE CITY OF NENANA, ALASKA

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4811.

The PRESIDING OFFICER (Mr. LEAHY) laid before the Senate H.R. 4811.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, this measure is a House-passed bill which deals with two problems. First, the city of Nenana is in the process of building a sewer system to meet EPA standards, but because of inaccuracies of the original and subsequent townsite surveys, the city does not have title to some streets, alleyways and other property within the boundaries of the townsite. This measure would transfer the interest of the United States in these areas to the city and provide the assurance that the financing for the sewer system which will be located underneath the streets and alleyways could be obtained.

The second problem dealt with by this bill concerns the previously approved Cook Inlet Land Exchange. Under this exchange, the Cook Inlet Regional Native Corp. is granted certain selection rights from a pool of Federal lands, including surplus lands, which the Secretary of the Interior must select. Due to a number of circumstances, the Secretary was unable to fulfill his statutory obligation to establish the selection pool by July 15, 1979. The Department of the Interior and Cook Inlet Region agreed that an extension of the deadline was necessary and the Energy Committee reported legislation, S. 1479, which provided for a 2-year extension of the period in which the selection pool was to be established.

The House recently passed this measure, which provides for a 1-year extension. There was a discussion on the floor of the House during the consideration of the measure which indicated that certain Members of the House feel the Department should conclude its obligations under this amendment within 1 year. It is my hope that the Department of the Interior will establish the selection pool within 1 year, but I do not want my constituents' interests to be jeopardized by the failure of the Department to fulfill its obligations under the amendment.

Therefore, I would like to recommend that the Senate accept the House language but note that the Energy Committee, along with the Department of the Interior and Cook Inlet Region, Inc., recommended that a 2-year extension was more appropriate. It is my hope that a further 1-year extension will not be needed, but I will not hesitate to ask for further time if the recommendation for 2 years appears necessary.

Mr. President, I move that the Senate accept the House language of H.R. 4811.

● Mr. GRAVEL. Mr. President, I thank the committee for expediting this legislation. The problems of geography and existing land ownerships in the Cook Inlet Native Corp. region have made implementation of the Alaska Native Claims Settlement Act of 1971 extremely tough.

Although we solved many of the complex Federal, State, and Native land ownership problems in the region with the 1976 Cook Inlet land trade, full implementation of this agreement as incorporated in Public Law 94–204 has still not been attained. Thus, an extension of the time in which to compile a pool of land from which the corporation can select its remaining land entitlement is necessary. This amendment in no way grants the corporation more land under the Settlement Act, but simply extends for an additional 2 years the time for the Department of the Interior to identify lands, hopefully in the region, which can be selected by the corporation.

It is critical that this legislation be swiftly passed, as some lands may "slip through the cracks" and not be available for possible selection due to the legal hiatus which we now find ourselves in with the expiration of the July 15 deadline on formulation of the Department's pool. I strongly support passage of this legislation and urge my colleagues to help correct this problem through quick action on this measure.●

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 4811) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDEFINITE POSTPONEMENT OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 264 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 183 be indefinitely postponed. That is the Appalachian Regional Development Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar

---

*Title and first line of Polish National Anthem.

Order No. 177 be indefinitely postponed. That was concluded today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 163 be indefinitely postponed. That also was concluded today.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—NOMINATION

Mr. STEVENS. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. STEVENS. It is my understanding that we shall now go to the Civiletti nomination. Is that the majority leader's intention?

Mr. ROBERT C. BYRD. Yes.

Mr. President, as in executive session, I ask unanimous consent that there be a time limitation on Mr. Civiletti's nomination of not to exceed 30 minutes, to be equally divided between Mr. KENNEDY and the acting minority leader or his designee.

The PRESIDING OFFICER. Is there objection? Without objection, as in executive session, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Mr. Civiletti.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of Benjamin R. Civiletti, of Maryland, to be Attorney General.

Mr. KENNEDY addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will allow me, Mr. PROXMIRE asked that there be a rollcall vote on the nomination, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

Mr. STEVENS. Mr President, if the Senator will allow me for one moment, as I understand it, that will bring the vote on this sometime around 20 minutes of or quarter of the hour.

Mr. KENNEDY. As a point of information, I do not intend to take more than 5 or 7 minutes. I think earlier than that. It should be within 10 or 12 minutes.

Mr. STEVENS. I thank the Senator.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

Mr. President, among the most serious responsibilities which the Committee on the Judiciary must exercise is the consideration of nominees for a broad range of positions in the executive and judicial branches of Government. These positions often involve policymaking or interpretation of laws at the highest levels, which directly and dramatically affect the lives of our citizens.

Today the Senate takes up consideration of the nomination of Benjamin R. Civiletti for the chief legal officer of the United States—the position of Attorney General. The Judiciary Committee has given this nomination careful and thorough examination.

We have held 3 days of hearings. Our investigative and legal staff have looked into any and all allegations relating to Mr. Civiletti's handling of matters during his tenure in the Justice Department. We have reviewed the nominee's financial records and other materials submitted in response to the committee's request.

I am pleased today to state to my colleagues that Mr. Civiletti has passed each test with flying colors. Yesterday he was approved by a unanimous vote of the committee.

The position of Attorney General of the United States is one of the most prestigious legal positions in the country; it is also one of the most important and most powerful. His decisions, and those of the Department for which he is responsible, cover the entire legal spectrum. International antitrust policy, domestic immigration procedures, enforcement of environmental laws, prosecution of major organized crime and sophisticated white collar fraud cases, management of the entire Federal prison system, supervision of the two major law enforcement agencies in the country, filing and defending civil suits on behalf of the United States—these responsibilities only begin to define the complexity and the difficulty of the office of the Attorney General.

Because of that complexity and because of that difficulty, the nominee for the position must, in a word, be exceptional. He must be able not only to administer, but also to lead. His integrity must be unquestioned and his credentials, both in terms of experience and expertise, must be impeccable. Throughout the history of the country, great men served us well as Attorneys General, and the rule of law and the dispensation of justice has been the hallmark of their office.

The current Attorney General is one of those men, and one whose resignation will leave the Department and the country the less for it. I believe that Mr. Civiletti will carry forward in the same tradition as his predecessor.

Perhaps Judge Bell's words to the committee best describe Mr. Civiletti's attributes that well suit him for the job to which he has been nominated:

> He has never shied from even the toughest issue. He is firm, decisive, a leader and a manager. He is a man of the law, a lawyer's lawyer. He will continue and even enhance the policies of professionalism, openness, and independence that are a Justice Department tradition.

I believe that, in his response to the challenging and forceful testimony of representatives of Hispanic Americans, Mr. Civiletti showed his mettle. He was willing to address specific cases they pressed him on. He stated his own strong personal dedication to enforcement of Hispanic rights. He announced the formation of a special Hispanic-American Advisory Counsel as a focus for access and communication. And he provided a list of initiatives to respond to the concerns of those who felt that the Department of Justice had not been doing justice in areas affecting their lives and liberties.

Our committee hearings touched on a number of substantive areas—from white collar crime to immigration policy, from vigorous enforcement of civil rights to merit selection of Federal judges, from development of an FBI charter (which we announced in a joint press conference yesterday) to appointment of U.S. magistrates. Throughout, Mr. Civiletti appeared intimately familiar with the work of the Department. He understood the issues. His comments were responsive. He indicated a strong sense of continuity in leadership. And yet he made clear that he would be his own man, and independently review matters as they came before him. He assured the committee cooperation in providing access to departmental documents and information needed by us. He appeared sensitive to administrative problems in his agency. And Mr. Civiletti showed the kind of clear sensitivity to fairness, civil rights, and equality under law that should be the hallmark of our Nation's chief legal officer.

On two occasions during our hearings Mr. Civiletti discussed his own views on what constitutes "equal justice under law." On the first afternoon of our hearings he was asked by Senator BAUCUS how he, as Attorney General, would interpret the Executive order requirement that nominees to the Federal judiciary "possess and demonstrate commitment to equal justice under the law." Mr. Civiletti answered:

> I think equal justice under the law means that he has demonstrated, either in his conduct, or if he's a judge, in his decisions and his actions, that he is color blind, and race blind, and ethnically blind in his handling of legal issues, and that he enforces the law and determines cases on the merits of the cases regardless of who the parties happen to be or happen not to be, and that his speeches, his course of conduct, his actions, his decisions reflect that commitment to fair and equal justice which rests at the heart of our system.
>
> I think that it is clear in the law generally, in all phases of the law, constitutionally as well as statutorially, that the law is based on equal justice, and whether you're talking about employment, or if you're talking about housing, or you're talking about voting, or talking about any one of a hundred important areas in the daily lives of individuals, our law is, you know, loaded with principles, sound principles of equal justice, so that that's why that particular issue is so important. The whole fabric of the law relates and is dependent on it.

On the final morning of hearings, Mr. Civiletti stated his own belief and commitment to equal rights as follows:

> I am totally committed to equal rights for all Americans. I am totally committed to preservation of the civil rights for citizens

and persons that are in the United States and I am equally concerned with the police brutality cases just as I am with education and with housing and with employment and other vital and important rights of all Americans and persons in the United States.

Mr. President, as a private lawyer, as Assistant Attorney General, as the Deputy Attorney General, Ben Civiletti has done honor to his Government, his profession, and his fellow Americans. I am sure he will serve as Attorney General with honesty and integrity, with energy and determination, with sensitivity and understanding. He will be a credit to all of us, and I strongly support his confirmation as Attorney General of the United States.

Mr. SARBANES. Will the Senator yield?

Mr. KENNEDY. I yield to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, twice before the Senate has confirmed Benjamin R. Civiletti, of Baltimore, for high and responsible positions in the Department of Justice—in March of 1977 when he was nominated for the position of Assistant Attorney General for the Criminal Division and again in May of 1978 when he was nominated to be Deputy Attorney General of the United States. His work in those positions has been outstanding and fully justifies his nomination by the President to be the Attorney General of the United States. He has had to deal with some very difficult problems. He has addressed them all with fairness, objectivity, principle, and a calm steadiness.

It is not necessary to reiterate once again the complete details of Ben Civiletti's distinguished career. I have known him well for almost 20 years, from the time we were both law clerks for Federal judges in Baltimore. He is a person of absolute integrity, great legal skill, and deep commitment to the Constitution and the rule of law. His career at the bar, both in private practice and in public service, clearly demonstrates independent and mature judgment, strength and firmness of character, and dedication to the public interest.

At the heart of Ben Civiletti's achievement is a profound appreciation of the importance of our legal system to the well-being of our society. He knows the ancient Greek saying, given to us by Aristotle, that "Law is a pledge that the citizens of a state will do justice to one another." He will be steadfast in seeing that our people are assured of the liberties and rights which the Constitution and our laws guarantee to them and in seeing that our laws are faithfully enforced against those who would break them.

Ben Civiletti is an outstanding lawyer and a remarkable person. In all respects—intellect, character, experience, and above all commitment to our constitutional system of free self-government—he is superbly qualified to be the Attorney General of the United States. I urge the Senate to act favorably on his nomination.

Mr. KENNEDY. I yield 3 minutes to the Senator from Arizona.

Mr. DECONCINI. Mr. President, I rise in support of the nomination before the Senate today of Ben Civiletti to be Attorney General.

First, let me compliment the distinguished chairman of the Judiciary Committee for the fairness in which he conducted the hearings.

There was indeed some objection to Mr. Civiletti. Due to the chairman's fairness and his willingness to hear from all citizens, I think a good hearing was put forward. I believe some important aspects of the Justice Department were brought out that can be improved.

I am very satisfied that Mr. Civiletti expressed not only to the committee but also to people who were in opposition or who raised some question that he indeed is sensitive, that he indeed understands the civil rights laws of this country, that indeed he is aware that there are violations, and that as Attorney General he will be cognizant of this effort.

Also, I wish to comment on Mr. Civiletti's commitment with respect to organized crime, the effort to combat crime in this country, as a top priority. He has indicated to me in private conversations, as he did before the entire Judiciary Committee, that he believes that a greater effort can be put forward; that he is proud of the effort that Griffin Bell, present Attorney General, has demonstrated with respect to the commitment to combat organized crime and organized narcotics.

Mr. Civiletti made a commitment to the Senate Judiciary Committee that he will continue in this effort and expand it in every way possible, to see that the organized crime efforts in this country are brought to some tolerable level—if there is any level of organized crime that is tolerable.

I also wish to say a word about Mr. Civiletti's abilities to try cases, to be an effective prosecutor. I am extremely pleased that the President of the United States has chosen a prosecutor. As the distinguished Presiding Officer knows, if you are going to be in the law enforcement business, if you are going to be effective, having a little background in the prosecutorial area is certainly helpful. I believe Mr. Civiletti will bring the toughness and the fairness of a truly seasoned prosecutor to that office. In my judgment, at this time in the history of this country, there is nothing we need more.

I also take this opportunity to compliment the present Attorney General, Judge Griffin Bell, a man who truly has brought dignity to this office, who has brought the office back to where it should be, under the crises that have faced it in the past 4 or 5 years.

Judge Bell deserves the heartfelt thanks of this country and of this body. I am truly disappointed that he is leaving the service, but I anticipate that Judge Bell will continue to participate as the outstanding citizen and jurist and Attorney General he is.

Mr. SARBANES. Mr. President, if the Senator will yield, I join the Senator in his words with respect to Judge Bell. I believe he has done an outstanding job as the Attorney General.

I recall that at the time the confirmation of his nomination was before the Senate, there was some controversy. I supported him then. I think that judgment has been borne out in full measure by the extraordinary service he has rendered to the country during his tenure as Attorney General.

Mr. DECONCINI. I thank the Senator from Maryland. I concur completely.

In closing, Mr. President, I reiterate that I believe that civil rights will gain and has gained a real advocate and a friend in Mr. Civiletti's nomination and eventual confirmation.

I know that law enforcement will advance and will be ahead and that the apex and success of the Justice Department's efforts toward the criminal element in this country will be more vigorous than even in the past 2½ years.

I thank the distinguished chairman of the Judiciary Committee for yielding.

Mr. THURMOND. Mr. President, I support the nomination of Benjamin R. Civiletti to be Attorney General of the United States.

Mr. Civiletti had a fine record as a trial attorney and as a member of a prominent law firm before he came to the Justice Department. Attorney General Bell selected him to be head of the Criminal Division and later to be Deputy Attorney General. Judge Bell has spoken very highly of Mr. Civiletti's work in the Justice Department.

Mr. Civiletti is a hard worker. He is industrious and energetic, and he has been aggressive in proposing policies of the Justice Department. He has appeared before the Judiciary Committee a number of times. The members of the committee have had the opportunity to examine him and cross-examine him, and the general opinion is that he is well qualified to be Attorney General. In view of his experience as a practicing attorney and in view of his experience in the Justice Department, it would seem that he is properly qualified to fill this high position, and I am pleased to endorse him at this time to be Attorney General.

Mr. President, I should like to take this occasion to say a word in behalf of Attorney General Griffin Bell.

Judge Bell was a very prominent Federal judge. He had an outstanding reputation, and he gave up a position on the Federal bench to become Attorney General.

When he was appointed Attorney General, some people had some reservations about him; but the longer he served in the office, the more people saw that he was a man of capacity and a man of courage.

He was courteous in his actions and dealings with Members of Congress and others with whom he came in contact, and he gave a general impression that he was a dedicated public servant. He has rendered this country a fine service.

I wish Judge Bell good luck and happiness in his future work, as he goes back to Atlanta, Ga., to join a law firm. I am sure he carries with him the good wishes of all those who had the pleasure of knowing him here and who appreciate the outstanding job he did as Attorney General.

Mr. WALLOP. The Attorney General of the United States has an enormous responsibility to the President and to the people of this country to set the tone for the full and fair enforcement of the laws throughout the land and to administer the Department of Justice which must carry out this important mandate. My vote will be cast against confirmation of Mr. Civiletti for the highest position in the Justice Department because of some continuing concerns I have about the nominee's skills as an administrator, one of the major tasks facing any Attorney General.

Benjamin Civiletti has thrice been nominated to serve in executive level positions in the Department. I first had occasion to examine the nominee in March of 1977, after he was nominated to be the Assistant Attorney General of the Criminal Division. At that time, Mr. Civiletti was to assume responsibility for the investigation and prosecution of the Korean influence-peddling cases.

The following January 1978, Mr. Civiletti was nominated by the President to become the Deputy Attorney General, the second highest official of the Justice Department. As a member of the Judiciary Committee at that time, I took an active part in the hearings on that nomination. The scope of my examination was broad and touched upon a number of cases before Mr. Civiletti in his capacity as Assistant Attorney General of the Criminal Division.

The issues of the day included the firing of David Marston as U.S. Attorney in Philadelphia, his responsibility for the investigation of allegations against Bert Lance, his handling of the Korean bribery cases, and the disposition of the Helms case. At that time, I was quite concerned about the manner in which these cases were handled under the nominee's direction. Further, it was my conclusion then that Mr. Civiletti's abilities as an administrator were wanting; that his forte clearly was not as an effective supervisor or administrator.

Since his confirmation as Deputy Attorney General, a little more than 1 year has passed. Throughout that time, I have remained interested in the activities of the Department. For that reason, I submitted questions to the nominee on the occasion of his nomination to be Attorney General. The passage of time and the nominee's written responses bear out that many of the controversial cases addressed in the hearings last year are no longer at issue (that is, Korean influence buying cases). Others will soon be brought to trial (Lance); or investigations will continue (obstruction of justice in Marston firing); or have been referred to a special prosecutor (banking irregularities and spinoffs involving Carter peanut warehouse). I will remain an interested observer of these cases until they are finally resolved.

What concerns me now is the ability of the nominee to effectively administer the Department and to make it more responsive to the public. In light of problems occurring in the recent past involving communications with attorneys in the Department, and in light of noted failures to supervise attorneys under his charge, I am concerned that if Mr. Civiletti assumes the No. 1 position in the Department management problems will be compounded rather than cured. It is because of this concern that I cannot vote for confirmation of the nominee. Do let it be known, however, that for the sake of the administration of justice, I hope that I am proved wrong.

Before closing, I think it important to express the sense of frustration I experienced upon review of the nominee's answers to my questions. The thought crossed my mind that Mr. Civiletti may not even have reviewed all the questions, let alone responded to them. One answer, in fact, was written in the third person about Mr. Civiletti, which lends credence to my suspicions. Another answer conveys an arrogance which is not suited to a public official. My question was based upon statements emanating from the White House in which the highest premium has been placed on political compatibility and loyalty to the President as the first qualifications for Cabinet level positions.

I asked Mr. Civiletti if he felt that he could fulfill the President's own campaign promise to depoliticize the Justice Department in an atmosphere in which political compatibility and loyalty are the criteria for selection of Cabinet officers. In his answer, the Attorney General-designate rejected the premise of my question, which manifests, at least to this Senator, a rebuke to the very President he will serve. Notwithstanding his answer which ignores current events, I am hopeful that the Department will be run as a zone of neutrality.

Finally, if this nomination is confirmed by the Senate, as I suspect it will be, I want to express to Mr. Civiletti my hopes that, under his stewardship, the Department of Justice will forge to new heights, and to wish him well in attaining that goal.

● Mr. BAYH. Mr. President, I am happy to support the confirmation of Benjamin Civiletti as the next Attorney General of the United States. Mr. Civiletti has had a long and distinguished career in private practice in Baltimore as well as a creative and professional tenure as Deputy Attorney General under Griffin Bell.

I was able to be in attendance for Mr. Civiletti's appearance before the Judiciary Committee and I was impressed at that time as I had been in the past with his intelligence and his professional view of the role of the Department of Justice in insuring that the laws of the United States are applied with equity. As you know, Mr. President, my colleagues on the Judiciary Committee share my view of Mr. Civiletti since his confirmation was reported unanimously by the full committee yesterday.

As chairman of the Subcommittee on the Constitution I look forward to working with Mr. Civiletti in the areas of civil rights, civil liberties, juvenile justice, and issues which affect the constitutional rights of the American people.

I want to congratulate Mr. Civiletti on this honor and offer to him my support and cooperation in carrying out the difficult responsibilities which lie ahead for him.●

Mr. MATHIAS. Mr. President, the confirmation of the nomination of Benjamin Civiletti to be the Attorney General of the United States will make him the seventh citizen of the State of Maryland who has come to that great honor. He follows a long line of distinguished Maryland lawyers who have served as the chief law enforcement officer of this Republic. They include William Pinckney, John Nelson, Reverdy Johnson, Roger Brooke Taney, Charles Bonaparte, and William B. Rogers.

So as Mr. Civiletti assumes these duties, he brings with him a tradition of distinguished public service—a tradition which I am sure he will maintain. I believe that he merits the support of the Senate. I believe that the President has chosen well in choosing him. I say that not only on the basis of his professional qualifications, his education, and his early experience as a lawyer, because these are obviously superlative, but I say it on the basis of his record at the Department of Justice.

He has served in important positions at the Department of Justice as an Assistant Attorney General and as Deputy Attorney General, and he has done it with a highly professional degree of skill. He has been nonpartisan. I believe he will carry these characteristics into the office of Attorney General.

That office should not be a partisan office, and I am sure he will continue, as he has begun, to administer the Department of Justice in an impartial and a nonpolitical way.

So I heartily support the nomination of Mr. Civiletti to be the Attorney General of the United States, and I look forward, as a member of the Senate Judiciary Committee, to working closely with him in the days ahead.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Benjamin R. Civiletti to be Attorney General?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Louisiana (Mr. LONG), the Senator from Mississippi (Mr. STENNIS), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The PRESIDING OFFICER (Mr. BOREN). Are there any other Senators desiring to vote?

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 245 Ex.]

YEAS—94

Armstrong
Baker
Baucus
Bayh
Bellmon
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—1

Wallop

NOT VOTING—5

Bentsen
Goldwater
Long
Stennis
Stevenson

So the nomination was confirmed.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I ask that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—NOMINATION OF PAUL VOLCKER

Mr. ROBERT C. BYRD. Mr. President, while still in executive session, I ask unanimous consent that when the Senate completes action on the Clement nomination tomorrow the Senate then proceed to the consideration of Mr. Volcker; that there be a 30-minute time limitation to be divided as follows: 15 minutes under the control of Mr. PROXMIRE; 5 minutes under the control of Mr. GARN; and 10 minutes under the control of Mr. ARMSTRONG.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—NOMINATION OF WILLIAM MILLER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes action on the Volcker nomination tomorrow the nomination of Mr. William Miller be laid before the Senate and that there be a time limitation on that nomination of 45 minutes to be divided as follows: 15 minutes under the control of Mr. PROXMIRE; 15 minutes under the control of Mr. LONG; and 15 minutes under the control of Mr. DOLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR LEGISLATIVE SESSION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate disposes of that nomination the Senate return to legislative session on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATIONS—NEW REPORTS

Mr. ROBERT C. BYRD. Mr. President, while the Senate is still in executive session, I ask unanimous consent that the Senate proceed to the consideration of the nominations beginning with "New Reports" under Department of State; Agency for International Development, Mr. Douglas Bennet; under U.S. International Development Cooperation Agency, Thomas Ehrlich; under National Council on the Arts, Mr. James Rosenquist; under National Mediation Board, Robert Joseph Brown; and the Calendar Orders numbered 300, 301, and 302 under Department of Justice.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF STATE

J. Brian Atwood, of Maryland, to be an Assistant Secretary of State, vice Douglas J. Bennet, Jr.

Harvey J. Feldman, of Florida, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papau New Guinea and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands.

Frank George Wisner II, of the District of Columbia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zambia.

Thomas J. Watson, Jr., of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Union of Soviet Socialist Republics.

James W. Spain, of California, a Foreign Service officer of class 1, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Douglas J. Bennet, Jr., of Connecticut, to be Administrator of the Agency for International Development, vice John J. Gilligan, resigned.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Thomas Ehrlich, of California, to be Director of the United States International Development Cooperation Agency (new position).

NATIONAL COUNCIL ON THE ARTS

James Rosenquist, of Florida, to be a member of the National Council on the Arts for a term expiring Sept. 3, 1984, vice Billy Taylor, term expired.

NATIONAL MEDIATION BOARD

Robert Joseph Brown, of Maryland, to be a member of the National Mediation Board for the term expiring July 1, 1982, vice David H. Stowe, term expired.

DEPARTMENT OF JUSTICE

Alan A. Parker, of California, to be an Assistant Attorney General, vice Patricia M. Wald, resigning.

Jose A. Lopez, of Puerto Rico, to be U.S. marshal for the District of Puerto Rico for the term of 4 years (reappointment).

Irvin B. Smith, Jr., of Delaware, to be U.S. marshal for the District of Delaware for the term of 4 years, vice Peter J. McLaughlin, resigned.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the vote by which the nominations were confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 30 minutes, and Senators may speak up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR KENNEDY HIGHLIGHTS ENERGY CONSERVATION IN ADDRESS BEFORE NATIONAL URBAN LEAGUE

Mr. PERCY. Mr. President, on July 23, my very able and distinguished colleague Senator KENNEDY delivered an address before the National Urban League Conference in Chicago. I would like to commend Senator KENNEDY for his remarks on that occasion and express my shared concern for a number of the issues he raised.

Senator KENNEDY identified energy as the No. 1 challenge facing America today. Let me quote briefly from his remarks:

> What we face in reality is a national security crisis over energy. Our present energy system relies too heavily on massive supplies of oil imported from a small group of politically unstable but oil-rich nations in the Middle East. If America is to retain its preeminent position of world leadership, we cannot afford to play OPEC roulette with our energy future. We must regain control of the energy lifeline of our nation.

Praising the goals set by President Carter's energy plan, Senator KENNEDY rightly questioned the means by which the President proposes to meet those goals. Specifically, he expressed doubts as to the wisdom of making synthetic fuels development the cornerstone of the President's plan.

Synthetic fuels may help to reduce our dependence on imported oil in the 1990's, but they will do nothing to ease our energy burdens in the 1980's. Moreover, as Senator KENNEDY pointed out, synfuels are no match for conservation in terms of cost effectiveness.

As I see it, the President's plan includes $88 billion for the Energy Security Corporation, which would set as its goal the production of 2.5 million barrels per day of synthetic fuel by 1990. This means that the Federal Government would pay $35 billion to produce 1 million barrels of synthetic fuel per day in 1990.

For residential and conservation measures, the President has proposed a total new Federal expenditure of $2 billion between now and 1990. The estimated savings from these measures would be 0.5 million barrels per day by 1990. In other words, the President's proposed conservation measures, according to the administration's own calculations, would be over 9 times as cost effective as the proposed synfuels development program.

I agree wholeheartedly with Senator KENNEDY's statement that "our most important guideline should be that the Government subsidies shall go to the most competitive method of reducing oil imports." If the President's plan were based upon this principle, conservation would play a much more prominent role

Promoting energy conservation across the Nation depends upon an effective partnership between the Federal Government, States, and localities. Unfortunately, the Federal Government to date has all but ignored the important role which localities can play in this shared endeavor. On July 18, I introduced the Local Energy Management Act of 1979 (S. 1537), a bill which would encourage localities to tap their own unique energy resources—through conservation measures and the development of renewable energy resources. I am pleased that Senator KENNEDY is an original cosponsor of this bill.

The need for conservation is nowhere more urgently felt than in the homes of lower-income Americans. Home heating oil subsidies alone are an inadequate solution to this grave problem. We must focus equal attention on helping these families to cut their energy needs through prudent conservation investments. Senator KENNEDY has just introduced legislation to address this challenge. I commend Senator KENNEDY for his active concern about low-income energy needs, and I look forward to studying his proposals closely.

I am certain that my colleagues would benefit greatly from a closer look at Senator KENNEDY's remarks before the National Urban League. I therefore ask unanimous consent that the full text of his speech be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR EDWARD M. KENNEDY

It is an honor for me to be here with all of you today and to address this 69th Annual Conference of the National Urban League on "Mobilizing for the Challenges of the 80's." I am grateful to Coy Eklund for his kind introduction. I also thank Jim Compton, President of the Chicago Urban League, who continues the fine tradition established by Bill Berry. Whenever I need a lesson in registering people to vote, I know where to come.

I have been proud to work in Washington with Vernon Jordan and Ron Brown and other leaders of the Urban League on the many different issues we care about. I am especially pleased to have your strong support in our struggle to enact a program of comprehensive national health insurance for all the people of this nation.

I am pleased to be here as well with Emory Jackson and Joyce London Alexander of the Urban League in Boston, and Henry Thomas of the Springfield Urban League, who are providing leadership on a broad range of major issues of importance to the state of Massachusetts. Early next month, as you know, Joyce will be sworn in as the new United States magistrate in Massachusetts. I am confident that she will bring to the federal judiciary in our state the same sensitivity and experience she has demonstrated in her fine work for the Urban League, enhancing the rights of all our citizens.

Throughout its long and proud history, the Urban League and the 115 affiliates you have today have been blessed with outstanding leadership. You have made a real and very important difference on critical domestic issues in every aspect of American life.

Because of the work of leaders in the Urban League and other great leaders of Black America, this country has made dramatic progress on some of the most difficult questions the nation has ever faced. In recent decades, we have begun to deal more effectively with the unfinished business of the American Revolution and the Civil War. We have begun to build a stronger nation at home and around the world.

We honor the heroes of the past. In remembering the leadership of A. Philip Randolph, we recall how, on the eve of war in 1941, he led the first great civil rights march on Washington to end racial discrimination in the defense industries of the United States. President Franklin Roosevelt responded, and when Pearl Harbor came America's military machine entered the war under a landmark presidential order requiring fair employment practices in every aspect of our national defense. A. Philip Randolph knew that if black and white Americans were to fight side by side on the battlefields of Europe or Asia, they must also be allowed to work together in the factories and on the assembly lines in every city, town, and village in America.

Today as well, we remember the leadership of Whitney Young and his brillant effort to achieve one of the noblest dreams of the Urban League, the concept of a Marshall Plan for the United States in the 1960's, a plan to bring millions of Black Americans into the mainstream of American economic life.

We remember also another great march on Wednesday. At the Lincoln Memorial in 1963, irresistible momentum was generated for the enactment of the three greatest civil rights laws of this century—the Public Accommodations Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968.

And we also remember that dramatic day in August of 1965 that marked the turning point in Vietnam, the day when perhaps the greatest civil rights leader of them all, Dr. Martin Luther King, announced his opposition to the war. It was time, he said, for the civil rights organizations of America to use their full resources to end the escalation of the war, to halt the bloodshed in Indochina, and turn to the urgent and more important business of building a stronger nation here at home.

Because of brilliant black leadership like this, America embarked on a soaring new commitment to fulfill the needs of all the citizens of this country—not just the rich, but the poor as well; not just the strong, but the weak as well; not just the powerful, but others as well—the women and the blacks and the Spanish-speaking and all the others who have too long been denied the reality of the pledge of 1776, that this nation shall be a land of freedom and justice and opportunity for all.

It is a measure of how far we have fallen short of these great goals that we meet now at a time of doubt, a time of reaction and resistance, a time when the flame of the dream has too often seemed to flicker on critical issues like jobs, and housing, and education, and health care.

Many in the nation, agreeing with the eloquent theme of this conference, will say good riddance to the decade of the 70's as we mobilize for a new assault in the 80's on the challenges we face. Let us pledge here to keep the flame alive, to march again the way we marched before, to resume our progress toward the goal of full and genuine equality of opportunity for every citizen of this land.

To those who say not now, or who would pull up the ladder to keep others off the ship, I reply that delay is wrong. It will only make the problems worse. Cover the mineshaft and the fires still rage below. Flee from our problems now, and we shall dump them on our children, on our children's children, and on generations yet unborn.

As Vernon Jordan told this annual conference a year ago:

"We of the Urban League movement are saying to America, let justice roll down like water, and righteousness like a mighty stream.

"We are saying to America, every valley shall be exalted, and every mountain and hill shall be made low, the crooked places made straight, and the rough places made plain.

"Yes, we are saying to America, hate evil and love good, and establish justice within the gates."

All Americans deserve to share in the justice within our gates. The strength of this country depends on our military power. But it also depends on the quality of life we leave for our children and for future generations.

We know that many things are wrong.

It is wrong that a child's future in America is limited by the hopeless poverty that his parents, and their parents before them, have inherited and have struggled desperately to escape.

It is wrong that a child growing up in the ghetto of a city is more likely to drop out of high school than to graduate from college.

It is wrong that a child should know no home except a forlorn and temporary shack in a migrant labor camp.

It is wrong that a newborn black child lives sicker and dies younger than other children, to the point where, as Vernon Jordan told our Senate Health Subcommittee, the Surgeon General should issue a warning that "Being Black can be dangerous to your health."

It is wrong that any child's future in America should be limited by the color of his skin, or by the Spanish inflection of his name, or by the sharing of an Indian heritage.

You know as well as I that when inflation, recession and energy begin to press heavily on the economy, as they do today, it is those who have the least who feel the pain the most. Whether you live in South Chicago, or Roxbury, in Watts or Harlem or Buttermilk Bottom in Atlanta, the heaviest burden of our economic crisis falls squarely and unfairly on the elderly and the poor and low-income groups.

They are the first to feel the pressure of higher prices from inflation. They are the first to lose their jobs in recession. They are the first to see their lights go dark, their tables bare, their children sick, and their homes cold because of the soaring price of food and heating oil and medical care.

It isn't fair. No one in this country should have to choose between adequate food and adequate heat and adequate health. If sacrifice is necessary in the United States of America in this year 1979, it is sacrifice that must be shared equally, not borne unfairly by any group of citizens in our society.

One week ago yesterday, President Carter issued a new challenge to America, a challenge to mobilize our national resources and out national will to deal with our energy problems.

As we debate the way to respond to this challenge, there are two questions that must be answered. Is there really an energy crisis? And, if there is a crisis, what steps should we take to overcome it?

It is clear to me that we do face a serious national crisis over energy. But the nature of the crisis is an unusual one. America is not running out of energy. We have abundant non-oil sources waiting to be tapped. We have a 400-year supply of coal, a 100-year supply of shale oil, and huge supplies of other sources. The amount of solar energy that reaches the earth's surface every two weeks is equivalent to all of the known reserves of coal, gas, and oil throughout the world.

You may well ask, if we have these enormous supplies available, why do we fail to use them? The answer is their cost—they are more expensive than imported oil today. The reason we use imported oil is not, as some would claim, because of excessive environmental restrictions on energy development here at home, or because of excessive bureaucratic regulation. We use imported oil for the simple reason that it is the cheapest alternative now available.

What we face in reality is a national security crisis over energy. Our present energy system relies too heavily on massive supplies of oil imported from a small group of politically unstable but oil-rich nations in the Middle East. If America is to retain its pre-eminent position of world leadership, we cannot afford to play OPEC roulette with our energy future. We must regain control of the energy lifeline of our nation.

To meet this threat to our national security, I believe that the people of America are prepared to unite to take whatever steps are necessary. As citizens, all of us are prepared to do our share to end our dangerous dependence on foreign oil. The question is, how?

In large measure, I support the goals announced last week by President Carter. While I differ with the Administration on some details and approaches, I am confident that the national debate now under way in Congress will resolve these questions rapidly and in a way that puts America squarely on the road to a more secure supply of energy in the future.

I believe that in at least 4 areas, we must do more than the Administration has proposed.

First, we must move as swiftly as possible to enhance the efficiency of our current energy use. This is the best and most cost-effective method to reduce our excessive reliance on imported oil. Already, because of the success of efforts in this area since 1973, our level of imports today is 2.8 million barrels a day below what it would otherwise have been.

Second, we must diversify our oil supplies by exploring for new oil in the vast areas of the world that lie outside the control of the OPEC nations in the Middle East.

Third, we must use our free enterprise system to develop alternatives to oil as sources of energy as we move into the 1980's and on toward the year 2000.

Fourth, we must provide adequate additional protection for the millions of low and middle income citizens and small businesses hit hardest by the astronomical increases in the cost of gasoline and home heating oil.

Next week in the Senate I shall introduce, along with Senator John Durkin of New Hampshire, a bill to establish a program to improve the efficiency of the way America uses its current supplies of energy.

The Administration has recognized the potential of this energy conservation approach by proposing a modest program in this area. But the saving they propose is only 500,000 barrels of oil a day from residential buildings.

I believe we can do many times better than that. The legislation I propose will concentrate exclusively on the positive side of conservation, by insisting—not that we use less energy—but that we use our existing energy more efficiently in residential buildings, commercial buildings, and basic industrial processes.

We know that such a program can work. The Canadian Home Insulation Program, for example, was recently expanded into a Canada-wide effort, after a successful demonstration program in Nova Scotia proved that it could work.

Together, these energy efficiency proposals, which will be entirely voluntary, can save four million barrels of oil a day by 1990, or about eight times the savings proposed in the Administration's plan. The cost will be about $10 a barrel saved, compared to the world price today of $20 a barrel for oil.

In addition, these new proposals will put urgently needed dollars into areas hardest hit by the cost of imported oil. They will help families directly, by enabling them to reduce their energy bills. And they will also create 400,000 new jobs, many of which will go to the unemployed in our inner cities.

While we work to reduce our imports, however, America must also encourage the diversification of its overseas oil supplies. To the extent we continue to import oil, we must do so in ways that avoid excessive dependence on any specific region of the world. It is little short of scandal that, six years after the Arab Oil Embargo of 1973, we have not yet seriously begun to explore for oil in other regions of the world.

Significant new supplies of oil are waiting to be discovered, especially in South America and the Far East where the potential for new sources is the greatest. We have drilled more holes in Arkansas in search of oil than in all of Latin America, more holes in North America than in the rest of the world combined.

No example is more telling than Mexico. When President Ford visited that nation in 1975, the proven reserves of Mexico were 2.5 billion barrels. By the time President Carter visited Mexico earlier this year, the known reserves had mushroomed sixteen-fold to 40 billion barrels. Some experts now feel that the actual level may be five times as great again.

We have a new Saudi Arabia just south of our border. For the past two years, I have pleaded with the Administration and the Department of Energy to develop a common North American energy market with our friends and neighbors in Canada and Mexico. Now, the time to act has come.

Finally, for the long run, we must begin now to develop alternative sources of energy—from synthetic fuels, from solar power, and from other products of American ingenuity.

But as we move toward these alternative fuels, let us proceed with caution and common sense. Let us not delude ourselves that a crystal ball in Washington allows us to see accurately into the future and decide which of today's possible technologies will provide the wisest answers for tomorrow's energy needs.

There is a sad precedent for the energy lesson we should have learned. Thirty years ago, the crystal ball seemed to be saying that nuclear power was the answer. And so the federal government foolishly embarked on a massive research and development program devoted almost exclusively to nuclear power. The potential of coal and solar power was ignored.

Today, after three decades and tens of billions of dollars in government spending, America's marriage to the atom is over. The future of nuclear power has been deeply clouded by the accident at Three Mile Island. Unless we can build our nuclear plants safely, unless we can dispose of their wastes effectively, we should not build them at all.

The comparable fad today is synthetic fuel. Perhaps it will prove to be the answer to the energy crisis. But we cannot yet say for certain whether synthetic fuel or any other technology is the answer. We do not even know whether some new and even more promising technology will appear suddenly on the horizon and surpass all the others that now exist.

If we are to make a national commitment to the development of extensive new energy sources here at home—and I believe we must—let us do so in ways that provide the highest probability of actually hitting the target. The system that built this Nation and made it great—the system of competition and free enterprise—should be allowed to make America's energy choices for the future—not the bureaucrats in the Department of Energy in Washington, not the industry lobbyists who have the ear of Congress, and certainly not the executives in the board rooms of the oil companies that have brought us to our present low estate.

Instead of deciding in Washington to pour $88 billion solely into synthetic fuels, let us expand the program by letting competition work. Let us offer these huge government subsidies on an equal basis to any new technology that promises a realistic and cost-effective solution to our needs.

For example, one of the leading current proposals in Congress, already adopted by the House of Representatives, would require the Federal Government to guarantee the purchase of several million barrels a day of synthetic fuel from the lowest bidders.

But why should such a program be limited only to the producers of synthetic fuel? Why not open up the bidding process to all alternative energy sources? Coal energy, solar energy, wind energy, geothermal energy, hydroelectric energy, oil diversification energy from overseas, new techniques for energy efficiency, and whatever else the mind of America can devise—all should be allowed to compete for the massive funds the government makes available. Our most important guideline should be that the government subsidies shall go to the most competitive method of reducing oil imports.

We cannot afford to rely solely on synthetic fuel. As H. L. Mencken once said, "There is always an easy solution to every human problem—neat, plausible, and wrong." It would be a tragedy of monumental dimension for the United States government over the next ten years to pour tens of billions of hard-earned tax dollars into the energy equivalent of the Goodyear blimp, only to learn a decade from now that two brothers named Wright had discovered a better way to fly.

The challenge we face today is to make these decisions wisely. But we cannot do so unless leaders like yourselves and others throughout the country participate in the debate.

On energy and all the other great issues you face, you do not have to go on suffering in silence and misery because of policies that contradict your interests and confiscate your pocketbooks. You can alter those policies. You can change the direction of the Nation. You can become a powerful political force in modern America. You can make the system work for you, just like the oil companies and so many other special interest groups now make it work for them.

Together, we can meet our energy crisis in a responsible way, and make progress toward all our other goals.

We can pass the Fair Housing Bill and provide the effective enforcement procedures needed to end discrimination in housing in America.

We can honor the cause of Civil Rights by passing the legislation to make Martin Luther King's birthday a national holiday.

We can defeat the Mottl Busing Amendment in the House of Representatives tomorrow, and rescue the Constitution from a shameful threat of an amendment that would reverse the tide of a century of progress toward ridding this nation of segregation and racial discrimination.

We can do other things as well.

We can pass National Health Insurance, and make health care in this rich land a basic right for all, not just an expensive privilege for the few.

We can put more blacks and other minorities on the federal bench in every state.

We can insure that federal aid to education provides adequate support for the struggling black colleges and universities of this land.

We can ratify the Equal Rights Amendment, so that no woman in America becomes the victim of discrimination because of sex.

And we can also ratify the D.C. Voting Rights Amendment, so that the people of the District of Columbia receive the full voting representation they deserve in the United States Senate and House of Representatives.

We cannot afford to be discouraged or disheartened by the opposition we face or by the temporary setbacks we may suffer. If we have confidence in ourselves, confidence in our nation, confidence in our future, we know that right shall finally prevail.

In the epic poem John Brown's Body, President Lincoln speaks eloquently. There is always something left, he says—a last ounce of courage that can be summoned to achieve triumph over even the greatest adversity. As he stated:

> We can fail and fail
> But deep against the failure,
> Something goes forward, something lights a match,
> Something gets up from the ground,
> Armed with a bitten and a blunted axe,
> And after twenty thousand wasted strokes,
> Brings the tall hemlock crashing to the ground.

Let each of us, to the best of our ability, make those words our own. Let us keep faith with our great commitments of the past. Let us summon new confidence, so that we too may succeed in bringing the tall hemlocks of racism and discrimination crashing to the ground.

THE WATSON APPOINTMENT

Mr. PERCY. Mr. President, I wish to bring to the attention of my colleagues two editorials from major American newspapers concerning the nomination and confirmation of Thomas J. Watson, Jr., to be Ambassador to the Soviet Union. These editorials, in the Chicago Tribune of July 25, 1979, and the Washington Star of August 1, 1979, endorse Mr. Watson's qualifications for the position and make the important point that an ambassador of Mr. Watson's unique experience can serve the national interest well in Moscow.

The Washington Star originally opposed this nomination. It is evidence of greatness for a newspaper to reassess its position in the light of new evidence and evaluation and publicly proclaim a different conclusion.

I ask unanimous consent that the editorials be printed in the RECORD at this point.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

THE WATSON APPOINTMENT

This newspaper initially opposed the nomination of Thomas J. Watson Jr. to be American ambassador to the Soviet Union. Grounds: that the job would be better filled by a professional diplomat with language skills and long on-the-spot immersion in the politics of the Soviet bloc.

Nevertheless, the Senate's confirmation of Mr. Watson is a reminder of how strong a case there is for *not* giving the post to a Foreign Service officer and for giving it to a knowing outsider such as Mr. Watson.

There is evidence that the Soviets are put off by the Foreign Service Slavic scholars; their very qualifications rouse Kremlin paranoia about foreign embassies as espionage centers. An ambassador who, rightly or wrongly, stirs suspicion in these highly suspicious people may be held at arm's length by the Soviet power structure, to the point where nothing gets done.

Government officials in the U.S.S.R. are more likely to develop comparatively easygoing relations with a person accustomed to straightforward business negotiations than with one known for nimbleness in diplomatic footwork. Furthermore, the contemporary Soviet interest in promoting trade makes a businessman a congenial choice as an American ambassador to Moscow at this time. Particularly one with the Watson expertise in computers—as head of International Business Machines, Mr. Watson directed the setting up of a computer exhibit in Moscow in 1959. Later, the new ambassador showed Nikita Khrushchev through an IBM plant in the United States.

Besides, as chairman of the General Advisory Committee on Arms Control for nearly two years, Mr. Watson is a man whose awareness of and interest in the fine print on U.S.-Soviet relations goes far beyond matters of trade. And, while he is not wholly fluent in the Russian language, he is sufficiently at home in it that he was able to handle the servicing of his aircraft when he was flying all over the U.S.S.R. as a World War II pilot for General Follett Bradley, who was in charge of opening up the lend-lease ferry route for planes being delivered from the United States.

An equally significant area of qualification for an American ambassador is, paradoxically, freedom from the entanglements of the Foreign Service system. For all the detached professionalism the system breeds, it is also subject to the lures of the courtier mentality.

When careers rise and fall by what Washington thinks, as they do for FSOs, there is a great temptation to tell the people back in The Department what they want to hear. Or, at least, what the field thinks they want to hear. Many a disastrous foreign policy turn can be traced to misinformation designed to please somebody's boss.

Fearless candor comes easier when an ambassador has a power base outside the system. The Averell Harriman example of the non-diplomat ambassador to Moscow some years ago comes to mind. Fresh approaches come easier when an ambassador has not spent years conforming to patterns of thinking and behavior fixed in Foggy Bottom. The Moscow embassy calls for all the courage and freshness of style the United States can put there.

We wish Mr. Watson success.

THE WATSON APPOINTMENT

President Carter ruffled a few well-groomed feathers in the State Department when he named Thomas J. Watson as ambassador to the Soviet Union. Career foreign service officers in the department are complaining that Mr. Watson, formerly head of IBM, is unqualified for the touchy post. He lacks a detailed professional knowledge of the Kremlin's politics and personalities, and he does not speak fluent Russian. In an age of nuclear tensions, say the critics, the Moscow job should go to a career diplomat, not to an amateur who happens to be a friend of the President.

Those objections miss the fundamental point.

As was all too clear during the tenure of outgoing Ambassador Malcolm Toon, a highly knowledgeable career foreign service officer can still be a disastrous ambassador in Moscow. Mr. Toon, despite his long experience in tough posts, his linguistic ability, and his detailed knowledge of Soviet affairs—or perhaps because of them—despised the Soviets and everything they stood for. And he made no secret of his feelings. His sharp-tongued criticism of the Kremlin's incumbents was the subject of general diplomatic gossip in Moscow and while his opinions may well have been justified, they made him worse than useless as our representative there—especially at a time when the future of the world depends on relations between the two superpowers.

Obviously it is desirable that an ambassador have a broad professional knowledge of the politics and language of the country to which he is assigned; too many of our ambassadors have been weak on the language count. But other things are more important in Moscow just now—such as finding ways to expand trade, communication, and technological cooperation with the Soviets. Mr. Watson is excellently qualified for that task, both because of his experience at IBM and because of his numerous trips to the Soviet Union, dating back to Lend-Lease, to negotiate commercial deals.

There is a place in Washington for the skeptical mind of a Mr. Toon. Certainly it would be folly to take every profession of Soviet good will and sincerity at face value. But outspoken cynicism at the bargaining table is not the way to build the cooperative, mutually beneficial relationship with the Soviets that is essential if we are to avoid war and persuade the Soviets to become more open and humane. In this task, we wish Mr. Watson every success.

MESSAGES FROM THE HOUSE

At 12:09 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to H.R. 2807, an act to amend the Bankruptcy Act to provide the nondischargeability of certain student loan debts guaranteed or insured by the United States.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 4930. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 80. A concurrent resolution authorizing a bust or statue of Martin Luther King, Junior, to be placed in the Capitol.

The message also announced that, pursuant to the provisions of 22 U.S.C. 276a-1, as amended by Public Law 95-45, the Speaker has appointed Mr. Preyer, chairman, Mr. Derwinski, vice chairman, Mr. Fountain, Mr. Pepper, Mr. Pickle, Mr. de la Garza, Mr. Goodling as members of the delegation to attend the Conference of the Interparliamentary Union, held in Caracas, Venezuela, on September 13 to September 21, on the part of the House.

At 5:21 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendments of the Senate to House Concurrent Resolution 168, a concurrent resolution providing for an adjournment of the House from August 2 to September 5, 1979 and a recess of the Senate from August 3 to September 5, 1979.

ENROLLED BILL SIGNED

At 6:36 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 961. An Act to amend the Speedy Trial Act of 1978.

The enrolled bill was subsequently signed by the President pro tempore (Mr. Magnuson).

At 8:25 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the amendment of the Senate to H.R. 4476, an act to extend certain programs under the Higher Education Act of 1965 for one year, and for other purposes.

The message also announced that the House passed the bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes, with amendments; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Staggers, Mr. Dingell, Mr. Ottinger, Mr. Sharp, Mr. Moffett, Mr. Broyhill, Mr. Brown of Ohio, and Mr. Stockman were appointed managers of the conference on the part of the House.

HOUSE BILL AND CONCURRENT RESOLUTION REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 4930. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes; to the Committee on Appropriations.

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 80. A concurrent resolution authorizing a bust or statue of Martin Luther King, Junior, to be placed in the Capitol; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment, and with a preamble:

S. Con. Res. 35. A concurrent resolution reaffirming the commitment of Congress to the right of the people of Puerto Rico to determine their own political future (Rept. No. 96-281).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. Res. 217. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1110. Referred to the Committee on the Budget.

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment:

S. 1110. A bill to include home delivery of children's publications in the existing rates for children's publications sent to schools (Rept. No. 96-282).

By Mr. PRYOR, from the Committee on Governmental Affairs, without amendment:

S. Res. 218. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3923. Referred to the Committee on the Budget.

H.R. 3923. An Act to amend chapter 25 of title 44, United States Code, to extend for two years the authorization of appropriations for the National Historical Publications and Records Commission, and for other purposes (Rept. No. 96-283).

By Mr. KENNEDY, from the Committee on the Judiciary, with an amendment:

S. 25. A bill to designate the birthday of Martin Luther King, Junior, a legal public holiday (Rept. No. 96-284).

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment:

S.J. Res. 99. A joint resolution to provide for the designation of a week as "National Lupus Week."

S. 88. A bill for the relief of Soerjanti Bonzoumet-Soetarto (Rept. No. 96-285).

S. 216. A bill for the relief of Chong Hui Schrein (Rept. No. 96-286).

S. 707. A bill for the relief of certain aliens (Rept. No. 96-287).

H.R. 896. An Act for the relief of Joseph J. Andrews (Rept. No. 96-288).

H.R. 899. An Act for the relief of Mr. and Mrs. Aaron Wayne Ogburn (Rept. No. 96-289).

H.R. 932. An Act for the relief of Doris Mauri Coonrad (Rept. No. 96-290).

H.R. 1158. An Act for the relief of James C. Wilkinson (Rept. No. 96-291).

By Mr. KENNEDY, from the Committee on the Judiciary, with an amendment:

S. 151. A bill for the relief of Jerry W. Manandic and Ceferino W. Manandic (Rept. No. 96-292).

S. 319. A bill for the relief of Chan Siu Ha (also known as Linda Chan) (Rept. No. 96-293).

S. 974. A bill for the relief of Tin Foo Chan (also known as Michael Chan) (Rept. No. 96-294).

By Mr. MORGAN, from the Select Committee on Ethics, without amendment:

S. Res. 220. An original resolution amending the Standing Rules of the Senate (together with minority views) (Rept. No. 96-295).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LONG, from the Committee on Finance:

G. William Miller, of California, to be Secretary of the Treasury.

(The above nomination from the Committee on Finance was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Paul A. Volcker, of New Jersey, to be a Member of the Board of Governors of the Federal Reserve System.

Paul A. Volcker, of New Jersey, to be Chairman of the Board of Governors of the Federal Reserve System.

Harold Alonza Black, of North Carolina, to be a Member of the National Credit Union Administration Board.

P. A. Mack, Jr., of Indiana, to be a Member of the National Credit Union Administration Board.

(The above nominations from the Committee on Banking, Housing, and Urban Affairs were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. STEWART (for himself, Mr. Talmadge, and Mr. Lugar):

S. 1613. A bill to further the purpose of the Food and Agriculture Act of 1977 in providing price and income protection for farmers and assuring consumers of an abundance of food and fiber at reasonable prices; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BENTSEN:

S. 1614. A bill to amend the Internal Revenue Code of 1954 to exempt holdings in independent local newspapers from taxes on excess business holdings of private foundations.

By Mr. HOLLINGS (for himself, Mr. Thurmond, Mr. Cranston, and Mr. Hayakawa):

S. 1615. A bill for the relief of James R. Thornwell; to the Committee on the Judiciary.

By Mr. BAUCUS:

S. 1616. A bill for the relief of the estate of Timothy E. Nunley; to the Committee on the Judiciary.

By Mr. HEFLIN:

S. 1617. A bill for the relief of Byung Ho Choe, his wife, In Sook Choe, and his sons, Ki Hyuk Choe and Ki Kwan Choe; to the Committee on the Judiciary.

By Mr. FORD:

S. 1618. A bill for the relief of Clarence S. Lyons; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 1619. A bill to amend the Internal Revenue Code of 1954 to provide that motion picture films and video tapes which are produced for sale or rent as training films are to be treated as educational films for purposes of the investment credit; to the Committee on Finance.

S. 1620. A bill to amend the Internal Revenue Code of 1954 to increase the dividend exclusion from $100 to $1,000; to the Committee on Finance.

S. 1621. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax at the same rate as the investment tax credit to investors purchasing bonds the proceeds of which are to be used to acquire new section 38 equipment; to the Committee on Finance.

S. 1622. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax to individuals in respect of their acquisition of stock traded on an established market; to the Committee on Finance.

S. 1623. A bill to amend the Internal Revenue Code of 1954 to provide an inflation adjustment in the determination of capital gains and losses of individuals; to the Committee on Finance.

By Mr. GRAVEL:

S. 1624. A bill for the relief of Francisco Pang; to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 1625. A bill to amend the Act of December 20, 1944, as amended; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATCH:

S. 1626. A bill for the relief of H. F. Mulholland and the estate of John Oakason; to the Committee on Energy and Natural Resources.

By Mr. TSONGAS:

S. 1627. A bill entitled the "Consumer Checking Account Equity Act of 1979"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HART:

S. 1628. A bill to impose a windfall profit tax on domestic crude oil; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEWART (for himself, Mr. TALMADGE, and Mr. LUGAR):

S. 1613. A bill to further the purpose of the Food and Agriculture Act of 1977 in providing price and income protection for farmers and assuring consumers of an abundance of food and fiber at reasonable prices; to the Committee on Agriculture, Nutrition, and Forestry.

(The remarks of Mr. STEWART when he introduced the bill appear earlier in today's proceedings.)

By Mr. BENTSEN:

S. 1614. A bill to amend the Internal Revenue Code of 1954 to exempt holdings in independent local newspapers from taxes on excess business holdings of private foundations; to the Committee on Finance.

● Mr. BENTSEN. Mr. President, I am today introducing a bill to help preserve independent newspapers by exempting holdings in independent local newspapers from taxes on excess business holdings of private foundations.

In 1969 section 4943 was added to the Internal Revenue Code. Under this section, all private foundations will be prohibited after May 26, 1989 from owning more than 50 percent of the assets of stock of any business enterprise owned by them on May 26, 1969.

My bill would permit the private foundations which presently own interests in independent daily newspapers to continue that ownership. In addition, it would encourage individuals who own controlling interests in other independent newspapers to bequeath their interests in these newspapers to private foundations since ownership by the private foundation could be continued for more than the present 5-year mandatory divestiture period. Such bequests would accomplish at least two very worthwhile objectives.

First, a significant amount of assets would be irrevocably committed to charitable purposes.

Second, locally owned, independent newspapers would be preserved.

Under current law, continued ownership of independent newspapers is very difficult. If the newspaper is owned by a private foundation, section 4943 mandates its sale. If the newspaper is owned by an individual, the payment of the Federal estate tax obligations incurred upon the death of the principal owner often necessitates sale. The proposal would permit the ownership of only one independent, local newspaper by a private foundation.

To insure the continuation of a broad-based, independent, free press in the United States, the policy of Congress should be to encourage, rather than discourage, the ownership of independent local newspapers throughout the country. The bill I am introducing today would promote that objective.●

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. CRANSTON, and Mr. HAYAKAWA):

S. 1615. A bill for the relief of James R. Thornwell; to the Committee on the Judiciary.

JAMES R. THORNWELL

Mr. HOLLINGS. Mr. President, today I am introducing legislation to provide relief for Mr. James R. Thornwell, a native of South Carolina now living in California. Joining with me in support of this bill are Senators THURMOND, CRANSTON, and HAYAKAWA. Congressman RONALD V. DELLUMS and several of his colleagues in the House of Representatives are today taking similar action.

The attached memorandum and materials more fully express the circumstances surrounding Mr. Thornwell's case and clearly state the compelling reasons for this legislation. In brief, Mr. President, this bill seeks to correct the abusive treatment Mr. Thornwell received from the U.S. Army. Without his knowledge, he was administered LSD as a subject of "Operation Third Chance" in 1961. This program consisted of a series of Army experiments performed in Europe to test LSD as a "truth serum" in intelligence interrogations of individuals placed under extreme physical and mental abuse. Mr. Thornwell endured the abuse. However, this sad state of affairs did not end with the testing. Mr. Thornwell was released, without being notified of the testing or conditions that he had undergone, and without having any corrective treatment or receiving any aid from the Army. His life since then, needless to say, has been nothing but disorientation and despair.

The U.S. Army recognizes the mistakes it made relative to Mr. Thornwell's treatment and supports this bill, as does the Department of Justice. I believe, Mr. President, that this legislation provides an appropriate remedy for Mr. Thornwell, and I urge its earliest consideration.

Mr. President, I ask unanimous consent that the bill as well as supporting materials be made a part of the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1615

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, $1,700,000 to James R. Thornwell, originally of South Carolina and now of Oakland, California. Such sum shall be in full satisfaction for the severe physical, psychological and economic damage, including pain, suffering, emotional distress, trauma and permanent injuries, inflicted upon James R. Thornwell as a result of the administration by Army personnel of LSD to him in 1961 without his knowledge or consent after subjecting him for six preceding weeks to extreme physical and emotional stress, as part of an Army drug testing program in which he was the only American subject, and as a result of the concealment by the Army of the use of LSD from James R. Thornwell for 17 years thereafter, during which time he suffered from severe psychological disorientation, and of the Army's failure to provide him any follow-up care. The payment of such sum shall be in full satisfaction of all claims of James R. Thornwell, his heirs, executors, personal representatives or assigns, of any nature whatsoever against the United States and its agencies, or against any past or present employee, agent, officer or person of or associated with the United States, in connection with the circumstances of his injuries compensated hereunder, including injuries incurred subsequent to his discharge from the Armed Forces, and such payment shall be in lieu of any further compensation or award for such injuries.

SEC. 2. No part of the amount appropriated by this Act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. Violation of the provision of this section is a misdemeanor punishable by a fine not to exceed $1,000.

BRIEFING PAPER ON PRIVATE LEGISLATION FOR JAMES R. THORNWELL

I. Background facts:

A. The LSD experiment on Thornwell.

In June, 1961, James R. Thornwell, then a United States Army private, was administered LSD without his knowledge or consent as part of a covert drug testing program conducted by the Army. For sixteen years thereafter, the Army deliberately concealed from Thornwell the fact of his exposure to this highly potent and hazardous drug, and, despite knowledge of the severe psychological and physical effects of this experiment, failed to provide him any follow-up care. It was not until October, 1977, and then only as the result of his own initiative in requesting Army records under the Freedom of Information Act, that Thornwell learned of his surreptitious subjection to LSD.

As documented in these Army records, Thornwell was the only American subject of "Operation Third Chance," a series of Army experiments performed in 1961 in Europe to test LSD as a "truth serum" in intelligence interrogations of individuals placed under extreme physical and mental stress. Thornwell was stationed in France at this time, assigned to an Army message center in Orleans.

For six weeks immediately prior to his LSD drugging, Thornwell was almost continuously brutalized by agents of the Army Counter Intelligence Corps. During this period, Thornwell was solitarily confined in a small chamber with covered windows and deprived of food, drink, sleep, and the use of toilet facilities. His isolation was broken only by periods of interrogation about the disappearance of classified documents from the Orleans message center. During the interrogations, Thornwell was beaten, threatened, verbally degraded, injected with sodium pentathol and hypnotized by Army agents.

Climaxing these weeks of sustained brutality and deprivation, Thornwell was taken in June of 1951 to an abandoned mill outside of Orleans and given LSD. According to a report prepared by the Army team conducting the LSD experiment, Thornwell, already disoriented and weakened by the preceding weeks of stress, had an "extreme paranoic reaction" to the drug, the effects of which were "highly sustained and almost incapacitating." Thornwell, the Army team stated, experienced the "[m]ost profound behavioral effects of all subjects of Operation Third Chance."

While under these effects, Thornwell was again interrogated by inhumane methods including threats to extend his drug-induced state to a permanent condition of insanity. At no time, however, did the Army or any other investigating agency produce credible evidence of Thornwell's involvement in the disappearance of any classified documents, and all charges of misconduct by Thornwell were dropped.

B. The damage resulting to Thornwell.

Prior to the months of physical and psychological anguish inflicted on him by the Army in 1961, Thornwell was a healthy, highly motivated and hard-working individual. He had no history of psychiatric disorders. Examinations of Thornwell by Army doctors before the LSD experiment confirmed that he was mentally sound and neither psychoic nor depressed. Thornwell's performance in secondary school was superior, earning him a college scholarship awarded to the most outstanding black student in his high school class. He completed one year of college before joining the Army, and had scholarship funds available for return to school after completion of his military service. Thornwell also had an active and successful social life.

The Army's LSD experiment on Thornwell, and its sixteen-year failure to treat his consequent illness or even to inform him of its cause, have left him a chronic social and emotional cripple. In marked contrast to his pre-1961 accomplishments and patterns of behavior, Thornwell has, since his discharge from the Army in 1961, been unable to maintain gainful employment except for short periods, and unable to sustain satisfying relationships with family or friends. Objective expert examiners have diagnosed him as suffering from serious physchiatric disorders attributable to his torture and drugging by the Army in 1961 and the Army's subsequent neglect of his condition. A medical specialist retained by the Army itself in 1978 confirmed the causal link between Thornwell's present impaired state and the extraordinary trauma he experienced in the 1961 experiment.

II. Appropriateness of private legislation:

Thornwell's case is uniquely appropriate for private relief legislation. He is the *only* American whose rights were so flagrantly violated by the Army in the course of its LSD experiments; Army records clearly reflect that no other United States citizen was the subject of the "Operation Third Chance" LSD experiments or of any comparable Army LSD testing program using human subjects without their knowledge or consent.

Moreover, the Army has acknowledged the facts recited above as to Thornwell's unwitting participation in this inhumane experiment and as to the Army's failure to inform him of his exposure to LSD or to provide any follow-up care.

Yet, Thornwell has been held to be barred from obtaining any judicial relief for the severe damage caused by the drug experiment on him. In October, 1978, Thornwell brought suit in the District of Columbia to obtain relief for the injuries suffered as a result of the LSD experiment and the Army's sixteen-year neglect of his resulting illness. On May 30, 1979, United States District Judge Charles Richey ruled that the United States and its officers are immune from liability to Thornwell for the injuries from his subjection to LSD in 1961 and other governmental abuse while he was in military service.

Both the Department of the Army and the Department of Justice have committed their full and vigorous support for this private legislation for Thornwell. Following is an itemization and documentation of the damages for which the legislation is intended to compensate Thornwell.

PRIVATE LEGISLATION FOR JAMES R. THORNWELL: DAMAGE ITEMIZATION AND DOCUMENTATION

The itemization of damages below and supporting materials attached hereto as Exhibit A and B establish the basis for private legislation compensating James Thornwell in the sum of $1,700,000. Both the Department of the Army and the Department of Justice consider this to be an appropriate and fully substantiated amount of compensation for Thornwell. Payment to Thornwell under the bill is contingent upon his relinquishment of all claims against the United States and its officers and agents.

1. Lost Earnings (These figures have been calculated by an economic expert on the faculty of the Wharton School of the University of Pennsylvania. The expert's calculations, and his explanations therefor, are attached as Exhibit A. They are based on the assumption that Thornwell entered the workforce in 1965 when he was 27, after completing the college education he had begun before the 1961 LSD experiment left him physically and psychologically incapable of continuing.)

a. Lost past earnings	$378, 000
Less estimated past earnings by Thornwell during brief, intermittent periods when he was able to work	42, 000
Total	336, 000
b. Lost future earnings	727, 000
Total	1, 063, 000

2. Expenses for Psychiatric Care (These figures have been calculated in consultation with Thornwell's treating psychotherapist, an expert in the field who has observed Thornwell over a period of 18 months of intensive treatment. The expert opinion at present is that Thornwell's severe mental illness will require approximately five additional years of psychotherapy.)

(a) Past expenses for psychiatric diagnosis and treatment	$7, 200
(b) Future expenses for psychiatric treatment	42, 000
Total	49, 200

3. Physical and Psychological Injury (See exhibit B attached.)

(a) Injury from administration of LSD without Thornwell's knowledge or consent under conditions of extreme physical and mental stress (including six weeks of confinement and deprivation of food, drink and sleep, other physical abuse and threats of permanent instanity and deaths)—assault, battery, intentional infliction of mental distress, negligence, constitutional violations.	
(i) physical and mental pain and suffering	
(ii) psychological damage (documented in reports prepared by three experts, including a medical expert retained by the Department of the Army)	$293, 900
(b) injury from government's sixteen-year failure to inform Thornwell of subjection to LSD or to provide any follow-up care—intentional infliction of mental distress, negligence, misrepresentation, constitutional violations	
(i) physical and mental pain and suffering	
(ii) psychological damage (documented in reports prepared by three experts, including a medical expert retained by the Department of the Army)	293, 900
	587, 800
Total	1, 700, 000

ESTIMATED INCOME FOR 1965-79 OF MALES WITH 4 YR OF COLLEGE WHO WERE 27 YR OLD IN 1965

	Age (1)	Average mean income[1] (2)	Productivity increase from 1972[2] (3)	Estimated mean income at 1979 prices[3] (4)
1965	27	9, 517		15, 973
1966	28	10, 581		17, 759
1967	29	10, 882		18, 264
1968	30	11, 258		18, 895
1969	31	12, 959		21, 750
1970	32	13, 110		22, 004
1971	33	13, 829		23, 211
1972	34	14, 875		24, 966
1973	35	15, 406	1. 022	26, 426
1974	36	15, 902	1. 0445	27, 877
1975	37	16, 362	1 0675	29, 315
1976	38	16, 787	1. 0910	30, 739
1977	39	17, 177	1. 1150	32, 145
1978	40	17, 531	1. 1395	33, 529
1979	41	17, 850	1. 1646	34, 890
Total				378, 000

[1] Source: U.S. Bureau of the Census, Current Population Reports, Series P-60, No. 92, "Annual Mean Income, Lifetime Income, and Educational Attainment of Men in the United States, for Selected Years, 1956 to 1972," U.S. Government Print-Office, Washington, D.C., 1974, Tables 9-18.

Income is money income, not including pension contributions, medical insurance benefits, and other income supplements.

Means incomes for 1965–1972, in 1972 prices, reflect two sources of growth: (1) the rise in incomes with age and experience, and (2) the rise in incomes at each age as a reflection of the rise in productivity of the economy at large.

Means incomes for 1973–1979, taken from a cross section of the appropriate ages in Table 9 for 1972, embody only the growth of incomes with respect to age. They must be adjusted by an estimated growth factor, given in column (3).

[2] Productivity increase of 0.022 per annum estimated from the average rate of growth of incomes of college graduates, age 34, from 1964 to 1972 as indicated in Table 9; and the average rate of growth of output per hour of all persons in the private business sector from 1972 to 1977. (Data from Bureau of Labor Statistics, Department of Labor, as reported in the Annual Report of the Council of Economic Advisors, U.S. Government, 1978, Table B–37, at 300.) The value of 0.022 is consistent with but somewhat below the long-term average rate of growth of output per man-hour in the economy since 1900.

Entries in column (3) for years 1973–79 are $(1.022)^n$, where $n=1$ through 7.

[3] Price adjustments use the consumers price index, Department of Labor, Bureau of Labor Statistics, Monthly Labor Review. Index for middle 1979 is estimated from December 1978 data and subsequent changes.

Entries in column (4) for 1965–1972 are col (2) × 210.3/125.3. For 1973–1979, entries are col (2) × 210.3/125.3.

ESTIMATED PRESENT VALUE IN 1979 OF LIFETIME INCOMES OF MALES WITH FOUR YEARS OF COLLEGE, AGE 42 IN 1980

The U.S. Bureau of the Census estimated that the expected average lifetime earnings of males with four years of college education in 1972 was 372,000 dollars.[1] The concept of income is money income, exclusive of pension contributions, medical insurance, and other income supplements.

The figure reflects expected changes in income that accompany changing age and expected mortality and worklife experience, but it assumes that the rate of growth of productivity and prices and the discount rate are all zero.

To adapt this estimate for use in 1979 it must be adjusted for the changes in productivity and prices from 1972 to 1979. Thus, with an estimated average annual growth factor of 0.022[2] and an increase in the consumer price index from 125.3 in 1972 to 210.3 in 1979[3] the comparable figure for 1979 is $372{,}000 \times (1.022)^7 \times 210.3/125.3$, or $372{,}000 \times 1.1646 \times 1.6784 = 727{,}007$.

Future incomes would be expected to rise as a result of growth of productivity, in the range of 2 to 3 percent per annum, supplemented by the rate of increase of prices. On the other hand these rising future incomes must be discounted to present 1979 values at some appropriate rate of interest, such as the long-term government bond rate. Essentially, these factors tending to increase and decrease the present value of the future income stream tend to offset each other. In particular, rates of inflation and interest rates tend to rise and fall together. On balance, therefore, the present value in 1979 of expected average lifetime incomes of males at age 42 in 1980 can be estimated conservatively at $727,000.

PSYCHOLOGICAL AND PHYSICAL INJURY

Injury such as that to be compensated as part of the award under this private legislation, consisting chiefly of psychological trauma, permanent damage and intense pain and suffering, is virtually impossible to quantify. Assigning a monetary value to the psychological and physical injury inflicted on James Thornwell involves unique problems. His situation is *sui generis*: no other American citizen was subjected to the "Operation Third Chance" experiments or any comparable Army LSD testing program; no other legislative or judicial award is known to which the amount provided under this bill for psychological and physical injury can be meaningfully compared. Moreover, the extreme governmental abuse for which this bill attempts to afford redress, committed in an earlier and different time, is peculiarly difficult for the contemporary mind even to comprehend.

The Army team that conducted the LSD experiment on Thornwell itself described his reaction to the drug as "extreme paranoiac," "highly sustained and almost incapacitating," stating that he experienced the "most profound behavioral effects of all subject[s] of Operation Third Chance." Over the longer term, the LSD experiment on Thornwell, and the Armys' sixteen-year failure to treat his consequent illness or even to inform him of its cause, have left him a chronic social and emotional cripple. In marked contrast to his pre-1961 accomplishments and patterns of behavior, Thornwell has, since his discharge from the Army in 1961, been unable to maintain gainful employment except for short periods, and unable to sustain relationships with family or friends. Competent, objective examiners have diagnosed him as suffering from serious psychiatric disorders attributable to his torture and drugging by the Army in 1961 and the Army's subsequent neglect of his condition. A medical specialist retained by the Army itself in 1978 confirmed the casual link between Thornwell's present impaired state and the extraordinary trauma he experienced in the 1961 LSD experiment.

In sum, Thornwell's loss has been the loss of the ability to lead a normal, productive and satisfying life in human society, the ability to fulfill the high promise he demonstrated before his unwitting subjection to LSD experimentation.

In cases of much less profound intrusions into a human being's life and mind, court awards have not infrequently far exceeded the sum provided under this bill for the psychological and physical injury suffered by James Thornwell. That sum, $587,800, is surely the minimum amount in which Thornwell can fairly be compensated for such severe and permanent damage.

FOOTNOTES

[1] From U.S. Bureau of the Census, Current Population Reports, Series P–60, No. 92, "Annual Mean Incomes, Life-time Income, and Educational Attainment of Men in the United States, for Selected Years, 1956 to 1972," U.S. Government Printing Office, Washington, D.C., 1974, Table 9.

[2] Productivity increase of 0.022 per annum estimated from the average rate of growth of incomes of college graduates, age 34, from 1964 to 1972 as indicated in Table 9; and the average rate of growth of output per hour of all persons in the private business sector from 1972 to 1977. (Data from Bureau of Labor Statistics, Department of Labor, as reported in the Annual Report of the Council of Economic Advisors, U.S. Government, 1978, Table B–37, at 300). The value of 0.022 is consistent with but somewhat below the long-term average rate of growth of output per man-hour in the economy since 1900.

[3] Price index is the consumers price index of the Department of Labor, Bureau of Labor Statistics, Monthly Labor Review. Index for 1979 is estimated from December 1978 data and subsequent changes.

By Mr. BAUCUS:

S. 1616. A bill for the relief of the estate of Timothy E. Nunley; to the Committee on the Judiciary.

● Mr. BAUCUS. Mr. President, I am today introducing private relief legislation on behalf of the estate of Timothy E. Nunley. Let me briefly summarize the sad circumstances that make this action necessary.

Timothy Nunley, then just 19, passed his preinduction physical examination and went on active duty with the Navy on September 7, 1973. During the next weeks, despite repeated visits to medical facilities complaining of back, chest, and groin discomfort, he was continually told that he was medically fit and suffering from no illness. It was not until early 1974 that a condition of terminal carcinoma of the lymph system was finally diagnosed, the tumors now beyond the operable stage. Tim died on September 20, 1974.

The evidence in the case strongly suggests negligence of duty on the part of military medical personnel, beginning with Mr. Nunley's April 1973 preinduction examination. The Nunley family has expended great amounts of time and funds, both through the Navy Department and the courts, seeking just compensation for this possibly preventable tragedy. The court, while not contesting the facts as presented, cited the "Feres" doctrine as a bar to any claim under the Federal Torts Claim Act.

Shortly, I will be introducing legislation revising the law to permit pursuance of such claims in the courts, to prevent others from facing the years of suffering and frustration already endured by the Nunley family. I hope that many of my colleagues will join me in that effort.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

S. 1616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the estate of Timothy E. Nunley the sum of $765,314 in full satisfaction of all claims of such estate against the United States for negligence of Navy personnel in failing to diagnose a carcinoma of the lymph system in the course of a physical examination preceding the induction of the said Timothy E. Nunley into the United States Navy and in failing, after his induction, to provide appropriate medical treatment for such carcinoma which resulted in his death.

SEC. 2. No part of the amount appropriated by the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.●

By Mr. MATHIAS:

S. 1619. A bill to amend the Internal Revenue Code of 1954 to provide that motion picture films and video tapes which are produced for sale or rent as training films are to be treated as educational films for purposes of the investment credit; to the Committee on Finance.

● Mr. MATHIAS. Mr. President, I find it ironic at best that television films, however violent, and entertainment films, however sexually explicit, are entitled to an investment tax credit, while films designed to increase productivity and help people fulfill their human potential are denied that benefit.

But that is the way things stand under the Tax Reform Act of 1976. Industrial training films were excluded from the investment tax credit because it was assumed that all industrial training films had a short life and were produced for in-house training on a risk-free basis.

But many training films do not fit into the short-life/risk-free category. There is a small number of firms whose principal business is the production and distribution of ready-made training films and video programs designed for use in industry, business, government agencies, and educational institutions.

There are perhaps 20 companies at present in this business in the United States, producing at most $4,000,000 worth of films per year. The majority of the films has an average life of 7 years, and is used as a vital aid to training directors and instructors over a period of time well in excess of most feature movies and television shows. The estimated loss in revenue to the Government would be only about $400,000.

Simple equity recommends enactment of my bill. Educational film producers are allowed to use the investment tax credit, and they are beginning to make training films and video programs that appeal to the same market as the films produced by training film companies.

My bill will make training film companies competitive by allowing them to use the investment tax credit too. I have no doubt that the resulting equity in the marketplace will provide a stimulus in this industry and will lead to increased efficiency, more competition, better quality products, and lower prices.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1619

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subparagraph (B) of section 48(k)(1) of the Internal Revenue Code of 1954 (relating to movie and television films) is amended by inserting after "educational purposes" the following: "(including training films and tapes produced primarily for sale, rent, or license to other industrial and commercial organizations)".

SEC. 2. The amendment made by the first section of this Act shall apply to taxable years beginning after December 31, 1974.●

By Mr. MATHIAS:

S. 1620. A bill to amend the Internal Revenue Code of 1954 to increase the dividend exclusion from $100 to $1,000; to the Committee on Finance.

S. 1621. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax at the same rate as the investment tax credit to investors purchasing bonds the proceeds of which are to be used to acquire new section 38 equipment; to the Committee on Finance.

S. 1622. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax to individuals in respect of their acquisitions of stock traded on an established market; to the Committee on Finance.

S. 1623. A bill to amend the Internal Revenue Code of 1954 to provide an inflation adjustment in the determination of capital gains and losses of individuals; to the Committee on Finance.

TAKE STOCK IN AMERICA

● Mr. MATHIAS. Mr. President, the administration has just given us some grim economic news—we are now officially in a recession. Productivity is down, the dollar is down, and unemployment will soon go up.

To pull ourselves out of the trough, we have got to do something to spur capital investment in plant expansion and new business. In 5 years, 6 million investors have dropped out of the stock market. While close to half of America's households owned corporate shares in the mid-sixties, in 1977 only one-quarter did. Ten years ago, three-hundred high-technology companies were started; last year none was. For every 100 businesses that are set up this year, it is predicted that over 50 will fail within 12 months.

The almost punitive capital gains tax enacted in 1969 practically dried up investment funds for new companies in the market. This kind of short-sighted tax policy is counterproductive. Contrary to expectations, following the increase in the tax, we experienced a drastic fall in tax revenues, in large part because the investment capital needed for new business had evaporated. Unless we adopt an enlightened tax policy that stimulates rather than impedes the creation of new businesses and the expansion of existing ones, we cannot hope to recuperate economically. We must continue the revitalization process begun in 1978 when Congress took a first cautious step by voting a moderate capital gains tax reduction. The free enterprise system runs on the fuel of capital investment, especially venture capital, and the reasons for making capital investment more attractive are clear and compelling.

In a recent statement before the Judiciary Antitrust Subcommittee, a representative of the Chamber of Commerce, Mr. John V. Jures, of Dresser Industries, pointed to a real structural flaw the Congress needs to address—the problem of capital formation. It has always been more difficult for smaller firms to obtain access to capital than larger firms, but over the past decade, I am afraid our governmental policies have all but destroyed the capital market as far as small firms are concerned.

Unless we adopt a tax policy that encourages private enterprise to create new business or to expand existing ones, our country will end up with a different form of economy, and a different social structure.

The time has come for Congress to act decisively to give a boost to business investment. I now introduce several bills that will, if enacted, help foster an economic climate in which American private enterprise can breathe deep and thrive again.

TAX CREDIT FOR STOCK PURCHASES

One way to increase investment is to make it more attractive to the investor. The French Government has encouraged citizen investment with a new law that allows every French taxpayer to write off all money invested in the stock market up to $1,100. Predictably, prices on the stock market have jumped and investment has increased.

The bill I introduce today would allow investors a tax credit of 10 percent of their investment in the stock market, with a maximum credit of $100. If the investor buys $1,000 in stocks, he or she can deduct $100 from the tax he or she owes for that year. I think such a bill would help bring the small investor back into the stock market and would increase capital investment.

INVESTMENT TAX CREDIT FOR INDIVIDUALS

Among the positive measures initiated by the 95th Congress was the 10 percent investment tax credit being made permanent. As it stands in the Revenue Act of 1978, the credit applies only to the purchase of qualified used property by companies, though. I would like to see this tax break extended to cover small investors as well as businesses. One of the bills I introduce today would allow small investors to take the same 10 percent credit on all investments in bonds that the company has designated to finance new equipment. Again, the credit would apply to 10 percent of the investment, up to $100. This bill would give the little investors the same tax break industry now gets for money used for new construction. And it would be a powerful inducement for them to invest.

INCREASED DIVIDEND EXCLUSION

Another way to encourage small investors is to make more attractive the rewards of risk-taking. My third bill would increase the tax exclusion on dividend earnings of stocks from the present $100 to $1,000. This measure would greatly increase the amount of venture capital available for new or expanding business, and thereby improve the economic and employment conditions in the country. It will also enhance the vitality of competition by allowing new and aggressive competitors to enter the market with innovative projects.

The existing $100 exclusion dates from the 1950's and, if we were to adjust that figure for inflation alone, we would raise it at least to $400. But I am convinced we should do more. If we are to lure the small investor back into the stock market, we have got to make it much more attractive. If investors risk money on corporate America or on someone they know who has a good idea, they should get some reward for taking the risk. The current law provides only minimal incentive, and this state of affairs has caused the venture capital market to dry up. My bill will provide a powerful inducement to invest and will help get money back where it will do some good.

CAPITAL GAINS TAX INDEXATION

Finally, I introduce a bill to index the capital gains tax to inflation. It would work roughly as follows. If Mary Smith bought $15,000 worth of stock in 1967 and sold it for $25,000 in 1979, her profit on paper is $10,000. Under the present tax law, she pays no tax on 60 percent of this gain, or $6,000, but adds the remaining $4,000 to her taxable income of $55,000, thus bringing the total to $59,000. Her marginal tax rate is 49 percent, and under current law she pays a tax of $1,960 on her capital gain. But since the value of the dollar has been cut in half since 1967, her original $15,000 investment is worth $30,000 in today's market. Thus, in real dollars, Mary Smith actually lost $5,000. If capital gains indexation had been in effect, however, she would not have been obliged to pay a capital "gains" tax on what in fact was a capital loss.

While I generally shy away from the idea of indexing anything to the rate of inflation because that means institutionalizing inflation and, by institutionalizing it, losing our incentive to fight against it, I think in the case of capital gains, the situation is different. As a general rule, capital investments—be they in stocks, bonds, or a house—are held for a long time, and the accumulated effect of inflation over a 20-year period can greatly reduce the value of the investment. Capital gains tax indexation would eliminate this invisible tax and would be fair to people who save and invest.

Mr. President, these bills are a start in the right direction, and deserve serious consideration. We have got to make this country a great place to do business again if we are to meet the challenge of the future.

I ask unanimous consent that the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 116 of the Internal Revenue Code of 1954 (relating to partial exclusion of dividends received by individuals) is amended by striking out "$100" each place it appears and inserting in lieu thereof "$1,000".

(b) The amendments made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1978.

S. 1621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWANCE OF CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 44D. INVESTMENT IN CERTAIN EQUIPMENT FINANCING BONDS.

"(a) GENERAL RULE.—There is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to a percentage (equal to the regular percentage under section 46(a)(2)(B)) of the amounts paid or incurred by the taxpayer for the taxable year for the purchase of equipment financing bonds.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The credit allowed by subsection (a) for any taxable year shall not exceed $100 ($200 in the case of a joint return).

"(2) MINIMUM HOLDING PERIOD.—If any equipment financing bond for the purchase of which the taxpayer claimed the credit allowed by subsection (a) is sold or otherwise disposed of by the taxpayer less than 84 months after its purchase, then the tax under this chapter for the taxable year in which such sale or disposition occurs shall be increased by an amount equal to 150 percent of the amount of the credit allowed under subsection (a) with respect to the purchase of that bond.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section other than the credits allowable by sections 31, 39, and 43.

"(4) CERTAIN TAXES NOT CONSIDERED TAXES IMPOSED BY THIS CHAPTER.—For purposes of this section, any tax imposed for the taxable year by section 55 (relating to alternative minimum tax for taxpayers other than corporations), section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 402(e) (relating to tax on lump sum distributions), section 408 (f) (relating to additional tax on income from certain retirement accounts), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351 (b) (1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

"(c) DEFINITION OF EQUIPMENT FINANCING BOND.—For purposes of this section, the term 'equipment financing bond' means a bond (as defined in section 171 (d)) (other than a bond the interest on which is excluded from gross income under section 103) issued for the purpose of, and used for, financing the acquisition of section 38 property (within the meaning of section 48 (a))."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting immediately before the item relating to section 45 the following new item:

"Sec. 44D. Investment in certain equipment financing bonds.".

(c) CONFORMING AMENDMENTS.—Subsection (b) of section 6096 of such code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to taxable years beginning after December 31, 1979.

S. 1622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWANCE OF CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 44D. INVESTMENT IN CERTAIN STOCK.

"(a) GENERAL RULE.—In the case of an individual there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 10 percent of the purchase price paid in money by the taxpayer for the taxable year for the purchase of common stock regularly traded on an established market.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The credit allowed by subsection (a) for any taxable year shall not exceed $100 ($200 in the case of a joint return).

"(2) APPLICATION WITH OTHER CREDITS.—

"(A) LIMITATION TO TAX LIABILITY.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section other than the credits allowable by sections 31, 39, and 43.

"(B) CERTAIN TAXES NOT CONSIDERED TAXES IMPOSED BY THIS CHAPTER.—For purposes of subparagraph (A), any tax imposed for the taxable year by section 55 (relating to alternative minimum tax for taxpayers other than corporations), section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 402(e) (relating to tax on lump sum distributions), section 408(f) (relating to additional tax on income from certain retirement accounts), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(b)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

"(c) MINIMUM HOLDING PERIOD.—

"(1) RECAPTURE FOR PREMATURE SALE.—If any stock for the purchase of which the taxpayer claimed the credit allowed by subsection (a) is sold by the taxpayer less than 36 months after its purchase, then the tax under this chapter for the taxable year in which such sale occurs shall be increased by an amount equal to 150 percent of the amount of the credit allowed under subsection (a) with respect to the purchase of that stock.

"(2) DEATH OF OWNER; PROPERTY SETTLEMENTS.—The provisions of paragraph (1) do not apply to the sale of a share of stock during the 36-month period—

"(A) on account of the death of any individual having a legal or equitable interest therein occurring during such period, or

"(B) pursuant to a settlement in a divorce or legal separation proceeding.

"(d) RELATED PARTIES.—No credit shall be allowed under subsection (a) with respect to the purchase of stock from a person whose relationship to the purchaser would result in the disallowance of losses under section 267 or 707(b).

"(e) DEFINITION OF PURCHASE PRICE.—For purposes of this section, the term 'purchase price' means the adjusted basis of the taxpayer with respect to the stock on the date on which it is purchased.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting immediately before the item relating to section 45 the following new item:

"Sec. 44D. Investment in certain stock.".

(c) CONFORMING AMENDMENTS.—Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to taxable years beginning after December 31, 1979.

S. 1623

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF DEDUCTION FOR CAPITAL GAINS OF INDIVIDUALS.

Section 1202 of the Internal Revenue Code of 1954 (relating to deduction for capital gains) is hereby repealed.

SEC. 2. INFLATION ADJUSTMENT FOR CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Part III of subchapter P of chapter 1 of such Code is amended by adding at the end thereof the following new section:

"SEC. 1224. INFLATION ADJUSTMENT FOR CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.

"For purposes of computing gain or loss from the sale or exchange of a capital asset held for more than 1 year (and for no other purpose), a taxpayer other than a corporation shall treat as his adjusted basis in such asset an amount equal to the product of—

"(1) the taxpayer's adjusted basis in the asset (without regard to this section), and

"(2) a fraction, the numerator of which is equal to the consumer price index in the taxable year in which the asset was sold or exchanged and the denominator of which is equal to the consumer price index in the taxable year in which the asset was acquired.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter P of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"SEC. 1224. INFLATION ADJUSTMENT FOR CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.".

SEC. 3. REVISION OF TREATMENT OF CAPITAL LOSSES OF INDIVIDUALS.

(a) IN GENERAL.—Subsection (b) of section 1211 (relating to limitation on capital losses of taxpayers other than corporations) is amended to read as follows:

"(b) OTHER TAXPAYERS.—

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, long-term capital losses shall be allowed only to the extent of the long-term capital gains, plus whichever of the following is smaller:

"(A) the taxable income for the taxable year reduced (but not below zero) by the zero bracket amount, or

"(B) $3,000 ($1,500 in the case of a separate return by a husband or wife).

"(2) COMPUTATION OF TAXABLE INCOME.—For purposes of paragraph (1)(A), taxable income shall be computed without regard to long-term capital gains or losses and without regard to the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof.".

(b) CAPITAL LOSS CARRYOVERS.—Subsection (b) of section 1212 of such Code (relating to capital loss carryovers for taxpayers other than corporations) is amended to read as follows:

"(b) OTHER TAXPAYERS.—If a taxpayer other than a corporation has an excess of long-term capital losses in the taxable year over the amount allowed under section 1211(b) for such taxable year, the amount of such excess shall be treated as a long-term capital loss in the following taxable year."

SEC. 4. DEFINITION OF CONSUMER PRICE INDEX.

Section 1222 of such Code (defining certain terms relating to capital gains and losses) is amended by adding after paragraph (12) the following new paragraph:

"(13) CONSUMER PRICE INDEX.—The term 'consumer price index' means, when used with respect to a taxable year, the average, over the 12-month period ending on July 31 of the calendar year with or within which such taxable year ends, of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics for such 12-month period, or a comparable measure of prices as determined by the Bureau of Labor Statistics, for years in which such Index is not published."

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply to the sale or exchange of capital assets in taxable years beginning after December 31, 1979. ●

By Mr. HART:

S. 1628. A bill to impose a windfall profit tax on domestic crude oil; to the Committee on Finance.

OLD OIL ADJUSTMENT TAX AND NEW OIL DEREGULATION ACT OF 1979

● Mr. HART. Mr. President, I am introducing legislation today to propose an alternative approach to oil pricing. This legislation unites the previously conflicting goals of maximizing domestic oil supplies and protecting consumers from paying unearned profits to the major oil companies.

The concept is simple. First, previously discovered oil should be priced in relation to its cost of production. Revenue from old oil should provide reasonable and adequate profits in relation to the investment, but it should not be whatever today's market—the OPEC cartel market, not a free market—demands.

Second, there is a need to provide a simple, prompt and obvious incentive for expanded domestic production to protect the Nation's security. Accordingly, the price for oil yet to be discovered in this country should be the same as the price we pay OPEC for its oil, and the same as that received for oil discovered in foreign countries. This will maximize the incentive to search for new oil reserves within U.S. borders.

This approach is fair to consumers and producers alike. With it, there would be no cartel-induced profits for producers from the sale of previously discovered oil that is already providing investors a fair return on their capital. Yet, there would be no shortage of profits to be earned from the successful search for new domestic oil supplies.

This concept differs markedly from those embodied in the President's oil decontrol and windfall profits program, and from the nearly identical windfall profits bill passed in the House. Those proposals still allow substantial excess profits from the sale of old oil.

Those proposals also blunt the incentive to search for new oil by taxing away half of the price increase above $16 per barrel—even though it may cost more than that to find and produce oil from newly discovered reserves.

There is no reason to support a proposal that pursues two objectives at half speed when both can be pursued at full speed.

This full-speed approach is a basic modification of the windfall profits tax proposed by the President and passed by the House. Rather than tax half the "windfall profits" on old oil, I propose to tax all profits which are created as a direct result of arbitrary OPEC cartel price increases and the President's decision to lift price controls. Rather than give oil companies half the incentive of decontrol on new oil, I would eliminate the tax and give them all the incentive after January 1, 1980.

I propose taxing the unearned profits of the largest oil companies and at the same time promoting U.S. oil production through the following means.

First, this legislation will increase the tax on the sale of old oil to 100 percent. This proposal is in reality a severance tax on the difference between the old, controlled price of oil and the deregulated OPEC price.

Oil from older reservoirs in the country generally sells for around $6 a barrel, and oil discovered after 1973 sells for about $13. Upon full deregulation, that oil could sell for $20 a barrel or more. Such an increase in price is unnecessary to maintain production for most of the old oil reserves.

Even without full decontrol, the major oil companies are now earning record profits in the hundreds of millions of dollars. Unfortunately, some of the major companies are investing much of their current profits from this oil in industries other than oil.

Second, it will exempt any oil produced after January 1, 1980, from any tax.

While the oil companies do not need and should not get higher profits from old, previously discovered oil—profitably produced at much lower costs—they do need higher profits for the investment to find new oil. We need to make these incentives as strong as possible to insure maximum search efforts for new oil and oil which is expensive to produce.

Third, my bill will exempt from the tax any producer which sells less than 3,000 barrels of oil a day.

In effect, this proposal would deregulate oil production for all but the 70 or so largest oil producers in the United States.

Compared to the major oil companies, the small producers have limited resources to gain outside capital to fund the search for new reserves. Characteristically, the independent producers invest more each year than they receive in total revenues from the sale of old oil. Also, the small producers commonly do not have assets other than petroleum resources against which to borrow to obtain more funds for further exploration.

My proposal would also exempt from the tax any oil produced from "stripper" wells producing less than 10 barrels a day and oil produced through high-cost tertiary methods. A tax on this oil would be counterproductive. It would not, however, expand the definition of "deep stripper" wells as the President has proposed.

Studies of tertiary recovery techniques, such as by the Office of Technology Assessment, show that much additional oil can be produced when prices reach the $20 to $25 per barrel range. Under the House-passed proposal, the world oil price would have to reach $30 in order for the producer using tertiary methods to receive just $23 per barrel.

World oil prices now in the $20 range would encourage such tertiary production, if the windfall tax is not applied. Hence, in my legislative proposal, oil produced by tertiary methods is not subject to the windfall tax.

The severance tax proposed in this legislation will provide approximately the same level of revenues as proposed by the President or the House of Representatives. The magnitude is $5 to $10 billion a year in revenues. The objective of this tax should not be to raise a specific amount of revenue, but to establish Federal oil pricing policy with the twin objectives of maximum incentives to produce and fair revenues from the sale of old oil.

I hope my colleagues on the Senate Finance Committee and my other colleagues here in the Senate will strongly consider this approach as the most logical way to deal with the oil pricing situation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1628

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title; Amendment of 1954 Code.

(a) Short Title.—This Act may be cited as the "Old Oil Adjustment Tax and New Oil Deregulation Act of 1979."

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Sec. 2. Windfall Profit Tax.

(a) In General.—

(1) Amendment of subtitle d.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"Chapter 45—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

"Sec. 4986. Imposition of tax.
"Sec. 4987. Amount of tax.
"Sec. 4988. Taxable crude oil; the 3 tiers for tax purposes.
"Sec. 4989. Windfall profit; removal price.
"Sec. 4990. Adjusted base price.
"Sec. 4991. Newly discovered oil; certain Alaskan oil; tertiary recovery projects.
"Sec. 4992. Other definitions and special rules.
"Sec. 4993. Records and information; regulations.

"Sec. 4986. Imposition of Tax.

"(a) Imposition of Tax.—An excise tax is hereby imposed on the windfall profit from taxable crude oil removed from the premises during each taxable period.

"(b) Tax Paid by Producer.—The tax imposed by this section shall be paid by the producer of the crude oil.

"(c) Exemption for Small Producers.—

"(1) In general.—The tax imposed by subsection (a) for any taxable period shall not apply to any person whose qualified production during such period does not exceed the product of—

"(A) 3,000 barrels, multiplied by

"(B) the number of days during such taxable period.

"(2) Allocation among related persons.—

"(A) In the case of persons who are members of the same related group during that period, the 3,000 barrel amount contained in paragraph (1) for days during such period shall be reduced for each person by allocating 3,000 barrels among all such persons in proportion to their respective qualified production during such period.

"(B) Related group.—For purposes of subparagraph (A), the term 'related group' means—

"(i) a controlled group of corporations (as defined in section 613A(c) (8) (D) (i)),

"(ii) a group of entities among which an allocation would be made under subparagraph (B) of section 613A(c) (8), and

"(iii) members of the same family (as defined in section 613A(c) (8) (D) (iii)) and any corporation, trust or estate 50 percent or more of the beneficial interest in which is owned (directly or through the application of section 267(c)) by members of such family.

"(C) Special rule.—If an entity is a member of more than 1 related group for any period, the determination of the entity's allocation under subparagraph (A) shall be made by reference to the related group which results in the smallest allocation to such entity.

"(4) Qualified production defined.—For purposes of this subsection—

"(A) In general.—A person's qualified production during any taxable period is the number of barrels of taxable crude oil—

"(i) which are removed from the premises during such taxable period, and

"(ii) with respect to which such person would be liable for the tax imposed by subsection (a) (determined without regard to this subsection).

"(B) Production from transferred property.—

"(i) In general.—In the case of a transfer (including the subleasing of a lease) after 1978 of an interest (including an interest in a partnership or trust) in any proven oil or gas property, the qualified production of the transferee (or sublessee) shall not include any production attributable to such interest.

"(ii) Special rules.—For purposes of clause (i)—

"(I) The term 'proven oil or gas property' has the same meaning as when used in section 613A(c) (9) (A).

"(II) Rules similar to the rules of section 613A(c) (9) (B) shall apply.

"Sec. 4987. Amount of Tax.

"(a) In General.—Except as provided in the provision referred to in subsection (b), the amount of the tax imposed by section 4986 with respect to any barrel of taxable crude oil shall be—

"(1) in the case of tier 1 and tier 2 oil, 100 percent of the windfall profit on such barrel, and

"(2) in the case of tier 3 oil, 60 percent of the windfall profit on such barrel.

"(b) Provision Providing for 50 Percent Rate.—For provision providing tax rate of 50 percent in the case of Sadlerochit oil, see section 4991(b) (1) (A).

"(c) Fractional Part of Barrel.—In the case of a fraction of a barrel, the tax imposed by section 4986 shall be the same fraction of the amount of such tax imposed on a whole barrel.

"Sec. 4988. Taxable Crude Oil; the 3 Tiers for Tax Purposes.

"(a) Taxable Crude Oil.—For purposes of this chapter, the term 'taxable crude oil' means all domestic crude oil other than—

"(1) qualified Alaskan oil (within the meaning of section 4992(b) (6)), and

"(2) newly discovered oil and incremental tertiary oil.

"(3) stripper oil.

"(b) Tier 1 Oil.—For purposes of this chapter, the term 'tier 1 oil' means domestic crude oil which—

"(1) is lower tier oil, or

"(2) would be lower tier oil if the base production control level for such oil were reduced for January 1980 and each month thereafter by 1½ percent (instead of 3 percent).

For purposes of paragraph (2), the base production control level shall be determined under the June 1979 energy regulations as if the producer had elected the 1½ percent monthly reduction for 1979 and the 3 percent monthly reduction thereafter.

"(c) Tier 2 Oil.—For purposes of this chapter, the term 'tier 2 oil' means upper tier oil other than—

"(1) oil described in subsection (b) (2),

"(2) Sadlerochit oil (within the meaning of section 4991(b) (3)).

"(d) Tier 3 Oil.—For purposes of this chapter, the term 'tier 3 oil' means taxable crude oil other than tier 1 oil and tier 2 oil.

"(e) Lower and Upper Tiers.—For purposes of this chapter—

"(1) Lower tier oil.—The term 'lower tier oil' means domestic crude oil which is or would be subject to the lower tier ceiling price rule of the June 1979 energy regulations.

"(2) Upper tier oil.—The term 'upper tier oil' means domestic crude oil which is or would be subject to the upper tier ceiling price rule of the June 1979 energy regulations.

"(3) Marginal property provisions disregarded.—The determination of whether crude oil is or would be lower tier oil or upper tier oil shall be made without regard to the provisions of the June 1979 energy regulations which provide for a different base production control level for marginal properties.

"Sec. 4989. Windfall Profit; Removal Price.

"(a) General Rule.—For purposes of this chapter, the term 'windfall profit' means the excess of the removal price of the barrel of crude oil over the sum of—

"(1) the adjusted base price of such barrel, and

"(2) the amount of the severance tax adjustment with respect to such barrel provided by section 4992(d).

"(b) Net Income Limitation on Windfall Profit.—

"(1) In General.—The windfall profit on any barrel of crude oil shall not exceed the net income attributable to such barrel.

"(2) Determination of net income.—For purposes of paragraph (1), the net income attributable to a barrel shall be determined by dividing—

"(A) the taxable income from the property for the taxable year attributable to taxable crude oil, by

"(B) the number of barrels of taxable crude oil produced from such property during such taxable year.

"(3) Taxable income from the property.—For purposes of paragraph (2)—

"(A) In general.—Except as otherwise provided in this paragraph, the taxable income from the property shall be determined under section 613(a).

"(B) Certain deductions not allowed.—No deduction shall be allowed for—

"(i) depletion,

"(ii) section 263(c) costs, and

"(iii) the tax imposed by section 4986.

"(C) Taxable income reduced by cost depletion.—Taxable income shall be reduced by the cost depletion which would have been allowable for the taxable year with respect to the property if—

"(i) all section 263(c) costs had been capitalized and taken into account in computing cost depletion, and

"(ii) cost depletion had been used with respect to such property for all periods.

"(D) Section 263(c) costs.—For purposes of this paragraph, the term 'section 263(c) costs' means intangible drilling and development costs which (by reason of an election under section 263(c)) may be deducted as expenses for purposes of this chapter (other than this paragraph). Such term shall not include costs incurred in drilling a nonproductive well.

"(4) Special rules for transfers of proven oil or gas properties.—

"(A) In general.—In the case of any proven oil or gas property transfer which, but for this subparagraph, would result in an increase in the amount determined under paragraph (3)(C) with respect to the transferee, paragraph (3)(C) shall be applied with respect to the transferee by taking into account only costs incurred during periods after such transfer.

"(B) Proven oil or gas property transfer.—For purposes of subparagraph (A), the term 'proven oil or gas property transfer' means any transfer (including the subleasing of a lease) after 1978 of an interest (including an interest in a partnership or trust) in any proven oil or gas property (within the meaning of section 613A(c)(9)(A)).

"(5) Special rule where there is production payment.—For purposes of paragraph (2), if any portion of the taxable crude oil removed from the property is applied in discharge of a production payment, the gross income from such portion shall be included in the gross income from the property in computing the taxable income of the producer.

"(c) Removal Price.—For purposes of this chapter—

"(1) In general.—Except as otherwise provided in this subsection, the term 'removal price' means the amount for which the barrel is sold.

"(2) Sales between related persons.—In the case of a sale between related persons (within the meaning of section 103(b)(6)(C)), the removal price shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

"(3) Oil removed from premises before sale.—If crude oil is removed from the premises before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(4) Refining begun on premises.—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the premises—

"(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

"(B) the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(5) Meaning of terms.—As used in this subsection, the terms 'premises' and 'refined product' have the same meaning as when used for purposes of determining gross income from the property under section 613.

"Sec. 4990. Adjusted Base Price.

(a) Adjusted Base Price Defined.—For purposes of this chapter, the term 'adjusted base price' means the base price for the barrel of crude oil plus an amount equal to—

"(1) such base price, multiplied by

"(2) the inflation adjustment for the calendar quarter in which the crude oil is removed (or deemed removed) from the premises.

The amount determined under the preceding sentence shall be rounded to the nearest cent.

"(b) Inflation Adjustment.—

"(1) In general.—For purposes of subsection (a) the inflation adjustment for any calendar quarter is the percentage by which—

"(A) the implicit price deflator for the gross national product for the second preceding calendar quarter, exceeds

"(B) such deflator for the calendar quarter ending December 31, 1978 (June 30, 1979, in the case of tier 3 oil).

"(2) First revision of price deflator used.—For purposes of paragraph (1), the price deflator used shall be the first revision thereof.

"(c) Base Price for Tier 1 Oil.—For purposes of this chapter, the base price for tier 1 oil is the lower tier ceiling price (as of May 1979) for such oil under March 1979 energy regulations.

"(d) Base Price for Tier 2 Oil.—For purposes of this chapter—

"(1) In general.—Except as provided in paragraph (2), the base price for tier 2 oil is the upper tier ceiling price (as of May 1979) for such oil under March 1979 energy regulations.

"(2) Monthly increments starting November 1, 1986.—Beginning with November 1986, the base price for tier 2 oil of any grade and location shall include such monthly increments as may be provided pursuant to regulations prescribed by the Secretary (and modified by him from time to time) for the purpose of eliminating (as ratably as may be practicable) over the 50 month period ending December 31, 1990, the gap between the tier 2 base price for such oil and the tier 3 base price for such oil.

"(e) Base Price for Tier 3 Oil.—For purposes of this chapter, the base price for tier 3 oil is the price provided pursuant to regulations prescribed by the Secretary for the purpose of estimating (as nearly as may be practicable) the price at which uncontrolled crude oil of the same grade and location would have sold in December 1979 if the average landed price during such month for imported crude oil were $16 a barrel.

"Sec. 4991. Newly Discovered Oil; Tertiary Recovery Projects; Certain Alaskan Oil.

"(a) Newly Discovered Oil Defined.—For purposes of this chapter (including the application of the June 1979 energy regulations for purposes of this chapter)—

"(1) In general.—Except as otherwise provided in this subsection, the term 'newly discovered oil' has the meaning given to such term by the June 1979 energy regulations.

"(2) Reopenings.—The term 'newly discovered oil' does not include crude oil produced from a property from which there has been any production of crude oil after 1969 and before 1979. For purposes of this paragraph, the term 'property' has the meaning given to such term by the June 1979 energy regulations.

"(3) Behind-the-pipe oil.—The term 'newly discovered oil' does not include crude oil produced from a reservoir on a tract or parcel if—

"(A) the reservoir was penetrated after 1969 and before 1979 by a well (on such tract or parcel) from which crude oil was produced (whether or not such production was from such reservoir), and

"(B) crude oil could have been produced from such reservoir through such well before 1979.

"(4) Production must have been in commercial quantities.—For purposes of paragraphs (2) and (3), only production in commercial quantities shall be taken into account.

"(b) Alaskan Oil From Sadlerochit Reservoir.—For purposes of this chapter—

"(1) In general.—In the case of Sadlerochit oil—

"(A) Rate of tax.—The rate of tax provided in section 4987(a)(2) shall be 50 percent instead of 60 percent.

"(B) Base rate.—The base price shall be $7.50.

"(C) Adjusted base price increased by TAPS adjustment.—The adjusted base price for any calendar quarter (determined without regard to this subsection) shall be increased by the TAPS adjustment (if any) for such quarter provided by paragraph (2).

"(D) Removal price determined on monthly basis.—The removal price of such oil removed during any calendar month shall be the average of the producer's removal prices for such month.

"(E) Severance tax adjustment not to apply.—The amount of the windfall profit shall be determined without regard to section 4989(a)(2).

"(2) TAPS adjustment.—

"(A) In general.—The TAPS adjustment for any calendar quarter is the excess (if any) of—

"(i) $6.26 plus the product of $6.26 and the inflation adjustment, over

"(ii) the TAPS tariff for the preceding calendar quarter.

"(B) Inflation adjustment.—For purposes of subparagraph (A), the inflation adjustment shall be determined under section 4990(b) as if paragraph (1)(B) thereof referred to the calendar quarter ending June 30, 1978.

"(C) TAPS tariff.—For purposes of subparagraph (A), the TAPS tariff for the preceding calendar quarter is the average per barrel amount paid for all transportation (ending in such quarter) of crude oil through the TAPS.

"(D) TAPS defined.—For purposes of this paragraph, the term 'TAPS' means the Trans-Alaskan Pipeline System.

"(3) Sadlerochit oil defined.—The term 'Sadlerochit oil' means crude oil produced from the Sadlerochit reservoir in the Prudhoe Bay oil field.

"(c) Incremental Tertiary Oil.—For purposes of this chapter—

"(1) Incremental tertiary oil defined.—

"(A) In general.—The term 'incremental tertiary oil' means the excess of—

"(i) the amount of crude oil which is removed during any month and which is produced on or after the project beginning date and during the period for which a qualified tertiary recovery project is in effect on the property, over

"(ii) the base level for such property for such month.

"(B) Base level.—The base level for any property for any month is the average monthly amount (determined under rules similar to rules used in determining the base production control level under the June 1979 energy regulations) of crude oil removed from such property during the 6-month period ending March 31, 1979, reduced by the sum of—

"(i) 1 percent of such amount for each month which begins after 1978 and before the project beginning date, and

"(ii) 2½ percent for each month (after the last month described in clause (i) or, if no such month, after 1978) which is before the month for which the base level is being determined.

"(C) Minimum amount in case of projects certified by DOE.—In the case of a project described in paragraph (3)(A), the amount of the incremental tertiary oil shall not be less than the incremental production determined under the June 1979 energy regulations.

"(2) Allocation rules.—The determination of which barrels of crude oil removed during such month are incremental tertiary oil shall be made—

"(A) first by allocating the amount of incremental tertiary oil between oil which (but for this subsection) would be tier 1 oil, oil which (but for the subsection) would be tier 2 oil, and oil which (but for this subsection) would be tier 3 oil in proportion to the respective amounts of such oil removed from the property during such month, and

"(B) then by taking into account barrels of crude oil so removed in the order of their respective removal prices beginning with the highest of such prices.

"(3) Qualified tertiary recovery project.—The term 'qualified tertiary recovery project' means—

"(A) a qualified tertiary enhanced recovery project with respect to which a certification as such is in effect under the June 1979 energy regulations, or

"(B) any project for the tertiary recovery of crude oil which meets the requirements of paragraph (4).

"(4) Requirements.—A project meets the requirements of this paragraph if—

"(A) the project involves the application (in accordance with sound engineering principles) of one or more tertiary recovery methods which can reasonably be expected to result in a significant increase in the amount of crude oil which will ultimately be recovered from the property.

"(B) the project would be uneconomic without the benefits of this subsection,

"(C) the project beginning date is after May 1979, and

"(D) the operator submits (at such times and in such manner as the Secretary may by regulations prescribe) to the Secretary—

"(i) a certification from a petroleum engineer that the project meets the requirements of subparagraphs (A), (B), and (C) (and continues to meet the requirements of subparagraph (A)), and

"(ii) such other information as the Secretary may by regulations require.

"(5) Definitions and special rules.—For purposes of this subsection—

"(A) Tertiary recovery method.—The term 'tertiary recovery method' means—

"(i) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the June 1979 energy regulations, or

"(ii) any other method to provide tertiary enhanced recovery which is approved by the Secretary.

"(B) Project beginning date.—The term 'project beginning date' means the date on which the application of the method or methods referred to in paragraph (4)(A) begin.

"(C) Project only affects portion of property.—If a qualified tertiary recovery project affects only a portion of a property, such portion shall be treated as a separate property.

"(D) Significant expansion treated as separate project.—A significant expansion of any project shall be treated as a separate project.

"(d) Stripper oil.—For purposes of this chapter, the term 'stripper oil' has the same meaning as such term is defined in the June 1979 energy regulations.

"Sec. 4992. Other definitions and special rules

"(a) Producer.—

"(1) In general.—For purposes of this chapter, the term 'producer' means the holder of the economic interest with respect to the crude oil.

"(2) Exception in case of certain specified amount production payments.—If a portion of the crude oil removed from a property is applied during the taxable year in partial or complete discharge of a production payment which—

"(A) is not limited by time or to a specified number of units, but

"(B) will be fully discharged only when a specified dollar amount (plus interest or other charges, if any) has been received by the holder of the production payment,

then the holder of the economic interest from which the production payment was created (rather than the holder of the production payment) shall be treated as the producer of such portion.

"(b) Other Definitions.—For purposes of this chapter—

"(1) Crude oil.—The term 'crude oil' has the meaning given to such term by the June 1979 energy regulations.

"(2) Barrel.—The term 'barrel' means 42 United States gallons.

"(3) Domestic.—The term 'domestic', when used with respect to crude oil, means crude oil produced from an oil well located in the United States or in a possession of the United States.

"(4) United states.—The term 'United States' has the meaning given to such term by paragraph (1) of section 638 (relating to Continental Shelf areas.

"(5) Possession of the united states.—The term 'possession of the United States' has the meaning given to such term by paragraph (2) of section 638.

"(6) Qualified Alaskan oil.—The term 'qualified Alaskan oil' means any crude oil produced from a well north of the Arctic Circle other than Sadlerochit oil.

"(7) Taxable period.—The term 'taxable period' means each calendar quarter beginning after December 31, 1979.

"(8) Energy regulations.—

"(A) In general.—The term 'energy regulations' means regulations prescribed under section 4(a) of the Emergency Petroleum Allocation Act of 1973, as amended.

"(B) March 1979 energy regulations.—The March 1979 energy regulations shall be the terms of energy regulations as such terms existed on March 1, 1979.

"(C) June 1979 energy regulations.—The June 1979 energy regulations—

"(i) shall be the terms of energy regulations as such terms existed on June 1, 1979, and

"(ii) shall be treated as including final action taken pursuant thereto before June 1, 1979, and as including action taken before, on, or after such date with respect to incremental production from qualified tertiary enhanced recovery projects.

"(D) Continued application of regulations after decontrol.—Energy regulations shall be treated as continuing in effect without regard to decontrol of oil prices or any other termination of the application of such regulations.

"(c) Purchaser Collects Tax.—If the removal of any taxable crude oil is determined under section 4989(c)(1)—

"(1) the tax imposed by section 4986 with respect to such crude oil shall be collected by the purchaser of such crude oil by deducting the amount of such tax from amounts payable for such oil,

"(2) the producer shall not be required to file a return of the tax imposed by section 4986 with respect to such oil, and

"(3) the producer shall be treated as having paid the amount of tax collected by the purchaser on the due date prescribed by section 6076 for filing the return for the taxable period in which such oil was removed from the premises.

In determining the amount to be collected under paragraph (1), section 4989(b) shall not apply.

"(d) Severance Tax Adjustment.—For purposes of this chapter—

"(1) In general.—The severance tax adjustment with respect to any barrel of crude oil shall be the amount by which—

"(A) any severance tax imposed with respect to such barrel, exceeds

"(B) the severance tax which would have been imposed if the barrel had been extracted and sold at its adjusted base price.

"(2) Limitation on amount of severance tax.—The amount of severance tax taken into account under paragraph (1) shall not exceed the amount which would have been imposed under the State law in effect on March 31, 1979.

"(e) Special Rules for Post-1978 Transfers of Property.—In the case of a transfer after 1978 of any portion of a property, for purposes of this chapter (including the application of the June 1979 energy regulations for purposes of this chapter), after such transfer—

"(1) crude oil produced from any portion of such property shall not constitute stripper oil or newly discovered oil if such oil would not be so classified if the property had not been divided, and

"(2) the allocation of the base production control level among portions of the property shall be made under regulations prescribed by the Secretary.

"(f) Exemption for Certain Interests Held by State or Local Governments.—

"(1) In general.—If—

"(A) an economic interest in crude oil is held by a State or political subdivision thereof, or by an educational institution which is an agency or instrumentality of any of the foregoing, and

"(B) under the applicable State or local law, all of the net income received pursuant to such interest is dedicated to public education,

then no tax shall be imposed by section 4986 with respect to crude oil properly allocable to such interest. For purposes of this paragraph, the term 'net income' means gross income reduced by production costs, and severance taxes of general application, allocable to such interest.

"(2) Amounts placed in certain permanent funds treated as dedicated to public education.—The requirements of paragraph (1)(B) shall be treated as met with respect to any net income which, under the applicable State or local law, is placed in a permanent fund the earnings on which are dedicated to public education.

"Sec. 4993. Records and Information; Regulations.

"(a) Records and Information.—Each taxpayer liable for tax under section 4986, each partnership, trust, or estate producing domestic crude oil, each purchaser of domestic crude oil, and each operator of a well from which domestic crude oil was produced, shall keep such records, make such returns, and furnish such information with respect to such oil as the Secretary may by regulations prescribe.

"(b) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of this chapter, including such changes in the application of the energy regulations for purposes of this chapter as may be necessary or appropriate to carry out such purposes."

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"Chapter 45. Windfall profit tax on domestic crude oil."

(b) TECHNICAL AMENDMENTS.—

(1) The first sentence of section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (4) the following new paragraph:

"(5) The windfall profit tax imposed by section 4986."

(2) Subsection (a) of section 613 (relating to percentage depletion) is amended by inserting before the last sentence the following new sentence: "For purposes of this subsection and section 613A(d)(1), in the case of taxable crude oil (within the meaning of section 4988(a)), gross income from the property shall be reduced by the amount of the windfall profit (within the meaning of section 4989(a) determined without regard to the severance tax adjustment) and taxable income shall be determined without regard to the tax imposed by section 4986."

(c) TIME FOR FILING RETURN OF WINDFALL PROFIT TAX; DEPOSITARY REQUIREMENTS.—

(1) TIME FOR FILING RETURN OF WINDFALL PROFIT TAX.—

(A) Part V of Subchapter A of chapter 61 (relating to time for filing returns and other documents) is amended by adding at the end thereof the following new section:

"SEC. 6076. TIME FOR FILING RETURN OF WINDFALL PROFIT TAX.

"(a) GENERAL RULE.—Each return of the tax imposed by section 4986 (relating to windfall profit tax) for any taxable period (within the meaning of section 4992(b)(7)) shall be filed not later than the last day of the second month following the close of the taxable period.

"(b) CROSS REFERENCE.—

"For depositary requirements applicable to the tax imposed by section 4986, see setion 6302(d)."

(B) The table of sections for such part V is amended by adding at the end thereof the following new item:

"Sec. 6076. Time for filing return of windfall profit tax."

(2) DEPOSITARY REQUIREMENTS.—Section 6302 (relating to mode or time of collection) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) WINDFALL PROFIT TAX.—The mode and time for collecting the tax imposed by section 4986 (relating to windfall profit tax) shall be established by the Secretary by regulations."

(3) TECHNICAL AMENDMENT.—Section 7512 (relating to separate accounting for certain collected taxes, etc.) is amended—

(A) by striking out "or by chapter 33" in subsections (a) and (b) and inserting in lieu thereof ", by chapter 33, or by section 4986", and

(B) by striking out "or chapter 33" in subsections (b) and (c) and inserting in lieu thereof ", chapter 33, or section 4986".

(d) CERTAIN INFORMATION REQUIRED TO BE FURNISHED.—

(1) GENERAL RULE.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050C. INFORMATION FURNISHED BY PURCHASER AND OPERATOR REGARDING WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL.

"(a) CERTAIN INFORMATION FURNISHED BY PURCHASER.—Under regulations prescribed by the Secretary, the purchaser of taxable crude oil (within the meaning of section 4988) shall furnish to the taxpayer liable for tax under section 4986 with respect to such oil a monthly statement showing the following:

"(1) the amount of taxable crude oil purchased from such taxpayer during such month,

"(2) the removal price of such oil,

"(3) the base price and the adjusted base price with respect to such oil,

"(4) the amount of such taxpayer's liability for tax under section 4986 with respect to such oil, and

"(5) such other information as may be required by regulations prescribed by the Secretary.

"(b) INFORMATION FURNISHED BY OPERATOR.—Under regulations prescribed by the Secretary, if the purchaser of taxable crude oil and the operator of the well from which such crude oil was produced make a joint election under this subsection, the monthly statement required to be furnished by the purchaser under subsection (a) shall be furnished by such operator.

"(c) TIME FOR FILING MONTHLY STATEMENT.—Each monthly statement required to be furnished under subsection (a) or (b) for any month shall be furnished before the first day of the second month which begins after the close of such month.

"(d) CERTIFICATION FURNISHED BY OPERATOR.—Under regulations prescribed by the Secretary, the operator of the well from which crude oil subject to the tax imposed under section 4986 was produced shall certify (at such time and in such manner as the Secretary shall by regulations prescribe) to the purchaser the base price (within the meaning of section 4990) with respect to such crude oil. For purposes of section 6652(b) (relating to additions to tax for failure to file other returns) such certification shall be treated as a statement of a payment to another person.

"(e) CROSS REFERENCES.—

"(1) For additions to tax for failure to furnish information required under this section, see section 6652(b).

"(2) For penalty for willful failure to supply information required under this section, see section 7241."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 6652(b) is amended by striking out "or section 6051(d)" and inserting in lieu thereof the following: "section 6050C (relating to information regarding windfall profit tax on domestic crude oil), or section 6051(d)".

(B) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050C. Information furnished by purchaser and operator regarding windfall profit tax on domestic crude oil."

(e) CRIMINAL PENALTY FOR FAILURE TO FURNISH CERTAIN INFORMATION.—

(1) IN GENERAL.—Part II of subchapter A of chapter 75 (relating to penalties applicable to certain taxes) is amended by adding at the end thereof the following new section:

"SEC. 7241. WILLFUL FAILURE TO FURNISH CERTAIN INFORMATION REGARDING WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL.

"Any person who is required under section 6050C (or regulations thereunder) to furnish any statement, information, or certification to any other person and who willfully fails to furnish such statement, information, or certification at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution."

(2) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 7241. Willful failure to furnish certain information regarding windfall profit tax on domestic crude oil."

(f) INFORMATION FURNISHED BY PARTNERSHIPS, TRUSTS, AND ESTATES.—

(1) INFORMATION TO BE FURNISHED TO PARTNERS AND TO BENEFICIARIES OF ESTATES AND TRUSTS.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new section:

"SEC. 6050D. WINDFALL PROFIT INFORMATION TO BE FURNISHED TO PARTNERS AND TO BENEFICIARIES OF ESTATES AND TRUSTS.

"(a) REQUIREMENT.—Under regulations prescribed by the Secretary, each partnership, estate, and trust producing domestic crude oil for any taxable period shall furnish to each partner or beneficiary, as the case may be, a written statement showing the following:

"(1) the name of such partner or beneficiary,

"(2) information received by the partnership, trust, or estate pursuant to section 6050C,

"(3) such partner's or beneficiary's distributive share of the items referred to in paragraph (2), and

"(4) such other information as may be required by regulations prescribed by the Secretary.

"(b) TIME FOR FURNISHING WRITTEN STATEMENT.—Each written statement required to be furnished under this section with respect to any taxable period shall be furnished before the first day of the third month following the close of such period."

(2) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following new item:

"Sec. 6050D. Windfall profit information to be furnished to partners and to beneficiaries of estates and trusts."

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1980.

SEC. 3. STUDY OF EFFECTS OF DECONTROL OF OIL PRICES AND OF WINDFALL PROFIT TAX.

(a) GENERAL RULE.—The President shall, not later than January 1, 1983, submit to the Congress a report on the effect of decontrol of oil prices and the windfall profit tax on—

(1) domestic oil production,
(2) foreign oil imports,
(3) profits of the oil industry,
(4) inflation,
(5) employment,
(6) economic growth,
(7) Federal revenues, and
(8) national security.

(b) REPORT TO INCLUDE RECOMMENDATIONS.—The report required under subsection (a) shall include such legislative recommendations as the President determines to be advisable.●

ADDITIONAL COSPONSORS

S. 254

At the request of Mr. CHURCH, the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 254, a bill to provide that time spent by American civilians in enemy prisoner of war camps and similar places shall be creditable (as though it were military service) toward pensions, annuities, or similar benefits under various Federal retirement programs.

S. 446

At the request of Mr. WILLIAMS, the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 446, the Equal Employment Opportunity for Handicapped Individuals Act of 1979.

S. 1149

At the request of Mr. BAYH, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 1149, a bill to incorporate the Gold Star Wives of America.

S. 1328

At the request of Mr. HATFIELD, the Senator from Wisconsin (Mr. NELSON) and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 1328, a bill to amend the Water Pollution Control Act.

S. 1425

At the request of Mr. RANDOLPH, the Senator from North Dakota (Mr. BURDICK), the Senator from Rhode Island (Mr. PELL), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 1425, a bill to amend title 39 of the United States Code to reduce postal rates for small newspapers and magazines.

S. 1465

At the request of Mr. TALMADGE, the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 1465, a bill to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes.

S. 1511

At the request of Mr. NELSON, the Senator from North Carolina (Mr. MORGAN) was added as a cosponsor of S. 1511, the Longshoremen's and Harbor Workers' Compensation Act Amendments of 1979.

SENATE JOINT RESOLUTION 99

At the request of Mr. CRANSTON, the Senators from Tennessee (Mr. SASSER and Mr. BAKER) and the Senator from Oregon (Mr. PACKWOOD) were added as cosponsors of Senate Joint Resolution 99, a joint resolution to provide for the designation of a week as "National Lupus Week."

AMENDMENT NO. 210

At the request of Mr. SASSER, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of Amendment No. 210 intended to be proposed to S. 712, the National Railroad Passenger Corporation authorization bill.

SENATE RESOLUTION 217—ORIGINAL RESOLUTION REPORTED WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. GLENN, from the Committee on Governmental Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES 217

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1110, a bill to include home delivery of children's publications in the existing rate for children's publications sent to schools.

Such waiver is necessary because the Governmental Affairs Committee was unable to report the measure prior to the May 15 deadline due to priority business related to energy and nuclear waste issues. The Committee intends to offer an amendment to S. 1110 postponing the effective date of enactment until fiscal year 1981 in order to comply with section 402(a) of the Act.

SENATE RESOLUTION 218—ORIGINAL RESOLUTION REPORTED WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. PRYOR, from the Committee on Governmental Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 218

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 3923. Such waiver is necessary because of the delay in development of an administration proposal for reauthorization of the Commission to be funded. Moreover, funding for this purpose has been assumed in the fiscal 1980 budget and included in fiscal 1980 appropriations. Also, the nature (grants to agencies and institutions) of the program makes its uninterrupted continuation important and a waiver would not be disruptive to the budget process because of the size ($4 million) of the program and its inclusion in budget and appropriations actions.

SENATE RESOLUTION 219—SUBMISSION OF A RESOLUTION RELATING TO ELDERLY AND HANDICAPPED REPRESENTATIVES ON STATE PUBLIC UTILITY COMMISSIONS

Mr. HEINZ (for himself, Mr. RIEGLE, Mr. WALLOP, Mr. BAYH, Mr. JAVITS, and Mr. CULVER) submitted the following resolution, which was referred to the Committee on Energy and Natural Resources:

S. RES. 219

Whereas low-income elderly and many handicapped individuals suffer disproportionately from the rising cost of utilities;

Whereas State commissions regulating utilities are under increasing pressure to approve substantial rate increases;

Whereas State commissions may consider not only the rate amounts but also the way they are allocated to various categories of users;

Whereas in setting rates in the public interest State commissions must be informed of how they affect all population groups: Now, therefore, be it

Resolved, That it is the sense of the Senate that low-income elderly and handicapped individuals be appointed to, or serve as advisors to, State commissions regulating public utilities and similar State agencies.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the chief executive of each State.

● Mr. HEINZ. Mr. President, I am pleased to submit today for myself, Senators RIEGLE, WALLOP, BAYH, JAVITS, and CULVER, a resolution that expresses the sense of the Senate that low-income elderly and handicapped individuals be appointed to, or serve as advisers to, State commissions regulating public utilities.

We have all been affected by the energy crisis. In order to meet rising energy costs we are readjusting our lifestyles and cutting back on certain leisure or luxury spending. Unfortunately, there exists within our society a population of 5 million individuals that must make even greater sacrifices. The individuals that I am referring to are the low-income elderly and the handicapped.

Mr. President, the low-income elderly and handicapped people in this Nation have borne the brunt of the energy crisis. They exist on fixed incomes which, in real terms, have actually decreased since our energy problems began in 1972. This situation, coupled with soaring energy costs, is severely disrupting and threatening their lives.

Statistics from the Department of Energy indicate that while the middle-income household today spends 9.6 percent of its annual income on energy, the low-income elderly spend as much as 27 percent of disposable income, and estimates are that this latter figure soars to as much as 55 percent during winter months. With the continued threat of additional price increases, this figuure could jump even higher.

The low-income elderly and handicapped individuals are struggling to make ends meet. Because such a large percentage of their income must be used to pay utility bills, they have been forced to cut back on basic necessities. I have heard horror stories of individuals who have been forced to cut back on medical care or who have gone hungry for part of each month because of the drain of utility costs on their meager resources and fixed incomes.

State commissions regulating utilities are responsible for making decisions in the public interest. They must balance the needs of the utility companies and of the various population groups that are affected by their decisions. Not only must they consider the amount of the rates that they establish and the way they are allocated, but they must also be informed of how these rates will affect the lives of various users. For this reason, it is important that they are cognizant of, or representative of, the various groups that their actions affect; particularly those whose health and well-being are most likely to be affected.

In light of the recent large and rapid increases in utility costs, it is important that low-income elderly and handicapped individuals have direct input to commissions regulating public utilities since they are seriously affected by their decisions. Therefore, the resolution that we are introducing which would express the sense of the Senate that these individuals be appointed to or serve as advisers to commissions regulating public utilities, is one way that we can be assured that these commissions will be fully appreciative of the impact of their decisions on such individuals and that they will carry out their functions fairly and sensitively.●

THE NEED FOR CONSUMER REPRESENTATION ON STATE PUBLIC SERVICE COMMISSIONS

● Mr. BAYH. Mr. President, I am pleased to join with my colleague from Pennsylvania, Senator HEINZ, in sponsoring a resolution calling on the States to appoint lower income elderly and handicapped individuals to serve on the State bodies charged with regulating public utilities.

Across the Nation, and certainly in my State of Indiana, rising utility rates have created unduly heavy burdens on our citizens. Very few of us have not received utility bills sent in by constituents indicating the unbelievable escalation in utility costs over the past few years. All of us recognize the terrible strain that these bills place on budgets already stretched to the limit. It seems to me rather wider of the mark to talk about slowing down the current inflationary spiral without addressing the significant role that increased utility costs, which have soared some $48 billion over just the last 4 years, have placed in contributing to double digit inflation. What is more, inflation's most devastating effects are on the poor, the elderly, and those living on small incomes or savings which cannot possibly keep pace with the rapid increases in the cost of living which we are experiencing.

Increases in utility bills have made most Hoosiers cut their utility usage to the bare minimum. Even this has not served to reduce the bills they face. And we all recognize, Mr. President, that there is a point beyond which individual conservation efforts cannot go. People must have heat and light, and none of us has forgotten the tragic consequences of the termination of service to those unable to pay tremendous bills has had over the last two winters. The bottom line is that my constituents have no other choice but to consume a certain amount of energy in heating their homes throughout cold Hoosier winters and pinch and scrape and try to pay their bills. In many cases these bills are now larger than homeowners mortgage payments.

State public service commissions now have the primary responsibility for regulating utilities and deciding on rate increase requests. They are supposed to act in the public interest. It is little wonder to me, Mr. President, that the public is not convinced of the consideration given to their needs by these bodies. Time and time again, the full amounts requested by utilities have been granted, many almost in summary fashion. Many of my constituents have expressed their grave concerns to me regarding the performance of Indiana's public commission in safeguarding the the public interest. A Senate resolution can put the U.S. Senate on record in support of the view that those who are impacted by the decisions of these regulatory bodies should have a say in their deliberations.

To address the concerns many Americans have about State utility commissions, Congress included provisions in the national energy plan enacted last year to make the regulatory process fairer and to guarantee that the interests of consumers are considered in decisions on utility rates. A Senate resolution, in an extension of this important principle, and complements the goal announced in our earlier legislative efforts of encouraging the development of rate structures that are equitable to consumers and which encourage more efficient use of existing facilities.

While the utility bill enacted last year requires public service commissions to thoroughly study and consider reforms in the rate structure, many have been reluctant to do so. It seems to me, Mr. President, that the inclusion of public members on such commissions would provide a moving force to assure that alternative rates are given meaningful consideration.

There is no question, Mr. President, that those issues, which most directly affect consumers' pocketbooks—such as rate structures which charge less the more power you use, or lifeline rates which assure that subsistence amounts of electricity are available at affordable prices, or fuel adjustment clauses that are fair or safeguards in termination of service proceedings, or whether consumers should pay for corporate political advertising—are traditionally not given sufficient consideration in ratemaking proceedings. What better way to assure that these interests are addressed than by providing for public representation? Even though the national energy plan authorizes the Department of Energy to intervene in State proceedings in an advisory capacity, to assure that such factors are taken into account, encouraging direct public participation through appointment of consumers to commissions appears to me to be more a direct and effective way to accomplish this goal.

Mr. President, I urge my colleagues to consider this resolution favorably. It gives us the opportunity to send a clear signal to our State legislatures that we in Congress are committed to regulation of utilities that is in the public interest, and reaffirms the age-old democratic precept that those most directly affected by public policy ought to have some influence on how it is made. I hope that leaders in State governments around the Nation will react positively to this expression of congressional concern, and provide opportunities for consumer representation on State public service commissions.●

● Mr. CULVER. Mr. President, I am pleased to join today as a cosponsor of the sense of the Senate resolution to encourage States to appoint elderly and handicapped persons as members or consultants to their public utility commissions.

From the outset, it should be emphasized that this resolution is not binding on the States and it does not require them to take any action. Rather, it expresses the sense of the Senate that it would be desirable for State utility commissions to have this type of formal mechanism to insure input from the elderly and handicapped segments of our society.

The reason we feel this input from senior citizens and handicapped individuals is so vital is that they are the people hardest hit by the spiraling energy costs. Several factors combine to make these people much more vulnerable to the harsh effects of rising fuel prices. First, their incomes are substantially lower than those of other households—typically only about half the level of other families. Second, generally speaking, the homes of the elderly and handicapped are more likely to be older, less valuable, and less energy efficient. And third, their poorer health and reduced mobility makes them much more susceptible to the dangers posed by cold temperatures in their homes.

The dramatic increases in fuel costs we have recently witnessed will place an absolutely intolerable burden on most low-income senior citizens and disabled persons. Many of these people are completely at the mercy of utility bills, and have already had to make tragic choices between heat and food, or heat and medical care. Whereas utility bills for the average American family average 5 to 10 percent of their income, fuel bills regularly amount to 20 or 30 percent of senior citizens' income. And in the wintertime, heating bills often can consume half or three-fourths or more of their monthly income.

Since the beginning of 1970, heating fuel oil prices have jumped 278 percent, natural gas prices 185 percent, and electricity 115 percent. In the last 12 months alone, fuel oil prices rose 38 percent, natural gas 15 percent, and electricity 7 percent. And the price outlook is very bleak, indeed, with foreign oil price unlikely to hold steady and decontrolled domestic oil rising to foreign price levels within 2 years.

Mr. President, I believe elderly and handicapped representation on the State utility commissions would be very beneficial for both the commissions and our low-income consumers. These people could offer a much-needed perspective on utility rate structures, rate increases, and other matters which dramatically affect elderly and disabled customers, such as shutoff policies and lifeline rate proposals. This type of valuable input can make the commissions more aware of the impact of rate structures and increases, and perhaps result in methods by which low-income utility customers can more easily pay their monthly utility bills.

Therefore, Mr. President, I welcome this opportunity to cosponsor this sense of the Senate resolution, and I urge my colleagues to give it their careful consideration.●

SENATE RESOLUTION 220—ORIGINAL RESOLUTION REPORTED TO AMEND THE STANDING RULES OF THE SENATE

Mr. MORGAN, from the Select Committee on Ethics, reported the following original resolution, which was placed on the calendar:

S. Res. 220

Resolved, that the Standing Rules of the Senate are amended—

(1) by striking out rule XLII, and:

(2) by adding a new rule XLII as follows:

"RULE XLII: PUBLIC FINANCIAL DISCLOSURE"

For purposes of this Rule, the provisions of Title I of the Ethics in Government Act of 1978 shall be deemed to be a Rule of the Senate as it pertains to Members, officers, and employees of the Senate.

EXECUTIVE AMENDMENTS SUBMITTED FOR PRINTING

SALT II TREATY—EX. Y, 96-1

EX. AMENDMENT NO. 6

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN submitted an amendment intended to be proposed by him to the treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms, done at Vienna, on June 18, 1979, Ex. Y, 96-1.

● Mr. MOYNIHAN. Mr. President, the SALT debate has become a debate on rearmament. If this is cause for dismay, it is no occasion for surprise.

For some while the pace of the Soviet arms buildup and the "asymmetry" of the SALT I agreement has been obvious to all save those whose concern it has been to avoid the obvious.

This avoidance was the subject of my first address to the Senate on March 4, 1977. At that time—not so very far distant—to draw attention to the rise of Soviet strategic power was to invite suspicion of grave unorthodoxy.

Thus in March 1977 the principal thrust of my remarks was to question the assumption, seemingly in place within the administration, that Soviet behavior in nuclear weapons was basically imitative of United States behavior. This of course implied that if the United States restrained the growth of its forces, so also would the Soviets. I stated that there was no evidence for this.

I continued to press this point, and its corollary that the Soviets were approaching the moment when they will have neutralized our Minuteman force and attained to something like strategic superiority.

I put the case that the longer we took to recognize this reality the more likely it was to astound and confound us when finally we did.

It took a good 2 years, so far at least as the public pronouncements of the present administration are concerned. Whether this was longer than need have been is beside the point. The time came.

Specifically, on February 21, 1979, in presenting the fiscal year 1980 defense budget to the Senate Budget Committee, Defense Secretary Harold Brown said that it "reflects the President's determination to begin countering the Soviet military buildup that has been underway for over 15 years." The Secretary went on to document the trends in military spending during this period, here and in the Soviet Union. U.S. military investments, measured in terms of constant dollars, have been in a general decline since 1969.

The Soviets have had uninterrupted growth since about 1960. Since the early 1960's the Secretary said, "Soviet investment in new military hardware has increased twofold . . . and is more than twice ours today. . . . The upward trend shows every sign of continuing. . . . Soviet spending has shown no response to U.S. restraint—when we build they build; when we cut they build."

In terms of military power, the Secretary used the phrase "rough equivalence, parity" to describe the balance today. During a brief colloquy, I asked "Would you say this, Mr. Secretary, that if the trend lines proceed, the Soviets would be ahead?" Secretary Brown replied, "They would be clearly ahead militarily."

The President finally spoke to the point in his address to the American Publishers Association in New York City on April 25, 1979. He stated:

> Over the past decade, the Soviets have steadily increased their real defense spending, while ours has had a net decrease.

In the hearings now concluding on SALT II the thrust of this statement has been repeated over and over again by the Secretary of State and the Secretary of Defense. On Monday of this week, the present head of the Arms Control and Disarmament Agency predicted the Soviet Union would continue a "relentless" arms buildup, with or without the pact.

An administration that has seemed blind to reality, suddenly seems blinded by it.

On Wednesday of last week I met with a high official whom the administration had had testifying before the Senate Foreign Relations Committee in favor of the SALT II. He had made his support conditional on a considerable increase in arms expenditure. I asked him to consider that the MX missile might never be built. In that event, he said, "We are lost."

Without wishing to belabor the point, I would repeat that the present alarums are in many ways the predictable consequence of the previous torpor. This is nothing new, and would be of no great matter were it not that in the course of our present debate on rearmament we risk abandoning all hope of a Strategic Arms Limitation Treaty that might actually limit strategic arms.

More and more SALT II is referred to as peripheral or even irrelevant to our international position, either military or diplomatic.

More and more it is said of SALT II that its value, such as it may be, is that it preserves the SALT process.

I would contest this. The only value I can see in a SALT treaty is that it should limit strategic arms. The great irony is that the SALT process may in fact have become a barrier to just that. Far from solving the problem, the process has become the problem.

Certainly certain facts are clear.

In 1969 when discussion of an arms limitations treaty began, the Soviets had 1,050 ICBM warheads. In 1985 at the conclusion of SALT they will have upward of 12,000. This is four warheads for every county in the United States.

In terms of missile throw weight the Soviets will continue their rapid increase from their current level of 11.3 million pounds to 15.0 million pounds by 1985, the treaty's expiration date. This will be half again the American throw weight. The number of Soviet MIRVed missile launchers alone will almost double under the treaty period from the present level of about 700 to 1,200 in 1985.

The problem I suggest with the process is that—so far—it has required American negotiators to reach agreement with the Soviet Union in an area where there is no agreement. Their strategic buildup has been underway, as Secretary Brown attests, for 15 years. It was well underway when formal SALT negotiations began. It has never ceased because the Soviets would not agree to do so.

As a result, more often than not, the actual negotiations in SALT have taken place within the American Government. The process goes something as follows. The advocates of strategic arms limitations obtain agreement to have "talks"—that is the term—with the Soviets. In these talks they find the Soviet Government has already agreed with its military to continue their nuclear buildup. At the time of SALT I the Soviets had already decided to build the SS 19, which they proceeded to do. This is one reason why our Minuteman force is now threatened.

Accordingly a treaty is drafted which permits the increase in Soviet strategic forces the Soviets have already planned. Our negotiators return with this treaty which the American military in all honor cannot support unless a corresponding increase in American nuclear forces is also to take place. This is then agreed to on our side through a complex negotiation involving the White House, the State Department, and the Defense Department and the Congress.

Thus, as the Washington Post observed only this morning, the commitment to the Trident submarine was made in order to gain approval of SALT I. Whatever its military utility, it was deemed to serve the purpose of the moment—to win ratification of SALT I—simply because it was—big.

Similarly the M–X has become the price of SALT II. It is hard to describe this weapons system, for it changes every day. At minimum it is complex. More seriously, it will require the Soviets to deploy some 8,000 warheads to neutralize it. (Two warheads per 20 possible sites for 200 missiles.)

Thus the United States joins the arms race the Soviets insist on. This is the ultimate irony. Without thinking, without so far as I can tell even noticing, United States behavior in nuclear weapons has become basically imitative of Soviet behavior, because we have accepted the Soviet definition of "arms control."

By the end of SALT II the United States will have four nuclear warheads for every "rayon"—the Soviet equivalent of our county—in the Soviet Union.

In the meantime our conventional military forces grow relatively weaker with respect to the Soviets. In the kind of conflict one can imagine and could accept we are evermore likely to be overmastered. All because we wanted arms limitation and went about it badly.

The gods must weep.

I would hope we do not have to settle for this. I believe we can still negotiate a strategic arms limitation agreement that will limit arms.

Such hope as there exists for this is found in the "Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations on the Limitation of Strategic Arms," an appendage to the treaty, though not a part of it that sets the agenda for the next round of SALT. This joint statement calls for a third SALT agreement that will bring about a "reduction in the numbers of strategic arms, as well as for their further qualitative limitation."

These are not instructions; even if they were they are not binding. They reflect nothing more than the ideals with which SALT I and SALT II were entered upon—on our side. For it is an open secret that when the United States in Moscow, in March 1977, proposed a specific reduction in strategic arms of one-third, the Soviets rejected any such specific. Less known, but now more important, at Vienna in June the United States proposed to the Soviets that the joint statement on SALT III call specifically for a one-third reduction in strategic arms and again the Soviets refused.

Worse. The United States entered into the negotiations for SALT I with a pronounced advantage in strategic weapons and those for SALT II with a sufficient advantage. The prospect is that the SALT III negotiations will begin with the Soviets anticipating strategic supremacy by the end of the process. In such circumstance, to hold out hopes for any real reduction is self-deception or worse.

Our only hope is to obtain agreement for a SALT III reduction of arms now while the United States still retains the option to head off that shift in the strategic balance. If there are to be reductions in SALT III, their attainment must be written into SALT II.

I therefore propose an amendment to the treaty which will add a new provision to article XIX of the text:

> 4. The Parties shall conclude, by December 31, 1981, an agreement which shall, as a result of the negotiations undertaken in accordance with the Joint Statement of Principles and Guidelines for Subsequent Negotiations on the Limitation of Strategic Arms agreed upon at Vienna on June 18, 1979, effect significant and substantial reductions in the numbers of strategic offensive arms, consistent with the requirement for the maintenance of essential strategic equivalence. This agreement shall enter into effect immediately upon the expiration of the present Treaty or sooner, as the Parties shall decide. If the Parties are unable to conclude such an agreement by December 31, 1981, the present Treaty shall terminate on that date.

Unlike other proposals which have been made to force the pace of the SALT III negotiations, this provision does not require undoing the present SALT II treaty. With respect to timing, it meshes with the expiration of the protocol to the treaty, which will itself automatically lapse on December 31, 1981.

This much is certain: Our margin for error in SALT has disappeared. We must rescue the "process" from itself, otherwise it will present us with ever more unappealing choices. We must recover for SALT the possibility of arms limitation and genuine arms reductions. This, so it seems to me, is the major contribution the Senate can make to the preservation of the SALT process which the President, and others, seek. We must at least make the effort.

What I propose, in short, is to make it plain, so far as the future of the SALT process is concerned, that there will be no alternative to arms reductions. And I should think that 2 years is a sufficient time to achieve this goal, if there is a willingness to do it.

We have been at this process for 10 years. We must now face the real issue and our real prospects. And we must now say to the Soviets—and to ourselves—that if there are not going to be any significant strategic arms reductions, we will not wait until the Soviets surpass us in strategic nuclear power, or are on the verge of so doing, before establishing this fact.

If the Soviets have no intention of reducing strategic arms until they have first attained to strategic superiority, now is the time to find out.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY AND THE DISTRICT OF COLUMBIA

● Mr. EAGLETON. Mr. President, the Subcommittee on Governmental Efficiency and the District of Columbia, of the Committee on Governmental Affairs, will hold hearings on August 1 and 2 on the SEC's annual report on the accounting profession and the status of the profession's self-regulation program. The hearings will be held in 6226 Dirksen Senate Office Building, beginning at 9:30 a.m.

Any questions about these hearings should go to Ira Shapiro of the subcommittee staff at 224–8785.●

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

● Mr. DURKIN. Mr. President, I would like to announce that the Subcommittee on Energy Conservation and Supply of the Committee on Energy and Natural Resources will hold a hearing on Monday, August 6, in room 3110 of the Dirksen Senate Office Building, on the Energy Productivity Act, at 10 a.m.

Anyone desiring additional information about the hearing should contact Veronica Kun of the subcommittee staff at 224–47166.●

ADDITIONAL STATEMENTS

IF "IF" WORKS IT COULD * * *

● Mr. METZENBAUM. Mr. President, I would like to call the attention of my colleagues to an article by Albert Rosenfeld that appeared in the July 1979 issue of Life magazine. This article, entitled "If IF Works It Could . . .," summarizes the findings of years of research on a drug that could be a "vital weapon in the battle against cancer, protect against viral and bacterial disease, provide a cure for shingles, rabies, chickenpox and eye infections, and prevent the common cold."

The article describes the activity at a recent conference on interferon research held at the Rockefeller University in New York. The cochairperson of the conference was Dr. Mathilde Krim, director of the Interferon Laboratories at Memorial Sloan-Kettering Cancer Center. Dr. Krim is described as "an outstanding geneticist and cancer virologist" who is the "energetic impresario of the current drive on interferon." Mr. President, as a friend of Dr. Krim, I can only add my words of respect for her work as a dedicated professional in this massive research effort.

As I consider the promise of research programs such as this one, I am aware that there are those who believe that the Federal Government is spending too much of the taxpayers' money on biomedical research. Some of that research may sound esoteric to the layman, but in fact, biomedical research is one of the best investments that we as a nation can make. The research efforts that we support today will in the future pay off in longer and healthier lives for the American people.

Mr. President, I am not suggesting that interferon is the be-all and end-all of pharmacology. But I do believe that the promise of this drug, and the superhuman efforts of researchers like Dr. Krim are impressive examples of what we receive in return for the funds that we spend on basic scientific research. In the future, let us be sure to encourage Dr. Krim and all her research colleagues, so that American health technology and research capacity remains at the highest levels.

Mr. President, I ask that the text only of the article be printed in the RECORD.

The article follows:

IF IF WORKS IT COULD . . .

(By Albert Rosenfeld)

"I don't claim that interferon will be the 'magic bullet,' as you call it, for cancer," says Dr. Mathilde Krim. "But can you tell me what other substance has, so early in its experimental life, shown such promising activity against major forms of cancer? And can you name another cancer therapy that has shown so few side effects—all of them reversible?"

She pauses to greet a Danish virologist who has just walked up the carpeted staircase, balancing a drink in one hand and a plate of food in the other as he moves lightly around a regal seal point Siamese. Krim, with her radiant smile and warm European accent, reminds me instantly of Zsa Zsa Gabor. She is an outstanding geneticist and cancer virologist and codirector of the Interferon Laboratories at the Memorial Sloan-Kettering Cancer Center in New York.

As the energetic impresario of the current drive on interferon—or IF, as it is referred to by professionals—she is clearly the appropriate hostess for the party celebrating the opening of a major international interferon workshop at Rockefeller University in New York. Gathered at the Krim home are more than 300 of the world's leading interferon investigators, who have come from 27 countries—a concentration of the scientific talent responsible for the sudden explosion of interest in a substance known since 1957.

Interferon is a hormonelike molecule of protein combined with some carbohydrate. The body's own cells produce it in minute quantities in response to viral attack. But it now takes enormous quantities of human blood to extract a small amount of interferon. Because it is such an intrinsically fascinating—if highly expensive to produce—substance, exerting far-flung effects on nearly all the cell's basic mechanisms, it has drawn the keen interest of virologists, microbiologists, immunologists, geneticists and cell biologists. Because it also promises to become one of the most versatile therapies in all of medical history, it has attracted increasing attention from clinicians, too, ranging from cancer doctors to infectious-disease specialists to transplant surgeons.

The American Cancer Society has just begun a $2 million clinical testing program—the first time in the organization's history that such a sum has been set aside for so highly focused a project. Two million dollars does not buy an impressive amount of interferon. A pound of it (if a whole pound were obtainable) would cost billions of dollars. However, interferon units are measured only in picograms—trillionths of a gram. A recurrent topic at the conference will be how to meet the challenge of producing more, and cheaper, interferon.

Cochairing the conference with Krim is Sloan-Kettering colleague Dr. William E. Stewart II, a tall, trim-bearded, cowboy-booted Texan, who stands nearby in animated conversation with two virologists who came from China to attend the workshop. Krim says that Dr. Stewart's new book. *The Interferon System*, "will be indispensable for everyone in the field."

"Isn't it exciting!" Mary Lasker, of the Albert and Mary Lasker Foundation, greets me. Mrs. Lasker has put the weight of her own prestigious medical organization behind interferon, and her enthusiasm on the subject is contagious. "Even if interferon turns out to be disappointing as a cancer treatment, and I doubt that it will, it is still the greatest hope we've ever had for protection against a whole spectrum of viral ailments."

Behind the wave of excitement about the long-range possibilities of interferon are the known effects IF has already had on a number of diseases. They include several forms of cancer, some of which had been resistant to chemotherapy. Scientists warn that the cases involved are few; that the interferon used has not been pure enough to rule out the possibility that other ingredients had caused the observed effects; that all programs are in their very earliest experimental stages. The belief now is that, at the very least, interferon will serve as a useful supplement to existing therapies for some cancers.

IF has shown promise in controlling nonmalignant growths, such as warts and papillomas, and it may help prevent rejection of transplanted organs. Though considered mainly an antiviral, interferon may also afford some protection against at least a few kinds of bacterial, protozoal and rickettsial infections, including malaria, as well as autoimmune diseases (rheumatoid arthritis and multiple sclerosis are suspected of being autoimmune in nature).

IF is, as Mrs. Lasker says, our best hope for a broad-spectrum antiviral. Its prospects look good for the long-range treatment of hepatitis-B, the chronic form that can be dangerous to liver function (and may even contribute to the commonest form of liver cancer).

IF may also be at least a supplementary enhancer for rabies vaccines. Some investigators think that interferon will eventually be able to do the whole job. Shingles and chicken pox, both caused by the same herpes virus, should be good candidates for interferon therapy. The same is true of cold sores and other herpes infections, including the one that now causes the third most prevalent form of venereal disease. IF has shown signs of effectiveness against systemic viral infections of newborns and even more promise in upper-respiratory diseases, including influenza and the common cold. There is particular optimism for its use in the topical treatment of sometimes blinding eye infections, And this by no means completes the impressive inventory of interferon possibilities.

The little circle around Mrs. Lasker includes a man who participated in much of the pioneering antiviral research. He is Dr. Thomas C. Merigan, with whom I recently talked about interferon at Stanford, where he heads the Division of Infectious Diseases. In 1972, in colloboration with researchers at the British Medical Council's Common Cold Unit in Salisbury, Merigan conducted tests that strikingly demonstrated interferon's potential as a protection against common cold viruses. But it required $2,000 worth of interferon spray per person to prevent each cold. Until a more inexpensive interferon is available, Merigan and others will concentrate on the more life-threatening viral infections.

"The patient with a malignancy, for example, is doubly vulnerable," says Merigan. "His immune system is already subnormal. It is further suppressed by chemotherapy and radiation. With resistance so low, infections may appear in their most virulent form. They can cause some patients more misery and anguish than tumors do. Many cancer patients die, not of cancer, but of an accompanying infection. One of the worst of these is herpes zoster—shingles.

"Zoster is not only excruciatingly painful but can endanger the cancer victim's life as it spreads over the body's skin surface and to the viscera as well. In a series of three trials involving 90 lymphoma patients, we did observe some interferon side effects—fever, for example, and transient marrow suppression at the high dosages necessary. But our trials did demonstrate that interferon can prevent the spread of zoster in cancer patients. We now have every reason to believe that there may be a very useful role for interferon in the treatment of systemic viral infections. The same considerations hold true for transplant recipients," he adds. "They too have had their immune systems suppressed to prevent rejection—and they are vulnerable to infections which could perhaps be headed off by interferon."

Dr. Jordan Gutterman of Houston's M. D. Anderson Hospital and Tumor Institute, who had originally requested the grant from the American Cancer Society, is asked how his trials are going. "Well, the results have continued to be extremely encouraging," he says, "in breast cancer, lymphoma and multiple statistics until the results appear in The New England Journal of Medicine. And in support of what Tom Merigan was just saying, we've noticed that none of the patients on interferon seem to be catching colds or other viral infections."

I spot another interferon pioneer, Dr. Hans Strander of Stockholm's Karolinska Hospital, whom I had recently visited in Sweden. Strander was the first cancer clinician to use interferon on a series of cancer patients. At the time, he was criticized for it—and his optimistic findings were disbelieved. But he now appears well on his way to vindication. Strander is in conversation with Dr. Harri Nevanlinna, who is director of the Finnish Red Cross's Blood Transfusion Service as well as a friend and associate of Dr. Kari Cantell—the first person to have produced enough interferon to give to others for research—of Finland's Central Public Health Laboratory. If one were to choose a single hero in this distinguished group of interferon luminaries, it would have to be Kari Cantell.

"Many people have told me that Cantell could never have done his work without your help."

Nevanlinna replies, "Oh, I only supplied the blood. Kari supplied the imagination." Nevanlinna is a trim, balding Finn with the look of a man who really savors life.

"It is amazing to me that a country the size of Finland should be supplying the whole world with interferon."

"It was Kari's determination. He thought that human leukocytes—the white blood cells—might be good interferon producers if they were challenged with some agent relatively harmless to humans, such as the Sendai virus. But where to get the leukocytes? Well, when you centrifuge human blood to separate the cells of differing densities, all the white cells come out in a layer that floats on top. We call that the buffy coat. If you take off the buffy coats, you have the white cells."

"And the blood that remains is still good for transfusion?"

"Oh, yes. Even better. There is reason to believe that the white cells sometimes cause adverse reactions. So no one is cheated out of blood transfusions by removing the buffy coats. Gradually, over the years, as Kari learned how to make the leukocytes produce interferon and then went through the painstaking and very expensive process of extracting it, more and more of Finland's blood supply has been made available for producing what is known as human leukocyte interferon." (Since there are other types of interferon, they are often referred to as "the interferons.")

"Of course," Nevanlinna continues, "what we get is still far from a pure substance. And it still takes hundreds of gallons of white cells to produce frustratingly small amounts of usable interferon. If the clinical results continue to look so encouraging, there may be a demand in Finland that we keep our limited interferon supplies at home. By then we hope that countries like the United States and Sweden, which have the best research facilities, will be producing their own.

"Strander here has been through all this with us—right, Hans?"

Dr. Strander says he worked for five years in Helsinki and closely watched the results of mouse cancer experiments before he was ready to try interferon on human cancer patients. "There was some trepidation in the beginning, of course. And some surprises. One of the first persons I injected with interferon was a young woman with plantar warts on her feet, which she had had all her life. They completely disappeared! But when we stopped giving her interferon, they came back. Now, one cannot go around giving constant doses of interferon to keep away common warts.

"But there is a kind of wart—a nonmalignant, virus-caused papilloma—that afflicts children in a most distressing way. It is called juvenile laryngeal papilloma and is fortunately rare. These growths are not cancers but they could easily kill. They fill up the whole larynx so that the child can barely speak or breathe. And the only treatment is surgery. The papillomas have to be cut out again and again. One of the children I saw had already undergone more than one hundred operations! I now have some seven cases where the use of interferon has cleared up these growths. They do come back again, but repeated courses of interferon are infinitely easier on a child than repeated surgery."

Dr. Strander says he was also impressed with tests on patients with osteogenic sarcoma, a rare form of cancer that may accompany the spurt of growth occurring at puberty. The tumor tends to grow around the long bones, and amputation is a usual treatment. This disease has a fairly predictable course in the majority of cases: metastases to other parts of the body and death within a couple of years.

"In our first thirty-four cases treated with interferon—Kari Cantell's, of course—only half as many patients developed metastases as might have been expected, and they survived longer. Some scientists understandably objected that we had used 'historical controls'—that is, case histories of *past* patients. Now we have added some contemporary controls to our tests, and I think the results are turning out to be more acceptable."

They have, in fact, been accepted by many scientists—not as definitive, of course, but as exciting and encouraging—and have been reinforced by the work of others.

The optimism expressed at Dr. Krim's party—and very apparent at the conference working sessions—should not be mistaken for euphoria. More than one scientist remarks that IF is a most appropriate designation; the whole topic is still so iffy. More mystery than knowledge has existed in the field since the discovery of interferon in 1957 by the late Dr. Alick Isaacs, at Britain's National Institute for Medical Research, along with his Swiss-born collaborator at Oxford, Dr. Jean Lindenmann.

Already well known at the time was the phenomenon called viral interference: the presence of one virus interferes with the action of another. A patient with one viral disease will seldom succumb to another. In laboratory cultures, it is difficult to infect a group of cells with a virus when a prior virus is already at work. If two live-virus vaccines are administered near the same body site, they will interfere with each other. Why? Logic would predict that an organism weakened by one virus would be even more vulnerable to the next viral invasion.

And why are so many virus diseases "self-limiting"? Here, too, logic falters. A virus takes over a cell by commandeering its metabolic machinery, ordering it to make more viruses instead of its own stuff. The occupied cell complies, destroying itself and spewing forth a host of newly manufactured viruses. One would think that the freshly reinforced viral hordes would now be more irresistible than before. Yet they are resisted. How?

Isaacs and Lindenmann, working with membranecell cultures from chicken eggs, infected them with flu virus. Then they removed all viruses and cells from the culture before a new virus was introduced, and the interference remained just as strong, protecting new cells placed in it. It was not, then, a case of one virus interfering directly with another. The first virus obviously induced the cell to produce something, an interfering substance—which turned out to be the protein Isaacs and Lindenmann named interferon.

On being invaded by a virus, cells begin to make IF. The IF molecules do not take on viruses directly; instead, the IF goes to surrounding cells and stimulates them to manufacture other substances. These effectively inhibit virus multiplication within the cells and make individual cells, as well as whole organisms, resistant to the spread of virus. Thus, IF molecules are, in effect, chemical "warning" messages sent from cell to cell. The "interferon system" is itself a complex series of intracellular and intercellular events.

This system is clearly the organism's first line of defense against viruses. It moves into battle position within hours after the first viral spearheads have been detected, long before other elements of the body's immune system can mobilize their forces.

The discovery that the body produced an anti-viral substance of its own held out the promise that IF—isolated, purified, synthesized and mass-produced—might be, for the viral diseases, what antibiotics are for bacterial infections. Investigators in many countries took up the challenge, their principal support furnished by the Medical Research Council in England and the National Institute of Allergy and Infectious Diseases (NIAID) in the U.S. Why has it taken them so long to get anywhere, clinically speaking?

For one thing, unlike other, similar molecules—such as insulin for diabetes—IF proved to be largely (though not absolutely) "species-specific." You need rat IF for rats and human IF for people. And from the very beginning IF was extraordinarily difficult to extract. "There was at least one other immediate difficulty," says Dr. Samuel Baron, a veteran interferon virologist. "Skepticism. Quite understandable skepticism." Baron, for many years with NIAID, has more recently been head of microbiology at the University of Texas Medical Branch in Galveston, which has now become a thriving center of interferon research. Baron had the early advantage of working with Alick Issacs.

"I shared the prevailing skepticism about interferon at the time," he admits. "When I saw at first hand what was happening in those cultures—how completely the cells were protected from lethal viruses—I became an overnight believer. I have remained so over the years. People have decried the lack of 'results' in therapeutic terms, but there really has been steady and encouraging progress."

Part of this steady progress has been the result of a greater understanding about interferon's basic mechanisms. Because it is a large molecule, its laboratory synthesis is likely to take some time. But once accomplished, this will make possible large-scale production of IF. We have also learned that there are at least four different kinds of IF and also a set of IF inducers, substances that stimulate its production.

For the most part, the IF inducers have proved too toxic for use in humans. But at the conference, Dr. Hilton B. Levy of NIAID said that a new inducer called PICL (pronounced "pickle") "revives hope for an agent that might, after all, bypass the whole process of making interferon on the outside."

Most researchers believe that we will need every type of IF and IF inducer we can produce, merely to carry out the research needed to define the limits of the fantastic medical promise of the substance. With so much promise—and with so much research in need of doing—high priority will be placed on speeding up production. "As long as interferon remains so scarce," says Kari Cantell, "we will have trouble allocating it wisely. For example, we know that interferon is effective against the herpes eye infections which cause blindness in many of their victims. Suppose there are 100,000 people with such infections and we could treat them all with existing interferons supplies. Is that what we should do with our supplies—or conduct trials on a few hundred cancer patients? This is the kind of ethical dilemma we will continue to face until we get a lot more interferon."

The last session of the three-day conference is held in a small, hot auditorium at Memorial Sloan-Kettering, with standing room only. After summaries of all the intensive, early-morning-to-late-evening sessions have been presented, Dr. Frank J. Rauscher Jr., head of research for the American Cancer Society, is called upon to describe the interferon trials now under way. The trials, he says, will cover only four types of cancer. Only about 150 patients will be involved over a period of months because of the scarcity and high cost of IF. "I am working on the ACS board," he says, "to add some more money for interferon research, but I can't say what further success I'll have."

Mary Lasker asks, somewhat hesitantly, "Do you think it's worth mentioning some of the preventive possibilities you talked about the other day?"

"Oh, yes!" Dr. Rauscher says. "There is every reason to hope that if interferon turns out to be an effective therapy for cancer, it should also be an effective cancer preventive. If we had plenty of it—and if it were found safe to take—I can imagine that people with a genetic or familial predisposition to some form of cancer might want to take it as a possible preventive. The same might be true for people who have worked around or have been exposed to dangerous substances, such as asbestos or radioactive materials."

It is not unreasonable to imagine a time when several kinds of pure interferon, in different dosage forms—over-the-counter or by prescription—would be purchasable at neighborhood pharmacies. We might use it to ward off colds all year round and flu in flu season. We might not have to worry about rabies, about shingles or hepatitis or warts or cold sores or eye infections or other familiar ailments. We might be able to regulate our immune systems at will, maintaining our resistance to a variety of diseases in all seasons and at all ages. We could keep our transplanted parts and organs from being rejected. And perhaps we can count on interferon to cure and/or prevent cancer!

Was there ever a panacea-hawking, snake-oil salesman at any carnival who promised more of his product? Yet it could all come true some day.

IF . . .●

MILITARY DEPENDENTS OVERSEAS

● Mr. GOLDWATER. Mr. President, in considering proposals to legislate a reduction of military dependents overseas, I believe it is extremely important that we know what the commanders in the field think about the idea. The Department of the Air Force shares this belief and consequently it asked for opinions from its respective theater commanders and found that they were strongly opposed to the idea of removing dependents.

Because of the importance of these opinions, Mr. President, I ask that the messages received by the Air Force from its commanders in the European and Pacific theaters be printed in the RECORD,

The material follows:

MESSAGES RECEIVED

The following quotes are from General John W. Pauly, Commander in Chief, United States Air Forces in Europe, concerning dependents overseas:

"I am deeply concerned about recent Congressional proposal to legislate a reduction of dependents in Europe with the associated shortened tours. I strongly oppose these efforts because of their potentially catastrophic effects on the readiness of the command and the quality of our force.

"The command would be hard-pressed to meet its combat readiness requirements with TDY rotations or shortened unaccompanied tours without a substantial increase in the CONUS training base. For example, current in-theater checkouts for aircrew members range from approximately 20 days in a C–130 to 150 days in an F–111 before they become initially combat ready. Theater checkout time is influenced by prevailing weather, complex multi-nation C2 systems, compressed airspace, limited training facilities, and unique aircraft systems. Reducing tour lengths in Europe will decrease the share of an overseas tour in which crewmembers are mission ready and adversely affect "C" status in our combat units.

"The inherent technical sophistication of our weapons systems requires the utilization of a large percentage of experienced and senior personnel, most of whom are married and serve accompanied tours. Their stability is a direct enhancement to our readiness posture and, in fact, acts as a force multiplier. The presence of their dependents is a positive, and perhaps vital, factor in their morale and well-being and thus a primary element in our ultimate fighting ability.

"We have developed non-combatant evacuation plans and exercise these plans at frequent intervals. Given the minimum required time for execution, we are confident that we can carry them out. It seems paradoxical that the relatively small number of military dependents among the million and a half Americans in Europe should be the center of focus in possible hostage considerations and evacuation chaos concerns. In an emergency, our problems will not revolve around our organized and tightly controlled body of dependents, but the large mass of other Americans requiring evaluation and other assistance.

"The impact of certain Congressional proposal on the retention of qualified personnel could be disastrous. Even now, we in USAFE are experiencing the highest pilot losses in our history. Further, in this command it is becoming increasingly difficult to fill key accompanied positions and downright problematic to fill unaccompanied positions in our less desirable locations.

"The constant stream of perceivably inequitable trends in compensation and entitlements must be reversed. Otherwise, we are in jeopardy of losing our members' unswerving dedication, loyalty and subsequently, large numbers of highly trained and valuable professionals. Pay caps, reallocations and proposed changes to our retirement system, are viewed as efforts to reduce the cost of the military establishment at the members' expense."

In a presentation to the Vice Chief of Staff concerning military dependents overseas, Lt. Gen. James D. Hughes, Commander-in-Chief, Pacific Air Forces, stated:

Impact on our allies.

Overall: Presence of dependents indicate U.S. believes situation is stable and secure.

Dependents contribute to deterrence by their presence. Indicate U.S. resolve to defend the country.

Indicate U.S. intention to remain.

Japan continues to be concerned over U.S. resolve in the Pacific. Korea withdrawal was a shock that qualitative increases in our force structure barely outweighed, Japan now awaiting evidence of our continuing commitment.

Benefit of greater resolve is new vitality in U.S./Japan relations. Cost of not doing is lost opportunities to solve critical bilateral problems.

Reduction of dependents in Japan would clearly signal a lessened commitment, a precursor to further withdrawal.

Reduction in dependents may be resented by Japanese. Would indicate trend to an occupation Army mentality by the U.S., contrary to the theme of equal partnership being fostered by our Ambassador.

GOJ expending $100 million a year in construction for U.S., mostly housing. Japanese want American families.

Any dependent reduction in Japan would have to be matched with reduction in Europe to avoid anti-Asia implications.

Korea:

Gen. Jones, when CSAF, implemented program to contribute to combat capability in Korea by increasing tour lengths through accompanied tours. ROKG is providing housing because they realize corporate knowledge will be improved and the presence of American families clearly indicate U.S. intention to keep forces in Korea.

Korea would interpret dependent reduction as a major reversal in U.S. policy. Timing is particularly bad following President's trip.

Philippines:

Without accompanying offset in military expenditures to balance financial losses associated with reduced dependents, the GOP may ask for increased financial aid.

Provides another indication of U.S. withdrawal from East Asia, and reduction of interests in the area.

Indicates U.S. may consider situation unstable and war more likely if we see need to remove dependents.

Adds evidence that isolationism is growing more popular among U.S. Congressional leaders.

Contrary to our basic values—central role played by the family in American society.

Policy over time could create an overseas mercenary type force separated from mainstream of American society.

U.S. military families overseas comprise large percentage of American's goodwill ambassadors. They learn the host's culture and teach ours. These cultural exchanges would be cut-off if dependents never went overseas.

Main impacts of proposed reduction:

Decreased operational readiness. Lessened rated/maintenance expertise. Loss of supervisory skill, continuity, corporate memory.

Adverse impact upon morale/retention: Increased disciplinary problems. Increased separations/retirements.

Political considerations: Conveys lack of commitment to allies-lack of resolve to enemies. Adversely affects on-going cooperative efforts with allies."●

U.S. POLICY SPURS REFUGEE FLIGHT

● Mr. HUDDLESTON. Mr. President, on June 12, 1979, the distinguished Senator from Massachusetts, Mr. KENNEDY, placed in the CONGRESSIONAL RECORD a series of articles on refugees from the Philadelphia Inquirer. Included in these articles was one which stated that the massive flow of refugees in Southeast Asia is a "push-pull" phenomenon. Conditions within the countries are pushing people out and the large-scale publicity given the resettlement efforts is pulling people out by giving them added encouragement to leave. According to the article:

> There is a danger of creating a self-generating monster that will live for years beyond its normal life," said one representative of the United Nations High Commissioner for Refugees (UNHCR). "The more the West accepts, the more will leave Indochina. In Vietnam, particularly, everyone listens to the Voice of America and British Broadcasting. Those stations report every step of every new resettlement program.
>
> The migration goes beyond the legacy of radios that the West left behind when it fled. Refugees come to the United States, build up a little nest egg and send money back home. The folks back home use the money to buy their way out.

The validity of this push-pull concept is becoming increasingly apparent and is supported by more recent stories from Southeast Asia. On July 29, 1979, the Courier-Journal ran an article entitled "U.S. Rescue Spurs Flight, 'Boat People' Say," which stated that:

> The U.S. Navy's mission to rescue refugees in the South China Sea is encouraging more Vietnamese to flee their homeland, rescued "boat people" said yesterday. . . .
>
> All those rescued said they had been planning to leave Vietnam but set out when they did because they heard of Carter's order and hoped to be spotted.

I can understand the desire to offer every assistance to these people. However, in the final analysis we have accomplished little if we lure more people to make the escape attempt. I believe that the refugee bill, S. 643, which has recently been reported by the Senate Judiciary Committee, will perpetuate this push-pull tragedy. The bill continues our open-ended policy on refugee admissions by not establishing firm procedures for setting admission levels. If this bill is passed the word will again go out to dissatisfied thousands, many of whom will be encouraged to try to get in the long line of refugees who are already waiting to get into the United States.

Perhaps the American people have a greater understanding of the forces at play here than the administration.

An NBC-Associated Press poll released on July 20, 1979, showed that "only one-fourth of the public favors the entry of additional refugees. Two-thirds are opposed to this effort." This response was in regard to proposals to double the number of Vietnamese refugees admitted.

I believe that we as elected officials would do well to pay heed to views of the public on this issue.●

A SALUTE TO THELMA THOMAS DALEY AND DELTA SIGMA THETA

● **Mr. MATHIAS.** Mr. President, many organizations have been in the forefront of the struggle for the preservation of human worth and dignity. But none has been more dedicated and forthright in its efforts than Delta Sigma Theta, Inc., under the leadership of its current national president, Mrs. Thelma Thomas Daley, of Baltimore.

For more than 50 years Delta Sigma Theta, Inc., with a membership of nearly 100,000 women, has undertaken an array of activities designed to carry out its commitment to public service in areas such as education, economic development, legislation, housing, including the elderly and the handicapped, arts and letters, and so forth. Annually, the sorority awards more than $500,000 to deserving students to assist them in attending colleges and universities. Contributions to other groups total more than $750,000. Each year, Delta Sigma Theta, Inc., makes a $1,000 contribution to the national black achievement scholarship committee of the Nation's merit scholarship program. More than 50 of this organization's nearly 700 chapters participate in the reading-is-fundamental program—RIF—a federally matching grant program which provides books for children.

Under a $134,000 grant from the Department of Health, Education, and Welfare, Delta Sigma Theta has for the past year, engaged in developing a women's educational equity training and assessment program. Its goal is to develop and test materials for use by personnel in public and private institutions and by community groups in an effort to combat sex stereotypes and promote educational equity for women.

Delta Sigma Theta has organized and now has in operation as national programs, four "life development centers" designed to meet a variety of community needs related to its five-point program. Recognizing the need for continued support of black colleges, Delta has established the distinguished professor endowed chair. This effort will provide continuing financial support to black colleges. Last year Delta Sigma Theta awarded minigrants to seven black colleges.

With a $2.76 million grant from the National Science Foundation, Delta has established a resource center in science and engineering to increase the number of scientists and engineers from minority and low-income groups. Its national office has contributed a reading shelf to the Hubert H. Humphrey Institute of Public Affairs on the roles of women in the civil rights movement of the 1960's.

DST Telecommunications is the mechanism through which Delta Sigma Theta supports the arts and letters. To date, this dynamic organization has produced a record album and a film on the artistic advancement of black people.

For the 11th year, Delta has operated its direct search for talent project in Baltimore. With funding of approximately $750,000 from the U.S. Office of Education, Delta identifies students in selected high schools for counseling services, tutorial assistance, guidance, career testing and evaluation services, and financial aid services. A second direct search for talent project has been instituted by the North Jersey alumnae chapter with more than 20,000 participants.

Delta Sigma Theta's Washington, D.C., alumnae chapter has received a $5,000,000 grant to provide housing for senior citizens and handicapped persons.

The Federal City alumnae chapter has also spearheaded an effort in support of the equal rights amendment and full voting representation for the District of Columbia.

In 1978 Delta Sigma Theta received more than $5,200,000 in grants which provide services directly affecting more than 100 communities.

Many of these accomplishments can be attributed to the outstanding leadership of Mrs. Thelma Thomas Daley. Mrs. Daley is a nationally recognized guidance and counseling professional and former national president of both the American Personnel & Guidance Association and the American School Counselor Association. She has served on the faculties of Coppin State College, Western Maryland College, and the University of Wisconsin. She has also served on the Harvard University College Admission Summer Institute staff. Employed by the Baltimore City Department of Education, she has just completed 2 years of service with the Maryland Department of Education as a consultant in career education and as Federal project director. Mrs. Daley's professional and community involvement is extensive: Trustee, Educational Testing Service; former trustee, College Entrance Examination Board; member of the National Advisory Council on Career Education; appointed by Joseph Califano, former Secretary of HEW, to chair the National Advisory Commission on Cancer Education; member of the board of directors of the Voluntary Action Center of Central Maryland; Cochairperson of the Maryland Foster Care Committee; and chairperson of the statewide special program for the adoption of babies in Maryland.

Mrs. Daley has received numerous citations and awards including a plaque from the NAACP citing her outstanding contribution to the life membership program; the Continental Society, Inc., Outstanding Black American Award; the Governor's Citation; Lambda Kappa Mu Outstanding Woman Award; and she is listed as 1 of the 100 most influential black women. Mrs. Daley is also listed in "Personalities in the South" and "Who's Who in Black America."

I join members of Delta Sigma Theta and all Marylanders in saluting Mrs. Daley as she leaves office on a job well done. Thelma Thomas Daley has provided an example of leadership and has written a record of accomplishment that would be hard to follow, but she also leaves an organization capable of meeting that challenge.●

IMPACT OF GOVERNMENT INTERVENTION, UNNECESSARY RULES AND REGULATIONS ON AMERICAN SOCIETY

● **Mr. NUNN.** Mr. President, recently, Dr. Fred Davison, president of the University of Georgia, delivered an outstanding commencement address to the 1979 graduating class in which he described the adverse impact of Government intervention, unnecessary rules and regulations on American society. The challenge he presented the members of the 1979 class is worthy of review by each of us, and I commend it to the reading of each of my colleagues.

I ask that the address be printed in the RECORD.

The address follows:

DR. DAVISON'S COMMENCEMENT ADDRESS

We have gathered here this morning for one of higher education's grand occasions . . . Commencement.

Today we officially recognize accomplishment. Today we officially induct new degree holders into the ranks of educated men and women.

This day means a great deal to you who will be awarded degrees. It holds great significance for your friends, your families and your loved ones.

Today you are special, you are singled out, you have reached a milestone.

This holds as true for the 2,000 of you who have earned advanced degrees as for the 4,000 bachelor's degree candidates of this academic year. You join a group of 110 thousand living alumni of The University of Georgia.

You have set yourselves apart, and each of you is recognized today as a member of that elite body of people to whom knowledge is a precious and revered commodity.

I deliberately use the word "elite" although that term might cause some discomfort. We are living in an age where a major social goal seems to be "total equality." We are in a period where the word "elite" is considered almost undemocratic.

If you are uncomfortable or embarrassed by the term "elite," I believe it is a sad commentary on the trend of anti-intellectualism that has swept through our society.

By completing the demanding requirements for a degree at The University of Georgia, you have joined Thomas Jefferson's "natural elite." This is a group not defined by wealth or birth but rather by virtue and talent.

You who receive degrees today are not average or ordinary; the effort and work you have expended is not mundane: your belief in education is not shared by all and your appreciation of learning and knowledge makes you stand out.

The diploma you receive today symbolizes that you have cast your lot with all those scholars and thinkers who, for all of recorded time, have struggled against ignorance and fear.

You are proof positive that some people step forward and stand out from the crowd, stand out from the average.

The trend toward leveling all people, goals and aspirations in our society to a common standard was addressed by former Texas Representative Barbara Jordan.

Representative Jordan, speaking at Boston University, spoke of the preoccupation in Congress with total egalitarianism, with leveling societal aspects.

"We have become so brainwashed by an erroneous definition of democracy that we have difficulty prescribing any program . . . because we recognize some people are excellent," she said. "As members of Congress," she concluded, "we should not be engaged in a leveling process . . . Congress ought to enunciate and promise those policies which would lead, absolutely, categorically, and without hesitation to the best this country has to offer."

This institution firmly and without reservation stands for equal educational opportunity for all our citizens.

But, equal opportunity to gain an education and equality of accomplishment through use of that education are not the same thing.

Do not be afraid to stand out, to be excellent, to be more than average, to be one of the "elite" of American society. Use your talents and learning to enhance your lives and to accomplish great things. Use it to make your country better and your own life better.

Face tomorrow with confidence in yourself and your future and build upon what The University of Georgia has been able to give you.

The faculty, staff, alumni and friends of the University have worked together to provide you with the best possible place to learn.

A great many people over many decades have worked toward building the excellent institution we have today. It was done for you and those who will come after you.

Here the people of Georgia have provided a great university that, in the words of poet John Masefield, "stands and shines;" a place where "the free minds of men, urged on to full and fair inquiry, may still bring wisdom into human affairs."

Wisdom in human affairs is always in short supply. Confusion and doubt are often in great abundance.

As tomorrow's leaders in government, business, military and social affairs, you must try to bring more wisdom and less confusion to bear on our dealings with each other.

Each age has grave concerns and important questions that must have answers.

Many of us grow increasingly concerned about the current confusion, doubt and woe we encounter in our own nation. We have grown timid and uncertain, and in many ways, less competitive.

I believe the direction and role of our federal government has given rise to many of the doubts and much of the confusion we face today.

As President of the University of Georgia I have become increasingly concerned with the rising level of intrusion into the affairs of higher education by all branches of the federal government. We have spent much time and considerable financial resources complying with mounds of regulations and decrees that are not only confusing but often counter-productive.

We have seen straightforward laws passed by Congress turned into a confusing jumble of do's, don'ts and requirements by a remote bureaucracy.

These requirements divert more and more of our energy and resources away from our primary educational missions of teaching, research and service. At the same time, the object of the original laws is often not being served by this expenditure.

I see daily this contradiction of purpose and have to ask why. Why has this come to be our way of life in America?

Why do we continue to grope for some method by which every person can be declared a success? Why do we do this even if the end result is a lowering of standards to a point where everyone is, in fact, a failure?

Why has our nation almost conceded our formerly unchallenged world leadership in all facets of new technology?

Why have we forced the pharmaceutical industry, with its wondrous potential for humanitarian discovery, to move its research and development to Europe?

Why do we have a state bordering on national hysteria over the Three Mile Island incident and development of nuclear energy? Why does the same hold true over whether recombinant DNA research should be allowed?

This litany has no end. The question remains * * * Why?

I answered this question recently before another group of new graduates. I believe it bears repeating here.

I believe that, in part, all of our frantic legal, legislative and regulatory mania comes from an attempt to remove the risk of failure. Our search for the lowest common denominator is born of a growing fear of risk, I believe.

Our loudly voiced concerns with zero tolerances, noise levels and catastrophic scientific accidents—none of which ever quite materialize except in science fiction—may be connected to a pathological fear of risk.

Our government seems to be a party to this change in the American character. Our government, it seems to me, is trying to create the illusion that we can have a riskless society.

We have been led to believe that every problem can be solved through regulation or government action.

Even though we live in a world facing the most unforgiving set of problems in history, we somehow have come to believe we can legislate and regulate our way into safe harbors.

The agenda of problems we face as a society is awesome and threatening.

It includes the need for food and fiber to feed and clothe a hungry world;

the shortage of traditional energy sources coupled with ever-increasing levels of consumption;

the uncontained growth of population in a world of finite resources and limited abilities to deal with more people;

and the danger of living in a world whose peace is jeopardized by America's possible slide from superiority to parity to inferiority.

You, the members of the class of 1979, and those who will work and live with you, will not solve these problems with regulations and without risk.

If these problems are to be solved, and they must if we are to survive, then risks must be taken.

We can and should reduce the level of risk, but we cannot eliminate risk completely. Without the possibility that we will fail, with no risk whatsoever, we will make no progress.

We will find no solutions, no answers.

If we attempt to retreat into a totally riskless society, we will, in my opinion, begin to die as a nation.

We need to refresh our collective memory about how America was built and came to be what it is.

We need to remember that our advancement and world leadership has been based on the willingness to take risks. In tomorrow's world, our very survival will more than likely depend on that same willingness.

This should not seem strange to you since risk taking, venturing into the unknown, is much of the essence of higher education.

Education pushes back the darkness where current knowledge ends. Education takes us to our known personal limits and enables us to grow.

We attempt new undertakings, we learn new abilities, we solve new problems with the tools that education has given us. Education makes us confident enough to face the risk of failure.

A society that fails to support endeavors such as education or hampers them to the point that excellence, inquiry and performance are subdued, does irretrievable damage to itself.

A society that does not expect or require a high standard of achievement from education and other endeavors, may be forecasting its own doom.

You are now educated adults with the capability and the responsibility to make your own decisions, to make of your life what you will.

Take your education and use it. Change the world, or a small part of the world, for the better.

When I think of the word change, I think of a remark by the commencement speaker of five years ago, Dr. Anne Firor Scott.

Her theme was the world in 1974 as contrasted with the world of her graduation day in 1941, poised on the brink of world war after barely surviving a world depression.

Dr. Scott said her one wish for the graduates was "that you should find each year, increasing pleasure in learning and thinking; in using your mind and developing your capacity to perceive, so that you can at least partly understand and deal with the changes as they come."

That is good advice for all of us here today. I would only add that you must also be willing to direct those changes as well as understand them.

Have faith in your country and your education. Take away from this place a determination to be the best you can be at whatever you do. I challenge you to make reasoned judgments and resist emotionalism;

To strive for excellence and not be too deterred by risks;

To be as wise as you can and not to be afraid;

To be proud that you have accomplished something important in your life, as symbolized by the diploma you have earned today.

Reestablish boldness as a part of the American character and you will return to all of us a precious gift.

Your parents and friends are proud of you. Those of us on the faculty are proud of you.

The University of Georgia is enhanced by its association with you just as it will always be a part of you.

I pledge to you that we will always work to see that your University remains devoted to the highest principles of learning, to freedom of thought and experience, to fulfillment of potential and to truth.

We will work to see that you will always be proud that the University of Georgia is your alma mater.

We will work to see that it always "stands and shines," that it always represents what is best and what is right. We will work to see that it is, in the highest meaning of the word, a University.

I congratulate each of you and thank you for the honor that has been mine in directing a few thoughts to you on this important day.●

THE AMERICAN STYLE OF WARFARE AND THE MILITARY BALANCE

● Mr. GOLDWATER. Mr. President, because more and more Members of this body are beginning to be aware of the rather dismal position of the United States when compared in conventional arms and strategic forces with the Soviet Union, I think all of us might well read an interesting article which appeared in this month's issue of Air Force magazine.

We cannot any longer hide our heads in the sands of ignorance and complacency as we debate the passage of a treaty that can irrevocably give the Soviets the best hand in the deck. I ask that the article to which I referred "The American Style of Warfare and the Military Balance" by Edward N. Luttwak be printed in the RECORD.

The article follows:

THE AMERICAN STYLE OF WARFARE AND THE MILITARY BALANCE

(By Edward N. Luttwak)

National styles differ in war, as they do in the pursuits of peace. Embodied in the tactical orientation of military forces and revealed by their structures, these national styles reflect not only the material and human attributes of societies but also their collective self-image. That is why the attempt to transplant a national style of warfare into the armed forces of another nation, with a different pattern of strengths, weaknesses, and social relations, usually fails. One recalls vividly the failure of Egypt to practice Soviet-style armored warfare in 1967, and equally her success with her own tactics, at least during the first days of the 1973 war.

To each his own, therefore. But even so, a fatal dissonance can arise: National styles of warfare, embedded as they are in culture and society, may retain their domestic authority even while being overtaken by changes in the external military environment. Particularly dangerous are those changes which are subtle and cumulative rather than overt and dramatic. The latter may awaken attention and stimulate a rethinking of military methods and structures which may yet save the situation. But when change is slow and not manifest, routines are apt to go on as before, until the sudden and catastrophic discovery of inferiority in war itself.

ATTRITION VS. MANEUVER

There is now a real danger that the American style of warfare is being overtaken by precisely this kind of change in the external military environment. Even while the Soviet Union is closing the quality gap in one dimension of military strength after another, and even while the United State's overall military resources are declining relative to those of the Soviet Union, she holds on to the belief in her own material superiority. To be sure, the official spokesmen of the services constantly remind us of the growing Soviet advantage in the numbers and the steady improvement in the quality of Soviet weapons, and yet the *operational* implications of these facts have not been absorbed. The American national style of warfare remains unchanged: It still presumes a net superiority in material, for it is a style based on the methods of attrition rather than maneuver.

We all know what attrition is. It is war in the administrative manner, of Eisenhower rather that Patton, in which the important command decisions are in fact logistic decisions. The enemy is treated as a mere inventory of targets, and warfare is a matter of mustering superior resources to destroy his forces by sheer firepower and weight of materiel.

Maneuver, by contrast, is not a familiar practice in recent American military operational form. In fact, in the language of the US Army, maneuver is frequently confused with mere movement, or at least offensive movement. Maneuver may well call for movement, but it is very much more than that. It can be applied not only in ground combat but in all warfare, and indeed in all things military, even research and development. Maneuver describes "relational" action—that is, action guided by a close study of the enemy and his way of doing things—where the purpose is to muster some localized or specialized strength against the identified points of weakness of an enemy that may have superiority overall.

Maneuver thus depends much more on Intelligence (and intellect) than attrition warfare, which can almost be a matter of mere procedure. It also entails a higher degree of risk. But while the side that has materiel superiority can choose freely between attrition or maneuver, the side whose resources are inferior overall can only prevail by successful maneuver. If an inferior force remains tied by tradition and attitude to low-risk or low-payoff attrition methods, it must be defeated. In the cumulative destruction of the forces ranged against one another which characterizes an attrition contest, the inferior force will inevitably be exhausted first.

AMERICAN CONCEPTS OUT OF DATE

It is not surprising that maneuver warfare is so unfamiliar to American military men—in whose self-image material superiority still looms large—while it is almost instinctive to those who see themselves as inferior in resources, be they from Vietnam or Israel.

It is by now obvious that the US Army, Navy, and Air Force would no longer enjoy an automatic superiority in materiel if confronted by the forces of the Soviet Union, and yet their structure and their methods still implicitly reflect the presumption of a net advantage in resources.

The US Army, for example, has recently promulgated a new manual of tactical doctrine for a major conflict in Europe (FM 100–5). This is a doctrine of pure attrition: Soviet forces are expected to attack in deep columns of armor, and the Army means to oppose them by positioning armor and infantry battalions in their path—some pushed forward to act as a "covering force," but the bulk concentrated on the main line of resistance. Advancing Soviet armor is to be defeated by sheer firepower, in sequence: First air attacks well forward of the battle line, then artillery (with precision munitions), then the guns and antitank missiles of the yielding "covering force" in a shoot/fallback/shoot sequence, then the main forces with their own guns, missiles, and small arms. Single battalions are to leapfrog one another in a slow withdrawal, to reload with ammunition so that they can resume the orderly administration of firepower.

Catch phrases associated with the new doctrine have an industrial sound: "force-generation," "target-servicing," etc. The invading enemy is treated as a mass of individual targets to be destroyed one by one, with the strength of the defense in firepower being ranged against hard armor. No attempt is made to seek out and exploit weaknesses in the modus operandi of the enemy or in his array of forces. No thought is given to the possibility of attacking the long flanks that columns of armor must necessarily have. The Army's new doctrine thus continues to presume a net superiority in firepower: U.S. forces are to "mow down" Soviet armor as British imperial infantry once dealt with the Zulu impis. The British won, though they were outnumbered as the U.S. Army would be today, but unfortunately the Soviet forces are not Zulus and they will not be outgunned.

A MANEUVER DEFENSE FOR NATO

A maneuver defense for the North Atlantic Treaty Organization (NATO) would be quite another thing. Far from seeking to muster strength against strength in a frontal clash of firepower vs. armor, it would rely on attacks against the weak points of the Soviet array. For example, Soviet divisions draw their resupply from convoys of trucks following in their wake, 1,800 trucks for each tank division and 2,200 for each "motorized rifle" division. Behind each hard wedge of armor there is the soft column of unprotected and road-bound trucks. A maneuver alternative to the Army's new doctrine might deploy all-armored and highly agile strike forces which would sidestep the oncoming thrust of Soviet armor columns, penetrate through the spaces between the columns, and then advance deeply enough into the enemy's rear so that they could then turn to attack the "soft" traffic of artillery, combat-support and service units, and supply columns following in the wake of the Soviet armor.

While American tanks and combat carriers would be formed into these strike forces, the infantry (which is already well equipped with antitank missiles) would be placed in the path of the Soviet advance to form resilient and amorphous defense zones. The aim would be to slow down and embed the enemy armor spearheads rather than to destroy them in costly combat. In the meantime, the strike forces would be on their way, to advance in parallel to the advancing enemy columns before turning to wade into them.

While American battle tanks could no doubt do much better against trucks and artillery carriages than in tank-to-tank combat, the operational goal—as in all genuine maneuver—would not be so much to destroy enemy resources as to dislocate the enemy's scheme of operations. Instead of being faced with an entirely predictable frontal resistance (which they are well organized to defeat), Soviet commanders would be confronted by confused entanglements and sudden emergencies in their own vulnerable rear, as the elusive strike forces attack road-bound traffic, only to disappear (when attacked in turn) to come back and attack again somewhere else along the columns. Soviet armor spearheads would in some cases run out of supplies while fighting it out in the resilient defense zones; above all, the stream of reinforcement echelons (on which the Soviet method depends) would be drawn away to confront the strike forces in the rear, instead of being fed into the penetrating advance to keep up its momentum.

This is not by any means a fully analyzed idea, and it is, of course, at the extreme end of the risk/payoff spectrum, but it does illustrate the general principles of maneuver warfare as they apply to all combat—land, sea, or air.

First, one's own high-quality forces must not be expended against those of the enemy; instead, they are to find and attack the weak points in the enemy's array of forces. In the meantime, the enemy's main effort is to be contained (though it cannot be defeated) by a specialized defense, organized from the lower-cost forces.

Second, the key to victory in maneuver is force disruption rather than destruction. Of course, there will be some attrition, but its purpose must be to dislocate the enemy's system of war, rather than to reduce his forces in piecemeal combat. The goal is to force the enemy to abandon his program, rather than just to reduce the forces he has to implement that program.

Finally, maneuver warfare cannot be fought by standard, general-purpose forces shaped by traditional preferences and bureaucratic priorities. Instead, one must deploy forces especially tailored to cope with a specific enemy—that is, forces which are configured to exploit his particular weaknesses, rather than to maximize all-around capabilities. One allows the enemy to dictate one's force structure and tactics; the "organizational initiative" is conceded in order to seize the operational advantage.

EXAMPLES OF MANEUVER DEFENSE

An outlined airpower example illustrates the generality of these rules. Soviet battlefield air-defense systems are now much more formidable in Europe than they were in Arab hands in October 1973, when Israel lost almost a quarter of her air force in three days. To do its work, which is to help in the *land* battle, the U.S. Air Force (USAF) plans to defeat the array of Soviet antiaircraft guns and missiles by attrition and sheer weight of materiel: special "defense-suppression" aircraft are deployed to attack Soviet radars directly, while other special aircraft are to neutralize Soviet radars with electronic countermeasures. In addition, each line aircraft is to carry self-protection electronic devices. In the first few days of a NATO war, when airpower would be needed most to give time for the ground forces to deploy, the USAF would, in fact, be busy protecting its own ability to operate at all.

It is interesting to note that others have reacted differently. The Royal Air Force (RAF) simply cannot afford to fight it out with Soviet air defenses; its plan is to *evade* rather than defeat them. The RAF has decided to use its aircraft in the immediate rear of the battlefield, to attack Soviet reinforcement echelons rather than the first wave of Soviet forces on the battlefield itself—where defenses are thickest. As some RAF officers see it, the American insistence on taking on the Soviet Union where she is strongest may result in an air force which will be "taking in its own washing" instead of earning its keep. The RAF approach is "relational" maneuver; that of the USAF a form of attrition.

In the case of naval forces, a counterexample can be cited from the opposite side. When Stalin decided to build an oceanic navy as part of the armament program that began in earnest very soon after V–E Day, his plan reportedly called for a *nonrelational* "balanced fleet" on the Anglo-American pattern, with destroyers, cruisers, and aircraft carriers, as well as submarines—the indispensable weapons of the weaker fleet. Had Stalin's successors continued on this path, the Soviet navy would have been a much inferior imitation of the American and bound to be outclassed in every encounter.

But after Stalin's death his naval plans were scrapped and the Soviet Union adopted a relational "maneuver" approach; she built her own navy specifically to exploit the weaknesses of the US Navy, instead of trying to imitate its structure. As a result, the American surface navy of carrier task forces is now confronted by an array of Soviet anticarrier forces, based on the use of antiship missiles carried in submarines, naval aircraft, and surface warships. The Soviet navy, which this relational scheme has produced, cannot do many of the things that the US Navy does so well, but it does have a fair chance of winning a naval war, at least in some circumstances. A nonrelational Soviet navy, built to realize the typical naval ideal of a "balanced fleet," would by contrast have guaranteed absolute and total inferiority at sea for the Soviet Union.

THE IMPLICATIONS OF INFERIORITY

Now that the United States has chosen to place herself in a position of military inferiority to the Soviet Union by reverting to the pattern of underspending of the interwar years, the nonrelational procedure, with its low-risk/high-cost attrition solutions to every threat, is becoming increasingly obsolete. In one area of defense after another there is no third alternative between higher-risk maneuver methods and a guaranteed defeat. In part, the persistence of an obsolete style of warfare is due to an understandable cultural lag: The services are in the position of those remaining ill-informed American tourists who, in Germany or Japan, still offer *sotto voce* to pay their hotel bills in dollars—and expect a discount. But aside from cultural lag there is another source of irrationality, and ironically it is the product of the striving to substitute logic and calculation for military instincts and bureaucratic goals. Many of the "systems-analysis" techniques introduced by [former Secretary of Defense Robert S.] McNamara and revived by the present civilian defense chiefs are based on mathematical models that treat warfare as a cumulative exchange of firepower; they are, in fact, pure attrition models in most cases. Even though the historical record of war shows quite conclusively that superior firepower is often associated with defeat, and that winners more often than not were actually inferior in firepower, these mathematical models continue to be devastatingly influential because they capture all that is conveniently measurable about warfare. Thus, bookkeepers may fancy themselves strategists.

Unfortunately, these models miss the essence of warfare, which has little to do with the orderly administration of superior firepower on a passive set of targets. To their great discredit, the uniformed military have chosen to play the bureaucratic game, and now have their own models, suitably rigged. Instead of resisting the pressure to conform, and devoting their intellect to the study of war as it really was in history, and as it may be again on the battlefield, the military waste their talents on studies and models that are based on premises that are false, and which they *know* to be false. Hence, the blind lead, and those who could see follow in order to defeat the mathematics of the civilian "systems analysts" with their own, ever more elaborate computer models. Unfortunately, the tactics of bureaucratic conflict in the Pentagon are of no use on the battlefield.●

IF IT'S DEAD, WHO KILLED NUCLEAR POWER?

● Mr. GOLDWATER. Mr. President, an interesting phenomenon of our times is that in a period of grave energy shortages we have put a virtual stop-order on the further development of nuclear power. What we are doing in effect is rejecting one technology for its unknown hazards and rushing off to develop other technologies which may have lethal qualities of their own. This is a very fundamental question, Mr. President, and it was very skillfully explored in a recent Washington Post article by Mr. William Greider entitled "Against the Grain."

Because of its importance, I ask that this article be printed in the RECORD.

The article follows:

IF IT'S DEAD, WHO KILLED NUCLEAR POWER?

(By William Greider)

The American process seems infinitely capable of creating peculiar exceptions to its own passions, which is part of what makes our nation so much more interesting than most others. Europeans, in those choice moments when they express themselves honestly, are apt to explain us away as *dingue:* There's no accounting from crazy Americans.

This season, the national passion for new energy is launching a thousand position papers and a flood tide of dollars. We shall roll up our sleeves and go get it. Even if we must tear apart the Colorado mountains to squeeze oil from the rocks.

Meanwhile, with hardly a nod of public recognition, this nation has effectively put a "stop order" on nuclear power. We reject one technology for its unknown hazards, one which the rest of the industrial world is embracing. And we rush off to develop other technologies which have their own lethal qualities.

I am not attempting to find here the fundamental answer on nuclear power—whether America is leading mankind in the right direction or has taken a wrong turn all alone.

My head tells me it's right to stop nuclear expansion for the moment until all the hard questions are answered satisfactorily, until the industry faces the problem of waste storage convincingly, for instance.

But my bones tell me it's a wrong turn. My hunch is that after a decade of filling our air with coal soot and polluting more rivers with acid mine drainage and killing thousands of miners and threatening the globe's atmosphere with too much carbon dioxide, we will take a second look at nuclear technology and decide that it's not as scary as we thought.

The synfuel warriors, signing up for Jimmy Carter's coal war, ought to read the very scary report on carbon dioxide accumulations in our atmosphere, submitted recently to the Council on Environmental Quality. This pollution has the potential of upsetting the global balance of weather and water within a few decades. Burning plain old coal and oil is bad—but burning synthetic fuels is nearly twice as bad.

Of course, I could be all wet, as I often am. Perhaps someday a nuclear disaster in France or Japan or Russia will convince the rest of the world that the American process in its own chaotic way, made the right decision first—to turn away from nuclear.

Meanwhile, I am asking an easier question: How was this decision made? Whom should we thank? Or blame? There was no presidential edict, no decisive roll call in Congress, no popular referendum, not even big black headlines announcing the moratorium. It is a classic example of interlocking powers in the American system, a machine of whirling wheels that interact but do not control one another.

A lobbyist for nuclear power puts it starkly, perhaps too starkly: "Nuclear is dead. Forget it. There's no way a utility is going to order one now. You won't see another nuclear plant order until the middle 80's, when we start having rolling brownouts, like the gas lines. That's when the recriminations begin. Who lost our electricity?"

THE NUCLEAR MORATORIUM

I checked his gloomy forecast with several analysts at investment banking firms—men who are paid to make accurate forecasts on the energy business—and with several political types. They agree with the lobbyist's diagnosis of the present, but believe the pressures for nuclear may come back sooner than 1985, perhaps in two or three years after our recession. To be precise, we ought to say that nuclear development is not exactly dead, but in 1979 it slipped deeper into a death-like coma.

To understand these interlocking wheels, one begins with the creakiest one—the electric utilities industry—which plodded along happily for 25 years on postwar growth, assured profits, no competition and no back talk from the customers.

"If the utility executive makes a mistake, somebody pats him on the head and gives him an 8 percent return," the lobbyist said. "That's what he's used to. He can't operate in this new environment. The utilities are scared witless." Actually, he didn't say witless, he used another word.

The new environment includes post-OPEC conservation by America's electricity consumers, particularly American business, and the compelling critique from anti-nuke scholars and propagandists. Twenty-five years ago, the private utilities demanded and won from the Eisenhower administration the right to develop atomic power generation as a private business. That decision had profound safety implications (see Alvin Weinberg's account in the summer issue of the Wilson Quarterly), but economic insecurities caught up with nuclear first.

Utilities were accustomed to a robust growth rate of 7 percent in electricity consumption. They ordered new nuclear plants confident that, when the juice started flowing 7 to 10 years hence, a growing market would absorb it. By 1975, in the era of higher energy prices and soaring utility bills, they began to grasp that their world had changed.

Growth in energy consumption fell rather dramatically, down to 4 or 5 percent, and suddenly those long-term commitments to vastly expensive nuclear plants didn't look so assured. All projections became very shaky. Since 1975, only two new nuclear plants have been ordered, both by Commonwealth Edison of Chicago, which is already heavily committed to nuclear. Commonwealth Edison's two orders may have involved a bit of pro-nuke boosterism.

In the same decade, the federal government stepped back a pace. For a generation, the old Atomic Energy Commission played cheerleader and sponsor, providing discreet subsidies and political protection for the atomic wonders. The Nuclear Regulatory Commission, created in 1974, was intended to become an earnest regulator, instead of a rich uncle. Meanwhile, some nuclear scientists were sharpening their questions and the anti-nuke movement began to gain momentum. If these power plants are engines of Armageddon in our midst, it is a righteous cause. Yet it reminds me occasionally of the farm laborers rioting against the steam-driven tractor or newspapers inveighing 80 years ago against the dangers of new-fangled automobiles.

In any case, nuclear growth stopped four years ago—1979 was going to be the year when the nuclear industry broke out of its moratorium—through political action more than economic factors. If Congress could be persuaded to shorten the regulatory process, speed up the time it takes to build and operate a nuke, then maybe those nervous-Nelly utility execs would start ordering again. That was the industry's implicit political goal and the campaign was well underway.

Then the gauges went crazy at Three Mile Island. A scary episode indeed. It seems tiresome to keep stating that nobody got killed; obviously public opinion doesn't find that fact very reassuring. The event seemed to confirm the anti-nuke prophecies of a disaster in our future.

On Capitol Hill, senators and representatives began searching for an anti-nuke vote they could take home to show the folks that they are zealous watchdogs. The political backlash will get worse in the next 18 months, the lobbyist predicts.

"You're going to start seeing Republicans and conservative Democrats opposing nuclear," he said. "They're getting too much heat on it, and they aren't willing to go under for that issue."

The president will proceed as a tepid advocate of nuclear expansion at his own peril. In New Hampshire next winter, a state which just defeated a pro-nuke governor, Jimmy Carter will confront an army of anti-nuke activists knocking on doors in behalf of Jerry Brown and a non-nuclear future.

So now the cautious utility executive faces higher hurdles. If he plunks down a billion dollars or two on a 10-year gamble on future electricity consumption, he risks a stockholder lawsuit. Will the public let him turn it on 10 years from now? Beyond that, he will have lots of trouble convincing Wall Street to lend him the capital at a reasonable interest rate. Then he has to ask: where will we build it?

The public opinion polls still show about 46 percent of the people in favor of nuclear, roughly an even split with the opposition. But the crucial point is that most Americans (2-to-1) do not want a nuke in their neighborhood. This is the reverse of popular sentiments two years ago. As Public Opinion magazine put it so felicitously, the atom splits the sexes—women oppose neighborhood nukes much more strongly (66 percent) than men (46 percent).

If the public is scared, can politicians be far behind? Yet the nuclear industry, more than ever, needs political action in order to revive. Whither America? The de facto moratorium gives both sides an opportunity of sorts. The anti-nuke movement will be pounding nails in the coffin, in the form of additional regulatory safeguards. The industry will be trying to clean up its act and convince us that it has solved the safety problems so long unsettled.

My hunch is that, given the cautious self-interest of private investment decisions, the nuclear question will wind up approximately where the development of synthetic fuels has arrived—directly in the hands of the federal government. This scenario is already popular among some business types, who foresee an ultimate up-or-down political decision someday.

One investment analyst put it thus: "Industry will say: If the government wants these nuclear plants, you're going to have to build them and give them a clean bill of health before we can take the risk."

Maybe a few power brownouts will lower public resistance to nuclear, the way gas lines soften us up for price increases. Or another accident will confirm public fears. It seems a rather crude way for a nation to make its fundamental choices, bruising one another until necessity yields a decision. But that is the American process. Usually, it does produce its own rough reason. Like other human systems, it also makes mistakes.●

JUDGE WILLIAM B. JONES: A MEMORIUM

● Mr. BAUCUS. Mr. President, the Nation lost yesterday one of Montana's greatest contributions to the Federal bench when Judge William Jones died of cancer.

Judge Jones was a confidant and close friend of our former esteemed colleague, Ambassador Mike Mansfield. I know how fond Senator Mansfield was of Bill Jones. He was a true friend, a loyal Montanan, and a great compassionate judge with a true sense of justice and a vision for effective and fair enforcement of our Nation's laws. He will be missed by all of us, but we must remember to follow the important standards of decency his tenure on the bench established for us all.

In the 5 years I have served my country in the House and Senate I have not seen fit to insert in the Record a newspaper article. I have refrained from doing so, because I believe our Record should not be filled with excessive extraneous material. However, because of the important contributions made by Judge Jones to the active interpretation of the laws passed by this body, I would like to make a brief exception to my rule by asking that the obituary for Judge Jones which appeared in today's Washington Post be printed.

The obituary follows:

W. B. Jones Dies; Ex-Chief U.S. District Judge Here

(By J. Y. Smith)

Senior federal Judge William B. Jones, 72, a former chief judge of the United States District Court for the District of Columbia, died of cancer yesterday at his home in Chevy Chase.

Judge Jones was sworn in as a federal judge here on May 14, 1962, having been appointed by President John F. Kennedy under the sponsorship of former Sen. Mike Mansfield (D-Mont.). He became chief judge by reason of seniority on July 14, 1975, and remained in that capacity until March 20, 1977, his 70th birthday. He remained on the bench as a senior judge until his death.

By reason of its being in Washington, the court on which Judge Jones served decides more cases of national as well as of local significance, perhaps, than any other federal trial court in the country. In his years on the bench, Judge Jones became highly esteemed among his colleagues as well as by members of the bar. His reputation as a trial judge was national as well as local.

Among his rulings was one in 1973 in which he blocked attempts by the Nixon administration to dismantle the Office of Economic Opportunity by administrative fiat. Judge Jones said that the central elements of the office—the community action, economic development and legal services programs—could be terminated only by an act of Congress, which had established them.

In a series of rulings in 1975, he compelled the Washington Metropolitan Area Transit Authority to make its Metro subway facilities accessible to handicapped persons by installing elevators and other necessary equipment.

As chief judge, he expressed the view that persons convicted of fraud, embezzlement, corruption and other white collar crimes should be sentenced to prison terms rather than merely being fined or placed on probation. He believed that jail should not be reserved for those who commit street crimes and crimes of violence.

During a court hearing in 1976 in which he sent two offenders to jail, Judge Jones said, "This white collar crime business has simply got to stop. This court is going to do everything it can to deter white collar criminals."

The hallmark of Judge Jones' work as a trial judge was careful preparation. He mastered the issues involved in cases that came before him and for this reason many lawyers considered themselves lucky to be in his courtroom.

Judge Jones told an interviewer in 1975 that one of the major responsibilities of a judge is to "control a trial and see that it is fair." He had a reputation for making attorneys stick to the important questions and he could be stern with those who strayed from them. He also was noted for the care and scholarship he brought to the preparation of his written opinions.

William B. Bryant, now the chief judge of the court, described his late colleague as "really an ideal trial judge."

"Disputes that find their way into the judicial system should be resolved on the basis of the real issues," Bryant said. "That is the way of assuring use of the best justice we can get. Bill was ever sensitive to that kind of standard."

"What he wanted to do was administer justice," said Judge Paul F. McArdle of D.C. Superior Court.

Shortly before his 70th birthday, Jones announced that he would become a senior judge, meaning that he would put aside full-time duties while at the same time continuing to hear cases and creating a vacancy on the court. "Younger men or younger women are needed to come into this challenging court," he said at that time. There is interesting work to be done here."

William Blakely Jones was born in Cedar Rapids, Iowa, on March 20, 1907. He grew up in Denison and Sioux City, Iowa, and then went on to the University of Notre Dame. He played football under the fabled Knute Rockne there as an undergraduate. While studying for his law degree at Notre Dame, he was a coach of the freshman football team under Rockne's direction. Rockne helped the future judge get his first full-time job, which was football coach at Carroll College in Helena, Mont.

He was admitted to practice law in Montana in 1931 and was sworn in by A. J. Horsky, the chief judge of Montana and the father of Charles Horsky, now a noted lawyer in Washington and a longtime friend of Judge Jones.

Judge Jones established a private law practice in Montana and also served as a special assistant attorney general of that State.

In 1937, he moved to Washington and became a lawyer in the lands division of the Justice Department. At the time, he did not plan to stay here. In the event, he spent the rest of his life in Washington.

In 1943, he was appointed chief counsel of the tire and automobile rationing programs in the Office of Price Administration, one of the major economic agencies of World War II. He also was secretary of the Joint British-American Patent Interchange Committee during the war.

In 1946, he entered private practice with the Washington law firm of Hamilton & Hamilton. He specialized in trial work and soon became a partner. He remained with the firm until he was appointed to the federal bench.

Charles Horsky, who first knew Judge Jones in Montana, credits his friend's experience as both a government and a private attorney with the broad outlook he displayed as a judge.

Before his appointment to the bench, Judge Jones was active in the Bar Association of the District of Columbia. He was a member of its board of directors, chairman of its judicial selection committee and a delegate to the National Conference on Court Administration. He also held several positions in the American Bar Association, including membership on the Committee of Professional Ethics. He was elected a fellow of the American College of Trial Lawyers in 1959. He was chairman of the Judicial Administration Division of the American Bar Association in 1972 and 1973.

But his favorite legal project was the National Institute of Trial Advocacy, of which he was a founder and board member. The institute conducts seminars to train lawyers in trial work. Judge Jones said in an interview in 1973 that the D.C. Bar "has some very fine trial lawyers, but the majority of them aren't that well trained." The institute's program is nationwide.

In private life, Judge Jones was known as a gregarious man whose interests ranged from sports to ballet. Swimming was among the recreations he enjoyed. He retained his love of the West.

Judge Jones was a member of the Metropolitan Club, the Columbia Country Club and the National Lawyers Club of Washington.

Survivors include his wife, the former Alice Danicich, of Anaconda, Mont., of the home in Chevy Chase, and a daughter, Barbara, of Washington.

The family suggests that expressions of sympathy be in the form of contributions to a charity of one's choice.●

FEC—A LACK OF SOUND JUDGMENT

● Mr. HUMPHREY. Mr. President, during the extended debate last week on the nomination of Frank Reiche to be a member of the Federal Election Commission, I mentioned my deep concern about the abuses and excesses of the FEC in its administration of the election laws.

In the give-and-take of the discussion, I did not have an opportunity to present as much documentation as planned.

For that reason, Mr. President, I wish at this time to call attention to the various lawsuits and compliance actions prosecuted by the Federal Election Commission.

Let me remind you that the qualities of a potential Commissioner are required by statute. The law says that Commissioners "shall be chosen on the basis of their maturity, experience, integrity, impartiality, and good judgment." (Title 2, United States Code, section (437c(a)(1)(3)).)

Let us examine the record of the Federal Election Commission and see if the requisite maturity, impartiality, and good judgment are exhibited.

THE MC CARTHY SUIT

We all are familiar with former Senator Eugene McCarthy and his attempt to run for the Presidency in 1976. However, many of us may not know several important facts concerning this man who decided to run an independent campaign in 1976. First of all, it was Senator McCarthy, along with former Senator James Buckley and others, who in early 1975 filed a major lawsuit against the Federal Election Commission alleging that many parts of the Federal Election Campaign Act were unconstitutional.

The Supreme Court held in 1976 in the landmark decision in Buckley against Valeo that the Federal Election Commission, as then constituted, could not exercise any executive functions. It also held that independent expenditures, as well as expenditures from the personal funds of a candidate, could not be limited. The Court did uphold other provisions of the law, including public financing. Having won the case on various grounds, let us see what the Federal Election Commission did to the McCarthy Campaign Committee, a relatively small organization with a sizable debt which was incurred by successfully challenging various State laws regarding unfair barriers to ballot access.

In the early stages of his campaign, the McCarthy committee asked the Federal Election Commission for an advisory opinion regarding the status of the committee. Basically, the issue was whether McCarthy's committee could qualify for public financing. What was the result? No opinion at all. The three Democratic Commissioners said he was not eligible; the three Republicans said he was. The result: A standstill; no opinion issued, to the detriment of McCarthy. That was just the beginning. All six Commissioners then joined in to harass the McCarthy committee even further. It appeared to the Federal Election Commission that there were "serious" reporting violations that warranted instituting costly and lengthy enforcement actions against the campaign. Depositions were taken; bank records were subpenaed; witnesses interviewed.

Was this the Federal Election Commission's investigation of the Lance-Rafshoon-Carter irregularities? No.

What were the sinister and unlawful activities of the McCarthy campaign? According to the Federal Election Commission, McCarthy's committee was not fully disclosing the source of certain moneys his campaign received when he spoke before certain college groups. Here was his crime: The McCarthy campaign scheduled the Senator to speak before various college groups on topics of national importance. More often than not, the Senator was highly critical of the Federal Election Commission and its operation. The committee would receive an amount of money for the speech from the school or group. The committee filed reports with the Federal Election Commission listing the date of the speech, the name of the school, the location of the school, the date on which the campaign received the money, and the exact amount of money received, with a further explanation that it was given in connection with the speech by McCarthy.

So what is the problem, you might ask? Really, nothing. But the so-called mature Commissioners decided to spend large amounts of tax dollars to bring an action against him because the disclosure was not full and complete.

What was missing? The ZIP code of the college? Believe it or not, the Federal Election Commission said that nothing was missing. The problem was that McCarthy disclosed too much information. The Commissioners exercised their so-called judgment by going into court and asking that the court order the campaign to reduce its voluminous and detailed reports on the source of its money and reduce it to one single entry, namely, the name of the candidate and the total amount of funds involved. I ask my colleagues, which method discloses the source of McCarthy's money better, his detailed reports or that sought by the Federal Election Commission? The answer is clear. It would be like the Internal Revenue Service filing a suit against you because you told it too much as to where you got your money or income.

The Federal Election Commissioners refused to settle the case out of court. Instead, it committed its resources to attacking McCarthy's committee which was already strapped for funds and staff help. Perhaps in another way to impress upon McCarthy who was boss, the Federal Election Commission chose his committee for an audit at the height of the FEC's court action against the committee. Most people would succumb to this kind of heavy pressure and concede. But McCarthy and his lawyer fought on.

Ironically, the case was initially assigned to Judge John Sirica, who sent the Watergate figures off to prison, which era precipitated the campaign laws. Here was a new case for him, not of bag money or corporate gifts and the like, but a case where an independent candidate disclosed too much.

However, Judge Sirica had to excuse himself; that is, take himself off the case. It appears that the judge had asked the Federal Election Commission for an advisory opinion earlier regarding the permissible activity of honorariums which the judge would get from a university. It is little known that the Federal Election Commission has jurisdiction over Federal judges with regard to this kind of activity. (See title 2, United States Code, section 441(i)). The Federal Election Commission had given Sirica an adverse ruling.

The case was then transferred to Judge Oberdorfer, who heard the matter. At one hearing, the court appeared dumb-founded by the Federal Election Commission lawsuit against McCarthy. In open court, the judge sharply criticized the Federal Election Commission for bringing this frivolous lawsuit. The transcript is filled with chastising remarks to the Federal Election Commission for its lack of judgment and maturity. At one point, the judge remarked:

> Well, my problem is ultimately whether this is almost—whether it's a case of controversy, whether there is a serious problem, whether this is a federal case, whether this is just a word game or whether the differences are de minimis, whether you really ought to have—you ought to engage your goodwill with the Federal judiciary and commit the power and the imprimatur of the Federal Court in chasing this what looks to me like a will-of-the-wisp.

The Federal Election Commission was using up to six attorneys on this case, and other staff, including auditors, to chase after "will-of-the-wisps." The judge also told the Federal Election Commission that its credibility was harmed in his court. Needless to say, the judge dismissed the Federal Election Commission case and granted McCarthy's motion for summary judgment. The Federal Election Commission's handling of the case also raises several questions.

The Commission subpoenaed the McCarthy committee's bank records without notifying them or their attorney; the Commission withheld certain information during discovery which eventually had to be obtained under the Freedom of Information Act. The judge even asked McCarthys' lawyer in court as to his belief why the Federal Election Commission brought this suit. It was pointed out that harassment certainly could not be ruled out, considering McCarthy's strong objections to the Federal Election Commission.

By the way, what was the final cost to the taxpayers for this 2½-year enforcement action and lawsuit by the Federal Election Commission? The Commission will not say.

THE REAGAN LAWSUIT

Maybe the McCarthy suit was the exception, one might say. Surely no Federal agency would bring to bear on citizens the weight of the Federal Government without good cause. Unfortunately, the Federal Election Commission's poor judgment and lack of maturity in the McCarthy case is constantly repeated at every turn.

After the 1976 election, the Commissioners decided to bring lengthy and expensive enforcement actions against Governor Ronald Reagan's campaign for President. What was his heinous crime? It was about as bad as Senator McCarthy's. It seems that certain named contributors did not disclose to the Reagan campaign their occupations which the Federal Election Commission forms call for. Perhaps certain Americans still think that their business is nobody else's, especially the Federal Government. As everyone in this room knows, running a campaign cannot be letter perfect, especially where the information required to be reported is in the peculiar knowledge of the donor. In fact, one could pick up any Federal Election Commission report and note that the absence of listing of contributors is a fairly common occurrence.

So why did the Commissioners pick on Reagan's committee? Good question. The Federal Election Commission had no guidelines as to what steps a campaign should take to obtain the occupation information. In fact, the Reagan committee sent out further inquiries to these certain contributors for the occupation information. Maybe it was just possible that some of these Americans did not have any. In any event, the Federal Election Commission felt that all this information was vitally important. Forget about committing resources to serious problems like the Carter audit; the Federal Election Commission clearly has gone after the little guy or controversial candidates for picky problems. And it goes right into court.

The Commissioners told the judge that they thought Reagan's committee had taken sufficient steps to get the information. The only problem, they said, was that Reagan's people took those steps too late—that is, after the election. The judge noted that other campaign committees had similar problems: Senator CHURCH's campaign, Senator JACKSON's Presidential campaign; Carter, Ford, and others. Why treat Reagan differently? The judge asked that question. The Federal Election Commission said that other campaigns took some efforts before the election, but agreed with the judge when he pointed out that they still did not get any better information than Reagan. The judge said to the Federal Election Commission: "They certainly fooled you." The judge finally got irate and lambasted the Federal Election Commission for the lack of guidance given to the committees. Judge Hart said on March 1, 1979:

> You have got, well, a terrific amount of pressure with bedlam going on in most headquarters at the time and then you have got a new law and you have got an agency that is supposed to overlook this thing and guide them that sends out no regulations or instructions—what kind of a business is that?

Finally, an attorney for the Federal Election Commission acknowledged:

> If more guidance was necessary as to what kind of efforts should have been made, I regret that that was not spelled out more sufficiently.

Needless to say, the judge quickly threw the Federal Election Commission case out of court, ruling from the bench. What was the cost to the taxpayers for this frivolous compliance action and lawsuit? The Federal Election Commission would not say, yet it keeps coming back to us for a bigger budget.

More importantly, has the Federal Election Commission taken the judge's warning and issued any rules or guidelines or measures that candidates should take to get the apparently crucial occupation information? No. But it has been reported that the Federal Election Commission has a secret manual for the auditors that states what level of omissions of occupations and like information is acceptable and what is not. The Federal Election Commission will not release this manual. The Federal Election Commission continues to exercise poor judgment.

Mr. President, there is apparently no end to the Federal Election Commission's bias. Let me cite the TRIM case as another prime example.

THE TRIM CASE

One would think that in this era of first amendment rights, the Commissioners would be sensitive to encroaching on such freedoms. If anything, the opposite is true. Another typical example of poor judgment is the Federal Election Commission's decision to bring a costly court case against a New York and New Jersey group of citizens called Tax Reform Immediately Committee, or "TRIM" for short.

Apparently, Federal Election Commission auditors spotted an outbreak of free speech in New Jersey and New York when they were informed that the TRIM group was passing out leaflets at a shopping center which informed the readers of the voting record of certain legislators on spending issues. The group obviously believes, as do many other people, that as long as the Federal Government continues to spend money, taxes will go up. The Federal Election Commission said that such information constituted communications advocating the election or defeat of a clearly identified candidate, and since the expenditure was just over the $100 threshold, the Federal Election Commission was going after them.

The American Civil Liberties Union came in on the case. It is clear to any person with a minimal knowledge of election law and an understanding of Buckley against Valeo and the first amendment, that informing people of the voting records of legislators is protected activity that cannot be regulated by the Federal Election Commission. No candidate is identified in the pamphlets; there are no expressions of advocating the election or defeat of any person. Yet, the mature Federal Election Commissioners feel that our Republic cannot stand for such outbreaks of free speech. The leader of the New Jersey TRIM group, Bill Burke, explained the Federal Election Commission action would have dangerous ramifications. If you cannot talk about your Congressman in a pamphlet, the Federal Election Commission can go after anything:

> "We were really surprised by this," he said. In no way is it targeted to the election. It just seems to me as an individual that, if you can't use the Congressional Record publicly, and talk about how your Congressman votes, then freedom of speech doesn't mean what I thought it did. It means that every group—left, right or center—won't be free to say what it thinks.

The cases are still pending, but it is clear that the Federal Election Commission had no business bringing the weight of the Federal Government down on such groups. How much has this case cost the American taxpayers? The Federal Election Commission will not say.

As evidence that the actions of the Federal Election Commission can sometimes be reduced to comic-opera proportions, I cite the case of AFSCME, or the American Federation of State, County, and Municipal Employees.

THE AFSCME CASE

Although the Federal Election Commission is pursuing the TRIM cases, the writing is on the wall. In the AFSCME case, a judge has again thrown the Federal Election Commission out of court for bringing a frivolous action.

On May 14, 1979, U.S. District Court Judge John L. Smith dismissed the Federal Election Commission's complaint filed last November against the American Federation of State, County and Municipal Employees (AFSCME) for failing to report its expenditures made for a political poster circulated to its members in 1976. (*FEC* v. *AFSCME*, Civil Action No. 78–2114). The court held that the poster did not expressly advocate the election or defeat of any candidate and thus did not come under Federal Election Commission jurisdiction.

The poster, more in the nature of a cartoon, depicted a caricature closely resembling then-President Ford embracing another figure resembling former President Richard Nixon. The Ford figure is wearing a button reading "Pardon Me" and beneath the figures is a quote attributed to President Ford made on July 24, 1974:

> I can say from the bottom of my heart—the President of the United States is innocent, and he is right.

The printing and circulation costs of the poster amounted to $983.73.

According to the Federal Election Commission, AFSCME violated 2 U.S.C. 431 (f) (4) (C) for failing to report the costs of that poster. That section of the law, known as the Packwood amendment, requires corporations and unions to report the costs of a "communication expressly advocating the election or defeat of a clearly identified candidate," but only if the communication is "primarily devoted" to such express advocacy, and then only if the costs exceed $2,000. Since AFSCME had already reported $23,000 in such costs for expressly advocating the election of candidate Carter, and thus exceeded the $2,000 threshold, the costs of the poster were, according to the FEC, required to be reported.

On December 6, 1978, AFSCME filed a simple, 10-page brief in support of its motion to dismiss the Federal Election Commission complaint under rule 12(b) (6) for failure to state a claim upon which relief can be granted. AFSCME basically argued that the poster did not amount to "express advocacy" under the statute, and that if it did, such a reading of the statute would be unconstitutional under the first amendment. The American Civil Liberties Union filed a short brief amicus arguing the basic points raised by AFSCME.

Two months later, after asking for several extensions, the FEC filed an opposition to the AFSCME motion. Most of the Federal Election Commission's short, 13-page brief, was devoted to procedural aspects of the case and the legislative history of section 431(f)(4) (C). The last two pages of the brief addressed the merits of the Federal Election Commission case which consisted principally of arguing that if AFSCME's poster was not considered as "expressly advocating" the defeat of candidate Ford, then there would be a loophole in the law since communications which impliedly advocate the election or defeat of a candidate would be exempt from Federal Election Commission regulation.

The court apparently had no trouble in dismissing the Federal Election Commission complaint. In his terse 2½-page decision, the judge noted that the definition of "expressly advocating the election or defeat" of a candidate was derived directly from the Supreme Court decision in *Buckley* v. *Valeo* 424 U.S. 1 (1976) when it held that former section 2 U.S.C. 434(e) requiring disclosure of independent expenditures could withstand first amendment challenge on overbreadth grounds only if they "expressly advocate" the election or defeat of a candidate. The Supreme Court illustrated that such terms of express advocacy are "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," and the like. Indeed, the Federal Election Commission's own regulation defining "expressly advocating" parallels the Supreme Court definition. The district court further noted, that although the poster may have influenced the voting of AFSCME's members, the poster "contains communication on a public issue widely debated during the campaign," and as such is political speech exempted from the election laws.

POSSIBLE IMPACT OF THE DECISION

It seems quite evident to many observers that the Federal Election Commission action against AFSCME would not be sustained, and it seems curious as to why the Federal Election Commission brought the action in the first place. There is some speculation that the Commissioners purposely brought this suit against the union knowing full well it was going to lose. In other words, as was shown by other speeches today, the Federal Election Commission has clearly exhibited biased enforcement actions on the side of big-labor. The National Right-to-Work Committee has successfully sued the Federal Election Commission three times on the Federal Election Commission's nonenforcement against labor organizations using compulsory dues for political purposes. Thus, by bringing this case, the Federal Election Commission could say that it brought a case against a union which was not initiated by the National Right-to-Work Committee. In that way, they can try to portray themselves as equal enforcers of the law. However, this is a facade as has been clearly shown. Furthermore, this decision is bound to have some application to other Federal Election Commission actions pending against issue-oriented groups.

For example, the Federal Election Commission, as previously noted, is pursuing court actions against the TRIM groups. In those TRIM cases, the Federal Election Commission is arguing that the distribution of literature containing the voting record and commentary on Members of Congress regarding spending issues is "expressly advocating" the election or defeat of those Members of Congress who happen to be candidates at the time of the publication. It is doubtful that the Federal Election Commission will be successful in those cases. It is also doubtful that any serious consequences will arise if groups such as TRIM choose to exercise their first amendment rights even though those rights are considered by the Federal Election Commission to be a loophole. As long as candidates timely report the source of their contributions, both monetary and in-kind, the voters are sufficiently informed of the influences placed upon a candidate in order to evaluate his possible performance in office.

Since the poster was circulated only to AFSCME's members, the issue as to whether such communications could be made to the general public without regulation was not before the Court to decide although the Court, as noted above, stated that the poster contains communication on a public issue; that is, Watergate, and President Ford's handling of a certain aspect of it. Thus, the Court correctly stated that this political speech is "protected from regulation under 2 U.S.C. 431, et seq." Slip opinion at 3. Consequently, it could be argued that under this decision and *First National Bank of Boston* v. *Bellotti*, 98 S. Ct. 140 (1978) which also dealt with communications on an "issue," that corporations could make such expenditures without any regulation from the Federal Election Commission. Of course, political committees already registered with the Federal Election Commission would report these expenditures anyway since they are required to report all expenditures, regardless of their nature.

Mr. President, has the Federal Election Commission learned from this AFSCME opinion? Obviously not. Within a few weeks after the ruling, the Federal Election Commission decided advisory opinion 1979-13. The majority of the Commissioners ruled that the Raymond International Co. could not include in its employee newsletter, general information about its political action committee, even though such notice did not include a request for funds. It is truly a sad state of affairs in our country today that the chilling effect of the Federal Election Commission is such that a company cannot print legitimate news in its newsletter. Although many observers think that the Federal Election Commission was clearly wrong there, it is asking too much that everyone who comes before the Federal Election Commission be prepared to take the time and money to seek judicial review of this rampant agency. It is not asking too much, however, to ask the Senate as part of the confirmation process to make a detailed and careful review of the qualifications of the nominees to the Commission, to make certain they will exhibit mature judgment and will not further suppress our precious freedom of speech.

The frightening aspect of the Federal Election Commission's track record is not so much that it is abysmal, and that its litigation is held up to ridicule by other enforcement agencies and even judges themselves. What is more troubling is the plethora of serious cases that get buried or covered up by the Federal Election Commission. Unfortunately, it is asking the impossible to expect a citizen to hire lawyers to prod the Commission into action. Since the Commission knows this, it is easy for the members to duck out of investigating the difficult cases without much fear that they will be called to task for their actions. In one particular case, for example, Congressman PANETTA filed a complaint recently with the Federal Election Commission charging that the United Farm Workers, headed by Cesar Chavez, was forcing its members to pay money to its political funds.

The Federal Election Commission investigation consisted of a simple inquiry to the United Farm Workers, and were told by letter that sure, the Farm Workers extract this money from its members, but it goes to State campaigns rather than Federal campaigns. Blindly and without further question, the Federal Election Commission accepts that answer as the full investigation of the matter and closes the case. No audit, no request for records, nothing, in spite of the fact that the Farm Workers Federal Fund shows an unexplained accounting of $13,000 which the Federal Election Commission never bothered to trace. Where there are legitimate complaints, the Federal Election Commission buries its head in the sand. When no one complains, such as in the McCarthy and Reagan cases, the Federal Election Commission goes hog wild, only to be told by the judge that they are wrong. In other cases concerning the AFL-CIO and the NEA, it has been mentioned that only when pushed, will the Federal Election Commission finally take responsible action.

Mr. President, since incumbents can be easily identified with an issue and how they handled it during their tenure, much favorable and unfavorable communication regarding a candidate will be chilled by the specter of Federal Election Commission enforcers swooping down with the Commissioners' blessing, even though the Supreme Court has clearly told the Federal Election Commission that the first amendment is hands off. For example, President Carter's handling of the Panama Canal or Taiwan defense treaties should be able to be critically assessed and discussed without the chilling effect of Federal Election Commission interference. Our citizens should be able to communicate to each other their opinion of our roles and views in the current SALT II debates in complete freedom.

But they cannot be assured of that freedom unless they are willing and able to hire lawyers to face up to the Federal Election Commission.

I hope that in the future the Senate will take a closer look at the nominees, particularly those submitted by Presidents who themselves have actions pending before the Commission in relation to their own campaigns. It would be a travesty for us to rubberstamp the nomination of a Commissioner who will give us more of the same irresponsible Federal Election Commission actions.●

THE APPALACHIA PROGRAMS

● Mr. STENNIS. Mr. President, I strongly support the Regional Development Act of 1979, which will extend the authorization for the programs of the Appalachian Regional Commission for another 4 years. Since 1967 I have had the opportunity to watch at first hand the growth and success of these programs in a part of the State of Mississippi, and can vouch for their effectiveness.

Mississippi was not included in the Appalachian Regional Development Act of 1965, as it was originally passed. In 1966 I initiated an effort to have the counties of northeast Mississippi included in the programs. A study by the staff of the Appalachian Commission demonstrated that this portion of Mississippi was integrally related to the Appalachian Region, and should be included in Appalachia. In October of 1967 the Congress amended the Appalachian Act to include 20 counties in northeast Mississippi and also added the two contiguous counties in northwest Alabama.

By this time all authorized mileage for regional development highways had been allocated to other States, and none was availalbe for Mississippi. When this authorization was last considered, in 1975, I offered an amendment to increase the highway authorization by 200 miles. The amendment was accepted by the committee and enacted into law, and I am pleased to say that Mississippi is now a full partner in the development highway system.

As my fellow members know, the programs sponsored by the Appalachian Commission are to further economic development, educational improvement, and health care within the 13-State Appalachian Region. Since my amendment of 1967 was signed into law, very significant progress has been made in these programs, all aimed at health, education, and job development. During the 12 years projects have been completed or approved that for Mississippi now have a dollar total, through the last fiscal year, of $180 million. Of this money about half came from grants from the Appalachian Regional Commission, and half from other Federal programs and matching funds of State and local money.

About a third of the money has been spent in education, and another third in community facilities, for the most part for water and sewer facilities. A sixth went for health projects, and the rest for child development, recreation, and transportation. In addition there have been substantial investments in highways, especially access highways for economic development purposes.

Within the 20 county area many fine vocational and technical education facilities and health care facilities have been provided, as well as other projects intended to stimulate the economy and enable the people to take full advantage of the additional economic opportunities presented. These programs have been extremely effective in Mississippi, and I strongly support the Regional Development Act, now before the Senate to continue the authorizations for another 4 years.●

A SOVIET DAY OF SHAME

● Mr. ZORINSKY. Mr. President, August 21 marks the 11th anniversary of the Soviet-led invasion of Czechoslovakia. Like the invasion of Hungary in 1956, the Russian assault on Czechoslovakia was a bitter affront to democratic principles.

Alexander Dubcek had begun to make democratic reforms in a country which lies at the heart of Communist tyranny in Eastern Europe. The hopes which Dubcek had kindled across Eastern Europe were destroyed on the night of August 20, as troops from five Warsaw Pact countries invaded Czechoslovakia.

Despite protests from most of the world's Communist parties not involved in the crisis, as well as the free world, the Soviet Union carried out their invasion and ousted Dubcek and other key democratic reformers in the Czech Government.

At this time I would like to pay tribute to one of Czechoslovakia's brightest hopes: The Charter 77 group. Nearly 1,000 courageous Czech men and women have signed this document, which is a plea to the Czech Government to adhere to the Helsinki Agreement and their own democratic constitution. Charter 77 members have increasingly been subjected to harassment on the part of the Communist government in Prague; I feel it is about time that the Czech Government stopped making a mockery of their international agreements and even their own constitution.●

THE "EVERYWHERE" RADIO SERVICE

● Mr. GOLDWATER. Mr. President, the examples of occasions when amateur radio has provided great benefits in times of disaster are almost too numerous to count. Ham radio operators were there in Wichita Falls, Tex. this spring when a devastating tornado left 45 dead and 1,500 injured. And they were in Jackson, Miss. when the Pearl River overflowed its banks.

Mr. President, we owe these amateurs a great vote of thanks for their help in time of trouble. And on this note, I ask that an article from the Mobile Times entitled "The Everywhere Radio Service," written by Perry Williams of the American Radio Relay League be printed in the RECORD.

The article follows:

[From Mobile Times, August 1979]

THE "EVERYWHERE" RADIO SERVICE—AMATEUR RADIO

(By Perry Williams)

On April 10, 1979, a devastating tornado cut a path a mile wide, several miles long, through Wichita Falls, Texas. It left 45 dead, 1,500 injured, 6,500 houses, 1,500 apartments and 175 mobile homes wiped out. In a matter of minutes, one-fifth of the population of 100,000 was homeless; the entire city without commercial power and telephone. With such total devastation, how were casualties kept so low? Amateur Radio is the answer.

Amateur Radio operators had provided the necessary "eyes" for the National Weather Service, allowing it to give ample warning for the citizens to take cover. In the relief phase Amateurs provided communications from battery-powered rigs for city officials, Red Cross and the like until the telephones and power lines were restored days later.

Hams were there in Wichita Falls, Texas, this spring, and in Jackson, Mississippi, when the Pearl River went farther over its bank than ever before. The Amateurs were ready at Three Mile Island, prepared to coordinate communications between the Pennsylvania Emergency Management Agency and evacuation centers.

Amateurs aided the birth of the Forestry Radio Service as we read in Gary Gray's story in Mobile Times for May. Dr. Frank Conrad switched easily from Amateur station 8XK to the pioneering broadcast station KDKA–Pittsburgh, in 1920. Clarence Tuska laid down his blue pencil as editor of QST at the start of World War I to accept an Army commission. As a trainer of radiomen at Camp McClellan, Tuska said, "The very first student we looked for was an Amateur . . . he has all the experience . . . acquaint him with a few special facts and he is ready for his Army job . . ."

In 1921, Amateur Station 1FBF relayed an SOS from a ship in distress to the Boston Navy yard. In 1979, 13-year-old Mike Davis, WD6FFV, in California relayed a distress message for the yacht Miss Carmen in the Caribbean to the Coast Guard in Miami. In 1923, Don Mix, 1TS, operated from the schooner Bowdoin during McMillan's Arctic expedition. In 1978 Naomi Uemura, JG1-QFW, had Amateur Radio gear with him on his solo trek across the North Pole.

Who are these Amateurs? Senator Barry Goldwater, ranking minority member of the Senate Subcommittee on Communications and author of "Rewrite" Bill S. 622, operates as K7UGA. You expect Roy Neal to man an NBC mike; he's also on the air from K6DUE. WA6PVA is the call of Joe Rudi, outfielder for the Angels. Guitarist Joe Walsh of the Eagles, recent grammy winners, hams under the call WB6ACU. Country music fans know Ronnie Milsap; hams recognize him as WB4KCG. Bill Leonard heads up CBS News; he's W2SKE on the ham bands. The Heath Company, makers of kits for do-it-yourselfers in Electronics, is headed up by D. W. Nurse, W8GCD. And to top off this list royally, there is JY1 of Jordan, King Hussein at the mike.

What do Amateurs do? With equipment at home or in the car, they talk to each other, not always with voice: Morse code, teleprinter, television (using fast, medium or slow scan) or even facsimile may come into play. Ham clubs have their own VHF repeaters supported by the dues of a couple dozen to several hundred members. This makes their mobile or hand-held rigs very useful for local emergency work. As a matter of fact, the hams in Wichita Falls had used repeaters, hand-held and mobiles in a citywide drill a week before the tornado struck. Some of the equipment in the typical Amateur repeater has been built by members, particularly the control devices. Other Amateurs use the moon, meteor trails and the aurora as reflectors for their signals. Hams have been in the space age since 1961 with Orbital Satellites Carrying Amateur Radio—OSCARs for short. Just beacon satellites at first, the second generation, including Oscars 7 and 8 now in use, featured bandpass repeaters. A third generation of semi-stationary birds is almost ready for orbit. All these Amateur activities are carried out on frequencies allocated by the International Telecommunications Union and FCC ranging from 1800 kiloHertz to 300 GigaHertz.

Amateurs need licenses from FCC which come in five levels of expertise, Novice to Extra Class. Morse Code at speeds from 5 to 20 words per minute, technical tests ranging from elementary to complex, and questions on regulation face the applicants. Some study on their own, but most take advantage of free or inexpensive courses in their hometowns taught by skilled Amateurs.

Yes, Amateurs are everywhere, and certainly among readers of Mobile Times. How about sending me your QSL with a note or two about your profession and your ham activities? Write American Radio Relay League, Dept. MT, Newington, Connecticut 06111.●

CENTER FOR INDEPENDENT LIVING LAUDED

● Mr. CRANSTON. Mr. President, the August issue of Psychology Today contained an interesting article about the Center for Independent Living (CIL) in Berkeley, Calif. Written by Sonny Kleinfield, a reporter for the New York Times, the article describes the CIL—a program that I strongly believe in and support.

Mr. President, CIL has served as a focal point for efforts by handicapped individuals to seek their full and equal share of the rights to which all are entitled in our land. CIL has been a pioneer in the development of the concept of independent living services—a concept that gave rise to title VII of the Rehabilitation Act of 1973, as added by last year's Rehabilitation Act Amendments, Public Law 95–602.

Mr. President, I work very closely with CIL's excellent staff; I support their efforts and am pleased that Psychology Today has featured them in its August 1979 issue.

I ask that the article be printed in today's RECORD.

The article follows:

DECLARING INDEPENDENCE IN BERKELEY

(By Sonny Kleinfield)

They make revolutions in Berkeley. This is where the Free Speech and the People's Park struggles found their momentum. The hotbed of liberal fervor. In more recent years, something new and positive has been happening here. The handicapped were clanking into town and living independent lives. The reason for all the action, I was told almost reverently, was the Center for Independent Living.

The center crouched low on Telegraph Avenue. It had the look of a lawn-furniture store from the outside, an unlovely affair with walls splashed with white paint, wedged between Pancho's Villa Mexican restaurant and a small parking lot. With a staff of 120 people, half of them disabled, the center now serves about 5,000 clients on an irregular basis. Every conceivable degree of disability is handled, from the elderly who have mild mobility problems and need to be bused, to the totally paralyzed.

I walked inside. There was an imploded look to the place. Some individuals in wheelchairs jostled along the hallways. Several people at the reception desk were hugging phones and talking animatedly. The white hallway walls were scuffed from wheelchairs whacking against them. They resembled retaining walls at auto racetracks, dirtied from cars slewing out of control. From an open office I heard a young woman, progressively going blind, tearfully unloading her problems to a counselor. I checked out some of the many notes thumbtacked to cork bulletin boards in the corridor. One read: "Disabled man seeks companion for headtripping, studying together, Scrabble, etc. Ray." Another: "For sale, one chrome wheelchair. Used for three months. $100. Call Peter." Another: "For sale. 1977 Dodge van. Built to drive from a wheelchair. Low mileage. Like new. Price: $10,000. Call Mike." Another: "Self-defense course. Become familiar with your own areas of strengths and weakness and how to apply these to self-defense techniques. The course will concentrate on using canes, crutches, and wheelchairs as tools in self-protection. Starting March 6." If you were disabled and needed help, this seemed the place to come.

The mover and shaker behind the center was an outspoken and vigilant man named Ed Roberts. In 1962, Roberts, a postpolio quadriplegic, became one of the first severely disabled students to attend the University of California at Berkeley. Not only was Roberts confined to a wheelchair, but he also needed to spend most of his time inside an iron lung. He was put up at the Cowell Hospital on campus. Within a couple of years, Cowell became a haven for a dozen seriously disabled students in what had turned into a formal program, the Cowell Residence Program. The patients, however, found the hospital custodial in nature. They rarely ventured off campus into the community, the main reason being that the community was architecturally inaccessible to them. A unity developed, with a dim sense of purpose. They began to entertain the selfish, ambitious hope that they could get out of the hospital and live like the abled-bodied.

They decided to whip up some alternative to the Cowell arrangement. With funds from the federal Office of Education, they created a Physically Disabled Students' Program in 1970. It was a sharp departure from past practice in medical and rehabilitation fields. The notion was to assume a hostile approach to society's limitations and to set up services directed at getting disabled people to live independent lives. The philosophy of the nine founding members was: those who best know the needs of the disabled are the disabled themselves; comprehensive programs are urgently needed to meet those needs; disabled people must get out and get into the community.

As the founders began to sculpt and implement programs, they found the disabled student population steadily swelling at Berkeley; more and more of these students began to move from Cowell into the community. Requests for help rose at an astonishing rate. Rarely were pleas turned away, even when they came from nonstudents. By the spring of 1971, the amount of time devoted to community people began to impinge seriously on the program's ability to meet the needs of students. Thus was hatched the idea of a separate Center for Independent Living to serve everybody.

The particulars were hammered out for more than a year. The group was officially formed in April of 1972. A roach-infested two-bedroom apartment was found with haste on, appropriately enough, Haste Street. The organization had one nagging problem: no money. Dollars were dug out of personal pockets, some benefit poker games were arranged, but not until July of 1972 was the financial squeeze settled. The Rehabilitation Services Administration produced a grant for $50,000, enough to tide them over while other funds were secured.

Jerry Wolf, who uses a walker to hobble about because of the crippling effects of multiple sclerosis, coordinates the housing department. He was my first stop.

The purpose of Wolf's department is to act as a listing agency of accessible housing for the disabled and as an advocacy group to prod landlords into making their housing accessible. The formidable hurdles it faces were in black and white on a tattered map of Berkeley tacked to the wall behind Wolf's desk. Shaded-in portions represented accessible housing. That meant six or fewer steps to get in. Most of the town, perhaps 34 percent, was unshaded. One reason was that a ramp to surmount just six steps could cost as much as $1,000.

"The general vacancy rate in Berkeley is just 1 percent," Wolf said to me, "Finding wheelchair accessible places cuts the supply down quite a lot. Anyway, rents are usually too high. They've gone up a good deal lately, so that a two-bedroom is $200 on up. Finding a studio under 150 bucks is a feat of magic. We keep lists of people looking and try to arrange roommates. That's the only way some of these people can afford to put a roof over their heads." Wolf pointed out that although the disabled can apply for housing subsidies, they're tough to get and insufficient as yet to keep pace with demand.

Around 100 requests a month were streaming into the department, far too many to fill. "One of the problems we have is that Berkeley is being advertised as a Utopia for the disabled," Wolf said. "But not enough housing is available. People are literally flocking here from all over the country. They are landing at the airport and calling us up. About once a month someone pulls up outside in a taxi with all his belongings and says, 'Here I am.' One person showed up with an attendant and we had to put him in a hotel. His attendant left and he started asking bellhops to employ his leg bag. The hotel kicked him out. We finally found him a place with another attendant. People commonly show up with no money. One guy hitchhiked here with his wheelchair."

Wolf shook his head. "The truth is, we're placing about eight to 10 people a month, though sometimes I'm surprised that we place anyone at all."

I wonder how successful Wolf had been in convincing landlords to make the modifications that would render more dwelling accessible to the disabled.

"Mixed success," he said. "A lot of landlords are reluctant to do anything because they think ramps look ugly. Then again, every so often we get a call from a landlord who wants to rent to the handicapped. He likes them because the turnover tends to be low. One of the big problems is that no one provides money for modifications. We try charitable organizations and private benefactors. We do get money sometimes, but not much. It's a case of twisting arms."

New housing, under law, is required to set aside a certain number of apartments accessible to the handicapped. However, the law is useless if no housing is going up. Berkeley hasn't seen any since 1973. Land is expensive; nobody is buying.

I walked outside and meandered through the parking lot to a cluster of garages. This was where the van-modification and wheelchair-repair departments were housed. At the far end of the garages was a shop where wheelchairs were fixed.

"We can fix most anything the same day," one of the men in the shop said. "You go to many places and they'll take weeks. Here, if we take any length of time, we have chairs to loan out so these people don't lose their mobility."

Eight repairmen work in the shop, three of whom sit in chairs themselves. The shop does about $10,000 worth of repair work a month. Wheelchair frames break constantly. "We do a whole lot of welding work," one of the men said. "A regular user may be in almost every week for repairs. These chairs are made terribly."

In a small room off the chair shop toiled Vince Grippi, design engineer. Since late in 1975, he has been working to build the perfect wheelchair, a superchair. If he has his way, extant wheelchair manufacturers can go into the lawnmower business. His chair will be the best. Taped on the wall was a gigantic artist's rendition of it.

"You know, nobody has given a thought to the mobility of the handicapped," Grippi said, playing with a pencil. "Nobody cares about building a better chair. Well, I care. We talked to a lot of disabled people and most of them were unhappy with what they were sitting in. The speed, the range, the reliability, the flexibility. They really had no voice in what they needed. 'Here's a wheelchair,' they were told; 'take it or leave it.' Wheelchairs, understand, are their legs. We started with a clean sheet of paper."

He pointed out some of the features of the superchair. It will have a cast frame that will be much sturdier. State-of-the-art technology will be incorporated. Grippi has designed an electric system that he claims will be much more reliable than conventional systems. "Most chairs will go four or five miles an hour and 10 or 12 miles before the battery needs charging," he said. "Ours will go six miles an hour and 30 miles without charging. We've got a totally solid-state system, rather than a relay system."

The chair will be adjustable to handle any size person. With a traditional chair, you have to pull the armrests out of the sockets and toss them on the floor to transfer out of the seat. In Grippi's chair, the rests will pivot downward electronically. The wheels are sturdier. And the chair is being constructed out of standard equipment that you can get anywhere. For instance, it uses Schwinn bicycle tires and an ordinary automobile battery. Everest and Jennings has its own tires and batteries. The model is expected to be out sometime in late 1980.

That night, I ate dinner with Phil Draper and Judy Heumann—executive director and associate director, respectively, of the center. Both are quadriplegics. The typical discussion of where to go ensued. Everyone had a favorite place. A Chinese restaurant, Tung Yuen, was mentioned. Draper shrugged noncommittally. He said that would be okay, except he could fit under only one table there. Draper is tall. "Let's just hope we get it," he said. We were in luck. The table was vacant.

Heumann came down with polio when she was 18 months old, she has been paralyzed from the shoulders down ever since. Draper has lived with other demons.

In 1961, Phil Draper was a fun-loving, carefree 17-year-old, interested in the same things most young men that age are interested in: girls, cars, booze. So, it was not surprising that he and two friends set out in Draper's car on a weekend jaunt to Fairfield, California, near where he lived, to see what was happening there. Nothing was, as it turned out, so the trio turned around and headed home. There was beer in the car. Draper had two cans. He says he wasn't drunk; he could hold a lot more than that.

His memory stops three miles before the collision. He was later told that it had been raining that night, but he remembers no rain. He was doing 55 when he jerked giddily to the left, crossed the divider, and slammed head-on into the onrushing car. Draper's neck was broken. He was left a quadriplegic.

Draper spent most of three years in hospitals. Having been a bullheaded individual, he reacted to his disability with a combination of bitterness, depression, and resentment. Once he was released from the hospitals, he didn't get on with his parents, so he lived on his own with full-time attendant care. "This was back in the 60s.

It had never been heard of. It was a new experience. A vegetable living by himself." It wasn't much of a life, though. "I was far from active. I was thrust back into society as a freak. I lived an active life of doing nothing." For the most part, Draper drank. Beer. Wine. Hard stuff. Whatever he could get his hands on. He was drunk most of the time. The moments he wasn't he mostly spent reading. He remembers one day reading every single word in the morning newspaper, including every word of advertising copy. "It was possibly the most boring experience in my entire life." He came to Berkeley in 1970 for no particular reason, learned about plans for an independent living center, got involved, and abandoned drinking. He is now in his mid-30s.

The Chinese restaurant was a tiny, dimly lit place. A half-dozen young people were crammed into the small room, their leathery faces and rumpled clothes blending with the dun-colored walls. Because of its proximity to the center, the restaurant often was patronized by the handicapped and so fellow diners paid us no particular mind. Draper used a fork that was strapped to his wrist with an Ace bandage. But he could shovel food down pretty fast. The wheelchair doesn't disguise Draper's owlish, rabbinical bent. He speaks, not with soapbox intensity, but softly, with an almost mournful tone.

I asked Draper and Heumann how they spent their time. "The administration of CIL devotes most of its time to looking for money," Draper said unhappily. "It's a hard sell. It shouldn't have to be that way. We're not eating the money. This is a damned good cause. You find me a better one." The center was operating on a yearly budget of approximately $1.2 million, money extracted from about 25 different sources. "We have tapped every conceivable source," Draper said. "One of the biggest problems is that we have no permanent source for funding. So it's soft money. Most places fund for a year and that's it. Social-service programs have a high mortality rate."

I asked them how the movement was going. "One thing that's very important," Draper said, "is the collectiveness, people working together. That's how they get their strength. Activism is found in only a few places in this country. We need more involvement. Too many disabled people are still sitting in their attics and reading old comic books. They've got to start shouting."

Heumann is a petite woman with a positive, earnest manner. She is 30. She was once arrested on an airplane for refusing to get off after she and her wheelchair had been cleared to fly. She went to court and won.

"I think the movement lies in the hands of disabled individuals," she said. "I am concerned that not enough people understand the independent-living programs. One of the reasons I think CIL is so successful is because it's run by disabled people. Our clients have hope when they see other disabled people managing their own lives. I don't think that the government is pleased that the disabled run these programs. Disabled people need to be much more militant about this. I think the next few years are going to be critical in the development of the movement. In a sense, the movement is just beginning."

Are more demonstrations needed? "More involvement," Draper said. "Just more involvement."

Huemann was crisp and downright. "We need more demonstrations. We still have many scores to settle."

The center's Law Resource Center is housed in a shopworn building across the street from the main building, and the next morning, I went there to talk to the program's director. Mismatched desks and chairs and bookshelves were spaced around the room. The floor was much scuffed up; track marks from wheelchairs were plainly visible. Old Congressional Records and Federal Registers were piled high on the floor. Coffee was percolating in a percolator. A spider plant was hanging in the window.

The director of the law center, Bob Funk, is a lawyer, one of two in the department. We sat and talked in a small, airless room.

"Our goal here is to be a backup to a lot of community groups," Funk said. "We're agitating to get the disabled to be more assertive. To have them know they can raise hell."

A good deal of what the office does is to explain the laws and rights of disabled people. It will also file suits and negotiate settlements. Funk said three suits were in court at the moment, and six were about to be filed. Three previous suits had already run their course, all successful for the center. He said he was trying to help about 160 clients at the moment, the vast majority of them complaining about discrimination of one form or another. Funk rattled off some recent cases. Three local restaurants wouldn't serve customers in wheelchairs. A waiter at one of them flatly said, "We don't serve wheelchairs." The second restaurant said it would serve the person if he sat in an isolated walkway that joined the place to a coffee shop. The third place refused service because it said the person was too disturbing a presence. He was in a wheelchair folded out like a bed. "He would be disturbing," Funk said. "But that's tough. That's the law."

Complaints were reaching the center about auto-insurance firms charging the handicapped 30 to 50 percent higher rates than the able-bodied, though documentation makes clear they aren't greater risks. Funk said a class-action suit was being readied against one immense insurance firm.

"We are clearly in the right in almost every case we get," Funk said. "They're blatant cases of discrimination. Not even subtle discrimination. They haven't a chance in court. Discrimination is such a traditional thing in this country that these people don't even realize they're discriminating. We can't possibly lose most of these cases. In fact, we're forced into court a lot more often than we should be."

Funk laughed at the thought of how ridiculously simple most of the cases were. "What's likely to happen is that, at first, all of the cases will be blatant. Then, they'll get subtler and subtler. People will get more sophisticated in their discrimination. Restaurants will refuse to serve a handicapped person, but say the reason is that he's rowdy or doesn't have a tie on. The disability won't even be mentioned. This happened with the civil rights movement, and it took 20 years to run its course. The same will happen with the handicapped."

Anna Steiner is a beautiful woman with raised eyebrows and poignant circles of pure white skin around her eyes. Her only disability is a bad case of arthritis. She's in her 30s and has an infirmity most people don't get until their 60s. She heads the center's job-development program, which faces the awesome task of trying to get jobs for the disabled.

"Basically, we're a placement service," Steiner told me. "Somebody has to come in here with some education, skills, abilities that could be translated into jobs. We've had lawyers. We've had a person who was a missionary. We've had a talented artist. We're mostly working with the physically handicapped, but we're expanding into the mentally handicapped."

The program has a caseload of 125 clients, Steiner said. Since the program began in the fall of 1975, the placement rate has hovered around 40 percent, she said, though it had of late nudged up to 60 percent.

She spoke of some unusual cases. A blind janitor had been placed in a nearby town. "This was one of the cases where I said, no way, there's just no way for this one." The man told Steiner that he had experience scrubbing his father's laundromat. He was totally blind in one eye and legally blind in the other. How would he clean a room? He said he would scout out the premises in advance until he knew the area by memory. How would he tell what was dirty and what was clean? He said he would assume everything was dirty and clean it all. Steiner said that a man with muscular dystrophy got a job doing drafting for the Navy. The only necessary concession was a lower drafting table.

"We work a lot with employers, too," Steiner said. "Basically, we try to advocate for the disabled in general. We don't go in and say, 'Hey, you're really stupid to have the kind of attitude you have.' We're subtler than that. We generally work with personnel people, who are sympathetic, because they don't have to work with the handicapped people. We'll do whatever is needed to help the employers. We'll check out the work environment to see what modifications are necessary. We'll help draft affirmative-action plans. We're getting a lot more interest from employers worried about the law."

Tanya Temporal, a counselor in the research and demonstration project sat on top of a desk on the first floor, beneath the blind-services department. She was finishing a staff meeting. Temporal counsels severely disabled people. The project she is a part of hopes to prove that peer counseling of the handicapped works better than any other kind. Her short frame and lean, cheerful face belongs in California; her hair, wild and electric, looks fine in Berkeley. She's in her early 20s, and prematurely gray. Her conversation is a stream of information, a Niagara of words that, even so, somehow seems laconic. She smiles quickly and steadily.

"One of the main things we do is emotional counseling," she told me. "Getting people to deal with their disability and to accept it. We have five part-time counselors, and each one handles about 10 clients. We have a caseload, altogether, of about 80 clients."

She talked about her most difficult case at the moment: a 23-year-old girl afflicted with severe cerebral palsy who was living in an institution. Her speech is extremely difficult to understand.

"I'm dealing with her on an emotional level." Tanya said. "I'm not really telling her. I'm allowing her to discover. A lot of time we role-play. 'Okay, here we are in your apartment. I know you like to bowl. Lets go over how you'll set up a bowling appointment. Who are you going to call?' I've got to get her to demand to go out and do things, not wait around for others to ask. She hasn't really accepted her disability. She views it as a burden that God has placed on her. She believes that by God's magic power she'll recover some day. She's very religious. I try not to discourage that belief altogether. I try to tell her, okay, for today you're not going to get better. What can we do today?"

Tanya studied human development in college. For 13 years, she has suffered from rheumatoid arthritis. She has no idea why she got it. She has no pain, but has trouble walking and holding things. She occasionally resorts to a wheelchair. "I have accepted my disability," she said. "I can't say I don't get angry when I drop something on the floor and can't pick it up. But I don't let anger overtake me. I'm not going to paint the picture of the Super Crip. Some people make it out that they're the Super Crip and it's wonderful to be disabled. Well, that's going overboard the other way. It's never wonderful to be disabled. But you can still be a whole person, still be a happy person."

I went next to another hive to chat with Lon Kuntze. He, too, is in his early 20s, a big, broad-shouldered man with frizzy hair and a beard. Deaf since birth, he runs the deaf-services program. He nodded hello when I came by. Lynette Taylor, the center's staff interpreter, was to assist in our interview, though she was preoccupied with some phone calls. Kuntze suggested we begin by writing questions and answers on a legal pad.

"The biggest problem for deaf people," he wrote, "is, of course, communications. The deaf are the only disabled group that can't regularly use the phone."

The only way the deaf can talk, Kuntze explained, is by use of what are known as TTYs. Basically old teletypewriters that, by use of a jack, can be hooked to a phone line, they clack out in written form what conversation is to be exchanged. They aren't cheap and they aren't readily available, so even if a deaf person could get hold of one, he couldn't call very many people. Some federal offices have installed them, as has the phone company at a few of its service centers. One of the troubles is that it's an agonizingly slow way to talk, yet anyone talking over a TTY pays standard phone rates. A popular deaf person can run up staggering bills.

Lynette finished with her calls, and came over to interpret. Her mother was deaf, so she picked up sign language early on. Kuntze was relieved; he was getting a writing cramp.

"Deafness is a disability on the communications level, whereas other disabilities are on a physical level," Kuntze said. "The deaf can't deal with people who don't know sign language. The best remedy for the communications problem is interpreters. The biggest trouble is there aren't enough interpreters, and there's no money for interpreters. They cost up to $10 an hour. Most of them get $7.50. Court work costs $15. The money, from their standpoint, is terribly low. It should be equal to foreign-language interpreters, who get $15 to $35 an hour. That's why more interpreters haven't been attracted to the field. Deaf interpreters simply don't get a decent wage."

My last visit was with the community affairs department. Its aim is to address community issues and to inspire demonstrations when it senses the need. I spoke with Kitty Cone, who has muscular dystrophy, and with Hale Zuykas, whose cerebral palsy is so severe that he has but limited use of his hands and can barely utter intelligible speech. When he gets bogged down, he spells out his thoughts with a brisk tapping of the pointer. The back of his wheelchair sports a button reading: "ACCESS AMERICA."

Of late, the department had been working at mobility and architectural issues. Thumbtacked on the wall were two immense maps, one of Berkeley and one of Oakland. Black dots were inked in where ramps or curb cuts had been made. Berkeley looked pretty good, but Oakland had a long way to go before it could be called an accessible city.

"We are working quite a bit on transportation issues," Kitty said.

Hale began to struggle, wanting to say something. I couldn't understand his grunting. Saliva drooled down his beard and onto his clothes. Kitty had to interpret. "Hale says, 'Boy do we work on transportation. We're suing everybody in the world.' "

Paramount to all severely disabled people is the issue of getting around. For long distances, matters have improved since the Federal Aviation Administration ruled in May of 1977 that airlines can't deny seats to handicapped individuals. It had been common practice for the airlines to boot disabled people off planes, contending that they might hamper evacuation procedures should there be an emergency. Now, all airline personnel are required to be properly schooled in ways of handling the disabled. Several cruise ships have started to take wheelchair travelers. The first ocean liner so designated, the *Queen Elizabeth II*, boasts nine staterooms that were made for the disabled, with 12 more that are accessible to them. Thirteen elevators are on the ship. Some of Amtrak's trains can accommodate wheelchairs in certain bedrooms, and these trains offer accessible bathrooms. Stations are being built barrier-free. Hertz and Avis have hand-control cars at some of their locations, and the newer highway rest areas accommodate the handicapped. For lodging, Holiday Inns is making one in every 100 rooms accessible to the disabled population.

Local travel, though, is something else again. Wheelchair users can't very well hop into taxis. Subways, with the exception of the San Francisco, Washington, and Atlanta lines, aren't available to the severely disabled. And no available evidence suggests they ever will be. Elevators would be needed, and the cost is prohibitive. Public buses aren't much better, since their floors are around 35 inches above street level. A protracted battle, involving a spate of suits by handicapped groups, resulted in an order in May of 1977, from Transportation Secretary Brock Adams, requiring that buses with 22-inch floors—called Transbuses—be produced by 1979. Twenty-two inches is about as low as buses can be made without having them scrape the ground when climbing hills or going over bumps. The buses would also have to include ramps that would shoot out from underneath to allow wheelchairs and mobility-hampered individuals to come aboard.

The handicapped, however, aren't exactly ablaze with enthusiasm over the Transbuses. For one thing, the low-floor buses won't start rolling down city streets until 1981 or 1982, and a complete transition will take a good deal longer. The old buses must first wear out. What's more, how are the handicapped people going to get from their homes and offices to the nearest bus stops?

The center was in the midst of a suit against AC Transit, the biggest bus line in the Berkeley area, for failing to order accessible buses, as required by a California law, as well as by the federal order. AC owns a fleet of about 800 buses. As I talked with Kitty and Hale, a big AC bus rumbled past.

"Let us ride your bus," Kitty shouted out the window.

Hale laughed loudly and nodded his head in agreement.

Another transportation issue had to do with BART (Bay Area Rapid Transit). One of the three accessible subway systems in the country, BART was planning to automate a lot of its stations by withdrawing agents and monitoring stations through closed-circuit TV. The disabled were aghast at the prospect. They sometimes needed help to pay their fares, and if someone has an epileptic seizure or a blind person falls on the tracks, no agent would be available to assist. The main issue is safety, though, since the disabled fear that muggings and rapes would climb at an alarming rate. So Kitty and Hale were orchestrating protests to pressure BART into abandoning the idea. Pickets and rallies were being planned.

"We don't want to badmouth BART, because they are accessible to us," Kitty said. "But this just isn't going to happen. No automation. Automation is for the birds."

Kitty then related a horrifying story that illustrated the inequities in the benefits system for the handicapped. A 27-year-old woman named Lynn Tompson, afflicted by muscular dystrophy, lived with an attendant in Los Angeles. The pain from her disease was so bad that her legs had to be disconnected from her hips. Most of her medical expenses were being picked up by Supplemental Security Income payments. In general, Social Security laws define a disabled person as someone who can't engage in "substantial gainful activity." Such activity, according to these laws, in any enterprise generating an average income of $200 a month over a nine-month stretch.

That means, in effect, that someone who can't budge a muscle below his chin, but who holds a job paying a mere $200 a month, isn't disabled in the eyes of the law, and thus isn't eligible for the SSI program or for Medicaid and other benefits. It's a rotten system, the handicapped agree.

Without paying staggering premiums, severely disabled people can't get conventional medical coverage. The architects of the welfare laws plainly never imagined that severely handicapped people might earn a salary. Under current laws, they would have to either make a pretty scant income and get benefits to help out, or else earn a fairly hefty salary.

Lynn Tompson wasn't happy sitting in her apartment and rotting away. So she started working as a dispatcher. She enjoyed hearing other people's voices and felt good about accomplishing something. Eventually, she worked her way up to an income of $500 a month, hardly enough to meet all her bills by itself, but she was gaining some freedom. Social Security people stopped in one day to check up on her and discovered her extra income. She hadn't reported it to them. Her payments were immediately cut off. What's more, she was notified that she owed $10,000 in back payments that had been made to her. The only way she could live would be to go to a nursing home. Instead, in February of 1977, she committed suicide. She left a note saying that her death could be blamed on Social Security.

One of the cruel ironies of the case was the fact that, unbeknownst to Lynn, California had recently passed a measure allowing handicapped people to draw medical coverage, as well as funds to pay for home nursing care, while they're working. The law established a graduated scale so that, beyond a certain income, a person chips in part of his expenses and the state furnishes the rest. Handicapped groups are trying to persuade other states to follow that precedent.

"The tragedy of this story," Kitty said, "is that Lynn Tompsons can be found all over the country. California has done something to rectify the benefits problem, but what are other states doing? The handicapped must scream at their legislators to start moving, because the laws are sending us to psychological deaths."

Early the next morning, I caught a plane out of San Francisco, leaving the center behind. Beyond doubt, I had returned to the "real" world. I checked carefully the passengers aboard my crowded United Airlines flight. Not one was disabled.●

HOW'S BUSINESS? REALLY?

● Mr. GOLDWATER. Mr. President, all of us know about how the psychology of a recession can affect business. But there is a story about a man who sells hot dogs which illustrates this point in a dramatic way. It was sent to me by Murrell Smith, executive manager of the Mesa Chamber of Commerce.

Because of its pertinence with the economic situation of today, I ask that this short story be printed in the RECORD.

The article follows:

HOW'S BUSINESS? REALLY?

The story below is not new, but it does point out that we can compound the problem by our attitudes:

THE MAN WHO SOLD HOT DOGS

There was a man who lived by the side of the road and sold hot dogs.

He was hard of hearing, so he had no radio.

He had trouble with his eyes, so he read no newspapers, or saw television.

But he sold hot dogs.

He put signs on the highway telling how good they were.

He stood on the side of the road and cried: "Buy a hot dog, Mister?"

And people bought.

He increased his meat and bun orders.

He bought a bigger stove to take care of his trade.

He finally got his son home from college to help him out.

But then something happened.

His son said, "Father, haven't you been listening to the radio?

Haven't you been reading the newspapers? There's a recession.

The world situation is terrible.

The domestic situation is worse."

Whereupon the father thought, "Well, my son's been to college, he reads the papers, and he listens to the radio, and he ought to know."

So the father cut down on his meat and bun orders, took down his advertising signs, and no longer bothered to stand out on the highway and sell his hot dogs. And his hot dog sales fell almost overnight.

"You're right son," the father said to the boy.●

PARALYSIS IN A RISK-FREE SOCIETY

● Mr. GOLDWATER. Mr. President, we have heard a great deal recently about public confidence and what has happened to the old irrepressible American spirit. Many causes have been advanced, but one of the most interesting is the contention that the American spirit of adventure and innovation is being paralyzed by a desire to build a risk-free society.

In this connection, I ask that an article on this subject which appeared recently in the Washington Post be printed in the RECORD.

The article follows:

PARALYSIS IN A RISK-FREE SOCIETY

(By Henry Fairlee)

When the President spoke of the decline in America's confidence in its future—which all of its anxious but hoping allies regard as a real and ominous phenomenon—my mind fixed immediately on one of its most obvious but almost unmentionable causes. The once rambunctious American spirit of innovation and adventurousness is today being paralyzed by the desire to build a risk-free society.

No other great industrialized society has reacted with what can only be described as such palsy to the accident on Three Mile Island. It is simply beyond the bounds of credulity that the French would halt or reduce their huge nuclear power program—would forego their own chance to be "energy-secure"—in response to the kind of misadventure that is naturally to be expected in any humanly inspired endeavor.

Yet in his television address, the president of the United States did not dare to mention nuclear power, and on the following day he corrected the omission only in a muted and almost strangled voice.

No other country took it into its head to ground the DC-10's for as long as did the United States, and I hope that Sir Freddie Laker and the operators of other airlines will succeed in their suits for damages. After the remarkable record for efficiency and safety that has been set by the American aircraft industry in its fleets of planes which today carry the traffic of the world, one engine falls off one aircraft in circumstances that are unlikely ever to be repeated and the American authorities seem almost to set out to destroy the reputation of as trustworthy a commercial aircraft as is now flying.

But these are only the two most recent and glaring examples. The desire to build a risk-free society runs through the whole of American life today. It is draining the spirit from America's inventiveness and from its hope for the future.

If the American people for the first time no longer believe that life will be better for their children, it is at least in part because they are beginning to think that there will be no food which their children will be able to eat without dying like rats of cancer, no form of transport that will be considered safe enough to get them from here to there and in fact nothing that their children may safely do except sit like Narcissus by a river bank and gaze at their wan and delicate forms as they throw the last speck of granola to the fish.

The desire to build a risk-free society has always been a sign of decadence. It has meant that the nation has given up, that it no longer believes in its destiny, that it has ceased to aspire to greatness, and has retired from history to pet itself.

If many more safety regulations are introduced in the United States, it might as well have men with red flags walking in front of the automobiles. Ralph Nader seems sometimes to be interested in designing not motor cars but baby carriages, and even then the baby probably would be suffocated by air bags. He appears not to be aware that one of the main uses to which cars are put is necking, and that this is very difficult if the yearning couple are held back by a harness of seat belts that would hold down even an unbroken stallion.

In no other country is the faddishness of environmentalism so rampant as in America today. If some of the more extreme of the environmentalists had their way, there would have been no industrial revolution, no burst of industrial might in America at the end of the last century, none of the brilliant inventiveness of its technology in the past generation, and, as a result, millions of Americans would still be living the confined lives of the past, and many more millions in Europe would be enduring existences of mere serfdom, their lives bound within (as Marx put it) the narrowest possible compass.

There is a way in which much of my writing about America as an outsider has turned on these questions. For although I am often cheerfully bemused by the more fanciful and extravagant displays of American technology and gadgetry, and although I think that they are sometimes carried too far, so that people may soon use a Cusinart to scramble an egg before they cook it, I have no doubt that in important ways it is here that lies the genius of the country, for what it all says is that things "ain't necessarily so." Do not Americans now distrust their future because they are being told that the things (including nature) are necessarily so?

Zero population growth is the purest expression of the risk-free society. Preciously and exquisitely "I" am here; there are enough wild berries for "me" at least to live on; let no one else come and spoil it.

Back to Eden: For what was Eden but a garden of zero population growth; and indeed what was it but a risk-free society of two? But whenever I try to imagine the life of Adam and Eve, before their fall, it seems to me that it must have been one of infinite boredom.

But the more one thinks seriously of their boredom, the more one realizes why mankind had to escape into risk. Part of the malaise of the American spirit at the moment seems to me simply an expression of boredom. It hangs like a pall, worse than any pollution, over the lives of the people. There is no ship to board; it has been laid up as unseaworthy. There is no carriage to the stars; it might fall like Skylab. It is dangerous to dream; one might feed in one's sleep on a carcinogen. Feverishly and fretfully, the unused energy is spilled out, into the frenzy of white water and the disco.

I turn from the notion of a risk-free society to the epic of Homer, to the magnificent testimony to a people's will in the Old Testament, to the sagas of the Vikings and the daring of the Elizabethans, and there is not a hint of a safety regulation in one of them. But turn nearer to hand. It was not just the wretched and oppressed who came to America, but the wretched and the oppressed who would risk. It was the strong, and not the weak, who came, and then still came. They did not ask if the Mayflower was seaworthy—it was a miserable hulk even for its times—and into our own century they still got onto tubs that might break apart to cross an ocean. What I feel most in America now is the ever more constricted sinews of a country that was made by such people.

Soft and swaddling are the constraints—do not do this because it might hurt you; even worse, it might make you feel "uncomfortable"—but they are binding the spirit of a great people like a fetter.

This draining pusillanimity runs into personal as well as into social relationships. The American people are being cajoled into talking to each other as I used to think that only a few people talked to their indoor plants. To ask a president to reach so deep into a malaise is to ask too much. What is "wrong" with America can be put quite simply. With a Ralph Nader at the head of a wagon train, no one would have made it across the plains, none would have crossed the Rockies and no immigrant would have pushed noisomely out of the gutter.

Risk-free? Living is sweat, danger and death. From those come the laughter. And curiously, from those comes also the ease of heart.●

CORPORATE SURVIVAL IN A POLITICIZED WORLD

● Mr. NELSON. Mr. President, recently, I read a provocative statement on the role of corporations in the public sector. The speech, given by Mr. John H. F. Hoving, senior vice president of Public Affairs and Public Relations for Federated Department Stores, Inc., prescribes one very effective method for guaranteeing consideration of private sector concerns in public policy formulation.

Mr. Hoving's advice is candid, practical, and literate. If followed, I believe the benefits to the public would be many, because it would signal renewed emphasis on the social responsibilities of the private sector.

I commend this document to my colleagues, and I ask that it be printed in the RECORD.

The document follows:

CORPORATE SURVIVAL IN A POLITICIZED WORLD

(By Mr. John H. F. Hoving)

I was asked to talk to you today on the subject of "What Every Business Executive Should Know about Public Relations and Public Affairs." A most presumptuous title and not a subject I could hope to cover in one appearance.

What I am going to do is to pretend that you have the responsibility for the external affairs of a corporation. I shall set forth a few things that I think that you need to keep in mind as you carry out your duties.

First we should define our terms.

When I say public relations, I am talking primarily about work with the news media—print and video, general and specialized or trade. Public affairs involves work with the community and governments—all governments, local, state and federal.

When I was growing up there was a very magic thing called vaudeville—live performance in a theater or movie house in big cities and small towns. One particular lesson came down to me from that era and it was this: The best comedians would tell you they were going to tell you a joke, then they would tell you the joke, and then they would button it all up by telling you that they had told you a joke. That gave you some clues as to when to laugh. They took no chances on being misunderstood. This is an appropriate formula for a speech or lecture.

So, here is what I am going to talk to you about.

First, what is this external environment in which a corporation tries to survive?

That leads it to worry about such things as public relations and public affairs? How did we get where we are today? What are the major trends and problems that a corporation today must pay such careful attention to?

Second, why should corporations care? Why should they hire professionals, develop programs and sometimes spend large sums of money? The high level interest in this area is relatively new to many corporations.

John deButts, who recently retired as the top man at AT&T, said he had come to believe that every aspiring chief executive officer in business should be required to spend at least one year in Washington. This Mr. deButts said, had become necessary so an executive could know the difference between shadow and substance in the company's relationship with the government. That's one chief executive's viewpoint. We're going to look at the why of all this.

Third, I'm going to spell out briefly some operating maxims from my experience that may come in handy for you, should you ever be given the responsibility, as well as some thoughts on how to plan and organize a program in this area.

And finally, I'm going to talk about what are some of the major things that I believe face corporations in the future. I'll ask you to imagine that these are some of the major problems and opportunities that you might be asked to advise on, develop programs to deal with.

That's the agenda. Again let me emphasize that this is merely a survey of these areas. I shall not pretend to be definitive.

Where are we in the United States today and how did we get there? I am going to be very selective about this and only highlight those things that I think are the most significant in understanding the public relations and public affairs problems of the corporation today and in the relatively near future. What we want to get to is a sense of the environment today, the social, economic and political context in which we live. It is this which sets the realities, the framework for corporate decision making.

First, because of the great economic and population growth since World War II, we have developed what I would describe as a vertical society—a major organizational and sociological change for America.

Our system of democratic problem solving requires considerable common experience on the part of all, a recognition of common interests. The idealized concept of the small town or neighborhood governs much of our thinking, our perspective, our notion of how to get things done.

The banker, the merchant, the doctor, the sheriff, the innkeeper—even the town drunk—understand each other and could arrive at ways to solve problems—a schoolhouse, a volunteer fire department, whatever. They lived in the same world. They saw each other frequently. They were specialists, but they knew how to deal with each other. There was, in a sense, a small town patriotism or community of interest. So, they could agree on a common course of action.

But what has happened in America? In order to deal effectively with the great economic and population growth, we have developed huge, complex vertical institutions. This was necessary because the tasks to be performed were huge—whether waging war, manufacturing automobiles, distributing paper towels nationwide, or healing the sick—and required large specialized organizations. People spend the great part of their lives wholly within one of these organizations. This requires a special language, often a special way of looking at things.

Peter Drucker has pointed out that we have become a society of organizations in which the first job of the manager is to make his organization perform. These bureaucracies understandably have almost nothing in common with each other. The leaders of businesses, churches, universities, unions, government agencies, discover they have little in common, that they really have difficulty communicating with each other. There are many fundamental divisions within these categories. For instance, frequently business itself is divided. So we have lots of big, busy, organized institutions without any automatic sense of the common interest, but with a life philosophy and modus operandi all of their own.

Please keep this dilemma in mind as we proceed. People and institutions with vertical experience, planning and loyalty are constantly trying to cope with the community's need for solutions that can only be developed by horizontal agreement among institutions. This is not merely a semantic or communications problem. It is more complicated than that. There are basic disagreements as to what is important, what is the essential timing and what agreements require give and take.

You should never assume that people from one vertical structure understand people from another. We are very short of sufficient renaissance men and women.

Frankly, I consider this vertical dilemma our major problem in American society today. However, there are a few other major trends that also complicate the life of a corporation very severely.

Briefly stated, these are:

1. The pressures we face as we continue the long, painstaking task to make America truly an equal opportunity society for all Americans—minorities, women, everyone, at work, at play, at home.

2. The breakdown in many social disciplines.

3. The internal mass migrations that have produced what we call "The Urban Problem" and "The Suburban Sprawl" with all the accompanying social and financial dislocations.

4. The phenomenon described by sociologist Dan Bell as the transformation of the "revolution of rising expectations" into a "revolution of rising entitlements."

5. Extreme inflation. No need to say more.

6. International, economic involvements, ranging from raw material availability to trade and protectionism.

7. An increase in the participation by people so that sooner or later almost all problems become politicized. This was described by Roy Amara, president of the Institute for the Future:

"One of the major forces that is affecting—and is likely to affect—the future role of all institutions is increasing citizen participation in social decision making. By participation is meant individuals' direct involvement in and control of those decisions that affect their lives. And no sector of society is immune to the effects."

8. And finally, all these problems exist within the framework of a new, high intensity, mass communications web.

We could go on listing problems for some time. Or we could elaborate on what we have. For instance, the new communications structure puts great emphasis on the word—the slogan, the memo, the speech. Programs are initiated or halted because of the word. And this, of course, is what provides considerable opportunity for the intellectual who lives for and with the word. This shifts emphasis to critique, analysis, what went wrong, what might go wrong. More emphasis, in other words, on problem definition rather than to solutions. More praise for critics than for builders or unifiers or leaders. The late Joseph Schumpeter commented on this once:

"Intellectuals are people who wield the power of the spoken and written word, and one of the touches that distinguish them from other people who do the same is the absence of direct responsibility for practical affairs. The critical attitude (of the intellectual) arises no less from the intellectual's situation as an onlooker than from the fact that his main chance of asserting himself lies in his actual or potential nuisance value. The intellectual group cannot help nibbling, because it lives on criticism and its whole position depends on criticism that stings."

Ralph Nader, for instance, truly understands the value of "the word" in our society. He recently chided President Carter for not making speeches:

"What Presidential addresses can do immediately is to take local developments and give them national visibility. Presidents can also take unglamorous but essential subjects, neglected by the media, and make even Time Magazine sit up and take notice.

"President Carter should not neglect using this important White House resource. Words endure. Words that are meant to endure more. And words that quicken the pulse of the citizenry can last for generations. History has shown us the truth of such an observation."

All this has its effect on how we live, how we think, what we decide to do as individuals, as a society. Particularly what we decide to do about corporations.

All of these trends that I have listed tend to produce disunity and dispute. Another distinguished sociologist, Morris Janowitz, in his new study "The Last Half Century—Societal Change and Politics in America" has concluded:

". . . the population increase (since WW I) and the elaboration of the division of labor . . . have not been accompanied by the emergence of effective institutions of coordination and self-regulation appropriate for a democratic policy. The clear implication is that extensive institutional disarticulation increases the probablity of conflict and, in turn, violence."

The study of warfare is valuable because it reminds you that you are seldom in control of time and events. Also recall General Sherman's famous advice to "put the enemy on the horns of a dilemma."

Teach yourself to think holistically—that is a knowledge of process, of becoming—a view of the pattern, system, organism as a whole.

Always imagine that you personally have to live with the results of your analysis and decision—sharpens up the wits.

General George C. Marshall used to say: "There is no limit to the good a man can do if he doesn't care who gets the credit." Quite true, but if you don't get some credit you won't be rehired.

Make people write checklists before actions. This will surface the mental checklists and reveal flaws, gaps and mistaken assumptions.

When you start something, think how you will conclude it. When you go in, determine how to get out. Watch out for the "Vietnam syndrome," it has trapped many.

Maintain momentum—idle while you review the situation if you must, but do not lie dead in the water—know what you are doing and plan to do—and keep moving toward your goal.

Develop confidence to deal with the unexpected. Welcome it. Glory in it. This is the spice of life to a professional.

Hope for the best, prepare for the worst, but don't be so quick to give in. Go back. Think it through and try again.

Think strategically and tactically. Exploit breakthroughs. Enjoy a good fight. Plan carefully so you may be opportunistic. That's how to win.

Train yourself to look at things differently than others in your corporation and then you will be able to understand and to report accurately what is going on in the outside world.

Be imaginative, cultivate creativity, serendipity, showmanship and perhaps most of all a sense of metaphor. A legislative proposal was killed because its opponents described it imaginatively as "setting the rabbits to guard the lettuce."

An effective persuasion campaign requires careful thought. John Steinbeck wrote in "The Grapes of Wrath": "The ideal act of propaganda consists in identifying your cause with values that are unquestioned." Others have pointed out that fresh ideas receive greater acceptability if they can be described as the revival in modern terms of a time-honored principle or practice.

Mark Twain observed that a cat who sat on a hot stove would not be likely to sit on a hot stove again but would also probably avoid all stoves, hot or cold. Feedback must be accurate or it's very dangerous. Charles Lamb described this dilemma in an essay on roast pig. I commend it to you. Myron Tribus, professor at Massachusetts Institute of Technology, expressed this concern:

"I am still profoundly affected by Jay Forrester's observation that in matters such as urban renewal, conventional wisdom can lead to policies which are counterproductive. We deal with complex, non-linear, multi-loop feedback systems for which intuition is often a faulty guide. Add to that a proclivity in the government utilize adversary proceedings for almost all issues and the need for the introduction of rational predictive techniques becomes urgent."

To do a good job in this kind of work you must like people, be confident, and gain satisfaction in helping to create an active consensus.

Always be ethical. Never do for a corporation or a government what you wouldn't do for yourself. Be prepared to walk out if necessary. Otherwise public affairs is not a new profession, merely the world's oldest.

Don't be afraid to bring bad news to your management. Be precise, accurate, not a "chicken little," and try to propose solutions at the same time, but most of all report the truth.

Don't be afraid of ridicule or criticism no matter how powerful the source. If you are not getting any, you aren't doing your job.

Don't be afraid of being called a professional or a mercenary. A. E. Housman praised the volunteer British Army in World War I in these marvelous words:

Epitaph on an Army of Mercenaries

These, in the day when heaven was falling,
The hour when earth's foundations fled,
Followed their mercenary calling
And took their wages and are dead.

Their shoulders held the sky suspended;
They stood, and earth's foundations stay;
What God abandoned, these defended,
And saved the sum of things for pay.

Be careful of intuition. It is valuable, but you must be careful you are not suffering from heartburn or a misreading of experience.

When you feel like praising yourself, remember Graham Green's warning: "Success for a writer is failure delayed." Applies to any kind of professional work.

As a final note. You should be prepared to walk alone as you learn and develop. I ran across a description of an athlete by novelist Mark Harris the other day that I think is quite appropriate and perhaps heartening.

"He came with a talent and desire and health. But to deliver work so good over so long a period of time requires also an independence of character sufficient to resist the mockery of people who, never having dared an art, remain ignorant of its demands."

Now let's discuss for a few minutes how a business executive should go about organizing a public affairs program—some elementary guidelines.

What are the key elements to consider in organizing effective corporate public affairs program?

1. The precise structure depends to a great deal on the chief executive—his outlook, his strategy of power and management, his personal capabilities, his operating style and his perspective.

2. Specific corporate goals in this area are essential. Theodore Levitt, professor of business administration at Harvard University, has pointed out correctly that "If you don't know where you're going, any road will take you there."

3. Don't forget the general management maxim that you can't delegate what you don't know.

4. A determination of what constituencies must be influenced, to what degree, by and through whom, and over what time frame.

5. This requires the setting of priorities, detailed planning, the allocation of time and money, the involvement of all subsidiary levels of management required for effective execution.

6. Evaluation of future trends so that to some degree the intuitive sense of the future can be at least partly institutionalized so that it is believable and actionable for management. This is well understood as a problem for individual leaders. Henry Kissinger wrote in the early 1960's (*The Reporter*, November 22, 1962):

". . . the most difficult problem of policy making, that of conjecture. The dilemma of any statesman is that he can never be certain about the probable course of events. In reaching a decision, he must inevitably act on the basis of an intuition that is inherently unprovable. If he insists on certainty, he runs the danger of becoming a prisoner of events. His resolution must reside not in 'facts' as commonly conceived but in his vision of the future."

7. A recognition by corporate management that if you pay careful attention to what is going on in the world, read the signs and trends correctly, then you ought to be able to step out and forcefully influence events instead of always being at the wrong end of an adversary relationship with the government.

Arie Y. Lewin, professor at the Duke University Graduate School of Business Administration, has described this opportunity very well.

"Early warning provides two basic opportunities. Both are aimed at diffusing the issues and forstalling their getting on the public agenda and from there on to the legislative agenda. The first is the opportunity to participate in shaping the issues from their inception. The second is to permit an internal review of organizational practices affected by the issue with the objective of implementing internal changes which allow the organization to self adapt as societal values and expectations change. If the objective is to ultimately shift the management of issues from crisis fighting in the halls of congress to dealing with emerging issues as they arise, then corporations will have to institutionalize a social policy thorn in the thigh of the organization. This is a management problem and an organization design problem which would have to be solved by each corporation individually."

8. If a corporation wishes to do this, then it must invest the time, money, and management to train, develop and organize seasoned professionals with sufficient experience and judgment to represent and to expose to risk the corporation. The comprehensive management is essential because in politics as in war the dictum spelled out by Julius Caesar applies: "In war, trivial causes produce momentous events."

I would like to conclude this section with comments by two chief executive officers who set themselves and their corporations to have a positive impact on the environment.

First, Charles Mechem of Taft Broadcasting. He presented these suggestions to a group of broadcasters:

"Sit down with your top management associates and ask yourself . . . and them . . . the following questions . . . and write down the answers . . . and don't use any reference materials.

"First, name all of the legislators, federal, state and local, who represent the area or areas where you do business.

"Opposite each name, write down the office they hold, the length of time they have been in office and the committees on which they serve.

"In another column, write down the date you last made a call on each legislator in his office, the last time he was in your office, and the last time you discussed broadcasting with him—whatever the location.

"Write down in the next column the number of times you have corresponded with each legislator and the subject of the correspondence, and in another column the names of anyone in your organization who knows your legislator or has any personal contact—even if it is someone's child playing on the same Little League Team with the legislator's son or daughter!

"Then, review everything you have written and then write on a separate sheet of paper a brief resume of your political action program—what it consists of, who is in charge of it, what its objectives are, when it was last discussed in any meaningful way by your management group.

"If you will go through the exercise, I promise you that several things will happen, including the following:

(1) You will be ashamed of yourself.

(2) You will wonder how we in broadcasting have fared as well as we have.

(3) You will revitalize your governmental effort.

"There are formidable adversaries out there—it's time we really started to battle—after all, it's a system worth preserving—one that's been good to you and to me, but, more importantly, for the American public. It's time we got angry. There's a lot of really mushy thinking going on about what's right for Americans and who should mandate it.

"I know it's a cliche—but it was never more true than it is in this context—we will get precisely what we deserve."

Second, Reginald H. Jones, chairman of General Electric Company, to the Wharton Club of Washington, D.C. (May 17, 1978):

"Business leaders are going to have to think politically in a politicized economy.

"Business leaders these days are trying to make themselves heard, and I think we are making some honest headway. But we will not get the serious attention of the Congress until we have the vocal backing of a solid constituency. That is why we must raise these issues with our employees, our customers, our success of American business. They and their families number in the millions. Their potential as a base of support for sound policy is enormous. But we are not going to have their support unless we work for it as a politician works for it—earning their trust, discussing the issues, demonstrating how they are personally affected, and asking them, directly and persuasively, for their wholehearted support."

That is what it takes for a corporation to survive in this active democracy.

Let me suggest some problems that our society will deal with one way or another over the next few years. Possibly even drift or delay decisions. However, whether action or inaction, the results will affect the way in which business is done in the United States. You should be thinking about what a corporation might have to do from a public relations or public affairs standpoint about these problems. How it would anticipate, how it would react, what it would do to shape its own future.

Here are just some of them:

Continuing rapid inflation;

Slower economic growth;

Increasing energy costs and shortages;

Key raw material shortages;

Pressure for national economic planning;

Sufficient jobs for youth;

Sufficient trained people for jobs;

An aging population, politically organized;

International economic competition and protectionism;

International political instability; and

Equal opportunity pressure from all minorities.

Those are just some of the major problems and trends corporations are facing. Of course, the American society always has had problems and it has solved them. I have no question but these will be dealt with by a strong America. However, the question is how, by whom, to whom, and for whom, to paraphrase Mr. Lincoln.

Ralph Nader has taken a look at these problems and has concluded there is need for a new national political party in the United States.

Nader said the new party, which he hoped would come into existence by 1984, would combine consumer groups, antinuclear organizations, community-based citizens organizations and some of the major trade unions and would focus on what he termed "the overriding issue of our times—corporate power" and "the expansion of citizen access to all branches of government, the mass media and corporate decision-making."

That should get corporate management's attention.

It was the rise of the national consumerism movement in the sixties that brought the retail industry into the more direct orbit of the federal governments. There has been an increased federal interest ever since, and it has required a coherent government affairs program on the part of Federated and other retailers.

A very distinguished lawyer, Ira Milstein, warned recently that it is "incumbent on every business, and retailing particularly, to conceive of itself as a regulated industry."

That kind of advice does get the attention of a corporation. So, the next step is to get organized to deal with the reality.

As I told you earlier, although business in general has relations with government, very often individual industries and even individual corporations have problems that are unique to them, extremely important, but not necessarily to others in the industry nor to business in general.

Up to now I have been describing the need for business—as a system—to defend itself and have an influence. It should be noted that you must also think carefully how to defend your industry and your individual corporation as well as business in general. There is frequently disagreement within the business community itself. Perhaps this should not be. However, there are disputes—sometimes strident, sometimes bitter—among the various types of business. Let me spell out some of these controversies along with appropriate actions using my own industry—department store retailing—as an example.

One is energy. We have a general policy to support programs that would expand available supply. We also favor "cost of service" as an equitable guide for the establishment of utility rates. As to conservation, we have a comprehensive, detailed internal program to reduce the use of all forms of energy. We resist, however, arbitrary decisions on store operating hours—such as no evening or no weekend hours. Equally so we object to rigid rules for thermostat settings. These are handy for regulators but in truth do not conserve energy. We believe that decentralized responsibility produces far better answers. Tell us the goal and we'll produce. As I said, thermostat-setting regulations won't really save money, but the regulations will lead to lower sales and unemployment. They do provide a clear, visible example of action by politicians and government administrations.

Oddly enough, neither other retailers nor our associations see this problem the same way we do. So we have passive allies in the opposition of the government. We often have to get a point across in spite of powerful opposition or, more frequently, indifference on the part of other businesses or retailers as to a proposed government program or policy. When you are on your own, a corporation must do a number of things. These are:

1. Think the problem through so it knows its objectives.

2. Try to fit these in with public interest needs.

3. Know who it must persuade in Congress, the executive agencies, the media, the states.

4. Work with its trade associations—in Federated's case the American Retail Federation, the National Retail Merchants Association, the Associated Merchandising Corporation and state retail organizations.

5. See how many other allies from business and labor can be enlisted.

6. See if anything can be done to develop support, or at least benevolent neutrality, from such general business organizations as the U.S. Chamber of Commerce or the Business Roundtable.

I have gone into detail in this example because I want you to understand all of the areas that have to be tracked, all the bases that have to be touched, all the people and institutions that have to be coordinated just so you can protect your corporation's interests.

But there are other major issues where retailing has political and governmental interests that are special enough so that it must take care of itself. It cannot depend on others.

Tax policy is an area of considerable significance where business is divided frequently, to say nothing of all the groups who are vigorously and creatively antibusiness.

The effective federal tax rate for retailing firms is 36.9%. The effective tax rate for industrial and mining firms is only 13%. Quite a difference, don't you think—36% for retail, only 13% for industrial.

Now, how did this come about? Very simply. Manufacturing interests over the years persuaded the Congress that special concessions in the way of tax credits for the purchase of machinery or trucks or airplanes would encourage productive investment and generate jobs. This was done in lieu of general business tax reductions. These concessions were argued to be in the general public interest, and over a number of years a serious inequity developed.

There is a vital need to increase capital investment by all business so as to generate jobs and improve productivity. This would be in the public interest for the economy as well as in the interest of all business. There is a proposal being developed by Congressmen James Jones, Democrat from Oklahoma, and Barber Conable, Republican from upstate New York, that would do the job, and all business is beginning to unite behind it. Federated will support it vigorously. However, in the meantime there are these inequities that have to be dealt with individually until we can develop the broad consensus for an overall solution.

Retailing proposed that the investment tax credit be extended to the construction of retail buildings and documented that this would generate a large number of jobs and also stimulate investment in downtown areas.

We then proceeded to organize a vigorous campaign that has had some success and will continue.

There are other areas of special interest. Free trade, for instance, and there we are almost all alone and in some trouble. Protectionism in the U.S. and throughout the world is on the rise. We have worked hard to counter this, but we may have to go farther and help organize a greater recognition within business of the value of exports and imports in order to develop substantial political support for international trade. Business and labor in the steel and textile industries, for instance, have forged strong alliances and mounted expensive campaigns to persuade Congress and they have been very successful.

Another area is inflation and efforts for mandatory federal wage and price controls. We are opposed in general to controls, and if legislation is proposed for controls on specific scarce commodities, we believe the great complex, highly competitive thing called retailing should be exempt. It is important to note that general merchandise retailing has not contributed to inflationary pressures. Why? Here's what Federated's chairman, Ralph Lazarus, said recently:

". . . the highly competitive nature of retailing and its consistent emphasis on productivity improvement have done more to hold down department store prices than any guideline or control program so far suggested.

"From 1967 through 1977, improved efficiency and free market competition held the rate of increase in general merchandise prices more than 40 percent below the rate of increase recorded in the government's overall Consumer Price Index (CPI). Last year alone, general merchandise retail prices increased at only half the rate of the overall CPI."

Those are just some of the major political issues where retailing—and Federated—has to look out vigorously for its own interests.

One of the important complications is that due in part to the pervasive nature of retailing, it has no natural political base or constituency in the Congress. This is very important. So, it has had to begin to construct a constituency step by step through individual efforts and careful planning and analysis.

In order to accomplish this, we have spent a great deal of time with our national and state trade associations, we have developed a one-on-one program through our divisions that we call Congressional Intensification, and finally, we put together a modest political action committee.

Our feeling is that our voice must be heard if we are to protect the interests of our employees, our customers and our shareholders. This, of course, involves a program developed and managed by professionals with the close cooperation of top management. In the long run, however, it requires the enthusiastic and intelligent participation of many more business men and women. You will know that corporations are serious about this when the same amount of total executive time and money goes into political and community activities as now goes into United Way. No less will do.

This is particularly true at the community level where corporations must work with others to make sure there are quality schools, thriving downtowns, peaceful neighborhoods and economically viable communities. These public interest goals require very heavy personnel and financial commitments similar to the United Way.

We've talked about the environment in which business must function today and then we've discussed why business corporations should care. Before I make some suggestions as to how you might organize a public policy activity, let me just run through a few operating maxims that I have found useful in public relations and public affairs.

But, first let me emphasize the significance of the "word." It is vital where the action is, where it is all decided. The media and government. Those are the intertwined, interdependent battlegrounds with a strong symbiotic relationship. The media receives, interprets and sets the parameters of what is significant, worthy of attention and action. The government-legislative both receives from the media and communicates to it.

All this produces a dynamic situation in which the "word," and the way in which words and actions are perceived, becomes all important.

Dr. Tony Schwartz, a brilliant media consultant, tells about the woman who visits the psychiatrist. When he shows her a series of Rorschach patterns, she takes one look at them and says, "Doctor, I didn't come here to see dirty pictures."

"Previous experience determines how people react, consciously or non-consciously, to what they see, hear, or read," Dr. Schwartz reminds us.

Of course, how we perceive may come from many things; what we have read, our experiences, our social or educational background, all may affect us. The great economist, John Maynard Keynes, warned:

". . . the ideas of economists and political philosophers, both when they are right and when they are wrong, are more powerful than is commonly understood. Indeed, the world is ruled by little else. Practical men, who believe themselves to be quite exempt from any intellectual influences, are usually the slaves of some defunct economist. Madmen in authority, who hear voices in the air, are distilling their frenzy from some academic scribbler of a few years back. I am sure that the power of vested interests is vastly exaggerated compared with the gradual encroachment of ideas."

The backgrounds of these people in the media and the government can become quite important to us. Everett Carll Ladd Jr., recently concluded ("What the Polls Tell Us," The Wilson Quarterly, Spring, 1979):

". . . the upper-middle class in the United States has shed much of its identification with the business world. Increasingly, large segments of the broad, new upper-middle class think of themselves primarily as professionals—business administrators, engineers, accountants, lawyers, and so on—all responding to intellectual values rather than the profit orientation traditionally associated with business. Along with their counterparts in the growing public sector, the upper-middle-class professionals have become the core of a new 'intelligentsia.' The content of most serious magazines, newspapers, and network television news broadcasts is shaped by them (intelligentsia). The result is a two-step transfer of ideas and information from the intelligentsia via the media to the nation at large."

Another study by sociologist Herbert J. Gans ("Deciding What's News") arrived at this interesting conclusion:

"When I began my fieldwork, I assumed that journalists, especially reporters, knew more about America than anyone else . . . but this is not the case. Journalists obtain their information about America from their customary sources (mainly public officials); from what they themselves read in the paper (mainly the *Times*); and, because they have trouble crossing the social barriers that separate them from strangers, from what they learn from peers and personal contacts, notably relatives and friends."

Louis Banks, former managing editor of Fortune, now an adjunct professor of management at the Sloan School, Massachusetts Institute of Technology, said:

"Basically most ranking editors of mass media see business as suspect until proved innocent. At the attitudinal level this means a greatly overweighted coverage of antibusiness pronouncements. The average editor of print or tube becomes an easy mark for the leak from governmental or public interest agencies, some of which have a vested interest of sorts in being antibusiness."

Now does this mean I am holding out the spectre of a dangerous, radical media intent upon destroying business enterprise? Not at all. But the media does present a problem to business management. Before we get to that, let us recognize that the media itself has some complications of its own. Walter Lippman said: "The theory of a free press is that the truth will emerge from free reporting and discussion, not that it will be presented perfectly and instantly in any one account."

A former White House press secretary, now a professor at Marquette University, George Reedy in "The Twilight of the Presidency" cautioned:

"There is a deep-seated human tendency to confuse unhappy news with unhappy events and to assume that if the news can be altered, so can the events."

Then he went on to conclude:

"An objective evaluation would be that the degree of accuracy with which the news is reported is astounding when it is contrasted with the conditions under which it is gathered."

Walter Cronkite, the "news daddy" to millions of Americans, however, spent some time recently criticizing newspapers. He expressed concern that newspapers were not covering local, state and regional news adequately nor were they reaching the poor and the unemployed, the residents of the central city and those between 18 and 30.

He concluded gloomily: "Perhaps we could say that the trouble for at least some newspapers is that they are being prepared for people who can't read by people who can't write."

However, our concern today is the impact of media on business. One important area the media affects and reacts to is government.

A great Harvard economist, Joseph A. Schumpeter, once wrote:

"In a parliamentary democracy, legislation and administration are incidental to the fight for power."

In my experience this is not entirely true but accurate often enough so that you should always keep it in mind. It will help to explain a great many things that go on in politics and government and even in corporations.

Now what I would like to do is set forth for you a number of operating maxims that I have come across or experienced over the years that might be useful to you. They are not in any particular order because I want you to recognize that this whole profession I am talking about is interrelated. You must not think separately of media, politics, community—it's all a seamless garment.

Now here are some random thoughts and suggestions as to how to think and act about public affairs and public relations.

Corporations must welcome the opportunity to take part in the political process and not be dragged in reluctantly. That's a good way to waste money and valuable executive time and be ineffective.

Many corporations, large and small, do it badly. They refuse to allow the necessary time or money to develop a professional organization. This is shortsighted, even dangerous, for a vulnerable corporation, and most of them are.

You and your corporation should always think like a leader if you practice a low profile or backstage role. If you accept the responsibility of leadership, you will influence events and not merely be influenced.

Touch all bases and stay on top of what is going on—politics is a collective art. It also must be planned. Imagine all complications, don't assume. Plan for all eventualities. Figure your opponent's capabilities, don't guess his intentions.

Remember Washington and other capitals are bipartisan—neglect no one, no party.

To lobby effectively you must truly believe in the legislative process.

Successful lobbyists develop friendly, useful relationships over time. They try to be truly helpful. Robert Strauss, one of the best, described his approach in this way:

"What I always do is to figure out what the bottom line is: How do you come up with a profit for the guy you're going to? You have to figure out what does he want, how does what you want help his constituents. It's damn rare you get something on the Hill without their getting something in return. The guy's got to see that it helps his constituents—or, at least, that it's a draw, that it doesn't hurt his constituents. His bottom line is how does it affect his constituents."

Assume the legislators, staff persons, civil servants, media persons are all honest, capable, willing to listen until you are proven wrong.

In politics there are no natural allies. You enter a coalition for a specific purpose and when that's accomplished it's over.

Timing is vital. A. J. Liebling told the story of the Victorian lady who took a cab to Waterloo Station. She felt the horse was not making sufficient progress. "Hit him," she told the driver, "hit him in a vital spot." "Madam, I've hit him in every vital spot save one," said the driver, "and I'm saving that for the hill!" Practice saving for the hill.

Timing and proper exploitation can work for and against you. Senator Metzenbaum, Democrat of Ohio, has a mandated corporate governance bill that is not getting much support. He warned some business leaders: "Remember all it needs to pass is a couple of new scandals."

If you lobby, organize your material and arguments so as to be persuasive. This means thinking through the problem in great detail before leaping forward. Do a careful priority analysis of all of the legislators who must eventually be involved. Write it so you miss nothing but don't make any copies.

Many of today's legislators at federal or state level are young, inexperienced, but usually intelligent and pragmatic. Don't let seniority or party or ideological label confuse you. Again, neglect no one.

Be honest with the media and Congress. A witness prior to a Congressional hearing was advised as follows: "Be careful. Give short answers. Try to answer yes or no. Don't lie, but for God's sake don't blurt out the truth." Wise counsel indeed.

Your actions, a corporation's reputation over time, its credibility are what give it standing with media and politicians. Ralph Waldo Emerson summed it up many years ago:

"Do not say things. What you are stands over you the while and thunders so that I cannot hear what you say to the contrary."

To the press "no comment" is an admission and sometimes that's the way it has to be. However, try to do better. If you are open, positive and helpful to the press in the quiet times, you will be better off when the inevitable hard and noisy times come. Practice speaking out whether the news is good or bad. It will pay off.

All institutions—corporations included—try to manage the news. Weigh benefits and risks carefully. It may not be worth it to try because the odds favor failure. Be the steady source of accurate information about your corporation.

Discipline all communications efforts so as to be persuasive. If you write a speech, prepare a press release first: the lead, with a partial quote; then the facts of where, when, etc.; and finally, a full paragraph quote. Speech writers object to this but it works.

Internal corporate clearance can flatten and deaden a speech. Show enough energy and imagination to get one memorable phrase and idea into the final product.

Sadly, the media can be manipulated (not usually by corporations) and you should study carefully to see how it is done so that you can cope with it if necessary. Observe Ralph Nader, the other so-called public interest groups, and candidate managers in presidential primaries. They are all masters at it.

Accurate, up-to-date intelligence is vital. Don't move without it. Demand it from your associates. Fight for it. Napoleon said, "The good general may be defeated, but we should never be surprised."

Watch out for those who say: "There's something wrong with the customer," "That won't solve all the problems," "We don't have time to make a plan," or "I've checked him out and we're sure we know where he stands."

Also watch out for those who practice adroitly postponing decisions. The outside world often won't wait.

"Most of all, watch out for those "hard data" types who fall for the McNamara fallacy: (1) Measure whatever can be easily measured; (2) disregard what cannot be easily measured; (3) presume what can't be easily measured is not important; (4) imagine what can't be easily measured does not exist.

The result is considerable frustration on the part of the nation's leaders and the public. Daniel Yankelovich, president of the Public Agenda Foundation, concluded recently:

"The country's leadership—in government and business—is well aware that our problems are growing more complex, ambiguous, and insoluble. But the more complex they become, the more leaders depend on technicians, experts and special-interest groups to deal with them and the less they share the problems with the country at large. The public reacts against being excluded and inevitably fights abuse with abuse. As a result, virtually all leadership groups in the country feel beset, beleaguered, and powerless while the public grows even more angry, frustrated, mistrustful and cynical."

Some of this public reaction came together in California's Proposition 13 vote. It should be noted, however, that the public is by no means some kind of mindless monster. A national survey administered last fall by the Washington Post concerning Proposition 13 concluded that "Their real concern is that it is the bureaucracy, not the public, that benefits from taxes." (Washington Monthly, March, 1979)

To some degree political leaders have concluded that we are in a period that could be termed a watershed. In any case, the result seems to be government by loggerhead. Nothing quite gets done. Each interest group seems to have a veto. The problems, however, remain.

A key leader of the House of Representatives, Congressman Richard Bolling, Missouri Democrat, recently observed:

"People are not conservative, they're very uncomfortable, they're unsure. What's going on now is that we've finished up the World War II era, both in terms of the economy and the society, and we're not quite set on the next go-round. We're struggling to find the basic facts for us to come up with the next synthesis, so that we can go on in a society that's more complicated, more dependent on the world than it was . . . I don't think we know enough yet for the next set of answers."

So there it is—an uncertain, complicated, difficult, perhaps even dangerous environment for business corporations to survive in. Now I would like to turn to a couple of questions about corporations. Why should corporations be concerned actively about the outside world and what can they truly and effectively do about it? Please keep in mind that whenever you make plans or recommendations involving a corporation, you are fooling with other people's money. A sobering thought.

All right, why should corporations care?

The first reaction by people to that question is frequently "of course." After all, a corporation is legally a person, so in a democracy it has the rights and obligations of a person. But it's not all that simple. Milton Friedman and others feel a corporation should ignore the external political world. That it should only do what it does best—produce, at a profit, goods or services, pay dividends and just be a good business. I consider that naive, although appealing to some.

Since this is a democracy becoming more participatory all the time, there is no hope at all that governments will leave corporations alone. A distinguished political scientist, Harold Lasswell, used to teach that politics is the story of who gets what, when, where and how. This society of ours is a pluralism in which powerful forces are constantly battling for the control and allocation of productive resources. That's what the political process is all about, and if you do not take part with all your wit and imagination, you will be told by someone else or some institution just what to do. There is no way in which a corporation can say to this political world: "Stop! I want off!"

There are two basic questions involved

here. First, must business in general be active at all in the public policy process? Second, should I, as a business executive, or should my corporation start from the assumption that it is necessary to take part, or could I safely assume that if I tend to my business that someone, my trade association, larger business with more at stake, will take care of it? Let's take the overall question first.

One of the wisest Republican members of Congress—Barber Conable—has put the problem in blunt terms: "This is an activist society."

His implication is clear. If you don't take part in the political process, some person or institution will actively influence the government in a direction you may not like.

It should be noted that this activism sometimes is directed at fairly fundamental changes in our economic world. Arie Lewin of Duke and James G. Wiles of Georgetown have pointed out:

"The issue of corporate governance—the legal/political issue most likely to affect major corporations in the near future—arises from what large portions of society and many key members of the policy community perceive to be the illegitimacy of corporate management in a democratic, pluralistic society."

The thrust of the activists produces social or economic regulation. Some of this is universally felt to be in the public interest. Unless business is in at the beginning, it is likely to get regulation that appears to meet immediate political objectives without regard to its impact on productivity or economic growth. More important, over the long haul the regulations and the regulatory agency may not even meet the social objectives of the reformers. Our kind of government requires a hands-on approach to legislation and administration at all times. This calls for oversight and attention.

Just so you don't think this is a partisan question, Republicans are as inept as Democrats in the regulatory dance. Kenneth Arrow, professor of economics at Harvard and Nobel prize winner, pointed out, ". . . the most egregious uses of inefficient regulation came under the impeccable auspices of the Nixon Administration."

Regulation per se is only part of the problem. There are many other things that government can do or not do that affect the economy that in turn have an impact on business. Incidentally, we need to keep in mind that state and local governments—the fastest growing elements of our public sector—can be just as important to corporations—positively or negatively—as is the federal government.

A major requirement for business is to bolster the capability and will of elective and appointive officials to manage with thoughtful care and not be at the mercy of every vagrant political or media windstorm.

Alan K. Campbell, director of the Federal Office of Personnel Management, has warned:

"The inability of officeholders to behave responsibly because of political weakness is pervasive in American political life today."

But the demand for business involvement in the political process does not stem entirely from the fears and concerns that an activist democratic society will destroy the free market system. There are many thoughful people who look to business leadership to help actively to solve the many social problems of America. Vernon Jordan, distinguished president of the National Urban League, wrote this (Business and Society Review, Winter 1978–79):

"Society expects business to be more than a profit-making machine; it expects it to demonstrate creative concern for the environment and the cities, for the well-being of employees and consumers, and for employment of minorities victimized by discrimination.

"By tempering raw, unbridled capitalism with humane concerns, and by opening its doors to long-neglected human resources, the private sector finds renewed vitality and strength. It more accurately reflects the society it serves, and by helping to solve the problems of the society, it ensures an environment in which it can survive and, indeed, prosper."

A leading businessman, Irving S. Shapiro, chairman of E. I. duPont de Nemours & Company, Inc., had this to say (Harvard Business Review, March-April 1978):

"I think we're a means to an end, and while producing goods and providing jobs is our primary function, we can't live successfully in a society if the hearts of its cities are decaying and its people can't support their families. We've got to help make the whole system work, and that involves more than just having a safe workplace and providing jobs for the number of people we can hire. It means that just as you want libraries, and you want schools, and you want fire departments and police departments, you also want businesses to help do something about unsolved social problems."

Federated Department Stores believes that a corporation is an entity with a full range of rights and duties and responsibilities. Like any citizen, a corporation must be productive. It should be responsible to its shareholders, earn a profit, and manage its fiscal affairs soundly. Like any citizen, a corporation has a responsibility to be part of the democratic process—to be an active participant in community affairs and the conduct of its government. Like any citizen, a corporation has only itself to blame if, without its active "personal" involvement, the wheels of government move off in directions counter to the nation's or the corporation's best interests.

Social responsibility actions that arise out of a vague sense of guilt, which many corporations apparently feel on this score, are likely, we think, to be essentially random in character and subject to the vagaries of fashion. Social responsibilities that are the natural activity of a good corporate citizen seem more likely to produce rational programs and the kind of humane social involvement that has traditionally characterized Federated and its divisions.

Of course, if corporations are to counter unreasonable regulation and take steps to be useful citizens of the greater society, then they must organize to do so. Reginald H. Jones, CEO of General Electric, said, ". . . business must develop a constituency—a body of hard-core supporters who will defend it in times of trouble and speak up for it in the debate over public policy. Business is the only institution that does not have such a constituency at the present time."

The notion that retailers should be involved in the political process is not a new one. You may recall that when those gathered in Philadelphia in 1776 came down on the side of "life, liberty and the pursuit of happiness," it was John Hancock who signed his name "big enough for King George to read." He was a merchant from Boston.

Retailers always have been involved in the political process at the community or local level. They didn't use that term because it seemed as natural as breathing for a department store chief executive to worry about downtown development, the quality of the public schools, the paving of the streets, the need for efficient and economic city services, and they believed that it was appropriate to work with other businessmen as well as politicians to get the jobs done.

State governments dealt with many tax and regulatory issues affecting the operations of retail stores. As a result, retailers eventually got very involved in the political process of states. This led to the development of some highly professional and effective state retail organizations.

We must deal with these political, social and economic questions if we are to survive as a nation. And this will be be easy because I am not at all certain that simple, easy, painless answers are readily at hand. We're going to have to do some searching, some experimenting, some testing, some debating, some persuading and some agreeing.

A very wise man, Felir G. Rohatyn, who is a senior partner in the investment banking firm of Lazard Freres & Co. and has become well educated in New York City finances, recently warned that "the U.S. desperately needs a breathing spell to put its house in order and negotiate new, lasting international trade and monetary structures." He argues that "we are at war with unemployment, with inflation, with racial discrimination, with lack of education" and concluded "we may have to adopt a wartime program" of sweeping controls and broad national programs to meet the challenge.

Without question we shall have to stretch our minds and our hearts, and our institutional thinking.

However, when we are all through, we want to make sure that we have retained the fundamental strength of our participatory democracy. We want to make sure that we are still able to say to each individual: "You have a right to life, liberty and the pursuit of happiness and equally you owe your democratic society duties and obligations so that those rights are available to all."

That—put simply—is our task. That's what it's all about.

Whenever you take the time to review all the problems and complexities of today, it is very easy to become discouraged and depressed. It is often tempting to conclude that nothing can be done or that only some kind of sweeping, radical solution will suffice.

Truly there is much to be done. And corporations must join with all the other elements of our democratic society to develop the answers and organize an active consensus. We will need to encourage innovation and a sense of urgency. Most of all, we must learn to walk in the other person's shoes and then work out mutually beneficial answers.

Difficult? Of course, but there is no other answer. If we are to solve the domestic and international difficulties and retain our free society, then all—business, labor, government—must work together. And you, particularly if you have a public affairs or public relations responsibility in a corporation, must learn to study, to anticipate, to create, to needle, urge and persuade to make all this happen.

Our free society is strong, but we sometimes fail to remember what makes it strong. It's useful to listen to an outsider. Some of you have read of Vladimir Bukovsky, who spent 12 years in Soviet prisons, work camps and psychiatric hospitals. He said:

"The pampered Western democracies have forgotten their past and their essence, namely that democracy is not a comfortable house, a handsome car, or an unemployment benefit, but above all the ability and the desire to stand up for one's rights . . . to be alone is an enormous responsibility."

He was asked why he had persisted in his fight against tyranny for 12 years. He responded with a very powerful question: "If not me, who?"

But let me refer you to someone closer to home. Woody Allen told Ms. Natalie Gittelson of The New York Times:

"We've got to give up the immediate, self-gratifying view. We've got to find the transition to a life style and a culture in which we make tough, honest, moral and ethical choices simply because—on the most basic, pragmatic ground—they are seen to be the highest good."

These are things to think about as you proceed upon a business career. As a final word, I would remind you of the charge by Pericles to his fellow Athenians.

"The secret of happiness is freedom and the secret of freedom is a brave heart." ●

SEVEN QUESTIONS ON SALT II

● Mr. CRANSTON. Mr. President, yesterday I placed into the Record that portion of the prepared statement of Gen. George M. Seignious II, Director, U.S. Arms Control and Disarmament Agency, which dealt with the five fundamental standards that General Seignious used in evaluating SALT II. Today I would like to add to the Record the testimony of General Seignious concerning seven questions that have arisen during the debate over SALT II. These seven questions or issues on SALT II are the following:

First. Linkage, the relationship of SALT to United States-Soviet relationships.

Second. The Soviet heavy missiles, the effect of the Soviets having 308 modern, heavy ICBM's while the United States has none.

Third. The Soviet Backfire bomber, the effect of the exclusion of the Backfire in the count of nuclear weapons "launchers" and an evaluation of Backfire as an intercontinental bomber.

Fourth. The comprehensive proposal of March 1977, the reasons why it was made and why it could not be achieved.

Fifth. The "new types" provision, the problem of verification and effectiveness of the limitations on the modernization of ICBM's.

Sixth. Cruise missile range verification, the rationale concerning the 600-kilometer limitation on GLCM's and SLCM's.

Seventh. The SALT process as arms control, how to measure the value in terms of arms control of SALT II and the entire SALT process.

Mr. President, there are other important questions in connection with the SALT II Treaty, but I think everyone would agree that the foregoing seven questions or issues are certainly some of the more important that have been raised and discussed in the SALT II debate. Since General Seignious condensed his oral testimony before the Senate Committee on Armed Services on Monday, July 30, I think it appropriate that the written testimony of General Seignious on these important seven questions on SALT be available to the Senate in full.

Therefore, I ask unanimous consent that the following portion of the prepared testimony of Gen. George M. Seignious II, Director, U.S. Arms Control and Disarmament Agency, submitted to the Committee on Armed Services of the U.S. Senate on July 30, 1979, be printed in full in the Record, as follows:

Testimony of General Seignious

I want to begin with linkage because it's a false argument and an argument that if carried to its conclusion would diminish not enhance our role in the world. SALT II has properly been debated in the context of our foreign policy, for SALT is the centerpiece of the U.S./Soviet relationship and rejection of SALT II would have serious consequences for this relationship and for stability elsewhere. But, some would link SALT II to every world problem, and some would decorate SALT II like a Christmas tree with burdens it neither merits nor can endure.

SALT II will in no way hinder our ability to compete with the Soviet Union where competition is required. SALT II, however, will enable us to continue the important process of cooperation, a process in which, as in negotiations, one nation's gain need not be the other nation's loss.

I agree that we cannot quarantine SALT entirely from Soviet actions in other spheres. But to burden SALT with every aspect of the Soviet challenge would mean we could settle nothing with the Soviets unless we settled everything. The nuclear threat to everyone's security is so overriding that we cannot wait until that day.

The Soviet challenge today is a challenge to be met on many fronts. To use SALT to meet every aspect of that challenge is not only inappropriate; it means that we lack the imagination and the will to use the many other, more effective resources at our disposal.

For those who would discard SALT because of Soviet activities elsewhere, I ask: what would they offer in return? What Soviet challenge could they meet in the nations of Africa and Asia by rejecting SALT? Would we be better able to respond to the Soviet buildup in Europe while spending even larger sums on nuclear rather than conventional forces?

A nuclear arms race, with the gloves off, would not just mean billions and billions more for defense, it would focus our attention on strategic military rivalry and competition. Our response to other pressing problems—such as energy and economic problems of our own and of our friends—could not help but suffer, for strategic security would be our first concern.

A stable world is an arena best turned to our advantage. An unrestrained and tension-filled nuclear arms race is not the recipe for a stable economy, and it is not the recipe for a stable world.

* * * * *

The second question concerns Soviet heavy missiles. In SALT II, the freeze on launchers of modern heavy ICBMs has been carried over from the SALT I Interim Agreement. Thus the Soviets can have up to 308 of such launchers while the U.S. will have none.

The United States has no plans for modern heavy ICBMs, and would not develop and deploy them even if permitted under the SALT II Treaty. The MX missile, which has the same target coverage as the SS–18, better serves our military requirements. Thus, the SALT II limitations on modern heavy ICBM launchers have no effect on U.S. programs or plans.

It was in this context that the United States gave up the right to modern heavy ICBMs in the course of the SALT I negotiations and agreed at Vladivostok in 1974 to continue this situation in SALT II. At Vladivostok, President Ford was able to gain important concessions in other areas, in particular, the Soviets agreed to drop their insistence on limitations on U.S. European-based aircraft and on compensation for the nuclear systems of our NATO Allies.

Furthermore, the Soviet right to heavy ICBMs only applies to silo-based ICBMs, an important consideration for the future as all fixed land-based ICBMs become increasingly vulnerable. Neither side is permitted mobile launchers of heavy ICBMs, heavy SLEMs or their launchers, or heavy air-to-surface ballistic missiles (ASBMs). We could have retained the option to deploy heavy mobile ICBMs, since this option was still open in the Treaty in the fall of 1978. However, if such an option had been left open, it was possible that the Soviets might well have deployed a heavy mobile ICBM, while the U.S. almost certainly would not have done so. We weighed this issue and, with the support of the Joint Chiefs of Staff, proposed to the Soviets that mobile launchers of heavy ICBMs, heavy SLBMs and their launchers, and heavy ASBMs be banned. The Soviets accepted this proposal.

It is also important to recognize that the Treaty sets a ceiling on the maximum number of reentry vehicles on ICBMs, and, in particular a limit of ten on all Soviet heavy ICBMs of the SS–18 type. This has two consequences. First, it will prevent the Soviets from developing and deploying by 1985, for example, an SS–18 ICBM force with 30 or more reentry vehicles on each ICBM, which is within their capability to do. Second, this fractionation limit will have the effect of allowing the U.S. to build a light ICBM of equivalent effectiveness to the Soviet heavy ICBMs. The MX ICBM will be permitted the same maximum number of reentry vehicles, ten, as the SS–18, and will have better accuracy. The MX will be the equivalent of the SS–18 in both soft and hard target kill capability. Thus, the Soviets will not be able to exploit the greater throw-weight of their heavy ICBMs in any meaningful fashion.

Finally, the problem of the increasing vulnerability of the U.S. silo-based ICBM force does not depend on the presence or absence of Soviet heavy ICBMs. For example, even if all the Soviet heavy ICBMs and their launchers were banned, and thus subsequently dismantled or destroyed, the Soviets could deploy enough SS–19s with enough hard-target-capable reentry vehicles to threaten the entire U.S. Minuteman force and still have a large number of residual reentry vehicles for other missions. Thus, a total ban on all Soviet heavy ICBMs would not solve the Minuteman vulnerability problem.

* * * * *

The third question concerns the Soviet Backfire bomber. The Soviet Union is currently deploying Backfires in both their long-range air force and in naval aviation units. Close observation over a period of years indicates that this bomber is being deployed for use in a theater or naval strike role and is a replacement for older Soviet medium bombers. However, this aircraft can reach the United States from home bases on a one-way, high-altitude, subsonic, unrefueled flight.

The ability to strike the territory of the other side is not the criterion for determining whether an aircraft is a "heavy bomber" and, thus, subject to the limitations in SALT II. For example, the U.S. has 67 FB–111's which are part of our strategic bomber force and dedicated to attack on the Soviet Union. They are not limited by SALT II. We also have over 500 aircraft deployed in the European and Pacific theaters which have the capability to strike Soviet territory. The Soviet Union at one time tried to get these aircraft included in SALT on the grounds that they could strike the Soviet Union. With the firm support of our Allies, we adamantly resisted that position on the grounds that these aircraft, whatever their theoretical capability, are deployed for theater missions and, thus, are not subject to SALT limitations. The Soviets have used this same argument with respect to the Backfire.

Nevertheless, the Soviets agreed to make certain important commitments concerning the Backfire. At the Vienna Summit, President Brezhnev handed President Carter a written statement in which the Soviet Union informed the United States that it did not intend to give the Backfire bomber the capability of operating at intercontinental distances, would not increase the radius of action of the Backfire in such a way as to enable it to strike targets on the territory of the United States, and did not intend to give it such a capability in any other manner, including by in-flight refueling. This statement also stated that the Soviets would not increase the production rate of the Backfire over the current rate. President Brezhnev confirmed that the Backfire production rate would not exceed thirty per year. President Carter, in return, stated that the United States enters into the SALT II agreement on the basis of the commitments contained in the Soviet statement, and that the United States considers the carrying out of these commitments to be essential to the obligations under the Treaty.

These commitments are consistent with the US objective of constraining the strategic potential of the Backfire force, while continuing to exclude our own European- and Pacific-based theater aircraft from SALT. These commitments will inhibit Backfire from being given an operational intercontinental role, and they will give us a basis for challenge if we should detect any evidence that Backfire is being given an intercontinental mission. Additionally, limiting the number of Backfires available means that Soviet diversion of Backfire from its theater and naval missions to a strategic role would substantially reduce Soviet strength in those areas, while adding only marginally to overall Soviet strategic capability.

Finally, under SALT II we are permitted to build a bomber comparable to Backfire if we decide that it is required for our security. Such a bomber would not be counted in the overall SALT II aggregate limit, and it would be subject to none of the restrictions that we have gotten the Soviets to accept on Backfire in SALT II.

* * * * *

The fourth question concerns whether we should have insisted on the Comprehensive Proposal of March 1977. I want to state at the beginning that this was a significant proposal that would have substantially limited the nuclear arms race. But, as stated recently during the hearings on SALT, it takes two hands to clap. The Soviets were simply not ready for this kind of sweeping progress. If we had "stuck to our guns" as some have suggested, the result would not have been a better agreement. It would have been no agreement at all.

March 1977 is not July 1979. In March 1977, the potential Soviet threat to our Minuteman ICBMs was imprecise; today, Soviet missile accuracy has improved to the point that in the 1980's the threat will be much less ambiguous. This passage of time demonstrates how little we can afford to delay. Technology is a powerful enemy of humanity's ability to place rational limits on arms. To discard the significant progress we have already achieved in SALT II in search of an ideal agreement would merely deal more time to technology, its strongest suit.

Those who advocate a return to the March 1977 Comprehensive Proposal from the reality of July 1979 are being unrealistic. Now, in view of the clear and imperative need to modernize and make more survivable our strategic deterrent, a return to the Comprehensive Proposal is out of the question:

The proposal, particularly the heavy missile reduction to 150 and the MIRV ICBM reduction to 550, would not make it possible to preserve the invulnerability of Minuteman. Even with these deep reductions in Soviet ICBMs, the Soviet SS–17 and SS–19 could still adequately target our Minuteman;

The proposal would ban the development, testing, and deployment of mobile ICBM launchers, as well as the development, testing, and deployment of new ICBMs; thereby, it would kill the MX program for both silo and mobile basing of any kind;

The proposal would keep Backfire out of the SALT II aggregate total but with no limits on production or upgrade;

The proposal would restrict air-launched cruise missile range to 2500 kilometers, which SALT II does not;

The proposal would ban modification of existing ICBMs and therefore preclude improvement of Minuteman II and III, and Titan II. Consequently, this restriction might prohibit the MK 12A warheads;

* * * * *

The fifth question deals with verification of the limitations on the modernization of ICBMs, the so called "new types" provisions. One of the major problems in arms control is that the pace of technology exceeds the rate at which we can limit such technology. SALT II, however, begins to put bounds on the way in which ICBMs—the most threatening of all systems—can be modernized.

Our major goal in negotiating the ban on new types of ICBMs was to force the Soviets to make choices in such modernization. The precise point at which we drew the line between a modernization of an existing type and a new type was somewhat arbitrary. Nevertheles, we strongly preferred to draw the line tightly even though we would have higher confidence in monitoring a looser, but less meaningful definition of a new ICBM type. The new types provision accomplishes our major goal and is an important step in limiting technological advance. This provision will, for practical purposes, affect only the Soviet Union. For example, if they replace the SS–11 with a new, larger single-reentry vehicle missile, they will not be permitted to replace the SS–17 or SS–19 with a new 10-reentry vehicle missile. They may not do both under SALT II. This provision will force them to make choices which they otherwise would not have to make while the United States can go ahead with its one new type, the MX. Both sides will, of course, be allowed to modernize within the 5 percent constraints stipulated. Modifications in excess of the provision, that might go undetected, would add little capability. If the accusation is that a 5 percent enhancement is a new missile, I do not feel that it is of military significance.

* * * * * *

The sixth question concerns cruise missile range verification. During the SALT II negotiations, we have also had to consider the tradeoff between verification considerations and the need to ensure that we would be able to take the necessary steps under SALT II to maintain strategic equality. There are uncertainties in verifying the range of cruise missiles. Within the limits of airframe design, more fuel and a lighter warhead could be carried, thus increasing the range. We do, however, have extensive information on current Soviet cruise missiles as a result of monitoring tests over many years.

It would be easier to verify a total ban on all cruise missiles than it will be to verify some of the cruise missile provisions in the agreement, such as those which temporarily limit the range of deployed ground- and sea-launched cruise missiles to less than 600 kilometers, but which permit full development and testing of these missiles. The Soviets wanted to ban all cruise missiles; we did not. However, the United States decided that, on balance, it was in the interest of our national security to be allowed to pursue these development and test programs, even though allowing the Soviets the same options may complicate verification in the future. Mobile ICBMs are an area where we made a similar choice, deliberately preferring to keep important military options open to us after the Protocol period, at the price of a potentially more difficult verification job.

* * * * * *

The seventh question concerns value of the SALT process as arms control. I do not measure the process against an ideal we might want to achieve; I do judge the process against what would have occurred had the process never existed at all. Is there anyone who can maintain that the arms race would not have been significantly greater without SALT I?

If there is, they overlook the ABM Treaty which has prevented a de-stabilizing and extremely expensive arms race in defensive systems that would have triggered an accelerated offensive arms race as well. They overlook the fact that the Soviet Union dismantled 209 large, older missiles under the SALT I Interim Agreement and replaced those missiles with smaller, less threatening submarine-launched ballistic missiles. They overlook the fact that our intelligence estimated at the time of SALT I that the Soviets were going for a force of over 400 heavy ICBMs, not 308. They overlook the fact that, after the Soviets reached the allowed ceiling on ballistic missile submarines and submarine-launched ballistic missiles near the end of the five-year term of the Interim Agreement, they have continued to stay within the terms of the Interim Agreement by dismantling perfectly good submarine-based launchers. These launchers are newer than some of those we now have deployed on our own submarines.

I have already stated my belief that by the end of 1985, without SALT II, the Soviets would certainly exceed the SALT II limits in enormous numbers. For instance, current Soviet programs indicate that they will attain the ceiling of 820 MIRVed ICBM launchers next year—five years before the end of the Treaty. I find it hard to believe that the Soviets would stop at 820 unless SALT II required them to.

To be sure, SALT II legalizes high limits, but it does limit. It provides predictability; it provides a measure of mutual confidence through this predictability and through verification provisions that enhance our intelligence; and it gives us time to modernize our forces so that equality and momentum will be our companions when SALT II expires.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on July 27, 1979.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notification follows:

Defense Security
Assistance Agency,
Washington, D.C., July 27, 1979.
In reply refer to: I–4622/79ct.
Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near East country tentatively estimated to cost in excess of $25 million.

Sincerely,
Ernest Graves,
Lieutenant General, U.S.A., Director,
Defense Security Agency.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the Record at this point the four notifications I have just received.

The notifications follow:

Defense Security Assistance
Agency,
Washington, D.C., July 30, 1979.
In reply refer to: I–1828/79ct.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79–62, concerning the Department of the Air Force's proposed Letter of Offer to Jordan for defense articles and services estimated to cost $32.0 billion. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,
Ernest Graves,
Lieutenant General, U.S.A.,
Director, Defense Security Assistance Agency.
Attachments.

[Transmittal No. 79–62]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Jordan.

(ii) Total Estimated Value: Major Defense Equipment, *$30.0 million; other, $2.0 million; Total, $32.0 million.

(iii) Description of Articles or Services Offered: Six (6) F–5F aircraft plus transportation and management.

(iv) Military Department: Air Force (SDS and SEA).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 30 July 1979.

Defense Security Assistance Agency,
Washington, D.C., July 31, 1979.
In reply refer to: I–5955/79 ct.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79–65, concerning the Department of the Navy's proposed Letter of Offer to Japan for defense articles and services estimated to cost $173.9 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,
Ernest Graves,
Lieutenant General, USA, Director,
Defense Security Assistance Agency.
Attachments.

[Transmittal No. 79–65]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Japan.

(ii) Total Estimated Value: Major Defense Equipment,* $110.7 million; other, $63.2 million; total, $173.9 million.

(iii) Description of Articles or Services Offered: Four (4) E–2C aircraft with a total support package and training for aircrew and maintenance personnel.

(iv) Military Department: Navy (SAV).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 31, 1979.

Defense Security Assistance Agency,
Washington, D.C., July 30, 1979.
In reply refer to: I–5974/79ct.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are fowarding herewith Transmittal No. 79–66, concerning the Department of the Air Force's proposed Letter of Offer to the United Kingdom for defense articles and services estimated to cost $137.5 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,
Ernest Graves,
Lieutenant General, USA, Director,
Defense Security Assistance Agency.
Attachments.

[Transmittal No. 79–66]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: United Kingdom.

(ii) Total Estimated Value: Major defense Equipment *$0.0 million other, $137.5 million; total, $137.5 million.

(iii) Description of Articles or Services Offered: One hundred thirty-six (136) AN/ALQ–131 Electronic Countermeasure (ECM) pods and associated support equipment.

(iv) Military Department: Air Force (YAU).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 30, 1979.

Defense Security Assistance Agency,
Washington, D.C., July 27, 1979.
In reply refer to: I–364/79ct.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79–73, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $1.230 billion. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,
Ernest Graves,
Lieutenant General, U.S.A.,
Defense Security Assistance Agency.
Attachments.

[Transmittal No. 79–73]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value: Major Defense Equipment,* $.037 billion; other, $1.193 billion; Total, $1.230 billion.

(iii) Description of Articles or Services Offered: Phase II of the Saudi Arabian National Guard (SANG) Modernization Program Follow-on (CY 82–85). Includes organizing, equipping, and training a light armor brigade and continued support for combat units already organized and trained, a SANG depot activity, and a SANG military schools system.

(iv) Military Department: Army (ZAC–5).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 27, 1979.●

BROAD SUPPORT FOR TRUCKING DEREGULATION

● Mr. KENNEDY. Mr. President, I am submitting today several additional items from newspapers around the country which are representative of editorial opinion on the issue of deregulation of the trucking industry.

The editorials are from newspapers in the States of North Carolina, Ohio, Pennsylvania, Oregon, Rhode Island, and South Carolina.

I commend them to the attention of my colleagues, and ask that they be printed in the Record.

The editorials follow:

[From the Lexington (N.C.) Dispatch,
May 31, 1979]

Off the Wheel

Any trucker is welcome to go into the business of hauling raisins to market, provided they are unprocessed or coated with cinnamon, honey or sugar. But if the raisins happen to be the chocolate-covered variety, the same trucker has to apply for permission from the Interstate Commerce Commission—and stand a real chance of being turned down. This is the crazy world of truck regulation. The industry, which is important locally in the distribution of furniture, is buried under rules and paperwork that cost the public billions in excessive shipping charges. The system has survived since 1935 only because some politically powerful trucking companies and their union drivers benefit more from the restrictions on open competition than they lose on inefficient operations.

Lately, things have been looking up for the public. The I.C.C., once the truckers' doormat, is scrapping some of the most wasteful anticompetitive restrictions. But there are risks in relying on the commission to reform the regulations; its policies are no more predictable in the long run than the commissioners appointed to make them. And that is why the Carter Administration is asking Congress for legislation that would sharply reduce the Government's role in trucking.

---

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

Under the plan, all restrictions on the types of commodities hauled by licensed carriers and on the stops they make along their routes would be dumped by 1983. "Backhaul" restrictions, which can force carriers to waste fuel by returning home empty, would be eliminated immediately. The proposal would also make it easier to serve specific routes. Today, the I.C.C. has the discretion to turn down an applicant because competing operators protest.

No less important, the industry would lose its immunity to the antirust price-fixing laws. No longer would truckers be allowed to agree on rates among themselves and then provide the I.C.C. with a single rate filing.

For those of us who see no more reason to regulate trucking than, say the furniture or textile industries, this bill is a compromise. It would be preferable to phase out the I.C.C. altogether, in the way the airline deregulation act dealt with the Civil Aeronautics Board. The Federal duty to assure safety could easily be assumed by other agencies.

Given the trucking industry's political power, however, compromises like this one are realistic. The Senate Commerce Committee, which is soon to consider trucking reform, will be under enormous pressure to protect the industry and the teamsters' union, that corrupt organization that hardly needs protection considering the power that it wields. The compromise bill would still leave in place a tangle of red tape, but a few years of that should persuade even the truckers to join the campaign for removal.

[From the Columbus (Ohio) Citizen Journal, June 8, 1979]

Deregulating Trucking

The White House finally is getting into gear on deregulation of the trucking business.

After promising—more than two years ago—that he would reduce the government's role in over-the-road freight hauling, President Carter has begun circulating a proposal calling for sweeping deregulation.

It's not clear what took the administration so long. It may have been heat from Senator Edward M. Kennedy, D-Mass., that finally broke the plan loose. Kennedy, chairman of the Senate Judiciary Committee, began drafting his own trucking deregulation bill a few weeks ago and let it be known that if the White House didn't move, he would.

Neither the big trucking companies nor the Teamsters Union will like the administration's plan. They don't want their cozy arrangement disrupted. Truckers like the way the government keeps a lid on competition. And the Teamsters find it easier to deal with a few big regulated companies.

The trucking lobby carries great weight on Capitol Hill, so the fight over deregulation is expected to be fierce. But if Congress has the interest of consumers at heart, deregulation forces will prevail.

Opening the Road

The Interstate Commerce Commission has taken another step toward encouraging greater competition in the trucking industry.

The ICC has already lowered some of the barriers that restrict competition among intercity truckers and tend to keep out new owner-operators. It now says that, beginning about the middle of March, it will give preference, when considering applications for operating rights, to truckers who pledge to provide cut-rate services.

The commission believes the new policy will stimulate innovative pricing and service options by trucking companes, and at the same time promote efficient and well-managed operations.

Predictably, the announcement has brought groans from the trucking industry. Some spokesmen are calling the ICC's action a kind of end run around Congress, which this season is expected to take up the issue of deregulation.

Viewing that prospect, trucking executives have been ringing many of the same alarm bells sounded by the airline executives when deregulation of their industry was first proposed a few years ago.

According to Bennett C. Whitlock, president of the American Trucking Associations, deregulation would "plunge the trucking industry into chaotic rate wars, drastically reducing the number of firms engaged in the business."

This would hurt many small towns whose only link with the outside economy is truck transport, he says. Moreover, he says, it would be impossible for the shipping public to know with any degree of certainty the transportation charges on the thousands of commodities which the 16,500 ICC carriers regularly transport throughout the country.

In short, the industry claims regulation has served both the truckers and the nation well so don't mess with it.

Poppycock!

The airlines warned of "chaos and confusion" in event of deregulation—but both they and the public are now enjoying it. Indeed, the advent of more open route and fare competition has resulted in the biggest boom in airline history.

And though truckers and airlines can't be compared exactly, chances are that deregulation would be just as good for the one as it has been for the other.

[From the Albany (Oreg.) Democrat-Herald, June 20, 1979]

Remove Shackles From Ttuck Industry

Most of the trucking industry is said to be opposed to deregulation of that business. That's to be expected. Major trucking firms are protected from competition under the incredibly complex set of rules governing who can haul what to where and for how much. But that's exactly why deregulation makes sense.

To his credit, President Carter has proposed a sweeping change in the way the government treats the trucking industry. He would do away with most of the present restrictions.

It's hard to see how a supposedly intelligent government could have come up with all those rules in the first place. For instance, the Interstate Commerce Commission estimates 20 percent of all truck miles are driven empty because of government restrictions. Also, some trucks now must drive hundreds of miles out of their way to go through points specified in their permits. There are restrictions on the type of cargo truckers may transport. According to an Associated Press report, one trucker is allowed to haul pineapples only if they are mixed with a load of bananas. Another truck firm is allowed to haul paint in two-gallon cans but not five-gallon cans.

Competition now is restrained because of rules which require truckers to prove, before starting a new route, that their service is necessary for the public's convenience. These proceedings can drag on for years. Not only that, but the present rules allow regulated truckers to set joint rates without being subject to antitrust law.

The government estimates all this costs the country an estimated $5 billion a year in higher prices for all kinds of goods. The system also wastes fuel by requiring those empty runs and circuitous routes.

Some will protest that deregulation may deprive some smaller towns of truck service because the big firms would serve only the most profitable points. Sure, this has happened in airline deregulation. But why should the government force any industry to provide a service on which it loses money? And anyway, we can't imagine why truckers wouldn't serve any point, anywhere, if there's a load to be carried for a fair charge. In the airline business, smaller independent carriers in some cases have jumped in where the bigger airlines pulled out.

This initiative to return some common sense and competition to truck transportation has been long overdue. We hope the president's proposal is quickly translated into action.

Deregulate, Says Truckers' Rep.

(By Lance Robertson)

Independent truckers don't need a rollback in diesel-fuel prices or special surcharges to keep them on the road, says the head of a major trucking association—they'd be happy just to carry full loads in their huge trailers.

"If we could utilize our trucks 100 percent, we wouldn't need a 10 percent surcharge to help us operate," said Richard "Dick" Card, president of the Western Truckers Association, a coalition of independent and non-union truckers.

Card and the vice president of the organization, Greg Etchison, have spent the last two weeks on the road to bring truckers' problems into the public eye and promote deregulation of the trucking industry.

They've negotiated twice with Oregon Gov. Vic Atiyeh and left Saturday for their second meeting in Washington, D.C., with federal officials and congressmen.

Card, a Medford-area trucker for 25 years, said his goal is to change state and federal rules, which now don't allow most independent truckers to solicit finished products. They can drop off products at a manufacturing plant, he said, but rules prohibit them from picking up a full load and taking it somewhere else.

If truckers could do that, he added, they could afford to pay high diesel-fuel prices because they would be paid to drive both ways, not just one.

"(President) Carter has assured us that we will get our fuel. I'm fairly satisfied with that. But now we want to work for deregulation," Card said.

Card said that while in Washington, "we're going to fully support Carter's and (U.S. Sen. Edward) Kennedy's efforts."

Carter and Kennedy propose deregulating the trucking industry, a move they say will save consumers $5 billion a year.

But the measure is strongly opposed by truckline owners and the Teamsters Union.

His recent campaign hasn't left Card much time for a home life but he says the effort is worth it. But so far he has failed to unite independent trucking groups, which have been split into several factions.

Card said the Western Truckers Association is the best group to represent truckers in Oregon because it has been in existence for eight years and it represents truckers who work for various companies, not just independents.

The West Coast Owner-Operators Association, which is split between factions in Salem and Portland, has disagreed on how to handle the protest. Some members want to block pumps at truck stops, while others advocate a shutdown, followed by negotiations.

The Western Truckers Association supports the shutdown of independent truckers—but not violent acts.

"We have supported the shutdown," Card said. "We'd like to put our trucks back to work at this time, but we're not going to do that. This is the best way to get our point across.

"In no condition do we support violent acts," he added.

Violence, which has hit Oregon and 17 other states, only intensifies public resentment against truckers, said Card. Many consumers blame the trucking industry for high prices, but independent truckers say they are only reacting to the high prices forced upon them by oil companies.

"It's about time we should be getting support from the public to help us solve this situation," said Card. "The independent trucker on the West Coast has gotten no support for increasing wages or changing regulations to allow him to haul both ways with full loads."

[From the Eugene (Oreg.) Register-Guard, Apr. 2, 1979]

DEREGULATION MAKES SENSE

Transportation Secretary Brock Adams says that this year's battle to deregulate the trucking industry is going to make last year's scrap over airline regulation look like a minor squabble.

He's probably right. But when the dust clears, it will be the trucking industry that suffers a loss of credibility, not the Carter administration.

The trucking industry favors federal regulation because it limits competition, thus producing handsome industry profits for existing firms with a minimum of effort. . . .

The airline industry claimed a lessening of federal regulations would be a disaster if such a bill were ever passed by Congress and the fight raged up and down Capitol Hill before the issue was settled on the side of deregulation. There was no disaster. Ticket prices fell as the airlines began competing with each other for new business and ridership soared along with profits. . . .

The success of the airline (deregulation) simply encouraged the administration to do the obvious: look for other parts of the economy where deregulation could stimulate better consumer service at a lower cost.

The proposal to deregulate the trucking industry and freight railroads will be submitted to the 96th Congress and we urge Texas' congressional delegation to work aggressively towards its speedy adoption.

[From the Providence (R.I.) Bulletin, June 22, 1979]

INDEPENDENT TRUCKERS

The countrywide blockades and sporadic violence by some independent truckers are an assault on the public. While the truckers have some legitimate complaints, their cause is not helped by illegal tactics, and it falls squarely on the shoulders of governors in the affected states to deal sternly with those who break the law.

The violence hits close to home. On Wednesday, in this area, a truck carrying 10,000 gallons of gasoline was hit twice by gunfire, and a trailer truck received a bullet in its radiator. Fortunately nobody was injured, but the deadly potential of an accident involving a loaded gasoline tanker truck on the highway is appalling.

Under these circumstances, Governor Garrahy's meeting with both sides in the dispute and offers to try to resolve their disputes was a useful first step. The judicious approach is Mr. Garrahy's particular style, and it has its pluses. But when lawbreaking and violence are involved, a sympathetic ear and offers to mediate were not enough, as he apparently sensed.

The Governor has an obligation to raise his head and roar in this situation. As the state's chief executive he could leave no doubt that violence will not be condoned. No blockades, no shutdowns, no endangering of the state's economy or public safety. The Governor thus did well to assure state police protection for truckers who want to do their jobs but fear violence, and to alert the National Guard in case more violence should arise.

As for the basic complaints of the truckers, however, there is little that Governor Garrahy or any governor can do. Most of those complaints stem either from actions by the federal government, or from the world oil situation, over which even Washington has no control.

There are four basic issues to be addressed: lack of adequate fuel supplies to keep the independent truckers rolling; the high cost of fuel when they can find it; the lack of uniform state rules on truck load limits; and finally, the proposed federal deregulation of the trucking industry, an issue on which even the truckers themselves do not agree.

The White House has already indicated it will take steps to assure truckers an increased fuel supply. This it should do. The country's economy is utterly dependent on the movement of goods over the highways. and there are no practical alternatives to that dependency. As a tradeoff for more fuel, however, the federal government should retain and insist that states enforce the 55 m.p.h. national speed limit, which the truckers won't like.

As for high fuel prices, the truckers must bear them along with the rest of us. The Interstate Commerce Commission has already granted truckers a 6 percent rate surcharge to offset these costs. Complaints that this does not cover the 30 percent increase in fuel prices since January are a numbers game. Fuel costs are only one part of any trucking operation, and there is no simple correlation between them and the final rate charged customers.

Truckers have a half-legitimate beef on the lack of uniform state regulations governing truck-load weight limits. Uniformity is desirable. But the truckers want that uniformity at the maximum of 80,000 pounds, while 10 states—which have to pay the costs of maintaining roads—have sound economic reasons for holding the limit below that. It is not beyond the capability of the federal government to work out a compromise between truckers and states, offering uniform regulations in exchange for a lower maximum weight. If the truckers want to get uniformity badly enough, they ought to be willing to give a bit to achieve it.

As for deregulation of trucking rates, these newspapers are already on record in favor. The objections to it by some truckers and by the Teamsters' Union, for all their sophistication, boil down to fear of competition. Regulatory powers should be limited to the prevention of monopolistic practices. Allowing truckers to set their own rates remains the best form of price control yet devised. The protests of those who fear the cold shower of competition only underscore the cozy relationship that has evolved between the regulators and those whom they are supposed to regulate. That situation has not benefitted the public.

All of this, of course, takes time—a commodity in shorter supply than diesel oil. Farmers in the South are already starting to suffer losses from crops that cannot be shipped, and the resulting shortages will be felt all too soon by the consumer, especially in the Northeastern states.

President Carter takes off for a trip to the Orient tomorrow. Before he climbs aboard Air Force One, he should crack his whip over the heads of the Transportation Department and the ICC to do what needs to be done to get the trucks rolling again.

[From the Providence (R.I.) Journal, June 27, 1979]

DEREGULATING THE TRUCKERS: THE SKY WILL NOT FALL

On one front, at least, President Carter's anti-inflation thrust is right on target, and American consumers can serve their own best interests by sending this message to their representatives in Congress: Vote YES for Mr. Carter's trucking deregulation bill.

Although the recent country-wide trucker strikes have nothing to do with Mr. Carter's proposed legislation, they underscore the key role of the $108 billion industry that carries about 25 percent of all freight and collects 72 percent of the national freight bill.

The premise of Mr. Carter's measure is that the Interstate Commerce Commission which regulates the trucking industry, ought to base its decisions on the following standards: maximum competition; free entry into the industry by newcomers; fair wages and decent working conditions; improved transportation safety; and better service to small communities.

In fact, however, since Congress set up the ICC in 1935 to regulate trucking, it has restricted it. Instead of using its rate-setting powers to keep prices down, it has rubber-stamped price increases that the truckers set for themselves (because Congress unwisely exempted them from antitrust laws). Instead of helping the industry improve productivity, it has done the opposite with regulations that would make a Soviet commissar blush.

By eliminating many of these nightmarish regulations, Mr. Carter's reforms would save the consumer a conservatively estimated $5 billion a year. This would strike a meaningful blow against inflation. It would save vast quantities of fuel, at a time when not only motorists but truckers themselves are struggling with a gasoline and diesel fuel shortage.

Among the specific recommendations of the Carter deregulation bill:

Immediate removal of backhaul restrictions. Forcing truckers to "deadhead" back to their point of origin with empty vans is an unconscionable waste of fuel, man-hours and money.

Immediate removal of prohibitions on intermediate stops. Truckers should be able to make any stops they want in order to maximize loads. This would increase their productivity, and give smaller towns the best possible service.

Phase out by December, 1981 route restrictions and circuitous routing. There is no justification for the ICC to specify the exact route over which a truck must travel. Requiring a truck to dog-leg through "gateway cities" hundreds of miles out of the way is bureaucracy gone amok.

End all commodity restrictions by December, 1982. No useful public purpose is served by telling a carrier he may haul crated but not uncrated machinery. Or paint in two-gallon but not five-gallon cans. Or bananas but not pineapples.

These are typical of the reforms sought by Mr. Carter. That they are needed can hardly be in question. What is in question is how the ICC ever strayed from its intended mission of protecting the public to its current ambivalent role of pampering and punishing the trucking industry, while abandoning utterly the public interest.

A good guess has to be that powerful segments of the trucking industry are willing to put up with such insanity because the ICC has been all too willing to lend its powers to give these interests an edge in their particular corner of the market. This might explain the trucking industry's frantic drive to shoot down President Carter's deregulation bill, and to draw up a substitute measure of its own.

Those truckers who bleat that deregulation will do more harm than good should take a look at their sister airline industry, which got a bit hysterical when Congress proposed deregulation. To its credit, Congress ignored the warnings of dire consequences and pulled the regulatory plug.

Most of the air carriers now love it, and the public benefits from more choices among flight schedules and fares.

It is high time for the truckers to take the same cold shower—and for the ICC to get back to the basics of what government regulation ought and ought not to be.

[From the Anderson (S.C.) Independent, Feb. 23, 1979]

Should Trucking Be Deregulated? 10–4, Ole Buddy

Having shared in the outstanding benefits resulting from the deregulation of the airlines, many people are yearning for more. They want to apply the same medicine to trucks. Congress is in the mood to listen. In fact, several key senators have given the idea a big 10–4.

As is often the case, however, there's a professor who thinks otherwise. Countering the many studies which calculate the tremendous savings from trucking deregulation in the form of reduced freight rates and lower priced goods, a Dr. Daryl Wyckoff of Harvard points to a cost. Truckers not subject to regulation are less safe, says the professor.

Basing his conclusions on a study of truckers now exempt from the control of the Interstate Commerce Commission, Wyckoff found:

Exempt drivers receive more traffic tickets and are in more accidents than their regulated cousins.

Exempt drivers often drive longer hours than allowed by ICC regulations. As a result, the drivers take more pep pills and sleep at the wheel more often.

On the basis of this survey information. Wyckoff thinks deregulation would be a bad thing. He paints a picture of increased accidents involving truckers.

The professor has a point, we admit, but not an argument against removal of trucking from the iron grip of the ICC. Safety and the regulation of rates and entry are two different things.

We say free up the competition in trucking. Let the law enforcement officers handle the safety problem. That's their business. Higher fines and longer sentences might reduce the incidence of reckless driving.

The use of freight rates to regulate safety is hardly the most efficient way to go. While lawbreakers are always at jeopardy, competitive trucking will give everyone cheaper goods. In short, we think the benefits outweigh the costs.●

EDWARD ROWNY, U.S. ARMY, RETIRED

● Mr. TOWER. Mr. President, today the Senate Armed Services Committee received testimony from Lt. Gen Edward Rowny who has been, for the last 6 years, the representative to the SALT negotiations for the Joint Chiefs of Staff. General Rowny is a faithful public servant and a man of tremendous integrity who has served the Joint Chiefs under three administrations. His testimony today represented a high point in moderate, objective, and balanced study of the SALT II Treaty and related agreements. The quality of his testimony should not have been surprising. General Rowny has not only a superb background and education, but he has had more experience in the details of the SALT process, over a longer period of time, than any other witness who has appeared before our committee.

There is no doubt that General Rowny has served the Joint Chiefs of Staff extremely well. Yesterday, Gen. Lewis H. Wilson, until a month ago the Commandant of the Marine Corps, made this clear for the record:

Mr. Chairman, Lt. Gen. Edward Rowny, U.S. Army (Ret.), the JCS negotiator has served the JCS and his country in an exceptionally outstanding manner during his six years' involvement in the SALT negotiations. I agree with his judgment that had the United States been more persistent we could have obtained a more equitable and verifiable agreement.

General Wilson is one of the most highly decorated and honorod Americans ever to wear the military uniform, and I agree with his judgment completely.

In his statement to our committee, General Rowny makes it clear that we could have obtained a more equitable and verifiable agreement. And we still can.

I would urge all of my colleagues to take time during the upcoming August recess to read carefully General Rowny's prepared statement, and I ask that it be printed in the Record following my remarks.

The statement follows:

Statement of Lt. Gen. Edward Rowny

Mr. Chairman, for more than six years I represented the Joint Chiefs of Staff at the Strategic Arms Limitation Talks. I had been selected for this job because of my experience as Chief of the Mutual and Balanced Force Reductions (MBFR) Working Group in NATO and because I had on numerous occasions expressed my belief in the utility of limiting strategic arms. I continue to hold this belief.

As their representative, I supported the goals of the Joint Chiefs of Staff aimed at achieving limitations on strategic arms provided—and only provided—such limitations were consistent with maintaining our security. If such goals were achieved, our long-term objectives of enhancing deterrence and strengthening global stability would be served. I believe that an agreement which reduces the strategic arms of both sides to equal levels—in numbers as well as in overall capability—is in our nation's interest. I am convinced that such an agreement was—and still is—attainable.

Over the six year period that I was the JCS Representative to SALT, I expressed my views to the Joint Chiefs of Staff in numerous messages and memoranda. At their request I submitted an assessment of SALT in a classified memorandum dated 6 January 1978. I brought that assessment up-to-date on 5 January 1979 and again on 27 March 1979. I mention these assessments to make clear that my final judgments are based upon a long, continuous process of study and evaluation. On 21 May 1979, after the announcement that "agreement in principle" had been reached on the remaining issues of SALT II, I made a final assessment. I concluded that—even though the Joint Chiefs of Staff have made it a considerably better Treaty than it would have otherwise been—this Treaty does not meet minimally acceptable standards. I stated that it was my judgment, based on years of negotiating with the Soviets, that a Treaty meeting the criteria of the Joint Chiefs of Staff was—and is—attainable. However, since negotiations were to be concluded on less than satisfactory terms, I asked to be relieved of my duties and requested retirement. My request was approved and I retired on 30 June 1979.

I would like to state at the outset that in principle there are some positive aspects of the Treaty signed in Vienna on 18 June 1979. The Treaty establishes the principle that there should be equal and lower ceilings of strategic offensive arms. It calls for numerical reductions which, because the Soviets have surged ahead of us, will impact upon the Soviet Union. It seeks to limit the Soviet Union to a maximum of ten warheads per ICBM—and in theory—to one new light ICBM during the life of the Treaty. The Treaty contains certain provisions which are intended as aids to vertifiability of missile launchers. Finally, the Treaty provides for an exchange of certain data on the numbers of strategic offensive arms.

However, most of these positive features have serious negative aspects. Specifically, the agreement in principle that there be equal ceilings of strategic arms remains an achievement more in theory than in practice. This is so because a significant number of Soviet strategic systems are allowed to go uncounted. Moreover, the ceilings are set at such high levels and the capabilities of these systems are so great that they are militarily virtually meaningless. The reductions agreed upon are extremely modest. Thus, even if the Soviets reduce to the lower ceiling of 2250 by 1982, the United States, having at that time only about 2050 less capable operational systems, would *still* need to build up actually to achieve equality with the Soviet Union.

Since qualitative improvements are virtually unrestricted by the Treaty, the numerical limitations imposed upon the Soviet Union will *not* reduce their overall capability. Indeed, that capability will grow enormously during the life of the Treaty. Furthermore, because qualitative improvements are far harder to monitor than mere numbers of systems, the emerging Treaty will afford us less predictability of the capabilities of their systems and hence less stability. The freeze on the number of warheads per MIRVed missile and the limitation to ten warheads per ICBM allows the Soviets a total number of warheads far greater than are required to destroy the hard targets of the United States. This is hardly a stabilizing influence. Moreover, and a point often overlooked, these limits expire with the Treaty at which time our negotiating posture will be much weaker than it is now. While it is commonly assumed that these fractionation limits will be continued beyond the expiration of the Treaty, it is difficult to imagine what leverage the United States will possess for assuring that such fractionation limits can, in fact, be extended.

Given the current throw-weight potential of Soviet missile systems after 1985, it will permit the Soviets to deploy even greater numbers of reentry vehicles on their existing ICBMs. While the Treaty in theory limits the Soviets to one new type of light ICBMs, in practice the agreed terms of the Treaty permit the Soviets to deploy several new types of missiles. The provisions regarding verifiability are insufficient by a large margin to make the Treaty adequately verifiable. In fact certain aspects are inherently unverifiable unless cooperative measures, steadfastly opposed by the USSR, were to be agreed upon and included in the Treaty.

These positive and negative aspects aside, the Treaty should be tested against objective standards for measuring the worth of a Treaty. A SALT agreement designed to limit strategic offensive arms would be in the interest of our military security and hence in our national interest if it were equitable and verifiable, if it strengthened European security, and if it contributed to allied coherence.

THE TREATY IS UNEQUAL

The Treaty is not an equal one. It grants certain rights to the Soviets and not to us. Two of these inequalities are of cardinal importance: first, the 308 launchers of heavy ICBMs permitted the USSR but not the US, and the second, the exclusion of 375 Soviet Backfire bombers from the Soviet aggregates.

The exclusive right of the Soviet Union to deploy 308 launchers of heavy ICBMs is the most glaring inequity of this Treaty. These heavy missile launchers account for over one-third of the Soviet ICBM destructive potential and for one-half of the ICBM warheads the Soviets are permitted to deploy under the Treaty. The heavy missiles which can be fired from these 308 heavy ICBM launchers contain more destructive potential than all of our US ICBMs and SLBMs combined. The more than 3,000 warheads on these heavy missiles alone could destroy 90 percent of our ICBM force in Soviet first-strike. If it were not for these Soviet heavy missiles we would not need to develop and deploy as extensive or expensive a multiple basing mode for the M-X missile, a program which will cost the US in excess of 30 billions of dollars.

I have heard it asserted that our M-X light missile will be the equal of the SS-18 heavy missile. This assertion is wrong. If two missiles are of equal accuracy, (and we no longer hold a monopoly on highly accurate ICBMs), the one with greater yield is more effective because it makes up for near misses. More importantly, an SS-18 possesses the potential for carrying two or three times as many warheads as the M-X once the Treaty expires. It is this break-out potential of the SS-18 which is often overlooked when comparisons are made which equate the SS-18 with the M-X. Therefore, instead of bounding the MPS deployment problem, the planned MPS basing scheme will become obsolete and unbounded even before the M-X is deployed.

It is sometimes argued that the U.S. elected not to build heavy missiles and consequently that we should not fault the Treaty for giving the Soviets the sole right to develop them. This argument is wide of the mark. At that time our planners believed that lighter missiles could, given sufficient accuracy, adequately cover Soviet hard targets. Accordingly, the United States, believing that the Soviet Union could not match us in accuracy, and believing it to be consistent with the objective of holding down the number, size, and destructive potential of strategic offensive arms, decided to deploy only lighter missiles.

The Soviets, however, did not follow our example and chose to develop and deploy heavy missiles. Each of these heavy missiles is six times as powerful as our Minuteman missiles and carries three times as many warheads as do our MIRVed missiles. I believe the U.S. should have persisted in its objective of insisting upon a reduction in the Soviet number of launchers of heavy ICBMs (as we did in March 1977). The best way to reduce the threat from these heavy missiles is to cause it to go away. Failing that, we should insist on being compensated for this glaring and militarily significant asymmetry. Otherwise, we may find ourselves under increasing pressure to invoke in the near future the supreme interest clause. Rather than to risk unraveling SALT completely, we might be better off trying to renegotiate SALT II.

The second unilateral right afforded the U.S.S.R. is its right to exclude from the Soviet total their 375 Backfire intercontinental bombers. Various U.S. intelligence estimates, although they disagree as to its precise capabilities, all agree that the Backfire is capable of striking targets in the U.S. on unrefueled missions and recover in third countries. This is precisely the way in which B-52s, which are counted in U.S. totals, would perform strikes against the U.S.S.R. The Backfire, two-and-a-half times as large as any medium bomber on either side, and exceeding the capability of many of our B-52s, has the capability of carrying a 20,000 pound bomb load to over 10,000 kilometers. It is seldom appreciated that the 375 Soviet Backfire bombers add an additional one-third in destructive potential to the already formidable total strategic throw-weight possessed by the U.S.S.R.

It is sometimes argued that bombers are second-strike or follow-on systems, and therefore that we need not be concerned over this Soviet "add-on" capability. If this argument were accepted, it would follow that the U.S. does not need B-52s. This is obviously a spurious argument. Furthermore, many of our B-52 airbases could be attacked by Soviet sea-launched cruise missiles of less than 600 km range (permitted by the Treaty), whereas Backfire bases cannot be hit by U.S. short-range sea-launched cruise missiles.

Further, while air-launched cruise missiles and the B-52s from which they would be launched would suffer severe attrition as a result of extensive Soviet air defenses, the U.S. has virtually no air defenses and it is a near certainty that the Backfire could carry out its missions. As it is, the U.S. may, according to some Pentagon estimates, need to spend upward of 8 billion dollars over the next ten years to improve its air defenses to counter the threat of what some label an "insignificant" Backfire threat. To argue that the Soviets intend to use these modern long-range penetrating aircraft for theater or naval missions is to overlook the inherent flexibility of heavy bombers. We military persons must deal with capabilities, not mere intentions. Our use of B-52s tactically in Southeast Asia would not have prevented our using them, if the need arose, in a strategic role.

Finally, the negotiating history of the Backfire issue, especially when one considers the conflicting statements the Soviets made concerning its performance at various profiles, to say nothing about the blatant manner in which the Soviets have refused to enter into any serious discussions of the Backfire's capabilities, can only give future Soviet negotiators comfort that the United States will continue to accept Soviet declarations of weapons capabilities as carrying more weight than our intelligence estimates. In sum, as the Joint Chiefs of Staff have made repeatedly clear, there are no objective reasons why Backfire should not be counted in the Soviet aggregate. If they were properly so counted, the Soviets would be forced to replace 375 first-line central systems from their inventory.

The Treaty allows an initial ceiling, until the end of 1981, of 2400 strategic systems. It is sometimes argued that the U.S.S.R., since it has 2550 systems today, is disadvantaged since it will be required to reduce 150 systems, whereas the U.S. will not have to reduce any systems. Implicit in this argument is the notion that the U.S.S.R. should be rewarded for not showing restraint and for having forged ahead of the U.S. while SALT negotiations were in progress. Furthermore, the fact that the ceilings will be reduced to 2250 after 1981 will not rectify the asymmetry favoring the Soviets. By that time a number of the "bone-yard" B-52s, now mothballed and only marginally recoverable for use, will have been completely scrapped. At the end of 1981 the U.S. will have only about 2050 systems in its inventory.

Thus the U.S.S.R. will stay ahead of the U.S. in the number of strategic systems throughout the life of the Treaty. One way in which this situation could have been equalized would have been for both sides to make greater reductions, say to reduce to 2000 systems by 1985. The JCS made repeated recommendations that deeper reductions of this sort should be made. Their recommendations were consistently rejected. A second way in which the large asymmetries between the U.S. and the U.S.S.R. could have been equalized would have been to abide by Public Law 92-448—the Jackson Amendment, which called for equal levels of forces which went beyond mere numbers and would limit, for example, throw-weight.

It has been stated by some that we gave the Soviets a unilateral right to heavy missile launchers in a trade for their abandonment of counting our so-called FBS. Others stated that we traded the Soviets not counting Backfire for our not counting FBS. Neither of these statements is supportable by the record. What is supportable is that the Soviets abandoned their FBS argument when we insisted that they include their more numerous and more powerful comparable systems. The simple fact is that the Soviets dropped their FBS argument when we insisted that they count their counterpart systems which are twice as numerous and possess at least ten times the destructive potential of ours.

In short, the Soviets dropped their FBS argument because it was in their own self-interest to do so.

The number of systems possessed by the two sides is not even a rough measure of their respective strengths. More accurate comparisons must take into account the number of warheads each side will have, the types of systems these warheads will be deployed upon, and the yield of these warheads. Under the Treaty, the USSR is permitted to deploy by 1985 over 6000 warheads on existing types of ICBMs, the US slightly over 2000. Since the US has deployed only 3 re-entry vehicles, RVs for short, on each of its 550 MMIIIs and the USSR has deployed 4 RVs on its SS-17s, 6 RVs on its SS-19s, and 10 RVs on its SS-18s, these obvious inequalities result in the 3 to 1 asymmetry of RVs on ICBMs in the Soviets' favor by 1985.

Moreover, each Soviet ICBM warhead will, by the early 1980s, possess accuracies comparable to ours. ICBMs are for a number of reasons the most destructive and most destabilizing of strategic offensive systems. First, practically all ICBMs can be launched (as opposed to SLBMs where one-half of the force is in port at any one time). Secondly, ICBMs have secure and redundant communications (in contrast to the more tenuous communications available for submarines). And thirdly, only an ICBM warhead possesses the combination of yield and accuracy which gives it the certain capability of destroying hard targets. The 3 to 1 Soviet advantage in ICBM warheads takes on even greater importance when one considers that the US has only one-half the number of hard targets as does the USSR.

It is sometimes argued that the current US lead in SLBM warheads compensates for the Soviet ICBM asymmetry because it gives the US the greater number of deliverable weapons. This argument is militarily invalid. Today's SLBM warheads cannot destroy Soviet hard targets. SLBM warheads have roughly one-tenth the yield and thus are one-tenth as powerful as ICBM warheads.

Further, SLBM accuracy is generally considered to be roughly one-half that of ICBMs, and since the effect of reduced accuracy is an inverse square function, SLBMs are only one-fourth as effective as ICBMs of equal yield. Thus the average SLBM warhead is only one-fortieth as effective as an ICBM warhead.

Furthermore, only one-half of the SLBMs can be expected to be on submarines at sea at any one time. Finally, the full complement of 14 warheads can seldom if ever be effectively employed; the maximum number is closer to ten. When one puts all these factors together it becomes clear that an SLBM possesses one-eightieth to one-hundredth of the potential value of an ICBM. Accordingly, one should not count ICBM and SLBM warheads as though they were equal. Or to be more graphic, weapons the size of grapes should not be thought of as being in the same class as those the size of grapefruits.

There are a host of other inequities in the Treaty. One example becomes immediately discernible from a glance at the history of the negotiating process concerning cruise missiles. Prior to Vladivostok, limitations on cruise missiles were practically never mentioned. Indeed, after the meeting at Vladivostock President Ford reported that cruise missiles had not been mentioned at all and that it was his understanding that only ballistic missile constraints were discussed with the Soviets. Following the Vladivostock meeting the Soviets refused to initial the aide memoire in which the US had insisted that it refer only to ballistic missiles. After several days the aide memoire was initialled with the understanding that the term "air-launched missile" did not encompass cruise missiles. This point was later countered by the Soviets who argued that if the accord was meant to restrict only ballistic cruise missiles the aide memorire would have explicitly said so.

Thus cruise missiles, which we maintained were not covered by the agreement, were subsequently subjected to an ever-increasing number of restrictions. The JCS, as General Wilson has testified, recommended that no constraints be placed on cruise missiles since to do so would not be in the national interest. Since the US is ahead in cruise missile technology, and since only the US has a requirement for air-launched cruise missiles to make B–52s capable of penetrating Soviet air defenses, limitations on cruise missiles—for all intents and purposes—constrain only US systems. This is a glaring inequality of the Treaty as drafted.

The second inequality in cruise missile limitations is the cut-off range between systems to be limited from those not to be limited. The Soviets insisted that this distance be 600 km, a cut-off point which greatly favors the USSR. Soviet sea-launched cruise missiles of under 600 km range could attack between 50 and 75 percent of the population and industry of the US, whereas missiles of the same range launched by the US can reach less than 2 percent of the population and industry of the USSR. As is well known, the Soviets have hundreds of cruise missiles which approach this range. Originally, the JCS wanted the cut-off point between tactical and strategic cruise missiles to be set at a more equitable figure, say at 100 or at most 200 km. However, this view did not prevail.

Another inequality in connection with cruise missiles resulted from the inclusion of aircraft equipped for air-launched cruise missiles in the 1320 aggregate. In January of 1976, in one of the large number of offers made by the United States, we proposed to the Soviets that such aircraft count in the 1320 aggregate in trade for counting all Backfires over 75 (the number the Soviets were expected to deploy by the time the Treaty was expected to be signed). The Soviets pocketed our offer to include in the 1320 aggregate aircraft equipped for cruise missiles, and no more was heard of the Backfire end of the bargain. Worse, the Soviets argued that no Backfires should be counted at all.

In March 1977, the Carter Administration, as an alternative to its Comprehensive Proposal, offered to postpone decisions on Backfire and cruise missiles for three years after the Treaty went into force. The Soviets rejected this proposal, just as they had rejected the Comprehensive Proposal. Rather than be resolute in our negotiating position, the U.S. hurriedly abandoned this postponement proposal, just as it had abandoned its Comprehensive Proposal. The net result is that Backfire is not counted at all in the Treaty and ALCM carriers count in the 1320 MIRV total. Worse, cruise missiles have since then been subjected to an increased number of restrictions, to include counting conventionally armed air-launched cruise missiles as though they were nuclear armed.

THE TREATY IS NOT VERIFIABLE

The conclusion I reached in my assessment of 21 May 1979 to the JCS regarding verifiability was that the Treaty is not adequately verifiable. Problems in verification stem in large measure from the great advantages accruing to the closed society of the USSR over the open society of the US. The USSR, playing its cards close to the chest whereas we play ours face up on the table, has little difficulty in verifying US system. The press, unclassified Congressional hearings, production reports and other U.S. publications provide the Soviet Union with all the information it needs to satisfy its verification needs.

Practically no information of a similar nature is available to the US. I shall not discuss here in open session the recent difficulties facing the US in monitoring Soviet activities which already aggravate the problem of verifiability. My assessment of verifiability rests for the most part not on monitoring but on the unsatisfactory provisions of the agreement itself to which monitoring applies. The USSR has consistently refused to agree to provisions necessary to assure adequate verification of mobile ICBMs, MIRVed ICBMs and SLBMs, new types of ICBMs, heavy bombers and cruise missiles. Many of the provisions to which we agreed involve ambiguities and contain loopholes.

Provisions pertaining to the verifiability of mobile ICBMs are loosely drawn. The Soviets have agreed not to deploy the SS–16 mobile ICBM during the period of the Treaty. However, the US did not insist that the third stages of such missiles be destroyed. Hence the USSR could, in a break-out scenario, employ these (or clandestinely produced third stages) on any of the SS–20s it has in its inventory.

As for the verifiability of numbers of MIRVed systems, the Soviets have agreed to the "look-alike/count-alike" rule. However, there are those who agree with the Soviets that they granted us a concession and that counting launchers as MIRVed are exceptions to—rather than compliance with—agreed counting rules. Thus we cannot be certain that the Soviets will accept our interpretation of this counting rule in the future.

The provisions for the verifiability of new types of ICBMs are so loosely drawn that it is extremely unlikely that the Treaty will restrict the Soviets to one new type of ICBM. Parameters which would make effective verification more likely were not agreed to by the Soviets and therefore are not a part of this agreement.

Provisions for verifying heavy bombers are practically non-existent, largely because the Soviets insisted that no definition of a heavy bomber be included in the Treaty. Hence, under the Treaty, an aircraft is a heavy bomber if it is specified by a side that it is one. Under this arrangement the Backfire, clearly a heavy bomber based on estimates derived from data gathered by national technical means, is not included as a heavy bomber simply because the USSR asserts that it is not a heavy bomber. What is often forgotten is that Vladivostok resulted in the US counting its large number of bombers in the total aggregate while the USSR has fewer to include in its total and subsequently succeeded in excluding not only its Backfires but its dual purpose bombers used for antisubmarine warfare and reconnaissance. Thus the basic objective of achieving equal aggregates of central systems turned out to be a net loss rather than a gain.

Whether or not a cruise missile is nuclear-armed can be verified with some degree of confidence since storage and handling techniques for nuclear warheads are much more elaborate and specialized than for conventional warheads. This confidence could be assured if cooperative or intrusive measures were adopted. However, the Soviets, using the pretext that the type of armament of cruise missiles is non-verifiable, succeeded in getting the US to count conventionally-armed cruise missiles as though they were nuclear-armed.

The JCS have repeatedly stated that access to unencrypted telemetry is essential to verification. The United States does not encrypt telemetry. However, the USSR has encrypted telemetry on a number of its ICBM tests. Encryption of telemetry can have only one purpose—to deny or conceal information.

The Treaty provision finally agreed upon has three parts: (1) the freedom of a side to encrypt, (2) a ban on encryption which deliberately impedes verification, and (3) a requirement that such deliberate interference must relate to provisions of the agreement. The most satisfactory resolution of the problem would have been an insistence on availability of information needed to verify the agreement. However, the Soviets have not agreed to provisions with respect to the new type ICBM which would establish a requirement for unencrypted telemetry. Left unclear is what is impeded or concealed, what is deliberate and not deliberate, and who is to be the judge? It begs the question to leave this critical issue to the Standing Consultative Commission. This issue should be resolved in the Treaty. Thus, the language on encryption of telemetry finally agreed upon is virtually meaningless.

Proponents of the current SALT agreement state that in the absence of a Treaty the Soviets could interfere with national technical means of verification. This is not so. Existing agreements—the ABM Treaty for example—prohibit such interference. Moreover, the absence of agreement on what constitutes national technical means makes verifiability of this Treaty tenuous. We have already heard Soviet statements that overflights of territory of our allies are not national technical means.

Proponents of this Treaty also maintain that it is adequately verifiable because the United States could detect cheating which altered the strategic balance in time to take corrective action. I challenge this view. Surprises can come at any time and the lead-time for countering them is great. The history of SALT is a history replete with surprises. In 51 U.S. national intelligence estimates of predicted Soviet performance over the past ten years, 49 have underestimated the situation, some by a large margin.

Early in 1979 US officials publicly stated that the US intelligence community had badly underestimated the speed with which the USSR could develop and deploy its MIRVed missile systems. With this consistently poor record of predictability in the past, there is little assurance that in the future we can detect significant changes which would affect the strategic balance in time to take corrective action.

THE TREATY UNDERMINES DETERRENCE

An essential condition of the effectiveness of any SALT agreement is that the composition and size of the force of strategic arms possessed by one of the two sides is that the other side be deterred from taking actions which it might otherwise take which would lead—consciously or inadvertently, to a nuclear exchange. Measured against this standard, the Treaty signed in Vienna will undermine deterrence. The static and dynamic criteria by which strategic parity are generally measured demonstrate clearly that the U.S. will fall behind the Soviets strategically in the early 1980s. The fact that the U.S. will be strategically inferior to the USSR from the early 1980s to at least the end of the Treaty is the primary factor undermining the potential of our strategic forces to fulfill their role of deterrence.

Furthermore, our current plans call for our MX in a mobile basing mode to be deployed in 1986 and the system fully operational by 1989. Accordingly, our ICBM force will, under current plans, remain vulnerable for the next ten years. I am distressed over talk that we need not be overly concerned about our fixed ICBM vulnerability because we could launch from under attack. Adoption of the bankrupt policy which such action implies would mark the end of intelligent arms control. Aside from the technical difficulties and risks inherent in such a situation, we should simply not place the President of the United States in positions which result from an espousal of such a course of action. Indeed, we should take rigorous action to minimize chances that any U.S. President will be put in such a position.

Whether or not future Soviet leaders are deterred is a subjective judgment they will make. A situation in which the U.S. is strategically inferior and its ICBMs vulnerable can only cause future Soviet leaders to be less deterred than they would otherwise be if these two conditions did not exist. This is not to argue that Soviet leaders will deliberately risk a first-strike against the U.S.

It does argue, however, that Soviet leaders will be more adventuresome and far less inhibited from taking risks in some future crisis such as a Berlin crisis. Who knows where the next crisis could arise. It could, for example, be occasioned by Soviet interference in a possible Yugoslav leadership successorship, or perhaps denial of Middle East oil. If the Soviets feel they are strategically superior to us in such crises it could contribute to the Soviet's announced objective of spreading their hegemony and contribute to escalation to situations in which nuclear arms might be employed.

Thus, I agree with the Joint Chiefs of Staff that essential equivalence will be lost in the early 1980s and that we should first arrest and then reverse this strategic situation as a matter of the highest national priority. A SALT Treaty which required the USSR to accept greater reductions and to eliminate the asymmetries in ICBM warheads and throw-weight would make the achievement of the U.S. task of regaining strategic parity more rapid and less expensive. It is for this reason that I believe we should decide to renegotiate the provisions of this Treaty. There are two ways to regain strategic equality—one by building up our forces and the other by having the Soviets reduce theirs. I believe the second course of action is more conducive to arms control, is sensible, and is possible. It should therefore not be ruled out.

I agree with the Joint Chiefs of Staff who expressed it as their most serious concern that SALT II could be allowed to become a tranquilizer to the American people and the adverse trends confronting us could be irreversible. I also applaud Senator Nunn's statement that if the Senate believes SALT II will prevent our nation from taking the necessary steps to reverse current trends it should be rejected. However, I have heard no official and authoritative voice call for urgent and major additions to the Defense budget. We are apparently prepared to live with strategic inferiority from the early '80s until the '90s when the long-range correctives will hopefully begin to have an impact. This appears to me to be a dangerous acquiescence to the threat of Soviet pressure which will be backed up by superior military might. What we need is immediate and concrete action—not promises but action—in the form of major supplements to our defense budget in both the strategic and conventional fields.

THE TREATY DOES NOT CONTRIBUTE TO STABILITY

The Treaty signed in Vienna does not contribute to stability. The fundamental fact is that the Treaty does not blunt the momentum of the massive Soviet buildup in strategic offensive arms. It has been stated that requiring the Soviets to reduce their number of strategic offensive arms and restricting them to one new type of ICBM will add to stability because it will enable us to know the size and composition of their strategic force structure. This hope has little chance of being realized. There is no evidence that the Soviets will reduce their current commitment of resources to strategic arms. I agree with Admiral Turner's judgment that "a SALT agreement along the lines currently being discussed is not likely to slow the growth of Soviet defense spending significantly." He estimated that "such an agreement would probably not reduce the rate of growth of (their) total defense spending by more than 1/5 of a percentage point per year." Since provisions in the Treaty limiting the qualitative improvement of systems are practically non-existent, Soviet resources can be exepected to be channeled into less predictable and less verifiable qualitative fields.

Moreover, since the Soviets will soon have sufficient warheads to cover all U.S. targets, to include a 2-on-1 attack on U.S. ICBMs, the route of qualitative improvements is clearly the one Soviet planners can be expected to pursue.

What concerns me most is the growing realization at home and abroad that the USSR will soon have a decisive advantage in the strategic field. This will allow the Soviet Union to move against nations friendly to the U.S. with greater certainty that the U.S. will not respond.

THE TREATY COULD WEAKEN NATO

The Treaty signed in Vienna could weaken NATO. The Protocol constrains, for the most part, U.S. systems. While the deployment of mobile systems for the period of the Protocol is denied both sides, the remaining portions of the Protocol deal with ground and sea-based launched cruise missiles, systems that the U.S. and NATO—but not the Soviet Union—require. Soviet spokesmen have on numerous occasions stated that they expect the provisions of the Protocol to be extended and remain in force. Indeed, the Joint Statement of Principles states that protocol issues will be resolved in SALT III. Moreover, there would be no reason for the Soviets to insist that there be a Protocol if they did not consider it would serve as a precedent. In the absence of a Protocol the U.S. would have great incentive for entering into sorely needed accelerated programs for developing long range ground and sea launched cruise missiles for early deployment in Europe.

Article XII of the Treaty states that the parties undertake not to circumvent the provisions of the Treaty "through any other state or states, or in any other manner." However, this provision is so broad that it will certainly be interpreted by the USSR in a manner which suits their best interests. Thus, the United States can fully expect Soviet challenges to arise when it attempts to transfer systems or technology to its NATO or other allies. Accordingly, the interest of our allies, and especially our NATO ones, can be expected to be damaged by our hesitancy, that is our conceivable unwillingness, to transfer systems of technology to NATO. Such challenges of U.S. actions by the Soviets will, under their interpretation, be permissible by the Treaty.

I am of course aware that the leaders of our NATO allies have expressed support of SALT II. I suggest that this Committee carefully study General Haig's comments which explain these Allied attitudes. His views conform to my own observations resulting from the close contacts I have maintained with military leaders in NATO. Like Secretary Kissinger and General Haig, I take little comfort in the mixed views one hears from Western Europe. NATO's leaders would be unquestionably in favor of an equitable and verifiable Treaty and one which did not raise serious questions about their own security interests. In the last analysis, what is their alternative but to support the official position of the United States?

THE BASIC PROBLEM: SOVIET MOMENTUM IS NOT CURBED

As I have mentioned above, the crucial problem facing the U.S. is the large and continuing buildup of Soviet strategic forces. This momentum continued unabated while SALT was being negotiated, and there is no evidence that this Soviet momentum will slacken. As early as 1965, Secretary McNamara decided to scrap 300 B–58 bombers, which were then only three years old. Further, he decided that the U.S. would not add to its force of heavier ICBMs and would limit itself to 1000 light MM ICBMs. He said that the USSR had neither the intention, nor the capability, of matching us strategically. He was clearly wrong. By the time the Interim Agreement was signed the Soviet Union had a greater than 50% lead over us in ICBMs and submarines.

Thus, Secretary McNamara initiated a trend, which has continued throughout the SALT negotiating process, that puts faith in the belief that our examples of unilateral constraints will be followed by the Soviets. This helps explain the cancellation of the B–1, the shutdown of the MM production line, the delays in the TRIDENT program, and the delays in the MX and cruise missile programs. Meanwhile, the Soviets have neither slowed down nor have they cancelled weapons programs which create a climate conducive to better bargaining in SALT negotiations. Their tactic is to develop and deploy systems and then negotiate from the higher levels achieved. Even if we were to spend 40 percent more per year for strategic forces to restore our position of strategic equality, we would be unable to regain parity before 1986 and probably not even before the end of the decade. Thus the Treaty signed at Vienna will sanction and codify U.S. strategic inferiority. This situation, in my judgment, could have been avoided if the SALT II Treaty had been so negotiated that it did not permit gross inequalities and large asymmetries to exist. This situation can still be corrected by reopening negotiations.

MY ASSESSMENT OF THIS TREATY

In making my assessments I have not been unmindful of the plus side of the ledger. The objectives sought by many proponents of the Treaty are goals which I share. Like the proponents of this Treaty I favor the continuation of the SALT negotiating process. I am convinced that this process will continue irrespective of whatever course of action the Senate decided upon. However, the shortcomings of this Treaty and its failure to meet the important objective criteria by which it should be measured in actual fact tilts the balance heavily against the United States. This Treaty is seriously flawed. This Treaty in its present form will, in objective terms, harm rather than enhance our security. Furthermore, rather than contribute to the continuation of the SALT process, the ratification of the Treaty signed at Vienna is bound to make it virtually impossible to negotiate a good SALT III agreement.

In my more than six years of negotiating with the Soviets I have met with them more than 350 times for a total of more than 1000 hours. My six years at the negotiating table convinces me that a Treaty meeting the criteria of acceptability set down by the Joint Chiefs of Staff was—and still is—attainable. Like the JCS, I strongly favor arms control, provided it does not undermine our security.

Most of the discussion on this Treaty in the Senate so far has focused on arguing whether an unequal Treaty might or might not be preferable to no Treaty. We should instead compare this Treaty with a fair and equal one. I also reject the view that the challenge facing us in the long run will be greater if this Treaty is not ratified.

There have also been arguments before the Senate that this Treaty does not prohibit us from pursuing any U.S. programs we wish to build. I challenge these arguments. The Treaty will undoubtedly constrain—and the Soviets can be expected to press to prohibit altogether—our deployment of the MX missile in a mobile mode. Additionally, it will certainly constrain, if not prohibit, the deployment of long-range ground and sea launched cruise missiles. The Treaty will require us to give up ICBM or SLBM launchers if we wish to deploy more than one-third of our planned development of 170 carriers of air launched cruise missiles. It will constrain us from deploying long range conventionally armed cruise missiles. And I could go on. The simple fact of the matter is that the Treaty places constraints on U.S. forces and far fewer meaningful constraints on Soviet forces which will soon be superior in capabilities, as they are now in numbers, to the United States.

One point needs to be thought through most clearly. It is clear that the Soviets have been building, and are continuing to build, their strategic forces at a near wartime level of effort which is at—or near—their capacity. The Soviets cannot greatly increase their defense spending further or continue their war-like footing indefinitely. At the same time, this Treaty will not serve to blunt or to reverse their momentum. Therefore the sooner we realize our precarious position and cause the Soviets to turn their momentum around, the better. Now is the time to tell the Soviets clearly and firmly that we will only ratify a Treaty which is fair and equal and that we will not ratify a Treaty which codifies U.S. acceptance of Soviet unilateral rights which make the Treaty unequal. The Soviets want and need a treaty and will, in view of their own economic constraints, not wish to arouse us to develop to the utmost our full economic/financial and technological resources. If they find us resolute on renegotiating the Treaty, we stand a good chance of arriving at one which will put us on the road to true arms control, one which will contribute to deterrence and stability and will save us—and them—money.

If the Soviets are unreceptive to renegotiation, I am convinced they will not be so for long but will soon return to the negotiating table. The Soviets know that a Treaty is in their long-term interest. What they do not yet know is that we will not ratify an unequal Treaty.

We can, if we need to do so, afford to spend what it takes to regain and to maintain our national security. We cannot afford not to do so. It is imperative that we decide now to act quickly and decisively to regain parity we will soon lose. Spending a single percentage point of our GNP will maintain our position of parity, once regained, for the indefinite future.

I have been asked why I believe we can get a better deal when others have said that this is the best deal we can get. My answer is simple—I was there—intimately involved with the Soviets at various negotiating levels. I know that the Soviets want and need a Treaty. I know that we, the United States, made reaching almost any SALT Treaty an over-riding policy objective. As a result our security has suffered. Unlike the Soviets who put their security first, we have tailored our military planning to optimistic expectations of the outcome of the SALT process. Like the Joint Chiefs of Staff I believe we should pursue two tracks: arms control and our security. I believe we have pursued the first track at the expense of the second. In my professional judgment the risks to our national security under this agreement are too great for the hoped-for gains in arms control. It is my considered view that approval of this Treaty as it now stands will undermine our security and will hinder and not further the process and the likely progress of arms control.

In summary, the Treaty signed in Vienna on 18 June 1979 does not meet minimally acceptable standards. It is my considered and professional military judgment that this Treaty is not equal and not adequately verifiable. It will neither enhance deterrence nor add to stability. It could well detract from NATO security and allied coherence. It could seriously damage the prospects for significant reductions in any future SALT negotiations. This particular SALT agreement is not in the interest of the United States and should be renegotiated.●

REVENUE ALLOCATION

● Mr. HUDDLESTON. Mr. President, last week the distinguished chairman of the Surface Transportation Subcommittee of the House Committee on Public Works and Transportation, Representative Jim Howard, offered his suggestions to the Ways and Means Committee on how to allocate certain portions of the revenues to be derived from any tax that may be imposed on excessive oil company profits. Though the majority of chairman Howard's statement concerns his desire to establish a public transportation trust fund to fund improvements in our Nation's transit system, my good friend also addresses an issue which has been of deep concern to me for many years—the adequacy of those portions of the country's transportation system which must carry domestic energy supplies from the point of production to point of use.

There can be absolutely no doubt that the expected increases in domestic energy supplies and need for transport of these supplies to not only present users, but also for use by to be developed alternative energy source sites, will strain certain segments of our highway and rail systems beyond their original design capacities. As a result it is likely bottlenecks will occur and the chances of achieving our stated desire of reducing reliance on foreign oil will be diminished.

I have, many times in the past, tried to focus the attention of the administration and my colleagues on the shortcomings of our energy transportation system. I, therefore, believe that consideration of a proposal in the nature offered by Representative Howard to address these shortcomings is a sensible way to proceed. I commend him for his knowledge in this area.

We must provide assistance to the States in their efforts to rehabilitate and expand the highways, bridges, and rail-highway crossings serving energy producing areas. In my mind it is totally logical to have a portion of the windfall profits tax revenues used for such assistance.

Therefore, I commend to the attention of my colleagues those sections of Representative Howard's statement before the Ways and Means Committee dealing with the deficiencies of our energy transportation system. In so doing I also seek the advice and assistance of those committees having jurisdiction in these matters in developing a specific proposal to deal with this most important problem.

I respectfully request that Representative Howard's statement be printed in the Record.

The statement follows:

Statement of Hon. James J. Howard

Thank you, Mr. Chairman. I appreciate the opportunity to testify here this afternoon on a very important aspect of our energy problem—using crude oil excess profits tax revenues for improving the efficiency of our transportation system. At the outset, I would like to recognize the contribution which you, Mr. Chairman, and the members of the Ways and Means Committee have continued to make over the last several years toward solving our Nation's energy crisis. Those of us who have been involved in the energy issue realize both the complexity and controversy that surrounds the whole question of our energy future and we do recognize the progressive solutions which the Committee on Ways and Means has brought forward to the House. The Committee on Public Works and Transportation has likewise undertaken to monitor the energy problem and to address specific concerns arising within its jurisdiction. It is one of those concerns that brings us before you today.

As chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation, I have been concerned for some time about the need to establish a public transportation trust fund to support a contract authority funding program for capital improvements to our Nation's transit systems. Recent evidence indicates that the appropriate time for consideration of this problem has arrived. When the President announced his April 5 energy initiatives, he issued a fact sheet which begins with the following statement:

"In both the short and long term, conservation remains a cornerstone of United States energy policy. It is still cheaper in most instances to save a barrel of oil than to buy one, either from foreign or domestic sources."

Later in the same document the president recognized the role of public transportation in the petroleum conservation effort:

"Although transportation accounts for over half of the total petroleum consumption of the United States, the most energy-efficient form of transportation—mass transit—accounts for only 6 percent to 7 percent of all travel trips. Mass transit ridership must increase in the coming years if we are to hold in check our consumption of precious liquid fuels."

Since April 5, the nation has experienced another energy crisis, not unlike the 1973–1974 Arab oil embargo. The fuel shortages and the gasoline price increases remind us of our nation's dependency on petroleum. Over the past 50 years, petroleum has become the life blood of our nation's economy. The growth of our national transportation system has been closely tied to our development of energy and of petroleum in particular. Transportation consumes more than half of every barrel of crude oil used in this country. Coincidentally, the United States obtains half of its oil from foreign imports. Clearly, the transportation sector can make a tremendous contribution to petroleum conservation, and thus to the reduction of imports.

After the House passed the bill H.R. 3919 on June 28, establishing a windfall profits tax on domestic crude oil, this committee announced its intention to consider phase three of the President's program. Given the President's April 5 initiatives, the domestic situation and the passage of the windfall profits tax, I believe the time is right for the Congress to consider long-term assured funding for our nation's public transportation systems. Accordingly, the subcommittee which I chair, and on which Mr. Shuster sits as ranking minority member, held hearings on July 10, 12, 17 and 18 so that we might develop a record on the issue of a public transportation trust fund to serve as the basis for our testimony here today. I have with me a copy of the statements presented at those hearings along with materials submitted for the record which I am providing for your consideration in these hearings.

I realize that the country must pursue increased energy production as well as conservation. Certainly, the circumstances indicate the need for a range of solutions. However, the country cannot place total reliance on increased domestic production of oil substitutes.

While those efforts proceed, in order to maintain our mobility, we will have to improve our public transportation systems so that our citizens will have an alternative to private automobile transportation which will undoubtedly continue to suffer fuel supply interruptions.

As I indicated, Mr. Chairman, the Subcommittee on Surface Transportation has just completed four days of hearings on the establishment of a public transportation trust fund with revenues generated by the crude oil excess profits tax. The testimony presented at these hearings provides overwhelming support for the concept of a public transportation trust fund. Equally important, however, is the evidence presented which shows that the American public is turning to public transportation in greater numbers with each succeeding month, even in areas which have not experienced gas lines. For example, the U.S. Conference of Mayors appeared before our subcommittee on July 12. In their testimony, the Conference of Mayors called for the establishment of such a trust fund and presented the results of a survey which they have just completed covering the impact of the fuel shortage on one hundred (100) American cities. These included the 50 largest cities in the Nation, as well as 50 other cities selected at random. Mr. Chairman, the results were remakable. Although forty-seven of these 100 cities have experienced gas lines, 77 of these cities experienced an increase in transit ridership.

It's obvious, Mr. Chiarman, that there are factors at work here other than simply the fuel supply. Recent experience may indicate that high gasoline prices are causing a shift to public transit. And, the American people are becoming more aware every day that the energy crisis is real and that they should begin to use more fuel efficient forms of transportation.

On July 17, the director of the California Department of Transportation, Adriana Gianturco, testified before our subcommittee on the continuing growth of transit ridership in the State of California. Her statement contained a summary of the situation in that State which I believe is indicative of the nationwide trends:

"Another very key point, I believe, is that—in California at least—the demand for more and better transit exists. People will ride transit, and they have been riding transit, and they are riding transit now. This is a pattern which pre-dates the current energy crunch and it has been sustained since the gas lines in our State pretty much disappeared. (We got them first and we got rid of them first.) I'd like to give you some statistics on the trends in transit use in California to support this point.

"From 1972 to 1978, transit ridership in California increased by 42%, a rate significantly higher than the rate of increase in auto travel. Although transit patronage is still only a fraction of auto trips statewide, in some areas—notably those areas with good transit systems, transit is a major contributor to people movement. For example, in San Francisco, even before the current energy crisis, about 20% of trips in and out of the city were by bus or rail.

"A very important feature of the growth in transit patronage in California in recent years is that it has been continuing. With the gasoline shortages—which showed up in May at our gas stations—there was a dramatic jump in transit ridership as well as carpooling. Although patronage for some but not all transit operators has fallen off slightly since the gas lines disappeared, we're still on a definite growth curve, starting from a much higher point than we were before the supply disruption. To give you a couple of examples from our major transit systems, BART ridership in May 1979 (the month of the gas lines) was 23% higher than in May of the year before. June 1979 ridership dropped less than 5% from the May 1979 peak and was still at a level 18% higher than in June of the year before. The Southern California Rapid Transit District, our principal operator in the Los Angeles area (and the third largest transit system in the country) registered a 24% increase in ridership in May 1979 over May 1978, and growth in this case continued into June. The June numbers for SCRTD were 13% higher than the May numbers, and 58% higher than the numbers for June 1978. Similar patterns are evident across the state in our other metropolitan areas."

Another important insight obtained from our hearings was the realization that each area of the country has different needs in developing alternatives to the private automobile. What may be the most energy efficient solution for New York, Chicago and Los Angeles may not be for Rochester, Tulsa or Salem, Oregon. I believe that there is a tremendous latent demand for public transportation throughout the country—in rural as well as urban areas. In order to satisfy this demand in an efficient and expeditious manner, an assured source of funding at adequate levels is required.

The goal of petroleum conservation necessarily involves improving the efficiency of the transportation systems which our citizens use to fulfill their most basic mobility needs, such as traveling to and from work and school. As the heart of that effort, we must expedite targeted investments in our public transportation systems and in highway facilities which support more efficient automobile use. We must rebuild as well as provide for expansion of our existing bus fleets. We must finance supporting bus facilities, including maintenance facilities and terminal facilities. We must provide for the modernization and expansion of our existing rail facilities, through the purchase of new and more energy efficient cars, such as the flywheel subway car, track rehabilitation, signal system modernization and route extensions.

We must support projects which will facilitate carpools, vanpools and other high occupancy automobile solutions. And, we must begin now to establish new public transportation services. The energy efficient solution for each area of the country will include some or all of these projects. Many areas have already undertaken the necessary planning.

I know of no other single action which the Congress could take to support such an effort than the clear and definite commitment of assured support through a dedicated public transportation trust fund. As you know, the President in his July 15 address to the Nation recommended an additional $1 billion per year for the next ten years be set aside from the excess profits tax revenue for public transportation. By adding $1 billion per year to our authorized funding levels as projected through 1990 for public transportation systems and for highway projects which foster carpools, vanpools and other high occupancy operations, I believe that we can enhance both the short and long-term energy security of our Nation. Interestingly, the additional $1 billion per year combined with our projected authorized funding levels would amount to approximately one-fourth of the revenues of the energy security fund. I would like to recommend that the committee on ways and means at the earliest opportunity establish a trust fund for public transportation and for improvements to the highway system which complement public transportation. And, at least initially, I recommend that this new public transportation trust fund have as its source of revenue one-fourth of the funds deposited in the energy security fund each year.

Mr. Chairman, I would like to take just a few minutes to describe how such a public transportation trust fund should be structured. First, we sat down and examined the present Federal commitment to public transportation capital improvements. Then, we projected that basic program out over the period ending with the year 1990. If, Mr. Chairman, you then take the President's incremental commitment to public transportation from his most recent speech of $1 billion per year through 1990 and add that to the basic program levels you arrive at the following figures:

[In billions of dollars]

	CBO estimate tax revenues House bill [1]	Revenues public transportation trust fund [2]	Transportation capital program
1980	5.6	1.4	(3)
1981	12.2	3.1	3.6
1982	16.0	4.0	3.8
1983	16.6	4.1	4.0
1984	17.2	4.3	4.2
1985	18.1	4.5	4.4
1986	18.9	4.7	4.6
1987	19.4	4.9	4.8
1988	19.9	5.0	5.0
1989	20.6	5.1	5.3
1990	21.0	5.4	5.6
Total	186.1	46.5	45.3

[1] Assumes a current world oil price of $20.12 per barrel and a 1.5-percent real price increase per year.

[2] 25 percent of revenues generated by the windfall profits tax.

[3] Fiscal year 1980 appropriation for capital expenditure is estimated to be $2,400,000,000, the fully authorized amount. The administration is presently considering whether an additional $1,000,000,000 should be added to the fiscal year 1980 program from revenue generated by the windfall profits tax.

Again, in comparing those figures to the projected revenues for the energy security fund. It turns out that they closely approximate 25% of the fund through each of the years from 1981 to 1990.

Therefore, setting aside 25% of the fund for public transportation assures not only a commitment to the new $1 billion but to the basic program, as well.

So far, Mr. Chairman, we have talked about the transportation sector's contribution to petroleum conservation through the establishment of a public transportation trust fund. I would like now to make a few brief remarks about the impact of new domestic energy production on the transportation system. Although we advocate and fully expect public transportation to be expanded significantly, the country will continue to rely on automobile transportation as the dominant mode. Truck transportation will continue to play an important part in the movement of freight. The president's program and related developments in energy policy could have unintended effects on our highway transportation programs. First, there may be a significant decline in highway trust fund revenues in the 1980's from the following changes:

1. The proposed permanent exemption of gasohol from the 4 cent per gallon tax;
2. The possible exemption of synthetic fuels from the 4 cent per gallon tax;
3. The reduction in the use of gasoline in favor of other fuels;
4. The potential reduction in overall use of liquid fuels.

At the same time, highway needs are increasing and inflation is eroding the value of contributions to the highway trust fund. The subcommittee received considerable testimony on this issue. Circumstances may warrant study by your committee into the possibility of a fuel tax increase or a shift to an ad valorem percentage tax. I believe this is a separate issue from the establishment of a public transportation trust fund, but something I am obligated to call to your attention so that we may begin to examine possible actions in this area.

In addition to the impact of changing energy policy on the highway trust fund, increased domestic production of alternative energy sources will impact the highway system itself. Truck shipments of coal and increased unit train service over our nation's rail-highway crossings will require additional funds for these energy impacted segments of our highway systems.

The Department of Transportation reports that "significant increases in coal truck traffic on the nation's highways and particularly on Appalachian roads (will require) new roads to be built and increased maintenance on the existing network." A separate report issued by the Appalachian Regional Commission indicated coal hauling trucks in the region now travel over 6,800 miles of roadway and 900 bridges that were not designed for such heavy traffic. This same report estimates that by 1980 more than 8,500 miles of roadways and between 1,100 and 1,300 bridges will be unsafe for coal hauling purposes. The problem is not strictly an Appalachian one. Between now and 1985 a major shift will occur in mining use.

While it is a regional fuel today, by 1985 increased coal production west of the Mississippi River will increase transportation needs, plus more coal will be used in other parts of the country (particularly the south) making coal a national fuel.

These types of improvements, Mr. Chairman, would support the energy development goals of this country, and could logically be funded from the windfall profits tax revenues; of course not from the public transportation trust fund. The Committee on Public Works and Transportation expects to examine the impact of increased domestic energy development on the highway system in the near future. In conclusion, Mr. Chairman, I would like to summarize our recommendations.

1. That the Congress establish a public transportation trust fund for capital programs (both urban and rural) under the Urban Mass Transportation Act (including interstate transfers) and certain highway programs which expedite traffic movement and conserve energy (e.g., for improved traffic signalization, preferential lanes, fringe parking facilities, high occupancy vehicles, carpools, and vanpools);

2. That 25% of the revenue generated by the windfall profits tax be placed in this fund. However, if the revenue estimated to be generated by the tax which the Congress ultimately approves is less than the estimates upon which I have based my testimony, then an appropriate increase in this percentage should be made to support the program level I have outlined;

3. That to the extent synthetic fuels tax exemptions reduce highway trust fund revenues, this committee may wish to consider, now or in the future, some mechanism to provide adequate sources of revenue for the highway trust fund; and

4. The committee should consider providing funding from the windfall profits tax revenues for energy impacted components of the highway system, such as rail-highway crossings and roads and bridges which are experiencing increased coal truck traffic.●

THE WORLDWIDE PROBLEM OF HUNGER AND STARVATION

● Mr. LAXALT. Mr. President, daily in this body we find ourselves immersed in a multitude of pressing issues demanding our immediate attention—the energy crisis, the SALT hearings, and other matters dominate much of our time and thought. But with all this flying about, from time to time I feel it is necessary for us to be brought back to basics by focusing on fundamentals. One such fundamental matter which has grave consequences for us all is the worldwide problem of hunger and starvation.

For this reason, I ask my colleagues to take a few moments to read an insightful editorial featured recently in the Valley Times on this subject. I believe we should all reflect upon our collective responsibility to aid in saving millions of people from starvation.

Mr. President, I ask that the editorial entitled "No One Is Starving on the Vegas Strip," from the June 22, 1979, edition of the Valley Times be printed in the Record.

The editorial follows:

No One Is Starving on the Vegas Strip

Perspective can be sobering and humbling.

While Las Vegans, presumably, are worrying about casino delicensing and mob infiltration, there are millions of others in the world who are concerned with something a bit more important—hunger and starvation.

While we here feel inconvenienced by the shortage of gas, people in Southeast Asia worry about the absence of food. We are concerned about gaming scams; they struggle to keep themselves and their little children from literally starving to death.

Striking Las Vegas garbagemen seek—and undoubtedly deserve—$10 an hour. The average wage earner in New Delhi earns $10 a month, when he has a job. For some, the eating of garbage would be a luxury.

Ten years ago, the United Nations urged governments around the world to increase world food supply by undertaking the amino acid fortification of food to enhance supplies to malnourished peoples of the world.

A Japanese firm, Ajinomoto, has offered to donate amino acids as a means of improving diet and nutrition. This would not, of course, solve the problem of starvation, but it would be a significant start. Yet the offer, which still stands, remains unaccepted.

To the overall problem of world hunger, there has been little response, and unless something is done soon, if food supplies are not appreciably increased, millions of children, with their parents, will die of starvation in 1979 which, ironically, has been designated as the International Year of the Child.

The starving people around the world could do with fewer slogans and public relations gestures—and more food.

Edouard Saouma, Director-General of the United Nations Food and Agricultural Organization, recently appealed for a massive, emergency international relief program, under which food-rich nations could individually or jointly contribute food to the starving nations.

The world food crisis, particularly in Southeast Asia, comes at a time when many American farmers have surplus crops.

In brief, much of the world needs food, and the United States has it. Let's cut the bureaucratic tape and with the same determination and ingenuity that sent men to the moon, get the food where it's so desperately needed.

We would hope that Nevada's congressional delegation would prod the Carter administration to give high priority to saving millions of people from starvation.

The cause of human rights, to which the administration is avowedly dedicated, ought to include the one right without which all other rights are of little value—the right to remain alive by having enough to eat.

In our preoccupation with SALT II, we ought to realize that a weapon-free world—or a crime-free Las Vegas—would be of little benefit, or solace, to a young child who has died of starvation.●

DIVERSE CITIZEN AND BUSINESS GROUPS SUPPORT TRUCKING DEREGULATION BILL

● Mr. KENNEDY. Mr. President, the trade associations who speak for the regulated trucking companies in this nation have charged repeatedly that the impetus for trucking deregulation comes solely from an isolated band of "ivory tower economists," big businesses, Government seeking "political advantage." The charge appears so frequently in trucking industry publications that many in the industry itself—and even in the Congress—tend to lose sight of how broad the spectrum of support for less Government regulation of this industry truly is.

In recent days, I have been submitting for publication in the Record numerous editorials in support of trucking deregulation which have appeared in newspapers throughout the country. These editorials give a clear indication of the overwhelming support in the press for comprehensive reform in this area.

Newspaper editorial boards are not alone in their judgments. Members of Congress should know that a very wide range of divergent interest groups agree that substantial reform of Government regulation of this industry is long overdue.

Organizations as diverse as the National Association of Manufacturers and the Consumer Federation of America, the National Federation of Independent Businesses and Ralph Nader's Public Citizen, the Minority Trucking Transportation Development Corporation and Sears Roebuck, the American Farm Bureau and the Friends of the Earth—all support the trucking deregulation legislation (S. 1400). President Carter and I have jointly sponsored.

On June 21, at a White House ceremony to announce our legislative proposal, these and other organizations and individuals released statements in support of the bill. I know that Members and their staffs will be interested in the reasons why so large a segment of the public believes the reforms we have proposed are so urgently needed. In coming days, I intend to submit for the Record a number of these statements, that my colleagues might see for themselves why this legislation enjoys the broad support that it does.

One of the most interesting statements of support, particularly from a historical perspective, came from the National Grange. The Grange itself was in large measure responsible for the creation of the ICC; it was also active in securing an exemption for agriculture when ICC regulation was extended to the trucking industry in 1935. The organization's reasons for supporting deregulation today are compelling ones, and I urge my colleagues to consider them carefully.

I ask, Mr. President, that the Grange's statement be printed in the Record. I also ask that excerpts from other statements of support be printed in the Record following the Grange's statement. These excerpts convey the tenor of many of the comments which have been received. I hope to submit these and other statements for inclusion in the RECORD, for the benefit of Members and staff, in the near future.

The material follows:

STATEMENT OF JOHN W. SCOTT

The National Grange can justly lay claim to having advanced the idea of the Interstate Commerce Commission in 1876. Our purpose then was to protect farmers and the public generally from the lack of competition in the transportation industry and the resulting monopoly held by the railroads. Today there is competition by highway, water, air and pipelines. Competition has always made for progress and efficiency; therefore, de-regulation rather than increased regulation is the keynote in developing a transportation policy to meet the needs of modern agriculture.

The Administration bill to reform regulation of inter-state trucking will be beneficial to agriculture and meets the criteria of the National Grange in developing a modern agricultural transportation system. The trucking industry is a vital component of the transport system serving agriculture. Trucks haul practically 100 percent of the milk, poultry, eggs and livestock, about 90 percent of fresh fruit and vegetables, about 85 percent of the meat and most of the short-haul grain.

Congress, at the insistence of the Grange and other farm interests, established an "agriculture exemption" when the Interstate Commerce Act was extended to the trucking industry in 1935. Under this "exemption" truck movement of unmanufactured products of agriculture, such as fresh fruit and vegetables, now move unhampered by the rate, route, service, and entry restrictions of the Interstate Commerce Act. The "agriculture exemption" include frozen poultry but not fresh red meat, cooked fish but not canned vegetables, grain but not feed.

The "agriculture exemption" has worked very well. Agricultural interests have been firm ever since 1935 in their support of the exemption and have fought off attempts by the regulated trucking industry, through the Interstate Commerce Commission, to narrow or eliminate the exemption. It has been a cardinal principle of Grange transportation policy to broaden the exemption to include all processed food and major inputs of agricultural production. Studies have found that exempt trucking provides efficient and adequate service at reasonable rates and with returns to truckers sufficient to sustain a competitive trucking environment.

Agriculture will benefit from the provision of the bill that provides for the expansion of the "agriculture exemption" to include all food products of agriculture and farm supplies: not only do these exemptions promise direct benefits in the form of readily available and reasonably priced trucking services for these commodities, but also certain problems affecting the transportation of these commodities will be solved. The rapidly shifting markets for regulated agricultural commodities, especially red meats, have often caused shortages of truckers with operating authorities to serve new markets. At times, meat processors have had to cease operations because of truck shortages. In the case of feeds and fertilizers that have moved to local distributors by rail, rail line abandonments have on occasion left voids in for-hire transportation links to these distributors. These supplies could become backhauls for grain truckers who now return empty. Exemptions for food products and farm supplies in this Bill therefore are most welcome.

These provisions for new exemptions promise some savings in direct transportation costs for these commodities. Perhaps equally important, they will make it more feasible for agricultural cooperative and exempt truckers to arrange more nearly profitable loads in both directions and therefore help to lower costs of transportation for currently exempt commodities which has been a problem with agricultural trucking up to present.

It is equally important to point out that expanding the "agriculture exemption" will go a long way in preventing "dead heading", the return of an empty truck, therefore making the entire operation more energy efficient.

In addition to the provisions of direct and immediate benefit to agriculture and consumer represented by the provisions on cooperative trucking (removing the 15 percent restriction on non-farmer, non-member trucking) and the agricultural exemptions, trucking in rural areas also will improve as a consequence of the following provisions:

Motor Carrier Policy. The national transportation policy is to be amended to include as a criterion of public interest the encouragement of entry to and additional service for small or isolated communities.

Restriction Removal. All restrictions on route of travel and intermediate stops, which limit a carrier's opportunity to serve small or out-of-the-way towns, are to be removed.

Entry. Fitness is to be the only test for entry into the trucking industry for the purpose of serving areas not otherwise served or as a substitute for abandoned rail service. Also, improved service to small communities is specifically included as a criterion of public convenience and necessity where such entry test is to be applied.

Small Package Exemptions. All items weighing less than 500 pounds are to be exempted from regulation, thus enhancing the opportunities for bus companies to provide increased small-package freight service to small towns.

Therefore, the Grange believes that these several provisions will increase the efficiency of agricultural and rural trucking to the benefit of farmers and consumers and will be more energy efficient. We welcome this opportunity to support the "Trucking Competition and Safety Act of 1979".

JOHN W. SCOTT,
Master, the National Grange.

THE WHITE HOUSE

The following are some of the comments received by the White House on its proposals for trucking deregulation:

"As one who was originally opposed to the deregulation of the airline industry because of my concerns as to the possible adverse impact of unlimited route entry and pricing freedom on Eastern and our industry, I feel I must now go on record as stating that my fears proved groundless.

"Deregulation, for the first time, gives us the ability to adjust our services and prices to conform to the needs of the marketplace. Consequently, in the eight months since the 'Airline Deregulation Act of 1978' was enacted into law, Eastern has expanded its operations into a number of new cities and states; is providing a better service to the consumer at a lower price and has greatly enhanced its financial position.

"The trucking industry is in many ways similar to our own and it is my sincere belief that it and the consumer will realize similar benefits through deregulation."—Col. Frank Borman, Chairman and President, Eastern Airlines.

"Common Cause strongly applauds President Carter for the comprehensive trucking deregulation bill he is sending Congress today. The President's bill directly attacks the Alice in Wonderland system we have in this country for regulating the trucking industry . . .

"In a time of high inflation trucking regulation is adding billions of dollars in costs to consumers. In the midst of severe energy shortages and dwindling resources, trucking regulation—by such absurdities as route and backhaul restrictions—is wasting precious fuel. We commend the President for his leadership on this critical issue and urge the Congress to move swiftly to adopt the legislation."—Fred Wertheimer, Senior Vice President, Common Cause.

"We believe that effective competition is essential to a strong freight transportation system, and that statutory and administrative regulation should be held to a minimum consistent with operational safety and continuance of service in the public interest."

We believe that the following elements are vital to regulatory reform of the trucking industry: remove barriers to entry and competition by existing and new firms; insure service to small and rural communities; increase pricing flexibility; and reform of antitrust immunity for collective ratemaking activities of carriers. The present draft bill is consistent with these principles, and we wish to emphasize our support for them."—R. Heath Larry, President, National Association of Manufacturers.

"I regret that I am unable to accept your kind invitation to join you at the White House as you send to the Congress your proposed legislation to ease regulation of the nation's trucking industry. I congratulate you on these proposals and offer my support for your efforts to maximize competition within the trucking industry, reduce barriers for the entry of new carriers, improve transportation safety and increase trucking service to the nation's cities, large and small. You may count on my full support."—Coleman A. Young, Mayor, City of Detroit.

"The NCA (National Cattlemen's Association) is in support of the overall concept 'The Trucking Competition Reform and Safety Improvement Act of 1979.' We feel that the substantial removal of regulations affecting truck transportation will benefit both producers and consumers with the resulting efficiencies and rate flexibilities. . . . The NCA hopes that the legislation when introduced will move quickly through the Congress."—National Cattlemen's Association.

"We support effective regulatory reform, particularly in those industries where economic deregulation will increase competition, stimulate product quality, and improve job safety and opportunities. We therefore advocate deregulation in the transportation sectors, which assures maximum employment and service while increasing entry into the market, efficient use of vehicles and fuels, and price competition."—National Consumers League.

"The present scheme of trucking regulation seems somehow lifted out of a Kafka novel. Costing billions to the American consumer, hampering entry of minority firms into interstate trucking, denying effective service to many American communities, and wasting millions of gallons of fuel, the system seems largely to benefit only the transportation bar. . . . It is my personal opinion that this bill is a major step forward. I believe that the majority of members of the Ripon Society, the nation's largest organization of moderate and progressive Republicans, would concur with this judgment."—John C. Topping, Jr., President, The Ripon Society.

"We welcome and support your proposal to reform regulation of interstate trucking. The proposal to expand the agricultural exemption to food products and farm supplies should contribute directly to lower costs for the ultimate consumer. The thrust of the bill should also enable certain elements of the trucking industry, that are now endangered economically, to survive in a fair and competitive market environment.

"Specifically, we believe the provisions of the draft bill will permit carriers of exempt commodities to arrange more nearly profitable loads in both directions. Service for small communities in rural areas should be improved by removal of restrictions on route of travel and intermediate stops. Modification of entry requirements should provide relief for those communities suffering the loss of rail branch line service.

"We welcome the opportunity to analyze the bill in more detail and urge its early consideration in the Congress. You are to be commended for initiating this action that may lead to remodeling the regulation of the trucking industry. As farmers and ranchers, we are vitally concerned that adequate service be available at reasonable costs. We have a great deal of common interests with the independent truckers and propose to follow the progress of the draft legislation closely in the Congress."—Charles L. Frazier, Director, Washington Office, National Farmers Organization.

"NFIB, on behalf of its 580,000 small and independent business members, strongly supports the trucking deregulation legislation your Administration is announcing.

"This legislation attacks inflation and strengthens free competitive enterprise. We believe it will reduce trucking costs, provide better trucking service and create new trucking opportunities for small entrepreneurs. These results are good for small business and good for the public.

"NFIB commends you for action to attain trucking deregulation and looks forward to working with your Administration and other proponents in order to achieve it."—James D. "Mike" McKevitt, Washington Counsel, National Federation of Independent Business.

"The Federal Trade Commission strongly endorses the proposed Trucking Competition Reform and Safety Improvement Act of 1979. . . . The proposed Act represents significant progress in improving competition and safety in this important industry . . . For several years, the Commission has vigorously advocated the reduction of restraints on competition in the trucking sector. We applaud you for this effort to eliminate such restraints and to infuse greater competitive vigor into this vital area of the economy."—Michael Pertschuk, Chairman, Federal Trade Commission.

'Trucking reform is an unusual opportunity for Congress to drag an entrenched industry into the competitive marketplace and help consumers battle inflation. Competition is essential to a strong freight transportation system. But ICC trucking regulations stifle competition by controlling routes and allowing price fixing . . . The trucking reform bill is a first step toward eliminating these protectionist regulations . . . We have seen the benefits of airline deregulation. Though the rewards are not as obvious as a cheaper airline ticket, reform of the $12 billion a year trucking industry should bring even more dramatic benefits to consumers."—Public Citizen.

"The American Retail Federation applauds your new proposals to deregulate motor carriers, and encourage marketplace economics in the industry. We congratulate you on the steps which have been taken and hope the principles involved in these legislative proposals will receive prompt action by the Congress."—Loyd Hackler, President, American Retail Federation.

"The National Grange can justly lay claim to having advanced the idea of the Interstate Commerce Commission in 1876. Our purpose then was to protect farmers and the public generally from the lack of competition in the transportation industry and the resulting monopoly held by the railroads. Today there is competition by highway, water, air and pipelines. Competition has always made for progress and efficiency; therefore, deregulation rather than increased regulation is the keynote in developing a transportation policy to meet the needs of modern agriculture.

"The Administration Bill to reform regulation of inter-state trucking will be beneficial to agriculture and meets the criteria of the National Grange in developing a modern agricultural transportation system. . . Agriculture will benefit from the provision of the bill that provides for the expansion of the 'agricultural exemption' to include all food products of agriculture and farm supplies; not only do these exemptions promise direct benefits in the form of readily available and reasonably priced trucking services for these commodities, but also certain problems affecting the transportation of these commodities will be solved."—John W. Scott, Master of the National Grange.

Other comments on the Truck Competition and safety Act include:

"We firmly believe that greater competition in what is probably the nation's most heavily regulated industry can lead to savings for the consumer and more efficient and productive use of our precious energy resources. . . Administration moves aimed at easing entry barriers, providing greater freedom for backhauling, and developing more flexible rate structures should provide a beneficial impact on the consumer and industry alike."—Burger King Corporation.

"We have concluded that as a shipper of small shipments, unnecessary regulation such as anti-trust immunities and severe entry restrictions have produced higher transportation costs and suppressed transportation service that could be made available. This stated situation of higher cost and poor service is a direct result of an "over-regulated" industry creating mandatory costly circuitous shipping. We are pleased that the Administration is taking action to provide cost relief to the public by eliminating or modifying the existing procedure of 'price-fixing' and providing a vehicle by which competition might again be experienced."—Orion Industries.

"As a small regulated carrier, I would like to extend our gratitude to your administration for its efforts to reduce the existing overregulation of our industry. Currently, I am forced to charge shippers more than I feel I should because of the collective rate tariff system; further, we would like to provide a currently non-existent service for our customers to several remote desert cities which is not allowed due to a restrictive entry system."—ALTA Freight Systems.

"The Minority Trucking Transportation Development Corporation, the Association representing minority truck transporters, congratulates you on addressing the need to develop a unified comprehensive truck deregulatory plan and for linking your legislative proposal with that of Senator Kennedy. MTTDC feels that this is the impetus needed to move this important concern forward."—Minority Trucking Transportation Development Corporation.

"I am pleased to know that Administration is offering a new policy to deregulate the trucking industry. Competition stimulated by deregulation will be in the best economic interest of the American people at a time when the inflationary costs of interstate regulation adds to inflation."—Charles F. Horn, Mayor, Kettering, Ohio.

"As an association of small business people—and hence, small shippers—this new Act would bring competition back to the trucking industry, would allow our members more freedom to locate the most cost-effective trucking firm, and equally important, would reduce government regulation, allowing truckers to operate with more efficiency . . . This nation was built on the free enterprise system. President Carter's proposal would put the trucking industry into the system."—National Audio Visual Association.

"The Chemical Manufacturers Association applauds the President's initiative in making a regulatory reform proposal to reduce the amount of economic regulation of the motor carrier industry and to increase competition in this area. A reduction in the amount of regulation will assist in stemming the tide of inflation. Maximum reliance on competition, and minimum reliance on regulation, consistent with fostering a strong transportation system, is the best way to assure fair prices and fair treatment for all concerned."—Chemical Manufacturers Association.

"At a time when fuel is scarce and the Country is becoming more dependent on foreign sources of energy, at a time when the cost of fuel is rapidly escalating and at a time when both the Congress and the American people are concerned about ways and means of stemming the tide of inflation and when consideration is given to the role of transportation and distribution in determining the cost of a product to the end consumer, the Council feels certain that the proposal to remove the current restriction on intercorporate transportation amounts to a significant and timely response to such issues."—Private Truck Council of America.

"The Cooperative League of the USA, having studied the thrust of the Administration's trucking reform bill, endorses the purposes of this legislation and its major provisions. The objective of making trucking regulation achieve better service for the shipper and more flexibility for the agricultural community in such matters as removing backhauling restrictions and making it easier for transportation to serve the rural areas are ones with which the cooperatives of this country are in sympathy. Increasing price competition and making it easier to enter the trucking field are in the tradition of the American free enterprise system."—Cooperative League of the USA.

"We commend the President and Senator Kennedy for working jointly on a comprehensive program that . . . would include the removal of inflationary backhaul restrictions and costly intermediate stop prohibitions . . . the American consumers could realize a savings of $300 million each year in food costs alone if ICC regulations were altered to reduce such empty backhauls of trucks carrying farm produce."—Consumer Federation of America.

"As a support of modernizing truck regulation, CURRENT applauds the Administration's proposing strong, comeptition oriented, regulation-lessening, legislation to Congress. . . . The legislation is sound in providing for cutting back on collective pricing, cutting back on entry restrictions, and, in more competitive circumstances, allowing carriers more flexibility in service offers."—Committee Urging Regulatory Reform for Efficient National Trucking.

"I endorse the Trucking Competition and Safety Act of 1979. The objectives of this legislation are very similar to those now incorporated in the Airline Deregulation Act of 1978 . . . The airline industry, like the trucking industry, was virtually unanimous in its opposition to airline deregulation during the time Congress considered the issue. But, our experience to date with airline deregulation is that the industry is profiting from its new found competitive freedom—1978 was the most profitable year in the airline industry. More importantly, the consumer is reaping the benefits of greater travel options . . . Deregulation of the airlines is working to the benefit of consumers and the industry. I am convinced that enactment of this legislation should lead quickly to similar benefits for the trucking industry, its users and the public at large."—Marvin S. Cohen, Chairman, Civil Aeronautics Board.

"We applaud your efforts to expand the free enterprise concepts of competition and free market entry in the trucking industry . . . It is our belief that the leadership you are taking to permit competitive market forces to play a greater part in freight rate setting will, over time, result in lower rates and, therefore, will dampen inflation. We also anticipate that deregulation of trucking will have a second tier competitive impact on the furniture industry. Because freight costs are a major element of the cost of furniture, a reduction of these costs will undoubtedly result in lowering the prices consumers will pay for household furnishings."—National Association of Furniture Manufacturers.

"We want to congratulate you and your staff on the preparation of a legislative proposal which will do much to correct the problems of the regulated motor carrier industry . . . We find that the proposals to easy entry and allow carriers greater freedom to manage their operations, are very productive. We especially appreciate and applaud the expanded exemption for agricultural and food products. We look forward to working with you and Congress to expedite the Congressional passage of the proposed reform legislation."—National Independent Meat Packers Association.

"We are pleased that President Carter is providing leadership in reforming outmoded and costly truck regulation, and that agreement has been reached with Senator Kennedy to be the chief sponsor of the legislation . . . we believe the bill is generally in line with our long-standing position in favor of greater reliance on the forces of competition and less reliance on the regulatory authority of the Interstate Commerce Commission."—American Farm Bureau Federation.

"It is a pleasure for me to strongly endorse the Trucking Competition and Safety Improvement Act of 1979 which has been proposed by President Jimmy Carter . . . The citizens of Buffalo and our local industries will benefit tremendously through the enaction of this outstanding proposal, which should reduce cost by increasing competition. This legislation is a boost for the American consumer, and I will work diligently for its passage during my stay in Washington."—Delmar L. Mitchell, President, The Council, City of Buffalo.

"We strongly support this legislation which will bring about more competition in the Nation's trucking industry. The reforms proposed in this legislation will lead to lower costs, energy savings and better utilization of our existing transportation network. President Carter deserves a great deal of credit for vigorously pursuing reform of the transportation regulatory system."—Friends of the Earth.

". . . the time has come for the trucking industry to face the competitive free market system, an admittedly harsh reality, but one to which consumers are exposed every time they make a purchase. Repeal of the Reed-Bulwinkle anti-trust exemption for price-fixing by trucking rate-bureaus and liberalized entry restrictions will have a strong and immediate anti-inflationary impact . . ."—Community Nutrition Institute.

"Congratulations on the President's proposal to reform the regulation of the motor carrier industry. Every regulatory barrier eliminated means greater supplies, more service and lower prices. American industry needs this bill to be passed."—Super Valu Stores.

"We believe that over-regulation is one of the principal causes of inflation and a major obstacle to improved economic prospects. We hope this legislation will not only stimulate competition within the trucking industry but also reduce inflation. The success of airline deregulation is undeniable and should serve as clear evidence of the value of reducing unnecessary and anticompetitive regulation."—National Home Furnishings Association.

"This marks the first major improvement within the trucking industry in over forty-four years and this administration should be particularly congratulated by every consumer for having the courage and foresight to present such a bill at this time. . . Movement toward regulatory reform, particularly expanding the ICC-exempt areas, will benefit the owner-operator, the farmers and others engaged in bringing food to America, and ultimately and more importantly the consumer."—National Agricultural Transportation Association.

"My congratulations to you and Senator Kennedy for acting forthrightly in presenting a bill for truck deregulation. As I told Mr. Kennedy and his committee last year in Denver, regulation of motor carriers has hurt, not helped American industry, and has raised not controlled or lowered prices. The public will be benefactors of your courageous stand in the face of powerful, special interest opposition. It is our sincere hope that your plans are successful."—Ken Cook Hubinger Company.

"We congratulate you on your decision to proceed with a motor carrier deregulation bill. During these critical times we must do everything possible to conserve our energy and to take advantage of our full transportation resources. The motor carrier industry needs changing to meet every changing requirement of shippers and receivers."—Ore-Ida Foods Inc.

"Your Trucking Competition and Safety Act of 1979 is designed to place greater reliance on competition rather than government regulation in the trucking industry . . . We believe greater competition and freedom from unnecessary governmental restraints is essential to a privately owned transportation system . . . We agree that there is little question that the regulation of the transportation industry through the years has created excessive expense and serious dislocations. We, therefore, believe that changes must take place, and support efforts to make such changes a reality."—Sears, Roebuck and Co.

"The Interstate Commerce Commission is a classic example of a regulatory agency operated of, by, and for the industry it supposedly regulates. The ICC operates a cartel for established businesses, keeping prices high, and new competitors out. The total cost to the economy of ICC regulation has been estimated at amounts as high as $15 billion a year. But how can we put a dollar figure on the cost of keeping potential new entrants—often poor or minority entrepreneurs—out of the marketplace . . . Competition in the trucking industry is long overdue, and deregulation is the only way to achieve it."—Council for a Competitive Economy.

"The National Grain and Feed Association is pleased to support the proposed exemption from regulation under the Interstate Commerce Act of truck transportation of livestock and poultry feed."—National Grain and Feed Association.

"Mattel Toys . . . supports in general your proposed bill for the deregulation of the trucking industry. We believe with the cooperation of Government, Industry and Labor, a bill can be passed which will be beneficial to all Americans."—Mattel Toys.

"TRALA anticipates that by enhancing the ability of private carriers to engage in 'backhauling', the strength of the private carrier industry will be significantly increased. Permanent extension of backhaul privileges to private carriers should result in more efficient fleet utilization, more economic transportation of goods and marked fuel savings."—Truck Renting and Leasing Association.

"It is a pleasure to inform you that the Executive Committee of the National Restaurant Association has unanimously agreed to support the trucking regulatory reform proposals outlined in your announcement of June 21, 1979."—National Restaurant Association.

"Beatrice Foods Co. fully supports the general concept of increased competition within the Truck Transportation Industry as a means to slow inflation.

"Further, we believe elimination of one-way operating authorities and gateway or route restrictions and the granting of intermediate stop authority and permitting parent/subsidiary hauling will contribute greatly to energy conservation and improve truck efficiency."—Beatrice Foods Co.

"This is to confirm our strong support for the Administration's trucking deregulation proposal. We have seen deregulation so successful in our own industry and are certain that it will be similarly successful if it is applied to the trucking industry."—Frank Lorenzo, Chairman, Texas International Airlines.

"We endorse the concept of bringing greater competition, increased safety and extensive rate freedom to the transportation industry and thus, relying on the marketplace and complete freedom of action by the managers so that best judgments can be made on the basis of what is dictated by the marketplace. Such a philosophy will, in my opinion, provide the maximum opportunity for business to offer its goods and services to the consumer at the lowest possible price."—Dominic P. Renda, Western Airlines.

"Airline deregulation has confirmed the benefits of pricing and service freedom which Continental has fought so hard for over the past 15 years . . ."—Robert F. Six, Chairman, Continental Airlines.

"Removing governmental restraints has produced free competitive entry, fare flexibility, and a more efficient air transportation system. Despite the early concerns of some other airlines and organizations who originally opposed airline deregulation, the air transportation industry is doing very well."—Paul C. Barkley, President, Pacific Southwest Airlines.

"The basic objectives of the legislation are clearly consistent with our general views on the desirability of freeing business from unnecessary government regulation so that business will be free to respond to market forces. . . In view of the serious fuel shortages which we are experiencing, it is absolutely essential that carriers such as Flying Tiger, which have specialized in expedited freight services, promptly receive expanded opportunities to utilize surface transport."—Wayne M. Hoffman, Chairman, Tiger International.

"I am writing to you today to lend our endorsement to your effort to deregulate the trucking industry. Our endorsement is based on our own experience which we believe to be a very viable example of the effect on a 'small airline' in a deregulated atmosphere. Airline deregulation has been instrumental in the expansion and prosperity of small carriers."—Eli Timoner, President, Air Florida.●

TECHNICAL CORRECTIONS TO THE EDUCATION AMENDMENTS OF 1978

● Mr. ARMSTRONG. Mr. President, I commend the Senate for its prompt consideration and passage, on July 24, of H.R. 4591, a bill making technical corrections to the Education Amendments of 1978. Earlier this year, I joined Senator JIM SASSER's efforts to eliminate needless paperwork requirements from the Education Amendments of 1978. The 1978 legislation unfortunately required that each local education agency participating in title I programs for the disadvantaged provide every member of every parental advisory committee a copy of the title I statute and copies of all relevant Federal and State regulations. Our bill, S. 1106, provided that the burden on local education agencies be removed by requiring only one copy of the law and applicable regulations be given to each parental advisory committee, while still preserving the right of individual committee members to receive a copy upon request. I am pleased to note that the provisions of S. 1106 have been incorporated in H.R. 4591 and that Colorado's local education agencies, as well as those throughout the country will soon be relieved of this onerous and unnecessary paperwork burden.

I commend my colleague from Tennessee (Mr. SASSER) for his leadership in bringing this matter to the attention of the Senate early this year and for his dedication to the elimination of unneeded and wasteful paperwork burdens on local education.●

S. 265—THE EQUAL ACCESS TO JUSTICE ACT

● Mr. GLENN. Mr. President, this past Tuesday, I was pleased to vote in favor of the Equal Access to Justice Act.

This bill, which provides that prevailing parties in contested disputes with governmental agencies may receive attorney's fees in instances where Government action was unreasonable, should give real relief and hope to the thousands of small businessmen who find themselves at a severe financial and personal disadvantage in attempting to assert and gain their legal rights in the face of our giant bureaucratic armies.

S. 265 should deter some of the bureaucratic excesses that many Government agencies have subjected our citizens to. In this sense, S. 265 is a real inflation fighter in that it will tend, by deterrence, to reduce the ever-growing proliferation of Government-initiated redtape, excess regulation, and litigation.

I am happy to support S. 265.●

A FABLE FOR NOW: THE EMPEROR'S NEW CLAUSE

● Mr. HATCH. Mr. President, I would like to draw the attention of my colleagues to a fascinating story entitled "A Fable for Now: The Emperor's New Clause" in the Washington Star of July 16, 1979. It describes the calamities that befall an imaginary kingdom when its misguided emperor foolishly bans all profits because he considers them obscene. Fortunately, the fable has a happy ending when the emperor reverses his decision, recognizing the foolish and grim consequences of his actions. Unfortunately, the frightening trends we see in our society today will not be as easily reversed as in this fairy tale.

The same fallacious arguments that deceived the emperor are being preached with vigor throughout our country today. Government leaders and bureaucrats, eager to pin the blame for our current national difficulties on a convenient scapegoat, continue to play their old broken record about "immoral corporations" "ripping off the poor" with their "obscene profits."

But when the rhetoric ends and calmer heads prevail, we find that the purpose of profits is not to line the pockets of the rich. American businesses need profits for reinvestment, creation of new jobs, expansion of industry, invention of new products, exploration of new sources of energy, and other productive goals for society. The portion of business profits that is used to repay investors is not spent exclusively on the rich, as is commonly supposed. Pension funds, profit-sharing plans, and union funds are major investors in American businesses. Through their investments in these private funds, many American workers are unknowing partners with businesses in reaping the benefits of profits. Limiting profits will not only weaken our economy by discouraging business expansion and contributing to unemployment, but will also provide an excuse for further Government intervention to "shore up" the free enterprise system.

Since the free enterprise system will not work if we tie the hands of American businesses, it is time for us to let business do its job unhampered by Government intervention and regulation. Now that administration officials are being forced to acknowledge that the Federal Government is the major cause of inflation, perhaps they will also be courageous enough to recognize that America will benefit from encouraging businesses to maximize their profits, not minimize them to avoid accusations of "obscene profits."

I ask that the article "A Fable for Now: The Emperor's New Clause" be printed in the RECORD.

The article follows:

A FABLE FOR NOW: THE EMPEROR'S NEW CLAUSE

Once upon a time there lived an Emperor who believed in only what he could tell through his senses, especially his sight. Perhaps this was because once upon a slightly earlier time he had disregarded his senses and so appeared completely unsuited to be a dandy leader.

In redress, he banned the abstract and immaterial. Truth and Beauty he ordered cloistered, Fair Play he locked up in the tower, and the Spirit of Brotherly Love he exiled to Philadelphia. Only Revenge he spared, stashed under his bed in case those swindling weavers should return.

Soon, every criminal was presumed guilty. "Behold my innocence," the accused would cry. "Nope, just can't see it," the Emperor would reply, nodding so his crown slid over his eyes onto his nose. "Out of sight!" his courtiers would cry.

None in the Empire really grieved, for though the Emperor banished Happiness, he also did away with Misery, and Hunger, and other such Evils. The Empire thus continued to thrive, until the day the Emperor banned Profits.

"Knave, what is this?" he thundered to the Royal Habedasher. "In this new robe I see flax and weaving . . . yes, wonderfully opaque . . . and embroidery and tailoring, but what is this extra 'thirteen per centum' you would receive?"

"Just a bit of Profit, oh Potentate."

"Profit? Why?" demanded the Emperor. "You are keeping me warm, and thereby serving all that's good. A Profit on goodness is obscene."

"Out of sight," his retinue parroted in glee.

"Out of his mind," the Haberdasher thought, "calling it 'obscene' to earn a lousy thirteen per centum on everything I've put into the business. Is there to be no reward for my investment and labor?" He fled to a saner land.

The Emperor, however, was pleased at his latest coup, and added a No-Profit clause to all contracts. The news swept quickly through the Trades and Guilds. "Oh dear," the Royal Provisioner fretted, "if I am restricted just to my costs, where will I get the extra money to expand?" The Merchant of Venison thus realized he wouldn't be able to pay for a global voyage he had planned to seek more deer. "I'm afraid there'll be no herd shot 'round the world," he told the Explorer, who thereupon advised the Tinker to give up trying to build a better crossbow.

So it went. The Tinker reconciled himself to using his old, worn tools longer and canceled his order for new ones. The Blacksmith, in turn, shelved plans to rebuild his smithy to make it more efficient and productive, and sat down to brood beneath a chestnut tree (but that's another story). That eliminated work for the Builder, and thus for the Woodsman. And so the Emperor's nephew had no summer job chopping trees.

"What's that?" muttered His Highness on hearing the nephew would be idle. "Well, I'll just nationalize the woods, and have the Army cut the trees. I'll make my nephew a major."

"What!" said the Royal Vizier. "You cannot seize the forest for the trees. The Army has deserted. Some soldiers ran away when you ordered them to drain that fen of stagnant waters after there was no longer private money for the cleanup. Others fled when you took over that bankrupt colliery and made the soldiers scrub the coal by hand so it would burn clean. The rest left when they weren't paid."

"Not paid?" the mogul asked. "Why?"

"Because the Treasury is empty," said the adviser. "Money it lent to spur industrial development never came back because the borrowers could make no Profits to permit repayment. Less money came in because of no Profits to tax."

"No taxes?" said the ruler. "That's obscene."

"Worse yet," said the Vizier, "the whole economy is falling apart. Your ban on Profits crippled investment and invention, expansion and exploration. It precludes new jobs, and keeps old ones from being made more productive. In fact, you indirectly banned Prosperity itself!"

Well, of course the Emperor saw the error of his ways (else this would be a grim fairy tale) and retracted the ban. This time, at least, the bare facts meant a happy ending.

Moral: A profit is not without honor—something to remember at a time when America's economy needs more strength, more jobs, more investment, more productivity . . . and less inflation. Stronger corporate profits can help the U.S. reach all those goals. And that's no fable.●

WHY SALT II IS NOT A CALL TO DISARM

● Mr. McGOVERN. Mr. President, many of the critics of SALT II suggest that the treaty should not be judged on its merits but rather must be placed in the larger context of American foreign and defense policy. In a recent article in the Nation, Marcus Raskin has done just that. Instead of finding that SALT is a tranquilizer, as many critics have charged, he finds that SALT has developed into an attempt at joint arms planning between the military and national security bureaucracies of the United States and the Soviet Union. He also finds that the outcome of this planning process is a shift toward war fighting doctrines and counterforce missile technology on both sides. Mr. Raskin also proposes a number of resolutons which the Senate could consider to strengthen the contribution of SALT II to a less militarized conception of national security for both sides. I commend Mr. Raskin for his creative thinking and insights.

I submit the text of "SALT II: A Call To Disarm," by Marcus Raskin, for printing in the RECORD for the benefit of my colleagues who are now reviewing the SALT II treaty.

The text of the article follows:

[From the Nation, July-August 1979]

SALT II—A CALL TO DISARM

(By Marcus G. Raskin)

SALT II is an attempt at a joint arms-planning arrangement between the military and national-security bureaucracies of the United States and the Soviet Union. Under the agreement, the Soviets will dismantle 250 strategic but vulnerable missiles. Although the missiles are outmoded, the Soviet commitment should nevertheless be counted as an impressive achievement of American negotiators. On the other hand, SALT II does not touch or transform the institutional structure of the U.S. national-security state, its assumptions or purposes. Nor, for that matter, does it alter the assumptions of the Russian security and military apparatus, or the bureaucratic mind set of its military and national-security planners.

The Soviet interest in signing the SALT II agreement is primarily political. Brezhnev and other Soviet leaders see it as a way of relieving the sense of national encirclement that the U.S.S.R. has harbored for hundreds of years. A grand alliance with the United States has been the goal of Communist leaders since 1945. Brezhnev and Gromyko want to leave the Russian political scene having accomplished what Molotov, Malenkov, Bulganin and Khrushchev failed to bring about.

The support for the treaty by American leaders derives from their perception of it as a means of controlling adventurous elements among politicians and the bureaucracy. SALT II is not intended to change a fundamental tenet of American foreign policy—this country's "leadership of the Free World." Rather, it is based upon the political and tactical grounds of co-opting the more "rational" factions within the national-security bureaucracy into ratification machinery.

SALT II is seen as a planning process involving military and national-security groups from the Departments of State and Defense, the Central Intelligence Agency and the National Security Agency, as well as the National Security Council. These groups are by and large made up of sober people, conservative in outlook and, within the framework of their world, not "crazy." If the treaty is passed, those who are made a part of the process will be strengthened. They will be assigned "joint planning" responsibilities related to arms control. This involvement might make some of them more open to arms limitations. On the other hand, if there is a defeat of the treaty in the Senate this group's elevation will cease, and the bureaucrats may well conclude that only bellicosity is rewarded.

If the present Democratic leadership wins the 1980 election and there is no treaty, the arms race will proceed at a much faster pace. If the Republicans win with a right-wing nationalist candidate and there is a treaty, it is possible that the SALT II group within the Government will be able to stalemate the war hawks. But if the Republicans win in the absence of a treaty, there will be no such group inside the national-security bureaucracy to brake the inertial momentum toward a more warlike stance or war itself. Further, one cannot expect the Senate to be a moderating voice during this period, because it is likely to have more conservative members after the 1980 elections than it presently has. Almost three times as many Democratic Senators stand for re-election in 1980 as do Republicans.

A move to the political right tinged with nationalist aggressiveness will strengthen American planners and politicians who argue that our willingness to spill blood will prove to the Russians and other political adversaries, as well as to our allies, that this country is determined to retain its world leadership. Under John Connally or Ronald Reagan the pace would be further quickened, and the national-security planners, to please their masters, will seek to resurrect belligerent war plans previously discarded as impractical.

With improved independent technical-intelligence verification of the missile and arms development of the Soviet Union, increased military expenditures for building the MX, the addition of the Trident submarine and submarine-launched ballistic missiles to the fleet, and an increase in the numbers of tactical nuclear weapons and missile-delivery planes in Europe, the chance for a successful first strike in a "controlled" nuclear war against Russia will be seen as much greater than it has been in the past.

One may confidently predict that Russian national-security planners will seek to increase their technical intelligence, including adding a number of bases and listening posts. They will claim that this is the only way to guard against a first strike. They will press ahead in their MIRVing activities and seek bases outside the Soviet Union. The C.I.A. and N.S.A. will likewise demand a quantum leap in their budgets for covert and technical intelligence activities as the price for their initial support of the treaty. This price will get even higher after the treaty is signed. The C.I.A.'s supporters are claiming that it has been almost mortally wounded over the last several years by "irresponsible" attacks. Further, other voices within the military will call for new intelligence listening posts to replace those lost in Iran. Thus, ironically, an increase in the number of U.S. military and intelligence bases will now be justified as necessary for arms control.

Even with the treaty apparatus operating under conditions of the utmost trust between the parties, the inertial direction of the arms race will continue upward. More important will be the fears and hopes of the national-security and political elites in both nations. To justify an increase in weaponry the conservatives are claiming that it is Russia that can mount a first strike because of its new, heavier MIRV-carrying missiles. It is true that the nature of nuclear war-fighting capability has changed over the last twenty years. American nuclear strategists have convinced their Soviet counterparts to change their defense views from deterrence to a strategy of fighting a nuclear war, and from disarmament to arms control. We taught them the value of MIRVing, pinpoint targeting and smaller nuclear bursts.

The Soviet Union has sought, like the United States, to develop nuclear-war options beyond deterrence. This change in doctrine has created the "need" for a larger and more varied system of nuclear missiles. Each side has thousands of its thermonuclear weapons aimed at the other's. Both the Soviet Union and the United States have integrated nuclear missiles into their political and diplomatic strategies as well as their military strategy—even though planners long ago ran out of military targets. The horror is that while it was once thought that nuclear Armageddon would end within several hours, we are now finding serious men talking about controlled wars—long, drawn-out engagements using nuclear weapons.

Such wars are neither conceivable nor in either nation's interest. The possibilities of maintaining command and control in the context of nuclear exchange are very low indeed. The likelihood is that communications systems on both sides will be jammed almost immediately, which would result in submarines, bombers and missile crews operating independently of central authority.

The nuclear pirates and marauders with missiles, who will almost certainly appear during a nuclear exchange, would threaten the very existence of the nation-state system. So it is little wonder that even the most cynical of statesmen favor "putting a cap on the arms race," as Henry Kissinger put it when he negotiated the first SALT agreement. "Both sides," Kissinger added, "have to convince their military establishments of the benefits of restraint, and that is not a thought that comes naturally to military people on either side."

The defenders of SALT II usually argue that not supporting the treaty encourages groups like the Committee on the Present Danger and the American Security Council to plump for an even faster-paced arms race, including the testing of each other's will and military might in battle.

This is by no means an insignificant argument. The hard-line policy planners who proclaim themselves protectors of Western civilization against the Tartar hordes see the Russians as "teddy bears" who could be defeated in war because they are encircled by the world's most powerful nations and have undependable allies. But the Russians are also portrayed as militarily stronger than ever, expansionist in purpose and paranoid in behavior. Both views sustain the ideologically conservative military planner in his belief that the Russians must be given their comeuppance relatively soon. But the consequences of the defeat of SALT II are not likely to be what former national-security planners like Paul Nitze and Eugene Rostow envisage. Actually, the Senate's rejection of the agreement would cause the U.S.S.R. to feel even more isolated and surrounded. Members of the Politburo who favored détente would surely lose their political power, while the military hard-liners would be in the ascendancy. Soviet leaders would step up their wooing of West Germany, seek to settle differences with China and act as if a war were inevitable. The Soviet war hawks are quite prepared to foment international turbulence, and there will be no disarmament advocates within their bureaucracy to counterbalance them.

American hawks argue that the United States would win any test of military strength with the U.S.S.R. because we have fought in several wars since 1945, while the Russian military remained untested in battle and has grown rusty. This is usually offered as proof that Soviet leaders will soon test their armed forces.

The war hawks who would rather not be bothered with the niceties of a U.S.-Soviet joint arms-planning arrangement are, however, fearful that a repudiation of SALT II by the Senate will encourage the defense and foreign affairs ministries of other nations to speed up their own military preparations, including nuclear-weapons development. Otherwise they will not be able to defend their territories and interests against incursion and likely war among the great powers. Other nations will take the Senate's rejection as a devil's blessing to build up their own nuclear arsenals.

It is not surprising that even the war hawks among U.S. military planners fear this situation. The nuclear game of chess (or is it poker?) between the Russians and themselves looks stable in comparison to the anarchy of nuclear proliferation and catalytic war situations in which individual nations arm to the teeth and pursue their own ambitions and hatreds. Thus, the SALT II agreement has an important symbolic influence on the direction of the world arms race. If the Senate rejects the treaty, war and defense planners in other nations will have all the more reason to conclude that arms control is an empty game.

We thus find ourselves in a tragic dilemma—one in which any action is dangerous and will predictably add to our overall problems. The question becomes whether support for the SALT II agreement will lead to smaller, less disastrous problems than not supporting it. In my view, the answer to this question is yes.

There is, however, a qualifier. This affirmative answer is linked to the manner in which the agreement is supported and the political strategems employed to pass the treaty. Senators Mark Hatfield, George McGovern and William Proxmire are politically correct in questioning whether the treaty would be an advance over the present situation. Their apparent intention is to signal the President that the liberal segment of the Senate will not have its support of this treaty taken as a silent assent to a counterforce or limited-counterforce strategy and a faster arms race.

Recently, Senator Hatfield told President Carter that he was deeply concerned about the Administration's adoption of a counterforce strategy. Hatfield and other Senators have made it clear that the creation of a counterforce arms system would outweigh the benefits of a SALT II agreement. Unfortunately, counterforce was sanctified into official doctrine by then Defense Secretary James Schlesinger in January 1974, and has been the preferred strategy ever since. Already we have purchased weapons to sustain this strategy, and it would be extraordinarily difficult to interrupt it. Even George M. Seignious 2d, the head of the Arms Control and Disarmament Agency and the President's chief arms-control adviser, urges that the United States adopt the MX system to assure itself of counterforce capability.

From a progressive perspective the only courses of action are changing the institutionalized military and national-security nature of states—the primary cause of the arms race—and devising policies that offer an alternative to the military's disastrous doctrines. The political questions to be considered thus become:

(*1*) Can conversion planning away from the arms race and toward peaceful economic enterprises take place between the Soviet Union and the United States through diplomatic negotiations, as well as within their respective borders? Is such planning and implementation activity inspectable?

(*2*) Is it possible to make clear statements and undertake actions that show the SALT II agreement is not contradictory to disarmament?

(*3*) Finally, is there a means (such as mass actions) to get across to the hawks that war and war planning are not the highest purposes of civilization, but rather perversions in them, which must be judged as criminal activities? (I realize that the question of liberation struggles against racist and fascist regimes will remain, but from an international standpoint, and from the standpoint of the United States, these struggles are local, and must be judged in the light of the common strivings of humankind for human rights. Besides, there is little prospect of, say, blacks in South Africa using nuclear weapons in their struggle. It is the white South Africans who have the nuclear capability, after all, and who are likely to use it.)

The national debate over SALT II provides an opportunity for organizations to put forward proposals in communities, cities and Congress that point more clearly in the direction of arms limitation than does the agreement that Carter and Brezhnev signed in Vienna. One such proposal would be a resolution or an amendment (the form it would take would depend on the nature of the Senate debate, but preferably an amendment by the Senate) which would make clear that the United States wanted to begin discussions on international conversion and plans to end the arms race. This question would necessarily include pressing proposals for conversion of the present national-security structures that in an automatic, almost unconscious manner produce the arms race. Thus, an amendment to SALT II should be drawn up that outlines immediate steps for joint discussions on conversion, budget limitations and ways to reinstitute the framework of disarmament laid out in the McCloy-Valerian talks of 1962. Those discussions were committed to seeking comprehensive world disarmament in stages.

Second, this amendment should take into account the various resolutions of the United Nations on disarmament and conversion, including the statements of the U.S. representative. This would be the prime signal of a shift in war planning. By highlighting the way that the arms race is institutionalized in the SALT II agreement, we will be exposing its economic and political causes. The policy consequences of armaments that other nations should bear in mind are dramatized in the dollar increases for tactical nuclear weapons, conscription, MX development and so on.

An additional resolution or amendment to the SALT II treaty would place the signatories on record as favoring a moratorium on the design, development, production or acquisition of all major weapons systems. Such an amendment would lead to formal negotiations within the McCloy-Valerian framework, and that of the United Nations disarmament discussion. Another amendment should be drawn up stating that the SALT II agreement is not meant to stimulate military expenditures, weapons development and testing, etc., in areas not covered by immediate agreement. It is likely that this kind of amendment or resolution would have the broadest support within the Senate, and should be the minimal position taken by those in favor of ending the arms race. Resolutions of this nature should also be introduced in the House of Representatives as a way of emphasizing that Congress as a whole wants a disarmament process.

Finally, resolutions should be drawn up making clear that the arms race itself is a moral and political disaster for American and world civilization, that we are all in mortal danger of genocidal crimes against humanity and that we must redouble our efforts to forge a new system of international security. It could be stated in this resolution that the United Nations Charter calls for the formation of an international security committee to fashion a world security arrangement. This article of the charter should be referred to in an amendment or resolution. Upon its being made a reality rests the hope that new security arrangements can be devised that will enable world civilization to avoid untold misery without abandoning the human need for liberation.●

SALT II: HOW NOT TO NEGOTIATE WITH THE RUSSIANS

● Mr. HAYAKAWA. Mr. President, I would like to draw the attention of my colleagues to a small monograph. SALT II: How Not To Negotiate With the Russians," which has just been published by the Advanced International Studies Institute. Its author, Foy Kohler, has served with distinction as U.S. Ambassador in Moscow from 1962 to 1966. His foreign service experience has included key policy making and negotiating positions under three U.S. Presidents on such issues as the Korean conflict, the Cuban missile crisis, and the protracted Berlin problems.

I find it gratifying that the analysis by this experienced diplomat confirms my own observations which I presented last year in the Journal of International Relations:

> Soviet diplomats enjoy the great advantage of operating within a unified command structure. By contrast their American colleagues are subject to continuous pressures partly emanating from feuding departments in the Executive branch and partly from diverse groups in Congress.

Ambassador Kohler's evaluation of our negotiating process reaches similar conclusions. It certainly comes at an appropriate time. As the following excerpt indicates, it deserves the careful attention of a foreign policy oriented readership:

EXCERPT

> The failure of the U.S. side to recognize, much less to react effectively to, the skill, purposefulness, and ruthlessness with which the Soviets have approached and sought to exploit the SALT negotiations has constituted a fundamental weakness in the U.S. conduct of the negotiations that has kept us continually off-balance and repeatedly placed us at serious disadvantage. But this by no means marks the limit of our faults.
>
> Most grievous has been free play for a proclivity that has all too often seriously impaired the effective conduct of American foreign policy: a proclivity of Washington bureaucracies and special interest groups to do most of the negotiating for an adversary, usually before the two parties even face each other across the table.
>
> A fact of great consequence in this connection is that the U.S. has institutionalized advocacy of disarmament in this country. It has, in other words, created a large full-time bureaucracy the mission of which is solely that of attempting to secure disarmament agreements with the USSR. This bureaucracy is encompassed first and foremost in the Arms Control and Disarmament Agency, set up in the early 1960s. But it has appendages in a number of bureaus of the State Department, in sections of the National Security Council staff, and in various offices of the Defense Department, especially the Office of the Assistant Secretary for International Security Affairs. It also has a private sector auxiliary encompassing a spectrum of special interests groups ranging from convinced pacifists to advocates of a new world order.
>
> Our situation in this particular is unique in the community of nations. It was born of an inspiration that our peace loving image would be greatly enhanced if we had an establishment dedicated to reducing and controlling arms just as we have one dedicated to military preparedness. But what was left out of account was that any bureaucracy given a specific mission tends to make that mission the center of its universe. The mission for and of itself becomes all important. Success or failure of the bureaucracy, as a whole and for the individuals making it up, depends upon achieving agreements per se, that is agreements for their own sake.
>
> To be sure, the disarmament bureaucracy does not act alone. Throughout the government, especially among those who are responsible for military-security affairs and for the promotion and protection of our foreign policy interests, there are deep concerns and conflicting attitudes toward the emotionally packed subject of disarmament and there exist mechanisms whereby these receive a hearing in the decision-making process for SALT. But the result is that more negotiating takes place inside Washington than with the Soviets and that our representative in the talks themselves is likely to reach the negotiating table with "compromise" positions more designed to be acceptable to the Russians than to implement a firm policy

based on an objective assessment of the national interest.

Of particular moment here is a somewhat strange preoccupation on our side with the matter of "negotiability." Rather than following what one would consider the norm for any negotiation process and developing, tabling and then striving energetically for proposals and positions dictated by U.S. security interests and needs, those responsible for U.S. SALT negotiations have arbitrarily set as one of the major constraints on their efforts avoiding that which they judge to be "not negotiable" with the Soviets. The practical effect is that our people have repeatedly decided in their own councils what the Soviets will and will not accept and have adapted our negotiating positions accordingly, thus giving, as it were, Moscow control of the game before it even started.

When this does not happen in advance, a flat Soviet rejection of a U.S. proposal can be counted on to start up the intramural American negotiating process and to result in more Soviet-oriented proposals at the next bilateral meeting.

The fate of the "comprehensive" Carter proposal tabled in Moscow by Secretary of State Vance in March, 1977 is a sobering case in point. Although accompanied by a stop-gap alternative designed essentially to clear the decks by a quick wrap-up of agreements and a postponement of differences if the Soviets should prefer that course, the comprehensive proposal was treated by the new President as reflecting the basic objectives that his Administration would pursue in further SALT negotiations. He called the proposal "a radical departure" which if agreed to would lead "to drastic reductions and strict limitations in the future which have never been part of previous agreements."[1]

The disarmament bureaucracy manifested little enthusiasm for the proposal, which was the result of government-wide consultations, including key members of Congress, and which in a number of important particulars overrode the bureaucracy's recommendations. The cutting point for the bureaucracy was that of "non-negotiability" from the Soviet standpoint. Carter acknowledged the likelihood of stiff Russian resistance, but insisted that he would "hang tough" against it and would "remain very strong in my position." He asserted further that he was "not in a hurry; it's important enough to proceed methodically and carefully."[2]

When faced with the proposal, the Soviets, as the President had anticipated, strongly objected, and not only to the comprehensive proposal but to the stop-gap alternative as well. But the U.S. side did anything but "hang tough." The Vance team that presented the proposal in Moscow made no real effort to counter Soviet objections or to support U.S. positions. In fact, if testimony given by Gromyko at a special press conference held while the Vance delegation was still in Moscow can be believed, the Americans received in shame-faced silence the verbal lashing that the Soviet Foreign Minister, in typical Soviet negotiating fashion, dished out.[3] Then, President Carter in his turn backed off. Within hours after the Presidential plane returned from Moscow the heralded Carter package was, as the Soviets would put it, tossed onto the trash heap of history. The Administration went back to the drawing board with, as so often before and after, its weather eye focused on what would be acceptable to Moscow rather than on what would be best for the United States.

The Soviets, needless to say, have not been oblivious to the propensity of their American opposites to show such concern for their sensitivities and of the opportunities this provides them. They have increasingly staked out extreme demands and stuck doggedly to them and waited for the U.S. to decide upon the concessions necessary for a "breakthrough." The U.S. response has been to constantly shift positions in attempts to accommodate to Soviet intransigence. In other words, the Soviets have capitalized on our concern to reach agreement by inducing us to accept propositions which, by any measure of prudence, we ought to have treated as unnegotiable on our own part. Also, the Soviets capitalize on the advantages offered by the public nature of our debates, which of course has no parallel in the USSR.

For its own part, the Kremlin assesses Soviet interests and determines Soviet aims and objectives in complete secrecy, then usually adds a few extraneous points to the negotiating position as bargaining chips. If there are internal debates or differences they do not come to light and are effectively suppressed, once a decision is made at the Party Politburo level, by the ruling principle of "democratic centralism." Nothing remains for the Soviet negotiators but to outmaneuver and outlast their less decisive adversary, and often even the bargaining chips don't have to be given up.

Further, Moscow is not only fully aware of the nature and content of the debate that goes on in the U.S. over disarmament issues. It actively seeks to influence that debate through top level policy statements, diplomatic maneuvers, and skillful use of its vast propaganda apparatus, seeking especially to involve and exploit those American and European special interests groups that have for one reason or another blindly dedicated themselves to the disarmament cause.

Thus, throughout the long drawn out SALT negotiations the Soviet delegation to the U.N. has regularly tabled each year a set of far-out disarmament proposals, some directly related to SALT issues and others not, but all aiming to make the USSR appear the great champion of arms control and the U.S. the great obstacle. Further, Brezhnev and other top leaders have made a practice of publicly singling out particular areas in contention and formulating loaded Soviet positions, which have then been made the object of worldwide diplomatic and propaganda campaigns.

Illustrative, Brezhnev in his "electoral" speech in June 1975 suddenly called for an international agreement to ban the development and production of new weapons and new weapons systems.[4] In the following November, the Soviets submitted to the U.N. a draft treaty for such a ban. Brezhnev made the proposition central to his discussion of disarmament in his report to the 25th Soviet Party Congress in 1976. Subsequently, Moscow interjected it into SALT negotiations, particularly in connection with its rejection of President Carter's March, 1977 SALT package. The scheme in question would have resulted in great advantage to the Soviets in that it would provide them an effective hunting license to get at any and all arms development undertakings in the U.S. while, given the Soviet practice of absolute secrecy for all research and developmental programs and activities, the U.S. would have no parallel opportunities in the USSR.

Similarly, when any specific suggestion has emerged in the U.S. for some special effort to offset the growing imbalance in U.S.-Soviet military power, the Kremlin has gone all out, and with no little success, to marshal U.S. and other Western opinion against the effort in question and otherwise to inhibit our leadership from its pursuit. Outstanding cases in point have been the B–1 bomber, deployment of the Trident submarine, the cruise missile, the neutron bomb, the MX missile.

The campaign against the neutron bomb was typical. Hardly had Washington signalled a revived interest in a weapon which had long since been technologically proved out but had still been left on the back-burner, than Moscow unleashed a massive propaganda campaign to demonstrate its incompatability with the spirit if not the letter of SALT. To this was soon added a special diplomatic effort in the form of letters from Brezhnev to selected chiefs of western governments stressing the alleged inhumane horrors of the weapon, on the one hand, and its potentially destabilizing effect on the strategic balance and on detente, on the other. And, of course, Moscow continues even now to claim credit for having forced President Carter to back off from his, at most, somewhat timid consideration of utilization of the weapon. Thus *Red Star,* the main organ of the Soviet Armed Forces, wrote on June 14, 1979:

"The wave of indignation raised throughout the world and to a considerable extent the Soviet Union's warning that it would be forced to take steps in response, have forced the U.S. leadership to retreat temporarily."[5]

A striking feature of such continuing Soviet efforts to influence U.S. opinion and decision-making processes is Moscow's practice, as the Soviets themselves frankly explain, of directing any diplomatic intercourse, whether in connection with an ongoing negotiating process like SALT or other types of relationships, to "two addresses:" the "government or governments" involved on the one hand, and the "people" on the other. This is admittedly seen by the Soviets as requiring couching Soviet proposals in terms that will insure "their correspondence to the interests of the masses of the people."[6]

In practice, the effect has been a systematic attempt at what Fred Iklé, a former Director of the U.S. Arms Control and Disarmament Agency, has aptly called "semantic infiltration," that is to the Soviets' taking over and exploiting for their own purposes words and expressions basic to the political heritage of the Western world. We should recall in this connection Stalin's summons in his last public pronouncement with which he closed the 19th Soviet Party Congress in October, 1952. Stalin admonished the assembled Soviet and foreign communist leaders "to pick up the banner of bourgeois-democratic freedoms" and the "banner of national independence, national sovereignty" if "you wish to gather around yourselves the majority of the people" and if "you wish to be patriots of your countries * * * to become the leaders of nations."

In truth, the Soviets have been untiring and one must admit highly successful in their efforts to pervert to their own ends such cherished Western terms as "peace," "democracy," "social progress," "equality," "national sovereignty," "freedom." They have fully captured the word "liberation" and by use of such phrases as the "national liberation movement," the "liberation struggle," "wars of national liberation," and so on have managed an adroit substitution for the word "revolutionary" which had proved so counterproductive as the one time keystone of Soviet foreign policies and activities.

Such efforts at semantic infiltration have been more manifest than in the Kremlin's conduct of SALT negotiations. Any Soviet proposal is treated as by definition in the interest of peace, while any U.S. proposal not to Soviet liking is castigated as threatening to peace. Any attempt by the U.S. to link arms control prospects with Soviet conduct in such places as Africa, the Middle East or Southeast Asia is stamped as attempts to "blackmail" the USSR into abandoning what Brezhnev called during his June, 1979 summit meeting with Carter its "solidarity" with the "liberation struggle of the peoples."[7]

On a somewhat different track, the Soviets have made a near art of utilizing extremist-type arguments of American SALT proponents to influence U.S. decisions. Americans are endlessly quoted to saddle the U.S. with unique responsibility for achieving agree-

---

Footnotes at end of article.

ment, and for the dire consequences that will presumably follow failure. Thus, President Carter's assertion that the U.S. will be branded as a "warmonger" if the Senate fails to ratify SALT II is being continually cited by Soviet spokesmen, as are his remarks about damage to U.S.-Soviet relations and the danger to world peace. Similarly, there is an orchestrated play-back of American views that it is up to the Senate to make the choice between agreement and a "spiraling arms race" and between reducing or multiplying the "threat of a nuclear war."

As for Soviet responsibility, Moscow rather grandly eschews any such thought and again makes use of made-in-America arguments to back itself up. Throughout the long course of SALT negotiations, whenever there was a hang-up over any issue the Russians have had but to dig in their heels and wait on a sycophancy of U.S. Salteers in and out of government to place blame on the U.S. and to mount pressures for changes in our policies.

There is another aspect of the Soviet practice in negotiations which Americans seem unwilling or unable to understand and which has resulted in weighty advantage for Moscow in the SALT process. The Russians, as Dean Acheson has said, "negotiate by acts and not by debate, offer and counter offer."[8]

Those of us who have been involved with the Russians in both times of crisis and in times of attempted accommodation know all too well how Moscow operates in this particular. A few examples will suffice: The sudden instigation of the Berlin blockade in the midst of negotiations following the Western decision to introduce currency reform in West Berlin; direct linkage of successive sputnik successes to efforts to intimidate West European countries into adopting anti-American positions and to efforts to drive the Western Powers out of Berlin; building the Berlin wall while intense negotiations were underway over the Berlin problem; Khrushchev's sudden announcement that the USSR had decided to break the moratorium on nuclear weapons tests after new impetus had been given to ongoing negotiations for a definitive test ban agreement at and following the Vienna summit between Kennedy and Khrushchev; planting missiles in Cuba at the moment of Kennedy-Khrushchev exchanges looking toward an overall relaxation of tensions; encouragement and support for the Arabs in precipitation of the October, 1973 Middle East War while the glow of the new "detente" relationship was still all pervasive; the Angolan and the Ethiopian breakouts from detente; and so on over the spectrum of relationships during both the "cold war" and "detente" eras.

The SALT process from its beginning has provided a classic proving ground for this Soviet technique of interlocking action with negotiation. When after months of preparatory work, formal talks were inaugurated in November, 1969 the U.S. could view the strategic balance situation with equanimity. The USSR had, it was well known, been busying itself with efforts to narrow the gap in capabilities between the two countries. But at the time the U.S. could still rest comfortably with the evident solid lead it enjoyed in the most critical elements of the strategic equation. But while negotiations for SALT I dragged on over the next two and a half years, and while the U.S. leadership apparently operated on the assumption that the balance was remaining relatively stable, the Soviets were feverishly pushing forward with their strategic buildup.

The result was that by April, 1972 when presumably for domestic political reasons the Nixon Administration opted for quick attainment of some sort of presentable agreement, Washington found itself facing a Soviet Union possessed of a formidable array of new strategic resources. It consequently strove desperately, including agreeing to a trade-off of still distinctly superior anti-ballistic missile capabilities, to get any kind of an agreement from Moscow for offensive strategic weapons. The outcome was U.S. acceptance of decided advantages for the USSR in numbers and destructive power of nuclear missiles and in numbers and modernity of missile bearing submarines. The Nixon Administration could by then only say in explanation that this was the only way in which the U.S. could save itself from falling hopelessly behind in a continuing race. The race, according to Henry Kissenger, could not be allowed to become a rout for the U.S.[9]

Hope was held out that with the SALT I "freeze" on numbers of missiles and submarines, the U.S. could rectify the situation by bringing to bear its superior technology to effect unmatchable qualitative improvements in its then, and thenceforth, fewer and less powerful nuclear missiles and submarines. SALT II was in the offing and the U.S. would with its new strengths have greater leverage and do better by itself in negotiating a follow-up agreement.

But again it was the USSR and not the U.S. which effectively married action to negotiation. Moscow raced forward, as Brezhnev had warned Nixon it would,[10] with the full range of its offensive weapons programs. The U.S., during the remaining years of the Nixon-Ford Administration, raced nowhere, largely confining itself to the drawing board and research laboratory. And in the Carter years it has not only continued with this course, but in addition has unilaterally discarded, slowed, or frozen work on a number of its most promising weapons, as for example, abandonment of further work on the Safeguard ABM system, cancellation of the B-1 bomber, deferment of the cruise missile, stretch-out of the Trident program, and a freeze on production and deployment of the neutron bomb.

This adds up to a simple fact. During SALT II the U.S. has staked heavily on faith in the give and take of negotiations. The USSR, on the other hand, has through its action changed the environment in which the negotiations were taking place and in doing so has effectively predetermined the outcome of those negotiations. It has accumulated year by year more and more leverage. The U.S. year by year has lost leverage. Indeed, one can say that over the course of negotiations for SALT, the strategic positions of the U.S. and the USSR have been effectively reversed.

FOOTNOTES

[1] See *Weekly Compilation of Presidential Documents*, "SALT Negotiations With the Soviet Union," Vol. 13, No. 14, pp. 467-73.

[2] *Ibid.*, p. 472.

[3] See *Pravda*, April 1, 1977 for the text of Gromyko's March 31 press conference.

[4] *Pravda*, June 14, 1974.

[5] *Krasnaia Zvezda*, June 14, 1979, p. 3.

[6] For an illuminating discussion of the Soviet "two addresses" approach, see A. Kovalev, *Azbuka Diplomatii* (Moscow; Institute of International Relations, 1968), 2nd edition.

[7] *Pravda*, June 18, 1979.

[8] Dean Acheson, "On Dealing with the Russians: An Inside View," *New York Times Magazine*, April 12, 1959.

[9] *Weekly Compilation of Presidential Documents*, Vol. 8, No. 93, p. 932.

[10] Department of State *News Release*, June 20, 1972, p. 28.●

TRIBUTE TO JOHN B. BRECKINRIDGE

● Mr. FORD. Mr. President, the Commonwealth of Kentucky lost one of its most respected and dedicated public servants this past weekend when death claimed our former colleague in the House of Representatives, John B. Breckinridge, at the age of 65.

The name Breckinridge has long been found among the names of America's history. In the halls of the Capitol is the bust of a Vice President of that name.

Most recently, Kentuckians took pride in another Breckinridge who served his State and country, that being John B. Breckinridge, Member of Congress from 1972-78. He was the fifth Breckinridge to serve in Congress and was a direct descendant of the Vice President.

Congressman Breckinridge's record of service to the people of Kentucky is a long proud one that included terms in the State legislature and as State attorney general. Kentuckians remember him not as a politician, but as a statesman and a thinker who in many respects was ahead of his time.

Today, two of the most significant issues of discussion before the Congress are the windfall profits tax and the SALT II Treaty. John Breckinridge, however, was a strong advocate of these long before they became the popular topics they are today.

He was deeply concerned about the need for a strong national defense, and he was greatly interested in domestic problems. An advocate of small business, he devised a plan whereby jobs could be created in the private sector at no cost to the Government. Agriculture was another of his special concerns, and he founded and served as cochairman of the congressional rural caucus.

Those of us who knew him well remember him as a kind man with a keen sense of humor, as a hard taskmaster who worked tirelessly and with dedication to promote those causes to which he was committed. He embodied those qualities Americans admire in their political leaders and left a heritage to which Kentuckians can point with justifiable pride.

Mr. President, without question our friend John Breckinridge—and there are many in this body who remember him well—left a positive mark on the future of our State and Nation. We have lost a devoted public servant and friend, and on behalf of the U.S. Senate, I extend my heartfelt sympathy to his wife and family.●

FOURTH ANNIVERSARY OF THE HELSINKI FINAL ACT

● Mr. PELL. Mr. President, today, August 1, 1979, marks the fourth anniversary of the signing of the Helsinki Final Act. Thirty-five signatory states—Europe East and West, with the United States and Canada—agreed to closer business cooperation, to promote greater understanding through a freer flow of information, and to develop ways to decrease military tensions. What makes the Helsinki accords unique, however, is that it encourages initiatives to broaden human contacts. Not only did the 35 signatory countries promise to promote the freer movement of people across national borders, but also to "encourage the effective exercise of civil, political, economic, social, cultural, and other rights and freedoms . . . including the freedom of thought, conscience, religion or belief . . . all of which derive from the inherent dignity of the human person."

For us, as Americans, this concept of individual rights and freedoms is embodied in our Constitution and Bill of Rights. For many people, however, this concept in the relationship of the Government to the governed is in glaring contrast to daily reality.

After reading the complete text of the Helsinki Final Act in their newspapers—which was a notable exception to the usual information vacuum—many people in Eastern Europe and the Soviet Union responded to the challenge and opportunities contained in this unique and international document. Groups such as Charter 77 in Czechoslovakia, Helsinki Monitoring Groups in Moscow, Kiev, Vilnius, Yerevan and Tbilisi in the U.S.S.R., and the Committee for Social Self-Defense in Poland were formed to examine and encourage compliance with the human rights aspects of the Helsinki accords in their own countries.

It may be too much to claim that Helsinki spurred the formation of the first independent human rights groups in these countries. It is important to stress, however, that the Final Act has acted as a catalyst to unite activists who hitherto had not worked on common ground. The accurate reports issued by these groups—and the echos heard in the West—caused the Soviet and Czechoslovakia authorities to act against them. To date, there are 17 Helsinki monitors still imprisoned in the Soviet Union. People who saw Aleksandr Ginzburg just after he got out of Gulag must wonder that anyone can survive the rigors of its torture by hunger, cold, and overwork. Just now, as if to flaunt its contempt for its humanitarian pledges in the Helsinki accords, the Czechoslovak authorities are preparing a major show trial of 10 leading members of the charter group, the Committee for the Defense of the Unjustly Persecuted.

While some countries, such as Hungary, have liberalized their emigration policies, and other countries, such as Poland, seem to be able to tolerate dissent to a greater degree than in most other European countries, other countries have retreated from their human rights commitments at Helsinki. For example, the German Democratic Repubic, which previously had allowed a wider latitude for the expression of unorthodox views, recently proclaimed a repressive new law code. For that matter, the new Soviet constitution adopted in 1977 proclaims for its citizens freedom of speech, press, and of assembly—but only if they are in the interests of the so-called working people, a well-known euphemism for the Communist regimes of the Warsaw Pact. And, of course, it is the exclusive preserve of the party—not of the individual—to define what is in the interests of the so-called proletariat.

As I have aready indicated, principle VII of the Final Act also gives broad guarantees for religious liberty. The fervor of the Polish reception of their Pope provided ample evidence of the vitality of religion in Eastern Europe and the U.S.S.R. Coincidental with the election of a Polish Pope, several churchmen in Lithuania have formed the Catholic Committee for the Defense of Believers. Inspired by such guarantees in the Helsinki accords, citizens have formed groups to document the difficulties of believers in their countries. The Romanian Christian Committee for the Defense of Religion and Conscience and the Christian Committee for the Defense of Believers' Rights in the U.S.S.R.—despite arrests and threats—have issued hundreds of reports on the difficulties of religious communities such as Baptists, Pentecostals, Adventists, Catholics, Jews, Moslems, and others.

Helsinki guarantees are not limited to individual and religious rights, but also extend to the protection of "the right of—national minorities—to equality before the law * * * and the full opportunity for freedoms." Protests in Georgia and continuing unrest in the Baltic republics and Ukraine are disturbing indications of blatant Soviet attempts to repress indigenous culture and language in non-Russian republics. Although Jews are one of the few ethnic groups currently allowed to leave the U.S.S.R. in significant numbers, anti-Semitic propaganda is on the upsurge in the Soviet Union. Other Soviet ethnic groups with particularly tragic fates are nations, such as the Crimean Tatars, deported by Stalin to remote areas, who still cannot return.

As Cochairman at the Commission of Security and Cooperation in Europe, I am deeply concerned about continuing violations of the provisions of the Helsinki accords. I felt that this anniversary should not pass without informing my colleagues of the distressing lack of compliance in some areas by a few signatory countries. I am still optimistic, however, that the long range effects of the Helsinki accords will be positive and that the continued vigilance of the West will ultimately bring about improvements in the daily lives of the citizens of even those countries which still have disappointing records of progress toward the noble humanitarian goals proclaimed in the Final Act of Helsinki.●

IMPROVED OPPORTUNITIES FOR HIGHER EDUCATION

● Mr. CULVER. Mr. President, last evening the Senate approved an important piece of legislation affecting literally thousands of college-bound students and families this fall. The Higher Education Technical Amendments of 1979 with provisions regarding U.S. Treasury bill rates and carryover of surplus funds are aptly titled. But the technical nature must not obscure the fundamental and real benefits this bill will have for deserving students.

First, this legislation will help insure the continued availability of guaranteed student loans from lending institutions. By eliminating the cap on allowances paid to these lenders for the loans they make, it increases their incentive to provide needed financial assistance to postsecondary students. From October 1, 1978, to May 31, 1979, over half a million students—10,283 in Iowa alone—received a guaranteed student loan. Any reluctance on the part of banks and other agencies to provide this aid in the absence of this legislation would certainly have darkened the financial and educational outlook for many students.

Second, the higher education amendments assure that nearly 700,000 independent students will receive full and promised basic educational opportunity grants this year. Mr. President, these students are characteristically self-supporting—widows, veterans, displaced homemakers, and other adult learners no longer able to count on parental financial aid. In many cases, the pocketbooks of these individuals can ill afford increasing educational costs without financial help. Yet without additional training and education, they are limited occupationally and economically. This bill helps enable independent students to achieve their educational objectives.

Third, the legislation approved by the Senate allows for improved collection of national direct student loans. Through this mechanism, taxpayer moneys are recovered for reinvestment in future students and valuable educational programs.

Fourth and finally, Mr. President, the action of the Senate in approving this bill will preclude anticipated administrative problems for college financial aid offices and many students. If the Senate had failed to approve the various technical adjustments in this legislation prior to the start of the fall school term, it is likely that students would have received less aid than they had been promised and student benefits would have to have been recomputed at substantial costs to the college involved. I know that Iowa college and university officials were troubled by that possibility and I am pleased to be able to report to them that prompt congressional action has prevented that from occurring.

Mr. President, I was pleased to join in the action of the Senate last night in approving the Higher Education Technical Amendments of 1979. I share with thousands of other Americans a concern that educational costs do not make educational opportunities impossible for many deserving American students.●

AMNESTY INTERNATIONAL MEETING UNDERLINES THE PLIGHT OF ARGENTINE MOTHERS

● Mr. KENNEDY. Mr. President, it has been over 3 years since a coup put the military government of President Jorge Rafael Videla into power in Argentina. In that time, despite the many promises on the part of the Videla regime of "stabilizing the situation," and ending the "necessary but extreme measures," and despite the marked decline of antigovernment terrorist activity, there has been no significant improvement in the human rights situation in Argentina.

While at one time the Videla regime did indeed face severe problems of terrorism from the left, and was forced to adopt strong measures to counter them, the marked decrease in cases of such terrorism—a decline acknowledged by the Argentine Government—precludes it as an excuse for measures such as those used in Argentina today. For as many concerned and internationally respected organizations have shown, the "antiterrorist" practices of the military junta affects too wide a segment of the population, and their cruelty is too great, to be the methods of a popularly based regime fighting extremist threats.

Numerous international organizations have documented the continuing arrests, detentions, torture and disappearances that have brutalized the life of so many Argentines and which have virtually destroyed public trust and hope in that society. Amnesty International has reported that in the 3 years since the military coup of March 1976, Argentina "has witnessed a continual state of siege, indefinitely suspended basic constitutional guarantees, the detention of 4,000 officially acknowledged prisoners, the widespread use of sophisticated means of torture, and the disappearance after arrest of thousands of Argentines, refugees, and foreign nationals living in Argentina. This last chilling phenomenon, kidnapings by self-proclaimed members of the Argentine police and security forces, has resulted in the disappearance without a trace of approximately 15,000 men, women, and children."

I request unanimous consent that the full text of a recent Amnesty International bulletin on the situation in Argentina be inserted into the Record at the conclusion of my remarks.

Human rights violations on such a massive scale often seem far removed from this country. However, last week, the visit to Washington of two brave Argentine women, who belong to a group known as the "Mothers of the Plaza de Mayo" reminded us that we cannot allow ourselves to close our eyes to such continuing injustice.

These two women belong to a group made up of the wives and mothers and grandmothers of people who have "disappeared" for political reasons. I have met personally with members of this group and was deeply impressed by their personal courage, their dedication, and above all, their refusal to give up hope. Until a few months ago, they gathered every Thursday in front of the Casa Rosada (the Argentine Presidential Palace) seeking news of their disappeared relatives. The Argentine Government not only spurned their pleas for information but actively persecuted the women, eventually barring the Plaza de Mayo to them. The Washington Post recently reported:

> Last January, 44 mothers were stopped by police as they arrived for their weekly protest and taken to a jail cell. Many of them were pushed into a jail cell in which lay the dead body of a young man who was a victim of a car crash. They were told he could be one of their sons.

Last Tuesday, two women belonging to the group visited Washington to dramatize the plight of their relatives. In a public ceremony in the Rayburn House Office Building "Julia" and "Maria"—who could not give their real names lest they "disappear" on their return to Argentina—presented scarves embroidered with the names of disappeared relatives to 20 American women, including Assistant Secretary of State for Human Rights Patt Derian; Representatives Millicent Fenwick, Elizabeth Holtzman, Mary Rose Oakar, Barbara Mikulski, and Pat Schroeder; Isabel Letelier, wife of assassinated Chilean Foreign Minister Orlando Letelier; and columnist Mary McGrory. A scarf was also presented, I am proud to say, to Ms. Diana Laing of my staff.

Megan Rosenfeld of the Washington Post has graphically and movingly described the plight of "Maria" and "Julia"—and, in the process, that of all those people in Argentina separated from their loved ones as a consequence of arbitrary government brutality. As she notes, "They are merely mothers—not political players—and all they want to know is what has happened to their children." The courage of these women demands an answer from us. For as Maria explains, "We only ask for justice." Mr. President, I request that the full text of Ms. Rosenfield's article be printed in the Record.

The material follows:

Amnesty International Bulletin on the Human Rights Situation in Argentina

THE HISTORY

In the three years since the military coup of March 1976, Argentina has witnessed a continual State of Siege, indefinitely suspending basic Constitutional guarantees, the detention of 4,000 officially acknowledged prisoners, the widespread use of sophisticated means of torture, and the disappearance after arrest of thousands of Argentines, refugees, and foreign nationals living in Argentina. This last chilling phenomenon, kidnappings by self-proclaimed members of the Argentine police and security forces, has resulted in the disappearance without a trace of approximately 15,000 men, women and children.

No social, economic or religious sector in Argentina has been unaffected. The ranks of the "disappeared" include professors and students, labor leaders and rank-and-file trade-unionists, scientists, political leaders, medical doctors, and psychiatrists, including the President of the National Society of Psychologists in Argentina. The International Commission of Jurists has documented the disappearance of at least forty-one lawyers and judges; *Le Monde* in January 1978 reported that forty journalists had "disappeared"; on April 20, 1979, *The San Francisco American Jewish Bulletin* commented that two officials of the Anti-Defamation League expressed fear that most of the more than 600 Jews who have "disappeared" in Argentina over the last three years may be dead.

Many of these "disappeared" persons have never had any political or ideological affiliations of any kind. In December 1977, two French nuns were abducted by security forces, after attending a meeting of relatives of "disappeared." Their whereabouts have never been determined.

Many "disappeared" are believed to be held in secret places of detention where torture is reported to be routine, according to the testimony of the very few who have been freed.

THE PROBLEM

The Argentine Government has consistently denied all knowledge of the circumstances and whereabouts of the "disappeared." Despite assurances by the Argentine Government that investigations into such cases are conducted, AI knows of no specific evidence to support such claims.

Tens of thousands of habeas corpus writs have been answered negatively, as no records are kept for the "disappeared."

Relatives of "disappeared" persons continue to appeal in vail to the authorities for information about their loved ones, despite hostile or indifferent responses. Besides living in anguished uncertainty, they often suffer cruel reprisals for their efforts and some have "disappeared" as well.

One group of these relatives, known as the "Mothers of the Plaza de Mayo," who every Thursday at 3:30 p.m. met in silent protest in front of the Casa Rosada, were constantly harassed, sometimes arrested, and are now forbidden access to their "beloved plaza."

They write in a letter dated March 21, 1979, "We are a group of mothers, representative of thousands, who suffer anguish for lack of news about our 'disappeared' children in Argentina.

"We have exhausted all legal resources in our country. The authorities persist in keeping ominously silent about the whereabouts of our kidnapped relatives.

"There are hundreds of 'disappeared' children, innocent victims of this savage and indiscriminate repression which has been carried out over these past three years.

"Old people have been taken away from their homes when those being sought were not found.

"Many school-age children were taken from the schools which they were attending. There are also many children who were forced to witness the torture of their parents . . ."

THE PROBLEM OF DISAPPEARANCES IN ARGENTINA

Just before take-off, the wife of a prominent Argentinian surgeon and five of their children are forcibly disembarked from flight 284 of Aerolineas Argentinas by uniformed security forces. All the passengers witness the abduction. Mother and children are bound and blindfolded and driven to a military establishment where they are held for six days. The children are then abandoned on a Buenos Aires street corner in the middle of the night, after being told that their mother would be released after a "problem of documentation" had been solved. It was February 1977. More than two years have passed since then, and the whereabouts of Mrs. Nelida SOSA de FORTI remain unknown.

A fourteen year old boy is arrested by men in civilian clothing as he leaves school one afternoon in Ciudad Alberdi, Argentina. His headmaster immediately lodges a complaint at the local police station. A senior officer tells him that the boy has been detained by the Intelligence Corps of the Army, which is carrying out inquiries, but promises that the boy will be released shortly. Nearly three years since the August 1976 kidnapping, there is no further news of Juan Angel NUGHES.

A young girl and her brother are taken from their home in Mar del Plata, Buenos Aires Province, to the local army base known as GADA 601. They are tortured for six days. She is transferred to a secret detention camp until six months later, when she is taken back to Mar del Plata and recognized as an official prisoner. Following another six months she is cleared of all charges and released into exile. Patricia PEREZ CATAN still bears marks of electric torture. More than two years after the January 1977 abduction, the only news of her brother, Jorge, is that somebody saw him alive in a secret camp in early 1978.

Amnesty International knows that these are not isolated or unrepresentative incidents in Argentina. These are only a tiny fraction of the total number of disappearances, which Amnesty International believes to be as many as 15,000.

A SYSTEMATIC PATTERN

The disappeared fall into four categories—(i) Those who are murdered and whose corpses are sometimes found on waste-ground, in forests or at the bottom of lakes; (ii) those who remain indefinitely in the secret camps and whose detention is never acknowledged; (iii) those who are transferred to official prisons, and (iv) those who are released after a short period of time (one to thirty days). This is the largest category.

From the testimonies of detainees who have subsequently been released (and who have usually been warned not to speak about their detention), AI has been able to piece together a characteristic train of events in the lives of the *desaparecidos* (disappeared persons). During their captivity they are kept hooded and blindfolded; as a result they have great difficulty in recognizing their place of detention. Nevertheless, a number of prisons have been clearly located throughout Argentina. During 1977, perhaps as many as sixty secret camps, often military barracks or garrisons, were used as prisons. The detention camps vary in size; sometimes there are few prisoners, sometimes there are several hundred. Systematic torture and summary executions are routine in these camps. Frequently, the *desaparecidos* are handcuffed and chained. They are usually subjected to torture and physical abuse.

HOW MANY HAVE REALLY DISAPPEARED?

In February 1979 the Buenos Aires Herald estimated that over the previous three years there had been an average of between three and ten kidnappings each day.

Amnesty International, along with the human rights organizations within Argentina, believes that the number of written complaints (often accompanied by writs of habeas corpus) is far below the total number of people missing after arrest. The limitation of the figures is partly the result of fear (relatives and friends fear that their complaints will make things worse for the person who has disappeared), and partly due to ignorance of formal procedures. Furthermore, since the authorities often treat discussion and/or reporting of human rights violations as "subversive," very little genuine information is published in the country's media about the actions of those who complain. A sample inquiry carried out by human rights organizations within Argentina, covering twenty towns whose size made it possible for every disappearance to be catalogued, suggested that to obtain the total figure, the number of registered disappearances would have to be multiplied by at least five. These organizations, to date, have registered 4,500 cases; the real figure of persons missing after abduction is probably about 15,000.

On three occasions, the Argentine government has published lists of people who, it claims, were thought to be missing but have since been found (12 April 1978—232 people; 7 August 1978—201 people; 14 December 1978—159 people). However, no names on the government lists have ever corresponded to the cases known to Amnesty International.

THE GOVERNMENT KEEPS SILENT

Despite censorship and the risk of retaliations, the families of the victims and human rights workers within Argentina have increased their campaign to press the government for information on the disappeared. In May 1978 they obtained the publication in the daily La Prensa of a list of 2,500 missing persons whose cases had been presented to the Supreme Court of Justice. In November 1978, another petition denouncing the disappearance of 1,542 people, and signed by 1,221 relatives of missing people was presented to the Supreme Court. The signatories stated that they were appealing to the Court because all other means of establishing the whereabouts of the disappeared had failed. The petition emphasized that the abductions had taken place with a great show of uniformed men, firearms and vehicles, and had all the appearances of a legally sanctioned operation. This petition, like all previous requests and complaints, has elicited no information from the government. On March 3, 1979, the Supreme Court accepted for the first time an appeal from a relative of a missing person—the father of Alfredo Antonio Giorgi, a 33-year-old scientist who was abducted from the National Institute of Industrial Technology on 27 November 1978. The Supreme Court had, until it heard this case, declared the problem of the disappeared to be outside its jurisdiction. In the Giorgi case, however, it has said that even though it has no formal jurisdiction in such matters, it will order an Appeals Court to begin an investigation.

The Inter-American Commission on Human Rights of the Organization of American States recommended in its Annual Report 1976:

"That all the necessary measures be taken to prevent the security forces or other authorities from arresting and detaining persons without the knowledge of the competent authorities and of the relatives of the prisoner, so as to put an end to the so-called cases of "disappearance." Among these measures the following may be mentioned: close vigilance by the high officials and by the Judicial Branch over the actions of the security forces; periodic visits to the places described as illegal detention centers and imposition of severe sanctions on members of these forces who give an evasive or false reply to requests for information about persons they have detained."

Amnesty International believes that the fate of those who have disappeared in Argentina is too serious a matter to be ignored. In view of President Videla's own statement, quoted in *La Prensa* on 6 September, that "I admit that there are people who have disappeared. I admit that perhaps there has been too great a repression. But now we are trying to stabilize the situation," AI considers it imperative that the Argentine government clarify the fate of those who have "disappeared" so that families may at least know whether their missing relatives are alive or dead.

WHAT YOU CAN DO

Continued efforts are called for to support the demands of the relatives that the "disappeared" be accounted for. Appeals from the international community may bring sufficient pressure to bear on the Argentine authorities to establish the whereabouts of these individuals. Write to the President of the Argentine Republic and the Minister of Interior requesting:

1. that the Government make public information about the fate of the "disappeared."

2. that the Government prevent further abductions, extra-legal detentions, and extra-judicial executions.

Exmo. General Jorge Rafael Videla, Presidente de la Republica, Argentina, Casa Rosada, Buenos Aires, Argentina.

General Albano Harguindeguy, Ministro del Interior, Casa de Gobierno, Balcarce 50, Buenos Aires, Argentina.

For further information, contact: Amnesty International USA.

National Section Office, 304 West 58th Street, New York, N.Y. 10019.

Washington office, 413 East Capitol St., S.E., Washington, D.C. 20003.

Western Regional Office, 3618 Sacramento Street, San Francisco, Calif. 94118.

MISSING PERSONS, ANGUISHED MOTHERS: THOUSANDS "DISAPPEAR" IN ARGENTINA

(By Megan Rosenfeld)

"Julia" is a short, plump woman in her 60s who has worked all her life as a clerk in Buenos Aires, Argentina. About 2½ years ago her daughter-in-law called her at 4 in the morning to report that her son had been taken away by what appeared to be police. "Julia" says she has been unable to find any trace of her son ever since.

Yesterday she and "Maria," another "Mother of the Plaza de Mayo," went to Capitol Hill under the auspices of Amnesty International to gain attention for what they say are 15,000 men, women and children who have simply "disappeared" since the military coup in Argentina in March 1976.

To dramatize their cause, they presented white cotton scarves embroidered with the names of different "disappeared" to women leaders, including Patricia M. Derian, the assistant secretary of State for human rights, who said she represented not only the State Department but First Lady Rosalynn Carter and the senior women in the White House.

The occasion was emotional: the women talked about babies as young as 20 days old who have been swept up in a military dragnet originally aimed at rounding up terrorists who had brutalized the country before the coup. They are merely mothers, they said, not political players—and all they want to know is what has happened to their children.

According to Amnesty International, which won the Noble Prize in 1977 for its work in helping political prisoners around the world, most of the 15,000 "disappeared" are not terrorists. Some are leftists, some are labor union leaders, some are intellectuals—such as the 31-year-old head of the Buenos Aires Psychologists Association.

The mothers—who numbered at their peak, 2,000—are the most recent in an apparently unending flow of people who see themselves as human rights victims seeking solace in the United States. Speaking graphically of torture, punishment for opposing government policy, random arrests and imprisonments, house arrests, intimidation and other harassment, they've come speaking for "prisoners of conscience" in the Soviet Union, Chile, Paraguay, Brazil, South Africa, El Salvador and other countries.

But Amnesty spokesmen say the situation in Argentina is different because so many have not received even a travesty of due process; they simply are picked up, some to return as corpses, minus their hands to prevent identification, floating in the river. A few are released, but most are believed to be in "clandestine" detention camps.

"Julia" and "Maria" were afraid to be photographed, they would not give their real names and insisted that factual details about their lives be changed. They are afraid that they, like some other protesting mothers, will "disappear."

A spokesman for the Argentine Embassy here, Massini Ezcurra, said he questioned figures cited by Amnesty International. He did say that between November 1974 and June 1979, 8,713 people were arrested in Argentina in connection with suspected terrorist activities; of these, 5,913 have been released and 1,723 are still under "executive-power arrests." That means the president decides they should be arrested and jailed indefinitely without trial. Two weeks ago, Ezcurra said, the government said they would hold trials for those people.

The U.S. government apparently agrees more with Amnesty's figures, as Congress voted to cancel the sale of arms and to vote against loans to Argentina from the Inter-American Development Bank.

"It's in our national interest to stand for the principles that we believe in," said Derian. "Originally the military junta was faced with the very real problem of terrorism. In the process [of eradicating them], they dehumanized the enemy; they became more dangerous than the terrorists themselves. The root cause was panic, inexperience, and a failure to be deeply rooted in the civilizing aspects of constitutional rights and due process."

"We ask only for justice," said "Maria," in heavily accented English. "Try them—if they are guilty, punish them. But if they are not guilty, release them."

Both women are apologetic about their English. "Maria" speaks more than "Julia"; both have been traveling for about a month in Europe and are now here to plead for international pressure on Argentina. They met in the Plaza de Mayo—Argentina's equivalent of Lafayette Square—where mothers gathered every Thursday in a vigil of demand.

"Maria" is a teacher; she, like many of the "disappeared," is Jewish. She says her efforts to get information about her son and daughter through legal channels have resulted in "nothing." Now in her 50s, she is a widow. She and "Julie" were elected, along with two others who have since, returned to Argentina, by the mothers to make this trip. It is the third time the group has sent representatives to America.

Yesterday as they presented the embroidered scarves to 20 women such as Rep. Barbara Mikulski (D-Md), Rep. Patricia Schroeder (D-Col.) and columnist Mary McGrory, the two kissed each woman as she took the scarf.

"Maria" gave away one scarf with the names of her own children embroidered on it; but she could not reveal this for fear of later being identified.

The mothers and their sponsors chose to make their public ceremony to women. "We think maybe women can have a better understanding of say that time will cure all injuries. But no mother will ever forget her children."

According to "Maria":

Last January, 44 mothers were stopped by police as they arrived for their weekly protest and taken to a jail cell. Many of them were pushed into a jail cell in which lay the dead body of a young man who was the victim of a car crash. They were told he could be one of their sons.

They were told not to meet again in the Plaza de Mayo. If they did, police warned, they could end up in jail permanently.

Babies born to women who were pregnant at the time of their arrest have been given away or sold, they claim. One woman, Estrella Iglesias Espasandin, was released on May 15 after a year and nine months of imprisonment. She is a Spanish citizen who has joined her husband in France, but she gave a report of her experience, including torture:

"The torture consisted of applications of electric current to the genitals, breasts, toenails, mouth and gums; stretching my arms, mostly my right arm until they dislocated it; putting rats on my face and between my legs," she wrote . . . "During the entire trip (to jail) they socked me in the face and on my body. They also told me that I wasn't detained, nor had I disappeared, nothing like that; now I'd just been absorbed, kidnapped, 'sucked up.' "

She also gave a list of names of 18 people who have been "disappeared," people who were still alive at the time she was released.

Ezcurra said there is no torture in Argentina. "How could I agree with that?" he said. He said the two mothers would not be punished for speaking here, "unless they are involved in some terrorist-related activity."

"I've had people tell me 'intellectual subversion is as dangerous as real subversion,' " said Jeannie Harris, wife of the foreign service officer who until recently was assigned to spend full time on human rights at the embassy in Argentina. F. Allen Harris has not yet been replaced.

Harris, who was praised lavishly by the two mothers, had his three-year human rights assignment cut short recently to join the SALT task force in the State Department. Even within the embassy in Buenos Aires, the commitment to deal with this problem is less than enthusiastic, according to several observers. "It's too unpleasant to document," one source said.

"Maria," dressed in a bright red blouse and blue skirt, said she at first could not believe that her son had simply disappeared.

"How can you believe a thing like that? It's incredible. He had no weapons, he was not political. The most he might ever have done is write a slogan on a wall. There are many of them people who may have sympathy with the left, idealistic. But they are what they call 'parsley'—how do you say, insignificant."

Her voice is a little hoarse from talking so much; the phrases are starting to sound practiced. Her eyes are red. "I'm exhausted," she said.●

A VIABLE COMPROMISE

● Mr. WARNER. Mr. President, I rise in support of S. 712 as amended as I believe that it strikes a very delicate balance between a viable national transportation network and fiscal responsibility.

When S. 712 was first reported out of committee, I supported the reorganization of the Amtrak system as proposed by the administration as strong evidence was presented that, at the time, the system, as currently in effect, was vastly underutilized and was costing the American taxpayers enormous amounts of money.

In fact, the committee received testimony that if this pattern did not change the American taxpayer would have been forced to subsidize this underutilized system over the next 5 years by an aggregate amount of $1.3 billion. This was too much money to spend on this system under the then existing ridership patterns.

However, no one anticipated the severity of the energy crisis which suddenly crippled automobile transportation.

The energy crisis struck America full force subsequent to the committee's original action on S. 712. The American public economically hurt by sharp increases in gasoline prices frantically searched for alternative methods of transportation other than the automobile, and turned to the underutilized Amtrak system as an alternative mode of intercity transportation.

As Amtrak ridership dramatically soared in the last 3 months it became readily apparent to me that amendments to S. 712 were needed to address the ever-changing factual situation.

The amendments that have been added to S. 712 substantially strengthens the bill, solidifies the ability of Amtrak to act as a viable option in the Nation's transportation network, provides needed funds for Amtrak capital equipment, sorely needed trains and trackage, provides funds to aid State-supported trains, and cuts out only those trains which appear presently not to be viable in nature.

The amendments to S. 712 will call for a reduction in the Amtrak system of only some 19 percent but yet will provide substantial savings to the American taxpayer.

For these reasons I strongly support S. 712 as amended and vote for its passage.●

QUORUM CALL

Mr. MATHIAS. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 248, S. 1037.

Mr. STEVENS. There is no objection, Mr. President.

There being no objection, the Senate proceeded to consider the bill (S. 1037) to establish an actuarially sound basis for financing retirement benefits for police officers, firefighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits, which had been reported from the Committee on Governmental Affairs with amendments as follows:

On page 17, line 5, strike "1978" and insert "1980";

On page 35, line 12, strike "2004" and insert "2006";

On page 35, line 20, strike "2002" and insert "2004";

On page 38, line 24, strike "1979" and insert "1981";

On page 39, line 2, strike "2003" and insert "2005";

On page 40, line 13, strike "2003" and insert "2005";

On page 40, line 22, strike "1978" and insert "1979";

On page 41, line 5, strike "1981" and insert "1983";

On page 41, line 6, strike "2002" and insert "2004";

On page 107, line 14, strike "1978" and insert "1979";

On page 114, line 18, strike "1980" and insert "1981";

On page 120, line 22, strike "1980" and insert "1981";

On page 135, line 2, strike "1980" and insert "1981";

On page 135, line 8, strike "1980" and insert "1981";

On page 136, line 12, strike "1980" and insert "1981";

On page 138, line 5, strike "1980" and insert "1981";

On page 141, line 17, strike "1980" and insert "1981";

On page 143, line 20, strike "1978" and insert "1979";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, with the following table of contents, may be cited as the "District of Columbia Retirement Reform Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

Sec. 101. Findings and purpose.

Sec. 102. Definitions.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

Sec. 121. District of Columbia Retirement Board.

Sec. 122. District of Columbia Police Officers and Fire Fighters' Retirement Fund.

Sec. 123. District of Columbia Teachers' Retirement Fund.
Sec. 124. District of Columbia Judges' Retirement Fund.
Sec. 125. Management of Retirement Funds.
Sec. 126. Payments from the Funds.

PART C—FINANCING OF RETIREMENT BENEFITS

Sec. 141. Limitation on investment of Retirement Funds.
Sec. 142. Determination of Federal and District of Columbia payments to the Funds.
Sec. 143. Information about retirement programs.
Sec. 144. Federal and District of Columbia payments to the Funds.
Sec. 145. Reduction in Federal contribution for excessive cost of police officers and fire fighters' disability retirement.
Sec. 146. Conforming amendments.

PART D—REPORTING AND DISCLOSURE REQUIREMENTS

Sec. 161. Personal financial disclosure by Board members.
Sec. 162. Annual reports.
Sec. 163. Retirement program summary description.
Sec. 164. Filing reports and furnishing information to participants.
Sec. 165. Reporting of participants' benefit rights.
Sec. 166. Public information.
Sec. 167. Retention of records.
Sec. 168. Additional information.
Sec. 169. Criminal penalties.

PART E—FIDUCIARY RESPONSIBILITY; CIVIL SANCTIONS

Sec. 181. Fiduciary responsibilities.
Sec. 182. Liability for breach of fiduciary duty.
Sec. 183. Exculpatory provisions; insurance.
Sec. 184. Prohibition against certain persons holding certain positions.
Sec. 185. Bonding.
Sec. 186. Limitation on actions.
Sec. 187. Civil enforcement.
Sec. 188. Claims procedure.

TITLE II—CHANGES IN RETIREMENT BENEFITS

PART A—POLICE OFFICERS AND FIRE FIGHTERS' RETIREMENT BENEFITS

Sec. 201. Salary base period for computation of annuity.
Sec. 202. Creditable service for full-time officials of employee organizations.
Sec. 203. Requirements for optional retirement.
Sec. 204. Disability retirement.
Sec. 205. Recovery from disability.
Sec. 206. Survivors' annuities.
Sec. 207. Deferred annuities.
Sec. 208. Interest on refunds and on deposits for prior service credit.
Sec. 209. Cost-of-living adjustments of annuities.
Sec. 210. Authority to waive collection of overpayments.
Sec. 211. Commencing date of payment of annuities.
Sec. 212. Payment of annuities to minors and mental incompetents.

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

Sec. 251. Cost-of-living adjustments of teachers' annuities.
Sec. 252. Cost-of-living adjustments of judges' annuities.
Sec. 253. Interest on teachers' refunds and deposits.
Sec. 254. Interest on judges' redeposits.
Sec. 255. Restoration of teachers' annuities in the event of predeceased beneficiaries.
Sec. 256. Termination of teachers' disability annuities based on outside earned income.

TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that the retirement benefits authorized by various Acts of Congress for the police officers, fire fighters, teachers, and judges of the District of Columbia have not been financed on an actuarially sound basis. Neither Federal payments to the District nor District of Columbia appropriations have taken into account the long-term financial requirements of the District's retirement programs. As a result, the annual budget cost to the District of Columbia for annuities and refunds of deductions is growing at a rapid rate and, in the case of the retirement program for police officers and fire fighters, is predicted to exceed the cost of salaries for active police officers and fire fighters by the year 2000.

(b) It is the purpose of this title—

(1) to establish separate retirement Funds for police officers and fire fighters, for teachers, and for judges of the District of Columbia;

(2) to establish a Retirement Board with responsibility for managing these Funds;

(3) to require that these Funds be managed on an actuarially sound basis in order to provide proper financing for the benefits to which the District's retired police officers, fire fighters, teachers, and judges are entitled;

(4) to require that the Retirement Board comply with reporting and disclosure requirements similar to those imposed under the Employee Retirement Income Security Act of 1974; and

(5) to provide for Federal payments to these Funds to help finance, in part, the liabilities for retirement benefits incurred by the District of Columbia prior to the establishment of self-government under the District of Columbia Self-Government and Governmental Reorganization Act.

DEFINITIONS

SEC. 102. At used in this title:

(1) The term "Mayor" means the Mayor of the District of Columbia.

(2) The term "Council" means the Council of the District of Columbia.

(3) The term "Speaker" means the Speaker of the House of Representatives.

(4) The term "President pro tempore" means the President pro tempore of the Senate.

(5) The term "Board" means the District of Columbia Retirement Board established by section 121 of this Act.

(6) The term "Custodian of Retirement Funds" means the Board, except that until such time as the members of the Board are first elected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the term "Custodian of Retirement Funds" means the Director of the Office of Budget and Financial Management of the District of Columbia (established by Organization Order Numbered 30, Commissioner's Order Numbered 72-80, April 5, 1972 (D.C. Code, title 1—Appendix)).

(7) The term "retirement program" means—

(A) the program of annuities and other retirement and disability benefits for members and officers of the Metropolitan Police force and the Fire Department of the District of Columbia, but does not include the program of annuities and other retirement and disability benefits for members and officers of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division under the Policemen and Firemen's Retirement and Disability Act;

(B) the program of annuities and other retirement and disability benefits for judges of the courts of the District of Columbia under subchapter III of chapter 15 of title 11 of the District of Columbia Code; or

(C) the program of annuities and other retirement and disability benefits for teachers in the public day schools of the District of Columbia.

(8) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the Canal Zone.

(9) The term "party in interest" means—

(A) any person (including a member of the Board) having fiduciary responsibilities under this title;

(B) any person providing services to a Fund;

(C) the government of the District of Columbia;

(D) an employee organization; and

(E) a spouse, ancestor, lineal descendant, or spouse of a lineal descendant of any individual described in subparagraph (A) or (B).

(10) The term "Fund" means the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122, the District of Columbia Teachers' Retirement Fund established by section 123, or the District of Columbia Judges' Retirement Fund established by section 124.

(11) The term "current value" means fair market value where available (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board) or otherwise the fair value (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board), assuming an orderly liquidation at the time of such determination.

(12) The term "future value" means a liability for a given prior fiscal year expressed in terms of the price level expected to prevail in a given future fiscal year, adjusted at the rate of inflation used with regard to determinations made under section 142(a)(1).

(13) The term "qualified public accountant" means a person who is a certified public accountant, certified by a regulatory authority of a State.

(14) The term "enrolled actuary" means an actuary enrolled under subtitle C of title III of the Employee Retirement Income Security Act of 1974.

(15) The term "security" means a security as defined in section 2(1) of the Securities Act of 1933.

(16) The term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which individuals covered by a retirement program participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning such retirement program.

(17) The term "teacher" means a teacher as defined in section 13 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-733).

(18) The term "judge" means a judge as defined in section 11-1561(1) of title 11 of the District of Columbia Code.

(19) The term "participant" does not include an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division to whom the Policemen and Firemen's Retirement and Disability Act applies; and, unless the context requires otherwise, the term "beneficiary" does not include a beneficiary under such Act of any such officer or member.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

DISTRICT OF COLUMBIA RETIREMENT BOARD

SEC. 121. (a) There is established, as an independent agency of the government of the District of Columbia, a board of trustees to be known as the District of Columbia Retirement Board which shall have exclusive authority and discretion (subject to the requirements of this title) to manage and control the Funds established by this title.

(b) (1) The Board shall consist of eleven members selected as follows:

(A) One member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the members and officers of the Metropolitan Police force.

(B) One retired member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the retired members and officers of the Metropolitan Police force.

(C) One member or officer of the Fire Department of the District of Columbia, to be elected by the members and officers of the Fire Department.

(D) One retired member or officer of the Fire Department of the District of Columbia, to be elected by the retired members and officers of the Fire Department.

(E) One teacher in the public day schools of the District of Columbia, to be elected by the teachers of the public day schools of the District of Columbia.

(F) One teacher in the public day schools of the District of Columbia who is retired, to be elected by the retired teachers of the public day schools of the District of Columbia.

(G) Two individuals appointed by the Council of the District of Columbia.

(H) Three individuals appointed by the Mayor.

A vacancy on the Board shall be filled in the manner in which the original selection was made.

(2) The first election of the Board members described in subparagraphs (A) through (F) of paragraph (1) shall be conducted within six months after the date of the enactment of this title in accordance with regulations which the Mayor shall promulgate. Thereafter, elections shall be conducted by the Board. In any such election, voting shall be by secret ballot, and each individual to be represented on the Board by the winner of such election shall be eligible to vote in such election.

(3) (A) Except as provided in subparagraph (B), the members of the Board shall each serve a term of four years, except that a member selected to fill a vacancy occurring prior to the end of the term for which his predecessor was selected shall only serve until the end of such term. A member may serve after the expiration of his term until his successor has taken office.

(B) Of the members of the Board who are first selected—

(i) two shall serve for a term of one year,

(ii) three shall serve for a term of two years,

(iii) three shall serve for a term of three years, and

(iv) three shall serve for a term of four years,

as determined by a lot at the first meeting of the Board.

(4) No individual shall serve more than two terms as a member of the Board, except that an individual serving less than two years of a term to which some other individual was originally selected shall be eligible for two full terms as a member of the Board and an individual serving two years or more of a term to which some other individual was originally selected shall be eligible for only one full term as a member of the Board.

(5) Any individual who was selected as a member of the Board under subparagraph (A), (C), or (E) of paragraph (1) and who ceases to be a member or officer of the Metropolitan Police force, member or officer of the Fire Department, or a teacher, as the case may be, may not continue as a member of the Board.

(6) No member of the Board may hold or be a candidate for any elective office in the District of Columbia.

(7) No member of the Board may have any personal interest, direct or indirect (except as a participant in a retirement program), in any transaction involving assets of the Funds established by this title and shall otherwise comply with the standards of conduct applicable to fiduciaries in the District of Columbia, as well as those standards of conduct established by part E of this title.

(8) Not less than two of the members of the Board appointed by the Mayor under paragraph (1) shall be individuals who have professional work experience in the banking, insurance, or investment industry.

(9) Any member of the Board may be removed from the Board by a vote of two-thirds of the members of the Board for a breach of fiduciary responsibility with respect to a Fund or for a violation of section 184.

(10) The Board shall elect one member of the Board to be chairman of the Board. The chairman shall be elected for a term of one year, but may be removed from such position by a vote of two-thirds of the members of the Board.

(11) The Director of the Office of Budget and Financial Management of the District of Columbia shall be an ex officio member of the Board, and shall not be counted for purposes of a quorum.

(c) Subject to the availability of appropriations therefor, each member of the Board shall be entitled to receive the hourly equivalent of the annual rate of pay in effect for the highest step of grade GS–15 of the General Schedule under section 5332 of title 5, United States Code, for each hour such member is engaged in the actual performance of duties vested in the Board, except that any member of the Board who is a full-time officer or employee of the District of Columbia or the United States shall not be entitled to receive pay under this subsection for performance of duties vested in the Board.

(d) (1) The Board shall meet at least once each calendar quarter at a regular and specified time. It shall meet at such other times as the chairman or any three members of the Board may prescribe.

(2) And six members shall constitute a quorum for the transaction of the business of the Board.

(3) Except as otherwise provided in this title, actions of the Board shall be determined by a majority vote of the members present and voting.

(e) The Board shall from time to time promulgate rules and regulations, adopt resolutions, issue directives for the administration and transaction of its business and for the control of the Funds established by this title, and perform such other functions as may be necessary to carry out its responsibilities under this title.

(f) (1) All administrative expenses incurred by the Board in carrying out this title, including compensation for the members of the Board, shall be paid out of funds appropriated for such purpose.

(2) The budget prepared and submitted by the Mayor pursuant to section 442 of the District of Columbia Self-Government and Government Reorganization Act shall include recommended expenditures at a reasonable level for the forthcoming fiscal year for the administrative expenses of the Board.

(3) The Mayor and the Council may establish the amount of funds which will be allocated to the Board for administrative expenses, but may not specify the purposes for which such funds may be expended or the amounts which may be expended for the various activities of the Board.

(g) (1) The Board shall engage the services of competent investment counsel or counsels who shall be qualified under the Investment Advisors Act of 1940. Such investment counsel or counsels shall be fiduciaries, to the extent designated by the Board, with respect to services rendered to the Board. Such fiduciary relationship shall be specified in a written agreement between the investment counsel or counsels and the Board.

(2) The Board may appoint such staff as it considers necessary to enable it to carry out its responsibilities under this title. The staff of the Board shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no staff member may receive pay in excess of the annual rate of basic pay in effect for GS–15 of the General Schedule under section 5332 of title 5, United States Code.

(h) Not more than ninety days after all initial members of the Board have been selected in accordance with subsection (b) of this section, the Board shall certify in writing to the Director of the Office of Budget and Financial Management of the District of Columbia that the Board is assuming responsibility for the Funds established by this title.

DISTRICT OF COLUMBIA POLICE OFFICERS AND FIRE FIGHTERS' RETIREMENT FUND

SEC. 122. (a) There is established a fund to be known as the District of Columbia Police Officers and Fire Fighters' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount paid to the Custodian of Retirement Funds pursuant to the last sentence of subsection (d) (1) or to subsection (c) (5) of the Policemen and Firemen's Retirement and Disability Act or pursuant to the proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935.

(2) Any amount appropriated for such Fund under part C of this title.

(3) Any return on investment of the assets of such Fund.

After September 30, 1980, or after the end of the thirty-day period beginning on the date on which funds are first appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, whichever is later, all payments of annuities and other retirement and disability benefits (including refunds and lump-sum payments) under the Policemen and Firemen's Retirement and Disability Act shall be made from the Fund (except for any such payment which is made to an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or to a beneficiary of any such officer or member).

(b) (1) The last sentence of subsection (d) (1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-524(1)) is amended by striking out "Such" and inserting in lieu thereof "In the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, such deductions and withholdings shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) and shall be deposited in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act; and in the case of any other member, such".

(2) The proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935 (D.C. Code, sec. 4–502), is amended by inserting immediately before the period the following: ", except that all moneys required to be deposited with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act".

(3) The Act entitled "An Act to credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen's relief, District of Columbia", approved July 21, 1947 (D.C. Code, sec. 4–504a), is amended by inserting "or the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122(a) of the District of Columbia Retirement Reform Act)" immediately after "District of Columbia," the first place it appears.

(c) The amendments made by paragraphs (1) and (2) of subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act. The amendment made by paragraph (3) of such subsection shall take effect on such date of enactment.

DISTRICT OF COLUMBIA TEACHERS' RETIREMENT FUND

SEC. 123. (a) There is established a fund to be known as the District of Columbia Teachers' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount paid to the Custodian of Retirement Funds pursuant to the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, or under the Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960.

(2) Any asset transferred to such Fund under subsection (c).

(3) Any amount appropriated for such Fund under part C of this title.

(4) Any return on investment of assets of such Fund.

Annuities and other retirement and disability benefits (including refunds and lump-sum payments) payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, shall continue to be paid from such fund until all amounts in such fund have been expended or transferred under subsection (c) to the District of Columbia Teachers' Retirement Fund, and thereafter such benefits shall be paid from the District of Columbia Teachers' Retirement Fund.

(b)(1) The Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, is amended—

(A) in the first section (D.C. Code, sec. 31–721)—

(i) by adding at the end of the first paragraph the following new sentence: "After the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, any amounts deducted and withheld pursuant to this paragraph shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of such Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act.", and

(ii) in the first sentence of the second paragraph, by striking out "Collector of Taxes, District of Columbia"; and inserting in lieu thereof "Custodian of Retirement Funds";

(B) in section 2 (D.C. Code, sec. 31–722), by striking out "The" in the first sentence and inserting in lieu thereof "Until the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the";

(C) in clause (ii) of paragraph (1) of section 5(b) (D.C. Code, sec. 31–725(b)(1)(ii)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123 (a) of such Act";

(D) in section 9(a) (D.C. Code, sec. 31–729(a)), by striking out "deposit in the fund" in the second proviso and inserting in lieu thereof "repay to the Custodian Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,";

(E) in clause (ii) of section 9(b)(1) (D.C. Code, sec. 31–729(b)(1)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act"; and

(F) in section 17 (D.C. Code, sec. 31–737), by inserting "(including any assets of the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act)" immediately after "Act".

(2) Section 4 of the Act entitled "An Act to increase annuities payable to certain annuitants from the District of Columbia teachers' retirement and annuity fund, and for other purposes", approved September 2, 1958 (D.C. Code, sec. 31–744), is amended by inserting immediately before the period at the end of the first sentence the following: "until such time as all amounts in such fund have been expended or transferred under section 123(c) of the District of Columbia Retirement Reform Act to the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act and thereafter from the District of Columbia Teachers' Retirement Fund".

(3) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31–745), is amended by striking out "the deposit by such teacher to the credit of the teachers' retirement and annuity fund of the District of Columbia" and inserting in lieu thereof ' payment by such teacher to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act), for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,".

(c) Notwithstanding any other provision of law, any asset held in the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, may be transferred to the District of Columbia Teachers' Retirement Fund established by subsection (a).

(d) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

DISTRICT OF COLUMBIA JUDGES' RETIREMENT FUND

SEC. 124. (a) There is established a fund to be known as the District of Columbia Judges' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount deposited pursuant to subchapter III of chapter 15 of title 11 of the District of Columbia Code.

(2) Any asset transferred to such Fund under subsection (c).

(3) Any amount appropriated for such Fund under part C of this title.

(4) Any return on investment of the assets of such Fund.

(b)(1) Section 11–1561(4) of title 11 of the District of Columbia Code is amended by striking out "Judicial Retirement and Survivors Annuity Fund as provided in section 11–1570" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(2) Section 11–1563(a) of such title 11 is amended by striking out "deposited in the fund in accordance with procedures established by the Commissioner" and inserting in lieu thereof "paid to the Custodian of Retirement Funds (as defined in section 102 (6) of the District of Columbia Retirement Reform Act) for deposit in the fund".

(3) Section 11–1564(d)(4) of such title 11 is amended in the first sentence by striking out "Judicial Retirement and Survivors Annuity Fund" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(4) Section 11–1570 of such title 11 is amended—

(A) in subsection (a)—

(i) in the first sentence, by inserting immediately before the period "until such time as all amounts in such Fund have been expended or transferred to the District of Columbia Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act"; and

(ii) by striking out the second and third sentences and inserting in lieu thereof the following: "Thereafter the retirement salaries, annuities, refunds, and allowances provided for in this subchapter shall be paid from such Fund.";

(B) in subsection (b)—

(i) by striking out "such funds" and inserting in lieu thereof "the District of Columbia Judicial Retirement and Survivors Annuity Fund";

(ii) by striking out "from the fund" and inserting in lieu thereof "under the first sentence of subsection (a)"; and

(iii) by striking out "fund" the second place it appears and inserting in lieu thereof "District of Columbia Judicial Retirement and Survivors Annuity Fund"; and

(C) in subsection (d), by inserting "(including moneys in the District of Columbia Judges' Retirement Fund)" immediately after "subchapter".

(c) Notwithstanding any other provision of law, any asset held in the District of Columbia Judicial Retirement and Survivors Annuity Fund may be transferred to the District of Columbia Judges' Retirement Fund established by subsection (a).

(d) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

MANAGEMENT OF RETIREMENT FUNDS

SEC. 125. (a) The Custodian of Retirement Funds shall be the custodian of the assets of each Fund established by this title and shall manage and invest such assets in accordance with this title.

(b) The assets of each Fund shall be kept separate from other moneys which may be under the control of the Custodian of Retirement Funds, but need not be kept separate from the assets of the other Funds if the Board determines that commingling of such assets is advisable for investment purposes.

c) The Board shall maintain, in an appropriate depository, a cash reserve for the Funds in an amount determined by the Board to be sufficient to meet current outlays for annuities and other retirement and disability benefits authorized to be paid from such Funds.

PAYMENTS FROM THE FUNDS

SEC. 126. The Mayor shall notify the Custodian of Retirement Funds of any payments to be made from the Funds established by this title for annuities or other retirement or disability benefits (including refunds and lump-sum payments), and the Custodian of Retirement Funds shall make such payments from the appropriate Fund.

PART C—FINANCING OF RETIREMENT BENEFITS

LIMITATION ON INVESTMENT OF RETIREMENT FUNDS

SEC. 141. (a) The assets of the Funds established by this title may not be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(2) Obligations fully guaranteed as to the payment of both principal and interest by the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(3) Real property in the District of Columbia, Virginia, or Maryland.

(4) Loans, mortgages, bonds, notes, bills, or certificates of indebtedness secured, in whole or in part, by real property in the District of Columbia, Virginia, or Maryland.

(b) Until such time as the members of the Board are first selected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the assets of such Funds may only be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the United States Government, or obligations fully guaranteed as the payment of both principal and interest by the United States Government.

(2) Interest-bearing certificates of deposit issued by National, State, or District of Columbia savings and loan institutions.

DETERMINATION OF FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 142. (a)(1) The Board shall engage an enrolled actuary who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A), who shall, on the basis of the entity age normal cost funding method and in accordance with generally accepted actuarial principles and practices, makes the following determinations with respect to each Fund:

(A) At the times specified in paragraph (2), the actuary shall determine the level percentage of payroll, expressed as a percentage (hereinafter in this title referred to as the "net normal cost percentage"), which shall be the percentage such that the amount equal to the product of such percentage and the present value of future compensation for participants in the retirement program, if paid annually into the Fund from the date of hire of each participant in the retirement program until the date of such participant's death, retirement, or other withdrawal from employment covered by the retirement program, is equal to the amount of the difference between (i) the present value of the future benefits payable from the Fund to such group, and (ii) the present value of all future employee contributions to the Fund.

(B) At the times specified in paragraph (2), the actuary shall determine the amount (hereinafter in this title referred to as the "accrued actuarial liability") that is the difference between (i) the present value (as of the date of the determination) of the future benefits payable from the Fund, and (ii) the sum of—

(I) the present value of all future employee contributions to the Fund; and

(II) the product of the net normal cost percentage and the present value of future compensation for participants in the retirement program.

(C) At the times specified in paragraph (2), the enrolled actuary shall determine the current value of the assets in the Fund.

(D) Each year, not later than sixty days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, the enrolled actuary shall determine—

(i) an estimate of the current annual active duty payroll;

(ii) the amount (hereinafter in this title referred to as the "future Federal obligation") that is the amount of the present value of the sum of the amounts auhorized by section 144(a) to be appropriated to the Fund for fiscal years beginning on or after the date of the determination; and

(iii) the amount (hereinafter in this title referred to as the "net pay-as-you-go cost") that is the difference between (I) the amount of the obligation of the Fund during the next fiscal year for the payment of benefits payable from the Fund during such year, and (II) the amount of employee contributions to the Fund for such year.

The actuary shall also determine such additional information as the Board may require in order to make the determinations specified in paragraph (4) and in subsection (b).

(2) The actuary engaged by the Board pursuant to paragraph (1) shall make the determinations described in subparagraphs (A), (B), and (C) of such paragraph at the following times:

(A) Not later than sixty days after the date of the enactment of this Act.

(B) Upon a request by the Board or by the Director of the Office of Management and Budget.

(C) Not later than the end of the ninety-day period beginning on the first day of the third fiscal year occurring after the fiscal year in which the last such determination was made pursuant to any subparagraph of this paragraph.

(3) On the basis of the most recent determinations made under paragraph (1), the enrolled actuary shall certify to the Board each year, at a time specified by the Board, the following information with respect to each Fund for the next fiscal year:

(A) The net normal cost, which shall be computed as the product of the net normal cost percentage and the estimate by the actuary of the current annual active duty payroll.

(B) The accrued actuarial liability.

(C) The current value of assets in the Fund.

(D) The future Federal obligation.

(E) The net pay-as-you-go cost.

(F) The unfunded actuarial liability, which shall be computed as the difference between the accrued actuarial liability and the sum of the current value of the assets in the Fund and the future Federal obligation.

(4) The Board shall determine—

(A) the amount of the Federal payment for the next fiscal year for each Fund authorized to be appropriated under section 144(a); and

(B) on the basis of the most recent certification submitted by the enrolled actuary under paragraph (3), the amount of the District payment for the next fiscal year for each Fund, as described under subsection (b).

(b)(1)(A) For the District payment for each Fund for each fiscal year through fiscal year 2005, the Board shall determine—

(i) the unfunded actuarial liability for such Fund as of the end of fiscal year 2005;

(ii) the unfunded actuarial liability as of October 1, 1979, in future value as of the end of fiscal year 2005 for such Fund; and

(iii) the amount equal to the lesser of (I) the net pay-as-you-go cost, and (II) the sum of the net normal cost and the amount of annual interest (computed at the valuation rate used in the determination under subsection (a)(1)) on the unfunded actuarial liability, as computed under subsection (a)(3)(F).

(B) If the amount determined under subparagraph (A)(i) is equal to the amount determined under subparagraph (A)(ii), the amount of the District payment for the fiscal year for such Fund shall be the amount determined under subparagraph (A)(iii).

(C) If the amount determined under subparagraph (A)(i) is greater than the amount determined under subparagraph (A)(ii), the amount of the District payment for the fiscal year for such Fund shall be the amount equal to the sum of (i) the amount determined under subparagraph (A)(iii), and (ii) the amount of the level amortization payment that, if paid annually into the Fund through the next ten fiscal years (and accrued at the rate of interest used in the determinations under subsection (a)(1)), would reduce the amount determined under subparagraph (A)(i) to the amount determined under subparagraph (A)(ii) by the end of such ten fiscal years.

(D) If the amount determined under subparagraph (A)(ii) is greater than the amount determined under subparagraph (A)(i), the amount of the District payment for such Fund shall be the amount determined under subparagraph (A)(iii) reduced by the amount of the level amortization payment that, if paid annually for the next ten fiscal years, would have a future value as of the end of fiscal year 2005 equal to the difference between the amount determined under subparagraph (A)(ii) and the amount determined under subparagraph (A)(i).

(E) The amount of a District payment determined under subparagraph (C) may not exceed the amount determined under subparagraph (A)(iii) by more than 10 per centum of the net pay-as-you-go cost, in the case of a payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, or by more than 30 per centum of the net pay-as-you-go cost, in the case of a payment to the District of Columbia Teachers' Retirement Fund or to the District of Columbia Judges' Retirement Fund.

(F) Determinations under subparagraph (A) shall be made in accordance with generally accepted actuarial principles and practices.

(2) The amount of the District payment to each Fund for fiscal year 2006 and for each fiscal year thereafter shall be the sum of (A) the net normal cost, and (B) the amount of annual interest (computed at the valuation rate used in the determination pursuant to subsection (a)(1)) on the unfunded actuarial liability.

(c)(1) On the basis of the most recent determinations made under subsection (a)(4), the Board shall—

(A) not later than March 15 of each year through calendar year 2004, submit to the President and to the Congress a request for appropriation of the Federal payment for the next fiscal year for each Fund; and

(B) not less than thirty days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, certify to the Mayor and the Council the amount of the District payment for each Fund.

(2) The Mayor, in preparing each annual budget for the District of Columbia pursuant to section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, and the Council of the District of Columbia, in adopting each annual budget in accordance with section 446 of such Act, shall include in such budget not less than the full amount certified by the Board under paragraph (1)(B) as being the amount of the District payment for the next fiscal year for each Fund. The Mayor and the Council may comment and make recommendations concerning any such amount certified by the Board.

(d)(1) Whenever any change in benefits under a retirement program is made, the Mayor shall engage an enrolled actuary, who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A), to estimate the effect of such change in benefits over the next five fiscal years on (A) the net normal cost percentage with respect to the retirement program, (B) the accrued actuarial liability with respect to the retirement program, (C) the net pay-as-you-go cost with respect to the retirement program, and (D) the level of the District payments to the Fund. The Mayor shall transmit the estimates of the actuary under the preceeding sentence to the Board and to the Speaker and the President pro tempore, and such change in benefits may not go into effect until the end of the thirty-day period beginning on the date such transmittals are completed.

(2) In the event a change in benefits under a retirement program is made that increases the present value of benefits payable from the Fund, a level amortization payment for a period not to exceed twenty-five years shall be paid by the District to the Fund such that the present value of the sum of such level amortization payments equals the increase in the present value of such benefits. Such payments shall be made in addition to any other payment to the Fund required to be made by the District, and such increase in present value of benefits payable from the Fund and such payments shall be disregarded in calculating the unfunded actuarial liability under subsection (b)(1)(A).

(e) Whenever the amount authorized to be appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund for any fiscal year under section 144(a)(1) is reduced under section 145(c), the District shall, beginning with the next fiscal year, pay a level amortization payment to such Fund for a period not to exceed ten years such that the present value (determined as of the beginning of the fiscal year for which such authorization is reduced) of the sum of such level amortization payments equals the amount of such reduction. Such payments shall be made in addition to any other payment to such Fund required to be made by the District and shall be disregarded in calculating the unfunded actuarial liability under subsection (b)(1)(A).

(f) The Comptroller General of the United States shall have access to all books, accounts, records, reports, files and other papers necessary to carry out the responsibility of the Comptroller General under section 736(a) of the District of Columbia Self-Government and Governmental Reorganization Act and under section 144(e) of this Act.

INFORMATION ABOUT RETIREMENT PROGRAMS

SEC. 143. Upon a request of the Board, the Mayor shall furnish to the Board such information with respect to retirement programs to which this title applies as the Board considers necessary to enable it to carry out its responsibilities under this title and to enable the enrolled actuary engaged pursuant to section 142(a) to carry out the responsibilities of the enrolled actuary under this title.

FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 144. (a) There is authorized to be appropriated from the revenues of the United States for fiscal year 1981 and for each fiscal year thereafter through fiscal year 2005—

(1) as the Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, the sum of $49,270,000, reduced by the amount of any reduction required under section 145(c);

(2) as the Federal payment to the District of Columbia Teachers' Retirement Fund, the sum of $15,510,000; and

(3) as the Federal payment to the District of Columbia Judges' Retirement Fund, the sum of $220,000.

(b)(1) Amounts appropriated as a Federal payment to a Fund established by this title shall not be subject to apportionment and shall be deposited in the appropriate Fund not more than thirty days after they are appropriated or thirty days after the beginning of the fiscal year for which they are appropriated, whichever is later.

(2) Amounts appropriated as a District of Columbia payment to a Fund established by this title shall be deposited in the appropriate Fund in equal quarterly installments, the first of which shall be made on the first day of the first quarter of the fiscal year, or on the first day thereafter that funds for such installment become available, and the remainder of which shall be made on the first day of succeeding quarters of the fiscal year, or on the first day thereafter that funds for such installments becomes available.

(c) If at any time the balance of any Fund established by this title is not sufficient to meet all obligations against such Fund, such Fund shall have a claim on the revenues of the District of Columbia to the extent necessary to meet such obligations.

(d) If, for any fiscal year, the Mayor and the Council do not carry out the requirements of subsections (c)(2), (d), and (e) of section 142 with respect to a Fund, no funds authorized to be appropriated for such Fund by this section shall be available for such Fund for such fiscal year.

(e)(1) In the year 2005, the Comptroller General shall determine whether the Federal share with respect to each Fund has been paid in full by payments made pursuant to appropriations authorized under subsection (a) of this section and, in the case of the District of Columbia Police Officers and Fire Fighters' Retirement Fund, by payments made or to be made under section 142(e).

(2) For the purposes of this subsection, the term "Federal share", with respect to a Fund, means the accrued unfunded liability as of October 1, 1979, for members retired prior to January 2, 1975, and beneficiaries of such members.

REDUCTION IN FEDERAL CONTRIBUTION FOR EXCESSIVE COST OF POLICE OFFICERS AND FIRE FIGHTERS' DISABILITY RETIREMENT

SEC. 145. (a) After January 1, and before March 1, of each year beginning with calendar year 1983 and ending with calendar year 2004, the enrolled actuary engaged pursuant to section 142 shall, with respect to the District of Columbia Police Officers and Fire Fighters' Retirement Fund—

(1) determine the estimated present value (as of the date of the determination) of the cost to the Fund of the future benefits payable from such Fund for disability retirements under subsections (f)(1) and (g)(1) of the Policemen and Firemen's Retirement and Disability Act to those officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who first became such officers or members on or before the end of the ninety-day period beginning on the date of the enactment of this Act and who were not retired on the first day of the preceding calendar year;

(2) determine the estimated present value (as of the date of the determination) of the cost to the Fund of the benefits referred to in paragraph (1) determined as if such officers and members retire or had retired under the provisions of subsection (f)(2) or (g)(5) of such Act, as in effect on the day after he end of the ninety-day period beginning on the date of the enactment of this Act, except that in making determinations under this paragraph, the enrolled actuary shall not take into account reductions pursuant to subsection (j)(3) of the Policemen and Firemen's Retirement and Disability Act; and

(3) state whether the ratio of the amount determined under paragraph (1) to the amount determined under paragraph (2) is greater than 1.02.

The enrolled actuary shall report the determinations and statement made under paragraphs (1) through (3) for any year to the Board and to the Comptroller General of the United States not later than March 1 of such year.

(b)(1) The Board and the Comptroller General shall each transmit a copy of each report by the enrolled actuary under subsection (a) to the Speaker, the President pro tempore, the Mayor, and the Council not later than March 31 of the year in which the report is made, and each shall submit comments on such report.

(2) The Comptroller General shall include in his comments on each such report transmitted under paragraph (1) a statement of whether the determinations and statements made by the enrolled actuary under subsection (a) were made in conformance with generally accepted actuarial practices and principles and whether such determinations and statement fairly present in all material respects the amounts described in paragraphs (1) and (2) of such subsection.

(c) Notwithstanding any other provision of this Act, with respect to the fiscal year commencing in any calendar year in which a report of the enrolled actuary under subsection (a), as transmitted to the Congress in accordance with subsection (b), includes a statement by the enrolled actuary under paragraph (3) of subsection (a) that the ratio of the estimates determined under paragraphs (1) and (2) of such subsection is greater than 1.02, the amount authorized by section 144(a)(1) to be appropriated to the Fund for such fiscal year shall be reduced. Such reduction shall be an amount equal to the product of the amount specified in such section and the ratio of the number of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who retired during the preceeding calendar year under subsections (f)(1) and (g)(1) of the Policemen and Firemen's Retirement and Disability Act to the number of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who first became such members prior to the end of the ninety-day period beginning on the date of the enactment of this Act and who retired, died, withdrew by taking out a lump-sum payment, or separated from active duty while eligible for a deferred annuity under the Policemen and Firemen's Retirement and Disability Act during such year.

(d)(1) Notwithstanding any provision of the Policemen and Firemen's Retirement and Disability Act or any other provision of this Act, in any case in which any officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia retires during calendar year 1979 or any subsequent calendar year through calendar year 2001 under subsection (f)(1) or (g)(1) of the Policemen and Firemen's Disability Act, the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with regulations which the Mayor shall promulgate, the percentage of impairment of such officer or member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board. In the case of such officer or member, such Board shall determine, within a reasonable time, the percentage of disability of such officer or member giving due regard to—

(A) the nature of the injury or disease;

(B) the percentage of impairment reported pursuant to the preceding sentence;

(C) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the officer or member immediately prior to such officer or member's retirement;

(D) the age and years of service of the officer or member; and

(E) any other factor or circumstance which may affect the capacity of the officer or member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

(2) The Police and Firemen's Relief Board, on or before January 31 of each calendar year from 1980 through 2002, shall make available to the Comptroller General and the enrolled actuary all determinations (including related documents and information) made during the preceding calendar year pursuant to paragraph (1) of this subsection in order to enable the Comptroller General and the enrolled actuary to make the determinations and statement required by this section.

CONFORMING AMENDMENTS

SEC. 146. (a)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–727), is repealed.

(2) Section 14 of such Act of August 7, 1946 (D.C. Code, sec. 31–735), is amended as follows:

(A) in the third sentence, by striking out "The" and inserting in lieu thereof "Until such time as all amounts in the teachers' retirement and annuity fund have been expended or transferred to the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act, the"; and

(B) by striking out the fourth sentence.

(3) Section 15 of such Act of August 7, 1946 (D.C. Code, sec. 31–735), is repealed.

(b) The proviso in the fourth paragraph (relating to District government retirement and relief funds) under the heading "Compensation and Retirement Fund Expenses" in the Act of July 31, 1953 (D.C. Code, sec. 31–716a), is repealed.

(c)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved January 15, 1920 (D.C. Code, sec. 31–707), is amended by striking out the second and third sentences of the first paragraph.

(2) Section 14 of such Act of January 15, 1920 (D.C. Code, sec. 31–715), is amended by striking out the third and fourth sentences.

(3) Section 15 of such Act of January 15, 1920 (D.C. Code, sec. 31–716), is repealed.

PART D—REPORTING AND DISCLOSURE REQUIREMENTS PERSONAL FINANCIAL DISCLOSURE BY BOARD MEMBERS

SEC. 161. (a) Each member of the Board shall, within ninety days of his selection as a member of the Board and not later than April 30 of each year thereafter, submit to the Mayor, the Council, the Speaker, and the President pro tempore a personal financial disclosure statement with respect to the preceding calendar year. Such statement shall be in such form as the Council may by regulation require and shall contain such information with respect to the member's financial condition as the Council may by regulation require, including the following information:

(1) The amount and source of all income (as defined in section 61 of the Internal Revenue Code of 1954) received during the year.

(2) The identity and category of value of each liability owned, directly or indirectly, that exceeds $2,500 as of the last day of the year (excluding any mortgage that secures real property that is the principal residence of such member).

(3) The identity and category of value of any property held, directly or indirectly, in a trade or business or for investment or the production of income that has a fair market value of not less than $1,000 as of the last day of the year.

(4) The identity and category of value of any transaction, whether direct or indirect, in securities or commodities futures during the year in excess of $1,000 (excluding any gift to any tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1954), and the identity, date, and category of value of any purchase or sale, whether direct or indirect, of any interest in real or tangible personal property during the year the value of which exceeds $1,000 at the time of such purchase or sale (excluding any purchase or sale of any property that is the principal residence of such member or that is used as furnishings for such principal residence).

(5) The nature and extent of any interest during the year in any bank, insurance company, or other financial institution, or in any brokerage or other securities or investment company.

(6) The nature and extent of any employment during the year by any bank, insurance company, or other financial institution, or by any brokerage or other securities or investment company.

A member shall not be required to submit a personal financial disclosure statement to the Speaker and the President pro tempore for calendar years after calendar year 2003.

(b) For purposes of paragraphs (2), (3), and (4) of subsection (a), the member reporting need not specify the actual amount of value of each item required to be reported under such paragraphs, but shall indicate which of the following categories such amount or value is within:

(1) Not more than $5,000.

(2) Greater than $5,000 but not more than $15,000.

(3) Greater than $15,000 but not more than $50,000.

(4) Greater than $50,000 but not more than $100,000.

(5) Greater than $100,000.

ANNUAL REPORTS

SEC. 162. (a)(1)(A) The Board shall publish an annual report for each fiscal year (beginning with fiscal year 1980) with respect to each retirement program to which this title applies and with respect to the Fund for such retirement program. Such report shall be filed with the Mayor, the Council, the Speaker, and the President pro tempore in accordance with section 164(a) and shall be made available and furnished to participants and beneficiaries in accordance with section 164(b).

(B) The annual report shall include the information described in subsections (b), (c), (d), and (e) and, when applicable, subsection (f), and shall also include—

(i) the financial statement and opinion required by paragraph (3) of this subsection; and

(ii) the actuarial statement and opinion required by paragraph (4) of this subsection.

(2) If some or all of the information needed to enable the Board to comply with the requirements of this title is maintained by—

(A) an insurance carrier or other organization which provides some or all of the benefits under the retirement program, or holds assets of the Fund for such retirement program in a separate account;

(B) a bank or similar institution which holds some or all of the assets of the Fund in a common or collective trust or a separate trust, or custodial account; or

(C) the Mayor (or the Police and Firemen's Retirement and Relief Board, established pursuant to section 122 of the Act of September 3, 1974, in carrying out the Mayor's responsibilities under the Policemen and Firemen's Retirement and Disability Act);

such carrier, organization, bank, or institution, or the Mayor, shall transmit and certify the accuracy of such information to the Board within one hundred and twenty days after the end of the fiscal year (or such other date as may be prescribed under regulations of the Board).

(3)(A) Except as provided in subparagraph (C), the Board shall engage an independent qualified public accountant who shall conduct such examination of any financial statements of the Fund, and of other books and records of the Fund or the retirement program, as the accountant may deem necessary to enable the accountant to form an opinion as to whether the financial statements and schedules required to be included in the annual report by subsection (b) of this section are presented fairly in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Such examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the books and records of the Fund and the retirement program as are considered necessary by the independent qualified public accountant. The independent qualified public accountant shall also offer his opinion as to whether the separate schedules specified in subsection (b)(2) of this section and the summary material required under section 164(b)(2) present fairly, and in all material respects, the information contained therein when considered in conjunction with the financial statements taken as a whole. The opinion by the independent qualified public accountants shall be made a part of the annual report.

(B) In offering his opinion under this section, the accountants may rely on the correctness of any actuarial matter certified to by an enrolled actuary if he so states his reliance.

(C) The opinion required by subparagraph (A) need not be expressed as to any statements required by subsection (b)(2)(G) prepared by a bank or similar institution or insurance carrier regulated and supervised and subject to periodic examination by a State or Federal agency if such statements are certified by the bank, similar institution, or insurance carrier as accurate and are made a part of the annual report.

(4) (A) The Board shall engage an enrolled actuary who shall be responsible for the preparation of the materials comprising the actuarial statement required under subsection (d) of this section.

(B) The enrolled actuary shall utilize such assumptions and techniques as are necessary to enable him to form an opinion as to whether the contents of the matters reported under subsection (d) of this section—

(i) are in the aggregate reasonably related to the experience of the Fund and the retirement program and to reasonable expectations; and

(ii) represent his best estimate of anticipated experience under the Fund and the retirement program.

The opinion by the enrolled actuary shall be made with respect to, and shall be made a part of, each annual report.

(C) In making a certification under this section, the enrolled actuary may rely on the correctness of any accounting matter under subsection (b) as to which any qualified public accountant has expressed an opinion if he so states his reliance.

(b) (1) An annual report under this section shall include a financial statement containing a statement of assets and liabilities, and a statement of changes in net assets available for benefits under the retirement program, which shall include details of revenues and expenses and other changes aggregated by general source and application. In the notes to financial statements, disclosures concerning the following items shall be considered by the accountant: A description of the retirement program, including any significant changes in the retirement program made during the period and the impact of such changes on benefits; the funding policy (including the policy with respect to prior service cost), and any changes in such policy during the year; a description of any significant changes in benefits made during the period; a description of material lease commitments, other commitments, and contingent liabilities; a description of agreements and transactions with persons known to be parties in interest; and any other matters necessary to fully and fairly present the financial statements of the Fund.

(2) The statement required under paragraph (1) shall have attached the following information in separate schedules:

(A) A statement of the assets and liabilities of the Fund, aggregated by categories and valued at their current value, and the same data displayed in comparative form for the end of the previous fiscal year.

(B) A statement of receipts in and disbursements from the Fund during the preceding twelve-month period, aggregated by general source and application.

(C) A schedule of all assets held for investment purposes, aggregated and identified by issuer, borrower, or lessor, or similar party to the transaction (including a notation as to whether such party is known to be a party in interest), maturity date, rate of interest, collateral, par or maturity value, cost, and current value.

(D) A schedule of each transaction involving a person known to be a party in interest, the identity of such party in interest and his relationship or that of any other party in interest to the Fund, a description of each asset to which the transaction relates; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(E) A schedule of all loans or fixed income obligations which were in default as of the close of the fiscal year or were classified during the year as uncollectable and the following information with respect to each loan on such schedule (including a notation as to whether parties involved are known to be parties in interest): The original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and other material terms), the amount of principal and interest overdue (if any) and an explanation thereof.

(F) A list of all leases which were in default or were classified during the year as uncollectable and the following information with respect to each lease on such list (including a notation as to whether parties involved are known to be parties in interest): The type of property leased (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the property); the identity of the lessor or lessee from or to whom the Fund is leasing; the relationship of such lessors and lessees, if any, to the Fund, the government of the District of Columbia, any employee organization, or any other party in interest; the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; the date the leased property was purchased and its cost; the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, expenses paid for the leased property during the reporting period, the net receipts from the lease, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default.

(G) The most recent annual statement of assets and liabilities of any common or collective trust maintained by a bank or similar institution in which some or all the assets of the Fund are held, of any separate account maintained by an insurance carrier in which some or all of the assets of the Fund are held, and of any separate trust maintained by a bank as trustee in which some or all of the assets of the Fund are held, and in the case of a separate account or a separate trust, such other information as may be required by the Board in order to comply with this subsection.

(H) A schedule of each reportable transaction, the name of each party to the transaction (except that, in the case of an acquisition or sale of a security on the market, the report need not identify the person from whom the security was acquired or to whom it was sold) and a description of each asset to which the transaction applies; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(3) For purposes of subparagraph (H) of paragraph (2), the term "reportable transaction" means a transaction to which the Fund is a party and which is—

(A) a transaction involving an amount in excess of 3 per centum of the current value of the assets of the Fund;

(B) any transaction (other than a transaction respecting a security) which is part of a series of transactions with or in conjunction with a person in a fiscal year, if the aggregate amount of such transactions exceed 3 per centum of the current value of the assets of the Fund;

(C) a transaction which is part of a series of transactions respecting one or more securities of the same issuer, if the aggregate amount of such transactions in the fiscal year exceeds 3 per centum of the current value of the assets of the Fund; or

(D) a transaction with or in conjunction with a person respecting a security, if any other transaction with or in conjunction with such person in the fiscal year respecting a security is required to be reported by reason of subparagraph (A).

(c) The Board shall furnish as a part of an annual report under this section the following information:

(1) The number of individuals covered by the retirement program.

(2) The name and address of each member of the Board.

(3) Except in the case of a person whose compensation is minimal (as determined under regulations of the Council, which regulations the Council shall initially promulgate within ninety days after the date of the enactment of this Act) and who performs solely ministerial duties (as determined under such regulations), the name of each person (including any consultant, broker, trustee, accountant, insurance carrier, actuary, administrator, investment counsel, or custodian who rendered services to the Board or who had transactions with the Board) who directly or indirectly received compensation from the Board during the preceding year for services rendered to the Board or the participants or beneficiaries of the retirement program for which a Fund was established, the amount of such compensation, the nature of his services, his relationship, if any, to the District of Columbia government or any employee organization, and any other officer, position or employment he holds with any party in interest.

(4) An explanation of the reason for any change in appointment of any accountant, insurance carrier, enrolled actuary, or investment counsel apponted by the Board.

(5) Such other financial and actuarial information as the Council may by regulation prescribe.

(d) An annual report under this section for a fiscal year shall include a complete actuarial statement applicable to the fiscal year which shall include the following information:

(1) The date of the actuarial valuation applicable to the fiscal year for which the report is filed.

(2) The date and amount of the payments to the Fund for the fiscal year for which the report is filed and contributions for prior fiscal years not previously reported, including payments by the participants, the United States, and the District of Columbia.

(3) The following information applicable to the fiscal year for which the report is filed:

(A) The amounts determined under section 142(a) (1).

(B) The accrued liabilities.

(C) An identification of benefits not included in the calculation.

(D) A statement of the other facts and actuarial assumptions and methods used to determine costs.

(E) A justification for any change in actuarial assumptions or cost methods.

(4) The number of participants and beneficiaries covered by the retirement program.

(5) A certification of the amount of the payments to the Fund necessary to reduce the accumulated funding deficiency to zero.

(6) A statement by the enrolled actuary of any change in actuarial assumptions made with respect to the Fund during the year.

(7) A statement by the enrolled actuary of the estimated current value of vested benefits under the retirement program.

(8) A statement by the enrolled actuary that to the best of his knowledge the report is complete and accurate.

(9) A copy of the opinion required by subsection (a) (4).

(10) Such other information regarding the retirement program as the Council may by regulation require.

(11) Such other information as the enrolled actuary may determine is necessary to

fully and fairly disclose the actuarial position of the Fund.

The actuary shall make an actuarial valuation of the Fund for every third fiscal year, unless he determines that a more frequent valuation is necessary to support his opinion under subsection (a)(4) of this section.

(e) A report under this section for a fiscal year shall include a statement prepared by the Board of—

(1) the relative riskiness of the investments during the fiscal year of the assets of the Fund;

(2) a comparison of the average return on the investments of the Fund during the year with the average return on the investments of other public pension funds during the year that have comparable asset valuation; and

(3) the average daily balance of, and the average rate earned by, assets of the Fund in each of any time or demand deposits during the year.

(f) If some or all of the benefits under the retirement program are purchased from and guaranteed by an insurance company, insurance service, or other similar organization, a report under this section shall include a statement from such insurance company, service, or other similar organization covering the fiscal year and enumerating—

(1) the premium rate or subscription charge and the total premium or subscription charges paid to each such carrier, insurance service, or other similar organization and the approximate number of persons covered by each class of such benefits; and

(2) the total amount of premiums received, the approximate number of persons covered by each class of benefits, and the total claims paid by such company, service, or other organization; dividends or retroactive rate adjustments, commissions, and administrative service or other fees or other specific acquisition costs paid by such company, service, or other organization; any amounts held to provide benefits after retirement; the remainder of such premiums; and the names and addresses of the brokers, agents or other persons to whom commissions or fees were paid, the amount paid to each, and for what purpose.

If any such company, service, or other organization does not maintain separate experience records covering the specific groups it serves, the report shall include, in lieu of the information required by paragraph (2), a statement as to the basis of its premium rate or subscription charge, the total amount of premiums or subscription charges received from the Fund, and a copy of the financial report of the company, service, or other organization and, if such company, service, or organization incurs specific costs in connection with the acquisition or retention of any particular Fund or Funds, a detailed statement of such costs.

RETIREMENT PROGRAM SUMMARY DESCRIPTION

SEC. 163. (a)(1) A summary description of each retirement program to which this Act applies shall be furnished to participants and beneficiaries as provided in section 164(b). The summary description shall include the information specified in subsection (b) of this section, shall be written in a manner calculated to be understood by the average participant or beneficiary, and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the retirement program.

(2) A summary of any material modification in the terms of the retirement program and any change in the information required under subsection (b), written in a manner calculated to be understood by the average participant or beneficiary, shall be furnished in accordance with section 164(b)(1).

(b) Each summary description of a retirement program shall contain the following information: The name and type of administration of the retirement program; the name and address of the chairman of the Board, who shall be the agent of the Board for the service of legal process; the name, title, and address of each member of the Board; a description of the relevant provisions of applicable collective-bargaining agreements; the retirement program's requirements respecting eligibility for participation and benefits; a description of the provisions providing for nonforfeitable pension benefits; circumstances which may result in disqualification, ineligibility, or denial or loss of benefits; the identity of any organization through which benefits are provided; the procedures to be followed in presenting claims for benefits under the retirement program; and the remedies available under the retirement program for the redress of claims that are denied in whole or in part.

FILING REPORTS AND FURNISHING INFORMATION TO PARTICIPANTS

SEC. 164. (a)(1) The Board shall file with the Mayor, the Council, the Speaker, and the President pro tempore—

(A) the annual reports for a fiscal year within two hundred and ten days after the end of such year;

(B) a copy of each summary description of a retirement program within one year after the date of the enactment of this Act; and

(C) a revised summary description of a retirement program, incorporating any material modification in the terms of the retirement program, within sixty days after such modifications is adopted or occurs.

The Mayor shall make copies of such retirement program descriptions and annual reports available for public inspection in an appropriate location. The Board shall also furnish to the Mayor, the Council, the Speaker, and the President pro tempore, upon request, any documents relating to the retirement program or the Fund, including any bargaining agreement, trust agreement, contract, or other instrument under which the retirement program or Fund is operated.

(2)(A) The Mayor or the Council may reject any filing under this section within thirty days of such filing—

(i) upon determining that such filing is incomplete for purposes of this part; or

(ii) upon determining that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If the Mayor or the Council rejects a filing of a report under subparagraph (A), and if a revised filing satisfactory to the Mayor or the Council is not submitted within forty-five days after the determination under subparagraph (A) to reject the filing is made, and if the Mayor or the Council considers it in the best interest of the participants, then the Mayor or the Council may take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

(iii) Bring a civil action for such legal or equitable relief as may be appropriate to enforce the provisions of this title.

The Board shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund are necessary for such audit.

(3)(A) Either House of Congress may reject any filing under this section within thirty days of such filing by adopting a resolution stating that such House has determined—

(i) that such filing is incomplete for purposes of this part; or

(ii) that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If either House of Congress rejects a report under subparagraph (A) and if either a revised filing is not submitted within forty-five days after adoption of the resolution under subparagraph (A) rejecting the initial filing or such revised filing is rejected by either House of Congress by adoption of a resolution within thirty days after submission of the revised filing, then either House of Congress may, if it deems it in the best interests of the participants, take any one or more of the following actions:

(i) Retain in independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund and the retirement program, are necessary for performing such audit or preparing such statement.

(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal payment may be paid to the Fund until such time as an acceptable filing is made. For purposes of this subparagraph, a filing is unacceptable if, within thirty days of its submission, either House of Congress adopts a resolution disapproving such filing.

(b) Publication of the summary retirement program descriptions and annual reports shall be made to participants and beneficiaries as follows:

(1) The Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the summary retirement program description and all modifications and changes referred to in section 163(a) within ninety days after he becomes a participant or in the case of a beneficiary, within ninety days after he first receives benefits. The Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, every fifth year an updated summary retirement program description described in section 163 which integrates all retirement program amendments made within such five-year period, except that in a case where no amendments have been made to a retirement program during such five-year period this sentence shall not apply. Notwithstanding the foregoing sentence, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, the summary retirement program description described in section 163 every tenth year. If there is a modification or change described in section 163(a), a summary description of such modification or change shall be furnished to each participant and to each beneficiary who is receiving benefits under the retirement program not later than two hundred and ten days after the end of the fiscal year in which change is adopted.

(2) The Board shall make copies of the latest annual report and of any bargaining agreement, trust agreement, contract, or other instruments under which the retirement program or the Fund is operated available for examination by any participant or beneficiary in the principal office of the Board and in such other places as may be necessary to make available all pertinent information to all participants (including such places as the Council may by regulation prescribe).

(3) Within two hundred and ten days after the close of the fiscal year, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the statements and schedules described in subparagraphs (A) and (B) of section 162(b)(2) for such fiscal year and such other material as is necessary to fairly summarize the latest annual report.

(4) The Board shall, upon written request of any participant or beneficiary, furnish a copy of the latest updated summary retirement program description, the latest annual report, and any bargaining agreement, trust agreement, contract, or other instruments under which the retirement program or Fund is operated. The Board may make a reasonable charge to cover the cost of furnishing such copies. The Council may by regulation prescribe the maximum amount that will constitute a reasonable charge under the preceding sentence.

(c) The Council may by regulation require that the Board furnish to each participant and to each beneficiary receiving benefits under a retirement program a statement of the rights of participants and beneficaries under this title.

REPORTING OF PARTICIPANTS' BENEFIT RIGHTS

SEC. 165. (a) The Board shall furnish to any participant or beneficiary who so requests in writing, a statement indicating, on the basis of the latest available information—

(1) the total benefits accrued, and

(2) the nonforfeitable retirement benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable.

(b) A participant or beneficiary is not entitled to receive more than one report under subsection (a) during any twelve-month period.

PUBLIC INFORMATION

SEC. 166. (a) Except as provided in subsection (b), the contents of the descriptions, annual reports, statements, and other documents filed with the Mayor, the Council, the Speaker, and the President pro tempore pursuant to this part shall be public information, and the Mayor, the Council, the Speaker, and the President pro tempore may use the information and data in such documents for statistical and research purposes and may compile and publish such studies, analyses, reports, and surveys based thereon as may be considered appropriate.

(b) Information described in section 165 (a) with respect to a participant or beneficiary of a retirement program may be disclosed only to the extent that information respecting that participant's or beneficiary's benefits under title II of the Social Security Act may be disclosed under such Act.

(c) Except to the extent that information which is protected from public disclosure under subsection (b), or which relates to personnel matters the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, is involved, all meetings of the Board shall be open to the public.

RETENTION OF RECORDS

SEC. 167. The Board shall maintain records on the matters required to be disclosed by this title which will provide in sufficient detail the necessary basic information and data from which the required documents may be verified, explained, or clarified, and checked for accuracy and completeness, shall include vouchers, worksheets, receipts, and applicable resolutions in such records, and shall keep such records available for examination for a period of not less than six years after the filing date of the documents based on the information which they contain. Except to the extent that information is involved which is protected from public disclosure under section 166(b), all such records shall be available for inspection by the public.

ADDITIONAL INFORMATION

SEC. 168. (a) In addition to the information specifically required to be furnished by this part, the Board shall furnish promptly such additional information as the Mayor, the Council, the Speaker, or the President pro tempore may request.

(b) The Board shall, at regular intervals to be determined by the Board, compile and publish all regulations then in effect which were issued by the Board or the Council under this title.

CRIMINAL PENALTIES

SEC. 169. Whoever willfully violates any provision of this part (other than sections 165 and 168), or any regulation or order issued under any such provision, shall be fined not more than $5,000 or imprisoned not more than one year, or both, except that in the case of such a violation by a person not an individual, such person shall be fined not more than $100,000.

PART E—FIDUCIARY RESPONSIBILITY; CIVIL SANCTIONS

FIDUCIARY RESPONSIBILITIES

SEC. 181. (a)(1) The Board and each member of the Board shall discharge responsibilities with respect to a Fund as a fiduciary with respect to such Fund. The Board may designate one or more other persons who exercise responsibilities with respect to a Fund to exercise such responsibilities as a fiduciary with repect to such Fund. The Board shall retain such fiduciary responsibility for the exercise of careful, skillful, prudent, and diligent oversight of any person so designated as would be exercised by a prudent individual acting in a like capacity and familiar with such matters under like circumstances.

(2) A fiduciary shall discharge his duties with respect to a Fund solely in the interest of the participants and beneficiaries and—

(A) for the exclusive purpose of providing benefits to participants and their beneficiaries;

(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying the investments of the Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(D) in accordance with the provisions of law, documents, and instruments governing the retirement program to the extent that such documents and instrumetns are consistent with the provisions of this title.

(b) In addition to any liability which he may have under any other provision of this part, a fiduciary with respect to a Fund shall be liable for a breach of fiduciary responsibility of another fiduciary with respect to the same Fund—

(1) if he knowingly participates in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is a breach of fiduciary responsibility;

(2) if, by his failure to comply with subsection (a)(2) in the administration of his specific responsibilities which give rise to his status as a fiduciary, he has enabled such other fiduciary to commit a breach of fiduciary responsibility; or

(3) if he has knowledge of a breach of fiduciary responsibility by such other fiduciary, unless he makes reasonable efforts under the circumstances to remedy the breach.

(c) Except as provided in subsection (f), a fiduciary with respect to a Fund shall not cause the Fund to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—

(1) sale or exchange, or leasing, of any property between the Fund and a party in interest;

(2) lending of money or other extension of credit between the Fund and a party in interest;

(3) furnishing of goods, services, or facilities between the Fund and a party in interest; or

(4) transfer to, or use by or for the benefit of, a party in interest, of any assets of the Fund.

(d) A fiduciary with respect to a Fund shall not—

(1) deal with the assets of the Fund in his own interest or for his own account;

(2) in his individual or in any other capacity act in any transaction involving the Fund on behalf of a party (or represent a party) whose interests are adverse to the interests of the Fund or the interests of its participants or beneficiaries; or

(3) receive any consideration for his own personal account from any party dealing with such Fund in connection with a transaction involving the assets of the Fund.

(e) A transfer of real or personal property by a party in interest to a Fund shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the Fund assumes or if it is subject to a mortgage or similar lien which a party in interest placed on the property within the ten-year period ending on the date of the transfer.

(f) The prohibitions provided in subsection (c) shall not apply to any of the following transactions:

(1) Contracting or making reasonable arrangements with a party in interest for office space, or legal, accounting, or other services necessary for the establishment or operation of the Fund, if no more than reasonable compensation is paid therefor.

(2) The investment of all or part of a Fund's assets in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a State, if such bank or other institution is a fiduciary of such Fund and if such investment is expressly authorized by regulations of the Board or by a fiduciary (other than such bank or institution or affiliate thereof) who is expressly empowered by the Board to make such investment.

(3) The providing of any ancillary service by a bank or similar financial institution supervised by the United States or a State if such bank or other institution is a fiduciary of such Fund and if—

(A) such bank or similar financial institution has adopted adequate internal safeguards which assure that the providing of such ancillary service is consistent with sound banking and financial practice, as determined by Federal or State supervisory authority, and

(B) the extent to which such ancillary service is provided is subject to specific guidelines issued by such bank or similar financial institution (as determined by the Mayor after consultation with Federal and State supervisory authority), and adherence to such guidelines would reasonably preclude such bank or similar financial institution from providing such ancillary service (i) in an excessive or unreasonable manner, and (ii) in a manner that would be inconsistent with the best interests of participants and beneficiaries of the retirement program.

Such ancillary services shall not be provided at more than reasonable compensation.

(4) The exercise of a privilege to convert securities, to the extent provided in regulations of the Council, but only if the Fund receives no less than adequate consideration pursuant to such conversion.

(5) Any transaction between a Fund and a common or collective trust fund or pooled investment fund maintained by a party in interest which is a bank or trust company supervised by a State or Federal agency, or a pooled investment fund of an insurance company qualified to do business in a State, if—

(A) the transaction is a sale or purchase of an interest in the Fund;

(B) the bank, trust company, or insurance company receives not more than reasonable compensation; and

(C) such transaction is expressly permitted by the Board, or by a fiduciary (other than the bank, trust company, insurance company, or an affiliate thereof) who has authority to manage and control the assets of the Fund.

(g) Nothing in subsection (c) shall be construed to prohibit any fiduciary from—

(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the retirement program, so long as the benefit is computed and paid on a basis which is consistent with the terms of the retirement program as applied to all other participants and beneficiaries;

(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with respect to the Fund; or

(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

LIABILITY FOR BREACH OF FIDUCIARY DUTY

SEC. 182. (a) Any person who is a fiduciary with respect to a Fund who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to such Fund any losses to the Fund resulting from each such breach and to restore to such Fund any profits of such fiduciary which have been made through the use of assets of the Fund by the fiduciary and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary.

(b) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he became a fiduciary or after he ceased to be a fiduciary.

EXCULPATORY PROVISIONS; INSURANCE

SEC. 183. (a) Any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this part shall be void as against public policy.

(b) Nothing in this subpart shall preclude—

(1) the Board from purchasing insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if such insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary;

(2) a fiduciary from purchasing insurance to cover liability under this part from and for his own account; or

(3) an employee organization from purchasing insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with regard to the Fund from which the annuities and other retirement and disability benefits of the members of such employee organization are paid.

PROHIBITION AGAINST CERTAIN PERSONS HOLDING CERTAIN POSITIONS

SEC. 184. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, fraud, grand larceny, burglary, arson, a felony violation of Federal or State law involving substances defined in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, murder, rape, kidnapping, perjury, assault with intent to kill, any crime described in section 9(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)(1)), a violation of any provision of this Act, a violation of section 302 of the Labor-Management Relations Act, 1947 (29 U.S.C. 186), a violation of chapter 63 of title 18, United States Code, a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code, a violation of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401), or conspiracy to commit any such crime or attempt to commit any such crime, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

(1) as a fiduciary, investment counsel, agent, or employee of any Fund established by this title; or

(2) as a consultant to any Fund established by this title;

during or for five years after such conviction or after the end of such imprisonment, whichever is the later, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in paragraph (1) or (2) would not be contrary to the purposes of this title. Prior to making any such determination the Board of Parole shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board of Parole's determination in any such proceeding shall be final. No person shall knowingly permit any other person to serve in any capacity referred to in paragraph (1) or (2) in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee, of any Fund established by this title, or as a consultant to any Fund established by this title, without a notice, hearing, and determination by such Board of Parole that such service would be inconsistent with the intention of this section.

(d) Whoever willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) For the purposes of this section:

(1) A person shall be deemed to have been "convicted" and to be under the disability of "conviction" from the date of entry of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event.

(2) The term "consultant" means any person who, for compensation, advises or represents a Fund or who provides other assistance to such Fund concerning the operation of such Fund.

(3) A period of parole shall not be considered as part of a period of imprisonment.

BONDING

SEC. 185. (a)(1) Each fiduciary of a Fund established by this title and each person who handles funds or other property of such a Fund (hereinafter in this section referred to as "Fund official") shall be bonded as provided in this section, except that no bond shall be required of a fiduciary (or of any director, officer, or employee of such fiduciary) if such fiduciary—

(A) is a corporation organized and doing business under the laws of the United States or of any State;

(B) is authorized under such laws to exercise trust powers or to conduct an insurance business;

(C) is subject to supervision or examination by Federal or State authority; and

(D) has at all times a combined capital and surplus in excess of such a minimum amount as may be established by regulations issued by the Council, which amount shall be at least $1,000,000.

Subparagraph (D) shall apply to a bank or other financial institution which is authorized to exercise trust powers and the deposits of which are not insured by the Federal Deposit Insurance Corporation only if such bank or institution meets bonding or similar requirements under State law which the Council determines are at least equivalent to those imposed on banks by Federal law.

(2)(A) The amount of such bond shall be the lesser of 10 per centum of the amount of the funds handled by such fiduciary and $500,000, except that the amount of such bond shall be at least $1,000.

(B) The Mayor, after notice and opportunity for hearing to such fiduciary and all other parties in interest to such Fund, may waive the $500,000 limit.

(C) The amount of such bond shall be set at the beginning of each fiscal year.

(3) For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by the predecessor or predecessors, if any, during the preceding reporting year, or if the Fund has no preceding reporting year under this title, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations to be prescribed by the Council.

(4) Such bond shall provide protection to the Fund against loss by reason of acts of fraud or dishonesty on the part of the Fund official, directly or through connivance with others.

(5) Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to sections 6 through 13 of title 6, United States Code. Any bond shall be in a form or of a type approved by the Council, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

(b) It shall be unlawful for any Fund official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any Fund without being bonded as required by subsectiton (a), and it shall be unlawful for any Fund official or any other person having authority to direct the performance of such functions to permit such functions, or any of them, to be performed by any Fund official with respect to whom the requirements of subsection (a) have not been met.

(c) It shall be unlawful for any person to procure any bond required by subsection (a) from any surety or other company or through any agent or broker in whose business operations the Fund or any party in interest in the Fund has any control or significant financial interest, direct or indirect.

(d) Nothing in any other provision of law shall require any person required to be bonded as provided in subsection (a) because he handles funds or other property of a Fund to be bonded insofar as the handling by such person of the funds or other property of such Fund is concerned.

(e) The Council shall prescribe such regulations as may be necessary to carry out the provisions of this section.

LIMITATION ON ACTIONS

SEC. 186. (a) No action may be commenced under this title with respect to a fiduciary's breach of any responsibility, duty, or obligation under this part, or with respect to a violation of this part, after the earlier of—

(1) six years after (A) the date of the last action which constituted a part of the breach or violation, or (B) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

(2) three years after the earliest date (A) on which the plaintiff had actual knowledge of the brach or violation, or (B) on which a report from which he could reasonably be expected to have obtained knowledge of such breach or violation was filed with the Mayor, the Council, the Speaker, or the President pro tempore under this title;

except that in the case of fraud or concealment, such an action may be commenced not later than six years after the date of discovery of such breach or violation.

CIVIL ENFORCEMENT

SEC. 187. (a) A civil action may be brought—

(1) by a participant or beneficiary—

(A) for the relief provided for in subsection (b) of this section, or

(B) to recover benefits due to him under the terms of his retirement program, to enforce his rights under the terms of the retirement program, or to clarify his rights to future benefits under the terms of the retirement program;

(2) by a participant or beneficiary or the District of Columbia for appropriate relief under section 182; or

(3) by a participant or beneficiary or the District of Columbia (A) to enjoin any act or practice which violates any provision of this title or the terms of a retirement program, or (B) to obtain other appropriate equitable relief (i) to redress any such violation, or (ii) to enforce any provision of this title or the terms of a retirement program.

(b) If the Board fails or refuses to comply with a request for any information which the Board is required by this title to furnish to a participant or beneficiary (unless such failure or refusal results from matters reasonably beyond the control of the Board) by mailing the information requested to the last known address of the requesting participant or beneficiary within thirty days after such request, then the Board may, in the court's discretion, be liable to such participant or beneficiary in an amount of up to $100 a day from the date of such failure or refusal, and the court may order the Board to provide the required information and may in its discretion order such other relief as it considers proper.

(c) The Board may sue and be sued under this title as an entity. Service of summons, subpena, or other legal process of a court upon the chairman of the Board in his capacity as such shall constitute service upon the Board.

(d) In any action under this title by a participant, beneficiary, or fiduciary, the court in its discretion may allow a reasonable attorney's fee and costs of action to either party.

CLAIMS PROCEDURE

SEC. 188. In accordance with regulations of the Council, the Mayor shall provide to any participant or beneficiary who has a claim for benefits under a retirement program denied—

(1) adequate written notice of such denial, setting forth the specific reasons for such denial in a manner calculated to be understood by such participant or beneficiary; and

(2) a reasonable opportunity for a full and fair review of the decision denying such claim.

TITLE II—CHANGES IN RETIREMENT BENEFITS

PART A—POLICE OFFICERS AND FIRE FIGHTERS' RETIREMENT BENEFITS

SALARY BASE PERIOD FOR COMPUTATION OF ANNUITY

SEC. 201. Paragraph (17) of subsection (a) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code sec. 4–521(17)) is amended—

(1) by striking out "twelve consecutive months of police or fire service," and inserting in lieu thereof "thirty-six consecutive months of police or fire service in the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, or over any twelve consecutive months of police or fire service in the case of any other member,"; and

(2) by inserting "or thirty-six consecutive months, as the case may be," immediately after "twelve consecutive months" the second place it appears.

CREDITABLE SERVICE FOR FULL-TIME OFFICIALS OF EMPLOYEE ORGANIZATIONS

SEC. 202. (a) Subsection (c) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–523) is amended by redesignating paragraphs (6) and (7) of such subsection as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6)(A) Any period of time during which a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia is on approved leave without pay to serve as a full-time officer or employee of a labor organization shall be considered to be police or fire service for purposes of this section if such member files an election in accordance with subparagraph (B) and makes payments as described in subparagraph (C). The basic salary in effect at any time for the grade in which a member was serving at the time he entered on approved leave described in the preceding sentence shall be considered to be the basic salary in effect for such member for purposes of this section if the period of time when such member is on approved leave is considered to be police or fire service under this paragraph.

"(B) To be eligible to have any period of approved leave described in subparagraph (A) considered to be police or fire service for purposes of this section, a member described in such subparagraph must, not later than the end of the sixty-day period commencing on the day such member enters on such approved leave or the effective date of this paragraph, whichever occurs later, file an election with the Mayor to have such period of approved leave considered to be police or fire service for purposes of this section.

"(C)(i) To have any period of approved leave described in subparagraph (A) occurring after the effective date of this section considered to be police or fire service, a member described in such subparagraph must each month deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act a sum equal to one-twelfth the annual new-entrant normal cost of the annuity of a member receiving the basic salary in effect during such month for the grade in which such member was serving at the time such member entered on such leave.

"(ii) To have any period of approved leave described in subparagraph (A) which occurred before the effective date of this section considered to be police or fire service, a member described in such subparagraph must deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act, in a manner to be determined by the Mayor, a sum equal to the new-entrant normal cost of the annuity of a member receiving the basic salary in effect during the period of such leave for the grade in which such member was serving at the time such member entered on such leave.

"(iii) The Mayor shall make an annual determination of the new-entrant normal cost for purposes of clauses (i) and (ii) according to information supplied by the actuary retained pursuant to section 142 of the District of Columbia Retirement Reform Act.

"(D) For purposes of this paragraph, the term 'employee organization' means any organization of any kind, or any agency or employer representation committee or plan, in which members or officers of the Metropolitan Police force or the Fire Department of the District of Columbia participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

REQUIREMENTS FOR OPTIONAL RETIREMENT

SEC. 203. (a) Subsection (h)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–528(1)) is amended—

(1) by striking out "who completes twenty years of police or fire service" and inserting in lieu thereof "who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and who completes twenty-five years of police or fire service and attains the age of fifty years and any other member (other than a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first becomes such a member after the end of such ninety-day period) who completes twenty years of police or fire service."; and

(2) by striking out "twenty years: *Provided*" and inserting in lieu thereof "(A) twenty-five years, in the case of a member who becomes a member after the end of such ninety-day period, or (B) twenty years, in the case of any other member: *Provided*".

(b)(1) Paragraph (2) of subsecton (h) of the Policemen and Fireman's Retirement and Disability Act (D.C. Code, sec. 4–528) is amended by striking out "in subsection (h)" and inserting in lieu thereof "under".

(2) Paragraph (3) of such subsection is

amended by striking out "of this subsection (h)".

DISABILITY RETIREMENT

SEC. 204. (a) Subsection (g) of the Policemen and Firemens Retirement and Disability Act (D.C. Code, sec. 4–527 (is amended—

(1) in paragraph (2), by striking out "In any case in which the proximate cause of an injury incurred or disease contracted by a member" and inserting in lieu thereof "In any case involving a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, in which the proximate cause of an injury incurred or disease contracted by the member"; and

(2) by adding at the end thereof the following new paragraph:

"(4) A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia may not retire and receive an annuity under this subsection on the basis of the aggravation in the performance of duty of an injury incurred or a disease contracted in the performance of duty unless—

"(A) in the case of the aggravation of a disease, the disease was reported to the Board of Police and Fire Surgeons within thirty days after the disease was first diagnosed; or

"(B) in the case of the aggravation of an injury, the injury was reported to the Board of Police and Fire Surgeons within seven days after the injury was incurred or, if the member was unable (as determined by such Board) as a result of the injury to report the injury within such seven-day period, within seven days after the member became able (as determined by such Board) to report the injury.

The burden of establishing inability to report an injury in accordance with subparagraph (B) within seven days after such injury was incurred and of establishing that such injury was reported within seven days after the end of such inability shall be on the member claiming such inability. Any report under this paragraph shall include adequate medical documentation. Nothing in this paragraph shall be deemed to alter or affect any administrative regulation or requirement of the Metropolitan Police force or the Fire Department of the District of Columbia with respect to the reporting of an injury incurred or aggravated, or any disease contracted or aggravated, in the performance of duty.".

(b)(1) Subsection (f) of such Act (D.C. Code, sec. 4–526) is amended—

(A) by striking out "Whenever" and inserting in lieu thereof "(1) Except as provided in paragraph (2), whenever"; and

(B) by adding at the end thereof the following new paragraph.

"(2) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act completes five years of police or fire service and is found by the Mayor to have become disabled due to injury received or disease contracted other than in the performance of duty, which disability precludes further service with his department, such member shall be retired on an annuity which shall be 70 per centum of his basic saalry at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with subsection (g)(5)(B)(ii) of this section, except that such annuity shall not be less than 30 per centum of his basic salary at the time of retirement.".

(2) Subsection (g) of such Act, as amended by subsection (a) of this section, is further amended—

(A) in paragraph (1), by striking out "Whenever" and inserting in lieu thereof "Except as provided in paragraph (5), whenever"; and

(B) by adding at the end thereof the following new paragraph:

"(5)(A) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty at any time after appointment and such injury or disease or aggravation permanently disables him for the performance of duty, he shall upon retirement for such disability, receive an annuity computed in accordance with subparagraph (B).

"(B)(i) In the case of any member who retires under this paragraph or paragraph (2) of subsection (f), the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with regulations which the Mayor shall promulgate, the percentage of impairment for such member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board.

"(ii) In the case of any member described in clause (i), the Police and Firemen's Retirement and Relief Board shall determine within a reasonable time the percentage of disability for such member giving due regard to—

"(I) the nature of the injury or disease,

"(II) the percentage of impairment reported pursuant to clause (i),

"(III) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the member immediately prior to his retirement.

"(IV) the age and years of service of the member, and

"(V) any other factors or circumstances which may affect the capacity of the member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

"(iii) The percentage of impairment or the percentage of disability for a member to whom this paragraph applies may be redetermined at any time prior to the time such member reaches the age of fifty and his annuity shall be adjusted accordingly.

"(iv) The annuity of a member who is retired under this paragraph shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with clause (ii), except that such annuity shall not be less than 40 per centum of his basic salary at the time of retirement.

"(v) For purposes of this paragraph—

"(I) the term 'impairment' means any anatomic or functional abnormality or loss existing after maximal medical rehabilitation has been achieved; and

"(II) the term 'disability' means any actual or presumed reduction in or absence of ability to engage in gainful activity which is caused, in whole or in part, by an impairment."

(c) The amendment made by paragraph (1) of subsection (a) shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who apply for disability retirement under subsection (g) of the Policemen and Firemen's Retirement and Disability Act prior to the end of the ninety-day period beginning on the date of the enactment of this Act. The amendment made by paragraph (2) of subsection (a) shall not apply with respect to injuries incurred or diseases first diagnosed prior to the end of such ninety-day period.

RECOVERY FROM DISABILITY

SEC. 205. (a)(1) Subsection (j)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–530(1)) is amended in the first sentence by striking out "shall cease" and all that follows in such sentence and inserting in lieu thereof "shall cease—

"(A) upon reemployment in the department from which he was retired,

"(B) one year from the date of the medical examination showing such recovery,

"(C) one year from the date of the determination that he is so restored, or

"(D) in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, upon a refusal by such annuitant to accept an offer of reemployment in the department from which he was retired at the same grade or rank as he held at the time of his retirement,

whichever is earliest.".

(2)(A) Such subsection (j)(1) is amended in the second sentence by striking out "in each of two succeeding calendar years" and inserting in lieu thereof ", in each of two succeeding calendar years in the case of an annuitant who was an officer or member of the United States Park Police force, Executive Protection Service, or the United States Secret Service Division, or in any calendar year in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,".

(B) Subsection (j) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3)(A) If any annuitant who is retired under subsection (f) or (g), who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, and who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, receives, directly or indirectly, income from wages or self-employment, or both, in any calendar year after the calendar year in which he retired—

"(i) in an amount in excess of the difference between 70 per centum of the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be reduced by 50 cents for each $1.00 of such income received during such year in excess of such difference; and

"(ii) in an amount in excess of the difference between the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be further reduced by 20 cents for each $1.00 of such income received during such year in excess of such difference.

"(B) For the purposes of subparagraph (A), the term 'current earnings limitation', with respect to an annuitant, means the greater of—

"(i) the current annual salary for the position which such annuitant held immediately prior to the retirement of such annuitant; or

"(ii) the current entry level salary for active officers and members, divided by .7.

"(C) The reductions provided for in subparagraph (A) shall be made as follows:

"(i) Such reductions shall be pro rated over a period of twelve consecutive months, with equal amounts withheld from each payment of annuity during such twelve-month period.

"(ii) The twelve-month period during which such reduction is made shall begin as soon after the end of the calendar year involved as is administratively practicable (as determined in accordance with regulations which the Mayor of the District of Columbia shall promulgate).

"(D) If the Mayor of the District of Columbia determines that the level of income of an annuitant whose annuity would otherwise be reduced in accordance with subparagraph (A) has decreased significantly (other than in accordance with normal income fluctuations for such annuitant) during the period in which such reduction would occur, the Mayor may authorize the withholding during such period, or any portion thereof, of such lesser amount than the amount prescribed in such subparagraph as the Mayor considers appropriate or the Mayor may waive the requirements of subparagraph (A) if he finds that circumstances justify such waiver.

"(E)(i) Any annuitant who is retired under subsection (f) or (g) and who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall, at such times as the Mayor of the District of Columbia shall by regulation prescribe, submit to the Mayor a notarized statement containing such information as the Mayor shall by regulation require with respect to the income received by such annuitant from wages or self-employment, or both. After examining such statement, the Mayor may require such annuitant to submit to the Mayor a further notarized statement containing such additional information with respect to the income received by such annuitant from wages or self-employment, or both, as the Mayor deems appropriate.

"(ii) Any annuitant described in clause (i) who willfully furnishes materially false information with respect to his income in any statement required to be submitted under such clause shall forfeit all rights to his disability annuity. Any such annuitant who refuses or otherwise willfully fails to timely submit such statement as required by this subsection, payment of the annuity to such annuitant shall cease and such annuitant shall not be eligible to receive such annuity or part thereof for the period beginning on the date after the final day for timely filing of such statement and ending on the date on which the Mayor receives such statement. Nothing in this clause shall affect any rights to a survivor's annuity under subsection (k) based upon the service of such annuitant.".

(b) Subsection (m)(2) of such Act (D.C. Code, sec. 4–533(2)) is amended—

(1) by inserting "(A)" before "If a member";

(2) by striking out the last sentence of such subsection and adding after "is based." the following: "The Commissioner shall not require employment questionnaires under subsection (j)(3)(C) or the medical examination of such member under subparagraph (B) after such member reaches the age of fifty."; and

(3) by adding at the end of such subsection the following new subparagraph:

"(B) The Mayor shall, by regulation, require any annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who retired before, on, or after the date of the enactment of the District of Columbia Retirement Reform Act under subsection (f) or (g) of this section to undergo, during each twelve-month period following the effective date of this subparagraph, at least one medical examination of the disability upon which the annuitant's retirement under subsection (f) or (g) is based. No such annuitant shall be required under such regulations to undergo a medical examination during any such twelve-month period during which the annuitant was required to undergo a medical examination under this subsection in connection with such annuitant's employment. Such annual examination shall be carried out by the Board of Police and Fire Surgeons or by a physician designated by the Board.

"(2) Such regulations shall further provide for notification by the Board of Police and Fire Surgeons to each such annuitant as to the time and place for such examination and the consequences of failure to appear and submit to such examination.

"(3) In any case in which the requirement to undergo a medical examination under this section would impose on an annuitant an undue hardship because of the physical or mental condition of such annuitant, the Mayor, by regulation, shall provide other means sufficient to determine the continuance of the disability on which such annuitant's retirement under subsection (f) or (g) is based.

"(4) Such regulations shall further provide that, in any case involving any such member so retired who refuses or otherwise fails to undergo any medical exam required by this section, payment of the annuity to such member shall cease and such member shall not be eligible to receive such annuity or any part thereof for any period commencing on the day next following the day on which such member was required to undergo such examination, and ending on the date on which such member undergoes such examination. Nothing in this paragraph shall be construed as affecting any rights to a survivor's annuity under subsection (k) based upon the service of such member.".

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act. The amendment made by paragraph (2)(B) of subsection (a) shall apply with respect to income from wages or self-employment, or both, received directly or indirectly during calendar year 1979 or the calendar year after the year in which the member retires, whichever is later, and any calendar year thereafter.

SURVIVORS' ANNUITIES

SEC. 206. (a)(1) Subsection (k) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531) is amended—

(A) in paragraph (2)—

(i) by inserting "(A)" immediately after "40 per centum" the second place it appears, and

(ii) by striking out "computed," and inserting in lieu thereof "computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or (B) of the adjusted average pay of such former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia;"; and

(B) by amending paragraph (3) to read as follows:

"(3) Each surviving child or student-child of any member who dies before retirement, or of any former member who dies after retirement, shall be entitled to receive an annuity equal to the smallest of—

"(A) in the case of a member or former member who is survived by a wife or husband—

"(i) 60 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,548; or

"(iii) $4,644 divided by the number of eligible children; and

"(B) in the case of a member or former member who is not survived by a wife or husband—

"(i) 75 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,860; or

"(iii) $5,580 divided by the number of eligible children.".

(2) Subsection (a) of such Act (D.C. Code sec. 4–521) is amended —

(A) by striking out the period at the end of paragraph (4) of such subsection and inserting in lieu thereof the following: ", in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the surviving husband of a member or former member who was a member or officer of the Metropolitan Police force or the Fire Department of the District of Columbia if—

"(A) he was married to such member or former member (i) while she was a member, or (ii) for at least one year immediately preceding her death, or

"(B) he is the father of issue by such marriage,"; and

(B) by inserting the following new paragraph immediately after paragraph (17):

"(18) The term 'adjusted average pay' means the average pay of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia increased by the per centum increase (adjusted to the nearest one-tenth of 1 per centum in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, between the month in which such member retires and the month immediately prior to the month in which such member dies.".

(b) The amendments made by subsection (a) shall apply with respect to survivor annuities under the Policeman and Firemen's Retirement and Disability Act for survivors of officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia which commence on or after the first day of the first month which begins after the end of the ninety-day period beginning on the date of enactment of this Act.

DEFERRED ANNUITIES

SEC. 207. (a)(1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (l) through (r) as subsections (m) through (s), respectively; and

(B) by inserting immediately after subsection (k) the following new subsection:

"DEFERRED ANNUITIES

"(l)(1) Except as provided in paragraph (2), any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department, except for retirement under subsection (f), (g), or (h), shall be entitled to an annuity commencing on the first day of the month during which such member attains the age of fifty-five or on the first day of the first month beginning after such member's separation from his department, whichever month occurs later. Such annuity shall be computed at the rate of 2½ per centum of his average pay for each year of service up to twenty years of service and at the rate of 3 per centum of his average pay for each year of service after twenty years of service, or, in the case of a member who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, after twenty-five years of service, except that such annuity may not exceed 80 per centum of the average pay of such member.

"(2)(A) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department (other than a member who retires under subsection (f), (g), or (h)) may elect, at the time of his separation, to receive a refund of the amount of deductions made from his salary under this section. Receipt of such refund by the member shall void all annuity rights under this section.

"(B)(i) Any member who, by electing to receive a refund under subparagraph (A), loses annuity rights under this section, may reestablish all such rights at any time prior to attaining the age of fifty-five by redepositing the amount of such refund plus interest computed in accordance with paragraph (3).

"(ii) If any member who receives a refund under subparagraph (A) is subsequently reappointed to any department whose members come under this section and elects, at the time of such reappointment, to redeposit the amount refunded to him under subparagraph (A) plus interest computed in accordance with paragraph (3), then credit shall be allowed under this section for such member's prior period of service. Such redeposit (and the required interest thereon) may, at the election of the member, be made in a lump sum or in not to exceed sixty monthly installments, except that if the member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.

"(3) The interest which is required by paragraphs (2)(B)(i) and (ii) of this subsection and by paragraph (2)(B) of subsection (d) to be paid by a member who redeposits the amount of previously refunded deductions shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund if he makes a lump sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on redeposits under this section.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund.

"(C) If a member elects to make his redeposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

(2) Subsection (k) of such Act (D.C. Code, 4–531), as amended by section 206 of this Act, is further amended—

(A) in paragraph (2)—

(i) by striking out "or" in the first place it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,";

(B) in paragraph (3)—

(i) by striking out "or" the second place it appears, and

(ii) by inserting "or of any member entitled to receive an annuity undersubsection (l) (regardless of whether such member is receiving such annuity at the time of death),' immediately after "after retirement,"; and

(C) in paragraph (6)—

(i) by striking out ", may," in the first sentence and inserting in lieu thereof "may".

(ii) by inserting ", and any member entitled to receive an annuity under subsection (l) of this section may at the time such annuity commences," immediately after "such retirement," in the first sentence.

(iii) by striking out "the retired annuitant" in the first sentence and inserting in lieu thereof "such member's".

(iv) by striking out "the retiring" in the proviso in the first sentence and inserting in lieu thereof "such".

(v) by striking out "retiring" in the second and fourth sentences.

(vi) by striking out "retirement" in the last sentence and inserting in lieu thereof "election", and

(vii) by striking out "or (h)" in the last sentence and inserting in lieu thereof "(h), or (l), as the case may be".

(b) The amendments made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON REFUNDS AND ON DEPOSITS FOR PRIOR SERVICE CREDIT

SEC. 208. (a)(1) Subsection (d) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–524) is amended—

(A) in paragraph (2)—

(i) by striking out "Any member coming under the provisions of this section" and inserting in lieu thereof "(A) any member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division,"; and

(ii) by adding at the end of such paragraph the following new subparagraph,

"(B) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia with less than five years of police or fire service who is separated from his department, except for retirement under subsection (f), (g), or (h), shall be refunded the amount of the deductions made from his salary under this section. The receipt of payment of such deductions by such member shall void all annuity rights under this section, except that if such member is subsequently reappointed to any department whose members come under this section and such member elects, at the time of such reappointment, to redeposit the amount refunded to him pursuant to the preceding sentence plus interest computed in accordance with subsection (l)(3), then credit shall be allowed under this section for the prior period of service. Such redeposit (and the interest required thereon) may be made, at the election of the member, in a lump sum or in not to exceed sixty monthly installments, except that if such member dies before depositing the full amount due under the preceding sentence, the requirements of such sentences shall be deemed to have been met.";

(B) in the proviso at the end of paragraph (3), by inserting immediately before the period ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto"; and

(C) in paragraph (4)—

(i) by striking out "after retirement", and

(ii) in the proviso at the end of such paragraph by inserting ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto" immediately before the period.

(2) Paragraph (5) of subsection (c) of such Act (D.C. Code, sec. 4–523(5) is amended to read as follows:

"(5)(A) A member shall be allowed credit for government service performed prior to appointment in any of the departments mentioned in subsection (a)(1) of this section, if such member deposits a sum equal to the entire amount, including interest (if any), refunded to him for such period of government service. A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall deposit such sum, plus interest computed in accordance with subparagraph (B), with the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act. All other members shall deposit such sums with the Mayor of the District of Columbia for credit to the revenues of the District of Columbia. If the member so elects, he may deposit the total amount of such refund in monthly installments not exceeding twenty-four, except that in the case of a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, such monthly installments shall be of equal amounts. No deposit shall be required for days of unused sick leave credited under subsection (h) of this section.

"(B) Interest required on deposits under this paragraph for members who are officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be computed as follows:

"(i) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits under this paragraph.

"(ii) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(iii) If a member elects to make his deposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

The amendments made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act. The amendments made by paragraph (2) of subsection (a) shall not apply with respect to deposits made, in whole or in part, prior to the end of such ninety-day period.

COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

SEC. 209. (a) (1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (m) through (s), as redesignated by section 207 (a) (2) (A) of this Act, as subsections (n) through (t), respectively; and

(B) by inserting immediately after subsection (l), as added by the amendment made by section 207(a) (1) (B) of this Act, the following new subsection:

"COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

"(m) (1) Each month the Mayor of the District of Columbia shall determine the per centum change in the price index. On the basis of this determination, and effective the first day of the third month which begins after the price index shall have equaled the rise of at least 3 per centum for three consecutive months over the price index for the base month each annuity payable under this section which—

"(A) is payable to a survivor of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, and

"(B) has a commencing date on or before such effective date,

shall be increased by 1 per centum plus the per centum rise in the price index. For purposes of this paragraph, the term 'base month' means the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under this paragraph, except that, until the first cost-of-living annuity increase under this paragraph, the base month shall be the last month which was the base month for purposes of subsection (k) (7) before its repeal by section 209(b) of the District of Columbia Retirement Reform Act.

"(2) With respect to any annuity payable under this section which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, or to a survivor of any such member, the Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(3) If in any year the per centum change determined under either paragraph (2) (A) or (2) (B) indicated a rise in the price index, then—

"(A) in the case of an increase under paragraph (2) (A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum, or

"(B) in the case of an increase under paragraph (2) (B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.

"(4) The monthly installment of annuity after adjustment under this subsection shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least $1.

"(5) For purposes of this subsection, the term 'price index' means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics.".

(2) Subsections (m) (2) and (3) of the Policemen and Firemen's Retirement and Disability Act, as added by the amendment made by paragraph (1) (B) of this subsection, shall apply (A) to any increase after the effective date of such amendment in annuities payable under subsection (k) of such Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change for the purpose of such an increase, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month which was the base month for purposes of subsection (k) (7) of the Policemen and Firemen's Retirement and Disability Act before the repeal of such subsection by subsection (b) of this section, and (B) to any increase in each annuity payable under such Act having a commencing date after the effective date of such amendment.

(b) Subsection (k) (7) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531(7)) is repealed.

(c) Section 301 of the District of Columbia Police and Firemen's Salary Act of 1953 (D.C. Code, sec. 4–518) is amended by adding at the end thereof the following new subsection:

"(e) This section shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who retire after the effective date of this subsection.".

(d) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

AUTHORITY TO WAIVE COLLECTION OF OVERPAYMENTS

SEC. 210. Subsection (o) of the Policemen and Firemen's Retirement and Disability Act, as amended by section 205(c) of this Act and redesignated by section 209(a) (1) (A) of this Act (D.C. Code, sec. 4–533), is amended by adding at the end thereof the following new paragraph:

"(3) Except in a case of fraud against the District of Columbia, the Mayor may waive collection of any amount less than $100 which was paid to an annuitant in excess of the amount to which such annuitant was entitled under this section.".

COMMENCING DATE OF PAYMENT OF ANNUITIES

SEC. 211. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a) (1) (A) "accrues monthly" in paragraph (1) the following: "(except that an annuity accrues over any portion of a month after the commencing date of such annuity but before the first day of the next month and is payable for such month in an amount pro rated in a manner to be determined by the Mayor)".

PAYMENT OF ANNUITIES TO MINORS AND MENTAL INCOMPETENTS

SEC. 212. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a) (1) (A) of this Act and amended by section 211 of this Act (D.C. Code, sec. 4–534), is amended by redesignating paragraph (2) and (3) of such subsection as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Mayor, is responsible for the care of the claimant, and the payment bars recovery by any other person.".

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

COST-OF-LIVING ADJUSTMENTS OF TEACHERS' ANNUITIES

SEC. 251. (a) (1) Section 21(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–739a(b)), is amended to read as follows:

"(b) (1) The Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the per centum change determined under paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum, or

"(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.".

(2) The amendment made by paragraph (1) shall apply to any increase after the effective date of such amendment in annuities payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, or from the District of Columbia Teachers' Retirement Fund established by section 123(a) of this Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month before such effective date for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under section 21(b) of such Act of August 7, 1946, as in effect immediately before the amendment of such section by paragraph (1).

(b) Section 21(c) of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-739a(c)), is amended—

(1) by striking out "governed by the commencing date of each annuity payable from the fund as of the effective date of an increase" and inserting in lieu thereof "as provided in subsection (b)(2)"; and

(2) by striking out "from the fund" in paragraph (1) of such section.

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

COST-OF-LIVING ADJUSTMENTS OF JUDGES' ANNUITIES

SEC. 252. (a) Section 11-1571(a) of title 11 of the District of Columbia Code is amended by inserting ", or who, before the next such increase first becomes payable under such section, receives such salary or annuity, either immediately after "salary or annuity".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON TEACHERS' REFUNDS AND DEPOSITS

SEC. 253. (a)(1) The first section of the Act entitled "An Act for the retirement of a public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-721) is amended—

(A) in the first paragraph by inserting "or the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately before the period at the end of the proviso in the second sentence; and

(B) in the second paragraph—

(i) in the first sentence—

(I) by striking out "at 3 per centum per annum compounded as of December 31 of each year" and inserting in lieu thereof "computed in accordance with section 24(a) of this Act" and

(II) by striking out "an interest rate of 3 per centum per annum compounded annually" and inserting in lieu thereof "the interest rate computed in accordance with section 24(a) of this Act"; and

(ii) in the second sentence, by inserting "to the date of such death or separation or the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "are made".

(2) Section 1A(b) of such Act (D.C. Code, sec. 31-721a(b)) is amended by striking out "with interest at 4 per centum compounded annually" in the first sentence and inserting in lieu thereof ", with interest computed in accordance with section 24(b) of this Act,".

(3) Section 8 of such Act (D.C. Code, sec. 31-728) is amended in the first paragraph—

(A) in the second proviso in the sixth sentence—

(i) by striking out "the accumulated contributions and interest" and inserting in lieu thereof "(1) the accumulated contributions", and

(ii) by inserting immediately before the colon at the end of such proviso ", and (2) interest thereon computed in accordance with section 24(b) of this Act"; and

(B) in the seventh sentence, by striking out "with interest at 3 per centum per annum compounded annually".

(4) Section 9(a) of such Act (D.C. Code, sec. 31-729(a)) is amended—

(A) in the first proviso—

(i) by inserting "(computed to the date of separation or the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "thereon", and

(ii) by inserting "(computed to the date of separation or the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "interest" the second time it appears;

(B) in the second proviso, by inserting "(including the interest thereon) plus interest computed in accordance with section 24(c) of this Act" immediately before the colon at the end of such proviso; and

(C) in the third proviso, by striking out ", with interest at 3 per centum compounded annually".

(5) Section 10(f)(3) of such Act (D.C. Code, sec. 31-730(f)(3)) is amended by inserting after "interest" the first time it appears ", earned prior to the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act.".

(6) Such Act is further amended by adding at the end thereof the following new section:

"SEC. 24. (a) For purposes of determining the amount available to purchase an annuity under the second paragraph of the first section of this Act, interest shall be deemed to accrue on deposits at the following rates for the following periods:

"(1) Prior to the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, interest shall accrue at the rate of 3 per centum per annum compounded as of December 31 of each year.

"(2) For the period beginning at the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and ending on September 30, 1981, interest shall accrue at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum).

"(3) After October 1, 1981, interest shall accrue at an annual rate which (as determined by the Mayor of the District of Columbia) is equal to the average annual rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund established by section 123 of the District of Columbia Retirement Reform Act.

"(b) Interest required on deposits under section 1A or 8 of this Act or under the Act of June 27, 1960, shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

"(c) Interest required on deposits under section 9(a) of this Act shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.".

(b) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31–745), is amended—

(1) by striking out "and interest"; and

(2) by inserting immediately before the colon at the beginning of the proviso "plus interest computed in accordance with section 24(b) of such Act of August 7, 1946".

(c) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON JUDGES' REDEPOSITS

SEC. 254. (a) Subchapter III of chapter 15 of title 11 of the District of Columbia Code is amended—

(1) in section 11–1561—

(A) in paragraph (9)(C), by inserting immediately before the semicolon at the end thereof "or the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier", and

(B) in paragraph (10)(C), by inserting immediately before the semicolon at the end thereof "or the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier"; and

(2) in section 11–1569(c), by inserting "or the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "such judge" and before the comma.

(b) Such subchapter III is further amended—

(1) in section 11–1563(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11–1564(d)(2)";

(2) by amending section 11–1564(d)(2) to read as follows:

"(2) Interest on deposits under this subsection and section 11–1567(b) shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Judges' Retirement Fund (established by section 124 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he make installment deposits, except that—

"(i) for so much of any such period which occurs between the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits;

"(ii) for so much of any such period which occurs between January 1, 1948, and the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits; and

"(iii) for so much of any such period which occurs prior to January 1, 1948, the rate of 4 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(C) If a judge elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

Interest may not be charged for a period of separation from the service which began before October 31, 1956."; and

(3) in section 11–1567(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11–1564(d)(2)".

(c) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

RESTORATION OF TEACHERS' ANNUITIES IN THE EVENT OF PREDECEASED BENEFICIARIES

SEC. 255. (a) Section 5(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia" approved August 7, 1946 (D.C. Code, sec. 31–725(b)), is amended by adding at the end thereof the following new paragraph:

"(4) In the event an individual designated as a surviving widow or widower or as a survivor annuitant under this subsection predeceases the teacher designating such individual, the annuity of such teacher shall, effective the day after the death of such individual, be the amount it would have been if no such beneficiary had been named.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979, or at the end of the ninety-day period beginning on the date of the enactment of this Act, whichever is later.

TERMINATION OF TEACHERS' DISABILITY ANNUITIES BASED ON OUTSIDE EARNED INCOME

SEC. 256. Section 4 of the Act entitled "An Act for retirement of public school teachers in the District of Columbia" approved August 7, 1946 (D.C. Code, sec. 31–724), is amended by inserting after the second paragraph thereof the following new paragraph:

"Notwithstanding the foregoing provisions of this section, if during any calendar year an annuitant who is receiving a disability annuity under this section and who has not reached retirement age (as defined in section 3) receives income from wages or self-employment, or both, in an amount not less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, the annuity of such annuitant shall be terminated by the Board of Education effective January 1 of the first calendar year after such calendar year, except that this sentence shall not apply with respect to income received during the year in which the annuitant retired. The annuity of any annuitant whose annuity is terminated under the preceding sentence shall be restored, at the rate which would have been in effect but for such termination, effective January 1 of any year following a year during which the amount of such annuitant's income from wages and self-employment is less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, or effective immediately if the Board of Education determines that, outside of normal fluctuations in such annuitant's income, such annuitant's income is reduced to a level which on an annual basis is less than 80 per centum of such current rate of pay.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to.

Mr. EAGLETON. Mr. President, Senator MATHIAS, who joins with me in this effort, and I urge the passage of S. 1037 by the Senate without amendment. This bill contains comprehensive reforms for the District of Columbia pension systems for policemen, firemen, teachers, and judges. It also provides for Federal and District of Columbia payments to establish a fund that will put the District's pension system on an actuarially sound basis.

S. 1037 is, in virtually all substantive aspects, identical to the conference report to H.R. 6536 that was accepted unanimously by the Senate at the end of the 95th Congress last October. Only the year in which the Federal funding will begin—formerly 1979, now 1981—has been changed.

The problems in the District's pension system are substantial, and are due primarily to the actions and inactions of the Federal Government. Congress established the pensions for police officers, firefighters, teachers, and judges in 1916. We passed the legislation defining the benefits. And during the 1960's and early 1970's, Congress mandated that the city hire an additional 2,000 police officers, bringing the total of that force to 5,100-substantially larger than any other city of comparable size. However, Congress never provided for adequate funding of the pension system. By the time the District took over management of its own affairs under home rule in 1975, the projected pension liability for these groups had grown to monstrous proportions.

This unfunded liability, according to our last calculations is estimated at $1.566 billion for police and fire pensions, $798 million for teachers, and $12.5 million for judges—giving a total accrued unfunded liability of over $2.4 billion—assuming current benefits. The District is now funding pension benefits from general revenues on a pay-as-you-go basis, congressionally mandated to be maintained at $61.5 million in face value per year. This method will soon fail to cover pension costs, as the group of additional police officers enter the system, and the full effect of overly generous disability pensions is felt.

Since the Federal Government created and had total responsibility for these pension systems until 1975, the bill responds to the Federal responsibility by authorizing annual payments to the retirement funds to amortize over a 25-year period that portion of the unfunded liability which results from costs for those who retired before the grant of home rule, January 2, 1975. Based on the most recent actuarial valuations available, we determined the unfunded accrued liability for retirees as of the effective date of home rule, incorporating the cost savings anticipated under S. 1037. The amount authorized to be appropriated in this bill would be sufficient to amortize that share of the liability payable after enactment.

Because the Federal Government is largely responsible for the unsound funding, it has a responsibility to place the District on a viable financial basis so that District can assume the costs of future pension payments.

Pension costs for police and firefighters will be 57 percent of payroll in 1979, and under current law would exceed payroll by 1999. To pay more in retirement benefits than in active-duty salaries would be untenable for any city and impossible for the District because of its limited tax base. Nonetheless, as the Nation's Capital, the District must maintain large uniformed services and assure high professional standards through quality recruitment and stable and prudent compensation and retirement benefits.

The city must protect the 1.5 million persons who commute to the District daily, the numerous heads of state and visiting dignitaries, the millions of tourists who visit the Capital annually, and the delegates who come to Washington to petition their Government officials. Essential to these objectives is the need for a reform of present systems to eliminate costly abuses and establish sound funding that will permit the District to sustain trained and skilled public service.

Also, the city's population has declined from 802,000 in 1950 to less than 700,000 today, resulting in a steadily decreasing tax base. Thirty percent of District revenues are budgeted for debt service, welfare payments, and federally mandated programs, and these budget items are rising at the rate of 4 percent a year.

To insure that adequate funds are available to pay the costs of those retiring after 1975, the District will pay net normal cost plus interest on its share of the unfunded liability; a transition period is mandated to prevent massive budget dislocations in the early years of the funding program. This will put the District on an actuarially sound financing schedule from the first year and assure adequate reserves by advance funding to meet future costs.

The other aspect of this legislation—the reform of extravagant and abused disability and service retirement benefits—is equally, if not more, important. Benefits under the existing systems were so generous that the vast majority of retirees could claim disability and get large tax-free pensions. Ten years ago, for example, an astounding 99 percent of retiring firefighters and 98 percent of police officers were receiving disability retirements.

During the same period, the average in other major cities was between 15 and 46 percent. Under the pressure of pending congressional reform and with vigorous tightening of administration by local officials, the percentage has dropped to about 44 percent in the District. This is a considerable and commendable achievement. But the laws themselves must be rewritten. Permissive provisions and swollen benefits must be changed to eradicate the potential for abuse in the future. I would not support the expenditure of one dollar of Federal money without such reforms.

Among the comprehensive changes in retirement benefits are the following, which Senator MATHIAS and I believe will help eliminate abuses and significantly reduce the costs attributable to them:

Requirements for optional retirement. Under present law any fireman or policeman with 20 years of service is eligible for normal retirement. This bill provides that future employees must reach age 50 and have served 25 years to be eligible for normal retirement. The existing 20-year rule remains for current employees.

Under current law, optional retirement benefits are calculated at 2.5 percent of basic pay for each of the first 20 years and at 3 percent of basic pay for each additional year up to 30 years of service. This legislation changes the calculation to 2.5 percent for each of the first 25 years and 3 percent for each year thereafter for future employees. The existing rule remains in effect for current employees.

Disability retirement. Under current law a policeman or fireman may retire on disability if he or she aggravates a disease or injury in the performance of duty, even if the proximate cause of the injury or disease is in doubt or is shown not to be from performance of duties.

The bill removes as a basis for disability retirement, for current and future employees, the aggravation of a preexisting injury or disease not incurred in the line of duty and requires that a disease or injury be reported to the Board of Police and Fire Surgeons when first diagnosed or incurred. If activity in the line of duty is determined to be the proximate cause of disability, a policeman or fireman will be eligible for a duty-connected disability annuity regardless of the existence of any non-duty-related condition. These provisions are not intended to deny disability benefits to any individual who incurs injury or disease in the performance of duty, regardless of a preexisting injury or disease.

Further, this section creates a percentage disability system for computation and payment of annuities for future employees. The Board of Surgeons will determine, within a reasonable time, the percentage of physical or mental impairment of a disability applicant.

The Police and Firefighters Retirement and Relief Board will determine the percentage of disability based on the percentage of impairment determined by the Board of Surgeons, the nature of the injury or disease, the member's position, age, and years of service, and other factors affecting the claimant's ability to earn future income. A claimant's disability pension will be computed as it would have been under existing law but reduced by the percentage disability factor if there is less than total disability. However, a claimant's annuity may not be less than 40 percent of basic pay for service-connected injuries or 30 percent of basic pay for non-service-connected injuries.

Recovery from disability. Under the bill, the 1-year grace period is eliminated and all current and future retirees are required to submit to medical examinations and to file reports of income on an annual basis. Failure to file such reports will result in a suspension in rights to an annuity.

For all members who retire 90 days after enactment, annuities will be reduced based on outside income earned. For each dollar that the total of annuity and earned income exceed 70 percent of the current salary of the last position held, the annuity is reduced by $0.50. Failure to file income reports or willful falsification of such reports will result in a revocation of all present and future rights to an annuity.

Last November, Mr. President, this bill was the victim of a pocket veto by the President. However, during the 96th Congress, the White House has had the opportunity to review new actuarial projections based on the later funding date, to discuss additional administrative reforms with the Mayor's Office, and to take a careful look at the current Federal responsibility for the situation. I am optimistic that the reform bill that emerges from conference this year will receive a better reception at the White House.

Mr. President, these reforms cannot be further delayed. Simply by waiting for

1 more year, the unfunded liability of the District's pension system has grown by hundreds of millions of dollars. The Senate, the House, the District, and the President must act this year to curb the pension abuses and assure those on whom we rely for the safety and security of the Nation's Capital that the legitimate pensions they deserve will be adequately funded.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CENSUS BUREAU SPACE RENTAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 294, S. 1318.

Mr. STEVENS. We have no objection.

There being no objection, the bill (S. 1318) to amend title 13 of the United States Code to provide a limited exemption to the Bureau of the Census from the provisions of section 322 of the Act of June 30, 1932, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter I of chapter 1 of title 13, United States Code, is amended by adding at the end thereof the following new section:

"§ 15. Leases for 1980 decennial census

"The 15 percent limitation contained in section 322 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 278a) shall not apply to leases entered into by the Secretary for the purpose of carrying out the 1980 decennial census, but no lease may be entered into for such purpose at a rental in excess of 105 percent of the appraised fair annual rental of the leased premises, or a proportionate part of the appraised fair annual rental in the case of a lease for less than a year.".

(b) The table of sections for such subchapter is amended by adding at the end thereof the following:

"15. Leases for 1980 decennial census.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 8 o'clock p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 8:25 p.m., when called to order by the Presiding Officer (Mr. BOREN).

ORDER FOR RECESS TO 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if it is agreeable with the distinguished acting Republican whip, and I understand it is, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:45 a.m.—is that right?

The PRESIDING OFFICER. It is 9 o'clock.

Mr. ROBERT C. BYRD. I am a 10 o'clock fellow in a 9 o'clock town.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE ACHIEVEMENTS, 96TH CONGRESS, 1ST SESSION, JANUARY 15–AUGUST 3, 1979

Mr. ROBERT C. BYRD. Mr. President, since the Senate will soon recess until September 5, I invite Members to turn their attention briefly to Senate achievements to date.

During the last 6½ months, the Senate has debated and passed 58 of the 67 authorization bills requiring action this year. In other words, the Senate has already passed over 86 percent of the necessary authorizations. During the last 2 weeks, the Senate has passed six of the regular 1980 appropriation bills. In considering these measures, Senators have dealt with numerous controversial issues. The remaining necessary authorization and appropriation bills will be considered in September before turning to debate on the SALT II Treaty.

With regard to international matters already considered by this body, the Senate passed legislation last week implementing the Panama Canal Treaty of 1977. It agreed to ratification of six conventions clarifying tax matters with four nations and has passed the five major international authorizations. Both the Senate and the House agreed to a reorganization of foreign aid activities and have enacted a special Middle East assistance bill in support of the peace treaty between Egypt and Israel. The Senate has expressed its will with respect to economic sanctions against Rhodesia, aid to Turkey, and development of the MX missile. To improve the efficiency of export licensing and to provide for periodic and systematic review of export policy, the Senate passed a new export control statute superseding the act of 1969. Legislation was enacted approving and implementing the trade agreements negotiated in the Tokyo round of multilateral trade negotiations. These trade agreements include phased tariff reductions, reform of nontariff barriers, certain agricultural agreements, and a framework for reform of the general agreement on tariffs and trade (GATT). The Congress took an important step toward normalizing U.S. relations in the Far East by writing into law a clarification of commercial, cultural, and other unofficial relations with the people on Taiwan in light of U.S. recognition of the People's Republic of China. Extensive televised hearings by the Foreign Relations Committee and the Armed Services Committee on SALT II have given the public and Senators a better understanding of the complex issues involved.

In response to the accident at the Three Mile Island nuclear reactor in Pennsylvania, the Senate recently agreed that nuclear powerplants could be shut down beginning next year in States without emergency response plans approved by the Nuclear Regulatory Commission. Additional planning for nuclear emergencies and improved training of inspectors and operators were required and the authorization for the Nuclear Regulatory Commission was increased to upgrade the quality of nuclear regulation and improve NRC's efficiency and effectiveness.

Other action relating to energy includes congressional approval of the President's standby emergency building temperature restriction contingency plan requiring owners of nonresidential buildings, except for hospitals and certain other designated buildings, to keep thermostat no higher than 65 degrees in the winter and no lower than 80 degrees in the summer. The Senate voted to give the President emergency authority to create a conservation program under which State Governors would be authorized to identify and submit for approval their own plans for the most appropriate methods for conserving energy in their States. The President's modified standby gasoline rationing plan was approved by the Senate but rejected by the House.

Relative to the environment, the Senate authorized funds for 3 years for programs under the Endangered Species Act. It extended authorizations for the Environmental Protection Agency, marine protection programs, ocean pollution research, safe drinking water, solid waste disposal, toxic substances control and noise pollution control. It voted to establish a new program to assist airports and surrounding communities in the development and implementation of noise abatement programs.

For the first time in history, an authorization for the Justice Department was debated and passed by the Senate. Programs under the Law Enforcement Assistance Administration were reauthorized for 5 years.

Earlier this year, the Senate acted again to establish a Cabinet-level Department of Education as a means of strengthening the Federal commitment to education while assuring that the responsibility for education continues to be reserved to the States and local school systems.

In the health field, the Senate has extended five health programs dealing with alcohol abuse and alcoholism prevention, drug abuse and treatment, emergency medical services, health planning, and nurse training.

The ceiling on food stamp expenditures was raised for 1979 because of unanticipated increases in food costs and program participation. Major housing and community development programs were extended for 1 year. The Economic Development Administration authorization bill was passed today which includes important revisions to their programs and those under the Appalachian Regional Development Act.

At the outset of the 96th Congress, the Senate made changes to the Standing Rules of the Senate necessitated by the increasing use of the cloture rule to delay Senate proceedings after cloture has been invoked. The Senate agreed to a 100-hour cap on time after cloture, while including mechanisms for protecting the rights of Senators to be heard and to offer amendments. These important modifications have helped restore the original intent of cloture to close off dilatory action and have lessened the ability to use the cloture rule to unduly prolong debate. It has allowed the Senate to debate and pass numerous bills dealing with controversial issues.

A more complete listing of the bills passed by the Senate is contained in a report prepared by the staff of the Democratic Policy Committee. I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

SENATE LEGISLATIVE ACHIEVEMENTS INDEX

(Prepared by Senate Democratic Policy Committee, ROBERT C. BYRD, Chairman)

AGRICULTURE

Agricultural Stabilization Services Employee Benefits (S. 383).

Agricultural Subterminal Storage Facilities (S. 261).

Consolidated Farm and Rural Development Loans (S. 985).

FIFRA (S. 717).

Peanut Marketing Penalty Reduction (S. 984, P.L. 96-31).

Rural Development Loans; Pilot Energy Projects (S. 892).

Rural Development Policy (S. 670).

School Nutrition Programs Study (S. Res. 90).

Wheat Set-Aside (S. Res. 206).

APPROPRIATIONS

1979:
Supplemental (H.R. 4289, P.L. 96-38).
1980:
Agriculture (H.R. 4387).
D.C. (H.R. 4580).
Energy-Water (H.R. 4388).
HUD (H.R. 4394).
Labor-HEW (H.R. 4389).
State-Justice-Commerce (H.R. 4392).

ATOMIC ENERGY AND NASA

NASA Authorization (H.R. 1786, P.L. 96-).

NASA Supplemental Authorization (H.R. 1787, P.L. 96-16).

Nuclear Regulatory Commission Authorization (S. 562).

Territorial Storage of Nuclear Materials (S. 1119).

BUDGET

Deferrals: American Fisheries (S. Res. 50).

Rescissions: First Budget Rescission, 1979 (H.R. 2439, P.L. 96-7).

Resolutions: First Budget Resolution, 1980; Third Budget Resolution, 1979 (H. Con. Res. 107).

CIVIL AND CRIMINAL JUSTICE

Civil Rights Commission (S. 721).

CONGRESS

Congressional Award Program (S. 221).

National Symphony Concerts (H. Con. Res. 114).

CONSUMER AFFAIRS

Consumer Controversies (S. 423).

Motor Vehicle Safety Standards (S. 1159).

Truth-In-Lending (S. 108).

DEFENSE

Coast Guard Authorization (S. 709, P.L. 96-23).

Defense Production (S. 932).

Military Construction Authorization (S. 1319).

Military Procurement (S. 428).

Military Procurement Supplemental (S. 429, P.L. 96-29)

National Defense Stockpile (H.R. 2154, P.L. 96-41).

DISTRICT OF COLUMBIA

D.C. Retirement Benefits (S. 1037).

Temporary Commission on Financial Oversight (H.R. 3879, P.L. 96-27).

ECONOMY-FINANCE

Carson City Silver Dollars (H.R. 1902, P.L. 96-2).

Council on Wage and Price Stability (H.R. 2283, P.L. 96-).

Economic Development—Appalachian Regional Development (S. 914).

Federal Reserve Banks Purchase of U.S. Obligations (H.R. 3404, P.L. 96-).

Financial Privacy Notification Repeal (S. 37, P.L. 96-3).

International Investment Survey (S. 758).

Public Debt Limit—Balanced Budget (H.R. 2534, P.L. 96-5).

Savings and Loan Exemption from Federal Trade Commission (H.R. 3978, P.L. 96-37).

Small Business Employee Ownership (S. 388).

EDUCATION

Department of Education (S. 210).

Educational Technical Amendments (H.R. 4591, P.L. 96-).

Higher Education Amendments (H.R. 4476).

ELECTIONS

Federal Election Commission Authorization (S. 832), (S. 994).

EMPLOYMENT

Employee Retirement Income Security (H.R. 3915, P.L. 96-24).

ENERGY

Department of Energy—Military (S. 673).

Domestic Energy Summit Conference (S. Res. 191).

Domestic Oil and Coal Production (S. Res. 175).

Emergency Advertising Lighting Restrictions (S. Res. 123).

Emergency Building Temperature Restrictions (S. Res. 122).

Emergency Energy Conservation (S. 1030).

Oil Company Participation in IEP (S. 1317, P.L. 96-30).

Pipeline Safety (S. 411).

"Severe Energy Interruptions" Definition (S. Res. 151).

Small Hydroelectric Power Plants (S. 948).

Standby Gasoline Rationing Plan (S. Res. 120), (S. Res. 153).

Tennessee Valley Authority (S. 436).

Three Mile Island Commission (S.J. Res. 80, P.L. 96-12).

ENVIRONMENT

Endangered Species (S. 1143).

EPA Authorization (H.R. 2676).

Industrial Cost Recovery Payment Moratorium (S. 901).

Marine Protection (S. 1140).

National Advisory Committee on Oceans and Atmosphere (H.R. 3577, P.L. 96-26).

Ocean Pollution (S. 1123).

Ocean Pollution (S. 1148).

Ocean Pollution Research and Development (H.R. 2520, P.L. 96-17).

Quiet Communities (S. 144).

Safe Drinking Water (S. 1146).

Solid Waste Disposal (S. 1156).

Toxic Substances Control (S. 1147).

FISHERIES

Anadromous Fish Conservation (S. 838).

Fishery Conservation and Management (S. 917).

GENERAL GOVERNMENT

Archaeological Resources Protection (H.R. 1825).

1980 Census (S. 1318).

FBI Intelligence Activities Authorization (S. 1512).

Federal Fire Prevention and Control (S. 1160).

Federal Procurement Policy (S. 756).

Intelligence Activities Authorization (S. 975).

International Affairs of Treasury (S. 976, P.L. 96-).

National Science Foundation Authorization (H.R. 2729, P.L. 96-).

National Tourism Policy (S. 1097).

President's Commission on Pension Policy (S. 532, P.L. 96-14).

Smithsonian Authorization (S. 927, P.L. 96-36).

Smithsonian Canal Zone Biological Area (S. 817).

U.S. Travel Service (S. 233).

GOVERNMENT EFFICIENCY AND REORGANIZATION

Alaska Gas Pipeline Reorganization (S. Res. 126).

Ethics in Government Amendments (S. 869, P.L. 96-28).

GOVERNMENT EMPLOYEES

Federal Employee Health Benefits (S. 716).

Federal Employee Participation in Pan-American and Olympic Games (S. 387).

HEALTH

Alcohol Abuse and Alcoholism Prevention (S. 440).

Drug Abuse and Treatment (S. 525).

Emergency Medical Services—Sudden Infant Death (S. 497).

Health Planning (S. 544).

HEW Home Health Services Report (S. Res. 179).

Nurse Training (S. 230).

State Health Planning Agencies (H.R. 4556, P.L. 96-33).

HOUSING

Housing and Urban Development (H.R. 3875).

INDIANS

Navajo-Hopi Relocation Commission (H.R. 3661, P.L. 96-40).

INTERNATIONAL

Ambassador to Afghanistan (S. Res. 106).

Arms Control and Disarmament Agency (H.R. 2774).

Economic Assistance Review (S. Res. 92).

European Parliament (H. Con. Res. 159).

International Development Assistance—Food for Peace (H.R. 3324).

International Security Assistance—Arms Export Control (H.R. 3173).

International Wheat Exporters Conference (S. Res. 163).

Iranian Human Rights (S. Res. 164).

Mideast Arms Sales (S. 1007, P.L. 96-35).

Multilateral Development Banks (S. 662).

NATO (H.J. Res. 283, P.L. 96-9).

Nazi War Criminals (S. Res. 99).

Panama Canal Implementation (H.R. 111).

Peace Corps Authorization (S. 802).

Reorganization of Foreign Aid Activities (S. Res. 140).

Rhodesian Election Observers (S. Con Res. 8).

State Department Authorization (H.R. 3363).

Taiwan Relations (H.R. 2479, P.L. 96-8).

Ugandan Aid (S. 1019).

U.N. Commission on American MIA's in Southeast Asia (H. Con. Res. 10).

JUDICIARY

Antitrust Procedural Improvements (S. 390).

Attorney Fees (S. 265).

Bankruptcy Code Treatment of Student Loans (H.R. 2807, P.L. 96-).

District Court Relocations (H.R. 2301, P.L. 96-4).

Federal Rules of Criminal Procedures and Evidence (H.R. 4712, P.L. 96–).
Justice Department Authorization (S. 1157).
LEAA Authorization (S. 241).
Speedy Trials (S. 961), P.L. 96–).
Supreme Court Cases—School Prayer (S. 450).
U.S. Attorneys for Eastern District, New York (S. 567).

NATURAL RESOURCES-NATIONAL HISTORIC SITES

Colorado River Basin Salinity Control (S. 496).
Frederick Law Olmsted National Historic Site (S. 495).
Yakima River Basin Feasibility Study (S. 585).

NOMINATIONS

Benjamin R. Civiletti to be Attorney General.
Charles W. Duncan to be Secretary of Energy.
Robert J. Kutak to be Member of Legal Services Corporation.
Frank P. Reiche to be Member of FEC.
Leonard Woodcock to be Ambassador to China.

SENATE

Female Senate Employees (S. Res. 119).
Financial Disclosure Rule Review (S. Res. 117).
Honoraria Limitations (R. Res. 93), (S. Res. 115).
Human Resources Committee Name Change (S. Res. 30).
Post Cloture Rule Changes (S. Res. 61).
Senate Photograph (S. Res. 210).
Senate Witness Fees (S. Res. 178).

SOCIAL SERVICES—WELFARE

Domestic Volunteer Services (ACTION) (S. 239).
Food Stamps (H.R. 4057).
WIC and Other Food Programs (S. 292).

TAXATION

Tax Exempt Mortgage Bonds (S. Res. 188).
Tax Treatment of State Legislators' Residence—Social Services Amendments (H.R. 3091).

TRADE

Export Control (S. 737).
Countervailing Duty Extension (H.R. 1147, P.L. 95–3).
Multilateral Trade Agreements (H.R. 4537, P.L. 96–39).

TRANSPORTATION-COMMUNICATIONS

Amtrak Authorization.
Aviation Safety and Noise Abatement (S. 413).
Hazardous Materials Transportation (S. 1141).
Maritime Authorization (S. 640).
Merchant Marine March (H. Con. Res. 3).
Railroads: Office of Rail Public Counsel (S. 448); Chicago, Milwaukee, St. Paul and Pacific Railroad (S. 957), (S.J. Res. 81); and U.S. Railway Association (S. 447).
Shipping Rebating Practices (S. 199, P.L. 96–199).

TREATIES

Estate and Gift Tax Convention with France (Ex. J, 96–1).
Estate and Gift Tax Convention with the United Kingdom (Ex. R, 96–1).
International Wheat Agreement (Ex. L, 96–1).
Protocol to the Tax Convention with France (Ex. K, 96–1).
Protocol to the Tax Convention with the United Kingdom (Ex. Q, 96–1).
Tax Convention with Hungary (Ex. X, 96–1).
Tax Convention with Korea (Ex. P. 94–2).

VETERANS

Veterans Health Care (S. 7, P.L. 96–22).
Veterans Health Resources and Programs (H.R. 3892).

AGRICULTURE

Agricultural Stabilization Service Employee benefits: Amends title 5, U.S.C., to allow former county committee employees of the Agricultural Stabilization and Conservation Service, upon obtaining employment in any Federal agency, to transfer certain benefits including entry into any Federal agency at their highest previous salary level, transferral of accumulated annual and sick leave, and crediting of service for the purpose of leave and reduction of force. S. 383—Passed Senate May 22, 1979. (VV)

Agricultural subterminal storage facilities: Amends the Consolidated Farm and Rural Development Act to authorize loans for the construction and improvement of subterminal storage and transportation facilities for agricultural commodities that can be transported in bulk from the farm and temporarily stored in bulk quantities without undergoing processing or packaging, and commodities and products (that can be stored or shipped in bulk) used by producers in the production of agricultural commodities; authorizes $3.33 million for fiscal 1980, 1981 and 1982 to fund Federal planning grants (up to 80 percent of the cost of developing the plan) for the development of State and regional subterminal facilities plans; conditions the availability of planning funds on the establishment of a plan review commission consisting of local producers, local elevator operators, representatives of the affected motor and rail carriers and other interested parties; requires that a majority of the membership of any plan review commission be local producers; and authorizes the Secretary to insure and guarantee loans for the construction and improvement of subterminal facilities with funds allocated for that purpose by the Secretary from the Rural Development Insurance Fund with preference given to existing agricultural elevator operators and local producers in the area to be served by the subterminal facility. S. 261—Passed Senate May 23, 1979. (VV)

Consolidated farm and rural development loans: Amends the Consolidated Farm and Rural Development Act, which authorizes rural development loan programs, to set overall lending limits for fiscal 1980, 1981 and 1982 (pursuant to section 346 of that act which requires that lending limits for the loan programs be set every three years) as follows: for loans under the Agricultural Credit Insurance Fund: real estate loans—$1.615 billion (including $1.5 billion for farm ownership loans of which $1.4 billion is for insured loans, $100 million for guaranteed loans and $100 million for water development, use and conservation loans of which $90 million is for insured loans and $10 million for guaranteed loans); operating loans—$1.2 billion (of which $1.15 billion is for insured loans and $50 million for guaranteed loans); and emergency disaster loans—such amounts as necessary to meet needs resulting from natural disasters; and for loans under the Rural Development Insurance Fund: insured water and sewer loans—$1 billion; business and industrial development loans—$1.5 billion (of which $100 million is for insured loans and $1.4 billion for guaranteed loans); and insured community facility loans—$500 million. S. 985—Passed Senate May 23, 1979. (VV)

FIFRA: Extends the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) for two years, through fiscal 1981, and authorizes therefor $62.25 million for fiscal 1980 which includes funds for the Environmental Protection Agency's research and development program involving exposure to pesticides. S. 717—Passed Senate May 22, 1979. (VV)

Peanut marketing penalty reduction: Authorizes the Secretary of Agriculture, effective with the 1978–81 crops of peanuts, to reduce any penalty assessed against producers who have marketed peanuts in excess of their quota if he determines that the marketing was done unintentionally or unknowingly and the reduction will not impair the effective operations of the program. S. 984—Public Law 96–31, approved July 7, 1979. (VV)

Rural development loans; pilot energy projects: Extends for two years, through fiscal 1981, the annual authorization of $20 million for the rural development extension, rural development research, small farm research and small farm extension programs conducted under title V of the Rural Development Act of 1972; requires the Secretary of Agriculture to provide for additional pilot energy projects for the production of industrial ethanol and gasohol from agricultural commodities and forest products through loan guarantees, not to exceed $500 million and limited to $30 million per project, from the Commodity Credit Corporation; and modifies the Consolidated Farm and Rural Development Act to permit Indian tribal governments to receive Farmers Home Administration disaster assistance loans. S. 892—Passed Senate June 14, 1979. (VV)

Rural development policy: Amends the Rural Development Act of 1972 to require the Secretary of Agriculture to establish and maintain a rural development policy management process in partnership with local and State governments and involving all Federal departments and agencies and major private institutions having policies and programs affecting the quality of life in rural America, and authorizes therefor $1.5 million annually; repeals the requirement for the submission to Congress of five annual reports on rural conditions and substitutes a requirement that the Secretary prepare and submit to Congress comprehensive 5-year appraisals of rural conditions establishing goals and strategies for a national rural development program; authorizes the Secretary to initiate new and expanded on-going research and development efforts to solve rural development, economic, technological, and social problems; authorizes planning grants of not to exceed $15 million annually to assist in establishing and maintaining the policy management process at the State and local levels; and directs the Secretary to establish and operate, in no less than five rural states, rural information and assistance centers as demonstration projects to provide current data and information on existing Federal programs and other related financial, eligibility, and statistical information. S. 670—Passed Senate June 14, 1979. (VV)

School nutrition programs study: Requests the Secretary of Agriculture to conduct a study of the school nutrition programs administered under the National School Lunch Act and the Child Nutrition Act of 1966 including: (1) program costs; (2) income of participating families; (3) use of the programs for nutrition education purposes; (4) contribution of the programs to the agricultural economy; (5) income verification procedures; and (6) the need for legislative changes; and requests the Secretary to report to Congress on the progress of the study by January 31, 1980, and to submit a final report by March 31, 1981. S. Res. 90—Senate agreed to June 20, 1979. (VV)

Wheat set-asides: Urges the Secretary of Agriculture to establish a minimum wheat set-aside for the 1980 crop year of not less than five percent of the 1980 wheat acreage. S. Res. 206—Senate agreed to July 30, 1979. (VV)

APPROPRIATIONS—FISCAL 1979

Supplemental: Makes Supplemental appropriations totaling $13,783,822,100 for fiscal 1979 which includes funds for the activities of nearly every governmental department and agency and to meet increased pay costs; includes $2,412,228,100 for increased pay costs for military and civilian personnel; $900 million for the food stamp program; $116,500,000 for the child nutrition program; $194,000,000 for disaster relief; $185,000,000 for NASA research and development: $1,129,400,000 for VA compensation and pensions; $301,700,000 for VA readjustment benefits; $554,429,000 for Medicaid; $243,189,000 for the student loan insurance fund; $188,548,000 for grants to States for social and child welfare services; $162,000,000 for the Corporation for Public Broadcasting; $108,910,000 for migration and refugee assistance; $1,018,000,000 for SBA disaster loans; $119,000,000 for Amtrak; $239,000,000 for Conrail; $335,355,000 for the Civil Service retirement and disability fund; $1,470,000,000 for the Middle East peace treaty; $190,000,000 for the M–X missile; and $1,353,000,000 for the purchase of 4 DD6–993 destroyers; reduces the interest rate on SBA disaster loans for disasters occurring between October 1, 1978, and October 1, 1982, to homeowners at 3 percent for the first $55,000 and to businesses who are unable to obtain sufficient credit elsewhere to no more then 5 percent; and increases to $235,375,000 the overall ceiling on military assistance program funds. H.R. 4289—Public Law 96–38, approved July 25, 1979. (151)

APPROPRIATIONS—FISCAL 1980

Agriculture: Appropriates $16.6 billion in new budget authority for Agriculture, Rural Development and Related Agencies for fiscal 1980;

Contains $4.85 billion for agricultural programs, including $571 million for Federal and Cooperative Research, $274.8 million for Extension Activities, $248.2 million for disease and pest control, $278.4 million for meat and poultry inspection, and $3.06 billion for prior year Commodity Credit Corporation (CCC) losses: allows CCC loan guarantees for gasohol projects for up to $500 million;

Contains funding for Rural Development programs, including loan authorizations through several revolving loan funds, as follows: $4.1 billion for rural housing loans, $2.4 billion for agricultural loans (including $870 million for farm ownership and $875 million for farm operating), $2.1 billion for various rural development loans, and $1.1 billion for telephone and electric loans of the Rural Electrification Administration (REA);

Provides funding for eight different rural development grants programs, including $300 million in grants for rural water and waste disposal systems and funding for staffing expenses of the Farmers Home Administration and REA to administer these programs;

Includes in the conservation area $272 million for technical assistance provided by the Soil Conservation Service and $162.5 million for watershed operations; $32 million for a Resource Conservation and Development program; $75 million for a Nonpoint Source Pollution Control program; and $190 million for the Agricultural Conservation Program;

Contains $8.5 billion for domestic feeding programs and $1.8 billion in transfers to be used for these programs; $3.1 billion for child nutrition programs; $6.2 billion for food stamps; $771.5 million for special supplemental food programs; and $142 million for special milk;

Contains $719.4 million for international programs, including $660.7 million for Public Law 480, Food for Peace, which includes $222 million for titles I and III credit sales and $438.7 million for title II loan programs; provides an additional $58.7 million for these programs by the transfer of unobligated prior year balances;

Contains $353.5 million for the Food and Drug Administration and the Commodity Futures Trading Commission;

General Provisions: Permits appropriations to remain available until expended for the following accounts: Scientific Activities Overseas special foreign currency program; Public Law 480; Rural Housing for Domestic Farm Labor; Mutual Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development and Buildings and Facilities, Food and Drug Administration; and states that funds provided by this act for personnel compensation and benefits shall be available for obligation for that purpose only with excess funds to revert to the Treasury without the need for rescission. H.R. 4387—Passed House June 19, 1979; Passed Senate amended July 19, 1979; Senate requested conference July 19, 1979. (191)

District of Columbia: Appropriates $385,121,500 in Federal funds (which includes $500,000 for the Federal share of the expenses of the Temporary Commission on Financial Oversight) and $1,561,110,200 in District of Columbia Funds for fiscal 1980 making a total of $1,946,231,700 available for the operations and activities of the District of Columbia; allocates the Federal appropriations as follows: Federal payment, $249.1 million; payment in lieu of reimbursement for water and sewer services to Federal facilities, $10.5 million; and loans for capital investment, $125 million; allocates D.C. funds as follows: government direction and support, $64.8 million; economic development and regulation, $16 million; public safety and justice, $296.1 million; public education system, $317.3 million; human support services, $350.4 million; transportation services, $92.8 million; environmental services, $79.2 million; personal services, $58.3 million; repayment of loans and interest, $120.4 million; and capital outlays, $165.3 million; denies the request to establish the Educational Institution Licensure Commission and the Commission of Healing Arts Licensure as independent bodies; establishes guidelines, effective October 1, 1980, for the reprogramming of funds in excess of $100,000 or resulting in an annual 10 percent increase or decrease in any program, which calls for Congressional approval within 30 calendar days of a written request unless this time is extended by the Committee; increases the mileage allowance for privately owned automobiles and motorcycles used on official business; expands the personnel ceiling to include revolving fund positions and the reimbursable positions requested by the city for a total ceiling of 38,230 and specifically designates 34,003 appropriated positions; requires the fiscal 1981 budget to be submitted by February 1, 1980; deletes two sections in the House bill limiting funds for abortions; gives the Temporary Commission on Financial Oversight authority to appoint and remove staff; makes $500,000 available for the settlement of property damage claims not exceeding $1,500 each; and excepts vehicles used for police, firefighting and fire prevention activities from the established price ceilings for government vehicle procurement. H.R. 4580—Passed House July 17, 1979; Passed Senate amendment July 27, 1979; Senate requested conference July 27, 1979. (230)

Energy-water: Appropriates $10,829,015,000 for energy and water development programs for fiscal 1980; includes $6,538,544,000 for the Department of Energy except for fossil fuel programs and certain conservation and regulatory programs; requires a $6.88 million reduction in funds for the Department of Energy to force curtailment of their consumption of gasoline and diesel fuel for motor vehicles; includes $2,794,576,000 for the Department of the Army Civil Functions—U.S. Army Corps of Engineers' Civil Works program; includes $597,553,000 for the Department of the Interior's Bureau of Reclamation; includes $898,342,000 for related independent agencies and commissions including the Appalachian Regional Commission and Appalachian Regional Development programs, the Nuclear Regulatory Commission, the Tennessee Valley Authority, and the Water Resources Council; and includes $57,480,700 to complete the Hart Senate Office Building; sets a $142,627,700 ceiling on total construction costs for the building; and provides, upon completion of the Hart building, for the expeditious removal of personnel, equipment, and furnishings from the Carroll Arms, Senate Courts, Plaza Hotel and Capitol Hill Apartments, which buildings shall remain unoccupied by the Senate until demolished. H.R. 4388—Passed House June 18, 1979; Passed Senate amendment July 18, 1979; Conference report filed. (185)

HUD: Appropriates a total of $72.1 billion in new budget authority for the Department of Housing and Urban Development, Environmental Protection Agency, National Aeronautics and Space Administration, National Science Foundation, Department of Treasury, Veterans Administration and 16 others agencies, commissions, boards, corporations, institutes and offices for fiscal 1980;

HUD—$33.6 billion as follows: Housing Programs, $28.5 billion; Community Planning and Development, $4.7 billion; Neighborhoods, Voluntary Associations and Consumer Protection, $22 million; Policy Development and Research, $50.3 million; Fair Housing and Equal Opportunity, $3.7 million; Management and Administration, $281 million;

Independent Agencies—$38.4 billion including American Battle Monuments Commission, $7.6 million; Consumer Product Safety Commission, $40.6 million; DOD-Civil, $7.6 million; Environmental Protection Agency, $4.6 billion; Executive Office of President, $5.7 million; Federal Emergency Management Agency, $441.9 million; General Services Administration, $1.3 million; HEW, Office of Consumer Affairs, $1.8 million; National Aeronautics and Space Administration, $4.9 billion; National Commission on Air Quality, $5.5 million; National Consumer Cooperative Bank, $25.9 million; National Institute of Building Sciences, $750,000; National Science Foundation, $1 billion; Neighborhood Reinvestment Corporation, $12 million; Selective Service System, $7.8 million; Department of Treasury, $6.9 billion; Veterans Administration, $20.3 billion;

General Provisions: Prohibits agency employees from taking annual leave in the course of travel on agency business; prohibits the use of appropriated funds to contract for plant care or watering services; and provides that if construction has begun within six months of the time a construction grant project is approved, no additional EPA requirements may be issued. H.R. 4394—Passed House June 27, 1979; Passed Senate amended July 27, 1979; In conference. (232)

Labor-HEW: Appropriates $72,993,245,000 for fiscal year 1980 for the Departments of Labor, Health, Education, and Welfare and related agencies;

Department of Labor: Appropriates a total of $11,183,225,000, including: $6,423,055,000 for public service employment and special programs for the economically disadvantaged, unemployed and underemployed persons, such programs as the Job Corps, summer youth employment and year-round employment initiatives; $1.485 billion for public service jobs for the structurally unemployed to support an average of 250,000 public service jobs, with 267,000 enrollees expected to be on board by the end of fiscal 1980; $1.627 billion for countercyclical public service jobs for low-income, long-term unemployed which will support 200,000 public service jobs by the end of fiscal 1980; prohibits the use of funds to enforce Occupational Safety and Health Act (OSHA) regulations with respect to employers of ten or fewer full-time employees who have an occupational injury incidence rate less than seven per 100 full-time employees and who had an incidence rate of less than six lost workdays due to occupational injury per ten full-time employees; prohibits the use of funds to inspect a business which has been inspected within the preceding six months; prohibits the use of funds for worker training requirements of the Mine Safety and Health Act for shell dredging, sand, gravel, stone, surface, clay, colloidal phosphate or limestone mine employers;

Department of Health, Education and Welfare: Appropriates a total of $60,261,626,000 including $3,367,575,000 for the various National Institutes of Health;

Prohibits the use of funds to perform abortions except where the life of the mother would be endangered if the fetus were carried to term or except for the victims of rape or incest which have been promptly reported or except where severe and long-lasting physical health damage to the mother would result as determined by two physicians;

Prohibits the use of funds by HEW in connection with the enforcement of racial or sexual quotas in admissions to educational institutions;

Related agencies: Appropriate a total of $1,548,394,000 which includes funds for the Community Services Administration, Railroad Retirement Board, National Labor Relations Board, Corporation for Public Broadcasting and ACTION. H.R. 4389—Passed House June 28, 1979; Passed Senate amended July 20, 1979; Conference report filed. (204)

State-Justice-Commerce: Appropriates $8,253,334,000 in new budget authority for the Departments of State, Justice, Commerce and the Judiciary and related agencies for fiscal 1980;

Department of State: Appropriates therefor $1,375,387,000; establishes a new appropriation for the payment to the American Institute in Taiwan which consolidates all the funding of the continuing U.S. interest on Taiwan; provides for expenses connected with the Middle East Peace negotiation which is offset by deducting the funds budgeted for wage increases for foreign national employees exceeding 7 percent;

Department of Justice: Appropriates therefor $2,402,722,000 including funds for: the State and local drug task forces, the 81 additional positions authorized for the Criminal Division, the 35 additional positions for the Civil Rights Division, and 75 of the 131 additional positions authorized for the Land and Natural Resources Division; the full $584,408,000 authorized for the FBI; a major expansion of the Border Patrol to deal with illegal aliens; $486,463,000 for the new Office of Justice Assistance, Research and Statistics which replaces the former Law Enforcement Assistance Administration (LEAA) including funding of the juvenile justice and delinquency prevention program at its current $100 million level;

Department of Commerce: Appropriates therefor $2,085,142,000 including $614.4 million for the 1980 decennial census that fully restores the local review program; continues the U.S. Travel Service at a reduced rate and provides increased funding for the National Oceanic and Atmospheric Administration including retention of 22 part-time weather service stations; increases the Patent Office budget by $4.4 million to maintain current pendency between the time applications are filed and approved; includes $23,705,000 for the educational television station facilities within the amount for the National Telecommunications and Information Administration; and includes funds for three dry bulk carriers requested by the Maritime Administration;

Judiciary: Appropriates therefor $592,806,000 which reflects the funds required for the 152 new judgeships authorized in the 95th Congress and the staff and associated expenses to support them; and includes $3 million for new bankruptcy courts;

Related agencies: Appropriates therefor $1,797,277,000 including $18.7 million for the Arms Control and Disarmament Agency, $11.37 million for the Commission on Civil Rights, $125 million for the Equal Employment Opportunity Commission, $11,217,000 for the Federal Maritime Commission, $4.273 million for the Office of Special Representative for Trade Negotiations, $3,335,000 for the U.S. Metric Board, $73,255,000 for expenses of the Federal Communications Commission, $291.8 million for the Legal Services Corporation, and $657.3 million for the Small Business Administration. H.R. 4392—Passed House July 12, 1979; Passed Senate amended July 24, 1979; Conference report filed. (216)

ATOMIC ENERGY AND NASA

NASA authorization: Authorizies $4,961,000,000 for the National Aeronautics and Space Administration for fiscal 1980 of which $3,838,500,000 is for research and development, $157,600,000 is for construction of facilities including the space shuttle, and $964,900,000 for research and program management; contains the following authorizations for new initiatives to meet future needs in space and technology: $2 million for development of a solid state, multispectral resource sampler for remote sensing applications; $9 million for technology of variable cycle aircraft engines; $5 million for a program in advanced rotocraft technology directed at maintaining U.S. leadership in this aircraft technology; $3 million for an increased effort on the development of advanced space structures; and $2 million to support additional activities to identify and verify potential contributions to national energy needs; requests the Administrator to submit, by October 1, 1979, a final report to Congress on the management and financial assessments of the space transportation system in conjunction with resumption of production of the fifth orbiter; calls for internal reallocation of $1 million for advanced programs in the space flight operations program for definition studies of a large deployable antenna, including planning for multiagency participation in a demonstration project; authorizes cost variations up to 10 percent of the sums authorized for the construction of facilities or up to 25 percent with Congressional notification and permits certain reprograming of research and development funds to the construction category; expresses the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds when feasible and that NASA should explore such distribution of its research and development funds; increases from $5,000 to $25,000 the amount by which NASA may settle or adjust claims for actions resulting from the conduct of its functions; and authorizes the Administrator to provide liability insurance to any user of a space vehicle to compensate them for third party claims for damage resulting from described activities. H.R. 1786—Public Law 96, approved 1979. (VV)

NASA supplemental authorization: Authorizes $185 million in fiscal 1979 supplemental funds to NASA for research and development in connection with the space shuttle program which when added to the $1,443,400,000 appropriated would provide a total authorization of $1,628,300,000 for the program. H.R. 1787—Public Law 96–16, approved June 4, 1979. (VV)

Nuclear Regulatory Commission authorization: Authorizes $395.3 million for fiscal 1980 for the Nuclear Regulatory Commission (NRC) which includes $57.04 million for nuclear reactor regulation; $41.2 million for inspection and enforcement; $14.27 million for standards development; $29.605 million for nuclear material safety and safeguards; $210.57 million for nuclear regulatory research; $14.925 million for program technical support; and $30.69 million for program direction and administration;

Provides a reprogramming mechanism applying to any reallocation resulting in increasing or decreasing the amount allowed for an office by more than $500,000 which requires prior notification to the appropriate Congressional committees;

Directs NRC to expand its resident inspector program to require one inspector at each operating reactor unit and at each unit undergoing pre-operational testing, in addition to an inspector assigned at each facility site; calls for a GAO study of the advantages of expanding the resident inspector program and/or of expanding the regional inspection program; requires NRC to promulgate demographic requirements within 180 days for the siting of nuclear facilities;

Authorizes a $700,000 increase over NRC's request for the nuclear waste management program to implement the Uranium Mill Tailing Radiation Control Act of 1978 (Publice Law 95–604); authorizes NRC's request of $6.7 million for nuclear waste activities within the Office of Nuclear Regulatory Research; prohibits redirection of these funds through reprogramming;

Designates $4.4 million to continue the program of research into improved safety systems for nuclear power plants and prohibits reduction of this amount through reprogramming;

Adds $400,000 for eight additional positions in the Division of Contracts, Office of Administration, to address contract monitoring and close out deficiencies at NRC; requires the establishment of a Senior Contracts Review Board to review and approve all arrangements with other Federal agencies, all contracts for research services, and modifications to existing contracts and arrangements, in amounts greater than $500,000 and requires NRC approval for amounts greater than $1 million;

Amends the Atomic Energy Act of 1954 to increase from $5,000 to $10,000 the amount of civil penalty which may be imposed for a single violation and to eliminate the $25,000 ceiling on the amount of penalty which may be assessed for continuing violations; extends criminal penalties to any individual who knowingly and willfully violates NRC safety standards that govern construction or operation of a nuclear plant;

Requires NRC to enter into a contract for an independent study of its management structure, process, procedures and operation for submission to the Congress within one year;

Prohibits, effective upon enactment, the issuance of a license for a new nuclear generating facility unless NRC is satisfied that the State emergency response plan for that facility adequately protects the public health and safety; gives each State having a licensed facility up to nine months to obtain NRC approval of its emergency plan or face an order directing the shut-down of plants; directs NRC to promulgate minimum requirements for State plans within nine months and, pending promulgation of these requirements, to rely on the guidelines employed in the voluntary concurrence program in assessing the adequacy of State plans; requires NRC to implement measures to safeguard the public health for facilities without approved State plans;

Directs NRC, within six months, to promulgate by rule a plan for responding to an "extraordinary nuclear occurrence", as defined in the Atomic Energy Act;

Requires the President to prepare, publish and periodically revise, a national contingency plan to protect the public health and safety in case of extraordinary nuclear occurrence which would include designation of an interagency task force headed by NRC and include certain Federal agencies and departments; provides that implementation of the plan be triggered by an NRC determination of a possible or actual extraordinary nuclear occurrence which would also trigger its own plan to be regarded as conclusive; requires incorporation of NRC's emergency response plan into the national plan;

Amends the licensing requirements of the Atomic Energy Act to require immediate NRC notification by a plant operator in the event or likelihood of an extraordinary nuclear occurrence and provides that failure to give such notification could result in revocation of an operating license; directs NRC to establish a means for instant communication with a nuclear power plant during an emergency and, within 90 days, to prepare and transmit to Congress a plan for remote and instantaneous NRC monitoring of the principal safety instruments and radiation monitors at all nuclear power plants;

Mandates a comprehensive study to explore the deficiencies in communications encountered by the various NRC officials, licensee officers and personnel, and the Governor and other State officials in the 30-day period following the March 28, 1979, accident at the Three Mile Island unit 2 nuclear generating facility in Pennsylvania which shall include a determination of the need for improved procedures and for advanced technology; requires submission of a report by January 1, 1980, on the findings of the investigation and study including recommendations of any measures necessary to provide for expeditious and reliable communications in the event of a future accident at a nuclear generating facility; provides that each recommendation not requiring new legislation be implemented as soon as practicable as well as included in NRC's emergency response plan;

Directs NRC to submit to Congress: (1) a plan including criteria for improved training, retraining and licensing programs for reactor operators which emphasizes emergency response training and direct attention to assure that the plant is operating in accordance with the requirements of its license and (2) a feasibility study of licensing plant managers and other utility personnel who have authority to make operating decisions affecting the plant;

Amends Public Law 95–601, the fiscal 1979 NRC Authorization Act, to require NRC and EPA, in consultation with the Secretary of HEW, to expand the feasibility study of epidemiological research to include populations exposed to low levels of radiation during and after the Three Mile Island accident and individuals exposed during ultimate decontamination, decommissioning or repair of the facility; extends the final reporting date from September 30, 1979, to March 1, 1980;

Requires the NRC by October 1, 1979, to promulgate regulations providing State notification prior to transport of nuclear waste within its borders; provides the NRC with certain authority for temporary suspension of agreements in emergency situations; and prohibits the use of funds for disposing nuclear wastes in the oceans. S. 562—Passed Senate July 17, 1979. (178)

Territorial storage of nuclear materials: Directs the Secretary of the Interior to inform Congress of any proposal for transportation of spent nuclear fuel or high level radioactive waste to, or for interim, long-term or permanent storage on, any U.S. territory or possession; and requires specific authorization by Congress before implementing such a proposal. S. 1119—Passed Senate July 31, 1979. (VV).

BUDGET

Deferrals:

American fisheries: Disapproves the deferral of funds under the Saltonstall-Kennedy Act totaling $6,579,000 for the promotion and development of fishery products and research pertaining to American fisheries as recommended by the President in his message of October 2, 1978. S. Res. 50—Senate agreed to March 13, 1979. (VV)

Rescissions:

First budget rescission, 1979: Rescinds $723,609,000 of the $914,617,000 recommended by the President in his message of January 31, 1979, as follows: $608,167,000 as recommended for HUD ($600,000,000 for State housing finance and development agencies and $8,167,000 for new community assistance grants); $95,850,000 instead of $227,258,000 as recommended for HEW ($37,000,000 for the NIH building and facilities, $46,350,000 instead of $167,893,000 for health resources and $12,500,000 instead of $22,365,000 for special projects and training in the Office of Education); $8,000,000 instead of $9,000,000 for payment of Vietnam and U.S.S. Pueblo prisoner of war claims; $6,065,000 instead of $14,665,000 for salaries and expenses of the Small Business Administration; $3,127,000 as recommended for the Bureau of Mines, Helium fund, within the Department of Interior; and $2,400,000 as recommended for NASA research and program management; and disapproves in its entirety the proposed rescission of $50,000,000 for fossil energy construction within the Department of Energy. H.R. 2439—Public Law 96–7, approved April 9, 1979. (VV)

Resolutions:

First budget resolution, 1980: Third budget resolution, 1979: Recommends levels for fiscal 1980 for Federal revenues of $509.0 billion, budget authority of $604.4 billion and outlays of $532.0 billion, with a deficit of $23.0 billion, and public debt limit of $887.2 billion; amends the 1979 second concurrent budget resolution by setting Federal revenues at $461.0 billion, budget authority at $559.2 billion and outlays at $494.5 billion, with a deficit of $33.5 billion, and public debt limit of $834.2 billion; and contains projections for fiscal 1981 and 1982 to achieve a balanced budget by fiscal 1981;

Assumes a $1 billion rescission in fiscal 1980 of funds already appropriated for the Strategic Petroleum Reserve; includes budget authority of $9.5 billion and outlays of $9 billion for all health programs other than medicare and medicaid; reflects the possibility that the Congress may consider changes in General Revenue and enact new programs of targeted fiscal assistance; provides for no tax cut in fiscal 1980; recommends that ways be found within the Congressional budget process to relate accurately the estimates of off-budget Federal entities and capital expenditures to the unified budget; contains a provision relating to reports by House Committees regarding legislative savings and unobligated balances which do not apply to Senate Committees which already provided similar information in their March 15 reports to the Senate Budget Committee; and makes the following recommendations for budget authority (BA) and outlays (O) by function for fiscal 1980 as compared to the President's requests (in billions of dollars):

National Defense—$135.6 instead of $138.3; O: $124.2 instead of $125.4;

International Affairs—BA: $12.6 instead of $13.4; O: $7.9 instead of $8.4;

General science, space and technology—BA: $5.7; O: $5.5;

Energy—BA: $18.8 instead of $19.8; O: $6.8 instead of $7.6;

Natural resources and environment—BA: $12.6 instead of $12.8; O: $11.7 instead of $11.6;

Agriculture—BA: $5.0 instead of $4.9; O: $5.4 instead of $5.2;

Commerce and housing credit—BA: $6.9 instead of $8.3; O: $3.2 instead of $3.3;

Transportation—BA: $19.5 instead of $19.1; O: $18.2;

Community and regional development—BA: $8.9 instead of $11.3; O: $8.1 instead of $7.9;

Education, training, employment and social services—BA: $30.9; O: $30.5 instead of $30.9;

Health—BA: $58.1; O: $53.6 instead of $55.0;

Income security—BA: $214.8 instead of $216.9; O: $183.3 instead of $184.4;

Veterans' benefits and services—BA: $21.2 instead of $21.0; O: $20.6 instead of $20.5;

Administration of justice—BA: $4.2 instead of $4.3; O: $4.4;

General government—BA: $4.4 instead of $4.5; O: $4.3 instead of $4.4;

General purpose fiscal assistance—BA: $8.1 instead of $8.8; O: $8.1 instead of $8.8;

Interest—BA: $56.0 instead of $56.4; O: $56.0 instead of $56.4;

Allowances—BA: —$0.1 instead of $2.2; O: —$0.1 instead of $1.4;

Undistributed offsetting receipts—BA: —$19.7 instead of —$19.8; O: —$19.7 instead of —$19.8;

Makes the following revisions to the Second Budget Resolution for fiscal 1979 (H. Con. Res. 683) recommending budget authority (BA) and outlays (O) as follows (in billions of dollars):

National defense—BA: $127.0; O: $114.4;

International affairs—BA: $11.4; O: $7.5;

General science, space and technology—BA: $5.4; O: $5.2;

Energy—BA: $7.6; O: $7.4;

Natural resources and environment—BA: $12.9; O: $11.3;

Agriculture—BA: $8.3; O: $6.2;

Commerce and housing credit—BA: $5.9; O: $2.9;

Transportation—BA: $19.1; O: $17.0;

Community and regional development—BA: $9.2; O: $9.7;

Education, training, employment and social services—BA: $32.7; O: $29.7;

Health—BA: $53.0; O: $49.7;

Income security—BA: $194.2; O: $161.1;

Veterans' benefits and services—BA: $20.4; O: $20.2; O: $4.2;

Administration of justice—BA: $4.2; O: $4.2;

General government—BA: $4.3; O: $4.2;

General purpose fiscal assistance—BA: $8.7; O: $8.8;

Interest—BA: $52.4; O: $52.4;

Allowances—BA: $0.7; O: $0.7;

Undistributed offsetting receipts: BA: —$18.1; O: —$18.1.

Pursuant to the mandate in the Public Debt Limit Act, includes aggregate totals reflecting the House and Senate recommended budgetary levels in order to achieve a balanced budget in fiscal 1981 and 1982, as follows (in billions of dollars):

Fiscal 1981—Senate: Revenues, $583.3; Budget authority, $640.3; Outlays, $577.7; Surplus, +$5.6; House: Revenues, $579.8; Budget authority, $658.7; Outlays, $577.7; Surplus, +$2.1;

Fiscal 1982—Senate: Revenues, $621.0; Budget authority, $691.6; Outlays, $616.9; Surplus, +$4.1; House: Revenues, $655.3; Budget authority, $721.4; Outlays, $622.7; Surplus, +$32.6. H. Con. Res. 107—Action completed May 24, 1979. (61)

CIVIL AND CRIMINAL JUSTICE

Civil Rights Commission: Amends the Civil Rights Act of 1957 to authorize such sums as may be necessary for fiscal 1980 to carry out the duties of the United States Commission on Civil Rights; requires the Commission to study and report to Congress and the President no later than April 1, 1980, on the legal questions involved in eliminating the legislative branch's exemption from the Civil Rights Act; and requires the Commission to continue to appraise the laws and policies of the Federal Government and report to Congress concerning discrimination against Americans who are members of eastern and southern European ethnic groups. S. 721—Passed Senate June 7, 1979. (124)

CONGRESS

Congressional award program: Establishes an award program designed to recognize excellence and leadership among young people between the ages of 14 and 23 in the areas of public service, physical and expedition fitness, and personal interest; provides for administration of the program by a 15-member Congressional Award Board (appointed by a commission consisting of the majority and minority leaders of the Senate and the Speaker and minority leader of the House) headed by a National Director whose responsibilities will be defined by the Board; creates the following three levels of award Medals; bronze for individuals 14 to 16 years of age, silver for individuals 16 to 19 years of age, and gold for individuals 19 to 23 years of age; authorizes the Board to perform certain functions which include initiation and administration of the program; and requires the Board to submit to Congress, by March 1, of each year, a report summarizing previous year activities and making appropriate recommendations. S. 221—Passed Senate July 19, 1979. (VV)

National symphony concerts: Permits the National Park Service to sponsor a series of four National Symphony Orchestra concerts on the Capitol Grounds during 1979, to be free to the public and arranged so as not to interfere with the needs of Congress. H. Con. Res. 114—Action completed May 3, 1979. (VV)

CONSUMER AFFAIRS

Consumer controversies: Provides for the establishment, within 60 days of enactment, of a dispute resolution program within the Department of Justice to be administered by the Attorney General; establishes a Dispute Resolution Resource Center as part of the program which shall (1) serve as a national clearinghouse for the exchange of information concerning the improvement of existing and the creation of new dispute resolution mechanisms, (2) provide technical assistance to State and local governments, (3) conduct research and development, (4) undertake comprehensive surveys of the various State systems and major private dispute resolution mechanisms, (5) identify those dispute resolutions that are most effective and fair to all parties and suitable for general reapplication and (6) make grants and enter into contracts for research, demonstrations or special projects; prescribes the duties of the Attorney General under the act in establishing the program; specifies the purposes for which funds authorized under the act may be used and the distribution of such funds to the various States; provides that the Attorney General may suspend payments, after the opportunity of a hearing, if he finds that the project for which the grant was received no longer complies with the provisions of the act or the application as approved by the Attorney General; requires recipients to keep such records as the Attorney General may prescribe; gives the Attorney General access to any records or books of recipients for audit purposes and gives the Comptroller General such access for financial and performance audits; requires submission of a report by February 1 of each year which shall include a list of grants awarded and the results of financial and performance audits; and directs the Federal Trade Commission to hire and assign applicants for employment and to promote, train, discipline, demote and dismiss employees on the basis of individual merit, without regard to race, color, sex, religion or national origin and without engaging in any act or practice which has the purpose or effect of illegal discrimination against any individual because of his or her race, color, sex, religion or national origin. S. 423—Passed Senate April 5, 1979. (VV)

Motor vehicle safety standards: Authorizes $60 million for fiscal 1980, $70 million for 1981, and $70 million for 1982 to the National Highway Traffic Safety Administration to continue vehicle safety research, develop existing and, when necessary, promulgate new vehicle safety standards, conduct defect and noncompliance testing, and enforce existing provisions under the National Traffic and Motor Vehicle Safety Act of 1966; amends the Motor Vehicle Information and Cost Savings Act as follows: in Title I—Bumper Standards, authorizes $400,000 for fiscal 1980 and $450,000 each for 1981 and 1982 to provide for monitoring of bumper standards; in Title II—Automobile Consumer Information, authorizes $2.4 million for fiscal 1980 and $3 million each for 1981 and 1982 for continued study and investigation of the methods for determining damage susceptibility, crashworthiness, ease of diagnosis, and repair of certain automotive system; in Title IV—Odometers, authorizes $500,000 each for fiscal 1980 through 1982 to allow DOT to add additional investigators to combat odometer tampering; incorporates the annual required report on bumper standards as a part of the annual report of the National Traffic and Motor Vehicle Safety Act; sets at 2.5 miles per hour the limitation on bumper impact velocity testing and requires the Secretary to comply with this limitation until September 1, 1984; allows the Secretary of Transportation to promulgate exemptions from the odometer disclosure requirements for motor vehicles when odometer readings have no meaningful relationship to the value or performance of an automobile; amends the National Traffic and Motor Vehicle Safety Act to relieve tire dealers of certain mandatory recordkeeping and reporting requirements; and limits the regulatory burden the Secretary can impose upon the States to enforce the 55 mile per hour speed limit. S. 1159—Passed Senate July 11, 1979. (VV)

Truth-in-lending: Amends the Truth-in-Lending Act in order to provide the consumer with clearer information, make creditor compliance easier, limit creditor civil liability for statutory penalties to only significant violations, and strengthen the administrative restitution enforcement; excludes agricultural credit from the act's coverage with respect to the $25,000 cut-off for disclosure requirements and also excludes from the $25,000 cut-off, purchases of mobile homes expected to be used as a principal dwelling; amends the definition of "open-end credit" in order to curb the use of spurious open-end credit by requiring that the merchant must reasonably contemplate repeated transactions on an open-end credit plan which he operates; requires the Board to promulgate model forms and clauses for common credit transactions which utilize readily understandable language; sets October 1 of each year as the effective date for any Board regulation or interpretation requiring new or different disclosures and allows a creditor to comply with a change prior to its effective date; makes clear that certain charges incurred in a transaction, such as sales tax, license and registration fees, are not included in a finance charge; establishes an acceptable tolerance of one-eighth of one percent for disclosure of the annual percentage rates; establishes parameters for restitution by enforcement agencies when they discover understatement by a creditor of an annual percentage rate or finance charge; allows the Board to submit a single annual report to the Congress on its functions under the Truth-in-Lending Act, the Federal Trade Commission and the Equal Credit Opportunity Act; simplifies the act's general disclosure requirements; expands the rescission provisions in the bill to persons whose principal residence is a mobile home or trailer; increases from 10 to 20 days the period in which the creditor must refund the consumer's money and take possession of the property after a consumer exercises a right to rescind; preserves the consumer's right of rescission where an enforcement agency institutes a proceeding and concludes that the consumer was not informed of his or her right to rescind within three years by extending that right for one year following the decision; provides that a consumer who exercises his right to rescind may also bring suit under the act for other violations not relating to the rescission; simplifies the disclosures required for "open-end" credit and makes compliance with the act's billing requirements easier for small creditors; reduces the number of disclosures for "closed-end" (single transaction) credit; restricts creditor civil liability for statutory penalties; requires a notice of how to contact the creditor in the event a card is lost or stolen and provides that consumer liability be curtailed after the card issuer is made aware of the loss; requires the Federal Reserve Board to initiate a pilot project to determine the feasibility and value of "shopper guides", which would be issued periodically in metropolitan areas, listing the annual percentage rates charged by creditors in that area for common types of loans; and loosens current restrictions on credit advertising in the hope of enhancing creditor competition. S. 108—Passed Senate May 1, 1979. (VV)

DEFENSE

Coast Guard authorization: Authorizes $1,391,593,000 for fiscal 1980 for the operation and maintenance of the Coast Guard of which $1,058,357,000 is for operating expenses including expenses related to the Capehart housing debt reduction of $224,218; $292,811,000 is for acquisition, construction and improvement of vessels, aircraft, shore units and aids to navigation; $14,900,000 is for alteration or removal of bridges which shall remain available until expended; and $25,525,000 is for research, development, test and evaluation; sets the end-of-year strength for active duty personnel at 39,578; authorizes the average military training student loads; increases the ceiling on commissioned officers from 5,000 to 6,000; raises the statutory limit on the annual pay of lighthouse keepers from $7,500 to $15,000; and provides for paying the Coast Guard's only remaining, full-time civilian lighthouse keeper (at Coney Island) back pay of about $2,900 which represents the difference between what the keeper actually received after his salary reached the statutory ceiling in 1974 and what he would have received under the general schedule salary rates had there been no such limitation. S. 709—Public Law 96-23, approved June 23, 1979. (VV)

Defense production extension: Extends for two years, through fiscal 1981, the expiring titles of the Defense Production Act of 1950, as amended, which contain the sole authority for a number of programs designed to maintain the national defense industrial production base in peacetime, prepare mobilization programs, and provide a pool of trained manpower for war production management. S. 932—Passed Senate June 20, 1979; Passed House amended June 26, 1979. (VV)

Military construction: Authorizes $3,728,166,000 for fiscal 1980 to provide construction and other related authority for the military departments and the Office of the Secretary of Defense, within and outside the United States; includes $747,695,000 for the Army, $462,210,000 for the Navy, $480,050,000 for the Air Force, $265,635,000 for the Defense agencies, $1,683,425,000 for military family housing, and $98,151,000 for the reserve forces; permits execution of minor construction projects at specified locations identified in the annual military construction program submitted to Congress, immediately upon the enactment of the annual authorization and appropriation bills; provides for the development of energy sources on military lands or on private property in order to cover cases such as construction by private enterprise of a refuse derived fuel heating plan where the contractor might not be willing or able to locate on government-owned land; authorizes the Secretary to negotiate with the landowners of the Island of Roi Namur, Marshall Islands, for the past use of their land by the Department of Defense; authorizes the Secretary of the Air Force to convey to King County, Washington, the 143rd Combat Squadron, Washington Air National Guard, leased site located at Boeing Field in Seattle upon the provision of a replacement facility of comparable value for the National Guard Unit; authorizes the Secretary to expend up to $500,000 of the minor construction authority for a capital contribution to the International Institute of Strategic Studies; authorizes the temporary use of 5.6 acres of land and improvements on the remaining portion of the former Ent Air Force Base, Colorado Springs, Colorado, by the U.S. Olympic Committee in furtherance of U.S. Olympic amateur athletic activities; authorizes the use of mass transit systems on military installations in an attempt to save energy and reduce air pollution; permits DOD to make the contribution required by EPA for the construction of waste treatment works; prohibits, for strategic reasons, the realignment of Loring Air Force Base; requests the Secretary of Defense to submit to the Armed Services Committee by March 1, 1980, a report which examines the options available for the long range basing requirements for strategic systems and which addresses in particular the question of whether or not existing SAC bases should be abandoned; and waives the provisions of the Davis-Bacon Act with respect to the wages paid to laborers and mechanics for work or services performed under government contract of $10,000 or less for new construction or $2,000 or less for repairs and maintenance. S. 1319—Passed Senate July 30, 1979. (VV)

Military procurement: Authorizes a total of $40,108,896,000 billion for fiscal 1980 for military procurement, research and development and civil defense;

Procurement: Authorizes $26,439,700,000 for procurement of aircraft, missiles, naval vessels and weapons including tracked combat vehicles, torpedoes and related support equipment of which $3,847,200,000 is for the Army, $12,267,300,000 is for the Navy (including Marine Corps) and $10,325,200,000 is for the Air Force, which represents, by weapons systems, $13,437,700,000 for aircraft, $4,974,900,000 for missiles, $5,791,600,000 for Naval vessels, $1,538,000,000 for tracked combat vehicles, $336,800,000 for torpedoes and $348,700,000 for other weapons; authorizes additions of $351.5 million to procure 25 Navy F–18 fighter aircraft; $88.9 million for 6 Navy A–6E All-Weather Attack Aircraft, $79 million for 8 C–130H cargo aircraft for the Air National Guard and Reserves, $149.2 million for 12 2-place A–7K aircraft for the Air National Guard, $55 million for 208 Army fighting vehicles, and $60 million to upgrade 251 Army M60A1 tanks to M60A3 configuration; reduces by 120 missiles and $15.4 million funds for Navy Sparrow missiles and 660 missles and $59.7 million for Air Force Sparrow missiles; authorizes $1.760 billion for a modified Kennedy-class large-deck conventionally powered carrier rather than the requested CVV medium carrier at a cost of $1.617 billion; and authorizes DOD to waive certain charges and undertake certain obligations pursuant to the Multilateral Memorandum of Understanding on the NATO AWACS aircraft programs.

Research and development: Authorizes $13,562,396,000 for research and development which includes $5,341,000 for the special foreign currency program as follows: $2.318 billion for the technology base portion of the programs; $637.1 million for advanced technology development (which includes $8.3 million in the Air Force's all-weather target sensing system and $3.6 million for the Army fuels and lubricants advanced development program to accelerate the engineering scale-up of the cellulosic waste/alcohol conversion program at the Natick Laboratory); $2.334 billion for strategic programs (which includes $30 million to the Air Force for continued flight testing of the third and fourth B–1 bomber prototypes, $6.75 million to resume advanced development of the Extremely Low Frequency (ELF) communications systems if a site is selected and the President approves the site for deployment, and $670 million for full scale development of the M–X missile and basing system); $5.327 billion for tactical programs (which includes $1.549 billion for the Army of which $63.4 million is for the XM–1 tank, and $47.490 million for continued development of a 120-millimeter gun for the XM–1 tank), $2.672 billion for the Navy of which $12.419 million is for advanced ship development, $54.953 million for ship development (engineering), and $25 million for the design of a new light carrier; and $1.106 billion for the Air Force; $1.023 billion for intelligience and communications; and $1.982 billion for defensewide mission support, which includes funds for a new naval surface warfare training devices program;

Requests the Secretary to review the strategic command and control area and report to Congress by January 15, 1980; requests the Secretary to review the Cruise Missile Program (which includes the air launched cruise missile (ALCM), the ground launched cruise missile (GLCM) and the sea launched cruise missile (SLCM), and report to Congress by September 28, 1979, his findings as to the adequacy of the ALCM and GLCM test programs and the potential for shifting tests from the SLCM program to the ALCM and GLCM programs; requires the President and the Secretary to report by October 1, 1979, on the final characteristics of the M–X missile and basing system and provides that no funds may be spent for the program for 60 days after receipt of the report unless each House passes an approval resolution within that period; contains a mechanism whereby passage of a disapproval resolution by either House within this time period would bar expenditure of funds for this program;

Active Forces: Sets the overall active duty end strength at 2,047,000 as follows: 776,700 for the Army, 524,000 for the Navy, 189,000 for the Marine Corps and 557,300 for the Air Force; includes no further withdrawal of combat troops from Korea; increases Army personnel involved in military sales to Israel and Navy personnel involved in military sales to Saudi Arabia; and increases manpower in intelligence analysis capabilities;

Recommends certain actions in order to reduce the number of dependents of military personnel overseas and requests the Secretary to report by December 31, 1979, on the implementation of these recommendations and other management actions planned to reduce the number of dependents by 10 percent in 1980 and by 30 percent within 5 years; discontinues payment for future travel of dependents, household goods and automobiles for junior enlisted personnel; provides for the counting of Reserve general and flag officers of all the Services serving on active duty against only the active duty strength authorizations; requires each of the Service Secretaries to submit an Officer Grade Distribution Report and promotion plan to the Congress each year as part of the annual Manpower Requirements Report;

Reserve Forces: Sets the average strength in the Reserve Forces at 835,200 as follows: 335,700 for the Army National Guard, 197,400 for the Army Reserve, 87,000 for the Naval Reserve, 33,600 for the Marine Corps Reserve, 92,500 for the Air National Guard, 57,300 for the Air Force Reserve and 11,700 for the Coast Guard Reserve; sets an end strength of 14,547 for full-time active duty personnel within the authorized average strength of the Armed Forces as follows: 6,244 for the Army National Guard, 4,288 for the Army Reserve, 1,707 for the Naval Reserve, 67 for the Marine Corps Reserve, 1,560 for the Air National Guard, and 681 for the Air Force Reserve; repeals the authority for additional pay for Reserve and National Guard commanders for the performance of administrative duty;

Civilian personnel: Sets the end strength for civilian personnel in DOD at 980,900; includes a 100 man increase for intelligence functions; directs the Secretary to give priority to maintenance and related activities for force readiness; includes planned productivity improvements in the Naval shipyards as well as a program of overhauls that will reduce to 13 the backlog of ships awaiting overhauls; recommends maintaining the current provision in law which allows the Secretary to exceed the civilian authorization by 1¼ percent when he determines it is in the national interest to do so;

Military training Student Loads: Sets the average student load at 230,488; includes a separate authorization of 27,790 for the Army One Station Unit Training; requires the Secretary to adjust the training loads so that they are consistent with changes in the authorized active duty reserve and civilian personnel strengths; requests the Secretary to submit, by December 31, 1979, a report outlining the goals, planned programs and alternatives with respect to ROTC scholarships, junior ROTC scholarships and platoon leaders class program:

Civil defense: Authorizes $106,800,000 for civil defense; increases from $35 million to $40 million the limit on the amount that can be appropriated annually for Federal contributions for personnel and administrative expenses; limits Federal contributions for emergency operation centers or similar facilities to 65 percent;

General provisions: Amends article 2 of the Uniform Code of Military Justice (UCMJ) to affirm the law and public policy of the U.S. dealing with the commencement of in personam jurisdiction for purposes of the Code: reaffirms the law as set forth, by *the Supreme Court In re Grimley*, 137 U.S. 147 (1989): requires compliance with only the following two factors before an enlistment will be considered valid: capacity to understand the significance of enlistment in the armed forces and the voluntary taking of the oath of enlistment; provides for jurisdiction based upon a constructive enlistment which arises at the time an individual submits voluntarily to military authority, meets the mental competency and minimum age qualifications, receives military pay and performs military duties; amends article 36 to clarify the authority of the President to promulgate an authoritative manual of procedure for the military justice system covering not only trial procedures but all procedures relating to an offense as well; requires the President to cease import restrictions on strategic materials from Rhodesia and to lift all other trade sanctions against that country upon enactment of this act, or June 30, 1979, whichever is later; bars the use of funds for deactivating any of the Navy's Polaris submarines earlier than 1 year after enactment and requires the Secretary of the Navy to submit to Congress a study of maintaining Polaris submarines in full operational status or for transferring the Polaris submarines to a standby operational status and maintaining them in such status during fiscal 1980 through 1985; increases the dollar levels above which Selected Acquisition Reports must be submitted and changes the date by which the first report must be submitted each year; and authorizes up to $10 million for assistance in the 1980 Winter Olympic Games for certain specialized services uniquely within the competence of DOD and not readily provided locally by the Lake Placid Olympic Organizing Committee or by other State and Federal agencies. S. 428—Passed Senate June 13, 1979. (127)

Military procurement supplemental: Authorizes $2,020,000,000 in supplemental funds for fiscal 1979 in addition to amounts previously authorized for procurement of aircraft missiles, naval vessels and other weapons and for research development, test and evaluation for the Armed Forces;

Procurement: Authorizes a total of $1,719,500,000 as follows: $80.1 million for the U.S. portion of the NATO AWACS program and limits waiver authority—necessary for U.S. participation in the program pursuant to the Multilateral Memorandum of Understanding on NATO AWACS—to those specific items that apply to the expenditure of fiscal 1979 funds, or the liability arising out of such expenditure and then only to the extent provided for in appropriations acts; $15 million for initial procurement of modification kits for equipping the B–52G with an air inlet that will serve as a functionally related observable difference for arms control verification purposes; $20 million for F–100 engine modules to improve the readiness posture of the F–15 aircraft program; $20 million for the Air Force ALQ–131 electronic countermeasure (ECM) pods; $1.353 billion for 4 DDG–993 Spruance class destroyers originally intended for Iran; $59 million for Harpoon missiles already produced or for missiles, subsystems and spares which were originally produced for Iran; $58.8 million for 150 Phoenix missiles for the Navy; $25.9 million for 258 surface-to-air missiles already built for Iran for use in alleviating current shortages in the Navy inventory; and $97.7 million for final settlement of shipbuilding claims;

Research and development: Authorizes a total of $300,500,000 as follows: $13.7 million for improvements in the TOW antitank missile to maintain NATO capabiilty to defeat first-line Warsaw Pact tanks; $30 million to accelerate full scale engineering development of the Army's Pershing II missile system; $3 million to continue feasibility studies and exploration of various propulsion concepts for the Navy SWATH (Small Wetted Area Twin Hull) program; $190 million to start full scale development of the Air Force M–X missile and the multiple protective structure (MPS) basing system; $33 million for the Air Force to cover cost growth and expanded scope of work associated with the integration of the air-lanuched cruise missile with the B–52; $10 million for ground test equipment for the Air Force air-launched cruise missile plus an additional $12 million for Air Force development of an added air inlet for the B–52G's equipped with cruise missiles; and $8.8 million to accelerate improvements to the VLF channels that are a part of the minimum essential emergency communications network (MEECN);

States the sense of the Congress that (1) maintaining a survivable land-based intercontinental ballistic missile system is vital to U.S. security and that the development of a new basing mode for land-based intercontinental ballistic missiles (ICBM's) is nceessary to assure the survivability of the land-based system; and (2) the basing mode for the MX missile should be restricted to location on the least productive land available; directs the Secretary of Defense to immediately proceed with full scale engineering development of the Mulitple Protective Structure (MPS) system concurrently with the full scale engineering development of the MX missile unless and until he certifies to Congress that an alternative basing mode is militarily or technologically superior to, and more cost effective than, the MPS system or the President informs Congress that, in his view, the MPS system is not consistent with U.S. security interests; and provides that nothing in the act shall be construed to prohibit or restrict the study of alternative basing modes of land-based ICBM's. S. 429—Public Law 96–29, approved June 27, 1979. (81)

National defense stockpile: Revises the Strategic and Critical materials Stock Piling Act, which provides for the acquisition and retention of stocks of certan strategic and critical materials in order to preclude, whenever possible, a dangreous and costly dependence by the United States upon foreign sources for supplies of such materials in times of national emergency and to provide for the timely disposal of excess materials; authorizes the President to determine stockpile requirements and provides, for the first time, Congresisonal guidance as to how these determinations are to be made; combines the three existing stockpiles (National, Supplemental, and Defense Production Act Inventory) into one stockpile to be collectively known as the National Defense Stockpile and requires that excess materials under the control of any Federal department or agency be transferred to the stockpile; retains the existing provisions requiring authorization by commodity and quantity before any excess material is released from the stockpile and adds a requirement that acquisition of required materials also be authorized; provides standing authority for routine stockpile operations which would be subject only to the annual appropriations process; provides that the President shall designate an appropriate Department or agency to manage the Stockpile, outlines those management responsibilities, and provides guidance on acquisitions, disposals, and barter; provides the authority for the disposition of the stockpiles for their intended purpose; gives the President broad authority to direct studies and investigations to improve the readiness and reliability of the stockpile; establishes in the Treasury a separate fund to be known as the National Defense Stockpile Transaction Fund to earmark receipts from the stockpile sales for use in purchasing other necessary stockpile materials, and to provide a ready reference for analysis of the scope and status of stockpile activity; contains a "sunset provision" to require that moneys remaining in the fund after three years would revert to the Treasury as miscellaneous receipts; provides for the establishment of advisory committees to assist and advise on stockpile operations; requires periodic reports by the Advisory Committees; and retains the provision requiring a report to Congress every six months on stockpile operations. H.R. 2154—Public Law 96–41, approved July 30, 1979. (VV)

DISTRICT OF COLUMBIA

D.C. retirement benefits: Establishes an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits. S. 1037—Passed Senate August 1, 1979. (VV)

Temporary Commission on Financial Oversight: Increases from $16 million to $38 million the authorization for the Temporary Commission on Financial Oversight of the District of Columbia. H.R. 3879—Public Law 96–27, approved June 21, 1979. (VV)

ECONOMY-FINANCE

Carson City silver dollars: Amends the Bank Holding Company Act Amendments of 1970 to authorize the Administrator of the GSA to conduct future sales of the remaining inventory of approximately one million rare Carson City silver dollars using such terms, conditions and prices as he deems proper. H.R. 1902—Public Law 96–2, approved March 7, 1979. (VV)

Council on Wage and Price Stability: Amends the Council on Wage and Price Stability Act to extend the authority of the Council for an additional year, through fiscal 1980, and to increase its authorizations from $2,210,000 to $6,952,000 in fiscal 1979 and to $8,483,000 in fiscal 1980 in order to enable the Council to hire additional personnel to monitor the wage and price standards outlined in President Carter's voluntary anti-inflation program; amends the Employment Act of 1946 to establish numerical goals for gradual reduction of the share of the GNP accounted for by Federal outlays to 21 percent or less by fiscal 1981 and 20 percent or less by fiscal 1983, provided that these policies do not upset the goals for the reduction of unemploment; requires the President in his economic report to establish numerical goals for the current year and the next four calendar years for Federal outlays as a proportion of the GNP; allows the President to recommend to the Congress a modification of the timetable for achieving the 21 and 20 percent ratios of Federal outlays to GNP; urges the Council to consider the need to stimulate productivity in monitoring wages and prices; and directs the Council to submit a report to Congress recommending policies designed to promote greater national productivity growth. H.R. 2283—Public Law 96–10, approved May 10, 1979. (35)

Economic development—Appalachian regional development: Authorizes various financial assistance programs for the purpose of generating and retaining private sector jobs in distressed areas and encouraging and enabling businesses to remain, locate or expand in such areas; and provides for an expanded research, evaluation and demonstration program for economic development, an equity financing demonstration program, and assistance to employee ownership plans; authorizes $1.8 million in loan guarantees annually for fiscal 1980 and 1981; $150 million in direct loans annually for 1980 and 1981; $50 million in contract authority for interest subsidies for 1980; and $27,923,000 for 1980, and $45,920,000 for 1981 to cover losses on loan guarantees in default under existing law; retains the 15 percent limitation in existing law on the share of title I funds that may be expended in any one State: authorizes $555.2 million in 1980 and $600 million annually for 1981 through 1983, reserving between 5 and 25 percent for labor intensive projects and between 5 and 35 percnt for special economic adjustment; authorizes $89.78 million, $95 million, $105 million, and $115 million for fiscal 1980 through 1983, respectively for title III of the Public Works and Economic Development Act; authorizes $40 million annually for fiscal 1980 through 1983 for bonus public works grants for areas participating in economic development districts and for economic development centers;

Extends for 4 years, through fiscal 1983, the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act, and expands the authorities of regional commissions; authorizes therefore $250 million each for fiscal 1980 through 1983 for regional commissions; $340 million each for fiscal 1980 and 1981, and $380 million for fiscal 1982 and 1983 for the Appalachian Regional Commission; and $350 million, $400 million, $450 million, $500 million, and $500 million for fiscal years 1989 through 1985 respectively for the Appalachian Development Highway Program. S. 914—Passed Senate August 1, 1979.

Federal Reserve Banks purchase of U.S. obligations: Restricts the Treasury's current authority to borrow cash from the Federal Reserve to "unusual and exigent circumstances" and only when authorized by at least five members of the Board of Governors of the Federal Reserve System for renewable periods of up to 30 days; gives the Treasury new authority to be used in more routine circumstances, to borrow securities from the Federal Reserve and sell them in the open market to meet its short-term cash needs under the direction of the Federal Open Market Committee; requires the Treasury to repurchase the securities and return them to the Federal Reserve within six months; raises the limit on the amount of the Treasury's borrowings (of cash or securities) from $5 billion to $15 billion at any one time; and extends the draw authorities for five years. H.R. 3404—Public Law 96–18, approved June 8, 1979. (VV)

Financial privacy notification repeal: Repeals the notice requirement contained under section 1104(d) of the Right to Financial Privacy Act which would become effective on March 10, 1979, and require every creditor and financial institution to notify all of their customers of their rights under the act. S. 37—Public Law 96–3, approved March 7, 1979. (VV)

International investment survey: Authorizes $4.4 million for fiscal 1980 and $4.5 million for 1981 for the data collection activities authorized under the International Investment Survey Act which relate to foreign investments in the United States S. 758—Passed Senate May 17, 1978. (VV)

Public debt limit—balanced budget: Provides for a temporary increase in the public debt limit through September 30, 1979, by increasing the temporary limit of $398 billion to $430 billion which combined with the statutory limit of $400 billion provides for a combined limit of $830 billion;

Requires the Budget Committees of the Senate and the House to report by April 15, 1979, balanced budgets for fiscal 1981 and 1982 and by April 15, 1980, a balanced budget for fiscal 1981 and by April 15, 1981, a balanced budget for fiscal 1982; requires the Committees to show the consequences of each budget on each budget function and on the economy, setting forth the effects on revenues, spending, employment, inflation and national security; requires the President to submit an alternate balanced budget for any year for which he submits a budget which is not balanced;

Increases by $8 billion, from $32 billion to $40 billion, the authority for the Secretary of the Treasury to issue long-term bonds with interest rates above 4¼ percent to the public; increases the present ceiling on the interest rate for savings bonds from 6 percent to 7 percent, and authorizes the Secretary of the Treasury to raise the rate on new and outstanding issues of savings bonds to that level, with the approval of the President. H.R. 2534—Public Law 96–5, approved April 2, 1979. (28)

Savings and loan exemption from Federal Trade Commission: Amends the Federal Trade Commission Act to exempt savings and loan associations from the jurisdiction of the Federal Trade Commission; gives the Federal Home Loan Bank Board specific regulatory authority with respect to savings and loans which is identical to that conferred upon Federal institutions that have responsibility for bank regulation; requires the Federal Home Loan Bank Board to promulgate rules similar to those the Federal Trade Commission promulgates, within 60 days after the effective date of an FTC rule, unless the Bank Board determines that such acts or practices are not unfair or deceptive with respect to Federal Reserve Board action. H.R. 3978—Public Law 96–37, approved July 23, 1979. (VV)

Small Business Administration authorization: Authorizes $677,453,000 for fiscal 1980 and $850,100,000 for fiscal 1981 for the small Business Administration; includes an open-ended authorization for the disaster loan program; provides program authorizations for SBA's loan and other financial and guaranteed assistance programs, for capital appropriations for the various revolving funds, and for salaries and expenses;

Calls for a study on the small business timber set-aside program to identify trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry; provides that energy shortage loans may be made available to small businesses injured by an energy source shortage unless the shortage is caused by a strike, boycott or embargo directed against the business; provides a three percent rate of interest on the first $55,000 on SBA disaster loans to homeowners; provides a five percent rate of interest on disaster loans to concerns that cannot obtain credit elsewhere; sets the same rate of interest as provided in section 324 of the Consolidated Farm and Rural Development Act (currently 8¼ percent) for concerns that can obtain credit elsewhere, and amends the Consolidated Farm and Rural Development Act to provide the same terms for emergency loans under that act; disallows the investment of excess monies from the surety-bond guarantee fund in bonds or guarantees; allows excess monies from the pollution control bond fund to be invested in bonds or guarantees; authorizes SBA to guarantee debentures of certain State and local development companies; authorizes the transfer of loan processing functions to qualified banks; provides a sunset for the guaranteed loan program on October 1, 1981; sets a $350,000 ceiling on direct loans; authorizes organizations and individuals eligible for handicapped assistance loans to participate in the procurement set-aside program; provides priorities for the placement of government procurement contracts in labor surplus areas; revises the duplication of benefits provisions applicable to SBA disaster loans;

Provides for the establishment of a small business development center program to provide a single local source to aid small businesses in such areas as management, marketing and government regulations; authorizes SBA to make grants to States to defray up to 50 percent of the cost of developing and operating the program;

Establishes a national small business economic policy to assist the development and expansion of small and medium-sized businesses and requires certain means of addressing and implementing the policy;

Requires SBA to establish a data base of economic information pertaining to small business, and to regularly publish indices of that data; establishes the Office of the Chief Counsel for Advocacy at Executive Level IV; requires a study of small business credit needs;

Provides for enabling legislation and funding authorization for the White House Conference on Small Business; outlines the purposes of the conference; requires annual reports on the status and implementation of the Commission's findings and recommendations for a three-year period following submission of the final report; and

Authorizes SBA to make loan guarantees of up to $500,000 available under the regular business and loan guarantee program to employee organizations seeking to buy their companies and to firms or employee organizations using Employee Stock Ownership Plans who meet specified qualifications for such loans. S. 918—Passed Senate May 16, 1979; Passed House amended May 22, 1978; In conference. (VV)

Small business employee ownership: Authorizes the Small Business Administration to make loans of up to $500,000 available under the 7(a) regular business loan guarantee program to both employee organizations seeking to buy their companies and to firms or employee organizations using Employee Stock Ownership Trusts (ESOT's) provided they otherwise meet specified qualifications; requires that loan applications submitted by employee organizations for consideration by the SBA (1) include a plan demonstrating that all employees will be offered an opportunity to participate in the plan, (2) that the distribution of company stock will be fully vested by the time the loan is repaid and will comply with IRS requirements, (3) that a majority of the employees will own a majority of the stock by the time the loan is repaid, (4) that managerial or owner-employees have at least one year of service with the firm, (5) that certified plans provide for voting rights, periodic review of the mode of company organization, and adequate management contracts and (6) that the plan enable the company to repurchase stock from employees when they leave the firm or sell their stock and provide a method of wage deductions in non-ESOP cases where such deductions are determined to be necessary to repay the loan; requires SBA to report periodically to Congress on the status of employee-owned firms; states that guarantees may be made directly to the seller of a business when selling under an installment sales contract, provided that the seller agrees to pay a specified penalty, if after the buyer defaults, he chooses to reassume the contract and resell the business; and amends SBA's section 8(a) minority assistance program to clarify that a firm in which 51 percent of the stock is owned by socially and economically disadvantaged individuals through an ESOP may also qualify for participation in the SBA section 8(a) minority assistance program. S. 388—Passed Senate May 1, 1979. (VV)

EDUCATION

Education technical amendments: Makes technical corrections and miscellaneous amendments to certain education laws contained in the Education Amendments of 1978 (Public Law 95–561); clarifies the means for electing members of parental advisory councils under title I of the Elementary and Secondary Education Act, and reduces the volume of materials to be distributed to these councils and council members; revises the way in which States receive coordination money for the migrant program under title I and guarantees each State a certain minimum amount for the program for strengthening State departments of education in title V of ESEA; makes certain technical changes to the title XI Indian Education programs and permits the use of carryover funds from title IV–B for guidance and counseling for one year only; and contains amendments to the Family Educational Rights and Privacy Act, the Vocational Educational Act, and the Career Education Incentive Act, to take care of minor problems not anticipated when these programs were last amended. H.R. 4591—Public Law 96– , approved 1979. (VV)

Department of Education: Provides for the establishment of a cabinet-level Department of Education which shall be administered by a Secretary of Education appointed by the President with the advice and consent of the Senate; provides for the transfer of agencies and functions from the Department of Health, Education, and Welfare (HEW) as follows: all programs of the Education Division, the Office of the Assistant Secretary for Education, the Institute of Museum Services, the Office of Information and Resources for Handicapped Individuals, the Rehabilitation Services Administration (except for the development disabilities programs), the National Institute of Handicapped Research, the Interagency Committee on Handicapped Research, the Helen Keller Center for Deaf-Blind Youth and Adults, and the National Council on the Handicapped; also transfers HEW's education functions for the Office for Civil Rights, for education advisory committees, the telecommunications-demonstrations grants, HEW's responsibilities for Gallaudet College, Howard University, the American Printing House for the Blind and the National Technical Institute for the Deaf, and the student loans for health professions and nurse training; transfers from other agencies: Department of Defense operation of overseas schools for dependents; National Science Foundation's science education programs, including programs for the undergraduate instructional improvement, assistance, and research in science education; the Department of Agriculture's graduate school; Department of Justice's law enforcement student loans and grants; the Department of Housing and Urban Development's college housing program; the Department of Labor's migrant education program; and the Advisory Council of Education Statistics; states that some of the purposes of the Department are: to enable education to receive appropriate emphasis at the Federal level; to continue and strengthen the Federal commitment to equal educational opportunity; to supplement and complement State and local school systems and other instrumentalities of the States and tribal governments, the private sector, public and nonpublic institutions, including educational research institutions, community organizations, parents and students; and to improve educational utility and quality; states that the establishment of the Department of Education shall not increase the authority of the Federal government over education or diminish the responsibility for education which is reserved to the States, the local school system, and other instrumentalities of the States and tribal governments; states the intent of Congress in establishing the Department to protect the rights of these entities in the areas of educational policies, administration of programs, competency testing and selection of curricula and program content; and redesignates HEW as the Department of Health and Human Services. S. 210—Passed Senate April 30, 1979; Passed House amended July 11, 1979; In conference. (70)

Higher education amendments: Extends for one year, through fiscal 1981, authorizations for programs under the Higher Education Act, title VI of the National Defense Education Act, and Fund for the Improvement of Postsecondary Education and the National Institute of Education at the same level of authorization as fiscal 1980, with the exception of the National Institute of Education which is decreased from $200 million to $125 million; makes it clear that the basic grant family contribution schedule which implements the broadened basic grant program under the Middle Income Student Assistance Act issued by the Commissioner of Education for the 1979–80 academic year governs the expenditure of funds appropriated in fiscal 1979 as well as funds carried over from fiscal 1978; eliminates the prohibition against carrying over unexpended basic grant appropriations to the next year if the excess is more than 15 percent of the appropriation; allows commercial lenders to collect the interest subsidies if the regulations governing the Student Loan Program loans have not been promulgated by September 30, 1979; removes the ceiling on the annual special allowance paid lenders by the Federal Government for interest in excess of the seven percent interest charged students and eliminates the provision that the special allowance may not exceed an average of five percent; delays the payment of the special allowance in excess of the allowance permitted in current law until after October 1, 1979, and provides that no penalty interest shall be paid on the increase due to the removal of the ceiling; amends the Higher Education Act to establish a new procedure whereby the Commissioner can collect defaulted National Direct Student Loans on behalf of post secondary institutions and permits the Commissioner to retain the costs of collection; requires that nonprofit and proprietary postsecondary vocational schools offer programs of at least six months duration; corrects an error in the Middle Income Student Assistance Act (Public Law 95-566) by permitting basic educational opportunity grant awards as modified by Public Law 95–566 to apply to periods of enrollment beginning on or after July 1, 1979 H.R. 4476—Passed House July 31, 1979; Passed Senate amended July 31, 1979. (VV)

ELECTIONS

Federal Election Commission authorization: Authorizes $8,881,000 for the Federal Election Commission for fiscal 1980. S. 832—Passed Senate April 4, 1979. (VV)

Authorizes $250,000 to the Federal Election Commission in fiscal 1980 for distribution to the States to cover their expenses in receiving, indexing and maintaining reports required to be filed under the Federal Election Campaign Act, as amended; and directs the Commission to devise a formula for distributing the funds to States in accordance with the number of electoral votes each State cast in the previous Presidential election. S. 994—Passed Senate May 10, 1979. (VV)

EMPLOYMENT

Employee retirement income security: Amends the Employee Retirement Income Security Act of 1974 by postponing for 10 months, from July 1, 1979 to May 1, 1980, the date on which the Pension Benefit Corporation (set up by Congress to administer the termination insurance program which guarantees benefits of retirees and workers in pension plans terminated with insufficient assets to pay benefits) may pay benefits under terminated multi-employer plans. H.R. 3915—Public Law 96-24, approved June 19, 1979. (VV)

ENERGY

Department of Energy—Military: Authorizes $3,001,798,000 for fiscal 1980 to the Secretary of Energy for the operating expenses and capital equipment and construction costs related to the national defense programs of the Department of Energy of which $1,707,605,000 is for the nuclear weapons program which includes expected new requirements for the Advanced Strategic Air Launched Missile, Trident II Missile and the Pershing 11 and provides for the production of new nuclear weapons for the stockpiled weapons approved by the President; $37,860,000 for the verification and control program; $512,248,000 for the materials production program; $285,201,000 for the defense waste management program; $133,890,000 for the inertial confinement fusion program; $278,367,000 for the naval reactors development and $46,627,000 for the nuclear materials security and safeguards program;

Prohibits the reprogramming of funds in excess of five percent of an authorization or $10,000, whichever is less, without prior approval by the appropriate Congressional committee within 30 calendar days; authorizes the Secretary to carry out any construction projects under the general projects provisions if the total estimated cost does not exceed $1 million; prohibits initiation of a construction project costing more than $5,000 if its estimated cost exceeds by 25 percent the amount authorized without approval by the appropriate Congressional committee within 30 calendar days; authorizes the transfer of funds, to the extent specified in appropriations acts, to other government agencies for work for which such sums were appropriated; authorizes the Secretary, using funds for plant engineering and design, to carry out advanced planning and construction design and to obtain architectural and engineering services, not exceeding $300,000, in connection with construction projects not authorized by law; authorizes such funds as necessary for increases in salary, pay, retirement, or other benefits authorized by law; prohibits use of funds, with respect to the waste isolation pilot plant project, for purposes other than a demonstration project for the long-term storage of nuclear waste generated by the nuclear weapons research, development, and production complex; directs the Secretary, within a ten-year period and in consultation with other agencies, to carry out a nuclear waste management demonstration project at the Western New York Nuclear Service Center, West Valley, New York, which shall include: (1) solidification of the high level liquid nuclear wastes which are present there, (2) transportation of solidified waste to an appropriate Federal repository, and (3) decontamination and decommissioning of the facilities, materials, and hardware used in connection with the project; and requires submission of progress reports to the appropriate Congressional committees by February 1 of each year. S. 673—Passed Senate June 18, 1979. (VV)

Domestic energy summit conference: States as the sense of the Senate that the President should convene a Domestic Energy Summit Conference to provide the American people with an authoritative explanation of the present energy supply shortage; directs the President to bring together representatives of the oil industry, consumer representatives knowledgeable on energy matters, officials of the Executive Branch and from other levels of government, and such other persons as he deems appropriate to review energy supply data submitted by industry and other sources and report to the President the group's agreements and disagreements on the reasons for current and expected shortages, a prognosis for the future, and recommendations for public and private action to meet these shortages; and requires the President to report to the American people the results of the Conference along with his recommendations with respect to the formation of a national energy council to monitor our progress in achieving a national energy policy. S. Res. 191—Senate agreed to June 26, 1979. (VV)

Domestic oil and coal production: States the sense of the Senate that the U.S. should pursue a policy of displacing a specified percentage of foreign oil with domestic coal; and that the President should submit to Congress within 60 days a target and plan which will, to the maximum extent practicable, achieve such displacement. S. Res. 175—Senate agreed to June 4, 1979. (VV)

Emergency advertising lighting restrictions: Rejection of the resolution approving Standby Emergency Advertising Lighting Restrictions Contingency Plan Numbered 3 which would prohibit any person from using electricity (1) to illuminate any advertising sign (except to indicate if open for business or to identify products or services supplied) or (2) illuminate any window display; makes the plan applicable in every State (including the District of Columbia, Puerto Rico or any territory or possession of the United States) and provides that it shall preempt any State or local law that is inconsistent with this plan or any rule, regulation or order promulgated pursuant to it; authorizes the President to exempt a State or locality from this plan, in whole or part, during a period for which (1) he determines that it has in effect a comparable program (defined as a mandatory program which deals with the same subject matter as this plan, and which conserves at least as much energy as this plan), or (2) he finds special circumstances exist in the State or locality; and requires the Secretary to review requests for an exemption and to submit his recommendations thereon to the President or his delegate. S. Res. 123—Senate rejected May 2, 1979. NOTE: (See also S. Res. 120, 122, and 153 on other energy conservation plans.) (76)

Emergency building temperature restrictions: Expresses Senate approval of Standby Emergency Building Temperature Restrictions Contingency Plan Numbered 2 which requires owners of non-residential buildings (except hospitals and other health care facilities and other buildings as determined by the Secretary of DOE) to maintain thermostats at no higher than 65 degrees F. for room heating and at no lower than 80 degrees F. for cooling room or at other ranges for heating or cooling as determined reasonable and necessary by the Secretary; exempts from these temperature level areas where a "manufacturers warranty" requires specific temperature levels for the operation of special equipment or where special environmental conditions are required to protect animal or plant life or materials;

Requires owners of non-residential buildings to maintain thermostats controlling hot water at no higher than 105 degrees F. or at other levels as determined by the Secretary; permits higher water temperatures specifically for dishwashing purposes for which health codes require higher sanitizing water temperatures;

Makes the plan applicable in every State (including the District of Columbia, Puerto Rico or any territory or possession of the United States) and provides that it shall preempt State or local law or to the extent that such law is inconsistent with this plan or any rule, regulation or order promulgated pursuant to it; authorizes the President to exempt a State or locality from this plan, in whole or in part, during a period for which (1) he determines that it has in effect a comparable program (defined as a mandatory program which deals with the same subject matter as this plan, and which conserves at least as much energy as this plan would be expected to conserve), or (2) he finds special circumstances exist in the State or locality; and requires the Secretary to review State requests for an exemption and to submit his recommendations thereon to the President or his delegate. S. Res. 122—Senate agreed to May 2, 1979. H. Res. 209—House agreed to May 10, 1979. NOTE: (See also S. Res. 120, 123, and 153 on other energy conservation plans.) (74)

Emergency energy conservation: Authorizes the President to create an emergency energy conservation program and permits State Governors to identify the most appropriate methods to conserve energy in their States; authorizes the President, whenever he finds that a severe energy supply interruption exists or is imminent or that actions to restrain domestic energy demand are required in order to fulfill the obligations of the United States under the international energy program, to: (1) announce a national emergency energy conservation target which, if achieved, will, to the maximum extent practicable, minimize the impact of anticipated energy shortages on the domestic economy by saving an amount of energy equivalent to the projected shortage; (2) notify the Governor of each State of the State emergency energy conservation target established by the President for that State; provides that the target for each State shall be a uniform national percentage reduction in an adjusted base period energy use for each State which may be adjusted to reflect: (a) reduction in energy consumption already achieved by conservation program; (b) current trends in population and economic activity; (c) energy shortages which may be having an effect on energy consumption; (d) variations in weather from seasonal norms; and (e) such other factors as the President finds relevant; (3) notify the Governor of each State of the Federal implementation plan which would be imposed in that State if their State plan is not submitted and approved; (4) announce an emergency energy conservation plan for the Federal Government which will take into consideration energy consumption reductions by Federal buildings and equipment, by Federal employees through car and van pooling, preferential parking for multipassenger vehicles and greater use of mass transit and by executive departments and agencies as a result of modification in Federal procurement policies; specifies that the President is not authorized to restrict weekend gasoline sales unless sales on other days of the week are similarly restricted; exempts from any conservation plan wood, solar energy, bio-mass, gasohol, or synthetic fuel, fuels used in the production exploration or distribution of fuels, used for pumping of water for hydropower storage or for production of agricultural goods and fibers; allows the President to prohibit the hoarding of petroleum fuels in excess of reasonable need regardless of the state of energy emergency; allows the States to appeal their conservation targets in the courts; and requires that any conservation plan not constitute a burden on interstate commerce. S. 1030—Passed Senate June 5, 1979. (120)

Oil company participation in IEP: Extends from June 30, 1979, until October 31, 1979, the provisions of section 252 of the Energy Policy and Conservation Act (EPCA) which govern oil company participation in the International Energy Program (IEP). S. 1317—Public Law 96–30, approved July 9, 1979. (VV)

Pipeline safety: Amends the Natural Gas Pipeline Safety Act of 1968 (NGPSA) to clarify and update existing provisions; clarifies the Department of Transportation's (DOT) authority to regulate liquified natural gas; clarifies that safety standards applicable to new pipeline facilities (those relating to design and construction) can be made applicable to existing facilities that are considered hazardous to life or property; leaves in place the existing policy on preemption, criteria for establishing standards and procedures for granting waivers with States having the right to adopt more stringent safety standards for intrastate pipeline transportation if compatible with the Federal standards issued under NGPSA; requires State agencies to encourage and promote programs to prevent damage to pipeline facilities as a consequence of demolition, excavation, tunneling or construction activities; increases from $1,000 to $5,000 the level of property damaged required to trigger the State reporting requirements and requires State agencies to investigate and report on any accident which the agencies consider significant; strengthens and expands the enforcement powers of the Secretary by providing authority to issue compliance orders, expedited collection of civil penalties, and criminal penalties for willful violations;

Establishes the Hazardous Liquid Pipeline Safety Act (HLPSA) which replaces the Transportation of Explosives Act (TOEA) and gives it a statutory framework similar to the NGPSA to regulate transportation of hazardous liquids by pipeline; establishes regulatory authority over the transportation and storage of hazardous liquids moved by pipeline which is parallel to that of the NGPSA; gives the Secretary authority to promulgate safety standards and assure compliance of covered facilities with the standards; establishes a State enforcement program so that the appropriate agency within a State would be certified to enforce the Federal standards and establishes a State grant-in-aid program to fund the program; provides the same inspection, recordkeeping, administrative and judicial remedies as NGPSA; and

Authorizes $8.5 million for fiscal 1980 and $9.1 for 1981 for DOT's Research and Special Programs Administration which includes $3.5 million for 1980 and $3.8 million for 1981 for grants-in-aid to State agencies for conducting gas pipeline safety programs and hazardous liquids pipeline safety programs. S. 411—Passed Senate June 14, 1979. (VV)

"Severe energy interruptions" definition: Expresses the sense of the Senate that the term "severe energy interruptions" as used in section 201(c) of the Energy Policy and Conservation Act (Public Law 94–163) to determine the severity of a petroleum supply shortage in the United States which would require the President to recommend to the Congress that the Standby Gasoline Rationing Plan provided for in that section be implemented, shall be a national energy supply shortage which the President determines: (1) has or is likely to result in a loss to the U.S., or an allocation away from the United States under international obligations, of more than 20 percent of the U.S. supply of petroleum for a period exceeding 30 days, (2) cannot be managed adequately through withdrawals from the Strategic Petroleum Reserve or acquisition from other sources, (3) is not manageable under other energy emergency authorities including any approved Energy Conservation Contingency Plans, (4) is expected to persist for a period of time sufficient to threaten seriously the adequacy of stocks of crude oil or petroleum products, (5) is and can be expected to continue to have a major adverse impact on the national safety or economy, and (6) has resulted from an interruption in the supply of petroleum by an act of God, sabotage or by governmental decisions of the several oil producing countries to limit the export of crude oil to the United States, or to governments with which the United States has obligations; and states further that the commencement of international hostilities under constitutional authorities, including commitment of troops by the President under the War Powers Act and the determination that rationing of gasoline is necessary to assure adequate supplies to protect the national security, shall be sufficient cause for the President to recommend to the Congress that the Standby Gasoline Rationing Plan be implemented. S. Res. 151—Senate agreed to May 9, 1979. (VV)

Small hydroelectric powerplants: Amends the Public Utility Regulatory Policies Act of 1978 to increase the authority of the small hydroelectric program by including loans for feasibility studies and construction of projects at new or existing hydroelectric projects up to 25MWe; and extends the authorization for the loan program for two additional years, through fiscal 1982, at $100 million annually. S. 948—Passed Senate June 14, 1979. (VV)

Standby gasoline rationing plan: Expresses Senate approval of the Standby Gasoline Rationing Plan Numbered 1 which establishes a gasoline rationing program in the event of serious oil supply shortage which would involve the use of rationing checks and coupons to allocate available gasoline to owners of State-registered gasoline-powered vehicles, as revised by Contingency Plan No. 6 as contained in S. Res. 153; requires DOE to calculate ration allotments for each class of vehicle; allots a State Ration Reserve to each State to meet the priority needs of the handicapped and for other hardship applications; provides priority allotments to essential public services such as fire protection, police, ambulances and public transportation; provides sufficient allotment to delivery vehicles for delivery of goods and services, and sufficient ration rights to tractors and other off-highway gasoline powered equipment for food and fiber production; requires ration checks to be issued quarterly which would be redeemable in ration coupons which drivers would present at gas stations in order to purchase gasoline; and allows individuals with a lesser need for gasoline to sell a portion of their ration coupons to others with a greater need. S. Res. 120—Senate agreed to May 9, 1979. H. Res. 212—House defeated May 10, 1979. Note: (See also S. Res. 122, 123 and 153 on other energy conservation plans.) (85)

Makes revisions to Standby Gasoline Rationing Plan Numbered 1 (S. Res. 120) which: (1) provides each State with an expanded State Ration Reserve of eight percent not only to provide for the needs of the handicapped and hardship applicants as already provided in the plan but to add flexibility to the States in dispensing supplemental ration allotments to citizens with special needs; establishes a National Ration Reserve which would be made up of approximately two percent of the available gasoline supply to meet emergency disaster relief and certain national security needs; (2) provides a new method for calculating the ration rights by basing allotments entirely on historical gasoline use in each State; and (3) limits the number of ration rights received by each household to three vehicle allotments but does not preclude a household from obtaining additional ration rights from the State Ration Reserve on the basis of hardship or other factors. S. Res. 153—Senate agreed to May 9, 1979. NOTE: (See also S. Res. 120, 122 and 123 on other energy conservation plans.) (84)

Tennessee Valley Authority debt limit: Increases the debt limit for the Tennessee Valley Authority from $15 billion to $30 billion. S. 436—Passed Senate June 20, 1979. (VV)

Three Mile Island Commission: Confers certain powers on the Presidential Commission appointed pursuant to Executive Order Numbered 12130, of April 11, 1979, to investigate the Three Mile Island nuclear power plant accident including (1) the power to subpena and (2) the power to issue an order for Commission members to inspect the Three Mile Island Nuclear power plant; provides that, upon application by the Attorney General, any U.S. district court may issue an order requiring the appearance of a witness or production of material, and provides that the court may issue a contempt citation against any person failing to obey a court-issued order; and provides witnesses with the same fee and mileage expenses that are paid witnesses in the courts of the United States. S.J. Res. 80—Public Law 96–12, approved May 23, 1979. (VV)

ENVIRONMENT

Endangered species: Extends the authorization for the Endangered Species Act at a level of $23 million for fiscal 1980, $25 million for 1981 and $27 million for 1982 to the Department of the Interior; authorizes $2.5 million for fiscal 1980, $3 million for 1981 and $3.5 million for 1982 to the Department of Commerce which is charged with the protection of endangered and threatened marine species, and continues through fiscal 1982 the current annual authorization of $600,000 for the Endangered Species Committee;

Authorizes $500,000 to carry out the proposed recovery plan for the California condor, which was developed pursuant to a report produced jointly by the National Audubon Society and the American Ornithologists Union; changes the various terms in the 1978 amendments concerning the potential impact of a Federal action on a threatened or endangered species or its critical habitat to "is likely to jeopardize"; makes an emergency designation (whereby the Secretary may list a species or critical habitat on an emergency basis if a situation exists which poses a significant risk to the continued existence of the species) effective for one year instead of 120 days; requires the Secretary to withdraw the listing if he finds at any time, based on substantial showing using the best scientific and commercial data available, that the emergency condition no longer exists or that the species should not in fact be listed; clarifies congressional intent under the 1978 amendments that when the Secretary finds that a permanent exemption would result in the extinction of a species, the Endangered Species Committee would have 30 days to determine whether the exemption should be granted; requires the Secretary, if he determines that a Federal agency action is likely to jeopardize the existence of a proposed endangered species or adversely modify the proposed critical habitat of the species, to complete or withdraw, within 90 days, the proposed listing and critical habitat designation notwithstanding any other requirements; and specifies that, when a permit or license is involved, the exemption applicant has 90 days after final agency action on a permit or license to apply for an exemption. S. 1143—Passed Senate June 13, 1979. (130)

EPA authorization: Authorizes a total of $379,635,000 for the environmental research and development programs conducted by the Environmental Protection Agency for fiscal 1980 as follows: $96,899,500 for water quality research of which $32,340,000 is for the energy program; $9,368,000 for pesticide research and demonstration; $27,734,000 for drinking water research and demonstration of which $4,065,000 is for the energy program and $4 million for a new program for groundwater research and development; $33,-977,000 for toxic substances research; $2,-930,000 for radiation research; $134,731,500 for air quality programs of which $58,769,500 is for the energy program and $50,624,000 for the health and ecological effects program; $19,728,000 for research and development on solid waste of which $11,585,500 is for the energy program; $2,000,000 for noise control; $24,544,000 for intermedia activities; $27,-452,000 for program management and support; and $4 million for two environmentally related research programs at the National Bureau of Standards; and authorizes the Administrator to allow the Agency's facilities to be used by an outside organization with appropriate reimbursement which may be waived if he determines it to be in the public interest. H.R. 2676—Passed House March 27, 1979; Passed Senate amended May 23, 1979; House requested conference July 10, 1979 (VV)

Industrial cost recovery payment moratorium: Amends the Clean Water Act of 1977 to extend for one year, until June 30, 1980, the existing moratorium on industrial cost recovery (ICR) payments to the Treasury (contained in the Federal Water Pollution Control Act of 1972 to insure that industrial participants in municipal treatment plants repay the share of the Federal construction cost attributable to the treatment of their industrial wastes) in order to allow the Environmental Protection Agency to continue their study, mandated under the Clean Water Act of 1977, on the effectiveness and need of the ICR provision and issues relating to their implementation, taking into account the desirability of industries joining municipal treatment works. S. 901—Passed Senate June 14, 1979; Passed House amended June 26, 1979. (VV)

Marine protection: Extends for two years, through fiscal 1981, title III of the Marine Protection, Research and Sanctuaries Act of 1972, which provides for the designation of marine sanctuaries to preserve or restore specific areas of ocean, coastal and Great Lakes Waters chosen on the basis of conservation, recreational, ecological, scientific or esthetic values; adds the term "scientific" to the list of criteria for which a marine sanctuary can be established; and authorizes therefor $3 million for fiscal 1980 and $4 million for 1981 to the National Oceanic and Atmospheric Administration, charged with administering the program. S. 1140—Passed Senate May 22, 1979. (VV)

National Advisory Committee on Oceans and Atmosphere: Authorizes $565,000 for fiscal 1980 and $600,000 for 1981 to the National Advisory Committee on Oceans and Atmosphere which is mandated to (1) undertake a continuing review of national ocean policy, coastal zone management and the status of U.S. marine and atmospheric science and service programs and (2) advise the Secretary of Commerce with respect to carrying out the programs of the National Oceanic and Atmospheric Administration; and strikes the provision allowing for the carryover of funds from one fiscal year to the next. H.R. 3577—Public Law 96–26, approved June 21, 1979. (VV)

Ocean pollution: Authorizes $9.5 million in fiscal 1980 for the National Oceanic and Atmospheric Administration to monitor ocean dumping and to carry out research on marine pollution, under title II of the Marine Protection, Research and Sanctuaries Act of 1972. S. 1123—Passed Senate June 6, 1979. (VV)

Extends for three years, through fiscal 1982, title I of the Marine Protection, Research and Sancturaries Act under which the Environmental Protection Agency has the authority to regulate transportation of materials for ocean dumping and prevent ocean dumping of any material which would adversely affect human health or welfare, the marine environment, an ecological system or economic potentialities; authorizes therefore $1,232,000 each for 1980 through 1982; and authorizes EPA to conduct a study evaluating the technological options available for the removal of heavy metals and other toxic organic materials from the sewage sludge of New York City which is to be completed by July 1, 1980. S. 1148—Passed Senate June 6, 1979. (VV)

Ocean pollution research and development: Authorizes $4.3 million for fiscal 1980 to carry out the provisions of the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 (Public Law 92–273). H.R. 2520—Public Law 96–17, approved June 4, 1979. (VV)

Quiet communities: Amends the title of the Noise Control Act of 1972 to read the "Quiet Communities Act" and conforms all references in law to the new name; authorizes $15 million annually for fiscal 1980 and 1981 to carry out the provisions of the act; requires the Administrator of the Environmental Protection Agency to develop a five-year plan to be submitted to Congress by March 1, 1980, setting forth a detailed description of the objectives of each program and activity which the Administrator will carry out in fiscal 1981 through 1985, and to prepare and submit to Congress a revision of the plan by January 31, 1981, and each two years thereafter; requires that the plan contain a separate discussion of the Administrator's research objectives with respect to the health aspects of noise and that the research portion of the plan (1) set forth the relative priorities assigned to various categories of noise research activities to be performed by EPA or other Federal agencies, a detailed statement of the annual levels of funding to be allocated to each category, and a schedule or timetable of activities proposed to attain the noise research objectives; and (2) contain an analysis of the relationship between the research elements and the other activities for programs described elsewhere in the plan; requires that the plan contain a separate portion on aircraft and airport noise studies; and allows local governments to petition EPA requesting a change in Federal Noise regulations which affect fixed railroad facilities. S. 1144—Passed Senate June 14, 1979. (VV)

Safe drinking water: Extends for three years, through fiscal 1981, the programs under the Safe Drinking Water Act and authorizes therefor $59.2 million for fiscal 1980, $69.1 million for 1981 and $81.6 million for 1982; includes $21.4 million for 1980, $24.6 million for 1981 and $30.5 million for 1982 for research and primary enforcement responsibilities; $29 million for 1980, $30 million for 1981 and $35.9 million for 1982 for grants to States for public water suspension programs; and $7.8 million for 1980, $14.5

million for 1981 and $15.2 million for 1982 for grants for underground water source protection programs; and contains $1 million authorization for a new program of demonstration projects for abatement and control of drinking water contaminants in water supply systems serving 5,000 persons or less. S. 1146—Passed Senate May 22, 1979; Passed House amended July 30, 1979. (VV)

Solid waste disposal: Extends the Solid Waste Disposal Act for three years through fiscal 1982; authorizes therefor $158.95 million for 1980, $170 million for 1981 and $180 million for 1982 for the Environmental Protection Agency and $5 million for each of these years for the Department of Commerce to carry out the purposes of the act; makes minor modifications of the statute;

Allows the Administrator to delegate the power to enforce Solid Waste Disposal Act regulations to other agencies in order to avoid duplication of compliance efforts; provides greater administrative flexibility in allocating funds while retaining an emphasis on technical assistance to States and local governments on funding for hazardous waste control; requires that a minimum of 25 percent of the funds appropriated under the act be used for support of State and local solid waste planning and management activities; suspends subtitle C of the Resource Conservation and Recovery Act with respect to drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil or natural gas for a 24-month period to enable EPA to conduct and submit to Congress a study to determine the degree of hazard associated with these wastes, the adequacy of existing State and Federal regulatory programs, potential changes to regulatory programs, and the cost and impact of those changes on the exploration, development and production of crude oil and natural gas; establishes a procedure for congressional approval of any hazardous waste regulations; codifies the existing common law concept that the generator of waste is responsible for assuring its arrival at an appropriate facility; authorizes the Administrator to distinguish in establishing performance standards for hazardous waste treatment storage and disposal facilities between requirements for new facilities and those for facilities in existence; specifies that the Administrator may authorize EPA contractors to obtain samples, perform inspections and examine records at facilities which handle hazardous wastes; provides that the Agency's access, entry and inspection authority applies to persons or sites which have handled hazardous wastes in the past but are no longer doing so; gives the Agency the option of requesting that persons handling such wastes either provide records or furnish information in the form of a summary; adds provisions to assure appropriate confidentiality of data in the hands of private contractors; amends the enforcement provisions to bring them into line with those in the Clean Air and Clean Water Acts; imposes a civil penalty of up to $25,000 per day for dumping of hazardous wastes regardless of whether the dumping party has been served with an order to stop dumping; authorizes the Administrator to act against violations before a 30-day period has elapsed; clarifies the authority of the Administrator to issue an order suspending or revoking an operating permit and to go to court to enforce suspension or revocation; specifies that grant funds for State hazardous waste activities can be used for inactive site response planning and control; and that both States and local governments may not be prohibited from entering into long-term contracts for operation of hazardous waste disposal facilities or long-term contracts to secure markets for these materials; prohibits open dumping after publication of criteria to define this practice; gives EPA the flexibility to choose which products would be purchased for recycled materials and to set timetables for issuance of new specifications; extends the deadline for changing specification to allow use of recycled materials from 18 months to 5 years; directs the Administrator to issue final guidelines by specified times which will be used by Federal agencies in procuring products containing recovered materials; allows the Agency to take enforcement action against any practice which is presenting a substantial endangerment to health or the environment; modifies the judicial review provisions of the act to follow comparable provisions in the Clean Air and Clean Water Acts; requires that all court actions challenging regulations under this act, including petitions to modify regulations, be heard in the Appeals Court for the District of Columbia; gives the Administrator authority to subpena records and compel testimony of witnesses in enforcement actions; and calls for a special study of the degree of hazard and adequacy of existing regulatory programs associated with drilling fluids, produced waters and other oil and gas exploration and production wastes. S. 1156—Passed Senate June 4, 1979. (VV)

Toxic substances: Extends the Toxic Substances and Control Act three years, through fiscal 1982, and authorizes therefor $69.3 million for fiscal 1980, $94 million for 1981 and $121 million for 1982 to EPA to carry out its responsibilities under the act which include production, use and effects of commercial chemicals; limitation of the import and distribution of harmful chemicals; and improving coordination among Federal and State agencies concerned with toxic substances. S. 1147—Passed Senate May 22, 1979. (VV)

FISHERIES

Anadromous Fish Conservation: Extends the Anadromous Fish Conservation Act of 1965, through fiscal 1983, and authorizes therefore $10 million in 1980, $11 million in 1981, $12 million in 1982, and $13 million in 1983 to the National Oceanic and Atmospheric Administration and the U.S. Fish and Wildlife Service to carry out their responsibilities under the Act; removes the restriction on use of funds for operation and maintenance costs of facilities constructed under multi-State projects; vests title of lands acquired under the Act to the cooperating States or other non-Federal interests rather than to the Federal government to encourage purchase of necessary lands and to conform to other closely related Federal fish and wildlife grant-in-aid programs; modifies the $1 million limitation that a State may receive in any year to $1 million or 20 percent, whichever is greater, of the funds appropriated in any fiscal year in order to allow the Federal government to increase the funds available to a State above the $1 million limitation; directs the Secretary of Commerce, acting through the Director of the National Marine Fisheries Service, and the Secretary of the Interior, acting through the Director of the Fish and Wildlife Service, to cooperate with States and non-Federal interests in conducting studies of: (1) the status of the striped bass (Morone Saxatilis) population in Atlantic coastal waters, and (2) the factors responsible for the decline in the number of such fish available to the public for recreation and commercial use, including a determination of the extent and success of annual spawning, an analysis of the extent and causes of mortality at successive stages in its life cycle, a determination of the effects of pollutants on viability and condition of eggs and larval fish; and a survey of economic significance of the striped bass to both recreational and commercial fishing; and requires Congress to annually report on the progress of the study, and where appropriate include their legislative recommendations, and authorizes therefore $1 million in fiscal 1980, $1.75 million in 1981, $2 million in 1982 and $2 million in 1983. S. 838—Passed Senate June 18, 1979; Passed House amended June 25, 1979. (VV)

Fishery Conservation and Management: Extends for three years, through fiscal 1982, the Fishery Conservation and Management Act of 1976 (FCMA) and authorizes therefore $30 million for fiscal 1980, $40 million for 1981 and $47 million for 1982 to provide for the continued conservation and management of fishery resources of the U.S.; updates the definition of the term "fisheries" in the shipping laws to reflect the 200-mile U.S. fishery conservation zone; and denies access to the U.S. fishery conservation zone; and denies access to the U.S. fishery conservation zone to fishing vessels of any foreign national certified by the Secretary of Commerce (under section 8(e) of the Fishermen's Protective Act) to be in violation of any international whaling or fishery agreement. S. 917—Passed Senate April 30, 1979; Passed House amended June 25, 1979. (VV)

GENERAL GOVERNMENT

Archaeological resources protection: Provides greater protection than now exists for archaeological resources on public and Indian lands of the United States; sets guidelines for issuance of permits for the purpose of excavation or removal of archaeological resources; provides regulations allowing for the exchange of archaeological resources removed from public and Indian lands between museums and other institutions and the disposition of such resources by the Secretary of the Interior; lists those activities which would be prohibited and extends those prohibitions beyond existing law to include persons who deal in stolen artifacts; insures that persons in lawful possession of archaeological resources prior to the date of enactment of this act may retain or dispose of those resources as they wish, without fear of prosecution; provides for civil penalties with a maximum fine of $1,000 for each violation or $2,000 for subsequent violations and provides for criminal penalties for persons who knowingly violate the prohibitions contained in this Act; directs the Secretary of the Treasury, at the recommendation of the appropriate Federal agency, to pay up to one-half of the civil or criminal penalty not to exceed $500, to persons furnishing information leading to the finding of a civil violation or criminal conviction; and provides a specific exemption from the Freedom of Information Act for the location of archaeological sites on public and Indian lands by placing discretionary disclosure authority with the appropriate Federal agency. H.R. 1825—Passed House July 9, 1979; Passed Senate amended July 30, 1979. (VV)

1980 Census: Permits the Secretary of Commerce to enter into lease agreements for purposes of conducting the 1980 Decennial Census, using as a price guideline the amount of 105 percent of the Fair Market Value which is the standard applied by the Economy Act of 1932. S. 1318—Passed Senate August 1, 1979. (VV)

FBI intelligence activities authorization: Amends the ceilings established by the Department of Justice Appropriations Authorization Act, fiscal 1979, and the Intelligence and Intelligence-Related Activities Authorization Act, fiscal 1979, to allow for the transfer of $2.7 million from the Department of Justice-Bureau of Prisons to the Federal Bureau of Investigation in order to increase its capabilities for the conduct of foreign counterintelligence investigations to protect the United States against clandestine intelligence activities in this country by, or on behalf of, foreign powers. S. 1512—Passed Senate July 13, 1979. (VV)

Federal fire prevention and control: Authorizes $27,274,000 for the United States Fire Administration (USFA) and $5,600,000 for the Center for Fire Research within the Department of Commerce for a total authorization of $32,874,000; includes funding for the Federal arson, firefighter protection and rural firefighting assistance programs; contains increased funding for major acceleration of the National Fire Academy (established by the Federal Fire Prevention and Control Act of 1974) programs which, with the purchase of a site in Emmitsburg, Maryland, are expected to be implemented this year; and calls for the Administrator of the USFA to carry out a ten-month study on the effectiveness of smoke and heat detectors and sprinkler systems in saving lives, preventing injuries, and limiting property damage in fires and to report his findings to Congress and the President. S. 1160—Passed Senate May 23, 1979; Passed House amended June 4, 1979. (VV)

Federal procurement policy authorization: Extends the Office of Federal Procurement Policy for an additional five years, through fiscal 1984, and authorizes such sums as may be necessary for the Office to carry out its duties. S. 756—Passed Senate May 21, 1979. (VV)

Intelligence activities authorization: Authorizes such amounts as specified in a classified report prepared by the Senate Select Committee on Intelligence for fiscal 1980 for intelligence activities of the United States Government including specific amounts for the Central Intelligence Agency, National Security Agency, military services, Departments of State, Treasury and Energy, Federal Bureau of Investigation, and the Drug Enforcement Administration; provides that copies of the report shall be made available to the House Permanent Select Committee on Intelligence, the Committees on Appropriations and Armed Services of the House and Senate, and to the appropriate entities of the intelligence community for which funds are authorized; conforms the fiscal 1980 Intelligence Authorization to actions taken by the Senate regarding intelligence activities of the FBI; provides dependent educational travel benefits for CIA and NSA employees serving overseas; authorizes $12,627,000 for the Intelligence Community staff which provides support and assistance to the Director of the Central Intelligence Agency in fulfilling his responsibilities for management and direction of the intelligence community; sets at 245 the end strength of full-time employees for the intelligence community staff and provides that any employee detailed to the staff from another entity shall be detailed on a reimbursable basis except that an employee may be detailed on a non-reimbursable basis for a period of not less than one year for performance of temporary functions as required by the Director of Central Intelligence; and authorizes $51,600,000 for the Central Intelligence Agency Retirement and Disability System. S. 975—Passed Senate June 20, 1979; Passed House amended July 10, 1979; (VV)

International Affairs of Treasury: Authorizes $23,175,000 for fiscal 1980 for the international affairs functions of the Treasury Department, including sums for official functions, receptions and representation expenses of which $800,000 is for nondiscretionary increases arising from cost-of-living adjustments mandated by law or by the provisions of the Civil Service Reform Act of 1978. S. 976—Public Law 96– , approved 1979. (VV)

National Science Foundation authorization: Authorizes $1,001,700,000 for the National Science Foundation for fiscal 1980 plus an additional $6 million in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States; contains funding for the following categories in the total amount of: $293.4 million for mathematical and physical sciences and engineering; $241.5 million for astronomical, atmospheric, earth and ocean sciences; $55 million for the U.S. Antarctic program; $170 million for biological, behavioral and social sciences; $86.2 million for science education programs of which not less than $2.5 million be available for the program Minorities, Women and the Handicapped in Science and $2.05 million for the program Ethics and Values in Science and Technology; $68.7 million for applied science and research applications of which not less than 12.5 percent shall be expended to small business concerns, $21.8 million is for the Earthquake Hazards Mitigation program, and $2.6 million for a program of science and technology to aid handicapped; $27.3 million for scientific, technological and international affairs; and $59.6 million for program development and management; requires that not less than four percent of the total available funds for equipment and instrumentation under the categories of mathematical and physical sciences and engineering; astronomical, atmospheric, earth and ocean sciences; and biological, behavioral and social sciences be available to two- and four-year colleges for equipment and instrumentation costing $25,000 or less; requires the Foundation to develop measures of the status of and needs for scientific instrumentation in the U.S.; prohibits the Director from transferring funds to or from the science education programs and applied science or research applications categories exceeding ten percent prior to notifying Congress and gives Congress 30 calendar days to disapprove the transfer; requires the Director to keep the relevant Congressional committees informed with respect to all activities of the Foundation; directs that 20 percent of the funds allocated for the science faculty professional development program be used to establish a pilot program of Institutes and Conferences and the remainder used to provide 3 to 12 month leaves at academic institutions or industries for college level faculty members; and directs the Foundation to undertake and submit to Congress a comprehensive study of these two programs. H.R. 2729—Public Law 96– , approved 1979. (VV)

National tourism policy: Establishes a national tourism policy and the principal mechanisms for coordinating an implementing that policy; creates a cabinet-level Policy Council to deal with issues of duplication, contradiction and lack of coordination among Federal agencies having tourism and tourism-related programs and policies; and creates a Federally-chartered, nonprofit corporation as an implementing mechanism for the national policy to: (1) develop and administer a comprehensive program to stimulate and encourage travel to the United States, (2) monitor Federal programs for compliance with the national tourism policy, (3) act as the tourism industry's advocate within the several government agencies impacting tourism and (4) develop and administer programs to assist the industry and consumer. S. 1097—Passed Senate May 14, 1979. (VV)

President's Commission on Pension Policy: Provides a statutory basis to continue for two years the President's Commission on Pension Policy which was established under Executive Order No. 12071, effective September 1978, to conduct a comprehensive review of retirement income programs in the U.S., and develop national policies for these programs; requires the Commission to report to Congress on a regular basis and to submit a final report of its recommendations and findings to the President and Congress; provides for the continued service of the present Commission members and requires Senate confirmation of the Chairman in the event of a vacancy; authorizes the Commission to enter into contracts for the conduct of research and surveys, the preparation of reports, and other activities necessary to carry out its duties and responsibilities; authorizes $2 million for fiscal 1980 for the operation of the Commision which shall remain available until expended; and provides for the termination of the Commission 90 days following submission of its final report. S. 532—Public Law 96-14, approved May 24, 1979. (VV)

Smithsonian authorization: Authorizes $500,000 for fiscal 1980 to the Smithsonian Institution to plan the development of the area south of the original Smithsonian Institution Building, known as "the Castle", adjacent to Independence Avenue for the multi-use purpose of constructing a new home for the Museum of African Art (which the Smithsonian acquired pursuant to provisions contained in Public Law 95-414), an Oriental Art Center and several other facilities, including a lower level parking garage consisting of about 400 spaces. S. 927—Public Law 96-36, approved July 20, 1979. (VV)

Smithsonian Canal Zone biological area: Increases from $350,000 to $750,000 the limit on annual appropriations for the Canal Zone Biological Area (the Barro Colorado Island facility of the Tropical Research Institute of the Smithsonian Institution) in order to upgrade the facility. S. 817—Passed Senate April 14, 1979. (VV)

U.S. travel service: Continues funding the United States Travel Service, pending the legislative recommendations of the National Tourism Policy Study, for one year at a reduced level of $8 million and requires a 60 percent staff reduction in the Washington office by September 1, 1979. S. 233—Passed Senate March 8, 1979.

GOVERNMENT EFFICIENCY AND REORGANIZATION

Alaska natural gas pipeline reorganization: Approves Reorganization Plan No. 1 of 1979 which provides for the establishment of an Office of Federal Inspector for the Alaska Natural Gas Pipeline as a separate unit in the Executive Branch to be headed by a Federal Inspector appointed by the President and subject to Senate confirmation; transfers to the Federal Inspector authority to enforce the terms and conditions of permits, certificates, leases, rights-of-way, and other authorization issued by the Departments of Agriculture, Interior, Transportation and Treasury, the Federal Energy Regulatory Commission (FERC), the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers; provides for the creation of an Executive Policy Board composed of the Secretaries of Agriculture, Energy, Interior and Transportation, the Administrator of EPA, the chief of the U.S. Army Corps of Engineers and the Chairman of FERC which will serve in an advisory capacity to the Federal Inspector; and provides that the Office shall be phased out one year after the initial operation of the Alaska pipeline system. S. Res. 126—Senate rejected disapproval resolution May 23, 1979. H. Res. 199—House rejected disapproval resolution May 31, 1979. (VV)

Ethics in Government amendments: Makes certain clarifying and technical amendments to the Ethics in Government Act (Public Law 95-521) which: specifies that the ban on "aiding and assisting in representing" is limited only to those particular matters in which the former official has been "personally and substantially" involved while in office; limits "aiding and assisting in representing" to on-site appearances before the Government; equalizes the treatment of military officers and civilian officials insofar as automatic inclusion for certain provisions such as the one-year "cooling off" period by increasing the military grade subject to automatic inclusion from a O-7 (brigadier general) to O-9 (three star general); specifies that no Federal employee below GS-17 (except members of the Senior Executive Service) and no military personnel below O-7 could be subjected to the "no contact" provisions; allows certain exemptions for contact with employers in a different bureau in an agency; and exempts the prohibition of contact for employees of State and local governments, institutions of higher education, and nonprofit medical facilities. S. 869—Public Law 96-28, approved June 22, 1979. (VV)

GOVERNMENT EMPLOYEES

Federal employees health benefits: Amends section 4 of the Retired Federal Employees Health Benefits Act by revising the Retired Federal Employees Health Benefits Program (RFEHB) to make the government contribution to RFEHB equivalent to the cost of part B of Medicare (currently $8.20), with a built-in escalator allowing for subsequent increases. S. 716—Passed Senate May 23, 1979. (VV)

Federal employee participation in Pan-American and Olympic Games: Provides for paid leave of up to 90 days for a Federal employee participating in the Pan American or Olympic games as a representative of the official U.S. team. S. 387—Passed Senate May 23, 1979. (VV)

HEALTH

Alcohol abuse and alcoholism prevention: Extends the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, through fiscal 1982, and authorizes therefor $208 million for 1980; $223 million for 1981 and $238 million for 1982 to continue the alcohol abuse and alcoholism research, prevention, treatment and rehabilitation programs of the National Institute on Alcohol Abuse and Alcoholism (NIAAA) in the Department of Health, Education and Welfare; establishes an Associate Director for Underserved Populations within NIAAA, to develop and coordinate prevention, treatment, research and administrative policies and programs to assure increased focus on minority and other underserved populations; provides greater emphasis on prevention, evaluation, occupational programs and families of alcoholics; replaces the Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism with an Interdepartmental Committee for Alcohol Abuse and Alcoholism to better coordinate Federal alcoholism activities; creates an Intradepartmental Committee for Departmental Activities on Alcohol Abuse and Alcoholism to coordinate alcoholism activities within HEW; provides for more coordination between NIAAA and the National Institute on Drug Abuse in matters of data collection, program management and evaluation; establishes a 2-year center for American Indian-Alaskan Native Concerns within the National Institute on Alcoholism and Alcohol Abuse to study the problem of alcoholism and alcohol abuse among American Indians and Alaskan Natives; authorizes a small grant program to States for demonstration and implementation of insurance regulations to cover alcoholism and alcohol abuse; extends the prohibition of discrimination against alcoholics in health care facilities to all services receiving Federal support; authorizes emergency assistance to victims of alcohol-related domestic violence; encourages technical assistance to States; includes social consequences of alcohol abuse as a subject of research; increases the maximum annual grant to National Alcohol Research Centers to $1.5 million; specifies research on biomedical, behavioral and social issues; authorizes designation of consortia as Centers; requires laboratory, reference and data analysis suited to Center research plans; establishes a two-year National Commission on Alcoholism and Alcohol-Related Problems, consisting of eight members of Congress (four from each House) and eleven public members appointed by the President, to undertake a comprehensive national study of alcohol-related problems and make recommendations to the President and Congress at the end of the two-year period; and authorizes therefor $2 million. S. 440—Passed Senate May 7, 1979. (VV)

Drug abuse and treatment: Revises and extends for one year, through fiscal 1980, the authorizations under the Drug Abuse Office and Treatment Act of 1972 to continue drug abuse prevention, treatment and rehabilitation programs, and certain research programs of the National Institute on Drug Abuse (NIDA) with a contingent extension of such authorizations for an additional year if Congress fails to consider renewal legislation during the forthcoming fiscal year; authorizes $243 million in fiscal 1980 and the same level for 1981 for the contingent extension; provides for greater emphasis on evaluation, occupational programs and prevention and emphasizes the need for Federal, State and local planning, adaptability to changing demographic and drug use patterns, coordination of domestic and international activities, and the active involvement of municipalities in planning and coordination of drug abuse services; abolishes references to the former Office of Drug Abuse Policy (IDAP) and transfers responsibility for coordinating Federal, international and domestic drug policy to the President, as provided for under Reorganization Plan No. 1 of 1977; requires special emphasis on prevention and treatment services to currently underserved populations; provides for greater representation of minorities, poverty groups, and vulnerable populations on State advisory panels and enhances the role of general local government units by authorizing small grants for planning and coordination to local governments with high concentrations of drug abuse; extends the prohibition on discrimination against drug abusers in health care facilities to other Federally supported social services; encourages technical assistance to States; provides for the designation of an Associate Director for Underserved Populations within the National Institute on Drug Abuse to develop and coordinate prevention, treatment, research and administrative policies and programs to assure increased focus on minority and other underserved populations; and provides for more coordination between NIDA and the National Institute on Alcohol Abuse and Alcoholism in data collection, program management, credentially and related areas. S. 525—Passed Senate May 7, 1979. (VV)

Emergency medical services: Extends for three years, through fiscal 1981, the programs under the Emergency Medical Services Systems (services; research, burn, trauma or poison; and training) and authorizes therefor $50 million annually; deletes the requirement under present law that no more than 50 percent of the sums appropriated each year for planning grants and contracts may be made for second planning grants; requires that priority in awarding planning grants be given to those EMS regions which have not had a first planning grant; includes $40 million annually for grants or contracts for planning, to initiate development and expansion of an EMS; earmarks one percent of the funds appropriated for planning grant; includes $40 million annually for grants or contracts for planning, to initiate development and expansion of an EMS; earmarks one percent of the funds appropriated for planning grants rather than the 2½ to 5 percent earmarked in current law; extends the current requirement that not less than 20 percent of systems development funds be used for (1) grants or contracts for the initial operation of an EMS system, and (2) grants for expansion of an EMS system; includes $3 million annually for grants and contracts for research in emergency medical services; provides for a representative of the Federal Emergency Management Agency as a member of the Interagency Committee on EMS; includes trauma and poison in the Burn Injury Program and authorizes therefor $3 million annually; and authorizes $4 million annually for grants or contracts for training in emergency medical services.

Establishes an administrative unit within HEW to carry out the Sudden Infant Death Syndrome (SIDS) program and requires the Secretary to provide the unit with adequate staff to carry out the program effectively; authorizes the Secretary to make grants and contracts to non-profit private organizations for projects pertaining to SIDS and related issues such as death investigation and biomedical research activities and authorizes therefor $5 million for fiscal 1980 and $7 million for 1981; requires the Secretary to develop an annual reporting system for data collected by the counseling and information projects and to carry out coordinated clearinghouse activities regarding SIDS in order to improve dissemination of information; directs the Secretary to seek an equitable distribution of funds among the various regions and ensure the needs of rural and urban areas; requires annual reports concerning the activities of the counseling and information projects; requires development and submission, with the first annual report, of a plan for expanded counseling and information services to all States by July 1, 1980, and to all U.S. territories and possessions by July 1, 1981; calls for a study regarding the death investigation laws and systems of the various States and their impact on SIDS; and requires the Secretary to provide assurances that adequate funding is made available for the National Institute of Child Health Development's (NICHD) research activities in the area of SIDS and calls for reports on the number of applications approved and the amount of funding required by NICHD, and any other Institute within the National Institutes of Health, to carry out their activities relating to SIDS. S. 497—Passed Senate May 9, 1979. (VV)

Health planning: Extends the authorities and revises the requirements under titles XV and XVI of the Public Health Service Act for health planning and health resources development and adds a new part G under title XVI providing for the establishment of a program to assist the voluntary discontinuance and conversion of unneeded hospital services;

Revises and extends the national health planning and development authority under title XV of the act; authorizes $150 million for fiscal 1980, $175 million for 1981 and $200 million for 1982 for planning grants to health systems agencies; $40 million for 1980, $45 million for 1981 and $50 million for 1982 for grants to State health planning and development agencies; $6 million each for 1980, 1981 and 1982 for grants to State rate regulation programs and $6 million for 1980, $8 million for 1981 and $10 million for 1982 for grants to centers for health planning; makes a number of revisions in the existing program in order to: (1) provide that the State health plan (HSP) is to have the concurrence of the Governor and that the statewide health coordinating council (SHCC) and health systems agencies (HSA's) are to develop a uniform format for use by HSA's in developing health systems plans (HSP's); (2) specify the material to be included in the health systems plans of HSA's and the preliminary State health plans prepared by the State agencies for use by SHCC's; (3) provide for 3-year designation of health systems agencies and State agencies and establish a three-year cycle for development, review and revision of HSP's and State health plans; assure that certificate of need decisions are consistent with the State health plan and that approved certificates of need are reviewed for progress at least once every 24 months (with provision for withdrawal of approval in the absence of substantial progress); (5) extend requirements for certificate of need review to all medical equipment valued over $150,000 if it is to be used to provide services on a regular basis to inpatients of a hospital; provide that only those new institutional health services entailing annual operating costs of $75,000 or more will be subject to certificate of need review and set forth certain limited criteria that are the sole criteria to be used in processing qualified health maintenance organization applications for the purchase of medical equipment over $140,000 and for new inpatient hospital facilities; (6) provide that each certificate of need be based solely on the record established in administrative and judicial proceedings and stipulate procedures and criteria for review by HSA's and State agencies for purposes of certificates of need and appropriateness of existing services; (8) assure representation of medically underserved populations especially in rural areas; (9) assure effective consumer participation; (10) clarify procedures for redesignation of health service areas, including those involving standard metropolitan statistical areas; (11) increase minimum funding levels for small population HSA's and permit five percent of HSA planning grant appropriations to be used, among others, to increase grants to HSA's with extraordinary expenses due to a large health service area; (12) redefine the requirements for public HSA's to allow for the parent governing body to retain certain responsibilities for personnel rules and budget approval; (13) improve coordination between health planning entities and appropriate drug abuse, alcohol abuse, mental health, area agencies on aging and rate review authorities; and (14) direct that special consideration be given throughout the planning process to the importance of maintaining and improving competition in the health industry;

Revises and extends the health resources development authority under title XVI of the act; authorizes such sums as necessary for 1980, 1981 and 1982 for loans and loan guarantees and $40 million for 1980, $50 million for 1981 and $50 million for 1982 for project grants to eliminate safety hazards or to meet accreditation standards; provides that the Governor as well as the SHCC must approve the State medical facilities plan; extends the loan and loan guarantee program to public as well as nonprofit private entities and sets forth the types of information to be included in applications for loans or loan guarantees; provides no new authorizations for State allotments or for area health services development funds;

Establishes a program to assist the voluntary discontinuance or conversion of unneeded hospital services and authorizes therefor $30 million for 1980, $50 million for 1981 and $75 million for 1982; provides that any hospital in operation on the date of enactment and which (1) intends to discontinue providing all inpatient health services could apply for a debt payment and an incentive payment for this discontinuance, (2) intends to discontinue an identifiable unit of the hospital that provides inpatient health services could apply for an incentive payment, or (3) intends to convert an identifiable part of the hospital into providing long-term services ambulatory care services or any other service designated by the Secretary and provides that they could apply for a conversion payment if the State agency has determined that such new service is needed; and

Contains miscellaneous amendments repealing obsolete sections under title III of the act and repeals title IX entirely. S. 544—Passed Senate May 1, 1979; Passed House amended July 19, 1979; In conference. (VV)

HEW home health services report: States the sense of the Senate that the report submitted by the Secretary of HEW on home health services is not responsive to the requirements under the Medicare-Medicaid Anti-fraud and Abuse Amendments (P.L. 95–142); and returns the report to the Secretary with the direction that it be revised to comply with the stated requirements of Public Law 95–142, including the requirement that recommendations for legislation be submitted, and that the report be returned to Congress no later than September 1, 1979. S. Res. 169—Senate agreed to July 11, 1979. (VV)

Nurse training: Extends the following programs of the Nurse Training Act for one year, through fiscal 1980: nursing school construction at $4 million; Federal guarantees of loans and interest subsidies made by non-Federal lenders or the Federal Financing Ban to nonprofit private schools of nursing for construction of training facilities; loan guarantees and interest subsidies at an open-ended authorization but not to exceed $1 million; capitation grants to schools of nursing at $24 million; special project grants and contracts at $17 million; advanced nurse training programs at $13.5 million; nurse practitioner programs at $15 million; nurse traineeships at $15 million; nursing student loan funds at $13.5 million plus such amounts as necessary through fiscal 1983 to enable students who received a loan ending before October 1, 1980, to complete their education; and nursing student scholarship program with such amounts as necessary authorized through fiscal 1983 to enable schools to continue making payments under scholarship awards to students who received their awards prior to October 1, 1980; prohibits recipients of nursing student loans who attend a nursing school before October 1, 1980, to receive concurrently a National Defense Education Act loan; extends the time period allowed for the capital distribution of the balance of the student loan fund to after September 30, 1981, but not later than December 30, 1983; stipulates that, in the case of a student who received a nursing student loan before the date of enactment, an amount of up to 85 percent may be cancelled for full-time employment as a professional nurse in any public or nonprofit private agency, institution or organization; requires the Secretary of HEW to arrange for a study to (1) determine the need to continue a specific program of Federal finance support to nursing education, (2) make recommendations regarding ways to encourage nurses to practice in medically underserved areas and (3) examine the rate at which nurses leave the nursing profession, the reasons therefore and any recommendations for steps that could be taken to retain nurses within the profession; and requires the Secretary to request the National Academy of Sciences, acting through its Institute of Medicine, to conduct the study. S. 230—Passed Senate May 7, 1979; Passed House amended July 27, 1979; In conference. (VV)

State Health Planning Agencies: Authorizes the Secretary of Health, Education and Welfare to extend, until July 31, 1979, or thirty-six months, whichever comes later, the period for conditional designations of State health planning and development agencies. H.R. 4556—Public Law 96–33, approved July 16, 1979. (VV)

HOUSING

Housing and Urban Development: Amends and extends certain Federal laws relating to housing, community and neighborhood development and preservations;

Community and Neighborhood Development and Conservation: Authorizes $130 million for fiscal 1980 for the section 312 rehabilitation loan program which provides long-term HUD loans at interest rates ranging from three percent up to the Federal government's cost of borrowing to property owners and renters for the rehabilitation of residential and commercial structures in specific areas; allows the $130 million authorization to be combined with $55 million in repayments to the program's revolving fund to permit the Department to lend up to $185 million for fiscal 1980 which would be sufficient to rehabilitate about 10,100 units;

Authorizes $50 million for fiscal 1980 to extend the section 701 Comprehensive Planning program which, since 1954, makes grants for State, areawide and local comprehensive planning and management programs concerned with urban and rural development and which may cover up to two-thirds of a project's cost;

Authorizes $12 million to allow for the continued expansion of the programs of the Neighborhood Reinvestment Corporation which use relatively few Federal dollars to attract large amounts of private investment in urban areas;

Authorizes for fiscal 1980 $13.5 million for the Neighborhood Self-Help Development Program and $4.5 million for the Livable Cities Program which have been authorized for two years but have not yet received appropriations;

Increases the Urban Development Action Grant Program (UDAG) by $275 million from $400 million for a total authorization for fiscal 1980 of $400 million, under which the Secretary is authorized to make grants to severely distressed cities and urban counties to help alleviate physical and economic deterioration through reclamation of neighborhoods having excessive housing abandonment or deterioration; makes a city or urban county eligible for the UDAG program if it contains one or more areas of severe economic and physical distress; allows up to 20 percent of the total UDAG funds to be available to cities and urban counties with pockets of poverty;

Authorizes the Secretary to reimburse the VA and FmHA insurance reserve funds for properties transferred to local urban homesteading programs and authorizes FmHA and VA to transfer properties directly to local urban homesteading programs; exempts local governments from the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act when acquiring properties both for purchase and donation for use in approved urban homesteading programs;

Housing assistance programs: Authorizes $1,145,494,000 in new annual contributions contract authority for the section 8 assisted and public housing programs, Indian housing and the modernization of public housing units for fiscal 1980; reduces the eligibility ceiling for section 8 assisted housing from 80 percent of area median income to 70 percent, thereby reducing families eligible for assisted housing by approximately five million to better target funds to the more needy; provides that no one presently residing in Federally assisted housing units shall be affected by this provision; authorizes for fiscal 1980 $741.5 million in operating subsidies to meet operating costs of public housing projects;

Authorizes for fiscal 1980 $82 million in operating assistance payments to troubled multifamily housing projects which would be combined with an estimated $9 million in excess rental charges for a total fiscal 1980 funding level of $91 million, sufficient to assist approximately 2,440 projects; directs the Secretary to utilize amounts credited to the section 236 rental housing assistance fund prior to October 1, 1979, but remaining unobligated on October 31, 1978, for the sole purpose of carrying out the section 201 troubled projects program; provides that no amounts may be approved in an appropriation act for payments from the section 236 rental housing assistance fund for the section 201 troubled project program for any fiscal year beginning after September 30, 1981; authorizes $91 million for flexible subsidies for troubled multifamily projects with the expectation that HUD will administer the flexible subsidy program in a manner designed to minimize foreclosures of troubled projects financed by FHA insured mortgages or by assigned mortgages and that HUD will seek to reduce the cost of such subsidies;

Assures that a State or its communities cannot lose any of its "fair share" of funds through reallocation to another State unless the Secretary explicitly finds that other areas of the State cannot use the funds within the fiscal year; directs the Secretary to provide an expedited procedure for review of amendments to housing assistance plans to assure that a community can update their housing assistance plans as necessary to reflect local needs and conditions, and that changes to the fund allocation mix between types of housing units would be allowed to reflect the updated housing assistance plan;

Requires that a minimum term of 20 years be required under a contract for section 8 assistance to new or substantially rehabilitated units; requires a project owner to agree to maintain the low- and moderate-income character of the project for the period at least equal to the remaining term of the project mortgage; makes uniform the eligibility and adjusted income definitions of section 8, section 236 and the rent supplement programs by using the section 8 method of calculating rent;

Program amendments and extensions: Extends for one year the authority of the Secretary of HUD to insure mortgages or loans under certain HUD-FHA mortgage or loan insurance programs contained in the National Housing Act; extends through September 30, 1980, the Secretary's authority administratively to set interest rates for FHA-insured mortgage loans to meet the market at rates above statutory maximum; extends until October 1, 1980, the authority of the Government National Mortgage Association to enter into new commitments to purchase mortgages under the interim mortgage purchase authority; increases loan insurance limits and terms for mobile homes and mobile home lots;

Increases the maximum authorized dollar limits on mortgages insured under the National Housing Act by the Federal Housing Administration in its homeownership mortgage insurance programs which were last increased in 1977 even though the median sales price of homes has increased approximately 30 percent; increases the maximum authorized dollar limits on mortgages for one- to four-family mortgage insurance program from $60,000 to $70,000 for a single-family residence, from $65,000 to $80,000 for a 2-family residence; from $65,000 to $99,000 for a three-family residence, and from $75,000 to $120,000 for a 4-family residence; provides corresponding increases in the FHA's one- to four-family program for conservation and renewal areas; provides for an increase from $60,000 to $70,000 in the maximum amount of an FHA mortgage on a serviceman's or servicewoman's home and on a condominium unit; requires the Secretary of HUD to conduct a study of possible alternatives to fixed, across-the-board maximum FHA mortgage limits; allows higher purchase limits on the GNMA-tandem program for mortgages that involve section 8 multifamily projects;

Creates a new graduated payment mortgage program allowing lower down payments and provides more alternatives for repayment gradations; increases the high cost area adjustment for multi-family homes from 50 percent to 90 percent; creates a temporary mortgage assistance program as an alternative to the existing assignment program to provide assistance to homeowners in default on FHA mortgages; amends the mortgage interest subsidy program to allow a 25 percent increase in mortgage limits in areas undergoing revitalization in order to relieve the effects of displacement; authorizes for section 202 elderly housing $520 million in new borrowing authority for fiscal 1980, $950 million for 1981 and $975 million for 1982; and makes other program improvements;

Exempts FHA loans from State usury laws unless a State subsequently reenacts a usury limit:

Crime, riot and flood insurance: Extends the National Flood Insurance, Crime Insurance and Riot Reinsurance programs for one year; authorizes $74 million for flood insurance studies;

Rural housing: Authorizes for fiscal 1980 the rural housing grant programs and extends for one year the homeownership and rental assistance programs, the farm labor housing programs, and the very low income labor housing program as well as other rural housing loan authorizations of the Farmers Home Administration; and increases significantly the limitation applicable to housing assistance payments which may be made under the recently authorized rural homeownership assistance program. H.R. 3875—Passed House June 7, 1979; Passed Senate amended July 13, 1979; In conference. (169)

INDIANS

Navajo-Hopi Relocation Commission: Increases, from $500,000 to $1 million, the annual authorization of the Navajo-Hopi Relocation Commission established by the act of December 22, 1974, to administer and implement the relocation of members of the Navajo and Hopi Indian Tribes pursuant to a land partitioning between the two tribes in order that they may hire the additional personnel needed to adequately carry out their required relocation plan which, based on information obtained from the Department of Interior, is expected to take at least 5 more years. H.R. 3661—Public Law 96-40, approved July 30, 1979. (VV)

INTERNATIONAL

Ambassador to Afghanistan: Provides that the Senate shall not grant its advice and consent, as required under article II, section II of the United States Constitution, on the appointment of an Ambassador to Afghanistan, until the President certifies to Congress that the Government of Afghanistan has officially apologized and given satisfaction to the U.S. concerning the death of Ambassador Adolph Dubs and has provided satisfactory assurances respecting the security of U.S. government personnel in Afghanistan. S. Res. 106—Senate agreed to May 17, 1979. (VV)

Arms Control and Disarmament Agency: Authorizes $18,876,000 for fiscal 1980 to fund the operations of the Arms Control and Disarmament Agency (ACDA); provides that no commissioned officer of the Armed Forces serving on active duty may be appointed either Director or Deputy Director of the Agency; provides that only one of the two positions (Director or Deputy Director) may be held at any time by a person who has, within the ten preceding years, been relieved from active duty or retired as a commissioned officer of the regular components of the Armed Forces; and requires the Director of the ACDA, in consultation with the appropriate officials of the executive branch to conduct a comprehensive study on the impact of military expenditures and U.S. economy and the impact of specified economic factors on national defense policy decisions and to submit a report thereon to the President and Congress within one year of enactment. H.R. 2774—Passed House March 22, 1979; Passed Senate amended May 2, 1979; Senate requested conference July 12, 1979. (VV)

Economic assistance review: Requests the President to review U.S. foreign assistance programs to determine whether more or all development, humanitarian and disaster assistance should be provided through multilateral organizations and private voluntary organizations and to submit to Congress a report on the results of the review by September, 1979. S. Res. 92—Senate agreed to May 16, 1979. (VV)

European Parliament: Congratulates the newly elected Parliamentarians of the Parliament of the European Community and welcomes them into the family of freely elected representative bodies; and pledges the support of Congress for continued close relations with Parliamentarians from the European Community and affirms its readiness to continue the semiannual discussions with them on issues of common concern and to explore mutually beneficial measures for their improvement. H. Con. Res. 159—Action completed July 18, 1979. (VV)

International development assistance—food for peace: Authorizes $1,978,854,000 for fiscal 1980 for foreign economic assistance; includes $659 million for agriculture, rural development and nutrition assistance in developing countries; $201 million for family planning and population control programs; $141 million for health assistance programs including health delivery systems, and disease control; $105 million for education and human resources development programs; $125 million for technical cooperation programs and other selected development activities which includes post-disaster reconstruction, research, energy and urban development assistance; $25 million to implement the Sahel Development Program which shall remain available until expended; $25 million for the American Schools and Hospitals Abroad Program; and $67,280,000 for voluntary contributions to International Organizations and Programs; $21.8 million for programs of assistance of victims of natural and manmade disasters; and $14.92 million for the relief and rehabilitation of African refugees;

Includes energy development and production as one of the critical problems upon which U.S. aid should focus; authorizes the President to furnish assistance (including data collection and analysis and the training of skilled personnel) to enable developing countries to undertake development of their energy resources; provides up to $7 million for use by non-OPEC developing countries to facilitate survey work and encourage exploration for energy reserves; states Congressional findings that energy production and conservation are vital elements in the development process and that an enhanced effort to increase the access of the poor to energy resources and to expand energy resources of developing countries is required;

Authorizes the President to permit selected least developed countries to pay the sum equivalent to principal interest on U.S. loans under Part I of the Foreign Assistance Act into local currency accounts to fund development activities agreed upon by the recipient country and the Administrator of AID and authorizes therefor $18.8 million; directs the Administrator of the agency primarily responsible for administering part I of the act to conduct an annual review of bilateral concessional loan balances and to determine and identify those countries whose financial resources make possible accelerated loan repayments; specifies that European countries that were recipients of concessional loans by AID's predecessor shall be contacted to negotiate accelerated repayments; requires that the Senate Foreign Relations Committee and the House Foreign Affairs Committee be consulted in establishing the criteria used to determine which countries should accelerate their loan repayments and that an annual report on the status of such accelerated loan repayments be provided to the Committees;

Increases from five to six the number of Latin American countries in which the productive credit guaranty program operates and raises the ceiling on the program from $15 million to $20 million; increases the ceiling on guaranty authority for housing guaranty programs from $1.18 billion to $1.55 billion and extends the period of program authority through September 30, 1982; extends the program authority for the issuance of guarantees under the Agricultural and Productive Credit and Self-Help Community Development Programs through 1982; deletes the existing formula for establishing interest rates on loans guaranteed under the Housing Guaranty program on the basis of a range establishing both minimum and maximum interest rate levels and replaces it with a new formula for setting maximum interest rates without specifying minimum interest rates; deletes the existing limitation on housing guarantees to countries which are receiving, or in the previous two fiscal years, have received development assistance and replaces it with a requirement that guarantees be issued only for housing projects which are coordinated with and complementary to any development assistance being furnished under chapter 1 of part 1 of the Foreign Assistance Act; earmarks $25 million each in Housing Guarantees for Israel and Egypt;

Provides that $9.5 million of the $52 million authorized for the U.N. Relief Works Agency for Palestinian Refugees will be disbursed only when matched by equivalent contributions by members of the Organization of Petroleum Exporting Countries (OPEC); prohibits use of the U.S. assessed contributions to the U.N. organizations for technical assistance; earmarks $10 million for the U.N. Environment Program, $3 million for the U.N. Development Fund, and $17.5 million for the U.S. contribution to the programs of the Organization of American States;

Prohibits use of funds under this act to Afghanistan until the President certifies that the Government of Afghanistan (1) has apologized officially and assumes responsibility for the death of Ambassador Adolph Dubs, and (2) agrees to provide adequate protection for all U.S. government personnel in Afghanistan; states that these provisions shall not apply if the President determines that it is in the national interest of the U.S. because of substantially changed circumstances in Afghanistan; authorizes the use of up to $3.8 million for the Reimbursable Development Program; contains $268 million for operating expenses of AID; changes the responsibility for registering private and voluntary agencies for eligibility to receive AID resources from the Advisory Committee on Voluntary Foreign Aid to AID;

Authorizes $105,400,000 plus such sums as necessary for increases in salary, pay, retirement or other employee benefits authorized by law for fiscal 1980 for the Peace Corps; gives the Director of the Office of Personnel Management authority to establish rules and conditions whereby former and current Peace Corps employees may enter competitive service;

Includes a Food-for-Peace title amending Public Law 480 by making certain policy changes (1) to reflect the determination that U.S. food assistance be provided in a way that will not serve as a disincentive to local food production and marketing and (2) to strengthen the U.S. commitment to use food aid to encourage economic development in needy countries; makes clear that either the value of the commodities themselves or the meets other criteria under the food-for-development programs; provides for American agriculture participation in food-for-development programs;

Earmarks $5 million of available fiscal 1979 Middle East Special Requirements Funds for Lebanon; provides $1.7 million in grant military assistance to Sudan, changes from March 15 to May 1, 1979, the date for presidential submission of regulations establishing a unified personnel system for AID; requires the Secretary of State to report to Congress on the impact of foreign relations of annual human rights status of every foreign country; prohibits use of funds for aid to Vietnam, Cambodia or Cuba; urges that all nations which are not a party to the Treaty on Nuclear Non-Proliferation become parties to that Treaty and directs the Secretary of State to submit a report by November 1, 1979, to the appropriate committees of the Congress respecting Department implementation of this provision on a country-by-country basis; provides travel expenses for up to two annual round trips to the U.S. for college student dependents of employees of the State Department, the International Communication Agency, and the Agency for International Development; expresses the sense of the Congress that the President should negotiate with other developed countries to increase their aid contributions; allows the President to make available funds under this act for the benefit of any country demonstrating any significant improvement in its human rights record if it would serve U.S. national interests; requires the Secretary of State to report to Congress on the impact on foreign relations of annual human rights status of every foreign country; requires the President to periodically report on the prospects for permanent resettlement of Indochina refugees, in conjunction with bilateral and multilateral development assistance programs; urges the President to continue to support efforts of the Secretary General of the U.N. in dealing with the Southeast Asia refugee crisis; clarifies U.S. policy in the relationship between development and illicit narcotics production;

Establishes an Institute for Scientific and Technological Cooperation to assume responsibility for AID's development-related research with a global focus and to develop cooperative research and development arrangements with developing countries;

H.R. 3324—Passed House April 10, 1979; Passed Senate amended June 19, 1979; Senate agreed to conference report July 31, 1979.

International Security Assistance—arms export control; Authorizes a total of $2,887,000,000 for fiscal 1980 which includes $1.959 billion for economic support fund assistance, $673.5 million for foreign military sales, $159.6 million for grant military assistance;

Economic support fund: Authorizes $1.959 billion primarily for countries of the Middle East, including $785 million for Israel, $750 million for Egypt, $98 million for Turkey and $75 million for Southern Africa; authorizes $100 million in supplemental economic assistance to Turkey in fiscal 1979; calls for withdrawal of foreign forces from Cyprus, except UN forces;

Gives the President contingency authority to draw upon $10 million appropriated for other foreign aid purposes in case of economic emergencies and gives him the authority to draw down $10 million in Defense Department stocks in case of emergencies requiring military aid; authorizes $54.4 million for international narcotics control programs which include $16.6 million for Colombian interdiction programs;

Foreign military sales: Authorizes $673.5 million for foreign military sales financing which would allow the Federal Financing Bank to make FMS-guaranteed loans totaling $2.225 billion, of which $1 billion is earmarked for Israel; eliminates the $40 million ceiling on military assistance to African countries;

Authorizes the President to waive on a reciprocal basis various administrative costs and fees for arms sales made pursuant to NATO cooperative projects; provides that prohibitions controlling the export of nuclear weapons materials shall not cover depleted uranium of no use for radioactive characteristics;

Military grant assistance: Authorizes $159.6 million for military grant assistance programs with specific allocations as follows: $30 million for Portugal, $3.8 million for Spain, $30 million for Jordan, $25 million for the Philippines and $50 million for Turkey; provides termination of the availability of funds three years after the last fiscal year for which assistance was authorized;

Establishes a ceiling of $95 million on the value of additions to overseas stockpiles of defensive articles designated as war reserve stocks; authorizes the establishment of stockpiles in the Republic of Korea outside U.S. military bases; requires the President to transmit to Congress by December 31, 1979, a report on the war reserve program in Korea; increases the ceiling on commercial sales of major defense equipment from $25 million to $35 million; authorizes the assignment of more than six military personnel to perform security assistance management functions in each of fourteen specified countries;

Authorizes the grant transfer to the Arab Republic of Egypt of the facilities and related projects of the Sinai Field Mission and of $11.6 billion war reserve materiel and property located on Taiwan to the people of Taiwan; releases Thailand from its obligation to repay $10 million for ammunition; authorizes $6 million for the Sinai Field Mission and $9 million for Cyprus for peacekeeping operations; provides emergency transfer authority of $10 million between the Economic Support Fund and the peacekeeping account; authorizes the President to make available the resources of the Department of Defense in removing foreign troops from Zaire;

Reports to Congress: Excludes construction and non-weapons service, training or support sales from the President's arms sales report required under the Arms Export Control Act and requires the Administration to improve the accuracy of the report and to update it semiannually; requires the President to transmit to the Congress detailed estimates of the international arms traffic; directs the President to review the procedure governing the transfer of sensitive weapons technology; requires the President's report on arms sales to identify the degree of sensitivity of the technology of articles to be sold; extends the due date of quarterly reports on commercial and FMS sales and exports from 30 to 60 days after the close of the quarter; requires that the personnel costs of performing the functions covered by the Arms Export Control Act be accounted for; and explicitly exempts confidential information furnished in connection with arms export licenses from disclosure unless the Secretary of State finds the disclosure to be in the national interest. H.R. 3173—Passed House March 29, 1979; Passed Senate amended May 22, 1979. (107)

International Wheat Exporters Conference: States as the sense of the Senate that the collapse of international negotiations and the current situation in the world wheat market makes it imperative that the President actively work toward convening a negotiating conference of wheat exporting nations with the intent of reaching a cooperative arrangement to improve wheat trade policy and achieve equitable prices for producers while assuring adequate supplies for consumers. S. Res. 163—Senate agreed to May 23, 1979. (108)

Iranian human rights: Expresses abhorrence of the summary executions without due process in Iran and welcomes the recent statement of the Ayatollah Kohmeini that hereafter executions for crime in Iran shall be limited to the crime of murder and be based upon proof of guilt; and states that the Senate will act to prevent and to punish any attempts to carry out criminal or terrorist actions against persons in the U.S. whatever their alleged offenses in other countries. S. Res. 164—Senate agreed to May 17, 1979. (VV)

Mideast arms sales: Declares that the U.S. policy supports the peace treaty concluded between Egypt and Israel on March 26, 1979; urges the President to continue to exert every effort to bring about a comprehensive peace and to seek an end by all parties to the violence which could jeopardize this peace; authorizes the President to: (1) enter into contracts for the construction of two air bases in Israel to replace the Israeli air bases located at Etzion and Etam on the Sinai Peninsula that are to be evacuated by Israel within three years after the date of the exchange of instruments of ratification and (2) provide to Israel on a grant basis up to $800 million (which is authorized to remain available until expended) worth of defense articles and services to construct the air base; makes the authority of the President to incur such obligations subject to a requirement that the Israeli government provide the U.S. with any additional funds that may be required over the amount authorized and in advance of the time that the payments are due; states the sense of the Congress that the President take necessary measures to insure completion of the Negev bases in an efficient and timely manner; authorizes the hiring of 60 non-government U.S. employees on a contract basis to expedite construction;

Authorizes an additional $3.7 billion under the Arms Export Control Act to guarantee loans of $2.2 billion to Israel and $1.5 billion to Egypt for the purchase of defense articles and services; states that this does not authorize or approve the sale of any particular weapons system to either country; establishes special terms which call for repayment of the $3.7 billion within a period of not less than 30 years and includes a ten-year grace period; states a finding of Congress that it may become necessary to modify the terms of the loans; directs the President to transmit by January 15 of each year a report regarding the economic conditions in Israel and Egypt and the impact of these conditions on their ability to meet their repayment obligations;

Authorizes an additional $300 million for economic aid to Egypt pursuant to chapter 4 of part II of the Foreign Assistance Act; authorizes the President to transfer to Egypt facilities and related property of the U.S. Sinai Field Mission as he may determine upon termination of the activities of the mission under the terms of the treaty; states the sense of the Congress that other members of the Organization for Economic Cooperation and Development (OECD) should give favorable consideration to providing financial support for implementing the Israel-Egypt treaty; requests the President to consult with other OECD members to develop an agreement to establish a peace development fund to underwrite the costs of implementing the treaty and encourage investments in Israel and Egypt and other countries that join the agreement and submit a report thereon to Congress by January 31, 1980; requires a report on the impact of Arab economic sanctions on Egypt;

States the sense of the Congress that the U.S. should be prepared to participate at an appropriate time in trilateral cooperative projects of a scientific and technological nature with Egypt and Israel: calls upon the President to develop a plan to guide the participation of Government agencies and private institutions in such projects and to submit the proposed plan to Congress within 12 months of enactment; directs the President to submit to Congress a detailed report, within 90 days of enactment, on the costs to the U.S. of implementing the treaty including estimates, and urges all countries in the Middle East who are not a party to the Treaty on the Non-Proliferation of Nuclear Weapons, including Israel and Egypt, to become parties to that Treaty. S. 1007—Public Law 96-35, approved July 20, 1979. (90)

Multilateral Development Banks: Authorizes additional subscriptions for the period 1979–1982 of $2.543 billion to callable capital (requiring no budgetary outlays) in the Inter-American Development Bank (IADB) and additional contributions of $1.476 billion to the Bank's Fund for Special Operations and to the lending facilities of the Asian Development Bank and the African Development Bank;

Authorizes the U.S. Governor of the IADB to vote for two resolutions proposed at a special meeting in December, 1978, and pending before the Board of Governors which (1) increase the authorized capital stock of the Bank and additional subscriptions thereto and (2) increase the Fund for Special Operations and Contributions; authorizes $2,749,-207,988 as the U.S. subscription for the newly authorized capital stock ($2.543 billion callable and $206.19 million paid-in) and a contribution of $700 million to the Fund for Special Operations;

Authorizes a contribution of $445 million as the U.S. share of the Asian Development Fund (which is the soft loan window of the ADB);

Authorizes a contribution of $125 million as the U.S. share of the African Development Fund;

Provides that all authorized funds shall be available without fiscal year limitation; requires that all authorizations in this act be provided for in advance of appropriations acts; and provides that the act shall take effect upon enactment but that no funds shall be available prior to October 1, 1979. S. 662—Passed Senate May 17, 1979. (101)

NATO: Reaffirms, on the occasion of its 30th anniversary, the North Atlantic Treaty Alliance (NATO) as a vital commitment and cornerstone of United States foreign policy and rededicates the bi-partisan spirit that inspired its birth to the purpose of strengthening it further in the cause of peace and security; recognizes the contribution of the Canadian and European allies to the common defense and to the preservation of the civilization and common heritage of the west; and pledges Congressional support for the Alliance as the indispensable basis for the achievement of our mutual security, the reduction of tensions and the pursuit of improved relations among all nations. H.J. Res. 283—Public Law 96-9, approved April 19, 1979. (VV)

Nazi War Criminals: Expresses the sense of the Senate that West Germany abolish or extend its statute of limitations, which expires on December 31, 1979, concerning the prosecution of Nazi and other war criminals in order to allow a period of time sufficient for their prosecution. S. Res. 99—Passed Senate May 21, 1979. (VV)

Panama Canal implementation legislation: Provides for the implementation of the Panama Canal Treaty of 1977 and related agreements;

Panama Canal Commission: Establishes the Panama Canal Commission as a government corporation, to be the successor of the Panama Canal Company, and provides for the continuation of U.S. direct investment in the present Panama Canal Company on the books of the Commission; continues the current requirement that the Panama Canal Company pay interest to the U.S. Treasury on the net U.S. direct investment in the Canal operation; contains a formula which insures that the contingent payment to Panama will be made only after all operating costs have been met; provides for an annual U.S. payment of $10 million to Panama for certain public services in the Canal operating and housing areas which will be reevaluated every three years.

Provides for the appointments of all members of the nine-member Panama Canal Commission Board by the President and requires that the five U.S. members be confirmed by the Senate; provides that a quorum for the Board to transact business shall consist of a majority of the directors of which a majority present must be U.S. nationals; provides that the Administrator (who shall be a U.S. citizen until 1990 and a Panamanian thereafter) and the Deputy Administrator (who shall be a Panamanian until 1990 and a U.S. citizen thereafter) of the Canal Zone shall be appointed by the President and requires Senate confirmation of the Administrator;

Provides for an ombudsman (who shall be a U.S. citizen with no administrative authority) to receive individual complaints and suggestions from government personnel concerning problems resulting from implementation; restates the sue-and-be-sued clause to provide that the amenability of the Commission to suit is limited by the immunities provided by article VIII (which provides that the Commission, as an agency of the U.S. government, is immune from the jurisdiction of Panama) or otherwise by law; makes specific powers of the Commission subject to the requirements of the Government Corporation Control Act, the Treaty and related agreements; provides for the Commission to assume the assets and liabilities of the Panama Canal Company and the Canal Zone government that have been transferred to other U.S. agencies or to Panama and specifies the accounting basis to be used for those assets which are to be transferred and depreciated; preserves the basic authority of the U.S. to prescribe regulations governing the navigation of the waters of the Canal and its adjacent areas, the passage of vessels and pilotage in the Canal; continues the arrangement under which the Commission would be reimbursed for amounts expended in maintaining defense facilities in standby condition for DOD; directs the President to designate an agency to provide educational and health care services which, under the Treaty, the Commission is not authorized to operate; permits establishment of a system for the assignment of U.S. employees to assist in operating the activities transferred to Panama; authorizes the Commission and other agencies to enter into cross-servicing agreements for the use in furnishing services and performing functions;

Provides procedures for prescription of measurement rules and setting of tolls which are generally consistent with provisions of the Administrative Procedures Act and incorporates the provisions of understanding regarding factors to be considered in the adjustment of rates or tolls included by the Senate in the Resolution of Ratification of the Neutrality Treaty; specifies procedures for their revision and provides for judicial review of such changes; authorizes the present Panama Canal Company to review and change the rates of tolls so that increased rates may become effective on October 1, 1979, to cover the increased financial obligations of the Commission imposed by the annuity provisions; amends the tolls formula to assure that tolls will be set at a level sufficient to provide for the operation of the Canal on a self-sustaining basis; and requires payment of direct tolls by U.S. vessels, including warships and other military vessels, transiting the Canal;

Revises the types of damages recoverable from the Commission in vessel accident claims; establishes a statute of limitations for vessel accident suits against the Commission; establishes a board of local inspectors, as an administrative arm of the Commission, to conduct vessel accident investigations;

Authorizes the President to appoint the U.S. representatives to any joint committee subsequently designated to study the possibility of a sea-level Canal in Panama; requires that the study be transmitted to the Congress; and precludes U.S. construction of such a Canal in Panama unless expressly authorized by Congress;

Panamanian relations and security matters: Provides for the establishment of a Panama Canal Consultative Committee to advise the U.S. and Panama on policy matters affecting the Canal's operations; directs the Commission to establish a Joint Commission on the Environment to monitor the environmental effects of implementation;

gives the U.S. Ambassador to Panama full responsibility for coordinating the transfer of functions to be assumed by Panama except for Commission responsibilities of operating, managing and maintaining the Canal; expresses the sense of the Congress, in accordance with Condition No. 2, that the President should enter into negotiations with Panama to arrange for the stationing of U.S. military forces and the maintenance of installations and facilities after the expiration of the Treaty and requires a report on the status of these negotiations; excludes from application to the Canal Zone certain provisions of title 50, U.S.C., concerning the regulation or seizure of foreign vessels in time of national emergency; provides diplomatic immunity for up to 20 officials of the Panama Canal Commission and their dependents; repeals certain provisions of the Panama Canal Code and the Arms Export Control Act inappropriate under the new Treaty arrangements;

Employees and postal matters: Applies title VII of the Civil Service Reform Act as the statutory foundation to govern union representation and collective bargaining for employees of the Panama Canal Commission and the Department of Defense; continues the provisions of present law that exclude foreign territory from the coverage of the Fair Labor Standards Act application of the minimum wage; provides additional benefits for certain individuals who were employed in the Canal Zone prior to October 1, 1979, which will affect two major groups of Federal employees: (1) those whose jobs will be abolished as of October 1, 1979, who would be eligible for liberalized involuntary benefits; and (2) those who will be transferred to the Department of Defense and the Panama Canal Commission for employment in the Canal Zone after October 1, 1979, would be eligible for liberalized early retirement benefits and increased annuities; authorizes the payment of a cost-of-living allowance beginning October 1, 1984, in an amount to be determined by the Commission to offset any increased cost of living which may result from the expiration of eligibility to buy from U.S. military facilities to U.S. citizens who are employed by the Panama Canal Commission prior to October 1, 1979, and to persons of any nationality who are recruited outside the Republic of Panama on or after that date; provides for payment of certain dependent travel for undergraduate study in the U.S.; mandates certain other benefits to be provided by the Panama Canal Commission, the Office of Personnel Management and the Department of Defense; provides for the discontinuance of the postal service as required under the Treaty but authorizes the Panama Canal Commission to pay outstanding postal savings and money orders and otherwise handle the liquidation of the service; sets up a procedure for handling mail addressed to the Canal Zone through military offices;

Miscellaneous: Provides for governing court jurisdictions, custody of prisoners and related matters, during the transition period after the Treaty enters into force;

Permits the immigration into the U.S. of certain foreign employees of the U.S. government in the Canal Zone and their dependents; and limits to 25,000 the total number of individuals who may be admitted with an annual ceiling of 7,500;

Makes technical amendments to the Canal Zone relating to health care facilities operated by the Canal Zone Government, which under the terms of the Treaty would be discontinued and operated by an agency other than the Commission; implements Reservation No. 3 to authorize the expenditure of funds for the removal, transportation and reinterment of the remains of U.S. citizens; requires the President to continue operation of the Canal Zone College for the duration of the Treaty; and sets effective dates for the various Treaty provisions. H.R. 111—Passed House June 21, 1979; Passed Senate amended July 26, 1979; In conference. (226)

Peace Corps authorization: Authorizes $105,400,000 plus such sums as necessary for increases in salary, pay, retirement or other employee benefits authorized by law for fiscal 1980 for the Peace Corps; deletes the provision earmarking $1 million for support of the United National volunteer programs; and confers upon qualified former and current Peace Corps employees, with 3 years of service, the civil service status which would enable them to reenter Federal service as civil service employees. S. 802—Passed Senate June 14, 1979. NOTE: (These provisions are also contained in H.R. 3324 as passed by the Senate.) (VV)

Reorganization of foreign aid activities: Establishes the International Development Cooperation Agency (IDCA), whose Director would be the principal advisor to both the President and the Secretary of State on all trade, science and technology and other matters significantly affecting developing nations; transfers authority over the developmental aspects of U.S. participation in multilateral development banks from the Treasury Department to IDCA; transfers from the State Department to IDCA budget and policy responsibility for eight major international development programs, including the U.N. Development Program, UNICEF, the World Food Program, the U.N. Disaster Relief Organization and four other international development organizations or programs in the UN or the Organization of American States; includes in IDCA the Agency for International Development (AID) and the proposed new Institute for Technological Cooperation (which was deleted from the International Development Assistance Act; and provides that the IDCA Director will replace the AID Administrator as Chairman of the Board of Directors of the Overseas Private Investment Corporation (OPIC). S. Res. 140—Senate rejected disapproval Resolution July 9, 1979. (160) H. Res. 231—House rejected disapproval resolution July 11, 1979.

Rhodesian election observers: Provides for the President pro tempore of the Senate and the Speaker of the House, acting jointly after consultation with the majority and minority leaders, to appoint two cochairpersons of a team of observers of the Rhodesian elections on April 20, 1979, these cochairpersons to select 25 to 50 other observers; delineates the purpose of the observers as being to determine whether all the people of Rhodesia were given a fair opportunity to participate in the election, whether public participation was disrupted by guerilla activities, and whether eligible voters expressed opposition to the election by voluntarily refraining from voting; authorizes an amount not to exceed $250,000 from the contingent fund of the Senate to cover the expenses of the observer team; and provides that nothing in the resolution shall be deemed to endorse or legitimize the election or the government of Rhodesia. S. Con. Res. 8—Senate agreed to March 28, 1979. (31)

State Department authorization: Authorizes a total of $2,123,951,000 for fiscal 1980 for the Department of State, the International Communication Agency and the Board for International Broadcasting (which makes grants to Radio Free Europe/Radio Liberty); and authorizes a total of $104,910,000 in fiscal 1979 supplemental funds for the Department of State;

Authorizes $1,610,052,000 for fiscal 1980 plus an additional $104,910,000 in supplemental funds for 1979 for the State Department; includes $849,423,000 for Administration of Foreign Affairs which includes almost all salaries, expenses and allowances for officers and employees of the State Department; funds for foreign service buildings abroad; and funds for mandatory payments to the Foreign Service Retirement and Disability Fund; makes $268,000 available on a contingency basis to open a post in Rhodesia, Namibia, Uganda or Angola if the President determines that it is in the foreign policy interests of the United States; states the sense of the Congress that the President, not later than 10 days after the installation of the black majority government in Rhodesia, should determine that section 27 of the International Security Assistance Act of 1978 has been substantially complied with and should not enforce sanctions against Rhodesia; requires the President to report to Congress, no later than two weeks after the installation of a new government in Rhodesia or June 30, 1979, whichever is earlier, his determination as to whether section 27 has been complied with so that sanctions against Rhodesia may be lifted; contains $502,945,000 for International Organizations and Conferences which includes the U.S. assessment to the United Nations, and its specialized and associated agencies, Inter-American Organizations, regional organizations including NATO, and other international organizations and conferences; contains $26,733,000 for International Commissions which includes U.S. boundary commitments with Canada and Mexico and the U.S. share of the expenses of nine international fisheries commissions; contains $248,951,000 for Migration and Refugee Assistance which provides U.S. assistance to migrants and refugees through contributions to the Intergovernmental Committee for European Migration, the U.N. High Commissioner for Refugees, the International Committee of the Red Cross and direct assistance through voluntary agencies; earmarks $25 million of the amount authorized for the purpose of resettling Soviet and Eastern European refugees in Israel; contains $104,900,000 in supplemental funds for 1979 necessary to assist the unexpected increase in refugees from the Soviet Union, Eastern Europe and Indochina; makes permanent the following authorities, which in the past have been provided annually: (1) authorization to pay nondiscretionary employee benefits authorized by law; (2) authority to provide appropriations for a fiscal year to offset adverse fluctuations in the value of the dollar which would undermine the regular and necessary operational activities of the Department; (3) authorization for funds to remain available for expenditure beyond the end of the fiscal year when so provided; and (4) authority to transfer funds from one departmental account to another because of unanticipated changes and requirements; provides for a new appropriation request of $1.4 million to finance the U.S. share (50 percent) of an ongoing program of Science and Technology Cooperation with Yugoslavia for a second 5-year period; repeals a provision adopted to the 1979 State Department Appropriations Act (Public Law 95–374) which prohibited the U.N. to use any of the U.S. assessment to furnish technical assistance; makes the promotions of 64 Foreign Service Officers of classes 7 and 8 on the promotion list confirmed by the Senate on March 21, 1979, retroactively effective to December 17, 1978; amends the Immigration and Nationality Act of 1952 to authorize a narrow expansion of existing authority to waive nonimmigrant business and tourist visa requirements for persons coming from countries where visa fraud is very low; requires the State Department to keep open the following 6 of the 13 consulates slated for closing pursuant to the Civil Service Reform Act (Public Law 95–454) requiring Federal personnel level reductions: Goteborg. Sweden; Bremen, Germany; Salzburg, Austria; Turin, Italy; Nice, France; and Adana, Turkey; calls for a study of the State Department's overall personnel needs and resources and requires submission of a report thereon to the Congress by January 1, 1980; requires the Secretary of State to implement to the maximum extent possible, the recommendations of the April 5, 1979, GAO report relative to coordinating and monitoring pay systems and wage schedules of foreign nationals employed by U.S. agencies overseas;

Authorizes $426,982,000 for 1980 for the International Communication Agency (ICA). (which came into being on April 1, 1978, as a result of Reorganization Plan No. 2 which consolidated into it the functions previously performed by the U.S. Information Agency and the Bureau of Educational and Cultural Affairs in the Department of State); places into permanent law the same authorities as those granted the State Department with regard to Nondiscretionary Personnel Costs and currency fluctuations; equalizes the compensation of members of ICA's Board of Foreign Scholarships with that of members of other Federal advisory boards; authorizes the distribution within the United States of the films "Aspen" and "Margaret Mead—Reflections" if the agency obtains the necessary copyright clearances; repeals conflicting provisions to allow the agency to conduct its security clearances more efficiently; amends the Smith-Mundt Act of 1948 to extend ICA's present authority to employ aliens for the preparation and production of foreign language programs as well as for narration and translation and provides permanent authority for ICA to hire aliens within the U.S.; permits the procurement of furniture and furnishings from sources other than the GSA; authorizes the reimbursement for services which ICA performs at an agency's request in connection with exchange activities; provides authority in ICA's basic legislation to make payments for rent, repairs and improvements for land and equipment used by the Voice of America; and makes certain technical amendments to the Act which include authority to enter into real estate leases abroad for up to 10 years and to purchase righthand drive vehicles without maximum price limitations;

Authorizes $86,917,000 for 1980 for the continued oversight activities of the Board for International Broadcasting (BIB) and for its grants to Radio Free Europe/Radio Liberty (RFE/RL) for broadcasts to Eastern Europe and the Soviet Union; earmarks $800,000 of these funds for BIB to carry out its oversight responsibilities; repeals a provision enacted in the 1979 Foreign Relations Authorization Act (Public Law 9–426) which prohibits funds to RFE/RL if it permits a Communist country to use its broadcasting facilities without having the use of that country's broadcasting facilities on a comparable basis; requires BIB to prepare and transmit to the Congress a report setting forth alternative plans for the relocation of RFE/RL headquarters in Germany; and

States the sense of the Congress that it should be U.S. policy to promote and encourage cultural, scientific and economic relations between Egypt and Israel; authorizes the continuation of diplomatic immunities and privileges to employees of the International Labor Organization (ILO), from which the United States withdrew in November of 1977, since a return to the ILO is under active consideration; urges the International Whaling Commission and all whaling nations to adopt a complete cessation of commercial whaling; and establishes, within the Executive Office of the President, the positions of Assistant and Deputy Assistant to the President for National Security Affairs and requires that these positions be subject to Senate confirmation if filled. H.R. 3363—Passed House April 24, 1979; Passed Senate amended May 15, 1979; Conference report filed. (95)

Taiwan relations: Provides statutory authorization for the maintenance of commercial, cultural and other unofficial relations with the people on Taiwan in light of the recognition of the People's Republic of China (PRC) as the sole legitimate government of China; provides that relations with respect to the people on Taiwan shall be conducted by or through the American Institute in Taiwan, a private corporation which is funded by the U.S. Government and whose trustees are appointed by the Secretary of State; assures that the recognition of the PRC does not affect the ownership of property owned by Taiwan in the name of the Republic of China, including its former embassy at Twin Oaks;

States U.S. policy: to preserve and promote extensive, close and friendly relations with the people on Taiwan, mainland China and all in the Western Pacific area; to make clear that the U.S. decision to recognize the PRC rests on the expectation that any resolution of the Taiwan issue will be by peaceful means; to consider any effort to resolve this issue by other than peaceful means, including boycotts or embargoes, as a threat to the peace and security of the Western Pacific area and of grave concern to the United States; to provide the people on Taiwan with arms of a defensive character; and to maintain U.S. capacity to resist force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan; states that nothing in this act shall contravene the U.S. interest in the human rights of the people on Taiwan; provides that in furtherance of this policy, the U.S. will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of defensive articles and services, the nature and quantity of which the President and Congress shall determine; directs the president to inform the Congress promptly of any threat to the security or social or economic system of Taiwan and any danger to U.S. interests arising therefrom;

Provides that no requirement or diplomatic relations or for recognition by the U.S. as a condition of eligibility for participation in programs, transactions or other relations under U.S. law shall apply to Taiwan; provides that recognition of the PRC shall not affect the ownership of properties held by the people on Taiwan before or after December 31, 1978;

Provides that the $1,000 per capita income restriction applicable to the Overseas Private Investment Corporation in regard to its determining whether to provide any insurance, reinsurance loans or guarantees for a project shall not apply with respect to Taiwan;

Provides that U.S. programs, transactions and other relations be conducted through the American Institute in Taiwan and authorizes its employees in Taiwan to assist and protect Americans abroad;

Requires the Secretary of State to transmit to Congress the text of any agreement to which the Institute is a party;

Provides that the House Commitee on Foreign Affairs, the Senate Committee on Foreign Relations and other appropriate committees of the Congress monitor the implementation of this act; and authorizes for fiscal 1980 such funds as may be necessary for the Secretary of State to carry out the provisions of this act. H.R. 2479—Public Law 86–8, approved April 10, 1979. (17, 32)

Ugandan Aid: Removes existing restrictions on humanitarian and economic assistance to Uganda which were imposed by authorities under the International Development and Food Assistance Act of 1978 (Public Law 95–424) and the Foreign Assistance and Related Programs Appropriations Act, 1979 (Public Law 95–481) and removes the trade restrictions invoked against Uganda by authorities under the International Monetary Fund Amendments of 1978 (Public Law 95–435) and the Export-Import Bank Act Amendments of 1978 (Public Law 95–630). S. 1019—Passed Senate May 7, 1979; Passed House amended May 21, 1979; Conference report filed. (VV)

United Nations Commission on Americans MIA's in Southeast Asia: States the sense of the Congress that the President should instruct the Secretary of State to seek the good offices of the Secretary General of the United Nations for the purpose of establishing a special investigatory commission composed of individuals selected because of their impeccable credentials and their long-standing service to the principles embodied in the United Nations Charter, charged with the responsibility of securing a full accounting of Americans listed as missing in Southeast Asia. H. Con. Res. 10—Action completed July 18, 1979. (VV)

JUDICIARY

Antitrust procedural improvements: Implements the following four recommendations of the National Commission for the Review of Antitrust Laws and Procedures for statutory changes to the Antitrust Civil Process Act, in order to expedite and reduce the cost of antitrust litigation: (1) gives the Attorney General and the Assistant Attorney General in charge of the Antitrust Division, express authority to issue civil investigative demands for products of discovery in the hands of parties to litigation not involving the Department of Justice; clarifies the authority of the Antitrust Division to use outside contractors to process, analyze and evaluate materials produced pursuant to civil investigative demands: subjects outside contractors to criminal penalties under 18 U.S.C. 1905 for unauthorized disclosure of material obtained pursuant to civil investigative demands; (2) makes an attorney who engages in conduct primarily for the purpose of delay or increasing costs liable for the excess expenses and attorney fees reasonably incurred; (3) authorizes Federal judges to award to successful antitrust plaintiffs interest on their actual damages from the date of service of the complaint to the date of judgment at the prevailing commercial rate at the time of judgment; and (4) permits Federal courts to apply in private antitrust actions following Government suits against the same defendants the same collateral estoppel principles now applicable in other cases; and amends section 7 of the Clayton Act to allow the Department of Justice and private parties to challenge anticompetitive acquisitions involving noncorporate business entities and individuals. S. 390—Passed Senate July 20, 1979. (VV)

Attorney fees: Permits a court, in its discretion, to award attorney fees and other expenses to prevailing parties in civil litigation involving the U.S. to the same extent it may award fees in cases involving private parties; establishes a general statutory exception for an award of fees against the government under which certain parties who prevail in administrative adjudications or civil actions brought by or against the U.S. will be entitled to attorney fees and related costs unless the government action is shown to be "substantially justified"; sets at $75 per hour the maximum attorney fee that may be awarded; includes as parties eligible to recover fees under these new sections individuals whose net worth is less than $1 million and sole owners of unincorporated businesses, partnerships, corporations, associations or other organizations whose net worth is less than $5 million; and allows agriculture cooperatives to qualify for reimbursement without regard to net worth. S. 265—Passed Senate July 31, 1979. (238)

Bankruptcy code treatment of student loans: Amends the Bankruptcy Act to close a gap created under the 1978 amendment (Public Law 95–598) which repealed, effective November 6, 1978, provisions of the

Higher Education Act making student loans nondischargeable and transferred these provisions to the Bankruptcy Code effective October 1, 1979, by providing that these amendments will apply to any proceeding commenced under the Bankruptcy Act during the period beginning on the date of enactment and ending October 1, 1979; and clarifies that any educational loan made, insured, or guaranteed by a governmental unit, or made or funded in whole or in part by a governmental unit or a nonprofit institution of higher education is nondischargeable in bankruptcy for a period of five years unless it would cause an undue hardship on the debtor or dependents of the debtor. H.R. 2807—Public Law 96- , approved , 1979. (VV)

District Court relocations: Amends section 4 of the Federal District Court Organization Act of 1978 (Public Law 95-408) to assign the senior district judge of the former eastern district to the new southern district on the effective date of the act; provides for a second judge for the newly constituted southern district to be appointed by the President; assigns the remaining district judge from the former eastern district and the district judges from the former southern districts to the new central division; provides that the tenure of the U.S. attorney, the assistant U.S. attorney and the U.S. marshal of the eastern district will remain the same though their district of service will become the southern district and makes the same provisions for officers in the former southern district which will become the central district; ensures that the inquiry and indictment powers of any grand jury impaneled in the new districts extends to acts committed within the territory they encompassed before or after the effective date of the realinement; and conforms the effective date of Public Law 95-573 which placed Kankakee County, Illinois, into the Central District of Illinois with the March 31, 1979, effective date in Public Law 95-408. H.R. 2301—Public Law 95-4, approved March 30, 1979. (VV)

Federal rules of criminal procedure and evidence: Delays until December 1, 1980, or earlier if approved by Congress, the effective date of the following amendments promulgated by the Supreme Court and transmitted to Congress on April 30, 1979: Rules 11 (e)(6) of the Federal Rules of Criminal Procedure and rule 410 of the Federal Rules of Evidence which deal with the admissibility of statements made during plea negotiations; Rules 26.2 and 17(h) of the Federal Rules of Criminal Procedure which would amend the Jencks Act (18 U.S.C. 3500) by providing that statements of defense witnesses be disclosed to the Government prior to cross-examination; Rules 32.1, 32(f) and 40(d) of the Federal Rules of Criminal Procedure which deal with probation revocation procedures, currently being studied as part of the criminal code recodification legislation; and Rule 44 (c) of the Federal Rules of Criminal Procedure which deals with multiple-defendant representation by a single attorney and the potential conflict of defendants' interests which may arise. H.R. 4712—Public Law 96- , approved 1979. (VV)

Justice Department authorization: Authorizes a total of $1,928,816,000 for the Department of Justice for fiscal 1980 as follows: $31,417,000 for general administration; $5,555,000 for the U.S. Parole Commission; $111,748,000 for general legal activities which includes $30,315,000 for the criminal division, $25,207,000 for the civil division, $16,076,000 for the civil rights division, $16,439,000 for the land and natural resources division, and $23,711,000 for other legal activities; $48,592,000 for the antitrust division; $232,573,000 for U.S. attorneys and marshals; $25,100,000 for support of U.S. prisoners; $27,052,000 for fees and expenses of witnesses; $5,428,000 for community relations services; $584,408,000 for the Federal Bureau of Investigation; $313,317,000 for the Immigration and Naturalization Service; $193,836,000 for the Drug Enforcement Administration; and $349,790,000 for the Federal Prison System;

Prohibits authorized funds to pay the salary of any attorney (except a foreign counsel in special cases) employed after enactment unless the attorney is licensed and authorized to practice under the laws of any State, territory or the District of Columbia; adds language which states that the Department of Justice will not be required to absorb from appropriated sums any increases in salary and other nondiscretionary costs in order to encourage the Administration to seek a pay supplemental; prohibits the use of funds under the act to purchase or lease message-switching equipment until the Judiciary Committees of both Houses have approved; authorizes the FBI to use funds for certain activities connected with its undercover operations, such leasing space, upon certification by the Director or the Attorney General; requires the Director to conduct a detailed fiscal audit of any undercover operation having gross receipts or income in excess of $50,000 and to submit a report thereon to the Attorney General and calls for the Director to make similar reports to the Congress annually; retains the requirement that the Department of Justice inform the appropriate Congressional committees of impending reprogrammings with a modification which requires committees notification 20 working days prior to the action; directs the Attorney General to complete evaluations on the efficiency and effectiveness of Justice Department programs at the request of either the Senate or House Judiciary Committee and requires the Attorney General to submit to the requesting committee, within 30 working days, a design and timetable for making the evaluation; requires the Attorney General to obtain a comprehensive, independent management analysis of the Immigration and Naturalization Service and to submit a report to Congress on the results of the analysis together with any administrative or legislative recommendations to improve the operations of the Service; requires the Attorney General to prepare and submit to the Senate and House Judiciary Committees by January 1, 1980, a plan for the activation and coordination of comprehensive case management information and tracking systems for each judicial district; provides for a separate appropriation for the Special Counsel appointed by the Attorney General on March 23, 1979; prohibits the Immigration and Naturalization Service from paying any of its employees more than the amount earned by the Commissioner; authorizes the Attorney General to initiate, at his discretion, investigations of possible violations of the environmental or natural resources laws; amends the Controlled Substances Act to (1) authorize the Attorney General to make payment for tort claims arising in a foreign country as a result of the operation of the Drug Enforcement Administration, and (2) provide that informants who furnish information leading to the seizure and forfeiture of goods under customs laws are entitled to compensation of up to 25 percent of the value of the forfeited goods, but not to exceed $50,000; contains $5 million for joint State and local law enforcement agencies engaged in cooperative enforcement; terminates the service of private process by U.S. marshals, except for indigents or as ordered by a court; and requires the Attorney General to submit a plan to Congress on the rehabilitation of the Leavenworth Penitentiary. S. 1157—Passed Senate June 4, 1979. (115)

LEAA: Reauthorizes the Federal criminal justice improvement program for five years, through fiscal 1984; restructures LEAA to assist State and local governments in improving the quality of their justice systems and reforms Federal criminal justice research, statistics and assistance efforts to make them more effective and to reduce redtape and delay;

Restructures the current law enforcement assistance programs by establishing two new organizations within the Department of Justice: the National Institute of Justice (NIJ) to engage in and encourage research and development activities relating to the administration of justice; and the Bureau of Justice Statistics (BJS) to provide for and encourage the collection and analysis of statistical information relating to crime and the justice system; establishes an Office of Justice Assistance, Research and Statistics (OJARS) to coordinate the activities of these two new organizations and the Law Enforcement Assistance Administration; requires Senate confirmation of the Directors of NIJ, BJS, LEAA and OJARS; and authorizes $825 million annually for fiscal 1980 through 1984 for law enforcement assistance programs and $15 million annually to pay death benefits for public safety officials killed in the line of duty;

Contains other reforms to: Reduce redtape by eliminating burdensome annual planning requirements and replacing them with simplified, three-year applications; provide States and localities greater flexibility to deal with unique needs by eliminating earmarking of funds except for juvenile delinquency and community anticrime programs; guarantee large cities and countries a fixed allotment of funds; grant localities greater control over the uses of LEAA funds in their communities; eliminate the matching requirements for funds for criminal justice improvement projects; place limitations on the use of funds for administrative or equipment costs and curtail use of funds for general salary payments and construction costs; guarantee citizen, neighborhood and community groups opportunities to participate in the priority-setting process and to be represented on State and local advisory boards; authorize research directed at developing new methods for the improvement of police-minority relations; encourage prison industry programs through not more than seven pilot projects; require LEAA to provide a comprehensive analysis of criminal justice in 18 central aspects; require evaluation of funded programs and use of resources for essential purposes; develop programs to reduce parental kidnapping; provide that all States shall be considered equally for reallocated funds; exempt energy impact areas from the prohibition on the expenditure of funds for certain criminal and juvenile justice programs and continue judicial coordination functions and special recognition of judicial need. S. 241—Passed Senate May 21, 1979. (102)

Speedy trials: Amends the Speedy Trial Act to: suspend until July 1, 1980, the sanction of dismissal for failure to meet the specified time limits; merge the ten-day indictment-to-arraignment and the 60-day arraignment-to-trial time limits into a single 70-day indictment-to-trial period; require in the absence of a waiver by the defendant, a minimum of 30 days between the defendant's first appearance with counsel and trial; require that, if a defendant is to be tried on an indictment or information dismissed by a trial judge, and reinstated on appeal, trial shall commence within 70 days, and provides for extension of this time limit to 180 days if trial within 70 days is impractical; clarify certain periods of exclusion from the time limits and clarify provisions relating to authority for courts to order continuances when required to meet "the ends of justice"; make permanent the interim limit of 90 days from commencement of custody or designation as a high risk defendant to beginning of trial, with provision for release from custody or review of the high risk designation if this limit is exceeded; require all districts except those which elect to reimpose the dismissal sanction prior to July 1, 1980, to file one additional speedy trial plan; require additional information to be included in the next report to the Congress to be submitted by the Administrative Office of U.S. Courts, and require a one-time report by the Department of Justice, to be submitted to Congress not later than December 31, 1979, detailing the experience of the U.S. Attorneys in implementing the act; require that the membership of each district planning group include an attorney in private practice with substantial experience in civil litigation; make the data collection requirements permanent; provide for final approval by the circuit councils of time limit extensions due to judicial emergency; modify the provisions for the granting of additional extensions of time limits beyond the initial extension; and authorize the chief judge of each district to suspend the time limits for a period of 30 days, when the need for such a suspension is found by the chief judge to be of great urgency. S. 961—Public Law 96– , approved 1979. (VV)

Supreme Court cases—School prayer: Provides greater discretion to the U.S. Supreme Court in selecting the cases it will review by converting its appellate jurisdiction from being totally obligatory to being almost totally discretionary with minor exceptions; repeals the mandatory appellate jurisdiction in the Supreme Court for cases from district courts where one judge has invalidated an Act of Congress involving the U.S. Government as a party; substitutes review by writ of certiorari for mandatory appellate jurisdiction in cases involving Federal questions arising from the U.S. Court of Appeals; provides for writ of certiorari rather than appellate jurisdiction over cases from the highest State court involving Federal questions, and from the Supreme Court of Puerto Rico; abolishes three special appellate jurisdictions over cases involving (1) the Federal Election Campaign Act, (2) certain California Indian lands and (3) the construction of the Alaska pipeline; specifically allows direct jurisdiction over Alaska pipeline cases by writ of certiorari; and eliminates all jurisdiction of the Supreme Court and the District Courts over any case arising from State legislation relating to voluntary prayer in public schools. S. 450—Passed Senate April 9, 1979. (40)

U.S. Attorneys for Eastern District, New York: Amends section 545(a), title 28, U.S.C. (which requires that U.S. attorneys and assistant U.S. attorneys reside in the district for which they are appointed), to allow the U.S. attorney and the assistant U.S. attorneys appointed for the eastern district of New York to reside within 20 miles of the district. S. 567—Passed Senate May 2, 1979. (VV)

U.S. Magistrates Jurisdiction: Expands the jurisdictional provisions for U.S. magistrates (section 636, title 28, U.S.C., in civil cases and section 3401, title 28, U.S.C., in misdemeanor cases) in order that they may finally determine civil and all misdemeanor cases;

Makes the authority to try civil cases subject to the consent of the parties to trial before the magistrate and requires that the district court judges approve the magistrate's exercise of this authority; provides a right of appeal from any judgment entered to the proper court if both parties consented at the time of reference to the magistrate; provides that a magistrate may serve in one or more adjoining districts upon the concurrence of a majority of the judges of each of the courts involved; requires the Judicial Conference to promulgate standards for the qualifications of magistrates and procedures for their selection and requires the Director of the Administrative Office of the United States Courts to report to Congress on the implementation of the new selection procedures; extends existing provisions for payment of certain litigation expenses for indigent parties to include proceedings before a U.S. magistrate;

Expands the existing jurisdiction of magistrates to try minor offenses to include all misdemeanors; provides the government with the right to remove a particular misdemeanor from the magistrate for trial before a district judge for good cause; authorizes magistrates to conduct misdemeanor proceedings involving juveniles subject to specified limitations;

Authorizes the magistrates to accept guilty pleas or pleas of nolo contendere in a case lying outside of his trial jurisdiction; directs the Judicial Conference to conduct a comprehensive study of the magistrates system and report its findings and recommendations to Congress within 18 months of enactment; provides the Judicial Conference and the Administrative Office with the necessary authority to consider magistrates' needs for legal assistance in allocating staff support; and authorizes such sums as necessary to carry out this act. S. 237—Passed Senate May 2, 1979; Passed House amended June 6, 1979; Senate requested conference July 10, 1979. (VV)

NATURAL RESOURCES AND NATIONAL HISTORIC SITES

Colorado River Basin salinity control: Increases from $155,500,000 to $333,382,000 the appropriations ceiling for the construction of a large desalting plant near Yuma, Arizona (pursuant to an agreement with Mexico dated August 30, 1973) to cover increases in construction costs and certain project changes; authorizes the use of excess power and energy from the Navajo Generating Station at Page, Arizona, to meet the power requirements of the program; authorizes the Secretary to enter into contracts for the delivery of certain water within the United States for irrigation, municipal and industrial uses; and authorizes the Secretary to provide measures to mitigate fish and wildlife habitat losses resulting from the construction S. 496—Passed Senate June 4, 1979. (VV)

Frederick Law Olmsted National Historic Site: Establishes the home and office of Frederick Law Olmsted, in Brookline, Massachusetts, as a national historic site within the National Park System; authorizes the Secretary of the Interior to acquire the home and office together with the Olmsted archival collection which is housed there, and to enter into a cooperative agreement with an appropriate entity to provide for the management of the collection; authorizes, from the Land and Water Conservation Fund, $514,000 for the acquisition of the archival collection, $1,230,000 for its preservation and $200,000 for site development plus such sums as necessary for land acquisition; requires submission of the following reports to the appropriate Congressional committees: within three years of enactment a general management plan; within six months, an acquisition progress report and provisions for management and permanent protection of the archival collection; and within one year the final management and protection arrangements for the collection; limits entrance and admission fees charged at units of the national park system to those areas and rates which were in effect as of January 1, 1979; and makes technical and clarifying amendments to the National Parks and Recreation Act of 1978 (Public Law 95–265) and to the Wild and Scenic Rivers Act of 1968. S. 495—Passed Senate June 7, 1979. (VV)

Yakima River Basin Feasibility Study: Authorizes the Secretary of Interior to conduct a feasibility study of the proposed Yakima River Basin Water Enhancement Project, in Washington; authorizes the Secretary to accept money from the State and others to assist in financing the study; and provides that State funds shall be credited to the total amount of costs it would be required to bear if Congress authorizes and appropriates the project. S. 585—Passed Senate July 24, 1979. (VV)

NOMINATIONS

(Action by Roll Call Vote)

Benjamin R. Civiletti, of Maryland, to be U.S. Attorney General: Nomination confirmed August 1, 1979. (245)

Charles W. Duncan, Jr., of Texas, to be Secretary of Energy: Nomination confirmed July 31, 1979. (241)

Robert J. Kutak, of Nebraska, to be member of Board of Directors of Legal Services Corporation: Nomination confirmed May 2, 1979. (75)

Frank P. Reiche, of New Jersey, to be member of the Federal Election Commission: Nomination confirmed July 25, 1979. (219)

Leonard Woodcock, of Michigan, to be Ambassador to the People's Republic of China: Nomination confirmed February 26, 1979. (9)

SENATE

Female Senate employees: Repeals S. Res. 112, adopted in the 92d Congress, permitting the appointment of Senate pages, elevator operators, post office employees or Capitol policemen without discrimination on the basis of sex, which was superseded by Rule L of the Standing Rules of the Senate, effective January 3, 1979, which barred employment discrimination with respect to any Senate employee based on race, color, religion, sex, national origin, age or state of physical handicap. S. Res. 119—Senate agreed to May 14, 1979. (VV)

Financial Disclosure Rule Review: Directs the Senate Ethics Committee to review the desirability of repealing in part or modifying Rule XLII (42) of the Standing Rules of the Senate (dealing with public financial disclosure) and review the provisions of S. Res. 109 (substituting a new rule XLII which contains disclosure provisions that are comparable to the 1978 Ethics in Government Act including higher cutoff levels for reporting, elimination of random audits, disclosure of travel expenses, elimination of mandated reporting on certain private matters such as home mortgages and furniture and car loans, and raising liability disclosure from $2,500 to $10,000) and, after consultation with the Governmental Affairs and Rules Committees, report to the Senate within 30 days on the results of its review, together with any recommendations. S. Res. 117—Senate agreed to March 28, 1979. (VV)

Honoraria Limitations: Delays from January 1, 1979, until January 1, 1983, the effective date of rule XLIV (44) of the Standing Rules of the Senate, as added by the adoption of S. Res. 110 of the 95th Congress (the Senate Ethics Code), which limits honoraria of a Senator to 15 percent of his or her annual salary, or $8,625.00 based on present rates, and $1,000 per honorarium, and places the same limitations on Senate officers and employees earning over $35,000 per year with a $300 limit per honorarium. Note: This action permits the continuance of the limits on honoraria earned by Senators under the Federal Election Campaign Act of 1976 of $25,000 per year and $2,000 per honorarium. S. Res. 93—Senate agreed to March 8, 1979. (VV)

Makes rule XLIV (44) of the Standing Rules of the Senate—as added by the adoption of S. Res. 110 of the 95th Congress (the Senate Ethics Code)—effective on January 2, 1979, thereby upholding the March 8, 1979, voice vote on S. Res. 93 which delayed until January 1, 1983, the effective date of the rule limiting honoraria earned by a Senator to 15 percent of his or her annual salary or $8,625.00 based on present rates, and to $1,000 per honorarium, and limiting Senate officers and employees who are paid over $35,000 per year, to a $300 limit per honorarium. S. Res. 115—Senate rejected March 28, 1979. (29)

Human Resources Committee name change: Changes the name of the Committee on Human Resources to the Committee on Labor and Human Resources. S. Res. 30—Senate agreed to March 7, 1979. (VV)

Post cloture rule changes: Amends rule XXII (22) of the Standing Rules of the Senate regarding postcloture procedures to provide a 100-hour "cap" on debate after cloture is invoked and to provide mechanisms for protecting the rights of Senators to be heard and to offer amendments;

One hundred hour cap: Provides that at the expiration of 100 hours after cloture has been invoked the Senate shall proceed without debate to vote on the pending matter; provides that no amendments or motions not then pending shall be in order except motions to table, to reconsider or to establish a quorum immediately before the final vote; allows the 100 hours to be increased by a vote of three-fifths of the Senators duly chosen and sworn, with the additional time to be equally divided between and controlled by the Majority and Minority Leaders, or their designees; provides that no more than one motion to extend the time can be made in a calendar day and that such motions are not debatable;

Amendments: Provides that no Senator may call up more than two amendments until every other Senator has had the opportunity to call up two amendments; provides that if a measure is reprinted after cloture, amendments which were in order before the reprinting may be conformed as to lineation and pagination and remain in order; provides that after cloture has been invoked, the reading of amendments shall be dispensed with if the amendment has been available in printed form at the members' desks for at least 24 hours; requires that first degree amendments, to be in order, must be submitted in writing to the Journal Clerk by 1:00 p.m. on the day following the filing of the cloture motion; and requires that second degree amendments, to be in order, must be submitted in writing at least one hour prior to the beginning of the cloture vote;

Speaking guarantees: Allows any Senator who has not used or yielded ten minutes of his time to speak for up to ten minutes after the cap has expired;

Yielding time: Allows a Senator to yield all or part of his time to the Majority or Minority Leaders, or the majority or minority floor managers, provided however, that none of these Senators may have more than two hours yielded to him or her; allows the leaders and floor managers to yield time to other Senators; and

Reading of the Journal: States that while cloture is in effect the reading of the Journal shall be dispensed with and the Journal shall be considered approved to date. S. Res. 61—Senate agreed to February 22, 1979. (6)

Senate photograph: Temporarily suspends paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the U.S. Capitol (prohibiting the taking of pictures in the Senate chamber) to permit a photograph of the Senate in Session. S. Res. 210—Senate agreed to July 31, 1979. (VV)

Senate witness fees: Increases from $35 to $50 the limitation on daily witness fees payable to witnesses summoned to appear before the Senate or any of its committees thus making the fee consistent with the per diem rates for government employees traveling on official business. S. Res. 178—Senate agreed to June 13, 1979. (VV)

SOCIAL SERVICES-WELFARE

Domestic volunteer services (ACTION): Extends authorizations for certain programs within the Domestic Volunteer Service Act of 1973 (Public Law 93–113) which expired at the end of fiscal 1978, and improves the ACTION agency's ability to administer its domestic programs and carry out its mandate to encourage volunteerism; makes a number of substantive amendments to the Act as follows: extends for three years through fiscal 1981, the authorization for VISTA, University Year for ACTION (UYA), and ACTION's demonstration program for special or demonstration projects; requires that for any fiscal year after 1979 not less than 50 percent of moneys appropriated in excess of the amount of the fiscal 1979 appropriation must be used to carry out fixed-income counseling and "Helping-Hand" programs; extends through fiscal 1979 the authorization for business volunteer programs (SCORE/ACE) and for program administration; modifies the career development plan provisions for low-income VISTA volunteers to permit the initial plan to be made available within 30 days after (rather than prior to) assignment and to make such a plan available to any other full-time, one-year title I volunteer upon request; requires the Governor to state in writing reasons for disapproving a VISTA volunteer serving in the State or requesting that a project be removed from the State; makes terms of payment for VISTA volunteer stipends consistent with provisions in the Peace Crops Act; places limitations and requirements on national and regional VISTA grants to maintain current volunteer service year levels at no more than $5.8 million; requires competitive awarding of such grants and contracts for new projects and requires a poverty focus; seeks to ensure that sufficient funds are provided to enable the agency to meet commitments to its current UYA grantees, while providing greater flexibility to the agency in supporting other service-learning programs particularly those of demonstrated effectiveness; reinforces the Director's discretionary demonstration program authority assisting victims of domestic violence, fixed-income persons, and for programs focused on deinstitutionalization ("Helping-Hand"); provides support for short-term, part-time volunteers who are enrolled for period of service of 20 hours or more per week for 26 or more consecutive weeks; ensures that VISTA volunteers (whose prior AGDC or Medicaid eligibilities are protected under existing law) not be required to register with a Work Incentive Program (WIN) sponsor; requires that the Director of ACTION take appropriate steps to encourage employers to consider favorably experience in volunteer work by applicants for employment; provides that part-time volunteers enrolled for a period of service of not less than 20 hours per week for at least 26 consecutive weeks may be deemed to be Federal employees for purposes of the Hatch Act, Internal Revenue Code, Social Security Act, Federal Tort Claims Act, and Federal Employees Compensation Act, and makes full-time and part-time volunteers Federal employees for the purposes of waiving collection of erroneous payments; expands non-discrimination provisions; includes provisions to encourage the reduction of paperwork; authorizes the Commissioner of Rehabilitation Services in HEW to continue funding, until December 31, 1980, certain entities conducting projects under the Rehabilitation Act of 1973 (Public Law 93–112); establishes a Commission on Volunteerism to study appropriate roles for volunteers and to determine the proper function of the Federal government in encouraging volunteerism; and forbids the use of ACTION funds to influence State or local legislation unless those activities are requested by State or local legislative bodies, committees or members. S. 239—Passed Senate June 20, 1979. (140)

Food stamps: Increases from $6,158,900,000 to $6,778,900,000 the fiscal 1979 authorization for the food stamp program; provides an excess medical expense deduction for households that contain elderly persons or persons receiving Supplemental Security Income (SSI) benefits for amounts exceeding $35 per month, indexed semiannually; removes the ceiling on the amount of the excess shelter expense deduction for households that contain elderly persons or persons receiving SSI benefits; requires the Secretary to file monthly reports on food stamp program costs for the second preceding month and to state whether there is reason to believe that reductions in food stamp benefits will be necessary due to insufficient appropriated funds; requires the Secretary to take requisite action to reduce benefits within 60 days of the issuance of a monthly report in which the Secretary expresses his belief that benefit reductions will be necessary; requires the Secretary, within seven days of taking action to reduce benefits, to report to the Congressional Agriculture Committees on the basis for the action, the manner in which the allotments will be reduced, and the action, the manner in which the allotments will be reduced, and the action that has been taken to reduce the allotments; permits the Secretary to make reductions in the value of food stamp allotments on other than a pro rata basis (by weighing reductions toward higher-income recipients) if such action becomes necessary due to insufficient appropriated funds; authorizes the Secretary to prescribe special provisions applicable to the elderly and disabled and minimum allotments if reductions in the value of allotments become necessary; authorizes the Secretary and State agencies to require social security number of food stamp applicants; requires persons who fraudulently receive food stamps to repay the value of those food stamps by cash repayment or through benefit reductions; permits States to retain 50 percent of the value of food stamps recovered from fraudulent recipients; extends benefits to handicapped persons living in community living centers; and repeals the food stamp authorization ceiling for fiscal 1980 and 1981. H.R. 4057—Passed House July 11, 1979; Passed Senate amended July 23, 1979; Senate agreed to conference report July 27, 1979. (VV)

WIC and other food programs: Amends the Child Nutrition Act of 1966, as amended (Public Law 95–627), to reduce from $800 million to $750 million the fiscal 1980 authorization for the special supplemental food program for women, infants and children (WIC); authorizes the withholding of funds from States which fail to administer properly, effectively and efficiently the child feeding programs; authorizes the extension of nutritional assistance programs to dependents of military servicemen and DOD employees overseas; and limits service institution eligibility in the summer food service program. S. 292—Passed Senate May 23, 1979. (111)

TAXATION

Tax exempt mortgage bonds: Expresses Senate support for the transitional rules, to H.R. 3712 (which denies issuance of tax-exempt bonds for single-family homes after April 25, 1979) tentatively agreed to by the House Ways and Means Committee, allowing for: (1) the issuance of bonds that were in the process of being issued on April 25, 1979, if certain conditions are met: (2) the refunding of rollover of tax-exempt obligations issued before April 25, 1979, with certain restrictions, and (3) completion of certain projects that were under development on April 25, 1979; and allows Texas public nonprofit corporations to issue mortgage subsidy bonds in compliance with these provisions if qualifying official action had been taken prior to April 25, 1979. S. Res. 188—Senate agreed to July 19, 1979. (VV)

Tax treatment of State legislators' residence—social services amendments: Extends for one additional year, to taxable years beginning before January 1, 1979, the effective date of a provision which allows a State legislator to treat his place of residence within his legislative district as his tax home for purposes of computing the deduction for living expenses;

Makes permanent a provision for Federal matching of the costs incurred by States for providing services to families not on welfare to assist them in obtaining child support from absent parents;

Makes permanent the authority for States to use title XX social security funds to reimburse the costs of hiring welfare recipients in child care jobs; increases the maximum per recipient annual combined tax credit and title XX reimbursement from $5,000 to $6,000; makes the payment and credit available for part-time as well as full-time employment in child care jobs; permits the credit to be computed on the basis of the full wages, including the part reimbursed under title XX, subject to a minimum combined tax credit and title XX payment not to exceed 100 percent of the first $6,000 of wages; makes the tax credit coverage applicable to the date it previously expired, October 1, 1978, and the effective date of the new credit enacted on January 1, 1979; and

Makes permanent the authority of States to use funds under title XX for certain services to drug addicts and alcoholics. H.R. 3091—Passed House March 27, 1979; Passed Senate amended March 28, 1979; In conference. (VV)

TRADE

Export control: Establishes a new four-year export control statute, the Export Administration Act of 1979, superceding the Export Administration Act of 1969 which expires on September 30, 1979; adds new findings and policy declarations to those contained in the 1969 Act; retains the authority delegated to control exports subject to U.S. jurisdiction, or by any person subject to U.S. jurisdiction, and the financing, transporting and servicing thereof, as necessary to carry out the stated declaration of policy;

Control of Militarily Critical Technology: Requires that export controls maintained for national security purposes be reviewed by the President every three years in the case of multilateral controls (maintained cooperatively with other nations) and every year in the case of unilateral controls; provides that priority in administering such controls be given to preventing exports of militarily critical goods and technology; requires the Secretaries of Commerce and Defense to review and revise such controls to insure that they are focused upon and limited, to the maximum extent possible, to militarily critical goods and technology and the mechanisms through which they may be effectively transferred; and gives the Secretary of Defense responsibility for listing critical goods, but leaves the responsibility for imposition of controls with the Secretary of Interior;

Foreign Policy Controls Termination: Terminates on December 31, 1979, or one year after imposition, export controls maintained for foreign policy purposes unless they are extended by the President in accordance with specified consideration; requires the President to inform Congress within 30 days of imposing, increasing or extending export controls for foreign policy purposes, and to the extent consistent with the national interest, to make public a report specifying his conclusions with respect to the considerations;

Foreign Availability of Controlled Items: Requires that foreign availability of goods and technology subject to export controls be determined both with respect to controls maintained for foreign policy purposes and those maintained for national security purposes; prevents the imposition of export controls for national security or foreign policy reasons when the goods or technology are available without restriction from sources outside the U.S. in significant quantities, and are comparable in quality to those produced in the U.S., unless the President determines adequate evidence has been presented demonstrating that the absence of such controls would prove detrimental to U.S. foreign policy or national security; requires the President, if he so determines, to initiate negotiations with foreign governments to try to eliminate the availability;

Export Control List: Requires maintenance of an export control list to be reviewed every three years in the case of multilateral controls and annually in the case of unilateral controls;

Export License Procedures: Simplifies the export licensing process by requiring the Secretary to establish at least three types of export licenses: (1) validated controls—used primarily for exports subject to COCOM (a multilateral control agency maintained by Japan and all NATO countries except Iceland), (2) qualified general—used for multiple shipments to particular consignees or end uses in controlled countries, and (3) general—used to authorize exports without specific approval if in accordance with regulations; establishes export license review procedures to expedite action; and provides that no license shall be granted for the export of goods to any country which the Secretary of State has found to support international terrorism;

Non-Agricultural Exports: Revises the criteria and reporting requirements for monitoring non-agricultural commodities in short supply situations;

Alaskan Crude Oil: Prohibits the export of domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to the Trans-Alaska Pipeline Authorization Act (except when swapped for convenience or transportation efficiency with an adjacent foreign state or temporarily exported across such state) unless the President makes and publishes an express finding that such exports: (1) will not diminish U.S. refined petroleum supplies; (2) will result within three months in lower acquisition costs to refiners for imported crude and reduced wholesale and retail prices of products refined from such imported crude; (3) will be made only pursuant to contracts which may be terminated if U.S. crude supplies are interrupted, threatened or diminished; (4) are clearly necessary to protect the national interest; and (5) are in accordance with the bill's provisions; authorizes the President to export oil to any foreign nation with which the U.S. has a bilateral international oil supply agreement prior to May 1, 1979, or has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act; excludes petroleum products refined in U.S. Foreign Trade Zones or Guam from export controls unless a product is found to be in short supply; and provides that both Houses must disapprove a Presidential decision to allow oil exports for the decision not to go into effect;

Agricultural Exports: Revises provisions concerning the export of agricultural commodities which prohibit export controls on any agricultural commodity, including fats, oils, animal hides and skins, unless approved by the Secretary of Agriculture; permits agricultural commodities purchased for future export to be stored in the U.S. and exported later with the approval of the Secretary, in consultation with the Secretary of Agriculture, under specified conditions; provides that one House may veto an agricultural export control; but that the other House may override the veto; retains the prohibition on the export by sea of horses for slaughter;

Commercial Agreements with Controlled Countries: Requires U.S. firms to report to the Secretary concerning commercial agreements to transfer technical data to controlled country governments; excepts educational institutions from this requirement;

COCOM Negotiations: Requires the President to negotiate with other COCOM nations to reach agreements to: (1) publish COCOM control lists and related information; (2) hold periodic high-level meetings to provide guidance on export control policy to COCOM; (3) modify COCOM export controls to a level accepted and enforced by all participating governments; and (4) adopt more effective export control enforcement procedures;

Controlled Goods and Technology: Authorizes the Secretary to consider annual increases in the performance levels of controlled goods or technology in order to periodically remove obsolete controls;

Foreign Boycotts and Hardship Relief; Contains, without change, the antiboycott provisions adopted in the Export Administration Amendments of 1977, Public Law 95–52; repeats the provision in the present act which enable persons suffering unique hardship due to export controls to seek relief from the Secretary, who is required to grant or deny the petition within 30 days;

Petitions for Monitoring of Controls: Establishes for the first time a formal, public petition and hearing procedure whereby any entity representative or substantial segment of an industry processing any material or commodity may petition the Secretary requesting export controls; authorizes the Secretary to appoint technical advisory committees (TAC's) composed of representatives of U.S. industry and government knowledgeable with respect to particular groupings of goods or technology, to obtain their advice on export control policy matters including technical matters, foreign availability, licensing procedures, and proposed revisions in COCOM controls; requires the Secretary, whenever a TAC certifies the existence of foreign availability sufficient to render U.S. controls on particular goods or technology ineffective, to investigate and report to the TAC on whether he or she concurs and, if so, submit a recommendation to the President;

Violations: Removes the distinction between penalties for first and second violations contained in the present act; provides maximum fines of five times the value of the exports involved or $50,000, whichever is greater, and/or imprisonment of up to five years, for knowingly violating any provision of this bill or regulation issued thereunder; increases the penalty for knowingly violating controls or exports to countries to which exports are restricted for national security or foreign policy purposes by imposing fines of up to five times the value of the exports involved or $10,000, whichever is greater, and/or up to ten years imprisonment; authorizes, by administrative procedure, civil penalties of up to $10,000 for each violation, suspension or revocation of authority to export; establishes procedures for imposing administrative sanctions, collecting fines and bringing civil actions for payment of fines;

Enforcement: Contains the same enforcement provisions as in present law; restates Congressional intent in adopting the 1977 amendments that confidential information obtained under the bill be exempt from disclosure unless the Secretary determines withholding such information is contrary to the national interest; states that nothing in the bill would authorize withholding any information from Congressional committees having appropriate jurisdiction; prohibits any committee from disclosing confidential information unless the full committee determines that withholding the information is contrary to the national interest; requires that reporting requirements be designed so as to minimize cost and inconvenience, and be periodically reviewed and revised, to the extent feasible consistent with effective enforcement and compilation of useful trade statistics;

Annual Reports: Requires the Secretary to make annual reports to Congress; specifies the content of these reports and requires the full cooperation of other departments and agencies in their preparation; and

Authorization: Authorizes $8 million to the Commerce Department for fiscal 1980 (plus necessary amounts for increases in salary, pay, retirement, other employee benefits authorized by law and other nondiscretionary costs) of which $1.25 million is to be used to establish the capability to make foreign availability assessments; prohibits any appropriation to the Commerce Department for expenses to carry out the bill for any year after fiscal 1980 unless previously and specifically authorized by legislation. S. 737—Passed Senate July 21, 1979. (210)

Countervailing duty extension: Extends retroactively from January 3, 1979, the authority of the Secretary of the Treasury to waive the imposition of countervailing duties under section 303 of the Tariff Act of 1930 to the earliest of the following dates: (a) the date on which either House of Congress defeats, within 90 legislative days, the legislation to implement the Multinational Trade Agreements governing the use of subsidies, (b) the date of enactment of the implementing bill or (c) September 30, 1979; and provides that any waiver in effect on January 2, 1979, shall remain in effect until the earliest of the following dates: (a) the date of the above extension, (b) the date the Secretary revokes the waiver or (c) the date either House of Congress adopts a resolution disapproving a waiver. H.R. 1147—Public Law 96–3, approved April 3, 1979. (30)

Multilateral trade agreements: Approves and implements the Trade Agreements negotiated under the Trade Act of 1974 in the Tokyo Round of Multilateral Trade Negotiations (NTN);

Countervailing and Antidumping Duties: Applies a new countervailing duty law to imports from countries which have assumed the obligations (or substantially equivalent obligations) of the MTN agreement relating to subsidies and countervailing measures; repeals the Antidumping Act, 1921, and replaces it with a comprehensive statute built upon the 1921 act and consistent with the MTN Antidumping Code under which duties would be imposed upon a determination that fair-value and that a U.S. industry is, or is likely to be, sold in the U.S. at less-than-fair-value and that a U.S. industry is, or is likely to be, injured or retarded by reasons of imports of that merchandise;

Customs Valuation: Revises section 402 of the Tariff Act of 1930, which specifies the methods for determining the value of an import for purposes of applying *ad valorem duties,* to make it consistent with the Customs Valuation Agreement negotiated in the MTN and repeals the Final List and American Selling Price methods of customs valuation;

Government Procurement: Implements the Agreement on Government Procurement, which will require signatory countries to apply uniform and open procedures to purchases by covered national government agencies; authorizes the President to waive certain "Buy American Act" restrictions in U.S. law or practice which discriminate against particular products of designated countries;

Product Standards: Provides the statutory framework for U.S. implementation of its obligations under the Agreement on Technical Barriers to Trade (relating to product standards) many of which are widely followed in the U.S.;

Tariff Negotiations: Provides for the implementation of certain tariff concessions negotiated in the MTN, which involve reduction or increases in the rates of duty in amounts which exceed the President's authority to proclaim a reduction or increase in a rate of duty under sections 101 and 109 of the Trade Act of 1974, or changes in non-most-favored-nation (MFN) duties or in headnotes, nomenclature and classification affecting non-MFN duties would be made;

Civil Aircraft: Implements tariff changes required under the Agreement on Trade in Civil Aircraft; permits the President to eliminate duties on articles covered by the Agreement; and eliminates the 50 percent duty on repairs on U.S. civil aircraft in foreign countries;

Agricultural Measures: Implements concessions to foreign countries under a number of bilateral agreements relating to cheese, chocolate crumb (a mixture of chocolate and milk solids) and meat; increases the amount of cheese imports permitted under U.S. quotas and extends quotas to 85 percent of imported cheese; establishes procedures, in lieu of the countervailing duty law, to prevent subsidized cheese imports under quota from undercutting domestic cheese prices; increases the existing U.S. quotas on chocolate crumb; and establishes a 1.2 billion pound floor on meat import quotas under the meat import law;

Treatment of Distilled Spirits: Repeals the wine-gallon method of taxing and levying duties on foreign distilled spirits; changes U.S. law to include taxing bottled imports on the proof-gallon system, extending by one-half month the time period for payment of excise taxes by domestic bottlers, establishing the all-in-bond system, and assessing duties on a proof-gallon basis if the President determines reciprocal concessions have been received in the MTN;

Enforcement of U.S. Rights: Revises section 301 of the Trade Act to permit enforcement of U.S. rights under the MTN agreements and imposes time limits on investigations procedure and recommendations by the Special Representative for Trade Negotiations and on Presidential action; provides a procedure for private parties to request government action to remedy foreign violations of the trade agreements;

Judicial Review: Provides increased opportunities for appeal of certain interlocutory and all final rulinsg in antidumping and in countervailing duty cases; expands existing opportnuities for judicial review of determinations by the Customs Service of the apraised value, classification or rate of duty of imported goods; and provides for judicial review of Custom Service decisions regrading the certification of the "country of origin" of products covered by the Government Procurement code;

Miscellaneous Provisions: Extends until January 3, 1988, the President's authority to enter into trade agreements to eliminate nontariff barriers and other distortions adversely affecting U.S. commerce; authorizes the auction of import licenses used to administer quantitative restrictions under certain laws; extends the private sector advisory system on trade matters; requires the President to study the desirability of entering into trade agreements with Mexico and Canada to promote mutual economic growth; clarifies the jurisdictional relationship between the U.S. International Trade Agreements with Notrh American countries; clarifies the jurisdictional relationship between the U.S. International Trade Commission and the Department of the Treasury and establishes new civil penalties in section 337 (Tariff Act of 1930) cases; requires trade statistics on a cost-insurance-freight (CIF) basis to be released 48 hours before trade figures arrived on other bases; requires the President to submit proposed legislation to the Congress by July 10, 1979, on restructuring the international trade functions of the U.S. government; requires the President to submit to Congress by July 15, 1980, a study on U.S. competitiveness; and modifies the Generalized System of Preference under title V of the Trade Act. H.R. 4537—Public Law 96–39, approved July 26, 1979. (212)

Amtrak: Authorizes $867.3 million for Fiscal 1980 and $945 million for Fiscal 1981 for the National Railroad Passenger Corporation (Amtrak) to provide for the implementation and operation of Amtrak's new route plan recommended by the Department of Transportation, and to improve Amtrak operations through adoption of amendments to the Rail Passenger Service Act; extends the period for full implementation of the new route plan and requires continued service on existing routes until that time; contains provisions to improve Amtrak's financial performance and to establish the basis upon which future service changes can be made; extends for one year the $700 million available under title V of the Railroad Revitalization and Regulatory Reform Act for railroad rehabilitation and improvement projects;

Provides additional funding to add long-distance trains to the system which meet designated criteria; reduces payments for labor protection; changes the 50% Federal to 50% State subsidy operating formula to 80% to 20% in fiscal 1980, to 65% to 35% in 1981 and to 50% to 50% in subsequent years; authorizes Amtrak to continue subsidies for commuter trains for an additional 18 months; provides increased funding for new 403(b) State-assisted train service; provides additional funding to add short-distance and regional balance trains to the system which meet designated criteria;

Increases Amtrak's capital budget for 1980 by $54 million; directs Amtrak to study the feasibility of restoring discontinued routes and the feasibility of an alternative cost accounting system; authorizes Amtrak to make payments for maintenance of discontinued tracks; and establishes a reduced Amtrak fare for the elderly and handicapped. S. 712 passed Senate August 1, 1979.

TRANSPORTATION

Aviation safety and noise abatement: Authorizes $90 million for fiscal 1980 to establish a new program to assist airports and surrounding communities in the development and implementation of noise abatement programs to reduce existing noncompatible land uses and prevent future noncompatible land uses around airports; authorizes an increase for airport construction and development of $87 million for air carrier airports and $13 million for general aviation and reliever airports; authorizes the Secretary of Transportation to provide waivers from noise regulations on a case-by-case basis when the aircraft operator has made a good faith effort to comply, but external circumstances prevent compliance; authorizes the Secretary of Transportation to grant a waiver from noise regulations compliance deadlines if an operator has a signed contract with a manufacturer for a new technology Stage three aircraft by January 1, 1983, for two or three engine aircraft, and by January 1, 1985, for four engine aircraft; exempts two or three engine aircraft exceeding the regulatory level by no more than five decibels; sets guidelines for the Civil Aeronautics Board to use its existing authority to impose a surcharge to ensure that noise compliance is met even if industry profits dip drastically; and provides a schedule for the Secretary of Transportation to submit timely reports on the status of the development of collision avoidance systems and proposed timetables for implementation of such systems. S. 413—Passed Senate May 1, 1979. (73)

Hazardous materials transportation: Extends the Hazardous Materials Transportation Act for one year, through fiscal 1980, and authorizes therefor $5.5 million to continue the Department of Transportation's hazardous materials transportation safety responsibilities. S. 1141—Passed Senate May 22, 1979. (VV)

Maritime authorization: Authorizes $517,288,000 (which includes $73,506,000 in carryover and deferral funds) for the Maritime Administration as follows: $101 million for ship construction-differential subsidies; $256,208,000 for operating-differential subsidies; $16,360,000 for research and development; $34,616,000 for maritime education and training expenses including $25,874,000 for martime training at the U.S. Merchant Marine Academy at Kings Point, N.Y., $6,785,000 for assistance to State marine schools, and $1,957,000 for supplementary training authorized under section 216(c) of the Merchant Marine Act, 1936; $35,598,000 for maritime administration operating expenses, including $6,377,000 for the National Defense Reserve Fleet and $29,221,000 for operating expenses related to the development and use of waterborne transportation systems and to general administration; includes fisheries facilities in the loan obligation guarantee program and the capital construction fund; and provides that a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the U.S. shall be considered a U.S. citizen for the purposes of the Merchant Marine Act. S. 640—Passed Senate May 24, 1979; Passed House amended July 27, 1979. (113)

Merchant Marine march: Declares as the sense of the Congress that "Our Merchant Marine March" as written and composed by Earl W. Clark be recognized as the official march of the American merchant marine. H. Con. Res. 3.—Action completed April 10, 1979. (VV)

Railroads:

Office of Rail Public Counsel: Authorizes $500,000 for fiscal 1980 for the Office of Rail Public Counsel which is expected to be phased out by not later than September 30, 1980. S. 448—Passed Senate May 8, 1979. (VV)

Chicago, Milwaukee, St. Paul and Pacific Railroad: Expresses the findings of Congress with respect to the embargo on service requested by the Trustee of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company that: (1) the embargo would reduce service on approximately 75 percent of the system, (2) the embargo would result in the loss of thousands of jobs, (3) continued operation of the Railroad is essential to further national policy established by Congress in the Power Plant and Industrial Fuel Use Act of 1978 to rehabilitate coal-carrying railroads, (5) the Secretary of Energy examine every way in which that act can be implemented to alleviate this crisis, and (6) emergency measures be considered to avoid the substantial economic damage that would result; and directs the Secretary to conduct immediately an assessment of present and potential railroad coal hauling needs in the area and report his findings to Congress within 30 days of enactment. S. 967—Passed Senate May 3, 1979 (VV)

Requires continuation of rail service by the Chicago, Milwaukee, Saint Paul and Pacific Railroad for a period of sixty days, using funds authorized under the Emergency Rail Services Act of 1970, in order to explore every possible alternative to an embargo, including time for the Milwaukee Railroad, employees, shippers and all interested parties to come up with a plan to purchase and operate those portions of the railroad that the trustee wants to abandon and to enable States to find other adequate means of transportation in the event of an embargo. S.J. Res. 81—Passed Senate May 23, 1979. (VV)

U.S. Railway Association: Authorizes $30 million to the U.S. Railway Association (USRA) for administrative expenses during fiscal 1980. S. 447—Passed Senate April 10, 1979. (VV)

Shipping rebating practices: Amends the Shipping Act, 1966, to strengthen the Federal Maritime Commision's (FMC) enforcement authority over rebating practices in the United States foreign waterborne trades; increases the civil penalties for malpractices (such as the giving or receiving of lower rates by means of false billings, weight or classification) from not more than $5,000 per violation to not more than $25,000 per violation; increases penalties for tariff-related violations other than rebating (such as failure to file a tariff, charging rates other than those set by tariffs, and changing tariffs without proper notice) from $1,000 per day to not more than $5,000 per day; increases penalties for rebating from not more than $1,000 per day to not more than $25,000 per shipment; permits FMC to suspend for up to one year a carrier's tariffs for rebating violation subject to disapproval by the President for national defense or foreign policy reasons; authorizes FMC to require from executives or carriers, shippers and forwarders certificates attesting to company policies and efforts to prohibit rebating and pledging cooperation in any investigation of rebating; imposes a civil penalty of not more than $5,000 per day for failure to file a certificate; authorizes FMC to suspend the tariffs of a U.S. or foreign carrier for failure to comply with subpoenas for discovery orders in adjudicatory investigations of illegal rebating; requires FMC to notify the Secretary of State where a carrier claims inability to produce the necessary documents or information because of a "blocking statute" and directs the Secretary to consult with the government of the nation within which the documents or information are located; permits the President to nullify the suspension for national defense or foreign policy reasons; provides for a penalty of not more than $50,000 per shipment for the carriage of cargo during a suspension period; clarifies that penalties for rebating should be entirely civil; and authorizes FMC to assess all civil penalties under the Shipping Act. S. 199—Public Law 96–25, approved June 19, 1979. (VV)

TREATIES

Estate and gift tax convention with France: Replaces an existing Estate Tax Treaty with France which has been in force since October 17, 1949, and establishes new rules governing taxation of gifts to alleviate double taxation on the estates and gifts of citizens and domiciliaries of the U.S. and domiciliaries of France, in some situations by allowing only one country to impose its tax, and in others by allowing both countries to impose a tax but requiring one of the countries to allow a credit against its tax for the taxes paid to the other country; allows, in most situations, the country of domicile to assert primary tax jurisdiction but gives the situs country priority taxation in the case of real property, tangible personal property and business assets which are located in that country; provides that the domicile of an individual will be determined separately under laws of each country; and sets forth extensive rules to determine an individual's domicile for purposes establishing primary tax jurisdiction under the treaty in the event that both countries treat the individual as a domiciliary under their domestic laws. Ex. J, 96th–1st—Resolution of ratification agreed to July 9, 1979. (154)

Estate and gift tax convention with the United Kingdom: Replaces an existing Estate Tax Treaty with the United Kingdom which has been in force since July 25, 1946, and establishes new rules governing the taxation of gifts to alleviate double taxation on the estates and gifts of citizens and domiciliaries of the United States and the United Kingdom by modifying the jurisdictional rules of estate and gift taxation with respect to these individuals; permits each asset held by an estate or each gift to be subject to primary tax jurisdiction in only one of the two countries by allowing both countries to impose their tax but requiring one of the countries to allow a credit against its tax for the taxes paid to the other country; provides that the domicile of an individual will be determined separately under the laws of each country; and sets forth extensive rules to select one of the two countries as an individual's domicile for purposes of establishing primary tax jurisdiction. Ex. R, 96th–1st—Resoluton of ratification agreed to July 9, 1979. (157)

International wheat agreement: Extends until June 30, 1979, the International Wheat Agreement consisting of (1) the Wheat Trade Convention, an administrative body established as a mechanism for international cooperation in matters relating to the production and sale of wheat, and (2) the Food Aid Convention which commits its nine parties to provide minimum annual quantities of food aid to developing countries. Ex. L, 95th–1st—Resolution of ratification agreed to June 26, 1979. (153)

Protocol to the tax convention with France: Amends the current U.S.-France income tax treaty which entered into force on July 11, 1968, and amended by protocol which entered into force on January 21, 1972; divides the tax liability of U.S. citizens residing in France between the U.S. and France in order to avoid double taxation of these individuals, which would result because of a change in French domestic law which, effective January 1, 1979, subjected U.S. citizens resident in France to French tax on their worldwide income, including income from the United States; prescribes special rules for taxing the income of partners of partnerships with income from U.S. sources and retirees whose pensions are attributable to U.S. sources; exempts French insurers from the U.S. excise tax on foreign insurance of U.S. risks; revises the geographical scope of the treaty so that it covers income from natural resources on each country's continental shelf; revises the provisions governing shipping and air transport to bring them into closer conformity with the U.S. model income tax treaty; contains certain changes to the rules for taxing employees of shipping companies; exempts interest paid to banks from the ten percent withholding tax allowed under the existing treaty; exempts social security payments made by either country to a U.S. citizen from tax by the other country; and clarifies the "saving clause" of the treaty (which generally allows the U.S. to tax its own citizens and residents without regard to the treaty) so that it expressly applies to certain former U.S. citizens who expatriated to avoid U.S. tax. Ex. K, 96–1st—Resolution of ratification agreed to July 9, 1979. (155)

Protocol to the tax convention with the United Kingdom: Modifies the proposed Tax Convention with the United Kingdom and Northern Ireland; makes the restriction on the use of the worldwide combination/unitary method of apportioning income inapplicable to States or local governments; limits the amount of the British Petroleum Revenue Tax (PRT—imposed on assessable profits from oil and gas extraction activities in the U.K. on a field by field basis) which is allowable under the treaty as a tax credit so that the PRT imposed on extraction income from U.K. sources may only offset U.S. tax on that income; provides that the PRT which is imposed on certain oil transportation, treatment and storage income may only offset U.S. tax on that income; allows each country to tax, under its domestic laws, persons engaged in activities in connection with the exploration for or exploitation of, for more than 30 days in a 12-month period, seabed mineral resources situated in that country; provides that premiums paid to British insurers will not be subject to the U.S. insurance excise tax even if the British insurers have a permanent U.S. establishment; allows the U.S. to continue to impose its withholding taxes on dividends paid to nonresident aliens and foreign corporations by a corporation organized under U.S. law, even if that corporation is managed, and therefore resident, in the U.K.; eliminates a provision of the proposed treaty which would have allowed the U.K. to tax the compensation of a U.S. citizen resident in the U.K. who performed services in that country for the U.S. Government if that individual did not become a U.K. resident solely to perform the services; and overrides U.S. and U.K. statutes of limitations to allow refunds to be made on the basis of the treaty provisions if claims are made within three years after the end of the year in which the treaty enters into force. Ex. Q, 96th–1st—Resolution of ratification agreed to July 9, 1979. (156)

Tax convention with Hungary: Contains provisions substantially similar to other recent U.S. income tax treaties and to the model income tax treaty of the Organization for Economic Cooperation and Development (OECD) which are intended to reduce or eliminate double taxation of income earned in one country by residents of the other country, deal with administrative matters, and promote closer economic cooperation and more active trade between the two countries; contains the standard tax treaty provision on taxation of business income derived from sources within either country and on commercial visitor exemptions under which residents of one country performing personal services will not be required to file tax returns and pay tax in the other unless their contracts exceed certain specified minimums; provides that interest, royalties, capital gains and certain other income derived by residents of either country from sources within the other are generally to be taxed only by the country of residence and not by the country of source and that dividends received by residents of one country from sources within the other are to be taxed at reduced rates by the country of source; provides for the relief by the country of residence of the potential double taxation through a foreign tax credit in the case of the United States or an exemption in the case of Hungary; contains the standard savings clause where each country retains the right to tax its citizens and residents as if the treaty had not come into effect, the standard provision that the treaty will be applied only to benefit of taxpayers, and the standard nondiscrimination provisions; and provides for exchange of information and administrative cooperation between the tax authorities of the two countries to avoid double taxation and prevent fiscal evasion with respect to income taxes. Ex. X, 96th-1st—Resolution of ratification agreed to July 9, 1979. (159)

Tax convention with Korea: Contains provisions substantially similar to other recent U.S. income tax treaties and to the model income tax treaty of the Organization for Economic Cooperation and Development (OECD) which are designed to reduce or eliminate double taxation of income earned in one country by residents of another country, deal with administrative matters and promote closer cooperation and more active trade between the two countries; establishes maximum rates for the U.S. and Korean withholding taxes on passive income payments flowing between the two countries; provides that a resident of one country will not be subject to tax in the other country on business profits unless those profits are attributable to a permanent establishment which the resident maintains in the other country; provides that the host country may tax business visitors present in either country only if certain tests, based on time spent or amounts earned are met; contains a special provision, not found in other income tax treaties, which provides a special exemption for U.S. social security taxes for Korean residents who are working on a temporary basis in Guam; contains a provision in the related exchange of notes whereby the U.S. agrees, when feasible, to resume discussions with Korea with a view toward reaching agreement on a supplementary protocol which would minimize the interference of the U.S. tax system with special incentives provided by Korea to promote the flow of U.S. capital and technology to Korea. Ex. P, 94th–2nd—Resolution of ratification agreed to July 9, 1979. (158)

VETERANS

Veterans health care: Establishes new health services programs for veterans and improves existing programs; specifies that the priority for medical examinations for service-connected disabilities be included in the third property for outpatient care; requires the Administrator to notify the Veterans Committees when VA expenditures for outpatient contract dental care and services exceed the fiscal 1978 expenditure ($45.2 million); extends eligibility for outpatient dental-care benefits to veterans who were prisoners of war for at least six months or who have 100 percent service-connected disabilities and sets certain priorities for service-connected dental care; authorizes limited dental service to hospitalized veterans for non-service-connected dental conditions; establishes a new program of outpatient readjustment counseling and followup mental health services for Vietnam-era veterans; provides that psychologists as well as physicians may make determinations in providing mental health services to the veteran; gives the VA the same authority to furnish Vietnam-era veterans with readjustment counseling and related services through contracts with private facilities as is available to veterans with 100 percent service-connected disabilities incurred in combat if he determines that a VA facility cannot effectively furnish contract services and requiring the Administrator to establish, in regulation, criteria for approval of the quality of such private programs; establishes a five-year pilot program for the treatment and rehabilitation of veterans with alcohol and drug dependence or abuse disabilities; establishes a five-year pilot program of preventive health-care services for veterans with 50 percent or more service-connected disability ratings and for veterans receiving treatment involving a service-connected disability; provides that the maximum expenditures for the pilot program may not exceed $10 million in fiscal 1980, $12 million in 1981, $13 million in 1982, $14 million in 1983 and $15 million in 1984; authorizes care for certain Filipino veterans in VA medical facilities in the U.S.;

Provides greater flexibility to the VA in furnishing medical services through private facilities under contractual arrangements; restores limited authority to expand the circumstances under which certain veterans would be eligible for contract outpatient treatment for non-service-connected disabilities; provides authority for contract diagnostic services for the treatment of a non-service-connected disability at an independent VA outpatient clinic; authorizes the Administrator to enter into contracts with certain organizations to provide emergency medical services at national conventions of VA organizations; requires annual reports on the VA's use of contract care authorities;

Provides that no appropriation shall be made for the construction, alteration or acquisition of any VA medical facility costing more than $2 million, or for the lease of any medical facility at an annual rental of more than $500,000 without the appropriate Congressional Committees having first adopted resolutions approving the projects; allows the Administrator to increase the estimated construction or acquisition costs (including leases) by 10 percent over the amount specified in an approval resolution; requires that the appropriate Congressional committees be notified in advance of any proposed reprogramming of appropriated funds; establishes a revolving fund for certain garage and parking construction projects at VA medical facilities involving expenditures of $2 million or less; requires submission of annual reports on (1) a five-year plan for construction, replacement and alteration of medical facilities that are in need of construction, replacement or alteration; a priority listing of ten or more hospitals most needed; and general plans for each facility (to be submitted by June 30 with an extension to September 1, 1979, for the first report), and (2) a report containing a listing and the status of all approved medical facility projects not completed at the time of the previous report (to be submitted by January 31); recodifies and makes various minor, technical, and conforming amendments to title 38, U.S.C., relating to the construction and acquisition of VA medical facilities;

Requires, in order for VA benefits to be paid to or on behalf of a child residing outside the U.S. who was adopted under the laws of a foreign country, that the adoptive child be under age 18 at the time of the adoption; be receiving one-half or more of his or her annual support from the veteran; be residing with the veteran, except in certain specified circumstances; and not be residing with his or her natural parent, unless the natural parent is the veteran's spouse; requires that such an adoption would be recognized for VA benefits purposes after the veteran's death only if the veteran were entitled to and received a dependent's allowance or similar benefit for the child during the year before the veteran's death, or if the above requirements were met for at least one year prior to the veteran's death; requires submission of a report on various issues involved in the payment of VA benefits to persons residing outside the 50 States and the District of Columbia; and

Makes certain changes with respect to administrative and personnel matters; authorizes the Administrator to prescribe regulations permitting certain employees of the VA's Department of Medicine and Surgery (DM&S) to accept payment from non-Federal agencies, organizations, and individuals for travel expenses in connection with official duties in certain limited circumstances; provides for Senate confirmation of the Deputy Administrator of Veterans' Affairs; repeals the outdated authority for a VA office in Europe and provides certain benefits to VA employees working outside the U.S.; amends the schedules of rates of basic pay for certain DM&S employees to reflect the pay rates set by Executive Order No. 12087, effective October 7, 1978; and requires the Administrator to report to Congress by October 1, 1979, on the need for totally blinded service-connected veterans for home modifications which cost more than the allowable amount. S. 7—Public Law 96–22, approved June 13, 1979. (VV)

Veterans health resources and programs extension: Extends for three years, through fiscal 1982, the annual $15 million authorization for the program of matching grants to the States for construction, remodeling and renovation of State veteran's home hospital, nursing home and domiciliary facilities; provides that under the program of matching grants for State home construction projects no State could receive more than one-third of the amount appropriated in any fiscal year or $3 million, whichever is greater; extends the annual $4 million authorization for the exchange of medical information (EMI) program; authorizes the Administrator to enter into agreements under the EMI program with public or nonprofit institutions or organizations to participate in cooperative health care personnel education programs within the geographic areas of VA health care facilities located in areas remote from major academic health centers; increases per diem rate payments to State veterans' homes to $6.35 for domiciliary care, $12.10 for nursing home care and $13.25 for hospital care;

Contains three cost-savings amendments which would: (1) limit reimbursements for allowable travel expenses incurred going to and from a VA facility to the excess over $4, in the case of a non-service-connected disability, (2) limit the furnishing of outpatient dental services, treatment and related dental appliances to a veteran with a service-connected noncompensable (zero-rated) dental condition or disability to only those veterans (a) who have served on active duty for a period of at least 180 days and made application for such treatment within 6 months after discharge and (b) who were not provided, during the 90 days immediately prior to discharge, with a complete dental examination (including X-rays) and all appropriate dental services and treatment indicated by such examination; and (3) limit the furnishing of nonprescription drugs, medicines and medical supplies in connection with non-service-connected outpatient care generally to those veterans who are receiving, or are eligible to receive, pension (or who meet the income standard for receipt of pension) under section 521 of title 38; requires the Administrator to promulgate regulations authorizing the furnishing of nonprescription drugs, medicines and supplies as part of non-service-connected outpatient care in order to avoid substantial hardship that would result from the extraordinary cost to the veteran of obtaining such products commercially; requires that, before the cost-savings provisions take effect, the OMB provide the VA with the staffing levels for which appropriations are made and that these measures would remain in effect only if the VA is provided personnel ceilings at the level contemplated in the appropriations act;

Provides for the reimbursement (or direct payment) of reasonable charges for chiropractic services, not otherwise covered by available health insurance or other reimbursement, provided to certain veterans with neuromusculoskeletal conditions of the spine; limits the amount payable for authorized chiropractic services to $4 million in any fiscal year; establishes a September 30, 1983, cutoff date for the provision of chiropractic services for which reimbursement or payment may be made; requires the Administrator to submit an annual report on the utilization of chiropractic services under the new authority; requires prior to the furnishing of fee-basis dental care to a veteran at a cost of more than $500 in any 12-month period, a determination by the Administrator, based on the results of an examination by a VA dentist, that the furnishing of such treatment is reasonably necessary; clarifies that veterans who, as a result of non-service-connected disability, are in need of regular aid and attendance or are housebound are eligible for home health services; provides that the surviving spouse of a person whose death during active-duty service was the result of service-connected causes would be eligible for benefits under the civilian health and medical program of the Veterans' Administration (CHAMPVA) if the surviving spouse had remarried and the subsequent marriage had been terminated by death, divorce or annulment; provides that a CHAMPVA-eligible child between the ages of 18 and 23 who is pursuing full-time study at an approved educational institution and who suffers from a mental or physical disability that prevents the child from continuing his or her studies would remain eligible for benefits until (1) six months after the mental or physical condition is no longer disabling, (2) two years after the date of onset of the disability, or (3) the student's 23rd birthday, whichever comes first;

Specifies that psychologists are among those health professionals who may be appointed to Civil Service positions in DM&S and establishes qualification standards, including a general requirement for licensure or certification by a State, for eligible psychologists; adds a U.S. citizenship requirement for appointment of podiatrists and optometrists in DM&S; shortens from three to two years the probationary period for DM&S professional employes; expands the Administrator's authority to enter into sharing agreements to include agreements between VA facilities and blood banks, organ banks and similar institutions; gives veterans of World War I special priority for VA outpatient service and treatment; and

Directs the Secretary of HEW to conduct a study on the long-term health effects from exposure to "dioxins", especially those produced during the manufacture of herbicides, including those used during the Vietnam conflict, and to report to Congress no later than 30 days after enactment. H.R. 3892—Passed House May 21, 1979; Passed Senate amended June 18, 1979. (VV)

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I call the attention of Senators to the recess resolution (H. Con. Res. 168) that was passed on yesterday. That resolution authorizes the majority leader to move at the close of business tomorrow, Thursday, or at the close of business on Friday, cr at the close of business on Saturday, that the Senate stand in recess until September 5.

I would hope there would not be any rumors to the effect that the Senate definitely will complete its business tomorrow. Such rumors would not be long-lived, because I have not indicated that to anyone. It is possible that the Senate could complete its business tomorrow, but it is possible we could still be in on Friday, and it is possible we could still be in on Saturday. I would like to see what develops in connection with the standby gasoline rationing plan, and there are some other bills on the calendar that should be disposed of before the Senate goes out for the recess. Also, I would like some time agreements on legislation that will be coming up following the recess, so that when the Senate comes back it will have several days of business lined up in advance.

So there is no assurance whatsoever that the Senate will complete its business tomorrow, and no assurance whatsoever that the Senate will complete its business on Friday. We could be in Saturday, if the necessities require it.

RECESS TO 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if the distinguished assistant acting Republican leader is agreeable, and I believe he is——

Mr. STEVENS. I am much in agreement.

Mr. ROBERT C. BYRD. I move, in accordance with the order previously entered, that the Senate stand in recess until 9:45 a.m. tomorrow morning.

The motion was agreed to; and at 8:28 p.m. the Senate recessed until tomorrow, Thursday, August 2, 1979, at 9:45 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 1, 1979:

DEPARTMENT OF JUSTICE

Benjamin R. Civiletti, of Maryland, to be Attorney General.

DEPARTMENT OF STATE

J. Brian Atwood, of Maryland, to be an Assistant Secretary of State.

Harvey J. Feldman, of Florida, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papau New Guinea and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands.

Frank George Wisner II, of the District of Columbia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zambia.

Thomas J. Watson, Jr., of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Union of Soviet Socialist Republics.

James W. Spain, of California, a Foreign Service officer of class 1, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Douglas J. Bennet, Jr., of Connecticut, to be Administrator of the Agency for International Development.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Thomas Ehrlich, of California, to be Director of the U.S. International Development Cooperation Agency.

NATIONAL COUNCIL ON THE ARTS

The following-named person to be a Member of the National Council on the Arts for a term expiring September 3, 1984:

James Rosenquist, of Florida.

NATIONAL MEDIATION BOARD

Robert Joseph Brown, of Maryland, to be a Member of the National Mediation Board for the term expiring July 1, 1982.

DEPARTMENT OF JUSTICE

Alan A. Parker, of California, to be an Assistant Attorney General.

Jose A. Lopez, of Puerto Rico, to be United States Marshal for the District of Puerto Rico for the term of 4 years.

Irvin B. Smith, Jr., of Delaware, to be United States Marshal for the District of Delaware for the term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, August 1, 1979*

The House met at 10 a.m.

The Reverend Andrew J. Bjalobok, St. Cyril and Methodius Church, Charleroi, Pa., offered the following prayer:

Let us pray.

Almighty and Eternal Father, with heads bowed, we stand in Your presence. As we begin this new day of deliberations, we ask You to send upon these Representatives the Holy Spirit, the spirit of wisdom, the spirit of knowledge, and the spirit of understanding in order that they may carry out their duties for the good of all in this great Nation. The spirit of wisdom that they act and deliberate with justice and prudence in all things pertaining to all peoples. That they may also cooperate with the President to solve the problems that haunt this Nation in these days of crisis. The spirit of knowledge that they find the knowledge to act without selfish personal motives but to act for the national good. The spirit of understanding that this august body may fully be aware of their duties and responsibilities of their office. We turn to Thee, Heavenly Father, in these times of confusion and misunderstanding to enlighten each and every one to act with justice, sincerity, and credibility. Only through Your assistance can this body carry out the duties of their office. We ask this through Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3324) entitled "An act to authorize appropriations for fiscal year 1980 for international development and economic assistance programs and for the Peace Corps, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 961. An act to amend the Speedy Trial Act of 1974.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1825. An act to protect archaeological resources on public lands and Indian lands, and for other purposes; and

H.R. 4476. An act to extend certain programs under the Higher Education Act of 1965 for 1 year, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 111) entitled "An act to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Stennis, Mr. Jackson, Mr. Exon, Mr. Levin, Mr. Thurmond, Mr. Warner, and Mr. Humphrey to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 265. An act entitled "Equal Access to Justice Act"; and

S. 1119. An act to direct the Secretary of the Interior to report to the Congress on plans or projects affecting the territories and possessions of the United States, and for other purposes.

FATHER ANDREW J. BJALOBOK

(Mr. MURPHY of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURPHY of Pennsylvania. Mr. Speaker, I wish to add just a word of welcome to our guest chaplain today, Father Andrew Bjalobok, more affectionately known as Father Andy.

Father Andy was born in a small town in the suburbs of Pittsburgh, Pa., and has served his entire pastorate life of 35 years in that vicinity, serving the small churches in the southwestern Pennsylvania area, St. Agnes, St. Mary's, and more recently, St. Cyril's church in Charleroi.

Father Andy is also known as a builder of churches. Three times during his career he has built or rebuilt churches. He has just completed the physical rebuilding—the laying of block and tile and doing the carpentry work—on St. Cyril's church in Charleroi, and three times during his pastorate years he has physically built and rebuilt churches.

Father Andy, on behalf of all my colleagues here in the Federal Congress, I say we welcome you, and it is a pleasure to have you here with us this morning.

WE EXCLUDE NO WOMAN

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, we celebrate a remarkable historical network when we recall our foremothers' diversity of achievement and commitment. Our timeframe includes women from every generation of our life as a nation. Today we honor the forgotten as well as the famous. We exclude no woman.

Colonial women with singular self-reliance. Black women conquering unspeakable burdens. American Indian women sharing unique wisdom. Pioneer women shouldering tremendous tasks. Chicanas binding together a rich cultural heritage. Women in time of war. Women managing homes. Women sustaining the sick, the poor, the aging, the young. Women doing what they have in them to do, with extraordinary strength and wit.

Women are survivors. We are part of a tradition of struggle. We compete with our own best notion of what we might become. Sharing our history strengthens us in the present by connecting us to the lives of countless women. But we do not intend to let the pursuit of our forgotten past become a substitute for trying to change the present. We will keep marching together in our quest for equality and justice.

In this tradition the 11 Democratic Congresswomen made the following commitment yesterday:

Statement of the Democratic Congresswomen, July 31, 1979

The 1980 Presidential election offers an unparalleled opportunity for Democratic women to participate in decision making at the very highest levels. We believe it is important for elected Democratic women, at every level of government, to become actively involved in the delegate selection process and remain active throughout the Presidential election year.

Therefore, we are calling a nationwide conference of elected Democratic women to be held in Washington, D.C. on October 27 to discuss the 1980 convention. The women who attend this conference will represent constituencies throughout the nation. They know how to get elected. We want to urge them to become knowledgeable about the delegate selection process, and to begin to build a communications network that will continue throughout 1980.

Invitations to the conference will be sent to all available lists of elected Democratic women, who are estimated to number more than 4,000. The agenda will focus on strategy and communication. Arrangements will be handled by a separate staff working in nongovernmental office space. Sponsors of the conference include every Democratic Congresswoman:

Lindy Boggs of Louisiana; Marilyn Bouquard of Tennessee; Beverly Byron of Maryland; Shirley Chisholm of New York; Cardiss Collins of Illinois; Geraldine Ferraro of New York; Elizabeth Holtzman of New York; Bar-

---

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

bara Mikulski of Maryland; Mary Rose Oakar of Ohio; Pat Schroeder of Colorado; and Gladys Spellman of Maryland.

THE ARREST OF CHRISTIAN PASTORS IN BULGARIA

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, the Commission on Security and Cooperation in Europe has received numerous reports in recent weeks of the arrest and imprisonment of Christian pastors in Bulgaria. Their crime allegedly stems from currency exchange violations but in reality is the distribution of Bibles and other religious literature. We have been in contact with the Department of State to try to ascertain the extent and precise nature of this harassment. If true, the reported arrests would be in direct violation of Principle VII of the Final Act, which calls upon the signatory states to "recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief in accordance with the dictates of his own conscience."

Bulgaria as one of the Helsinki signatory states is committed to respect and implement all of its provisions. The reported arrests and other harassment of religious observers in Bulgaria would seem to call into question the good faith of the Bulgarian Government in carrying out its Final Act commitments. I hope the Bulgarian authorities will end the current wave of harassment of religious observers and release any pastors who may still be in prison.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may be permitted to sit today during the 5-minute rule on the bill, H.R. 5010, providing for technical amendments to the Federal Elections Commission Act.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND INTERNATIONAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT TODAY DURING 5-MINUTE RULE

Ms. HOLTZMAN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary be permitted to sit today during the 5-minute rule to consider the refugee bill.

The SPEAKER. Is there objection to the request of the gentlewoman from New York?

There was no objection.

TAX CUT OF $36 BILLION PROPOSED BY REPUBLICAN MEMBERS

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. RHODES. Mr. Speaker, today we are introducing legislation calling for a $36 billion tax cut to help keep our economy from spinning into a deep recession, and to restore a measure of health and stability. This legislation—which enjoys the overwhelming support of Republican Members in the House—is more than just a tax cut bill. It is a program designed to prevent the loss of more jobs and to create new ones. It is a program to help fight inflation by providing the incentives for our people to produce more—and so retain and improve their standard of living. The administration response is to wait and see what happens.

Mr. Speaker, Republicans believe the time to offer our people the hope—and the opportunity—to limit the damage this recession can do is now, not when millions more are jobless and trying to pay soaring food and fuel bills from unemployment checks.

This is the first part of the Republican game plan for the economy, Mr. Speaker, and, of course, another very important part of it will be unveiled at the time of the second concurrent budget resolution when we propose to work even harder than we have before in order to project a balanced budget for fiscal year 1981.

□ 1010

INTRODUCING LEGISLATION AMENDING WALSH-HEALEY ACT AND McNAMARA-O'HARA ACT

(Mr. SHUMWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUMWAY. Mr. Speaker, today I am introducing legislation which amends the Walsh-Healey Act and the McNamara-O'Hara Act to permit a 4-day 40-hour work week. This bill was introduced in the 95th Congress by our late colleague, Bill Steiger; similar legislation was recently introduced in the other body by Senator Bellmon.

Mr. Speaker, this legislation is necessary if workers under federal contract are to have the option of a compressed work week. Currently, Federal law requires that overtime be paid for work in excess of 8 hours in a day; this obviously precludes the 4-day work week in most instances. The arguments for making this option available are well known: Flexibility is enhanced, productivity may be increased, general costs can be reduced, and workers have more "usable" leisure time.

The key argument, however, is one about which there is currently a great deal of discussion—energy savings. Plants and offices would only have to be heated or cooled for 4 days per week, rather than 5. Lights and various types of equipment could be turned off an additional day each week. Further, a significant reduction in gasoline consumption would result as workers commute outside of rush hour—in addition to driving to work 1 day less per week.

At a time of persistent energy shortages, it makes little sense to preclude any option that can save energy. The legislation I am proposing merely provides the option of a 4-day work week for certain firms and employees—it does not mandate such a system. I therefore urge the support of my colleagues for this small, but important, effort to improve Federal labor laws and to save energy.

A $36 BILLION TAX CUT PROPOSED BY HOUSE REPUBLICANS

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, yesterday, I described how the Carter administration's misguided economic policies were driving us into a recession while simultaneously giving us double-digit inflation. To substantiate my statement, the Commerce Department has just reported that worker productivity fell by 5.7 percent in the second quarter, the largest drop in the 32-year history of the index. This has staggering implications for the future course of inflation in this country.

The reasons for the dismal performance of productivity under President Carter is quite clear. Business is not investing enough because inflation and heavy-handed Federal regulations make the return on too many capital projects a losing proposition. Workers are robbed of their incentive to produce more and earn more because intolerable levels of taxation consume too great a proportion of their incomes. Near confiscatory taxes on investment income have forced many savers to buy into nonproductive tax shelters rather than invest in American businesses employing American workers.

We can do something to end this perverse cycle: We can pass the $36 billion tax cut proposed by the House Republicans and being introduced today. This tax cut would accomplish three things:

First. By reducing individual income taxes by $28 billion, Americans will save and invest more, and the American worker will have greater incentives to work and earn more.

Second. Reducing social security taxes by $3.3 billion will reduce upward pressure on prices and wages.

Third. The accelerated depreciation schedules will begin to restore the incentives of business to invest in new, productivity-increasing plants and equipment.

For those who say this tax cut would be inflationary, I would remind them that without this tax cut, the combination of higher fuel prices, inflation pushing workers into tax brackets once intended for the very rich, and yet another social security tax boost will rob American consumers of more than $50 billion in purchasing power next year alone. In effect, this tax cut will get us moving in the direction of a strong, noninflationary recovery from this needless and very costly recession.

EXCESSIVE GOVERNMENT REGULATIONS CONTRIBUTE TO CHRYSLER CORP.'S PROBLEMS

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, the Chrysler Corp. announced yesterday that for the second half of 1979, it lost $207.1 million. This represents one of the largest quarterly losses ever for an American business.

While there may be many causes for Chrysler's problems, excessive Government regulations which have forced Chrysler to spend billions in order to comply must be considered. Chrysler is harder hit by Federal regulations than the other auto manufacturers since it sells fewer cars. The estimated cost of Federal regulations per car for Chrysler is $620 as compared to $340 for General Motors which sells about five times the number of cars.

The Chrysler Corp. is the 14th largest corporation in the world. It employs one-half million people in the United States, 15,000 of which work in my home State of Indiana. However, I believe all of us should be concerned about what the Federal regulations are doing to our business community regardless of how many of our constituents work for Chrysler.

It is possible that the Federal Government will be asked to assist Chrysler in the near future. I hope my colleagues will read the full text of Chairman of the Board John Riccardo's news release which I will insert in the Extensions of Remarks today. Mr. Riccardo's comments are extremely revealing as to how detrimental Federal intervention can be to private industry.

PRINTING OF ADDITIONAL COPIES OF REPORT ACCOMPANYING SECOND CONCURRENT RESOLUTION ON THE BUDGET, 1980

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 360) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 360

Resolved, That there be printed for use by the House Committee on the Budget one thousand additional copies, at a cost not to exceed $1,200, of the House report entitled, "Second Concurrent Resolution on the Budget—Fiscal Year 1980."

Mr. HAWKINS. Mr. Speaker, this is a routine printing of the report to accompany the second budget resolution. The cost of the printing is not in excess of $1,200.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NONDISCHARGEABILITY OF STUDENT LOAN DEBTS GUARANTEED OR INSURED BY UNITED STATES

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R 2807) to amend the Bankruptcy Act to provide for the nondischargeability of certain student loan debts guaranteed or insured by the United States, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 4, strike out "this Act" and insert "section 1".

Page 2, after line 7, insert:

Sec. 3. Section 523(a) (8) of title 11, United States Code, as enacted by section 101 of Public Law 95–598, is amended—

(1) by striking out "to a governmental unit, or a nonprofit institution of higher education, for an educational loan" and inserting instead "for an educational loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or a nonprofit institution of higher education"; and

(2) in subparagraph (A), by inserting "(exclusive of any applicable suspension of the repayment period)" after "before five years".

Mr. EDWARDS of California. Mr. Speaker, this legislation is part of the process we will be undergoing to deal with corrections and perfection of the Bankruptcy Reform Act of 1978. As you know, that legislation is one of the more complex and complicated bills handled by this House in many years. It is not surprising, therefore, that changes are and will be necessary. H.R. 2807 is designed to deal with nondischargeability of student loans.

When the Bankruptcy Reform Act was enacted upon the President's signature on November 6, 1978, that section of the Higher Education Act dealing with the dischargeability of student loans was repealed and replaced by a provision in the new law which makes such obligations nondischargeable. However, because the new law does not take effect until this forthcoming October 1, between these two times there was created a gap. During this period, without a specific provision limiting dischargeability of such obligations, the matter will be dealt with under existing bankruptcy law which does not provide for the nondischargeability of such debts. This was not the intent of the law under the Higher Education Act, is not the intent of the new bankruptcy law, and is an oversight which we now must cure.

Further, Mr. Speaker, H.R. 2807 now provides, as a result of the Senate amendment, that the scope of coverage of student loan obligations not dischargeable in bankruptcy will be coextensive with federally funded educational support programs. Without this provision only those student loan obligations repayable directly to the Federal Government or to a nonprofit institution of higher education will be nondischargeable. This amendment rationalizes nondischargeability in bankruptcy of student loans and reestablishes as the law what Congress intended in its initial treatment of the subject in the Higher Education Act.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, I join the gentleman from California in supporting our adoption of the Senate amendments to H.R. 2807. The language in the Senate amendments is designed to exempt from discharge in bankruptcy all federally funded educational loans, not just those owed "to" the Federal Government directly, as our original bill might have done. It reinforces the sentiment expressed by the House in its consideration of this question as part of the Bankruptcy Reform Act in 1977, and strengthens the bill as passed by this body on May 7.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF DELEGATION TO ATTEND CONFERENCE OF INTERPARLIAMENTARY UNION IN CARACAS, VENEZUELA

The SPEAKER. Pursuant to the provisions of 22 United States Code 276a–1, as amended by Public Law 95–45, the Chair appoints as members of the delegation to attend the Conference of the Interparliamentary Union, held in Caracas, Venezuela, on September 13 to September 21, the following Members on the part of the House:

Mr. Preyer of North Carolina, chairman;

Mr. Derwinski of Illinois, vice chairman;

Mr. Fountain of North Carolina;
Mr. Pepper of Florida;
Mr. Pickle of Texas;
Mr. de la Garza of Texas;
Mr. Bowen of Mississippi;
Mr. Duncan of Oregon;
Mr. Won Pat of Guam;
Mr. McClory of Illinois;
Mr. Butler of Virginia; and
Mr. Goodling of Pennsylvania.

THE VOICE OF AMERICAN PEOPLE IS HEARD LOUD AND CLEAR IN HOUSE CHAMBER

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUCHANAN. Mr. Speaker, for the third time in recent weeks the President has spoken of Washington as an island and a place of isolation; and in this connection, he has made reference to the Congress as being a place of isolation.

Mr. Speaker, if this House is an island, it is buffeted by every wind and tide that sweeps across this country, and if one really wants to hear the voice of the people of the United States, I would respectfully suggest the President visit the people's House where every day of every week that the Congress is in session he will hear the voice of the American people speaking loud and clear in this Chamber.

□ 1020

PARLIAMENTARY INQUIRY

Mr. THOMAS. Mr. Speaker, on page 21659 of the CONGRESSIONAL RECORD for July 31, the gentleman from Illinois (Mr. MURPHY), requested and received permission to address the House for 1 minute. In his remarks he indicated that:

> Mr. Speaker, yesterday I was holding hearings in the city of Chicago of the Select Committee on Narcotics Abuse and Control for which I had official leave of absence. I was, therefore, surprised to see the RECORD shows me recorded on votes taken yesterday and I ask unanimous consent that the permanent RECORD reflect the fact that I was not present and did not vote on Monday, July 30.

The proceedings of the House as carried in the CONGRESSIONAL RECORD for Monday, July 30, and in particular, votes 397 to vote 402, list the gentleman from Illinois (Mr. MURPHY) as having voted in each instance.

Inasmuch as the gentleman stated he was not present at the time and had official leave of absence that day, and there were substantive legislative matters considered, it would appear the RECORD does not reflect the true facts taken on that day.

Mr. Speaker, my parliamentary inquiry is now and in what manner does the Chair propose to have the RECORD reflect the correctness of these votes as they would appear based on the gentleman's own statement that he was not present and did not vote?

The SPEAKER. All that has happened so far is the statement of the gentleman from Illinois has appeared in the RECORD.

The votes have not been changed.

Mr. THOMAS. I understand the votes have not been changed. However, based upon the correctness of his statement, the votes are inaccurate in the RECORD. Is that correct? My parliamentary inquiry is how does the Chair propose to make the votes correct if they are now incorrect as printed in the RECORD?

The SPEAKER. It is the understanding of the Chair that the gentleman from Illinois has requested the Standards Committee to consider the matter. Also, the Committee on House Administration could look into the matter.

The Chair, through the years since electronic voting, has had a policy of refusing to entertain unanimous consent requests, to correct votes, but has allowed Members to insert statements in the RECORD.

Mr. THOMAS. Mr. Speaker, by that statement, am I to understand that if a vote is taken incorrectly on a substantive matter and that the vote that was taken incorrectly either passes or defeats a measure, and a Member subsequently indicates by clear evidence that he was not present and a vote was cast by mistake, that the measure would still stand or be defeated by an incorrect vote?

The SPEAKER. The Chair would have to take that under advisement to see what the rule of the House would be when there is full and complete information from both the Committee on Standards of Official Conduct and the Committee on House Administration.

Mr. THOMAS. I thank the Speaker.

THE 20TH ANNIVERSARY OF STATEHOOD FOR HAWAII

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, aloha.

The month of August 1959 was quite special for the State of Hawaii. Hawaii was once a nation comprised of separate chiefdoms prior to the 18th century. It then became a proud kingdom when King Kamehameha united the chiefdoms of Hawaii. In the late 19th century, Hawaii became a republic and by action of the Congress of the United States became a territory.

Hawaii enjoyed this status of being a territory until 1959 when it became this Nation's 50th State. At that time, Sam Rayburn was Speaker of the House, John McCormack was majority leader and John Burns was the Delegate of Hawaii. These men among many others played a large part in Hawaii's achievement of statehood.

August 19, 1979, will mark the 20th anniversary of statehood for the Hawaiian Islands. I ask the Members of Congress to join me today in celebration of this important historic occasion.

EMERGENCY ENERGY CONSERVATION ACT OF 1979

Mr. DINGELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LOEFFLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 390, nays 4, not voting 40, as follows:

[Roll No. 414]

YEAS—390

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva

Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—4

Findley
Lloyd
McDonald
Wilson, Bob

NOT VOTING—40

Alexander
Anderson, Ill.
Ashbrook
Bolling
Brown, Calif.
Burton, John
Chisholm
Clay
Collins, Ill.
Conyers
Danielson
Diggs
Dixon
Dodd
Dougherty
Eckhardt
Flood
Forsythe
Heckler
Ireland
Jeffries
Leland
Luken
McCloskey
Marlenee
Mathis
Mitchell, Md.
Murphy, Ill.
Nolan
Railsback
Rangel
Roberts
Rosenthal
Runnels
Scheuer
Solomon
Treen
Williams, Ohio
Wylie
Young, Alaska

☐ 1030

So the motion was agreed to.

The result of the vote was announced as above recorded.

☐ 1040

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill, S. 1030, with Mr. FASCELL in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, July 31, 1979, section 3 had been considered as having been read and open to amendment at any point.

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purposes of initiating a discussion with my good friends and colleagues on the Republican side for the purpose of trying to get a limitation of time.

I would like to propound a unanimous-consent request.

Mr. BROYHILL. Mr. Chairman, reserving the right to object——

Mr. DINGELL. If my good friend would listen, maybe after I make it he will not want to object.

Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto conclude in 2 hours.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

POINT OF ORDER

Mr. BAUMAN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BAUMAN. The request is not in order under the rules.

The CHAIRMAN. Is the gentleman from Maryland objecting?

Mr. BAUMAN. No, the gentleman makes a point of order that the request is not in order under the rules of the House.

The CHAIRMAN. The gentleman from Michigan can impose a time limit by unanimous consent.

Mr. BAUMAN. The rest of the bill has not been read. There are three other sections of the bill.

The CHAIRMAN. The gentleman can still do it by unanimous consent, although his request could have included dispensing with reading of the remainder of the bill.

Mr. BAUMAN. Not to prolong the agony, I object.

The CHAIRMAN. Objection is heard.

Mr. DINGELL. Mr. Chairman, did the gentleman from Maryland object?

Mr. BAUMAN. Yes.

Mr. DINGELL. Mr. Chairman, I know my colleagues here in the House have other business, and I know they would like to get on to it.

Mr. Chairman, I would ask unanimous consent that all debate on S. 1030 and all amendments thereto terminate at 2 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DINGELL. Mr. Chairman, I will not ask further unanimous consent. I was just trying to expedite the business of the House. I would hope that my colleagues on the minority side would try to cooperate with us in getting this matter expeditiously concluded and get it to a vote.

AMENDMENT OFFERED BY MR. RINALDO

Mr. RINALDO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RINALDO: Page 42, strike out lines 8 through 11 and insert in lieu thereof:

"(c) PLAN MAY NOT INCLUDE A STANDBY AUTOMOBILE STICKER SYSTEM.—The plan established under subsection (a) may not include a standby automobile sticker system.

Page 43, strike out line 12 and all that follows down through line 9 on page 45.

Page 27, after line 13, insert the following new paragraph:

"(15) The term 'standby automobile sticker system' means any restriction applicable to automobiles (or classes thereof) which, by means of stickers or other devices, identifies vehicles which are prohibited from being operated on designated days (or other periods of time).

Mr. RINALDO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. MOFFETT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of the amendment.

Mr. RINALDO. Mr. Chairman, I offer an amendment to strike the standby automobile sticker plan in sections 637(c) and 638, and to prohibit the Federal energy conservation plan from authorizing a sticker system. This is a dangerous provision which I feel is unfair, discriminatory, and would impose undue hardship on millions of Americans.

The sticker plan contained in this bill would restrict the use of a car to 6 days a week. A motorist would choose a nondriving day and display a sticker on the car to indicate that day. This is essentially the same sticker plan defeated by the Senate 10 to 79 when the Senate passed its version of S. 1030.

I am opposed to the use of the sticker plan not because I am against energy conservation, not because I am against giving the President standby gasoline rationing authority, not because I am unwilling to bite the bullet, but simply because this plan lacks the flexibility to be fair and nondiscriminatory.

First, the sticker plan would penalize those who must depend on automobiles for transportation. It would impose an unequal burden on suburban and rural sections of the country and on all areas without adequate mass transit systems.

Second, the sticker plan unfairly singles out those who must use their cars 5 to 6 days a week to get to work, even though their total gasoline consumption may be low. It would allow others to be wasteful in their energy use throughout the week as long as they refrained from driving on one particular day.

The sticker plan could have the undesirable effect of reducing church attendance for the many people who would be forced to give up a driving day on a weekend.

Third, it would cause particular hardship for those who work shifts, irregular hours, or rotating days. Seasonal workers, who often work 7 days a week, and those holding two jobs also would be unfairly penalized. Employers of such job-holders would be adversely affected as well. Whole towns and communities could be thrown into their own areawide recession.

This would cause a problem of significant impact, as it would affect virtually millions of employees across the Nation.

Occupations which would be particularly burdened by the sticker plan include:

Hotel and restaurant employees: waiters, waitresses, cooks, chefs, dishwashers, bartenders.

Postal Service employees and telephone operators.

Clergymen.

Printers, television and radio announcers, newspaper reporters.

Real estate agents and brokers.

Doctors, nurses, and hospital workers (except those providing emergency services).

Policemen and firemen who drive their own cars to get to work.

Those in the transportation field—truck and bus drivers, railroad personnel, airline mechanics, pilots and flight attendants, air traffic controllers, and reservation and ticket agents.

Security guards and building custodians.

Performing artists, such as musicians, singers, and other entertainers.

Such a plan would not only worsen our present unemployment problem, but it would aggravate the national recession we are now facing. The hidden cost would be in the billions of dollars.

I do not feel that the Government should dictate what days Americans may drive their cars. This provision would surely disrupt the lives of millions of Americans with no guarantee of energy savings. I urge your support for this amendment to defeat the sticker plan.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. VOLKMER, and by unanimous consent, Mr. RINALDO was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding. As I understand the sticker system as proposed in the bill, if I were the owner and operator, along with my wife, of three vehicles, it would be possible to have those vehicle stickers for different days; would it not?

Mr. RINALDO. That is not clear the way the bill is presently written. It could be interpreted that way, and if it were interpreted that way, once again it would be discriminatory, because it would allow the people who could afford three or four cars, to pick their days and not be penalized.

Mr. VOLKMER. If my car is stickered on Monday, and the extra car is stickered for Tuesday, then I could use the Tuesday car on Monday and use the Monday car on Tuesday?

Mr. RINALDO. If the gentleman interprets it that way. The bill is silent on that point.

Mr. VOLKMER. Let me ask the gentleman this. If I am sufficiently wealthy, and they sticker all cars in the same family for the same day, what would prohibit me from renting a car for that day?

Mr. RINALDO. Absolutely nothing.

Mr. VOLKMER. All right. Or I could take a taxicab wherever I wanted to go or a limousine?

Mr. RINALDO. Yes.

Mr. VOLKMER. Have I conserved any fuel by doing that?

Mr. RINALDO. The gentleman would not be conserving any fuel at all.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding. I would simply like to say I agree with the gentleman, and I hope his amendment is adopted.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Connecticut.

Mr. MOFFETT. I thank the gentleman for yielding. I think it is important for the gentleman from Missouri (Mr. VOLKMER) to know that this bill is silent on the two- or three-car family, but the committee, I think, indicated quite overwhelmingly that it would not want a situation to exist where you could just shuffle your cars around. In other words, they would all have to have the sticker for the same day.

Let it be said immediately that with regard to enforcement, as with enforcement now, we are going to have gaps and holes, and a person could go down and register cars in different names. We know that is true, but this is the only plan that we heard in our testimony.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MOFFETT, and by unanimous consent, Mr. RINALDO was allowed to proceed for 1 additional minute.)

Mr. MOFFETT. If the gentleman will yield further, this is the only plan—and I emphasize, the only plan—from all of the witnesses, the jobbers and the retail gasoline people, the marketers, and Triple A, and all these different groups. This is the only plan that they said would save substantial amounts of gasoline, and that is why we did it.

Mr. RINALDO. I reclaim my time.

Mr. MOFFETT. Certainly.

Mr. RINALDO. I respect the gentleman who came up with the plan. I respect his desire to conserve gasoline. But, his plan has never been tried in the world except in one country, Italy. They instituted a Sunday driving ban, essentially the same as this plan, in 1973. It only lasted for 2 or 3 months. It did not work, and the evaluation was that there was absolutely no substantial reduction in gasoline consumption as a result of the plan.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. RINALDO was allowed to proceed for 2 additional minutes.)

Mr. RINALDO. The inconvenience and economic harm, especially to tourism, had been great. The Italian experience proved that the small gasoline savings from the 1-day ban did not offset the economic harm.

I want to answer the gentleman on another point. He has mentioned and he has sent out a statement to the effect that various groups, such as the AAA support this plan. I have not received or seen a single letter, a single document from any such automobile association supporting the plan and would like to read part of a letter I received just yesterday from the American Automobile Association:

> In summary, we feel the potential energy savings of the "sticker plan" are minimal and the potential inequity great. Therefore, we support your amendment to prohibit use of the sticker plan as an element of the federal emergency conservation plan.

The letter is dated July 31. It is from Jerry Connors, managing director of the Government Affairs Department of the American Automobile Association.

☐ 1100

There is substantive evidence that the sticker plan is unworkable. The plan is full of loopholes. The plan has been tried in one country. It was a proven disaster. We do not want that kind of disaster in America.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to my good friend, the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Jersey (Mr. RINALDO).

Mr. Chairman, am I correct that the committee which brought this bill to the floor of the House has decided that each and every American must abide by a Government edict that they cannot use their automobiles on a given day of the week? Has the encroachment on our freedom gone this far?

Earlier in the month the Senate, when it considered this provision of the bill, overwhelmingly rejected it. The other body's vote of 10 voting "aye," 79 voting "no," reflected a very strong consensus that our constituents do not want another sticker, issued by the Government, telling them when they can and cannot use their automobiles. If, in the face of a shortage of energy supplies, certain conservation measures need to be taken, a restriction on the use of an automobile is unfair and something which will be extremely difficult to enforce.

What about all of you who represent congressional districts where mass transportation is not available or is inadequate to meet the mobility needs of the people? I know that in the part of the country which I represent—a remote suburban and exurban portion of Los Angeles and beyond—it is preposterous to impose a limitation of this magnitude on the lifestyles of those who necessarily depend on their cars to earn a living and provide for their families. There are other remedies to cope with a shortage of gasoline—measures which I have advocated for a long time as a Member of this House. But faced with the reality that we must increase our conservation efforts, this is a most undesirable and impractical to administer approach.

As it is, Government disrupts the lives of millions. To slap this burden on them is going too far. Think of the hard-working, who, in order to tackle this beastly inflation, must work two jobs to make ends meet. What about seasonal workers who use their car 7 days a week for a stretch of months during the year? How in the world is our Department of Energy going to keep track of whether someone is exempt from being issued a sticker? The ways around compliance with such a plan will likely exceed the number of persons who will actually be issued stickers. Take a two-car family, for example. Did it occur to the committee when it drafted this plan that such households will have a distinct advantage over a household with just one automobile? In these times where our economy is so much in need of a productive work force, this sticker plan will just plunge us further into the depths of a recession.

Mr. Chairman, I urge the Committee to follow the action of the other body by rejecting the sticker plan. Vote "aye" on the Rinaldo amendment.

Mr. Chairman, is this the same plan that was overwhelmingly rejected by the other body just recently?

Mr. RINALDO. That is correct. It could only get 10 votes in the other body.

Mr. GOLDWATER. I think that vote reflects the very strong consensus that our constituents do not want another sticker plan and the Government telling them how or when to use their automobiles.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I would just like to make two points. First of all, the gentleman mentioned that the Italian Government lasted 2 months. What the gentleman neglected to mention, of course, was that that was the longest government in Italy's postwar history.

Mr. RINALDO. I will reclaim my time and correct the gentleman's statement. I said that the sticker plan lasted 2 to 3 months.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment.

Yesterday we completed that section of this bill which deals with standby rationing authority. In general, the House behaved in a very statesmanlike way, rejecting effort after effort to weaken the legislation.

Now we enter that phase of the bill which has to do with conservation. In some ways it is more important even than the standby rationing authority, because it is more likely that a situation will arise requiring conservation plans than the dire situation which would require rationing.

Toward the end of the day yesterday, we adopted one amendment which did weaken to some extent the uniform and equal application of thermostat controls, the one single standard conservation power that the House had deigned to permit the President to exercise. That amendment was not fatal to the bill. Many obviously feel that it has merit. But it would be fatal to the bill and to the public's hopes for an effective energy conservation plan if it should set in motion a chain reactive effect of amendment after amendment tearing down the foundations of our conservation efforts.

Now, the gentleman makes a very poor case when he says that the people do not want the Government telling them when they can drive their cars. The gentleman full well knows that this is an optional plan. It is not mandatory. The States are given the right to employ a sticker plan merely as an optional tool which they may or may not choose to implement. In addition to that, it permits the citizen himself not to be told, but to tell the Government that day which he chooses to curtail the use of his automobile.

There is no painless conservation plan that will save energy for the United States. There is no way that we can be wholly self-indulgent and save energy. There is no way in which Congress can pander to the public, protect everyone from any inconvenience whatever, and then truthfully say that we have an effective energy conservation plan.

The public is wise enough to see through any such shameful pretense. The public knows full well that this is our chance to have effective energy conservation. This is the chance for Congress to demonstrate the strength of character to be leaders of the Nation, to set forth an effective way to save and conserve energy. If we blow it, after so recently having seen the American people subjected to the inconveniences of waiting in long gasoline lines because we had not heretofore demonstrated the gumption to develop such plans, then we do not deserve their continued support.

My friends on the Republican side realize that I have not sought opportunities for partisan commentary. I have tried to be as bipartisan as possible. But I want to remind them that there have been eight serious efforts to weaken this bill, to emasculate it, to tear down whatever strength it had. On those eight successive efforts the Republican Members have voted in a solid phalanx, regardless of the merits of the amendment offered, to weaken the bill. Members on the Republican side have voted to weaken the bill time after successive time.

Let me just recite the numbers. On four of those occasions, all but 3—all but 3 of the 159 Republican Members of this House—voted to weaken this bill. On two other occasions, all but five have voted for the weakening amendments. On one other occasion, every Republican but six voted to weaken the bill. The average number of Republicans voting to protect the legislation from these ravages is fewer than 5—5 out of 159.

Happily, we had strength enough and unity enough on the majority side to resist those efforts on all but one of those occasions.

Let me just offer a friendly admonition to my friends on the minority side. The public does not appreciate obstructionism. The public is wise enough to see if you follow that practice again today. If on amendment after weakening amendment, a solid Republican phalanx comes forward again today to vote for just anything and everything designed to rip holes in this legislation, why, of course, the people are going to see that there is a conspiracy.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. No, I will not yield at this point.

Of course, the public is going to see that there is a conspiracy to emasculate this bill for no better purpose than to embarrass the President of the United States, and perhaps secondarily to embarrass the Democratic majority in the House.

Now, people do not appreciate that. The people expect and deserve something better than partisan obstructionism. The public wants an effective energy bill. Now may I say to my Democratic friends, some of whom have been described as unguided missiles on occasion, that we have a responsibility. We have a responsibility as the majority party entrusted by the American public with trying to put together sometimes painful plans. The public has a right to expect us not to be pusillanimous, but to be forthright. The public expects us to present them with some orderly and effective program that will get us all to the goal that they want us to achieve, and that is energy sufficiency for the United States.

AMENDMENT OFFERED BY MR. MOFFETT AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. RINALDO

Mr. MOFFETT. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. MOFFETT as a substitute for the amendment offered by Mr. RINALDO: Page 45, after line 9, insert the following new subsection:

"(d) NEEDS OF RURAL AND CERTAIN OTHER AREAS.—Any system under this section shall be established only after consultation with the Governors of the States involved and shall provide appropriate consideration of the needs of those in suburban and rural areas, particularly those areas not adequately served by any public transportation system, through the geographical coverage of the system, through exemptions under subsection (c)(8), or through such other means as may be appropriate.

Mr. MOFFETT. Mr. Chairman, first of all, the other body rejected a very strict mandatory sticker plan that had to go into effect whatever the situation and I think the fact that it received 10 votes is about what it deserved, because that is certainly not what we intend in this bill.

You know, it is the easiest thing in the world to come in here and have a list of conservation options before you and to say, "Well, I don't like that one, that one, and that one. This won't work and that won't work."

You can take any crowd you want at any one of your town meetings, at any meeting you go to back home, and you know and I know that they will all think of a thousand reasons why something will not work; but there is a responsibility here to deal with the need for some significant conservation. Sometimes I think that some of my friends on this side are not willing to face up to it, very frankly.

I do not say that in a negative pejorative way, but I think that is really the case.

Why do we need conservation? Because some environmental group said that conservation sounds like a good word? No; the President is imposing quotas, 8.2 million barrels a day.

Secretary Schlesinger said just yesterday that it will be very, very difficult to make those 1977 levels stick throughout the early 1980's.

Now, regardless of what we do on synfuels, and I think the gentleman from Michigan (Mr. Stockman) has pointed this out in a very articulate way, there is real doubt about what synfuels are going to provide; but regardless, take even the most optimistic estimates of synfuels and you are still talking about the late 1980's and 1990. Regardless of what we do on decontrol and regardless of what decontrol produces, and let us take the best estimates, let us take the American Petroleum Institute estimates, 1.5 million barrels a day by 1985 we are still not talking about a way to get through the early 1980's. No matter what you do, no matter where you look, no matter how many witnesses you hear, whether they are for decontrol or against, whether they are for synfuels or against, you come away with the impression, as this subcommittee has and as many people outside this subcommittee have, that you have to plug into this bill some potential for meeting significant conservation and conservation targets.

☐ 1110

We have tried to do it in the most flexible way, but there is no dodging it. There is no way we can dodge the need to get significant conservation today.

So what happened when we heard the witnesses? I do not know whether the gentleman from New Jersey read the transcript; I hope he has. All the testimony seems to point to one thing, and that is that as a significant conservation option this at the very least should be in the toolbox. It should be in the President's toolbox.

Now, there are problems with it, but it is the only thing we heard about that could be applied uniformly, that would be simple, that would give the people a choice, and that would provide visible conservation, a 10-percent savings.

Can you imagine those kinds of savings on gasoline? Do we really believe the gasoline crisis is over because we do not have lines in Washington? Does anybody here really believe that?

We have had our fights. We have had our fights about decontrol and prices and consumers, but let us put that aside for a moment. I do not think any of us allege, even during the last crisis with gasoline over the past 2 months—I know I did not—I do not think any of us allege there is no such thing as a product shortage. There was a product shortage, and there continues to be a product shortage.

Whether the product shortage came from refineries not putting out enough, whether it came from the majors having spent their crude oil inventories, whether it came from consumer panic, or whether it came from regulations and the allocation system that some Members here think are crazy, I know that there has been a product shortage. Let us acknowledge that the product crisis is not over. We have got to face it. Obviously we, like the public, face it better when there are long lines.

There are not any long lines now, but I hope this body can come to grips and faces the issue nonetheless. When we decide to face it, we come very quickly to the conclusion, when we listen to the testimony—and for heaven's sake, the subcommittee of this committee listened carefully—we come very quickly to the conclusion that this sticker plan has to be in here as an option.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I will yield in a moment because the gentleman was kind enough to yield to me.

Mr. Chairman, let me say first that the gentleman from New Jersey has surprised me by his fondness for rationing. I, like the gentleman from Texas (Mr. Gramm) and others, have come to the conclusion increasingly as we have studied this subject in the subcommittee that rationing would be a disaster, an economic disaster. We have security problems, physical problems with the customers, we would have gas-station holdups in the inner city; we have all sorts of problems when we look at what happens with rationing. That clearly has to be a last resort.

If we really want rationing to be a last resort, though, let us make sure there are some intermediate steps that are much less painful. Let us not kid ourselves. We need intermediate steps other than rationing that are much less economically devastating than rationing. That means we have to have the sticker plan, as well as the other measures in here.

When we look at the conservation measures, what do we find? There can be some very drastic measures taken under the conservation section of this bill. The gentleman from Michigan (Mr. Stockman) has pointed that out, and others on this floor have pointed it out. That is one of the reasons we put the 10-percent trigger in on the conservation part of the bill.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. Moffett) has expired.

(By unanimous consent, Mr. Moffett was allowed to proceed for 5 additional minutes.)

Mr. MOFFETT. Mr. Chairman, when we look at the intermediate steps that help us prevent rationing from ever having to go into effect, we find that the President could take and the Governors could take some pretty drastic steps. A Governor could say as of next week, or most of them have the authority to say, that on certain highways leading into a city during off-hours all cars having only one driver in the car are banned. That would certainly cause more than a little grief and discomfort and more than a little consumer anger, would it not?

The sticker plan does not do anything like that. If the Members will take the time to read the amendment and what is in the bill, they will find the sticker plan is very flexible. We write in there that we do not want anybody getting traffic tickets for violating this if there is a justified necessity for driving. It is not the committee's intent to have police pulling over volunteer firemen. They would clearly come under the emergency category.

The plan is optional. It is a standby plan, and there is no intention on the part of the committee nor on the part of this Member or the sponsors of this part of the bill, both on and off the Committee on Interstate and Foreign Commerce, to have it come down like this and have it hurt rural areas or suburban areas that do not have the benefit of mass transit.

My district does not have mass transit and I think this can be flexibly and efficiently applied in my district. I am not afraid to say that.

Let me say, however, that I think the gentleman from New Jersey and others have raised some very good points about the sticker plan, and that is the reason for the substitute. It also attempts to deal with questions raised by the gentleman from Texas, the gentleman from Michigan, and others. There are rural districts with no mass transit, and there are ranchers, as the gentleman from Texas (Mr. Kazen) has said, who have to drive 7 days a week.

The substitute insures that no sticker plan will be put into effect unless and until the President has consulted with the Governors of the States affected and considered the needs of suburban areas and rural areas, especially those not served with any public transportation system. Finally, this assures that this system would not be put into effect unless it includes provisions for dealing with such suburban and rural areas.

The President can do that by a number of means, by excluding certain geographical areas. Perhaps he could determine that the district represented by the gentleman from Texas just is not fit for the sticker plan. Perhaps that district and other districts like it would be excluded.

It is clear that what we are trying to do is to get at the large metropolitan areas, frankly, and the suburban areas where there is a mass transit alternative and to get people out of their cars.

I might add that the gentleman from New Jersey (Mr. Rinaldo) has said that it has not worked before. There is a program called the commuter connection in California which employs an alternative system by which people have identification cards. If they get picked up along the way to work, they hold that card up, and it has their picture on it.

Let us not underestimate the imagination of the public and of our State and local officials to figure out ways to conserve. They are doing it now. We do not have to wait until 50,000 more buses are produced. We have a lot of imagination and a lot of ingenuity in this country. This part of the bill, not only the sticker plan but the conservation sections, allows the public and our State and local officials to have an opportunity to conserve. If they do that, there is no likelihood of any sticker plan ever coming along.

Mr. Chairman, finally I want to say that I want the gentleman from New Jersey (Mr. Rinaldo) to give us the benefit of his knowledge. I am going to yield to him, and I hope he will tell us what his plan is for saving 7 percent, 8 percent, or 10 percent of our gasoline supply.

Let us not say that rationing is No. 1. It is our last resort. And, No. 2, it is not a real conservation measure.

Let us also point out that odd-even and $5 minimum purchases are basically antipanic devices, and they work. They do shorten the lines, and they bring some order to the marketplace.

Mr. Chairman, I will ask the gentleman from New Jersey (Mr. Rinaldo), what is the gentleman's conservation plan? I yield to the gentleman so he can answer that question.

Mr. RINALDO. Mr. Chairman, I would be pleased to tell the gentleman from Connecticut (Mr. Moffett) about my conservation plan.

My conservation plan is included in legislation. It gives the Governors authority to implement a workable, sensible plan. It should be up to the States but we should not have in the legislation authority for a plan that should properly and rightfully be legislated by this body. Let us not usurp our legislative prerogatives to the Executive.

The gentleman's amendment gets to the very core of the point I am making. The gentleman from Connecticut is offering a weak substitute that, in effect, says the President should consult with the States. Well, I want to improve his position by defeating his substitute and having my amendment approved.

Let the States institute their own conservation plans. Let the States take into account local conditions. Let the States make the determination how to conserve and let us not give the President unbridled authority.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. Moffett) has again expired.

(On request of Mr. Kazen, and by unanimous consent, Mr. Moffett was allowed to proceed for 5 additional minutes.)

Mr. RINALDO. Mr. Chairman, will the gentleman yield further so that I may finish my statement?

Mr. MOFFETT. I yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Chairman, I thank the gentleman.

The point I am making is that the States, under my amendment, can still put into effect a sticker plan, even though the sticker plan is not a proven method of conserving gasoline. The gentleman in the well stated that the legislation under consideration plugs in significant conservation plans, but by his own admission, he said only 10 percent of the gasoline used would be saved. In an earlier discussion he said only 6 percent, and another figure that has been given is 350,000 barrels a day.

I have seen no estimates from independent sources, but we have to bear in mind that these are all really guesstimates. Nobody knows exactly what the plan will save.

Mr. MOFFETT. Mr. Chairman, I thank the gentleman for his contribution, and I am going to reclaim my time.

Mr. RINALDO. Mr. Chairman, the only hard fact we have is the experience of the Italian Government, and the plan did not work there.

Mr. MOFFETT. Mr. Chairman, I thank the gentleman for his constructive comments.

I still say that the gentleman from New Jersey (Mr. Rinaldo) still has not told us what he is going to do to bring about significant contribution. He says, leave it to the States. This subcommittee has focused on this issue and we have asked questions, and there is a need to be specific.

□ 1120

We have had the witnesses parade in. They have come in and they have said, "Listen, there is only one thing that we see that would save significant amounts of gasoline." That is why it is left as an option, and the gentleman takes it away from the Federal Government as an option.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for the amount of work he has put into this idea. I am sorry that I have to differ with the gentleman.

First of all, will the gentleman explain something to me, I understood the distinguished majority leader to say that the individual had the option of a date.

Mr. MOFFETT. Yes.

Mr. KAZEN. Is this provision in the bill? I do not see it in the bill anywhere.

Mr. MOFFETT. It is the committee's intent, it is in the committee report, and in all of our deliberations, and clearly the committee's intent, that in fact you would have the choice. There is no other way to do it, really. If the gentleman would like to offer an amendment, I would accept it.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield on that point?

Mr. MOFFETT. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I want the gentleman from Texas to know that it is my intention momentarily to offer an amendment which would do what the gentleman suggests, an amendment to the substitute.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, I am right that it is not in the bill now?

Mr. MOFFETT. That is right.

Mr. KAZEN. Secondly, when the gentleman says in his amendment "it shall be established only after consultation with the Governors of the States involved," what particular States would be involved? Is it the entire country involved?

Mr. MOFFETT. Yes.

Mr. KAZEN. Why should your amendment say "consultation with the Governors of the States involved?"

Mr. MOFFETT. All that "involved" means there, "involved" really modifies the rest of the conservation section. "Involved" means those States with which the President is dealing at the time who have had their conservation targets set. The gentleman knows from the rest of the bill that there is a whole process that goes on. That is all that we mean by that.

Mr. KAZEN. One more question: Is this a mandatory provision that, if this amendment is adopted, if I choose not to drive on Sunday, that my feet will be set in concrete, and from there on, Sunday would be the only day that I cannot drive my car?

Mr. MOFFETT. No, absolutely not. In fact, it is quite clear again, as the gentleman may know from the report, we said, "We are not trying to write a sticker plan." Maybe the gentleman from New Jersey would like to, if we are going to do it, but we are not trying to write it.

The gentleman brings up a good point, the same point that goes to the rotating shift question. The workers have different days off, and it shifts about once a month. We would hope that there would be provision, and it is our intent that there would be provision for changing one's day.

Mr. KAZEN. This is my concern, because, as I have talked to the gentleman privately, in a rural area, for instance, just one instance out of many, where there is a one-car family, and usually it is a pickup, here again, may I just interject, what does the gentleman mean by saying that commercial and agricultural vehicles are specifically exempted? Is a pickup truck that has a farm license specifically exempt from the provision?

Mr. MOFFETT. Yes.

Mr. KAZEN. I am glad to hear that.

If that person lives about 40 or 50 miles from a hospital, which is the situation in my district and many other districts in this country, and his wife has an operation and she is in the hospital, it would mean that if he had a sticker that says he cannot use his car on a Sunday, that he cannot go visit her at the hospital on a Sunday.

Mr. MOFFETT. Yes.

Mr. KAZEN. He might be stopped. The gentleman might say, "Now, wait a minute. That might be an exception," and so on. But he is going to be picked up and he is going to be brought in, and he is going to have to explain to the satisfaction of a sheriff or constable or other law enforcement officer why he is on the road.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. Moffett) has expired.

(On request of Mr. Kazen and by unanimous consent, Mr. Moffett was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. If the gentleman will yield further, he is going to have to go in and explain to some constable or sheriff or some other law enforcement officer why he is on the road on that day when his sticker says he cannot be.

Mr. MOFFETT. First of all, I am not trying to make light of the gentleman's example, because there are real examples.

Mr. KAZEN. Let me tell the gentleman that this is serious business in my district.

Mr. MOFFETT. I understand. I take it as seriously as the gentleman does. I think the gentleman knows that. But I would say that one of the things we would like to do is to have a neighbor come by who would like to visit the gentleman's wife and pick him up. That is the kind of intention we want. But let me say to the gentleman that it is the committee's intention—and in all seriousness, and we have said this again and again and again as the examples come up, as the gentleman can see very clearly in the report of the committee—we do not want people picked up, ticketed for driving of justified necessity.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from New York.

Mr. DOWNEY. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman has made an excellent case. I will say to the gentleman from New Jersey, quite frankly, to leave it up to the Governors, how do we know that the Governors are going to come up with a plan that is less enforceable? The fact is, you can pick apart and find holes with any plan, but this plan does not require a huge Government bureaucracy, this plan does not require the printing of a billion dollars worth of coupons, and this plan leaves to the individual the option to think conservation and attempt to get at a problem where we might have a 6-percent or a 7-percent shortfall in supply of gasoline.

Nobody else has come up with a plan.

The gentlemen on this side of the aisle said yesterday that they were appalled with the blank check we were giving to the President with respect to a rationing plan. Here the committee has taken testimony and attempted to draft a plan, an interim measure, imperfect as it is, that would serve as a substitute for a shortfall of gasoline supply. And I think they have done that and they have considered all of the options.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. Moffett) has again expired.

(On request of Mr. Coleman and by unanimous consent, Mr. Moffett was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Chairman, I feel that the debate over this issue dramatizes the fact that we have emasculated this bill, as far as any real serious and sensible rationing plan is concerned, and we are now trying to come up with other ways of trying to do the job which are not going to be satisfactory.

It seems to me that the sticker plan has so many fishhooks, so many objectionable features, that we do need to make it clear that whatever we may give to the President, that is the kind of thing we do not want.

And I wonder if the gentleman could tell me why we have to have anything in here that says that a person cannot drive if he feels it is necessary, as long as he is not consuming more than the amount of gasoline that he is legitimately supposed to have.

Mr. MOFFETT. The gentleman may be one of those who feels that rationing can be put into effect and we will not have national economic dislocation. That is the gentleman's privilege. I am not one of those. The sponsors of this bill, while I think every single one of them has voted for the administration, the President's position, if you will, the committee's position on the rationing measure, we do not want rationing to come in in a cavalier or casual way. I do not think the gentleman does either.

The gentleman is an acknowledged conservationist in the House and has recognized the need for conservation. I would ask him the same question: This subcommittee has looked and looked and looked for ways to save gasoline. We are serious about it, and I think the gentleman appreciates that. Cosponsors, such as the gentleman from New York (Mr. McHugh) and the gentleman from New York (Mr. Downey), who are not on the subcommittee, have joined with us because they, too, have held discussions.

I would say to the gentleman that it is the only way that we found.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. Moffett) has again expired.

(On request of Mr. Seiberling and by unanimous consent, Mr. Moffett was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield, I would just like to say this: I have bitten the bullet on every single rationing issue since I have been in this House. But let me say that I was around in World War II. We had a rationing system. Nobody was prohibited from driving, and we had a far more critical situation then than any that we have experienced since. You do not have to prohibit people from driving on certain days in order to have a workable rationing plan. It is time our friends on the other side of the aisle are willing to go along with us instead of playing games, as the gentleman from Texas said.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding.

Mr. Chairman, first of all, this can be part of the President's standby authority; is this not correct? But it is advisory only; is that correct?

Mr. MOFFETT. That is correct.

Mr. COLEMAN. Under the terms of the bill, who is going to enforce this plan if the President says he wants it in his Federal plan? Who will be the enforcement mechanism?

Mr. MOFFETT. The same way that the 55-mile-an-hour speed limit is enforced.

Mr. COLEMAN. But it is not clear in here.

Mr. MOFFETT. It is clear in the bill, section 640(a).

Mr. COLEMAN. I have the report.

Mr. MOFFETT I would emphasize to the gentleman that the easiest thing in the world to do is to pick up a bill and look for every answer in the bill. But if the gentleman reads the legislative history in there——

Mr. COLEMAN. I have read it.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. Moffett) has again expired.

(On request of Mr. Coleman and by unanimous consent, Mr. Moffett was allowed to proceed for 3 additional minutes.)

Mr. COLEMAN. I have the report before me.

Mr. MOFFETT. I have not yielded to the gentleman. Let me just finish my sentence.

If the gentleman would look at it, he would find that the committee is clear on this. They are very clear on it. But they are not going to dot every "i" and cross every "t" on what a sticker plan should look like. We are saying that the principle of a sticker plan should be in the toolbox, and we feel very confident it is there.

Mr. COLEMAN. Will the gentleman point out to me where the language is regarding enforcement? To me, it says that the plan may include a sticker system.

Mr. MOFFETT. Yes.

Mr. COLEMAN. Furthermore, it says "civil penalties." And under the civil penalties clause, it says that it will be a civil penalty not to exceed $100 for each violation to be enforced in the U.S. district courts.

To me, as a lawyer, that means that you are going to have Federal Government enforcement officials. I do not know if it is going to be the FBI. I am not sure who it is going to be. But the U.S. Attorney could very well be the one empowered to have to bring this action, as the bill says, in the U.S. district court.

We all want to conserve gasoline.

□ 1130

My concern is we are going to set up the heavy hand of big brother in this entire sticker system where we go into Federal court for a $100 fine and say the guy does not have the money; he could end up in Leavenworth.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from New Jersey.

Mr. RINALDO. I want to ask the gentleman a question and make a comment.

The gentleman from New York who spoke a short time ago obviously did not read the bill or the report.

The bill already provides for the Governors to implement a plan. I am leaving that provision alone. I am taking away the President's authority to impose a plan nationally, because I feel it should be up to the local States.

Mr. MOFFETT. I thank the gentleman for his clarification.

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Texas.

Mr. GRAMM. I would like to first go back and clarify, if I may, exactly what the subcommittee and the full committee did on the sticker plan. We held hearings. We found this plan to be imperfect, but when the Nation has a 10-percent shortage, people are going to sweat, because buildings are going to be hot. When you are employing odd-even allocation you have the potential for a heavy user of gasoline being forced to pull his car off the road every other day, whether he has appendicitis or whether his wife is in the hospital. With a 10-percent shortage you are going to inconvenience people.

This is not a mandatory plan. It is in the tool box which the Governors may use if they choose. The only case where this plan could become mandatory is if the States refuse to submit a plan or fail to meet guidelines set by the President's conservation plan and if the trigger of a 10-percent shortfall nationwide for 30 days is pulled. If that trigger is pulled, hardship in some form is unavoidable.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. MOFFETT) has expired.

(At the request of Mr. GRAMM and by unanimous consent, Mr. MOFFETT was allowed to proceed for 2 additional minutes.)

Mr. GRAMM. Mr. Chairman, will the gentleman yield further?

Mr. MOFFETT. I yield to the gentleman from Texas.

Mr. GRAMM. To continue, Mr. Chairman, if that trigger is pulled, we are in a shortfall that is going to require conservation. The gentleman from Connecticut has given us an imperfect vehicle, but there are no perfect vehicles. The bottom line on his vehicle is that clearly by all testimony taken, it will be an effective vehicle for conservation. It is going to inconvenience people, but to assert that a mandatory rationing program is less inhibitive, less expensive and less burdensome is ludicrous on its face on the basis of all of the facts.

So again, this is an imperfect plan, but it can only be used if two things happen: One, a 10-percent shortfall for 30 days occurs. Two, if the States refuse to do anything else to conserve. Only under those two circumstances could this plan become mandatory.

Mr. MOFFETT. And the substitute insures that there are other conditions now, that special treatment has to be given to those areas and special considerations that do not have alternatives.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, I want to support the Moffett substitute and commend the gentleman for the initiative he has taken in responding to the challenge the President gave this House several months ago, saying come up with some conservation plans and try to come up with plans on your own.

The gentleman has taken a lead in that. This is an imperfect instrument.

I wanted to briefly respond to the gentleman from Ohio, who said that rationing would be a better alternative.

In fact this plan for rationing is not offered as a conservation plan. It can only be employed when there is a 20-percent shortfall or likely to be a 20-percent shortfall. It is a plan for dealing with chaos.

What this plan does is give us a chance to conserve some gasoline. It is a tool in the President's toolbox. The simple fact of the matter is we do not know what kind of circumstances we are going to be facing in the months and years ahead, and we may very well face the exact circumstances that would lead to this plan being used by the President. He ought to have a chance.

The CHAIRMAN. The time of the gentleman from Connecticut has again expired.

(At the request of Mr. HUGHES and by unanimous consent, Mr. MOFFETT was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

First, let me just commend my colleague, a member of the class of '94. He has been one of the leaders, no question, in the area of energy and a whole host of other issues, but I have great difficulties with the language in the legislation.

As the gentleman well knows, it is voluntary. There is nothing that mandates the use of the sticker plan. Even the gentleman admits there are basic problems even with the language as written.

I also have some problems with the language of my colleague from New Jersey, which would forbid the President from using the sticker plan.

I am hopeful that what we can do is eliminate that from the bill and leave in the toolbox, as the gentleman says, the option for the President during the hearing process to develop a plan, perhaps a sticker plan, if properly refined, so we can eliminate many of the shortcomings.

I think perhaps that will address many of the concerns of my colleagues in this body with the sticker plan. It seems to me we have an unnecessary tilt in the legislation in favor of the sticker plan.

For that reason, I intend to offer an amendment that would actually strike the language in the Rinaldo amendment that forbids the President from using this as perhaps one of the options. I hope the gentleman can support that.

Mr. MOFFETT. If I could reclaim my time and thank the gentleman for his comments at the beginning of his statement. I would say that we feel we have the best staff and the best witnesses advising us, as I think is the case usually on the subcommittee of the gentleman from Michigan (Mr. DINGELL).

Believe me, I apologize if the gentleman does not think the language is perfect, but there was an amazing amount of work that went into that language. It was very difficult. What I hope the gentleman would do—again, let us not cop out. I speak to my Democratic colleagues here for a moment. We have had nothing in the way of constructive conservation alternatives in 5 years from this side; absolutely zero. All they say is "Let the marketplace work its will and so forth."

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. MOFFETT) has again expired.

(At the request of Mr. HUGHES and by unanimous consent, Mr. MOFFETT was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I will yield to the gentleman, but the gentleman from New Jersey and my Democratic colleagues are different. Let us get partisan for a moment and say this side comes up with imaginative alternatives. We try to make constructive suggestions. We are known for that. We think there is a positive role for Government.

The gentleman, I would urge, rather than striking the language, should really offer an alternative. Let us not cop out and say, "Maybe it can be worked out later."

I yield to the gentleman from New Jersey.

Mr. HUGHES. I want to say to my colleague that I do not recall very many votes where I have not supported the committee on this legislation.

On the contrary, I do not think it is a partisan issue as far as most Members of this body are concerned.

I have serious reservations about the sticker plan.

The one issue is, Does it apply to every car? If you own five cars in the family, can you select a different car for each sticker? That is not resolved in the legislation. There are a whole host of other questions that I would have.

It seems to me if you are going to give the President the authority to develop a standby plan, give him the authority. Do not try on a piecemeal fashion to say, "We think you ought to look seriously, however, at the sticker plan."

Mr. MOFFETT. I would say to the gentleman there are a whole host of questions about rationing, are there not, that are left unanswered, but this House voted, I think wisely, to give the President authority, because we made an admission, and it may hurt us to say this, we are not capable, 535 people on this Hill, are not capable of writing a detailed plan with regard to gasoline.

We set out the principles. That is what we are doing in this legislation.

Mr. HUGHES. What we are doing in this instance, we are gratuitously saying to the President, "Take a serious look at this. This is how we want it written." That does not make sense to me.

Mr. MOFFETT. I thank the gentleman.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was necessarily absent from the floor, announcing a Republican tax cut of some $36 billion, at the time the distinguished majority leader took the floor. I am informed that he accused the Republican side of conspiring against this bill, and said that we are obstructionists.

I feel I must take umbrage at the words of my good friend, the majority leader. I have never known him to be intemperate in his statements before. I am sorry that he chose this time to be, particularly because I think that his charges are completely unjust and completely unfounded.

As a matter of fact, if we were to become obstructionists, it would be because we learned rather well from the way the Democratic side treated the various energy proposals of the two Republican Presidents in the years between 1973 and 1977.

□ 1140

Time after time Presidents Nixon and Ford sent energy plans to the Capitol. Very little consideration was given them. On at least two occasions they did not even get to the floor. I would call that real obstructionism. It was in the days when we could have done something and should have done something about the energy situation.

As a matter of fact, if we had, we would not be talking about rationing today. We are talking about rationing because the people on the Democratic side of the aisle have never understood that the real answer to the problem of energy is supply. Conservation is fine. We are all for conservation. But it is not the real answer. Republicans are not in favor of a contracting economy. The way the plans of the Democrats seem to be unfolding, they feel America will never again have it as good as we have it now. From now on, we go down. We do not think that is true. We think America will be even greater. We are in favor of expanding energy supply.

That is the reason we are not as avid as the gentleman from Connecticut indicated about offering innovative plans for conservation. We will consider his, and if they are good we will vote for them.

But what we really want is to see the might of the private enterprise system of this country freed so that we will not have to worry about rationing. We will have plenty. We will not have to ration. Neither will we have to worry about importing oil from abroad and thus furthering the ability of the OPEC nations to blackmail this country diplomatically.

Those are our two main problems: supply and diplomatic blackmail. Here we are puttering around with a rationing plan which is relatively unimportant, and would not be considered if we had been more concerned with supply instead of politics. Let me just talk about the history of this bill. It came to the floor last week. It could have been brought up many weeks before, but it was not. An amendment was offered by the gentleman from New York (Mr. GILMAN), which would have had the effect of allowing this House and this Congress to take a look at whatever rationing plan the President brought forth and to veto it. Well, now, was that unreasonable? I do not think it was unreasonable. As a matter of fact, the President had sent a rationing plan to this House some weeks before. It was resoundingly defeated by this House—by the vote not only of Republicans, but by Democrats also.

How do we know that if we were to give the President blanket authority to put a rationing program in place that it would not be the same program which we turned down overwhelmingly? All Mr. GILMAN was trying to do was to get us to take a look at the plan and see if we liked the plan before it was promulgated. But no, the leadership on the Democratic side was so confounded, so upset over the adoption of the Gilman amendment that it called the bill down. They did not bring it up for further consideration for nearly a week.

We did not ask them to do that. It was done not because of anything we did, but of their own motion. They cannot blame us for delay.

I ask my colleague, Who is dragging his feet? We are not dragging our feet. We are offering amendments, they are good amendments. Many of them are being adopted. If they are not good amendments you, my colleagues will vote them down. Our Democratic colleagues have helped us adopt several of these amendments and we are grateful. But for Heaven's sake, let us not tell the people of this country that the Republican side, a 36 percent minority in this House, is dragging its feet and keeping you, the 64 percent majority, from voting on this bill. That is not fair, it is not honest, and I hope that the majority leader will retract his statements.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT OFFERED BY MR. MOFFETT AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. RINALDO.

Mr. MAGUIRE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE to the amendment offered by Mr. MOFFETT as a substitute for the amendment offered by Mr. RINALDO: At the end insert the following: Page 43, beginning on line 24, strike out "day of each week that vehicle will not be operated" and insert "day of each week the owner of that vehicle has selected for that vehicle not to be operated".

Mr. LOEFFLER. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Texas reserves a point of order against the amendment.

Mr. MAGUIRE. Mr. Chairman, a number of Members, on both the minority and the majority sides, have suggested that the language ought to be more explicit about the individual making the decision as to what day of the week he or she would choose not to drive their car. The intention of those of us who drafted this legislation initially was that there should be freedom of choice on the part of each automobile owner as to what day the automobile would not be driven.

Rather than relying on those intentions and on language which may not be sufficiently explicit, I thought it would be useful at this point to clarify that and to include it. That is the purpose of the amendment.

Let me make some additional comments though about some of the points that have been raised by Members in this debate. There are some who oppose this because it does too much. There are some whose oppose it, as the gentleman from Ohio (Mr. SEIBERLING) did a few moments ago, because it does not do enough.

I think it would be a terrible shame if this House were to defeat this kind of proposal by a combination of those who felt that it either went too far or did not go far enough. The fact is that this is an intermediate type of proposal which, as the gentleman from New York (Mr. DOWNEY) pointed out, is simple to administer and does leave options to the States and to the individual driver, does not get us into all of the difficulties of rationing, but at the same time actually is saving significant amounts of fuel.

We are going to practically double the miles driven in this country between now and the end of the century from over 1 trillion to nearly 2 trillion miles. We are going to have to be sensible about conservation even without a major supply interruption. This bill gives the options that we need.

The gentleman from Connecticut (Mr. MOFFETT) talked about town meetings where some people would have objections to almost anything that we might come up with. Of course that is true of some, but I might say that at my town meetings most people want this Congress to do something. They want some action. They are prepared to have an imperfect plan as long as they know that we have taken action that will protect them and give them fairness in the event that we have difficulties. That is what this provision is all about, and that is why we should support it.

If we are going to knock out every specific proposal that is brought before us—and I am afraid that is what the gentleman, my good friend and colleague from New Jersey (Mr. HUGHES) wants to do has that effect, even though he does not want it to have that effect—if we are going to knock out this proposal, like we compromised the thermostat settings yesterday, and if we are going to take each and every proposal and say it is imperfect, no good, set it aside and make sure that it is not part of the written set of proposals, then we are going to end up with absolutely nothing, which I think would be a tragedy.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank my colleague for yielding. I regret that he should characterize my amendment as actually defeating another conservation tool.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. HUGHES and by unanimous consent, Mr. MAGUIRE was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Will the gentleman continue to yield?

Mr. MAGUIRE. I yield to the gentleman.

Mr. HUGHES. What I am trying to say to my colleague is that all I am trying to do is to give the President the tools without a gratuitous tilt in favor of a sticker plan? I do not subscribe to the suggestion on the part of my colleague from New Jersey (Mr. RINALDO) that we should forbid the President from having this as another one of the tools in his toolbox, so to speak.

Mr. MAGUIRE. If I may say, I appreciate the gentleman's argument and I appreciate his position. But the practical fact is that if we adopt his proposal we will be saying, in effect, that there are problems that the Congress feels are sufficiently serious with yet another proposal for conservation, and that will then go quite consistently with the dismal record that we have had in recent years of not doing enough on conservation. If he does not favor this plan. I think the gentleman ought to offer us some other options.

☐ 1150

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank my good friend for yielding. I would point out to my colleagues, first of all, the availability of the use of the sticker plan with the Governors is discretionary. The availability of use of the sticker plan with the President is discretionary, but only in the event that the Governor has failed to act, that the President finds it is desirable, and only with discretion, if the President can then surmount the 10 percent shortfall which has already been imposed by the committee as a trigger for Presidential action. I think that where we have a situation, where we have a potential shortfall in supply, and in fact where we are importing over 8 million barrels of oil a day at prodigious cost to the taxpayers, and where all of that or any of that oil can be shut off at any minute, the only course this country has is to have conservation plans in place which will work.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(At the request of Mr. DINGELL and by unanimous consent, Mr. MAGUIRE was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. The gentleman from Connecticut (Mr. MOFFETT) has very prudently provided this as an option. The gentleman from New Jersey (Mr. MAGUIRE) has very prudently clarified through his amendment the intention of the committee; that is, that the individual who owns the automobile should have the option to utilize the car on the days of his choice, and can forego it on the day of his choice. All of this remains optional as to whether it goes into place under those amendments, under either the committee bill or the language of the amendment which the gentleman from Connecticut has offered, which affords additional safeguards, additional discretion, and additional matters that must be considered before the plan can be laid in place.

For this reason, I would hope that the committee would adopt the amendment that is offered by the gentleman from New Jersey (Mr. MAGUIRE) to the substitute amendment offered by the gentleman from Connecticut (Mr. MOFFETT), and that it would reject—although it is offered, I know, in the best of good intentions by my good friend from New Jersey—the amendment that is offered by the gentleman from New Jersey (Mr. RINALDO) which does strike the ability of the President to lay in place a plan which may be of great merit to the Nation and which may, conceivably, provide the necessary savings of oil which will help tide us through difficult times.

Mr. MAGUIRE. I appreciate the gentleman's clarifications and his comment and his support. I might say, before I yield to the gentleman from Texas (Mr. KAZEN) which I will do in a moment, and to the gentleman from Pennsylvania (Mr. KOSTMAYER) that I think we really ought to heed the very wise and forceful comments that were made by the majority leader a few months ago. If we allow this legislation to be picked apart—and make no mistake about it, that is what the Rinaldo amendment does and that is what the Hughes amendment does—if we allow this to be picked apart, we are going to go down with another defeat for the Congress in not preparing the American people for contingencies that we may very well have to face.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(By unanimous consent Mr. MAGUIRE was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding. This is one of the objections that I had, and it is cured by the gentleman's amendment. I am glad that he offered it.

Mr. MAGUIRE. I thank the gentleman.

Mr. KAZEN. I will certainly support it. However, the entire scheme of the sticker business works against the one-car family because, if I have two cars I can stop one on Saturday and one on Sunday, and it does not bother me a bit. But, a one-car family cannot afford to mandatorily, if this plan is put in, stop that car.

Mr. MAGUIRE. I can only say to the gentleman that the gentleman has pointed out one of the imprefections in the proposal. There is no way to organize the available data to link auto registrations of different people to the same household. We looked at 16 different ways of trying to resolve the kind of problems the gentleman is concerned about and this is the closest we could come.

Mr. KAZEN. I am not blaming the drafters of this sticker provision. They came up with the best they could do. I am just objecting to the result. It is not just, and it tends to work against poor people in this country.

Mr. MAGUIRE. I was very concerned about the gentleman's point as well, but we have done the best we could.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, I take this time to speak on behalf of the Moffett substitute and in opposition to the Rinaldo amendment, and to associate myself with the remarks of the gentleman from Connecticut, the gentleman from New Jersey (Mr. MAGUIRE), and others who have led the way in support of this sticker plan.

I represent a district which is largely rural and suburban. This is not a popular plan in my own district, but I think we must take some leadership in this House this afternoon and support this plan. We really are on the verge of doing what we did yesterday when we accepted a very damaging amendment which gutted the temperature settings established sometime ago by the President under congressional authority.

What we did yesterday, essentially, was to send a message to the country that we are going to loosen up on conservation. We have finally made some progress and gotten people at least in general to set their thermostats at 78 degrees. What we did yesterday in gutting that rule is to send a message out that we are not any longer serious about conservation.

I think people will support the sticker plan if we have the courage and the guts and the willingness to pass it.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(At the request of Mr. KOSTMAYER and by unanimous consent, Mr. MAGUIRE was allowed to proceed for 1 additional minute.)

Mr. KOSTMAYER. If we have the courage to accept it, I think that the American people will follow, but they will follow only if we are willing to lead. While it is not an entirely attractive plan, it is necessary. It will save energy. Let us stop tearing up the President's energy package. Let us have a little courage and accept this substitute offered by the gentleman from Connecticut.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Texas insist on his point of order?

Mr. LOEFFLER. I do, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. LOEFFLER. Mr. Chairman, the Maguire amendment, although offered to the Moffett amendment, is really a direct amendment to the bill before us. Therefore, it is not germane to the Moffett substitute. In addition, the Moffett substitute goes to page 45, line 9 of the bill before us. The amendment offered by the gentleman from New Jersey (Mr. MAGUIRE) goes to page 43, line 24.

In addition, it is also not germane for that purpose.

The CHAIRMAN. Does the gentleman from Michigan desire to be heard on the point of order?

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DINGELL. Is the gentleman making this point of order for the first time?

The CHAIRMAN. No, the gentleman from Texas reserved his point of order. He is now stating his point of order at the request of the Chair.

Does the gentleman from Michigan desire to be heard on the point of order?

Mr. DINGELL. I do, Mr. Chairman, and I am sure the gentleman from New Jersey desires to do so also.

Mr. Chairman, the question of where the amendment might lie in the bill with regard to page or section is not important. I would observe to the Chair that the amendment offered originally by the minority goes to several pages in the bill. I would point out that what is involved here is the text of the amendments, and whether or not the language and the purposes and the concepts of the amendment are germane and are relative and relevant to the amendment offered by the gentleman from Connecticut.

I believe that a reading of the amendment offered by the gentleman from Connecticut will show that the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE) is in fact germane to it in terms of concept and in terms of purposes for which the amendment happens to be offered. For that reason, I think that the point of order should be rejected.

Mr. MAGUIRE. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, the key point is that this is a refinement of the material that the Moffett substitute deals with. Therefore, the page on which it appears is irrelevant, and the point of order should be overruled.

The CHAIRMAN. The Chair is prepared to rule.

The Chair has examined the substitute and the amendment, and states that while the page references are different, the principal matter of concern is the relationship between the amendment and the substitute. Clearly, there is a substantive relationship that goes beyond the question of the pages, since both deal with auto sticker plans.

□ 1200

On the matter of the scope of the amendment and its germaneness, the Moffett substitute imposes conditions on the entire auto sticker plan in the bill in two diverse aspects. One is a requirement of consultation with Governors, and the other is a special consideration which would be required for suburban and rural areas. The amendment to the substitute clearly deals with another diverse element of the plan itself, and, because of the diverse scope of the substitute, is germane to the substitute.

Therefore, the Chair overrules the point of order.

Mr. STOCKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have been listening very carefully to the arguments against this amendment, and I would like to suggest to the House that if we think back carefully, we have not heard one specific argument against the amendment per se, and we have not heard any concrete, cogent defense of the sticker plan itself. All of the rhetoric that we have heard from this side of the aisle suggests that if you are for the amendment, then you are some kind of a spineless ogre, some kind of an ostrich with its head in the sand, and that you are against conservation in general.

The further argument we have heard is that while this plan may not be perfect, it is the only thing we have, and the implication has been that we are doing absolutely nothing in this country today about conservation. I would like to suggest to the House as important as conservation is, we cannot lose our capacity to discriminate and make judgments about the specific tools and policies that are proposed. I would suggest further that we should not lose our memory; we should not forget that we have done many things policywise and out in the marketplace over the last 5 years which are conserving enormous amounts of energy today.

To hear the debate today, to hear the rhetoric, one would forget that we have got a fuel economy program that this Congress passed, that this year will result in a 40-percent improvement in the cars that will soon be in the showrooms for the 1980 model year.

One would forget that we last year passed an insulation tax credit, and that as a result of that, and the higher prices for heating fuel, the average home in New England today is using 20 percent less energy than it did in 1972.

If one listens to the argument today and to the suggestion that we are doing nothing about conservation, and we have to go with this one idea, one would forget that last year in the National Energy Act we passed a natiowide energy audit which will require the utilities to send inspectors, to send auditors into every home in this country, to find areas where improvements can be made, insulation can be added, furnaces can be improved, and energy can be saved.

To hear the debate today, one would forget that we passed a few years ago a law which will require mandatory performance standards for all the new buildings built in this country if they go into effect in 1980.

To hear the debate today and the suggestion that we are doing nothing about conservation, one would forget that we have an industrial and commercial conservation credit as well.

Then, finally, the argument was made, "Well, all of these things might be well and nice, it might be even conceded that they are saving enormous amounts of energy, 3 million barrels a day relative to what we were using in 1973, but we may have a short-term crisis, and we need tools to deal with the short-term crisis, even as we get better cars and more efficient homes and industrial processes."

Again I think we forget that we passed EPCA in 1975, and that law allows the President to propose an energy conservation plan, like the sticker plan or anything else, and if it is approved by Congress after we have looked at it and weighed the claimed energy savings against the impacts that it would have on the economy and on workers and on production and jobs, then it can go into effect. That is how we got the temperature regulation in effect today. But I would remind the House that is also how we rejected the weekend gasoline closing plan, because, like the sticker plan, it sounded like an idea that might save energy, but there was never any demonstration that it would, and as people looked at it, they concluded that the costs would far outweigh the benefit.

I would suggest to the Members of the House, let us focus not on the broad issue of conservation; let us remember that there are many, many tools in place already working to reduce our energy demand. Let us look at the specifics of the sticker plan and ask whether we want the President to have authority to impose that without any approval by Congress. Let us ask whether we think it could save any energy without unacceptable offsetting costs.

I would suggest to the House, further, that we not be confused by the amendment now pending, the Moffett amendment, the amendment offered by the gentleman from Connecticut, because it does absolutely nothing. That is hortatory language. It merely says, take into account, consult with a few people. But after we have done that, and you are determined to put the sticker plan into place, that hortatory language does absolutely nothing. It is not a basis for litigation. It is not a basis for the Congress to reject the implementation of a sticker plan by the President, or the DOE, if they want to do it.

Further, I would suggest that the Maguire amendment is even worse. The basic failing of the sticker plan is that it cannot be enforced. Are you going to have policemen driving around this country with binoculars to determine whether or not those are counterfeit stickers on the cars? Obviously not.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for 1 additional minute.)

Mr. STOCKMAN. I just want the House to recall that we have on the books today a number of so-called conservation or fuel consumption control plans that are not being enforced, that are generating great cynicism among the American public, and how many more do we want to foist on the American public? We have got a 55-mile-an-hour speed limit. It is not being enforced. We are taking no steps to have it enforced.

We have thermostat rulings. We are not enforcing that law. We do not have 50,000 thermostat inspectors going out to enforce that law. I could name a half dozen others which sound nice in general concept, but certainly they are not being enforced. In many cases, they are being ignored and that is exactly what we would have if we put the sticker plan in effect.

Reject the Maguire amendment; reject the Moffett amendment; and approve the amendment offered by the gentleman from New Jersey (Mr. RINALDO).

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from New Jersey.

Mr. RINALDO. I thank the gentleman for his comments and for yielding.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 5 additional minutes.)

Mr. RINALDO. First of all, I would point out that it is going to be impossible, completely impossible, to have cars driving around with different stickers every week. I think the police of this country would be confused. They would not know how to enforce it, let alone enforce it equitably. How do you change your sticker every week? To whom do you make application? When does it have to be put on? Do you have a Sunday off 1 week and a Monday off the next week? It is a completely irrational plan.

I am surprised at the leadership on the other side. I thought they wanted this passed. I thought they wanted to hand President Carter a bill that provided for standby gasoline rationing. By cluttering the bill with the sticker plan, you are only making it worse. In effect what you are saying is that you are going to make it impossible for the bill to pass, and then blame us.

Let me give the Members one final example of what this bill would do. In my State of New Jersey we have an odd/even plan. If the sticker plan were put into effect in conjunction with the odd/even plan, you could have this kind of situation. If a person were subject to the combination of the sticker plan and the odd/even plan, he would be prohibited—in fact, in my State it would probably be impossible—from buying gasoline in some cases for 4 days in a row. For example, assume you had an odd license plate. The effect would be: Day 1, even; he could not purchase because he has an odd plate. Day 2 is his no-drive day. He cannot purchase that day. Day 3 he cannot purchase again because he has an odd license plate. And if day 4 falls on a Sunday, he cannot purchase because he could not find a gasoline station that is open. So he would have to go 4 days without any gas.

If the sticker plan passes, let us say to the American public, "Put your cars in the garage; quit working; forget about productivity in this country; forget about bringing home a decent wage; and let us close up our shops and factories, throw our hands up in the air, and admit defeat."

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Connecticut.

Mr. MOFFETT. I thank the gentleman for yielding.

I would say, first of all, it is not my understanding that the Maguire amendment forces a change every week. Is that the gentleman's understanding?

Mr. STOCKMAN. It would permit it, unless the gentleman gives some other explanation for the language.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I would be happy to yield to the gentleman.

Mr. MAGUIRE. Look, the debate, I am afraid, is really getting into a situation in which people are inventing all kinds of phantoms. Let us at least stick to what is before us. There is nothing here where any rational person would ever suggest that each week all the motorists in a given State or region could shift their days around. Nothing provides for that, and nobody would ever do that. So let us not debate that.

The gentleman from New Jersey, my distinguished friend and colleague, Mr. RINALDO, talked about the implementation of this plan jointly with odd/even. The committee report deals with that. We have already described the problem that the gentleman has mentioned, and it is suggested that it not be implemented with odd/even. So let us talk about what is before us. We can sit here all day dreaming up something that might happen to somebody under some set of circumstances. What this Congress needs to do is act to provide some alternatives and to set out some options for conservation, and to give this country the ability to deal, not with absolute fairness and equity but as fairly as we can, to conserve, with the problems that we may face with energy. Unless we are going to do that, we are not going to do anything here today by playing games.

□ 1210

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Connecticut.

Mr. MOFFETT. I thank the gentleman from Michigan.

Mr. Chairman, as the gentleman knows, I have great respect for the gentleman's intellect and for the way in which he approaches these problems.

Mr. Chairman, we really have to come to grips with something here. That is, the gentleman is suggesting we do the same thing here that he wanted us to do with rationing. Let us face it. The gentleman is not for a rationing bill. The gentleman voted against it in the subcommittee. The gentleman believes the marketplace generally will take care of these things. You know, it is rather amusing in a sense to see my colleagues who favor dramatically higher prices for energy now say, "Oh, the inconvenience of this one day, we just cannot stand for this for consumers."

The gentleman from New Jersey (Mr. RINALDO) says people will have to leave their cars at home. They are doing that now because of the price.

I would ask the gentleman from Michigan who supported those kinds of policies, about this.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. MOFFETT and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 3 additional minutes.)

Mr. MOFFETT. Mr. Chairman, will the gentleman continue to yield?

Mr. STOCKMAN. I yield to the gentleman from Connecticut.

Mr. MOFFETT. The gentleman has tried to weaken the rationing section and he said, "Oh, we have all these wonderful things we have passed," which the gentleman has opposed most of the time in subcommittee.

The gentleman still has not told us whether he believes that we can meet these import quotas, or perhaps he does not believe in those either, meet the import quota limits in the out years, the early 1980's.

Mr. Chairman, how are we going to get significant gasoline conservation?

The gentleman told me in several conversations that he thought the sticker plan was the best of the conservation options that could take place under this bill. Did not the gentleman tell me that?

Mr. STOCKMAN. I would respond to the gentleman by saying two things. I do not accept his premise. The gentleman is saying, "We need a 10-percent cut in gasoline consumption right now." The gentleman does not say for how long, for how many months, the gentleman does not recognize that the oil supplies are back up, the refinery situation is better, that the availability is improved. We need conservation of gasoline, I agree. But we cannot specify it in terms of *x* percent this month. Over the long run cars in this country are improving in terms of efficiency and the gentleman knows from the law that he helped craft, that I had some difficulty with, that by 1985 our gasoline consumption in this country will start going down because of those more efficient cars.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would like to ask the gentleman who offers the amendment if this plan is to apply equitably to all people in the country.

Mr. MOFFETT. Whether the plan would?

Mr. BROWN of Ohio. Yes. In other words, everyone has this one day they do not drive.

Mr. MOFFETT. We would like to think this is the most equitable and simple measure.

Mr. BROWN of Ohio. Mr. Chairman, is it going to apply to everybody?

Mr. MOFFETT. We would hope so, yes

Mr. BROWN of Ohio. If it applied to Members of Congress, on which days would Members of Congress not be here? I would guess we are working about 5 days a week now.

Mr. MOFFETT. Is the gentleman one of those who drives his car over from the office to vote? Is that what he is getting at?

Mr. BROWN of Ohio. No, the gentleman is not. The gentleman is one of those who is moving into town so that he can take the subway.

Mr. Chairman, my question is how does this apply to Members of Congress. Will we have one day on which 87 Members of the Congress do not show up? I am trying to think whether that is a blessing or a curse.

Mr. MOFFETT. Mr. Chairman, is the

gentleman in a carpool? Has the gentleman considered that?

Mr. BROWN of Ohio. I am trying to get the gentleman to answer a question about the amendment. Could the gentleman respond?

Mr. MOFFETT. Mr. Chairman, of course it applies to Members of Congress.

Mr. BROWN of Ohio. Very well. May I ask you would the 87 Members who would have been absent last Wednesday—would 45 of those be the ones who changed their vote yesterday?

Mr. MOFFETT. I do not accept the gentleman's premise that you would have any Members absent.

Mr. BROWN of Ohio. Then how does the system work?

Mr. MOFFETT. Mr. Chairman, does the gentleman really believe that Members of Congress could not leave their cars at home 1 day a week? Does the gentleman really believe that?

Mr. BROWN of Ohio. How does the system work?

Mr. MOFFETT. And does the gentleman believe Members of Conrgess could not survive somehow and manage to get here?

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent that the gentleman from Michigan (Mr. Stockman) be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio (Mr. Brown)?

Mr. ANDREWS of North Carolina. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I observe that the gentleman from New Jersey (Mr. Hughes) has an amendment he desires to offer. I observe no others.

I ask unanimous consent that all debate on this amendment and all amendments thereto end in 15 minutes and that the gentleman from New Jersey (Mr. Hughes) have 5 minutes for the presentation of his amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. BROWN of Ohio. Mr. Chairman, I object, in view of the fact that I could not get my time and that my request for additional time was objected to in my effort to pursue the colloquy with the gentleman from Connecticut (Mr. Moffett).

Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. WRIGHT. Mr. Chairman, I rise in support of the perfecting amendment offered by the gentleman from Connecticut (Mr. Moffett).

There has been a certain amount of harshness and even perhaps vitriol in today's debate. I am told, though I was not on the floor at the time, that the distinguished minority leader, my very good friend, the gentleman from Arizona (Mr. Rhodes), characterized my earlier remarks as being intemperate. I hope they were not intemperate. To the extent they may have seemed so to any, I express my regrets.

There is something very important to all of us here, something that transcends partisanship. This is that America confronts the most severe challenge to the future economic independence of our Nation that we have faced since World War II. I think there is no question about that.

The crisis may have seemed to abate simply because the gas lines have gone down, but surely we are wise enough to know that this is only a temporary alleviant. The basic problem has not gone away. The long-term crisis that confronts us is not going to solve itself. It will yield only when we do those things necessary to correct our dependence on foreign oil.

It seems to me there are two basic things the Nation must do. First, we must waste less; second, we must produce more. Conservation and production: These are the two sides of the coin.

It bothers me when I find a tendency on the part of some Members to want to do only one but not the other. As I understand it, the distinguished minority leader suggested we need not piddle around with all these little conservation plans if we will just produce ourselves out of our difficulties. I am inclined to find something attractive about that idea. Surely everyone will recognize I have supported all of the initiatives to increase domestic production both of fossil fuels and of alternates to fossil fuels. I think it is desperately important. I do not think conservation alone will solve our problem. But I do believe that in the next decade, conservation provides our best and most immediate opportunity to buy ourselves some time in which to do these long-range things that must be done in the interests of the Nation's future.

The plan presently under consideration is one possible tool for conservation. There is nothing in this bill that mandates that we shall have a sticker plan. The bill only presents it as one possible alternative option. It is included in the bill as an option first for the States. Then, in a more dire situation if the States of their own initiative were unable to meet the conservation goals, this would be one option the President might use. It is just another tool in the tool shed, another weapon in our arsenal.

☐ 1220

Now, why does it evoke such bitter hostility? Should we dismantle our military weapons just because we hope not to have to use them? Certainly that would not be a good thing. Why then would we dismantle this weapon. We hope not to have it used; but it is one weapon in our conservation arsenal. Let us not leave that arsenal bereft.

Let us not give the public the impression that we in Congress today have closed our minds and hidden our heads to this continuing problem. Let us not indulge the misimpressions that the public does not want a solution just because the gasoline lines have temporarily gone away. The public is too wise for that.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Yes, I yield to my friend, the gentleman from New Jersey.

Mr. HUGHES. Well, I want to commend the majority leader and I just want to tell him that I also joined with him and other Members who supported the last gasoline rationing plan. I was not happy with all aspects of it. I cannot recall very many instances that I have not supported the committee during consideration of this particular plan.

The CHAIRMAN. The time of the gentleman from Texas (Mr. Wright) has expired.

(At the request of Mr. Hughes and by unanimous consent, Mr. Wright was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, if the gentleman will yield further, I have some basic problems with the sticker plan as drafted in this bill. At the gentleman knows, one of the difficulties——

Mr. WRIGHT. If I might ask, the gentleman from New Jersey is aware, is he not, that this bill does not mandate the sticker plan, it just permits it.

Mr. HUGHES. That is the point I want to make. I am going to offer an amendment that would strike this language from the bill since it is gratuitous; but it does provide a tilt, in saying to the President, "Take a look at this plan also," clearly it's gratuitous. It is not mandatory. I do not know why it is necessary to single out the sticker plan, particularly in this manner.

Mr. WRIGHT. If I may ask the gentleman, my friend, the gentleman from New Jersey, would not the gentleman want the President to take a look at this plan along with other plans?

Mr. HUGHES. I have an amendment that would actually strike the language and let the President decide which of the plans that are available makes the most sense. Why tell the President he can consider such a plan and then restrict the manner that it is to be implemented.

What we have done, is create a hybrid in this bill. We suggest to the President, "Take a look at this plan and here is what we want you to look at when you consider it."

Even the committee concedes that there are inequities built into the committee plan; for instance, there is no determination in the legislation as to whether a three-car family has to decide that it is 1 particular day, not 3 different days, that they can drive those three cars. That is something, it seems to me, that should be left to the President in developing a standby rationing and conservation plan.

Mr. WRIGHT. I appreciate the gentleman's point. Let me just conclude my remarks briefly. I think we present to the public a very bad impression if, on one amendment after another, we strip this bill of the tools that it has. That sort of action today would give the impression of a Congress that marched boldly up the hill loudly proclaiming its unswerving determination to whip this energy problem, only to tuck its tail and slink away in surrender at the first faint sign of the tiniest inconvenience. The

American public knows that we cannot have an effective conservation program without some inconvenience.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, of course, may I say to the distinguished majority leader, conservation is necessary. I think everyone recognizes that. The minority side of the aisle supports conservation, but it supports rational conservation plans, not necessarily rationing, but something that is rational and the definition of rational is that it makes sense.

Conservation is as important as is production. I am glad that the majority side of the aisle have finally discovered the necessity of production, because the plans that they have had in the past for dealing with the energy crisis are only conservation plans. During the last 5 years our production of oil in this country has gone down dramatically by about 25 percent, thanks to the plans devised on the majority side of the aisle that have discouraged production of oil in this country so that we could increase our dependence on our friends in the OPEC nations overseas by double, from 25 percent up to 50 percent of the total oil that we consume.

Now, let me just suggest that one of the methods of conservation is for the oil to cost us all a little bit more and then we tend to be encouraged to save.

I think that is just as good as the idea of shortages created by that wonderful Federal organization called the Department of Energy, where we stand in line waiting to get our gasoline, burning gasoline up, wasting it.

Both conservation and domestic production make sense, but what does not make sense is a bunch of whacky plans that will not work. That is what the minority side of the aisle has been trying to address in these proposals.

The answer is not a plan where you cannot drive your car 1 day a week, but you can drive it the other 6 days as much as you want.

The answer is not a plan where you can buy a $100 junk car and get $600 worth of free stickers, $600 worth of stickers that you then sell to your neighbor and make money on a conservation plan, which is the way the President proposed his first rationing plan.

The answer is not a plan where you set 65 degrees as the temperature in the winter that a factory must maintain and do not take into account that the heat from the machinery in that factory and the body heat of the workers in that factory will get that temperature up to the extent that you must turn on your cooling system in the winter in order to keep it down to 65 degrees.

Now, that is a dumb plan. There is no nice way to say anything better about it than that.

What we are trying to do is come up with plans where individuals and businesses and public institutions, governments, can try to devise a system that works, where you save energy, and where you set degree temperatures, not where you say, "Well, you cannot drive your car 1 day a week."

I would like to find out and I have not been able to do it, because I was interrupted in the colloquy that I had with the gentleman from Connecticut, how workers from Newark, Ohio, are going to drive over to Marysville, Ohio, 50 miles away and work under this plan that says 1 day a week they cannot drive their cars.

Now, there is no public transportation system and there may not be anybody else that is going on that same trip on those same roads.

Now, how does a guy get to work? How does that plant keep operating?

The plan that is suggested here is the plan that we are trying to improve on by the amendments we make. The suggestion that we do not care about conservation because we will not take it just the way it is presented is, I think, on its face ridiculous. That is why a number of us voted against the idea that the President devise a rationing plan for gasoline in our automobiles and then we sit idly by and let that impact fall on the people in our constituency without saying one word to change the plan or to try to devise something that served our particular area.

One of the mistakes that my friends on the Democratic side of the aisle make is that the Government is all wise and that the average individual is only half bright and that the average individual cannot figure out ways to meet the objectives that our Nation has as a society. I think that is where my Democratic colleagues are making their mistake.

Mr. Chairman, there has been the greatest amount of controversy over the gasoline and diesel rationing part of S. 1030, as reported, during our debate last week, and today as well.

But at this time, I would like to address another part of this bill—section 3, dealing with State and Federal conservation targets and programs. It is this section of the bill which is both least understood and most deserving of our understanding. For under section 3, the most massive and free-wheeling regulations may be imposed over potentially every energy source—and, therefore, every use of energy—in the United States. Not many of our colleagues are aware that the Department of Energy and the Governors can use section 3 of S. 1030, as reported, to regulate every home, every business, and every system of transportation—and no congressional review, nor veto, nor State legislative action can prevent this unlimited, unchecked exercise of power.

I could easily go through a whole list of horror stories about what the DOE and the Governors can impose on the American people. But, rather, let me just explain how section 3 has developed from the simple idea of letting the States develop and run their own energy conservation plans instead of being subjected to plans imposed by the DOE, into what this bill has become—letting the DOE dictate the energy conservation plans of the States, running over the State legislatures in the process.

Mr. Chairman, between here and the Senate Chamber an awful lot of mischief has climbed inside S. 1030. The bill before us, and here I am referring only to section 3, is vastly different than the bill the Senate passed on June 5.

S. 1030 in the Senate began as a mild alternative to the President's wisely rejected energy plan to require all gasoline stations to close on weekends. It was intended to be largely a State-run program; coordinated by having the President set conservation targets equal to energy shortages with each State developing its own plan to meet these targets. The targets themselves must have been set by the President equivalent to the degree of shortage—an important guideline missing from the House version. I am not stating that the Senate version is perfect, only that the House bill takes the worst of it, and leaves its protections behind.

Mr. Chairman, because the House version is so broad in its delegation of authorities to be virtually unchecked, an amendment will be introduced to strike section 3 except for the minimum purchase requirement authority.

This is the one type of motor fuel conservation program proven to help, rather than weigh down, energy users during shortages.

The rest of section 3 ought to go, so that the States will not be subjected to the unchecked powers of their Governors, and the Nation will not be subjected to the unchecked powers of the Secretary of Energy.

I urge that my colleagues support this amendment when it is introduced by the gentleman from Michigan (Mr. STOCKMAN).

As reported by the House Commerce Committee, section 3 of S. 1030 would work as follows:

First. The President must set "conservation targets" over the consumption of motor fuels for each State and for the country as a whole. Including gasoline and diesel fuels, this means that the Government allocation system which misallocated fuels among regions—will soon be expanded to allocate among each State, and eventually each user of energy. These targets need not correspond to projected shortages in a State, or for the country. For example, Wisconsin could have a surplus of gasoline but a 10-percent shortage of diesel; but the targets could be a 10-percent target on gasoline—and a 2-percent target on diesel—there is no correlation between the targets and the shortages. Do not think for a minute that this is a conservation plan. The targets could be 2 or 80 percent; there are no guidelines.

An amendment will be introduced to remedy this omission. It will require that the conservation targets must be equivalent to the shortage projected for that State, as determined by the President. I urge your support.

Second. The second significant problem is with the delegation of Federal powers—unlimited in this bill—to State Governors where those Governors are prevented from implementing a specific program under current State law.

Under the bill as reported, State legislatures would have no ability whatsoever to review or modify the conservation plans designed by the Governor—to comply with targets set by the President, certified by the Secretary of the DOE.

Mr. Chairman, there will be an amendment to strike the provision allowing a Governor the ability to supersede his State legislature merely by petitioning for, and receiving from, the DOE a grant of Federal authority.

I urge my colleagues' support of this amendment.

Third. Mr. Chairman, the third most dangerous part of section 3—itself the most dangerous part of the bill—is the unlimited nature of the Federal conservation plans.

These Federal plans are designed by the bill to be implemented where a State plan fails to meet a conservation target—and where a State fails even to propose its own plan. These plans to be developed by the DOE are as of now, unknown. But somehow they will be in force throughout many States because many States will either fail the targets—which may be too high—or fail to produce a plan. How many States produced a "comparable plan" under the building temperature plan? Very few.

I have a series of amendments designed to prevent some truly draconian plans from being developed. I could not take all of the possibilities into amendments, but I tried to list more necessary protections—no limits on the operation of homes for the elderly, and no restrictions on full food and fiber production, for example. I urge support for these amendments.

In addition, Mr. Chairman, I urge support for an amendment the gentleman from Michigan may introduce to provide that each end-user of energy can save an equivalent amount of energy by means of his own choice, rather than being forced into a rigid set of regulations.

□ 1230

AMENDMENT OFFERED BY MR. HUGHES TO THE AMENDMENT OFFERED BY MR. RINALDO

Hr. HUGHES. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Hughes to the amendment offered by Mr. Rinaldo: Strike out the language proposed to be inserted by the Rinaldo amendment and insert: Page 43, strike out line 12 and all that follows down through line 9 on page 45.

Mr. HUGHES. Mr. Chairman, I have some serious misgivings about the sticker plan as devised in the legislation. I think I indicated earlier that I supported just about every amendment the committee was in favor of during this session when we had a standby rationing plan before the House.

I believe Americans are willing to conserve gasoline and to abide by practical, effective, and fair plans to curb gasoline use.

Unfortunately, the sticker plan provided in this bill, in my judgment, has none of those qualities. Instead, it is fraught with inequities, it is impractical, it will invite fraud, and I do not think it will maximize conservation to the extent that it will result in conservation, and it will favor the most fortunate in our society.

Perhaps the most glaring inequity in the plan will occur in the case of two-car families where typically one car is used in commuting to and from work and another car is left at home for shopping and for running errands. In each case it is inevitable that the family will select a different sticker for each car it owns. If they own five cars, they will have a sticker for each day of the week. Some will buy a car just for the purpose of getting a sticker. They will use one car for the purpose of commuting, and they may have other cars and they will simply utilize the car which has a valid sticker on the day in question.

Over 25 percent of the households in this country have two cars. An additional 6 percent have three or more cars. Almost all these households are in the upper income brackets. In such cases it is unlikely that the sticker plan will result in any inconvenience or result in any conservation. To the extent the plan works, the burden will fall heaviest and hardest on low-income people and others who do not have the good fortune or the resources to own two or more cars.

Just as importantly, the program would punish the frugal along with the wasteful. The person with a 40-mile-per-gallon car would be kept off the road the same as a person with a 12-mile-per-gallon car. A car used in a carpool would be treated the same as a car with only one passenger. A person who drives 2 miles to a bus station or a train station is treated as just as wasteful as the sole, car-driving commuter or even the joyrider who takes a 50- or 60-mile round trip. I could go on and on with the inequities.

But I am not saying that the President cannot devise a sticker plan and cannot have that in his arsenal of conservation methods that would actually conserve energy in this country and at the same time be fair and equitable. For that reason, I find myself being in opposition to one portion of the Rinaldo amendment and having some difficulties with the bill.

In essence, what the bill does is say to the President, "You may decide how you want to effect a standby rationing and conservation program, but take a good look at the sticker plan. And we are going to tell you how we want the sticker plan devised."

It seems to me that if we are going to give the President the authority to devise a sticker plan, we should let him devise it.

We already have members of the committee agreeing that there are basic inequities. The Maguire amendment addresses one question as to who makes the selection, but it does not address all the other difficulties that I have indicated exist.

What my amendment would do in essence is strike the language in the bill that says to the President, "You may use this as an option." I am not suggesting by this amendment that a sticker plan will not be one of the options the President has to choose from. He will still have that option, but we are not tying his hands to the specific language in this bill—or provide a tilt or preferred position for a sticker plan.

This would also, I think, eliminate what in essence is a red flag that goes up to a lot of the Members who oppose the sticker plan drafted in this legislation.

In essence, I think that if we are going to give the President the flexibility to devise a plan, we should let him have the sticker option as a tool in his arsenal to devise methods to achieve conservation. We should not restrict that flexability by this gratuitous language.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, does the gentleman not think that if the House would accept his amendment, it would be interpreted by not only the public but also the President as an indication that it would be difficult indeed to move ahead at any later time with the sticker plan, and, therefore, the gentleman's amendment really is not neutral with respect to the further possibilities?

Mr. HUGHES. No, I do not agree with that at all. If anything, I think the President would want the flexibility to devise a plan. If the sticker plan happens to be one of the tools selected to achieve conservation, this amendment does not restrict him.

If we are going to give the President the flexibility and he decides that a sticker plan is needed to achieve conservation, why should we tie his hands in this fashion? If the President opts for a sticker plan but does not support some of the provisions in the Committee plan he is left with no flexibility.

Mr. MAGUIRE. Mr. Chairman, I am sure the gentleman agrees the President's hands are not tied by the language in the bill.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. Hughes) has expired.

(By unanimous consent, Mr. Hughes was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, on the contrary, let me say to the gentleman from New Jersey (Mr. Maguire), I do not think that this does anything except to eliminate superfluous language in the legislation.

The problem with it is that if the President decides—and hopefully he will not have to decide to implement this type of plan—on a sticker, we are tying his hands as to the details of what is to go into that plan. I do not think that makes sense because that is something that should be determined by the President in light of the circumstances of the overall conservation plan.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, let me ask the gentleman, is he not in opposition to what the other gentleman from New Jersey says in saying that he does see reservations and problems with using the sticker plan, that there are complications with using the sticker plan, and that the President, in implementing a plan, should take cognizance of all those problems?

Mr. HUGHES. Mr. Chairman, that is precisely it. My colleague, the gentleman from Missouri (Mr. VOLKMER) has put his finger on my point.

I think my colleague, the gentleman from New Jersey (Mr. RINALDO) in good faith is not really doing the country a service. I do not think we should forbid the President's using this as one of the tools. I think the gentleman makes a good point relative to the committee bill but I do not think we should be tying the President's hands as to what goes into a sticker plan as we are doing with this legislation.

Mr. Chairman, I think we can accomplish what we are interested in doing and what I think most of us want to see in the bill by eliminating the language which is admittedly gratuitous anyway.

Mr. Chairman, I yield back the balance of my time.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that all debate on the Rinaldo amendment and all amendments thereto end in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. BAUMAN moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Maryland (Mr. BAUMAN) is recognized for 5 minutes in support of his preferential motion.

Mr. BAUMAN. Mr. Chairman, I have listened to this debate with a great deal of interest since my 550,000 constituents will, I assume, be intimately affected by what comes out of this.

I thought it was very interesting that my good friend, the gentleman from Michigan (Mr. DINGELL) would ask to limit debate at this time. We have been in session now nearly 3 hours today. This is the third day of debate on this colossal piece of legislation stretching over more than a week.

We have pending before us the bill, an amendment to the bill, a substitute for the amendment to the bill, an amendment to the substitute for the amendment to the bill, and an amendment to the amendment to the bill. We thus have four different propositions aside from the main question of whether the bill should be passed.

Of those four different propositions, three of them have come from the majority side of the aisle. We in the minority are the obstructionists, we were told by the majority leader earlier today. We are the ones who supposedly are dragging our feet. But most of the amendments have come from your side of the aisle, from Members who I thought had claimed this legislation, if not perfect, has some close association with the Deity, that it cannot be changed because it is written on stone tablets.

Later today we will undoubtedly have this argument repeated when we call up some of our amendments that might be offered. It is dangerous when the House works its will, we were told, because the House floor is no place to legislate.

But why are these amendments being offered from the majority side now? I suggest it arises from the very claim that is made that the legislation is so perfect.

□ 1240

One amendment, I suggest, is to try and calm some of the complaints on that side about the substance of the bill; another meaningless amendment is to block a direct vote on the amendment offered by the gentleman from New Jersey (Mr. RINALDO); still a third is, I think, legitimate. It poses the question of the gentleman from New Jersey (Mr. HUGHES) as to whether we should have a sticker plan in the bill at all. It even goes further than the amendment offered by the other gentleman from New Jersey.

But, Mr. Chairman, we have retreated to the spectacle of members of the majority party, with a 2-to-1 majority, attacking each other over this issue, claiming that they do not know what they are talking about, that they should go this way and that way, while we innocent minority members, who do not have control, sit here trying to solve the problems of the country. And for our pains we are accused of partisanship. Three-to-one is the score of the majority side's amendments floating around the floor, like soap bubbles out of a pipe—and may they burst so readily. But I am just saying to the Members that we in the minority have tried repeatedly in this debate to do one thing, and that is to offer perfecting amendments that would perhaps steer this legislation, assuming that it is going to be passed, in a direction that might help the American people.

If we were partisan, Mr. Chairman, we would let this legislation pass just the way it was presented. Then we would let one of the most erratic Presidents that we have had in recent years do his thing, and he would probably impose the onerous restrictions of the bill within a matter of weeks. The net result of that, politically, would be to wipe out your side of the aisle in the 1980 elections. We are trying to save you. We are not being partisan. You do not want the gentleman from Texas to be the minority leader after the next election necessarily, although it might be arranged.

No. We are trying to save you from the disaster that your plan indicates. I would say to you this afternoon, let us not cut off debate. I say to the gentleman from Michigan, my good friend, we stand together on many issues, things dealing with the environment and furry little animals, and things like that, in the gentleman's Fish and Wildlife Committee capacity; let us not cut off debate, let us have full discussion of the issues before the House, and let us find out which one of the two parties is the one which supports the increased expansion of energy, more production, or which one of the two parties simply wants to redistribute the shortage that your policies have created.

So I beg of my colleagues, let us, in this great parliamentary body—not exactly the mother of parliaments at times, but one in which we all ought to have our say—let us not cut off debate, let us work hard on this legislation and produce something that is for the good of all. Let us not be characterized as stupid or timid or anything else that has been thrown at us in the last few days. Let us, in the best traditions of the House of Representatives, of which the gentleman from Michigan is one by now, after all these years, let us carry out our duties.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Mr. Chairman, the gentleman in the well is one of the leaders in this body because he serves on the Committee on Rules and he serves there because of his great knowledge of parliamentary procedure here. I wonder if the gentleman could explain to me why we had a hiatus of, I think, 5 days on this bill, and now we are trying to hurry it through. We stopped consideration of the legislation last Wednesday night abruptly.

Mr. BAUMAN. Very abruptly.

Mr. BROWN of Ohio. And that was because we passed an amendment known as the Gilman amendment, and we did not take the legislation up again until yesterday. I wonder if that could be explained to us.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

The question is on the preferential motion offered by the gentleman from Maryland (Mr. BAUMAN).

The preferential motion was rejected.

Mr. LOEFFLER. Mr. Chairman, I rise in support of the Rinaldo amendment.

Mr. Chairman, I would like to review the bidding of what we have been through for the last several hours.

Throughout this bill, the President and the Governors are given very broad authority to develop their own conservation plans. The only specific provision in this bill would give the Federal Government the standby authority to impose another rationing scheme, supposedly to achieve conservation, by means of the so-called sticker plan.

This is essentially the same plan defeated by the other body by a vote of 79 to 10.

First of all, this notion of a carless day has been tried, and it has not achieved significant savings of energy. In addition to Italy, the State of Israel, for instance, had implemented a sticker plan, and the Israeli officials estimated that the plan would only save one-half of 1 percent of Israel's consumption.

Further, the claim that this plan will save one-seventh of our gasoline consumption is simply unrealistic. Most drivers would undoubtedly choose their carless days as the one on which they already drive the least amount.

The plan does not resolve whether owners of more than one vehicle could stagger their off-road days, thus not saving any gasoline at all and discriminating against one-car families.

Finally, the sticker plan discriminates most against people who live and work in rural areas, such as west Texas, where no alternatives exist to automobile transportation for basic necessity driving.

Mr. Chairman, the so-called sticker plan is a measure which would not significantly conserve. It is, in reality, another rationing plan which will impose huge burdens upon all sectors of the American public.

I therefore urge my colleagues to support the Rinaldo amendment and to defeat the Maguire and Moffett amendments.

Mr. COLEMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, both gentlemen from New Jersey are on the right track. I think that we do not need to put our Good Housekeeping seal of approval stamp on a sticker plan in this particular piece of legislation. In both the Rinaldo amendment and the Hughes amendment we are withdrawing our certification and our stamp of approval. Either one, if they would pass, would be better than the Moffett amendment which is pending or the legislation which is before us in the bill.

I asked earlier, of the gentleman from Connecticut, who we all recognize as the chief author of the sticker plan language in the bill, what would happen if the President would implement the sticker plan under a Federal plan, who would be the enforcement party? The enforcement parties on behalf of the U.S. Government I assume would be the U.S. attorney's office, with the gathering of facts by the FBI. The legislation itself calls for a civil penalty of $100 for each violation, and each violation, as the language in the legislation says, will be enforced in the U.S. district court. That, to me, is the big hand of Big Brother from the Federal Government going in, actually arresting somebody, a U.S. marshal arresting somebody on the Nation's streets and highways, bringing him in front of a U.S. magistrate or Federal judge, and if the person did not have the $100 to pay, he would be in contempt of court and could very well, theoretically, end up in Leavenworth or in a Federal penitentiary for failure to comply with the language of the bill.

To me, this is absurd, that we would incarcerate people in a Federal penitentiary for driving on 1 day of the week.

People are going to conserve fuel, and they are going to do it voluntarily on their own, under their own lifestyle, and all of us, including those of us who are opposed to the sticker plan, want to conserve gasoline; but for us to come in and say, "You do it, and you make a decision on what day, or else," I think is too much.

When you talk about questions, this thing is all fraught with questions, and I only raise these because I do not have answers to them and I have heard no answers from the author.

Why do we have a fee? Who is going to get the fee for the sticker? And for what purpose is the fee? And where does it go under the Federal plan? Who is going to sell the stickers? Is this going to be through the Department of Energy? Does this mean that they are going to have to hire more people?

None of these things are answered. That is why I think we are getting into very precarious ground when we try to spell out a plan such as this in legislation. That is why both of these amendments are good amendments and should be adopted.

Furthermore, it seems to me that we do discriminate against the poor people. If they have one car, they are going to have to give up that car completely on 1 day of the week. For those of us who have two or more, or those who are more blessed with wealth and have three or four cars, their inconvenience will be limited.

So if my friends and colleagues want to be equitable, want to see fairness in this plan, I suggest that the best we could give to the President is a bill that does not have any of this in there. Sure, he has a toolbox that we talked about today. He will have the same toolbox and the same tools if the Hughes amendment passes today. I would suggest that is a lot better than adopting the language of the bill. I have yet to hear anybody deny, that it is theoretically correct that a person could end up in a Federal penitentiary under the sticker plan as now presently written.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, the gentleman makes abundantly good sense. I want to commend the gentleman for a very fine statement. I hope that the Members will support the Hughes amendment which will indeed leave the President free to devise a standby rationing and conservation plan without unnecessarily tying his hands. That is what this legislation as presently written would do.

Mr. COLEMAN. Mr. Chairman, I would only point out—and I appreciate the gentleman's remarks—that the Rinaldo amendment does go one step further. If any of the things that I have discussed do concern your conscience and do concern you, then the Rinaldo amendment would wipe it out entirely. Whether or not the President could work these problems out under regulations and submit it in a plan that we would accept later on, I think he would do a lot better job than what the committee has presented to us today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES) to the amendment offered by the gentleman from New Jersey (Mr. RINALDO).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MOFFETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 413, noes 3, not voting 18, as follows:

[Roll No. 415]

AYES—413

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan

Maguire
Markey
Marks
Marriott
Martin
Mathis
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—3

Dellums
Gonzalez
Schroeder

NOT VOTING—18

Anderson, Ill.
Blanchard
Bolling
Coelho
Conyers
D'Amours
Diggs
Dodd
Flood
Forsythe
Giaimo
Luken
Marlenee
Matsui
Rose
Stark
Treen
Wylie

□ 1300

Mr. TAYLOR and Mr. McHUGH changed their vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. MAGUIRE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MAGUIRE. Mr. Chairman, to clarify the present parliamentary situation, I would like to ask if the next vote which will occur will be the vote on the Maguire amendment to the Moffett substitute which would provide that each owner should make a decision about which day he would have his car off the road, to give individual choice. Is that correct?

The CHAIRMAN. The Chair will advise the gentleman that the next vote occurs on the Maguire amendment to the Moffett substitute.

The question is on the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE) to the amendment offered by the gentleman from Connecticut (Mr. MOFFETT) as a substitute for the amendment offered by the gentleman from New Jersey (Mr. RINALDO), as amended.

The amendment to the amendment offered as a substitute for the amendment, as amended, was rejected.

PARLIAMENTARY INQUIRY

Mr. HUGHES. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HUGHES. Mr. Chairman, I have a question as to the parliamentary situation. Will the vote now occur on the Moffett substitute?

The CHAIRMAN. The gentleman is correct.

Mr. HUGHES. Which, in effect, would wipe out the Hughes-Rinaldo amendment directed to the sticker plan and permit the President to have flexibility without a built-in bias in favor of the sticker plan?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. MOFFETT) as a substitute for the amendment offered by the gentleman from New Jersey (Mr. RINALDO), as amended.

RECORDED VOTE

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 107, noes 306, not voting 21, as follows:

[Roll No. 416]

AYES—107

Albosta
Ambro
Anderson, Calif.
AuCoin
Bedell
Beilenson
Bennett
Bingham
Blanchard
Bonior
Brademas
Brinkley
Brooks
Burlison
Burton, John
Burton, Phillip
Carter
Chisholm
Clay
Cotter
Danielson
Davis, S.C.
Dellums
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Edwards, Calif.
Fascell
Fazio
Fithian
Ford, Tenn.
Garcia
Gephardt
Gore
Gramm
Gray
Gudger
Hawkins
Hefner
Heftel
Holland
Hutto
Jenrette
Johnson, Calif.
Jones, N.C.
Kildee
Kogovsek
Kostmayer
Lehman
Leland
McHugh
Maguire
Markey
Mattox
Mavroules
Mica
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Neal
Nedzi
Nolan
Oakar
Oberstar
Ottinger
Panetta
Patterson
Pepper
Preyer
Price
Rahall
Rangel
Ratchford
Richmond
Rosenthal
Roybal
Sabo
Scheuer
Schroeder
Shannon
Simon
Snowe
Solarz
Staggers
Stangeland
Stokes
Studds
Tauke
Thompson
Traxler
Ullman
Vento
Weaver
Weiss
Whitley
Wilson, Tex.
Wirth
Wolpe
Wright

NOES—306

Abdnor
Addabbo
Akaka
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Breaux
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dornan
Dougherty
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Ferraro
Findley
Fish
Fisher
Flippo
Florio
Foley
Ford, Mich.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Grisham
Guarini
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hightower
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Marks
Marriott
Martin
Mathis
Mazzoli
Michel
Mikulski
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nelson
Nichols
Nowak
O'Brien
Obey
Pashayan
Patten
Paul
Pease
Perkins
Petri
Peyser
Pickle
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Stump
Swift
Symms
Synar
Taylor
Thomas
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Wyatt
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—21

Anderson, Ill.
Bolling
Coelho
Conyers
Corman
D'Amours
Diggs
Dodd
Flood
Forsythe
Long, La.
Luken
Madigan
Marlenee
Matsui
Murphy, N.Y.
Rose
Stark
Treen
Waxman
Wylie

□ 1320

The Clerk announced the following pairs:

On this vote:

Mr. Matsui for, with Mr. Coelho against.

Mr. SIMON changed his vote from "no" to "aye."

So the amendment offered as a substitute for the amendment, as amended, was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. RINALDO), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to section 3?

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio: Page 43, after line 11, add the following new subsection:

"(f) LIMITATION ON MEASURES AFFECTING FULL FOOD AND FIBER PRODUCTION.—The plan established under subsection (a) may not provide for any measure which would affect full food and fiber production, as determined by the Secretary of Agriculture, unless such plan permits any establishment affected by such restriction to achieve an equivalent reduction in energy consumption by other means."

Mr. BROWN of Ohio. Mr. Chairman, the Natural Gas Policy Act, in which this body and the Senate combined in passing last year as a part of the National Energy Act, gives the Secretary of Agriculture the responsibility to define "full food and fiber production." Those industries and entrepreneurships, which contribute to the full production and distribution of food and fiber in our country, are so important that should there be a natural gas shortage, they would be exempt from the provisions of the Natural Gas Policy Act. They, as a matter of national policy, would have a supply of natural gas available to them so this industry may continue the production and processing of food and fiber for our Nation.

□ 1330

This amendment provides that that same recognition of the significance of the production of food and fiber in the Natural Gas Policy Act be recognized in this most massive conservation plan. In this way, when a conservation plan is promulgated by a State or by the DOE in accordance with conservation "targets" set by the President so the plan will provide an exemption for the producers, processors, marketers, and distributors of food and fiber.

These producers and processors would be exempted, but only if the plan in place does not permit them to devise their own method of saving energy.

Now, it does not exempt them from the requirement to conserve energy but it does say they must be permitted to come up with their own methods of saving energy. They can figure out a way to save energy while at the same time providing all the food and fiber necessary for the operation of the country without having an adverse affect during the process.

Mr. Chairman, I see no reason for this body not to include the same exemption here that we provide for in the Natural Gas Policy Act.

Mr. Chairman, when the diesel fuel situation became critical in this country, the first order that the Department of Energy put out was No. 9. This rule said that the producers of food in the United States during the spring planting time in California and other parts of our country should be able to get all the diesel fuel they need to get the food produced from what they had put into the ground.

Clearly, Mr. Chairman, if we have a shortage it will be a high priority for us to get the food out of the ground in the fall. However, that is not the end of the process. The process must go on from there. The food must be processed in terms of its preparation for the marketplace and then it has to be available to the marketplace and gotten into the hands of the American consumer.

Mr. Chairman, my objective in this amendment is to try to assure that the food producers, processors, and distributors will have that opportunity.

Mr. Chairman, I hope we can adopt the amendment without a great deal of debate.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in strong support of the amendment. It is just as important to the people of America that we irrigate, harvest, process, and deliver our food to market as it is to plant it. This is the most essential thing for the future of America. I hope the gentleman's amendment is adopted.

This is a good amendment to a bad bill. The amendment would exempt those involved in the production, processing, and marketing of agricultural products from the natural gas rationing provisions of this bill.

Mr. Chairman, the food and fiber production industry is a unique one. More than any other industry it is dependent on Mother Nature. The industry is equally dependent on natural gas to take over where Mother Nature leaves off.

Natural gas plays an extremely important role in every step of the food production chain. Any interruption, even a short one, in that chain can result in the destruction of an entire crop, a loss that can put a farmer out of business.

From the time the farmer puts his crop in the ground to the time he harvests it, he is extremely dependent on a ready supply of natural gas to run his irrigation pumps.

In an area like Nebraska, where natural gas accounts for 21 percent of irrigation power, for instance, a corn crop can burn up in a few days without adequate irrigation.

Mother Nature does not wait for gas to get through the pipeline.

It does no good for the farmer to harvest his corn crop if he does not have the natural gas to dry it. If it cannot be dried in a timely fashion it will rot.

It does no good for the farmer to spend money to dry his corn if no one will buy it because they do have the natural gas to process it.

If the farmers cannot be assured of a continuous supply of natural gas, it makes no sense for him to even spend the money to put his crop in the ground.

Planting, irrigation, and harvesting are not the only aspects of agriculture dependent of natural gas

In the processing of sugarbeets for instance, a continuous supply of natural gas is needed from the beginning to the end of the process.

Mr. Chairman, this is a good amendment that will allow the farmer to plan ahead. It will assure an uninterrupted supply of essential foodstuffs to the American people, even in the event of a severe energy shortage.

Mr. BROWN of Ohio. I appreciate the support of the gentlewoman from Nebraska.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. LOEFFLER and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 1 additional minute.)

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Texas.

Mr. LOEFFLER. Mr. Chairman, I, too, rise in support of the amendment of the gentleman from Ohio (Mr. BROWN). Food and fiber is this Nation's strength. It is, as the gentlewoman from Nebraska mentioned, absolutely essential that our producers, processors, marketers, and distributors may be able to deliver our food and fibers throughout the United States.

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. As the gentleman from Ohio has pointed out, this amendment is not to help the farmer. It is to help the man who farms the farm and I think the House should understand that fact.

Mr. Chairman, it is desirable that we should allow a measure of flexibility in achieving the conservation plans, and I think it is highly desirable that that should be done. However, it must be pointed out that the ability to frame a conservation plan and to deal with alternatives to the goal set by the President is, by earlier enactment of this Congress, vested in the Governors of the several States and it is vested in the legislation which we have here before us, in the Governors of the several States.

Regrettably, Mr. Chairman, what the gentleman from Ohio (Mr. BROWN) does by this particular amendment is to permit the persons who engage in the practice of agricultural or food processing the option to come forward essentially with their own plans. Not plans that are set forth by the Governors, but plans that are set forth by the individual himself.

Regrettably, and very regrettably, there is no way to check this without massive numbers of persons who would go about the country on Government payroll checking out how the individual was complying and engaging in vast controversy with the individuals concerned. I do not know how many food processing establishments there are in the country, but engaging in massive controversy with the individuals who run these food processing establishments in each instance as to whether or not the goals would, in fact, achieve the same level of conservation and whether, in fact, because of the differing energy uses of these people at different times of year, depending on harvest and whether the plan is working at that particular time, and depending on whether you have had a good harvest or bad, whether they, in fact, are saving more energy or less or not as much.

Mr. Chairman, what the amendment really does—and I regret to say this, and I will yield to my good friend, the gentleman from Ohio (Mr. BROWN)—quite frankly, it gets the bill, insofar as energy conservation measures are going to be dealt with, with regard to food processors.

Mr. Chairman, it should be understood we are not talking about peanut whistle operations here. We are talking about Ralston-Purina, you are talking about A&P, and you are even talking about folks who are producing dog food, cat food and things of that sort.

Mr. Chairman, it is with a great deal of affection for the gentleman from Ohio (Mr. BROWN) who offers the amendment, that I oppose it as an outrageously bad amendment.

Now, I will yield to my good friend from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the gentleman yielding. I will also say it embraces every farmer in the United States who produces the food and fiber and it is exactly the same language that is in the Natural Gas Policy Act. It provides that the Secretary of Agriculture shall make the definitions.

Mr. DINGELL. Mr. Chairman, I thank the gentleman but the word "establishment" does not mean "farmer." The word "establishment" in my understanding may mean food processor. The gentleman is entitled to interpret it as he sees fit and if he wants to speak to the matter I will yield to him.

Mr. BROWN of Ohio. I might say to the gentleman, Mr. Chairman, the farming establishment is the same as any other establishment. It is somebody who is in the business of producing food and also in the field of processing it as I think the gentleman well points out.

Mr. DINGELL. Mr. Chairman, I think the dictionary speaks quite loudly on this point. I have never heard a farm called an establishment. I have heard, I will observe, houses of ill repute called establishments, but farms, no.

Mr. Chairman, I do yield back the balance of my time.

Mr. ANDREWS of North Dakota. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment.

I would like to point out to my colleagues that in agricultural production two things, of course, are important. One, having an adequate supply of fuel and, two, maybe even more important, the opportunity for a timely operation. Timeliness is the key in any agricultural endeavor and this amendment would assure that the wheat producer, the barley producer, the sunflower producer could get the gas or the propane to run his crop drier when he needed it. To fill out 15 forms to 17 different bureaucrats or to exist on a 60-percent cutback when you are running a crop drier in the field, you do not have the time. If you miss 2 weeks you have lost that crop.

Mr. Chairman, in the production of sugar beets which goes on in the State of North Dakota that I represent and in the State represented by my good friend, the gentleman from Michigan (Mr. DINGELL), once you begin a sugar beet harvest and that plant goes onstream that plant has to continue processing these beets.

Mr. Chairman, it probably is a part of the establishment. In our case, there are cooperatives owned by the farmers in processing sunflower oil and a host of other things. They need the energy to carry out their operations on time or the farmer may well lose his crop.

☐ 1340

It is extremely important then, that the agricultural sector of our economy have, one, an adequate supply and, two, a timely supply, because if you do not do it at the right time, the seasons wait for no man and the farmer who has not understood the need for timeliness in his operation is the farmer that cannot produce the food and fiber to meet the needs of this Nation and, yes, indeed, to provide the opportunity for export earnings that pay for the oil that has to be imported.

So protecting the farm sector through this kind of amendment could well give us additional income in our Nation to pay for the imports that we have to have in the field of energy. Food energy from the farm has been paying for a good deal of the imports of fuel energy from the OPEC countries and we do not want to throttle down the ability of the American farmer to meet those needs.

Mr. Chairman, I rise in support of the amendment of the gentleman from Ohio and hope that it can be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 3?

AMENDMENT OFFERED BY MR. STOCKMAN

Mr. STOCKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STOCKMAN: Page 43, after line 11, add the following new subsection:

"(f) PLAN MAY NOT AUTHORIZE RESTRICTIONS ON BUSINESS HOURS.—The plan established under subsection (a) may not provide for the restriction of the hours during which any business may operate. This prohibition shall not apply to any restriction of hours of sale of motor fuel at retail if that restriction occurs in connection with a program for restricting hours of sale of motor fuel each day of the week on a rotating basis pursuant to subsection (d)(2) of this section."

Mr. STOCKMAN. Mr. Chairman, I regret that it is necessary to offer this amendment; but unfortunately we have a bill which makes it absolutely imperative that we do so. I am not sure whether the House really understands the full import, the full ramifications of section 3 and particularly subsection (c) of this bill or not; but I offer this amendment to make it abundantly clear what we are doing here.

In a sense, this bill delegates unlimited plenary powers to the President and ultimately to the Department of Energy to promulgate fuel use control or so-called energy conservation plans without any limit, without any definitions, without any parameters, and more importantly, without any opportunity for the Congress to review those plans; so therefore, this amendment speaks to one particular area where it would be possible under this bill for the Department of Energy to promulgate a plan.

Obviously, one way to save gasoline, one way to save heating fuel, would be to simply restrict the hours by which business establishments in this country may remain open or may operate. Under this bill it would be possible to have no-shop days, days in which the shopping centers around this country would be ordered shut down by a plan promulgated by the Department of Energy or delegated to the States under other provisions of this bill. It would be possible for the hours of retail establishments, restaurants, retail stores, offices even, to be regulated and controlled under this bill.

Now, obviously, that would save energy, but obviously, that is not the kind of conservation, that is not the kind of fuel use reduction that we want in this country; so if we are determined to pass a bill that gives wide open discretion, that gives total flexibility to the President to promulgate conservation plans, I think we at least ought to take a little time this afternoon to go on the record to establish some restrictions, to establish some parameters about those areas in which he may not invade, and certainly the regulations on an across-the-board basis of business hours is not the kind of thing that we have in mind in this bill.

Now, I think if some of you believe that the possibility that that would happen is far-fetched, I hope you will remember that these plans, the energy conservation plans that will be developed and promulgated pursuant to this bill will actually be the handiwork of GS-13's and -15's down at the DOE. I have to tell you that they have already demonstrated a track record of affinity for an hour's closing approach as a way of saving energy. After all, do you remember the energy plan No. 1, I believe it was, that we had in April? It promised to save about 350,000 barrels of gasoline a day by the simple expedient of closing all the gasoline stations in the country on the weekends. Well, that may or may not have saved 350,000 barrels of gasoline per day; but obviously, we know it would have been an utter catastrophe for all those businesses, for all those industries, for all those people who have livelihoods related to the conduct of business on weekends, tourism, travel, motels, restaurants, and so forth.

So I offer this amendment because the Department of Energy has already demonstrated that hours control type measures or schemes are something that, indeed, it would likely pursue in order to bring about the energy consumption savings provided by this bill.

I think it is a reasonable limitation. It ought to be included in the bill. I hope the House will adopt the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. STOCKMAN).

The question was taken; and on a division (demanded by Mr. DINGELL) there were—ayes 22, noes 33.

RECORDED VOTE

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 224, not voting 20, as follows:

[Roll No. 417]

AYES—190

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bereuter
Bouquard
Bowen
Breaux
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
Erlenborn
Evans, Del.
Evans, Ind.
Findley
Fish
Flippo
Gilman
Gingrich
Goldwater
Goodling
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Colo.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lent
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lowry
Lundine
Lungren
McClory
McDade
McDonald
McEwen
Marks
Marriott
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Myers, Pa.
Natcher
Nichols
O'Brien
Pashayan
Paul
Perkins
Petri
Pickle
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Taylor
Trible
Udall
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Winn
Wolff
Wyatt
Wydler
Yatron
Young, Alaska
Young, Fla.

NOES—224

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Corman
Cotter
D'Amours
Danielson
Davis, S.C.
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holtzman
Howard
Hughes
Hutto
Ireland
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lehman
Leland
Levitas
Lloyd
Long, La.
Lujan
McCloskey
McCormack
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Solarz
Spellman
St Germain
Stack
Staggers
Steed
Stewart
Stokes
Studds
Swift
Synar
Tauke
Traxler
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Wilson, Tex.
Wirth
Wolpe
Wright
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—20

Anderson, Ill.
Bolling
Conyers
Crane, Philip
Diggs
Dodd
Erdahl
Flood
Forsythe
Holland
Luken
Marlenee
Martin
Rodino
Stark
Thomas
Thompson
Treen
Wilson, C. H.
Wylie

☐ 1400

The Clerk announced the following pairs:

On this vote:

Mr. Philip M. Crane for, with Mr. Conyers against.

Mr. Thomas for, with Mr. Flood against.

Mr. Wylie for, with Mr. Diggs against.

Messrs. LOWRY, PURSELL, and LUNDINE changed their vote from "no" to "aye."

Mr. ALEXANDER changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LOEFFLER

Mr. LOEFFLER. Mr. Chairman, I offer an amendment.

Mr. DINGELL. Mr. Chairman, I reserve a point of order against the amendment.

The Clerk read as follows:

Amendment offered by Mr. LOEFFLER: Page 43, after line 11, add the following new subsection:

"(g) LIMITATION ON MEASURES REGULATING THE OPERATION OF ANY ENERGY PRODUCTION, EXPLORATION, OR TRANSPORTATION FACILITY.—The plan established under subsection (a) may not provide for any measures that would regulate the operation of any energy production, exploration, processing or transportation facility unless such plan permits any establishment or facility affected by such restriction to achieve an equivalent reduction in energy consumption by other means.

The CHAIRMAN. Does the gentleman from Michigan (Mr. DINGELL) insist on his point of order?

Mr. DINGELL. No; I do not insist on the point of order, Mr. Chairman.

Mr. LOEFFLER. Mr. Chairman, throughout the country drilling facilities are currently being shut down due to the lack of critical shortages in fuel supplies. I must ask: How can we effectively explore for, develop, and process our important energy resources without adequately recognizing the fuel needs of our American energy industry?

The Department of Energy has previously recognized this important need when it provided priority treatment for those engaged in energy production and exploration through the ill-fated special rule No. 9. As we seek once again to regain energy self-sufficiency, we simply cannot afford any further restrictions in domestic production.

☐ 1410

I urge the adoption of this amendment for it will assist in providing a proper domestic energy mix. It will begin to remove the shackles OPEC has about our neck at this moment.

Again, I urge the adoption of this amendment.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from Maryland.

Mr. BAUMAN. Some weeks ago, the gentleman from Texas (Mr. ARCHER), took the floor to relate to the House the fact that during the recent shortage of diesel fuel, most of the operators of existing oil wells in the United States faced the problem of the mishandling of our present Federal allocation program. He told us that in fact the diesel fuel supplies, because of the allocation program, were substantially curtailed to the oil industry itself, and since something like 90 percent of the oil wells are operated by engines powered with diesel fuel, that there was at east a temporary shortage thus preventing pumping oil out of the ground.

Is this the kind of problem the gentleman is trying to get to with this amendment?

Mr. LOEFFLER. It certainly is the kind of problem this amendment addresses, in response to the gentleman from Maryland. In addition, I might add that for a very short period of time, special rule No. 9 gave priority treatment for the use of diesel fuel to agricultural needs as well as to energy needs.

That special rule No. 9 has now been obviated. It is not now in existence. Again, if we are to achieve a proper energy mix here in the United States, we cannot take away the ability of production to occur.

We must have all sorts of energy production here at home, and by this amendment, we would be able to bring on stream domestic production at the earliest possible moment.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

I suppose I have some understanding why the gentleman from Texas would want to favor principal industry in his State.

Mr. LOEFFLER. I might just say, in response to the statement of the gentleman from New York, that I am a consumer and all the people in the 21st Congressional district are consumers of energy as well. What we want is an adequate supply of domestic energy.

Mr. OTTINGER. I want to see if I understand this correctly. It would mean that any State regulation, for instance, for car fleets or for van pooling or for turning on electric lights in office buildings that are owned by energy companies, the energy companies would be completely exempt from that, as I read it.

Mr. LOEFFLER. If the gentleman would read the amendment, it says, "Any operation which would include energy production, exploration, processing or transportation facility."

I would leave the interpretation for such language to the Department of Energy, but encourage via legislative intent that it be the very broadest language in order that we can enhance domestic production here at home.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I think the gentleman from Texas (Mr. LOEFFLER) is correct. It is clear from the rest of this amendment, but neither the gentleman from Texas nor the gentleman from New York discussed this. Facilities designed for energy processing, exploration, or transportation should have the option first to save energy by their own plans, before any plan is put into effect by the President or, actually, by a low-level bureaucrat under the arm of the Secretary of Energy.

In other words, before the administration or this Government can tell them how to save, they must have the option to save on their own. They still must save, and must save the exact same amount. It does not just apply to the production of oil and gas, which is the plain thrust of the production facilities in the district of the gentleman from Texas. This applies to production of coal. It would apply also to the production of electricity. It would apply to any energy production that we have in this country. I might say to the gentleman from New York, because I know of his interest, it would even apply to the possibility of production of energy by solar means. Anybody who is in the production of energy by solar means in a major solar undertaking would have the opportunity to save energy consumed in their production, without having to comply with rigid regulations which might negate their best efforts.

The CHAIRMAN. The time of the gentleman from Texas (Mr. LOEFFLER) has expired.

(At the request of Mr. OTTINGER and by unanimous consent, Mr. LOEFFLER was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from New York.

Mr. OTTINGER. I have no desire to see solar manufacturers exempted from State or Presidentially proclaimed conservation plans any more than I would coal or oil.

I am sure the oil companies and the coal companies would say that their office buildings contribute to production, that their automobile fleets contribute to production, and it would effectively exempt a large part of America from any conservation programs, even those proposed by the State.

Mr. LOEFFLER. The question with respect to this amendment is, are we going to get America back on its feet at the earliest possible date? If the gentleman from New York wants to curtail the amount of energy production, be it conventional oil and gas, or the alternate sources of energy, such as nuclear, solar, geothermal, kinetic, synthetic fuels, gasohol, whatever, then he should vote against this amendment. I want America to be back on its feet; the boat to be on an even keel.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Again, I want to emphasize they are not exempt. They are permitted first to try to save energy to the same extent that the President wants it saved, and if they have a means of saving the equivalent amount of what the President wants saved, then they do not have to conform to the President's plan. They are not exempt from the President's targets.

If, however, they do not come up with their own plan to save that amount of energy, then the President's plan can take effect.

In other words, they are put under that plan, but first, they must be given the opportunity to save on their own. What we are saying here is that it is going to be very difficult to devise a plan that can apply to all energy producers.

The producer that is producing energy in a well out in the middle of the Gulf may have a different energy need than a producer who is producing coal in the middle of Kentucky. I do not think you can write one plan that applies to all.

So what in effect you are doing is saying each one can have his own plan, but all the plans must have the same result—or the President's plan goes into effect. The threat of Government regulations should add a new incentive to the national incentive of high energy costs working now.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the law and the bill on which we function today allows the President to fix goals and then allows the State to come forward with plans which would meet those goals. The States failing to meet those goals, the President then would have authority to set nationwide goals and the conservation plans for the different industries.

This amendment fails to meet the same complaint that the other amendments failed to meet earlier, and that is that it turns the whole question of meeting the conservation plan over to the industries affected.

Let me read some of the things that would come about as a result of the amendment here. If under this amendment the President could not prescribe, for example, efficiency standards in any part of the production industry in office buildings owned by the industry, he could not say "Turn down the lights," or have different heating and cooling requirements.

He could not, for example, deal with the question at an electric-generating plant by saying, "You will not use imported oil, but rather, you will use domestically produced natural gas."

He could not say to an electric power company, under his ability to generate a plan, that, "You shall use to the maximum degree possible the nuclear-generating facilities which you have," instead of, let us say, facilities which use No. 2 oil, which is imported and which will be in increasingly short supply.

In like fashion, he could not require, for example, that the industry would use more fuel-efficient pumps and generators.

He could not require, for example, as a part of the conservation plan that the industry move toward cogeneration, that they would generate the heat that they need and at the same time generate electrical power through the device of cogeneration, which is one of the most promising devices that we can have in terms of energy conservation and drawing the maximum amount of energy from our fuel expenditures.

Now, these are some of the things that the President could not do. Instead, the companies affected would come forward with some kind of a nebulous agreement that they would save an equivalent amount of energy.

This amendment looks very good, but it vests too much authority in the companies. It strips too much authority from the President, and it involves the company in too much controversy with the President and with the people who would enforce it.

It ultimately involves for us a situation where we would find ourselves afflicted with massive numbers of people going forth from DOE to engage in massive discussions with the companies affected.

□ 1420

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Since I have discussed the amendment of the gentleman from Texas, I am more than happy to yield to him.

Mr. LOEFFLER. I thank the chairman for yielding. I will be very succinct in my point to say I disagree with the gentleman's interpretation of the intent of the language.

Mr. DINGELL. I thank the gentleman. But I do point out this may require these things to be done on an establishment by establishment basis. The things I have been discussing would probably be prohibited under the amendment.

Mr. LOEFFLER. If the gentleman will yield further, I would say the intent of the language is to allow America to get back on her feet with respect to energy production. It would appear to me that the President would be delighted to have an amendment like this because he would begin to have an opportunity to achieve his goals with respect to the reduction of imported crude.

Mr. DINGELL. I have no ability to speak on behalf of the President as to this precise amendment. But I can tell the gentleman that it would deny the President the authority, for example, in the case of an electrical-generating facility to say, or an electrical-generating company that they have to use their nuclear facility instead of the oil-fired generating facility which might be running on No. 2; and in like fashion it denies him the authority to say fellows, you cannot run your lights in the Standard Oil Building all night long. So I think for those reasons the amendment is a bad one and should be rejected by the committee.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Yes, I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. The gentleman has mentioned lighting as one thing this amendment would prohibit. I do not think that is correct because the amendment gives the local operation the chance to make its own arrangements about which of these things to use.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(At the request of Mr. BROWN of Ohio and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. DINGELL. I yield to the gentleman.

Mr. BROWN of Ohio. But the gentleman from Michigan has mentioned the idea of lighting, of a fuel source of a business or an industrial plant, the operating hours of business, the type of machinery and equipment used by that business, and the idea that it might have its own generating plant. Do I understand then that the gentleman from Michigan is saying that the President's conservation plan could speak to each of these details to tell a business what kind of machinery and equipment it would have to use?

Mr. DINGELL. My good friend from Ohio (Mr. BROWN), as a very adroit Member, knows this bill as well as I do. He knows that we are simply affording the President the discretion. He is also aware of the fact that we are not trying to foretell what the President is going to do under that discretion or what precise plans he will evoke or evolve for particular industries.

Mr. BROWN of Ohio. Is the gentleman telling me that the President would have the discretion to tell individual businesses what kind of lighting they would have or what kind of machinery and equipment and relate that to the use of energy?

Mr. DINGELL. What I am telling the gentleman is under the conservation plan he could say "Fellows, cut back on the lighting." He could say, "Move toward cogeneration." He could say, "Do these other things."

Mr. BROWN of Ohio. If the gentleman will continue to yield, could he say "Get this piece of equipment because it is more efficient in terms of energy use than another piece of equipment?"

Mr. DINGELL. No. But he would not be able to say, for example, to, let us say, an electric utility that they have to use their nuclear facility instead of using their oil-fired facilities.

Mr. BROWN of Ohio. I would think, if the gentleman will yield further, that relates to fuel source. The gentleman made a specific reference to machinery, and equipment, and efficiency of that machinery and equipment. Could the President prohibit use of a certain kind of machinery and equipment on the basis that it is not an efficient energy user?

Mr. DINGELL. No, I do not think he could under the plan.

Mr. BROWN of Ohio. What prohibits the President in the legislation from doing that?

Mr. DINGELL. I just do not think that he is authorized in the plan to do so.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

I think this again is a much too broad sweep that prohibits sound conservation plans. If the States fail to meet conservation goals, then the President can fill in with sound conservation plans that do go across-the-board. I can see the possibility of the President promulgating efficiency standards for certain kinds of equipment as, indeed, we have done, with the gentleman from Ohio's agreement, with respect to certain kinds of appliances like refrigerators and requiring the labeling of the efficiency of those particular appliances, or requiring cogeneration with respect to any plant that presently makes steam and does not produce electricity.

There are a whole host of things that can be done with respect to any energy industry or anything involved in the processing or the transportation of energy that would be foreclosed under this amendment, that represents such a broad spectrum of American life. I think this is unsound and I urge the amendment be defeated. I yield back the balance of my time.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, we are now getting to the point of what is truly dangerous in this bill, the open-ended conservation targets and plans. I just would like to explain to my colleagues how this works.

We are off of automobile gasoline rationing and now we are into the conservation plan section of the bill, section 3, as reported. Under this section the President must set conservation targets over the consumption of motor fuels for each State and for the country as a whole, including gasoline and diesel fuels. This means that the Government allocation system, which misallocated fuels among regions, will soon be expanded to allocate among each State, and eventually each user of energy. These targets need not correspond to the projected shortages in a State or for the country.

For example, Wisconsin could have a surplus of gasoline but a 10-percent shortage of diesel, but the targets could be a 12-percent target on gasoline and a 2-percent target for reduction of diesel. There is no correlation between the targets and the shortages under the President's conservation plan.

Do not think for a minute that this really is a conservation plan. The targets could be somewhere between 2 percent or 100 percent. There is no guideline, nor any limit in the conservation target part of this bill.

The second significant problem is with the delegation of Federal powers, which are unlimited in this bill, to State Governors where those Governors are prevented from implementing a specific program under current State law. Under the bill as reported, State legislatures would have no ability whatsoever to review or modify the conservation plans designed by a Governor and submitted to the Department of Energy for their approval or disapproval. Frankly, under the plan, the Governor's plan for conservation for that State is very likely to be reviewed by some GS-12 or 13 down in the depths at the DOE, and if he decides he does not like it, he can throw it out. Then the President's plan is substituted for the State Governor's plan. The State legislature would have been preempted, run over in effect, by a bureaucrat at a Federal agency.

For example, if a State has considered blue laws and decided that it does not want to close everything on Sunday, but the Governor is in favor of blue laws and wants to close everything on Sunday, he can submit a plan from his State to close everything down tight on Sunday in that State and if DOE approves it, that becomes the law in that State. The Governor could impose blue laws under guise of energy conservation.

What kind of an authority is that to give to a Governor and certainly what kind of an authority is it to give to the Department of Energy?

But the thing that startles me in this now is that the gentleman from Michigan, the chairman of the subcommittee (Mr. DINGELL) suggests that under these conservation plans the lighting of an individual company, the machinery and equipment that that company uses, or the source of its power can be determined by the conservation plan. In other words, that the President or the Governor's plan would have the authority to say, "You must use the most efficient piece of machinery to accomplish this purpose." Now, that strikes me as a rather unusual power for any Governor or any President to have. I am a little more concerned than I was initially about these conservation plans.

It occurs to me that we are getting down into the very day to day operation of a business of any kind if we do not have some kind of an exemption. What the gentleman from Texas has offered in the way of an amendment is that in the energy producing and transportation, including the processing at refineries, that we at least allow those industries to make their own determination of how they will achieve the President's targets.

□ 1430

Remember, those targets can be set anywhere—at a 2-percent saving, a 10-percent saving, a 90-percent saving—whatever he wishes. We do not have any authority to oversee those targets. The committee bill does not set any limits on those targets.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. Of course.

Mr. OTTINGER. Mr Chairman, I thank the gentleman for yielding. It seems to me that when the gentleman and others were arguing against lowering the 20-percent trigger for rationing, they said that we did not have to worry about that whole gap between a mild shortfall and the catastrophe represented by 20 percent, because there would be the State and alternate conservation plans that would step in. Now, I find it very disconcerting to find that the gentleman and those same associates say now that we should not have the conservation plans.

Mr. BROWN of Ohio. Oh no, the gentleman misunderstood what I am saying.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. The gentleman misunderstands what I am saying. What I am saying is that the conservation plans should not go to having a Presidential or gubernatorial determination of what kind of machinery is used in a business, or what kind of lighting they have. The targets set by the President—and frankly, I think those targets ought to be related to some shortfall—but the individual company or business ought to have the opportunity to achieve those savings in a way that that business determines; not to let the President, for goodness sakes, come in and say, "Wait a minute, your equipment here is not energy efficient and so you must get rid of that and put something else in in order to save the energy."

That is what disturbs me about the colloquy we had here.

Mr. OTTINGER. If the gentleman will yield further, there is, of course, nothing in this scheme that prevents exactly that kind of regulation being imposed, first of all by the Governor, who can allow that kind of discretion in the individual businesses in meeting goals; or the President. There is nothing that prescribes what shall be done here.

Mr. BROWN of Ohio. But there is nothing that prevents it either. Does it not strike the gentleman as a little bit of police state mechanism if we are going to go into every individual business and residence and tell them about the lighting in their building. I am not against trying to achieve the energy conservation, but at least the business or an individual ought to have the opportunity to achieve it without having a Governor come in and say, "You turn off every third light, or change the kind of equipment you use."

Mr. OTTINGER. It sounds as though the gentleman is all for conservation until any specific is proposed, and as soon as a specific is proposed, he says, "No, we cannot do that."

Mr. BROWN of Ohio. I said earlier that there are too many people in this Congress who think that government knows everything, but that the average guy in private industry is only half bright. So far there has been a savings of 17 percent since the energy embargo of 1973.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(At the request of Mr. STOCKMAN and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 3 additional minutes.)

Mr. BROWN of Ohio. That was not done because the Government ordered it. That was done because the individual businesses wanted to save the energy. My guess is that their motivation was not entirely patriotic. It must have been because they wanted to save money, because the cost of energy was going up. But, the fact that they tilted their consumption requirements down is good for this country. They made those decisions on their own. They did not have to be told by the gentleman from New York or by this Congress or by an inspector from DOE or by our very concerned President how to do it. They just have to be encouraged by some mechanism to do it. I do not mind encouraging them to do it, but I do resent the idea of the President coming in with a plan that says, "These are the terms of how you do it. You must change the equipment."

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Mr. Chairman, just to respond to the gentleman from New York, it is not true that we would not have any tools. Is it not the case that we have EPCA in the law today? There is a method for the President to propose and define a conservation plan that stands before this Congress. Is that not how we got the temperature rules? Is that not how we rejected the weekend station closing?

There has not been any showing that that mechanism does not work. Why do we need another authority that does not have any congressional review.

Mr. BROWN of Ohio. We talked about some of these plans being wacky, and the temperature plan is wacky. We set the temperature, we do not care whether that saves or costs us energy. But we say we have "done something."

Mr. OTTINGER. Mr. Chairman, will the gentleman yield further?

Mr. BROWN of Ohio. Yes.

Mr. OTTINGER. The fact of the matter is that with EPCA, I do not know how many people, including the gentleman from Ohio, supported it——

Mr. BROWN of Ohio. The gentleman in the well supported the EPCA legislation.

Mr. OTTINGER. I know that. We still have 50 percent dependence on imported oil. We still have the country paying out $60 billion a year for imports. It is obvious that something else must be done. It is going to take some time, and in the meantime it is important that the President have conservation authority.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. LOEFFLER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

Mr. Chairman, I withdraw my point of order of no quorum, and I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 203, noes 209, not voting 22, as follows:

[Roll No. 418]

AYES—203

Abdnor
Anderson, Calif.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Benjamin
Bereuter
Boggs
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl

Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Frenzel
Frost
Gaydos
Gilman
Gingrich
Ginn
Goldwater
Goodling
Gradison
Grassley
Grisham
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hyde
Ichord
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kazen
Kelly
Kemp
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McKay
Madigan
Marriott
Martin
Mattox
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Natcher
Nichols
O'Brien
Pashayan
Paul
Perkins
Petri
Pickle
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wyatt
Wydler
Yatron
Young, Alaska
Young, Fla.

NOES—209

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fuqua
Garcia
Giaimo
Gibbons
Glickman
Gonzalez
Gore
Gramm
Gray
Green
Guarini
Gudger
Hall, Ohio
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Holtzman
Howard
Hughes
Hutto
Ireland
Jacobs
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Levitas
Lloyd
Lowry
McCloskey
McHugh
McKinney
Maguire
Markey
Marks
Mathis
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stokes
Stratton
Studds
Swift
Synar
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitley
Wirth
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—22

Bolling
Buchanan
Conyers
Crane, Philip
Diggs
Dodd
Drinan
Duncan, Oreg.
Flood
Forsythe
Gephardt
Hall, Tex.
Holland
Kindness
Luken
Marlenee
Mikva
Neal
Thompson
Treen
Wilson, C. H.
Wylie

□ 1450

The Clerk announced the following pairs:

On this vote:

Mr. Philip M. Crane for, with Mr. Dodd against.

Mr. Kindness for, with Mr. Drinan against.

Mr. Wylie for, with Mr. Conyers against.

Mr. Marlenee for, with Mr. Diggs against.

Mr. Buchanan for, with Mr. Thompson against.

Mrs. HECKLER changed her vote from "aye" to "no."

Mrs. BOUQUARD and Mr. BROOKS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MOORHEAD OF CALIFORNIA

Mr. MOORHEAD of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD of California: Page 43, after line 11, insert the following new subsection:

"(g) CONGRESSIONAL REVIEW OF STANDBY PLAN.—(1) After promulgation of a standby Federal emergency conservation plan, the Secretary shall transmit such plan to the Congress, together with his findings in support of such plan, in accordance with section 551(b) of the Energy Policy and Conservation Act. Such plan may become effective only if either House of the Congress has not disapproved (or both Houses of Congress have approved) such plan in accordance with the procedures specified in section 551 of such Act.

Mr. MOORHEAD of California. Mr. Chairman, as S. 1030 was reported by the Committee on Interstate and Foreign Commerce, the President is given unbridled authority to set conservation targets for all energy sources in every State. Under the bill, there need be no correlation between the targets and the degree of energy shortage. States are given an opportunity to come up with their own plans to meet Federal requirements. However, if the Secretary of Energy rejects a State conservation plan, and he is given wide discretion to do so, the President may impose a mandatory Federal plan on the State in question. In formulating a Federal conservation plan, the President has few restrictions. He can come up with anything he wants. The executive branch is given almost dictatorial powers. Business, store and restaurant hours could be set by the President.

Resorts and recreational facilities are particularly vulnerable. It is also possible under the bill for travel to be restricted for individuals or for people involved in business enterprises. Factories could be closed and factory hours curtailed. Thousands of people could be layed off from work, in accordance with any one of these plans that could be set into effect under this legislation.

Especially endangered would be people who use oil such as the plastic industry and other people involved in the use of an energy product.

Presently, the conservation section of S. 1030 has no provisions whatsoever for congressional review with respect to the imposition of a Federal conservation plan on the States. Let me make it clear, unlike the rationing part of the bill, there is presently no opportunity for congressional review of a Federal conservation plan. There is no review of either the substance of a Federal plan or the implementation of a Federal plan.

Mr. Chairman, I would also like to point out that under section C there is no triggering point such as there is with the rest of the bill. Actually the section that deals with potential triggers are only vague expressions of conditions that the President needs to find before he puts that portion of the legislation into effect. So, some kind of congressional veto is far more important for this part of the legislation than it is for the other.

Because Federal conservation plans cover all energy sources including coal and natural gas and not just gasoline and because the President is delegated such vast, unchecked powers, these plans could be more disruptive of the lives of the American people than rationing itself. Let us make no mistake. The conservation section of the bill virtually gives the President a stranglehold grasp over all energy supplies in every State of the Union. This is an unprecedented delegation of power. Every State's economy would be controlled by the President.

My amendment would give either House 15 days in which to accept or reject the substance of a Federal conservation plan. These procedures are identical to those contained in present law under section 551 of the Energy Policy and Conservation Act. My amendment would not subject State devised plans to congressional review.

I believe our constituents deserve our protection as far as Federal conservation plans are concerned. We owe it to them to at least provide the opportunity for congressional review of policies that could severely disrupt the lives of the American people and the national economy. If we have the safeguard of congressional review with respect to Federal rationing, would it not be rational to have similar safeguards regarding Federal conservation plans?

In California and in the Washington, D.C., area, we suffered tremendously because the administration admittedly mismanaged the gasoline allocation system. Just think what might happen if we allow the administration to control all energy sources in every State, and the economy of every State in the Union without any congressional oversight. Working people, business people, professional people are asking for our protection. They trust the Congress. I think they deserve our protection. That is why we are here. Consequently, I urge an aye vote to approve this amendment to provide congressional review of Federal conservation plans.

□ 1500

AMENDMENT OFFERED BY MR. GRAMM AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MOORHEAD OF CALIFORNIA

Mr. GRAMM. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. GRAMM as a substitute for the amendment offered by Mr. MOORHEAD of California: Page 40, line 10, strike out "and".

Page 40, line 18, strike out the period and insert ", and" in lieu thereof.

Page 40, after line 18, insert the following:

"(D) notice of the President's decision to make such plan effective is transmitted by the President to the Congress, together with data in support thereof, in accordance with section 551(b) of the Energy Policy and Conservation Act, and neither House of the Congress has disapproved (or both Houses of Congress have approved) such decisions in accordance with the procedures specified in section 551 of such Act.

Mr. GRAMM. Mr. Chairman, my amendment, offered as a substitute, conforms to the existing language as it relates to rationing. It gives a one-House veto of the implementation of the plan and gives us an opportunity not only to look at the substance of the plan, but to assess the situation as to the need for the implementation of the plan.

I ask my colleagues to accept this amendment as conforming to the procedure established under rationing, making conservation and rationing parallel so far as congressional veto is concerned. This gives us protection, not only in terms of a review of the plan, but also in terms of a review of the situation.

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I would be happy to yield to my colleague, the gentleman from California.

Mr. MOORHEAD of California. Mr. Chairman, I think that a congressional veto is very important for this section of the bill.

I think also, however, because we probably are not going to be considering the conservation programs in the degree of emergency that we necessarily are the rationing portion of the bill, that a congressional veto on implementation can fulfill the needs that we have in this House. Because I can also count the votes, and I understand that there is no objection on the gentleman's side to this program, I will accept the amendment to my amendment.

Mr. GRAMM. Mr. Chairman, I thank the gentleman from California, and recognize the chairman of our subcommittee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GRAMM) as a substitute for the amendment offered by the gentleman from California (Mr. MOORHEAD).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MOORHEAD), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to section 3?

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio: Page 43, after line 11, add the following new subsection:

"(g) LIMITATION ON MEASURES REGULATING THE TEMPERATURE IN ANY PUBLIC OR PRIVATE HOSPITAL, HEALTH CARE FACILITY, OR LIKE ESTABLISHMENTS.—The plan established under subsection (a) may not provide for any measures that would regulate the temperature in any public or private hospital, health care facility, or like establishments unless such plan permits any establishment affected by such restriction to achieve an equivalent reduction in energy consumption by other means."

Mr. DINGELL. Mr. Chairman, will my good friend, the gentleman from Ohio, yield?

Mr. BROWN of Ohio. I will be glad to yield to my colleague, the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, can the gentleman tell me, what do the words "health care facility or like establishment" in this amendment mean?

Does it mean a doctor's office, a massage parlor, a gymnasium, or does it mean a hospital or a clinic or a place where the sick are cared for or does it just mean, for example, a Blue Cross establishment or something of that sort?

Mr. BROWN of Ohio. I think in the context of the language of the amendment, it is fairly clear that we are referring to public and private hospitals, health care facilities, or like establishments; hospitals, public and private in nature, is the first word used.

Mr. DINGELL. I do not have any trouble understanding what a hospital is.

Now, how about a health care facility, Blue Cross?

Mr. BROWN of Ohio. A health care facility would embrace where people are being cared for because of their health.

Mr. DINGELL. It would not mean, for example, an Aetna Insurance Company Health Office?

Mr. BROWN of Ohio. I do not see that it would, no.

Mr. DINGELL. But how about a doctor's office?

Mr. BROWN of Ohio. If the doctor's office is being used for the care of a sick patient, then it very well may.

Mr. DINGELL. Ambulatory sick patients?

Mr. BROWN of Ohio. Ambulatory care for ill patients would be included.

Mr. DINGELL. How about a massage parlor?

Mr. BROWN of Ohio. Well, I do not know what kind of a massage parlor the gentleman has in mind.

Mr. DINGELL. Not being one who attends massage parlors, I do not know, but I want to find out exactly what is meant here.

Mr. BROWN of Ohio. Well, the gentleman must know more about them than I do.

Mr. DINGELL. I profess no knowledge of them.

Mr. BROWN of Ohio. Well, if it relates to the health of the person, then that is one thing.

Now, if it relates to the enjoyment of the ambiance of the massage parlor, I suppose that is another matter.

Mr. DINGELL. How about a gymnasium?

Mr. BROWN of Ohio. I do not think that relates to a health care facility.

Mr. DINGELL. I am just trying to define what is the scope here.

Mr. BROWN of Ohio. Well, it does not seem to me that would be like a health care facility.

Now, the gentleman has used a great deal of my time asking specific questions, so I trust there will be no objection to my taking 5 additional minutes.

Mr. DINGELL. Oh, I would not object to a couple or three.

(By unanimous consent, Mr. BROWN of Ohio was allowd to proceed for 5 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, if I can explain this amendment, so the gentleman will not have to ask these specific questions and so we will not have to get into the question of whether a massage parlor is good for your health or not, it may be wonderful for your health, but not very good for your reputation.

This amendment is an effort to not repeat the Wylie amendment, because the Wylie amendment relates to EPCA under which the President had authority to promulgate certain energy conservation plans and he promulgated one which set temperature maximums and minimums, which was passed on a voice vote here on the floor of the House in the hurry one evening after we had just defeated the rationing bill.

Yesterday we voted by a 2-to-1 vote to put in an amendment in this legislation to kill off that energy action or that energy plan that set temperature maximums and minimums through public facilities around the country.

This is related to the conservation proposals that the President has a right to promulgate. On the theory that the President, and it seems logical to me, is excited about saving energy by just setting temperatures in certain places, I think that we may have a danger to public health if the President sets temperatures and says that this applies to all public facilities, because it is well known that hospitals do generally maintain temperature levels that are applicable to the health of the people in those facilities.

I just want to be sure for the interest of public health that the President does not try to set in his conservation plan some general temperature level that will be adverse to the health of the people being treated for illness.

Mr. DINGELL. Mr. Chairman, will my good friend yield?

Mr. BROWN of Ohio. I would be glad to yield to my good friend, if the gentleman promises not to mention massage parlors.

Mr. DINGELL. I do not know what the gentleman's fascination is for massage parlors, but I promise I will not mention it.

Mr. BROWN of Ohio. All right, I yield.

☐ 1510

Mr. DINGELL. Mr. Chairman, will the gentleman tell me whether this, for example, applies to a podiatrist's facility?

Mr. BROWN of Ohio. Mr. Chairman, I am not going to yield to the gentleman further for these specific questions. I do not yield further to discuss all these things the gentleman can think of and wants to learn more about.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I will be glad to yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I think I have a suggestion that might help to resolve some of the ambiguities. I wonder whether the gentleman would consent to a modification of his amendment by unanimous consent to change "health care facility" to "medical care facility."

Mr. BROWN of Ohio. Mr. Chairman, I do not think that improves the amendment. We use the term, "health care legislation," and "health care" is a common term that we use. We have the Subcommittee on Health and the Environment in our committee.

So I think "health care facility" has a very clear meaning, and a "like establishment" is an establishment that relates to health care facilities and not to fun and games, and I do not yield further to the gentleman for any fun-and-games purpose.

Mr. Chairman, what we have here is an effort for us to be sure the broad power we are giving the President in this bill is not ill-used with reference to public and private hospitals and health care facilities. It is a simple amendment which the majority has tried to make entertaining and tried to make whimsical. It is a very serious amendment, and it is offered in the hope that we can deal with the protection of health by prohibiting the President from setting general temperature levels in his conservation plans and keeping him from doing something that will have an adverse effect on public and private hospitals and health care facilities and like establishments.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

The question was taken; and on a division (demanded by Mr. BROWN of Ohio) there were—ayes 23, noes 26.

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Does the gentleman from Ohio (Mr. BROWN) withdraw his point of order of no quorum?

Mr. BROWN of Ohio. Yes, Mr. Chairman, I will be glad to withdraw my point of order.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. BROWN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 244, noes 170, not voting 20, as follows:

[Roll No. 419]

AYES—244

Abdnor
Albosta
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Boggs
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dicks
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Florio
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hightower
Hillis
Hollenbeck
Holt
Hopkins
Hubbard
Huckaby
Hyde
Ichord
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Kazen
Kelly
Kemp
Kildee
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Marriott
Martin
Mathis
Mazzoli
Michel
Mikulski
Mikva
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Pashayan
Paul
Perkins
Petri
Pritchard
Pursell
Quayle
Quillen
Railsback
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Robinson
Rodino
Roe
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walgren
Walker
Wampler
Watkins
Waxman
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Winn
Wolff
Wolpe
Wyatt
Wydler
Yatron
Young, Alaska
Young, Fla.

NAYS—170

Akaka
Alexander
Ambro
Andrews, N.C.
Annunzio
Ashley
Aspin
Bailey
Baldus
Barnard
Barnes
Beilenson
Bevill
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conable
Corman
Cotter
D'Amours
Danielson
Davis, S.C.
Dellums
Derrick
Dingell
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Garcia
Gephardt
Giaimo
Gibbons
Ginn
Gonzalez
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hanley
Hefner
Heftel
Holtzman
Howard
Hughes
Hutto
Ireland
Jacobs
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lehman
Leland
Lloyd
Long, La.
Lowry
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mica
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Nedzi
Nolan
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Reuss
Richmond
Rose
Rosenthal
Rostenkowski
Russo
Sabo
Scheuer
Shannon
Sharp
Simon
Skelton
Slack
Solarz
St Germain
Stark
Steed
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Weaver
Weiss
Whitley
Williams, Mont.
Wilson, Tex.
Wirth
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—20

Addabbo
Bolling
Clausen
Conyers
Diggs
Dixon
Dodd
Emery
Flood
Forsythe
Hinson
Holland
Horton
Luken
Marlenee
Roberts
Treen
Wilson, C. H.
Wright
Wylie

☐ 1520

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Conyers against.
Mr. Clausen for, with Mr. Dixon against.
Mr. Emery for, with Mr. Diggs against.
Mr. Hinson for, with Mr. Dodd against.

Messrs. AuCOIN, MYERS of Pennsylvania, WOLPE, FROST, McHUGH, STACK, ANTHONY, and HARKIN changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1530

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that all debate on section 3 of the bill and all amendments thereto end at a quarter of 4.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. LOEFFLER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DINGELL. Mr. Chairman, I move that all debate on Section 3 and all amendments thereto end at 4 o'clock.

The CHAIRMAN. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LOEFFLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 247, noes 164, not voting 23, as follows:

[Roll No. 420]

AYES—247

Akaka
Albosta
Alexander
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Byron
Carr
Cavanaugh
Clay
Coelho
Collins, Ill.
Corman
Cotter
D'Amours
Danielson
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Gonzalez
Gore
Gramm
Gray
Guarini
Gudger
Hall, Tex.
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holt
Holtzman
Howard
Huckaby
Hughes
Hutto
Ireland
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McCormack
McHugh
McKay
McKinney
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pursell
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Russo
Sabo
Santini
Scheuer
Seiberling
Shannon
Shelby
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wilson, Bob
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Zablocki
Zeferetti

NOES—164

Abdnor
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Fountain
Fowler
Frenzel
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Grassley
Green
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hansen
Harsha
Hollenbeck
Hopkins
Hubbard
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Jones, Okla.
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
Madigan
Marriott
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Myers, Ind.
O'Brien
Pashayan
Paul
Petri
Pritchard
Quayle
Quillen
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Studds
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
Whittaker
Williams, Mont.
Wilson, Tex.
Winn
Wydler
Young, Alaska
Young, Fla.
Young, Mo.

NOT VOTING—23

Addabbo
Bolling
Bonker
Burton, John
Chisholm
Conyers
Davis, S.C.
Diggs
Flood
Florio
Forsythe
Grisham
Hall, Ohio
Hinson
Holland
Horton
Luken
Marlenee
Roberts
Treen
Williams, Ohio
Wilson, C. H.
Wylie

□ 1540

So the motion was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KELLY

Mr. KELLY. Mr. Chairman, I offer an amendment.

Mr. DINGELL. Mr. Chairman, I reserve a point of order against the amendment.

The Clerk read as follows:

Amendment offered by Mr. KELLY: Page 43, after line 11, add the following new subsection:

"(h) LIMITATION ON MEASURES REGULATING THE OPERATION OF PUBLIC OR PRIVATE HOMES FOR THE ELDERLY.—The plan established under subsection (a) may not provide for any measures that would regulate the operation of any public or private home for the elderly unless such plan permits any establishment affected by such restriction to achieve an equivalent reduction in energy consumption by other means.

The CHAIRMAN. Does the gentleman from Michigan insist upon his point of order?

Mr. DINGELL. I do not, Mr. Chairman.

Mr. KELLY. Mr. Chairman, the purpose of this amendment is to try and bring some order and justice and equity to a system that is going to be substantially fraught with difficulty and distortion throughout the country. Those people who are charged with maintaining homes for the elderly have a responsibility for the care of the people that live there.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Michigan.

Mr. DINGELL. If the gentleman has completed his remarks, I have no objection to the amendment.

Mr. KELLY. I thank the chairman for that, and I have not quite completed my remarks.

Mr. DINGELL. I may not take the amendment. I would hope the gentleman had concluded.

Mr. KELLY. Would the gentleman give me 30 seconds?

Mr. DINGELL. How about 15?

Mr. KELLY. All right. I will try and hit in there somewhere.

I just wanted to make it clear that there should not be any kind of limitation imposed in order to accomplish conservation that would require a nursing home in Florida, where the average temperature is 82 degrees in July, to maintain a 78-degree temperature in a building, when in Bangor, Maine, the mean temperature is 68 degrees. So that a home for the elderly ought to be able to establish its own conservation measures as long as they accomplish the saving, and not be limited to restricted use of air-conditioning or heat to conserve energy.

I thank the gentleman for accepting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. KELLY).

The amendment was agreed to.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have been here now since 10 o'clock this morning. We have had a series of amendments which have dealt with all manner of things, many of which are treated in EPCA, in EPAA, and other statutes, and many of which are treated in the bill. I want my colleagues to know what is going on.

I have here in my hand a list of 17 amendments to be offered by my good friend from Ohio and others of my colleagues on the Republican side. These measures relate to hospitals, they relate to social service institutions—I am not quite sure what that is.

They relate to limitation of measures relating to operators of religious institutions; limitation of measures relating to energy production facilities and transportation facilities, limitation of measures relating to operation of any institution providing for the public health and safety; limitation of measures relating to common carriers; limitation of measures regulating the operation——

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Chairman, a parliamentary inquiry.

Mr. DINGELL. I do not yield to my good friend, much as I love him.

POINT OF ORDER

Mr. BROWN of Ohio. Mr. Chairman, a point of order.

Are we not under a time limitation?

The CHAIRMAN. The gentleman is correct. We are on a time limitation that expires at 4 o'clock.

Mr. BROWN of Ohio. And those Members who were standing will not have a chance to offer amendments?

The CHAIRMAN. There were none standing at the time the limitation was imposed, and therefore the Chair did not choose to go that route.

Mr. DINGELL. The amendments offered by the minority, again, are limitation of measures regulating the operation of sports facilities; limitation of measures affecting food and fiber production; limitation of measures regulating the operation of any educational institution; limitation of measures regulating the operation of any public or private newsgathering or disseminating business or organization; limitation of measures regulating the temperatures of any public or private hospital, health care facility, and so forth; limitation of measures regulating the hours of operation of any retail establishment; limitation of measures regulating the operation of any fraternal organization; limitation of measures regulating the operation of any hotel, motel, or lodging establishment.

Mr. Chairman, all of these could have been lumped into one amendment. We could have dealt with the question, but rather my good friends over there, knowledgeable legislators, have chosen to present the House with this kind of dilatory list of 17-plus amendments to consume the time of the House since 10 o'clock this morning until this hour. Now, conceivably the minority can persist in delaying the consideration of this emergency conservation legislation. I hope they will not, but it is my judgment that the orderly process of legislation should be done in such fashion as to enable us to promptly consider the public's business.

Mr. Chairman, I have an amendment which I send to the Clerk's desk.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I just say that some of the amendments to which the gentleman objects have already been passed by the House, and some in fact have been rejected. We feel that the House has a right to work its will on these issues.

Mr. DINGELL. That is correct.

Mr. BROWN of Ohio. That is why they are being presented separately.

Mr. DINGELL. But the gentleman is far too able a legislator to claim that he does not know better than to bring some 17-odd amendments seriatim and separately instead of compiling them into one carefully drawn amendment. The gentleman is too adroit to say that he is not trying to delay the bill.

Mr. BROWN of Ohio. I appreciate the compliments, and I return them, but I would say to the gentleman that some of the amendments were adopted, some were rejected. Obviously, we could not put them all in the same amendment.

Mr. DINGELL. What I simply point out to the House is either the most maladroit handling of legislation or the most deliberate delay of important legislation.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 43, after line 11, insert the following:

"(f) CONSIDERATION FOR CERTAIN INSTITUTIONS.—In establishing a plan under this section the Secretary shall take into account the needs of—

"(1) social service institutions;

"(2) religious institutions;

"(3) educational institutions; and

"(4) health and safety institutions.

Mr. DINGELL. Mr. Chairman, what I have done here is to try and offer the principal amendments that would have been offered by the gentleman from Ohio in a more rational and cohesive fashion, and in a form which would enable the House to vote quickly on them so that we can accept this amendment and reject the items to be offered by the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Is the gentleman offering the amendments that he has just criticized us for offering?

Mr. DINGELL. I am, but much better drawn.

Mr. BROWN of Ohio. But he is offering the amendments he has criticized us for offering?

Mr. DINGELL. The amendment has been read, if the gentleman was paying attention. It is much more carefully and artfully drawn.

Mr. BROWN of Ohio. I appreciate the gentleman as a careful and artful legislator, and do appreciate his support of these amendments. I am overwhelmed at his enthusiasm.

Mr. DINGELL. Having disposed of the gentleman's amendments with these, perhaps we will offer our own.

□ 1600

Mr. BROWN of Ohio. But the gentleman brings out a full list, and the others may wish to offer amendments.

Mr. MARTIN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from North Carolina.

Mr. MARTIN. I thank the gentleman for yielding. Inasmuch as I had intended to offer similar amendments regarding religious institutions and public health and safety institutions, I want to thank the gentleman for incorporating those into his amendment. I will be happy to support them.

Mr. Chairman, there is no question but what an emergency fuel shortage will require governmental measures to allocate scarce supplies. There is less question but that we must be very cautious not to intrude governmental measures and personnel and petty mischief into the operations of religious institutions. I cannot believe the American people would want us to create a mechanism for federal agents to march into the neighborhood church and prescribe how the church can schedule its services, discomfort its worshippers, establish stickers for the church door, and odd/even Sundays, and so forth.

We have no reason to impose such Federal requirements into and thus respecting an establishment of religion.

This amendment will allow religious institutions to comply—as they certainly would be expected to do voluntarily—in ways that will achieve equivalent reduction in energy consumption by other means.

In a similar fashion, public safety and health relies in too crucial a way upon the efficient operations of police precincts, fire stations, ambulances, and the like. It would betray that trust to so encumber these public officers with Federal energy regulations and related paperwork that they could not fight fires, pursue culprits, and protect victims in a timely fashion.

I appreciate the desire of the gentleman from Michigan to secure the interests of such institutions.

Mr. DINGELL. I thank the gentleman.

It pains me greatly to have to do this kindness to my colleagues on the minority side, but I hope we can do that in order to expedite the business.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments to section 3?

AMENDMENT OFFERED BY MR. TAUKE

Mr. TAUKE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the gentleman's amendment printed in the RECORD?

Mr. TAUKE. It is, Mr. Chairman.

Mr. DINGELL. Mr. Chairman, is this amendment printed in the RECORD under the name of the gentleman in the well?

Mr. TAUKE. Yes.

The CHAIRMAN. The gentleman stated that the amendment he offered is in the RECORD under his name.

Mr. TAUKE. Several times already.

The Clerk read as follows:

Amendment offered by Mr. TAUKE: Page 50, after line 2, insert the following new section:

MONITORING OF MIDDLE DISTILLATE SUPPLY AND DEMAND

SEC. 4. (a) Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall establish and maintain a data collection program for monitoring, at the refining, wholesale, and retail levels, the supply and demand levels of middle distillates on a monthly basis in each State.

(b) The program to be established under subsection (a) shall provide for—

(1) the prompt collection of relevant demand and supply data under the authority available to the Secretary of Energy under other provisions of law;

(2) making such data available to the Congress, as well as to appropriate State agencies and the public in accordance with otherwise applicable law, beginning on the 5th day after the close of the month to which it pertains, together with projections of supply and demand levels for the then current month; and

(3) the review and adjustment of such data and projections not later than the 15th day after the initial availability of such data and projections under paragraph (2).

(c) For purposes of this section, the term "middle distillate" has the same meaning as given that term in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

(d) The program established under this section shall not prescribe, or have the effect of prescribing, margin controls or trigger prices for purposes of the reimposition of price requirements under section 12(f) of the Emergency Petroleum Allocation Act of 1973.

Redesignate the following sections accordingly.

Mr. TAUKE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. TAUKE. Mr. Chairman, for a number of days now I have waited for the opportunity to offer two amendments. This amendment does not contain exemptions. What it does is establish a system for the monitoring of middle distillate supplies in the Nation.

Secretary of Energy James Schlesinger reportedly said recently that he was "embarrassed" by the diesel fuel shortage which developed this spring. He should have been. His agency was woefully unprepared to deal with it and, in fact, did not even know it existed until it was too late.

It is the responsibility of the DOE to know how much fuel is available throughout the Nation. Yet, last April when oil jobbers in my district informed me of the serious diesel fuel shortfall in Iowa and the Midwest, and I asked Department of Energy (DOE) officials what they planned to do about it, their repeated reply was "What shortage?" DOE officials denied the existence of the inordinate diesel shortfall which State energy officials predicted would disrupt the crucial spring planting season.

It has become obvious that the DOE possesses no reliable distillate market survey service. Instead, that agency merely reviews oil company supply projections and State-by-State usage levels from last year. No attempt is made to predict shortfalls. Each State must develop its own market formula in order to predict any energy shortfall that may occur.

The DOE distillate monitoring system has at least four serious problems: First, the projected shortfall figures are woefully inaccurate; second, State-by-State shortfall comparisons are difficult; third, it takes 2 months to get the actual supply/demand figures for a State; and fourth, data on the distillate supplies at the jobber and consumer levels is not available.

By the time the DOE comes to recognize a distillate shortage, it is often too late for an effective response. This spring only the wise use of the State distillate set-aside programs and the beneficence of a few suppliers pulled the Midwest through the planting season relatively unscathed.

But during the harvest and the winter heating seasons, the Midwest and the Nation may not be so fortunate. The confusion about the existence of a shortage may mean a dangerous delay in any effective action to avert severe shortfalls in some sections of the country. An unfinished harvest and unheated homes could well result.

Middle distillate fuels, heating oil and diesel fuel, are absolutely essential to the U.S. economy. They power our factories, heat our homes, insure the production and processing of our food, and transport our commerce throughout the country and the world. It has become clear during the continuing distillate shortage that the American economy runs on middle distillate fuels.

Yet the distillate provisions of S. 1030, which outlines the proposed Federal response to a severe energy shortage, are seriously deficient. Diesel fuel is included in the rationing and conservation sections of the bill, but the measure does not address the fact that the DOE has no reliable system to identify a diesel fuel or a middle distillate shortage.

I offer an amendment to correct these deficiencies in S. 1030.

This amendment would prevent any future distillate embarrassment at the DOE. It would establish a Federal distillate monitoring system within the DOE to guarantee the uniformity and accuracy of reporting that is necessary for proper regulatory action.

My amendment sets up strict monthly deadlines for DOE reporting of the distillate refinery, wholesale and retail supply levels and for DOE projections of the distillate supply and demand picture for each State. The measure would establish a State-by-State breakdown of the data. In addition, it would set up a midmonth review program so that the DOE would have accurate figures on a routine and timely basis. That way supply-short States can be identified and quick action can be taken to avert a severe shortfall.

The DOE presently has the authority to gather the data called for in this amendment. That agency receives supply projections for each State for each month at least 5 days prior to the start of the month. In addition, a sophisticated distillate demand formula can be derived with the use of existing data sources. The DOE has the information. It simply has not organized it into a useful form. This amendment mandates that form.

A revamped monitoring system is necessary to prevent reliance on outdated and accurate shortfall figures. In addition, a State-by-State retail, wholesale, and refinery monitoring system is needed to identify the shortages before it is too late to do anything about them. No one knows how much distillate is now stored at the jobber and the retail levels. Refineries seem to be building up distillate inventories, but the jobbers and heating oil customers are estimated to be 50 percent below their normal summer fill levels. It is important to know just where the distillate supplies in excess of demand exist so that they may be moved where they are needed, prior to the start of the crucial heating and harvesting seasons.

A distillate market survey is necessary to guide prompt DOE regulatory action should a serious shortage develop. The confusion about the existence of a shortage may mean a dangerous delay in any effective action to avert severe shortfalls in some sections of the country. An unfinished harvest and unheated homes could well result. The DOE cannot ration supplies in the dark. A distillate monitoring system is necessary to shed light on the market situation.

It is time to put the confusion about distillate supplies to rest. With the onset of the harvest and heating seasons, the country can no longer afford to shoot in the dark when it comes to projecting distillate shortfalls. This amendment would shed light on the distillate supply situation so that speedy action can be taken to relieve any inordinate hardship that may occur. My amendment plugs a serious gap in S. 1030.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding. I am concerned about one thing, and save that, I think we can take the amendment. The gentleman said, beginning at line 15, "* * * beginning on the fifth day after the close of the month * * *."

I do not believe that is enough time. If we could extend that time and make it the 15th of the month, I think it would be acceptable.

Mr. TAUKE. If the gentleman from Michigan (Mr. DINGELL) would review the amendment more closely, there are two different reporting periods in the amendment. There is a monthly reporting and then a semimonthly update.

Mr. DINGELL. All right. If the gentleman is correct, if the gentleman can change the "5" at line 16 to "10," I think we can take the amendment.

Mr. TAUKE. I would point out to the gentleman from Michigan that if he will read on later in the bill, the material on the fifth is preliminary.

Mr. DINGELL. I understand.

Mr. TAUKE. Later on at line 20 we refer to the 15th.

Mr. DINGELL. I am aware of that. I am saying if the gentleman will say the 10th, we will take it. I ask that "5th" be stricken at line 16 and that the gentleman substitute therefor the word "10th."

Mr. TAUKE. I will be happy to accept that.

Mr. DINGELL. Then we will accept the amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I, of course, am happy to accept this amendment, but I just want to rise and congratulate the chairman for being a good legislator, a pretty good negotiator, and not a bad mathematician to get to the 10th from the 15th.

Mr. DINGELL. I thank the gentleman.

Mr. TAUKE. Mr. Chairman, I ask unanimous consent to modify my amendment as follows:

On line 16 strike "5th" and insert in lieu thereof "10th".

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk will report the modification to the amendment.

The Clerk read as follows:

On line 16 strike "5th" and insert in lieu thereof "10th".

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. TAUKE), as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. STOCKMAN

Mr. STOCKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STOCKMAN: Page 35, beginning on line 13, strike out "application of one or more of the following measures described in such plan:" and all that follows down through line 7 on page 36 and insert in lieu thereof the following: "application of one or more measures which are described in such plan, which are authorized under the laws of that State, and which will be administered and enforced by officers and employees of the State (or political subdivisions of the State) pursuant to the laws of such State (or political subdivisions).".

Page 38, strike out line 1 and all that follows down through line 25.

Page 39, line 1, strike out "(f)" and insert in lieu thereof "(d)".

Page 39, line 8, strike out "(g)" and insert in lieu thereof "(e)".

Page 47, line 11, strike out ", 635(e),".

Page 47, line 15, strike out "or section 635 (d)".

Mr. STOCKMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. OTTINGER. Reserving the right to object, Mr. Chairman, before I agree, can the gentleman just describe very briefly what the amendment is?

Mr. STOCKMAN. If the gentleman will yield, I will say to the gentleman the amendment was printed in the RECORD. It simply removes the ability of the Department of Energy to delegate powers to State Governors that have not been granted such powers by their own legislatures.

Mr. OTTINGER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Is there objection to the consideration of the amendment?

There was no objection.

Mr. STOCKMAN. Mr. Chairman, this is a very modest amendment. It simply attempts to curtail what I believe is one serious excess delegation of power in the bill. I think by now most of the Members understand that this is a joint Federal-State conservation effort, that the Federal Government first establishes targets by fuel for each State, and then the States are given the opportunity to formulate plans to achieve those targets, and only at such time that DOE makes a finding that the States are not meeting those targets would we have Federal preemption and the imposition of a Federal plan. I am not objecting to that mechanism, that procedure, but what I do find very objectionable in the language of this bill is the fact that in that process a State department of energy or a State Governor could come to DOE with a conservation plan for gasoline or for diesel or for some other fuel and have it stamped with a stamp of approval by a GS-14 at DOE that would then become implemented as the law of the State. It would be necessary for every citizen and every business establishment in that State to abide by the details of that plan.

It could be a sticker plan; it could be an hours control plan. It could be a weekend closing plan. All of these powers could be delegated even if the State legislature had considered such a measure and rejected it.

So what we are doing here is totally usurping and preempting the powers of the State legislatures, and in a sense the State constitutions, by allowing the Governors to be delegated authority that they cannot even get from their own State legislatures. I do not think we intend to do that because I think it makes a mockery of the whole Federal-State relationship, and I think it ignores the fact that if these plans are well formulated, it should be possible for the Governors to get that authority from their State legislatures. The fact is that many of them have it already. So this is a very simple effort to allow the mechanism of the bill to go forward but to insure that any State plan would have to be consistent with the powers that the State legislature had granted to its Governor and its energy office, to insure that you would not have a bureaucrat way down in the bowels of the Department of Energy with more power, with greater power over the citizens of any State in this country, than the State legislature itself. So I would hope that this amendment would be adopted by the House.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, with great respect and affection for the gentleman from Michigan, I observe this is the most mischievous amendment.

Governor Lamm, speaking on behalf of the National Governors Conference, pointed out to the committee that authority was needed to be vested in the Governors of some 17 States where the authority to carry out the delegation is lacking under State law.

☐ 1610

The bill provides that the Governor has to request the Secretary that he have a delegation of authority to implement emergency conservation plans developed by the State.

The attorney general of the State must find also that, absent the delegation under Federal law, the Governor lacks authority under the State laws to carry out the delegation and under applicable State law the Governor and other State officers are not prevented from administering and enforcing such delegation of State law. The Governor's action must be consistent with State law.

The major premise of the conservation program here is that the States should be permitted to implement their own emergency conservation programs before the Federal Government enters in and implements Federal measures.

Mr. Chairman, we have, therefore, allowed the States time to act before Federal actions are taken. We have also permitted them to receive authority where they find it necessary and where they desire so to do and where the laws permit to carry forward the delegated authorities. Unfortunately, not all Governors have this authority. The bill permits them to request a delegation of these authorities from the Federal Government.

Mr. Chairman, this is not an end run around State legislatures. To the contrary, the bill specifically requires the State's chief legal officer, usually its attorney general, to certify the State law does not prevent the Governor from accepting a delegation of authority. We do not want DOE interpreting State laws. That is the State's function. If the State law does prevent such delegation, as determined by the State's chief legal officer, the acceptance cannot take place and the delegation under the language of the bill cannot be made. In addition, the requested authority must meet certain denominated criteria, such as not placing undue burdens on interstate commerce, and not imposing unreasonable and disporportionate burdens on a particular industry.

Mr. Chairman, if the State cannot do this then you invite Federal plans. Therefore, if the amendment of the gentleman is accepted, in 17 States rather than having the plan crafted at the State level you will find you will get a Federal plan, something which we all assume here we are opposed to.

Mr. Chairman, it assumed in time all Governors may be given some emergency authorities by their State legislatures and this provision might then become unnecessary. For the time being the provision is necessary and it will provide only carefully defined emergency authority.

I urge my colleagues to reject the amendment.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

The design of this legislation, Mr. Chairman, is one which the gentleman from Michigan (Mr. STOCKMAN) should support. We tried to reside maximum authority in the States. The States can act where the Governor has indeed been authorized to act. In some cases, this subject has not been addressed by the legislatures so the Governor could not act in an emergency. We make provision for the Governor to seek delegation. It cannot be done by a GS–14 in his office, it must be done by the Secretary himself, to grant this imprimatur. There should be no delegation.

I would also like to emphasize, Mr. Chairman, what the chairman said about enacting the gentleman's amendment instead of having a State determination at all, then you would have a Federal determination made by the President and a Federal plan put into effect.

Mr. DINGELL. Mr. Chairman, I think the gentleman from New York makes the critical point. If the amendment of the gentleman from Michigan (Mr. STOCKMAN) is adopted, in 17 States you will be virtually mandating a Federal program instead of a State program.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Michigan.

Mr. STOCKMAN. I thank the gentleman for yielding, but I think the gentleman hits the point right on the head. The gentleman says if the State legislature had not acted, that would be the only instance in which the delegation would proceed.

Mr. DINGELL. The gentleman is in error.

Mr. Chairman, I want to make it very clear to the gentleman that unless the State's attorney general certifies: First, the authority's need; and second, the Governor can under State law accept this responsibility, the State delegation cannot take place.

Mr. STOCKMAN. Mr. Chairman, would it not also be true if the State legislature had considered a plan and rejected it it would still be possible for the attorney general to certify?

Mr. DINGELL. Mr. Chairman, the answer is if the legislature so desires they can deal with the matter through the State budget and through the appropriating authority, the power of the purse which is well known here and limitation on appropriations, or they can deal with it by specifically revoking the Governor's power to either request or to accept such authority. Remember, if this amendment is adopted you are going to have 17 States in which we will have Federal programs instead of State programs.

Mr. CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. STOCKMAN).

The question was taken; and on a division (demanded by Mr. LOEFFLER) there were—ayes 33, noes 48.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. TAUKE

Mr. TAUKE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment printed in the RECORD in the gentleman's name?

Mr. TAUKE. It is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. TAUKE: Page 50, after line 2, insert the following new section:

NATIONAL MIDDLE DISTILLATE SET-ASIDE PROGRAM FOR AGRICULTURAL PRODUCTION

SEC. 4. (a) Not later than 60 days after the date of the enactment of this Act, the President shall establish and maintain a national set-aside program to provide middle distillates for agricultural production.

(b) The program established under subsection (a) shall—

(1) be made effective only if the President finds that a shortage of middle distillates exists within the various regions of the United States generally, or within any specific region of the United States, and that shortage—

(A) has impaired or is likely to impair agricultural production; and

(B) has not been, or is not likely to be, alleviated by any State set-aside program or programs covering areas within that region;

(2) provide that, in regions in which such program is effective, prime suppliers of such fuel be required to set aside each month 1 percent of the amount of the middle distillates to be supplied during that month in that area;

(3) provide that amounts of fuel set aside under such program be directed to be supplied by such prime suppliers to applicants who the President determines would not otherwise have adequate supplies to meet requirements for agricultural production;

(4) provide that such prime suppliers may meet such responsibilities for supplying fuel either directly or through wholesale purchasers who resell fuel, but only in accordance with the requirements established under such program; and

(5) shall not supersede any State set-aside program for middle distillates established under the Emergency Petroleum Allocation Act of 1973.

(c) For purposes of this section—

(1) The term "agricultural production" has the meaning given it in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this section, and includes the transportation of agricultural products.

(2) The term "prime supplier", when used with respect to any middle distillate, means the supplier, or producer, which makes the first sale of the middle distillate into any region for consumption in that region.

(3) The term "middle distillate" has the same meaning as given that term in such section 211.51.

(4) The term "region" means any PAD district as such term is defined in such section 211.51. Redesignate the following sections accordingly.

Mr. DINGELL. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) reserves a point of order.

Mr. TAUKE. Mr. Chairman, last spring the middle-distillate shortage in the Midwest stopped some tractors in the fields during the crucial planting season. The wise use of State distillate set-aside programs, the beneficence of a few suppliers, and the limited nature of the shortfall started those tractors again and pulled the Midwest through the planting season relatively unscathed.

The fall harvest season approaches and the distillate shortfall continues. Refinery inventory levels are still down 10 percent from last year's levels, and the tanks of the railroads and trucks that must haul the crop to the market are dangerously low. We cannot afford to let agriculture run out of fuel.

Therefore I offer an amendment to insure aquedate middle-distillate supplies for agricultural production in the event of a severe energy shortage. The amendment requires refiners to set aside 1 percent of their distillate supplies to be directed toward certified agricultural users if the President finds that a severe impairment of agricultural production exists due to a distillate shortage, The set-aside is similar in operation to the existing State set-aside programs, except that supplies are to be redirected exclusively to agricultural customers within a petroleum allocation region.

This amendment has four basic features:

First. The amendment recognizes the need to move distillate supplies to those who produce our food. Without the production of our most essential resource—food—all other distillate uses would be rendered frivolous. Agriculture is defined in a way to include agricultural production, processing and transport.

Second. The amendment provides for the priority allocation of distillate fuels short of outright rationing. Agriculture uses 5 percent of all distillates. The 1-percent set-aside, included in the amendment, would thus suffice for a 20-percent (one-fifth) distillate shortage. Beyond that level of shortfall, S. 1030 provides for a rationing system.

Third. The amendment grants the priority needs of agriculture while minimizing the disruption of the distribution of remaining distillate supplies. The 1-percent set-aside can easily be built in the present refinery allocation system. The set-aside concept embodied in the amendment is a proven simple and effective method to move supplies to areas of priority need, much more simple and much more effective than an agricultural allocation system similar to the ill-fated special rule 9.

Fourth. The amendment is designed to supplement, not supercede, the existing State distillate set-aside program. If the State set-aside is insufficient to meet the agricultural need, this regional set-aside plan could be invoked. In that way, supplies can be moved from supply-short to supply-surplus States to relieve the agricultural shortage.

With the onset of the harvest season, this Nation cannot afford to be unprepared to deal with an agricultural distillate shortage. My amendment gives us the tools to relieve a shortage, if it occurs.

My amendment has already received the support of farm groups including the Farm Bureau and the National Farmers

Union. I believe it deserves the support of the House.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, I insist upon my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DINGELL. Mr. Chairman, the bill before us is a conservation bill. It deals with conservation of petroleum and petroleum products and energy. It deals also with rationing.

Mr. Chairman, if the chairman will observe the amendment before him, he will notice it creates a national middle distillate set-aside program for agricultural production. Now, Mr. Chairman, it is quite possible this is a highly desirable thing but that is not the question before the Chair. The question before the Chair is, Does this bill deal with the set-aside of middle distillates or set-asides of other petroleum products?

□ 1620

The answer to that question is a resounding no. The legislation, S. 1030 before us, contains nothing relating to set-aside of petroleum products or matters relating to set-aside of petroleum products.

The members of the committee could not have reasonably expected set-aside amendments to be laid before them on the basis of the legislation which lies before us; so the purposes of the bill and the purposes of the amendment are quite different and distinct. I would, therefore, urge on the Chair that this amendment is not germane.

I would further state that the proposal goes on to deal with a number of set-aside matters which are not included in the proposal before us, but which are embodied in other statutes, such as the Emergency Petroleum Allocation Act. The legislation deals with the term "agricultural production" as defined in section 211.51 of title X, which is not under the jurisdiction of the Commerce Committee.

The proposal deals with and defines the term prime supplier of middle distillate and the term defines a number of other matters which are not found in the legislation here.

As a matter of fact, it would convert the legislation before us from essentially a conservation program to an allocation program, something which would not be the intention of the committee, as opposed to a rationing program which was.

The CHAIRMAN. Does the gentleman from Iowa (Mr. TAUKE) desire to be heard on the point of order?

Mr. TAUKE. Yes, I do, Mr. Chairman.

Mr. Chairman, in this particular measure that we are considering, we have taken great pains during the past several hours to provide specific consideration for certain businesses that are part of our economy. We considered, for example, nursing homes and health institutions. We have considered with the last amendment of the gentleman from Michigan a whole host of other special businesses in this country. This is a special consideration for the agricultural industry.

In addition, I think it is appropriate to note that in this measure that the bill has been dealing with the allocation of fuels when supplies are scarce. That is what is the exact purpose of this amendment is, to deal with the allocation of fuels at a time when supplies are scarce.

So in view of both of those items, it occurs to me that it is appropriate that this amendment be considered a part of this measure.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I would be happy to yield to the gentleman from California.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point of order?

Mr. PASHAYAN. Yes, Mr. Chairman.

The amendment offered by the gentleman from Iowa protects agriculture in the only way it can be protected in this entire scheme.

The CHAIRMAN. The gentleman will restrict his remarks to the point of order which has been raised and not the merits of the amendment.

Mr. PASHAYAN. The point of order, I believe, has something to do with the substance of the amendment as it relates to the bill. The point I am making is that although this is dealing with the set-aside, that is only the form. The substance, in fact, relates to the bill, because it is the only way agriculture can be protected under the bill; whereas other businesses do not need set-asides and that is the only way we can protect agriculture, so I do think it relates to the substance of the bill.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard on the point of order?

Mr. BROWN of Ohio. To speak on the point of order, Mr. Chairman.

Mr. Chairman, this bill before us deals with EPCA in the rationing section and adds a section on conservation.

Now, EPCA stands for the Emergency Energy Policy and Conservation Act. It is in the conservation parts of this bill that we have the Tauke amendment offered.

The Department of Energy regulations, based on the Emergency Energy Policy and Conservation Act, include those DOE regulations based on that act, include set-aside programs for energy conservation or energy usage; so it seems to me that the amendment of the gentleman from Iowa is clearly germane in that he is dealing with set-asides as a method of conservation, but from the standpoint of concern about the agricultural community and whether or not the agricultural community will have adequate energy to meet its needs in the interests of the society.

The CHAIRMAN. Does the gentleman from New York desire to be heard on the point of order?

Mr. OTTINGER. Mr. Chairman, I would like to be heard in favor of the point of order.

Mr. Chairman, I just would like to point out briefly that this is, unlike the other amendments we have had which deal with hospitals, nursing homes and the whole other host of special interests sought to be protected, those all sought to be protected under conservation plans that might be put forward under this bill and the limitation of Presidential powers to put forward such plans.

This amendment is quite different. It seeks to set up an allocation plan specifically to set aside certain amounts of fuel for agriculture.

Therefore, it seems to me quite different from anything else in this bill. It is unrelated and I believe it clearly is out of order.

The CHAIRMAN. Does the gentleman from Indiana desire to be heard on the point of order?

Mr. MYERS of Indiana. I do, Mr. Chairman.

Mr. Chairman, in the title that is under consideration on page 24 in paragraph 3 in the "Purposes" it states:

> Establish mechanisms to alleviate disruptions in gasoline and diesel oil markets.

This is a mechanism to alleviate disruption. The purpose of the bill provides for this.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard further on the point of order?

Mr. BROWN of Ohio. Yes, Mr. Chairman.

One other point that omitted my attention until the staff drew it to my attention, and it is that the very rationing part of this bill was added as an amendment to the basic legislation in the subcommittee. Therefore, making the legislation quite broad in its approach and for that reason of breadth and for the reason that we accepted that rationing amendment or that rationing portion as an amendment in the subcommittee, it seems to me that the offering of the gentleman from Iowa is very appropriate in the full House at this time.

The CHAIRMAN. The Chair is prepared to rule.

The Chair has examined the amendment offered by the gentleman from Iowa and considered the point of order as to its germaneness to the bill raised by the gentleman from Michigan.

The test of a new section in its relationship for germaneness is to the bill as read to this point and in that case we have a bill at this point in which section 2 deals with rationing.

Section 3 deals with conservation and market disruption, specifically the purpose which the gentleman from Indiana pointed out on page 24 which establishes mechanisms to alleviate disruptions in gasoline and diesel oil markets; in addition to which, a new section 4 has been agreed to by the committee which provides for the monitoring of middle distillates and supply of diesel oil.

Therefore, the scope of the bill as read to this point is significantly broadened and it is now considerably more diverse than any one section thereof.

The Chair, therefore, overrules the point of order and holds that the amendment is germane.

Mr. DINGELL. Mr. Chairman, I move to strike the last word. I think we ought to see what this amendment does.

I rise in opposition to the amendment.

Mr. Chairman, the amendment is very broad. It sets up a set-aside, an absolute set-aside of middle distillates for agricultural purposes. That is well within the present power of the President of the United States.

As a matter of fact, the recent shortages in middle distillates, particularly diesel fuel and the response of the Department of Energy to special rule 9 should give this body the strong incentive to reject the amendment.

As all of us will recall in response to legitimate concerns over the inadequacy of diesel fuel to agriculture during the planting season, the Department of Energy instituted special rule 9, which provided priority for agricultural use.

A series of problems arose, first there was no way of verifying requests. Excessive amounts of fuel were diverted to certain users, ofttimes in excess of needs and almost invariably on undocumented statements of need and without supervision.

Soon we learned that other users of diesel fuel, which were also essential, such as mass transit, truckers, including truckers of agricultural products, were having a major shortfall in terms of their diesel supplies. Truckers could not move goods from farm to market and from manufacturer to market, and as a result we found a terrible imbalance put in because the matter was not carefully thought out by DOE.

□ 1630

Now, it must be understood that diesel oil production can replace jet fuel and home heating oil. It is anticipated or it is very possible that we will have significant shortages of No. 2 fuel oil for purposes of heating homes during the forthcoming fall. I think it is unwise for the Congress to set up a set-aside program without exquisite care and without careful attention to how much diesel is going to be available, how much No. 2 is going to be available, how much fuel oil will be available, what will be the petroleum supplies, what will be the demands, what will be the legitimate needs of agriculture, and what will be the legitimate needs for diesel oil for transportation by barge line, by truck, by railroad, by diesel truck, by bus, and so forth. I think that would be extremely unwise at this time.

The point is that it is dangerous business to establish absolute priorities by statute. We have given the President the authority in other statutes to allocate these products, and I would point out that the authority affords wide discretion both to gather the facts and to make the diesel fuel available to persons who have need for it.

If we adopt this amendment, we are asking to be blamed by persons who operate or are dependent upon buses, trucks, railroads, and other forms of transportation and by homeowners and others who buy middle distillates for their own purposes for taking their fuel and providing it to agricultural users.

I would, therefore, say that the amendment should be considered very carefully and hearings should be held to find out whether in fact it is necessary. I do not believe that it is desirable at all.

At this point, Mr. Chairman, I want to express outrage at the DOE for today ordering the Office of Consumer Affairs to cut its personnel by eight positions. I am strongly opposed to this action and will indicate in writing to the DOE, and particularly to Secretary Duncan. I expect him to rescind the order.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Mr. Chairman, I am glad that we have finally reached a point where I can agree wholeheartedly with the gentleman, but I would just ask one question. This is a bad amendment, but how many rule 9's are going to be given to DOE today? That is the point.

Mr. DINGELL. Mr. Chairman, I think the gentleman from Michigan (Mr. Stockman) raises a good point. Rule 9 was badly drawn. Rule 9 could be changed by administrative action. The amendment that lies before us cannot be changed by administrative action. It is statute, and the matter has to be brought back here and fought out, with all the emotion that surrounds the allocation of petroleum products and the problem of shortages.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Yes, I am happy to yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, would the gentleman agree with me when I say it is quite clear that agriculture is different from other things that have been mentioned, in that agriculture needs fuel supplies during the planting season and the harvesting season.

Mr. DINGELL. Mr. Chairman, it is certainly true that fuel must be supplied for agricultural needs during those times, but those needs can be met under existing programs for priorities and set-asides, and there are statutes relating to those matters now that have specific priorities for agriculture.

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Texas.

Mr. GRAMM. Mr. Chairman, I think it is important to point out that we are talking about setting up a set-aside and priority use in times that are not specified or limited to planting and harvesting. By setting up set-asides we exacerbate shortages in the system. By spreading the whole shortage on all sectors equally, we ensure that they do not happen to fall entirely on agriculture. While I think it is important for agriculture, I think this must be pointed out.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. Dingell) has expired.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. RUSSO. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STENHOLM. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I do not know how many of us are aware of this fact, but today the Secretary of Agriculture announced the wheat program for 1979–80. At this time he has called for no set-aside, and this means our farmers are once again going to be called upon to produce fence row to fence row.

PARLIAMENTARY INQUIRY

Mr. ERLENBORN. Mr. Chairman, I have a parlimentary inquiry.

The CHAIRMAN. Will the gentleman from Texas (Mr. Stenholm) yield for a parliamentary inquiry?

Mr. STENHOLM. I yield, Mr. Chairman.

Mr. ERLENBORN. I have a point of order, Mr. Chairman.

I understood we were operating under a time limit.

The CHAIRMAN. Will the gentleman restate his point of order?

Mr. ERLENBORN. Mr. Chairman, the point of order is that I understood that the House voted a time limit.

The CHAIRMAN. The Chair will state to the gentleman that the time limitation agreement involves debate on section 3. This is a new section.

Mr. ERLENBORN. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. Stenholm).

Mr. STENHOLM. Mr. Chairman, the point I want to make is this: We are once again as a nation calling upon our farmers to produce fence row to fence row. I think the gentleman's amendment is very pertinent and is one we should take into consideration.

If we are going to ask our farmers to produce, the least we can do is provide the fuel whereby they can give us that production without getting into some of the problems we will have if we do not have a set-aside that will work on the local and State levels.

Mr. PASHAYAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like simply to underscore the fact that the margin of time that farmers work under is very narrow. It is quite different from the great industrial production facilities in the State of Michigan.

This amendment may not be perfectly written, but if fairly and equitably applied by the administration, it would provide the fuel needed by the farmers at the times they need it. The time is not very long. The harvesting and the planting of crops will not wait; that is an impossibility under the laws of nature.

So, Mr. Chairman, I strongly support the amendment.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think most of us are concerned about the shortage of distillate fuel, and, of course, the people from the farm States are no exception. I do not think any of us who are not from heavy agricultural districts would in any way deprecate the legitimacy of their concern. We are all concerned about it.

When the gentleman from Iowa (Mr. TAUKE) introduced his other amendment—the amendment which passed—on the monitoring of distillates, I applauded that, and I think all of us did, because we need a monitoring system.

What the gentleman was saying with that amendment was that distillate is important not only for the farmers but distillate is important for the truckers, it is important for us in the Northeast with heating oil consumers, and so forth.

One of the things we did on the gentleman's amendment by supporting it was to say that this House does not want different sections of the country to be ripped apart in a distillate civil war, if the Members will pardon the expression, or in a distillate fight for a limited supply of that product. We do not think that should be done.

Unfortunately, what the gentleman is doing with this amendment is getting us back into a distillate war kind of thing where the truckers are fighting the home heating oil customers and the truckers are fighting the farmers, trying to get a piece of this limited supply.

I do not think rule 9 did anybody any great favors. It did not do the farmers any favor, nor did that $5 entitlement they threw as a sop to us in the Northeast do anybody any good. As all of us know, it was eaten upon the Rotterdam market in about 12 hours.

So let us get away from special kinds of set-asides, and so forth, and let us demand that the administration, in the spirit of the gentleman's earlier amendment, have some priority system and have some rational kind of logic and order to just let us have a distillate policy. Let us have a distillate policy that takes care of the harvests, that takes care of the transportation of goods, and that takes care of heating oil needs.

Mr. Chairman, I would suggest that one of the ways to do that is for all of us to join together and put that kind of pressure on, and in that way we can produce more distillates. That is the way to do it.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, the gentleman raised the specter of a distillate war, but has the gentleman considered the specter of a war involving the supply of food?

When we are trying to protect the farmer, we are also trying to protect the American consumer. The farmer feeds the Nation. Unless he can plant and harvest on time, he cannot feed the Nation. I would like to suggest that this amendment protects all America.

Mr. MOFFETT. Mr. Chairman, I understand that, and I appreciate the gentleman's comments.

Mr. Chairman, I do not believe my time has expired, so let me say to the gentleman from California (Mr. PASHAYAN) that that is a legitimate comment. I am not putting down the possibility of food shortages if the farmers do not get enough distillate. I think, and I think most of us feel, that if we have some order rather than chaos in the distillate situation, if the administration and the DOE can give us some remedies, we can have a priority kind of system, just as we do in natural gas.

☐ 1640

It does not work well all the time, but at least we know there is a priority system where people who heat their homes are first, and then so on down the line. That is the way we should do it here.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I commend the gentlemen on the other side for their concern, because we should have legitimate concern for the needs of agriculture. But right this minute there is full authority to afford set-asides for that full needs of agriculture in existing law. This amendment adds nothing to that except inflexibility.

Remember, the farmer has needs, not only for distillates, for purposes of plowing and for conducting his farming operations, but he has got to have distillate and diesel fuel to heat his home and he has got to have distillate and diesel fuel for the truckers who carry his goods to market. And this amendment very well could upset that balance and deprive him of the ability to get his goods to market by taking diesel that could go to the truckers who haul his produce away from those truckers and putting it into farming operations where it may very well at that time not be needed.

We are better off having this handled through careful and wise administration rather than some kind of inflexible statute which is not needed because existing authority is sufficient to meet the needs.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman for yielding.

Mr. Chairman, I concur with a great deal of what the gentleman said during his remarks, but it occurs to me that the farmers that I represent in Iowa, or farmers across the Nation, have a much different need than the truckers I represent, or the people I represent who need to heat their homes.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. MOFFETT) has expired.

(On request of Mr. TAUKE and by unanimous consent, Mr. MOFFETT was allowed to proceed for 1 additional minute.)

Mr. TAUKE. If the gentleman will yield further, the thing that is different is that the demand that the farmer faces is a very acute demand over a short period of time. So you may have a 3- or 4-week bubble in the spring, a 3- or 4-week bubble in the fall. At that same time all of the other diesel fuel demands are still occurring in that same area.

Mr. MOFFETT. Can I say something to the gentleman? I will go, arm in arm with the gentleman, down to the DOE—I think there are other Members here who will do that, Members who are concerned about the needs of the truckers, Members who are concerned about home heating oil customers—we will go down there and testify in the proceedings. They announced one today, on refinery yield of distillates. Let us go together, let us have a united front across the aisle, across the regions of the country, and not get into a fight about whether they are going to get distillates to our home heating people or to your farmers.

There is nothing I want more than for the farmers to have fuel for their harvests, and I think everyone, even those from the suburban areas, feel that way very strongly. This is not the way to do it.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the amendment offered by the gentleman from Iowa addresses an issue which should be of great concern to both urban and rural Members alike. This amendment, to put it simply, would attempt to make sure that we have enough middle distillate to produce our food. For whatever reason we may need diesel fuel, unless we have enough to grow the food we eat, all other uses are secondary. To require that refiners set aside only 1 percent of their total distillate supplies for agriculture is, I would suggest, a small price to pay for an adequate food supply.

It is my understanding that agriculture uses about 5 percent of the total middle-range distillates. We are asking for only 1 percent to be set aside.

The gentleman from Iowa makes the point that there is a crucial period of time occurring several times throughout the course of a year, periods of 2 to 3 to 4 weeks, when supply is crucial. Why is it crucial? Because if that supply is not available at that moment, that farmer family's livelihood for the entire year is gone.

It is one thing to talk about going down hand in hand to the Department of Energy to make changes as suggested by the gentleman from Connecticut; but, as a matter of fact, if and when the Department of Energy does make a change, the crucial period may indeed be past, and the income for that family, for that State, for that region, may be gone for the year too.

Mr. Chairman, this is not a regional problem; it is a national problem. We must take steps now to make sure that crops next year will be planted, that they are going to be harvested this year, and that they are going to be irrigated when it is appropriate to irrigate.

I urge every Member, rural and urban alike, to wholeheartedly support the amendment offered by the gentleman from Iowa. And, Mr. Chairman, I would also add that I commend the gentleman for bringing this matter to the attention of the House.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, when the gentleman says that it is a national problem, I would like to underscore the fact that we are also protecting the American consumer from a shortage of food, and I am sure that is what the gentleman meant when he said that it is also a national problem, not only a problem for the farmers.

Mr. BEREUTER. It is indeed, and I appreciate the gentleman clarifying that point.

Mr. GRAMM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I come from a district that is predominantly agriculture, and I oppose this amendment because it is a very bad amendment. It will hurt the American economy if this amendment is passed.

A set-aside is a very powerful tool which circumvents the flexibility of the market system. It circumvents our ability to move the resources that are available to fill critical shortages. We keep hearing people talk about harvesting and planting, but nowhere does this amendment mention harvesting or planting. It sets aside resources which are, so far as the distillation process is concerned, perfect substitutes for home heating oil. I think it is imperative that we maintain flexibility. I think it is imperative that in our attempt to limit the ability of this bill to function and in the partnership that has been built up in this debate that we not pass an amendment which is going to make it very difficult for us to deal with a shortage if it does occur.

So to reiterate, I ask my colleagues, especially those from rural areas, to make note of the fact that this is not an amendment which protects agriculture during planting, it is not an amendment which protects agriculture during harvesting; it is an amendment which requires a set-aside of fuel for agricultural use, regardless of how deep the shortage is of home heating oil, regardless of how deep the shortage is in terms of diesel fuel for transportation. I think this is a very poor move, and I think it is imperative that this amendment be voted down.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, the gentleman mentioned flexibility. Is the gentleman aware that in the amendment, first of all, the President must determine that there is a shortage which is likely to affect agriculture; second, that the President has the flexibility of determining whether the set-aside should be in a regional area or several regions or nationwide?

Mr. GRAMM. If I might reclaim my time and answer that question? Any shortage which occurs in middle distillates is going to affect agriculture because agriculture is part of the economy. What the gentleman is asking us to do is to build bureaucratic rigidity into the allocation system, and I think that is basically counterproductive in terms of dealing with a shortage.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, I think the gentleman's concern about agriculture hording fuel is really misplaced. Agriculture is not going to invest in fuel at times of the year when it is not necessary. Agricultural people work on a very thin margin of profit. Their overhead is very high. I really think the concern of the gentleman is misplaced because, as I say, farmers are not going to invest in fuel at times of the year that they do not need it. This amendment is simply to assure and to protect the American consumer against a shortage of food.

Mr. GRAMM. Mr. Chairman, I am not at this point willing to enter into a debate about the sacredness and purity of the American farmer. We are talking about middle distillates. We are talking about home heating oil. The question is: Are we to have a set-side for agriculture alone and, therefore, limit through bureaucratic rigidity our ability to deal with the shortage of middle distillates I I think that is a very poor move.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to my colleague, the gentleman from Michigan.

Mr. STOCKMAN. I thank the gentleman for yielding.

Mr. Chairman, I will just say to the gentleman that I think he made a very sensible argument. I think he is right on this amendment, it is a bad one, and I hope it is rejected. But the gentleman talks about rigidity and inflexibility, and what do we have in the bill that the gentleman is supporting? We have a massive authority to the Federal Government to allocate energy by rule. Inevitably, one region of the country is going to be penalized relative to another. Inevitably, under the conservation plans that are going to be imposed under the conservation part of this bill, one industry is going to feel slighted relative to another.

The debate we are having right here will be written large 100 times when you get this authority down to DOE and they actually start formulating concrete plans like the ones offered by the gentleman here. I think that in this case it is an unwise proposal. I think it is clear that if you put up a set-aside for one sector you will encourage hoarding. That is what has happened to gasoline this spring, it will happen to diesel oil if we do it in the case of the agriculture sector. But it seems to me that the arguments that are coming from the other side, from the gentleman from Connecticut, from the gentleman from Texas, are totally contradictory in terms of what you have been saying all afternoon, that we have to empower the Government to move around the fuel supplies in this country and say who gets it and who does not.

Mr. GRAMM. Mr. Chairman, reclaiming my time, I simply say to the gentleman that I agree with the gentleman that no rationing or conservation plan can ever be a substitute for a production plan. What I have argued all afternoon is, let us not kill the plan before it is written.

Mr. RATCHFORD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am from a State that is watching week by week as to whether or not the allocation for home heating oil is going to be adequate. We are on the biting edge of a crisis in the North. We do not come to you this afternoon and say, "Treat us specially."

What this amendment says—and I appreciate the concerns of the gentlemen from producing States—is: "Treat us specially."

If we treat the farmers specially, why do we not treat the truckers specially? If we treat the truckers specially, why do we not treat the consumers specially? If we treat the consumers specially, why do we not treat the homeowners specially? If we treat the homeowners specially, why do we not treat the renters specially? If we write all of these special exceptions into the bill, we are moving away from the very intent, and that is to provide standby authority for the President in time of a crisis. If we have one exception for one part of the country and say to the rest of the country, "We are not going to treat your problems," we are inviting real trouble this winter.

□ 1650

I think a general approach is a correct approach. This provincial approach is what is wrong with the debate we have had for the past 2 days.

We ought to defeat the amendment, get on to the bill, pass the bill, and go back to the people of the United States and say, "We finally had the courage to bite the bullet on rationing."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. TAUKE).

The question was taken; and on a division (demanded by Mr. TAUKE) there were—ayes 23, noes 38.

RECORDED VOTE

Mr. TAUKE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 229, noes 191, not voting 14, as follows:

[Roll No. 421]

AYES—229

Abdnor
Albosta
Alexander
Anderson, Ill.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bereuter
Bethune
Boner
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fazio
Findley
Fish
Fithian
Florio
Foley
Fountain
Fowler
Frenzel
Gilman
Gingrich
Glickman
Goldwater
Goodling

Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harsha
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Ichord
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kazen
Kelly
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
Madigan
Marriott
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nichols
Nolan
O'Brien
Obey
Panetta
Pashayan
Patterson
Paul
Perkins
Petri
Pickle
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Steed
Stenholm
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Vander Jagt
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolpe
Wyatt
Wydler
Yatron
Young, Alaska
Young, Fla.

NOES—191

Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Bailey
Barnes
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Clay
Conte
Corman
Cotter
Coughlin
D'Amours
Danielson
Dellums
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Erlenborn
Evans, Ga.
Fary
Fascell
Fenwick
Ferraro
Fisher
Flippo
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Guarini
Gudger
Hall, Ohio
Hanley
Harris
Hawkins
Heckler
Hefner
Heftel
Holtzman
Howard
Hughes
Hutto
Hyde
Ireland
Jacobs
Jenkins
Jones, N.C.
Jones, Okla.
Kastenmeier
Kemp
Kildee
Kostmayer
LaFalce
Lederer
Lehman
Leland
Levitas
Long, La.
Long, Md.
Lowry
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Nelson
Nowak
Oakar
Oberstar
Ottinger
Patten
Pease
Pepper
Peyser
Preyer
Price
Pritchard
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stockman
Stokes
Studds
Swift
Synar
Thompson
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
Whitley
Wilson, C. H.
Wirth
Wolff
Wright
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—14

Bevill
Bolling
Chisholm
Collins, Ill.
Conyers
Davis, S.C.
Diggs
Flood
Forsythe
Holland
Luken
Marlenee
Treen
Wylie

□ 1700

The Clerk announced the following pairs:

On this vote:

Mr. Marlenee for, with Mr. Diggs against.

Mr. Wylie for, with Mr. Conyers against.

Mr. STRATTON and Mr. KRAMER changed their vote from "no" to "aye."

Mr. PHILLIP BURTON and Mr. LONG of Maryland changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1710

AMENDMENT OFFERED BY MR. KOSTMAYER

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER: Page 50, after line 2, insert the following new section:

MIDDLE DISTILLATES REPORT

SEC. 4. Not later than 45 days from the date of enactment of this Act the President shall file a report to both Houses of Congress in which the President shall examine the middle distillate situation and, in so doing, make detailed findings with respect to all matters required to be addressed in findings made pursuant to section 12(d)(1) of the Emergency Petroleum Allocation Act. In making the report, the President shall examine the middle distillate situation as though he were reaching an initial decision to decontrol the product, and shall, in the report, reach the conclusion that pursuant to the requirements of section 12(d)(1) of the Emergency Petroleum Allocation Act, such a decision is or is not warranted.

Mr. KOSTMAYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, is this a long amendment or a short amendment?

Mr. KOSTMAYER. Mr. Chairman, I withdraw my request.

The Clerk concluded the reading of the amendment.

Mr. KOSTMAYER. Mr. Chairman, I will not consume all of my time. Briefly, under the authority granted to the President of the United States through the Energy Production and Allocation Act, President Ford in May of 1976 lifted controls on home heating oil and diesel fuel. He did so because he felt several conditions which allowed him to do so had been met. Among those conditions he felt were met was an adequate supply at that time, and also adequate competition in the marketplace.

It is my belief that those conditions no longer exist or prevail and that there are at present not adequate supplies of home heating oil. We face serious shortfalls this coming winter, and we face serious problems with pricing. In the month of June, for example, the price of home heating oil increased 8.6 percent. From July 1978 until July 1979 the price of home heating oil in this country increased 61 percent.

So, the two conditions which prompted President Ford to remove price controls in May 1976, mainly that there was an adequate supply and that there was competition in the marketplace, no longer exist. Therefore, it is time to reimpose price and allocation controls on home heating oil in this country.

This amendment would require the President of the United States to study this matter, and to report back to the Congress within 45 days from the date of enactment with the recommendation as to whether or not price and allocation controls should be reimposed.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I could agree to this amendment without the last six lines. If the gentleman could agree with me, I could accept language which said:

> SEC. 4. Not later than 45 days from the date of enactment of this Act the President shall file a report to both Houses of Congress in which the President shall examine the middle distillate situation and, in so doing, make detailed findings with respect to all matters required to be addressed in findings made pursuant to section 12(d)(1) of the Emergency Petroleum Allocation Act.

That is pretty close to what the gentleman wants, and I think that represents the understanding which the gentleman and I had in our earlier discussions.

Mr. KOSTMAYER. The distinguished gentleman from Michigan had seen the amendment in advance, and I would accept that if he would be willing to include the words:

> In making the report, the President shall consider or not whether to re-impose price and allocation controls, on middle level distillates.

Because that is the issue I am asking the President to consider, whether or not to reimpose controls. He, of course, has the option of making a negative recommendation.

Mr. DINGELL. I was familiar with what the gentleman had in mind, but the last six times, I must confess, are new to me. As the gentleman will recall, we did not actually see the language. Certainly, in fact, the President would make the necessary findings pursuant to section 12(d)(1). We think that would accomplish what the gentleman desires, and in that we have come to an understanding that we should deal with the question of whether or not controls would be reimposed.

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Texas.

Mr. LOEFFLER. Mr. Chairman, in behalf of the minority I would echo the comments of the distinguished chairman of the Subcommittee on Energy and Power and say that we would be willing to take this amendment if, in fact, the gentleman did strike the last six lines.

Mr. KOSTMAYER. Let me ask the gentleman from Michigan, if we put a period at the end of "Allocation Act" and add: "And shall, in the report, determine whether or not to reimpose price and allocation controls."

Mr. DINGELL. The problem I have is that I do not want the President to prejudge, if he studies the matter under section 12(a)(1), those matters which relate to whether or not there should in fact be controls. I would agree with the gentleman that our discussions would outline, among congressional intent, that one of the things the President should consider in the course of his study would be whether or not controls should be reimposed on middle distillates.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(At the request of Mr. DINGELL and by unanimous consent, Mr. KOSTMAYER was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. In other words, what I do not want to do is, essentially, prejudge what the President is going to come to in his study. I have no objection to him making suggestions to the Congress, nor the matters in section 12(d)(1), nor do I have any objection to him, if he comes to the conclusion after that study, to arrive at a recommendation to the Congress with regard to reimposition of controls, but I do have objections to the fact that we should in any fashion prejudge the outcome of the study referred to.

Mr. KOSTMAYER. I would respond to the gentleman from Michigan by saying that as he knows, I had intended to offer originally an amendment which would require the President to reimpose price and allocation controls. After discussing that with the Chairman I did not offer it, and I offer this instead. Now, the gentleman from Michigan is asking me to weaken the amendment even further. I simply cannot accede to that request.

Mr. DINGELL. First of all, I advised the gentleman that I would agree to a study. I never saw the language.

□ 1720

I want it very clear that the gentleman and I had an understanding with respect to the study. We did not have any understanding of what I would view as prejudging the results.

Mr. KOSTMAYER. This is a neutral, not a preconceived study.

Mr. DINGELL. I want to be very cooperative with the gentleman, but I can go only so far in accepting amendments. I cannot accept anything other than that which I have indicated. My colleagues on the other side have indicated similarly to the gentleman.

Mr. KOSTMAYER. Again I would say, not meaning to belabor this, I had drawn an amendment which would require the President under force of law to reimpose price and allocation controls.

Mr. DINGELL. I hope the gentleman does not force us to disagree.

Mr. KOSTMAYER. We have been here now 2 days, and we have passed a number of amendments, one of which, according to the press, we passed in response to restaurant owners to alter the temperature settings. We passed one in response, I believe, to people in health facilities to control the temperatures there. We passed an amendment exempting energy companies from conservation standards. Now we are talking about an amendment which deals with the price which people will pay for home heating oil which could double next year. It seems to me that if we can pass amendments for restaurant owners, for people who run health facilities, for energy companies, that we ought to be able to pass an amendment which would bring some kind of stability to the price of home heating oil—not an amendment which would require that but only an amendment which would require the President to study the question and come back and report.

Mr. DINGELL. I have no objection to the President's studying the matter, and I would be happy to support that. My problem is that if we do what we have indicated, I think we would accomplish the gentleman's goal. But if we take the language I see here, I am compelled to oppose it. The choice belongs to the gentleman. I am not prepared to argue.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KOSTMAYER was allowed to proceed for 1 additional minute.)

Mr. KOSTMAYER. I simply want to ask the gentleman from Michigan if he would be willing to put a period at the end of "Allocation Act" on line 7, strike the remaining six sentences, and add the words "and shall in the report determine whether or not to reimpose price and allocation controls."

Mr. DINGELL. I have no objection to that, Mr. Chairman. I would ask unanimous consent that the amendment offered by the gentleman be amended to conform to that language.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan (Mr. DINGELL)?

Mr. GRAMM. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DINGELL. If the gentleman will yield, Mr. Chairman, I ask unanimous consent to withdraw the amendment, and we will redraft it and reoffer it.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. KOSTMAYER. Mr. Chairman, I stand with my amendment and with the consumers of our country.

The CHAIRMAN. Objection is heard.

Mr. KOSTMAYER. I ask the Members of the House to adopt my amendment, reminding them that we have accepted a number of amendments here for the special interests, and this is one that would benefit consumers and should be passed.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ROUSSELOT, and by unanimous consent, Mr. KOSTMAYER was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Is it the gentleman's intention and hope that we will move back to price controls in this area?

Mr. KOSTMAYER. That is a determination which would be made in the study, that the President would make in the study. He would report back in 45 days. He could recommend it or not. The amendment merely requires the President to make a study within 45 days to determine whether or not price and allocation controls should be reimposed. I would stand with my amendment.

AMENDMENT OFFERED BY MR. LOEFFLER TO THE AMENDMENT OFFERED BY MR. KOSTMAYER

Mr. LOEFFLER. Mr. Chairman, I offer an amendment to the amendment.

The clerk read as follows:

Amendment offered by Mr. LOEFFLER to the amendment offered by Mr. KOSTMAYER: Strike the last six lines of the amendment.

Mr. LOEFFLER. Mr. Chairman, it is my belief that we should not prejudge the President in his ability to review the middle distillate situation. Earlier today we passed an amendment offered by the gentleman from Iowa (Mr. TAUKE) which in essence does what the first paragraph of the Kostmayer amendment does. I urge my colleagues to adopt the amendment to the amendment. There was earlier colloquy in which the chairman of the subcommittee agreed with this.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman for the amendment to the amendment. I support it. I urge that the amendment offered by our colleague, the gentleman from Pennsylvania (Mr. KOSTMAYER) be amended in the fashion indicated by our colleague, the gentleman from Texas (Mr. LOEFFLER), and I urge an early vote on the matter.

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from Texas.

Mr. GRAMM. I thank the gentleman for yielding. I commend my colleague from Texas on his amendment. I think it is imperative that it be passed. The gentleman from Pennsylvania (Mr. KOSTMAYER) has pointed out we passed a lot of bad legislation and, therefore, we should add one more bad amendment to the bill. I hope my colleagues will vote for this amendment to the amendment.

I thank the gentleman from Texas.

Mr. LOEFFLER. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. LOEFFLER) to the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER).

The question was taken; and on a division (demanded by Mr. KOSTMAYER) there were—ayes 63, noes 44.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER) as amended.

The amendment as amended was agreed to.

AMENDMENT OFFERED BY MR. JENRETTE

Mr. JENRETTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JENRETTE: Page 50, after line 2, insert the following new section:

OUT-OF-STATE VEHICLES TO BE EXEMPTED FROM STATE ODD-EVEN MOTOR FUEL PURCHASE RESTRICTIONS

SEC. 4. (a) Notwithstanding any provision of any Federal, State, or local law, any odd-even fuel purchase plan in effect in any State may not prohibit the sale of motor fuel to any person for use in a vehicle bearing a license plate issued by any authority other than that State or a State contiguous to that State.

(b) For purposes of this section—

(1) the term "State odd-even fuel purchase plan" means any motor fuel sales restriction under which a person may purchase motor fuel for use in any vehicle only on days (or other periods of time) determined on the basis of a number or letter appearing on the license plate of that vehicle (or on any similar basis);

(2) the term "motor fuel" means motor gasoline or No. 1 or No. 2 diesel fuel; and

(3) the term "State" means each of the several States the District of Columbia, the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

Redesignate the following sections accordingly.

Mr. JENRETTE. Mr. Chairman, let me say at the outset that I support the purposes of S. 1030, the Emergency Energy Conservation Act of 1979. I believe it is essential that the Nation have in place a gasoline rationing plan so we can deal equitably with a severe petroleum supply interruption. I also support the State conservation planning process that this bill contemplates.

I believe the approach S. 1030 takes to conservation is the right one. It calls for the States to develop their own plans tailored to their own needs and circumstances. This will allow each State to conserve in the way that does least damage to its economy, provided that it meets the goal set by the President. I might add that my own State of South Carolina has been one of the leaders in developing State-level energy conservation planning this year.

While States ought to have broad latitude in developing their conservation plans, at the same time these plans must also provide for the needs of a national transportation and distribution system. In particular they must allow the interstate traveler and trucker to continue to move.

The purpose of the amendment I am proposing to S. 1030 today is to insure that in using one particular conservation device—odd/even motor fuel distribution plans—the States do in fact meet the needs of the interstate transportation and distribution system.

Mr. Chairman, in short this is an interstate travel amendment. Basically, for the benefit of those who listened to the amendment, it is addressed to the States that go to a conservation plan known as the odd/even plan. It says the citizens of States which have such a plan, or of any State contiguous thereto, would be subject to the plan. But the amendment would not allow a State with odd/even to prohibit the sale of gasoline or diesel fuel to a vehicle bearing a license plate from a State other than that State or a contiguous State.

All of us have heard of people having to wait 24 hours under the odd/even plan in order to come into their odd/even day in which their licenses appear. This amendment would allow States to conserve gasoline via an odd/even rationing program, but would insure the foreign travelers not from within that State or a contiguous State, that they would have the opportunity to purchase fuel to get to their destinations without undue delay. This is basically what the proposed amendment does, and I would hope that the committee would go along with it. It would help tourists in interstate travel, and it certainly would help the trucking and agricultural industry transporting its goods. It will insure a balanced approach to fuel purchase controls and provide equity to interstate travelers and areas particularly dependent upon them such as the Sixth District of South Carolina which I represent.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. JENRETTE. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding. The gentleman's amendment has a great deal of merit, and I am happy to support it.

□ 1730

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. JENRETTE. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I think the amendment of the gentleman is a good one. What if you have a situation like Kansas City, Kans.-Kansas City, Mo., or you have Texarkana, Tex., and Ark., and, let us say, you have an interstate agreement between the two States that would somehow permit this odd/even to apply to license plates of both States, would the gentleman's amendment permit such an interstate agreement?

Mr. JENRETTE. To be fair with the gentleman I have some concern as to whether it would or not. I would certainly accept that.

Mr. GLICKMAN. Then let me ask a question for the purpose of legislative history. Does the gentleman's amendment preclude an interstate agreement between two contiguous areas or two States regarding such an odd/even plan?

Mr. JENRETTE. It is not the purpose of the amendment to prohibit such an agreement. Such arrangements would be permissible. In fact it would allow the contiguous States to enter into agreements that best fit their circumstances.

Mr. GLICKMAN. Again for legislative history, the amendment would not preclude such an interstate agreement?

Mr. JENRETTE. The gentleman is correct, it would not preclude such an interstate agreement.

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. JENRETTE. I will be glad to yield to my friend, the gentleman from Texas (Mr. LOEFFLER).

Mr. LOEFFLER. Mr. Chairman, on this side of the aisle we are willing to accept the gentleman's amendment.

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. JENRETTE. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. I would like to associate myself with the gentleman's remarks and the gentleman's amendment and urge its passage, inasmuch as I have the pleasure of representing one of the really great tourist attractions of the east coast commonly known as the outer banks.

Mr. JENRETTE. Mr. Chairman, as one great American said, almost paraphrasing, thank God, thank God we have agreed at last.

Mr. Chairman, I ask for passage of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. JENRETTE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: Page 50, after line 2, insert the following new section:

"SEC. 4. SURFACE TRANSPORTATION ENERGY CONSERVATION PLAN.—All operators of motor vehicles on the public roads shall regularly maintain the air pressure in the tires of such vehicles as recommended by the manufacturer of such tires."

Redesignate the following sections accordingly.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

Mr. MILLER of Ohio. Mr. Chairman, the amendment will be withdrawn but I used it as a vehicle to attract some attention to the subject matter that I would like to present to the House.

I know, to have such an amendment, we would need another 1 million bureaucrats in order to check the tires of the automobiles and trucks over the Nation.

Based on a survey we conducted last year, we found that a vast majority of Americans are driving their vehicles with underinflated tires. Now, Mr. Chairman, if we had all of the hot air we have put out in this Chamber over the last several days and could put it into the automobile tires running on our highways, we would save many, many gallons of gasoline. The underinflated tire is like driving in sand. You are always driving uphill. There are presently some 149 million registered vehicles in the United States. Our findings, based on a sampling of 1,100 cars and light trucks in the greater Washington, D.C., area, indicated that four out of every five automobiles were being driven with an average underinflation of 5 pounds per tire, and 9 out of every 10 light trucks were being driven with an average underinflation of 8 pounds per tire.

Studies show that gasoline mileage will drop approximately one-half of 1 percent for every pound the automobile tire is underinflated. Therefore, using our average finding of 5 pounds underinflation, the 117 million passenger cars will experience a 2.5-percent loss in gasoline mileage.

If these same vehicles were to operate at the manufacturers' recommended tire pressure, this country could realize a gasoline saving—I would like to emphasize this—a gasoline savings of over 2.5 billion gallons a year at practically no cost.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Illinois.

Mr. HYDE. Is the gentleman telling us he supports inflation?

Mr. MILLER of Ohio. The gentleman does support higher air inflation of the automobile tire.

Mr. HYDE. I thank the gentleman.

Mr. MILLER of Ohio. When converted to dollars this means the American consumer could save over $2 billion in gasoline cost alone simply by observing tire inflation practices. If one was to include the cost of the tire service lost, that one suffers as a result of underinflated tires this would mean an additional $1 billion in saving for the consumer. It is time the American driver realized there is a lot of gasoline and money to be saved by maintaining proper inflation. In this day of almost a dollar-a-gallon gasoline such savings add up in a hurry.

Mr. Chairman, my main purpose in conducting the tire-inflation survey last year was to help find a solution to the problem of underinflated tires that require additional energy from the automobile engine thus consuming additional gasoline and the amendment that I offer now is to try to get the subject before the driving public that it is important that we have our automobile tires amply inflated.

Our main purpose in conducting the survey was to get this feel for it. We have appealed to the Department of Energy and to the Department of Transportation to pursue this subject further with the hope they would help create a greater awareness of the problem with the general public. Very little has been done. It can be pursued. We have given the people and the money to the Department of Energy and they could put on a blitz of advertising to convey a message to the people that this is one way that our energy problem can be helped.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman is a most valuable Member of this body. I have had the privilege of serving on the Technology Assessment Board with him where he serves with great distinction. I join the gentleman in his concern on this matter and I commend him for bringing this matter to the attention of the House.

Mr. Chairman, I agree fully with the gentleman in what he says regarding the need to properly maintain vehicles and properly maintain tire pressure. I do not joke with the gentleman about being in favor of inflation or not and whether he is in favor of it.

I would point out further that in the next few days when we consider the Department of Energy authorization bill a proposal for advertising of this precise kind will be offered as an amendment to the bill and I am sure the gentleman will find it pleasant to observe.

Mr. MILLER of Ohio. I thank the gentleman from Michigan.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio (Mr. Miller)?

There was no objection.

AMENDMENT OFFERED BY MR. MOFFETT

Mr. MOFFETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moffett: Page 50, after line 2, insert the following new section:

NATIONAL MIDDLE DISTILLATE SET-ASIDE PROGRAM FOR RESIDENTIAL HEATING NEEDS

Sec. 4. (a) Not later than 60 days after the date of the enactment of this Act, the President shall establish and maintain a national set-aside program to provide middle distillates for residential heating purposes.

(b) The program established under subsection (a) shall—

(1) be made effective only if the President finds that a shortage of middle distillates exists within the various regions of the United States generally, or within any specific region of the United States, and that shortage—

(A) has resulted or is likely to result in end-user shortages;

(B) has not been, or is not likely to be, alleviated by any State set-aside program or programs covering areas within that region;

(2) provide that, in regions in which such program is effective, prime suppliers of such fuel be required to set aside each month one percent of the amount of the middle distillates to be supplied during that months in that area;

(3) provide that amounts of fuel set aside under such program be directed to be supplied by such prime suppliers to applicants who the President determines would not otherwise have adequate supplies to meet requirements for residential heating purposes;

(4) provide that such prime suppliers may meet such responsibilities for supplying fuel either directly or through wholesale purchasers who resell fuel, but only in accordance with the requirements established under such program; and

(5) shall not supersede any State set-aside program for middle distillates established under the Emergency Petroleum Allocation Act of 1973.

(c) For purposes of this section—

(1) The term "prime supplier", when used with respect to any middle distillate means the supplier, or producer, which makes the first sale of the middle distillate into any region for consumption in that region.

(2) The term "middle distillate" has the same meaning as given that term in such section 211.51.

(3) The term "region" means any PAD district as such term is defined in such section 211.51. Redesignate the following sections accordingly.

Mr. MOFFETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut (Mr. Moffett)?

Mr. BAUMAN. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman from Maryland (Mr. Bauman) reserves the right to object.

Mr. BAUMAN. Will the gentleman tell us what it is the amendment does?

Mr. MOFFETT. If the gentleman will yield, Mr. Chairman, the language should be very familiar to the gentleman. It is the exact same language as the Tauke amendment through which the House voted to have a set-aside for agricultural production, except I have substituted, instead of agricultural production, residential heating, as the gentleman can see. The language is familiar.

Mr. BAUMAN. With what percentage?

Mr. MOFFETT. The same percentage, 1 percent set-aside above what would be the case.

Mr. BAUMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut (Mr. Moffett)?

There was no objection.

Does the gentleman from Texas insist on his point of order?

Mr. LOEFFLER. Mr. Chairman, I withdraw the point of order.

Mr. MOFFETT. Mr. Chairman, I think the arguments are basically the same. My colleagues are familiar with the language before us and with the intent; but I think it is important to say, and it will not take me five minutes to say so, that we have a very strong coalition in the subcommittee that goes across the ideological spectrum. It may not be appreciated because of the partial beating we have taken on some of these amendments, but I think it should be said that the gentleman from Texas (Mr. Gramm), the gentleman from Michigan (Mr. Dingell) and myself and a variety of others on the subcommittee have come together on the notion that we need a bill of the kind that is before us, but also that we need gasoline conservation in order to make sure that we can see enough distillate fuel produced, not only for the heating oil customers, but for the truckers and the farmers as we look to the year ahead.

Now, this coalition has tried desperately to try to avoid a first shot in what would be a distillate war, where truckers would fight farmers and farmers home heating oil customers for the admittedly short supply, small supply of distillate that is available.

I have been against, and this group on the subcommittee has been against, and the subcommittee itself has voted against this type of thing, the set-aside, the special treatment for one kind of distillate user; so it is only after the House decided that it wants to go that route, it wants to go the set-aside route that this gentleman and some of my colleagues who have 85 percent or 90 percent of our constituents using fuel oil have no choice but to offer a set-aside, a similar set-aside, inserting the same language for residential heating customers. If it is good for the harvest, it ought to be good for the grandmother who has to heat her home.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the gentleman yielding. Just let me say that in recognition of that coalition, and in acceptance of it, because the gentleman from Connecticut and I have worked together on certain other issues, I see nothing wrong with the amendment and would be delighted to accept it.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Mr. Chairman, the gentleman has said that he wants to avoid another distillate war, and so he is adding another set-aside; but I would suggest to the gentleman that the real set-aside today, the party responsible is the Department of Energy. They have told the refineries to have a target of 240 million barrels; so instead of shipping it out to the distributors in the gentleman's district, they are keeping it at the refinery. That is why we have this great fear in the Northeast that there is going to be a cold winter.

Mr. MOFFETT. Mr. Chairman, if I may reclaim my time, the gentleman and I agree on that. We agree on the need for some rational distillate policy.

I do not like going this route, but I think in terms of equity, we ought to adopt this amendment.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, following up on the problem that was just mentioned, I should read a letter I received. I just met with some of the New York distributors for Gulf Oil. They received a letter from Gulf Oil which reads as follows:

GULF OIL CO.,-U.S.,
Hackensack, N.J.

DEAR RESELLER: Effective August 1, 1979, we will discontinue our 1% discount terms. Our new credit terms will be net 10 days for both No. 2 and No. 1 fuel oil. Payment for August deliveries must be in our designated depository on the 10th day after date of invoice. These terms will be strictly enforced, and your compliance is necessary so as to avoid credit suspensions, which could interrupt your purchasing product from us.

At the same time we are discontinuing our Seasonal Finance Loans and they will not be available for the 1979–80 Heating Season. If you require financing for these purchases during the Heating Season, we suggest you immediately make arrangements with your banking facilities.

Very truly yours,
W. R. FAGAN,
District Sales Manager.

Mr. Chairman, it should be clear what is happening, and I hope everyone realizes it, that in order to meet their requirements by DOE, we are not getting heating oil out to the homes or to the distributors.

My statement would be simply hang on to your hats when we really get into our cold season.

Mrs. FENWICK. Mr. Chairman, would the gentleman yield?

Mr. MOFFETT. I would be happy to yield.

Mrs. FENWICK. Mr. Chairman, I just would like to contribute to this. Gulf Oil has a target set by the Government of 18 million barrels in its own refinery.

The distributors in my State are getting 50 percent from the refineries of the middle distillates that they ought to have. The customers are not being filled up, neither are the distributors; so our secondary and our tertiary storage is going to be empty and 249 is a fraud.

Mr. MOFFETT. Mr. Chairman, I agree with the gentlewoman.

Mr. SHARP. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Now, frankly, Mr. Chairman, the gentleman from Connecticut is correct, that as a matter of fairness the House should follow through and set-aside fuel oil for the homeowners in this country.

I would expect that there should be another amendment follow this one in which someone gets up to ask for a set-aside for the truckers to guarantee that we can deliver our goods to the marketplace; but I think what this represents is the error of the passage of the last amendment, because the fact is what we are doing is writing rigidities into the law that I think we will come to regret if they genuinely become law, and I hope that they do not, because what we are going to do is to be insisting on set-asides that will be inflexible. Our experience with set-asides in the last crisis were not very favorable. We should be very careful not to enter quickly into this set-aside business.

When you start holding up 1 percent or in the case of this recent crisis 3 or 4 percent and you do not get that allocated quickly and it takes you 30 or 40 days to get out what you are holding back, you are clearly compounding the distribution of a limited resource in this country.

So while I think the gentleman from Connecticut is correct, regarding the fairness of his amendment, I think the House is simply going to be compounding its error. I would hope when this gets to the conference committee that we will leave at least the flexibility that is under existing law and avoid this business of placating every interest in this country. We must stop voting for amendments simply to be able to go home and point to the voting record and say, "Yes, I was with you," but in practice we are against the people when we write this rigidity into the law.

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I will be happy to yield to the gentleman from Texas.

Mr. GRAMM. Mr. Chairman, I would like to associate myself with the gentleman's remarks. I think the gentleman has made it very clear that we are not going to undo the Tauke amendment by passing this amendment. We are going to eliminate another degree of freedom in our flexibility to deal with shortages. I think in doing so we are simply going to compound the problem.

Mr. SHARP. Mr. Chairman, in my judgment, the experience we have just been through should teach us that we want to be very careful and very limited in the exercise of governmental authority. If we get into a severe crisis, it is true we will probably have to allocate fuels to guarantee the planting and the harvesting of our crops; but we want to be careful that we do not end up adding to the shortage in the process which was our recent experience.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. MOFFETT).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MOFFETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 233, noes 187, not voting 14, as follows:

[Roll No. 422]

AYES—233

Abdnor
Addabbo
Albosta
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Applegate
Ashbrook
Atkinson
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Bennett
Biaggi
Bingham
Blanchard
Boland
Bonior
Bowen
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carter
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daschle
Davis, Mich.
de la Garza
Dellums
Devine
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Emery
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frenzel
Fuqua
Garcia
Gaydos
Gilman
Glickman
Gonzalez
Goodling
Gray
Green
Guarini
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Harsha
Heckler
Hightower
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hughes
Jeffords
Kelly
Kildee
Kindness
Kostmayer
LaFalce
Latta
Leach, Iowa
Lederer
Lee
Leland
Lewis
Lowry
Lundine
McDade
McEwen
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Mavroules
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish

Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Pepper
Perkins
Petri
Peyser
Price
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Rinaldo
Ritter
Rodino
Roe
Roth
Rousselot
Roybal
Sabo
Scheuer
Schulze
Sensenbrenner
Shannon
Shuster
Skelton
Slack
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stokes
Stratton
Studds
Swift
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weiss
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wolff
Wolpe
Wyatt
Wydler
Yatron
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

NOES—187

Akaka
Alexander
Andrews, N.C.
Anthony
Archer
Ashley
Aspin
AuCoin
Badham
Barnard
Beard, Tenn.
Benjamin
Bereuter
Bethune
Boggs
Boner
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burgener
Burlison
Butler
Carr
Cavanaugh
Chappell
Cheney
Coleman
Collins, Ill.
Collins, Tex.
Corman
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, S.C.
Deckard
Derrick
Derwinski
Dickinson
Dicks
Duncan, Oreg.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erlenborn
Evans, Ga.
Fary
Findley
Flippo
Fowler
Frost
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Goldwater
Gore
Gradison
Gramm
Grassley
Grisham
Gudger
Hammerschmidt
Hansen
Hawkins
Hefner
Heftel
Hillis
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kogovsek
Kramer
Lagomarsino
Leach, La.
Leath, Tex.
Lehman
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Lungren
McClory
McCloskey
McCormack
McDonald
McHugh
Mathis
Matsui
Mattox
Mazzoli
Mica
Michel
Mikva
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Nedzi
Nelson
Nichols
Patterson
Paul
Pease
Pickle
Preyer
Pritchard
Pursell
Quayle
Regula
Rhodes
Richmond
Roberts
Robinson
Rose
Rosenthal
Rostenkowski
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schroeder
Sebelius
Seiberling
Sharp
Shelby
Shumway
Simon
Smith, Iowa
Smith, Nebr.
Snyder
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stump
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Ullman
Van Deerlin
Vanik
Watkins
Weaver
Whitley
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Yates
Young, Mo.

NOT VOTING—14

Bevill
Bolling
Conyers
Diggs
Flood
Forsythe
Holland
Lent
Luken
Marlenee
Runnels
Treen
Wright
Wylie

□ 1800

Mr. REUSS and Mr. WAMPLER changed their vote from "no" to "aye."

Messrs. BADHAM, HAWKINS, AUCOIN, YATES, WEAVER, and HANSEN changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the last word, in order to ask the gentleman from Michigan, my chairman, if there are further amendments. There are no further amendments that I am aware of on this side, and I do not know whether there is any further tendency to delay on the other side, since the last few amendments have come from that side of the aisle.

Could the gentleman tell me if there are any further amendments?

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, I am aware of none that any Member desires to offer.

Mr. BROWN of Ohio. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

AMENDMENT OFFERED BY MR. EMERY

Mr. EMERY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EMERY: Page 50, after line 2, insert the following new section:

NATIONAL MIDDLE DISTILLATE SET-ASIDE PROGRAM FOR COMMERCIAL FISHING

SEC. 4. (a) Not later than 60 days after the date of the enactment of this Act, the President shall establish and maintain a national set-aside program to provide middle distillates for commercial fishing.

(b) The program established under subsection (a) shall—

(1) be made effective only if the President finds that a shortage of middle distillates exists within the various regions of the United States generally, or within any specific region of the United States, and that shortage—

(A) has impaired or is likely to impair commercial fishing; and

(B) has not been, or is not likely to be, alleviated by any State set-aside program or programs covering areas within that region;

(2) provide that, in regions in which such program is effective, prime suppliers of such fuel be required to set aside each month 1 percent of the amount of the middle distillates to be supplied during that month in that area;

(3) provide that amounts of fuel set aside under such program be directed to be supplied by such prime suppliers to applicants who the President determines would not otherwise have adequate supplies to meet requirements for commercial fishing;

(4) provide that such prime suppliers may meet such responsibilities for supplying fuel either directly or through wholesale purchasers who resell fuel, but only in accordance with the requirements established under such program; and

(5) shall not supersede any State set-aside program for middle distillates established under the Emergency Petroleum Allocation Act of 1973.

(c) For purposes of this section—

(1) The term "commercial fishing" shall mean the harvesting or production of any aquatic plant or animal for commercial purposes, and includes the transportation of such plants or animals.

(2) The term "prime supplier", when used with respect to any middle distillate, means the supplier, or producer, which makes the first sale of the middle distillate into any region for consumption in that region.

(3) The term "middle distillate" has the same meaning as given that term in such section 211.51.

(4) The term "region" means any PAD district as such term is defined in such section 211.51. Redesignate the following sections accordingly.

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. EMERY. Mr. Chairman, I offer an amendment, similar to the amendments just adopted by the House establishing a 1-percent set-aside program for middle distillate for agriculture and home heating oil, to provide protection for commercial fisherman. Although the quantity of middle-distillate set-aside under this proposal would be much smaller than the two previous cases, the impact of this proposal could be very great on an industry plagued by many costly and burdensome problems. I urge support for my amendment to assist commercial fishermen.

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, I have no objection to the amendment.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. EMERY).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan.

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk read as follows:

CLERICAL AMENDMENTS

SEC. 4. The table of contents for the National Energy Conservation Policy Act is amended—

(1) by striking out "Part 3", "Part 4", "Part 5", and "Part 6" and inserting in lieu thereof "Part 4", "Part 5", "Part 6" and "Part 7", respectively;

(2) by inserting after the item relating to section 623 the following:

"PART 3—EMERGENCY ENERGY CONSERVATION

"Subpart A—General Provisions

"Sec. 631. Findings and purposes.
"Sec. 632. Definitions.

"Subpart B—Minimum Automobile Fuel Purchases

"Sec. 633. Minimum automobile fuel purchases.

"Subpart C—Emergency Energy Conservation Program

"Sec. 634. National and State emergency conservation targets.

"Sec. 635. State emergency conservation actions.
"Sec. 636. Federal emergency conservation actions.
"Sec. 637. Standby Federal conservation plan.
"Sec. 638. Standby automobile sticker system.

"Subpart D—Study

"Sec. 639. Study.

"Subpart E—Administrative Provisions

"Sec. 640. Administration; delegation to States.
"Sec. 641. Information.
"Sec. 642. Regulations.
"Sec. 643. Effect on other laws.
"Sec. 644. Review; termination."; and

(3) by striking out "Sec. 641." and inserting in lieu thereof "Sec. 651.".

FUNDING

Sec. 5. For purposes of any law relating to appropriations or authorizations for appropriations as such law relates to the fiscal year ending September 30, 1979, or the fiscal year ending September 30, 1980, the provisions of this Act (including amendments made by this Act) shall be treated as if it were a contingency plan under section 202 or 203 of the Energy Policy and Conservation Act which was approved in accordance with the procedures under that Act or as otherwise provided by law.

Mr. BAUMAN (during the reading). Mr. Chairman, I ask unanimous consent that section 4 and section 5 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment that is made in order under the rule.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Bauman: On page 51, after line 12, insert the following new section:

"Sec. 7. (a) Except to the extent inconsistent with the provisions of subsection (b) the provisions of the Administrative Procedures Act (5 USC 551 et seq.) shall apply to this Act for purposes of judicial review.

(b) (1) Any State may institute an action in the appropriate district court of the United States, including actions for declaratory judgment, for judicial review of the

(A) target for the State established by the President,

(B) determination by the President that the State emergency conservation plan is not achieving the emergency energy conservation target of such State, or

(C) determination that the State plan submitted to the President for approval as a State emergency conservation plan does not comply with the provisions of section 3 of this Act, including the section regarding the share of the burden imposed on any specific class or on any individual segment thereof.

(2) The district court shall determine the questions of law and upon such determination certify such questions immediately to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(3) Any decision by such court of appeals on a matter certified under paragraph (2) shall be reviewable by the Supreme Court upon attainment of a writ of certiorari. Any petition for such a writ shall be filed no later than twenty days after the decision of the court of appeals.

(4) It shall be the duty of the court of appeals to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under this subsection.

Mr. BAUMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. BAUMAN. Mr. Chairman, I would hope that the Members would pay attention to this amendment. This is not a partisan attempt by the gentleman from Maryland in any way to harm the bill, which has been amended a number of times in the last few hours, as the Members well know.

This amendment would not have been germane to the bill if the Committee on Rules had not specifically made it germane, because it deals with the power of judicial review of the State conservation plans that may be imposed upon your State by the President of the United States at some point in the future if this bill becomes law.

I ask the Members to understand that under this bill there is no judicial review allowed for the attorney general of your State, for the Governor of your State, if at that final point in time there is a disagreement between the State officials and the Federal Department of Energy officials. The President of the United States, using the power that this bill gives him, could impose upon your State—hopefully, this will never happen—extraordinary provisions that would have the force of law that would control the lives of every one of your citizens.

The only restriction that this bill prevents is the imposition of the closing of gas stations on the weekend. That is the only thing it prevents. Any other possible restriction could possibly be part of a plan imposed upon your State—odd-even days, even the sticker plan as we finally acted upon that could be imposed upon your State.

All I am saying in this amendment, which was adopted by the other body unanimously, is that when you come to that point at which the States disagree with the Federal Government, then the State should have a right to go to the courts quickly under an emergency procedure to test the fairness and the equity of the Federal plan; to have the Federal court say yes or no, that indeed the plan should take effect under the President's extraordinary powers, or, no, the President has exceeded his powers.

□ 1810

Without this amendment there is no legal remedy for the States. They will simply have to knuckle under. All of the explanations of why Congress passed a law such as this will make no difference to your constituency if indeed the Federal plan is not fair. They will suffer. My amendment would allow the State to appeal the targets that the President could impose for conservation; to appeal whether or not the State plan is achieving the emergency energy conservation targets; to appeal whether or not the State plan is fair and equitable under the circumstances that exist in that State.

How many Members here from California recall the gasoline shortages under current Federal allocation law? How many of us have faced the problem of shortages, such as New York City, for instance, where current allocation laws are not doing the job? And you say we should have no appeal?

My own State of Maryland went to court twice in the last 5 years under existing judicial procedures that are allowed under gasoline allocation laws. Once we won, and once we were ruled out because we did not have proper evidence to show that the Federal energy decision was unfair.

If we are going to grant to the President of the United States, this President or any President, such extraordinary powers, powers we have never given any other Chief Executive in peace time, at least we should preserve the union of the States and the constitutional system, and an appeal to the courts.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I think the gentleman has an excellent amendment. I would like to ask him a couple of questions.

He talked about expeditious consideration by the courts. Does the amendment provide for a truly expedited procedure by which a district court could make or an appeals court could make these decisions?

Mr. BAUMAN. The amendment specifically says the States will have the right to apply to the Federal district court, that that court must immediately make determinations as to fact and law and that the only appeal at that point will be to the U.S. circuit court of appeals en banc, and they must immediately take up the matter. That system would prevent any obstruction, any unnecessary delay.

Of course, the State would have to make a good case in court that they are not being treated unfairly.

Mr. GLICKMAN. The second question is, again, what specifically would be subject to judicial review under the gentleman's amendment?

Mr. BAUMAN. The conservation targets that the President might set in the State is the first one, the determination by the President that the State emergency plan is not doing what the Federal Government thinks it should do, and third, the determination that the State plan which it submits to the Federal Government does not comply with the Federal criteria such as sharing the burden amongst the various classes of energy users.

What we are really saying is the equity of the plan that the State wants versus what the Federal Government is seeking to impose would be tested in court.

Mr. GLICKMAN. I would say that since this bill does give extraordinary powers to the executive branch of the Government, and under the circumstances as outlined in the gentleman's amendment which provides for expedited review, I think it would therefore be remiss to deny the third branch of our Government, the judiciary——

The CHAIRMAN. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

(At the request of Mr. GLICKMAN and by unanimous consent, Mr. BAUMAN was allowed to proceed for 30 additional seconds.)

Mr. GLICKMAN. If the gentleman will continue to yield, I think it would be etxraordinarily unwise to deny the judicial branch of the Government that power which the Constitution provides that branch of our Government. To deny judicial review on such an incredibly important piece of legislation would be incredible.

I would urge support for the gentleman's amendment.

Mr. BAUMAN. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. BAUMAN) has again expired.

(At the request of Mr. GLICKMAN and by unanimous consent, Mr. BAUMAN was allowed to proceed for 1 additional minute.)

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I want to commend the gentleman on his amendment and also add the additional point, while we are talking about the right of the States to protect themselves against discrimination, that while there are individuals in those States who may be inconvenienced by a rationing plan, there are also people whose livelihood may be seriously affected.

I think the gentleman's amendment addresses a very important point, because as I understand, without this amendment there is no judicial recourse. We have some very important matters at stake in this bill, including some people's livelihoods.

I commend the gentleman for the amendment and support it.

Mr. BAUMAN. I thank the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, if I understand, if the gentleman's amendment passes, there will be judicial review prior to the implementation of the President's decisions on setting the target and also the plan; is that correct?

Mr. BAUMAN. Under the existing judicial procedure, the court could grant an immediate stay of the plan, or it could let the plan go into effect and meanwhile review its fairness. The court has many remedies.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. BAUMAN) has again expired.

(At the request of Mr. BROWN of Ohio and by unanimous consent, Mr. BAUMAN was allowed to proceed for 2 additional minutes.)

Mr. BAUMAN. The court has many remedies. So the argument that this amendment is going to in some way hold up the progress of these plans taking effect, I do not think is really true. The court could make the determination whether the plan could be held up, an injunction issued, or whether it could go forward while they reviewed its fairness, and at a later date determine whether it should be withdrawn; but at least we should not repeal the right of the States of the Union to test the fairness of an imposition of this kind of edict from the Federal level which is unprecedented in law up to this time.

Mr. BROWN of Ohio. The reason I ask the question is because the gentleman knows I have been concerned about whether or not the Congress would have a chance to express itself on these plans.

The gentleman from California (Mr. MOORHEAD), in his amendment, as amended by the amendment of the gentleman from Texas (Mr. GRAMM), is now in place in this legislation, so that congressional review of implementation would apparently follow, would it not, the review by the judiciary of the equitability of the plan.

Mr. BAUMAN. That has to do with the national conservation plan, as I understand it. Is that correct?

Mr. BROWN of Ohio. Yes.

Mr. BAUMAN. What I am addressing is the right of the State of New York or California or Maryland or Ohio to go to a district court and test the fairness of the individual State plan imposed from above by the President and the Department of Energy, and that right I think is something we must protect.

Mr. BROWN of Ohio. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I would like to engage in colloquy with the gentleman about his amendment.

Mr. BAUMAN. So would I.

Mr. DINGELL. If the gentleman would permit, I have a bit of a problem in that the gentleman's amendment has no time limit for the judicial review of the State action. Is it the gentleman's intention that the State action be subject to judicial review at any time without a time limit?

Mr. BAUMAN. It does have a time limit. The direction to the Federal district court is that it must act immediately. And the court of appeals must advance the case for immediate hearing and the Supreme Court, if it goes that far, will have to rule within 20 days.

The CHAIRMAN. The time of the gentleman from Maryland has again expired.

(At the request of Mr. DINGELL and by unanimous consent, Mr. BAUMAN was allowed to proceed for 2 additional minutes.)

Mr. BAUMAN. I would be glad to discuss it with counsel later if he would like.

Mr. DINGELL. The action of filing the complaint in the first instance, there is no time limit on that.

Mr. BAUMAN. It would come immediately at a point when the plan is imposed.

Mr. DINGELL. I cannot tell the gentleman how long it would be, whether it would be 6 years or 9 years.

Mr. BAUMAN. One of the sections of the gentleman's bill allows the President to change the State conservation plans at any time and this would allow the court to review that change.

Mr. DINGELL. I understand that. What I am trying to do is, I think it is possible, if the gentleman could get support on this side, if we can deal with the particular questions, the first is the question of the time limit for filing for judicial review. I think the gentleman wants a fairly standard time limit on that.

Mr. BAUMAN. That is imposed. The court action comes at the time the plan is imposed.

Mr. DINGELL. I regret I do not find it. I find the filing of the request for the filing of complaint could occur any time, including up to 5 or 16 or 20 years later.

Mr. BAUMAN. If the State feels strongly enough that the Federal plan is unfair to its citizens, then its Governor and attorney general are not likely to wait several years to test it in court.

Mr. DINGELL. I cannot tell. That constitutes rather bad law, the rather subtle law in this country that we try to have time limits for filing of these complaints, filing of actions and things like that.

Mr. BAUMAN. I defer to the gentleman from Michigan what bad law is. I think he knows better than I do based on his sponsorship of this bill.

Mr. DINGELL. I had hoped to try and resolve some of these questions. I guess I will have to offer substitutes to the amendment offered by the gentleman.

Mr. DANIELSON. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, this is not our finest hour. For 3 days—for 3 days—we have been quibbling with a bill to give the Chief Executive of the United States, the President of the United States, emergency standby power to impose a rationing plan in the event of a dire national emergency.

We have been sitting around here quibbling about this special interest and that special interest, this set-aside, and that set-aside.

I respectfully submit, Mr. Chairman, that this is not our finest hour. In view of what we are doing, how on Earth could the people of America expect that in the event of a real emergency, not one that we are just contemplating, but a real emergency, that this 435-Member board of directors could sit down and put together an equitable rationing plan to preserve and protect our defense, our industrial and economic base, and the integrity of our society?

☐ 1820

If ever there has been a clearly demonstrated example of the type of thing that the Congress should not get into, this is it. For more than 3 days we have sat around here quibbling and picking nits off of gnats on the knuckles of another gnat and never coming to any kind of respectable solution. This special interest, that special interest have all been argued about. Some have been favored, some have been turned down.

But how about the national interest? Think about the national interest for awhile. It is not a bad idea.

I love every Member of this body. I do not know how so many magnificent, wonderful, excellent, exemplary people could come up with so many bizarre ideas as we have had in the last 3 days. Clearly, we need a vacation.

I do not know what is wrong. Maybe there have been too many insecticides around for too long and we have been inhaling them too deeply. Something has gone wrong around here.

But let us get back to the facts, Mr. Chairman. I submit that all we need to do in this bill is to pass some simple bill that would say that in the event of a national emergency occasioned by the interruption of our petroleum supply by in excess of 10 percent, or 20 percent, the President shall promulgate a rationing formula under which our petroleum resources will be allocated in an equitable manner to the defense of our country, to the preservation of our economic and industrial base and the well-being of our society, period; effective date immediately. We are not, we are not in this spectacle of the last 3 days acting like a Congress.

The Constitution says that the legislative power of the United States shall be vested in the Congress, but it also says that the executive power of the United States shall be vested in the President. We are piddling around with executive functions, not legislative functions. Let us get off this thing and pass a respectable, workable bill that we can be proud of and that the American people can be proud of. And let us get to that vacation which we also badly need. And our Nation needs to have us take one.

Mr. AMBRO. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from New York.

Mr. AMBRO. Mr. Chairman, I thank the gentleman for his love.

Mr. Chairman, during the more than 2 days of debate on this gas rationing bill, I have made repeated objections to and, indeed, attempted to amend certain portions of the legislation as it emerged from committee. My reservations are well known to Members of this Chamber and they remain my reservations. They have not been ameliorated one degree by the persuasive, often eloquent arguments raised against them.

It is my conviction that this legislation is seriously flawed. It is flawed primarily in not giving the Congress an opportunity to grant at least tacit approval to the details of a national rationing program designed by this or some future President. Yes, we preserve the right to veto a Presidential decision to impose rationing and I support that. But, we have abrogated our responsibilities—let me repeat that for emphasis—our responsibility to review, to improve, and ultimately to accept the specifics of a rationing plan.

Some who perhaps were unable to participate in much of the debate do not perceive that as a great distinction. Some might think that I and others are making much ado about nothing. Let me assure you, Mr. Chairman, that those people are grievously mistaken. This distinction, on which I have dwelled so often, is fundamental not only to an effective, fair, and workable rationing program, but also to the very nature of our system of government, our system of divided branches and shared powers.

It is the responsibility of this body to legislate and that of the Chief Executive to execute. It is the responsibility of this body to legislate a rationing program for the Nation and then the job of the President to implement that program at the appropriate time, subject to congressional veto. In failing to accept our responsibility to develop a rationing program working in cooperation with the President, we have been woefully negligent, Mr. Chairman.

For the scenario I see occurring is as follows: In some future energy crisis when we experience a 20-percent shortfall of product, as specified in this bill, the President, whomever he may be at the time, will decide to implement rationing—rationing of his design and his design alone, mind you. At 20-percent shortfall, the country will be in chaos. The American people will be screaming for rationing. This institution will be under extreme pressure to accept the President's decision to implement rationing.

The rationing plan, however, could be a catastrophe, but it will be the only plan we have. It need not necessarily be a catastrophe. It may be a fine, fair, and effective plan. But it could be a catastrophe, and the central point is that this institution will be powerless to change it, as a result of the legislation we will almost certainly pass today.

The only choice for us will be to accept the President's decision to impose the plan, as bad as it might be, since at that chaotic point even a bad rationing plan would be better than no plan at all.

That would be a terribly sad predicament for this hallowed institution. What makes it so sad is that it is so unnecessary. We could have improved this bill. We could have given the Congress an opportunity to work with the President in crafting a rationing program agreed upon by the two great elective branches of our Government. We could have improved this bill by accepting any number of amendments offered to correct the deficiencies I have just noted, including my own amendment.

The amendment I offered yesterday addressed what I perceive to be the second major defect in this legislation and that is the 20-percent "trigger" for implementation of rationing. It is too high, way too high. So high, in fact, as to virtually preclude imposition of rationing. We had in May and June about a 5-percent or 6-percent shortfall of product—and 2-mile-long gas lines. Our stocks of home heating oil, middle distillate fuels, are as of this date terribly depleted and a very difficult winter is expected. All this because of a 5- or 6-percent shortfall. What would a 20-percent shortfall mean? It would, Mr. Chairman, mean anarchy. Before we got close to that level, the country would be brought to its knees. My amendment would have adjusted that level to a 10-percent floor, or a situation about twice as bad as our May–June experience.

I assure all of my colleagues that I do not advocate rationing at every rumble of trouble with crude oil or other petroleum product supplies. Imposing rationing is a serious, major decision and it should be used only in the most severe situations. It must, however, be a power available to the President, and for all practical purposes under terms of this bill, it will not be available because of the 20-percent requirement.

Several attempts to adjust that "trigger" to more reasonable levels, including my own, also failed, as did other efforts at improving the legislation.

Besides this, the conservation portion of this bill has virtually been gutted. The most successful of these—the thermostat provision—has been deleted; the option of keeping the automobile sticker plan has been removed and other tools the President should have had, have either been covered or denied him. This bill has become a sham. But the White House, apart from attacking Congress in a general way, did nothing to indicate its desires on specific issues.

So, the choice before us now is whether to accept this bill or reject it. I believe, Mr. Chairman, that there are very few Members of Congress who feel that the President should not have rationing authority. He must have that authority to address some future energy crisis.

But in view of these most serious reservations, I will not support this bill on final passage. I sincerely hope that at some future time we can make the changes, the improvements, many of us tried unsuccessfully to make during the past several days.

I hope we can make those changes but in view of this bill it is practically impossible. I then hope that Providence guides the hand of this or some future President when he writes a rationing plan which will have the most dire consequences for all of the people we represent. Because that plan is one that we will all have to live with.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Ohio.

Mr. SEIBERLING. To the gentleman's absolutely-to-the-point remarks I say only "Amen."

Mr. DANIELSON. I thank the gentleman for his constructive comment.

One closing remark. I have the utmost respect for the gentleman from Maryland, Mr. BAUMAN. I truly do. There is a man who knows the parliamentary procedure backward, forward, and sideways. On top of that, he is a highly intelligent and most dedicated person. But it only goes to prove that even exemplary Members of Congress can make a mistake, and he has made one, and it is a lulu.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. DANIELSON was allowed to proceed for 1 additional minute.)

Mr. DANIELSON. The matter pending before us right now, to let the courts review this rationing plan, the only conceivable thing we could do worse than what we have been doing is to drag the courts into this mess. We do not want to do this. I do not think the gentleman knows—and I love the gentleman deeply—but I do not think the gentleman realizes that about 150 of the laws on the books of our Nation all require priority attention by the courts. Now we have another priority. Would the gentleman tell me what do we do when the courts have 75 priorities at the same time?

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. Yes, I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, would the gentleman also like to take the courts out of the business of school busing?

Mr. DANIELSON. Not at the moment, but I would be glad to take that subject on at the appropriate time, after a reasonable amount of voluntary prayer.

I yield back the balance of my time.

AMENDMENT OFFERED BY MR. DINGELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BAUMAN

Mr. DINGELL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL as a substitute for the amendment offered by Mr. BAUMAN: On page 51, after line 12, insert the following new section:

JUDICIAL REVIEW

SEC. 7 (a) (1) Any State may institute an action in the appropriate district court of the United States, including actions for declaratory judgment, for judicial review of—

(A) any target for the State established by the President or under section 634(a) of the National Energy Conservation Policy Act (as added by section 3 of this Act).

(B) a determination that the State plan submitted to the President for approval as a State emergency conservation plan does not comply with the provisions of section 635 of such Act, including the provision regarding the share of the burden imposed on any specific class or on any individual segment thereof,

but only if such action is instituted within 30 days after the date of establishment of the target on the date of the determination that a State plan is not in compliance, as the case may be.

(2) The district court shall determine the questions of law and upon such determination certify such questions immediately to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(3) Any decision by such court of appeals on a matter certified under paragraph (2) shall be reviewable by the Supreme Court upon attainment of a writ of certiorari. Any petition for such a writ shall be filed no later than twenty days after the decision of the court of appeals.

(b) It shall be the duty of the court of appeals to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under this subsection.

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, I offer a substitute here to the amendment offered by the gentleman from Maryland (Mr. BAUMAN). I ask for his attention and then I will be happy to yield to him at the appropriate time.

The differences between the amendment that has been offered by the gentleman from Maryland and that which I offer are, first, the amendment that I offer would limit to 30 days the period in which the complaint could be filed on an appeal regarding the matters here so that the matters would not drag out for years.

Second, the Administrative Procedures Act would not be made applicable to State actions, something which I do not think we want to do since the States have their own procedures and manners of determining how their laws and administrative actions are interpreted.

Last of all there would be no appeal of the determination to implement the Federal conservation plan, because under the proposal which we have adopted that matter would be subject to a one-House veto. I do not believe it would be in the interests of anyone to have a one-House veto mixed up with judicial review because we might find the prerogatives either of the courts or the prerogatives of Congress coming under the review of the other under circumstances which would probably conflict with the traditional constitutional placement of powers.

One further thing. The amendment would provide 10 days for the filing of a writ of certiorari. That, I observe, is at the suggestion of the gentleman from Texas (Mr. ECKHARDT).

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Do I understand correctly the running of the 30 days requiring the State to act would be immediately upon the establishment of the Federal target date imposed upon the State, or the determination that a State plan is not in compliance, or a date when a change was made in the plan?

Mr. DINGELL. The answer is yes.

Mr. BAUMAN. I would say to the gentleman, if he would yield further, this is akin to the confluence of Blue and White Nile, or perhaps Stanley meeting Livingstone in the jungle. The Bauman-Dingell amendment is acceptable to the gentleman from Maryland.

Mr. DINGELL. I thank the gentleman and I yield back.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL) as a substitute for the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN) as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

EFFECTIVE DATE

SEC. 6. The amendments made by this Act shall take effect on the date of the enactment of this Act.

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the Senate bill be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute as amended.

The committee amendment in the nature of a substitute as amended was agreed to.

The Chairman. Under the rule, the Committee rises.

□ 1830

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. FASCELL, Chairman of the Committee of the Whole House on the State of the Union reported that that Committee, having had under consideration the Senate bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes, had directed him to report the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GILMAN. Yes, I oppose the bill.

The SPEAKER pro tempore. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GILMAN moves to recommit the bill, S. 1030, to the Committee on Interstate and Foreign Commerce, with instructions that the committee report the bill back to the House forthwith with the following amendment:

Strike section 2 and insert in lieu thereof the following:

DEVELOPMENT OF STANDBY RATIONING PLAN

SEC. 2. (a) The Congress finds that—

(1) a standby rationing plan for motor fuel should provide, to the maximum extent practicable, that the burden of reduced supplies of motor fuel be shared by all groups in a fair and equitable manner and that the economic and social impacts be minimized; and

(2) such a plan should be sufficiently flexible to respond to changed conditions and sufficiently simple to be effectively enforced and administered.

(b) Section 203(a)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6263(a)) is amended by striking out "The President shall prescribe," and inserting in lieu thereof "As soon as practicable after the date of the enactment of the   , and by inserting after "program" the following: ", subject to paragraphs (2) and (3)";

(4) by amending clause (iii) (as redesignated) to read as follows:

"(iii) has transmitted to the Congress in accordance with section 551(b) a request to put such contingency plan into effect; and";

(5) by redesignating paragraph (2) as subparagraph (B); and

(6) by inserting at the end thereof the following new paragraph:

"(2)(A) As used in paragraph (1), the term 'severe energy supply interruption' means a national energy supply shortage which the President determines—

"(i) has resulted or is likely to result in a daily shortfall in the United States of petroleum product supplies for a period in excess of 30 days (including reductions as a result of an allocation away from the United States under the international energy program) of an amount equal to 20 percent or more of such daily supplies which were available during the 12-month period before such determination,

"(ii) is not manageable under other energy emergency authorities, including any energy conservation contingency plans approved under subsection (b),

"(iii) is expected to persist for a period of time sufficient to seriously threaten the adequacy of domestic stocks of refined petroleum products, and

"(iv) is having or can reasonably be expected to have a major adverse impact on national safety or the national economy.

"(B) For purposes of paragraph (1)—

"(i) the commencement of international hostilities, including commitment of troops by the President, in accordance with applicable law, or

"(ii) the determination that rationing of gasoline and diesel fuel is necessary for assuring adequate supplies for protecting the national security,

shall be sufficient cause, notwithstanding subparagraph (A), for the President to determine that a severe energy supply interruption exists or is threatened.

"(3) As used in paragraph (1), the term 'necessary to comply with obligations of of the United States under the international energy program' refers to a necessity which is determined to have impacts comparable with those provided for under subparagraphs (A) and (B) of paragraph (2).

"(4) For purposes of considering the plan submitted to the Congress under paragraph (1)(A)(i), the 5 calendar days specified in section 551 shall be lengthened to 10 calendar days and the 15 calendar days shall be lengthened to 30 calendar days.

"(5) No amendment to any such plan may take effect unless that amendment is submitted and not disapproved (or is approved) as prvoided for under paragraph (1)(A)(i)."

(d)(1) Within 90 days after the date of the enactment of this Act, the President shall prepare and transmit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the measures taken after such date of enactment (and the costs thereof) to establish a system of rationing of gasoline and diesel fuel pursuant to sections 201 and 203 of the Energy Policy and Conservation Act (42 U.S.C. 6261, 6263), together with a description of the measures to be taken in establishing such system, a timetable for completion of such measures, and an estimate of the costs thereof.

(2) The report under paragraph (1) shall include—

(A) a description of the extent to which coupons or other evidences of right under such a rationing system would be distributed to each end-user of gasoline or diesel fuel on the basis of such end-user's needs, and an explanation of the extent to which such distribution may not be based on such end-user's needs;

(B) an analysis of providing that the entitlement under the rationing system to such end-user rights be granted on the basis of individuals licensed to operate motor vehicles on the public roads and highways, and explanation of the extent to which such entitlement will be granted on that basis; and

(C) a description of the extent to which the rationing system would meet the needs and hardships of end-users by the use of local boards as provided for under section 203 (d) of such Act (42 U.S.C. 6263(d)), and an explanation of the extent to which such boards may not be used.

(3) The President shall keep such committees fully and currently informed about the progress of efforts to establish a system of rationing and of any problems and delays in establishing the system.

(e) Section 203(a) of such Act (42 U.S.C. 6263(a)), as amended, is further amended by adding at the end thereof the following new paragraph:

"(3) Any rationing contingency plan prescribed under this section shall provide that—

"(A) the end-user rights specified in paragraph (1) shall be distributed on a basis that results in the degree of shortfall involved being equally shared among the various States, considering the most recent data available;

"(B) to the maximum extent practicable, such rights shall be made available to each end-user on a basis which takes into account the needs of such end-user; and

"(C) adequate end-user rights are available to carry out the requirements of paragraphs (1)(A) and (B).".

(f)(1) Section 201 of such Act (42 U.S.C. 6261), as amended by subsection (b), is further amended by striking out subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(2) Section 201(b) of such Act (42 U.S.C. 6261(b)) is amended by striking out "Except as otherwise provided in subsection (d) or (e) and subject to the requirements of subsection (c), no contingency plan may become effective" and inserting in lieu thereof "Except as otherwise provided in subsection (c), no energy conservation contingency plan may become effective".

(3) Section 201(c)(1) (as redesignated) of such Act (42 U.S.C. 6261(c)(1)) is amended by striking out "a contingency plan" and inserting in lieu thereof "an energy conservation contingency plan."

(4) Section 552(b) and (d)(2) of such Act (42 U.S.C. 6422 (b) and (d)(2)) are each amended by inserting "energy conservation" before "contingency plan" each place such term appears.

(5) Section 552(d) (3) and (4)(A) of such Act (42 U.S.C. 6422(d)(3) and (4)(A)) are each amended by striking out "a contingency plan" each place such term appears and inserting in lieu thereof "an energy conservation contingency plan".

(6) Section 201(e) (as redesignated) of such Act is amended by striking out "or(e) (1)(B)" and inserting in lieu thereof "or (d)(1)".

(7) Section 203(d)(2) of such Act is amended by striking out all that precedes subparagraph (A) and inserting in lieu thereof the following:

"(2) Any rationing contingency plan under this section shall set forth—".

Mr. GILMAN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. DINGELL. Mr. Speaker, I believe a motion to recommit is in order at this time?

Mr. GILMAN. It is a motion to recommit which is presently before the House.

Mr. DINGELL. Does the gentleman ask unanimous consent that the reading be dispensed with?

Mr. GILMAN. Yes.

Mr. DINGELL. Mr. Speaker, reserving the right to object, is the motion to recommit the one that has been made available to the committee wherein the gentleman would move to recommit the bill S. 1030 with instructions that the committee report the bill back forthwith?

Mr. GILMAN. Yes.

Mr. DINGELL. And essentially strike the right amendment and reinsert the Gilman amendment?

Mr. GILMAN. That is correct.

Mr. DINGELL. With that understanding I withdraw my reservation of objection to dispensing with reading of the motion to recommit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New York (Mr. GILMAN) for 5 minutes.

Mr. GILMAN. Mr. Speaker, I offer this motion to recommit the bill S. 1030 with instructions to offer the House a clear choice on the issue of whether or not the House wants to have a chance to examine the President's rationing plan before it is placed on the shelf for possible use in any emergency.

This motion to recommit restores the original language of section 2 as it stood after the adoption of my amendment. Permit me to briefly recap the facts of the Gilman one-House congressional veto amendment.

When the President formulates his rationing plan, it will come to the House during a 30-day-layover period. At that point, within 30 days, if either House objected strongly enough to the provisions of the plan to pass a resolution of disapproval, the plan would be returned to the President. Otherwise, it would be automatically placed on the shelf awaiting implementation.

If my colleagues have any hesitancy in buying the President's rationing program sight unseen, then I urge them to vote to recommit. Please bear in mind that without this amendment the only chance that we will have to veto the President's plan, whatever it may be, will be only when an emergency occurs, when popular pressure will preclude any opportunity to return the plan to the President for more work.

Mr. Speaker, the Members of the House have a clear choice once again, without any complications or confusions of the prior parliamentary situation. The question is simply, Do we want the House to have a voice in the rationing plan? If so, I urge the Members to vote to recommit to restore the Gilman amendment.

Mr. WYDLER. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to my colleague from New York.

Mr. WYDLER. Mr. Speaker, I just want to make it clear to all the Members of the House and make it clear to myself that what we are going to vote on now is the same amendment we voted on last week and which carried in the Committee of the Whole, the so-called Gilman amendment, which gives the House, as the gentleman has explained, the right to review these plans before they go on the shelf. Is that right?

Mr. GILMAN. That is precisely the situation. I thank the gentleman for underscoring the status of this measure.

Mr. WYDLER. In other words, the Members are already on record on this amendment last week. They were on record on this amendment, and it did pass the Committee of the Whole at that time. It was subsequent to that that the President called the Congress timid. Now, we are going to have a chance to find out if the Members are going to stick to their original vote or change under pressure.

Mr. GILMAN. The gentleman from New York has correctly summed up the legislation.

Mr. HAGEDORN. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Is this the same amendment that so many of our Democratic friends were confused about and did not understand what they were voting on, as we read in the paper last week?

Mr. GILMAN. I do not understand where the alleged confusion was supposed to exist. I did not hear any confusion on our side of the aisle.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I will be brief. I cannot understand what is the objection to this amendment. If we are going to vote on the bill, surely we do not want to vote under the gun of an emergency, with an up or down vote. It is a form of blackmail. We will be placed in a situation where we are not able to improve that plan, but are going to have to take anyway, because there is an emergency.

Surely, if we are going to vote at all, we ought to vote when the plan is being formed; not, as we have heard from our distinguished colleague from California, Mr. DANIELSON, that these debates are our finest hours, but this is the democratic process. This is the way our republic functions. I urge very much that we adopt this amendment.

Mr. GILMAN. I thank the gentlewoman for her kind contribution.

Mr. WRIGHT. Mr. Speaker, I rise in opposition to the motion to recommit.

This motion to recommit would do away with the amendment which this House adopted yesterday by a 45-vote margin. That action fully assures to the House every right of review. We already have given to the Congress an effective opportunity to approve or disapprove the President's plan.

The recommittal motion would superimpose upon that a proliferation of congressional reviews. It would require the Congress to review a plan twice. The first review probably would have to be made many months, maybe even years, in advance of its need or proposed implementation. It would subject the Congress to the worst kinds of parochial pressures, interest groups vying one with another, each pulling and tugging at us, to influence a plan that would give them the greatest advantage.

It would put us in the unenviable position of having to adjudge petty differences, region against region, State against State, city against farm. It would be an untendable position, the same one we demonstrated ourselves incapable of discharging affirmatively earlier this year.

☐ 1840

That is the very position from which we wisely extricated ourselves when we adopted the Wright amendment yesterday. The Wright amendment and the bill itself grant to the Congress the full right to approve or disapprove the plan at the time the plan would go into effect. We could compare the plan and its appropriateness with the emergency that it would be designed to correct. That surely is what the Congress needs. Surely we do not need additional opportunities to frustrate the President. Surely we do not need to require him to set in concrete some plan that may not work against some future emergency that he cannot foresee, and then require him to abide by that plan as though he or we possessed clairvoyance.

Additionally, we must oppose the motion to recommit because it does away with the guarantees we wrote into this bill yesterday for the protection of the handicapped, to make sure that the Presidential plan would contain some provision to care for the special needs for transportation of handicapped Americans.

We provided further—and this recommittal motion would do away with that provision also—that the plan must contain arrangements that those in rural and suburban and small town areas who have no access whatever to any public transportation facilities would not be unduly disadvantaged.

These are the decisions that would be vitiated by the motion to recommit. These are things that this House in its wisdom has decided it wants in the bill. These are provisions which I feel sure our Members want to keep in the bill.

Once again, as we have done throughout this debate, we face yet another effort to weaken the bill, to place impossible conditions between us and the implementation of any effective plan.

We hope no plan will ever have to be implemented. We protect the right of the Congress at the time any implementation would be proposed to have full congressional review. That is what we need. That is all we need. We do not need any other impediments, any other obstructions, and that is exactly what this recommital motion would impose—one additional, needless, troublesome, mischievous obstruction that might make it impossible for us ever in a time of real emergency to have a plan to put into effect.

For all of those reasons I know that my colleagues will join me in rejecting the motion to recommit.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. GILMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 177, nays 246, not voting 11, as follows:

[Roll No. 423]

YEAS—177

Abdnor
Ambro
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bedell
Bereuter
Bethune
Breaux
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson •
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Fountain
Frenzel
Gilman
Gingrich
Goldwater
Gonzalez
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hyde
Ichord
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lundine
Lungren
McClory
McDade
McDonald
McEwen
McKay
Madigan
Marriott
Martin
Michel
Miller, Ohio
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Natcher
O'Brien
Pashayan
Paul
Perkins
Petri
Pritchard
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Williams, Mont.
Wilson, Bob
Winn
Wyatt
Wydler
Young, Alaska
Young, Fla.

NAYS—246

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Byron
Carr
Chisholm
Clay
Coelho
Corman
Cotter
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos

Gephardt
Giaimo
Gibbons
Ginn
Glickman
Goodling
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holtzman
Howard
Hughes
Hutto
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Lowry
McCloskey
McCormack
McHugh
McKinney
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Neal
Nedzi
Nelson

Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—11

Bolling
Conyers
Diggs
Flood

Forsythe
Holland
Luken
Marlenee

Treen
Williams, Ohio
Wylie

☐ 1900

The Clerk announced the following pairs:

On this vote:

Mr. Wylie for, with Mr. Diggs against.

Until further notice:

Mr. Luken with Mr. Marlenee.

Mr. Holland with Mr. Conyers.

Mr. FOWLER changed his vote from "yea" to "nay."

So the motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MOFFETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 263, nays 159, not voting 12, as follows:

[Roll No. 424]

YEAS—263

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Anthony
Ashley
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Carr
Cavanaugh
Chisholm
Clay
Coelho
Coleman
Collins, Ill.
Conte
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Ertel
Evans, Del.
Evans, Ga.

Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hollenbeck
Holtzman
Howard
Hughes
Hutto
Ireland
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Lowry
Luken
McCloskey
McCormack
McDade
McHugh
McKinney
Maguire
Markey
Marks
Mathis
Matsui
Mavroules

Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift

Synar
Tauke
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer

Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Wilson, C. H.

Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—159

Abdnor
Ambro
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Aspin
Badham
Bafalis
Bailey
Bauman
Bereuter
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Burgener
Burton, John
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Collins, Tex.
Conable
Corcoran
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Ind.
Findley
Fish
Frenzel
Gaydos
Gilman
Gingrich

Goldwater
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hillis
Hinson
Holt
Hopkins
Horton
Hubbard
Huckaby
Hyde
Ichord
Jacobs
Jeffries
Johnson, Colo.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lundine
Lungren
McClory
McDonald
McEwen
McKay
Madigan
Marriott
Martin
Mattox
Michel
Miller, Ohio
Montgomery
Moore

Moorhead, Calif.
Mottl
Myers, Ind.
Natcher
O'Brien
Panetta
Pashayan
Paul
Perkins
Quayle
Railsback
Regula
Rhodes
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Stump
Symms
Taylor
Thomas
Trible
Vander Jagt
Walker
Whitehurst
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wyatt
Wydler
Young, Alaska
Young, Fla.

NOT VOTING—12

Atkinson
Bolling
Conyers
Diggs

Drinan
Flood
Forsythe
Holland

Johnson, Calif.
Marlenee
Treen
Wylie

☐ 1910

The Clerk announced the following pairs:

On this vote:

Mr. Diggs for, with Mr. Marlenee against.

Until further notice:

Mr. Johnson of California with Mr. Wylie.

Mr. Atkinson with Mr. Conyers.

Mr. Drinan with Mr. Holland.

So the Senate bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "An Act to establish an emergency program for the conservation of energy and to provide for a standby rationing plan for motor fuel.".

A motion to reconsider was laid on the table.

REQUEST TO AUTHORIZE CLERK, IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 1030, TO MAKE CERTAIN CORRECTIONS AND TECHNICAL AND CONFORMING CHANGES, INCLUDING A CHANGE IN THE NEW SECTION 7(a)(3)

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that, in the engrossment of the House amendments to the Senate bill, S. 1030, the Clerk be authorized to correct section numbers, punctuation, and cross-references, and to make such other technical and conforming changes only as may be necessary to reflect the actions of the House in amending S. 1030, including the striking out of the word "twenty," in the new section 7(a)(3) and inserting in lieu thereof "ten," because that inadvertently failed to appear in the amendment as offered.

The SPEAKER. Is there objection to request of the gentleman from Michigan?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, if the gentleman would be willing to drop the last portion—because he is changing the substance, as he knows—I would not object. Otherwise I will be constrained to object.

Mr. DINGELL. Mr. Speaker, will the gentleman yield under his reservation?

Mr. ROUSSELOT. Yes; I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I have already discussed this with the gentleman from Maryland (Mr. Bauman), and he has no objection.

Mr. ROUSSELOT. Yes; but some of us remember what it said. It said, "twenty days." We think that is a sufficient time, and, therefore, I would be constrained to object.

Mr. DINGELL. Mr. Speaker, if the gentleman will permit me to proceed, we have an agreement with the gentleman from Maryland.

Mr. ROUSSELOT. Mr. Speaker, I am just saying what the rest of us voted on in the substitute bill.

Mr. DINGELL. Mr. Speaker, the gentleman may very well cause other problems with respect to the matter being discussed, and if the gentleman will permit, it may amount to dropping the whole amendment.

Mr. ROUSSELOT. I never want to cause little problems—only major problems.

Mr. Speaker, would the gentleman be willing to drop the last portion of his request, whatever it is, including the "twenty," and so forth? If he would just stop amending the Senate bill, S. 1030, I think that is adequate.

Mr. DINGELL. Mr. Speaker, I do not know why I should. I have an agreement with the gentleman from Maryland (Mr. Bauman). I would assume that the gentleman from California has as much respect for the gentleman from Maryland as I do.

Mr. ROUSSELOT. Mr. Speaker, the bill was voted on, and it said, "twenty days," and I think we ought to stick with it.

Mr. DINGELL. But it was not 20 days.

Mr. ROUSSELOT. It is 20 days. It says so right here. It says in the amendment "twenty days."

Mr. DINGELL. The problem is that in reproducing the amendment it said "ten," and the Clerk did not pick that up.

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

AUTHORIZING CLERK, IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 1030, TO MAKE CERTAIN CORRECTIONS AND TECHNICAL AND CONFORMING CHANGES

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that, in the engrossment of the House amendments to the Senate bill, S. 1030, the Clerk be authorized to correct section numbers, punctuation, and cross-references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending S. 1030.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed, S. 1030.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERSONAL EXPLANATION

Mr. ATKINSON. Mr. Speaker, due to an important constituent commitment, I was unavoidably absent on rollcall No. 424, final passage of the bill S. 1030, Emergency Energy Conservation Act of 1979. I am opposed to the bill and would have voted "no" on final passage.

APPOINTMENT OF CONFEREES ON S. 1030, EMERGENCY ENERGY CONSERVATION ACT OF 1979

Mr. DINGELL. Mr. Speaker, I move to take from the Speaker's table the Senate bill just passed (S. 1030) to establish an emergency program for the conservation of energy and to provide for a standby rationing plan for motor fuel, with House amendments thereto, insist upon the House amendments, and request a conference with the Senate thereon.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. Dingell).

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees: Messrs. Staggers, Dingell, Ottinger, Sharp, Moffett, Broyhill, and Brown of Ohio.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW, THURSDAY, AUGUST 2, 1979, TO FILE CONFERENCE REPORT ON H.R. 4394, HOUSING AND URBAN DEVELOPMENT–INDEPENDENT AGENCIES APPROPRIATIONS, 1980

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow to file a conference report on the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MAKING IN ORDER ON TOMORROW CONSIDERATION OF CONFERENCE REPORT ON H.R. 4392, STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. SLACK. Mr. Speaker, I ask unanimous consent that it may be in order on tomorrow to consider the conference report on the bill (H.R. 4392) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PERMISSION FOR COMMITTEE ON SMALL BUSINESS TO HAVE UNTIL SEPTEMBER 10, 1979, TO FILE REPORT ON H.R. 4660, SMALL BUSINESS ACT AMENDMENTS

Mr. IRELAND. Mr. Speaker, I ask unanimous consent that the Committee on Small Business may have until September 10, 1979, to file a report on the bill (H.R. 4660) to amend the Small Business Act and an act to amend the Small Business Act (Public Law 94-305, 90 Stat. 668) to provide regulatory flexibility for small businesses and small organizations to minimize unnecessary burdens in complying with Federal rules and reporting requirements.

The SPEAKER. Is there objection to

the request of the gentleman from Florida?

There was no objection.

HIGHER EDUCATION TECHNICAL AMENDMENTS OF 1979

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4476) to extend certain programs under the Higher Education Act of 1965 for 1 year, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 5, line 1, strike out all after "subsection)," down to and including "(A)." in line 20 and insert "except with respect to eligible loans held during the third quarter of the calendar year 1979, holders of such loans shall be entitled to a special allowance payment increased by the difference between (A) the special allowance determined with respect to such loans for such quarter under section 438(b)(2) prior to the amendments made by paragraph (1) of this subsection, and (B) the amount which would be determined with respect to such loans for such quarter under section 438 (b)(2) as amended.".

Mr. FORD of Michigan. Mr. Speaker, H.R. 4476 is the Higher Education Technical Amendments of 1979. It was adopted by voice vote by the House under suspension yesterday. It was also adopted by voice vote in the Senate yesterday.

The bill responds to two emergency situations that require action to be taken before the August recess in order to assure that students will receive guaranteed student loans and the basic grants, to which they are entitled, this fall. The bill also includes other technical amendments to the Higher Education Act as well as a 1-year extension of the higher education programs which expire at the end of fiscal year 1980, to assure that funding for these programs will be considered in the regular appropriations process while action is being completed on the major reauthorization bill.

The amendment adopted in the Senate makes the removal of the 5-percent cap on the special allowance in the guaranteed student loan program effective beginning with the current third quarter of 1979 rather than the second quarter of this year. I am delighted that this amendment specifically responds to the concerns expressed yesterday by the distinguished minority whip, the gentleman from Illinois (Mr. MICHEL). I have no objection to the Senate amendment. It will save the taxpayers approximately $30 million, and it will not significantly diminish the effectiveness of the bill in providing adequate incentives to lenders to make student loans.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

A motion to reconsider was laid on the table.

☐ 1920

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment just concurred in.

The SPEAKER. Is there objection to the request of the gentleman from Michigan.

There was no objection.

ELECTRONIC VOTING SYSTEM

(Mr. THOMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. THOMPSON. Mr. Speaker, at your direction the House Administration Committee Staff has begun a technical examination of rollcall votes in the House last Monday to try to find out why certain votes were recorded in the electronic voting system attributed to the card assigned to our colleague from Illinois (Mr. MURPHY).

At the outset, Mr. Speaker, it should be pointed out that the electronic voting system has been remarkably accurate. For example, the last major equipment malfunction that necessitated the use of tedious calling of all Members names for recording a yea-and-nay vote took place in March 1978. Of course, the system is designed to be as foolproof as possible, having a backup Control Data Corp. (CDC) 1700 computer to take over operation if the other identical computer should fail. But neither man nor machine is always 100 percent perfect.

Our technical examination will include a study of the many complex combinations of possible explanations, including such questions as voting card and voting station viability, software integrity, and other possible machine malfunctions in the system.

As part of this examination, it would be helpful to the committee if any Members who may have noticed problems in the use of their voting cards last Monday, July 30, would advise us as soon as possible. Individual Members may recall if they had any difficulties in recording their votes on any of the sequence of votes that took place that day. We will appreciate your cooperation.

APPOINTMENT OF ADDITIONAL CONFEREE ON S. 1030, EMERGENCY ENERGY CONSERVATION ACT OF 1979

The SPEAKER. The Chair appoints the gentleman from Michigan (Mr. STOCKMAN) as an additional conferee on the Senate bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes.

REMOVAL OF NAME AS COSPONSOR OF H.R. 4360

Mr. AuCOIN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4360.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. WRIGHT). The gentleman will state his parliamentary inquiry.

Mr. THOMAS. Mr. Speaker, perhaps it is not a parliamentary inquiry, perhaps it is a question.

Mr. Speaker, at the end of yesterday's session, the gentleman from Illinois indicated that he would ask that the matter be referred to the Committee on Standards of Official Conduct. This morning, in my parliamentary inquiry to the Chair, he indicated that both the Committee on House Administration and the Committee on Standards of Official Conduct would be involved in this matter. My question is: What would the relationship be between the Committee on House Administration and the Committee on Standards of Official Conduct in investigating this problem?

The SPEAKER pro tempore. The Chair will advise the gentleman that he regrets that he cannot respond with precise knowledge. The gentleman's inquiry is not a proper parliamentary inquiry. Both committees named by the gentleman are committees of the House duly constituted with jurisdiction over matters assigned to them, and the Chair would observe that each of the committees may have a proper claim to jurisdiction and inquiry in the matter that the gentleman makes reference to.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. Mr. Speaker, I was asking for the gentleman from New Jersey (Mr. THOMPSON) to yield to me, I was not recognized and the gentleman walked away. I wanted to direct a question to the chairman of the Committee on House Administration.

The SPEAKER pro tempore. Does the gentleman from California desire to ask a further inquiry?

Mr. THOMAS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

This was no objection.

ELECTRONIC VOTING SYSTEM

(Mr. THOMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS. Mr. Speaker, I would ask the distinguished gentleman from New Jersey (Mr. THOMPSON), the chairman of the Committee on House

Administration, what his view is in the relationship between the Committee on House Adminstration and the Committee on Standards of Official Conduct in the pursuit of this matter.

Mr. THOMPSON. Mr. Speaker, in the first place, there is no conflict whatsoever. Before the Committee on Standards of Official Conduct could take any action of any sort they would have to have some data. There is some question arising, as I explained, out of a highly technical computerized voting system. When that analysis is complete, if and when there are any irregularities of any sort, then the time would come for them properly to be referred to the Committee on Standards of Official Conduct. That is the situation. We are proceeding with dispatch. I have discussed the matter with the distinguished gentleman from Florida (Mr. BENNETT), the chairman of the Committee on Standards of Official Conduct, and he agrees with the procedure.

Mr. THOMAS. My understanding, then, is that the Committee on House Administration would examine the mechanical aspects of the electronic voting apparatus and, once that information is compiled, it would then be transmitted to the Committee on Standards of Official Conduct?

Mr. THOMPSON. If there is any indication of an ethical violation or any question of it, the answer is yes.

Mr. THOMAS. So the decision of an ethical violation will be made by the Committee on House Administration and not the Committee on Standards of Official Conduct?

Mr. THOMPSON. If there is what we call in the law reasonable or probable cause, it will be referred promptly.

Mr. THOMAS. Might I respectfully request, as a member of the Ethics Committee, that, once the Committee on House Administration compiles the mechanical information surrounding the voting procedure, that that information be transmitted, regardless of the decision of the Committee on House Administration, to the Ethics Committee?

Mr. THOMPSON. Once that is done, we will certainly give that serious consideration. I will have to take it before the committee, of course.

Mr. MIKVA. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Speaker, I would just like to make the record clear.

At this point the gentleman from Illinois (Mr. MURPHY) has insisted that he did nothing wrong. He was aware he was not present. Until somebody makes an allegation of wrongdoing I would assume that there is nothing for the Ethics Committee to get involved in. Obviously, if there is an allegation of wrongdoing, then we would want the Committee on Standards of Official Conduct or the Ethics Committee to look into it. But at this point, for all we know, it may have been a mechanical malfunction, and I am sure the Ethics Committee is not interested in mechanical malfunctions.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. THOMAS) has expired.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires, and I know that the membership desires, that we proceed with some orderly dispatch to address the legislative matters that still must be addressed before our adjournment this evening.

The Chair is going to be reasonably indulgent in recognizing Members to talk on extraneous matters, but it is the desire of the Chair, and I believe it reflects the desire of the membership, that we proceed with our legislative program.

CONFERENCE REPORT ON H.R. 4388, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1980

Mr. BEVILL. Mr. Speaker, I call up the conference report on the bill (H.R. 4388) making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceeding of the House of July 25, 1979.)

The SPEAKER pro tempore. The gentleman from Alabama (Mr. BEVILL) will be recognized for 30 minutes, and the gentleman from Indiana (Mr. MYERS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 4388, as well as the Senate amendments reported in disagreement, and that I may include extraneous material and tables.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BEVILL. Mr. Speaker, the conference report on the 1980 energy and water development appropriation bill is a good report. I am pleased to recommend it to you today for your favorable consideration. Our colleagues will recall that the debate on this bill occurred in the House on June 14, 15, and 18. Mr. Speaker, you will recall that the House passed this bill by a substantial margin: 359 to 29.

Mr. Speaker, we held our conference committee meeting last Tuesday and the report was filed on Wednesday. I can report to you today of our continuing friendship with the members of the other body, particularly the Senator from Louisiana, Mr. JOHNSTON, the chairman of the conference committee, and the Senator from Oregon, Mr. HATFIELD, the senior minority member. I also want to thank the House conferees for their support and for their valuable participation during the conference deliberations.

Let me now turn to the various aspects of the conference agreement.

SUMMARY OF THE CONFERENCE REPORT

Mr. Speaker, the bill passed by the House contained $10,685,930,000 in new budget (obligational) authority in four titles. Title V of the House-passed bill contained a general provision. Title V of the Senate-passed bill contains an appropriation of $57,480,700 to continue construction of the new Hart Senate Office Building. As my colleagues know, this item should be contained in the legislative branch appropriation bill and we expressed this sentiment to the Senate conferees. The conferees from the other body pointed out that additional funding was needed as soon as possible in order to assure continuity of construction activities because the delay is costing an added $700,000 each month. Mr. Speaker, this is a controversial item and I will, at the appropriate time, offer a motion to recede and concur in this amendment. Since this amendment is outside the conference report, my discussion of various funding aspects of the conference agreement will not include the proposed funding for the Hart Building at this point.

For the various agencies and programs under the jurisdiction of the Energy and Water Development Subcommittee, the committee of conference recommends $10,798,995,000 in new budget authority. This amount is $195,497,000 below the President's budget. The conference agreement is $417,107,100 more than 1979 appropriations to date, $113,065,000 more than the House-passed bill but $30,020,000 less than the Senate-passed bill.

The conference agreement will provide $6,488,874,000 to the Department of Energy for various research programs and other activities, including $3,061,828,000 for various energy supply research and development programs; $471,900,000 is for general science and research activities; and $2,959,396,000 is for atomic energy defense activities. In the energy accounts, the bill includes a total of $620,879,000 for solar energy development and applications compared to $515,834,000 in fiscal year 1979. The bill also includes $149,202,000 for geothermal energy; $18,324,000 for small-scale hydroelectric; $569,919,000 for the breeder reactors program; and $355,405,000 for fusion energy.

During House consideration of the bill, an amendment increasing the appropriation for the Department of Energy's Office of Inspector General was adopted. The Senate went further and earmarked $6,165,000 exclusively for the Inspector General. This amendment was accepted by the House conferees. Mr. Speaker, substantially all of the House committee's recommendations and the actions that were taken on the floor amendments to title I were sustained in the conference. The conference agreement for the Department of Energy is $91,800,000 more than the House-passed bill and $49,670,000 less than the Senate bill.

Mr. Speaker, the conference agreement contains $2,795,926,000 in title II for the Army Corps of Engineers. This is $25,120,000 more than the bill as passed by the House and $1,350,000 more than the Senate-passed bill. These funds will finance 25 new and 251 continuing studies, 11 new and 67 continuing planning items and 19 new and 227 continuing construction projects. This agreement provides for two additional construction projects than was contained in the House-passed bill.

For title III, the Bureau of Reclamation, the conferees recommend a total of $607,341,000 which is $8,287,000 less than the House-passed bill and $9,788,000 more than the Senate-passed bill. This will finance 12 new and 63 continuing studies, 7 continuing planning items and 7 new and 93 continuing construction projects.

In my view, the conference agreement provides for a financially prudent and environmentally sound water resources development program.

Mr. Speaker, the conference agreement includes $906,854,000 for seven independent agencies and commissions in title IV, including $359,490,000 forth the Appalachian regional development program, $363,340,000 for the Nuclear Regulatory Commission, $148,677,000 for the Tennessee Valley Authority and $34,614,000 for the Water Resources Council. I will insert a table in the RECORD at this point which summarizes the financial aspects of the conference agreement.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted 1979	Estimates 1980	House, 1980	Senate, 1980	Conference, 1980	1979 enacted	1980 estimate	House bill	Senate bill
TITLE I—DEPARTMENT OF ENERGY									
OPERATING EXPENSES									
Energy supply, research and development activities	$2,044,140,000	$2,140,540,000	$2,050,623,000	$2,053,823,000	$2,048,523,000	+$4,383,000	−$92,017,000	−$2,100,000	−$5,300,000
Uranium supply and enrichment activities	52,316,000	45,790,000	60,523,000	64,523,000	60,523,000	+8,207,000	+14,733,000		−4,000,000
General science and research activities	308,931,000	336,900,000	334,050,000	336,900,000	336,900,000	+27,969,000		+2,850,000	
Atomic energy defense activities	2,193,152,000	2,392,055,000	2,350,547,000	2,388,147,000	2,371,147,000	+177,995,000	−20,908,000	+20,600,000	−17,000,000
Departmental administration	198,746,000	263,872,000	237,329,000	228,029,000	228,279,000	+29,533,000	−35,593,000	−9,050,000	+250,000
PLANT AND CAPITAL EQUIPMENT									
Energy supply, research and development activities	452,309,000	483,578,000	413,878,000	444,478,000	448,478,000	−3,831,000	−35,100,000	+34,600,000	+4,000,000
Uranium supply and enrichment activities	54,809,000	8,800,000	4,000,000	4,000,000	4,000,000	−50,809,000	−4,800,000		
General science and research activities	121,700,000	136,500,000	135,000,000	135,000,000	135,000,000	+13,300,000	−1,500,000		
Atomic energy defense activities	482,158,000	668,924,000	546,249,000	618,249,000	588,249,000	+106,091,000	−80,675,000	+42,000,000	−30,000,000
Departmental administration	29,260,000	51,215,000	31,015,000	40,515,000	36,015,000	+6,755,000	−15,200,000	+5,000,000	−4,500,000
POWER MARKETING ADMINISTRATIONS									
Operation and maintenance, Alaska Power Administration	2,614,000	2,660,000	2,660,000	2,660,000	2,660,000	+46,000			
Operation and maintenance, Southeastern Power Administration	1,421,000	1,400,000	1,400,000	1,400,000	1,400,000	−21,000			
Operation and maintenance, Southwestern Power Administration	35,909,000	32,180,000	32,180,000	32,180,000	32,180,000	−3,729,000			
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	103,252,000	122,800,000	124,900,000	122,800,000	122,800,000	+19,548,000		−2,100,000	
Colorado River Basins Power Marketing Fund, Western Area Power Administration	2,286,000	5,152,000	5,152,000	5,152,000	5,152,000	+2,866,000			
Emergency Fund, Western Area Power Administration	200,000	200,000	200,000	200,000	200,000				
Federal Energy Regulatory Commission	54,000,000	73,937,000	67,187,000	67,187,000	67,187,000	+13,187,000	−6,750,000		
Spent fuel storage fund, energy supply research and development (authority to borrow)		(300,000,000)					(−300,000,000)		
Geothermal resources development fund	181,000	6,181,000	181,000	181,000	181,000		−6,000,000		
Special foreign currency program	2,000,000					−2,000,000			
Sec. 105—General reduction				−6,880,000					+6,880,000
Total, title I, new budget (obligational) authority, Department of Energy	6,139,384,000	6,772,684,000	6,397,074,000	6,538,544,000	6,488,874,000	+349,490,000	−283,810,000	+91,800,000	−49,670,000
TITLE II—DEPARTMENT OF DEFENSE—CIVIL									
DEPARTMENT OF THE ARMY CORPS OF ENGINEERS—CIVIL									
General investigations	137,978,000	133,166,000	142,296,000	140,795,000	142,145,000	+4,167,000	+8,979,000	−151,000	+1,350,000
Construction, general	1,353,711,000	1,774,694,000	1,440,481,000	1,467,566,000	1,467,566,000	+113,855,000	−307,128,000	+27,085,000	
Less amount not allowed for full funding		−354,943,000					+354,943,000		
Net, construction, general	1,353,711,000	1,419,751,000	1,440,481,000	1,467,566,000	1,467,566,000	+113,855,000	+47,815,000	+27,085,000	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted 1979	Estimates 1980	House, 1980	Senate, 1980	Conference, 1980	1979 enacted	1980 estimate	House bill	Senate bill
TITLE II—DEPARTMENT OF DEFENSE—CIVIL—Continued									
DEPARTMENT OF THE ARMY CORPS OF ENGINEERS—CIVIL—Continued									
Flood control, Mississippi River and tributaries	$223, 035, 000	$193, 140, 000	$210, 515, 000	$210, 515, 000	$210, 515, 000	−$12, 520, 000	+$17, 375, 000		
Less amount not allowed for full funding		−2, 415, 000					+2, 415, 000		
Net, flood control, Mississippi River and tributaries	223, 035, 000	190, 725, 000	210, 515, 000	210, 515, 000	210, 515, 000	−12, 520, 000	+19, 790, 000		
Operation and maintenance, general	833, 100, 000	825, 500, 000	850, 314, 000	848, 500, 000	848, 500, 000	+15, 400, 000	+23, 000, 000	−$1, 814, 000	
Revolving fund	46, 000, 000	50, 000, 000	50, 000, 000	50, 000, 000	50, 000, 000	+4, 000, 000			
Flood control and coastal emergencies	126, 000, 000					−126, 000, 000			
General expenses	68, 900, 000	73, 200, 000	73, 200, 000	73, 200, 000	73, 200, 000	+4, 300, 000			
Special recreation use fees	3, 300, 000	4, 000, 000	4, 000, 000	4, 000, 000	4, 000, 000	+700, 000			
Net total, title II, new budget (obligational) authority, Department of Defense—Civil	2, 792, 024, 000	2, 696, 342, 000	2, 770, 806, 000	2, 794, 576, 000	2, 795, 926, 000	+3, 902, 000	+99, 584, 000	+25, 120, 000	+$1, 350, 000
TITLE III—DEPARTMENT OF THE INTERIOR									
BUREAU OF RECLAMATION									
General investigations	30, 870, 000	34, 320, 000	36, 905, 000	34, 176, 000	34, 451, 000	+3, 581, 000	+131, 000	−2, 454, 000	+275, 000
Construction and rehabilitation	221, 572, 000	313, 153, 000	215, 453, 000	205, 953, 000	213, 053, 000	−8, 519, 000	−100, 100, 000	−2, 400, 000	+7, 100, 000
Less amount not allowed for full funding		−106, 400, 000					+106, 400, 000		
Net, construction and rehabilitation	221, 572, 000	206, 753, 000	215, 453, 000	205, 953, 000	213, 053, 000	−8, 519, 000	+6, 300, 000	−2, 400, 000	+7, 100, 000
Upper Colorado River storage project	87, 399, 000	69, 303, 000	73, 203, 000	73, 203, 000	73, 203, 000	−14, 196, 000	+3, 900, 000		
Colorado River basin project	74, 770, 000	89, 217, 000	94, 217, 000	94, 217, 000	94, 217, 000	+19, 447, 000	+5, 000, 000		
Colorado River basin salinity control projects	17, 315, 000	38, 194, 000	38, 194, 000	32, 348, 000	34, 761, 000	+17, 446, 000	−3, 433, 000	−3, 433, 000	+2, 413, 000
Operation and maintenance	88, 736, 000	100, 653, 000	100, 653, 000	100, 653, 000	100, 653, 000	+11, 917, 000			
Loan program	36, 366, 000	76, 221, 000	29, 603, 000	29, 603, 000	29, 603, 000	−6, 763, 000	−46, 618, 000		
Less amount not allowed for full funding		−41, 334, 000					+41, 334, 000		
Net, loan program	36, 366, 000	34, 887, 000	29, 603, 000	29, 603, 000	29, 603, 000	−6, 763, 000	−5, 284, 000		
Emergency fund		1, 000, 000					−1, 000, 000		
General administrative expenses	26, 010, 000	27, 400, 000	27, 400, 000	27, 400, 000	27, 400, 000	+1, 390, 000			
Net total, title III, new budget (obligational) authority, Department of the Interior	583, 038, 000	601, 727, 000	615, 628, 000	597, 553, 000	607, 341, 000	+24, 303, 000	+5, 614, 000	−8, 287, 000	+9, 788, 000
TITLE IV—INDEPENDENT AGENCIES									
Appalachian Regional Commission: Salaries and expenses	2, 200, 000	2, 990, 000	2, 990, 000	2, 990, 000	2, 990, 000	+770, 000			
Appalachian regional development programs (funds appropriated to the President)	368, 700, 000	358, 600, 000	356, 500, 000	358, 600, 000	356, 500, 000	−12, 200, 000	−2, 100, 000		−2, 100, 000
Delaware River Basin Commission: Salaries and expenses	104, 000	107, 000	107, 000	107, 000	107, 000	+3, 000			
Contribution to Delaware River Basin Commission	245, 000	257, 000	383, 000	257, 000	257, 000	+12, 000		−126, 000	
Total, Delaware River Basin Commission	349, 000	364, 000	490, 000	364, 000	364, 000	+15, 000		−126, 000	
Interstate Commission on the Potomac River Basin: Contribution to Interstate Commission on the Potomac River Basin	55, 000	55, 000	55, 000	55, 000	55, 000				
Nuclear Regulatory Commission: Salaries and Expenses	326, 601, 000	373, 300, 000	358, 340, 000	363, 340, 000	363, 340, 000	+36, 739, 000	−9, 960, 000	+5, 000, 000	
Susquehanna River Basin Commission: Salaries and expenses	104, 000	104, 000	104, 000	104, 000	104, 000				
Contribution to Susquehanna River Basin Commission	200, 000	210, 000	210, 000	210, 000	210, 000	+10, 000			
Total, Susquehanna River Basin Commission	304, 000	314, 000	314, 000	314, 000	314, 000	+10, 000			
Tennessee Valley Authority: Payment to Tennessee Valley Authority fund	154, 531, 000	121, 872, 000	146, 177, 000	148, 677, 000	148, 677, 000	−5, 854, 000	+26, 805, 000	+2, 500, 000	
Water Resources Council: Water resources planning	14, 681, 900	66, 244, 000	37, 556, 000	24, 002, 000	34, 614, 000	+19, 932, 100	−31, 630, 000	−2, 942, 000	+10, 612, 000
Total, title IV, new budget (obligational) authority, independent agencies	867, 441, 900	923, 739, 000	902, 422, 000	898, 342, 000	906, 854, 000	+39, 412, 100	−16, 885, 000	+4, 432, 000	+8, 512, 000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted 1979	Estimates 1980	House, 1980	Senate, 1980	Conference, 1980	1979 enacted	1980 estimate	House bill	Senate bill
TITLE V—GENERAL PROVISIONS									
Sec. 502—Construction of an extension to the New Senate Office Bldg.		$57,480,700		$57,480,700	$57,480,700	+$57,480,700		+$57,480,700	
RECAPITULATION									
All titles:									
Total, new budget (obligational) authority	$10,381,887,900	11,557,064,700	$10,685,930,000	10,886,495,700	10,856,475,700	+474,587,800	−$700,589,000	+170,545,700	−$30,020,000
Less amount not allowed for full funding		−505,092,000					+505,092,000		
Net total, new budget (obligational) authority	10,381,887,900	11,051,972,700	10,685,930,000	10,886,495,700	10,856,475,700	+474,587,800	−195,497,000	+170,545,700	−30,020,000
Titles I, II, III, and IV:									
Total, new budget (obligational) authority	10,381,887,900	11,499,584,000	10,685,930,000	10,829,015,000	10,798,995,000	+417,107,100	−700,589,000	+113,065,000	−30,020,000
Less amount not allowed for full funding		−505,092,000					+505,092,000		
Net total, new budget (obligational) authority	10,381,887,900	10,994,492,000	10,685,930,000	10,829,015,000	10,798,995,000	+417,107,100	−195,497,000	+113,065,000	−30,020,000

HART SENATE OFFICE BUILDING

Mr. Speaker, let me now turn to the first of the two most discussed issues in the conference—the amendment by the Senate adding $57,480,700 for continued construction of the Hart Senate Office Building. Basically, the controversy over the Hart Senate Building and the Tellico Dam and Reservoir involves proposals or actions that would have the Congress again decide the fate of something that they have already decided. These two projects are not proposals; they have both been underway for years. Whatever the original merits may or may not have been, previous Congresses considered and then decided to finance these projects. What we in this body must do is face the reality that construction of the Hart Building is substantially under way. We have four alternatives:

First. Complete the building as originally planned;

Second. Complete the building with the substantial cost-saving modifications recently proposed by the Senate Office Building Commission;

Third. Terminate further construction activities and tear down the existing structure; and

Fourth. Terminate further construction and "seal up" the existing structure.

Mr. Speaker, we are told that to stop now, settle with the contractors and tear down the existing structure would cost $100,000,000. If the existing structure was left standing, settlement with the constructors would cost $58,000,000. In my view, either of these actions would be unacceptable. The latest estimate of total costs to complete the building and furnish it as designed is $174,550,000. The Senate Office Building Commission, chaired by my friend, the Senator from Louisana (Mr. JOHNSTON), has closely reviewed the project and has cut nearly $32 million in frills so as to reduce the total estimated cost to $142,627,700. Amendment No. 37, before you today, would establish this amount as the new cost ceiling for the building.

Mr. Speaker, we should move forward with the building now. Each month of delay adds an estimated $700,000 in costs to complete the building. We have reviewed the justification for the building, the need for additional space and believe that the amendment should be agreed to. Many of Senate staff are located in buildings that should be considered unsafe. Those structures that are being used are woefully inadequate in my judgment. We have been assured that the new building will accommodate only existing personnel and will not be used as a way to increase the number of Senate staff people.

I hope that we might move to restore the comity between ourselves and the other body that our earlier action on this issue has damaged. The Senate has, in my judgment, offered us a very sound and reasonable compromise. The House should recede from its disagreement to the Senate and concur in Amendment No. 37.

TELLICO DAM AND RESERVOIR

Mr. Speaker, the Tellico Dam and Reservoir project is 98 percent complete. Over $110,000,000 has been spent on this project and despite the continued support of the Congress for this important project, the Supreme Court said last year that unless the language of Amendment No. 30 is enacted, this project cannot be completed. Congress has already considered the merits of the Tellico Dam. Last October, the House of Representatives voted 231 to 157 to exempt Tellico from the Endangered Species Act.

It is foolish to talk about this issue as if the dam and the other structures do not exist. The work has been completed. This project will supply 20,000 homes with valuable electrical energy. The question is whether we are going to complete and use the project as designed so as to confer the valuable project benefits on the people of Tennessee or do we, in the words of Supreme Court Justice Powell:

> . . . wish to defend an interpretation of the [Endangered Species] Act that requires the waste of at least $53 million . . . and denies the people of the Tennessee valley area the benefits of the reservoir that Congress intended to confer.

Mr. Speaker, I have and intend to continue to support the principles of the Endangered Species Act. But I cannot and will not support a determination that requires a waste of taxpayers' money. It is well known that a small minority have sought to use the provisions of the Endangered Species Act to stop the Tellico project. I have not heard one word of opposition from the Members of the Tennessee delegation on this issue. They have been elected by the citizens of Tennessee to represent the public interest, and, as I understand it, they all support the project. At the appropriate time, I will offer a motion to insist on the House position on Amendment No. 30 to retain the Tellico language in the bill.

Mr. Speaker, there was one typographical error in the slip copy of the conference report (H. Rept. 96–388). On page 78, the last sentence of the fourth paragraph should read:

> The conferees hereby refer to Federal Government control over releases of water from Federal projects and do not intend to imply any change in the historic right of a state to allocate its own water supplies.

There were also several typographical errors in the conference report printed in the RECORD. On page 20966, the conference allowance for the St. Louis Harbor, Mo., and Illinois project is $317,000; on page 20967, the conference allowance for the Puget Sound and adjacent waters, Washington project is $1,152,000; on page 20972 under Amendment No. 19, the first sentence should refer to "operation and maintenance, general"; on page 20973, the budget estimate and the conference allowance for the Farm Creek reservoirs, Illinois item is $80,000 and the budget estimate for the Baltimore Harbor and Channels, Md., is $3,470,000; on page 20976 under revolving fund, the sentence should make reference to the Committees on Appropriations and the general investigations allowance for the Upper Snake

River water management study should be $110,000; on page 20977 under general investigations, the budget estimate for the Colorado River water quality improvement item should be $2,465,000 and the conference allowance for distributive charges for services facilities, unliquidated obligations should be −$54,000; on page 20978 under Colorado River Basin salinity control projects, the conference allowance for Grand Valley systems improvement and management unit should be $3,650,000 and for Paradox Valley unit, $3,163,000 and the heading "General provisions" should read "General Provision, Department of the Interior"; on page 20979 under Amendment No. 29, the reference should be to "payment to Tennessee Valley Authority Fund" and under the head "conference totals—with comparisons," the first sentence should make reference to 1980 instead of 1890.

Mr. Speaker, I urge the adoption of the conference report.

☐ 1930

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Speaker, first I would like to tell the gentleman again how much we appreciate his outstanding leadership as chairman of this subcommittee.

Mr. Speaker, on page 78, on the third line from the bottom, am I correct in understanding that in the empty space, the word "not" should be inserted?

Mr. BEVILL. This is correct. This was a typographical omission. The word "not" was left out. That should be added.

Mrs. SMITH of Nebraska. Then the report should read:

> The conferees hereby refer to Federal Government control over releases of water from Federal projects and do not intend——

Mr. BEVILL. That is correct. The gentlewoman is correct.

Mr. COELHO. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from California.

Mr. COELHO. I thank the gentleman for yielding.

I congratulate the chairman on the good job on the conference report, but I would like to raise a couple of questions.

In regards to a proposed project that is partially studied in my district, we have an additional capability of $150,000 for fiscal year 1980 that would complete the study.

The Bureau of Reclamation has already invested $546,000 in 8 years. The Bureau also has dropped this proposed study for the Mid-Valley Canal and is working on a concluding report, because they presently feel there is not enough water for the project.

I feel it makes no sense not to complete the study, because there very well may be additional water supplies in the future.

As the chairman knows, there is possibly and probably an enlargement of Shasta Dam coming along that would provide the necessary water for this canal. The California Department of Water Resources' director, Ron Robie, has noted this in communication with the Bureau of Reclamation and urges completion of the study as do San Joaquin Valley east side farmers.

In addition, Senator CRANSTON of California and Senator JOHNSTON of Louisiana have gone on record agreeing that the feasibility study should not be dropped, and that the necessary $150,000 should be appropriated to complete the canal study.

My question is: Would the gentleman approve a reprograming if the Bureau asked for it?

Mr. BEVILL. Yes. The gentleman will have my support on that. I am familiar with this, and I can assure the gentleman he will have my support on it.

Mr. COELHO. I thank the gentleman.

My second question: If they do not ask for it, would the gentleman put the necessary funds in the next bill before his committee?

Mr. BEVILL. At the first opportunity I will recommend putting the funds in the bill.

Mr. COELHO. I thank the gentleman.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to my distinguished colleague, the gentleman from Indiana, who does an outstanding job on the subcommittee.

Mr. MYERS of Indiana. I thank my chairman for the kind remarks. The chairman has done an excellent job in presenting what is in this conference report.

It is important to note that the conference did recommend some increases, as the chairman has said, particularly in solar applications operating expenses, where we are $14,450,000 over the budget, and also on solar technology operating expenses, where we are $18,400,000 over the budget.

Some of the increase is in the photovoltaic program, an existing program, that the authorization committee has identified as being one of the areas where we possibly have an opportunity for a breakthrough in domestic energy production.

It is worth noting that the conference allowance was almost $32 million below the budget request for nuclear fission operating expenses. There are a number of other changes.

The chairman has indicated that under the rules of the House, two votes may occur on separate amendments. It is significant to note that the compromise worked out with the other body is less than a half billion dollars more than last year's bill. This means that we have not kept pace with the inflation rate. If we were to fund the programs at the same real dollar level as we did last year, this year's bill would have to be increased. We are not funding those energy and water development programs as strongly as we did last year when the figures are adjusted for inflation. The conference allowance is still $170 million over the House bill.

I think it is a good conference report. The report represents a true compromise, even though we were required to make some agreements with the other body that we were not enthusiastic to make.

At this time I yield 5 minutes to the gentlewoman from Maine (Mrs. SNOWE).

Mrs. SNOWE. Mr. Speaker, I rise today to express my extreme disappointment with the inclusion of $710,000, in this energy and water appropriations measure, to study the Dickey-Lincoln hydroelectric project on the St. John River in Maine.

Last year, the House Appropriations Committee deleted the Army Corps of Engineer's request for funds for the further study of Dickey-Lincoln. The Senate, however, restored these funds and prevailed in conference. This year, the House Appropriations Committee again refused to fund Dickey-Lincoln, and once again, the Senate restored these funds and its will prevailed in conference.

I fully realize that many of you each year express surprise and bewilderment that Dickey-Lincoln continues to hold on. Let me assure you that—especially in view of the opposition of most of the New England congressional delegation, the opposition of three of the four Members of the Maine congressional delegation, and the opposition I believe of a majority of the people in my State—I too share your frustrations and concerns. An additional $710,000 for more study—on top of over $10 million which has already been spent—is nothing more than a waste of money and one of the better examples of what I call the "study syndrome" that besets Government when faced with a difficult decision or a politically volatile issue.

In my judgment—and in the judgment of my colleague from Maine, Mr. EMERY, and in the judgment of the junior Senator from Maine, Mr. COHEN—it is time to turn our attention away from Dickey-Lincoln and to focus instead on the more feasible and more sensible energy alternatives which exist in Maine and in the New England region.

In my estimation, the evidence is overwhelming that this project should be finally laid to rest. I fear that its continued survival stems principally from the distinct advantages that come to those with extended tenure and longevity as a Member of Congress rather than to the persuasiveness of the arguments they enunciate.

I believe that inclusion of these funds is especially unjustified in light of the House Public Works and Transportation Committee's recent vote of 24 to 17 to include deauthorization of this project in their omnibus water resources development bill. It should be very significant to my colleagues that the House Public Works Committee, which as we know, has the authority to authorize and deauthorize water works projects, has looked at Dickey-Lincoln objectively, and determined that it does not merit the committee's endorsement.

There are several reasons why this project should not be funded. From an environmental perspective, Dickey-Lincoln would flood 100,000 acres of Maine Timberland, and destroy 278 miles of free-flowing rivers and streams. From an economic perspective, this project is estimated to cost $1 billion with a benefit/

cost ratio computed by the corps to be 1.2 to 1 based on an unrealistic discount rate of 6⅞ percent. Dickey-Lincoln has the potential to replace 2.3 million barrels of oil annually which represents only one-half of 1 percent of the oil New England uses annually or enough fuel to meet the Nation's needs for only 6 hours. Given the irregular flow of water on the St. John River, this project would only function at its maximum capacity for 2 hours each day, supplying only 17 percent of the Northeast's peaking needs and only 25 percent of Maine's peaking needs. By the late 1980's, therefore, Dickey-Lincoln would generate only 5 percent of New England's electrical energy needs. Consequently, in my judgment, construction of this project, is hardly enough to warrant the environmental and economic costs that would be incurred.

I am speaking today, not to offer a blanket indictment of all waterworks projects, but, simply to call my colleagues' attention to the inclusion of a project with dubious merit. Although I am strongly opposed to the funding of Dickey-Lincoln, I will not act as an obstructionist to our legislative process. This appropriations measures provides funding for a number of deserving and worthwhile projects, including $860,000 for the Passamaquoddy tidal power project in my district.

I will not make a motion to recommit this bill, today; however, I have every intention to continue the battle to deauthorize this project. The time has come to terminate the endless and exhausting consideration of a project which has cost the American taxpayer over $10 million since 1966, and will cost the American taxpayer an additional $710,000 in fiscal year 1980.

☐ 1940

Again, as I said, I will support this measure but certainly very hesitantly. There are several projects that are being funded in my district, and though I am very pleased with the action taken by the Public Works and Transportation Committee last week, certainly I will continue to work to make sure that the Dickey-Lincoln dam is deauthorized in the coming months here in the Congress.

Mr. MYERS of Indiana. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. Gilman).

Mr. GILMAN. Mr. Speaker, I rise to urge prompt approval of this conference report.

The chairman of the Subcommittee on Energy and Water Development, the distinguished gentleman from Alabama (Mr. Bevill), and its distinguished ranking member, the gentleman from Indiana (Mr. Myers), have steered this worthy legislation successfully through both Houses of Congress. He and his committee members are to be commended for this fine legislative handiwork.

It is important that the initiative for public works projects be kept in the Congress where it belongs. Accordingly, it is incumbent upon us to endorse the work of our committees. This appropriations bill has been fully debated in both the Senate and the House subcommittees and committees, as well as on the floor of both Chambers. This legislation has undergone careful scrutiny and is now prepared to be submitted to the President.

I am pleased that my colleagues in this body and in the Senate have seen fit to leave unchanged our request for $200,000 for the second year of the upper Wallkill River flood project. Ever since first coming to Congress in 1973, I have annually tried to impress upon our colleagues the need for this vital flood control initiative in my 26th Congressional District of New York. In 1978, both Houses of Congress recognized the need for this project, which would protect some of our most fertile and productive farmlands from the ravages of flooding, which have become annual.

The chairman of the subcommittee (Mr. Bevill) and his subcommittee and committee colleagues have been more than responsive. They had taken the time to study and to fully analyze the facts of this request, and have made a just decision.

Unfortunately, the administration did not share their concern, and did not have the time or manpower to look into this request as carefully as our colleagues. Despite the fact that the first year of the study was not only funded but underway, they sought to terminate the Wallkill River flood project in this year's budget, thus throwing the funds already expended down the drain.

That action was unwise, for the fertile "black dirt" region of Orange County, N.Y., produces 45 percent of the onions consumed east of the Mississippi, as well as substantial crops of celery, lettuce, and other truck vegetables. The funds saved the taxpayers by the White House would have been wiped out by increased prices to the consumer for these vegetables.

It was a bitter pill for our vegetable growers to swallow, since much of the flooding problems were caused by an incompleted CCC project which has lain dormant since 1937, causing more fill and debris to seep into the river and back up even more floodwaters.

Millions of dollars worth of damage has been suffered by the growers as a result of this, over $12 million during Hurricane Agnes alone.

Mr. Speaker, it is extremely difficult to explain to our growers why the Federal Government can not correct a situation which is not only beyond their own power to correct, but beyond the power of their local governments, and was partially caused by the Federal Government.

Fortunately, our colleagues in the House and in the Senate have agreed that this project is vitally necessary, that it is cost effective, is justified and is long overdue.

Mr. Speaker, I reiterate my support for the conference report, and express my thanks to our colleagues on the subcommittee and the full committee. I urge my colleagues to join in endorsing this conference report in its entirety.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the ranking minority member of the Appropriations Committee, the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Speaker, I want to take this opportunity to compliment the gentlewoman from Maine for her fight to try to defeat this project.

Mr. Speaker, as you know, I have been urging this body for several years to vote against further funding for the Corps of Engineers Dickey-Lincoln School Dam project in Maine. This project, the economic value of which is marginal at best, would have severe environmental consequences.

For the second year in a row while the House has not included funds for the project, the Senate has, and once again the Senate position has prevailed in conference.

While I regret the action of the conferees, I do want to report to my colleagues here in the House on two recent legislative actions which I think will move us closer to defeating this project once and for all next year.

First, on July 17, the Senate defeated by only five votes an amendment offered by the junior Senator from Maine to delete the $710,000 provided in H.R. 4388 for advanced engineering for Dickey-Lincoln. Seven of the twelve New England Senators voted in favor of this amendment.

Second, last week the House Public Works and Transportation Committee considered and agreed to an amendment to its omnibus water resources bill to deauthorize the Dickey-Lincoln project. This action had the unanimous support of the Maine House delegation.

I remain vigorously opposed to further funding for the Dickey-Lincoln project.

Mr. MYERS of Indiana. Mr. Speaker, I yield 5 minutes to the gentleman from Maine (Mr. Emery).

Mr. EMERY. Mr. Speaker, I want to associate myself with the remarks of my distinguished colleague from the Second District of Maine (Mrs. Snowe) and my distinguished colleague from western Massachusetts (Mr. Conte) for pointing out some of the thoughts of the Maine congressional delegation with respect to Dickey-Lincoln.

It is I think important to point out that three out of the four representatives from the State of Maine in Washington, one Senator and two of us in the House of Representatives, are staunchly and strongly in opposition to the Dickey-Lincoln project.

Nevertheless, as my two colleagues pointed out, the money was included in this legislation for continuing studies which have been completed in the past.

It is my belief that the $710,000 for additional studies will turn up no more information and provide us with no better idea of the environmental damage or the amounts of electricity or economic value or lack thereof than previous studies have shown. Certainly as the question is further discussed in this body, this legislation, and later on in the water resources bill we will have an opportunity to discuss some of the very severe and serious failings of the Dickey-Lincoln project. For example, the fact that it would cost well over $1 billion to construct; the fact that it would produce very small amounts of electricity indeed. Also, the fact that it would interfere with the operation of woodlands and timber resources in northern Maine which have a very significant impact on the State's economy in an area of the State where jobs and income are very important.

We feel that the Dickey-Lincoln project ought not to be funded. We feel that the $710,000 in this legislation is unnecessary and wasteful and in a time when there are many valuable projects which are needed by farmers and other people in other parts of the country, when we are concerned about utilizing our dollars for the generation of electricity in an efficient and valuable fashion, we feel that this project flies in the face of logic and reason.

I might point out that every major newspaper in the State of Maine has editorialized against this project, that various environmental groups are against it, that industry, by and large, is against it. For many of these groups and organizations there has been a change of heart over the last several years, as there has been with the general population of Maine.

Perhaps 15 or 20 years ago the project would have been considered very popular and desirable, but every public opinion poll of any credibility at all, conducted by any political figures or by newspapers or by organizations in the State of Maine shows conclusively that the vast majority of the people of the State of Maine are opposed to this project. As I mentioned, the two of us from Maine in the House of Representatives and one of the two Senators is also opposed.

I am not going to offer any amendments in disagreement with the conference report. I feel there are many projects in this bill that ought to be considered expeditiously, although we may have disagreements on other matters in the bill, as any Member of Congress has a right to. We are not going to make an effort on this particular conference report, we just feel it is necessary to point out to the membership of this body that there are many unanswered questions as far as the desirability of Dickey-Lincoln. We feel there are a number of points that ought to be brought out so that the House can spend its time and money more wisely to the greater benefit of people for energy purposes and agricultural purposes and other purposes.

So I would hope that the Members would consider our point of view in representing the State of Maine and in the future vote against any further funding for the Dickey-Lincoln project and further funding for additional studies which we feel are unnecessary and unwarranted. I yield back the balance of my time.

□ 1950

Mr. MYERS of Indiana. Mr. Speaker, I yield back the balance of my time.

Mr. BEVILL. Mr. Speaker, I yield such time as he desires to the chairman of the House Appropriations Committee, the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, at this time I would like to say that this subcommittee has done an excellent job under the chairmanship of the gentleman from Alabama (Mr. BEVILL), our colleague from Indiana (Mr. MYERS), and the members of the committee. As we deal with the many suggestions that come before the Congress this year, where we have held down the budget here again, this is the one on which all the rest depend.

Mr. Speaker, I am happy, indeed, to commend the members of this committee, and commend this report, to my colleagues. I do not know how they could do a better job to try to meet the problems that we have, to try to look after our own country first.

Mr. Speaker, I would like again to call attention to the remarks I made on June 14, 1979, when the bill making appropriations for public works was before the House. These remarks appear on pages 14968 and 14969 and present in detail the programs which affect my area.

In the conference report which we submit herewith based upon subsequent evidence coming to our attention the conferees agreed upon the following language. I quote:

> The Chief of Engineers is directed to review the current flood control regulation procedures for the Yazoo Basin Headwater lakes with a view toward determining whether modifications should be made in these procedures that would increase the downstream flow in the rainy nonfarming season so as to decrease soil erosion from the foothill area and enable the Corps to retard or stop the flow at such times as may improve the planting, cultivation and harvesting of crops on lands below the reservoirs.

The conference report containing this language has been approved by both House and Senate. General Morris of the Corps of Engineers has been made aware of the language and I expect the corps' full cooperation.

In connection with Grenada Lake, the following language was agreed upon by the conference. I quote:

> No part of the funds in this bill shall be used to acquire flowage rights or property rights of any kind in connection with the Grenada Lake, Mississippi project except upon the voluntary agreement of the owner of such property.

I am hopeful and believe this will give protection from the Corps of Engineers in taking additional flowage rights. The corps has assured me that all land on which they would attempt to obtain flowage rights would be south and east of the railroad.

It seems we get one problem settled only to have another. You will recall that in this area, over the years, we had to change the law to get the right to Jury Trial as to value. This remains the law. Also, we got 75 percent of the land rental back to the county for roads and schools and a few years ago, additional payments in lieu of taxes. When it was important, we even got additional cotton acreage for Yalobusha County.

This year we provide funds to repair Gums Crossing.

I have been the sponsor of all this legislation but find now that with regard to much of the proposed taking of flowage rights by the Corps of Engineers, frequently the amount taken does not justify hiring a lawyer, though you do have the right to a jury trial.

In addition to foregoing the conferees also directed the following:

> The Corps is urged to review the flood control problems associated with Twenty Mile Creek and Little Browns Creek, Mississippi and report back to the Committees on Appropriations with appropriate solutions to the problems.

Mr. Speaker, flood problems are continuing ones and these provisions are made necessary by changing conditions and are necessary to carry out the intent of the Congress which provided for these reservoirs before I became a Member of Congress.

Mr. BEVILL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The Clerk read as follows:

> Senate amendment No. 1: Page 2, line 9, strike out "$2,050,623,000" and insert "$2,053,823,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$2,048,523,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

> Senate amendment No. 3: Page 2, line 21, insert:
>
> The anticipated revenues from Uranium Enrichment Activities for the fiscal year and authorized to be retained by Public Law 93-438 shall be deemed to have been appropriated to the Department for purposes of 31 U.S.C. 665.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 7: Page 3, line 20, insert "of which $6,165,000 shall be for the Office of Inspector General,".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 8: Page 4, line 14, strike out "$413,878,000" and insert "$444,-478,000,".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein. with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$448,478,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 9: Page 5, line 6, insert:

The anticipated revenues from Uranium Enrichment Activities for the fiscal year and authorized to be retained by Public Law 93-438 shall be deemed to have been appropriated to the Department for purposes of 31 U.S.C. 665.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 14: Page 12, line 7, insert:

Sec. 104. Not to exceed 5 per centum of any appropriations made available for the current fiscal year for Energy Supply, Research and Development Activities; Uranium Supply and Enrichment Activities; General Science and Research Activities; Atomic Energy Defense Activities; and Departmental Administration Activities may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committee on Appropriations and the appropriate authorizing committees of the House and Senate for approval.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 17: Page 14, line 1, insert "or would result in adverse diminution of generation at hydroelectric facilities on the Niagara or St. Lawrence Rivers: *Provided further,*".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 22: Page 19, line 18, insert ": *Provided further*, That currently unobligated funds from appropriations made under this heading for payment of Teton Dam disaster claims shall be available to pay costs to irrigation spaceholder contracting entities for American Falls Dam pursuant to section 7, Reclamation Safety of Dams Act (Public Law 95-578), and shall be nonreimbursable in accordance with the terms of that Act.".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 24: Page 27, line 5, insert:

Sec. 305. Notwithstanding the provisions of the Act of October 1, 1962 (76 Stat. 677), the Secretary of the Interior, in the development of the irrigation lands located in Block 26 of the Columbia Basin project, Washington, shall take such action as may be necessary to assure that the per acre repayment obligation shall be the same as those set forth in repayment contract 11 R 1444, dated October 9, 1945, as amended, between the United States of America and the South Columbia Basin Irrigation District, but in no case shall such per acre repayment obligation exceed $131.60.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 30: Page 31, line 8, strike out ": *Provided*, That not withstanding the provisions of 16 U.S.C., chapter 35 or any other law, the Corporation is authorized and directed to complete construction, operate and maintain the Tellico Dam and Reservoir project for navigation, flood control, electric power generation and other purposes, including the maintenance of a normal summer reservoir pool of 813 feet above sea level.".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves that the House insist on its dsagreement to the amendment of the Senate numbered 30.

PREFERENTIAL MOTION OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Breaux moves that the House recede and concur in the amendment of the Senate numbered 30.

The SPEAKER pro tempore. Does the gentleman from Alabama wish to debate this amendment?

Mr. BEVILL. Yes, Mr. Speaker, I believe I am allotted 1 hour; is that correct?

The SPEAKER pro tempore. The rule would provide 30 minutes on the side. The gentleman from Alabama (Mr. Bevill) is recognized for 30 minutes.

Mr. BEVILL. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. Breaux).

Mr. BREAUX. Mr. Speaker, I do not think anyone who has been here for any length of time, who knows the record that I have tried to put together in this House, can in any way, shape, form, or fashion classify me as being a crazy environmentalist or some sort of nut when it comes to environmental issues. I have tried to amend the Clean Water Act, to amend the Clean Air Act; I am one of the major sponsors of efforts termed, "Rape, run, burn," which dealt with the State of Alaska. Coming from that background, I stand before the House and ask that we uphold the integrity of this House and the integrity of the legislative process and vote to remove the Tellico Dam project from the authorizing process, from the appropriations process.

I make this motion to recede and concur in Senate amendment 30 not in defense of the snail darter, nor in opposition to the Tellico Dam in the State of Tennessee, but I do so in defense of the legislative process and the integrity of this House, which I think is at stake.

The issue here is very simple. Is it appropriate for the House to attach a rider on an appropriation bill which exempts the Tellico project in Tennessee from all laws? Not just on endangered species, but from all law; not just clean water laws or clean air laws, but all laws which might affect the operation; from dam safety laws, from all laws. The amendment was added late one Monday afternoon with about 40 seconds of debate. It was not printed in the Congressional Record. It was not read on the floor. It was not described, and it was not debated. I think that is a pretty smooth move, but one that I really do not think we should approve of.

I offer a preferential motion to recede from that position and to reinstate and give us a chance to vote against the Tellico Dam project. Let me explain something. All the Members have heard about the Tellico project. We voted on it many times. I, as author of this amendment, have voted to support the project, but I do not do it today because I think that if Members look at it from an economic standpoint it comes out as being a turkey; a turkey not only to us from an economic standpoint but as anything else.

The Endangered Species Act had become unworkable and unreasonable. I am on the committee that wrote that, but we made some changes in the last 2 years. We recommend that projects like the Tellico Dam and Grey Rocks project, a reservoir project, should be considered specially because they are very important projects, that we should have a mechanism to balance the economic value of that project without voting on a snail darter or some other endangered species.

□ 2000

So this Congress by a large margin voted special amendments to the Endangered Species Act. We created a seven-man committee, a seven-person committee, to consider whether to give special exemptions to projects that have been found to be in conflict with the Endangered Species Act. We did it after we debated this issue for 13 days in our committee process. We have created a seven-man committee. The committee has met. It included a member representing the Secretary of Agriculture, the Secretary of the Army, the Chairman of the Council of Economic Advisers, the Administrator of EPA, the Secretary of the Interior, a member from NOAA, and a representative of the State where the project exists, the State of Tennessee. They unanimously—not by a close vote, not by almost doing it—every single member unanimously, after they listened to the merits of whether we should balance this thing economically, voted not to grant an exemption. That is what this House voted for. That is the process we voted for, and I think we should abide by it. We should not say we will go out and play baseball and then when we lose the game, say the answer to that is change the rules. That is not the rule. And also on this we should abide by the decision of the Endangered Species Committee.

It is not a question of whether it is the snail darter or Tellico Dam. It is a question of the integrity of the process of this House. The committee has voted unanimously not to grant an exemption, and I do not think this House, the Congress, wants to be put in the position of every time we have a project having the House sit down and spend days debating the merits of it. We have created a special committee, a seven-man committee, and balanced it with environmentalists and people who believe in construction, and they came down unanimously with the decision that this is not a good project. I support that decision. If it was any other way, I would support it because I have voted for it on a number of occasions.

Some people have said, "Well, it is almost finished; let us go ahead and build it."

TVA said, if you put a pencil to it, to the credit just to complete the remaining 10 percent, the benefits will justify the costs. That just does not wash.

The SPEAKER. The time of the gentleman has expired.

Mr. BEVILL. Mr. Speaker, I yield 30 seconds additionally to the gentleman.

Mr. BREAUX. I thank the gentleman. I would just conclude with the fact that we have a process. This Congress has supported that process. Economically, the committee found that it does not wash. It is not a good project. The benefits already there can be used. There are basically roads, and there are structures that are going to remain after the process.

I say let us support the congressional process. Let us vote for the preferential motion I have offered.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. McCloskey).

Mr. McCLOSKEY. Mr. Speaker, my colleague, Ed Forsythe, ranking member of the Fish and Wildlife Subcommittee. He asked that I make this comment in support of the motion of the gentleman from Louisiana with which I concur. In 1979 the Committee on Merchant Marine and Fisheries conducted 13 days of oversight hearings on the Endangered Species Act, primarily because of the Tellico Dam and the snail darter controversy.

As a result of these hearings, the Congress approved legislation providing for more balance in the Endangered Species Act. The Tellico Dam project was considered under the new criteria of the act and it was determined by the newly created Endangered Species Committee that the benefits associated with completing the project did not outweigh the economic and environmental disadvantages of the project. The Representative from Tennessee who sat on the Endangered Species Committee concurred. A report prepared by the General Accounting Office supports the conclusion of the committee that benefits of the Tellico Dam will not be proportionate with the project costs.

Despite this overwhelming evidence the House adopted an amendment exempting the Tellico Dam from the Endangered Species Act and from several other statutes including the Federal Water Pollution Control Act, the National Historic Preservation Act, acts regulating dam safety, and the Fish and Wildlife Coordination Act. The House took this action after 42 seconds of consideration during which the amendment was not fully read let alone debated. In addition, the amendment violated the House rules on germaneness as legislating in an appropriations bill.

I might add that I was present on the floor when the amendment was offered by the gentleman from Tennessee, considered as read, quickly accepted by both the majority and minority floor managers without any discussion or debate that would reveal that we were voting the refunding of the controversial Tellico Dam and setting aside five major Federal laws in the process.

The word "Tellico" was the key word in this amendment. It has been under consideration by this House and its committees. I want to submit to my friends on the Committee on Appropriations that this does attack the integrity of the House proceedings. I would not want to come to you with a Fish and Wildlife bill with an agreement that the gentleman from New York (Mr. Murphy) and I had agreed on. I think we all understand the danger of condemnation from the public if we adopt without reading an amendment of this degree of controversy.

I would plead with the members of the Committee on Appropriations that they vote in favor of this motion that we set aside the process by which that amendment was adopted for the substantive reason that the economic and environmental costs of the Tellico Dam outweigh its benefits, and for the procedural reasons that the amendment in question was not understood nor fully considered by the House, and it was also in violation of the House rules as being nongermane. I urge the adoption of the gentleman's motion.

Mr. BEVILL. Mr. Speaker, I yield 3 minutes to the gentlewoman from Tennessee (Mrs. Bouquard).

Mrs. BOUQUARD. Mr. Speaker, I rise in favor of the motion made by the gentleman from Alabama.

Mr. Speaker, there are several important facts which must be fully understood if we are to make the proper decision on the completion of the Tellico Dam. First of all, I have had any number of public meetings, discussions and debates with those both supporting and opposing the completion of this project. My very strong impression, reinforced time and again in public forums, is that the majority of people in this area support the completion of the project.

A second fact, we are not now discussing whether or not to build a dam on the Little Tennessee River. The dam is built. The amount of $103.2 million of the TVA's ratepayers money has been spent. If the project does not go forward the $103.2 million is a total loss.

A third fact, when this project was initiated there was no Endangered Species Act. If there had been, I doubt we would be facing this question again today, but the fact is that the dam was constructed in accordance with the existing laws and regulations.

A fourth fact, this project will produce some 200 million kilowatt hours of electricity each year. This is a sufficient amount to provide electrical energy for 20,000 homes. To meet peak demand of this amount at the present time TVA burns about 15 million gallons of oil. With completion of the project that oil could be diverted to better purposes. The value of that electricity at today's TVA rates is $2.7 million. Given the probability of TVA rate increases this summer and fall, the value of that electricity will almost certainly exceed $3 million by the end of this year. Given the environmental advantages of hydroelectric power, completion of the project will contribute to both clean air and clean water goals.

A final fact, though my list is by no means inclusive. If anyone wonders what has become of our friend the snail darter in this controversy, you might like to know that the present snail darter population in the Little Tennessee River is seven. Some 2,500 of the progeny of the 710 who transplanted in this new habitat last year now survive in the Hiwasee River. A second transplant has been made to the Holston River.

Now my colleagues, if you can, with a straight face, answer that you are willing to write off $103.2 million in expended dollars, and give up some $3 million worth of electricity a year in order to protect the continued existence of seven snail darters, then I think your constituents would want you to oppose this motion. If on the other hand, your district demands of you a certain amount of fiscal responsibility and common sense, then I believe you have no alternative but to support our colleague from Alabama, complete this project, and move on to the more crucial business of this House.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, I rise in support of the motion by the gentleman from Louisiana (Mr. BREAUX) to recede and concur with the Senate on the matter of the Tellico Dam exemption contained in the House version of the energy and water appropriations bill.

There are two issues at stake here. First, should the Tellico Dam be exempted from the Endangered Species Act and other Federal laws so that construction may proceed? Second, should we breach the integrity of the Endangered Species Act as amended only last year, and indeed, tamper with the very rules of the House of Representatives?

I will not consider the issue of the Tellico Dam here in detail, except to say that from what I know of the project it does not make economic sense. Entirely apart from snail darters and the like, it is my understanding that recent studies by the Tennessee Valley Authority and others indicate that a developed river—without a dam—has greater economic potential in terms of jobs and revenues than does a dammed river and reservoir.

My fundamental concern, however, is in the integrity of the legislative process. As a member of the Merchant Marine and Fisheries Subcommittee on Fish and Wildlife Conservation, I participated in the careful and thorough evaluation of the Endangered Species Act in the 95th Congress.

Our subcommittee and committee reviewed the act in detail, and, in the end, we settled on a process which carefully balanced economic and environmental interests. The keystone of these revisions was the establishment of a process by which any project could be considered for an exemption by a Cabinet level review committee. The Tellico Dam project was considered by this committee, and by unanimous vote the exemption was denied.

Now for the proponents of the Tellico project to turn around and come back to Congress for additional consideration strikes me as "sour grapes." I repeat, the Tellico Dam had its day in court and it was found wanting.

Not only did the Tellico proponents come back to Congress for an exemption, but it was done so in a mere 40 seconds of discussion on the floor of the House. Nobody knew what was happening, and in the process, two Rules of the House were violated—germaneness and legislating in appropriation bills.

Mr. Speaker, this is not the way to conduct the business of the House. We established a fair process for considering exemptions to the Endangered Species Act, a process specifically intended to relieve the Congress from the burden of having to review case-by-case exemptions. It is time we reaffirmed our faith in the integrity and wisdom of that process—and in the procedures of the House—by adopting the motion to reject an exemption for the Tellico Dam.

The Senate has twice defeated a motion to grant a Tellico Dam exemption. I urge my colleagues to join with the Senate on this matter and give the Endangered Species Act a chance to work. Otherwise, we make a mockery of the legislative process.

□ 2010

Mr. BEVILL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank my dear friend for yielding to me.

Mr. Speaker, it is appalling to me that the House must again take its time and resources to debate an issue that was put to rest in the 95th Congress. The special body that was constituted by a special act of this Congress to deal with exemptions has said that the Tellico Dam should be laid mercifully to rest on grounds that it has no economic merit. I believe that that judgment having been made we should stand with it. I think we should certainly not overrule that on the basis of an amendment adopted without proper notice to the House and under circumstances where its germaneness is open to very serious question and where that action of the House constituted legislation on an appropriation bill.

Mr. Speaker, the issue before us today was the result of an amendment adopted on the basis of 40 seconds of discussion on a proposal that was neither printed in the CONGRESSIONAL RECORD, fully read, described nor debated. The adoption of the amendment violated the House rules of germaneness and legislating in an appropriations bill. The Members of this body have an institutional responsibility to reject this language.

The issue of the Tellico Dam has been resolved. It was put to rest in the 95th Congress during the extensively debated amendments to the Endangered Species Act. The 1978 amendments to that act created, as one of the provisions, a seven-member Exemption Board to make case-by-case determinations relative to project exemptions from the Endangered Species Act. The Tellico project was given full and thorough consideration by this Board—and an exemption was not granted. Now, we have been asked to overrule that judgment on the basis of an amendment that was adopted under the most questionable circumstances.

On the substance of completing the Tellico Dam, there have been several misleading statements regarding the efficacy of completing the dam and the aggregate benefits which would accrue by removing environmental and other constraints currently impeding its completion.

It has been represented that it has taken $111 million to construct the Tellico Dam. This is simply not true. TVA figures indicate the dam cost $13.8 million in materials and $8.7 million in labor totalling $22.5 million. The major expense of this questionable project was in the purchase of 60 square miles of private farmland and in the construction of roads.

It has also been represented that the completion of the Tellico Dam would constitute a viable and substantial source of hydroelectric power to the TVA system. This statement is not factual. The primary purpose—in the initial construction of the project—was for recreational purposes. The dam has no generators and the only power that could be generated by Tellico would be 22 megawatts produced by water flowing through a small barge canal. Compared to the existing 27,000 megawatt electrical capacity of TVA and the projected capacity of 42,000 megawatts by 1985—it is insignificant.

Tellico has already been condemned by the seven-member Endangered Species Exemption Committee because of its very poor benefit-cost ratio and absence of contribution to a worthwhile purpose.

The amendment should be stricken from this conference report and I urge my colleagues to support the Breaux motion.

I urge my colleagues not to negate the excellent work of this body during the 95th Congress. I move that we take immediate action to rid the House of the albatross of Tellico Dam and defeat this amendment.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the ranking minority member of the Committee on Appropriations, the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in opposition to the chairman's motion to insist on the House position with respect to amendment No. 30. I believe the House language pertaining to the Tellico Dam which is the subject of amendment No. 30 sets a bad legislative precedent and only serves to illustrate how desperate the backers of this project must be to see it brought to completion. I cannot believe that those who support this amendment would want to see this same language uniformly applied to all water projects.

Last year, as a result of the Supreme Court decision relating to the Tellico Dam and the Endangered Species Act, this body passed a bill which later became law establishing a Cabinet-level review committee to weigh the value of preserving endangered species against the economic and social benefits of development projects. Now just a year later, the Tellico Dam question is again before us in spite of the fact that the review committee that we ourselves established has rendered a negative decision on Tellico. If it was not our intention to abide by the reasoned decisions of this reveiw committee, why in the world did we establish it in the first place?

The fact of the matter is that this Cabinet-level committee which included a representative of the Governor of Tennessee reviewed the Tellico Dam project very carefully and after reviewing all the facts this committee voted unanimously that the project simply could not be justified on economic grounds. I call your attention to a letter recently sent to the Speaker by Secretary Andrus who chaired that seven-member committee. The Secretary states that among other things influencing their decision, the committee found that:

First. The annual cost of the project exceeded its annual benefits;

Second. The dam would not meet even Bureau of Reclamation standards for dam safety since the dam would not be able to contain the maximum flood thought probable to occur; and

Third. Any electricity produced would be an indirect benefit of the additional waterflow created by the dam and would not add to the capacity of the TVA system.

What concerns me the most at this time, however, is not whether the snail darter would become extinct as a result of this project or even whether the project is economically justified. What concerns me the most now is the manner in which the proponents of this project have proceeded through the language of this amendment to try to force this project down the throats of the American people. We have absolutely no sound basis on which to overturn the decision of the Cabinet-level committee we ourselves had established to resolve this matter and neither can I think of a single good reason why this Congress should summarily exempt a water project from all statutory requirement, which is what the language of amendment No. 30 does.

Whether or not this language was originally added to the House-passed bill in the "dead of the night," as some have euphemistically called the proceedings that occurred, it is true that this amendment was not published and was not read in its entirety before being quickly agreed to by the committee. The experience in the other body was just the opposite. The amendment was presented and thoroughly debated and, in the subsequent recorded vote taken, the amendment was defeated. I think we should move to recede and concur to the Senate on amendment No. 30, thereby abiding by the decision reached by the Cabinet-level committee, a decision process we ourselves agreed was fair.

Mr. Speaker, I want at this point to read a letter from the Secretary of Interior to the Speaker:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 23, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I understand that the House of Representatives will soon be considering the conference report on H.R. 4388, the Energy and Water Development appropriations bill. On behalf of the Administration, I wish to express our grave concern over the House language which specifically exempts the Tellico Dam from the Endangered Species Act and all other provisions of law. I understand that because the conferees reported this provision in technical disagreement, the House will be considering it separately from the rest of the conference report.

Last year Congress directed a special seven-member Committee, which I chair, to determine whether the dam should be exempted from the Endangered Species Act. In doing so, we were directed to balance the project's economic and related benefits against the benefits of reasonable and prudent alternatives which are consistent with conserving the snail darter, which would become extinct if the dam is completed. After due consideration, we found that Tellico does not meet the criteria set forth by the Congress and that on the basis of economic considerations alone, the project is not justified. In fact, when the committee compared the full range of project benefits against only the remaining costs of completing the Tellico Dam ($35.9 million), we found that the costs of the project exceed its benefits.

We also found:

The annual benefits of the project are $6.52 million, compared to annual cost of $7.25 million.

Although project costs to date total $103.2 million, only $22.5 million has been sunk into actual construction of the dam. Remaining expenditures were for salaries, land acquisition, road construction and the like, most of which have produced or will produce benefits regardless of whether the dam is completed.

Tellico does not meet current Bureau of Reclamation standards for dam safety. In its 1978 report TVA states that the maximum design flood is larger than the maximum flood that can be contained by the dam. That is, in the event of such a flood, the dam would be overtopped and breached, resulting in more significant destruction than if the dam had not been built. Furthermore, for less severe floods, flood control benefits are slight, totalling $1.04 million annually, and a substantial portion of these benefits can be achieved by other means, such as local zoning.

Although project proponents claim substantial energy benefits for Tellico, actual benefits total only $2.7 million annually and are based on the cost saved by substituting 200 million kwh of hydroelectric power for power which would otherwise be generated by TVA's existing coal fired and nuclear facilities. The dam itself has no generators but rather creates water flow to provide additional generation for the nearby Fort Loudon Dam. This electricity is not available as peaking power and does not add to the capacity of the TVA system.

Although approximately one third of annual project benefits ($2.5 million) are justified on the basis of flat water recreation, there are twenty-four other such sites located within a sixty mile radius of the dam. In addition, annual recreation benefits of the free-flowing river alternative exceed those of the dam by $600,000.

Creation of the Tellico reservoir would tie up approximately $40 million in private land values, resulting in an annual loss of $4 million in benefits from alternative land uses.

Contrary to the claims of project proponents, the snail darter transplant into the Hiwassee River has not yet been determined to be successful. Based on the most recent surveys, the river's population of the fish is down from a year ago. An additional problem is posed by the rail transport of sulfuric acid in the Hiwassee River gorge since, according to the TVA report, a large acid spill could conceivably decimate the Hiwassee snail darter population.

In addition to the serious economic problems I have described, the Tellico amendment to H.R. 4388 overturns the deliberate and thoughtful process designed by Congress to deal with conflicts between endangered species and development projects. Moreover, it creates a most serious and undesirable precedent of summarily overturning all statutory requirements relating to the construction of a water project.

Given the uneconomic nature of the Tellico project and the other factors cited above, I intend to urge the President to veto the Energy and Water Development appropriations bill if the language on Tellico remains in the bill, and I urge you to recede and concur with the Senate's position on this matter.

Sincerely,

CECIL D. ANDRUS,
Secretary.

Mr. EDGAR. Mr Speaker, will the gentleman yield?

Mr CONTE. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would like to commend the gentleman.

I think the gentleman in the well has pointed out the importance of trying to focus attention on negative aspects of the Tellico Dam. It is one of several bad dam projects throughout our Nation that should be not constructed. I think the gentleman makes some very cogent points by detailing the strong objection of Cecil D. Andrus, Secretary of the Interior, to this project.

I hope that the Members of the House have read the "Dear Colleague" letters that have been circulated on this issue and that we can resolve it once and for all tonight.

I would also hope that the President would veto this bill as suggested in the July 23, 1979, letter to House Speaker THOMAS P. O'NEILL, JR. by the Secretary of the Interior.

Mr. MYERS of Indiana. Mr. Speaker, I yield 13 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. Mr. Speaker, the Tellico Dam has had a long and a colorful history. Its construction has always been a part of the overall plan for the Tennessee River. In 1965 and 1966 the Congress held hearings on the proposal and because of the support and merit of the project, funds were appropriated and have since been appropriated by every succeeding Congress, including the Congress in 1968. In fact, funds were approved by the Senate and House in 1973 for the closure and completion of the dam which may I say only cost $1,800,000 to close the dam.

Funding was first approved by the

Congress on September 21, 1966, by vote of 354 to 25.

I doubt there is more than two or three Members still in the House that voted against the project funds in 1966.

☐ 2010

Those who voted for the project in 1966 and also in succeeding appropriations through the years exercised good judgment.

Mr. Speaker, I know that Congress is not in the habit of starting and funding and stopping projects it does not want to construct. This is why most of the present membership has expressed its desire that the project be completed.

On October 14, 1978, on a rollcall vote of 231 to 157 the House approved an amendment to exempt the Tellico project from the Endangered Species Act. Because the 95th Congress was close to adjournment the Senate did not accept the amendment.

Mr. Speaker, I would now like to talk about the Endangered Species Committee that was appointed. The committee was not properly appointed and, in fact, the Tennessee member was not appointed as required under the act until 1 day after the hearings were held in Tennessee by hearing officers. Neither the Tennessee member lives in the area nor has the Tennessee member or any member of the Endangered Species Committee visited the eastern part of Tennessee where this dam lies. I personally asked them to do so.

Mr. Speaker, the entire committee is still a complete stranger to the local community and its situation. Because of alleged illegal functions of the committee and the failure to disclose vital information, it is now the subject of a lawsuit that is pending in the U.S. Sixth Circuit Court of Appeals in Cincinnati.

This project is in my district, Mr. Speaker, and if I did not think it was a good project and justified I would not be here today advocating its completion.

The gentlewoman from Tennessee (Mrs. BOUQUARD) has mentioned how it would have saved her home in 1973 if the project had been completed at that time. At that time it had been stopped because of an environmental statement.

Mr. Speaker, I have on several occasions surveyed the public opinion on the Tellico project. In March 1977 I sent a one-question questionnaire to the three counties directly affected by the Tellico Dam, the Counties of Monroe, Loudon, and Blount.

Of those who responded 1,537 were for completion of the dam and 116 were opposed.

In 1977 the Tennessee General Assembly by almost unanimous vote, and again in 1978, passed a joint resolution advocating completion of the project. When the project was first approved there was not a handful of opposition. After the project was started some opposition did develop but much of it was outside the area. The opposition first tried the route of the environmental impact statement. They were thwarted in this attempt by the Federal courts in Knoxville and although they did bring about some delay, and I did mention the case where the gentlewoman from Tennessee (Mrs. BOUQUARD) lost her home. I would like to call your attention to three letters that have for some reason been hidden until yesterday. The TVA requested three Federal agencies to review this project and they received reports and may I ask did the Endangered Species Committee include these reports in their record? Absolutely not. Did they ask for them?

They were from the Department of Energy Western Area Power Administration, the Department of Transportation and the Department of State's Agency for International Development. I would like to include these letters in the RECORD. They are as follows:

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 17, 1978.

Mr. S. DAVID FREEMAN,
Chairman, Office of the Board of Directors, Tennessee Valley Authority, Knoxville, Tenn.

DEAR MR. FREEMAN: We appreciate having had the opportunity to review the joint Tennessee Valley Authority (TVA) and Department of Interior (DOI) report on the status of, and the available options, on the Tellico Dam project. We regret that our comments could not be made available within your suggested time frame but are submitted since your conclusions are not yet final.

We found the report to be most interesting and consider that it carefully balances the opposing possibilities of further development. However, [we believe the substantial evidence of support by public officials including the U.S. Congress, the Governor of Tennessee and the Tennessee State legislature, when considered along with the potential economic benefit of completing the original project, is persuasive of the view that the project should be completed.] We consider that the problem of danger to the Snail Darter is being adequately addressed and that a habitat can be developed in which that species can exist.

While the project has had a contentious history, present evidence appears to provide a basis for a decision to complete the project.

Sincerely,
RAY WARNER, *Director,*
Office of Intergovernmental Affairs.

DEPARTMENT OF ENERGY,
Golden, Colo., October 6, 1978.

Mr. S. DAVID FREEMAN,
Chairman, Office of the Board of Directors, Tennessee Valley Authority, Knoxville, Tenn.

DEAR MR. FREEMAN: Thank you for the invitation to review your draft report "Alternatives for Completing the Tellico Project." We wish to present the following comment for the official record.

We note that Congress approved the initial appropriation of funds for the Tellico Project in 1966. Currently construction of the project as originally planned is 95 percent complete. Expenditures and obligations through May 1978 have totaled $109,000,000. Costs for completion of the original project are estimated as $19,400,000. Additional spillway capacity to handle a new inflow design flood as computed by the USBR would cost an additional $12,500,000.

New evidence indicates the Snail Darter fish can survive and reproduce in the Hiwassee River where it was transplanted in 1975. If additional studies prove that the Tennesee River would no longer be critical habitat, then the Snail Darter could be removed from the endangered species list and reservoir development could proceed.

The report also shows that reservoir development has a superior benefit-cost ratio. Although it stated that "benefit-cost comparisons often have been compromised by the unevenness and unreliability of benefit forecasts," the proven and predictable benefits of clean hydro-power generation are apparent.

Since the oil embargo of October 1973, the National oil consumption has risen above pre-embargo levels despite a 75 percent increase in the retail price of gasoline. Oil imports have risen to the point that they total 43 percent of the oil consumed in this country, causing the attendant problems of inflation, balance of payment deficit, and weakening of the dollar abroad.

Our experience indicates that the demand for hydro-power resources in the Western Area Power Administration marketing area increases as the availability of nonreplaceable oil and gas fuel resources for electric generation decline. The development of new hydro-power resources and their integration with thermal generation provides a desirable and efficient use of the resources available for electric power production.

We trust the Snail Darter will be removed from the endangered species list, or other suitable solutions will be found and, therefore, support the alternative for reservoir development and early completion of the Tellico Project.

Sincerely,
ROBERT L. MCPHAIL,
Administrator.

DEPARTMENT OF STATE,
Washington, D.C. September 20, 1978.

Mr. S. DAVID FREEMAN,
Chairman, Office of the Board of Directors, Tennessee Valley Authority, Knoxville, Tenn.

DEAR MR. FREEMAN: Governor Gilligan has asked me to review and comment on the draft Alternatives for Completing the Tellico Project, submitted with your letter of August 16, 1978.

The draft report establishes the baseline of evaluation of available options as the present condition of the Tellico project. Therefore the broad consideration is whether it is more beneficial to complete the project as planned, complete and operate it purely as a flood control facility or remove it.

On balance the difficult areas of judgment are the soft, unquantifiable areas such as the cultural, aesthetic and historical. These are highly personal and subjective. The report seems to give greater weight to these factors than would appear appropriate considering the present condition of the project and its history, including the extensive debates conducted in the region and in the Congress before construction started in 1967.

While the report was prepared jointly by TVA and Interior, the Interior team did not include water resources experts from the USGS and the Bureau of Reclamation.

Our overall assessment supports the reservoir alternative based on the following considerations:

Agricultural benefits and programs can be achieved reasonably with any of the alternatives. The reservoir option providing flood protection and water management for supplemental irrigation should provide greater overall benefits for agriculture. While the land used for the reservoir is indeed the prime quality land, it is a small portion of the prime and good agricultural land available in the immediate and down stream area.

The reservoir option offers a better mix of opportunities including industrial and other development. Water transport and a power dimension are increasingly valuable in view of energy requirements. The multi-objective potential of this option is superior to the other options.

Most of the cultural and educational objectives can be adequately achieved with the reservoir option. The one constraint in educational and historical activities which cannot be entirely met is in the actual location of reconstructed and restored facilities on the exact original site. There is considerable disagreement on the critical value of this.

There is no guarantee that the small darter would survive if nothing in its habitat were changed. The fact that reproduction at another site seems to be proceeding successfully supports this doubt. There is no evidence to indicate any economic or ecological benefit to be derived from protecting the snail darter from extinction. NEPA has definite economic objectives and considers the harmonious interaction of man and his environment important.

The benefit-cost evaluations show a smaller spread in calculated benefits for the reservoir option indicating a better basis for these values. The cost of removing the dam is greater than that required to complete the reservoir, while the reservoir option yields a higher benefit-to-cost ratio.

Sincerely yours,
Frank A. DiMatteo, P.E.,
Director, Office of Engineering.

Mr. Speaker, there are hundreds of people including this Member who believe that the snail darter thrives and reproduces in many streams and rivers in Tennessee, Kentucky, North Carolina and elsewhere. From June 1975 to February 1976, 710 snail darters were transferred from the Little Tennessee River to the Hiwassee River. In August 1978, a survey of the Hiwassee population reveals a present population of over 2,500 snail darters.

A second transplant is being successfully carried out now in the Holston River while the population of the Little Tennessee has declined and perhaps the Tellico project has aided the survival of the snail darter by removing it to a free-flowing river. The Little Tennessee River was never a free-flowing river, regardless of what the Secretary might have said.

Mr. Speaker, the Little Tennessee has not been a flowing river since about 1917. The return of the Little Tennessee River to a free-flowing stream would require not only the removal of the Tellico Dam but would require the removal of 4 other dams as well. I hope we will not overlook the human considerations of this controversy. Should a worthless, unsightly, minute, unedible minnow outweigh a possible injustice to human beings?

A great deal has been said about farmland.

Mr. Speaker, the land has already been sold. The farmers do not own the land. They have given up their homes and their land for the projects. Roads have been taken out and homes have been demolished. The bridges are out. The topsoil has been taken off the land that the water will cover. Stumps and debris have been put in the area preparing it for flooding when the dam is closed.

Mr. Speaker, even if the original owners could repurchase their land they would perhaps be financially unable to do so. Would it be just and right to sell the land to other prospective land purchasers? Should it be sold in international land sales as has been suggested?

The U.S. Government promised these people a dam and a reservoir. Now, the people wonder whether they have surrendered their homes for nothing, whether they have been duped by a government that says one thing and does another.

Have the taxpayers paid their taxes to build a project that is being terminated after the expenditure of millions of dollars and there is no validity to the fact that you do not count the wages paid to the wage earners as part of the cost of a project. That is the way, I suggest, some Government agencies figure their costs of certain projects.

Mr. Speaker, the people feel betrayed. It is a case of abandoned promises, of raised expectations ending in disappointment.

Mr. Speaker, I feel that the Congress will right this wrong. The money has been spent and estimates given in 1977 showed that removal of the dam would cost over $16 million and because of inflation that estimate, without doubt, today, is conceivably more.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MYERS of Indiana. Mr. Speaker, I yield the gentleman from Tennessee (Mr. Duncan) 2 additional minutes.

Mr. DUNCAN of Tennessee. Mr. Speaker, the President has sounded the call for nonpetroleum energy sources as the gentlewoman from Tennessee (Mrs. Bouquard) stated. The project will produce 200 million kilowatt hours of electricity per year, enough electricity to furnish heat for 20,000 homes.

Mr. Speaker, there have been some direct and implied statements that the amendment to H.R. 4388, authorizing the completion of the dam was something that happened in the late hours of the day when few Members were present. That is an incorrect statement. The House was full of people. The statement also reflects against the credibility of the chairman of this committee, the gentleman from Alabama (Mr. Bevill), and the ranking minority member, the gentleman from Indiana (Mr. Myers), and also this Member.

I think all of us know who these men are. We know they are men of highest credibility and highest integrity.

Mr. Speaker, the amendment was distributed through this House. It was on the table Friday before it came up on Monday and if we knocked out everything that this House when minority and majority agree to accept certain amendments, we would certainly have a lot less laws today than we now have on the books.

☐ 2030

It was handled in a proper manner, and, as I say, the entire Tennessee delegation supports this. It is not like Dickey-Lincoln. If they do not want a dam up there, that is all right with us.

But we do support this, and we want the Government to do what they said they would do and not let the judgment of the Congress be transferred to some hasty committee that failed to give consideration not only to the Congress but also to the people of our area.

Mr. QUILLEN. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Tennessee.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman for yielding.

I want to associate myself with the remarks of the gentleman from Tennessee (Mr. Duncan), and I commend him for the very fine statement he has made.

When we look at this realistically, it seems absurd certainly to have a little 3-inch snail darter stop the completion of a dam in which the taxpayers have already invested over a $100 million. I made that point in the Committee on Rules when the extension of the Endangered Species Act was before us last year. I had a goldfish there which I had sent out for and bought, a small goldfish, and I put it in a pitcher and displayed it in front of me. I held it up for all to see in the committee, and I said, "A fish this small is stopping the construction of this dam, the Tellico Dam."

Where are our priorities, and what should we do? The gentleman from Tennessee (Mr. Duncan), in whose district the dam is located, has explained the situation and has put forth a good statement. I believe we all should support his views.

Mr. Speaker, I thank the gentleman for yielding.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I think the gentleman from Tennessee (Mr. Duncan) has very ably described the situation that is before the House tonight. Approximately one-third of the congressional district that I represent lies within the watershed of the Tennessee Valley.

I have followed the history of this project with great interest, and the Committee on Appropriations has considered this matter very carefully. It seems to me they have given it fair and adequate consideration. As we are grasping for solutions to the critical energy problem facing our Nation this very night, it seems to me that only common sense would dictate that we proceed with the completion of this project so that it can serve the purposes for which it was originally envisioned, and for which it has been constructed.

Mr. Speaker, I urge all my colleagues to vote no on the motion to recede and concur and support the committee's position.

Mr. DUNCAN of Tennessee. Mr. Speaker, I urge all of my colleagues to support the Committee on Appropriations.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, terms like "Tellico" and "Dickey-Lincoln" have become household words in this House. Some of us feel like we have been up and down this path so many times, we have the merits and the arguments committed to memory.

The impression has been left here today—and it comes from statements made in the other body as well as from other sources—that the amendment offered in the House a few weeks ago on this bill was passed in the dark of the night, in violation of House rules. That was not the case.

During the proceedings today on the Emergency Energy Conservation Act of 1979, this same procedure was used four times. I refer to accepting language that was not read. It is a common practice. It was not done for the purpose of misleading our colleagues because most of us understood the language. The gentleman who spoke earlier suggests that we somehow violated the rules of the House. I am sorry if he had that impression because it was not intended.

Mr. **BREAUX.** Mr. Speaker, will the gentleman yield?

Mr. **MYERS** of Indiana. I yield briefly to the gentleman from Louisiana.

Mr. **BREAUX.** Mr. Speaker, does the gentleman mean to give the House the impression that in four instances where the amendments were not read, in all four instances the amendments were not germane to the bill, as was the case in this instance?

Mr. **MYERS** of Indiana. Tellico Dam was initiated in 1967. Would the gentleman agree with that?

Funds were appropriated by the Congress for the construction of the Tellico Dam in most of the subsequent years. Congress intended that the project be constructed.

Mr. **BREAUX.** Mr. Speaker, will the gentleman yield?

Mr. **MYERS** of Indiana. I yield briefly to the gentleman from Louisiana.

Mr. **BREAUX.** Mr. Speaker, the real point on the amendment that was adopted was the fact that it exempted the Tellico Dam from all laws. I am sure the members of the Committee on Appropriations did not consider that to be appropriation language. It was a major exemption for the dam that was added to comply with all the laws of the United States of America.

That very much tends to sound like authorizing language to the gentleman from Louisiana.

Mr. **MYERS** of Indiana. Mr. Speaker, the House adopted an amendment to the endangered species authorization to exempt Tellico from the endangered species laws. The vote was taken on October 14 of last year.

Mr. Speaker, the RECORD had not been printed before the conferees from this body caved in to the other body and took that language out. It had passed this House rather substantially last fall. It is not something new to this body.

I would also like to point out that this project was started long before the Endangered Species Act was passed. It was about the same time we started construction here on the Washington subway, and because it was already under construction, it was grandfathered in. It was exempted from the Endangered Species Act provisions. So there is a good case there, and there are many precedents.

Mr. Speaker, Griffin Bell, the Attorney General, appeared before the Supreme Court last year and said that Congress time after time had expressed its intention that the Tellico Dam should be completed. The Supreme Court invited this amendment. It was done in the open; it was not done in the dark of night. It is common procedure. We did proceed under the normal rules and customs of the House, and we merely responded to the invitation by the Supreme Court that Congress should act in this fashion if it wanted the reservoir to be completed.

Over $117 million has been appropriated to date. It will take just a very small sum to finish this project.

Mr. Speaker, I will state to my friends that the issue, frankly, is not one of jurisdiction. The issue is whether we want to see $117 million of our taxpayers' money wasted with absolutely no benefits. The Court has cited in the dissenting views that it would be a waste of money. They were sure that Congress would see fit to insure that the dam is completed because not to do so would be a waste of the taxpayers' funds.

So that is the issue today. We can disguise it if we want to and say it is a jurisdictional problem, but the real issue is: Shall we waste the taxpayers' money, or shall we give the people of Tennessee the benefits from the investments that have already been made?

Mr. **BREAUX.** Mr. Speaker, will the gentleman yield?

The **SPEAKER** pro tempore. The time of the gentleman from Indiana (Mr. MYERS) has expired.

Mr. **BEVILL.** Mr. Speaker, I yield myself such time as I may desire.

Mr. Speaker, I will make this brief. We have been through this several times. This project, the Tellico Dam, was stopped because of a snail darter that was placed on the endangered species list.

I would like to point out, as the Members know, we supported and voted for the Endangered Species Act. You and I support that act. It is a good act. We are not apologizing for the Endangered Species Act, but you and I may disagree on how it is being interpreted.

That is the issue here today. The people in Tennessee want this dam completed. Every Member of the Tennessee delegation has signed a letter to me urging its completion. All eight House Members from Tennessee signed the letter. They want the dam completed. Are we going to stand here and argue about jurisdiction in this situation?

☐ 2040

Let us talk about the snail darter a little bit. I met Friday with the TVA biologists, who are favorable to the snail darter. We paid $850,000 for a report on the snail darter and the studies that have been made. We paid for moving the snail darter from the Little Tennessee River, where the Tellico Dam is, to the Hiwassee River. This effort has been going on now for about 3 years. We are spending money to protect the snail darter. That is what the people want. They want the snail darter protected. I do and you do, and we have protected it. The snail darter is safe.

Let me tell you what it says in this study:

> The snail darter we are transplanting were seined from the Little Tennessee River. A total of 710 snail darters were transplanted to three sites in the Hiwassee. Periodic surveys of the areas where transplants were made show that the darters remain in good condition. Observation of young snail darters one year later indicates successful reproduction and recruitment in the Hiwassee. This strengthens confidence that the future of the snail darter can be assured.

Let me turn to another statement. This is the biologists' report, the biologists who have followed the snail darter all the way through this issue.

> Two years of successful reproduction and juvenile recruitment in the Hiwassee River shows the transplant to be successful to this time. There is no reason to believe that the Hiwassee River snail darter population will not be a self-sustaining population.

We have done our duty. We have taken care of the snail darter. We have moved it. Actually, it is doing better now than it was doing in the Little Tennessee River. They told me last Friday that there were thousands of them now in the Hiwassee River. They moved 710 over there, and now there are thousands. So the snail darter is taken care of.

I know people are very sincere about this. The Secretary of Interior has been quoted tonight. He testified before my committee. He said, "We know that the Endangered Species Act is being used by some people." That was his testimony, and it is in the record.

We know that is taking place. You and I know that.

So we have a small dam here. Maybe you will say, "That is not much oil that it will save." The undisputed testimony shows that the water from this dam will go to the hydroelectric plant down below it and will provide heat for 20,000 homes.

What we have is a project that is 99 percent complete. The people want it. The people of Tennessee want it. You hear these folks who are opposing it, and making all this noise. You do not hear that from the people in Tennessee. So we need to move on. We have $100 million invested in this project, and I do not think that you and I want it to be a monument to this Congress action, against the will of the people of Tennessee, against the delegation, the elected representatives of the people of Tennessee, who want this project completed. The snail darter is safe. Now let us make some energy.

The Members heard the gentlewoman from Tennessee talk about her home being washed away because of the floods that could have been prevented. So, we know we need the energy; we know we need the flood control; we know that the industrial park is important; we know that the recreation part of it is important. We could go over these points too. But this is essentially an energy project. We must start taking these things more seriously. Actually, we are doing just as the Supreme Court of the United States suggested we do. They said, "If Congress wants it, they ought to provide for it." That is what the gentleman from Tennessee provided for in his amendment.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Pennsylvania.

Mr. RITTER. I thank the gentleman for yielding.

Mr. Speaker, I would like to commend the gentleman from Alabama (Mr. BEVILL) for his remarks and I would like to point out that the President, in his domestic policy review of solar energy, talked about reaching a 20-percent goal by the year 2000. The Members may not realize this, but in that 20 percent he included hydroelectric, he included both "low-head" and "high-head"—hydro; yes, he included energy generated by hydroelectric dams, big and small.

It is indeed hard to link hydroelectric with solar energy. But nevertheless that is part of the overall energy equation whether as part of "solar energy" or not. That is part of the ability of this country to reduce its dependence on imported energy. Now we are going to have to explain to the American people all over this country how $100 million of the taxpayers' money has been spent and wasted, how a snail darter, which has now been taken care of, shifted into other hospitable waters, still can gum up the works. We are going to have to explain to the American people how we cannot even get our act together to go ahead with an energy producing dam that is 99 percent complete. Is it any wonder that the American people's confidence in its leadership is so low? I think those Members who vote against this Tellico Dam completion will have a very rough time explaining this waste to their constituents at a time of severe energy shortage and a need to move forward.

Mr. BEVILL. I thank the gentleman for his contribution.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from California.

Mr. RUDD. I thank the gentleman for yielding.

Mr. Speaker, I would like to associate myself with the very fine remarks of the distinguished gentleman in the well. This dam provides energy, it provides flood control, it enhances navigation on the river, and it provides recreation, all beneficial to humankind and the citizens of this country, and I see no reason why a snail darter that does not even provide food for humankind should be under consideration at this time.

I hope that this motion will be defeated.

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman in the well mistakes the purpose of this motion. I think many of us might agree, as the gentleman who made the motion did, with the merits of the Tellico Dam. But I ask the gentleman, is not this in fact legislation on an appropriation bill? And I have heard the gentleman on countless times, and the rest of us who are not on the Appropriations Committee have tried to respect this process, because we do not think we should legislate on an appropriations bill. But the way this amendment was adopted, and the amendment itself, would not the gentleman concede it is major legislation to set aside five major laws to give this dam an exemption? That is our objection. Not on the merits that the gentleman has powerfully argued, but the question of whether or not on an appropriation bill there ought to be major legislation enacted without warning to the other Members of the House.

Mr. BEVILL. Mr. Speaker, you could argue that issue on nearly every bill that comes to this floor. If we do not quit talking about jurisdiction, this country is going to be on its knees with respect to energy. This amendment was handled properly. I did not offer it. I accepted it. The gentleman from Tennessee offered the amendment. Three hundred Members were sitting there. Nobody questioned it.

Mr. McCLOSKEY. I was sitting in the front row.

Mr. BEVILL. The gentleman was sitting in the front row. And that was the time to object under our rules. The gentleman knows that.

But let us not stop there. The gentleman knows that we voted 231 to 157 to continue this project last year.

Mr. BEARD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. Mr. Speaker, it befuddles my mind that we continue to talk about technicalities such as legislation on an appropriation bill. I wish the Members of this House would take the time or, if they have not seen it, call for a copy of the GAO report that has been done on the enforcement and the implementation of the Endangered Species Act. If the Members did this they would see that you can throw technicalities to the wind, because the endangered species and the activation of the implementation of this Act has been an absolute and total disaster and insult to the integrity of this body as to the direction this body gave it in starting this bill.

The report shows how, on different projects, they turned their head the other way because a particular Member happened to be on a particular committee that could prove embarrassing if they placed this particular endangered species on the list. So, therefore, the head was turned the other way. It just so happens, apparently, the Member of this particular district did not happen to be on the right committee and, therefore, because of connections here and there, the snail darter was placed on it, with no priority, and this project has been stopped. It fulfilled every environmental responsibility when it was initiated. I ask every Member of this House, the way the Endangered Species Act was originally written, under suspension, with approximately 45 minutes of debate, talking about the coyote and the elephant, or whatever, some of the big items, never some of these other ones talked about, 45 minutes of debate. And I want to tell every Member here that each one of you could have had a project that had fulfilled every environmental requirement in this country, it could be 2 years down the road to the project having been completed, and it could have been stopped the way the bill was written. That is what happened here. It was a terrible piece of legislation the way it was written. Intent was good; the legislation and the interpretation by the Department enforcing it was absolutely an embarrassment, and some heads should roll.

So I say to this body and I plead with this body to look at this and to correct this terrible injustice and vote to exempt the Tellico Dam.

Mr. EDGAR. Mr. Speaker, will the gentlemen yield?

Mr. BEVILL. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

Mr. Speaker, I would like to suggest that everyone take a look at the letter by Cecil Andrus that is dated July 27, which was read by my colleague, the gentleman from Massachusetts (Mr. CONTE).

I happen to support the amendment offered by the gentleman from Louisiana (Mr. BREAUX), and I would suggest to the House that this particular dam should be looked at under the regular authorizing process and not put into this legislation at this time.

□ 2050

I would hope that this bill is not vetoed by the President because this amendment is included.

I would like to just say one thing that disturbs me in this debate. We are talkink about the Endangered Species Act, and we are talking about its implementation, whether we are for it or against it, and the way it is processed.

I was disturbed by one of the statements of one of the gentlemen from the other side who said that just because this snail darter is small, it somehow is insignificant.

If you look at the human race in comparison to the universe, we are small, and we are insignificant. I think most of us would agree that we have a right to exist on this particular planet. There is a very delicate interface in the world in which we live in terms of environmental species.

I think that, while you may not like the looks, the shape, or the size of the snail darter, it has a right to exist.

I draw your attention to Cecil Andrus' letter, where he states specifically that, contrary to claims of the project proponents, the snail darter's transplant into a separate river has not yet been determined to be successful.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Mississippi.

Mr. WHITTEN. May I say, we had Mr. Andrus before our Committee on Appropriations. He agreed with us that this act was not supposed to be used to stop projects, that one could meet the requirements of the act if one transferred the endangered species to new areas.

That occurred in the State of Mississippi. They moved the whooping crane so as not to stop a highway. Mr. Andrus' testimony was, if we did what was done here, it was all right. Mr. Andrus proved it by his own action in going along with Highway 10 in the southern part of our State.

Mr. BEVILL. I thank the gentleman for his contribution. I urge my colleagues to vote "no" on the preferential motion of the gentleman from Louisiana (Mr. BREAUX).

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Louisiana (Mr. BREAUX).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BREAUX. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 156, nays 258, not voting 20, as follows:

[Roll No. 425]

YEAS—156

Addabbo
Ambro
Anderson, Ill.
Andrews, N.C.
AuCoin
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Biaggi
Bingham
Blanchard
Bonior
Bonker
Brademas
Breaux
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Chisholm
Clay
Cleveland
Conte
D'Amours
Deckard
Dellums
Derrick
Derwinski
Dicks
Dingell
Dodd
Donnelly
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Erdahl
Evans, Del.
Fazio
Fenwick
Ferraro
Fish
Fisher
Florio
Foley
Ford, Mich.
Fowler
Frost
Fuqua
Gibbons
Gilman
Gingrich
Ginn
Gradison
Green
Guarini
Hall, Ohio
Harkin
Harris
Hawkins
Heckler
Hefner
Hollenbeck
Holtzman
Hughes
Jacobs
Jeffords
Kastenmeier
Kildee
Kindness
Kostmayer
LaFalce
Lee
Lehman
Leland
Levitas
Long, Md.
Lowry
Lundine
McCloskey
McDade
McHugh
Maguire
Markey
Marks
Matsui
Mattox
Mikulski
Mikva
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mottl
Nedzi
Nelson
Nolan
Oberstar
Obey
Ottinger
Patterson
Paul
Pease
Petri
Peyser
Preyer
Pritchard
Pursell
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Rosenthal
Russo
Sabo
Sawyer
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Simon
Skelton
Snowe
Solarz
Spellman
St Germain
Stack
Stewart
Stokes
Studds
Swift
Udall
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
Williams, Mont.
Wirth
Wolff
Wolpe
Yates
Zeferetti

NAYS—258

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boggs
Boland
Boner
Bouquard
Bowen
Brinkley
Brooks
Broomfield
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Devine
Dickinson
Dixon
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Findley
Fithian
Flippo
Ford, Tenn.
Fountain
Frenzel
Gaydos
Gephardt
Giaimo
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Heftel
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ichord
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lujan
Luken
Lungren
McClory
McCormack
McDonald
McEwen
McKay
Madigan
Marriott
Martin
Mathis
Mavroules
Mazzoli
Mica
Michel
Miller, Ohio
Mineta
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
Nowak
O'Brien
Oakar
Panetta
Pashayan
Patten
Perkins
Pickle
Price
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Santini
Satterfield
Schulze
Sebelius
Sharp
Shelby
Shumway
Shuster
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wyatt
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—20

Bolling
Brown, Ohio
Conyers
Diggs
Evans, Ga.
Flood
Forsythe
Garcia
Holland
Ireland
McKinney
Marlenee
Murphy, Ill.
Pepper
Stark
Treen
Volkmer
Williams, Ohio
Wydler
Wylie

□ 2100

The Clerk announced the following pairs:

Messrs. TRAXLER, ATKINSON, ABDNOR, MAZZOLI, and KOGOVSEK changed their vote from "yea" to "nay."

Messrs. WIRTH and BEARD of Rhode Island changed their vote from "nay" to "yea."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

□ 2110

The SPEAKER pro tempore (Mr. WRIGHT). The question is on the motion offered by the gentleman from Alabama (Mr. BEVILL).

The motion was agreed to.

The SPEAKER. The Clerk will designate the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 37: Page 32, line 21, insert:

SEC. 502. There is appropriated, out of any money in the Treasury not otherwise appropriated, for an additional amount for "Construction of an Extension to the New Senate Office Building" $57,480,700, to remain available until expended: *Provided*, That the amount of $142,627,700 shall constitute a ceiling on the total cost for construction of the Extension to the New Senate Office Building: *Provided further*, That, it is the will of the Senate that upon completion of the Hart Senate Office Building, the Committee on Rules and Administration shall provide for the expeditious removal of personnel, equipment, and furnishings from the buildings known as the Carroll Arms, the Senate Courts, the Plaza Hotel, and the Capitol Hill Apartments and that said buildings shall remain unoccupied by the Senate until demolished: *Provided further*, That the Architect of the Capitol shall, within six months of the vacating of the buildings known as the Carroll Arms, the Senate Courts, the Plaza Hotel, and the Capitol Hill Apartments, submit to the Senate Committee on Appropriations estimates of the cost of razing and demolishing said buildings together with recommendations for future use, renovation, or demolition of the building known as the Immigration Building.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein.

Mr. BEVILL. Mr. Speaker, I yield such time as she may desire to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Speaker, I rise in support of the motion by the gentleman from Alabama, the chairman of the subcommittee, that the House recede and concur in the Senate amendment to title V of the energy and water appropriation bill.

First, let me say that I have supported the completion of the Hart Senate Office Building in the past, including the vote last year when this House rejected further funding for construction. I firmly believe in the concept of comity: That we in this body must leave the internal decisions and management of the other body to the 100 men and women who have been elected by the people of the United States to membership in that body.

Second, I share the concerns of many of you that the vehicle for consideration of this issue, the energy and water bill, is probably not the most appropriate one available. Normally, this type of item should be debated in the context of the legislative branch appropriation. However, I think that circumstances demand that we be pragmatic here. The legislative branch appropriation is, for all intents and purposes, stalled in committee.

And, Mr. Speaker, I am informed that because of inflation each month of delay in completing the Hart Building results in an additional $700,000 in costs to the American taxpayer. While we would like to do something about inflation, in the short-term we must admit that inflation is a reality as far as the Hart Building is concerned. Including the Hart Building as part of the energy and water appropriation will allow the Architect of the Capitol to move toward completion of the project, thus saving time and money down the road.

Third, many of us are concerned about this whole "space" issue. We all know that all of us are severely overcrowded. Senator JOHNSTON says that things are so bad in his office that he has a staffer working in a converted bathroom. Many of us can empathize because we share similarly inconvenient space assignments.

I know that each of us considers this a very serious problem. The staffers working in these overcrowded circumstances are there to help us to properly serve the people who sent us here to Washington—the people of the United States. When there is the possibility of improving their minimum quality working conditions, the quality of service to them—and the quality of representation—that our constituents deserve will enjoy improvement.

Finally, I would like to offer to you some comparisons of the office space available for staff use. According to the Office of the Architect, the average usable space assigned for staff use in the House and Senate Office Buildings (including annexes) is about 67 square feet per person. That is a little better than a space 8 feet by 8 feet.

According to the General Services Administration, the minimum—emphasize minimum—space allocated for clerical personnel in the executive branch of the Government is 150 square feet. The space allocations for professional, supervisory, and executive employees in Federal offices is considerably higher.

I checked with the Building Owners and Managers Association, an international trade association, to see what comparable space allocations are in the private sector. The figures given to me, which are based on average space allocations in calendar year 1977, are amazing.

In Washington, D.C., the average space allotted for office workers in private-sector office buildings was 222 square feet. Of course, Washington is an unusual city. There are a lot of white collar types—trade associations, lawyers, lobbyists, consultants, and so forth, people who try to influence the course of legislation.

In my own city, New Orleans, the private-sector figure was somewhat lower—182 square feet—but that is still better than 2½ times the space available in the House or Senate office buildings for each worker.

Let me give you the 1977 figures on some other cities, bearing in mind that the average space allotted to our—or rather to the people's—employees here on Capitol Hill is 67 square feet: New York, 167 square feet; Chicago, 170 square feet; Seattle, 200 square feet; Philadelphia, 193 square feet; and San Francisco, 159 square feet.

Remember, compare these figures with 67 square feet per office worker on Capitol Hill and 150 square feet per clerical worker in the executive branch: Houston, 250 square feet; Springfield, Mass., 204 square feet; Tulsa, 221 square feet; Indianapolis, 221 square feet; Jacksonville, 209 square feet; Toledo, 223 square feet; and Milwaukee, 216 square feet.

Mr. Speaker, completion of the Hart Building will double the space available for assignment to Senate employees to 150 square feet, yet this will be well below the GSA standard and considerably below the prevailing allocation for employees in the private sector.

I believe the Hart Building must be completed for reasons of comity, economy, and efficiency. I urge adoption of the gentleman's motion.

☐ 2120

Mr. MYERS of Indiana. Mr. Speaker, I yield 10 minutes to the very able member of the subcommittee, the gentleman from California (Mr. BURGENER).

Mr. BURGENER. Mr. Speaker, I rise in support of the motion that will provide the $57 million to complete this building. I must say I do it with minimal enthusiasm but with no apology for my position. Having reviewed the facts presented to the committee, I think that the sane and sensible and economical thing to do is to finish the building because all of the other alternatives make no sense, in my judgment.

I think we might ask ourselves initially, do they need the space? I think the gentlewoman from Louisiana (Mrs. BOGGS) clearly demonstrated that they do. I wish they did not need the space because I think they, and we, have too much space now. But the facts are that we do not have an office building half finished, and I hope and pray that we do not start one. They are working over there in a very crowded condition. They have 65 square feet per employee, and the General Services Administration minimum is 150 recommended. They have 1,700 people scattered around "the Hill" outside of Federal buildings. They are in apartments and hotels and in rented space, and I assume if we do not complete this building they will stay right where they are. They will not be discharged.

I looked at their staffing pattern, and I was amazed. No wonder they need this building. I discovered, for example, that Senator KENNEDY's Committee on the Judiciary has 217 staffers. By comparison the Senate Armed Services Committee, which deals with $120 billion, has 32 people and they occupy 16 rooms. The Senate Judiciary staff has 217 people and they occupy 62 rooms. I am not entirely sure what they do, but I am sure they will be around at least a few more years.

Let us get to the money that we are talking about appropriating here tonight. The cost until the Senate revised it was $174 million. They have now taken $32 million out of the cost, and the new cost is $142 million. How did they take the money out? They took a lot of things out of the building, and they will really have a kind of an unfinished product when they get through but it will be usable. It will be usable office space. Terrazzo has been substituted for marble; wood has been substituted for marble; there is a different quality carpeting; there are some unfinished offices; the subway is unfinished, and so on.

Here are our options, very simply, before us. We can finish the building and put it in usable condition for $57 million. We can abandon the project and tear it down, and that will cost about $100 million. I do not think we will vote to do that. We can abandon it and leave it standing and, indeed, it will be an eyesore and a conversation piece around the world. But the termination of the contracts will run in excess of $50 million. They examined 8 or 10 other options to finish two floors or three floors and a whole lot of things, and they have decided—and I agree with them—that the sensible thing to do is to strip the building down to the bare essentials. It is not a Taj Mahal. It may have been in its original concept; it no longer will be. But it will be a thing of beauty at least on the outside. It will fit the decor and the decorum of this neighborhood.

I might tell the Members something about cost per square foot. When it is finished it will cost $40 per square foot. The Rayburn Building occupied by some of you in the high-rent district, adjusted to present day prices for inflation, is $218 a square foot by comparison. The FBI Building recently completed downtown was $103 per square foot. Several commercial buildings in the large cities of America are in excess of $100 per square foot.

So I think, Mr. Speaker, that, given these rather unpleasant choices, the sane, the sensible, and the rational one is to complete the building as economically as possible and as soon as possible. I am reasonably certain if we abandon the building to be finished at some later date, that later date will come sooner than we think and many more dollars than we think.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. BURGENER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding I think all of us want to be both economical and decent and not make some kind of hideous row between the two Houses of this Congress. But I would like to know what is still there? The luxurious sauna bath and all the things that were written up in the newspapers—are they still included?

Mr. BURGENER. To the best of my knowledge, they are not. But I do not know if the building as adjusted has any sauna baths in it. The $32 million taken out of the building takes out such things as a light-dimming system, a computerized mail delivery system, certain security guard stations, the grade of carpeting that I mentioned earlier, marble has been substituted with other materials, the subway is unfinished.

Mrs. FENWICK. Have they still got the restaurant on the top and the swimming pool?

Mr. BURGENER. I will have to ask some other Member. I really do not know. I believe the swimming pool has been deleted.

Mrs. FENWICK. What did the gentleman say?

Mr. BURGENER. I believe the swimming pool has been deleted.

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from Alabama.

Mr. BEVILL. I thank the gentleman for yielding. The gymnasium is eliminated. The restaurant on the ninth floor is eliminated. The paneling is eliminated.

Mrs. FENWICK. I see. I thank the gentleman.

□ 2130

In conclusion, Mr. Speaker, given these limited and unhappy choices I think the economical and sensible thing to do is to finish the building now.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from California.

Mr. THOMAS. I am concerned about the relationship between this vote and the previous vote. I want to know if the gentleman has any information about whether or not snake oil is on the endangered species list.

Mr. BURGENER. Mr. Speaker, I might say in the final session in our conference with the Senate, and the Senate voted against the Tellico Dam by a very narrow margin, I think they will be impressed by our vote here tonight, but they said in the final moments of that conference in which both items were discussed—the Tellico Dam which they opposed, reluctantly, and this one which they favor. They said in their final moments, "Should we leave this building unfinished?"

I said, "Certainly not. It is something like a dam."

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman very much for yielding.

Mr. Speaker, I guess the one comparison might be the dam would produce electricity and the Cave of the Winds here would prove some kind of hot air or something but I might say to my friend, on the question of what we might do with this, just as a suggestion to the House, if the House in its wisdom decides not to complete the Senate Office Building, we could put a sign up over there and have all the school children from America when they tour the Nation's capital see it; "This is the highwater mark of the New Deal and this is where it all stopped."

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from Idaho.

Mr. HANSEN. I would just like to ask if the gentleman knows or if the chairman of the subcommittee knows, where the restaurant was deleted, the swimming pool was deleted, the gymnasium was deleted, if the deletion meant the space is occupied some other way or if the space is still there for completion at some other time.

Mr. BURGENER. I do not know the answer to that. Perhaps the chairman does.

Mr. BEVILL. It is my understanding that all of this space can be used but it will be used for personnel. By the way, these personnel will be moved in from the old fire traps they are in now into this building and the space will be used, but those things that you mentioned will be knocked out and this is cut down to the bare minimum.

Now, perhaps we should ask the distinguished chairman of the legislative appropriations subcommittee who is very knowledgeable about this in that he has been holding hearings on this for a long time. Perhaps he would like to add to that.

Mr. BURGENER. Mr. Speaker, I yield back the balance of my time.

Mr. BEVILL. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I am going to ask for a vote on this issue.

The House disagreed on the spending of the money last year. I have been afraid that so many of my dear friends and colleagues were planning to run for the Senate this time that we might not have a majority vote to defeat this office building this year, until I heard my dear friend from Idaho comment that he thought he would stick with a no vote, and I hope he does.

I want to call the attention of the Speaker to the fact that this was very hard fought in the Senate itself. The vote was at one point even in the Senate. At one time half the Senators opposed it. It finally carried in the Senate by but one or two votes.

In the other body they are roughly evenly divided on this issue and, therefore, I fell the House has every right to step in and concern itself with taxpayers' money.

Mr. Speaker, I know I ran in the election in 1978 to cut out every single penny of unnecessary Government spending and certainly this is in keeping with my promise and I would suggest that other Members would certainly be considering that when they vote.

If there is one way we can cut back on money in the Federal budget it is on ourselves. The House decided to forego a fourth House Office Building several years ago that was in the planning stage and dropped, and I believe the Senate can do the same. They talk about room for staffers. Senators have 30, 40, 60, 80 staffers. We heard what the judiciary and other committees have in staffers. It is their problem. It is time we should cut back on such expenses as staff as well as office buildings and this will be certainly an incentive to do so.

As to those who say they do not want to leave a building unbuilt, I was a builder and certainly it is not going to cost $100 million to tear that building down, but I also point out that the Cathedral in France was left unfinished for over two centuries and I certainly think that that would not be a bad precedent for the Senate Office Building.

Let me say one thing in conclusion. The Wall Street Journal today says that many Americans, many middle-class Americans are forced to live in mobile homes today. They cannot afford any more a single-family residence of the conventional type so they must choose mobile homes. Yet here we are in Washington, D.C., building palaces for ourselves with taxpayers' money. They resent it. I resent it.

Mr. Speaker, I also know that the gentleman from Idaho (Mr. HANSEN) questioned the idea they will put the money back in for the swimming pool, the gym, the restaurant, the jogging path. You know eventually that will go back in. That is a subterfuge that we know from tradition will not be in effect down the road.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MYERS of Indiana. Mr. Speaker, I yield 4 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, I rise in opposition to the appropriations to complete the Hart Office Building. The first thing I would like to point out to the Members is that the figures you have been receiving in testimony here today about 65 square feet per Senate employee is a myth. That figure is closer to 100, based upon 7,000 Senate employees. Fifteen percent are in the States of the Senators. There are now 604,000 square feet of office space, not including hearing rooms. Divide the 6,000 remaining employees, not all of whom are people who need office space because those 6,000 employees include some who are painters, janitors, and restaurant workers, et cetera—by dividing those remaining employees, 6,000 into 604,000 square feet you will end up with 100 square feet per workers. That 65 square feet statistic came from the Office of the Architect of the Capitol.

Let me remind you he was the same person who testified recently that when they started out with this building, the purpose of starting out was just "to build a building."

Now, if additional office space is so essential then why is only 32 percent of this new building being used for office space?

No, Mr. Speaker, what is wrong with this office building is that it never started with any clear purpose in the first place except that nebulous purpose that "we set out to build a building" and there were $48 million appropriated for the purpose of building a building.

Mr. Speaker, it took 3 years of lost

time to determine what the purpose of this building was all about and all during that period of time costs went up and up and up. First it was $48 million and then $69 million and then $85 million and, most recently, $134 million and even this year was some talk of $174 million. You know, before it is done—by the way, it is already 4 months behind projected completion time, it is going to cost $200 million. We know that.

Mr. Speaker, what is the purpose of the building? The purpose of the building is to find room and a justification for more staff.

We are all aware of what is referred to as the Parkinson law. It is going to be equally as applicable in the Senate Office Building as any other office building built here in Washington, D.C., or any Government building anyplace in the United States. That is that the space will be filled with employees.

Mr. Speaker, the real issue is how much more space we are going to provide to hire how much more Senate staff.

☐ 2140

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, since we have so many monuments here in Washington, why can we not leave the Hart Senate Office Building unfinished as a monument to Government overspending

Mr. GRASSLEY. I think the gentleman's point is well taken.

My final comment is we do not need it. It costs too much. In fact, we do not even know how much it will cost.

Mrs. BOGGS. Will the gentleman yield?

Mr. GRASSLEY. Yes, I yield to the gentlewoman.

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding.

Even with the adjusted square footage to 100 square feet per person that is still 50 square feet below the GSA footage for clerical workers in the executive branch of the Government.

Mr. GRASSLEY. The gentlewoman would have in order to guarantee 100 square feet per employee, would have to put a limit on the number of Senate employees, because regardless of how much space we have, it is going to be filled up and it is going to average a lot less than 100 at the rate we are going.

Mrs. BOGGS. Mr. Speaker, will the gentleman continue to yield?

Mr. GRASSLEY. Yes, I will yield.

Mrs. BOGGS. I thank the gentleman so much.

I would like to say that I agree with the gentleman about putting a cap on employees and I think we must address ourselves to this problem; but I would like to also remind the gentleman that this building is not for additional employees, but for those who are now housed in areas like the old Carroll Arms and various buildings which serve as annexes to the Senate Office Building.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, for those of us who have been here a few years, this is a good example in many ways of how this Congress operates. There are three basic principles that seem to be just literally in stone.

First of all, where there is a will, there is a way. The things that we really want to get done around here, they get done. I suppose we ought to be thankful the Senate did not attach this to a hump bill or a jute bill or something related to taxation. They at least put it on an appropriation bill so we can at least thank them for that; but where there is a will, there is a way. We knew they would come back. We knew they would have a way of doing it.

The second general principle that seems to operate around here is start small, but at least start it. That is the big thing, at least get it going. Say, "It is not going to be big."

I remember the Rayburn Building. It was only going to be $20 million; but it blossomed out to $120 million; but above all, just get it started. Then you can come in with the third argument, once it is started, you cannot do anything else but complete it. We do that on project after project after project. The overruns do not seem to make a bit of difference, but if you find a way to do it, if you get it started, just come back and say, "Why, it's irresponsible for us not to complete it."

I suggest that what my colleague, the gentleman from Wisconsin, and what my colleague, the gentleman from Idaho, added to the debate is absolutely correct.

Let us just for once not finish a project. Let us just for once not fall for that sticky paper argument that once you are stuck, you get stucker, you get stucker and you get stucker.

You know, as a matter of fact, what we might do is have a moment there and say this is where the taxpayers' revolt started. We could go to the Metro, they had an overrun. They could give free tickets. Everybody that comes to town could go see it. The Kennedy Center, we are spending a lot of money there that we were not going to spend. They give out free tickets there.

The stadium, the Visitors' Center, we could give out free tickets to all of our constituents when they come to town. They could go to that side of the Capitol, they could take a look and say, "You know something, here is where the taxpayers' revolt started." I do not think it is going to start, but at least it is a good idea.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Speaker, many Members of this body will have the opportunity to travel throughout the world next month on factfinding missions. I hope they will use this opportunity to scrutinize many of the beautiful and majestic architectural wonders of mankind, the great edifices across our lovely little planet that have survived the ravages of time. Most of these awe-inspiring structures cost less to construct than the infamous Babylonian Senate building under discussion.

I would strongly suggest that you vote in opposition to this peculiar growth to the east of the Dirksen Building. This monstrosity is no longer what it was designed to be, the horseshoe-shaped completion of the Dirksen Building. A mirror-like completion of that first horseshoe that was finished a decade and a half ago and named the New Senate Office Building. The addition, the second half, has exploded, however, into some sort of weird appurtenance clinging to the side of the symmetrical Dirksen Building with the girders of its rooftop restaurant reaching for the clouds. Finished or not, the ballroom will ring to disco music within our lifetimes I assure you unless you vote no now. If you vote no you will not have to face the following analysis as the months wane into fall during next year's election season.

I have asked the Library of Congress for accurate research on the cost of key architectural works of mankind. I know this deformed twin of the newest Senate Office Building is now going to be more expensive than the Erie Canal, the Empire State Building, even adjusted to 1979 Susan B. Anthony dollars. Much more expensive than the glorious San Francisco Golden Gate Bridge, which by the way, paid for itself with tolls.

I have asked the Congressional Research Service to adjust the slave labor cost used to build some of the great pyramids of the world. Adjusted to 1979 minimum wage costs, you will still find out that the Temples of the Sun and Moon at Teotihuacan, the Tikal Sacrificial Temple in Guatemala, or even Machu Picchu in Peru did not cost as much. Not even the Cheops Pyramid, or the Schwegadon in Ragoon, Burma, which of course some of you will get to see next month will cost as much. Not even the Taj Mahal, which was built in the name of love, rather than as a temple built in the name of fleecing the helpless taxpayer.

You will probably miss Angkor Wat in Cambodia because of ongoing genocides, but, yes, even that did not cost as much.

Now, if you please, look at Europe. Take Ludwig the Second's mad fairy tale palace at Neuschwanstein, which he built mostly with his own money I might add. Yes, that did not cost as much. Or that other mad palace of evil fairies, the Kremlin. And remember, Ivan the Terrible, gouged out the eyes of his architect of St. Basils because he overcharged. Or was it to stop him from designing a Duma office building?

However, need I remind you that the Cologne Cathedral was left uncompleted for over 300 years for a much less worthy reason than the uncompleted symbol of thrift we propose.

Take the Versailles Palace of the Sun King, Louis XIV, even that wonder did not cost this much, or the Eiffel Tower or the Mother of Parliaments with its adjoining Westminster Cathedral thrown in for good measure. Or, need I point out, this very building completed in 1863, with Lincoln standing out there in the parking lot supervising and holding down finishing costs, yes this magnificent structure undercuts the Dirksen-east growth cost.

You guessed it—the imposing Diet in Tokyo was a bargain by comparison.

You cannot find any of the great cathedrals of Europe or Asia Minor surpassing this Senate extravaganza. Yea even Hagia Sophia in Constantinople or, not only the exquisite Parthenon itself, but verily all the buildings across the entire Acropolis did not surpass this costliness.

I close with this. Ponder briefly the sweeping majesty of the Escorialle, the Alhambra or dare I say it—the incomparable San Pietro in Rome, yes, that is correct, even St. Peter's Cathedral itself, all bargains. And I will tell you this, the architect of St. Peter's was Michaelangelo Buonorotti, not George White. Even adjusting dollars St. Pete's does not match the $142,627,700 target price tag on this little project.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. Dornan) has expired.

Mr. MYERS of Indiana. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. DORNAN. Mr. Speaker, with that 1 minute, allow me to conjure up for you the image of the professional President Woodrow Wilson, with the electric button beneath his finger in our very White House at the end of the Mall. That button that would open the final lock of the great Canal at Panama and join the world's giant oceans. In 1914 General Electric out of Jack Kemp's Buffalo opened with Wilson's help that waterway wonder of the modern world at less cost than this building will take to complete, with or without the hanging garden rooftop ballroom.

Let us really respect the memory of Senator Phillip Hart. Let us really respect the memory of the velvet throated Senator Dirksen who would be saying tonight, "Shame on you for spending this taxpayer money." Leave the monster growth as an addition to the ugly abstract art monstrosities in front of the HEW Building.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. DORNAN. I yield for the gentleman's comment on abstract art.

Mr. HYDE. Mr. Speaker, I just want to say, "Eat your heart out, Jim Wright."

Mr. DORNAN. Sic transit gloria. Mr. Speaker, I will close by noting that three of the most wonderful con artists in this country, Jimmy, Teddy, and Jerry, had better beware of the fastest dark horse in the great majority party, the distinguished gentleman from Oregon, Mr. Weaver. He may well be swept into the White House itself with its electric buttons by the eloquence that he has displayed here tonight in his impassioned defense of the great American taxpayer. We had best heed his sage counsel. I too, urge defeat of further moneys for our 20th century Mausoleum at Halicarnassus.

Mr. MYERS of Indiana. Mr. Speaker, are you not all glad that you did not go home early?

I apologize to the gentleman that we do not have more time. We might have gotten into the 20th century.

☐ 2150

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say to my colleagues that I will make this brief.

This building was started and funds were appropriated for this building by the House. Many of us voted against starting this building; that includes me. I voted against starting it, and I know many of the other Members did.

But now I think, in all fairness, we have to take this situation as it is right now. The distinguished gentleman from California (Mr. Burgener) brought out the facts as to what has been done since this House acted on this legislation. The Senate Office Building Commission is headed by Senator Johnston, who is also chairman of the Senate Energy and Water Development Appropriations Subcommittee, and he added this amendment in the Senate to this legislation, and he cut out some $32 million.

Now, I want the Members to listen to this for just a minute. What are we going to be voting on here? Do we want to just let that building stand there uncompleted? Do we really want to do that?

The costs are going up, and I want the Members to listen to this figure. The cost is going up $700,000 a month.

Let us spend $57 million and finish this building. The frills have been cut out. $32 million has been deleted.

Let us cast a conservative vote and vote for this $57 million to complete this project, because if we do not, it will cost $100 million to tear it down.

This building is 25 percent complete. Fifty percent of the contracts are let. Are the people back home going to expect us to cancel these contracts? Are they going to expect us to take this action that is being advocated here?

So, Mr. Speaker, I urge the Members to vote to go along with the Senate on this amendment for the Hart Senate Office Building that they have actually started. We have put them in the position of cutting this building out, but I say to the Members that you and I can certainly take credit for getting rid of all these frills that have been knocked out of this building. This is what the Members, you and I, advocated.

We have discussed square feet but, my goodness, we cannot leave the steel frame standing there. If we are going to build it, let us build it right. Let us put some walls in and put a roof over it, complete the building, and get those 1,700 employees out of the firetraps. We do not want to pay $100 million to tear it down, but that is what is going to happen if we do not complete it.

Some Members say they are going to be coming back for a swimming pool and other items. We can pass on that at that time, but let us take the situation as it is now. I think that is what our people back home expect us to do, and that is the question we are faced with.

So, Mr. Speaker, I urge the Members to support my motion to concur with the Senate amendment.

Mr. MYERS of Indiana. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEVILL. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabam (Mr. Bevill).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WEAVER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. Weaver) makes the point of order that a quorum is not present. The Chair will count.

Mr. WEAVER. Mr. Speaker, I demand the yeas and nays.

The SPEAKER pro tempore. Does the gentleman from Oregon (Mr. Weaver) withdraw his point of order that a quorum is not present?

Mr. WEAVER. Yes, I do, Mr. Speaker, and I demand the yeas and nays.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. Weaver) demands the yeas and nays.

As many as are in favor of the motion will rise and remain standing until counted. The Chair will count all Members standing.

The Members will now be seated, and the Chair will count.

Forty-one Members were standing. There are 246 Members present, an insufficient number.

The yeas and nays are not ordered.

Mr. WEAVER. Mr. Speaker, I demand a division.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. Weaver) demands a division.

As many as favor the motion offered by the gentleman from Alabama (Mr. Bevill) will rise and remain standing until counted. The Chair will count all Members standing.

The yeas will be seated, and the nays will rise.

The nays will be seated.

On this vote by division, the yeas are 112, the nays are 57, and the motion is agreed to.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. Bauman) objects to the vote on the ground that a quorum is not present and makes the point of order that a quorum is not present.

The Chair must count again.

Two hundred and fifty-six Members are present, a quorum.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) will state his point of order.

Mr. BAUMAN. Mr. Speaker, I make the point of order that the lack of a quorum was established at the time the Chair announced the vote to be 112 in favor and 57 against. The gentleman immediately lost his protest on the lack of that quorum, and it had already been established.

The SPEAKER pro tempore. The Chair will observe that on that vote the Chair counted only those Members standing, the yeas 112, and the nays 57. That does not necessarily presuppose that there were not also in the Chamber Members who, for one reason or another, did not deign to vote either aye or no by standing.

RECORDED VOTE

Mr. BAUMAN. Mr. Speaker, I demand a recorded vote.

As many as favor taking this vote by recorded vote will rise and remain standing.

Forty-nine Members have arisen, a sufficient number, and a recorded vote is ordered.

Members will record their vote by electronic device.

The vote was taken by electronic device, and there were—ayes 173, noes 236, not voting 25, as follows:

[Roll No. 426]

AYES—173

Addabbo
Akaka
Alexander
Ambro
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Atkinson
Badham
Bailey
Baldus
Barnard
Beard, Tenn.
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonker
Bouquard
Bowen
Brademas
Brooks
Brown, Calif.
Burgener
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Chappell
Clay
Collins, Ill.
Corman
Danielson
Davis, S.C.
Dellums
Dicks
Dingell
Dixon
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Erlenborn
Fary
Fascell
Fazio
Ferraro
Findley
Fisher
Foley
Ford, Mich.
Frost
Gaydos
Giaimo
Gibbons
Ginn
Gonzalez
Gore
Gray
Hagedorn
Hall, Ohio
Hanley
Harris
Hawkins
Holtzman
Howard
Hyde
Jenrette
Johnson, Calif.
Jones, Tenn.
Kazen
Kogovsek
Leach, La.
Leath, Tex.
Lederer
Leland
Lloyd
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCormack
McEwen
McHugh
McKay
Marks
Mathis
Mattox
Mavroules
Mazzoli
Michel
Mikva
Miller, Ohio
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oakar
Oberstar
Ottinger
Patten
Perkins
Pickle
Preyer
Price
Pursell
Quillen
Rahall
Rangel
Reuss
Rhodes
Richmond
Roberts
Rodino
Roe
Rose
Rostenkowski
Roybal
Royer
Sabo
Scheuer
Simon
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Stack
Staggers
Stanton
Steed
Stewart
Stokes
Stratton
Synar
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Watkins
Waxman
Weiss
White
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wolff
Wright
Wyatt
Yates
Young, Alaska
Zablocki
Zeferetti

NOES—236

Abdnor
Albosta
Anderson, Calif.
Andrews, N.C.
Applegate
Archer
Ashbrook
Aspin
AuCoin
Bafalis
Barnes
Bauman
Beard, R.I.
Bedell
Bennett
Bereuter
Bethune
Boner
Bonior
Breaux
Brinkley
Brodhead
Brown, Ohio
Broyhill
Buchanan
Butler
Byron
Campbell
Carney
Cavanaugh
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dodd
Donnelly
Dornan
Drinan
Early
Edgar
Edwards, Okla.
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Fithian
Flippo
Florio
Ford, Tenn.
Fountain
Fowler
Frenzel
Fuqua
Gephardt
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Lowry
Lujan
Luken
Lundine
Lungren
McDade
McDonald
Madigan
Maguire
Markey
Marriott
Martin
Matsui
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, N.Y.
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Neal
Nelson
Nichols
O'Brien
Panetta
Pashayan
Patterson
Paul
Pease
Petri
Peyser
Pritchard
Quayle
Railsback
Ratchford
Regula
Rinaldo
Ritter
Robinson
Roth
Rousselot
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Solomon
Spence
St Germain
Stangeland
Stenholm
Stockman
Studds
Stump
Swift
Symms
Tauke
Taylor
Thomas
Trible
Udall
Volkmer
Walgren
Walker
Wampler
Weaver
Whitehurst
Whittaker
Williams, Mont.
Wilson, Tex.
Winn
Wirth
Wolpe
Yatron
Young, Fla.
Young, Mo.

NOT VOTING—25

Anderson, Ill.
Bolling
Broomfield
Conyers
Diggs
Emery
Fish
Flood
Forsythe
Garcia
Holland
Ireland
McKinney
Marlenee
Murphy, Ill.
Obey
Pepper
Rosenthal
Seiberling
Stark
Treen
Vander Jagt
Williams, Ohio
Wydler
Wylie

☐ 2210

Messrs. LEDERER, VENTO, and YATES changed their votes from "no" to "aye."

Messrs. GOLDWATER, COTTER, BUCHANAN, HIGHTOWER, COELHO, and EDWARDS of Oklahoma changed their vote from "aye" to "no."

So the motion was rejected.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves to recede in the amendment of the Senate No. 37 and concur therein with an amendment as follows in lieu of the matter proposed to be inserted by the Senate insert:

SEC. 502. There is appropriated, out of any money in the Treasury not otherwise appropriated, for an additional amount for "Construction of an Extension to the New Senate Office Building "$52,583,400 toward finishing such building and to remain available until expended: *Provided*, That the amount of $137,730,400 shall constitute a ceiling on the total cost for construction of the Extension to the New Senate Office Building.

It is *further provided*, That such building and office space therein upon completion shall meet all needs for personnel presently supplied by the Carroll Arms, the Senate Courts, the Plaza Hotel, the Capitol Hill Apartments and such building shall be vacated.

☐ 2220

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman will state the point of order.

Mr. BAUMAN. Mr. Speaker, this amendment offered at this time would not have been in order had it been offered to the bill as originally before the House. The bill is an appropriation bill and this constitutes legislation on an appropriation bill.

The SPEAKER pro tempore. Does the gentleman from Alabama desire to be heard on the point of order?

Mr. BEVILL. Mr. Speaker, I wish to point out this is merely a change of the language that is in the appropriation bill and it is germane and it is a part of the bill.

The SPEAKER pro tempore. The Chair is prepared to rule. The Chair would like to state that the only requirement of the amendment in the motion offered by the gentleman from Alabama is that it be germane to the Senate amendment. The language is quite clearly germane to the Senate amendment No. 37 and, therefore, the motion is in order and the point of order is overruled.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, under the rules would not a demand by any Member to separate the questions to recede and concur with an amendment be permitted and then only a vote would occur on the first part of that, which would be the motion to recede?

The SPEAKER pro tempore. The gentleman is correct, such a motion would be in order. The House could consider the first part if the two items were separated.

Mr. BAUMAN. Mr. Speaker, I demand that the question be divided.

The SPEAKER pro tempore. The gentleman is protected.

The gentleman from Alabama is recognized for 30 minutes in support of his motion, or such portion of that time as he may consume.

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a reduction of $4 million. We are not specifying where it comes from, but it is cutting down the total costs and the limit on the whole total cost of the building as well as the appropriation, which is reduced to $52,583,400. It further provides that the building and the office space therein, upon completion, shall meet all of the needs for all of the personnel presently supplied by the Carroll Arms, the Senate Courts, the Plaza Hotel, and the Capital Hill Apartments, and that these buildings shall be vacated.

This is where the problem is. They are in these dangerous buildings that are firetraps and this is the purpose of the building to begin with, and this is why it was started.

Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi, chairman of the Appropriations Committee, Mr. WHITTEN.

Mr. WHITTEN. Mr. Speaker, if I may have the attention of my colleagues, I participated in a discussion with the gentleman from Florida (Mr. PEPPER), where he made a statement in a meeting of the Rules Committee on the Congressional Budget Act. He likened our Government to the Russian troika, where you had three horses. Our Federal Government has the executive, judicial, and legislative branches. If we went off in three different directions, my colleagues can just imagine how far we would get.

I suppose I have had more times to be concerned about the attitude of the folks at the other end of the Capitol than anybody here in that I have been here longer. I know that we reach the point about this time of night and about this time of the session where we would like to just have some fun, among other things. But let me describe to you the situation.

I had nothing to do with building this building. But it is about half complete. Not only that, but at the present time your colleagues on the other side of the Capitol have 1,700 employees in such places as the Carroll Arms Building, the Senate Courts Building, the Plaza Hotel, and the Capitol Hill Apartments.

Let me tell some of my younger friends here that you have younger Senators over there who have employees in three separate buildings working on their office staffs. Now that is the situation. You are spending the money now, or at least they are, for the personnel. It is very inefficient and it is costing you money. They have this frame erected that they have obligated about $80 million on, I understand. And by virtue of this amendment you ask to scale down the building by $4 million, but it is also required that they vacate these four buildings which have all of the defects in the world and go ahead and finish the building that is half completed.

I cannot see how you can oppose this motion and feel that you are voting in the best interests of this country.

I spoke to a joint session of the Mississippi Legislature recently and I said that as Congressmen we are really here as representatives in Congress and as a representative who wants to get something done for your people, do not think you do not have to get a proposal cleared in the Senate as well as the House. I am just saying to you when this language, which I had something to do with preparing, says pull your people out of where they are, vacate the buildings, put them all in this new building that you have already started. I think it is sound. I think it is sensible. I think it is economical. I hope you will support this motion.

Mr. BEVILL. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. BENJAMIN).

Mr. BENJAMIN. Mr. Speaker, I rise in support of the motion to recede and concur with an amendment offered by the gentleman from Alabama.

This is the Hart Building amendment and it would provide $52,583,400 to complete construction of the extension to the Dirksen Senate Office Building, the so-called Hart Building. In addition, the amendment would place a cap of $137,730,400 on the total construction cost of the building—which consists of the $85,147,000 already appropriated to date plus the $53 million in this amendment.

The amendment just offered by my colleague, the distinguished gentleman from Alabama, the chairman of the Subcommittee on Public Works and Energy Appropriations, would provide the identical amount recommended to complete the project by the Senate Office Building Commission, or $4,897,300 less than finally approved by the Senate.

The amendment also contains language that provides that the space needs of the personnel that now occupy several Senate buildings will be supplied by the new building. That space will be vacated upon completion of the Hart Building. This language carries essentially the same thrust as the language in the Senate bill, but is more specific and, therefore, an improvement.

Mr. Speaker, the other body has taken these actions after conducting extensive studies, hearings, and meetings over the past several months. The Senate Office Building Commission, the Senate Committee on Appropriations, and the Architect of the Capitol, with substantial assistance from construction management consultants, has examined several alternatives for the future course of the Hart Building construction. Their conclusion was that it would cost $89 million to complete the project as planned. The Senate has scaled that estimate back to $57 million—a reduction of $32 million under the cost estimated to complete the project.

The amendment now proposed would scale the estimate back further—to $53 million—a reduction of $37 million under the estimated completion cost.

In other words, Mr. Speaker, the other body has examined this project competently and thoroughly; has reduced its scope where warranted; has done so on the record; and, by record vote on July 18, 1979, voted to complete the project under the conditions I have outlined.

We should go along with the other body, Mr. Speaker. This is a housekeeping item that they have dealt with forthrightly, and I believe the House should respect their decision and ratify it with the adjustments contained in the gentleman's amendment.

Moreover, Mr. Speaker, we will gain nothing by prolonging the decision of what to do with this new building. On three previous occasions the House has agreed to the Hart Building and has provided funds for its construction. We approved H.R. 17034 (Public Law 92-607) which provided the original $47,925,000 construction; we approved H.R. 11576 (Public Law 93-245), which increased the appropriation to $68,825,000; and we approved H.R. 16900 (Public Law 93-554), which increased the appropriation to the level at which it currently stands, $85,147,000.

If we objected to the construction of this new building, we should have stopped it back in 1972 when the House and Senate first agreed to it. Since then, we had two more chances to stop it—both in 1974—but continued to support it with additional appropriations.

To stop it now would be foolhardy—the foundation has been dug; the concrete footers are installed; the steel superstructure is in place—it rises nine floors above the ground; the marble facing has been ordered, inventoried, and paid for; the stainless steel exterior walls are being installed right now as we debate this question; parts of the subground level interior are being worked on, and much of the electrical and mechanical equipment has been ordered and will be roughed-in under a contract that is now going on.

The building is in place, Mr. Speaker. We have already spent $34.5 million and another $23 million would have to be spent even if we stopped construction today. The country cannot afford to waste $57 million to purchase a rusting steel hulk that will be a constant reminder to the taxpayer that the Congress cannot agree on its own housekeeping needs.

It would be even more costly to tear down what has already been put in place. The distinguished majority leader of the other body has estimated that it would cost $100 million to pay off the contractors and dismantle what has already been constructed.

We cannot afford $100 million to cover a hole in the ground, Mr. Speaker.

To delay our decision—which would result if this motion is defeated—would be even more foolhardy. Each month of delay drives the cost of this building up $700,000—it would cost over $8,000,000 more to complete it if we wait till next year to approve a cap on the construction cost of this building, and we would be no further ahead than we are right now—except the costs would be much higher to terminate,to tear down, or to go ahead and complete.

With respect to cost, Mr. Speaker—the other body has pared the estimated cost to complete the project by almost $32 million. The current estimate had been $89 million to complete. In acting on this estimate, however, they decided to eliminate several items, including: $13.2 million for furniture and furnishings; $335,000 for a light-dimming system in Senators' offices; $2.9 million for an automated distribution system; $2 million for an energy management system; $1.4 million for reduced carpet quality; $5.6 million for ancillary office space and partitions that, as a result, will not be used; $906,000 for the physical fitness facility; and $3.4 million for part of the atrium and various artwork.

Thus, the cost of the building has been reduced substantially by the other body in an apparent effort to economize.

The proposed amendment would eliminate funds for three more items: $2.23 million for paneling in Senators' offices; $1.41 million for the ninth floor dining facility; and $1.26 million for a hearing room.

These deductions had been proposed by the Senate Office Building Commission, but were restored in subsequent actions by the other body.

And this building is not out of line with current construction costs, Mr. Speaker. The 1.2 million square feet in the building will cost $103 per square foot. Adjusted for today's price level, this compares with costs of $142 for the A.T. & T. building in Bedminster, N.J.; $108 for American Can in Connecticut; $109 for Uniroyal in New Jersey; $93 for the FBI Building; $124 for the Rayburn Building; and so on.

This is not a Taj Mahal, Mr. Speaker; the cost of this building is definitely in line with the costs of other office buildings being constructed in the contemporary economic environment.

Finally, Mr. Speaker, there is the question of staff. There is the fear that new staff will be hired to occupy this building. However, the distinguished majority leader of the other body indicates that this new space is needed to displace the 1,700 employees now housed in apartment, hotel, and similar quarters on the other side. Fifty Senators will have their offices there. Their staffs, who now have about 65 square feet of space—although 150 square feet is the GSA minimum standard—will also move into the new space. Their obvious intention is not to use this space to hire more staff—only to house what they now have in more efficient, up-to-date quarters.

Mr. Speaker, regardless of how we look at this amendment—as housekeeping in nature, and therefore subject to the principle of comity between the Houses—as a project which has undergone extensive analysis and reductions in scope—as a building that compares in cost to comparable office structures in Washington and throughout the country—or as an investment in the future of one-half of the greatest deliberative body in the world, the U.S. Congress—the Hart Building passes the test.

I urge that the House support the motion to recede and concur with an amendment on this matter.

□ 2230

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. BENJAMIN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Last year, when we considered this matter, those who supported the erection of this latest example of the Oedipus Complex told us that if in fact the money was not appropriated, the building would have to stop dead in its tracks and nothing more could be done, and a great deal of money was lost. Yet, they have gone on and spent a great deal more. Where did that money come from?

Mr. BENJAMIN. The money had been appropriated in 1972, and again in 1974.

Mr. BAUMAN. The last year's installment was refused, turned down by the House.

Mr. BENJAMIN. The request last year was for the amount of $54,853,000, with a cap of $135 million. That was rejected by this body.

One contract has been let since that time. That was the contract let on December 27, 1978, in the amount of $22,451,500 for mechanical, electrical, and plumbing. All other contracts were let previous to that time.

The contract for the Dirksen temporary access has been completed; excavation and foundation have been completed; stone procurement has been completed; superstructure is due for completion April 17, 1980, and the last contract I mentioned that was let in December is due for completion May 1, 1982. So, after that vote there was a contract let for interior mechanical, plumbing, and electrical systems.

Mr. BAUMAN. Where did they get the money?

Mr. BENJAMIN. From the $85 million this body appropriated on three previous occasions.

Mr. BAUMAN. And then the building doubled in size with no money?

Mr. BENJAMIN. The building doubled in size between 1972 and 1974. The history of this building was that it was originally to be a replica of the Dirksen Building, and those Members who served in the 93d and 94th Congresses approved these moneys and approved the extension of this building. It went from 652,000 square feet to 1,100,000 square feet. This body is not being asked to do that. This body is being asked to make the building occupiable.

Mr. BEARD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. Mr. Speaker, I must say that I certainly did not want to speak on this issue, and I certainly do not understand why I am at this particular time because I voted against it. But, I find it absolutely amazing that at 10:30 in the evening we are discussing that which is going to be a reality eventually. We have all put in our votes against this building, and I think all of us can go back home and tell our constituencies that we have saved the taxpayers approximately $32 million in the previous cut, and I think this amendment calls for another cut of $5 million, so we are talking about $37 million.

So, I feel that my vote of protest as to the way this was handled, and all the glamour and luxuries, we have accomplished something. But, when I look at what it is going to take to stop the project, the fact that we have voted to create this and everything, this is insanity at its best. I say that I have expressed my position for fiscal conservatism. Let us get on with the building because we have already cut it by $37 million.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield further?

Mr. BENJAMIN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would just say to the gentleman this: It seems to me that the better part of discretion in this matter would be, instead of trying to resolve this issue here, to go back to conference and make it plain to the other body that we want something more than a promise that there will not be sauna baths, gyms, rooftop restaurants; that in fact we will have better than a suggestion that space we are now told will not be used for those projects will indeed be converted into office space in every instance, and the plans be shown to us. Once that is done, then we will vindicate the suggestion of the gentleman from Tennessee and go ahead and finish the construction. Obviously, we cannot tear it down, but tonight to adopt the amendment for $4 million and then say that we voted our commitment to fiscal conservatism is baloney. We ought to vote down this and get the guarantees, and then consider the issue.

Mr. HEFTEL. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from Hawaii.

Mr. HEFTEL. Mr. Speaker, this may have already been made known, but I think it is pretty important for us to know, what is the cost per year for the space we now rent that we will eliminate when this building is completed?

Mr. BENJAMIN. They have six buildings. Five of the buildings we are talking about are actually owned by the Government. One is rented. That is the building at 400 North Capitol Street. The other five buildings are Government owned, the Plaza, the Immigration Building, the Capitol Hill Hotel——

Mr. HEFTEL. What are they going to use those buildings for?

Mr. BENJAMIN. Four of them they will vacate. They plan to study the future use, renovation or demolition of the Immigration Building. Consequently, what we are talking about in space-cost savings is minimal because they are owned by the Government.

Mr. HEFTEL. Those buildings will then be torn down?

Mr. BENJAMIN. That is the plan for the four buildings.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the distinguished chairman of the full committee.

Mr. WHITTEN. Mr. Speaker, I would like to have the attention of my friend from Maryland. Having had something to do with writing this amendment providing that the amount of $137,730,400 shall constitute a ceiling on the total cost of construction. It provides further that the 1,700 employees shall be removed from where they are and that this building shall house the full 1,700. If we write it in here I do not know how we could make it more specific.

Mr. BAUMAN. I believe there already have been several ceilings enacted by the other body, and each time the ceiling has been raised. But, there will not be anything compared to the ceiling raised in the gentleman's district when he goes back and has to explain how he voted for this Taj Mahal.

Mr. WHITTEN. I do not think the gentleman knows my district as well as I think I do. When we have something that is half finished, I think the question will be, "Why did you stop in the middle of the stream?"

Actually, we are caught in the position that my friend from Tennessee noted, we have registered those feelings. The language is specific; they have to live within it. The only thing left for us is to finish the building.

☐ 2240

Mr. LEDERER. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from Pennsylvania.

Mr. LEDERER. I thank the gentleman for yielding. Mr. Speaker, I would like to ask one brief question. A vote against the amendment would mean I would be pennywise and pound foolish?

Mr. BENJAMIN. That is correct.

Mr. LEDERER. I thank the gentleman.

Mr. BURGENER. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from California.

Mr. BURGENER. I thank the gentleman for yielding.

The body appears anxious to vote. I just wanted to point out that the Rayburn Building was terribly expensive, as we all know. It does contain a swimming pool. It does contain a gymnasium, about which we are being critical of the other body, even though it has been eliminated. The Rayburn Building cost $218 a square foot; this building will cost $140 a square foot, and I want the Members to keep that in mind.

Mr. BENJAMIN. I thank the gentleman. He is absolutely correct in his figures.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from California.

Mr. DORNAN. I thank the gentleman for yielding.

I just note that the vote count we just took was 236 to 173. I would like to speak out, because the cup of redemption is deep, and plead with the distinguished gentleman from Tennessee not to reduce it to 235 because we have made a significant statement here to the American people. I was not jesting when I said I had submitted two of these edifices of mankind—personkind—to the Library of Congress. I will be sending a "Dear Colleague" letter when we get back on every single work of architecture I mentioned.

The gentleman rushed over from the other side to the gentleman from Pennsylvania, rushed to my side in the well and said, please include the citadel at San Clemente. And I will, with all of its environs and Amityville horrorlike condition that existed there at one time.

We are going to have another vote here. Some of us are going to ask for it. And whether it is the winter palace with or without the malachite room or, as one gentleman suggested, Saint Basel's in the Kremlin, where the architect had his eyes gouged out so he could never again recreate this building, that building, too, will sit like the Cathedral at Notre Dame unfinished, and it will be a symbol to America.

I ask that the vote of 236 hold fast in the best interests of ourselves, our constituents, and America.

Mr. BEVILL. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is, will the House recede from its disagreement to the amendment of the Senate No. 37?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BAUMAN. Mr. Speaker, I demand a recorded vote, and I request a fair count.

The SPEAKER pro tempore. The Chair will state that the gentleman is fully within his rights to demand a recorded vote and to expect a fair count.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 214, noes 184, not voting 36, as follows:

[Roll No. 427]

AYES—214

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Atkinson
Badham
Bailey
Baldus
Barnard
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brooks
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Chappell
Chisholm
Clausen
Clay
Coelho
Collins, Ill.
Conte
Corman
Cotter
Danielson
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Fary
Fascell
Fazio
Ferraro
Findley
Fisher
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Ginn
Gonzalez
Gore
Gramm
Gray
Gudger
Hall, Ohio
Hall, Tex.
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holtzman
Horton
Howard
Huckaby
Hutto
Hyde
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kogovsek
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Livingston
Lloyd
Long, Md.
Lott
McClory
McCloskey
McCormack
McEwen
McHugh
McKay
Marks
Mathis
Mattox
Mavroules
Mazzoli
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oakar
Oberstar
Ottinger
Patten
Patterson
Perkins
Pickle
Preyer
Price
Pursell
Quillen
Rahall
Rangel
Reuss
Rhodes
Richmond
Rodino
Roe
Rose
Rostenkowski
Roybal
Royer
Sabo
Scheuer
Shelby
Simon
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Stack
Staggers
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Synar
Thompson
Traxler
Udall
Van Deerlin
Vanik
Vento
Walgren
Watkins
Waxman
Weiss
White
Whitley
Whitten
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wright
Wyatt
Yates
Zablocki
Zeferetti

NOES—184

Abdnor
Applegate
Archer
Aspin
AuCoin
Bafalis
Barnes
Bauman
Beard, R.I.
Bereuter
Bethune
Boner
Brinkley
Brodhead
Brown, Ohio
Butler
Byron
Campbell
Carney
Cavanaugh
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Deckard
Derwinski
Devine
Dodd
Donnelly
Dornan
Drinan
Early
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Fithian
Florio
Fountain
Fowler
Frenzel
Gephardt
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Grassley
Green
Grisham
Guarini
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Hubbard
Hughes
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Levitas
Lewis
Loeffler
Lowry
Lujan
Luken
Lundine
Lungren
McDade
McDonald
Madigan
Maguire
Markey
Marriott
Martin
Matsui
Mica
Mikulski
Mineta
Minish
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Neal
Nelson
O'Brien
Panetta
Pashayan
Paul
Pease
Petri
Peyser
Pritchard
Ratchford
Regula
Rinaldo
Ritter
Robinson
Roth
Rousselot
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shumway
Shuster
Skelton
Smith, Nebr.

Snowe
Solomon
Spence
St Germain
Stangeland
Stockman
Studds
Stump
Swift
Symms
Tauke
Taylor
Thomas
Trible
Volkmer
Walker
Wampler
Weaver
Whitehurst
Whittaker
Williams, Mont.
Winn
Wolpe
Yatron
Young, Alaska
Young, Fla.
Young, Mo.

NOT VOTING—36

Anderson, Ill.
Ashbrook
Bolling
Broomfield
Conyers
Davis, S.C.
Diggs
Edwards, Calif.
Emery
Fish
Flood
Forsythe
Heckler
Holland
Ireland
Kastenmeier
Long, La.
McKinney
Marlenee
Montgomery
Murphy, Ill.
Obey
Pepper
Quayle
Railsback
Roberts
Rosenthal
Seiberling
Stark
Treen
Ullman
Vander Jagt
Williams, Ohio
Wilson, C. H.
Wydler
Wylie

☐ 2250

Mr. HANCE changed his vote from "aye" to "no."

So the House receded from its disagreement to Senate amendment No. 37.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is, Will the House concur in Senate amendment No. 37 with an amendment?

The motion was agreed to.

A motion to reconsider was laid on the table.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 917. An act to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1980, 1981, and 1982, and for other purposes.

☐ 2300

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will state that disposal of this business and this conference report concludes the legislative business for today.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C., July 27, 1979.

Hon. THOMAS P. O'NEILL,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following public building prospectus on July 27, 1979:

Alteration

U.S. Customhouse, 1 Bowling Green, New York, N.Y.

The original and one copy of the authorizing resolution is enclosed.

Sincerely,
HAROLD T. (BIZZ) JOHNSON,
Chairman.

There was no objection.

LEGISLATIVE PROGRAM

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute.)

Mr. ROUSSELOT. Mr. Speaker, I would like to ask our colleagues what the schedule is for tomorrow.

The SPEAKER pro tempore. The Chair will respond to the gentleman's inquiry.

On tomorrow we will take up four conference reports:

The report on food stamps, H.R. 4057.

The conference report on State Department authorizations, H.R. 3363.

The conference report on International Development Corporation Act, H.R. 3324.

And the conference report on State, Justice, and Commerce Appropriations Act, H.R. 4392.

Following that, the House will consider H.R. 3434, social services and child welfare amendments, subject to the adoption of a rule; and H.R. 4034, the Export Administration Act amendments. H.R. 3236, the disability insurance amendments; and H.R. 4440, making appropriations for the Department of Transportation.

An agreement has been entered, as the Chair understands, that the House will adjourn at 6 o'clock tomorrow.

Mr. ROUSSELOT. I thank the Speaker.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, could the Chair tell us what happened to the conference report on the Department of Health, Education, and Welfare?

The gentleman from Kentucky yesterday received permission to bring that up today or tomorrow and has been waiting here patiently for 2 days. Many of us were told that it would be brought up. It has only one issue, that of abortion.

I am wondering why it could not be considered.

The SPEAKER pro tempore. Well, the principal reason seems to be the compression of time remaining between now and 6 o'clock tomorrow afternoon.

By agreement with the chairman of the subcommittee and the manager of that bill, it has not been scheduled for tomorrow.

All things going well, as we know, if it were possible that the conference reports were to move rapidly and all other things moved with almost unbelievable speed, it is conceivable that some other legislation could be scheduled; but the Chair believes that very unlikely.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, do I understand also that the Private Calendar will be called tomorrow morning?

The SPEAKER pro tempore. The gentleman is correct. The Private Calendar will be called tomorrow.

Mr. ROUSSELOT. And the Private Calendar will be first, Mr. Speaker?

The SPEAKER pro tempore. That is correct. The Private Calendar, as usual, will be first.

CANNED LETTERS FROM THE CENSUS BUREAU

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, apparently the U.S. Census Bureau is expecting a lot of unhappy people to complain to Congress about its forthcoming 10-year census operation.

The Bureau has sent to all our offices a series of canned letters, written by Census Bureau functionaries, for our use in answering constituents' understandable questions about the Government's nosiness, and how all the requested confidential information will be protected from disclosure.

The canned letters relate to the Census Bureau's greatness, efficiency, necessity of requested information and difficulties conducting its work and urge recipients of the letters to cooperate with the census takers.

There is an old saying which may be relevant here, that "the wicked flee when no one pursueth."

It is bad enough that Census Bureau personnel have spent their time writing stock letters for Members of Congress to dismiss anticipated complaints about their operation.

It is even more audacious that the Bureau suggests that Members of Congress be used in this fashion as public relations flacks for its own self-serving purposes.

I would like to include the Census Bureau material at this point in the RECORD:

U.S. DEPARTMENT OF COMMERCE,
BUREAU OF THE CENSUS,
Washington, D.C., July 24, 1979.

DEAR PRESS SECRETARY: In response to requests from many of you, I am enclosing some materials to assist your office in responding to constituent inquiries regarding the 1980 census.

If you do not have responsibility for constituent mail, I hope you will forward this material to the appropriate person in your office.

The attached information, presented in letter form for convenience, is suggested for your consideration when preparing responses to those inquiring about the census in general, about the confidentiality of information supplied, or about the special effort being made to reduce the number of minority persons missed in the count.

Sincerely,
REBECCA LEET,
Congressional Consultant.

DEAR: Thank you for your recent message concerning the confidentiality of information supplied in the 1980 census.

During the past several years, governmental data gathering has come under close public scrutiny. I understand these worries, but I may be able to ease some of your concerns regarding the census.

Historically, the Census Bureau has an unblemished record for keeping your personal information private—even from Federal agencies such as the FBI and IRS, and state agencies, including the police and social services departments. Strict Federal law protects the confidentiality of such information; every Bureau employee is sworn to uphold that confidentiality and is subject to a five-year prison term and $5,000 fine for violating it. No census employee has ever been formally charged with violating that law.

Bureau data processing procedures are also designed to assure confidentiality; census data are not published in units so small that an individual might be identifiable. Also, no names, addresses, or telephone numbers ever enter a census computer. Social Security numbers are not requested on the census questionnaire.

The value of census data is enormous. Information collected regarding population, housing, income and other subjects provides the statistical foundation for innumerable decisions made daily by leaders of government, business and industry. In government alone, census data are essential components in the distribution of $50 billion annually in Federal funds and billions more in state funds.

While I share your concern regarding the private nature of your personal responses, I believe the Census Bureau's safeguards can be trusted. Therefore, when you receive your census questionnaire in the mail on March 28, I urge you to complete it as soon as possible. Then, depending upon the instructions, either mail it back, postage-free, or hold it for a census taker to collect personally.

Sincerely,

—— ——.

Dear: I enjoyed hearing from you recently regarding the 1980 census.

The task of counting about 222 million Americans is an enormous one, and an enormously important one. The census provides the statistical framework for American society, supplying the data base for innumerable decisions made daily by leaders of industry, business and government.

In government alone, census data are essential components in the distribution of $50 billion annually in Federal funds and billions more in state funds. As specified in the Constitution (which requires the census), the population totals are the basis for apportioning the seats in the House of Representatives and, more recently, are used to redistrict many state legislatures.

Many Americans are concerned about the confidentiality of the personal information they provide on census questionnaires. They should know that by law, census data about individuals are confidential and cannot be released—even to other Federal agencies, such as the IRS and FBI, or local agencies, including the police and social services departments. No census employee has ever been proven to have violated that law.

Also, census procedures are designed to assure confidentiality. Social Security numbers are not requested on the census form, and an individual's name, address, or telephone number is never entered into a computer.

You will receive your census questionnaire in the mail on March 28, and I urge you to complete it as soon as possible. Then, depending upon the instructions, either mail it back, postage-free, or hold it for a census taker to collect.

Sincerely,

—— ——.

Dear: Thank you for your correspondence regarding the accurate counting of minority persons in the 1980 census.

I share your concern, because we know that uncounted people may mean that a community is shortchanged in government funds and political representation. Census statistics are essential components in the distribution of about $50 billion annually in Federal funds and billions more in state funds. The population totals are the Constitutional basis for apportioning seats in the House of Representatives. They also are used to redistrict many state legislatures.

The Census Bureau has initiated a number of programs to involve local and national minority leaders in efforts to reduce the number of minority persons who go uncounted. The programs include a system of advisory committees comprised of minority leaders, a Census Bureau office to work with national minority organizations, and an expanded, locally-based corps of community service specialists to work with local minority groups. Also, for the first time, the Bureau will have the census questionnaire available in Spanish and will employ bilingual census takers in areas where many residents do not speak English.

The success of these special efforts to assure a fuller count of minority persons will depend largely on minority leaders in local communities. They can best explain that being heard by the people who pass laws, enact programs, and spend money depends upon being seen by them—and that the census is one of the critical opportunities available to ensure such visibility.

Minority leaders can also best explain that the personal information provided in the census is not available to any other individual or group, whether public or private. It is not even available to other government agencies—either Federal ones, such as the FBI and IRS, or local ones, including the police and social services departments.

I hope you will use your influence to let others know that the census is important, and that when they receive the census questionnaire in the mail on March 28, they should complete it as soon as possible. Then, depending upon the instructions, they should either mail it back, postage-free, or hold it for a census taker to collect.

Sincerely,

—— ——.

PRESSURE IS ON MENDEL DAVIS TO RUN AGAIN

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, it was with pleasure bordering on delight that I read an article appearing in Sunday's Columbia, S.C., newspaper, the State.

For it seems that our colleague from South Carolina's First District, Mendel J. Davis, has decided to "consider reconsidering" his retirement from this body.

Mr. Speaker, I must admit that my feelings bear a taint of selfishness. He is the ranking member of our NATO Subcommittee where he continues to manifest his interest in national defense.

Mendel Davis is one of a select few in this body not afflicted with tunnel vision. He remains, as he was when he first came here 10 years ago, a man of wide interests and concerns.

His constituents will choose well, if they elect him again, and they will be doing a great service to the Congress and the Nation, at the same time.

I believe Mendel's many friends in the House will appreciate the story, written by the State's Washington bureau man, Lee Bandy, and I include it in the Record at this point, as follows:

Pressure Is on Mendel Davis To Run Again

(By Lee Bandy)

Washington.—Rep. Mendel J. Davis, D-S.C., who has announced he will not seek re-election, is having second thoughts. He may run again.

Davis puts it this way: "I'm considering reconsidering. I'm looking at it."

Why?

He gives two basic reasons. One, a groundswell movement has sprung up from Greenville to Charleston urging him to seek re-election. And two, Davis strongly feels there is no one on the horizon who can represent the 1st District better than he.

The Charleston Democrat will make a decision by October in order to be "fair to the other candidates" who have started lining up for his seat.

"In the last month there has been a helluva lot of pressure coming forth for me to reconsider running again," Davis said in an interview with this reporter. "It originated in this district. Then it became a movement all across the state. People were saying, 'Mendel, we want you to run again. Stay in there.' "

The fifth-term congressman claimed that individuals, groups, and organizations have urged, some he said have "begged", him to reconsider his announcement of May 2.

Davis said the "greatest compliment" he got was when both management and labor pressed him to change his mind. "That makes you feel like you've done a good job on both sides."

But that's not the end of the "draft Davis for re-election" list. He noted the black community "has been very vocal" in his behalf.

With that kind of "groundswell," the Charleston lawmaker had to "consider reconsidering."

"You've got to think about the people you've represented the last 10 years," he said.

For instance, Davis doesn't think it would be fair to leave his constituents in the hands of a freshman congressman if the nation heads into a deep recession—as he thinks it will.

"Maybe they would be better off having somebody represent the bottom half of the state who has been here and who gets things done," he said, while clearly pointing out that he is that person.

When Davis announced he would not seek re-election, he told reporters he was sick and tired of having to deal with single or special interest groups. The pressures weren't worth it, he felt.

Since then, Davis said, several people have come to him promising to back off and to "give and take" a little if only he'll run again.

If they mean it, he added, "Then maybe I can run again and say, 'I'll give a little bit, too.' "

And what about the constituent who sends you a blistering letter? Does that mean you go back to writing a polite response?

"I would have to put up with his drivel. It doesn't say, however, how I would treat it," chuckled Davis, who recently gained national notoriety for firing off a sharp reply to a Mt. Pleasant town councilman who had been a constant irritant.

Davis concedes the reconsideration period is not going to be "an easy thing," especially since he has said he looks forward to quitting Congress to spend more time with his wife and two daughters in Charleston.

"You want to weigh the best interest of your family," he said. But at the same time, Davis indicated, he has got to consider "my own personal desires and needs and look at the needs of the 1st District."

"You don't think there is anybody who can represent the district better than you, do you?" a reporter asked.

"To be honest with you, no," Davis replied.

He acknowledged, however, it would be "hard" on his family if he seeks re-election. But he said he has his wife's support for whatever he does.

One thing is certain. If he runs again and gets re-elected, the weekends will belong to him and his family. No longer will he spend Fridays, Saturdays and Sundays politicking and making umpteen speeches, Davis stressed.

He said that should he seek re-election, the two major contenders, Democrat Charles D. "Pug" Ravenel and Republican Thomas Hartnett, have "sent me word" they will not run. "That in itself is a compliment," Davis remarked.

"Which way are you leaning?" the newsman asked.

"I really don't know," Davis said. "That's why I say I'm considering reconsidering. If I get to the reconsidering stage, that means I've virtually made up my mind to run again."

SET ASIDE NEEDED FOR 1980 WHEAT PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. Glickman) is recognized for 5 minutes.

● Mr. GLICKMAN. Mr. Speaker, yesterday I introduced a resolution to request the Secretary of Agriculture to establish a wheat set-aside for the 1980 crop year. Nineteen Members of the House have joined me in this effort. The Senate passed a similar resolution earlier this week.

I understand that the Secretary of Agriculture will probably announce the 1980 wheat program today without a set aside. I feel this is an imprudent move and a number of negative consequences will occur as a result.

First, under the provisions of the 1977 farm bill, in the absence of a set aside, the target price will automatically drop from this year's level of $3.40 to $3.12. This lower figure in no way fairly reflects the inflationary pressures that farmers, like the rest of the country, are suffering. Diesel fuel, alone, is up more than 24 percent from a year ago. This drop in the target represents a 9-percent decrease in the face of a 13-percent annual increase in the inflation rate. This is no way to insure a viable farm economy.

Second, there will be no way to enforce the normal crop acreage established for each producer in the program. Normal crop acreage maintains responsible planting levels. Without it, fence row to fence row planting may very well occur. USDA estimates that 78 million additional acres would be planted without a set aside. Industry estimates fall around 82 million acres. Such an increase in supply would negate any positive gains farmers made this year. Fence row to fence row would also increase energy use and this year's experience has taught us that energy supplies we have come to depend on simply are not as readily available.

Third, without a set aside, the Secretary has no flexibility to adjust target prices. This means that the 1980 target level will be substantially below that for 1979 and any possibility for the Secretary to adjust targets in response to prevailing production and market conditions is eliminated.

Although remedial legislation may be introduced to address some of these problems, the fact remains that the sudden elimination of the set-aside may create a serious price squeeze for wheat growers, and will definitely have a bearish effect on cash wheat prices. If any adjustments are needed in the set-aside program, as the Secretary apparently feels, they should be brought about gradually, as opposed to total abandonment, in order to reduce any negative impact. I feel it is essential that the Secretary know our strong feelings on this.

The following Members have joined me on the resolution: Mr. Sebelius, Mr. English, Mr. Rose, Mr. Jones of Tennessee, Mr. Daschle, Mr. Harkin, Mr. Huckaby, Mr. Cavanaugh, Mr. Hance, Mr. Hightower, Mr. Whittaker, Mr. Winn, Mr. Nolan, Mr. Jeffries, Mr. Stangeland, Mr. Leath of Texas, Mr. Abdnor, Mr. Stenholm, Mr. Bereuter, and Mr. Watkins. I would welcome any other cosponsors.

The text of the resolution follows:

Resolution

Resolved, by the House of Representatives assembled, that a wheat set-aside program shall be in effect for the 1980 crop year.

Whereas, the Secretary of Agriculture has been given the responsibility by law to establish crop set-aside programs for the 1980 crop year for certain agricultural commodities; and

Whereas, the Secretary of Agriculture will be making his decision on the wheat set-aside program for the 1980 crop year on or before August 15, 1979; and

Whereas, the 1979 wheat harvest, which includes a 20 percent set-aside, produced some 2.10 billion bushels of wheat which will add to this Nation's current domestic surplus: and

Whereas, a decision to not have a wheat set-aside for the 1980 crop year can only result in a fence-row-to-fence-row planting practices similar to those that occurred in the mid-1970's and resulted in excessive surpluses during a time of reduced world demand an in financial ruin for a large segment of this Nation's wheat producers; and

Whereas, maximizing acreage cultivation increases energy use and reduces acreage which can be revitalized through effective conservation practices; and

Whereas, official Department of Agriculture estimates indicate that 78 million acres will be planted in wheat in the absence of a set-aside program, an estimate by industry of 82 million acres is far more realistic; and

Whereas, 82 million acres of wheat production in 1980, a substantial increase over the estimate of the Department of Agriculture, would drive market prices down from their presently improved level and result in significant savings only to foreign buyers at the expense of domestic producers; and

Whereas, it is the responsibility of the Secretary of Agriculture to use the authority granted him by law to protect the Nation's agriculture sector through the formulation of policies designed to improve production practices and ultimately eliminate the cheap food philosophy which has permeated our Federal Government for too many years: Now, therefore, be it

Resolved, That it is the sense of the House that the Secretary of Agriculture should, and is hereby urged and requested to, establish a wheat set-aside for the 1980 crop year.●

FEDERAL AND CIVIL SERVICE EMPLOYEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Courter) is recognized for 10 minutes.

● Mr. COURTER. Mr. Speaker, Members of Congress and the President often forget the plight of America's Federal and civil service employees in coping with the economic difficulties which presently confront our Nation. The thousands of Federal employees in my district are hard-working men and women in need of financial security for both themselves and their families. These dedicated public servants are being held by President Carter to a 5.5-percent wage increase, rather than to the 7-percent raise they so justly require.

A 5.5-percent increase was intended by the President to be a sacrifice in the fight against inflation. Mr. Speaker, the inflation rate is over 13 percent. A 7-percent increase is a sacrifice; a 5.5-percent increase is an example of economic recrimination.

Mr. Speaker, my colleagues here in Congress should demonstrate to all Federal and civil service employees the compassion to represent their views in the same manner we represent the hopes and dreams of our other constituents. As the 96th Congress prepares for its recess, America's Federal employees prepare for little more than continuing days of Government service. It is in this context, Mr. Speaker, that we should finally recognize the loyal and devoted Americans I speak of today.●

STATE DEPARTMENT SALE OF M60 TANKS TO JORDAN UNWISE AT THIS TIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, the Carter administration recently announced its intention to sell 300 of our most modern production-line tanks, the M60A3 to Jordan. This tank is the most up-to-date version of the M60 series tanks including a laser range-finder and advanced night vision equipment. This tank is designed to "replace" an equal number of M48 tanks currently in the Jordanian inventory. However, because the M60A3 is more heavily armed—it has a 105 mm gun compared to only a 90 mm gun on the M48—and has much more advanced fire control equipment giving it a far higher single shot probability of hitting another tank. In short, it represents far more than a simple 1-for-1 replacement.

At least as important as the military dimension of the sale, however, is the diplomatic dimension of the sale. Jordan has thus far refused to make the most modest concessions towards achieving peace in the Middle East. It has denounced the Camp David accords, and is a vigorous participant in the economic and diplomatic boycott of Egypt. Ominously, Hussein has mended a 9-year-old rift with the Palestinian Liberation Organization, a move which could be a prelude to a far more violent period in the Middle East. These moves are hardly conducive to a peaceful settlement of the dispute in the region.

We have seen with the F-15 sale to Saudi Arabia, that arms sales do not necessarily lay the basis for a favorable resolution of political disputes—in fact they may render the recipient less vulnerable to persuasion once we have made a commitment to the sale. The sale of M60A3 tanks should be postponed until Jordan demonstrates a serious commitment to peace in the Middle East.●

SLOVAK DAYS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. RITTER) is recognized for 10 minutes.

● Mr. RITTER. Mr. Speaker, this weekend, on Sunday, August 5, a very special celebration will take place in my district. I would like to say a few words about it, because this is a matter of great pride to me and to the entire Lehigh Valley of Pennsylvania. Sunday will mark the celebration of Slovak Day.

I was deeply honored to have been invited to attend, and very much regret that my long-planned short vacation with my wife and children—my first vacation of any kind this year—makes it impossible for me to be there on that day. I am deeply grateful to Robert Raykos, chairman of Slovak Day, Frank Palencar, president of the Greater Lehigh Valley Slovak Association and to all Lehigh Valley Slovak-Americans for their kind invitation.

Mr. Speaker, ethnic achievement and pride have always been one of the greatest sources of strength in our Nation. Nowhere is this more true than in the Lehigh Valley. In Lehigh and Northampton Counties, more than 100,000 citizens, or fully one-fifth of our people were foreign born, or have foreign born parents.

Since coming to Congress, one of the things I have been most proud of is my work, as Congressman, toward encouraging ethnic pride. The key has been establishment of my Lehigh Valley Citizens Ethnic Advisory Council. This is a group of citizens representing all major ethnic groups in the Lehigh Valley, and Slovaks have played a major role. The advisory council helps keep alive ethnic pride. It calls attention to ethnic celebrations. It allows the different ethnic groups to appreciate each other. Most importantly, it helps me better represent our ethnic communities, like Slovaks, by keeping me informed about legislative issues, foreign and domestic, that concern ethnic communities. At the same time, the council helps me to better serve individual needs of ethnic citizens, such as helping solve immigration and emigration problems and other casework to assist ethnic citizens.

The need for Congress to be deeply sensitive to ethnic concerns is as vitally important as ever in 1979. Today, in Slovakia, the church, which has played such a brilliant part in the history of the Slovak nation, is still facing the same oppression that it has endured for so many years in modern times. Last year, on the 10th anniversary of the Soviet invasion, the world could see clear, grim reminders of that repression, such as 500 Roman Catholic priests barred from exercising their ministry in 1973 alone.

The Soviet Communists, of course, would love to have the world swallow the lie that all is "normal," that the scars of the invasion have healed. But we who care deeply about the spirit of freedom know better. We know that, as Father Victor Trstensky, a dismissed priest, wrote:

> The laws, and particularly their arbitrary application, are the basis for the most cruel oppression against which the Church has struggled for centuries.

The Communists' oppression of religious practice, of celebrations, of charitable work, and of the whole range of religious life is a symbol. It is a symbol of how desperately the Communist powers want to impose their will once and for all on the Slovak people. They have not succeeded and they will not succeed.

They will not succeed for three reasons. First, because there are proud people like you who will see to it that our ties of blood and friendship with the mother country remain strong, and who will keep that vital link with the free world alive. Second, because there are those in Congress who, like myself, understand the need to keep the defenses of the free world strong, to reverse the growing balance of power held by the Soviet Union. And third, because the Slovak people, like the people of other captive nations, have an unbreakable spirit.

Nowhere was that spirit more clearly shown than several weeks ago, when the courageous visit of Pope John Paul II to his Native Poland lifted the spirits and hearts of freedom-loving men and women everywhere. By his very presence, dignity, and strength of spirit, "this Slav Pope" proved that years of living in the shadow of Soviet tanks have not broken the spirit of the oppressed Slavic peoples. Because of him, today, a new hope has come to brighten Slovakia, and all Eastern Europe.

Several weeks ago I spoke to the people behind the Iron Curtain in a Radio Free Europe broadcast. I felt then, as I feel now, that freedom will survive and that human spirit and dignity will prevail, in Slovakia and everywhere it is threatened.

So, let me once again say how proud I am to represent in Congress a district where ethnic pride is so much alive. May God bless the Slovak people, here and in Slovakia. May all Americans gain a renewed faith in freedom from Slovakia's struggle.

Nech dlhc zije Slovensky narod!●

THE SENTENCING REFORM ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, today I am introducing the Sentencing Reform Act of 1979—a bill to make Federal criminal sentencing more rational and equitable.

This reform is long overdue. It has been evident for years that our current sentencing system is inadequate. Its inequities have provided the momentum in the current drive for criminal law reform and recodification.

The major components of the sentencing system in my bill are: First, advisory sentencing guidelines to be developed by the Judicial Conference; and second, greatly increased appellate review of sentences.

The most frequent and serious criticism leveled against the current system is that it produces unwarranted disparity in the sentences handed out to similarly-situated defendants. This is not surprising. Current Federal law gives little guidance to the judge as to what sentence is appropriate for a particular defendant.

Some have attempted to solve this problem by creating a Sentencing Commission that would develop near-mandatory sentencing guidelines for categories of offenses and defendants. If the sentence were above the guideline, it could be appealed by the defendant; if below, by the Government. The Commission's proposals would have the effect of law unless Congress overturned them.

My bill rejects this approach because of the great loss of flexibility. The pressure on a judge to adhere to the guidelines would be so great as to almost preclude individualized treatment of the defendant. Further, such guidelines would enshrine and make permanent the results of whatever sentencing fad was current.

The bill I am introducing today avoids these and other problems. It directs the Judicial Conference to help Federal judges eliminate unwarranted disparity by gathering, analyzing and disseminating data about sentences already imposed in similar cases.

The Judicial Conference is also directed to develop advisory sentencing guidelines and make these available to Federal judges. In developing guidelines the conference must consult a broad cross section of persons interested in the criminal law, including the defense bar, prosecutors, the academic community and the public.

These sentencing guidelines are only advisory. They are to help judges determine a just sentence for a particular defendant; sentencing outside the guidelines is not the basis for an appeal of the sentence. Instead, the bill gives the defendant a right to appeal on the grounds that his sentence was "clearly unreasonable." The Government does not have this right.

I feel that this approach strikes a better balance between individualized sentencing and eliminating unwarranted disparity. Sentencing disparity is in part a function of lack of knowledge. This bill would give judges the information they need to impose a sentence in line with others. But it also gives judges discretion to respond to the unique circumstances of the defendant and legitimate aggravating or mitigating factors. Should judges exercise their discretion unwisely, defendants are protected through appeal to a higher court. As the appellate courts rule on the particular facts, defendants and sentences before them, they will be providing feedback for sentencing courts—developing guidelines for future sentencing.

This is consistent with this country's common law tradition in which courts, by ruling on particular cases before them, develop the law over a period of time.

Appellate review of sentences is clearly the best safeguard against improper sentences. The most appropriate sentence will not be determined by trying to fit the defendant into some predetermined category. Instead, the defendant will be sentenced on the basis of the actual facts. Appellate courts will insure that the trial judge acts on the basis of relevant factors and draws the proper conclusions. To facilitate this the bill requires the sentencing court to state in detail on the record the specific reasons for imposing the particular sentence.

The bill gives further guidance to the sentencing judge by setting out four factors to be considered in imposing a particular sentence. In addition to the advisory guidelines to be developed by the Judicial Conference, these include the nature and circumstances of the offense and the defendant's relevant history and the need for the sentence imposed to provide punishment commensurate with the seriousness of the crime and to promote respect for the law, to provide adequate deterrence, to protect the public and to provide the defendant with appropriate education, training or medical care. And, to increase the use of alternatives to imprisonment, the bill directs judges to consider the kind of sentences available, including effective alternatives to imprisonment.

There are several other important provisions in the bill. Because the issue of prosecutorial discretion has received inadequate attention, the bill directs the Judicial Conference to evaluate the impact of any advisory sentencing guidelines on prosecutorial discretion and plea bargaining. The bill also specifically provides that when an appellate court finds a sentence clearly unreasonable and remands the case, the defendant cannot be given a more severe sentence than the sentence appealed.

I urge the speedy consideration of this bill. I believe it is a first and most important step in reforming the Federal criminal laws.●

NOW ACCOUNTS—ONLY THE RICH NEED APPLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, last week a subcommittee of the Committee on Banking, Finance and Urban Affairs ordered reported to the full committee legislation that would establish nationwide NOW accounts. NOW accounts, which stand for negotiable order of withdrawal, are actually interest-bearing checking accounts.

The sponsors of the legislation have contended that NOW accounts will be highly beneficial to consumers since for the first time it will allow checking account holders in all of the country to receive interest on their balances.

In theory that sounds good, but in practice it just does not work that way. It can easily be seen that the consumer benefit approach is merely a fiction designed to help the banks make more money. This was shown when I offered an amendment that would have required any institution offering NOW accounts to pay interest on any deposits of $100 or more. The subcommittee voted my amendment down 14 to 3 with only the gentleman from Texas (Mr. MATTOX) and the gentleman from Illinois (Mr. HYDE) joining me in the fight to make NOW accounts available to the working men and women of this country, and to millions of people who are living on fixed incomes.

I note that the sponsors of the legislation are circulating a "Dear Colleague" letter asking for additional cosponsors of the legislation. I am taking this time to let people who are being asked to cosponsor know that I plan to offer my "little people" amendment in both the full committee and, if it is not successful there, in the full House.

The House of Representatives should not pass legislation that is designed solely to help the rich, but that is exactly what the NOW account bill will do. Sponsors of the legislation continue to use out-of-date statistics to show that NOW accounts are consumer benefits. Their statistics are more than a year old and do not include the recent experiences of NOW accounts in New York State where many banks require depositors to have $3,000 in a checking account at all times in order to be paid interest. Studies have shown that the average balance in a New York NOW account is $7,000. I wonder how many of your constituents have $7,000 to keep in a checking account?

Many of you have received letters from consumer groups, particularly the Gray Panthers, complaining that not enough is being done to help the small savers who for years have received small interest rates on their savings while depositors with big savings accounts get large interest rates. Many of you have written letters saying that you will work to correct this situation. Now is the time to translate your words into action, and that can be done by supporting the Annunzio amendment which would make certain that everyone gets a fair chance at earning interest on their checking account deposits.

The vote in the Banking subcommittee last week is a clear victory for the American Bankers Association which wants to make certain that interest is paid only to depositors whose average balance is in the five-figure range. It was a complete defeat for millions of Americans who must get by each month on very small checking accounts and who find those dollars shrinking each day because of inflation.

Mr. Speaker, I know that most Members of this House are concerned about the problems of the small savers and will want to join in my amendment. That is why I plan to offer the amendment both in the full committee and on the floor of the House, and to ask for recorded votes on both occasions since I know that Members will want to use an aye vote for my amendment to show that they are deeply concerned about the problems of the working men and women, the pensioner and millions of other Americans who do not have $3,000 to put into a checking account.●

CAPTIVE NATIONS WEEK, 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

○ Mr. FLOOD. Mr. Speaker, reports keep flowing in on the widespread observance of the 1979 Captive Nations Week—the 20th anniversary of this American institution. What is impressively significant about this observance is the broad diversity of convinced responses to Public Law 86–90. It well demonstrated that, despite many domestic concerns—gas shortages, inflation, "confidence crisis," and so forth—countless Americans yet hold to their politico-morality in the finest traditions of our country. In the face of these domestic concerns they have not lost sight of the meaning and destiny of this Nation in terms of world freedom, human rights, and the principles of our American Revolution, which only 3 years ago we paid tribute to during our Bicentennial. For the still uninformed, this is what the annual Captive Nations Week is all about.

Mr. Speaker, in accordance with Public Law 86–90, I am proud to submit for the RECORD further examples of the highly successful 1979 Captive Nation Week: First, proclamations by Governors Otis Bowen of Indiana, Lee Sherman Dreyfus of Wisconsin, and Bruce Babbitt of Arizona; second, proclamations by Mayors Frank L. Rizzo of Philadelphia, James E. Ward of Santa Ana, Ernest N. Mourial of New Orleans, and Vincent A. Cianci, Jr. of Providence, R.I.; third, an article by Dr. Lev E. Dobriansky of Georgetown University, titled "U.S. Officials Are, Have Been Victims of Myths About Captive Nations"; fourth, a July 8 editorial in Our Sunday Visitor on "Captive Nations"; fifth, notice of the Catholic War Veterans in the Judy 19 Catholic Standard:

STATE OF INDIANA: PROCLAMATION

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitute a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Otis R. Bowen, Governor of the State of Indiana, do hereby proclaim the week of July 15–21, 1979, as "Captive Nations Week" and call upon the citizens of Indiana to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

The State of Wisconsin: A Proclamation

Whereas, the republican form of government—based upon "the consent of the governed"—which has existed in the United States of America for 203 years, has resulted in the development of a warm understanding and sympathy for the aspirations for freedom of peoples everywhere and in the recognition of the natural interdependency of the peoples and nations of the world; and

Whereas, the United States recognizes the needs of world nations to co-exist peacefully and to remove impediments to their bonds of understanding with peoples of foreign nations; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as leaders who believe in their efforts to obtain freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 89-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies, and activities, expressing their sympathy with and support for the just aspirations of captive peoples; and

Whereas, it is fitting and proper that the citizens of Wisconsin observe this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world;

Now, therefore, I, Lee Sherman Dreyfus, Governor of the State of Wisconsin, do hereby proclaim July 15–21, 1979 as "Captive Nations Week" in the State of Wisconsin, and I urge the citizens of this state to remember that it is the 20th Anniversary of this annual observance and to support the efforts of the oppressed peoples of the world to regain their freedom.

State of Arizona: Proclamation

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities and expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Bruce Babbitt, Governor of the State of Arizona, do hereby proclaim the week of July 15 through 21, 1979 as "Captive Nations Week" and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

City of Philadelphia: Proclamation

Whereas, the principles of self government and human freedom proclaimed in 1776 are universal ideals and the common heritage of all mankind; and

Whereas, Philadelphia is proud of its historic role in helping to formulate the eternal principles of justice, democracy and self-determination in the Declaration of Independence and the Constitution of the United States; and

Whereas, Philadelphia is linked to the captive nations of the world through bonds of family, since among the people of Philadelphia are hundreds of thousands of citizens whose ancestral homes have been overcome by totalitarian rule; and

Whereas, the people of this city in common with all people of the United States want the people of the captive nations to have the same freedom and justice which is ours now:

Now, therefore, I, Frank L. Rizzo, Mayor of the City of Philadelphia, do hereby proclaim the week of July 15–21, 1979 as "Captive Nations Week" in Philadelphia, and urge all my fellow Philadelphians to support the just aspirations for freedom and national independence of the people of the captive nations of the world.

Proclamation City of Santa Ana:

Whereas, the citizens of the United States of America enjoy a form of government based on the consent of the governed, and equal rights of all citizens of diverse racial, religious and ethnic backgrounds under law; and

Whereas, the freedom-loving peoples of captive nations throughout the world look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about worldwide freedom and independence; and

Whereas, the desire for liberty and independence by peoples in the conquered nations of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idelural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba and others, constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the third week in July each year has been established as Captive Nations Week by the Congress of the United States;

Now, therefore, I, James E. Ward, Mayor of the City of Santa Ana, do hereby proclaim the week commencing July 21, 1979, as "Captive Nations Week" in the City of Santa Ana, and urge all citizens to join in this national observance by supporting the peaceful liberation of the world's oppressed and subjugated peoples.

The City of New Orleans: Proclamation

Be it known that the Mayor of New Orleans has this day proclaimed July 15–21, 1979 to be "Captive Nations Week" in New Orleans.

The City of Providence: Proclamation

Whereas, the United States of America has enjoyed full freedom for all of its citizens ever since it became "one nation under God, with liberty and justice for all" in 1776; and

Whereas, throughout the world in 1979, the same rights for freedom and personal liberty to which all men are heirs, are not presently available to countless millions of our fellow human beings in many captive nations; and

Whereas, it is incumbent upon all elected officials in this nation, to whom the deprivation of human liberty and the continuing enslavement of peoples is most reprehensible, to speak out on behalf of all who reside in these captive nations;

Now, therefore, do I, Vincent A. Cianci, Jr., Mayor of the city of Providence, hereby proclaim the week of July 15th through the 21st, 1979 as "Captive Nations Week in Providence" and urge all of my fellow citizens in the capital city of Rhode Island to become cognizant of the fact that all of the personal freedom that we enjoy is still being denied many of our fellow human beings throughout the world.

U.S. Officials Are, Have Been Victims of Myths About Captive Nations

(By Lev E. Dobriansky)

Then-Vice President Richard M. Nixon, who in his "Six Crises" virtually admits he didn't know what hit him when Nikita Khrushchev berated him for our congressional Captive Nations Week resolution, played on many myths during his visit to the USSR in July, 1959. The so-called "kitchen debate" with the Soviet chief was spectacular but of little substantive value.

What the Kremlin chief undoubtedly reveled in was his repetitive, monolithic terms as "Soviet nation," "Soviet people" and Ukraine as the "Texas" of the mythical nation. I wrote a memo pointing out these and other errors made by him on this visit (Oct. 30, 1959). Nixon cordially replied, saying in part, "You may be sure that I shall find these suggestions most helpful as I continue my study of the many problems we face in this war with communism" (letter, Nov. 11, 1959). By the time he became president there was no improvement; in fact, it was even worse.

During the Kennedy administration, myth-making about "Russia" continued, and reached a high point in the clash between Secretary of State Dean Rusk and our UN ambassador, Adlai E. Stevenson. The latter is a story in itself.

Early in his administration, President Kennedy was presented with a wonderful opportunity by Khrushchev in his challenge to debate imperialism in the UN, really an effect of the Captive Nations Week resolution that Khrushchev railed against for months. Apparently insecure on these grounds, the president failed to accept the challenge for real . . .

Kennedy's view of the USSR can be readily gleaned from his stirring address at American University, when, without foundation, he asserted, "no nation in the history of battle ever suffered more than the Russians suffered in the course of the second world war" (the Washington "Post," June 11, 1963).

NON-RUSSIANS KILLED

Of the 23 million military and civilians killed, what happened to the Lithuanians, Byelorussians, Ukrainians and others in the non-Russian areas, where most of the fighting was waged? Admittedly it's hard to prove, but taking the two facts of about 43 percent of USSR forces being non-Russian and the non-Russian areas of combat, the probability is that more non-Russians were killed than Russians. Again, underlying the mistaken view is the myth that the USSR equals "Russia."

The fight in 1961 for a Special Committee on Captive Nations in the House brought into sharp focus some contrasting views of the USSR between Kennedy's secretary of state and Ambassador Stevenson. Opposing such a committee, Dean Rusk came forth with a classic blunder in a letter to the Rules Committee chairman, Howard W. Smith: "The U.S. government's position is weakened by any action which confuses the rights of formerly independent peoples or nations with the status of areas such as the Ukraine, Armenia or Georgia, which are traditional parts of the Soviet Union. Reference to these latter areas places the U.S. government in the undesirable position of seeming to advocate the dismemberment of an historical state" (Aug. 22, 1961).

Established in 1922–23, the USSR an historical state? What of the independence periods in the past of the three nations Rusk mentioned—and other non-Russian nations? At least verbally, the USSR Constitution provides for the secession of these non-Russian nations from the ersatz union; yet Rusk wouldn't even have us talk about the right of national independence. Obviously by "an historical state," Rusk meant that the USSR is just another form of "Russia."

MYTH-BUSTING MEMO

Whatever the motivations behind Stevenson's intervention in the battle (he wanted to be secretary of state), his timely release of a memo on the subject caused no end of embarrassment to Rusk. The memo precisely cites the record of Soviet Russian imperiocolonialism and beautifully shows up the conceptual myths of the secretary. As a matter of record, this Stevenson memo is the finest statement yet given on the subject by any of our representatives in the UN (memorandum to UN, delegations Nov. 25, 1962).

In response to this memo and other protests at the time, Rusk sent another letter, dated Dec. 27, 1961, to the Rules chairman, Smith, retreating from his original position . . . and upholding "the national aspirations of the minority peoples of the USSR." So now, the "historical state" myth gives way to another typical myth of "minority peoples" or "minority nationalities." Apart from quantitative questions on the subject, since when, from a qualitative viewpoint, do Georgians or Lithuanians who predominate in their respective, historic homelands suddenly become "minority peoples"? In the use of words, Moscow appears to demonstrate greater sagacity with national references to "equal among equals."

Similar misconceptions dominated the turbulent Johnson era. For masterful confusion this statement by President Johnson is sufficient unto itself: "The common interests of the peoples of Russia and the United States are many—and this I would say to the people of the Soviet Union: There is no American interest in conflict with the Soviet people anywhere" (text of Johnson's speech on "U.S. Aim to Keep Peace," the Washington "Post," June 4. 1965).

In this one statement you find the old czarist imperial usage, "the peoples of Russia," and now they are metamorphosed into one as "the Soviet people," another illusion . . . Former Sen. J. W. Fullbright, who for many years chaired the Foreign Relations Committee, wallowed in a variety of illusions regarding the USSR. For instance, referring to that state, he wrote, "Insofar as a great nation mobilizes its power and resources for agrressive purposes, that nation, regardless of ideology, makes itself our enemy" ("Congressional Record," March 25, 1964, p. 6029).

He was supposed to be dispelling "old myths" and . . . pictures the USSR as a nation. In other quotes, like Eisenhower, he too, harbored the illusion of "200 million Russians" in existence.

RECKLESS ERROR

When Nixon became president, the top official view of the USSR didn't improve; it became worse. Nixon never attained to an understanding of the USSR, and his advisor, Dr. Henry Kissinger . . . couldn't help . . . Both were prisoners of a nation-state concept and, in sharp contrast to any administration before or after, they committed the reckless error of accepting the traditional Russian imperial principle of non-interference in the internal affairs of the imperial state in the Moscow Declaration of 1972. When Nixon appeared in Kiev, Ukrain, he called the capital "the mother of Russian cities," similar to designating a woman as half-pregnant. His confused views also can be gleaned from many of his untutored statements.

For example, speaking of the USSR, Nixon declared, "But as we have the valor to defend those principles which divide us as nations, we must have the vision to seek out those things which unite us as human beings" (address at the U.S. Naval Academy, June 5, 1974).

The USSR a nation? Conquerors and exploiters of nations—meaning the non-Russian nations within the USSR and only secondarily those without—are scarcely qualified for such a vision other than when it serves their interests. In an address to "the people of the Soviet Union," Nixon persists with the illusion to the detriment of those captive non-Russian nations: "Our two nations will continue to have differences" ("Weekly Compilation of Presidential Documents," July 8, 1974, p. 746).

During the 1976 presidential campaign, Gerald Ford . . . adamantly held that Eastern Europe was under no Russian domination. Kissinger congratulated him on his performance. Finally, during the Carter administration, some of the noted myths continue to linger on.

An analyst for the Washington "Star," discussing Leonid Brezhnev, states, "He has his problems in keeping together the many conflicting groups of his large, diverse nation."

John Kenneth Galbraith, a facile writer (but one who appears to have a confirmed opinion about everything) says, "The reality in the case of the United States and the Soviet Union is of two large industrial nations" ("The New Industrial State," Boston, 1967, p. 332). The USSR a nation? Even Moscow disputes this.

CAPTIVE NATIONS

This week is Captive Nations Week. There will be a parade in New York, probably witnessed only by people with ties to the old country. For most Americans the week will pass unnoticed.

Back in the days of the cold war there was much hoopla about the week. The president and Congress promulgated proclamations, schools had special programs and even the post office issued a commemorative series of stamps that are now a collector's item.

Now with detente, the free world finds it more convenient to be silent. The enslaved are still enslaved and the disenfranchised are still unable to determine their own governments. Captive Nations is not even a listing in current almanacs.

The Helsinki Agreement of 1975 legitimatized the Russian conquest of Eastern Europe. The treaty we signed forever denied a free world forum for the people of Lithuania, Latvia and Estonia. By the pact they no longer existed as independent countries.

But slavery is not always easy to hide. The papal visit to Poland showed that borders were closed to Czechs, Hungarians and Lithuanians. The Poles took the occasion to demonstrate that millions upon millions of them were apart from the government imposed upon them. The other captive nations were voiceless.

It is a pity that the Church in the United States does not use the week to at least show solidarity with its brothers and sisters whose beliefs are under constant pressure and who are discriminated against in their own lands by a tyrannical minority that has the power of Russian guns. If we cannot remember the captive nations, who is left to do so?

TAKE NOTICE

The Catholic War Veterans, D.C. Department, will observe Captive Nations Week at its fourth Sunday Rosary Memorial Sunday beginning at 11:45 a.m. at St. Dominic's Church, Sixth and E Sts., S.W. There will be a social in the parish assembly rooms following the 12:15 p.m. Mass.●

LEGISLATION TO AMEND THE FOOD STAMP ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RICHMOND) is recognized for 5 minutes.

● Mr. RICHMOND. Mr. Speaker, today I am introducing a bill for myself and my colleague, Mr. KELLY, which would lower the threshold for medical deductions in the food stamp program for the elderly, sick, and disabled from $35 to $10. During the House-Senate conference on H.R. 4057, a technicality prevented the House conferees from adopting this amendment which was approved by this body in a vote of 335 to 81 on July 11, 1979.

I feel that this bill carries out the will of the House. I will urge prompt consideration of this measure by the Subcommittee on Domestic Marketing, Consumer Relations and Nutrition, which I chair, when the panel considers the Food Stamp Act Amendments of 1980.

For the information of the Members, following is the text of the bill:

H.R. 5057

A bill to amend the Food Stamp Act of 1977 to raise the level of deductions for certain medical and dental expenses in the computation of incomes of households containing a member who is sixty years of age or over or who receives supplemental security income benefits under Title XVI of the Social Security Act or disability payments under Title II of the Social Security Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SEC. 2. Section 5(e)(A) of the Food Stamp Act of 1977 is amended by—

(1) inserting the following before "exclusive of special diets" : "or their spouses,"; and

(2) inserting "$10" in lieu of "$35."●

EXPORT TASK FORCE ARTICLE NO. 13: TRADE SEMINAR ON EAST-WEST COMMERCIAL RELATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

● Mr. ALEXANDER. Mr. Speaker, last night—July 31—the House Export Task Force held its third seminar on U.S. Export Policy and Performance. This latest seminar dealt with East-West commercial relations. The speakers, Dr. Jonh Hardt, the associate director for senior specialists at CRS and Mr. Arthur Downey, the former Deputy Assistant Secretary of Commerce and Director of the Bureau of East-West Trade, delivered excellent presentations on the Export Administration Act, proposed modifications to trade and Eximbank acts, trade agreements, market disruption and dumping and prospects and net benefits for East-West commercial relations. East-West relations is a timely subjects of many facets, several which are presently pending before the Congress. The following is a fact sheet prepared by the CRS on East-West commercial relations. I recommend it highly to my colleagues:

EAST-WEST COMMERCIAL RELATIONS: FACT SHEET FOR HOUSE EXPORT TASK FORCE SEMINAR

I. EXPORT ADMINISTRATION ACT

The Export Administration Act is the primary statutory authority for regulating U.S. exports. The law which replaced the more restrictive Export Control Act of 1949, authorizes export controls for the purposes of preserving national security, furthering U.S. foreign policy, or preventing shortages and export demand-induced inflation in the domestic economy. The national security rationale has been employed most frequently in regulating U.S. trade with communist countries. The EAA provides for controls on exports that make a "significant contribution" to the military power of potential adversaries. However, the Act also contains language designed to promote U.S. trade with all countries. In reconciling these two goals, legislative and regulatory changes during the 1970s have generally made U.S. export controls less restrictive. These changes have contributed to the expansion of U.S. exports to the communist countries.

The EAA is due to expire September 30, 1979. The administration of export controls in East-West trade has been a focal point in Congressional consideration of bills to extend and amend the Act. On July 28, 1979, the Senate passed S. 737, the Export Administration Act of 1979, which would extend the export control system to September 30, 1983. Among the amendments to existing law which may significantly affect U.S. trade with communist countries are provisions designed to:

encourage the Executive Branch to consider the economic consequences of restricting exports;

enhance the authority of the Secretary of Defense in administering national security export controls;

establish legal criteria for imposing export controls for foreign policy purposes;

discourage controls on exports of goods freely available from foreign sources; and expedite and simplify the administration of export controls.

II. MODIFICATIONS PROPOSED FOR TRADE AND EXIMBANK ACTS

The Trade Act of 1974 and the Export-Import Bank Act of 1945 as amended have provided the basis for denying Most Favored Nation (MFN) tariff status and for restricting U.S. Government credits to the USSR and other non-market economy countries. Section 402 of the Trade Act of 1974, (the so-called Jackson-Vanik amendment) ties trade privileges and credit policy to certain standards of emigration. Non-market economy countries that are not complying with this provision are denied MFN status and U.S. Government credits. Full compliance with this provision, however, may be waived standards of emigration. Non-market economy countries that are not complying with provision and (2) he has received assurances from the country on continued substantial compliance with the freedom of emigration requirement. Such waivers were submitted by the President for Romania in 1975 and Hungary in 1978. Subsequent to Congressional approval, both Romania and Hungary received MFN and access to the Eximbank.

Apart from the ban on credits specified in section 402 of the Trade Act, the Export-Import Bank Act itself places certain restrictions on credits to communist countries. Most broadly applicable of these is the requirement that the President determine that Eximbank's credit transactions with a communist country are in the national interest. For loans exceeding $50 million, such determinations must be made separately for each transaction. In addition, the Act provides that before the Bank can extend more than $300 million in credits to the USSR, the President must find that such a higher ceiling is in the national interest and seek and receive Congressional approval for it. The law also bans financing for Soviet fossil fuel production and sets a $40 million limit on credits for fossil fuel research and exploration in the USSR.

In the 96th Congress, Senator Stevenson and Representative AuCoin submitted, amendments to both the Trade Act of 1974 and the Export-Import Bank Act of 1945 as amended (S. 5339 and H.R. 1835). The amendments would (1) delete provisions in both Acts which single out the USSR for special restrictions with respect to credits, (2) establish a new overall limit of $2 billion on outstanding Eximbank support for U.S. exports to any Communist nation, and (3) revise the waiver provision concerning emigration practices and eligibility for MFN treatment and Eximbank credits. Specifically, this amendment would abolish the requirement of formal assurance in waiver cases, but would empower the President to make, instead, a determination that the granting of a waiver of section 402 of the Trade Act would lead substantially to the achievement of free emigration objectives. In addition, they would extend the term of the waiver authority to 5 years.

Another AuCoin bill (H.R. 1908) would, in addition to the provisions of S. 339 and H.R. 1835, limit the effective period of a first grant of the waiver to a country to 12 months and of successive waivers to 5 years.

Hearings have been held in both the House and Senate on these proposed Amendments.

III. TRADE AGREEMENTS

A Trade Agreement between the United States and a non-market economy country such as the USSR, China, or the countries of Eastern Europe, is a bilateral agreement which may cover a wide range of issues including most-favored-nation tariff treatment, business facilitation, market disruption, and reciprocal trade obligations.

The specific provisions which a trade agreement with a nonmarket economy country must contain are set forth in the Trade Act of 1974. Also set forth in this Act is a "freedom of emigration" requirement tying trade privileges to certain standards of emigration practice (Section 402).

Before a Trade Agreement can be implemented it must also be approved by Congress. Full compliance with the provisions of the freedom-of-emigration requirement may be waived by the President under authority granted annually by Congress.

Following the signing of a Trade Agreement and a waiver of the freedom-of-emigration provision, and Congressional approval of the agreement, a communist countray may receive MFN status and access to U.S. Government credits. Romania in 1975 and Hungary in 1978 concluded Trade Agreements with the U.S. and received MFN treatment.

A U.S.-China Trade Agreement was signed on July 7, 1979, but has not yet been transmitted to Congress for approval. If the President has received sufficient assurances on emigration from Chinese officials, and has determined there is substantial compliance with the Jackson-Vanik provision, Congressional approval of this Trade Agreement and the granting of the MFN status to China would appear likely.

A U.S.-Soviet Trade Agreement, while negotiated in 1972, has never been implemented because, following the passage of the Trade Act, the Soviets objected to the freedom-of-emigration requirement and declared the negotiated agreement null and void. Unless the President receives assurances from the Soviet Union on their compliance with this provision of the Trade Act or unless the Trade Act is amended to remove or substantially alter section 402 (particularly its assurances provision), a Trade Agreement between the U.S. and Soviet Union is not possible.

Legislation to amend section 402 has been proposed by Senator Stevenson and Representative AuCoin in the 96th Congress. While hearings have been held, no vote has yet been taken.

IV. MARKET DISRUPTION AND DUMPING

Section 406 of the Trade Act of 1974 (P.L. 93–618) provides special measures for import relief when imports from communist countries cause disruption of U.S. markets. Market disruption may be found to exist upon a determination by the International Trade Commission (ITC) that imports from a communist country are increasing rapidly and are, or threaten to be, a significant cause of material injury to a domestic industry. When market disruption is found to exist, the President is authorized to take immediate remedial action to restrict imports. He may, on the other hand determine that such import relief is not in the national economic interest and take no action.

In response to petitions from industry groups, the ITC has conducted four investigations under Section 406. In March 1978, the ITC found that imports of gloves from the People's Republic of China were not causing market disruption. Later in 1978, the ITC instituted investigations after receiving complaints that clothespins imports from three communist countries—Romania, Poland and China—were causing market disruption. The investigations resulted in negative findings for clothespins imports from Romania and Poland and an affirmative finding for Chinese imports. The ITC recommended that quotas be imposed on Chinese clothespins imports, but President Carter determined that import relief was not in the national economic interest.

In July 1979, U.S. ammonia producers filed a petition with the ITC for relief from ammonia imports from the Soviet Union. U.S. ammonia imports from the Soviet Union increased rapidly in 1978 as a result of a large compensation agreement signed between Occidental Petroleum Corporation and the Soviet Government. Under the agreement, signed in 1974, Occidental provided technology, equipment and materials to build fertilizer plants in the Soviet Union. Occidental is being repaid with shipments of ammonia, urea and potash produced at the Soviet plants. The ITC has not yet made a decision in this case.

Other than the market disruption provision of the Trade Act, U.S. laws regulating imports from communist countries are identical to those applying to other trade partners. However, there are special problems in applying U.S. antidumping law, which is designed to protect U.S. industry against imports sold at less than fair value, to communist countries. Since prices in state-controlled economies are not set by market forces, U.S. officials must compare the prices of imports suspected of being dumped by such countries with prices of similar products in market-economy countries.

V. U.S. TRADE WITH SOCIALIST COUNTRIES

U.S. EXPORTS

[In millions of U.S. dollars]

	1974	1975	1976	1977	1978
U.S.S.R	607	1, 833	2, 306	1, 623	2, 249
P.R.C	807	304	135	171	818
East Europe	820	945	1, 190	912	1, 420
Total	2, 234	3, 082	3, 631	2, 707	4, 488

U.S. IMPORTS

	1974	1975	1976	1977	1978
U.S.S.R	350	254	221	234	540
P.R.C	115	158	202	203	324
East Europe	540	480	646	684	970
Total	1, 006	893	1, 069	1, 123	1, 838

●

NATIONAL EMPLOYMENT PRIORITIES ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Ford) is recognized for 5 minutes.

● Mr. FORD of Michigan. Mr. Speaker, yesterday, together with 46 cosponsors, I introduced the National Employment Priorities Act of 1979. Similar legislation has been introduced in the other body by the senior Senator from New Jersey, Mr. Williams, and the senior Senator from Michigan, Mr. Riegle.

The legislation addresses a serious and increasingly pervasive problem in our society: The phenomenon of sudden plant closings, undertaken without warning to the affected workers and without adequate regard for the devastating social and economic costs a shutdown can have. The costs to a community of the closure of a large workplace—whether it be an automobile factory, a shipyard, or a department store—can be tremendous. And these costs are exacerbated when the closings occur without advance notice to the people who are affected by them.

Without warning, the tax base of local communities may be decimated, leaving schools and municipal services underfinanced and leading to layoffs of municipal employees; unemployment skyrockets before anyone can plan to bring in new industry and jobs; and small businesses that depended on the closed establishment as a customer are left without a market.

The experience of many of the cities in Ohio after their largest industries shut down and relocated elsewhere is well known. Schools closed, police and fire departments reduced their operations, and everybody suffered—schoolchildren, local industry, municipal employees—as well as the workers whose jobs were lost in the plant shutdown.

The costs to individual workers can be tragically high as well. Their families are left without health insurance; their pensions may be wiped out; older workers soon learn that it is impossible for them to find new employment; and the mental and physical health of the displaced workers declines at an alarming rate—just when the community is least able to afford and provide social services.

Studies have shown that the suicide rate among workers displaced by a permanent closing of their workplace is almost 30 times the national average. This sobering statistic should convince even the most skeptical observer that the problem of plant closings is a critical issue, separate and distinct from the issue of unemployment in general. Nearly 1 million manufacturing jobs have been lost from the Northeast and Midwest, alone, in the last decade, and the toll on workers, their families, and their communities has been staggering. It is well established that the affected workers suffer a far higher incidence of heart disease and hypertension, diabetes, peptic ulcers, gout, and joint swelling, than the general population. They also incur serious psychological problems, including extreme depression, insecurity, anxiety, and loss of self-esteem.

All of these consequences of plant closings are very real for the affected workers and their communities. It would be a tragedy for Congress not to recognize the costs to our Nation, costs which the other advanced industrial nations have recognized and dealt with for years. Most European countries have had legislation for more than a decade which has successfully met the problems of economic dislocation without harm to their productivity and economic strength.

Many major American corporations have prospered in Europe, adapting easily to laws and regulations far more restrictive of business mobility and management prerogatives than the legislation I have introduced today. The profit margin of our automotive giants, for example, is greater in Europe than it is at home. It is time for us to learn from the experience of West Germany, France, and Sweden and to seek a comprehensive solution to this gnawing problem.

While the impact of plant closings is felt most heavily at the local level, and numerous States are considering legislation to regulate economic disinvestment, a real solution to the problem must be a national solution. The adverse consequences of plant closings occur on a massive scale nationwide and are actually encouraged by Federal tax policies.

Accelerated depreciation of machinery and structures, the tax deduction of relocation expenses and operating losses as a plant is phased out, and the investment tax credit all provide major incentives for plant relocations and closures.

The argument is made that plant closings are only a problem for the North and that this legislation is "anti-Sunbelt."' Any serious reflection will reveal that this argument is a red herring. The congressional delegation from Hawaii remembers the economic and social crisis they faced when the pineapple industry pulled up stakes and moved abroad to Taiwan and the Philippines in order to escape paying a decent wage to American workers.

Many of our friends in California and the Southwest know that the threat of industrial relocation in Mexico and Central America is real and growing—and that their constituents are already suffering from that threat.

I am sure that before long our friends throughout the South will realize that the problem of plant closings and relocations is a disease that, like cancer, respects no region of the country. Almost 60 percent of all textile mill closings during the period 1971–76, for both union and nonunion plants, occurred in the South at a cost of almost 50,000 jobs. And anyone with a sense of history will realize that the television industry barely stopped off in the South on its way to the Far East.

Finally, it is difficult to believe that anyone living in the last quarter of the 20th century and the 1st decade of our 3d century as a nation can seriously argue that a social or economic ill affecting one region of our country does not affect us all.

Present policies and programs, such as unemployment insurance, which only take effect after the crisis and trauma have occurred, have proven totally inadequate to meet the challenge of disasters like the closing of the Campbell Works steel plant in Youngstown, Ohio, which left 5,000 workers unemployed with less than a week's notice.

In my own State of Michigan, the cities of Lyons and Hamtramck have been numbered by Chrysler Corporation's recent announcement that their major sources of employment will be shut down. In the case of Lyons, 700 jobs in a town of 800 will be wiped out in one stroke, most of them moving to Canada. There is no National or State law to prevent, minimize, or cure the destructive impact of this corporate decision on so many people who have made a steady, productive contribution to Chrysler and our national economy for years.

The legislation which I have introduced today, the National Employment Priorities Act of 1979, would provide a comprehensive program to prevent the disastrous consequences of sudden, large-scale plant closings. The act would meet the problem of economic dislocation in a number of ways.

First, the workers, their community, and the Federal Government would have between 6 months and 2 years advance notice of the plant closing—time to find ways to avert the shutdown; to attract new business if the shutdown were unavoidable; to apply for Federal assistance in retraining the workers for other jobs, buying the plant and renovating or retooling it, or finding new ways to employ the displaced workers on projects of benefit to the community.

Second, the act would require the business concern to assume some responsibility for the welfare of the people who served it and the community that supported it. Any displaced worker would be entitled to transfer to a similar job with any establishment under the business concern's control. Workers who were not transferred would be entitled to severance payments from the business concern, supplementing any unemployment compensation or trade adjustment assistance which they received. The employees' pension and health benefits would be maintained for up to 1 year for young employees and longer for older employees. In addition, the business concern would be required to pay the local government 85 percent of any tax revenue loss caused by the decision to close or relocate a plant.

Third, the act would provide numerous forms of assistance to businesses and communities to create new employment opportunities. Among the forms of assistance would be targeted Federal procurement, loans, and grants for the purpose of buying or reconverting the closed establishment, technical assistance, and loans and grants for the development of local public works projects that would lead to permanent employment opportunities.

In short, the act directs Federal aid and protection to prevent the crises and trauma of economic dislocation, rather than allowing a crisis to arise and then attempting a piecemeal patchup afterward.

In conclusion, Mr. Speaker, I would like to say that neither Senator Riegle, nor I and the 46 cosponsors of this legislation, are wedded to its specific provisions. The bill reflects lessons learned and information gathered during years of hearings conducted by John Dent and his subcommittee, and important contributions by public interest groups and labor organizations. We think it presents a reasoned and equitable approach to a serious and too-long neglected problem. In the months ahead we will closely examine the details of the bill, but we will insure that the principles of the legislation—that the impact of private disinvestment decisions is a matter of national, public concern; that those decisions must factor in the economic and social costs to workers and their communities; that the workers should not bear the brunt of economic decisions that benefit investors and the whole country; that labor should not be as mobile as capital; and that the Federal Government must have a greater role in the Nation's economic planning—are not compromised.●

TENTH ANNIVERSARY OF APOLLO 11

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 5 minutes.

○ Mr. AuCOIN. Mr. Speaker, 10 years ago, between July 16 and July 24, a voyage took place that held the world a captive audience. That voyage was to the surface of the Moon and back.

Somewhat surprisingly, a recent New York Times/CBS poll found people almost evenly divided about whether the Apollo project was worth the $25 billion it cost. A decade after man's greatest adventure, our feelings in hindsight are perhaps more ambivalent than at the height of the tumultuous sixties.

The technology that enabled us to watch those stark figures bounding around the surface of the Moon improved so quickly that by the final Moon mission we could watch the event as clearly and colorfully as if it were taking place in the next room. But how many of us were watching as the Apollo program came to an end? The national anticipation of a manned lunar landing and the imagination and good will of the world that we were able to capture were matched only by the speed in which we returned to business as usual.

Looking back it seemed easy. On May 25, 1961, when President Kennedy said that the United States "should commit itself to achieving the goal, before this decade is out, of landing a man on the Moon and returning him safely to the Earth," it was anything but easy. An American had not even orbited the Earth. The Saturn V was merely the twinkle in Werhner von Braun's eye. The method for attempting a Moon landing was still a highly debated subject on NASA's drawing boards. The Saturn launch pads had yet to rise from the Florida beaches that would become familiar the world over as Cape Canaveral and Kennedy Space Center, and the Manned Spaceflight Center in Houston had yet to be built.

The problems to be overcome were enormous, simply the design and construction of a rocket, a spacecraft, a landing vehicle and life support systems for a voyage to the Moon and back. It is a tribute to the engineers of the manned space program that not a single American astronaut died during a total of 31 spaceflights by 71 individuals in an accumulation of hundreds of days in space.

As far as space program personnel were concerned, our $25 billion investment was quickly squandered as eight additional planned Moon landings were scuttled due to lack of interest in the Congress and in the Nation. Yet, from a scientific standpoint, the exploration of the Moon had hardly begun when the Apollo 17 astronauts left the Moon in December 1972.

Opponents of the Apollo program had called for space money to be spent on earthly pursuits. But the total $25 billion spent for the space program was stretched out over nearly 9 years. The total spent for space in 9 years looks infinitesimal compared to military spending in a single year. In fact, the total amount spent would have hardly made a dent in social programs that many thought we could have better directed our attention to at the time.

And the practical payoffs were great.

An extensive study conducted in 1975 found that high technology endeavors, of which the space program is clearly the largest, result in significant rates of social return out of all proportion to their cost. It was determined that an increase in space research and development programs of $1 billion would have the following effects in just 10 years:

First. The gross national product would be $23 billion higher—an annual return of more than 40 percent.

Second. The inflation rate in 1985 would fall 2 percent.

Third. Unemployment would be reduced by 400,000 jobs and the size of the labor force would rise by 1.1 million new jobs.

The simple fact is that research investments "spinoff" to other industries through sharing of technology and productivity increases.

Just four mature examples of spinoffs are estimated to add up to a $7 billion "payoff" by 1983. Integrated circuits were developed for satellites and communications but are now used in many household products. Gas turbines, initially developed for jet-engine aircraft, have been widely spunoff for use in electric power generation plants. The Structural Analysis Computer Program, originally developed to design spacecraft, is now used to design automobiles, railroad tracks and cars, bridges and skyscrapers. The last mature spinoff is insulation for cryogenic—extremely cold temperature—uses.

NASA has been working on energy-efficient technology for years. NASA's "Tech House" at the Langley Research Center in Virginia is not just a compilation of space spinoffs but it integrates technical developments expected to be commercially available by 1981. Stringent NASA criteria meant that the initial costs of improvements must be repayable over the life of a 20-year mortgage. Space materials include "thermal shutters," fire-retardant materials, super insulation, solid-state appliance controls, low-noise flow valves, wiring, other heat-capture devices.

NASA has been in the forefront of developing technology to utilize alternative energy sources. A satellite power system to transmit energy to the Earth; the harnessing of the wind; solar heating and cooling, NASA-developed solar energy in coordination with the Department of Energy being tested in different climatic zones; solar cells for replacement use of electricity; automobile turbines; electric vehicles; coal mining research—all have been on NASA's drawing boards for some time.

It was notable that Skylab, the program that followed Apollo and used the same hardware to begin investigating the practical applications of space science in-depth, was virtually ignored by the American people. Earth resources photography, undertaken by Skylab and continued with Landsat satellites, has told us more useful information about the Earth than we can absorb. Landsat satellites can look at 13,000 square mile patches of the Earth at one time in a single picture thereby revealing great features, such as geological faults, that are impossible to see from near-Earth. The repetitive coverage of Earth by the continuously orbiting satellites viewing the entire planet over a short period of time allows monitoring of dynamic Earth processes such as crop-growing cycles and land use.

We face a similar dilemma of lack of interest with the Space Shuttle program despite its promise of making manned spaceflight a valuable yet normal experience. But let me mention some significant facts about the ongoing Space Shuttle program.

Some 50,000 people in 47 States work on the Space Shuttle—in addition to those employed by NASA. Reusable Space Shuttle Orbiters will reduce spaceflight costs an estimated $1 billion per year. The savings can mean additional payloads to meet predicted needs for Earth-oriented applications—advanced weather forecasts, communications, Earth resources photography, and other benefits.

A pressurized module will fit in an Orbiter's cargo bay where scientists can work in short sleeve environment for up to 30 days. It offers a platform for intensive Earth observations and human-directed experiments not unlike Skylab.

Naturally, spinoff technology cannot be utilized to its greatest potential if there is no process of disseminating the information. NASA has established a network of Industrial Applications Centers at universities across the Nation to provide information retrieval services and technical assistance to industry. At six campuses NASA utilizes the world's largest technical data bank to apply the resultant information selectively to industry's problems.

The accomplishments of the Apollo program in scientific and engineering terms were enormous. Unlike expenditures in many other areas, the space program was constantly in the public eye, and we demanded a high level of demonstrable success. Despite the sheer complexity of the problem we were undertaking, there were never any cost overruns or pleas for additional time. We set a goal, demanded success, and complied with that demand.

The commitment to the future of manned space flight is in question. Just as with all scientific endeavors the financial cost may seem out of proportion to our immediate gains, but those gains will come about. However, in our quest to solve earthly problems we cannot overlook our desire to explore the unknown or the need to dedicate ourselves occasionally to the pursuit of pure science knowing of its eventual practical payoff. That is what Apollo 11 pointed out, and it is a lesson we should remember as we celebrate the 10th anniversary of that adventure.●

UNITED STATES-MEXICAN RELATIONS AND THE ENERGY CRISIS: REPORT OF A STUDY MISSION TO MEXICO CITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BARNES) is recognized for 5 minutes.

● Mr. BARNES. Mr. Speaker, the discovery of vast oil reserves in Mexico creates both the need and the opportunity to inaugurate a new era in United States-Mexican relations for the benefit of both countries. From this new relationship, the United States seeks access to Mexican oil in order to satisfy our domestic demand and reduce our dependence on Middle Eastern oil. Mexico seeks economic development and reduced dependency in the United States. I am convinced that, with the necessary will, we can work out a relationship that satisfies us both. But it will require patience and understanding on both sides. For our part, we must understand not only how oil fits into Mexico's history and policies, but also how oil relates to other issues between our two countries.

My colleague on the Foreign Affairs Committee, Congressman BOWEN, and I spent part of the Independence Day recess in Mexico City in talks with Mexican and U.S. Embassy officials. Although the principal purpose of our visit was to discuss trade issues, especially ways in which our two countries could better cooperate on energy matters, our conversations ranged across the entire gamut of United States-Mexican relations. We will submit a formal report on our trip to the Committee on Foreign Affairs in due course. However, because of the timeliness of the topic, I would like to take this opportunity to share with my colleagues some of my preliminary observations and conclusions from the trip.

As a result of the talks, I was particularly impressed by three factors which make United States-Mexican relations complex and difficult to manage, and which inevitably affect the energy picture. The first is the historical context in which Mexicans view their relations with the United States. Mexicans remember a history lesson most Americans have forgotten: Mexico lost half its territory to the United States in the Mexican-American War. Over the years, the Mexicans have developed a strong sense of their dependency on the United States—a dependency of which they are increasingly resentful, but which they have been powerless to remedy. Mexicans feel they can be severely disadvantaged by unilateral decisions made in Washington without consultation or even concern for their effects on Mexico. Historical grievances and resentment at dependency feed a strong sense of nationalism. Now the discovery of vast oil reserves has given the Mexicans a new sense that they have something we need, that the relationship is no longer so one-sided.

That leads to the second factor: The way the oil issue is linked to other issues in our relationship in the minds of the Mexicans. We were quickly made aware that cooperation on matters of particular concern to our country, such as energy, could not be viewed in isolation from cooperation on other matters of particular concern to Mexico. At the time of our visit, our entire relationship was threatened by the possibility of U.S. antidumping action against Mexican winter vegetable imports.

Third, our relations are made complex because of the way they affect various domestic interests in the two countries. For example, each of our countries has an interest in a reduction in trade barriers by the other country. But a reduction in trade barriers in one country may cost jobs in the affected industry in that country while creating jobs in the other country. To take an even more obvious example, our respective policies toward illegal Mexican immigration into the United States profoundly affects certain sectors of both economies.

What all these factors add up to is that, as one Mexican official put it to us, it is important for the United States and Mexico to find ways to interact so as to build on the natural complementaries in our interests instead of hurting each other. We must learn to deal with the issues in the total context of United States-Mexican relations, not just in terms of special interests. Beyond that, the United States must learn to be more sensitive to Mexican feelings, Mexican needs, and the effects of our actions on Mexico. If we can learn to treat Mexico as a partner and to address our mutual problems in a cooperative way, with full regard for Mexican views, then we will open up significant opportunities for mutual benefit in energy and other areas. If we cannot, we can be assured that will affect Mexican oil production, pricing, and marketing decisions in a manner inimical to our interests.

To spell this out further, let me briefly review the three major issues between our two countries. Undocumented workers, trade, and energy. Many Americans view illegal immigration of Mexicans into the United States with concern because of the possible effects of that immigration on our employment and wage levels. I share that concern. But what too many Americans do not realize is that Mexicans view illegal immigration in even stronger terms—as a national tragedy. It is striking proof of Mexico's inability to offer full employment to its own people, and it leads to the exploitation and brutalization of the migrants by Mexicans and Americans alike.

President Lopez Portillo has frequently and strongly stated that it is Mexico's desire and policy to export goods, not people. But the development of Mexico's economy to the point where it can absorb its own labor force is a long-term proposition. With an estimated 46 percent of Mexico's population under age 14, and youths entering the labor force at twice the rate that can be absorbed, the problem is going to get worse before its gets better. Meanwhile, money repatriated by Mexicans working in this country constitutes Mexico's biggest source of foreign exchange.

In this situation, the Mexicans rightly plead for patience, restraint, and understanding on the part of their northern neighbor. We must recognize this as a bilateral problem, to be dealt with in close consultation with Mexico. Erecting a "tortilla curtain"—fortifying our common border with the technology we developed for the purpose of killing Vietnamese—is not the answer. Most important, we must be aware of the relationship between the illegal immigration problem and Mexico's economic problems. The more we do to help the Mexicans solve their economic development problems, the more we do to help resolve our common migration problem. This leads to the second issue between our two countries, trade with the United States, on which Mexico is relying so heavily in its attempt to develop its economy.

Immediately upon my return from Mexico, I spoke out on the floor of the House against possible antidumping action against Mexican winter vegetable imports. A petition for such action had been filed with the Treasury Department by the Florida growers. The Mexicans, not without reason, had elevated the "tomato issue" to the level of a symbolic test of whether the United States was prepared to conduct our relations on the basis of cooperation and equality.

Mexico depends on the United States for 66 percent of its export trade, which produces a significant number of jobs. Yet, in the Mexican view, whenever this trade entails competition for U.S. producers, we take steps to protect ourselves by erecting tariff or nontariff barriers. This throws Mexicans out of work and hampers Mexico's development. We have to watch out for our own interests, of course. But we have to do so in a cooperative manner which does not ride roughshod over the interests of our neighbors. The Mexicans are not blameless; they restrict our access to their market as well. But we have a combined market of nearly 300 million people. There is enough business for everyone. We ought to be able to work out ways for productive economic interchange that do not entail unreasonable barriers to trade.

I was gratified when, on July 19, Treasury announced that it was terminating its antidumping investigation against Mexico because the petitioners had withdrawn their complaint to allow time for a negotiated solution to the problem. I hope negotiators on both sides will be forthcoming and the forces of protectionism will not prevail. Over the longer term, we need to develop more stability and predictability in our economic relations, so things do not reach the point where our relationship hinges on something like a dumping determination.

If we can learn to deal with our common immigration and trade problems on a friendly, constructive, nonconfrontational basis, this will have a beneficial effect on the third issue in our relations—energy. Amid all the complexities and difficulties surrounding this issue, we must not lose sight of the fundamental compatibility of United States and Mexican interests in the energy field: Mexico has abundant petroleum, some of which it wants to export to fuel its development; and the United States has vast energy requirements and a need to reduce its reliance on OPEC, and constitutes a natural market for Mexican oil. Mexico wants to decrease its dependence on the United States and is trying hard to diversify its oil exports. Still, there is every reason to hope and expect that the bulk of Mexican oil exports can continue to flow northward to this country, in increased volume, and at prices which reflect lower transportation costs than those associated with Middle East oil. However, to facilitate this outcome, we must once again be sensitive to certain needs and perceptions on the Mexican side.

The main one concerns the issue of natural gas. Associated natural gas produced by Mexican wells is currently being flared, and thus lost to both Mexican development needs and U.S. energy needs. The Mexicans want to capture this gas and transport it by pipeline to this country. In fact, they have taken a basic policy decision not to develop their petroleum reserves at a rate faster than would permit concurrent exploitation of the associated natural gas. Thus our own decisions on importing Mexican natural gas will have an impact on the rate at which Mexico develops and exports its oil.

As we all recall, negotiations over the price at which Mexican natural gas would be sold in the United States were abruptly terminated last year, amid a great deal of acrimony and mutual recrimination. There is no question that this is a difficult and complex issue, and there is blame on both sides. But the issue could have been handled more diplomatically on our end. The negotiations have recently resumed, and I am pleased by reports that they are going well. All Americans have an interest in the successful conclusion of the negotiations.

We can help both the Mexicans and ourselves in other ways as well. The Mexicans do not want their economy to be either too dependent on oil exports, or overinflated by oil revenues. Thus the level of their oil exports will be determined in part by their success in achieving growth in other export sectors and by growth in their ability to absorb oil revenues. An open U.S. market for winter vegetables and manufactured products will help one side of that coin. An absence of U.S. pressure on Mexico to develop its oil resources faster than its overall development strategy permits would help the other. President Carter has stated that the United States understands that the pace of Mexico's oil development must be dictated by Mexican needs. That is a wise policy, and I hope and trust Congress will support it. Both United States and Mexican interests are best served in the long run by an oil policy which conduces to a healthy, growing Mexican economy which can employ its own people and purchase more U.S. goods.

Finally, a problem which concerns me greatly is the effect of United States-Mexican trade on Mexican development. Exports can be helpful or harmful for Mexican development, depending on how they fit into Mexico's overall policies and development patterns. Let me pose several dilemmas Mexico confronts as it seeks to manage its resources in the interest of the development of its people.

As oil resources are developed, Mexican peasants are leaving the land to work in the oilfields, resulting possibly in lower agricultural production and consequently in decreased nutritional levels for the rural and urban poor.

Increased investment in the relatively high-technology oil industry creates fewer jobs than would be gained by investment in more labor-intensive industries, thus exacerbating the unemployment problem and possibly leading to a worse income distribution problem.

We want to facilitate Mexican tomato exports in order to help the relatively labor-intensive tomato industry, thereby providing jobs and income to the rural poor; but as exports increase the tomato industry is likely to become characterized by increased mechanization and land concentration, thereby actually displacing people from land jobs.

Mexican policies can either encourage or discourage these trends. The United States has little to say about it, assuming as I do that we want to adhere to a policy of nonintervention in Mexico's internal development decisions. I can only voice my own hope as a friendly observer that the Mexican authorities will be sensitive to the possibly counterproductive consequences for their own people of building up its exports of oil and other commodities. It would be a tragedy if the Mexican people ended up worse off than they are now.●

● Mr. BOWEN. Mr. Speaker. I am pleased to join with the gentleman from Maryland in reporting to the House on our recent trip to Mexico. I found it a very useful and educational trip, and I want to congratulate my colleague for organizing it and thank him for inviting me to come along. It was my first trip to Mexico City, and I used it not only to explore prospects for energy cooperation, but also to learn more in a general way about our southern neighbor. I would like to share some of my general conclusions.

First, I think there are significant opportunities for cooperation in the energy area, and I hope both sides will find the political will to make that cooperation a reality. I think early agreement on the natural gas issue is particularly crucial. Because of declining production in this country, the United States is currently in a transition away from natural gas toward other sources of energy. An agreement with Mexico which would provide us with a reliable market for natural gas could change those transition plans. If we wait too long, the opportunity may pass. Mexico may lose a market, and we will lose the gas. I hope both sides will be forthcoming on this issue.

Second, as Mexico seeks to place its current and prospective oil revenues at the service of the country's development, it faces several key bottlenecks. One is that increased demand is severely overloading the transportation system. Mexico needs to modernize and expand its railroad beds, highways, and bridges, and import more trucks and locomotives. With the revenues produced by oil sales to the United States, Mexico should be able to purchase much of the equipment and technology it needs to modernize its transportation system from the United States—a clear example of how both countries can benefit from greater trade.

Another bottleneck is trained manpower. Mexico needs skills of all kinds to accomplish the further modernization of its economy.

Perhaps the greatest bottleneck is the agricultural sector. The growth in Mexico's oil production and industrial capability is being matched by an unfortunate decline in Mexico's ability to feed its people. As a member of the Agriculture Committee, I was particularly interested in what Mexico is doing to halt and reverse its declining agricultural productivity. Land reform has been a promise of the Mexican Revolution for 70 years.

Yet the political need for land redistribution needs to be reconciled with the economic need for greater productivity. A solution to the land tenure problem needs to be found which meets the people's needs for land, creates incentives to improve productivity, and fosters the commercial agriculture necessary to feed the burgeoning urban population and to produce for export. It is true that people are leaving the land at an alarming rate because they cannot find a livelihood there. It is also true that the 10 percent of the farms that are of commercial size produce most of Mexico's food. I regret to report that I was not encouraged to believe that Mexico has found a way to reconcile these competing concerns.

Third, I was interested in learning more about Mexican politics. The Institutional Revolutionary Party (PRI) has been in power since its formation in 1929. However, opposition parties do exist and are active, and respect for human rights and civil liberties appears relatively high. Our visit happened to coincide with a parliamentary election in which, for the first time, 100 seats were reserved for opposition parties. Three parties were vying for those seats, and the campaigning was lively and the results closely followed by the media.

Fourth, Mexican foreign policy was of concern to me, particularly with respect to the Nicaraguan civil war which was still raging. I questioned the Mexicans closely regarding their attitude toward the Sandinistas and toward Cuban involvement in Nicaragua. The Mexicans do not believe that there is extensive Cuban involvement in Nicaragua or that the junta is dominated by Marxists. On that, I and many others disagree with them. We will know better in retrospect who was right. But the important point is that the Mexicans are not oblivious to the Cuban problem. We were told that Mexico would be as upset by the Cubanization of Central America as we would be, because Mexico would be affected sooner and more adversely than we would be. But, it was explained to us, because of Mexico's historic experience with the United States, nonintervention is a cornerstone of Mexican foreign policy.

Mexico's attitudes are colored by a history of interventions and attempts by the United States to impose governments on Mexico. The Mexicans honestly believe that the junta represents the choice of the Nicaraguan people, and they do not consider it proper to interfere, whether or not the junta is Marxist. I hope the Mexicans are right that it is not. They state firmly that they have not assisted the Sandinistas with arms of any kind. In any case, I am glad I had the opportunity to understand their position better.

Finally, as a member of the International Operations Subcommittee, which has jurisdiction over the International Communications Agency, I was interested in reviewing our Embassy's public affairs activities in Mexico. I met with the ICA staff and came away with the impression that Stan Zuckerman, the public affairs officer, has an impressive team which is working hard to improve Mexican perceptions of the United States and of United States-Mexican relations. It is not an easy job. Mexico is a highly nationalistic country with a very different view of history than ours. As we proceed with the difficult task of building a better climate for United States-Mexican relations, I hope our Government's actions will help rather than hinder their efforts.●

DOES THE PRESIDENT SUPPORT REGISTRATION?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

● Mr. WHITE. Mr. Speaker, as the House approaches consideration of the issue of resuming registration with the Selective Service System, it is useful to have the President's own thoughts on this issue—not those of his advisers—as he outlined them yesterday in Bardstown, Ky. As the actual transcript of his words is not available, I am inserting in the RECORD a portion of this morning's New York Times article that quotes the President's remarks. For references, the entire article entitled "Carter Is Cheered in Kentucky Town" commences on page A1 of the August 1, 1979, paper, with the specific portion that follows appearing on page A13.

> In answer to a question, Mr. Carter seemed to soften his Administration's position against a standby draft registration when he said, "We might have to have registration for the draft as a precautionary measure." He said that he was reassessing the question of whether young people should be required to register at the age of 18. "We might have a standby registration if I decide it is needed," he said.●

BANKRUPTCY TAX ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.●

● Mr. ULLMAN. Mr. Speaker, on behalf of myself and Mr. CONABLE, I am today introducing the Bankruptcy Tax Act of 1979, making amendments to the Internal Revenue Code with respect to Federal income tax aspects of bankruptcy.

Last year, the Congress enacted legislation (Public Law 95–598) which, effective October 1, 1979, significantly revises and modernizes the substantive law of bankruptcy as well as bankruptcy court procedures. The bill introduced today will update and clarify Federal income tax rules relating to the treatment of discharge or cancellation of indebtedness, the tax treatment of an estate of an individual in bankruptcy, the treatment of corporate insolvency reorganizations, and procedural rules relating to assessment and collection of a bankrupt debtor's Federal tax liabilities. Because of the October 1 effective date set by Public Law 95–598 for repeal of the existing Bankruptcy Act and for implementation of new bankruptcy court procedures, it is essential that the tax bill be enacted during this session, effective for bankruptcy cases instituted on or after October 1, 1979.

It is anticipated that the Committee on Ways and Means will hold a hearing on this bill, the Bankruptcy Tax Act of 1979, soon after the House reconvenes from the August district work period. Interested groups and persons thus will have time to study the bill and to submit comments or present testimony at the hearing.

This bill has been developed by the staffs on the basis of extensive studies, commentaries, and recommendations for changes in bankruptcy tax rules made over the past 6 years. This effort to review and modernize bankruptcy tax law began with establishment by the Congress of the Commission on the Bankruptcy Laws of the United States, and the report issued by the Commission in 1973.

The Ways and Means Committee held hearings in 1978 on H.R. 9973 (95th Congress), dealing with Federal income tax aspects of bankruptcy. Subsequently, the committee has received further comments from the American Bar Association, tax section; Ad Hoc Committee for Bankruptcy Revision; the American Institute of Certified Public Accountants, bankruptcy task force; the Association of the Bar of the City of New York, committee on taxation; the New York State Bar tax section, committee on bankruptcy and insolvency; the National Bankruptcy Conference, committee on tax matters; the Departments of Treasury and Justice; the Internal Revenue Service; and other groups and individuals.

The following is a brief summary of the general scope of the Bankruptcy Tax Act of 1979.

SUMMARY OF SCOPE OF THE BANKRUPTCY TAX ACT OF 1979

DISCHARGE OF INDEBTEDNESS

Under the bill, no amount would be included in income by reason of a discharge of indebtedness in a bankruptcy case. Instead, the amount of debt discharged generally would be applied to reduce the debtor's Federal income tax attributes in the following order; net operating loss carryovers; carryovers of the investment tax credit, WIN credit, and new jobs credit; capital loss carryovers; and the basis of the debtor's assets. However, the debtor's basis in his assets would not be reduced below his remaining undischarged liabilities. Where the debtor reduces basis, the investment credit recapture provisions of present law would not apply.

To achieve general uniformity between insolvent taxpayers whose debts are cancelled outside of bankruptcy and taxpayers whose debts are cancelled in a bankruptcy case, the bill also provides generally similar rules for insolvent taxpayers.

In the case of solvent taxpayers, the bill modifies the present law election to exclude income from discharge of indebtedness, so that a solvent taxpayer whose debts are discharged outside of bankruptcy must reduce net operating losses and credits before reducing basis. This provision would achieve a result generally similar to that of a solvent or insolvent taxpayer whose debts are discharged in bankruptcy.

The bill also provides rules relating to corporate indebtedness in order to better coordinate the treatment of discharged debt at the corporate level with treatment at the shareholder level. The bill provides that no income from debt discharge would arise, and hence no attribute reduction would be required under the above rules, if a corporate debtor issues stock to its creditor for the principal amount of an outstanding security (such as a bond). If a corporate debtor issues stock for other debts (such as debt held by trade creditors or by a lender holding a short-term note), in which case the creditor could recognize a loss on the debt, the corporation is treated as having satisfied the debt with an amount of money equal to the stock's fair market value. To the extent the stock's value is less than the debt discharged, the discharge of indebtedness rules summarized above would apply. The bill similarly provides that the discharge of indebtedness rules would apply to the extent that the amount of debt transferred to a corporation as a contribution to capital exceeds the shareholder's basis in the debt.

Under the bill, the special limitations on net operating loss carryovers (sec. 382 of the Internal Revenue Code) would not apply to the extent creditors receive stock in exchange for their claims. This exception to the section 382 rules is proposed in light of the attribute reduction provisions of the bill, under which loss carryovers would be reduced in certain cases (as described in the preceding paragraph) where the debtor corporation issues stock for debt.

BANKRUPTCY ESTATE OF AN INDIVIDUAL

The bill provides rules relating to the Federal income tax treatment of the bankruptcy estate of an individual as a separate taxable entity in a liquidation of reorganization case under the new bankruptcy statute. Also, the bill provides that no separate taxable entity would be created by commencement of a bankruptcy court case in which the debtor is an individual having no assets other than exempt property, an individual in a case under chapter 13 of the new law (adjustment of debts of an individual with regular income), a partnership, or a corporation.

The Federal income tax rules with respect to the estate of an individual, if treated as a separate taxable entity, include rules as to allocation of income and deductions between the debtor and the estate, computation of the estate's taxable income, accounting methods and periods, the treatment of the estate's administration costs as deductible expenses, the carryover of tax attributes between the debtor and the estate, and requirements for filing and disclosure of returns.

INSOLVENCY REORGANIZATIONS

The bill provides that insolvency reorganizations generally would be governed for Federal income tax purposes by the rules applicable to other tax-free corporate reorganizations. In view of the bill's rules on attribution reduction, the bill would include insolvency reorganizations within the category of transactions resulting in carryover of tax attributes to a transferee corporation.

The bill provides that to the extent property received in a reorganization is attributable to accrued but unpaid interest, the recipient would treat the value of the property received as ordinary income.

Also, the one-year liquidation tax rules would be extended to cover asset sales which are part of an insolvency liquidation. Under the bill, a corporate debtor generally would not be considered a personal holding company while in an insolvency reorganization proceeding. The bill provides that the estate of an individual debtor in a bankruptcy court case would be considered an eligible shareholder in a subchapter S corporation.

TAX PROCEDURAL RULES

In light of new rules for determination of tax liabilities in bankruptcy proceedings, the bill makes various technical changes relating to Internal Revenue Service assessment and collection procedures.

EFFECTIVE DATE

The provisions of the bill generally would be effective for bankruptcy cases commenced on or after October 1, 1979. Present law would continue to apply for bankruptcy cases commenced under the Bankruptcy Act, i.e., prior to October 1, 1979, including Bankruptcy Act cases which were commenced before and continue after that date.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, this afternoon I joined the gentleman from New Jersey (Mr. RODINO), the senior Senator from Massachusetts (Mr. KENNEDY), Attorney General-designate Benjamin Civiletti, and a number of my colleagues on the Judiciary Committee in describing to the press and to the public the work of the Criminal Justice Subcommittee on the revision of the Federal Criminal Code. Due to my commitment to preside at this briefing, I was absent from the House for a brief period during consideration of the Loeffler amendment to S. 1030, the Emergency Energy Conservation Act of 1979. Had I been present for rollcall No. 418, on approval of the amendment, I would have voted "nay."

I was also unavoidably absent from the House during the vote on final passage of S. 1030. Had I been present for rollcall No. 424, I would have voted "yea." ●

THE IRON HEEL STILL RESTS ON CZECHOSLOVAKIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. VAN DEERLIN) is recognized for 5 minutes.

● Mr. VAN DEERLIN. Mr. Speaker, an authoritarian government is perhaps the worst evil human beings must endure. When such a government extends its control to people in other nations, the evil is compounded.

The Soviet Union, not content to oppress their own citizenry, invaded Czechoslovakia in 1968. August 21 will be the 11th anniversary of that outrage.

When one member of the international community resorts to such barbarism to protect the political and economic prerogatives of its elite, the freedom of individuals everywhere is threatened. As we should have learned well by now, aggression breeds aggression; each oppression makes the next one easier.

The Soviets must not be allowed to forget the Czechoslovakian patriots who, for the brief spring of 1968, tasted freedom. They will certainly not forget.

The Soviets must cease their harassment of those in Czechoslovakia who still keep the memory of 1968 alive, the Charter 77 group.

We Americans know that freedom is indivisible everywhere in the world. We will remember the Czechoslovakian spring.●

EXPORT PROMOTION AND TRADE ASSOCIATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 30 minutes.

● Mr. BINGHAM. Mr. Speaker, today I am pleased to introduce the Export Promotion and Trade Association Act, which will help reverse the alarming balance-of-trade deficit of our country during the past several years. There is evidence that the competitiveness of U.S. industry in international trade and domestic markets is declining. The mammoth deficit has hurt our economy by exerting a downward pressure on the exchange rate, eroding the dollar as an international currency. The deficit has had an inflationary impact on our economy, and is associated with loss of jobs in import-competing industries. Finally, this trade deficit requires an increasingly larger Federal budget deficit to keep the economy growing.

My proposal has two main features which would help reduce this trade deficit. First, it allows service industries to qualify for the antitrust exemption of the Webb-Pomerene Associations. Second, the Department of Commerce would have the responsibility for the administration and active promotion of these associations. This will encourage more American firms to market their goods and services abroad and enable them to compete more aggressively with their foreign counterparts. Before we look at the bill itself, I think a brief background of the law which it replaces would be helpful.

In 1916, the Federal Trade Commission published a report on "Cooperation in American Export Trade," stating that American manufacturers and producers were disadvantaged in attempting to enter foreign markets individually because of strong combinations of foreign competitors and organized buyers. In 1918, Congress passed the Webb-Pomerene Act, in which American firms were allowed exemption from antitrust laws for export purposes. This law allows companies under certain conditions to combine in "Webb-Pomerene Associations" to meet foreign competition, as long as they do not restrain trade within the United States, restrain the export trade of any domestic competitor of the association, or influence domestic prices of commodities of the same class exported by the association.

In enacting the Webb-Pomerene Act, Congress envisioned an eager American business community availing itself of the opportunity to pool its facilities, resources, and expertise in such a fashion as to implement an ambitious joint exporting program. As history shows, that vision never materialized. The Webb-Pomerene exemption has been little used, with only 250 associations in the first 60 years the law was on the books. Today the number of associations has dwindled to 33, and their share of total U.S. exports has dipped to less than 2 percent.

From these disappointing figures, it is obvious that the Webb-Pomerene Act is not an effective device to promote exports in its present form. Many business executives claim it is too narrow to be useful and guidelines under it are imprecise. The ever expanding U.S. service industries have been excluded from qualifying for the act's antitrust exemption. Perhaps the greatest barrier has been the Department of Justice, as well as the FTC, being perceived by the business community as exhibiting open hostility toward Webb-Pomerene associations.

Considering these inherent weaknesses, I propose that we repeal the Webb-Pomerene Act and pass this new legislation that permits many more American firms to make use of the updated provisions to promote exports. Although it is not possible to estimate the impact of such changes on U.S. exports, the inclusion of service industries in Webb-Pomerene associations provides a vast new potential for increased marketing of these services. Service industries are the fastest growing segment of our economy, and currently provide 65 percent of the Nation's gross national product. The National Construction Association estimates that its industry alone could have a $2 billion annual increase if its members could operate as a Webb-Pomerene association.

Specifically, this bill has the following as its main provisions:

First, it places the administration of the act within the Department of Commerce;

Second, it creates within the Department of Commerce an office to promote the formation of export trade associations;

Third, it makes the export trade association antitrust exemption applicable to the exportation of services;

Fourth, it expands and clarifies the antitrust exemption for export trade associations;

Fifth, it requires that the antitrust immunity be made contingent upon a preclearance procedure;

Sixth, it provides for the establishment of a task force whose purpose will be to evaluate the effectiveness of this act in increasing U.S. exports and to make recommendations regarding its future to the President.

While this bill calls for a relaxation of our antitrust laws for U.S. firms that export abroad, I still firmly believe in the protection of these same antitrust statutes that prohibit Webb-Pomerene associations from restraining trade or influencing domestic prices within the United States. With respect to international economic relations, very few countries restrict their companies as we do. In order to improve our balance-of-trade deficit, we have to be practical and provide some flexibility to U.S. companies to meet foreign competition. This is greatly needed as a response to those countries where we lack a method of meeting our primary competition. At the same time, the provisions of the bill are still tough enough to protect the United States from any domestic anticompetitive spillover resulting from the operations of the export trade associations. An additional safeguard requires the export trade associations to abide by and be consistent with any international obligations assumed by the United States by treaty or statute.

Last September, President Carter announced his initial steps toward the formulation of a coordinated national export policy. At that time he called for a reduction of domestic barriers to exports, and that laws affecting the international business community, including antitrust laws, be administered with a greater sensitivity to the importance of exports. The Export Task Force, a bipartisan ad hoc committee of which I am a member, was also formed last September, with the expressed purpose of strengthening the U.S. economy through increased exportation of U.S. goods and services. With the passage of this proposed legislation, we can take a positive action toward attaining these goals, and reducing our trade deficit.

Section 1. Short Title: Export Promotion and Trade Association Act of 1979.

Section 2. Purpose; Findings: Section 2 sets forth the purpose and findings.

Section 3. Office of Export Trade: Section 3 establishes within the Department of Commerce an office to promote and encourage exports to the greatest extent feasible through the formation of export trade associations eligible for the exemptions provided in this Act.

Section 4. Definitions: Section 4 defines the pertinent terms. The term "Export trade" means trade or commerce in goods or services exported or in the course of being exported from the United States or any territory thereof to any foreign nation. The term "service" means the provision, for a charge, of useful labor that does not produce a tangible commodity, including, but not limited to, business, repair, and amusement services; management, legal, engineering, architectural, and other professional services; and financial, insurance, transportation, and communication services. The term "export trade activities" includes any activities or agreements which are incidental to export trade. The term "trade within the United States" means trade between or among the several states of the United States; the territories of the United States; the several states and the territories of the United States; or the District of Columbia and the several states or territories of the United States. The term "associations" refers to any combination, by contract or other arrangement, of persons who are citizens of the United States, partnerships which are created under and exist pursuant to the laws of any state or of the United States, or corporations which are created under and exist pursuant to the laws of any state or of the United States. The term "antitrust laws" means antitrust laws as defined in Section 4 of the Federal Trade Commission Act (15 U.S.C. 44). The term "Secretary" means the Secretary of Commerce. The term "Attorney General" means the Attorney General of the United States. The term "Chairman" means the Chairman of the Federal Trade Commission.

Section 5. Exemption from Antitrust Law: Section 5 provides that any association which is formed for the sole purpose of engaging in export trade, which is engaged in export trade, and which is certified in accordance with the procedures set forth in this Act shall be exempt from the antitrust laws unless (1) the association or the export trade activities of its members results in a substantial restraint of trade or competition within the United States; or (2) the association or any of its members, with respect to its export trade activities: enters into any agreement with any domestic producer who is not a member of the association, to fix prices or the terms of sale or otherwise restrain the free export of goods of non-member firms engages in any act which results or may reasonably be expected to result, in the sale for consumption or resale within the United States of the goods exported by the association or its members; acquires control of any patent or license useful in the production of the goods that the association or member exports; or enters into any agreement with a foreign concern engaged in the manufacture or sale of the same goods exported by the association or member, to fix prices or divide sales territories. Section 5 establishes that federal agencies shall have standing to bring action against an association for failure to meet the requirements set forth above. Section 5 makes provisions for persons to petition a federal agency to bring an action against an association. It also describes the remedies available to the federal agency and creates jurisdiction in the federal courts for an action brought under this section.

Section 6. Acquisition of Stock or Other Capital: Section 6 provides that nothing contained in Section 7 of the Clayton Act shall be construed to forbid the acquisition or ownership by any corporation of the whole or any part of the stock or other capital of any organization organized solely for the purpose of engaging in export trade, unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition within the United States.

Section 7. Prohibition on Unfair Methods of Competition Against Domestic Competitors: Section 7 prohibits unfair methods of competition used in export trade against domestic competitors engaged in export trade.

Section 8. Certification: Section 8 establishes the procedure for applying for certification as an export trade association. It describes the information to be included in the application for certification, the methods by which the association conducts its export trade, and any other information which is reasonably available to the applying parties and which is necessary for the certification of the prospective association. It stipulates that the Secretary certify an association within 90 days after receiving the association's application, if he determines that the specified requirements are met. The section also provides for an expedited certification process and an amendment procedure. If there is a material change in circumstances which would cause an association to fail to meet any requirement of Section 5(a), the association must apply to the Secretary for an amendment of its certification within 30 days of the date of the material change. If the Association fails to apply for an amendment within the thirty-day time period, its certification will be void as of the date of the material change. The Secretary, after notifying the association, may (1) require that an association's certification be amended, (2) require that the organization or operation of the association be modified to correspond with the association's certification, or (3) revoke, in whole or in part, the certification of the association upon a finding that the association or its members or its export trade activities do not meet the requirements of Section 5(a).

Section 9. Guidelines: Section 9 requires that the Secretary, with the concurrence of the Attorney General and the Chairman, shall formulate and publish proposed guidelines to be applied in determining whether an association, its members and its export trade activities meet the requirements of Section 5(a) of this Act.

Section 10. Annual Reports: Section 10 stipulates that every certified association shall submit to the Secretary an annual report, in such form and at such time as the Secretary may require.

Section 11. Certification of Existing Export Trade Associations: Section 11 requires the Secretary to certify any association engaged solely in export trade which is in compliance with Section 5 of the Webb-Pomerene Act on the date of the enactment of this Act. In order to obtain automatic certification, an existing export trade association must file an application for certification within 180 days after the date of enactment of this act.

Section 12. Confidentiality: Section 12 provides for the confidentiality of the information contained in an association's application for certification, application for amendment of certification, and annual report.

Section 13. International Obligations: Section 13 allows the Secretary to require any association certified under this act to modify its operations so as to be consistent with any international obligations which the United States assumes by treaty or statute.

Section 14. Regulations: Section 14 authorizes the Secretary, in consultation with the Attorney General and the Chairman, to promulgate such rules and regulations as are necessary to carry out the purposes of this Act.

Section 15. Task Force Study: Section 15 requires the President seven years after the date of enactment of this Act to appoint a task force to examine the effect of the operation of this Act on domestic competition and on the United States' international trade deficit and to recommend either continuation, revision, or terminaton of this Act.

Section 16. Repeal of 15 U.S.C. 61 et seq: Section 16 repeals the Webb-Pomerene Act.●

SOUTHERN SCHOLARSHIP FOUNDATION GIVES YOUNG PEOPLE OPPORTUNITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 30 minutes.

● Mr. FUQUA. Mr. Speaker, some time ago my office was contacted by a distraught mother. Her first marriage had ended in divorce, her second had now come to the same end. She was barely able to provide for the necessities of life, and thus her bright and talented daughter was to be denied the opportunity to attend college.

Knowing of the Southern Scholarship Foundation in Tallahassee, Fla., I contacted a man who is one of my closest personal friends and a past president of the foundation, William B. (Jargo) Clark, Jr., of Madison, Fla., to help someone to gain the college education of which she had dreamed.

The foundation accepted that young lady. She took advantage of the opportunity and graduated from Florida State University in Tallahassee with honors.

That story alone would be enough to reward all of those who have given so tirelessly and generously in one of the most remarkable philanthropic educational programs to be found in this Nation. The amazing thing is that this story is only 1 of over 5,000 men and women who have found a hand reaching out to them and as a consequence, where often there was no hope, educations have been attained by bright young people.

My purpose here today is to call attention to this remarkable work, to commend its spirit and purpose to my colleagues in the Congress, and to pay a note of gratitude for all of those responsible.

To understand the Southern Scholarship Foundation, one must of necessity go back to that day in the fall of 1949 when Mode L. Stone, dean of the College of Education at Florida State University, was faced with the problem of helping two young men who had come to him for assistance in getting a college education they could ill afford.

Perhaps Dean Stone's mind went back to that day long before when he stopped at the end of a row he had plowed behind a mule. Perhaps he thought of his hard-working farm family and how he had gone to an academy to get the rest of his high school education.

As he was later to relate the story, a model T pulled up to the fence and Calhoun County Sheriff Charley Clark stepped out. He was a close family friend and a man who was respected and loved by all who knew him.

Young Mode Stone did not know that the conversation they were to have was to change the course of his life, and thousands of lives that he was to influence later.

Sheriff Clark knew that young Stone had a brilliant mind and that he wanted the chance to attend college more than anything else in life. That was a far different day and it was not an easy task for members of rural families of that era to get a college education. It was a period when hard work from daylight to dark generally provided just for the necessities of life.

Sheriff Clark told young Stone that he understood he wanted to attend college and wondered how much it would cost for him to go. It has been said that the young man replied that he "reckoned it would take about $75." The Sheriff reached in his pocket and counted out that amount to an astonished youngster.

Getting back to 1949, Dean Stone was at a loss as to how to help two other youngsters who also came from Calhoun County. They possessed the same burning desire that he had once felt. All they needed was a little boost up the ladder.

A man of less drive and compassion might have failed, but not Dean Stone. He got permission to use an old barracks at an abandoned air base at what was then the edge of town for their quarters, and arrangements were made for the boys to prepare their own meals. Other young men began to arrive on the scene. By the end of the year it was quite a number and thus the foundation was born.

Later a house was found for quarters and Dean Stone and several other interested persons signed a note for its purchase. Thus was a path begun that was to become the major work of Dean Stone's life.

It was not until April 13, 1955, that the foundation was incorporated as a nonprofit foundation. The five founders were: J. Velma Keen, Dr. Stone, Dr. Ralph L. Eyman, Dr. Samuel Lastinger, and Dr. Hazen Curtis. Mr. Keen served as the first president and as one of the really brillant legal minds of his time, providing the legal concepts for the foundation in its early years.

Other houses were added until today the Southern Scholarship Foundation operates 15 houses for more than 270 deserving young men and women who might otherwise not be able to attend college.

But what has been accomplished is only the beginning. The foundation has acquired 6.9 acres of wooded land on the periphery of the FSU campus on which it hopes to construct additional housing for students.

It would be impossible to enumerate all of those who have made the foundation the enormous success that it is, but it is significant. As people have become interested, organizations have begun to sponsor individual houses and they present an interesting roster.

Alpha Delta Kappa, a sorority of school teachers and administrators sponsored ADK Scholarship House which is the college home for 20 women; the Business and Professional Women's Clubs of Florida sponsor a house for 21 women; the Florida Educational Association sponsors two houses for 29 women; and interested citizens of Gadsden County, Fla., provide for the Gadsden County Scholarship House which houses 14 female students.

General contributions allowed the

foundation to establish the Richmond Scholarship House for 9 men while the Lions Club of Northeast Florida provided the Lions Scholarship House for 21 men. The Selby Foundation has become a major supporter of the foundation, responsible for three houses which house 50 male students, and Kiwanis Clubs have provided for two houses providing living quarters for 25 men.

The Pilot Clubs of Florida built the Pilot House which houses 22 women students. Interested citizens of Polk County provided for the Polk County Scholarship House; and the Rotary Club of Tallahassee, the Rotary Scholarship House.

The foundation has had many supporters of its work over the years, but it is significant to note that there are four which have been particularly active in providing financial support. They are the Selby Foundation of Sarasota, the Wentworth Foundation which Bill Goza of Madison represents most actively, the W. S. Babcock Corp. of Mulberry, and the Florida Power Corp. of St. Petersburg.

But the foundation is more than a recitation of figures, the number of houses, the number of students, the budget and the financial problems and successes. It is a story of individuals and the effort to help them achieve their ambitions and dreams.

Robert Carter, Tallahassee, another long-time board member, said that the greatest reward for those working for the Foundation is in finding former participants in the program leading such meaningful lives. He noted:

> Not long ago I was on a trip for the Foundation and at one school I visited the principal had been able to get his education in the program. At the very next stop, the very fine math teacher had been one of our students. She was also a very fine wife and mother.
>
> When you see how much the Foundation has contributed to the lives of young people like this, and realize how much they are contributing in developing the lives of others, you know that it is all worthwhile.

A very dynamic member of the board of directors, Mrs. Lucy DeCharme of Bartow, Fla., the immediate past president, tells of the time that her friend, Mode Stone, asked her to help find needy students for the program in Polk County where she was teaching. That was a quarter of a century ago.

The first young man she sought to help was named Jim Morrison. He is now a distinguished faculty member at the University of North Carolina at Chapel Hill. Today, he serves on the board himself and credits the Foundation with his having been able to get an education.

And there is the story of Donald Miller, again of Calhoun County. I want to note my pride in the success and contributions of the Foundation in this county, because it is my home county, also. Donald made a score of 494 on his senior placement test, and since 495 would have been a perfect score, this was an astounding accomplishment. His family simply would not have been able to provide the means for him to continue his education, exactly the case many years before for Mode Stone.

Stone got Miller into the program where this young man finished No. 1 in his class of 1,900. A full scholarship to Duke University Medical School followed.

It is significant to note that Dr. Miller's specialty is arthritis research, the disease which crippled his mother and sentenced her to be bedridden. Today, he is on the staff at Sloan-Kettering Institute.

One of the people with whom I spoke provided the son of his janitor with the opportunity to enter the program and that young man finished last year in accounting.

I believe that the Foundation not only gives these young people an opportunity for an education, but it also gives them much more. At the beginning of each academic year, they elect their officers, establish their finances and get to work. The scholarship houses have no employees except a resident counselor in each house who is a graduate student and who receives a small stipend. Often the students are entirely self-supporting, working part time for their other expenses.

In this fashion, they cut the cost of their education drastically, and just as important, they learn to work with others to exercise responsibility.

Dr. Stanley Marshall, former president of the Florida State University and a board member himself, said that he became involved shortly after joining the faculty at FSU.

> I think that the thing the Foundation did for me was to reemphasize how many young people are overlooked in our society. There are many bright youngsters, who for various reasons but primarily economic, are not able to become involved in the social and extracurricular activities of high school life.
>
> Sometimes they are holding down after school jobs to help keep a broken family together, perhaps they are needed to work on the farm or working as a handyman on odd jobs with their parents. If they receive no encouragement from their parents and are overlooked by the school faculty, they simply do not realize that they are exceptional young people and a college education is something they feel they cannot attain.
>
> I can't tell you how many bright young people the Foundation has sought out through the help of interested people and dedicated school faculty members, particularly guidance counselors, and provided the spark that ignited a desire in the hearts and minds of so many bright, but often very poor, youngsters.

My close friend, Colin English, Jr., of Tallahassee, the Foundation president, related that he became interested when he served as president of the senior class at FSU.

> We had $500 left over in the treasury and gave it to the Foundation. Later Dr. Stone asked me to serve on the Board and it has been one of the most rewarding experiences of my life. Every year that passes impresses me more with the high quality and serious dedication of these students. I just don't know where anyone can get the rewards which those engaged in the Foundation receive from knowing how much so many have been helped.
>
> One of the primary things we have accomplished is not financial; it is in encouraging many of these young people and to show them that someone cares. It is tragic to realize how many bright minds are lost because these young people were not encouraged in their home or school. I think our hardest job is in reaching out and finding these young people, and for everyone we do find, we are the recipients of a great deal more than we can give.

W. S. Badcock, Jr., another director who is president of Badcock Furniture of Mulberry, noted that his is a program that businessmen can support.

> My father initially involved our company in the Foundation because he was impressed with not only the need but the way in which highly motivated young people can help themselves. I think it is a program that would be successful on a nationwide basis.

Getting back to my friend, Jargo Clark, he pointed to letters from grateful young people that bring tears to the eyes of many who read them.

> It's a labor of love, next to my family and church; the Foundation has meant more to me than anything I could ever have done. I like to look down the road and think that what we have done and are doing is not as important as what we will do in the future. We will never know how much better we have made the lives of the families of these young men and women because we helped give them an opportunity that they might not otherwise have had.
>
> We've been privileged to help over 5000 young people. That's more than some colleges have enrolled in their entire student body. But the numbers are not important, it's the individual that's important.

Dr. Stone died this year. While any recitation of the accomplishments of the Foundation must of necessity dwell upon his career, I know personally he felt that only one of these success stories more than repaid him for all of his efforts and his dreams.

The Foundation provides a loan fund for some of the very needy students and it is significant that today the Foundation is planning its first venture outside the campus of Florida State University where it was born and has flowered. Plans are now to establish a Foundation house at the University of Florida in Gainesville.

This undertaking on the part of those serving today is no less a challenge than those first tentative steps were for the founders, but there is a much clearer road map to follow.

I know not how successful they will be, but this I do know: Their accomplishments since those first two young men came asking for a helping hand 30-years ago have left a record for time to come.

Future generations will benefit from the contributions of those the Foundation has served and all of us are richer because of its contributions. To all of the men and women who have made it possible, I extend a sincere note of gratitude and a prayer for every success in the future.●

DISABILITY ORGANIZATIONS OPPOSE SOCIAL SECURITY PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Scheuer) is recognized for 5 minutes.

● Mr. SCHEUER. Mr. Speaker, the bill H.R. 3236, to cut the disability insurance benefits under the social security program is vigorously opposed by over 150 organizations of the aged, blind, disabled, minority, women, and church groups.

A very convincing statement has been prepared by 15 of these organizations opposing the bill: Members should study these objections very carefully before taking action on H.R. 3236.

Paralyzed Veterans of America,
Washington, D.C.

To Members of Congress.
From Disability organizations concerned about social security.
Subject response to the Stanford Ross letter of July 27, 1979.
Date July 31, 1979.

You recently received a letter from the Commissioner of Social Security which listed a number of "misunderstandings" about H.R. 3236, the proposed Disability Insurance Amendments of 1979. With all due respect to the Commissioner, there is no "misunderstanding" about one fact: passage of H.R. 3236 would be harmful to young disabled workers, disabled workers with families, disabled workers from minority groups, and disabled women.

The Commissioner stated on page 3 of this letter that "The essence of the bill is to improve protection for persons who are legitimately entitled to disability benefits . . .," yet virtually every disability organization in the country, along with organizations representing the elderly, minorities, women, and veterans, have opposed H.R. 3236. If, as Commissioner Ross has stated, "The bill is a balanced package designed to make the disability program work better," why have all these potential beneficiary groups opposed the bill so strenuously?

There are a number of reasons why opponents of the bill have been so strenuous in their efforts to defeat it:

1. Although the proposed cap and reduction in drop-out years would not reduce benefits for current disability insurance beneficiaries, it would reduce benefits significantly for all future beneficiaries with families to support, and for all future beneficiaries who become disabled before reaching age 47.

Social security disability insurance benefits were reduced significantly on January 1, 1979 as a result of the 1977 amendments. Thus, current beneficiaries who qualified for benefits after January, 1979 receive benefits that are much lower than those who qualified for benefits before January, 1979.

H.R. 3236 would impose an additional reduction in benefits to two categories of disability insurance recipients who become eligible for benefits after January, 1980. It would reduce the benefits of all new beneficiaries with families to support (30 per cent of all beneficiaries), and those persons who have the misfortune to become severely disabled before the age of 47.

2. The combination of the proposed cap and reduction in drop-out years would reduce benefits for disabled workers and their families after 1979.

All disabled workers under the age of 47 who qualify for benefits after January, 1980 would have reduced benefits if H.R. 3236 is passed by Congress. This reduction in benefits would be caused by the reduction in drop-out years for younger disabled workers.

Under current law, all social security recipients are allowed to exclude their 5 lowest earnings years when computing their average lifetime earnings (upon which benefits are based). If H.R. 3236 is passed, younger workers will not be entitled to this entire 5-year exclusion, so more years of low earnings will be "averaged in" to determine their average lifetime earnings.

H.R. 3236 also would limit the family benefit to only one-and-a-half times the individual benefit to which the worker is entitled, no matter how large the family is. Thus, all persons with families who qualify for DI after January, 1980 would receive benefits that are substantially less than the current benefit levels.

We are curious. If the object of benefit reductions is to save money, is it ethical to save money by reducing the benefits of disabled persons who have families to support? If the object of the reduction is to provide "work incentives" to disabled workers, what makes a disabled worker with dependents the most likely DI recipient to return to work? It would appear to us that the extent of one's disability—rather than the size of one's family—would be a more likely determinant of employability.

3. H.R. 3236 will have an adverse impact upon beneficiaries as they grow older.

All "cuts" in social security disability benefits carry over to the social security retirement program. Thus, a worker who receives reduced benefits because he became disabled at a younger age will continue to receive benefits at a reduced rate when he qualifies for retirement benefits.

Persons who qualify for disability benefits at younger ages must be among the most severely disabled of all DI beneficiaries in order to qualify for benefits in the first place. Older workers can become eligible for coverage based upon a combination of age, education, training, and work experience. A disabled worker under the age of 45, however, must qualify solely on medical factors.

Secondly, workers who become disabled at a younger age are "frozen" at the average earnings level at which they become disabled. Thus, while their age group peers can share in the growth of the economy, and can add to that by growth in their own earnings capacity, the unfortunate person who becomes severely disabled at a younger age benefits only from regular cost of living increases. What occurs, then, is that the younger worker who becomes disabled at a younger age "falls behind" the growth in the national economy. If the committee proposal is adopted, he not only will start out at a much lower level of benefits, but also will experience a significant additional drop in his relative income as compared to his peers.

4. Veterans are likely to be adversely affected by the cutbacks in social security disability benefits under H.R. 3236. Veterans with non-service-connected disabilities will receive additional compensation to affect the reductions in Disability Insurance benefits, but, only up to a certain level. An NSC veteran with two dependents has an income cutoff figure, the level above which no pensions are paid, of $5,775. Thus, an NSC veteran with Average Indexed Monthly Earning (AIME) above $650 receives no additional compensation from the Veterans' Administration and suffers a reduction in benefits under the proposed "Cap."

The Vietnam Era Veteran is faced with additional inequities built into the structure of H.R. 3236. The Vietnam Era Veteran being either in his or her twenties or thirties, would be permitted fewer drop-out years resulting in a reduced AIME. This situation is compounded when coupled with the extremely high levels of unemployment and marginal employment that beset Vietnam Era Veterans, particularly minority and educationally disadvantaged veterans.

5. A vote for H.R. 3236 is a vote to cut benefits.

Although H.R. 3236 contains several modest work incentive provisions, only a very few disability insurance recipients could ever be expected to return to any substantial employment. Thus, to arbitrarily reduce benefits to future beneficiaries while moderately increasing work incentives to the few who could work seems to us to be patently unfair and ill-advised.

Commissioner Ross implies in the closing paragraphs of his letter that disability insurance recipients can receive more in benefits than they did in predisability "net" earnings. In point of fact, it is virtually impossible to receive more in benefits than one earned prior to becoming disabled. Benefits are based upon average lifetime earnings, which in most cases are considerably lower than one's earnings immediately prior to onset of disability. Furthermore, benefits were reduced greatly as of January, 1979.

Secondly, "net" earnings as defined by the Social Security Administration are based on a series of assumptions that simply do not reflect the average disability insurance recipient's financial situation. In computing "net" earnings, the SSA has assumed, among other things:

a. That the disabled worker is over 47 (so he wouldn't be affected by the reduction in drop-out years);

b. That Federal taxes are computed assuming a standard deduction, and that state income taxes are 19 percent of Federal income taxes (even though income taxes vary greatly from person to person and state to state); and

c. That work expenses equal 6 percent of gross earnings (while SSA subtracts nothing for disability-related expenses after one becomes disabled and makes no allowance whatsoever for the loss of work-related fringe benefits, such as health insurance for one's family or life insurance for oneself).

In summary, people rely upon disability insurance benefits for one reason and one reason alone—they are so severely disabled that they are unable to continue working. They have paid into social security disability insurance throughout their working lives to guard against occurrences such as permanent disability. To reduce benefits to select segments of this population would seriously undermine the basis upon which the entire system is based. It is not "the taxpaying public" that pays for disability insurance. The disability insurance program is financed through a separate trust fund—a trust fund which, according to the fund's trustees, is expected to be in solid condition well past the year 2000.

We urge you to vote against H.R. 3236.

Sincerely,

Paralyzed Veterans of America; The National Association of State Mental Retardation Program Directors; United Cerebral Palsy Association; American Federation of the Blind; Center for Independent Living, Berkeley, Calif.; Multiple Sclerosis Society; National Spinal Cord Injury Foundation; American Council of the Blind; American Coalition of Citizens with Disabilities; The Epilepsy Foundation of America; National Association for Retarded Citizens; National Association of Private Residential Facilities for the Mentally Retarded; Westside Community for Independent Living, Los Angeles, Calif.; Disabled American Veterans; and Pennsylvania Alliance of the Physically Handicapped.●

THE EMPLOYEES' INCENTIVE OWNERSHIP ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. JONES) is recognized for 5 minutes.

● Mr. JONES of Oklahoma. Mr. Speaker, today my colleague BILL FRENZEL and I are introducing an important and unusual bill. Important because it would help to stimulate the productivity gains and the new jobs which our economy needs, and unusual because we believe it would also increase Federal tax revenues.

Our bill, The Employees' Incentive Ownership Act, would amend the internal revenue code to reinstate the restricted stock option as an attractive form of corporate compensation. It would enable corporations once again to provide their employees with meaningful incentives to achieve business growth and increased productivity, thereby creating new jobs in the private sector and stimulating our economy. The cost of these incentives would be borne by the corporate shareholders.

We view this bill as a part of the process Congress began last year by lowering the capital gains tax rate. Both Congressman FRENZEL and I were privileged to have been original cosponsors of that measure introduced by our distinguished former colleague the late Bill Steiger. That change in U.S tax policy, reversing a decade of investment stifling legislation, has already had a substantial positive effect on capital spending and risk capital investments in the United States.

It has particularly affected investments in the emerging, growth-oriented companies that can be most effective in creating new jobs. Newsweek magazine reported recently, for example, that in the 12 months since it became clear that capital gains taxes would be reduced, entrepreneurs have raised an estimated $750 million for investment in fledgling companies—an amount roughly equal to all the venture capital raised between 1969 and 1977.

Repeated studies have documented that the smaller, emerging companies create substantially more jobs as they grow than do larger, more mature businesses. However, in order to do so, they need risk capital, and they also need meaningful incentives to attract and motivate talented employees to invest their personal energies toward the goals of company expansion and productivity improvement.

In the past, companies could offer such incentives in the form of restricted stock options. These options, granted by corporations, gave an employee the right to purchase a specified number of shares of the company's common stock for up to 10 years at a price discounted by no more than 15 percent from its market value at the time of the option grant. By having this right, an employee could benefit from the capital appreciation of the company as an owner, without having to invest his or her scarce funds. Even after the employee exercised the option and purchased the stock, he or she could continue to hold it, often holding the stock long enough for it to qualify as a long term capital asset. The employee could then sell the stock purchased under such options and pay a long term capital gains tax on the difference between the selling price and the original purchase price.

Here is an example of how it works. A company grants an option to its employee for $10. The option guarantees the employee the right to purchase the company's stock for up to 10 years at $10 per share. The option is valuable to the employee only if the company grows. It therefore serves as a direct reason for him to work to improve the company's productivity and profitability. If through hard work several years later, the stock is worth, say $20, he exercises the option—purchase the stock for $10.

At that point, no taxes would be due, and the company recognizes no expense on its profit-loss statement. If over the next few years the growth of the company enables its values to reach $50, and if the employee then decides to sell the stock, he pays capital gains tax of up to 28 percent on the $40 gain.

Under present law the company is required to treat the "nonqualified" options it may grant, as expenses at the time the employee exercises the rights. The employee has to treat the difference between the option price and the market value at the time he purchases the shares as ordinary income. In the example above, the employee would count the $10 stock appreciated as earned income and would have to pay income tax on it at rates up to 50 percent. The company, however deducts the $10 as an expense, an amount paid to an employee. Accordingly, it pays less tax. The top corporate tax rate is 46 percent.

The prospect of having to pay ordinary income tax on the "spread" between the price at option grant and the price at the time the employee purchases the stock, has seriously diminished the incentive value of stock options today.

Not only is taxation at ordinary income rates inconsistent with what other owners would pay on their capital appreciation, in addition the employee must pay the tax before he actually realizes the gains from selling the stock. Employees without reserves of funds usually cannot afford both to buy the stock and to pay the tax. Furthermore, they are often prevented from selling the stock immediately to generate such funds because their companies may be privately held or because of insider trading regulations if the stock is publicly held. The prospect of getting into such a financial squeeze is hardly an incentive for outstanding performance.

In other instances, today's law results in gross and unintended hardship. For example, if the value of the stock purchased through an option should decline at the time when the employee needs to sell it, the employee not only loses out on his sale price, but he has already paid taxes on a "gain" he never realized. This is not just a theoretical possibility, it has happened often enough in the last few years to destroy any usefulness employee stock options may have had for companies in volatile industries.

Reinstating restricted stock options would broaden the base of employee ownership throughout the United States by giving employees who could not otherwise afford to risk investing their scarce funds in an emerging enterprise an opportunity to share in its success as owners. Also, restricted stock options would provide incentives for these employees to expand the businesses in which they are involved, thereby creating more jobs and enhancing productivity. These incentives would be strong since it is only by growth in their companies' sales and profits that the employees' options become valuable.

Besides broadening the ownership base of businesses and providing incentives for increasing employment and productivity, we hope the reinstatement of restricted stock options would increase Federal tax revenues. This is because the grant or the exercise of the restricted stock option is not a deductible compensation expense to the corporation, yet it generates capital gains tax revenues when the stock is sold. Instead of being shared with the Treasury through a corporate tax deduction, the full cost of the restricted stock option is borne entirely by the companies' shareholders, who must approve their issuance.

On the other hand, alternatives to restricted stock options such as normal cash compensation or the "nonqualified" stock options that are permitted under current law, do generate corporate expense deductions which offset and may exceed any net revenue gain to the Treasury from the taxes paid by the employee.

From the Nation's point of view, restoring restricted stock options is important because it would allow U.S. companies to increase their productivity and competitiveness without affecting the price of their goods. This is the kind of formula we have to emphasize if we are to ever lick our inflation or survive in the tough international markets in which U.S. companies must compete today.

It is well known that export of U.S. high technology products is one of the few bright spots in this country's current trade balance. These products typically come from small, innovative, and fast growing companies. They are the very companies that would benefit most from the bill we are introducing today. Reinstating restricted stock options would give them a means to compete for top talent on an equal basis with the larger, established companies that can afford to pay high salaries.●

EQUITY FOR THE PHILIPPINE SCOUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, when the House takes up the fiscal year 1980 Defense Authorization bill (H.R. 4040) I intend to offer an amendment to correct a long-standing inequity in our treatment of the former members of the Philippine Scouts. Although they were a part of the U.S. Army and fought and died during World War II alongside their American counterparts, the Philippine Scouts never received the same pay and benefits. This kind of discrimination is intolerable, and my amendment would go a long way toward rectifying that unfortunate situation.

In describing the Scouts, Gen. Douglas MacArthur called them "excellent * * * completely professional, loyal and devoted." The Scouts were an elite group with a high esprit de corps in which membership was considered an honor by Filipinos and the strictest standards were followed in selection. It was the continued resistance of the Philippine Scouts on Bataan that denied the Japanese an essential base for the projected thrust to the South Pacific. Their protracted defense of the Philippine Islands against incredible odds allowed the United States time to recover from the first blows of the war and begin to send in supplies and reinforcements.

Of the 12,000 men who served in the Philippine Scouts there are less than 465 today receiving regular and disability retired pay from the Department of the Army. Although most of these men live in the United States and many are now citizens, they receive only half the benefits of other retirees with comparable lengths and grades of service.

The cost of my amendment is minimal compared to the sacrifice of life and limb made by the Philippine Scouts. I urge my colleagues to support this noncontroversial and important amendment. The amendment follows:

AMENDMENT TO H.R. 4040, AS REPORTED OFFERED BY MR. PANETTA

Page 33, after line 8, add the following new section:

RETROACTIVE PAY EQUALIZATION FOR WORLD WAR II PHILIPPINE SCOUTS

SEC. 818. (a) The Secretary of the Army shall pay in a lump sum to each person who served as a Philippine Scout during the period beginning on December 7, 1941, and ending on December 30, 1946, an amount equal to the difference between (1) the total amount of basic pay such person would have received for his military service during such period if the rates of basic pay of the Philippine Scouts had been the same as the rates of basic pay during such period for other members of the Army of the United States of corresponding grades and length of service, and (2) the total amount of such basic pay actually received by such person.

(b) In the event a person entitled to a payment under subsection (a) is deceased, such payment shall be made to the persons, and in the manner, prescribed in section 2771 of title 10, United States Code.

(c) The retired pay of each former Philippine Scout shall be computed for periods after the effective date of this Act on the basis of the rates of pay prescribed for other members of the Army of the United States of corresponding grades and length of service.

(d) This section shall take effect as of the first day of the first calendar month which begins after the date of the enactment of this Act.●

AMENDMENT TO EXPORT ADMINISTRATION ACT REDRAFTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. ICHORD) is recognized for 5 minutes.

● Mr. ICHORD. Mr. Speaker, on July 19, I advised this body of my intent to offer a series of amendments to H.R. 4034, the Export Administration Act Amendments of 1979. The first of those amendments consisted of four parts and would have perfected and modified subsection 5(d) of the bill, military critical technologies.

Since that time I have decided, in the interest of clarity, to redraft subsection 5(d) in its entirety so as to embody all four changes in a single amendment.

Mr. Speaker, I would reiterate that it is the intent of this amendment to place the proper focus on the control of those military critical technologies that are vital to our national security. This amendment would also permit the Secretary of Defense, who is responsible to the Commander in Chief for security matters and who has the only body of expertise to determine that which is militarily critical, to place such items on the commodity control list, a list maintained and administered by the Secretary of Commerce.

Mr. Speaker, I would respectfully request that the Members examine my amendment which I have offered to be printed in the RECORD today and support the same in the interest of the national security.●

COMMEMORATING THE FOURTH ANNIVERSARY OF THE HELSINKI FINAL ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, 4 years ago today, the heads of state of the United States, Canada, the Soviet Union, and 32 European nations met in Helsinki to sign the Final Act of the Conference on Security and Cooperation in Europe. The signatory states solemnly pledged to work together toward the goal of a more open and secure Europe, based on a set of mutually recognized principles including sovereignty, cooperation among states, and respect for human rights.

The Helsinki accord is an important contributing factor to the long term and complex process of East-West adjustment. Its potential for effecting positive changes—over time—in the attitudes and practices of signatory countries is enormous. Yet the effect of the Final Act can only be as constructive as the participating states are willing to make it. Unfortunately, its impact after 4 years has been sorely disappointing.

Rather than facilitating the freer movement of people and ideas as called for in the Helsinki agreement, the Government of the German Democratic Republic has decided to mark the Helsinki anniversary by enacting restrictive legislation that severely limits their citizens contact with the West. Czechoslovakia has chosen to commemorate the occasion by putting on trial 10 human rights activists and leaders of the Charter 77 movement. Emigration procedures in Romania have worsened since 1975 and the recent crackdown on dissident activity calls into question Romania's willingness to abide by its Helsinki commitments. Bulgaria has—in recent weeks—reportedly arrested a number of Christian pastors for distributing Bibles and other religious literature. In the Soviet Union, 17 members of the Helsinki Monitoring Groups—established to promote Soviet compliance with the accord—still languish in prison or remote Siberian exile for merely attempting to exercise the rights guaranteed to them in the Final Act. While Soviet Jews have been allowed to emigrate in larger numbers, officially sanctioned and virulent anti-semitism is on the rise, as reported recently in several major American newspapers and journals.

Many long-standing family reunification and binational marriage cases remain unresolved and thousands of Pentecostals, Ukrainians, Balts, and members of other religious and ethnic groups have little hope of ever receiving permission to leave the U.S.S.R. despite the Final Act's reaffirmation of the universally recognized right of emigration. Such flagrant violations of the spirit and letter of the Final Act must be strongly condemned.

As we look toward the next review meeting of the participating states, to be held in Madrid in 1980, it is clear that many CSCE signatories have a long way to go before the noble aspirations envisioned in the Final Act become reality. As chairman of the Helsinki Commission, created by Congress to encourage compliance, I assure my colleagues that the Commission will continue to closely monitor progress—or lack thereof—and to actively urge full implementation of all the provisions of the Final Act, including those on human rights, by all the signatories.●

THE HARD TRUTH ABOUT OUR ENERGY FUTURE

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, I am still very concerned that the facts about our growing energy dilemma are still not generally understood. Reflected in the media is a great deal of wishful thinking that something will suddenly happen to cause the problem to go away—wonderous technical development, a complete solution by conservation or some other single thing which will save us.

Such understandings are based on misinformation. I have attempted numerous times to present the facts on our energy dilemma during over three decades of work on the energy problem. We on the old Joint Committee on Atomic Energy issued many reports to lay out the facts which must be faced. The reports we published in 1973 and 1974, for example, on our growing energy dilemma clearly pointed out the need for the development of all practical domestic sources but also clearly identified coal and nuclear as our only significant basic sources of energy for the next few decades.

Recently, Dr. Arthur Bueche, senior vice president for technology of the General Electric Co. delivered a paper to the Western Conference of Public

Service Commissioners in Seattle on June 11, 1979, which did an excellent job of presenting the facts concerning our energy problem. Excerpts from this outstanding paper are included at the close of my remarks. (The figures are not presented but the text conveys the most significant data presented in them). I highly commend the data presented by Dr. Bueche to all of my colleagues. He assigns numerical values to each of the factors he analyzes in his review of our energy problem. This, in my view, is the only way to approach this matter.

Dr. Bueche faces the energy facts as they truly exist. As you will see, even with the optimistic assumptions he makes concerning conservation, imports and other things, to be less vulnerable to nit-picking, we are going to be short about 15 to 45 quads per year of energy if we do not face the facts and recognize we must increase the amount of energy we get from coal and nuclear fuels.

I also commend to each of you his analysis of what the minimum shortage—15 quads—would mean to our way of life. The development of such a shortage is plainly unacceptable. Incidentally, the 1973 oil embargo resulted in the equivalent of only 1 quad per year shortage. The national security implication is in itself devastating. We must move ahead with what is available, especially coal and nuclear, which for administrative reasons, are being restrained.

Dr. Bueche's paper follows:

THE HARD TRUTH ABOUT OUR ENERGY FUTURE

(By Dr. Arthur M. Bueche)

Most of us have calculated how old we will be, or hope to be, in the year 2000. Even those of us who are statistical longshots can be impressed by the fact that the goal is only a little over 20 years away.

But what worries me is: how welcome will that rather special New Year's Day be? What can you and I do about our energy future to keep that day not only from being a cold day in our homes but also from being a chilling sign of the future for man and his civilization?

How can we help "unfreeze the future"?

Our immediate problem is that a fantastic amount of misinformation, wishful thinking, outright demagoguery and misplaced hopes are keeping many Americans from looking their future straight in the eye.

Somehow we'd all like to believe that some wonder of science, some miraculous new use of the sun, some unexpected invention, a little energy conservation (preferably by someone else), or some governmental sleight-of-hand will—out of the blue—provide us with the labor-saving productivity improvements, the freedom of personal mobility, the national defense strength and the just plain creature comforts to which we have become accustomed. Indeed, we like to hope and expect that we'll not only have more of these good things for ourselves but also that we'll be spreading them around for those, all over the world, who are now less fortunate.

We can all be in favor of optimism when there's some factual basis for it. But the reality is that if we—as individuals—don't get our energy facts straight right now, and then begin telling the hard truth to our friends, neighbors, and especially the people we've elected to serve us, we could be in for a greater calamity by the year 2000 than wars, plagues, pestilence or natural disasters have ever inflicted on this nation!

But many people say, "The energy situation is too complicated, too complex, too technical. How can anybody ever understand it?"

Well, some of the various aspects and details *are* complex. But the total energy picture between now and the year 2000 is reasonably straightforward if we just look at the hard truth.

To explain what I mean by the "hard truth about energy," let's start with a simple chart (Fig. 1). It shows how much total energy the U.S. has been using since the start of the 20th Century—and the estimate of 78 quads for last year. By coincidence, that was 78 in '78. As a convenience, we count the energy in "quads." A "quad" is a quadrillion BTU's—British Thermal Units—and that sounds complicated. But don't let it be. It just gives us a convenient number to talk about, like yards on a football field.

A "quad" is seven and a half billion gallons of gasoline, enough to run 10 million automobiles for a year. Or it's 46 million tons of coal; that's a string of railroad cars stretching from Seattle to New York—and back. Viewed another way, a quad is about the total energy used by a city of one million people every three years.

How did we use our 78 quads of energy last year? A little more than a quarter of it went for transportation, mainly cars and trucks on the highways. Our homes, offices, and stores used about 3/8ths; and another 3/8ths was required by industry.

Incidentally, about one half of our energy is used to generate heat—heating buildings, water and, for industry, process heat. Without going into a lot of details about other energy use, I will note that the appliances found in most American homes—refrigerators, ranges, mixers, tools, TV, and even all the lights—account for only about 3 per cent of the nation's total end-use energy.

Now, what will happen between now and the year 2000? If we were to simply extrapolate—assume a continuation of the upward growth curve we were having for the 25 years after World War II—the line would go out of sight—off the top of our chart. Total energy use would nearly triple to beyond 200 quads.

Of course, virtually none of the experts think this will happen. Population growth is slowing, age distributions are changing, and the service elements of our economy are growing faster than manufacturing. Price increases are changing things, of course, and other so-called "demographic factors" are involved. It's generally assumed that these demographic factors will, of themselves, reduce that simple extrapolation of more than 200 quads by A.D. 2000 to something close to 175.

But a projection like this still doesn't take into account another factor we're hearing more—and more and more!—about these days: energy conservation.

We do waste a lot of energy. We need more insulation in houses and buildings, better burners, lighter cars. There is ample opportunity to save by changing our old ways. Also, we have new technology coming along to improve energy conversion—heat to electricity, electricity to light and mechanical energy, and so on.

Conservation is important. Vitally important. And much of it is a matter of individual responsibility. It's something each of us can do something about.

People who say "conserve" are certainly right. But people who say "all we've got to do is conserve" are dead wrong—and dangerously wrong as far as our future and that of our children is concerned.

What can conservation do to help shave our projected need for energy by the end of the century?

The Department of Energy—and other governmental agencies—have come up with all kinds of different projections. Typically, they suggest that conservation can account for something in the range of of 40 to 50 quads per year by the end of the century.

But I'd rather not get into an argument about the validity of various governmental—or other—projections. Instead, let's look at the most optimistic combination of what appear to be the most reliable and well-thought-out estimates that can now be found in the authoritative literature. Let's consider the most hopeful guesses for each of the three sectors: transportation, residential/commercial and industrial. We've looked at studies made by the Oak Ridge National Laboratories, by the National Academy of Sciences and by many others, and the most optimistic, reasonable, combined figure we can come up with is a potential total saving of about 65 quads, a somewhat more optimistic figure than most of those that have been predicted. By being optimistic about how much we can conserve, I feel I'll be less vulnerable to nit-picking in regard to my eventual conclusion about our future energy needs, which I'll be describing in a moment.

Our optimistic hopes for possible energy conservation are, then: 25 quads in industrial, 20 in residential/commercial, and 20 more in transportation. It's a tremendous challenge. It will require an enormous amount of capital—perhaps a half trillion dollars—and a true national commitment.

Now, a quick summary (Fig. 2). We first extrapolated to over 200 quads by the year 2000. Then we made demographic allowances down to 175. By being extremely optimistic about conservation in all areas, we reduced the number to 110.

That figure, incidentally, is also the minimum projection cited last year by the Department of Energy after it had looked at a wide variety of predictions by experts from government, industry, the universities and others. Most of the best-considered predictions were higher, in the range of 120 to 140 quads.

Let's see how we can get from 78 to 110. To do this, we have to look at where we got the quads we consumed in the U.S. last year—that 78 in '78. (Fig. 3)

Oil is the largest source, providing nearly half of our total present energy: 37 quads. Nearly 50 per cent of this oil is now being imported, at a staggering cost to our economy.

Natural gas comes next: 20 quads.

Hydroelectric has been producing about 3 quads per year, although extended droughts can be a serious threat to this supply. Incidentally, in compiling its statistics, the Department of Energy now lists hydro power under "solar." For the purposes of our discussion today, I've used an additional heading, "other," in which I've lumped the energy we now get from solar heating systems, biomass (the burning of wood and agricultural wastes), geothermal (using heat from beneath the earth's surface), and the comparatively small contributions from things like windmills, and so on.

The total here is only about one quad, although this needs a little amplication. Frankly, no one seems to measure the amount of biomass fuel (wood and waste products) except for that used to generate electricity. Recent DOE reports suggest that there is another one quad or so of biomass energy used each year that is not included in the customary statistics. So maybe our total figure for '78 should be 79 quads—and this "other" item should be 2 instead of 1. But this wouldn't change the main point, which is that the total energy we presently get from these "other" sources is relatively small.

To move up our chart: last year the figure for nuclear energy was 3 quads, and for coal it was 14 quads. Total: 78.

Now, how about the year 2000?

Here, once again, our estimates will be

based on comparing and interpreting the best, most authoritative and most reasonable projections available.

The present expert concensus is that petroleum, in total quads, will go down only very slightly. This projection is based on the hope that we will be able to maintain, and possibly increase, our domestic production, including some oil from shale. This guess also assumes a relatively high level of imports throughout the period. That's a big "if," but let's give ourselves the benefit of this geopolitical doubt.

While doing this, though, let's not forget the enormous cost. As recently as 1971, the U.S. spent only $3.7 billion a year on foreign oil. Last year it was approximately $45 billion!

Contrast this, for example, with the fact that our total exports of agricultural products last year were just over $15 billion. This nation continues to have an extremely critical balance-of-payments problem; our continuing dependence on imported oil can only serve to make a bad situation much worse. And in the long run, of course, dependence on foreign oil has implications for our national defense that could be far more serious than mere money.

Many experts say that there will be an overall reduction in the availability of natural gas, from 20 quads down to around 15. But others hope there will be new finds—or more imports from Mexico—and they suggest we may be able to keep natural gas supplies nearly constant. Again, we'll make an optimistic projection and assume the statue quo can be maintained. * * *

It will take a mountain of patience in dealing with environmentalists and all the other concerned parties, but hydroelectric could increase as much as 65 per cent, from 3 quads to perhaps 5.

We come now to that collection of unique, unconventional and hoped-for sources of energy that I lumped under "other" when we were adding the total for 1978.

It is at this point that someone typically asks: "Where are all the scientific miracles we keep reading and hearing about in the popular press and on TV? Where are the gasoline-producing bushes and trees? The wind energy? Tidal power? Ocean thermal gradients? Energy from wave motion? Fusion? Electricity directly from sunlight?"

"Can't we just leave the problem to our great scientists and engineers? Won't they invent something just in the nick of time, especially if we just have the Department of Energy give them all the funds they need?"

The fact is that inventions will be made; they are being made. Many of the world's greatest minds are working on these energy challenges. But even under the most miraculous of conditions, new discoveries can't be tested, scaled-up, proved environmentally compatible and actually constructed on a scale big enough to make a major dent in the problem over the next two decades.

In short, I don't know a straight-thinking scientist or engineer anywhere who can look you in the eye and promise you a new technical miracle of any kind—based on an invention not yet made or proved technically feasible—that will close the energy gap looming ahead of us for the balance of this century. * * *

Of course, we keep hearing over and over that the thing that will save us is "solar energy."

What about solar?

Solar energy is really several distinct technologies. At the top of the list must come solar heating, which—after all—has always been with us.

Since the most economic systems now available—with sufficient life and reliability—are in the range of $30 per square foot, it is apparent that solar heating is presently a good bet only in a few special parts of the country where there is either lots of sun or where fuel rates are unusually high. Also, there are unique areas—like the mountains of Colorado—where the climate is cold and the sun shines a lot. But in many parts of the country, the cost of solar collectors will have to come down substantially before wide use can be recommended.

So I do not mean to sound pessimistic. I am sure that in the right locations, and assuming continued technological progress, solar heating systems should find growing use.

However, other types of solar energy have dimmer prospects than do the more straightforward uses of solar heat.

Windmills are an old way of using the sun's energy. The Department of Energy has sponsored the building of some large installations yielding over 100 kilowatts of electric power, including one that is actually being used in New Mexico to feed an electric utility system. But so far the cost of such devices has been in the range of $5,000–10,000 per kilowatt, five to ten times the investment required for a coal or nuclear plant. Proponents of wind power believe these costs can be reduced to permit commercial application in selected areas.

The use of so-called "biomass" energy—that is, the fuel energy of trees, grass, other plants and various kinds of organic wastes—can likely be effective to some extent on a dispersed basis. General Electric's plant at Lynn, Massachusetts, has been experimenting with the use of industrial wastes as fuel for its own power plant. On some farms and feedlots, the waste material can be burned directly or converted into methanol or similar fuels to replace some of the conventional fuels the farm uses. It also has been suggested that modern forestry methods pioneered by the paper industry—among others—might once again make wood a significant energy resource, as it was a hundred years ago.

The economic feasibility of this and most other "biomass" approaches remains uncertain; however, it is estimated that the use of "biomass" will increase slowly in the future.

Several methods of turning solar energy into electricity are worthy of attention. Using the sun as a heat source for a conventional turbine cycle certainly is technically feasible, but once again costs appear extremely high. Prototype plants are in the range of $12,000 per installed kilowatt. This must be improved by a factor of at least six to become economically competitive.

In short, to use the sun's energy effectively for anything other than heat will require a truly major scientific breakthrough.

Let me sum up the projections on solar energy this way. A concerted effort at research, development, and commercialization may result in 4 quads from solar heating by the year 2000, and an optimistic 1 quad from solar-electric and windmills combined. Meanwhile, increased use of biomass and geothermal should bring the total for this "other" category to 10 quads. Then if we include hydro as "solar," as the Department of Energy now does, we would have a projection of 15 quads for "solar" energy. Many experts would say that these estimates are, to say the least, generous.

As for nuclear, if we could count on the nuclear powerplants now actually on the order books, but not yet on stream, we'd have an additional 7 quads. Beyond that, tne industry is virtually at a standstill, with no new orders coming in.

And even if some people in this nation stop viewing nuclear power the way people in Salem once viewed witches, it's important to remember how long it takes between placing an order for a new nuclear powerplant and getting it installed and up to full power. Utilities must place their orders today if they expect a plant in actual operation much before the early 1990s. That's how long it takes to build a plant, even one based on knowledge and technology already available and in a field where there are more than two decades of practical experience. It's been pointed out that we mobilized for, fought, and won World War II in about the time it now takes to get preliminary approval for a new power station.

But let's hope that somehow we are allowed to build at least the nuclear plants now on order. That would move the line on the chart up from 3 to 10 quads.

That leaves coal—the present source of 14 of our 78 quads. With its environmental problems—and with the rapidly escalating cost of digging it, moving it and cleaning it—some experts say that we'd be challenged just to hold our own in this area. Arbitrarily, and just for the sake of summarizing the picture at this point in our discussion, however, let's round-off the coal number at about the present level: 15.

Given these projections, in the year 2000 we would have an energy gap (Fig. 3) ranging from a minimum of 15 quads to a maximum—if we look at the top side of the predictions cited by the Department of Energy—of 45 quads.

What does even a 15-quad shortage mean? It's a lot more than just an abstract number. The 1973 oil embargo created a shortage of about 1 quad, and that 1 quad triggered the most serious economic recession this country had undergone for more than 40 years. The gas shortage during the winter of 1976–77, which closed thousands of plants, idled more than a million workers and caused a great deal of human suffering, totaled much less than 1 quad. Just start imagining the consequences of even a 5-quad shortage or a 15—or a 45!

Well, let's consider some of the consequences—consequences which might be lumped under the heading of "changing our whole way of living."

We could give up the impressive social gains of the postwar years.

We could let the bulk of our work force return to the back-breaking toil of the 19th Century.

We could give up on trying to improve human health standards and the quality of medical care.

We could relinquish the idea of income security in adversity and in old age, an idea—like the others I've just cited—that is made possible only by steadily growing productivity in our goods-producing sector.

Perhaps, most serious of all, we could give up our national defense strength and stop trying to be a counterbalance to the military and atomic strength of other nations.

This brings us directly to our responsibilities, yours and mine, with respect to seeking truly viable options—humane options—options that will reflect our nation's spirit, strength, ingenuity and courage.

Looking at our chart again, we can remind ourselves that we are near the upper limits of what we can realistically project for oil, gas and hydro. It is difficult to find any reliable experts, anywhere, who believe these figures can be increased by any significant amount. Indeed, there are many who think the numbers we've already used for oil, gas and hydro are perhaps too optimistic.

The same thing is true about our projections for energy from solar and the other sources. Getting ten quads here already is a major challenge to the nation's innovative skill and its willingness to make adventuresome investments in new technology.

That leaves coal and nuclear. Coal is by far this nation's most abundant energy resource. We have enough to last at least several hundred years. Nuclear, viewed rationally and objectively, is a proven technology. We have more than two decades' experience in building and operating nuclear power plants. They work. They are economic. If viewed the way we view virtually every other aspect of modern life, they rank as by far the safest major development in the history of technology. And there is sufficient uranium fuel to take us well into the 21st Century, giving us time to develop the longer-term prospects like solar electricity, thermonuclear fusion, solar-assisted hydrogen production and whole new families of synthetic fuels.

The simple fact is that we must figure out how to close the energy gap with either coal, or nuclear, or—more likely—the most environmentally acceptable and affordable combination of the two.

In any event, the challenge is enormous.

If we're going to try to do the job with coal, we must start—right now—to map out and dig 300–400 huge new coal mines, which also means starting—right now—an unprecedented expansion of our national transportation system: hundreds of thousands of new railway locomotives, cars and barges; new and improved rail rights-of-way; waterways; and coal-slurry pipelines. And, of course, we must build hundreds of new billion-dollar plants to convert this coal into electricity and other forms of energy cleanly and efficiently. We need an all-out effort to create synthetic fuels from coal that will match the job done during World War II to create synthetic rubber when our imports of natural rubber were cut off.

Going the nuclear route obviously would require, first of all, a substantial change in many current attitudes. There's no sense trying to kid ourselves. Because nuclear power was spawned by weapons technology—and because the human race, at any given moment in time, seems to require a scapegoat, villain or poltergeist on which it can vent pent-up wrath from whatever provocation—and for a lot of other reasons I'll leave to the psychiatrists (and further historians) to try to explain—nuclear energy simply is not currently being viewed, judged or evaluated in a way that permits logical predictions. But, assuming a new dawn of rationality, we could, indeed, fill the energy gap with already-proven nuclear technology. It would, of course, still be a very substantial effort: building 150–250 new large nuclear plants at a cost of $1 billion or more each, and perhaps half again that much for transmission and distribution systems. But we *do* know how to do it.

But the energy job is a job for *everyone*. Here are the things that I believe need doing—right now—to safeguard our future energy supply and our future well-being:

Inaugurate and promote intelligent, realistic energy-conservation programs.

Continue all-out exploration for new oil and gas supplies, which means new ways to identify sources of these fuels and far better methods of getting all that is there out of the ground for our use.

Support research, development—and the entire innovation process—so we can speed the development of solar energy, synthetic fuels and other new technologies that can help in the short-term and provide major solutions to our energy problems for the longer term future.

Recognize that the only real solution over the next 20 years is to be found in getting more energy from coal, or nuclear or both. Insist on national leadership in establishing tough goals, developing realistic plans, creating workable industry-government partnerships and getting on with the job.

Right now!

In short, I urge you to know the hard truth about our energy future and to let it be known. I urge you, and everyone I meet, to speak up, write their Congressmen, send letters to editors or just plain wrongheaded arguments about energy.

We've all got to get ourselves fully, completely, sincerely involved in this energy crusade.

The years are slipping away, and you and I and our families and our friends and our fellow citizens can easily be slipping into an unimaginable catastrophe.

To be blunt, I am not ruling out the very real possibility of social upheaval and revolution.

If you don't carry the message, who will?●

AMERICAN EDUCATION: AND SUCCESS

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

○ Mr. PERKINS. Mr. Speaker, recently a very interesting study was released comparing the achievements of American students with those of other industrialized countries. This study found that American high school students scored near the top in reading comprehension and interpretation which is all the more remarkable in that American schools are unique in retaining most of their students. In other words, the American educational system enables three-fourths of our students to attain a literacy achieved by a very select group in most other similar nations.

I am including an article on this study from Education U.S.A. of November 20, 1978, for the information of the Members since there seems to be such a negative mood abroad in the country that our educational system is not producing the way it ought to. I believe we must look at the facts objectively and acknowledge our success while we constructively try to overcome our failures.

U.S. STUDENTS ON PAR WITH EUROPEANS

The American dollar may be falling when compared to European currencies, but American high school students are not. In literacy and mathematics, the traditional basics in which American students are supposed to be deficient, the International Assn. for the Evaluation of Educational Achievement has found that U.S. students score at or near the top compared to those in 16 other industrialized nations. And American high schools are enrolling a vastly greater percentage of young people than their European counterparts.

On a test of reading comprehension and interpretation, American 14-year-olds scored near the top with an average of 16.5. The only nations with higher scores were New Zealand, 18.7, and Finland, 17.2. The other industrialized nations averaged between 13.8 and 16.4. The differences for students completing high school are more telling, because American schools retain 78 percent of their students. The only comparable percentages are Japan with 70 percent and Sweden, 65 percent. The percentage of other European students finishing secondary school was much lower—Hungary, 28 percent; England, 20 percent; Italy, 16 percent; and the Netherlands, 13 percent. Still, on the literacy test given to secondary school graduates, only four nations had a better average than the United States—New Zealand, England, Finland and Sweden. "It appears that the American educational system enables nearly three-fourths of our youth to attain the literacy that most other nations only achieve with a very select group," Ralph Tyler, director emeritus of the Center for the Advanced Study in Behavioral Sciences, said in summarizing the data for a forum of education leaders in Washington, D.C.

America's top students also seem to be faring as well as those around the world. When the overall test results were looked at, the International Assessment found that the average scores of the top 5 percent of 17-year-olds were about the same. "There were no significant differences among them," Tyler said. The report concludes, "The ablest students in an advanced country will attain a high level of achievement if the opportunity to learn is available and if the society encourages such learning. It seems clear that we have no cause in the United States to fear that our top students are not achieving at a high level."

The picture for American students in other subject areas—math, science and "political socialization"—is less rosy. About 90 percent of American students learn the basics of arithmetic by age 14, probably a higher percentage than anywhere else. But high school graduates in Japan have a far higher average score. "This appears to reflect the great prestige in Japan of engineering, science and other fields involving math," Tyler said. While the top American students score well in math, the majority of high school students seems "not greatly interested in the subject nor are planning a career in the field," so their achievement slacks off. The picture in science is somewhat similar. American 14-year-olds score about in the middle, well below Japan and New Zealand, but above other European nations. But American high school seniors score lower in science than any except those in Belgium and Italy.

American students did worst on tests of knowledge of the political system, but this may not be all bad. Civics is taught in every country, but apparently gets the most attention in recently formed nations or those that have had a tradition of political instability. For 14-year-olds, the highest scores were registered in West Germany, Israel and the Netherlands. For high school graduates, the United States and Ireland ranked lowest in knowledge of the political system. "Of all the Western nations, our political system has survived longest without revolution," the report said. "It may be that our people take it for granted and have little concern for its being clearly understood by the coming generation." ●

THE TAX RELIEF ACT OF 1979

(Mr. CONABLE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. CONABLE. Mr. Speaker, today, along with over 130 of my colleagues, I am introducing the Tax Relief Act of 1979. This Republican tax initiative is designed to deal with the major nonenergy economic problems facing our Nation today: Inflation, reduced productivity, and the drag on our economy caused by excessive payroll taxes.

The bill contains staged tax relief over several years as proposed in the Kemp-Roth tax proposal. It would:

Reduce personal income tax rates by approximately $28 billion, which is slightly more than a 10-percent rate reduction;

Index the personal income tax rates, and personal exemptions, effective January 1, 1981, to eliminate the continual and unlegislated tax increases caused by inflation;

Freeze social security taxes at the present 1979 levels and provide for a more moderate future financing arrangement; and

Establish a modern capital formation structure by rewriting present depreciation provisions. This would allow for the expansion and modernization of our Nation's productive plant.

This legislation is needed now if we are to avoid economic disaster. The inflation rate is running at an annual level in excess of 13 percent. Energy costs are skyrocketing. Taxes are increasing.

Our gross fixed investment in 1977 was 17.4 percent of our gross national product, as compared to 30 percent in Japan and 20 percent in Germany. Our productivity increased 2.5 percent in 1978; that compares with 8.3 percent in Japan and 3.7 percent in Germany.

Our household savings as a percent of household disposal income was 6.2 percent in 1976—the last year for which data is available. In Germany it was 16.1 percent in 1975—the last year for which data is available.

We cannot continue on this path. We must do something to protect the people in this country if we are to provide the stable economic climate required for the continuation of our way of life.

If one takes into account income and social security taxes, a family of four—using the zero bracket amount—with a 1979 income of $21,014 will lose $270 in real after tax purchasing power in 1980 even if gross income increases by an amount sufficient to compensate for the inflation rate. With our tax cut, the family would see a real increase in purchasing power of $248. This is more clearly set out in the following chart:

MARRIED TAXPAYER—FAMILY OF 4

	1979	1980	With Republican taxcut
Gross income	$21, 014	$23, 241	$23, 241
Federal income tax	−2, 508	−3, 043	−2, 546
Total	18, 506	20, 198	20, 695
Social security tax	−1, 288	−1, 425	−1, 404
Take home pay	17, 218	18, 773	19, 291
1979 take home pay (adjusted for inflation)		(19, 043)	(19, 043)
Real gain or (loss)		(270)	248

If some of the family's basic needs are taken into account the situation is worse. After allowing for housing, food, gasoline, and home heating costs the family will lose $307 in real purchasing power in 1980; with our tax cut that family would see a real increase in purchasing power of $211. This is set out in detail below:

MARRIED TAXPAYER—FAMILY OF 4

	1979	1980	With Republican taxcut
Take home pay	$17, 218	$18, 773	$19, 291
Food	−2, 841	−3, 162	−3, 162
Total	14, 377	15, 611	16, 129
Housing (excluding energy)	−2, 462	−2, 740	−2, 740
Total	11, 915	12, 871	13, 389
Gasoline	−1, 018	−1, 126	−1, 126
Total	10, 897	11, 745	12, 263
Home heating oil	−850	−940	−940
Balance	10, 047	10, 805	11, 323
1979 balance (adjusted for inflation)		(11, 112)	(11, 112)
Real gain or (loss)		(307)	211

Absent our tax cut, a single taxpayer with 1979 income of $9,401 who uses the zero bracket amount and who obtains an adjustment in pay measured by inflation will see real purchasing power, after taxes, drop by $95 in 1980. Again with our tax cut, that taxpayer will see a real increase in purchasing power of $128. This is set out in the following chart:

SINGLE TAXPAYER

	1979	1980	With Republican taxcut
Gross income	$9, 401	$10, 398	$10, 398
Federal income tax	−1, 053	−1, 261	−1, 038
Total	8, 348	9, 137	9, 360
Social security tax	−576	−637	−637
Take home pay	7, 772	8, 500	8, 723
1979 take home pay (adjusted for inflation)		(8, 595)	(8, 595)
Real gain or (loss)		(95)	(128)

The single taxpayer, after paying for housing, food, gasoline, and heating costs will lose $112 in 1980 in real purchasing power. With our tax cut that taxpayer would see a real increase in purchasing power of $111. Again the details are set out below:

SINGLE TAXPAYER

	1979	1980	With Republican taxcut
Take home pay	$7, 772	$8, 500	$8, 723
Food	−1, 282	−1, 427	−1, 427
Total	6, 490	7, 073	7, 296
Housing (excluding energy)	−1, 111	−1, 236	−1, 236
Total	5, 379	5, 837	6, 060
Gasoline	−1, 018	−1, 126	−1, 126
Total	4, 361	4, 711	4, 934
Home heating oil	−850	−940	−940
Balance	3, 511	3, 771	3, 994
1979 balance (adjusted for inflation)		(3, 883)	(3, 883)
Real gain or (loss)		(112)	111

Effective January 1981, the bill would index a portion of the individual income tax. This would hold down the unlegislated tax increases which flow from inflation.

Under present law when a worker gets a cost-of-living raise, that worker expects his or her purchasing power to remain at least the same, even though the number of dollars he or she earns may go up substantially. But under the progressive income tax system, because the taxpayer has a greater nominal income, that income is taxed at a higher marginal rate. Since after the taxpayer's raise he or she is paying a larger percentage of income in taxes, purchasing power will actually decline.

Our unindexed tax system was developed for a world of stable prices, but present inflation rates make clear the bias in that system which enables the Government to reap windfall profits at the taxpayers' expense.

Under the proposal, on December 1 of each year, the Secretary of the Treasury would be required to determine the increase in the Consumer Price Index—all items—U.S. urban average—for the year ending September 30. The withholding tables that the Treasury publishes on January 1—tables that employers use to determine how much tax to withhold from an employee's paycheck—would be adjusted by the calculated index number so that fewer dollars would be withheld at every income level. The tax tables we use for tax returns would also be adjusted by that same index number.

For example, the withholding rates for wages paid in January 1982, would be adjusted to account for inflation that took place between September 30, 1980, and September 30, 1981. All dollar amounts in the income tax tables that are published and sent along with the 1040 forms for taxes due for 1982 income would be adjusted by the same rate of inflation.

Indexing would also slow inflation, but not through any direct legislative link. Workers seek pay increases based on three factors: the rise in productivity of labor, the rise in the cost of living, and the rise in taxes that results from an increase in nominal income. If we remove the additional real tax bite that is currently built into the tax laws, we eliminate one component of the wage-price spiral.

The bill also would lower payroll taxes for employees, employers and the self-employed and make the social security system financially sound on a long-range basis.

It would accomplish these goals by shifting more medicare taxes to the social security—old age, survivors and disability insurance—trust funds. The medicare program would be reimbursed from general funds of the Treasury.

There is a strong argument for following this course. The medicare and social security cash benefit programs are clearly different and divisible. Social security benefits are related to contributions; medicare benefits are not. They are related only to medical needs. Contributions to the cash benefits programs are made through a single tax rate, the medicare rate always has been separate. Part B of medicare, which pays physicians' fees, already is financed about 70 percent from general revenues, and this legislation would finance half of part A, which pays hospitalization expenses, from general revenues.

The bill would have the net effect of avoiding any payroll tax increase next year by "freezing" the taxable wage base at its 1979 level. Under current law, the base would rise from $22,900 this year to $25,900 in 1980. This legislation would keep the $22,900 level through next year; thereafter, the base would be adjusted annually according to increases in national wage levels.

Starting in 1981, the bill would lower the payroll tax rate substantially for the rest of this century. Under current law, the rate would rise in 1981 to 6.65 percent. This legislation would lower it to 6.45 percent.

The bill thus would have the net effect of cutting both the tax rate and the taxable wage base back close to levels prevailing before enactment of the mammoth tax increases embodied in the 1977 Social Security Amendments.

In addition to the individual tax cuts, the individual tax indexing proposals, and the social security changes, the bill would stimulate a long term turnaround in productivity rates. It would spur capital investment in plants and equipment, create new jobs and ultimately restore our competitiveness in world markets. At the same time the proposal would fight inflation by adding to the supply side of our economy. This would be accomplished by the elimination of the outmoded "useful life" concept for depreciation and put in its place a greatly simplified, streamlined, entirely new structure.

The streamlining would be achieved by separating an asset's depreciation lifetime from its useful lifetime. Current tax law measures the capital recovery period by the asset's useful lifetime. The simplification would be achieved by replacing the current complex array of depreciation lifetime schedules with a standardized set of depreciation lifetimes for most capital assets.

Three classes of depreciable property would be established:

Class I: 10-year depreciation for buildings and their structural components (excluding residential rental property).

Class II: 5-year depreciation for equipment and other tangible personal property (except for class III).

Class III: 3-year depreciation for automobiles and light trucks—up to $100,000 per year.

All class I and class II property would be eligible for the full 10-percent investment tax credit, as long as the property is of the character eligible for the credit. Class III property would be eligible for a 6-percent investment tax credit. This modification is an improvement over the current application of the investment tax credit which varies with the lifetime of the asset.

Property would be eligible for depreciation and the investment tax credit when the taxpayer actually pays for the asset, or when the property is placed in service, whichever is the earlier.

The proposal contains safeguards to prevent abuse and retain freedom of choice for taxpayers. When a depreciated asset is sold, the previously depreciated amounts will be recaptured as ordinary income. Also, early disposal of an asset would trigger a partial recapture of the investment tax credit. Taxpayers would have the option to claim less than the full depreciation allowance permitted under the proposal and to carry forward the unused allowance to any future year.

The proposal contains a transition rule designed to phase in the new depreciation system in an orderly manner for existing capital investment.

On Wednesday night, July 25, President Carter again stated his opposition to a tax cut this year. This President is strongly committed to a tax-and-spend philosophy; he appears to be blind to basic economic principles. He favors taxes for almost everything and tax cuts for almost no one. The President's tax-and-spend mentality is clearly revealed by an examination of the following chart, which outlines the new taxes, the tax increases, and the tax extensions which the President has proposed. As you can see, they are substantial and would have yielded $320 billion to the Federal Treasury from the pockets of American men and women by 1984.

PRESIDENT CARTER'S TAX INITIATIVES

	Fiscal year—					
	1978	1979	1980	1981	1982	1983
NEW TAXES						
Waterway user taxes. H.R. 8533, as signed into law				$30	$58	NA
Gas guzzler tax [1]	$500	$500	$500	700	900	$1,200
Crude oil and equalization taxes [1]	2,834	7,173	11,933	13,637	13,259	12,875
Excise tax on business use of oil and natural gas [1]		2,745	7,555	10,499	12,467	16,467
Taxation of unemployment benefits [2]		151	208	205	204	211
Gross windfall profits tax [3]			2,604	8,491	13,683	14,183
INCREASED TAXES						
Social security taxes, as proposed		2,400	6,200	10,725	12,800	-------
Repeal of refund of motorboat fuel tax [1]	1	4	4	4	4	4
Increase in gasoline taxes [1]		3,750	8,750	13,750	18,750	23,750
4-cents per gallon increase on fuels used by general aviation [1]	44	47	50	55	61	66
Repeal of State and local gasoline taxes deduction [2]		603	947	1,080	1,230	1,402
Repeal of sales tax deduction [2]		1,734	2,720	3,100	3,535	4,030
Repeal of political contributions deduction [2]		1	3	3	3	3
Deduction for medical and casualty expenses [2]		1,336	2,056	2,282	2,533	2,812
Entertainment and travel expenses [2]		664	1,547	1,695	1,843	2,011
Minimum tax changes [2]			284	306	329	352
Phaseout of DISC [2]		249	807	1,551	1,771	1,675
Phaseout of deferral of tax on foreign source income [2]		40	174	580	796	860
EXTENDED TAXES						
Extension of excise tax on gasoline and other motor fuels to Sept. 30, 1985 [1]			3,302	3,404	3,496	3,585
Total	3,379	21,397	49,644	72,097	87,722	85,487
	$319,726					

[1] Contained in the National Energy Act as proposed by the President.

[2] As proposed by the President in tax reduction and reform proposals, 1978 (H.R. 12078).

[3] H.R. 3919 as introduced. Revised to reflect recent OPEC price increases—$22 per barrel.

Mr. Speaker, it is imperative that we act promptly to insure that our economy does not run amuck. We simply cannot tolerate high inflation rates, and high levels of unemployment. That is what we will see if we put our heads in the sand. We are fortunate in that we are now enjoying peace in the world. This gives us an opportunity which we should not squander. We ought to act to put our domestic economy in order, to rationalize our capital formation incentives and to protect our citizens from the ravages of inflation.

Revenue and distribution charts are set out below:

TAX RATE REDUCTION DISTRIBUTION, 1978 INCOME LEVELS

Expanded income (thousands)	Net tax change (millions)	Percent of total distribution
Below $5	−72	0.3
$5 to $10	−1,455	5.9
$10 to $15	−2,866	11.6
$15 to $20	−3,918	15.9
$20 to $30	−6,632	26.8
$30 to $50	−5,121	20.7
$50 to $100	−2,630	10.6
$100 to $200	−1,075	4.4
$200 and above	−933	3.8
Total	−24,701	100.0

INDIVIDUAL INCOME TAX CUTS

	1979	1980	1981	1982	1983	1984
Calendar year	7,302	34,394	53,914	76,548	102,654	133,354
Fiscal year		28,729	46,555	68,015	92,812	121,780

●

MANY RISKS AND UNCERTAINTIES IN SYNFUELS PROGRAM

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, yesterday, I inserted in the Record two articles outlining some of the massive risks inherent in the synfuels program. These risks are both economic and environmental. Today I wish to call the attention of our colleagues to another article from the Washington Post of Sunday, July 29, by Jerry Knight.

This article outlines in further detail many of the various alternative synfuel proposals. The article points out that virtually all coal liquid products are toxic and many of them are known cancer-causing agents, yet the only way to learn what the problems are and how to deal with them is to build a full scale plant and operate it. The article also notes that the risks are too great for even the largest corporations to do it on their own money, that the cost estimates are so uncertain that a plant expected to cost $2 billion could cost upwards of $5 billion, and that the contention that synfuels can compete with imported oil can prove to be false.

What it suggests, Mr. Speaker, is that we need to proceed to build a sufficient number of plants to perfect the technology and learn what the risks are but that we should not attempt to create a massive new industry until we have found out the answers to these many serious questions.

The full text of the Knight article follows these remarks.

Pace Lags and Costs Rise; A Liquefaction Plant Symbolizes Problems

(By Jerry Knight)

Outside Cattletsburg, Ky., where mountains of coal loom over a forest of oil refineries, construction workers are forging a stainless steel link between America's most abundant energy resource and the nation's most critical energy need.

In a few months, coal from the Appalachian mountains will be dumped into one end of that link—a $200 million chemistry set—and oil will flow out the other end into a nearby refinery.

Making oil from coal is the heart of President Carter's synthetic fuels program, and the Cattletsburg complex will be the biggest coal liquefaction plant in America. It is designed to turn 250 tons of coal a day into 625 barrels of "syncrude" that can be refined into gasoline and heating oil.

Cattletsburg's 625 barrels of synthetic oil will make barely enough gasoline to supply a single service station, let alone contribute significantly to the President's goal of producing 1 million to 1.5 million barrels of coal-derived synfuels a day by 1990.

The Cattletsburg coal liquification plant is symbolic of how far the nation has to go to meet the president's target of energy independence. It also is symbolic of the obstacles that are faced—it is at least a year behind schedule and is costing nearly four times as much as expected.

"If you look at the growing pains of the whole national energy situation, you'll see what happened in this development," says Bronek Dutkiewicz, who is in charge of commercializing the coal-to-oil conversion process patented by Hydrocarbon Research Inc., a subsidiary of Dynalectron Inc. of McLean.

Known as "H-coal" Dynalectron's process was developed by Hydrocarbon Research scientists and tested in three laboratory-size pilot plants at Trenton, N.J., for more than 10 years before the Department of Energy agreed to finance the "scale up" project in Kentucky with Ashland Oil and half a dozen other companies as partners.

Since the project was started, the DOE has changed its objectives several times, has switched project managers twice and has picked up the tab for more than $135 million of cost overruns.

Though the Cattletsburg plant has yet to squeeze its first drop of oil from a lump of coal, Dynalectron and some of its partners already are asking the federal government to provide $7 million in planning money for a full-scale commercial plant, a 50,000-barrel-a-day facility that will cost upwards of $2 billion.

Thirty or 40 similar-sized synfuel factories will have to be built in the next decade to achieve the president's energy independence goal.

Dynalectron's H-coal process is one of five coal liquefaction techniques that are struggling toward commercialization, and the coal liquids industry is but one of the alternative energy businesses that will need to be created under Carter's plan.

To eliminate the need for 2.5 million barrels of imported oil a day by 1990, the president proposes producing the equivalent of 1 million to 1.5 million barrels of oil from coal liquids and coal gasification—making a natural gas substitute from coal.

Another 400,000 barrels a day would come from the infant oil shale industry under the White House plan, and about 100,000 barrels a day from a virtually-non-existent "biomass" business under which crops would be cooked into alcohol and other fuels.

Carter also is counting on replacing half a million to a million barrels of oil a day with natural gas from sources that cannot be tapped with today's production methods and with using solar collectors, windmills, cogeneration plants and a host of other nascent technologies to "back out oil."

Achieving energy independence will require creation of a whole new alternative energy industry, a business as big as nuclear power or aerospace.

To a great extent the new energy industry will be the same old energy industry. In the emerging coal liquifactions field, Dynalectron's competitors include Exxon, Mobil, Gulf and the Government of South Africa. Virtually every major oil and energy company already owns a piece of the rock that one day may replace conventional oil as America's chief fuel.

At least four other methods of converting coal to liquid fuels are roughly the same distance from commercial feasibility as H-coal; they work on paper, they produce oil a barrel or two at a time in the laboratory; they appear to be economically eligible for full-scale testing.

The five processes are rivals, but not competitors, DOE officials insist. It is possible—likely if the president's accelerated energy independence program is adopted—that full-scale commercial plants will be built using all five technologies. Development of all five processes is proceeding simultaneously.

Exxon—the world's largest corporation—has invested heavily in a process called Exxon Donar Solvent and later this year will open a federally financed synthetic fuel plant about the same size as Cattletsburg's at Baytown, Tex.

Exxon's EDS process is chemically similar to Gulf's Solvent Refined Coal, which is known as the SRC II process because Gulf is already into the second generation of its development. Gulf runs what is currently the biggest coal liquifaction plant in the nation, converting 30 tons a day into oil at a research facility outside Tacoma, Wash.

By the end of July, Gulf will complete a DOE contract for Phase Zero—the planning of the nation's first full-scale coal liquifaction plant which Gulf hopes to build at Morgantown, W. Va. DOE approval of that project could come this fall.

The South Africans are the world leaders in synfuel production, regularly producing 20,000 barrels a day. But their SASOL process—being pushed in this country by Fluor Corp.—has political, technical and economic problems.

Mobil has yet to get its M-gasoline process out of the laboratory stage, but may be able to scale up faster than the others because 85 percent to 90 percent of the M-gasoline system uses off-the-shelf equipment already proved in commercial use.

Scale-up is the name of the game in synfuels. The trick is to take a process that works in the laboratory or small pilot plant and do it in a big enough way to make it economically feasible. That can require building a plant 50,000 times bigger than a laboratory demonstration unit—the equivalent of going from building lifeboats to building an ocean liner.

But along with efficiencies come risks. Tiny amounts of coal ash that cause no problems in a laboratory coal-to-oil process can clog filters and shut down a 50,000-barrel-a-day plant. Micropollutants unnoticed when they leak from a one-ton-a-day coal cooker can be an ecological disaster in a full-scale plant. Under hundreds of pounds of pressure and intense heat, valves break, 8-inch-thick stainless steel tanks corrode and computer models prove useless.

Environmental and health questions also are being answered by the pilot plant operations, where workers are monitored closely for long-term and short-term medical problems. Virtually all coal liquid products are toxic, most of them more toxic than ordinary petroleum products, and many coal liquid products—including fuel oils produced from coal—are known cancer-causing agents. The danger to production workers is not yet known.

"The only way you learn these things is to build a full-scale plant and run it," said Dynalectron's Dutkiewicz. But, he added, "The risks are too great for even the largest corporations to do that with their own money."

Carter's plan calls for the government to take the risk of building the first two or three plants and for private enterprise to put up the rest with some sort of government financing. A number of federal subsidies are under consideration in Congress, ranging from loan guarantees to government contracts to purchase synfuels at a premium above petroleum prices to accelerated depreciation and tax credits for synfuel investments.

The money would come from the president's windfall profits tax on the oil companies, which would finance the president's "moral equivalent of war" to launch the synfuels industry by 1990.

Ironically the government program to protect against the risks of launching a new synfuels industry may also exaggerate those risks, warns a Rand Corp. study. Jumping directly from the laboratory to full-scale plants in a crash program requires plant construction to start before designs are completed, before environmental rules are written, before all the contengencies have been accounted for, the Rand study said.

Those factors are part of why first-generation energy facilities have proved to cost an average of 2.5 times as much as estimated and why several multi-million-dollar projects have been built and abandoned because they did not work, Rand warned.

"For government officials, cost growth has made (research and development) decisions difficult, has increased the uncertainty in supply planning and has hampered commercialization," Rand said. If cost estimates of coal lequifaction plants prove to be as far off as the Rand study suggested, plants expected to cost $2 billion could cost upwards of $5 billion, and the contention that synthetic fuels can compete with imported oil would prove false.

Until Carter launched his crash program to develop alternatives to oil earlier this month, the DOE was scaling up its coal conversion projects in steps, providing funds for a sequence of increasingly larger plants—with daily outputs of one, 20, 250 and 10,000 tons—gradually approaching commercial scale.

DOE analysts say it isn't necessary to build that sequence of plants for each of the five promising coal liquification processes because many technical problems are common to all the processes, permitting much leapfrogging.

Intermediate-size plants like the Cattletsburg H-coal facility and Exxon's Baytown EDS facility, both utilizing some commercial-scale components, can answer many of the engineering problems, but they can provide only clues about the most difficult question, and the greatest risk—the cost of producing synthetic fuels.

The price of the product that will flow from Exxon's plant "isn't a relevant question," a corporate spokesman said: "That's not what we expect to learn there."

The most recent estimate of how much synthetic fuels will cost to make was issued this month by the Engineering Societies Commission of Energy (ESCOE), which has made a series of studies of alternative energy technologies.

Because the various processes turn out different products—gasoline, natural gas, boiler fuel and others—the engineering study estimated how much it would cost to produce 1 million BTU's of energy by each process: $3.58 from H-coal, $3.62 with Gulf's SRC–II, $3.96 via Exxon's EDS, $4.84 via Mobil's M-gasoline and $4.99 by the Fischer-Tropsch process used in South Africa.

Those prices are competitive with an equivalent amount of energy from a barrel of imported oil, which yields 5.8 million BTUs and costs $20 to $24 delivered in the U.S.

But spokesmen for the companies involved in building coal liquification plants are skeptical of those estimates, calling them lower than their own estimates of synfuel costs, which range from $25 to $35 a barrel.

DOE analysts point out that the price of an equivalent amount of energy may not be the right question to ask when comparing synfuels processes because the products of some processes are in greater demand than the output of others.

The competing coal liquids processes yield varying quantities and qualities of products.

Technically the Exxon, Gulf and Dynalectron processes are known as direct coal liquifaction; Mobil and South Africa use indirect liquifaction, first turning the solid coal into a gas, then converting the gas into a liquid.

Exxon and Gulf dissolve final-powdered coal in a liquid solvent, then process it to added more hydrogen to the coal, converting it to a liquid. The big difference between the two processes is the solvent used; each has its own patented product.

Mobil contends M-gasoline can be commercialized more quickly than the others because only the final step involves new technology. A DOE study of where to locate synfuel plants assumes that indirect liquefaction plants will be built first, but only a couple of years ahead of direct liquifaction.

Conoco (Continential Oil Co.) advocates short-cutting the M-gasoline process and simply converting coal into methanol on a large-scale basis. Methanol, or methyl alcohol, can be burned directly as a fuel in power plants or internal combustion engines, although both require modification.

Conoco officials say methanol is a highly desirable substitute for imported oil in urban power plants because it is clean-burning, and the company is promoting the fuel for use in California where pollution regulations rule out burning coal.

The ESCOE synfuels evaluation concludes that, on cost factors alone, the South African process "has a severe disadvantage." Among the others, the engineering analysis said, "The choice of fuel process depends strongly on the desired products.

"The M-gasoline process appears both competitive and relatively free of process risk. If industrial boiler fuel (to replace oil for power plants) is the needed fuel, the H-coal, EDS or SRC are all serious contenders." ●

GENERAL LEAVE

Mr. LOWRY. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Maryland (Mr. Barnes).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Erdahl) to revise and extend their remarks and include extraneous material:)

Mr. Miller of Ohio, for 15 minutes, today.
Mr. Courter, for 10 minutes, today.
Mr. Kemp, for 10 minutes, today.
Mr. Ritter, for 10 minutes, today.

(The following Members (at the request of Mr. Lowry) to revise and extend their remarks and include extraneous matter:)

Ms. Holtzman, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Weaver, for 5 minutes, today.
Mr. Flood, for 5 minutes, today.
Mr. Richmond, for 5 minutes, today.
Mr. Alexander, for 30 minutes, today.
Mr. Ford of Michigan, for 5 minutes, today.
Mr. AuCoin, for 5 minutes, today.
Mr. Barnes, for 5 minutes, today.
Mr. White, for 5 minutes, today.
Mr. Ullman, for 5 minutes, today.
Mr. Drinan, for 5 minutes, today.
Mr. Addabbo, for 15 minutes, today.
Mr. Van Deerlin, for 5 minutes, today.
Mr. Bingham, for 30 minutes, today.
Mr. Fuqua, for 30 minutes, today.
Mr. Scheuer, for 5 minutes, today.
Mr. Jones of Oklahoma, for 5 minutes, today.
Mr. Panetta, for 5 minutes, today.
Mr. Ichord, for 5 minutes, today.
Mr. Fascell, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Conable, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $965.

(The following Members (at the request of Mr. Erdahl) and to include extraneous matter:)

Mr. Findley.
Mr. Rousselot in three instances.
Mr. Dornan in seven instances.
Mr. Pursell.
Mr. Bob Wilson.
Mr. Derwinski in three instances.
Mr. Railsback.
Mrs. Holt.
Mr. Michel in three instances.
Mr. Solomon.
Mr. Hillis.
Mr. Rudd in two instances.
Mr. Paul.
Mr. Wydler.
Mr. Vander Jagt.
Mrs. Fenwick.
Mr. Philip M. Crane.
Mr. Roth.
Mr. Gilman.
Mr. Lewis.
Mr. Kemp in three instances.
Mr. Jeffords in two instances.
Mr. Hammerschmidt.
Mr. Miller of Ohio.
Mr. Bereuter.

(The following Members (at the request of Mr. Lowry), and to include extraneous matter:)

Mr. Jenkins.
Mr. Murtha.
Mr. Frost.
Mr. Hamilton.
Mr. Udall.
Mr. Luken.
Mr. Ford of Michigan.
Mr. Lundine.
Mr. Harris.
Mr. Drinan in seven instances.
Mr. Kostmayer.
Mr. Ginn.
Mr. Ford of Tennessee.
Mr. Leland.
Mr. Matsui.
Mr. Ullman.
Mr. Conyers.
Mr. Carr.
Mr. Holland in five instances.
Mr. Barnes.
Mr. Yatron.
Mr. Mazzoli.
Mr. Fowler in two instances.
Mr. Weiss in two instances.
Mrs. Collins of Illinois.
Mr. Young of Missouri.
Mr. Addabbo.
Mr. Skelton.
Mr. Ottinger in two instances.
Mr. Gudger.
Mr. Nolan.
Mr. Panetta.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 265. An act entitled "Equal Access to Justice Act"; to the Committee on the Judiciary; and

S. 1119. An act to direct the Secretary of the Interior to report to the Congress on plans or projects affecting the territories and possessions of the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 961. An act to amend the Speedy Trial Act of 1974.

ADJOURNMENT

Mr. LOWRY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 10 minutes p.m.), the House adjourned until tomorrow, Thursday, August 2, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2165. A letter from the Assistant Secretary of Agriculture for Food and Consumer Services, transmitting a report on the evaluation of food consumption and nutrition in the National School Lunch program, pursuant to section 18 of the National School Lunch Act, as amended; to the Committee on Education and Labor.

2166. A letter from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of a proposed increase in the funding level of the Agency's fiscal year 1979 program in Costa Rica, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

2167. A letter from the Clerk, U.S. House of Representatives, transmitting his quarterly report on receipts and expenditures for the period April 1 through June 30, 1979, pursuant to section 105(a) of Public Law 88-454, as amended (H. Doc. No. 96-173); to the Committee on House Administration and ordered to be printed.

2168. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs and for other purposes; to the Committee on Interior and Insular Affairs.

2169. A letter from the Attorney General, transmitting a draft of proposed legislation to create a charter for the Federal Bureau of Investigation and for other purposes; to the Committee on the Judiciary.

2170. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 5911 of title 5, United States Code, to exclude trailer court spaces from the definition of "quarters"; to the Committee on Post Office and Civil Service.

2171. A letter from the Assistant Secretary of Transportation for Budget and Programs, transmitting a draft of proposed legislation to establish uniform national standards for the weight and length of vehicles using the National System of Interstate and Defense Highways during fuel emergencies; to the Committee on Public Works and Transportation.

2172. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a response to recommendations made to the Director of the Office of Management and Budget by the General Accounting Office in its report HRD-79-11, dated May 8, 1979, on federally assisted employment and training programs; jointly, to the Committees on Government Operations and Education and Labor.

2173. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report for fiscal year 1978 on the Professional Standards Review Organization program, pursuant to section 1172 of the Social Security Act, as amended; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. House Concurrent Resolution 165. Concurrent resolution relating to self-determination for the people of Puerto Rico; with amendment (Rept. No. 96-403). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 2626. A bill to establish voluntary limits on the annual increases in total hospital expenses, and to provide for mandatory limits on the annual increases in hospital inpatient revenues to the extent that the voluntary limits are not effective; with amendment (Rept. No. 96-404, Pt. I). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ULLMAN (for himself and Mr. Conable):

H.R. 5043. A bill to amend the Internal Revenue Code of 1954 to provide for the tax treatment of bankruptcy, insolvency, and similar proceedings, and for other purposes; to the Committee on Ways and Means.

By Mr. BEDELL:

H.R. 5044. A bill to amend the Internal Revenue Code of 1954 to provide for the credit or refund of the tax on any gasoline which is used in the production of certain alcohol fuels; to the Committee on Ways and Means.

By Mr. DINGELL:

H.R. 5045. A bill to amend the Energy Policy and Conservation Act to provide for commercial-scale undertakings which will enhance domestic energy production or conservation; jointly, to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce.

By Mr. FINDLEY:

H.R. 5046. A bill to provide a fair and effective means for the settlement of certain emergency labor disputes; jointly, to the Committees on Education and Labor and Interstate and Foreign Commerce.

By Mr. FRENZEL:

H.R. 5047. A bill to provide for the temporary suspension of duty on the importation of color couplers and coupler intermediates used in the manufacture of photographic sensitized material (provided for in items 405.20 and 403.60, respectively); to the Committee on Ways and Means.

By Mr. HARRIS:

H.R. 5048. A bill to amend the act entitled "An Act to preserve within Manassas National Battlefield Park, Va., the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (68 Stat. 56; 16 U.S.C. 429b); to the Committee on Interior and Insular Affairs.

By Ms. HOLTZMAN:

H.R. 5049. A bill to amend title 18 of the United States Code to make certain reforms respecting the sentencing of criminals, and to repeal obsolete provisions; to the Committee on the Judiciary.

By Mr. CONABLE (for himself, Mr. Abdnor, Mr. Andrews of North Dakota, Mr. Ashbrook, Mr. Badham, Mr. Bafalis, Mr. Bauman, Mr. Beard of Tennessee, Mr. Bereuter, Mr. Bethune, Mr. Broomfield, Mr. Brown of Ohio, Mr. Broyhill, Mr. Buchanan, Mr. Burgener, Mr. Butler, Mr. Campbell, Mr. Carter, Mr. Cheney, Mr. Clausen, Mr. Cleveland, Mr. Clinger, Mr. Coleman, Mr. Collins of Texas, Mr. Corcoran, Mr. Coughlin, Mr. Courter, Mr. Daniel B. Crane, Mr. Philip M. Crane, Mr. Robert W. Daniel, Jr., Mr. Davis of Michigan, Mr. Deckard, Mr. Derwinski, Mr. Devine, Mr. Dickinson, Mr. Dornan, Mr. Duncan of Tennessee, Mr. Edwards of Oklahoma, Mr. Emery, Mr. Erdahl, Mr. Erlenborn, Mr. Evans of Delaware, Mrs. Fenwick, Mr. Fish, Mr. Forsythe, Mr. Frenzel, Mr. Gilman, Mr. Gingrich, Mr. Goldwater, Mr. Goodling, Mr. Gradison, Mr. Grisham, Mr. Guyer, Mr. Hagedorn, Mr. Hammerschmidt, Mr. Hansen, Mr. Harsha, Mr. Hillis, Mr. Hinson, Mrs. Holt, Mr. Hopkins, Mr. Horton, Mr. Hyde, Mr. Jeffries, Mr. Johnson of Colorado, Mr. Kelly, Mr. Kemp, Mr. Kindness, Mr. Kramer, Mr. Lagomarsino, Mr. Latta, Mr. Leach of Iowa, Mr. Lee, Mr. Lent, Mr. Lewis, Mr. Livingston, Mr. Loeffler, Mr. Lott, Mr. Lujan, Mr. Lungren, Mr. Marriott, Mr. McClory, Mr. McCloskey, Mr. McDade, Mr. McEwen, Mr. McKinney, Mr. Martin, Mr. Michel, Mr. Miller of Ohio, Mr. Mitchell of New York, Mr. Moore, Mr. Moorhead of California, Mr. Myers of Indiana, Mr. O'Brien, Mr. Pashayan, Mr. Paul, Mr. Pritchard, Mr. Quayle, Mr. Quillen, Mr. Railsback, Mr. Regula, Mr. Rhodes, Mr. Ritter, Mr. Robinson, Mr. Roth, Mr. Rousselot, Mr. Royer, Mr. Rudd, Mr. Sawyer, Mr. Schulze, Mr. Sebelius, Mr. Shumway, Mr. Shuster, Mrs. Snowe, Mr. Solomon, Mr. Spence, Mr. Stangeland, Mr. Stanton, Mr. Stockman, Mr. Symms, Mr. Taylor, Mr. Thomas, Mr. Treen, Mr. Trible, Mr. Vander Jagt, Mr. Walker, Mr. Wampler, Mr. Whitehurst, Mr. Whittaker, Mr. Williams of Ohio, Mr. Bob Wilson, Mr. Winn, Mr. Wydler, Mr. Young of Florida, and Mr. Young of Alaska):

H.R. 5050. A bill to amend the Internal Revenue Code of 1954 to provide for individual income tax reductions, to provide a system of capital recovery to encourage investment and economic growth, and to reduce social security taxes; to the Committee on Ways and Means.

By Mr. JEFFORDS (for himself and Mr. Ratchford):

H.R. 5051. A bill to amend the Higher Education Act of 1965; to the Committee on Education and Labor.

By Mr. KASTENMEIER:

H.R. 5052. A bill to improve the health care services for persons incarcerated in Federal penal and correctional institutions, and for other purposes; to the Committee on the Judiciary.

H.R. 5053. A bill to amend title 18, United States Code, to provide guidance to law enforcement officers and others regarding the confidentiality of medical records; jointly, to the Committees on Interstate and Foreign Commerce, the Judiciary, and Ways and Means.

By Mr. MURTHA:

H.R. 5054. A bill to amend the Federal Mine Safety and Health Act of 1977 to provide that persons who own and operate surface mines without employing any other persons to perform any work at such mines shall be exempt from the provisons of such act; to the Committee on Education and Labor

H.R. 5055. A bill to amend title 23, United States Code, relating to repair of energy impacted highways; to the Committee on Public Works and Transportation.

By Mr. PICKLE:

H.R. 5056. A bill to clarify the tax-exempt status of the Trans-Alaska Pipeline Liability Fund; to the Committee on Ways and Means.

By Mr. RICHMOND (for himself and Mr. Kelly):

H.R. 5057. A bill to amend the Food Stamp Act of 1977 to raise the level of deductions for certain medical and dental expenses in the computation of incomes of households containing a member who is 60 years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act or disability payments under title II of the Social Security Act; to the Committee on Agriculture.

By Mr. SHUMWAY:

H.R. 5058. A bill to amend the Walsh-Healey Act and the Contract Work Hours Standards Act to permit certain employees to work a 10-hour day in the case of a 4-day workweek, and for other purposes; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. SNYDER:

H.R. 5059. A bill to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of debt which may be incurred by the Tennessee Vally Authority, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. JONES of Oklahoma (for himself, Mr. Frenzel, Mr. Gibbons, Mr. Conable, Mr. Archer, Mr. Gephardt, Mr. Rousselot, Mr. Moore, and Mr. AuCoin):

H.R. 5060. A bill to amend the Internal Revenue Code of 1954 to permit the use of restricted stock options and to eliminate the exercise of restricted stock options as an item of tax preference; to the Committee on Ways and Means.

By Mr. Bingham (for himself and Mr. Lagomarsino):

H.R. 5061. A bill to establish within the Department of Commerce an office to promote and encourage the formation and utilization of export trade associations, and for other purposes; jointly, to the Committees on the Judiciary and Foreign Affairs.

By Mr. Ottinger:

H.R. 5062. A bill to declare a national policy goal of national population stabilization, and to establish an Office of Population Policy; to the Committee on Government Operations.

By Mr. OBERSTAR (for himself, Mr. Biaggi, Mr. Bolling, Mr. Dicks, Mr. Dornan, Mr. Evans of the Virgin Islands, Mr. Fazio, Mr. Flood, Mr. Forsythe, Mr. Gilman, Mr. Ginn, Mr. Guarini, Mrs. Heckler, Mr. Hughes, Mr. Hutto, Mr. Jenkins, Mr. Jeffords, Mr. Johnson of California, Mr. Long of Louisiana, Mr. McDade, Mr. Murphy of Pennsylvania, Mr. Murphy of New York, Mr. Panetta, Mr. Pepper, Mr. Stack, Mr. Simon, Ms. Snowe, Mr. Treen, Mr. Ullman, Mr. Vento, Mr. Weaver, and Mr. Zeferetti):

H.J. Res. 387. Joint resolution designating May 13 through May 19, 1980, as "National Fishing Week"; to the Committee on Post Office and Civil Service.

By Ms. MIKULSKI:

H. Con. Res. 170. Concurrent resolution to express the sense of the Congress that the U.S. Postal Service should issue a postage stamp to honor Dr. Marie Zakrzewska; to the Committee on Post Office and Civil Service.

By Mr. OTTINGER:

H. Con. Res. 171. Concurrent resolution expressing the sense of the Congress that the United States should recognize Jerusalem as the capital of Israel, and that the U.S. Embassy in Israel should be relocated to Jerusalem; to the Committee on Foreign Affairs.

By Mr. WON PAT:

H. Con. Res. 172. Concurrent resolution relating to Self-Determination for the People of Guam; to the Committee on Interior and Insular Affairs.

By Mr. MOORHEAD of Pennsylvania:

H. Res. 396. Resolution approving the printing of additional copies of the report accompanying the Defense Production Act Amendment and Extension; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

274. By the SPEAKER: Memorial of the Senate of the Commonwealth of Massachusetts, relative to regulation of the hide industry; to the Committee on Foreign Affairs.

275. Also, memorial of the Assembly of the State of California, relative to the Voting Rights Act of 1965; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DELLUMS:

H.R. 5063. A bill for the relief of James R. Thornwell; to the Committee on the Judiciary.

By Mr. DUNCAN of Tennessee:

H.R. 5064. A bill for the relief of the Camel Manufacturing Co.; to the Committee on the Judiciary.

By Mr. LEDERER:

H.R. 5065. A bill for the relief of the Chinese Cultural and Community Center of Philadelphia, Pa.; to the Committee on Ways and Means.

By Mr. NELSON:

H.R. 5066. A bill for the relief of Space Systems Laboratories, Inc., of Melbourne, Fla.; to the Committee on the Judiciary.

By Mr. RODINO:

H.R. 5067. A bill for the relief of Dr. Toomas Eisler and Carmen Elizabeth Eisler; to the Committee on the Judiciary.

By Mrs. SMITH of Nebraska;

H.R. 5068. A bill for the relief of Dr. Samuel K. K. Chung and Margarita Chung; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 70: Mr. Annunzio, Mr. Beard of Rhode Island, Mr. Bonior of Michigan, Mr. Chappell, Mr. Clay, Mr. D'Amours, Mr. Danielson, Mr. Derwinski, Mr. Dougherty, Mr. Erdahl, Mrs. Fenwick, Mr. Fowler, Mr. Gray, Mr. Guarini, Mr. Harris, Mr. Hinson, Mr. Lehman, Mr. Leland, Mr. Lloyd, Mr. McKinney, Mr. Markey, Mr. Mica, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Murphy of New York, Mr. Murtha, Mr. Ritter, Mr. Roe, Mr. Russo, Mr. St Germain, Mr. Stack, Mr. Stewart, Mr. Van Deerlin, Mr. Wampler, Mr. Weaver, Mr. Whitehurst, Mr. Williams of Montana, Mr. Charles H. Wilson of California, Mr. Wirth, and Mr. Wolff.

H.R. 458: Mr. Bevill.

H.R. 601: Mr. Courter.

H.R. 621: Mr. Pritchard, Mr. Won Pat, Mr. Murphy of Pennsylvania, Mr. Conte, Mr. Glickman, Mrs. Spellman, Mr. Cleveland, Mr. Boland, Mr. Richmond, Mr. Mitchell of Maryland, Mr. Edwards of Oklahoma, Mr. Lederer, Mr. Dornan, Mr. Grassley, and Mr. Kemp.

H.R. 800: Mr. Gramm.

H.R. 811: Mr. Robert W. Daniel, Jr. and Mr. Hughes.

H.R. 1000: Mr. Lewis.

H.R. 1913: Mr. Green, Mr. Goldwater, Mr. Young of Missouri, Mr. Price, Mr. Bowen, and Mr. Hubbard.

H.R. 2196: Mr. Quillen and Mr. Moakley.

H.R. 2472: Mr. Nolan.

H.R. 2679: Mr. Courter.

H.R. 2770: Mr. Quillen and Mr. Royer.

H.R. 3221: Mr. Kildee and Mr. Blanchard.

H.R. 3612. Mr. Coelho.

H.R. 3718: Mr. Lungren.

H.R. 3720: Mr. Courter, Mr. Ritter, and Mr. Lagomarsino.

H.R. 3896: Mr. Miller of Ohio.

H.R. 3937: Mr. Fazio.

H.R. 3986: Mr. Bailey, Mr. Blanchard, Mr. Bonior of Michigan, Mr. Brodhead, Mrs. Chisholm, Mr. Dougherty, Mr. Downey, Ms. Ferraro, Mr. Flood, Mr. Gray, Ms. Holtzman, Mr. Lederer, Mr. Leland, Mr. McHugh, Ms. Mikulski, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Murphy of Pennsylvania, Ms. Oakar, Mr. Preyer, Mr. Simon, Mr. Stokes, Mr. Waxman, Mr. Weiss, Mr. Charles Wilson of Texas, Mr. Winn, and Mr. Wolff.

H.R. 3991: Mr. Collins of Texas, Mr. Frenzel, Mr. Goodling, Mr. Grassley, Mr. Hollenbeck, Mr. Lent, Mr. Stanton, Mr. Wolpe, Mr. Fish, and Mr. Glickman.

H.R. 3992. Mr. Patterson.

H.R. 4161: Mr. Bedell and Mr. Jenkins.

H.R. 4291: Mr. Stangeland, Mr. Collins of Texas, Mr. Hall of Texas, Mr. Paul, Mr. Hutto, Mr. Robinson, Mr. Dornan, Mr.. McClory, Mr. Stratton, and Mr. Lott.

H.R. 4400: Mr. Brown of Ohio, Mr. Courter, and Mr. Jenrette.

H.R. 4511: Mr. Dougherty, Mr. Ertel, Mr. LaFalce, Mr. Lagomarsino, Mr. Gilman, Mr. Martin, Mr. Matsui, Mr. Patterson, and Mr. Thompson.

H.R. 4561: Mr. Kogovsek and Mr. Hagedorn.

H.R. 4567: Mr. Sensenbrenner and Mr. Butler.

H.R. 4624: Mr. Richmond.

H.R. 4631: Mr. Royer and Mr. Lagomarsino.

H.R. 4693: Mr. Whitehurst, Mr. Philip M. Crane, Mr. Collins of Texas, Mr. Derwinski, Mr. Badham, and Mr. Cleveland.

H.R. 4797: Mr. Rousselot, Mr. Robert W. Daniel, Jr., Mr. Whitehurst, Mr. Shumway, Mr. Ichord, Mr. Stockman, Mr. Whittaker, Mr. Burgener, Mr. McDonald, Mr. Bauman, and Mr. Kramer.

H.R. 4818: Mr. Marriott, Mr. Derwinski, Mr. Whitehurst, Mr. Flood, Mr. Courter, Mr. Hinson, and Mr. Rousselot.

H.R. 4843: Mr. Mottl, Mr. Winn, and Mr. Weiss.

H.R. 4872: Mr. AuCoin, Mr. Thompson, Mr. Waxman, Mr. Edgar, Mr. Maguire, Ms. Holtzman, and Mr. Carr.

H.R. 4897: Mr. Harkin.

H.R. 4986: Mr. Aspin, Mr. Phillip Burton, Mr. Hawkins, Mr. Zeferetti, Mr. Howard, Mr. Harris, Mr. Dicks, Mr. Hollenbeck, Mr. Moakley, Mr. Scheuer, Mr. Fowler, Mr. Mottl, Mr. Applegate, Mr. Steed, Mr. Cotter, Mr. Stump, Mr. Bob Wilson, Mr. Abdnor, Mr. Roybal, Ms. Ferraro, Mr. Peyser, Mr. Findley, Mr. Gilman, Mr. McEwen, Mr. Dougherty, Mr. Clinger, Mr. Drinan, Mr. Markey, Mr. Wyatt, Mr. McHugh, Mr. Fish, Mr. Marriott, Mr. Addabbo, Mr. Horton, Mr. Bingham, Mr. Downey, Mr. Frost, Mr. Leland, Mr. Brown of California, Mrs. Chisholm, Mr. Zablocki, Mr. Wolff, Mr. Andrews of North Dakota, Ms. Holtzman, Mr. McCloskey, Mr. Danielson, Mr. Davis of South Carolina, Mr. Hillis, Mr. Lederer, Mr. Vanik, Mr. Lent, Mr. Jones of Oklahoma, Mr. Clay, Mr. Murphy of New York, Mr. Bauman, Mr. Devine, Mr. Carney, Mr. Synar, Mr. Mitchell of New York, Mr. Tauke, Mr. Stockman, Mr. Seiberling, Mr. Petri, Mr. Corrada, Mr. Fuqua, Mr. Giaimo, Mr. Van Deerlin, Mrs. Byron, Mr. Conable, Mr. Jacobs, Mr. Dodd, Mr. Broomfield, Mr. Studds, Mr. Gingrich, Mr. Daschle, Mr.

Walgren, Mr. Hagedorn, Mr. Udall, Mr. Gradison, Mr. Wydler, Mr. Frenzel, Mr. Bennett, Mr. English, Mr. Edwards of Oklahoma, Mr. Lungren, and Mr. Smith of Iowa.

H.R. 5010: Mr. Nedzi.

H.J. Res. 321: Mr. Beard of Rhode Island.

H. Con. Res. 128: Mr. Daschle, Mr. Russo, Mr. McHugh, Mr. Fazio, and Mr. Patterson.

H. Con. Res. 146: Mr. Kildee.

H. Con. Res. 155: Mr. Scheuer, Mr. Burgener, Mr. Long of Maryland, Mr. Horton, Mr. Rousselot, Mr. Levitas, Mr. Yatron, Mr. Kostmayer, Mr. Gilman, Mr. Gray, Mr. Maguire, Mr. Kemp, and Mr. Glickman.

H. Con. Res. 158: Mr. Marks, Mr. Rousselot, Mr. Royer, and Mr. Robinson.

H. Res. 288: Mr. Jeffords and Mr. AuCoin.

H. Res. 348: Mr. Duncan of Tennessee, Mr. Petri, Mr. Nolan, Mr. Murphy of Pennsylvania, Mr. Gingrich, Mr. Hollenbeck, Mr. Solomon, Mr. Dannemeyer, and Mr. Roth.

H. Res. 374: Mr. Anderson of Illinois, Mr. Bedell, Mr. Devine, Mr. Dougherty, Mr. Goodling, Mr. Jeffries, Mr. Patten, Mr. Roe, Mr. Won Pat, and Mr. Benjamin.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows.

H.R. 4043

By Mr. ICHORD:

—Page 10, strike out line 17 and all that follows down through line 4 on page 12 and insert in lieu thereof the following:

"(d) Military Critical Technologies.—(1) The Congress finds that the national interest requires that export controls under this section be focused primarily on military critical technologies, and that export controls under this section be implemented for goods the export of which would transfer military critical technologies to countries to which exports are controlled under this section.

"(2) The Secretary of Defense shall develop a list of military critical technologies. In developing such list, primary emphasis shall be given to—

"(A) arrays of design and manufacturing know-how;

"(B) keystone manufacturing, inspection, and test equipment; and

"(C) goods accompanied by sophisticated operation, application, or maintenance know-how,

which are not possessed by countries to which exports are controlled under this section and which, if exported, would permit a significant advance in a military system of any such country.

"(3)(A) The list referred to in paragraph (2) shall be sufficiently specific to guide the determinations of any official exercising export licensing responsibilities under this Act; and

(B) The initial version of the list referred to in paragraph (2) shall be completed and published in an appropriate form in the Federal Register not later than October 1, 1980.

"(4) The list of military critical technologies developed by the Secretary of Defense pursuant to paragraph (2) shall become a part of the commodity control list.

"(5) The Secretary of Defense shall report annually to the Congress on actions taken to carry out this subsection.

H.R. 4040

By Mr. LONG of Maryland:

—Page 33, after line 8, add the following new section:

EXTENSION OF PERIOD FOR REDUCTION IN NUMBER OF SENIOR-GRADE CIVILIAN EMPLOYEES OF DEPARTMENT OF DEFENSE

Sec. 818. Section 811(a)(1) of the Department of Defense Appropriations Authorization Act, 1978 (10 U.S.C. 131 note), is amended by striking out ", and during the fiscal years" and all that follows in such section and inserting in lieu thereof a period and the following new sentence: "The total number of civilian employees of the Department of Defense in grades GS-13 through GS-18, including positions authorized under section 1581 of title 10, United States Code, shall be reduced—

(A) during the fiscal year beginning October 1, 1978, by a percentage equal to the percentage by which the number of commissioned officers on active duty in the Army, Marine Corps, and Air Force above the grade of colonel and on active duty in the Navy above the grade of captain is reduced during such fiscal year below the total number of such officers on active duty on October 1, 1978; and

(B) during the period beginning on October 1, 1979, and ending on September 30, 1981, by a percentage equal to the percentage by which the number of commissioned officers on active duty in the Army, Marine Corps, and Air Force above the grade of colonel and on active duty in the Navy above the grade of captain is reduced during the fiscal year beginning on October 1, 1979, below the total number of such officers on active duty on October 1, 1979."

By Mr. PANETTA:

—Page 33, after line 8, add the following new section:

RETROACTIVE PAY EQUALIZATION FOR WORLD WAR II PHILIPPINE SCOUTS

Sec. 818. (a) The Secretary of the Army shall pay in a lump sum to each person who served as a Philippine Scout during the period beginning on December 7, 1941, and ending on December 30, 1946, an amount equal to the difference between (1) the total amount of basic pay such person would have received for his military service during such period if the rates of basic pay of the Philippine Scouts had been the same as the rates of basic pay during such period for other members of the Army of the United States of corresponding grades and length of service, and (2) the total amount of such basic pay actually received by such person.

(b) In the event a person entitled to a payment under subsection (a) is deceased, such payment shall be made to the persons, and in the manner, prescribed in section 2771 of title 10, United States Code.

(c) The retired pay of each former Philippine Scout shall be computed for periods after the effective date of this Act on the basis of the rates of pay prescribed for other members of the Army of the United States of corresponding grades and length of service.

(d) This section shall take effect as of the first day of the first calendar month which begins after the date of the enactment of this Act.

EXTENSIONS OF REMARKS

FISHERIES ADVANCED TECHNOLOGY TRANSFER ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, today I am joining with a group of my colleagues in introducing the Fisheries Advanced Technology Transfer Act. This bill will continue the excellent work started by the Congress when it passed the Fishery Conservation and Management Act, our Nation's 200-mile law.

Since the FCMA was passed, our domestic fishing industry has begun to take advantage of the opportunities presented by establishing a 200-mile fishery conservation zone. The average increase in dockside value of products landed is now approximately 3.7 percent per year. The average increase in value of processed fisheries products is 3.3 percent per year. Fishermen have invested in new boats and gear and processors have invested in new facilities. Unfortunately, this investment increase is less than it could be for a variety of reasons. One of those is lack of access to technology and techniques currently available to foreign fishermen which can be adapted for use in U.S. fisheries. Without a coordinated means of supplying data on new technology to our domestic industry, we will not be able to accomplish the full utilization of fish species within our fishery conservation zone.

My bill will solve that problem in a simple manner. It directs the Secretary of Commerce to conduct a 6-month study of the techniques and technology available in foreign nations which can be used by our domestic fishing industry. The bill then provides a mechanism for disseminating the data acquired to interested and qualified persons, organizations involved in commercial fishing, and regional fisheries development corporations. The bill also establishes a set of criteria whereby the Secretary can help fund workshops, seminars, demonstration projects, and similar activities to give fishermen and processors first hand experience with the advanced technology identified. Emphasis will be given to those projects which are partially or wholly funded by the participants. Most importantly, this bill accomplishes the necessary technology transfer without allowing the use of foreign vessels.

The concepts embodied in this legislation are supported by fishermen and processors throughout the U.S. fishing industry. Fishermen and processors are especially concerned that the necessary technology transfer takes place without providing additional access to our fisheries by foreign nations. This legislation will solve that problem and promote the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

further development of our domestic fishing industry.●

TAX EXEMPTION FOR ELDERLY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. OTTINGER. Mr. Speaker, today I am introducing a bill of special interest to senior citizens. This bill would facilitate their capacity to live on a fixed, retirement income by providing a Federal tax exemption of $5,000 over and above other already exempt retirement income received by a taxpayer under any type of retirement program, either public or private, if the taxpayer is 65 years of age or older.

The ability to retire with some degree of financial security is the outstanding concern of people approaching retirement age. Since 1967, the Consumer Price Index has doubled, thereby halving the purchasing power of those on fixed incomes for that 12-year period. Such a phenomenon is certainly unhealthy. In effect, inflation is rolling back the income of our senior citizens.

Mr. Speaker, I continually hear from elderly persons in my district who are concerned over rising property taxes and the general rise in the cost of living. While we at the Federal level have no control over local property taxes, I think that this special Federal tax exemption would help to alleviate some of the problems resulting from the local and State tax situation and enable our 24 million senior citizens to retire with greater security.

I do not contend that this bill will solve all of the problems faced by senior citizens, nor do I wish to imply this is all we should consider. But I do believe that the proposal represents a significant step toward extending better tax treatment to seniors.

I hope that the 96th Congress will consider this and other proposals to help senior citizens cope with the rising cost of living.

The text of the bill follows:

H.R. 5026

A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as section 125 and by inserting after section 123 the following new section:

"SEC. 124. PARTIAL EXCLUSION OF RETIREMENT BENEFITS.

"(a) GENERAL RULE.—Gross income does not include—

"(1) any amounts received by an individual in the taxable year as a pension, annuity, or other benefit under a public retirement system, or

"(2) any amounts received by an individual who is age 65 or over as a pension, annuity, or other retirement benefit under any other retirement plan, program, or system,

to the extent that the aggregate of such amounts (over and above any portion thereof which is excluded from gross income under provisions of this chapter other than this section) does not exceed $5,000.

"(b) DEFINITION.—As used in subsection (a), the term 'public retirement system' means a pension, annuity, retirement, or similar fund or system established by the United States, a State, a territory, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia."

(b) The table of sections of such part III is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Partial Exclusion of Retirement Benefits.

"Sec. 125. Cross References to Other Acts."

SEC. 2. Section 72(p) of such Code (cross reference relating to annuities) is amended—

(a) by striking out "REFERENCE" and inserting in lieu thereof "REFERENCES"; and

(b) by adding at the end thereof the following:

"For partial exclusion of retirement benefits, see section 124."

SEC. 3. The amendments made by this section shall apply only with respect to taxable years beginning after the date of the enactment of this Act.●

HOW SOVIETS ACT TO BEND THE TRUTH

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. DERWINSKI. Mr. Speaker, the continued efforts by the Soviet authorities to interfere with free world correspondents stationed in the U.S.S.R. is the subject of an editorial in the Chicago Sun-Times of July 30. The Sun-Times very properly refutes the trumped-up Soviet charges against Moscow correspondent for the Financial Times of London, David Satter. I wish to insert the editorial for the Members' attention:

HOW SOVIETS ACT TO BEND THE TRUTH

We commend the U.S. Embassy for stiffly protesting Soviet harassment of David Satter, Moscow correspondent for the Financial Times of London and, occassionally, The Sun-Times. Russians burglarized Satter's office, broke into his auto and stole his driving papers, then barred him from driving because he didn't have the papers. Every sign indicates he's to be thrown out soon.

Satter is accused of "hooliganism" and of being rude and abusive to officials. But he is a Chicagoan, and we know him well as a soft-spoken, mild-mannered, ultimately civilized man with a wise head firmly screwed to his shoulders. He is too cool to be rude or abusive, even to the rudest, most abusive Russian. As a hooligan, he scores zero.

The Soviets are abused not by Satter but by the truths about their society that he reports. Nine other correspondents have suffered similar retaliation in recent months. The purpose is to coerce them into shading the truth as the price of surviving in Moscow, and that we must not endure.●

FREE ENTERPRISE CAN SOLVE ENERGY ILLS

HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. LATTA. Mr. Speaker, 2 years ago when the House was considering the establishment of the Department of Energy—allegedly as a solution to our energy woes—the argument was made that establishment of the Department would mean a proliferation of Government regulations into the energy market with a subsequent strangling of our private enterprises.

Two years later, we know that argument to be correct, though, even now, some of my colleagues are hesitant to turn to the private sector for a solution without encumbering it with numerous taxes and other so-called safeguards. The other day, I was pleased to receive a letter from a constituent, Mr. Edward J. Metzger, Jr., of Wauseon, Ohio, who makes short, concise, and persuasive argument against the folly of allowing an overweight Department of Energy solve our energy needs. Mr. Metzger's letter mirrors my sentiments on this subject, and I would like to share it with my colleagues for their edification.

Mr. Metzger's letter follows:

JULY 24, 1979.

Representative DELBERT LATTA,
Rayburn House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE LATTA: I am writing to encourage you to allow the private part of "free" enterprise, capitalistic system more freedom to work on the solution to our energy ills. I believe that more than half of our current problems are related to existing government intervention into the marketplace. More regulation from Washington can only make this situation worse.

I understand that the immediate removal of all government controls would cause severe price spasms in energy products, however, I believe controls could be phased out to smooth the transition from regulated market to a free market.

I cannot understand how anyone, comparing the record of achievement of the Federal Energy Department, and the history of our free enterprise system, could possibly opt to have the energy department solve our problems.

Allow the oil companies to keep their profits. Use the tax system to encourage exploration and research into other energy sources. Don't take their profits, thereby reducing their incentive, to have the energy department spend this money in the always wasteful manner of government activity.

Please, have some faith in the system that made us great; allow the free enterprise system to function; keep government regulation minimal.

Very truly yours,

EDWARD J. METZGER, Jr.●

SLOVAK DAY IN THE LEHIGH VALLEY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. RITTER. Mr. Speaker, this weekend, on Sunday, August 5, a very special celebration will take place in my district. I would like to say a few words about it, because this is a matter of great pride to me and to the entire Lehigh Valley of Pennsylvania. Sunday will mark the celebration of Slovak Day.

I was deeply honored to have been invited to attend, and very much regret that my long-planned, short vacation with my wife and children—my first vacation of any kind this year—makes it impossible for me to be there on that day. I am deeply grateful to Robert Raykos, chairman of Slovak Day, Frank Palencar, president of the Greater Lehigh Valley Slovak Association and to all Lehigh Valley Slovak-Americans for their kind invitation.

Mr. Speaker, ethnic achievement and pride have always been one of the greatest sources of strength in our Nation. Nowhere is this more true than in the Lehigh Valley. In Lehigh and Northampton Counties, more than 100,000 citizens, or fully one-fifth of our people, were foreign born, or have foreign born parents.

Since coming to Congress, one of the things I have been most proud of is my work, as Congressman, toward encouraging ethnic pride. The key has been establishment of my Lehigh Valley Citizens Ethnic Advisory Council. This is a group of citizens representing all major ethnic groups in the Lehigh Valley, and Slovaks have played a major role. The Advisory Council helps keep alive ethnic pride. It calls attention to ethnic celebrations. It allows the different ethnic groups to appreciate each other. Most importantly, it helps me better represent our ethnic communities, like Slovaks, by keeping me informed about issues that affect legislation, foreign and domestic, that concerns ethnic communities. At the same time, the council helps me to better serve individual needs of ethnic citizens, such as helping solve immigration and emigration problems and problems with families in other countries.

The need for Congress to be deeply sensitive to ethnic concerns is as vitally important as ever in 1979. Today, in Slovakia, the church, which has played such a brilliant part in the history of the Slovak nation, is still facing the same oppression that it has endured for so many years in modern times. Last year, on the 10th anniversary of the Soviet invasion, the world could see clear, grim reminders of that repression, such as 500 Roman Catholic priests barred from exercising their ministry in 1973 alone.

The Soviet Communists, of course, would love to have the world swallow the lie that all is normal, that the scars of the invasion have healed. But we who care deeply about the spirit of freedom know better. We know that, as Father Victor Trstensky, a dismissed priest, wrote:

> The laws, and particularly their arbitrary application, are the basis for the most cruel oppression against which the Church has struggled for centuries.

The Communists' oppression of religious practice, of celebrations, of charitable work, and of the whole range of religious life is a symbol. It is a symbol of how desperately the Communist powers want to impose their will once and for all on the Slovak people. They have not succeeded and they will not succeed.

They will not succeed for three reasons. First, because there are proud people like you who will see to it that our ties of blood and friendship with the mother country remain strong, and who will keep that vital link with the free world alive. Second, because there are those in Congress who, like myself, understand the need to keep the defenses of the free world strong, to reverse the growing balance of power held by the Soviet Union. And third, because the Slovak people, like the people of other captive nations, have an unbreakable spirit.

Nowhere was that spirit more clearly shown than several weeks ago, when the courageous visit of Pope John Paul II to his native Poland lifted the spirits and hearts of freedom-loving men and women everywhere. By his very presence, dignity, and strength of spirit, "this Slav Pope" proved that years of living in the shadow of Soviet tanks have not broken the spirit of the oppressed Slavic peoples. Because of him, today, a new hope has come to brighten Slovakia, and all Eastern Europe.

Several weeks ago I spoke to the people behind the Iron Curtain in a Radio Free Europe broadcast. I felt then, as I feel now, that freedom will survive and that human spirit and dignity will prevail, in Slovakia and everywhere it is threatened.

So, let me once again say how proud I am to represent in Congress a district where ethnic pride is so much alive. May God bless the Slovak people, here and in Slovakia. May all Americans gain a renewed faith in freedom from Slovakia's struggle.

Nech Dlho Zije Slovensky Narod.●

HERBERT G. KOOGLE, P.E.

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. LUJAN. Mr. Speaker, I would like to take this opportunity to congratulate my friend, Herbert G. Koogle, P.E., who was recently elected the vice president of the southwestern region of the National Society of Professional Engineers and serves as the chairman of the Legislative and Government Affairs Committee. The National Society of Professional Engineers is a nationwide organization representing nearly 80,000 individual members from every aspect of the engineering profession.

Before taking on his current position, Herb served as chairman of the professional engineers in private practice division of NSPE, president of the New Mexico Society of Professional Engineers, national director of NSPE from New Mexico and president of the Albuquerque chapter.

Herb is a registered professional engineer and land surveyor in New Mexico. He is president and chairman of the board of Koogle & Pouls Engineering, Inc., located in Albuquerque.

It is an honor for me to congratulate Herb on his recent election and to wish him the best of luck.●

THE 150TH ANNIVERSARY OF THE TYPEWRITER

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. BOB WILSON. Mr. Speaker, as an inventor myself, and as one descended from inventors, I would like to direct the attention of my colleagues to the recent anniversary of an invention that is quite possibly—outside of paper—the most important ever to us here in Washington.

One hundred fifty years ago, William Austin Burt received the first patent for the typewriter.

The following article was sent to me by my good friend Richard A. Burt, who is also the great-great-great-grandson of the typewriter's inventor. As we here have such a close association with this machine, I thought we all might benefit from learning of its origins.

AMERICA'S FIRST TYPEWRITER WAS AHEAD OF ITS TIME

ORANGE, CA.—It was 150 years ago, on July 23, 1829, when William Austin Burt received the first typewriter patent of any significance, but, at the time, he was less than ecstatic. The Michigan legislator's writing machine marked the beginning of the typewriter as a practical writing instrument, but its operation, much like the modern toy typewriter, was painfully slow and did little to ease the burden of correspondence that Burt had counted on. A second model was completed the following year to attract investors to purchase the patent rights for commercial development, but neither the facilities nor the capital were available, and Burt turned his attention to other inventions while allowing has patent to expire. In 1836, he invented a solar compass that became standard equipment in the U.S. public land surveys and helped him to discover the first of the rich Great Lakes iron ranges, near Marquette, Michigan, in 1844.

Several European machines preceded Burt's, but they were primarily embossing devices intended for the blind. An English engineer, named Henry Mill, received a patent for a writing machine as early as 1714, although there is no evidence that drawings or an actual model ever existed. After Burt allowed his patent to expire, dozens of other inventors tried unsuccessfully to produce a fast and efficient writing machine, and it was not until 1874 that a prototype, built by Christopher L. Sholes, was purchased by the Remington Company and brought into commercial production. Burt's "typographer" was clearly ahead of its time.

A TRIBUTE TO HENRY HALL WILSON, JR.

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. HEFNER. Mr. Speaker, I am saddened by the death of Henry Hall Wilson, Jr., of Monroe, N.C., on July 22, 1979. To his wife, Mary, and his children, Henry III, Jean, and Nancy, I extend my profound condolences. I feel fortunate to have known this gentle, genial scholar who helped shape this country's history during the administrations of three American Presidents.

For the past 6 years, Henry Hall Wilson had made his home in Monroe, the town where he was born 57 years ago. He was one of the most distinguished residents of North Carolina's Eighth Congressional District.

In Washington, Henry Hall Wilson worked as the congressional liaison officer for President John F. Kennedy and President Lyndon B. Johnson. For President Kennedy, he helped persuade the Congress to transform the President's goals into legislative reality. For President Johnson, he helped mold the Great Society during part of Johnson's administration. For Jimmy Carter, he wrote position papers on economics and other subjects.

Although I was not a Member of Congress during Henry Hall Wilson's years in Washington, his legacy remains as an indelible imprint on our society. Those Congressmen who remember him speak of his persuasiveness, his scholarship, his integrity, his humor, his vision, and his sense of history.

Henry Hall Wilson graduated from Duke University and served in the U.S. Army in World War II. He came home after the war and enrolled in Duke University's Law School. After his graduation, he returned to Monroe where he practiced law. He was subsequently elected to serve for three successive terms in the North Carolina House of Representatives.

He formed the North Carolina Young Democratic Club whose chapters have sprung up in virtually every county of North Carolina. He served as the first president of the organization.

Henry Hall Wilson chose not to seek reelection to the State House of Representatives in 1959 and devoted his time and energy to the gubernatorial campaign of Gov. Terry Sanford. He also served as the North Carolina campaign chairman for President John F. Kennedy.

Shortly after President Kennedy's inauguration, Henry Hall Wilson came to Washington to help steer the new President's programs through the Congress. He stayed on to assist President Johnson in the same position. In 1967 he left the White House to become president and executive director of the Chicago Board of Trade. He served with distinction in that capacity until 1973 when he returned to North Carolina and was an unsuccessful candidate for the Democratic nomination for the U.S. Senate. The last years of his life were devoted to business consulting and writing a book, "A More Perfect Union."

Throughout his life, Henry Hall Wilson was a dedicated and devoted Democrat. He was dedicated and devoted to the ideals that have made our country the greatest democracy in the world. We mourn his death.●

HOPKINS CALLS FOR DIGGS EXPULSION

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. HOPKINS. Mr. Speaker, today I voted for House Resolution 378, which officially censures Congressman Diggs and requires him to repay the House of Representatives for funds he admittedly used illegally. Even though I voted for this motion of censure, I did so because it was the strongest, in fact only, punishment we as Members are going to be able to vote for. I believe House Resolution 378 is far too lenient and had I been given the opportunity I would have voted to expell Mr. Diggs.

Yesterday I joined with 196 of my colleagues in an effort to bring to a vote a motion to expell. Unfortunately, we were not successful. I find it totally unacceptable the House leadership has persistently thwarted our efforts to have such a vote on a motion to expell Mr. Diggs.

The illegal conduct of Charles Diggs reflects on the entire House of Representatives. I believe each Member of the House should have had the opportunity to vote for either censure or explusion. As it is the only choice I, and the other Members had, was whether to vote for or against censure.

I do not believe, and the vast majority of the people in my district do not believe, a convicted felon, as Mr. Diggs is, should serve in the Congress of the United States. This is especially true when the crimes he committed were in the conduct of his official duties as a Congressman.

When Mr. Diggs votes on an issue, he not only represents the people of the 13th District of Michigan, but he also votes for the people of my district and every citizen of this great Nation.

A man who cannot abide by the law has no business making them. That is the crux of the Diggs matter. Mr. Diggs has violated the public's trust and should no longer continue to serve in this body and to allow him to do so reflects poorly on the dignity, integrity, and honor of this House.●

LEGISLATION TO PERMIT A 4-DAY WORKWEEK FOR EMPLOYEES OF FEDERAL CONTRACTORS

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. LOTT. Mr. Speaker, on July 20 I introduced legislation to amend the Federal law to make it more responsive to our current energy situation. My bill, H.R. 4885, allows employees working for employers holding Federal contracts to work 10 hours a day, 4 days a week, if they so desire. Applying this revised schedule to a particular company in my own congressional district, where many employees must commute long distances, I can see that cutting out one round trip a week would result in considerable energy savings. Specifically, H.R. 4885 amends the Contract Work Hours Standards Act and the Walsh-Healy Act.

The Contract Work Hours Standards Act now states that individuals employed on construction sites under Federal contract must receive overtime for every hour over 8 they work each day, five days a week. My legislation will continue to assure that employees are not exploited in any way. It will simply allow them to work 10 hours a day for 4 days and be paid overtime for any additional work. Again, let me emphasize that this arrangement would apply only where it is mutually agreeable to workers and employers.

The second part of my bill, to amend the Walsh-Healey Act, applies to persons working for companies that hold Federal contracts for goods in excess of $10,000. Under current law, these workers cannot work more than 8 hours a day or 40 hours a week. The measure I am introducing retains the 40-hour limit but stipulates that, where the workweek is 4 days in length, the employee may work 10 hours a day.

As I have said, my work on this bill is spurred by a real situation in my congressional district. The employees want to work a 4-day week. The employer wants to give the workers this option. But, since the company holds a Federal contract, this arrangement is clearly impossible.

I have heard of numerous situations not involving Federal contracts where companies have begun to go to the 4-10-hour-day workweek. Municipalities in my district are trying it out. President Carter has recommended that it be utilized more within the civil service structure. I think that, where it is mutually agreeable to employees and employers with Federal contracts, it should be permitted as well.●

A TRIBUTE TO WOMEN IN KENTUCKY'S HISTORY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. MAZZOLI. Mr. Speaker, it is a pleasure to have the opportunity to respond to a request made by our distinguished colleague, PATRICIA SCHROEDER, to honor the women of the Commonwealth of Kentucky who have contributed to the history of our State.

I, in particular, would like to pay tribute to Patty Smith Hill, Elsie Ahrens Lang, Alice Caldwell Hegan Rice, Anna Hubbach Settle, and Pinky Watson. All of these women have records of accomplishment of which I and my fellow Kentuckians are proud.

Though these women and many other women in Kentucky's history are not nationally recognized for their achievements, I am happy to call national attention to their work.

One such figure is Patty Smith Hill who made many achievements in the development of kindergarten education. Miss Hill was a student of new ideas in education psychology, adapting, and testing. She coordinated these disciplines into techniques that were relevant to the kindergarten.

Miss Hill wrote little herself, relying instead upon personal demonstration and her skill as a speaker. Her strong belief in the scientific study of childhood led her to take an influential part in founding the Institute of Child Welfare Research in 1924. She was long active in the International Kindergarten Union and served as its president in 1908.

Echoing Dewey's insistence on the role of interest in education, she stressed the need to utilize children's natural play instincts in building the kindergarten program. She emphasized, too, that the school should be a social laboratory in which children learned the basic concepts of democratic living as they solved problems encountered in their own activities. In Louisville she had early discarded the traditional Froebelian sequence of particular games and play materials, to be used as directed by the teacher, in favor of projects offering the children opportunities for initiative, creative play, and problem solving.

Besides her fundamental reform of kindergarten practice, Miss Hill made two particular contributions that came to have wide use: One was the large-scale Patty Hill blocks, a set which permitted children to build large, useful structures. Along with her pioneering teaching work, she collaborated with her sister Mildred to write a song for their young students: "Good Morning To You."

Copyrighted in 1893, the song gained instant fame with different words: "Happy Birthday To You."

Louisville Elsie Ahrens Lang, born in 1886, became active in civic and political affairs as early as 1915, when she went door to door urging women to vote in a school board election 5 years before women acquired the right to vote nationally. The Louisville League of Women Voters was organized in 1920, and Mrs. Lang joined the league in 1922. From 1926–30, Elsie acted as chairman of the nominating committee. During her first administration, she worked for the election of women to the legislature and the naming of women jurors. In 1930 Elsie was treasurer of the national board of the league and also finance chairman of the Louisville league wherein she made her most significant contributions.

In 1951, she was made a lifetime member of the board. While the league was her first love, she devoted much of her time to other civic activities: The Louisville Urban League, the Art Center Association of Louisville, and the Louisville Municipal Housing Commission, to name just a few. In 1965, Mrs. Lang was honored with a brotherhood award by the National Conference of Christians and Jews of Louisville. She died in 1968.

Novelist Alice Caldwell Hegan Rice was born in Shelbyville, Ky., in 1870, but lived in Louisville most of her life. In 1901 she was inspired to write her first novel by the Authors Club of Louisville, a group of aspiring young women writers that included Annie Fellows Johnston, George Madden Martin, and Ellen Churchill Downs.

The novel was "Mrs. Wiggs of the Cabbage Patch," which in 1904, aided by Annie Crawford Flexner's successful stage adaptation, became a best seller, both in the United States and abroad—making Miss Rice not only rich but famous.

The story reflected the author's real concern for the problems of poverty, but her somewhat sentimental view on how easily they were to be solved is revealed by Mrs. Wigg's comment, at the end of the novel;

> Looks Like Everything in the World Comes Right, if We Jes' Wait Long Enough.

"The Cabbage Patch" was followed by nearly 20 works of popular light fiction, but illness and financial reverses brought serious hardship in the 1930's and Alice Hegan Rice's later novels were written under the press of necessity. She died in Louisville in 1942 at 72.

Anna Hubbach Settle, another Louisvillian, was born in 1888. For 25 of the 63 years of her life she devoted herself to her career as an attorney and first woman judge in Jefferson County, and to leadership in welfare, cultural, and educational projects in Louisville. Her achievements were several. After her death in March of 1951, the following appeared in the Louisville Courier Journal:

> As the leading local member of the National Consumer's League, Mrs. Settle's continuous preoccupation was with laws for the betterment of working conditions for women and minors. She drafted or helped draft an impressive number of the statutes which in Kentucky have established and raised minimum wages, lessened the hours which can legally be worked by women, and given protection to minors in industry. As a lawyer of wide-knowledge she defended these laws in court tests of their constitutionality and had the eventual satisfaction of seeing them become a part of the fabric of life in Kentucky and the rest of the Nation.

Mrs. Settle was active in politics for years, serving as chairman of the women's division in the Jefferson County democratic campaign in 1935. In 1943 she was appointed field representative for the U.S. Department of Labor to work with Manpower Commission officials locally to speed the transfer of women from nonessential jobs to war production work.

In addition to these achievements Mrs. Settle also served as president of the League of Women Voters, the Louisville Chorus, Louisville Women's City Club and the local chapter of Phi Delta Delta, legal fraternity. She was a member of the Louisville League of Catholic Women and Catholic cochairman of the Louisville chapter, National Conference of Christians and Jews. In 1948, 3 years before her death, she was named to the national board of the conference.

Equaling the efforts made by Mrs. Settle, yet with a much different style, was Pinky Watson. Following her attendance at Kentucky State University in Frankfort, Ky., Mrs. Watson married and operated her own beauty shop for 27 years, after which time she tired of it. She sold the shop and went to work in a local department store, but after a serious automobile accident, the doctor told her to stay off her feet as much as possible.

Already actively involved in missionary work in her church, on July 15, 1974, she went to work for the J. B. Tingley Center as a fieldworker in the field of aging which included gathering information and referrals, outreach, escort services and health related services. Her work in the center was outstanding and there she received the love and respect of its members. In addition to her exceptional work at the Tingley Center, she was a member of the Jefferson County Council on Aging and worked with the Department of Handicapped. At Christmas, 1976, Pinky Watson died of a heart attack.

These women are just a few of the many who have made Kentucky history. I am honored to share their achievements with my colleagues.●

LOUIS L. SPORRER

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. ROYBAL. Mr. Speaker, the Los Angeles Police Department is losing an exemplary member of the force with the recent retirement of Assistant Chief Louis Sporrer. It is, therefore, a particular pleasure for me to take these few moments to publicly recognize Assistant Chief Sporrer for his dedicated efforts on behalf of the people of the city of Los Angeles.

Born in Manning, Iowa, Louis Sporrer came to the Los Angeles area at the age of 12. We are fortunate that he decided to make Los Angeles his home, dedicating 30 years of his life to law enforcement efforts.

Over the years Louis Sporrer progressed through the ranks to the position of assistant chief. In this capacity he was assigned as director, office of operations, which include responsibilities for patrol, traffic, investigative and administrative services. He can certainly reflect with pride and satisfaction upon the many accomplishments of his life and his dedicated involvement on behalf of the people of Los Angeles.

In closing, I would just like to take this opportunity to wish Louis Sporer a long and enjoyable retirement filled with continued happiness and good health.●

NATIONAL FAMILY DAY

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. RAHALL. Mr. Speaker, as Americans, we have always prided ourselves on the basic freedoms that have been the foundation of our great Nation. Through our over 200-year existence, those freedoms set down by our Founding Fathers have served this Nation well.

The word, "nation" is defined as, "a community of people composed of one or more nationalities and possessing a more or less defined territory or government." In short, we are a nation of many families.

The American family structure has been a cornerstone to our freedom, just as much as the Declaration of Independence and the Bill of Rights. The family institution has solidified our past and will guide our future.

Since we are a nation of families, Mr. Speaker, I am today introducing a resolution to proclaim the third Sunday in August of each year, as "National Family Day."

This resolution calls upon the people of the United States to observe such a day by uniting or reuniting as a family to further the bonds of love, companionship, concern and understanding which have been the hallmark of the American family.

This particular date has been chosen, because over the years, one of this nation's largest families, the Lillys, have held massive reunions on the third Sunday in August.

From the 1930 until World War II, the Lilly reunion drew up to 75,000 to an outdoor gathering site at Flat Top, W. Va. After the war, a crowd of 50,000 came together for the 1949 reunion. However, due to the illness and the death of Mr. A. A. Lilly, who had been the organizer of the reunion for many years, interest seemed to wane.

Through the leadership and hard work of Mr. Jack Lilly of Canton, Ohio, in 1978, Beckley, W. Va., was the gathering site of over 3,000 Lillys from 28 States. August 19 is the date set for this year's reunion.

Mr. Speaker, I urge my colleagues to join me in this effort to recognize the American family and what it stands for.●

ACCURACY OF CENSUS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Ms. OAKAR. Mr. Speaker, as a member of the Subcommittee on Census and Population, I am deeply concerned about the accuracy of the Bureau of Census. The article in this morning's Washington Post is excellent. I hope that all Members will take the time to read it.

The article follows:

COUNTING ALL AMERICANS

(By Eddie N. Williams)

Millions of Americans and their communities are shortchanged each year because the Census Bureau can't count straight and because many federal grant-in-aid formulas ignore a large population of "undocumented" Americans. This is a tragic result of the census undercount.

The undercount has plagued every decennial census since 1870. It is virtually impossible for the Census Bureau to count every inhabitant. In recent years, two factors have made the undercount discriminatory and punitive. One is the growing use of census population data in formulas to allocate federal funds. In fiscal 1975, for example, $33.7 billion was obligated for 75 formula-grant programs that used population or per-capita income data, in whole or in part, as a basis for distributing money. This sum amounted to 22 percent of all state and local expenditures. Clearly, the distribution of these funds would change if there were a change in the population count.

Another factor is that the undercount affects some groups more than others. While almost two-thirds of the 5.3 million persons missed in 1970 were white, the rate of undercount was four times as high for blacks (7.7 percent) as for whites 1.9 percent). The rate for black males was 9.9 percent. The undercount among Hispanics, native Americans, and Asian Americans, in all probability, was also disproportionately high. The undercount rate tends to be highest among blacks and whites who are already the most disadvantaged in the nation.

The undercount not only affects our social and economic well-being, but our political representation as well. Its impact on reapportionment is a complex constitutional issue that has not been resolved. However, the impact on fund allocations is a policy question for which there is an available policy remedy.

Thus, it is understandable that many elected officials, especially those from the cities with heavy concentrations of under-enumerated persons, complain that they are not getting their fair share of federal and state funds. The population data used in allocating those funds are based on the decennial census, which is admittedly inaccurate or incomplete. A Camden, N.J., official provided this perspective: "An undercount does [not] merely suggest that black Americans are being shortchanged, but the greater consequence is that all persons, black and white, poor and middle class, who live in cities like Camden . . . are being shortchanged."

Nearly everyone who examines this problem agrees that it is complex and freighted with inequities. Where, then, might one look for solutions?

Even though the Census Bureau has taken extraordinary steps to reduce the 1980 undercount, most experts and the Census Bureau itself agree there will be an undercount in 1980. Clearly there is a need for a procedure to adjust the 1980 census count so as to avoid financial loss to millions of Americans and to hundreds of cities. The Department of Commerce and its Census Bureau have been urged on numerous occasions to develop and implement an adjustment procedure. Among those who have made such recommendations are elected officials, the U.S. Conference of Mayors, the Black, Hispanic and Asian American Advisory Committees of the Census Bureau, and the National Academy of Sciences.

The recommendations of the National Academy of Sciences are especially noteworthy. Last year, the academy was awarded a contract by the Department of Commerce to determine whether there are feasible methods of adjusting or correcting the census count to assure greater equity in the allocation of federal funds. The academy determined that "methods of adjustment with tolerable accuracy are feasible" and recommended that the secretary of commerce direct the Census Bureau to develop and implement a plan to adjust the 1980 census count.

Secretary Kreps has yet to act on this recommendation. In a June 6 letter to Mayor Maynard Jackson of Atlanta, chairman of the U.S. Conference of Mayors census task force, Secretary Kreps expressed her views as follows:

"While the Panel on Decennial Census Plans of the National Academy of Sciences did recommend that such adjustments be made, it should be noted that the panel did not endorse a specific technique for accomplishing this task.

"As part of our continuing research, the bureau plans to convene a national conference of experts during the spring of 1980 to review this matter."

The negative consequences of an undercount have been known since at least 1950.

Definitive studies have already been conducted. The academy was engaged to review those studies and to make a recommendation, which it did. Moreover, the proposed 1980 conference, at best, would offer relief in the 1990 census—a decade away—if at all. Certainly such a conference is no response to the NAS admonition that ". . . to meet the urgent demand for some greater degree of equity, a temporary expedient has to be considered." The NAS made it clear that it was talking about a "currently available" methodology to adjust the 1980 census.

The secretary's explanation that the academy report " did not endorse a specific technique for adjusting for under-enumeration" serves to cloud rather than to clarify the issue. The fact is that the Department of Commerce did not ask the academy to endorse a specific technique. Rather, it asked for and got a determination on feasibility. In fact, the academy cited three feasible adjustment techniques that could be used. The secretary may choose any one of them or initiate her own adjustment technique.

If the secretary does not act now to implement a "temporary," "expedient," "feasible" and "available" adjustment procedure, an awful lot of people, including needy low-income blacks and whites, will be shortchanged for another decade. This is a matter of national concern.

If the secretary of commerce continues to delay, the president and the Congress should intervene before the 1980 census undercount and its Catch-22 consequences further erode the people's confidence in the federal government.●

MARIHUANA AND CHILDREN: A SUBSTANTIAL RISK

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. WOLFF. Mr. Speaker, the Select Committee on Narcotics Abuse and Control recently completed 2 days of hearings examining the presently known information concerning the health consequences of marihuana. From the testimony at these hearings, as well as from other scientific information, it is clear that we do not now know all that we should about marihuana and its effects on the human body. There is at least one point, however, that the expert witnesses before the committee could agree upon: Adolescents and preteenagers run a substantial risk of harm—both physical and mental—from the abuse of marihuana. This is apparently becuse the drug's interaction with a young person during his or her developmental years can often be far more damaging than its interaction with a biologically matured individual. This fact is particularly disturbing in light of recent trends indicating increased use of marihuana among children in the 8- to 11-year-old range.

I would like to call to the attention of my colleagues an article by Dr. Saul Kapel which recently appeared in the New York Daily News and which underscores the significant potential danger marihuana poses to our children.

NEW STUDIES OF MARIJUANA NEEDED TO PROTECT KIDS

News reports in the last year or so have indicated that the smuggling of marijuana into the United States has developed into an enormous business.

State legislatures continue to debate the question of what penalties, if any, should be imposed upon sellers or those in possession. And there are organized groups seeking to remove any penalties connected with the use of marijuana.

The Drug Abuse and Alcoholism Newsletter published by the non-profit Vista Hill Foundation accurately notes that "we will never have all of the facts concerning the safety or toxicity of marijuana . . . It is now possible to selectively cite the scientific literature and prove that (1) cannabis (marijuana's medical name) is an extremely hazardous material, or (2) that it is completely safe."

One problem with earlier studies of the effects of marijuana is that they focused on the weak U.S.-grown or Mexican varieties. The staple of street usage today is a much stronger version imported from the Far East and Colombia. New and extensive research is needed.

What has been established is that usage of the drug is increasing with the most intensive use among the 12 to 25-year-old group. One survey indicated that 10 percent of all high school seniors smoked marijuana a least once a day.

Perhaps the most alarming trend, even for those who believe marijuana is not particularly a threat, is that pre teenagers, kids 8 to 11, have increased the amount and intensity of their usage. While the effects upon adults may be debatable there is no question that heavy use by children can lead to problems. At risk are the respiratory tract, hormone production, emotions and mental functioning.

It is possible to suffer acute cannabis intoxication. An adult in a drunken stupor from liquor or marijuana is bad enough, but the consequences for a child are obviously much worse. Chronic use of marijuana results in some people, in a loss of drive, poor performance and blunted emotional responses. This can be particularly damaging during the developmental years.

It should be clear that many studies have not labeled pot as harmless, and those that do are primarily based on the use of the older, weaker varieties.

While the debate on decriminalization will likely continue, there is still much we don't know about the effects of the currently available marijuana. However, it seems reasonable that because the young are vulnerable to physical, mental and emotional consequences from cannabis, more attention should be given to ways to deter especially the young teenager from using the drug.●

TRIBUTE TO YOSHIO ANDO

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. MINETA. Mr. Speaker, on behalf of Congressman Don Edwards and myself, it gives me great pleasure to rise today to honor Mr. Yoshio Ando, who has been awarded the Order of the Sacred Treasure, Fifth Order, from the Japanese Government. This award was first given in 1888 to men who rendered excellent service to their country. It was later expanded to include women and persons of Japanese ancestry who were citizens or residents of other countries. Approximately 10 Americans are honored each year by the Japanese Government for their contributions to the betterment of life for the Japanese community.

Santa Clara County has been privileged in the past to have other honorees; Mr. Ando, however, is the first native American of Japanese ancestry to receive this decoration. Mr. Ando received the commendation from the Japanese Government at a ceremony recently held at the Foreign Department in Tokyo, Japan, in recognition:

First, of his dedication and untiring contributions towards United States-Japan goodwill through his participation in the international farm training program. This program provides an exchange of ideas, methods, and on-site training to the aspiring young Japanese farmer.

Second, of his many years of involvement in local community, civic, church, and cultural activities for the benefit and general welfare of Japanese-Americans; and

Third, for his humanitarian deeds in rendering aid, assistance, and encouragement to those needing housing, employment, and counseling during the difficult post-war resettlement period.

On Thursday, August 9, 1979, the Japanese community will hold a testimonial dinner for Mr. Yoshio Ando. The event is being sponsored by the San Jose Buddhist Church and the Hiroshima Nikkei Jinkai of Santa Clara County. Mr. Speaker, we ask you and our colleagues in the House of Representatives to join us in congratulating Mr. Ando on his award, to thank him for his years of outstanding service and contributions to the Japanese community of Santa Clara County, and to offer him best wishes for the future.●

PRODUCTIVITY IN THE UNITED STATES: A NATIONAL DISASTER

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. LaFALCE. Mr. Speaker, the single most important underlying problem in our economy today is the lagging rate of productivity. Low productivity growth is undermining the battle against inflation and is contributing in a significant fashion to the balance-of-payments deficit. Without a higher rate of productivity growth, our economy may slump into a permanent state of stagflation with U.S. companies unable to compete both at home and abroad.

Yesterday, the Labor Department announced that the productivity situation had once again worsened.

The bad news is productivity in U.S. businesses declined, I repeat, declined, 5.7 percent during the second quarter of 1979, which makes the second quarter of this year the worst since the Department commenced recordkeeping in 1947. This followed a drop of 3 percent in the first quarter of this year, which means that an alarming trend of declining productivity may become a permanent feature of the U.S. economy. It portends nothing short of national disaster.

The good news is that someone is finally paying attention to this trend. In the past, reports about the lagging rate of productivity were tucked away in the finance section of the newspaper, if they were reported at all. However, the decline during the second quarter received front page coverage in both the Washington Star and the Washington Post, which is exactly where this story belongs. At the very least, this productivity decline and the attention it is receiving may induce the administration to reconsider its ill-advised decision to limit the number of employees of the National Productivity Council to two.

The articles follow:

U.S. PRODUCTIVITY TAKES BIGGEST DROP IN 5 YEARS

[From United Press International]

The productivity of American business dropped at an annual rate of 3.8 percent during the second quarter of 1979, the largest such decline since the 1974 recession, the Labor Department said today.

Productivity measures the nation's output of goods and services per hour of labor.

It often declines during recessions, and the current slump was further evidence a recession is under way.

It was the second consecutive quarter in which productivity in the private business sector has declined. It decreased 2.8 percent during the first quarter—January through March.

The drop during the second quarter—April through June—was due to decreases in both output and the number of hours worked by Americans, both indicating a slowing economy.

Output dropped 4.7 percent, the first time it has declined by this measure since the first quarter of 1975, when it plunged 10.9 percent.

The number of hours worked in the second quarter of 1979 fell 0.9 percent, the first decline since the second quarter of 1975.

The 3.8 percent productivity decline in the second quarter was the largest since a 6.9 percent drop in the first quarter of 1975, at the start of this country's worst recession since the Great Depression of the 1930s.

PRODUCTIVITY FELL SHARPLY IN 2D QUARTER

(By John M. Berry)

In a development that will mean more inflation ahead, productivity of U.S. businesses fell more rapidly in the second quarter of this year than at any other time since the government began keeping records in 1947.

The Labor Department reported yesterday that output for each hour worked in nonfarm businesses dropped 5.7 percent, compared with a drop of 3 percent in the first quarter.

With the economy moving into a recession, a decline in productivity is not surprising: Businesses reduce production before laying off workers. But the sharpness of the second quarter drop surprised many economists.

One explanation is that while businesses reduced production, they actually continued to hire new workers, a signal that the current economic slump may not boost the unemployment rate as much as previous recessions did.

But the drop in productivity is bound to be inflationary, because while workers were producing less, they were earning more. The combination pushed up the unit labor cost of producing goods by 14.3 percent in the second quarter.

Economists have found that changes in unit labor costs usually closely match inflation rates. Over the past year, for instance, unit labor costs went up 10.5 percent while consumer prices rose 10.9 percent, the Labor Department said yesterday.

Courtenay Slator, chief economist at the Commerce Department, said the drop in productivity is "what typically happens at the beginning of a downturn. Output is cut back first and then the cutback in employment comes later."

But in the second quarter, businesses kept adding to payrolls, pushing employment up 1.6 percent. Total hours worked were up only 0.4 percent, however, because the length of the average workweek declined by 1.2 percent.

Nevertheless, the continued hiring during a period of falling production may be a signal that this recession will not increase unemployment as much as usual, but also will do little to ease inflation.

Productivity gains have been slowing in recent years, puzzling both government and private economists, who have been at a loss to explain it to their own satisfaction.

Ironically, at the same time the Labor Department was reporting the record productivity decline in the second quarter, it said that the rate of productivity increases over the last two years has not slowed quite as much as was reported earlier.

It revised upward from 1.3 percent to 1.8 percent the increase for nonfarm businesses for 1977, and from 0.5 percent to 1.1 percent the gain in 1978. Unit labor costs rose 6.3 percent in 1977 and 8.1 percent in 1978.

By comparison, productivity grew 3.5 percent in 1976, when the economy was still recovering from the 1974–75 recession. That year unit labor costs went up only 4.7 percent.

The manufacturing sector of the economy fared better in the second quarter than did other areas. Manufacturing productivity rose at a 3.3 percent rate, which means that for nonfarm, nonmanufacturing businesses, productivity plummeted.

The rate of increase in unit labor costs rose to 14.3 percent during the quarter for nonfarm businesses, but worker compensation went up more slowly than it did in the first quarter. In the first three months of the year, higher Social Security tax payments and a higher minimum wage added to the increase.

However, the increase in compensation in the second quarter, at 7.8 percent, was the smallest since the fourth quarter of 1977. Some analysis suggested that the administration's voluntary wage standard, coupled with the first effects of the recession, probably were working together to limit wage increases somewhat.

Meanwhile, the F. W. Dodge Division of McGraw-Hill reported that the Value of new construction contracts signed in June rose $15.3 billion, 5 percent higher than a year earlier.

Substantial gains in nonresidential building just offset continued weaknesses in home building. George Christie, Dodge's chief economist, said this indicates "that the construction cycle is sliding away from its peak."

The value of nonresidential building contracts in June was 22 percent higher than last year, with $4.8 billion worth of contracts signed, mostly for office and manufacturing buildings.

Contracts for residential building posted an 8 percent decline from a year earlier, falling to $7.3 billion—the report said.●

DISTINGUISHED FLYING CROSS AWARDED TO NAVY LT. ORMOND CRAIG FOWLER, JR.

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. BOB WILSON. Mr. Speaker, I would like to invite my colleagues' attention to an incident that occurred late in the Vietnam war which not only gained for Navy Lieutenant Ormond Craig Fowler, Jr., the Distinguished Flying Cross, but also our admiration for his rescue of a fellow serviceman in the face of extremely heavy enemy fire.

Lieutenant Fowler's actions are an inspiration to us all and I would like to add my congratulations to him for receiving this award.

The citation follows:

COMMANDER IN CHIEF,
U.S. Pacific Fleet.

The President of the United States takes pleasure in presenting the Distinguished Flying Cross to Lt. Ormond Craig Fowler, Jr., U.S. Naval Reserve for the service as set forth in the following:

CITATION

"For heroism while participating in aerial flight as Command Pilot and Fire Team Leader of a light helicopter fire team attached to Helicopter Attack (Light) Squadron Three, Detachment Eight in the Republic of Vietnam. On 26 March 1971, a United States Army boat convoy came under a vicious enemy ground attack as one fuel-carrying boat contacted a mine and exploded violently, spewing flaming fuel over the water. Lieutenant Fowler, whose helicopter fire team was flying in support of the convoy, descended to below tree top level over the canal in search of any possible survivors of the explosion and spotted critically wounded United States soldier struggling toward the shore. He hovered a few feet over the canal to effect pickup of the wounded man and, in doing so, flew into the midst of a fierce crossfire between the enemy and friendly forces. Due to heavy foliage on the shore and uneven terrain, he was forced to remain at a hover over the very narrowly restricted canal. Unwilling to depart and leave his crewman who had entered the water to rescue the wounded soldier, Lieutenant Fowler repositioned his aircraft to minimize its vulnerability to the intense crossfire. The force of his rotor wash prevented pickup of his crewman and the casualty so, having no communications with friendly boats, Lieutenant Fowler used his helicopter to gain the attention of one of the craft which effected a successful rescue. Lieutenant Fowler's courage under fire, outstanding judgment and daring actions in the face of personal danger were in keeping with the highest traditions of the United States Naval Service."

For the President

B. A. CLAREY,
Admiral, U.S. Navy,
Commander in Chief U.S. Pacific Fleet.

THE FUTURE OF ENERGY?

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. PATTEN. Mr. Speaker, my good friend Mr. Thomas Murtha of Woodbridge, N.J., during his Naval Reserve basic training, took the liberty to research in his spare time the historical controversy over our energy supplies. He brought to my attention Floyd W. Parson's article from the January 24, 1920, issue of the Saturday Evening Post, which confronted our national petroleum supply, its sources and alternative, means of energy.

In the following paragraphs Parson's view of our oil situation was somewhat similar to today's. This section was printed nearly 60 years ago and regarded questions surrounding petroleum supplies and future oil exploration. In addition, Parson quotes Secretary Lane's energy conservation opinions, which encouraged thrifty production and consumption.

The material follows:

OUR PRECIOUS PETROLEUM

The prosperity of the United States depends largely upon an adequate supply of petroleum. Very few of our great industries as now conducted could exist without it. There are no known commercial substitutes for gasoline or lubricating oils and it is no exaggeration to say that in one form or another petroleum reaches every household in the civilized world.

The United States is faced with the certainty of an increasing demand for petroleum. We know now that the domestic output does not meet our present consumption. Of our original available supply underground we have consumed 40 percent that is unreplaceable. Within the next two to five years the oil fields of this country will reach their maximum production and from that time on, unless there are new discoveries of oil, we may have to face a steadily decreasing output. This will make us more and more dependent on foreign fields. Authorities tell us that if we assume the same rate of increase during the next decade as in the past ten years it is unsafe to predict an adequate supply of petroleum beyond a ten-year period.

Secretary Lane says: "Petroleum is a challenge to the chemists of the world. All nations are more dependent upon it than they are upon anything else except coal, iron, foodstuffs and textiles. It has jumped to this place of eminence within twenty years and the whole world is concerned in knowing how large a supply there is and how every drop of it can best be used. I think there should be cooperative effort on the part of the oil men themselves to protect against waste. There is much to be learned about saving gas, preventing the wells from being flooded and keeping the pipe lines from leaking.

"We are behind the rest of the world in the use of our oil for fuel purposes. We are spendthrifts in this as in other of our natural resources. We can get three times as much energy as we do out of our oil through the use of the Diesel engine, yet we are doing but little to promote the development of a satisfactory type of stationary Diesel or marine design. Instead of seeing how many hundred millions of barrels of oil we can produce and use our effort should be to see how few millions of barrels will satisfy our needs. Throughout the nation we are making a drive to increase production, but that does not mean we should make a drive to exhaust resources which God alone can duplicate."

The day of empirical formulas and rule-of-thumb methods in our industrial life should not be allowed to continue. By careful scientific research alone can we hope to obtain the most value from our natural resources and particularly from our supplies of petroleum. As one engineer stated: "It is the research man alone who must be depended upon to point out manufacturing losses and indicate the necessary investigative work that will eliminate such wastes. These results should not be stored in the records of one company, but should be available to other manufacturers so that they may profit by the experience and findings of their neighbors. A proper exchange of information will save costly duplication of work.

How about alternative energy resources such as electricity? Can this be a viable means of energy? The application and use of this energy source rapidly grew throughout the country. The following sections reveal Parson's view on the future growth of this safer, cleaner, and more efficient form of energy. Here is part of his article on electric heat and the conversion of petroleum into electricity.

ELECTRIC HEAT TOMORROW

Electricity can be converted into three things—light, power and heat. The first two have become integral parts of our industrial and domestic life, but electric heat has not been developed to the same stage of perfection and economy that attends the use of light and power. No branch of science holds forth greater possibilities for infinite service to mankind than the gradual evolution of the art of electric heating.

At first glance it appears almost ridiculous to assume that a practical and economical process can be developed whereby fuel is first converted into electric energy and then is transformed back into heat again. Such a feat appears still more impracticable when we remember that the efficiency of the transformation of heat to electric energy is at best only about twenty per cent. Nevertheless, the present trend of engineering achievement points to the coming wide use of electric heat in our everyday life.

There appears to be no good reason why this application of electricity to heating should not be applied in our homes as well as in our manufacturing plants. I do not doubt that before long the electric soldering iron will be popular and common in the average household as the electric flatiron is today. When this happy moment arrives we shall all have a chance to get even with our plutocratic friend the plumber.

I shall not go on and tell how electrically heated irons will soon come into general service for branding lumber and dozens of other daily uses, nor will I dilate on the charms of Pittsburgh as a residential city in the coming era, when electric heating will be applied not only to the steel furnaces, as is already coming to be the custom, but to hundreds of other different industries. Let me conclude by saying that here is another art of great importance that has entirely passed the laboratory stage. What we are all aiming to accomplish is the maximum of work with a minimum of labor. In this day, when the human element is the most uncertain thing in industry, any process that cuts down on labor attendance is worthy of the most careful attention. The electric furnace will save thousands of dollars through reducing the number of rejects. Floor space is reduced to a minimum because of the absence of piping, storage tanks, and so on. Working conditions in a heat-treating room equipped with electric furnaces show a great improvement over other methods, due to a lower temperature of the room and to the absence of fumes and noise. This new method also reduces the fire hazard, and by lowering insurance rates saves dollars for the owner.

Best of all, this rapid introduction of electric heating into our industrial life will soon be followed by the greater application of a similar development in our homes and offices. The cost of coal and oil is certain to go higher as the years pass. The cost of electricity will undoubtedly continue to show a decreasing tendency in the decades to come. The more uses we can find for electric current the bigger we can build our central stations. The whole idea appears to be a long step in the right direction.

Dealing with our energy consumption at the present and exploring new areas of energy for the future is becoming part of America's historical social fabric. Perhaps in the future we could reach a plateau in terms of our energy production and consumption. But until that time it appears there will be many more articles similar to that of Floyd W. Parson.●

ELEVENTH ANNIVERSARY OF INVASION OF CZECHOSLOVAKIA

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. BOB WILSON. Mr. Speaker, concern for human rights is a principle that all Americans espouse, and therefore when violations of these rights occur, we as Americans must take note and express our outrage at such actions.

Eleven years ago this coming August 21, units of the Soviet Army rolled into the small, peaceful country of Czechoslovakia, thereby ushering in an era of Soviet domination and occupation of the country, with all the attendant repression of civil rights and liberties formerly enjoyed by the people of Czechoslovakia.

In spite of worldwide condemnation and protestations by leaders of the free world, the Soviet Union has continued its brutal domination of this country.

With the 11th anniversary of this reprehensible act fast approaching, I call upon my colleagues to join me in expressing our dismay that this state of affairs is allowed to continue, and to call upon the Soviet Union to at once cease their domination and allow the Czechs to again live as a free people.●

A NATION BORN TO BE FREE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. DORNAN. Mr. Speaker, it is with great pleasure and pride that I honor a young prize-winning author, Sara Shulsinger of Rancho Palos Verdes, Calif., by bringing her clear and forceful thoughts on world government before this great legislative body.

Miss Shulsinger recently entered her essay, "A Nation Born to Be Free," in the Herbert Albright Americanism Essay Contest. It was the third straight year she entered this competition and the third straight year she has taken a prize.

Miss Shulsinger is concerned for the independence of America. Her essay speaks to the concept of international unification and its possible effects on our Government and consequently, our rights. She quite correctly points out that as a nation devoted to individual liberty and free enterprise, the United States is in a diminishing minority in the family of nations. Our ideals could not help but be diluted if the United States were absorbed in a multinational confederation.

Mr. Speaker, I would like to extend my congratulations to Miss Shulsinger and proudly include her most recent prize-winning essay for my colleagues' consideration:

A NATION BORN TO BE FREE

(By Sara Shulsinger)

The United States has always been a peaceful but competitive, independent nation. By this definition, American ideals would never be preserved under any kind of world government.

Our system is unique. We are the only nation in the world with total representation of its population and founded entirely on free enterprise and individual liberty. Since we are in a minority, if we joined a confederation of other nations our way of life would be overpowered.

Two kinds of world governments are empires and amicable confederations, but no matter how close the organization might be to American institutions, either type would destroy our way of life. Rome is a good example of what might happen to us under an empire. The American system is based in part on that of Rome, but there is at least one basic difference: Rome was a conquering nation which absorbed independent nations and forced them to her will, but the United States has never done that. As Rome grew, representation of all territories was spread thinner, and when Rome fell, it took these territories along with it.

Suppose a country neighboring America merged with us amicably. All kinds of new problems would be encountered. Mexico has a large percentage of illiterate population; also Americans generally speak only one language, while Canadians speak two and Mexicans speak a totally different one. So if America merged with another country not only would we add the problems of that nation to our own, but the government formed by the two countries would be unable to represent all of the people fairly due to language and literacy barriers. If all the people in a nation cannot express their ideas, then they are subject to a form of totalitarianism. Therefore, if this situation were expanded to world scale with all the different languages, rates of progress, and degrees of literacy, the chance for the survival of American ideals would be very slim.

By the very definition of America we could never survive under a world government. Any power enveloping the United States would destroy all our hard-earned standards of equal individual liberties. Therefore America must fight steadily against this, for once the flame of liberty is doused after the centuries of fighting that it took to light it and keep it alight it will be harder than ever to rekindle.●

LITHUANIAN CATHOLICS LOOK TO POPE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. DERWINSKI. Mr. Speaker, it is my policy to keep abreast of the situation behind the Iron Curtain, and specifically, within the U.S.S.R. With the SALT II treaty pending, with trade and defense considerations being affected by Soviet policy, we must keep in mind the oppressive conditions that exist throughout the U.S.S.R.

One of the captive nations within the U.S.S.R. is Lithuania. I wish to insert an article from the New York Times of July 26, in which columnist Craig Whitney reports on the status of the Catholic Church in that Soviet-occupied nation:

IN LITHUANIA, TOO, CATHOLICS LOOK HOPEFULLY TO NEW POPE

(By Craig R. Whitney)

VILNIUS, U.S.S.R.—The Roman Catholic priest sat in the sacristy, at a battered desk on which lay a crucifix and a breviary. He talked about the recent visit of Pope John Paul II to Poland, just across the border from Soviet Lithuania.

"It was a great mission for the people of Poland," the Rev. Vaclavas Aliulis said, "and we expect that this Slavic Pope may eventually bring improvements for us here as well. But it will take time."

Church-state relations in Lithuania, the only Catholic republic in the Soviet Union, could be at a turning point.

Even the Communist authorities here acknowledge that 50 to 60 percent of the 3 million nominal Catholics in this republic are still believing Christians 39 years after the Soviet Union annexed Lithuania in 1940. The proportions are more like those in Poland than in the rest of the Soviet Union, where only 8 to 10 percent of the people are officially described as religious.

IMPACT OF SLAVIC POPE IS SEEN

"Part of the reason is Poland," said Petras Anilionis, the Lithuanian Government's Commissioner for Religious Affairs. His deputy, Edvardas Juosenas, added, "The Polish and Lithuanian clergy have close relations, and they're closer now that the Pope is Polish."

"People here who believe listen closely to what this Pope says," Mr. Juosenas said. "It was one thing when the Pope was Italian. When it's a Slavic Pope who speaks, that's another thing."

The Government's State Committee for Religious Affairs is the real religious authority in Lithuania. Although Soviet officials contend that church and state are strictly separate, the church authorities cannot name a parish priest or select students for the seminary in Kaunas without the approval of Commissioner Anilionis.

Father Aliulis, who is pastor of the Baroque Church of St. Peter and St. Paul in Vilnius, said that when the Pope visited Poland in early June many Catholics in Lithuania traveled south and west to the border to watch Polish television coverage. Soviet television in Lithuania gave only sparse and limited coverage to the visit.

In Poland, the Pontiff pledged solidarity with what he called "often forgotten nations and peoples," including those with Catholic traditions in Lithuania and Czechoslovakia under Communist rule.

But some of the priests who listened eagerly to his words in June now confess to disappointment that deeds had not followed.

"We wish we had gotten a bishop from the Pope's visit," a Vilnius priest said. "We need a bishop."

Bishop Julijonas Steponavicius, the Apostolic Administrator of the Vilnius Archdiocese, was banished by the Government to the town of Zagare in 1958. Mr. Anilionis says the bishop had called on the faithful to resist Soviet laws that subject the church to government regulations and had agitated for the right to conduct organized catechism lessons for the young.

The Soviet Foreign Minister, Andrei A. Gromyko, had an audience with the Pope in Rome on Jan. 24, and Soviet officials say the Pontiff asked about Bishop Steponavicius's status. At the time, Mr. Gromyko may have been more preoccupied with the Vatican's influence on Poland.

On May 26, the Pope appointed 15 cardinals. But he kept the name of one of them secret. Most priests here assume that if the secret one is Lithuanian he could only be Archbishop Steponavicius.

In an interview at the State Committee for Religious Affairs, Mr. Juosenas said of the Archbishop, "He could return to Vilnius if he reflects on the reasons for his punishment and conducts himself accordingly." But, he went on, "a lot will depend on what influence the Polish clergy has on the Lithuanian clergy. They have increased their ties considerably since the Pope's visit in June."

In Poland, the Catholic Church is an organized and flourishing force that rivals the authority of the ruling Communist Party. In Lithuania, many people go to church as an affirmation of historical loyalty to traditions that the Soviet authorities have tried to suppress and the church seems weak and demoralized.

VILNIUS CATHEDRAL NOW A MUSEUM

In Vilnius for instance, the Cathedral was closed by the state in 1951 and reopened later as an art museum. In Kaunas, the church around the corner from the curia office of Bishop Liudvikas Povilonis has been turned into a movie house. When the Bishop was still a pastor in Klaipeda, he was sentenced to eight years in prison for "illegally appropriating building materials" for a new church It was converted into a concert hall. He was amnestied after having served four years.

There were 40 Catholic churches and monasteries in Vilnius before World War II while the city was under Polish sovereignty and had 180,000 people. Today there are 11 churches, for 481,000 people. The Soviet authorities say there are 712 Catholic clergymen in the whole country, and 72 seminarians studying at the single Catholic seminary, in Kaunas. It is allowed to ordain fewer than a dozen priests a year. In 1978 alone, 23 older priests died in Lithuania.

Still, Mr. Anilionis said, "in the last 10 years we have closed not a single parish in Lithuania."

He and his deputy showed pictures of churches filled to capacity, of religious processions in the streets. The pictures convey the impression the authorities want to convey, of a church freely permitted to function despite what Mr. Anilionis's deputy called "slanderous" reports to the contrary made by daily Lithuanian-language broadcasts from the Vatican radio.

Reality is somewhat different.

A mass at the Polish-language Dominican Church here one recent weekday night looked well attended, and the priest was a young visiting clergyman from Poland. But most of the parishioners were old women, following mass from tattered prayer books printed half a century ago. The priest who hears confessions at the church has been working for 70 years, and he is weary. A colleague expressed a kind of exhausted resignation in talking of the activism that had led to the banishment of Archbishop Steponavicious.

POPE KNOWS SOVIET CONDITIONS

"You can't act here as if you were living in the West," the man said. "You have to adapt to these conditions. This new Pope is better for us. He knows what sort of conditions we have."

Younger priests and parishioners impatient with the results of accommodation to the militant atheism of the Soviet state have protested in underground periodicals smuggled to the West that the internal security police screens seminary applicants to keep the best out, and that the Committee for Religious Affairs appoints only incompetent priests to positions of administrative importance.

On the other hand, at the Church of St. Peter and St. Paul, Father Aliulis said that many parents continued to instruct their children in religion and as many as 50 boys and girls appear on first communion days.

At another church downtown the other day, a stern, kerchiefed woman watched like a hawk over a group of 12 schoolboys and girls attending evening mass, making sure that there was no horseplay.

Such a scene would be hard to find anywhere else in the Soviet Union, where minors are often barred from churches simply because of their age.

"The influence of religion is gradually decreasing," Mr. Juosenas said, "but what happens here next will depend on the leadership of the Vatican."●

STATE AND FEDERAL INITIATIVES TO COMBAT CANCER

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. CARTER. Mr. Speaker, I am inserting in the RECORD today a recent address by Dr. David Goldenberg, executive director of the Ephraim McDowell Community Cancer Network in Lexington, Ky. Speaking at the National Governors' Conference in Louisville earlier this month, Dr. Goldenberg discussed the progress that has been made under our national cancer program as well as the important challenges that lie ahead. In particular, he emphasized the need to strengthen State and local efforts to combat this disease which has been estimated to cost our Nation $30 billion a year.

I have long recognized this need myself. Since approximately 85 percent of cancer patients are first seen and diagnosed at the community level, it is there where a major impact on cancer can be made. I was pleased that I was able to include an amendment in last year's extension of the National Cancer Act authorities to encourage support for locally initiated education and demonstration programs. As described in last year's committee report, this provision calls for the "establishment of locally initiated education and demonstration programs, including regional networks of such programs, to transmit research results and to disseminate information on the detection, diagnosis, prevention, and treatment of cancer and for the rehabilitation and counseling of cancer patients to physicians and other health professionals who provide services and care to those who have cancer."

Last year, the Kentucky General Assembly appropriated $1 million per year for statewide, community-oriented cancer detection, screening, education, and documentation programs. I am proud of our State's commitment to join the national effort to control cancer, and I would encourage other States and communities to do all they can to increase their involvement in this very important field.

The text of Dr. Goldenberg's address follows:

STATE AND FEDERAL INITIATIVES TO COMBAT CANCER, OUR MAJOR HEALTH PRIORITY

Since passage of the National Cancer Act of 1971, a popular question in the press is, "Is America winning the war against cancer?" According to one journalist in New York, "The harsh facts, borne out by available statistics, is that we're not. The death rate goes up every year. Four hundred thousand Americans are expected to die in 1979." Let us briefly review the character and nature of this so-called "war", and where we stand today, 8 years later.

In 1971, former President Nixon spoke of "a total national commitment" to conquer cancer. Nine years later, when we look at the 1980 budget and the $1 billion being discussed by the House and Senate appropriation committees for the National Cancer Program, I cannot help but wonder whether a similar commitment would be made if an enemy of ours would be killing over 1,100 Americans each day, as cancer does.

When in the history of human conflict has a nation sustained such continual losses, and what President, Congressman or Senator would deny the appropriation of many multiples of $1 billion per year to reduce this loss of American lives? The hard facts and figures tell us that we are not waging a battle, no less any war against cancer!

If we look at the Federal budget for fiscal year 1980, the National Cancer Institute is to receive the equivalent of $4.16 per person in the U.S., while a similar calculation places the amount per person at $41.46 for Federal highways and airline subsidies, $18.97 for space programs, and $628.18 for defense programs. And yet, each year cancer takes more lives in this country than we lost in the Second World War.

Although I cannot assure you that any amount of money in a single year will permit us to eradicate this dread disease, the National Cancer Program, although a modest effort in monetary terms, has had an impressive record of accomplishment.

Advances in cancer detection, diagnosis and therapy have had an important effect in reducing the mortality rate in a few kinds of cancer, such as the lymphomas, particularly Hodgkin's disease, childhood leukemia, thyroid cancer, bone cancer, testicular cancer, bladder cancer, and cancer of the uterus. In 1950, we were able to save 25 percent of cancer patients; today, over 41 percent. The American Cancer Society estimates that 3 million people in the U.S. are alive today although they have had cancer.

The best example of eradicating a cancer by improved early detection is that of cancer of the uterine cervix. The Pap test is capable of detecting not only early stages of cancer, but abnormal changes in the cervix 5 to 10 years before it may turn into cancer. Similar research is in progress for the early detection of other cancers, but under the current budget only a fraction of the research deemed acceptable by scientific review can be funded; a fraction that was two-fifths of approved grants in 1978.

I remind you that this is what has been termed a "war on cancer." Since establishment of the National Cancer Institute in 1937, about 8 billion dollars have been invested in cancer research. For the 3 million Americans we have been able to save, we compute that each life saved cost us only $2,667.

How does this compare to the costs of each new cancer death? What is the impact of cancer on our nation's economy? The cost of all diseases in the U.S. in 1975 has been estimated at $245 billion, which includes hospital and physician and other direct costs, as well as indirect—although very real—expenses, such as lost earning power and productivity due to premature death.

Cancer makes up about 9 percent of this total cost, amounting to about $30 billion a year. Dividing this amount by the relative cancer occurrence figures for each state, the cancer economic burden by state in 1978 comes to $2.7 billion for California, $1.5 billion for Florida, Texas, or Illinois, $1.2 billion for New Jersey, $3 billion for New York, $1.8 billion for Pennsylvania, and $510 million for Kentucky.

These are not exaggerations. These figures also do not consider the cultural impact on our society due to the loss of some of its most distinguished members, as well as many who died before they could realize their potentials.

Although 1,120 cancer patients die daily in the U.S., we are achieving a saving of 797 lives each day. This comes to 291,000 Americans being cured each year, which is 41.6% of the 700,000 new cases diagnosed annually. These lives saved each year are enough to populate such cities as Tampa, Spokane, and Lexington in Kentucky.

Since it has been imputed that each premature death due to cancer costs between $41,000 and $69,000, the lives saved each year are returning to the economy in the form of productive work, earnings, and taxes between 11 and 20 billion dollars, or more than has been spent on the entire federal cancer program since the establishment of the National Cancer Institute in 1937.

I have taken this effort to itemize the costs of cancer to you, and to show what the investment in cancer research at the federal level returns to our nation's economy because the public and its leaders need such information in order to make rational decisions regarding budget priorities.

What government programs can show such high returns, not only in dollars but in the lives of members of two-thirds of all our families? As you well know, a cancer victim in one's family imparts an entirely different view of this disease from all the statistics, calculations, and logic one expresses.

Let me now turn to more precise activities that need to be undertaken by state governments. What additional resources are needed, what can be accomplished? The investment of state governments in cancer programs has been minimal, although there have been some noteworthy efforts in Texas, New York and most recently, here in Kentucky.

State and local governments, contribute only about 9 percent of the total national budget for cancer programs. And yet, about 85 percent of cancer patients are first seen and diagnosed at the community level, outside the major medical and cancer centers. It is here where the opportunities for using the latest advances of knowledge in cancer detection, diagnosis and treatment lie, and where a major impact on cancer can be made.

By just applying the knowledge and methods we have today more rapidly and effectively, we should be able to save an additional 10 to 17 percent of Americans afflicted with cancer, or between 70,000 and 119,000 lives each year. The Kentucky General Assembly in 1978 appropriated $1 million per year for statewide, community-oriented cancer detection, screening, education, and documentation programs.

Our Governor and the Kentucky legislature thus accepted this challenge and responsibility to join the federal government in the effort to control cancer. The federal government, through the National Cancer Institute, should support fundamental and applied research on cancer, while the states should be prepared to invest in and develop local public health programs with cancer as the main strategy.

An effective cancer control program, that is, the proper and rapid transfer of new technology and knowledge to the practice of medicine, must reach those who need attention most, at the local, community level. This can be done best by the states and the local communities themselves.

All segments of the public are rightfully impatient and demanding that money breed results, indeed, rapid returns, as measured by important "breakthroughs" and instant "cures," and the journalistic and political forces are easily persuaded that anything less than such accomplishments are failures on the part of science and medicine to fulfill the expectation that we win the so-called "war" on cancer.

The scientist approaches the complexity of cancer with a realization that it will take a long, sustained, stepwise effort to bring the more than 100 forms of cancer under control.

The patients and their families are slowly learning that cancer is not a hopeless scourge imbued in secrecy and shame.

Physicians no longer dread to diagnose cancer, but work hard to find a tumor, act faster when it is found, and teach their patients to practice self-examination where it is appropriate. Now is the time for the Governors of our nation to seek to understand the full meaning of the cancer problem—medically, socially, and economically—and to set the fiscal priorities needed at the level of state government to better cope with the most feared disease of our time.●

A TRIBUTE TO C. R. LEWIS AND HIS WORK IN ALASKA

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. SYMMS. Mr. Speaker, I wish to insert into the RECORD an article about a very important Alaskan named C. R. Lewis. Clyde Lewis has done a great deal to contribute to the development of Alaska since he moved there in 1939, and he feels strongly about the right of Alaskans to have a say over what happens to their land.

This interview with Mr. Lewis discusses the Alaskan Lands bill, H.R. 39, which has already passed in the House but has yet to be considered in the Senate. I urge my colleagues to take note of Mr. Lewis' comments on this "land grab" bill.

I commend Mr. Lewis for his dedicated service to the State of Alaska and for his efforts to preserve individual liberty in this Nation.

This interview appeared in the April 4 issue of The Review of the News, which is published at 395 Concord Avenue, Bellmont, Mass. 02178.

ALASKA IN THE LOCKUP

ALASKA BUSINESSMAN CLYDE R. LEWIS TALKS TO JOHN REES

Forty year ago Montana-born Clyde R. Lewis, then 23, decided that his future was beyond the frontier in Alaska. Since 1939, Lewis has been a part of Alaska's dynamic growth. During his early years in our most northern state, Lewis worked as a miner, pipe fitter, assayer, and as a marine engineer. After wartime service, making use of the experience that he had gained in Alaska's expanding industries, Clyde Lewis founded a pipe fabricating and installation business which for the past quarter of a century has been actively involved in the industrial development of the state.

C. R. Lewis has remained active in the political life of his state, making effective use of his considerable knowledge of the economic problems that now confront Alaska.

Q. Senator Lewis, many people in your part of the country are concerned about a planned federal lockup of more than 40 percent of Alaska's lands. But the federal land grab in Alaska is of serious concern to the Lower 48 as well because it would set dangerous legal precedents and would prevent private development of Alaska's oil, gas, and mineral deposits. The House wrestled with the Alaska Lands Bill, H.R. 39, and passed a version of it in the final days of the last Congress. But the Senate narrowly killed the measure. Would you explain what the problem is with these Alaskan lands?

A. First your readers are going to need a little background on Alaskan statehood. Under the Alaskan Statehood Act of 1958; Alaska was granted over 104 million acres of unreserved federal lands for its own selection as state lands—lands that would be opened up to the people. Alaska had 25 years to pick the lands it wanted under the statehood enactment. Back then, only 83 million acres of reserved federal lands were off-limits to the State of Alaska, which therefore had the legal right to pick what it wanted from the remaining 293 million acres. The State of Alaska moved slowly in picking the land to be opened up because great areas had not been properly surveyed and prospected. Meanwhile, claims by Alaskan Indians and Eskimos were pressed; and, in 1966, President Johnson's Secretary of the Interior, Stewart Udall, unilaterally froze any further conveyance of federal lands to the people of our state—with that freeze becoming a law on New Year's Day of 1969.

Q. How much land did the State of Alaska have of what it was entitled to for its people under the Statehood Act?

A. At the time of the Udall land freeze we had gained title to only 26 million acres or one-fourth of our entitlement under the law.

Q. Then what happened?

A. In 1971 the Congress passed the Alaska Native Claims Settlement Act and the land freeze also was lifted for a period of 90 days. Under that law, the Secretary of the Interior was authorized to withdraw no more than 80 million acres of land that he could urge Congress to freeze into national parks, refuges, national forests, and wild and scenic rivers. Those lands were off-limits to selection either by the State of Alaska, for its people and industry, or by various regional native corporations; and Congress had until the end of December 1978 to determine the use of such lands. After that, they were supposed to revert to the status of ordinary public lands.

So the State of Alaska had 90 days under that Alaska Native Claims Settlement Act of 1971 in which to pick land. It wasted no time and selected 70 million acres, still less than our entitlement under law. But the Department of the Interior went to court to prevent this because Secretary Udall wanted control of those choice areas. At the end of 1972, there was an out-of-court settlement between Alaska and the federal government in which we lost 28 million acres of our 70 million choice selections.

Q. How much of the 104 million acres Alaska was entitled to wrest from federal control under the Statehood Act of 20 years ago does she now have?

A. By the end of 1972, Alaska had picked 96 million acres to be freed, but the federal government, through its Interior Department, had blocked the freeing of all but 68 million acres. And federal selection of lands, native selection withdrawals, and the like have further reduced the land available to Alaska.

You know, even in Alaska land is not limitless. The state land area is 375 million acres. I have seen reports that, by the beginning of 1979, some 300 million acres (80 percent of our land) have been barred to selection by the state for use and development by Alaskans. And, of the current state selections of 75 million acres, only 21 million have been clearly patented to the state for distribution, another 16 million acres have been tentatively approved, and 38 million acres more are still pending approval for transfer.

Q. What then was the purpose of H.R. 39 in the last Congress?

A. Very simply and plainly, H.R. 39 was a bill to place more than 100 million acres of the federally owned 25 million acres in Alaska under categories that would prevent their being used or developed commercially. Despite the repeated efforts of Alaska's congressional delegation to make it clear that bill would absolutely destroy our state's economy, the House of Representatives passed it. In the final version of that bill, the federal government would have taken permanent title to more than 140 million acres of Alaskan land; and, 65 million of those acres were to be designated as "wilderness" region barred forever to any sort of development. Never mind that these regions contained rich mineral deposits, some being likely sites for badly needed oil and natural gas.

When the land-grab bill went to the Senate, a very bad compromise was worked out. Then, under tremendous pressure from Alaska, it was killed by Senator Mike Gravel in the last few hours of the session just before adjournment. At that time the Senate was operating on "unanimous consent" procedures. Gravel, who had himself been part of the ad hoc compromise committee, never let on that he would oppose the bill. At the very last minute, with all Alaska in a fury, he balked and it failed.

Q. But that wasn't the end of it?

A. No, not by any means. When the Carter Administration saw how adamantly opposed to this federal land grab we Alaskans were, and when it saw that it might not be able to force the federal land grab through Congress the way the administration wanted, the President's people decided to make an end run around Congress altogether.

Remember that all those millions of acres of "temporarily" reserved federal lands were supposed to revert back to the status of ordinary public lands on December 31, 1978. To prevent that and to fix the federal hold on those lands, President Carter in December declared 56 million acres of that land to be "national monuments" under the claimed authority of the Antiquities Act. No development of any sort can take place on land taken under the Antiquities Act unless Congress should vote to revoke that authority.

And then Cecil Andrus, Secretary of the Interior, withdrew another 55 million acres under the authority of the Federal Land Policy Act of 1976. And, finally, Secretary of Agriculture Robert Bergland withdrew some 8 million acres within Alaska's two national forests.

Q. What reason did the Carter Administration give for its December land grab?

A. The Administration claimed those December withdrawals were merely to keep options open on the land until Congress should pass another Alaskan land act in this new session, and it claimed it would abide by congressional decision about what to do with these lands. But there is no guarantee of this whatsoever. By claiming authority under those various monuments, land policy, and roadless areas acts, President Carter's people have completely circumvented the legislative process and have put development of our state in the deep freeze.

Q. Was the Senate compromise bill really that much better than the House-approved version?

A. The bill itself—the very concept of the bill—was bad. It was an unconstitutional compromise with the federal leviathan and as moral as throwing your brother to a pack of hungry wolves in the hope they will eat you last.

Q. But a new version of H.R. 39 has again been placed before the Congress.

A. Yes, and it is even worse, if that is possible, than the bill the Congress passed last year. Representative Morris Udall (D.-Arizona), who is the Chairman of the House Interior and Insular Affairs Committee, introduced the new H.R. 39 that is sharply different from its predecessor. In the new bill, a total of 141 million acres, almost 40 percent of the entire State of Alaska, would be placed under restricted use in one of the federal programs. And, in this bill, 85 million acres are designated "wilderness" in which no development may occur that will alter the pristine condition of the region.

Udall's new bill would ratify the President's outrageous action of December. You should remember that, in the bill the House passed, only 27 million acres were set aside as parks, but Udall's new bill makes parks of 13 Carter-designated "national monuments" totaling 41 million acres. Originally native lands were to be excluded from the federal lands, but the new bill would take some of these as well as millions of acres already held or selected by the State of Alaska.

Q. What would this do to oil and gas development in Alaska?

A. It would stymie, practically kill, the oil and gas industries in Alaska. One particularly critical point is the change in status of the National Petroleum Reserve in our state. The old bill designated it a refuge for wildlife with the provision that such classification should not affect oil development. In the new Udall bill, there is no such provision for oil and gas development. It is a lockup.

And most of Alaska's oil and gas basins have been explored only superficially. I've seen that there have been only a dozen exploratory drillings outside Cook Inlet and Prudhoe Bay, and that's on more than 300 million acres. What is even worse, all those wilderness designations in the new H.R. 39 would block new pipeline routes even if gas and oil were to be found in a region where development was permitted. I tell you, these fanatics have us by the throat.

Q. The sponsors of the bill claim mineral acres for development will be relatively unaffected. Is this true?

A. This is very misleading. The Interior Department's Bureau of Mines has classified Alaskan areas as being "highly favorable," "favorable," or "less favorable" for mineral deposits. When you combine all three categories, then roughly two-thirds of them are outside lands to be frozen by the federal government under H.R. 39. But, if you look just at the "highly favorable" category, some 70 percent of all these mineral-rich areas are in the lands the federal government wants for itself under H.R. 39.

Q. What do these minerals mean in potential jobs for Americans?

A. A recent study by the Stanford Research Institute looked just at seven of the most promising mineral locations—the ones most likely to go into immediate production if commercial development is not blocked by H.R. 39. Just these seven mineral locations were estimated to be capable of generating 40,000 and more jobs—that's jobs in the Lower 48, not in Alaska, where the increase in our economy would be substantial. And, as frosting on the cake, these seven mineral locations—if they were in production—would reduce America's trade deficit by one billion dollars each year. You can see that tying up these lands to please the no-growth environmentalists is just as destructive as it can be.

Q. What sort of minerals are in these seven locations the federal bureaucracy is trying to freeze?

A. One is a silver-lead-zinc-cadmium deposit; two of them are very rich lead-zinc-silver-copper deposits; one is asbestos; there are rich nickel-cobalt-copper deposits that could end our dependence on Zaïre which was invaded twice in the past couple of years by revolutionaries trained by the Communists in Angola. You know Zaïre could well fall to the Communists—it's already pretty much surrounded. If that happens the Reds could cut off most of the Free World supply of cobalt, a strategic mineral, because right now Zaïre and the Soviet Union are the major producers.

As for the other major Alaskan mineral sites, there is a major silver-lead-zinc-gold deposit on Admiralty Island which could go into quick production. But that too has been included in President Carter's "monuments" scheme and would be made a "wilderness" area under Udall's H.R. 39.

Finally, the second-largest molybdenum deposit in the world at Quartz Hill (being developed by U.S. Borax at a cost so far of more than $5 million) has been enclosed in President Carter's Misty Fiords "monument" and would be declared a "wilderness" in H.R. 39. It should be noted that Carter Administration officials have openly speculated about abrogating the mining rights currently held by U.S. Borax in Quartz Hill.

Q. You have undoubtedly heard the claims of environmentalists that Alaskan minerals might as well be locked up in federal wilderness because they cost too much to get out and thus are not economical to produce.

A. That is just ridiculous. In 1977 alone, some $70 million was spent on mineral exploration in Alaska by more than 200 companies. In a free economy, profit-making companies do not pour money into investments where they expect no return. But the federal efforts to take permanent control of all the best lands and lock them away from private development is having a serious adverse effect on new exploration.

Q. Many resources are involved, aren't they?

A. Yes indeed. Take the timber industry which is the backbone of the economy of southeastern Alaska. Most of the area now is included in the Tongass National Forest, and lumbering in the forest supports five sawmills, two pulp mills, and directly provides the livelihood of more than 3,000 Alaskans. But H.R. 39 will put 6.5 million acres into "wilderness" classification and will reduce the allowable timber cut by some 40 percent. The only way the gap could be made up would be by overcutting in the non-wilderness areas. This could only go on for a limited time before the forest is completely denuded and the lumber industry destroyed. That is just the sort of "cut and run" type of operation we Alaskans want to avoid. The Forest Service's own data shows that this extensive "wilderness" provision of H.R. 39 will cost Alaska 3,000 jobs.

Q. Senator Lewis, many of us associate your state with sport-hunting vacations. How would the federal land-grab legislation affect this?

A. Almost all the areas of Alaska that offer high-quality sport hunting will be closed to hunting by the "park" or "monument" classifications. The anti-hunting groups are trying to make sure that all the large areas to be made "wildlife refuges" are closed to sport hunting, a multimillion-dollar industry here in Alaska. Hunting licenses alone brought in $1.4 million to the state treasury for 1977. We have 420 registered guides and 1,200 registered assistant guides who work primarily for out-of-state hunter tourists. These hunters support bush pilots, outfitters, and hunting lodges that in turn employ other Alaskans in their businesses. By designating as "wilderness" areas game "preserves" where hunting is specifically "permitted," severe restrictions are placed on aircraft landings, camp facilities, the gathering of firewood, use of equipment, and many activities related to hunting. The effect is to prevent hunting. You know, up in our state, you can't just drive your car up to the edge of a federal "preserve" or so-called "wilderness," walk in, hunt for a couple of hours, walk back out to your car with your game slung over your shoulder, and drive home or to the nearest taxidermist.

The Udall bill would cost Alaska's economy at least $5 million each year by effectively cutting off most of the best hunting areas. So if you are a hunter who has dreamed about coming up here one day and hunting a bear, you can just forget it if this bill goes through.

Q. This gets into the entire Alaskan lifestyle, Mr. Lewis, which is a whole lot different from what we have back down in the Lower 48. Alaska really is our last American frontier.

A. It really is, and I don't think Americans elsewhere fully appreciate this. In my state, our paved road mileage is less than what you have in Washington, D.C., alone. Up here you use an airplane to fly in your supplies, visit your neighbors, and carry on your business. And a snow-machine is not merely a recreational vehicle. It is a utilitarian machine that has in many areas replaced the dogsled. The airplane, riverboat, and snow-machine are tools of the trade for the Eskimos, Indians, and white homesteaders. The bush is a big part of our life in Alaska.

These proposed parks in H.R. 39 include many small mining communities and the home of trappers, homesteaders, guides, and others. At least right now there is no language in the bill to permit these people to go on living where they live and carrying out their customary activities. It is as if Congress had decided to freeze activities in the whole Western part of the U.S.A. in 1870 by declaring 15 states to be a national wilderness too precious for people.

One of the biggest problem areas is trapping. What is termed "commercial trapping" is forbidden in national parks, and so is sport hunting. But virtually all trapping in our state, and this is whether it is done by Eskimos and Indians or by white homesteaders, is to obtain pelts for cash sale. This is one of the few ways these people can earn any cash. But this land grab will not allow their present trapping activities to be classified as "subsistence" activity. Another problem is that the park and refuge classifications deny these small villages the ability to obtain local lumber for their own needs.

The so-called environmentalists have already indicated they want the government either to buy-out or force these frontier people off the newly declared park lands. This would be an action of grave injustice. It is un-American. And the President and his political party have a lot to answer for in trying to do it.

Q. Can you summarize the impact of this proposed Alaskan Lands Act?

A. Studies based on federal statistics estimate the effect of H.R. 39 would be drastically to reduce the population of Alaska. Development of new oil, gas, and mineral areas will be severely curtailed. Many of the best areas will be locked up permanently in federal lands. Our lumbering industry will be destroyed, and so will our sport hunting. Finally, our native and homesteader population will be severely restricted and their lives confined by multitudes of federal regulations. Worse, they may be driven out of their homes in many areas.

Q. How do you rate the work of Alaska's congressional delegation in fighting all of this?

A. Well, we have a very good, hard-working Congressman in Don Young.

You know, there are some people who think that the real core of the Alaskan land grab is a desire by federal planners to move, at some future date, to set up government-run mining and oil and lumber businesses which use capital taken from the taxpayers' pockets. In other words, at some future date, the federal government would take capital from the taxpayers and go into business as a rival to private development. The idea would be federal takeover. It is a back door to socialism—and it is being hung here in Alaska because this is the last great frontier. The bureaucrats figure that if they can break us they can pretty well break the rest whenever they put their minds to it.

Q. Do you think the governor and state administration are going all out to obtain Alaska's land entitlement and to get that land into the hands of Alaskans?

A. Unfortunately my answer must be no. The governor has publicly stated that *private* ownership of land is the "ultimate lockup." This outlook at the top is naturally reflected throughout the state administration. Obviously it's hard to work to get land for the people if you don't believe in the principle of private ownership.

Actually private ownership of land is the ultimate freedom. It brought millions of people to this country, it sent the covered wagons across the nation, and the hope of land has peopled Alaska.

Q. What about the $2.5 million appropriated to the governor's effort to block the federal land lockup. Has it been well spent?

A. I think not. I have not seen any of it expended in support of Alaska's constitutional right to its land. The effort has largely ignored our rights to land under the U.S. Constitution and also has ignored the unconstitutional presence of the federal government in Alaska. We might have been better off to give that $2.5 million to Nevada, which is in court fighting this same battle for its land based on the Constitution of the United States.

Q. Mr. Lewis, you ran a tough race for the U.S. Senate in 1974 and were nearly successful. Are you considering making another try for the U.S. Senate?

A. We in Alaska have got to have a U.S. Senator in Washington who stands by our Constitution and for the people. Someone who is not in there just for the sake of having a political career and hobnobbing with the fancy Dans in Washington. We need someone who is not interested in making a job for himself, but in *doing* the job for Alaska. I would much rather support someone else. But I'll tell you honestly that if I can't find somebody else I can support, somebody who will fight for principles rather than compromise us into the deep freeze, I just might have to run myself.●

DICKEY-LINCOLN UNWARRANTED EXPENSE OF TAXPAYERS' DOLLARS

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. HAGEDORN. Mr. Speaker, I would like to add my voice to a growing number of those who are opposing the Dickey-Lincoln School hydroelectric project.

The Dickey-Lincoln project is a $1 billion boondoggle that constitutes an unwarranted expense of the taxpayers' dollars. After nearly 15 years of study and attention by the U.S. Congress, it is now time to put a stop to this project, which is opposed by Maine's two Representatives in the House, its junior Senator, and most importantly, an ever increasing number of Maine and New England citizes—those who are presumed to be its beneficiaries.

I have supported attempts to deauthorize this project because the more I studied the issue and the more I listened to those who have been involved extensively with it, the more I realized that this is an unneeded and wasteful expense of the American taxpayers' dollars. Various environmental and economic analyses have shown that the project will not produce enough electricity to justify its construction costs.

Very briefly, from an environmental standpoint, the project would flood some 88,650 acres of timberland and wilderness and destroy 267 miles of free-flowing streams and rivers.

While these environmental objections are substantial, opposition to the Dickey-Lincoln project extends to a sounder basis. The electrical output of the project would supply only 17 percent of the Northeast's peaking needs and would increase New England's electrical capacity by only 1.1 percent, far below the annual growth rate of consumption. The project would save only 2.3 million barrels of oil annually, at a time when the United States imports 9 million barrels of oil daily. Furthermore, various economic analyses have projected a negative-benefit-cost ratio on the investment.

One of the more puzzling aspects of the Dickey-Lincoln project, Mr. Speaker, is the Carter administration's approach to it. It seems a bit incongruous to me that President Carter has taken no firm position on Dickey-Lincoln. I say incongruous because while the President has vigorously attacked various water resource projects that the Congress has passed over the past several years, the Dickey-Lincoln project is one that he is currently saying nothing about. If there is any water project that the President should oppose, it is Dickey-Lincoln.

And what is the reason for the President's silence? Dickey-Lincoln was initially included in the President's 1977 so-called hit list of water projects, but because of pressure exerted by two supporters of the project, Maine Senator EDMUND MUSKIE and then-Senator William Hathaway, the project was removed from the President's list. So, out of one side of his mouth, the President denounces a series of water resource projects that the Congress has deemed necessary, and out of the other side of his mouth he lends his tacit support to a project which is economically and environmentally unsound and is opposed by an increasing large number of Maine citizens and Members of Congress. In fact, just last week, the Water Resources Subcommittee of the House Public Works and Transportation Committee voted 23 to 18 to deauthorize the project.

Mr. Speaker, I denounce this double-talk on the part of the Carter administration. The President is trying to have it both ways. On the one hand, he seeks to serve his own interests by playing the game of politics with Congress in order to maintain good relations with the senior Senator from Maine. Yet, on the other hand, he also attempts to serve his own interests, by publicly condemning those water projects that the Congress has seen fit to pursue, but which he finds politically safe to attack. Mr. Speaker, the American people deserve better from their President on matters of such importance as flood control, adequate water supplies, and energy-producing water projects.

While I strongly believe that this country must decrease its dependence on foreign sources of energy, I do not believe we should accomplish that purpose by building a dam that the people and their elected Representatives do not want, that economic experts find to return a negative—at best marginal—benefit for the cost, and that would be as damaging to the environment as this project. Dickey-Lincoln should be deauthorized.●

ENERGY CRISIS CAN BE SOLVED, IF WE PERMIT IT

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. FROST. Mr. Speaker, as one who has avidly pored over every editorial column in the Washington newspapers these past few weeks searching for comments on the energy crisis, I think it appropriate that we in Congress have the opportunity to read what other newspapers across the country are saying about this subject. I know how easy it is to fall into the trap of insulating yourself from all perspectives except those originating from Washington or your district, and I thought I would offer my colleagues that chance to read what a columnist in Dallas, Tex., has to say about our energy difficulties.

The five part series I am submitting to the RECORD was written by a friend and associate of mine, Mr. Ray Zauber. Mr. Zauber is the editor of the Oak Cliff Tribune, the leading community newspaper in Dallas. Whatever your position on the subject of energy, I think you will enjoy the approach he takes and I hope you will find his remarks as provocative and enjoyable as I did. I am happy to have the chance to share them with you.

The material follows:

ENERGY CRISIS CAN BE SOLVED IF WE PERMIT IT—PART I

(By Ray Zauber)

Scratchpad's father-in-law, Frank Huggins, who died about a year ago, was a principal in a patent to convert coal to natural gas and oil.

Working with a backyard inventor, George Vestal in Denton County, the two men succeeded in completing a bench model of a coal gasification system which emitted gas from a rubber tube and a petroleum-based distillate in a glass beaker.

The two men, sensing a multi-billion dollar breakthrough, guarded their invention zealously. They spent months and years finally getting a patent and attracted small local investors to help finance their operation.

Frank Huggins spent weeks at the time flying all over the United States contacting prospects for underwriting a pilot plant. Included were governors of several states, the Secretary of the Interior, federal judges, top bureaucrats, major industrialists and even some major oil producers.

Several area attorneys and substantial businessmen with small investments in the Vestal System assisted in making contacts for building the pilot.

However, the inventors were so afraid that their system for fragging coal and producing oil and gas would be imitated or stolen, they were unconvincing salesmen. They seemed to be withholding information, or hedging on technical matters, which hardly inspires confidence in a prospective partner.

Scratchpad was one of the few outsiders ever getting an opportunity to watch the bench model operate. Old Scotchman Gordon McLendon and the writer joined Frank Huggins and George Vestal at the shop in Corinth and saw a demonstration.

The end products which we observed—and neither of us has the least bit of scientific background—was some kind of gas which could be lighted as it escaped from the rubber hose and a distillate which looked and felt like motor oil gathered in a glass beaker. Powdered coal was the sole source of raw material.

The inventors later allowed an attorney, who represented some large oil clients, to see the demonstration on the recommendation of Scratchpad and The Scotchman.

However, the father-in-law absolutely refused to allow some respected administrators in the national space program to see a demonstration. Ex-Congressman Olin (Tiger) Teague, who headed the House Science and Astronautics Committee, offered to have some of his top scientists evaluate the Vestal System.

"Why won't you let NASA and my friend Congressman Teague check out your system, Frank?" Scratchpaid asked on numerous occasions. "Are you afraid they will tell you that it has no commercial possibilities or is economically unfeasible?"

His answer was always simple and direct. "I'm afraid of the government and the bureaucrats. They could easily steal the program or bury it in paperwork."

Frank Huggins had done cost analysis until he was haggard from juggling figures. He was certain that he could produce gasoline for less than five cents per gallon. The natural gas was virtually a cost-free spinoff.

In dozens of huge cardboard filing boxes now stored by Scratchpad's wife Mary are literally hundreds of folders on the Vestal System.

She has sketches of the bench model and copies of the patent. The volumes of correspondence and his carbon copies are still intact.

Immediately after he died, several of the investors made offers to revive the project. However, none seemed to have the expertise or the financial depth which made their propositions seem worthwhile.

Undoubtedly there are other George Vestals and Frank Huggins throughout the world who have similar schemes and similar dreams. Certainly most if not all the major oil companies have been experimenting with coal gasification.

There must be other chemical, plastic and mining giants who have also been examining the possibilities of converting coal.

Since coal is available in all 50 states and the reserves are tremendous, fragging certainly appears to be one viable possibility for solving the energy crisis.

Scratchpad always thought that Huggins and Vestal wanted to go too far and too fast. Their reticence hardly squared with their aspirations. Could this attitude be part of an international problem in providing new energy sources?

Energy Crisis Can Be Solved If We Permit It—Part II

(By Ray Zauber)

Someday many of the natural resources on this old globe called Earth are going to play out. In many instances substitutes or synthetics can be found to circumvent the problems caused by the depletion of basic resources.

Seldom does Scratchpad find himself in agreement with President Carter and sometimes we question the President's sincerity. However, in the case of calling the energy challenge a moral equivalent of war, Mr. Carter may have a case.

If his energy strategy is an example of the Commander-in-Chief's leadership, Lord, please keep us out of war.

So much of the free world is totally dependent on reciprocal engines to move people, goods and raw materials that there is no immediate substitute. Automobiles, buses, ships, trains, planes, trucks and military vehicles basically operate on gas and oil.

Many of us forget that many other widely-used commodities are produced from a petroleum base. Plastics, fibers, synthetic rubber, toys, packaging, housewares—the list is long—consume huge amounts of oil.

Supplying electricity, operating machinery and turbines which turn the wheels of industry depend on an abundant and available source of energy.

In addition to refined petroleum, natural gas has provided a clean and abundant source of energy. However, natural gas is playing out along with crude oil.

The substitutes thus far developed have taken up precious little slack.

Nuclear energy now provides almost 13 percent of the electricity for the United States. However, this source is under such pressure from citizens with a cause, that the future of this program is jeopardized.

The nuke crusaders have driven the cost of nuclear energy production up to ridiculous and unwarranted levels. The communist, while involved in shutting down the nuclear industry in America, are hellbent on developing this source in Russia and the surrounding satellite nations.

While the Administration and the Congress have talked about solar conversion, geothermal, alcohol, coal conversion, tidal, wind, fusion and other new sources of energy, very little progress is being made. The dedication and impatience needed to implement new energy sources have not yet been generated, to turn a phrase.

Dry-cell battery development, which would allow practical electric motor conveyances, has made practically no progress to speak of. Yet, this quiet, non-polluting, efficient form of transport could provide tremendous relief from gasoline lines.

The late John Squier of Oak Cliff, whose gas measurement patents have been a boon to the petroleum industry, did his best to convince City Manager George Schrader's staff the city was burning thousands of dollars worth of natural gas each week at the garbage dump.

Squier outlined a simple and effective means for collecting the methane gas generated by burning ordinary garbage and piping it to city-owned buildings. The Tribune carried several articles on this subject by Squier, who was treated as some kind of eccentric at City Hall.

However, the Aggie engineer explained to The Tribune that there could be enough compatible gas generated from garbage to sell surplus to Lone Star Gas for distribution in Dallas.

There must be a starting place for solving the energy crisis by developing new sources and new techniques. The elimination of reciprocal engines and gas-driven turbines cannot be accomplished in a day or a decade.

However, if we have a 10 percent shortfall and windmills through the plains take up ½ of 1 percent slack, then we are making progress. Only three mile per hour winds are needed to turn the precision stainless steel blades with their ball-bearing rotors. Do-it-yourself kits to convert wind energy to electricity are already available with emergency back-up systems.

Gasohol might provide another 3 to 5 percent relief for gasoline in a crash program. Tidal, fusion, storage cells, coal gasification, hydro electrical, geothermal, solar and new nuclear sources might provide a surfeit of energy if harnessed rapidly and efficiently.

When the atomic bomb was developed in a crash program, the nation's best brains and total resources were yoked together. The energy crisis deserves the same all-out effort by the government, academe and the private sector working in a harmonious cooperative effort.

Short steps and little breakthroughs are important. They cannot be written off. And finding substitutes for diesel, turbine and reciprocal motors must be accelerated.

Scratchpad cannot conceive that another Industrial Age breakthrough is beyond realization.

Because man, left to his own finest resources, has an awesome ingenuity and indomitable spirit that has already conquered the first leg of space exploration.

Energy Crisis Can Be Solved If We Permit It—Part III

(By Ray Zauber)

We Americans are the world's biggest suckers.

We allow all kinds of revolutionaries, militants, hippies, cuckoos and oddballs to disrupt our lives, waving their banners in a never-ending stream of causes and campaigns.

We allow our politicians and bureaucrats to get hippies, cuckoos and oddballs to disrupt our lives, adds staggering cost to every phase of managing society.

Seldom do our leaders act to avert crisis or emergency . . . they generally react to problems which could have been anticipated months, years or decades in advance.

In the energy crunch the Alaskan pipeline is a perfect example of government inertia. Eight years after a major oil deposit was found on Prudhoe Bay the pipeline to the Pacific coast was finally started. The costs escalated by billions while loud-mouthed, long-winded, lame-brained detractors debated the project.

As usual the bird watchers and butterfly chasers were hampering construction with their anxieties about damaging frozen tundra where no men and few beasts choose to roam.

Extending the pipeline through Canada to serve areas of the midwest where no petroleum is pumped was discussed and dropped. Instead this heavy crude with its high sulphur content was dispatched to California where the most stringent environmental regulations in the nation have long since halted construction of new refineries.

In the lower half of California the environmentalists have succeeded in blocking not only new refining facilities but even expansion of present facilities.

Then California motorists screamed and sobbed as long lines began to form for gasoline that was not available in that part of the country where two or three automobiles per household is average.

On the East coast the record on anticipating the energy crisis was even sorrier than that on the west coast. The United States government agreed to allow drilling in the offshore waters extending from New York State and South Carolina.

The butterfly-chasing oddballs teamed up with self-serving politicians, short-sighted judges and other assorted cuckoos with a cause to hamstring completely the sale of leases in such potential oil deposits as the Baltimore Canyon.

Not only has this east and west coast crowd kept tight pricing lids on Texas and Louisiana crude and natural gas, they have also been perfectly willing to allow drilling in the Gulf of Mexico.

In parallel examples of insanity, the bird watchers and butterfly chasers have managed to halt the progress in producing other forms of energy. Take the proposed Tellico Plains dam in the Tennessee Valley Authority system, construction has been halted on this billion dollar project to protect the snail darter, a one and one-half inch fish which is labeled as an endangered species. The project is 2-3rds complete.

While the snail darters thrive there are now parts of the United States where there are insufficient energy, gasoline and fuel oil supplies. This is only one of several such public works programs which has been stopped cold during construction or where approval has been delayed to protect the unstructured flood plains.

The delays make the cost escalate wildly with total disregard for the taxpayers who shoulder the load.

The use of coal and shale as a substitute for oil or natural gas has also been slowed unconscionably by envisonmental redtape and regulations. No matter that there is a 200-year supply of coal which is spread throughout the 50 states of America, the ozone must be protected.

The sheer waste of gasoline in busing for balance is nothing short of criminal. Minorities now have full rights in this nation and opportunities abound for those who would take advantage of them. Mixing races for social equality apparently accomplishes nothing.

Let every child go to his neighborhood school or the school of his choice and stop this inexcusable waste of declining resources, manpower and money.

Eliminating forced busing and converting part of the nation's industry to coal by relaxing environmental standards would provide some of the small but significant stopgaps against the shortfall of energy.

Energy Crisis Can Be Solved If We Permit It—Part IV

(By Ray Zauber)

President Carter has called solving the energy crisis the moral equivalent of war.

Yet he still hasn't mobilized his endless pool of talent for the big battle to overcome the shortfall of natural gas and oil products.

There is a multi-million dollar solar program which has been submitted to the Congress and the funds are likely to be approved. However, this is basically to provide low cost loans and tax credits to those individuals, businesses and industries willing to install solar heating devices.

None of the funds are allocated to improving solar heat collection, for perfecting a pilot plant to furnish electricity for one or more small communities or to transfer abundant energy to storage cells.

Everything in the President's approach appears to be piecemeal. Carter talks of fusion, geothermal, tidal, hydroelectric, magnetic, shale, coal tar, coal gasification, gasohol and windmill potential. Still the possibility of developing all these sources—or the best combination of several—has not been jelled.

The thrust of this series by Scratchpad was simply this: any kind of relief from general usage of oil and gas contributes to the overall solution. If windmills can provide 1 percent of the shortage, that frees millions of barrels of crude each year.

If the tides can be harnessed to furnish 2 percent, another clean source of energy to substitute for the present fossil fuels is generated.

If governmental restrictions were eased from nuclear power plants, undoubtedly as much as 25 or 30 percent of the nation's need for electricity could be supplied. Remember nuclear plants—despite all of the red tape and citizen protest—already furnish 13 percent of the electrical generating capacity of the nation.

A real crash program to develop common storage batteries which will power an automobile for 300 or 500 miles before recharging is justified. Electric cars are quiet and clean and nonpolluting.

Gasohol would be using solar power to provide a partial solution to the need for gasoline. Alcohol burns clean and lowers the need for additives in unleaded gasoline.

Since the sun produces the sources of alcohol—wood, grain, garbage, marsh gas—this is solar power at its present optimum use. City garbage dumps are an excellent source of natural gas, presently blown away on the winds. Sawdust, which must be trucked away from large logging camps and sawmills, makes excellent alcohol and briquets.

Fusion is another opportunity for a major source of energy by altering nature. It is less volatile than nuclear fission and does not have the unfair connection with atomic weaponry.

If a monopole exists, magnetism could be harnessed to provide tremendous power. There are eminent university and laboratory scientists searching for a breakthrough in this field.

Instead of crash programs in any one single substitute source of energy, why not a carefully balanced program in which the government, the academic community, the think tanks, industry, business and the nation's greatest scientists cooperate?

A nation which can send a man to the moon and which can produce weapons by smashing atoms can certainly cope with the critical matter of oil and gas depletion.

Congressman Jim Wright of Fort Worth, House Majority Leader, has unfolded a program which addresses this international dilemma. At first blush Wright's ideas seem to be predicated on the same general premises as those advanced by Scratchpad.

Wright is certainly near enough to the highest echelons of power that he can exert considerable influence.

In our concluding installment next week, Scratchpad will discuss the political and economic implications of solving the energy crisis without such dependence on alien sources.

Energy Crisis Can Be Solved If We Permit It—Part V

(By Ray Zauber)

There are several scenarios which could be written about the international political consequences which could force the United States into war.

American leadership has allowed the energy crisis to reach a point where about half of this nation's petroleum is imported. The U.S. is literally at the mercy of the Oil Producing Export Countries (OPEC).

Senate Majority Leader Robert Byrd of West Virginia has literally fiddled at The Grand Ole Opry while the oil lamps of his America flicker. He comes from a coal-producing state which could have provided an alternate source of fuel if a crash program had been started a few years ago.

Not that we intend to pick on Byrd but he is a hoedown violinist of some renown who has been fiddling in Nashville. The same criticisms could be made against his predecessor Mike Mansfield or Speaker Tip O'Neill or President Richard Nixon or influential Senator Ted Kennedy or Environmentalist Congressman Morris Udall or the Cabinet members, top bureaucrats, industrial leaders, ad infinitum.

The delays in launching the Alaskan pipeline, the incredible obstacles in seeking tidal basin oil reserves, the environmentalist barricades against enlarged petroleum refineries and the cuckoos railing and ranting against nuclear energy are absolutely indefensible.

Now with Iran in the clutches of an unstable, fanatical holy man and with his communist opposition—the fedayeen—a threat to his control . . . a major source of OPEC crude has been sharply curtailed.

The political implications of a Russian coup in Iran, which controls the strategic Persian Gulf, is frightening beyond words. The most sophisticated border positions from which to verify SALT II went down the tube when Shah Pahlavi was overthrown. Despite what one might read and hear, he was a powerful and unbending friend of the United States.

The political stability of Turkey, another well-respected American ally, has been undermined by this nation's intransigence in the Cyprus dispute. We cut off arms and aid to a country which we need desperately to keep in the free-world fold.

Should the Soviets decide to take advantage of the political instability on the Arabian peninsula and overrun Iran, Turkey, Saudi Arabia and the emirate nations . . . the United States might be sucked into World War III. Russian expansionism is already a fact of present world politics.

Japan, France, Italy, Britain, Israel, Canada, Australia and some other democratic nations who must depend on the Arabian and African oil supplies would also have to fight.

Don't think American public opinion wouldn't reach a fever pitch if the tankers from the Persian Gulf and Libya were suddenly anchored in port. Thus gasoline for personal and business travel would become totally unavailable.

The battle cry would resemble 54–40 or fight, the Alamo, the Maine or taxation without representation . . .

The United States leadership must mobilize the finest minds, the finest technical resources and whatever billions are necessary to overcome the energy crisis with substitute sources. Majority Leader Jim Wright's plan to emphasize development of synthetic fuels is one excellent starting place.

Wind energy, garbage gasses, coal gasification, geothermal, tidal, fusion, magnetic, shale and rock tars, gasohol, synthetics, electricity, solar—what have you—breakthroughs must all be considered in the crash program to find alternate sources for propelling the wheels of the free world.

President Carter, the Congress, the oil industry, the bureaucracy, the scientific and technical fraternity, the academics and the people themselves still are not totally cognizant of the awesome problems ahead . . . the bottom-line consequences.

This nation must be mobilized because

America has the resources and the brains to overcome this energy crunch. But the days grow short and the stakes remain so very high.●

BURNING THE "OIL WITCH"

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. ROUSSELOT. Mr. Speaker, since 1973 OPEC's prices for crude oil have skyrocketed in comparison to prices for domestically produced crude oil. Despite these higher prices we find ourselves importing almost twice as much crude today as in 1973, when OPEC first embargoed oil from the western world. Why hasn't consumption of OPEC oil decreased as OPEC's prices have risen? Why has domestic crude oil production declined in the face of higher prices?

One often cited, but incorrect explanation for our increased reliance on OPEC is that the United States is running out of crude oil. Geologists across the country tell us that there are huge amounts of crude oil and other hydrocarbon fuels which have yet to be included as part of "proven" domestic reserves. Much of this fuel is going to be expensive to produce because it is either located deep beneath the ground, or, because it is located in areas where traditional drilling will not work. At the present time oil is very expensive to buy because the nations of the OPEC cartel control so large a portion of the world's readily producible supplies that they can raise prices by reducing output in the face of rising world demand.

The OPEC finance ministers do not set oil prices capriciously. These men are trying to find a price that will support their authority over the marketplace. To find that price they must carefully estimate the changing capability of the rest of the world to produce oil in response to the lure of higher prices. One of the key variables in their calculations is what the production response of the U.S. oil industry will be as the price of crude oil rises.

American producers are the unquestioned leaders in oil exploration and drilling technology. If and when they shift into high production gear, the amount of new oil produced will not be trivial and the OPEC nations know this. Why hasn't U.S. production been increasing to meet the challenge of OPEC? The answer can be summed up in two words: price controls.

Consider the following: In 1970 domestic crude oil production reached historically high levels of production. Since then it has dropped 10 percent—from 9.6 million barrels per day in 1970 to 8.7 million barrels per day in 1979. Meanwhile, imports of crude oil have skyrocketed from 12.1 percent of consumption in 1970 to 42.7 percent in 1979.

SOURCES OF U.S. CRUDE OIL: BEFORE AND AFTER PRICE CONTROLS

[Millions of barrels per day]

Year	Average daily domestic production	Average daily imports	Imports as a percent of total crude oil needs
1965	7.8	1.2	13.7
1966	8.3	1.2	12.9
1967	8.8	1.1	11.4
1968	9.1	1.3	12.4
1969	9.2	1.4	13.2
1970	9.6	1.3	12.1
1971[1]	9.5	1.7	15.1
1972	9.4	2.2	19.0
1973[2]	9.2	3.2	26.0
1974	8.8	3.5	28.4
1975	8.4	4.1	32.9
1976	8.1	5.3	39.4
1977[3]	8.2	6.6	44.4
1978	8.7	6.0	41.1
1979 preliminary	8.7	6.5	42.7

[1] Wage and price controls imposed in August 1971.

[2] OPEC cartel embargoes crude oil, November 1973.

[3] Alaskan North Slope oil begins flowing to market, March 1977.

Source: Data from the U.S. Department of Energy.

The reasons behind the acceleration in the growth of oil imports are apparent. Since price controls were imposed in 1971, the Federal Government has discouraged domestic oil production by, in effect, telling oil producers to "milk their assets." Under the price guidelines, and later under specific rules engendered by the Emergency Petroleum Allocation Act of 1973 (EPAA), the sale of most domestically produced oil has been controlled at prices below the world market.

Unfortunately, the cost of bringing oil to the marketplace has been rising faster than the controlled price of oil. Prices for oil field equipment have been rising almost lock-step with OPEC's price increases because of the worldwide increase in the demand for drilling and producing equipment. In addition, the oil business is "energy-intensive" and therefore "energy-expensive."

With prices controlled, but production costs escalating to wipe out any windfall profits that might have accrued to the industry, oil producers were quick to realize that if the trends continued they would be forced out of business. They were faced with three choices: First, stop pumping their reserves and wait until controls were lifted; second, pump dry existing wells until profits turned negative, using the funds to get into another business where they could make more money, or third, do some combination of both while looking for oil in places not governed by price controls—places like Arabia, Equador, and Indonesia.

Given the choices, it is not surprising that domestic oil production has fallen off as the spread between the world market price and the DOE below market controlled price has widened. Instead of "milking their assets," much of the oil industry has shifted its drilling and exploration efforts overseas because oil produced there can be sold at world market prices.

DOE ENTITLEMENTS—SUBSIDIZING REFINERS TO IMPORT OIL

Once price controls were in place, the DOE bureaucracy had to find a way to assure that lower prices would be passed on to consumers while maintaining competitive equality in the marketplace. DOE realized that refiners who were able to purchase controlled low price domestic crude were in a position to undersell refiners who relied exclusively on higher priced foreign crude. Therefore, it developed the entitlements program.

The genius behind this program is that refiners of domestically produced oil must pay importing refiners roughly one-half the difference between the price tag on foreign oil and the price tag on domestically produced oil. Payment is made by refiners of domestic oil to refiners of foreign oil for "entitlement" or "right to refine" tickets which are distributed by DOE. In this way, all refiners pay the same average price for crude oil.

Where does the money come from? Most refiners of domestically produced oil are also crude oil producers. The money originates from the same pocket. Most of the loss to U.S. producers is shared with refiners of imported oil. The rest goes straight to OPEC. None of it has been going to consumers.

WHY DECONTROL IS INEVITABLE

With the crude oil price paid by refiners rapidly approaching the world price, the President has been forced to recommend decontrol. Without decontrol domestic production will continue to decline and imports will continue to rise. As this happens, the entitlements program will fall apart, and all refiners will find themselves paying the world price for crude oil. In the end, price controls will have contributed to increased reliance on OPEC without saving consumers one dime. Consumers have been paying the "world" price for gasoline at service stations for five years. How is this possible when everyone knows that gasoline in Europe costs far more than it does in the United States?

PAYING THE WORLD PRICE FOR GASOLINE DESPITE 5 YEARS OF PRICE CONTROL

In actuality, the retail price paid for gasoline in Europe includes steep taxes. The prices we should be looking at in making comparisons across continents are pre-tax, wholesale prices for refined gasoline, and not retail prices.

GASOLINE ACROSS CONTINENTS

[In cents per gallon]

Year	New York spot price[1]	Rotterdam, Holland spot price[1]	Average U.S. dealer tankwagon price (excluding tax)[2]
1974	33.2	35.4	30.5
1975	33.4	32.6	35.8
1976	35.5	37.1	39.0
1977	38.4	36.4	42.5
1978	42.8	42.6	43.7

[1] Spot price—the price for a cargo of gasoline sold on a daily basis.

[2] Dealer tankwagon price—the wholesale price charged to deliver gasoline from the refinery to the service station.

Source: Data from the Platts Oilgram Price Service.

The virtual equality of wholesale spot prices across continents strongly supports the "paying-the-world-price" position advanced by two economists, Charles Phelps at the Rand Corp., and Rodney Smith at the University of Chicago. Two years ago they said the DOE's complicated formula, which enables refiners to raise prices to cover costs, also enables refiners to sell their products at world prices.

In support of this position, Phelps and Smith cited the existence of the "banks" of unrecouped costs which are reported each month by the Department of Energy. These "banks" represent cost increases which refiners are permitted to pass through in the form of higher prices directly to their service station customers. Even higher prices have not been charged because of competition in the marketplace for the consumer's dollar.

In other words, until recently when the "banks" began to be depleted as refiners and service stations raised prices to meet increased demand, their very existence has meant that refiners have been charging as much as consumers have been willing to pay. All this changed when market conditions, resulting from the reduction in Iranian oil production, collided head-on with Federal price controls and allocation rules to create "The Great California Gas Shortage."

CALIFORNIA'S CRISIS: SPREADING ACROSS THE NATION

The shortage hit California first because the total demand for gasoline has been rising much faster there than in the rest of the Nation due to California's higher-than-average economic growth during the past year—800,000 more vehicles on the road. In contrast, the supply of gasoline available to California has not been keeping pace. In the wake of the Iranian upheaval, the DOE told refiners not to purchase high-priced crude oil on the spot market. Inadequate production of domestic crude due to price controls, strict environmental standards, and especially DOE allocation rules which do not allow refiners to shift the flow of gasoline from areas of low demand to areas of high demand, also contributed to the shortage. These allocation rules guarantee localized shortages whenever supplies tighten in the face of rising demand.

The growing imbalance between the forces of supply and demand finally erupted in a series of rapid price increases in California in the months of April and May. These price increases were followed by shortages and long lines at service stations everywhere when prices at gas pumps bumped against maximum Federal price ceilings. DOE's inflexible allocation rules lengthened the lines. With the marketplace no longer signaling to consumers how much to consume, Federal and State governments were forced to step in and adjust gasoline allocations while consumers were forced to wait in line. Unfortunately, consumers will have to get used to the lines because the new oil industry tax virtually guarantees increased reliance on unstable OPEC supplies for years to come.

THE WINDFALL PROFITS TAX: BURNING THE "OIL WITCH"

The new tax will be on sales revenues. It is not actually a tax on windfall profits although it has been heralded as one. To avoid the tax, domestic oil producers will at first try to pass it on to refiners by raising prices. They will not be successful. Refiners will instead purchase less costly foreign oil. The producer's second and more profitable option, is to sit on their unpumped reserves while marketing imported oil, since this oil will not be covered by the tax.

Tax revenues are likely to decrease, and not increase, as domestic oil production continues to falter under the heavy yoke of new taxes. Naturally as production decreases, OPEC's stranglehold on the market will tighten. The new tax enhances OPEC's ability to raise prices by destroying a market competitor—U.S. oil production. The Congress may burn the "oil witch" but it is guaranteeing higher consumer prices at the gas pump.

The ultimate victims of the new tax, along with the consumers, will be the 10,000 or so independent oil producers who are not integrated through the refinery stage of production. These producers rely exclusively on domestically produced oil as their sole source of revenues. As costs rise—but sales revenues do not keep pace—they will be put out of business or at best be forced to sell out to some major oil producer who can better afford to wait in hopes that the tax will be repealed.

Such "fire sales" will lead to increased concentration in the oil industry. The major companies will get larger at the expense of the small independent producers. This prospect is not what the gas-starved American consumer has in mind when he writes to his Congressman and demands a solution to the oil crisis.●

A VOICE OF SANITY ON NUCLEAR ENERGY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. PAUL. Mr. Speaker, Dresser Industries has performed a real public service by publishing today in the Wall Street Journal an article on Three-Mile Island and nuclear power by Dr. Edward Teller.

Dr. Teller, the great nuclear physicist, is one of the few voices of sanity—along with Dr. Petr Beckmann—on the subject of nuclear energy.

I would like to call his eloquent remarks to my colleagues' attention:

I WAS THE ONLY VICTIM OF THREE-MILE ISLAND

"On May 7, a few weeks after the accident at Three-Mile Island, I was in Washington. I was there to refute some of the propaganda that Ralph Nader, Jane Fonda and their kind are spewing to the news media in their attempt to frighten people away from nuclear power. I am 71 years old, and I was working 20 hours a day. The strain was too much. The next day, I suffered a heart attack. You might say that I was the only one whose health was affected by that reactor near Harrisburg. No, that would be wrong. It was not the reactor. It was Jane Fonda. Reactors are not dangerous.

Now that I am recovering, I feel compelled to use whatever time and strength are left to me to speak out on the energy problem. Nuclear power is part of the answer to that problem, only a part, but a very important part.

I have worked on the hydrogen bomb and on the safety of nuclear reactors. I did both for the same reasons. Both are needed for the survival of a free society. If we are to avoid war, we must be strong and we must help to generate the progress that makes it possible for all nations to grow and prosper.

And what is the greatest present-day threat to the prosperity and even the survival of nations! A lack of energy. Both developed and developing nations are threaten.

The citizens of the United States have just begun to recognize the impact of the world's growing energy shortage. Gasoline lines, electrical brownouts and higher prices are minor irritants. They are nothing compared to what may lie ahead. In a struggle for survival, politics, law, religion and even humanity may be forgotten. When the objective is to stay alive, the end may seem to justify the means. In that event, the world may indeed return to the 'simpler' life of the past, but millions of us will not be alive to discover its disadvantages.

When our existence is at stake, we cannot afford to turn our backs on any source of energy. We need them all.

When it comes to generating electricity, we especially need nuclear power. Contrary to what Nader and Fonda, and their friends such as Sternglass, Wald and Kendall, would have you believe, nuclear power is the safest, cleanest way to generate large amounts of electrical power. This is not merely my opinion—it is a fact. Due to the lessons learned at Three-Mile Island, the nuclear way of generating electricity will be made even safer.

I have attempted to respond briefly to some of the questions which people ask about nuclear power. The problems that these questions raise are problems because of political indecision or public fear. Technically, they are non-problems, because the dangers they imply either do not exist or else we have the know-how to solve them. I am absolutely convinced of this, after a lifetime of work as a nuclear scientist.

I was once asked how I would like for my grandson, Eric, to think of me and my life's work after I am gone. Eric is nine years old. He is a terrible guy—he beats me at the game of "GO." I am enormously fond of him, but I have not given much thought to what he will someday think of my life's work. I have given a great deal of thought to whether he will be alive in the next century, and whether he will be living in freedom or in slavery. If he is living under communism, he will know I was a failure.

I believe that we have reached a turning point in history. The anti-nuclear propaganda we are hearing puts democracy to a severe test. Unless the political trend toward energy development in this country changes rapidly, there may not be a United States in the twenty-first century.

The President has recognized the danger of the energy shortage. As yet, he has given only some of the answers. I think—I hope—that democracy has enough vitality to evaluate the risks and to recognize the great benefits of nuclear power to human health and well-being, and to the survival of our free society.

Q. Can a nuclear reactor explode like an atomic bomb?

A. No. Energy cannot increase fast enough in the reactor. Therefore, it is absolutely impossible for a nuclear power plant to explode like a bomb. For this to happen, the laws of nature would have to be repealed.

Q. What is the risk of nuclear power compared to other forms of producing electricity?

A. It is far safer than coal or hydroelectric power, but all three are necessary to meet our need for energy. It may sound strange to say it, because coal has been around so long, but we know more about controlling radiation than we do about controlling the pollutive effects of burning coal. And, of course, a dam has no backup system to protect those who live below it. Indeed many of these people have lost their lives and more their homes.

Q. I live within 50 miles of a nuclear power plant. What are my chances of being injured by a nuclear accident?

A. About the same as being hit by a falling meteor.

Q. What about the effect of an earthquake on a nuclear plant?

A. At the first sign of a tremor, the reactor would shut down automatically. Also, reactors are built to withstand enormous structural damage. The only man-made structures I can think of that are more stable are the pyramids of Egypt.

Q. Is it true that we still have no satisfactory way to dispose of nuclear wastes?

A. No. Ways do exist. What we have not had is a decision by our government on which way to go. Waste disposal is a political problem, not a technical problem.

Q. How much radioactive waste materials are produced by nuclear plants?

A. At the moment, about 12½% of our electricity is generated by nuclear power. If all of it were produced this way, the wastes from these plants over the next 20 years would cover a football field to a depth of about 30 feet. To dispose of this waste a mile underground would add less than one percent to the cost of electricity.

Q. How dangerous is the release of low-level radiation from a nuclear power plant?

A. If you sat next to a nuclear power plant for a whole year, you would be exposed to less radiation than you would receive during a round-trip flight in a 747 from New York to Los Angeles.

Let me put it another way: The allowable radiation from a nuclear plant is five mrems[*] per year. In Dallas, people get about 80 mrems per year from the natural background of buildings, rocks, etc. In Colorado, people get as much as 130 mrems per year from the natural background. Therefore, just by moving from Dallas to Boulder you would receive ten times more radiation per year than the person gets who lives next to a nuclear power plant.

Q. How much radiation were the people around Three-Mile Island exposed to during the accident?

A. Let me put it this way. Your blood contains potassium 40, from which you get an internal dose of some 25 mrems of radiation in one year. Among the people not working on the reactor, a handful may have gotten as much radiation as 25 mrems.

Q. Should "spent" nuclear wastes be reprocessed to save the plutonium and other by-products?

A. Yes. Plutonium, for example, is as valuable as the original uranium fuel, because of its potential use to produce still more energy. In the end, reprocessing is needed to make nuclear energy abundant and lasting.

Q. Is there a danger that the plutonium produced by nuclear reactors might be stolen by terrorists and used to construct homemade nuclear explosives?

A. I believe that reactor products can be properly safeguarded from terrorists. This can be much more easily done than the guarding of airplanes. Also, any terrorist who puts his mind to it can come up with ways to terrorize a population that are less dangerous to himself than handling plutonium. The answers is not to get rid of the reactors—let's get rid of the terrorists.

Q. Will the expansion of nuclear power by other countries enable them to produce nuclear weapons?

A. Unfortunately, yes. This is already happening. Two-thirds of the reactors in operation in the free world today are outside the United States. Since we can't stop other nations from building nuclear plants or weapons, what we must do is find better solutions to international problems. An energy-starved nation is much more likely to make and use nuclear weapons as a last resort to survival. The only way to prevent that is to see to it that there is enough energy to go around, and to strengthen cooperation and confidence among the nations.

Q. What have we learned from the accident at Three-Mile Island?

A. Two things. First, that nuclear reactors are even safer than we thought. Despite many human errors and a few mechanical failures at Three-Mile Island, the damage was contained. No one was killed, or even injured. We have also learned that a lot can be done by better educated, better paid and more responsible reactor operators, and by a more efficient display of the state of the reactor by modern instrument panels.

Three-Mile Island has cost $500-million, but not a single life. We must pay for safety and, even after we have paid for it, nuclear energy is the cheapest source of electrical power. It is most remarkable that in the case of nuclear energy we are paying for our lessons in dollars, not in lives.●

---

[*] A "mrem" is an appropriate unit used to make comparisons.

UNITED STATES MUST RESIST SOVIET BULLYING

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, the Soviet Union's recent attempts to bully the other body into ratifying the disastrous SALT II agreement have been effectively underscored by the Paris, Ill., Daily Beacon-News, edited by my good friend and former Member of Congress, Edward H. Jenison.

I commend Congressman Jenison's July 7, 1979 remarks to the attention of my colleagues:

NEVER NEGOTIATE OUT OF FEAR

We hope the United States Senate is prepared to demonstrate that it does not take marching orders from the Kremlin. In signaling both its independence and its common sense, the Senate will want to amend the SALT II treaty before considering whether the agreement should be ratified or rejected.

It was to be expected that the Soviets, having negotiated a strategic arms treaty that concedes them considerable advantages, would favor its approval by the Senate without alteration. It was likewise to be expected that the Soviets would publicly express their support for the treaty's existing terms even as the Senate prepared to consider whether those terms were, in fact, in the best interests of the United States.

What no one in Washington was quite prepared for was an explicit Soviet ultimatum. Ratify the treaty as is or the entire arms negotiation process will be cancelled. That is exactly what Soviet Foreign Minister Andrei A. Gromyko said in a recent Moscow news conference.

To ensure that there would be no misunderstanding, Gromyko switched from Russian to English to tell reporters, "no matter what amendments would be made, it would be impossible to reopen negotiations. It would be the end of negotiations, the end no matter what amendments would be made."

Should the Soviets stick to this position, we can be all but certain that SALT II is dead. Indeed, Senate Majority Leader Robert Byrd went to Moscow to tell the Russians as much.

Senate Republican leader Howard Baker's announced decision to oppose the treaty unless it is amended appeared to doom chances for ratification without alteration.

Clearly, the Senate should not be deterred by threats from Moscow. If the Soviets insist on ending the decade-long arms negotiation process because of amendments that would render SALT II fair to both sides, so be it. Such an action would unmistakably reveal the Soviet Union's real objectives and alert the American people to the challenge they face.

Conversely, should the Soviets subsequently decide to swallow their objections and accept a truly equitable and verifiable agreement, American security will have been enhanced and the necessary preconditions for negotiating a balanced SALT III treaty will have been established.

Eighteen years ago, John F. Kennedy warned that the United States should "never negotiate out of fear." The Senate would do well to remember that admonition as it ponders the changes that will be necessary if SALT II is to contribute to preserving the peace and safeguarding American security.●

MEMORIES OF A CENTURY

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. HEFNER. Mr. Speaker, on August 11, 1979, Mrs. Laura Green of Landis, N.C., will celebrate her 100th birthday. One of her grandsons, Hughlon Green of Washington, D.C., has worked for the House Ways and Means Committee for 35 years. He is the only member of the committee's staff to have worked for six chairmen of the committee. He originally came to Capitol Hill in 1944 with Congressman R. L. Daughton of the former Ninth Congressional District of North Carolina.

Hughlon Green has written the following reflections on the occasion of his grandmother's 100th birthday. The reflections follow:

MEMORIES OF A CENTURY

Mrs. Laura Green celebrates her 100th birthday on August 11, 1979, in Landis, North Carolina, at the Sherrill family reunion.

Laura grew up in Rowan County, North Carolina, where she was born in a family of eight children. She attended school in Rowan County and later entered Barber-Scotia Seminary in Concord, North Carolina.

Laura married Isaac Green in the year of 1901. He was later employed by Lackawanna Steel Mill Company. She traveled with him and lived in many states, including Maryland, Washington, D.C., Virginia, Delaware, New Jersey, New York, Pennsylvania, and Massachusetts.

Husband Isaac and Laura returned home to North Carolina in 1932. Laura still lives in Landis, North Carolina, at her present residence.

After the death of her husband in 1946, she maintained and cared for herself and her home until the age of 95. Irene, her daughter, moved from New York to help care for her and to enjoy her company. However, Laura is still blessed with good health with the exception of failing eyesight and hearing. She also is active in her home-making duties, such as bed-making, laundering, ironing, cleaning and vacuuming.

The key to her longevity, says Laura, "is to live a good, clean Christian life and trust in the Lord."

Laura is a member of Sandy Ridge Methodist Church. Rev. Quick, her pastor, pays her frequent visits for communion and spiritual guidance.

A walking history book is Laura. She still vividly remembers some of her childhood poems and songs.

Hobbies for Laura include television. She especially enjoys the soap operas and all sports. She knows many sports stars by name. She keeps informed of the daily news. Laura also enjoys listening to the radio, good gospel music, and she likes to cook occasionally.

Such knowledge, wit, and wisdom are remarkable at her age.

Immediate family of Laura includes one daughter, Irene; one grandson, Hughlon; his wife, Madeline; one great-grandson, Reginald; his wife, Diane; and one great-great grandson, Joseph.

Laura says, "I am very, very blessed. I have a good, interesting, and rewarding life. My daughter, Irene, grandson, Hughlon, and all other family members and friends have given me lots of love and good care through the years. To them and to God I am truly grateful."

Reflections by her grandson,

HUGHLON GREEN.●

PROBLEMS WITH THE CLEAN WATER ACT

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. MARTIN. Mr. Speaker, local communities are growing increasingly frustrated in their attempts to clean up their streams and meet the standards we established in the Clean Water Act. Despite the availability of $6.5 billion in funds appropriated to the Environmental Protection Agency, local communities face increasing project delays, voluminous regulatory requirements and rapidly rising costs and cannot get EPA to approve their projects. It now takes an average of 8 to 10 years to build a municipal sewage treatment plant. Many localities estimate that as many as 3 years of their time is a result of Federal administrative delays and new Federal regulations. These new regulations often necessitate projects to be replanned, no matter how close a project is to construction.

Congress never intended the wholesale revisions which EPA has required of local pollution abatement projects. Many projects have literally been stopped dead in the water because of disagreements over regulatory interpretations among EPA, the local communities and the States. Meanwhile, the objective of the act, preventing pollution from entering the Nation's streets and rivers, is unrealized.

Delays from revised planning requirements by EPA have substantially increased wastewater treatments and construction costs as well. But, more importantly, they have required local governments to turn down new industrial opportunities with the jobs and incomes they produce because treatment plants are still in the planning and design stage 5 years or more after the community decided to seek Federal assistance to clean up their waters.

Recently, mayors and consulting engineers from North Carolina visited their congressional delegation in Washington to relate these problems to us. I call my colleagues' attention to an editorial in the Mooresville, N.C., "Tribune" of July 16, 1979, which describes the problems municipalities have in securing EPA assistance and meeting the standards of the Clean Water Act:

VIEWING WITH ALARM

Is the Environmental Protection Agency going the way of the Occupational Safety and Health Administration?

Too many signs point in that direction, said worried local government leaders from Piedmont North Carolina in Washington last week, and members of the state's congressional delegation agreed. EPA, a growing body of evidence suggests, has lost sight of its objective and redoubled its efforts.

That's what neutered OSHA. A reasonable idea fell victim to the unchanging—apparently unchangable—laws of bureaucracy. What started as a public service became a myopic obsession as its goal shifted from safety in the workplace to self-perpetuation. It became more intent on promoting reasons for its being than on doing what it was created to do.

In the end, of course, the people—through their government—lost control of OSHA, and they quickly became its victims rather than its beneficiaries. And Congress had to destroy OSHA in order to save it.

Mooresville Mayor Joe Knox and other regional municipal and county leaders feel EPA is following the same sorry path, and they want it reined in and deflated before it runs amuck and explodes. They told their representatives in Congress as much July 10 when they met with them to vent their frustrations over EPA mismanagement.

Specifically, Knox and the others are concerned about the agency's demands for improved waste treatment and its accompanying foot-dragging in providing the federal money law provides to assist with the improvements. More specifically, they want relief from EPA's glaring inability to cope with complexities of the Clean Water Act.

The Consulting Engineers Council, whose members work with counties and municipalities to meet EPA Clean Water Act demands, points out that 15 states have reached agreements under which they take over handling of EPA grants. North Carolina is not among them. There is no assurance state management is better than EPA management, because EPA policies that must be followed still change almost daily.

The Piedmont delegation's message was this: If local governments are to make any real headway in using federal money to follow the federal directive to clean up the environment and keep it clean, the malignant mass of bueaucratic red tape must be untangled. They can't put the salve on the sore until they get the cap off the tube.

A purely monetary reason to get EPA on the stick or out of business: for every $1 million tied up in delayed EPA projects there is a $20,000 monthly increase in project costs.

For Mooresville, an even more compelling cause for alarm: EPA has prohibited the town from connecting any new customers to its industrial waste treatment plant, even though it is not operating at capacity, and even though quality of its discharge is well within limits set forth in its original EPA permit. Unless the town and EPA can reach a workable understanding, industrial and commercial growth of the community could be stunted before the town's long-delayed $11 million waste treatment plant is ready for use, hopefully by 1983.

Mayor Knox was among five local government leaders who spoke before the congressional delegation that included Rep. Jim Martin of Mooresville and Rep. Bill Hefner of Concord. Knox's remarks write their own editorial:

LONG-RANGE PLANS

Several decades ago town officials and representatives of local industries cooperated in developing long-range plans to assure that Mooresville had adequate water and wastewater facilities. This positive planning effort continued, and in 1970 the need for updating the plans was recognized. The Town Board undertook this program, identified physical improvements that were necessary, and sought approval of state and federal agencies in an effort to implement construction and gain financial aid.

201 STUDY

In early 1974 the town was directed to undertake a "201 Planning Study," most items in which had been covered by work previously done. The Town Board was advised that the 201 Study was necessary if the town was to receive any benefit in the form of federal funds for construction of pollution abatement facilities. After some delay in funding the work, the 201 Planning Study finally commenced in late 1974.

In full compliance with then-current regulations, the 201 Study was completed and submitted to a "Joint EPA-State Review Committee" for approval in March 1976.

201 REVISIONS

From May 1976 through May 1978 the 201 Study was subjected to constant revision, review, and reinterpretation of regulations by an EPA review committee. Finally, in May 1978 the town received word that the program proposed was adequate, and that the town should file application for funds to aid in the facility design. Incidentally, the revised 201 Plan, identical in concept to the March 1976 version but with totally new supporting data and format, was approved by EPA January 24, 1979.

AUTHORITY TO PROCEED

EPA through the state, had indicated that the town should apply in May 1978 for the step 2 design authority and funding assistance. Applications were submitted in May, and phone inquiries indicated that the application documents were apparently under review. However, on August 3, 1978 in response to a phone inquiry as to status, the town was advised that the applications were lost. The town was directed to resubmit, and did so August 9, 1978. On August 17 the state staff indicated that all the documents were complete, and finally the state certified the application as adequate to EPA and sent it to the Atlanta Regional Office October 16.

Again in response to phone inquiries as to status, EPA representatives in Atlanta in November 1978 indicated there was no problem with the Step 2 grant application and advised that the town would receive an offer of a grant "at an early date." Nevertheless, only after weekly calls and through the assistance of the office of Congressman Jim Martin did the town finally receive the grant offer form February 25, 1979. The offer was reviewed and accepted by the Town Board in a meeting on March 5, and all requested supporting information was returned to EPA within several days thereafter.

CURRENT STATUS

EPA still has not approved the engineering agreements and supporting data returned with the grant offer. Representatives in the Atlanta office indicate orally that there is no apparent problem with the submittal, but the written authorization or approval has not been received.

Here, eight years after start of the project, and having spent more than five years in dealings with the US Environmental Protection Agency, the town does not have the improved treatment facilities we initially sought.●

ECONOMIC SUCCESS STORY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. RHODES. Mr. Speaker, as our Nation slides into recession, we are preparing to take steps to reverse the downturn. It is crucial that we understand what is needed to insure an expanding future economy and a prosperous America.

Japan has been one of the world's economic success stories. In a recent talk to the IV Oceans Seminar, sponsored by the Center for Strategic and International Studies, Senator Michiyuki Isurugi from Japan outlined the steps taken by the Japanese. They are, in essence, quite simple—increasing productivity through investment in facilities and upgrading worker skills.

I urge that my colleagues take time to read this thoughtful description of the challenges Japan faced after the last recession, and the methods used to create a favorable balance of trade and a vigorous economy.

Text of Senator Isurugi's remarks is as follows:

REMARKS BY SENATOR MICHIYUKI ISURUGI

Mr. Chairman, Distinguished Delegates,

There was a man in our country, who took a vacation and went to an island country, where he discovered that on average a laborer cost ten cents a day. As he was so impressed by this cheapness of labor, and as he was an enterprising businessman, he decided to build a factory there. Unfortunately, however, he had to discover later that however hard he tried to train workers, they could not produce more than five-cents-a-day products each. This means that the labor of that country was in reality very expensive labor. The man thus was driven to bankruptcy. The ratio between wage rate and labor productivity is called "labor cost". It is neither wage rate as such nor labor productivity as such, but this labor cost that determines the international competitiveness of a nation's economy.

In recent years, there have been economic conflicts between the United States and Japan from time to time. The economic relationship between the United States and Japan is just like relationships among kin folk. Not because the two economies are different from each other nor, for that matter, they dislike each other, but precisely because they are increasingly becoming so alike and mutually interdependent, they quarrel as much as they work together and help each other.

I would like to call your attention to the clear and undeniable facts that when Japan developed a whopping inflation in 1974, we lost almost completely our trade surplus, that as we succeeded in eradicating our inflation on the one hand, and in raising our labor productivity on the other from 1975 through 1978, we came to a mass trade surplus, and that as the exchange rate of the yen was greatly appreciated from the fall of 1977 through the first three quarters of 1978, we came to produce deficits not only in our total or basic balance of payments but also in our trade balance since the second quarter of this year, notwithstanding what some Americans still regard as the Japanese unfair trade practices, non-tariff barriers or close-door.

The important lessons that we learn from these facts are, Gentlemen, that when the labor cost of any nation rises higher than those of other countries, that nation is bound to produce trade deficits, and that when the labor cost of any nation becomes lower than those of other countries, that nation is bound to produce surplus in trade balance. Both of these lessons are correct, of course, unless the exchange rate of the currency of that nation is adjusted in accordance with the labor cost differential that the nation came to produce vis-a-vis other countries.

Economies in the world are now developing what we had better call "oil-inflation". Would this mean that we had to control domestically the prices of oil-related goods? I seriously doubt if this is the right answer to the problem. In so far as the prices of oil-related goods are artificially kept low, the people would hardly come to be aware of the cold fact that the OPEC raised the price of crude oil and hardly try to save those goods. The only answer may be that we must control inflation in general or reduce demand at large, while we exert ourselves to the utmost to raise labor productivity.

In order thus to improve labor productivity, we must above all, encourage business corporations to make equipment and plant investment. Without this investment in private sector, there is no other way to genuinely pull up labor productivity. Gentlemen, the post-War period in the free world has eminently been dominated by "demand management policy". It has appeared from time to time that all what was necessary in the field of economic policies was to stimulate the so-called "effective demand". In order to do this, income tax rates have arbitrarily been lowered and income taxes themselves have been exempted from time to time. It is thus not unusual to find that in some countries the majority of the population do no longer pay any income taxes at all and yet enjoy the democratic privilege of voting.

Thus tax burdens have been shifted more and more from the income of the people to the income of business corporations and created the effect of discouraging business investment. However, what is most keenly needed today is no longer demand stimulation policy but supply stimulation policy. Because of the repetition of oil squeeze, countries in the world have increasingly been plagued by the shortage of supply and not of demand. Supply policy instead of demand policy must be our direction and slogan. The problem of energy, of natural resources in deep seabed, can be solved only by the effective developments of supply policies and the better coordinations of such policies between our countries.

In the face of the rise of gasoline prices, for example, should income taxes be reduced in order to ease the expenditures of consumers, it would be a demand policy. Under the same circumstances, should corporate taxes be reduced or government grants subsidies to oil refinery companies in order to stimulate gasoline production, it would be a supply policy.

Under demand stimulation-policy, it has been asserted that savings were vices and consumptions were virtues. This assertion coupled with inflationary trend has been reducing the people's propensity to save and their saving rates. In so far as a nation consumes almost all of its total national product and does not save its significant part, how can we hope to make necessary investments in order to prepare for the future of the nation? I believe that it is high time for the advanced countries to engage in supply stimulation policy and make coordinated actions for investment tax exemptions as well as corporate tax reductions. Without these actions, I do not believe that we can ever get out of the stagflation that is now going to hit all those economies in the world because of oil squeeze.

Of course, there is one more way to improve labor productivity. It is to increase "on-the-job" training for workers. The Japanese firms have been doing precisely this. They have exerted themselves to the utmost especially in recent years in order to foster "multi-capable and multi-skilled" workers by training them at various jobs. Such training programs, of course, cost a lot, or putting it differently, require the Japanese firms to make a great amount of investment in the formation of "human capital" or for the development of human resources with high qualities. As we say, it is the people that are the castle.

After having made such an investment, therefore, the Japanese firms do not want to fire their workers so easily, because should they do so, they would suffer from serious capital losses. The Japanese workers do not want to quit their firms so easily, because should they do so, they would unavoidably lower their productivities and thus have to accept lower wages than before. The end result of all these has been the emergence of life-time employment practices in Japan.

The labor productivity of our country has been rising at the annual rate of 6 percent in recent years. About half of this 6 percent can be explained by plant and equipment investment and the other half by on-the-job training or by human capital formation in the Japanese firms.

Gentlemen, I sincerely hope that you will come to understand that the most basic factor, which has enabled the Japanese economy to improve its international competitiveness, has been the rise of labor-productivity, or, putting it differently, the decline of labor cost. We might perhaps have something to offer to the benefit of the world in this regard.

Thank you.●

A MAGNITUDE OF ACHIEVEMENT—MOON LANDINGS TO SPACE SHUTTLE—A TENTH ANNIVERSARY

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. FUQUA. Mr. Speaker, I am including in the Record an article published by Barbara M. Greenwood in the Taunton Gazette on July 20, 1979. Barbara M. Greenwood of North Swansea, Mass. has been an enthusiastic supporter of the U.S. Space Program from the very beginning. In the accompanying article, she recalls the past and takes a look at the future of the U.S. Space Program.

The article follows:

A MAGNITUDE OF ACHIEVEMENT—MOON LANDINGS TO SPACE SHUTTLE—A TENTH ANNIVERSARY

(By Barbara M. Greenwood)

The official National Aeronautics and Space Act of July 29, 1958 stated: "The Congress hereby declares that it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of mankind."

Today, the space program has accumulated points in its favor to the question originally asked by the American people: "Why conquer space?" The most obvious reply is the very simple fact that we are gleaning valuable scientific knowledge from space about the earth, the sun, the universe—and of the individual—which we could not have gotten in any other way! Too, it is good to know that the United States has such technology at its fingertips; it would be a bit scarey to think that only the Russian (Chinese?) vehicles were the bits of technology spinning around our globe day by day. Such pure military advantage would be so powerful that, as a nation, we could actually suffer a kind of psychological shock from which we would probably never recover!

Our space programs have produced more useful technology per dollar invested than in any other organized activity in America today. It has proven to be a furnace in forging new technology, which in turn raises our national productivity and prosperity thus increasing our ability to solve pressing social problems and it is one of the few national programs which actually creates resources rather than uses them. Space exploration furthers international cooperation (as well as global peace) and is needed as inspiration for the modern individual!

We have come a long way since the official statement of NASA in 1958 . . . we have extended ourselves from the thin ribbon of Earth's atmosphere out to the edge of the solar system in two decades. Our first faltering steps have reaped incalculable and unforeseen rewards. Our future possibilities are as limitless as our enterprise chooses to venture.

Our third decade in space is just beginning—a new era will surface later this year when the first orbital test flight of our space shuttle, "Columbia", blasts-off from the Kennedy Space Center. Now, truly, for the first time we will no longer be tied to the exclusive province of highly-trained (especially suited) astronauts for our shuttle will accommodate up to four scientists or other specialists (men and women) who will have the luxury of working in a spacelab in a shirt-sleeve environment. Experiments and other tasks will be performed that heretofore earthbound professionals/workers would find too difficult or nigh-well impossible to accomplish because of our atmospheric hindrances. Tasks that were also considered impractical or overcostly will become routine i.e. in-orbit manufacturing; the assemblage of habitable space settlements from Shuttle-delivered "building blocks"; a sweeping dimension would be a network of Shuttle-erected orbiting power stations capable of converting the sun's energy into unlimited supplies of electricity for Earth use!

With such a technology being used as a baseline, there is always before us the brightness of our perfecting tomorrow's aeronautical machines that will prove to be safer, cleaner, quieter, and less fuel-thirsty—a real bonus in economics for the airline industrial complex both here and abroad .

Our horizon has broadened and we cannot retreat from this exciting technological vista and in order to continue to reap the benefits of our "dividends from space" we have to continually reach out and grasp for the next rung on the staircase to the stars! Yes, we have placed men on the Moon . . . now, let us go a bit further and make a bold move. Can we live in space? I would say, "yes", and before you say, "no", give your imagination a free reign and let it soar for a moment or two. You and I are going on a voyage—not on an ocean liner or a transcontinental plane—but on a personnel module called a heavy-life launch vehicle and our destination is our Earth's space habitat where, already, thousands of former earthbound people are now working, raising families and even living out their normal human lives. This habitat I am speaking of, encircles the Earth much like our Moon and it is an equal distance from both Earth and Moon; it is a ring-shaped tube that is connected by a number of large access route (spokes) to a central hub where incoming spacecraft dock.

To simulate Earth's normal gravity the entire habitat rotates at one revolution per minute about the central hub. Abundant solar energy and large amounts of matter from the Moon (which has already been colonized and is used as a supply depot) are the keys to successfully establishing a community in space. Our vehicle is launched and within minutes we are in orbit and for the first time experiencing weightlessness. This orbit is just a staging area, for the personnel carrier is transferred to an interorbital transport vehicle . . . the workhorse transporter of the future that will move people and cargoes between points in space but would never land upon any planetary body. The rocket engines of the inter-orbital transporter begin to thrust and the vehicle breaks completely from Earth orbit and we begin our 5-day journey to the space habitat. Anxiously, we await our first glimpse of this new world and when it happens we both are a bit deflated, for at first it appears to be just a point of light (this is because you cannot judge distance in space) but gradually this mere point of light begins to exceed the other stars with its brightness and then it forms into a narrow band of sunlight reflected from the radiation shield. Later, we begin to see the spokes and the hub, and it is only after our transporter has matched the orbit of the space habitat that we finally begin to comprehend the hugeness of this man-made structure. Upon docking and leaving the transporter, we find ourselves in a bright new world, a very busy community that is without skyscrapers and freeways and a city which does not dwarf its inhabitants simply because the human scale of architecture is emphasized by the long lines of sight, and the frequent clusters of small fruit trees and parks. The houses are the most impressive for spaciousness is achieved by terracing structures up the curved walls. . . .

Hopefully, I have only whetted your appetite for the real exposure to a new outlook on the future. Earth is where our roots are but our planet should only be regarded as a nook or niche—not our cage—for just as a tree lifts up its branches skyward, so should we extend and encircle our intellect with a crown of stars for earth and space are now indivisible—together they represent a greater environment whereby man and planet can be restored giving forth options and be able to cope in an existential universe.

Apollo was an exploratory and learning phase. Our graduation is at hand . . . the shuttle will be concentrating on larger payoffs to the people of our country and to the world in general. The opportunity for human expansion into space is offered; it needs only to be grasped.●

18TH ANNUAL OLD ADOBE FESTIVAL

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. CLAUSEN. Mr. Speaker, August 11–12 will mark the 18th annual Old Adobe Fiesta in the city of Petaluma, Calif. The old Petaluma Adobe, a preserved reminder of the hardship and determination of the early settlers, is significant to the people of California, as well as the people of the United States. So that my colleagues and citizens across the Nation may become more aware of the important meaning of this historical edifice and also the dedicated undertaking that a group of Petaluma citizens have assumed, I am placing into the RECORD some of the history concerning this historic fiesta.

PETALUMA OLD ADOBE FIESTA—1979

A significant segment of California history is embodied in the Petaluma Adobe, which stands on a knoll overlooking the valley where the City of Petaluma lies. This site was originally part of the 66,000-acre Rancho Petaluma which was granted to General Mariano Guadalupe Vallejo in 1834 by the Spanish Governor of California, Jose Figueroa. The buildings still standing were originally constructed between 1836 and 1846. They served as the centerpiece of massive cattle, sheep and horse ranching operations, as well as the raising of abundant crops of wheat, barley, and corn. Within the buildings themselves there were housed a variety of manufacturing operations—carpeting, blankets, clothing, horseshoes, hand made nails, spurs, and finished leather products.

In 1850 General Vallejo leased the property to a group of French colonists, and in 1857 he sold the buildings and much of the surrounding lands for ranching purposes.

Over a period of 53 years the buildings were, for the most part, abandoned and fell into almost total disrepair, until, in 1910, the Adobe was purchased by the Petaluma Chapter, Native Sons of the Golden West, who managed to preserve the remaining buildings.

In 1951 the State of California took title to the property and, in 1952, began a continuing program of restoration. As a result of this effort 85 percent of the present walls and 15 percent of the woodwork are original, and today the Petaluma Adobe is a registered National Historical Landmark and is designated as State Historical Landmark No. 18. The State of California acquired additional land adjacent to the restored buildings in 1975 an 1979.

In 1962 an organization of concerned Petaluma citizens recognized that the governments, both State and Federal, couldn't "do it all". They thus formed the Petaluma Old Adobe Fiesta Association, to assist in the perpetuation of this historic landmark and to actively disseminate knowledge of the local cultural heritages related thereto. Over the subsequent years this Association has assisted the State authorities by accomplishing ground and building maintenance and by providing and feeding various farm animals, to be viewed by visitors in their original environment.

Every year since 1962, during August, the Petaluma Old Adobe Fiesta Association has sponsored and presented the Old Adobe

Fiesta, which has featured demonstrations of historic arts and crafts, music and dancing, games and rides, and a gigantic picnic barbeque. Support for this event has also been provided by the City of Petaluma, the County of Sonoma, and the State of California. Visitors to the Fiesta are not charged for admission.

August 11–12, 1979 will mark the 18th Annual Old Adobe Fiesta. In these times of need to remembor who are and from whence we came it is appropriate that the Petaluma Old Adobe Fiesta Association and the supporting city, county, and state bodies who support this effort be commended and congratulated for what must be viewed as a major contribution to the renewal and perpetuation of our national spirit.●

BLACK LUNG BENEFITS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. RAHALL. Mr. Speaker, today I am introducing legislation to correct yet another inequity in the black lung benefits program. Through my contacts with the coal miners of southern West Virginia, it has come to my attention that by a small omission, we are depriving certain applicants of the benefits and privileges that come with a certain type of application for this program.

Under current law, part C black lung benefits are offset against social security disability benefits, but part B benefits are not. The logic of the Congress behind this differential is that part C is a "compensation" program since it is paid by the coal mine operators, while part B, paid from social security revenue funds, is not. In the Black Lung Benefits Reform Act of 1977, provision was made to review all previously denied part B and part C claims under the regulations of the new law. However, part B applicants who are being reviewed and approved under the 1977 amendments are being treated as part C claims, both for the purpose of payment and for the purpose of offset against the disability benefits of the recipient.

It is my intention in introducing this legislation to remove the disability offset on the claims which were originally filed under part B but are only now being approved under the new law. It is not the fault of the claimant that he was not previously approved, and he should not be penalized for something that is beyond his control. All other part B beneficiaries are treated in a specific manner, but these claimants have been excepted from that treatment. There is no logical reason to make exception for the ones who have waited the longest period of time—some as long as 10 years—simply because their claim was not approved to start with. When they applied, there was no part C, so their claims should not be thoughtlessly shuffled into another and quite different area of consideration.

This bill seeks to clarify the intent of Congress. It will decisively affect many men and their families who have given up great portions of their lives for the Nation's coal mines. Most probably affected by this legislation will be the older miners or their widows, since this only touches those persons who applied for benefits between 1969 and 1974.

I have been assured by Commissioner Stanford Ross of the Social Security Administration that this proposal would cost approximately $1 million per year, and would be paid from the SSA disability insurance fund.

I ask that all Members review this matter personally and carefully, in hope that they, too, will see the need to correct this inequity, and make more just this particular section of law.●

LET'S KEEP AGRICULTURE PROGRESSIVE

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. TAYLOR. Mr. Speaker, I am sure my colleagues have noticed many young men and women on Capitol Hill in their jackets of national blue and corn gold, who were here to attend the State Future Farmers of America Presidents' Conference.

I was particularly pleased that we had the opportunity to hear from Mr. Kelly Grand, the national FFA secretary, at the congressional breakfast. Kelly is from Morrisville, Mo., in my congressional district and I would like to include his remarks in the Record at this time.

Presentation to the 1979 Congressional Breakfast

(By Kelly Grant)

Back in Morrisville, Missouri, we have an area where people congregate which is just about the size of this room. Only we call it the city limits . . . Not too many years ago, I was of the impression that what happened in Morrisville was public knowledge of people throughout the world. At least, that is what we all thought of the street in Morrisville. We were lead to believe that the world really revolved around the grocery store, gas station, and cafe in our town.

It was only a few years later, as I sat in a restaurant in Tokyo, Japan, enjoying my steak and soybean products from American agriculture, that I realized what I had been lead to believe years earlier in Morrisville, wasn't that far from the truth.

American agriculture begins in places just like Morrisville, but stretch from the vegetable fiields of Southern California to the dairy farms of upper New York state. From the corporate board rooms in Chicago to the lawn supply shop in suburban Washington, D.C. And somewhere along the way, it involves one out of every five jobs in private industry. That to me indicates that you don't have to go to Morrisville to find American agriculture at its finest. I think more appropriately, it occurs for most of us about three times a day.

With one hundred percent of our population participating in agriculture, and 20% employed in the production, distribution and marketing of agricultural commodities, it's no wonder we all have a concern for what happens to America's first industry. As recently as last week, public sentiment towards agriculture declined as grocery shoppers pushed one of the most expensive carts through the checkout line in history. This concerns not only the shopper, but the agriculturalist as well. Because an unhappy customer is not conducive to the growth and progress that has benefitted American agriculture over the past hundred years. Our story of progress is amazing indeed. The changes in the past 75 years are greater than the sum of the past 75 centuries.

But, what must we do to insure that the next 75 years will be as progressive as the past? Any businessman can tell you that a positive consumer attitude plus an incentive to produce for a profit will yield the best climate for future progress. With this in mind, how can those of us in the agriculture industry, that's you and me, meet the challenge of continuing our country's most noble profession. This challenge is not confined to the shores of our country, but stretch around the world. America is looked upon as the leader in the race to feed our increasing population.

Are we content to allow America's agriculture to remain at its present level? Must we be content with the accomplishments of our past?

The future of the agriculture industry depends on continued progress. The kind of progress that members of the Future Farmers of America can provide.

The youth you have before you today represent an answer to continued growth and progress in the agriculture industry. Students in the Vocational Agriculture—FAA program learn the importance of setting goals, meeting challenges, and striving for higher accomplishments.

The Motto of our organization, written nearly 50 years ago, yet still appropriate today reads:

Learn to Do
Doing to Earn
Earning to Live
Living to Serve

Our service to agriculture is just beginning. In the years to come, that service will be translated into the challenge of feeding the people of our world.

Today's preparation yields tomorrow's progress. The type of preparation young people are receiving through the Vocational Agriculture—FFA program in the over 8,500 FFA chapters in 50 States and Puerto Rico.

As we prepare for the future, let us all work together to build a stronger agriculture. Yes, let's keep agriculture progressive.●

THE U.N.'S FINANCES

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. BONKER. Mr. Speaker, the Subcommittees on International Organizations and International Operations recentlv held hearings on the financial practices of the United Nations. We heard testimony from representatives of the GAO and the Department of State, which shed some light on the complexities of how the U.N. manages its money.

On the whole, the testimony showed that analyzing the U.N.'s financial situation by lumping the resources of its independent agencies together yields an inaccurate and misleading picture.

The U.N. is not like private enterprise—it cannot loan money or depend upon future "sales" to bail it out—it is dependent upon, and therefore vulnerable to, the whims of sovereign States which can withhold precious operating funds at any time. Contributing States can also require, at their pleasure, the U.N. to keep funds in accounts earning little or no interest in their country until they are needed. Thus, even though the U.N. may keep what some have called "large balances" in their accounts, they cannot depend upon those funds being available when they need them.

I am inserting in the RECORD an editorial by our distinguished former colleague, Chuck Whalen, which I think clearly discusses many of the questions raised at the hearings.

FISCAL PRUDENCE AT THE U.N.

(By Charles W. Whalen, Jr.)

Fiscal prudence dictates that management of public funds be subjected to careful scrutiny. International institutions that administer U.S.-contributed dollars certainly should not be exempt from such analysis. The Washington Post, therefore, is to be commended for its decision to examine the financial practices of the United Nations.

Regrettably, the conclusions that emerge from the two articles on this subject [A1, June 17 and 18] reflect an innocence of any acquaintance with accounting procedures and a misunderstanding of how the United Nations system operates.

First, Post reporter Ronald Kessler contends that the $1.4 billion maintained in the United Nations bank accounts around the world is "excessive." This figure only has meaning when it is applied against the liability side of the ledger, for out of this sum must come payment for current obligations and future commitments. The family, for example, with $10,000 in its checking account on July 1 may find itself in debt on Sept. 1 when college tuition bills come due.

Since most U.N. agencies do not have borrowing authority, meeting two- to four-year commitments out of unpredictable annual contributions requires the accumulation of substantial reserves to meet predictable payments as they come due. Too, many development organizations, such as AID, are required to maintain one dollar in the bank for every dollar of future expenditure commitments. But on December 31, 1977, UNICEF's cash balance of $131 million was less than one-half its 1977 contractual commitments. Using AID's standards, UNICEF's deposits should have been $304 million.

The "commitment" discussion is further complicated when the subject of "pipelines" is introduced. In congressional jargon, this refers to undisbursed commitments. Funds are appropriated and then earmarked, but they are not instantly disbursed, since contracts have to be let, equipment purchased and personnel hired. To the untrained observer, these unliquidated obligations distort the "net worth" of the agency in question.

Second, the series asserts that the U.N. does not earn the highest possible return on its checking accounts. One should not compare 1977 interest rates with current rates, which are substantially higher. Further, it was only recently that federal statutes allowed any interest payment on demand deposits. And, of course, the United Nations and its 40 agencies have more than a thousand accounts scattered throughout the world. Many countries retain their contributions, until callable by the United Nations, in their national treasuries or in domestic financial institutions at rates that, as sovereign nations, they arbitrarily establish.

Third, The Post avers that United Nations financial procedures do not conform to accepted business principles. The United Nations simply cannot be equated with private enterprise. It may not borrow funds against shortfalls or in anticipation of revenues. Decisions of the "board of directors," comprised of representatives of 151 independent nations, often are politically motivated. Contributions of inconvertible currencies can be spent only in the donor's country. Uncollected assessments cannot be written off as "bad debts."

The timing of The Post's articles also is unfortunate. They come in the midst of the appropriation process for United States contributions to the various United Nations agencies when it is not easy to have orderly consideration of these questions.

On June 27 two House foreign affairs subcommittees held joint hearings to consider The Post's allegations. Virtually every one of Mr. Kessler's charges was refuted or explained in its full context, convincing those present that his criticisms were unfair. Unfortunately, one could not discern this from The Post's June 28 account of the session.●

THE SHARP AMENDMENT IS SAVING ENERGY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. HAMILTON. Mr. Speaker, disagreement on what should be done about energy has sometimes kept Congress from acting as forcefully as we might. I was therefore pleased to be reminded by Forbes magazine recently that a major energy saving regulation we passed in 1975 is beginning to have an important positive impact.

Those of you who were here in 1975 will recall that Congressman PHIL SHARP of Indiana authored an amendment to that year's energy bill which required auto manufacturers to improve the gas mileage of their cars. Predictably, there was some complaining about another regulation being imposed, but the August 6, 1979 edition of Forbes carried an uplate on these standards by Allan Sloan entitled "Regulation That's Working." He points out that the Sharp amendment has already led auto company and oil company officials to predict a drop in demand for gasoline.

It is obvious now that the American consumer wants to buy more fuel efficient cars. Thanks to the Sharp amendment, the U.S. auto industry is building more of these cars. As a result we are not only saving gasoline, but we are also keeping jobs and foreign exchange at home instead of increasing our imports of foreign cars.

Our concern with decreasing our dependence on imported oil as well as our interest in maintaining a strong American auto industry should make us grateful that we had the foresight 4 years ago to pass this legislation. I believe the following article will be interesting to my colleagues:

REGULATION THAT'S WORKING

(By Allan Sloan)

It's not as grabby as horror stories about gasoline lines, but there's good news about gasoline demand in the U.S.: It will be going down very soon. What's more, this pattern is built into the U.S. economy *right now*, and doesn't depend on people giving up their cars and taking the bus to work.

Why is this happening? Because, for a change, the government did something right. The results are just now starting to become apparent. In 1975 Congress set average mileage standards for new cars sold here, starting at 18 miles per gallon for 1978 models and working up to 27.5 mpg for 1985 models. The auto industry has squawked plenty about how hard it is to meet those standards. But when pressed, Detroit's auto executives grudgingly admit their cars wouldn't be anywhere near so fuel-efficient but for Washingington's coercion.

Gasoline is already becoming a smaller factor in total U.S. oil consumption. This may help explain why oil companies haven't exactly been breaking down the doors to built big new gasoline-tilted refineries. Gas has declined from 41% of U.S. oil use in 1975 to 39% last year. With oil companies predicting slow or negative growth for gasoline, that proportion will continue to decline. "No one wants to build a refinery for a bulge in the demand curve," says Eric Thor, vice president and senior economist at Bank of America.

Big oil companies contend that the main reason they don't build new refineries in the U.S. is federal regulation which, they claim, does not allow them to earn an adequate return. But they admit privately that another factor is the no-growth market for gasoline.

Now consider these numbers, supplied by General Motors. The average mileage of all U.S. cars on the road last year was 13.7 mpg, but it will rise to 14.1 next year and 18.2 in 1985. (Those numbers include an "in-use factor" because actual mileage is lower than the EPA-rated mileage on which compliance with the mileage standards is measured.) If GM is right, the gasoline that took the average car three miles last year will take it almost four miles in 1985. The increase means we can have more cars, drivers and miles driven than now—and still use less gasoline.

When will demand begin dropping? It depends on who you talk to. Ford Motor Co. thinks demand may be peaking this year and will begin dropping in 1980. Standard Oil Co. of Indiana, a savvy marketer, thinks the newest round of OPEC increases may have already made 1978 the peak year. Other oil companies project gasoline peaks in 1980, 1981 or 1982. The U.S. Department of Energy picks 1980 or 1981. Some economists are projecting a plateau rather than a drop in the 1980s, but no one seems to be projecting an increase—despite the fact that gasoline use in the U.S. rose steadily from 6.5 million barrels a day in 1974 to 7.4 million in 1978.

Those days are over, especially with soaring prices spurring sales of gas-stingy cars. "Gasoline demand is highly inelastic in the car you already own," says Terence Redmond, vice president of planning at Indiana Standard's Amoco Oil subsidiary, but the price of the stuff "sure affects the new car that you buy."

It isn't every day that Congress does something right, especially when it comes to energy. But thanks to the mileage standards passed four years ago, gasoline usage is finally on its way down.●

THE ALLEGED OIL SHORTAGE

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. CARTER. Mr. Speaker, that the Members may be informed, and those of our constituents who read the Congressional Record, I am enclosing an article entitled, "That Great Oil 'Crisis' of '79? The Numbers Spell Out Fraud." It was written by Fred J. Cook, an investigative reporter, and appeared in Sunday's edition of the Washington Post.

It is indeed shocking to read what is evidently the truth concerning the alleged oil shortage. It is distressing also to know that the people of this country are having to pay ever-increasing prices, while the "fat cat" oil companies enjoy greater and greater profits with shortages contrived so that prices can be decontrolled. This again results in the consumer paying more and more. Phased decontrol is decontrol over a slightly longer period of time. The actions taken by the "fat cats" may well result in divestiture. The American public has been ripped off too long.

The article follows:

That Great Oil 'Crisis' of '79? The Numbers Spell Out Fraud

(By Frank J. Cook)

The great "oil crisis" of the summer of 1979 may well go down in history as one of the greatest frauds ever perpetrated on a helpless people. The reality is that there was no shortage of oil; this is verified by every responsible source. Indeed, solid statistics show that there was more oil available than there had been in 1978 when there were no gas lines, no murders of frustrated motorists—in a word, no "crisis."

President Carter's Sermon from the Mount on Sunday night, July 15, ignored this reality. He insisted that the shortage was "real." To have admitted that it was not would have entailed an admission of the culpability of Big Oil and of President Carter's own recumbent Department of Energy.

The naive may say to themselves, "Why, this cannot be." So let's begin by citing some sources: A Federal Trade Commission study concluded on May 30 that gasoline supplies were up from 4 to 8 percent (depending on the month in which the comparison was made) during the first four months of 1979 over the comparable period in 1978. U.S. Customs figures, independently verified by House of Representatives researchers, show that the "Iranian shortfall" so widely trumpeted to validate the "crisis" was a red herring, because imports of oil during the first five months of 1979 actually increased 10 percent over 1978. A world energy assessment by the Central Intelligence Agency shows that world oil production in the first quarter of 1979 was up despite the Iranian disruption; that U.S. imports through May showed a big increase over 1978 figures—and that American firms, in this time of supposed "crisis," were exporting more oil than they had in 1978.

When President Carter came down from the Mount, he thumped the table in the Oval Office and announced that he was not going to permit the importation of a single gallon of oil more than we had imported in 1977. But we imported so much oil in 1977 that Big Oil suffered acute glut pains and couldn't get those prices up.

The industry's own figures show total crude oil stocks (in millions of barrels) at yearend 1977 reached 339,859, a 19.1 percent increase over 1976. At yearend 1978, total stocks had dropped to 314,462, a decrease of 7.5 percent, bringing us into 1979 with a potentially short situation.

But, as in almost every facet of this story, things weren't what they seemed. In addition to the normal crude oil supplies, the federal government has established a strategic petroleum reserve. Into this reserve, stored in salt domes in Louisiana, it has poured literally billions of gallons of imported oil; and the Department of Energy, with its usual efficiency, has dumped all that oil into the caverns without thinking about installing pumps to get it out.

If one includes the extra millions of barrels that were committed to the government's strategic reserve in 1978, the figures on the nation's total petroleum stocks, expressed in millions of barrels, read this way: 381,322 at end of 1978 compared with 347,689 at the end of that 1977 "glut" year.

In other words, the nation came into 1979 with 9.7 percent more crude stocks on the market and in the reserve than it had had at the start of 1978, when the industry was moaning because it had so much oil it couldn't even get gasoline prices up to the permitted ceilings. It is enough to make one ask, "What the devil goes on here?" What went on is fairly obvious, though only the naive would expect to get a straight answer from James L. Schlesinger's Department of Energy.

Big Oil drew down stocks during 1978 and by late fall had created a situation where there began to be alarming talk of shortages. Shell Oil led the way, imposing drastic cuts on the delivery of gasoline to its retailers; Mobil, Citgo, the whole tribe fell into line behind the force play. Retail gasoline dealers roared their outrage; there was a nasty flareback of damaging publicity, and the big oil companies backed off for the moment, restoring deliveries to nearly normal.

Then, heaven sent, came Iran. The Iranian revolution closed down the oil fields, and the myth of the "Iranian shortfall" was born. Actually, only 5 percent of our imported oil came from Iran, and this shortage was quickly offset by stepped-up production in Saudi Arabia, increased Alaskan supplies and lesser increases from other sources. CIA figures show that free world production (expressed in thousands of barrels daily) rose to 46,515 in the first quarter of 1979 compared to 46,305 in 1978. Customs figures, as recorded by the Bureau of Census, show that imports through May increased 10 percent over those for the first five weeks of 1978.

Indeed, the imports for these first five months of 1979 almost matched the levels established in the "glut" year of 1977. The CIA in-depth study echoed the Customs Bureau's findings. It showed imports in the first five months of 1979 outstripping 1978. During the first three months, imports averaged well over 8 million barrels a day, and in April and May they were only slightly below that figure. By contrast, in 1978 imports reached the 8 million-barrel-a-day figure in only two of the first five months, and in the remaining months, they trailed considerably behind the 1979 import figures.

The CIA assessment revealed another curious fact. In this 1979 year of "crisis," American firms actually exported more oil in every one of the first five months than they had in either 1977 or 1978. Exports ranged from 329,000 barrels daily in January to 445,000 barrels daily in both April and May. Yet, in lush 1977, exports had ranged from only 192,000 barrels daily to 288,000. The fact that we were exporting more oil in 1979 than we had in the two previous non-crisis years would seem to indicate manipulation of the market.

This suspicion, shared by more than two-thirds of the American people, according to public opinion polls, is reinforced when one reads the Federal Trade Commission memo of May 30. Reporting on a study made by the commission's staff, the memo said:

"The data indicates, among other things, that gasoline supplies in 1979 were up by 4–8 percent, depending on the time period, over 1978s. Net supply of gasoline in April was particularly plentiful compared to the previous April (up by 22.9 percent). Significantly, however, every time period—month, quarter, third—shows increased supplies and no indication of a shortage." Not only were supplies of gasoline more plentiful in 1979, but demand was down. According to figures from the OECD [Organization for Economic Cooperation and Development] in Paris, United States oil consumption in the period from January to April, 1979, was nearly 1 percent below the level of the same period in 1978.

Yet it was in late April and early May that the gasoline pumps in California suddenly went dry, beginning the drought that was to spread across the nation to New York, Washington, D.C., and cities in between. In a nation whose whole economy since World War II has been structured around networks of superhighways on which federal and state governments have lavished billions of dollars, panic struck, accompanied by frustration and fury.

The evidence established that none of this was necessary; it suggests that this was a "crisis" carefully orchestrated by Big Oil, aided and abetted by the complacent non-watchdog in the DOE and even by the president himself.

Jack Anderson, the Washington columnist, has published excerpts from secret White House minutes indicating that President Carter deliberately cut back gasoline supplies to keep his pledge to other industrial nations that the United States would reduce oil consumption by 5 percent. At a May 7 meeting, just as motorists were queuing up for miles in California, Carter told his Cabinet: "Our priority will continue to be some heating, agriculture and emergency needs over highway driving . . . There will be less gasoline, and it will cost more." Those last words confirm Jack Anderson's scoop. They match word for word the public presidenital refrain that all of us have heard for months: "There will be less gasoline, and it will cost more."

Cost more! That is what this scenario is all about. The Carter administration for months has backed every move that would make gasoline and other fuel products more costly, on the theory that higher prices would "force" conservation. For months, the administration talked about $1-a-gallon gasoline. Privately, it was scripting an even more brutal program.

Jerry Ferrara, the outspoken executive director of the New Jersey Retail Gasoline Dealers Association, described in a television appearance on July 2 how he and his associates had "pounded on every door" in

Washington seeking adoption of a more sensible policy. He said he had met face to face with Schlesinger, and he added: "He [Schlesinger] said that, if gasoline got up to $2 a gallon by 1981, the American people would have to conserve. And then he walked out of the room."

Justice Department antitrust lawyers have been trying to find out why it was that, just at this time of supposed shortages, crude oil production went into its steepest decline in seven years. In a preliminary and relatively unnoticed report, Justice Department attorneys, concluded that, from December through April, the falloff in domestic drilling had cost the nation some 11 million barrels of gasoline.

This falloff in domestic production came at a time when oil company profits in the first quarter of 1979 were going through the roof. While the companies were demanding price decontrol as a prerequisite for increased domestic production, first quarter profits at Exxon were up 37 percent; Gulf was up 61 percent and other majors like Standard Oil of Ohio were registering increases of more than 300 percent.

The drop in domestic drilling was accompanied by a second cutback, a reduction of refinery output. "That is where it all hangs out," one industry critic says. It does, indeed. Refineries capable of operating at 91 to 92 percent of capacity (this is virtually full-out considering inevitable maintenance delays) dropped their runs in this season of our travail to 84 percent. The American Petroleum Institute itself acknowledged that, in the second week of June, refineries were operating at 84.1 percent of capacity. The following week, the runs were stepped up to 84.5 percent—still far below capacity at a time when, all reliable evidence shows, crude stocks were in plentiful supply, waiting to be processed.

The situation infuriated Rep. Benjamin S. Rosenthal (D.-N.Y.), chairman of the subcommittee on commerce, consumer and monetary affairs of the powerful House Committee on Government Operations. It also upset Schlesinger, who, in June, confessed that he found the disparity between abundant crude oil stocks and low refinery runs "distressing" and "disturbing." He threatened action against oil companies that had poor refinery performance.

The sequel is perhaps best told in the words of Rep. Rosenthal as recorded in the Congressional Record of June 29. The congressman said:

"Following the hearing on June 14, Secretary of Energy Schlesinger admitted that we had more than adequate oil inventory stock and that he would undertake to use the Department of Energy's allocation authority to urge recalcitrant refiners in the direction of serving the consuming public . . . On Thursday, June 24, Secretary Schlesinger reversed his stand, expressing that the U.S. multinational oil companies might retaliate by withholding oil from the United States. Thus, it becomes obvious that much of the blame for the current gasoline shortages must also be ascribed to deliberate actions by the oil companies and the Department of Energy. This "blackmail" threat by the U.S. multinational oil companies that ship crude oil to Europe instead of the United States calls for a vigorous response by this nation."

It would be difficult to find a clearer demonstration of the power of the oil forces that hold this nation in thrall, but what Rep. Rosenthal called "this 'blackmail' threat" is not the only indication of the contempt in which Big Oil holds the government and the people of the nation.

The brutal price escalation, which puts Schlesinger's $2 gasoline in our immediate future, has been achieved through the delightful collaboration between Schlesinger's DOE and the oil industry. All during 1978, when the gas glut made it impossible to sell gasoline at ceiling prices, individual gas station owners were allowed to "bank" on their records the differential.

Came 1979, the "shortage," zooming OPEC prices; and, with frustrated motorists on gas lines willing to pay anything, those deferred, spurious "banked" sums were tacked on to the already zooming prices. As usual, the consumer got zonked. The DOE has now ended this "banking" system, but prices have already been driven to levels from which it is almost certain they will never come down.

All of this has taken place during the administration of a president who, in his first fireside chat in 1977, pleaded with the average American to sacrifice for the national good. Wear heavier sweaters. Turn down the thermostat. Car pool. Drive at slower speeds. "Sacrifice" one and all like a band of brothers for everyone's good and the national welfare.

Coming down from the Mount in July, the president is still saying that if we all band together and sacrifice, we can lick the devil dogs of OPEC. One has to wonder where the president has been all these years. Whatever gave him the idea that Big Oil considers itself part of a national brotherhood? The record is undeniable. Big Oil has just one concern—the bottom line. When it comes to "sacrifice," let the poor average American schnook do it.

The latest severe OPEC price hike, announced while President Carter and leaders of the industrial nations were conferring in Tokyo, seems to have shocked these statesmen to the tips of their toes. One has to marvel.

Before the previous price increase earlier in the year, OPEC spokesmen had put the blame squarely on the consuming nations, and Radio Riyadh, before this last bit of extortion, returned to the theme by charging that oil shortages were due to "the operation by certain major powers of huge stockpiles [those salt domes in Louisiana?] or price manipulations by the companies."

What the Arabs were saying quite clearly was:

"You asked for it, and you'll get it." ●

RESPECTING A PARENT'S FREEDOM OF CHOICE IN EDUCATION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. LAFALCE. Mr. Speaker, we have witnessed considerable debate during the last Congress concerning aid to private schools. Most often, the controversy centered around granting tax credits for tuition paid to private schools. While we spent a great deal of time discussing the validity and the constitutionality of such a measure, I would like to point out that we obfuscated the real issue.

The singular issue, which we have avoided, is a parent's right to choose the type of education he wants for his children. Clearly, education is and Government has the obligation of supporting that parental responsibility. Private education is a vital element in the American educational system today and I believe it is important that this dual system continue to exist. It provides an extremely important option for parents who feel their children cannot receive the same quality or kind of education in public schools. Without aid, however, this freedom of choice and the traditional pluralistic educational system in this country may become threatened.

I attended both public and private schools, and can attest to the quality of education I received in both. I certainly hope that this opportunity to attend both is made economically available to those who cannot afford anything other than the public schools.

I have never heard anyone deny a parent's right to select a child's education. Like many other rights, however, it is nearly meaningless unless it is economically feasible, unless the right can be exercised. Only if we make such a right an economic reality will we be giving the parent's freedom of choice any viability.

In this light, I would like to share with my colleagues an article which appeared in the Washington Post on July 25, 1979. I believe it provides cogent and compelling reasons for respecting a parent's freedom of choice and providing aid to attend private schools.

[From the Washington Post, July 25, 1979]

PRIVATE SCHOOLS AND PARENTS' RIGHTS

(By Joseph Sobran)

Like many people, I used to oppose government aid to private education in any form. I attended public schools, and I felt that if other people thought the free system wasn't good enough for their children, they shouldn't complain about having to foot the bill for private schools. Besides, what if a dime of public funds should wind up in some priest's pocket? That would violate the First Amendment, wouldn't it?

I'm afraid this was, and is, a rather mean attitude. People don't choose private schools out of ingratitude, but out of love. They make sacrifices to give their children the best education they can. They deserve at least some consideration for that.

Besides, there is a matter of principle at stake, a principle we have nearly forgotten. Education means, finally, the shaping of the young. This is a grave duty, and it rests primarily with parents, and only secondarily (if at all) with the state.

Sen. Daniel Patrick Moynihan (D-N.Y.), our leading advocate of tax relief for parents of private-school pupils, points out that the issue hasn't really been weighed on its merits. Liberal opponents of even that mild a form of aid to private schools insist it is unconstitutional; but that question can be temporarily waived. The main question is simply whether aid to private schools is a good idea. Both the Democratic and Republican platforms of 1976 agreed that it is.

Liberal ideology generally wants government to supervise things. It is suspicious of private schools as havens of privilege and subterfuges for segregation. In addition, the public-school establishment—state officials and teachers organizations—resents independent schools as it resents parental pressure. It prefers the rule of accredited state "experts," and has been harassing private schools—especially the proliferating religious schools of the Southeast—in the name of "standards."

There is irony, not to mention impudence, in this. Parents choose private schools in part because the standards of public schools have deteriorated so badly. And private schools generally do a better job of teaching by all measurable criteria.

But measurable criteria are only part of the story. Parents choose private schools for less tangible reasons. They want their children taught in the atmosphere of moral and religious values that are (to some extent necessarily and properly) excluded from public schools. They feel that what the private schools supply is not extra luxuries, but vital necessities. Private schools are in a special sense free schools: free to be purposeful, free to reflect parental values.

All this runs counter to the instincts of modern liberalism, which implicitly regards education as a process of "liberating" the young from the presumably backward values of the home. Though tactfully downplayed, this attitude shows up in the campaigns for sex education and for the minors' "rights" to contraception and abortion.

It also shows up negatively. The fashionable intellectual journals have almost nothing to say on behalf of parents' rights—a strange anomaly in an age that elaborates the rights of minorities, women, homosexuals, even animals. Nobody openly denies a parent's right to select a child's education. But it is a right that is losing weight fast.

Usually, liberals argue that a right worth having is a right worth subsidizing. We are told that poor women don't really have the right to an abortion unless they have "access"—in the form of tax monies—to abortion. We are also assured that subsidizing abortion in no way implies approval of it. Why isn't this logic applied to private education?

In essence, public education has the status of an established church. All, regardless of personal conviction, are required to support it. Dissenters are "free" to support alternatives only after they have paid their dues to the establishment.

That situation trivializes genuine freedom. The preferred status of public education prevents some, and tends to discourage all, from supporting pluralistic education. Justice requires nondiscriminatory tax relief, at a minimum, to parents of private-school pupils. And that means no discrimination against religious schools.●

RALPH AND VIOLA SHANKS REPORT ON SENIOR INTERN PROGRAM

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. CLAUSEN. Mr. Speaker, this year my office was privileged to have had for its senior interns, Ralph and Viola Shanks of Napa, Calif. This dedicated couple have devoted their lives to helping others. After a lifetime of commitment as a minister of the Presbyterian Church, Ralph, in his retirement years has poured his considerable energies behind many of the programs of the Napa Council on Aging.

At considerable personal sacrifice, Ralph and Viola Shanks traveled to Washington to participate in this year's senior intern program. They conscientiously attended scheduled sessions, informally discussed programs with their fellow interns, and asked questions and made suggestions to Federal officials.

They have now returned to Napa and are putting much of the information they obtained to good use in making local citizens better aware of Federal programs for the elderly.

So that my colleagues, and people across the Nation may be aware of their impression of this worthwhile program I am inserting in the RECORD a special report the Shanks prepared for me.

1979 CONGRESSIONAL SENIOR CITIZEN INTERN PROGRAM REPORT

(By Ralph and Viola Shanks)

Long to be remembered with great joy was the opportunity given to us by our Congressman, the Honorable Don Clausen of California, to represent the 2nd District in the 1979 Congressional Senior Citizen Intern Program, held in Washington, D.C., in May. The thrill of being in our nation's Capitol and sharing in its activities, of listening to and questioning the heads of departments directing programs for the elderly, of meeting the President of the United States in the Rose Garden at the White House, of watching Congress in session, and the subcommittees at work, of making new friends from all areas of the nation, and sightseeing together in our free time, remains with us to emphasize what a memorable experience it was, a bonus for growing old!

And most of all, the warmth and love with which we were received by the Honorable Don Clausen, his Administrative Aide John Bovard and the staff: Larry, Carol, Connie, Kathy, Mary Jane and Sandra, made the two weeks a mental and spiritual uplift.

And we might add, all the walking we did made a physical uplift in our health!

We commend Donna Norton for her hard work, and the girls who assisted her to make the Intern Program run smoothly. We doubt if anything could have been done to improve the two weeks of activity. Every detail seemed to have been taken care of carefully, and always with the comfort and concern of the Interns in mind.

The agenda set up by Donna covered almost every aspect of the senior citizen's life. Our speakers were Congressmen, heads of departments, staff directors, advisors, assistants who presented their information well and answered all questions with patience. Each one was quick to offer assistance and provide published information. It was good to learn about the legislative process firsthand and to share questions and thoughts with each other. In fact, we were impressed, feeling that our government fully realizes the needs and the problems of aging Americans, and is trying to meet these needs.

Having all Interns registered at one hotel was a good plan. This gave us the opportunity to become better acquainted, to chat now and then, to dine together, to share a taxi! Most Interns had been selected carefully and were a delight to know. Most were of a patient and positive attitude. Critics were few. But there were a few. They criticized often. And no doubt they went home to continue their campaign of complaints against our government. We did have opportunity to counter their pessimism, but we wondered how and why they had been chosen for the Intern Program.

One embarrassing and disappointing (at least to us) situation arose the second week of the internship when one of the more elderly gentlemen stepped to the microphone to ask a question, but instead, ignored the rules and went into a lengthy and provincial discussion. Soon a few Interns left the caucus room, then a few more, and finally half of the group had walked out. This, we thought, was rude to the speakers on the panel and to Donna. Donna thoughtfully thanked those who stayed. Someone said to us later: "This sort of thing gives all of us a bad name."

Perhaps it was true that each Intern was connected with one or more aging organizations, and each Intern was well informed on most programs. The two weeks did help to pull all programs into perspective and to give a total picture from the Federal government's participation, to the State and local levels. We learned, too, that without a doubt, the organized groups representing the older citizens carry "clout". We sometimes wonder if these groups lobby for their own special interests without thoughtful consideration of the nation's children and young adults.

All too often, we thought, the discussion and information centered around the low income elderly. (We realize, of course, that government-financed programs are strictly low income oriented.) To a degree, this bothered us. Certainly, we are not averse to aiding the needy. We have been advocates of the unfortunate peoples of our country, and of the world, as well. We spent many years in rehabilitation and social work with the blind, the disabled and the elderly. We know of their traumas and their poverty. And we know their lot has been made easier by caring politicians through new laws that have gone into action bringing aid in barren areas of their lives. In California, these people are more fortunate than in most of the nation. The Federal/State grant is one of the highest in the U.S. We wish other States would do as well for its needy.

However, we did feel strongly that almost none of the Interns were of low income. Perhaps three women who said they served as Foster Grandparents would come under this category. We certainly are not advocating Interns be of low income. What we want to say is that these senior participants in the Intern Program were no doubt active volunteers in their communities, counties and States. And being volunteer workers, they were concerned individually with the Federal and State programs already in progress, as well as legislation of the future that will affect the lives of older Americans.

And what we heard and learned, we needed to hear and learn; or as the case may be, to re-learn. But to many of us now in "forced" retirement, volunteer work is not enough. The great "middle income" elderly people need some attention, too. Inflation is now eating up our savings. Medical insurance does not cover all the bills. A long term illness of one spouse or the other would wipe out the savings of many of us. Some of us would like to work part time. Some would even like to be employed full time again. This seems like an impossibility. When employment opportunities open up almost always the senior citizen is passed over. Perhaps the director of the agency looking for an employee feels insecure when he or she reads the successful resume of a retiree, and then sends out a "sorry, you are highly qualified, but" letter. Perhaps, he or she thinks the job seeker has his retirement check and doesn't need the extra income.

We wish that there had been one session during the two weeks on this topic, at which time we could have asked: "Why can't some government, meaning Federally-funded, agencies be required to hire a certain number of older Americans, not of low income? We would like to have heard about opportunities for life long employment for those who want to continue to work. We would like to have heard about shared jobs.

On the afternoon following our tour of the White House and our meeting with President Carter, we gathered at the GSA auditorium to hear Sam Browne of ACTION. He is an earnest, fine young man who gave an inspirational address. He had to leave right after his speech. The next speaker was the director of Older Americans Volunteer Programs. She, too, was an intelligent, able leader. She was followed by the head of the Foster Grandparent program. More than half of our group knew of this program. The film he showed was excellent, but it made clear that this was an area where only seniors of low income served. When at least three interns tried to question the speaker about other programs available for the person who is not of low income, he seemed to misunderstand and the questions went unanswered. This attempt to turn the discussion toward Vista and the Peace Corp was dropped, and the opportunity to interest some of the Interns present in either of these programs of ACTION was lost. We went away with the feeling that we were considered low income just because we were senior citizens.

Some one has said that senior citizens need to be looked upon as equals. It does seem to us, that too often we are looked upon as a group who are needy and getting too much attention, and too many considerations, like discounts and passes. Agencies, it is said foster these attitudes.

In our involvement with senior citizen organizations in the community, we are often disturbed over the fact that large sums of the funding for a program are drained off for administration. We would have liked a group discussion on this. Would senior citizens be willing to give time and talent? Also, why can not the existing agencies be utilized, rather than set up another bureau? Every area has its departments of Social Service, Health and Mental Health plus an Office of Employment.

Another topic we would like to have had some discussion on was the growing problem of drug and alcohol within the senior citizen group. We live in the heart of the wine country but we know the problem of drinking (and of drugs) is not localized, but is one that is in every town and city across the land. In reading our literature, we have learned that there is legislation being considered. We are glad.

Finally, we hope the Congressional Senior Citizen Intern Program will be continued. We wish for other senior citizens the same splendid opportunity we had. We are proud that our Congressman, the Honorable Don Clausen, agreed to cosponsor a bill to make this a permanent program. We want others to come to the Capital, and to see firsthand how much hard work goes into running the nation's business. In this era of skepticism it is good for as many citizens as possible to observe the dedication of our elected officials in Washington, D.C.

We want to close by expressing our deepest appreciation for the privilege and the honor of serving as senior interns in 1979. It was truly a two week highlight in our life time. Our sincere gratitude and thanks to a man, our Congressman Don Clausen, for whom we have great respect and admiration and affection. The whole wonderful experience, from our Congressman and his beautiful staff persons to the completion of the highly interesting and informative program to the exhilarating free time for sightseeing, was one that "renewed our strength" and made "our cups run over". Thank you. thank you!

God bless you, everyone!●

TWO VICTORIES FOR THE WHALES

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. BONKER. Mr. Speaker, I wish to submit for inclusion in the RECORD an editorial from the New York Times of July 18 regarding the recent International Whaling Commission session in London.

The 31st annual International Whaling Commission meeting was highly successful on two acounts. First, the 23-member Commission adopted, over the opposition of Japan and the Soviet Union, a moratorium on factory ship whaling for all species but the minke whale. The ban on commercial hunting of whales, in which the factory ships play a crucial role, will finally provide the protection necessary to prevent the extinction of the world's whale populations. Second, the Commission set a precedent for further protective measures by stipulating that for the next 10 years the Indian Ocean will be a sanctuary for all whale species.

Congress demonstrated its concern about the fate of the world's whales through passage of resolutions condemning commercial whaling. Congressional action helped strengthen the position of our delegation to the International Whaling Commission meeting in negotiating these two important measures.

[From the New York Times, July 18, 1979]

A ROUND FOR THE WHALES

Twice in this century, species of whales on the verge of extinction have been saved by war. During World Wars I and II, human beings were so busy slaughtering each other that they had no time to hunt the harmless leviathans who would otherwise have ended up as pet food and cosmetics.

Now the whale is getting a third reprieve, and the thousands of citizens who have campaigned against the killing have reason to celebrate. The International Whaling Commission has called for a worldwide moratorium on whaling by factory ships, which account for most of the slaughter. The ban regrettably exempts the small minke whale, which Japanese fleets hunt in the Antarctic, but this species is said to be still numerous.

The best news is that protection will finally be extended to the dwindling sperm whale, 10,000 of which were killed last year alone, mainly by Russian harpoons. Moreover, the commission has decreed that for ten years the Indian Ocean is to be a sanctuary for all species of whales. A precedent has thus been set for establishing other sanctuaries elsewhere.

At the commission's London meeting, both Japan and the Soviet Union furiously protested the moratorium, yet they are expected to honor it. The Japanese have also promised to take steps against the sale of catches from pirate whalers. Two key members of Congress, California's Pete McCloskey and Washington's Don Bonker, helped win this grudging concession by warning that any violation of international conservation measures could lead the United States to deny foreign nations the right to fish within this country's 200-mile limit. Both Japanese and Soviet trawlers operate intensively in North Pacific coastal waters.

The Whaling Commission's moratorium on factory ships is late in coming and may not last very long, since it is subject to review next year. But the conservationists have economics as well as widespread good will on their side. Both the factory-ship and offshore whaling industries are in decline anyway because of reduced catches. The London meeting was therefore a clear round for the whales. The song of their progeny may yet be heard, and even understood, by ours.●

CENTENNIAL OF HERNDON, VA.

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. FISHER. Mr. Speaker, 100 years ago, the Town of Herndon was incorporated in Fairfax County of the Commonwealth of Virginia. As the Representative whose district includes that town, I would like to honor Herndon and its 13,000 residents. During the past 100 years, Herndon has grown from a small community of dairy farms around a railroad depot to an important residential and commercial area. It is still a unique, independent community, proud of its heritage and strong local government.

I think it is fitting that this strong, independent town should bear the name of Comdr. William Lewis Herndon, an illustrious Navy hero. I would like to insert in the RECORD the following biography of Commander Herndon from the Dictionary of American Fighting Ships, vol. III, 1968.

I hope the Navy will find it possible to honor Commander Herndon further by naming one of its new vessels for him, and I have written to the Secretary of the Navy requesting that this be done.

(Extracted from the Dictionary of American Naval Fighting Ships, volume III, 1968, pp. 315–316.)

HERNDON

William Lewis Herndon, one of the Navy's outstanding explorers and seamen, was born 15 October 1813 in Fredericksburg, Va. Appointed Midshipman 1 November 1828, he cruised in Pacific, South American, Mediterranean, and Gulf waters from then until 1842. From 1842 to 1846 Herndon served in the Depot of Charts and Instruments (to become the U.S. Naval Observatory) with his cousin and brother-in-law, Matthew Fontaine Maury, preparing oceanographic charts and performing other scientific work invaluable to the safe and accurate navigation of the seas. During the Mexican War, Herndon commanded brig *Iris* with distinction.

In 1851 Herndon headed an expedition exploring the Valley of the Amazon, a vast area as uncharted as the wildest part of central Africa. Departing Lima, Peru, 21 May 1851, Herndon and his small party of six men pressed into the wild and treacherously beautiful jungles. After a remarkable journey of 4,366 dangerous miles, which took him through wilderness from sea level to heights of 16,199 feet, Herndon reached the city of Para 11 April 1852. On 26 January 1853 Herndon submitted an encyclopedic and profusely illustrated 414-page report to Secretary of the Navy, John P. Kennedy.

After 2 years of active service in *Potomac* and *San Jacinto*, Herndon, now a commander, was given leave in 1855 to command the Pacific Mail steamer *George Law*, renamed *Central America*, 20 June 1857, on the New York to Aspinwall run. Making his way up the coast from Aspinwall with $2,000,000 in gold and 474 passengers, as well as 101 crew members, Herndon encountered a heavy gale off Cape Hatteras 7 September 1857. The gale steadily increased in savagery until the 12th, and *Central America* was shipping water through several leaks. As the ship pitched and rolled through the pounding seas, water in her hold put out her boiler fires. Commander Herndon reluctantly admitted that, despite the valiant efforts of crew and passengers alike, his ship was doomed and summoned aid by firing the ship's minute guns. At 2 p.m., West Indian brig *Marine* arrived

to aid the stricken steamer. Disregarding his own life, Commander Herndon supervised the loading of women and children into lifeboats and watched them pull to safety in *Marine*. Herndon's bravery and his concern for his passengers and crew helped save 152 of the 575 people on board. Commander Herndon was last seen in full uniform, standing by the wheelhouse with his hand on the rail, as the ship gave a lurch and went down. A monument at Annapolis commemorates this intrepid explorer and gallant seaman.●

EXPLOSIVES TAGGING: A DUBIOUS PROPOSITION

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. RAHALL. Mr. Speaker, few will disagree that positive action is needed to combat terrorism; however, most people cannot agree on a cure. The panacea currently in vogue, as proposed in S. 333 the Omnibus Antiterrorism Act of 1979, and as originally contained in H.R. 2441, is the insertion of microscopic, color coded plastic taggants into some explosive products. This, it is alleged, will enable law enforcement agents to trace the explosives through the distribution system and back to the bomber himself.

Articles from the New York Times and the Washington Post reporting a Sparrows Point, Md., bombing involving tagged explosives have recently appeared in the RECORD. These articles have heralded this bombing as conclusively proving the utility of taggants; however, such a conclusion is flatly erroneous.

The articles overlooked several salient facts. First, the bomber was not a terrorist. He was an enraged husband who was determined to kill the man who was having an affair with his wife. Would placing taggants in explosives have deterred this man from cold-blooded killing? If not, would it deter the professional, terrorist murderer? Commonsense tells us that the answer to both questions is "No."

The second fact overlooked was that the bomber freely admitted purchasing the explosives. The terrorist does not.

If he purchases the exposives he uses an alias. More often than not, however, the explosives are either stolen, foreign, homemade, or military which under S. 333 would not be tagged.

The third salient fact missed by the articles is that commercially produced explosives (the only types of explosives product to be tagged under S. 333) are used in only 53 percent of all bombings.[1]

Thus, commonsense makes it clear that even the most inept terrorist could easily circumvent a tagging program.

Let us assume, however, that a tagged explosive is used in a bombing. Would the taggants act like a fingerprint and provide an immediate and easily traceable clue? Or would the taggants merely provide a confirmatory tool for an easily solvable amateur bombing?

The reports of the recent bombing have suggested that taggants are like fingerprints; but this conclusion ignores the facts. The affidavit filed in the McFillin bombing clearly demonstrates otherwise. A judicious reading of that report manifestly illustrates that investigators had solved the case before they had completed tracing the taggants. Thus the conclusions drawn by the press from this incident are erroneous and misinformed.

The Institute of Makers of Explosives, the safety organization for the explosive industry, recently addressed this question in answer to questions posed by Chairman RIBICOFF following the hearings on S. 333 held last May. I ask that excerpts from their excellent and thorough analysis be printed in the RECORD.

The excerpts follow:

> The much-publicized "McFillin Bombing," involving tagged cap-sensitive explosives, is a case in point. For several reasons, it is clear that taggants were not necessary to establish the nexus between McFillin, and either the crime or the purchase of the explosives:
>
> McFillin was the prime suspect from the beginning because:
>
> (1) he had accused the deceased of having an affair with his wife,
>
> (2) he had previously threatened the deceased with a shotgun, and
>
> (3) the morning before the bombing he had publicly accused his wife of having an affair with the deceased.
>
> BATF suspected McFillin before they knew he had purchased the explosives, because they took McFillin's picture to the dealer.
>
> McFillin signed his real name when he purchased the explosives. Had he acted like the majority of bombers, he would have stolen the explosives, or used an alias.
>
> McFillin admitted purchasing the dynamite, but a search disproved his alibi and uncovered an ignition wire from the deceased's vehicle in the trunk of McFillin's car.[2]

Thus, at best the taggants were a confirmatory tool for an easily solvable, amateur bombing.

Moreover, this was an atypical bombing because the explosive did not completely detonate. Thus, the taggants that were recovered came from the undetonated explosive.[3]●

WASHINGTON, THE CITY—ALIVE AND WELL

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. McKINNEY. Mr. Speaker, during the past few weeks, Washington has once again been characterized as a big bully, totally out of control, sit-there-and-do-nothing menace. A role which it often assumes when this country faces a crisis which cannot be solved in the short term. A scapegoat must be found to serve as the target for the anger of citizens, and without question Washington, more often than not, is sacrificed by the powers that be.

The President had his turn at taking pot shots at Washington during the past few weeks, and if you listen to his press secretary, Washington, and anything or anyone that touchs it or associates with it, deserves a fate one only reserves for their bitter enemies. Even here on Capitol Hill Washington gets blamed for myriad problems when we, in times of desperation, fail to come up with any other patsy. The convenience of the automatic blame-it-on-Washington approach hardly ever serves a useful purpose. In fact, upon closer analysis, I feel that such an approach quite often has a negative effect especially when you realize that the term encompasses two distinct entities—Washington the hub of the Federal Government and Washington, the city.

Anyone who knows my record here in Congress knows full well that I am an ardent supporter of Washington the city. While many of my positions on civil rights, energy, mass transit, housing, environment, urban policy, and the like stem from the political philosophy which I embrace, I would be remiss if I did not acknowledge that my background on these issues has been strengthened by my service on the House Committee on the District of Columbia. It is because of this service and the accrued knowledge and love of this city that I must stand up today and caution those who would use this city for political expediency.

Mr. Speaker, when I came to this Congress in 1971, I welcomed the opportunity to serve on the House Committee on the District of Columbia. The fact that my congressional district contains three major cities was an influential factor in my choosing to serve on the D.C. Committee I truly felt that the knowledge I absorbed in tackling the problems of the District of Columbia could easily be translated into a better understanding of the problems facing my constituents in Bridgeport, Stamford, and Norwalk.

I approach my duties on the D.C. Committee with a twofold goal—to best serve the interests of the citizens of the District of Columbia in relation to the Congress, and more importantly, to strive to see the then evolving Home Rule legislation passed and implemented. Now, 8½ years later, almost 6 years after passage of the Home Rule Act, I still pursue my D.C. Committee duties with vigor since I recognize that unless the attitudes toward the city of Washington are changed here in Congress, then home rule stands at little more than an empty promise.

The uniqueness of the city of Washington as the Nation's capital is the largest contributing factor to the city's problem. This joint designation, as a city and a capital, has served as the battleground whereupon many wars have been fought. In essence, Washington belongs to the entire Nation, and thus, the legislators elected by the people of this Nation should have some say in its future.

Please note that I use the term future instead of operation because interference in operation is the chief issue which I am discussing today. The fight for home rule was a long one and the implementation of home rule has gotten off to a terrific start. However, unless we give it room to breath and to grow, our continued interference in D.C. affairs will eventually bring us back to the point where the Congress runs the day to day affairs of the District.

---

[1] Intelligence Branch, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, *Explosives Incidents: 1977 Annual Report* 22 (1978).

[2] *See* Affidavit of Daniel P. Boeh, *United States* v. *McFillin*, Magic. No. 2–79 133P (D.Md. filed June 18, 1979).

[3] Lyons, *Tagging Bombs, Trapping Bombers, N.Y. Times*, June 24, 1979, at E7, col. 1.

During the past month, a number of bills relating to the District of Columbia have been brought to the floor of the House. Thankfully, the majority of my colleagues found merit with those bills and they were passed and forwarded to the Senate. Unfortunately, prior to passage, some Members took the opportunity to get in their usual whacks at the city. For those of us who recognize the problems of the District and are working hard to correct them, the "let's pick on the District" votes are not something to look forward to. Certainly, there is room for improvement in any piece of legislation and District of Columbia matters are no exception. However, it is not so much the fact that the bills dealing with District of Columbia are opposed, it is the lying in wait for the ambush approach that bothers me.

Mr. Speaker, the problems inherent in today's cities are mind-boggling. In recent years we have all witnessed the plight of New York and Cleveland, and in fact have had to deal with them right here on the floor of the House or in committee. The problems which caught up with those governments are running rampant in all major American cities, District of Columbia being no exception. Without question, it is the skilled management of many an elected mayor and city council that keeps other cities from going under financially and economically.

In November of 1974, a year after passage of the Home Rule Act, the citizens of the District of Columbia elected their first mayor and city council. The problems these officials faced in establishing and implementing a brand new city government were formidable. Under the leadrship of Walter Washington and the men and women serving on the city council, the newly elected government took great strides in correcting the problems of the past and in gearing this city for a future in which its citizens, and those of us who are just passing through, could be justifiably proud. Continuing the endeavor started by the former mayor, Walter Washington, is the newly installed government of Mayor Marion Barry and the city council elected with him last November. Mr. Barry has already presented new ideas, new goals, and most of all, new hope for the people of the District.

This city's government is relatively new. Nowhere in the United States have we in modern times handed over an entire city to a select few men and women and told them; "Here, now it's yours, run it!" We have the right to expect a lot, but we certainly do not have the right to expect miracles. We have the right (under the Home Rule Act) to question certain policies, but I am sure that few if any of us would like to change places with the men and women who are making and implementing those policies on a daily basis. We have the right to see that the government of our Nation's capital is run properly, but just as properly, we should watch how often we interfere. Remember, the District government has rights too. It has the right to grow and to mature, it has the right to move ahead without having Congress jump on it whenever it stumbles. Congressional legislation designed to serve the District should not be the vehicle for pet projects or amendments by Members who have been frustrated in their attempts to add similar restrictions to Federal legislation. The rebuffs that the city of Washington takes in the press, in the White House, and especially here on the floor of Congress go a long way toward shaping this city's image, and thus, the way it is perceived by citizens throughout the Nation.

Perhaps my belief in the future of the city of Washington is a bit stronger than many of my colleagues. However, while I realize that there have been many new faces elected to Congress in recent years, we should not lose sight of the fact that we were the ones who passed the Home Rule Act in the 93d Congress and we were the ones who passed the D.C. voting rights amendment in the 95th Congress. These are the foundations upon which this city hopes to build its future. It is up to this Congress and future Congresses to provide the bricks, not throw them. Washington, as it relates to the Federal Government, may often be quite deserving of the disparaging remarks thrown at it from all sectors, but let us remember that Washington the city is alive and well and trying everyday to improve. It is up to us to help.●

INSTITUTE ON WOMEN'S HISTORY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mrs. SCHROEDER. Mr. Speaker, I can think of no better way to wrap up the Minutewomen series than to salute the 45 women who today completed the Institute on Women's History, an intensive 16-day seminar sponsored by the Women's Action Alliance with cooperation from the Smithsonian Institution and the women's history program of Sarah Lawrence College and funded by the Lilly Endowment, Inc.

Upon completion of the institute courses, the participants, representing 37 national women's organizations, each received a "sistership" in honor of a woman in American history who was of special significance. A big round of applause should go to these women and their faculty—Gerda Lerner, director; Alice Kessler-Harris; and Amy Swerdlow—for helping to spread the word about the beliefs and efforts of our foremothers.

I would like to share with my colleagues the names of the institute graduates and their sisterships:

WOMEN IN HISTORY INSTITUTE SISTERSHIPS: AN EXPLANATION

In honor of:

1. Rosa Schneiderman, organizer of the Women's Trade Union League. Received by Ruth J. Abram, Women's Action Alliance, Inc.

2. Karen Silkwood, union, health and safety activist, martyred at 28 years old attempting to expose plutonium hazards. Received by Marjorie Albert, Coalition of Labor Union Women.

3. Elsie Vervane, Connecticut machinist who supported unionism and suffrage for women. Received by Barbra Apfelbaum, Women's Employment Resource Center.

4. Elizabeth Blackwell, first woman doctor who established women's medical college and nursing schools when excluded from medical practice. Received by Yolanda Bako, National Coalition Against Domestic Violence.

5. Dorothy Crane Pretty Voice, Lakota Sioux woman whose life reflects the strength and fortitude of Native American women, Mother of Matilda BlackBear. Received by Matilda BlackBear National Coalition Against Domestic Violence.

6. Lucy Randolph Mason, Working woman from Virginia who advocated suffrage and was the first Southern PR Director of the CIO. Received by Betsy Brinson, American Civil Liberties Union—Women's Rights Project.

7. Carrie Chapman Catt, activist in the woman's suffrage movement who co-founded the League of Women Voters. Received by Charlotte Callahan, New Jersey League of Women Voters.

8. Jessie Daniels Ames, organized women throughout the south to protest lynching. Received by Cristine Candela, Women's Equity Action League (WEAL).

9. Mary Lyon, founder of Mt. Holyoke College, the first institution of higher learning for women with a liberal arts curriculum. Received by Marjorie Bell Chambers, American Association of University Women.

10. Frances Ellen Watkins Harper, abolitionist and suffragist who was the first published Black woman novelist. Received by Brenda Daniels-Eichelberger, National Alliance of Black Feminists.

11. Sojourner Truth, noted Abolitionist and advocate for women's rights. Received by Shirley Davis, National Congress of Neighborhood Women.

12. Barbara Grier (a.k.a. Gene Damon), pioneer in establishing lesbian publications, publicizing lesbian writers and preserving lesbian herstory. Received by Frances Doughty, National Gay Task Force—Women's Caucus.

13. Georgina Mac Dougall Davis, one of the founders of the Women In Communications, Inc. Received by Kathleen Endres, Women In Communications, Inc.

14. Florence Kelley, founder of the Children's Bureau. Received by Joan Engelke, National Women's Political Caucus.

15. Betty Freidan, mother of the second wave of the women's movement. Received by Nancy R. Foye, International City Management Association.

16. Fannia Cohn, organized women workers in the early 20th century and was a pioneer in workers education. Received by Melanie Graves, Wider Opportunities for Women.

17. Edith Macy, co-founder of the Girl Scouts who empahsized the training of adult leadership. Received by Kris Howard, Girl Scouts of USA.

18. Leonora O'Reilly, turn of the century labor leader who rose from the ranks to become an educator, women's rights and trade

union supporter, received by Connie Kopelov, Coalition of Labor Union Women.

19. Alice Paul, activist and strategist for women's suffrage and early supporter of the ERA. Received by Phyllis Lefkowitz, National Organization for Women.

20. Anne Hutchinson, died challenging the theocracy of male Puritans. Received by Judy Lerner, Continuing Committee of Houston National Women's Conference.

21. Sister Mary Luke Tobin, member and former President of the Sisters of Loretto and first official woman observer at the Vatican Council. Received by Kathy Lieurance, Church Women United.

22. Chrystal Eastman, founder of the ACLU and peace activist. An advocate for workers compensation and early supporter of the ERA. Received by Lora Liss.

23. Sadie Sachs, woman whose death from an illegal abortion inspired the work of Margaret Sanger for legal and safe abortions. Received by Cindy Little, National Abortions Rights Action League.

24. Elizabeth Gurley Flynn, feminist and labor union organizer. Received by Molly MacGregor, Commission on the Status of Women—Sonoma County, CA.

25. Rosa Pesotta, charismatic and effective labor union organizer. Received by Ruth Meyers, Women Strike for Peace.

26. Frances Wright, writer, lecturer and founder of an utopian society in the early 19th century. Received by Maureen McCormack, Leadership Conference of Women Religious.

27. Marguerite Rawalt, lawyer and one of the founders of the Women's Equity Action League. Received by Char Mollison, Women's Equity Action League Education and Legal Defense Fund.

28. Rachel H. Johnson, first National President of Girls Clubs of America. Received by Martha May Newsom, Girls Clubs of America.

29. Eva Bowles, first Black YWCA leader who organized support for Black soldiers during World War I. Received by Elizabeth Norris, YWCA.

30. Hannah G. Solomon, founder of the National Council of Jewish Women. Received by Ilene Olansky, National Council of Jewish Women.

31. Ella Baker, leading strategist and organizer throughout the south before and during the civil rights movement. Received by Barbara Omolade, Women's Action Alliance, Inc.

32. Sarah Bagley, first known female labor union organizer. Received by Deborah Pearlman, Women's Community Studies.

33. Lupe Angiano, founder and director of the National Women's Employment Education and organizer of Mexican American women. Received by Pauline Pezina, National Women's Employment Education.

34. Francisca Flores, a life long organizer of Mexican American women who developed and initiated community programs. Received by Garcia Molina Pick, Comision Feminil Mexicana Nacional, Inc.

35. Anna Julia Cooper, Black woman educator and feminist who felt "Black women must speak for themselves." Received by Gayle Porter, National Alliance of Black Feminists.

36. Harriet Tubman, an escaped slave who organized other slaves to escape slavery and fought with the Union army during the Civil War. Received by Carolyn Reed, National Committee on Household Employment.

37. Rachel Ben Zvi, founder of Pioneer Woman and wife of the 2nd President of Israel. Received by Edythe Rosenfield, Pioneer Women.

38. Emma Goldman, leader in organizing women for reproductive freedom and for workers rights who knew that "true emancipation begins in women's souls." Received by Vivian Scheinemann, New Directions for Women, Inc.

39. Ida B. Wells, an anti-lynching crusading journalist who spoke out against injustice in spite of personal danger. Received by Zerita Sutton-Walther, National Federation of Press Women.

40. Mary McLeod Bethune, founder of Bethune-Cookman College and the National Council of Negro Women. Major Black politician for over 20 years. Received by Bettye Thomas, National Council of Negro Women.

41. Grace Abbott, social worker who headed the Children's Bureau and initiated the establishment of children's health and prenatal clinics. Received by Mary Ann Ball Tyler, American Association of University Women.

42. All the un-named Chicana, omitted from American women's history. Received by Rosemary Quesada.

43. Anna P. Dickenson, Philadelphia actress and suffragist orator. Close friend and confidante of Susan B. Anthony. Received by Kay Whitlock, National Gay Task Force—Women's Caucus.

44. Antonia Krol, Polish immigrant steelworker and grandmother of Marsha Zakowski. Received by Marsha Zakowski, Coalition of Labor Union Women—United Steelworkers of America.●

SPECIAL IOC COMMISSION APPROVES OLYMPIC VILLAGE

HON. ROBERT C. McEWEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. McEWEN. Mr. Speaker, articles have appeared in the press which have cast doubt as to the adequacy of the Olympic Village being constructed at Lake Placid, N.Y., to house the althletes who will compete in the XIII Winter Olympics

The man most concerned, Lord Killanin, president of the International Olympic Committee, appointed a special commission to study the athletes' village objectively.

The following article from the June 1979, Lake Placid Olympian, an official publication of the Lake Placid 1980 Olympic Committee, indicates the positive findings of this commission's onsite inspection of the facility.

SPECIAL IOC COMMISSION APPROVES OLYMPIC VILLAGE

The Lake Placid Olympic Organizing Committee has received a positive report from the International Olympic Committee's study commission on the athletes village, now under construction for the 1980 Olympic Winter Games.

"We can safely say that we are impressed with the fundamental preparations and pleased with the modifications which are being made and planned for the forthcoming event," James Worrall, chairman of the study commission, said following a four-day inspection of the village and other Olympic facilities.

Worrall, of Toronto, Canada, made the comment at a press conference in Lake Placid. He said the housing and bedrooms would be adequate for the estimated 1,850 athletes and team officials who will use the facility at Ray Brook, N.Y., during the Games next February.

"The bunks are quite comfortable and long enough," Worrall said. "I tested one yesterday and I am six-foot, six inches and weigh 255 pounds. So if it will hold me, it will hold most of the athletes."

Worrall, who has been involved with the Olympic Games since 1936, said there was nothing to criticize about the support services within the village such as the restaurant, entertainment, leisure areas, and housekeeping system.

"We are quite convinced they will not only be adequate but outstanding," Worrall said.

The chairman of the IOC commission said his group, which included Jan Staubo of Oslo, Norway, and Dr. Eduardo Hay, of Mexico City, was in Lake Placid in "a spirit of cooperation and good will, and certainly with a very positive attitude."

The study group recommended that approximately 30 additional mobile homes be located within the Olympic village so that 10 percent of the athletes could have single rooms.

Under the current planning, approximately 100 mobile homes will be placed at the village to meet the requirements for the Games.

"The Lake Placid Olympic Organizing Committee has always been concerned with the type of facilities for athletes because our major concern was to make this a Games for the athletes," Rev. J. Bernard Fell, LPOOC president, said during the conference. "As we moved along in the construction with this facility, we have always been operating in the view that the permanent structures themselves would not be adequate."

Rev. Fell said the organizing committee was considering mobile homes throughout its planning to meet the requirements.

"We have simply increased the number of mobile facilities from 70 to approximately 100 to allow 10 percent of the athletes to be housed in single rooms," Fell said.

Worrall said Lord Killanin had appointed the commission to study the athletes village objectively, after several national Olympic committees and sports federations had criticized the facilities.

"Subject to certain recommendations which we will propose, and on which we are getting the cooperation of the LPOOC, we feel the village will be a very, very adequate and very pleasant place to live while the Games are going on," Worrall said.

Worrall said mobile homes would be adequate for the cold weather experienced in the North Country.

"We in Canada are very familiar with this type of operation since we use it at all the big construction projects in the North Country," he said.

"These modifications would have to be made in any case," Staubo said. "These Games are so popular that there are close to 2,000 persons coming into the village. This is far beyond what has been expected in previous Winter Games, and the modifications are not being done primarily because we are demanding it, but because of the popularity of the Winter Games in Lake Placid, which necessitates that these modifications should be initiated."

At recent Olympic Winter Games, Staubo said, athletes were housed at different locations rather than being housed at one facility. Staubo said the IOC welcomed the system which has been arranged at Lake Placid.

"Here, from the IOC point of view, it is much better," Staubo said.

Worrall said the commission would recommend to the IOC Executive Committee that all athletes be required to pay the daily rate of $27.50 for the use of the village, even if they decided to utilize private housing.

"This is something we should definitely take up with the executive board when we meet with them in Puerto Rico in June. It is the view of this particular commission that they should pay. Where else can you get all the accommodations and all the food you can eat for $27.50?

"Undoubtedly, there will be individual cases where one group or another will decide that some of their athletes shouldn't stay in the village for reasons of performance. This commission believes philosophically that there should be a village, that the athletes and team officials should stay in the village.

"But it recognizes for technical reasons, it may be desirable for individual athletes to be removed a day or so prior to their competition. This is something over which we have no control," he said. "It is obvious that the housing situation is being upgraded and the density is being decreased, and as time goes on and the organizing committee is more certain of the exact number of people who are coming, there may be some internal flexibility for reductions."

Worrall said team officials would be housed in the industrial building at the village where 177 temporary rooms have been constructed.

"There have been some comments about those rooms not having windows," the commission chairman said. "But I don't find that very distressing. If you pay $20,000 for a world cruise, you get an inside cabin on the world cruise ship and you don't have a porthole. We feel quite confident that decorations and amenities will take care of psychological problems, and technical experts will reduce any noise levels in the heating and ventilation system."

Dr. Hay, who is a physician, said the village was sound from a medical and health point of view. Hay said the details had been worked out with the I.O.C. Medical Commission.

"There is no danger at all from any kind of bacterial problems," Hay said. "I can't see any reason to be concerned with any infection other than the ones which happen in any Winter Games, such as getting a cold. There is no greater danger of colds as a result of the structure of the village than there was at Innsbruck where there were quite a few colds and some viral infections, which is inevitable." ●

YOU SHALL KNOW THE TRUTH

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. CARTER. Mr. Speaker, I thought it would be somewhat enlightening to the Members of this body to know the actual profits made by the different oil companies in this country. Supposedly, there is a shortage. However, my sources of information do not reveal such a shortage. Actually, the first of July of this year, there were 131 million barrels of oil in this country, and at the same time last year there were 4 million barrels less. It seems that improper distribution caused the shortage. There is a strong probability that this distribution formula was politically motivated, for it hit the Nation's Capital harder than any other place with the possible exception of California.

Mr. Speaker, after reading this article from the New York Times News Service, printed in the Washington Star on July 30, 1979, I submit that it would be unwise to buy a used car from any of these large oil companies.

The article follows:

[From the Washington Star July 30, 1979]

OIL COMPANY PROFITS REIGNITE CRITICISM

Earnings of the nation's major oil companies climbed by an average of 68.9 percent in the second quarter, and these gains have revived accusations of oil industry profiteering that promise to become a focal point as Congress debates President Carter's windfall profits tax.

The profits jumps in the April-through-June period ranged from 809 percent for the relatively small Ashland Oil Inc. to 20 percent for the Exxon Corp., the industry leader. Texaco Inc.'s net income rose 105 percent and that of the Gulf Oil Corp. 65 percent. For the first half of the year profits for the 22 largest United States oil companies were up 63 percent to $5.2 billion, according to the American Petroleum Institute.

The companies defend the level of their profits by saying that most of the large increases were derived from their foreign operations and from their booming petrochemical businesses. Price controls on crude oil produced in the United States and on some oil products severely restrict domestic profits, the companies say, even though healthy profits are needed to finance the search for more fuel supplies.

"After these awesome profits the question is not whether we should have a windfall profits tax but whether we should decontrol domestic prices at all," said Harvey Rosenfield, a lobbyist for Ralph Nader's Congress Watch.

The oil industry is very much on the defensive. Last week spokesmen took vigorous exception to President Carter's criticism of their lobbying efforts and his urging citizens to write their congressmen in support of his windfall profits tax, which is now before the Senate.

Oil companies chief executives issued statements promising that their profits would be reinvested in the search for more energy sources. And Exxon—whose controversial $1 billion bid for the Reliance Electric Co. was temporarily halted by court order on Saturday—took out full-page newspaper advertisements detailing the costs of its drilling activity and defending its profit margins as entirely reasonable.

OIL COMPANIES: 2D Q UARTER RESULTS

Company	Revenues	Net income	Net income percent change from 1978	Company	Revenues	Net income	Net income percent change from 1978
Exxon	$19, 614, 000, 000	$830, 000, 000	+20. 3	Sun Co	$2, 530, 000 000	$158, 500, 000	+56. 6
Mobil	10, 600, 000, 000	401, 000, 000	+37. 9	Phillips Petroleum	2, 160, 300, 000	214, 600, 000	+44. 0
Texaco	8, 532, 000, 000	365, 400, 000	+132. 1	Union Oil	1, 866, 300, 000	128, 200, 000	+48. 0
Standard Oil (California)	7, 000, 000, 000	412, 000, 000	+60. 9	Standard Oil (Ohio)	1, 820, 000, 000	201, 400, 000	+70. 1
Gulf	6, 10[illegible], 000, 000	291, 000, 000	+65. 3	Marathon Oil	1, 590, 000, 000	84, 800, 000	+67. 6
Standard Oil (Indiana)	4, 600, 000, 000	401, 200, 000	+36. 4	Cities Service	1, 446, 200, 000	76, 700, 000	+30. 5
ARCO	3, 731, 485, 000	260, 400, 000	+23. 5	Getty Oil	1, 150, 000, 000	139, 500, 000	+149. 1
Shell	3, 500. 000, 000	277, 000, 000	+54. 7	Pennzoil	493, 200, 000	58, 000, 000	+89. 9
Conoco	3, 000, 000, 000	215, 800, 000	+67. 6				

Besides reviving charges of market manipulation, inefficiency and profiteering, the large second-quarter earnings increases have also renewed contentions that the industry actively conspires with OPEC to increase profits and, at the same time, to greatly enhance the value of industry reserves.

It is estimated, for example, that at Exxon alone the value of crude reserves, at least on paper, has soared by $75 billion as a result of the cartel's 60 percent price increase since December.

Some critics point to Texaco's earnings statement as an example of the alleged distortions in the petroleum industry. In the first six months of the year the earnings of Texaco, the third-largest domestic oil company, increased 106 percent to $672.4 million. But its production of oil and gas increased by only 7.2 percent. Refinery runs were up a meager 2.7 percent, and the sales volume of petroleum products registered a slight decline.

The industry says much of its profit was earned overseas, where fewer price controls exist than in the United States. And decontrolled domestic products, like diesel fuel, jet fuel, home heating oil and residual fuel oil, which take more than half of a barrel of crude, furnished good profit margins also.

The companies were able to capitalize on a sellers' market that developed when oilfields were shut off during the Iranian revolution. When the realization spread that oil supplies would be tight, buyers started to bid up the price of refined products before the cartel could act formally to raise prices.

Saudi Arabia, which did not raise prices until the formal OPEC meeting, moved to recoup some of those profits by making the July 1 OPEC increase retroactive to June 1. The move lessened somewhat the second-quarter profit gains of Exxon, the Mobil Corp., the Standard Oil Co. of California and Texaco, which buy the Saudi oil. Exxon, which earned $830 million in the second quarter, said that the move cost it $70 million in lost profits.

The oil companies insist that, even under such favorable conditions, industry profits are not excessive. In the second quarter, according to the American Petroleum Institute, the industry trade group, the return on the $99 billion of invested capital of stockholders was 19.4 percent, compared with an average of about 18.6 percent for the top

100 manufacturing companies in the country.

Under the president's windfall tax proposal, 60 percent of the profit that results from decontrol of domestic crude prices would be siphoned into a fund to support research for alternative fuels and to help mass transit systems and utilities reduce the country's dependence on oil.●

DON MILLER, NOTRE DAME GRID LEGEND

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Ms. OAKAR. Mr. Speaker, this past week Greater Cleveland lost one of its finest citizens and original heroes. Don C. Miller noted lawyer and judge was first and foremost an outstanding father and husband. But, indeed, to Clevelanders and the Nation, he was part of the great legend of college football; he was one of Notre Dame University's four horsemen. The following article in the Plain Dealer mirrors Cleveland's great loss:

[From the Plain Dealer]

DON MILLER, NOTRE DAME GRID LEGEND DIES HERE

The gridiron exploits in the early 1920s of retired Judge Don C. Miller, one of the legendary Four Horsemen of Notre Dame, were to follow him throughout his life.

His rushing average of 6.83 yards (1,933 yards on 283 carries) is still a record at Notre Dame.

Miller died Saturday night at Lakeside Hospital. He had been admitted two weeks ago after a heart attack. He was 77.

He retired in October 1977 from a career as a lawyer and judge here, the last 12 as a federal bankruptcy judge and referee.

Miller played halfback on the varsity football teams at Notre Dame in 1922–23–24 under Knute Rockne. Miller scored 22 touchdowns in three seasons, one of several school marks that stood for several years.

He climaxed his career in the Rose Bowl on Jan. 1, 1925, in which Notre Dame defeated Stanford, 27–10.

New York sportswriter Grantland Rice originated the phrase, "the Four Horsemen of Notre Dame," which grew into a legend after the Army-Notre Dame game of 1924.

Rice's story of the game began:

"Outlined against a blue-gray October sky the Four Horsemen rode again. In dramatic lore they are known as Famine, Pestilence, Destruction and Death. These are only aliases. Their real names are Stuhldreher, Miller, Crowley and Layden."

Jim Crowley, Elmer Layden, Harry Stuhldreher and Miller made up the backfield of Rockne's powerful team.

"The four of us averaged 158 pounds," Miller recalled to a reporter some years ago. "Rockne was the greatest. He was 10 years ahead of his time with the closed T."

Of the four, only Crowley, of Scranton, Pa., survives. He is expected to be in Cleveland today to pay his respects.

In recent years, Miller and Crowley had made many speeches throughout the country, both as a team and individually.

They were scheduled to speak Wednesday night at the national convention of the Eagles in Kansas City. Miller was a life member of the Eagles.

Miller received his law degree in 1925 at Notre Dame. He was president of his senior class.

He was backfield coach at Georgia Tech from 1925 to 1929 and practiced law in Cleveland when classes were out. In 1929 Georgia Tech went to the Rose Bowl and beat California 8–7.

Miller's parish priest at Sacred Heart Catholic Church in Atlanta was a dedicated football fan, so every Sunday Miller dropped an envelope containing two tickets to the next Georgia Tech game in the collection basket.

From Georgia Tech, Miller went to Ohio State University as backfield coach. He gave up football in 1932 for full-time law practice here.

At the time, his brother, Ray T. Miller, was mayor of Cleveland. The late Ray Miller was a power in the Democratic party for four decades and once served as Cuyahoga County Democratic party chairman.

Ray Miller, who was a teammate of Rockne's at Notre Dame, and Don Miller had three other brothers, Harry, Walter and Jerry, who played football at the school.

Judge Miller once told a reporter that he thought Harry was the greatest football player of the five. Harry was named to Walter Camp's All-American team in 1909. Don was the last surviving brother.

One of the awards Miller treasured most was presented to him last year at Yale University. It was the Distinguished American Award from the Walter Camp Foundation.

In 1942 Miller was named U.S. district attorney here for the 40-county Northern Ohio district, a job he held for 10 years. He then returned to private law practice until 1965, when he was named a judge in U.S. Bankruptcy Court.

When Miller retired, he moved the many awards and honors he had received through the years to the walls of the den in his Shaker Heights home. Among them was a letter from Rockne which was written to the New York Times.

"Replying to your letter, I wish to say that Don Miller was the greatest open-field runner I ever had," the letter says.

Miller was named Notre Dame Man of the Year in 1963. He was a past president of the Touchdown Club, the U.S. Attorneys Association and Federal Bar Association. He was on the executive board of the Bar Association of Greater Cleveland.

He was president of the Divot Diggers for 18 years, an organization of business and professional men which anonymously supports 14 charities here.

In 1970, Miller was the last of the Four Horsemen elected to the College Football Hall of Fame.

Survivors include his wife, Mae L.; daughters, Mary Ann Barrett, Nancy Beringer, Dodie Thompson, Judy Collins and Dolly; son, Don C. Jr., and 28 grandchildren.

Services will be at noon Wednesday in St. Dominic Catholic Church, 19000 Van Aken Blvd., Shaker Heights.●

WAIT AND SEE WHAT RATIONING DOES

HON. TENNYSON GUYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. GUYER. Mr. Speaker, I believe this country already has enough problems without putting another one at our doorstep. If you people think social security and IRS have tangles, or census-taking is a can of worms, just wait and see what rationing does.

Let us take a look at gasoline rationing during World War II. It was carried on for 38 months, was reorganized three times and nearly drove people out of their minds.

Black marketing had a carnival. Congress even had hearings on the black market back in April and May of 1944. The underworld went into the printing business. Counterfeit coupons sold for four cents at the peddler level and as high as 10 cents at the carowner level.

Once counterfeit coupons were detected, the service station operator had to appear before a hearing commissioner. Arrests, hearings, trials, and sentences were in epidemic proportions.

One Office of Price Administration official estimated that coupons representing 300 million gallons of gas were stolen from ration boards.

Misuse of a single coupon could result in a $10,000 fine and a year in jail. In a 5-month period from January 1 through June 1 in 1944, the OPA investigators (2,800 of them) arrested 1,362 people for counterfeiting or peddling gasoline coupons. They obtained 607 convictions, and required 40,480 stations to turn over good coupons for sales they had made. More than 1,500 stations were denied the right to sell gasoline for periods ranging from several weeks to the duration of the war. Illegal actions put 156 stations completely out of business.

Gasoline dealers had to cope with a different set of instructions for each type of coupon book. With one coupon book, the dealer had to examine the customer's ration book, check the description of the car, detach the correct number of coupons and place gasoline only in the vehicle the book described. The task of enforcing rationing became the most extensive project ever undertaken by the Federal Government. The number of transactions ran into the billions. The scope of controls was so broad, the number of parties so great, and the violations so numerous that only voluntary patriotism could get anyone to comply with the rules. Many ration boards hired crooks because they knew how and who controlled the black market operations. The buying, selling, printing, and stealing of ration coupons made prohibition look like kids' games.

I believe the American people are entitled to at least commonsense in the management of gasoline production, distribution, and consumption. Having an army of Federal locusts with badges is about the last straw at a time when people are fighting their hearts out to make ends meet, pay their bills, face inflation, and pay taxes already far too high. The last thing they need is another sprawling bureau of interference, meddling and peddling, and stifling their honest efforts to live under regulations that already suffocate their economic lives and snatch at their collective billfolds.

What I have described was a wartime situation when we really were trying to save rubber, not gasoline, in a feeble effort to keep people off the roads so our military could have the rubber to help win the war.

Thank God we are not at war with another country now, which is all the more reason we do not need a straitjacket on the good people of this country.

Just imagine trying to unscramble situations where a Montana rancher drives 600 miles a month, while a Manhattan apartment dweller drives 100 miles in the same period.

Statistics tell us that one out of every five families moves every year. Conjure up if you will the frustration of a family that has to move from California to New York, or a retired couple trying to get to Florida to get away from the cold winter. Then, there are the sick members of a family, that cannot turn off the heat, the migrant worker who has to come to Ohio from Texas to harvest the crops.

I do not believe it takes an Einstein to figure out that gasoline rationing is another name for distributing the shortage, in a manner so inequitable that only the smart, the crooked, and the rich would have gas to drive, while the poor, the honest, and the disadvantaged would spend hours and days trying to convince some official that they have an emergency requiring gasoline.

For one thing, I think the American people have good sense, wise judgment, and the ability to join hands in a successful way to overcome any national crisis, calamity, deprivation, or denial. They can and they will overcome, but they cannot do it with Government getting in their way, riding their backs, and jamming the gears. "Standby" is indeed an appropriate name. Most of us would have to standby, instead of riding to work, to church, to our fine recreation areas, to schools and hospitals, and to markets, shops, and places of help in time of need. Give our free system a chance. But do not give us rationing.●

HIGHWOOD MAKES EVERY CENT COUNT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, each Member of Congress takes a certain amount of pride in his constituency. Today, I offer the city of Highwood, part of the 12th District of Illinois, as a model for our Nation to emulate. This city, under the leadership of Mayor Fidel Ghini, operates on a cash and carry basis and has no debts. We talk about balanced budgets here in Washington but cannot seem to tighten our belts. I recommend a few lessons from Mayor Ghini:

HIGHWOOD MAKES EVERY CENT COUNT

"People are conservative with their own money and generous with other people's money. That's the problem with politicians," said Mayor Fidel Ghini of Highwood.

Does Highwood have any debts?

"No," says the mayor.

No debts at all?

"None whatsoever."

Our search for a municipality that operates on a cash and carry basis, debt free, led us to this tiny city of 5,600 on the lake shore squeezed among Lake Forest, Highland Park, and Fort Sheridan. It is five-eighths of a mile across and home to many Italian-Americans.

Schaumburg, a suburb some 10 times larger, is almost debt free and doesn't levy a property tax, but it has an enormous financial windfall—Woodfield shopping center and 13 auto agencies.

Highwood has no shopping centers. It has a $700,000 annual budget and $1,250,000 in the bank.

"We run the city as if it were a business—our own business," the mayor told us. "We make every cent count.

"We don't let people fly off to conventions to have a good time. We stay home and mind the store. In 10 years I've never been to a mayor's convention."

If he had, he probably would have been chided by his peers for "not taking advantage of your bonding power," i.e., going into debt.

Mayor Ghini and the aldermen don't draw any salary. The mayor is pretty good at strongarming Highwood residents into volunteering for city projects. He is 67 and is well off financially.

"I've been in every business but stealing," he said. "Real estate, gasoline, excavating, you name it. I was in the food and liquor business during the Depression.

"I told the voters I'd run the city like a business. Mine made profits, and the city should too. I'm familiar with every project, and I know how to make it and how to install it. We're our own general contractor. That means an automatic saving of 20 percent.

"We bid out each phase of a project. I go out and supervise, and I also jump in the ditch and dig once in a while. Work is good for my health. If I sweep a street, that's exercise."

The mayor boasts that in the last 10 years Highwood has built a public works building, a year-round swimming pool, a recreation center, a city hall and police station, and a library. All for cash.

The city's income includes about $120,000 a year in sales taxes, mostly from 25 restaurants and taverns; about $50,000 from a utility tax; $60,000 from real estate taxes; $30,000 from court fines, and $30,000 in licenses and fees.

Money also comes from the state income tax and revenue sharing.

"I've been a fighter all my life," Mayor Ghini said. "I was born in a coal-mining area in Iowa. I stayed after school and swept out the rooms for 50 cents a week.

"Then I went home and milked the cow. I invested those 50 cents. And those 50 cents became more 50 cents and more 50 cents.

"If everyone ran government the way the average person runs a home, we'd never have the problems we have. The whole trouble is that communities hire professionals to get federal funds.

"Federal money should be sent back in the communities on a per-capita basis. The way it is now, the ones with political clout get more money. That's wrong."

Mayor Ghini is blunt and forceful. He has been called a dictator. He ran for mayor three times before he won in 1969.

Highwood isn't the prettiest suburb along the north shore, but no town has more spirit. Several years ago The Tribune ran a story about Highwood and quoted pharmacist Adam Bernardi:

"These people never ask for welfare, never ask for nothing. My people have their own credit rating. It shocks me when someone pulls out one of those BankAmericards; I know he's either a phony or he stole it or he's trying to put something over on me.

"I bet the credit rating here is No. 1 in the country. When they go to a bank in Lake Forest or Highland Park, all they have to say is, 'I'm an Italian and I live in Highwood.' That's their credentials."●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, August 2, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 3

9:00 a.m.

Governmental Affairs

To resume hearings on S. 503 and 865, bills to provide for the confidentiality of medical records and information.

3302 Dirksen Building

10:00 a.m.

Budget

Business meeting, to continue markup of the second concurrent resolution on the congressional budget for fiscal year 1980.

6202 Dirksen Building

Select on Indian Affairs

Business meeting, to mark up S. 751, to provide for the relocation and resettlement of the Navajo and Hopi Indians.

357 Russell Building

Joint Economic

To hold hearings on the employment-unemployment situation for July.

6226 Dirksen Building

10:30 a.m.

*Judiciary

To resume hearings on S. 1246, to protect against the growth of a monopoly power among major petroleum companies, and to encourage oil companies to invest profits back into oil exploration, research, and development.

2228 Dirksen Building

SEPTEMBER 6

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine the economic regulation of the trucking industry focusing on the effects of State and Federal regulations on fuel consumption.

235 Russell Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To resume hearings on S. 568, to promote the advancement of women in scientific, professional, and technical careers.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

To hold hearings on the nomination of Louis F. Moret, of California, to be Director of the Office of Minority Economic Impact, Department of Energy.

3110 Dirksen Building

SEPTEMBER 7

9:30 a.m.

Commerce, Science, and Transportation

To continue hearings to examine the economic regulation of the trucking industry focusing on the effects of State and Federal regulations on fuel consumption.

235 Russell Building

SEPTEMBER 10

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on S. 1581 and 1582, bills authorizing funds through fiscal year 1990 for airport development aid programs under the Airport Airway Act, 1970.

235 Russell Building

SEPTEMBER 11

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue hearings on S. 1581 and 1582, bills authorizing funds through fiscal year 1990 for airport development aid programs under the Airport Airway Act, 1970.

235 Russell Building

SEPTEMBER 12

9:00 a.m.

Veterans' Affairs

To hold hearings on S. 759, to provide for the right of the United States to recover the costs of hospital nursing home or outpatient medical care furnished by the Veterans' Administration to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts.

457 Russell Building

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue hearings on S. 1581 and 1582, bills authorizing funds through fiscal year 1990 for airport development aid programs under the Airport Airway Act, 1979.

235 Russell Building

SEPTEMBER 13

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue hearings on S. 1581 and 1582, bills authorizing funds through fiscal year 1990 for airport development aid programs under the Airport Airway Act, 1970.

235 Russell Building

SEPTEMBER 18

9:30 a.m.

Labor and Human Resources

To hold hearings on S. 1486, to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act of 1970.

4232 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To hold hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.

235 Russell Building

SEPTEMBER 19

9:30 a.m.

Labor and Human Resources

To continue hearings on S. 1486, to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act of 1970.

4232 Dirksen Building

Veterans' Affairs

To hold hearings on S. 1523 and H.R. 4015, bills to provide the capability of maintaining health care and medical services for the elderly under the Veterans' Administration.

5110 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To continue hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.

235 Russell Building

SEPTEMBER 20

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To continue hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.

235 Russell Building

SEPTEMBER 25

11:00 a.m.

Veterans' Affairs

To resume hearings on fiscal year 1980 legislative recommendations for veterans' programs.

5110 Dirksen Building

OCTOBER 1

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

OCTOBER 3

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

OCTOBER 10

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, August 2, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We give thanks to Thee O God; we give thanks; We call on Thy name and recount Thy wondrous deeds.—Psalms 75: 1.

O God, we remember Your righteous acts for the good of the people—Your creation, redemption, and the promise of life eternal.

We give thanks that You have blessed our Nation and given us opportunities to live and serve and love. Forgive us that we have often squandered our resources and cared little for our neighbor.

Renew us, O Lord, by the power of Your Spirit, that we may see the way of truth and that together we may walk in unity for the good of all people and the glory of Your name.

Bless, dear Lord, the Members of this assembly. Protect, strengthen, and give them Your peace until we meet again. Amen.

THE JOURNAL

The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ROUSSELOT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. I am sure the gentleman is well aware of the fact that there are over 100 Members at the White House at the present time?

Mr. ROUSSELOT. Yes, I am, Mr. Speaker.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 306, nays 9, not voting 119, as follows:

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

[Roll No. 428]

YEAS—306

Abdnor
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Burgener
Burlison
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Devine
Dickinson
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Murphy, Ill.
Frenzel
Fuqua
Fowler

Florio
Foley
Ford, Tenn.
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hillis
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lowry
Lujan
Lungren
McClory
McDade
McDonald
McEwen
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Moore
Moorhead, Calif.

Mottl
Murphy, N.Y.
Murphy, Pa.
Yatron
Yates
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rousselot
Roybal
Royer
Rudd
Runnels
Sabo
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whittaker
Williams, Mont.

Wilson, Tex.
Wirth
Winn

Wolpe
Wright
Wyatt

Young, Fla.
Young, Mo.
Zablocki

NAYS—9

Derwinski
Holt
Jacobs

Lloyd
Mitchell, Md.
Quayle

Schroeder
Stenholm
Wilson, Bob

NOT VOTING—119

Addabbo
Akaka
Ambro
Anderson, Ill.
Andrews, N.C.
Annunzio
Anthony
Ashley
Bailey
Beilenson
Bevill
Boggs
Boland
Bolling
Bouquard
Breaux
Brown, Calif.
Broyhill
Buchanan
Burton, John
Byron
Chappell
Chisholm
Coelho
Conte
Conyers
Danielson
Davis, S.C.
Dellums
Dicks
Diggs
Dingell
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
English
Ertel

Evans, Ga.
Fazio
Ferraro
Flippo
Flood
Ford, Mich.
Forsythe
Fountain
Frost
Gephardt
Giaimo
Ginn
Goldwater
Guarini
Hammerschmidt
Hance
Heckler
Hefner
Heftel
Hightower
Hinson
Holland
Hubbard
Ireland
Jeffries
Jones, Okla.
Kogovsek
LaFalce
Lederer
Lehman
Long, La.
Luken
Lundine
McCloskey
McCormack
McHugh
McKay
Marlenee
Miller, Calif.

Mineta
Minish
Moffett
Montgomery
Moorhead, Pa.
Murtha
Neal
Nichols
Nolan
O'Brien
Patten
Pepper
Price
Rahall
Rodino
Rose
Rosenthal
Rostenkowski
Roth
Russo
Santini
Simon
Slack
Smith, Iowa
Spellman
Stack
Stokes
Treen
Ullman
Walgren
Watkins
Whitley
Whitten
Williams, Ohio
Wilson, C. H
Wolff
Wydler
Wylie
Young, Alaska
Zeferetti

□ 1020

Mr. HANSEN changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4811. An act for the relief of the city of Nenana, Alaska, and to amend the act of January 2, 1976, as amended, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 41. An act to require the Secretary of Agriculture to convey any interest held by the United States in certain lands located in Bell County, Ky., to the Board of Education, Bell County, Ky.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2676) entitled "An act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1980, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CULVER, Mr. GRAVEL, Mr. HART, Mr. STAFFORD, and Mr. CHAFEE to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1318. An act to amend title 13 of the United States Code to provide a limited exemption to the Bureau of the Census from the provisions of section 322 of the Act of June 30, 1932.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE REPORTS ON H.R. 4985, PRIORITY ENERGY PROJECTS ACT; H.R. 3243, CRUDE OIL TRANSPORTATION AMENDMENTS ACT OF 1979; AND H.R. 2759, DEEP SEABED HARD MINERAL RESOURCES ACT

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight tonight, Thursday, August 2, to file reports on the following bills: H.R. 4985, Priority Energy Projects Act; H.R. 3243, Crude Oil Transportation Amendments Act of 1979; and H.R. 2759, Deep Seabed Hard Mineral Resources Act.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Arizona?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND INTERNATIONAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT TODAY DURING 5-MINUTE RULE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary may be permitted to sit today during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. ROUSSELOT. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from California reserves the right to object.

Mr. ROUSSELOT. Since this is a very full calendar today, why is it necessary to meet?

Mr. KASTENMEIER. I am informed, if the gentleman would yield under his reservation, that testimony and markup on the refugee bill must take place today. The Chair is here, and perhaps the gentlewoman from New York (Ms. HOLTZMAN) could further explain it.

Ms. HOLTZMAN. If the gentleman would yield, the subcommittee is in the process of completing its markup on the refugee bill, which is of extreme importance, because by September 30, if legislation is not adopted, then all of the moneys for resettlement of refugees and programs will expire.

So I would say to the gentleman that there is urgency and the subcommittee expects to finish very quickly.

Mr. ROUSSELOT. The gentlewoman can assure us that no other legislation will be taken up.

Ms. HOLTZMAN. I do.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from Wisconsin?

There was no objection.

PERSONAL EXPLANATION

Mr. MARKS. Mr. Speaker, on rollcall 390 I was necessarily absent. I am recorded as paired for the amendment in question when, in fact, had I been present and voting, I would have voted "nay." I ask unanimous consent these remarks appear in the permanent RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I take this time to advise Members that in addition to those matters which we mentioned late yesterday evening as probable to come before us today, there is at least the possibility that the other body may attach some amendments to the energy conservation and standby rationing bill that we passed yesterday and send it back.

If that were to occur in sufficient time to warrant our acting on those amendments this afternoon, then it would be the purpose of the leadership to schedule action on those amendments.

If that should occur, we will make every effort to achieve clear descriptions of the contents of any such amendments and have them available in writing to all Members prior to bringing that conference report to the floor.

I mention this simply that Members may know what possibilities exist for our consideration later in the day.

OIC SKILLS TRAINING AND PRIVATE SECTOR JOB CREATION WELFARE REFORM ACT OF 1979

(Mr. MYERS of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS of Pennsylvania. Mr. Speaker, I am today introducing the opportunities industrialization centers (OIC) skills training and private sector job creation Welfare Reform Act of 1979. Two of my Philadelphia colleagues, RAYMOND LEDERER and WILLIAM GRAY, are joining me as cosponsors of this bill.

OIC and other national community-based organizations have shown over and over again their effectiveness in acting as a bridge between the underskilled, unemployed worker and local business employment. In 125 cities, OIC has demonstrated its ability to train the unemployed and to work in cooperation with local industry to place these people in jobs.

My bill will establish OIC and other community-based groups as an intermediary in skills training and job placement to take welfare recipients off the welfare rolls, train them in job skills which are in demand, and then work with local business groups to find or create jobs with permanency for these workers. Not only will this program ease the financial burden of welfare on State and local spending, but also by providing incentives to business to hire these individuals, it will assist in increasing business production.

Many of us in Congress feel that one of the best ways to resolve our Nation's unemployment problems is at the community level with cooperation from local private industry—public service employment can only accomplish so much. The bill I am introducing today will give practical reality to just such a concept.

Thank you.

VANIK RELEASES TREASURY DEPARTMENT STUDY OF OIL COMPANY TAX RETURNS

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, a Treasury Department report I received today based on actual 1977 tax returns for the eight largest multinational and eight largest domestic oil companies reveals some shocking facts.

The eight largest multinationals had sales of over one-quarter trillion dollars—10 times the sales of the eight largest domestic companies.

The same eight American multinationals had taxable profits of over $34 billion on their foreign operations and only $4 billion in profits on domestic operations. The same multinational oil companies wiped out $16.4 billion of their tax liability by utilizing the foreign tax credit. They managed to reduce their tax liability to $1.4 billion on $64.2 billion of gross income from operations—an effective tax rate of 2.2 percent.

Oil price increases and increased consumption of oil since 1977 are bringing oil sales of these eight multinational corporations very close to the half trillion dollar mark. The multiplication of foreign tax credits through these sales will almost completely wash out the tax obligations of the American multinational companies on this incredible foreign source income.

It is time for Americans to consider what value these multinational corporations have to America—if they freeload on the American taxpayer and make no contributions to the taxpayer burdens of protecting and defending their operations all over the world.

Later today I will place into the RECORD the full text of the Treasury Department study.

☐ 1030

INTRODUCTION OF RESOLUTION OF INQUIRY

(Mr. FINDLEY asked and was given permission to address the House for 1 minute.)

Mr. FINDLEY. Mr. Speaker, a week ago I asked how many of my colleagues would join me in voicing moral outrage at the new policy started by the State of Israel of hitting at Palestinians any time and any place, a policy that has caused enormous loss of life by civilians, women and children as well as adults, and destruction of property.

Today I am introducing a resolution of inquiry, a highly privileged resolution in an effort to find out if there are any voices of moral outrage in the executive branch. I have heard from only three of my colleagues voicing outrage in this body. I hope there will be others later on.

Since May I have been trying without success to get from the State Department whether or not our Government condones this savage new policy, and I now resort to the resolution of inquiry hoping at long last it will bring their conscience to the surface.

TAIWAN AND THE WINTER OLYMPICS

(Mr. BEREUTER asked and was given permission to address the House for 1 minute to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, I would like to remind my colleagues that even though we may be sweltering in the summer's heat, winter is not far behind. And this winter will be a special one for the United States as we again play host to the winter Olympics. Next February, teams from all over the world will return to Lake Placid for the 1980 games, and hopefully, the contest will remain the truly international games that it once was by allowing every country that wishes to send a team to participate.

Because the United States will be the host for the games, we have a special responsibility to make sure that all countries are allowed to attend by the International Olympics Committee. Unfortunately, that international body might not remain impartial and entire nations of people could be excluded from participating in the historic games. This past year the United States unexpectedly severed its diplomatic relations with the Republic of China on Taiwan, and while no decision has yet been handed down, the IOC might attempt to exclude our friends from the games.

But our ties with the Taiwanese remain strong, economically and otherwise. The United States, as host to the games, should insure that the Taiwanese are present at the games, represented by their own team, carrying their own flag, and with their own national anthem as befits any free and independent nation. We should take action if necessary because we must not allow the IOC to politicize the games at Lake Placid. Ensuring open access to the games to all independent countries who wish to attend can protect our rights in the future as well as the rights of the entire international community.

LEGISLATIVE VETO SHOULD BE FIRST ORDER OF BUSINESS IN SEPTEMBER

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute.)

Mrs. SMITH of Nebraska. Mr. Speaker, for years the people of this country have cried out against the stifling crush of Government overregulation. They have called to us as their elected representatives to stop this outrageous growth of Government bureaucracy. We must heed this call and reverse this trend.

For much too long, the Congress has delegated its constitutional powers too liberally and this has resulted in the usurpation of the legislative powers by the regulatory agencies. One of the mechanisms by which we can reassert our right and responsibility as lawmakers is the legislative veto.

In the 94th Congress, a bill applying the congressional veto to administrative rules and regulations was brought up for floor action under suspension of the rules and was only two votes short of the two-thirds needed for passage. The 95th Congress saw the introduction of myriad bills on the subject, but no comprehensive bill was reported for consideration by the House, even though congressional veto provisions were included in various agency or program authorizations such as HUD, FTC, and FIFRA. The Rules Subcommittee has held 1 day of hearings on a comprehensive legislative veto bill on July 11 of this year and plans to have further hearings after the August recess.

Mr. Speaker, I think that we have procrastinated much too long. Action must be taken immediately to remedy the present situation so that the American people will no longer have to put up with controversial rulings and American businesses will no longer have to go into bankruptcy in order to comply with the unreasonable demands of the regulators.

Legislative veto is neither unconstitutional nor unprecedented, as some say. As maker of the laws, Congress also has the ultimate responsibility for the administrative rules that flow from these enabling laws. As for precedence, since 1932, approximately 159 different acts of Congress with 214 separate provisions mandating some sort of congressional approval or disapproval of executive implementation of those laws have been passed. Thirty-four States have laws which provide for legislative veto and/or review of administrative rules and regulations.

As for interest within the Congress itself, there certainly is no lack of it. The Levitas bill presently has 202 cosponsors and continues to gather more each day.

Mr. Speaker, a day rarely goes by without our receiving complaints from our constituents concerning Government interference in their lives. I hope that this problem of overregulation will be given top priority and that the subject of the legislative veto will be one of the first orders of business to be taken up when we reconvene in September.

REPRESENTATIVE REGULA INTRODUCES BILLS TO ENCOURAGE SAVINGS AND CAPITAL INVESTMENT

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, today I am introducing two bills designed to encourage savings and capital investment.

The first will exclude the first $200 of individual savings income from gross income for Federal income tax purposes.

The present low rate of savings in the United States (5.2 percent of disposable income) is a disturbing trend. When compared to 13 percent in the United Kingdom, 15 percent in West Germany and 25 percent in Japan it is quite apparent that U.S. savers are not encouraged to supply the capital needed for economic growth and for investment in new jobs if America is to remain competitive in world markets and to meet the needs of our growing population.

The second bill will increase the dividend exclusion from $100 to $200 for each individual taxpayer. As in the instance of the savings exclusion, this bill is designed to encourage small investors to participate in providing the capital needed to fuel the growth of America and to provide the jobs that result from new technology and capital expansion.

Recent newspaper stories detailing the decline in productivity highlight the need for this legislation.

When this body reconvenes, it is my intention to introduce a bill providing a tax credit equal to 10 percent for research and development spending. This action is vital to enhancing the productivity of American industry.

WELFARE REFORM

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, the Carter administration has recently introduced legislation under the title of "welfare reform." From the time of the mid-1960's and continuing into the present, an almost bewildering array of "Great Society" programs have been launched. All of this legislation is not aimed at welfare reforms based on need, but for an efficient system for the redistribution of income. The advocates of the poor see redistribution of income as correcting an inequity; the socialists see the welfare system as a means of realizing their goals for achieving a different economic system. The people of this country want welfare reform not to mean a redistribution of income nor a guaranteed annual income for everyone but rather, to provide a decent, adequate level of support, composed of both cash and services, to those who are incapable of work. When true need exists, aid must be prompt. Similarly, when need ends, aid must be ended promptly. Americans obviously feel that the Government could both increase aid to the truly needy and cut overall spending—if welfare programs were free of dishonest welfare recipients. A national Gallup poll showed that 67 percent of the country was opposed to a guaranteed annual income.

But does Jimmy Carter listen to the people? No. His welfare reform package is an incremental approach to guaranteed annual income. Mr. Carter promised to remove laws which encourage the breaking up of families. Yet, Mr. Carter is pushing for a guaranteed annual income that has proven to encourage the breakup of families. The results of the most massive experiment in socioeconomic policy ever undertaken: A 10-year study of welfare reforms involving 8,500 families and costing $112 million. It proved that a system of guaranteed income will cause a loss of work incentive and an increase in the breakup of families.

I believe that it is time for this Congress to pass legislation in the area of welfare which will be more prudent with the taxpayer dollars, give more independence to the States to tailor programs to meet the needs of their own people, to encourage the ending of fraud and waste, and to give adequate benefits to those who are truly in need.

PLOWBACK TAX CREDIT

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, we have an opportunity now to go back to our districts and to discuss energy in a practical way. The real energy solution is going to be a plowback tax credit.

As we all know, the problem on our energy is the fact we have become completely dependent on foreign sources for oil. Oil and gas make up 75 percent of our energy. Today, this year we are going to import $60 billion, let me repeat that—$60 billion in oil. Six years ago we imported $3 billion in oil.

We can produce this oil here if we pay the same price for the cost of production as they do abroad. But we have price control on U.S. oil of $5.50 a barrel. We are paying the Arabs $22.40 a barrel to lay it down at U.S. ports. We can produce oil here but we have got to give the plowback tax credit for capital.

I urge my colleagues to go home and talk to their people. Most folks believe in letting the American people produce the oil. It means American jobs, it means American pipe, it means American machinery, but mainly it means American dollars staying at home instead of sending them all to the Arab OPEC countries.

□ 1040

ILLEGAL ALIEN INVASION

(Mr. BURGENER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGENER. Mr. Speaker, I am today introducing the Illegal Alien Act of 1979, with several dozen cosponsors from both sides of the aisle.

I am privileged to represent a district that has some 200 miles of United States-Mexican border. However, from Mexico, there is an invasion of our country occurring. The invasion is peaceful, but it is nonetheless an invasion. Last year, in the San Diego sector alone, some 350,000 illegal aliens were apprehended. It is estimated that for each one of these that were apprehended, at least four came into our country undetected. Incredible as it is to comprehend, that means that perhaps more than 1 million people per year enter illegally, at this one border point alone. There is no penalty for hiring an illegal alien, and the only penalty to the illegal alien for being here is to be hauled back across the border, only to try again the next day or the next, and eventually to make it undetected.

The administration, and this Congress, has turned their backs on this problem for many years. We want, and we need, the best possible relations with our neighbor to the south. The uncontrolled flow of illegal aliens is not the route to good relations. I believe when the people of Mexico examine our proposal, they will support it with enthusiasm because we believe it to be good for both countries. In today's Extension of Remarks section of the CONGRESSIONAL RECORD, we will have detailed explanations of the bill. We believe it is sane, sensible, humane, and proper, and I ask the support of the Members.

GOOD LUCK, MELANIE

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute).

Mr. ASHBROOK. Mr. Speaker, when the House adjourns this evening, many of the unsung heroes of Congress will be returning to their hometowns. Among that diligent group of young men and women is Melanie Delianides, a resident of Norwalk, Ohio in my congressional district. Melanie was the first full time page that I have appointed in my years in Congress. Frankly, I do not think I could have made a better choice.

I know that many of my colleagues have had the opportunity to work with Melanie over the last year and in all that time, I have heard only good things about her. She has been conscientious and vigorous in the pursuit of her job and has given me many reasons to be proud. She is a special young lady and I know that my colleagues will join me in wishing her the very best in her future endeavors.

Earlier this week, Melanie jotted down some of her observations about the last 10 months. I think it appropriate to include them in the RECORD at this point:

> Each day of being a page has given me a new and different experience. I have seen history being made in front of me, watching Congress debate and vote on issues that affect our country.
>
> Being a page is one of the highest honors that can be obtained by a high school student. Paging not only gives one the opportunity to see our government in action but it carries with it the responsibility of performing important duties.
>
> Through this experience, I feel I have become a more well-rounded person, while learning to get along with different types of people.
>
> The contacts I have made each day have helped this to become a memorable experience. These great men and women for whom I have worked are each special and each has left a mark on me.
>
> After spending 10 months in Washington, I know that it will be hard to return home and adjust to a different lifestyle, though I know that I will never forget the wonderful experience I had in the Nation's Capitol and the many things it has taught me.

CAN WAYS AND MEANS COMMITTEE MAJORITY PLUG A LOOPHOLE?

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I listened with great attention a few moments ago while the gentleman from Ohio (Mr. VANIK) expressed his shock at the effective tax rate of the multinational corporations, and lambasted the loophole by which they evade and avoid taxes, called the foreign tax credit.

It is my impression that there is a 2-to-1 majority of Democrats on the Ways and Means Committee, which drafts our tax legislation. Rather than venting spleen against the multinational tax corporations, which after all follow the tax laws written by this Ways and Means Committee, which I again remind my colleagues is dominated 2-to-1 by the majority party, I should think that the gentleman would direct his attention and his energies toward getting some meaningful tax reform legislation out of the powerful committee. We have waited for years and listened to the President's ringing promises of tax reform, eliminating concessions, but we still wait.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I would be delighted to yield.

Mr. VANIK. Will the gentleman try to help us get a couple of Republican votes for tax reform?

Mr. HYDE. Does the gentleman need them? He has a majority of 2-to-1 Democrats.

Mr. VANIK. We have to have a few Republican supporters.

Mr. HYDE. Well, some Republicans think that profits is not a dirty word. They are used to pay for jobs, used to pay dividends which are then taxed again, and they are used to invest in new plant equipment and make more jobs.

Mr. VANIK. Will the gentleman yield further?

Mr. HYDE. Not yet. The promises and the pledges of the President, the incumbent in the White House, for meaningful tax reform are still echoeing around this Chamber, and we wait for some performance.

Now, I yield to the gentleman from Ohio.

Mr. VANIK. The massive tax loopholes enjoyed by American multinational oil companies is a national obscenity.

DRUG USE BY FEDERAL EMPLOYEES NOT TO BE TOLERATED

(Mr. BEARD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEARD of Tennessee. Mr. Speaker, yesterday, five Labor Department employees were arrested for selling marihuana to their fellow workers. One other employee was arrested for selling cocaine.

The local police force characterized the "blatant use of marihuana at the Labor Department as probably typical of drug use at the other Federal agencies."

It is a national disgrace that Federal drug laws are being violated by Federal employees, on Federal property, on the Government's time. It is also a disgrace that a bureaucracy already characterized as "inefficient" is further burdened by drug use that surely makes day-to-day operations even less efficient.

I am happy to say that as a member of the Narcotics Select Committee, I have found that this latest incident is characteristic of our Government's attitude toward drug use. How can we expect the young people of our country to respect the dangers associated with drug use when our own Government does little but look the other way when its own employees are clearly violating Federal law. I am calling on President Carter to make it clear to all Federal employees that drug use will not be tolerated and those who are guilty of using drugs on the job will be terminated immediately.

WINDFALL PROFITS TAX MAY FALL ON CONSUMER

(Mr. GRADISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRADISON. Mr. Speaker, a great deal has happened since the House approved the so-called windfall profits tax. When we voted upon this, our assumption was that it would be paid by the oil companies, and I am sure that assumption had a great deal to do with the vote in support of the tax when it was before this body. All that has changed with the announcement by the President that he intends to impose oil quotas. Once these quotas are in effect, it will be not only possible but likely that the price of oil produced in the United States will exceed the price of oil imported into the United States, and therefore it will be possible for the oil companies to pass this tax on to purchasers; that is, to our consumers and our constituents.

As a result, Mr. Speaker, I would hope that as the other body considers the windfall profits tax, it will decide to waive that tax and not impose it whenever the oil imports quotas are triggered in. Otherwise, the so-called windfall profits tax will be a burden, not on the oil companies, but on the consumers—an objective which would run entirely contrary to the intention of this House.

PRIVATE CALENDAR

The SPEAKER pro tempore. Pursuant to the order of the House of July 31, 1979, this is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

OBSOLETE VESSEL SALE

The Clerk called the bill (H.R. 3094) to authorize the Secretary of Commerce to sell five obsolete vessels to the Inter-Ocean Management Co., a California corporation, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 3094

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Secretary of Commerce is authorized, within two years after enactment of this Act, to sell, subject to such conditions she deems are appropriate in the national interest, the five obsolete vessels, AF-28 Hyades, AF-49 Zelima, AF-52 Arcturus, AF-54 Pictor, and AF-61 Procyon, for the purpose of conversion and operation in the fisheries of the United States to Inter-Ocean Management Company, a corporation organized under the laws of the State of California, for their appraised value for operation or their scrap value in the domestic market, whichever is greater, as of the date of the sale: *Provided,* That (1) any conversion work shall be performed in the United States; (2) the vessels shall be documented as fishing vessels and operated under the laws of the United States; (3) the vessels shall be operated in conformity with all international fishery conventions to which the United States is a signatory; and (4) if the vessels are scrapped within five years after the date of sale, they shall be scrapped in the domestic market.

With the following committee amendment:

Committee amendment: On page 2, line 16, strike "(4)" and all that follows through line 18 and insert in lieu thereof: "(4) when the vessels are scrapped, they shall be scrapped in the domestic market.".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEAH MI COHEN

The Clerk called the bill (H.R. 925) for the relief of Leah Mi Cohen.

There being no objection, the Clerk read the bill as follows:

H.R. 925

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Leah Mi Cohen may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Edward Cohen and Alberta Cohen, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 275) for the relief of Leah Mi Cohen, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Leah Mi Cohen may be classified as a child within the meaning of section 101(b)(1)(E) of such Act upon approval of a petition filed on her behalf by Mr. and Mrs. Edward Cohen, citizens of the United States, pursuant to section 204 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

MOTION OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. OBERSTAR moves to strike out all after the enacting clause of the Senate bill, S. 275, and insert in lieu thereof the provisions contained in H.R. 925, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 925) was laid on the table.

□ 1050

EUN KYUNG CHO AND HEI KYUNG CHO

The Clerk called the bill (H.R. 929) for the relief of Eun Kyung Cho and Hei Kyung Cho.

There being no objection, the Clerk read the bill, as follows:

H.R. 929

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the immigration and Nationality Act, Eun Kyung Cho and Hei Kyung Cho may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of petitions filed in the behalf of Mr. and Mrs. Anthony Graffeo, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

With the following committee amendment:

On page 2, strike out all of lines 6, 7, and 8.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIA ESTELA SIMS

The Clerk called the bill (H.R. 946) for the relief of Maria Estela Sims.

There being no objection, the Clerk read the bill as follows:

H.R. 946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Maria Estela Sims may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf of Mr. and Mrs. Robert Sims, citizens of the United States, pursuant to section 204 of the Act; *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIA CORAZON SAMTOY

The Clerk called the bill (H.R. 948) for the relief of Maria Corazon Samtoy.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

NYOMAN RAHMAWATI

The Clerk called the bill (H.R. 1153) for the relief of Nyoman Rahmawati.

There being no objection, the Clerk read the bill as follows:

H.R. 1153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Nyoman Rahmawati may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Marilyn and C. Richard Eckroth citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 2, line 1, strike out the name "Richard Eckroth" and insert in lieu thereof "Richard Eckroth,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GLADYS VENICIA CRUZ-SANCHEZ

The Clerk called the bill (H.R. 1163) for the relief of Gladys Venicia Cruz-Sanchez.

There being no objection, the Clerk read the bill as follows:

H.R. 1163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Gladys Venicia Cruz-Sanchez may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Samuel J. Payne and Ida M. Payne, citizens of the United States, pursuant to section 204 of the Act, except that the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 2, line 2, strike out the language "Act, except that" and insert in lieu thereof the following: "Act: *Provided,* That".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LAMOM PETERSEN AND DANG PETERSEN

The Clerk called the bill (H.R. 1486) for the relief of Lamon Petersen and Dang Petersen.

There being no objection, the Clerk read the bill as follows:

H.R. 1486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Lamom Petersen and Dang Petersen may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by Staff Sergeant and Mrs. Ronald F. Petersen, a citizen of the United States and a lawful resident alien, respectively, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be awarded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendments:

On page 1, line 4, after the word "Act," strike out the remainder of line 4 and all of lines 5 and 6 and insert in lieu thereof the following: "Dang Petersen may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by".

On page 2, line 7 strike out the word "beneficiaries" and substitute in lieu thereof the word "beneficiary".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time and passed.

The title was amended so as to read: "A bill for the relief of Dang Petersen".

A motion to reconsider was laid on the table.

SUSAN KATHERINE ADAMSKI

The Clerk called the bill (H.R. 1628) for the relief of Susan Katherine Adamski.

There being no objection, the Clerk read the bill as follows:

H.R. 1628

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of the Immigration and Nationality Act, Susan Katherine Adamski shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act, or if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SERGIO AND JAVIER ARREDONDO

The Clerk called the bill (H.R. 1753) for the relief of Sergio and Javier Arredondo.

There being no objection, the Clerk read the bill as follows:

H.R. 1753

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Sergio and Javier Arredondo may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by Mr. Rudolph Albores, a citizen of the United States, and his wife, Dolores Albores, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 2, line 2, after the name "Dolores Albores," insert the following: "a lawful permanent resident of the United States,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ZORA SINGH SUNGA

The Clerk called the bill (H.R. 2433) for the relief of Zora Singh Sunga.

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the bill, H.R. 2433, be removed from the Private Calendar and rereferred to the Committee on the Judiciary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

MICHAEL CARL BROWN

The Clerk called the bill (H.R. 3142) for the relief of Michael Carl Brown.

There being no objection, the Clerk read the bill as follows:

H.R. 3142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Michael Carl Brown may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Sylvester and Iris Brown, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motioin to reconsider was laid on the table.

PATRICK A. AND WAYNE L. THOMAS

The Clerk called the bill (H.R. 3146) for the relief of Patrick A. and Wayne L. Thomas.

There being no objection, the Clerk read the bill as follows:

H.R. 3146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Wayne Lloyd Thomas and Patrick Wayne Thomas may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of petitions filed in their behalf by Mr. and Mrs. Keith Stewart, a lawful resident alien and a citizen of the United States, respectively, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REBECCA SEVILLA DeJESUS

The Clerk called the bill (H.R. 3218) for the relief of Rebecca Sevilla DeJesus.

There being no objection, the Clerk read the bill as follows:

H.R. 3218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Rebecca Sevilla DeJesus shall be held and considered to be an immediate relative as defined in section 201(b) of the Act.

With the following committee amendment:

On page 1, line 6, strike out the word "Act." and insert in lieu thereof:

Act, upon approval of a petition filed in her behalf, pursuant to section 204 of the Act, by Dione Maceda, a citizen of the United States.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOSE QUINTANA DOMINGUEZ SENDEJAS

The Clerk called the bill (H.R. 3319) for the relief of Jose Quintana Dominguez Sendejas.

There being no objection, the Clerk read the bill as follows:

H.R. 3319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Jose Quintana Dominguez Sendejas shall be held and considered to be the natural-born alien son of Rudy Leon and Joann Sendejas, citizens of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, strike out all of lines 3, 4, 5, and the language "alien son of" on line 6 and substitute the following: "That, in the administration of the Immigration and Nationality Act, Jose Quintana Domiguez Sendejas may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONVEYING ALL INTERESTS OF THE UNITED STATES IN CERTAIN REAL PROPERTY IN SANDOVAL COUNTY, N. MEX., TO WALTER HERNANDEZ

The Clerk called the bill (H.R. 1762) to convey all interests of the United States in certain real property in Sandoval County, N. Mex., to Walter Hernandez.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

DIRECTING THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LANDS IN CLEAR CREEK COUNTY, COLO., TO HAROLD AND DORIS HARLAN

The Clerk called the bill (H.R. 1968) to direct the Secretary of the Interior to convey certain lands in Clear Creek County, Colo., to Harold and Doris Harlan.

There being no objection, the Clerk read the bill as follows:

H.R. 1968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to convey to Harold Harlan and Doris Harlan, Idaho Springs, Colorado, all right, title, and interest of the United States in and to a tract of land in lot 18, section 1, township 4 south, range 73 west, sixth principal meridian, Clear Creek County, Colorado, known as the Thomas C. Austin Building Site, and more particularly described as follows:

Beginning at Corner Numbered 1, whence corner Numbered 2, Survey Numbered 2053, Gardner Placer, bears south 1 degree 15 minutes west 377.0 feet; thence north 37 degrees east 226.0 feet to corner numbered 2, whence the Shaft Honor on the Gold Medal Mine bears north 30 degrees 40 minutes east and a prominent point of rocks bears north 86 degrees 28 minutes east; thence north 53 degrees west 121 feet to corner numbered 3; thence south 37 degrees west 226.0 feet to corner numbered 4; thence south 53 degrees east 121.0 feet to corner numbered 1, the place of beginning.

Sec. 2. The conveyance authorized by this Act shall be made upon the payment of such sum as may be fixed by the Secretary to reimburse the United States for the administrative costs of the conveyance.

Sec. 3. Notwithstanding section 3 of the Act of December 22, 1928 (43 U.S.C. 1068b), conveyance of title under this Act shall reserve to the United States all minerals in the lands together with the right to prospect for, mine, and remove such minerals under applicable law and such regulations as the Secretary may prescribe, except that if the Secretary makes the findings specified in section 209(b) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2757, 43 U.S.C. 1719) and the conveyance meets the requirements of section 3 of the Act of December 22, 1928 (43 U.S.C. 1068b), the minerals may then be conveyed together with the surface as provided in section 209(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

With the following committee amendments:

Page 1, line 3, strike the words "the Interior" and insert "Agriculture";

Page 2, line 2, following "United States" insert "(except as otherwise provided in this Act)";

Page 2, line 6, beginning with the word "Site," strike the remainder of line 6 through line 18 and insert in lieu thereof the word "Site.";

Page 2, line 21, following the word "Secretary" insert "of Agriculture";

Page 2, following line 22, insert a new section reading as follows:

Sec. 3. The conveyance will be subject to a right-of-way in favor of Clear Creek County for the Soda Creek Road across any lands in Lot 18 within 33 feet of the center line of said road.;

Page 3, strike all of line 3 and through "conveyance" on line 4 and insert in lieu thereof

Sec. 4. Conveyance;

Page 3, line 8, following the word "Secretary" insert "of the Interior";

Page 3, line 12, following the citation strike the remainder of the sentence ending on line 16 and insert in lieu thereof the following: ", the minerals may then be conveyed together with the surface as provided in section 209(b) of such Act."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time and passed.

The title was amended so as to read: "A bill to direct the Secretary of Agriculture to convey certain lands in Clear Creek County, Colorado, to Harold and Doris Harlan."

A motion to reconsider was laid on the table.

ANTONIO RIVERA ARISTIZABAL

The Clerk called the bill (H.R. 2098) for the relief of Antonio Rivera Aristizabal.

There being no objection, the Clerk read the bill as follows:

H.R. 2098

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Antonio Rivera Aristizabal may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Gustavo Aristizabal, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER pro tempore. That completes the call of the Private Calendar.

☐ 1100

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 AUTHORIZATION, 1980–82

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 917) to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1980, 1981, and 1982, and for other purposes, with the Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment, as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

That section 406 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1882) is amended by inserting at the end thereof the following:

"(6) $33,000,000 for the fiscal year ending September 30, 1980.

"(7) $40,000,000 for the fiscal year ending September 30, 1981.

"(8) $47,000,000 for the fiscal year ending September 30, 1982.".

Sec. 2. Section 4311(a) of the Revised Statutes of the United States (46 U.S.C. 251 (a)) is amended by adding at the end thereof the following new sentence: "For the purposes of this subsection, the term 'fisheries' shall include the planting, cultivation, catching, taking, or harvesting of fish, shellfish, marine animals, pearls, shells, or marine vegetation at any place within the fishery conservation zone established by section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).".

Sec. 3. (a) Section 201(e) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) and (D), respectively;

(2) by inserting "(1)" immediately after "Allocation of Allowable Level.—"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) For the purposes of this paragraph—

"(i) The term 'certification' means a certification made by the Secretary that nationals of a foreign country, directly or indirectly, are conducting fishing operations or engaging in trade or taking which diminishes the effectiveness of the International Convention for the Regulation of Whaling. A certification under this section shall also be deemed a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

"(ii) The term 'remedial period' means the 365-day period beginning on the date on which a certification is issued with respect to a foreign countrv.

"(B) If the Secretary issues a certification with respect to any foreign country, then each allocation under paragraph (1) that—

"(i) is in effect for that foreign country on the date of issuance; or

Upon determining that such reasons no longer prevail, the Secretary concerned shall terminate the certification and publish notice thereof, together with a statement of the facts on which such determination is based, in the Federal Register."

Section 4 notwithstanding the provisions of section 4132 of the Revised Statutes of the United States (46 U.S.C. 11), or any other provisions of law, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel Widow Maker, owned by Strohe Brothers of Lake Charles, Louisiana, to be documented as a vessel of the United States, upon compliance with the usual requirements, with the privilege of engaging in the coastwide trade and the fisheries so long as such vessel is owned by a citizen of the United States.

"(ii) is not in effect on such date but would, without regard to this paragraph, be made to the foreign country within the remedial period;

shall be reduced by the Secretary of State, in consuultation with the Secretary, by not less than 50 percent.

"(C) The following apply for purposes of administering subparagraph (B) with respect to any foreign country:

"(i) If on the date of certification, the foreign country has harvested a portion, but not all, of the quantity of fish specified under any allocation, the reduction under subparagraph (B) for that allocation shall be applied with respect to the quantity not harvested as of such date.

"(ii) If the Secretary notified the Secretary of State that it is not likely that the certification of the foreign country will be terminated under section 8(d) of the Fishermen's Protective Act of 1967 before the close of the period for which an allocation is applicable or before the close of the remedial period (whichever close first occurs) the Secretary of State, in consultation with the Secretary, shall reallocate any portion of any reduction made under subparagraph (B) among one or more foreign countries for which no certification is in effect.

"(iii) If the certification is terminated under such section 8(d) during the remedial period, the Secretary of State shall return to the foreign country that portion of any allocation reduced under subparagraph (B) that was not reallocated under clause (ii); unless the harvesting of the fish covered by the allocation is otherwise prohibited under this Act.

"(iv) The Secretary may refund or credit by reason of reduction of any allocation under this paragraph, any fee paid under section 204.

"(D) If the certification of a foreign country is not terminated under section 8(d) of the Fishermen's Protective Act of 1967 before the close of the last day of the remedial period, the Secretary of State—

"(i) with respect to any allocation made to that country and in effect (as reduced under paragraph (B) on such last day) shall rescind, effective on and after the day after such last day, any harvested portion of such allocation; and

"(ii) may not thereafter make any allocation to that country under paragraph (1) until the certification is terminated.".

(b) Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) by amending subsection (a) by redesignating paragraph (3) as paragraph (4), and by inserting immediately after paragraph (2) the following new paragraph:

"(3) In administering this subsection, the Secretary of Commerce or the Secretary of the Interior, as appropriate, shall—

"(A) periodically monitor the activities of foreign nationals that may affect the international programs referred to in paragraphs (1) and (2);

"(B) promptly investigate any activity by foreign nationals that, in the opinion of the Secretary, may be cause for certification under paragraph (1) or (2); and

"(C) promptly conclude; and reach a decision with respect to; and investigation commenced under subparagraph (B)."

(2) by redesignating subsections (d) through (g) as subsections (e) thorugh (h), respectively; and

(3) by adding immediately after subsection (c) the following new subsection:

"(d) After making a certification to the President under subsection (a), the Secretary of Commerce or the Secretary of the Interior, as the case may be, shall periodically review the activities of the nationals of the offending country to determine if the reasons for which the certification was made no longer prevail.

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment to the House amendment be dispensed with, and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I would ask the chairman of the committee for an explanation of his request.

Mr. MURPHY of New York. Mr. Speaker, if the gentleman will yield, H.R. 1798 passed the House on June 25, 1979. As it passed the House, H.R. 1798 would do two things.

First, it would extend the funding authorization for the Fishery Conservation and Management Act of 1976 (FCMA) for a period of 3 years at a level not to exceed $33 million for fiscal year 1980, $40 million for fiscal year 1981, and $47 million for fiscal year 1982.

In addition, it would provide for increasing by two the voting membership of the Pacific Fishery Management Council.

Mr. Speaker, S. 917, as it passed the Senate on April 30, 1979, would do three things.

First, it would extend the funding authorization of the FCMA for the same time period and at the same level of funding as the House bill, H.R. 1798, except the House bill authorized $33 million to be appropriated for fiscal year 1980 whereas the Senate bill authorized only $30 million.

Second, the Senate bill included an amendment offered by Senator MAGNUSON that would prohibit foreign-built fishing vessels that are documented under the laws of the United States from fishing within the 200-mile fishery conservation zone of the United States. Present law only prohibits such vessels from fishing within 3 miles of U.S. shores.

Third, the Senate bill included an amendment offered by Senator PACKWOOD that would prohibit the issuance of fishing permits to foreign nations whose nationals have been determined by the Secretary of Commerce to be in violation of the Pelly amendment to the Fishermen's Protective Act. The Pelly amendment authorizes the banning of fisheries imports from a nation whose nationals are determined to be conducting fishing operations under circumstances that diminish the effectiveness of an international fisheries conservation program.

Mr. Speaker, after the House passed H.R. 1798 on June 25, it subsequently passed S. 917 with the provisions of H.R. 1798 as it passed the House.

Mr. Speaker, with a view toward avoiding a conference on the bill, the staffs of the Committee on Merchant Marine and Fisheries and the Senate Committee on Commerce, Science, and Transportation have worked out compromise language, to which both committees agree, and the amendments to S. 917 which the House is being asked to concur in today incorporate that compromise language.

The net effect of the Senate amendments to S. 917 is to retain the language of the House version of the bill that would extend the FCMA for 3 years at $33 million, $40 million, and $47 million, respectively, for fiscal years 1980, 1981, and 1982; to retain the language of the Magnuson amendment that would prohibit foreign built fishing vessels flying the U.S. flag from fishing within the 200-mile fishery conservation zone of the United States; and to retain, but rewrite, the Packwood amendment that would deny fishing permits to nations whose nationals are certified by the Secretary of Commerce as being in violation of the Pelly amendment.

Mr. Speaker, the rewrite of the Packwood amendment, which I proposed and which the Senate has agreed to, would, first of all, restrict the certification to be made by the Secretary of Commerce for purposes of the FCMA to those nationals of a foreign country who are conducting fishing operations or engaging in trade or taking under circumstances which diminish the effectiveness of the International Convention for the Regulation of Whaling (IWC). The Packwood amendment, as it originally passed the Senate, would have applied to any international fisheries conservation program to which the United States is a signatory. My compromise language would apply only to whales as these are the living resources of the ocean that are in such dire need of protection at this time.

Second, with respect to any nation which the Secretary of Commerce has certified as being in violation of the IWC, the Secretary of State is required to immediately reduce the unharvested portion of any allocation to such nation by not less than 50 percent. This will, in effect, improve the Packwood amendment by penalizing such foreign nation immediately, rather than having to wait until the next allocation period rolls around, which could be as much as 6 to 9 months, and it will encourage such foreign nation to get back in compliance with the IWC as soon as possible in order to recoup its allocation before it is reallocated to other foreign nations. Under my compromise language, whenever the Secretary of Commerce notifies the Secretary of State that it is not likely the certification of the foreign nation concerned will be lifted before the end of the allocation period or the end of 1 year, whichever comes first, then the Secretary of State would be required to reallocate the remaining unharvested portion of such allocation among other foreign nations for which no certification is in effect.

Third, the Fishermen's Protective Act would be amended to make it clear that the Secretary of Commerce or the Secretary of the Interior, as the case may be, would be required to closely monitor the activities of foreign nations that may affect any international fisheries conservation program; to promptly investigate any activity which his agency has uncovered or which has been brought to the attention of such agency which may be cause for certification under the Pelly amendment, as amended; and to promptly conclude and reach a decision with respect to any investigation commenced.

Mr. Speaker, the reason for this amendment is that in the past the Secretary of Commerce and the Secretary of the Interior have been taking entirely too much time, as much as a year or more in some cases, to make a decision on whether to certify whether the nationals of a foreign country are in violation of the Pelly amendment, as amended. I want to strongly emphasize that it is the intent of this amendment to make it clear that the Congress expects these Secretaries to act swiftly and promptly in making such investigations and decisions in the future.

Finally, Mr. Speaker, S. 917, as amended by the Senate, would authorize the vessel *Widow Maker* to be documented as a vessel of the United States for the purpose of engaging in the coastwise trade and the fisheries of the United States. It is my understanding that this vessel was built in Norway; it is about 44 feet in length; it is owned by two Strohe brothers of Lake Charles, La.; it has met all U.S. safety and navigation requirements; and it will be used as a charter fishing vessel operating out of Port Eads, La.

Mr. Speaker, I think S. 917, with the compromise language which I have proposed and which is included in the bill as passed by the Senate yesterday, is an excellent bill, and I urge its prompt passage.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

● Mr. BREAUX. Mr. Speaker, in agreeing to the Senate amendment to S. 917, as amended by the House amendment thereto, I feel compelled to make several observations.

The chairman of our full committee has explained the amendments which we are agreeing to in some detail. I must state that I also agree in concurring to these amendments in my capacity as chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment because I know that the majority of my colleagues on that subcommittee are in agreement.

Personally, I must take exception to a portion of section 3 of the Senate amendment concerning the sanction against those nations certified to be diminishing the effectiveness of the International Whaling Convention. Presently under the law, any nation so certified could be sanctioned at the President's discretion by prohibiting the import of any fish product from that nation. The present law gives the President of the United States discretion to sanction the nation.

The amendment of the Senate being considered today adds a new sanction for the Secretary of State to utilize once a nation is certified as diminishing the effectiveness of the International Whaling Convention. If a foreign nation was certified, in addition to the discretionary Presidential embargo decision on fish products, the Secretary of State would be mandated to reduce that nation's allocation in our 200-mile fisheries zone by not less than 50 percent. This mandatory requirement of the Secretary is what troubles me.

I do not believe that we should require the Secretary of State to reduce the fishery allocation immediately once the Secretary of Commerce certifies that a foreign nation is diminishing the effectiveness of the International Whaling Convention. We should have a period of time between the certification and the reduction to allow that country to alter whichever practice is diminishing the effectiveness of the IWC. That will not be possible under this Senate language and I believe that it is wrong.

One of the purposes of the amendment originally was to apply leverage on nations such as Japan to agree to a moratorium on the taking of whales in the recent round of negotiations at the International Whaling Convention. That, I believe, has already been accomplished at the latest convention held last month in London. The United States was successful in the adoption of an open ocean whaling moratorium which prohibits the taking of approximately 10,000 whales and the creation of a whale sanctuary in the Indian Ocean. Further, it is my understanding from recent discussion with members of the Japanese Government that Japan will abide by the IWC agreement. Therefore, if this occurs, this purpose of the amendment was obtained.

Since most of our whaling actions in this country are aimed at Japan, I believe that we should recognize when that country has been making progress to meet our objectives. From my recent hearings with Japanese officials I have ascertained the following:

Japan has a law on their books which forbids the exportation of whaling vessels, whaling technology, or whaling equipment.

As of July 5, the Japanese Government issued an administrative order to all Japanese importers to immediately stop the import of all whale products from non-IWC countries.

The Japanese Government has a law which prohibits the export of Japanese currency which will be used in any operation which will serve to violate any conservation agreement such as the International Whaling Convention.

Mr. Speaker, the Japanese Government imports between 50 and 60 percent of our fish products annually—over half of all U.S. fish products caught are sold to Japan. If we restrict their fishing in our U.S. zone by 50 percent or more, what will their response be to our fishermen? I dare say that it would impact our fishermen greatly. I do not think that this is totally fair.

I do not believe that it is fair to potentially penalize our U.S. fisherman for a potential action of a Japanese whaler or importer, but that is what we could do with this amendment. To a nation that imports over 50 percent of our fisheries products and to a nation which I believe has taken giant steps to respond to our concern about whalers, I think that we are reacting too strongly.

I trust that the Secretary of Commerce will be especially careful to examine all the facts surrounding a possible certification if this law is enacted since a certification from this point on can have disasterous effects on our U.S. fishing industry.●

● Mr. OBERSTAR. Mr. Speaker, the legislation before the House, S. 917, strikes a major blow for the integrity of international fishery conservation agreements.

I am delighted that with this vote the House will send to the President legislation which represents a forceful, unambiguous message to the world that the United States intends to enforce the International Convention for the Regulation of Whaling and to end the unnecessary and reckless violations of that agreement, and the irresponsible destruction of whales.

The legislation before the House is the product of considerable thought and discussion among the members of the Committee on Merchant Marine and Fisheries and with Members of the other body. I offered an amendment similar to the language contained in this authorization during subcommittee markup. The language contained in the authorization bill is fair, reasonable, and clear. It can be administered without doubt as to the intent of the Congress.

The language of this authorization links the FCMA to certification under the Pelly amendment to the Fishermen's Protective Act of 1967. The Department of Commerce certifies a nation under the provisions of that amendment when a nation is found to have acted in a manner contrary to international agreements for the protection of a fishery resource.

Mr. Speaker, to date, the Pelly amendment has been somewhat effective in encouraging compliance with fishery agreements. The major weakness has been that certification does not necessarily impose any penalty on the violator. In fact, in all five certifications to date, the President has not used his discretionary power to impose a penalty.

In order to improve the effectiveness of the Pelly amendment, the legislation before us will provide for a specific penalty to result from certification.

When a nation is certified, the Secretary of Commerce must reduce the allocation of that nation to fish in our 200-mile zone by at least 50 percent.

The nation will have 1 year in which to end the conditions which led to certification under the Pelly amendment.

If the violation does not cease, the nation will lose the right to fish in the 200-mile zone.

The history of certification under the Pelly amendment indicates that the Secretary of Commerce does not certify in haste, that an offending nation has advance notice of even the beginning of an investigation.

In October 1973, the Secretary of Commerce learned that the Soviet Union and Japan had indicated their intention to exceed IWC quotas. Only when final catch statistics became available in April 1974 did Commerce begin its investigation.

The investigation was completed in July. Actual certification was made in November 1974.

The Secretary of Commerce certified Peru, Chile, and South Korea for whaling outside of international regulation on December 14, 1978, 35 months, 1 month short of 3 years, after the Commerce Department had begun its investigation.

In view of the extensive delays in certifications in the past, we are asking the House to approve the language of this bill which would require the Secretary to expedite his investigation for possible certification under the Pelly amendment.

If we are going to sign international agreements for the conservation of our fishery resources and to enact legislation to implement those agreements, we should enforce the agreements and the legislation. We should not waste our time with hollow agreements.

We have a great opportunity with this legislation to let the world know that the United States intends to support the international whaling agreements.

We have reasonable legislation which will provide a violating nation 1 year to end its violation. The penalty for violation is a responsible one. If a nation persists in its violations, then we will not permit that nation to continue to use our fishery resource.

The penalty imposed by this legislation is far less severe than that authorized by the Pelley amendment under which the President could ban all or part of a certified nation's fishery exports to the United States. The major problem with that penalty is that it is both severe and discretionary. The President has yet to invoke it. The Pelley amendment is perceived as almost too severe to be invoked.

Yet, this legislation is a major first step toward decisive U.S. action to save the whales. Though the bill does not go as far as I would have preferred, I am confident that the offending nations will get the message that we mean business, that more stringent measures will follow if they do not comply and I think we are going to see a more cooperative response from the whaling nations of the world.

The legislation before us does not deprive the President of the authority to invoke the discretionary penalty; it adds an additional penalty that is automatic. The Secretary of Commerce must reduce by not less than 50 percent a nation's allocation in our 200-mile limit upon certification. He may, in fact, impose more than 50 percent—to that extent, it is discretionary.

Mr. Speaker, adding an automatic penalty increases the deterrent effect of the Pelley amendment. An automatic penalty will provide such a strong disincentive to violation, that we may not have any further certification under the Pelley amendment because of violation of the Whaling Convention. That certainly is my hope, and I believe it a realistic one. A prudent nation will not risk losing one-half of its allocation in our 200-mile zone for a dying industry as whaling is.

The State Department expressed concern during our oversight hearings that the original language of this amendment contained in the Senate version of the FCMA authorization did not provide any discretion for the Department to negotiate with violating nations. We have responded to the State Department's concern by providing an offending nation with 365 day's after certification to end its violation before it loses the right to take fish from our 200-mile zone.

Mr. Speaker, I am delighted that we are on the verge of enacting this much-needed improvement in the Pelley amendment. If we take our international conservation agreements seriously, if we are genuinely interested in preservation of our marine resources, the House will be proud to send this legislation to the President.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York (Mr. MURPHY)?

There was no objection.

A motion to reconsider was laid on the table.

AMENDING TITLE 13, UNITED STATES CODE, TO PROVIDE LIMITED EXEMPTION TO BUREAU OF CENSUS

Mr. GARCIA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table Senate bill (S. 1318) to amend title 13 of the United States Code to provide a limited exemption to the Bureau of the Census from the provisions of section 322 of the Act of June 30, 1932, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. COURTER. Mr. Speaker, I reserve the right to object in order to clarify a couple of points I have in mind.

First of all, I want to make sure why we are bringing this up now. Basically it is because of the emergency nature. The Census Bureau will soon have to enter into lease agreements and we cannot really wait until we come back in session in September; is that correct?

Mr. GARCIA. That is correct, yes.

Mr. COURTER. Second, the bill speaks in terms of 105 percent of fair annual rental, allowing the Census Bureau to enter into a contract at 5 percent over the appraised fair annual rental. It is my understanding that it is fixed at a 5-percent increase and that that is so because many of these rentals will have to be less than 1 year and, obviously, when you negotiate for a rental period of less than 1 year you might have to accept an amount a little above the fair market value; is that correct?

Mr. GARCIA. The gentleman is correct.

Mr. COURTER. Mr. Speaker, I appreciate the distinguished chairman of the subcommittee indulging me in this colloquy.

Mr. Speaker, one final item is the fact that merely because the Census Bureau has the right to enter into a rental agreement of less than 1 year at 5 percent above the fair market value of annual rental, that does not mean they are obligated to do so. They are encouraged to negotiate fairly and vigorously, and as a result hopefully secure space at less than annual fair rental, but it just permits the flexibility, if needed, to go 5 percent above the annual market charge.

Mr. GARCIA. The gentleman is correct.

I would like to thank the distinguished ranking minority member of the subcommittee because the facts the gentleman has stated are absolutely correct.

Mr. COURTER. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York (Mr. GARCIA)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter I of chapter 1 of this title 13, United States Code, is amended by adding at the end thereof the following new section:

"§ 15. Leases for 1980 decennial census

"The 15 percent limitation contained in section 322 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 278a) shall not apply to leases entered into by the Secretary for the purpose of carrying out the 1980 decennial census, but no lease may be entered into for such purpose at a rental in excess of 150 percent of the appraised fair annual rental of the leased premises, or a proportionate part of the appraised fair annual rental in the case of a lease for less than a year.".

(b) The table of sections for such subchapter is amended by adding at the end thereof the following:

"15. Leases for 1980 decennial census.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 917, which was just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

NATIONAL MEALS ON WHEELS WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 367) to authorize and request the President to proclaim the week of September 16 through 22, 1979, as "National Meals on Wheels Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. Does the gentleman have the required number of Members on the bill?

Mr. GARCIA. Mr. Speaker, we have 225 cosponsors.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 367

Whereas, visiting nurses appealed for help to prevent further health breakdown and hospital admissions of several aged patients who were living on grossly inadequate diets; and

Whereas with the delivery of meals beginning in 1954, a new and progressive step in the care of the aged evolved which resulted in maintaining a number of elderly people as free and independent souls living at home instead of in an institution; and

Whereas over one hundred thousand well-balanced meals are delivered daily to aged and ailing people across the Nation to the end that they are happier, more vigorous, and better adjusted individuals; and

Whereas the delivery of meals originated on a volunteer basis in the private sector, has great merit as a direct service to the people, and bears witness to social and economic needs of many of our older citizens: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the selfless service performed, the President is hereby authorized and requested to issue a proclamation designating the week of September 16 through 22, 1979, as "National Meals on Wheels Week" and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such same week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 4057, FOOD STAMP ACT AMENDMENTS OF 1979

Mr. FOLEY. Mr. Speaker, I call up the conference report on the bill (H.R. 4057) to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 27, 1979.)

The gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from Idaho (Mr. SYMMS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 4057, an act to increase the fiscal year 1979 authorization for appropriations for the food stamp program. The heart of this report is a provision that amends section 18 of the Food Stamp Act of 1977 to provide an additional $620 million in authorization of appropriations for the food stamp program between now and September 30. This authorization is necessary to assure the necessary program funds for a smooth, uninterrupted continuation of the provision of food stamp benefits to nearly 19 million persons who are currently receiving them, over half of whom have incomes of less than $300 a month and over 20 percent of whom are elderly.

Had we failed to make this authorization available, the Secretary of Agriculture was prepared in the next 2 weeks to issue a notice to State welfare agencies announcing the termination of the food stamp program for the month of September. Because of H.R. 4057 and action by the House and the Senate in the recent supplemental appropriations bill for fiscal year 1979 providing additional appropriations for the food stamp program during this present fiscal year to the extent of $900 million, $520.3 million of which is to be available only upon the enactment of this authorizing legislation, we no longer have to confront that crisis.

I should remind the House that H.R. 4057 does not solve all the problems posed by the imposition by the House of an annual ceiling on spending for the food stamp program—the so-called cap. For fiscal year 1980, the cap is fixed at $6,188,600,000 and for fiscal year 1981, it is $6,235,900,000. Given the existing level of program expenditures of approximately $600 million each month, including administrative costs, coupled with the steady rise in food prices, which has a significant impact on the level of food stamp benefits provided in future months, it is obvious that the caps set for fiscal years 1980 and 1981 will have to be exceeded if the program is to continue. Accordingly, the House will have to deal with the existence and the level of these caps in the future.

I have, on several occasions this year, together with the distinguished chairman of the subcommittee, Mr. RICHMOND, pledged to the House that the Committee on Agriculture would conduct through hearings on the operation of the Food Stamp Act of 1977 with a view to reporting any necessary amendments and the requisite changes in the cap to the House for its consideration in the course of the forthcoming year. Because of my resolve to fulfill that pledge, I worked with the House conferees to refuse to accept a provision in the Senate version of H.R. 4057 that would have removed the cap ceilings for fiscal years 1980 and 1981. In the face of united House opposition, the Senate receded. The Senate has, however, passed a separate and distinct bill, S. 1309, to the same effect, which has already been referred to the Committee on Agriculture. Therefore, when this matter is dealt with by the House in 1980, the Senate will be ready to go to conference with us on the fiscal year 1980 and 1981 caps, without further Senate action.

The second major feature of this conference report is the provision dealing with excess medical and shelter cost deductions for the elderly, blind, and disabled. Last June 26, the House passed H.R. 4303, a bill which was intended to reinstate the effect upon benefits and eligibility for households containing members who were either 60 years of age or older or who were recipients of supplemental security income (SSI) benefits under title XVI of the Social Security Act of the excess medical and shelter cost deductions that existed in the food stamp law prior to the Food Stamp Act of 1977 as implemented from March 1 through June 30 of this year.

The 1977 Food Stamp Act substituted a standard deduction for all households—$70 a month as of July 1, 1979—for a series of itemized deductions, including one for all medical costs once such costs exceeded $10 a month per household. It further replaced an unlimited excess shelter cost deduction for all shelter costs over 30 percent of net household income, after all other allowable deductions, with a similar deduction applicable only for such costs in excess of 50 percent of net household income and, even then, with a ceiling on such deductions, no more than $90 a month as of July 1, 1979.

As a result, households facing large medical costs or rising rents or increasing utility bills could no longer deduct such items from their gross income in order to ascertain their net income for purposes of calculating food stamp eligibility or benefits. The consequences nationwide were that at least 2 percent of all households containing persons 65 years of age or over were rendered ineligible to participate in the food stamp program and nearly 30 percent of the remainder had their benefits reduced by from $1 to over $50 a month.

Under H.R. 4303, all households containing members who were either 60 years of age or older or who were recipients of supplemental security benefits (SSI) under title XVI of the Social Security Act—basically the blind and disabled, in addition to the elderly—would have been entitled to deduct those household medical expenses which exceed $35 a month, the list of allowable medical expenses would resemble that in effect prior to March 1 of this year, and to deduct all shelter costs in excess of 50 percent of net income without regard to any ceiling.

The impact of these revived deductions upon the eligibility and benefits of the elderly, blind, and disabled should have placed them in a position at least comparable to the situation they were in prior to the advent of the 1977 act on March 1 of this year, even though the new itemized deductions are slightly less generous than the preexisting ones, because of the addition of the standard deduction that was not previously in effect.

Although the House acted on H.R. 4303, the Senate did not and, thus, its provisions were not technically in conference on H.R. 4057. Instead, the House had its H.R. 4057 provision, the Kelly amendment, which allowed deduction of medical expenses in excess of $10 a month, not $35, but only for the elderly, not the blind and disabled. The House provision covered the medical expenses of all household members in households containing an elderly person. The Senate version in H.R. 4057 had a $35 medical expense threshold, but indexed annually upward, for households containing supplemental security income recipients—essentially the blind and disabled—as well as the elderly and a new category added on the Senate floor, recipients of disability payments under title II of the Social Security Act.

To resolve this tangle of provisions and remain within the legal scope of the conference was not an easy task. Although we might have wanted to lower the excess medical cost floor below $35, we could not, because that was the only sum in conference for the blind and disabled, and we did not believe in creating a discriminatory benefits gap between them and the elderly. The elderly could have had a $10 trigger that, as the administration indicated, not only would have been inequitable, but also would have been difficult to administer correctly and conducive to error. Accordingly, we settled for a threshold of $35 across the board, but without the Senate index.

Similarly, we might have wanted to include the excess medical expenses of spouses of the elderly, blind, and disabled, but we could only do that for the spouses of the elderly, since neither the House nor Senate version of H.R. 4057 went beyond that. There may be opportunity in the future to adjust these features of the act when we deal with food stamp legislation again.

The House accepted the Senate specific list of allowable medical expenses, which basically tracks the items permitted under the pre-1977 law certification handbook. This includes the fees of all medical practitioners whose fees are recognized as supportable under other Federal programs, such as medicare, medicaid, and CHAMPUS, as deductible under the Internal Revenue Code medical expense deduction, or as reimbursable under Federal employee health benefits insurance programs. The amount to be deducted would be that incurred or billed during the appropriate certification period, subject to verification of third-party reimbursements or insurance payments whether to the recipients or care provider. We anticipate that this statutory list provides some flexibility in the event that new variations of the listed items or items comparable to them should develop.

We spent considerable time in conference discussing the question of retroactive benefits involving these excess medical expenses and were adamant in our understanding that no household would be entitled to utilize the new deduction system until such time as the State had implemented it, even if the State failed to meet the January 1, 1980, deadline. Even then no household could benefit until and after such time as it newly applied to participate or was scheduled to be certified for continued participation or sought to have its benefits recomputed in accordance with normal rules for processing changes. Thus, no State agency would be required to provide any retroactive benefits to households as they came in for scheduled continued certification or as they requested a review of their case. State agencies would not have to, even if households proffered documentation of expenses, recalculate benefits or eligibility for each month after the final implementation deadline of January 1. The first month of entitlement to a medical expense deduction would be the first month of certification, continued certification, or recomputation, and no earlier.

The House agreed in H.R. 4057, as it had in H.R. 4303, to make the excess medical deduction permanent, rather than merely for fiscal years 1980 and 1981 as in the Kelly amendment, and to remove the ceiling on the allowable amount of the excess shelter expense deduction—now at $90 a month— but expanded to include households containing one or more members receiving disability payments under title II of the Social Security Act.

The House also receded to three separate Senate provisions of an antifraud nature that were essentially identical to the provisions first introduced by me in early June in H.R. 4318, food stamp legislation dealing with 1980 and 1981. One is a provision involving repayment for fraud that would amend section 6(b) of the Food Stamp Act of 1977 to allow States to collect fraud claims through a reduction of the food stamp allotment.

Allotment reduction would be imposed when a recipient who had been disqualified for fraud and had not paid a fraud claim reentered the program after the disqualification period. If the individual who committed fraud did not agree to a reduction in the household's allotment or did not agree to pay the fraud claim in money, the amendment would allow the State agency to disqualify the individual until the person agreed to repay or agreed to the allotment reduction. The income and resources of the individual disqualified for failure to repay the fraud claim would be counted in the same way an individual's income and resources are currently counted when the person is disqualified for fraud or for failure to meet the student work registration requirement during the school year.

In order to collect fraud claims, States must currently rely on voluntary repayment by the household or incur the expense of initiating civil court action to obtain repayment. This amendment provides a simple and efficient mechanism for collecting fraud claims and provides a penalty if repayment is not made. As a result, it is anticipated that the percentage of fraud claims collected will substantially increase without increasing the administrative costs of collecting these claims. These tougher collection procedures should also discourage persons from committing fraud.

A second provision concerns State share of recoveries. States are currently required to return to the Federal Government all funds collected from households that have repaid the value of any food stamps which were overissued to them. Section 6 of the bill would amend section 16(a) of the act by allowing each State to retain 50 percent of the funds it recovered or collected from persons that committed fraud as determined in accordance with section 6(b) of the act. This provision will provide an incentive for States to pursue collection of fraud claims, particularly in those cases where recoupment or disqualification is ineffective because the household is ineligible.

The amendment further specifies that the salaries of persons involved in making fraud determinations will not benefit from the amount of such recoupments or collections. This prohibition on the use of revenues collected in this manner will protect the impartiality of officials making fraud adjudications.

The third and final antifraud section would authorize the Secretary and States agencies to require provision of social security numbers as a condition of eligibility for food stamps. This would permit an individual to be barred from receiving food stamps if that individual had been assigned a social security number, but refused to provide it to the State agency. Individuals not previously assigned a social security number could also be prevented from participating unless the individual applied for and subsequently furnished a social security number. The income and resources of the individual disqualified for failure to provide a social security number would be counted in the same way an individual's income and resources are counted when a person is disqualified for fraud or for failure to meet the student work registration requirement during the school year. This amendment would enable States to match social security numbers to prevent duplicate participation.

An individual entitled to emergency service under section 11(e)(9) of the act would be permitted to furnish a social security number after receiving his first allotment. In this way, an individual who could not furnish his social security number, or the numbers of all members of his household, before the timeliness standard elapses for providing expedited service would not have benefits delayed simply because a social security number could not be immediately furnished. In addition, households that had not been previously assigned a social security number and must apply for one would be eligible to participate while waiting for a number to be assigned. This section also enables the Secretary to have access to data on SSI recipients that is identical to that obtainable by the Secretary of Health, Education, and Welfare, subject to certain safeguards, particularly as to the purposes for which such data may be used.

All of the antifraud amendments would have to be implemented by final regulation within 150 days after enactment.

The House also accepted two other provisions of the Senate version of H.R. 4057. One, at a cost estimated between $5 and $10 million a year and affecting over 10,000 persons, would allow the "household" treatment now given to narcotics addicts and alcoholics living in certain institutions to apply to blind and disabled recipients of social security disability payments or SSI benefits who are residents in public or private nonprofit group living arrangements serving 16 or fewer residents and certified by State agencies under section 1616(e) of the Social Security Act. This would enable these blind and disabled persons to utilize food stamp benefits even though they live in treatment centers.

The final amendment the House accepted is one that specifies no individual who goes on strike is entitled to benefits solely because he or she is a striker. Instead, every striker has to qualify for food stamps on the same basis as everyone else and is subject to the same vigorous application of the income guidelines and assets and work registration requirements. This clarifies what basically has been the law, but has not been widely understood to be the case.

I hope that the House will join me in supporting this conference report.

☐ 1110

Mr. SYMMS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I am generally pleased with the overall results of the conference committee action on this. I think the committee and the conference are to be commended for the work that took place.

Though they were forced to raise the dollar value of the food stamp cap by some $620 million, mostly because of the large influx of participants earlier this year brought on by the Department's legally questionable staggered implementation schedule, the conference retained the cap concept.

Clearly, the decision of Assistant Secretary Forman and other food and nutrition service officials to ignore congressional intent and fiscal responsibility by eliminating the purchase requirement in advance of implementing the other income guidelines of the 1977 act is the primary reason the cap needs to be lifted. These actions should not be overlooked as the real culprit in forcing this increased authorization. However, I am happy that the conference chose merely to raise the cap, rather than lift it entirely. This concept is vitally important if the Congress is to measurably impact budgetary restraint in this rapidly expanding program.

I might say to the Members of this House, and to some of us who have been critics of this program, if you have been reading the papers about the economists' predictions for the future of our economy, we probably have not seen anything yet.

The conference substitute also removes the carryover authority contained in existing law, which should make it easier to obtain an actual fiscal year accounting in the program.

Perhaps most significantly, the conference retained the amendment offered by Senator LUGAR in the other body and by myself in the House to allow the Secretary authority to make benefit reductions on other than a pro rata basis, should appropriations be insufficient to fund benefits in any given fiscal year. In such a situation, this would assure that the neediest food stamp recipients would have their benefits reduced the least.

I think all Members prefer to see that those least able to help themselves are the greatest beneficiaries in participation and this provision assures that result.

While I was pleased with the three antifraud amendments added in the Senate and expect some saving of tax dollars from their implementation, I do not want Members to believe that these provisions are the total answer to program mismanagement and abuse.

The real teeth-cutting provisions which would have allowed States more leeway in income verification measures were rejected twice within the conference committee.

I do not feel that we can conscientiously continue to blame the States for poor program administration when we fail to give them the proper tools with which to make a very basic income determination, and when we continue to use a different base for income determination and error rate determination. It stands to reason that the caseworker should have the same access to income data that the error rate examiner does and that simply is not the case today.

I would pledge to my colleagues that I will try to cooperate with the committee and with the chairman of the subcommittee and the chairman of the full committee to pursue this matter in greater detail during the committee hearings on the 1980 authorization bill and it is my hope that the States will ultimately be given the verification tools they need to bring those error rates down.

While I believe the elderly as a group have greatly benefited from the provisions of the 1977 act, it is true that some cases, as predicted, have been adversely affected by the 1977 provisions.

This legislation provides the aged, the blind, and the disabled the opportunity to deduct more medical and shelter expenses than currently allowed in calculating income for the program eligibility purposes.

I do commend the committee on the work that they did on the conference report, the chairman and the chairman of the subcommittee, the gentleman from Virginia (Mr. WAMPLER) and the gentleman from Florida (Mr. KELLY) and others who worked so diligently on this program; but I do think that the conference report is an improvement over the bill as it left the other body and also an improvement of the bill as it left the House, because it was successful in retaining some elements of discipline in the food stamp program.

Having said that, I will still be voting against the food stamp conference report, based on the fact that I think the food stamp program is in a runaway condition. It now costs nearly $7 billion. And, as I said earlier, we have not seen anything yet. This program is going to be expanding at a very, very rapid rate in the future. One out of four Americans will be eligible, if Mrs. Forman has her way, for food stamps. After she gets through with her television advertising program to be sure that all the folks all the way from Zephyr Hills to Sunny Slope know that they are eligible, I think we will find out that this program may be doubled within 5 years from what it is today.

Mr. Speaker, I reserve the balance of my time.

Mr. RICHMOND. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I merely want to take the well at this time to compliment the chairman of the committee, the gentleman from Washington (Mr. FOLEY) and the chairman of the subcommittee, the gentleman from New York (Mr. RICHMOND) and the distinguished ranking members that worked on the bill and on the conference report.

I am particularly pleased and really proud of the action of the House in total when we address the issue of the senior citizens and disabled people who were confronted with a major problem in the legislation previously. It takes, I think, a great body of people to look at a piece of legislation that they had legislated at one point and then found out that through their legislation a real problem had been created for a group of people that we had never intended to hurt and then to have the courage to basically come back and change the regulations involved so that once again the senior citizens and the disabled people in our country would have a fair break under the food stamp program.

I am just very pleased to have played a small part in that. Once again, I congratulate the members of the committee and the House for their actions.

☐ 1120

Mr. SYMMS. Mr. Speaker, I yield 7 minutes to the gentleman from Zephyrhills, Fla. (Mr. KELLY), who worked so hard and diligently on this legislation.

Mr. KELLY. Mr. Speaker, the food stamp cap increase that we are discussing here this morning involves a program that has grown 28,000 percent. It started out as a $30 million program, and it has now developed into a program of over $7 billion.

Right here, by what we are doing today, we are adding another $1 billion to this program to bring it up to over $7 billion. We are adding $620 million, according to the action that we take, and there is $340 million that is added on in addition to that as a carryover from 1978.

Mr. Speaker, while we are doing this, the elderly who are sick have not regained the medical deduction threshold that they lost by the action of this House in 1977. In other words, while we have expanded the program by between 3 and 4 million people and have added on almost $2 billion to the cost of the program, we have diminished the benefits that are given to the elderly who are sick.

Now, part of that has been restored, and I refer to the $35 threshold. This House voted to restore the entire medical deduction for the elderly who are sick to $10. In the conference the House side acceded to the Senate's position.

Mr. Speaker, it might seem as though we are saying, "Well, then, the battle was lost," but I am happy to report to the House that through the action of the chairman of the subcommittee, the gentleman from New York (Mr. Richmond), and I, legislation will be coming down the tube of the House here quickly—that will once more fully restore the benefits of the elderly who are sick. This proposed action will not help the matter we are voting on. It does not restore the benefits to the elderly and it does not save $1 billion for the taxpayers.

On the question of the conference report, the House did come back from the conference with an improved bill, because we have provided for some antifraud provisions in the food stamp program. This is a good thing. We have narrowed the benefits of medical deductions to the people who are really most deserving and most needy. That is a definite improvement.

But the food stamp program is No. 1 on the public's "hit list," because there is three-quarters of a billion dollars worth of fraud and mismanagement in this program.

Mr. Speaker, I urge the Members of this House to vote against this cap, to vote against the increase, and to vote against the food stamp program, because the action that was taken by this House in 1977 is typical of the character of the program. We have added between 3 and 4 million people to the program at a time when this Nation is in a period of almost unparalleled prosperity. Now, if people think that times are hard now, I say, "Just hang on. If we keep going the way we are going, you ain't seen nothing yet."

If we are having welfare on this level during a time of prosperity, one can imagine what this program will look like later. This is a bad program. It is too costly. It encourages people not to work. It is an incentive and an encouragement to the people in this country not to work. We had debate on the floor here the other day in which it was stated there are 9,000 jobs in one congressional district that go wanting because people will not work, and the food stamp program is probably the greatest player in that particular game.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I would like to compliment the gentleman from Florida (Mr. Kelly) for the remarks he has made this morning.

I would point out that historically every time a group of people has gone off on a cause, no matter how noble it is, under the guise of helping some disadvantaged group in their society, it has ended up in dismal failure. I only have to cite the example of corn laws at the time of the Industrial Revolution, when they finally had to abolish the program to get people to go back to work.

What we need to do is to remember that people work when they are rewarded for working and producing. Almost everything this Congress does is in the form of rewarding people for not working and not saving and investing. So long as we continue on this course, I think it bodes ill for the American economy.

Mr. Speaker, I think the gentleman from Florida (Mr. Kelly) is quite right in his analysis of what is happening in this program.

Even though this is an improvement over the bill that passed the House, the discipline has been totally removed from the food stamp program since it originally started out. First there was going to be State cost sharing, then the next thing was that there was going to be cost sharing on the part of the recipients of the stamps, but step by step the Congress, in its wisdom or lack of wisdom, has changed the program and taken out all discipline. So now it is just a matter of time, with the outreach program, till the word gets out to all the people out there who are eligible to participate in the program, and then they will have to get one new printing press down here just to print these food stamps up. It is just another form of fiat currency, of course, which is destroying not only the purchasing power in our economy today but the work ethic in this country.

Mr. KELLY. Mr. Speaker, I want to say that I concur with the remarks of the gentleman from Idaho (Mr. Symms).

What the Members of this Congress, both Houses, are doing in the food stamp program is this: We are simply buying votes to get ourselves elected, and we are doing it in a most costly way, because not only do we have the direct cost of $7 billion but we see the damage that is done to the character of the American people when they are encouraged not to work. Those who do work are discouraged because they see the people who are prospering on welfare and who are not working.

We have millions of Americans who work along just above the poverty level, and for those people to be subjected to a picture of those who are not working and doing as well or better, that is certainly damaging to the work incentive.

So, Mr. Speaker, I urge every Member to vote against this conference report.

Mr. RICHMOND. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. Panetta).

Mr. PANETTA. Mr. Speaker, the legislation that is before the House today is really in the nature of emergency legislation. It is very important that this bill be adopted for those who currently receive the benefits of this program for those who support the program, as well as those who criticize the weaknesses in the food stamp program. If this legislation does not pass, chaos would result because 19 million Americans would face the prospect of having their benefits abruptly terminated or reduced because there are insufficient funds available between now and September 1.

The fact is that this House does face and this Congress does face a dilemma with regard to this program. This program now serves almost 19 million Americans, many of whom are elderly and handicapped and blind. It is just not acceptable for us to turn our backs on that many Americans who do need and receive those benefits in these difficult times.

At the same time it is important to recognize that this is a program that has serious administrative problems and that needs to be looked at carefully by the committee. The fact is that we cannot do that in the present timeframe because there is a need to provide this additional funding now in order that benefits will not suddenly and quickly be reduced, largely for the elderly, between now and September.

So the purpose of this legislation is of an emergency nature. I commend the members of the conference who were able to agree to this temporary increase. I also should point out to those of us concerned about administrative improvements that there are two amendments in here that do improve oversight of this program. These were amendments that I offered in the subcommittee and that have been adopted by the conference committee. One would eliminate the carryover by which the Department could simply take leftover administrative money and add it to the next year for the purposes of the overall cost of the program without reflecting it in terms of the spending cap. That is wrong, and that has been eliminated here.

In addition, we have required the Secretary of Agriculture to report on a monthly basis as to what the status of spending is in the program, and that, too, is contained in the conference report.

Beyond that, we face the direct challenge of looking at this program further for the purpose of providing adequate funding in 1980 and 1981. In that regard, we have the commitment of the chairman of the subcommittee, the chairman of the full committee, and myself as a member of the subcommittee that we will in fact do that in order to make sure the needs of our people are met and, in addition to that, the needs of the taxpayers are also met in terms of this program.

Mr. Speaker, I yield back the balance of my time.

□ 1130

Mr. SYMMS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Virginia (Mr. WAMPLER), the ranking minority member of the committee.

Mr. WAMPLER. Mr. Speaker, I urge the adoption of this conference report on H.R. 4057, the 1979 food stamp authorization legislation.

This report sets a $6.779 billion ceiling on appropriations for the food stamp program for fiscal year 1979. This increase in authorization is necessitated by greater than predicted food inflation and greater than expected program participation, partly occasioned by the staggered program implementation schedule the Department of Agriculture ill advisedly followed.

Despite the necessity for this greater dollar expenditure, I think we can take comfort in the fact that the conferees did not adopt a Senate provision which would have eliminated altogether the so-called "cap" on food stamps for fiscal years 1980 and 1981. The Congress will have to address that later as a separate issue. Moreover, if benefits should exceed appropriations within a given fiscal year, this legislation gives the Secretary authority to reduce benefits on other than a pro rata basis so that the needs of the lowest income eligibles, the elderly and disabled would receive the greatest priority.

Additionally, I think it wise that the decision was made to disallow the carryover of unspent funds from 1 fiscal year to the next. This provision will enable the Congress to get a more accurate reading on the actual availability of funds within any given fiscal year, something which has been foggy in the past because of the uncertainty of the status of carryover funds.

Households containing aged, blind or disabled members will be able to deduct medical expenses of such members in excess of $35 a month and will be able to deduct shelter expenses in excess of the shelter cap which applies to all other households—currently $90 a month.

Despite all the expressed concern about high program error rates and poor administration, the conference failed to give the States the tools they need in the form of stronger income verification measures. I want to assure my colleagues that I will pursue this matter diligently during consideration of the 1980 legislation and hope for a reasonable solution to this glaring deterrent to lower error rates. In the meantime, I urge the support of my colleagues for the somewhat more modest antifraud measures contained in this report.

I support the conference report on H.R. 4057 also because time is running out to avoid reductions in food stamps to the many needy recipients who would be harmed by our failure to act.

Mr. RICHMOND. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this is a momentous occasion for me, particularly, as the subcommittee chairman of this food stamp legislation. We have been working in harmony for 6 months on this bill. I think the entire Congress understands that this conference report, which we so successfully worked out with the Senate, will enable the present food stamp program to continue uninterrupted through the end of this fiscal year.

The gentleman from Virginia, the minority leader on the Committee on Agriculture, supports it. I listened to his remarks very carefully, and I am so happy to hear so many of his remarks which are sensitive to the needs of the people who will benefit through this food stamp program.

During the Senate-House conference committee we did succeed in tightening up the program a bit. One thing we allowed was the submission of social security numbers in reviewing people's applications. We also agreed that those disqualified by fraud must pay back overpayments to the Treasury. We are allowing States to retain 50 percent of the funds they receive as a result of fraud investigations. In other words, we have already taken a number of steps to improve the program's operation. What I want to again pledge to the Members is that, when the Congress reconvenes, we will hold in-depth hearings on the administration of the entire food stamp program, to try to make the program even more sensitive to those Americans who so deeply need the supplementary nutrition afforded by food stamps but, on the other hand, to make sure that the program is run as properly and as error-free as possible.

In the time remaining to me, Mr. Speaker I would like to review in some detail the provisions of this conference report for the benefit of our colleagues.

Two years ago when the House passed the Food Stamp Act of 1977, we made major reforms in the program such as the elimination of purchase requirement which was expected to add up to 3 million new participants. We also replaced itemized deductions with standard deductions, lowered the income eligibility and tightened the assets requirements. In order to maintain fiscal controls on this program which had grown from a demonstration project for eight counties to nationwide coverage with 15 million participants, Congress placed a "cap" on program expenditures.

At that time we were unable to predict the terribly devastating increase in food price inflation that would cripple our economy over the past 2 years. Nor were we able to accurately predict the rate at which households would come onto the program with the implementation of the purchase requirement. These are two of the major factors which have placed the food stamp program in fiscal jeopardy this year, leaving the Secretary with no alternative other than to reduce benefits to all participants unless supplemental funds are authorized by Congress.

H.R. 4057, as agreed upon by the House-Senate conferees, contains a $620 million supplemental budget authorization for fiscal year 1979 for the food stamp program, therefore avoiding any benefit reductions for recipients this fall. The supplemental funds set the "cap" at $6.779 billion for this fiscal year. Because Members have expressed strong concerns during hearings about knowing the status of food stamp expenditures, the Agriculture Department will no longer have authority to carry over unspent food stamp funds into succeeding fiscal years. A provision relating to program expenditures was also included which requires the Secretary to develop a program for benefit reductions if in future years the expenditures begin to exceed funds authorized by Congress. Any benefit reductions would give special consideration to the elderly and disabled. The above provisions were contained in H.R. 4057 as passed by the House.

In the effort to simplify the administration of the food stamp program in the 1977 act, we eliminated the itemized deductions. This change had an unforeseen effect on the elderly, sick, and disabled. In testimony before the subcommittee, the personal accounts of elderly and disabled brought home to us the terrible injustice inadvertently caused by our earlier actions. In response to this intolerable situation, the House passed H.R. 4303 on a vote of 405 to 8 on June 26. H.R. 4057 contains several provisions to increase food stamp benefits to the elderly and disabled which are similar to those in H.R. 4303. These provisions will help remedy the benefit reductions or eliminations from the program that have so adversely affected the poor elderly and disabled across this country.

Household members who are age 60 or over, receiving supplemental security income, or social security disability payments would be allowed a deduction for medical expenses in excess of $35 a month. The definition of allowable medical deductions will be the same as those previously allowed by regulations and guidelines issued under the Food Stamp Act of 1964. The medical expense deduction is made permanent in this bill whereas the House-passed version was effective for only 1979 and 1980.

H.R. 4057, as passed by the House, set the threshold for the medical expense deduction at $10 for the elderly. I am disappointed that a technicality prevented the conferees from lowering this deduction for the elderly, sick and disabled. The $10 threshold would have provided greater assistance to these households that have high medical expenses and no other resources to turn to.

H.R. 4057 removes the ceiling on the shelter expense deduction, which is currently $90, for households containing a member age 60 or over, or who receives supplemental security income benefits or social security disability payments. This provision was contained in H.R. 4303 and was made broader with the inclusion of those eligible participants receiving social security disability payments.

The medical expense deduction and removal of the shelter deduction ceiling are to be implemented no later than January 1, 1980.

Members of the House and their constituents have expressed over and over again the need to eliminate abuse in the food stamp program. Therefore, H.R. 4057 contains three provisions intended to tighten the food stamp program with respect to fraud and abuse. One provision authorizes the Secretary and State agencies to require submission of social security numbers by applicants as a condition of food stamp program eligibility and to have access to data from other Federal programs regarding individual applicants. Clarifying language was added that would limit access to data only when it is necessary for determining or auditing a household's eligibility to receive food stamps or verifying information regarding the household.

Another provision requires that individuals disqualified because of fraud cannot reenter the program unless they repay to the Treasury amounts fraudulently received or have their household's allotment reduced on a prescribed schedule. A third provision allows each State to retain 50 percent of the funds it recovers or collects from individuals who fraudulently receive food stamp benefits. The intent of this provision is to provide a greater incentive to States to intensify efforts to eliminate fraud and abuse under this State administered program. These three antifraud and abuse provisions are to be implemented within 150 days after enactment of this bill.

Another provision of H.R. 4057 makes disabled and blind residents of small State-certified group living arrangements eligible for participation under equivalent conditions currently allowed for drug abusers and alcoholic applicants in residential treatment programs.

The final provision clarifies the eligibility of strikers so that no household that contains a member who participates in a labor-management dispute shall be eligible unless the household meets the income guidelines, asset tests and work registration guidelines of the food stamp program. This provision, however, does not change current law or practice.

Mr. Speaker, I urge my colleagues to join with me in supporting this conference report. This measure assures continuity of benefits to millions of the very poor in this country and restores benefits to the elderly, sick and disabled who have been forced to undergo months of drastically reduced buying power for food which is so vital to health and well-being.

I would like to quote the Field Foundation report on their 10-year followup study on hunger in America.

> The Field Foundation doctors and other observers believe that food stamps are making a crucial difference in improving the quality of lives of many poor Americans.

I personally believe that the food stamp program is the single best social welfare program administered by the Federal Government.

Mr. Speaker, I want to thank both the Democrats and Republicans of this House who supported this food stamp legislation, and I hope that we could pass this $620 million Senate-House conference committee report quickly.

Mr. SYMMS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Iowa (Mr. GRASSLEY), a member of the Committee on Agriculture.

Mr. GRASSLEY. Mr. Speaker, most of the time in the last 2 or 3 months when I have taken the floor to discuss the food stamp program it was in an effort to try to get the chairman of the subcommittee, the gentleman from New York (Mr. RICHMOND), nailed down on just exactly when we were going to hold hearings on the markup of the 1980 reform bill. I do not take the floor at this time for that purpose. I take the floor because this morning there was an economic report out prognosticating that a year from now there is going to be unemployment in this country at the 8.2-percent rate. That is higher than it has been at any time since 1975.

There are now about as many people on the food stamp program as there was at the height of unemployment in 1975. We thought at that particular time that having that many people on the food stamp program was only a temporary measure and that, as a result of an improvement in the economy, that number would go down and it would go down to a level where we could sustain it more like it had been in the early 1970's, maybe 13 million to 15 million. And, of course, we had the Food Stamp Reform Act of 1977 and, as a result of implementation of new regulations, more people have come on as a result of, in a sense, just opening up the rules and making it easier for people to qualify, and by doing away with the purchase requirement. Whatever the reasons, those people are there on the food stamp rolls.

I think it brings emphasis, though, as we are now maybe 2 or 3 months away from the markup of the 1980 reform bill—at least, hopefully, we are only that far away—to what we do during that markup. During this debate we have heard only about antifraud provisions which need to be revised, rewritten and strengthened. Those things need to be done. We need to give additional incentives to the States for correcting error and for finding fraud.

Nobody is pretending that, that 10-percent error in fraud is going to be cleared up, but even if it were cleared up and there is a zero rate of fraud and error, I think, with an impending 8.2-percent unemployment rate a year from now, we as members of the Committee on Agriculture, as Members of the House of Representatives, had better give some consideration to a wholesale reform and a wholesale overhauling of the food stamp program. It is no time just to be talking about antifraud measures and amendments. It is no time to talk about just tinkering. The time has come to look at the whole program again before those costs go higher, when unemployment gets to 8.2-percent on top of the already almost recordbreaking numbers of people on the food stamp program. Eventually the question is going to be: How much cost can the program sustain? But more importantly, in a participatory democracy, how much cost is the public going to allow the Congress of the United States to put into this program?

Admittedly, there is going to be a large section of the American population which is always going to need the help of the food stamp program. Admittedly, there is always going to be a percentage of the American population which is going to need help, and legitimately so. But if we allow this program to grow and grow and grow, it only means that public respectability for that program is going down. And when that happens and the funds have been shrunken by this Congress due to public pressure, then only the neediest are going to be hurt; and from its inception in 1966, those are the ones that the program was designed to help—those people who spent 30 percent of their income on food and still did not have a nutritionally adequate diet. The program was meant to help those people who had no more than 30 percent of their income for food. Those people are going to be hurt. Then where will we be?

☐ 1140

Mr. KELLY. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Florida.

Mr. KELLY. I thank the gentleman for yielding.

As I understand the gentleman, he certainly wants to provide for the elderly and for the disabled and the people who are truly in need.

The SPEAKER pro tempore. The time of the gentleman from Iowa (Mr. GRASSLEY) has expired.

Mr. SYMMS. Mr. Speaker, these two gentlemen are making so much sense, that I yield 2 additional minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. I think, in a very general way, besides those categories of people the gentleman is mentioning, generally people who fall in the income category below the poverty guidelines, whereas, now a large percentage of the people on this program are in the category of people above the poverty guidelines, and people who are voluntarily unemployed like, for instance, workers who are on strike.

Mr. KELLY. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Florida.

Mr. KELLY. Does the gentleman intended to support this additional billion-dollar increase of this program?

Mr. GRASSLEY. I intend to support anything to get us over this hump. By anything, I mean I consider this bill in that category, but only as a very temporary measure; and that is why, as the gentleman is, as the ranking minority member of the subcommittee, the gentleman from Idaho (Mr. SYMMS) is, as even people on this side of the aisle, like the gentleman from California (Mr. PANETTA), and the gentleman from Texas (Mr. DE LA GARZA) just raised his hand up. He wants to help.

I think that next year we are going to have an opportunity to really do something in this program. I am asking during this time that the Members look to that opportunity.

Mr. KELLY. If the gentleman will yield further, I urge the gentleman not to pass up this excellent opportunity to bring some sanity to the program and the Nation and to vote against this additional billion-dollar increase. We cannot continually debase the motives of Congress and then help them in their insanity.

Mr. GRASSLEY. Please let me have my time back. I cannot find fault with the gentleman's general proposition. But, on the other hand, there is in this bill a category of people who the gentleman from Florida (Mr. Kelly) has worked hard to help, the elderly who have high medical costs. I do not think we want to let that opportunity go by and avoid our responsibility to those people who have been hurt. They were hurt very badly by the rewrite in 1977. I do not think it intended that they be hurt. We need to correct that.

Mr. FOLEY. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, I had not intended to speak any further on this conference report, but I think one or two comments should be made. First, to suggest that most people who are participating in this program are somehow in a condition of nonpoverty is simply not correct.

The overwhelming majority of people in the food stamp program earn less than $300 a month, which would not be considered a great affluence under today's income conditions.

The second matter I would like to bring to the attention of the House is that although 20 percent of program recipients are elderly, 80 percent are not elderly.

Now, I have a concern, as does the gentleman from Florida (Mr. Kelly), and others, about the elderly. However, it seems to me that some of our Members have no concern about the poor unless they are elderly or unless they are disabled.

The fact of the matter is that there are nearly 19 million people participating in the food stamps program today because they are poor.

The gentleman from Iowa correctly stated that the vast majority are not receiving food stamps incorrectly or because of fraud, because the vast majority are correctly receiving food stamps and are poor or disabled or elderly. I think we ought to approach this program with somewhat less cynicism than I constantly hear expressed from the other side of the aisle. I am willing to join with everyone on this committee on either side of the aisle to eliminate fraud and abuse. I will pledge myself to be as vigorous in that undertaking as any Member of the House, but to continually suggest that a majority of the people receiving food stamps are guilty of fraud or abuse or that this program is improperly giving them stamps is absolutely incorrect and in itself a fraud, an unwitting fraud of information and rhetoric on the floor of the House.

Now, I am concerned that we look at the program periodically from time to time, but I would be deeply concerned if Members believed that when unemployment and need arises, the response of the House should diminish. I do not think that is the attitude of the American people.

Time after time Americans have said that they want to help the truly needy in this country. Time after time Americans have said they want to eliminate fraud and abuse, but that they want to help needy people who are deserving and who are trying to help themselves and are unable to do so. Every poll, in every part of our country, indicates this fact.

We are facing an economic downturn, and that economic downturn may put millions of people out of work. I do not think that it is an appropriate time to start thinking about taking from the hands of the needy and the unemployed benefits that they are properly entitled to and that the country wants to provide for them.

Time after time this program has been attacked with the assumption that somehow the vast majority of people in the program are not entitled to its benefits. There is no empirical evidence of that at all. In fact, the evidence is contrary. The overwhelming majority of people in the food stamp prgram are poor, disabled, elderly, and in need of assistance and properly receiving it.

I think that record has to be stated again and again.

Another comment I wish to make is that the administration of this program, at the local level, is handled by States and local agencies, not by the Federal Government.

There is not an army of Federal workers within in the various States administering food stamps. There are State and local employees, and if we have error rates in the program, it is for the most part the result of bad State and local administration which we must try and correct.

The implication is that the entire error problem is solely within the Department of Agriculture. Mistakes are made in Iowa offices, Florida offices, Idaho offices, and Washington State offices. These offices are run by the States and local entities.

So, I think that as we move into this economic downturn, we should take a close and careful look at the food stamp program to be sure that it is serving the needs of only those who deserve to receive its benefits. We should insist that fraud and abuse and bad administration be eliminated. However, we must realize that as unemployment rises and economic conditions worsen the program size will increase to reflect economic needs.

This program has shown its flexibility in the fact that when economic prosperity has occurred, food stamp rolls have been reduced.

Mr. KELLY. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Florida.

Mr. KELLY. I thank the gentleman for yielding, but I think my chairman misunderstood. I was not castigating the people downtown. I was suggesting that the turkeys are right here in this Congress. This is where the program starts. I did not say anything about the bureaucrats or on the State level or anywhere else.

Mr. FOLEY. The gentleman will have an opportunity to be on the frontline in improving the program. If he can persuade the majority of his colleagues on either side of the aisle, we will change the program.

The SPEAKER pro tempore. The time of the gentleman from Washington (Mr. Foley) has expired.

Mr. FOLEY. Mr. Speaker, I yield myself an additional 5 minutes.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I want to make it clear there are people who are not disabled and who are not elderly, who are poor.

I think the gentleman knows that, but it does not often come across in the gentleman's comments.

Mr. GRASSLEY. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Three things: I want the distinguished chairman of the committee to know that I know that there is no more than a 10-percent error rate, and if there was any insinuation that it was the overwhelming majority of the people in the remarks I said, then I am sorry.

Mr. FOLEY. I want to explain that I was complimenting the gentleman from Iowa on stating the error rate correctly and also on distinguishing between error rates, which are underissued benefits as well as overissued benefits, and fraud.

☐ 1150

I was complimenting the gentleman on his correct assessment and suggesting that other Members of Congress sometimes imply that the error rates are 50 or 60 percent.

Mr. GRASSLEY. I would also like to tell the gentleman at least the figures I had prior to the recent increases of 2 to 3 million people on the food stamp program, the percentage of people prior to that time who were above the poverty guidelines, and I am not saying they are not entitled to it because under the law they are, but about 20 to 25 percent of the people on the food stamp program at that time, let us say January 1 of this year, were above the poverty guidelines.

Mr. FOLEY. I would say to the gentleman that a great many of those are elderly citizens, as the gentleman knows. In fact, a significant portion of those above the poverty guidelines are elderly. The House has wisely, I think, made special provision that even though they are technically above the poverty guideline, as well as many very much below that, that the elderly deserve our special consideration as well as the disabled.

Mr. GRASSLEY. If the gentleman will yield further for one last comment on what the gentleman said about the State administration, I do not know why any State wants to administer this program. There is no incentive for them to do a good job. They get nothing out of it, they are an agent for the Federal Government. We ought to just thank God, we ought to just thank God that the States are willing to do it for the Federal Government because they are closer to the matter and they are going to do a better job of it.

Mr. FOLEY. I think the gentleman knows in this very conference report there is a provision that allows the States to retain 50 percent of all funds recovered as a result of fraud.

Mr. GRASSLEY. I know that.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Florida.

Mr. FASCELL. I just want to correct the record. I am a Member of Congress and I do not consider myself to be a turkey. I support this bill and I do not know what the fuss is all about. I may be an old goat, but I am not a turkey.

Mr. KELLY. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I am sure that the gentleman from Florida, Judge KELLY, was not referring to his colleague. I do not think he wants to specify who he considers so. But let us let that pass and I will yield to the gentleman from Florida.

Mr. KELLY. I thank the gentleman for yielding. The gentleman is the chairman of the full Agriculture Committee and this program has been in existence since prior to 1964. There is a 2 to 1 majority on the other side of the aisle, and I would just like to bring this back into perspective, that the error rate we are talking about is three-quarters of a billion dollars. And I guess this is empirical, it is from the Congressional Budget Office, this is what they say. I would think if the people on the other side of the aisle were so concerned about the poor that they would understand that if we cut out the fraud, then the people that deserve it, like the old, and the sick, will get the money.

Mr. FOLEY. I would say to the gentleman, who is very capable, he seems to have difficulty in distinguishing between error and fraud. Let me, for the benefit of the House, if not the gentleman from Florida, explain again the difference. An error may be the fact that a food stamp office has given a family $50 in food stamps when they are entitled to $60. In other words, the office has underprovided that family. That is a technical error and so reported. It is also an error, of course, if the office gives the family $60 worth of food stamps when it is entitled only to $50. The vast majority of errors are inadvertent. They are not the result of deliberate efforts to defraud the Government either on the part of State officials or recipients. The food stamp program is a complicated program, and from time to time errors are made.

Fraud, of course, involves deliberate actions to incur benefits that the recipient is not entitled to. In the current conference report there is a provision designed to encourage the States to discover and redress fraud by recovering fraudulent payments for which they receive 50 percent. The report also provides repayment by recipients committing fraud.

The SPEAKER pro tempore. The time of the gentleman from Washington has expired.

Mr. FOLEY. Mr. Speaker, I yield myself 1 additional minute.

Any person who is found to have committed fraud will not be allowed to continue to receive benefits until the fraudulent payments have been redressed.

Of course, fraud is also a crime under the Food Stamp Act and is subject to penalties.

Let me add, Mr. Speaker, that, contrary to comments I have heard regarding the Congressional Budget Office error rate figure, the Congressional Budget Office has never issued error and fraud estimates for the food stamp program. CBO, however, did state in a January 1979 memorandum to the congressional budget committees that the payment error rate for the program was 12 percent, but this figure, which was based on official USDA data, represented the period July 1977 to December 1977.

Perhaps the half-billion dollar error figure which is mentioned from time to time refers to the General Accounting Office report issued in July 1977 stating that the Government was losing over half a billion dollars annually because of overissued benefits caused by errors, misrepresentations, suspected fraud by recipients, and errors by local food stamp offices.

I remind my colleagues that the CBO memorandum and the GAO report were issued 2 years prior to implementation of major food stamp reform legislation which tightened program administration and provided tougher penalties for fraud and abuse.

Mr. Speaker, at this point I yield 1 minute to the gentlewoman from Ohio, (Ms. OAKAR.)

Ms. OAKAR. I thank the chairman and I certainly want to associate myself with his remarks and to applaud the subcommittee and the full committee for this conference report.

I really agree with the chairman, I think we never scrutinize the way we militarize the world; when we talk about food stamps for the poor we are all into scrutiny. It is very incredible to me that we cannot even, as the richest country in the world, supply the necessary funds to feed our poor. I am especially gratified for that part of the bill and I want to give a special applause for this part of the bill that provides deductions of medical and dental expenses of more than $35 per month for households containing elderly members. I think that is very, very important.

We know that the elderly never want to think of themselves as being on welfare and so forth, and that is why it is especially important to allow them to deduct these medical expenses, so that they can qualify, because the least we can do in this country is to feed our older Americans as well as all of the poor in this country.

I thank the gentleman for yielding.

Mr. SYMMS. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I too had not intended to say any more about this bill. But I do think in talking about our general philosophical approach that what we are listening to here, and I commend the chairman of the committee and the chairman of the subcommittee and the gentleman from Iowa for trying to improve the program. It is an attempt to cross the t's on this program. I think first we should get to the bottom of a welfare program.

We all agree, in my opinion, that a welfare program should be something that helps those people who cannot work, but does not have anything for those people who will not work. I do not know whether it is possible for the Federal Government to run a welfare program efficiently and still be able to satisfy crossing all the t's and dotting all the i's a Congress or an administration requires. I think it is virtually an impossible situation and I think the question we should ask is why are all these people poor?

We are talking about some 27 million people who will be on the program, within another year 19 million more people. Now why are they poor? I think if we would make an examination of why these people are poor we would find out that the reason they are poor is because we have taxed, and we have taxed, and we have regulated, and we have regulated, and the Government has its hand in people's pockets, it is on their back interfering with production, and it is because this Government of ours has been run, and we have to say this, by those people in the majority party here in Congress who set the policies for the last 40 years. They have a view of the world, and I do not doubt anybody's motives because I know the people are sincere in wanting to help the underprivileged, that we have to learn to live with less. I do not buy that as a view of the world.

What we need to do is put the incentive back in our economy and then those people will be hired in the private sector and given real dignity by being given a real job.

Now, this is a great program, but oftentimes the humanitarian programs of Congress turn out to be pseudo-humanitarian programs. I would ask why are these people poor? They have been legislated out of the job market, in many cases by laws passed here in the House, either the minimum wage law is higher than they can earn so they are not able to work, or some other thing has happened because of the tax situation. The tax level is too high. It has taken money away from the private sector and, therefore, these people end up in a condition of unemployment, which is certainly no good.

Yesterday, for example, this Congress passed a bill for gas rationing. There was a great deal of hullabaloo in the press today, and the President says he cannot take all of the amendments that were added to the gas rationing program. The reason we have a rationing program on fuel is because there has been a Government-induced energy production shortage. It was not the energy-producing companies that were not able to produce. It is that we have taxes, we have price regulations, we have Government regulations. If we want to build a powerplant, there are laws against either mining coal or burning coal.

This is what has caused people to be poor, and this is why if we continue on this course in this country, we cannot print enough food stamps to feed the hungry. Then, finally the day will come, if we continue on this course, of living with less and having the Government divide up the pie. That is all we are doing, having the Government divide up the economic pie and redistribute the income. In any income redistribution program of any country in history, what happens is the standard of living gets worse, and worse, and worse, and worse, and that is what the gentleman from Florida is talking about.

☐ 1200

That is what I am talking about. If we want to do something humane for the people of this country, what we need to do is get the Government off the backs of the people and out of their pocketbooks and allow people to go out and work and participate in the economy of this country, and look forward to being productive members of society.

We have used only 2 percent of our energy supplies yet we are inducing a depression because we are telling everybody we are out of energy when there is no shortage, only a Government-induced shortage of energy. That is going to keep a million people on the food stamp program.

The SPEAKER pro tempore. The time of the gentleman from Idaho has expired.

Mr. SYMMS. Mr. Speaker, I yield myself 2 additional minutes.

We sit in here and argue about how the program ought to be allocated. There is no way we can run a Government food stamp program satisfactorily. I would say that Ms. Foreman, Mr. Bergland and their predecessors all had the same kind of problem trying to run a program based on a faulty premise.

Mr. KELLY. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Speaker, the chairman of the full committee pointed out to us that there is a difference between error and fraud, and drew that distinction for us. The Congressional Budget Office said that error and fraud, plain mismanagement, amounts to three-quarters of a billion dollars. As far as I am concerned, that is really the good news. The bad news is that millions of Americans out there are not working, are being paid not to work. That, I think, is the tragedy of this program, the damage done to the character of the American people.

I think, on the logic the gentleman made this morning, we can draw a straight line from the failure of Chrysler to this food stamp program, because we are taking away from the people who work and dividing it. And who are we giving it to under this program? The people that will not work. That is the probable outcome.

Can the Members imagine this country having an automobile industry that is in a state of failure? I mean, this is incredible. And why? Because we in this House, in order to curry favor with those who do not work, are trying to get elected by giving away the produce of the people who will work.

Mr. SYMMS. I thank the gentleman.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. The Chair would like to advise those in the gallery that the House is delighted you are with us, but there will be no manifestations of approval, one way or the other; no applause, please.

Mr. SYMMS. Mr. Speaker, in closing—and I thank the gentleman from Florida for his remarks—I would say that in no way would I wish to say anything that would impugn any of the motives of any of my colleagues here in this Chamber or in this body. But I would only say, Mr. Speaker, that one of the reasons why we have poverty in the United States is because, certainly well-intentioned people have passed too many laws and taxed people to the breaking point.

The SPEAKER pro tempore. All time of the gentleman from Idaho has expired.

Mr. FOLEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I know that we have had the benefit of the economic views of the gentleman from Idaho and the gentleman from Florida on how we can correct the food stamp program by redirecting our national energy policy and our national economic policy, but we are dealing here with a particular conference report; one that, if the gentleman from Florida did not sign, the gentleman from Idaho did. I assume that he urges his colleagues to support it.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Idaho.

Mr. SYMMS. That evidently is a mistake that was made.

Mr. FOLEY. I apologize to the gentleman. The gentleman did not sign the conference report?

Mr. SYMMS. My name appears on the conference report. If the gentleman from Idaho signed the conference report, he did it in error, and I have only made one mistake——

Mr. FOLEY. I assumed because the gentleman's name was there that he intended to sign it. The gentleman does not recall whether he signed it or not?

Mr. SYMMS. Mr. Speaker, when the conference committee met I had to leave and catch an airplane. I do not believe I signed it, and I was quite surprised this morning to see my name on it.

Mr. FOLEY. Maybe the gentleman could advise the House whether he would have signed it.

Mr. SYMMS. I would not, and I will vote against it.

Mr. FOLEY. I stand corrected. The gentleman from Idaho is opposed to the conference report. If he does not ask for a record vote on this matter I will do so in order that all my colleagues on both sides of the aisle can record themselves on whether they wish to have the program interrupted in September or whether they wish to provide the program adjustment and funding that the bill provides. The House, I think, should have an opportunity to make clear its individual judgment on the matter before us. It is my hope and my expectation that the bill will receive an overwhelming vote.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 336, nays 72, not voting 26, as follows:

[Roll No. 429]

YEAS—336

Abdnor
Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston

Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McKay
McKinney
Madigan
Maguire
Markey
Marks
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Roybal
Royer
Runnels
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—72

Archer
Ashbrook
Badham
Bafalis
Bauman
Burgener
Cheney
Coleman
Collins, Tex.
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Devine
Dickinson
Edwards, Okla.
English
Erlenborn
Evans, Ind.
Gingrich
Goldwater
Gramm
Grisham
Guyer
Hall, Tex.
Hansen
Holt
Ichord
Jeffries
Kelly
Kramer
Lagomarsino
Latta
Lewis
Loeffler
Lott
Lungren
McDonald
Marriott
Michel
Miller, Ohio
Montgomery
Moorhead, Calif.
Mottl
Myers, Ind.
Nichols
Pashayan
Paul
Petri
Quayle
Ritter
Roberts
Robinson
Roth
Rousselot
Rudd
Satterfield
Sensenbrenner
Shumway
Shuster
Stenholm
Stockman
Stump
Symms
Taylor
Walker
Whitten
Wilson, Bob
Winn

NOT VOTING—26

Akaka
Bolling
Burton, John
Conyers
Diggs
Downey
Drinan
Flood
Forsythe
Giaimo
Hagedorn
Hammerschmidt
Holland
McHugh
Marlenee
Miller, Calif.
Nolan
O'Brien
Railsback
Rosenthal
Russo
Santini
Treen
Williams, Ohio
Wydler
Wylie

□ 1220

The Clerk announced the following pairs:

Mr. Akaka with Mr. Wydler.

Mr. Miller of California with Mr. Marlenee.

Mr. John L. Burton with Mr. O'Brien.

Mr. Rosenthal with Mr. Railsback.

Mr. Drinan with Mr. Forsythe.

Mr. Giaimo with Mr. Hammerschmidt.

Mr. Russo with Mr. Wylie.

Mr. Downey with Mr. Hagedorn.

Mr. Santini with Mr. Williams of Ohio.

Mr. McHugh with Mr. Holland.

Mr. Conyers with Mr. Diggs.

Mr. Nolan with Mr. Flood.

Mr. BEARD of Tennessee changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

SELF-DETERMINATION FOR THE PEOPLE OF PUERTO RICO

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 165) relating to self-determination for the people of Puerto Rico.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. CLAUSEN. Mr. Speaker, reserving the right to object, and I do not intend to object, I am wondering if we will have an opportunity to discuss the resolution.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, the answer to the gentleman's request is "Yes."

Mr. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 165

Whereas the people of Puerto Rico freely chose the present form of their association with the United States in a popular referendum in 1952; and

Whereas successive United States administrations since that time have continued to be publicly committed to the fundamental principle of self-determination for the people of Puerto Rico; and

Whereas certain other governments lacking in a clear understanding of the United States relationship with Puerto Rico have questioned the status of Puerto Rico and the extent to which its citizens enjoy the right to self-determination: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress takes this opportunity to reaffirm its commitment to respect and support the right of the people of Puerto Rico to determine their own political future and to change their relationship with the United States through a peaceful, open, and democratic process.

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON: On page 2, line 5, strike out "and to change their relationship with the United States."

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California (Mr. PHILLIP BURTON).

The amendment was agreed to.

The SPEAKER pro tempore. The gentleman from California (Mr. PHILLIP BURTON) will be recognized for 30 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, this is a resolution coauthored by the leadership on both sides of the aisle. It passed out of the Committee on Interior and Insular Affairs unanimously. It restates what has been the policy of the administrations, Republican as well as Democratic, to support the right of the Puerto Rican people to determine their own political future.

Mr. Speaker, I yield back the balance of my time.

Mr. CLAUSEN. Mr. Speaker, I rise in support of House Concurrent Resolution 165 and wholeheartedly endorse the right of the Puerto Rican people to choose by democratic means their own political destiny. This has always been my position—first, as a member of the Ad Hoc Advisory Group on Puerto Rico and later, as a member of this committee. As a cosponsor of House Concurrent Resolution 165, I merely reiterate my strong support for Puerto Rican self-determination.

The challenges of change in this technological era require the most responsive, reasoned and responsible political action on the part of all Americans—both here and in the Caribbean. Moreover, the relationships between the mainland and Puerto Rico continue to be some of the most important in this hemisphere. Not only is Puerto Rico a key link with our friends in the Caribbean, but it represents a major economic and cultural bridge with our friends in all of Latin America. Accordingly, it behooves us all to insure that Puerto Rico remains a showcase of American political values and individual economic incentives.

House Concurrent Resolution 165 reaffirms congressional confidence in the ability of all Americans to shape their political future. Specifically, it assures the people of Puerto Rico that we on the mainland support their political evolution toward more responsive government. Lastly, House Concurrent Resolution 165 demonstrates to the world that America continues to be a freedom-loving Nation—that self-determination remains the cornerstone of our Federal system—that political diversity constitutes national strength. Therefore, Mr.

Speaker, without reservation, I urge unanimous passage.

● Mr. LAGOMARSINO. Mr. Speaker, I rise in support of House Concurrent Resolution 165. House Concurrent Resolution 165 reaffirms the congressional commitment to respect Puerto Rico's right of self-determination. It reiterates the right of all Americans to determine at the polls the form of government under which they wish to reside. That is not to say—as some foreign nations inimical to the democratic traditions of the United States often do—that Puerto Rico has been previously denied this right. On the contrary, Puerto Rico's political freedom continues to be the envy of all Latin America.

The purpose of House Concurrent Resolution 165 is merely to assure the people of Puerto Rico that we in Congress recognize the need for evolutionary change within a federal governmental system. Moreover, House Concurrent Resolution 165 places the political ball—where it rightly belongs—squarely in the Puerto Rican court. If alterations in governmental relationships are warranted, it is now up to the Puerto Ricans to formulate their recommendations for congressional review. As a member of this committee in the 94th Congress, I participated in an effort to alter the political relationships between the mainland and Puerto Rico. As we know, that attempt failed because all political factions on the island were not truly represented in the draft proposal.

House Concurrent Resolution 165 reminds us of this deficiency, for it stipulates that a future change in political relationship must be derived "through a peaceful, open, and democratic process." Obviously, Mr. Speaker, House Concurrent Resolution 165 is a mere reiteration of America's traditional approach in political problem solving. It is a testimonial to the steadfastness of federalism not only for the Puerto Ricans but also for all Americans. Accordingly, I recommend its unanimous passage.●

GENERAL LEAVE

Mr. CLAUSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the concurrent resolution under consideration, House Concurrent Resolution 165.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. CLAUSEN)?

There was no objection.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3363, DEPARTMENT OF STATE AUTHORIZATIONS, 1980 AND 1981

Mr. FASCELL. Mr. Speaker, I call up the conference report on the bill (H.R. 3363) to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 31, 1979.)

The gentleman from Florida (Mr. FASCELL) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from New York (Mr. OTTINGER).

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I rise in strong support of the conference report on H.R. 3363.

Mr. Speaker, I am sure the Members will be pleased to learn that your conferees on this particular bill have done a marvelous job and I want to take this time to pay tribute to the chairman of the Subcommittee on International Operations for his work in this conference.

Mr. Speaker, I know that many Members were concerned about the closing of consulates. The conferees came back with a provision that the consulates must remain open. The conferees also succeeded in reaching a compromise on the Zimbabwe-Rhodesia question which will hopefully put this issue to rest.

Finally, Mr. Speaker, this conference report contains urgently needed fiscal year 1979 funds for refugee assistance. Since the appropriation has already been enacted, I urge my colleagues to join in agreeing to this conference report without delay.

In conclusion, I also want to pay tribute to the ranking minority member of the committee, the gentleman from Alabama (Mr. BUCHANAN) and the entire subcommittee and the staff for the work they have done in preparing this legislation for the consideration of the House and for the work done during our conference with the Senate.

Mr. BUCHANAN. Mr. Speaker, I yield such time as he may consume to the distinguished ranking minority member of the full committee, the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Speaker, I rise in support of the conference report to the State Department Authorization Act.

In particular, I would like to compliment the conferees for their efforts in negotiating statesmanlike language which would help to sustain the evolving democratic process in Zimbabwe-Rhodesia.

I believe that the compromise concerning sanctions against Zimbabwe-Rhodesia is positive in the sense that it requires the President to continue U.S. efforts to quickly promote an end to the Rhodesian conflict and to terminate sanctions against Zimbabwe-Rhodesia by November 15, 1979, unless the President determines it would not be in our national interest to do—and so reports to the Congress. If the President reports that it is not in the national interest to lift sanctions, the sanctions can be terminated by the Congress through a concurrent resolution.

Mr. Speaker, through one of the most inclusive and free elections in that region of the world, the people of Zimbabwe-Rhodesa have spoken. They and their new democratically elected government have been long awaiting a supportive answer. With this conference compromise, I believe that the Congress support the people of Zimbabwe-Rhodesia, but the democratic process as well.

I urge my colleagues to adopt the conference report.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I urge full support of this conference report authorizing funds for the Department of State, the International Communications Agency, and the Board for International Broadcasting, to carry out the foreign policy requirements of the United States.

I will state to the Members that the conference report fully supports the House position and comes back even at a lower funding level than when it left the House. We bring you an excellent conference report, Mr. Speaker, and it is urgently needed because it authorizes the fiscal year 1979 supplemental authorization for migration and refugee assistance.

I want to thank the minority members who made it possible to clear this conference report for consideration today, with the possibility that it might be acted on in the other body.

As the Speaker knows, the fiscal year 1979 appropriations bill has already been enacted. Without action on this conference report which authorizes the urgently needed funds for refugee assistance, money cannot be spent.

The voluntary agencies which have been administering these programs have gone out and borrowed money on their own account and have stretched to the limit their budgets in order to deal with the problem of migration and refugee assistance in fiscal year 1979. Therefore, these funds are desperately needed.

I commend my colleagues for agreeing that this conference report might be brought up in this manner so that it could be acted on promptly.

Mr. Speaker, this conference report authorizes funds for fiscal years 1980 and 1981 to carry out the foreign policy of the United States through the Department of State, the International Communication Agency, and the Board for International Broadcasting.

Specifically, for fiscal year 1980, the conference report authorizes $1,619,752,000 for the Department of State, $432,547,000 for the International Communication Agency, and $81,917,000 for the Board for International Broadcasting. For fiscal year 1981, the authorization levels are $1,803,366,000 for the Department of State, $465,944,000 for the International Communication Agency, and $86,787,000 for the Board for International Broadcasting.

The conference substitute places an aggregate ceiling on three State Department accounts—Administration of Foreign Affairs, International Organizations and conferences, and International Commissions—which requires spending cuts of $9.7 million in fiscal year 1980 and $13.2 million in fiscal year 1981. With the exception of these reductions, the conference report authorizations are the same as those of the House bill. The conference report also authorizes an urgently needed fiscal 1979 supplemental of $104,910,000 for migration and refugee assistance.

Due to a congressional initiative to provide assistance to Soviet and Eastern European refugees going to Israel, the authorization for the Department of State is $9.7 million over the executive request. The authorizations for ICA and BIB, however, are lower than the executive request.

The conference substitute also contains a provision that would direct the President to lift sanctions against Zimbabwe-Rhodesia by November 15, 1979, unless he determines and reports to the Congress that it would not be in the national interest. In that case, the Congress could, within 30 calendar days, overrule the President's decision by concurrent resolution. This compromise is consistent with recent actions of both the House and the Senate on this issue.

Due to the great interest expressed by Members of both Houses, the conference substitute also mandates that the Department of State keep 10 consulates open which they had proposed to close. They are located in the following cities: Salzburg, Austria; Bremen, Germany; Nice, France; Turin, Italy; Goteborg, Sweden; Adana, Turkey; Tangier, Morocco; Mandalay, Burma; Brisbane, Australia; and Surabaya, Indonesia.

The conferees also agreed to delete a Senate provision establishing an Assistant and a Deputy Assistant to the President for National Security Affairs to be appointed with the advice and consent of the Senate. We also deleted a Senate provision which would have amended the Immigration and Nationality Act to provide for a limited waiver of nonimmigrant business and tourist visa requirements for persons coming from countries where visa fraud is low.

Mr. Speaker, this conference substitute represents a very lean, even stringent budget for the foreign affairs agencies. I might point out to the Members that, while we have mandated keeping 10 consulates open, we did not provide money for the purpose. I would venture to say that this Department of State budget is the most stringent of any of the executive departments.

I also want to take this opportunity to express my deep concern at the attempts, some successful, which have been made over recent months and years and are still being made, to take from the Department of State its substantive policy responsibilities in certain foreign policy areas. The Foreign Affairs Committee views these actions as extremely ill-advised and seriously detrimental to the effective and efficient development and implementation of U.S. foreign policy. There must be only one Secretary of State and only one Department of State. If the senior department of this Government is considered ill-equipped to deal with certain of its responsibilities, the answer is to give it the personnel and financial resources to remedy the problem, not to cripple it further by denying it any help. The Department of State and the Foreign Service have done a laudable job for the United States over the past 200 years—without much publicity to remind people of the job it is doing, and without a domestic constituency which will come to its aid when necessary. It deserves our support and encouragement.

Mr. Speaker, I urge my colleagues to join me in agreeing to this conference report.

Now I yield to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, I thank the gentleman for yielding.

I simply wanted to take this opportunity to associate myself with the remarks of the distinguished gentleman from Michigan (Mr. BROOMFIELD) concerning the way in which the conference committee has managed to resolve the differences between the House and the Senate over the question of our policy toward Zimbabwe-Rhodesia.

This was clearly one of the most divisive issues confronting the Congress and the country this year and in spite of deeply held views on both sides of this question, I think we have managed to come up with a creative compromise which has managed to satisfy not only distinguished spokesmen for the point of view that we should lift sanctions immediately, like Senators Helms and Hayakawa in the other body, but also those of us in this body, like myself and the distinguished gentleman from Pennsylvania (Mr. GRAY) and others who believe it would be a mistake for us to lift sanctions immediately.

I truly believe that this is a classic example of how the Congress at its best can manage over a period of time to forge the kind of consensus which is genuinely in the best interests of the Nation.

I am hopeful that on the basis of this agreement we will be able to move forward with respect to Zimbabwe-Rhodesia in such a way as to facilitate the rapid establishment of genuine majority rule in that country and the end to a civil war which has really wreaked devastation first and foremost on the people of that troubled land.

So I want to congratulate the distinguished gentleman from Michigan, and also the chairman of the subcommittee, the gentleman from Florida (Mr. FASCELL), who cooperated with us every step of the way; and last, but not least, the chairman of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI), whose strong support for our efforts really helped to make this creative compromise possible.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, I thank the gentleman for yielding. I simply wanted briefly to say that I think the extraordinary leadership that has been shown by the chairman of the Africa subcommittee, the gentleman from New York (Mr. SOLARZ), and the ranking minority member of that subcommittee and the full committee deserves the gratitude of all Americans.

This is one of the toughest issues, one of the most important issues that we have in relation to Africa and the Third World. It affects U.S. policy, not only there, but throughout the world. I think that the leadership we have had here is, indeed, a classic case of how the interests of our country can be protected at the same time that we continue to take a strong stand for the things that we believe in, in this world.

I, frankly, am amazed and quite surprised that the House and the Senate were able to come finally to this solution on the problem. I am just very grateful and pleased that it happened. I want to thank everybody involved.

Mr. FASCELL. Mr. Speaker, I thank the gentleman from New Jersey for his comments. I thoroughly agree with him about the ability and capability of the gentleman from New York (Mr. SOLARZ), the chairman of the Subcommittee on Africa.

Mr. BUCHANAN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I just wish to point out the obvious, that membership of the International Relations Committee or Foreign Affairs Committee, whatever we call it these days, is composed of distinguished people.

In addition to that, they are all unusually knowledgeable in their field, so it should come as no surprise to anyone that they were able to bring back an absolutely marvelous conference report.

I just remind you that while the Members exchange adulations and inflate each other's egos, behind important-looking, impressive Members there is always a great staffman; that is, Dr. Jack Brady, of our committee. He deserves credit also.

Mr. BUCHANAN. Mr. Speaker, I yield myself 30 seconds, to say that I certainly agree with the gentleman from Illinois about the wonderfulness of both the committee and the staff. I will expand that to the subcommittee staff while we are at it.

Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the gentleman from New York (Mr. SOLARZ) and I yesterday discussed the provision in this bill regarding Zimbabwe-Rhodesia. We placed this issue in perspective from the two ends of the pole from which we see it.

I think my comment to him was, "Yes, I think you probably got what you want. We didn't lift sanctions and it was probably the best that our side could get under the circumstances, the House having repeatedly rejected the lifting of sanctions."

So at least this provision does offer an occasion in the near future when the Congress can once again address the issue in a different light and, hopefully, the majority of this House will be able to change its view and support the lifting of sanctions.

I am not sure how much comfort this will be to the Government of Zimbabwe-Rhodesia or the millions of blacks and whites who live in that country suffering from economic sanctions and constant attacks from Communist terrorists, but nevertheless it does offer some hope. I only hope that that nation of Zimbabwe survives long enough to benefit from the provision in this act.

Mr. Speaker, I did want to call attention to the House that the other body had adopted a provision in its bill when it passed that would have prevented the lobbying by the Department of State in favor of the SALT II Treaty. I have had access to a letter which was received by the senior Senator from Arizona, Mr. GOLDWATER, on March 16 from the General Accounting Office which indicated that in fiscal year 1978 the State Department expended well in excess of $600,000 in promoting the SALT II agreements, including conferences held in 11 cities, as well as media events, any number of documents printed in the quantity of at least 400,000.

☐ 1240

Perhaps all the Members have received in their office, though they will not vote on SALT II, an elaborate bound booklet which is kept up to date periodically by the State Department in an effort to convince this House, as well as the other body, that SALT II is good for us.

I call the attention of the House to this because I am not sure why the conference on this bill felt it advisable to delete this prohibition. There is also a statutory prohibition against executive agencies lobbying the Congress, and I point out that the opponents of SALT II have no access to Government funds to present their case.

At some point it seems to me the committees of jurisdiction ought to try at least to promote the observance of the law and stop the blatant lobbying going on on the part of the State Department, not in an effort just to provide information but to tilt the votes of the other body on one of the most serious treaties it will ever address.

Mr. Speaker, perhaps that is a minor matter to some. It only has to do with the future welfare and existence of this Nation, and I am not sure it is something a majority in this House is terribly concerned about, except some of us who do have some interest in America's existence.

Mr. Speaker, I thank the gentleman for yielding me this time, and I yield back the balance of my time.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to associate myself with the remarks of my chairman, the gentleman from Florida. The conference report before us today is very similar to the bill which passed the House. Indeed, during the conference on this bill, the chairman of the Foreign Relations Committee repeatedly complained that his side was receding too often.

The amounts in this report are below the levels adopted by the House by $9.7 million for fiscal 1980 and $13.2 for 1981. At the same time there are supplemental fiscal year 1979 funds here needed to save the lives of Indochinese refugees clinging to rickety craft in midocean or crowded together in refugee camps in Thailand, Malaysia, or Hong Kong.

When our committee brought to this Chamber the original authorization bill in April, it was a very lean bill. On the floor, provisions were added to require additional spending for such items as language training and to keep open posts abroad which the administration had sought to close, although no funds were added to cover these costs. These mandates, plus some included by the other body require the expenditure of millions of dollars for programs the Congress wanted, yet there are no additional funds provided for them.

Thus we have an already lean budget from which funds must be shifted to meet these additional requirements.

The conference report before us at this time contains little in the way of programs, outside of those for refugees. It is a budget to operate the smallest department of the Government plus two related agencies, the International Communication Agency and the Board for International Broadcasting. It will pay the salaries of Americans and others who are serving Americans at home and abroad.

It will keep alive our broadcasts to the Soviet Union and Eastern Europe so that the peoples behind the Iron Curtain will have access to what is truly happening in the world instead of the censored, restricted news which is broadcast by the Government of the Soviet Union, Czechoslovakia, or elsewhere.

Mr. Speaker, this is a good conference report and while I have some reservations that the money cut out will reduce the level of services to Americans, I do support the report and I urge my colleagues to do so.

Mr. FASCELL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON H.R. 3324, INTERNATIONAL DEVELOPMENT COOPERATION ACT OF 1979

Mr. ZABLOCKI. Mr. Speaker, I call up the conference report on the bill (H.R. 3324) to authorize appropriations for fiscal year 1980 for international development and economic assistance programs and for the Peace Corps, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 27, 1979.)

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. BLOOMFIELD) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 3324, the International Development Cooperation Act of 1979, represents the best efforts of House and Senate conferees to reach agreement on a meritorious bill. I believe we succeeded, and I urge its strong support by the House. The Senate already has passed the conference report, by voice vote.

The principal purpose of H.R. 3324 is to authorize appropriations for fiscal year 1980 for U.S. economic assistance to poor countries, for U.S. voluntary contributions to international organizations, for the new Institute for Scientific and Technological Cooperation (ISTC), and for the Peace Corps.

The total in the conference report is $1,978,854,000. This amount is $38 million less than the total previously approved by the House for these purposes when we passed the bill in April. It is $230 million below the amount requested by the executive branch. The Senate bill authorized $1,848 billion.

You will be pleased to note that on a number of worthwhile programs of particular interest to Members, the authorizations include virtually the full amount previously approved by the House.

For example, the American schools and hospitals program, which supports worthy institutions in certain Middle East countries and elsewhere, will get the full $25 million for fiscal 1980, the same as last year. For African refugees, we got $14.9 million, almost the full amount of $15 million previously passed by the House. We also agreed on improvements in Public Law 480, the food for peace program, but these did not involve funding. The principal money cuts were in bilateral development assistance accounts.

In addition to the money savings achieved by the conferees there were several important substantive issues in our meetings with the Senate. They were:

Institute for Scientific and Technological Cooperation (ISTC). The House bill provided for the creation of this new Institute, which is designed to take over the global scientific and technological research functions of AID and to develop collaborative programs and cooperative research arrangements with developing countries. The Senate bill had no comparable provision. The conferees agreed to the House provision.

PEACE CORPS

The House bill removed Peace Corps from ACTION and placed it within the new International Development Cooperation Agency. The Senate bill kept Peace Corps in ACTION. The conferees agreed to leave the Peace Corps in ACTION, but Members will note that in the statement of managers we included strong support for maximum autonomy for the Peace Corps and for coordination of Peace Corps development activities with those of other U.S. development activities abroad.

ECONOMIC SUPPORT FUND

The House bill included $1.9 billion for the economic support fund, which is the fund from which we finance economic aid programs in areas of vital national interest to the United States, such as the Middle East. The Senate had passed a similar authorization for fiscal 1980 but put it in another bill, the security assistance authorization bill. We agreed that ESF would be handled this year in the security assistance legislation, not in this bill, and that next year the House and Senate will include both security and economic assistance, including ESF, in one bill.

In sum, I think the conferees made sensible compromises which result in a prudent and a good bill.

It has already been well noted that the programs under this bill are in the national interest of the United States. They help to promote a peaceful world and they help to promote business and jobs for Americans because most of the money is spent for goods and services procured right here in the United States.

I urge overwhelming passage of the conference report.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 3324, the International Development Corporation Act of 1979, is, on balance, a reasonably acceptable compromise between the House and Senate positions. The conference version authorizes a total of approximately $1.98 billion for fiscal year 1980. The total authorization is about $38.7 million less than the House total, after the 5 percent cut attached to the House bill.

The funds authorized will support U.S. bilateral economic development assistance programs in the area of agriculture and rural development, population planning, health, education, and energy. The purpose of these functional development programs is to help the poor majority in the less developed countries to provide for their own basic human needs and improve the quality of life for themselves and their families.

The bill also authorizes continued funding for international disaster relief, American supported schools and hospitals abroad, U.S. participation in the multidonor regional development program in the Sahel, the Peace Corps, and for assistance to African refugees.

The conference report contains the provisions of the House bill authorizing the President to create a new foreign aid related Institute for Scientific and Technological Cooperation. Lastly, this legislation contains some perfecting amendments to the Public Law 480 Food for Peace Act.

After years of effort to meaningfully expand the coverage of State Department human rights reports, a provision to include all members of the United Nations in such reports finally survived a conference committee. This will give the Congress a better perspective on the general status of human rights in the world community as a background against which to more fairly weigh the morally important human rights factor in U.S. foreign aid programs.

Nevertheless, there are some deficiencies with this conference report from the standpoint of the position the House has taken on important issues.

The provision of the House bill prohibiting development assistance under title I of the bill for Panama was substantially modified in conference by the addition of a Presidential waiver which will make possible the continuation of the full aid program for Panama, contrary to the will of the House as expressed in an April 5 vote.

The House position was based on the fact that the Panama Canal implementing legislation had not yet become law and therefore we were really in no position to judge the effects of canal-related income on Panama's need for foreign aid.

A second important consideration was the fact that there are other countries many in Latin America, which are much poorer, which have much lower per capita GNP's than Panama, and whose development assistance needs are more pressing.

I am also concerned that the conference adopted the Senate and administration position that the Peace Corps should remain in ACTION. I will not belabor the arguments which have surrounded this issue during extensive subcommittee hearings, committee consideration and floor debate in the House. I would just remind my colleagues that the House voted by an overwhelming 276 to 116 for an amendment, offered by the distinguished chairman of the Foreign Affairs Committee, to remove the Peace Corps from ACTION and make it an autonomous entity within the new International Development Cooperation Agency (IDCA).

Since this conference agreement is the best compromise we could obtain from our colleagues in the other body, I support the conference report on H.R. 3324.

Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

When this bill passed the House of Representatives, it contained a prohibition which I offered against aid for the Republic of Panama. The other body had no such prohibition, but it did have language in its report indicating that it did not support such aid.

You have come out now with a conference report which says in essence that there will be all the aid they want, because the bill provides the President of the United States with a waiver power, and all he has to do is inform the Congress that that is his desire.

☐ 1250

He has already informed us of that desire because he has recommended the money in this bill, and he has indicated that he will continue to give assistance to the Republic of Panama, notwithstanding the fact that, under the treaty which takes effect on October 1, suddenly Panama will have access to an amount of money never before given them, approaching at least $75 million the first year and increasing beyond that in each year thereafter until 1999, when the canal becomes theirs completely and all of the revenues will be in their hands.

I think that the committee should have paid close attention to the activities of the Republic of Panama, its government and its officials, in what they are doing in Latin America today. If you had done so, you would not have granted President Carter this waiver power. Not only does Panama not need this aid, in light of the financial benefit they are getting—and I need not go through and redig the Panama Canal, the fact that we are giving them that asset that is of great value to us and to the world—but they have consistently, systematically and intentionally allowed and promoted the advance of communism in Latin America. They have done so by cooperating directly with Fidel Castro in Cuba in the overthrow of the Government in Nicaragua, which you can argue either way, because certainly the previous government was no prize package in the field of human rights, nor is the current one, now slaughtering its opponents. But Panama is also cooperating and will cooperate in the overthrow of other governments in Latin America who certainly are not repressive and who certainly support the United States.

It seems to me that at some point this House and the other body have the duty to point out to the American people that not just Cuba is a threat to our own existence and our supply lines, oil from the west coast, strategic shipments in case of war, but now a Communist controlled Nicaragua may grow into that kind of a threat, and all of Central America, including the potential of Mexico's oil rich areas, at some point in the future could fall under communism.

I know that it is fashionable for my liberal friends to say that this is an alarmist view. But our current Government is doing nothing about the spread of communism. We are not even talking about the fact that Russian troops are now in Cuba training, that massive new shipments of Russian planes have just in the last few weeks been sent to Cuba, troop transport planes which can be used for landings in other parts of Latin America; our Government is in fact discussing the possibility of military and economic aid to a Communist government in Nicaragua. In the light of all that, this committee comes back and says the President, who has authorized all of these policies and who tells us there is no significant involvement by Cuba in other Latin nations in his press conference the other day and that Panama is not involved in these matters, that we will allow that President to waive restrictions against aid to Panama. This to me is a fundamental mistake.

Mr. Speaker, I think it is unfortunate that the Committee on Foreign Affairs habitually brings back bills in the form of a complete substitute and then offers a motion to recede and concur with an amendment that is that substitute, thereby precluding the right of Members of the House to deal with individual amendments in disagreement, as almost every other committee of the House allows. This is by, I assume, design, to prevent the House from working its will. The only way that a Member can attack individual provisions of the conference reports in the way that the gentleman's committee presents them to the House is to in fact vote down the previous question, a rather useless parliamentary endeavor in the best of times.

Mr. Speaker, I would hope that, in the protection of the interests of the United States and the rights of the Members, that in the future the committee might allow to drift through their minds, the serious issues I have raised here. There will come a time in the very near future when the United States is going to be involved in very serious complications in Latin America, and this committee and the majority of this House seems blind to this possibility.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I had not intended to speak, but the eloquence of the previous speaker moves me to say that I believe that every Member in this House cares about our country, that any threat to our country is a matter of tremendous concern to each one of us, and that there are different ways, maybe equally intelligent, of looking at what our interests are.

It would seem to me it would have been much better, a year and a half ago, if that poor boy, 16 years old, whose father had just been killed, murdered by Somoza's men, had been allowed asylum in our embassy. Maybe then we would not have had so many moderate businessmen killed, so many moderate industrialists and sensible people ousted from the country. That is where our interests may lie—in being honestly concerned when terrible injustices are being done. Not with arms, not with money, but with some indication that we understand that something is wrong.

I think we have to reexamine where our interests are. They are not always in shutting our doors when a child, whose father has been murdered, comes to us for asylum. This is not going to be the way. We are going to have to pay some attention to responsible businessmen who are telling us, "Look out." When editors of great newspapers are killed something is going wrong, and it is not wise to continue to close our doors and shut our ears to what is being done to people in this world. We are going to have to reexamine our ways and not stay on every bandwagon until it brings us to disaster, down with the governments that fall.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Speaker, I would like to ask the distinguished chairman of the Committee on Foreign Affairs about the report language as it relates to the Peace Corps.

The chairman and I have been mutually committed to a provision in this bill that would attempt to make the Peace Corps independent of the ACTION agency, and we originally had a bill that would have that effect; but in working with our colleagues on the conference committee, we found that the Senate would not go as far as we wanted to make the Peace Corps independent, so we worked on some report language that we would at least help manifest the President's Executive order as it relates to Peace Corps autonomy.

Mr. Speaker, it is my understanding, based on our discussion in the conference committee, that the Peace Corps Director and/or his deputy would be the principal representatives of that agency at international forums and meetings.

Mr. ZABLOCKI. If the gentleman will yield, that is our intent and, as the gentleman from Washington knows, the conferees have insisted that the Peace Corps be as independent as possible.

In our report, on page 41, it clearly states that the conference committee emphasizes that, to the maximum extent possible, the Peace Corps must operate independently of short-term foreign policy considerations. The intent is exactly as the gentleman stated, that the committee of conference also agreed that the Director of the Peace Corps should determine what Peace Corps personnel will represent the Peace Corps in meetings and conferences which may affect Peace Corps operations.

That language is intended to fulfill the desires and the understanding of the gentleman from Washington.

Mr. BONKER. Let me go one step further, Mr. Speaker. At the time the conference committee was discussing the Peace Corps autonomy, the Deputy Director of ACTION was attending worldwide conferences in Geneva and Rome as a representative of Peace Corps.

Is it the gentleman's understanding that, with the intent of the conference report, ACTION officials will no longer be able to represent the Peace Corps at international forums?

Mr. ZABLOCKI. In response to the gentleman's question, it would be my hope that the Director of the Peace Corps would make a determination who is going to represent the Peace Corps at international conferences. I would find it difficult to envision a Peace Corps director choosing someone who is not from the Peace Corps, to be representing the Peace Corps at international conferences.

Mr. BONKER. Then there could conceivably be a situation where the Peace Corps director may be under some influence from the ACTION director to appoint the ACTION Director or Deputy ACTION Director at an international forum. It is my understanding that we were to make it fairly explicit in the report language that only the Peace Corps Director and/or his assistants would represent that agency at international forums.

Mr. ZABLOCKI. If the gentleman will yield further, the reason that the language in the report is worded as it is, is that there could be a conceivable situation where the Peace Corps Director would choose a representative of ACTION to represent the Peace Corps. But as I say, it would be difficult to envision any reason for his doing so. It is our intent that the Peace Corps be independent and that the Peace Corps Director or his designee represent the Peace Corps at international meetings.

Mr. BONKER. May I inquire as to representation before appropriate congressional committees? If we are to take up the Peace Corps authorization bill, would it be the Peace Corps Director or ACTION Director and/or his deputy who would represent the Peace Corps agency before congressional committees?

□ 1300

Mr. ZABLOCKI. If the gentleman would yield, as the gentleman knows, the Executive order clearly states that the Peace Corps Director would be responsible for the preparation of the Peace Corps budget. It is my understanding that that means that as the representative of an autonomous agency he would represent the Peace Corps before Committees of Congress. Therefore, under that Executive order it would be the Peace Corps Director who would be representing the Peace Corps at the committee meetings and subcommittee meetings as it relates to the Peace Corps.

Mr. BONKER. I assume that the same applies to representation of various policies and budgetary discussions within the executive branch.

Mr. ZABLOCKI. That is correct.

Mr. BONKER. One final question: The report begins by saying that the House bill establishes the Peace Corps within the International Development Corporation agency.

The gentleman was the principal author of the bill, but it was my understanding that the House bill would make the Peace Corps independent with the connecting link or coordinating link to IDCA. Is that correct?

Mr. ZABLOCKI. That was the House's intention, the language that has been approved by the House. That was the intent of that language. The proviso was that, yes.

Mr. BONKER. I thank the distinguished chairman.

Mr. ZABLOCKI. I might point out that the conferees have resolved this issue by permitting the Peace Corps to remain under ACTION and that we will again review the situation come next year.

Mr. BONKER. Well, if the Chair will yield just one further moment, the conference report also calls for a report to be submitted to Congress no later than January 1, 1980, on steps to be taken by the Peace Corps to insure its independence within ACTION. So as a member of the House Committee on Foreign Relations, I will be looking forward to that report when it is submitted by January 1, 1980.

Mr. ZABLOCKI. If the gentleman would yield further, I can assure the gentleman that the executive branch is fully cognizant of the gentleman's interest in this respect.

Mr. BONKER. I thank the distinguished chairman.

● Mr. ASHBROOK. Mr. Speaker, last night I heard a lot of discussion about the integrity of the House action on the water resources bill. A number of my colleagues made eloquent statements about why there is a need for upholding those actions on which the House has conducted major substantive reviews and acted in accordance with those findings. We have before us an issue that is well within this criteria.

On April 10 this Chamber passed H.R. 3324. In the House version of the bill there was a provision removing the Peace Corps from ACTION. As the gentleman from Wisconsin (Mr. ZABLOCKI) so clearly stated, there was ample testimony before the House Foreign Affairs Committee to establish the necessity of this provision. The Foreign Affairs Committee had reviewed this matter carefully for a full 2 years. Poor management under ACTION and poor morale within the Corps were cited as compelling reasons to pass this provision. This House agreed with this reasoning by voting to remove the Peace Corps from ACTION by a resounding vote of 276 to 116.

The Committee on Education and Labor has also been conducting extensive hearings on ACTION. As the ranking minority leader of that committee I share the Foreign Affairs Committee's concerns over mismanagement and low morale in the Peace Corps and the broader problems facing ACTION. After the recess this Chamber will have an opportunity to consider substantive revisions to ACTION in the reauthorization bill, H.R. 2859. The House passed provision regarding the Peace Corps is fully in line with this reauthorization.

The conference report we have before us inadequately addresses the problems of the Peace Corps. I am deeply disappointed that the conference sought to totally ignore the House stand on this important matter. The language in the report might be good window dressing, but it hardly concerns itself in any substantive way with the Peace Corps' future.

I call attention once more to the debate last night. It is vitally important that this House does not allow itself to be bullied by the Senate on matters we have done our homework on. Two years of effort by the House Foreign Affairs Committee and this year's effort by the House Education and Labor Committee should not be disposed of in such an offhanded manner. I therefore urge the defeat of the report.●

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 223, nays 181, not voting 30, as follows:

[Roll No. 430]

YEAS—223

Addabbo
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Baldus
Barnes
Bedell
Beilenson
Benjamin
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Brademas
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Carr
Carter
Cavanaugh
Chisholm
Clay
Clinger
Collins, Ill.
Conable
Conte
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Davis, S.C.
Dellums
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frenzel
Frost
Garcia
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Guyer
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Hollenbeck
Holtzman
Howard
Hubbard
Hyde
Ireland
Jeffords
Johnson, Calif.
Johnson, Colo.
Kastenmeier
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Lent
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCloskey
McCormack
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Pritchard
Pursell
Railsback
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rostenkowski
Roybal
Royer
Sabo
Scheuer
Seiberling
Shannon
Sharp
Simon
Skelton
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Stanton
Steed
Stewart
Stokes
Studds
Swift
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weiss
Williams, Mont.
Wilson, Bob
Winn
Wirth
Wolff
Wolpe
Wright
Yates
Yatron
Zablocki
Zeferetti

NAYS—181

Abdnor
Albosta
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bethune
Bevill
Bouquard
Bowen
Breaux
Brinkley
Brooks
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Chappell
Cheney
Cleveland
Coelho
Coleman
Collins, Tex.
Corcoran
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Evans, Ind.
Flippo
Fountain
Fuqua
Gaydos
Gingrich
Ginn
Goldwater
Gramm
Grassley
Grisham
Gudger
Hagedorn
Hall, Tex.
Hance
Hansen
Harsha
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Huckaby
Hughes
Hutto
Ichord
Jacobs
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Livingston
Loeffler
Lott
Lujan
Lungren
McDade
McDonald
McEwen
Marriott
Martin
Mathis
Mattox
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Neal
Nichols
Pashayan
Paul
Petri
Pickle
Quayle
Quillen
Rahall
Regula
Rhodes
Ritter
Roberts
Robinson
Rose
Roth
Rousselot
Rudd
Runnels
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Slack
Smith, Nebr.
Snyder
Solomon
Spence
Staggers
Stangeland
Stenholm
Stockman
Stratton
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Tex.
Wyatt
Young, Alaska
Young, Fla.
Young, Mo.

NOT VOTING—30

Akaka
Bolling
Boner
Burton, John
Clausen
Conyers
Diggs
Downey
Drinan
Flood
Forsythe
Giaimo
Hammerschmidt
Holland
Horton
Levitas
Lewis
Marlenee
Miller, Calif.
Nolan
O'Brien
Rangel
Rosenthal
Russo
Stark
Treen
Williams, Ohio
Wilson, C. H.
Wydler
Wylie

□ 1310

The Clerk announced the following pairs:

Mr. Akaka with Mr. Marlenee.

Mr. Boner of Tennessee with Mr. Lewis.

Mr. Drinan with Mr. Williams of Ohio.

Mr. Miller of California with Mr. Hammerschmidt.

Mr. Levitas with Mr. O'Brien.

Mr. Charles H. Wilson of California with Mr. Wylie.

Mr. Rosenthal with Mr. Forsythe.

Mr. Rangel with Mr. Clausen.

Mr. Giaimo with Mr. Horton.

Mr. John L. Burton with Mr. Wydler.

Mr. Russo with Mr. Holland.

Mr. Nolan with Mr. Stark.

Mr. Downey with Mr. Conyers.

Mr. Flood with Mr. Diggs.

Messrs. LEACH of Louisiana, GAYDOS, and BOWEN changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1320

RE-REFERRAL OF HOUSE CONCURRENT RESOLUTION 167 JOINTLY TO COMMITTEE ON FOREIGN AFFAIRS AND COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that House Concurrent Resolution 167, expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning that Government's systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union, that the Department of State should pursue this matter at the diplomatic level with the Soviet Union and other countries, and that the U.S. delegation to the next Congress of the Universal Postal Union seek the compliance of the Government of the Soviet Union with the acts of the Universal Postal Union; which was referred to the Committee on Foreign Affairs, be re-referred jointly to the Committees on Foreign Affairs and Post Office and Civil Service.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

APPOINTMENT OF TWO ADDITIONAL CONFEREES ON H.R. 3875, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1979

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint two additional conferees on the bill, H.R. 3875, to amend and extend certain laws relating to housing, community and neighborhood development and preservation and related programs, and for other purposes.

The SPEAKER pro tempore (Mr. Foley). Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, are these two filled vacancies?

Mr. ASHLEY. No, this is the addition of two conferees, one for the majority and one for the minority.

Mr. ROUSSELOT. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following additional two Members to the conference on H.R. 3875, on those provisions relating only to title IV of H.R. 3875 and those Senate modifications relating thereto: Mr. Minish of New Jersey and Mr. Campbell of South Carolina.

There was no objection.

REQUEST TO HAVE NAME STRICKEN AS COSPONSOR OF H.R. 4970

Mr. QUAYLE. Mr. Speaker, I ask unanimous consent to have my name stricken as a cosponsor of H.R. 4970.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 4392, STATE, JUSTICE, COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS

Mr. SLACK. Mr. Speaker, I call up the conference report on the bill (H.R. 4392) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 31, 1979.)

The SPEAKER pro tempore. The gentleman from West Virginia (Mr. Slack) will be recognized for 30 minutes, and the gentleman from North Dakota (Mr. Andrews) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. Slack).

Mr. SLACK. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, the bill (H.R. 4392) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes, as agreed to by the conferees, contains a total of $8,345,091,000 in new budget authority for fiscal year 1980. It also contains $256,208,000 for liquidation of contract authority in the operating subsidy program of the Maritime Administration.

The total amount agreed to for fiscal year 1980 is $803,842,000 less than appropriations made for these programs for fiscal year 1979 and is $181,777,000 less than the total amount requested for fiscal year 1980. The total is $91,757,000 more than the Senate bill and is $650,084,000 more than the bill as it passed the House on July 12.

The large increase over the House total is due to consideration of a number of requests which the House did not deal with initially. The largest of these is for law enforcement assistance programs—the total request was $546,347,000 and we agreed to a total of $486,463,000. Since authorizing legislation had not yet been enacted, we agreed to attach a proviso making the availability of such funds contingent upon enactment of authorizing legislation.

Another significant change from the House bill is an increase of $19,139,000 for the Immigration and Naturalization Service, the primary portion of which is an increase of $14.500,000 for augmentation of the Border Patrol.

We also agreed to an increase of $22,000,000 over the House amount for the 1980 decennial census. This brings the total amount provided for the Bureau of Census to $656,990,000.

We also agreed to an increase of $69,000,000 for ship construction subsidies.

Mr. Speaker, the amount agreed to by the conferees for the Small Business Administration is $25,000,000 less than the amount proposed by the House.

I should also add that the conference report reflects deletion of the Collins amendment on busing and the Ashbrook amendment, which would limit expenditures for the Department of State to 95 percent of funds appropriated.

Mr. Speaker, the conferees reported amendment No. 26 in true disagreement, and at the appropriate time I will offer a motion that the House insist on its disagreement to the amendment. This amendment would provide a total of $20,800,000 for Federal participation in a proposed Knoxville energy exposition to be held in 1982.

Mr. Speaker, there is no authorization for this project. In fact, the administration has not even submitted an authorization proposal to the Congress although they did submit a budget request. In addition, the administration has not submitted the plan which is required by Public Law 91-269 for Federal participation in such a project.

The House conferees strongly believe that it is totally inappropriate to fund this new program before it is authorized by law. To provide such funding prior to enactment of the basic authorization would be a violation of the House rules as well as a fundamental violation of orderly legislative process. Therefore, we would ask the House to insist on its disagreement to this amendment.

Mr. Speaker, I insert at this point in the Record a summary table showing, by department or agency, the conference action compared with the amounts provided for fiscal year 1979, the budget estimates for 1980, the House bill, and the Senate bill.

The table follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

[Amounts in dollars]

	New budget authority					Conference compared with—			
	Enacted fiscal year 1979	Estimates, fiscal year 1980	House, fiscal year 1980	Senate, fiscal year 1980	Conference, fiscal year 1980	Fiscal year 1979 enacted	Fiscal year 1980 estimate	House bill	Senate bill
Department of State	1, 353, 315, 000	1, 389, 945, 000	1, 369, 769, 000	1, 375, 387, 000	1, 372, 024, 000	+18, 709, 000	−17, 921, 000	+2, 255, 000	−3, 363, 000
Department of Justice	2, 509, 738, 000	2, 412, 955, 000	1, 852, 548, 000	2, 402, 722, 000	2, 394, 967, 000	−114, 771, 000	−17, 988, 000	+542, 419, 000	−7, 755, 000
Department of Commerce	1, 691, 946, 000	2, 107, 636, 000	1, 904, 987, 000	2, 085, 142, 000	2, 036, 856, 000	+344, 910, 000	−70, 780, 000	+131, 869, 000	−48, 286, 000
The Judiciary	514, 345, 000	619, 769, 000	589, 866, 000	592, 806, 000	591, 306, 000	+76, 961, 000	−28, 463, 000	+1, 440, 000	−1, 500, 000
Related agencies:									
Arms Control and Disarmament Agency	17, 720, 000	18, 876, 000	17, 670, 000	18, 870, 000	18, 270, 000	+550, 000	−606, 000	+600, 000	−600, 000
Board for International Broadcasting	87, 000, 000	86, 917, 000	82, 990, 000	84, 700, 000	84, 470, 000	−2, 530, 000	−2, 447, 000	+1, 480, 000	−230, 000
Commission on Civil Rights	10, 852, 000	11, 372, 000	11, 230, 000	11, 370, 000	11, 230, 000	+378, 000	−142, 000		−140, 000
Commission on Security and Cooperation in Europe	521, 000	432, 000	264, 000	264, 000	264, 000	−257, 000	−168, 000		
Equal Employment Opportunity Commission	107, 000, 000	125, 060, 000	119, 000, 000	125, 000, 000	119, 000, 000	+12, 000, 000	−6, 060, 000		−6, 000, 000
Federal Communications Commission	70, 446, 000	71, 816, 000	71, 816, 000	73, 255, 000	72, 535, 000	+2, 089, 000	+719, 000	+719, 000	−720, 000
Federal Maritime Commission	10, 750, 000	11, 217, 000	11, 175, 000	11, 217, 000	11, 175, 000	+425, 000	−42, 000		−42, 000
Federal Trade Commission	(65, 300, 000)	(69, 021, 000)				(−65, 300, 000)	(−69, 021, 000)		
Federal Claims Settlement Commission		1, 030, 000					−1, 030, 000		
International Communication Agency	417, 247, 000	431, 492, 000	429, 112, 000	425, 692, 000	426, 089, 000	+8, 842, 000	−5, 403, 000	−3, 023, 000	+397, 000
International Trade Commission	13, 250, 000	16, 200, 000	14, 106, 000	16, 200, 000	15, 130, 000	+1, 880, 000	−1, 070, 000	+1, 024, 000	−1, 070, 000
Japan-United States Friendship Commission	1, 500, 000	1, 500, 000	1, 500, 000	1, 500, 000	1, 500, 000				
Legal Services Corporation	270, 000, 000	337, 500, 000	305, 000, 000	291, 800, 000	300, 000, 000	+30, 000, 000	−37, 500, 000	−5, 000, 000	+8, 200, 000
Marine Mammal Commission	702, 000	640, 000	640, 000	940, 000	940, 000	+238, 000	+300, 000	+300, 000	
Office of the Special Representative									
Office of the Special epresentative for Trade Negotiations	2, 707, 000	4, 273, 000	3, 900, 000	4, 273, 000	4, 000, 000	+1, 293, 000	−273, 000	+100, 000	−273, 000
Presidential Commission on World Hunger	1, 300, 000	975, 000	975, 000	975, 000	975, 000	−325, 000			
Renegotiation Board	5, 260, 000	7, 363, 000				−5, 260, 000	−7, 363, 000		
Securities and Exchange Commission	67, 100, 000	69, 039, 000	68, 946, 000	68, 986, 000	68, 986, 000	+1, 886, 000	−53, 000	+40, 000	
Select Commission on Immigration and Refugee Policy	224, 000	2, 226, 000	1, 600, 000	1, 600, 000	1, 600, 000	+1, 376, 000	−626, 000		
Small Business Administration	1, 994, 435, 000	795, 300, 000	836, 300, 000	657, 300, 000	811, 300, 000	−1, 183, 135, 000	+16, 000, 000	−25, 000, 000	+154, 000, 000
U.S. Metric Board	1, 575, 000	3, 335, 000	1, 613, 000	3, 335, 000	2, 474, 000	+899, 000	−861, 000	+861, 000	−861, 000
Grand total	9, 148, 933, 000	8, 526, 868, 000	7, 695, 007, 000	8, 253, 334, 000	8, 345, 091, 000	−803, 842, 000	−181, 777, 000	+650, 084, 000	+91, 757, 000

☐ 1330

Mrs. BOUQUARD. Mr. Speaker, will the gentleman yield

Mr. SLACK. I yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. I thank the gentleman for yielding. It is my understanding that the gentleman will take up this appropriation legislation when we have authorized it in the Commerce Committee for Expo 1982; am I correct?

Mr. SLACK. As soon as the program is authorized, and as soon as the plan which is required by Public Law 91–269 is submitted, the House Appropriations Subcommittee will consider the appropriations. I might add that we have yet to deal with the Economic Development Administration as well as the Regional Planning Commissions. We could very well make the necessary appropriations when those appropriations are dealt with.

Mrs. BOUQUARD. I thank the gentleman for his explanation. I am sure there is no prejudice toward Expo 1982 at this time?

Mr. SLACK. I am sorry; I did not hear the gentlewoman.

Mrs. BOUQUARD. I am sure there is no prejudice toward Expo 1982. It is my understanding there is no prejudice from the Appropriations Committee for this project.

Mr. SLACK. The gentlewoman is correct.

Mr. DUNCAN of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. I thank the gentleman for yielding.

Mr. Speaker, I would like to associate myself with the remarks of the gentlewoman from Chattanooga (Mrs. BOUQUARD).

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding. I was a little disappointed to see the conference committee on amendment No. 5 yield from the House position. I wonder if my colleague and friend, the chairman, the gentleman from West Virginia (Mr. SLACK) could tell me about that. As he recalls, it was the House position that the funds would only be appropriated at a 95 percent level, which in effect would be at a 5 percent reduction.

Mr. SLACK. I would be glad to respond to that, if I may. The gentleman recalls that when we reported the State Department bill, it was $60.5 million below the request. The gentleman's amendment, which was adopted, cut an additional 5 percent from the State Department appropriations. But my friend, the gentleman from Ohio, well knows that a conference is a give-and-take proposition, that it is a matter of compromise.

I might say that on the overall bill, the House comes out $182 million below the budget.

Mr. ASHBROOK. I thank my friend. I am sure he did what he could to uphold the House position, but I think the taxpayers, looking at the Department of State, would come to the conclusion that it is mostly the taxpayers who give and the Department of State that takes. Maybe in the next Congress we can cut the Department of State a little bit more. I appreciate what the gentleman has done, and I am not going to criticize.

Mr. SLACK. If I may add one more point, I think a review of the positions within the Department of State will indicate that the number has remained stable since 1968.

Mr. ASHBROOK. If the gentleman will yield I think my colleague means the funding, not the Department of State or its policies. They certainly have not remained stable. The gentleman is talking about the funding.

Mr. SLACK. I am talking about funding.

Mr. ANDREWS of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. I thank the gentleman for yielding.

Those of us on this side of the aisle support the position the conferees took. Our good friend, the gentleman from West Virginia (Mr. SLACK), bargained as well as he could with the position we had to bargain with. This is up some $650 million over the figure in the bill as it left the House. As my friend has pointed out, $487 million of that is for LEAA. We did not put any funds in for LEAA when it first came through the House. The other major increase is $69 million for the Maritime Administration, and all of the remainder is to fund last minute budget requests. We are still $182 million under the budget. We are significantly under where we might have been if the House team had not struck some pretty tough bargains. I recommend the adoption of the conference report.

Mr. BURLISON. Mr. Speaker, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from Missouri.

Mr. BURLISON. I thank the gentleman for yielding.

Mr. Speaker, the distinguished chairman of the subcommittee will remember that on the consideration of this bill a few weeks ago there was a great deal of discussion on an amendment to add $1.8 million, I believe, for the FBI terrorism program. It is my understanding that the conferees agreed to $500,000 for the terrorism program.

Mr. SLACK. That is correct, for coordination of terrorism program.

Mr. BURLISON. I want to commend the conferees on this position. I think the testimony from the hearings in both the authorizing and appropriation committees, as well as the debate on the House floor, on that amendment was clear that the $1.8 million additional above the budget request for terrorism was unneeded and unnecessary, and I want to commend the conferees on this provision.

Mr. SLACK. I thank the gentleman.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. SLACK. I yield to the distinguished gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I rise in support of this conference report. Obviously, it is the result of a compromise as are all conference reports. But, basically I think we have ended up with a good bill.

The conference agreement is $182 million under the budget request. However, it is $650 million over the bill that passed the House. As the chairman of the subcommittee has pointed out, this is primarily because we agreed to include $487 million for the Office of Justice Assistance Research and Statistics which is the name for the reorganized version of LEAA. The conferees also approved $69 million for ship construction differential subsidies which were not included in the House bill. Much of the rest of the increase comes from budget requests submitted too late for consideration by the House which were approved by the conferees.

There is one amendment on which the conferees could not agree. Amendment No. 26 provides $20,800,000 for Federal participation in the Knoxville Energy Exposition to be held in 1982. There is no authorization for this item. The administration has not yet submitted an authorization proposal, nor have they submitted the plan required by Public Law 91-269, whenever the President determines that participation in an international exposition is in the national interest. The House conferees felt that until there is authorization for this item and the administration complies with the requirements of law, we should not appropriate the money requested.

This is a carefully thought out conference agreement, and I urge my colleagues to support it.

● Mr. McCLORY. Mr. Speaker, I am pleased indeed to see that the conferees have supported the appropriation of funds for the U.S. Metric Conversion Board. Funds in the amount of $2,474,000 will be put to very good use by this most distinguished group of Americans headed by Dr. Louis Polk. Recognizing that our Nation is moving rapidly toward the utilization of metric standards in virtually all of our business, industrial and commercial activities—particularly as activities relate to international trade—the importance of a Metric Conversion Board will be increasingly appreciated by the citizens of our Nation.

Mr. Speaker, while the statutory authority for the Metric Conversion Board confirms that conversion to the metric system shall be "voluntary" it is entirely appropriate that the various segments and economic and social interests involved in this changeover should coordinate their efforts and cooperate with one another in achieving a conversion to the metric system.

Mr. Speaker, some momentum may have been lost because of the delay in the appointment and confirmation of the members of the Metric Conversion Board, however, the high caliber of the Board's membership and its able Executive Director, Malcolm O'Hagan, provide assurance that the program of metric conversion shall proceed in a responsible and coordinated manner consistent with the needs and best interests of all Americans.

Mr. Speaker, I commend the conferees on their support of substantial funding of the activities of the Metric Conversion Board.●

● Mrs. BOGGS. Mr. Speaker, I rise in support of the conference report for the bill making appropriations for the Departments of State, Justice, Commerce, and related agencies. I would like to thank and commend the gentleman from West Virginia and the other members of the conference for their fine work on this bill.

Mr. Speaker, I am particularly pleased to see two items contained in the conference report: the construction differential subsidy program at the Maritime Administration and the public telecommunications facilities grants program at the National Telecommunication Information Agency. The conferees in their wisdom have recommended the full budget amounts requested for these programs by the President.

The construction differential subsidy program is a very worthwhile program. It helps to provide jobs for people throughout the United States. It helps to maintain a strong American merchant marine. It insures the availability of a strong domestic shipbuilding base which is so necessary for national defense needs. Finally, it contributes to the effort to stem the negative trade balance we are currently experiencing.

The action of the conferees on this item reflects the overwhelming support evidenced last week in this House when we voted against any reduction in this program during consideration of the fiscal year 1980 maritime authorization.

Similarly, the action of the conferees in concurring in the full budget for the public broadcasting facilities program is to be commended. This is an exemplary program that generates local funds and volunteer services for educational and public broadcasting. The funds appropriated in this bill will have a positive impact on the expansion of noncommercial broadcasting: More classrooms will be able to make use of instructional radio and television lessons and material; the hearing handicapped will be able to see the increasing range of captioned television programs; many millions of Americans of all ages will be able to see and hear the fine public programs that are available; and many new educational services via cable, special radio channels, and tape cassettes will be developed.

I believe the conferees in both of these instances have acted in the best interest of the public by restoring the requested funds.

I urge adoption of the conference report.●

● Mr. GARCIA. Mr. Speaker, there is language in the Legal Services' section of H.R. 4392 which states that no funds appropriated to this agency may be used on behalf of any aliens "known to be" in the United States in violation of immigration laws. It is extremely troublesome to me that this language has been included in the bill for a number of reasons, one of the most important of which is because of the impact it could have on United States citizens who are Hispanic, Asian, or West Indian, among others. I want it to be clearly understood that under no circumstances are Legal Services employees to convert into a suspect class persons who are of Hispanic or Asian or West Indian descent because of their national origins. Under no circumstances should a Puerto Rican, a Mexican-American, a Chinese American, or a Haitian ever have to satisfy a staff member of the Legal Services Corporation that he or she is here validly, while a person of Irish descent would never even be questioned.

Furthermore, under the Immigration and Nationality Act, and current regulations promulgated thereunder, a determination that an individual is in this country in violation of law is a complex matter which is left, by law, in the hands of administrative and Federal judges. Current immigration law provides that the legality of a person's presence in the United States must be determined only after a thorough due process deportation or exclusionary proceeding, in which INS, and not Legal Services, investigates the legality of a person's presence in this country. In fact, the Immigration and Naturalization Service is legally precluded from requiring a person to depart from the United States until a final finding of deportability or excludability is entered and statutory review procedures are exhausted or waived.

Both the Justice Department and Immigration judges have recently commented on the positive role played by

Legal Services attorneys in these complex proceedings representing indigent aliens. It is certainly not the intent of Congress to require Legal Services staff members to prejudge the outcome of official deportation or exclusion proceedings. Nor is it the intent of Congress to substitute the subjective judgment of an individual Legal Services staff member as to whether a potential client is legally within the country for the full due process administrative and judicial proceedings that an individual is entitled to receive under our laws and regulations.●

GENERAL LEAVE

Mr. SLACK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 4392.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

(By unanimous consent Mr. SLACK was given permission to revise and extend his remarks and to include tables and charts.)

Mr. SLACK. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 291, nays 106, not voting 37, as follows:

[Roll No. 431]

YEAS—291

Abdnor
Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Aspin
Bailey
Baldus
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Corcoran
Corman
Cotter
Coughlin
D'Amours
Danielson
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erlenborn
Ertel
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Ginn
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Huckaby
Hutto
Hyde
Ireland
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Martin
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moore
Moorhead, Pa.
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Rodino
Roe
Rose
Rostenkowski
Roybal
Royer
Sabo
Scheuer
Sebelius
Seiberling
Shannon
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Steed
Stewart
Stockman
Stokes
Studds
Swift
Synar
Thomas
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Weiss
White
Whitley
Whittaker
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—106

Applegate
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Barnard
Bauman
Bereuter
Brodhead
Broyhill
Carney
Oheney
Collins, Tex.
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Deckard
Devine
Dornan
Edwards, Okla.
English
Erdahl
Evans, Del.
Evans, Ind.
Fountain
Frenzel
Frost
Gephardt
Gingrich
Glickman
Goldwater
Goodling
Grassley
Guyer
Hance
Hansen
Harsha
Hinson
Holt
Hubbard
Hughes
Ichord
Jeffries
Jenkins
Jenrette
Jones, Okla.
Kelly
Kemp
Kramer
Lagomarsino
Latta
Levitas
Lewis
Lott
Lujan
Luken
McDonald
Marriott
Mathis
Mattox
Miller, Ohio
Moffett
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Panetta
Pashayan
Paul
Petri
Quayle
Robinson
Roth
Rousselot
Rudd
Runnels
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Sharp
Shumway
Shuster
Snyder
Stangeland
Stenholm
Stratton
Stump
Symms
Tauke
Taylor
Trible
Walker
Watkins
Weaver
Whitehurst
Williams, Mont.
Wirth
Young, Fla.

NOT VOTING—37

Akaka
Bolling
Boner
Cavanaugh
Conte
Conyers
Davis, S.C.
Diggs
Downey
Drinan
Duncan, Oreg.
Evans, Ga.
Findley
Flippo
Flood
Forsythe
Giaimo
Hammerschmidt
Holland
Marlenee
Miller, Calif.
Montgomery
Murphy, N.Y.
Nolan
O'Brien
Ritter
Rosenthal
Russo
Santini
Stark
Treen
Waxman
Williams, Ohio
Wilson, C. H.
Wydler
Wylie
Young, Alaska

☐ 1350

The Clerk announced the following pairs:

Mr. Akaka with Mr. Ritter.

Mr. Rosenthal with Mr. O'Brien.

Mr. Charles H. Wilson of California with Mr. Marlenee.

Mr. Murphy of New York with Mr. Wylie.

Mr. Giaimo with Mr. Hammerschmidt.

Mr. Montgomery with Mr. Wydler.

Mr. Boner of Tennessee with Mr. Findley.

Mr. Duncan of Oregon with Mr. Williams of Ohio.

Mr. Evans of Georgia with Mr. Young of Alaska.

Mr. Drinan with Mr. Stark.

Mr. Miller of California with Mr. Santini.

Mr. Flippo with Mr. Cavanaugh.

Mr. Conyers with Mr. Davis of South Carolina.

Mr. Downey with Mr. Holland.

Mr. Nolan with Mr. Waxman.

Mr. Flood with Mr. Diggs.

Mr. Russo with Mr. Forsythe.

Messrs. KINDNESS, CAMPBELL, and BRINKLEY changed their vote from "nay" to "yea."

Messrs. LAGOMARSINO, LEWIS, DASCHLE, and KRAMER changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL MIDNIGHT, WEDNESDAY, AUGUST 8, 1979, TO FILE A REPORT

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight, Wednesday, August 8, 1979, to file a report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO HAVE UNTIL AUGUST 17, 1979, TO FILE CONFERENCE REPORT ON H.R. 2774

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs may have until August 17, 1979, to file a conference report on the bill (H.R. 2774) authorizing funds for fiscal years 1980 and 1981 for the Arms Control and Disarmament Agency.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CONFERENCE REPORT ON H.R. 3363, DEPARTMENTS OF STATE, JUSTICE, COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 1: Page 2, line 18, strike out "$712,700,000" and insert "$712,322,000".

MOTION OFFERED BY MR. SLACK

Mr. SLACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Slack moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$709,011,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 7: Page 8, line 23, insert ": *Provided*, That the Attorney General has the authority to make such provisions as are necessary and appropriate for the efficient and effective administration of funds included herein for State and local drug strike forces.".

MOTION OFFERED BY MR. SLACK

Mr. SLACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Slack moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 21: Page 13, line 23, strike out: "unobligated balances of funds previously appropriated under this heading shall be available for constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incendent thereto, by contract or force account" and insert "For planning, acquisition of sites and construction of new facilities and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $5,960,000, to remain available until expended: *Provided*,".

MOTION OFFERED BY MR. SLACK

Mr. SLACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Slack moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 22: Page 15, line 19, insert:

Office of Justice Assistance, Research, and Statistics

MOTION OFFERED BY MR. SLACK

Mr. SLACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Slack moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 23: Page 15, line 21, insert:

LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Law Enforcement Assistance Reform Act of 1979 and title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and other expenses in connection therewith, $442,695,000, to remain available until expended.

MOTION OFFERED BY MR. SLACK

Mr. SLACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Slack moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

Law Enforcement Assistance

For grants, contracts, cooperative agreements, and other assistance authorized by the Law Enforcement Assistance Reform Act of 1979, or similar legislation, and title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and other expenses in connection therewith, $442,695,000, to remain available until expended: *Provided*, That $342,695,000 of said amount shall be available only upon enactment of the Law Enforcement Assistance Reform Act of 1979, or similar legislation.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 24: Page 16, line 3, insert:

RESEARCH AND STATISTICS

For grants, cooperative agreements, contracts, and other assistance authorized by the Law Enforcement Assistance Reform Act of 1979, including salaries and other expenses in connection therewith, $43,768,000, to remain available until expended.

MOTION OFFERED BY MR. SLACK

Mr. SLACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Slack moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

Research and Statistics

For research, development, demonstration, statistical and related efforts directed towards the improvement of civil, criminal and juvenile justice systems authorized by the Law Enforcement Assistance Reform Act of 1979, or similar legislation, including salaries and other expenses, in connection therewith, $43,768,000, to remain available until expended: *Provided*, That these funds shall be available only upon enactment of the Law Enforcement Assistance Reform Act of 1979, or similar legislation.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 26: Page 17, line 9, insert:

PARTICIPATION IN UNITED STATES EXPOSITIONS

For necessary expenses for designing, constructing, and operating a Federal Pavilion in the Knoxville International Energy Exposition, $20,800,000, including not to exceed $12,000 for entertainment of officials of other countries when specifically authorized by the Commissioner General during the period ending November 15, 1982, to remain available until September 30, 1984: *Provided*, That these funds shall be made available only upon enactment into law of authorizing legislation: *Provided further*, That no additional Federal funds shall be made available for this purpose.

MOTION OFFERED BY MR. SLACK

Mr. SLACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Slack moves that the House insists on its disagreement to the amendment of the Senate numbered 26.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 29: Page 18, line 10 insert:

None of the funds made available to the Bureau of the Census under this Act may be expended for further dissemination of 1978 Agricultural Census forms 78–A40A or 78–A40B, or 78–A40C or 78–A40D or for the prosecution of any person for the failure to return such forms, or for the preparation of similar forms for any future agricultural census.

MOTION OFFERED BY MR. SLACK

Mr. SLACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Slack moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

None of the funds made available to the Bureau of the Census under this Act may be expended for prosecution of any person for the failure to return 1978 Agricultural Census forms 78–A40A or 78–A40B, or 78–A40C or 78–A40D, or for the preparation of similar forms for any future agricultural census.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 32: Page 20, line 5 insert:

UNITED STATES TRAVEL SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Travel Service as provided for by law; including employment of aliens by contract for service abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $5,000 for representation expenses abroad; $8,000,000.

MOTION OFFERED BY MR. SLACK

Mr. SLACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SLACK moves that the House recede from its disagreement to the amendment of the Senate numbered 32 and concur therein.

The motion was agreed to.

☐ 1400

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 41: Page 30, line 2, insert "and refreshments".

MOTION OFFERED BY MR. SLACK

Mr. SLACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SLACK moves that the House recede from its disagreement to the amendment of the Senate numbered 41 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 51: Page 34, line 15, insert: "and, in addition, an amount equivalent to funds deposited into the General Fund of the Treasury by the State of Florida as a result of the expense of construction and relocation of the Fort Lauderdale Monitoring Station: *Provided*,".

MOTION OFFERED BY MR. SLACK

Mr. SLACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SLACK moves that the House recede from its disagreement to the amendment of the Senate numbered 51 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 62: Page 41, line 13, insert:

(INCLUDING TRANSFER OF FUNDS)

MOTION OFFERED BY MR. SLACK

Mr. SLACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SLACK moves that the House recede from its disagreement to the amendment of the Senate numbered 62 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 64: Page 41, line 19, insert, ", and in addition $11,650,000 for disaster loanmaking shall be transferred to this appropriation from the "Disaster Loan Fund".".

MOTION OFFERED BY MR. SLACK

Mr. SLACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SLACK moves that the House recede from its disagreement to the amendment of the Senate numbered 64 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert ", and in addition $11,650,000 for disaster loanmaking activities shall be transferred to this appropriation from the "Disaster Loan Fund" and $5,000,000 for disaster loan servicing, as compensation for 275 temporary or permanent full time employees, shall be transferred to this appropriation from such "Disaster Loan Fund" ".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 69: Page 49, line 10, insert:

TITLE VII—SUPPLEMENTAL APPROPRIATIONS, 1979

For additional amounts for the fiscal year 1979 to be immediately available, as follows:

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALLS

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, United States attorneys and marshals", $2,835,000, of which $2,000,000 shall be derived by transfer from "Support of United States prisoners" and $835,000 shall be derived by transfer from "Fees and expenses of witnesses".

MOTION OFFERED BY MR. SLACK

Mr. SLACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SLACK moves that the House recede from its disagreement to the amendment of the Senate numbered 69 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

TRIBUTE TO LEO RENNERT

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, I would like to take a moment to compliment Leo Rennert on his recent honor as the winner of the first annual Washington Correspondent Awards competition of the National Press Club.

Mr. Rennert, chief of the Washington Bureau of the McClatchy newspapers which serves most of northern California, also took top honors in the congressional reporting category of the club's awards program. I note that this awards program was established to recognize "journalism excellence in newspapers reporting to Americans about events in Washington, D.C., which have an effect on their community or region."

In the 12 years that I have worked with him in Washington, I have known Leo Rennert to be always credible and a credit to his profession. Congressman HAROLD T. "BIZZ" JOHNSON, chairman of our delegation, joins me in my compliments to Mr. Rennert, as do all of us on the Hill who have worked with him.

We have recognized his excellent journalism talents for years, and feel that his award is richly merited.

PROVIDING FOR CONSIDERATION OF H.R. 3434, SOCIAL SERVICES AND CHILD WELFARE AMENDMENTS

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 365 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 365

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3434) to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, this is a modified closed rule that permits 2 hours for general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The reason that the rule is modified closed is because no amendment to the bill shall be in order except amendments recommended by the Committee on Ways and Means, and such amendments are not amendable. Finally, the rule permits one motion to recommit.

Mr. Speaker, the purpose of the bill is to raise the ceiling on funds for State social service programs under title XX of the Social Security Act, to make improvements in the child welfare and social services program, and the programs of Federal support for foster care of needy children and to encourage adoption of children with special needs.

The current ceiling on Federal funds for title XX social service programs is $2.9 billion and is scheduled to drop to $2.5 billion on September 30 of this year. H.R. 3434 would raise that ceiling to $3.1 billion in fiscal year 1980 and set aside $200 million for grants to the States for child day care services in fiscal year 1980 and 1981. The committee indicates that the increase is intended to restore cutbacks in essential services as a result of inflation and to offset future cost increases.

Mr. Speaker, very simply the bill offers long awaited and much needed improvements as well as resources in the foster care and adoption system that we presently have. The only controversy that had been expressed about this bill when it was before the Committee on Rules was the change of title IV–B of the program from an authorization process to an entitlement program. Title IV–B provides services to abused, neglected and homeless children and is set up on a Federal matching fund basis with the individual States. I understand that the change is needed so that States can finance improvements in their own welfare systems and increase services to families and children on the basis of their needs for services. Because the bill creates new entitlements which exceed the appropriate allocation of new budget authority the bill was referred to the Committee on Appropriations. The committee reported the bill with the recommendation that the bill do pass.

Mr. Speaker, I urge passage of this resolution, and I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the able gentleman from Florida (Mr. PEPPER) has described the provisions of the resolution, and it is unnecessary at this time to repeat what he has said.

However, there was a bit of controversy in the Committee on Rules concerning an effort to make in order the Michel amendment restoring control of the child welfare services funds to the Committee on Appropriations rather than going the entitlement route. I am sure that is going to be a matter of controversy today.

The Committee on Appropriations in my opinion, should have charge of the appropriation of the funds for Child Welfare Services, and that will be debated fully on the floor of the House.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I rise in opposition to the rule.

When this bill came before the Rules Committee, I urged that the proposed closed rule be modified to allow us the opportunity to vote on whether the child welfare program should become another entitlement program, as provided for in the bill. The Rules Committee, on a party-line vote, denied this rather reasonable request.

The child welfare program is currently subject to annual appropriations. This bill, as reported by the Ways and Means Committee, would turn it into an entitlement program.

The report from the Appropriations Committee accompanying the bill expresses strong concern over this change to an entitlement program. Let me read some key excerpts in this regard:

> The Committee on Appropriations . . . is concerned with provisions attempting to make these programs "entitlements" since the present situation in this area as pointed out in the report can only destroy the ability of the Congress to establish priorities and control government spending.
>
> The Committee has no disagreement with the basic purposes of the bill. Rather, it is disturbed with the new entitlement feature proposed in the legislation which tends to aggravate the growing problem of uncontrollable federal spending generally.

The fact is that entitlement programs presently constitute over 75 percent of uncontrollable outlays, compared with 64 percent just 10 years ago. As a percentage of total budget outlays, they have gone up from 40 percent 10 years ago to 55 percent today. The more entitlement programs we have, the less discretion we have over Federal expenditures, and the more difficult it is to either move toward a balanced budget or adjust Federal spending in other ways in dealing with economic change.

If we are ever going to reverse this trend, we have to do it when the entitlement is initially authorized, because once programs become entitlements, they never seem to go back. In fact, the Library of Congress has no record of any entitlement program being changed and made subject to annual appropriations.

It is not essential to the operation of the child welfare program that it become an entitlement program. The funds go to the States, which then in turn provide services based on the allotments they receive. This can be done just as well through annual appropriations. The States may like to receive a guaranteed amount, but has there ever been a time when States have not sought guaranteed Federal funding, particularly at higher amounts?

The real reason the Ways and Means Committee is turning this into an entitlement program is apparently a dissatisfaction with the funding levels provided through the appropriations process in recent years. This came out during discussion of the issue before the Rules Committee. It is also evident from the Ways and Means Committee report, and I quote:

> The Committee believes that the additional resources provided by this section are necessary to improve the Child Welfare Services . . .

The child welfare program has been funded at a level of $56 million over the past several years. According to the Congressional Budget Office, making this an entitlement program would require that $134 million be appropriated in fiscal year 1980, a 140-percent increase over the amount in the 1980 Labor-HEW appropriations bill, which passed the House in June. By 1984, the funding level would rise to $250 million, a five-fold increase.

The reason no more than $56 million has been appropriated is, frankly, that no case has ever been made for a higher amount. If the gentleman from California (Mr. CORMAN) or other proponents of this change did not feel the funding levels were high enough, why did they not ask for higher amounts? Why did they not offer amendments when the appropriations bills were on the floor? Appropriations bills do not come to the floor under closed rule. We do not consider our work so sacred that Members should not have the opportunity to make changes on the floor if they so choose. Yet, no amendments were offered to increase funding for child welfare.

Instead, we are going to have a higher level of funding imposed upon us through the back door, and if this rule carries, we would not even have a chance to vote on it.

Frankly, this boils down to one of whether the Members of this body have enough intelligence and competence to make a judgment on a relatively simple issue. The majority on both the Ways and Means and Rules Committees apparently feel you lack that intelligence. If you disagree, you should vote the rule down, and force the committee to come back with a rule that permits us the opportunity to have a separate vote on this important budgetary issue of whether yet another program should become uncontrollable.

☐ 1410

Mr. QUILLEN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Tennessee.

Mr. QUILLEN. Mr. Speaker, I think the gentleman from Illinois (Mr. MICHEL) is exactly right. I remember the debate and the argument in the Committee on Rules and the objection presented in conjunction with the closed rule. I think that tying the hands of the Members of Congress to prevent them from offering amendments in accordance with their views is wrong. This is a typical example of bringing the rule here to the floor in a closed manner, preventing the gentleman from Illinois (Mr. MICHEL) from offering an amendment providing for the Appropriation Committee to have the right to retain control of these funds. I simply do not think it is right.

Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I rise in support of the position articulated by the distinguished minority whip, the gentleman from Illinois (Mr. MICHEL).

I serve on the Committee on Ways and Means, and I support the concepts of H.R. 3434.

I think the chairman of the Welfare Subcommittee, the distinguished gentleman from California (Mr. CORMAN), and his associates on that subcommittee have done an excellent job in presenting this to the House. It is a fine revision, and a needed revision, in this particular body of law.

But, unfortunately, they are bringing it to us under a very unfair procedure. In asking for a closed rule, they have not allowed us to debate the merits of the bill, particularly the merits of the change from the authorization to the entitlement. As most of the Members know, the appropriation for the authorization for these purposes to date has been slightly over $50 million. This bill converts that after a few years to an entitlement of $256 million, which is an increase of nearly 5 times.

Because of my respect for the people who put this bill together, I would be prepared to support that level if it were an appropriation. In its current form, I am not prepared to support it, because they have converted it into an entitlement.

As most of the Members know, we are converting too many of our authorizations into entitlements. The Committee on Ways and Means has been particularly flagrant in its abuses of what I call the appropriations and budget process.

If you agree to this rule—and I hope you do not—you may have another chance to disagree with the entitlement form in the motion to recommit. But, if the bill passes the way it is, that means the Appropriations Committee will never again have a chance to exercise its judgment over an important area of spending.

The Budget Committee will also not have a chance to look this over. They will simply add it up and say, "We owe whoever are the beneficiaries of this program this much money. That is what the entitlement says they are supposed to get." In my judgment, that is a dreadful way to legislate and a bad mistake.

I am told that nearly three-quarters of our budget is now in entitlements, and that is why the Budget Committee cannot get our budget under control.

If you do not believe that this thing is getting out of hand, you ought to know that this very afternoon the Committee on Ways and Means voted another $200 million welfare entitlement program which we have never had before, and I will bet you a dollar to a doughnut that that comes to the floor under a closed rule, as well.

This is an especially unfair way to legislate. It denies Members of this body a chance to amend and to debate in a constructive manner, and I think it does no credit to us, either as the Committee on Ways and Means or as the representatives of the people.

I would urge that the Members of this House vote down the rule.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. CORMAN. Mr. Speaker, regarding the $200 million entitlement the gentleman referred to, I would call to his attention that this would replace an entitlement in current law that is open ended. In other words, this is not a new entitlement program.

Mr. FRENZEL. I thank the gentleman for the correction. It is not, I am informed, in addition to entitlement programs, but a substitute. I am grateful that my error has been corrected.

However, the bill before us today which I am discussing is clearly a change from an authorization to an entitlement.

I urge the House to vote down the rule, and if the rule is not defeated, to vote for a motion to recommit. That will change this back to its original form as an authorization rather than creating a new uncontrollable item of expense over which our Appropriations and Budget Committees will no longer be able to exercise supervision.

□ 1420

Mr. BAUMAN. Mr. Speaker, I have no further requests for time.

Mr. PEPPER. Mr. Speaker, I will just say this, if I may: This matter was presented to the Committee on Rules. The bill was presented ably by the distinguished gentleman from the Committee on Ways and Means, the gentleman from California (Mr. Corman), and the gentleman from California (Mr. Miller). The gentleman from Illinois (Mr. Michel), asked that his amendment be made in order.

The Committee on Rules considered the request, but thought under the circumstances it was not appropriate for the amendment to be made in order. However, I would like to point out that under the proposed rules, the distinguished gentleman from Illinois (Mr. Michel), at the conclusion of the consideration of this bill, when it comes back to the House, can make a motion to recommit with instructions including his amendment, so that his point is adequately preserved under the provisions of the rule.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Illinois.

Mr. MICHEL. I want to thank the gentleman for his observation. I want to say, as I indicated earlier during debate on the rule, that I was under the erroneous impression that we were going to be foreclosed not only from offering the amendment in the Committee of the Whole, but also foreclosed from offering the amendment in instructions accompanying a motion to recommit. After a closing reading of the rule I realized that the minority side retained right to amend in the motion to recommit.

Having that option, then naturally we will exercise that right.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The **SPEAKER** pro tempore (Mr. Rostenkowski). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 251, nays 154, not voting 29, as follows:

[Roll No. 432]

YEAS—251

Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conable
Corman
Cotter
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Derwinski
Dicks
Dingell
Dixon
Dodd
Donnelly
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.

Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Ginn
Gonzalez
Gore
Gradison
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hollenbeck
Holtzman
Howard
Huckaby
Hughes
Hutto
Ireland
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCloskey
McCormack
McHugh
McKay
Maguire
Markey
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.

Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Roybal
Santini
Scheuer
Schroeder
Seiberling
Shannon
Shelby
Simon
Skelton
Slack
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—154

Abdnor
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Bevill

Broomfield
Brown, Ohio
Buchanan
Burgener
Butler
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland

Clinger
Coleman
Collins, Tex.
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Davis, Mich.

Deckard
Devine
Dickinson
Dornan
Dougherty
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Frenzel
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hansen
Harsha
Hillis
Hinson
Holt
Hopkins
Horton
Hubbard
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
McKinney
Madigan
Marks
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Myers, Ind.
Pashayan
Paul
Petri
Pritchard
Quayle
Quillen
Railsback
Regula
Rhodes
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Sabo
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Whitehurst
Whittaker
Whitten
Wilson, Bob
Winn
Young, Alaska
Young, Fla.

NOT VOTING—29

Akaka
Anderson, Ill.
Bolling
Boner
Conyers
Diggs
Downey
Drinan
Evans, Ga.
Flood
Forsythe
Giaimo
Hammerschmidt
Holland
Marlenee
Miller, Calif.
Murphy, N.Y.
Nolan
O'Brien
Ritter
Rosenthal
Runnels
Russo
Traxler
Treen
Williams, Ohio
Wilson, C. H.
Wydler
Wylie

☐ 1430

The Clerk announced the following pairs:

Mr. Akaka with Mr. Williams of Ohio.
Mr. Drinan with Mr. Anderson of Illinois.
Mr. Murphy of New York with Mr. Hammerschmidt.
Mr. Rosenthal with Mr. O'Brien.
Mr. Russo with Mr. Ritter.
Mr. Charles H. Wilson of California with Mr. Marlenee.
Mr. Giaimo with Mr. Wydler.
Mr. Boner of Tennessee with Mr. Wylie.
Mr. Evans of Georgia with Mr. Runnels.
Mr. Miller of California with Mr. Holland.
Mr. Traxler with Mr. Nolan.
Mr. Downey with Mr. Conyers.
Mr. Flood with Mr. Diggs.

Mr. HINSON and Mrs. FENWICK changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1440

Mr. CORMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3434) to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

The SPEAKER pro tempore (Mr. FARY). The question is on the motion offered by the gentleman from California (Mr. CORMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3434, with Mr. FLIPPO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule the gentleman from California (Mr. CORMAN) will be recognized for 1 hour and the gentleman from California (Mr. ROUSSELOT) will be recognized for 1 hour.

The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3434, the Social Services and Child Welfare Amendments of 1979, would make a number of improvements in the title XX social services and title IV–B child welfare services programs, as well as amending the AFDC foster care program and establishing an adoption assistance program for children with special needs.

The bill would increase, by $200 million, the ceiling on Federal title XX social services matching funds. This increase is necessary to prevent cut backs in social services to children, the elderly and the handicapped, among others. This will increase the ceiling from $2.9 to $3.1 billion. Within the ceiling, the bill would continue to earmark $200 million annually for day care services.

The legislation saves money in two areas—by making permanent the program of grants to hire welfare recipients as day care workers and by limiting the use of title XX funds for the training of social service personnel. In addition, the legislation would improve both the title XX planning process and the availability of services under the program. Further, it would provide for a separate title XX entitlement for the territories.

With respect to child welfare services and foster care, the legislation would increase funds available to States on the condition that they improve their services for abused, neglected, and homeless children.

More specifically, States would be encouraged to redirect their emphasis from long-term foster care, or institutionalization of children, to services aimed at preventing the need for foster care, reuniting families, and finding permanent family situations for homeless children. After lengthy hearings on these issues, we have found that too many children are left in foster homes, at great expense to both the State and Federal governments, without adequate review of their circumstances or sufficient efforts at returning them to their families or placing them in permanent adoptive homes.

Under the legislation, States are encouraged to put into place certain protections, procedures and services for homeless, abused and neglected children. After a State institutes such protections, it becomes eligible for an additional allotment of Federal funds. In order to move our present foster care system toward placing children in permanent homes or reuniting them with their families, the bill encourages States to put in place procedures which will assure that children are placed in the least restrictive setting most approximating a family and in which the child's special needs are best met. In addition, the State is encouraged to place a child "within reasonable proximity to his home, taking into account any special needs of the child."

Some concern has been expressed that homes or institutions which presently care for children would be forced to close because they were not in "reasonable proximity" to the child's home. It is not the intent of this legislation to force the closing of any homes. Rather, it is the intention of the legislation to encourage States to look at each individual child's case and determine what setting will offer him or her the most love and care and which will best approximate a family setting, while taking into account the child's special needs. The bill encourages States to place children within reasonable proximity to their natural homes to maximize the chances that a child can be returned to his home and cared for by his natural family. The State may have to weigh many factors in determining placement, including the availability of facilities, but the best interests of the child should always be the primary consideration.

There are several reasons the committee decided to change the current IV–B program to a limited and conditional entitlement. Before discussing these reasons, two important points should be clearly understood: First, the bill before you would establish a "capped" and not an "open-ended" entitlement. The maximum amount of Federal IV–B funds available in fiscal 1980 would be $141 million: $84 million over the current appropriation. A permanent ceiling of $266 million would become effective beginning with fiscal year 1981. And the second point, as explained earlier, is that these matching funds would be available only to those States that implement and maintain the foster care protections, procedures and services prescribed in the bill.

The first reason for changing the current IV–B program to an entitlement, with carefully specified limitations and conditions, is that States must be as confident of receiving Federal financial support for the services they provide aimed at preventing or eliminating the need for foster care as they are of receiving Federal matching funds for foster care maintenance payments.

Since 1961, States have been entitled to Federal matching funds for foster care maintenance payments made on behalf of AFDC eligible children. These Federal funds are used to provide shelter and other basic needs for homeless children or children who have been removed from their homes because of abuse or neglect. The entitlement nature of this funding is a correct expression of the

Federal Government's responsibility for such children.

The Federal Government should be equally supportive of the efforts by States to prevent unnecessary removal of children from their homes or inappropriate or prolonged placement in foster care. The IV–B child welfare service entitlement program contained in H.R. 3434 demonstrates this support by entitling States to a specified level of matching funds for such services.

Furthermore, making IV–B child welfare services funds an entitlement will move us in the direction of equalizing the financial incentives for States to engage in activities aimed at preventing the need for foster care versus placing children in foster care. Under present law, funding for IV–B services, which are intended to prevent the need for foster care or to reunify children to their home or otherwise provide a permanent home, is severely limited; whereas there is open-ended entitlement for foster care payments for children placed out of their natural home.

The Federal Government should be as supportive of services aimed at preventing the need for foster care as it is of providing necessary shelter for homeless, neglected or abused children. For this reason, the committee recommends that the IV–B child welfare service program be changed to an entitlement, with a permanent ceiling of $266 million.

Another reason for making IV–B an entitlement is that States must be assured a certain amount of Federal funds to assist them in financing the improvements in their foster care programs that H.R. 3434 attempts to achieve.

The primary objective of H.R. 3434 is to encourage States to improve their foster care programs. The committee is very concerned about growing reports of children "getting lost" in State foster care systems.

H.R. 3434 has been carefully structured to provide States with both financial assistance and incentives to make critically needed improvements in their programs; such as—

Increasing the family oriented services that can prevent the need for foster care;

Providing a more thorough and frequent review of each child in foster care, to ascertain if the child is in an appropriate situation and the possibility of returning the child to his family, or finding adoptive parents;

Expanding State efforts at finding suitable adoptive homes in those cases where the child will not be able to return to his or her home; and

Establishing procedures that will better protect the rights of children, biological and foster care parents.

States must be assured of some level of Federal financial support in funding the cost of these critically needed improvements if we realistically expect them to be implemented. Federal matching funds provided on an entitlement basis, and staged in over a 2-year period as provided under H.R. 3434, is the only mechanism available to Congress to provide the assurance of Federal support that is necessary to achieve the foster care reforms envisioned in H.R. 3434.

Finally, the conditional entitlement and two-staged allotment of funds under this bill will provide the most effective means of oversight on the use of Federal IV–B funds. Under the bill, States will be allowed a portion of the new funds so they can finance the foster care protections and services that are so badly needed. In order for a State to continue to receive these and any additional funds, HEW will have to review the State's foster care program and make a determination that it does comply with the conditions established by this bill. In other words, the bill requires the most effective type of oversight, a State-by-State review and determination of how the Federal funds are being used. On the basis of this review, it will be decided whether a State qualifies for the new funds.

The legislation would also extend the present Federal matching program for AFDC foster care to children who are voluntarily placed in foster care as well as those who are placed as a result of a court determination. The requirement of court action can be both detrimental to the child and costly to the State. The bill would simply treat AFDC children voluntarily placed in foster care by their parents, through the execution of a voluntary placement agreement, the same as children placed in foster care by the courts.

The bill establishes an adoption assistance program for AFDC and SSI eligible children who have special needs by virtue of a mental, physical or emotional handicap, age, or membership in a minority or sibling group. This provision is expected to have no cost and may ultimately save money as a result of placing children in permanent homes and relieving the Government of the costs of foster care.

Finally, the bill would make permanent the 75-percent matching rate and current funding ceiling for public assistance programs in the territories.

At this point I would like to provide a more detailed explanation of the provisions of H.R. 3434.

Title I of the bill contains amendments to the title XX social services program.

Section 101 raises the statutory ceiling for title XX funds to $3.1 billion beginning in fiscal year 1980. For fiscal 1979, the ceiling is $2.9 billion, which includes $200 million available for child day care services with no State matching requirement. Under present law the ceiling would drop to $2.5 billion for fiscal 1980 and years thereafter.

Section 102 of the bill provides that $200 million of the funds available under the $3.1 billion statutory ceiling would be available in fiscal 1980 and 1981 for child day care services with no State matching requirement.

Section 103 permits States to use their share of the $200 million available for child care services under this bill for grants to employers who hire welfare recipients as child care workers. Such grants may be used to reimburse up to $5,000 a year of the wages of an eligible welfare recipient—as defined by section 50B(h) of the Internal Revenue Code of 1954—working in a public or nonprofit private facility and up to $4,000 a year of the wages of a welfare recipient employed by a profitmaking facility. The differential takes into account the availability of a tax credit for proprietary facilities. To qualify, the child care facility must be one in which at least 20 percent of the children receiving services at the facility have their care paid for through the State title XX program.

Section 104 would limit, for fiscal year 1980 only, Federal matching funds for training to an amount equal to 3 percent of the State's fiscal 1980 allotment of Federal funds under the title XX statutory ceiling. Where a State received more training funds in fiscal year 1979 than the amount equal to 3 percent of its fiscal 1980 allotment, it would be eligible for an additional amount equal to two-thirds of the amount by which Federal training funds received in fiscal 1979 exceeded 3 percent of its fiscal 1980 allotment. Beginning in fiscal year 1981, and for each year thereafter, a State would be reimbursed only for those training expenditures that have been included in, and approved by HEW as a part of, a State title XX training plan.

Section 105 requires States, prior to publication of their proposed title XX plan, to give public notice of intent to consult with the chief elected officials of the political subdivisions of their State and provide such officials the opportunity to present their views. The principal views of the local officials would have to be included in the proposed title XX plan. This requirement would be effective beginning in fiscal year 1980. For those States that have, at the time of enactment of the bill, published a comprehensive services plan for 1980, the requirement would become effective for the title XX program year beginning in fiscal 1981.

Section 106 would permit States, beginning in fiscal year 1980, to elect to use either a 1, 2 or 3 year title XX program period. The Secretary of HEW would have authority to require a State which adopts a program period of more than 1 year to publish and make information about the plan generally available during the program period.

Section 107 requires each State to include in its title XX plan the criteria which it used in determining the nature and amount of services to be provided in each geographic area within the State.

Section 108 would reinstate and make permanent, effective October 1, 1979, the temporary provisions of law relating to the use of title XX funds for certain services to alcoholics and drug addicts. These temporary provisions expired September 30, 1978.

Section 109 would permit title XX funds to be used, beginning October 1, 1979, for emergency shelter provided as a protective service to an adult in danger of physical or mental injury, neglect, maltreatment, or exploitation. The funds could not be used to shelter any adult individual in excess of 30 days in any 6-month period.

Section 110 adds language stating that it is the purpose of title XX to meet social services needs which are not otherwise being met, in order to make a comprehensive range of social services available under this title, by furnishing services within the State, and especially within the political subdivisions of the State having a special need for those services.

Section 111 establishes a separate title XX entitlement, beginning in fiscal 1980, for offshore areas in the following amounts:

	Millions
Puerto Rico	$15.0
Guam	.5
Virgin Islands	.5
Northern Mariana Islands	.1
For a total of	16.1

Title II contains amendments to the IV-B child welfare services program.

Under the bill, section 201, $266 million per fiscal year would be available to States on an entitlement basis for IV-B child welfare services. This would replace the present IV-B authorization of $266 million for child welfare services which was funded at $56.5 milion in fiscal year 1979. The new funds would be available in two stages—40 percent ($84 million) in the first allotment and 60 percent ($125.5 milion) in the second allotment.

The bill increases Federal funds for child welfare services and AFDC foster care to provide States with additional resources to assist them in implementing comprehensive child welfare services, procedures and safeguards and to provide financial incentives to implement those procedures as quickly as possible.

The initial increase in Federal IV-B funds is intended to enable States to immediately review the status of all children who have been in foster care for over 6 months and to put in place most of the services, protections and procedures described in the bill. When a State has implemented all the services, procedures and protections, except for preplacement preventive services, it may begin receiving Federal matching funds for AFDC-eligible children who, prior to the enactment of the bill, were placed in foster care without a judicial determination. In addition, the State would qualify for its share of the second allocation of the new IV-B child welfare services funds.

In order to continue receiving any of the new IV-B funds, a State would have to implement all the services, protections and procedures within a specified period of time after it received its share of the second allocation of new funds. Once a State had implemented all the required services, protections and procedures, in addition to maintaining eligibility for receipt of the new IV-B funds, it could qualify for Federal matching funds for AFDC-eligible children "voluntarily" placed in foster care at the specific written request of the parents.

The two-stage allotment of new IV-B funds would be allocated in the following manner: Beginning in fiscal year 1980, 40 percent of the new IV-B funds ($84 million) would be available to States to enable them to improve and expand their IV-B services and to complete case reviews on all children in foster care. In order to continue receiving its share of the first allotment beyond fiscal 1981, a State would have to have in place all the foster care safeguards, procedures and services, except the preplacement preventive services required under section 424 of the Social Security Act as revised by this bill.

Beginning in fiscal 1981, a State would be eligible for its share of the remaining 60 percent of the new IV-B funds ($125.5 million) after the State had, first, completed case reviews of all children who have been in foster care for over 6 months and submitted a report to the Secretary of HEW based on this review; second, demonstrated that at least 40 percent of the amount of Federal IV-B funds received in excess of such funds received for fiscal 1979 would be spent for services aimed at keeping children with or returning them to their families; and third, implemented the foster care safeguards, procedures, and services required under section 424.

However, beginning in fiscal 1981, a State could receive its share of the second allotment when it met the first and second conditions listed above and had in place all the safeguards, procedures and services, except the preplacement preventive services, required under section 424. Such a State would have to have implemented the required preplacement preventive services by the end of the fiscal year following the fiscal year in which it began receiving its share of the second allotment in order to continue receiving second allotment funds.

There would be a 25 percent State matching requirement for IV-B funds.

IV-B funds would continue to be allocated according to the formula in present law. Each State would receive a uniform grant of $70,000 a year, plus an additional amount varying directly with the number of children under age 21 and inversely with average per capita income.

The provision in current law allowing reallocation of unsued IV-B funds would be repealed.

If so appropriated, IV-B funds allocated to a State for fiscal 1980 would remain available for use by the State through fiscal 1981.

The bill provides that a State could not receive more Federal title IV-B funds for adoption assistance payments, foster care maintenance payments, and employment-related child day care services than the State's total allotment for title IV-B in the fiscal year 1979. This limitation was adopted by the committee in order to emphasize preventive, restorative, adoptive and other types of child welfare services, and to insure that the additional title IV-B funds are used to expand such services.

A State could not spend less for child welfare services under IV-B and under title XX than the total amount of State expenditures for such services in fiscal year 1979.

In accordance with the two-stage allotment procedure and other conditions summarized above, additional Federal IV-B child welfare services funds would be made available to the States for the purpose of assisting and encouraging them to implement the services, procedures and protections necessary to provide and insure: First, that no child will be placed in foster care, except in emergency situations, either voluntarily or involuntarily, unless services aimed at preventing the need for placement have been provided or refused by the family; second, that no child will be involuntarily removed from his or her home, except on a short-term basis in emergency situations, unless there has been a judicial determination that the child should be removed; third, that no child will be placed in foster care by the voluntary action of his or her parents unless a "voluntary placement agreement" has been signed by parents and agency; fourth, that a child who has been removed from his or her home will be placed in the least restrictive family-like setting in which any special needs may be met, within reasonable proximity to his or her family and with relatives where appropriate; fifth that reunification services are made available to the child and his or her parents after removal from the home; sixth that there will be a written individualized case plan developed for each child placed in foster care, an administrative review of each case plan at least every 6 months, and a dispositional hearing by a court or court-appointed administrative body within 18 months of the child's placement; and seventh, that a fair hearing be provided for any parent, foster parent, guardian or child who believes he or she has been aggrieved by any governmental action taken under this section.

Title III contains AFDC foster care and adoption assistance amendments.

Under section 301, after the Secretary of HEW has determined that a State has in place all the protections, procedures, and services required under section 424, Federal AFDC matching funds would be available for foster care payments for an AFDC-eligible child who has been removed from his or her home pursuant to a voluntary placement agreement.

A child who was removed from his or her home prior to date of enactment of this bill without a judicial determination would become eligible for Federal matching funds for future foster care payments after the State had implemented all the foster care protections, procedures, and services, except for the preplacement preventive services required under section 424, and after a written individualized case plan had been prepared for the child and reviewed in accordance with the new section 408(e)(2) of the Social Security Act added by this bill.

In the case of a voluntary request for foster care placement, judicial determination can be inappropriate and sometimes detrimental. Unnecessary court proceedings place stress on the family and may result in a traumatic experience for the child. However, because at the present time there must be judicial determination in order to qualify the foster child for Federal matching funds under IV-A, there is a strong financial incentive to take all voluntary cases to court for the sole purpose of qualifying for Federal funds. This wastes the time of the court and the caseworker and increases the total cost of foster care. With the new foster care protections required under section 424 of the Social Security Act, as amended by this bill, it is appropriate to waive the judicial determination requirement in those cases where the AFDC child is removed from his home and placed in foster care voluntarily and at the specific written request of his natural parent or legal guardian.

In addition, under the bill Federal matching funds would be available for foster care provided in publicly operated child care institutions which care for 25 or fewer children.

Section 302 of the bill requires States to include an adoption assistance program as part of their aid to families with dependent children (AFDC) program. The assistance could be provided on behalf of an AFDC foster care-eligible child or an SSI-eligible child who has been determined by the State to have "special needs."

"Special needs" would exist when the State has determined, one, that the child cannot or should not be returned to his own home; two, that there is a specified condition (such as age; physical, mental, emotional, or medical handicap; or membership in a minority or sibling group) because of which it is reasonable to conclude the child cannot be placed without assistance; and three, except where it would be against the best interest of the child, efforts have been made to place the child without providing adoption assistance payments.

The amount of the adoption assistance payments, if any, would be determined by agreement between the adoptive parents and the administering agency, taking into consideration the economic circumstances of the adopting parents and the needs of the child. It would be subject to periodic adjustment upon a change in those circumstances. The amount of the payment could not exceed the amount which would have been paid had the child been in a foster family home in the State. However, it could initially include an amount to cover the nonrecurring expenses associated with the adoption of the child.

Children for whom adoption assistance payments are made would be eligible for medicaid on the same basis as AFDC and AFDC foster care children.

Adoption assistance payments could continue until the child reaches age 18. In the case of a child with a physical or mental handicap, the State could continue assistance until age 21. It would cease before the child reached age 18, or 21, if the State determined that the child was no longer receiving any support from the parents.

Many children who are removed from their homes and placed in foster care are never able to return to their home. If the responsible agencies are working in the best interest of foster care children it is the duty of the agency to provide a permanent home for these children, either through placement in adoptive homes or, when adoption is not feasible, some other permanent family foster care situation. Serious difficulties arise in trying to permanently place children who have special needs. Special needs children include not only handicapped children, but also children who are considered hard to place because of their race, ethnic background, or because they are part of a large sibling group. Attempts to place them in adoptive homes without a subsidy have often failed because many families cannot afford the expense required to adequately meet the special medical or other needs of these children. An adoption assistance program will provide both a permanent home for children currently in foster care and dollar savings to the AFDC foster care program.

Title IV of the bill pertains to Public assistance programs in the territorial jurisdictions.

Section 401 of the bill would make permanent certain temporary changes effective during fiscal 1979. It would make permanent the current 75 percent Federal matching rate for public assistance programs in Puerto Rico, Guam and the Virgin Islands as well as the current $78 million limit on the maximum amount of Federal funding available to these areas: $72 million for Puerto Rico, $2.4 million for the Virgin Islands, and $3.5 million for Guam.

I urge the Members to support this important legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. ROUSSELOT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3434 is a comprehensive measure that would improve the program of grants to States for social services, authorized by title XX of the Social Security Act, and make important changes and improvements in Federal child welfare services and foster care policies. Much of the measure is a blending of 1979 administration recommendations with decisions which the Ways and Means Committee developed, and the House approved, in the 95th Congress H.R. 7200.

This bill will sustain our commitment for social services that are important to the well-being of thousands of lower income individuals and families, and redirects certain Federal social programs so as to more effectively support family ties. I believe that the legislation constitutes improvement over present laws and that although Members may not find every element completely satisfactory, they will decide that it warrants the approval of the House of Representatives.

Let me speak first of the major provisions addressing title XX. Perhaps the most important of these relate to Federal funding. The bill would set a permanent ceiling on Federal grants to States of $3.1 billion in contrast to the existing permanent ceiling of $2.5 billion and temporary additions which, for example, have made a total of $2.9 billion available to States in fiscal 1979. The administration originally recommended that the ceiling be continued at $2.9 billion. Unless Congress acts this year, the ceiling for fiscal 1980 and beyond will drop back to the $2.5 billion level which was put in place almost 9 years ago, in October 1972. However, I do regret the administration did not stay with their original ceiling of $2.9 billion.

The proposed $3.1 billion level would help States to maintain current service commitments in the face of inflated costs. Most States are meeting the matching requirements which enable them to obtain their full Federal allocation and, thus, may receive additional Federal funds only if the ceiling is lifted. The inevitable consequence of congressional unwillingness to take this step would be service cuts which would only exacerbate our Nation's welfare problems.

The bill would place a dollar cap on Federal funding for State training expenditures under title XX for fiscal 1980. Presently, this is an open-ended authority which has experienced substantial growth in recent years. For fiscal 1981 and beyond, the committee bill would mandate that States develop training plans, to be approved by the Secretary, so as to insure that training expenditures serve the needs of persons who are involved daily in the delivery of these vital social services.

In light of Members' often voiced interests, I might also point out that provisions of title I renew, effective October 1, 1979, authority for States to use title XX funds to reimburse employers who hire welfare recipients for child care jobs, as well as authority for States to use such funds for certain services to alcoholics and drug addicts. Each of these programs has proven valuable in individual States and communities, and strong interest has been expressed in their renewal.

Title II of H.R. 3434 deals with the child welfare services program contained in title IV–B of the Social Security Act. The measures would somewhat redefine and redirect this program so as to place greater emphasis upon: First, services which would lessen the need for removing children from their homes; second, services which will encourage the reunion of children with their families; and third, services which would permit the placing of children in suitable adoptive homes, if circumstances render family reunion completely impossible. In keeping with this broadened commitment, Federal funding for title IV–B services would be increased and the program would be restructured as an entitlement to States comparable to title XX. The principal justification for substituting this entitlement for the appropriations procedure is to facilitate State planning and programing for these services. The entitlement procedure will better enable States to anticipate the amount of Federal financial support that they may expect to receive in a particular year.

The increasing title IV–B funding would become available in two stages, the first in fiscal 1980. This initial allotment, consisting of 40 percent of the new funds, would assist States in improving their child welfare programs generally, but, more specifically, would enable them to undertake case reviews of all children in foster care. The second allotment, which would begin in fiscal 1981 and would consist of the remaining 60 percent of the additional funds, would be available to States only after they have: First, completed case reviews on children in foster care for more than 6 months; second, shown that at least 40 percent of the title IV–B funds that they will receive, above fiscal year 1979 levels, would be spent for services which seek to keep children with or returning them to their own families; and third, implemented certain foster care safeguards and services which the legislation mandates.

Summarized, these foster care requirements seek to insure the following:

First. That no child will be placed in foster care, except in emergency situations, either voluntarily or involuntarily, unless services aimed at preventing the need for placement have been provided or refused by the family;

Second. That no child will be involuntarily removed from his or her home, except on a short-term basis in emergency situations, unless there has been a judicial determination that the child should be removed;

Third. That no child will be placed in foster care by the voluntary action of his or her parent unless a "voluntary placement agreement" has been signed by parents and agency;

Fourth. That a child who has been removed from his or her home will be placed in the least restrictive familylike setting in which any special needs may be met, within reasonable proximity to his or her family and with relatives where appropriate;

Fifth. That reunification services are made available to the child and his or her parents after removal from the home;

Sixth. That there will be a written individualized case plan developed for each child placed in foster care, and a system of case review that assures that each child receives a case review at least every 6 months;

Seventh. That there be a dispositional hearing by a court or court appointed administrative body within 18 months of the child's placement; and

Eighth. That a fair hearing be provided for any parent, foster parent, guardian, or child who believes he or she has been aggrieved by any governmental action taken under this section.

Title III makes certain amendments in AFDC foster care relating to voluntary placements in foster care and to foster care in public institutions, and in addition provides for adoption assistance as a part of State AFDC programs.

Under the latter innovation, Federal AFDC matching funds would be available for adoption subsidies, under certain conditions. Assistance could be provided only for an AFDC foster care-eligible or SSI-eligible child whom the State has found to have "special needs," as defined in the bill. The amount of the assistance payments would be determined by agreement between the adoptive parents and the administering agency, but could not exceed the amount which would have been paid had the child been in a foster family home in the State. Children receiving such adoption assistance would be eligible for medicaid. The assistance payments could continue until the child reaches 18 years of age, or to age 21 in the case of a child with a physical or mental handicap.

The final title of this legislation would set permanent terms for public assistance payments to Puerto Rico, Guam, and the Virgin Islands. The $78 million ceiling on Federal funds and the 75 percent matching rate, both of which have been implemented for fiscal 1979 under authority of the Revenue Act of 1978, would hereafter apply to this territorial funding.

☐ 1450

I want to compliment my colleague, the gentleman from California (Mr. MILLER) who has consistently pursued the effort to improve the Federal law relating to foster care activities, and I think he is to be complimented along with the gentleman from California (Mr. CORMAN) for making sure that we have taken steps to improve that law. This bill will sustain our commitment for social services that are important to the well-being of thousands of lower income individuals and families, and redirects certain Federal social programs so as to more effectively support family ties.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. BURGENER. I thank my colleague for yielding. I want to commend the gentleman from California in the well and the other gentleman from California (Mr. CORMAN) for producing an excellent piece of legislation, particularly the title IV–B child welfare services portion of the bill. This is a real opportunity to do things for families to keep the family together and to provide children with the kind of protective services that will in the long run, first, save the family and second, save the taxpayers a great deal in the long run. I commend the gentleman and the chairman of the subcommittee for an excellent piece of work.

(Mr. BURGENER asked and was given permission to revise and extend his remarks.)

Mr. ROUSSELOT. I appreciate the comments of my colleague from California on this bill. I do know that as a member of the Committee on Appropriations he not only has taken a substantial interest in this area but also when he was in the state legislature in California he was known as one of our finest authorities in this area of activity. I appreciate his comments. I must tell the Members that most of whatever accolades are to be given for the development of this legislation belong to the gentleman from California (Mr. MILLER), the gentleman from California (Mr. CORMAN) and the gentleman from Michigan (Mr. BRODHEAD) who really have provided most of the leadership.

Mr. BURGENER. If the gentleman will yield, I say, welcome aboard.

Mr. CORMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. Mr. Chairman, it is a pleasure to rise in support of this legislation. I want to begin by commending the two gentlemen from California (Mr. CORMAN and Mr. ROUSSELOT). This piece of legislation is, as the gentleman from California (Mr. CORMAN) indicated, substantially identical to a bill which passed this House under suspension of the rules in the last Congress by an overwhelming vote with only a handful of votes against it.

The basic thrust of the legislation is to try to improve social services to children without substantial increased costs to the Federal Government. What we have stated and what studies have amply documented is that the current foster care system, while performing many useful services and working very well for the most part, has resulted in harm to some children. All children from troubled families do not need to be in foster care. What this bill attempts to do is to provide mechanisms by which we can move children out of foster care and back with their original families, or into adoptive homes. When this is done, children are provided with a better environment, in the first place, and, in the second place, there are very substantial savings to the Federal Government and to the State governments. It is substantially cheaper to provide necessary services to children in their own homes or adoptive homes than to provide the full cost of support of those children in foster homes. So I think this is a very comprehensive, and worthwhile piece of legislation.

I just want to address myself briefly to the one issue in the legislation that has generated a bit of controversy, and that is the question of the IV–B program. The gentleman from California (Mr. BURGENER) addressed himself to it a moment ago. This protective services money, the IV–B money, is for the purpose of trying to keep families together. That is, if a family is troubled because of unemployment, because of alcoholism or because of an illness in the family, the State authorities are presented with a difficult situation. Do they take those children out of that family and put them in a foster-care home, or do they attempt to try to use psychological services, marriage counseling services, and other kinds of services, to try to keep that family together? As I have said, we know when that family is kept together, it is a better environment for the children, and it is, of course, cheaper for the State and for the Federal Government. So the IV–B money is for the purpose of trying to keep families together.

What the bill attempts to do is to get the States to enact a series of reforms of their foster care laws, because in the past there has been too much of a tendency to use the foster care program. The reason there has been that tendency is because foster care is an open-ended entitlement, and it becomes a ltitle more expensive for the State to use the protective services than foster care. Through this bill, we want to free up a little bit of money in the IV–B area so you will have an incentive to keep a family together. I would emphasize that this entitlement is capped at $266 million in the first place, and, in the second place, our budget this year places a further limit, a lower limit on it of $141 million. So we are talking about relatively limited amounts of money both in this area and in the bill generally.

To summarize, it is a very worthwhile, a very noncontroversial, a very bipartisan piece of legislation, and one on which we have all worked very, very hard. I am proud to be associated with it, and I urge adoption of the bill.

Mr. ROUSSELOT. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from the Virgin Islands (Mr. EVANS).

Mr. EVANS of the Virgin Islands. Mr. Chairman, I rise today in support of H.R. 3434, the Social Services and Child Welfare Amendments of 1979, a bill which I previously cosponsored.

□ 1500

Mr. Chairman, I would like to commend the members of the Committee on Ways and Means who have seen fit to report out this very excellent piece of legislation, and to the gentleman from California (Mr. CORMAN) and the gentleman from California (Mr. ROUSSELOT) for their work in guiding this legislation through.

There are two major provisions in this bill which affect very, very definitely the people of my district. I would like to refer to them now.

From 1950, the Virgin Islands has had an arbitrary limit placed on it as far as the percentage of welfare contributions by the Federal Government are concerned. These have worked a tremendous hardship. In the first place, the total amount which could be given was limited to $800,000 per year and the percentage of the Federal contribution was limited to 50 percent. As time passed, this limit of $800,000 made the limit of 50 percent purely academic and within recent years the Virgin Islands have contributed through funds up to 70 percent of the welfare funds versus as much as 60 or 70 percent which the Federal Government contributes to many other States.

We have been forced in some cases to give as low as $50 per month and for a family of 4, $166 per month.

I am very happy to say that a continuing effort has been made by the committee to do something about this.

The second provision which has been very, very bad has been the section 10 entitlement, which means that a sum of $500,000, not to exceed $500,000, was set aside for the Virgin Islands but only on condition that that was left over from the 50 States and the District of Columbia.

Now, my colleagues, I cannot resist the analogy but to say this is very much like a hungry person being asked to wait until all others have been fed and then if anything is left over we may have it. I am pleased to say this bill corrects that inequity.

At the present time the limit has been raised to 75 percent. That is, the limit of participation has been raised to 75 percent and the total amount has been raised to $2.4 million.

I would hope the day is not too far distant when citizens of the United States who are poor would not have the amount determined because of the fact they happen to live in territories.

Mr. Chairman, I am strongly in favor of this bill, I recommend it highly for your support.

Mr. CORMAN. Mr. Chairman, I yield 5 minutes to the Gentleman from California (Mr. STARK).

Mr. STARK. Mr. Chairman, I rise in support of H.R. 3434, the Social Services and Child Welfare Amendments of 1979.

Title XX of the Social Security Act was enacted in 1972 to provide Federal assistance to States to encourage them to help people attain and maintain economic independence, to prevent the neglect and exploitation of those unable to protect their own interests, and to preserve families. The funds are available on a matching basis with a statutory ceiling on Federal expenditures. In 1975 the ceiling was set at $2.5 billion. In fiscal 1979 $2.9 billion was available to the States. This bill would raise the ceiling to $3.1 billion. This is a very modest increase. Since 1975 inflation has significantly reduced the purchasing power of the title XX program. As a result States have had to cut back on essential services to the aged, the handicapped, and children among others. The additional funds in this bill provide only a portion of the amount lost to inflation.

Mr. Chairman, I would like to urge the adoption of H.R. 3434 and speak for a minute to the only difference that any of us may have. I address this mostly to the interested Members here on the floor and those of you in television land who are listening to this debate while you are busy preparing to go home and work in your district.

If the Members have any criticism in their districts about this bill and about making it an entitlement, let me suggest that we authorized starting in 1973 $196 million for services to needy and dependent children and there was appropriated $56 million. We authorized in fiscal year 1974 $226 million. There was appropriated $56 million. We authorized $246 million in 1975 and there was appropriated $56 million.

This may sound like a good way to save money but I would like all of you to think of your districts and what is happening to these children who are not receiving the funds which would enable them to stay in the care of a family and in the supportive custody of a family atmosphere. They are young, they are healthy, they are aggressive in spite of their junk foods. They watch the violence on television and those children, my colleagues, will not go away. They are tough, they are able to mug, they are able to rob, they are able to steal. That is what happens to many of them.

Mr. Chairman, if we put these children in institutions, the literally millions of these children across this country, there are not many States, there are not many of those watching us or who are within the sound of my voice who can institutionalize a child for less than $20,000 a year. Add it up. Take an 18-year-old child and figure he is going to spend 30 of his next 60 years at $20,000 a year. Perhaps it is worth a little extra money to keep that child from dropping through the cracks in our society and keep that child on track to learn and to become a responsible citizen in this country who will obey the laws, pay taxes and help us, not cost us.

If we cannot think about it just on the basis of what is humane and what is right, then we should add it up in terms of our own pocketbook and our own community and I am sure you will support the thought this bill should be an entitlement and we should all support the bill.

I urge the adoption.

I thank the chairman and ranking minority member of the committee for their dedicated, tireless efforts to put this bill through in spite of their crowded schedule.

Mr. Chairman, when the Social Security Act was passed in 1935, it provided Federal funding for child welfare services "for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent." In recent years it has become clear that changes in the welfare system are needed if children and families are to be protected against the unwarranted removal of children from their homes, and against inappropriate and unnecessarily prolonged foster care.

Children are "getting lost" in the welfare system. H.R. 3434 takes a giant step forward towards eliminating these problems.

First, the bill requires that, except in an emergency, the child and his family must be offered help before the child is placed in a foster home. Help could include day care, emergency counseling, or homemaker services. It provides that no child can be removed from his or her home against the wishes of the parents unless a judge has found it necessary. Moreover, when the parents do agree to foster care, the parents and the social services agency which places the child, must execute a binding written agreement defining the rights and obligations of the parents, the agency, and the child. When a child is placed in foster care, the bill requires that placement be in the least restrictive setting—with relatives if possible, and near the natural parents. Studies have shown that the closer a child is to his parents the greater the chance that he will be returned home. Indeed, the bill provides that a whole range of family reunification services be made available to the child and the family in order to bring the child home as quickly as possible.

In order to prevent a child from becoming lost in the welfare system, H.R. 3434 also requires that there be an individualized case plan for each child, and that there be either an administrative or court review of each case every six months. If a parent, a foster parent, or a child, believes that he or she has not been accorded the kind of protection to which he or she is entitled that individual will receive a fair hearing. Each person involved will get a notice of the hearing and the chance to participate.

In some cases, for whatever reason, a child cannot be returned to his natural parents. In such cases adoption is obviously a far better alternative than foster care. Under current law AFDC assistance is not available for adoption assistance. It is often difficult to place children for adoption. It is particularly difficult where the child is handicapped.

Others are difficult to place because of their race, ethnic background, or because they are part of a large sibling group. Such children have special needs. As a practical matter Federal assistance is going to be necessary if the child is to find a permanent home. H.R. 3434 provides an adoption subsidy for these children with special needs. The amount of the subsidy is determined by agreement between the adoptive parents and the agency placing the child. Both the economic circumstances of the adoptive parents and the needs of the child will be considered.

The Ways and Means Committee in the report on H.R. 3434 states that the committee believes that the establishment of the adoption assistance program will actually result in cost savings.

Mr. Chairman,I believe that this entire bill will return far more than it costs. H.R. 3434 protects the welfare system from itself.

Mr. Chairman, I would like to commend the illustrious chairman of the Subcommittee on Public Assistance on which I have the honor to serve. He has worked unstintingly for a constituency without a PAC dollar to its name—the poor, the handicapped, the disadvantaged.

I urge the support of the bill.

Mr. ROUSSELOT. Mr. Chairman, I yield 5 minutes to the distinguished gentlewoman from New Jersey (Mrs. Fenwick).

Mrs. FENWICK. Mr. Chairman, I, too, rise in support of this bill.

Mr. Chairman, I have a number of comments. I worked hard on this kind of legislation in my home State when I was in the legislature there. I think this subsidized adoption is one of the best ideas we could possibly have.

I remember talking to the head of our pediatric association in New Jersey. He told us then that a child can put up with almost anything as long as he knows where he belongs.

He said he had seen homes you would never think proper for a child and the child flourishes there because he knows that is where he belongs. He has a sense of security. If he is also loved, little more is needed.

Mr. Chairman, I think the whole thrust of this bill is so sound and so good in this direction. The effort to keep the child at home under title II, as I understand it, is excellent. Subsidized adoption was adopted in New Jersey. It was my bill and it was the first time we were able to do this. Those who had foster children in their homes, and wished to adopt them, could do so and that child was then settled and sure about where he would be for life.

The place where I depart, perhaps, from the philosophy of this House and from much of the accepted wisdom is in this matter of the day-care centers. When I left the New Jersey Legislature in 1972 we were paying $4,000 per year per child for every child in one of the State-funded, tax-funded day-care centers. I now understand it has risen considerably beyond that.

Mr. Chairman, I have read in Newsweek magazine that there are four men from Atlanta, Ga., who have established a business called Kinder-Care, who have made millions and have day-care centers staffed by certified teachers and are charging $24 to $42 a week, the highest cost being in Ohio.

Mr. Chairman, something is wrong. We cannot have day-care centers if every one of them is going to cost what these tax-funded day-care centers cost. There are all sorts of ways of organizing them apart from the standards that are usually imposed.

Are these official centers always satisfactory to the mothers of the children? No, they are not.

Mr. Chairman, in New Jersey we had two good day-care centers which were nearly closed down because they did not meet the standards.

I was telephoned by a woman on the board who appealed to me to stop the closure. I went to the mothers of those children and asked, "How does this strike you? Is this a good baby day-care center?"

The answer was, "It is the only kind I want. I do not want my baby brought up by starched whites."

Are we as interested as we should be in the feelings of the mother who has to work, who wants her baby brought up in the kind of day-care center that is familiar and happy for her and her child? Are we right in insisting on these extraordinary standards that drive the price up beyond anything that is necessary? I do not think we are. There are dozens of ways of meeting the need. I can tell you some of them.

One company I know of employs mostly women. It asks the employees, "Have you a neighbor with whom you would like to leave your child?"

The company has a trained social worker who goes out and talks to the woman they have chosen. There is no question of pickup and delivery of the child, which is one of the most expensive parts of some day care.

□ 1510

The foster mother for the day-care center is trained by that social worker. What should she give them to eat? What kind of symptoms should she look for? Whom does she telephone if something goes wrong? There cannot be more than four or five children in each group. The working mothers each pay a small amount and that is all that is needed. Very often the foster mother is bound at home with her own baby and does not want to leave. She may have no skills that she wants to sell, other than being a good mother. And her neighbors know her.

Now, Mr. Chairman, in my district, a day-care center such as this, with four children, was nearly closed down because it was not supposed to qualify to be fully licensed.

The mothers told me, "This is our neighbor. We want our children there where we can drop them and pick them up."

Well, we did not have to have it closed down because it was called babysitting; but these are the dodges that should not be necessary. We ought to provide more flexibility in the law.

The CHAIRMAN. The time of the gentlewoman from New Jersey (Mrs. Fenwick) has expired.

Mr. ROUSSELOT. Mr. Chairman, I yield 2 additional minutes to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I think we ought to consider how we can develop the safeguards that children must have without these crucifying expenses every time we want to put a child in a day-care center. We are never going to get enough day-care centers, if the cost continues to escalate as it has. It is ridiculous and we all know it.

We must do something, because the need is there. If we do not do something sensible at the tax-funded level, we are going to do something not sensible in these private arrangements.

We must work on this approach to the whole question of day care. It is a pressing need.

Mr. CORMAN. Mr. Chairman, I yield 4 minutes to the gentlewoman from New York (Mrs. Chisholm).

Mrs. CHISHOLM. Mr. Chairman, I rise in support of H.R. 3434, legislation which would add nearly $1 billion a year to Federal social services and child welfare expenditures by 1984. This bill would raise the current ceiling on funds for State social service programs under title XX of the Social Security Act to $3.1 billion. The bill would also make available to States on an entitlement basis. Child welfare services, including expanded foster care and adoption services.

Agencies have been simultaneously plagued with rising costs and the need for more specialized services. The provision to raise the title XX ceiling to $3.1 billion would alleviate some of the negative affects of inflation. This legislation contains responsible and cost-effective programs which are urgently needed to protect the health and welfare of millions of children throughout the country.

I want to talk briefly about the ills of foster care and the absolute need for this reform legislation.

A considerable amount of controversy and criticism has centered around the foster care system in this country in recent years and its relationship to the family unit. Almost half a million children are presently living outside of their homes in facilities ranging from individual foster families, group homes, and large institutions. Foster care was set up to provide emergency shelter for children whose parents cannot—or will not—care for them. While the original purpose of foster care was to provide a temporary haven, this approach to child placement has mushroomed to a permanent residence for many of our youths.

Once in foster care, a child has only two options—to be reunited with his or her natural family or to be made eligible for adoption. The decision to remove a child from his or her home whether by voluntary or involuntary means, cannot be undertaken lightly. No matter how unfortunate the family situation may have been, it must be kept in mind that the child has established some roots. The family unit still has meaning to a child.

Despite efforts to keep members of a family together, there are, however, situations where it is desirable to place the child in a foster home or institution.

Several studies have estimated that two-thirds of all children in foster care are inappropriately placed. The cost of inappropriate placement in New York City alone has been estimated at over one-quarter of a billion dollars.

One of the principal components of this legislation will provide preventive services to families that otherwise might relinquish their children to the foster care system. The reform of foster care is long overdue. H.R. 3434 would deal with these problems by providing additional services and safeguards so that no children are unnecessarily kept in foster care, and by encouraging the permanent adoption of children for whom family reunification is impossible.

There has also been much controversy over whether these programs should be dealt with as an entitlement versus an appropriations measure. I believe that only an entitlement program, where funding will be guaranteed will permit the planning and development of effective preventive services.

If you are truly committeed to delivering quality services to children by eliminating the current crisis in foster care systems, and keeping the family unit intact, then we have to begin by demonstrating our commitment by taking positive action in support of this legislation.

Mr. ROUSSELOT. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Mr. Chairman, I would first like to compliment the committee, the gentleman from California (Mr. CORMAN) and others who spent a great deal of time developing this legislation and the members of our subcommitee.

I am in basic agreement with the intent and the goal of this legislation.

As a former State legislator, who remains in touch with State officials, I find some concern from them with regard to the possible problem in section 105 that deals with the role of local, county, and municipal officials.

In effect, the committee wishes the Federal Government to develop a direction of placing this responsibility back in the home communities through deinstitutionalization of child welfare, through various programs, such as title X. Detoxification and drug abuse programs are also being placed back in the community for participation by local leaders.

The "general welfare program" has been pointed the other way. Historically, we have taken the responsibility away from local officials because social pressure has been applied to local officials nevertheless they have said to people like myself who have been former county commissioners, "Give it to the county." So the plan moves and the programs flow down to the county and then the county says, "We can't handle it. Let us abdicate our responsibility to the State."

Thus the State becomes inherently more responsible for the program and, ultimately, the latest vogue, in the last few years is to give the total social service responsibility to the Federal Government.

That is surely the wrong way to proceed, because individuals who need care, whether it be a client, a patient or a young child in neglect, the real need is to have what we used to call—having some familiarity with institutional mental health programs since I have worked in as a counselor—the real need of individual children is tender, loving care, TLC. That only happens with the individual in the neighborhood, the priest, the chaplain, the counselor, somebody in the church, somebody in the community that cares about that particular family. It cannot be done in Washington, and it cannot be done at the State level.

Frankly, the thrust of this legislation is turning that around, and saying, "Let us involve the community more so in developing those local programs."

□ 1520

State officials do indicate that the communication problem of working with thousands of officials is going to put an enormous burden on that particular aspect of the bill. I do not know how the Senate is going to treat this legislation, but perhaps there is a way to work out a mechanism to simplify the paperwork which they criticize severely at the State level. However, I am hopeful that the intent and the thrust of the bill will remain so as to allow local officials to say, "We care about these social programs like we care about building a fire station or a highway."

The mayors continue to come here and ask for revenue sharing to build programs, but sometimes they turn their backs on the social problems of their communities.

Mr. BRODHEAD. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to my colleague, the gentleman from Michigan.

Mr. BRODHEAD. Mr. Chairman, I understand the concern the gentleman from Michigan (Mr. SAWYER) has expressed. I share that concern.

The bill attempts to provide a mechanism by which there would be some consultation, and I think the gentleman correctly points out that if the implementation of this section of the bill is not done with some care and if the regulations are not drafted with some care, it could prove to be burdensome.

I would hope that the gentleman and I could work together and oversee these regulations when they come out, and try to have them written in such a way that there is a genuine intent to solicit the opinions of local officials and in such a way that it is not unduly burdensome or expensive to the program.

Mr. PURSELL. Mr. Chairman, I would hope that we could do that.

I again reiterate my support for the bill. Frankly, as a member of the Committee on Appropriations, I am concerned about the entitlement program and abrogating the rights of the appropriation process. That is a personal jurisdictional concern that I have as a member of our Committee on Appropriations and a member of the Subcommittee on Labor-Health, Education, and Welfare. But as a former legislator and a member of the State appropriation process, I believe that when we start an entitlement program, regardless of the beauty and the merit of the program, we might as well abolish the appropriation process at some step. There will be further discussion of that at a later time.

Mr. Chairman, I congratulate the committee on an excellent bill, and I yield back the balance of my time.

Mr. CORMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. YOUNG).

Mr. YOUNG of Missouri. Mr. Chairman, I would like to take this opportunity to commend the committee for its fine work on title II, concerning child welfare services. I feel the committee has shown sensitivity to the plight of homeless neglected, and troubled children.

I support the committee's emphasis on maintaining a troubled child's family life when possible or, second best, placing the child in a family-like situation. I am also pleased that the committee recognizes that, in some situations, special children need specific care and treatment.

The committee report says:

> The Committee recognizes that, in order to appropriately meet the needs of children, different types of foster care placements must be established which provide a range of services designed to meet the needs of children in care. A continuum of placements ranging from least restrictive would include at a minmum the following: foster family homes; group homes and community residences; residential treatment centers and child care institutions.

Mr. Chairman, I am asking for the committee's assurance that outstanding treatment centers, such as Boys Town of Missouri, will not be neglected in the interpretation of the new provisions, as long as such facilities meet the law's requirements. As you know, centers such as Boys Town effectively help children with emotional problems, social maladjustments, or academic handicaps. Such centers cater to children with very special needs and are not, by definition, homes for troubled children, but rather clinics for treatment.

I place in the RECORD an article from the St. Louis Globe Democrat on the excellent program offered at Boys Town of Missouri.

BOYS TOWN: A "CLINIC" IN THE COUNTRY

ST. JAMES, MO.—For a town on the edge of the Ozarks, St. James spreads out across some pretty flat country. South and east of town, though, the hills begin to roll, turning the blacktop roads into rollercoasters.

Boys Town of Missouri takes up 206 acres' worth of those hills. On the grounds are a large school building, seven over-sized cottages, three homes for live-in staff members and several other buildings, including the native-stone lodge that used to be Boys Town's main residence and today houses its commissary.

The lodge, once a vacation hideaway for an earlier owner of the property, overlooks a small valley, now partly taken up with sports fields. The whole thing has the look of a somewhat old-fashioned yet comfortable Ozark resort.

It seems like just the spot for coaxing wayward youngsters back into step with society. Lots of good country air and three square meals a day. A nice homey atmosphere. What more does a boy need?

Quite a lot more, it turns out. In 1949, when the first 12 youngsters arrived at the newly created Boys Town, that may have been enough. But times have changed.

"The type of child they got in those days was different," explained Dick Dunn, who has been Boys Town's resident director since 1970. "The kids usually weren't in any serious trouble. Today, we'd probably call them 'pre-delinquent.' Most kids like that now are handled by juvenile resources in their own communities. They don't come here."

The kids that Boys Town gets today aren't necessarily in any serious trouble either, if by "trouble" you mean problems with the law. But they do have troubles—"emotional problems, social maladjustments, academic handicaps," sums up Dunn.

Boys Town's staff now includes 10 social workers, all of them therapists. There are 12 teachers in the Boys Town school, all with training in special education. When you add house parents, kitchen workers, etc., the staff numbers 70. With 116 boys in residence (including six who live in foster homes), that's a staff-to-resident ratio of roughly 1-to-1¾.

"Our primary role isn't to keep youngsters for any period of time," Dunn said. "This isn't home for them; it's a clinical experience. Our role is short-term treatment, not necessarily to resolve everything, but to get things going.

"And I want to stress that they don't really have to like the experience here to get something out of it."

The words sound hard-boiled, but not when you hear them from Dunn. He gives the impression of being a low-key, understanding man, matter of fact in approach but compassionate in action. If Boys Town's chief role, as he sees it, isn't to provide a substitute home, he and his staff do try to make things as home-like as possible.

At the 1½-year-old Boys Town Center, which occupies the old Railroad Hotel in St. James, 10 boys live through the week with house parents. Most go to school in town; most go to their own homes on weekends. "It's about as normal an experience as kids can have in this situation," said Dunn.

Back on the main campus, the new Neill Cottage, which was built last year, houses 10 other boys, youngsters whose problems are a lot more serious. They spend almost all their time in the cottage or nearby. They eat there, have their own schoolroom there. There are group therapy sessions three times a week. There are five staff members to work with 10 boys.

In between the relaxed atmosphere of the Center and the structured life of Neill Cottage, there are apparently as many niches at Boys Town as there are boys. "The degree of freedom depends on the youngster," Dunn said. "We work with kids where they are."

For all of them, though, a principal concern is to keep up contact with their own homes. "One of the most important things with our kids . . . with any kids, with you and me . . . is their roots, the family ties," said Dunn. "We try to keep the kids in touch, to get them home as often as we can, as much as they can tolerate. It's imperative to help kids maintain contact with their parents along healthy, productive lines. It's a crucial part of treatment."

The youngest resident of Boys Town is 9 ("going on 14," Dunn said). The oldest is 17. The median age is a bit less than 14, and that's the age group for which the program is intended. The kids come from throughout Missouri, but about half are from St. Louis.

There are a few that are there voluntarily, generally for help with learning disabilities, but most had to come, sent by the state's Division of Family Services or a juvenile court. "There's a smattering from the deep ghetto and a smattering from the affluent," Dunn said, "but most are middle class, whatever that term means nowdays."

The average stay is 18 months.

For many of the youngsters at Boys Town, problems began in school, or at least surfaced there, Dunn said. They couldn't cope with classwork or caused disturbances or just didn't show up.

For instance, a boy might miss out on learning to read for some reason or the other, so he continues to get further and further behind in all his schoolwork. Then he either withdraws completely, skipping school whenever he can, or becomes totally obnoxious in class, in an effort to cover up his learning disability.

"It's common for kids to have a poor self-image of themselves," Dunn said, "and then they set out to prove that the image is true. If they don't think they can do well in school, they make sure that they don't. Kids don't play hooky because they're mean. They do it because they're embarrassed.

"That's a great oversimplification, of course," he added quickly. "I don't want to imply that this is all there is to it, or that it's true in every case, but it gives you an idea of the kinds of problems that these kids have."

Some may have perceptual difficulties—an unrecognized hearing ailment, say—that are behind their other problems. Others may have behavioral disorders. Boys Town tries to get at both the problems and their source.

"We want the kids to learn *how* to learn, how to get along with the people around them," Dunn said, "so they can get back to their own homes as soon as possible."

Over the years, Boys Town has taken several surveys of boys who have come and gone, checking to see whether they stayed out of trouble. The surveys generally indicated a success rate of 80 to 86 percent, Dunn said. A survey of 560 former residents is in progress, and it looks like it will indicate about 80 percent success, he said.

"These are difficult things to judge," he continued. "We'd like to say that we have 90 percent success, but when you start with kids who have had all kinds of problems, it's tough to do.

"There's no way you can do a complete overhaul of a kid. Ninety-nine percent of our kids are not voluntary participants, but sometimes things have to be done for a youngster. As I said, kids don't have to like a program to get something out of it."—Jim Creighton.

● Mr. ROSTENKOWSKI. Mr. Chairman, during 1979, the International Year of the Child, much has been said and will continue to be said about the needs of today's children. It is appropriate that during this time the House has the opportunity to consider H.R. 3434. This legislation provides alternatives to our present inadequate foster care system. H.R. 3434 would institute preventive service programs, accountability, and due process procedures for States, as well as payment of subsidies to adoptive parents of eligible children.

I was surprised to learn that in my own city of Chicago there are presently over 7,000 children who are in some form of foster care. These children, like hundreds of thousands nationwide, are caught up in the all too familiar maze of foster care. They can be likened to criminals who face a long sentence, but unlike criminals, they have done nothing wrong—their greatest crime is being abused or neglected by their parents. They enter foster care for a "temporary" period which in most cases lasts a good portion of their childhood. During these years a child can be placed in as many as five foster homes or institutions, frequently because of insufficient support payments to the foster family. The present foster care system encourages this type of lifestyle.

In a majority of the cases, there are little or no attempts to reunite the child with the natural family. Also, payments cannot be made either to relatives who wish to care for the child or to foster families who wish to adopt a child already living with them, but who cannot afford to lose the foster care allowance. On the other hand, because of the heavy workload of the caseworkers, many children are placed in homes that do not provide proper care or a proper environment for the child. The enactment of this legislation would require a written case plan on each child, which will have a description of the home or institution in which the child is to be placed, including a discussion of the appropriateness of the placement. A review of this case plan will occur every 6 months with a dispositional hearing no later than 18 months after placement. Therefore, with the passage of H.R. 3434, instead of being faced with a rootless insecurity, these children can now be assured a more stable and more permanent family setting.

This legislation has been endorsed by numerous organizations and has received broad bipartisan support in the House. I urge its early passage by both the House and Senate. Mr. Speaker, these neglected children have waited long enough.●

Mr. RICHMOND. Mr. Chairman, as the Representative from a district which contains many of our neediest citizens, I wish to state my strong support for H.R. 3434, the social services and child welfare amendments. The bill increases the statutory ceiling on title XX social services funds to $3.1 billion in fiscal year 1980. The current ceiling is $2.9 and will drop to $2.5 billion on October 1, 1979, if this bill is not passed by Congress. The $2.5 billion cap was the original ceiling placed on title XX funding 5 years ago. Title XX has allowed the States and local districts to provide both mandated and purchased services from local social services agencies to the poor as determined by the needs of each geographic district.

As the need for services by eligible clients has increased and the social services delivery system has become more visible, title XX funding has remained the same or only slightly increased in the past 2 years.

The competition for title XX funds for many needed services has forced ugly trade offs between eliminating services and lowering income eligibility criteria for clients to remain within the allotments provided to States under the congressionally mandated cap. It appears to me to be incongruous for this body to on one hand mandate certain services, like protective services to children, and want other services provided by title XX to individuals and families in need of assistance, such as homemakers for elderly and disabled, and not authorize sufficient funds to fulfill our mandate.

In my district providers of services for the elderly have ingeniously tried to multifund the congregate meal programs to provide a greater number of meals for elderly by pooling the limited title XX social services funds as well as title VII and III aging funds. The use of title VII funds enabled the meal sites to also receive the cash value of commodity food and provide even more congregate meals to meet the ever-rising number of seniors who participate for the additional meal and the opportunity to be with friends. Because title XX money was also in the congregate meal program, the USDA has challenged the continued donation of the value of commodity foods. A negative ruling by the USDA will cost New York $2.2 million or the equivalent of 22,690 meals which could no longer be available to our seniors.

This is just one example of the predicament and sometimes jeopardy we place on social agencies when there is a geninue need for services and adequate funds are not provided.

I urge that the $3.1 billion authorization for fiscal year 1980 be approved by this House and that in succeeding years it will consider appropriate increases in authorizations. Such authorizations will maintain the services in our districts that we as Members of Congress mandate and that our constituents through the democratic process of planning and participation identify for title XX support.

● Mr. LUKEN. Mr. Chairman, I wish to draw your attention to a provision of H.R. 3434 which changes the regulations governing the distribution of title XX funds within the State. Section 2004, part D, will insure the equitable distribution of services among the geographic areas within each State by requiring State plans for the distribution of title XX funds to include "Criteria used to determine the nature and amount of such services for each geographic area."

I am extremely pleased that the committee saw fit to include this provision which is the language of a bill which I introduced during the 95th Congress. This language will correct an enormous disparity that currently exists in my State of Ohio, and which could potentially develop elsewhere. My district, which includes the western half of the city of Cincinnati and of Hamilton County, receives less than half the amount of title XX funds that is granted to the other major Ohio cities of Columbus and Cleveland, even though the proportionate number of poor people in the three metropolitan areas is about the same. For example, Franklin County's title XX distribution is 63 percent larger per capita than Hamilton County's. The Ohio Department of Public Welfare has approved $9.2 million for "purchase of services" in Franklin County as compared to $6.3 million for Hamilton County. Total allocations under title XX to Franklin County in fiscal year 1980 are $23,567,926. Total allocations under title XX to Hamilton County in fiscal year 1980 are only $14,968,519. These figures demonstrate why this Congress has to pass legislation which will help insure that this type of inequitable distribution within States is prevented.

The effects of the inequities in the distribution of title XX funds will be drastic. Voluntary services such as the Salvation Army, senior services, cancer family care, the Cincinnati Speech and Hearing Center, and the visiting nurses program are just a few of the programs that will have their budgets greatly cut. I bring this to the attention of my colleagues as an example of what is happening around this country because of the unfair geographical distribution of title XX funds.

I urge you to support this legislation which is a milestone in the reform of the title XX program.●

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 3434. Its provisions, particularly the foster care and adoption assistance, are long overdue. I am very pleased that the bill provides for the retention on a permanent basis of the $72 million in AFDC payments to Puerto Rico which was authorized for fiscal year 1979 under the Revenue Act of 1978, and for a set-aside of $15 million under title XX.

Mr Chairman, for years, we the people of Puerto Rico have been struggling to pull up from the poverty circle. We have made great strides through our own efforts to improve our economic and social conditions.

In combination, severe poverty and high unemployment have generated extensive public assistance needs in Puerto Rico. While our needs are big and resources limited, we have not been fortunate in receiving appropriate treatment under various sections of the Social Security Act. Puerto Rico is excluded from participating in title XVI (SSI). We are also excluded from the Prouty program. The limits placed on Puerto Rico severely restrict benefits to those who because of their condition, be it age or physical impairment, are least able to help themselves.

Mr. Chairman, these ceilings and restrictions have created serious inequities in the benefits received by the U.S. citizens residing in Puerto Rico and other offshore territories.

For example, although per capita income in Puerto Rico is less than 40 percent of the U.S. level and 60 percent of all families have incomes below the Federal poverty level, only about 13 percent of the population receives cash assistance due to funding limitations.

Due to funding limitations, Puerto Rico pays 40 percent of its AFDC need standard or about $14 per month. The Federal share of the AFDC grant is disproportionately low $4.73 versus a U.S. average of $39 and the higher matching rates have been a burden to Puerto Rico given our limited fiscal capacity.

Except for fiscal year 1979, these ceilings have remained static since 1972, and if we take into consideration the high rate of inflation, we find that the real value of Federal payments have been reduced to less than 60 percent of the 1972 level.

If the bill is passed, we estimate that monthly payments per recipients would be increased to an average of $30 per month—still a very low sum if we consider the fact that cost of living in Puerto Rico is about 12 percent higher than in Washington, D.C., and if we further consider that these public assistance payments are not supplemented by the SSI, which, unfortunately, Congress has not yet extended to Puerto Rico. I urge you to maintain AFDC payments for fiscal year 1980 at the level authorized by Congress for fiscal year 1979, and urge my colleagues to vote for this bill.●

Mr. EVANS of the Virgin Islands. Mr. Chairman, today I rise in support of passage of H.R. 3434. The Social Services and Child Welfare Amendments of 1979, a bill which I have previously cosponsored.

I would also like to offer my commendations to the members of the Ways and Means Committee who have seen fit to report out this excellent piece of legislation.

There are two major provisions in this bill which are of particular interest to the people of my home district, the U.S. Virgin Islands, and I wish to refer to these provisions briefly.

Mr. Chairman, since 1968, the public assistance program in the U.S. Virgin Islands has qualified for a 50-percent Federal matching rate, with an annual limit on Federal funds of $800,000. For fiscal year 1979 only, this Federal matching rate was increased to 75 percent, with the dollar limit increased to $2.4 million, pursuant to Public Law 95-600.

By virtue of H.R. 3434, however, this fiscal year 1979 $2.4 million funding level and 75-percent matching rate would become permanent, and be tremendously beneficial to those Virgin Islanders who receive public assistance payments, such as the elderly, the blind, the permanently disabled, and families with dependent children.

A second provision of H.R. 3434 of tremendous benefit to the Virgin Islands is the title XX social services entitlement for the Virgin Islands. Under current law, we receive an annual allotment not to exceed $500,000, but only if the States and the District of Columbia certify at the beginning of the fiscal year that they will not spend their total allotments. The actual amount, if any, available to the Virgin Islands is not known until at least 3 months after commencement of the fiscal year.

Under H.R. 3434, however, there would be created a separate $500,000 title XX social services entitlement for the Virgin Islands which would be made available at the beginning of the fiscal year, independent of other allotments to the States and the District of Columbia.

Such funds would be earmarked for child day care services, the hiring of welfare recipients as child day care workers, services to alcoholics and drug addicts, emergency shelters, training, and planning.

Last March, the distinguished Subcommittee on Public Assistance and Unemployment Compensation of the Ways and Means Committee held hearings on the welfare situation in the Virgin Islands. At that time, the Governor of the Virgin Islands, Juan Luis, the Virgin Islands commissioner of social welfare, Gwendolyn Blake, and I made clear to the subcommittee members that should the fiscal year 1979 provisions not be extended in fiscal year 1980, the Virgin Islands government would be forced to substantially reduce its public assistance payments, which were already among the lowest, if not the lowest, in the Nation. From the language of H.R. 3434, it is most gratifying to read that the subcommittee and the full committee did ultimately decide to come to the aid of the U.S. Virgin Islands.

The extension of the fiscal 1979 public assistance funding and matching rate, along with the separate title XX entitlement have been very high priorities on my legislative calendar as the newly elected congressional Delegate from the Virgin Islands. Similarly, I am optimistically looking forward to the day in the not too distant future when the U.S. Virgin Islands, Puerto Rico, and Guam will be treated as States under the Social Security Act for funding eligibility.

We in the offshore areas are U.S. citizens, and our islands contain an extremely high proportion of residents whose incomes are below the poverty line.

Consequently, we must all share in the massive responsibility to care for and protect the needs of poorer citizens. Therefore, I must strongly urge all Members of the House to join with me in supporting passage of H.R. 3434.

Thank you, Mr. Chairman.

Mr. DODD. Mr. Chairman, at a time when the monumental problems of energy and economics dominate our attention we must guard against a failure to recognize the needs of less vocal members in our society. In this particular case we are asked to hear the voices of hundreds of thousands of American foster children whose well-being is dependent on the child welfare amendments that the House is currently considering.

While our present child welfare system emphasizes out-of-home answers to the problem of child placement, the provisions of H.R. 3434 encourage family-oriented solutions to this problem. Too often, out-of-home care consists of inappropriate institutionalization at great distances from the child's home and familiar community. H.R. 3434 is a chance to replace this example of public neglect with a concerted effort to improve our child welfare system.

Inadequate funding is the major cause of shortcomings in our child welfare services program. Though this program has an authorization of $266 million it has never been funded at more than $56.5 million. H.R. 3434 will convert title IV-B to an entitlement of $266 million to be phased in over a 2-year period and will guarantee to States the necessary funds for improvements in the child welfare system.

This bill, however, does not increase funding so that past mistakes may be repeated. H.R. 3434 prohibits new funds from being used for traditional foster care maintenance which tends to be large scale and institutional. Instead, new funding will be targeted at personalized, family-oriented solutions to child placement problems. These amendments also provide a new emphasis on preventive services and family reunification services. More simply, a greater attempt will be made to keep children in the home, rather than foster institutions. Finally, greater means of protecting children already receiving out-of-home care will become available through these additional funds.

It is also important to note that these provisions are, in the long run, beneficial to the States in terms of cost efficiency. Care in avoiding unnecessary removal of children from their families, and services that work to reunite children already in placement with their families will save States the high expenses of long-term, out-of-home care for foster children.

Cost efficiency, however, is only a secondary reason for implementation of the child welfare reform amendments. More important than the financial savings this bill provides are the benefits of a family-oriented upbringing for these children. If our child welfare system is going to provide proper care and attention for our dependent foster children, H.R. 3434 must be conscientiously supported.

Mr. ROUSSELOT. Mr. Chairman, I yield back the balance of my time.

Mr. CORMAN. Mr. Chairman, I yield back the balance of my time.

The **CHAIRMAN.** Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendment shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment.

(The bill is as follows:)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

Section 1. (a) This Act, with the following table of contents, may be cited as the "Social Services and Child Welfare Amendments of 1979".

TABLE OF CONTENTS

Sec. 1. Short title; reference to Act.

TITLE I—SOCIAL SERVICES

Sec. 101. Permanent increase in amount allocated to States.
Sec. 102. Temporary extension of 100-percent Federal matching for certain child day care expenditures.
Sec. 103. Employment of welfare recipients in day care.
Sec. 104. Limitation on funds for training.
Sec. 105. Consultation with local officials.
Sec. 106. Multiyear planning
Sec. 107. Criteria for provision of services.
Sec. 108. Permanent extension of provisions relating to alcoholics and drug addicts.
Sec. 109. Emergency shelter.
Sec. 110. Purposes of social services program.
Sec. 111. Social services funding for territorial jurisdictions.
Sec. 112. Technical and conforming amendments.

TITLE II—CHILD WELFARE SERVICES, FOSTER CARE, AND ADOPTION ASSISTANCE

Sec. 201. Amendments to child welfare services program.
Sec. 202. Federal payments for dependent children voluntarily placed in foster care.
Sec. 203. Adoption assistance payments under aid to families with dependent children foster care program.

TITLE III—MISCELLANEOUS

Sec. 301. Public assistance payments to territorial jurisdictions.
Sec. 302. Effective dates.

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference (unless specifically otherwise indicated) shall be considered to be made to a section or other provision of the Social Security Act.

TITLE I—SOCIAL SERVICES

PERMANENT INCREASE IN AMOUNT ALLOCATED TO STATES

Sec. 101. Section 2002(a)(2)(A)(ii) is amended by striking out "$2,500,000,000" the second time it appears and inserting instead "$3,100,000,000".

TEMPORARY EXTENSION OF 100-PERCENT FEDERAL MATCHING FOR CERTAIN CHILD DAY CARE EXPENDITURES

Sec. 102. (a) Section 2002(a)(1) is amended by inserting "(subject to paragraph (17))" after "planning services and".

(b) Section 2002(a) is further amended by adding at the end the following new paragraph:

"(17(A) The total payment to a State under this section with respect to expenditures during fiscal year 1980 or fiscal year 1981 for the provision of child day care services under this title shall be equal to 100 per centum of such expenditures to the extent that such expenditures (during that fiscal year) do not exceed an amount which bears the same ratio to $200,000,000 as the amount of the State's limitation under paragraph (2)(A) bears to $3,100,000,000.

"(B) Federal funds payable to a State under this title (with respect to expenditures for child day care services) at the rate specified in subparagraph (A) shall, to the maximum extent that the State determines to be feasible, be employed in such a way as to increase the employment of welfare recipients and other low-income persons in jobs related to the provision of child day care services.".

EMPLOYMENT OF WELFARE RECIPIENTS IN DAY CARE

Sec. 103. Section 2002(a) is amended by adding after paragraph (17) (as added by section 102(b) of this Act) the following new paragraph:

"(18)(A) Sums granted by the State to a qualified provider of child day care services (as defined in subparagraph (B)) for payment of the wages of one or more eligible employees (as defined in section 50B(h) of the Internal Revenue Code of 1954), in jobs related to the provision of child day care services, shall be deemed for purposes of this title to constitute expenditures for the provision of child day care services to the extent that (i) the grants involved are included in the State's expenditures (for the provision of child day care services) with respect to which payment may be made at the rate specified in paragraph (17) (A) and (ii) the wages so paid to any such employee (as determined by the Secretary) are paid at an annual rate not in excess of (I) $5,000, in the case of a public or nonprofit private provider, or (II) $4,000, or 80 per centum of the wages of such employee, in the case of any other provider. For purposes of paragraph (17), services directed at the goals specified in section 2001 shall be deemed to include the employment of Federal welfare recipients in jobs related to the provision of child day care services in accordance with the preceding sentence.

"(B) For purposes of this paragraph, the term 'qualified provider of child day care services' (with respect to any grant by a State) includes a provider of such services only if some or all of the costs of such services for at least 20 per centum of the children receiving services from such provider in the facility with respect to which the grant is made are paid for under the State program under this title.".

LIMITATION ON FUNDS FOR TRAINING

Sec. 104. (a) The first sentence of section 2002(a)(2)(A)(i) is amended by striking out "in excess of an amount" and all that precedes it, and inserting instead "Except as provided in clause (iii), no payment may be made under this section to any State for any fiscal year beginning after September 30, 1979, in excess of an amount".

(b) Section 2002(a)(2)(A) is further amended by adding after clause (ii) the following new clause:

"(iii) Payment with respect to expenditures for personnel training or retraining directly related to the provision of services under this title may be made to a State, for any fiscal year, in excess of the limitation for such State promulgated under clause (i); except that—

"(I) payment to a State with respect to such expenditures for fiscal year 1980 may not exceed an amount equal to 3 per centum of the State's limitation so promulgated for fiscal year 1980, plus (if the State's expenditures for such training or retraining in fiscal year 1979 were in excess of 3 per centum of its limitation for that year) two-thirds of the amount (if any) by which such expenditures for fiscal year 1979 exceeded an amount equal to 3 per centum of the State's limitation for fiscal year 1980; and

"(II) payment to a State with respect to such expenditures for fiscal year 1981 or any succeeding fiscal year may be made only if the State has submitted to the Secretary in accordance with paragraph (19) (prior to the beginning of the fiscal year involved) a training plan specifying in detail how its funds expended for such training or retraining in that fiscal year will be used, and only with respect to expenditures included in such plan which are approved by the Secretary in accordance with criteria prescribed by him.".

(c) Section 2002(a) is amended by adding after paragraph (18) (as added by section 103 of this Act) the following new paragraph:

"(19) Effective October 1, 1980, no payment may be made under this section for training or retraining expenditures except in accordance with a training plan approved by the Secretary which, at a minimum—

"(A) describes how training needs were assessed and how the assessment was used to structure the training programs, the individuals to be trained, and the training resources to be used;

"(B) demonstrates that the training activities have a direct relationship to the title XX services program and to the State's staffing needs to carry out the title XX[1] services program; and

"(C) describes the State agency's plan to monitor training programs and to evaluate the agency's overall staff training and development program.".

CONSULTATION WITH LOCAL OFFICIALS

SEC. 105. (a) Section 2004 is amended by inserting "(a)" after "SEC. 2004.", and by adding at the end the following new subsection:

"(b) A State's comprehensive services program planning does not meet the requirements of this section unless, prior to the publication of the proposed comprehensive services program plan in accordance with subsection (a), the State official designated under paragraph (2) of that subsection gives public notice of his intent to consult with the chief elected officials of the political subdivisions of the State in the development of that plan, and thereafter provides each such official with a reasonable opportunity to present his views prior to the publication of the plan.".

(b) Paragraph (2) of section 2004(a) (as so designated by subsection (a) of this section) is amended—

(1) by striking out "and" at the end of subparagraph (I):

(2) by striking out "; and" and the end of subparagraph (J) and inserting instead ", and"; and

(3) by adding at the end the following new subparagraph:

"(K) a description of the process of consultation that was followed in compliance with subsection (b) of this section; and a summary of the principal views expressed by the chief elected officials of the political subdivisions of the State in the course of that consultation; and".

(c) Section 2007 is amended—

(1) by striking out ", and" at the end of paragraph (1) and inserting instead a semicolon;

(2) by striking out the period at the end of paragraph (2) and inserting instead "; and"; and

(3) by adding at the end the following new paragraph:

"(3) the term 'political subdivisions of the State' means those areas of the State that are subject to the jurisdiction of general purpose local governments.".

MULTIYEAR PLANNING

SEC. 106. (a) Paragraph (1) of section 2004(a) (as so designated by section 105(a) of this Act) is amended to read as follows:

"(1) for each services program period, the beginning of the fiscal year of either the Federal Government or the State government is established as the beginning of the State's services program period, and the end of such fiscal year, the end of the succeeding fiscal year, or the end of the second succeeding fiscal year is established as the end of the State's services program period; and".

(b) Section 2004(a) (as so redesignated) is further amended—

(1) by striking out "services program year" each place it appears and inserting instead "services program period";

(2) by striking out "annual" in paragraph (2) (in the matter preceding subparagraph (A)) and in paragraph (4);

(3) by striking out "during that year" in paragraph (2) (in the matter preceding subparagraph (A)) and inserting instead "during that period";

(4) by striking out the period at the end of paragraph (5) and inserting instead "; and"; and

(5) by adding at the end the following new paragraph:

"(6) where the State adopts under paragraph (1) a services program period of longer than one year, the State agency publishes and makes generally available such information concerning the comprehensive services program, at such times, as the Secretary may by regulation require.".

CRITERIA FOR PROVISION OF SERVICES

SEC. 107. Paragraph (2)(D) of section 2004(a) (as so designated by section 105(a) of this Act) is amended to read as follows:

"(D) the geographic areas in which those services are to be provided, with specific reference to those areas determined to be areas of special need for such services, the nature and amount of the services to be provided in each geographic area, and the criteria used to determine the nature and amount of such services for each geographic area,".

PERMANENT EXTENSION OF PROVISIONS RELATING TO ALCOHOLICS AND DRUG ADDICTS

SEC. 108. Section 4(c) of Public Law 94-120 is amended (effective with respect to expenditures made, and services provided, on and after October 1, 1979) by striking out "only for the period" and all that follows and inserting instead "from and after October 1, 1975.".

EMERGENCY SHELTER

SEC. 109. Section 2002(a)(11) is amended—

(1) by striking out "; and" at the end of subparagraph (C) and inserting instead a comma;

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) any expenditure for the provision of emergency shelter, for not in excess of thirty days in any six-month period, provided as a protective service to an adult in danger of physical or mental injury, neglect, maltreatment, or exploitation, and".

PURPOSES OF SOCIAL SERVICES PROGRAM

SEC. 110. (a) Section 2001 is amended by striking out "to furnish services directed at the goal of—" in the matter preceding paragraph (1) and inserting instead "to meet social services needs which are not otherwise being met, in order to make a comprehensive range of social services available to the individuals eligible for services under this title, by furnishing services within the State, and especially within the political subdivisions of the State having a special need for those services, directed at the goals of—".

(b) Section 2002(a)(1) is amended by striking out "goal of—" and all that follows down through "including expenditures" and inserting instead "goals specified in section 2001, including expenditures".

SOCIAL SERVICES FUNDING FOR TERRITORIAL JURISDICTIONS

SEC. 111. (a) Effective with respect to fiscal years beginning after September 30, 1979, section 2002(a)(2) is amended by striking out subparagraphs (B), (C), and (D) and inserting instead the following new subparagraph:

"(B) From the amounts made available under section 2001 for any fiscal year beginning with fiscal year 1980 (in addition to any sums appropriated for purposes of payments under the preceding provisions of this subsection), the Secretary shall allocate—

"(ii) to the jurisdictions of Puerto Rico, Guam, and the Virgin Islands, for purposes of payments under sections 3(a) (4) and (5), 403(a)(3), 1003(a) (3) and (4), 1403(a) (3) and (4), and 1603(a) (4) and (5), with respect to services, the sums of $15,000,000, $500,000, and $500,000, respectively, and

"(ii) to the jurisdiction of the Northern Mariana Islands, for purposes of payments under section 403(a)(3), with respect to services and for services programs for other individuals as defined by the Secretary, the sum of $100,000,

in addition to any amounts otherwise available to such jurisdictions under this Act.".

(b) The last sentence of section 2001 is amended by inserting before the period at the end thereof the following: "(and to territorial jurisdictions as described in subsection (a)(2)(B) thereof)".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 112. (a) Section 2002(a)(3)(B) is amended—

(1) by striking out "annual"; and

(2) by striking out "2004(2) (B) and (C)" and inserting instead "2004(a)(2) (B) and (C)".

(b) Section 2002(a)(7) is amended by striking out "paragraph (11)(D)" in subparagraphs (A) and (E) and inserting instead in each instance "paragraph (11)(E)".

(c) Section 2003(b) is amended by striking out "services program year" each place it appears and inserting instead "services program period".

(d) The last sentence of section 2003(d)(1) is amended by striking out "2004(1)" and "services program year" and inserting instead "2004(a)(1)" and "services program period", respectively.

(e) Section 2003(e)(1) is amended by striking out "subsection (g)" and inserting instead "subsection (d)".

(f) Section 2004(a)(2)(B) (as so designated by section 105(a) of this Act) is amended by striking out "section 2002(a)(1)" each place it appears and inserting instead "section 2001".

(g) Section 2005 is amended by striking out "services program year" and inserting instead "services program period".

(h) Section 1108(a) is amended by striking out "2002(a)(2)(D)" in the matter preceding paragraph (1) and inserting instead "2002(a)(2)(B)".

TITLE II—CHILD WELFARE SERVICES, FOSTER CARE, AND ADOPTION ASSISTANCE

AMENDMENTS TO CHILD WELFARE SERVICES PROGRAM

SEC. 201. (a) Part B of title IV is amended (subject to subsection (b) of this section) by striking out all that precedes section 426 and inserting instead the following:

"PART B—CHILD WELFARE SERVICES

"APPROPRIATION

"SEC. 420. For the purpose of enabling the United States, through the Secretary, to cooperate with State public welfare agencies in establishing, extending, and strengthening child welfare services there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part (other than section 426).

"ALLOTMENTS TO STATES

"SEC. 421. (a) The sum of $266,000,000 shall be allotted by the Secretary each fiscal year for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary, as follows: He shall first allot $70,000 to each State, and shall then allot to each State an amount which bears the same ratio to the remainder of such sum as the product of (1) the population of the State under the age of twenty-one and (2) the allotment percentage of the State (as determined under this section) bears to the sum of the corresponding products of all the States.

"(b) The 'allotment percentage' for any State shall be 100 per centum less the State percentage; and the State percentage shall be the percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

"(c) The allotment percentage for each State shall be promulgated by the Secretary between October 1 and November 30 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning October 1 next succeeding such promulgation.

"(d) For purposes of this section, the term 'United States' means the fifty States and the District of Columbia.

"STATE PLANS FOR CHILD WELFARE SERVICES

"SEC. 422. (a) In order to be eligible for payment under this part, a State must have a plan for child welfare services which has been developed jointly by the Secretary and the State agency designated pursuant to paragraph (1), and which meets the requirements of subsection (b).

"(b) Each plan for child welfare services under this part shall—

"(1) provide that (A) the individual or agency designated pursuant to section 2003 (d)(1)(C) to administer or supervise the administration of the State's services program will administer or supervise the administration of the plan, and (B) to the extent that child welfare services are furnished by the staff of the State agency or local agency administering the plan, a single organizational unit in such State or local agency, as the case may be, will be responsible for furnishing such child welfare services;

"(2) provide for coordination between the services provided for children under the plan and the services and assistance provided under title XX, under the State plan approved under part A of this title, and under other State programs having a relationship to the program under this part, with a view to provision of welfare and related services which will best promote the welfare of such children and their families;

"(3) provide that the standards and requirements imposed with respect to child day care under title XX shall apply with respect to day care services under this title, except insofar as eligibility for such services is involved;

"(4) provide for the training and effective use of paid paraprofessional staff, with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan, and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency;

"(5) contain a description of the services to be provided and specifies the geographic areas where such services will be available;

"(6) contain a description of the steps which the State will take to provide child welfare services and to make progress in—

"(A) covering additional political subdivisions,

"(B) reaching additional children in need of services, and

"(C) expanding and strengthening the range of existing services and developing new types of services,

along with a description of the State's child welfare services staff development and training plans;

"(7) provide, in the development of services for children, for utilization of the facilities and experience of voluntary agencies in accordance with State and local programs and arrangements, as authorized by the State; and

"(8) provide that the agency administering or supervising the administration of the plan will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require.

"PAYMENT TO STATES

"SEC. 423. (a) From its allotment under section 421 for each fiscal year, subject to the conditions set forth in this section and in section 424, the Secretary shall from time to time pay to each State that has a plan developed in accordance with section 422 an amount equal to 75 per centum of the total sum expended under the plan (including the cost of administration of the plan) in meeting the costs of State, district, county, or other local child welfare services.

"(b) The method of computing and making payments under this section shall be as follows:

"(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of this section.

"(2) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such prior period under this section.

"(c) No payment may be made to a State under this part with respect to any expenditure made in a fiscal year beginning after September 30, 1979, unless the Secretary receives a claim from the State for Federal reimbursement for such expenditure on or before the last day of the fiscal year following the fiscal year in which the expenditure is made (as determined in accordance with such guidelines or regulations as the Secretary may promulgate).

"(d) No payment may be made to a State under this part, for any fiscal year beginning after September 30, 1979, with respect to State expenditures made for (1) child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living, (2) foster care maintenance payments, and (3) adoption assistance payments, to the extent that the Federal payment with respect to those expenditures would exceed the total amount of the Federal payment under this part for fiscal year 1979.

"(e) No payment may be made to a State under this part in excess of the payment made under this part for fiscal year 1979, for any fiscal year beginning after September 30, 1979, if for the latter fiscal year the total of the State's expenditures for child welfare services under this part and title XX (excluding expenditures for activities specified in subsection (d)) is less than the total of the State's expenditures under this part and title XX for fiscal year 1979.

"FOSTER CARE PROTECTIONS REQUIRED FOR ADDITIONAL FEDERAL PAYMENTS

"SEC. 424. (a) A State shall not be eligible for payment from its allotment under section 421 for any fiscal year in an amount greater than it was paid under this part for fiscal year 1979, except as provided in this section.

"(b) Each State shall be eligible for payment from its allotment under section 421 for fiscal year 1980 and each fiscal year thereafter (subject to subsection (d)(2)), in addition to an amount equal to such State's payment under this part for fiscal year 1979, of an amount equal to 40 per centum of the remainder of such allotment. As soon as possible after the date of the enactment of the Social Services and Child Welfare Amendments of 1979, the State, using such portion of any amounts paid to it under the preceding sentence as may be necessary, shall—

"(1) complete case reviews (as defined in section 425(b)(4)) of children in foster care under the responsibility of the State, including at a minimum all children who have been in such foster care continuously for the six months preceding the last day of the quarter during which the case reviews are performed;

"(2) submit to the Secretary and make available to the public a report based on the case reviews under paragraph (1) which sets forth the number of children who have been in foster care for more than six months and the length of time they have been in foster care, their ages and appropriate demographic characteristics, their legal status, the reasons for initial placement in foster care, the types of foster care arrangements in which they reside, and the numbers of such children respectively expected to return to parents or other relatives, to be adopted, or to have legal guardians appointed; and

"(3) take such other actions as may be necessary to establish and place in effect the laws, regulations, standards, practices, and procedures described in subsection (c).

"(c) Each State shall be eligible for payment of the full amount to which it is entitled from its allotment under section 421 for each calendar quarter, beginning after September 30, 1980 (and after the State has completed the actions described in subsection (b)), for which the State demonstrates to the satisfaction of the Secretary that the State has in effect such laws, regulations, standards, practices, and procedures as are necessary and appropriate to assure that—

"(1) no child (except in a situation described in paragraph (2)(A) or (2)(C)) will be placed in foster care either voluntarily or involuntarily unless the child and his family have been provided adequate preventive services which are designed to avoid unnecessary out-of-home placements (and which may include homemaker services, day care, twenty-four-hour crisis intervention, emergency caretaker services, emergency temporary shelters and group homes for adolescents, and emergency counseling), or such preventive services have been made available but refused by the family;

"(2) no child will be involuntarily removed from a home shared with a parent and placed in foster care, except on a short-term emergency basis either in the case of a situation described in subparagraph (A) of this paragraph or in the case of an alleged delinquent or an alleged status offender, unless there has been a judicial determination, by a court of competent jurisdiction, that—

"(A) the situation in the home presents a substantial and immediate danger to the child which would not be mitigated by the provision of preventive services,

"(B) the child is dependent, neglected, or in need of supervision or has committed a status offense, and preventive services have been provided to the family pursuant to paragraph (1) but have failed to alleviate the crisis necessitating an out-of-home placement, or every reasonable effort has been made to provide such services, or such services have been made available but refused by the family, or

"(C) the child has committed a delinquent offense;

"(3) no child will be placed in foster care by the voluntary action of a parent unless preventive services have been provided to the family but have failed to alleviate the crisis necessitating an out-of-home placement or have been made available but have been refused by the family, and a voluntary placement agreement, containing such provisions as the Secretary shall by regulation require for purposes of this section, has been developed and approved by the placement agency and the parents, signed by both, and a copy given to any foster parent or guardian;

"(4) with respect to each child accepted for placement—

"(A) the child will be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met in accordance with such criteria as the Secretary shall by regulation establish,

"(B) the child will be placed within reasonable proximity to his home, taking into account any special needs of the child, and

"(C) where appropriate, all reasonable efforts will be taken to place the child with relatives;

"(5) the State will establish and make available to each child in placement, his parents, and other members of his family, family reunification services which are designed to alleviate the conditions necessitating placement and to insure the swiftest possible return of the child to his home and which may include transportation services, family and individual therapy, psychiatric counseling, homemaker and housekeeper services, day care, consumer education, respite care, information and referral services, and services to assist in post-placement adjustment;

"(6) the State has provided for the development of a written individualized case plan (as defined in section 425(b)(3)) for each child receiving foster care, and has established a case review system under which each child receives, no less frequently than once every six months, a case review (as defined in section 425(b)(4));

"(7) the State has established procedures for a dispositional hearing to be held, in a family or juvenile court or another court of competent jurisdiction, or by an administrative body appointed by a court, no later than eighteen months after the original placement, which hearing shall determine that the child—

"(i) should be returned home,

"(ii) requires continued placement for a specified period of time not to exceed six months, unless extended by the court (or administrative body) because of special needs or special circumstances which prevent immediate return to a parent,

"(iii) should be placed with a legal guardian,

"(iv) should be freed for adoption through appropriate proceedings and placed in an adoptive home, or

"(v) requires a permanent long-term foster care placement because the child cannot or should not be returned home or placed in an adoptive home; and

"(8) the State has established a fair hearing procedure under which—

"(A) any parent, foster parent, guardian, or child who believes that he has been aggrieved by any governmental action under this part will be afforded a prompt fair hearing before an impartial hearing officer who has not previously been involved in the care and supervision of the child, and

"(B) if such a hearing is requested by any party, the parent, foster parent, guardian, and child will each be afforded notice of the hearing and the opportunity to participate as a party.

"(d)(1) Notwithstanding the preceding provisions of this section (but subject to paragraph (2) of this subsection), a State which has not satisfied all of the requirements of subsection (c), but which demonstrates to the satisfaction of the Secretary that it has established and placed in effect the laws, regulations, standards, practices, and procedures described in paragraphs (2) through (8) of such subsection, shall be deemed to have satisfied all of the requirements of such subsection (if it has not been previously deemed to satisfy such requirements under this paragraph) for the period beginning with the first calendar quarter (after September 30, 1980, and after the State has completed the actions described in subsection (b)) in which those laws, regulations, standards, practices, and procedures are in effect and ending when the State actually satisfies the requirements of such subsection or (if the State has not theretofore actually satisfied such requirements) with the close of the third calendar quarter thereafter or the close of the next succeeding fiscal year, whichever is later.

"(2) If all of the laws, regulations, standards, practices, and procedures described in paragraphs (2) through (8) of subsection (c) have not been placed in effect by any State prior to the beginning of the fiscal year 1982, both this subsection and subsection (b) shall be inapplicable, and the requirements of subsection (c) shall be deemed not to have been satisfied, with respect to that State, beginning with the first quarter of the fiscal year 1982 and continuing thereafter until all of the laws, regulations, standards, practices, and procedures described in subsection (c) have been placed in effect or paragraph (1) of this subsection becomes applicable.

"(e)(1) In order to be eligible for payment as provided in this section, each State shall submit an annual report to the Secretary on its program under this part, which report shall contain the information specified in subsection (b)(2), and any additional information which the Secretary may by regulation require. The first report required by this paragraph shall be due by the end of the fiscal year succeeding the fiscal year in which the report required by subsection (b)(2) is submitted to the Secretary.

"(2) Where a State fails to submit to the Secretary the report required by paragraph (1), he shall withhold from the payment to such State under this part for any quarter beginning after the date on which the report was due any amounts in excess of the amount which the State was paid in the same calendar quarter of fiscal year 1979. The Secretary shall pay the State any amounts so withheld in the quarter succeeding the quarter in which the report is received.

"(f) With respect to fiscal years beginning after September 30, 1980, in the case of any State which the Secretary determines has complied with the conditions specified in this section, no less than 40 per centum of the amount by which its payment in any fiscal year exceeds its payment under this part for fiscal year 1979 must be expended by such State in part for services designed to help children to remain with their families and in part for services to help children, where appropriate, to return to families from which they have been removed, including at least one of the following services: homemaker services, day care, twenty-four-hour crisis intervention, emergency caretaker services, emergency shelters, or any other such services specified in regulations of the Secretary.

"DEFINITIONS

"SEC. 425. (a) For purposes of this title, the term 'child welfare services' means public social services which are directed toward the accomplishment of the following purposes: (1) protecting and promoting the welfare of all children, including handicapped, homeless, dependent, or neglected children; (2) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; (3) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; (4) restoring to their families children who have been removed, by the provision of services to the child and the families; (5) placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and (6) assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption.

"(b) For purposes of this part and the provisions of part A relating to foster care and adoption—

"(1) the term 'administrative review' means an impartial review, with respect to a child, which is open to the participation of the parents and caretakers of the child and is conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review;

"(2) the term 'adoption assistance agreement' means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which, at a minimum, specifies the amounts of the adoption assistance payments (if any) and any additional services and assistance which are to be provided as part of such agreement, and stipulates that the agreement shall remain in effect regardless of whether the adoptive parents are or remain residents of the State;

"(3) the term 'case plan' means a written document, with respect to a child, which includes at least the following information: A description of the type of home or institution in which the child is to be placed, including a discussion of the appropriateness of the placement and (if the child was removed from the home of a relative as a result of a judicial determination described in section 408(a)) how the agency which is responsible for the child proposes to comply with any requirements set as a result of such judicial determination; and a plan of services that will be provided to the family, child, and caretakers in order to improve the conditions in the home, facilitate return of the child or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the plan of services that have been provided to the child under the plan;

"(4) the term 'case review' means a review by a court of competent jurisdiction or an administrative review (as defined in paragraph (1)), with respect to a child in foster care, which at a minimum—

"(A) verifies that the child has a case plan, and determines the continuing appropriateness or need for modification of the case plan and the extent of compliance with the case plan,

"(B) evaluates the continuing necessity for and appropriateness of the placement and the progress made toward eliminating the need for placement in foster care, and

"(C) sets a date by which it is expected that the child can be returned home, or placed for adoption or legal guardianship, or otherwise permanently placed;

"(5) the term 'child-care institution' means a public institution accommodating not more than twenty-five children, a nonprofit private child-care institution, or a group home, which is licensed by the State in which it is situated or which has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing; but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily to accommodate children who are delinquent;

"(6) the term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing homes of this type, as meeting the standards established for such licensing;

"(7) the term 'parent' means a biological or adoptive parent or legal guardian, as determined by applicable law;

"(8) the term 'voluntary placement' means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and

"(9) the term 'voluntary placement agreement' means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.".

(b) In the case of Guam, Puerto Rico, and the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, section 422(1) shall be deemed to read as follows:

"(1) provide that (A) the State agency designated pursuant to section 402(a)(3) to administer or supervise the administration of the plan of the State approved under part A of this title will administer or supervise the administration of such plan for child welfare services, and (B) to the extent that child welfare services are furnished by the staff of the State agency or local agency administering such plan for child welfare services, the organizational unit in such State or local agency established pursuant to section 402(a)(15) will be responsible for furnishing such child welfare services;".

(c) Notwithstanding section 422(a)(1) of the Social Security Act, if on December 1, 1974, the agency of a State administering its plan for child welfare services under part B of title IV of that Act was not the agency designated pursuant to section 402(a)(3) of that Act, such section 422(a)(1) shall not apply with respect to such agency, but only so long as such agency is not the agency designated under section 2003(d)(1)(C) of that Act; and if on December 1, 1974, the local agency administering the plan of a State under part B of title IV of that Act in a subdivision of the State was not the local agency in such subdivision administering the plan of such State under part A of that title, such section 422(a)(1) shall not apply with respect to such local agency, but only so long as such local agency is not the local agency administering the program of the State for the provision of services under title XX of that Act.

(d) Notwithstanding any other provision of law, funds which are appropriated for fiscal year 1980 pursuant to section 420 of the Social Security Act, and for which States are eligible for payment under section 424(b) of that Act (as amended by subsection (a) of this section), shall remain available, to the extent so provided in an appropriation Act hereafter enacted, for payment with respect to expenditures for child welfare services under part B of title IV of that Act until September 30, 1981.

(e) Section 2002(a)(8) is amended by striking out "or 422" and inserting instead "or 423".

TITLE III—FOSTER CARE AND ADOPTION ASSISTANCE

FEDERAL PAYMENTS FOR DEPENDENT CHILDREN VOLUNTARILY PLACED IN FOSTER CARE

SEC. 202. (a) Section 408 is amended to read as follows:

"FEDERAL PAYMENTS FOR FOSTER CARE OF DEPENDENT CHILDREN

"SEC. 408. (a) For purposes of this part, the term 'dependent child' (notwithstanding section 406(a)) includes a child—

"(1) who would meet the requirements of such section 406(a), or of section 407, except from his removal from the home of a relative (specified in such section 406(a)) pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian or as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of the child;

"(2) whose placement and care are the responsibility of—

"(A) the State or local agency administering the State plan approved under section 402, or

"(B) any other public agency with whom the State agency administering or supervising the administration of such State plan has made an agreement which is still in effect and which includes provision for assuring the development of an individualized case plan for the child (satisfactory to such State agency) as required by subsection (d) and such other provisions as may be necessary to assure accomplishment of the objectives of the State plan approved under section 402;

"(3) who has been placed in a foster family home or child-care institution as a result of such voluntary placement agreement or judicial determination; and

"(4) who—

"(A) received aid under such State plan in or for the month in which such agreement was entered into or court proceedings leading to such determination were initiated, or

"(B)(i) would have received such aid in or for such month if application had been made therefor, or

"(ii) in the case of a child who had been living with a relative specified in section 406 (a) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, would have received such aid in or for such month if in such month he had been living with (and removed from the home of) such a relative and application had been made therefor.

"(b) For purposes of this Act, the term 'aid to families with dependent children' (notwithstanding section 406(b)) includes foster care in behalf of a child described in subsection (a)—

"(1) in the foster family home of any individual, whether the payment therefor is made to such individual or to a public or nonprofit private child-placement or child-care agency, or

"(2) in a child-care institution, whether the payment therefor is made to such institution or to a public or nonprofit private child-placement or child-care agency, but subject to limitations prescribed by the Secretary (which shall be the same for public and private institutions similarly situated) with a view to including as 'aid to families with dependent children' in the case of foster care in such an institution only those items which are included in such term in the case of foster care in the foster family home of an individual.

"(c) In determining Federal payments to a State under section 403, the number of individuals counted under clause (A) of section 403(a)(1) for any month shall include individuals (not otherwise included under such clause) with respect to whom expenditures were made in such month as aid to families with dependent children in the form of foster care.

"(d) Each State plan approved under section 402 shall include provision for the development of an individualized case plan for each child described in subsection (a), and for periodic case review with respect to each such child, in accordance with Part B of this title.

"(e)(1) For purposes of this section and section 412, a child who was voluntarily removed from the home of a relative prior to February 1, 1979, shall be deemed to have been so removed as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of the child, if and from the date that (A) a review meeting the requirements of paragraph (2) of this subsection, or an equivalent or more comprehensive review, has been made with respect to the child and the child is determined to be in need of foster care as a result of such review, and (B) the State has established and placed in effect all of the laws, regulations, standards, practices, and procedures described in paragraphs (2) through (8) of subsection (c). In the case of any child described in the preceding sentence, the date of the voluntary removal shall be treated as the date on which court proceedings leading to such removal were initiated for purposes of subsection (a)(4).

"(2) No payment shall be made to any State with respect to expenditures made under this part with respect to a child removed from the home of a relative as described in paragraph (1) unless that State has developed a written individualized case plan (as defined in section 425(b)(3)) for such child, and the plan so developed has been reviewed by an experienced and objective person not directly involved in the provision of services to the family (which may be a court of competent jurisdiction). The review required under the preceding sentence shall—

"(A) determine the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement, and project a likely date by which the child may be returned to the home of his biological parent or parents;

"(B) insure compliance by all parties with the requirement of the case plan and voluntary placement agreement, and modify those documents where necessary.

"(C) be conducted no less than two weeks after the parent and the child have been notified in writing of the review, advised of the status of the case and agency recommendations, and provided the opportunity to appear by or with representation of their choice; and

"(D) result in written findings and conclusions and, if necessary, modifications of the case plan, which shall specify the obligations

and duties of all parties during the continued period of placement, a copy of which must be provided to the agency and to the child's biological parent and guardian, foster parents, or other party having responsibility for the maintenance of the child.

"(f) For definitions of 'foster family home', 'child care institution', 'voluntary placement agreement', 'case plan', and 'case review', see section 425(b).".

(b) Section 402(a) is amended—

(1) by striking out "and" at the end of paragraph (28);

(2) by striking out the period at the end of paragraph (29) and inserting instead "; and"; and

(3) by adding after paragraph (29) the following new paragraph:

"(30) provide for coordination between the services and assistance provided for children under the plan and the services and assistance provided under the State plan approved under part B of this title, under title XX, and under other State programs having a relationship to the programs under this part, with a view to provision of welfare and related services which will best promote the welfare of such children and their families.".

(c)(1) Except as provided by paragraphs (2) and (3) of this subsection, the amendments made by subsections (a) and (b) shall be effective upon the date of the enactment of this Act.

(2) To the extent that the amendment made by subsection (a) authorizes assistance to children whose removal from the home of a relative occurs pursuant to a voluntary placement agreement or otherwise relates to **such children, such amendment shall be effective with respect to fiscal years ending on or after September 30, 1980, but shall apply with respect to payments of aid to families with dependent children (including payments under section 412), under the plan of any State approved under part A of title IV of the Social Security Act, only in the case of those children whose removal occurs pursuant to voluntary placement agreements entered into (or renewed in such manner and form as the Secretary of Health, Education, and Welfare may prescribe) on or after the first day of the earliest month (after the month in which this Act is enacted and after September 1979) in which such State has established and placed in effect all of the laws, regulations, standards, practices, and procedures described in section 424(c) of the Social Security Act (added by section 201 of this Act), as demonstrated by the State to the satisfaction of the Secretary of Health, Education, and Welfare on the basis of such evidence as he may require.**

(3) To the extent that the amendment made by subsection (a) authorizes assistance to children voluntarily removed from the home of a relative before February 1, 1979, such amendment shall become effective on the date of the enactment of this Act with respect to payments made under section 403 of the Social Security Act for quarters beginning on or after such date or, if later, on or after October 1, 1979.

ADOPTION ASSISTANCE PAYMENTS UNDER AID TO FAMILIES WITH DEPENDENT CHILDREN FOSTER CARE PROGRAM

SEC. 203. (a) Part A of title IV is amended by adding at the end thereof the following new section:

"ADOPTION ASSISTANCE PAYMENTS

"SEC. 412 (a)(1) Notwithstanding any other provision of this part, each State having parents and the needs of the child being directly or through another public or nonprofit private agency, make adoption assistance payments pursuant to an adoption assistance agreement (as defined in section 425(b)(2)) in amounts determined under paragraph (3) to parents who, after the effective date of this section, adopt a child who—

"(A) meets the requirements of section 406(a), section 407, or section 408 with respect to eligibility for assistance under this part, or meets the requirements of section 1611(a)(1) with respect to eligibility for supplemental security income benefits, and

"(B) is determined by the State, pursuant to subsection (c), to be a child with special needs.

Each State plan approved under this part shall be deemed to incorporate the provisions and requirements of this section.

"(2) The amount of the adoption assistance payments shall be determined through agreement between the adoptive parent (or parents) and the State or local agency administering the program under this section, which shall take into consideration the economic or other circumstances of the adopting a plan approved under this part shall, adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payments made with respect to any adopted child under this section exceed the payments of aid to families with dependent children which would have been made with respect to such child under the applicable State plan approved under this part during the period involved if such child (throughout that period) had been a child in foster care (in a foster family home of an individual) subject to section 408.

"(3) Notwithstanding the preceding provisions of this subsection—

"(A) no payment may be made under this section to parents with respect to any child who has attained the age of eighteen (or, where the State determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one), and

"(B) no payment may be made to parents with respect to any child if the State determines that the child is no longer receiving any support from such parents.

"(4) Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

"(5) In addition to any adoption assistance payments which may be made pursuant to paragraph (2), assistance under this section may include payments, to parents who adopt a child with special needs (as determined pursuant to subsection (c)), of an amount necessary to cover part or all of the nonrecurring expenses (as defined in regulations of the Secretary) associated with the proceedings related to the adoption of the child.

"(6) For the purposes of this part, individuals with whom a child (who the State determines, pursuant to subsection (c), is a child with special needs) is placed for adoption, pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted the child.

"(b) For purposes of this Act, the term 'aid to families with dependent children' shall, notwithstanding section 406(b), include payments made under and in accordance with this section.

"(c) In order to determine that a child is a child with special needs for purposes of this section, the State or local agency administering the program under this part must determine (in accordance with such standards and procedures as the Secretary may by regulation provide)—

"(1) that the child cannot or should not be returned to his biological family;

"(2) that the child is difficult or impossible to place with appropriate adoptive parents without providing adoption assistance payments because of his ethnic background, age, membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps; and

"(3) that, except where it would be against the best interests of the child because of such factors as the development of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable effort, consistent with the best interest of the child, has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section.".

(b) Section 402(a)(24) is amended by inserting before the semicolon the following: "(but nothing in this paragraph shall affect the eligibility of any such individual or his adopting parents for assistance under section 412)".

(c) The amendments made by this section (a) shall become effective in any State on the first day of such month during the period beginning October 1, 1979, and ending September 30, 1980, as the State may designate, but shall in any event be effective in all States no later than September 1, 1980.

TITLE III—MISCELLANEOUS

PUBLIC ASSISTANCE PAYMENTS TO TERRITORIAL JURISDICTIONS

SEC. 301. (a) Section 1108(a) is amended—

(1) by striking out "with respect to the fiscal year 1972 and each fiscal year thereafter other than the fiscal year 1979" in paragraphs (1)(E), (2)(E), and (3)(E) and inserting instead in each instance "with respect to each of the fiscal years 1972 through 1978"; and

(2) by striking out "with respect to the fiscal year 1979" in paragraphs (1)(F), (2)(F), and (3)(F) and inserting instead in each instance "with respect to the fiscal year 1979 and each fiscal year thereafter".

(b) The last sentence of section 1118 is amended by striking out "when applied to quarters in the fiscal year ending September 30, 1979".

EFFECTIVE DATES

SEC. 302. Except as otherwise specifically indicated—

(1) title I and section 301 of this Act, and the amendments made thereby, shall be effective with respect to fiscal years beginning after September 30, 1979 (except that the amendments made by section 105 of this Act shall be effective, in the case of any State that has published a proposed comprehensive services plan for the fiscal year 1980, only with respect to its next succeeding comprehensive services plan); and

(2) title II of this Act, and the amendments made thereby, shall be effective with respect to calendar quarters beginning after September 30, 1979.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, strike out the matter in the table of contents relating to titles II and III and insert in lieu therof the following:

TITLE II—CHILD WELFARE SERVICES

Sec. 201. Amendments to child welfare services program.

TITLE III—FOSTER CARE AND ADOPTION ASSISTANCE

Sec. 301. Federal payments for dependent children voluntarily placed in foster care.

Sec. 302. Adoption assistance payments under aid to families with dependent children foster care program.

TITLE IV—MISCELLANEOUS

Sec. 401. Public assistance payments to territorial jurisdictions.

Sec. 402. Effective dates.

Mr. CORMAN (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read, considered en bloc, and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

(The remaining committee amendments are as follows:)

Committee amendments:

Page 15, lines 11 and 12, strike out ", FOSTER CARE, AND ADOPTION ASSISTANCE".

Page 23, line 14, insert "the second sentence of" before "subsection (b)".

Page 25, strike out "preventive" in line 4 and all that follows down through, ", and" in line 8.

Page 28, line 7, insert quotation marks before (d) (1).

Page 28, line 19, insert "the second sentence of" before "subsection (b)".

Page 29, strike out "If" in line 1 and all that follows down through "inapplicable," in line 5 and insert in lieu thereof the following: "If any State has not completed all of the actions described in the second sentence of subsection (b) and placed in effect all of the laws, regulations, standards, practices, and procedures described in paragraphs (2) through (8) of subsection (c) prior to the beginning of the fiscal year 1982, both this subsection and the first sentence of subsection (b) shall be inapplicable.".

Page 29, line 15, after "until" insert "all of the actions described in the second sentence of subsection (b) have been completed and".

Page 34, strike out line 1 and all that follows down through page 34, line 18.

Page 34, line 19, strike out "(7)" and insert in lieu thereof "(5)".

Page 34, line 22, strike out "(8)" and insert in lieu thereof "(6)".

Page 35, line 3, strike out "(9)" and insert in lieu thereof "(7)".

Page 35, line 13, strike out "section 422(1)" and insert in lieu thereof "section 422(b) (1) (as otherwise amended by subsection (a) of this section)".

Page 36, line 3, strike out "section 422(a) (1)" and insert in lieu thereof "section 422 (b) (1)".

Page 36, line 4, after "Act" insert "(as amended by subsection (a) of this section)".

Page 36, line 8, strike out "section 422(a) (1)" and insert in lieu thereof "section 422 (b) (1)".

Page 36, line 16, strike out "section 422(a) (1)" and insert in lieu thereof "section 422 (b) (1)".

Page 37, after line 6, insert the following:

TITLE III—FOSTER CARE AND ADOPTION ASSISTANCE

Page 37, line 11, strike out "Sec. 202." and insert in lieu thereof "Sec. 301.".

Page 40, line 16, strike out "February 1, 1979," and insert in lieu thereof "the date of the enactment of the Social Services and Child Welfare Amendments of 1979".

Page 42, strike out lines 14 through 16 and insert in lieu thereof the following:

"(f) For purposes of this section—

"(1) the term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated, or which has been approved, by the agency of such State responsible for licensing homes of this type, as meeting the standards established for such licensing; and

"(2) the term 'child-care institution' means a public institution accommodating not more than twenty-five children, or a nonprofit private child-care institution, which is licensed by the State in which it is situated, or which is approved, by the agency of such State responsible for the licensing or approval of institutions of this type, as meeting the standards established for such licensing; but such term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily to accommodate children who are delinquent.

For definitions of other terms used in this section, see section 425(b).".

Page 45, line 13, strike out "Sec. 203." and insert in lieu thereof "Sec. 302.".

Page 49, line 19, strike out "III" and insert in lieu thereof "IV".

Page 49, line 22, strike out "Sec. 301." and insert in lieu thereof "Sec. 401.".

Page 50, line 12, strike out "Sec. 302." and insert in lieu thereof "Sec. 402.".

Page 50, line 14, strike out "301" and insert in lieu thereof "401".

Page 50, lines 17 and 18, strike out "section 105" and insert in lieu thereof "sections 105 and 107."

Page 50, lines 21 and 22, strike out "its next succeeding comprehensive services plan" and insert in lieu thereof "succeeding comprehensive services plans".

Page 50, line 24, strike out "title II" and insert in lieu thereof "titles II and III".

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Murtha) having assumed the chair, Mr. Flippo, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3434) to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes, pursuant to House Resolution 365, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MICHEL. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Michel moves to recommit the bill, H.R. 3434, to the Committee on Ways and Means with instructions to report the bill back to the House forthwith with the following amendment: On page 51, immediately after line 2, add the following new section:

"Sec. 403. Notwithstanding any other provision of this Act, no payments under title II of this Act shall be effective except to the extent provided in advance in appropriations Acts."

The SPEAKER pro tempore. The gentleman from Illinois (Mr. Michel) is recognized for 5 minutes in support of his motion to recommit.

Mr. MICHEL. Mr. Speaker, I want to make it abundantly clear at the very outset that to qualify for the offering of this motion to recommit I have to express myself as being opposed to the bill as it is currently before us. I am opposed to it in the sense that I disagree with the entitlement method of funding contained in the bill. But as for the purposes and intent embodied in the bill itself, I am all for them and have publicly said so any number of times.

The only disagreement I have with the bill as reported from the Committee on Ways and Means is that it comes in the form of an entitlement, changing the program from one of annual appropriations to one of entitlements by which we will not have the prerogative in future years of having the annual oversight and review provided by the appropriating process.

How many times earlier this year, particularly during the spirited debate that ran for several weeks on consideration of the budget resolution itself, have I heard Members say there is absolutely no way we can make an adjustment here because this is an uncontrollable item?

And then we would have a Member pop up and ask, "What do you mean, 'uncontrollable'? Who writes the law?" Well, we do here in this House.

And now here we are again providing a measure that has the feature of being uncontrollable for future years. This is the time to enjoin the issue. My feeling is that we have gone down this road before, and now three-quarters of the measures which are considered to be uncontrollable are in the category of being entitlements.

If we take the entire budget, the total budget, 10 years ago only 40 percent of that was considered to be entitlements, but now we have over half, 55 percent, of the Federal expenditures in the aggregate that are in the form of entitlements.

Mr. Speaker, it seems to me we have come to that juncture where we have got to meet the issue head on. Here is a measure with a very good purpose, and as I indicated, the only reason I am opposed to it and have offered this motion to recommit with instructions is so we can continue it as an appropriation measure with an annual review rather than turning it into an entitlement program where we have no opportunity for that annual review.

Mr. Speaker, I ask support for my motion to recommit.

The SPEAKER pro tempore. The gentleman from California (Mr. CORMAN) is recognized for 5 minutes in opposition to the motion to recommit.

Mr. CORMAN. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. BRODHEAD. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Michigan.

Mr. BRODHEAD. Mr. Speaker, I thank the gentleman for yielding.

As the gentleman from Illinois (Mr. MICHEL) indicated, this is a relatively minor disagreement about what everyone seems to believe is a very worthwhile piece of legislation.

The Ways and Means Committee feels, and the majority and the Committee on Rules felt that child welfare services should be an entitlement. I think it is important to understand this is not an open-ended program; we are discussing an entitlement that is, first of all, capped. It is capped at $266 million, and that cap cannot be changed without action by this House.

The second limitation on this amount is the budget resolution.

□ 1530

The first budget resolution authorized $141 million. So only $141 million of the $266 million cap is to be spent in the upcoming fiscal year.

So the question is: Why is it that we feel in this limited instance that an entitlement is necessary?

First of all, it is important to understand that we are choosing between two entitlements. The purpose of the bill is to try to take kids out of foster care. Foster care is in itself an entitlement program. The bill will provide better services to children at a savings of money. The funds to be expended under this limited entitlement program would otherwise be spent in another entitlement program that is much more expensive. But the two are inextricably linked together. The entitlement is necessary because we have to enact reforms of the foster care system, and the only way to enact these reforms, the only way to improve the system, is to let everyone know, let the children know, let the agencies know and let the States know that the money will be there. They cannot be assured that the money is going to be there if they have to wait every year until the end of the year for the conference report.

I well understand the concern expressed by the gentleman from Illinois and by other members of the Committee on Appropriations about this process. I assure the gentleman, and we all assure the Members of this House, that we do not desire to infringe upon the prerogative of the Appropriations Committee. We feel that this program is not going to result in the net expenditure of one additional dollar. However, the entitlement is necessary for the purpose of insuring that the money is there so that we can provide services to children who are so amply documented to be in such terrible straits. The money will allow us to get them out of these conditions and into adoptive homes.

So I urge a no vote on the motion to recommit.

Mr. CORMAN. Mr. Speaker, the gentleman from Michigan has stated the case very concisely and precisely. So far as our getting children out of foster care and into adoptive homes, this vote is crucial, because unless the States know how much money they are going to get and when they are going to get it, they are not going to undertake a program to move out of an entitlement into something which may result in total State costs.

I urge my colleagues to vote against the motion to recommit.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I rise in opposition to this bill and the closed rule that gags the House from working its will. The Rules Committee has been very responsible in granting mostly open rules for the major pieces of legislation that have come before this Chamber. However, on legislation this broad it is unfortunate that the full membership of the House is shut out from the amendment process.

The last time any measure this sweeping came before this House was the Economic Opportunity Amendments of 1971. At that time a number of my colleagues in the House, and I expressed deep concern over the trends represented in that bill. In looking at H.R. 3434 I have a sense of deja vu. Some of the very same proposals that shocked many of us in 1971 are popping back up in this bill. The major differences between now and 1971 is that we now have an administration filled with officials pledged to intervene in every aspect of family life and that this time around we cannot amend the bill under open rules.

This year, 1979 is called the "Year of the Child." Given those associated with the year's festivities it is more like the year of big brother. Since this Congress came into session there has been ongoing pressure to usurp the rights of parents to guide the destinies of their own family. We have seen an even broader interventionist bill, S. 4 sponsored by the Senator from California (Mr. CRANSTON) shelved on the Senate side. The mere fact that such a bill as that one got any where in Congress is a major danger signal to families across the Nation. It is entirely possible that the consideration of this bill, H.R. 3434, under a closed rule will breath new life into S. 4. If either bill emerges from Congress there will be no veto to check such intervention as there was in 1971. It is truly scary to think how close we are to going over the edge with a blueprint for nationalizing child care in the Nation.

Let me now address my specific concerns with this bill. If the rule is adopted these same concerns will not be able to be addressed in the Committee of the Whole. There has been a number of academicians and bureaucrats who, for many years, have been very disturbed over the fact that normal productive citizens can evolve from such an unpredictable and unregulated environment as the American family. To think that such diversity in approach to child care, and such unsupervised actions as family life consistently produces members of the most successful society on Earth is a galling proposition to them. They have therefore pushed, for years and years, different schemes to pry open the citadel of the family and allow social engineers and radical theoreticians to begin regulating this last bastion of freedom from big brother.

Under the Carter administration this process has accelerated. The "Year of the Child" and "children's rights" have become the new buzz words for family regulation. Childcare has become the foot in the door to break into the homes of America. This bill represents a wholesale breaking and entering into the hearth. There are four parts of the bill that are particularly invidious to the present concept of family life in America. These provisions should be deleted completely from the bill or at least substantially modified. Neither of these actions will occur, however, if the rule is adopted:

First. The big brother network.

This bill, on page 17, states that—

> In order to be eligible for payment under this part, a State must have a plan for child welfare services. . . .

The bill then outlines the establishment of State agencies to carry out a services program. This part of the bill goes on to mandate that these agencies must develop plans for expanding their coverage to additional political subdivision, additional children, and to "expanding and strengthening the range of existing services and developing new types of services." This is in effect creating a new engine of Government expansion at every possible level of Government. The granting of a carte blanche mandate for expanding services and developing new types of services opens the door for social experimentation that I do not think is intended by this Congress. Unless this section is better defined and unless substantive guidelines are written into the bill the provisions on pages 17 to 19 represent a dangerous shot in the arm of the forces of family regulation.

Second. Who says so?

On pages 30 and 31 of the bill there begins what could be charitably called "definitions." This section tries through vagueness and generality to mandate just about anything Washington wants to do to nationalize the family unit. The attempt to define "child welfare services" leaves no question in my mind that a quantum leap in State control of the family is underway. The scope of "child welfare services" is limited to "protecting and promoting the welfare of all children." What type of a definition is this? Several target groups are outlined, but they do not limit the intent of this statement. All children? Such definitions insult the intelligence of the House. Unless the wording is tightened up there is no way this definition should see the light of day.

Adding injury to insult the definition of "child welfare services" goes on to state that part of these services is "preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible." Who is to define the vast array of loaded words in this definition? Who is to discern the thresholds of abuse or problems that will warrant intervention? Who is going to define the limits to intervention? These are dangerous questions to leave up to the petty bureaucrats of Washington. There are no safeguards in this bill to protect the rights of the family to throw Government agents out of their house if intervention occurs. There is no language anywhere to curtail Government action in this section. I cannot believe this section got through committee unscathed. This is a blueprint for 1984.

Third. The institution as family.

Big brother took the state to its logical extreme of intervention, that being the consideration of the state as family, and the dictator as the paternal figure of "big brother." On page 39 of the bill the same rhetorical ploy occurs. The bill states that AFDC payments, payments meant for families with dependent children, may be given to institutions with dependent children. This is totally contrary to the intent of the original act. This reversal of intent, from the family as an institution to the institution as family once again underscores the incredible philosophy that is embodied in this legislation. If this Chamber is going to overhaul AFDC then let us look at a reauthorization bill and debate openly the future of the AFDC program. To hide it deep in this bill with a closed rule is totally unfair to the type of government that at least I hope is still capable of existing in this Nation.

Fourth. The fog factor.

At one point this was supposed to be an oversight Congress. From this legislation and other bills that have come before us makes it plain to me that if anything this Congress is succeeding to creating more problems for legislative control. In about every definition in the bill what could be clear concise statements are left hanging in a fog of buzz words that have grown meaningless in countless examples of regulatory excess.

On page 48 there is a definition of a child with special needs. One of the subsections states that special needs includes the provision of adoptive assistance for children who are difficult to place because of "his ethnic background, age, membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps." This sounds all right, but if you look closer than just a cursory once over you begin to see that this definition is as meaningless as just about every other attempt in the bill at defining terms.

Once again I ask, who is to determine the interpretation of these terms? Who is going to oversee their implementation? What is going to prevent some judge or some bureaucrat who wants to be creative from broadening these terms to encompass a whole new minority or group that has not even been dreamed up yet? I keep hearing about how Congress must get control of the bureaucracy but then I see items like this and realize that we are just stoking the flames of administrative dominance that will soon engulf us all.

Mr. Speaker, in these four examples I have tried to touch upon just a very few provisions of this bill that are crucial for this House to amend. The reason we bring bills to the floor is to allow the entire membership of the House to have a chance to perfect legislation coming out of the standing committees. If we are to curtail that right on such major legislation as H.R. 3434, then what are we here for? I know there are some concerns over opening up all of title XX to the will of the House and that, in part, is the reason for the closed rule. However, the Rules Committee is filled with bright responsible Members of this Chamber and I am sure that some different modified rule could have been drafted. There is too much at stake in this bill to let it go through on such limited consideration. I hope my colleagues join me in voting down this rule so we are not closed out of the legislative process.

Moreover, to make specific entitlements just adds one more area where the Congress loses control over expenditures. Little by little more and more Federal spending is moving out of the budget process and into mandatory entitlements. This is a bad path to be following.

The **SPEAKER** pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. **MICHEL**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 204, nays 199, not voting 31, as follows:

[Roll No. 433]

YEAS—204

Abdnor
Ambro
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Flippo
Fountain
Frenzel
Frost
Gilman
Gingrich
Goldwater
Goodling
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hance
Hansen
Harsha
Heckler
Hefner
Hightower
Hillis
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKinney
Madigan
Marks
Marriott
Martin
Mathis
Mattox
Mazzoli
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Nelson
Nichols
Pashayan
Paul
Petri
Pickle
Pritchard
Pursell
Quayle
Railsback
Regula
Rhodes
Rinaldo
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Sabo
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wyatt
Young, Alaska
Young, Fla.

NAYS—199

Addabbo
Albosta
Alexander
Anderson, Calif.
Annunzio
Anthony
Applegate
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gradison
Gray
Guarini
Hall, Ohio
Hanley
Harkin
Harris
Hawkins
Heftel
Holtzman
Howard
Hutto
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Lowry
Luken
Lundine
McCormack
McHugh
McKay
Maguire
Markey
Matsui
Mavroules
Mica
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rostenkowski
Roybal
Santini
Scheuer
Schroeder
Seiberling
Shannon
Shelby
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Studds
Swift
Thompson
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Williams, Mont.
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—31

Akaka
Anderson, Ill.
Bolling
Boner
Conyers
Diggs
Downey
Drinan
Duncan, Oreg.
Evans, Ga.
Flood
Forsythe
Giaimo
Hammerschmidt
Hinson
Holland
Marlenee
Miller, Calif.
Murphy, N.Y.
Nolan
O'Brien
Quillen
Ritter
Rosenthal
Russo
Traxler
Treen
Watkins
Williams, Ohio
Wydler
Wylie

☐ 1540

The Clerk announced the following pairs:

On this vote:

Mr. Hinson for, with Mr. Akaka against.

Mr. Wydler for, with Mr. Miller of California against.

Mr. Wylie for, with Mr. Traxler against.

Mr. Williams of Ohio for, with Mr. Rosenthal against.

Mr. Ritter for, with Mr. Murphy of New York against.

Mr. Quillen for, with Mr. Drinan against.

Mr. O'Brien for, with Mr. Conyers against.

Mr. Marlenee for, with Mr. Diggs against.

Messrs. DERWINSKI, HUGHES, PRITCHARD, CARTER, NICHOLS, McCLORY, STRATTON, GUDGER, LEACH of Iowa, and Mrs. BOUQUARD changed their vote from "nay" to "yea."

Messrs. GLICKMAN, NEAL, BURLISON, D'AMOURS, and WILLIAMS of Montana changed their vote from "yea" to "nay."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

☐ 1550

Mr. CORMAN. Mr. Speaker, in accordance with the instruction of the House, and on behalf of the Committee on Ways and Means, I report the bill, H.R. 3434, back to the House with an amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment: On page 51, immediately after line 2, add the following new section:

"SEC. 403. Notwithstanding any other provision of this Act, no payments under title II of this Act shall be effective except to the extent provided in advance in appropriation Acts."

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 401, nays 2, not voting 31, as follows:

[Roll No. 434]

YEAS—401

Abdnor
Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Runnels
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—2

Dannemeyer
Stump

NOT VOTING—31

Akaka
Anderson, Ill.
Bolling
Boner
Conyers
Diggs
Downey
Drinan
Flood
Forsythe
Giaimo
Hammerschmidt
Hinson
Holland
Lent
Marlenee
Miller, Calif.
Murphy, N.Y.
Nolan
O'Brien
Quillen
Ritter
Rosenthal
Rudd
Russo
Traxler
Treen
Watkins
Williams, Ohio
Wydler
Wylie

☐ 1610

The Clerk announced the following pairs:

Mr. Akaka with Mr. Anderson of Illinois.

Mr. Giaimo with Mr. Marlenee.

Mr. Murphy of New York with Mr. Lent.

Mr. Miller of California with Mr. Hinson.

Mr. Rosenthal with Mr. Wylie.

Mr. Traxler with Mr. Hammerschmidt.

Mr. Drinan with Mr. Wydler.

Mr. Russo with Mr. Rudd.

Mr. Watkins with Mr. Williams of Ohio.

Mr. Boner of Tennessee with Mr. Conyers.

Mr. Downey with Mr. Forsythe.

Mr. Nolan with Mr. O'Brien.

Mr. Holland with Mr. Quillen.

Mr. Flood with Mr. Ritter.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 4389, DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS

Mr. NATCHER. Mr. Speaker, I call up the conference report on the bill

(H.R. 4389) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. Gibbons). Pursuant to clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 31, 1979.)

The gentleman from Kentucky (Mr. Natcher) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. Michel) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. Natcher).

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to include a table.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. NATCHER. Mr. Speaker, today we bring before the House the conference report on H.R. 4389, the Labor-HEW appropriation bill for the fiscal year 1980. This is a good bill and I believe all Members can support it. All of the conferees—both House and Senate—worked hard to resolve the many issues in this bill. There were 147 amendments in disagreement that the conferees had to resolve. Mr. Speaker, we had to compromise with the Senate conferees on many of these matters but, in general, I think we did a good job in upholding the House position.

The total appropriations provided in the conference report and recommended by the conferees amount to $72,350,613,000 in Federal funds and $5,054,198,000 in trust funds. The recommendation in total represents a reduction of $428,720,000 below the House bill and $470,632,000 below the Senate bill. Mr. Speaker, in total the amount recommended by the conferees is $1,337,129,000 below the President's budget request.

Mr. Speaker, the Labor-HEW bill has been vetoed seven times since 1969. But I see no reason for the President to veto this bill. The committee has worked on these matters since January, when the President's budget was submitted to Congress. There were many problems with the President's budget recommendations. Many programs were proposed for cutback or elimination. Other good programs were maintained at the previous year's level with no increases. On the other hand, the budget proposed increases that simply were not justified.

The committee reviewed these matters very carefully. Many Members wrote to our committee giving us their views on these programs. Many of you appeared before the committee to testify about these programs. We found this to be very helpful in developing the amounts contained in this bill.

We have tried to balance the demand for increased funding for Labor-HEW programs against the need for fiscal restraint. The amounts in this bill are reasonable and justified.

The major change from the bill which the House passed in June is in the basic opportunity grants program administered in the Office of Education. The conference recommendation is $726,000,000 below the amount in the House bill for this program. The Senate deleted $726,000,000 which the budget and the House had included as a reappropriation of 1979 funds for use in 1980. Instead, the Senate extended the availability of unused appropriations available from fiscal years 1978 and 1979. This is a matter of bookkeeping procedures and does not represent a cut in the basic opportunity grants program. Both the House and Senate agree to fully fund the program in 1980, so there is no reduction in the program.

The reduction of $726,000,000 from the House bill for basic opportunity grants is the main reason for the conference amount being below the House bill in total. The conferees had to resolve many items where the Senate had added to the House bill as well as where the Senate had reduced the bill.

For the benefit of Members, I want to first highlight the major increases from the House bill:

DEPARTMENT OF LABOR	
Youth employment and training program	+$158,831,000
Young adult conservation corps	+16,541,000
Employment for older Americans	+8,350,000
Mine Safety and Health	+9,037,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE	
Health programs:	
Preventive health services	+$12,000,000
National Cancer Institute	+38,842,000
National Eye Institute	+5,472,000
Health resources	+12,226,000
Education programs:	
Impact aid, category A	+28,000,000
Magnet schools	+7,395,000
Adult education, refugee aid	+5,000,000
School libraries	+9,000,000
Other HEW programs:	
Cuban refugees	+$52,040,000
Area agencies on aging	+50,000,000
Elderly Indians	+6,000,000
Independent living for handicapped	+5,000,000
Related agencies:	
Energy crisis intervention	+228,000,000
Community food and nutrition	+10,000,000

Offsetting these increases, the conferees agreed to the following major reductions from the House bill:

Temporary employment assistance (This reduction is based on the Senate assumption that average public service enrollment levels will be lower than the House estimate.)	—$188,000,000
Elementary and secondary education, concentration grants (This reduction is based on delay in starting this new program in 1979.)	—145,789,000
Emergency school aid (This reduction reflects a shift from general assistance to special projects aimed at school districts under court ordered or voluntary desegregation plans.)	—35,000,000
National Institute of Education (This reduction reflects a 50% cut in new projects.)	—7,113,000
Nutrition for the elderly (This reduction represents a gradual shift from nutrition services to social services based on change in law effective in 1981.)	—30,000,000

Mr. Speaker, this is not a complete listing of the many items considered by the conferees. This bill contains funding for hundreds of individual programs, each of which must be considered separately. I intend to insert in the Record at the conclusion of my remarks a detailed listing to show the amounts agreed to by the conferees compared with the House and Senate bills, the budget estimate, and the 1979 appropriation.

As you might expect, in addition to dollar differences, the conferees had to resolve several matters involving language provisions in both the House and Senate bills. I want to mention several provisions added by the Senate which the conferees agreed to accept with some modification.

The conferees agreed to accept the so-called Schweiker amendment on OSHA, with certain modifications. The amendment as agreed to basically exempts employers of 10 or fewer from the act if they have a low illness and injury incidence rate. There are certain exceptions included to allow OSHA to take care of potentially serious problems and to provide consultation and technical assistance. The Schweiker amendment does not apply to small farms employing 10 or fewer. They are covered by a separate limitation.

Also, the conferees have agreed, with one exception, to the Senate version of language exempting certain types of mines from the training requirements of the Federal Mine Safety and Health Act. The conferees made it clear that this should apply to only surface mines. Underground mines would still be covered.

With regard to the matter of abortion, the conferees were unable to agree. Therefore, when you vote on this conference report, you will not be voting on the question of payments for abortion. That vote will come later when we take up Senate amendment No. 137.

CONFERENCE AGREEMENT—H.R. 4389—FISCAL YEAR 1980 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS BILL

						Conference compared with—			
	Fiscal year 1979 comparable appropriation	Fiscal year 1980 Presidential budget	Fiscal year 1980 House bill	Fiscal year 1980 Senate bill	Fiscal year 1980 conference	Fiscal year 1979 enacted	Fiscal year 1980 estimate	House bill	Senate bill
SUMMARY									
Title I—Department of Labor:									
Federal funds	13, 924, 962, 000	12, 118, 812, 000	11, 236, 562, 000	11, 183, 225, 000	11, 248, 565, 000	−2, 676, 397, 000	−870, 247, 000	+12, 003, 000	+65, 340, 000
Trust funds	1, 731, 034, 000	1, 809, 905, 000	1, 809, 905, 000	1, 809, 905, 000	1, 809, 905, 000	+78, 871, 000			
Title II—Department of Health, Education, and Welfare:									
Federal funds	58, 299, 015, 000	60, 249, 953, 000	60, 931, 477, 000	60, 261, 626, 000	60, 236, 654, 000	+1, 937, 639, 000	−13, 299, 000	−694, 823, 000	−24, 972, 000
Trust funds	3, 090, 998, 000	3, 206, 063, 000	3, 204, 463, 000	3, 208, 563, 000	3, 204, 563, 000	+113, 565, 000	−1, 500, 000		−4, 000, 000
Unauthorized, not considered:									
Federal funds	(1, 098, 963, 000)	(792, 188, 000)		(200, 000, 000)		(−1,098,963,000)	(−792, 188, 000)		(−200, 000, 000)
Sec. 201 fraud, abuse and waste reduction	−301, 500, 000		−500, 000, 000		−500, 000, 000	−198, 500, 000	−500, 000, 000		−500, 000, 000
Title III—Related agencies:									
Federal funds	1, 443, 670, 000	1, 490, 977, 000	1, 283, 294, 000	1, 548, 394, 000	1, 537, 394, 000	+93, 724, 000	+46, 417, 000	+254, 100, 000	−11, 000, 000
Trust funds	36, 703, 000	39, 730, 000	39, 730, 000	39, 730, 000	39, 730, 000	+3, 027, 000			
Unauthorized, not considered:									
Federal funds	(138, 691, 000.	(97, 607, 000)				(−138, 691, 000)	(−97, 607, 000)		
Grand total, direct appropriations all titles:									
Federal funds	73, 667, 647, 000	73, 859, 742, 000	73, 451, 333, 000	72, 993, 245, 000	73, 022, 613, 000	−645, 034, 000	−837, 129, 000	−428, 720, 000	+29, 368, 000
Trust funds	(4, 858, 735, 000)	(5, 055, 698, 000)	(5, 054, 198, 000)	(5, 058, 198, 000)	(5, 054, 198, 000)	(+195, 463, 000)	(−1, 500, 000)		(−4, 000, 000)
Sec. 201 fraud abuse and waste	−301, 500, 000		−500, 000, 000		−500, 000, 000	−198, 500, 000	−500, 000, 000		−500, 000, 000
Grand total including sec. 201 reduction:									
Federal funds	73, 366, 147, 000	73, 859, 742, 000	72, 951, 333, 000	72, 993, 245, 000	72, 522, 613, 000	−843, 534, 000	−1, 337, 129, 000	−428, 720, 000	−470, 632, 000
Trust funds	(4, 858, 735, 000)	(5, 055, 698, 000)	(5, 054, 198, 000)	(5, 058, 198, 000)	(5, 054, 198, 000)	(+195, 463, 000)	(−1, 500, 000)		(−4, 000, 000)
Unauthorized, not considered:									
Federal funds	(1, 237, 654, 000)	(889, 795, 000)		(200, 000, 000)		(−1,237,654,000)	(−889, 795, 000)		(−200, 000, 000)
TITLE I—DEPARTMENT OF LABOR									
EMPLOYMENT AND TRAINING ADMINISTRATION									
Program administration:									
Planning, evaluation and research	5, 719, 000	4, 773, 000	4, 773, 000	4, 773, 000	4, 773, 000	−946, 000			
Trust funds		(325, 000)	(325, 000)	(325, 000)	(325, 000)	(+325, 000)			
Comprehensive employment development	47, 556, 000	47, 157, 000	47, 157, 000	47, 157, 000	47, 157, 000	−399, 000			
Trust funds	(2, 333, 000)	(48, 000)	(48, 000)	(48, 000)	(48, 000)	(−2, 285, 000)			
Apprenticeship services	14, 328, 000	14, 208, 000	14, 208, 000	14, 208, 000	14, 208, 000	−120, 000			
U.S. employment service	927, 000	1, 396, 000	1, 396, 000	1, 396, 000	1, 396, 000	+469, 000			
Trust funds	(17, 257, 000)	(16, 003, 000)	(16, 003, 000)	(16, 713, 000)	(16, 713, 000)	(−544, 000)	(+710, 000)	(+710, 000)	
Unemployment insurance service	1, 625, 000	246, 000	246, 000	246, 000	246, 000	−1, 379, 000			
Trust funds	(10, 457, 000)	(11, 351, 000)	(11, 351, 000)	(11, 351, 000)	(11, 351, 000)	(+894, 000)			
Investigation and compliance	1, 077, 000	1, 630, 000	1, 630, 000	1, 630, 000	1, 630, 000	+533, 000			
Trust funds	(908, 000)	(263, 000)	(263, 000)	(263, 000)	(263, 000)	(−645, 000)			
Executive direction and management	18, 894, 000	16, 850, 000	16, 850, 000	16, 850, 000	16, 850, 000	−2, 044, 000			
Trust funds	(4, 269, 000)	(5, 091, 000)	(5, 091, 000)	(5, 091, 000)	(5, 091, 000)	(+822, 000)			
Subtotal, program administration	125, 350, 000	119, 341, 000	119, 341, 000	120, 051, 000	120, 051, 000	−5, 299, 000	+710, 000	+710, 000	
Federal funds	90, 126, 000	86, 260, 000	86, 260, 000	86, 260, 000	86, 260, 000	−3, 866, 000			
Trust funds	(35, 224, 000)	(33, 081, 000)	(33, 081, 000)	(33, 791, 000)	(33, 791, 000)	(−1, 433, 000)	(+710, 000)	(+710, 000)	
Employment and training assistance:									
Comprehensive employment and training programs:									
Employment and training services (title II–A, B, C)	1, 914, 100, 000	2, 054, 000, 000	2, 054, 000, 000	2, 054, 000, 000	2, 054, 000, 000	+139, 900, 000			
Public service employment (title II–D)	2, 500, 930, 000	2, 166, 500, 000	1, 485, 000, 000	1, 485, 000, 000	1, 485, 000, 000	−1, 015, 930, 000	−681, 500, 000		
Subtotal, comprehensive employment and training programs	4, 415, 030, 000	4, 220, 500, 000	3, 539, 000, 000	3, 539, 000, 000	3, 539, 000, 000	−876, 030, 000	−681, 500, 000		
Youth programs:									
Special programs (Title IV):									
Youth incentive entitlement pilot projects	107, 100, 000					−107, 100, 000			
Youth employment and training programs	499, 796, 000	797, 974, 000	533, 255, 000	797, 974, 000	692, 086, 000	+192, 290, 000	−105, 888, 000	+158, 831, 000	−105, 888, 000
Youth community conservation and improvement program	107, 100, 000	134, 008, 000	134, 008, 000	134, 008, 000	134, 008, 000	+26, 908, 000			
Subtotal, Youth Employment and Demonstration Projects Act	713, 996, 000	931, 982, 000	667, 263, 000	931, 982, 000	826, 094, 000	+112, 098, 000	−105, 888, 000	+158, 831, 000	−105, 888, 000
Youth adult conservation corps (Title VIII)	216, 900, 000	166, 469, 000	233, 713, 000	266, 795, 000	250, 254, 000	+33, 354, 000	+83, 785, 000	+16, 541, 000	−16, 541, 000
Summer youth employment program (Title IV)	785, 200, 000	411, 092, 000	608, 567, 000	608, 567, 000	608, 567, 000	−176, 633, 000	+197, 475, 000		
Job Corps (Title IV)	296, 000, 000	415, 700, 000	415, 700, 000	415, 700, 000	415, 700, 000	+119, 700, 000			
Subtotal, youth programs	2, 012, 096, 000	1, 925, 243, 000	1, 925, 243, 000	2, 223, 044, 000	2, 100, 615, 000	+88, 519, 000	+175, 372, 000	+175, 372, 000	−122, 429, 000
National programs (Title III)	370, 132, 000	371, 011, 000	546, 011, 000	536, 011, 000	536, 011, 000	+165, 879, 000	+165, 000, 000	−10, 000, 000	
Welfare reform projects (nonadd)			(175, 000, 000)	(175, 000, 000)	(175, 000, 000)	(+175, 000, 000)	(+175, 000, 000)		
Reappropriation (Public Law 95–355)	7, 164, 000					−7, 164, 000			
Subtotal, national programs	377, 296, 000	371, 011, 000	546, 011, 000	536, 011, 000	536, 011, 000	+158, 715, 000	+165, 000, 000	−10, 000, 000	
Private sector programs	75, 000, 000	325, 000, 000	325, 000, 000	125, 000, 000	325, 000, 000	+250, 000, 000			+200, 000, 000

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 4389—FISCAL YEAR 1980 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS BILL—Continued

	Fiscal year 1979 comparable appropriation	Fiscal year 1980 Presidential budget	Fiscal year 1980 House bill	Fiscal year 1980 Senate bill	Fiscal year 1980 conference	Conference compared with—			
						Fiscal year 1980 enacted	Fiscal year 1980 estimate	House bill	Senate bill
Subtotal, employment and training assistance, new authority	6, 872, 258, 000	6, 841, 754, 000	6, 335, 254, 000	6, 423, 055, 000	6, 500, 626, 000	−371, 632, 000	−341, 128, 000	+165, 372, 000	+77, 571, 000
Reappropriation (Public Law 95-355)	7, 164, 000					−7, 164, 000			
Total, employment and training assistance	6, 879, 422, 000	6, 841, 754, 000	6, 335, 254, 000	6, 423, 055, 000	6, 500, 626, 000	−378, 796, 000	−341, 128, 000	+165, 372, 000	+77, 571, 000
Temporary employment assistance (Title VI)	3, 415, 954, 000	2, 190, 500, 000	1, 815, 000, 000	1, 627, 000, 000	1, 627, 000, 000	−1, 788, 954, 000	−563, 500, 000	−188, 000, 000	
Subtotal, Comprehensive Employment and Training Act (CETA)	10, 378, 338, 000	9, 118, 514, 000	8, 236, 514, 000	8, 136, 315, 000	8, 213, 886, 000	−2, 164, 452, 000	−904, 628, 000	−22, 628, 000	−77, 571, 000
Community Services Employment for Older Americans	220, 600, 000	234, 800, 000	258, 550, 000	275, 250, 000	266, 900, 000	+46, 300, 000	+32, 100, 000	+8, 350, 000	−8, 350, 000
Federal unemployment benefits and allowances:									
Payments to former Federal personnel	535, 000, 000	575, 000, 000	575, 000, 000	575, 000, 000	577, 000, 000	+40, 000, 000			
Trade adjustment assistance	300, 000, 000	300, 000, 000	300, 000, 000	300, 000, 000	300, 000, 000				
Unemployment assistance and payments under other Federal unemployment programs	115, 000, 000	75, 000, 000	75, 000, 000	75, 000, 000	75, 000, 000	−40, 000, 000			
Subtotal, FUBA	950, 000, 000	950, 000, 000	950, 000, 000	950, 000, 000	950, 000, 000				
Grants to States for unemploymeet insurance and employment services:									
Unemployment insurance service	(813, 055, 000)	(832, 200, 000)	(832, 200, 000)	(832, 200, 000)	(832, 200, 000)	(+19, 145, 000)			
Employment services:									
Federal funds	21, 600, 000	22, 300, 000	22, 300, 000	22, 300, 000	22, 300, 000	+700, 000			
Trust funds	(646, 400, 000)	(666, 700, 000)	(666, 700, 000)	(665, 990, 000)	(665, 990, 000)	(+19, 590, 000)	(−710, 000)	(−710, 000)	
Subtotal, employment services	668, 000, 000	689, 000, 000	689, 000, 000	688, 290, 000	688, 290, 000	+20, 290, 000	−710, 000	−710, 000	
Contingency fund	(234, 145, 000)	(275, 400, 000)	(275, 400, 000)	(275, 400, 000)	(275, 400, 000)	(+41, 255, 000)			
Subtotal, grants to States	1, 715, 200, 000	1, 796, 600, 000	1, 796, 600, 000	1, 795, 890, 000	1, 795, 890, 000	+80, 690, 000	−710, 000	−710, 000	
Federal funds	21, 600, 000	22, 300, 000	22, 300, 000	22, 300, 000	22, 300, 000	+700, 000			
Trust funds	(1, 693, 600, 000)	(1, 774, 300, 000)	(1, 774, 300, 000)	(1, 773, 590, 000)	(1, 773, 590, 000)	(+79, 990, 000)	(−710, 000)	(−710, 000)	
Advances to unemployment trust fund and other funds	700, 000, 000	300, 000, 000	300, 000, 000	300, 000, 000	300, 000, 000	−400, 000, 000			
Subtotal, Employment and Training Administration	14, 006, 526, 000	12, 432, 995, 000	11, 574, 745, 000	11, 491, 246, 000	11, 560, 467, 000	−2, 446, 059, 000	−972, 528, 000	−14, 278, 000	+69, 221, 000
Federal funds	12, 277, 702, 000	10, 625, 614, 000	9, 767, 364, 000	9, 683, 865, 000	9, 753, 086, 000	−2, 524, 616, 000	−872, 528, 000	−14, 278, 000	+69, 221, 000
Trust funds	(1, 728, 824, 000)	(1, 807, 381, 000)	(1, 807, 381, 000	(1, 807, 381, 000)	(1, 807, 381, 000)	(+78, 557, 000)			
LABOR-MANAGEMENT SERVICES ADMINISTRATION									
Salaries and expenses:									
Labor-management relations policy and service	3, 710, 000	3, 770, 000	3, 770, 000	3, 770, 000	3, 770, 000	+60, 000			
Labor-management standards enforcement	15, 031, 000	15, 820, 000	15, 820, 000	15, 820, 000	15, 820, 000	+789, 000			
Veterans reemployment rights	2, 417, 000	2, 467, 000	2, 467, 000	2, 467, 000	2, 467, 000	+50, 000			
Employee benefits security	27, 069, 000	27, 910, 000	27, 910, 000	27, 910, 000	27, 910, 000	+841, 000			
Executive direction, management and support	4, 126, 000	3, 974, 000	3, 974, 000	3, 974, 000	3, 974, 000	−152, 000			
Subtotal, LMSA	52, 353, 000	53, 941, 000	53, 941, 000	53, 941, 000	53, 941, 000	+1, 588, 000			
EMPLOYMENT STANDARDS ADMINISTRATION									
Salaries and expenses:									
Improving and protecting wages	62, 017, 000	62, 221, 000	62, 221, 000	62, 221, 000	62, 221, 000	+204, 000			
Elimination of discrimination in employment	42, 982, 000	50, 105, 000	50, 105, 000	50, 105, 000	50, 105, 000	+7, 123, 000			
Workers' compensation	36, 927, 000	35, 982, 000	35, 982, 000	35, 982, 000	35, 982, 000	−945, 000			
Trust funds	(333, 000)	(341, 000)	(341, 000)	(341, 000)	(341, 000)	(+8, 000)			
Program development and administration	14, 744, 000	16, 615, 000	15, 615, 000	15, 615, 000	15, 615, 000	+871, 000	−1, 000, 000		
Subtotal, salaries and expenses	157, 003, 000	165, 264, 000	164, 264, 000	164, 264, 000	164, 264, 000	+7, 261, 000	−1, 000, 000		
Federal funds	156, 670, 000	164, 923, 000	163, 923, 000	163, 923, 000	163, 923, 000	+7, 253, 000	−1, 000, 000		
Trust funds	(333, 000)	(341, 000)	(341, 000)	(341, 000)	(341, 000)	(+8, 000)			
Special benefits:									
Federal Employees Compensation Act benefits	228, 137, 000	304, 017, 000	279, 017, 000	279, 017, 000	279, 017, 000	+50, 880, 000	−25, 000, 000		
Longshore and harbor workers' benefits	3, 063, 000	3, 369, 000	3, 369, 000	3, 369, 000	3, 369, 000	+306, 000			
Subtotal, special benefits	231, 200, 000	307, 386, 000	282, 386, 000	282, 386, 000	282, 386, 000	+51, 186, 000	−25, 000, 000		
Black lung disability trust fund:									
Benefit payments	689, 400, 000	436, 171, 000	436, 171, 000	434, 072, 000	434, 072, 000	−255, 328, 000	−2, 099, 000	−2, 099, 000	
Employment Standards Administration, salaries and expenses	24, 500, 000	19, 529, 000	19, 529, 000	21, 628, 000	21, 628, 000	−2, 872, 000	+2, 099, 000	+2, 099, 000	
Departmental management, salaries and expenses	7, 609, 000	10, 967, 000	10, 967, 000	10, 967, 000	10, 967, 000	+3, 358, 000			
Subtotal, black lung disability trust fund	721, 509, 000	466, 667, 000	466, 667, 000	466, 667, 000	466, 667, 000	−254, 842, 000			
Treasury administrative costs (indefinite)		756, 000	756, 000	756, 000	756, 000	+756, 000			
Subtotal, Employment Standards Administration	1, 109, 712, 000	940, 073, 000	914, 073, 000	914, 073, 000	914, 073, 000	−195, 639, 000	−26, 000, 000		
Federal funds	1, 109, 379, 000	939, 732, 000	913, 732, 000	913, 732, 000	913, 732, 000	−195, 647, 000	−26, 000, 000		
Trust funds	(333, 000)	(341, 000)	(341, 600)	(341, 000)	(341, 000)	(+8, 000)			

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 4389—FISCAL YEAR 1980 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS BILL—Continued

	Fiscal year 1979 comparable appropriation	Fiscal year 1980 Presidential budget	Fiscal year 1980 House bill	Fiscal year 1980 Senate bill	Fiscal year 1980 conference	Conference compared with—			
						Fiscal year 1980 enacted	Fiscal year 1980 estimate	House bill	Senate bill
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION									
Salaries and expenses:									
Safety and health standards	6, 132, 000	6, 118, 000	6, 118, 000	6, 348, 000	6, 233, 000	+101, 000	+115, 000	+115, 000	−115, 000
Enforcement:									
Federal enforcement	70, 637, 000	73, 831, 000	73, 831, 000	76, 650, 000	75, 240, 000	+4, 603, 000	+1, 409, 000	+1, 409, 000	−1, 410, 000
State programs	42, 500, 000	42, 360, 000	42, 360, 000	42, 360, 000	42, 360, 000	−140, 000			
Technical support	12, 551, 000	13, 066, 000	13, 066, 000	13, 066, 000	13, 066, 000	+515, 000			
Compliance assistance	27, 219, 000	30, 061, 000	32, 061, 000	32, 261, 000	32, 161, 000	+4, 942, 000	+2, 100, 000	+100, 000	−100, 000
Safety and health statistics	6, 732, 000	6, 829, 000	6, 829, 000	6, 829, 000	6, 829, 000	+97, 000			
Executive direction and administration	7, 263, 000	7, 255, 000	7, 255, 000	7, 295, 000	7, 275, 000	+12, 000	+20, 000	+20, 000	−20, 000
Subtotal, OSHA	173, 034, 000	179, 520, 000	181, 520, 000	184, 809, 000	183, 164, 000	+10, 130, 000	+3, 644, 000	+1, 644, 000	−1, 645, 000
MINE SAFETY AND HEALTH ADMINISTRATION									
Salaries and expenses:									
Enforcement:									
(a) Coal	55, 094, 000	55, 332, 000	55, 332, 000	57, 664, 000	56, 498, 000	+1, 404, 000	+1, 166, 000	+1, 166, 000	−1, 166, 000
(b) Metal/nonmetal	27, 069, 000	28, 970, 000	28, 970, 000	29, 206, 000	29, 088, 000	+2, 019, 000	+118, 000	+118, 000	−118, 000
(c) Standards development	3, 189, 000	3, 189, 000	3, 189, 000	3, 189, 000	3, 189, 000				
Assessments	6, 234, 000	6, 524, 000	6, 524, 000	6, 849, 000	6, 687, 000	+453, 000	+163, 000	+163, 000	−162, 000
Education and training	12, 003, 000	10, 843, 000	10, 843, 000	11, 934, 000	11, 388, 000	−615, 000	+545, 000	+545, 000	−546, 000
Technical support	16, 829, 000	17, 409, 000	17, 409, 000	17, 897, 000	17, 653, 000	+824, 000	+244, 000	+244, 000	−244, 000
Program administration	7, 562, 000	9, 443, 000	9, 443, 000	9, 443, 000	9, 443, 000	+1, 881, 000			
National Mine Health and Safety Academy	4, 770, 000			6, 801, 000	6, 801, 000	+2, 031, 000	+6, 801, 000	+6, 801, 000	
Subtotal, Mine Safety and Health Administration	132, 750, 000	131, 710, 000	131, 710, 000	142, 983, 000	140, 747, 000	+7, 997, 000	+9, 037, 000	+9, 037, 000	−2, 236, 000
BUREAU OF LABOR STATISTICS									
Salaries and expenses:									
Labor force statistics	38, 144, 000	40, 088, 000	40, 088, 000	40, 088, 000	40, 088, 000	+1, 944, 000			
Prices and cost of living	30, 420, 000	34, 253, 000	34, 253, 000	34, 253, 000	34, 253, 000	+3, 833, 000			
Wages and industrial relations	13, 562, 000	13, 161, 000	13, 161, 000	13, 161, 000	13, 161, 000	−401, 000			
Productivity and technology	3, 141, 000	3, 203, 000	3, 203, 000	3, 203, 000	3, 203, 000	+62, 000			
Economic growth	780, 000	794, 000	794, 000	794, 000	794, 000	+14, 000			
Executive direction and staff services	10, 205, 000	10, 529, 000	10, 529, 000	10, 529, 000	10, 529, 000	+324, 000			
Subtotal, Bureau of Labor Statistics	96, 252, 000	102, 028, 000	102, 028, 000	102, 028, 000	102, 028, 000	+5, 776, 000			
DEPARTMENTAL MANAGEMENT									
Salaries and expenses:									
Executive direction	9, 714, 000	9, 226, 000	9, 226, 000	9, 226, 000	9, 226, 000	−488, 000			
Legal services	29, 020, 000	29, 096, 000	29, 096, 000	29, 096, 000	29, 095, 000	+76, 000			
Trust funds	(193, 000)	(202, 000)	(202, 000)	(202, 000)	(202, 000)	(+9, 000)			
International labor affairs	9, 441, 000	8, 684, 000	8, 684, 000	8, 684, 000	8, 684, 000	−757, 000			
Administration and management	11, 953, 000	12, 642, 000	12, 642, 000	12, 642, 000	12, 642, 000	+689, 000			
Adjudication	5, 111, 000	5, 449, 000	5, 449, 000	5, 449, 000	5, 449, 000	+338, 000			
Promoting employment of the handicapped	1, 616, 000	1, 597, 000	1, 597, 000	1, 597, 000	1, 597, 000	−19, 000			
Woman's Bureau	2, 628, 000	2, 832, 000	2, 832, 000	2, 832, 000	2, 832, 000	+204, 000			
Inspector general	12, 730, 000	15, 452, 000	15, 452, 000	31, 052, 000	31, 052, 000	+18, 322, 000	+15, 600, 000	+15, 600, 000	
Trust funds	(1, 684, 000)	(1, 981, 000)	(1, 981, 000)	(1, 981, 000)	(1, 981, 000)	(+297, 000)			
Minimum Wage Study Commission	1, 209, 000	1, 219, 000	1, 219, 000	1, 219, 000	1, 219, 000	+10, 000			
Subtotal salaries and expenses	85, 299, 000	88, 380, 000	88, 380, 000	103, 980, 000	103, 980, 000	+18, 681, 000	+15, 600, 000	+15, 600, 000	
Federal funds	83, 422, 000	86, 197, 000	86, 197, 000	101, 797, 000	101, 797, 000	+18, 375, 000	+15, 600, 000	+15, 600, 000	
Trust funds	(1, 877, 000)	(2, 183, 000)	(2, 183, 000)	(2, 183, 000)	(2, 183, 000)	(+306, 000)			
Special foreign currency program	70, 000	70, 000	70, 000	70, 000	70, 000				
Subtotal departmental management	85, 369, 000	88, 450, 000	88, 450, 000	104, 050, 000	104, 050, 000	+18, 681, 000	+15, 600, 000	+15, 600, 000	
Federal funds	83, 492, 000	86, 267, 000	86, 267, 000	101, 867, 000	101, 867, 000	+18, 375, 000	+15, 600, 000	+15, 600, 000	
Trust funds	(1, 877, 000)	(2, 183, 000)	(2, 183, 000)	(2, 183, 000)	(2, 183, 000)	(+306, 000)			
Total Labor Department	15, 655, 996, 000	13, 928, 717, 000	13, 046, 467, 000	12, 993, 130, 000	13, 058, 470, 000	−2, 597, 526, 000	−870, 247, 000	+12, 003, 000	+65, 340, 000
Federal funds	13, 924, 962, 000	12, 118, 812, 000	11, 236, 562, 000	11, 183, 225, 000	11, 248, 565, 000	−2, 676, 397, 000	−870, 247, 000	+12, 003, 000	+65, 340, 000
Trust funds	(1, 731, 034, 000)	(1, 809, 905, 000)	(1, 809, 905, 000)	(1, 809, 905, 000)	(1, 809, 905, 000)	(+78, 871, 000)			
TITLE II—DEPARTMENT OF HEALTH, EDUCATION AND WELFARE									
HEALTH SERVICES ADMINISTRATION									
Community health services:									
Community health centers	258, 936, 000	371, 936, 000	338, 936, 000	310, 000, 000	320, 000, 000	+61, 064, 000	−51, 936, 000	−18, 936, 000	+10, 000, 000
Research and demonstration centers (sec. 340)	10, 564, 000	9, 064, 000	9, 064, 000	16, 564, 000	14, 000, 000	+3, 436, 000	+4, 936, 000	+4, 936, 000	−2, 564, 000
Comprehensive health grants to States	90, 000, 000	52, 000, 000	52, 000, 000	68, 000, 000	68, 000, 000	−22, 000, 000	+16, 000, 000	+16, 000, 000	
Hypertension	11, 000, 000	13, 261, 000	17, 261, 000	22, 000, 000	20, 000, 000	+9, 000, 000	+6, 739, 000	+2, 739, 000	−2, 000, 000
Maternal and child health:									
Grants to States	345, 500, 000	357, 400, 000	345, 500, 000	357, 400, 000	345, 500, 000		−11, 900, 000		−11, 900, 000
Sudden infant death information dissemination	2, 802, 000	2, 802, 000	2, 802, 000	2, 802, 000	2, 802, 000				
Research and training	32, 177, 000	14, 843, 000	31, 843, 000	31, 843, 000	31, 843, 000	−334, 000	+17, 000, 000		
Subtotal, maternal and child health	380, 479, 000	375, 045, 000	380, 145, 000	392, 045, 000	380, 145, 000	−334, 000	+5, 100, 000		−11, 900, 000

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 4389—FISCAL YEAR 1980 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS BILL—Continued

	Fiscal year 1979 comparable appropriation	Fiscal year 1980 Presidential budget	Fiscal year 1980 House bill	Fiscal year 1980 Senate bill	Fiscal year 1980 conference	Conference compared with—			
						Fiscal year 1980 enacted	Fiscal year 1980 estimate	House bill	Senate bill
Genetic information and counseling	10,567,000	10,567,000	10,567,000	14,567,000	14,567,000	+4,000,000	+4,000,000	+4,000,000	
Family planning	135,000,000	145,000,000	165,000,000	165,000,000	165,000,000	+30,000,000	+20,000,000		
Migrant health	34,500,000	41,400,000	38,000,000	41,400,000	39,700,000	+5,200,000	−1,700,000	+1,700,000	−1,700,000
National Health Service Corps	61,969,000	80,825,000	70,000,000	82,000,000	70,000,000	+8,031,000	−10,825,000		−12,000,000
Private practice grants (NHSC)	1,000,000	1,000,000	1,000,000		500,000	−500,000	−500,000	−500,000	+500,000
Home health services	6,000,000	804,000	6,000,000	4,000,000	5,000,000	−1,000,000	+4,196,000	−1,000,000	+1,000,000
Black lung services	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000				
Program support	30,046,000	34,704,000	34,704,000	31,000,000	32,500,000	+2,454,000	−2,204,000	−2,204,000	+1,500,000
Subtotal, community health services	1,037,561,000	1,143,106,000	1,130,177,000	1,154,076,000	1,136,912,000	+99,351,000	−6,194,000	+6,735,000	−17,164,000
Health care services and systems:									
Patient care and special health services:									
Hospitals and clinics	172,016,000	166,434,000	166,434,000	166,434,000	166,434,000	−5,582,000			
Excess DOD reimbursement (nonadd)				(16,800,000)	(16,800,000)	(+16,800,000)	(+16,800,000)	(+16,800,000)	
Buildings and facilities		3,000,000	3,000,000	3,000,000	3,000,000	+3,000,000			
Federal employee health	686,000	728,000	728,000	728,000	728,000	+42,000			
Payment to Hawaii	1,600,000	1,600,000	1,600,000	2,000,000	1,800,000	+200,000	+200,000	+200,000	−200,000
Subtotal	174,302,000	171,762,000	171,762,000	172,162,000	171,962,000	−2,340,000	+200,000	+200,000	−200,000
Emergency medical services, unauthorized	(42,625,000)	(39,625,000)	***	***	***	***	***	***	***
Program support	7,547,000	8,988,000	8,988,000	8,988,000	8,988,000	+1,441,000			
Subtotal, Health care services and systems	181,849,000	180,750,000	180,750,000	181,150,000	180,950,000	−899,000	+200,000	+200,000	−200,000
Unauthorized, not considered	(42,625,000)	(39,625,000)	***	***	***	***	***	***	***
Program management	7,026,000	7,416,000	7,416,000	7,416,000	7,416,000	+390,000			
Subtotal, Health Services Administration	1,226,436,000	1,331,272,000	1,318,343,000	1,342,642,000	1,325,278,000	+98,842,000	−5,994,000	+6,935,000	−17,364,000
Unauthorized, not considered	(42,625,000)	(39,625,000)	***	***	***	***	***	***	***
CENTER FOR DISEASE CONTROL									
Disease control:									
Formula grants		18,000,000		12,000,000			−18,000,000		−12,000,000
Project grants:									
Venereal disease	32,000,000	32,000,000	34,000,000	40,000,000	40,000,000	+8,000,000	+8,000,000	+6,000,000	
Immunization	35,000,000	18,532,000	18,532,000	26,532,000	24,532,000	−10,468,000	+6,000,000	+6,000,000	−2,000,000
Unauthorized, not considered for fiscal year 1980	(6,400,000)	(15,000,000)	***	***	***	***	***	***	***
Rat control	13,000,000	13,000,000	13,000,000	15,000,000	14,000,000	+1,000,000	+1,000,000	+1,000,000	−1,000,000
Lead-based paint poisoning prevention	10,250,000	10,250,000	10,250,000	12,250,000	11,250,000	+1,000,000	+1,000,000	+1,000,000	−1,000,000
Disease investigation and control	66,976,000	83,351,000	75,131,000	75,131,000	75,131,000	+8,155,000	−8,220,000		
Laboratory improvement	19,718,000	18,311,000	18,311,000	18,311,000	18,311,000	−1,407,000			
Health education	1,112,000	1,000,000	1,000,000	4,500,000	4,500,000	+3,388,000	+3,500,000	+3,500,000	
Unauthorized, not considered	(9,000,000)	(11,700,000)	***	***	***	***	***	***	***
Occupational safety and health:									
Research:									
Grants	6,442,000	6,480,000	6,480,000	6,480,000	6,480,000	+38,000			
Intramural program	41,447,000	55,005,000	55,005,000	55,005,000	55,005,000	+13,558,000			
Training	10,799,000	10,850,000	13,850,000	13,850,000	13,850,000	+3,051,000	+3,000,000		
Program support	3,782,000	4,217,000	4,217,000	4,217,000	4,217,000	+435,000			
Subtotal	62,470,000	76,552,000	79,552,000	79,552,000	79,552,000	+17,082,000	+3,000,000		
Buildings and facilities	1,912,000	11,436,000	11,436,000	11,436,000	11,436,000	+9,524,000			
Program management	3,604,000	3,703,000	3,703,000	3,703,000	3,703,000	+99,000			
Subtotal, preventive health	246,042,000	286,135,000	264,915,000	298,415,000	282,415,000	+36,373,000	−3,720,000	+17,500,000	−16,000,000
Unauthorized, not considered	(15,400,000)	(26,700,000)	***	***	***	***	***	***	***
NATIONAL INSTITUTES OF HEALTH									
National Cancer Institute	936,677,000	936,958,000	961,158,000	1,000,000,000	1,000,000,000	+63,323,000	+63,042,000	+38,842,000	
National Heart, Lung and Blood Institute	506,384,000	507,344,000	527,544,000	547,544,000	527,544,000	+21,160,000	+20,000,000		
National Institute of Dental Research	65,213,000	66,118,000	68,318,000	67,000,000	68,318,000	+3,105,000	+2,200,000		+1,318,000
National Institute of Arthritis, Metabolism, and Digestive Diseases	302,767,000	305,746,000	341,246,000	315,000,000	341,246,000	+38,479,000	+35,500,000		+26,246,000
National Institute of Neurological and Communicative Disorders and Stroke	212,365,000	212,322,000	240,622,000	242,000,000	242,000,000	+29,635,000	+29,678,000	+1,378,000	
National Institute of Allergy and Infectious Diseases	191,328,000	190,202,000	215,402,000	200,000,000	215,402,000	+24,074,000	+25,200,000		+15,402,000
National Institute of General Medical Sciences	277,628,000	280,378,000	312,478,000	304,000,000	312,478,000	+34,850,000	+32,100,000		+8,478,000
National Institute of Child Health and Human Development	197,630,000	204,381,000	208,981,000	204,000,000	208,981,000	+11,351,000	+4,600,000		+4,981,000
National Institute on Aging	56,911,000	56,510,000	68,910,000	70,000,000	70,000,000	+13,089,000	+13,490,000	+1,090,000	
National Eye Institute	105,192,000	104,528,000	107,528,000	113,000,000	113,000,000	+7,808,000	+8,472,000	+5,472,000	
National Institute of Environmental Health Sciences	78,260,000	79,012,000	83,912,000	83,912,000	83,912,000	+5,652,000	+4,900,000		
Research resources	154,164,000	154,199,000	169,199,000	164,000,000	169,199,000	+15,035,000	+15,000,000		+5,199,000
John E. Fogarty International Center	8,989,000	8,989,000	8,989,000	8,989,000	8,989,000				
Subtotal, biomedical research	3,093,508,000	3,106,687,000	3,314,287,000	3,299,445,000	3,361,069,000	+267,561,000	+254,382,000	+46,782,000	+61,624,000
National Library of Medicine	41,431,000	41,431,000	42,431,000	44,000,000	44,000,000	+2,569,000	+2,569,000	+1,569,000	
Office of the Director	20,427,000	21,062,000	21,062,000	21,062,000	21,062,000	+635,000			
Buildings and facilities	30,950,000	3,250,000	3,250,000	3,250,000	3,250,000	−27,700,000			
Subtotal, National Institutes of Health	3,186,316,000	3,172,430,000	3,381,030,000	3,367,757,000	3,429,381,000	+243,065,000	+256,951,000	+48,351,000	+61,624,000

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 4389—FISCAL YEAR 1980 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS BILL—Continued

						Conference compared with—			
	Fiscal year 1979 comparable appropriation	Fiscal year 1980 Presidential budget	Fiscal year 1980 House bill	Fiscal year 1980 Senate bill	Fiscal year 1980 conference	Fiscal year 1980 enacted	Fiscal year 1980 estimate	House bill	Senate bill
ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION									
General mental health:									
Research	130, 807, 000	160, 168, 000	145, 250, 000	145, 250, 000	145, 250, 000	+14, 443, 000	−14, 918, 000		
Training	90, 400, 000	89, 354, 000	90, 354, 000	90, 354, 000	90, 354, 000	−46, 000	+1, 000, 000		
Community programs:									
Community support	7, 600, 000	7, 600, 000	7, 600, 000	7, 600, 000	7, 600, 000				
Mental health centers operations:									
New service grants	30, 489, 000	35, 000, 000	35, 000, 000	35, 000, 000	35, 000, 000	+4, 511, 000			
New initiatives, unauthorized		(49, 584, 000)	***	***	***	***	***	***	***
Continuation under new law	184, 396, 000	195, 031, 000	195, 031, 000	195, 031, 000	195, 031, 000	+10, 635, 000			
Continuations under old law	70, 865, 000	35, 837, 000	35, 837, 000	35, 837, 000	35, 837, 000	−35, 028, 000			
Consultation and education	12, 465, 000	3, 000, 000	3, 000, 000	3, 000, 000	3, 000, 000	−9, 465, 000			
Unauthorized, not considered		(8, 938, 000)	***	***	***	***	***	***	***
Financial distress, unauthorized	(12, 010, 000)	(12, 765, 000)	***	***	***	***	***	***	,***
Subtotal, community programs	305, 815, 000	276, 468, 000	276, 468, 000	276, 468, 000	276, 468, 000	−29, 347, 000			
Unauthorized, not considered	(12, 010, 000)	(71, 287, 000)	***	***	***	***	***	***	***
Program support	31, 173, 000	35, 937, 000	35, 000, 000	35, 000, 000	35, 000, 000	+3, 827, 000	−937, 000		
Subtotal, mental health	558, 195, 000	561, 927, 000	547, 072, 000	547, 072, 000	547, 072, 000	−11, 123, 000	−14, 855, 000		
Drug abuse:									
Research	42, 930, 000	50, 304, 000	46, 000, 000	46, 000, 000	46, 000, 000	+3, 070, 000	−4, 304, 000		
Training	10, 000, 000	8, 680, 000	8, 680, 000	8, 680, 000	8, 680, 000	−1, 320, 000			
Community programs:									
Project grants and contracts, unauthorized	(161, 000, 000)	(161, 000, 000)	***	***	***	***	***	***	***
Grants to States, unauthorized	(40, 000, 000)		***	***	***	***	***	***	***
Program support	18, 178, 000	18, 570, 000	18, 570, 000	18, 570, 000	18, 570, 000	+392, 000			
Subtotal, drug abuse	71, 108, 000	77, 554, 000	73, 250, 000	73, 250, 000	73, 250, 000	+2, 142, 000	−4, 304, 000		
Unauthcrized, not considered	(201, 000, 000)	(161, 000, 000)	***	***	***	***	***	***	***
Alcoholism, unauthorized:									
Research	(22, 197, 000)	(25, 078, 000)	***	***	***	***	***	***	***
Training	(7, 200, 000)	(5, 375, 000)	***	***	***	***	***	***	***
Community programs:									
Project grants and contracts	(78, 706, 000)	(93, 323, 000)	***	***	***	***	***	***	***
Grants to States	(56, 800, 000)		***	***	***	***	***	***	***
Program support	(10, 202, 000)	(10, 240, 000)	***	***	***	***	***	***	***
Subtotal, alcoholism, unauthorized	(175, 105, 000)	(134, 016, 000)	***	***	***	***	***	***	***
Program management	8, 112, 000	9, 826, 000	9, 826, 000	9, 826, 000	9, 826, 000	+1, 714, 000			
New formula grant, requires authorization		(99, 000, 000)	***	***	***	***	***	***	***
Subtotal, alcohol, drug abuse and mental health	637, 415, 000	649, 307, 000	630, 148, 000	630, 148, 000	630, 148, 000	−7, 267, 000	−19, 159, 000		
Unauthorized, not considered	(388, 115, 000)	(366, 303, 000)	***	***	***	***	***	***	***
St. Elizabeths Hospital	79 252, 000	85, 119, 000	85, 119, 000	85, 119, 000	85, 119, 000	+5, 867, 000			
Subtotal, ADAMHA	716, 667, 000	734, 426, 000	715, 367, 000	715, 267, 000	715, 267, 000	−1, 400, 000	−19, 159, 000		
Unauthorized, not considered	(388, 115, 000)	(366, 303, 000)	***	***	***	***	***	***	***
Proposed formula grant consolidation (nonadd), not considered		(99, 000, 000)	***	***	***	***	***	***	***
HEALTH RESOURCES ADMINISTRATION									
Health planning and resource development (unauthorized):									
Health planning:									
Local agencies	107, 000, 000	115, 400, 000	***	***	***	***	***	***	***
State agencies	29, 400, 000	30, 000, 000	***	***	***	***	***	***	***
Planning methods/centers	6, 500, 000		***	***	***	***	***	***	***
Conversion/closure grants		30, 000, 000	***	***	***	***	***	***	***
Reappropriation, project grant construction program	39, 940, 000		***	***	***	***	***	***	***
Program support	(11, 882, 000)	(13, 317, 000)	***	***	***	***	***	***	***
Subtotal, health planning	194, 822, 000	188, 717, 000	***	***	***	***	***	***	***
Allocation for unauthorized items (Senate)				200, 000, 000					−200, 000, 000
Health professions education:									
Health professions institutional assistance:									
Capitation grants	110, 500, 000		88, 400, 000	72, 000, 000	81, 268, 000	−29, 232, 000	+81, 268, 000	−7, 132, 000	+9, 268, 000
(MOD)	(96, 100, 000)		(76, 880, 000)	(62, 617, 000)	(69, 748, 000)	(−26, 352, 000)	(+69, 748, 000)	(−7, 132, 000)	(+7, 131, 000)
(VOPP)	(14, 400, 000)		(11, 520, 000)	(9, 383, 000)	(11, 520, 000)	(−2, 880, 000)	(+11, 520, 000)		(+2, 137, 000)
Financial distress	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000				
Start-up assistance	5, 000, 000		2, 700, 000	2, 700, 000	2, 700, 000	−2, 300, 000	+2, 700, 000		
Health teaching facilities:									
Grants				1, 000, 000	1, 000, 000	+1, 000, 000	+1, 000, 000	+1, 000, 000	
Interest subsidies	3, 000, 000	4, 300, 000	4, 300, 000	4, 300, 000	4, 300, 000	+1, 300, 000			
Subtotal, institutional	123, 500, 000	9, 300, 000	100, 400, 000	85, 000, 000	94, 268, 000	−29, 232, 000	+84, 968, 000	−6, 132, 000	+9, 268, 000

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 4389—FISCAL YEAR 1980 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS BILL—Continued

	Fiscal year 1979 comparable appropriation	Fiscal year 1980 Presidential budget	Fiscal year 1980 House bill	Fiscal year 1980 Senate bill	Fiscal year 1980 conference	Conference compared with—			
						Fiscal year 1980 enacted	Fiscal year 1980 estimate	House bill	Senate bill
Health professions student assistance:									
National Health Service scholarships	75,000,000	79,500,000	85,500,000	85,500,000	85,500,000	+10,500,000	+6,000,000		
Loans	10,000,000		13,000,000	18,000,000	16,500,000	+6,500,000	+16,500,000	+3,500,000	−1,500,000
Loan repayments	1,500,000		1,500,000		1,500,000		+1,500,000		+1,500,000
Exceptional need scholarships	7,000,000		7,000,000	10,000,000	10,000,000	+3,000,000	+10,000,000	+3,000,000	
Subtotal, student assistance	93,500,000	79,500,000	107,000,000	113,500,000	113,500,000	+20,000,000	+34,000,000	+6,500,000	
Dental health education	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000				
Nursing institutional assistance, unauthorized:									
Capitation grants	(24,000,000)		***	***	***	***	***	***	***
Advanced nurse training	(12,000,000)		***	***	***	***	***	***	***
Nurse practitioner training	(13,000,000)	(13,000,000)	***	***	***	***	***	***	***
Special projects	(15,000,000)	(1,743,000)	***	***	***	***	***	***	***
Nursing student assistance, unauthorized:									
Loans	(13,500,000)		***	***	***	***	***	***	***
Scholarships	(9,000,000)		***	***	***	***	***	***	***
Traineeships	(13,000,000)		***	***	***	***	***	***	***
Loan repayment	(750,000)		***	***	***	***	***	***	***
Fellowships	(1,000,000)		***	***	***	***	***	***	***
Nursing research grants	(5,000,000)		***	***	***	***	***	***	***
Subtotal, nursing programs, unauthorized	(106,250,000)	(14,743,000)	***	***	***	***	***	***	***
Public health:									
Capitation	5,900,000		5,900,000	7,000,000	6,450,000	+550,000	+6,450,000	+550,000	−550,000
Special projects and health administration	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000				
Public health traineeships	7,000,000	7,000,000	7,000,000	7,000,000	7,000,000				
Health administration graduate programs	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000				
Health administration traineeships	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
Subtotal, public health	22,900,000	17,000,000	22,900,000	24,000,000	23,450,000	+550,000	+6,450,000	+550,000	−550,000
Allied health	13,000,000			10,000,000	10,000,000	−3,000,000	+10,000,000	+10,000,000	
Health professions special educational assistance:									
Family medicine residencies and training	45,000,000	55,500,000	45,000,000	50,000,000	50,000,000	+5,000,000	−5,500,000	+5,000,000	
Primary care residencies and training	17,500,000	31,000,000	17,500,000	25,000,000	19,500,000	+2,000,000	−11,500,000	+2,000,000	−5,500,000
Interdisciplinary training	7,141,000		7,000,000	8,500,000	8,500,000	+1,359,000	+8,500,000	+1,500,000	
Physicians/dental extenders	9,100,000	9,100,000	9,100,000	9,100,000	9,100,000				
Area health education centers	20,000,000	5,825,000	21,000,000	21,000,000	21,000,000	+1,000,000	+15,175,000		
Foreign medical transfers	1,000,000					−1,000,000			
Emergency medical training, unauthorized	(3,000,000)		***	***	***	***	***	***	***
National Advisory Committee on Graduate Medical Education	1,000,000	1,000,000	1,000,000		500,000	−500,000	−500,000	−500,000	+500,000
Supply and distribution reports	2,700,000	5,400,000	5,400,000	2,700,000	2,700,000		−2,700,000	−2,700,000	
Subtotal, special programs	103,441,000	107,825,000	106,000,000	116,300,000	111,300,000	+7,859,000	+3,475,000	+5,300,000	−5,000,000
Disadvantaged assistance	19,000,000	19,068,000	19,568,000	19,568,000	19,568,000	+568,000	+500,000		
Program support	19,908,000	13,916,000	19,908,000	13,916,000	15,916,000	−3,992,000	+2,000,000	−3,992,000	+2,000,000
Subtotal, health manpower	399,249,000	250,609,000	379,776,000	386,284,000	392,002,000	−7,247,000	+141,383,000	+12,226,000	+5,718,000
Program management	13,241,000	12,364,000	13,241,000	12,364,000	13,241,000		+877,000		+877,000
Subtotal, health resources	412,490,000	262,973,000	393,017,000	598,648,000	405,243,000	−7,247,000	+142,270,000	+12,226,000	−193,405,000
Unauthorized, not considered	(304,072,000)	(203,460,000)	***	***	***	***	***	***	***
Payments of sales insufficiencies	2,412,000	2,000,000	2,000,000	2,000,000	2,000,000	−412,000			
Medical facilities guarantee and loan fund	42,000,000	45,000,000	45,000,000	45,000,000	45,000,000	+3,000,000			
Subtotal, Health Resources Administration	456,902,000	309,973,000	440,017,000	645,648,000	452,243,000	−4,659,000	+142,270,000	+12,226,000	−193,405,000
Unauthorized, not considered	(304,072,000)	(203,460,000)	***	***	***	***	***	***	***
ASSISTANT SECRETARY FOR HEALTH									
Program operations:									
Health statistics:									
National health surveys and analysis	23,632,000	28,598,000	28,598,000	27,000,000	27,000,000	+3,368,000	−1,598,000	−1,598,000	
Cooperative health statistics	11,956,000	16,578,000	16,578,000	14,578,000	14,578,000	+2,622,000	−2,000,000	−2,000,000	
Program support	3,328,000	3,409,000	3,409,000	3,409,000	3,409,000	+81,000			
Subtotal	38,916,000	48,585,000	48,585,000	44,987,000	44,987,000	+6,071,000	−3,598,000	−3,598,000	
Health services research:									
Research	26,100,000	21,649,000	23,449,000	22,449,000	22,449,000	−3,651,000	+800,000	−1,000,000	
Program support	7,318,000	7,646,000	7,646,000	7,000,000	7,323,000	+5,000	−323,000	−323,000	+323,000
Subtotal	33,418,000	29,295,000	31,095,000	29,449,000	29,772,000	−3,646,000	+477,000	−1,323,000	+323,000
Health maintenance organizations:									
Grants and contracts	25,217,000	64,846,000	47,239,000	53,000,000	50,119,000	+24,902,000	−14,727,000	+2,880,000	−2,881,000
Program support	7,764,000	8,761,000	7,761,000	8,761,000	8,261,000	+497,000	−500,000	+500,000	−500,000
Subtotal	32,981,000	73,607,000	55,000,000	61,761,000	58,380,000	+25,399,000	−15,227,000	+3,380,000	−3,381,000

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 4389—FISCAL YEAR 1980 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS BILL—Continued

	Fiscal year 1979 comparable appropriation	Fiscal year 1980 Presidential budget	Fiscal year 1980 House bill	Fiscal year 1980 Senate bill	Fiscal year 1980 conference	Conference compared with—			
						Fiscal year 1980 enacted	Fiscal year 1980 estimate	House bill	Senate bill
Special health programs:									
Health information and promotion	1, 419, 000	1, 447, 000	1, 447, 000	1, 447, 000	1, 447, 000	+28, 000			
Unauthorized, not considered		(3, 600, 000)	***	***	***	***	***	***	***
Physical fitness and sports	1, 025, 000	882, 000	882, 000	882, 000	882, 000	−143, 000			
Health practices assessment	200, 000					−200, 000			
Special initiatives	200, 000					−200, 000			
Smoking and health		10, 000, 000	10, 000, 000	13, 500, 000	10, 000, 000	+10, 000, 00			−3, 500, 000
Unauthorized, not considered	(2, 500, 000)	(3, 500, 000)	***	***	***	***	***	***	***
International health	652, 000	2, 900, 000	700, 000	700, 000	700, 000	+48, 000	−2, 200, 000		
Health technology		5, 000, 000	2, 500, 000	4, 000, 000	3, 250, 000	+3, 250, 000	−1, 750, 000	+750, 000	−750, 000
Subtotal	3, 496, 000	20, 229, 000	15, 529, 000	20, 529, 000	16, 279, 000	+12, 783, 000	−3, 950, 000	+750, 000	−4, 250, 000
Unauthorized, not considered	(2, 500, 000)	(7, 100, 000)	***	***	***	***	***	***	***
Adolescent pregnancy services	1, 000, 000	60, 000, 000	15, 000, 000	20, 000, 000	17, 500, 000	+16, 500, 000	−42, 500, 000	+2, 500, 000	−2, 500, 000
Subtotal, Public health Service operations	109, 811, 000	231, 716, 000	165, 209, 000	176, 726, 000	166, 918, 000	+57, 107, 000	−64, 798, 000	+1, 709, 000	−9, 808, 000
Unauthorized, not considered	(2, 500, 000)	(7, 100, 000)	***	***	***	***	***	***	***
Public Health Service management:									
Regional management	5, 377, 000	5, 180, 000	5, 180, 000	5, 180, 000	5, 180, 000	−197, 000			
Program direction and support services	16, 120, 000	16, 597, 000	16, 597, 000	16, 597, 000	16, 597, 000	+477, 000			
Subtotal, Public Health Service management	21, 497, 000	21, 777, 000	21, 777, 000	21, 777, 000	21, 777, 000	+280, 000			
Subtotal, Assistant Secretary for Health	131, 308, 000	253, 493, 000	186, 986, 000	198, 503, 000	188, 695, 000	+57, 387, 000	−64, 798, 000	+1, 709, 000	−9, 808, 000
Unauthorized, not considered	(2, 500, 000)	(7, 100, 000)	***	***	***	***	***	***	***
Retirement pay and medical benefits for commissioned officers	65, 083, 000	76, 925, 000	76, 925, 000	76, 925, 000	76, 925, 000	+11, 842, 000			
Scientific activities overseas	11, 387, 000	6, 520, 000	6, 520, 000	6, 520, 000	6, 520, 000	−4, 867, 000			
Total, Public Health Service	6, 040, 141, 000	6, 171, 174, 000	6, 390, 003, 000	6, 651, 677, 000	6, 476, 724, 000	+436, 583, 000	+305, 550, 000	+86, 721, 000	−174, 933, 000
Unauthorized not considered	(752, 712, 000)	(643, 188, 000)	***	***	***	***	***	***	***
HEALTH CARE FINANCING ADMINISTRATION									
Grants to States for medicaid:									
Medical vendor payments	11, 029, 958, 000	11, 792, 900, 000	11, 792, 900, 000	11, 792, 900, 000	11, 792, 900, 000	+762, 942, 000			
State and local administration	774, 471, 000	823, 899, 000	823, 899, 000	823, 899, 000	823, 899, 000	+ 49, 428, 000			
Subtotal	11, 804, 429, 000	12, 616, 799, 000	12, 616, 799, 000	12, 616, 799, 000	12, 616, 799, 000	+812, 370, 000			
Payments to health care trust funds:									
Military service credit (HI)	141, 000, 000	141, 000, 000	141, 000, 000	141, 000, 000	141, 000, 000				
Supplemental medical insurance	6, 853, 064, 000	7, 097, 000, 000	7, 097, 000, 000	7, 097, 000, 000	7, 097, 000, 000	+243, 936, 000			
Hospital insurance for uninsured	733, 849, 000	696, 906, 000	696, 906, 000	696, 906, 000	696, 906, 000	−36, 943, 000			
Professional Stardards Review Organization:									
PSRO hospital activities for medicaid	33, 000, 000	35, 000, 000	31, 500, 000	35, 000, 000	33, 250, 000	+250, 000	−1, 750, 000	+1, 750, 000	−1, 750, 000
Medicare review, trust funds, nonadd	(52, 000, 000)	(55, 280, 000)	(49, 752, 000)	(55, 280, 000)	(52, 516, 000)	(+516, 000)	(−2, 764, 000)	(+2, 764, 000)	(−2, 764, 000)
Subtotal	7, 760, 913, 000	7, 969, 906, 000	7, 966, 406, 000	7, 969, 906, 000	7, 968, 156, 000	+207, 243, 000	−1, 750, 000	+1, 750, 000	−1, 750, 000
Program management:									
Professional Standards Review Organization:									
Federal funds	29, 932, 000	30, 550, 000	29, 050, 000	33, 050, 000	29, 050, 000	−882, 000	−1, 500, 000		−4, 000, 000
Trust funds	(34, 934, 000)	(31, 100, 000)	(29, 600, 000)	(33, 600, 000)	(29, 600, 000)	(−5, 334, 000)	(−1, 500, 000)		(−4, 000, 000)
Subtotal	64, 866, 000	61, 650, 000	58, 650, 000	66, 650, 000	58, 650, 000	−6, 216, 000	−3, 000, 000		−8, 000, 000
Program level including nonappropriated funds	(149, 866, 000)	(151, 930, 000)	(139, 902, 000)	(158, 930, 000)	(144, 416, 000)	(−5, 450, 000)	(−7, 514, 000)	(+4, 514, 000)	(−12, 514, 000)
Research, demonstration, and evaluation programs:									
Federal funds	17, 650, 000	34, 990, 000	25, 990, 000	34, 990, 000	30, 490, 000	+12, 840, 000	−4, 500, 000	+4, 500, 000	+4, 500, 000
Trust funds	(13, 750, 000)	(16, 292, 000)	(16, 292, 000)	(16, 292, 000)	(16, 292, 000)	(+2, 542, 000)			
Subtotal	31, 400, 000	51, 282, 000	42, 282, 000	51, 282, 000	46, 782, 000	+15, 382, 000	−4, 500, 000	+4, 500, 000	−4, 500, 000
Medicare contractors, trust funds	(638, 095, 000)	(661, 800, 000)	(661, 800, 000)	(661, 800, 000)	(661, 800, 000)	(+23, 705, 000)			
State certification, trust funds	(27, 645, 000)	(27, 645, 000)	(27, 645, 000)	(27, 645, 000)	(27, 645, 000)				
Administrative costs:									
Federal funds	61, 320, 000	66, 655, 000	66, 655, 000	66, 655, 000	66, 655, 000	+5, 335, 000			
Trust funds	(95, 935, 000)	(99, 982, 000)	(99, 982, 000)	(99, 982, 000)	(99, 982, 000)	(+4, 047, 000)			
Subtotal	157, 255, 000	166, 637, 000	166, 637, 000	166, 637, 000	166, 637, 000	+9, 382, 000			
Subtotal, program management:									
Federal funds	108, 902, 000	132, 195, 000	121, 695, 000	134, 695, 000	126, 195, 000	+17, 293, 000	−6, 000, 000	+4, 500, 000	−8, 500, 000
Trust funds	(810, 359, 000)	(836, 819, 000)	(835, 319, 000)	(839, 319, 000)	(835, 319, 000)	(+24, 960, 000)	(+1, 500, 000)		(−4, 000, 000)
Subtotal, Health Care Financing Administration	19, 674, 244, 000	20, 718, 900, 000	20, 704, 900, 000	20, 721, 400, 000	20, 711, 150, 000	+1, 036, 906, 000	−7, 750, 000	+6, 250, 000	−10, 250, 000

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 4389—FISCAL YEAR 1980 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS BILL—Continued

	Fiscal year 1979 comparable appropriation	Fiscal year 1980 Presidential budget	Fiscal year 1980 House bill	Fiscal year 1980 Senate bill	Fiscal year 1980 conference	Conference compared with—			
						Fiscal year 1980 enacted	Fiscal year 1980 estimate	House bill	Senate bill
EDUCATION DIVISION									
OFFICE OF EDUCATION									
ELEMENTARY AND SECONDARY EDUCATION									
Grants for disadvantaged children (title I):									
Regular grants:									
Grants to local educational agencies	2, 625, 593, 000	2, 625, 593, 000	2, 625, 593, 000	2, 625, 593, 000	2, 625, 593, 000				
State agency programs:									
Migrants	212, 583, 000	212, 583, 000	255, 000, 000	235, 000, 000	245, 000, 000	+32, 417, 000	+32, 417, 000	−10, 000, 000	+10, 000, 000
Handicapped	140, 000, 000	140, 000, 000	150, 000, 000	140, 000, 000	145, 000, 000	+5, 000, 000	+5, 000, 000	−5, 000, 000	+5, 000, 000
Neglected and delinquent	37, 500, 000	37, 500, 000	40, 000, 000	40, 000, 000	40, 000, 000	+2, 500, 000	+2, 500, 000		
State administration	47, 000, 000	47, 000, 000	47, 000, 000	47, 000, 000	47, 000, 000				
Evaluation and studies	15, 706, 000	15, 706, 000	15, 000, 000	11, 000, 000	13, 000, 000	−2, 706, 000	−2, 706, 000	−2, 000, 000	+2, 000, 000
Subtotal, regular grants	3, 078, 382, 000	3, 078, 382, 000	3, 132, 593, 000	3, 098, 593, 000	3, 115, 593, 000	+37, 211, 000	+37, 211, 000	−17, 000, 000	+17, 000, 000
Concentration grants:									
Grants to local educational agencies	147, 050, 000	392, 118, 000	338, 900, 000	196, 660, 000	196, 660, 000	+49, 610, 000	−195, 458, 000	−142, 240, 000	
State administration	2, 200, 000	5, 882, 000	5, 189, 000	2, 940, 000	2, 940, 000	+740, 000	−2, 942, 000	−2, 249, 000	
Evaluation and studies	750, 000	2, 000, 000	1, 700, 000	400, 000	400, 000	−350, 000	−1, 600, 000	−1, 300, 000	
Subtotal, concentration grants	150, 000, 000	400, 000, 000	345, 789, 000	200, 000, 000	200, 000, 000	+50, 000, 000	−200, 000, 000	−145, 789, 000	
State incentive grants				30, 000, 000	15, 000, 000	+15, 000, 000	+15, 000, 000	+15, 000, 000	−15, 000, 000
Subtotal, title I	3, 228, 382, 000	3, 478, 382, 000	3, 478, 382, 000	3, 328, 593, 000	3, 330, 593, 000	+102, 211, 000	−147, 789, 000	−147, 789, 000	+2, 000, 000
Support and innovation grants:									
Improving local education practices		146, 400, 000					−146, 400, 000		
Strengthening State education management		51, 000, 000					−51, 000, 000		
Subtotal	197, 400, 000	197, 400, 000	197, 400, 000	197, 400, 000	197, 400, 000				
Bilingual education:									
Regular grants to school districts	102, 350, 000	112, 525, 000	112, 525, 000	102, 000, 000	107, 263, 000	+4, 913, 000	−5, 262, 000	−5, 262, 000	+5, 263, 000
Training grants	29, 625, 000	30, 325, 000	30, 325, 000	30, 325, 000	30, 325, 000	+700, 000			
Support services:									
Materials development	10, 000, 000	10, 000, 000	10, 000, 000	5, 000, 000	10, 000, 000				+5, 000, 00
Grants to State agencies	4, 875, 000	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000	+125, 000			
Advisory council	150, 000	150, 000	150, 000	150, 000	150, 000				
Information clearinghouse	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000				
Research and studies	2, 000, 000	6, 000, 000	4, 000, 000	5, 250, 000	4, 625, 000	+2, 625, 000	−1, 375, 000	+625, 000	−625, 000
Bilingual desegregation grants	8, 600, 000	8, 600, 000	8, 600, 000	8, 600, 000	8, 600, 000				
Subtotal, bilingual education	158, 600, 000	173, 600, 000	171, 600, 000	157, 325, 000	166, 963, 000	+8, 363, 000	−6, 637, 000	−4, 637, 000	+9, 638, 000
Basic skills improvement	27, 750, 000	35, 000, 000	30, 000, 000	37, 000, 000	35, 000, 000	+7, 250, 000		+5, 000, 000	−2, 000, 000
Achievement testing assistance		2, 000, 000					−2, 000, 000		
Followthrough	59, 000, 000	59, 000, 000	59, 000, 000	59, 000, 000	59, 000, 000				
Alcohol and drug abuse education	2, 000, 000	3, 000, 000	3, 000, 000	3, 000, 000	3, 000, 000	+1, 000, 000			
Environmental education	3, 500, 000	3, 500, 000		3, 500, 000		−3, 500, 000	−3, 500, 000		−3, 500, 000
Telecommunications demonstrations	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000				
Ellender fellowships	1, 000, 000		1, 000, 000	1, 000, 000	1, 000, 000		+1, 000, 000		
Ethnic heritage studies	2, 000, 000		3, 000, 000	2, 000, 000	3, 000, 000	+1, 000, 000	+3, 000, 000		+1, 000, 000
General assistance to the Virgin Islands:									
(Nonadd)			(5, 000, 000)					(−5, 000, 000)	
(Add)				5, 000, 000	5, 000, 000	+5, 000, 000	+5, 000, 000	+5, 000, 000	
Subtotal, elementary and secondary education	3, 680, 632, 000	3, 952, 882, 000	3, 944, 382, 000	3, 794, 818, 000	3, 801, 956, 000	+121, 324, 000	−150, 926, 000	−142, 426, 000	+7, 138, 000
SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS									
Maintenance and operations:									
Payments for A children	343, 000, 000	399, 000, 000	371, 000, 000	399, 000, 000	399, 000, 000	+56, 000, 000		+28, 000, 000	
Payments for B children	320, 000, 000		277, 000, 000	205, 000, 000	277, 000, 000	−43, 000, 000	+277, 000, 000		+72, 000, 000
Special provisions	14, 000, 000	14, 000, 000	14, 000, 000	14, 000, 000	14, 000, 000				
Payments to other Federal agencies	63, 500, 000	70, 000, 000	70, 000, 000	70, 000, 000	70, 000, 000	+6, 500, 000			
Hold harmless	33, 600, 000					−33, 600, 000			
Disaster assistance	12, 000, 000	12, 000, 000	12, 000, 000	12, 000, 000	12, 000, 000				
Subtotal	786, 100, 000	495, 000, 000	744, 000, 000	700, 000, 000	772, 000, 000	−14, 100, 000	+277, 000, 000	+28, 000, 000	+72, 000, 000
Construction	30, 000, 000	33, 000, 000	33, 000, 000	25, 000, 000	33, 000, 000	+3, 000, 000			+8, 000, 000
Subtotal, school assistance in federally affected areas	816, 100, 000	528, 000, 000	777, 000, 000	725, 000, 000	805, 000, 000	−11, 100, 000	+277, 000, 000	+28, 000, 000	+80, 000, 000
EMERGENCY SCHOOL AID									
Emergency School Aid Act:									
General grants to school districts	137, 600, 000	137, 600, 000	137, 600, 000	100, 000, 000	118, 800, 000	−18, 800, 000	−18, 800, 000	−18, 800, 000	+18, 800, 000
Special programs and projects	69, 250, 000	95, 769, 000	93, 491, 000	95, 769, 000	95, 769, 000	+26, 519, 000		+2, 278, 000	
Magnet schools	25, 000, 000	35, 209, 000	35, 209, 000	50, 000, 000	42, 604, 000	+17, 604, 000	+7, 395, 000	+7, 395, 000	−7, 396, 000
Grants to nonprofit organizations	17, 200, 000	15, 000, 000	15, 000, 000	5, 000, 000	5, 000, 000	−12, 200, 000	−10, 000, 000	−10, 000, 000	
Educational television and radio	6, 450, 000	9, 858, 000	6, 450, 000	6, 450, 000	6, 450, 000		−3, 408, 000		
Evaluation	2, 900, 000	2, 964, 000	2, 900, 000	1, 000, 000	1, 000, 000	−1, 900, 000	−1, 964, 000	−1, 900, 000	
Pilot programs	32, 250, 000					−32, 250, 000			
Subtotal, ESA projects	290, 650, 000	296, 400, 000	290, 650, 000	258, 219, 000	269, 623, 000	−21, 027, 000	−26, 777, 000	−21, 027, 000	+11, 404, 000
Civil rights training and advisory services	41, 350, 000	57, 700, 000	50, 000, 000	41, 350, 000	45, 675, 000	+4, 325, 000	−12, 025, 000	−4, 325, 000	+4, 325, 000
Subtotal, emergency school aid	332, 000, 000	354, 100, 000	340, 650, 000	299, 569, 000	315, 298, 000	−16, 702, 000	−38, 802, 000	−25, 352, 000	+15, 729, 000

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 4389—FISCAL YEAR 1980 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS BILL—Continued

	Fiscal year 1979 comparable appropriation	Fiscal year 1980 Presidential budget	Fiscal year 1980 House bill	Fiscal year 1980 Senate bill	Fiscal year 1980 conference	Conference compared with—			
						Fiscal year 1980 enacted	Fiscal year 1980 estimate	House bill	Senate bill
EDUCATION FOR THE HANDICAPPED									
State assistance:									
State grant program	804, 000, 000	862, 000, 000	874, 500, 000	847, 500, 000	874, 500, 000	+70, 500, 000	+12, 500, 000		
Preschool incentive grants	17, 500 000	15, 000, 000	10, 000, 000	30, 000, 000	25, 000, 000	+7, 500, 000	+10, 000, 000	+5, 000, 000	−5, 000, 000
Deaf-blind centers	16, 000, 000	16, 000, 000	16, 000, 000	16, 000, 000	16, 000, 000				
Subtotal, State assistance	837, 500, 000	893, 000, 000	910, 500, 000	920, 500, 000	915, 500, 000	+78, 000, 000	+22, 500, 000	+5, 000, 000	+5, 000, 000
Special population programs:									
Severely handicapped projects	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000				
Early childhood education	22, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000	−2, 000, 000			
Subtotal, special population programs	27, 000, 000	25, 000, 000	25, 000, 000	25, 000, 000	25, 000, 000	−2, 000, 000			
Regional vocational, adult, and postsecondary programs	2, 400, 000	2, 400, 000	2, 400, 000	2, 400, 000	2, 400, 000				
Innovation and development	20, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000				
Media and resource services:									
Media services and captioned films	19, 000, 000	19, 000, 000	19, 000, 000	19, 000, 000	19, 000, 000				
Regional resource centers	9, 750, 000	9, 750, 000	9, 750, 000	9, 750, 000	9, 750, 000				
Recruitment and information	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000				
Subtotal, media and resource services	29, 750, 000	29, 750, 000	29, 750, 000	29, 750, 000	29, 750, 000				
Special education personnel development	57, 687, 000	55, 375, 000	55, 375, 000	55, 375, 000	55, 5375, 000	−2, 312, 000			
Special studies	2, 300, 000	2, 300, 000	2, 300, 000	1, 000, 000	1, 000, 000	−1, 300, 000	−1, 300, 000	−1, 300, 000	
Subtotal, education for the handicapped	976, 637, 000	1, 027, 825, 000	1, 045, 325, 000	1, 054, 025, 000	1, 049, 025, 000	+72, 388, 000	+21, 200, 000	+3, 700, 000	−5, 000, 000
OCCUPATIONAL, VOCATIONAL, AND ADULT EDUCATION									
Vocational education:									
State grants and innovative programs:									
Basic grants	474, 766, 000	474, 766, 000	574, 766, 000	549, 766, 000	562, 266, 000	+87, 500, 000	+87, 500, 000	−12, 500, 000	+12, 500, 000
Program improvement and supportive services	121, 317, 000	112, 317, 000	112, 317, 000	137, 317, 000	124, 817, 000	+12, 500, 000	+12, 500, 000	+12, 500, 000	−12, 500, 000
Programs of national significance	10, 000, 000	10, 000, 000	13, 000, 000	10, 000, 000	10, 000, 000			−3, 000, 000	
Special programs for the disadvantaged	20, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000				
Consumer and homemaking education	43, 497, 000	43, 497, 000	43, 947, 000	43, 497, 000	43, 497, 000				
State advisory councils	6, 073, 000	6, 073, 000	6, 500, 000	6, 500, 000	6, 500, 000	+427, 000	+427, 000		
Bilingual vocational training	2, 800, 000	2, 800, 000	4, 800, 000	2, 800, 000	4, 800, 000	+2, 000, 000	+2, 000, 000		+2, 000, 000
State planning	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000				
Subtotal, vocational education	674, 453, 000	674, 453, 000	779, 880, 000	774, 880, 000	776, 880, 000	+102, 427, 000	+102, 427, 000	−3, 000, 000	+2, 000, 000
Adult education:									
General program	100, 000, 000	90, 750, 000	100, 000, 000	100, 000, 000	100, 000, 000		+9, 250, 000		
Refugees				10, 000, 000	5, 000, 000	+5, 000, 000	+5, 000, 000	+5, 000, 000	−5, 000, 000
Subtotal, Occupational, vocational, and adult education	774, 453, 000	765, 203, 000	879, 880, 000	884, 880, 000	881, 880, 000	+107, 427, 000	+116, 677, 000	+2, 000, 000	−3, 000, 000
STUDENT ASSISTANCE									
Basic educational opportunity grants:									
Grants new authority	2, 600, 000, 000	1, 718, 000, 000	1, 718, 000, 000	1, 718, 000, 000	1, 718, 000, 000	−882, 000, 000			
Grants by reappropriation		726, 000, 000	726, 000, 000				−726, 000, 000	−726, 000, 000	
Subtotal, basic educational opportunity grants	2, 600, 000, 000	2, 444, 000, 000	2, 444, 000, 000	1, 718, 000, 000	1, 718, 000, 000	−882, 000, 000	−726, 000, 000	−726, 000, 000	
Supplemental educational opportunity grants	340, 100, 000	340, 100, 000	370, 000, 000	370, 000, 000	370, 000, 000	+29, 900, 000	+29, 900, 000		
Work-study	550, 000, 000	550, 000, 000	550, 000, 000	510, 000, 000	550, 000, 000				+40, 000, 000
Direct loans:									
Federal capital contributions	310, 500, 000	220, 000, 000	286, 000, 000	228, 000, 000	286, 000, 000	−24, 500, 000	+66, 000, 000		+58, 000, 000
Teacher cancellations	18, 400, 000	14, 800, 000	14, 800, 000	14, 800, 000	14, 800, 000	−3, 600, 000			
Subtotal	328, 900, 000	234, 800, 000	300, 800, 000	242, 800, 000	300, 800, 000	−28, 100, 000	+66, 000, 000		+58, 000, 000
Incentive grants for State scholarships	76, 750, 000	76, 750, 000	76, 750, 000	76, 750, 000	76, 750, 000				
Administration	41, 216, 000	41, 385, 000	41, 385, 000	41, 385, 000	41, 385, 000	+169, 000			
Subtotal, student assistance, new authority	3, 936, 966, 000	2, 961, 035, 000	3, 056, 935, 000	2, 958, 935, 000	3, 056, 935, 000	−880, 031, 000	+95, 900, 000		+98, 000, 000
Reappropriation		726, 000, 000	726, 000, 000				−726, 000, 000	−726, 000, 000	
Total, student assistance	3, 936, 966, 000	3, 687, 035, 000	3, 782, 935, 000	2, 958, 935, 000	3, 056, 935, 000	−880, 031, 000	−630, 100, 000	−726, 000, 000	+98, 000, 000
Guaranteed student loan program:									
Interest subsidies	760, 395, 000	793, 624, 000	793, 624, 000	793, 624, 000	793, 624, 000	+33, 229, 000			
Student loan insurance fund	185, 635, 000	165, 997, 000	165, 997, 000	165, 997, 000	165, 997, 000	−18, 638, 000			
Authority to borrow (SLIF)	25, 000, 000					−25, 000, 000			
Subtotal, guaranteed student loan program	970, 030, 000	959, 621, 000	959, 621, 000	959, 621, 000	959, 621, 000	−10, 409, 000			
Health profession graduate student loan insurance fund:									
Authority to borrow	2, 500, 000					−2, 500, 000			

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 4389—FISCAL YEAR 1980 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS BILL—Continued

	Fiscal year 1979 comparable appropriation	Fiscal year 1980 Presidential budget	Fiscal year 1980 House bill	Fiscal year 1980 Senate bill	Fiscal year 1980 conference	Conference compared with—			
						Fiscal year 1980 enacted	Fiscal year 1980 estimate	House bill	Senate bill
HIGHER AND CONTINUING EDUCATION									
Student services:									
Special programs for the disadvantaged	140,000,000	130,000,000	147,500,000	140,000,000	147,500,000	+7,500,000	+17,500,000		+7,500,000
Veterans' cost of instruction	19,000,000	14,380,000	14,380,000	14,380,000	14,380,000	−4,620,000			
Education information centers	3,000,000		3,000,000		3,000,000		+3,000,000		+3,000,000
Subtotal	162,000,000	144,380,000	164,880,000	154,380,000	164,880,000	+2,880,000	+20,500,000		+10,500,000
Program development:									
Strengthening developing institutions	120,000,000	120,000,000	120,000,000	110,000,000	110,000,000	−10,000,000	−10,000,000	−10,000,000	
Cooperative education	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000				
International education and foreign language studies	20,000,000	22,000,000	20,000,000	20,000,000	20,000,000		−2,000,000		
University community services and continuing education	16,000,000		10,000,000	10,000,000	10,000,000	−6,000,000	+10,000,000		
State postsecondary education commissions	3,500,000		3,000,000	3,000,000	3,000,000	−500,000	+3,000,000		
Subtotal	174,500,000	157,000,000	168,000,000	158,000,000	158,000,000	−16,500,000	+1,000,000	−10,000,000	
Graduate support:									
Graduate/professional educational opportunities	8,000,000	15,000,000	7,700,000	10,000,000	8,850,000	+850,000	−6,150,000	+1,150,000	−1,150,000
Legal training for the disadvantaged	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Public service grents and fellowships	4,000,000		4,000,000	4,000,000	4,000,000		+4,000,000		
Mining fellowships	4,500,000		4,500,000	4,500,000	4,500,000		+4,500,000		
Law school clinical experience	2,000,000		4,000,000		4,000,000	+2,000,000	+4,000,000		+4,000,000
Subtotal	19,500,000	16,000,000	21,200,000	19,500,000	22,350,000	+2,850,000	+6,350,000	+1,150,000	+2,850,000
Construction:									
Interest subsidy grants	29,000,000	29,000,000	29,000,000	29,000,000	29,000,000				
Continuing education centers	500,000					−500,000			
Architectural barriers removal			25,000,000		25,000,000	+25,000,000	+25,000,000		+25,000,000
Subtotal	29,500,000	29,000,000	54,000,000	29,000,000	54,000,000	+24,500,000	+25,000,000		+25,000,000
Special endowments (Morse/Dirksen/Humphrey)	7,500,000					−7,500,000			
National Academy of Peace and Conflict Resolution				500,000	500,000	+500,000	+500,000	+500,000	
Subtotal higher and continuing education	393,000,000	346,380,000	408,080,000	361,380,000	399,730,000	+6,730,000	+53,350,000	−8,350,000	+38,350,000
Higher education facilities loan and insurance fund	2,204,000	2,189,000	2,189,000	2,189,000	2,189,000	−15,000			
LIBRARY RESOURCES									
Public libraries	67,500,000	60,237,000	67,500,000	67,500,000	67,500,000		+7,263,000		
School libraries and instructional resources:									
School libraries	162,000,000	149,600,000	162,000,000	180,000,000	171,000,000	+9,000,000	+21,400,000	+9,000,000	−9,000,000
Guidance counseling and testing	18,000,000	18,000,000	18,000,000	18,000,000	18,000,000				
Subtotal	180,000,000	167,600,000	180,000,000	198,000,000	189,000,000	+9,000,000	+21,400,000	+9,000,000	−9,000,000
College library resources	9,975,000		9,975,000		4,988,000	−4,987,000	+4,988,000	−4,987,000	+4,988,000
Training and demonstration	3,000,000		1,000,000	1,000,000	1,000,000	−2,000,000	+1,000,000		
Research libraries	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000				
Subtotal library resources	266,475,000	233,837,000	264,475,000	272,500,000	268,488,000	+2,013,000	+34,651,000	+4,013,000	−4,012,000
SPECIAL PROJECTS AND TRAINING									
Special projects:									
School health		2,000,000		2,000,000			−2,000,000		−2,000,000
Youth employment		2,000,000					−2,000,000		
Biomedical sciences		3,000,000	3,000,000	3,000,000	3,000,000	+3,000,000			
Arts in education	3,000,000	3,000,000	3,500,000	3,500,000	3,500,000	+500,000	+500,000		
Metric education	1,840,000	1,840,000	1,840,000	1,840,000	1,840,000				
Consumers' education	3,601,000	3,135,000	3,135,000	4,100,000	3,617,000	+16,000	+482,000	+482,000	−483,000
Gifted and talented demonstrations	3,780,000					−3,780,000			
National diffusion program	14,000,000	10,000,000	10,000,000	10,00,000	10,000,000	−4,000,000			
Educational TV programing	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000				
PUSH for excellence	300,000	1,000,000	1,000,000	1,000,000	1,000,000	+700,000			
Career education		10,135,000					−10,135,000		
Law related education			1,000,000	1,000,000	1,000,000	+1,000,000	+1,000,000		
Subtotal	32,521,000	42,110,000	29,475,000	32,440,000	29,957,000	−2,564,000	−12,153,000	+482,000	−2,483,000
Women's educational equity	9,000,000	10,000,000	10,000,000	10,000,000	10,000,000	+1,000,000			
Community schools	3,190,000	3,138,000	3,138,000	3,138,000	3,138,000	−52,000			
Cities in schools	2,185,000	2,850,000	2,237,000	2,850,000	2,850,000	+665,000		+613,000	
Career education incentives	20,000,000		20,000,000	10,000,000	20,000,000		+20,000,000		+10,000,000
Gifted and talented, new authority		3,780,000	6,280,000	6,280,000	6,280,000	+6,280,000	+2,500,000		
Educational personnel training:									
Teacher corps	37,500,000	37,500,000	37,500,000	30,000,000	30,000,000	−7,500,000	−7,500,000	−7,500,000	
Teacher centers	12,625,000	13,000,000	13,000,000	13,000,000	13,000,000	+375,000			
Subtotal	84,500,000	80,403,000	93,155,000	76,268,000	86,268,000	+1,768,000	+5,865,000	−6,887,000	+10,000,000
Planning and evaluation	5,250,000	5,250,000	2,998,000	2,998,000	2,998,000	−2,252,000	−2,252,000		
Subtotal, special projects and training	122,271,000	117,628,000	124,628,000	110,706,000	118,223,000	−4,048,000	+595,000	−6,405,000	+7,517,000
Population education				2,000,000					−2,000,000
Educational activities overseas:									
Special foreign currency program	500,000	2,000,000	1,000,000	1,000,000	1,000,000	+500,000	−1,000,000		

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 4389—FISCAL YEAR 1980 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS BILL—Continued

	Fiscal year 1979 comparable appropriation	Fiscal year 1980 Presidential budget	Fiscal year 1980 House bill	Fiscal year 1980 Senate bill	Fiscal year 1980 conference	Conference compared with—			
						Fiscal year 1980 enacted	Fiscal year 1980 estimate	House bill	Senate bill
Salaries and expenses:									
Program administration	122, 331, 000	126, 099, 000	122, 331, 000	122, 331, 000	122, 331, 000		-3, 768, 000		
Advisory committees	2, 321, 000	2, 254, 000	2, 254, 000	2, 254, 000	2, 254, 000	-67, 000			
Subtotal, salaries and expenses	124, 652, 000	128, 353, 000	124, 585, 000	124, 585, 000	124, 585, 000	-67, 000	-3, 768, 000		
Subtotal, Office of Education	12, 398, 420, 000	12, 105, 053, 000	12, 654, 750, 000	11, 551, 208, 000	11, 783, 930, 000	-614, 490, 000	-321, 123, 000	-870, 820, 000	+232, 722, 000
NATIONAL INSTITUTE OF EDUCATION									
Research and development	83, 088, 000	84, 227, 000	84, 227, 000	70, 000, 000	77, 114, 000	-5, 974, 000	-7, 113, 000	-7, 113, 000	+7, 114, 000
Program administration	13, 526, 000	14, 058, 000	14, 058, 000	14, 058, 000	14, 058, 000	+532, 000			
Subtotal, National Institute of Education	96, 614, 000	98, 285, 000	98, 285, 000	84, 058, 000	91, 172, 000	-5, 442, 000	-7, 113, 000	-7, 113, 000	+7, 114, 000
ASSISTANT SECRETARY FOR EDUCATION									
Improvement of post-secondary education	13, 000, 000	14, 000, 000	13, 000, 000	14, 000, 000	13, 500, 000	+500, 000	-500, 000	+500, 000	-500, 000
National Center for Educational Statistics	10, 561, 000	10, 893, 000	10, 893, 000	9, 000, 000	9, 947, 000	-614, 000	-946, 000	-946, 000	+947, 000
Program direction	10, 608, 000	11, 037, 000	11, 037, 000	11, 037, 000	11, 037, 000	+429, 000			
Subtotal, Assistant Secretary for Education	34, 169, 000	35, 930, 000	34, 930, 000	34, 037, 000	34, 484, 000	+315, 000	-1, 446, 000	-446, 000	+447, 000
Total, Education Division	12, 529, 203, 000	12, 239, 268, 000	12, 787, 965, 000	11, 669, 303, 000	11, 909, 586, 000	-619, 617, 000	-329, 682, 000	-878, 379, 000	+240, 283, 000
SOCIAL SECURITY ADMINISTRATION									
Federal Funds									
Payments to the social security trust fund	760, 774, 000	676, 833, 000	676, 933, 000	676, 933, 000	676, 933, 000	-83, 841, 000			
Special benefits for disabled coal miners	1, 016, 608, 000	1, 005, 202, 000	1, 005, 202, 000	1, 005, 202, 000	1, 005, 202, 000	-11, 406, 000			
Supplemental security income program:									
Benefit payments	4, 782, 806, 000	5, 689, 639, 000	5, 616, 639, 000	5, 616, 639, 000	5, 616, 639, 000	+833, 833, 000	-73, 000, 000		
Hold harmless	50, 000, 000	50, 000, 000	50, 000, 000	50, 000, 000	50, 000, 000				
Vocational rehabilitation services	86, 148, 000	56, 158, 000	56, 158, 000	56, 158, 000	56, 158, 000	-29, 990, 000			
Administration	597, 264, 000	586, 639, 000	586, 639, 000	586, 639, 000	586, 639, 000	-10, 625, 000			
Federal fiscal liability	41, 636, 000	14, 000, 000	14, 000, 000	14, 000, 000	14, 000, 000	-27, 636, 000			
Subtotal	5, 557, 854, 000	6, 396, 436, 000	6, 323, 436, 000	6, 323, 436, 000	6, 323, 436, 000	+765, 582, 000	-73, 000, 000		
Assistance payments programs:									
Maintenance assistance:									
AFDC benefit payments	5, 900, 380, 000	6, 286, 000, 000	6, 286, 000, 000	6, 286, 000, 000	6, 286, 000, 000	+385, 620, 000			
Adult categories	13, 500, 000	4, 500, 000	4, 500, 000	4, 500, 000	4, 500, 000	-9, 000, 000			
Emergency assistance	41, 600, 000	44, 100, 000	44, 100, 000	44, 100, 000	44, 100, 000	+2, 500, 000			
State and local administration and training	679, 500, 000	721, 000, 000	721, 000, 000	721, 000, 000	721, 000, 000	+41, 500, 000			
Repatriation	1, 020, 000	1, 110, 000	1, 110, 000	1, 110, 000	1, 110, 000	+90, 000			
Subtotal, maintenance	6, 636, 000, 000	7, 056, 710, 000	7, 056, 710, 000	7, 056, 710, 000	7, 056, 710, 000	+420, 710, 000			
Child support enforcement:									
Collections	-266, 000, 000	-366, 000, 000	-366, 000, 000	-366, 000, 000	-366, 000, 000	-100, 000, 000			
State and local administration	260, 000, 000	333, 000, 000	333, 000, 000	333, 000, 000	333, 000, 000	+73, 000, 000			
Subtotal, child support	-6, 000, 000	-33, 000, 000	-33, 000, 000	-33, 000, 000	-33, 000, 000	-27, 000, 000			
Research and evaluation	3, 000, 000	3, 500, 000	3, 500, 000	3, 500, 000	3, 500, 000	+500, 000			
Administrative expenses	32, 305, 000	52, 000, 000	45, 000, 000	45, 000, 000	45, 000, 000	+12, 695, 000	-7, 000, 000		
Subtotal, assistance payments	6, 665, 305, 000	7, 079, 210, 000	7, 072, 210, 000	7, 072, 210, 000	7, 072, 210, 000	+406, 905, 000	-7, 000, 000		
Refugee assistance:									
Cuban refugee assistance	56, 581, 000	53, 308, 000	2, 000, 000	70, 000, 000	53, 308, 000	-3, 273, 000		+51, 308, 000	-16, 692, 000
Indochinese assistance, unauthorized 1980	(147, 951, 000)	(149, 000, 000)	***	***	***	***	***	***	***
Soviet and other refugees	28, 300, 000	20, 000, 000	20, 000, 000	20, 000, 000	20, 000, 000	-8, 300, 000			
Federal administration	2, 432, 000	2, 232, 000	1, 500, 000	1, 500, 000	2, 232, 000	-200, 000		+732, 000	-732, 000
Subtotal, refugee assistance	87, 313, 000	75, 540, 000	23, 500, 000	91, 500, 000	75, 540, 000	-11, 773, 000		+52, 040, 000	-15, 960, 000
Limitation on salaries and expenses, trust funds	(2, 267, 244, 000)	(2, 354, 100, 000)	(2, 354, 100, 000)	(2, 354, 100, 000)	(2, 354, 100, 000)	(+86, 856, 000)			
Subtotal, Social Security Administration:									
Federal funds	14, 087, 854, 000	15, 233, 321, 000	15, 101, 281, 000	15, 169, 281, 000	15, 153, 321, 000	+1, 065, 467, 000	-80, 000, 000	+52, 040, 000	-15, 960, 000
Trust fund limitation	(2, 267, 244, 000)	(2, 354, 100, 000)	(2, 354, 100, 000)	(2, 354, 100, 000)	(2, 354, 100, 000)	(+86, 856, 000)			
SPECIAL INSTITUTIONS									
American Printing House for the Blind	3, 906, 000	4, 349, 000	4, 349, 000	4, 349, 000	4, 349, 000	+443, 000			
National Technical Institute for the Deaf: Academic Program	16, 625, 000	17, 349, 000	17, 349, 000	17, 349, 000	17, 349, 000	+724, 000			
Gallaudet College:									
Academic program	20, 208, 000	22, 791, 000	22, 791, 000	22, 791, 000	22, 791, 000	+2, 583, 000			
Model Secondary School for the Deaf	9, 217, 000	9, 681, 000	9, 681, 000	9, 681, 000	9, 681, 000	+464, 000			
Kendall Demonstration Elementary School	4, 303, 000	5, 139, 000	5, 139, 000	5, 139, 000	5, 139, 000	+836, 000			
Construction	11, 105, 000	10, 730, 000	10, 730, 000	10, 730, 000	10, 730, 000	-375, 000			
Subtotal, Gallaudet College	44, 833, 000	48, 341, 000	48, 341, 000	48, 341, 000	48, 341, 000	+3, 508, 000			

*** Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 4389—FISCAL YEAR 1980 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS BILL—Continued

	Fiscal year 1979 comparable appropriation	Fiscal year 1980 Presidential budget	Fiscal year 1980 House bill	Fiscal year 1980 Senate bill	Fiscal year 1980 conference	Conference compared with—			
						Fiscal year 1980 enacted	Fiscal year 1980 estimate	House bill	Senate bill
Howard University:									
Academic program	81, 287, 000	89, 787, 000	89, 787, 000	89, 787, 000	89, 787, 000	+8, 500, 000			
Howard University Hospital	22, 106, 000	22, 106, 000	22, 106, 000	22, 106, 000	22, 106, 000				
Construction	10, 000, 000	10, 000, 000	10, 000, 000	10, 000, 000	10, 000, 000				
Subtotal, Howard University	113, 393, 000	121, 893, 000	121, 893, 000	121, 893, 000	121, 893, 000	+8, 500, 000			
Subtotal, special institutions	178, 757, 000	191, 932, 000	191, 932, 000	191, 932, 000	191, 932, 000	+13, 175, 000			
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT									
GRANTS TO STATES FOR SOCIAL AND CHILD WELFARE SERVICES									
Grants to States for social services	2, 620, 100, 000	2, 475, 000, 000	2, 475, 000, 000	2, 475, 000, 000	2, 475, 000, 000	−145, 100, 000			
Child day care services (needs legislation)	(198, 300, 000)		***	***	***	***	***	***	***
States and local training	90, 000, 000	100, 825, 000	75, 000, 000	77, 000, 000	75, 000, 000	−15, 000, 000	−25, 825, 000		
Child welfare services	56, 500, 000	56, 500, 000	56, 500, 000	56, 500, 000	56, 500, 000				
Subtotal	2, 766, 600, 000	2, 632, 325, 000	2, 606, 500, 000	2, 606, 500, 000	2, 606, 500, 000	−160, 100, 000	−25, 825, 000		
Proposed legislation (nonadd)		(433, 925, 000)	(433, 925, 000)	(433, 925, 000)	(433, 925, 000)	(+433, 925, 000)			
HUMAN DEVELOPMENT SERVICES									
Child development:									
Head Start	680, 000, 000	700, 000, 000	735, 000, 000	735, 000, 000	735, 000, 000	+55, 000, 000	+35, 000, 000		
Research, demonstration, and evaluation	15, 700, 000	14, 700, 000	14, 700, 000	14, 700, 000	14, 700, 000	−1, 000, 000			
Child abuse	18, 928, 000	18, 928, 000	22, 928, 000	22, 928, 000	22, 928, 000	+4, 000, 000	+4, 000, 000		
Runaway youth	11, 000, 000	11, 000, 000	11, 000, 000	11, 000, 000	11, 000, 000				
Child welfare training	8, 150, 000	5, 000, 000	7, 000, 000	8, 150, 000	7, 575, 000	−577, 000	+2, 575, 000	+575, 000	−575, 000
Adoption opportunities	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000				
Subtotal, child development	738, 778, 000	754, 628, 000	795, 628, 000	796, 778, 000	796, 203, 000	+57, 425, 000	+41, 575, 000	+575, 000	−575, 000
Aging programs:									
State agency activities	22, 500, 000	22, 500, 000	22, 500, 000	22, 500, 000	22, 500, 000				
Grants to Indian tribes				8, 000, 000	6, 000, 000	+6, 000, 000	+6, 000, 000	+6, 000, 000	−2, 000, 000
Area agency services and centers	196, 970, 000	196, 970, 000	196, 970, 000	265, 000, 000	246, 970, 000	+50, 000, 000	+50, 000, 000	+50, 000, 000	−18, 030, 000
Nutrition	277, 046, 000	277, 546, 000	350, 000, 000	320, 000, 000	320, 000, 000	+42, 954, 000	+42, 454, 000	−30, 000, 000	
Research, training, and special projects	40, 500, 000	55, 500, 000	50, 500, 000	50, 500, 000	50, 500, 000	+10, 000, 000	−5, 000, 000		
Multidisciplinary centers on gerontology	3, 800, 000	3, 800, 000	3, 800, 000	3, 800, 000	3, 800, 000				
Federal Council on Aging	450, 000	450, 000	450, 000	450, 000	450, 000				
National clearinghouse	2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000				
Subtotal, aging programs	543, 266, 000	558, 766, 000	626, 220, 000	672, 250, 000	652, 220, 000	+108, 954, 000	+93, 454, 000	+26, 000, 000	−20, 030, 000
Rehabilitation service and facilities:									
Basic State grants	817, 484, 000	817, 484, 000	817, 484, 000	837, 000, 000	817, 484, 000				−19, 516, 000
Innovation and expansion	18, 000, 000	11, 775, 000	11, 775, 000	11, 775, 000	11, 775, 000	−6, 225, 000			
Service projects:									
Deaf-blind center	2, 500, 000	2, 500, 000	2, 500, 000	2, 500, 000	2, 500, 000				
Special projects	12, 328, 000	14, 860, 000	14, 860, 000	14, 860, 000	14, 860, 000	+2, 532, 000			
Training and facilities grants:									
Training services	3, 300, 000					−3, 300, 000			
Facility improvements	1, 600, 000					−1, 600, 000			
Evaluation	2, 500, 000	2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000	−500, 000			
Employment opportunities	4, 500, 000	5, 500, 000	5, 500, 000	5, 500, 000	5, 500, 000	+1, 000, 000			
Community assistance		2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000	+2, 000, 000			
Subtotal, service projects	26, 728, 000	26, 860, 000	26, 860, 000	26, 860, 000	26, 860, 000	+132, 000			
Independent living	2, 000, 000	10, 000, 000	10, 000, 000	15, 000, 000	15, 000, 000	+13, 000, 000	+5, 000, 000	+5, 000, 000	
Research	31, 500, 000	27, 500, 000	30, 000, 000	32, 000, 000	31, 500, 000		+4, 000, 000	+1, 500, 000	−500, 000
Training	30, 500, 000	25, 500, 000	28, 500, 000	28, 500, 000	28, 500, 000	−2, 000, 000	+3, 000, 000		
Subtotal	926, 212, 000	919, 119, 000	924, 619, 000	951, 135, 000	931, 119, 000	+4, 907, 000	+12, 000, 000	+6, 500, 000	−20, 016, 000
Grants for the developmentally disabled:									
State grants	33, 058, 000	50, 681, 000	50, 681, 000	50, 681, 000	50, 681, 000	+17, 623, 000			
Special projects	19, 567, 000	4, 756, 000	4, 756, 000	4, 756, 000	4, 756, 000	−14, 811, 000			
University affiliated facilities	6, 500, 000	3, 000, 000	4, 500, 000	7, 500, 000	7, 000, 000	+500, 000	+4, 000, 000	+2, 500, 000	−500, 000
Subtotal	59, 125, 000	58, 437, 000	59, 937, 000	62, 937, 000	62, 437, 000	+3, 312, 000	+4, 000, 000	+2, 500, 000	−500, 000
Public service programs: Research and evaluation	2, 955, 000	5, 975, 000	5, 000, 000	5, 000, 000	5, 000, 000	+2, 045, 000	−975, 000		
Programs for native Americans	33, 000, 000	33, 800, 000	33, 800, 000	33, 800, 000	33, 800, 000	+800, 000			
White House conferences (Families, 1978; Aging 1979; Children and Youth 1980)	3, 000, 000	3, 000, 000	3, 000, 000	3, 000, 000	3, 000, 000				
Salaries and expenses:									
Federal funds	70, 301, 000	75, 173, 000	71, 232, 000	77, 173, 000	74, 202, 000	+3, 901, 000	−971, 000	+2, 970, 000	−2, 971, 000
Trust funds	(600, 000)	(600, 000)	(600, 000)	(600, 000)	(600, 000)				
Subtotal	70, 901, 000	75, 773, 000	71, 832, 000	77, 773, 000	74, 802, 000	+3, 901, 000	−971, 000	+2, 970, 000	−2, 971, 000
Subtotal, human development services:									
Federal funds	2, 376, 637, 000	2, 408, 988, 000	2, 519, 436, 000	2, 602, 073, 000	2, 557, 981, 000	+181, 344, 000	+149, 083, 000	+38, 545, 000	−44, 092, 000
Trust funds	(600, 000)	(600, 000)	(600, 000)	(600, 000)	(600, 000)				
Work incentives:									
Grants to States	371, 724, 000	372, 023, 000	352, 023, 000	372, 023, 000	352, 023, 000	−19, 701, 000	−20, 000, 000		−20, 000, 000
Program direction and evaluation	13, 276, 000	12, 977, 000	12, 977, 000	12, 977, 000	12, 977, 000	−299, 000			
Subtotal	385, 000, 000	385, 000, 000	365, 000, 000	385, 000, 000	365, 000, 000	−20, 000, 000	−20, 000, 000		−20, 000, 000
Research and training activities overseas	1, 000, 000	4, 400, 000	2, 000, 000	2, 000, 000	2, 000, 000	+1, 000, 000	−2, 400, 000		

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 4389—FISCAL YEAR 1980 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS BILL—Continued

						Conference compared with—			
	Fiscal year 1979 comparable appropriation	Fiscal year 1980 Presidential budget	Fiscal year 1980 House bill	Fiscal year 1980 Senate bill	Fiscal year 1980 conference	Fiscal year 1980 enacted	Fiscal year 1980 estimate	House bill	Senate bill
Subtotal, human development:									
Federal funds	5, 529, 237, 000	5, 430, 623, 000	5, 492, 936, 000	5, 595, 573, 000	5, 531, 481, 000	+2, 244, 000	+100, 858, 000	+38, 545, 000	−64, 092, 000
Trust funds	(600, 000)	(600, 000)	(600, 000)	(600, 000)	(600, 000)				
DEPARTMENTAL MANAGEMENT									
General department management:									
Federal funds	130, 456, 000	135, 060, 000	133, 500, 000	133, 500, 000	133, 500, 000	+3, 044, 000	−1, 560, 000		
Trust funds	(6, 890, 000)	(8, 000, 000)	(8, 000, 000)	(8, 000, 000	(8, 000, 000)	(+1, 110, 000)			
Subtotal	137, 346, 000	143, 060, 000	141, 500, 000	141, 500, 000	141, 500, 000	+4, 154, 000	−1, 560, 000		
Office of the Inspector General:									
Federal funds	36, 226, 000	39, 868, 000	39, 868, 000	39, 868, 000	39, 868, 000	+3, 642, 000			
Trust funds	(4, 705, 000)	(4, 194, 000)	(4, 194, 000)	(4, 194, 000)	(4, 194, 000)	(−511, 000)			
Subtotal	40, 931, 000	44, 062, 000	44, 062, 000	44, 062, 000	44, 062, 000	+3, 131, 000			
Office for Civil Rights:									
Federal funds	67, 897, 000	65, 092, 000	65, 092, 000	65, 092, 000	65, 092, 000	−2, 805, 000			
Trust funds	(1, 200, 000)	(2, 350, 000)	(2, 350, 000)	(2, 350, 000)	(2, 350, 000)	(+1, 150, 000)			
Subtotal	69, 097, 000	67, 442, 000	67, 442, 000	67, 442, 000	67, 442, 000	−1, 655, 000			
Policy research, Federal funds	25, 000, 000	24, 715, 000	24, 000, 000	24, 000, 000	24, 000, 000	−1, 000, 000	−715, 000		
Total, Departmental Management:									
Federal funds	259, 579, 000	264, 735, 000	262, 460, 000	262, 460, 000	262, 460, 000	+2, 881, 000	+2, 275, 000		
Trust funds	(12, 795, 000)	(14, 544, 000)	(14, 544, 000)	(14, 544, 000)	(14, 544, 000)	(+1, 749, 000)			
Total	272, 374, 000	279, 279, 000	277, 004, 000	277, 004, 000	277, 004, 000	+4, 630, 000	−2, 275, 000		
Total, Health, Education, and Welfare: Direct appropriations:									
Federal funds	58, 299, 015, 000	60, 249, 953, 000	60, 931, 477, 000	60, 261, 626, 000	60, 236, 654, 000	+1, 937, 639, 000	−13, 299, 000	−694, 823, 000	−24, 972, 000
Trust funds	(3, 090, 998, 000)	(3, 206, 063, 000)	(3, 204, 563, 000)	(3, 208, 563, 000)	(3, 204, 563, 000)	(+113, 565, 000)	(−1, 500, 000)		(−4, 000, 000)
Sec. 201 fraud, abuse and waste	−301, 500, 000		−500, 000, 000		−500, 000, 000	−198, 500, 000	−500, 000, 000		−500, 000, 000
Sec. 212 consultant limitation (non-add)	(194, 000, 000)	(194, 000, 000)	(194, 000, 000)	(160, 000, 000)	(170, 000, 000)	(−24, 000, 000)	(−24, 000, 000)	(−24, 000, 000)	(+10, 000, 000)
Total, including sec. 201 reductions:									
Federal funds	57, 997, 515, 000	60, 249, 953, 000	60, 431, 477, 000	60, 261, 626, 000	59, 736, 654, 000	+1, 739, 139, 000	−513, 299, 000	−694, 823, 000	−524, 972, 000
Trust funds	(3, 090, 998, 000)	(3, 206, 063, 000)	(3, 204, 563, 000)	(3, 208, 563, 000)	(3, 204, 563, 000)	(+113, 565, 000)	(−1, 500, 000)		(−4, 000, 000)
Total, unauthorized, not considered: Federal funds	(1, 098, 963, 000)	(792, 188, 000)	***	***	***	***	***	***	***
TITLE III–RELATED AGENCIES									
ACTION (domestic programs):									
Volunteers in Service to America, unauthorized	(30, 804, 000)	(38, 565, 000)	***	***	***	***	***	***	***
Older Americans Volunteer programs:									
Foster Grandparents program	34, 900, 000	40, 651, 000	46, 932, 000	46, 932, 000	46, 932, 000	+12, 032, 000	+6, 281, 000		
Senior Companion program	7, 000, 000	8, 135, 000	10, 171, 000	10, 171, 000	10, 171, 000	+3, 171, 000	+2, 036, 000		
Retired Senior Volunteer program	20, 100, 000	23, 214, 000	26, 214, 000	26, 214, 000	26, 214, 000	+6, 114, 000	+3, 000, 000		
Subtotal, older volunteers	62, 000, 000	72, 000, 000	83, 317, 000	83, 317, 000	83, 317, 000	+21, 317, 000	+11, 317, 000		
Urban volunteer programs, unauthorized		(25, 457, 000)	***	***	***	***	***	***	***
Citizen participation and volunteer demonstration programs, unauthorized	(2, 500, 000)	(3, 850, 000)	***	***	***	***	***	***	***
Program support, unauthorized	(23, 871, 000)	(29, 735, 000)	***	***	***	***	***	***	***
Subtotal, ACTION	62, 000, 000	72, 000, 000	83, 317, 000	83, 317, 000	83, 317, 000	+21, 317, 000	+11, 317, 000		
Unauthorized, not considered	(57, 175, 000)	(97, 607, 000)	***	***	***	***	***	***	***
Community Services Administration:									
Community ACTION operations:									
Community ACTION agencies	369, 000, 000	381, 000, 000	381, 000, 000	393, 000, 000	387, 000, 000	+18, 000, 000	+6, 000, 000	+6, 000, 000	−6, 000, 000
Senior opportunities and service	10, 500, 000	10, 500, 000	10, 500, 000	10, 500, 000	10, 500, 000				
State economic opportunity offices	12, 000, 000	7, 500, 000	7, 500, 000	7, 500, 000	7, 500, 000	−4, 500, 000			
Community food and nutrition	30, 000, 000	8, 000, 000	18, 000, 000	32, 000, 000	28, 000, 000	−2, 000, 000	+20, 000, 000	+10, 000, 000	−4, 000, 000
Emergency energy conservation services	10, 000, 000			3, 700, 000	3, 700, 000	−6, 300, 000	+3, 700, 000	+3, 700, 000	
Energy crisis intervention	200, 000, 000	250, 000, 000	22, 000, 000	250, 000, 000	250, 000, 000	+50, 000, 000		+228, 000, 000	
National youth sports program	6, 000, 000		6, 000, 000	6, 000, 000	6, 000, 000		+6, 000, 000		
Summer youth recreation and transportation	17, 000, 000		10, 000, 000		10, 000, 000	−7, 000, 000	+10, 000, 000		+10, 000, 000
Migrant program	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000				
Training and technical assistance	1, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000	+1, 000, 000			
Subtotal, Community ACTION	656, 500, 000	660, 000, 000	458, 000, 000	705, 000, 000	705, 700, 000	+49, 200, 000	+45, 700, 000	+247, 700, 00	
Demonstrations:									
Rural housing	6, 000, 000	6, 000, 000	6, 000, 000	6 000, 000	6, 000, 000				
Other		9, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000	+5, 000, 000	−4, 000, 000		
Community economic development	46, 170, 000	44, 500, 000	44, 500, 000	44, 500, 000	44, 500, 000	−1, 670, 000			
Evaluation	1, 000, 000	2, 000, 000	1, 000, 000	1, 000, 000	1, 000, 000		−1, 000, 000		
Program administration	33, 183, 000	33, 500, 000	33, 500, 000	33, 900, 000	33, 900, 000	+717, 000	+400, 000	+400, 000	
Subtotal, Community Services Administration	742, 853, 000	755, 000, 000	548, 000, 000	796, 100, 000	796, 100, 000	+53, 247, 000	+41, 100, 000	+248, 100, 000	
Community economic development credit unions		12, 000, 000		12, 000, 000	6, 000, 000	+6, 000, 000	−6, 000, 000	+6, 000, 000	−6, 000, 000

***Consideration deferred due to lack of authorizing legislation.

CONFERENCE AGREEMENT—H.R. 4389—FISCAL YEAR 1980 DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS BILL—Continued

	Fiscal year 1979 comparable appropriation	Fiscal year 1980 Presidential budget	Fiscal year 1980 House bill	Fiscal year 1980 Senate bill	Fiscal year 1980 conference	Conference compared with—			
						Fiscal year 1980 enacted	Fiscal year 1980 estimate	House bill	Senate bill
Corporation for Public Broadcasting:									
Fiscal year 1980 ($152,000,000 advanced in fiscal year 1978).									
Fiscal year 1981 (advance in fiscal year 1979)	162, 000, 000					−162, 000, 000			
Fiscal year 1982 (current request)		172, 000, 000	172, 000, 000	172, 000, 000	172, 000, 000	+172, 000, 000			
Subtotal, Corporation for Public Broadcasting	162, 000, 000	172, 000, 000	172, 000, 000	172, 000, 000	172, 000, 000	+10, 000, 000			
Federal Mediation and Conciliation Service	23, 214, 000	23, 075, 000	23, 075, 000	28, 075, 000	23, 075, 000	−139, 000			−5, 000, 000
Federal Mine Safety and Health Review Commission	4, 776, 000	4, 770, 000	4, 770, 000	4, 770, 000	4, 770, 000	−6, 000			
National Commission on the International Year of the Child	685, 000					−685, 000			
National Commission on Libraries and Information Science	660, 000	668, 000	668, 000	668, 000	668, 000	+8, 000			
National Commission on Social Security	2, 500, 000					−2, 500, 000			
National Labor Relations Board	102, 762, 000	108, 050, 000	108, 050, 000	108, 050, 000	108, 050, 000	+5, 288, 000			
National Mediation Board	4, 033, 000	4, 393, 000	4, 393, 000	4, 393, 000	4, 393, 000	+360, 000			
Occupational Safety and Health Review Commission	7, 658, 000	7, 550, 000	7, 550, 000	7, 550, 000	7, 550, 000	−108, 000			
Railroad Retirement Board:									
Payment to railroad retirement trust funds	313, 000, 000	313, 000, 000	313, 000, 000	313, 000, 000	313, 000, 000				
Railroad transportation protective account	43, 870, 000		***	***	***	***	***	***	***
Reappropriation	37, 646, 000		***	***	***	***	***	***	***
Subtotal, unauthorized, not considered	(81, 516, 000)		***	***	***	***	***	***	***
Limitation on salaries and expenses	(36, 703, 000)	(39, 730, 000)	(39, 730, 000)	(39, 730, 000)	(39, 730, 000)	(+3, 027, 000)			
Soldier's and Airmen's Home (trust fund appropriation):									
Operation and maintenance	17, 529, 000	18, 471, 000	18, 471, 000	18, 471, 000	18, 471, 000	+942, 000			
Subtotal, Related Agencies	1, 480, 373, 000	1, 530, 707, 000	1, 323, 024, 000	1, 588, 124, 000	1, 577, 124, 000	+96, 751, 000	+46, 417, 000	+254, 100, 000	−11, 000, 000
Federal funds	1, 443, 670, 000	1, 490, 977, 000	1, 283, 294, 000	1, 548, 394, 000	1, 537, 394, 000	+93, 724, 000	+46, 417, 000	+254, 100, 000	−11, 000, 000
Trust funds	(36, 703, 000)	(39, 730, 000)	(39, 730, 000)	(39, 730, 000)	(39, 730, 000)	(+3, 027, 000)			
Unauthorized, not considered	(138, 691, 000)	(97, 607, 000)	***	***	***	***	***	***	***
SUMMARY									
Title I—Department of Labor:									
Federal funds	13, 924, 962, 000	12, 118, 812, 000	11, 236, 562, 000	11, 183, 225, 000	11, 248, 565, 000	−2, 676, 397, 000	−870, 247, 000	+12, 003, 000	+65, 340, 000
Trust funds	1, 731, 034, 000	1, 809, 905, 000	1, 809, 905, 000	1, 809, 905, 000	1, 809, 905, 000	+78, 871, 000			
Title II—Department of Health, Education, and Welfare:									
Federal funds	59, 299, 015, 000	60, 249, 953, 000	60, 931, 477, 000	60, 261, 626, 000	60, 236, 654, 000	+1, 937, 639, 000	−13, 299, 000	−694, 823, 000	−24, 972, 000
Trust funds	3, 090, 998, 000	3, 206, 063, 000	3, 204, 563, 000	3, 208, 563, 000	3, 204, 563, 000	+113, 565, 000	−1, 500, 000		−4, 000, 000
Unauthorized, not considered:									
Federal funds	(1, 098, 963, 000)	(792, 188, 000.		(200, 000, 000)		(−1,098,963,000)	(−792, 188, 000)		(−200, 000, 000)
Sec. 201 fraud, abuse and waste reduction	−301, 500, 000		−500, 000, 000		−500, 000, 000	−198, 500, 000	−500, 000, 000		−500, 000, 000
Title III—Related agencies:									
Federal funds	1, 443, 670, 000	1, 490, 977, 000	1, 283, 294, 000	1, 548, 394, 000	1, 537, 394, 000	+93, 724, 000	+46, 417, 000	+254, 100, 000	−11, 000, 000
Trust funds	36, 703, 000	39, 730, 000	39, 730, 000	39, 730, 000	39, 730, 000	+3, 037, 000			
Unauthorized, not considered:									
Federal funds	(138, 691, 000)	(97, 607, 000)				(−138, 691, 000)	(−97, 607, 000)		
Grand total, direct appropriations all titles:									
Federal funds	73, 667, 647, 000	73, 859, 742, 000	73, 451, 333, 000	72, 993, 245, 000	73, 022, 613, 000	−645, 034, 000	−837, 129, 000	−428, 720, 000	+29, 368, 000
Trust funds	(4, 858, 735, 000)	(5, 055, 698, 000)	(5, 054, 198, 000)	(5, 058, 198, 000)	(5, 054, 198, 000)	(+195, 463, 000)	(−1, 500, 000)		(−4, 000, 000)
Sec. 201 fraud abuse and waste	−301, 500, 000		−500, 000, 000		−500, 000, 000	−198, 500, 000	−500, 000, 000		−500, 000, 000
Grand total including sec. 201 reduction:									
Federal funds	73, 366, 147, 000	73, 859, 742, 000	72, 951, 333, 000	72, 993, 245, 0C0	72, 522, 613, 000	−843, 534, 000	−1, 337, 129, 000	−428, 720, 000	−470, 632, 000
Trust funds	(4, 858, 735, 000)	(5, 055, 698, 000)	(5, 054, 198, 000)	(5, 058, 198, 000)	(5, 054, 198, 000)	(+195, 463, 000)	(−1, 500, 000)		(−4, 000, 000)
Unauthorized, not considered:									
Federal funds	(1, 237, 654, 000)	(889, 795, 000)		(200, 000, 000)		(−1,237,654,000)	(−889, 795, 000)		(−200, 000, 000)

***Consideration deferred due to lack of authorizing legislation.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to my distinguished friend, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. I thank the gentleman for yielding.

Mr. Speaker, I rise to compliment my distinguished colleague, the gentleman from Kentucky, for a job well done. I personally feel that I would be derelict in my responsibility as chairman of the House Committee on Education and Labor if I failed to disclose to this Chamber the wonderful job that has been done on this conference report. The gentleman from Kentucky (Mr. NATCHER) recently assumed the chairmanship of this most important subcommittee, and to my way of thinking has done the most outstanding job of any subcommittee chairman that has ever occupied this subcommittee. I want to take my hat off to him, and I know I speak for many other Members of this body. We congratulate the gentleman from Kentucky (Mr. NATCHER). I certainly hope that this conference report is adopted. I know there is an issue over the abortion amendment. Otherwise I feel that it should be adopted without a dissenting vote.

I thank the distinguished gentleman from Kentucky for yielding.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding. I would like to propound a question to my friend, the able chairman of the committee. I notice in the Senate report there is a $500,000 appropriation for the National Academy of Peace and Conflict. I do not see in our committee report anywhere an indication of the action or how that was put in. I happen to be one who has been appointed to that commission. As far as I know, there has never been a meeting. There has never been a meeting called. I do not know who would be in a position to even make a recommendation of $500,000 if there has never been any meeting of this organization. It looks like something that just came out of the air, and I just wonder if my good friend could shed some light on how that $500,000 dropped into this bill with no trace whatsoever.

□ 1620

Mr. NATCHER. I would like to say to our distinguished colleague and friend from Ohio (Mr. ASHBROOK) the Senate added the $500,000. In the conference we receded. You will find at page 22 of the conference report about 6 or 7 lines down, "The National Academy of Peace and Conflict, $500,000." The $500,000 is in the conference report.

Mr. ASHBROOK. I thank my colleague, Mr. Speaker. I do not question the action of the committee. As a member of the commission, I wondered who propounded it, where they got the need. So far as I know the commission has never met and I am just wondering how something like this could just be hatched.

Mr. NATCHER. Mr. Speaker, as I understood in the conference the distinguished gentleman from Ohio is one of those named to serve. Is that correct?

Mr. ASHBROOK. Yes; evidently not to go over any budget process.

Mr. NATCHER. As far as the study is concerned.

Mr. ASHBROOK. Yes; that is correct. We have never met.

Mr. NATCHER. This is in the conference report at the insistence of the Senate conferees.

Mr. ASHBROOK. I thank my good friend and able chairman for giving me that explanation. I could well understand, not having had the request on our side, and the request coming in from over there, how it would end up in the conference but I guess I just had to wonder a little bit since our committee had never met and I do not know who would be in a position to recommend $500,000. That, of course, would not be the gentleman's responsibility. I appreciate the information.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Florida.

Mr. PEPPER. I wish to associate myself heartily with the words of commendation expressed about the distinguished chairman of this subcommittee by the able gentleman from Kentucky (Mr. PERKINS). The gentleman from Kentucky (Mr. NATCHER) has done a marvelous job.

Mr. NATCHER. I want to thank the distinguished gentleman from Florida.

Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Speaker, if possible, I would like to clarify amendment 8 of the conference report on this appropriation. As the gentleman will recall, on July 27 the House passed a $5 million earmark for offender programs under title III of CETA. Over the years, DOL has literally neglected the employment difficulties of offenders.

Mr. Speaker, the conference committee decided to delete this bill language in favor of directing the Department of Labor to utilize a significant portion of CETA title III resources to fund projects for offenders. My question is, would at least 1 percent of title III funds constitute a significant portion?

Mr. NATCHER. Mr. Speaker, let me say to the gentleman, as to the percentage, I am unable to answer the gentleman's question in regard to 1 percent.

In the conference report, as we will see at page 10 in the first paragraph at the top of the page, amendment No. 4, we had the Senate earmarking $5 million for a certain part of the CETA program. In the paragraph further down is amendment No. 8 pertaining to the matter the gentleman is interested in. The Senate earmarked in two or three instances and we agreed not to earmark the $5 million that they placed in amendment No. 4. It was deleted. The earmarking of the $5 million in which the gentleman is interested was dropped also and then we placed in the conference report this language:

> Amendment No. 8: Deletes language proposed by the House which would have earmarked $5 million for offender programs under title III of the Comprehensive Employment and Training Act. The conferees have elected not to earmark funds in the bill. However, the conferees direct the Department to utilize a significant portion of CETA title III resources to fund projects for offenders.

Now, as to 1 percent, I would say to the gentleman, we would hope on our side, the conferees, at least the amount the gentleman had in mind should be used for this purpose. At least that amount. I would say that on the record.

Mr. Speaker, the reason why the gentleman's figure of $5 million dropped out, as I explained, we had an agreement we would not earmark, in the instance of interest to the gentleman, or in the other one that appears on the same page. Certainly, the $5 million should be used.

Mr. CLAY. Mr. Speaker, I certainly want to thank the chairman and the other conferees for the support of the concept of this amendment.

Mr. NATCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, I take it that many of the authorizing committees fared well, just listening to the remarks, but I wonder if I might inquire what kinds of testimony or what kinds of input it takes to cut an authorization from $266 million to $56 million. That is a rather drastic cut. That was a cut that was made in the section 4(b), child social services authorization. Since I would take it whatever money we ever get for this program will be by the appropriations process, I was wondering what it is we are facing.

Mr. MICHEL. Will the gentleman yield, Mr. Speaker?

Mr. CORMAN. I yield to the gentleman from Illinois.

Mr. MICHEL. If the question is directed to the chairman, the chairman, of course, can respond, but I do know that the budget request is only $56 million and that is what we have met dollar for dollar in the budget request. That is why I made the point earlier during the course of consideration of the other measure, that when we had the regular bill here there was no move to increase that particular item in the bill. That would have been the vehicle for doing that. We felt obliged to meet the budget request and that is what we did.

Mr. NATCHER. As the gentleman from Illinois has pointed out the budget request was for $56,500,000 in the bill for 1980. In 1979 fiscal year we had the same amount.

Mr. CORMAN. Mr. Speaker, if I recollect, the House budget resolution included the $266 million. The request of the administration was the $56 million. Perhaps that is my answer from the Committee on Appropriations: Do not pay any attention to what the House budget resolution says, worry about what the President is going to ask for. That kind of lets me know where we have to go. Am I correct on the factual situation?

Mr. NATCHER. As far as saying to the budget committee, "We turn our back on the budget committee, we pay no attention to the amount that is contained in the budget resolution," that would not apply and that would not be the answer to the gentleman's question.

The amount in the President's budget for fiscal year 1980, as the gentleman knows, was the $56,500,000.

We believed that we ought to go along with the amount in the budget at this time, the same amount as we had for fiscal year 1979, and that is the reason why we put the amount in here of $56,500,000.

Mr. CORMAN. If the gentleman will yield further, Mr. Speaker, my question goes to the value of the House-adopted budget resolution. It was at that point we thought we had made our case. We did not really try or have an opportunity to make our case at OMB. That is a different branch of Government. We made our case with this House of Representatives in the House first budget resolution.

Mr. NATCHER. Let me say to the gentleman, Mr. Speaker, as the gentleman well knows, as one of the able Members of the House, the amounts contained in the budget resolution, House Concurrent Resolution 107, for instance, are only guidelines to be followed by the Committee on Appropriations.

□ 1630

Now, let me say further, in the budget resolution if you had an amount in there of $200 million, that automatically would not mean that the Appropriations Committee and this House would have to go to $200 million. The resolution sets the ceiling that we should not exceed. In this instance, we went along with the President's budget amount.

Now, we will have from time to time, occasions when the gentlemen on the Budget Committee, all able people, will set a ceiling and on our committee we try to stay under it; but the fact that they set an amount of $200 million, under no rule of the House means that we have to go to the figure of $200 million.

Mr. CORMAN. I understand.

Mr. NATCHER. I say to my distinguished friend, the gentleman from California, that is what we did in this instance.

Mr. CORMAN. Yes, sir, great; I appreciate the gentleman yielding. I have learned a good bit. I think it would be useful for all the Members to recognize the comparative importance given to Presidential recommendations and House recommendations so far as the Appropriation Committee is concerned.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I certainly yield to my friend, the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, now that we have passed H.R. 3434, which will probably through its legislative writing encourage a higher level of spending in title II of that bill, is it possible in the supplemental appropriation that that additional amount that has now passed this House by a very overwhelming vote can be appropriately accommodated?

Mr. NATCHER. The gentleman is correct in his statement. In a supplemental appropriation bill, we can take a look at it and decide the amount to recommend to this House. That is the proper procedure and the gentleman is correct.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comment. I can understand the concern of my colleague from California. He has worked hard and long on this particular legislation. His concern is that he will not have adequate hearing in the Appropriation Committee.

The statement of the gentleman from Kentucky to me is that on the basis of the passage of this bill we have just completed, H.R. 3434, that in the supplemental process would be the appropriate place to take into consideration the additional authorization.

Mr. NATCHER. The gentleman is correct.

Mr. Speaker, at this time I yield to my friend, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first, I would be very remiss if I did not acknowledge the splendid work of our chairman in the conference. There were over 147 amendments in disagreement. In all my 20 years or more of service in this committee and subcommittee, I have never observed a chairman take hold of a conference to the degree that the gentleman from Kentucky (Mr. NATCHER) did and within 1 day resolve those 147 amendments in disagreement, bringing only one back in true disagreement for a vote.

I think the gentleman deserves the plaudits of this House for the splendid manner in which he conducted that conference.

Mr. Speaker, we have just heard it stated that this conference report provides funding levels $1.3 billion under the budget, $428 million under the House, and $470 million below the Senate.

In looking at these figures, you would think we have performed miracles. In actuality, the only miracles undertaken were those with mirrors.

When you eliminate $1,070,000,000 in CETA carryover funds, and $726,000,000 in basic education opportunity grant funds which were eliminated through a bookkeeping device, you actually find that this report is some $460 million above the budget. Then if you also eliminate the $500 million in our amendment on waste, fraud, and abuse, and the $73 million by which the SSI program is under the budget due to a reestimate, the bill actually ends up over $1 billion above the budget. In other words, in the basic line items in the bill where we provide discretionary spending for social programs, this bill exceeds the budget by $1 billion.

Likewise, in comparing the conference report to the House version, if we eliminate the $726 million in BEOG funds and the $188 million in added CETA carryover funds, we end up in actuality at a level of $486 million above the House bill.

As far as the Senate version is concerned, it included $200 million in unauthorized health planning funds which were eliminated in conference, and did not include the $500 million reduction in waste, fraud, and abuse which was accepted in conference. If we eliminate those two items, the conference report provides a $230 million increase above the Senate version in terms of the actual line items.

I call these figures to your attention simply to make sure that we are not misled by the totals shown in the conference report.

It was a good conference in many respects, but was also a conference which did not reflect much of a desire to hold down spending. More often than not, the conferees accepted the highest of both the House and Senate figures as the easiest means of reaching agreement. The most obvious example in this regard is NIH, where we came out $50 million above the House and $62 million above the Senate.

Regarding the impact aid program, the conferees took the higher Senate figure for category "A" children and the higher House figure for category "B" children.

I agree with the higher figure for "A" children, which puts us at the budget level, because that is the one justifiable portion of the overall impact aid program.

I cannot, however, go along with the conference action regarding "B" children. "B" payments are the least justifiable of all the impact aid payments. They are awarded in cases where the parents work in Federal facilities but reside in the community and pay property taxes just like everybody else. They are not justifiable, they cannot be defended, and they ought to be eliminated.

The Senate bill proposed a very reasonable approach that would have produced a significant reduction in "B" payments without unduly burdening any school district. That reduction would have been achieved by eliminating "B" payments for those school districts of fewer than 2,000 "B" pupils where such payments represent less than 1 percent of their overall expenditures for education; by eliminating payments for children whose parents are employed on Federal property located outside the school district; and by providing a 10-percent reduction for those districts continuing to receive "B" payments. This approach would have made a $115 million reduction in overall funding for "B" payments, from $320 million to $205 million. The House version, the one accepted in conference, provides a level of $277 million, or $72 million above the Senate.

The approach adopted by the Senate is quite similar to the amendment I offered in full committee, particularly with respect to the 1-percent limitation. Where the "B" payment is less than 1 percent of a district's total educational expenditures, that is hardly reflective of a heavy Federal impact. Any district ought to be able to absorb that much, and I regret that the conference chose not to go along with this very sensible approach.

The conferees agreed to the $500 million reduction in waste, fraud, and abuse which the House applied to HEW programs. We have conference report language specifying how this reduction is to be implemented, and of course we expect HEW to obey the law this year, and adopt a plan of action designed to produce these savings, starting at the outset of the fiscal year.

As part of the action on this item, the conferees amended the bill language to include the mandated reduction in AFDC and medicaid error rates contained in the conference report on the recently enacted supplemental appropriation bill, along with a provision which allows the Secretary to provide a yearly waiver in a limited number of instances if some States are unable to achieve the mandated reduction despite a good faith effort.

The conference report specifies that such waivers are to be limited to extraordinary circumstances, and by that we would have in mind something along the line of the appeals criteria set forth in the "disallowance for erroneous payments" regulations published by HEW on March 7, 1979. This includes such things as disasters, strikes, faulty Federal policy interpretation, or a sudden increased workload resulting from changes in Federal law or regulation.

A number of States have expressed concern that the new food stamp law has placed an extra heavy burden on their case workers, which is resulting in a reduced monitoring and surveillance effort in the AFDC and medicaid arena. This might be taken into account in considering an initial year waiver, but certainly ought not to go beyond that, because the food stamp program should not be used to justify higher waste, or less diligence, in the AFDC or medicaid programs.

The intent of the conferees, in other words, is that some flexibility should be allowed if unusual circumstances come into play, but that by no means should the waiver concept be so broadly defined as to allow a blanket exemption for those States with high error rates who simply fail to achieve the mandated reductions.

I have to strongly take issue with the conference approval of $250 million for the so-called energy crisis intervention program—the program designed to pay fuel bills for the poor.

I take issue with this action not because there may not be a need, but because we are again throwing money into a program that has never been considered by any authorizing committee, and which has virtually no congressionally established standards governing the allocation of funds.

This appropriation will make the fifth different program we have had during the past 4 years, all of which were defined only through generalized appropriations report language. The result has been a very poor administration of the program by the Community Services Administration. Both the General Accounting Office and our appropriations investigative staff arrived at that conclusion after thoroughly investigating the program. But like most investigations, if we do not like what we hear, we just assign them to the shelf and continue on our merry old way.

The conference report says the funds in 1980 are to be distributed to the States on a formula basis. This returns the program to the approach followed during its first year of operation. That approach was abandoned because it spread the funds too thin and did not concentrate on real needs.

All the States receive funding under the formula approach, including warm weather areas such as Hawaii, Arizona, Florida, Puerto Rico, and the Virgin Islands. Whether they need it or not, they will still receive a share. Our investigators found that in some of these States people received assistance even though their home energy bills totaled less than $250 for the whole year.

If this program were properly authorized, it would theoretically be much more sharply structured to insure that funds go only where the real needs are. As it is, however, the conference report language provides almost no guidance. Let me just quickly run through some of the questions that remain unanswered:

First. Eligibility is to be limited to households under 125 percent of poverty. There are nearly 14 million households in this category today. Are they all eligible for assistance? If so, they would be entitled to just $17 each, based on the funding level in the bill.

Second. If each household is not eligible, then what other criteria are to govern eligibilty?

Third. Where do unpaid fuel bills come into play? Are they to be used as a criteria for eligibility? Must they be presented when applying for assistance?

Fourth. How much can each household receive? Formerly there was a $250 maximum, but that no longer appears to be the case. What is to prevent just a few of the households from receiving the bulk of the funds?

Fifth. Does the household receive the money in cash, or in the form of a voucher?

Sixth. Must the money be used to pay fuel bills, or can it be used for other things?

Seventh. What is the allocation per household to be based on?

Eighth. Who is to administer the program at the local level?

Ninth. What kind of proof of income eligibility is to be required, if any?

Tenth. What kind of monitoring system is to be established, if any, to check on how the funds are spent?

Eleventh. Is there any requirement that the program be audited?

Twelfth. Must the States present a plan for the use of the funds, or do they simply receive the funds free and clear to use virtually as they please?

Thirteenth. Our committee investigators' report states:

> Income maintenance programs like SCIP do not promote energy conservation. Payment of overdue fuel bills or credits for future deliveries are in themselves disincentives. CSA officials agree energy conservation is an unrealistic goal for an energy income transfer program.

Are we going to totally ignore the question of conservation in the allocation of assistance?

These are just a few of the matters that ought to be addressed in any legislation establishing a program the size of this one. They are not dealt with in this conference report, but are totally ignored.

Simply throwing money at a problem in an emotional reaction, without thinking it through or developing the proper program mechanism, is not the way to legislate. It only leads to the massive amounts of waste, fraud, and abuse which we currently see in many of the HEW income assistance programs.

On this program, the conferees have acted irresponsibly. What we should have done was to defer funding until proper authorizing legislation is reported and adopted. Frankly, I would hope that the authorizing committees would still move ahead in this regard, because we certainly cannot go on the way we have.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I rise in support of the conference report on H.R. 4389, the Labor-HEW appropriations bill for fiscal year 1980. I feel that this is a good bill, which, with the exception of the abortion section, there is little if any disagreement.

I would like to offer my congratulations to all the members of the Labor-HEW Subcommitte upon the resolution of most of our differences with the Senate and the near-completion of this bill. I would especially like to thank the chairman of our subcommittee, my good friend, Mr. NATCHER, whose hard work has resulted in the unusually early action that this bill has received, and of course my good friend, the ranking minority member of the subcommittee, Mr. MICHEL, whose diligence and thoughtfulness have contributed a great deal to the excellence of this piece of legislation.

I feel that overall some good compromises were reached on this bill, and the end result of our work is that the Labor-HEW appropriations bill is $1,337,129,000 (roughly $1.34 billion) below the President's budget. It will be pointed out that this figure includes $726 million in BEOG funds, originally appropriated in 1978, which this bill makes available until expended. Even taking this $726 million into consideration, the bill is still $611 million under the President's budget. Even with this cutback, I feel that the bill does a good job of funding some of the most important programs in this country. This bill proves that the Appropriations Committee can act in a fiscally responsible way to hold back spending, while still maintaining the high quality human services programs which this country requires.

In a few areas, the House has receded to higher Senate levels for spending. Most of these instances are very well justified. For example, the Senate increased funding for venereal disease screening and treatment programs to $40 million, $6 million more than the House had appropriated for this program run by the Center for Disease Control. The House agreed to accept the higher Senate figure, because venereal disease is a very serious problem, and one that is becoming more and more grave daily. The number of Americans suffering from gonorrhea, syphilis, and the as yet incurable disease, genital herpes, is on the rise. The additional preventive, educational and screening work that these funds will allow is desperately needed, and I am confident that this money will be very well spent.

Another area where the House receded to the Senate was in funding for the new independent living program. The Senate had provided $15 million, $5 million more than the House. This is an excellent program which will help our citizens with handicaps to move out into the mainstream of society where they will live productive lives. For too long, our Nation has paid lip service to the needs of our handicapped; this increased appropriation will demonstrate that we are willing to back up our commitment to this segment of our society with more than just words.

On other issues, the House either split, or went better than halfway towards meeting the Senate in their estimates on the funding needs of certain line items. Noteworthy among these is the appropriation for university affiliated facilities in the Rehabilitation Services Administration. The House had provided $4.5 million, the Senate $7.5 million for this very worthy program. The conference agreed to appropriate $7 million. This appropriation promotes interdisciplinary training and research into the problems of rehabilitating developmentally disabled people. I am personally very pleased that the conference decided to appropriate these added funds for this very important program.

In many other areas, the House receded to the lower funding levels appropriated by the Senate. Perhaps the largest single Senate-proposed reduction which the House accepted was the $145 million cut made in the new concentration grant program in ESEA. The House had appropriated $345 million for this; the Senate reduced this to $200 million; and the House concurred in the Senate figure. I had always been a supporter of the concentration grant program, despite the fact that my district receives not 1 cent from it. However, at the conference I must confess that I was swayed by the remarks of Senator ERNEST F. HOLLINGS of South Carolina, who asked why those children with educational disabilities who happen to live in relatively high concentrations in urban settings deserve more attention, or more specifically, more Federal funding than the poor and undereducated in rural areas. When it accepted this cut, the conference committee directed that the Commissioner on Education to produce a report and a clear plan on the use of these funds, so that Congress can have a clearer sense of what specific impact this money is supposed to have.

I was personally involved in the addition of several language provisions to this bill which I hope will strengthen it considerably. The first was a provision to prohibit the Mine Safety and Health Administration from administering certain recently promulgated training regulations. I do not object to the training of miners in all instances, but the regulations MSHA proposed to enforce included many provisions which were inflationary and unnecessary. This amendment, No. 21, has been reported in technical disagreement, because the conference committee added language to clarify the fact that it applies only to surface mines. This will give MSHA time, if it so chooses, to revise its training regulations and remove their objectionable sections.

I also added two amendments, No. 78 and No. 139, which relate to HEW contracting procedures. The first, No. 78, allows for $2 million in fiscal year 1979 funding to remain available for obligation in fiscal year 1980, as part of the budget of education for the handicapped in the Office of Education. This amendment will assure that six requests for proposals for handicapped-related projects will not lapse.

Amendment No. 139 will prohibit the application of the labor-surplus provisions (of section 15 (d) and (e)) of the Small Business Act. Application of these provisions to HEW contracting would result in many highly qualified applicants being shut out of competition for Federal funds simply because these applicants are not located in labor-surplus areas. For example, it strikes me as foolish that a special education professor at the University of Kansas, quite possibly the tops in his field, would be shut out of applying for a special education grant simply because he or she does not work in a labor-surplus area. My amendment will take care of this, by excluding from these Small Business Act provisions (and I quote) "requests for proposals for research, rehabilitation, training or other highly professional health, education, and social services which will not substantially affect employment levels."

I could go on at great length about the various provisions of this bill which interest me in such areas as: The Health Services Administration; the Center for Disease Control and the National Institutes of Health, both of which received extra, much-needed funding; or the Health Resources Administration, a particular area of interest to me. I shall refrain, however, and content myself with making a final comment about the energy crisis intervention program run by the Community Services Administration.

The House had appropriated $22 million for this program, a large reduction from the $200 million appropriated last year, but only a minor reduction from the $40 million originally requested by the administration. At the last minute, the administration revised its request and recommended that $250 million be appropriated for this program. The Senate put this money in, and the House concurred in their decision, thereby increasing the appropriation for this program by $228 million.

I fully support this increase. I am well aware of the many problems CSA has had in administering this program, and of the many well-justified criticisms leveled at it. The energy crisis intervention program is, however, the only program the Government has to help the poor and needy to stay warm during the long, severe winters that many parts of our Nation face. As soon as there is a better, more workable program to replace this one, I will gladly vote to zero-fund the CSA program. Until that time, I will continue to offer my strongest support to this energy crisis intervention program so that our citizens will know that in this land of such great wealth, their Government will not let them run the risk of freezing in winter.

In conclusion, I urge all my fellow Members to vote "aye" on all the provisions in this bill which we were able to resolve at the conference. It is my sincere hope that soon after our return from recess, we will be able to achieve some resolution of the remaining point of disagreement in this bill, so that H.R. 4389 may be signed into law.

☐ 1640

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to my dear friend, the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, we all know it is going to be a terrible hardship with fuel bills this winter, but I would like to remind the House what happened 2 or 3 years ago. We had a very hard winter, and we voted funds. Then we found that, as I remember it, the Virgin Islands and Hawaii had gotten more heating money than New Jersey.

What kind of administration is this? What kind of formula is it? We had $100 million left over at the end of the year.

I do not know how we are going to handle the people's money if we have no criteria, no way of handling it, and no way of deciding where the money is going to go before we start handing it out.

Mr. Speaker, I do not wonder that sometimes the public despairs. It is an awful lot of money. The people are going to suffer, and we ought to be able to put the two together and bring about some public good, but this is not the way to do it.

Mr. MICHEL. Mr. Speaker, I thank the gentlewoman from New Jersey (Mrs. FENWICK) for her contribution. Obviously she despairs, as do some of us, and that is the reason for our opening up the discussion, because frankly, this ought to be a matter that is more thoroughly discussed before we in the Committee on Appropriations have to oblige ourselves by appropriating money.

Mr. Speaker, I have several requests for time, but if the gentleman from Kentucky (Mr. NATCHER) has requests, I would be happy to defer to him.

Mr. NATCHER. Mr. Speaker, I would like to say to the distinguished gentleman from Illinois (Mr. MICHEL) that we have no requests for time on this side.

Mr. MICHEL. Then, Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I am specifically concerned with that portion of the conference report that relates to the SHUR program, the system for hospital uniform reporting.

I wish to make some comments about that, and then I will ask some questions of the distinguished subcommittee chairman, the gentleman from Kentucky (Mr. NATCHER).

Let me refresh the memories of some of the Members of the House concerning what happened relating to the SHUR amendment. By an overwhelming majority of 306 to 101 votes, this House took the position that no appropriations would be utilized to implement the SHUR system during the upcoming fiscal year. The Senate likewise considered the SHUR system a system that, I would say, set some sort of record for an arrogant departure from congressional intent via a Federal agency, HEW, an agency that establishes a uniform accounting system despite language by both bodies in our committee reports asking for a uniform reporting system. I would like to read briefly for the Members of the House the wording of the conference report language:

> The conferees, therefore, direct that the Secretary not issue final regulations for the program until the Department's proposed revisions have been formally approved by the appropriate committee of each house designated by the Speaker of the House of Representatives and the Majority Leader of the Senate.

What is very interesting about that is that this particular language would, I respectfully suggest, be a lesser measure and less specific in its directions to HEW, not only in the amendment adopted on this floor but in the language found in the committee report of the Senate Appropriations Committee, and I read to the Members from the Senate Appropriations Committee report, on page 95:

> The Committee is greatly disturbed by the scope of the proposed regulation implementing the System for Hospital Uniform Reporting (SHUR), and overwhelmed by the sheer volume of more than 500 pages of proposed manual provisions and forms. The Committee emphasizes that the authority to implement such a system called for a uniform reporting system, not a uniform accounting system. In light of these concerns, the Committee intends that the Department of HEW be prohibited from using any funds appropriated under this act for data collection pursuant to SHUR during fiscal year 1980.

What we have is an indication reflected by the strongest position of the U.S. House of Representatives committee report, language by the Senate that is less strong, and the conference report, which, I respectfully suggest, is less strong than that. We have sent a message to HEW. I have had officials meet with me. They have met with the subcommittees of the Committee on Appropriations of the House, I think twice but at least once, and it is clear that we have won a victory and the message has been sent to HEW. What is not clear, however, is how much of that victory we have lost at this point.

Not expecting this particular measure to come before us today but, rather, after the recess, I am faced with a decision within the next few minutes of whether to offer a motion to recommit. I think that decision on my part will be based mostly upon some questions that I would propound to the distinguished chairman of the subcommittee, the gentleman from Kentucky (Mr. NATCHER). If the distinguished gentleman would permit, I do have a number of questions I would like to address to him.

Mr. NATCHER. Mr. Speaker, if the gentleman will yield, it would be a pleasure for me to engage in colloquy with the distinguished gentleman from Nebraska (Mr. BEREUTER). I want to commend the gentleman on the amendment he offered, and I am ready to try to answer any of his questions.

Mr. BEREUTER. Mr. Speaker, I thank the distinguished subcommittee chairman.

May I ask, what constitutes formal approval by the committee, in accordance with the language offered in the conference report, in the gentleman's opinion?

Mr. NATCHER. In answer to the gentleman's question, Mr. Speaker, regarding what is meant by "formal approval," I would say to the gentleman that that would mean that the Committee would meet and would discuss the matter in detail. Then, I would say to the gentleman, as far as formal approval is concerned, that would follow.

I do want to point out to the gentleman one other fact. As far as HEW is concerned, it was not the intention of Health, Education, and Welfare to collect any data until fiscal year 1981.

Mr. Speaker, I believe the gentleman has other questions he would like to propound, and I will try to answer them.

Mr. BEREUTER. I do, Mr. Speaker.

First, I would say that while I recognize that the Speaker makes the decision as to which committee makes the designation, I am sure the gentleman is aware that there are two key health subcommittees of the House—the subcommittees of the Committee on Ways and Means and of the Committee on Interstate and Foreign Commerce—which have jurisdiction over this issue.

The SPEAKER pro tempore (Mr. GIBBONS). The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

Mr. PURSELL. Mr. Speaker, I yield 2 additional minutes to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I thank the gentleman.

I have another question I would like to ask.

Would it be within the committee's purview to request—and I emphasize the word "request"—that the Speaker appoint a joint committee to fulfill the requirements of this conference report?

Mr. NATCHER. Mr. Speaker, if the gentleman will yield, I will say to the gentleman that as far as we are concerned, we have no objection whatsoever to a joint committee.

Mr. BEREUTER. And it would be within the committee's purview to request at least such an appointment?

Mr. NATCHER. The gentleman is correct.

Mr. BEREUTER. Mr. Speaker, I have a further question.

Would it be the gentleman's expectation that whatever committee is appointed by the Speaker for this purpose, that committee would hold public hearings prior to giving its approval?

Mr. NATCHER. The gentleman is correct again, Mr. Speaker. Certainly public hearings should be held. The answer to the gentleman's question is yes.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman.

There are two points in the Senate committee's report language that I would like to address so I may determine the chairman's view of how this relates to the language of the conference report.

First, is it the gentleman's position and that of the conference committee that HEW is to prepare a uniform reporting system—and I emphasize "reporting"—and that an abbreviated version of the original SHUR manual or an adaptation will not meet those specifications?

Mr. NATCHER. Mr. Speaker, I will say to the distinguished gentleman that as far as the language is concerned, the Senate report on the item would stand. There was no effort made on the conferees part to change that language.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman. The final question I would ask is this:

☐ 1650

Did the conferees have in mind a date for implementation of the final SHUR reporting system, a date conforming to the Senate report language and the language of my amendment? I think the gentleman has answered that before, but I would like to reiterate it formally.

Mr. NATCHER. This would be up to the committee appointed by the Speaker, in answer to the gentleman's question. It would be up to that committee. As the gentleman well knows, this matter could be referred by the Speaker to the Committee on Ways and Means, or it could go to the Committee on Interstate and Foreign Commerce. So, therefore, in answer to the gentleman's question, it would be up to the committee assigned by the Speaker.

Mr. BEREUTER. I understand the gentleman's point and it is well taken. I would point out that my amendment said October 1, 1980. The Senate language said that. I know it was discussed in the conference report, and I would just like to make a record of that fact.

The SPEAKER pro tempore. The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

Mr. MICHEL. Mr. Speaker, I yield 2 additional minutes to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Speaker, I thank the chairman for his response and, as a new Member, I appreciate the gentleman's assistance to me in conducting this colloquy.

I would like to indicate to the Members of the House that I have some substantial concerns, of course, about the reduction and the specific action requested of HEW in this respect. The type of information that I received in this instance, however, goes at least some way toward alleviating those concerns, and I would like to make it quite clear to my colleagues that we are reserving the right for the recommittal motion.

I thank the gentleman again for his precise answers.

Mr. TAUKE. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman for yielding.

Mr. Speaker, I want to take this opportunity to commend the gentleman from Nebraska for his excellent work in this area. Certainly SHUR has been one of the things that has been most devastating to the effort by many people across the country to hold down hospital costs. The gentleman has performed great services in the past. I am sorry that the Senate and the conference committee did not continue to pursue the course that the gentleman has taken, and I hope that the gentleman will continue to monitor this situation very closely.

Mr. BEREUTER. I thank the gentleman for his remarks.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, may I simply reecho those commendations that the gentleman from Iowa (Mr. TAUKE) accorded the gentleman from Nebraska (Mr. BEREUTER). He serves a real good purpose in the amendment which he offered, and I think the dialog, the exchange of colloquy between the gentleman and the chairman, was very helpful.

Mr. Speaker, at this time I yield such time as he may consume to the newest member of our subcommittee, the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Mr. Speaker, I would like to compliment my colleagues on this conference report and express my support of it.

This was my first year on Appropriations and the Labor/HEW Subcommittee. It has been the most challenging and satisfying year of my public career. It has been a real privilege to work with, and learn from, our subcommittee chairman, the gentleman from Kentucky (Mr. NATCHER), our ranking minority member, the gentleman from Illinois (Mr. MICHEL), and the other outstanding members of the subcommittee and full Appropriations Committee.

I commend the sensible and sensitive decisions which allowed us to set a responsible spending total, over $1 billion below the President's original budget, while setting excellent priorities within the spending limitation.

I want to especially praise the decisions in several areas I consider extremely important: Student assistance, gifted and talented education, senior citizen nutrition, health professionals training, independent living programs for the handicapped, private sector initiatives under the CETA program, and deaf interpreter training.

In our consideration of this bill, meaningful improvements were made in all of these areas. They are not the only notable features of the bill, but they demonstrate a special commitment to improving the quality of life in America.

All of these programs are oriented toward one fundamental concept: opportunity. Opportunity for individuals to use their abilities to achieve a better life.

In my opinion, a critical role of Government in the human services area is to provide such opportunity, avenues to self-improvement and personal dignity.

Assistance to students, so they can get an education that enriches both their lives and American society. Programs that challenge the brightest of our students, giving them an opportunity to develop their full potential and achieve the breakthroughs which keep our Nation progressing. Training programs which create opportunities for permanent jobs. And programs to make it possible for senior citizens and handicapped people to live with dignity and contribute their full potential to American life.

I am proud of this bill, of what it seeks to accomplish for the quality of life, and of the people whose decisions made it possible.

Mr. NATCHER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

AMENDMENTS IN DISAGREEMENT

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Clerk designate each Senate amendment in disagreement by number as they are reached and that their reading be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: page 3, line 1, strike out "$6,335,254,000" and insert "$6,423,055,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert "$6,500,626,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 16: page 11, line 5. insert ": *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of 10 or fewer full-time employees who is included within a category having an occupational injury incidence rate less than 7 per 100 full-time employees as set forth in the 1977 Bureau of Labor Statistics survey of industries for the most exact Standard Industrial Classification Code level for which data are published and who certifies by signed and true affidavit, filed at any time during the fiscal year with the Secretary of Labor (with a copy posted in a prominent place in the workplace) that in the preceding twelve-month period such employer had an incidence rate of less than 6 lost workdays due to occupational injury per 10 full-time employees, except: (1) to provide requested consultation services; (2) to conduct an inspection or investigation in response to an employee complaint, and to assess a penalty or take other action authorized by such Act if as a result of such inspection or investigation, the Secretary finds violations of the Act which are willful in nature, or which pose an imminent danger to employees, and which are not corrected within a reasonable abatement period; (3) to enforce specific health and toxic substances standards promulgated pursuant to section 6 of such Act, including scheduled inspections; (4) to investigate an employment accident which is fatal to one or more employees or which results in hospitalization of 5 or more employees, and take appropriate action as authorized by such Act: *Provided further*,".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows: In lieu of the matter proposed in said amendment insert the following: ": *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten (10) or fewer employees who is included within a category having an occupational illness and injury incidence rate less than seven per one hundred employees as published in the 1977 Bureau of Labor Statistics survey of three-digit (or if unavailable, two-digit or one-digit) Standard Industrial Classification Code industries, except:

"(1) to take any action authorized by such Act with respect to any employer or group of employers within such category whom the Secretary determines to be engaged in an activity involving very substantial occupational hazards;

"(2) to provide requested consultation, technical assistance, educational and training services, and to conduct surveys and studies;

"(3) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

"(4) to take any action authorized by such Act with respect to imminent dangers;

"(5) to take any action authorized by such Act with respect to health hazards;

"(6) to investigate an employment accident which is fatal or results in hospitalization of one or more employees, and take any action pursuant to such investigation authorized by such Act;

"(7) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act. This proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees.".

Mr. NATCHER (during the reading) Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The motion was agreed to.

Mr. NATCHER. Mr. Speaker, in order to expedite the disposition of these amendments, I ask unanimous consent that all amendments on which we are asking that the House recede and concur be considered as read, printed in the RECORD, and that they be considered en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk designated Senate amendment Nos. 17, 30, 31, 42, 48, 51, 52, 71, 77, 88, 101, 111, 112, 113, 115, and 117, as follows:

Senate amendment No. 17: Page 13, line 8, insert ': *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the 6 months preceding such inspection: *Provided further*, That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration "including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program; or to investigate a fatality or catastrophe."

Senate amendment No. 30: Page 19, line 10, insert "administrative".

Senate amendment No. 31: Page 19, line 11, insert: "*Provided further*, That when the Health Services Administration provides health care services to active duty Department of Defense uniformed services personnel and their dependents, to retired uniformed services personnel and their dependents, and to the dependents of deceased uniformed services personnel in a Public Health Service medical facility, payment for the estimated cost shall be made by way of reimbursement to this appropriation".

Senate amendment No. 42: Page 22, line 8, insert ", of which $3,000,000 shall remain available until expended to carry out a program of grants for public and nonprofit private vision research facilities.".

Senate amendment No. 48: Page 25, line 8, insert ": *Provided further*, That the Secretary shall give attention under section 788 (d) of the Public Health Service Act to programs which address health manpower shortages in medically underserved areas.

Senate amendment No. 51: Page 28, line 16, insert "to remain available until expended.".

Senate amendment No. 52: Page 29, line 14, insert "No payment shall be made from this appropriation to reimburse State or local expenditures made prior to September 30, 1978.".

Senate amendment No. 71: Page 34, line 1, insert ": *Provided further*, That the total amount paid with respect to entitlements under section 3(a) attributable to children who reside on, or reside with parents employed on, property which is described in section 403(1) (C) of said Act shall not exceed the amounts paid under that section in fiscal year 1979, and any reductions required thereby shall be derived by proportionately reducing the payments attributable to such children applied for by all local educational agencies under section 3(a): *Provided further*,".

Senate amendment No. 77: Page 35, line 12, insert ": "*Provided*, That the terms of the reservations contained in section 604(b) (2) of the Emergency School Aid Act and the limitation on the amount authorized to be reserved for the purpose of section 613 of such Act shall not apply to sums appropriated under this Act.

Senate Amendment No. 88: Page 37, line 12, strike out "That not more than $726,000,000 of the amount appropriated for fiscal year 1979 under this head for subpart 1, part A of title IV of the Higher Education Act shall remain available through September 30, 1981 for Basic Opportunity Grants without regard to sections 411(b) (3) (B) (ii) and 411(b) (4) (B) of the Higher Education Act".

And insert "That the amounts appropriated for Basic Grants under this Act shall be available for paying those grants only when the amounts previously appropriated for Basic Grants through September 30, 1980 under Public Law 95–480 are fully obligated for awards: *Provided further*, That the amounts appropriated for Basic Grants under Public Law 95–480 shall be available for paying Basic Grants only when the amounts previously appropriated for Basic Grants through September 30, 1979 under Public Law 95–205 are fully obligated for awards: *Provided further*, That if any Basic Grant funds appropriated by Public Law 95–205 remain unobligated on July 1, 1979, those funds must be used to pay Basic Grants to students for the 1979–80 Basic Grant award year notwithstanding section 411(b) (3) (B) (ii) of the Higher Education Act: *Provided further*,".

Senate amendment No. 101: Page 39, line 14, insert ": "*Provided*, That notwithstanding the provisions of section 102(b) of Public Law 92–318, the provisions of sections 103(a) and 106 of the Higher Education Act shall apply to funds appropriated under this Act, but section 103(a) shall apply only to the extent that it provides for the allotment to each State, from the sums appropriated for part A of title I of the Higher Education Act that are not reserved pursuant to section 106(a) of that Act, of an amount which bears the same ratio to such sums as the population of such State bears to the population of all the States.".

Senate amendment No. 111: Page 44, line 5, insert "to remain available until expended: *Provided*,".

Senate amendment No. 112: Page 44, line 18, insert "to remain available until expended.".

Senate amendment No. 113: Page 45, line 3, insert "No payment shall be made from this appropriation to reimburse State or local expenditures made prior to September 30, 1978.".

Senate amendment No. 115: Page 47, line 21, insert "to remain available until expended,".

Senate amendment No. 117: Page 48, line 9, insert "No payment shall be made from this appropriation to reimburse State or local expenditures made prior to September 30, 1978.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER moves that the House recede from its disagreement to the amendments of the Senate numbered 17, 30, 31, 42, 48, 51, 52, 71, 77, 88, 101, 111, 112, 113, 115, and 117 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 21: Page 15, line 19, insert ": *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g) (1) of such Act relating to the enforcement of any training requirement, with respect to shell dredging, or with respect to any sand, gravel, stone, surface clay, colloidal phosphate or limestone mine."

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ": *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g) (1) of such Act relating to the enforcement of any training requirement, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate or surface limestone mine".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 62: Page 31, line 23, insert "; and of which $235,000,000 shall be for the purposes of subpart 1 of such part B, and $140,000,000 shall be for the purposes of subpart 2 of such part B, and any reductions in entitlements required thereby shall be proportionate among the States).

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 62 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "; and of which $245,000,000 shall be for the purposes of subpart 1 of such part B, and $145,000,000 shall be for the purposes of subpart 2 of such part B, and any reductions in entitlements required thereby shall be proportionate among the States".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 64: Page 32, line 15, strike out "$744,000,000" and insert "$700,000,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 64 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert "$772,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 65: Page 32, line 17, strike out "$662,000,000" and insert "$618,000,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 65 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert "$690,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 78: Page 35, line 19, strike out "$1,045,325,000" and insert $1,054,025,000: *Provided*,".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 78 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$1,049,025,000: *Provided*, That funds appropriated under Public Law 95–480 for part C of Public Law 91–230, Education of the Handicapped Act, as amended, shall remain available through September 30, 1980".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 127: Page 51, line 21, strike out:

SEC. 201. Notwithstanding any other provision in this Act, the total amount of budget authority provided in this Act for the Department of Health, Education, and Welfare is hereby reduced in the amount of $500,000,000: *Provided*, That this reduction shall be achieved by the reduction of fraud, abuse, and waste as defined and cited in the annual report, dated March 31, 1978, of the Inspector General of the Department of Health, Education, and Welfare: *Provided further*, That this section shall not be construed to change any law authorizing appropriations or other budget authority in this Act.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 127 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 201. Notwithstanding any other provision in this Act, the total amount of budget authority provided in this Act for the Department of Health, Education, and Welfare is hereby reduced in the amount of $500,000,000: *Provided*, That this reduction shall be achieved by the reduction of fraud, abuse, and waste as defined and cited in the annual report, dated March 31, 1978, of the Inspector General of the Department of Health, Education, and Welfare: *Provided further*, That this section shall not be construed to change any law authorizing appropriations or other budget authority in this Act: *Provided further*, That the requirements pertaining to AFDC and Medicaid error rates, as specified in the conference report on the fiscal 1979 Supplemental Appropriations Act (P.L. 96-38), shall be carried out except where the Secretary determines, in certain limited cases, that states are unable to reach the required reduction in a given year despite a good faith effort."

Mr. NATCHER (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The motion was agreed to.

□ 1700

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 137: Page 57, line 5, insert:

SEC. 209. None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or Public Health Service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy. The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House insist on its disagreement to the amendment of the Senate numbered 137.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 139: Page 58, line 1, insert:

SEC. 213. None of the funds appropriated or otherwise made available in this title shall be used to implement section 15 of the Small Business Act, as amended, or Executive Order number 12073, dated August 16, 1978.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 139 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 212. None of the funds appropriated or otherwise made available in this title shall be used to implement section 15 (d) and (e) of the Small Business Act, as amended, or Executive Order number 12073, dated August 16, 1978, in regard to requests for proposals for research, rehabilitation, training or other highly professional health, education and social services which will not substantially affect employment levels."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 140: Page 58, line 5, insert:

SEC. 211. Funds appropriated to the Department of Health, Education, and Welfare under title II may not be used to pay the compensation of experts or consultants (other than full-time employees) or organizations thereof, or to procure by contract the services of experts or consultants or organizations thereof, in excess of $160,000,000 during fiscal year 1980. Expenditures for all consultant services in the fourth quarter of fiscal year 1980 may not exceed 30 per centum of the total annual fiscal year 1980 expenditure for such consultant services.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 140 and concur therein with an amendment, as follows: In lieu of the matter proposed in said amendment, insert the following:

"SEC. 213. Funds appropriated to the Department of Health, Education, and Welfare under title II may not be used to pay the compensation of experts or consultants (other than full-time employees) or organizations thereof, or to procure by contract the services of experts or consultants or organizations thereof, in excess of $170,000,000 during fiscal year 1980. Expenditures for all consultant services in the fourth quarter of fiscal year 1980 may not exceed 30 per centum of the total annual fiscal year 1980 expenditure for such consultant services."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 142: Page 59, line 8, insert:

COMMUNITY DEVELOPMENT CREDIT UNIONS, REVOLVING FUND

For the Community Services Administration for loans to community development credit unions, $12,000,000 together with amounts of principal and interest on loans repaid, to be available until expended.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 142 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert $6,000,000".

The motion was agreed to.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and on the amendments in disagreement on H.R. 4389, making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MOFFETT. Mr. Speaker, will the distinguished chairman yield?

Mr. NATCHER. I would be happy to yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Speaker, in view of the comments that were made earlier and very legitimate questions some Members had about the fuel assistance money, I am introducing some statistics that I think the Members will find fairly devastating about the impact of the elderly and poor on these fuel bills and what the projections are, and I want to say, particularly, on behalf of those in the Northeast, we want to convey our appreciation for the chair's sensitivity and support on this matter.

The statistics follows:

From 1972 to 1978, the general CPI increased 55.9 percent, the fuel CPI increased 151.7 percent.

In 1978 alone, low-income persons faced a $4 billion loss of purchasing power because of higher energy prices.

While the median family spent 4.7 percent of its income on energy (excluding transportation) in 1978, that figure was 18.4 percent for low-income persons and 23 percent for low-income persons in New England.

Fuel oil bills in New England can be expected to increase 45 percent over last year.

From October, 1978 to June, 1979, fuel oil prices increased 50 percent. These prices may well double by next heating season.

Mr. NATCHER. Mr Speaker, I want to thank the gentleman for his remarks.

The SPEAKER pro tempore. Without objection, a motion to reconsider the votes on the conference report and the votes by which action was taken on the several motions was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following July 31, 1979, the President approved and signed a bill of the House of the following title:

H.R. 4712. An act to delay conditionally the effective date of certain rules of procedure and evidence proposed by the United States Supreme Court, and for other purposes.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H.R. 3914. An act to amend the National Capital Transportation Act of 1969 to remove the limitation on the amount authorized for District of Columbia contributions for the cost of construction of the rapid transit system of the National Capital Region;

H.R. 4616. An act to make certain technical and clerical amendments to title 5, United States Code;

H.J. Res. 19. Joint resolution to provide for the designation of a week as "National Lupus Week"; and

H.J. Res. 209. Joint resolution designating the week of October 8 through October 14, 1979, as "National Diabetes Week."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3824. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 35. Concurrent resolution reaffirming the commitment of Congress to the right of the people of Puerto Rico to determine their own political future.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1030) entitled "An act to authorize the President to create an emergency program to conserve energy, and for other purposes," agrees to a conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. **Jackson**, Mr. **Johnston**, Mr. **Metzenbaum**, Mr. **Domenici**, and Mr. **McClure** to be the conferees on the part of the Senate.

JIMMY MILLER—CONGRESSIONAL PAGE

The SPEAKER. The Chair would like to announce that one of our pages, Jimmy Miller, who has been with us for a couple of years and has done a tremendous job, has been accepted at Northwestern University, and this is his last day here.

The Speaker is very grateful to the manner and the ability in which he has served in his duties as a page.

AMERICAN ENVIRONMENTAL POLICY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–174)

The SPEAKER laid before the House the following message from the President of the United States; which was read, and was referred to the Committee on the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

Four months after I took office, I presented to the Congress a comprehensive Message on the Environment, a charter for the first years of my Administration. Building on the record of the Congress in the 1970's, I sought both to protect our national heritage and to meet the competing demands on our natural resources.

Certain basic ideas remain the foundation of American environmental policy. Our great natutral heritage should be protected for the use and enjoyment of all citizens. The bounty of nature—our farmlands and forests, our water, wildlife and fisheries, our renewable energy sources—are the basis of our present and future material well-being. They must be carefully managed and conserved. The quality of our environment must be nurtured by wise decisions and protected from hasty or unplanned actions. Clean air and water remain essential goals, and we intend to achieve them in the most efficient and effective ways possible. And we have a serious responsibility to help protect the long-term health of the global environment we share with all humanity.

I am proud of the achievements of this period. The program I offer today emphasizes continuity, but it also reflects a keener awareness of certain serious emerging problems—such as disposition of the toxic wastes our highly technological society produces.

ACCOMPLISHMENTS SINCE 1977

We have made great strides together since I took office. With my strong support, the Congress enacted and I signed into law:

—the 1977 Amendments to our two fundamental laws for cleaning up pollution, the Clean Air and Clean Water Acts, including strict but enforceable standards and a strong wetlands protection program;

—the 1977 Surface Mining Reclamation Act, which established the first federal environmental standards for coal mining, and under which regulations were developed with strong public involvement;

—the 1977 Federal Mine Safety and Health Act, which established the Mine Safety and Health Administration in the Department of Labor to promulgate and enforce health and safety standards in all mines;

—the 1977 Nuclear Non-Proliferation Act, which sets conditions on U.S. nuclear exports to deter the spread of nuclear weapons, and offers other countries incentives to cooperate with our safeguards against proliferation;

—indefinite deferral of other activities which might lead to weapons proliferation, particularly nuclear fuel reprocessing and commercialization of the breeder reactor;

—the 1978 National Energy Act, with specific policies and programs emphasizing energy conservation;

—the 1978 Federal Environmental Pesticide Control Act, which provided for generic registration and control of pesticides;

—reauthorization, in 1978, of the Endangered Species Act, including new procedures for resolving conflicts under the Act;

—enactment of the National Parks and Recreation Act of 1978 and other legislation to preserve nationally significant areas, adding 45 million acres to the National Park System, 13 new Wild and Scenic Rivers and National Trails, and protecting more than 4.5 million additional acres of wilderness.

In addition, I issued Executive Orders in 1977 and 1978 directing federal agencies to improve their implementation of the National Environmental Policy Act under new regulations, which were issued in 1978; examine the environmental effects of federal actions abroad; preserve and restore natural values of wetlands and floodplains; protect our public lands from damage caused by off-road vehicles; and analyze the impacts of new federal policies on urban areas. These directives are being implemented.

ENVIRONMENTAL PROGRAM

With these accomplishments behind us, we can turn our attention to new issues and to other key issues that are still unresolved.

In the decade ahead, we will face difficult decisions as we confront the necessity of reducing dangerous dependence on foreign oil. The leaders of the major industrial democracies met in Tokyo last month to chart a course that would help cut the use of imported oil from uncertain foreign suppliers. Each nation committed itself to a specific reduction in imports, to be accomplished in a way appropriate to its particular needs and resources.

For the past two and one-half years, conservation and energy from the sun have been major thrusts of my energy program. Solar energy funding has been tripled during that period and the Congress in 1978 enacted the National Energy Act which will save 2.5 million barrels of imported oil per day. Much of these savings will be accomplished with conservation initiatives. In addition, another 1.5 million barrels of imported oil will be saved as a result of my April energy message and June solar energy package.

To build on these major savings, I have proposed an expanded effort to put this nation on a sound energy footing, with clear goals for the next decade. That effort is based on a bold program to increase domestic energy production and on additional energy conservation initiatives. Overall, this program will reduce our dependence on foreign oil by 4.5 million barrels per day by 1990.

Some of the measures I have proposed will simultaneously serve the goals of reducing oil imports and enhancing our environment. I proposed establishing a major new residential and commercial conservation program designed to save at least 500,000 barrels of oil a day by 1990. I further proposed a total of $16.5 billion over the coming decade for improvements in the nation's public transportation system and in transportation fuel efficiency. A major solar energy program will help us to meet our goal of 20 percent solar energy by the year 2000.

We must also embark on a major energy production effort through a new Energy Security Corporation that will have broad responsibility for developing 2.5 million barrels a day of replacement fuels by 1990. That Corporation will be specifically authorized to develop not only synthetic fuels but also sources of energy which could have significant environmental benefits, such as natural gas and biomass. I do not pretend that all new replacement sources of energy will be environmentally innocuous. Some of the new technologies we will need to develop pose environmental risks, not all of which are yet fully understood. I will work to ensure that environmental protections are built into the process of developing these technologies, and that when tradeoffs must be made, they will be made fairly, equitably, and in the light of informed public scrutiny. We will examine not only the impact of new energy technologies on land and water and the effects of toxic chemicals, but also the longer term implications of increasing carbon dioxide concentration in the atmosphere.

I am pledged to be sensitive both to energy needs and to environmental considerations. There is no excuse for unnecessary red tape, which has plagued construction of some needed energy projects. I have proposed the creation of an Energy Mobilization Board to accelerate decision-making on critical energy facilities. This will cut out excessive delay, but I will not allow it to undermine protection of our nation's environment. I intend, for instance, to make the environmental impact statement process fit the decision schedule set by the Energy Mobilization Board so that waivers of these statements will be rare. Only in exceptional cases will alternative procedures be necessary for the orderly completion of a critical energy facility. With the exception of new requirements imposed when construction of a critical facility is underway, the Board could not waive substantive environmental standards. The President will retain the right to override decisions of the Board on any waiver issue, and Board waiver decisions would be subject to judicial review.

Solving the nation's energy problem is essential to our economy and our security We will not lose sight of our other goals but we must not fail in ending the energy crisis. This Administration's basic commitment to clean air, clean water and the overall protection of the environment remains strong.

ALASKA LANDS

The highest environmental priority of my Administration is the passage of adequate legislation designating National Parks, Wildlife Refuges, Wilderness Areas, National Forests, and Wild and Scenic Rivers in Alaska.

To protect these magnificent Alaskan lands, I took several actions after the 95th Congress failed to provide protection against exploitation of certain areas in Alaska. By executive action, I designated 17 areas as National Monuments, covering 56 million acres. Additional areas were set aside by the Secretaries of Interior and Agriculture. These areas should be promptly and permanently protected by legislation.

The legislation I support not only protects Alaska's natural and cultural heritage but also accommodates the need for balanced development of Alaska's natural resources. Under the Alaska Statehood Act and Native Claims Settlement Act, federal land comprising an area nearly as large as Texas will soon be in state, native and private ownership. My proposals leave most of Alaska's mineral and timber wealth available for development, both on federal and non-federal lands. In particular, all of the off-shore and 95 percent of the on-shore areas in Alaska with favorable potential for oil and gas would be open to exploration and development.

The only area with significant potential for oil and gas reserves that would be foreclosed from exploration and development is the Arctic Wildlife Refuge, the calving grounds of the largest remaining caribou herd in the world and an important part of the herd's migratory route. Because of our responsibility to protect this extraordinary remnant of our continent's original wildlife, and because oil and gas are plentifully available elsewhere in Alaska, I firmly believe that the Arctic Wildlife Refuge deserves the full protection the House bill would provide.

There are other Alaskan areas where disagreements and conflicts exist over proper management. The Administration's proposals strike a balance that offers future generations of all Americans—especially Alaskans—broad opportunities for prosperity and enjoyment without the mistakes in land management we have seen elsewhere in the country.

I applaud the recent passage by the House of Representatives, by a margin of 300 votes, of a strong and fair bill which will protect Alaska's wildlife and wild areas, while providing for America's future economic needs. I urge the Senate to act with equal foresight this session.

HAZARDOUS WASTES

In August 1978, I declared Love Canal in Niagara Falls, New York, a national disaster, thus authorizing the use of federal disaster relief aid. The tragedy of Love Canal exemplifies the legacy of past improper hazardous waste disposal.

Last month I submitted to Congress a legislative proposal designed to prevent future disasters like the one at Love Canal. My proposed legislation—the Oil, Hazardous Substances and Hazardous Waste Response, Liability and Compensation Act—will provide the first comprehensive program to address releases of oil and hazardous substances from spills and from inactive and abandoned sites into navigable waters, ground waters, land and air. The legislation builds on present authority and fills gaps where present authority is inadequate to protect the human environment.

We do not yet know all of the problems associated with the disposal of hazardous wastes, but we must take further steps immediately. A report done for the Environmental Protection Agency estimates that there are 33,000–50,000 dumpsites which may contain some hazardous wastes. Of these, EPA estimates that 1,200 to 2,000 may present potentially significant problems, and 500 to 800 of them may have to be abandoned. Other accounts of improper disposal describe shallow burial in steel drums which leak after years in the ground, dumping in open lagoons, and clandestine dumping in sewers and along our highways. These abuses have caused serious damage to human health and economic welfare, pollution of ground and drinking water, and degradation of residential and recreation areas. The cost of cleaning up these sites runs into the billions of dollars. But the costs of ignoring the problem would be far higher.

Timely action by the Congress on my program will enable the Federal government, in cooperation with State and local governments and industry, to:

—identify abandoned hazardous dump sites across the nation;
—establish a uniform system of reporting spills and releases;
—provide emergency government response and containment to clean up and mitigate pollution without delay in cases where those responsible do not respond adequately or cannot be quickly identified;
—provide vigorous investigation of releases of oil, hazardous substances or hazardous waste from spills or abandoned and inactive sites;
—provide stronger authority to compel the responsible parties to clean up dangerous sites wherever possible;
—provide compensation for damages to property and for some other economic losses resulting from spills; and
—provide financing for these actions through a national fund of appropriations and a fee on the oil and chemical industries, and State cost-sharing over certain limits.

SOLAR ENERGY

My Solar Energy Message, submitted to the Congress on June 20, 1979, calls for a national commitment to the use of solar energy. That message and the program it lays out came from a 13-month effort by my Administration and the public, begun on Sunday—May 3, 1978.

Solar energy is renewable and secure. It is clean and safe. In the long run, solar and other renewable sources of energy provide a hedge against inflation. Unlike the costs of depletable resources, which rise at increasing rates as reserves are consumed, the cost of energy from the sun will go *down* as we develop better and cheaper ways of applying it to everyday needs. For everyone in our society—especially our low-income or fixed-income families—solar energy will provide an important way to avoid rising fuel costs in the future. No foreign cartel can embargo the sun or set the price of the energy we harness from it.

I have set a national goal of achieving 20 percent of the Nation's energy from the sun and other renewable resources by the year 2000. To do this we must commit ourselves to several major new initiatives which will hasten the introduction of solar technologies. I am proposing a variety of solar programs to be funded from my proposed Energy Security Trust Fund, including a Solar Bank to help finance solar installations in homes and commercial buildings; tax credits for new buildings that use solar energy and for using the sun's heat for industrial and agricultural processes; and stronger efforts to remove institutional, financial, and information barriers that currently inhibit the use of solar energy by citizens. These proposals are in addition to the expanded research, development and demonstration program I included in my budget for fiscal year 1980.

NUCLEAR WASTE MANAGEMENT AND SAFETY

I will soon announce a national nuclear waste management policy that will be designed to deal effectively with nuclear wastes from all sources, including commercial, defense, medical, and research activities. This nuclear waste management policy will be based primarily on recommendations presented to me by the Interagency Review Group on Nuclear Waste Management. Some of the important findings of that Report include the following:

—Existing and future nuclear waste from military and civilian activities, including discarded spent fuel from the once-through nuclear fuel cycle, should be isolated from the biosphere so that it does not pose a significant threat to public health and safety.

—The responsibility for establishing a waste program should not be deferred to future generations.

—A broader research and development program for waste disposal, particularly geologic isolation. should begin promptly.

—Public participation should be developed and strengthened for all aspects of nuclear waste management programs.

I also look forward to receiving the recommendations on reactor safety from the Kemeny Commission in the aftermath of the Three Mile Island accident so that we can assure that nuclear reactors are as safe as the public expects them to be.

WATER RESOURCES POLICY

I remain firmly committed to the water resources policy reforms I announced in my Message to Congress one year ago. The revised criteria used by the Administration in reviewing proposed water projects have already shown their worth. They are producing environmental benefits and reducing wasteful government spending. In 1979, for the first time in four years, the Executive branch proposed funding new water projects, using the more systematic and objective evaluation procedures I have instituted. With the help of Congress and State and local governments, the Administration has prepared legislation to make further reforms in water resources management, including cost-sharing and assistance to states for comprehensive water resources planning. I look forward to cooperation with the 96th Congress in this area.

NATIONAL HERITAGE POLICY ACT

I strongly support the establishment of a comprehensive Federal program to identify and protect significant natural areas and historic places. I will soon propose a National Heritage Policy Act which would help Federal agencies, State and local governments, Indian tribes and citizens identify potential heritage areas; establish a new National Register of Natural Areas to supplement the existing National Register of Historic Places; and protect areas listed on either Register, or eligible for listing, from adverse federal actions. This important legislation would support the Heritage Conservation program already established by the Secretary of the Interior in 1977.

SAVING THE WHALES

With U.S. leadership, the nations of the world are making encouraging progress toward protecting the great whales. At the July 1979 meeting of the International Whaling Commission (IWC), proposals by the United States and other countries for a moratorium on commercial whaling led to dramatic improvements. By the necessary three-fourths majority, IWC members voted to:

—End whaling from factory ships on the high seas (except for hunting of the relatively numerous minkes) and allow whaling only from coastal stations;

—Reduce killing of the commercially valuable but jeopardized sperm whales by more than three-quarters, with world quotas down from 9360 sperm whales to 2203;

—Establish a whale sanctuary in most of the Indian Ocean where no hunting of any of the great whales will be allowed for 10 years.

I am wholeheartedly committed to strong action to guarantee the survival of the great whales. The progress made in this year's IWC meeting shows that many other nations share the American commitment. I will continue to press for better scientific understanding of these magnificent and highly intelligent creatures and will maintain the effort to halt commercial whaling.

IMPLEMENTATION OF 1978 NATIONAL PARKS AND RECREATION ACT

Following passage of the National Parks and Recreation Act of 1978, the administration has sought to speed the acquisition of new park land before it is spoiled or priced out of reach. We shall continue to do that.

Among the most significant and imaginative actions included in the 1978 legislation is the program to establish a million-acre Pinelands National Reserve in New Jersey. The Department of the Interior will support local and State efforts to protect the Pinelands and its unique scenic and natural resources while maintaining private ownership and a sound local tax base. The Administration strongly supports this new Federal, State, and local partnership in the Pinelands, and will work hard to see that Federal agencies cooperate with State and local governments to ensure its success.

POLLUTION CONTROL

Making the Clean Air and Clean Water Acts work is an important commitment of my Administration. We will continue the progress we have made in the past two years in promulgating fair standards and regulations, and we will continue to encourage new approaches to control of pollution, such as alternative and innovative waste water treatment projects. The Environmental Protection Agency has taken a number of steps in the right direction. For example, the "bubble concept," "offset" policy, and permit consolidation are intended to simplify pollution controls.

I will seek the reauthorization of the Safe Drinking Water Act, which expires next year. This law protects our citizens from newly-discovered toxic pollutants within drinking water, as well as imposing standards for conventional contaminants. For toxic substances which may enter the environment in a multitude of ways, my Administration is committed to the reauthorization and vigorous enforcement of the comprehensive Toxic Substances Control Act.

OIL POLLUTION OF THE OCEANS

The recent collision in the Caribbean of two supertanker behemoths, each carrying more than 1.4 million barrels of oil, underscores the importance of effective national and international programs to reduce oil spills. At the outset of my Presidency, I proposed a comprehensive program to reduce the threat of oil pollution from tankers in United States waters, and to win international agreement to higher standards of tanker safety and pollution prevention.

Responding to the U.S. initiative, maritime nations of the world agreed in 1978 to tighten inspection requirements and significantly raise world standards for tanker construction and equipment. The Department of Transportation is completing new rules, based on the international agreement, to require improved features on both U.S. ships and foreign tankers entering our ports, including: segregated ballast, protective location of ballast space, crude oil washing, inert gas systems, and improved emergency steering systems. Dual radars and other aids to navigation are already required.

In addition, for the past two and one-half years, the Coast Guard has boarded and examined at least once a year every foreign-flag tanker entering our ports.

recorded any deficiencies, and required repairs if necessary.

The Secretary of Transportation will promptly add to this program requirements for:

—improved construction of tank barges;

—safe conduct of lightering (ship to ship transfer of oil);

—improved U.S. standards for tanker crews and pilots; and

—pollution prevention features for older, smaller tankers not covered by the international standards.

Requirements for collision avoidance aids will also be added; international agreement is near on standards for these important tanker safety devices.

The United States will continue to urge other nations to put into effect promptly the requirements of the 1978 international agreements on tanker safety and pollution prevention. I also urge the prompt adoption by all nations of the new international standards for training and certification of seafarers, agreed upon in 1978.

The proposed Oil, Hazardous Substances and Hazardous Waste Response, Liability and Compensation Act, submitted to the Congress by the Administration, provides for swift cleanup of oil spills, strict liability of spillers, and compensation for victims of oil spill damage.

I expect the Coast Guard to report to me promptly on the results of its study of devices to improve tanker maneuverability and stopping. In addition, the Coast Guard is undertaking a study of past accidents to evaluate further the usefulness of double bottoms and side protection in reducing oil spills. The Department of Transportation will continue to evaluate promising ideas to preserve the oceans and its resources from pollution by oil.

REGULATORY REFORM

Improving government regulations is important to my effort to make government more efficient and private-sector responses more cost-effective. Environmental protection can and should benefit. I intend to improve the regulatory process in a way that does not weaken our commitment to environmental quality.

If there are better methods to achieve our environmental goals, we should use them. Agencies should seek and adopt innovative alternatives to government regulations which reduce burdens on private citizens or businesses. The Environmental Protection Agency has become a leader among federal agencies in examining new approaches and has made several moves to streamline its regulatory process. In addition to the permit consolidation, bubble concept, and offset policy mentioned above, EPA is doing an effective job of implementing my Executive order on regulatory reform and published the first agenda of regulations issued by any federal agency. A regulatory calendar is now prepared and published on a governmentwide basis by the Regulatory Council I recently established.

Since 1977 the Occupational Health and Safety Administration has gotten rid of hundreds of unnecessary standards, and has reorganized its program to devote 95 percent of its resources to the most serious workplace hazards. In addition, regulatory agencies have begun to work together to coordinate their activities and use their resources more efficiently. I expect such progress to continue and I intend that it reinforce—not diminish—our environmental improvement efforts.

PENDING LEGISLATION AND REAUTHORIZATIONS

I have proposed and will continue to support reauthorization of important environmental statutes, including the Endangered Species Act, the Toxic Substances Control Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act. I also continue to support a nongame wildlife program, and a wide range of wilderness proposals.

The Environmental Program I am outlining today expands upon the efforts we have already begun with a series of new initiatives in land and resource management, agricultural conservation, urban quality, and improving the global environment.

NEW INITIATIVES

I. LAND AND RESOURCE MANAGEMENT

America's land and natural resources have nourished our civilization. Because our original heritage was so abundant, we sometimes take these resources for granted. We can no longer do so. Our land and natural resources do have limits, and our demands upon them are growing at increasing rates. Renewable resources—farmlands, fisheries, and forests—can be depleted through overuse and misuse. We must build into our decisions the understanding that unwise actions affecting our lands and resources are difficult and costly, if not impossible, to correct.

Conservation of resources takes care and planning, and requires a partnership between various levels of government, and public and private actions. The following initiatives for protection and wise management of our coastal resources, public lands, wildlife and rivers and trails reflect this understanding.

NATIONAL COASTAL PROTECTION

America's coast lines are extraordinarily varied, productive and beautiful. Congress recognized the need for special protection in the Coastal Zone Management Act of 1972, which established a voluntary Federal-State partnership for the conservation and management of coastal resources. Under this partnership, many states have already made notable progress. They have passed comprehensive coastal management laws; adopted new measures to protect wetlands, barrier islands, mineral resources, historic sites and other important coastal resources; worked out better management of hazardous areas; and streamlined Federal, State and local actions affecting the coast. By the end of 1979, 75 percent of the U.S. shoreline will be covered by Federally-approved state coastal zone management programs.

The coastal zone is subject to unusual pressures, both from natural causes and human activities. The land and water resources which support the environments and economies of coastal communities are in danger of depletion. The opportunity for our citizens to enjoy beaches, bays, and marshes is often threatened. I support efforts to improve our understanding of these coastal issues, and I heartily endorse the designation by conservation organizations of the year 1980 as the "Year of the Coast."

To help achieve the balanced, comprehensive and wise management intended by the Coastal Zone Management Act, I am announcing three initiatives to continue and improve our resource protection policy.

First, I will submit to Congress legislation to reauthorize Federal assistance to state coastal zone management programs under the Coastal Zone Management Act. Under this extension, each state would be guaranteed a total of five years of federal assistance at current levels after a state management program is approved and before federal support is gradually phased down. This will help ensure that recently developed state and local coastal zone management efforts become fully established and accepted functions of government.

Second, I will recommend enactment of new amendments to the Coastal Zone Management Act that will establish a national coastal protection policy. Working through the states, the goals of this policy will be:

—to protect significant natural resources such as wetlands, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife;

—to manage coastal development to minimize loss of life and property from floods, erosion, saltwater intrusion and subsidence;

—to provide predictable siting processes for major defense, energy, recreation and transportation facilities;

—to increase public access to the coast for recreation purposes;

—to preserve and restore historic, cultural and aesthetic coastal resources; and

—to coordinate and simplify government decisionmaking to ensure proper and expedited management of the coastal zone.

Third, I am directing the Secretary of Commerce to conduct a systematic review of federal programs that significantly affect coastal resources. This review, to be conducted by the National Oceanic and Atmospheric Administration, will provide the basis for specific recommendations to improve federal actions affecting the coastal zone and to develop any additional legislation needed to achieve our national coastal management goals.

PUBLIC LAND RESOURCES

Among the many natural resource issues facing the Nation, few are more important than the management, protection and use of the 417 million acres of public lands owned by all Americans and administered by the Secretary of the Interior through the Bureau of Land Management.

The public lands include vast tracts of the arid rangelands of the West which were once lands that no one wanted. Now, some of these lands are highly valued for their energy and other valuable resources, and they have come to be appreciated for their scenic and natural values. My Administration is committed to purposeful management of the public lands and resources administered by the Bureau of Land Management in an environmentally sound and cost-effective manner.

Therefore, I am directing the Secretary of the Interior to manage the public lands administered by BLM in accordance with these principles:

—The Federal Government will be a good steward of the land, seeking to find the best balance of uses to assure that resources are available to meet the Nation's needs and that environmental values are carefully protected.

—The Federal Government will be a good neighbor, providing full opportunities for those affected by our management decisions to be involved in making them, with a special concern for the people and institutions of the Western States that are most directly affected.

—The Federal Government will make cost-effective investments in protecting and enhancing these lands within the constraints of fiscal responsibility.

—The Federal Government will seek to resolve conflicts among competing uses in a spirit of cooperation and trust, and will make—not avoid—tough decisions on the allocation of the valued resources of public lands.

We have already made significant progress in bringing these lands under effective management. A concerted federal effort is now underway to reverse the declining productivity of the 174 million acres of rangeland ecosystems managed by the Bureau of Land Management for livestock, wildlife, soil and moisture conservation, and other beneficial purposes. We have developed a comprehensive on-the-ground planning process for each unit of BLM-managed land which involves the public and assesses the environmental impacts of alternative actions. On June 4, 1979, the Secretary of the Interior announced our new federal coal management program, which establishes a balanced and efficient process for determining coal leasing and management on federal lands.

Much more remains to be done. I am therefore directing that the following actions be taken:

—The Secretary of the Interior will establish a comprehensive "program development process" for managing all the lands under BLM stewardship, which will, for the first time, set long range goals to ensure balanced protection and use of the resources and develop and analyze alternative programs and investment strategies to meet the goals. Each alternative program will be designed to achieve environmentally sound, fiscally responsible, and economically efficient investment, development, protection, and resource use. This new program planning process will supplement BLM's current unit-by-unit planning. It will invite State and local governments and interested citizens to participate in making better informed choices among the alternative programs.

—The Secretary will give special attention to protecting areas of BLM-administered lands with nationally significant wildlife, natural, scientific, cultural, or scenic resources. An example is the Birds of Prey area, located along the Snake River in the Idaho desert, that has North America's richest concentration of birds of prey, including dense nesting populations of falcons, eagles, and other raptors.

—Finally, I am directing the Secretary of the Interior and the Secretary of Agriculture to work together to coordinate their Departments' natural resource policies and programs, particularly those of the Bureau of Land Management and the Forest Service. I am requesting the two Secretaries to develop within six months a detailed statement of coordination objectives and a process and timetable for achieving them.

WILDLIFE LAW ENFORCEMENT

A massive illegal trade in wild animals, wild animal parts and products, and wild plants has been uncovered in the last year through investigations by the Department of Justice, the Fish and Wildlife Service, the Customs Service and the Departments of Agriculture and Commerce.

This illegal trade in wildlife and plants has several very serious consequences. It can introduce exotic diseases, threatening agriculture. It creates a market for thousands of species of wildlife and plants taken in violation of the laws of foreign nations, ultimately threatening the survival of these species. It is a danger to the survival of hundreds of species listed on the Convention on International Trade in Endangered Species, to which the U.S. is a signatory nation.

I am therefore submitting to Congress a bill to overcome obstacles inhibiting enforcement efforts.

In addition, I am directing the Departments of Agriculture, Commerce, Interior, Justice, and Treasury to investigate this trade aggressively and to prosecute violators of the law. I am directing the Department of the Interior to coordinate this effort, through an interagency Wildlife Law Enforcement Coordinating Committee which will review enforcement experiences, priorities and problems. I am also directing the Department of Agriculture to chair a task force to investigate the illegal trade in plants and to prosecute where appropriate.

I am further directing that the following specific steps be taken: The Treasury and Commerce Departments will raise the priority of wildlife enforcement cases; the Agriculture Department will place greater emphasis on coordinating its wildlife enforcement program with its disease quarantine program, and will begin hiring special agents to investigate the illegal plant trade; and the Department of Justice will establish a Wildlife Section which will be staffed principally by attorneys trained as wildlife law enforcement specialists.

WILD AND SCENIC RIVERS

Our Nation's river corridors are a rich concentration of natural ecosystems, scenic beauty, and historic and recreational values. Since my Environmental Message of May 1977, eight rivers totalling 695 miles have been added to the National Wild and Scenic Rivers System, and nine new rivers have been recommended for study. As part of the Administration's Alaska proposals, 33 additional rivers have been proposed for National Wild and Scenic Rivers designation.

Development along the banks of our rivers continues to outpace our ability to protect those rivers that might qualify for designation. This problem is particularly acute near urban areas, where there are greater demands for recreational opportunities which can partly be met by river protection.

We need to speed up the process for studying Wild and Scenic Rivers for designation and to consider the protection of rivers or parts of rivers which can protect important natural ecosystems. Moreover, the Federal government should set an example of sound management for state, local, and private landowners by taking an aggressive role in protecting possible Wild and Scenic Rivers which flow through our public lands. Accordingly, I am directing the following actions be taken.

—federal land management agencies shall assess whether rivers located on their lands and identified in the National Inventory prepared by the Heritage Conservation and Recreation Service are suitable for inclusion in the Wild and Scenic Rivers System; if so, these agencies shall take prompt action to protect the rivers—either by preparing recommendations for their designation or by taking immediate action to protect them;

—all federal agencies shall avoid or mitigate adverse effects on rivers identified in the National Inventory; and

—the Secretary of Agriculture and the Secretary of the Interior shall jointly revise their Guidelines for evaluating wild, scenic, and recreational rivers to ensure consideration of river ecosystems and to shorten the time currently used to study rivers for designation.

In addition to the new policy initiatives, I am reaffirming my support for four river segments proposed in my last Environmental Message and recommending four new river segments which will add a total of 930 miles to the Wild and Scenic Rivers System:

—Gunnison River, Colorado (new)

—Encampment River, Colorado (new)

—Priest River, Idaho (new)

—Illinois River, Oregon (new)

—Bruneau River, Idaho (1977 message)

—Dolores River, Colorado (1977 Message)

—Upper Mississippi River, Minnesota (1977 Message)

—Salmon River, Idaho (1977 Message)

I am also directing the Secretary of the Interior to develop, through the National Park Service and with full public participation, a conceptual master plan for the Upper Mississippi River in Minnesota. I expect this planning process to determine the specific requirements for protecting the river corridor and providing public access, campgrounds and other recreational facilities on the lands now in private ownership. The conceptual master plan for this important national resource will be developed in cooperation with the Minnesota Department of Natural Resources, affected Indian tribes, and the public. It will be completed by April 1980.

In my last Environmental Message, I proposed 20 river segments for study as potential additions to the National Wild and Scenic Rivers System. Several of those rivers have already been designated. Except for rivers where subsequent development has affected the river's qualifications for designation, I will continue to seek study authorizations for these rivers. In addition, I am submitting legislation to add the North Umpqua River in Oregon to the list of those rivers to be studied.

I am also forwarding to Congress reports on several rivers which, after thorough study, were found to qualify for inclusion in the National System. However, because of the interest of the states or local governments in protecting their natural values, the reports recommend that the rivers be protected and managed by state and/or local action. I am greatly encouraged by the efforts which all levels of government are taking to protect valued natural resources. I am particularly pleased to note that in the case of the Housatonic and Shepaug Rivers in Connecticut, local governmental agencies are taking the lead in developing management plans to protect these significant river resources. I am transmitting reports on:

—Pine Creek, Pennsylvania
—Buffalo River, Tennessee
—Youghiogheny River, Pennsylvania-Maryland
—Shepaug River, Connecticut
—Kettle River, Minnesota
—Lower Wisconsin River, Wisconsin
—Housatonic River, Connecticut
—Illinois River, Oklahoma

NATIONAL TRAILS

More than 61 million of the Nation's people go nature walking and more than 28 million people hike or backpack at lease five times a year. To meet the growing needs of these and other trail users, Congress enacted the 1968 National Trails System Act and directed that a National Trails System be established. Since the establishment of the National Trails System, 257 National Recreation Trails have been designated, including 21 trails for those using wheelchairs and 13 trails designed for the use of blind people, with interpretive signs in braille.

The National Trails System is still in its fledgling stage and should grow to meet widespread public interest. National trails near urban areas can serve an energy-conscious nation by providing recreation close to home for the majority of our citizens and, in some cases, by providing commuter routes for bicyclists, walkers, and joggers.

To meet these objectives, under my direction, the U.S. Forest Service will establish 145 additional National Recreation Trails by January 1980, achieving a goal of two National Recreation Trails in each National Forest System unit. I am directing each Federal land management agency to follow the example set by the Forest Service and by January 1980 announce a goal for the number of National Recreation Trails each agency will establish during 1980 on the public lands administered by the agency. I am also directing that, by the end of 1980, a minimum of 75 new National Recreation Trails shall be designated on public land other than National Forests by the Federal land management agencies.

I am directing the Secretary of the Interior, through the Interagency Trails Council, to assist other Federal agencies in surveying existing trails on federal lands to determine which of those can be made part of our National Trails System and to initiate a grass-roots effort in every region of the country to assess our nationwide trails needs. In addition, I am directing the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense and the Chairman of the Tennessee Valley Authority to encourage states, localities, Indian tribes, and private landholders to designate trails on their lands.

Finally, I will submit legislation to the Congress which will designate the 513-mile Natchez Trace National Trail through Tennessee, Alabama and Mississippi. I will resubmit legislation to establish the Potomac Heritage Trail through Pennsylvania, Maryland, West Virginia, Virginia and Washington, D.C. And I am reaffirming my support for the 3,200-mile North Country Trail, extending from the State of New York to North Dakota, which has already passed the House of Representatives.

I am also reaffirming the Administration's commitment to assuring the protection of the Appalachian Trail, one of America's best known and most popular recreation trails. The 2,000-mile Appalachian Trail winds through 14 states and is readily accessible to nearly half of the population of the U.S. It has been created by a volunteer movement without parallel in the history of outdoor recreation in America. In 1978 this Administration supported and I signed into law a bill to protect threatened portions of the right-of-way which are located on private lands. I expect this goal to be substantially achieved by September 30, 1981. This is a prompt but realistic timetable for the acquisition program.

II. AGRICULTURAL CONSERVATION

From our beginnings as a nation we have sustained ourselves and others on abundant yields from our farmlands. In this century, scientific and technological advances have increased our agricultural production to unsurpassed levels.

But in emphasizing ever-increasing production we have sometimes neglected to maintain the soil, water, and biological resources upon which the long-term stability and productivity of our agriculture depends. These resources are being degraded in many areas of the country. Our farm and land management practices have led to excessive soil erosion, we have overused chemical fertilizers and pesticides, and some of our most productive farmlands are being converted to nonagricultural uses. The agricultural conservation initiatives that I am announcing today address these issues.

SOIL CONSERVATION INCENTIVES

Over the past half century we have invested more than $20 billion of federal funds in efforts to conserve soil. These funds have been used for cost sharing, technical assistance, resource management, loans, research, and education. Yet in that same half century wind and water erosion have removed half the fertile topsoil from nearly one-third of the Nation's potentially usable croplands. The cost of replacing just the plant nutrients lost to erosion has been estimated at $18 billion a year. Moreover, agricultural runoff adversely affects two-thirds of the Nation's streams.

Our soil protection programs have undoubtedly prevented even worse soil loss, but we must do better to maintain the long-term productivity of the soil.

The Department of Agriculture is now making an important appraisal of soil and water conservation policies under the Soil and Water Resources Conservation Act of 1977. The first Appraisal, Program and Policy reports required by the Resources Conservation Act (RCA) are due in January 1980. These documents will analyze conservation problems nationwide, set conservation targets and propose ways to solve the problems. They will provide an essential first step in the wise management of agricultural lands, and will guide my Administration's overall soil and water conservation recommendations to the Congress. Reports will be updated every 5 years and I will receive annual reports of progress and program effectiveness.

I am directing the Secretary of Agriculture, in consultation with the Chairman of the Council on Environmental Quality, to build on the RCA process and to undertake a further detailed and systematic study of possible conservation incentives. The study will search for ways to modify or coordinate agricultural assistance programs already in existence in order to reduce soil erosion. Moreover, it will also look for conflicts or inconsistencies between farm income programs and soil conservation programs and will recommend measures to eliminate these conflicts where possible.

The results of this study will be submitted to me in January 1981. This report will provide me with specific administrative and legislative recommendations to reduce soil erosion and to improve soil stewardship in order to maintain the Nation's long-term agricultural productivity, building on the policy recommendations contained in the RCA 1980 program.

A second critical land issue for America's farmers and consumers is the availability of agricultural lands—particularly prime farmlands—and their conversion to other uses. In June, the Administration initiated an important new effort to address this issue. The Secretary of Agriculture and the Chairman of the Council on Environmental Quality are cochairing an interagency study of factors affecting the availability of land for agricultural uses. The study will evaluate the economic, environmental, and social effects of the conversion or retention of agricultural lands and will make recommendations for consideration by federal, state, and local governments by January 1981.

Many members of Congress are particularly interested in these two critical issues affecting the stewardship of our nation's agricultural lands. I hope that the Administration and the Congress will work together to develop and implement appropriate actions, based on the results of these studies.

INTEGRATED PEST MANAGEMENT

For all their benefits, chemical pesticides can cause unintended damage to human health and the environment. Many pests have developed resistance to chemical pesticides, escalating the cost of pest control by conventional methods. This resistence to pesticides has also decreased our ability to control some pests, which has reduced agricultural yields from what they would otherwise be.

Integrated pest management (IPM) has evolved in recent years as a comprehensive pest control strategy which has important health, economic, and environmental benefits. IPM uses a systems approach to reduce pest damage to tolerable levels through a variety of techniques, including natural predators and parasites, genetically resistant hosts, environmental modifications and, when necessary and appropriate, chemical pesticides. IPM strategies generally rely first upon biological defenses against pests before chemically altering the environment.

The Federal government—which spends more than $200 million a year on pest control research and implementation programs—should encourage the development and use of integrated pest management in agriculture, forestry, public health, and urban pest control. As a result of a government-wide review initiated by my 1977 Environmental Message, I am now directing the appropriate federal agencies to modify as soon as possible their existing pest management research, control, education, and assistance programs and to support and adopt IPM strategies wherever practicable. I am also directing federal agencies to report on actions taken or underway to implement IPM programs, and to coordinate their efforts through an interagency group.

III. URBAN QUALITY

Our cities give us diversity and enjoyment, occupations and avocations, shopping and services, recreation and culture. By strengthening the health of our urban environment, we broaden the range of opportunities open to all of our citizens, as I emphasized in my National Urban Policy Message last year. The investments we make in maintaining and improving urban quality—particularly those involving federal taxpayer dollars—can be designed to meet environmental objectives, such as safe, convenient, well-planned public transportation, quieter communities, and assistance in mediating potential conflicts between healthy urban economies and environments. The initiatives I am proposing today will help to achieve these goals.

TRANSPORTATION POLICY

Our transportation systems can greatly affect the Nation's environment, for better or worse, especially in our cities. For many years, our energy and other resources were so plentiful that the Federal government encouraged the rapid expansion of a transportation system based on the private automobile without fully considering the profound effects on our resources, our urban environments, and our way of life. Although we have developed an extraordinary transportation system, we have missed opportunities in the past to improve transportation and at the same time to achieve these other national objectives.

The United States has built the most extensive and complex transportation system in the world. Federal transportation expenditures exceed $17 billion anually, including $12 billion in grants to state and local agencies. Transportation consumes approximately 53 percent of all petroleum used in the U.S. The energy and cost advantages of using this system more efficiently—for example, by greater use of carpools, vanpools and mass transit—are now obvious. Better design and use of transportation systems will also help to save and strengthen our cities and their amenities and to reduce air and noise pollution. Thus transportation decisions can help to conserve limited resources, and to further our energy, fiscal, and urban environmental goals.

Federal transportation decisions cannot escape difficult choices among competing objectives, but they must be guided by new transportation policies which I am establishing for my Administration. Urban transportation programs and projects should be reoriented to meet environmental, energy and urban revitalization goals. I am therefore directing the Department to take immediate actions to assure that:

—federal transportation funds are used to promote energy conservation, for example through special lanes for carpools, vanpools and transit vehicles;

—encouragement is given to using federal funds for public transportation projects;

—a careful review is made of any transportation proposals which would encourage urban sprawl (a major cause of high energy consumption) or which would tend to draw jobs away from urban centers;

—consideration is given to improving and rehabilitating existing facilities, or using non-construction methods—such as better traffic management—to improve transportation systems, as alternatives to constructing new facilities;

—major transportation projects are used to help improve the urban economy and to attract jobs to the urban cores; and

—firm actions are taken to mitigate adverse effects of transportation projects on the natural and urban environment and to carry out the environmental commitments that are made in planning and approving transportation projects.

We have done a great deal to make our transportation policies and actions more sensitive to our national environmental and energy goals. We can do a great deal more with cooperation of state and local governments as our partners in the national transportation system. The steps I have outlined will move us in that direction.

ECONOMIC ASSISTANCE PROGRAM

Most Americans benefit directly from the healthier and more agreeable environment that results from our air, water and other pollution control programs. Although economic data indicate that environmental programs are a strong positive factor in providing employment, there is continued concern about their possible adverse impact on individual firms, communities, or groups of workers. The fact that there have not been a large number of such economic dislocations does not suggest that those that do occur are unimportant. Furthermore, in some instances they can be avoided, or at least significantly mitigated, by appropriate government action.

In 1977 I established an Economic Assistance Task Force, chaired by the Council on Environmental Quality, to investigate whether we needed to improve federal assistance for those cases when jobs are lost partly as a result of actions taken to reduce pollution, and to recommend initiatives we might take. The Task Force concluded that existing federal assistance programs should be adequate, but that we need to take practical steps to let people know about the programs and to make sure help is delivered swiftly when it is needed.

I am therefore directing the Administrator of the Environmental Protection Agency to create an Economic Assistance Program in his agency and to designate Economic Assistance Officers both in headquarters and in the field, who will help the public understand and use the programs, and to make sure that eligible people receive assistance promptly. I am also directing all federal agencies with programs in this area to publicize and coordinate closely their programs. A booklet describing and locating available federal assistance programs will be released soon by the Council on Environmental Quality and the Environmental Protection Agency.

URBAN NOISE PROGRAM

A certain level of urban noise is tolerable or even agreeable, reflecting the multitude of activities that make a city thrive. However, most of our cities suffer from too much noise. Excessive noise is a serious disturbance in city dwellers' lives, and degrades the urban environment.

Most noise abatement actions are taken by state and local governments, but there is an important role for the Federal government. I am initiating today a program to reduce urban noise by directing the Departments of Commerce, Defense, Energy, Housing and Urban Development, Transportation, and the Environmental Protection Agency and General Services Administration, in consultation with other federal agencies, to take a number of actions to improve existing noise abatement programs, including:

—programs to achieve soundproofing and weatherization of noise sensitive buildings, such as schools and hospitals;

—use of quiet-design features in transportation projects affecting urban areas;

—measures to encourage the location of housing developments away from major noise sources;

—purchase of quiet equipment and products—such as typewriters and lawnmowers which have been designed to reduce noise—and assistance to state and local agencies to do likewise; and

—support for neighborhood efforts to deal with noise problems.

IV. GLOBAL ENVIRONMENT

Efforts to improve the environment cannot be confined to our national boundaries. Ten years ago, at the dawn of the environmental decade, we landed on the moon. For the first time people could stand on the surface of another world and look at the whole earth. The sight of earthrise was awesome. It was also sobering. From that moment we could no longer avoid understanding that all life must share this one small planet and its limited resources. The interdependence of nations is plain, and so is the responsibility of each to avoid actions which harm other nations or the world's environment. I am announcing today two initiatives which address global environmental problems of the greatest importance.

WORLD FORESTS

The world's forests and woodlands are disappearing at alarming rates. Some estimates suggest that world forests could decline by about 20 percent by 2000. More than 40 percent of the closed forests of South Asia, Southeast Asia, Pacific, and Latin America could be lost.

Nearly all the world's forest loss is occurring in or near the tropics. In these areas, environmental damage from deforestation can be severe—even irreversible—and the human costs extremely high. For example, denudation of Himalayan slopes has led to severe soil erosion, silting of rivers, loss of groundwater, and intensified, catastrophic flooding downstream. Many tropical forests, once cut, will not regrow because soils, rainfall, temperature, or terrain are too unfavorable; nor will the land support crops or pasture for more than a few years. Another serious possible consequence of tropical forest loss is accelerating extinction of species. Tropical forests provide habitat for literally millions of plant and animal species—a genetic reservoir unmatched anywhere else in the world. Equally serious is the possibility that forest loss may adversely alter the global climate through production of carbon dioxide. These changes and their effects are not well understood and are being studied by scientists, but the possibilities are disturbing and warrant caution.

The United States and other nations are just beginning to appreciate fully the scope and seriousness of the problem and to assess the effects of development projects on world forests. There is much more to be done. I am therefore directing all relevant federal agencies to place greater emphasis on world forest issues in their budget and program planning. An interagency task force established last fall and chaired by the State Department will report to me in November 1979 on specific goals, strategies, and programs that the United States should undertake. On the basis of these recommendations, I will direct federal agencies to carry out an integrated set of actions to help toward protection and wise management of world forests.

In the international arena, the Governing Council of the United Nations Environment Programme has just adopted a resolution—introduced by the United States—calling for a meeting of experts to develop proposals for an integrated international program for conservation and wise utilization of tropical forests, and to report to the next Governing Council meeting in April 1980. I am asking the Departments of State and Agriculture, the Council on Environmental Quality, and other federal agencies to give this program full support and assistance and to encourage and support high-level multinational conferences on forest problems in regions where forest losses are severe.

To help protect the earth's natural resource base, I issued an Executive Order earlier this year, which directs federal agencies to review carefully in advance the effects of many federal activities abroad. I am directing the Council on Environmental Quality and the Department of State to report to me within six months on the best ways to designate the globally important resources to which the order applies.

ACID RAIN

Acid rain has caused serious environmental damage in many parts of the world including Scandinavia, Northern Europe, Japan, Canada and the Northeastern part of the United States. Over the past 25 years the acidity of rainfall has increased as much as fifty-fold in parts of the Eastern half of the United States. In the Adirondacks in New York, many mountain lakes have become devoid of fish partly because of increasing acidification. Adverse effects on crops and forests are suspected; steel and stone buildings and art works may suffer as well.

Acid rain is produced when rain removes sulfur dioxide and nitrogen dioxide from the air, forming sulfuric and nitric acid. Sulfur and nitrogen oxides are emitted in all forms of fossil fuel combustion. Power plants, smelters, steel mills, home furnaces, automobiles—all may contribute to acid rain.

To improve our understanding of acid rain, I am establishing a ten year comprehensive Federal Acid Rain Assessment Program to be planned and managed by a standing Acid Rain Coordination Committee. The assessment program will include applied and basic research on acid rain effects, trends monitoring, transport and fate of pollutants, and control measures. The Committee will establish links with industry to promote cooperative research wherever appropriate. The Committee will also play a role in future research cooperation with Canada, Mexico, and other nations and international organizations. The Committee will prepare a comprehensive 10-year plan for review by the end of the year. In its first full year of operation, the program will have $10 million in reprogrammed research funds available, double the current amount for acid rain research.

It is important to emphasize that such a long-term acid rain research program will not delay application of necessary pollution control measures to meet the mandate of the Clean Air Act. In addition, interim results from the acid rain research program will be made available to the public, to states, to industry and to the federal government agencies responsible for developing measures to reduce air pollution.

CONTINUED AND COOPERATIVE EFFORTS

The preservation of our environment has needed to become a special concern to our country at least since the ending of the Western Frontier. A former President put it clearly:

"The conservation of our natural resources and their proper use constitute the fundamental problem which underlies almost every other problem of our National life. We must maintain for our civilization the adequate material basis without which that civilization cannot exist. We must show foresight, we must look ahead. The reward of foresight of this nation is great and easily foretold. But there must be the look ahead, there must be a realization of the fact that to waste, to destroy, our natural resources, to skin and exhaust the land instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought by right to hand down to them amplified and developed."

That was President Theodore Roosevelt speaking in a State of the Union Message more than 70 years ago.

That message needs to be repeated and heard just as clearly today. Above all—it needs to be delivered.

My Administration will continue to lead in conserving our resources and reducing risks to the environment through sound and efficient management. But all our citizens must join the effort by contributing energies and ideas.

Only with your cooperation can we maintain our advance towards protecting our environment. Only together can we hope to secure our world for the life to come.

JIMMY CARTER.

THE WHITE HOUSE, *August 2, 1979.*

□ 1710

PERSONAL EXPLANATION

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. DANIELSON. Mr. Speaker, I was unable to be present on the floor of the House of Representatives during one rollcall vote on Wednesday, August 1, 1979. I would like to announce how I would have voted on this issue had I been present.

Rollcall No. 414, August 1, 1979, the House agreed, by a vote of 390 yeas to 4 nays, to resolve itself into the Committee of the Whole for the further consideration of S. 1030, the Emergency Energy Conservation Act of 1979. I would have voted "yea." ●

RIGHT OF PEOPLE OF PUERTO RICO TO DETERMINE THEIR OWN POLITICAL FUTURE THROUGH DEMOCRATIC PROCESS

Mr. CORRADA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 35) reaffirming commitment to respect and support the right of the people of Puerto Rico to determine their own political future through peaceful, open, and democratic processes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Puerto Rico?

There was no objection.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 35

Whereas the people of Puerto Rico freely chose the present form of their association with the United States in a popular referendum in 1952; and

Whereas successive United States administrations since that time have continued to be publicly committed to the fundamental principle of self-determination for the people of Puerto Rico; and

Whereas certain other governments lacking in a clear understanding of the United States relationship with Puerto Rico have questioned the status of Puerto Rico and the extent to which its citizens enjoy the right to self-determination: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress takes this opportunity to reaffirm its commitment to respect and support the right of the people of Puerto Rico to determine their own political future through peaceful, open, and democratic processes.

● Mr. CORRADA. Mr. Speaker, I rise in support of House Concurrent Resolution 165 relating to self-determination for the people of Puerto Rico. I introduced this resolution in the House on July 24, 1979, with the cosponsorship of the House majority leader, Mr. WRIGHT; the House minority leader, Mr. RHODES; Mr. BRADEMAS, Mr. MICHEL, Mr. UDALL, Mr. PHILLIP BURTON, Mr. CLAUSEN, Mr. ROSTENKOWSKI, and Mr. DEVINE, which is a clear indication of the broad bipartisan support for this resolution by the Members of the House.

The purpose of this concurrent resolution is to make clear to all the world what the last six U.S. Presidents, beginning with President Eisenhower in 1953 and most recently President Jimmy Carter in his official Proclamation of July 25, 1978, have stated—namely, the right of the people of Puerto Rico to decide for themselves the nature of their relationship with the United States, the right to determine their own political future, the right to choose their course through a peaceful, open, and democratic process. This principle of self-determination for the people of Puerto Rico is also fully supported by both major national political parties in their 1976 platforms.

No issue is more important today to Puerto Ricans regardless of their political affiliation and regardless of whether they prefer statehood, independence or Commonwealth status.

This resolution is fully supported by the Department of State and I would like to quote from a letter sent to me by Secretary of State Cyrus Vance on July 30, 1979, which, in its pertinent part, reads as follows:

> Thank you for your letter of July 17 concerning a proposed Congressional Resolution on Puerto Rico. It is our understanding that the Resolution is intended to express the sense of the Congress supporting the status chosen by the people of Puerto Rico whether it be independence, statehood, or commonwealth. The Department of State supports this legislation and believes that it would assist us in handling this issue in the United Nations. As you are aware, President Carter, in his Proclamation of July 25, 1978, said "I will support, and urge the Congress to support, whatever decision the people of Puerto Rico reach."

I am very pleased by the fact that this resolution was unanimously approved by the House Interior Committee yesterday and I urge all my colleagues to support it and to stand together with pride and honor behind one fundamental principle: the principle of self-determination for the people of Puerto Rico.●

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

RESIGNATION OF MEMBER AND APPOINTMENT AS MEMBER OF NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

The SPEAKER laid before the House the following resignation as a member of the National Historical Publications and Records Commission:

GOVERNMENT INFORMATION AND
INDIVIDUAL RIGHTS SUBCOMMITTEE,
Washington D.C., July 2, 1979.

HON. THOMAS P. O'NEILL, JR.,
Speaker of the House,
The Capitol,
Washington, D.C.

DEAR MR. SPEAKER: I am writing to resign from my position on the National Historical Publications and Records Commission.

My tenure on the Commission has been a most rewarding one and I am sure that my successor will find it so as well.

Cordially,

RICHARD PREYER,
Chairman.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. Pursuant to the provisions of 44 U.S.C. 2501, as amended, the Chair appoints as a member of the National Historical Publications and Records Commission the gentleman from Mississippi, Mr. BOWEN, to fill the existing vacancy thereon.

LEGISLATIVE PROGRAM FOR REMAINDER OF WEEK AND WEEK OF SEPTEMBER 3, 1979

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask unanimous consent to proceed for 1 minute for the purpose of inquiring of the acting majority leader the program for the balance of the day and when we reconvene in September.

Mr. HOWARD. If the gentleman will yield, I would like to announce that the program for the balance of this week is completed.

As to the program in the House for the week of September 3, it is as follows:

Monday and Tuesday is part of the August district work period and the House will not be in session.

The program for Wednesday, Thursday, and Friday is that the House will meet at noon on Wednesday and at 10 a.m. on Thursday and Friday to consider the following legislation:

H.R. 4473, the foreign assistance appropriations for fiscal year 1979 to completion.

H.R. 3236, the Disability Insurance Amendments of 1979 with a modified rule, 1 hour.

H.R. 79, the Postal Service Act of 1979 with an open rule for 1 hour.

H.R. 51, the Fuels Transportation Safety Amendments Act of 1979, and open rule for 1 hour.

Furthermore, the House will adjourn by 5:30 p.m. on Thursday and by 3 p.m. on Friday. In addition, conference reports may be brought up at any time and any further program will be announced later.

Mr. MICHEL. I thank the acting majority leader.

I might make the observation that it is my understanding the Foreign Assistance Appropriation bill is already into the 5-minute rule. I think we ought to alert Members that Wednesday, while a returning day, will be a busy one because we will, as I said, already be in the 5-minute rule. There will be votes to be cast on that day.

Might I inquire if it is the leadership's intention to work late on that Wednesday night?

Mr. HOWARD. I might say to the gentleman that we would hope not to be late on that day. However, the assured time of adjournment is only stated for Thursday and Friday. Perhaps we can complete it within a reasonable time that day, but the gentleman is absolutely correct, we will be in the 5-minute rule and there are votes expected on the day of return.

Mr. MICHEL. I thank the gentleman and I yield back the balance of my time.

DISPENSING CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, SEPTEMBER 5, 1979

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, September 5, 1979.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING THE CLERK TO RECEIVE MESSAGES FROM THE SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED, NOTWITHSTANDING ADJOURNMENT

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, September 5, 1979, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS AND APPOINT COMMISSIONS, BOARDS AND COMMITTEES AUTHORIZED BY LAW OR BY THE HOUSE, NOTWITHSTANDING ADJOURNMENT

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, September 5, 1979, the Speaker be authorized to accept resignations, and to appoint commissions, boards and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

THE BAD CALIFORNIA APPOINTMENT

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SKELTON. Mr. Speaker, as the President aptly pointed out in his address 2 weeks ago, many Americans have lost confidence in Government. Whether we like it or not, especially with Watergate and the recent incidents of breach of fiduciary duty, as Government officials, we always must be ready and willing to answer to the public. At this time, it is the duty of each of us in public office to do his or her utmost to restore confidence in the people of this great Nation and revitalize the American spirit.

It is in this light, Mr. Speaker, that I would like to join with several of my colleagues in expressing my concern over California Governor Brown's appointment of Edison Miller to the Orange County Board of Supervisors. Taking into consideration the fact that the vacancy on the board occurred when a former supervisor was convicted on bribery charges, Governor Brown's decision to appoint Mr. Miller exhibits exceptionally poor judgment, in my opinion.

At a time when the people of Orange County, Calif., are suffering the disillusionment of having one of their supervisors convicted of bribery, they are inevitably very skeptical and in need of reassurance. When the Governor chose to exercise his privilege to appoint someone to the position, he should have conducted a search for someone who, at the very least, had a commendable record—a member of the community who would have been able to restore confidence.

On the contrary, Governor Brown has appointed a man who, upon his return from Vietnam, was retired from the Marine Corps under formal censure. It has been pointed out by several of my colleagues that the Secretary of the Navy did not press the charges lodged against Mr. Miller by his fellow POW's because the Secretary felt it would cause too much additional suffering on the part of those men, their families, and their dependents. If Governor Brown had had any foresight or any compassion, he would never have considered Mr. Miller for this office for the very same reason. If the Governor had carefully examined the grave nature of the charges against Mr. Miller, the reason for his never coming to trial, and then the fact that Mr. Miller was retired from the Marine Corps with formal censure, it should have been clear that this appointment would be looked on with much disfavor. In fact, Mr. Speaker, I must agree with my colleagues that the implications and the repercussions of the appointment of this particular man are potentially devastating not only to our former POW's and their families but to the overall American morale.

Through his appointment of Mr. Miller to the Board of Supervisors of Orange County, Governor Brown has made a sham out of the gubernatorial privilege of appointment. Instead of attempting to meet the needs of his constituency by restoring confidence, through this appointment he has induced more distrust and skepticism. Ultimately, Mr. Speaker, Governor Brown has not benefited our country in this time of spiritual crisis.

REPORTS SHOW FOREIGNERS OWN ABOUT 23,000 ACRES WITHIN MISSOURI'S SIXTH DISTRICT

(Mr. COLEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COLEMAN. Mr. Speaker, yesterday, August 1, 1979, was the deadline for foreign nationals owning 1 or more acres of American farmland to disclose their holdings under provisions of Agricultural Foreign Investment Disclosure Act of 1978.

After a thorough check of the 23 county ASCS offices in my district, I must report my skepticism about the accuracy and thoroughness of the Department of Agriculture's reporting system.

Reports indicate that 22,942 acres of some 6.6 million farmland acres in my district are owned wholly, or in part, by foreign nationals. This represents 0.3 percent of the farmland in the Sixth Congressional District of Missouri. Reports filed indicate foreign ownership occurs in only 11 of the 23 counties in my district.

These figures are not consistent with comments I have received from constituents who claim there is a great deal more activity by foreign interests buying our farmland. Further, the findings by the General Accounting Office at the request of the Senator from Georgia, Mr. TALMADGE, indicate that the USDA's reporting system is too lax.

In the GAO report, which is being released today, it was found that 514,760 acres were owned by foreigners in a 10-State "projection" as compared with 303,149 acres identified by the USDA. This is a 70-percent miscalculation and indicates to me a significant underestimation of foreign holdings in American farmland. I greatly fear the same situation exists in the Sixth District of Missouri.

As a member of the House Agriculture Committee, I supported the legislation requiring these reports of foreign ownership for several reasons. Young farmers were being kept from buying farms because of inflation and I wanted to know if wealthy foreigners were bidding up the price of farmland. American agriculture is one of the last areas in which we can control our own products and destiny and I wanted to know if foreign ownership of farmland was weakening this posture. We have lost control over our energy situation and I certainly do not want to see us lose control of American agriculture.

I had hoped that these reports would help answer my questions, not only for me, but for the American people as well. As of now, I do not believe they do.

I intend to conduct a more thorough investigation of foreign ownership in my district. Further, as a result of the GAO report being released today on this subject, I intend to study the feasibility of having the independent GAO conduct a more intensive, nationwide survey of foreign ownership using investigatory techniques overlooked by the USDA's reporting procedures.

At this point, Mr. Speaker, I would like to place into the RECORD the following facts and a chart indicating the extent of foreign ownership in the Sixth District of Missouri according to reports filed in the county ASCS offices. It is my hope that my colleagues can use this information as an aid in preparing similar surveys of their own districts.

The following counties in the Sixth Congressional District of Missouri have no farmland owned by foreigners, according to their county ASCS offices: Adair, Andrew, Caldwell, Chariton, DeKalb, Grundy, Linn, Livingston, Mercer, Nodaway, Ray and Worth.

The following chart details foreign ownership in the remaining 11 counties in Missouri's Sixth District. It should be noted that the majorty of foreign ownership appears to be European, specifically Dutch and West German. Further, there appears to be no "foreign oil money" in farmland in the Sixth District.

FOREIGN OWNERSHIP OF FARMLAND IN 6TH CONGRESSIONAL DISTRICT

County and nationality of owner(s)	Type of operation	Total acreage
Atchison:		
Netherlands, Antilles	Grain	606
Unknown	do	160
Do	do	240
Buchanan:		
Unknown	General	1,495
Do	do	593
Do	do	102
Carroll: France	General crop	116
Clay:		
Canada	General	310
Netherlands [1]	do	550
Clinton:		
West Germany	Grain and pasture	3,100
Do	Pasture	1,238
Daviess:		
Holland	General	100
Panama	Cash crops	1,542
Gentry:		
Holland	Row crops, timber, and pasture.	220
West Germany	Row crops	292
Harrison:		
Holland	General	480
Do	do	240
Unknown	do	1,370
Holt: Switzerland and Luxembourg.	Grain	160
Platte:		
Netherlands	do	200
Switzerland	Fruit	141
Sullivan: Argentina	Grain and cattle	9,687
Total foreign owned acreage in 6th District.[2]		22,942

---

[1] 2 other reports expected later this month.

[2] 22,942 acres owned totally, or in part, by foreign nationals.

JERRY BROWN, BOAT PERSON

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LAGOMARSINO. Mr. Speaker, the following excellent George Will column appeared in the August 2 edition of the Washington Post.

The editorial, "Jerry Brown, Boat Person," correctly concludes that the Governor of California has isolated himself from the political center and has moved substantially to the left, in particular his appointment of Edison Miller to the Orange County Board of Supervisors.

In the terms of Jerry's own political philosophy, he has paddled too much on the left side of his canoe, and is now perilously close to crashing on the rocks. By itself, Brown's difficulties might not appear significant, but as George Will concludes, the Carter and Kennedy canoes may not be afloat in November 1980.

The editorial follows:

JERRY BROWN, BOAT PERSON

Most political news that heads bravely east from California dies of loneliness and general neglect near Tonopah, Nev. But now comes news of small events that make up a big event. Jerry Brown has chosen sides.

Thus far in his short, happy career, Brown's primary principle seems to have been to avoid being perceived as merely on the left or the right of the political spectrum. But now, although he may not know it, and certainly will not admit it, or will explain it in terms of some higher synthesis, he has irrevocably chosen the left. He has torn his carefully woven veil of ambiguity, and, in the words of Linda Ronstadt, "silver threads and golden needles" won't mend it.

Brown did not help himself by getting himself on the cover of Newsweek with Ronstadt, on their trip to Africa. Only country music-haters and other fascists have anything against Ronstadt. But as a prospective First Lady, or First Live-In, or whatever, she does take some getting used to. And if there is one thing Americans have had enough of, it is having to get used to things.

Brown injured himself when he joined Tom Hayden and Jane Fonda at the head of an anti-nuclear power rally in Washington last May. But even then, Brown's defenders could say that the company he was keeping was not the point; the issue was the point, and the issue is one about which serious people can honorably disagree.

But there was no such excuse for the company Brown chose to keep when he appointed Edison Miller to fill a seat on the Orange County Board of Supervisors. While a prisoner of war in North Vietnam, Miller made tapes supporting Hanoi's position. After release, Miller was discharged for "failing to meet the standards expected of officers." Brown appointed Miller at the urging of Fonda and Hayden. Miller met Fonda when she was in North Vietnam, making tapes.

California's Democratic-controlled legislature recently overrode three of Brown's vetoes. And as icing on the cake of contempt, the state Senate rejected, overwhelmingly, Brown's nomination of Fonda to the state arts council. It struck at Fonda to express disgust about Miller.

When this happened, Fonda let the feminist side down by weeping. Brown said: "To bar an Academy Award-winning actress for narrow-minded political purposes is an insult to the very notion of artistic excellence." It is hard to say which is less believable: Brown's assumption that an Academy Award infallibly denotes artistic excellence, or his pretense that he had other than "narrow-minded political purposes" for nominating Fonda.

His motives are not opaque. An aide says, "Jerry has no national constituency, so Hayden and Fonda have offered him a connection to the anti-war, anti-nuclear crowd, and he's taken it." Already it has tainted him. To get permission to speak at a recent anti-nuclear rally, he allowed the leaders of the rally, including Hayden, to edit his speech, changing it from moderation toward harshness.

Brown is icily realistic. He knows he cannot treat his new friends the way he has treated some political positions, taking them up and later tossing them aside, as suits his convenience, without leaving a residue on his hands. He can't; he has touched pitch. He has taken sides.

With exquisite bad timing, during the flood tide of the "boat people," Brown has chosen to associate himself with the wing of the anti-war movement that has, with exquisite bad taste, remained affectionate toward the regime responsible for the oceans of misery. By refusing to join Joan Baez and others in condemning Hanoi, the Fonda faction of the anti-war movement has put itself, and some recent history, into perspective. It should now be clear to everyone what that faction's real motives and values were.

By associating himself with that faction, Brown is turning himself into a political boat person, adrift far from the mainstream of American life. Yet Carter is drowning, and Kennedy has immobilized all potential Democratic challengers, except Brown. If Carter sinks, and Kennedy does not launch, Brown could be the only Democrat afloat.

FOREIGN INTELLIGENCE AND LAW ENFORCEMENT ENHANCEMENT ACT OF 1979

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker the Freedom of Information Act (FOIA), in its present form, has taken a significant toll on the ability of our law enforcement and intelligence agencies to perform their congressionally authorized functions. To refine the scope of the law and remove the destructive burden it has created, I am introducing the "Foreign Intelligence and Law Enforcement Enhancement Act of 1979."

Sources and potental sources of valuable information have refused to cooperate with the CIA and FBI because of fear that their confidentiality cannot be protected from forced disclosure under the FOIA. Numerous examples of such refusals have been documented. In the law enforcement area, these fears are not hard to understand in light of the fact that more than 16 percent of all FOIA requests received by the FBI are from convicted felons, many of whom are looking to identify the people who aided in their arrest and conviction. Indeed, testimony before a subcommittee in the other body by an organized crime "hit man" outlined how the FOIA was used to find an informant—and presumably kill him.

The flow of foreign intelligence information is also being disrupted by the FOIA. The chief of one foreign intelligence service has flatly told the CIA that he will not fully cooperate as long as the CIA is subject to the FOIA.

Reporting from our own State Department personnel overseas has also been adversely affected. The staff report of the Foreign Affairs Committee on the assassination of Congressman Leo Ryan has faulted the FOIA as inhibiting the Embassy in Guyana from "candidly and accurately" reporting on Jonestown and it "ultimately influenced the State Department's ability to more effectively brief the Ryan (congressional delegation)."

The critical amendments to the FOIA made in 1974 were adopted at a time when questions were being raised about secret information gathered and retained by agencies of our Federal Government. Then, and since that time, some activities of law enforcement and intelligence agencies, unauthorized by law, have been disclosed. The Congress, responding to the electorate, felt the need to ferret out all of the skeletons evidence agency misdeeds.

However, since 1974, new laws have been enacted and Executive orders and regulations have been issued to assure the propriety of the activities of our law enforcement and intelligence agencies.

Most importantly, congressional oversight of sensitive agency programs has evolved. In the intelligence area, a committee in each House has been established solely to oversee intelligence operations. As the Deputy Director of the CIA, Frank Carlucci, told the Intelligence Committee:

> You, (the Congress), not 20,000 FOIA requesters, foreign and American, are the proper people to conduct oversight.

Mr. Speaker, I, as well as others, have asked the Directors of the FBI, CIA, and the National Security Agency (NSA) what changes in the FOIA are necessary to the effective functioning of their agencies. I have endeavored to reflect their responses in the "Foreign Intelligence and Law Enforcement Enhancement Act of 1979." This bill would amend the FOIA to accomplish the following:

Confidential sources of information, including State and municipal agencies and foreign governments, would receive more effective protection of their confidentiality: information tending to disclose their identity would be protected from disclosure, thus clarifying the original intent of the FOIA.

As an added protection for confidential sources, the bill would establish a moratorium on the disclosure of law enforcement investigatory records until 7 years after an investigation is terminated. (Director Webster has pledged that the FBI would not use the moratorium in concert with a file destruction program to prevent release of records otherwise disclosable after 7 years.)

The most sensitive and perishable Government records—pertaining to foreign intelligence, foreign counterintelligence, organized crime and terrorism—would be exempted from mandatory disclosure.

Agencies would no longer be required to release records to foreigners and convicted felons.

Protection from disclosure would be provided for all law enforcement records where release would cause specified harm.

Rather than having a flat time requirement within which all FOIA requests must be met, the bill would extend the time limit to establish a relationship between the amount of work required to properly respond and the amount of time permitted to do the work.

The bill would in no way affect the rights of a criminal defendant or civil litigant under the rules of civil and criminal procedure. Likewise, the bill would not limit or restrict in any way the power of the Congress or the courts to oversee the activities of the FBI, CIA, National Security Agency (NSA), or any other Federal law enforcement or intelligence agency.

The new FOIA provisions would be permissive, not mandatory—that is, while agencies would not be required to release certain information, they would be permitted to do so. The FBI has pledged to continue its present practice of using the FOIA exemptions only where necessary, and generally disclosing as much information as possible without harming its important law enforcement function.

While all of the proposals put forward by the FBI, CIA, and NSA, as included in the bill, may not be appropriate or desirable, I am absolutely convinced that the FOIA must be amended.

Mr. Speaker, I am offering this proposal to serve as the starting point for debate in the Congress. It is my hope that after thorough consideration of the issues, we can act swiftly and deliberately toward providing the necessary changes in the law.

ACTION NEEDED TO PROTECT U.S. EMPLOYEES OF ARGENTINE AIRLINES

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, the Transport Workers Union of America today filed a petition with the Civil Aeronautics Board to suspend or revoke the permit of Argentine Airlines to operate in the United States. This serious action was the most recent taken as a result of a lengthy labor dispute between the union and the airline. The dispute involves an alleged violation of U.S. labor law by the airline.

It is unfortunate that this dispute has not been able to be resolved between both parties. Until it is resolved in a satisfactory manner, it has the potential of becoming a serious foreign policy problem between the United States and Argentina. Thus far, the Department of State apparently has taken a hands-off attitude toward the dispute. I believe the time has come for the State Department to review the facts of this case and to adopt an active role in protecting the interests of U.S. workers.

There are a number of steps which I believe the State Department should take without further delay. First, the United States should make the Argentine Government aware of the seriousness with which we view any failure by foreign airlines to comply fully with our labor laws.

Second, a thorough review should be made of visa issuance procedures at our Buenos Aires Embassy to insure that Argentine citizens are not being permitted to come to the United States to assist Argentine Airlines in an alleged strikebreaking effort. A further review should be made of visas already issued to determine if they were properly obtained.

Third, the United States should give serious consideration to suspending current consultations with Argentina on airline matters since the labor dispute raises serious questions about the willingness of Argentina to abide by applicable U.S. laws and procedures.

Mr. Speaker, in conclusion I would like to urge the CAB to consider the petition of the Transport Workers Union fully, fairly, and expeditiously.

MOVING U.S. CAPITAL TO KANSAS SUGGESTED

(Mr. WINN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WINN. Mr. Speaker, yesterday a suggestion was made in the other body by the gentleman from Alaska, Senator STEVENS, that perhaps we should move the seat of Government somewhere more convenient than Washington—somewhere like Kansas.

I rise today to second his suggestion. Even if the suggestion was made in jest, I for one, would be delighted to move the Nation's Capital to Kansas. In fact, I even have a possible location picked out. We could move it to the area in the Flint Hills where I have proposed the establishment of a Prairie National Park.

As far as I am concerned, Kansas would not be any worse a place for Congress to do its legislating, the President to do his activating, the Supreme Court to do its contemplating, or the bureaucrats to do their regulating than is Washington. In fact, I am of the opinion that a change of scenery and a few deep breaths of fresh Kansas air might be just the cure for the malaise that seems to be afflicting our Government.

Mayor Barry may be unhappy with the presence of Federal employees in the District of Columbia, but I would be willing to bet that the Federal workers probably do not like the city any better than the Mayor likes them.

That is why I would recommend Kansas. Certainly the climate is better than that of Washington. Sure there are cold winters and hot summers. However, I seriously doubt that foreign governments would have to declare diplomatic service in Kansas as "hardship duty" as they had to for Washington until just a few years ago. In fact, the climate of the last few weeks has made me wonder if we should not declare Washington a hardship post for Federal workers anyway.

The geographic location of Kansas is also more convenient than Washington. It is relatively easy to get to from both the east and west coasts by plane and by car, not to mention the fact that the time zone is more compatible with the rest of the country.

Of course, we might have to start our days a little earlier. After all, the functioning of the Government seems to be geared to timing for the 6 o'clock news, and in Kansas, the 6 o'clock news comes on at 5 or 5:30.

Moreover, Mr. Speaker, I believe that if the Capital were to be moved, we would find many workers eager and willing to work hard at Government service. After all their complaints about the inefficient ways of Washington bureaucrats, I have no doubt but that they would keep themselves from falling into the same sloppy habits.

Mr. Speaker, I want to commend the gentleman from Alaska for his splendid suggestion. And I want to assure my colleagues that I stand ready to assist in any way in the efforts to make such a move.

LEGISLATION INTRODUCED TO ASSURE RENEWABLE NATIONAL FORESTS

(Mr. WILLIAMS of Montana asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. WILLIAMS of Montana. Mr. Speaker, I am today introducing legislation which, if enacted, would take great strides in assuring that one of our most valuable resources, our national forests, remain renewable in perpetuity. Indeed legislation was introduced yesterday in the Senate by my fellow Montanan Senator MAX BAUCUS and our fine neighbor from Idaho, Senator FRANK CHURCH.

Reforestation and timber stand improvement of our National forests must be paid for with general appropriations, which have been anything but generous in this regard. This has led to a backlog of nearly 5 million acres that desperately need reforestation or improvement. By any reasonable measure of present need, it is obvious that the current system of annual appropriations is a significant impediment to the long-term future of our forests.

This bill, called the National Forest Investment Fund Act, would—First, create the National Forest System Investment Fund made up of the Federal Treasury's net cash receipts from timber sales, grazing permits, recreational use fees and other activities on the National Forest System;

Second, designate these funds for capital improvements such as reforestation, timber stand improvement, watershed development, grazing land improvement, wildlife protection and development of recreational facilities in the National Forests.

Third, refine provisions of the Resource Planning Act (RPA) to request the Forest Service to prepare a separate capital expenditures budget and a long-range assessment of the current and future capital investment needs of the National Forest System.

This bill would not make capital investments from the fund automatic in any way. Congress would still have to appropriate these funds. The advantage of the bill would be in the clear separation between operating expenses and capital improvements, so that we may invest wisely for a reasonable rate of return.

Although the Investment Fund idea is not new, this bill proposes for the first time to also invest in other activities as well. Development of watershed and recreational facilities have also tended to be underrepresented in recent Forest Service appropriations.

As you know, Mr. Speaker, this nation faces shortages of many resources that we once, as a nation, assumed to be endless. Let us not repeat that incorrect assumption with our forests as well. I strongly urge enactment of this important legislation.

STOP FEDERAL PURCHASES FROM J. P. STEVENS

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. BINGHAM. Mr. Speaker, August 28 marks the fifth anniversary of the day textile workers at seven J. P. Stevens plants in Roanoke Rapids, N.C., voted to be represented by the Textile Workers Union of America (TWUA). This victory represented the culmination of an 11-year organizing campaign.

Since 1963, the National Labor Relations Board has found J. P. Stevens to have violated the law 18 times, more than any other company in American history. During the last 15 years Stevens has had to pay out more than $1.3 million in fines and back wages. In 1977, Stevens was found in contempt by two circuit courts for failing to negotiate with employees in the seven Roanoke Rapids plants.

In addition to unfair labor practices, Stevens has shown a marked indifference toward the health and safety of their employees. The most blatant example of this is the lack of adequate protection from exposure to cotton dust which causes byssinosis (brown lung). Noise levels which cause hearing losses are another major uncorrected problem at Stevens' plants. Despite this abysmal record of indifference for the rights of workers, the Federal Government continues to reward Stevens by annually awarding contracts totaling millions of dollars for the purchase of uniforms and other items. We are in effect condoning those who choose to violate Federal law and are ignoring obvious social injustices. We have also helped make it cheaper for Stevens to pay the penalties and fines than to reform.

The National Labor Relations Act, passed in 1935, guarantees workers the right to organize, to join in collective activities, and to bargain collectively. We should not undermine these affirmative congressional dictates by rewarding those who choose to ignore workers' rights.

In a recent letter to President Carter I proposed that he place on a debarment list those companies that willfully violate the National Labor Relations Act.

The letter follows:

CONGRESS OF THE UNITED STATES,
Washington, D.C., August 1, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am concerned about the lack of Federal policy on contracts with violators of the National Labor Relations Act.

Since 1935, when the National Labor Relations Act became law, our national labor policy has been designed to protect the rights of workers to freely associate and to encourage collective bargaining as a means of settling differences between employers and employees. Yet today, some of the most willful and flagrant violators of the NLRA continue to receive millions of dollars in government contracts each year. In effect, we are ignoring the principles of our national labor policies and supporting those who choose to ignore them.

As you know, the Labor Reform Act of 1977 would have remedied this problem by barring from participation in federal contracts for a period of three years any person found by the NLRB to have willfully violated a board order. Exceptions to this provision would have been allowed if it were found that the national interest were jeopardized or if no other source for the materials sought were available. Unfortunately, Congress did not pass this bill, and current procurement regulations do not limit the eligibility of persistent violators of the National Labor Relations Act.

Therefore, I urge the issuance of an Executive Order barring government contracts to willful violators of the National Labor Relations Act.

In the case of *Youngstown Steel and Tube Company* v. *Sawyer*, 343 U.S. 585 (1952), Justice Black stated that, "(t) he Presidents power, if any, to issue the order must stem either from an act of Congress or from the Constitution itself." In this instance, the authority of the President to deny government contracts to violators of the NLRA does have a statutory basis. Consistent with this reasoning, the recent U.S. Court of Appeals decision in *AFL–CIO* et al v. *Kahn,* (No. 79–1564), would seem to supply the necessary authority for the President to issue an executive order. The majority in the *Kahn* case reasoned that section 205(a) of the Federal Property and Administrative Services Act of 1949 which authorizes the President to . . . "prescribe such policies and directives not inconsistent with the provisions of this act", was sufficiently close to the avowed purpose of the 1949 Act, i.e., economy, efficiency and likely savings to the government, so that the President's Executive Order on wage and price controls was upheld.

This sufficient nexus between "a broad definition of economy and efficiency" and section 205(a) of the FPASA provided the courts rationale for upholding the President's authority. In footnote fifty, the court noted that an Amicus brief had raised the issue of the possible applicability of such a principle to a persistent violator of the NLRA, but said it was not necessary to answer the question. In his dissent, Justice MacKinnon did address this question and concluded that under the court's nexus test an NLRA order might have "some incidental consequence on the economy by promoting industrial peace and reducing losses due to strikes and thus also favorably affect the government's procurement costs", and that in such a case the court would be "assured that the President was acting to enhance a clearly and precisely defined Congressional policy".

I have enclosed a partial list of government contracts awarded to perhaps the most flagrant current violator of the NLRA, J. P. Stevens, to illustrate the importance of this matter. Since 1963, when the Textile Workers Union of America began its organizing campaign, the NLRB has found Stevens to have violated the law eighteen times, more than any other company in American history. Yet despite this abysmal record, the federal government continues to procure uniforms and other items from Stevens, displaying a total disregard for the rights of workers.

Recently, two New England states, Massachusetts and Connecticut, have taken action on this issue. Connecticut's Governor Ella Grasso signed into law a bill barring from State contracts any firm that has been cited for violations of the National Labor Relations Act three times within five years. In Massachusetts, Governor Edward King has directed all State institutions, agencies, commissions and departments to refrain from entering into any contractual agreements with J. P. Stevens. A growing number of State and local governments as well as church and civic groups have cut off all purchases from Stevens. It is highly appropriate for the federal government to take similar action against flagrant violators of the NLRA.

Sincerely,

JONATHAN BINGHAM.

J. P. STEVENS CONTRACTS WITH THE DEFENSE LOGISTICS AGENCY, 1975 TO PRESENT

	Number of contracts	Total
Date:		
Through May, 1979	8	$9,232,000
1978	9	10,911,000
1977	10	8,920,000
1976	5	10,345,000
1975	15	14,321,000

●

ATTORNEY GENERAL GRIFFIN B. BELL

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

● Mr. KASTENMEIER. Mr. Speaker, later this month Griffin B. Bell, the Attorney General of the United States will leave office. It has been my personal and professional pleasure to have worked closely with Mr. Bell during his 2½ years as this Nation's chief legal officer. On the occasion of his retirement, I think it is appropriate to thank him for a job well done, to review some of his many achievements and to wish him well in his future.

For nearly 20 years Griffin Bell has served the American people as a respected public servant, first as a judge for the Court of Appeals for the Fifth Circuit and then as Attorney General of the United States. Prior to his appointment to the Fifth Circuit bench by President Kennedy in 1961 Griffin Bell was an active and thoughtful participant in the legal community, serving as chairman of the Atlanta Commission on Crime and Delinquency, a member of the Committee on Innovation and Development of the Federal Judicial Center, and chairman of the American Bar Association Division of Judicial Administration.

As Attorney General, Griffin Bell has been a distinguished advocate for court reform and access to justice, revision of the Federal Criminal Code, reform of the national security surveillance laws, improved correctional standards, and a depoliticized Department of Justice. He has effectively established merit selection procedures for court of appeals judges. His work in these areas will remain long after he returns to Georgia.

As an advocate for the President's program, Judge Bell maintained at all times a cooperative and congenial rapport with the Committee on the Judiciary and the subcommittee which I chair. During the Bell years, the Office of Legislative Affairs under the direction of Patricia Wald and Raymond Calamaro was always responsive and constructive. At a time when this administration has not always had the best relations with Congress, Judge Bell and his representatives were consistently and refreshingly far above the norm.

I have worked closely with other of Judge Bell's appointments including his Assistant Attorney General for Improvements in the administration of Justice, Daniel Meador; his Assistant Attorney General for Civil Rights, Drew S. Days III; his present Assistant Attorney General for the Criminal Division, Phillip Heyman; and his initial assistant in that post Benjamin Civiletti who will succeed him as Attorney General. Each of these appointments by Judge Bell have proven to be extremely wise ones. His recruitment efforts at all levels of the Department of Justice and the FBI have brought new life into these important government posts. Hopefully these efforts will prove beneficial long after his departure.

With my respect and good will I am pleased to wish Judge Bell all the best in his future professional and personal life. He has brought candor and openmindedness to the office of the Nation's chief lawyer. His style will be an example for future Attorneys General. I hope Judge Bell will continue to be available to counsel the Judiciary Commitee in the future. His wisdom and experience will be needed.●

EIGHTH PAN AMERICAN GAMES IN PUERTO RICO

(Mr. CORRADA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORRADA. Mr. Speaker, the first 2 weeks of the month of July of 1979 will be remembered as a very special moment in the history of Puerto Rico. The Eighth Pan American Games took place in San Juan.

I saw the opening, the first week of events, and the closing of the games.

It was with emotion and pride that I watched the Olympic torch being carried as the island was to play host to more than 5,000 athletes from 34 countries throughout North, Central, South America, and the Caribbean.

The whole presentation of the games was not without logistical problems compounded by 2 months of torrential rains which affected the completion of some sports facilities. Nevertheless, these problems were overcome and the games were held not only in the San Juan metro area, but also in several parts of the island. This enabled Puerto Ricans of all ages, all income levels, and all walks of life, to be daily participants of this event.

At the opening of the Pan American Games, one of the athletes summarized the feelings of all Puerto Ricans: To unite together for the staging of the event. He exhorted us all to "let the games in Puerto Rico be an example for other countries."

The games were conducted in an atmosphere of enthusiastic athletic competition and of camaraderie between athletes, spectators and the general public. Good will and understanding developed and prevailed among the youth of this hemisphere.

To the astonishment of many sports fans in the continental United States, Puerto Rico played the United States for the gold medal in the men's basketball competition. Puerto Ricans were specially proud when Jesse Vasallo, now living in the mainland and a native of Ponce, Puerto Rico, won two gold medals for the U.S. team.

Puerto Rico fields a separate team from that of the United States, as also does the U.S. Virgin Islands, even though both are territories of the United States. On the other hand, Puerto Ricans residing in the United States are eligible to compete for the U.S. team, as did Vasallo.

The top condition of the U.S. team was evident, obtaining a total of 254 medals, 120 of which were gold, by far more than any other participating country. Puerto Rico's performance was also superb. We had never ranked so high among the top medal winners, finishing in 7th place, with a total of 20 medals, which is double the number of medals we had in the 1975 games in Mexico City.

I want to convey the gratitude of the people of Puerto Rico for the support of the Federal Government in providing vital resources through agencies such as the Department of Commerce, public works programs, HUD programs, and the Department of Justice.

We are also grateful to the Members of Congress who voted for the $10 million Federal contribution to the games through the Department of State. These funds were added to the $13 million provided by the Commonwealth government.

The sports and housing facilities built for the games will remain for the benefit and enjoyment of all Puerto Ricans, especially the new generation of athletes. The remaining housing facilities will be used mainly to serve the underprivileged classes.

I would also like to acknowledge the contributions of many corporations and individuals in the island to the organizing committee.

Numerous local volunteers should be commended for the many hours of sacrifice offered for the successful staging of the games. Special praise goes to the Organizing Committee (COPAN) composed of a core staff of 3,000 people who worked around the clock to assure to the best of their capabilities for the favorable completion of this event. One veteran journalist now living in the mainland described the Games as "a proud exhibit of creative talent and bold determination of the people of Puerto Rico."

One of the most outstanding performances was that of more than 2,000 public high school students in the opening and closing ceremonies.

Our island is proud of our distinct heritage and unique culture. We have set an example for the other countries that both participated in the event and witnessed the Puerto Rican hospitality during the month of July.

There have been many laudatory editorials and press comments in the United States and in the Latin American press. Two notorious exceptions were the articles of Tom Boswell in the Washington Post, and the articles of the official Communist newspaper Gramma in Cuba.

In view of these controversial outlooks, a most satisfying compliment was paid to us by Mr. Mario Vázquez Raña of México, site of the Pan Am games of 1975. Mr. Vázquez Raña is the president of the Pan American Sports Organization. In his speech at the closing ceremonies he thanked Puerto Rico for hosting "the most brilliant and best organized Pan American games in history."

SHATTER THE SILENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. GLICKMAN) is recognized for 5 minutes.

● Mr. GLICKMAN. Mr. Speaker, I am pleased to take part in this year's "Shatter the Silence," an effort by Members of Congress to speak out on the plight of Soviet refuseniks. This is part of a continuing vigil which began a few years ago to monitor the human rights situation in the Soviet Union. As a participant in these vigils, I have appeared before this body on a number of occasions to relate the tragic situation of a Soviet family named "Breilovsky."

The Breilovskys applied for exit visas several years ago to emigrate to Israel. Victor Breilovsky's visa was approved while his wife, Irina, was not given permission. Obviously, rather than break up the family, no one went. The reason given Mrs. Breilovsky for the denial of her application was that as a mathematician she allegedly knew "state secrets."

What occurred thereafter is a typical example of the vindictive nature of the Soviet Government. Both Victor, a research scientist, and Irina were fired from their jobs. They have managed to make ends meet through odd jobs. This economic deprivation is apparently not stringent enough for Soviet authorities. The Breilovskys have now learned that the Government will no longer accept their income tax payments, an indication that they may soon face "parasitism" charges.

Besides economic hardship, the Breilovsky's professional careers are suffering as well. As scientists no longer permitted to work in that capacity, they are hindered from learning about scientific developments. Despite this, Victor Breilovsky leads scientific seminars in his home for other refusenik scientists, an activity he has been carrying on for over a year.

Finally, the Breilovskys' son, Leonid is facing a most vicious catch-22 situation as a young man eligible for military service. Anyone who becomes involved in the Soviet military automatically is assumed to have knowledge of "state secrets." If drafted, this would preclude Leonid from any further consideration for an exit visa. This past year Leonid has been studying at a food institute. He has just learned that during the second year of his study, he will be affected by the "state secrets" ruling. Hence, whether he remains at the institute or goes into the military, his chances of avoiding any contact with the all-encompassing "state secrets exposure" seems remote.

The Breilovskys are not the only family that faces this plight. Soviet intractability must not deter us from continuing to speak out against the hardships that the refuseniks have to endure.●

CONGRESSMAN GREEN URGES URBAN TAXPAYER FAIRNESS PACKAGE TO ADDRESS HIGH COSTS OF EDUCATION AND RENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York, (Mr. GREEN) is recognized for 15 minutes.

● Mr. GREEN. Mr. Speaker, it is my strong feeling that too little attention has been given during this Congress to the disadvantages to urban areas resulting from the current structure of our tax code. In the last Congress considerable debate was focused on the issue of providing a tax credit for tuition paid to educational institutions. As a strong proponent of tuition tax credits at the elementary and secondary level, I was very disappointed at the failure of the 95th Congress to enact any such law.

While it is often charged that a tuition tax credit would directly benefit only the wealthy, I would like to emphasize that 75.5 percent of the children presently enrolled in Manhattan parish elementary schools are either black, Hispanic, Asiatic. In Manhattan's secondary archdiocesan schools, these same minority groups comprise 41 percent of total enrollment.

Moreover, I want to bring to the attention of my colleagues the results of a new and important study which show the indirect benefit of a tuition tax credit on all segments of a city's population. Immediately prior to the beginning of the 96th Congress, the Center for New York City Affairs of the New School for Social Research published the results of a persuasive study on the effects the lack of an elementary and secondary tuition tax credit has on the New York City economy. The author of the study, Thomas Vitullo-Martin, is a consultant to the Ford Foundation and the National Institute of Education. He is also an associate of the Brookings Institution on urban and economic development and Federal programs.

In the article published by the center, which is entitled "New York City's Interest in Reform of Tax Treatment of School Expenses," Mr. Vitullo-Martin convincingly argues that current tax law drives the wealthy and the middle class from cities to the suburbs, thus further eroding the tax base of the urban core. As a cosponsor of H.R. 34, which would provide a tax credit for elementary and secondary tuition expenses, I would like to share this important study with my colleagues by having its summary printed in the RECORD at this point.

NEW YORK CITY'S INTEREST IN REFORM OF TAX TREATMENT OF SCHOOL EXPENSES

New York City has a strong interest in reform of the way federal income tax codes treat education expenses. For years, city officials have known that the middle-class exodus weakening the city's tax base is, to a great extent, attributable to the high quality of suburban public schools.

The city's answer has been to try to improve its own public schools, but massive reform is always slow, too slow to effect current outmigration. This solution also ignores an important aspect of the middle class's flight to the suburbs: tax advantages. In the wealthier suburbs, middle- and upper-income families not only get higher quality education for their children, they pay less for it.

The federal tax codes allow individuals to deduct from their taxable income local taxes that support public education—but not tuition to public or private schools. State and local income tax laws generally follow federal rules. The deduction of a local tax from federally taxable income is, in effect, a federal subsidy of the local tax.

If a family is in the 50 percent federal tax bracket, the net increase in its total tax obligation of a $3,000 rise in property taxes is only $1,500—only $1,240 if we take into account the effects of state and city income taxes. The local government raises its revenue by $3,000, but the federal government simultaneously decreases its revenue by $1,175. Any tax deduction is, of course, worth more to a high-income family than to one with a low income. The aggregate effect of the tax deduction system on a high-income community is that the federal and state governments pay a higher percentage of the community's tax obligation—up to 70 percent of local taxes in some New York suburbs compared with less than 15 percent of city taxes.

One social effect of this regressive tax provision is to drive high-bracket taxpayers from the city. These citizens need little in the way of public services; they provide most of their own needs from their own resources. One thing they do need, however, and something they find in the suburbs, is quality education. Local suburban districts commonly concentrate as much as 80 percent of their tax revenues on support of their schools. Local taxes, in effect, are little more than tuition to these exclusive public schools. And this "tuition" is made much less costly to the families in the district because they can deduct it from their taxable income.

In contrast, New York City, which must handle massive and more diverse social problems than the suburban governments, can spend less of its tax revenues on public schools—about 20 percent of its income from local taxes. And city schools must address a much broader range of more difficult education problems than the suburban schools. The tax system exacerbates the situation because the aggregate value of the federal subsidy of New York City schools through the tax deduction is much lower. In essence, suburban public schools can concentrate more on the needs of upper-income families, and the federal and state tax systems make it easier for the suburbs to pay for these schools.

New York City does have schools that compete with high-quality suburban schools in attracting middle and upper-income families: private schools. But because the tax system does not permit families to deduct tuition payments, private schools are farther out of reach for city families than the schools' tuitions would suggest.

A New York City family with $45,000 taxable income and two children in independent private schools (an average $8,000 per year expense) must allocate about $24,000 of gross taxable income to meet those education expenses. The 14 years of nursery, elementary, and secondary schools will cost the family more than $336,000 of its earnings. The family's alternative would be to move to a suburb with public schools of comparable quality and put that $336,000 into a house or other capital investment. The combination of disproportionate tax benefits for the public education expenses of wealthy suburbs and the substantial tax disadvantages of using private schools in the city drives out middle- and upper-income families.

> The elimination of the tax deductability of local taxes is not a popular proposal and would be difficult for the city to promote at the federal level. In addition, the change would create some problems for the city. Federal coffers would take in a lot more money, but the city wouldn't necessarily get more of it. Eliminating the deductability of local taxes is politically risky and probably out of reach. But providing for the deduction of school tuitions would benefit the city—and that measure is within reach.
>
> The major objections to such a change in the tax laws have centered on the presumed elitist, segregationist appeal of private schools. Enrollment data, however, show private school students to be quite similar socioeconomically to those in the pubic schools. In some sections of the country private schools enroll even higher percentages of minorities than public schools. And private schools serving the highest-income clients enroll higher percentages of minority and low- and moderate-income students than public schools with similar clients—principally because they offer scholarship aid, which public schools do not.
>
> Objections also center on the economic and political impact of private school enrollments on public schools. A careful review shows that the central city public schools will have more resources for fewer students as a result of increased private school enrollment. The city's private schools are valuable social and economic resources, and have the reputation of delivering the highest quality education to inner-city students in particular. Present tax laws damage them and the city.

While research on a tuition tax credit continues to show its need, recent Supreme Court action has clouded the outlook for congressional action and has once again raised the serious question of separation of church and state. In an effort to clarify the picture, I would like to recount briefly the Court action and answer certain questions it has raised.

On May 29 of this year the U.S. Supreme Court upheld a lower court decision which found a New Jersey tuition tax deduction plan to be unconstitutional. In Byrne against Public Funds for Public Schools of New Jersey, the court said that the tax law constituted establishment of religion in violation of the first amendment. However, I do not share the view of some that the prospects for enactment of a Federal tuition tax credit law have been diminished by the Byrne decision.

Previous Supreme Court decisions have established a three-part standard for constitutionality on similar issues. "First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion . . .; finally, the statute must not foster 'an excessive government entanglement with religon.'" (*Lemon* v. *Kurtzman*, 403 U.S. 602, 612, 613, 1971)

The negative decision in Byrne turning down the tuition deduction law was based solely on the view that the law did not meet the second, or neutrality, aspect of this three-part standard, which must be met in its entirety to be considered constitutional. However, that neutrality test, in my view, violates the intent of the Framers of the "establishment" clause. Constitutional scholar Edward Corwin correctly wrote, "The historical record shows beyond peradventure that the core idea of 'an establishment of religion' comprises the idea of preference (of one sect over others); and that any act of public authority favorable to religion in general cannot, without manifest falsification of history, be brought under the ban of that phrase."

It is clear from the notes taken during the 1789 constitutional debates that the authors of the Constitution mean only to prohibit the establishment of a single national religion, a legitimate concern at that time. However, as Justice Powell has written:

> At this point in the 20th century we are quite far removed from the dangers that prompted the Framers to include the Establishment Clause . . . The risk of significant religious or denominational control over our democratic processes—or even of deep political division along religious lines—is remote, and when viewed against the positive contributions of sectarian schools, any such risk seems entirely tolerable in light of the continuing oversight of this Court.

Consequently, it would seem appropriate to give the Court the opportunity to define its standard more precisely.

However, even if the Court continues to use its neutrality standard, we should recognize the narrowness of the Byrne decision. In this case the Court found that of the 753 nonpublic elementary and secondary schools in New Jersey, 714, or 95 percent, were sectarian, and concluded that "since the vast majority of those schools * * * are religiously affiliated, it follows that this income tax deduction provision has the direct effect of aiding religion and is * * * in violation of the establishment clause."

This ruling makes institution of a Federal tuition tax credit system all the more important. The logic in Byrne ignores two very important considerations. Not all students attending sectarian schools are there for sectarian reasons. In fact, in Manhattan 13 percent of the students attending parochial elementary schools are non-Catholic. Certain schools are 50 to 60 percent non-Catholic in enrollment. Thus, a tax credit to the parents of these students could hardly be considered to aid religion.

Second, while the percentage of nonpublic schools in New Jersey which were sectarian is disproportionately high, this is not the case nationwide. Figures from the National Center for Educational Statistics indicate that only 77.2 percent of the nonpublic schools nationwide are sectarian. If the Court has difficulty with the high percentage of sectarian schools in one State, we should furnish it the chance to look at the Nation as a whole. It is apparent that the Byrne decision was narrow in scope and specific to the conditions in New Jersey. It should in no way be viewed as an impediment to moving ahead with Federal legislation to provide a tax credit for tuition paid for elementary and secondary education.

In any discussion of such a credit, it is important to emphasize that the credit is granted to individual parents of students and not to educational institutions, whether sectarian or otherwise. Also, the credit is intended to be proeducation, not proreligion. We should value the diversity of education we currently enjoy in the United States and not try to strangle it economically.

Economic fairness for tenants, particularly those in urban areas, is a second area of tax consideration which has given me considerable concern. Since the 1930's the Federal Government has allowed property owners to deduct their payments of local and State property taxes from their taxable income. However, the 35 percent of the households in this country, and the 91 percent in my congressional district, that rent receive no such treatment.

Earlier this year I organized an effort by a majority of the New York congressional delegation to write to the Internal Revenue Service to urge its favorable review of a New York State law providing that a landlord's payment of real estate taxes was as an agent for his tenants, so that they might have the benefit of the deduction. Unfortunately, the IRS ruled that the State law did not suffice to give tenants a deduction for the portion of their rent that pays for real estate taxes. To address this problem I have introduced H.R. 3910, which would amend the Internal Revenue Code of 1954 to allow for such a deduction on taxes which are currently paid indirectly through rent. Several bills have been introduced by other Members of the House, all of which similarly aim at giving this Nation's renters the fairer tax treatment they deserve.

The need for renters' tax relief is becoming more severe as inflation continues to keep ahead of average wages. The rent on decent housing is, in many areas of the country, outpacing the ability of moderate and lower income families to afford such housing. I believe that the Congress must finally take action on this and, since the unfavorable ruling by IRS, I have been making contact with our House colleagues to make a concerted effort on behalf of passage of a renters' relief law. Tomorrow 75 of our colleagues are joining me in a letter to the Chairman of the Ways and Means Committee urging that his panel give attention to the issue of tax equity for renters and the legislative proposals which have been introduced.

I am hopeful that my statement today will help to bring greater congressional attention to the specific problems I have discussed. A tuition tax credit would help urban economies, would provide greater fairness to parents who send their children to nonpublic schools, and would help to stimulate healthy educational diversity. For too long renters have suffered under the inequitable situation of being unable to take advantage of property tax deductions. I urge my colleagues to consider the great need for fairness for the urban taxpayer by promoting action on the initiatives I have outlined.●

ISRAEL'S ILLEGAL USE OF U.S. WARPLANES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

● Mr. FINDLEY. Mr. Speaker, since May

10, 1979, when Israel broke a U.N. arranged cease-fire and began bombing Lebanon once again—I have been seeking a determination from the Department of State as to whether Israel has been illegally using U.S.-supplied warplanes and other weapons in violation of the Arms Export Control Act of 1968. I renewed in writing my May 10 request on June 6, June 29, and July 23. Last Friday I was promised a response no later than July 30. More than 2½ months have now transpired, and I still have no answers.

While I have been assured repeatedly that a response is being prepared, it never materializes. The impending recess of Congress leaves me no choice but to take exceptional action at this time to force the Department to fulfill its statutory responsibility. I therefore introduced this morning a highly privileged resolution of inquiry directing the Secretary of State to provide Congress the following information:

First. A list of all incidents this year in which Israel has used U.S.-supplied warplanes in hostile circumstances outside its borders.

Second. Copies of all protests made by the United States to Israel concerning the use of our warplanes.

Third. Copies of all responses by the Government of Israel to U.S. protests.

Fourth. Documents concerning the legality of Israel's use of U.S. warplanes.

I take this step reluctantly because I had expected to have a response from the Secretary of State several weeks ago. Instead the bombing and the killing of innocent people in Lebanon with American supplied weapons has continued. Our Government has a statutory mandate to do something to stop it. Hopefully, this resolution of inquiry will help stop the killing. I shall call it up for debate on the floor of the House immediately after Congress returns in September unless I receive a satisfactory response prior to that time.

My information shows there has been a whole series of violations by Israel of the restriction on using U.S.-supplied weapons only for the purpose of legitimate self-defense. As I said, on May 6 of this year, Israel broke an 11-day ceasefire arranged by the United Nations on the Lebanese border and bombed the Lebanese village of Mohamarah and a nearby Palestinian refugee camp. According to the Government of Lebanon, seven people were killed, including a 1½-month-old baby, and 40 people were wounded. A wedding party was in progress in one of the homes destroyed by the bombing.

The purpose of this attack was not for reprisal against Palestinians for attacks against Israel.

According to all authorities, the Palestinians had been observing the U.N. cease-fire. An Israeli military spokesman quoted by the Washington Post justified the breaking of the cease-fire and the bombing of innocent civilians and Palestinians alike with the statement that this was "in keeping with Israel's policy to 'hit any time and any place' to preempt terrorist attacks inside Israel."

For 3 days running, Israel proceeded to use U.S. supplied warplanes to bomb various towns, villages, and Palestinian refugee camps in Lebanon. Scores of Lebanese and Palestinians were killed and injured, and thousands were made homeless refugees. Prime Minister Begin echoed the Israeli military spokesman, stating:

> We will strike against them and the organization led by Yasser Arafat, the Palestinians' Idi Amin.

Yet Begin's statement belies the fact that Israel's attacks did not kill only members of the PLO, or even only Palestinians. Innocent Lebanese civilians—women and children—were also killed indiscriminately by Israeli bombs dropped from U.S. supplied aircraft. Such killing is all the more senseless given the fact that Israel has the military capacity to be far more discriminating and precise in its attacks. Instead, it has chosen a course which has resulted in the deaths of many innocent people and has made thousands homeless. According to the New York Times, "The Prime Minister suggested that the problem of Palestinian refugees in Lebanon—whose numbers he estimated at 165,000—should be solved by resettling them in Syria, Iraq, Libya, and Saudi Arabia."

Predictably, the Palestinians retaliated by planting a bomb at an Israeli bus station which killed Israeli civilians when it exploded. Since the cease-fire was broken, there have been other incidents which have resulted in needless deaths, including the bombardment of Israeli towns by artillery located across the Lebanese border and the periodic invasion of Lebanon by Israeli patrols which blow up Lebanese and Palestinian homes.

What is particularly significant in all of this is the drastic change in policy by Israel in the way in which it uses U.S.-supplied weapons. In the past, Israel has always given a quick "measured response" to any attack upon its borders or its citizens. The explosion of a Palestinian bomb in Israel was certain to be followed by the devastating bombing of a Palestinian refugee camp in Lebanon. As a result, Palestinians knew that the dead and injured among their own innocent civilians would probably always exceed the number of Israelis killed by terrorists, and this fact weighed heavily in any terrorist attack undertaken.

However, this year, Israel discarded the policy of giving a "measured response" to Palestinian attacks and in its place established the policy of striking "any time and any place" in Lebanon in an attempt to preempt Palestinian attacks. Self-defense became a code word for indiscriminate strikes which kill dozens of innocent civilians and are designed to depopulate much of southern Lebanon.

To implement this new policy, Israel has used U.S.-supplied planes repeatedly to bomb positions all over southern Lebanon. On May 23 U.S.-supplied jets were again used to bomb Palestinian camps. On June 8 Israel yet again broke an unofficial ceasefire and bombed the Nabatiyeh region of Lebanon. Then on June 26 Israeli pilots in F-15's shot down Syrian Mig's over southern Lebanon as the Mig's tried unsuccessfully to prevent further bombing in southern Lebanon. Defying a statement of objection voiced by the U.S. administration, on July 23 Israel again bombed southern Lebanon, this time using F-4's, and killing innocent civilians.

Without question, there have been Palestinian attacks during this period, and to some extent one is confronted with a chicken and egg problem in trying to decide who is responsible for prompting each new outbreak of violence. What is clear is that the Palestinians were generally observing the U.N. ceasefire and that the level of violence attributable to the Palestine Liberation Organization has been significantly reduced this year. At the same time, Israeli violence, perpetrated with U.S.-supplied warplanes, has been much higher in recent months.

The anomaly in all of this is that by changing its policy, Israel seems to have removed whatever incentive has until now existed on the part of Palestinians to restrain terrorist attacks on Israel. Whereas previously Palestinians knew that reprisals for attacks would be swift and overpowering, now they know that Israeli attacks are unrelated to their own military activities. They know that their refugee camps will be bombed even if they are not used as training bases for guerrilla activities. Israel seems to have built in a disincentive which actually encourage Palestinian terrorism and military adventurism. The real wonder is that to date the Palestine Liberation Organization and Fatah have actually kept violence at a lower level this year than in the past.

Section 4 of the Arms Export Control Act of 1968 states that:

> Defense articles and defense services shall be sold by the United States Government under this Act to friendly countries solely for internal security, for legitimate self-defense—

And to allow such countries to participate in collective security arrangements. Actually, Israel's obligation to use U.S.-supplied weapons only for legitimate self-defense long predates that act. In 1952, the Israeli Minister of Foreign Affairs entered into a written agreement which states that Israel will use such weapons "solely to maintain its internal security, its legitimate self-defense . . . and that it will not undertake any act of aggression against any other state."

This agreement is still binding.

Under section 3(c)(2) of the act, the President is required to report to Congress whenever U.S.-supplied arms may have been used in violation of the act. It is clear to me that Israel's use of our warplanes in Lebanon constitutes a violation of the act.

Secretary Vance should reject Israel's assertion that the term "legitimate self-defense" includes preemptive strikes "any time, any place" in the absence of a clear and imminent danger of invasion by another country. He should report to Congress as the act requires.

U.S. weapons sold for self-defense purposes cannot legally be used by any country to make war against another country's territory in the absence of an armed attack. To do so would allow a country supplied with weapons by the United States to make war at will upon its neighbors. The unrestrained attacks by Israel upon Lebanon have created the appearance of U.S. complicity in these attacks in the eyes of many Middle East countries.

The question is what should the United States do at this point.

The Arms Export Control Act provides one possible answer. Section 3(c)(1) states that,

> No credits and no cash sales or deliveries pursuant to previous sales may be made with respect to any foreign country under this Act . . . if such country uses defense articles or defense services furnished under this Act . . . in substantial violation . . . of any agreement entered into pursuant to any such Act by using such articles or services for a purpose not authorized under section 4 * * *.

Section 4 then requires that a country "shall be deemed to be ineligible" for credits and sales "in the case of a violation" described in section 3 "if the President so determines and so reports in writing to the Congress, or if the Congress so determines by joint resolution."

The Secretary of State should take the first step in this process by sending a notice to Congress that a violation may have occurred.

For my own part, I shall press for a resolution of this matter which assures that in the future U.S. warplanes cannot be used by Israel as they have been in recent months. To this end, I am also introducing today five resolutions disapproving five separate sales of military equipment proposed by our Government for Israel. Included are tanks, armored personnel carriers, and howitzers, all of which have the potential for being used in violation of the mandate in the Arms Export Control Act that they be used only for "legitimate self-defense."

I take this extraordinary step at this time for three reasons:

First, it is the prescribed remedy under the Arms Export Control Act when U.S.-supplied weapons are used in violation of the act. Section 3(c)(3) states that Congress may by joint resolution cut off credits and cash sales of military equipment whenever a violation of the act occurs. And section 36(b) provides that Congress may by concurrent resolution disapprove the proposed sale of military articles to any country. It is under section 36(b) that I have chosen to proceed at this time, electing only to show disapproval of new arms sales without prejudicing sales agreed to previously.

The second reason I am introducing these resolutions at this time is to call attention to the fact that Israel's indiscriminate and unlawful use of U.S.-supplied weapons severely undermines U.S. objectives in the Middle East. Israel's bombing and killing of Palestinians results in their isolation and estrangement from the United States at the very time we are trying to bring them into the peace process.

The constant and repeated incursions into Lebanon by Israeli ground combat troops and U.S.-supplied warplanes serves to worsen the fragmentation and dislocation in Lebanon at a time when our policy is to strengthen that country, promote its stability, and help to build a unitary state. And worst, the heavy bombardment of Lebanon and the Palestinians who live there makes Egypt's position in the peace process increasingly untenable.

Already under attack from other Arabs for selling out the Palestinians, Israel demonstrates with every bomb it drops the difficulty that Egypt has effectively protecting Palestinian interests in the Middle East. In this way, Israel jeopardizes even the limited peace it has negotiated with Egypt. U.S. military equipment supplied to Israel, while serving the legitimate security needs of that country, must also make a contribution to furthering the peace process.

The third and perhaps the primary reason I am introducing these resolutions is to encourage the administration and our friends in Israel to work out concrete assurances that U.S. weapons, particularly warplanes, will never again be used as they have been for the past 6 months. Before the United States sells Israel additional arms, we should be certain that they will not be used for nondefensive purposes or in violation of the law. And we should be certain that existing weapons which have been placed in the Israeli arsenal will not be misused either.

In the past, when Israel has misused U.S.-supplied weapons in violation of the act, our Government has sought a written understanding as to how those weapons are to be used in the future. Such a course should be followed in this case, too.

The United States must demand assurances that U.S. warplanes will be used only to repel an attack, for measured retaliation for specific acts of deadly force within Israel, and in hot pursuit after violation of Israeli airspace, waters, or land.

Even such uses of our warplanes must still be measured against the kind and scope of the attack to which it responds. As Secretary Vance told the Foreign Affairs Committee earlier this year, it is important to consider the "proportionality" of the response. The United States will always consider "whether the self-defense was such as to be appropriate or whether it exceeded that," he said.

A second question, according to Secretary Vance, "is whether or not in going in they went in further than was required for self-defense."

These are two important issues to consider whenever it has first been determined that our warplanes have been used for "legitimate self-defense." But I want to stress that most of the uses of our planes to bomb Lebanon in recent months do not even cross the threshold of "legitimate self-defense," and therefore these questions are not reached in these instances.

Mr. Speaker, I stated that I have taken the step of introducing these resolutions reluctantly, and I mean it. Israel is one of the strongest friends and allies the United States has in the Middle East. I do not wish to see that relationship impaired, and I do not believe that the inevitable disagreement that will result from a finding that they have violated the law need do irreparable damage to the important cooperative spirit that has existed between us since Israel was created.

Up to this moment my voice and vote has always been raised in support of military and economic aid for Israel. I will continue to support steadfastly its independence and security.

But as I have said time and again on the floor of the House, the killing and violence in the Middle East must cease. The United States has an important role to play in bringing that conflict to a peaceful settlement. It is an active role. In this case, it is clear that Israel has seriously erred. Our responsibility—to ourselves, to the other peoples in the Middle East who look to us for leadership, and ultimately to Israel—requires that we actively seek to correct the error so that the process of peace and justice can go forward unimpeded.●

LEGISLATION TO AMEND TITLE I OF HIGHER EDUCATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 5 minutes.

● Mr. TAUKE. Mr. Speaker, I am today introducing a bill which would amend title I of the Higher Education Act, the community services and continuing education program. The Subcommittee on Postsecondary Education, of which I am a member, has worked diligently for the past 4 months on the subject of reauthorizing the Higher Education Act.

Under the leadership of Chairman WILLIAM D. FORD and the ranking minority member, JOHN H. BUCHANAN, JR., the subcommittee has completed 29 hearings on the various titles under the act. I wish to note with appreciation the very comprehensive manner in which the chairman of the subcommittee has solicited and reviewed recommendations from 61 different education associations and organizations.

The bill I introduce today outlines the recommendations of the American Association of Community and Junior Colleges for changes in title I of the Higher Education Act. We are entering a period of declining enrollments where our concerns and policies are beginning to focus on the needs of the nontraditional learner. In the community colleges across the Nation, the average age of the enrolled learner is 30 years. With this demonstrated change from the traditional age of a postsecondary student, we need to be sensitive to the special needs of the nontraditional learner. I introduce this bill for the purpose of further subcommittee discussion and support considering the merits of this proposal along wtih others the subcommittee has reecived in devising a workable restructure of the title I program to address more comprehensively the community service and continuing education needs across the country. Thank you.

The bill follows:

H.R.—

A bill to provide needed community services by institutions of higher education for improving the economy, unemployment, and technology application in the regions they serve; to improve and expand postsecondary opportunities for nontraditional students

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title I of the Higher Education Act of 1965 is amended to read as follows:

"TITLE I—PROGRAMS TO MEET COMMUNITY NEEDS

"PART A—FUNDING OF PROGRAMS

"STATEMENT OF PURPOSE

"SEC. 101. It is the purpose of this title to establish programs to meet the postsecondary education needs of communities through—

"(1) community service and continuing education programs,

"(2) a program for improvement of postsecondary education opportunities,

"(3) a program of grants to universities serving urban areas, and

"(4) a program to transfer technology developed for Federal purposes to meet community needs.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 102. There is authorized to be appropriated for each fiscal year ending prior to October 1, 1985 for programs provided for in this title an amount equal to the population of all the States multiplied by $1.00. The population of the States shall be determined on the basis of the most recent satisfactory data available from the Department of Commerce.

"ALLOCATION BETWEEN PROGRAMS

"SEC. 103. Of the funds appropriated to carry out this title—

"(1) 15 per centum shall be available only to carry out part B,

"(2) 25 per centum shall be available only to carry out part C,

"(3) 25 per centum shall be available only to carry out part D, and

"(4) 35 per centum shall be available only to carry out part E.

"PART B—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

"APPROPRIATIONS AUTHORIZED

"SEC. 110. Funds made available for this part under section 103(1) shall be used for (1) assisting the people of the United States in the solution of community problems such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use by enabling the Commissioner to make grants under this part to strengthen community service programs of colleges and universities, (2) supporting the expansion of continuing education in colleges and universities, and (3) supporting resource materials sharing programs.

"DEFINITION OF COMMUNITY SERVICE PROGRAM AND CONTINUING EDUCATION PROGRAM

"SEC. 111. (a) For purposes of this part, the term 'community service program' means an educational program, community forum, or service, including a university extension or continuing education offering, which is designed to assist in the solution of community problems in rural, urban, or suburban areas, where the institution offering such program, activity, or service determines—

"(1) that the proposed program, activity, or service is not otherwise available, and

"(2) that the conduct of the program or performance of the activity or service is consistent with the institution's overall educational program and is of such a nature as is appropriate to the effective utilization of the institution's special resources and the competencies of its faculty. Where course offerings are involved, such courses must be university extension or continuing education courses and must be of college level as determined by the institution offering such courses.

"(b) For purposes of this part the term 'continuing education program' means postsecondary instruction designed to meet the educational needs and interests of adults, including the expansion of available learning opportunities for adults who are not adequately served by current educational offerings in their communities.

"(c) For purposes of this part, the term 'resource materials sharing programs' means planning for, and improving the use of, existing community learning resources by finding ways that combinations of agencies, institutions, and organizations can make better use of existing educational materials, communications technology, local facilities, and such human resources as will expand learning opportunities for adults in the area being served.

"ALLOTMENTS TO STATES

"SEC. 113. (a) From the sums made available for this part under section 103(1), for any fiscal year which are not reserved under section 116(a), the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the population of such State bears to the population of all the States.

"(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year for carrying out the State plan (if any) approved under this part shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under such subsection for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year for carrying out the State plan; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year from funds made available for this part under section 103(1) shall be deemed part of its allotment under subsection (a) for such year.

"(c) In accordance with regulations of the Commissioner, any State may file with him a request that a specified portion of its allotment under this part be added to the allotment of another State under this part for the purpose of meeting a portion of the Federal share of the cost of providing community service programs under this part. If it is found by the Commissioner that the programs with respect to which the request is made would meet the needs of the State making the request and that use of the specified portion of such State's allotment, as requested by it, would assist in carrying out the purposes of this part, such portion of such State's allotment shall be added to the allotment of the other State under this part to be used for the purpose referred to above.

"(d) The population of a State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available from the Department of Commerce.

"USES OF ALLOTTED FUNDS

"SEC. 114. A State's allotment under section 113 may be used, in accordance with its State plan approved under section 115(b), to provide new, expanded, or improved community service and continuing education programs, including resource material sharing programs.

"STATE PLANS

"SEC. 115. (a) Any State desiring to receive its allotment of funds under this part for use in community service and continuing education programs, including resource material sharing programs, shall submit to the Commissioner a State plan. A State plan submitted under this part shall—

"(1) provide that the State Commission (established or designated under section 1202) shall be the sole agency for administration of the plan or for supervision of the administration of the plan;

"(2) set forth a comprehensive, coordinated, and statewide system of community service and continuing education programs, including resource materials sharing programs, under which funds paid to the State (including funds paid to an institution or combination pursuant to section 117(c)) under its allotments under section 112 will be expended solely for community service and continuing education programs, including resource materials sharing programs, which have been approved by the State Commission administering the plan;

"(3) set forth the policies and procedures to be followed in allocating Federal funds to institutions of higher education and combinations thereof in the State, which policies and procedures shall insure that due consideration will be given—

"(A) to the relative capacity and willingness of particular institutions of higher education and combinations thereof (whether public or private) to provide effective community service and continuing education programs, including resource materials sharing programs;

"(B) to the availability of and need for community service and continuing education programs, including resource materials sharing programs among the population within the State; and

"(C) to the results of periodic evaluations of the programs carried out under this part;

"(4) set forth policies and procedures designed to assure that Federal funds made available under this part will be so used as not to supplant State or local funds, or funds of institutions of higher education, but to supplement and, to the extent practicable, to increase the amounts of such funds that would be in the absence of such Federal funds be made available for community service and continuing education programs, including resource materials sharing programs; and

"(5) assurances that all institutions of higher education in the State have been given the opportunity to participate in the development of the State plan.

"(b) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

"(c) The Commissioner shall not by standard, rule, regulation, guideline, or any other means, either formal or informal, require a State to make any agreement or submit any data which is not specifically required by this part.

"SPECIAL PROGRAMS AND PROJECTS RELATING TO NATIONAL AND REGIONAL PROBLEMS

"SEC. 116. (a) The Commissioner is authorized to reserve from the sums made available for this part under section 102(1) for any fiscal year an amount not in excess of 10 per centum of the sums so made available for that fiscal year for grants pursuant to subsection (b).

"(b)(1) From the sums reserved under subsection (a), the Commissioner is authorized to make grants to, and contracts with, institutions of higher education (and combinations thereof) to assist them in carrying out special programs and projects, consistent with the purposes of this part, which are designed to seek solutions to national and regional problems relating to technological and social changes and environmental pollution.

"(2) No grant or contract under this section shall exceed 90 per centum of the cost of the program or project for which application is made.

"PAYMENTS

"SEC. 117. (a) Except as provided in subsection (b), payment under this part shall be made to those State Commissions which administer plans approved under section 115(b). Payments under this part from a State's allotment with respect to the cost of developing and carrying out its State plan shall equal 66⅔ per centum of such costs, except that no payments for any fiscal year shall be made to any State with respect to expenditures for developing and administering the State plan which exceed 5 per centum of the costs for that year for which payment under this subsection may be made to that State, or $40,000, whichever is the greater. In determining the cost of developing and carrying out a State's plan, there shall be excluded any cost with respect to which payments were received under any other Federal program.

"(b) No payments shall be made to any State from its allotments for any fiscal year unless and until the Commissioner finds that the institutions of higher education which will participate in carrying out the State plan for that year will together have available during that year for expenditure from non-Federal sources for college and university extension and contining education programs not less than the total amount actually expended by those institutions for college and university extension and continuing education programs from such sources during the fiscal year ending June 30, 1965, plus an amount equal to not less than the non-Federal share of the costs with respect to which payment pursuant to subsection (a) is sought.

"(c) Payments under this part may be made directly to the State or to one or more participating institutions of higher education designated for this purpose by the State, or to both.

"ADMINISTRATION OF STATE PLANS

"SEC. 118. (a) The Commissioner shall not finally disapprove any State plan submitted under this part, or any modification thereof, without first affording the State Commission submitting the plan reasonable notice and opportunity for a hearing.

"(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State Commission administering a State plan approved under section 115(b) finds that—

"(1) the State plan has been so changed that it no longer complies with the provisions of section 115(a), or

"(2) in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify the State Commission that the State will not be regarded as eligible to participate in the program under this part until he is satisfied that there is no longer any such failure to comply.

"JUDICIAL REVIEW

"SEC. 119. If a State's plan is not approved under section 115(b) or a State's eligibility to participate in the program is suspended as a result of the Commissioner's action under section 118(b), the State may within sixty days after notice of the Commissioner's decision institute a civil action in an appropriate United States district court. In such an action, the court shall determine the matter *de novo*.

"SEC. 120. (a) The Commissioner is authorized to make grants to institutions of higher education (and combinations thereof) to assist such institutions in planning, developing, and carrying out, consistent with the purpose of this part, programs specifically designed to apply the resources of higher education to the problems of the elderly, particularly with regard to transportation and housing problems of elderly persons living in rural and isolated areas.

"(b) For purposes of making grants under this section, there are authorized to be appropriated such sums as may be necessary for each fiscal year ending prior to October 1, 1985.

"(c) In carrying out the program authorized by this section, the Commissioner shall consult with the Commissioner of the Administration on Aging for the purpose of coordinating, where practicable, the programs assisted under this section with the programs assisted under the Older Americans Act of 1965.

"TECHNICAL ASSISTANCE AND ADMINISTRATION

"SEC. 121. (a) The Commissioner is authorized to reserve not to exceed 10 per centum of the amount made available for this part for any fiscal year pursuant to section 103(1) in excess of $14,500,000 for the purpose of this section.

"(b) From funds reserved under subsection (a) of this section, the Commissioner shall provide technical assistance to the States and to institutions of higher education. Such technical assistance shall—

"(1) provide or contribute to a national diffusion network to help assure that effective programs are known among such States and institutions;

"(2) assist with the improvement of planning and evaluation procedures; and

"(3) provide information about the changing enrollment patterns of adults in postsecondary institutions, and provide assistance to such States and institutions in their efforts to understand these changing patterns and to accommodate them.

"(c) The Commissioner shall provide for coordination between community service and continuing education programs (including resource materials sharing programs) conducted by him with all other appropriate offices and agencies, including such offices and agencies which administer vocational education programs, adult education programs, career education programs, and student and institutional assistance programs.

"NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

"SEC. 122. (a) The President shall appoint a National Advisory Council on Extension and Continuing Education (hereafter referred to as the "Advisory Council"), consisting of one representative each of the Department of Agriculture, Commerce, Defense, Health, Education, and Welfare (other than the Office of Education), Labor, Interior, State, and Housing and Urban Development, and the Community Services Administration, and of such other Federal agencies having extension education responsibilities as the President may designate, and twelve public members appointed, for staggered terms and without regard to the civil service laws, by the President. Such twelve public members shall, to the extent possible, including persons knowledgeable in the fields of extension and continuing education, State and local officials, and other persons having special knowledge, experience, or qualification with respect to community problems, and persons representative of the general public. The Advisory Council shall meet at the call of the Chairman but not less than twice a year.

"(b) The Advisory Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this part, including policies and procedures governing the approval of State plans under section 115(b), and policies to eliminate duplication and effectuate the coordination of programs under this part and other programs offering extension or continuing education activities and services.

"(c) The Advisory Council shall review the administration and effectiveness of all federally supported extension and continuing education programs, including community service programs, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this part and other Federal laws relating to extension and continuing education activities) to the Secretary and to the President. The President shall transmit each such report to the Congress together with his comments and recommendations.

"(f) In carrying out its functions pursuant to this section, the Advisory Council may utilize the services and facilities of any agency of the Federal Government, in accordance with agreements between the Secretary and the head of such agency. Subject to section 448(b) of the General Education Provisions Act, the Advisory Council shall continue to exist until the programs authorized by this part are terminated.

"RELATIONSHIP TO OTHER PROGRAMS

"SEC. 123. Nothing in this section shall modify any authority under the Act of May 8, 1914 (Smith-Lever Act), as amended (7 U.S.C. § 341–348).

"LIMITATION

"SEC. 124. No grant may be made under this part for any educational program, activity, or service directly related to sectarian instruction or religious worship, or provided by a school or department of divinity.

"PART C—IMPROVEMENT OF POST-SECONDARY EDUCATION OPPORTUNITIES

"Subpart 1—Statewide Plans

"SEC. 131. (a) Each State Commission (established or designated under section 1202) of each State which desires to receive assistance under this part shall develop a statewide plan for the improvement of postsecondary education programs. Such plan shall among other things—

"(1) designate areas, if any, of the State in which residents do not have access to at least two years of postsecondary education within reasonable distance;

"(2) set forth a comprehensive statewide plan for the improvement of post-secondary education opportunities, which would achieve the goal of making available to all residents of the State an opportunity to attend a post-secondary education institution;

"(3) establish priorities for the use of Federal and non-Federal financial and other resources which would be necessary to achieve the goal set forth in clause (2);

"(4) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (3), post-secondary education institutions;

"(5) set forth a statement analyzing the degree to which post-secondary education institutions provide comprehensive post-secondary education services for all persons within reasonable commuting distances and, where certain services are unavailable to significant numbers of persons desiring them, encourage institutions to make appropriate efforts to provide those services; and

"(6) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (2), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect post-secondary education institutions.

"(b)(1) There are authorized to be appropriated $15,700,000 for each of the fiscal years ending prior to October 1, 1985, to carry out the provisions of this section.

"(2) Sums appropriated pursuant to paragraph (1) shall be allotted by the Commissioner equally among the States, except that the amount allotted to Guam, American Samoa, and the Virgin Islands shall not exceed $100,000 each. Such sums shall remain available until expended.

"(c) Each plan developed and adopted pursuant to subsection (a) shall be submitted to the Commissioner for his approval. The Commissioner shall not disapprove any plan unless he determined, after reasonable notice and opportunity for hearing and comment, that it is inconsistent with the requirements set forth in this section.

"Subpart 2—Improvement of Post-Secondary Education Opportunities

"Sec. 132. In order to encourage and assist those States and localities which desire to improve post-secondary education opportunities, the Commissioner shall, from the sums made available for the purposes of this part under section 103(2), carry out a program as provided in this part for making grants to post-secondary education institutions in order to improve educational opportunities available through such institutions in such States.

"APPORTIONMENTS

"Sec. 133. (a) From the sums made available pursuant to section 103(2) for purposes of this part for each fiscal year the Commissioner shall apportion not more than 5 per centum thereof among Puerto Rico, Guam, American Samoa, and the Virgin Islands according to their respective needs. From the remainder of such sums the Commissioner shall apportion to each State an amount which bears the same ratio to such remainder as the population aged eighteen and over in such State bears to the total of such population in all States. For the purpose of the second sentence of this subsection, the term 'State' does not include Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"(b) The portion of any State's apportionment under subsection (a) for a fiscal year which the Commissioner determines will not be required, for the period such apportionment is available, for carrying out the purposes of this part shall be available for reapportionment from time to time, on such dates during such period as the Commissioner shall fix, to other States in proportion to the original apportionments to such States under subsection (a) for such year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such State needs and will be able to use for such period for carrying out such portion of its State plan referred to in section 131(a)(2) approved under this part, and the total of such reductions shall be similarly reapportioned among the States whose proportionate amounts are not so reduced. Any amount reapportioned to a State under this subsection during a year shall be deemed part of its apportionment under subsection (a) for such year.

"IMPROVEMENT GRANTS

"Sec. 134. (a) The Commissioner is authorized to make grants, consistent with the terms of the appropriate State plan approved under section 131, to post-secondary education institutions to enable them to carry out the provisions of subsections (b) and (c) of this section. Of the funds made available for this part under section 103(2), the Commissioner shall make grants pursuant to subsection (b), before making grants under any other subsection or section of this part, until such time as he determines all approved requests relating to subsection (b) have been funded.

"(b) The Commissioner is authorized to make grants to institutions eligible under subsection (a) to assist them in modifying their educational programs and instructional delivery systems to provide educational programs especially suited to those persons whose educational needs have been inadequately served, especially those among the handicapped, older persons, persons who can attend only on a less than half-time basis and persons who otherwise would be unlikely to continue their education beyond the high school. Such programs may include, but are not limited to, methods designed to eliminate such barriers to student access as inflexible course schedules, location of instructional programs, and inadequate transportation.

"(c) The Commission is also authorized to make grants to institutions eligible under subsection (a) to assist them in expanding their enrollment capacity or in establishing new educational sites as documented in the State plan. Any grants related to facilities may only be made to institutions which have provided the Commissioner with such assurances as he requires that they have first explored the possibilities of using existing facilities on the campus of the applying institution, existing facilities in the community which are suitable and available for educational programs without unreasonable cost to the institution, and explored the willingness of other institutions within a reasonable commuting distance to provide educational programs, or space or other components of an educational delivery system, through contract or other agreement with the institution.

"LEASE OF FACILITIES

"Sec. 135. (a) The Commissioner is authorized to make grants to post-secondary education institutions to enable them to lease facilities, for a period not to exceed five years, in connection with activities carried out by them under section 133.

"(b) The Federal share of carrying out a project through a grant under this section shall not exceed—

"(1) 70 per centum of the cost of such project for the first year of assistance under this section;

"(2) 50 per centum thereof for the second such year;

"(3) 30 per centum thereof for the third such year; and

"(4) 10 per centum thereof for the fourth such year.

"APPLICATIONS; FEDERAL SHARE

"Sec. 136. (a) (1) Grants under section 133 may be made only upon application to the Commissioner. Applications for assistance under such sections shall be submitted at such time, in such manner and form, and containing such information as the Commissioner shall require by regulation.

"(2) No application submitted pursuant to paragraph (1) shall be approved unless the Commissioner determines that it is consistent with the plan approved by him under section 131 from the State in which the applicant is located.

"(b) (1) No application for assistance under section 133 shall be approved for a period of assistance in excess of four years.

"(2) The federal share of the cost of carrying out the project for which assistance is sought in an application submitted pursuant to this section shall not exceed—

"(A) 40 per centum of such cost for the first year of assistance;

"(B) 30 per centum thereof for the second year of assistance;

"(C) 20 per centum thereof for the third year of assistance; and

"(D) 10 per centum thereof for the fourth year of assistance.

"(c) (1) Funds made available for this part under section 103(2) and granted under section 133 shall, subject to paragraph (2), be available for those activities the Commissioner determines to be necessary to carry out the purposes of such sections.

"(2) Such funds may be used (A) to remodel or renovate existing facilities, or (B) to equip new and existing facilities, but such funds may not be used for the construction of new facilities or the acquisition of existing facilities.

"PAYMENTS

"Sec. 137. From the amount apportioned to each State pursuant to section 133, the Commissioner shall pay to each applicant from that State which has had an application for assistance approved under this subpart the Federal share of the amount expended under such application.

"DEFINITIONS

"Sec. 138. As used in this part, the term 'postsecondary education institution' means any junior or community college, postsecondary vocational school, technical institute, or any other educational institution (which may include a four-year institution of higher education or a branch thereof) in any State which—

"(1) is legally authorized within such State to provide a program of education beyond secondary education;

"(2) admits as regular students persons who are high school graduates or the equivalent, or beyond the age of compulsory school attendance;

"(3) provides a postsecondary education program leading to an associate degree or acceptable for credit toward a bachelor's degree;

"(4) is a public or other nonprofit institution;

"(5) is accredited as an institution by a nationally recognized accrediting agency or assoication, or if not so accredited—

"(A) is an institution that has obtained recognized preaccreditation status from a nationally recognized accrediting body, or

"(B) is an institution whose credits are acceptable on transfer, by not less than three accredited institutions, for credit on the same basis as if transferred from an institution so accredited." ●

JOHN J. MONTGOMERY NATIONAL MONUMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Bob Wilson) is recognized for 5 minutes.

● Mr. BOB WILSON. Mr. Speaker, 96 years ago this month, an event took place on a mesa in Otay, Calif., an area just south of San Diego, that profoundly affected the history of aviation.

In August 1883, a young scientist and mathematician, John J. Montgomery, made the world's first controlled winged flight in a glider.

The flight was witnessed only by Montgomery's younger brother Jim, as Montgomery himself was a shy man and avoided publicity, believing that he would be thought "crazy" if word of his attempt at flight became public knowledge. It was not until 1893, 10 years later, after meeting Octave Chanute, the leader of a group of distinguished aviation scientists and experimenters, at the Chicago World's Fair, that he told of his early flights. Chanute was amazed to learn that Montgomery had already done what had formerly been mere theory.

In a deposition taken in 1944 from Montgomery's brother who had been present that morning in 1883, the following account of that first flight was detailed:

> As there was a great deal of skepticism among the neighbors, John kept his plans

> secret, even to the extent of leaving for the Mesa before dawn and taking his machine to the designated spot for the trial flight, and then taking it home after nightfall.
>
> The flying machine was placed on a hay rack in a wagon, John driving and I steadying it until we reached the Mesa in Otay Valley. The Machine was placed on the ground facing the West, as John had decided not to start the flight until a breeze arose from that direction and between nine and ten a.m. there was sufficient breeze to start the flight.
>
> A rope was attached to the front of the Flying Machine and John seated himself on a saddle, his feet in stirrups, etc. I grasped the rope and at a given signal ran forward on a gently sloping hill.
>
> The Machine rose with a smooth upward curve, carrying with it the released rope. The Machine gently undulated to the right and left until it lighted with a graceful ease some 600 feet away.
>
> Many other flights were made on that day, but I was so overcome and thrilled with the success of the first flight that it was the one that is outstanding in my memory.

Please bear in mind that this event took place in 1883, decades before the Wrights flew at Kitty Hawk.

Montgomery went on to design numerous other gliders and experiment with flight. He is credited with the discovery of the curved wing principle, from which all modern aircraft wings are constructed, and without which there would be no flight today.

Montgomery also devised the first combination of working wings and curved surfaces and obtained a patent on September 18, 1906. He continued working on manned flight until his death in a glider crash in 1911.

However, through the years, both Montgomery and his achievements were upstaged by others whose names have since become household words. As a result, Montgomery slipped into the obscurity of history and it was not for several decades that any mention or recognition of his efforts has been made.

Mr. Speaker, there exists today in a small corner or Otay, just south of San Diego, a park on the site of that first flight. That park is off a freeway that heads south to the Mexican border and is passed by thousands of our citizens every day, going to and from work or recreation, with no knowledge that it exists, or of the events that took place there 96 years ago.

It is my intention that national recognition be given this pioneer of flight, that his memory should not be shunted aside in our history of aviation. Therefore, I am today introducing legislation to create the John J. Montgomery National Monument at the scene of that first historic flight. I believe the city of San Diego, which now owns the property containing the site, will be willing to donate the land, including the monument, to the National Park Service for a memorial to Montgomery.

Mr. Speaker, I sincerely hope that this body will look favorably on this legislation. Numerous other pioneers of flight have been duly honored by our Nation for their contributions, many having incorporated Montgomery's principles into their machines. I believe it is therefore fitting that we now recognize through the establishment of this national monument the achievements and contributions of John J. Montgomery. Such a commemoration would assure that John Montgomery will no longer be "the forgotten man of aviation."●

COMPARATIVE RISK ASSESSMENT IN TECHNOLOGY AND SCIENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. RITTER) is recognized for 5 minutes.

● Mr. RITTER. Mr. Speaker, on Wednesday, July 26, 199, I addressed a special joint House-Senate congressional hearing, together with members of the American Association for the Advancement of Science, on the subject of risk/benefit analysis. I spoke on the need for public input in comparing risks that affect their health, their jobs, and their lives.

For those Members who are not yet fully focused on the scope of this problem facing Americans, I insert into the RECORD today the following article. Also, I insert the text of my speech calling for congressional action. One clear possibility is along the lines of my bill, H.R. 4939, to provide for a mechanism in scientific, technological, and related fields to determine comparative risks.

My bill is referred to the Committee on Science and Technology. I would appreciate the support of Members who are interested in positive steps to eliminate the current paralysis preventing American science and technology from making their proper contributions to progress. This legislative action is nowhere more necessary than in the areas of energy, productivity, and the effects of Government regulations.

The material follows:

TESTIMONY GIVEN BY HON. DON RITTER AT THE BENEFIT/RISK FORUM BEFORE HOUSE COMMITTEE ON SCIENCE AND TECHNOLOGY

I would like to say how delighted I am to be a part of this very constructive forum on the critically-important subject of risk/benefit analysis.

As a member of the Science, Research and Technology Subcommittee, I want to thank event Chairmen George Brown and Donald Pease, as well as Senator Adlai Stevenson and former Congressman Charles Mosher and members of the American Association for the Advancement of Science for allowing me this opportunity to testify here before you today.

We haven't reached the end of 1979 yet, but already it's clear that two events will end up being the headlines of the year. The first is the nuclear accident at Three Mile Island. The second is the summer of the gasoline crunch.

Besides being the hot topic of conversation across millions of dinner tables, those two events profoundly shook the average American, whatever his politics or income level.

I mention Three Mile Island and the gasoline crunch, because, in a very real way, they say more about the subject we are here to talk about than many scholarly statements.

Reduced to basics, Three Mile Island and the gas crunch were two sides of the same coin. TMI gave us a peek at the risks of having a particular energy source. The gas crunch gave us a peek at the risks of not having an energy source. Some may see this as ironic. I see it as an eloquent unspoken plea for taking comparative risk seriously—in government and in public.

The average person may ask why he should care about something as academic-sounding as "comparative risk." After all, nobody really discussed this in a broad, public manner before. The answer is that individuals have always assessed risks—they just never bothered to put them in comparative terms.

In primitive society, tribal chiefs believed to have miraculous powers made such choices for their people. More recently, as modern society developed, risks were balanced on mainly economic grounds . . . until we reached the age of the government decision-maker, who took over much of the risk-balancing from his own agency's perspective on the "public good."

But the simple fact is that now, at the beginning of the 1980s, in the era of TMI, the gas crunch, and energy belt-tightening, the old ways of comparing risks won't work any more. They've broken down. Something new is needed . . . badly.

The problem isn't that government doesn't consider risk any more. It's that government doesn't understand the need and doesn't have the ability to compare public risks in a down-to-earth way that the average American can relate to and understand.

Until government learns to do that, the American people will continue to be left out in the cold, with no way to participate in decisions that affect their jobs, their daily lives, their pocketbooks, and their children.

In plain English, what I'm pleading for today is that Government begin to make the attempt to inform people how much risk there will be if we take or do not take a given action . . . to tell them exactly how that risk compares with the risk of the alternatives . . . and with the familiar risks they face every day . . . and with the risk of doing nothing. Armed with that understanding, the average American can start influencing Government decisions, instead of just reading about them as if they had been sent down from a mountain on stone tablets. (And special interest groups are most often not average Americans.)

In all the vast numbers of words that will be written and spoken about risk this week, I think one single word holds the key. Without that word, we might as well hold these hearings on an island somewhere, as if they were just verbal calisthenics. That key word is "comparative."

I've often thought since coming to Congress that one of the reasons nobody feels in touch with the Government any more is that our senses are dulled to the standards that make up Washington decision-making. Congress sets an allowable level of 0.1 milligram of emission X. EPA sets an allowable level of 0.01 milligram of emission Y. A steel company threatens that, unless an emission can be raised from 0.06 to 0.097 milligram, ten thousand workers will be laid off.

The average American, sitting in his living room, finds all this hard to comprehend. It may as well be happening in Greenland, for all he can understand. Little does he know that the fabric on the chair he is sitting on, the paper he is reading, and the cost of the dinner cooking in his kitchen are all tied into this seemingly irrelevant mumbo-jumbo.

This is supposed to be a democracy. That man and his wife have a right to speak their mind about things that affect them. Sure—they can go down to the polls in November. But just to leave it at that is not enough. That man and woman deserve more than just a right to pull a lever. They deserve the right to make informed choices about policy . . . and it is my experience, back home with my constituents every weekend, that they *do* have that capacity.

Most Americans don't understand concepts like rems, milligrams and roentgens. What they do have a feeling for is how dangerous it is to ride a bike in traffic . . . how dangerous it is to drive across country . . . and how dangerous it is to smoke a pack of cigarettes a day.

The average American does understand risks—and rather than shutting him out from decision-making while politicians and bureaucrats do their own thing, I submit that we ought to start including him in decision-making . . . not just because he can help us to arrive at the best choice, but because it's right for our kind of society.

That's where comparative risk comes in. If we continue to operate all our nuclear power plants, what is the health risk over one year of its production of electricity? Is it as much a risk as getting a yearly X-ray or living in Denver? On the other hand, if we shut those plants down, what risks do we face? How many billions of barrels of oil will suddenly have to be imported? How many billions of barrels are implied by a moratorium on new construction? Exactly what will that foreign oil do to the price of oatmeal and iced tea and dresses at the store . . . keeping your home healthy in winter, getting to work or keeping your job because it needs energy at a reasonable price?

If we listen to pleas of a given industry and reduce an emission level from some hypothetical .01 to .1, will that decimal point shift really send workers into the hospital next year or in later years? Or might it do no such thing, and instead put people to work, take men and women off unemployment and put them onto the tax rolls, help to give a piece of the American dream to those at the bottom of the ladder? Finally, if we listen to the concerns of those who oppose nuclear power, for instance, and block nuclear waste disposal, does the average American realize that, by not acting, we run a risk of accidents such as those connected with waste leakage? Does the average American know the risk we run by not reprocessing spent nuclear fuel, thus adding to our already large waste disposal problem?

I don't wish to assault you with these rhetorical questions, but such issues are really the heart of what we're here for. Until now, these questions—if they've been asked at all—have been asked behind hidden doors in the maze of Washington bureaucracy, or by a handful of scientists and lawyers and special interest groups. But, they haven't been asked out in the open air, where the American people who have the biggest stake can hear them.

I'll conclude by telling you that, as a member of the technical and academic communities for many years, I've been thinking about comparative risks in America since long before I ever considered running for Congress last year. But my message today is that my thinking about comparative risks, and your thinking about them isn't what counts. What counts is having the average American man and woman—and even children—thinking about comparative risks.

In an effort to bring the ideas about comparative risk into the open, my first legislative act after coming to Congress was to introduce a bill on this subject. In its updated form, H.R. 4939, available here for your information and review, my bill directs the Office of Science and Technology Policy (OSTP) to lead government agencies in exploring the ways that comparative risk can become an active field of investigation and public education in American centers of learning.

This OSTP effort would suggest helpful ways for bringing knowledge on comparative risks to the American people and their representatives. The bill would address the question of how comparative risks can become parts of environmental and economic impact considerations and the regulatory structure of government. Comparison of risk is certainly consistent with NEPA requirements for considering alternatives; but, in practice, risk comparison has been pro forma at best.

I would hope that my bill will lessen the need for government-imposed regulations and would instead allow wise individual choices among the inevitable low but finite risks in our technological society. Large risks, of course, clearly still call for continued regulation.

The goal of these hearings, the goal of my legislation, and the bottom line of comparative risk is simple. It's to make the government of the United States more responsive, realistic, and better-performing than it has been.

If we succeed in making comparative risk a household term, there's reason to believe the 1980s and 1990s will be years of new confidence that we've got a handle on our own destiny again . . . and that, as a people, we are motivated by intelligence, not fear, in providing for our future.

If we fail to make comparative risk a household term, there's every reason to believe that the American people will continue to feel battered and baffled by events, (like TMI, the gas crunch and long term energy scarcity), that seem beyond their control to understand or influence.

The result of these hearings, and the legislation I propose, can be a first step in bridging the gap separating the American people from their government policy-makers regarding our technological future. If decisions on comparative risk can be removed from isolation, then maybe other government decisions can be removed from isolation as well. Risk decisions are too important to be left to special interests and bureaucrats alone. We need the people's help.

So, let us hope that this week's endeavors, with the concern of so many fine people in and out of government, will turn out to have been a wise investment in the 1980s and beyond.

Thank you very much.

Desire To Build Risk-Free Society Saps U.S. Spirit

(By Henry Fairlie)

When the President spoke of the decline in America's confidence in its future, my mind fixed immediately on one of its most obvious but almost unmentionable causes. The once rambunctious American spirit of innovation and adventurousness is today being paralyzed by the desire to build a risk-free society.

No other great industrialized society has reacted with what can only be described as such palsy to the accident on Three Mile Island. It is simply beyond the bounds of credulity that the French would halt or reduce their huge nuclear power program—would forgo their own chance to be "energy secure"—in response to the kind of misadventure that is naturally to be expected in any humanly inspired endeavor.

Yet in his television address, the President of the United States did not dare to mention nuclear power, and on the following day he corrected the omission only in a muted and almost strangled voice.

No other country took it into its head to ground the DC10 for as long as did the United States, and I hope that Sir Freddie Laker and the operators of other airlines will succeed in their suits for damages. After the remarkable record for efficiency and safety that has been set by the American aircraft industry in its fleets of planes, which today carry the traffic of the world, one engine falls off one aircraft in circumstances that are unlikely ever to be repeated, and the American authorities seem almost to set out to destroy the reputation of as trustworthy a commercial aircraft as is now flying.

But these are only the two most recent and glaring examples. The desire to build a risk-free society runs through the whole of American life today. It is draining the spirit from America's inventiveness and from its hope for the future.

If the American people for the first time no longer believe that life will be better for their children, it is at least in part because they are beginning to think that there will be no food which their children will be able to eat without dying like rats of cancer, no form of transport that will be considered safe enough to get them from here to there and in fact nothing that their children may safely do except sit like Narcissus by a river bank and gaze at their wan and delicate forms as they throw the last speck of granola to the fish.

The desire to build a risk-free society has always been a sign of decadence. It has meant that the nation has given up, that it no longer believes in its destiny, that it has ceased to aspire to greatness and has retired from history to pet itself.

This is what our forefathers meant when they said simply that the Romans went soft, and to some extent it is what has happened to Britain since its own abandonment of empire. One can point again and again in history to the great nations which in their decline have grown voluptuous. But we must remember that the voluptuousness does not take the form only of luxury, of emperors lying on their couches as drifts of concubines peel their grapes. Always in the society as a whole there is a desire to live with no risk or even strenuousness.

If many more safety regulations are introduced in the United States, it might as well have men with red flags walking in front of the automobiles. Ralph Nader seems sometimes to be interested in designing not motor cars but baby carriages, and even then the baby probably would be suffocated by air bags. He appears not to be aware that one of the main uses to which cars are put is necking, and that this is very difficult if the yearning couple are held back by a harness of seat belts that would hold down even an unbroken stallion.

In no other country is the faddishness of environmentalism so rampant as in America today. If some of the more extreme of the environmentalists had their way, there would have been no industrial revolution, no burst of industrial might in America at the end of the last century, none of the brilliant inventiveness of its technology in the past generation, and, as a result, millions of Americans would still be living the confined lives of the past, and many more millions in Europe would be enduring existences of mere serfdom, their lives bound within (as Marx put it) the narrowest possible compass.

There is a way in which much of my writing about America as an outsider has turned on these questions. For although I am often cheerfully bemused by the more fanciful and extravagant displays of American technology and gadgetry, and although I think that they are sometimes carried too far, I have no doubt that in important ways it is here that lies the genius of the country; for what it all says is that things "ain't necessarily so." Do not Americans now distrust their future because they are being told that the things (including nature) are necessarily so?

I am prepared to admit that the Corps of Engineers has sometimes got out of hand, and that I would think twice about allowing one of them to use my bathroom, in case I found later that he had ingeniously dammed up the thing. But a generation that instinctively puts the preservation of white water for kayaking, a pursuit and privilege of only a few, before any proposal for a dam is a generation that has forgotten the TVA and the boon of electricity to the many. The risk-free society is similarly a society for those who have already made it—the spoiled children of their unearned affluence—and who have ceased to have any concern for those who are still outside.

Zero population growth is the purest expression of the risk-free society. Preciously and exquisitely "I" am here; there are enough wild berries for "me" at least to live on; let no one else come and spoil it.

Back to Eden: For what was Eden but a garden of zero population growth; and indeed what was it but a risk-free society of two? But whenever I try to imagine the life of Adam and Even, before their fall, it seems to me that it must have been a life of infinite boredom. What did they do? Until they put on their vine leaves, how did they occupy their days? Were they streakers? But streaking is not much of any occupation, and not even much of a pastime. Boredom and sheer tedium made them bite the apple.

But the more one thinks seriously of their boredom, the more one realizes why mankind had to escape into risk. Part of the malaise of the American spirit at the moment seems to me simply an expression of boredom. It hangs like a pall, worse than any pollution, over the lives of the people. There is no ship to board; it has been laid up as unseaworthy. There is no carriage to the stars; it might fall like Skylab. It is dangerous to dream; one might feed in one's sleep on a carcinogen. Feverishly and fretfully, the unused energy is spilled out, into the frenzy of white water and the disco.

Never have a people, at the height of their greatness and in the flowering of their genius, as Americans now are, searched so hectically for risk because their society asks no purposeful risk from them. A society whose governors invite the people to inspect the list of ingredients on a package of dried parsley, as if this were in some way a contribution to the endeavor of the human spirit, is a society that will quickly sap the energy of its people exactly as the President tried to describe it.

I turn from the notion of a risk-free society to the epic of Homer, to the magnificent testimony to a people's will in the Old Testament, to the sagas of the Vikings and the daring of the Elizabethans, and there is not a hint of a safety regulation in one of them. But turn nearer to hand. It was not just the wretched and oppressed who came to America, but the wretched and the oppressed who would risk. It was the strong, and not the weak, who came, and then still came. They did not ask if the Mayflower was seaworthy—it was a miserable hulk even for its times—and into our own century they still got onto tubs that might break apart to cross an ocean. What I feel most in America now is the ever more constricted sinews of a country that was made by such people.

Soft and swaddling are the constraints—do not do this because it might hurt you; even worse, it might make you feel "uncomfortable"—but they are binding the spirit of a great people like a fetter.

This draining pusillanimity runs into personal as well as into social relationships. The American people are being cajoled into talking to each other as I used to think that only a few people talked to their indoor plants. To ask a president to reach so deep into a malaise is to ask too much. What is "wrong" with America can be put quite simply. With a Ralph Nader at the head of a wagon train, no one would have made it across the plains, no one would have crossed the Rockies and no immigrant would have pushed noisomely out of the gutter.

Risk-free? Living is sweat, danger and death. From those come the laughter. And curiously, from those comes also the ease of heart.●

CARTER DIPLOMACY ENDANGERS STABILITY OF MIDEAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. COURTER) is recognized for 15 minutes.

Mr. COURTER. Mr. Speaker, at this early stage of the West Bank-Gaza negotiations, the President has compared the Palestinian movement with the civil rights movement in the United States. This shocking analogy confirms the President's unfortunate lack of understanding of the Palestinian question. It is also an insult to the civil rights movement, which is distinguished by the traditions of nonviolence and civil disobedience.

This latest statement, in conjunction with the administration's harsh criticism of Israel's strikes against PLO bases in southern Lebanon, reveals a disturbing attempt by Carter to confer respectability on the PLO. The President should be reminded that the PLO has not yet recognized the State of Israel's right to exist. No progress can be made until the PLO unequivocally renounces its often-stated intention to destroy the State of Israel, and any concessions we offer the PLO in the absence of this renunciation will simply damage our own strategic interests in the area and endanger the security of Israel. Once again, we find the administration's foreign policy favoring the forces of terror and instability at the expense of Western democracies, which are our natural allies.

The administration's actions during this past week have shown a distressing lack of purpose and direction in our Mideast diplomacy. We have learned that the sale of 300 M-60A3 tanks to Jordan is planned, yet we have seen no evidence that Jordan has softened its opposition to the Egyptian-Israel peace treaty. In addition, the State Department's criticism of Israel's strikes against the PLO in Lebanon might well be directed against the United Nations forces, which have allowed, and in some cases assisted, PLO terrorist activities there.

In light of these developments, it is hardly surprising to note Israel's alarm at the joint Soviet-American proposal to replace the United Nations Emergency Force (UNEF) with the United Nations Truce Supervision Organization (UNTSO) as a Sinai buffer force. The Camp David agreements left Israel with the clear assurance that, were the UNEF to expire, an alternative acceptable to all parties would be found.

The Soviets, in keeping with their policy of opposition to peace in the Mideast, refused to allow the UNEF's mandate to continue. The UNEF was allowed to expire July 25 with no clear alternative in sight. In conjunction with the Soviets, the administration proposed that the UNEF be replaced by the UNTSO, which serves at the discretion of the UN Secretary-General.

If the President were not dwelling on false comparisons between the Palestinians and the American civil rights movement, he might recall a more pertinent historical fact: the Six Day War of 1967 was preceded by the Secretary-General's withdrawal of a U.N. buffer force in the Sinai. It is my fervent hope that the President will recognize this fact and begin to address the Sinai issue in terms of the understandings reached at Camp David.

Mr. Speaker, the key to stability in the Mideast is Israel. No other government in the area shares our democratic values and processes. Israel is our only stable and reliable ally which has the capability to offer effective resistance to Soviet expansionism in this oil-rich region. A strong alliance with Israel goes to the heart of our moral and national security interests. I know that my colleagues will not allow the President's confused and bewildering statements and policies to obscure this fact.

EXPLOSIVES TAGGING: BATF BOMBS AGAIN

The SPEAKER. Under a previous order of the House, the gentleman from Kentucky (Mr. SNYDER) is recognized for 15 minutes.

● Mr. SNYDER. Mr. Speaker, I am outraged at the irresponsible actions of the Bureau of Alcohol, Tobacco, and Firearms which has consistently abused the cooperation so generously rendered by certain members of the public. My concern arises from the treatment accorded to the Institute of Makers of Explosives—the safety organization of the explosives industry.

The manufacturing of explosives demands 100 percent safety 100 percent of the time, for one error can trigger a severe explosion. Attaining and maintaining this level of safety requires a mind-numbing degree of quality control—and the IME and its members have met that challenge year after year. Since its founding in 1913, the IME has distinguished itself for its selfless and thorough cooperation with governmental agencies to create a safer explosives industry and to otherwise advance the common interests of industry and the public. For example, when BATF assumed regulatory responsibility in the explosives field through the Crime Control Act, the IME tirelessly trained BATF personnel in the technology and safety concerns unique to the explosives industry.

My concern today arises from IME's experience with BATF's proposal, as currently contained in S. 333 (The Omnibus Antiterrorism Act of 1979) and as formerly found in H.R. 2441, to "tag" commercial explosives. Several years ago, BATF asked the IME to participate in a symposium concerning explosives tagging. That symposium created an advisory board. The board, on which the explosives industry was woefully underrepresented, did little advising. Yet the mere fact that the IME was on the board was touted before Members of Congress by BATF as a sign of IME's support for the tagging of commercial explosives. Additionally, before the IME had fully evaluated the cost, utility and safety of such a program, BATF was claiming before Congress that IME had endorsed the tagging program.

This blatant abuse of the public trust must not be tolerated, particularly on an issue concerning the safe manufacture and use of high explosives. And it is abundantly clear that the safety of the proposed taggant program is far from certain:

To date, no all purpose taggant has even been developed.

The taggants to be considered for use in the program have not been fully tested to insure that they meet the high standards of safety required by the explosives industry.

Taggants have not been fully tested in fullscale commercial production in any type of explosive product.

The IME had an opportunity to address these matters in its answers to questions posed by Senator RIBICOFF at the hearings of the Senate Governmental Affairs Committee on S. 333. In one question, the IME was asked to reconcile its participation in an experimental taggant program with its position that explosives tagging cannot yet be safely implemented. I urge my colleagues in both the House and the Senate to fully consider IME's answer which I have inserted at this point:

RESPONSE

Participation in an experimental, limited pilot program designed to test the feasibility of tagging explosives products should not be construed as a carte blanche endorsement of the conclusions drawn therefrom by the advocates and sponsors of the experiment—BATF and Aerospace Corporation. In fact, the parameters of the experimental program alone belie the sweeping conclusion that all tagged explosives products are safe for normal production methods, storage, transportation, and use.

The "millions of pounds of tagged explosives" produced in this program represented only 2.4 percent of the 275 million pounds of cap-sensitive explosives produced in the United States each year.[1] It did not include the remaining 3.42 billion pounds of explosives materials (cast boosters, smokeless and black powders, and noncap-sensitive explosives), the 500 million feet of detonating cord, and the 84 million blasting caps produced annually. The latter products must also be tagged under S. 333; however, they have never been commercially produced with taggants on even an experimental basis. Consequently, there is no basis to conclude that the addition of taggants to these products will not diminish safety during production, storage, transportation, and use. For this reason we construe the question as asking us to address only the safety questions of tagging cap-sensitive explosives in light of the pilot program. We will answer it accordingly.

Contrary to the assertions of BATF and Aerospace, the pilot program did not conclusively demonstrate that tagged cap-sensitive explosives could be safely produced, stored, transported and used on a full-production basis. These explosives were not mass-produced; instead, for safety reasons the contract with Aerospace Corporation expressly required that the taggants be added by hand during the mixing process.[2]

This led one participant in the pilot program to conclude that although no production problems were encountered in the pilot program, "[i]t is obvious that under less controlled conditions there will be a much greater probability of errors."[3] Thus, as of today, taggants have only been added to a limited number of products. This has only been done under experimental conditions, with laboratory-produced taggants, and no one has ever added and mixed taggants by normal production methods.

We are aware that other industries routinely implement full-scale production changes based solely on engineering analyses and pilot programs; however, the explosives industry cannot. We manufacture high explosives; the production of which demands 100% safety 100% of the time, for one error of any type can trigger an explosion that endangers us, our employees, and the public at large. Our social and legal responsibility requires that this be prevented, and prevention requires ultraconservatism. Thus, any full-scale production or product changes have always been made only after extensive and time-consuming limited production. This is particularly true where a foreign substance, such as taggants, is introduced into the product. It is beyond dispute that this type of testing has not been done with taggants.

There is one additional reason for our hesitancy to quickly and dramatically change our production processes and products to include taggants: we are strictly liable for any premature detonation caused by the taggants, whether in the factory or in the field.[4] These damages average in the hundreds of millions of dollars. Recognizing this, Aerospace Corporation offered to, and did indemnify the participants in the pilot program for all damages resulting from the taggants.[5] Thus, while IME members participated in the program, they bore no risk. The magnitude of the risk is such that while it is one thing for Aerospace (who would be reimbursed by the United States government) to accept the risk of a pilot program; it is another to place the burden of a full-scale program on the industry.

One additional salient feature of the experimental program is overlooked by the question: distribution of the tagged explosives. The question infers that the explosives were distributed to customers generally. This is inaccurate. The contract with Aerospace Corporation only required limited distribution to twenty customers.[6] Customer participation was purely voluntary because in order to test the traceability of taggants the customer was required to keep records of the taggant codes received. Thus, the inference that the explosives industry was glutting the market with tagged explosives is invalid. In actuality only 2.4 percent of a limited number of cap-sensitive explosive products was distributed to a miniscule number of our customers—with all liability and cost for the program being borne by Aerospace Corporation.

IME member companies will continue to participate in experimental programs because it is in our interest as well as the public's to enhance the utility of our product; however, we cannot and will not be cavalier about safety. Moreover, our participation should not be inferred as carte blanche endorsement of the conclusions drawn from that experiment by Aerospace Corporation, BATF, or others.

FOOTNOTES

[1] According to BATF's contractor, the Aerospace Corporation, 6.6 million pounds of cap-sensitive explosives were tagged in the pilot program. *Prepared Statement of Dr. Robert Moler of the Aerospace Corporation For Presentation to the Government Affairs Committee of the U.S. Senate on Explosives Tagging* 4 (May 7, 1979). The 2.4% figure is calculated using an annual production level for cap-sensitive explosives of 275 million pounds.

[2] *See, e.g., Agreement Between the Aerospace Corporation (Aerospace) and E. I. DuPont de Nemours & Company (DuPont) Relative to the Performance of the Pilot Test of Explosives Identification Tagging* cl. 3.5 (Sept. 3, 1977), *reprinted in* Statement of Dr. Robert Moler, *supra* note 5, at Attachment E, Appendix B, Enclosure.

[3] E. I. DuPont de Nemours & Co., *Progress Report: Pilot Test—Aerospace Order 67885* 4 (undated) (emphasis added), *reprinted in* Statement of Dr. Robert Moler, *supra* note 5, at Attachment E.

[4] *Challoner v. Day & Zimmerman, Inc.*, 512 F.2d 77 (5th Cir.), *vacated on other grounds*, 423 U.S. 3 (1975), *remanded*, 546 F.2d 26 (5th Cir. 1977); *Foster v. Day & Zimmerman, Inc.*, 502 F.2d 867 (8th Cir. 1974); *Bailey v. Atlas Powder Co.*, 445 F. Supp. 374 (W.D.Pa. 1978); *Clay v. Ensign-Bickford Co.*, 307 F. Supp. 288 D. Colo. 1969). Although 3M could theoretically be sued for damages arising from the use of taggants, it intends to disclaim all liability for their use in explosives. *See* letter from David M. Gleason to Sen. Jacob Javits (May 18, 1979). This disclaimer would legally insulate 3M against all damages resulting from the use of taggants in explosives. *Restatement (Second) of Torts* § 402A, comment m; U.C.C. § 2-316; *Idaho Power Co. v. Westinghouse Elec. Corp.*, 7 Prod. Safety and Liab. Rep. 492 (9th Cir. 1979); *Keystone Aero. Corp. v. R. J. Enstrom Corp.*, 499 F.2d 146 (3d Cir. 1974).

[5] Aerospace/DuPont Agreement, *supra* note 7, at cl. 3.18.

[6] *Id.* at cl. 3.17.●

AGRICULTURE ADJUSTMENT ACT OF 1980

The SPEAKER. Under a previous order of the House, the gentleman from Kansas (Mr. SEBELIUS) is recognized for 5 minutes.

● Mr. SEBELIUS. Mr. Speaker, today, I am introducing a bill entitled, "Agriculture Adjustment Act of 1980."

What this legislation does is increase the target prices on crop year 1980 wheat to $3.88 per bushel, and for crop year 1980 corn to $2.51 per bushel. Grain sorghum and barley target prices would be adjusted to such levels as the Secretary of Agriculture deems fair and reasonable in relation to corn.

You are no doubt aware of the administration's announcement yesterday of the 1980 wheat program. Under the 1980 program, a loan rate of $2.50 a bushel is established and allows U.S. wheat producers to be eligible for farm program benefits without setting aside or diverting acreage.

In its press release, the administration announced that the Soviets may buy up to 10 million metric tons of wheat through September 1980. Up to 2 million metric tons of this amount may be contracted and shipped during August and September of this year. I am well satisfied with this decision, and believe the administration should be congratulated for taking this step. I know many folks are concerned about whether we are not courting danger by drawing down our carryover stocks, but with the huge crop we produced this year and with our farmer-held reserve, this decision is a sound one.

However, as to the set-aside decision, I must express my concern. We could very well find ourselves in the same predicament of the past few years where we had huge surpluses and prices below the cost of production. Also, with no set-aside, we are faced with the target price formula reverting to the level provided in the 1977 farm act.

Preliminary indications are that for wheat the target price would be approximately $3.07 per bushel. The 1979 target price for wheat is $3.40, set by the Secretary because of 20 percent set-aside was in effect. Because this target price does not reflect current inflationary farm costs, the House Committee on Agriculture reported H.R. 3398, the Agriculture Adjustment Act of 1979, which raises the target price for wheat to $3.63 per bushel and for corn to $2.35 per bushel.

This legislation, which has cleared the Rules Committee and is awaiting floor consideration, raises the target prices 7 percent. This is well within the President's request to business and labor to limit their increases to 7–9.5 percent and should be passed.

My bill today merely raises the target prices for 1980 on wheat and corn another 7 percent. This would help the farmer to meet rising costs of production caused by inflation.

Mr. Speaker, I urge support for this legislation.●

A TRIBUTE TO ARTHUR COLLINS

The SPEAKER. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

● Mrs. HECKLER. Mr. Speaker, Arthur Collins, whose name had become synonymous in Massachusetts with Sharon, with helping, with service, with kindness, knowledge, compassion, and, above all courage, died suddenly in his beloved hometown on July 5.

Loved and respected by his neighbors, Arthur was voted life tenure as town clerk and town accountant of Sharon in 1954—jobs he filled with unparalleled expertise and competence. Seldom has such a distinction been so unanimously and universally acclaimed and deserved.

Many called Arthur Sharon's "unofficial mayor" and those of us who knew Arthur and had the opportunity to work with him concurred with his honorary title and considered it a privilege to associate with him. In the words of Robert Frost, Arthur always had "a time to talk."

Mr. Speaker, Arthur Collins enhanced every situation with which he came in contact—his counsel was always astute; his efforts were never hesitant. He truly exemplified Jefferson's ideal of the public man. I take this time to share with my colleagues the eloquent eulogy offered at Arthur's funeral and to extend to his wife Helen, his son Stephen, and his daughters Pauline and Kathryn—who have all suffered an incalcuable loss—my deepest sympathies.

"The courage of life is often a less dramatic occurrence than the courage of a particular circumstance and time; but it is no less a magnificent mixture of triumph and accomplishment. Through the conduct of his life, Arthur Collins, remains a constant reminder of those acts of courage with which men have *lived*."—William R. Keating, Massachusetts State Representative.

Rev. Robert W. Bullock, pastor of Our Lady of Sorrows Church in Sharon recounts this sentiment in his eloquent July 9th eulogy for Arthur Collins.

An additional tribute that could be paid to Arthur Collins is to point out that there are any number of people in this congregation and elsewhere, who envy me the chance to talk about him. The last four days in Sharon, and elsewhere, have been days filled with stories about Arthur Collins. It's as though the secret life volume had been opened up, and all those deeds and all those relationships and all those things he meant to . . . so . . . many . . . people, are now being told. The story is out now. The life's been filled in. All those deeds done in secret that only have been seen by our Heavenly Father are now coming to light. So I know full well, that this privilege that is given to me to talk about him in this prayerful setting is envied by you.

In all of the things that have been said about him over these days, there are two words that are hard to find, the word confined, and the word handicapped. Hardly found, if said at all, because these words seem not at all to apply to him. He was in no way confined; physically, mentally, or spiritually. He was not confined, he was taller than most, more powerful than most.

It was awkward to say, that in any real way, he was handicapped. Handicapped is the distance between what a person does, and what a person is able to do. For most of us, there is enormous difference between what we do, and what we are able to do, physically, spiritually and mentally. We operate below our capacity, but he gathered together all of his resources. He used all that life had to give him. He lived his life to the very limits. We, far more than he, are confined, and are handicapped. Think of the wonderful tributes paid to him over these several days. The most beloved person in Sharon, the most admired, the most respected, the unofficial Mayor.

But no one term can in any way, adequately express what he meant to his family, to his friends and to his community. It's as though there was a mystery about him that no term can define in mere language. People who suffer, are like poets and saints, with deep places . . . profound thoughts, and a symphony of feelings.

Poets, and they are their own, known only to themselves and to other saints, and people who suffer. They have a hidden reality, a deeper meaning, profounder motivation, a different way of seeing life. They see life below the surfaces. They see between things. They know relationships. They just don't simply observe them.

He was the Town Clerk in Sharon . . . for—ever. If you traced the history of Town Clerks in the office of Town Clerk, it will take you back, I think, to churches and parishes and abbeys and monasteries. Those were the places, ages ago, where the records were kept, where the rights were alloted, where much of the work of the community was conducted. Those places in a transitory world, that were staid, secure, reliable, dependable, and trustworthy. And how adequately those words describe, "Our Town Clerk".

He was also the Justice of the Peace, and what a good term it is for him. And as a Justice of the Peace, he ministered justice, and peace, perhaps with greater extension than anybody else around here. He probably married more people than all the Priests, Ministers and Rabbis in Sharon combined. So we have lost the center of things, we have lost a sure guy, we are now less powerful, less sure, we are lessened by his loss.

The two most oft repeated statements about Arthur Collins, must be mentioned that he was always helping out people, and that he never complained. That he was always helping other people. The Bible demands in all its books, that people are effective agents in dealing with others, that seems to be the power he demanded not in word only, not letters of sympathy, not pats on the back, but to be effective, to do what needs to be done, to be efficient, and productive. To do the deed. That was always meant as a measure of things, as the measure of devotion, as a positive image.

That the work be done, and Arthur helped effectively. He saw to it that the work was done, that the deed was accomplished. All the deeds, the little ones and the big ones. Only a Master of detail, could be a Master of great values. He was a Master of communication. He used a telephone as if it was a religious symbol. Good communications are a gift of God. He was the Sharon answering service.

And he never complained. What a profound thing to say about him, that he never complained. And it's true, he never complained. Even those closest to him say that they never heard him complain. Especially the last year, and probably before, people were always asking him how he felt, and he had two words in his medical bulletin, —"I'm fine"—probably the words he used most of the time, —"I'm fine". And when he was annoyed at being asked, he probably repeated it two or three times, as much as to say, —"Don't ask, there's no time for that".

For him, time had to be used with far more efficiency and effectiveness. For him, time must have been, what it may not be for us, a borrowed thing. It should be seen by us too, as a gift of God. Always to be seen that way . . . as God's gift. If he was heard to say he felt badly, it was inadvertent, as though he was overheard thinking.

Finally, it must be mentioned, how much our town and its people meant to him. He was born here, he lived all his life here. He was its center for so long. Nobody, least of all himself, could have understood what happened last Wednesday in the parade that became a procession, it was the beginning of today's procession. For he sat there and went about through the streets, looking for faces, stopping more frequently than normal. Seeing friends, shaking hands, spending that day, after the parade, with his many friends, and then with his family. How sensitively, one of our community observed that that was his—farewell".

In 1959, there was an article about Arthur in the Boston Globe. It quoted him as one of the state's most distinguished holders of public office. This was before the new Town Hall was built, and it told how he would go to work every morning and work out his system—how he vaulted himself out of his car, used the railings and platforms to get himself up, and to get himself down. It seems to me, that it is an appropriate picture to frame in our minds about him. A wonderful picture. Arthur improvising, making do, finding ways, doing what needed to be done, and always being cheerful. So he was a blessing to this world and to his family and to his friends.

May he now be blessed by God, with a blessing of life and peace.●

□ 1730

THE ORDINANCE OF 1787

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 10 minutes.

● Mr. MILLER of Ohio. Mr. Speaker—

> No colony in America was ever settled under such favorable auspices as that which has just commenced at the Muskingum.

Those are the words of George Washington, as he spoke about the settlement on the Ohio and Muskingum Rivers, the birthplace of American liberties. It was there, at a spot now called Marietta, Ohio, that the principles of freedom were first incorporated into fundamental law in the articles of compact of the ordinance of 1787.

I am pleased to say that those "favorable auspices" still exist, and I would like to take this opportunity to recognize the efforts of the Pioneer Association of Washington County, Ohio, to commemorate the bicentennial anniversary in 1988 of this historical event.

The articles of compact of this ordinance—which passed Congress owing largely to the lobbying efforts of the Reverend Manasseh Cutler, Samuel Parsons, and Gen. Rufus Putnam—embody many of the principles of freedom and liberty later contained in the Bill of Rights of the Constitution, which passed Congress in 1791.

Specifically, these articles guaranteed freedom of religion, the right to the benefits of the writ of habeas corpus, and trial by jury, as well as outlawing slavery. Further, the ordinance provided a model for territorial government, and started the practice of admitting new States to the Union on equal terms with the original 13 States.

The ideals in this document established at Marietta symbolize the great American contributions to freedom and liberty, and to the governing process, and are most worthy of the commemorative efforts being initiated by the Pioneer Association of Washington County, Ohio.●

S. 1030, EMERGENCY ENERGY CONSERVATION ACT IS A BAD PIECE OF LEGISLATION

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN. Mr. Speaker, yesterday the House of Representatives passed S. 1030, the Emergency Energy Conservation Act (gas rationing). This bill, accompanied by House Report 96–373, was reported out of the Interstate and Foreign Commerce Committee on July 17, after having been considered by the Energy and Power Subcommittee, on which I serve.

S. 1030 is bad legislation, and I voted against it. Although I opposed the bill as passed, the Commerce Committee approved two amendments I offered which are now incorporated in the legislation.

My first amendment would make more consistent the motor gasoline rationing authorities which would be held by the President under this act. Section 2 of the bill requires that there be a 20-percent shortfall in American gasoline supplies for 30 days or a severe supply disruption before the President can order gasoline rationing. The amendment which was accepted by the full committee insures that the President could not impose rationing in a State submitting an unacceptable conservation plan unless the criteria for national rationing were reached. In other words, the President could not include gasoline rationing in the Federal mandatory conservation alternative plan imposed on noncomplying States unless the Nation were experiencing a gasoline shortage of the proportions required to trigger national rationing. My second amendment moves up the sunset provisions of this bill from the originally proposed September 30, 1983, to September 30, 1982.

While my amendments improve the bill, I did not support S. 1030. Gas rationing is simply not a feasible solution for areas such as the 15th District of Illinois. It tends to invite fraud and aids urban areas to the detriment of rural and suburban regions. Someone once observed that America did not conserve itself to greatness, it produced itself to greatness. I fully concur in the minority views included in the report accompanying S. 1030 and include those views in the RECORD at this point for the benefit of my colleagues.

MINORITY VIEWS ON S. 1030, EMERGENCY ENERGY CONSERVATION ACT

The reported bill takes the features of one bad bill, H.R. 4283, combines them with the worst of a mediocre bill, S. 1030, and adds a dangerously broad grant of authority to ration gasoline to the President. The result is backwards energy policy with disastrous economic consequences.

This bill is more a product of hysteria over gasoline lines than it is a solution to the gasoline allocation system. While it is important to act quickly, we must be more careful to act correctly. The bill, as reported, fails to squarely address the problem and ends up adopting a scatter gun approach as a result.

The problem, briefly, is that Federal control over the price and allocation of motor fuels has distorted and inflated the Iranian shortfall far beyond what would have otherwise happened. The blame cannot be limited to Iran, or even OPEC. Because the shortage was unevenly distributed among the States. Only our own Federal government could have produced gasoline lines in California one month, in Washington, D.C. the next, and left whole parts of the country untouched. In short, there is evidence of an "inside job." It does not make a good deal of sense to grant to "the insiders" broad, unchecked powers to restrain the consumption of energy.

If goverment cannot allocate equitably among regions, how can it be expected to ration fairly among individuals. But should the Congress decide that conservation, or even rationing, is desirable at some level of shortage, it should specifically provide narrow powers to accomplish these goals. The Congress should not, in one careless sweep, grant the President and Governors these powers to control all energy consumption under the guise of solving the current shortage of motor fuels.

S. 1030, as reported by the House Commerce Committee, would delegate three separate powers to the President, or to the Governors in some cases.

1. Gasoline rationing. Section 2 of the bill amends the Energy Policy and Conservation Act to remove the Congressional review and approval procedure over the substance of the rationing plan yet to be developed by the President. In effect, this bill approves the plan, sight unseen, in advance. The President would have the authority to implement rationing if he determines that a 20 percent supply interruption of petroleum product exists, or is likely to exist for longer than 30 days, and if the Congress does not veto such implementation within 15 days after the President's determination. While this 20 percent trigger mechanism adds an important restraint on the President's authority, the details of the rationing plan are both unknown and largely unlimited. Without Congressional review, there is no guarantee that the rationing plan would be workable to sustain the Nation through a 20 percent shortfall.

2. State and Federal conservation plans. Unlike rationing, these plans are an immediate threat. Under Section 3, the amount and purpose of *all* energy consumed in the United States could come under government control. The powers delegated to the President and to the Governors could hardly be broader. There are few constraints on their authority, but more importantly, both the Congress and the State legislatures are expressly precluded from reviewing or modifying the Federal and State conservation measures.

The President would be given the authority to establish "conservation targets" on motor fuels, or any other energy source he determines to be in severe short supply. This "severe energy supply interruption" finding is no protection against premature implementation. The President has already declared that such a shortage existed when he ordered the building temperature restriction plan into effect. The bill contains no guidelines over what percentage reduction these targets are to be; the targets could be two percent or ten percent, or 60 percent.

The States must then develop energy conservation plans to meet these Federal targets within 45 days. If the State legislature refuses to authorize a Governor (or attempts to limit his authority) to develop these target plans, the DOE could step in to allow the Governor to supersede the actions at the State legislature. This clearly eliminates adequate State review of these plans.

If DOE certifies that a State fails to meet a target, and if the President wishes, he may impose a Federal mandatory plan if he finds that the nation is also experiencing or may experience a 10 percent shortage of the particular energy source compared to the supply available during any preceding 3 month period. If a State fails to submit a plan or submits a faulty plan, Title III, Part C EPCA conservation funds may be withdrawn.

It is completely inconsistent that failure to submit a plan, or submission of a faulty plan could result in immediate withdrawal of other conservation funds to the States. On the one hand, we are saying, "We need conservation plans now," while on the other hand, we are saying, "If you don't submit a plan to our satisfaction, we might cut all of your other conservation funding." If our intent is to conserve energy, why should we penalize those States whose plans do not meet the approval of the Secretary?

The Commerce Committee reported out a DOE Authorization for FY 1980 which contains millions of dollars for conservation activities. It should be stressed that the Committee reported $80 million in the FY 80 authorization for State and local conservation functions under Part C of Title III of EPCA as amended.

If we endanger present Federal asisstance to States, where does this leave the State conservation plans? In most States, large scale conservation plans are only beginning to have an impact. Giving the Secretary of Energy authority to deny States this huge amount of money gives him excessive discretion in dispensing the money we authorized for use by the States.

The Federal Standby Conservation Plan gives the DOE carte blanche authority to develop mandatory conservation measures to meet the various targets, except that retail gasoline stations may not be mandatorily closed during the weekend. But such stations may be ordered closed during the week on a rotating basis. This plan, however, is counterproductive to the intent of the bill. Several studies, including one for DOE, have concluded that mandatory closings actually create gasoline lines and thereby result in more gasoline being wasted than saved.

The standby sticker plan is essentially the same sticker plan which was soundly defeated by the Senate 10–79 when S. 1030 was passed. Once ordered into effect by the President, the plan would prohibit all automobiles from driving on public roads one day per week. The bill does not resolve whether the owners of more than one vehicle could stagger their "off road days."

3. Minimum purchase requirement. The Governor of the State (who requests a delegation of Federal authority due to a lack of State powers) or the President (if he decides nationwide enforcement is appropriate) may impose a minimum purchase requirement on gasoline.

This minimum requirement would be $7.00 for 8 cylinder cars and $5.00 for others. This requirement would be enforced by the States. In addition, this provision allows service stations to collect the full minimum even if a lesser amount were delivered into the vehicle.

4. Study of gasoline and distillate storage. S. 1030 would require the DOE to conduct a study of all commercial and industrial storage facilities with a capacity at 500 gallons or more. The report must contain what business establishments, including utilities, are involved, the amounts stored, and the purposes for storage.

This bill puts a "blind trust" in the executive branch at the Federal and, in some cases, State governments to somehow deliver the country from the shortages of gasoline and diesel fuel and possibly other energy sources. If these powers were more carefully defined, and if the conservation plan were properly administered, conservation could help alleviate energy shortages. But broad discretionary powers with no guidance whatsoever may complicate rather than reduce our energy problems.●

SOVIET INVASION OF CZECHOSLOVAKIA—A DAY OF SHAME

The SPEAKER. Under a previous order of the House, the gentleman from Illinois, Mr. Annunzio is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, August 21 marks the anniversary of the Soviet invasion of the freedom-loving country of Czechoslovakia. Eleven years have passed since the country was first occupied by the Red army, and the Soviet Union continues to suppress any Czechoslovakian move toward freedom and liberty and commits flagrant violations against Czechoslovakian human rights. These violations are so severe that they repudiate and negate almost every article in the United Nations Declaration on Human Rights.

In recent weeks, the brutal and tyrannical Communist government has stepped up its arrests and imprisonment of courageous Czech patriots. On June 4, many members of the Czechoslovakian Charter 77 Human Rights Movement were arrested and some were held in police custody without any formal charges filed against them. Four of the charter members were charged with subversion, an offense that carries a prison term of 1 to 10 years. Those charged include Vaclav Benda, a physicist; Jiri Dienstbier, a former journalist; Dana Nemcova, a psychologist; and Peter Uhl, who has already served 4½ years in jail on charges of subversion.

A day after these arrests, Mrs. Zdena Tominova, spokesman for the group and one of the few members still at liberty, was beaten by two masked men as she entered her home. It was the third time a Charter 77 spokesman had been attacked by unknown persons in the streets of Prague. It appears that the arrests and the beatings were the Communists' response to a Charter 77 publication which criticized the economic situation in Czechoslovakia.

These acts serve as a reminder to all the world that as long as Communist oppressors occupy Czechoslovakia, there will be no human freedom or dignity in that unfortunate land.

At this point in the Record, I wish to include an appeal by the Czechoslovak National Council of America in commemoration of this tragic day for freedom-loving peoples everywhere, which follows:

Freedom Is Indivisible

On this sad occasion of the eleventh anniversary of the brutal Soviet-led invasion and occupation of peaceful and freedom-loving Czechoslovakia, we American citizens of Czech, Slovak and Subcarpatho-Ruthenian descent, again remind the entire world of this Soviet violation of key principles of international law incorporated into the Charter of the United Nations:

The brutal Soviet aggression and occupation:

(1) violated the sovereignty of a member state of the United Nations (Article 2, Section 1);

(2) was carried out in violation of Article 2, Section 4, which prohibits the use of military force in the relations between individual members of the United Nations;

(3) violated the principle of self-determination of peoples (Article 1, Section 2);

(4) was in conflict with Article 2, Section 7, which prohibits outside intervention in matters essentially within the domestic jurisdiction of any state;

(5) was in conflict with a number of resolutions of the General Assembly of the United Nations, particularly with Resolution 2131 (XXI) adopted at the meeting of December 21, 1965, upon the Soviet Union's own motion, prohibiting any intervention in the domestic affairs of any state and guaranteeing its independence and sovereignty.

The continued Soviet occupation of Czechoslovakia is another crime against the right of a small country to determine its own destiny and aspirations. The invasion was an intervention by the forces of reactionary communism to prevent the Czechs and Slovaks from establishing their own social order that did not endanger anyone and sought to contribute to the building of bridges across the discords of a divided world and to lend aid to a better understanding and cooperation among all nations on the basis of true progress and humanity.

The people of Czechoslovakia have not resigned themselves to these aggressive plans of Moscow. The day of August 21, is being commemorated in Czechoslovakia as a "Day of Soviet Shame" in a mighty and disciplined resistance against Soviet pressure. We are joining our friends in Czechoslovakia in asking the entire civilized world to support the people of Czechoslovakia in their effort to achieve the withdrawal of Soviet troops from Czechoslovakia.●

VANIK RELEASES TREASURY DEPARTMENT STUDY OF OIL COMPANY TAX RETURNS

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. Vanik) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, a Treasury Department report I received today based on actual 1977 tax returns for the eight largest multinational and the eight largest domestic oil companies reveals some shocking facts.

The eight largest multinationals had sales of over one-quarter trillion dollars—10 times the sales of the 8 largest domestic companies.

The same eight American multinationals had taxable profits of over $34 billion on their foreign operations and only $4 billion in profits on domestic operations. The same multinational oil companies wiped out $16.4 billion of their tax liability by utilizing the foreign tax credit. They managed to reduce their tax liability to $1.4 billion on $64.2 billion of gross income from operations—an effective tax rate of 2.2 percent.

Oil price increases and increased consumption of oil since 1977 are bringing oil sales of these eight multinational corporations very close to the half trillion dollar mark. The multiplication of foreign tax credits through these sales will almost completely wash out the tax obligations of the American multinational companies on this incredible foreign source income.

The eight largest domestic companies were not able to extensively use foreign tax credits and paid $400 million in 1977 on $6 billion in gross income, an apparent effective tax rate of 6.5 percent. The low effective tax rate on domestic corporations resulted from $5.3 billion in deductions, the majority of which are intangible drilling expenses—a tax break not available to other industries.

The Treasury report is as follows:

Department of the Treasury,
Washington, D.C., July 31, 1979.

Hon. Charles A. Vanik,
House of Representatives
Washington, D.C.

Dear Mr. Vanik: In accordance with your request during the Ways and Means Committee's executive session markup of the windfall profits tax, enclosed is a table showing for 1977 (the latest report period) selected income and tax items for the eight largest multinational and eight largest domestic oil companies. Because certain items you requested concerning intangible drilling costs (IDCs) and the foreign and investment tax credits are not available from our statistical processing of 1977 returns, a similar table, for 1976, showing these items where available is also enclosed. The 1976 table also shows all items you requested for all oil companies.

Please feel free to call upon me or my staff if you have any questions regarding these tables.

Sincerely,

Donald C. Lubick.

Tabulation of Selected Income and Tax Items for All Oil Companies in 1976, and for the Eight Largest Multinational and Eight Largest Domestic Oil Companies in 1976 and 1977

The attached tables summarize selected income and tax items for all oil companies in

1976, and for the eight largest multinational and eight largest domestic oil companies for tax years 1976 and 1977. The following notes are intended as an integral part of the tables.

1. The statistics are drawn from sampled tax return data posted to transcript files that ultimately underly published volumes of the "Corporation Statistics of Income." The statistics are preliminary both because they are normally transcribed from the unaudited returns as filed by the taxpayer and because they are subject to verification (such as computer-generated internal consistency checks) as the normal processing for statistical purposes continues.

2. Variations in taxpayer reporting practices, along with shifts in ranking depending on the item selected as a size descriptor, make it difficult to determine the largest eight corporations within any grouping. Criteria for selecting the largest multinational corporations included sales of $7 billion or more and net foreign taxable income of $500 million or more in 1977. Sales averaged $32.3 billion per return for this group in 1977, and $30.2 billion in 1976. For the eight largest domestic corporations, sales reported on the return in excess of $600 million in 1977 was the primary criterion, with average sales of $3.3 billion in 1977 and $2.6 billion in 1976. Domestic corporations were also defined as having little or no foreign tax credits reported on their 1977 returns. Since large corporations could have foreign losses (and thus no foreign income taxes to claim) it was necessary to use publicly reported information to determine if a corporation had sufficient foreign operations to be classified as multinational. Operations were frequently not clearly broken down between foreign and domestic and judgment was required.

3. Each return filed was considered to represent a separate corporation for purposes of selecting the two groups. One obviously large corporation was not considered for inclusion because it filed over one hundred separate returns. It was not feasible in this case to reconstruct one corporation out of these returns since (a) many were under the size requirement for 100 percent inclusion in the corporate sample and are not currently available on the transcripts and (b) even if available, netting of intercorporate transactions (to avoid double counting) is not possible from the income tax return.

4. The following is a brief description of the lines in the tables:

A. Sales—Generally, the gross operating receipts less cost of returned goods and allowances. Some taxpayers included sales taxes and excise and related taxes as part of gross sales (with an appropriate deduction in cost-of-goods sold or taxes paid). Others reported sales net of these taxes. No adjustment has been made for consistency.

B. Cost of sales and operations—Generally includes the direct costs of producing goods or providing services. To the extent possible, sales taxes and excise and related taxes included by the taxpayer in this category were removed and included as part of "taxes paid" (not shown separately).

C. Gross income from operations—Sales less cost-of-sales and operations.

D. Depletion—The allowable deduction for the exhaustion of natural deposits and timber. Oil production, other than that associated with independent producers and royalty owners, is limited to cost depletion.

E. Other income and deductions (net)—All other income items (such as capital gains and dividends) less all other deductions (such as interest paid, depreciation and intangible drilling costs).

F. Net income (or loss)—Gross taxable rceipts (plus foreign income "constructively" received and required to be reported as income for tax purposes) less ordinary and necessary business deductions.

G. Statutory special deductions—Four special deductions permitted by the Code:

1. Net operating loss carryforward deduction.

2. Deduction for intercorporate dividends received.

3. Deduction for dividends paid on certain preferred stock of public utilities.

4. Western Hemisphere Trade corporation deduction.

H. Income subject to tax—Net income less statutory special deductions and less Subchapter S corporation net income taxed at shareholder level. For foreign operations this is the amount reported on Form 1118 in support of foreign tax credit claimed and represents taxable income computed under Subchapter B of the Code. Foreign source taxable income also includes income considered constructually received (the "includable income of controlled foreign corporations" and the "foreign dividend gross-up"). Domestic source income is a residual.

I. Gross federal income tax liability—The basic income tax derived by applying the normal, surtax and/or (where applicable) the alternative rate to income subject to tax.

J. Foreign tax credit—The amount allowed as a credit against U.S. income tax for income war profits and excess profits taxes paid or accrued to foreign countries or U.S. possessions. In the case of taxes paid on foreign extraction income, the taxes were generally reduced to the extent that they exceeded 50 percent of such income in 1976, and 48 percent of such income in 1977.

K. Investment tax credit—The amount, generally 10 percent, of investment in qualified property, allowed as a reduction in tax after foreign tax credit.

L. Other tax credits—Allowable reductions in tax for the work incentive credit, possessions credit, and the jobs tax credit.

M. Additions to tax—Sum of:

1. Tax from recomputing prior year investment tax credits and WIN credits.

2. Additional tax for tax preferences (minimum tax).

N. Total net federal liability—Gross federal income tax liability including additions to tax less allowable credits. This is the amount (per return as filed) actually paid to the Treasury (in estimated or final payments).

The preliminary and limited data available for 1977 makes it impossible to present the industry totals and more detailed analysis of investment and foreign tax credits earned and used in that year which are shown in the table for 1976.

SELECTED INCOME AND TAX ITEMS

8 LARGEST MULTINATIONAL AND 8 LARGEST DOMESTIC OIL COMPANIES, 1977

[In millions of dollars]

	8 largest multinational companies	8 largest domestic companies
Sales	258, 782	26, 196
Less: Cost of sales and operations	194, 621	20, 192
Equals: Gross income from operations	64, 162	6, 005
Less: Depletion	568	147
Plus: Other income less other deductions	−23, 945	−5, 287
Equals:		
Net income or loss	39, 649	570
Net loss		−561
Net income	39, 649	1, 131
Less: Statutory special deductions (returns with net income)	1, 152	11
Equals:		
Income subject to tax	38, 495	1, 118
Foreign taxable income (less loss) as reported on form 1118 in support of foreign tax credit claimed	34, 446	8
Domestic (residual)	4, 049	1, 110
Gross Federal income tax liability	18, 440	533
Less:		
Foreign tax credit	16, 452	3
Investment tax credit	604	143
Other tax credits	(1)	(1)
Plus: Additions to tax	7	5
Equals: Total net Federal liability	1, 390	392

[1] Less than $500,000 per return.

Note: Details may not add to total due to rounding.

Source: Special tabulations by the Internal Revenue Service.

ALL OIL COMPANIES AND THE 8 LARGEST MULTINATIONAL AND 8 LARGEST DOMESTIC OIL COMPANIES, 1976

[In millions of dollars]

	8 largest multi-national companies	8 largest domestic companies	All oil companies [1]
Sales	241, 907	20, 979	353, 767
Less: Cost of sales and operations	186, 995	15, 740	270, 128
Equals: Gross income from operations	54, 912	5, 240	83, 639
Less: Depletion	540	136	1, 588
Plus: Other income less other deductions [2]	−14, 676	−3, 973	−33, 409
Equals:			
Net income or loss	39, 696	1, 121	48, 642
Net loss		−226	−730
Net income	39, 696	1, 347	49, 372
Less: Statutory special deductions (returns with net income)	2, 438	12	2, 941
Equals:			
Income subject to tax	37, 257	1, 334	46, 431
Foreign taxable income (less loss) as reported on form 1118 in skpport of foreign tax credit claimed	32, 876	66	36, 179
Domestic (residual)	4, 381	1, 268	10, 252
Gross Federal income tax liability	17, 870	625	22, 118
Less:			
Foreign tax credit	15, 740	30	17, 239
Investment tax credit	581	74	1, 141
Other tax credits	(3)	(3)	23

	8 largest multi-national companies	8 largest domestic companies	All oil companies [1]
Plus: Additions to tax	8	5	59
Equals; Total net Federal liability	1,557	524	3,774
Addenda:			
Investment tax credit:			
Unused previous credits carried forward and reported on the return	414	88	666
Plus: Tentative (newly earned) credits	447	176	1.294
Equals: Total credit available	858	265	1,960
Less: Credit claimed	581	74	1,141
Equals: Unused credits generally available for carryforward and carryback	278	191	819
Foreign tax credit:			
Unused previous credits carried forward and reported on the return	3,789	-----------	3,952
Plus: Taxes paid or accrued, or deemed paid in current year	30,276	30	32,495
Less: Reduction for oil and gas extraction taxes under sec. 907	10,622	-----------	11,235
Equals: Total foreign taxes available for credit	23,443	30	25,212
Less: Foreign tax credit claimed	15,740	30	17,239
Equals: Unused creditable foreign taxes [4]	7,703	-----------	7,973

---

[1] Combines the oil and gas extraction industry and the petroleum refining (including integrated) and coal products industry—major industries 13 and 29 per the Statistics of Income definitions.

[2] Intangible drilling and development costs are not available for all firms and have therefore been included in "other deductions" to arrive at "other income less other deductions" (see attached notes). For the 6 of 8 largest multinational companies (accounting for 92.5 percent of the taxable income of all 8 of these companies) for which intangible drilling and development costs were available, these costs amounted to $1,681,000,000. For the 4 of 8 largest domestic companies (accounting for 82.1 percent of the taxable income of all 8 of these companies) for which intangible drilling and development costs were available, these costs amounted to $307,000,000. For all oil companies, intangible drilling and development costs are estimated, on the basis of nontax data, to have amounted to $3,272,000,000.

[3] Less than $500,000.

[4] Because some carryforwards into 1976 expired in that year, and because of the recomputation in subsequent years of carryforward credits required by sec. 907 the amounts shown here exceed the amount of foreign taxes available for carryforward.

Note: Details may not add to totals due to rounding.

Source: Internal Revenue Service, Preliminary Statistics of Income 1976: Corporation Income Tax Returns; and special tabulations. ●

AN ARMS RACE PERSPECTIVE

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. Van Deerlin) is recognized for 5 minutes.

● Mr. VAN DEERLIN. Mr. Speaker, I would like to include in today's Record a sermon on the nuclear arms race by Dr. George F. Regas, rector of All Saints Episcopal Church in Pasadena, Calif.

Engaged in the day-to-day politics of defense policy and procurement, we in Congress tend to forget that the world rests precariously on the razor's edge of a nuclear peace. Use of even one-tenth of the nuclear weapons now available would certainly be the greatest tragedy in the history of our species.

As the SALT II Treaty is debated, most of the discussion has been not on arms limitation, but on expansion of our nuclear arsenal. This at a time when we have nearly 6 percent unemployment, no adequate health plan for many of our people, inadequate social security for the aged, and are facing a recession. Surely we must debate new military programs in this context, as well as in the context of equivalent megatonnage.

Dr. Regas' words are particularly timely. He knows the fundamental truth that we Americans will not find the security we seek by building more and better missiles—that security can only come from the moral strength of a just society.

America Needs Strong Protagonists for Peace

(A sermon preached by Dr. George F. Regas on July 1, 1979)

An experience nearly a decade old is still fresh in my memory. I was speaking at Pomona College about our colossal misadventure in the Vietnam war and the ways that tragic slaughter had anesthetized our conscience. I challenged the people that day with all the power of which I was capable to join the anti-war movement, stop the killing and help bring peace to this bleeding and broken world. When the discussion was over a young woman approached me and with the most plaintive voice said: "But what you don't understand is I have a war going on inside of me. If I can't find peace for my own split soul, how in God's name am I to bring peace to the world?" She was right.

Today in this congregation there are many troubled hearts among us—people in whom a war rages; people baffled and bewildered because life has been hard for them; people whose faces hide sore hearts and secret wounds. Here we are today—all sorts and conditions of people: with loneliness that hurts, disabilities that handicap, secret wars that no one can share, memories that bless and memories that burn. Here we are with a civil war going on within ourselves, weary and burdened with that conflict, and we seek from this worship healing and courage.

Today I want to address myself to the issue of international peace. However, I know our internal warfare underlies much of the tensions of the world. Remember the soldier who wrote home to his wife begging her to stop nagging him so that he could "fight this war in peace!" Every time we gather around this altar to worship, it is important to proclaim that God loves you as you are—God accepts you just as you are—God offers forgiveness for that guilty conscience—God gives you amazing grace to end the conflict of your soul. The offer is there for the taking. Let those words of Jesus make their way into your heart: "My peace I give to you." So stop accusing yourself. Love yourself as Jesus loves you. Accept yourself as you are. Put your arms around yourself; you are a special creation. And then you will find yourself putting your arms around and loving other people.

The older I have become the more convinced I am that most of our animosities against other people are hostilities which we feel against ourselves. If I have little value in my own eyes, if I am filled with conflicts and hostilities, then I vent that fury for myself by beating on the other fellow in one way or the other. So hear Jesus: "My peace I give to you." You are loved; you are accepted; you are forgiven; you are valued. And then you can have the energy and the spirit to go out and love the world. With the peace of Jesus in your heart, you can go out to make peace in this war-torn world. Albert Camus once said:

"Christians should get away from abstractions and confront the bloodstained face history has taken on." At least one of the things that means is that we confront the madness of the arms race which threatens to destroy us. That, in my opinion, is the greatest social, political, economic and religious issue facing the world. It is no longer one problem among many, but the ultimate problem. Reversing the arms race with all its madness is a religious duty. If we are not personally charged as Christians with preserving God's creation, then what are we charged with? This is now the fundamental religious obligation—trying to keep this planet in one piece! "Blessed are the Peacemakers for they shall be called the children of God."

I count myself fortunate that I am the preacher in a parish which provides me with a free pulpit and expects me to expound the Christian faith and principles as they bear on all of life. There are three areas of concern in the arms race to which I now turn our attention and I want to take a little time to do it.

I

First, the danger of unbelievable disaster is real. We are walking a tightrope above those nuclear weapons hoping the holocaust will not come. It will come if we do not change directions. The Stockholm International Peace Institute said recently that because of the nuclear proliferation and increasing sophistication of nuclear arms, they find the probability of nuclear war is steadily increasing. Yes, Russia is armed to the teeth—but so are we.

What are the facts that make up this madness? We need to go to the edge of that dreadful abyss where the two giants of the world are wrestling and dare to look into that arsenal of death. The atomic bomb dropped on Hiroshima destroyed an area of three square miles and killed 140,000 of God's children. Today we can launch one missile that will destroy 234 square miles and kill millions of people living there. We can now destroy 28 Hiroshimas at once with one weapon. It would take just one intercontinental ballistic missile to destroy most of Los Angeles and millions of her people. The Soviets have 5,000 of such missiles and America has 10,000. As I look over that dreadful abyss into that arsenal of death, I am numbed when I see that America has 625,000 bombs like the one which killed 140,000 people at Hiroshima. We can kill every Russian 36 times and destroy the world 12 times, and still we want more. Maybe soon we will be able to destroy the world 13 times. I shudder at the insanity of that.

Albert Einstein made one of the most cogent statements of our nuclear age when he said, "The unleashed power of the atom has changed everything except our way of thinking; thus, we are drifting toward catastrophe beyond conception." General Omar Bradley said the same kind of thing: "The present stalemate of terror cannot indefinitely continue. Pretty soon one side or the other will give a fatal push to the point of no return." In the face of that some people are absolute pacifists—I am not. Some people believe in unilateral disarmament—I do not. Some feel a strong national defense is useless in our day—I do not. But I believe the escalating arms race is sheer madness and points to the moral bankruptcy of our age.

The political reality that nuclear war still remains an option for America is the paramount horror of modern existence. I believe God's charge to you and me is to reverse the arms race and save the planet and human family. Will it take some holocaust with millions dead before we lift our voices in moral outrage?

II

The second area of my concern is that of unsatisfied human needs. The arms race is a criminal mismanagement of humanity's resources. People are hungry and sick all over this planet, but the world spends $400 billion annually on arms, $175 billion on health care and $20 billion on foreign economic aid. General Eisenhower was right when he said every bomb that is manufactured is a theft from those who are hungry and not fed.

We see the effects of the arms race everywhere—in rotting, rat-infested housing, rampant unemployment, inadequate health care and education, disintegrating cities, hunger and ignorance across our land. One of the most important questions facing America today is how do we manage our resources for the benefit of the whole human family. There is something decadent and corrupting about the assumption that a few in society have the right to health and prosperity while others live in poverty and ignorance. Yes, $400 billion a year fuel the arms race while one-half of the world's children is not being educated.

While in Africa last year I saw what this incredible ignorance can do. I observed with my own eyes children in the Nairobi Hospital who were dying from malnutrition. The doctor taking us around had been educated at UCLA, and he said these children were dying simply because their mothers did not know the basic ingredients to a health diet. I see the social decay of our cities and the hunger of the world's children as monuments to the madness of the arms race. The resources are there for a new earth if only they could be released to eradicate the cesspools of despair and bring about human well-being.

We are told that the United States is first in the world in military power, fifteenth in literacy, seventeenth in life expectancy. Are we to call that national security? I want to place my life against those grossly distorted priorities. More money in arms will not buy greater security; it will only bring greater risks and greater despair. I believe our only hope for any worthwhile future is to reverse the arms race.

III

My third concern is that we build a strong public opinion in the United States to reverse the arms race. Sometimes I feel overwhelmed by the complexities of national defense. Often I feel profoundly incompetent to lift my voice in protest. Yet I know that in spite of all that, I must decide where I stand. Do you remember the story of the jury which deliberated for days and finally the foreman of the jury reported to the presiding judge, "Your Honor, we have come to a decision. We do not want to get involved in this case." The arms race and nuclear war are the greatest moral issues facing our world, and it is indefensible for Christians to be on the sidelines. One of the most tragic realities on the American scene today is the mood that lets the military have their way. The apparent mood in this country is to let the hungry in Asia and Africa starve, let the health needs of our citizens go unmet rather than reverse the arms race. There is no public constituency crying out against the madness of it all and saying, "Stop the arms race; release those resources for human needs." My deepest commitment is to change that reality.

Opposition to the Vietnam war taught us something. Although most of the people in government are good, intelligent, honest folks, we cannot trust their judgments unquestioningly. I am unwilling to turn the arms race over to the Pentagon and government. The war system is deeply imbedded in our society and the lobbying forces for greater defense spending are Washington's most powerful group. The arms race has all the momentum—especially with Russia's provocations and America's determination to be number one. Our only hope is for a great outcry against that kind of world. A reversal of the arms race will come—and ratifying SALT II is a small but significant step in the right direction—only if enough people begin to choose life over death, healing over savagery, peace over war, and push to put those choices into practice. We must build a truly powerful lobby for peace—people who have done their homework and are ready for the long haul.

To this end we are convening a conference on reversing the arms race. My close friend, Rabbi Leonard Beerman, of Leo Baeck Temple in West Los Angeles, and I at All Saints Church will be the conveners. It starts Sunday night, October 21, at Leo Baeck Temple and continues all day Monday, October 22, at All Saints Church. The Board of Leo Baeck Temple and the Vestry of All Saints Church have enthusiastically endorsed the conference. I am inviting all of you to attend. I hope you will come, but don't come alone. We are asking people to bring the uncommitted who are willing to listen. At this October 21, 22 conference you will hear the most articulate voices we can find.

Already we have acceptances from Iowa's Senator John Culver, a member of the Armed Services Committee and a strong advocate for reversing the arms race; Richard Barnet, the founder of the Institute of Policy Studies in Washington; Admiral Gene LaRocque, who heads the Center for Defense Information in Washington; William Winpisinger, who is the Union President of the International Machinists and Aerospace Workers—those most affected by reversing the arms race. Also, Mayor Tom Bradley and Norman Lear will be with us. Following these major addresses we intend to have response panelists who represent diverse opinions.

Through this major conference on the West Coast we hope the religious community of this country can begin to take the lead, not only from a moral and theological perspective, but also with hard facts. I hope you will come.

Yes, the war system is deeply imbedded in us, but deeper in us is something greater. It is the instinct for survival, the instinct to make the world beautiful for children, the instinct to heal the wounds and not lacerate the human family, the instinct to feed and not steal from the hungry, the instinct to do something with hope and heart and love in it, something more than the beastly. Let us join arms before the lights go out. Maybe those better selves within us can raise their voices and help turn the world back from the brink. That is God's charge to us. Choose life rather than death.

IV

As I close, I say to you and to myself, "Hold on to hope." Hope is on the opposite of despair; it is the opposite of apathy; it is the opposite of sin; it is the opposite of cynicism. We are perilously close to midnight, and we ultimately may fail in these efforts to reverse the arms race that is sending us out into the darkness. But right now we have scarcely tried. The task is long and hard. There is work to be done and the time is short. I bid you to join me in hope that we can make a small difference in this world. Join me believing in the incredible possibilities of a new world of peace and justice.

"Last night I had the strangest dream—I dreamed the world had put an end to war." I still believe in that dream. I still believe it is possible to end the madness of the arms war and build a world of peace. That hope is the greatest power in the world. That hope sustains me and encourages me to pay the price for a world where there is no more war ever again. Blessed are peacemakers! You and I can help preserve and hand on to our children this wonderful, terrible, beautiful world. "Blessed are the peacemakers for they shall be called the children of God."●

THE 1979 CAPTIVE NATIONS WEEK A 20TH ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Flood) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, one again, a Captive Nations Week has come and gone, but as always before the purpose of Public Law 86–90 has been amptly realized. On this 20th anniversary of the Captive Nations Week Resolution, passed by Congress in 1959, the observance of Captive Nations Week was richly active and diverse. The President issued an early proclamation in tune with that part of the law that specifies the issuance of "a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world." Governors, mayors and others then followed and across the country the captive nations were not forgotten. All this augurs well for the 1980's.

Further evidence of popular compliance with Public Law 86–90 is shown in these proclamations reports and programs: First, proclamation by Governors Brendan Byrne of New Jersey and Bruce King of New Mexico; second, proclamations by Mayors E. Lee Comer, Jr. of Independence, Mo., Edward H. McNamara of the city of Livonia, Mich., Thomas P. Ryan. Jr. of Rochester, N.Y., and John Seymour of Anaheim City, Calif.; third, a report in the Park Ridge Herald of July 12 on "Captive Nations Proclamation;" fourth, two programs in New York City and another in Washington, D.C.; fifth, a report on the first New York event in the July 22 Ukrainian Weekly and sixth, a report in the July 20 China Post.

State of New Jersey Proclamation

Whereas, submerged nations look to the United States as a citadel of human freedom for leadership in a continuing struggle for liberation, independence and the restoration of individual liberties and freedom to religious thought according to Christian, Jewish, Moslem or Buddhist traditions; and

Whereas, the greatness of the United States of America is, in large part, attributable to its ability to achieve through democratic processes a national unity of peoples from diverse racial, religious and ethnic backgrounds; and

Whereas, this harmonious unification of different elements of our free society has given our nation a warm sympathy and understanding for the aspirations of freedom and independence throughout the world; and

Whereas, it is fitting that the peoples of this State manifest through an appropriate and official means their feelings and support of all peoples seeking to recovery of their suppressed freedoms and independence;

Now, therefore, I, Brendan Byrne, Governor of the State of New Jersey, do hereby proclaim July 15–21, 1979 as "Captive Nations Week" in New Jersey.

State of New Mexico Proclamation

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Bruce King, Governor of the state of New Mexico, do hereby proclaim that the week commencing July 16, 1979 be observed as: "Captive Nations Week."

Proclamation

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjection and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Romania, Georgia, North Korea, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major way; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations,

Now, therefore, I, E. Lee Comer, Jr., Mayor of the City of Independence, do hereby proclaim this week of July 15–21, 1979, as "Captive Nations Week" in Independence, Missouri, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

Proclamation

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples,

Now, therefore, I, Edward M. McNamara, Mayor of the City of Livonia, County of Wayne, State of Michigan, do hereby proclaim that the week commencing July 15, 1979 be observed as Captive Nations Week in Livonia, and call upon the citizens of Livonia to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

City of Rochester Proclamation

Whereas, policies of the Soviet Union and other communist powers have led to the subjugation and domination of thousands of freedom-loving peoples whose yearnings for independence, and whose right to self-determination, have been arbitrarily ignored, and

Whereas, The United States of America, having thrived on the guiding principles of liberty and justice, is the ultimate symbol of human freedom and therefore has a unique obligation to make independence a reality for enslaved populations everywhere, and

Whereas, Rochesterians recognize their special responsibility to the overseas relatives and friends of many of our City's residents, who contribute so much to the nourishment of basic human rights and to the civic betterment of our Community, and

Whereas, the Congress of the United States has established the third week in July each year as Captive Nations Week, to encourage all Americans to participate in activities to demonstrate our sympathy with and support for freedom, independence, and self-determination of captive peoples throughout the world, and

Whereas, at the ceremony in Rochester the ethnic groups represented, each with their national flags and native costumes, include the Taiwanese, East Germany, Estonia, Hungary, Latvia, Lithuania, Poland, Ukraine, Yugoslavia and Cossackia.

Now, therefore, I, Thomas P. Ryan, Jr., Mayor of the City of Rochester, do hereby proclaim July 16–July 21, 1979 to be "Captive Nations Week" in Rochester, and urge all Rochesterians to rededicate themselves to work and pray for the day when freedom for all the world's peoples will be a reality.

A Proclamation

Whereas, a warning signal to the free world was sounded following the Bolshevik Revolution in Russia in 1917, when the communists succeeded in seizing power in Moscow; and

Whereas, since that time the number of captive nations continues to rise and now exceeds the frightening total of 32; and

Whereas, the seizing of power by force is against the free will of the people and democratic principles upon which this Nation was founded; and

Whereas, these various captive nations had their resistance broken by the communists by outward bloody terror and today more than half the earth's population is under communist control.

Now be it hereby proclaimed by the Anaheim City Council that the period from July 15 through 21, 1979, be designated as "Captive Nations Week in Anaheim", calling upon all citizens to continue to defend and uphold the free democratic principles of the United States of America and further, remembering the sacrifices of our fighting forces in defending these high ideals and for the millions of persons living under the communist rule in these captive nations.

Captive Nations Proclamation

Park Ridge residents of Latvian and Ukrainian descent meet with Mayor Martin Butler and long-time supporters of the Captive Nations Committee, Representative Penny Pullen of the 4th District and Anne Culhane. The mayor recently signed a proclamation designating the week of July 15–21 as Captive Nations Week. Pictured (from left) are: B. Jaremczuk, Anne Culhane, Eugene Jaremczuk, Mayor Butler, Constance Jaremczuk, Rep. Penny Pullen, Leo Bodnar and Kaija Kirstens.

Twenty-first Captive Nations Week Commemoration

July 15 through 22, 1979—Join us in the struggle for freedom.

Captive Nations Week is proclaimed each year by the President of the United States of America to remember those many nations imprisoned by the Communist slavemasters. It is dedicated to keeping alive the spirits and hopes of the enslaved peoples for freedom and self-determination of their beloved lands.

Program: Sunday, July 15th 1979—Manhattan

9:00 a.m. Assemble at 59th Street & 5th Ave.

9:15 Fifth Avenue Parade—59th St. to 50th Street

10:00 Memorial Mass at St. Patrick's Cathedral

11:00 Fifth Avenue Parade—50th St. to Central Park Mall (Band Shell near 72nd Street)

12 Noon Ceremonies, honored speakers and folklore entertainment at Central Park Mall

Nationality, Veteran, Patriotic, Church, Political and Civic groups, and individuals are invited to participate in the Captive Nations Week events.

Captive Nations Committee of New York, P.O. Box 540, New York, N.Y. 10028, Hon. Matthew J. Troy Sr., Honorary Chairman; Dr. Ivan Docheff, Honorary Chairman; Horst Uhlich, Chairman.

Human and National Rights for the Captive Nations

We have gathered here today, at the Statue of Liberty, to observe the 20th Annual Captive Nations Week. Captive Nations Week has been enacted into a U.S. Public Law as third week in July signed by President Dwight D. Eisenhower in 1959. Since then the President is requested to issue a proclamation in support of the Captive Nations aspirations for liberty and national independence "until such time as freedom shall have been achieved for all the Captive Nations of the World."

However, since then communist imperialism like cancer has spread all over the World and has continued to afflict the shrinking Free World. The Soviet Moscow colonial empire is gaining military and strategic advantage over the countries of the Western alliance. The Kremlin has been manipulating national liberation movements in the former colonies and the Third World against the West implanting their pattern on all the continent with mass murders and deprivation of human rights.

We are here to bear witness that the Soviet Union is today the greatest colonial empire and prison of Nations. Moscow Communist genocide and Russification which is most evident in the destruction of scores of nationalities within the Soviet Union is revealed in that fact that, according to the Soviet Academy of Science, in 1927 on the territory of the U.S.S.R. lived over 160 nationalities. Now they count only 120.

The Helsinki agreement signed three years ago by 35 countries, including the U.S.S.R., to guarantee human rights and fundamental freedoms has not been kept by the Kremlin. As a result, dissidents who have organized Committees in Moscow, Ukraine, Georgia, Armenia, Lithuania to monitor Soviet compliance with the Helsinki agreement have been jailed or intimidated. The founder of Moscow watch group Orlov is in jail. In Ukraine, leaders of the Ukrainian group M. Rudenko and O. Tykhy were the first persons associated with Helsinki watch groups to be sentenced. Punishment has been meted out to the Georgian dissidents Zamstakhurdia and Kostava and others. The Byelorussian dissident Michael Kukabaka was twice incarcerated for the dissemination of the Declaration of Human Rights.

Recently, in Moscow, Kaluga and Vilnus, members of the Helsinki groups—Anatoly Shcharansky, Alexandr Ginsburg and Lithuanian Victoras Petkus—have been harshly dealt with by the Soviet "kangaroo courts".

Just yesterday, we have received another sad news that in Ukraine member of the Helsinki group Lev Lukianenko who only two years ago completed his 15-year prison term, has again been sentenced to ten years of jail and 5 years of exile.

We the participants of this meeting are joining the Free World's protest against harsh sentences given to Anatoly Shcharansky, Alexandr Ginsburg, Victoras Petkus, Lev Lukianenko, Valentyn Moroz, Marynovich, Crimean Tartars' dissident Dzhemiliov and many, many other fighters for human rights.

Our task is to enlighten the governments and the people of the Free World that verbal protests and secret diplomacy are not enough.

We insist on the implementation of the De-colonization Resolution of the United Nations, also with respect to the countries enslaved by Soviet Russian imperialism.

We demand freedom for Armenia, Albania, Azerbaijan, Bulgaria, Byelorussia, Cambodia, China, Crimean Tartars, Cossackia, Croatia, Cuba, Czechia, East Germany, Estonia, Georgia, Hungary, Idel Ural, Karatchays, Laos, Latvia, Mongolia, North Caucasus, North Korea, Vietnam, Poland, Romania, Serbia, Slovakia, Slovenia, Tibet, Turkestan, Ukraine and others.

July 23, 1978, New York.

Executive Committee—Americans to Free Captive Nations, Inc.

Let Freedom Ring! Captive Nations Folk Fair

20th Anniversary of the Captive Nations Week Commemoration.

Constitution Hall, 1776 D Street, N.W., Washington, D.C. about three blocks from The White House.

Saturday, July 21, 1979, all day indoor event—air conditioned.

10:00 a.m.—6:00 p.m.: Exhibits—Display and sale of Arts, Crafts, Foods, Books and Literature—Continuous Music and Free Shows of Films—Over 20 Nationalities participating!

7:00 p.m.—Start of Artistical Program of colorful and exciting Folk Dances and Music from many countries of Europe and Asia—Over 10 nationalities performing!

The people from behind the Iron and Bamboo Curtains are the Captive Nations of the 20th Century.

Come and meet them and learn about their beautiful countries and traditions and about their struggle for freedom and human rights.

You will meet people from: Armenia, Bulgaria, Byelorussia, Cambodia, China, Cossackia, Croatia, Cuba, Estonia, Ethiopia, East Germany, Guinea (Equatorial), Hungary, Korea, Laos, Latvia, Lithuana, Poland, Romania, Slovakia, Ukraine, Vietnam.

[From the Ukrainian Weekly, July 22, 1979]

Hundreds Attend CN Week Activities in New York

New York, N.Y.—New Yorkers marked the 20th anniversary of the Captive Nations Week proclamation with a Liturgy, parade and rally on July 15, in which the local Ukrainian community played a prominent role.

Some 300 Ukrainians attended the 10 a.m. Liturgy at St. Patrick's Cathedral. The historic house of worship was filled to capacity with representatives of the captive nations, many of whom were dressed in their national costumes.

The Liturgy was celebrated by the Rev. Dr Walter C. Jaskiewicz of the Lithuanian community, while the Very Rev. Patrick Paschak of Astoria. N.Y., provincial of the Ukrainian Basilian Order in the United States, delivered the sermon.

The Very Rev. Paschak spoke about the plight of the captive nations in the USSR and about the imprisonment of political prisoners in the USSR. Citing the tragedy of the boat people, the Very Rev. Paschak called on the American people and the peoples of the free world to offer at least moral support to the captive nations behind the Iron Curtain and to give concrete support to the victims of communism who have fled their native lands in Asia.

During the Liturgy, three men, who were to have identified themselves as members of the Jewish Defense League, attempted to knock the caps off the heads of some members of the Cossakian representation. They fled the cathedral once people came to the defense of the accosted individuals.

After the Liturgy, the participants of the observance marched to the Central Park Bandshell. The Holy Trinity marching band, under the direction of Kurt Reiheimer was at the head of the parade. The honorary marshalls of the parade were Dr. Ku Cheng Kang, honorary chairman of the World Anti-Communist League; K.C. Dunn, (Chinese), Dr. Ivan Docheff (Bulgarian), Horst Uhlich and Peter C. Wytenus (both of the N.Y. Captive Nations Week Committee).

Also taking part in the parade were Rep. S. William Green (D-N.Y.) and Dr. Ben Fernandez, a Mexican American who is campaigning for the GOP nomination for president.

The rally in Central Park began with the presentation of the U.S. flag and the flags of the captive nations, the singing of the American national anthem by Hiller Saareste, and the reciting of the "Pledge of Allegiance" by Jerry Bianchi, state commander of the Catholic War Veterans.

Mr. Uhlich, chairman of the N.Y. Captive Nations Committee, delivered the introductory remarks.

Dr. Ku, Rep. Mario Biaggi (D-N.Y.), Dr. Docheff and Dr. Askold Skalsky of Hagerstown Community College in Hagerstown, Md. and Dr. Fernandez were the keynote speakers.

The presidential Captive Nations Week proclamation was read by Anna Maria Basic and the governor's proclamation was read by Merike Tomberg-Sheinkin. A series of resolutions adopted by the participants was read by Mr. Wytenus.

Among the Ukrainians to appear in the entertainment program were the SUM "Karpaty" Ukrainian dance ensemble from Yonkers, N.Y., under the direction of Volodymyr Uzedeychuk and Oles Furda and Jaroslaw Halatyn of the N.Y. School of Bandura.

Other performers included representatives of the Estonian, Chinese, Croatian and Crimean Tatar groups.

Mary Dushnyck, UNA Supreme Vice President, served a master of ceremonies.

On Saturday evening, July 14, Dr. Ku, a noted anti-Communist leader from the Republic of China, was honored at a dinner in New York's Chinatown.

Some 300 persons, among them 15 Ukrainians, attended the dinner.

The dinner was opened with a statement by Mr. Uhlich. Mrs. Dushnyck was the master of ceremonies. The invocation was delivered by the Very Rev. Paschak. Also speaking were K. C. Dunn, director of the New York office of the Coordination Council for North America Affairs, and C. P. Tom, president of the Chinese Consolidated Benevolent Association.

In his keynote address, Dr. Ku underlined the importance of a free China in the modern world. He criticized the American government for withdrawing its recognition of the Republic of China, but thanked the American people for the support free China has received from them.

Dr. Ku also spoke about the economic growth of Formosa saying that a similar growth could be experienced in other free countries in the Far East.

Among the Ukrainians present at the dinner were Dr. Walter Dushnyck and Slava Rubel, UCCA; Dr. Stepan Halamay, ABN central committee; Michael Spontak, Ukrainian Liberation Front and vice president of the N.Y. Captive Nations. Committee; Daria Stepaniak and Maria Nesterczuk, Women's Association for the Defense of Four Freedoms for Ukraine; Wasyl Magal, Organization for the Defense of Four Freedoms for Ukraine; Jaroslaw Sawka, Ukrainian Hetman Organization; Dr. Alexander Sokoloszyn, press chairman of the N.Y. Captive Nations Committee; George and Maria Honcharenko, Ukrainian Engineers' Society of America; Mary Pressey, Jaroslaw Rubel, Dr. Roman Holiat and Dr. Osyp Oryshkevych.

[From the China Post, July 20, 1979]

Captive Nations Week Activities Begin Today

Week-long island-wide activities to mark the 1979 Captive Nations Week will begin today with an afternoon lecture at the Taipei City Hall by Mogens Glistrup, head of the Progress Party of Denmark, and Dr. F. Peeters, professor of Hannover and Frankfurt University in West Germany.

The activities will reach their climax on Saturday when a mass rally to be attended by some 3,000 people from all walks of life and foreign distinguished guests, is held at the Sun Yat-sen Memorial Hall in Taipei.

Another mass rally in which some 105,000 people will take part will be held at the Tainan Sports Stadium next Monday and will be filled with speeches by distinguished guests and performances demonstrated by students. Another lecture by John Marquez

Kakumba from Angola and John R. Martyr, a member in the House of Australia, will be held at the Taipei New Park on Friday, when a mainland affairs forum will also be held at the National Chengchi University in the afternoon.

On the Saturday following the mass rally at the Sun Yat-sen Memorial Hall, a forum in which representatives, professors and representatives of news media will participate, will be held at the Grand Hotel in the afternoon.

The theme of the activities is to support the fight for freedom, democracy and human rights going on the mainland of China and to encourage those enslaved people on the mainland to fight against the totalitarian rule of the Communists.

The Captive Nations Week was adopted by the U.S. Congress in 1959 in a resolution which stated that in each year the third week of July will be marked as the Captive Nations Week. The resolution demonstrated the American people's determination to support those captive nations in their fight for their fredom.

The Republic of China adopted the day in 1961.

Distinguished guests coming to Free China this year for the Captive Nations Week activities included: Congressman David Daniel Marriott, Congressman Mariv H. Mickey Edwards, Congressman Gerald B. Solomon from the U.S.; Dr. Juan Manuel Frutos, chairman of the board of directors of the World Anti-Communist League; Dr. Fethi Tevetoglu, president of the World Anti-Communist League Turkey Chapter; Seijro Niki from Japan; Anibol Raul Casal, secretary of Free China-Paraguay Association; Ali Moghram Al-Ghamdi from the Kingdom of Saudi Arabia; Michel-Mariade Rostolan from France and many others.●

SHATTER THE SILENCE, VIGIL 1979

The SPEAKER. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 5 minutes.

● Mr. AuCOIN. Mr. Speaker, as part of the "Shatter the Silence, Vigil 1979" on behalf of Soviet Jewry. I want to bring to the attention of my colleagues once more the plight of the Solomon Alber family in the Soviet Union.

Last year before this House, I detailed the distressing circumstances of the Alber family. I was hoping that this year I would be able to report that at long last they were allowed to emigrate. But unfortunately, this is not the case; I do not have good news to share with you today. Indeed, all I have to report is the same story, the same story of harassment and violation of fundamental human rights. Solomon Alber and his courageous family are still in the Soviet Union.

Let me recall for you the plight of the Albers. Mr. Alber, a mathematician and physicist, was director of a computer research laboratory when he applied for emigration visas for himself and his family. He was refused in 1975 and, as a consequence of the application, he was demoted. His wife, Evangelina, a physician, lost her job as a pathologist.

News about the family's application refusal spread quickly in their small scientific community outside Moscow.

On June 23, 1976, the New York Times reported that Mr. Alber's 15-year-old son, Mark, had become the target of an officially inspired campaign of threats and violence. First, his fellow students began the "silent treatment," refusing to speak to him. Then, as the shunning wore off, they taunted him, calling him "Jew, Jew, Jew" in derisive tones. Later, Mark was twice beaten, once into unconsciousness. Nevertheless, the police took no action, even though they apparently knew the identity of the assailants.

Shortly after this, a 3-ounce metal ball was shot through the third floor bedroom window in the Alber home. Fortunately, neither Mark, nor his younger brother, Ilya, were in the room at the time. Still, the police dismissed the incident as a prank.

Sadly, this is not an unusual story. It is typical of many other stories we hear about Soviet Jews.

But is is not enough to lament these stories and wish things were different. It is not enough to hope that someday the Soviet Union will implement a policy of free emigration.

What is to be done? Many Members of this House have already written countless letters and spoken out on behalf of Soviet Jews, urging that they be allowed to emigrate. This is a start. We must let the leadership of the U.S.S.R. know these people are not forgotten.

But we can do more. We can all bend our efforts toward those policies which provide our Government with maximum leverage in carrying out our concern for international human rights.

This is a critical time. In response to current initiatives in arms limitations and the upcoming Olympic games, we have seen a growing number of Soviet Jews leaving the U.S.S.R. If the rate continues, maybe Solomon Alber and his family will eventually be among those allowed to leave.

But what happens after these events pass? What will happen to the "refuseniks" and prisoners of conscience when there is no longer a pending summit or treaty to elicit continued high levels of emigration? We simply must have more flexible tools for the United States to use on behalf of these people.

With the support of this House for such policies, perhaps next year I will be able to report to you that the Solomon Alber family is free.●

ENERGY ARTICLE NO. 2: OCEANIC BIOMASS—A RENEWABLE ENERGY SOURCE

The SPEAKER. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 10 minutes.

● Mr. ALEXANDER. Mr. Speaker, for 120 years, since the discovery of oil in this country, we have unceasingly exploited a nonrenewable resource. We have built our economy on an oil foundation but we have done it by mortgaging the future for the expediency of the present. The energy shortages we are now suffering are harsh notices that the mortgage must now be paid. We must redesign our energy profile and build upon a mix of renewable energy sources.

As the "water" planet, our oceans can provide energy from a number of varied sources: tides, waves, currents, ocean thermal, and biological matter. As a member of the new National Alcohol Fuels Commission, one of our responsibilities will be to investigate the potential for alcohol fuels from biomass, including oceanic crops. The fastest growing crop in the world is giant kelp. This oceanic plant can grow as much as 2 feet a day and reach a height of 200 feet in less than 5 months. Giant kelp is already harvested commercially and constitutes a vital ingredient in paint, cosmetics, pharmaceuticals, textiles, and many of our foods. Investigations are now underway to create and cultivate giant kelp farms which could be harvested and the biomass used to contribute to our national energy supplies. It has been estimated that a 100,000 acre kelp farm could conceivably supply enough energy to power a city of 50,000 residents.

I would like to share with my colleagues an article which appears in the June issue of American Airlines magazine, American Way, entitled "Kelp Help." I believe if we look seaward we will find many of the solutions to the energy, food, and nonfuel mineral problems which confront our country.

The article follows:

KELP HELP

(By James C. Simmons)

If most people think about it at all, it's as a nuisance—a worthless weed best eradicated. Its long, rubbery, leafy strands foul the beaches after storms, attracting clouds of pesky flies and giving off a noxious stench. Fishermen curse it when their lines get hopelessly entangled in its meshes. Sailors hate it when their pleasure crafts become mired in the leafy embraces of the kelp plants lying just below the surface.

Actually, the giant kelp is one of nature's most fascinating and exotic plants, and one that has become such a fundamental part of the modern American scene that it would be difficult to imagine life without it.

Giant kelp, or *Macrocystis pyrifera*, as it is known to scientists, is the fastest-growing plant in the world. Under ideal conditions one plant can grow as much as 2 feet a day and reach a height of 200 feet in less than five months, earning it the nickname "Sequoia of the Sea."

There are very few areas in the world where conditions are such that the giant kelp can grow and thrive. It requires an abundance of sunlight, a strong ocean current to bring up the nutrients from the bottom, a rocky ocean floor for the plant to take hold, and cool water temperatures. In the Northern Hemisphere the giant kelp is found only off the Pacific coast of North America.

When conditions are right, the giant kelp flourishes in vast marine forests. For the scuba diver the experience of a kelp forest is unforgettable. The tall vines and leafy blades sway rhythmically in the steady, cool ocean currents; thousands of tiny gas-filled bladders keep the huge plants upright. Unlike the land varieties, these marine "sequoias" have no root structures. Instead, clumps of branching pencil-size strands called holdfasts cling to the bare ocean bottom. There are seasonal changes to these marine forests, just as with the terrestrial ones. In summer the warmer ocean temperatures cause the plant's blades to loosen, then detach, and drift slowly down toward the bottom, like the autumnal shedding of leaves in some New England forest. As each strand matures, it breaks loose to drift away. The kelp forest thus completely rejuvenates itself every two years.

The kelp forests are home to vast menageries of aquatic life. As long ago as 1834, a youthful naturalist, Charles Darwin, marveled at the "number of living creatures of all orders whose existence intimately depends on kelp." They come to the forests by the hundreds of thousands to seek both refuge and food. Kelp crabs and shrimp scurry among the stems of the holdfasts, which offer a haven as well to the more timid octopi and serpent stars and the sedentary feather-duster worms and anemones. In the dense tangle of leafy stalks reaching up more than 100 feet, schools of brightly hued fish swim through the shadows laced with rays of sunlight. Calico bass, kelp fish, and croakers hang motionless in the branches of the kelp, following the scuba diver's every move with cautious curiosity. Fiercely territorial garibaldi fish flash a brilliant orange as they pugnaciously defend their nests against intruders.

Ken Wilson, a marine biologist who has studied the kelp forests as fish habitats, says, "A rocky bottom cannot support more than 100 pounds of fish per acre, but the same area covered with kelp can support three times as much." Indeed, marine forests of giant kelp are boons to both sport and commercial fishermen. Without them, Americans would have far fewer lobsters, abalones, bass, perch, and rock scallops for their dining tables.

But kelp benefits mankind in many other ways as well. Long before Columbus crossed the Atlantic, the Indians of the Pacific Northwest boiled its blades to make soup and stretched and dried its tough, cablelike stalks to make fishing lines. Today kelp is the basis for a multimillion-dollar industry that intimately affects the daily lives of nearly every one of us. The center for that industry is San Diego, sometimes called the kelp capital of the world because of the luxurious growth of its kelp forests just offshore.

Giant kelp is rich in algin, a marvelous substance that gives the tall stalks the resilience they need to withstand the constant pulling and tugging of the waves. Properly extracted, algin is one of the sea's most miraculous gifts. Dr. Wheeler J. North of the California Institute of Technology and a leading authority on giant kelp, is quick to add up some of algin's many benefits:

"As an emulsifier, it binds oily and watery fluids together, processors use it to prevent salad dressings and other products from separating in the container. As a suspender, it helps keep pigment particles mixed with the carrying liquid, and so finds use in such items as paints, cosmetics, and pharmaceuticals. As an aid in controlling viscosity, it can do such things as make ice cream smoother and packaged cake icings stiffer."

Algin is also used in the printing and paper industries, textile dyeing, and ceramics to brighten colors and keep them from running together. Carpets, drapes, and upholstery fabrics are coated with alginates to prevent shedding and to enhance dyeing.

San Diego's Kelco, the largest producer of algin, is one of only a handful of companies in the world commercially harvesting kelp. For an industry based on such a limited and ecologically vunerable resource (two weeks of water temperatures above 68 degrees Fahrenheit will wipe out an entire kelp forest), Kelco's sprawling operations suggest that business is booming and likely to improve as new uses for algin are discovered. The company employs more than 800 people—from chemists and biologists to sea captains and scuba divers.

Kelco has a fleet of five modern harvesters, cumbersome and ugly contraptions, which superficially resemble oil tankers. They operate like giant, seagoing lawn mowers, pushing large cutting racks through the tops of the kelp forests and gathering the cut kelp onto conveyor belts which carry it aboard. By law the kelp must be cut only three to four feet below the surface to allow quick regeneration of the plants. Each ton of kelp yields up to 60 pounds of finished algin power.

Kelp is big business. The state leases the kelp forests off California to private corporations to harvest. Kelco owns leases on 70 square miles of kelp forests and tends them as carefully as farmers tend their fields. The company's scuba divers call themselves "sea farmers" and with good reason: They may work 80 feet down on the ocean bottom with air tanks strapped to their backs, but their chores are the same as those of any farmer—seeding, transplanting, weeding, and pest control. Kelp is much too valuable a resource to leave its management to chance and nature. In the 1950s a plague of lowly sea urchins destroyed most of the kelp forests off California. Today periodical dusting with quicklime kills the sea urchins without harming other forms of marine life.

Some scientists see kelp fulfilling far more important roles in the not-so-distant future. One of these is Howard Wilcox, a civilian scientist at the Naval Undersea Center in Sand Diego, who believes that giant kelp can make a significant contribution to the nation's energy supplies. Properly processed, kelp yields methane gas, liquid fuel, plastics, and many other products we now get from petroleum. Wilcox foresees vast floating plantations of kelp, anchored to huge rectangular grids suspended 40 feet below the ocean's surface. A 100,000-acre kelp farm could conceivably supply enough energy to power a city of 50,000 residents.

If such ideas appear overly visionary to some, they do not to the Department of Energy, the American Gas Association, and General Electric, all of whom are heavily committed to the first such pilot project, already in place off Los Angeles. Wilcox, who headed up the project in its early years, thinks it has already proven its commercial viability. "By the early 1990s the first of these large plantations will be in place, and it will pay off like a slot machine," he predicts confidently.

Until then, give silent thanks to the giant kelp plant, sorely maligned and rarely understood, when next you quaff a brew. After all, it was algin that put a head on your beer.●

A NATIONAL MUTUAL HOUSING CORPORATION

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

● Mr. BINGHAM. Mr. Speaker, I am introducing a bill today to create a National Mutual Housing Corporation to promote the development of mutual housing associations. MHA's are private organizations which develop and manage multifamily housing projects for low- and moderate-income people in inner-city areas. The need for such organizations is apparent when one looks at the housing needs of my district in the Bronx and other inner-city areas throughout the United States.

The private market for multifamily housing for low- and moderate-income people has broken down in most inner-city areas. The high cost of construction has drastically slowed the production of such housing, and the high cost of maintenance has often led to rapid deterioration. Yet if the exodus of working class citizens from inner-city areas is to be stopped, affordable multifamily housing must be provided. The U.S. Department of Agriculture predicts a demand for 700,000 new multifamily units per year through the year 2000, but the U.S. Homebuilders Association estimates that fewer than 500,000 will be built per year on the average.

The principal strategies developed by the Federal Government to deal with these problems are public housing and subsidies to private developers to build multifamily housing. Both approaches have had, at best, mixed results. Public housing has been very expensive to build, and management has often been poor and bogged down by redtape. Private developers are most interested in earning the profit from building the housing. The high cost of maintenance often results in poor management once tenants move in. Mutual housing, a form of housing extensively developed in Western European countries and Canada, is a workable alternative to these two approaches in the United States.

A mutual housing association is a private, not-for-profit corporation created to develop and manage multifamily housing for low- and moderate-income people in inner-city areas. The MHA is run by housing professionals experienced in the production and management of inner-city multifamily housing. A key element in the operation of a mutual housing association is the requirement that all residents of the association's housing developments be members or stockholders in the association. This assures the residents the opportunity to take part in setting policy for the management of their own housing.

There are a number of dimensions to the operation of a mutual housing association. First, the MHA conceives and plans the development of the mutual housing projects. This involves evaluating the housing needs of a particular urban area, deciding on the appropriate kind of housing development, selecting a proper site and putting architects to work designing the housing.

Second, the MHA takes responsibility for raising the capital necessary to finance the construction, purchase or rehabilitation of the housing. Since an MHA develops and operates a number of housing projects, it can have substantial capital resources of its own on which to draw in financing additional projects. Further, an established mutual housing association operating a number of housing projects is in a strong position to gain financial assistance from banks.

Third, the MHA hires a contractor to undertake the construction or the rehabilitation of the housing. The MHA's experience in dealing with contractors insures that the contractor will be reliable and that the housing built or rehabilitated will be sound.

Fourth, in order to become a resident in a mutual housing project, a person must first become a member or stockholder in the association. The option to become a member in the association and pay rent rather than purchase stock makes the mutual housing project accessible to lower income people without capital to invest. After an individual becomes a member or stockholder in the association, he is put on a waiting list and is provided housing once it becomes available. This approach creates a pool of prospective tenants to fill the housing projects when they are ready for occupancy. A market for the housing thus is created before the housing is built. Also, by requiring prospective residents to become members or stockholders in the association, the MHA creates a source of capital to finance the housing projects.

Finally, when the housing is ready for occupancy and the tenants move in, the MHA shares responsibility for setting management policy with the tenants. The tenants choose an advisory board which, in conjunction with the MHA, decides such questions as the amount of maintenance and security the building will have. The MHA is responsible for implementing the policy established.

The ownership of the housing remains in the mutual housing association. The MHA is responsible for meeting the long term financial commitments undertaken in building, purchasing or rehabilitating a housing project. This insures ongoing responsible ownership and guarantees continued tenant participation in setting policy for the management of their housing.

The policy of the mutual housing association itself is set by a central board of directors. The board is elected by a vote of all the members and stockholders of the association, who are the residents and prospective residents of the various mutual housing projects. Thus, although the residents of each individual project do not have actual ownership control of the project, they take part in electing the central board of directors which sets policy for managing the ownership interest and for developing new housing projects. This guarantees that the mutual housing association remains responsive to the interests of the residents of the mutual housing projects.

There are several advantages offered by the mutual housing approach to inner-city multifamily housing. The MHA is a permanent institution committed to providing multifamily housing to inner-city families. It would be willing to undertake housing developments in areas that profitmaking concerns would be reluctant to enter. Further, the MHA retains control of the housing it builds, rehabilitates or purchases, thereby insuring continuous responsible management. This prevents the milking of properties that often occurs when private developers manage housing. In addition, since the MHA is a private corporation, the Government expense and redtape involved in public housing is avoided. Finally, the tenants are involved in setting the management policy for their own housing. This develops greater tenant concern for maintenance and helps reduce management costs. Further, it insures management responsiveness to tenant interests.

The mutual housing association also remedies three of the major defects which plague traditional cooperative housing projects in the United States. First, the mutual housing association is committed to promoting and developing new housinng projects. Current cooperative housing projects are usually one-shot deals, with no concern about developing additional projects for people in need of housing. The bylaws of a mutual housing association require that a majority of the members of the governing body of the association be representatives of people applying for housing, rather than those already occupying mutual housing. This assures that the principal concern of the association will be in producing new housing for people in need. Second, since the tenants do not actually own a housing project, they are unable to sell the building when it becomes profitable and end its cooperative nature. This often occurs in traditional cooperative housing projects. The MHA retains ownership of the mutual housing projects once they are built. Third, since the mutual housing association develops and manages a number of housing projects, it can build large capital resources with which to undertake new housing projects. Groups interested in developing cooperative housing projects have traditionally had great difficulty in raising sufficient capital. Even with the creation of the new National Consumer Cooperative Bank, this is likely to remain a significant barrier to the development of individual cooperative housing projects.

Current Federal programs to assist cooperative housing fail to meet the basic problems confronting housing cooperatives. Such programs as those set up under sections 213, 211(d)(3)(and the now inactive 236 of the National Housing Act of 1934 have provided mortgage insurance and mortgage interest rate subsidies to housing cooperatives. Without question these programs have provided valuable aid resulting in the production of thousands of units of cooperative housing. Yet they do not address the fundamental problems of responsible housing construction and management that determine the survival of a housing cooperative once it has been built. Nor do they provide the stimulus for the development of new housing for people in need that a permanent, dynamic institution such as a mutual housing association would provide.

The mutual housing approach to urban housing has been adopted with great success in several Western European countries; West Germany, Sweden, Norway, and Denmark have had national mutual housing systems in operation for over 20 years. The West German system has been in operation since the end of the 19th century, and currently accounts for 30 percent of the housing in the country. The system is national in scope, with nearly 1,500 local associations, 10 regional centers and a central national organization called the Head Federation. The mutual housing system is the principal source of housing production in West Germany. Great Britain and Canada have recently adopted major housing policies incorporating the basic mutual housing concepts.

If mutual housing has been so successful in these Western democracies, it may also be a workable alternative for the inner-cities of the United States. The Association for Middle Income Housing in New York, an organization with a long record of achievement in the development of cooperative and rental housing, has established the first American mutual housing association in New York City. The Metropolitan Mutual Housing Association, Inc. has already developed plans for two multifamily housing projects, one in the South Bronx and one in West Harlem. The project in the Melrose section of the South Bronx will offer 170 units of housing for low and moderate income people. The West Harlem project will provide 200 1- and 2-bedroom apartments for people of low- and moderate-income.

Despite the promising start in New York, mutual housing is an unfamiliar concept in the United States. If it is to get off the ground in cities around the country, a mechanism must be created to promote its development. The bill I have introduced today would establish a National Mutual Housing Corporation to encourage the development of mutual housing associations in cities around the United States. The Corporation would be run by a Board of Directors made up of the Secretary of HUD, the Chairman of the Board of Directors of the National Consumer Cooperative Bank, the Administrator of the National Credit Union Administration, two members representing the views of mutual housing associations, two members from the general public with extensive experience in cooperative housing, one member representing the views of the housing industry, one member representing the views of financial institutions, one member representing credit unions, and one member representing the consumer cooperative movement. The Corporation would be an independent public entity which would assist organizations and groups of individuals interested in forming mutual housing associations. It would provide such groups with technical assistance in planning and organizing the MHA, small grants to assist in planning and organizing, and assistance in applying for aid from HUD and other Federal agencies. The Corporation would conduct studies to determine different means by which to assist in the development of mutual housing associations. It would also make legislative recommendations to Congress concerning ways in which existing Federal programs could be better utilized to assist mutual housing associations, and suggesting new programs to assist such associations. The purpose of the Corporation would be largely educational, informing groups around the country about the mutual housing concept and assisting them in starting mutual housing associations. The associations would remain independent and would have to be able to function on their own. The Corporation, with a small amount of Federal Government money, would be midwife to the birth of the mutual housing concept in the United States.

Mutual housing responds to a critical problem of urban America—the shortage of multifamily housing for low- and moderate-income people. While new to the United States, the concept has a long track record of success in Western European democracies culturally similar to our society. The concept deserves to be tried in this country. With a small amount of money, the Mutual Housing Corporation could assist in the implementation of a concept that holds great promise for the future of America's cities.●

COMMENTS BY HON. LESTER L. WOLFF ON PETITION FOR ASSISTANCE ON HIGH SEAS TO VIETNAMESE BOAT PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 15 minutes.

● Mr. WOLFF. Mr. Speaker, I rise to call the attention of the House of Representatives to the following petition and lists of signatures which have been delivered to my office.

The petition calls on the President to order the U.S. 7th Fleet to assist refugees on the high seas fleeing from Vietnam. It also calls on the United Nations High Commissioner for Refugees to work with the United States in housing those refugees in facilities in countries of first asylum.

We are pleased that President Carter has issued an order providing for ships of the U.S. Navy to assist boat people on the high seas. We are pleased that the Philippines have made a site available for a refugee facility accommodating 50,000 people. Indonesia has offered another island which will accommodate 10,000, for which we are also grateful.

Thus, the purpose of this petition has already been advanced. Lives are being saved and, in a real sense, first aid has been provided in a drastic situation. But we should be alert to the further challenges of continued provision of sufficient first asylum facilities so that all refugees have adequate shelter and food. We must continue to exhort our friends in other nations to increase their acceptance of Indochinese for resettlement. The Subcommittee on Asian and Pacific Affairs will continue to work toward those ends.

The material follows:

PETITION ON BEHALF OF BOAT PEOPLE SUFFERING IN SOUTHEAST ASIA

Whereas the refugee crisis in southeast Asia, particularly the boat people, has become a human tragedy of appalling proportions, which in the absence of urgent measures may cost the lives of half a million people at sea, and

Whereas each hour that passes scores of human lives are being lost in the South China Sea for want of a rescuing hand, and

Whereas when confronted with losses of human lives of such magnitude, humanity can not simply watch it happen and still be worthy of the name of "humanity,"

THEREFORE

We humbly call upon the United States Congress and President Jimmy Carter to send vessels from the Seventh Fleet to rescue refugees now drifting at sea.

We call upon the United Nations High Commissioner for Refugees to work with the United States to bring those refugees to a number of countries which have indicated a willingness to accept refugees on a temporary basis:

Na-Griamel Federation of the New Hebrides, a group of islands in the South Pacific, presently under French and British dominion, and which will become independent in 1980 (see material attached)

Bolivia, which has announced that it will accept refugees for temporary or permanent resettlement

Indonesia and the Philippines which have offered a number of islands to be used as special processing centers for refugees, which can be utilized as emergency holding centers for the boat people. Red tape and bureaucratic procedures should not be permitted to stand in the way when thousands of human lives are at stake.

Guam or a territory of the Socialist Republic of China.

We the undersigned support this call for emergency decisive action:

OVERSEAS

Phan Kim Tinh, France, Tuong Tu Phong, France, R. Duprat Albert, New Caledonia, Bui Van Thinh, France, Le Thi Trang, New Caledonia, Doan Van Linh, France.

VARIOUS ADDRESSES

Louise Van Hoozer, Savannah, Mo., Billy Brunson, Guam M. I., Le Van Minh, Portland, Or., Kim Thanh Giang, Portland, Nguyen Ngoc Ha, Oklahoma City, Tran Thi Kim Cuc, Wenatchee, Wash., Tri Tran Van, Tacoma, Wash., Dr. Anthony T. Bouscaren, Syracuse, N.Y., Susan Czajkowski, S. Creek, N.Y.

ALASKA

Van Long Nguyen, Karen Nguyen, My Dung Thi Nguyen, Matthew Iya, Veronica Iya, Joyce Bridgewater, Robert Phillips.

ADDRESSES UNKNOWN

Ngoc Pham, Huong Pham, Yen Pham, Nguyet Pham, Nga Pham, Van Pham, Dung Pham, Larry O. Daniel, Sam E. Jones, Margaret Padget, Lester Padget, Elenor Cardosa, Gordon Hardy, Inge Hardy, Marilyn Toby Meyer, Edwin G. Wilbig, Marianne V. Wilbig, Jean King, John Hurchalla, Olive Moore, Donald E. Shay, Edwin A. Pearce, Wesley F. Ratzel, Rosemary Pearce, Sherry Jones.

Caroline Johnson, Sue Davis, Alberta Hunycutt, Ruth M. Doyle, Jeremiah W. Doyle, Barbara White, Wayne O. Jefferson, Sara F. Shay, Cheryl Boyd, Nancy N. Nystrom, Billie Cole, Lou Ebejer, F. T. Runyan, Le Grande Cole, Hazel Cole, Carolyn Standerwick, Mildred F. Johnston, Sam E. James, Virgie E. Jones, Neil L. Huard, Carol L. Bates, Patti Sheridan, Winfield P. Niblo, Estelle P. Niblo, Elva Harrison, Josephine Hiu.

CALIFORNIA

Sieu Nguyen, Lam Thi Nhu Hoang, Hien Lam, San Hoang Nguyen, Ha Thuc Nhu Hy, Dieu Thuc Ha, Nguyen Thi Be.

PENNSYLVANIA

Mung Thi Ta, Kim Thuy Pham, Hoang Kim Pham, Trung Quang Pham, Chanh Tat Pham, Tran Ngoc Minh, Shirley Estocin, Lucy Brinza, Elizabeth Malay, Linda F. Close, James E. Husband, Ninh N. Tran, M.D., Liem Duc Nguyen.

Dung Vu, Kim Loan Nguyen, Huong Thao Nguyen, Dat That, Cuong Nguyen, Nguyen Huy Tan, Hoang Ngoc Can, Nguyen Thi Khanh, Phung Thi Chanh, Nguyen Thi Buu, Nguyen Thi Trang, Thinh Xuan Nguyen, Duong C. Tran, Le Khac Bi.

Tran Dai Luong, Tuan Huu Nguyen, Hai Van Pham, M.D., Huynh Thi Phuc, Nguyen Thi Le Quyen, Nguyen Kim Chi, Pham Thien Tu, Mai Thanh Doan, Nguyen Van Dan, Nguyen Xuan Sinh, Nguyen Chinh, Do Thuy Dzu.

Mai Thi Nguyen, Thuan Van Tran, May Yeu Tran, Lan Thi Nguyen, Quang Pham, Cao Anh Dung, Huong Thi Nguyen, Van Thi Nguyen, Dzung Duc Nguyen, Nguyen Ai Trinh, Phu Dang Nguyen, Nghi Huu Do, Thuy Nguyen, Kim Hue Nguyen, Phan Vu.

TEXAS

Tran Thi Hoang, Vu Duc Dung, Vu Thi Nhung, Vu Quang Vinh, Vu Van Manh, Lynn Lauderback, Martha A. Jimenez, Mai, Tuyet Thi Tran, Hector Oropeza, James C. Jackson, Carol Kelley, F. Ferre.

Mai Trang Tran, Pinky Wong, Rosanna Chan, Jone Ann, Lloyd Price, Dominique Wong, Charlette Hickson, Anneliese Wood, Susie Sappington, Si Tran, Lan Tran, Phuong Tran.

Mary H. Mate, Joni Gonzales, Elizabeth Fox, Thomas Rohrig, J. Mayor, Thuan Lam, R. Magrans, Nguyen Tang Hung, Oanh Kim Nguyen, Hoa Nguyen, Hung Nguyen, Ba Van Nguyen, Joseph Hoa V. Nguyen, Rosemary Jersak.

Dang Van Minh, Nguyen Van Thai, Thao Dinh Tran, Gioan Van Doan, Binh Van Nguyen, Sr. Clotilda Hue, Pham Treu Minh, Xuan Lap Nguyen, Vu Chao Van, Ngo Hoan Manh, Ngo Thanh Dinh, Vo Tri Quang, Vu Ban, Truong Van Nguyen, Hoan Thi Nguyen, Tran Family, Mao Tien Trinh.

WASHINGTON, D.C. AND VICINITY

David W. Harris, Nguyen Van Phuc, Ken Favorite, Hideaki Sakamoto, Vinh Ho, Tang Lien, Tang Vu Kai, A. B. Moore, Robert S. Bedell, U. Nu Ton, Alice B. Powers, Mary B. Dusak, Patricia B. Skelly.

Nancy Jean Walsh, Mary Bedugnis, Winfield W. Xisson, Viola G. Huard, Jane M. Rivers, Frank L. Rivers, Gladys Brooks, George Brooks, Rose Murphy, Dorie Huffman, Mrs. J. W. Widner, Eileanor Jefferson, Dale Wofford, Catherine M. Wallace, Jane Moeder, Mrs. Jack E. Treadway, M. Courtenay Forman.

Evelyn L. Cressman, George R. Cressman, Thi Xuan Que Pham, Le Thi Anh, Hanh T. Nguyen, Hanh T. Nguyen, Sammy Helms, Truan Thi Pham, Quach Thu Vinh, Thai Grieves, Nguyen Ngoc Diep, Nguyen Ngoc Dung, Nguyen Thien Nam, Nguyen Thi K. Lieu, Truc Mai Phelps, Nancy Shuba.

John F. Hogan, John K. Kim, Nancy S. Buck, Ba Van Le, Ro Thi Son, R. J. Smith, Lawrence J. Stark, Arta Lehn, Le Thi Khanh Van, Ann Murtha, John Murtha, Clare J. Murtha, Nguyen Duc Liem.

Jean A. Sauvageot, Huong Sauvageot, Tr. M. Le, Elizabeth Berger, Samuel D. Berger.●

FEDERAL EMPLOYEES DENTAL BENEFITS ACT OF 1979

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. CHARLES H. WILSON) is recognized for 10 minutes.

● Mr. CHARLES H. WILSON of California. Mr. Speaker, in 1959 the U.S. Congress passed landmark legislation, the Federal Employees Health Benefits Act of 1959, which provided one of the first major steps toward bringing the Federal employee and the Federal Government as an employer into parity with the employees and major employers in the private sector. The Federal employees health benefits program has been an outstanding success. It has proven to be attractive to employees and has been administered at a minimum cost to the Government. In addition, it has had the effect of upgrading the quality of health benefits coverage offered by many other public and private employers.

Today I am introducing a bill to provide a Federal employees dental benefits program which is patterned closely after the successful Federal employees health benefits program. This proposed bill would offer Federal employees, as many employees in private sector already have, the opportunity to obtain insurance coverage to help meet their dental care needs.

The growth of dental insurance in the United States has been spectacular, particularly when one takes into account that much of its rapid growth occurred during a period of economic uncertainty and an extraordinary inflation in the cost of medical care benefits. In 1960, when three-fourths of the people had hospitalization insurance and two-thirds had some form of protection against physicians' bills, fewer than one-half of 1 percent had any kind of dental coverage. At the end of 1978, an estimated 22 percent of the population, or more than 55 million individuals were covered by some form of voluntary dental benefits program. Through collective bargaining, major labor unions and industries have taken the position that dental care is a necessary and integral part of health care protection. This influence has helped to bring dental insurance to the steel, automobile, communications, airlines, chemical, and other industries, with an estimated coverage by 1980 of over 60 million persons.

Dental disease is almost universal. More than 100 million man-hours are lost in business and in industry annually because of dental disease. One-fifth of our civilian population has already lost all of their natural teeth. Of those who still have their teeth, one out of four have destructive periodontal disease. An estimated 4 million have improperly fitted dentures. Absenteeism and reduced effectiveness on the job because of dental disease is costly to industry and to the worker. Household interviews of the civilian noninstitutionalized population revealed that there are 3.1 acute dental conditions per 100 persons per year, and that dental conditions account for 12.6 days of restricted activity and 4.7 days of bed disability per 100 persons per year. (National Health Survey, Acute Conditions, Incidence and Associated Disability, United States, July 1976–June, 1977 DHEW Publication No. PHS 78-1553.)

Much of this disease can be prevented simply by obtaining good dental care on a regular basis. But only half the population sees a dentist for any reason in a given year and half of those do so only for emergency treatment. Dental insurance benefits can help this situation by providing an important incentive to individuals and families to obtain regular dental care, which in the long run will help avoid dental problems resulting from long-term neglect.

As outlined in my proposed bill, the Federal employees dental benefits program would contain the following major elements. First, Federal employees would have an individual choice among four different types of dental benefit plans, which are similar to those provided under the existing FEHBP program.

Second, the bill would vest in the Office of Personnel Management the responsibility for the administration of the program. OPM now administers the programs providing retirement and disability benefits, life insurance, and health insurance for Federal employees and retirees, and has demonstrated its capability in the implementation of those programs. The Office of Personnel Management would be authorized and directed to issue regulations necessary for such administration, and it is expected that, to the extent possible, the eligibility requirements, systems for withholding employee contributions, and contracting procedures would be identical or similar to those provisions in the Federal employees health benefits program.

The one significant administrative requirement applicable to only the Federal employees dental benefits program would be that of requiring payment of the total employee's share of premiums for periods of disenrollment as a condition of reenrollment. This requirement is necessitated by the elective nature of dental treatment.

As far as covered dental benefits are concerned, the emphasis in my bill would be placed on preventive dental care. Most dental disease is cumulative. If disorders are treated early and preventive care continued, the overall health of the individual will be benefited, and the far greater cost of restorative care for teeth that have been neglected can be avoided. The bill provides that, while coinsurance can be placed on other benefits, the diagnostic and preventive benefits required by the bill cannot be subject to deductibles or coinsurance.

With respect to costs and contributions of the Federal employees dental benefits program, the bill specifies that the Government contribution for employees and annuitants enrolled in dental benefits plans shall be $2 biweekly for self-only enrollment and $6 biweekly for a self and family enrollment. This amount is intended to represent about one-half the cost of a reasonable basic coverage for large groups of employed persons. Within that amount, covered services may be expected to be fairly uniform over the several categories of the plan. However, it is expected that the indemnity and service benefit plans will have coinsurance features greater than the health maintenance organization type plans. On the other hand, the indemnity and service benefit plans will offer a wider choice of dentists and, therefore, a greater degree of convenience in most instances. Because the eligibility requirements are almost identical with those of the Federal employees health benefits program, it is anticipated that the enrollment in the dental program will closely approximate the enrollment in the FEHBP. On an annual basis, the proposed contributions by the Federal Government are $52 for self-only enrollees and $156 for family coverage.

The provisions of this program relating to the enrollment of employees and annuitants in dental benefit plans and payment of employee contributions would take effect on the first day of the first pay period which begins on or after December 31, 1980.

Mr. Speaker, dental insurance is the one remaining major gap in comparable benefits for Federal employees. Enactment of a sound dental benefits program, as outlined in this proposed legislation, would help to make the Federal Government's employee benefit policy comparable with large segments of private industry. A contributory dental benefits program with emphasis on preventive dental care would also increase the efficiency of Federal employees by encouraging them to seek dental care thereby enhancing their general health and productivity.

I urge my colleagues in the House of Representatives to join me in supporting this worthwhile and needed legislation to help insure equity and comparability for Federal employees.●

THE IRA-EMPLOYER COORDINATION ACT OF 1979

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. CORMAN) is recognized for 5 minutes.

● Mr. CORMAN. Mr. Speaker, on January 15, I introduced H.R. 628, which would provide significant retirement relief for our highly mobile American work force.

Under existing law, an employee is generally permitted to contribute up to 15 percent of compensation or $1,500 (whichever is less) to an individual retirement account (IRA). The IRA contribution is tax deductible in the year for which it is made and taxation of amounts held in an IRA (including investment earnings) is postponed until the account is distributed after retirement.

Present law does not allow an IRA deduction to an employee who is an active participant in a tax-qualified plan. This exclusion creates a cruel hardship for mobile employees who, because they change jobs frequently, cannot expect to earn vested rights under the plans in which they are considered to be active participants. Many of these plans, covering large numbers of persons, require an employee to complete 10 years of service before obtaining a vested right to plan benefits. The Department of Labor (DOL) reports that the job tenure of

American workers decreased to 3.6 years per job in 1978. The DOL also noted that for 1978, men averaged 4.5 years per job and women averaged 2 years. These averages tell the story of mobile employees who cannot rely on qualified plans for retirement income and who are not allowed to use self-help, in the form of an IRA, to provide for retirement. This group of mobile Americans makes up a significant portion of our work force; it includes scientists engineers, secretaries, and nurses.

H.R. 628, the IRA-Employer Plan Coordination Act of 1979, addresses the problem of mobile employees and others who obtain little or no benefit from qualified pension plans.

First, the bill would permit an "active participant" in a qualified plan to make deductible IRA contributions up to the usual IRA limit (presently 15 percent of compensation or $1,500 whichever is less, per year) until the employee obtains 100 percent vesting under the plan.

Second, when a employee obtains 100 percent vesting, the value of the vested plan benefit would be determined and that amount would be distributed by the IRA. If the value of the vested benefit exceeds the balance of the IRA, the IRA balance would be distributed. These IRA distributions would be taxed as ordinary income but would not be subject to the 10 percent excise tax on early withdrawals from IRA's.

Third, after an employee has obtained a 100 percent vested right to plan benefits, deductible IRA contributions could be made each year to the extent the usual IRA deduction limit exceeds the value of the additional benefits the employee earned under the plan that year.

In addition to providing active plan participants a deduction for IRA contributions, the bill allows an alternative deduction for employee contributions to a qualified plan. Under the bill, the limit on deductions for employee contributions to a plan are the same as the limits on IRA contributions except that in the case of mandatory employee contributions to a plan, not more than $100 per year would be deductible.

Mr. Speaker, H.R. 628 would address the retirement problems inherent in our mobile work force, would expand savings essential to investment and growth, and would give an added incentive to Americans to provide for retirement.

The Senate and the House have each passed legislation with similar goals in the past two Congresses, but nothing was enacted.

H.R. 628 now has 51 cosponsors and I hope the 96th Congress will see its enactment.●

A TRIBUTE TO ORVILLE REDENBACHER

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. FITHIAN) is recognized for 5 minutes.

● Mr. FITHIAN. Mr. Speaker, I would like to take a moment to share with you the impressive record of one of my constituents, Orville Redenbacher. As a result of years of hard work and initiative, Orville Redenbacher has gone beyond recognition in the agricultural community for his achievements to become a widely known personality for his success at developing hybrid popcorn. This September, he will be honored in the district I have the honor to represent as Popcorn King at the first annual Popcorn Festival.

Popcorn has played a role in Orville Redenbacher's life almost from the day he was born 72 years ago on his father's farm in Clay County, Ind. Yet, who would have known then that the enterprising boy who earned his spending money by raising popcorn would become America's Popcorn King.

The bow-tied, silver-haired agronomist earned that title after dedicating 35 years of hard work and research to perfecting America's favorite—and oldest—fun food. The fruits of his effort are the gourmet product which bears his name and the distinction of having done more than any other person to turn popcorn into a $100 million industry.

Some may wonder why he dedicated so much of his life to a single cause as unusual as the quest for the quintessence of kernels. A believer in the tradition of free enterprise, Orville is the sort who accomplishes tasks which others have labeled impossible. Finding the perfect popcorn was not impossible for a man whose hallmarks are determination and persistence.

Persistence got Orville through grade school while he helped his family by peddling produce door to door. At 16 he graduated from high school—the only one of four children to do so—at the top of his class. It was at Purdue University that Orville and popcorn came together in earnest. Purdue was pioneering in the research of the popcorn hybrid seed, and Orville became involved as an undergraduate. After college, he went on to graduate work at Colorado State and continued his popcorn research.

Returning to Indiana, his research and interest in popcorn never waned for the next 25 years while he served as an innovative county agricultural agent or manager of 12,000 acres of southern Indiana farmland.

The year 1952 brought the opportunity for Orville's persistence to pay off. He teamed up with long-time friend Charlie Bowman to form Chester, Inc. in Valparaiso. The diversified agricultural company gave him the chance to devote countless hours to research to come up with the perfect hybrid popcorn seed. Working together, the duo developed the genuinely superior popcorn Orville had been searching for.

The rest, as they say, is history. Orville stuck to his popper and proved wrong the many people who said there was no demand for quality popcorn. Marketed by Hunt-Wesson Foods, today Orville Redenbacher's popcorn is the No. 1 selling popcorn in the country.

With his phenomenal success has come fame. Orville's story has been the subject of magazines and newspapers nationwide. He has appeared on network television and traveled the globe to promote popcorn. As director of the Government-sponsored People-to-People program, his expertise in agronomy has been called upon in Africa and Israel, where he has helped experts improve their popping corn quality and yield.

Orville has not forgotten Valparaiso, Ind., nor has Valparaiso forgotten him. In celebration of his contribution to the popcorn industry, the citizens of Valparaiso will honor Orville Redenbacher as America's Popcorn King at the city's first Popcorn Festival on September 15, 1979. The association between Orville Redenbacher and Valparaiso has been long and happy, and there could be no more fitting tribute to Orville than the Valparaiso Popcorn Festival. Speaking for myself and for the citizens of Valparaiso, I would like to salute Orville Redenbacher's efforts and contribution to the field of popping corn.●

SOVIET INVASION OF CZECHOSLOVAKIA

The **SPEAKER**. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, since we will not be in session on August 21 of this year I would like to make some comments about the painful significance of that day to the people of Czechoslovakia. Mr. Speaker, August 21 was a day of infamy perpetrated upon the able, historical, and freedom-loving people of Czechoslovakia when the Russians by military force in a bold and savage exercise of military power took over the Government of the country. This usurpation of power by military force by the Soviet Union came as a sad and shocking end in military subjugation to this proud people which had won their emancipation from the Austro-Hungarian Empire after World War I and had established under the leadership of that venerable and great statesman, Thomas Masaryk, an independent republic. Incidentally, Thomas Masaryk lived at the old hotel at 2400 16th Street while he was working out, with the strong concurrence of our Government, the independence of his beloved country.

I visited Prague in 1945 as a Senator and had a long dinner conference with then President Eduard Benes and had a long consultation with the son of Thomas Masaryk, Jan Garrigue Masaryk, then Minister of Foreign Affairs. They told me of the sad days of the Republic when the nation was taken over by Hitler and how they yearned to regain their freedom. During the war the country was overrun by Soviet troops.

Finally, the Germans were expelled and the people of Czechoslovakia dared to hope that they were about to become free again. The Russians, by the way, always claimed that it was they who freed Czechoslovakia of the German invaders but we know that the United States had a large part in this enterprise. President Benes told me of how the occupying Soviet Army was mistreating and brutalizing the people of Czechoslovakia. President Benes remonstrated with Premier Stalin himself and Stalin promised President Benes that he would curtail much of this mistreatment. President Benes said the situation did improve after this promise. But the Russians stayed on.

Then President Benes said that Stalin told him that if the Czechoslovakian Government would allow the Soviet Union to direct the foreign policy of Czechoslovakia, the Soviets would not interfere in the domestic affairs of Czechoslovakia. President Benes reluctantly and, of course, under the force of the large number of Soviet troops in his country, accepted this solemn commitment of Stalin.

The betrayal of this promise and commitment of Stalin to President Benes occurred when the Russians by military force took over the country and installed its own communistic, oppressive government in 1948. Hence, this day too will be remembered by the freedom-loving people, not only in Czechoslovakia but of the world as a day of infamy. Finally, after a succession of leaders named by the Soviet Union imposing the Soviet will upon the Czechoslovakian people, there emerged a Czech-born man named Dubcek who gradually liberalized the Soviet tyranny and gave recognition to the rights of the people of Czechoslovakia. He humanized the Soviet regime so that the people began to feel once more that their government did have some respect for their rights and interests and some concern for the ancient and proud tradition of the land.

But such liberalization and beginnings of freedom were apparent to the powers governing the Soviet Union. They determined no longer to tolerate the returning air of freedom in Czechoslovakia. Hence, on August 21, 1968, citizens of Prague were awakened in the late night by the roar of numerous planes over the city. They were at a loss to understand such a persistent roar of large planes. At daybreak they discovered their proud capital occupied by thousands of Soviet paratroops who had been flown in during the night and ringed with thousands of tanks which had come from the borders during the night hours. The capital was again in the grip of a Soviet military force which sent Dubcek and many of his followers to Russian prisons and also imprisoned many sympathizers in Czechoslovakia. The heavy hand of tyrannical communism was again at the throat of ancient and proud Czechoslovakia. Another day of Soviet infamy. This condition continues to today when the Czechoslovak people are totally dominated by Soviet agents installed as their government with 80,000 Soviet troops in the country. The people enjoy few liberties and no real independence. The Soviet-imposed government has tried to destroy religion in the country. While on festive occasions like Easter one may find the cathedrals full, generally no person known to be affiliated with the churches or espousing the principles of religion can enjoy advancement in the Soviet-controlled government of the country.

The economy of the nation is not only dominated by the Soviet Union but operated basically for the benefit of the Soviet Union. You can see in the faces of this once-proud people the shadows of disappointment and defeat. To think that this once-proud, cultured, progressive, and heroic country is now a vassal of the Soviet Union is a tragic spectacle.

Hence, let us today again reassure the people of this once-proud land that we have not forgotten them, that we denounce the usurper of their government and their liberties. We call for the restoration of independence and freedom to this once great country and this noble people and we shall continue to strive in every feasible way to bring back the liberty they loved so much and to restore the freedom which is always uppermost in their yearning.●

ADMINISTRATION UNIFORM WEIGHT AND LENGTH BILL

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

● Mr. BEDELL. Mr. Speaker, I am glad to have this opportunity today to join my distinguished colleague from New Jersey (Mr. HOWARD) in introducing at the request of the administration the Fuel Savings Truck Weight Act of 1979 for the establishment of nationally uniform weights and lengths on the interstate highway system.

I would like to briefly state my position with respect to both this specific piece of legislation and the general issue of uniform weights and lengths. First, as I am sure my colleagues are aware, I was the coauthor of H.R. 4545 which was introduced on June 20th at the inception of the independent truckers' work stoppage which had such a telling effect on the Nation's commerce during the period it was in effect. During that crisis, I had the opportunity to visit with many independent truckers, not only from my own district in Iowa, but from many States around the Nation. It was a very enlightening experience for me, since I was able to gain first-hand insight into the very legitimate complaints that these independent operators have. I sincerely hope that my colleagues have the opportunity to do the same.

The issue of whether or not there should be a federally mandated minimum for truck weights and lengths on the Interstate Highway System is at the same time simple and complex. Simple, from the standpoint of the truckers, who know that they now are the victims of a grossly inefficient patchwork of State laws that, due to the inconsistencies of allowable length and weights between States, forces them to waste precious time and fuel when transporting goods across the country. Complex, from the standpoint of State departments of transportation and Federal agencies concerned with the potential for stepped-up road degradation and the delicate balance of Federal/State responsibilities as far as rate setting and licensing are concerned. What is needed is a very thorough and comprehensive hearing to air the various issues surrounding uniform weights and lengths so that a decision can be made on the merits of the case.

This is precisely the reason that I am happy to join Mr. HOWARD, chairman of the Public Works Surface Transportation subcommittee, in introducing the administration's proposal. While I do not believe that this proposal is fully supportable in its present form, I am hopeful that it may serve as the catalyst for the intensive evaluation via the hearings process that we must have if we are to avert another, more costly independent truckers' strike.

My reservations about the language of the administration's proposal stems in large part from its failure to go far enough in addressing the independent truckers' plight, as well as the unclear nature of certain key phrases contained in it. For instance, the legislation calls for uniform weights and lengths being imposed in the event that the President makes a determination that a "shortage of fuel is seriously disrupting the interstate freight trucking industry." If this is to have any meaning to the independent trucker at all, there must be some assurances that his own unique circumstances are taken into account in making this determination. For instance, to the independent operator, a supply shortage and the resultant price hikes may constitute a serious development far sooner than it might a common carrier who has his own fuel supply.

Mr. Secretary, I believe that it is absolutely imperative that the administration, Congress, and the independent trucking industry combine their efforts to achieve agreement on this very volatile issue as soon as Congress returns from recess. There is already talk about the likelihood of a renewed and protracted independent truckers' strike timed to coincide with the harvest season if some of the assurances they felt they were given are not met by the Government. Beyond this immediate concern for the Nation's farmers, middlemen, and consumers, I have a very great concern for the larger future of the independent trucker: if the legitimate demands of the independent trucker are not met, and soon, there will be wholesale disappearance of this very vital link in the Nation's economy. One of the greatest threats facing this country today is the steady loss of its independent businessmen and the increasing concentration among all sectors of the economy that has resulted. We cannot stand coldly by and allow this to happen, because once this evolution has occurred, it is virtually irreversible, and the losses, both tangible and intangible, are sure to be enormous.

Mr. Speaker, I strongly urge my colleagues to add their support to the call for thorough and speedy evaluation of the uniform weight and length issue and the preservation of the independent trucking industry in this country.

Thank you.

A copy of the bill follows.

H.R.—

A bill to establish national standards for weight and length of vehicles using the National System of Interstate and Defense Highways during fuel emergencies

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Fuel Savings Truck Weight Act of 1979.

SECTION 1. The Congress hereby finds that shortages of diesel fuel and gasoline can adversely affect the interstate freight trucking industry and that in such times of shortage measures must be taken to maximize fuel efficiency in that industry.

SEC. 2. Beginning seven days after the President finds that a shortage of fuel is seriously disrupting the interstate freight trucking industry, and for a period of 90 days thereafter, it shall be unlawful for any State or the District of Columbia to prohibit a vehicle from using the Interstate highway system within its borders because that vehicle exceeds either State weight limits which are less than 20,000 pounds on a single axle, 34,000 pounds on a tandem axle, and 80,000 pounds gross weight, including all enforcement tolerances, or State length limits less than 60 feet. The overall gross weight shall be consistent with the formula set forth in 23 U.S.C. 127. Those States in which higher weights are permitted under 23 U.S.C. 127 or in which longer lengths are permitted by State law shall not be required to lower existing limits.

SEC. 3. The President may extend the provisions of this Act for additional 90 day periods. The President may make a determination to extend the provisions of this Act for a 90 day period not less than 15 days prior to the expiration of a 90 day period and only after determining that such extension is required because a shortage of fuel is seriously disrupting the interstate freight trucking industry.●

THE COST OF GOVERNMENT REGULATION

The SPEAKER. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

Mr. LEVITAS. Mr. Speaker, it has been said that it is very hard to get economists to agree on anything; but there is one thing with which all economists will agree, that is, complying with Government regulations impose added costs to the price of doing business. Whether these costs are overly burdensome, whether they adversely effect the economy, or whether the benefits which may be realized from Government regulations are quantifiable and can be balanced against their costs, are issues which again divide economists into opposing camps. Yet, the fact that Government regulations impose costs cannot be ignored or sidestepped by focusing on the ancillary questions. We must deal with the cost of Government regulations head on because it is not simply DuPont or General Motors or U.S. Steel which is being saddled with compliance costs. It is your hometown bank, local canning plant, small manufacturer, yes, even the local "Mom and Pop" grocery store which is being caught in the costly regulatory web, as well.

To illustrate this point, I would like to bring to the attention of my colleagues a letter which I received from the president of a savings and loan association located in my congressional district. Curious about the time and money being spent to comply with Federal regulations, this savings and loan association compiled figures on the cost impact of its regulatory compliance in 1978. In clear and practical terms, this letter describes what the problem is. In reading this letter, however, we must look at how regulatory costs affect the American public as a whole, and what we can do about it. This is just one small example of the costs that regulations impose for which we all pay in one way or another through the price of goods and services we purchase. When we look at this figure in that perspective, it is multiplied by millions of dollars.

The letter follows:

DECATUR FEDERAL
SAVINGS AND LOAN ASSOCIATION,
June 27, 1979.

Hon. ELLIOTT H. LEVITAS,
U.S. Congressman,
Canon House Office Building,
Washington, D.C.

DEAR MR. LEVITAS: During this last fall and winter the Association employed a senior in the Emory University Business School's MBA Program to make as accurate a study as possible of the costs incurred by this institution in complying with various Government regulations and laws. His final report was received May 25, 1979. In the preface it is stated that "this study did not attempt to allocate any fixed cost or overhead to the cost of government regulations, which would have inflated the final cost figure."

The study was broken down into two sections. The first section dealt with "Start-up Costs" of new regulations which took effect in 1978, while the second part dealt with the continuing costs of compliance on an annual basis with respect to all reports which are required to be filed.

The report produced some surprises in that costs in some areas were less than I would have guessed while in other cases were substantially more.

The start-up costs for compliance with the regulations issued pursuant to the Community Reinvestment Act were $7,833. If costs were substantially the same for all savings and loan associations, the total spent would exceed $36 million.

The start-up costs for complying with the "Fair Lending Regulation & Guidelines" were $11,541. Again, if this could equate to the industry average, the total would exceed $53 million.

The start-up costs for complying with the "Conflict of Interest" Regulation were $58,665.

The annual compliance cost on all forms and reports (some of which, of course, are absolutely necessary) was calculated to be $152,527.

The annual cost to maintain the Loan Application Register in accordance with the requirements of the "Nondiscrimination Regulation" is $13,890. The annual cost of generating the "Census Tract Report" as required by the Home Mortgage Disclosure Act is $5,221. In many respects, these two annual reports are duplicative of each other. To date we have produced four Home Mortgage Disclosure Act reports at a total cost of $20,884. From July 1, 1975 through June 26, 1979 we have received requests for twelve copies. Three requests came from our largest competitor (Atlanta Federal), and three requests came from identifiable interested (concerned) neighborhood persons. The remaining six had various motivations.*

Each report used by others costs us $1,740 to produce. Since the Act was designed to give neighborhood groups data on lending activities, $6,961 was spent by us to furnish the three reports to the ones who were representative of these groups. The need to continue to generate that annual report will expire in 1980 under the terms of the original Home Mortgage Disclosure Act unless the Congress extends it. Please let it die.

The 1978 costs to begin new regulatory programs and to cover continuation costs of all reporting requirements as detailed above become even more significant if you factor in some "overhead expenses" exclusive of compensation, supplies, data processing and postage). The factor used is reasonable but is not as provable as are the direct costs. The results are:

	Direct costs	Allocated overhead	Total
Form costs	$152, 527	$79, 675	$232, 202
Startup costs	78, 039	39, 837	117, 876
Total annual costs, 1978	230, 566	119, 512	350, 078

This letter is not an appeal for you to "do something" for I am not naive enough to believe you can. It simply seemed to me that you might be interested in seeing the results of a reasonably definitive study of cost impact on one business of regulatory compliance in 1978.

Sincerely,

J. ROBIN HARRIS.

The impression that is left after reading this letter is: Did anyone ever stop to think how much it would cost this savings and loan association to comply with these regulations? Did anyone ever stop to think that the benefits which may result from these regulations are worth the costs? Did anyone ever stop to think that there may be a less costly way of achieving these benefits so that this savings and loan association would not have to divert resources from their business of writing mortgages?

It would appear that the answer to these questions is a resounding, "No." But, in all honesty, I do not know if the regulators examined these factors. However, considering such questions is an essential element of the regulatory process. Moreover, the American public wants to know that serious thought is being given to the cost of Government regulations, that the costs are being weighed against the benefits and in-depth analyses are being performed. This will restore their faith and confidence in Government. It would tell the American public that the regulations being promulgated are the best way of achieving certain goals.

I have introduced legislation, H.R. 1984, which requires the preparation and development of specific economic impact analyses for rules and regulations which are required to be published in the Federal Register. These economic impact statements would also be published in the Federal Register, as well as the alternatives that were considered and the reasons why that alternative was not proposed. In developing the economic analysis, the cost impact of the regulation on consumers, businesses, markets and Federal, State, and local governments must be addressed. In addition, the analysis must deal with the estimated cost of implementing, monitoring and enforcing the regulation, and the effect of the regulation on employment and the productivity of wage earners and businesses.

---

*One copy of the particular report requested was sent to the following: Federal Home Loan Bank Board, Atlanta Regional Commission, Research Atlanta, DeKalb County Planning Department, a representative of the owner of two apartment projects, and a Georgia Tech Professor of City Planning.

Mr. Speaker, this legislation is needed because it makes statutory the type of analyses which the American public wants done on regulations for which they end up paying. It lets us know that the regulators are considering the costs involved, and not just promulgating any old idea which seems to work. We can, of course, get bogged down in the sorts of arguments that economists do in discussing the precision with which costs and benefits can be quantified. Yet, in doing so, we will ignore the basic utility of economic impact analyses in that they force regulators to focus on costs. I welcome the support of my colleagues in my efforts to see that H.R. 1984 or similar legislation is enacted.

THE MARITIME BULK TRADE ACT OF 1979

The SPEAKER. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. BOGGS) is recognized for 30 minutes.

Mrs. BOGGS. Mr. Speaker, this evening my colleague from Virginia and I are introducing a legislative package which we feel will have farreaching implications for the maritime future of this Nation.

We all know that dry bulk cargoes now comprise nearly 40 percent of this Nation's foreign trade, and the importance of this type of cargo will continue to grow in the future. Some expect that this important aspect of shipping may well double by the end of the century.

Despite the fact that such a huge quantity of our vital—and in many cases strategic—raw materials comprise this type of trade, only 2 percent of this trade is currently moved in American-flag vessels. The reason for this alarming state of affairs is because our dry bulk consists of only 19 vessels with an age average of 25 years. The worldwide dry bulk fleet consists of some 5,000 vessels. Our fleet can hardly be characterized as even a drop in the bucket of world bulk trades.

President Carter recently underscored the need to modernize and expand our dry bulk fleet in a letter to the chairman of the Merchant Marine Committee. In his letter of July 20, the President indicated:

> Our heavy dependence on foreign carriage of U.S bulk cargoes deprives the U.S. economy of seafaring and shipbuilding jobs, adds to the balance of payments deficit, deprives the Government of substantial tax revenues, and leaves the United States dependent on foreign flag shipping for a continued supply of raw materials to support the economy.

The President has stated the problem very succinctly. In addition, he has submitted legislation to begin the effort to rebuild the American-flag dry bulk fleet. He is to be commended for recognizing this very real problem and for suggesting the first tentative steps toward remedying it.

However, the gentleman from Virginia (Mr. TRIBBLE) and I have some ideas of our own which we would like to submit for consideration as we all join together to forge a viable merchant marine policy to meet the needs of the 21st century.

My colleague from Virginia will discuss the legislation he is introducing, the Merchant Marine Act Bulk Shipping Amendments of 1979. I am pleased to join him in sponsoring this bill and I would like to associate myself with his remarks explaining its purpose.

I am introducing a companion measure: The Maritime Bulk Trade Act of 1979. The purpose of this legislation is to encourage the movement of bulk cargoes to and from the United States in a manner that provide for an equitable sharing of these cargoes between and among American-flag vessels, the ships of our trading partners and those of third-flag nations.

Mr. Speaker, this legislation would establish for the United States a policy of bilateralism in our bulk trades. Bilateral agreements involve agreements between governments or national carriers that result in a division of cargo between their respective carriers. These agreements exist at the present time in certain Latin and South American trades, specifically with Brazil, Argentina, Guatemala, Chile, Peru, and Colombia, and with the Soviet Union.

Why is the adoption of this type of policy of bilateralism important to our Nation's future? It is important because it brings the United States into the real world of contemporary ocean shipping. Recently Richard J. Dashbach, Chairman of the Federal Maritime Commission, pointed out:

> It is time to consider national shipping policies that include bilateralism as an objective in many of our trades. We must take measures to insure that U.S.-flag carriers are not deprived of their fair share of cargo by nations that have intervened more aggressively on behalf of their merchant fleets than we have on behalf of our own.

Mr. Speaker, the purpose of the Maritime Bulk Trade Act of 1979 is to promote the carriage of U.S. bulk commodities in ships registered under the flag of the United States and the flags of our trading partners.

This will be accomplished through the negotiation of governing international maritime agreements with our bulk commodity trading partners which will reserve at least 40 percent of the bilateral bulk trade to the vessels of each nation. Waiver procedures will be available for 10 years from the date of execution of any governing international maritime agreement. The 40-percent share reserved to each trading partner is therefore a goal to be achieved in 10 years.

These agreements will become effective upon congressional approval and will restrict third flag or cross-trade carriers to a maximum share of 20 percent of the bilateral trade subject to the waiver procedure.

Five years following enactment of this legislation, vessels not registered in the United States or under the flag of a country which has executed a governing international maritime agreement will be prohibited from engaging in the carriage of bulk commodities except between the United States and their nation of registry.

However, bulk cargo vessels of nations which have entered into governing international maritime agreements will be permitted to continue to operate freely as cross traders in U.S. bulk trade with countries that do not execute governing international maritime agreements.

Bulk cargo vessels of nations which enter into governing international maritime agreements will be permitted to operate as cross traders in U.S. bulk trades with all countries that have executed governing international maritime agreements to the extent of 20 percent of such trades.

Nations which enter into governing international maritime agreements with the United States will, thereby, be assured that the United States will cooperate with them to insure that vessels registered under their flags or nominated by them as national flag ships will carry at least 40 percent of their bulk trade with the United States and may compete in U.S. cross trades.

In order to insure that governing international maritime agreements fully conform to the intent of Congress in the enactment of this legislation, they will be subject to congressional review under well-established procedures.

The United States will assist any nation entering into a governing international maritime agreement in the development and management of the bulk sector of its merchant marine including making available relevant programs of the Merchant Marine Act of 1936.

The Secretary of Commerce is directed to establish an industry advisory group including ocean's carrier representatives, shippers, and representatives of nations which have entered into governing international maritime agreements.

Annual reports will be required by Congress from the Secretaries of Commerce and State with respect to their administration of this Act as well as a report from the advisory committee.

Mr. Speaker, this proposal is not some form of unilateral cargo preference legislation. It calls for the negotiation of an equitable and rational cargo sharing arrangement. It is a proposal which I believe will serve as a vehicle for the further development and expansion of world trade and commerce. It is a proposal which I feel will add a significant dimension to the current hearings and debate over the future of a strong U.S. national cargo policy.

I ask unanimous consent that the Maritime Bulk Trade Act be printed in the RECORD immediately after my remarks. In addition, I am submitting a detailed analysis of this legislation for inclusion in the RECORD.

H.R. 5113

A bill to promote orderly and efficient ocean transportation of bulk commodities in the foreign commerce of the United States and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Bulk Trade Act of 1979."

FINDINGS

SEC. 2. (a) The Congress finds and declares the following:

(1) The United States is totally dependent upon foreign flag shipping services to transport over ninety-five per cent of its bulk

import and export commodities in international trade;

Virtually all bulk imports of the United States are critical to American industrial production or to the maintenance of adequate energy supplies;

(3) Bulk exports of the United States contribute substantially to the United States balance of trade, provide major sources of employment in the United States and contribute to the food supply and other essential requirements on a worldwide basis;

(4) The United States cannot afford to rely totally upon foreign sources to provide the transportation services needed to maintain the flow of essential bulk imports and exports if it is to assure the availability of such transportation services regardless of economic and political instability or pressures;

(5) Bulk shipping services presently available to the United States are provided primarily by ships documented in countries which are neither the sources of our essential bulk imports nor the principal purchasers of our bulk exports;

(6) The developing nations of the world with whom the United States engages in significant purchases and sales of bulk commodities are similarly dependent upon foreign flag shipping services and have generally taken steps to insure that a realistic share of their trade with the United States and other industrial nations is transported by ships documented under their flags;

(7) The United States should encourage and support the aspirations of developing nations to participate fully in the carriage of their international bulk trade and should take all necessary steps to promote stability and cooperation between the United States and its trading partners to insure efficient and reliable bulk transportation services;

(8) The findings embodied in section 101 of the Merchant Marine Act, 1936 (46 U.S.C. 1101) are hereby affirmed and the phrase "a substantial portion of the water-borne export and import foreign commerce of the United States" is hereby declared to be not less than forty percent of such commerce.

(b) *Purposes and Policy.*—It is therefore declared to be the purpose and policy of the Congress in this Act—

(1) To take immediate and positive steps to promote the orderly and rapid growth of the bulk cargo carrying capability of the United States merchant marine in order to transport forty percent of our bulk imports and exports in United States flag ships within ten years;

(2) To assist and cooperate with our trading partners so that they may transport an equal share of their bulk trade with the United States in ships documented under their flags within ten years.

(3) To enter into bilateral bulk shipping agreements with our trading partners to assist our trading partners in the development and maintenance of efficient and environmentally safe bulk carrying merchant fleets and to insure the achievement of the purposes and policy of this Act;

(4) To encourage international cooperation in the orderly implementation of policies for the development of national bulk cargo carrying capabilities through constructive participation in the efforts of the United Nations Trade and Development Board and other appropriate international organizations.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "national flag ship" means an ocean going ship or vessel of whatever description documented in the United States or in the country of origin or destination of its bulk cargo and, in the case of any nation other than the United States, such a ship regardless of the country of documentation if certified to the Secretary of Commerce to be a national flag ship by the country of origin or destination of the cargo;

(2) The term "non-national flag ship" means any ship not included within the term "national flag ship";

(3) The terms "bulk commodity" and "bulk cargo" mean cargo transported in bulk without mark or count by an ocean going ship or vessel of whatever description in the foreign commerce of the United States; and

(4) The term "trading partner" means a nation or regional group of nations that has entered into a Governing International Maritime Agreement with the United States pursuant to this Act.

GOVERNING INTERNATIONAL MARITIME AGREEMENTS

SEC. 4. (a) The Secretary of State, in consultation with the Secretary of Commerce and the Special Representative for Trade Negotiations, shall immediately negotiate a Governing International Maritime Agreement with each nation with whom the United States engaged in the trading of bulk commodities in 1979 which trade equalled at least five per centum by tonnage of value of total United States bulk trade in that year. The Secretary shall also negotiate such agreements with any nation whose trade with the United States was less than five per centum by tonnage or value of total United States bulk trade at the request of such nation.

(b) Each Governing International Maritime Agreement shall contain the following essential provisions:

(1) Each nation reserves to its national flag merchant marine the right to participate in their reciprocal bulk commodity trades to the extent of forty percent of such trade.

(2) Non-national flag ships shall be limited to a maximum participation in such trade of twenty percent. If the trading partner by domestic law, decree or regulation further limits non-national flag participation, the shares shall be as prescribed by such law, decree or regulation.

(3) Procedures, which shall be as nearly uniform as possible among such agreements, shall be set forth to insure that the national flag ships of the United States and the trading partner share equally in the reciprocal trade reserved to such ships including procedures for balancing over or under carriage.

(4) Each nation may adopt procedures for the granting of waivers to permit the carriage of bulk commodities in the reciprocal trade by non-national flag ships in excess of the percentage described in (2) above until the tenth year following execution of the agreement provided that national flag ships of the trading partner are first offered the opportunity to transport the cargo;

(5) Each nation shall advise the other in advance of each year until the tenth year following execution of the agreement with respect to any anticipated short fall in its ability to transport the share reserved to its national flag ships so that the trading partner may take whatever steps are necessary to provide shipping services adequate to meet the estimated short fall;

(6) The United States shall provide managerial and technical assistance, if requested, for the development and operation of the bulk cargo carrying sector of the trading partner's merchant marine;

(7) The United States shall make available to the bulk cargo carrying sector of the trading partner's merchant marine the programs available pursuant to Titles V and XI of the Merchant Marine Act, 1936 for the construction of bulk cargo carrying ships in shipyards of the United States. (c) A Governing International Maritime Agreement may contain such other provisions as the Secretary of State, in consultation with the Secretary of Commerce and the Special Representative for Trade Negotiations, deems necessary or appropriate to carry out the purposes and policy of this Act. (d) The Secretary of State shall enter into a Governing International Maritime Agreement with any group of nations which indicate a desire to execute such agreement on a regional basis.

CONGRESSIONAL REVIEW OF GOVERNING INTERNATIONAL MARITIME AGREEMENTS

SEC. 5. (a) IN GENERAL.—No Governing International Martime Agreement shall become effective with respect to the United States before the close of the first sixty calendar days of continuous session of the Congress after the date on which the President transmits to the House of Representatives and to the Senate a document setting forth the text of such Governing International Maritime Agreement. A copy of the document shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives, if the House is not in session, and to the Secretary of the Senate, if the Senate is not in session.

(b) REFERRAL TO COMMITTEES.—Any document described in subsection (a) shall be immediately referred in the House of Representatives to the Committee on Merchant Marine and Fisheries, and in the Senate to the Committees on Commerce.

(c) COMPUTATION OF SIXTY-DAY PERIOD.—For purposes of subsection (a)—

(1) Continuity of session is broken only by an adjournment of Congress sine die; and

(2) The days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

(d) CONGRESSIONAL PROCEDURES.—

(1) RULES OF THE HOUSE OF REPRESENTATIVES AND SENATE.—The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of maritime agreement resolutions described in paragraph (2), and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, and in the same manner and to the same extent as in the case of any other rule of that House.

(2) DEFINITION.—For purposes of this subsection, the term "maritime agreement resolution" refers to a joint resolution of either House of Congress—

(A) the effect of which is to prohibit the entering into force and effect of any Governing International Maritime Agreement the text of which is transmitted to the Congress pursuant to subsection (a); and

(B) which is reported from the Committee on Merchant Marine and Fisheries of the House of Representatives or the Committee on Commerce of the Senate, not later than forty-five days after the date on which the document described in subsection (a) relating to that agreement is transmitted to the Congress.

(3) PLACEMENT ON CALENDAR.—Any maritime agreement resolution upon being reported shall immediately be placed on the appropriate calendar.

(4) FLOOR CONSIDERATION IN THE HOUSE.—(A) A motion in the House of Representatives to proceed to the consideration of any maritime agreement resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on any maritime agreement resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit any maritime agreement resolution or to move to reconsider the vote by which any maritime agreement resolution is agreed to or disagreed to.

(C) Motions to postpone made in the House of Representatives with respect to the consideration of any maritime agreement resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any maritime agreement resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of the subsection, consideration of any maritime agreement resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(5) Floor Consideration in the Senate.—

(A) A motion in the Senate to proceed to the consideration of any maritime agreement resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on any maritime agreement resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with any maritime resolution shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover of the motion or appeal and the manager of the resolution, except that if the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. The majority leader and the minority leader, or either of them, may allot additional time to any Senator during the consideration of any debatable motion or appeal, from time under their control with respect to the applicable maritime agreement resolution.

(D) A motion in the Senate to further limit debate is not debatable. A motion to recommit any maritime agreement resolution is not in order.

CARRIAGE OF BULK CARGO BY NON-NATIONAL FLAG SHIPS

Sec. 6. (a) It shall be unlawful for any non-national flag ship to engage in the transportation of bulk commodities with a trading partner except as authorized by the Governing International Maritime Agreement.

(b) After five years from the date of enactment of this Act—

(1) It shall be unlawful for non-national flag ships, not documented under the laws of a trading partner to engage in the transportation of bulk commodities, and

Non-national flag ships, documented under the laws of a trading partner, may engage in the transportation of bulk commodities between the United States and any nation which has not entered into a Governing International Maritime Agreement.

(c) The Secretary of Commerce and the Secretary of the Treasury shall by joint regulation adopt and implement procedures to insure that non-national flag ships do not transport bulk commodities in excess of that authorized by Governing International Maritime Agreements or as otherwise permitted by this Act.

BULK SHIPPING ADVISORY COMMITTEE

Sec. 7. The Secretary of Commerce shall establish an advisory committee composed of representatives of the United States maritime industry including vessel operators, shipyards and labor, representatives of bulk commodity importing and exporting industries and individuals designated by trading partners to advise and assist the Secretary on all aspects of the implementation of this Act. In the case of trading partner participation, the Secretary shall make appointments so as to insure that geographic regions are adequately represented rather than each trading partner. The advisory committee may be divided into commodity, geographic shipbuilding, ship operation and other appropriate panels.

REPORTS TO CONGRESS

Sec. 8. (a) The Secretary of State and the Secretary of Commerce shall separately report to Congress each year following the date of enactment of this Act with respect to their activities pursuant to this Act together with such recommendations as they consider necessary or appropriate for further legislation to carry out the policy and purpose of this Act.

(b) The advisory committee created by section 7 of this Act shall report to Congress each year following the date of enactment of this Act with respect to their activities pursuant to this Act together with such recommendations as they consider necessary or appropriate for further legislation to carry out the policy and purpose of this Act. The advisory committee report shall be prepared and submitted to Congress without revision by any department or agency, however the Secretary of Commerce may attach such comments to the report as he deems appropriate.

Maritime Bulk Trade Act of 1979—Section by Section Analysis

SECTION 1

The first section (enacting clause) states that this Act may be cited as the "Maritime Bulk Trade Act of 1979."

SECTION 2

Section 2 sets forth Congressional findings and the purposes and policy of the Act.

The Congressional findings note the dependence of the United States upon foreign-flag shipping services to transport bulk imports and exports and recognize the fact that bulk imports are primarily to meet national energy requirements and critical raw material needs of our manufacturing industries. The findings note further that American bulk exports are critical to our balance of trade, supply major employment in the United States and are a major contributor to the world food supply.

Given the United States' dependence on many essential bulk imports and the importance of our bulk exports to the economy, Congress finds that the United States can no longer rely exclusively upon foreign-flag ships to assure the flow of these essential commodities in the face of continuous international instability which may deny transportation services to the United States.

Congress further notes the fact that our principal trading partners in the movement of bulk commodities similarly do not control the availability of their essential shipping services, but have initiated various steps to correct this situation.

The developing nations generally have adopted the Code of Conduct for Liner Conferences promulgated by the United Nations Trade and Development Board as an international treaty regulating the activities of ocean carriers in liner trades and reserving forty percent of each nation's trade to its national flag liner vessels. While the United States has refused to sign and ratify this treaty, a significant number of industrial nations, including the European Economic Community, have indicated that they will ratify the Code and enforce it in their liner trade with developing nations.

Efforts are now underway in the United Nations Trade and Development Board to develop a code governing the shipping of bulk commodities. While this effort is just beginning as a result of the UNCTAD V meeting in Manila last May, there is little doubt that developing nations will ultimately conclude a bulk shipping treaty including cargo reservation as has been done in the case of liner trades.

Since a large segment of the United States bulk trades are with the developing nations, the United States cannot remain in splendid isolation from these international negotiations.

The findings state, therefore, that the United States will encourage and support the efforts of the developing nations to gain a measure of control over their trade in bulk commodities rather than act as an obstacle. This is clearly in the mutual interest of the United States and our major bulk trading partners.

Finally, and of great importance, Congress finds that the objective, long stated, of the Merchant Marine Act of 1936 that the United States transport a substantial portion of its trade in U.S.-flag vessels means forty percent of such trade.

Following directly upon these Congressional findings, the Congress states that the purpose and policy of this Act is to promote the orderly and rapid growth of the U.S. merchant marine bulk cargo carrying capability so that the United States can transport forty percent of our bulk shipments in U.S.-flag vessels by 1989.

In a similar vein, recognizing that our bulk trades are a two-way proposition, the United States will actively support the efforts of the developing nations to achieve the same goal.

SECTION 3

This section sets forth essential definitions including that of national flag ship, non-national flag ship, bulk commodity and bulk trade, and trading partner.

A national flag ship is a vessel engaging in the bulk trade of the nation of its registry. A foreign nation may designate ships not registered in that country as national flag ships.

A non-national flag ship is any vessel not included in the definition of national flag ship and is commonly referred to in the maritime industry as a "third flag vessel" or "cross trader."

Bulk commodities and bulk trade mean cargo in bulk without mark or count transported in U.S. foreign trade. By this definition any form of packaged, bagged or containerized cargo even though in liquid or dry bulk form within the package, bag or container is excluded from the scope of the Act.

Commodities covered by the Act include, for example, all forms of bulk petroleum products, liquified gases under pressure, grains, coal and metal ores.

A trading partner is defined to be a nation which was entered into a Governing International Maritime Agreement with the United States.

SECTION 4

This section directs the Secretary of State in consultation with the Secretary of Commerce and the Special Representative for Trade Negotiations to enter into Governing International Maritime Agreements with each of the principal nations with which the U.S. engages in bulk trades and with any other nation which requests such an agreement with the U.S.

A Governing International Maritime Agreement will reserve to the U.S. merchant marine at least forty percent of the trade with a trading partner. The same share of the bilateral trade will be reserved to the merchant marine of the trading partner. The remaining twenty percent is available to "third flag carriers" or "cross traders" subject to the further limitations of section 6 which limit cross trading to the vessels of trading partners (nations which have entered into Governing International Maritime Agreements).

Waivers are permitted until the tenth year following execution of a Governing International Maritime Agreement in recognition of the build up period which will be needed in most instances to meet the forty percent goal.

The Governing International Maritime Agreement will provide for technical assistance to the trading partner if requested to assist in the development of its bulk fleet. Further, the construction subsidy and mortgage guarantee provisions of the Merchant Marine Act will be made available to enable the trading partner to construct bulk ships in United States shipyards.

SECTION 5

This section provides for Congressional review of the Governing International Maritime Agreements. The procedure is identical to that of Public Law 94–264, the Fishery Conservation and Management Act of 1976, which established the United States 200 fishery conservation zone. The 200 Mile Act provides that foreign fishing vessels may continue to fish in the U.S. zone if the nation of registry has entered into a Governing International Fishery Agreement acknowledging U.S. jurisdiction over the 200 mile zone and undertaking to abide by U.S. fish quotas and fishery management plans.

Before the effective date of the 200 Mile Act, virtually every nation whose vessels fish in the waters off the United States and its possessions had signed a fishery agreement including the Soviet Union and Japan, the two leading fishing nations.

Because of technical defects in most of the original GIFA's, they were not submitted for Congressional review pursuant to the procedures set forth in section 5, but were approved by Public Laws. The process compelled Congressional review and consideration to insure compliance with the fundamental purpose of Congress in enacting the 200 Mile Act.

Section 5 of this bill will similarly insure that a reluctant State Department cannot frustrate the intent of Congress by executing a weak or obviously deficient agreement.

SECTION 6

This section sets forth the restrictions which will govern the future participation of third flag carriers in the bulk trades of the United States.

Once a Governing International Maritime Agreement becomes effective with a particular nation (then a "trading partner" as defined in section 3), the ships of that nation engaged in bulk trades (in the foreign commerce of the United States as set forth in section 3) will be "national flag ships" entitled to the percentage of this trade set forth in the Governing International Maritime Agreement. This may occur at any time after the enactment of this legislation.

Ships of any nation other than the U.S. or its trading partner will be "non-national flag ships" when engaged in the trade covered by the Governing International Maritime Agreement entitled to carry a maximum of twenty percent of the particular trade.

However, five years from the date of enactment of this legislation, no non-national flag ship may engage in any U.S. bulk trade unless the nation of its registry has entered into a Governing International Maritime Agreement with the United States. Only trading partners will be eligible to act as cross traders in trades between the United States and its trading partners.

The ships of a trading partner may, therefore, be national flag ships with respect to their direct trade with the U.S. or non-national flag cross traders in all other bulk trades of the U.S.

Ships of nations which do not enter into Governing International Maritime Agreements with the United States will, of course, be free to engage in the direct trade of those countries with the United States, but will be precluded in five years from engaging as cross traders. They will also compete with ships of our trading partners acting as cross traders in their trade with the United States unless the non-signatory nations take unilateral steps to reserve their trade with the U.S. to national flag ships. If a nation were to do that however, the more logical and advantageous step would be to enter into a Governing International Maritime Agreement so as to have access to other U.S. bulk trades as a cross trader.

In the absence of a Governing International Maritime Agreement, the legislation does not prescribe a share of U.S. bulk trade for either the U.S. merchant marine or that of any nation with which the United States trades. As indicated, however, the legislation will limit cross trading to those nations which have entered into a Governing International Maritime Agreement. Under these circumstances other bulk trading nations will recognize the advantage of becoming a trading partner as defined in the legislation.

Joint regulations promulgated by Commerce and Treasury will insure enforcement of the restrictions on cross trading. The Governing International Maritime Agreement will provide for enforcement of the shares reserved to the national flag ships of each signatory nation.

SECTION 7

This section establishes a Bulk Shipping Advisory Committee to assist the Secretary of Commerce in the implementation of the Act. It will be broadly based to include input from all concerned segments of the maritime industry, bulk shippers and representatives of trading partners. The Federal Advisory Committee Act will govern the administration and work of the Committee.

SECTION 8

This section provides for annual reports to Congress by the State and Commerce Departments and by the Bulk Shipping Advisory Committee. Recommendations for further legislation to implement this Act, if necessary, are specifically called for. The advisory committee reports are to be submitted independently from any review by any agency of the Executive Branch to insure that its members' views are not subject to agency revision.

□ 1740

Mr. TRIBLE. Mr. Speaker, will the gentlewoman yield?

Mrs. BOGGS. Mr. Speaker, I take great pleasure in yielding to my colleague, the gentleman from Virginia (Mr. TRIBLE).

Mr. TRIBLE. I thank the gentlewoman for yielding and am pleased to join with her tonight in this effort to revitalize America's merchant marine and shipbuilding industry.

Mr. Speaker, last week this House approved the 1980 Maritime Authorization Act and in September will consider the 1980 Defense Authorization Act. Our discussion of these pieces of legislation underscores the decline of America's naval and merchant shipping and shipbuilding. Tonight it is a pleasure to join the gentlewoman from Louisiana (Mrs. BOGGS) to talk about the establishment of a strong maritime policy that will contribute to a healthy national economy and a strong America.

Mr. Speaker, recently, the New York Journal of Commerce, November 20, 1978, observed that—

> United States maritime policy is a shambles. . . . There is no consensus. . . . Neither is there any visible leadership.

Britain's Marine Week, June 16, 1978, from the vantage point of distance, made this statement:

> The United States, as the world's largest trading nation, not only lacks a merchant fleet commensurate with true requirements but will also shortly lack the means to achieve it.

These pronouncements reflect the tenor of opinion which has developed here and abroad over the past decade. Progress with respect to U.S. shipping and U.S. shipbuilding—and there has been considerable, technologically and otherwise—has been overshadowed by a decline in cargo carriage by U.S.-flag ships and in ship construction potentials for U.S. shipyards. A variety of factors have shaped this phenomenon which has serious implications for national security, industrial momentum, economic growth, and shipyard workforce and operational stability:

At the highest level of Government, noble platitudes have not been translated into clear and positive policy direction.

Among and within agencies of the Federal Government, there has been little harmony with respect to key issues and problem solutions.

Political, statutory and functional mechanisms have been ineffective in assuring needed shipping and shipyard resources.

And while national reliance on imports of critical and strategic materials (liquid and bulk) has been steadily expanding.

Volumes of U.S. exports and imports (except for liner cargoes) carried by U.S.-flag shipping have been steadily declining for more than 10 years.

Profits for U.S. shipping and shipyard companies have been exceptions rather than the rule.

And public impressions of U.S. maritime affairs have been formed by superficial and misleading images of excessively high costs, disputes and litigation, poor efficiency and productivity, questionable business practices and faulty management.

These detractions, however, need to be viewed in a longer perspective. Ocean shipping worldwide, by reason of adverse economic repercussions following the 1973 Middle East oil embargo, has been in a state of oversupply and depression. This condition is expected to persist on most trade routes until the mid-1980's.

The demand for new merchant ships has accordingly dropped substantially. More than 30 million dwt of tankers and about 10 million dwt of dry cargo vessels are currently idle throughout the world. Some recently delivered ships have gone immediately into layup. The result has been a global surplus of shipbuilding capacity.

An increasing number of shipbuilders are chasing a decreasing number of ship construction opportunities. Amid international discussion of ways to reduce overcapacity, below-cost prices are being offered by many foreign shipbuilders—in many cases, with the approval and financial indemnification of their governments. A demoralizing subsidy war is rapidly evolving. Some nations, previously openly critical of maritime assistance programs, have now added direct subsidy to a subtle array of indirect credit and tax mechanisms.

The governments of most U.S. trading partners are more sensitive than the U.S. Government to the importance of a strong maritime industry to national economic and security interests. With other countries, control of substantial portions of national cargo is rapidly becoming the rule rather than the exception. For example, the maritime strategies of Japan, Russia and China, though different, are all significantly based on control of import/export cargoes. Securing a substantial share of petroleum export shipping by OPEC nations is the announced policy for the future. And many developing economies—Brazil, Chile, Ecuador, Korea, Taiwan, to name just a few—clearly regard fleet development based on national cargo reservations as an integral part of their overall economic growth programs.

In light of this international environment, the effects of the lack of a strong, coherent and responsive U.S. maritime policy should hardly be surprising. The overall volume of U.S. exports and imports carried by U.S.-flag shipping has continued to decline and is now less than 5 percent. Only 1 to 2 percent of dry bulk cargoes and 3 to 4 percent of imported oil cargoes are carried on U.S.-flag-built vessels.

Soviet shipping has engaged in predatory rate cutting to permit the rapid expansion needed to complement the movement of the Soviet navy toward supremacy on the seas. Meanwhile, several U.S. shipping lines have filed for or face bankruptcy. Shipowners have thus not been enthusiastic about ordering new vessels or replacing old ones.

The shipbuilding picture is bleak. Today the U.S. shipbuilding industrial base is comprised of 26 major shipyards. It has been predicted that no more than eight or nine shipyards will hold major shipbuilding contracts in 1984. Moreover, latest projections indicate that the current shipyard work force will drop by nearly 66,000 by 1985. Another 200,000 jobs in supporting industries will also be lost.

In concert, these facts dramatize the failure of recent national maritime endeavors and the need for a comprehensive national maritime policy which will sustain sufficient shipping and shipyard resources under sovereign control. We can no longer equivocate in this regard.

With this preamble then, I hopefully have set the stage to have you focus with me on a policy to revitalize our merchant marine. My colleague from Louisiana (Mrs. BOGGS) and I have introduced legislation that can help strengthen our Nation's shipping and shipbuilding industries. The centerpiece of any such policy must be legislation to encourage and facilitate bilateral ocean cargo-sharing agreements.

In furtherance of this objective, it must be emphasized—and reemphasized—that improvement in the presently self-defeating posture of U.S. maritime affairs is most unlikely without decisive changes in some of the fundamental premises of U.S. foreign policy.

Against the background of recent events in the Middle East, Prof. Irving Kristol of New York University in the Wall Street Journal (Jan. 18, 1979), has characterized the "Utopian moral intentions" of the Wilsonian liberalism of the past 50 years as "decadent" and U.S. foreign policy today as "patently bankrupt." This opinion is widely shared.

In Professor Kristol's words:

> Our policy is not only bankrupt in the sense of our being unable to act, but bankrupt in the sense that we have obviously lost the ability even to think coherently about foreign policy * * *. This Earth will be a place where American ideals are respected only if the world also respects our interests—which it is not likely to do if we show no respect for our own interests.

U.S. maritime interests suffer from both domestic and international disrespect, and relevant policies of the past two decades are bankrupt.

Specifically, the Congress must adopt as an adjunct to the Merchant Marine Act a clear statement of policy that:

First, the United States will move sealifted cargoes of all types to and from the United States in such a manner that a specified fair proportion of those cargoes will be carried on vessels of U.S. registry built in the United States; and

Second, that the executive departments and agencies of the Federal Government will promptly negotiate with minimum cargo sharing provisions.

The gentlewoman from Louisiana has discussed in detail our proposals to encourage bilateral ocean cargo sharing agreements.

In addition to strong bilateral cargo sharing agreements, we must modify existing law in order to insure that cargoes can move in U.S. vessels at competitive costs. To this end, the gentlewoman of Louisiana and I have introduced a number of proposals that will help provide U.S.-flag ships greater flexibility of operation and more predictable utilization as a means of achieving freight rates close to average world rates or rates agreed to under bilateral treaties.

Let us now consider a section by section analysis of these Merchant Marine Act Bulk Shipping Amendments of 1979.

MERCHANT MARINE ACT BULK SHIPPING AMENDMENTS OF 1979 SECTION-BY-SECTION ANALYSIS

SUMMARY

As the title of this proposed legislation indicates, each amendment to the Merchant Marine Act, 1936 is designed to facilitate the construction and competitive operation of bulk cargo carrying vessels in the domestic and foreign commerce of the United States. The primary thrust of this legislative package is to eliminate the "either/or" dilemma which has confronted bulk operators under the American flag. Heretofore, they have been compelled to construct a vessel either for the domestic trade without subsidy or for the foreign trade with subsidy and only in very limited circumstances have vessels built for one trade been able to operate in the other due either to legal constraints or to cost/competitive factors. This artificial division between domestic and foreign operation of bulk carriers is one of the principle deterrents to the expansion of the United States flag bulk fleet.

The bill creates a new and novel approach to the issue of construction and operating subsidies for U.S. flag vessels and at the same time eliminates the "either/or" dilemma confronting vessel operators.

In recognition of the substantial investment already made in many "Jones Act" vessels, the bill structures the new system of CDS and ODS payments in such a way that the owners decision to operate a vessel in foreign trade or domestic trade will be made on the basis of commercial considerations rather than on the basis of the availability or non-availability of subsidy in either of these trades.

The bill also addresses a series of other issues which have impacted adversely upon the bulk sector of the U.S. merchant marine. These include (1) artificial restrictions on the sale of foreign subsidized vessels, (2) prohibition on the use of the Capital Construction Fund in domestic coastwise and intercoastal trades, (3) unreasonable limitations on the ownership and operation of foreign-flag vessels by subsidy recipients, (4) lack of adequate enforcement of the cargo preference laws dealing with government impelled cargo and (5) restrictions on the worldwide trading opportunities of U.S.-flag bulk vessels.

SECTION 1

Section 1 of the bill states that this Act may be cited as the "Merchant Marine Act Bulk Shipping Amendments of 1979."

SECTION 2

Section 2 of the bill repeals existing Title IV of the Merchant Marine Act, 1936, an obsolete provision dealing with ocean mail contracts and inserts a new Title IV "Single Factor Per Diem Rate Financial Aid."

Sections 401 through 403 of proposed Title IV provide that a proposed bulk ship purchaser or shipyard of the United States may apply to the Secretary of Commerce for construction and operational assistance for a bulk vessel which the applicant proposes to employ in essential bulk cargo services as defined in section 211 of the Merchant Marine Act. After determining that the proposed vessel is suitable for such service, the Secretary shall issue a "Certificate of Title IV Eligibility" guaranteeing to the applicant ship operator or applicant shipyard that upon completion of the vessel in a shipyard of the United States pursuant to the plans and specifications approved and upon documentation under the U.S. flag, the vessel will be eligible for the financial assistance payable pursuant to this Title for each day the vessel is operated in essential bulk cargo carrying services. The amount of per diem financial assistance payable under this Title will be computed pursuant to Title V and Title VI of the Act which govern the determination of construction-differential subsidy and operating-differential subsidy, respectively.

The concept of a "Certificate of Eligibility" is to enable the applicant to secure necessary financing to build the ship. Under Title IV there will be no construction subsidy paid as such. The vessel will be privately financed as is any non-subsidized vessel. The Certificate of Eligibility is in many respects comparable to the commercial practice of securing a long-term charter commitment for a vessel before construction. The charter, from a major oil company in most instances, provides the financing entity the necessary assurance that, when completed, the vessel will have employment which will insure repayment of the funds committed to its construction.

Further, the combined construction and operating subsidy elements embodied in Title IV should insure that when engaged in foreign trade, the vessel will be able to compete at world market rates.

The construction subsidy component will be computed pursuant to Title V as though the vessel were being constructed under that Title. The amount of construction subsidy determined pursuant to Title V will then be divided by the economic life of the vessel, twenty years for the purpose of this computation, and then translated into a daily rate. For example, if the amount of construction subsidy pursuant to Title V would be 60 million dollars, the annual rate would be $3,000,000. This amount would in turn be divided by 365 to arrive at a daily rate, which in this example would be $8,216. This daily rate of construction subsidy would then be payable to the ship operator whenever the vessel is operating in an eligible trade, essentially, any service other than domestic and will remain fixed for the life of the vessel.

To compensate the vessel operator for the present value of the construction subsidy that could have been paid pursuant to Title V, and interest element, to be determined by the Secretary of Commerce, is added to the construction component.

The interest element will be computed upon the unamortized balance of the CDS and paid whenever the construction subsidy component is payable.

The construction component will run from the time the vessel is placed in service but paid only when the vessel is operating in essential bulk services in the foreign commerce. Thus, after twenty years the construction component will be exhausted.

The CDS component has been structured to insure that Title IV vessels receive construction cost parity when operating in foreign commerce without creating a bias in favor of foreign operation over domestic operation which would occur if the CDS component payment were compressed into a shorter time frame.

The operating subsidy component of Title IV financial assistance will be computed pursuant to Title VI of the Act as though the vessel were operating under a Title VI ODS contract. Since the factors which determine the amount of subsidy payable under Title VI vary from trade to trade and also vary over time, this element of Title IV subsidy will be a variable daily rate subject to review by the Secretary of Commerce and recomputed periodically throughout the life of the vessel.

The construction subsidy component and operating subsidy component will be paid as one monthly payment upon certification by the vessel operator with respect to the number of days the vessel was engaged in essential bulk services during the preceding month. The first and last day of a period of essential bulk cargo carrying service shall be considered a full day for the purposes of computing the amount payable. The operator of an eligible vessel shall notify the Secretary prior to the commencement of any period of essential bulk service and promptly upon the termination of such a period.

Section 404 provides that while Titles V and VI of the Act and regulations promulgated thereunder will govern the determination of the amount of per diem operating and construction subsidy payable pursuant to Title IV, they shall govern only to the extent consistent with Title IV. In this respect section 407 directs the Secretary of Commerce to promulgate regulations governing the administration and implementation of Title IV. Any inconsistency between Title IV and the provisions of Title V and VI will be addressed in the Secretary's regulations and should be resolved in favor of fully implementing the intent of Congress in enacting Title IV.

Section 405 clarifies the term "other national requirements" as employed in section 211(b) and (c) of the Act. Sections 211(b) and (c) as presently written, do not adequately cover the periodic use of a vessel in both domestic and foreign trade as contemplated by Title IV. Therefore, section 405 makes it clear that a bulk cargo carrying vessel intended for employment in domestic trade without financial assistance or in foreign trade with financial assistance qualifies under section 211 which addresses the foreign commerce of the United States, its national defense or other national requirements.

To further clarify, section 405 states that it is the intent of Congress that any vessel constructed and operated pursuant to Title IV not be impeded in any manner with respect to its employment in domestic and foreign trade or transfer between such trades. This provision is simply added in an abundance of caution to insure that the intent of Congress in enacting Title IV not be administratively frustrated.

Section 406 provides that vessels built under Title IV will be considered non-subsidized vessels for the purposes of Title XI ship mortgage insurance guarantees. A vessel built under subsidy pursuant to Title V of the Act is eligible for a 75 percent guarantee under Title XI while a non-subsidized vessel is eligible for an 87½ percent guarantee. Therefore, vessels built pursuant to Title IV would receive the higher 87½ percent guarantee. This is necessary since there is no way to determine at the time a "Certificate of Eligibility" is issued whether the vessel will be utilized predominantly in the domestic or foreign trades and of course any vessel constructed pursuant to Title IV will be privately financed as a non-subsidized vessel at the outset.

Proposed Title IV should substantially reduce the "up front" appropriation requirements for the construction of bulk vessels for employment in foreign trade since the construction subsidy will be paid over a twenty-year span. Further, in any given case the payments may never equal the amount of subsidy which would have been paid under Title V. This is due to the fact that vessels built under Title IV may be employed for substantial periods in domestic unsubsidized trade depending upon employment opportunities.

SECTION 3

Section 3 amends the second sentence of section 503 of the Merchant Marine Act, 1936 to provide that the current mandatory period of documentation for vessels built with subsidy be reduced from 25 years to 10 years if the net proceeds of sale of the vessel are deposited in the owner's Capital Construction Fund and committed within a period of two years in the construction of a qualified replacement vessel or vessels. This amendment to the Merchant Marine Act would apply to the sale of both liner and bulk vessels.

SECTION 4

Section 607 of the 1936 Act authorizes qualified vessel operators to establish a Capital Construction Fund (CCF) into which vessel earnings may be deposited on a tax deferred basis to be utilized for the construction and reconstruction of vessels engaged in the foreign trade, Great Lakes trade, domestic non-contiguous trades and the fisheries of the United States. Prior to the Merchant Marine Act of 1970, section 607 was available only to carriers with operating-differential subsidy contracts in the foreign commerce of the United States. While the 1970 Act substantially expanded eligibility under section 607, two major components of our ocean-going marine transportation network were excluded. These are the domestic coastwise and intercoastal trades. Having decided in 1970 to expand the availability of section 607 to certain operators in ocean-going domestic trade and considering the overwhelming response to this expansion by the domestic shipping industry, it is entirely appropriate at this time to complete the work begun in 1970 by making section 607 available to the entire ocean-going merchant marine of the United States.

This is accomplished by expanding the existing language of section 607(a) and 607(k). As so amended, the qualifications upon the eligibility of a vessel for Capital Construction Fund treatment will be (1) that the vessel be built in the United States, (2) documented under the laws of the United States, and (3) that the vessel be engaged in domestic coastwise, intercoastal or noncontiguous trades, foreign commerce, Great Lakes trades, or fisheries.

SECTION 5

Section 804 makes it unlawful for any ODS contractor or for any holding company, subsidiary, affiliate, or associate of such contractor or for any officer, director, agent, or executive thereof, to own directly or indirectly, charter, act as agent or broker for, or operate any foreign-flag vessel which competes with any American flag service determined by the Secretary of Commerce to be essential as provided in section 211 of the Act, including both liner and bulk services.

The Secretary of Commerce has limited authority to waive this prohibition under special circumstances and for good cause shown, but only for a specified period of time. The Merchant Marine Act of 1970 amended section 804 to provide a further limited exception until April 15, 1990 with respect to the ownership, chartering, or operation of foreign-flag bulk cargo carrying vessels.

The limited exception set forth in the Merchant Marine Act of 1970 related only to foreign-flag operations of carriers extant on April 15, 1970. This was, therefore, in effect only a limited "grandfather" clause.

As indicated above the restrictions in section 804 are extremely onerous extending to agents of ODS operators in a field where the specialized services of agents are invaluable and in which it is virtually impossible to find agents who do not have some non-U.S.-flag representations.

The limited exceptions incorporated in section 804 by the Merchant Marine Act of 1970 have been totally inadequate in broadening the base of qualified bulk vessel operators under the U.S. flag.

Section 5 of the bill limits the prohibition of section 804 to the liner trades by reference to section 211(a). The authority of the Secretary of Commerce to waive the prohibition, as set forth in section 804(b), is retained. The "grandfather" clause of sections 804(c), (d) and (e) is repealed as redundant language.

SECTION 6

Section 805(a) makes it unlawful for an ODS contractor to own, operate, or charter any vessel engaged in domestic intercoastal or coastwise service without permission of the Secretary of Commerce. Other carriers are permitted to intervene in opposition to an application of an ODS operator to engage in domestic service. The Secretary of Commerce may not grant such approval if he finds that it would result in unfair competition to any carrier operating exclusively in coastwise or intercoastal service.

If an application to engage in domestic service is approved, it is, nevertheless, unlawful for the operator to divert, directly or indirectly, any monies, property, or other things of value used in the foreign trade operation for which subsidy is paid into any such coastwise or intercoastal operation.

Section 805 as a practical matter virtually precludes a subsidized carrier from engaging in both domestic and foreign trade. This is another example of the "either/or" syndrome prevalent in U.S. maritime policy which proposed new Title IV of this legislation is designed to correct insofar as the bulk trades are concerned.

Section 506 of the Act restricts CDS built vessels to foreign trade with a limited right to engage in domestic trade for periods of up to six months upon partial payback of CDS. This bill does not amend section 506. Vessels built pursuant to proposed Title IV would not be subject to the restrictions of section 506 since it is the essential purpose of Title IV to permit such vessels free movement between subsidized foreign and nonsubsidized domestic trade.

Section 6 of the bill amends section 805 (a) to limit the restrictive language of that section to liner services.

SECTION 7

Section 901(b) of the Merchant Marine Act, 1936 (commonly referred to as PL–664) provides, broadly speaking, that at least 50 percent of the gross tonnage of equipment, materials or commodities (computed separately for dry bulk carriers, cargo liners and tankers) which may be transported on ocean vessels, shall be transported on privately owned U.S.-flag commercial vessels whenever such equipment, etc. moves as a result of U.S. government procurement for its own account or for the account of a foreign nation, including advances of funds, credits, or guarantees extended by the U.S. government.

Certain government programs have been interpreted by the administering agencies as not falling within the scope of section 901(b). These include certain programs of the Department of Agriculture-Commodity Credit Corporation and various guarantee and grant programs administered by the Department of State-Agency for International Development. These administrative exceptions carved out by various agencies clearly were not contemplated by Congress in the enactment of PL–664. The exceptions are the result of agency interpretations that have strained mightily to find a loophole in the wording of section 901(b).

Section 7 of the bill amends the first sentence of section 901(b) by inserting the phrase "or provide any form of grant, advance, credit, or guarantee whatsoever to any party to a transaction involving the furnishing of equipment, materials or commodities," immediately preceding the phrase "the appropriate agency or agencies shall take such steps . . ."

In view of the lengths to which administrative agencies have gone to avoid the clear intent of Congress in enacting section 901 (b), section 7 of the bill further amends section 901(b) by adding a statement of Congressional intent and by setting forth a process whereby each agency subject to section 901(b) must submit a program to the Secretary of Commerce setting out its procedures to implement the requirements of this section. These procedures, upon approval by the Secretary of Commerce, will be promulgated in the Federal Register together with the names and duties of those individuals responsible within the agency for administering the section.

The Merchant Marine Act of 1970 added the requirement to section 901(b) that each department administer its program with respect to cargo preference under regulations issued by the Secretary of Commerce. This requirement is retained and buttressed by the language described above. The Commerce Department has been frustrated in its efforts to administer cargo preference by regulation and the language incorporated by proposed section 7 should greatly strengthen the hand of the Secretary of Commerce.

SECTION 8

In recognition of the commercial necessities of bulk trading, the Merchant Marine Act of 1970 amended the definition of "foreign commerce" and "foreign trade" to include training between foreign countries in accordance with normal bulk shipping practices. The 1970 Act gave the Secretary of Commerce authority to promulgate regulations interpreting this re-definition of foreign commerce and foreign trade. The interpretive rulings of the Commerce Department implementing the 1970 Act, were extremely narrow and effectively frustrated the intent of Congress to permit bulk cargo vessels to engage in worldwide trading.

Section 8 of the bill amends section 905(a) by striking the reference to "normal bulk shipping practices" and by striking the authority of the Secretary of Commerce to promulgate implementing regulations. Section 8 of the bill further amends section 905 (a) by adding the phrase "or between points at sea and domestic or foreign ports" to make it clear that bulk cargo carrying vessels engaged in the movement of seabed-nodules from an ocean mine site to shore, shall qualify as being engaged in foreign commerce when ocean mining becomes a commercial reality. A variety of other energy and mineral-related production activities at sea may become commercially viable and bulk vessels engaged in the movement of materials from operational sites at sea will qualify as being engaged in the foreign commerce under this definition.

SECTION 9

Authorization of Appropriations

Section 209(b) of the Act requires annual authorization of funds for specific program areas of the Merchant Marine Act. General authorization authority for unspecified activities is set forth in section 209(a).

Proposed Title IV will be a major program element and should, therefore, be expressly included in the annual authorization language of section 209(b).

For fiscal year 1980, section 9(b) of the bill provides transitional funding authority.

Effective Date

The amendments to the Merchant Marine Act contained in this bill will become effective on the date of enactment. By the terms of section 401, eligibility for the Title IV program will commence with ships approved by the Secretary and contracted for after the date of enactment of this legislation.

The amendments to sections 503, 607, 804, 805, 901, and 905 of the Merchant Marine Act become effective upon enactment with respect to existing vessels (sections 503, 607, and 905), operators (sections 607, 804, and 805), and programs (section 901).

With respect to Title IV, the fiscal year 1980 authorization for appropriations is amended to make those funds authorized for Title V ODS and Title VI CDS available for Title IV purposes although as a practical matter, no such payments will be made for several years. Funds authorized for maritime subsidy purposes are without fiscal year limitation.

Beginning with fiscal year 1981, it is anticipated that a specific authorization will be enacted covering Title IV payments pursuant to section 9 of the bill.

The foregoing then has been a section-by-section analysis of a series of proposals that can help provide U.S.-flag ships greater flexibility of operation and more predictable utilization as a means of moving more cargo at more competitive costs. These proposals—along with a strong bilateral cargo-sharing policy—can help insure strengthened U.S. shipping and shipbuilding activities. The time has come for the United States to establish a viable maritime policy that will better serve our Nation's economy and security—and I invite our colleagues to join us in this important task.

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for his excellent statement and would like to say that this Member is very proud to be associated with the gentleman in this great endeavor.

GRANDFATHERED HOLDINGS OF FOUNDATIONS OWNING MORE THAN 20 PERCENT OF A COMPANY

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEDERER. Mr. Speaker, in 1969, Congress passed a law which restricts a private foundation from owning more than 20 percent of a company. However, the law does permit holdings in excess of 20 percent, provided they were held on May 26, 1969; such grandfathered holdings may not be increased. The Treasury is authorized to issue regulations on whether grandfathered holdings are increased by a merger, recapitalization, or other reorganization involving one or more business enterprises.

On May 22, 1979, Treasury proposed regulations which effectively repeal this section of the law. These regulations are arbitrary in that their application to acquisitions in the normal course of business violate the right of foundations to continue to own holdings specifically grandfathered by Congress in 1969. Additionally, they reverse the congressional intent that corporations not be inhibited in the normal course of business because of foundation ownership.

The 1979 proposed regulations overrule the statute and reverse the Treasury's own interpretations as stated in regulations proposed in 1973. These interpretations were as follows—an acquisition does not increase grandfathered holdings through the constructive ownership rules: First, if the acquiring corporation is engaged in an active trade or business; second, if the acquiring corporation's assets are substantial in relationship to the acquired corporation; and third, if the acquiring corporation is not being used by a private foundation as a vehicle to increase permitted holdings. The 1973 proposals have been relied upon as the standard for the last 6 years without controversy. Yet, the Treasury has now adopted the radical new standards. This is not right and it is not fair.

Unless Congress clarifies the law immediately to reverse the 1979 proposed regulations, corporations may be subject to unwarranted takeovers—because their stock has been forced on the market—or unable to maximize business opportunities through acquisitions or diversification. On the other hand, foundations owning such stock may lose a major portion of their valued holdings due to forced sales of stock. Congress, in part, grandfathered holdings in 1969 to prevent this type of chaotic business result and to avoid such an adverse impact on charity. These corporations and foundations have lived within the law. There have been no abuses—and charity has benefited.

The proposed regulations originally were applicable to acquisitions after June 21, 1979. On July 18, 1979, Treasury postponed their effective date to, at least, December 31, 1979. The mere postponement of the effective date is not enough to preserve the intent of Congress that private foundations be permitted to retain grandfathered holdings.

My bill simply codifies the 1973 proposed regulations—nothing more. The 1973 rules on the one hand permit an active business corporation to conduct its affairs in the best interest of the corporation and all its shareholders without the interjection of mandated disgorgements of company stock by private foundations. On the other hand they provide rules which would prevent abuses. These are rules which are generally understood and have been operative for 6 years, apparently without occurrence of any abuses. Further, they clearly reflect the intent of Congress in 1969. Finally, the bill makes it clear that in determining whether a corporation is actively engaged in a trade or business, the activities of a consolidated group of corporations are to be aggregated.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its Clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3363) entitled "An act to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting."

DISCHARGING COMMITTEE ON WAYS AND MEANS FROM FURTHER CONSIDERATION OF HOUSE RESOLUTION 357

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to discharge the Committee on Ways and Means from further consideration of the resolution (H. Res. 357) relating to the report by the Secretary of Health, Education, and Welfare with respect to home health and other in-home services, which has been reported by the Committee on Interstate and Foreign Commerce, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore (Mr. Addabbo). Is there objection to the request of the gentleman from California (Mr. Waxman)?

Mr. BAUMAN. Reserving the right to object, and I do so only to ask the gentleman from California whether or not this resolution has the concurrence of the minority members on the two committees involved.

Mr. WAXMAN. If the gentleman will yield to me, I have a letter from the gentleman from New York (Mr. Rangel), chairman of the Subcommittee on Health of the Committee on Ways and Means, indicating that he is waiving the subcommittee's jurisdiction over the resolution and also that the minority joins in that waiver.

Mr. BAUMAN. Mr. Speaker, I understand this is an historic resolution. Could the gentleman briefly tell the House about that?

Mr. WAXMAN. This is the first time since the Civil War that the U.S. Congress has rejected a report from the executive branch, sent it back, and ask that it be rewritten.

The earlier precedent occurred on January 6, 1862, during the 2d session of the 37th Congress. At that time, the House agreed to a resolution which deemed a response, submitted to the House by Secretary of War William Stanton, as "not responsive" and directed the Secretary "to return a further answer." The resolution pertained to a congressional request for information concerning the defeat of Union troops at the October 21, 1861, battle at Ball's Bluff.

Mr. BAUMAN. Mr. Speaker, I think that is a trend that ought to be commended and certainly ought to be repeated in the future.

Mr. DUNCAN of Tennessee. Mr. Speaker, as the ranking minority member of the Subcommittee on Health of the Committee on Ways and Means, we concur.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, the last question I would ask the gentleman is, since this will be resubmitted to the same bureaucrats who did not write the report in the first place, does the gentleman have any assurance it will be any better when it comes back the next time?

Mr. WAXMAN. Mr. Speaker, I think the executive branch will only respond to the legislative branch when the legislative branch makes it clear we expect them to live up to the mandates we put in legislation.

Mr. BAUMAN. I thank the gentleman for his explanation and withdraw my reservation of objection.

I wish the gentleman a happy in-district work period.

Mr. WAXMAN. I thank the gentleman.

The SPEAKER pro tempore (Mrs. Boggs). Is there objection to the request of the gentleman from California (Mr. Waxman)?

There was no objection.

The Clerk read the resolution as follows:

H. Res. 357

Resolution relating to the report by the Secretary of Health, Education, and Welfare with respect to home health and other in-home services

Whereas section 18 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Public Law 95-142) directed the Secretary of Health, Education, and Welfare to report to the Congress within one year of enactment with respect to all aspects of the delivery of home health and other in-home services authorized to be provided under titles XVIII, XIX, and XX of the Social Security Act; and

Whereas the Secretary failed to submit such report in a timely fashion; and

Whereas the Secretary failed to include in such report recommendations for legislation with respect to home health and other in-home services, including the reasons for such recommendations, an analysis of the impact of implementing such recommendations on the cost of such services and the demand for such services, and the methods of financing any recommended increased provision of such services under such titles, as required by such section; and

Whereas the House has expressed its will with regard to the need for expanded opportunities for receipt of home health and other in-home services in numerous ways, including overwhelming passage of the Medicare Amendments of 1978: Now, therefore, be it

Resolved, That it is the sense of the House that—

(1) the report of the Secretary of Health, Education, and Welfare entitled "Report on Home Health Services Under Titles XVIII, XIX, and XX" is not responsive to the requirements of section 18 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Public Law 95-142); and

(2) such report be returned to the Secretary with the direction that it be revised to comply with the requirements of such section, including the requirement that recommendations for legislation be submitted, and that such report be returned to the appropriate committees of the Congress not later than September 1, 1979.

☐ 1750

The SPEAKER pro tempore. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 2, line 4, insert ", dated April 1979," before "is not".

Page 2, line 12, strike out "returned" and insert in lieu thereof "resubmitted".

Page 2, line 13, strike out "September" and insert in lieu thereof "November".

Page 1, in the first paragraph of the preamble, insert "appropriate committees of the" before "Congress".

Page 2, in the fourth paragraph of the preamble, insert "(H.R. 13097, Ninety-fifth Congress)" after "1978".

Mr. WAXMAN (during the reading). Madam Speaker, I ask unanimous consent that the committee amendments be considered as read, printed in the Record, and considered en bloc.

The SPEAKER pro tempore (Mrs. Boggs). Is there objection to the request of the gentleman from California?

Mr. CARTER. Madam Speaker, reserving the right to object, this is the same resolution we brought before the committee and which was unanimously passed this morning, is it not?

Mr. WAXMAN. That is correct.

Mr. CARTER. Madam Speaker, I certainly support the resolution, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. Waxman)?

There was no objection.

Mr. WAXMAN. Madam Speaker, today we are considering House Resolution 357. The resolution expresses the sense of the

House that the "Home Health Services" report, recently submitted to the Congress by the Department of Health, Education, and Welfare (DHEW), is inadequate and fails to comply with statutory and congressional intent. The resolution returns the report to the Department and instructs it be rewritten and resubmitted to the Congress by November 1, 1979.

Madam Speaker, the committee has carefully reviewed the DHEW's report on home health and finds it most unsatisfactory. The document is clearly not responsive to Congress 1977 request for legislative recommendations regarding improvements in the delivery of home health services. The report offers no specific legislative guidance. Instead, it presents merely a compendium of existing services and a repetitive citation of existing problems.

There is little contained in the report's 85 pages which provides useful guidance to the Congress on ways to improve the administration, benefit structure or coordination of Federal home health services. As chairman of the subcommittee which authored the provision of Public Law 95-142 which required submission of this report, I share the annoyance of my colleagues that the document was so poorly prepared and deliberately ignored the desire of Congress to receive DHEW recommendations for legislative changes.

Because the matter of home health care is so important, I feel we cannot delay in making the Department prepare a satisfactory report. House Resolution 357 would return this inadequate report to the Department and request preparation and resubmission of a more responsive document no later than November 1, 1979.

Passage of House Resolution 357 will send a powerful message to the Department that Congress is intently concerned about finding ways to improve the delivery of home health services. It reprimands the Department and provides impetus for the Secretary to insure that reports emanating from DHEW meet their legislative mandate.

It may be of interest to Members to note that not since the Civil War has the Congress formally disapproved an agency report in this fashion. In many ways, passage of House Resolution 357 establishes an important and historic precedent. The resolution makes clear Congress commitment to upgrade the quality of home health care and its intention to hold departments responsible for the quality of their reports. I think we have an obligation to reject this document and to insist that the report be brought up to par with the standards Congress specified.

A similar resolution, Senate Resolution 169, was reported by the Senate Finance Committee on June 20, 1979, and was adopted by voice vote in the Senate on July 11, 1979. I believe this body can do no less, and therefore urge my colleagues to support this resolution.

Mr. PEPPER. Madam Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Florida.

Mr. PEPPER. Madam Speaker, I rise in strong support of House Resolution 357, which was today approved by unanimous vote of the Interstate and Foreign Commerce Committe.

This measure is a "clean" version of House Resolution 280, a resolution I introduced on May 22 with Congressman WAXMAN, the distinguished chairman of the Subcommittee on Health and the Environment, as principal cosponsor. It also is cosponsored by Mr. RANGEL, chairman of the Ways and Means Health Subcommittee, and other members of the Subcommittees on Health of our various committees.

We offered this resolution to make clear the commitment of the House to expanded home health care for the elderly and sick and disabled people of the country. It came about in response to a report which was submitted by the Department of Health, Education, and Welfare pursuant to section 18 of Public Law 95-142, the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977.

That section required the Secretary of HEW to give Congress a report "analyzing, evaluating, and making recommendations with respect to, all aspects * * * of the delivery of home health and other in-home services." Beyond indications that a few administrative changes affecting program operations would be made, the report stopped short of making legislative recommendations, citing budgetary restraints. It thereby failed to comply with the intent of the law. Moreover, after Congress gave the Department a full year to produce this report, it arrived almost 6 months after the legal deadline for its submission.

This resolution, like our original measure, declares that the report is not responsive to the requirements of section 18 and provides that it be returned to the Secretary with directions that it be revised to comply with those requirements, including the making of recommendations for legislation. The original resolution required that the revised report be returned by September 1. In view of a change in leadership within the Department, the committee has amended the resolution to provide an additional 2 months, or until November 1, 1979.

I wish to especially commend Mr. WAXMAN for moving expeditiously to bring this measure before the Subcommittee on Health and the Environment, which ordered it reported to the full committee on June 28. Mr. WAXMAN is dedicated to programs which will address the health care needs of older Americans, and we are pleased that he also serves, with great distinction, as a member of the Select Committee on Aging which it is my privilege to chair, along with its Subcommittee on Health and Long-Term Care.

A companion resolution, introduced in the Senate by Senators WILLIAM COHEN, LAWTON CHILES, chairman, and members of the Senate Special Committee on Aging and the Finance Committee, was reported by the Senate Finance Committee and adopted by the full Senate on July 11.

Madam Speaker, earlier drafts of this report included meaningful proposals for legislation, as the law required. But by the time it came to Congress, the report was stripped bare, for all intents and purposes, leaving us with mainly an overview of current home health programs. It was little more than a discourse on problems which exist. We asked the Department for policy direction. We failed to get it. We asked the Department to provide leadership in making home health care more available to our people. It was not forthcoming.

This report was prepared at a cost of $62,630. We owe it to the taxpayers of this Nation to see that the reports we initiate have some significance.

Both the House and Senate have demonstrated their support of expanded home health care by passage, during the 95th Congress, of H.R. 13097 and H.R. 5285, respectively. These bills included provisions I have proposed to make home health care more available under the medicare program. The House bill was passed by a vote of 398-2, and I am pleased to note that the Ways and Means Health Subcommittee, under the very able leadership of Mr. RANGEL, is moving now to bring similar medicare improvement legislation before the full House once again.

Madam Speaker, I strongly urge that the House adopt this resolution. The elderly people of this country rely on us to see that they have access to the most cost effective and compassionate forms of health care. Major studies, including one prepared at my request by the General Accounting Office, and experts in the field have testified time and again to the benefits to be gained, by the Government and by individuals, from an expanded program of home health care. In his 1976 campaign, President Carter committed himself to home health care. Among other things, he said:

> Our health care program should allow for home care alternatives to institutionalization. Rather than providing only for expensive and often unwanted hospital and nursing home care, we should begin now to develop the national capability to care for individuals in the homes and to help them care for themselves at home. This alternative is not only cheaper, it is preferable to many older Americans and to their families.

Madam Speaker, I could not agree more. Unfortunately, actions by the Department have not always been consistent with this pledge. But we can, by adopting this resolution, give the Department another opportunity to provide leadership in this crucial area of concern and, at the same time, fulfill our own commitments to work for health care that is the best we can provide, in the most desirable setting, and at a cost we can afford.

● Mr. STAGGERS. Madam Speaker, I rise in support of House Resolution 357. The resolution has broad bipartisan support and was reported from the Interstate and Foreign Commerce Committee on August 2, 1979 by unanimous voice vote.

Home health is a vital issue which affects millions of Americans. We have long known that there is a critical need in the community for well-conceived, well-coordinated and well-run programs.

To make effective judgments regarding the delivery of these much needed services, Congress has an obligation to request and a right to receive the best thinking and recommendations from the department of Government charged with their administration.

In its "Home Health" Report, the Department of Health, Education, and Welfare (DHEW) has failed to provide the Congress with the legislative recommendations it requested regarding improvements in the delivery of home health care services. In view of the seriousness of this subject, I see no alternative but to return the report to its authors and request that a new, more responsive document be submitted for the Congress' consideration.

I firmly believe it most appropriate that the Congress reestablish the precedent of carefully scrutinizing reports submitted by executive departments in response to congressional requests. This report cost more than $60,000 to prepare and yet failed to comply with the most basic requirements of Congress request.

Departments and agencies must be held to a high standard of accountability if the Congress is to have confidence in the quality of work submitted for its use. I want to urge the House to join with our colleagues in the other body in sending this inadequate document back to DHEW and require the resubmission of a new, more responsive home health report by November 1, 1979.●

The committee amendments were agreed to.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 357.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

WITHDRAWAL OF MEMBER AS COSPONSOR OF H.R. 4360

Mr. BAUMAN. Madam Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 4360.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

REVISED VERSION OF PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, in order to facilitate House review of a matter that is of critical importance to the Pacific Northwest, I am introducing a revised version of the Pacific Northwest Electric Power Planning and Conservation Act.

The bill is similar to H.R. 3508, legislation I introduced earlier this year in cooperation with several Members from the Northwest. The new bill, however, reflects changes agreed to in recent weeks by the Senate Committee on Energy and Natural Resources.

It is my understanding that introduction of this bill will facilitate consideration of regional energy legislation by committees and Members of the House, and I hope that is the case.●

CONGRESS AND ENERGY: A PARTNERSHIP WITH THE PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, congressional initiatives to find solutions to the U.S. criticial energy shortage and end the dangerous dependence on foreign suppliers of oil are receiving the strong support of the American people.

With this firm backing by Americans indicated by the polls, the House over the past 2 months has taken major steps forward on important energy production and conservation programs—both short-range and long-range—in a partnership with the people.

The congressional initiatives were taken under the firm direction of the House Democratic leadership and a special energy task force appointed by Speaker O'NEILL in June. They are closely related to proposals made by President Carter in his landmark energy messages to the American people 2 weeks ago.

Starting its work at a time when there was widespread disbelief that the energy crisis was real, and when there was little sense of direction on solutions to energy shortfalls, the leadership both has confirmed that bold action was needed, and has taken major strides in that direction.

Mr. Speaker, the result has been action—by the full House, by major House committees, or by the appropriate subcommittees—on a major synthetic fuel-producing program; windfall profits tax; standby gasoline rationing authority; State and Federal conservation authority; additional funding for mass transit; new programs to encourage production of more efficient vehicles; steps to improve railway service, solar initiatives, efforts to promote safer and more reliable nuclear energy, and other action.

In turn, Mr. Speaker, Americans are showing through their responses in the polls that they want leadership in attacking the Nation's energy crisis, and that they are giving strong backing to the leadership coming from Congress.

For example, in voicing overwhelming support to the House-passed windfall profits tax on the oil companies—which have been reaping large profits this year even before full Federal decontrol of oil pricing is phased in—Americans strongly agree that revenues from these taxes should be used to help solve the energy crisis.

A recent ABC News-Harris survey—1,496 adults were polled nationwide—indicates 80 percent of the American people favor use of windfall profit tax revenue for more mass transit to travel to work; 77 percent favor Government use of the funds for more alternative energy sources; 70 percent favor a government-industry partnership toward new energy sources; and 82 percent favor using money generated by the tax to help the poor, elderly, and others hardest hit by the energy crunch.

Mr. Speaker, other strong support for Democratic energy initiatives is indicated by Lou Harris' surveying. A recent poll indicates 83 percent of those polled favor the synthetic fuels program initiated by House Democratic leaders. Another 86 percent favor the goal of a 50 percent reduction in imported oil by 1990, which Congress supports as a target through synthetics, conservation, and alternative fuel and motorized-equipment initiatives, solar biomass projects, and increased domestic production of crude oil, coal, and natural gas.

Also reflecting their response to leadership, Americans—67 percent—favor granting the President standby authority to impose gasoline rationing in an emergency; 76 percent favor a $10 billion mass transit program; 74 percent favor a national Energy Security Corporation; and 65 percent favor establishment of conservation goals.

Just a relatively few weeks ago, Mr. Speaker, Americans were doubting the existence of an energy shortage, were unaware of the threat posed by continued dependence on foreign oil for half the Nation's supply, and were relatively oblivious of the scars being imposed on the body of the American economy by the policies of the Organization of Petroleum Exporting Countries.

Today, Americans indicate they are willing to make sacrifices, support conservation, use alternative transportation if it is made available, support expensive research and experimentation for alternative fuels and methods of using them, and cut oil imports in half within 10 years.

This change in the perception of the scope of the problem and the potential solutions prove Americans want leadership on energy, and will support leadership on energy. Congress is providing that leadership. Working together, President Carter, Congress, and the American people can be an unbeatable combination.

Mr. Speaker, there have been major energy achievements in the House so far in the 96th Congress. Here are some major ones:

WINDFALL PROFITS TAX

Under current law, Federal price controls on oil produced in the United States are scheduled to expire September 30, 1981. On June 1, President Carter started using his authority, gradually, to phase out these controls. The administration also proposed a 50-percent excise tax on the additional profits the oil companies will receive as domestic oil prices climb to world market prices.

The House opted for a much tougher approach, Mr. Speaker, voting in June to impose a 60 percent windfall profits tax on the new oil company profits. Under the House version of the legislation, and taking into account added taxes on new record profits being reported by oil companies, tens of billions of dollars in additional revenue is expected to be generated between 1980 and 1984 for possible use to attack the Nation's energy problems. Senate action is expected early this fall.

ENERGY AND TAX REVENUE

The administration has estimated that the proposed windfall profits tax receipts will range from $146 billion to $270 billion over the period 1980–90, depending on oil price assumptions and the direction of world oil prices. The administration has proposed establishment of an energy trust fund into which the windfall profits tax revenues would be placed and used for energy programs.

Mr. Speaker, the House Ways and Means Committee currently is working up legislation on how such funds would be used, taking into consideration such proposals as use of the money for synthetic fuels development, joint industry-government energy projects, increased Federal support for mass transportation, and some form of assistance to the poor, elderly, those on fixed incomes, and others hardest hit by the Nation's energy crisis.

In addition, Mr. Speaker, the Ways and Means Committee has under consideration legislation to grant energy tax credits for installation of alternative energy producers, such as wood-burning stoves, solar energy, and process heat; and tax incentives for production of gasohol, further assistance to low-income households.

Also under active consideration by the committee are proposed new limitations on the foreign tax credits which allow multinational corporations to subtract from U.S. tax payments taxes paid to foreign countries, and another bill to provide special tax provisions designed to discourage nonenergy acquisitions by energy companies.

Action on these key energy and tax revenue measures is expected in September.

SYNTHETIC FUELS

With the strong support of the Democratic leadership, the House has adopted a major synthetic fuels bill which sets a national goal of 2 million barrels per day of synthetic fuels within 10 years and authorizes $3 billion to help stimulate American industry and ingenuity to develop these fuels from such resources as coal, shale, tar sands, lignite, peat, grain and solid wastes, including urban refuse.

This week, Mr. Speaker, the House followed up this initiative by approving a $1.5 billion appropriation for the Department of Energy in fiscal 1980 for the synthetic fuels program. Among a number of other alternative fuel initiatives in the bill is a $6 million provision for a program to convert urban wastes to fuels. Meanwhile, congressional committees have been holding hearings on environmental questions raised about use of such fuels.

STANDBY GASOLINE RATIONING AUTHORITY

As promised by the leadership and recommended by the Committee on Interstate and Foreign Commerce, the House adopted legislation which would require the President to prepare new emergency standby gasoline rationing plans for use during a national shortfall of 20 percent or more.

The plan requires the President to submit his proposal to Congress for review within 90 days of enactment. No formal congressional action—the type which could pit State against State and region against region—is required on the substance of the President's plan.

The President could implement his plan during a national emergency supply shortage which has resulted in, or is likely to result in a daily shortage—for at least 30 days—of at least 20 percent of supplies available for the previous year.

Once the President decided to use the authority, Mr. Speaker, either the House or the Senate would have power to veto that decision within 15 days of the time he announces his intention to implement rationing. This would give Congress the opportunity to affirm that an emergency exists and rationing is required.

ENERGY MOBILIZATION BOARD

Mr. Speaker, two House committees are considering the President's proposal to establish a three-member Energy Mobilization Board empowered to expedite permits and construction of critical energy facilities it considers to be in the national interest.

The aim of the board is consistent with congressional initiatives to develop a "fast track" method of cutting through redtape and make it easier, wherever possible, to expedite the production and distribution of fuels.

While the proposed board has been approved by the House Interior Committee and a key House Commerce subcommittee, there is controversy over the plan because of questions about the extent of its power to override Federal, State and local laws and regulations, and there are environmental and ecological concerns.

Action on the legislation by the full House is expected some time in September, Mr. Speaker.

Such authority could be used, for example, to expedite development of prospective pipelines from Long Beach, Calif., to Midland, Tex., and from Port Angeles, Wash., to Clearbrook, Minn., to move more Alaskan oil inland faster and more efficiently, to increase U.S. refinery capacities, and to expedite new Alaska gas pipeline facilities.

It is possible that the President's proposal for creation of a 7-member Energy Security Corporation (to direct the development of a targeted 2.5 million barrels per day of substitutes for imported oil by the year 1990) may be considered concurrently with the proposed Energy Mobilization Board and "fast track" legislation.

STATE/FEDERAL CONSERVATION PROGRAMS

The standby gasoline rationing plan was attached to a Senate-passed bill, adopted by the House, which would authorize the President to set conservation targets for States for gasoline and diesel fuels, and implement Federal conservation plans in States unable or unwilling to meet the conservation targets.

The legislation calls for uniform methods of applying State conservation targets, requires review of State targets within 1 year, gives each Governor 45 days to develop plans to meet or exceed the targets set by the President.

The President would be authorized to impose additional Federal conservation measures on States not meeting his goals only if there were a 10-percent reduction in available supplies of motor fuels or other petroleum products for a 3-month period.

Potential State and Federal conservation measures envisioned include minimum gasoline purchase requirements and odd-even gasoline purchasing based on license plates.

Mr. Speaker, an early conference with the Senate is anticipated to allow the President to sign the bill in September.

FUNDING OF VARIOUS CONSERVATION PROGRAMS

In adopting legislation this week appropriating funds for the Department of Energy, the House approved $768 million for energy conservation programs of the Department, with a heavy emphasis on additional funding of research and development initiatives.

Mr. Speaker, the funding envisions new programs to demonstrate efficient alternatives to providing both heat and power to industrial, commercial and residential sites, thermal and solar projects, further development of wood as an energy source.

Also included in the House-passed bill was $96 million for energy programs directly aimed at transportation. These include research programs for vehicular propulsion, including development of gas turbine and electric engines. Some $5.2 million was provided for alternative fuel use programs.

Additional conservation funding is proposed in a massive $6.9 billion authorization bill for all Department of Energy civilian research and development programs for fiscal year 1980. That bill was sent to the House floor by the committees on Science and Technology, Interstate and Foreign Commerce, and Interior and Insular Affairs.

In the area of conservation, Mr. Speaker, the DOE bill as reported by the committees increased by $86.9 million, to a total of $346.5 million, proposed spending for such programs as loan guarantees and grants for urban-waste-to-energy demonstration projects, industrial waste energy reduction and cogeneration, alternative fuel use for transportation, automotive gas turbine development, and electric and hybrid vehicle programs.

Meanwhile, additional measures for transportation efficiencies have cleared the House Appropriations Committee and are ready for floor action in the fiscal 1980 Department of Transportation appropriations bill.

Mr. Speaker, a major committee amendment, to be offered on the House floor, would add $242.5 million to the $9.5 billion transportation bill including $4 million for car pool programs, $40 million for safer off-system roads, $20 million for enforcement of the 55-mile-an-hour speed limits as part of the effort to promote more efficient use of vehicles.

MASS TRANSPORTATION

The House also is moving forward in promoting the development of mass transportation as a viable and necessary alternative to automobiles and other less efficient consumers of fuel.

The Department of Transportation appropriations bill for fiscal 1980, which is ready for consideration on the floor, includes $1.3 billion for urban mass transit discretionary grants, $650 million for urban formula grants, and $700 million for transfer of interstate highway funds to mass transit programs, including $275 million for Washington's Metrorail system.

In addition, Mr. Speaker, the Appropriations Committee has prepared an amendment to the DOT appropriations bill to be offered on the floor which would increase urban discretionary transportation grants by $130 million, increase urban formula grants by $30 million and increase rural and small urban grants by $10 million for local transportation development.

Further underscoring its commitment to mass transportation, the House also approved legislation authorizing $1.7 billion for fiscal years 1981 through 1987 to complete construction of the Washington area metro subway system, which is used by thousands of tourists who visit the city from throughout the Nation as well as people from Maryland and Virginia who work in the city. Recent ridership has set records.

RAILROADS

The House adopted legislation authorizing the spending of $2.7 billion in Federal funds to support Amtrak for the next 3 years, restoring about half the routes earmarked for discontinuance by the administration in the 27,000 mile system. In acting on the legislation, the House agreed to assure each section of the country at least one long-distance line, and the potential for future expanded use of Amtrak lines is being reviewed.

Mr. Speaker, in the fiscal 1980 Department of Transportation appropriations bill currently before the House, $762.3 million is provided for grants to Amtrak during the year. Additionally, the measure would provide $481 million for Northeast railroad corridor improvements, $100 million for general railroad improvements and rehabilitation, and $550 million for the purchase of Conrail securities.

FOSSIL ENERGY

Efforts to promote more production of energy from coal and petroleum sources in the United States are reflected in provisions of two House bills. For example, the Department of Energy civilian research and development authorization bill cleared by committee includes an $86.9 million increase (to $802.6 million) for fossil energy programs, primarily for coal liquefaction, fuel cells, and enhanced gas recovery.

In an appropriations bill for the Department of Energy approved by the House this week, the appropriations committee included a $23.7 million increase over the administration's request for fossil energy research and development, bringing total spending in this area for fiscal 1980 to $699.3 million on coal, petroleum and natural gas projects.

Among these projects, Mr. Speaker, are programs to improve underground and surface coal mining; build coal gasification demonstration plants; promote conversion to coal by electric utilities, and including $58.3 million for enhanced oil recovery through such methods as extraction from tar sands and shale.

In addition to stepped up on-shore and off-shore drilling and other enhanced domestic energy production programs, the House also approved $145.9 million (a $142.5 million increase over the administration budget request) for increased exploration and assessment of the National Petroleum Reserve in Alaska.

NUCLEAR FISSION

Under legislation approved by the Committee on Science and Technology and ready for final action by the House, the proposed authorization for nuclear fission energy programs was increased by $202,850,000 to $2,263,773,000 including $183.8 million for the Clinch River breeder reactor project which the administration had opposed.

The committee bill cut breeder reactor studies by $40 million, increased uranium enrichment programs by $70 million, and includes a prohibition against using research and development funds to irretrievably bury spent fuel which could be a potential source of future energy. The bill, cleared for floor action, also includes a $27.7 million increase in authorized spending for converter reactors, including $5 million for a nuclear power plant operator training program.

Meanwhile, Mr. Speaker, many legislators are awaiting the findings of Federal investigators looking into the nuclear accident at Three Mile Island in Pennsylvania to help determine the future course the Nation should take in the area of nuclear energy.

SOLAR ENERGY AND OTHER INITIATIVES

Mr. Speaker, the development of solar energy remains a high priority in Congress. The House in June approved $133.3 million for development and demonstration of solar energy systems, and another $283.3 million for the advancement of solar technology and the development of wind conversion techniques.

The House Banking Committee has under consideration the administration's new proposal for a $100 million Solar Energy Bank, which would provide interest subsidies for buildings using solar equipment; tax credits for installation of solar energy also is under consideration in committee. The Banking Committee expects to begin marking up the legislation in September after completing hearings on the President's plan.

Meanwhile, Mr. Speaker, the Department of Energy authorization bill currently pending before the full House would authorize $6.9 billion for civilian energy research and development for fiscal 1980. The House Science and Technology Committee, in reporting out the bill, increased the authorization for such initiatives as solar heating and cooling and major demonstration projects by $16 million to $142.3 million.

The committee, in the bill before the House, also increased solar technology funding authorizations by $22.3 million, including construction funds for the Solar Energy Research Institute. There were other increases in the bill for important energy initiatives—increases for geothermal and hydroelectric programs, electric energy systems, and a $2.5 million increase for research on environmental monitoring and cleanup around nuclear facilities.

NAVAL PETROLEUM AND OIL SHALE RESERVES

The House has passed a bill authorizing $85.2 million for the naval petroleum and oil shale reserve programs of the Department of Energy for fiscal 1980. This action was followed up this week when the House approved an appropriation of $69 million—the full funding requested—for the petroleum reserve program.

This funding allows for further exploratory oil work on Naval Petroleum Reserve No. 1 at Elk Hills, Calif., and Naval Oil Shale Reserve No. 2 in Utah, and some flexibility in acquisition of additional pipeline capacity, under the close monitoring of the Congress.

Mr. Speaker, the House will continue to move forward steadily on its energy initiatives in the weeks ahead.

SALT II

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 5 minutes.

Mr. ADDABBO. Mr. Speaker, there is great concern in this Nation today about the SALT II Treaty and whether or not it is adequate for safeguarding our national defense. It is not only a topic of conversation among our citizens but among our Senators who must make the ultimate choice, and among present and former national leaders.

There appears to be a growing viewpoint that the SALT Treaty can only be ratified if it is accompanied by a massive increase in Federal defense spending.

I do not share that point of view, and since the Subcommittee on Defense Appropriations has just completed nearly 5 weeks of intensive markup of the fiscal 1980 bill, I would seek to share with the Members some of the insights I have gleaned while chairing this subcommittee this year.

It is my contention that dollars alone do not buy national defense. We must find ways of utilizing our spending in a more efficient and cost-productive means. I believe that to be one of the critical questions facing this Nation in the decade ahead.

As dollars grow ever more scarce and as the need for critical weapons systems increases, I do not believe we can afford to continue to be guided by simplistic, expensive, and wasteful formulas. We will save dollars, duplications, waste, and nervous energy by insuring that our error rate becomes so miniscule that it will not matter whether it is plus or minus. We can do that only by the most diligent attention to detail, by adopting in conjunction with our military leaders a comprehensive and coordinated national defense plan that will allow us to buy what we need while eliminating extraneous outlays. By persisting in close examination of research and development programs and by examining audit reports, we have discovered a number of ways to cut military spending without interfering with essential purchases.

Budget officers, be they civilian or military, tend to stockpile dollars for a rainy day. We just cannot afford to let them do this any longer, nor can we afford to begin a procurement unless we are reasonably sure that it will do the job it is supposed to do when it comes into the inventory, and unless we are reasonably sure it can be produced in line with what we anticipate, and unless we are sure it is not low on the priority list.

I am including some of the conclusions of the Subcommittee on Defense Appropriations in its markup of the fiscal 1980 Department of Defense budget.

I commend this to the attention of the Members. It is a straight-forward analysis of the subcommittee action during one of the longest and most diligent markup sessions held by the subcommittee in years, I think the Members will find it worthwhile reading.

I believe it is necessary for all of us who have some responsibility for the national defense of this Nation to realize that the vast increases in national defense spending must be of vital concern to us. There is a limit to what we can afford to spend each year, yet there are certain levels of capability that we must maintain. It is clear that we are spending more and getting less for it, year by year, and that the tough years lie ahead, not backward.

I am fearful that if we do not take corrective action sometime soon, we may reach a point before too long passes where we simply cannot afford to provide our uniformed fighting men and women with the weapons they need to be combat ready. We are already facing shortages in critical areas. Even today, we are considering downgrading our standards, because we cannot afford to purchase all that is necessary to bring systems or units up to standard. This, in large part, is due to the inflationary spiral we have endured for a decade, and may moderate if the economy improves. But, to a large degree, it occurs because it has been our policy to buy the sophisticated and expensive weapons system, while other nations build far more less sophisticated and inexpensive weapons.

If we are forced to watch our spending carefully in years to come, we in the Congress must force ourselves not to support projects of little national value which nevertheless have great parochial appeal. We are funding projects in this bill which have outlived their time. We are funding projects which when finally completed will be of dubious military value, either because of advances in technology now taking place or because conditions, almost certainly, will preclude effective utilization.

I will discuss these programs in detail when the bill comes to the full House for consideration next month. Nevertheless, a perfect example—though certainly not the only example—is the decision to fund $2.09 billion for construction of the nuclear carrier. By the time that ship would be launched for sea duty, somewhere in the 1990's barring production slippages, the advancement in missiles will make this ship certainly vulnerable to attack, no matter where in the world it is assigned. There is no question about that conclusion, not even in the minds of those who supported this ship. If built and operating today, it could operate for the next decade or so with little difficulty. To start this project now, in fiscal 1980, is financial folly. Even more serious, the construction would lull us into thinking we were producing a great warship when in actual fact, putting it into combat could be a disaster militarily. When a $3 billion ship, when fully provisioned, is at the mercy of three or four missiles, we are doing something wrong.

There are a number of instances in this bill where my own thinking convinces me we are committing our dollars foolishly. I would hope we would rectify these mistakes when the measure is debated on the floor. The money we have wasted on these programs could have gone for programs suffering from full commitment which are important to national security. The funds saved could also be utilized for other benefits outside of national defense spending. Those questions, however, will be resolved by the House and can wait to be debated at that point.

There is another matter in this bill which disturbs me. Inclusion of an antiabortion amendment interjects a political issue where it does not rightfully belong and where it simply serves to distract our attention from the more pertinent question of national defense. We have faced the abortion question in this body many times and the will of the House has been expressed. To add this issue to a bill dealing with national defense only serves to carry an inflammatory question into a new realm. I do not deny the importance of abortion as an issue. I do resent adding it to an already complex and important bill.

I would hope that in the future, Members of this body might see fit to facilitate the work of the House by debating and deciding issues where they rightfully belong. If that makes me a traditionalist, so be it. We have spent months in subcommittee seeking ways to provide national defense to this Nation, and it is unfortunate that the value of that work could be lost in a confrontation on abortion.

Finally, we have cut $2 billion from the budget request. In my viewpoint, admittedly a minority viewpoint within the subcommittee, we could have cut at least $2 billion more, or utilized unobligated funds without harming any of the weapons systems vital to national defense. There is an enormous amount of latitude for judicious pruning within the administrative sections of the Pentagon. We have done some this year by virtue of our deleberate markup process. We can do more of it.

Nevertheless, I believe it is fair to say that each member of the subcommittee played an important role in our deliberations and our determinations. I am especially pleased at the cooperation of the ranking minority member, Jack Edwards. And I am highly pleased that our two new subcommittee members, Mr. Murtha and Mr. Dicks, not only took to the work like ducks to water and together with all other members of the subcommitte, conducted themselves at all times with the utmost intensity of purpose.

I compliment the subcommittee staff on a hard job well done. As always, their work has been outstanding, and they have labored even longer and more assiduously than their counterparts in the Pentagon.

Mr. Speaker, this bill will be hotly debated when it comes up for consideration next month. As I indicated earlier, I will support changes I consider important, and I will defend decisions of the subcommittee where I believe them to be proper.

The Subcommittee on Department of Defense Appropriation considered amended budget requests totalling $129.6 billion in new budget authority. The subcommittee has recommended appropriations totalling $127.4 billion, a reduction of $2.2 billion. The sum recommended is $6.5 billion above the amount provided for fiscal year 1979. The reduction is in part offset by transfers of $246 million.

The net reduction of $2 billion is the result of hundreds of individual specific actions in which funds were deleted for budgeted items not considered to be essential or where waste was evident and funds were added for unbudgeted items considered to be of high priority.

The committee expects to report the bill to the House in September.

While it will be some time before exact figures will be available, preliminary analysis indicates that the following approximate reductions were made in the major titles in the bill.

Military personnel—$350 million.

Operation and maintenance—$1.2 billion.

Procurement—$175 million.

Research, development, test and evaluation—$250 million.

In the procurement area, $2,094,000,000 is recommended for a nuclear powered aircraft carrier instead of the $1,617,100,000 proposed in the budget for a conventionally powered carrier. A number of increases were made in the production rates of aircraft in order to obtain better unit costs.

Some of the major actions recommended are listed below.

OPERATING AREA REDUCTIONS

Reduction of 1,600 positions and $51 million from management headquarters.

Deleted $29.6 million requested to establish an Army Training Center at Fort Irwin, Calif.

Supported reducing length of overseas tours to 18 months for those personnel enlisting in the Army for 3 years.

Established a ceiling at 375,000 military dependents permitted overseas at any one time.

Consolidation of Air Force Veterinary Corps into Army Veterinary Corps and designating the Army as DOD executive agent for all veterinary functions. Committee also recommended a 10-percent reduction in the 667 military veterinarians in DOD and broadening the corps to include specialists in food management and public health.

Reduced the $411.3 million requested for overtime pay by $123.4 million.

Reduction of $98 million in personnel compensation as a result of abuses in disability and nondisability retirements and the associated use of sick leave.

Reduction of $90 million in the request for travel of personnel.

Reduction of $300 million to the estimated $3.2 billion requested for contract studies and analysis, management and engineering support and consultant services.

Deleted $36.3 million for Tri Service Medical Information System (TRIMIS) program.

Deleted $31.6 million in exercises related to the cancellation of withdrawal of ground forces from Korea.

OPERATING AREA INCREASES

Addition of 6,300 military personnel to continue assignment of 2d Army Division in Korea at full strength.

Added $13 million for a uniform bonus of $9,000 to all medical doctors, regardless of recruiting source, after completion of residency training.

Directed retention of basic and advanced training at Fort Dix, N.J., during fiscal year 1980.

Directed continuation of Navy flight training at Whiting Field, Fla.

Approved an increase of 276 positions in the Army and Air Force for improved child care support.

Approved increase of 875 personnel in full-time manning for Army Guard and Reserve and directed realignment of an additional 875 personnel for full-time manning support from other areas.

Restored funds to support a Navy Reserve of 87,000 personnel and directed continued operation of 15 reserve destroyers proposed for deletion.

Restored $400,000 to continue the civilian marksmanship program and to provide ammunition to support the rifle matches.

Added $58 million to the request to provide the Marine Corps with a base program equal to that provided the other services.

Added $75 million for the overhaul of five additional Navy reserve destroyers.

Added $30 million for the depot level maintenance of the F-100 aircraft engine.

Committee net reductions in the national foreign intelligence program total $105 million. An additional net reduction of $351 million is recommended in intelligence related activities.

LANGUAGE PROVISIONS

The committee deleted language proposed in the budget which would have prohibited the payment of price differentials on defense contracts for the purpose of placing contracts in areas of high unemployment. Such price differentials are authorized by law and the committee believes that a well-planned program in this area is in the national interest.

The bill will contain provisions which will limit wage board (blue collar) Government employees and foreign national employees pay raises to the same percentage as General Schedule employees of the Federal Government.

The committee approved a provision relating to payments for abortions with the same language as that approved by the House as a part of the Labor-Health, Education, and Welfare appropriation bill. The provision states that none of the funds provided for in the act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

INTERNATIONAL ECONOMIC POLICY SUBCOMMITTEE AGENDA

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extrneous matter.)

● Mr. BINGHAM. Mr. Speaker, when the House returns from the August district work period, the Subcommittee on International Economic Policy and Trade, which I have the honor to chair, plans to conduct hearings and possibly take legislative action in a number of policy areas of interest to many Members of the House, as follows:

Additional hearings will be held reviewing the operations of the Overseas Private Investment Corporation (OPIC), including proposed legislation to transfer 5 percent of OPIC's unused authority to the Inter-American Development Bank.

Certain problems and issues have arisen in the implementation of the International Investment Survey Act, and the subcommittee will hold a hearing to review those problems and potential solutions.

The subcommittee also plans a hearing to review the efforts being undertaken by the executive branch to achieve multilateral cooperation with U.S. policies prohibiting compliance with foreign boycotts against countries friendly to the United States.

In the nuclear export area, the subcommittee plans hearings on the health, safety, and environmental risks associated with the exports of nuclear plants and equipment.

I am concerned, Mr. Speaker, about the failure to date of the United States and the People's Republic of China to reach an agreement for orderly and fair marketing of textiles and apparel, particularly in view of the fact that the Congress may soon be asked to grant most-favored-nation trade status to the People's Republic of China. The subcommittee may wish to review both of those aspects of our trade relations with China in hearings in September.

The President's export policy, announced in September of last year, among other things called for greater use of export trade associations to stimulate export trade and reduce the United States severe trade deficit. Congressman LAGOMARSINO, the ranking minority member of the subcommittee, and I recently introduced legislation to give the Commerce Department jurisdiction over such export trade associations, and increase their effectiveness for exporters by, for example, enabling service industries to form such associations for the purpose of exporting services. The subcommittee will conduct hearings on that legislation (H.R. 5061) as soon as possible before the end of the present congressional session.

A number of bills have been referred to the subcommittee proposing various foreign policy responses to the challenge posed by OPEC's oil production and pricing policies. Those bills include H.R. 4835 and House Concurrent Resolution 124. In view particularly of the current popularity of such ideas as "food for crude," the subcommittee, in conjunction with the Subcommittee on Europe and the Middle East, will look carefully at possible means of moderating the negative impact of rising oil prices.

Finally, Mr. Speaker, the subcommittee will mark up H.R. 2200, a bill to authorize validation by the Foreign Claims Settlement Commission of U.S. private property claims against the Government of Vietnam, on which hearings have already been held.

The subcommittee would welcome receiving the views of responsible public witnesses on any of these matters, and public witnesses will be heard to the extent that time permits. Precise dates and locations of hearings will be announced through the RECORD and the press. Individuals or groups wishing to submit testimony or to obtain further details on any of these hearings should contact the Subcommittee staff—707 Annex 1, House of Representatives, Washington, D.C. 20515.●

TOWARD MULTILATERAL PROTECTIONS AGAINST POLITICAL RISKS TO INTERNATIONAL INVESTMENT

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BINGHAM. Mr. Speaker, I am today introducing legislation that would transfer to the Inter-American Development Bank a small, unused portion of the authority of the Overseas Private Investment Corporation (OPIC) to incur liabilities in the form of insurance and loan guarantees for foreign investments in developing countries.

The Congress in 1974 approved amendments to the OPIC authorizing legislation directing that U.S. agency to encourage and support action by multilateral agencies to establish programs to insure and guarantee investors against political risks such as war, expropriation, and inconvertibility of currency as a means of stimulating trade and development. While there have been further amendments since 1974, the OPIC statute continues to encourage multilateralization of political risk insurance and loan guarantees. OPIC is required to report periodically to the Congress on progress toward such multilateralization.

In recent months, Mr. Speaker, there has been encouraging progress. The Inter-American Development Bank has put together a proposal to establish a program, which it would administer, to guarantee loans and insure investments in energy and mineral projects in Latin American nations that participate in the Bank. That proposal appears to have the preliminary support of many of the national delegations to the Bank. It includes provision for the Bank itself to devote a significant sum for reserves to settle any claims that might arise from insurance or guarantees the Bank would issue if and when this program is implemented. The question now is whether the United States and other developed countries that are members of the Bank will make commitments to such a program, and in what forms and amounts.

The legislation I am introducing today proposes a U.S. commitment in the form of $375 million of OPIC's unused investment insurance authority (5 percent of a total authority of $7.5 billion) and $175 million of unused loan guarantee authority (23 percent of a total authority of $750 million). My bill is intended at this point to stimulate and serve as a focus for further discussion and debate. Several aspects of the proposal, such as its status under the Budget Act and House rules regarding appropriations, and the consistency of the terms of the IADB program with statutory restrictions upon OPIC operations, will require careful evaluation and possible revisions.

Indeed the entire relationship between such a multilateral program and the program conducted for the United States by OPIC must be carefully examined. I personally view the proposed transfer of a small portion of OPIC's authority as being a convenient and sensible way of signaling U.S. support for an IADB program and making an initial contribution. Any additional U.S. contributions, however, would presumably have to come from other sources since OPIC must continue to have adequate reserves and authority to incur liabilities for its own programs. I certainly do not see the IADB program in any way as replacing OPIC or imposing further drain on OPIC's authority beyond this initial transfer.

The Subcommittee on International Economic Policy and Trade, which I have the honor to chair, plans to conduct hearings on this matter early in September in the hopes that such hearings will provide a basis for revising and improving the legislation I am today introducing. A text of the legislation follows:

H.R. 5072

A bill to amend section 235 of the Foreign Assistance Act of 1961, relating to the Overseas Private Investment Corporation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 235 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(g) (1) (A) Upon satisfaction of the condition set forth in paragraph (3) (A) of this subsection, $375 million of the maximum contingent liability otherwise assumable by the Corporation under subsection (a) (1) of this section shall be available only for insurance issued pursuant to the agreement described in paragraph (4) of this subsection.

"(B) Upon satisfaction of the condition set forth in paragraph (3) (B) of this subsection, $175 million of the maximum contingent liability otherwise assumable by the Corporation under subsection (a) (2) of this section shall be available only for guaranties issued pursuant to the agreement described in paragraph (4) of this subsection.

"(2) For purposes of section 237(c) and of subsections (d) and (f) of this section, insurance and guaranties issued pursuant to the agreement described in paragraph (4) of this subsection shall be deemed to be issued pursuant to this title to the extent that the United States Government has liability under such insurance or guaranties, as provided in paragraph (4) (B) of this subsection.

"(3) (A) The United States Government may not assume any liability under insurance issued pursuant to the agreement described in paragraph (4) until (i) the agreement has been entered into by at least two other member countries of the Inter-American Development Bank, and (ii) such other parties to the agreement have authorized the use of their resources to assume a maximum contingent liability of at least an aggregate of $750 million under insurance issued pursuant to the agreement.

"(B) The United States Government may not assume any liability under guaranties issued pursuant to the agreement described in paragraph (4) until (i) the agreement has been entered into by at least two other member countries of the Inter-American Development Bank, and (ii) such other parties to the agreement have authorized the use of their resources to assume a maximum contingent liability of at least an aggregate of $350 million under guaranties issued pursuant to the agreement.

"(4) (A) The provisions of this subsection apply with respect to an agreement, which the President is hereby authorized to enter into on behalf of the United States, establishing a multilateral trust fund, to be administered by the Inter-American Development Bank, which would insure and guaranty investments (and other economic interests acquired in connection with such investments) made by eligible investors (as described in subparagraph (D) of this paragraph) in projects which facilitate the exploration, development, exploitation, processing, and mining or other extraction of any deposit of oil, gas, or any other mineral in countries that are regional borrowing members of the Inter-American Development Bank.

"(B) The agreement shall provide that the maximum contingent liability assumed by the United States Government on each invement (or other economic interest) insured or guaranteed pursuant to the agreement shall not exceed an amount which bears the same ratio to the total maximum contingent liability under such insurance or guaranty as the aggregate amount of financial resources made available by the United States Government pursuant to paragraph (1) of this subsection bears to the aggregate amount of financial resources made available by all parties to the agreement.

"(C) The participation by the United States Government in the fund established by the agreement shall be subject to the following limitations:

"(i) The maximum contingent liability of the United States Government outstanding at any one time pursuant to insurance issued purusant to the agreement shall not exceed the amount specified in paragraph (1) (A) of this subsection.

"(ii) The maximum contingent liability of the United States Government outstanding at any one time pursuant to guaranties issued pursuant to the agreement shall not exceed the amount specified in paragraph (1) (B) of this subsection.

"(D) The agreement shall provide that, for purposes of issuing insurance and guaranties under the agreement, eligible investors include only (i) citizens of countries providing resources under the agreement or of developing member countries of the Inter-American Development Bank, (ii) corporations, partnerships and associations created under the laws of such countries if at least 50 percent of the voting interest in the corporation, partnership, or association is beneficially owned by citizens who are eligible investors under clause (i), and (iii) corporations, partnerships and associations created under the laws of other countries if 95 percent of their voting interest is beneficially owned by citizens who are eligible investors under clause (i).

"(E) With respect to projects described in paragraph (4) (A) of this subsection, liability may be assumed under the agreement for insurance and guaranties issued by other multilateral organizations or by national governments to an investor owned in part by eligible investors but not satisfying the percentage-of-ownership requirements of subparagraph (D) of this paragraph, so long as the maximum contingent liability to be assumed under the agreement does not exceed the proportionate share of ownership by eligible investors in that investor.

"(5) Subsection (a) (4) of this section shall not affect assumptions of liability under the agreement by the United States Government in accordance with this subsection.".●

$451 PER STUDENT

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. ASHBROOK. Mr. Speaker, a generation ago thousands of students could rightly thank the Federal Government for opening higher education to them through the GI bill. Today there are thousands of students whose educational opportunities are being eroded by that same Federal Government. Washington has produced a tangle of regulations and reporting requirements, most of which contribute absolutely nothing to academic quality but all of which increase the cost of education. Inflation alone makes it harder than ever for colleges to deliver quality education at an affordable price, but the Federal bureaucrats tighten the financial squeeze even further by imposing their ideological agenda on the academic community.

The history of higher education in America has been a dialog between excellence and equality. Through generous endowments and scholarship programs, our colleges have extended academic opportunity to countless students whose parents could not even afford to finish high school. The only aristocracy they recognize is that of talent and effort, and they insist on discriminating in favor of that aristocracy and against mediocrity. But the social engineers in Washington, with their quotas and other schemes, are quite willing to strangle excellence for the sake of equality. Ironically, their efforts have the effect of undermining genuine equality of opportunity by making college study more expensive for everyone.

A recent editorial in the Lynchburg, Va., News underlined the destructive results of Federal meddling in higher education, and I commend it to your attention.

[From the Lynchburg (Va.) News, May 19, 1979]

$451 Per Student

In 1968 the cost of carrying our Federal Government social programs and complying with the reporting requirements cost Duke University $58 for every student. Within seven years—in 1975—the cost of these programs and reporting had risen to $451 for each student.

The bill was passed on to the student, of course; his tuition was raised. In most cases, that meant his parents had to pay the bill.

At George Washington University in Washington, D.C., the cost of implementing and reporting these programs rose from $16 in 1965 to $356 in 1975.

The American Council on Education says that its study of six sample colleges and universities revealed that the cost of complying with Federal regulations was $10 million. The University of Illinois, for example, spent $1.3 million in 1975 on Federal regulations. Georgetown and Duke each spent about $3.6 million each.

Business Week magazine called attention to these costs recently in an article by Mary Paul. Congressman John M. Ashbrook (R-Ohio) referred to it in the Congressional Record for May 9.

"Who benefits from this huge burden?" Ashbrook asked. "The answer is that only the liberal and leftist ideologues in the bureaucracy benefit.

"They get to ram their social ideas down our people's throats. We in Congress have the power to stop this, even if we had to override Mr. Carter's veto to do it. We could end affirmative action and all the other programs which make up the vast majority of this bureaucratic meddling in the affairs of our academic community.

"The obvious answer, then, is that a substantial proportion of Congress, even a majority of Congress, is made up of Members who are quite willing to see the voters, taxpayers, and the academic community suffer. This matters less to many of my colleagues than interfering with the ideologues who want to shove through the affirmative action programs which Americans oppose 9 to 1."

That, of course, is where the blame, and the responsibility, lies: squarely on the shoulders of the Congress which enacted these laws that spawned such costly regulations.

These Congressmen and Senators are passing laws which make education so costly that many many Americans can't afford it—yet they are being taxed, and will be taxed every working day of their lives, to pay the salaries, fringe benefits, expense accounts, and retirement pensions of the bureaucrats who promulgate the regulations which are depriving them of an education.

What we need is a housecleaning in Washington. Until that is accomplished, don't look for things to get anything but worse.

Because these are the people who have made it so.●

WASHINGTON: THE CITY WHERE CONGRESS MAKES PEOPLE LIVE

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. ASHBROOK. Mr. Speaker, a point everybody seems to ignore, when they talk about the sovereign rights of the District of Columbia, is that it is the only city in America that exists only because of Congress. Washington's income is derived, directly or indirectly, entirely from taxes we impose on the rest of the country, or from tourism we generate.

Almost every dollar that pays the rents, grocery bills, and real estate taxes in Washington, D.C., comes out of either Government expenditures, or from tourists who come here to see their Government and their Government buildings, which were paid for at their—not only at District residents'—expense. They come here as tourists because we, the Congress, put those buildings here. We are responsible for their safety and for the District sales taxes imposed on them. We have no right to say, "Your taxes paid for the buildings you are visiting, but to visit them, you are at the mercy of any tribute the District cares to charge, and if you get mugged, that's your problem, not ours." It is our responsibility to see that the District does not become even more unsafe and even more expensive for Americans who come to visit what are, I repeat, their building, their documents, and their Government. We have no right to turn access to 200 million people's property over to 800,000 people.

It is insufferable nonsense to call the District of Columbia a colony. No colony was ever supported almost solely by the Government which was supposed to be occupying it. But nothing is surer than that, if the so-called occupier here, the Federal Government, were to leave, the Washington economy would completely collapse.

The District has adopted a budget and a gun law that are exactly the kind of thing that has put New York City in its present desperate financial and crime situation. It is not only permanent District residents who will suffer. There are hundreds of thousands of people who work here, who will also suffer both extra taxation and the fear, injury, and loss crime brings with it.

So long as Washington exists solely on money we tax other Americans to pay, and by tourists who are here by choices the Congress made, it is our duty to maintain the rights and safety of all Americans in this city.

We have a responsibility to tourists and to the people who are forced by Federal law and only by law, to live and work in the District of Columbia. Anyone who thinks this is "colonization" should ask District officials this: "All right, if you're a colony, do you want the 'occupying power'—the Federal Government—to move out, 100 percent out, and leave you completely to yourself?" That, after all, is what a real colony asks of the colonial power that rules it. But the District wants all the benefits of other Americans' taxes, but none of the control that goes with it. Washington wants hundreds of thousands of people to be forced to live and work here, but it wants to rule those people and tax them all by itself. This is unfair to those who are forced to live in, as well as those who visit, this city. It is exploitation, pure and simple, and I, for one, will have no part of it.●

THE SALES REPRESENTATIVES PROTECTION ACT

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. OTTINGER. Mr. Speaker, I am pleased to join my colleagues, Representatives Abner Mikva, Matthew Rinaldo, Bill Brodhead, Charles Rose, and James Florio, in introducing a revised version of the Sales Representatives Protection Act.

This bill is a consolidation of all previous bills designed to eliminated abuses in the practices of manufacturers toward their commissioned sales representatives. By encouraging the existence of contracts to define the relationship between sales representatives and their principals, this legislation seeks to protect sales representatives from unjust or sudden terminations from accounts by their principals without unduly penalizing fair and reasonable principals.

The Sales Representatives Protection Act provides minimum standards for a contract between the two parties. In the absence of a conforming contract, the bill provides a system of post-termination compensation in the event that a sales representative is abruptly and without good cause terminated. If the sales representative does not meet his or her obligations as outlined in the bill, he or she can be terminated without rights to indemnification.

The problems this legislation addresses have heretofore gone unaddressed by the Congress. We look forward to hearings on the Sales Representatives Protection Act at the earliest possible date so that all interested parties may have an opportunity to express their views on this important legislation.

The text of the bill follows:

H.R. 5099

A bill to correct inequities in the relationship between sales representatives and their principals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Sales Representatives Protection Act".

FINDINGS AND PURPOSE

Sec. 2. The Congress makes the following findings:

(1) Sales representatives invest their own time, resources and skills in the development of their territories and markets for their principals.

(2) Many sales representatives are compensated primarily by commission and do not generally have the benefits of collective bargaining, workmen's compensation, unemployment compensation, company-sponsored retirement, or pension plans.

(3) Many sales representatives are subjected to wrongful termination from their accounts, reduction in the size of their sales territories, conversion of their accounts to house accounts serviced directly by their principals and other abuses which deny them the full benefits of their labor.

(4) It is in the public interest to encourage the development of equitable contracts between sales representatives and their principals and for principals to provide reasonable compensation to sales representatives who are wrongfully terminated.

DEFINITIONS

Sec. 3. For the purposes of this Act:

(1) The term "account" means—

(A) a wholesaler, retailer, contractor or other business establishment which purchases merchandise of a principal through a sales representative for resale or for use in business; and

(B) to which the sales representative solicited orders on behalf of the principal for a period of not less than 12 months immediately preceding the termination by the principal.

(2) The term "commerce" means trade, traffic, transmission, communication, or transportation—

(A) between a place in a State and any place outside thereof; or

(B) which affects trade, traffic, transmission, communication, or transportation described in subparagraph (A).

(3) The term "good cause" means—

(A) conduct on the part of a sales representative with respect to his or her principal which constitutes—

(i) dishonesty, fraud or other illegal activity;

(ii) a material breach of the contract between the sales representative and the principal;

(iii) failure to put forth a good faith effort to obtain orders for the merchandise of such principal;

(iv) gross negligence in the performance of the duties of the sales representative; or

(B) a marketing area withdrawal.

(4) The term "marketing area withdrawal" means the withdrawal of merchandise, or a line of merchandise, directly or indirectly, by a principal from a particular marketing area during at least a continuous one year period.

(5) The term "principal" means any person who—

(A) engages in the business of manufacturing, producing, assembling, importing, or distributing merchandise for sale in commerce to a customer who purchases the merchandise for resale or for use in business;

(B) utilizes sales representatives to solicit orders for the merchandise; and

(C) compensates the sales representatives, in whole or in part, by commission.

(6) The term "sales representative" means any person (other than an agent-driver or commission-driver) who engages in the business of soliciting, on behalf of a principal, orders for the purchase of the principal's merchandise.

(7) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam and the Virgin Islands of the United States.

TITLE I—CONTRACTS BETWEEN SALES REPRESENTATIVES AND PRINCIPALS

CONTRACT TERMS

SEC. 101. Any contract between a sales representative and a principal under which the sales representative shall solicit orders for the merchandise of the principal shall include a provision with respect to each of the following items:

(1) The rate of commission or any other form of compensation to be paid by the principal to the sales representative.

(2) The minimum term of the contract.

(3) (A) The number of days of written notice the principal shall give the sales representative before terminating or failing to renew, without good cause or due to the sales representative's failure to put forth a good faith effort to obtain orders for the merchandise of such principal, the contract: *Provided*, That notice shall not be less than 30 days for each year the sales representative maintained the account up to a maximum of not less than 90 days; or

(B) The amount of payment which shall be made in lieu of the written notice pursuant to subparagraph (A) to be paid within 30 days following termination: *Provided*, That the payment shall not be less than one-twelfth of the average annual compensation of the sales representative for the time during which the sales representative maintained the account during the preceding five years multiplied by the total number of years that the sales representative maintained the account up to a maximum of not less than three years.

(4) The number of days of written notice, or the amount of payment which shall be made in lieu of written notice, the principal shall give the sales representative before the principal effects a marketing area withdrawal.

(5) A description of the sales territory assigned to the sales representative and a statement of whether the territory will be an exclusive territory of the sales representative with respect to the merchandise, or line of merchandise, of the principal.

(6) The terms, if any, under which disputes between the principal and the sales representative shall be submitted to arbitration, including, if the disputes shall be submitted to arbitration, the method to be used in selecting the arbitrator.

(7) The ownership of any samples furnished by the principal to the sales representative for use in business.

(8) The number of days after an order for the merchandise of the principal is transmitted to the principal within which the principal must notify the sales representative whether the order has been accepted or rejected.

(9) The terms under which the sales representative will receive copies of shipping documents which relate to merchandise shipped by the principal to an account of the sales representative.

(10) The terms under which the sales representative will be allowed to solicit orders for the merchandise of other principals.

DUTIES OF PRINCIPAL

SEC. 102. Any principal who enters into a contract with a sales representative under which the sales representative shall solicit orders for the merchandise of the principal shall—

(1) inform the sales representative, within a reasonable time to be specified in the contract, of the principal's receipt of each order from an account of the sales representative;

(2) furnish the sales representative, within a reasonable time to be specified in the contract, copies of all invoices and credit memorandums issued with respect to sales in the assigned geographic territory, if any, of the sales representative;

(3) furnish the sales representative monthly statements of commissions due the sales representative; and

(4) provide to the sales representative, upon the request of the sales representative—

(A) an accounting showing each sale made by the principal in the preceding 12 months in the assigned geographic territory, if any, of the sales representative;

(B) information with respect to any matter which is related to any claim by the sales representative against the principal for a commission; and

(C) access to the records of the principal for the purpose of verifying information supplied under subparagraphs (A) and (B).

TITLE II—INDEMNIFICATION

EXEMPTION FOR CONTRACT CONFORMING WITH TITLE I OF THIS ACT

SEC. 201. No action for indemnification under this Act shall be brought by a sales representative against a principal if they have entered into a contract which conforms with Title I of this Act.

INDEMNIFICATION BY PRINCIPAL OF UNJUSTLY TERMINATED SALES REPRESENTATIVE

SEC. 202. (a) Any principal who, without good cause, terminates a sales representative from an assignment to solicit orders on behalf of the principal from an account shall indemnify the sales representative in accordance with section 203.

(b) (1) (A) Any principal who reduces the size of the geographic territory, without good cause, which the principal has assigned to a sales representative with respect to an account of that sales representative shall indemnify the sales representative in accordance with section 203 provided that the reduction results in a loss of not less than 25 per centum in the dollar amount of commissions paid by the principal to the sales representative for orders accepted from the account in the 12-month period immediately following the reduction in geographic territory compared to the dollar amount of commissions paid by the principal to the sales representative for orders accepted from the account in the immediately preceding 12-month period.

(B) In determining the reduction in the dollar amount of commissions paid by the principal to the sales representative under subparagraph (A), any failure of the principal to fill orders submitted by an account due to an act of God, an act of war or insurrection, a strike, or an act of an agency of government shall be disregarded.

(2) Any principal who reduces the rate of commission paid to a sales representative of the principal for orders accepted by the principal from an account of the sales representative shall indemnify the sales representative in accordance with section 203 provided that there is a reduction in rate of commission of not less than 25 per centum in the subsequent 12-month period.

COMPUTATION OF INDEMNITY

SEC. 203. Any principal required under section 202 to indemnify a sales representative shall be liable to that sales representative in an amount equal to one-sixth of the average annual compensation of the sales representative for the time during which the sales representative maintained the account during the preceding five years multiplied by the total number of years that the sales representative maintained the account.

PAYMENT OF INDEMNITY RESULTING FROM SETTLEMENT

SEC. 204. (a) Following the making of a binding agreement to settle a claim by a sales representative against a principal for an indemnity under this title, and prior to any action set forth under section 301(a), the principal involved shall pay the amount of such settlement to the sales representative—

(1) not later than 30 days after the date of the agreement; or

(2) if the amount of such settlement is greater than $3,000, in the manner described in subsection (b); whichever the principal elects.

(b) A principal electing under subsection (a) to pay the amount of a settlement in excess of $3,000 under this subsection—

(1) shall pay not less than 40 per centum of the amount to the sales representative not later than 30 days after the date of the agreement; and

(2) shall, at the time of the payment referred to in paragraph (1), give the sales representative two negotiable notes, each for one-half of the balance of such amount, one of which shall be due not later than 12 months after the date of the agreement and shall bear interest at twice the highest rate of interest paid by the United States on notes issued by it during any 3-day period including such date to be due in 12 months and the other of which shall be due not later than 24 months after the date of the agreement and shall bear interest at twice the highest rate of interest paid by the United States on notes issued by it during any 3-day period including such date to be due in 24 months.

(c) Nothing in this section shall restrict or invalidate any right or remedy set forth in sections 301 and 303.

TITLE III—MISCELLANEOUS

PROCEDURE

SEC. 301. (a) An action to enforce any rights or liabilities created by this Act may be brought in a district court of the United States without regard to the amount in controversy or in any other court of competent jurisdiction.

(b) In the case of an action arising under this Act which is brought in a district court of the United States, the action may be brought in the judicial district where all the plaintiffs reside in addition to any other judicial district provided by law.

(c) No action may be brought under this Act later than six years after the right to that action arises.

(d) In any action brought by any sales representative against any principal under this Act, the burden of proof on the issue of whether the principal acted without good cause shall rest on the principal.

(e) In any successful action brought by a sales representative under this Act, the court may award reasonable attorneys' fees and the cost of the action to the sales representative.

(f) Payment of indemnification under this Act shall be deemed to be a payment of wages and salary under title II, United States Code, sections 507(a)(3) and (4).

(g) The right to indemnification arises on the date the principal has completed the actions listed in section 202 and does not terminate upon the death of the sales representative.

WAIVER PROHIBITED

SEC. 302. Any provision in any contract between any sales representative and any principal requiring the sales representative to waive any of the provisions of this Act shall be void.

EFFECT ON STATE LAW

SEC. 303. Nothing in this Act shall invalidate or restrict any right or remedy of any sales representative under the law of any State.●

PERSONAL EXPLANATION

● Mr. LEWIS. Mr. Speaker, I was detained in a meeting when the conference report to accompany H.R. 3324, the International Development Cooperation Act of 1979, was voted upon. If I had been present, I would have voted "aye." ●

CIA—ASSASSINATIONS COMMITTEE INVESTIGATION

(Mr. BOLAND asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. BOLAND. Mr. Speaker, on June 18, 1979, the Washington Post carried a front page story headlined, "CIA Officer, Since fired, Rifled Hill Panel's Files."

The story described how, over a year before, a CIA employee detailed to guard a CIA safe in the offices of the House Committee on Assassinations, had rifled through sensitive committee files.

The story also contained comments on the incident made by a CIA spokesman, who indicated that the individual had been dismissed after an internal CIA investigation.

That newspaper story was the first indication that I or any other member of the Permanent Select Committee on Intelligence had received about this incident and its related investigation.

Both had clearly and directly concerned another committee of the House.

The investigation was initiated at the request of that committee.

Parenthetically, the chairman of the Select Committee on Assassinations, Representative LOUIS STOKES, has since made a definitive public statement about the facts surrounding the incident and the investigation.

What concerned me at the time of the Post story, and what would have concerned me at the time of the incident, had I known of it, was whether some illegal or improper intelligence operation had occurred.

The Permanent Select Committee on Intelligence has since conducted its own study, which reaches the same conclusions as did Mr. STOKES, that is, that the CIA employee acted by himself and not for or at the behest of anyone at CIA.

Nonetheless, the committee had no opportunity to draw its own conclusions until the story was made public.

Most importantly, the committee was never notified of the incident nor, a year later, that a newspaper article concerning it was in the offing.

The committee's first notice came from the Washington Post.

Because of questions raised by the Post article, the committee staff conducted an investigation of the incident.

The conclusions of this investigation complement those announced by Representative STOKES.

The committee found no evidence of CIA direction or involvement in the incident, although it is difficult, if not impossible, to determine the CIA employee's motive or purpose for doing what he did.

I also wrote to the Director of Central Intelligence, Admiral Turner, expressing my concern that the committee had not known earlier of this incident.

He has since replied to my letter acknowledging that the CIA should have kept the committee informed.

He and I have reached an understanding that in the future, should circumstances arise which suggest illegal or improper actions by intelligence officers or employees, or which otherwise relate to concerns of this committee, he will undertake to promptly bring them to the attention of the committee.

I feel that if this undertaking, which I consider very forthcoming, works as I believe it should, this committee will have achieved a significant improvement in this important area of congressional oversight.

The committee has generally enjoyed good working relationships in its oversight of intelligence agencies.

It is my hope that, growing out of this affair, those relationships will improve in one important aspect.●

PERSONAL EXPLANATION

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PEPPER. Mr. Speaker, due to attendance of a funeral I was not able to be present during the vote on the matter of Representative CHARLES C. DIGGS, JR.; House Joint Resolution 378. Had I been present, I would have voted "aye" on rollcall No. 404.●

PERSONAL EXPLANATION

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PEPPER. Mr. Speaker, due to circumstances beyond my control I missed the following rollcall votes last night. If I were present I would have voted:

Rollcall No. 425, "nay."
Rollcall No. 426, "nay."
Rollcall No. 427, "aye." ●

ASSURING CZECHOSLOVAKIA OF CONTINUED U.S. SUPPORT

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PEPPER. Mr. Speaker, August 21, 1968, was a day of infamy perpetrated upon the able, historical and freedom-loving people of Czechoslovakia when the Russians by military force in a bold and savage exercise of military power took over the government of the country. This usurpation of power by military force by the Soviet Union came as a sad and shocking end in military subjugation to this proud people which had won their emancipation from the Austria-Hungarian empire after World War I and had established under the leadership of that venerable and great statesman, Thomas Mazaryk, an independent republic. Incidentally, Thomas Mazaryk lived at the old hotel at 2400 16th Street while he was working out, with the strong concurrence of our Government, the independence of his beloved country.

I visited Prague in 1945 as a Senator and had a long conference with then President Eduard Benes and had a long dinner consultation with the son of Thomas Mazaryk, Jan Garrigue Mazaryk, then Minister of Foreign Affairs. They told me of the sad days of the republic when the nation was taken over by Hitler and how they yearned to regain their freedom. During the war the country was overrun by Soviet troops. Finally, the Germans were expelled and the people of Czechoslovakia dared to hope that they were about to become free again. The Russians, by the way, always claimed that it was they who freed Czechoslovakia of the German invaders but we know that the United States had a large part in this enterprise. President Benes told me of how the occupying Soviet Army was mistreating and brutalizing the people of Czechoslovakia. President Benes remonstrated with Premier Stalin himself and Stalin promised President Benes that he would curtail much of this mistreatment. President Benes said the situation did improve after this promise. But the Russians stayed on.

Then President Benes said that Stalin told him that if the Czechoslovak Government would allow the Soviet

Union to direct the foreign policy of Czechoslovakia, the Soviets would not interfere in the domestic affairs of Czechoslovakia. President Benes reluctantly and, of course, under the force of the large number of Soviet troops in his country accepted this solemn commitment of Stalin. The betrayal of this promise and commitment of Stalin to President Benes occurred when the Russians by military force took over the country and installed its own communistic, oppressive government in 1948. Hence, this day too will be remembered by the freedom-loving people, not only in Czechoslovakia but of the world as a day of infamy. Finally, after a succession of leaders named by the Soviet Union imposing the Soviet will upon the Czechoslovakian people, there emerged a Czechoslovak-born man named Dubcek who gradually liberalized the Soviet tyranny and gave recognition to the rights of the people of Czechoslovakia. He humanized the Soviet regime so that the people began to feel once more that their Government did have some respect for their rights and interests and some concern for the ancient and proud tradition of the land.

But such liberalization and beginnings of freedom were apparent to the powers governing the Soviet Union. They determined no longer to tolerate the returning air of freedom in Czechoslovakia Hence, on August 21, 1968, citizens of Prague were awakened in the late night by the roar of numerous planes over the city. They were at a loss to understand such a persistent roar of large planes. At daybreak they discovered their proud capital occupied by thousands of Soviet paratroops who had been flown in during the night and ringed with thousands of tanks which had come from the borders during the night hours.

The capital was again in the grip of a Soviet military force which sent Dubcek and many of his followers to Russian prisons and also imprisoned many sympathizers in Czechoslovakia. The heavy hand of tyrannical communism was again at the throat of ancient and proud Czechoslovakia. Another day of Soviet infamy. This condition continues to today with the Czechoslovakian people totally dominated by Soviet agents installed as their government with 80,000 Soviet troops in the country. The people enjoy few liberties and no real independence.

The Soviet imposed government has tried to destroy religion in the country. While on festive occasions like Easter one may find the Cathedrals full, generally no person known to be affiliated with the churches or espousing the principles of religion can enjoy advancement in the Soviet controlled government of the country. The economy of the nation is not only dominated by the Soviet Union but operated basically for the benefit of the Soviet Union. You can see in the faces of this once proud people the shadows of disappointment and defeat. To think that this once proud, cultured, progressive, and heroic country is now a vessel of the Soviet Union is a tragic spectacle.

Hence, let us today again reassure the people of this once proud land that we have not forgotten them, that we denounce the usurper of their government and their liberties.

We call for the restoration of independence and freedom to this once great country and this noble people and we shall continue to strive in every feasible way to bring back the liberty they loved so much and to restore the freedom which is always uppermost in their yearning.●

HISTORIC PRESERVATION BILL—TOWARD AN ETHIC FOR THE EIGHTIES

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, I am today introducing a bill, the National Historic Preservation Amendments of 1979, which would strengthen and improve our Nation's historic preservation programs and lay the cornerstone for these programs in the decade to come. Although patterned after legislation which I introduced along with over 30 Members of the House in the 95th Congress, this bill goes beyond that legislation to more fully incorporate other important national priorities—the need to conserve energy resources, to fight inflation, to revitalize our cities and to provide more opportunities for local employment. One thing we have learned in recent years is that historic preservation can help do all these things, as well as preserve the significant elements of our Nation's heritage, if there are proper incentives and clear direction from the Congress.

We have passed through a period of unlimited development and growth. We can look back on the devastating effects of various Federal programs—such as urban renewal and freeway systems—on the very fabric of our cities and towns. Our agricultural lands and urban centers are threatened with extinction by urban sprawl. Preservation is an alternative, one that has proven its effectiveness. Preservation is a means to grow and develop that respects not only our natural and built environment, but also respects our people and their heritage.

Indeed, the historic preservation movement in this country has grown tremendously in the past decade. What started as a small movement in the 19th century to save a few historic treasures like Mount Vernon and Monticello and Independence Hall now encompasses a wide range of historic properties in every State and nearly every city and town in America—from the village of Peninsula near my home in Ohio to Chinatown in San Francisco, a barrio in San Antonio, Tex., and a farming area in Greensprings, Va.

Recent studies, containing hard economic data, indicate that historic preservation contributes to greater housing supply, increased tax revenues, new business starts, growth in retail sales, expanded tourism and convention activity, and increased public and private investments.

A study prepared for the Advisory Council on Historic Preservation by an independent team of experts demonstrated, through case studies, how historic preservation saves impressive amounts of energy by reusing existing materials. For example, the total energy needed to renovate and operate a rehabilitated garden apartment in Indianapolis, Ind., will be less than the energy required to construct and operate comparable new facilities for over 50 years—even though new facilities might use less energy annually for operations. The energy savings alone in rehabilitating the apartments is equivalent to over 2,250 billion Btu's or almost 2 million gallons of gasoline. In another example, the Grand Central Arcade, an adaptive reuse of a hotel in Seattle's Pioneer Square Historic District, required less than one-fifth as much energy for rehabilitation materials and construction activities than would have been needed to produce the materials and build a comparable new facility—resulting in a savings of over 90 Btu's or over 700,000 gallons of gasoline. The Grand Central Arcade will, in fact, have a net energy investment advantage over an equivalent new structure for the next two centuries.

The economic potential of historic preservation, particularly in urban areas, is equally impressive. Throughout the country, adaptive use of historic structures and rehabilitation of historic districts have proved to be both a boon to local economies and a source of pride for local citizens. This has happened at Quaker Square in Akron, where a 19th century mill has been transformed into an award-winning shopping complex. The project was so successful, that one of the original silos (of Quaker Oats fame) is now being planned for renovation for a major hotel. Preservation activities in the historic district of Alexandria, Va., increased sales of restaurants and retail shops in a two block area $2.8 million in 6 years, a rise of 142 percent or 24 percent annually.

These are but a few examples of how historic preservation has contributed significantly to the progress of our Nation while saving irreplaceable historic and architecturally important elements of our heritage. We are now at a stage where we can build on these achievements by assuring that our national program for historic preservation is clearly focused and better coordinated with other national goals and programs.

NEW DIRECTIONS FOR THE 1980'S

The bill I am introducing today would basically amend the National Historic Preservation Act of 1966. That act was landmark legislation which established, for the first time, a partnership between the Federal Government and the States to protect our Nation's historic resources. It established the National Register of Historic Places to list significant historic properties, provided matching grants for State projects, created the Advisory Council on Historic Preservation, and established a process for reviewing the effects of Federal undertakings on historic properties.

Other recent acts of Congress have provided for the salvaging of historic and archeological resources threatened by Federal projects such as dam and highway construction, expanded the historic preservation grant program with moneys derived from offshore oil revenues, required the Federal Government to consider historic and architecturally significant buildings before constructing new office facilities, and provided Federal tax incentives for preserving historic commercial properties and disincentive for demolishing them. Most recently, the House passed important new legislation, authored by the distinguished chairman of the House Interior and Insular Affairs Committee, Mr. Udall, to protect archeological resources on Federal lands.

Last fall, as chairman of the General Oversight and Alaska Lands Subcommittee, I directed, with the concurrence of the chairman of the National Parks and Insular Affairs Subcommittee, a staff review of the national historic preservation program. As a result of this review, several steps were taken to further evaluate and improve the program.

The National Park Service, for example, at the committee's request, conducted a review of its management of historic and archeological resources, and subsequent improvements in the Service's related policies, procedures and personnel are being made. In December of last year, the Heritage Conservation and Recreation Service completed a major effort to clear up its outstanding backlog of nominations from the States to the National Register. In addition, the General Accounting Office, at the request of Chairman UDALL, is currently conducting a comprehensive review of Federal archeological programs.

NEW LEGISLATION NEEDED

The legislation I am introducing today represents an effort to provide solutions for other major problems that were brought to the committee's attention which still face the historic preservation program today. It also addresses major concerns raised by the House Interior Appropriations Subcommittee and that committee's concerns as reflected in recent years' appropriations bills.

It would, for example, strengthen Federal agency requirements for protecting historic resources but would also streamline their procedures and give them clear authority to manage and preserve the historic properties which they own. The bill would provide a much needed boost to State programs by offering more flexibility in their funding mechanisms and by recognizing the important role of the State Historic Preservation officers and their responsibilities for administering their own professional programs with a minimum of Federal interference.

Basic to all, the bill would provide real meaning to the National Register by distinguishing between a register of properties which are of national significance or which deserve additional protection because of the public's investment or commitment to them and an inventory of historic resources that should be considered for planning purposes. And the bill would, for the first time, provide a focus for the Federal programs by placing them in one agency—the Historic Preservation Agency—which would combine the historic preservation functions of the Heritage Conservation and Recreation Service and the Advisory Council on Historic Preservation into a single Federal entity, one that is visible and clearly accountable for its activities.

Most important, the bill would provide an alternative for discussing the future role of historic preservation in this country. It offers a number of fresh ideas which have great potential for advancing the program—such as the proposed national center for the building arts, which would link together the history of the building arts in America with the present practices and future directions of these important and related trades and professions—architecture, construction, building technology, landscape architecture, historic architecture, building engineering, urban and community design, and city and regional planning. One exciting, and extremely productive aspect of the center would be a program for the training and development of skilled labor in trades and crafts relating to historic preservation. This program would be coordinated with efforts of such organizations as the building and construction trades department of the AFL-CIO to provide new jobs while preserving important aspects of our Nation's heritage.

The bill would also increase support for the National Trust for Historic Preservation, the only federally chartered nonprofit organization charged with facilitating public participation in historic preservation. The bill would establish a program with the national trust for the emergency acquisition of significant historic properties that are threatened with immediate demolition.

Although this legislation is broad and comprehensive, it is also pragmatic, realistic, and workable. It would provide a clear framework and a reasonable process for decisionmaking. It would assure that the public's investment in its historic heritage is protected and that the efforts of States, local governments, and private citizens—the backbone of the program—are recognized and encouraged. Indeed the bill would, for the first time, create a role for local governments to participate in the program on a continuing basis to further the effectiveness of the State programs.

I want to emphasize, however, that the leadership of the Department of the Interior, under Secretary Cecil D. Andrus, has been exemplary—not only in the high quality of the work of his professional staff but in the many efforts by the agencies of the Interior Department to cooperate in the program. The Bureau of Land Management, for example, has used its cultural resource inventories to help support other programs such as coal leasing, by providing required data for planning purposes and for preparation of environmental impact statements. BLM's efforts have demonstrated that historic and archeological resources can be taken into account during the early planning stages of projects and that conflicts can be prevented before they occur. Similar efforts have been made by other agencies, such as with the timber management program of the U.S. Forest Service in the Department of Agriculture.

In looking to the future, however, I feel that the Federal programs relating to historic preservation must be more focused than in the past. My purpose in introducing this bill is to stimulate new thinking about these programs and to offer a positive alternative for the Congress to consider.

The bill would establish the foundation for a national historic preservation program that will serve the needs of the Nation through the next decade. Recognizing the contribution of historic preservation to energy conservation, urban revitalization and agricultural conservation, and to creating employment opportunities through the country, I believe that we have to establish a comprehensive program that will be able to carry out our national conservation goals in the eighties. In essence, this bill would give effect to this Nation's dedication to a new ethic—preservation: an ethic for the eighties.

At this point I include a section-by-section analysis of the bill:

SECTION-BY-SECTION ANALYSIS

Section 1 is a short title for this Act—"National Historic Preservation Amendments of 1979".

Section 2 amends the National Historic Preservation Act of 1966 by inserting a short title in section 1, a policy statement in section 2, and revises titles I and II. The policy section recognizes the Federal-State partnership necessary to carry out an effective National Historic Preservation Program and the relationship of preservation activities to National goals for urban revitalization, the conservation of agricultural areas, the creation of local employment opportunities, and the conservation of energy.

TITLE I—FEDERAL AND STATE PRESERVATION PROGRAMS

Subtitle A—National register of historic places

Section 101 authorizes the establishment of a National Register of Historic Places comprised of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture at the National, State, or local level that are—

(a) nationally significant,

(b) have received a direct or indirect public investment in their preservation, or

(c) are legally dedicated to preservation.

Section 102 authorizes the establishment of an Inventory of Historic Resources, as a planning tool, comprised of properties that may meet the criteria for historic significance established for the Register. It also provides for the designation of certain Inventory properties as Eligible Properties when they are found to meet the Register's criteria for historic significant but are not of national significance, have not received any public investment, or have not been dedicated to preservation.

Section 103 establishes a process to review properties on the existing National Register in order to include them within one year on either the Register or the Inventory established by this Act. It also establishes the process for entering properties on the Inventory or the Register after the one year period.

Section 104 directs the Administrator to establish the criteria to determine the significance of historic properties and the criteria relating to National significance, public investment, and legal dedication of a property for preservation purposes.

Subtitle B—Financial Assistance

Part 1—General Authority

Section 111 establishes financial assistance programs to be administered by the Historic Preservation Agency. These include (a) matching grants-in-aid to the States for approved State preservation programs, (b) grants-in-aid to the National Trust for Historic Preservation to assist in the preservation of properties owned by the Trust, to carry out an emergency acquisition program, and to facilitate public participation in preservation activities in the United States, and (c) a program to make direct grants, loans, and guaranteed loans for the preservation of nationally significant properties, for demonstration projects for the preservation of properties on or eligible for the Register, and for the training of skilled labor in trades and crafts relating to historic preservation.

Part 2—State Programs

Section 112 establishes the matching requirement for grants to States with approved preservation programs and establishes the requirements for such State programs.

Section 113 specifies the elements of State programs including the designation by the Governor of a State Historic Preservation Officer, the transfer of not less than half of a State's grant to political subdivisions of the State that have preservation programs approved by the State Historic Preservation Officer, and methods to give priority to projects which will conserve energy, are labor intensive, or will further urban revitalization or agricultural conservation.

Section 114 establishes the allocation procedure for funds to be transferred by States to certified political subdivisions.

Section 115 provides a method to certify political subdivisions in States without approved preservation programs after two years from the date of enactment of this Act.

Section 116 preserves existing State preservation programs for a period of not more than two years after the date of enactment of this Act or the date on which a State program is approved by the Historic Preservation Agency, whichever comes first.

Part 3—Federal Assistance

Section 121 establishes conditions for grants and loans to be made by the Historic Preservation Agency for the preservation of nationally significant properties and properties on or eligible for the National Register with the approval of the State Historic Preservation Officer.

Section 122 authorizes the Historic Preservation Agency to guarantee loans made by private lenders for the preservation of properties on or eligible for the National Register and specifies the conditions for such guarantees.

Section 123 establishes additional technical requirements for the Historic Preservation Agency's loan and guarantee programs.

Section 124 authorizes the Historic Preservation Agency to withhold certain financial information obtained in connection with applications for Federal financial assistance consistent with the policy of the Freedom of Information Act.

TITLE II—FEDERAL AUTHORITIES AND RESPONSIBILITIES

Subtitle A—National Historic Preservation Agency

Section 201 establishes a Historic Preservation Agency as an independent agency of the United States under the direction of an Administrator for Historic Preservation. The Administrator is to be appointed by the President, with the advice and consent of the Senate.

Section 202 requires the President to re-establish the Advisory Council on Historic Preservation to advise the Administrator, to review the application of the protective provisions of the Act and assist the Administrator in applying those provisions, and to advise the President and the Congress on historic preservation matters. The Council shall be composed of the Secretary of the Interior, the Architect of the Capitol; the heads of four agencies of the United States, which have activities affecting historic preservation, a representative of the National Conference of State Historic Preservation Officers and five professionals in the fields of history, architecture, archaeology, urban planning, or related disciplines, appointed by the President from among recommendations of organizations representing these professions and from among recommendations made by national historic preservation organizations; 3 State Governors or mayors, appointed by the President; and 3 at large members of the general public, appointed by the President.

The members who are not ex officio members serve for staggered 4 year terms.

The Chairman and Vice Chairman of the Council are elected by the members.

The Federal members provide funds, personnel, facilities, monies, and services to the Council.

The existing Advisory Council on Historic Preservation continues in existence until 180 days after the date of the enactment of the bill or the date on which the Administrator is appointed.

Section 203 provides that when the Council transmits legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it must also concurrently transmit copies thereof to the Committees of Congress.

Section 204 sets for the duties of the Administrator to—

(1) advise the President and the Congress on matters relating to historic preservation; coordinate activities of Federal, State, and local agencies and private institutions and individuals relating to historic preservation; and disseminate information;

(2) encourage, with the National Trust for Historic Preservation and appropriate private agencies, public interest and participation in historic preservation;

(3) conduct studies relating to laws and regulations pertaining to historic preservation activities, including tax policies;

(4) assist State and local governments in drafting legislation relating to historic preservation; and

(5) provide training and education in the field of historic preservation.

The Administrator must submit an annual comprehensive report of his activities and the results of his studies to the President and the Congress and submit such additional and special reports as he deems advisable.

Section 205 provides for the appointment and duties of a General Counsel and other attorneys to represent the Administrator or the Council in courts of law. The section also permits the Administration to appoint and fix the compensation of such additional personnel as may be necessary to carry out his duties and to procure expert and consultant services.

Section 206 authorizes the Administrator to secure from Federal departments, bureaus, etc. information, suggestions, estimates, and statistics.

Section 207 provides authority for the Administrator to establish criteria, guidelines, and standards necessary for Federal agencies, States, their political subdivisions, and other entities to implement the Act, and to establish such rules and regulations as are necessary to carry out the Act.

Subtitle B—Education and Training

Section 211 authorizes the Administrator to—

"(a) develop and make available to training information concerning administrative, legal, and professional methods and techniques of historic preservation;

"(b) provide technical assistance in the identification, evaluation, preservation, and protection of historic properties; and

"(c) in cooperation with the Secretary of the Interior and other appropriate organizations, establish a comprehensive education and training program for Federal, State, and local officials who are involved in historic preservation.

The Administrator, in cooperation with the National Trust for Historic Preservation and other appropriate organizations, is also required to undertake a continuing program to increase the awareness of historic resources and their preservation among the student population of the United States.

The Administrator, in cooperation with the Building Arts Foundation (later established under subtitle C of title III of the bill) and the Secretary of Labor, shall establish a program for the training and development of skilled labor in trades and crafts relating to historic preservation.

Subtitle C—Coordination of Federal activities

Section 221 requires the Administrator to review the policies and programs of Federal agencies and to recommend methods for improving the coordination and consistency of such policies and programs with this Act.

Section 222 requires the Administrator to, within 90 days after the date of his appointment, promulgate guidelines for—

(a) the identification of historic properties;

(b) archeological and historical data recovery activities to be carried out pursuant to a mitigation program;

(c) the treatment of archeological and historical data recovered pursuant to a mitigation program funded or sanctioned by a Federal agency.

Within 90 days after the Administrator establishes the guidelines, each Federal agency must submit to the Administrator proposed regulations, standards, or procedures, to establish the requirements that will govern that agency's program activities. Within 30 days thereafter, the Administrator shall approve agency submissions that he determines meet the requirements of his guidelines.

Each agency is required to provide a process for the Administrator to review and approve all data recovery plans which involve the expenditure of more than $100,000.

The Administrator may establish panels of experts to assist in the evaluation of mitigation proposals and may establish a limit on the amount of Federal funds that may be spent on archeological data recovery for any single project to which this subsection applies.

Section 223 specifies that within one year after the date on which the Administrator is appointed, he must establish, jointly with the Secretaries of the Interior, Agriculture, and Defense, and the Administrator of the General Services Administration, standards for the management and preservation of federally owned historic properties.

Following final promulgation of such standards, all agencies are mandated to comply with such standards for properties under their control which are included in the National Register.

Section 224 requires the Administrator to review and approve the plans of transferees of surplus federally owned properties which are on or eligible for the National Register to ensure that the historical, architectural, archeological or cultural significance will be preserved in their rehabilitation, restoration, improvement, adaptive use, or maintenance.

Section 225 requires all Federal agencies administering any assistance or licensing program, to coordinate the program with the purposes of the Act and give a priority in carrying out the program to projects which will further the purposes of the Act. Agencies must submit proposals to the Administrator for carrying out their programs so that projects that will further the preservation of National Register or Eligible Properties are given an increased assistance.

Assistance and licensing agencies must also submit proposals to reduce assistance by not less than 25 percent below the assistance which would otherwise be available for a project, or suspend issuance of any approval for a period of two years in any case in which it is determined that the project would have been entitled to a priority but for the demolition, destruction, or damage to an Eligible or National Register property prior to the date on which such assistance or permission is or would be available.

SUBTITLE D—NATIONAL AND WORLD HERITAGE SIGNIFICANCE; INTERNATIONAL ACTIVITIES

Section 231 provides that the Administrator is to establish a continuing program to evaluate this Nation's historic resources to identify and designate properties of national significance, or properties of such significance that they may warrant inclusion in the World Heritage list.

The survey and evaluation shall be conducted on a thematic basis and only those examples determined to be outstanding shall be designated as nationally significant. Properties determined by the Administrator to be of national significance are to be designated as "National Historic Landmarks" and properties included in the World Heritage list are to be designated as "World Heritage Properties". Whenever the Administrator determines that a property is of national significance he must notify the Committees of Congress. The Administrator must promulgate standards and criteria to evaluate properties for national and world heritage significance.

Section 232 provides that the Administrator is to encourage and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage and in other international historic preservation activities in cooperation with the Secretary of the Interior, the Secretary of State, and the Smithsonian Institution.

The Administrator is to establish a program to nominate historic properties to the World Heritage Committee on behalf of the United States after notification of the Congressional Committees.

Section 233 authorizes U.S. participation in the International Centre for the Study of the Preservation and Restoration of Cultural Property.

The Administrator is to recommend to the Secretary of State, after consultation with the Smithsonian Institution and other public and private organizations, the members of the official delegation which will be appointed by the Secretary to represent the United States.

The section also authorizes sums to pay for the assessment of United States membership in the Centre for fiscal years 1979 through 1989. No appropriation is authorized in excess of 25 per cent of the total annual assessment of the Centre.

Section 234 provides for a program to encourage tourism by people of other nations to historic properties in the United States.

Section 235 requires each Federal agency which proposes any undertaking outside the United States which may affect a property which is on or nominated to the World Heritage List to notify the Administrator prior to commencing such undertaking and give the Administrator 45 days to comment on the proposed undertaking.

Subtitle E—Federal agency responsibilities

Section 241 requires each Federal agency to designate an official at an appropriate level to be known as the agency's "Preservation Officer" and be responsible for coordinating that agency's activities under the Act. The Preservation Officer is to certify compliance for the agency. Each Federal agency must also develop a system to provide for the designation of officials at the field or regional level to assist the Preservation Officer.

Each Preservation Officer and field or regional officer must participate in a training program established under section 211.

Section 242 requires all Federal agencies to assume responsibility for the preservation, maintenance, rehabilitation, renovation, adaptive use, or restoration of properties which are included in the National Register and which are under such agency's jurisdiction or control.

Each Federal agency having responsibility for the management of any real property must give a priority to the use of Eligible Properties and properties which are in the National Register that are under its jurisdiction or control.

Each Federal agency having jurisdiction or control over any Eligible Property or property included in the National Register must prepare a Property Management Plan detailing how the agency will administer it. Plans providing for preservation must be consistent with the property management standards issued by the Administrator. Plans that do not provide for the preservation of the property or that may have an adverse effect must be submitted to the Administrator for comment.

During the preparation of Property Management Plans, each Federal agency must stabilize the properties.

Section 243 provides that the Park Service is to study and investigate properties included in the National Register which are under the jurisdiction or control of other Federal agencies and, from time to time, with the concurrence of the Administrator, recommend to the President that the administrative jurisdiction or control of these properties be transferred to the Secretary. Any such recommendation shall be transmitted, concurrently with its submission to the President, to the Congressional Committees. After the submission of any such recommendation, and with the concurrence of the Director of the Office of Management and Budget, the head of the agency shall transfer to the Secretary jurisdiction over the property, together with such funds and personnel available for its development, maintenance, and interpretation. Property so transferred is to be administered as part of the National Park System.

Section 244 authorizes the Secretary of the Interior to accept gifts or donations of less than fee interests in any National Register or Eligible Property where the acceptance of such interests will facilitate preservation.

Section 245 authorizes Federal agencies to lease to or exchange with any appropriate person or organization, any National Register or Eligible Property. The leases may be at less than the fair market value. The lease proceeds are to be retained by the agency and used to defray the costs of administration, maintenance, repair, and related expenses of such properties. Federal agencys may also enter into contracts for the management of any such properties.

Section 246 requires all Federal agencies to cooperate with purchasers and transferees of any National Register or Eligible Property in the development of plans for uses that are compatible with preservation and conservation objectives without imposing unreasonable economic burdens on public or private interests.

Section 247 requires the head of each Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of each Federal agency having authority to license any undertaking to, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, determine whether any Federal or non-federally owned historic properties are located within the areas to be affected by the proposed undertaking. If the areas to be affected by the proposed undertaking have not been surveyed, the agency head must ensure that a survey sufficient to locate such properties is under taken at the earliest stages of planning.

Next, each agency must—

(a) take into account the effect of the proposed undertaking on any district, site, building, structure, or object that is designated as an Eligible Property;

(b) determine that no feasible or prudent alternative exists to a proposed undertaking that may adversely affect any property included in the National Register, and develop, to the maximum extent possible, such special planning as is necessary to minimize harm to; and

(c) afford the Administrator a reasonable opportunity to comment on the undertaking.

Section 248 provides for regulations or guidelines under which Federal programs or undertakings may be exempted from any or all of the requirements of this Act, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties.

Section 249 specifies that all Federal agencies are authorized to expend appropriated funds, including funds in operations and maintenance accounts, for the purposes of the Act. Each Federal agency shall include the costs of identification, evaluation, and protection activities of such agency under the Act as eligible projects costs in all undertakings of such agency or assisted by such agency. This includes amounts paid by a Federal agency to any State Historic Preservation Officer for carrying out identification, evaluation, and protection responsibilities of the Federal agency under this Act.

Identification of historic properties within project areas is to be treated for purposes of any law or rule of law as a planning cost of the project and not as a cost of mitigation.

Costs of identification (including surveys) and data recovery in accordance with section 222 may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit.

The Administrator may waive, in appropriate cases, the 1 percent limitation contained in section 7(a) of the Moss-Bennett Act.

Section 250 requires each Federal agency to provide the Administrator a reasonable opportunity to comment on proposed policies and programs that may affect historic properties at least 45 days prior to the effective date of the implementation of the action.

TITLE III—GENERAL, ADMINISTRATIVE, AND MISCELLANEOUS PROVISIONS

Subtitle A—General provisions

Section 301 contains definitions of 10 important terms wich recur throughout the Act. The terms defined are: "National Register" and "register"; "Administrator"; "Inventory of Historic Resources"; "eligible property"; "prior authority of law"; "State" (defined to include the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands); "undertaking"; "preservation"; "Federal agency"; and "Indian tribe".

Section 302 establishes a Historic Preservation Fund, into which there are to be covered funds from the revenues of the United States under the Outer Continental Shelf Lands Act and the Mineral Leasing Act of 1920. The section provides that $150 million shall be deposited in the new fund in fiscal 1980 and in each fiscal year thereafter through fiscal 1989.

It also provides that at least two-thirds of the amounts appropriated out of the fund shall be for grants to States and no more than one-third shall be for the carrying out of the federal program and for the Administrator's use in carrying out his responsibilities under the Act.

Section 303 requires the Administrator to establish regulations to assure maximum public participation in all activities of the Administrator, the Council, and other federal agencies implementing the Act.

Section 304 prohibits any State or local grantee from using a grant under this Act as "matching money" in order to receive any other federal assistance and makes it clear that no grant under the Act is to be treated as taxable income under any income tax laws.

Section 305 allows the award of attorney's fees and other costs of a private party for preparing for and bringing an action against a federal agency to enforce the protective provision of the Historic Preservation Act, if the person bringing such action substantially prevails in the case.

Section 306 provides for the establishment by the Administrator of a program of annual preservation awards of up to $10,000,000 to officers and employees of federal, state, or local governments who make outstanding contributions to the preservation of historic resources; the program may also include the issuance of an annual Presidential award to any citizen recommended by the Administrator.

Subtitle B—Administrative provisions

Section 321 authorizes the Administrator to delegate to a State with an approved program the authority to carry out the Administrator's responsibilities for reviewing activities under the approved program for compliance with the National Environmental Policy Act of 1969.

Section 322 transfers to the Administrator the historic preservation provisions of 7 Acts (except as they relate to the National Park System) and provides for the transfer to the Historic Preservation Agency of such personnel, property, records, and funds used by any department or agency under such Acts as determined by the Director of the Office of Management and Budget.

Section 323 provides for the Administrator's issuance of a limited order requiring postponement for 60 days of any action which he determines would adversely affect any property included on the National Register; during the 60-day duration of the order, the Administrator is to attempt to develop an acceptable preservation plan and may also exercise his emergency acquisition authority under section 3; appropriate civil penalties can be assessed against any person violating a postponement order issued under this section, and if such penalties are not paid the Administrator may request the Attorney General to sue for collection in Federal District Court. Nothing in the section is to apply to any undertaking started before the date of enactment of the bill.

Subtitle C—National Center for the Building Arts

Section 331 authorizes the Secretary of the Interior to establish the Pension Building in Washington, D.C., as a national historic site to be named the "National Center for the Building Arts" (referred to as the "Center"). The Administrator of the General Services Administration is directed to transfer the land and building to the Secretary upon enactment.

Section 332 directs the Secretary to renovate, maintain and administer the site in accordance with the laws governing the National Park Service and to conserve it for public use and enjoyment. The Secretary is also directed to provide essential services to the Center and is authorized to enter into cooperative agreements with the Building Arts foundation to provide these services.

Section 333 establishes a Building Arts Foundation (referred to as the "Foundation") to carry out three general programs at the Center: a) collection and dissemination of information concerning the building arts, including a national inventory of current and historic documents, publications and research; b) education and training, including a program for training and development of skilled labor in trades and crafts relating to historic preservation; and c) temporary and permanent exhibits illustrating and interpreting the building arts.

The section also provides that the Foundation will be under the direction of a Board of Directors composed of the Secretary of the Interior, the Secretary of Labor, the Administrator of the Historic Preservation Agency, the Commissioner of Education, the Chairman of the National Endowment of the Arts, and nine general members appointed by the President from recommendations submitted to him by organizations and institutions (including labor unions, professional associations and educational institutions).

The Board shall be appointed within 90 days of enactment and will convene within 180 days of enactment. The citizen members will serve for staggered terms of up to 5 years, and the Board will elect a chairman and a vice chairman to serve for up to two years. The general members are entitled to receive reimbursement for attending Board meetings, including per diem and travel expenses. The Board may appoint a Director and the Director may appoint additional staff as he or she deems necessary.

The Board may also adopt rules to govern its activities, is required to hold its meetings open to the public, may solicit and accept donations and gifts, may accept the transfer of funds, personnel or property from other Federal agencies and may enter into contracts or cooperative agreements with Federal, State or local agencies and organizations, institutions and individuals. The section also authorizes appropriations to the Foundation to match gifts of money or property up to $1 million annually and, in addition, authorizes $250,000 to be appropriated during fiscal year 1981 and $500,000 for 1982 through 1986.

Amounts appropriated to the Foundation will remain available until expended for two fiscal years, and the budget of the Foundation will be submitted to the Congress with the budget of the Historic Preservation Agency.

Section 334 defines "building arts" to include but not be limited to architecture, construction, building technology, landscape architecture, historic architecture, building engineering, urban and community design, city and regional planning, and related skills, trades and crafts.

Section 335 requires the General Accounting Office to review and audit the accounts of the Foundation and requires the Foundation to submit reports to the Committee on Interior and Insular Affairs of the House and the Energy and Natural Resources Committee of the Senate on its activities.

Emergency Acquisition

Section 3 amends the Act of October 26, 1949, which chartered the National Trust for Historic Preservation, to establish an emergency acquisition program for property included in the National Register threatened with immediate demolition or impairment, and provides that the Attorney General will if necessary, institute condemnation proceedings on behalf of the National Trust, in which title will vest. Upon acquisition of such a property, the National Trust will attempt to convey it with conditions to ensure its continued preservation and use. If the National Trust is unable to transfer the property with these conditions, it may sell it at the fair market value without any restrictions. The proceeds of a conveyance by the Trust under this section will be deposited in the United States Treasury for payment of obligations by the United States under this section; any excess amounts may be retained by the National Trust.

Report on Preservation of Intangible Elements

Section 4 directs the Administrator, in consultation with the American Folklife Center of the Library of Congress and the Building Arts Foundation, to submit a report in two years on preserving and conserving the intangible elements of our cultural heritage by including arts, skills, folklife and folkways, and collections, in the National Register. The report will include recommendations for legislative and administrative action to encourage continuing these traditional historic, ethnic and cultural activities.

Funding report

Section 5 Directs the Administrator to submit a report to Congress within 8 years on the operation of the Historic Preservation Fund and the national historic preservation program.

Pennsylvania Avenue Development Corporation

Section 6 directs the Administrator to investigate the plans and performance of the Pennsylvania Avenue Development Corporation relating to historic preservation and to report to Congress within 90 days of the appointment of the Administrator with recommendations for the inclusion of historic preservation elements in the Corporation's plans. The areas subject to the Pennsylvania Avenue Development Corporation Act will be deemed a historic district for the purposes of this Act and for the purposes of any other Federal, State or local law.

Report on Tax Laws

Section 7 directs the Administrator, in cooperation with the Secretary of the Treasury, to submit a report to the President and the Congress, within one year of the appointment of the Administrator, on Federal tax laws relating to historic preservation.

Cultural Parks Report

Section 8 directs the Secretary of the Interior, in cooperation with the Administrator, to do a comprehensive study and make recommendations for the creation of a National System of Cultural Parks to provide for the preservation, interpretation, development and use of historic, archeological and natural resources found in urban and settled areas throughout the Nation. The Secretary will submit such legislative recommendations as may be necessary to establish such a system to the President and the Congress within two years after the enactment of this Act.

CONFERENCE REPORT ON H.R. 4394

Mr. BOLAND submitted the following conference report and statement on the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions. corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 96–409)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980 and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 17, 19, and 44.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 8, 15, 16, 21, 23, 24, 25, 26, 29, 31, 32, 36, 37, and 40, and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$830,000,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$79,500,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$42,500,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$135,000,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$49,650,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$539,307,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$513,319,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$508,892,000"; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$959,900,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,950,000"; and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$58,100,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$906,050,000"; and the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "That not more than $60,900,000 shall be available for Applied Science and Research Applications: *Provided further,*".

And the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "49,050,000"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$5,683,700,000"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$587,392,000"; and the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,500,000"; and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,350,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 2, 4, 7, 9, 12, 22, 27, and 45.

Edward P. Boland,
Bob Traxler,
Louis Stokes,
Tom Bevill,
Lindy Boggs,
Martin Olav Sabo,
Bennett M. Stewart,
Jamie L. Whitten,
Lawrence Coughlin,
Joseph M. McDade,
Bill Young,
Silvio O. Conte,
Managers on the Part of the House.

William Proxmire,
John C. Stennis,
Birch Bayh,
Walter D. Huddleston,
Patrick J. Leahy,
Jim Sasser,
John A. Durkin,
Warren G. Magnuson,
Charles McC. Mathias, Jr.,
Henry Bellmon,
Lowell P. Weicker, Jr.,
Paul Laxalt,
Harrison Schmitt,
Milton Young,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Amendment No. 1: Appropriates $1,140,661,000 in annual contract authority for annual contributions for assisted housing as proposed by the Senate, instead of $1,160,474,000 as proposed by the House.

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: "nor more than $50,000,000."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 3: Deletes language proposed by the House limiting annual contract authority for new, substantially rehabilitated and existing Section 8 housing.

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate rescinding the uncommitted balances in the rent supplement program.

Amendment No. 5: Establishes the limitation on the aggregate loans that may be made for housing for the elderly or handicapped at $830,000,000, instead of $800,000,000 as proposed by the House $860,000,000 as proposed by the Senate.

Amendment No. 6: Appropriates $79,500,000 for troubled projects operating subsidy, instead of $77,000,000 as proposed by the House and $82,000,000 as proposed by the Senate.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate permitting the Secretary of Housing and Urban Development to set terms under which assistance payments may be made to troubled projects not insured under the National Housing Act.

Amendment No. 8: Deletes language proposed by the House earmarking $20,000,000 of the Secretary's Discretionary Fund for small metropolitan cities. The conferees agree that not less than $5,000,000 of the amount requested in the innovative projects category of the Secretary's Discretionary Fund shall be used for other eligible activities. The conferees further agree that special consideration should be given to providing relief to States and units of general local government to correct allocation inequities occurring in the block grant program.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $675,000,000 for urban development action grants, instead of $400,000,000 as proposed by the House.

Amendment No. 10: Appropriates $42,500,000 for comprehensive planning grants, instead of $35,000,000 as proposed by the House and $50,000,000 as proposed by the Senate.

The Committee of Conference urges the Department to give priority to small communities and area-wide planning organizations from within the funds provided. This approach is consistent with the original legislative intent of the comprehensive planning grants program.

Nearly $1,000,000,000 has been provided for this program. The conferees believe it is often difficult to recognize specific and tangible results from this investment, and urge the Department to review the criteria to insure that funds are used efficiently and effectively.

Amendment No. 11: Appropriates $135,000,000 for the rehabilitation loan fund, instead of $140,000,000 as proposed by the House and $130,000,000 as proposed by the Senate.

Amendment No. 12: Reported in disagreement. The managers on the part of the House will offer a motion to insist on its disagreement to the amendment of the Senate that would appropriate $3,000,000 for the livable cities program.

Amendment No. 13: Appropriates $49,650,000 for research and technology, instead of

$49,000,000 as proposed by the House and $50,300,000 as proposed by the Senate.

Amendment No. 14: Appropriates $539,307,000 for salaries and expenses, instead of $543,495,000 as proposed by the House and $536,120,000 as proposed by the Senate. The Committee of Conference is in agreement with the reductions enumerated in the report of the Senate except that the travel reduction is $896,000 and the lapse rate and general reduction is $6,792,000.

TITLE II—INDEPENDENT AGENCIES

American Battle Monuments Commission

Amendment No. 15: Appropriates $7,603,000 for salaries and expenses as proposed by the Senate, instead of $8,186,000 as proposed by the House.

Consumer Product Safety Commission

Amendment No. 16: Appropriates $40,600,000 for salaries and expenses as proposed by the Senate, instead of $41,250,000 as proposed by the House.

Department of Defense—Civil

CEMETERIAL EXPENSES, ARMY

Amendment No. 17: Appropriates $8,326,000 for salaries and expenses as proposed by the House, instead of $7,611,000 as proposed by the Senate.

Environmental Protection Agency

Amendment No. 18: Appropriates $513,319,000 for salaries and expenses, instead of $506,748,000 as proposed by the House and $515,319,000 as proposed by the Senate. The Committee of Conference is in agreement with the recommendations contained in the report of the Senate with the exception that the personnel compensation reduction is $2,000,000.

Amendment No. 19: Appropriates $233.568,000 for research and development as proposed by the House, instead of $232,568,000 as proposed by the Senate. The Committee of Conference is in agreement with the recommendations contained in the report of the House except for the following changes:

+$4,000,000 for anticipatory research and

−$4,000,000 for air health and ecological effects.

The conferees agree that within the total allocated for anticipatory research, $1,000,000 shall be used for dry sulfur oxide control processes.

Amendment No. 20: Appropriates $508,892,000 for abatement, control and compliance, instead of $475,809,000 as proposed by the House and $515,592,000 as proposed by the Senate. The conferees are in agreement with the recommendations contained in the report of the House except for the following changes:

+$1,500,000 for academic training;

+$2,800,000 for State air control grants;

+$7,500,000 for areawide waste treatment management planning grants (section 208);

+$19,429,000 for improved hazardous waste dumpsites response capability;

+$1,000,000 for ocean outfall waiver provisions (section 301(h));

+$354,000 for Flathead River Basin environmental impact statement;

+$1,000,000 for underground injection control grants;

+$1,250,000 for spill prevention and response under the Clean Water Act; and

−$250,000 for pesticide applicator certification and training.

The conferees agree that if the activity level of the underground injection control grants program increases substantially, supplemental funding would be considered if a budget estimate is transmitted.

Amendment No. 21: Deletes language proposed by the House appropriating $2,000,000 for scientific activities overseas.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $3,038,000 for the United States Regulatory Council, instead of $2,238,000 as proposed by the House and $3,238,000 as proposed by the Senate.

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

Executive Office of the President

Amendment No. 23: Appropriates $3,126,000 for the Council on Environmental Quality and Office of Environmental Quality as proposed by the Senate, instead of $3,026,000 as proposed by the House.

Amendment No. 24: Appropriates $2,625,000 for the Office of Science and Technology Policy as proposed by the Senate, instead of $2,725,000 as proposed by the House.

Federal Emergency Management Agency

Amendment No. 25: Appropriates $129,621,000 for emergency planning, preparedness and mobilization as proposed by the Senate, instead of $131,121,000 as proposed by the House.

Amendment No. 26: Appropriates $118,709,000 for hazard mitigation and disaster assistance as proposed by the Senate, instead of $119,109,000 as proposed by the House. The Committee of Conference is in agreement with the recommendations contained in the report of the House except for the following changes:

−$4,500,000 for implementation of section 1362 of the National Flood Insurance Act of 1968 concerning the Federal acquisition of flood damaged property;

+$5,500,000 for the operation of the National Fire Academy; and

−$1,400,000 for executive direction.

The conferees agree that the reduction for the National Fire Academy should be applied primarily to relocation costs and equipment purchases.

National Aeronautics and Space Administration

Amendment No. 27: Reported in disagreement.

Amendment No. 28: Appropriates $959,900,000 for research and program management, instead of $954,900,000 as proposed by the House and $964,900,000 as proposed by the Senate.

National Commission on Air Quality

Amendment No. 29: Appropriates $5,500,000 for salaries and expenses as proposed by the Senate, instead of $5,000,000 as proposed by the House.

National Consumer Cooperative Bank

Amendment No. 30: Appropriates $7,950,000 for salaries and expenses, instead of $7,000,000 as proposed by the House and $8,900,000 as proposed by the Senate.

National Credit Union Administration

Amendment No. 31: Deletes language proposed by the House providing $300,000,000 for emergency lending to the Central Liquidity Facility by the Secretary of the Treasury and inserts language proposed by the Senate limiting the Facility's borrowing authority and administrative expenses.

National Institute of Building Sciences

Amendment No. 32: Appropriates $750,000 for salaries and expenses as proposed by the Senate, instead of $718,000 as proposed by the House.

National Science Foundation

Amendment No. 33: Earmarks not to exceed $58,100,000 for program development and management, instead of $56.600,000 as proposed by the House and $59,600,000 as proposed by the Senate.

Amendment No. 34: Appropriates $906,050,000 for research and related activities, instead of $896,800,000 as proposed by the House and $915,300,000 as proposed by the Senate.

Amendment No. 35: Restores language proposed by the House and stricken by the Senate, amended to earmark not more than $60,900,000 for applied science and research applications.

Neighborhood Reinvestment Corporation

Amendment No. 36: Appropriates $12,000,000 for salaries and expenses as proposed by the Senate, instead of $9,500,000 as proposed by the House.

Department of the Treasury

Amendment No. 37: Appropriates $1,022,000 for administrative expenses of the New York City loan guarantee program as proposed by the Senate, instead of $1,034,000 as proposed by the House.

Amendment No. 38: Appropriates $49,050,000 for investment in National Consumer Cooperative Bank, instead of $50,000,000 as proposed by the House and $48,100,000 as proposed by the Senate.

Veterans' Administration

Amendment No. 39: Appropriates $5,683,700,000 for medical care, instead of $5,671,119,000 as proposed by the House and $5,696,215,000 as proposed by the Senate.

The Committee of Conference agrees that the $76,380,000 added by the House and Senate for 3,800 health care personnel shall be available only for existing programs. The conferees further agree that an additional $12,581,000 shall be available for new medical programs as approved in the Veterans' Health Care Amendments of 1979.

Amendment No. 40: Appropriates $122,847,000 for medical and prosthetic research as proposed by the Senate, instead of $127,847,000 as proposed by the House. The conferees are in agreement with the report of the Senate which strongly recommends beginning a cooperative study on hypertension.

Amendment No. 41: Appropriates $587,392,000 for general operating expenses, instead of $584,967,000 as proposed by the House and $588,392,000 as proposed by the Senate. The Committee of Conference is in agreement with the recommendations contained in the report of the Senate with the exception of the Vet Reps program which is reduced $1,000,000 and 55 staff-years.

Amendment No. 42: Appropriates $7,500,000 for grants for construction of State extended care facilities, instead of $5,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

Amendment No. 43: Appropriates $1,350,000 for grants to the Republic of the Philippines, instead of $1,700,000 as proposed by the House and $1,000,000 as proposed by the Senate.

TITLE IV—GENERAL PROVISIONS

Amendment No. 44: Deletes without prejudice language proposed by the Senate relating to agency employees taking annual leave in the course of traveling on agency business. The conferees are greatly concerned about the travel abuses highlighted in a Senate Investigative Staff report. The language has been deleted because this issue can be more properly addressed by agency regulations. Therefore, the Committee of Conference directs the Department and agencies covered by this Act to issue regulations prohibiting employees from taking annual leave while on travel status, except in unique or emergency situations. Any annual leave to be taken while on travel status must be shown and approved on the travel authorization. The Committee further directs that the Department and agencies covered by this Act report on the status of implementing the above directive by December 31, 1979.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate prohibiting funds appropriated in this or any other Act for fiscal year 1980 from being used to contract with private firms to provide plant care or watering services.

Conference Total—With Comparisons

The total new budget (obligational) authority for the fiscal year 1980 recommended by the Committee of Conference, with comparisons to the fiscal year 1979 amount, the 1980 budget estimates, and the House and Senate bills for 1980 follow:

New budget (obligational) authority, fiscal year 1979	$70, 040, 207, 000
Budget estimates of new (obligational) authority, fiscal year 1980	[1] 72, 815, 238, 750
House bill, fiscal year 1980	71, 963, 475, 000
Senate bill, fiscal year 1980	71, 930, 247, 000
Conference agreement	[2] 71, 834, 684, 000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1979	+1, 794, 477, 000
Budget estimates of new (obligational) authority, fiscal year 1980	−980, 554, 750
House bill, fiscal year 1980	−128, 791, 000
Senate bill, fiscal year 1980	−95, 563, 000

[1] Includes $92,492,000 of budget estimates not considered by the House.

[2] Includes House-passed amounts for the livable cities program and research and development of the National Aeronautics and Space Administration.

EDWARD P. BOLAND,
BOB TRAXLER,
LOUIS STOKES,
TOM BEVILL,
LINDY BOGGS,
MARTIN OLAV SABO,
BENNETT M. STEWART,
JAMIE L. WHITTEN,
LAWRENCE COUGHLIN,
JOSEPH M. MCDADE,
BILL YOUNG,
SILVIO O. CONTE,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN C. STENNIS,
BIRCH BAYH,
WALTER D. HUDDLESTON,
PATRICK J. LEAHY,
JIM SASSER,
JOHN A. DURKIN,
WARREN G. MAGNUSON,
CHARLES MCC. MATHIAS, Jr.,
HENRY BELLMON,
LOWELL P. WEICKER, Jr.,
PAUL LAXALT,
HARRISON SCHMITT,
MILTON R. YOUNG,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 2774

Mr. ZABLOCKI submitted the following conference report and statement on the bill (H.R. 2774) to authorize appropriations for fiscal years 1980 and 1981 under the Arms Control and Disarmament Act, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96–412)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2774) to authorize appropriations for fiscal years 1980 and 1981 under the Arms Control and Disarmament Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That (a) section 22 of the Arms Control and Disarmament Act (22 U.S.C. 2562) is amended by adding at the end thereof a new sentence as follows: "No person serving on active duty as a commissioned officer of the Armed Forces of the United States may be appointed Director.".

(b) Section 23 of such Act (22 U.S.C. 2563) is amended by adding at the end thereof a new sentence as follows: "No person serving on active duty as a commissioned officer of the Armed Forces of the United States may be appointed Deputy Director.".

SEC. 2. (a) Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589 (a)) is amended to read as follows:

"SEC. 49. (a) To carry out the purposes of this Act, there are authorized to be appropriated—

"(1) for the fiscal year 1980, $18,876,000, and

"(2) for the fiscal year 1981, $20,645,000, and such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates. Amounts appropriated under this subsection are authorized to remain available until expended.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

And the Senate agree to the same.

CLEMENT J. ZABLOCKI,
L. H. FOUNTAIN,
LESTER L. WOLFF,
GUS YATRON,
GERRY E. STUDDS,
TONY P. HALL,
HOWARD WOLPE,
WM. S. BROOMFIELD,
EDWARD J. DERWINSKI,
LARRY WINN, Jr.,
Managers on the Part of the House.

FRANK CHURCH,
C. PELL,
GEORGE MCGOVERN,
JOHN GLENN,
JACOB K. JAVITS,
CHARLES H. PERCY,
JESSE HELMS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2774) to authorize appropriations for fiscal years 1980 and 1981 under the Arms Control and Disarmament Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

AUTHORIZATION OF APPROPRIATIONS

The conference substitute contains authorizations for appropriations for the Arms Control and Disarmament Agency (ACDA) for fiscal years 1980 and 1981. For fiscal year 1980, the committee of conference adopted a figure of $18,876,000, which is the same as the Senate figure and the executive branch request and $400,000 below the figure recommended by the House. For fiscal year 1981, the committee of conference adopted the House figure of $20,645,000, which differed from the Senate recommendation and the executive branch request, both of which provided "such sums as may be necessary" for fiscal year 1981. The committee of conference also authorized for both fiscal years such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other non-discretionary costs, and to offset adverse fluctuations in foreign currency exchange rates.

GRANTS FOR EDUCATION AND TRAINING

The House bill added a new section 38 to the Arms Control and Disarmament Act which provided the Director of ACDA with discretionary authority to make grants to institutions of higher education, nonprofit organizations, and public agencies for the purpose of supporting programs in arms control education and training.

The Senate bill did not contain a comparable provision.

The committee of conference adopted the Senate position.

After considerable discussion, the committee of conference concluded that fiscal and budgetary constraints precluded present adoption of this provision. In doing so, the conference committee recognizes the many desirable merits of the provision and urges ACDA to give full and favorable consideration to request such authority in future budget submissions to Congress.

ECONOMIC IMPACT STUDY

Section 4 of the Senate bill required the Director of ACDA, in consultation with appropriate officials of the departments and other agencies of the United States, to conduct a comprehensive study of (1) the impact of military expenditures on the economy of the United States, including but not limited to the impact on the economic factors of inflation, balancing the Federal budget, industrial employment, civilian research and development, civilian industrial productivity, corporate profits, and balance of payments and (2) the impact of such economic factors on national defense policy decisions regarding the procurement of weapons, the size of force structure, troop deployments outside the United States, arms control policy, personnel policies, and conventional arms sales, as well as such other aspects of the national defense posture of the United States as the Director of ACDA may deem relevant.

The House bill did not contain a comparable provision.

The committee of conference adopted the House position.

In not mandating the study due to present budgetary contraints on the Agency, the committee of conference recognizes the merits of providing information to Congress concerning the relationship between the Nation's economic situation and some of the factors cited in the Senate provision.

Accordingly, the committee of conference urged ACDA to give consideration to do a study along the lines of the Senate provision.

RESTRICTIONS WITH RESPECT TO THE APPOINTMENT OF MILITARY OFFICERS

A. The Senate amendment amended Sections 22 and 23 of the Arms Control and Disarmament Act to prohibit the appointment of an active duty commissioned officer of the U.S. Armed Forces as Director or Deputy Director of ACDA.

The House bill did not contain a comparable provision.

The committee of conference adopted the Senate provision.

B. The Senate amendment added a new Section 28 to the Arms Control and Disarmament Act to prohibit the two positions of Director and Deputy Director to be occupied simultaneously by persons who, within the preceding 10 years, have been relieved of duty as commissioned officers of regular components of the Armed Forces or have become retired officers of the Armed Forces.

The House did not contain a comparable provision.

The committee of conference adopted the House position.

Clement J. Zablocki,
L. H. Fountain,
Lester L. Wolff,
Gus Yatron,
Gerry E. Studds,
Tony P. Hall,
Howard Wolpe,
Wm. S. Broomfield,
Edward J. Derwinski,
Larry Winn, Jr.,
Managers on the Part of the House.
Frank Church,
C. Pell,
George McGovern,
John Glenn,
Jacob K. Javits,
Charles H. Percy,
Jesse Helms,
Managers on the Part of the Senate.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the second quarter of calendar year 1979 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1, AND JUNE 30, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Tom Harkin (Mr. Harkin refunded $65, balance $85 per diem).	4/10	4/12	Nicaragua	670.50	74.50			189.99	21.11	860.49	95.61
	4/12	4/14	San Salvador	375.00	150.00					375.00	150.00
	4/14	4/15	Guatemala	85.00	85.00					85.00	85.00
Total transportation for Nicaragua, San Salvador, and Guatemala.							497.00				497.00
Hon. Berkley Bedell (Mr. Bedell returned 9 Swiss francs to mission, $5.63 U.S. dollars).	4/1	4/4	Switzerland	338.50	+200.00		844.00			338.50	1,044.00
Committee total				1,469.00	509.50		1,341.00	189.99	21.11	1,658.99	1,871.61

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

THOMAS S. FOLEY Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1, AND JUNE 30, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Joseph P. Addabbo	6/8	6/12	France		430.00		1,697.00				2,127.00
Hon. Lawrence Coughlin	4/26	5/2	Israel		450.00		736.02				1,186.02
Hon. Julian C. Dixon	4/25	4/30	Jamaica		450.00		260.00				710.00
Hon. Robert Duncan	4/13	4/13	United Kingdom		44.12						
	4/14	4/14	South Africa		None						
	4/14	4/16	Rhodesia		None						
	4/16	4/17	Mozambique		32.75						
	4/17	4/18	Tanzania		None						
	4/18	4/19	Zambia		None						
	4/19	4/19	Botswana		None						
	4/19	4/20	South Africa		187.34		2,642.00				
Hon. William Lehman	4/14	4/19	Haiti		375.00		172.00				547.00
Hon. Clarence D. Long	4/13	4/14	France		86.00						
	4/14	4/17	Israel		225.00						
	4/17	4/18	Jordan		76.00						
	4/18	4/19	Egypt		150.00						
	4/20	4/21	Greece		75.00						
Hon. John Myers	4/13	4/15	Puerto Rico		100.00						
	4/15	4/19	Colombia		300.00						
	4/19	4/21	Puerto Rico		150.00						
Military transportation							790.00				
Hon. Carl D. Pursell	4/15	4/16	Hong Kong		150,00						
	4/17	4/21	Japan		515.00						
	4/22	4/24	People's Republic of China.		157.50		67.50				
Military transportation							1,141.00				
Hon. Eldon Rudd	5/3	5/7	Mexico		375.00		723.63				1,098.63
George F. Allen	4/11	4/12	Denmark		89.00						
	4/12	4/14	United Kingdom		177.00						
	4/14	4/17	Belgium		318.00						
	4/17	4/21	Germany		308.00						
	4/21	4/23	Greece		150.00						
	4/23	4/25	Israel		150.00						
	4/25	4/28	Egypt		225.00		1,763.06				
Military transportation							1,213.84				
Jimmy R. Fairchild	4/18	4/21	Germany		225.00						
	4/21	4/23	Greece		150.00						
	4/23	4/25	Israel		225.00						
	4/25	4/28	Egypt		225.00		1,930.00				
Military transportation							1,213.84				
Terry R. Peel	4/16	4/16	United States		50.00						
	4/16	4/19	Iceland		225.00		395.00				
Samuel R. Preston	6/8	6/12	France		430.00		1,791.00				2,221.00
Edwin F. Powers	4/13	4/14	France		86.00						
	4/14	4/17	Israel		225.00						
	4/17	4/18	Jordan		76.00						
	4/18	4/19	Egypt		150.00						
	4/20	4/21	Greece		75.00						
	4/21	4/22	England		91.00		2,380.12				
Austin G. Smith	4/10	4/14	Panama		375.00		339.00				714.00
Austin G. Smith	6/8	6/12	France		430.00		1,791.00				2,221.00
Derek Vander Schaaf	4/10	4/14	Panama		375.00		339.00				714.00
Committee total					9,226.71		23,765.13				32,991.84

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMIE WHITTEN,
Chairman, Committee on Appropriations.

July 24, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, SURVEYS AND INVESTIGATIONS STAFF, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1, AND JUNE 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[3]	Foreign currency	U.S. dollar equivalent or U.S. currency[3]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Robert W. Catlin, Jr	5/19	5/28	United Kingdom		798.00						
	5/28	5/31	Turkey		243.75						
	6/1	6/5	Greece		337.50						
	6/5	6/7	Italy		187.50						
	6/7	6/16	Germany		813.25		2,048.05				4,428.05
Paul F. Dinsmore	5/19	5/28	United Kingdom		656.25						
	5/28	5/31	Turkey		243.75						
	6/1	6/5	Greece		337.50						
	6/5	6/7	Italy		187.50						
	6/7	6/16	Germany		740.00		2,219.78				4,384.78
Anthony J. Gabriel	5/19	5/28	United Kingdom		798.00						
	5/28	5/31	Turkey		243.75						
	6/1	6/5	Greece		337.50						
	6/5	6/7	Italy		187.50						
	6/7	6/9	Germany		168.00		2,051.81				3,786.56
Committee total					6,279.75		6,319.64				12,599.39

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

July 24, 1979.

JAMIE WHITTEN, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1, AND JUNE 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[3]
Wilson, Cong. Bob (Mission to examine transfer of technology in exchange for oil and gas, Science and Technology Committee trip).	5/3	5/7	Mexico	8,531.25	375.00		723.63			8,531.25	1,098.63
Trible, Cong. Paul S. Jr. (Official adviser to the U.S. SALT Delegation for the 96th Cong.).	5/20	5/23	Switzerland	519.35	300.00		849.00			519.35	1,149.00
Mission to the Philippines and Korea regarding current and projected military construction projects:											
Wilson, Cong. Charles H	5/25	5/28	Philippines	166,163	225.00		2,453.00			166,163	2,678.00
	5/28	6/1	Korea	181,500	375.00					181,500	375.00
Local in-country transportation provided by Department Air Force.							3,542.66				3,542 66
Tsompanas, Paul L	5/25	5/28	Philippines	166,163	225.00		2,453.00			166,163	2,678.00
	5/28	6/1	Korea	181,500	375.00					181,500	375.00
Local in-country transportation provided by Department Air Force.							3,542.66				3,542.66
Group expenses:											
Local in-country transportation provided by State Department in Korea.							15.11				15.11
Control room expenses paid by State Department in Korea.									259.21		259.21
Local in-country expenses paid by State Department in Philippines.									292.18		292.18
Carr, Cong. Bob (Congressional adviser to the SALT Delegation).	6/14	6/15	France	391.50	90.00		1,791.00				1,881.00
	6/15	6/18	Austria	4,219.50	300.00						300.00
Local in-country expenses in Austria.							129.29				129.29
Delegation to the Paris Air Show:[3]											
Badham, Cong. Robert E	6/7	6/12	France	1,957.50	450.00		1,831.00				2,281.00
Price, Cong. Melvin	6/7	6/12	France	1,957.50	450.00		1,831.00				2,281.00
Won Pat, Cong. Antonio	6/7	6/12	France	1,957.50	450.00		1,831.00				2,281.00
Wilson, Cong. Bob	6/7	6/16	France	3,523.50	810.00		2,086.93				2,896.93
Ford, Mr. John J	6/7	6/12	France	1,957.50	450.00		1,831.00				2,281.00
Shumate, Mr. James F	6/7	6/12	France	1,957.50	450.00		1,831.00				2,281.00
Klein, Mr. Adam J	6/7	6/12	France	1,957.50	450.00		1,831.00				2,281.00
Delegation to the People's Republic of China:											
Aspin, Cong. Les	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	36,300.00	75.00						75.00
Byron, Cong. Beverly B	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	24,760.00	51.16						51.16
Daniel, Cong. Robert W	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	36,300.00	75.00						75.00
Dickinson, Cong. Wm. L	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	36,300.00	75.00						75.00
Emery, Cong. David F	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	36,300.00	75.00						75.00
Evans, Cong. Melvin H	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	36,300.00	75.00						75.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1, AND JUNE 30, 1979—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Delegation to the People's Republic of China—Continued											
Hogan, Wm. H. Jr	4/13	4/14	Japan	11,582.06	53.17		2,430.41				2,483.58
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	31,300.00	64.66						64.66
Holt, Cong. Marjorie S	4/13	4/14	Japan	16,401.40	75.95		2,430.41				2,506.36
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	26,500,00	54.75						54.75
Ichord, Cong. Richard H	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	26,300.00	54.34						54.34
Kazen, Cong. Abraham, Jr	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	20,300.00	41.94						41.94
Lloyd, Cong. Jim	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	36,300.00	75.00						75.00
Montgomery, Cong. G. V	4/13	4/14	Japan	20,521.72	95.03		1,243.35				1,338.38
	4/14	4/18	China	See footnote at end							
	4/19	4/20	Hong Kong		50.93		1,296.00				1,346.93
Nichols, Cong. Bill	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	36,300.00	75.00						75.00
Price, Cong. Melvin	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	36,300.00	75.00						75.00
Schroeder, Cong. Patricia	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	36,300.00	75.00						75.00
Spence, Cong. Floyd D	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	36,300.00	75.00						75.00
Stump, Cong. Bob	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	36,300.00	75.00						75.00
Trible, Cong. Paul S., Jr	4/13	4 14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	19,610.00	40.52						40.52
White, Cong. Richard C	4/13	4/14	Japan	17,243.60	79.85		2,430.41				2,510.26
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	26,300.00	54.34						54.34
Wilson, Cong. Bob	4/13	4/14	Japan	17,742.60	77.53		2,430.41				2,507.94
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	36,300.00	75.00						75.00
Wilson, Cong. Charles H	4/13	4/14	Jadan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	36,300.00	75.00						75.00
Won Pat. Cong. Antonio B	4/13	4/14	Japan	22,242.00	103.00		2,430.41				2,533.41
	4/14	4/21	China	See footnote at end							
	4/21	4/22	Korea	36,300.00	75.00						75.00
Local in-country expenses for delegation in Japan.							230.00		163.00		393.00
Local in-country expenses for delegation in China.					6,812.87		8,653.51		946.51		16,412.89
Local in-country expenses for delegation in Korea.							750.48		10.33		760.81
Committee total					16,183.04		91,784.23		1,671.23		109,638.50

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Local transportation costs not available from State Department. Amended report will be filed when figures become available.

June 30, 1979.

MELVIN PRICE, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1, AND JUNE 30, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. J. William Stanton	4/12	4/22	France		946.00		56.83				1,837.55
Military transportation							834.72				
Hon. John J. LaFalce	4/15	4/18	Colombia		294.73						627.53
Military transportation							332.80				
Stephen J. Verdier, staff	5/13	5/19	Ivory Coast		805.00		77.13				2,137.13
Commercial air transportation							1,255.00				
Hon. Henry S. Reuss	5/24	5/30	Jamaica		525.00						1,015.00
Commercial air transportation							490.00				
Hon. Chalmers P. Wylie	5/25	5/30	Jamaica		450.00						704.00
Commercial air transportation							254.00				
Committee total					3,020.73		3,300.48				6,321.21

[1] Per Diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. $ equivalent; if U.S. currency is used, enter amount expended.

June 30, 1979.

HENRY S. REUSS,
Chairman, Committee on Banking, Finance and Urban Affairs.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BUDGET, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Jim Mattox	4/17	4/18	Belgium	3,204	107.00					3,204	107.00
	4/18	4/23	Federal Republic of Germany.	772	408.00					772	408.00
	4/23	4/25	United Kingdom	131.72	273.00		732.00			131.72	1,005.00
Bud Shuster	4/17	4/18	Belgium	3,204	107.00					3,204	107.00
	4/18	4/23	Federal Republic of Germany.	772	408.00					772	408.00
	4/23	2/24	United Kingdom	45.16	91.00		732.00			45.16	823.00
Eldon Rudd	4/17	4/18	Belgium	3,204	107.00					3,204	107.00
	4/18	4/22	Federal Republic of Germany.	772	408.00					772	408.00
	4/29	4/24	United Kingdom	87.86	182.00		732.00			87.86	914.00
	6/8	6/11	France	391.5	90.00		1,979.23			391.5	2,069.23
Committee total					2,181.00		4,175.23				6,356.23
John F. Cove	4/17	4/18	Belgium	3,204	107.00						107.00
	4/18	4/23	Federal Republic of Germany.	772	408.00						408.00
	4/23	4/25	United Kingdom	131.72	273.00		732.00				1,005.00
Nicholas Masters	4/17	4/18	Belgium	3,204	107.00						107.00
	4/18	4/23	Federal Republic of Germany.	772	408.00						408.00
	4/23	4/25	United Kingdom	131.72	273.00		732.00				1,005.00
John O'Shaughnessy	4/17	4/18	Belgium	3,204	107.00						107.00
	4/18	4/23	Federal Republic of Germany.	772	408.00						408.00
	4/23	4/25	United Kingdom	131.72	273.00		732.00				1,005.00
Committee total					2,364.00		2,196.00				4,560.00

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

July 24, 1979.

ROBERT N. GIAIMO,
Chairman, Committee on the Budget.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[1]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Augustus F. Hawkins	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	204.71	(3)	40.67	(3)	760.38
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
Hon. William D. Ford	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	354.45	(3)	40.67	(3)	910.12
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
Hon. Ted Weiss	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	354.45	(3)	40.67	(3)	910.12
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
Hon. Baltasar Corrada	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	204.71	(3)	40.67	(3)	760.38
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
Hon. John Erlenborn	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	204.71	(3)	40.67	(3)	760.38
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
Hon. Thomas E. Coleman	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	204.71	(3)	40.67	(3)	760.38
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
Hon. Arlen Erdahl	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	204.71	(3)	40.67	(3)	760.38
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
Susan Grayson	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	204.71	(3)	40.67	(3)	760.38
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
Carole Schanzer	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	204.71	(3)	40.67	(3)	760.38
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
Don Baker	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	204.71	(3)	40.67	(3)	760.38
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
Hugh Duffy	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	204.71	(3)	40.67	(3)	760.38
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
Thomas R. Wolanin	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	354.45	(3)	40.67	(3)	910.12
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
Patricia F. Rissler	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	354.45	(3)	40.67	(3)	910.12
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
John F. Jennings	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	354.45	(3)	40.67	(3)	910.12
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
Charles W. Radcliffe	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	155.00	(3)	204.71	(3)	40.67	(3)	760.38
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
James M. Stephens	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	204.71	(3)	40.67	(3)	760.38
	4/21	4/24	PRC	(3)	116.25	(3)	71.25	(3)	112.46	(3)	349.96
Martin L. LaVor	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	354.45	(3)	40.67	(3)	910.12
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96
William C. Clohan, Jr	4/15	4/17	Hong Kong	765	150.00	(3)	73.56	(3)	52.13	(3)	275.69
	4/17	4/21	Japan	111,375	515.00	(3)	354.45	(3)	40.67	(3)	910.12
	4/21	4/24	PRC	(3)	166.25	(3)	71.25	(3)	112.46	(3)	349.96

Footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1979—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Frank Thompson, Jr.	6/23	6/27	Switzerland [4]	[4] 799.20	[4] 480.00	985.30	593.20			1,784.50	1,073.20
	6/27	7/1	France	1,550	360,00					1,550	360.00
	7/1	7/4	England	145.20	318.00					145.20	318.00
Round trip airfare	6/22	7/4					941.00				941.00
James Stephens	6/15	6/28	Switzerland	2,158	1,248 00		756.00				2,004.00
Donald Baker	6/15	6/28	Switzerland	2,158	1,248.00		1,339.00				2,587.00
Committee total					18,616.50		10,968.74				33,279.92

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Exchange rate unavailable.

[4] Overpaid $96 for a day in Switzerland. July 10, 1979, refunded State Department by check for this amount.

July 25, 1979.

CARL D. PERKINS,
Chairman, Committee on Education and Labor.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1, AND JUNE 30, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Bowen, D. R	4/15	4/16	Poland		67.08		444.00				511.08
	4 16	4 18	Romania		148.50						148.50
Military transportation in conjunction with IPU trip to Prague (to be reported separately).											
Brenner, A. L	4 13	4 23	France		946.00		56.83				1,002.83
Military transportation							834.72				834.72
Carson, J	4 16	4/17	Mozambique		75.00						75.00
	4/17	4/20	South Africa		225.00						225.00
	4/23	4/25	United Kingdom		293.00						293.00
Commercial transportation							2,639.00				2,639.00
Chester, J. C	4/13	4/23	France		946.00		56.83				1,002.83
Military transportation							834.72				834.72
Daoust, E	4/13	4/23	France		946.00		56.83				1,002.83
Military transportation							834.72				834.72
Diggs, C. C	4/15	4/19	Colombia		300.00						300.00
Military transportation							332.80				332.80
Committee total					3,946.58		6,090.45				10,037.03
Finley, R. M	5/16	5/20	France		344.00						344.00
	5/20	5/26	Switzerland		489.48						489.48
	5/26	5/30	France (Martinique)		151.20						151.20
Commerciel transportation							1,711.24				1,711.24
Fithian, F	4/13	4/23	France		946.00		56.83				1,002.83
Military transportation							834.72				834.72
Fortier, D	4/13	4/23	France		946.00		56.83				1,002.83
Military transportation							834.72				834.72
Frank, D	4/6	4/15	South Africa		538.94						538.94
Commercial transportation							2,703.00				2,703.00
	5/28	5/30	Sudan		165.48						165.48
	5/30	5/31	Morocco		42.50						42.50
Military transportation (White House trip).							1,253.17				1,253.17
Galey, M. E	4/17	4/21	Switzerland		300.00						300.00
Commercial transportation							757.00				757.00
Committee total					3,923.60		8,207.51				12,131.11
Gilman, B. A	4/13	4/18	France		430.00						430.00
	4/18	4/21	Switzerland		300.00						300.00
	4/21	4/23	France		172.00		216.28				388.28
Military transportation							834.72				834.72
	5/24	5/26	Mexico				252.00				252.00
Gray, W. H	4/15	4/22	France		688.00		56.83				744.83
Commercial transportation							1,677.00				1,677.00
Lisenby, S	5/28	5/30	Sudan		181.45						181.45
	5/30	5/31	Morocco		73.75						73.75
Military transportation (White House trip).							1,253.17				1,253.17
Pease, D. J	4/13	4/23	France		813.27		56.83				870.10
Military transportation							834.72				834.72
Pitchford. G E	4/6	4/15	South Africa		675.00						675.00
Commercial transportation							2,703.00				2,703.00
Committee total					3,333.47		7,884.55				11,218.02
Pritchard, J	5/28	5/30	Sudan		172.94						172.94
Military transportation (White House trip).							1,253.17				1,253.17
Schollaert, J. T	4/22	4/25	Soviet Union				668.70				668.70
Solarz, S. J	4/13	4/13	United Kingdom		44.12						44.12
	4/16	4/17	Mozambique		32.75						32.75
	4/19	4/20	South Africa		187.34						187.34
Commercial transportation							2,642.00				2,642,00
Soriano, R	4/13	4/23	France		946.00		56.83				1,002.83
Military transportation							834.72				834.72
Winn, L. Jr	4/13	4/19	France		528.44		56.83				585.27
Military transportation, 1 way							417.36				417.36
Commercial transportation, 1 way							990.90				990.90
Committee total					1,911.59		6,920.51				8,832.10
Grand total											42,218.26

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

July 30, 1979.

CLEMENT J. ZABLOCKI, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1, AND JUNE 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[3]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[3]
Hon. Henry J. Hyde	4/12	4/14	Netherlands	328	160.00					328	160.00
	4/14	4/17	Austria	4,012.55	288.00	2,848.92	204.48			6,861.47	492.48
	4/17	4/19	Italy	126,450	150.00	139,000	164.30			265,450	314.30
Round trip air fare							1,748.00				1,748.00
Hon. Tom Railsback	4/12	4/14	Netherlands	329	160.00					328	160.00
	4/14	4/17	Austria	4,012.55	288.00	2,848.92	204.48			6,861.47	492.48
	4/17	4/20	Italy	189,675	225.00	139,000	164.31			328,675	389.31
Round trip air fare							1,774.00				1,774.00
Mr. Garner J. Cline	5/19	5/28	Switzerland	1,558.10	900.00	786.75	452.47			2,344.85	1,352.47
							1,601.00				1,601.00
Committee total					2,171.00		6,313.04				8,484.04

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

July 24, 1979.

PETER W. RODINO, Jr., Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1, AND JUNE 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Cong. Harold T. Johnson	6/4	6/15	France	4,356	990.00		692.50			4,356.00	1,682.50
Cong. John B. Breaux	6/7	6/12	England	47.08	97.35	(Mil Air)	1,394.85			47.08	1,492.20
	6/7	6/12	France	1,957.50	450.00					1,957.50	450.00
Cong. Norman Y. Mineta	6/7	6/12	England	47.08	97.35	(Mil Air)	2,400.65			47.08	2,498,00
	6/7	6/12	France	1,957.50	450.00					1,957.50	450.00
Cong. John G. Fary	6/7	6/12	France	1,957.50	450.00					1,957.50	450.00
Cong. John Paul Hammerschmidt	6/9	6/12	France	1,566	360.00					1,566.00	360.00
Richard J. Sullivan	6/7	6/12	Frande	1,957.50	450.00					1,957.50	450.00
David Heymsfeld	6/7	6/12	France	1,957.50	450.00					1,957.50	450.00
Larry T. Reida	6/7	6/12	France	1,957.50	450.00					1,957.50	450.00
Charles A. Krouse	5/23	5/25	Canada	171.82	150.00		159.84			171.82	309.84
John D. Harrant	5/23	5/25	Canada	171.82	150.00		159.84			171.82	309.84
Committee total					4,544.70		4,807.68				9,352.38

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

July 30, 1979.

HAROLD T. JOHNSON, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RULES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1, AND JUNE 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Leo C. Zeferetti, MC Local in-country transportation expenses reported by House Armed Service Committee.	6/7	6/12	France		540.00		1,831.00				2,371.00
Committee total					540.00		1,831.00				2,371.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

July 27, 1979.

RICHARD BOLLING, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Lloyd		5/3	United States				371.09				371.09
	5/3	5/7	Mexico	8,531.25	375.00					8,531.25	375.00
	5/7		United States				352.54				352.54
Wydler		5/4	United States				252.00		8.50		260.50
	5/4	5/7	Mexico	6,825	300.00					6,825.00	300.00
	5/7		United States				352.54				352.54
Scheuer		5/3	United States				371.09				371.09
	5/3	5/7	Mexico	8,531.25	375.00					8,531.25	375.00
	5/7		United States				352.54				352.54
Brown		5/3	United States				371.09				371.09
	5/3	5/7	Mexico	8,531.25	375.00					8,531.25	375.00
	5/7		United States				352.54				352.54
Young		5/3	United States				371.09				371.09
	5/3	5/7	Mexico	8,531.25	375.00					8,531.25	375.00
	5/7		United States				352.54				352.54

Footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1, AND JUNE 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[3]
Staub		5/3	United States				371.09				371.09
	5/3	5/7	Mexico	8,531.25	375.00					8,531.25	375.00
	5/7		United States				352.54				352.54
Buckley	-	5/3	United States				371.09		8.35		379.44
	5/3	5/7	Mexico	8,531.25	375.00					8,531.25	375.00
	5/7		United States				352.54				352.54
Hapke		5/3	United States				371.09				371.09
	5/3	5/7	Mexico	8,531.25	375.00					8.531.25	375.00
	5/7		United States				352.54				352.54
Hensley		5/3	United States				371.09				371.09
	5/3	5/7	Mexico	8,531.25	375.00					8,531.25	375.00
	5/7		United States				352.54				352.54
Jensen		5/3	United States				371.09				371.09
	5/3	5/7	Mexico	8,531.25	375.00					8,531.25	375.00
	5/7		United States				352.54				352.54
Ostenso ($75 paid returned)		5/3	United States				371.09				371.09
	5/3	5/7	Mexico	8,531.25	375.00					8,531.25	300.00
	5/7		United States				352.54				352.54
Scoville ($82.95 paid returned)		5/3	United States				371.09				371.09
	5/3	5/7	Mexico	8,531.25	375.00					8,531.25	292.05
	5/7		United States-				352.54				352.54
Steinway		5/3	United States				371.09		10.25		381.34
	5/3	5/7	Mexico	8,531.25	375.00					8,531.25	375.00
	5/7		United States				352.54				352.54
Turner		5/3	United States				371.09				371.09
	5/3	5/7	Mexico	8,531.25	375.00					8,531.25	375.00
	5/7		United States				352.54				352.54
CODEL LLOYD/MEXICO									532.04		
Local in country ground transportation for CODEL LLOYD/MEXICO							596.03				1,128.07
McCormack	5/4	5/8	Germany				1,563.00				1,563.00
Fuqua		6/6	United States				605.23				605.23
	6/6	6/7	England	47.08	98.87		295.32			47.08	394.19
	6/7	6/12	France	1,957.50	450.00		460.50			1,957.50	910.50
	6/8	6/8	Germany				325.61				325.61
	6/12		United States				692.94				692.94
Wydler		6/6	United States				605.23				605.23
	6/6	6/9	England	188.12	395.48		1,803.37			188.12	2,198.85
	6/10	6/12	France	783	180.00					783.00	180.00
	6/12		United States				692.94				692.94
Bouquard		6/6	United States				605.23				605.23
	6/6	6/7	England	47.08	98.87		295.32			47.08	394.19
	6/7	6/12	France	1,957.50	450.00		460.50			1,957.50	910.50
	6/8	6/8	Germany				325.61				325.61
	6/12		UnitedStates				692.94				692.94
Goldwater, Jr		6/6	United States				605.23				605.23
	6/6	6/7	England	47.08	98.87		96.95			47.08	195.82
	6/7	6/12	France	1,957.50	450.00					1,957.50	450.00
	6/8	6/8	Germany			1,400.00	320.00			1,400.00	320.00
	6/12		United States				692.94				692.94
Lloyd		6/7	United States				951.34				951.34
	6/7	6/12	France	1,957.50	450.00					1,957.50	450.00
	6/12		United States				692.94				692.94
Young		6/6	United States				605.23				605.23
	6/6	6/7	England	47.08	98.87		295.32			47.08	394.19
	6/7	6/12	France	1,957.50	450.00		460.50			1,957.50	910.50
	6/8	6/8	Germany				325.61				325.61
	6/12		United States				692.94				692.94
Brill		6/7	United States				951.34				951.34
	6/7	6/12	France	1,957.50	450.00		1,005.80			1,957.50	1,455.80
	6/8	6/8	Germany				325.61				325.61
	6/12		United States				879.66				879.66
Cassidy		6/7	United States				951.34				951.34
	6/7	6/12	France	1,957.50	450.00		460.50			1,957.50	910.50
	6/8	6/8	Germany				325.61				325.61
	6/12		United States				879.66				879.66
Crossfield		6/6	United States				605.23				605.23
	6/6	6/7	England	47.08	98.87		96.95			47.08	195.82
	6/7	6/12	France	1,957.50	450.00					1,957.50	450.00
	6/12		United States				692.94				692.94
Dugan		6/6	United States				605.23				605.23
	6/6	6/9	England	188.12	395.48		1,803.37			188.12	2,198.85
	6/10	6/12	France	783	180.00					783.00	180.00
	6/12		United States				692.94				692.94
Janks		6/7	United States				951.34				951.34
	6/7	6/12	France	1,957.50	450.00		1,005.80			1,957.50	1,455.80
	6/8	6/8	Germany				325.61				325.61
	6/12		United States				879.66				879.66
Lanes		6/6	United States				605.23				605.23
	6/6	6/7	England	47.08	98.87		295.32			47.08	394.19
	6/7	6/12	France	1,957.50	450.00		460.50			1,957.50	910.50
	6/8	6/8	Germany				325.61				325.61
	6/12		United States				879.66				879.66
Ketcham		6/6	United States				605.23				605.23
	6/6	6/7	England	47.08	98.87		295.32			47.08	394.19
	6/7	6/12	France	1,957.50	450.00		460.50			1,957.50	910.50
	6/8	6/8	Germany				325.61				325.61
	6/12		United States				692.94				692.94
Krebs-Leidecker		6/6	United States				605.23				605.23
	6/6	6/7	England	47.08	98.87		295.32			47.08	394.19
	6/7	6/12	France	1,957.50	450.00		460.50			1,957.50	910.50
	6/8	6/8	Germany				325.61				325.61
	6/12		United States				692.94				692.94
Marceau		6/6	United States				605.23				605.23
	6/6	6/7	England	47.08	98.87		295.32			47.08	394.19
	6/7	6/12	France	1,957.50	450.00		460.50			1,957.50	910.50
	6/8	6/8	Germany				325.61				325.61
	6/12		United States				692.94				692.94

Footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1979—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Taylor		6/6	United States				605.23				605.23
	6/6	6/7	England	47.08	98.87		96.95			47.08	195.52
	6/7	6/12	France	1,957.50	450.00		1,005.80			1,957.50	1,455.80
	6/8	6/8	Germany			1,400.00	320.00			1,400.00	320.00
	6/12		United States				692.94				692.94
Tymczyszyn		6/6	United States				605.23				605.23
	6/6	6/7	England	47.08	98.87		96.95			47.08	195.82
	6/7	6/12	France	1,957.50	450.00					1,957.50	450.00
	6/8	6/8	Germany			1,400.00	320.00			1,400.00	320.00
	6/12		United States				692.94				692.94
Williams		6/6	United States				605.23				605.23
	6/6	6/7	England	47.08	98.87		295.32			47.08	394.19
	6/7	6/12	France	1,957.50	450.00		460.50			1,957.50	910.50
	6/8	6/8	Germany				325.61				325.61
	6/12		United States				692.94				692.94
Codel Fuqua/England—Control room expense								47.85	100.75	47.85	100.75
Codel Fuqua/France—Control room expense								3,927.40	902.85	3,927.40	902.85
Committee total					14,554.45		55,729.85		1,562.74		71,847.04

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Note: Local in country ground transportation expenses for Codel Fuqua for England, France, and Germany not yet available from U.S. Department of State. Expenses have been requested for the Committee on Science and Technology and will be reported on an amended report when received from the U.S. Department of State.

July 31, 1979

DON FUQUA, Chairman, Committee on Science and Technology.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1, AND JUNE 30, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Coriden	4/23	4/24	Paris	369.80	86.00		1,799.00				
	4/24	4/26	Brussels	6,415	214.00						
	4/26	4/27	Rome	126,450	150.00	52,600	62.25				
Kurz	5/6	5/8	Bucharest	267,300	225.00		1,033.00				
	5/9	5/11	Budapest	3,067.10	152.00						
	5/11	5/12	Frankfort	158.21	42.00						
Davidson	5/6	5/8	Bucharest	267,300	225.00		1,033.00				
	5/9	5/11	Budapest	3,067.10	152.00						
	5/11	5/12	Frankfort	158.21	42.00						
Sletzinger	6/24	6/26	Stockholm	680	170.00		1,471.08				
	6/26	6/29	Belgrade	5,580	225.00						
Committee total					1,683.00		5,398.33				

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

July 17, 1979.

DANTE B. FASCELL,
Chairman, Commission on Security and Cooperation in Europe.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Boner of Tennessee (at the request of Mr. Wright), after 12:30 p.m. today, on account of official business.

Mr. Nolan (at the request of Mr. Wright), for today, on account of official business (House delegation to investigate the Southeast Asian refugees).

Mr. Russo (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Drinan (at the request of Mr. Wright), for today, on account of official business.

Mr. Akaka (at the request of Mr. Wright), for today, on account of official business (House delegation to investigate the Southeast Asian refugees).

Mr. Williams of Ohio (at the request of Mr. Rhodes), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Erdahl) to revise and extend their remarks and include extraneous material:)

Mr. Green, for 15 minutes, today.

Mr. Findley, for 5 minutes, today.

Mr. Tauke, for 5 minutes, today.

Mr. Bob Wilson, for 5 minutes, today.

Mr. Ritter, for 15 minutes, today.

Mr. Courter, for 15 minutes, today.

Mr. Snyder, for 15 minutes, today.

Mr. Sebelius, for 5 minutes, today.

Mrs. Heckler, for 5 minutes, today.

Mr. Miller of Ohio, for 10 minutes, today.

Mr. Kemp, for 10 minutes, today.

Mr. Corcoran, for 5 minutes, today.

(The following Members (at the request of Mr. Hance) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Weaver, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Van Deerlin, for 5 minutes, today.

Mr. Flood, for 5 minutes, today.

Mr. AuCoin, for 5 minutes, today.

Mr. Alexander, for 10 minutes, today.

Mr. Bingham, for 5 minutes, today.

Mr. Wolff, for 15 minutes, today.

Mr. Charles H. Wilson of California, for 10 minutes, today.

Mr. Mattox, for 15 minutes, today.

Mr. Corman, for 5 minutes, today.

Mr. Fithian, for 5 minutes, today.

Mr. Pepper, for 5 minutes, today.

Mr. Bedell, for 5 minutes, today.

Mrs. Boggs, for 30 minutes, today.

Mr. Ullman, for 5 minutes, today.

Mr. Murtha, for 5 minutes, today.

Mr. Levitas, for 5 minutes, today.

Mr. Brademas, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Corrada, to revise and extend his remarks during the debate on House Concurrent Resolution 165 today.

(The following Members (at the request of Mr. ERDAHL) and to include extraneous matter:)

Mr. WYDLER in two instances.
Mr. FINDLEY.
Mr. KRAMER.
Mr. GILMAN.
Mr. REGULA.
Mr. ASHBROOK in three instances.
Mr. COLEMAN.
Mr. HANSEN in nine instances.
Mr. GREEN, in three instances.
Mr. ERLENBORN.
Mr. LAGOMARSINO.
Mr. LEACH of Iowa in two instances.
Mr. PHILIP M. CRANE in five instances.
Mr. HORTON.
Mr. SOLOMON in two instances.
Mr. ARCHER.
Mr. LEE in two instances.
Mr. QUAYLE.
Mr. WINN in two instances.
Mr. DERWINSKI in two instances.
Mr. PAUL.
Mr. WHITEHURST.
Mr. BEARD of Tennessee in two instances.
Mr. RITTER in two instances.
Mr. DANNEMEYER.
Mr. FISH.
Mr. SAWYER in three instances.
Mr. VANDER JAGT.
Mr. RHODES.
Mr. LENT.
Mr. BURGENER in two instances.
Mr. ABDNOR.
Mr. MILLER of Ohio in three instances.
Mr. ROTH.
Mr. KEMP in 10 instances.
Mr. LOEFFLER.
Mr. PURSELL.
Mr. MICHEL in two instances.
Mr. McCLORY.
Mr. CORCORAN.

(The following Members (at the request of Mr. HANCE) and to include extraneous material:)

Mr. FASCELL in five instances.
Mr. GUDGER.
Mr. BAILEY.
Mr. VANIK in two instances.
Mr. GUARINI in three instances.
Mr. ROSTENKOWSKI.
Mr. BARNES in two instances.
Mr. NOWAK in two instances.
Mrs. BYRON in five instances.
Mr. HAMILTON in five instances.
Mr. CAVANAUGH in five instances.
Mr. ROSENTHAL in five instances.
Mr. MATSUI.
Mr. McHUGH.
Mr. BEDELL in two instances.
Mr. HEFTEL.
Mr. FISHER in two instances.
Mr. MAVROULES in two instances.
Mr. AuCOIN in two instances.
Mr. YATRON.
Mr. LAFALCE.
Mr. PEPPER in six instances.
Mr. DODD in three instances.
Mr. ROE in two instances.
Mr. LONG of Louisiana in two instances.
Ms. MIKULSKI.
Mr. WAXMAN.
Mr. CORRADA in three instances.
Mr. MAZZOLI.
Mr. BONKER.
Mr. GARCIA.
Mr. DELLUMS.
Mr. RATCHFORD.
Mr. WEISS.
Mr. UDALL in three instances.
Mr. CONYERS in two instances.
Mr. McKAY.
Mr. LUKEN.
Mr. RICHMOND.
Mr. PATTEN.
Mr. MATTOX.
Mr. GEPHARDT.
Mr. MOFFETT.
Mr. DRINAN in two instances.
Mr. MITCHELL of Maryland.
Mr. GRAY in two instances.
Mr. LEVITAS in two instances.
Mr. CLAY.
Mr. DINGELL in five instances.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2807. An act to amend the Bankruptcy Act to provide for the nondischargeability of certain student loan debts guaranteed or insured by the United States;

H.R. 4476. An act to extend certain programs under the Higher Education Act of 1965 for one year, and for other purposes;

H.R. 4057. An act to increase the fiscal year 1979 authorization for appropriations for the food stamp program, and for other purposes; and

H.R. 4811. An act for the relief of the city of Nenana, Alaska, and to amend the Act of January 2, 1976, as amended, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on July 30, 1979, present to the President, for his approval, bills of the House of the following title:

H.R. 1786. To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program managements, and for other purposes.

ADJOURNMENT

Mr. WAXMAN. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 168, 96th Congress, the Chair declares the House adjourned until 12 o'clock meridian on Wednesday, September 5, 1979.

Thereupon (at 5 o'clock and 54 minutes p.m.), pursuant to House Concurrent Resolution 168, the House adjourned until Wednesday, September 5, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2174. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice of NASA's intention to omit the clause authorizing the Comptroller General to examine certain records in a contract with the Department of Science and the Environment, Commonwealth of Australia, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

2175. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Rehabilitation Act of 1973, and for other purposes; to the Committee on Education and Labor.

2176. A letter from the Secretary of State, transmitting notice of the State Department's intention to obligate Middle East Special Requirements Funds for various activities in Lebanon and the West Bank and Gaza, pursuant to section 553(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

2177. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting the Secretary's determination that the transfer of certain defense articles from the Government of Australia to the Government of Papua New Guinea will strengthen the security of the United States and promote world peace; to the Committee on Foreign Affairs.

2178. A letter from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of a proposed increase in the funding level of the Agency's fiscal year 1979 program in Mali, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

2179. A letter from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of a proposed increase in the funding level of the Agency's fiscal year 1979 program in Senegal, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

2180. A letter from the Secretary of the Interior, transmitting a report by the U.S. Government Comptroller for Guam on Federal grant management and accounting by the Government of Guam; to the Committee on Interior and Insular Affairs.

2181. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to establish competitive oil and gas leasing in favorable areas within producing geologic provinces; to the Committee on Interior and Insular Affairs.

2182. A letter from the Secretary, Interstate Commerce Commission, transmitting notice of the Commission's inability to render a final decision in Docket No. 36525, *Sierra Railroad Company* v. *Southern Pacific Transportation Company, et al.*, within the specified time limits, pursuant to 49 USC 10705(e)(1); to the Committee on Interstate and Foreign Commerce.

2183. A letter from the Acting Deputy Administrator of General Services, transmitting a prospectus proposing alterations at the Federal Building-Courthouse, 230 North First Avenue, Phoenix, Ariz., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2184. A letter from the Acting Deputy Administrator of General Services, transmitting a prospectus proposing alterations at the Greenville, S.C., Federal Building-U.S. Courthouse, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2185. A letter from the Acting Deputy Administrator of General Services, transmitting a prospectus proposing alterations at the Federal Building-Courthouse, 515 Rusk Avenue, Houston, Tex., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2186. A letter from the Acting Deputy Administrator of General Services, transmitting a prospectus proposing a succeeding lease for space currently occupied at 100 Summer Street, Boston, Mass., pursuant to section 7 (a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2187. A letter from the Acting Deputy Administrator of General Services, transmitting a prospectus proposing the renewal of a lease for space in Queens, N.Y., for the Department of Health, Education, and Welfare, Social Security Administration, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2188. A letter from the Acting Deputy Administrator of General Services, transmitting a prospectus proposing a succeeding lease for space currently occupied in the Vanguard Building, 1111 20th Street NW., Washington, D.C., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2189. A letter from the Federal Cochairman, Four Corners Regional Commission, transmitting the 11th annual report of the Commission, covering fiscal year 1978, pursuant to section 510 of the Public Works and Economic Development Act of 1965; to the Committee on Public Works and Transportation.

2190. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice of the proposed use of $10 million in funds appropriated pursuant to the National Aeronautics and Space Administration Authorization Act, 1979, in excess of the amount authorized therefor, for the space shuttle program, pursuant to section 4 of the act; to the Committee on Science and Technology.

2191. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to set limits on increases in hospital capital stock, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3243. A bill to amend title V of the Public Utility Regulatory Policies Act of 1978 to authorize the President to recommend waiver of laws to expedite the transportation of crude oil, and for other purposes; with amendment (Rept. No. 96–214, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. S. 817. An act to amend the act of July 2, 1940, as amended, to increase the amount authorized to be appropriated for the Canal Zone Biological Area (Rept. No. 96–405). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. House Resolution 357. Resolution relating to the report by the Secretary of Health, Education, and Welfare with respect to home health and other in-home services; with amendment (Rept. 96–406). And ordered to be printed.

Mr. BROOKS: Committee on Government Operations. H.R. 4337. A bill to provide for the transfer of the Foreign Claims Settlement Commission of the United States to the United States Department of Justice as a separate agency in that Department; to provide for the authority and responsibility of the Department of Justice to supply to the Foreign Claims Settlement Commission certain administrative support services without altering the adjudicatory independence of the Commission; to change the terms of office and method of appointment of the members of the Commission; and for other purposes; with amendment (Rept. 96–407). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON: Committee on House Administration. S. 832. An act to extend the authorization for the Federal Election Commission; with amendment (Rept. No. 96–408). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee of conference. Conference report on H.R. 4394 (Rept. No. 96–409). And ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4985. A bill to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes (Rept. No. 96–410, pt. I). And ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2759. A bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto; with amendment (Rept. No. 96–411, Pt. I). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BALDUS (for himself, Mr. Anthony, Mr. Jones of Tennessee, Mr. Akaka, and Mr. Coelho):

H.R. 5069. A bill to amend the Egg Research and Consumer Information Act; to the Committee on Agriculture.

By Mr. BARNES:

H.R. 5070. A bill to amend the Railroad Retirement Act of 1974 to provide that a current connection with the railroad industry is not lost by reason of certain employment with the Department of Energy; to the Committee on Interstate and Foreign Commerce.

By Mr. BIAGGI:

H.R. 5071. A bill to provide for an increase in the rate of interest which is payable on savings accounts and certain other types of accounts, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BINGHAM:

H.R. 5072. A bill to amend section 235 of the Foreign Assistance Act of 1961, relating to the Overseas Private Investment Corporation; to the Committee on Foreign Affairs.

By Mr. BLANCHARD (for himself, Mr. Mineta, and Mr. Albosta):

H.R. 5073. A bill to require the use of solar energy systems to provide a certain percentage of the energy used in new Federal buildings and federally leased building space for heating water and for heating and cooling; to the Committee on Public Works and Transportation.

By Mr. BRODHEAD:

H.R. 5074. A bill to establish a compensation system for victims of toxic substance pollution; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. BUTLER:

H.R. 5075. A bill to amend the Patent Laws, title 35 of the United States Code; to the Committee on the Judiciary.

By Mr. CONABLE (for himself and Mr. Jones of Oklahoma):

H.R. 5076. A bill to amend the Internal Revenue Code of 1954 to clarify the extent to which a State, or political subdivision, may tax certain income from sources outside the United States; to the Committee on Ways and Means.

By Mr. CORRADA:

H.R. 5077. A bill to promote the development of an American fishing industry in certain underutilized species; to the Committee on Merchant Marine and Fisheries.

By Mr. DANNEMEYER:

H.R. 5078. A bill to provide that no agency shall issue any order or promulgate any rule or regulation which would have the same legal effect as any provision of any bill or joint resolution disapproved by the Congress during the 3-year period following the date of such disapproval; to the Committee on the Judiciary.

By Mr. DUNCAN of Tennessee:

H.R. 5079. A bill to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tenn., in 1982, and for other purposes; to the Committee on Foreign Affairs.

By Mr. ERLENBORN (for himself and Mr. Hinson):

H.R. 5080. A bill to amend the Fair Labor Standards Act of 1938 to provide a special minimum wage for the employment for limited periods of time of youth under the age of 19, to broaden the authority for the employment of full-time students at a special minimum wage, to establish standards for the application of the child labor provisions to employment in retail and service establishments, to delay for 2 years the increases in the minimum wage under the act scheduled to take effect in 1980 and 1981, to provide for a maximum tip credit of 50 percent, and for other purposes; to the Committee on Education and Labor.

By Mr. ERLENBORN (for himself and Mr. Railsback):

H.R. 5081. A bill to amend the Federal Election Campaign Act of 1971 to prohibit certain political committees from making contributions to any candidate, and for other purposes; to the Committee on House Administration.

By Mr. ERTEL:

H.R. 5082. A bill to amend title I, United States Code, to provide a procedure for reviewing ratifications of amendments to the Constitution of the United States and rescissions of such ratification; to the Committee on the Judiciary.

By Mr. FASCELL (for himself, Mr. Buchanan, and Mr. Barnes):

H.R. 5083. A bill to amend the Immigration and Nationality Act to permit the waiver of certain nonimmigrant visa requirements; to the Committee on the Judiciary.

By Mr. FOWLER:

H.R. 5084. A bill to amend the Internal Revenue Code of 1954 to increase to 40 percent the investment tax credit for solar energy property, to allow the investment tax credit to noncorporate lessors of solar energy property, to allow the residential energy credit with respect to solar energy property to the extent such property performs a solar function, and to allow the amortization of solar energy property based on a 36-month period; to the Committee on Ways and Means.

By Mr. GIBBONS:

H.R. 5085. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of pension payments made to nonresident aliens; to the Committee on Ways and Means.

By Mr. GRADISON:

H.R. 5086. A bill to provide for a National Commission on Hospital Cost Containment and for the funding of State mandatory hospital cost containment programs; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Ms. HOLTZMAN:

H.R. 5087. A bill to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mr. HOWARD (for himself and Mr. Bedell):

H.R. 5088. A bill to establish national standards for weight and length of vehicles using the National System of Interstate and Defense Highways during fuel emergencies; to the Committee on Public Works and Transportation.

By Mr. JENKINS (for himself and Mr. Conable):

H.R. 5089. A bill proposing an amendment to the Constitution to protect the people of the United States against excessive governmental burdens and unsound fiscal and monetary policies by limiting total outlays of the Government; to the Committee on the Judiciary.

By Mr. KRAMER:

H.R. 5090. A bill to amend the Internal Revenue Code of 1954 to encourage the expansion of domestic fossil and synthetic fuels production, and for other purposes: jointly, to the Committees on Ways and Means, Armed Services, Banking, Finance, and Urban Affairs, Foreign Affairs, Government Operations, Interstate and Foreign Commerce, Interior and Insular Affairs, and Science and Technology.

By Mr. MARTIN (for himself, Mr. Glickman, Mr. Buchanan, Mr. Symms, Mr. McKinney, Mr. Robinson, Mr. Quillen, Mr. O'Brien, Mrs. Holt, Mr. Mollohan, Mr. Hyde, Mr. Goldwater, Mr. Kindness, Mr. Whitehurst, Mr. Wampler, Mr. Lott, Mr. Ashley, Mr. Gradison, Mr. Lagomarsino, Mr. Regula, Mr. Duncan of Tennessee, Mr. Sebelius, Mr. Broyhill, Mr. Frenzel, Mr. Badham, Mr. Gingrich, Mr. Miller of Ohio, Mr. Rousselot, Mr. Corcoran, and Mr. Collins of Texas):

H.R. 5091. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize the issuance of a regulation for a food additive on the basis of an evaluation of the risks and benefits of the additive and to allow the continued use of saccharin; to the Committee on Interstate and Foreign Commerce.

By Mr. MAVROULES:

H.R. 5092. A bill to amend title II of the Social Security Act to eliminate the offset against social security benefits which is presently imposed in the case of spouses and surviving spouses receiving certain Government pensions; to the Committee on Ways and Means.

By Ms. MIKULSKI:

H.R. 5093. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for individuals who perform voluntary services for certain public service organizations; to the Committee on Ways and Means.

H.R. 5094. A bill to amend the Internal Revenue Code of 1954 to provide a refundable tax credit for use of a passenger automobile for charitable purposes; to the Committee on Ways and Means.

By Mr. MYERS of Pennsylvania (for himself, Mr. Gray, Mr. Lederer, Mr. Dougherty, and Mr. Garcia):

H.R. 5095. A bill to provide a special program of financial assistance to Opportunities Industrialization Centers and other national community-based organizations in order to provide new motivational and skills training opportunities for welfare recipients, and new incentives for business and industry to coordinate their employment plans and job creation efforts with Opportunities Industrialization Centers and national community-based organizations which have demonstrated effectiveness in developing cooperative relationships with the private sector; to the Committee on Education and Labor.

By Mr. NOWAK:

H.R. 5096. A bill to amend the Internal Revenue Code of 1954 to allow a deduction as an expense for certain amounts of office equipment and pollution control equipment, and to allow rapid amortization for machinery and equipment and motor vehicles; to the Committee on Ways and Means.

H.R. 5097. A bill to amend the Internal Revenue Code of 1954 to allow nonrecognition of gain on the sale or exchange of stock in small business corporations; to the Committee on Ways and Means.

By Mr. OBEY:

H.R. 5098. A bill to authorize the transfer of a vessel by the Secretary of Commerce to the Superior-Douglas County Musuem for use as a maritime museum; to the Committee on Merchant Marine and Fisheries.

By Mr. OTTINGER (for himself, Mr. Mikva, Mr. Rinaldo, Mr. Brodhead, Mr. Rose, and Mr. Florio):

H.R. 5099. A bill to correct inequities in the relationship between sales representatives and other principals, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. REGULA:

H.R. 5100. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $200 of interest in the case of an individual taxpayer; to the Committee on Ways and Means.

H.R. 5101. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $200 of dividends in the case of an individual taxpayer; to the Committee on Ways and Means.

By Mr. SEBELIUS:

H.R. 5102. A bill to amend the Food and Agriculture Act of 1977 relating to increases in the target prices of the 1980 crops of wheat, corn, and other crops under certain circumstances, and for other purposes; to the Committee on Agriculture.

Mr. SMITH of Iowa (for himself and Mr. McDade):

H.R. 5103. A bill to provide for better access to the Federal courts for small businesses and others with small to moderate size claims, to expand the duties of the Office of Advocacy of the Small Business Administration, and for other purposes; jointly, to the Committees on the Judiciary and Small Business.

By Mr. TREEN:

H.R. 5104. A bill to amend the National Labor Relations Act to provide that a labor organization is not required to provide representation to an employee in a grievance procedure if such employee is not a member of such labor organization, and for other purposes; to the Committee on Education and Labor.

H.R. 5105. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain amounts of interest for individuals who have not attained age 65 and to exclude from gross income all interest for individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. WEISS:

H.R. 5106. A bill to amend part C of title IV of the Higher Education Act of 1965 relating to college work-study programs; to the Committee on Education and Labor.

By Mr. BOB WILSON:

H.R. 5107. A bill to establish the John J. Montgomery National Monument; to the Committee on Interior and Insular Affairs.

By Mr. YOUNG of Alaska:

H.R. 5108. A bill to provide for the disenrollment of certain Alaska Natives from the Alaska Native Roll and to allow their enrollment with the Metlakatla Indian Community; to the Committee on Interior and Insular Affairs.

By Mr. ABDNOR (for himself and Mr. Daschle):

H.R. 5109. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Grass Rope Unit of the Pick-Sloan Missouri Basin Program, South Dakota, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ASHLEY:

H.R. 5110. A bill to amend the U.S. Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes; to the Committee on Agriculture.

By Mr. BINGHAM:

H.R. 5111. A bill to establish a National Mutual Housing Corporation; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BLANCHARD:

H.R. 5112. A bill to amend title XVI of the Social Security Act to provide for a more complete exchange of information between the Secretary of Health, Education, and Welfare and the Immigration and Naturalization Service with respect to all aliens who are applicants for or recipients of SSI benefits, and to amend section 212 of the Immigration and Nationality Act to provide for the exclusion from the United States of aliens who are determined by the Attorney General to be likely to receive such benefits within 6 months of their entry; jointly, to the Committees on Ways and Means and the Judiciary.

By Mrs. BOGGS (for herself and Mr. Trible):

H.R. 5113. A bill to promote orderly and efficient ocean transportation of bulk commodities in the foreign commerce of the United States and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Rules.

By Mr. BURGENER (for himself, Mr. Bob Wilson, Mr. Van Deerlin, Mr. Coelho, Mrs. Byron, Mr. Clausen, Mr. Dannemeyer, Mr. Dornan, Mr. Erlenborn, Mr. Grisham, Mr. Hollenbeck, Mrs. Holt, Mr. Jeffries, Mr. Lagomarsino, Mr. Lewis, Mr. Lloyd, Mr. Lott, Mr. McCloskey, Mr. Mollohan, Mr. Moorhead of California, Mr. Murphy of Pennsylvania, Mr. Panetta, Mr. Rousselot, Mr. Royer, Mr. Solomon, Mr. Thomas, Mr. Walker, Mr. Whitehurst, Mr. Charles H. Wilson of California, Mr. Wolff, and Mr. Won Pat):

H.R. 5114. A bill to amend the Immigration and Nationality Act to prevent the illegal entry and employment of aliens in the United States, to facilitate the admission of aliens for temporary employment, to regulate the issuance and use of social security account cards, and for other purposes; jointly, to the Committees on the Judiciary, Education and Labor, and Ways and Means.

By Mr. CAVANAUGH:

H.R. 5115. A bill to amend title 17 of the United States Code to provide that persons reprinting certain uncopyrighted Government publications place certain information about the availability of those publications from the Government on the reprinted copies; to the Committee on the Judiciary.

By Mr. DUNCAN of Tennessee:

H.R. 5116. A bill to provide for assistance to certain urban counties under title I of the Housing and Community Development Act of 1974; to the Committee on Banking, Finance and Urban Affairs.

By Mr. EMERY (for himself and Mr. Winn):

H.R. 5117. A bill to provide for research and development to encourage and promote the production of synthetic fuels, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Science and Technology, Interior and Insular Affairs, Interstate and Foreign Commerce, and Government Operations.

By Mr. FISHER (for himself and Mr. Barnes):

H.R. 5118. A bill to authorize funds for the Interstate Commission on the Potomac River for the purpose of developing a plan for the cooperative management by Federal, State, District of Columbia, and local authorities of certain areas along the Potomac River, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GUARINI:

H.R. 5119. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for hiring unemployed individuals in redevelopment areas; to the Committee on Ways and Means.

H.R. 5120. A bill to amend title II of the Social Security Act to increase from $255 to $750 the lump sum death payment which will be made in the case of an insured individual who dies leaving a relatively small estate; to the Committee on Ways and Means.

By Mr. HARKIN:

H.R. 5121. A bill to amend the Older Americans Act of 1965 to require States receiving certain grants under such act to establish home maintenance assistance programs to enable older persons to continue living independently in a home environment; to the Committee on Education and Labor.

By Mr. HEFTEL:

H.R. 5122. A bill to amend section 203 of the Federal Property and Administrative Services Act of 1949 to authorize the donation of surplus real or personal property for use in connection with a public harbor; to the Committee on Government Operations.

By Mr. LEDERER (for himself, Mr. Schulze, Mr. Jacobs, Mr. Holland, Mr. Jenkins, Mr. Conable, Mr. Duncan of Tennessee, Mr. Archer, Mr. Vander Jagt, Mr. Philip M. Crane, Mr. Frenzel, Mr. Martin, Mr. Bafalis, Mr. Gradison, Mr. Rousselot, and Mr. Moore):

H.R. 5123. A bill to amend Section 4943 of the Internal Revenue Code relating to excess business holdings; to the Committee on Ways and Means.

By Mr. LEDERER (for himself and Mr. Murphy of Pennsylvania):

H.R. 5124. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of a transfer of proven oil and gas properties by persons to a controlled corporation; to the Committee on Ways and Means.

By Mr. LEWIS:

H.R. 5125. A bill to improve the quality of table grapes for marketing in the United States; to the Committee on Agriculture.

H.R. 5126. A bill to amend the Small Business Act to strengthen significantly the role of small, innovative firms in federally funded research and development, to promote a higher level of innovation and productivity in the Nation's economy; to the Committee on Small Business.

By Mr. LOEFFLER (for himself, Mr. Rousselot, Mr. Stenholm, and Mr. Symms):

H.R. 5127. A bill to impose quantitative restrictions on the importation of lamb meat; to the Committee on Ways and Means.

By Mr. LUNGREN (for himself, Mr. Badham, and Mr. Dannemeyer):

H.R. 5128. A bill to amend the Immigration and Nationality Act to establish a program to permit nationals of Mexico to enter the United States to perform temporary services or labor; to the Committee on the Judiciary.

By Mr. McCLORY (for himself, Mr. Rhodes, Mr. Ashbrook, Mr. Robinson, Mr. Young of Florida, Mr. Whitehurst, Mr. Ichord, Mr. Derwinski, Mr. Collins of Texas, Mr. Winn, Mr. Hyde, Mr. LaFalce, Mr. Rudd, Mr. Sensenbrenner, Mr. Lungren, Mr. Regula, Mr. Dannemeyer, Mr. Royer, and Mr. McDonald):

H.R. 5129. A bill to enhance the foreign intelligence and law enforcement activities of the United States by improving the protection of information necessary to their effective operation; jointly, to the Permanent Select Committee on Intelligence and Government Operations.

By Mr. McKAY (for himself, Mr. Wright, Mr. Rhodes, Mr. Charles H. Wilson of California, Mr. Roberts, Mr. Archer, Mr. Hance, Mr. Young of Alaska, Mr. Rudd, Mr. Coelho, Mr. Pashayan, Mr. Rousselot, Mr. Burgener, Mr. Kogovsek, Mr. Johnson of Colorado, Mr. Duncan of Oregon, Mr. Hansen, Mr. Dannemeyer, Mr. Marriott, Mr. Runnels, and Mr. Wyatt):

H.R. 5130. A bill to amend title 28 of the United States Code to provide for special venue provisions in cases relating to the environment; to the Committee on the Judiciary.

By Mr. MICA:

H.R. 5131. A bill to amend the Internal Revenue Code of 1954 to allow individuals a refundable tax credit for amounts paid for electricity or natural gas under fuel adjustment clauses; to the Committee on Ways and Means.

By Mr. MOORE:

H.R. 5132. A bill to amend the Tariff Act of 1930 to exempt from the definition of vessels non-self-propelled barges under certain conditions; to the Committee on Ways and Means.

By Mr. OBERSTAR:

H.R. 5133. A bill to amend title II of the Social Security Act to provide full benefits for disabled wives, husbands, widows, and widowers without regard to age (and without regard to any previous reduction in their benefits), to provide benefits for essential spouses of disability beneficiaries without regard to age or children in care, to provide that all divorced spouses and former spouses (including husbands and fathers) may qualify for benefits and to liberalize eligibility for disability benefits; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 5134. A bill to repeal the Military Selective Service Act of 1967; to the Committee on Armed Services.

By Mr. PEPPER:

H.R. 5135. A bill to transfer to the District of Columbia certain real property of the United States located in the District of Columbia for the purpose of providing for senior citizens' housing; to the Committee on Public Works and Transportation.

By Mr. PERKINS:

H.R. 5136. A bill to amend section 110 of title 38, United States Code, to liberalize the standard for preservation of disability evaluations for compensation purposes; to the Committee on Veterans' Affairs.

By Mr. RICHMOND:

H.R. 5137. A bill to improve the nutritional labelling of food; to the Committee on Agriculture.

By Mrs. SCHROEDER (for herself, Mr. Hanley, Mr. Udall, Mr. Harris, Mr. Clay, Mr. Yatron, and Mr. Leach of Iowa):

H.R. 5138. A bill to authorize certain appropriations to the Office of Personnel Management, the Merit Systems Protection Board, the Special Counsel of the Merit Systems Protection Board, and the Federal Labor Relations Authority; to the Committee on Post Office and Civil Service.

By Mr. SEIBERLING:

H.R. 5139. A bill to amend the National Historic Preservation Act of 1966, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SHARP:

H.R. 5140. A bill to amend title V of the Motor Vehicle Information and Cost Savings Act; to the Committee on Interstate and Foreign Commerce.

By Mr. SOLARZ (for himself, Mr. Markey, Mr. LaFalce, Mr. Sabo, and Mr. Weiss):

H.R. 5141. A bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for amounts paid or incurred for certain State and local individual income taxes, and to repeal the deduction for such taxes, State and local general sales taxes, and State and local taxes on gasoline and other motor fuels; to the Committee on Ways and Means.

By Mrs. SPELLMAN:

H.R. 5142. A bill to revise certain provisions of title 5, United States Code, relating to per diem and mileage expenses of Government employees, and for other purposes; to the Committee on Government Operations.

By Mr. STACK:

H.R. 5143. A bill to amend section 101(a)(2)(B)(ii) of the Rehabilitation Act of 1973, relating to State agency organization requirements, to provide that the Secretary of Health, Education, and Welfare may waive the requirements of such section whenever such waiver is determined to be consistent with the objectives of title I of such act; to the Committee on Education and Labor.

By Mr. STAGGERS (for himself and Mr. Madigan):

H.R. 5144. A bill to amend the Railroad Retirement Act of 1974, the Internal Revenue Code of 1954, and the Railroad Unemployment Insurance Act to assure sufficient resources to pay current and future benefits, by increasing revenues, reducing costs, simplifying administration, and improving benefits; and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. TRIBLE (for himself and Mrs. Boggs):

H.R. 5145. A bill to promote competitive U.S. Flag bulk cargo carrying vessels in world trade, to stimulate construction of modern bulk cargo carrying vessels for domestic and foreign trade built in shipyards of the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. ULLMAN:

H.R. 5146. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs.

By Mr. VANIK:

H.R. 5147. A bill to change the tariff treatment of parts used for the manufacture or repair of certain pistols and revolvers; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself and Mr. Rangel):

H.R. 5148. A bill to set limits on increases in hospital capital stock, and for other purposes; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. WHITTEN:

H.R. 5149. A bill to establish the Reconstruction Finance Corporation to make loans and loan guarantees to business concerns which would otherwise be unable to obtain needed financing, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WILLIAMS of Montana:

H.R. 5150. A bill to establish the National Forest Systems Investment Fund, and for other purposes; to the Committee on Agriculture.

By Mr. CHARLES H. WILSON of California (for himself and Mrs. Spellman):

H.R. 5151. A bill to provide a prepaid dental care program for Federal employees; to the Committee on Post Office and Civil Service.

By Mr. GLICKMAN (for himself and Mr. Quayle):

H.R. 5152. A bill to terminate the Franklin Delano Roosevelt Memorial Commission; to the Committee on House Administration.

By Mr. NEDZI (for himself, Mr. Albosta, Mr. Annunzio, Mr. Ashley, Mr. Blanchard, Mr. Bonior of Michigan, Mr. Brodhead, Mr. Broomfield, Mr. Derwinski, Mr. Dingell, Mr. Downey, Mr. Fary, Mr. Ford of Michigan, Mr. Kazen, Mr. Kildee, Mr. Kostmayer, Mr. Luken, Mr. Lungren, Ms. Mikulski, Mr. Moakley, Mr. Murphy of Illinois, Mr. Nowak, Mr. Patten, Mr. Price, Mr. Rostenkowski, Mr. St Germain, Mr. Thompson, Mr. Traxler, and Mr. Zablocki):

H.R. 5153. A bill to amend the Immigration and Nationality Act to include in the definition of special immigrant an immigrant entering the United States to pursue a course of religious study in order to carry on the vocation of minister; to the Committee on the Judiciary.

By Mr. SIMON (for himself and Mr. Buchanan):

H.R. 5154. A bill to amend the Higher Education Act of 1965 to strengthen and improve the student loan programs so as to assure the availability of funds to students to attend the institution of higher education of their choice, to strengthen the procedures for the repayment of such loans, and for other purposes; to the Committee on Education and Labor.

By Mr. FOWLER:

H.J. Res. 388. Joint resolution designating the month of September 1980 as "National Rehabilitation Month"; to the Committee on Post Office and Civil Service.

By Mr. DORNAN:

H. Con. Res. 173. Concurrent resolution expressing the sense of the Congress that the President should extend recognition to a future, free Cuban Government in exile; to the Committee on Foreign Affairs.

By Mr. FINDLEY:

H. Con. Res. 174. Concurrent resolution disapproving the proposed sale to Israel of Improved Hawk air defense missiles (Transmittal No. 79–49); to the Committee on Foreign Affairs.

H. Con. Res. 175. Concurrent resolution disapproving the proposed sale to Israel of Dragon anti-tank missiles (Transmittal No. 79–50); to the Committee on Foreign Affairs.

H. Con. Res. 176. Concurrent resolution disapproving the proposed sale to Israel of M113A2 armored personnel carriers, M577A2 command post carriers, M548 cargo carriers, supporting equipment, and spare parts (Transmittal No. 79–58); to the Committee on Foreign Affairs.

H. Con. Res. 177. Concurrent resolution disapproving the proposed sale to Israel of M60A3 tanks (Transmittal No. 79–59); to the Committee on Foreign Affairs.

H. Con. Res. 178. Concurrent resolution disapproving the proposed sale to Israel of M109A1B 155mm self-propelled howitzers (Transmittal No. 79–60); to the Committee on Foreign Affairs.

By Mr. FISHER:

H. Con. Res. 179. Concurrent resolution urging the President to take all appropriate steps to bring about the convening of an international conference for the purpose of negotiating an agreement to provide protection under international law for members of the press, and for international observers and other persons acting under international auspices, in times of civil war or other hostilities; to the Committee on Foreign Affairs.

By Mr. KEMP:

H. Con. Res. 180. Concurrent resolution expressing the sense of the Congress that, in hosting the 1980 Olympic Games, the Soviet Government should adhere to the Helsinki Accords and the Olympic spirit of fair play and equality of opportunity; to the Committee on Foreign Affairs.

H. Con. Res. 181. Concurrent resolution urging the President to take new steps to aid Vietnamese refugees; to the Committee on Foreign Affairs.

By Mr. BRADEMAS:

H. Res. 397. Resolution providing for the printing of the report of the official visit by the Speaker's Delegation to the Union of Soviet Socialist Republics; to the Committee on House Administration.

By Mr. FINDLEY:

H. Res. 398. Resolution directing the Secretary of State to provide to the House of Representatives certain information with respect to the use in hostilities by Israel of aircraft of U.S. origin; to the Committee on Foreign Affairs.

By Mr. MICA (for himself, Mr. Vento, Mr. Weaver, Mr. Corcoran, Mr. Stokes, Mr. Pepper, Mr. Daschle, Mr. Waxman, Mr. Lungren, Mr. Weiss, Mr. Stewart, Mr. Jeffords, Mr. Seiberling, Mr. Glickman, Mr. Long of Maryland, and Ms. Holtzman):

H. Res. 399. Resolution to direct the Office of Technology Assessment to conduct a study of unutilized consumer energy conservation devices, and to report its recommendations concerning legislative executive measures which would promote the utilization of such devices; to the Committee on Science and Technology.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LEDERER:

H.R. 5155. A bill for the relief of Byron Ronald Scanlan; to the Committee on the Judiciary.

By Mr. MYERS of Indiana:

H.R. 5156. A bill for the relief of certain employees of the Naval Ordnance Systems Command, to the Committee on the Judiciary.

By Mr. PRICE:

H.R. 5157. A bill for the relief of Lilia Ester Cantu; to the Committee on the Judiciary.

By Mr. RATCHFORD:

H.R. 5158. A bill conferring jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of James W. Brundage; to the Committee on the Judiciary.

By Mr. TRIBLE:

H.R. 5159. A bill for the relief of Dong Min Lee; to the Committee on the Judiciary.

By Mrs. BYRON:

H.R. 5160. A bill to amend the Act entitled "An Act for the relief of Alice W. Olson, Liso Olson Hayward, Eric Olson, and Nils Olson"; to the Committee on the Judiciary.

By Mr. GOODLING:

H.R. 5161. A bill for the relief of Leonidas C. Stylianopoulos; to the Committee on the Judiciary.

By Mr. KOGOVSEK (by request):

H.R. 5162. A bill to direct the Secretary of the Interior to amend the legal description of certain land conveyed by the United States in a land patent; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. Emery.

H.R. 811: Mr. Trible.

H.R. 1011: Mr. Abdnor, Mr. Bennett, Mr. Bereuter, Mr. Bethune, Mr. Burgener, Mr. Edgar, Mr. Emery, Mr. Forsythe, Mr. Frost, Mr. Gingrich, Mr. Gradison, Mr. Gray, Mr. Guyer, Mr. Jeffords, Mr. Kildee, Mr. Lagomarsino, Mr. Long of Maryland, Mr. Lowry, Mr. Paul, Mr. Roth, Mr. Santini, Mr. Solomon, Mr. Synar, Mr. Tauke, Mr. Whittaker, and Mr. Winn.

H.R. 1013: Mr. Courter, Mr. Donnelly, Mr. Dornan, Mr. Duncan of Tennessee, Mr. Grassley, Mr. Petri, Mr. Ritter, and Mr. Tauke.

H.R. 1050: Mr. Smith of Iowa.

H.R. 1309: Mr. Trible.

H.R. 1539: Mr. Goodling and Mr. Gudger.

H.R. 1644: Mr. Aspin, Mr. Kastenmeier, Mr. Evans of Georgia, Mr. Petri, and Mr. Gramm.

H.R. 1658: Mr. Petri.

H.R. 1776: Mr. Hopkins, Mr. Whittaker, and Mr. Courter.

H.R. 1785: Mr. Cavanaugh, Mr. Vanik, and Mr. Pashayan.

H.R. 1850: Mr. Andrews of North Dakota, Mr. Atkinson, Mr. AuCoin, Mr. Bailey, Mr. Baldus, Mr. Beard of Tennessee, Mr. Bowen, Mr. Cavanaugh, Mr. Conte, Mr. de la Garza, Mr. Ertel, Mr. Fithian, Mr. Gibbons, Mr. Huckaby, Mr. Ireland, Mr. Leach, of Louisiana, Mr. Mavroules, Mr. McClory, Mr. Moffett, Mr. Mollohan, Mr. O'Brien, Mr. Quillen, Mr. Richmond, Mr. Robinson, Mr. Rosenthal, Mr. Schulze, Mr. Stokes, Mr. Trible, Mr. Wolff, Mr. Wolpe, and Mr. Lundine.

H.R. 1984: Mr. Gilman, Mr. Sawyer, Mr. Stump, and Mr. Walgren.

H.R. 2020: Mr. Duncan of Oregon and Mr. Mattox.

H.R. 2291: Mr. Gilman.

H.R. 2517: Mr. Mitchell of New York, Mr. Rahall, Mr. Bonior of Michigan, Mr. Glickman, Mr. Bedell, Mr. Kildee, Mr. Volkmer, and Mr. Won Pat.

H.R. 2647: Ms. Ferraro.

H.R. 2969: Mr. Leland and Mr. Rosenthal.

H.R. 3227: Mr. D'Amours, Mr. Gonzalez, Mr. Bonior of Michigan, Mr. Ottinger, and Mr. Zablocki.

H.R. 3284: Mrs. Holt.

H.R. 3337: Mr. Montgomery, Mr. Corrada, Mr. Kindness, Mr. Lott, Mr. Rinaldo, Mr. Bedell, and Mr. Maguire.

H.R. 3532: Mr. Edgar, Mr. Daschle, Mr. Beard of Rhode Island, Mr. Kildee, and Mr. Clay.

H.R. 3535: Mr. Ritter, Mr. Murphy of Pennsylvania, Mr. Stangeland, Mr. Sharp, Mr. Ullman, Mr. Sawyer, Mr. Charles Wilson of Texas, Mr. Bevill, and Mr. Heftel.

H.R. 3558: Mr. Murphy of Pennsylvania, Mr. Rangel, Mr. Sabo, Mr. St Germain, Mr. Nolan, Mr. Royer, Mr. Richmond, Mr. Conte, Mr. Charles H. Wilson of California, Mr. Maguire, Mr. Whitehurst, Ms. Ferraro, Mr. Bonker, Mr. Won Pat, and Mrs. Snowe.

H.R. 3603: Mr. Patterson.

H.R. 3609: Mr. Anderson of Illinois, Mr. Barnard, Mr. Bingham, Mr. Clausen, Mr. Coelho, Mr. Conte, Mr. Corrada, Mr. Davis of Michigan, Mr. Fascell, Mr. Gingrich, Mr. Hinson, Ms. Holtzman, Mr. Jeffords, Mr. McKay, Mr. Marks, Mr. Marriott, Mr. McClory, Ms. Mikulski, Mr. Patterson, Mr. Paul, Mr. Preyer, Mr. Ritter, Mr. Rousselot, Mr. Royer, Mr. Shumway, Mrs. Snowe, Mr. Spence, Mr. Stanton, Mr. Walgren, Mr. Williams of Montana, Mr. Bob Wilson, Mr. Wolff, and Mr. Wydler.

H.R. 3810: Mr. Dan Daniel, Mr. Gingrich, Mr. Goodling, Mr. Roth, and Mr. Courter.

H.R. 3918: Mr. Stokes, Mr. Richmond, Mr. Mineta, Mr. Rangel, and Mr. Gray.

H.R. 3950: Mr. Robinson, Mr. Stenholm, Mr. Coelho, Mr. Ichord, Mr. Weaver, Mr. McHugh, Mr. Smith of Iowa, Mr. Nolan, Mr. Bedell, Mr. Tauke, Mr. Hagedorn, Mr. Sebelius, Mr. Johnson of Colorado, Mr. Grassley, Mr. Pashayan, and Mr. Wampler.

H.R. 4133: Mr. Conable.

H.R. 4151: Mr. Goodling, Mr. Robinson, Mr. Stockman, Mr. Bedell, Mr. Edgar, Mr. Bevill, Mr. Charles Wilson of Texas, Mr. Stangeland, Mr. Heftel, Mr. Stenholm, Mr.

Coelho, Mr. Hance, Mr. Ritter, Mr. Lagomarsino, and Mr. McCormack.

H.R. 4211: Mr. Hollenbeck.

H.R. 4221: Mr. Bereuter.

H.R. 4234: Mr. Leach of Louisiana, Mr. Horton, Mr. Moakley, Mr. Pashayan, Mr. Wolff, Mr. Murphy of Pennsylvania, Mr. Johnson of California, Mr. Pepper, Mr. Oberstar, Mr. Nolan, Mr. Stewart, Mr. Davis of Michigan, Mr. Flood, Mr. Edgar, Mr. Albosta, Mr. Bedell, Mr. Downey, Mr. Clinger, Mr. Williams of Montana, and Mr. Kildee.

H.R. 4339: Mr. Hughes, Mr. Ertel, Mr. Bedell, Mr. Panetta, Mr. Butler, Mr. Won Pat, Mr. Young of Florida, Mr. O'Brien, Mr. Gudger, Mr. Barnard, and Ms. Ferraro.

H.R. 4347: Mr. Evans of the Virgin Islands, Mr. Gilman, Mr. Glickman, and Mr. Dornan.

H.R. 4404: Mr. Blanchard, Mr. Carter, Mr. Ertel, Mr. Hollenbeck, Mr. Hughes, Mr. Seiberling, and Mr. Winn.

H.R. 4405: Mr. Blanchard, Mr. Carter, Mr. Ertel, Mr. Hollenbeck, Mr. Hughes, Mr. Jenrette, Mr. Markey, Mr. Murphy of Pennsylvania, Mr. Neal, Mr. Nowak, Mr. Seiberling, Mr. Stokes, and Mr. Winn.

H.R. 4406: Mr. Blanchard, Mr. Carter, Mr. Ertel, Mr. Hollenbeck, Mr. Hughes, Mr. Jenrette, Mr. Markey, Mr. Murphy of Pennsylvania, Mr. Neal, Mr. Seiberling, Mr. Stokes, and Mr. Winn.

H.R. 4407: Mr. Blanchard, Mr. Carter, Mr. Ertel, Mr. Hollenbeck, Mr. Hughes, Mr. Jenrette, Mr. Markey, Mr. Murphy of Pennsylvania, Mr. Nowak, Mr. Seiberling, Mr. Stokes, and Mr. Winn.

H.R. 4408: Mr. Blanchard, Mr. Carter, Mr. Ertel, Mr. Hollenbeck, Mr. Hughes, Mr. Jenrette, Mr. Markey, Mr. Murphy of Pennsylvania, Mr. Seiberling, and Mr. Winn.

H.R. 4409: Mr. Blanchard, Mr. Carter, Mr. Ertel, Mr. Hollenbeck, Mr. Hughes, Mr. Murphy of Pennsylvania, Mr. Seiberling, Mr. Stokes, and Mr. Winn.

H.R. 4460: Mrs. Snowe.

H.R. 4507: Mr. Bedell, Mr. Collins of Texas, Mr. Derwinski, Mr. Dornan, Mr. Dougherty, Mr. Ertel, Ms. Ferraro, Mr. Glickman, Mr. Green, Mr. Kogovsek, Mr Lagomarsino, Mr. Marks, Mr. Moakley, Mr. Mollohan, Mr. Pashayan, Mr. Solomon, Mr. Whitehurst, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Wydler, and Mr. Wirth.

H.R. 4508: Mr. Abdnor, Mr. Bedell, Mr. Bennett, Mr. Bereuter, Mr. Bethune, Mr. Burgener, Mr. D'Amours, Mr. Dannemeyer, Mr. Edgar, Mr. Emery, Ms. Ferraro, Mr. Fisher, Mr. Forsythe, Mr. Frost, Mr. Gingrich, Mr. Gradison, Mr. Gray, Mr. Guyer, Mr. Jeffords, Mr. Jenkins, Mr. Kildee, Mr. Lagomarsino, Mr. Lent, Mr. Long of Maryland, Mr. Lowry, Mr. Lundine, Mr. Lungren, Mr. Paul, Mr. Roth, Mr. Santini, Mr. Stangeland, Mr. Synar, Mr. Tauke, Mr. Van Deerlin, Mr. Walgren, Mr. Weaver, Mr. Whittaker, and Mr. Winn.

H.R. 4527: Mr. Burgener, Mr. Bonior of Michigan, Mr. Edgar, Mr. Walgren, Mr. Won Pat, Mr. Richmond, Mr. Weaver, Mr. Mitchell of Maryland, Mr. Thompson, Mr. Neal, Mr. Dannemeyer, Mr. Hollenbeck, Mr. Lagomarsino, Mrs. Chisholm, and Mr. Kildee.

H.R. 4545: Mr. Volkmer, Mr. Treen, and Mr. Cleveland.

H.R. 4638: Mr. Coelho, Mr. Mineta, Mr. Royer, Mr. Johnson of California, and Mr. Dannemeyer.

H.R. 4646: Mr. Abdnor, Mr. Anderson of Illinois, Mr. Andrews of North Dakota, Mr. Archer, Mr. AuCoin, Mr. Badham, Mr. Bafalis, Mr. Bailey, Mr. Barnard, Mr. Bauman, Mr. Benjamin, Mr. Bethune, Mr. Brown of Ohio, Mr. Broyhill, Mr. Buchanan, Mr. Burgener, Mr. Butler, Mr. Campbell, Mr. Carney, Mr. Carter, Mr. Chappell, Mr. Cheney, Mr. Clausen, Mr. Cleveland, Mr. Clinger, Mr. Collins of Texas, Mr. Corcoran, Mr. Coughlin, Mr. Courter, Mr. Robert W. Daniel, Jr., Mr. Dannemeyer, Mr. Derrick, Mr. Derwinski, Mr. Devine, Mr. Dickinson, Mr. Dornan, Mr. Duncan of Tennessee, Mr. Edgar, Mr. Edwards of Alabama, Mr. Edwards of Oklahoma, Mr. Erdahl, Mr. Erlenborn, Mr. Evans of Delaware, Mrs. Fenwick, Mr. Frenzel, Mr. Gibbons, Mr. Gingrich, Mr. Glickman, Mr. Goldwater, Mr. Goodling, Mr. Gradison, Mr. Grassley, Mr. Green, Mr. Grisham, Mr. Guyer, Mr. Hagedorn, Mr. Hammerschmidt, Mr. Hansen, Mr. Hillis, Mrs. Holt, Mr. Horton, Mr. Hyde, Mr. Ireland, Mr. Jeffries, Mr. Jenrette, Mr. Johnson of Colorado, Mr. Kelly, Mr. Kemp, Mr. Kindness, Mr. LaFalce, Mr. Lagomarsino, Mr. Latta, Mr. Leach of Iowa, Mr. Leach of Louisiana, Mr. Lee, Mr. Lent, Mr. Lewis, Mr. Livingston, Mr. Loeffler, Mr. Lott, Mr. Lujan, Mr. Lungren, Mr. Madigan, Mr. Marks, Mr. Marriott, Mr. Martin, Mr. Mathis, Mr. Matsui, Mr. McDade, Mr. McEwen, Mr. McKay, Mr. McKinney, Mr. Michel, Mr. Miller of Ohio, Mr. Mineta, Mr. Moore, Mr. Murphy of Pennsylvania, Mr. Murtha, Mr. Myers of Indiana, Mr. Neal, Mr. Nowak, Mr. O'Brien, Mr. Pashayan, Mr. Patten, Mr. Preyer, Mr. Pritchard, Mr. Quillen, Mr. Railsback, Mr. Regula, Mr. Rhodes, Mr. Ritter, Mr. Robinson, Mr. Rose, Mr. Roth, Mr. Rousselot, Mr. Royer, Mr. Sawyer, Mr. Schulze, Mr. Seiberling, Mr. Sensenbrenner, Mr. Shelby, Mr. Shumway, Mrs. Smith of Nebraska, Mrs. Snowe, Mr. Solomon, Mr. Spence, Mr. Stangeland, Mr. Stanton, Mr. Steed, Mr. Stockman, Mr. Symms, Mr. Synar, Mr. Tauke, Mr. Thomas, Mr. Trible, Mr. Vander Jagt, Mr. Watkins, Mr. Walker, Mr. Whitehurst, Mr. Williams of Ohio, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Wydler, Mr. Wylie, Mr. McCloskey, and Mr. Rudd.

H.R. 4659: Mr. Whittaker.

H.R. 4660: Mr. Anderson of Illinois, Mr. Annunzio, Mr. Archer, Mr. AuCoin, Mr. Bafalis, Mr. Bailey, Mr. Bauman, Mr. Bennett, Mr. Bereuter, Mr. Blanchard, Mr. Broyhill, Mr. John L. Burton, Mr. Corman, Mr. Courter, Mr. Philip M. Crane, Mr. Davis of Michigan, Mr. Dingell, Mr. Dougherty, Mr. Downey, Mr. Duncan of Oregon, Mr. Edwards of Oklahoma, Mr. Emery, Mr. Ertel, Mr. Fary, Mrs. Fenwick, Ms. Ferraro, Mr. Florio, Mr. Frost, Mr. Gonzalez, Mr. Goodling, Mr. Gradison, Mr. Guyer, Mr. Hance, Mr. Hefner, Mr. Huckaby, Mr. Jeffries, Mr. Jones of Tennessee, Mr. Kastenmeier, Mr. Kildee, Mr. Kindness, Mr. Leach of Louisiana, Mr. Lee, Mr. Lehman, Mr. Lent, Mr. Lloyd, Mr. Long of Maryland, Mr. Madigan, Mr. Markey, Mr. McDonald, Mr. Mica, Mr. Miller of California, Mr. Moakley, Mr. Moffett, Mr. Mollohan, Mr. Moorhead of California, Mr. Murphy of New York, Mr. Nelson, Mr. Ottinger, Mr. Quayle, Mr. Railsback, Mr. Richmond, Mr. Sharp, Mr. Simon, Mrs. Smith of Nebraska, Mr. Snyder, Mr. St Germain, Mr. Stack, Mr. Stenholm, Mr. Waxman, Mr. Wolff, Mr. Mitchell of Maryland, Mr. Clausen, Mr. Goldwater, Mr. Young of Alaska, Mr. Young of Florida, Mr. Fascell, and Mr. Kazen.

H.R. 4685: Mr. Thompson and Mr. Lloyd.

H.R. 4694: Mr. Corman and Mr. Maguire.

H.R. 4751: Mr. Bevill, Mr. Carter, Mr. Addabbo, and Mr. Leach of Louisiana.

H.R. 4760: Mr. Corrada, Mr. Traxler, Mr. Albosta, Mr. Coelho, Mr. Robinson, Mr. Dornan, Mr. Frost, Mr. Anthony, Mr. Weaver, Mr. Pritchard, Mr. Hubbard, Mr. Pepper, Mr. Walgren, Mr. Mathis, Mr. Nolan, Mr. Erdahl, and Mr. Patten.

H.R. 4762: Mr. Lagomarsino.

H.R. 4773: Mr. Erdahl, Mr. Kogovsek, Mr. Carr, Mr. Lederer, Mr. Wolff, Mr. Wirth, Mr. Leach of Iowa, Mr. Bedell, and Mr. Dornan.

H.R. 4776: Mr. Murphy of Pennsylvania, Mr. Mitchell of Maryland, Mr. Scheuer, Mr. Hughes, Mr. Seiberling, Mr. Charles Wilson of Texas, Mr. Conte, Mr. D'Amours, Mr. Whittaker, Mr. Downey, Mr. Ratchford, Mr. Thompson, Mr. Young of Missouri, Mr. Johnson of Colorado, Mr. Bonior of Michigan, Mr. Williams of Montana, Mr. Hollenbeck, Mr. Beard of Rhode Island, Mr. Weaver, Mr. Daschle, Mr. Cotter, Mr. Dodd, Mr. McKinney, Mr. Emery, Mr. Boland, Mr. Donnelly, Mr. Drinan, Mrs. Heckler, Mr. Markey, Mr. Shannon, Mr. Studds, Mr. St Germain, Mr. Jeffords, Mrs. Snowe, and Mr. Bedell.

H.R. 4782: Mr. Andrews of North Carolina, Mr. Andrews of North Dakota, Mr. Bethune, Mr. Bowen, Mr. Broyhill, Mr. Conable, Mr. Findley, Mr. Florio, Mr. Fuqua, Mr. Ginn, Mr. Hammerschmidt, Mr. Huckaby, Mr. Jeffords, Mr. Jones of North Carolina, Mr. Lee, Mr. Madigan, Mr. Mathis, Mr. Mollohan, Mr. Rose, Mr. Smith of Iowa, Mrs. Smith of Nebraska, Mr. Solomon, Mr. Stangeland, Mr. Stenholm, Mr. Taylor, and Mr. Wampler.

H.R. 4808: Mr. Dougherty, Mr. Leach of Iowa, Mr. Roth, Mr. Daschle, Mr. Edgar, and Mr. Bedell.

H.R. 4832: Mr. Hyde.

H.R. 4833: Mr. Broomfield, Mr. Kemp, and Mr. Guyer.

H.R. 4854: Mr. Beilenson, Mr. Bingham, Mr. Levitas, Mr. Weaver, Mr. Conyers, Mr. Richmond, Mr. Stewart, Mr. Bonior of Michigan, Mr. Maguire, Mr. Guarini, Mr. Neal, Mr. Stokes, Mr. Cavanaugh, Mr. Rosenthal, Mr. Edwards of California, and Mr. Dellums.

H.R. 4960: Mr. Sabo, Mr. Nolan, Mr. Oberstar, Mr. Erdahl, Mr. Frenzel, Mr. Stangeland, Mr. Downey, Mr. Stratton, Mr. Udall, Mr. Mattox, and Mr. Barnard.

H.R. 4986: Mr. Railsback, Mr. Gore, Mr. Barnes, Mr. Evans of the Virgin Islands, Mr. Ireland, Mr. Dickinson, Mr. Brademas, Mr. Fascell, Mr. Hall of Ohio, Mr. Kemp, Mr. Harsha, Mr. Quayle, Mr. Jeffords, Mr. Jones of Tennessee, Mr. Wampler, and Mr. Anderson of California.

H.R. 5008: Mr. Wirth.

H.J. Res. 3: Mr. Rudd, Mr. Bob Wilson, Mr. Johnson of California, Mr. Rousselot, Mr. Lloyd, Mr. Mineta, Mr. Kramer, Mr. Young of Florida, Mr. Stewart, Mr. Nolan, Mr. Whitten, Mr. Coleman, Mr. McHugh, Mr. Murtha, Mr. Pickle, Mr. Slack, Mr. Kastenmeier, Mr. Albosta, Mr. Dingell, Mrs. Spellman, Mrs. Boggs, Mrs. Snowe, Mr. D'Amours, Mr. Solarz, Mr. Roybal, Mr. Garcia, and Mr. Regula.

H.J. Res. 276: Mr. Applegate, Mr. Beard of Rhode Island, Mr. Cleveland, Mr. Conte, Mr. Collins of Texas, Mr. Frost, Mr. Gilman, Mr. Satterfield, Mr. Solomon, Mr. Weaver, and Mr. Udall.

H.J. Res. 291: Mr. Addabbo, Mr. Albosta, Mr. Ambro, Mr. Annunzio, Mr. Beard of Rhode Island, Mr. Bingham, Mr. Bonior of of Michigan, Mr. Brodhead, Mr. John L. Burton, Mr. Phillip Burton, Mr. Carr, Mrs. Chisholm, Mr. Clay, Mrs. Collins of Illinois, Mr. Conyers, Mr. Daschle, Mr. Dellums, Mr. Diggs, Mr. Dodd, Mr. Downey, Mr. Drinan, Mr. Early, Mr. Edgar, Mr. Edwards of California, Mr. Evans of the Virgin Islands, Ms. Ferraro, Mr. Fithian, Mr. Florio, Mr. Gonzalez, Mr. Gore, Mr. Gray, Mr. Guarini, Mr. Hall of Ohio, Mr. Harkin, Mr. Harris, Ms. Holtzman, Mr. Kastenmeier, Mr. Kildee, Mr. Kostmayer, Mr. Leland, Mr. Lowry, Mr. Luken, Mr. Maguire, Mr. Markey, Mr. McHugh, Ms. Mikulski, Mr. Miller of California, Mr. Mineta, Mr. Minish, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Nolan, Mr. Nowak, Mr. Oberstar, Mr. Ottinger, Mr. Panetta, Mr. Patten, Mr. Patterson, Mr. Peyser, Mr. Ratchford, Mr. Reuss, Mr. Richmond, Mr. Roe, Mr. Rosenthal, Mr. Sabo, Mr. St Germain, Mr. Seiberling, Mr. Shannon, Mrs. Spellman, Mr. Stark, Mr. Stokes, Mr. Studds, Mr. Vanik, Mr. Vento, Mr. Weaver, Mr. Weiss, and Mr. Wolpe.

H.J. Res. 321: Mr. Spence.

H.J. Res. 338: Mr. Treen, Mr. Stokes, Mr. Vento, Mr. AuCoin, Mr. Bob Wilson, Mr. Guarini, Mr. Waxman, Mr. Dodd, Mr. Evans of the Virgin Islands, Mr. Abdnor, Mr. Pepper, Mr. Thompson, Mr. Brodhead, Mr. Corrada, Mr. Whitehurst, Mr. Holland, Mr. Hagedorn, Mr. Natcher, Mr. Nichols, Mr. Forsythe, Mr. Coelho, Mr. Murphy of Pennsylvania, Mr. Richmond, Mr. McDade, Mr. Brown of California, Mr. O'Brien, Mr. Erdahl, Mr. Sabo, Mr. Hall of Ohio, Mr. Mazzoli, Mr. Beard of Rhode Island, Mr. Bonior of Michigan, Mr. Miller of California, Mr. Won Pat, Mr. Fazio, Mr. Murphy of New York, Mr. Maguire, Mr. Burgener, Mr. Fisher, Mr. Wampler, Mr. Daschle, Mr. Hawkins, Mr. Russo, Mr. Mineta, Mr. Robinson, Mr. Skelton, Mr. Heftel, Mi. Hollenbeck, Mr. Jenrette, Ms. Oakar, Mr. Fowler, Mr. Lent, and Mr. Blanchard.

H.J. Res. 362: Mr. Albosta, Mr. Ambro, Mr. Bereuter, Mr. Bethune, Mr. Bowen, Mr. D'Amours, Mr. Daschle, Mr. Dicks, Mr. Diggs, Mr. Donnelly, Mr. Fauntroy, Mr. Gephardt, Mr. Gore, Mr. Hawkins, Mr. Heftel, Mr. Hollenbeck, Mr. Howard, Mr. Jacobs, Mr. Kildee, Mr. McHugh, Mr. Marriott, Mr. Mavroules, Mr. Mazzoli, Mr. Mineta, Mr. Murphy of Pennsylvania, Mr. Murphy of New York, Mr. Murphy of Illinois, Mr. Nolan, Mr. Patten, Mr. Price, Mr. Rangel, Mr. Richmond, Mr. Rodino, Mr. Sabo, Mr. Sebelius, Mr. Seiberling, Mr. Sharp, Mr. Solarz, Mr. Stenholm, Mr. Stewart, Mr. Swift, Mr. Synar, Mr. Thompson, Mr. Traxler, Mr. Volkmer, Mr. Walker, Mr. Whitehurst, Mr. Whittaker, Mr. Wirth, and Mr. Wolpe.

H. Con. Res. 131: Mr. Gephardt and Mr. Whittaker.

H. Res. 302: Mr. Dougherty, Mr. Gray, Mr. Bedell, Mr. Hollenbeck, and Mr. Ottinger.

H. Res. 371: Mr. Cleveland, Mr. Dougherty, Mr. Edwards of Oklahoma, Mr. Goldwater, Mr. Goodling, Mr. Gradison, Mr. Hagedorn, Mr. Hutto, Mr. Jeffries, Mr. Livingston, Mr. Lott, Mr. Myers of Indiana, Mr. Regula, Mr. Robinson, Mr. Rousselot, Mr. Royer, Mr. Schulze, Mr. Snyder, Mr. Solomon, Mr. Spence, Mr. Stangeland, Mr. Symms, Mr. Treen, and Mr. Whitehurst.

H. Res. 394: Mr. Abdnor, Mr. Stenholm, Mr. Bereuter, Mr. Watkins, and Mrs. Smith of Nebraska.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4360: Mr. Bauman.

H.R. 4970: Mr. Quayle.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2061

By Mr. EVANS of the Virgin Islands:

—Page 146, beginning in line 15, strike out "but shall not include" and all that follows through "Mariana Islands" in line 18.

Page 172, beginning with line 22, strike out all through line 4 on page 173.

Page 173, line 5, strike out "(g)" and insert in lieu thereof "(f)".

Page 173, line 12, strike out "(h)" and insert in lieu thereof "(g)".

H.R. 2172

By Mr. CONABLE:

(To the Ways and Means Committee amendments to the Agriculture Committee substitute to H.R. 2172.)

—On page 80, beginning on line 22, strike section 203(a)(1)(B).

On page 82, beginning on line 4, strike section 203(a)(2)(B).

On page 88, line 21, insert after the word "of" the word "raw".

By Mr. FRENZEL:

—Beginning on page 77, line 22, strike section 202(b) and insert in lieu thereof the following new subsection:

"Sec. 202. (b) during the supply years 1979 through 1981, the Secretary shall not make payments to, or on behalf of, producers and processors of sugarcane or sugar beets under section 301 of the Agriculture Act of 1949 (7 U.S.C. 1447) or any other provision of law that authorizes payments by the Secretary to achieve price support levels for such commodities."

On page 78, between lines 9 and 10, insert the following: "But in no case shall the amount of the payment per pound, raw value, exceed the assured return for each pound, raw value of sugar.".

H.R. 4034

By Mr. GLICKMAN:

—On page 8, line 24, insert the following new sentence immediately after the period: "Further, the Secretary shall include in the notice to the applicant of denial of such license what, if any, modifications in or restrictions on the goods or technologies for which the license was sought would allow such export to be compatible with controls implemented under this section."

—On page 23, line 6, insert the following new sentence immediately after the period: "Further, the Secretary shall include in the notice to the applicant of denial of such license what, if any, modifications in or restrictions on the goods or technologies for which the license was sought would allow such export to be compatible with controls implemented under this section."

H.R. 4440

By Mr. SNYDER:

(To be offered as an amendment to H.R. 4440 or as a substitute to the amendment offered by Mr. Harsha.)

—Page 33, after line 21, add the following new section:

"Sec. 317. None of the funds provided in his Act shall be available for the implementation of any airspace rule or any Terminal Control Area unless such airspace rule or Terminal Control Area is promulgated in accordance with criteria in effect on December 26, 1978."

SENATE—*Thursday, August 2, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. Howell Heflin, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Wait on the Lord: be of good courage, and He shall strengthen thine heart: wait, I say, on the Lord.—Psalms 27: 14.

Draw near to us, O Lord, as we draw near to Thee, and make this moment a holy of holies. Enter into our lives and make us better than we have ever been.

Give us grace and wisdom to wrestle with the great problems until we find solutions in accord with the national purpose and in obedience to Thy will. Help us, in our personal conduct, to be bearers of peace and justice in the world.

When the day is done, shelter us safely in Thy fold where we may be at peace with Thee and with one another.

In Thy holy name we pray.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., August 2, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Howell Heflin, a Senator from the State of Alabama, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VOTES ON NOMINATIONS TODAY

Mr. ROBERT C. BYRD. Mr. President, I would like to explore the possibility of stacking the votes on the nominations—

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

there will be three rollcall votes—on the Clement, Volcker, and Miller nominations, in that order. I would like at least to throw out the question at the moment.

The distinguished Senator from Alabama (Mr. HEFLIN) is presiding, and he cannot respond at the moment. However, I would like to leave the question for consideration. The distinguished minority leader is present. I have discussed this with him briefly—just briefly, however.

This arrangement would allow committees to meet uninterruptedly, and it might be feasible.

I yield to the minority leader.

Mr. BAKER. I thank the majority leader for yielding, and I thank him for making the suggestion.

I think it would be a good idea to try to stack votes until, say, about 11:30. I suppose we might go beyond that, under the orders that are entered for the debates on these three nominations, particularly the Clement nomination, on which there is a 3-hour limitation, if I recall correctly.

If we agree to stack the votes and have them, say, not earlier than 11:30 or 12 o'clock, I think it would facilitate committee action on this day, which is near the end of the time we have before the August break. I would find that a highly attractive suggestion. I hope other Senators might be agreeable to that.

Mr. ROBERT C. BYRD. Mr. President, I think that, for the moment, we might leave the matter at this juncture and see how the nomination of Mr. Clement progresses. Then we can talk about stacking the other two votes immediately behind that.

Mr. BAKER. Very good.

TAIWAN

Mr. ROBERT C. BYRD. Mr. President, the establishment of full diplomatic relations with the People's Republic of China earlier this year was an important step forward in this Nation's foreign policy. It was a step that was both realistic and in the national interests of the United States. The normalization with Peking opens up potentially important avenues of commerce, as well as new political perspectives.

In conjunction with the normalization with Peking, the Congress approved legislation governing our future relations with Taiwan. In considering that legislation, the Senate acted to assure the maintenance of our commercial and cultural ties with Taiwan and to assure the continuing prosperity and security of the people of Taiwan.

At the time there were those who suggested that Taiwan was somehow being abandoned, and there was concern that the U.S. normalization with the People's Republic of China would lead to economic and political instability in Taiwan.

I am pleased to state, Mr. President, that there is no evidence of such problems for Taiwan. Indeed, most reports indicate that Taiwan has taken the normalization of United States-China relations in stride and, indeed, is thriving at this point. One result of this experience has been to engender a more realistic and, in fact, a more confident attitude on the part of Taiwan.

In an assessment of Taiwan's current status, the Far Eastern Economic Review commented:

> A key factor in allaying the fears of both businessmen and the population at large . . . has been U.S. congressional legislation—the Taiwan Relations Act—which establishes the framework for continued ties, albeit unofficial, between the U.S. and Taiwan.

The Far Eastern Economic Review stated that the Taiwan economy has snapped back and in some respects appears even more stable than before. Taiwan's trade-powered economy remains strong. Even in the midst of disappointing worldwide economic trends, Taiwan is likely to register growth which other nations would normally consider to be at boom level.

Recently, as required by the Taiwan Relations Act, the Department of State reported to Congress on economic relations between the United States and Taiwan. Under the provisions of the bill, the Department must report to Congress twice yearly on this subject.

According to the first of these reports, the withdrawal of U.S. diplomatic recognition has not had an adverse effect. On the contrary, as I have noted, the island and its people continue to thrive and prosper. The State Department report indicates that Taiwan's foreign trade has increased this year at a rate in excess of the 10-year average annual growth of 31 percent.

The American Institute in Taiwan, which is the unofficial instrument for overseeing U.S. interests in Taipei, is now in operation.

Mr. President, I am very pleased by these reports of the continuing strength of the Taiwan economy, and by the most important role that the Senate played in establishing the framework for our continuing ties with Taiwan.

At the same time, I view it as one of the high priorities in our foreign policy that we continue to work, in a steady but not hasty manner, to broaden our interchange with the P.R.C.

MOVING FORWARD ON TRADE REORGANIZATION

Mr. ROBERT C. BYRD. Mr. President, earlier this year, I introduced S. 891, a bill to establish a Cabinet-level Department of International Trade. I am convinced that significant improvement of our current trade situation requires a thoroughgoing overhaul of our Nation's Byzantine trade apparatus.

Passage last week of the implementing legislation for the agreements reached under the Tokyo round of the multilateral trade negotiations makes it all the more important that we move ahead on trade reorganization. We are woefully unprepared to deal with the new rules—in such areas as export subsidies—which are established under the agreements. We need to be better organized to monitor foreign compliance with the agreements and to process trade complaints.

I am pleased that the administration has recently announced the outline of its own proposal for the reorganization of the international trade functions of the executive branch. However, I do not feel that the administration proposal goes far enough in accomplishing the integration of these functions. The Governmental Affairs Committee has been holding hearings on trade reorganization and is currently considering this matter.

LACK OF ORGANIZATIONAL SUPPORT FOR TRADE

We are one of a small number of major free market industrial countries attempting to operate without the benefit of a central trade agency. This puts many of our industries and businesses at a distinct disadvantage because they lack the wide range of support such an agency can provide. The time has long since passed when we could afford such a casual approach, and it is time for us to remedy this situation.

We must recognize that trade has become—as it once was during the mercantile era—an important symbol and indicator of national power and well-being. For this reason, competition in trade has become heavily fostered by the governments of some of our industrial and agricultural competitors. Indeed, the fostering of trade has replaced the "beggar-thy-neighbor" or protectionist policy of high tariffs that was followed by us and these other governments in the 1930's and that helped propel the entire world economic system into an economic tailspin.

Facing up organizationally to this new competition does not mean that we should end the strong separation between state and business that exists in our country, or that we should emulate the ever closer state-business relationships of some of our competitors. It does mean that the numerous units of our trade bureaucracy should not be working at cross purposes, denying our business community in all too many cases the level of support it should receive from government. It also means that we must deal more effectively with some of the negative aspects of foreign governments' support of their exports.

To keep their domestic employment levels high, some of our trade partners have used unfair trade practices to promote their exports. Our trade agencies have failed to do an adequate job in protecting our industries and businesses from such unfair competition. This must be a major consideration in any reorganization in the trade field.

OUR TRADE STATUS: FROM PREEMINENCE TO COMPETITOR

In the period immediately after World War II, the United States was able to dominate world markets as the preeminent economic power; however, we also saw it as in our interests to devote a considerable portion of our resources to assisting Japan and the countries of Western Europe with their postwar recoveries.

The U.S. position of preeminence has been challenged by the economic recovery of the very countries we aided. Their renewed strength has turned them into full-fledged rivals, able to effectively compete with us on world markets.

OUR TRADE PERFORMANCE

Faced with this new competition, we are not faring well in the international trade arena. Over the past 3 years, our trade deficit has totaled more than $60 billion. The level of imbalance in our trade accounts has undermined our credibility with our foreign trade partners and has been partly responsible for the weakening of the dollar.

The most recent monthly statistics reported by the Department of Commerce do not provide a basis for optimism. They indicate that June was the 37th consecutive month in which imports exceeded exports. The trade deficit in June was a seasonally adjusted $1.9 billion, making for a trade gap of almost $12 billion for the first 6 months of this year.

These developments reflect a marked change in our overall trade performance. Since the late 1930's, when the United States overtook the United Kingdom in the level of export trade, the United States has been the world's largest exporter. However, last year we almost lost our mantle as the No. 1 exporter because of the strong export challenge from the Federal Republic of Germany.

In 1978, our exports totaled $144 billion or 11.2 percent of world exports. The Federal Republic of Germany was a close second, with exports totaling $142 billion or 11 percent of world exports.

The nature of the challenge confronting us is especially apparent in manufactured goods, an area in which we lost export leadership to the Federal Republic of Germany about a decade ago. In 1977, our trade in manufactured goods totaled $80 billion, compared with German trade in these goods which totaled $104 billion. Our 1978 level of trade in manufactured goods, some $94 billion, accounted for almost two-thirds of our total exports.

The nature of the trade challenge is also apparent in such an area as coal exports. While there is a serious energy supply problem in many parts of the world, our exports of bituminous coal—a fuel which we have in abundance—have fallen steadily from 66 million net tons in 1975 to 40 million net tons in 1978. Furthermore, some of the coal export loss recorded by the United States has resulted in export gains for our coal competitors, such as Australia and Canada.

DOMESTIC CONSEQUENCES

Our failure to take adequate action to improve our trade situation hurts us internationally and domestically. Not only is trade an important measure of national power, it also is an important contributor to a country's economic well-being.

One of the best illustrations of this point is jobs. A net trade increase of $5 billion would produce, by the end of 2 years, according to an estimate prepared by the Congressional Budget Office, between 200,000 and 250,000 new jobs.

Thus, for example, if our 1978 trade deficit of almost $30 million were eliminated by a net trade increase of an equal amount, between 1.2 and 1.5 million new jobs would be created. I cannot imagine a better measure of the importance of trade to our national well-being.

Another illustration of its importance is the contribution that a net increase in trade makes to our gross national product. A net increase in trade of $1 billion adds ultimately about $2.5 billion in GNP, again according to a Congressional Budget Office estimate.

Our fight against inflation can also be aided by a net increase in trade. It assists with the development of domestic price stability by fostering the allocation of domestic resources to the most productive areas of our economy, advancing overall economic efficiency at the same time that it leads to increases in jobs and production. Export expansion is one of the few areas in which we can increase domestic activity without unleashing strong inflationary pressures.

WHAT IS TO BE DONE?

To face up to the situation I have described—which has grave ramifications for our economic well-being—I believe that we must move ahead on two fronts. We must develop a forceful and aggressive trade policy and we must reorganize our trade bureaucracy.

The President has taken some first steps toward the development of appropriate policy with his announcement in September of last year of the national export policy. It calls for providing increased direct assistance to U.S. exporters, reducing domestic barrier to exports, and securing a fairer international system for all exports. Clearly, there is much now that needs to be done if we are to achieve these policy objectives.

I do not feel that they can be fully accomplished, however, until we reorganize our entire trade bureaucracy to allow us to systematically back up and implement such a policy.

It was for this reason that I introduced legislation on April 5, 1979, to create a Cabinet-level Department of International Trade. It would bring order and leadership to our international trade activities, and to related domestic industry affairs. This Department would consolidate the functions of many disparate agencies which now share jurisdiction in this area. It would allow for more efficient promotion of U.S. commercial interests; greater vigilance in the enforcement of laws on unfair trading practices; the improvement of our capability to monitor business and trade developments which have direct relevance for American jobs and industries; and improvement in the administration of controls on export of strategic goods and technology.

Our current organizational efforts in the trade field are inadequate to the task. They are characterized by:

A diffusion of authority;

A duplication of responsibility;

An uneven and, at times, seemingly lackadaisical enforcement of current policy, especially in the area of unfair trade practices;

A crisis-orientation; and

A lack of long-term policy planning.

These are difficult problems which can be surmounted through a streamlining of our current trade efforts and the development of a new organizational structure which can better coordinate and unify our international trade and industry policies.

Furthermore, from the streamlining and reorganization of our trade activities, the United States would be in an improved negotiating position on international trade matters, including energy. The large number of agencies which have parts to play in our trade activities now work against the development of unified U.S. positions on trade matters.

For all these reasons, Mr. President, we need to reorganize our trade activities. Trade is too important for our international standing and national welfare for us to continue to do business as usual in this vital area.

I believe that the time has come again for us to give trade the type of support that it received from our Nation's leaders after our country gained independence. Then, John Adams as Minister to Great Britain and Thomas Jefferson as Minister to France are said to have devoted more time to trade promotion than any other single activity. Today, export promotion is as important to our Republic as it was during the first years after independence. The need is great for us to undertake a major reorganization of our trade activities.

Mr. President, if I have any time remaining I reserve it.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

REPUBLICAN REVIEW OF 96TH CONGRESS TO DATE

Mr. BAKER. Mr. President, as the Senate prepares for the August recess, it seems an appropriate time to sum up the major Republican contributions to the Senate's work thus far in the 96th Congress.

As of last week, 1,930 bills and resolutions have been introduced—661 of them by Republicans. Of the 910 legislative amendments introduced, 588—or 65 percent—were sponsored by Republicans.

This high percentage of amendments underscores a fundamental commitment by Senate Republicans, as the loyal opposition, not simply to oppose but to improve legislation before the Senate, to try if we can to make a positive contribution to public policy, to try new and more imaginative ways to solve old problems and deal with new challenges.

But I am especially proud of the fact that Senate Republicans have gone a step beyond the consideration of specific bills and have formulated comprehensive, meticulous statements of Republican policy.

Only last week, all 41 Republican Senators endorsed an economic policy statement which commits this country to growth, to increased savings and investment, to more aggressive trade policies, to well-targeted employment programs, to a balanced Federal budget, and to a substantial reduction in the burden of Federal taxes.

This policy statement, prepared under the direction of the Senator from New York, Mr. JAVITS, represents an enormously important contribution to public policy debate on the national economy. It is the latest in a series of policy statements over the last 2½ years dealing with such crucial and complex issues as energy, foreign policy and national defense.

As for activity on the Senate floor, the CONGRESSIONAL RECORD indicates there have been some 14,000 recorded appearances in the Chamber, with Senators engaging in debate, making statements or introducing legislation. Forty percent of this floor activity originated on the Republican side of the aisle.

The Republican unity which has been growing stronger over the past 3 years is very much in evidence in the RECORD of the 96th Congress thus far.

At the beginning of the session, Republicans voted unanimously for changes in Senate Rule XXII, supporting minority party rights and protecting against post-filibuster delaying tactics.

On votes 20 through 27, Senate Republicans were strongly united in a demand for greater fiscal responsibility by opposing an increase in the debt ceiling.

Votes 14, 80, 81, and 144 attested to a common Republican dedication to a strong national defense.

Republicans overwhelmingly supported the expansion of agricultural exports in votes 205, 209, and 210.

We voiced strong support for continued good relations with the people of Taiwan on votes 11 to 17, 32, and 121.

Aid for Turkey, a vital link in the NATO defense and indispensible to verification of the proposed SALT II Treaty, won broad Republican support on vote 104.

Republican support for more representative government through democratic elections in Rhodesia, and a strong Republican preference for a moderate rather than a radical solution to the internal problems of that country, were reflected in votes 31, 92, 94, and 126.

A solid majority of Republicans reiterated the commitment of our party to limited Government spending by voting to reduce the 1980 budget authority by $1.1 billion on vote 199.

These statistics, and the Republican solidarity they demonstrate, have made Senate Republicans one of the most cohesive—and therefore one of the most effective—political forces in the Nation.

The balance of this session will see the Senate debating SALT II, revising the Nation's energy policy, dealing with a deepening recession, and completing action on the more routine business of Government.

I wish to thank each of the 41 Republicans in the Senate for working exceedingly well individually and collectively, and I am confident the challenging months ahead will find us even more committed to making a significant and constructive contribution to the public policies of the United States.

Mr. President, I yield 5 minutes to the Senator from Maryland.

A LEADERSHIP VACUUM

Mr. MATHIAS. Mr. President, I thank the distinguished minority leader for yielding me his time to mention a subject which has been disturbing me in recent days. It was just 2 weeks ago that more than 60 million Americans listened while the President of the United States, in a nationally televised address exhorted them to have "faith in our ability to govern ourselves."

But, in almost the same breath, the President launched an attack on the Federal Government and on Washington that he has been carrying on ever since.

Frankly, I am tired of it.

I have served the people of Maryland in Congress now for 18 years and during that time I have had ample exposure to the Federal Government and to Federal workers at all levels in virtually all Government agencies. What I have seen convinces me that the President is way off base when he says:

> (T)he Federal government is isolated from the mainstream of our nation's life. Washington, D.C. has become an island.

Or when he says things like this:

> What you see too often in Washington . . . is a system of government that seems incapable of action.

That is hogwash. What you see in Washington is a Government that functions, and functions pretty well, despite a critical lack of leadership. And the Government is able to carry on in this leadership vacuum, precisely because of the quality and dedication of the people who work in it.

Few realize it, but the Comptroller General of the United States reported to Congress on May 21, 1979, that:

> (T)axpayers appear to be getting hundreds of millions of dollars of "free" labor each year from the many Federal employees who regularly work extra time without compensation." He estimated that in just seven agencies surveyed "all uncompensated hours are worth between $660 million and $800 million per year at regular pay rates.

Regrettably, we have not heard anything about that from the President.

Congress, of course, has not been immune from the President's attacks either. But I am not here to defend Congress, although I was shocked by the President's intemperate indictment of Congress as "twisted and pulled in every direction by hundreds of well-financed and powerful special interests." Happily, of course, Members of Congress are free to defend themselves against such attack.

But civil servants are not. The Hatch Act prohibits Federal employees from doing exactly what the President is doing: engaging in partisan political activity.

On their behalf, therefore, I suggest to the President that enough is enough. I cannot stand silent and see the Federal civil service take the rap for everything that is wrong in America. When the ship of state founders, it is not the crew that is the problem; it is the helmsman. The sooner the President admits this, the better off we will all be. He is, after all, in charge of the Federal bureaucracy and he has been since January 1977. I personally think he has been fortunate in the caliber of the personnel at his command. They have been loyal despite his own disloyalty to them. And that is the reason the Government is running as smoothly as it is.

The grave danger posed by the President's anti-Government tactic is that eventually he may destroy the morale of civil servants so completely that his attack on Government becomes a self-fulfilling prophecy.

Mr. Carter cannot afford to estrange himself from the men and women responsible for carrying out his programs and the country cannot risk the governmental disfunction his anti-Government crusade may bring on.

I urge my fellow Americans to join me in expressing their support for the men and women who work for the Federal Government and who make the Federal Government work. And I urge the President to put the same effort into running the Government that he is currently putting into running against it.

Mr. GOLDWATER. Mr. President, I believe I have 15 minutes; is that correct?

The ACTING PRESIDENT pro tempore. Does the leadership yield back its time?

Mr. BAKER. Mr. President, I ask the distinguished Senator from Arizona if he will indulge us for 2 additional minutes so I may yield 2 minutes from my time, under the standing order, to the distinguished Senator from Utah.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I thank my friends from Tennessee and Arizona.

THE WEBER DECISION AND OUR FREEDOM FROM QUOTAS

Mr. HATCH. Mr. President, last March, I introduced a bill to prohibit the use of goals and quotas to insure, for example, that employers could not hire, fire or promote individuals simply on the basis of their skin color (S. 575). I accompanied the bill with a detailed explanation of how Federal officials have used goals and quotas to mutilate the civil rights laws by turning their prohibitions against discrimination into positive duties to discriminate. The bill was necessary, I explained, to reverse the pernicious trend of having racial statistics alone determine the availability of employment, educational and business opportunities. (CONGRESSIONAL RECORD, March 7, 1979, p. 4186).

Since the introduction of that bill, the Supreme Court has handed down its decision in *United Steelworkers* v. *Weber*, 47 U.S.L.W. 4851 (U.S. June 27, 1979), which upheld a rigid quota system in a company plant where there had been no proof of past discrimination. The decision thus has added a new and compelling reason for enactment of this proposed legislation. The Supreme Court now has joined numerous executive branch officials in ignoring the "reverse discrimination" prohibitions in the 1964 Civil Rights Act. Moreover, Government officials already have proclaimed that Weber vindicates their promotion of goals and quotas and, if anything, provides broader support for their use in the future.

As indicated in detail below, the Weber decision, and its interpretation by Federal officials incorporates a perverse view of the 1964 Civil Rights Act. By sanctioning the use of goals and quotas, it gives license to perpetuate injustices sought to be cured by the civil rights laws. It is, therefore, necessary to act upon the observation of Justice Blackmun who, in his concurring opinion, in Weber, stated that "if the Court has misperceived the political will, it has the assurance that because the question is statutory Congress may set a different course if it so chooses." S. 575 is necessary, not to establish any new course in the pursuit of equal opportunity, but to reestablish the original principles upon which the Nation's equal opportunity effort was founded.

In order to understand fully the impact of the Weber decision, we should evaluate, in turn, first how the Supreme Court in Weber misconstrued title VII to reach the result it did, and second, how Federal officials subsequently have mischaracterized the Weber decision to claim authority for utilizing goals and quotas in circumstances clearly not addressed by the Court.

I. THE WEBER DECISION

The Weber case involved the legality of an agreement between an employer and a union to reserve 50 percent of the openings in apprentice craft training programs to blacks in a plant with no previous record of racial discrimination in its hiring policies. Brian F. Weber—a white employee at the plant who had more seniority than some blacks selected—filed a title VII suit alleging that he had been discriminated against on the basis of his race because he had not been selected for the program.

What the case appeared to call for was a straightforward application of title VII. Section 703 (a) and (d) of that title make it unlawful to discriminate because of race in employment practices and specifically in the selection of apprentices for training programs. Moreover, section 703(j) of title VII provides that nothing contained in title VII shall be interpreted to require any employer to grant preferential treatment to any individual or group because of the race of that individual or group on account of any imbalance which may exist between the number of minorities in the employer's and surrounding workforces. This language, plain on its face, would appear to require judgment in favor of Weber and against a plan which, without a showing of past discrimination, distributed opportunity according to race.

Lest the statute not be understood to say what, in fact, it says, the Court had at its disposal extensive legislative history on the meaning of section 703(j), all of which underscored Congress intent to prohibit any deliberate attempts to maintain racial balance in a workforce. A reading of that history would make manifest that whenever opponents of title VII raised the possibility that it might promote racial balancing, supporters of the title repeatedly and unequivocally denied that it would do so.

In the face of both title VII and its legislative history, a majority of the Supreme Court nevertheless concluded that a voluntary race-conscious program was permissible. The Court put aside the letter of the law, chose to ignore its legislative history, and instead engaged in the exercise of seeking to ascertain and to implement the "spirit" of the law. Invoking these "spirits," the Court majority concluded that title VII did not place the same limitations upon private individuals as it might place upon Government to eliminate the vestiges of past societal discrimination. Section 703(j) prohibited only "required" preferential treatment; thus, voluntary preferential treatment was outside the scope of the statute's prohibitions.

The inconsistency between the Court's decision and both the text and legislative history of title VII was not lost upon two dissenting members of the Court. Justice Rehnquist, whose opinion was joined by the Chief Justice, observed that the majority's attempt to infer that section 703(j)'s use of the word "require" was intended to "permit" forms of racial discrimination was "outlandish" in terms of the flat prohibitions of section 703 (a) and (d).

Likewise, Justice Rehnquist properly accused the majority of disregarding the legislative history in a manner metaphorically akin to the escape artist tactics of Harry Houdini. Justice Rehnquist observed:

> Contrary to the Court's analysis, the language of § 703(j) is precisely tailored to the objection voiced time and again by Title VII's opponents. Not once during the 83 days of debate in the Senate did a speaker, proponent or opponent, suggest that the bill would allow employers voluntarily to prefer racial minorities over white persons.

He also observed that the decision represented a volte-face from the previous view expressed by the Supreme Court that "discriminatory preference for any group, minority or majority, is precisely and only what Congress has proscribed" in title VII. *Griggs* v. *Duke Power Co.*, 401 U.S. 424, 431 (1971). The unwillingness of the Court majority to be bound by judicial precedent was particularly noticeable in its refusal to confront squarely the fact that there had been no showing that the company had discriminated. Instead, the Court majority took judicial notice of lower court decisions finding that minorities had been excluded from crafts on racial grounds. See, for example, *Contractors Association of Eastern Pennsylvania* v. *Secretary of Labor*, 442 F. 2d 159 (3d Cir. 1971). Those cases, however, involved the building trades, not the industrial unions. The cases cited by the Court did not deal with the practices of either the Kaiser Co. or the United Steelworkers, but involved the Labor Department's "hometown plans" which set up preferential treatment programs only after discrimination by the specific building trades unions hiring halls had been established in public hearings. The cases cited by the Court are atypical of industry generally, and do not lend any support to its result reached in Weber.

In sum, Weber's sanctioning of preference by race is unsupported by title VII, its legislative history or court precedent. More troublesome, however, is that it represents a serious setback for all concerned with the protection and promotion of civil liberties. The Weber decision legitimizes the notion that individual rights can be obliterated by the use of racially based numerical instruments. Now that the Supreme Court has upheld the practice of equal opportunity "according to the numbers," is it not inevitable that this invitation to private individuals voluntarily to engage in preferential treatment will not be taken by Government officials as a license to mandate the same? In fact, within days of the Weber decision, Federal officials were adopting precisely that attitude, indicating that the Weber decision may represent a far greater threat to individual rights than its own language suggests.

II. THE AFTERMATH OF THE WEBER DECISION

It is as important to understand what the Weber decision did not decide as it is to understand what it did. The Court ruled narrowly that private individuals could undertake voluntarily a preferential treatment plan. It specifically declined to rule:

First, on any alleged violation of the Constitution;

Second, "What title VII requires or what a court might order to remedy a past proven violation of the act;

Third, whether the plan was an attempt to avoid suit under title VII or comply with Executive Order 11246.

Notwithstanding the Court's unsupportable reading of title VII to allow voluntary preferential treatment, it is plain that the Court at least did not go so far as to permit the Government to indulge in similar preferential treatment schemes. One would never know this, however, from the pronouncements of various Federal officials shortly after Weber was announced. In her enthusiastic response to Weber, EEOC Chair Norton declared that "(t)he breadth of the decision leaves no unanswered questions," and that "* * * employers and unions no longer need fear that conscientious efforts to open opportunities will be subjected to legal challenge." (125 Daily Labor Report at AA–3 and 4, June 27, 1979). Similarly, OFCCP Director Weldon Rougeau, who directs the Government's affirmative action program for Federal contractors, was quoted as saying that the Weber decision is a "green light" for OFCCP's enforcement program and that "(w)e're going to see much more enforcement than we've ever seen in this area." Wall Street Journal, July 10, 1979, p. 1. In a New York Times interview, Mr. Rougeau stated that Weber "sanction(s) an affirmative action program quite similar to one that an employer would have to develop if we did a compliance review * * * " In the same interview, he further stated that "(i)f (Justice Brennan is) talking about creating a Kaiser-type plan, in which 50 percent of the training slots go to minorities, that comports very much with the requirements we impose on contractors." New York Times. section 4, July 1, 1979.

Based on these statements, it is clear that Government officials have every intention of using Weber to promote governmentally required preferential quotas, even though the opinion in Weber provides no support for such a position. In fact, even Justice Brennan strongly suggests that EEOC may not, consistent with section 703(j) of title VII, require employers to engage in preferential treatment. As for OFCCP's position that Weber encourages Government-sanctioned goals and quotas, this seriously distorts the Weber majority opinion which, as noted, stated that the Court need not "consider petitioners' contention that their affirmative action program represented an attempt to comply with Executive Order 11246." The Government's approach, however, obviously is to place Federal contractors in the position of either accepting quota requirements or losing Federal contracts. As I stated before the Weber decision, the use of quotas unrelated to correcting acts of discrimination is turning our equal employment law and Federal grant programs into nefarious instruments for social engineering clearly at odds with the intent of those who enacted the 1964 Act. (Congressional Record at 4189). By placing its imprimatur upon group-oriented preferential classifications, the Supreme Court has exacerbated the quotas problem. Its decision thus lends urgency to the need for a reestablishment of first principles in equal opportunity, foremost among them, the commitment to preserve and foster fairness for every individual. S. 575 is designed to accomplish exactly that, and I therefore urge its prompt enactment.

FRIGHTENING DEVELOPMENTS IN THE MIDDLE EAST

Mr. HATCH. Mr. President, if I analyze the effect of the bilateral Egyptian/Israeli peace treaty on the overall situation in the Middle East, I must conclude that it must be welcome simply because for 30 years such an Arab/Israeli reconciliation was regarded as a political impossibility. The treaty fulfills all Egyptian demands such as the reintegration of the Sinai, occupied for more than 10 years by Israel, removal of all Jewish settlements from this area, and the future possibility of a national economic development unprecedented in the history of this traditionally poor country. Israel must also regard the treaty as a success. It led to a total reconciliation with the most populous and powerful Arab country. Unfortunately, the improving relationship between Egypt and Israel is not generally welcomed in the Middle East.

Recent events indicate that a new split has been created in this volatile region. Egypt was immediately condemned by the Arab hardliners like Iraq, Syria, Libya, Algeria, and the PLO. Moderate and generally pro-American countries such as Jordan, Saudi Arabia, and the Gulf sheikdoms were forced by a ruthless propaganda and increasing military pressure to join to the so-called opposition camp. As a result, Egypt and its peaceful policy is only supported by Sudan, Oman, and North Yemen. Needless to say, the Soviet Union does not share our hopes stemming from the improving relations between Israel and Arab countries. A sure sign for different Soviet intentions was the mission of Andrei Gromyko to Syria immediately prior to the signing of the peace treaty in Washington. Intelligence reports indicate that Mr. Gromyko attempted to exploit the newly created situation in complete conformity with previous Soviet political strategy in this region. He told Syrian President Assad that the Soviet Union firmly rejects the peace treaty, because it represents an appeasement on the part of Egypt. At the same time, he emphasized that the Soviet Union is the only one country which unconditionally supports even a violent opposition to the American peace effort. Moscow hopes that the effect of such an unconditional support would allow them to leapfrog over the newly erected reconciliation efforts and as a result they can gain again a foothold in the Middle East.

This strategy is well known to us, for in 1955 the Soviet Union started its Middle East expansionism by the same means. The Gromyko mission to Damascus has been followed by a massive military build-up of the so-called hardliner Arab countries. In addition to its military assistance programs, the Soviet Union intensified its diplomatic pressure on these countries for a closer political cooperation. If the United States will not stop these Soviet activities the result could easily be a bitterly divided Middle East into an American and a Soviet zone of influence. While the American zone would embrace only Egypt and Israel the Soviet sphere of influence could extend to the entire Mediterranean and the Gulf area. Such a zone would become an integral part of the Soviet collective security system linked by a series of friendship treaties with Moscow. Moreover, such a zone would border directly on Soviet territory, a fact that would ease Soviet access to this area. Such a development would be in complete agreement with the old Soviet political desire nursed by the Czars. How vehemently the Soviet Union pursues its goals could be best demonstrated by the fact that the leaders of the Omani Communist Party, whose attempt to transfer Oman into a Communist satellite of the Soviet Union was upset by the Shah of Iran, most recently paid a visit to the Soviet Union. During this visit they were told that the Soviet Union will support their fight against the legitimate government of the sultan of Oman. Additionally, the Kremlin promised them a truly massive military assistance. Renewal of the military conflict in Oman would not only impose an immediate threat on the nation's security of Saudi Arabia but would at the same time throw Iran into the Soviet sphere of influence. Therefore, the United States must act quickly and decisively to upset Soviet activities in the Middle East and thus to prevent further deterioration of the overall political situation in this region.

We should do this for two reasons. First, the Arab countries and, I am sure, even the so-called radicals reject Soviet political goals and Marxist ideology. In Syria, Iraq, and Libya, despite their acceptance of Soviet military assistance, the Communist parties have little leeway for maneuvering. These countries have a genuine national interest in intensifying their economic and cultural relations with the United States and other Western European countries. Second, the moderate Arab countries would like to maintain their policy of official friendship with the countries of the Western Hemisphere. These two factors and the resulting improvement of the relationship between Egypt and Israel should give the United States the political and the moral power to counteract Soviet goals and to throw the other Arab countries into the peace process as soon as possible.

I thank my friends.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have no further need for my time under the standing order. I would be glad to yield to the Senator from Arizona.

Mr. GOLDWATER. I think there has been some mixup. I was told 3 days ago I had 15 minutes. I understand Senator PROXMIRE was to precede me.

Mr. PROXMIRE. I would be happy to let the Senator from Arizona go first. I have another matter. If he wants to go first, it is all right with me.

The ACTING PRESIDENT pro tempore. Without objection, the orders will be switched.

RECOGNITION OF SENATOR GOLDWATER

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. ROBERT C. BYRD. Mr. President, do I have any time remaining?

The ACTING PRESIDENT pro tempore. The Senator has 3 minutes and 16 seconds.

Mr. ROBERT C. BYRD. I yield it to the Senator from Arizona if he needs it.

(Mr. HOLLINGS assumed the chair).

SALT II AND THE MX MISSILE SYSTEM

Mr. GOLDWATER. Mr. President, at the end of this week the Senate will go into recess and also going into recess probably will be the subject of SALT II. During the past 3 weeks the Senate has been exposed to three different committees holding sessions on this treaty, the Foreign Relations Committee, the Armed Services Committee, and to a longer and more detailed extent, the Select Committee on Intelligence. I have the privilege and pleasure of serving on two of these committees, the Armed Services and Intelligence, and to top it off, if that was not enough exposure, I have kept up with the Foreign Relations hearings through television and an occasional personal visit.

At the outset, let me confine what I am going to say to opinions gathered from the testimony before the Armed Services Committee and Foreign Relations. A few witnesses testified in a very strong way that they did not feel the treaty was properly drafted or that the United States made any points in its drafting. What continuously bobbed up through all of the testimony, however, was the inescapable fact that the United States no longer is the No. 1 military power in this world. Even though the President of the United States and the Secretary of State and others have told the people of this country, not once, but on numerous occasions, that we still occupy that high position, testimony and evidence, both written and printed, constantly bring out the fact that we do not compare with them in conventional weapons; in fact, they outnumber us dangerously.

In strategic forces I think it is evident that they not only outnumber us, but out-weapon us and have a greater ability to rain destruction on this country than we have on theirs. Let me hasten to interject a personal observation, gained not just from the hearings I have listened to, but from personal study—each side has more than enough to take care of strategic nuclear needs. But the treaty obviously has done nothing about this except to set the stage for a possible small reduction in force in the middle 1980's and then a look at SALT III.

In spite of the overweight of nuclear weapons, the President has come out favoring the building of the MX missile system with a decision to be announced within the next few days, possibly before we leave for the recess, on what the launching mode will be. Now for those people who will hinge their vote on whether the MX is actually financed or not, they should demand in no uncertain terms that the President, preferably before we go home but certainly before we return, send down a request for authorization for the MX system, including the launching mode. And I would say that if he does not do this, then it would be proper for the Members of the Senate to say no to the SALT II agreement. In my opinion, Senator SAM NUNN did this country a tremendous favor the other day, when, after being convinced of our vulnerability as I am sure were other Members privileged to hear the Armed Services arguments as well as the hearings before the Foreign Relations Committee, he said that unless the President comes out with an absolute commitment that there would be an increase in spending on strategic and conventional weaponry in the next budget that he could not vote for the treaty.

Now I am sure that Senator NUNN meant exactly what he said, and having talked with many of my colleagues, I think he has spoken the words that are on most of their lips, so the question again is squarely up to the President, and in this case, the President going on television and saying that we will have an increase in spending will not be a sufficient answer. He must send down in written form his request for next year's budget, so that the Members of the Senate will know what they are going to be voting on when the time comes to vote for SALT II.

If there has been one thing that has crept into all of the discussions, even from those people who are strongly in favor of the treaty, it has been the questions varying from unexpressed doubt to open doubt about our conventional forces. It was very obvious to anyone listening to the Joint Chiefs of Staff as hard and as eloquently as they tried to show a preference for SALT II. One could not help but read into their remarks the fact that they would have liked a strong assurance from the President concerning our conventional forces. I think if they could have had such assurance in writing that they could have testified in a much more open and secure manner than the rather dodging and scampering about which they engaged in.

Now let me switch over to the Select Committee on Intelligence without divulging anything that should not be told on this floor about those hearings. I made the statement last week that my original concern with the treaty was our ability to verify it. With almost a lifetime background in electronics, radio and the use of frequencies, I say that while I am not satisfied with the extent of verification that we can achieve, we can do an acceptable job with the certain knowledge that we can improve this as time goes on. Now I have worked with the Select Committee on Intelligence since its inception; I worked on the Church committee before that. I have watched the intelligence family of our country dragged through the mud, subjected to lies, subjected to ridicule and abuse that would indicate to me that there are people in this country in the areas that I have mentioned who would like to see us do without any intelligence. I thank the Lord that those days have long since passed and our intelligence community is now working together as a team, I think probably better than ever before and is providing us with an abundance and quality of intelligence that I do not think can be matched elsewhere. But, and this is a big but, where Senator NUNN had doubts which prompted him to demand of the President more concrete assurance of money to be spent in the coming budgets on strengthening our conventional and strategic forces, I have doubts about the funds available for intelligence matters.

These same doubts force me to ask my President that there be an indication given immediately so that the coming budgets will include moneys for the expanding needs of our intelligence services. I cannot go into this at any great length because of classification, but if we have one job on that oversight Intelligence Committee, it is to arrive at conclusions as to how the intelligence job is being done and where we as a congressional body can do anything to assist them. So I have made my statement, and I repeat, I ask my President to give this country, through this Congress, assurances that the intelligence community will receive the help that it so badly needs for the years ahead.

To wrap up this part of my observations on SALT, I believe that the treaty was loosely and somewhat poorly conceived and written; I believe that we made concessions in the protocol that we will live to regret if we ever ratify it, namely the exclusion of the Backfire bomber, which is one of the most lethal weapons the Russians have developed and it is only in its infancy. When I couple the knowledge of the Backfire's ability with the knowledge that they are working on two or three long-range bombers, then I believe we have a real cause to worry. I have an amendment in to include the Backfire bomber in the treaty. It is there because of a letter handed to President Carter by Brezhnev. I have suggested to members of the Foreign Relations Committee and to the Joint Chiefs of Staff that there would be nothing wrong, in my opinion, in including the Backfire and our FB-111, which the administration allowed to be excluded. There are other problems in the protocol wrapped up in the use of effective weapons that we have developed which will be brought out better during the period of debate.

I have brought these matters out because of a vacation coming up. In fact, I thought some of my colleagues might like to have at least the benefit of the thinking of one Member of this body who has probably been exposed as much as any one person to all of the facets of the three different discussions which have been going on before the committees. Having done that, let me now enter some remarks which I have prepared that I think cover my general feeling about the situation of the United States in this world.

The thing that continues to bother me as we talk about our military needs is that we seem to confine our thinking to one general battleground, and that would be the area in which we might fight a war with Russia, if such an unfortunate incident occurred. Frankly, that is the main thing that bothers me about SALT. We are concentrating all of the thinking and arguing and reasoning of the 100 Members of the Senate, the Joint Chiefs of Staff, intelligence groups, et cetera, on the subject of the Soviets instead of spending as much time discussing where we are in relation to the rest of this world.

First of all, let me make clear my understanding of this so-called race between the United States and the Soviets in the munitions and weapons field. And you will notice I called it a so-called race because it really has not been one. The Soviets have been far outspending us and have outstripped us in general forces alone, and they are vastly superior; that is, 3 to 1 in ground forces, almost 6 to 1 in tanks, 2 to 1 in tactical aviation, and roughly 2 to 1 in naval forces. I will challenge anyone in or out of the administration who says the United States is still the No. 1 military power in this world.

The real clash between the Soviet and American objectives concerns the role the Soviet Union aspires to play on the world stage. The President apparently did not understand, upon taking office, that the main thrust of international relations centered on the competition of the United States and the U.S.S.R. He, therefore, was unable to handle the outbreaks of Soviet influence in North Africa, Afghanistan, et cetera, to include their use of Cuban troops.

In fact, looking at the Third World alone, which I could describe as the cockpit of turmoil, war, famine, repression, overcrowding, pressure for change is turning one developing land after another into a global flashpoint. It is a pattern with danger both for the United States and Russia. It is that and that alone. I doubt seriously if the United States and the Soviet Union will ever come to war with each other.

The whole background of history speaks against that by reason of the fact that we have always come to her aid when she needs us but if only it suited her plans and objectives, and she has come to our aid when we have needed her. What she is really trying to do then, in my opinion, is to build up an armament so superior to the United States that it will become obvious to every country in the world and when that happens, it is like sitting in a poker game where you know a certain player has the power of the cards he holds and the courage to play them and no one is going to try to bluff him or call him.

That the Soviets are approaching that stage, in spite of what the Secretary of Defense and other members of the President's Cabinet might have to say, is my considered and studied belief, and I might say that that is backed up by many, many experts around this world, that we are now in second place to the Soviets.

Now with the thought in mind, which I have already expressed, that the clash between our two countries concerns the role the Soviet Union is playing on the world stage, let us take a look at it. Boil it down a little bit; what do our allies think of our reduced position? And forgetting the nuclear might of each country, because I along with many others, do not believe these giants will ever be used mainly because a bi-polar exchange between the United States and the Soviets would release the "captive" nations, that is, Poland, East Germany, Romania, and so forth, and they would take back their own lands and probably exploit the devastation of the Soviet Union and eliminate the Communist influence in power and I do not believe for 1 minute that the Soviets are about to allow this to happen.

Let us look at the conventional forces which will more than likely be the equipment that will be used. They have 4.4 million people in uniform; we have slightly over 2 million. They have 50,000 tanks, we have 12,000; and our 12,000 do not include any new ones, while theirs are all very modern. They have 20,000 pieces of field artillery, all new; we have 5,500 all old. They have about 9,000 different tactical aircraft and we have about 5,300 with some of ours going back almost 20 years in age.

Yes, we outnumber her in aircraft carriers, but it is getting rather difficult to support an argument that an aircraft carrier can be of value in any projected war anywhere. Our Navy is probably in the worst shape it has ever been in its history and in that area alone, in fighting ships, they outnumber us 284 to 161, and, at the same time, have 195 attack submarines and we have 81. London's economic magazine states:

> The problem is the will to power of a Soviet Union in the first youth of its imperial enthusiasm and now equipped with an armory of global weapons. In the end that has to be contained so that matters do not slide to major crises and war, by an equal and matching and Western will to resist and an equal and matching Western armament accommodation, compromise and a shrewd avoidance of hopeless causes are an essential part of the process; but they must start from the premise of equal strength.

Now anyone in this administration standing on the actual figures, who argues that we are superior to the Soviets, is either engaged in very uninformed rhetoric, or, to put it in a polite way, he is not exactly speaking the truth. Now, as I have pointed out, the danger of open nuclear conflict between the major powers is very slim, but let us look at some other places around the world where countless conflicts are taking place which could engulf whole regions and threaten the strategic interests of the United States. In the so-called Third World, war and rebellion are becoming almost a way of life, stretching all the way from Vietnam, Cambodia, and the Philippines to El Salvador and Nicaragua. And I believe the unrest and rebellion in Central America, in our very frontyard, holds the greatest peril for the United States. The overthrow of Somoza in Nicaragua could well have a domino effect running through the entire area of Central America. Communism is on the march in this area. We already have a powerful Communist bastion on Cuba. We are very likely to get a Communist government in Nicaragua. We have no assurance that Panama, which is already listening to Castro's Cuba and is suspected of having played an important role in the overthrow of Somoza, will not become another part of the Communist presence. In other words, our situation is perilous in this important region at the present time. We could easily lose all of our rights of interest in Central America, including use of the Panama Canal.

Now let us look at other places where our strategic interests bear importantly on the security and well-being of the United States. What happens if OPEC falls? What happens if the Arabian nations are infiltrated the way Iran was infiltrated and we find great changes of power? I know that for anyone to think today that it would be possible to infiltrate an Arab country is rather laughable, but I remember a few years ago when it was just as funny to think that about Iran, and it happened. What happens when the Persian Gulf is no longer available? How are we equipped to do anything about it, and then the next question, will we have the courage to do it?

Now then, let us take another look at somewhere else where we are doing our best to incite trouble—South Africa. Now I do not agree with apartheid any more than President Carter agrees with it. However, on the other hand, I do not think it is any business of ours, other than the constant suggestion that they change and, I might add, they seem to be changing. We have no more right to do that than the South Africans have to complain about the brutal treatment we have given the American Indians down through the history of our Republic.

If we lose South Africa, we lose one of the most advantageous intelligence gathering posts we have in the world, and we lose the last two ports where the ships of our fleets, both Navy and civilian can use, and at one time, just a few years ago, our ships could go into any point around the periphery of the continent of Africa but no more.

It seems that this country of ours is constantly sticking its nose out for trouble. We asked the Rhodesians, no, we told the Rhodesians what we wanted them to do. They did it but our President will not lift the sanctions on the Rhodesians, and what he is specifically asking for, although he would deny it, is for the guerrilla forces to move in, take it over, destroy all the whites and then install a government that could not possibly succeed and we would be denied our principal source of cobalt in this world.

Let us jump over a few thousand miles to the area of Southeast Asia. Please keep in mind that the foreign policy of this country for over 100 years has been wrapped up in the periphery of the Pacific. That area is the great shining light in the new economics of the world. That is where we want to be, we should be, and we must be, and yet we have placed a knife in the back of a real friend, Taiwan, and what would prohibit Taiwan from saying to the Soviets, yes, you can use that beautiful airbase that the United States built for us, you can use our ports, and we will be glad to do business with you, but we do not necessarily want to be an ally. All we would ask is that if we are attacked by the Red Chinese at any time, and in return for our favors, you extend a few to us. Now that might not happen, but let us go down a little farther south to Cam Rahn Bay, a place familiar to hundreds of thousands of American servicemen. I said a few months ago that the Soviets might move in there; I would remind my listeners that at this moment they have moved in, oh, not lock stock and barrel, but that is their next move. Then where do they go? Well, I hope it would never happen, but the tremendous airbase that we built in that area could possibly be taken by the Soviets and then Singapore. Do you get what I am trying to say? With those successes, the Straits of Malacca could be denied the use of any shipping, ours or those friendly shipping to us, and our friends like Japan and South Korea would strangle for the lack of oil. Also, our interest in the countries around the Pacific would be ended because they would have no way of ever being of service to them short of going to war, and let me remind you again, our navies are in no condition, and would be in worse condition to go to war if that time should come.

I need not say much about the Indian Ocean. I have often said I believe it to be the strategic center of the entire world, and the country or countries which control that body of water will control for the time that petroleum which will be absolutely necessary to the economics of most of the world. We have had a long, hard struggle in the Senate making it possible for us to build runways, and so forth, on Diego Garcia which we acquired the use of from the English. It is the only place we have in that entire body of water that we can call a place to use if we need it.

Now back up north once again to the continuing and growing dispute between China and Russia, where more men and equipment are now mobilized than at any any time since World War II. This is the place that World War III could start, and, of course, the United States has not made it any easier by recognizing Red China, although strategically speaking (but not defending the move), the recognition probably did more harm to Russia than harm to us. Will that war occur? I have no crystal ball telling me that it will, but, if it does occur, do not be surprised to see the Japanese on the side of the Chinese because of the kindred interests in that somewhat desolate but rich land lying north of the Chinese border and stretching across to the Sea of Japan.

We have always defended Russia. The question now comes, Would we do it in this case? And if we decided to do it, what kind of help could we really give? I have already talked about Cuba's moves in the Caribbean. We know she shipped troops through the Panama Canal to fight in Nicaragua, we know the Panamanians flew DC–6 cargo planes with Communist troops to fight in Nicaragua and, yet, we are not aiming our objections, in my opinion, at the right party. Why not tell Cuba to stop it and tell Panama to stop it?

It should be perfectly obvious that, if Communist moves in Central America succeed, we endanger our already somewhat shaky relationships with the major countries of South America, relationships made bad through downright falsehoods told by Americans in different positions of power and by the neglect we have heaped on that part of the world which, to me, will some day be a continent fully as economically powerful as our own United States. Now these are only some of the possible battlefields or places of trouble that I see around the world and whether we sign SALT II or do not sign it, it is not going to have one single thing to do with the places I have mentioned. Regardless of what we do with SALT, the Soviets are going to remain ahead of us militarily because the President unilaterally decided to cancel the B–1 bomber.

To the unbelief of Europeans he unilaterally decided not to produce the neutron bomb and accepted the cruise missile restrictions. He has made no concrete demonstration as of now that he intends to do anything. Oh, he has said he will build the MX missile, but he has not chosen the type of launch he is going to use and, until he does, it is just something on paper. There are those who say the MX missile decision is a ploy to influence SALT II treaty effort, that is, that if it passes, the Senate will scrap MX.

As a result of these and other actions Senator JACKSON uses the word "arrangement" vis-a-vis, the U.S.S.R. He has not chosen an aircraft to replace the B–1, a penetrating bomber to offset the Backfire bomber which the Soviets are building at the rate of three a month; in other words, there has been a lot of talk on the part of our leadership in this country but not the action needed. So, we get ourselves down to another really gutsy question.

Will we answer the challenge to freedom if and when it comes? Whether the listener or reader likes it or not, strength has always equaled peace, and during the days of Dwight Eisenhower and John Foster Dulles we made it abundantly clear to the Soviets and to the world that our strategic air fleets would be used to restrain any country tempted to use its own strength against another country. But we have not had a foreign policy built on strength since those days.

We did not have the power—or guts—to challenge the Soviet Migs in Cuba even though their presence there was in violation of the Kennedy-Khrushchev agreement. What we have had is a long succession through Republican and Democrat Presidents, of a rather shaky-kneed type of détente where the Soviet has come out quite well ahead of us. Strength equals peace, that means a strong military, a strong economic system and a strong moral system. It is going to take courage, it is going to take real leadership and it is going to take the thorough understanding of the American people.

I will probably repeat this speech with variations constantly between now and the time the vote comes on SALT II because I believe that the questions that I have raised, while certainly not new in the mind of anyone who pays any attention to foreign affairs and military strength, need to be asked and asked and asked, and it is my intention to do just that.

Mr. President, these remarks cover my feelings as a former military person, one who has spent almost his entire life in the concern of our military and our position in this world, and after a lifetime spent in the fervent pleading and the hope that we will have peace in this world.

I have been bothered by the course this country is taking, not just under this present administration but I hate to say under Republican Presidents and Democrat Presidents alike. In fact, I do not think we have had a workable, understandable foreign policy since the days of Dwight Eisenhower; and I do not think we have had the effective kind of leadership this country needs since those days.

I thank my friend from Wisconsin (Mr. PROXMIRE) for his usual generosity.

Mr. BOSCHWITZ. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield.

Mr. BOSCHWITZ. How much time does the Senator from Arizona have left?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. BOSCHWITZ. Will the Senator yield me the balance of his time?

Mr. GOLDWATER. The Senator is welcome to it if it is all right with Senator Proxmire, because I was really encroaching on his time.

Mr. PROXMIRE. It is all right with me.

A SECOND ANNIVERSARY

Mr. BOSCHWITZ. Mr. President, I would like to note today something of a birthday. This is the second anniversary of the legislation that created the Department of Energy on August 2, 1977.

Now, 2 years later, we find that the President is calling for yet more agencies and yet more governmental programs to straighten out the difficulties or mess that we find in energy—something that the Department of Energy, Mr. President, was created just 2 years ago to do.

It was created to join together the authority of a number of agencies that were sprinkled around the Government: The Federal Energy Agency, the Energy Research and Development Agency, the Federal Power Commission, and other aspects of the energy problem that were found in numerous agencies throughout the Government.

Within 2 years of the birth of the Department of Energy, Mr. President, we find that a new energy mobilization board has been suggested by the President for the purpose, quoting the President's speech of about a week and a half ago, "to cut through the redtape and the delays and the endless roadblocks to completing key energy projects."

Two years ago today, I have a number of quotations from the Record of that date—though I know it is hardly necessary to repeat all of them. These quotations are from statements made here on this floor about the upcoming creation of the Department of Energy that would solve many of the problems then apparent in our energy policy. Said one Senator:

> The DOE will assure . . . a lead agency with a scope of authority broad enough to initiate and follow through on conservation programs.

Said another Senator:

> The Department will assure . . . the establishment of priorities, more efficient management of domestically owned resources and more efficient commercialization processes.

And yet we find that American companies and American producers are pumping less oil than they did 2 years ago.

These comments, Mr. President, came from both sides of the aisle—comments about the Department of Energy giving "cohesion and coherence to today's tangle of energy-related agencies"—and "today," of course, referred to August 1977—and that "the key point is not where the central power lies; the key point is how well the public will be served."

Were the energy problems in 1977, as well as those today, Mr. President, clarified and solved by this new department?

The decline of the Department of Energy took just about 2 years, and its bureaucratization came about with budgets of only $4 billion to $9.4 billion. Yet another new agency, Mr. President, that the President of the United States wishes to authorize, the Energy Security Corporation would involve scores of billions of dollars—a new agency that will have billions of dollars more available to it. My short experience here in the Senate indicates to me that that will simply mean more bureaucracy. They will be involved in obfuscation and the inability to act, just as I have seen with so many agencies that I have come in contact with in my brief experience since coming down here.

Back in August 1977, the President of the United States said, about this new Department whose second anniversary is being celebrated today:

> This Department will make it possible for us to evolve very quickly a comprehensive energy policy which we've missed. It will give us an opportunity to regulate the production and distribution of energy along with the pricing concepts clearly and, I believe, cohesively.

Of course, some voices were raised 2 years ago about the improbability of the new governmental agency making things happen cohesively and swiftly. I believe those same speeches should be made today on the second anniversary of the Department of Energy. Unfortunately, Mr. President, nowhere in his speech did the President of the United States talk about the free market system—the free market system which, in my judgment, has served this country so well.

For the 40-year period preceding the development of the Department of Energy, and also for the 40 years preceding OPEC, energy commodities in the United States were controlled by the free market system. If the oil companies really have such a hold on the marketplace now, they really should have had a hold on the marketplace during that 40-year period, because they were uninhibited by a Department of Energy or by OPEC. Yet during that entire 40 years, from the Depression to 1973, the price of gasoline in this country, in real dollars, actually fell.

If that is the way we are going to be abused by the free market, if that is the way the marketplace is going to operate, Mr. President, I am very much in favor of it.

It distresses me that a country that was founded and has functioned so well with free markets and a free enterprise system now will have one of its most essential components, the energy aspect of our economy, basically controlled, constituted, and led by the Government. Mr. President, that is not within our traditions. It is not consistent with the efficiency that our country has prospered under. Also, it is clear that it is a great incursion upon the free enterprise system; and when one incurs on this system, it is also an incursion upon freedom. History speaks with a very single voice: There have never been incursions upon the free enterprise system without incursions on individual freedom.

So I trust that this body, as it considers the energy problem in the upcoming months, will realize that this is only the second anniversary of the Department of Energy, and already there is an effort to further expand the role of Government in energy policy. However, in my judgment, and in the eyes of many others, the expansion of the role of Government in the field of energy has not served this country well.

I thank the Chair, I thank the Senator from Wisconsin, and I thank the Senator from Arizona.

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized.

SALT II

Mr. PROXMIRE. Mr. President, with all the discussion about SALT II and the imposition of serious economic constraints on the Soviet Union and the fact that such constraints are more severe than any Strategic Arms Limitation Treaty, I would like to set forth this morning how those constraints are likely to operate.

First, let me say that SALT II is likely to be recorded as not only the most expensive arms control agreement in history, it will also go down as the most contradictory.

It was bad enough when the administration decided to approve the MX in order to shore up support for the treaty.

Now, the administration has caved in to pressures from the big spenders to increase future defense budgets. What kind of arms control treaty is that?

We are faced with the prospect of a faster, more expensive and inevitably more dangerous arms race, in the name of arms control.

The tragedy of the situation is that we are failing to take what could be our best chance for slowing the arms competition between the two superpowers.

A golden opportunity for peace as well as for the taxpayer is being converted into a gold-plating opportunity for the military.

The result will be a military buildup that is unnecessary militarily and seriously inflationary.

Setting down a figure to increase future military budgets—whether 3 percent or 5 percent annually in real terms—is arbitrary, irrational, and nonsensical.

It is perhaps the chief irony that by doing so, in response to what some perceive as the growing Soviet threat, we would be emulating the worst aspect of the Soviet system.

The Soviets face bleak economic prospects. Why? The answer in large measure is because of their decision to increase military spending in an almost mechanical way, year after year, by an estimated 3 to 5 percent.

It is this robotlike, mindless approach to the allocation of resources for defense that some in this Chamber and in the Pentagon and others like Dr. Kissinger are advocating for the United States.

SOVIET ECONOMIC WEAKNESSES

A brief look at the Soviet economy will show why we should not try to follow in their footsteps.

It will also demonstrate that, as a result of serious constraints on the Soviet economy, we are in an excellent position to induce Moscow into a real reduction of the arms race.

Here are the facts about the recent performance of the Soviet economy.

Soviet economic growth peaked in the decade of the 1950's and has been steadily slowing from 1951 through 1960. The Soviet annual growth rate averaged 5.8 percent. In the next decade, 1961 to 1970, the rate declined to 5.1 percent. In the period of 1971 to 1975, Soviet economic growth averaged 3.8 precent. In 1977 and 1978 growth was about the same.

However, the Soviet economy is expected to slow down further in the next few years, and the slowdown could become drastic.

The CIA has been accurately forecasting a further slowdown in the Soviet economy since 1977 and in each of the past 2 years has predicted even lower growth.

This year, Adm. Stanfield Turner, testifying as spokesman for the intelligence community before my Subcommittee on Priorities and Economy in Government, said that the growth of the Soviet GNP could fall below 1 percent annually in the mid 1980's.

This projection assumes that Soviet oil production declines to 8 million barrels per day, but even without a drop in oil production growth is projected to slow to less than 3 percent annually.

The slowdown in Soviet growth is attributable to fundamental weaknesses in the Soviet economy including an impending manpower shortage, poor productivity growth, wide fluctuations in the agriculture sector, and the possibility of a drop in oil production.

Some, if not all, of these problems are beyond the capacity of the Soviet leaders to solve for the next decade. For example, labor force growth will slow to less than 1 percent annually because of the low birth rates during the 1960s. These demographic forces are slow to evolve and slow to change. At this date there is nothing the Kremlin can do to avoid labor shortages in the 1980's.

Similarly, in the case of productivity, the rate of improvement has been slowing down for years and will be aggravated by the labor shortage. Annual productivity growth fell from a poor 1.2 percent in the decade of the 1950's to 0.8 percent in the 1960's. In the first half of the present decade the rate fell to —0.6 percent and has been nearly as low in the past 3 years.

This miserable performance has already begun to show up in industrial performance. The growth of steel production has been steadily falling in recent years. In the first half of the present year not only steel, but also the production of key commodities such as cement, nonferrous metals, mineral fertilizers, and pesticides fell below the levels achieved in the same period of 1978. Oil production fell below last year's level, the first time that this has occurred.

These shortfalls will cause shortages that will reverberate adversely throughout the economy for at least the rest of the year.

Industrial production for the first 6 months of this year increased by only 1.4 percent. In the same period steel production declined by 1 percent, cement production declined by 6 percent, mineral fertilizer declined by 6 percent, and the production of freight cars was off by 3.5 percent.

The combination of steel and cement shortfalls will seriously affect investment. The drop in freight car production will add to railroad transportation bottlenecks which are already responsible for significant delays in the delivery of goods.

The fall-off in fertilizer production can only worsen problems in the farm sector. These problems are well known as they periodically result in food shortages and massive food imports from abroad.

This year another poor harvest is being forecast which will demonstrate to the world, once again, that the Soviet economy is not balanced enough or strong enough to produce the food required to feed the Soviet people.

Consumer standards in the Soviet Union have consistently lagged behind those of the United States and Western Europe. They also lag behind those of Eastern Europe. And although the average Soviet consumer has experienced improvement in his lot, the kind of economic stagnation being projected for the 1980's would bring stagnation to consumer standards as well.

The economic situation helps place the problem of the arms race into perspective. In the years ahead, the Kremlin will be increasingly squeezed between a declining economy and rising consumer demands.

Of course, resources used for defense do not contribute to solutions of these problems. Arms spending makes the problems worse because resources spent for defense cannot be used to strengthen the economy or raise consumer standards.

Just the other day we had a debate on the floor on the assisted housing program. I put in an amendment to cut that program by $700 million. It was defeated. The distinguished Senator from Maryland made a very strong and reasonable appeal for the money. He said that when we spend money for housing it increases the supply of housing, and in the long run tends to reduce rates. He had a good point.

However, the spending that we engage in with respect to housing is inflationary and in the short run. That is what we have to worry about with respect to housing, because it will not be completed for many years. In fact the peak program will be done in 4 years and in the short run is inflationary. But military spending is particularly inflationary. It increases spending without providing any economic good.

We do not go into a department store to buy an aircraft carrier or a tommy-gun, at least not many people do. And these are the things, of course, that we produce with military spending.

The growth of Soviet investment has already begun to slow down and this will inevitably result in slower growth in capital stock. Moscow has been able to maintain its pace of military investment, so far, but at a heavy economic price.

In fact, the Soviet Union is falling farther and farther behind other industrial countries in that the fundamental basis for military power is economic strength.

It continues to lag behind the West in technological growth. It is finding it increasingly difficult to exploit its own natural resources without importing Western technology. Of course, the West is happy to sell its technology but, again, at a heavy price for the U.S.S.R.

The Soviet leaders thus find themselves in a triple dilemma. The economic pie is shrinking at the same time that investment, consumer, and defense demands are rising including the demands of their East European allies, whom the Soviets are committed to assist, complicate the problem.

SOVIET DEFENSE LIMITATIONS

The Soviet defense program has already felt some of the effects of these economic constraints.

Here are the facts about Soviet defense.

Soviet defense spending in dollars is estimated by the CIA in great detail. This estimate shows the Soviet defense budget rising by 3 percent annually in real terms. The total dollar annual cost, including retirement, is about 33 percent higher than the U.S. defense budget. If all personnel costs are removed from the United States and Soviet budgets, the Soviet defense expenditure is about 25 percent higher than ours.

Of course, these are only estimates and the CIA is the first to admit the weaknesses of these figures. For example, the estimates for Soviet research, development, testing, and engineering are considered much less reliable than other components of the defense estimates. The CIA believes its own estimates contain a margin of error of 15 percent.

In addition, estimates of Soviet defense costs in U.S. dollars are inherently biased in a way that tends to exaggerate Soviet costs. The reason is that cost estimates of activities and equipment of any foreign country in U.S. prices tends to overstate the relative values of the foreign country. Thus, if defense spending comparisons were based on rubles instead of dollars, Soviet and United States levels would be much closer together than they seem to be when dollars are used.

Those who express concern over Soviet defense spending rarely bother to discuss these problems. Instead, they point to the spending figures as if somehow they constitute proof that the Soviets are engaging in a massive military buildup and that they are outdistancing the United States militarily.

The dollar cost estimates, in my view, prove only that the Soviets are devoting about the same amount of resources as we are for defense and, in view of the fact that their GNP is about half the size of ours, that the defense burden on their economy is twice as great as the defense burden on our economy.

A careful examination of Soviet military activities shows that the Soviets have increased and modernized their forces in some areas, as have we, but this hardly constitutes a massive military buildup.

In the past several years most of the increase in their conventional forces has been devoted to the Sino-Soviet border. During the period 1969–78, the number of Soviet troops deployed to the Chinese border rose from 400,000 to 650,000. In the same period, the number of Soviet troops deployed in East Europe against NATO rose by less than one-third as much, or by 70,000. In the 5-year period 1973–78, Soviet troops in the same area went from 560,000 to 590,000, an increase of only 30,000.

The military manpower figures show that the Soviets have significantly increased their forces against China and that they have strengthened somewhat their forces in East Europe. But the figures do not support the massive military buildup thesis.

It is true that the Soviets have modernized much of their ground equipment, as have we and our NATO allies. But there is still no evidence of a Soviet massive military buildup against NATO or that NATO is slipping.

Thus, the London Institute for Strategic Studies has concluded for several years that the overall balance in Europe is such as to make military aggression appear unattractive to both sides.

The Subcommittee on Priorities and Economy in Government has developed information confirmed by the intelligence community, that suggests to me that the Soviet defense establishment has found it necessary to reduce its military costs in ways that reduce its military effectiveness.

The Soviets deploy a far smaller percentage of their strategic submarines and surface vessels than we do. Their ships are at anchor much more than ours. Their pilots fly only a fraction of the hours per month our Air Force pilots fly. Much of their ground equipment including tanks assigned to combat units, is kept in administrative storage.

The pattern observed in both strategic and conventional forces is to minimize their use once deployed. This, of course, tends to reduce operations and maintenance costs. But it also reduces proficiency levels and, ultimately, military capabilities.

Cost considerations have also influenced the Soviet force structure. It does not belittle the formidable strength of the Soviet defense establishment to point out that it continues to lag behind the U.S. technologically, that it does not possess the capability to project power with naval forces that we do, and that it has not been able to significantly alter the military balance in Europe.

ECONOMICS AND ARMS LIMITATIONS

The facts about the Soviet economy and the Soviet defense program lead to two conclusions.

First, the economic problems of the Soviet Union are likely to be more of a constraint on the Soviet military than the SALT II agreement.

Second, we need to better understand our own economic and military advantages over the Soviet Union, and our negotiators need to be aware of the leverage we possess because of Soviet economic weaknesses.

The way to exploit our strengths is to strengthen our economy. Obviously, the United States has its own economic problems. Excessive military spending will only add to the problems.

Increasing our defense budget by $20 billion or so, as is being advocated by some as the price of supporting SALT II, will increase the budget deficit and be inflationary.

Those who see the arms control process as a way to acquire military bargaining chips are, in fact, chipping away at our economy and our own security.

The arms control process must be redirected if it is to survive.

I do not see how or why the public should continue to support the kind of arms negotiations that have produced SALT I and SALT II if there is no realistic prospect for achieving greater genuine security by slowing the arms race and lowering defense costs.

So far there has been more arms rechanneling than arms reduction. The Pentagon and its Soviet counterpart have been the chief beneficiaries of arms control.

In most of the discussion of SALT II, the economic basis for Soviet military power has been ignored. This has been a serious oversight. After all, what is more significant in assessing military power than the economic strength from which it must derive?

In the U.S.S.R. the economic strength has been enfeebled in part because of an obsessive concentration on a military buildup. That economic weakness is going to restrain future Soviet buildups more surely and more severely than any SALT agreement.

At the same time, the diversion of U.S. resources to military spending tends to weaken this country's powerful economic base. Military spending is specially inflationary. It is also peculiarly exacting on the scientific and technological resources that strengthen productivity and economic advance. It is no accident that the industrial nations which have made the most spectacular economic gains in recent years are Japan and West Germany, both of which have devoted only a small fraction of their economic strength to military spending.

Our military leaders, our arms control negotiators, and any future agreement should recognize the facts of life. The Soviet Union is losing power economically and militarily because of the heavy burden of defense. Our strength is not only in our present defense forces, which are equal to or superior to Soviet forces in every significant respect, but in the enormous vitality and dynamism of our economy as well.

We should not follow the Soviet example of draining the civilian sector in order to fatten the military. That way leads to a future of economic stagnation and military exhaustion.

The SALT II Treaty should build on this basic economic fact of life. It is in the overwhelming long-term interest of both the United States and the U.S.S.R. to reduced military spending. An alleged Arms Limitation Treaty that is associated with a massive military buildup is not only the supreme hypocrisy, it will increase the insecurity of both the United States and the U.S.S.R. It could lead to a likelier prospect of nuclear war, while it undermines our economy with an inflationary arms buildup.

Mr. President, yesterday the New York Times had a very thoughtful and perceptive editorial in commenting on the presentation by Dr. Kissinger to the Foreign Relations Committee with respect to SALT. I ask unanimous consent that that editorial be printed at this point in the Record.

There being no objection, the article was ordered to be printed int he Record, as follows:

A GLOOMY VOTE FOR SALT

In a narrow sense, Henry Kissinger's long-awaited testimony about SALT II will cheer the Carter Administration and help to resolve the quarrel over the pending arms treaty with the Soviet Union. The nation's most influential Republican and most widely respected voice in foreign affairs set a price for supporting the treaty that President Carter has already vowed to pay: an energetic buildup of both strategic and conventional military forces. Most deftly, the former Secretary of State threw his rhetoric to the Senate hawks but left the President the treaty bone.

In a deeper sense, however, Mr. Kissinger has stirred up a major new debate over the whole direction of American foreign policy since Vietnam. He condemned not only Mr. Carter's management of American weapons programs but also his reluctance to confront the Soviet Union in unstable regions like Africa and the Middle East. Mr. Kissinger sees the Russians on the march, not according to some master plan of conquest, but by exploiting weak nations and American unwillingness to defend its influence over them.

"If present trends continue," Mr. Kissinger says, "we face the chilling prospect of a world sliding gradually out of control, with our relative military power declining, with our economic lifeline vulnerable to black mail, with hostile forces growing more rapidly than our ability to deal with them and with fewer and fewer [nations] friendly to us surviving."

This gloomy vision deserves extended analysis lest it become the basic premise of a Presidential election campaign. For the moment, let it be noted that the Kissinger vision rests on the startling proposition that the safety of the United States requires it to "control" the world, or at least international events and alignments. Mr. Kissinger would use that supremacy to intervene wherever Soviet influence threatens to spread. He would give up even arms control negotiation until Moscow acquiesces in the present "geopolitical balance."

Mr. Kissinger was widely praised in the Senate Foreign Relations Committee yesterday for setting the arms treaty into the context of the "real world." No one, however, asked why the Soviet Union, which the former Secretary used to call the strategic equal of the United States, would permanently accept an unequal division of world influence. Nor was he asked what ever happened to the confidence that has animated this country over two decades of arms control negotiations: that if nuclear weapons can be contained, Americans need fear nothing in a vigorous, global competition against Russia's tired doctrines and bureaucracies.

Perhaps Mr. Kissinger meant only to say that the American people, too, have become soft and weary and can no longer be trusted to defend their vital interests. If their response to the oil shortage is any clue, he might even have a point. But even if that is so, it was not Moscow that designed the Saudi noose around American necks or that makes Japan a craven suitor for Arab favor. Rattling the Salt-cellar at Moscow will not solve the nation's central problem or resolve many of the other instabilities of international life.

Mr. Kissinger has shrewdly analyzed some Soviet strengths in the endless superpower competition, but he has compared them only with American weaknesses. Before we are all plunged further into bitter debate over remedies, it would be useful to agree on a definition of clear and present threats.

SUPPORT OF GENOCIDE CONVENTION SHOULD NOT BE IGNORED

Mr. PROXMIRE. Mr. President, in January 1967, I told my Senate colleagues that I intended "to speak day after day in this body to remind the Senate of our failure to act on several U.N. human rights treaties," especially on the ratification of the Genocide Convention. Since then, I have spoken daily, whenever the Senate has been in session, to urge ratification of this important treaty. Sadly, the status of the treaty remains today as it was in 1967—unratified.

Yet, during that time, support for the convention has proven susbtantial. Ratification of the treaty has been recommended by Presidents Johnson, Nixon, Ford, and Carter as it was by Presidents Truman, Eisenhower, and Kennedy before them. The Senate Committee on Foreign Relations has reported favorably on ratification of the treaty in 1970, 1971, and 1977—each time it has held hearings on the subject. And, in 1976, the American Bar Association House of Delegates voted overwhelmingly to recommend treaty ratification, thus joining dozens of other major organizations in calling for passage of the International Convention on the Prevention and Punishment of the Crime of Genocide.

I hope this call for action will be taken seriously.

Over the years my colleagues may have become accustomed to hearing myself and others speak of the atrocities of genocide, about the need for the Genocide Convention, and about the support for treaty ratification. Such familiarity may cause them to relegate the treaty to a position of less than major importance and to think of genocide as an issue which need not be seriously considered because it has been around for so many years and will be around for so many more.

Mr. President, I earnestly hope that this is not so. Ratification of the Genocide Convention is too important an issue to be ignored or put off. Thus, during the August recess, I implore my colleagues to earnestly review the treaty, the support it has received, and the importance of the problem. And I hope that soon after we return, I will be able to congratulate the Senate on finally ratifying the Genocide Convention.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, before the Senate goes into executive session, I ask unanimous consent that there be a brief period for the transaction of routine morning business, with Senators permitted to speak therein up to 5 minutes each, and that the period not extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there morning business?

CAREER FEDERAL EMPLOYEES ARE GOOD PEOPLE

Mr. HEFLIN. Mr. President, I rise to pay tribute to career Federal employees. Seldom do they receive a pat on the back. Most career Federal employees are hard working and dedicated. There are those who continue to do a great job in spite of many difficulties. I should like to illustrate this by picking out one to pay tribute to, because he is representative of many who serve effectively in spite of many adversities.

Charles B. Henckell is an Internal Revenue Service employee in the Birmingham District Director's office. He is an advisor reviewer in the collection division with his post of duty being Birmingham, Ala. In October of 1979, Charles will have completed 30 years of dedicated, faithful service with Internal Revenue Service.

Charles Henckell is a lifelong resident of Jefferson County. He was born in Birmingham, Ala., in 1922. He joined the U.S. Marine Corps in April of 1942 and received his commission as a second lieutenant in June of 1944. Charles was severely wounded in the chest in the battle for Okinawa in June of 1945. As a result of this wound he was hospitalized for approximately 16 months. He received his honorable discharge from the Marines in September of 1946. He eventually attained the rank of captain in the U.S. Marine Corps.

Charles received his B.S. degree in Economics from Howard College (now Samford University). In August of 1949 he married the former Mary Brooks of Birmingham. They now have two children; a daughter and son.

In 1949, Charles sought and secured a position with the Internal Revenue Service. After being employed, Charles attended night school at his own expense in order to better qualify himself to work in his chosen field within the Internal Revenue Service.

He began his career with the Internal Revenue Service in October of 1949 as a deputy collector. In 1951, Charles transferred to the intelligence division where he worked as a special agent until 1954. It was while working as a special agent that he attended Jones Law School in Montgomery, Ala., at night for approximately 3 years.

In 1954 Charles transferred to the audit division and worked for 1 year as an estate and gift tax examiner in Birmingham. In 1955, Charles transferred to the collection division where he served as chief special procedures staff until May of 1979.

This 23 years of continuous service as chief, special procedures staff, is by far longer than anyone else has served in this position in the history of the Internal Revenue Service. While serving in this position Charles received many commendations and awards for his excellent job performance. Some of these awards were an outstanding performance award and special achievement awards.

It was while serving as chief, special procedures staff, that Charles made many valuable and lasting contributions to the effective operation of the Internal Revenue Service. He has personally been involved with wage earner plans since 1956 and he has worked with the Federal courts in modifying Government procedures to better coordinate workable debtor plans.

Charles was also actively involved in developing new training materials to be used by the Internal Revenue Service on a nationwide basis in the training of employees who worked for the special procedures staff.

While serving as chief, special procedures staff, Charles was noted throughout the Birmingham district for his keen sense of responsibility to the Government, to work within the framework of the Internal Revenue Code, regulations, and procedures so that he resolved each problem fairly and objectively to the very best interest of his Government and the taxpayers he served.

An outstanding example of the effectiveness of Charles in resolving very complex and unusual tax problems was his involvement in a tax case in my home town, Tuscumbia, Ala., of which I have personal knowledge. The taxpayer, a family owned manufacturing corporation, had been assessed contested amounts of income and excise taxes and penalities totaling several millions of dollars. There was no way that this company could have paid these amounts and the amounts in fact were not agreed to and were the subject of active and continuing protests on the part of the taxpayer. The easy way out for the Government would have been to have sold the assets of the company and possibly realized something less than $1 million from such a forced sale.

Due in a large part to the good judgment and hard work of Charles, the Government and the company entered into a trust agreement and later a contract by which the taxpayer was able to remain in business in Tuscumbia, Ala. The result has been that taxpayer paid every penny of its contractual liability to the Government plus all of their current Federal income taxes on a timely basis. Thus the Government has received many, many millions of dollars in tax revenues that they otherwise would not have received and most important of all some 400 of my neighbors and friends have good jobs in Tuscumbia today with this company that they otherwise might very well not have, had the assets of the company been sold by the Government.

Charles has been hospitalized four times in the past 2 years. On three of these occasions Charles had surgery trying to correct some old nagging back problems. In spite of his very serious wounds and his current hospitalization, Charles has been able to accumulate approximately 1,600 hours of unused sick leave. This to me is tremendous evidence of Charles' keen sense of responsibility and his devotion to his job.

The Internal Revenue Service is to be commended for their active program of employing physically handicapped people and disabled American veterans such as Charles.

While we the taxpayers and citizens have been the principal beneficiaries of Charles B. Henckell's 30 years of devoted service with the Internal Revenue Service, we do not often stop to thank such honest and capable civil service employees for their years of faithful service.

I, for one, would like to take this opportunity to commend Charles B. Henckell and thank him for these years of service and extend to him my very best wishes for the years ahead.

Charles, thanks for a job well done.

Charles, you are representative of many career Federal employees.

ORDER FOR COMMITTEES TO HAVE UNTIL MIDNIGHT TO FILE REPORTS—S. 493

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Committees on Energy and Natural Resources; Commerce, Science and Transportation; and Foreign Relations, be given until midnight, August 2, to file their reports on S. 493, a bill to promote the orderly development of deep ocean mining.

THE PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

EXECUTIVE SESSION

The PRESIDING OFFICER. The Senate will now go into executive session to proceed to the consideration of the nomination of Robert N. Clement, to be a member of the Board of Directors of the Tennessee Valley Authority.

The Senate proceeded to the consideration of executive business.

TENNESSEE VALLEY AUTHORITY

The legislative clerk read the nomination of Robert N. Clement, of Tennessee, to be a member of the Board of Directors of the Tennessee Valley Authority.

The PRESIDING OFFICER. Under the previous order, time on the nomination is limited to 3 hours, to be equally divided and controlled by the Senator from Alabama (Mr. HEFLIN) and the Senator from West Virginia (Mr. RANDOLPH).

Mr. STAFFORD. Mr. President, I ask unanimous consent that the following staff members of the Committee on Environment and Public Works have the privilege of the floor during consideration and vote on the nomination of Robert Clement: Richard Harris, John Yago, Bailey Guard, Rick Herod, Jim Range, and Lee Miller.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. RANDOLPH. Mr. President, I yield myself such time as I may desire.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the Senate is today considering the nomination of Robert N. Clement of Tennessee to be a member of the Board of Directors of the Tennessee Valley Authority. The position for which Mr. Clement has been nominated by the President is the important third directorship for the authority. This position has been vacant for more than a year following the resignation of Don McBride. The nominee, if confirmed by the Senate, will be serving a term of less than 2 years.

Mr. Clement is a resident—in fact, his entire life has been spent as a citizen of the State of Tennessee. He has been very active. He has been involved in political life and many other activities of a public nature in his home State for approximately 6 years. During 1978, Mr. Clement was a candidate for the Democratic nomination for Governor. He was defeated by less than 30,000 votes. He also served a 6-year term as a member of the Tennessee Public Service Commission. His father, Frank Clement, was also a three-term Governor of the State of Tennessee.

Mr. Clement has had a career which apparently has made him knowledgeable about issues that will surface and be considered in his role with the Tennessee Valley Authority. There is a mission to that Authority to increase the economic development of the valley. That mission has certainly been one that commands the major attention given to power production for the region of seven States.

Mr. President, it is, perhaps, unnecessary, but I want to indicate for the record that at the time of the creation of the Tennessee Valley Authority, I was a member of the House of Representatives from the Second District of West Virginia. I am the only Member serving on the Hill, in either the Senate or the House, who had the opportunity to consider carefully the original Tennessee Valley Authority legislation and to support it. I remember, just as an aside, that the United Mine Workers of America were really very vigorous in their opposition to TVA. They felt that it posed a very real threat to the use of coal produced in West Virginia and other States in connection with our power needs. They came down heavy on me, which is not unusual, in many votes that I have had to make in either the Senate or House. But I believed then and I have believed through the years that the concept—the program—of the Tennessee Valley Authority has been very important, not only to the region but the Nation as a whole. I felt, and expressed it on many occasions, especially in the Senate, that TVA is to be a yardstick and not a walking stick to move throughout the country. The record indicates the position which I have taken on many occasions. I still have that concept of the Tennessee Valley Authority.

I believe that, during the hearing process on the nomination of Mr. Clement, there were—I want to use the word correctly—charges, there were allegations, there were representations made to the membership of the committee concerning the campaign of Mr. Clement for the Democratic nomination for Governor in Tennessee.

There were matters that were brought to our attention very forcefully in connection with the Campaign Financial Disclosure Act—not a national body, of course—operating under the Tennessee election process.

The issues which were brought to our attention in a very forceful and a forthright manner included whether this statute had been complied with in terms of filing dates, timely filing required in connection with post-primary election reports.

Another issue that was brought to the attention of the members of the committee concerned the completeness of those reports in the listing of the contributions made to Mr. Clement.

The members of our committee understood these charges and issues.

We wanted to check very carefully into the issues that had been brought to our attention, not brought in any cursory way, but what is a very determined effort by the able Senator from Alabama (Mr. HEFLIN).

So in an effort to provide for committee members what we believed would be adequate and correct information, investigators, two members of the Senate committee staff, did go to the State of Tennessee and talk with many of those individuals concerned directly or indirectly with the matters of the campaign and the raising of funds for Mr. Clement.

We tried, and I think we did it adequately, to give attention to the issues.

When our investigators visited Tennessee, it was disclosed to the representatives of our committee that certain discrepancies in the campaign disclosure documents of the Clement campaign were, let us say, available and knowledgeable and had been the source of study by authorities there.

We were told, however, that these matters were not of a nature so serious as to discredit or disqualify Mr. Clement for the position which the President has nominated him.

We had the opinion of the Attorney General of Tennessee, which was issued in connection with the Clement governorship race and various activities of the campaign. The holding of events for which contributions were made was discussed and the Attorney General said the campaign was a substantial compliance with the campaign laws within the State of Tennessee.

Each Member of the U.S. Senate has on his or her desk a printed copy of the Environment and Public Works Committee hearings, of our staff investigation, and the committee sessions held to consider the nomination.

I return to the vigorous presentation of the case against Mr. Clement by Senator HEFLIN, and I wish to say that when the Senator came to me as chairman of the committee, he asked for certain delays in connection with the formal hearing process within the committee.

I did not say to him that the hearings must be held on a certain day. I never indicated that we had to act on tomorrow, or in 2 or 3 days.

I am sure that he would concur with what I am now saying, that it was my feeling that he should have the opportunity, since he had requested it, to do further investigative work and to compile his case.

So I think, and I am not going to try to designate the number of days, but there was a second request, even when I went back, that we hold a hearing, and I believe that almost 3 weeks from the date of the first request to the chairman we had the hearing.

So there was not the desire within the committee to push the matter from the standpoint of moving without the Senator from Alabama having the adequate time which he needed in connection with the preparation of his case, from the standpoint of presentation to the committee.

During the hearings, the Senator from Alabama will recall I asked him to sit at the desk where the members of our committee sit, and he made what I consider a very searching question process of Mr. Clement.

I would not say that he was satisfied, and, certainly, as he comes here today, he is not satisfied with the answers of the nominee.

But there was that desire within our committee and its chairman to give to the Senator from Alabama that cooperation of the committee in delaying for a certain time the actual hearing and then to participate in the hearing process itself.

Then later, a considerable number of days, 23 to be exact, we gave the opportunity again to Senator HEFLIN.

He was joined on that occasion by his colleague from Alabama (Mr. STEWART) and they made presentations again, as they had earlier when we had the first day of hearing.

At that time, as earlier, the Senator from Tennessee (Mr. SASSER) had formally spoken in defense of Mr. Clement and had advocated that we approve and report to the Senate this nomination.

Based upon what we have felt is valid information, what we think is valid information, the nomination of Robert Clement was reported to the Senate, and we have it today before us, by a committee vote of 12 to 1. One member of our 14-member committee abstained from voting.

We believe, certainly we trust, that we considered this nomination carefully, as with other nominations that have come before us.

I say to all Members of the Senate that the nominations within the jurisdiction of this committee always have been given very careful study in the process of hearings, and then determination by the Members, by voting for a nominee or opposing him.

These matters have had our attention in a very sensitive manner—to use that word—because we are sensitive of the responsibility we have.

As Senator STAFFORD knows, we have returned two nominations for a directorship of the Tennessee Valley Authority, and partisanship has not surfaced whatsoever in the consideration of those who were nominated for this position.

I feel that the nomination should be approved. By a vote of 12 to 1, the committee members believe it should be approved. I recognize that we will have statements by perhaps one or more Senators who think otherwise. This is in the best tradition of the democratic process, not only with respect to legislation but also in the consideration of a nominee, even though his name is submitted to this body by the President of the United States.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. I yield 10 minutes to the Senator from Vermont.

Mr. STAFFORD. Mr. President, out of an abundance of bipartisanship with which we have approached this problem, I ask unanimous consent that I may yield briefly, without losing my right to the floor, to the distinguished Senator from Alabama (Mr. STEWART), so that he may make a statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEWART. Mr. President, I thank the Senator from Vermont for being very gracious in extending this privilege to me to make some brief remarks today with regard to this nomination.

Before I make my very brief statement, I say to the chairman of the committee and the ranking minority member, as well as the other members of the committee, that I deeply appreciate the time and attention they have given to this nomination and to me and to my colleague from Alabama in expressing our opposition to this nomination.

Mr. President, I oppose the nomination of Bob Clement to the Board of Directors of the Tennessee Valley Authority. While this matter may not seem as important as SALT II or the composition of the President's Cabinet, I can assure you that this nomination is uppermost in the minds of thousands of people in north Alabama. The power produced by the TVA is the life-blood of this region. It has transformed north Alabama from an ailing agricultural economy to a thriving, prosperous multifaceted economy. Thus, the people I represent have a vital interest in who runs the TVA and it is on their behalf that I join my colleague, Senator HEFLIN, today.

Mr. President, I have met in my office with Bob Clement and discussed his background and views. I have studied his record. I have questioned him before the Committee on Environment and Public Works. I have heard him questioned by others. I have discussed his credentials with Senator SASSER and with others. I have, in short, given thorough consideration to this nomination. After weighing all of the various factors, including the President's right to appoint people of his choosing, I have decided that I cannot support this nomination.

I oppose the nomination of Bob Clement for two primary reasons. First, Bob Clement has prejudged an issue that is vital to the people of northwest Alabama. Without taking the time to consider all of the facts, he took it upon himself to decide that the headquarters of TVA should be located in his home State of Tennessee instead of being located in Alabama, as is clearly and specifically provided by law. When the Congress established the TVA, it specified the location of the headquarters for a good reason. They found that the most economical location was in the northwest corner of Alabama, after a careful study of the situation. Yet, Bob Clement has decided, without a careful study, that Congress was wrong.

Mr. President, the issues facing the TVA, in this time of a severe energy crisis, are very complex. They will require careful reasoning. They cannot be solved by a person who makes snap judgments. If Bob Clement is willing to make a decision on the location of the headquarters of the TVA without deliberation, I am very concerned about whether he would do the same on other issues. When the TVA makes a billion dollar decision that impacts on the lives of millions of people in the States of the TVA, it should not have a board member who does not take the time to consider all the facts.

There is a second reason why I must oppose this nomination. Bob Clement does not have experience or expertise on the critical issues that face the TVA.

Though he does have experience on the Public Service Commission in Tennessee, he does not have any knowledge of electrical utility matters. He does not even have a basic knowledge of rate structures. Terms such as "marginal cost pricing," "time of day rates," or "lifeline rates." I do not suggest that everyone should be an expert in these matters. I do believe, however, that a person who will be running the largest electrical utility in the country should at least understand the concepts.

Mr. President, I have spent years working on the problem of electrical utility rates. I have worked on the problem both legislatively and in the courts. And, if there is one thing I have learned, it is that the providing of electricity is incredibly complex. It is not something that can be learned in a few days or even a few months. Rather, it takes years to master. I do not contend that Bob Clement would not learn. I am sure he is a very intelligent person. However, this term expires in less than 2 years. Bob Clement would not have time to learn what he needs to know.

And, a rate increase is likely from TVA within the next few months. There is no possible way that Bob Clement could learn enough to make an intelligent decision this fall. The people of the TVA cannot afford to have a person who makes an incorrect decision.

And, something else that disturbs me is that Bob Clement has not even started his learning process. Though he has known since February that he was the nominee to be on the Board of the TVA, Bob Clement has not taken the time to make even a rudimentary study of the problem of electrical utility rates, from the answers he gave to my questions, it appears that he has not read the first article or study on his critical issue. I am sure Bob Clement is a very busy man. But, I respectfully submit that if Bob Clement was truly serious about doing this job well, he would have taken at least some time to begin the long process of learning about the crucial issues that will face him if he is confirmed to serve on the Board of the TVA.

Mr. President, there are severe problems facing all energy producers, including TVA. These problems require exceptional leadership. Therefore, I respectfully suggest that this nomination should be judged by a high standard.

That standard demands that we have a person with a strong background in utility matters, a person who has the ability to carefully consider very complex issues and make reasoned judgments. When Bob Clement is measured against that standard, I do not believe he measures up. I therefore must oppose his nomination.

My opposition is based on the prejudgment by this nominee of a matter that is very important to the people of my State and very important, I think, to the people of the area that is served by TVA. It also is based on my serious concerns about the competence of this nominee in the area he is called upon to deal with.

I say this with all due respect to the members of the committee, who have been gracious to us throughout this proceeding. But I felt it my obligation, on behalf of the people of my State, to state my opposition, and I do so today, in accordance with the procedure I have indicated.

Mr. STAFFORD. Mr. President, I call the attention of the Members of the Senate to the fact that the total hearing record of the proceedings with respect to the nomination of Robert Clement to the Board of Directors of the TVA have been available to Members of the Senate, I believe, since last Friday, which has given Senators almost a week in which to examine the hearing record if they wished to do so.

Mr. President, the nomination of Robert N. Clement to the Board of Directors of the Tennessee Valley Authority received the same careful scrutiny by the Senate Committee on Environment and Public Works that has been received by those nominations over the last 4 years. This was well put by the distinguished chairman of the committee, Senator RANDOLPH, who has preceded me in speaking on this matter.

In those 4 years, the entire TVA Board has changed, and a substantial reorganization of the agency has been undertaken. Thus, the attention directed to those matters has been in keeping with the impact of the new leadership upon the programs and policies of the agency.

However, the Clement nomination placed an unusual burden on the committee because of allegations raised regarding deficiencies by Mr. Clement in filing campaign financial reports after his unsuccessful bid for the Democratic nomination for Governor of Tennessee in 1978. The matter of these campaign financial reports was pursued by opponents of the nomination with determination and with great ability. A careful and objective inquiry by our committee followed.

Immediately following our committee's hearing on June 26, Senator RANDOLPH, chairman of the committee, and I commissioned a thorough agenda for the inquiry. It required our staff to obtain information from the Senator from Alabama (Mr. HEFLIN), who had raised the allegations at the hearing.

Members of our staff were also required to obtain information and documents from the Tennessee State librarian, from the executive director of the Tennessee State Election Commission, and from the Tennessee attorney general and campaign officials.

In addition, Chairman RANDOLPH and I reviewed the FBI report done for the White House prior to the President's nomination of Mr. Clement to the TVA Board.

The inquiry developed clear information that leads to several conclusions.

First. The Clement campaign was in complete compliance with the important preelection disclosure requirements of the Tennessee law.

Second. The Clement campaign filed its postelection disclosures late, and in one instance failed to list and itemize contributions.

Third. After his election defeat in August 1978, Mr. Clement was unable to hold together an effective campaign staff, and his key staff members, including his State treasurer, became involved in other general election campaigns.

Fourth. The Tennessee campaign financial disclosure law, very recently adopted, is among the most burdensome in the Nation, particularly as regards postelection reports, and virtually no defeated candidate has been able to comply.

The attorney general of the State of Tennessee—and this Senator believes this to be important—the chief legal officer of the State and an official appointed by the State supreme court, reviewed the allegations raised during the Senate hearing and found the Clement campaign in compliance with preelection disclosure requirements and, despite minor and technical violations, to be in substantial compliance with the law for postelection disclosures.

The finding of Tennessee's top legal official on questions of Tennessee law carry weight with our committee.

The question which confronted our committee, and which now confronts the Senate, is how the allegations bear upon the qualifications of Mr. Clement to fill the position to which he has been nominated.

The Committee on Environment and Public Works received testimony at a hearing on June 26, received a briefing on July 11 from committee staff following its inquiry, and received detailed presentation of information from the Senator from Alabama (Mr. HEFLIN) on July 19.

After receiving and reviewing all of this information, the committee voted, 12 to 1, to report the nomination favorably.

Clearly the majority of the committee has concluded, as have I, that the technical violations of the post-election campaign disclosure laws were minor, and resulted from the disorganization that usually attends an election defeat, and that such violations were insufficient to find that Mr. Clement was not in substantial compliance with the law.

I find no basis for allegations that indicated that these matters impugn the character or ability of Robert N. Clement, and I recommend favorable action on his nomination to be a member of the TVA Board.

Mr. President, I yield back such of my time as I have not consumed.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. EXON). The Senator from West Virginia.

Mr. SASSER. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. I yield.

Mr. SASSER. Mr. President, I rise to support the nomination of Bob Clement to the Board of Directors of the Tennessee Valley Authority. I wish today to urge the Senate to confirm this nominee.

I also wish to commend the Environment and Public Works Committee and the distinguished chairman of that committee, the senior Senator from West Virginia, for the care and diligence with which he has approached this nomination.

Mr. President, I also wish to commend today the distinguished ranking minority member, Senator STAFFORD, of Vermont. I think that he has shown during the very, at times, difficult investigation and hearings great deference, and I think he has indicated a real willingness to work with this new man who I hope will be confirmed today to serve on the board of the Tennessee Valley Authority.

After lengthy hearings, which consumed many hours, and after extensive investigations, which have been detailed here by the distinguished chairman and the distinguished ranking minority member, the Committee on Environment and Public Works approved Bob Clement's nomination overwhelmingly by a vote of 12 to 1.

Mr. President, this today I think is a very important occasion. Mr. Clement's nomination and confirmation will mark the first time in more than a year that the TVA has had a full three-member board. I am pleased that we are on the verge of having a full board of directors.

The leadership positions of the Tennessee Valley Authority or any Government agency, for that matter, should be filled promptly, and I am sure that the confirmation of a third member of the Board will strengthen the Tennessee Valley Authority.

Mr. President, I believe that Bob Clement will bring to the Tennessee Valley Authority the right combination of experience, ability, and progressive ideas. He is uniquely qualified to sit as a member of the TVA Board.

Bob Clement is a member of a famous and distinguished family in my native State of Tennessee, and he and his family have had much to do with the development of the entire Tennessee Valley area.

As the distinguished Senator from West Virginia alluded to, Bob Clement's father, the late Tennessee Governor Frank Clement, was one of the most progressive and dynamic Governors in the history of the Tennessee Valley region.

Bob Clement has accomplished a great deal on his own. He has made his own mark. He is a young man, in his mid-thirties, and I must admire the contributions he has already made to the Nation, particularly in the field of utility regulation.

I believe that the Tennessee Valley and the Nation are most fortunate in having a proven leader like Bob Clement nominated for the Tennessee Valley Authority Board at this particular time, perhaps at the most crucial time in the history of the Tennessee Valley Authority.

Bob Clement is a mover, and he is a doer. He knows how to get things done, and he has the courage to stay the course, if the course is right, if it is just, if it is fair, and if it is equitable.

He is a problem-solver and not a procrastinator. And he is a decision-maker and not a game player. He is solid, he is sound, he is sensible, and he is a believer in practical solutions to complex problems. With all the problems and challenges that are facing the Tennessee Valley Authority and the Nation ahead today, we need his wisdom and the understanding of the people in the Tennessee Valley area, and Bob Clement's ability to solve problems, because TVA does indeed face fateful decisions and crucial roles in the years ahead.

Just a few weeks ago the President indicated that TVA should take a lead role in the development of solar energy. The President has previously indicated that he perceives TVA as this Nation's energy laboratory, and that indeed is a heavy responsibility in this day and time. And this is a role that must be reconciled with the TVA's primary mission of serving the economic needs of all of the people of the Tennessee Valley area.

Many issues stir in the shadows and others are already out in the open. What is to be the future rate policy of the Tennessee Valley Authority? What about special rates for the poor, the old, the infirm, and the incapacitated? Are these feasible or are they practical?

If they are feasible and practical who is going to pay for them? What about the utilization of coal, the continued utilization of coal for the Tennessee Valley Authority? Where does TVA fit into the national picture with the objective of expanding and finding new uses and new technologies for coal?

What about the role of nuclear power in our future? Will it prove economic and safe in the long run? Should all of TVA's eggs be placed in a nuclear basket, or should different types of power generation be utilized?

These are issues that can challenge the TVA Board to its very core.

So, I am glad that the President saw fit to nominate a man of Bob Clement's caliber. I am proud to have had a part and played a role in recommending Bob Clement, and I am confident that he will be one of the great Directors of the Tennessee Valley Authority.

I believe he will be a man of our time in the Tennessee Valley area, a man capable of addressing and solving the problems of our economy, working with the distinguished board chairman, David Freeman, and with the other competent and capable Director, Richard Freeman, both of whom are extremely competent and able individuals.

I believe these three men will make a fine team that will be hard to beat, a team that will lead the agency over its hurdles to a new destiny and a new day that will better serve the future needs of the people of the Tennessee Valley area.

Bob Clement has served as a member of the Tennessee Public Service Commission for the last 6 years. For the last 2 years, he has been the chairman of that regulatory authority.

During his tenure, Bob Clement has earned the deserved reputation as a consumer advocate. Bob Clement did not approach his decisions on the public service commission on the basis of what was popular. He approached his decisions on the basis of what was right. I do not believe that any utility company that has appeared before the public service commission in the State of Tennessee in recent years would say that Bob Clement's decisions were unfair or that they were unjust.

While Bob Clement served on the public service commission, if my memory serves me correctly, decisions of that body were never overturned when subjected to judicial review.

Bob Clement has distinguished himself as a national leader in the regulatory field. He has been active in the National Association of Regulatory Utility Commissioners, and has served as Chairman of the ad hoc Presidential Advisory Committee on Energy. This Committee made recommendations to President Carter regarding this Nation's future energy policies.

Bob Clement is also a businessman. He holds a master's degree in business administration and has headed his own business. He served in the U.S. Army, and continues to hold the commission of captain in the Army National Guard.

I believe that Bob Clement will make an excellent member of the TVA Board. His broad experience, particularly in the field of regulation, will be of benefit as a member of the TVA leadership team.

I am convinced he will carry out his duties in a manner that is fair to all the Tennessee Valley States. He understands the national importance of the TVA as a vital research center which has a critical responsibility in finding answers to our complex energy problems.

So, Mr. President, I today endorse Bob Clement, and I am pleased to recommend him to my colleagues in the U.S. Senate. I am convinced he will be a valued and an important member of the TVA Board, and I think he is in a position to make a substantial contribution to his region and also to his Nation.

I thank the distinguished chairman for yielding to me.

Mr. RANDOLPH. Mr. President, we have no further requests just at this time. We do know that Senator BAKER wishes to speak, and yet if he is not available, I am sure the Senator from Alabama (Mr. HEFLIN) would, perhaps, want to take some time.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. I thank the Chair. I appreciate the courtesy of the chairman of the Environment and Public Works Committee, the distinguished Senator from West Virginia (Mr. RANDOLPH), in allowing me to go ahead, this being a day we want to move as expeditiously as we can because we are nearing the August recess.

I suppose that in the history of TVA the name of David Lilienthal stands out as being one of its foremost leaders, if not its foremost leader. He wrote a book entitled "TVA: Democracy on the March," and in that book this statement appears:

> Congress itself determined to keep its kind of politics out of TVA's technical ad-

> ministration. It was, in turn, our responsibility as administrators to keep TVA out of political matters.

Then he added this statement:

> TVA, if it were politically managed, could become a curse to this valley.

Mr. Lilienthal was a wise and farseeing man. He knew how important it was to protect the TVA Board from being abused and undermined by a politically ambitious person.

Mr. Lilienthal's admonition is no less true today.

I think it would be wise to go back and look at the history of TVA. For many years the Tennessee River was looked upon as having great potential. That region was looked upon as being, perhaps, a region that could grow and prosper. In World War II, construction on Wilson Dam was begun at Muscle Shoals. Two nitrate plants were built there to provide nitrate for munitions in World War II, but Wilson Dam was not completed.

Following World War II there were efforts to complete Wilson Dam. Henry Ford came to that area and said, "Let me complete Wilson Dam and buy the nitrate plants, and I will build a city on the banks of the Tennessee River 70 miles in length."

Congress did not take Henry Ford's offer. Henry Ford went back to Dearborn, Mich., and I think you know the rest of the story.

I point that out to illustrate the fact that this region has been recognized as having great potential and is, of course, very important to our Nation.

TVA was created in the first year of Roosevelt's first administration. It was determined that the management of TVA would be vested in three Directors, and that they would be given 9-year terms, and those terms would be staggered. I point out that 9 years was two Presidential terms plus 1 year. No President had ever served more than two terms at the time TVA was organized and authorized.

TVA is a region of seven States which the Tennessee River touches or vitally affects. As the distinguished Senator from West Virginia said, it was built as a yardstick for the utilities of this Nation to observe, for the people to observe, for Congress to observe. It has served that purpose and has not turned out to be a walking stick, as the distinguished Senator from West Virginia has mentioned today and on previous occasions in this Chamber.

Let us look at Bob Clement's background. He is a young man, I would say approximately 35 years of age, maybe younger. He was elected in 1972 to the Tennessee Public Service Commission. At the time he ran for Governor in 1978 he was president of the Tennessee Public Service Commission, which is the utility-regulating body of that State.

He ran for Governor and, as has been pointed out here, lacked less than 30,000 votes from winning the Democratic nomination on August 3, 1978 in Tennessee. He was defeated by a man named Jake Butcher, who was the Democratic nominee, who lost in the general election in 1978 to the present incumbent Governor, Lamar Alexander.

Since that time on many occasions there have been many projections and predictions that Bob Clement would run for Governor in 1982. Even after he was nominated for the TVA Board of Directors, he has repeatedly made statements that he was not closing any political doors or any political options. I do not think there is any question but that Bob Clement will be running for political office, probably for Governor of Tennessee in 1982.

Now, when a person who is going to run for Governor of one of the States in a seven-State region, a question immediately arises whether the words of David Lilienthal and the intent of Congress will be complied with or whether TVA will be politically managed and whether it will become a curse to the Valley.

Newspapers in Tennessee immediately recognized this potential problem. Editorials appeared in numerous Tennessee papers which questioned the choice of Bob Clement for the TVA Board of Directors. An editorial appeared in the Jackson, Tenn., Sun on February 9, immediately following the public announcement, and the Memphis Commercial Appeal came forward with an editorial strongly questioning the wisdom of his nomination. The Chattanooga, Tenn., Times on February 11 raised this issue.

Shortly after Mr. Clement was nominated, he was asked a question about the location of the headquarters of TVA.

The TVA Act, passed in the first term of the administration of Franklin Roosevelt, recites that the headquarters shall be located in the vicinity of Muscle Shoals, Ala. The act provided that homes for the three Directors would be provided in the Muscle Shoals area. It provided that the U.S. District Court for the Northern District of Alabama would have venue for TVA's corporate suits brought by or against the TVA.

A lawsuit was filed about 2 or 3 years ago, and a decision by the U.S. District Judge was entered—I do not remember the exact date, but approximately December of last year—which ordered the TVA headquarters to be moved from Knoxville, Tenn., to Muscle Shoals, Ala. That, of course, is now on appeal.

But after the nomination of Bob Clement, he was asked about this issue: "What do you think of the movement of the headquarters from Knoxville to Muscle Shoals?"

At that particular time he was quoted by a newspaper as saying that he was going to do everything he could to prevent it, and "No, and hell, no, we are not going to move it."

That raises a legitimate issue between States in the seven-State TVA area. It raises a legitimate issue of whether a person who will assume a leadership role in the decisionmaking process of the TVA has prejudged an issue without having had the benefit of studying the statute or the decision of the court. It also raises the issue whether this man will follow the decisions of the courts of this land.

The matter of prejudging this issue was such that we felt that he should recuse himself from this issue; but, as a politician who is running for office, he made the decision, "No, I will not recuse myself from that issue."

"Recusing" is a judicial term. When a judge publicly announces that he has pre-formed an opinion about a case, then he is required to recuse—to remove himself from the consideration of that case. Mr. Clement should have done that with regard to the TVA headquarters issue.

There are other issues that arise between the seven States. Let us assume, for example, that a person is running for the governorship of Kentucky, and an issue comes up relative to Tennessee and Kentucky. If that person is running for office, you can be 100 percent sure that he is going to have his home State bias in determining those vital issues that may come up between the States.

We in Alabama feel that the fact that a person is a politician who is actively seeking a political office is grounds for the Senate to refuse to confirm his nomination. We feel, under the theory that TVA was to be nonpolitical, nonpartisan, that unless Bob Clement removes himself as being a candidate for the governorship in 1982, the Senate should not confirm him.

In addition to these reasons, we looked into the Tennessee election law, and we found that it has many similarities to the Federal election laws which control the election of Members of Congress and the U.S. Senate. However, it is not nearly as complicated.

It has a requirement that if you end up with a campaign debt, you have to make postelection reports that disclose your contributors and disclose your expenditures. Any craftsman of legislation realizes that this is important, because many people could delay the receipt of contributions until after an election. They could delay the expenditure of money, the writing of checks, until afterwards. Therefore, many, many violations could occur and there would be no disclosure to the public.

So postelection reporting, or postelection disclosure of financial matters, is most important if you are going to have any disclosure laws at all. Otherwise, they can be circumvented.

Now, Clement, by his own testimony says he ended up the August 3, 1978 election campaign with a debt of about $200,000. He testified that he raised $136,000 at a single fund raiser at Gallatin, Tenn., at the home of Kip Candill. Well, I might say that that is a most remarkable feat, to raise $136,000 at a single fund raiser. It is a most remarkable feat for a defeated candidate to raise $136,000 at all. The question arises, how did he do it? What deals were made?

He testified that he raised a total of around $160,000, and he testified that his debt is probably less than $20,000 today.

Now let us look at the requirements of the Tennessee law.

It has been brought out by previous speeches on this floor today that he complied with his preelection disclosure reporting, or the requirements of that reporting. Following the election, there was a report filed, which was due to be filed on September 5, which was filed 1 day late. That was, I suppose, on the face of it, in proper form, and was properly filed. Under Tennessee law, he was required to file a report 30 days later, on October 5, 1978. Then under Tennessee law he would have been required to file a report on December 5, 1978, one on February 5, 1979, another one on April 5, 1979, and another one on June 5, 1979.

He was required to file at two places, the Tennessee Archives and Library, which is the primary filing place, and the State election commission, which was a secondary filing place.

On these dates during this period, where one, two, three, four, five, six reports were required, he filed only one.

The report, due on October 5, 1978, was filed more than 40 days late.

When he filed it, he took it to the Tennessee Archives and Library Department and said in effect, "Here is my report. I am a little late—40 days.

They looked at it and they gave it back to him. They may have done it through the mail. I am speaking figuratively now as I do not know how it was done. They gave it back to him and said, in effect, "This report is unacceptable. Yes, you have listed your expenditures, but you have not listed one single cent of contributions."

Bear in mind that during that time, according to his own testimony, on September 17, 1978, he raised $136,000 at one fund raiser, and that was due to be reported. No mention was made whatsoever of any contribution on that November 17, 1978, report.

The next time that he filed a report is the day before he testified before the Environment and Public Works Committee on June 26, 1979. At that time he listed the Kip Caudill fundraiser in a lump sum and put it under the column of contributions of $100 or more. The law and the instruction on the form says to list names, addresses, and amounts, for contributions of more than $100.

He did not list names, addresses, or individual amounts, but listed it as a lump sum under that one column.

The form is rather simple. The first page is an oath. The second page is contributions of more than $100 in one column and the other column expenditures of more than $100. The third page is contributions of $100 or less and expenditures of $100 or less. On that third page you can list contributions of less than $100 in the aggregate, rather than itemizing them.

Mr. Clement came before the committee and acknowledged his debt. He acknowledged that he had filed these returns and told us, because we would never have known if it had not been for him, that the Tennessee Library and Archives Department gave back his form to him and said, "It is unacceptable. You have not listed. Correct it and give it back to us."

For 7 months thereafter he did not do it. I would imagine what would have happened if a U.S. Senator or a person who was defeated for the U.S. Senate had not timely filed his FEC report and had, for 7 months after notice, willfully and purposely and intentionally made a conscious decision not to comply with the directions of an election official.

Then the investigation started. Back in Tennessee. The Attorney General decides to write a letter to say that in spite of all of these "technical" violations, Mr. Clement was in substantial compliance of the Tennessee Election laws. But the Attorney General must have looked at the form and said, "Well, here, you have Kip Caudill's fundraiser of $136,000 and you have it under the category of contributions of $100 or more. But you have not itemized. You have not put their names down. You have not put their addresses down. You have not put the amounts of those contributors who gave you that $136,000 at that one fundraiser."

So an affidavit is filed with the Tennessee authorities sworn to by the Treasurer and Bob Clement pertaining to that fundraiser. The affidavit appears in the record on page 158, as follows:

> We, the undersigned, do make oath, based upon the best of our information, knowledge, and belief, that at the Kip Caudill Fund Raiser event held in September 1978 to enable Bob Clement to pay campaign indebtedness, there was in attendance approximately 750 to 1,000 persons. Tickets for this event were sold for $100 per person, and the receipts of these ticket sales were collected before the event, during the day of the event, and for several days thereafter.

And then these words:

> No one person contributed more than $100.

It is inconceivable to me that at a fundraiser where you raise $136,000, where the use of tickets is employed at $100 per ticket, that that amount of money can be raised without some person, individual, PAC, or other organization giving more than $100 and buying more than one ticket.

But let us go back and look at his testimony. He testified at the hearing before making the affidavit. That affidavit is dated July 3, 1979. What did he testify to before the committee? On page 23 at the bottom of the page, the question is asked by me:

> That fundraiser at Gallatin, Tennessee, at which you raised $136,000, you would say there are many of those contributors who gave you more than $100, would you not, sir?
>
> Mr. Clement. Some gave us more than $100. Some gave us less than $100.

Clearly, that is a contradiction between the testimony before the committee as to whether or not some gave more than $100 out of that $136,000, and the affidavit that he executed, in order to persuade the Attorney General to issue a substantial compliance letter, where he said, "No person gave us more than $100."

In the hearing before the committee hearing we made several requests. We wanted Mr. Clement to come back and answer questions. It is my understanding that he did come back, that he went around to see individual Senators. But he has never appeared to answer questions or to be cross-examined. We felt like the records of his bank account, that is, his campaign bank account, or bank accounts, should be investigated. We felt like the deposit slips from around September 17, the time of the Kip Caudill fundraiser ought to be examined, that the photostatic copies of checks that entered into the campaign bank account or those bank accounts should be obtained. It would be most interesting to observe if one of those checks came up "$1,000, 10 tickets."

For some reason, the details of that fundraiser are being hidden and Mr. Clement is willing to go to every extent possible, including the execution of a sworn affidavit that no one contributed more than $100, in order not to disclose the names, the addresses, and the amounts of the contributors to that fundraiser, at which $136,000 was raised.

There are many unexplained clouds in this case. There is the cloud of possible perjury, there is the cloud of a possible false report being filed on November 17, 1978, the possibility of a false oath then being made, not by Mr. Clement but by a treasurer—all sorts of issues.

I do not want to take a long time in presenting this, but I do want to point out one or two interesting facts.

Mr. Clement's defenses were, first, that he did not have any staff. But it was unusual to find that when he did file on June 25, the day before the testimony, when he testified here before the committee that he did not have any staff to fill out the forms and that is why he was late, when he did file on the 25th, we found that there were five pages of contributors—they were not at the Kip Caudill, but otherwise—that were listed, and he Xeroxed them. They were on "Clement for Governor" stationery, and down at the bottom was a little notation "Letters done October 4, 1978." The day before a report was originally due, October 5, 1979, he had staff to write thank-you letters to those people who contributed.

Looking at the report, the exhibit that he filed on his June 25 list was composed of 8 pages of contributors, a mere 78 names. No staff? It would probably have taken them no more than 4 hours to have filled out the report or to have prepared the report that was filed on June 25.

He raises the defense that he had appointed a new treasurer after the election. Well, that is true. He appointed, on September 26, 1978, a new treasurer. Again, I point out that the report that he filed on June 25, if that is a correct report, took very little time to fill out for that. It is interesting to note that the photostatic copies of the sheets of paper attached to his exhibit to itemize the contributors had on them, "Campaign Deposits." So they did keep records on that and the new treasurer knew how to do that.

Mr. Clement's third defense was that he had acted on the advice of counsel. Well, the counsel says that there is a little provision in the law that says, under the definition of contributions, that it means money given to influence an election, or words to that effect. The same thing appears as to the definition of expenditures. Yet, on the November

17, 1978, return, they itemized and listed the expenditures. Three code sections specifically pertain to post-election returns. There is no question that it is a matter of law that you are required to look at the overall statute in regard to interpretation. You take every word and meaning and find out what the true intent is.

I do not believe there is any real validity to a strained interpretation of the word, "contributions," so as to try to defeat the fact that money collected to pay campaign debts must be reported. Besides, there are Tennessee cases stating that advice of counsel is not a defense for a person.

I point out that he apparently did not follow the advice of counsel when he filed his June 25, 1979, return, since he did list contributions on that report.

The attorney general's position is that Mr. Clement was in substantial compliance. I challenge anybody to look at the letter that the attorney general wrote and see if he addressed the two major issues: The issue of whether or not the November 17, 1978, return was a false return and whether a false oath was made—no mention whatsoever is made of this issue.

The attorney general does not address the issue in regard to the matter of the Tennessee Library and Archives Department giving him back the form and saying, "It is unacceptable; fill it out, list your contributors, and then return it to us." This is at least evidence of a willful violation of the Tennessee law.

Besides, we researched the law of Tennessee on substantial compliance and other than something like 4 or 5 days late, there has been no court decision supporting the Tennessee attorney general. We researched the law in regard to the country as a whole. After you get over about 10 days late, you can find no decision saying that a late compliance comprises substantial compliance. Certainly, one who is 7 months late could not be in substantial compliance.

Mr. President, I wish to conclude with my floor statement. It contains verbatim sections of the Tennessee code pointing out violations, the exact editorials that appeared in the Tennessee newspapers, and other matters.

Mr. President, I oppose the confirmation of Mr. Robert N. Clement to be a Director of the Tennessee Valley Authority for reasons I shall endeavor to set out in clear detail.

Mr. President, TVA is at a critical juncture in its history. Rapidly escalating energy costs, rising construction and interest costs, concern over conservation and environmental protection, and the need to develop new technologies and sources of energy, makes the immediate years ahead all important for TVA and its role to enhance the economic well being of the people of the region. The manner in which the TVA management deals with these problems during this critical period can and likely will determine the usefulness of this agency to the people in portions of the seven States served by the agency.

The vacancy on the TVA Board must be filled by a person with unflagging belief and loyalty to the concept of unified development. He must have the enthusiasm and the resolve to fully commit himself to the task of defending and explaining TVA's actions and to constructively advocate change and reform where necessary.

Above all, a TVA director must be an individual with high qualities of statesmanship and unquestionable personal rectitude.

When the TVA was created, it was felt that the three directors should approach their duties in a nonpartisan and nonpolitical manner. Thus, the directors were given 9-year staggered terms. At that time in history, I doubt if there were any other posts outside the judiciary that had longer terms. Even today there are few positions that have longer terms.

The TVA law does contain a specific provision concerning the consideration of political factors in the TVA selection of TVA personnel. Section 6 of the act states that:

> In the appointment of officials and the selection of employees for said Corporation, and in the promotion of such employees or officials, no political test or qualification shall be permitted or given consideration. . . Any member of said board who is found by the President of the United States to be guilty of a violation of this section shall be removed from office by the President. . .

Although this inhibition against politics seemingly relates to TVA employees, the spirit and intent of the act mandates that TVA Board members should be completely devoid of politics while on the Board. This requirement is given special credence and emphasis by former TVA Board Chairman David Lilienthal in his magnificent book "TVA-Democracy on the March" when he wrote:

> Congress itself determined to keep its kind of politics out of TVA's technical administration. It was, in turn, our responsibility as administrators to keep TVA out of political matters. . . TVA, if it were politically managed, could become a curse to this valley (emphasis supplied).

Mr. Lilienthal was a wise and far-seeing man. He knew how important it was to protect the TVA Board from being abused and undermined by a politically ambitious member. Mr. Lilienthal's admonition is no less true today.

Mr. President, one of the real questions facing the Senate in considering the nomination of Mr. Clement is whether TVA Board membership should be used as a steppingstone for elected political office.

When the President announced his intention to appoint Mr. Clement to the TVA Board in February of this year, I and many fellow Alabamians had great misgivings. It seemed to us highly unlikely that a man who had run twice for public office could possibly divorce himself from the political arena and spotlight. Our fears were intensified by an article appearing in the Memphis Commercial Appeal on February 10 regarding an interview with Mr. Clement which contained the following question to him:

> "Q.—Can TVA be a springboard to another office or should it?
>
> A.—I don't know. I don't think it ever has been in the past. I'm not sure the Public Service Commission was either. Even though I thought it was going to be."

This statement came after the White House announced on February 8 that the President would nominate Mr. Clement to the TVA Board. On February 12, Mr. Clement met with the President regarding his nomination. In the February 13 edition of the Knoxville News-Sentinel, Mr. Clark Reid made the following report:

> While emphasizing he would strive to be non-political as a TVA board member, Clement said that he "is not closing any doors or options" to the future, a reference to a possible run for political office again sometime in the future.

Because of our concern that the TVA Board might be brought within the sphere of politics, the entire nine-member Alabama congressional delegation wrote the President on March 29, 1979, requesting him to delay sending the nomination of Mr. Clement until we could satisfy ourselves that he did not intend to use the office as a springboard to another political office and could determine his feelings toward the portion of Alabama served by TVA. A copy of our letter is in the committee report on this nomination.

On April 3, the Alabama delegation received an acknowledgement from Frank Moore, the President's Chief Congressional Assistant, advising us the President had been advised of our request and that our letter had been sent to Arnold Miller, Director of the Office of Presidential Personnel, for direct attention.

Aside from this acknowledgment, our entreaty to the President went unheeded. We heard nothing else from the White House, and the next word I received about the matter was when my office was phoned by a wire service reporter wanting my reaction to the forwarding of the nomination of Bob Clement to the Senate. In short, our request was completely ignored. Had the White House honored our request, consulted with us about our concerns, and waited for our investigation, it is likely that Mr. Clement's nomination would not be pending here today.

Our fear that Mr. Clement might use TVA as a vehicle for another political office is also shared in his home State of Tennessee. I should like to read an editorial entitled "Clement, politico, not for TVA board" which appeared in the Jackson (Tenn.) Sun of February 9, 1979.

> Bob Clement is President Carter's nominee for the remaining vacancy on the three-man board of directors for the Tennessee Valley Authority, according to reports in Washington.
>
> Clement is a Tennessean, a former state Public Service Commissioner and a once-defeated but clearly not undaunted candidate for Tennessee governor. He's a talented politician and a strong candidate for any of a number of elected offices. But he's a bad candidate for the TVA board.
>
> In his two years as a chairman of the state public service commission, Clement showed us why an ambitious politician makes a poor utility regulator . . .
>
> As a result, the Public Service Commission abdicated its responsibility to make hard-headed economic decisions, leaving that difficult task to the Chancery Court of Davidson County. The expensive bureaucracy of the PSC failed in its basic task because

> Clement was more interested in running for governor than in setting rates.
>
> Such minor schenanigans at the PSC could cause havoc at TVA. The latter is an enormous enterprise, which not only sets rates but actually provides power in a seven-state region. Congress wisely provided that the three people who run TVA be appointed, not elected officials. That was precisely to insulate them from political buffeting, to let them make the sometimes unpopular choices needed to keep the big utility in business.
>
> An ambitious politician like Bob Clement clearly isn't interested in making unpopular decisions. At TVA, an attitude like his could be catastrophic.
>
> President Carter has already made two outstanding appointments to the TVA board. Chairman David Freeman is a forward-thinking engineer and his colleague Richard Freeman has a strong record as a business administrator. Both are lawyers, as well.
>
> TVA's customers would be far better off with a third commissioner picked for his technical competence. Politics is a useful process, but not in the administration of TVA.
>
> And there are better jobs for Bob Clement, who'd be a fine candidate for a more properly political post.

I also quote a portion of an editorial from the February 10 edition of the Memphis (Tenn.) Commercial Appeal:

> It's a political tradition for high-ranking elected officials to find jobs for unsuccessful candidates, especially those who tried to carry the party's banner to such high estate as a governorship. The jobs generally are well-paying and permit the loser to lick his wounds, regroup his supporters and lay plans for another campaign.
>
> But the board of the Tennessee Valley Authority should not be such a honey hole.
>
> Bob Clement, who failed last year in his bid to become governor of Tennessee, will have some tough questions to answer when he's nominated for the final TVA vacancy by President Carter . . . Clement's background as a Tennessean who knows about political infighting—a man of the valley—and his record of public service speak favorably for him. If he receives the post, TVA customers would look to him to represent their interests above all else. There's no indication that he wouldn't. But Clement hasn't answered all the questions yet. He hasn't made clear his own views about the role of public power in regional development or the issues that will face TVA in the near future. And he hasn't removed all doubts about whether he's drawn to the honey or to the job.

The following editorial observation was made in the Chattanooga (Tenn.) Times of February 11, 1979:

> Bob Clement's selection by President Carter as a member of the TVA board of directors will come as a surprise to most Tennesseans. His name had not been widely mentioned, much less given the status of a serious contender, until the very recent past . . .
>
> He comes from a family long dedicated to politics in the purest sense, and especially to the service of the Democratic party and its nominees. His father, the late Frank Clement, was a three-term governor of the state; his aunt, Annabelle Clement O'Brien, is a political force in her own right as a state senator.
>
> We are uncertain about Mr. Clement's other qualifications for the tremendously important post for which his name will go to the Senate for confirmation . . ."

Finally, Mr. President, I should like to read a short, but highly significant, editorial from the May 31, 1979, issue of the Knoxville, Tenn., Journal entitled "Political Office?"

> There is supposed to be a tradition that directors of the Tennessee Valley Authority are more than mere politicians, but men of sound judgment, practical experience and sincere concern for the public interest. We know, of course, that sometimes the criterion is not followed.
>
> It is to be regretted that Bob Clement, the President's nominee for a vacancy on the TVA board, appears to be regarding the appointment more as a political stepping-stone than as an opportunity for useful public service. He is showing no disposition to divorce partisan politics from the office.
>
> Witness his serving a few days ago as a chairman of a Democrat Party fund-raising dinner. That was his right, to be sure, but hardly a proper action for a TVA director. Had he circumspectly declined the assignment there would have been no cause of criticism.

TVA does not need a self-promoter on its Board of Directors. The agency's problems cannot be solved by the appointment of a director whose decisions will be influenced by political expediency, rather than careful and reasoned judgments and the courage to stand by them. TVA's mission is far too important and its problems are far too great to be dealt with in such a manner.

The March 29 letter to the President was also prompted by the Alabama delegation's desire to determine Mr. Clement's views regarding the Alabama portion of the TVA service area.

The location of the headquarters of TVA is a volatile issue at this time. We of Alabama have always felt the law clearly mandated that TVA headquarters be located in the vicinity of Muscle Shoals, Ala. In fact, the record will show that on several occasions the TVA Board of Directors formally decided to relocate the headquarters from its "temporary" site in Knoxville, Tenn., to Muscle Shoals, but for several reasons the transfer never became a reality.

On January 25 of this year, a Federal court determined that Congress intended the primary administrative and operational headquarters of TVA to be located in the Muscle Shoals area. While the order of the court was welcomed by the citizens of Alabama, it was severely criticized by many Tennesseans and understandably so. One of those opposed to the order of the court was Mr. Clement.

The hostility of Mr. Clement relative to the transfer of the TVA headquarters is no secret. Almost everyone in Alabama and Tennessee can speak ex cathedra on his position. He has expressed his sentiments at the White House, at the initial hearing on his nomination, and in public print. For example, I quote from an article from the Florence (Ala.) Times of May 17:

> Ignoring the wishes of the Alabama Congressional delegation, President Jimmy Carter Wednesday submitted the nomination of Bob Clement to be a member of the Tennessee Valley Authority board.
>
> The nomination drew instant support from members of the Tennessee delegation and expressions of disappointment from Alabama.
>
> Clement, a son of a one-time governor of the state, has gone on record as opposing the move of TVA's headquarters from Knoxville to Muscle Shoals. He has also refused to pledge or refrain from further political races in Tennessee, or to serve out his full term on the board.
>
> At one point he was quoted as saying he would not move from Nashville to Knoxville if he were named to the board. At another point, when asked if he would favor the transfer of the headquarters as specified by the TVA act he was quoted as *"no and hell no"* (emphasis added).

This brings us to the crux of another objection and concern I have to Mr. Clement's nomination. It is my feeling that a prospective Board member who has prejudiced any issue which might come before the TVA Board and adversely affect a given State in the TVA service area should not be confirmed unless he agrees to recuse himself from considering those issues where legitimate State interests are in conflict.

Mr. Clement's already announced pledge to work as a member of the TVA Board to keep the agency's headquarters in Knoxville can only be interpreted as a bias against the interests of the people of Alabama and a bias in favor of the interests of the people of Tennessee. This intransigence is also indicative of how he will treat other issues coming before the Board where the legitimate interests of other States in the TVA region are involved.

There is nothing hypothetical as to where the sympathies of Mr. Clement will lie on such issues and to me his partisan stance is profoundly shocking.

I should like to point out that in the near future the TVA Board must make a decision concerning the location of a multimillion dollar coal gasification plant. the citizens of the States of Alabama, Tennessee, and Kentucky, and possibly other States in the TVA service area, have a deep and legitimate interest in seeing this facility located in their respective State. In addition, while serving on the Board, Mr. Clement likely could be confronted with the knotty and highly emotional issue relative to the locations of sites for the storage of spent nuclear fuel.

I venture to suggest, Mr. President, that had Mr. Clement prejudged these issues by declaring that he was going to work to locate the coal gasification plant in Tennessee to the exclusion of Alabama and Kentucky or that he favored dumping nuclear waste material in any State in the TVA region but Tennessee, the Senators from those respective States would be at this hearing table today to register their disagreements with Mr. Clement's pronouncements.

Frankly, given Mr. Clement's previous statements about the TVA headquarters issue and his refusal to remove himself from the Tennessee gubernatorial race in 1982, I do not see how he can possibly serve without prejudice toward those portions of the TVA region that lie outside the geographical boundaries of the State of Tennessee.

NONCOMPLIANCE WITH TENNESSEE ELECTION LAWS FACTS

Mr. President, Bob Clement, while serving as president of the Tennessee Public Service Commission, was an unsuccessful candidate for the Democratic nomination for the office of Governor of

Tennessee during 1978. The election in which Mr. Clement was defeated was held on August 3, 1978. After the election Mr. Clement continued to serve out the remainder of his term on the Tennessee Public Service Commission. He was subsequently nominated by the President to be a Director of the Tennessee Valley Authority to fill out an unexpired term which would end in 1978.

The Tennessee elections laws mandate that candidates for office disclose their financial transactions both before and after the election. Mr. Clement apparently complied with the preelection reporting requirements but his postelection reporting raises many questions. The Tennessee law requires an initial postelection report 30 days after the election, the next, 30 days later, if surplus contributions are on hand or debt remains unpaid, and every 60 days thereafter until the accounts are zeroed out. After his unsuccessful campaign, Mr. Clement's campaign was approximately $200,000 in debt and is currently still in debt in the amount of either $20,000 or $11,000 or $130,000 depending on different figures involved or different statements made.

Mr. Clement raised substantial sums of money after the election, at least $136,000 of which was raised with one fundraising event at the home of Kip Caudill at Gallatin, Tenn., on September 17, 1978. Mr. Clement testified before the Senate Committee on Public Works on June 26, 1979, that some persons contributed more than $100 to that fundraiser but in an affidavit filed with the Tennessee State Librarian on July 3, 1979, Mr. Clement states that no individual contributed more than $100 to that fundraiser. Clearly a meaningful conflict exists since those contributors over $100 have to be reported under the election laws of Tennessee.

The following chart summarizes the postelection reporting requirements and Mr. Clement's compliance or noncompliance:

Required date of report, date filed, and remarks:

September 5, 1978, September 6, 1978.

October 5, 1978. November 17, 1978, Report filed more than 40 days late; Report did not list any contributions. All columns on form calling for receipts were left blank.

December 5, 1978, no report filed.

February 5, 1979, no report filed.

April 5, 1979, no report filed.

June 5, 1979, no report filed.

June 25, 1979, a report was filed on June 25, 1979, one day prior to Mr. Clement's confirmation hearing; report included contributions and expenditures.

July 3, 1979, letter from campaign treasurer filed with librarian claiming that Kip Caudill fundraiser improperly reported and should have been reported as under contributions under $100; affidavit by Mr. Clement and campaign treasurer filed alleging that no single individual contributed more than $100 to the Kip Caudill fundraiser.

According to Mr. Clement's testimony before the committee, he filed the November 17, 1978, report with both the Tennessee State Election Commission and the librarian of the Tennessee State Library and Archives as is required by the Tennessee campaign financial disclosure laws. Mr. Clement stated:

> That next report we did file with the State Election Commission and the Library and Archives sent it back to us, and the reason they sent it back to us is because I listed all my expenditures, but I did not itemize my contributions.

Even though Mr. Clement and his campaign staff knew that the November 17, 1978, report was not acceptable, no report disclosing contributions was filed for over 7 months, specifically, the day before Mr. Clement's confirmation hearing on June 25, 1979.

The Tennessee attorney general has notified the committee that in his judgment Mr. Clement has "substantially complied" with Tennessee law, and the attorney general plans no further action. The attorney general's opinion letter fails to address a discussion of the omission of contributions on the November 17, 1978, report, and makes no mention of the fact that Mr. Clement knew the report of November 17, 1978, was unacceptable for failing to list contributions.

Mr. President, in my judgment, Mr. Clement's actions raise a number of issues which need to be explored.

ISSUES

The first issue concerns the November 17, 1978 report.

First. Was this a false report? Large fundraiser which raised at least $136,000 in contributions not reported.

Second. Was a false oath given?

The next issue concerns Mr. Clement's failure to comply with direction of librarian of Tennessee Library and Archives Department to correct November 17, 1978, report and provide list of contributors.

First. Was a conscious decision made to disregard direction of librarian?

Second. Was the failure to file for more than 7 months a willful withholding of disclosure of contributors and a willful violation of the Tennessee election law?

Next, was false testimony given before the committee or was false affidavit made concerning the Kip Caudill fundraiser?

Finally, there are miscellaneous issues evidencing an intention not to comply with the Tennessee election law.

First. For example, failure to file reports due: December 5, 1978, February 5, 1979, April 5, 1979, and June 5, 1979.

Mr. Clement defends his noncompliance with the Tennessee law with a number of arguments.

First. He argued during his testimony that he had no staff available after he lost the election for the Democratic nomination. As will be noted hereinafter, however, handwritten notes on the contribution exhibit A to his June 25, 1979, report indicate that "thank you" letters were written to all persons who made contributions disclosed on certain pages of that exhibit. Staff or clerical help was obviously available to write these letters, and in fact, the handwritten notes about such letters were dated October 4, 1978, the day before October 5, 1978, the due date of a report.

Second. Mr. Clement argues that because he had to appoint a new treasurer after the election, the affairs of the campaign became confused and delayed. However, it is interesting to note that apparently bills were being paid and records maintained of expenditures, and, additionally, when the contributions were finally reported, the report did not appear to be burdensome in that the contributions report consisted of three line items on the report itself plus an exhibit listing only 78 contributors individually. The pages of this exhibit appear to be xerox copies of records that were prepared contemporaneously with bank deposits or the mailing of thank you letters and appeared to be on hand prior to November 17, 1978.

Third. Mr. Clement's third defense for his noncompliance is that he had acted on advice of counsel. As will be pointed out in the discussion hereinafter, advice of counsel is not an excuse for noncompliance with a law and, in fact, had Mr. Clement or his counsel availed themselves of the simple procedure of advisory opinions established by the Tennessee election laws, then all doubt about the proper method of reporting contributions would have been eliminated.

Fourth. Finally, Mr. Clement and the attorney general of Tennessee have tried to argue that he is in substantial compliance with the Tennessee election laws. This certainly appears to be questionable under the facts as will be elaborated on below and certainly he was not in substantial compliance before June 25, 1979, the day before his confirmation hearing. In statements to reporters after the confirmation hearing Mr. Clement indicated that had not his campaign records come under scrutiny as a result of his nomination, he probably never would have filed the required reports.

MR. CLEMENT'S COURSE OF CONDUCT WITH RESPECT TO CAMPAIGN FINANCIAL DISCLOSURE

Mr. Clement's course of conduct or pattern of practice of noncompliance with the Tennessee campaign financial disclosure laws discloses a cloud over his confirmation that needs to be cleared so that the Senate may be assured that no serious violations of the Tennessee election laws have occurred. The issues which contribute to this cloud are discussed below.

A. TENNESSEE FINANCIAL DISCLOSURE LAW SUMMARY

Postelection disclosure of campaign financing is an important part of the overall reporting system since without postelection reports, candidates could defer the receipt of contributions and expenditures until after an election, thus thwarting the purpose of the disclosure laws which preserve the public's right to know who supported which candidate and to what extent. This is doubly important when a defeated candidate already holds a public office, such as Mr. Clement did as President of Tennessee's Public Service Commission.

Although some, including the Tennessee attorney general, might minimize the importance of postelection financial disclosure, such disclosure is an integral part of the Tennessee campaign financial disclosure laws as set out in sections 2-1001—2-1017 of the Tennessee Code

Annotated. In fact, no less than three separate code sections deal with post-election filings. The pertinent code sections are as follows:

> (1) 2–1008. Filing of statement by treasurer—Time—Place—(a) Each political treasurer shall file with the librarian [of the Tennessee Library of Archives] a statement of all contributions received and all expenditures made by or on behalf of the candidate or political campaign committee during the following periods:
>
> (2) The eleventh day before any election or refendum through the tenth day after the election.
>
> (b) The statements for the periods in § (a) of this section shall be as follows:
>
> (2) For the filing after any election or referendum not later than thirty days after the election." (Emphasis added)

The key section important in the instant situation is section 2–1009 which requires post-election reports indefinitely so long as surplus contributions are on hand or debts remain unpaid. This is the section Mr. Clement apparently declined to comply with.

> (2) 2–1009. Contribution excess—Expense deficit—Supplemental statements—(a) If a statement filed under subsection (a) of § 2–1008 [that is, any pre-election report or the first post-election report] shows an unexpended balance of contributions or an expenditure deficit, the political treasurer shall file with the librarian:
>
> (1) Not more than thirty (30) days after the last deadline for filing the statement under subsection (a) of § 2–1008, a supplemental statement of contributions and expenditures; and
>
> (2) Every sixty (60) days after the deadline for filing the first supplemental statement, an additional supplemental statement of contributions and expenditures; if there is any change in the statement filed under subsection (a)(1) of this section.
>
> (3) 2–1010. No contributions or expenditures.—If no contribution is received or expenditures made by or on behalf of a candidate or political campaign committee during a period described in § 2–1008 and § 2–1009 the political treasurer shall file with the librarian at the time required by such section of this chapter for the period, a statement to that effect. (Emphasis added)

It is significant to note that sections 2–1008 and 2–1009 require reports of contributions and expenditures after the election if any funds are received or expended, and section 2–1010 demands a report after the election even if during the reporting period no contributions are received or expenditures made—that is, post election reports are of such signficance that even negative reports are required. Clearly the post election reports are given a place of prominence in the Tennessee law. The matter which must be reported is set out in section 2–1011 which is set out below:

> 2–1011. Statement—Content.—A statement filed under § 2–1008 or § *2–1009* the pertinent statute where a campaign debt exists after an election of this chapter shall set forth:
>
> (a) Under contributions, a list of all the contributions received, as follows:
>
> (1) The statement shall list the full name and complete address of each person who contributed a total amount of more than one hundred dollars ($100) during the period for which the statement is submitted, and the amount contributed by that person.
>
> (2) The statement shall list as a single item the total amount of contributions of one hundred dollars ($100) or less.
>
> (b) Under expenditures, a list of all expenditures made as follows:
>
> (1) The statement shall list the full name and address of each person to whom a total amount of more than one hundred dollars ($100) was paid during the period for which the statement is submitted, the amount paid to that person, and the purpose thereof.
>
> (2) The statement shall list the total amount of expenditures of one hundred dollars ($100) or less each, by category, without showing the exact amount of or vouching for each such expenditure. (Emphasis added)

Second, Mr. Clement's noncompliance and the inferences to be drawn.

The November 17, 1978 report.

The heart of Mr. Clement's reporting problem seems to hinge on the report which was due to be filed on October 5, 1978, but which was not filed until November 17, 1978 (more than 40 days late). On November 17, 1978, the campaign treasurer filed a postelection report with the State election commission and according to Mr. Clement's testimony with the librarian of the State library and archives. The report purports on its face to cover receipts and expenditures for the period of August 3, 1978, to November 9, 1979. In fact, no receipts or contributions are reported although substantial expenditures are reported. Mr. Clement admitted in his testimony that funds were raised during the period covered by the report but claims that receipts were not treated as contributions for purposes of the report because counsel advised that such receipts were not contributions as the term is defined in the campaign financial disclosure laws. The Tennessee law defines contributions as follows:

> 2-1002(d) "Contribution" means any advance, conveyance, deposit, distribution, transfer of funds, loan, loan guaranty, personal funds of a candidate, payment, gift, pledge or subscription, of money or like thing of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, *made for the purpose of influencing nomination for election or the election of any person for public office.* (Emphasis added)

It should be noted at this point that a parallel definition of "expenditure" is also set out in the code.

> 2-1002(f) "Expenditure" means a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value in excess of one hundred dollars ($100) *made for the purpose of influencing the nomination for election or election of any person to public office.* (Emphasis added)

According to the report of Richard Harris, counsel for the committee, Frank Gorrell, chairman of Mr. Clement's fundraising committee, in his capacity as counsel, advised that postelection receipts need not be reported as contributions. Query, when was this opinion formulated? Was it arrived at before or after November 17, 1978? Who was told of this opinion? Finally, were the librarian and the attorney general of Tennessee consulted as provided in the statute with respect to an advisory opinion?

The Tennessee code anticipates that candidates might need advice with respect to the disclosure laws and specifically provides a procedure for obtaining an opinion of the attorney general of Tennessee. Section 2-1004 provides in pertinent part:

> 2-1004. Duties of state librarian and archivist.—It shall be the duty of the state librarian and archivist: . . . (h) To seek from the attorney general, issue, and publish, upon proper request from any qualified candidate or public official, advisory opinions on the requirements of this chapter.

The duty of the attorney general is set out in section 2-1015.

> 2-1015. Duties and Powers of attorney general. (a) It shall be the duty of the attorney general:
>
> (1) To provide opinions upon the requirements of this chapter to the librarian.

Why was this simple procedure not utilized rather than gambling on the correctness of a strained interpretation? Was it realized that if such an opinion were sought, the result could have only been adverse to Mr. Clement's interest, since the law appears to be so clear? Regardless of the answers to the above questions it is strange that counsel apparently felt that "expenditures" made after the fact were reportable while receipts were not reportable. Such a strained interpretation infers a desire on the part of someone not to report receipts after the election and the question rebounds, why? Apparently a conscious decision was made not to report receipts and this strained interpretation of the word "contribution" was relied on for that decision. Again, the key element appears to be the large fundraiser held on September 17, 1978 at the residence of Mr. Clement's friend Kip Caudill. An impartial audit should closely scrutinize this event to determine what, if anything, about the fundraiser would cause persons to want to cloud this reporting of the contribution raised there.

The argument that the definition of "contribution" precludes the reporting of post election receipts is not only strained, but when the reporting statute is read as a whole, it is apparent, as mentioned above, that the reporting of receipts and expenditures after the election is a key element of the statute, being provided for in three separate code sections.

The term "contribution" is used in the post election context in section 2–1008 (a), section 2–1009 and section 2–1010. The law in Tennessee, as elsewhere, is clear that the meaning of the statute is to be determined from the statute taken as a whole viewing the legislation in light of its general purpose. That is, *Tidwell* v. *Servomator-Willoughby Co.*, 483 S.W. 2d 98 (Tenn. 1972) : *McGill & Dougherty* v. *Kefauver*, 137 S.W.2d 279 (Tenn. 1940). Had counsel followed the lead of the Tennessee Supreme Court, he would have given an opinion after looking at the entire statute, including any caption and policy statement which would have provided the purpose, objective and spirit behind the legislation, *Dorier* v. *Dark*, 537 S.W.2d 888 (Tenn. 1976) and he would have, like the court, seen his duty to construe this statute so that no part of it would have been inoperative, superfluous, void, or insignificant, and would have given effect to every word, phrase, clause and sentence of the act in order to carry out the legislative intent. *Tidwell* v. *Collins,* 522 S.W.2d 674 (Tenn. 1975). Clearly some other objective mandated this opinion and the question arises, what did they want to hide? This cloud should be pierced.

When the contributions were finally disclosed on June 25, 1979, there was nothing to indicate that the report was in any way a burdensome or difficult task. Three entries were made on the form, backed up by an appendix listing only 78 individual contributors. The defense of no staff is substantially weakened since there was staff to write thank you letters on October 4, 1978, the day before the due date of the October 5, 1978 report as evidenced by the notation on page after page of exhibit A to the report of June 25, 1979, which recites "letters done October 4, 1978." In fact, the pages themselves are evidence of their own existence on that date in clear, organized form. Surely these could have been easily filed with the report of expenditures on November 17, 1978.

The oath on the report form itself requires that the persons signing conform to the letter and the spirit of the law. Serious questions are raised as to whether the report was an intentional false report and whether the oath was a false oath. The only conclusion to be drawn is that for some reason it was decided that the fundraiser receipts should not be disclosed. This is a cloud which needs to be removed before Mr. Clement is confirmed as a Director of the TVA.

Yet another aspect of the November 17, 1978 filing cries out for a suitable explanation. On the seventh page of the report an expenditure of $109,080.87 is reported to have been made to Caudill Properties, Inc. On the June 25, 1979 report in a filing made with the librarian for the State of Tennessee, the same expenditure is listed as only $4,778.50. No explanation is made on the June 25, 1979 filing and apparently no corrected filing has been made to correct the error on the November 17, 1978 report if in fact the item was merely an error. The significance of this fact is that Mr. Clement testified that his current campaign debt is somewhere around $20,000. If the total figure of the attached expenditure schedule on November 17, 1978 report is correct, the debt may be more in the neighborhood of $130,000. The total figure of the schedule amounts to approximately $228,000 of expenditures instead of the listed figure of $113,401.50. Again, this is a cloud which needs to be swept away by a fresh burst of sunshine.

Mr. Clement himself has testified that he had knowledge that the November 17, 1978 report did not list contributions; yet he did not file a report listing any contributions whatsoever until June 25, 1979, more than 7 months after being put on actual notice of the necessity for such disclosure. Most case law uniformly holds that reliance on advice of counsel is no defense in criminal cases. *People* v. *McClulla,* 220 P. 436 (Cal. 1923); *State* v. *Huff,* 36 A. 1000 (Mo. 1897); *State* v. *Western Union Telephone Co.,* 97 A.2d 480 (N.J. 1953). Where reliance on advice of counsel has been allowed, it is because reliance negates a mental state required for conviction. *Long* v. *State,* 65 A.2d 489 (Del. 1949). The Supreme Court of Tennessee has in *Hunter* v. *State,* 125 S.W.2d 361 (Tenn. 1928) quoted the following language of the U.S. Supreme Court with approval:

> But, on the other hand, no man can willfully and knowingly violate the law and excuse himself . . . by pleading that he followed the advice of counsel.

The Court approved the following statement of the usual rule:

> [I]gnorance of the law will not excuse its violation, even when one endeavors to ascertain the law and is misled by the advice of counsel. . . .

Section 39–1105 of the Tennessee Code annotated fixes the punishment up to 5 years in the penitentiary if a conspiracy to violate the Tennessee election laws is established.

In the instance situation, while advice of counsel may have been sufficient to preclude the willful aspect of the wrong prior to the filing on November 17, 1978, clearly when specific notice was given that contributions were improperly omitted, notice which Mr. Clement and others state they received, the refusal to comply for a 7-month period is at least evidence of willful misconduct which requires explanation by Mr. Clement and careful evaluation by the committee.

C. The June 25, 1979, filing.

In an effort to finally comply with the Tennessee law prior to attendance at his confirmation hearing, Mr. Clement caused his campaign treasurer to file a report on June 25, 1979 (1 day before testifying). This report purports to cover the period from November 9, 1978, to June 13, 1979. If the face of the report is correct, then possibly no complete report of contributions received from August 15, 1978, to November 8, 1978, has yet been filed. (That is, the report filed on September 6, 1978, covers the period up to August 14, 1978; the report filed November 17, 1978, covers August 4, to November 9, 1978, but discloses no contributions; the June 25, 1979, report purports to cover November 9, 1978, to June 13, 1979, thus leaving a large gap from August 15, 1978, to November 9, 1978, unreported for purposes of contributions.) It is undisputable that the large fundraiser at Kip Caudill's residence was held on September 17, 1978, prior to November 9, 1978, and is apparently erroneously reported as having taken place during the November 9, 1978, to June 13, 1979, period. It would appear, however, that an audit should examine the bank deposits, other bank records, the books and records of the campaign committee with regard to all of these reports to determine if contributions and expenditures have been properly reported and to remove this potential cloud.

The June 25, 1979, report shows a lump-sum item under receipts greater than $100 as the Kip Caudill fundraiser. The day after that filing, under questioning by Senator HEFLIN, Mr. Clement stated that some persons had contributed more than $100 at the fundraiser and some had contributed less.

Yet on July 3, 1979, Mr. Clement and his campaign treasurer filed a sworn affidavit with the librarian of the Tennessee library and archives which stated that no one person contributed more than $100 at that fundraiser for the purpose of showing that the $136,000 was listed on the wrong part of the report. If any single individual bought two tickets at a price greater than $100 Mr. Clement's sworn affidavit and its veracity would be seriously jeopardized.

It is almost inconceivable that a fundraiser could be held and $136,000 raised and no single individual or political action committee or other organization did not contribute more than $100 to the fundraiser. Again, this situation cries out for an impartial investigation to determine the true state of facts. At least the deposit slips and photostatic copy of checks deposited in the campaign bank accounts should be obtained and examined.

In a newspaper article published in the Tuesday, July 17, 1979 Nashville Tennessean, Mr. Clement attempts to justify the conflict between his testimony before this committee and the affidavit he filed with the Tennessee State librarian on July 3, 1979. The newspaper article recites that Mr. Clement says he misunderstood Senator Heflin's question. The article appears to qoute Mr. Clement's explanation further:

> I thought he [Heflin] was talking about any contributions we received after the primary, rather than just Kip Caudill's.

Set out below are excerpts from the transcript dealing with the Kip Caudill fundraiser. The transcript of Mr. Clement's testimony reveals clearly the fundraiser was discussed at several points during Mr. Clement's testimony. The court reporter, not being familiar with the names of the parties apparently transcribed several names incorrectly at several places, including my own name throughout the first part of the transcript. There is no doubt that Mr. Clement and I were discussing the Kip Caudill fundraiser and not a fundraiser by "Chip Carter." I am identified at these portions of the transcript as Senator Levin but of course everywhere Senator Levin appears should read Senator Heflin.

Transcript pages 49-50:

Senator LEVIN. I have a copy of, a photostatic copy, of the Nashville Banner, dated August 21, 1976 (sic), in which it quotes you as saying that 'we have about a $200,000 debt, and we already planning a fundraiser to take care of that.'

Mr. CLEMENT. Yes.

Senator LEVIN. It says, also, that you have tentative plans to have fundraisers on September 17th at the home of Kip Carter (Caudill), one of Clement's chief campaign advisors. Was that held?

Mr. CLEMENT. Yes, sir, it was.

Senator LEVIN. Were funds raised at that time to pay your debt?

Mr. CLEMENT. We raised $136,000 on that fundraiser.

Senator LEVIN. At that one fundraiser?

Mr. CLEMENTS Yes; and we have raised totally $160,000.

Senator Levin. In order that I might not misunderstand you, and I want to get it straight, it is my understanding you ended the campaign with around $200,000 in debt, that on September 17 at the Gallatin Home of Chip Carter [Kip Caudill], that in September 17, 1978, that you raised around $136,000.

Mr. Clement. Yes, sir.

Senator Levin. And that you have since that time raised other money to make a total that you have raised since September 16, 1978, of a total of $160,000.

Mr. Clement. Approximately, yes, sir.

Transcript page 59:

Senator Levin. Is it your understanding that the purpose of the disclosure law requiring a list of contributors who have contributed $100 or more, and expenditures after an election is for the purpose of informing the people who contributed to your campaign, and what you spent your money for afterward?

Do you understand that to be correct?

Mr. Clement. Yes.

Senator Levin. That fundraiser at Gallatin, Tennessee, at which you raised $136,000, you would say that there were many of those contributors who gave you more than $100, would you not, sir?

Mr. Clement. Some gave us more than $100. Some gave us less than $100.

The words of the affidavit that Mr. Clement signed are set out below:

> We, the undersigned, do hereby make oath, based upon the best of our information, knowledge and belief, that: at the Kip Caudill Fundraiser event held in September, 1978 to enable Bob Clement to pay campaign indebtedness, there was in attendance approximately 750 to 1000 persons. Tickets for this event were sold for $100.00 per person, and the receipts of these ticket sales were collected before the event, during the day of the event, and for several days thereafter, no one person contributed more than $100.00.

The cloud which has been repeatedly mentioned appears to be growing darker rather than clearer with each passing revelation or statement by Mr. Clement.

Reference in the question on transcript page 59 to the specific fundraiser at the specific place—Gallatin, Tenn.—and the specific amount of $136,000 which Mr. Clement himself had established as the amount raised and the specific event—that fundraiser (transcript page 50), make it unrealistic that Mr. Clement could have misunderstood the question. The question was as specific as it reasonably could have been and was asked in a reasonably loud tone and was heard and answered by Mr. Clement: "Some gave more than 100. Some gave less than 100." No qualifications, no hesitation, and no questions were raised by Mr. Clement.

It would appear that a cloud has mushroomed into some kind of real coverup in that Mr. Clement has picked up a tar baby he just cannot put down. Each new attempt to explain his actions, in my judgment, places a darker cloud on the Kip Caudill fundraiser. The Senate should ask the committee to cut through this cloud before Mr. Clement's nomination is approved.

Certainly Mr. Clement should be recalled as a witness to be examined under oath on this most vital issue.

As has been mentioned, the post election fundraiser appears to be an important, perhaps critical area of investigation. A fair comment on the known facts would be that a conscious decision was made not to report the funds raised at this event, and in fact, the lump-sum raised went unreported for more than 9 months—September 17, 1978, to June 25, 1979—now that the event has been reported, many questions are raised and unanswered with respect to this event.

A question has been raised whether Mr. Clement and his campaign officials substantially complied with the Tennessee financial disclosure laws, or whether, as set out above, the many discrepancies mentioned showed a serious noncompliance. The attorney general of Tennessee has made a determination that in his judgment Mr. Clement and the campaign officials have substantially complied with the Tennessee financial disclosure laws but such conclusion appears to have been made without considering several important items which are a matter of record.

The attorney general fails to address the issue of the failure to disclose receipts and contributions on the report filed on November 17, 1978. This report was filed on a form prepared by the Tennessee Library and Archives Department, form No. E–2, to which was attached a schedule of itemized expenditures. The form calls for the listing on one page under two columns, of receipts of more than $100 and expenditures of more than $100. Another page of the form calls for receipts of $100 or less and expenditures but no receipts or contributions are disclosed at all.

The oath on this form states that the things of value required to be reported under pertinent sections of the Tennessee code and further states that no provision of the code sections have been violated in letter or in spirit. The omission of these receipts and contributions on this form is a glaring omission and could constitute a false report and could render the oath a false oath. This issue is not even addressed in the letter written by the attorney general of Tennessee.

Moreover, although the attorney general of Tennessee was furnished a copy of the testimony of Mr. Clement before the Senate Environment and Public Works Committee on June 26, 1979, the attorney general apparently chose to ignore the statement of Mr. Clement that the copy of his report which was filed with the librarian of the Tennessee State Library and Archives Department that the report was unacceptable because it did not contain a list of contributions.

Mr. Clement testified that the report was returned with the request that it be corrected and list of contributions included. For more than 7 months there was a failure to comply with the requirement of the Tennessee law after having been put on notice by the State librarian. The attorney general's conclusion that there was no willful failure to disclose required information appears to have been made without considering this issue.

Cases hold that substantial compliance is not shown unless it is made to appear that the purpose of the statute has been served. *Kasner* v. *Stammire*, 155 P. 2d 230 (Cal. 1962). Can it reasonably be argued that on October 5, 1978, or November 17, 1978, the purpose of the Tennessee law had been served? Substantial compliance is of course actual compliance in respect to substance essential to every reasonable objective of the statute. *Stasher* v. *Harger-Haldeman*, 272 P. 2d 649 (Cal. 1962). Tennessee law mandates the disclosure of contributions during each reporting period, and no actual compliance was made from September 5, 1978 until June 25, 1979. The Tennessee Supreme Court has held that a report which was due 5 days before the election and filed 3 days before the election was in substantial compliance with the then applicable Tennessee corrupt practice act. The court, nevertheless, made the following statements:

> The court is by no means inclined to weaken our laws designed to prevent corrupt practices in elections. In dealing with the statutory provisions now before us, we have the same feeling, expressed by the Kentucky Court of Appeals in *Sparkman* v. *Saylor*, 180 Ky. 263, 202 S.W. 649, 652. We quote:
>
> "In holding that the statute is mandatory in requiring a candidate to file pre-election and post-election statement of expenditures and is directory merely as to the time when such statements must be filed, we do not mean that a candidate must not reasonably and substantially comply with the provisions of the act as to the time of filing his pre-election and post-election statements, *for this he must do, and his failure so to do will be a ground for contest;* and in a contest where a failure to reasonably and substantially conform to this, or any, requirement of the act is made a ground of contest, the question will be determined upon the circumstances of each particular case, for it is manifest that what would be a reasonable and substantial compliance with the provision in one case might not be so in another. But, having decided that the act is mandatory only in requiring that a statement in proper form must be filed before the election, and directory merely as to the time, it follows that, where a proper pre-election statement has been filed, the election is not void, *unless the time at which the statement was filed was not a reasonable and substantial compliance with the law.*" (Emphasis added)

A similar case from the Texas Supreme Court held that a report due between 7 and 10 days before an election and filed 6 days after the election was not substantive compliance with the reporting requirement: *Grey* v. *State*, 406 S.W. 2d 934 (1966). No case in any jurisdiction has been found which has sanctioned a delay of 40 days in filing a required report and certainly no case has been found which has sanctioned a 7-month delay in filing a full and complete report once a candidate has been put on actual notice that a purported report was unsatisfactory.

Although the Tennessee code does specifically provide that a substantial compliance with section 2–1008 or 2–1010 may be sufficient so as to preclude sanctions for noncompliance, the statute excludes section 2-1009 when discussing the effect of the substantial compliance. Thus, under section 2–1016, which deals with the consequences of failure to file statement, it is specifically provided that if any political treasurer for a candidate willfully fails to file a statement required by section 2–1009 the candidate shall not be qualified as a candidate for any public office for 6 years after the election. This certainly is a substantial penalty for failure to file the postelection report. Moreover, section 2-1017 punishes as a misdemeanor a willful violation of section 2-1009.

Although the attorney general of Tennessee may, for his own reasons, not wish to pursue the issue of compliance or noncompliance, the opinion of that official should not be binding on the U.S. Senate, since the Senate has the facts before it and can draw its own conclusions from the Tennessee law and the facts I have set out.

CONCLUSIONS

The course of conduct or pattern of practice of noncompliance with the Tennessee campaign financial disclosure laws raises questions that might not only touch on Mr. Clement's integrity but also raise clouds about his competency and fitness to perform the duties of a TVA director:

First. A history of failing to comply with the election law and the requirements of election law officials raised the issue of his willingness and competency to follow the laws and regulations applicable to the duties of a director of TVA.

Second. His remarks of "no" and "hell no" and other similar statements pertaining to the moving of the TVA headquarters from Knoxville to Muscle Shoals raise a question of his willingness and competency to follow the decisions of the courts of our land.

Third. The method and pattern of conduct dealing with the election laws and supervising or not supervising his staff raises the issue of his administrative competency to direct others in the performance of their duties.

Fourth. The inability to comply with the relatively simple and straightforward financial disclosure laws of Tennessee imply the inability to conform with the complex TVA legislation and issues.

Mr. RANDOLPH. Mr. President, will the Chair give the time situation?

The PRESIDING OFFICER. The Senator from West Virginia has 52.5 minutes; the Senator from Alabama has 54 minutes.

Mr. RANDOLPH. May I inquire if the Senator from Alabama feels that he will desire more time?

Mr. HEFLIN. I am willing, if the Senator is willing, to yield it back and proceed.

Mr. RANDOLPH. I thank the Senator.

Before that can be done, Mr. President, we do have a request from the minority leader of the Senate (Mr. BAKER) that he be given an opportunity to make certain comments in reference to the nomination. We think we know where he is. We were given a contact for him. Presumably, he can be here in a very few minutes.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

Mr. STAFFORD. Mr. President, if the Senator will withhold that, I am going to ask the chairman of the committee to yield to me briefly.

The PRESIDING OFFICER. Does the Senator withdraw his suggestion?

Mr. HEFLIN. Yes, Mr. President.

Mr. RANDOLPH. Mr. President, I yield to the ranking minority member of our committee (Mr. STAFFORD) such time as he may desire.

Mr. STAFFORD. Mr. President, I simply want to point out very briefly, once again, what to this Senator, at least, seems to be a controlling factor in this debate. I have listened with great attention to the extraordinarily able presentation of the distinguished Senator from Alabama. I can appreciate how good a trial attorney and how good a supreme court chief justice he has been.

This Senator had the privilege of serving as the attorney general of his State, some 25 years ago. In that State, Vermont, the attorney general is elected. I point out to our colleagues in the Senate that the attorney general of Tennessee is appointed by the supreme court of that State; he is not an elected official. He is presumed to be totally impartial and aside from politics.

On the questions which have involved the laws of Tennessee, this Senator feels that the opinion of the chief law enforcement officer of that State has considerable control. The attorney general's letter to the chairman of our committee, which was dated July 6, was drafted after the attorney general of Tennessee had had a transcript of the hearing record, which contained the original allegations of the distinguished Senator from Alabama.

In that letter, which was two or three pages long, I call our colleagues attention to the fact that the attorney general writes in the second paragraph of the letter:

> Our examination of the reports filed by Mr. Clement's political treasurer under the CFDA has disclosed no discrepancies in the pre-election statements of contributions and expenditures required to be filed under T.C.A. § 2-1008.

On the next page, which appears on page 166 of the hearing reports which our colleagues have in their possession, the attorney general writes:

> We, therefore, conclude that the treasurer of Mr. Clement's campaign was in compliance with the most important aspect of the CFDA, viz: the filing of the pre-election statement of contributions and expenditures.

Then we get to the matter of the postelection disclosures and filing. The attorney general of Tennessee on page 168 of the printed hearings report has this to say:

> At this point there is certainly no indication that the political treasurer willfully failed to file a required statement. Indeed, the fact that statements have now been filed, whether timely or not, indicates, in our view, that there has been no willful failure to file and that substantial compliance does, in fact, exist.

On page 169, the attorney general states:

> As noted above, the only other possible sanction in this case is the criminal misdemeanor sanction of T.C.A. § 2-1017 which, as in the case of T.C.A. § 2-1016(c), requires proof of a willful violation of certain provisions of the CFDA. Based on our observations above, we do not find any grounds which would merit a criminal prosecution in this case. There simply are, at this point, no indications of willful violations.

So, Mr. President, this Senator and the committee, who really have no ax to grind on either side of this question, are forced to the conclusion that if the senior law enforcement officer of Tennessee is satisfied with the compliance of Robert Clement with the laws of that State insofar as his campaign for Governor is concerned, that that is a controlling factor in the decisions of the committee and the basic reason why this Senator, and I believe the other members of the committee who voted similarly, voted to report this nomination favorably to the Senate.

Mr. President, in order to give Senator BAKER an opportunity to get here, if it is agreeable, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INOUYE). Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I yield such time as he desires to the minority leader, the Senator from Tennessee (Mr. BAKER).

Mr. BAKER. I thank the distinguished chairman of the committee of which I have been a member since the first day I came to the Senate. I am grateful to him for his customary courtesy in permitting me this time and in this way to express my support for the appointment of a fellow Tennessean to the TVA board.

First, I should like to take a moment to express my appreciation to the distinguished ranking minority member of the committee, the Senator from Vermont (Mr. STAFFORD), for his diligence in the conduct of the committee's affairs and the perpetuation of the bipartisan tradition of fairness and efficiency. Such an atmosphere has characterized that committee and its entire staff operation for many years, under the tutelage of the distinguished chairman and a series of distinguished ranking minority members. Senator STAFFORD serves in that ranking position with great distinction.

Mr. President, it is with great enthusiasm that I recommend the Senate's approval of the nomination of Bob Clement as a new member of the Board of Directors of the Tennessee Valley Authority.

Mr. Clement comes from a very distinguished family with deep roots in Tennessee, a family which has made and continues to make a special contribution to public service in our State.

Bob Clement's father, the late Frank Clement, is something of a legend in Tennessee. He was Governor of our State for four terms. He electrified the Nation with an unforgettable keynote speech at the 1956 Democratic National

Convention. He set a unique standard of colorful and active political leadership, and while Frank and I were political adversaries, I was proud to count him as my friend and number myself among his.

Bob Clement's aunt, Annabelle Clement O'Brien, has carried on the Clement tradition of public service and currently serves in the Tennessee State Senate.

Bob Clement himself, though still a very young man of 35, has already made a significant contribution to public service in Tennessee.

As a member of the Tennessee Public Service Commission from 1973 to 1978—and by the way, the youngest member ever elected to that body—and as chairman of the commission in 1977 and 1978, Mr. Clement was a forceful defender of the public interest in the regulation of the State's utilities, the trucking industry, and related areas of commerce.

He has served, as well, as chairman of the Committee on Presidential Relations for the National Association of Regulatory Utility Commissioners, and in this capacity he has consulted with both President Carter and Vice President Mondale on a wide range of industry-related matters.

He also has substantial experience in rate hearings and other regulatory matters of special concern to the TVA, and he has testified effectively before various committees of Congress.

Mr. Clement waged an impressive, though unsuccessful, campaign for the Democratic gubernatorial nomination in Tennessee last year, and is well aware of his responsibility to be accountable and responsive to the people he serves.

I am quite confident, Mr. President, that Bob Clement's excellent professional experience and his exemplary personal character will insure his success as the newest member of the TVA Board of Directors.

It will be good to see a full complement of directors at TVA after having vacancies in all but 9 months of the last 4 years. It will be good to have a native and lifetime resident of the Tennessee Valley on the TVA board, in furtherance of an old and valuable tradition.

Mr. President, I must say with all candor if it is not possible to have a Republican appointed to this position that Bob Clement is as good a Democrat as you can find. I commend the President for his choice, and I commend the choice to my colleagues for confirmation. I believe he will be an outstanding Director. He will continue in a tradition of public service by a great Tennessee family, and I expect great things from him.

Mr. RANDOLPH. Mr. President, will my colleague yield for just a comment?

Mr. BAKER. Mr. President, I am honored to yield to my chairman.

Mr. RANDOLPH. Mr. President, I do not wish to use the time just to make what might be called a pleasantry, but the Senator from Tennessee has spoken of the service of families in public life in this country. It was my privilege to serve in Congress with both his mother and his father and now, of course, with the Senator from Tennessee.

I shall never forget his late father-in-law, the Senator from Illinois, Everett Dirksen. We came to Washington and were sworn together in the House of Representatives on March 4, 1933.

Friendships that are cherished are a part of the legacy not so much of public service but of the human heart.

I am thankful for the opportunity that I have had to serve with members of the Baker family as well as members of other families and with those members of whom I meet for the first time. It is that experience, sometimes retold over a shorter or longer period, but never to be forgotten.

I thank the Senator, of course, as Senator Stafford would thank him, for his continuing interests, even though he is the minority leader of the Senate, to the matters of importance that come before the Environment and Public Works Committee of which all three of us are members.

Mr. BAKER. Mr. President, I thank the distinguished Senator from West Virginia who not only has been a great colleague and great friend but also a distinguished public servant in his own right.

So many times I have thought back on the fact that the service of Jennings Randolph of West Virginia spans an historic time of the country. How fortunate we are that we have his insight, his experience, his ability to help those of us who depend on him for advice and counsel. And I am deeply grateful for those remarks.

Mr. RANDOLPH. I thank the Senator.

Mr. President, the committee yields back the remainder of its time.

Mr. HEFLIN. Mr. President, let me make only one or two remarks.

The distinguished Senator from Vermont refers to the letter from the attorney general. I really feel that if it had not been for that letter I believe the distinguished Senator from Vermont and probably many more Senators would not be voting for Bob Clement's confirmation. One has to read that letter. It is in the Record. I think one has to realize that that letter does not address itself to the two issues which were the large issues at that time. That is the issue of whether the November 17, 1978 return was a false return for omitting an itemized listing of contributors and whether or not a false oath was made in regards to that return of November 17.

Another issue that was raised was after the Tennessee Library and Archives Department returned that November 17 form and said, "You have not itemized your contributors." Was a conscious decision made to disregard the directions of that election official, the head of the Tennessee Library and Archives Department.

Those two issues were not addressed in the letter of the attorney general. I point out that there is nothing whatsoever addressing the conflict between the affidavit and the testimony that he gave here before the committee in regards to whether anyone contributed more than $100 at the fundraiser where $136,000 was raised. That is not addressed whatsoever. No mention is made of it in the attorney general's letter.

I am willing to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is, Will the Senate advise and consent to the nomination of Robert N. Clement, of Tennessee, to be a member of the Board of Directors of the Tennessee Valley Authority.

The confirmation was confirmed.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTIFICATION TO THE PRESIDENT OF THE CONFIRMATIONS CONFIRMED ON WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, with reference to the confirmations done during the call of the Executive Calendar last evening, that the President be notified of the confirmations of those nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, before the Senate now goes to another nomination, I ask unanimous consent, as in legislative session, to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed to the consideration of the following Calendar Orders Nos. 278, 279, 280, 281, 282, 283, 284, 292, 295, and 305.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, this list of Calendar order numbers has been cleared on our side. We have no objection to proceeding to their consideration and, indeed, to their disposition as the majority leader requests.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the measures be considered en bloc, that the amendments that are indicated be agreed to, and that the bills and resolutions, as amended, be agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE BONDS FOR D.C. HOUSING FINANCE AGENCY

The Senate proceeded to consider the bill (H.R. 3824) to amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval, which had been reported from the Committee on Governmental Affairs with an amendment on page 2, line 10, strike "low and moderate income".

● Mr. MATHIAS. Mr. President, the legislation before us today, H.R. 3824, will set in motion a much needed and long awaited housing financing mechanism for the District of Columbia.

As residents of the Washington metropolitan area, my colleagues well know the high cost of owning or renting a home in Washington. The problem is exacerbated in these high inflationary times for those of low and moderate income.

You need only pick up one of the Washington newspapers to learn of the mounting difficulties of acquiring decent, affordable housing for a growing number of families in Washington. The situation in the city of Washington is reaching the critical stage. Rental buildings which were once affordable are being converted to condominiums in record numbers. The monthly payments to continue living in those buildings take a quantum leap and most tenants find themselves out on the streets seeking another place to live which they can afford.

At the same time, the number of rental apartments and houses is shrinking due partly to that very condominium conversion process. Demolition of other dwellings for other uses further depletes the rental housing supply. The U.S. Census, for example, reports a net loss of 13,000 housing units in the District of Columbia since 1970. And the rate of new construction and rehabilitation of rental units in the District of Columbia for low- and moderate-income people is particularly small.

People of modest means are experiencing a tighter housing squeeze than ever before. And the situation in the District is but a part of what is happening across the Nation in big cities, little towns, and rural areas.

One way of addressing this tight housing market, particularly for renters, is to increase the supply of housing for low and moderate income persons. This approach is not new. It is a traditional way of meeting housing demand and, thereby, containing the inflationary spiral in rents.

The HUD section 8 and public housing programs as well as other FHA housing finance programs have been the mainstay of the housing supply for low and moderate income people in the past few years of rising housing rents and prices.

In both Virginia and Maryland, housing finance agencies have been created by the State legislatures to address this problem of housing supply. Both have had notable successes in securing HUD funding for low and moderate income housing and in delivering such housing in a timely fashion.

The District of Columbia, on the other hand, up until March of this year, has lacked a similar housing finance agency. Since the creation of the D.C. Housing Finance Agency, the District has needed one final tool to begin its operations. That is the authority to issue revenue bonds to finance a rental housing program; a home purchase assistance program; a mortgage purchase program; and a loan to lenders program.

Such revenue bonds could be taxable or non-taxable, a feature making them particularly attractive to investors. Furthermore, they in no way require the Federal or District government to repay such obligations. The bonds are to stand on their own and will be retired through revenues from the housing programs they finance.

The mayor of the District of Columbia has embarked on an ambitious housing program for Washington, D.C. On Saturday, June 30, the city convened an all-day public session to review its housing strategy which the mayor hopes to unveil in September.

But many pieces of that strategy are well underway, including a stepped-up renovation of 733 of the boarded-up buildings which the city, through its redevelopment agency, now owns.

Other parts of the housing strategy will closely involve local real estate, financial institutions, and construction companies. The pieces are coming together to attract and leverage private dollars with public dollars.

The housing revenue bonds provided by the legislation before us is an important part of that overall city housing strategy.●

Mr. EAGLETON. Mr. President, H.R. 3824 is a bill that amends the District's Home Rule Act to allow the D.C. Council to delegate to its newly created housing finance agency the authority to issue revenue bonds for undertakings in the area of housing. It also provides that the expenditure of funds derived from the sale of such bonds, the payment of principal and interest on such bonds, and the pledging of certain related security interests may be made without the approval of Congress.

The District of Columbia has already created its own finance agency to provide one vehicle among others to stimulate the construction and improvement of decent and reasonably priced housing in the city. The lack of such housing has been well-documented and well-publicized over the past decade. Housing prices in the District have skyrocketed, and the incomes of D.C. residents have not kept pace with the rise. In addition, the available stock of rental housing has shrunk, affecting the elderly and low- and moderate-income families to a disproportionate extent.

The housing finance agency will act as a quasi-independent entity with an appointed board but will be accountable to elected officials. Through the issuance of tax-exempt bonds, it will be able to attract private capital to stimulate the construction of needed housing. In addition, the creation of such an agency will enable the District to qualify for special HUD section 8 set-aside funds.

It is to be noted that neither the full faith and credit of the District nor that of the Federal Government will be committed by the issuance of bonds by the agency.

H.R. 3824 is needed primarily for technical purposes. While the District Council currently has the authority to issue housing revenue bonds by act, it does not have explicit power to delegate that authority. This bill amends the Home Rule Act to grant that power to the Council.

In addition, H.R. 3824 exempts from the congressional appropriations process, the expenditure of revenues from the sale of bonds and the repayment, as to principal and interest, of the bonds. This is a standard procedure in the setting up of almost all housing finance agencies. If the revenues or repayment funds were subject to a legislative appropriations process, the housing bonds would simply be unmarketable.

I have proposed a floor amendment to add another small class of revenues to those exempt from the appropriations process. It is really rather technical in nature. It concerns certain revenues and assets that an agency must pledge as additional security for a bond issue, some of which may not be derived from bond proceeds. This category of items can include a mortgage on a building, a development cost escrow, and insurance proceeds if, for example, a housing project were to be destroyed by fire. While the exemption of such revenues and assets might fairly be inferred from the language of the bill as reported, I feel that adding an explicit provision is prudent to remove any possible cloud on the marketability of the bonds.

I have consulted with the Subcommittee on the District of Columbia of the Committee on Appropriations, and they have expressed no problems with any of the exemptions described above.

I would like to briefly describe the change in the House-passed version of H.R. 3824 which was made by unanimous vote of the Governmental Affairs Committee.

As introduced, H.R. 3824 provided that the Council could delegate to any housing finance agency the authority to finance or assist in the financing of "undertakings in the area of housing." While passing H.R. 3824, the House added an amendment limiting the authority which could be granted to the HFA to "undertakings in the area of low- and moderate-income housing."

The committee considered this amendment to be undesirable and has deleted it. The House bill did not define "low- and moderate-income," an ambiguity which could create uncertainty among investors and expose the HFA to the possibility of court challenge. Additionally, the House language could make it impossible to undertake any kind of project including any units for middle-income people, even if such a project would disproportionately benefit low- and moderate-income people and would represent the most feasible way to do so.

For these reasons, the District government has expressed concern that the language added by the House would make their bonds unmarketable. This concern draws support from an opinion letter issued by the District's bond counsel, which states:

> The proposed language * * * creates an ambiguity as to whether the D.C. HFA may issue bonds to finance "mixed-income" rental housing. Consequently, bond counsel would not be able to issue an unqualified opinion approving the legal validity of a bond issue to finance a mixed-income rental housing project. In such event, bonds issued by the D.C. HFA for such a project would be unmarketable.
>
> Because of the above-outlined program, restraints would be imposed on the D.C. HFA which are not currently applicable to any other State HFA's.

The committee believed that these concerns are legitimate. The new HFA can play a useful role in helping to alleviate the shortage of low- and moderate-income housing. It would be unwise and unfair to rob it of flexibility and saddle it with restrictions which other HFA's do not face.

At the same time, the committee recognized that some Members of Congress question whether a legitimate public purpose is served by letting housing financing agencies issue revenue bonds which have a tax-free status, if the benefits which ultimately result from this tax status go to middle- or higher-income people, rather than those with low and moderate incomes. Legislation introduced by Chairman ULLMAN is presently being considered in the House Ways and Means Committee may impose standards for, and restrictions on future issuance of revenue bonds by HFA's or adopt some alternative approach to stimulate financing of low- and moderate-income housing by the private sector.

In reporting H.R. 3824, the committee, of course, took no position on the advisability of the Ullman bill or any alternative approach. It understood that, if legislation affecting all HFA's is enacted by Congress, the District's HFA would be covered by it. For the present, however, with no Federal legislation governing, the new HFA should have the same flexibility as those already functioning.

Mr. President, I hope the Senate will accept my one, largely technical, amendment, and pass H.R. 3824 without delay.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-262), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSES OF THE BILL

The purposes of H.R. 3824 are to amend the District of Columbia Self-Governmental Reorganization Act (1) to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it, and (2) and to provide that the expenditure of funds derived from the sale of such bonds and the payments of principal and interest on such bonds may be made without further approval of the Congress.

BACKGROUND

THE NEED FOR HOUSING

The core problem to which this legislation is addressed is the critical shortage of decent and reasonably priced housing in the District of Columbia.

Prices for District housing have skyrocketed over the last ten years. Federal Home Loan Bank Board figures show that the average sales price of existing single-family, conventionally-financed houses in the Washington area has risen nearly 60 percent since 1973.

The incomes of District residents have not kept pace with this rise. Over practically the same period, District of Columbia median household income rose by only 30 percent, half as much as the increase in housing costs.

At the same time, the available stock of housing has shrunk. Since the 1970 census, there has been an aggregate loss of over 13,000 units, primarily due to disappearing rental housing. A 1974 Washington Center for Metropolitan Studies survey found 27,000 low-income families, including 9,000 elderly, living in substandard or overcrowded housing.

Thus, high prices are taking potential homeowners out of the ownership market, and increasing the numbers of families looking for ever scarcer rental units. As a result, the District has the highest proportion (70 percent) of renter-occupied units of the 20 largest U.S. cities. The situation has not yet begun to reverse itself, and projections for the 1980's indicate a strong possibility that it will worsen.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action on tabling the motion to reconsider, and the action on reconsidering, and the action on adoption, and the action on moving a bill to third reading, be vitiated with respect to H.R. 3824, that a technical amendment be considered and adopted, that the bill again be moved to third reading, passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 506

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. MATHIAS, proposes an unprinted amendment numbered 506 to H.R. 3824.

The amendment is as follows:

> On page 2, line 25, and page 3, line 1, strike out "or (B)" and insert in lieu thereof the following: "(B) the creation by such an agency of a security interest in the revenues or assets of such agency in connection with the sale of any such bond, note, or other obligation, or (C)".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 506) was agreed to.

The PRESIDING OFFICER. Without objection, the bill is passed, and the motion to reconsider laid on the table.

ELIMINATION OF THE AUTHORIZATION CEILING FOR THE DISTRICT OF COLUMBIA'S SHARE OF METRORAIL CONSTRUCTION COSTS

The bill (H.R. 3914) to amend the National Capital Transportation Act of 1969 to remove the limitation on the amount authorized for the District of Columbia contributions for the cost of construction of the rapid transit system of the National Capital Region, was considered, ordered to a third reading, read the third time, and passed.

● Mr. EAGLETON. Mr. President, this bill, H.R. 3914, is a noncontroversial piece of legislation dealing with the District of Columbia's contribution to the construction of Metro.

It is not to be confused with another Metro bill, currently in the Governmental Affairs Committee, that would authorize substantial Federal funding for construction, operation, and the retirement of revenue bonds of the Metrorail system.

This bill, H.R. 3914, amends the National Capital Transportation Act of 1969 (NCTA), to life the ceiling on the amount authorized by Federal law for the District's share of the cost of the rapid transit system of the National Capital region. Under the Washington Metropolitan Transit Authority Compact, the District is obligated, along with the other State and local jurisdictions involved, to contribute its share of the costs of the construction of Metro. Under the NCTA, the District of Columbia was authorized to make an aggregate capital contribution of up to $269,700,000. This amount has recently been exhausted, primarily due to inflation and unexpected delays, before completion of the system. It is thus necessary to lift the ceiling of the District's contribution, so that it can remain a full partner, with Virginia and Maryland, in the creation of this rapid transit system, and also be able to put up the money constituting local matching funds for entitlement to Federal interstate highway transfer funds.

The Senate Budget Committee has determined that this bill does not, on its own, create any new direct costs to the Federal Government. The contribution will be made through the District Council's own budgetary process and will be subject to the congressional appropriations process created by the Home Rule Act.

The House passed this legislation by a vote of 357 to 48, and I would like to reemphasize its noncontroversial nature. I urge its speedy passage by the Senate today.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-263), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of H.R. 3914 (introduced in the House of Representatives at the request of the Mayor of the District of Columbia) is to amend the National Capital Transportation Act of 1969 to increase the amount authorized for the District of Columbia share of the cost of rapid transit system of the National Capital region.

NEED FOR LEGISLATION

The National Capital Transportation Act of 1969 originally authorized the District of Columbia to make an aggregate capital contribution to the Washington Metropolitan Transit Authority in the amount of $269,700,000. (Public Law 94-143, 85 Stat. 321, 1969, as amended).

The Mayor of the District of Columbia has testified that the District has exhausted, over the last 10 years, that original authorization. He has requested a further authorization so that the District can remain, along with Maryland and Virginia, a full partner in the construction of Metro. The authorization and appropriation of funds by Congress at the request of the District are necessary not only for direct construction costs but also as money constituting local matching funds for entitlement to interstate highway transfer funds.

The District of Columbia has worked for 12 years cooperatively with governments within the metropolitan Washington area and the Federal Government to insure that the local share of the funding for the system would be available. The Mayor has testified that the District of Columbia government's willingness to contribute highway transfer funds demonstrates the city's very strong commitment to building a regional transportation system. The money that the city has transferred from its interstate entitlements has been used for construction throughout the region without any kind of restriction that they be used only on the District of Columbia portions of the system. The Mayor stated, that "The government of the District of Columbia is committed to building the total system."

According to the Mayor:

The District of Columbia has already contributed to the construction of the Metro system $964 million of money converted from interstate highway transfer funds that the city might have used to construct highways. There are approximately $991 million more highway transfer fund entitlements remaining which the District of Columbia intends to contribute to the Metro system during the remaining years of construction.

H.R. 3914, which passed the House of Representatives by a vote of 357 to 48, would lift the authorization ceiling imposed by the National Capital Transportation Act of 1969 to allow the District to contribute such sums as may be necessary to fulfill its obligations under the Washington Metropolitan Transit Authority Compact. The Committee on Governmental Affairs recommends removal of the ceiling to allow sufficient flexibility for the city to meet its matching share requirements under the Compact in a timely manner in the curent year, and in the next few years as the system is completed.

The original authorization level has become insufficient due to well-publicized and documented increases in construction costs due to delay, caused in part by the Federal government, and inflation. All funds expended by the District for its share of Metro construction will be subject to the Congressional appropriations process created by the Home Rule Act.

The Senate Budget Committee has determined that this bill creates no new direct cost to the Federal Government.

EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE

The resolution (S. Res. 198) increasing the limitation on expenditures by the Select Committee on Intelligence for the procurement of consultants, was considered and agreed to, as follows:

Resolved, That the first section of Senate Resolution 76, Ninety-sixth Congress, authorizing expenditures by the Select Committee on Intelligence, agreed to March 7, 1979, is amended by striking out "$12,000" and inserting in lieu thereof "$42,000"

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-264), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 198 would amend Senate Resolution 76, 96th Congress, agreed to March 7, 1979 (the annual expenditure-authorization of the Select Committee on Intelligence), by increasing from $12,000 to $42,000 that portion of the funds authorized for the select committee which it could expend for the procurement of consultants. No increase in the select committee's total authorization of funds would result from this action.

EXPENDITURES BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

The resolution (S. Res. 201) increasing the limitation on expenditures by the Committee on Commerce, Science, and Transportation for the training of professional staff, was considered and agreed to, as follows:

Resolved, That section 2 of Senate Resolution 26, 96th Congress, agreed to March 7, 1979, is amended by striking out "$2,300" and inserting in lieu thereof "$5,600".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-265), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 201 would amend Senate Resolution 26, 96th Congress, agreed to March 7, 1979 (the annual expenditure-authorization resolution of the Committee on Commerce, Science, and Transportation), by increasing by $3,300—from $2,300 to $5,600—that portion of the funds authorized for the committee which it could expend for the training of its professional staff. No increase in the committee's total authorization of funds would result from this action.

EXPENDITURES BY THE COMMITTEE ON THE BUDGET

The resolution (S. Res. 204) increasing the limitation on expenditures by the Committee on the Budget for the procurement of consultants and authorizing expenditures by such committee for the training of its professional staff, was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 73, Ninety-sixth Congress, agreed to March 7 (legislative day, February 22), 1979, is amended—

(1) by inserting "(1)" after "amount";

(2) by striking out "$80,500" and inserting in lieu thereof "$160,000";

(3) by inserting before the period at the end thereof the following: ", and (2) not to exceed $5,680 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act)".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-266), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 204 would amend Senate Resolution 73, 96th Congress, agreed to March 7, 1979 (the annual expenditure-authorization resolution of the Committee on the Budget), by—

(1) Increasing by $79,500—from $80,500 to $160,000—that portion of the funds authorized for, the committee which it could expend for the procurement of consultants, and

(2) Authorizing the committee to expend not to exceed $5,680 for the training of its professional staff.

No increase in the committee's total authorization of funds would result from this action.

PURCHASE OF CALENDARS

The resolution (S. Res. 208) relating to the purchase of calendars, was considered and agreed to, as follows:

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $52,000 for the purchase of one hundred and four thousand calendars. The calendars shall be distributed as prescribed by the committee.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-267), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 208 would authorize the Committee on Rules and Administration to expend not to exceed $52,000 for the purchase from the U.S. Capitol Historical Society of 104,000 of its 1980 wall calendars for the use of the Senate. The calendars would be prorated among the Members of the Senate.

PRINTING OF "HISTORY OF THE COMMITTEE ON RULES AND ADMINISTRATION"

The resolution (S. Res. 209) authorizing the printing of a compilation of materials entitled "History of the Committee on Rules and Administration", as a Senate document, was considered and agreed to, as follows:

Resolved, That a compilation of materials entitled "History of the Committee on Rules and Administration", prepared by Floyd M. Riddick with the assistance of Louise M. McPherson, be printed, with illustrations, as a Senate document, and that there be printed one thousand seven hundred additional copies of such document for the use of that committee.

SEC. 2. The document specified in section 1 of this resolution shall be printed and bound with a paperback cover of the style, design, and color as the Committee on Rules and Administration shall direct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–268), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 209 would provide (1) that a compilation of materials entitled "History of the Committee on Rules and Administration", prepared by Floyd M. Riddick with the assistance of Louise M. McPherson, be printed with illustrations as a Senate document; and (2) that there be printed 1,700 additional copies of such document for the use of that committee.

The document would be printed and bound with a paperback cover of the style, design, and color as shall be directed by the Committee on Rules and Administration.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

To print as a document (1,500 copies)	$9, 192. 74
1,700 additional copies, at $698.23 per thousand	1, 186. 99
Total estimate cost, S. Res. 209	10, 379. 73

OFFICE EXPENSE ACCOUNT DOCUMENTATION

The resolution (S. Res. 170) to require documentation for reimbursements out of Senators' Official Office Expense Accounts from the contingent fund of the Senate, was considered and agreed to, as follows:

Resolved, That (a) no reimbursements shall be made from the contingent fund of the Senate pursuant to section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58), commonly referred to as a Senator's Official Office Expense Account, unless the vouchers presented for expenses incurred are accompanied by supporting documentation.

(b) The Committee on Rules and Administration is authorized to promulgate regulations to carry out the purpose of this resolution and to except specific vouchers from the requirement of subsection (a) of this resolution.

(c) This resolution shall apply with respect to expenses incurred on and after the first day of the first calendar month which begins not less than sixty days after the date on which this resolution is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–275), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

Senate Resolution 170, as submitted and referred to the Committee on Rules and Administration, would generally prohibit reimbursements from the contingent fund of the Senate for expenses under Senators' offical office expense accounts, unless the vouchers presented for expenses incurred are accompanied by supporting documentation. Section 2 of the resolution specifically authorizes the Committee on Rules and Administration to promulgate regulations to carry out the purpose of the resolution, and to except specific vouchers from the documentation requirement. The committee, in connection with its consideration of this measure, has already indicated its intention to require only itemization, and not documentation, for expenses under $25, except in special circumstances. The resolution would go into effect on the first calendar day of the first calendar month which begins not less than 60 days after the date on which this resolution is agreed to.

BACKGROUND

Consolidated official office allowances were established in 1973. Prior to that date, Senators were authorized several individual accounts for office expenses. There were separate accounts for air mail and special delivery postage, long-distance telephone charges, stationery, home State office space rentals, other home office expenses, magazine and periodical subscriptions, and travel. Each of these accounts had a ceiling amount; expenses exceeding any of the individual limits had to be borne by Senators personally, regardless of whether there was an unused balance in the other accounts.

The fiscal year 1973 Supplemental Appropriations Act remedied this problem. That law consolidated the several individual office accounts, creating a total ceiling on reimbursement of office expenses. Senators thus gained flexibility within the account for official expenses. Reimbursement for expenditures was made subject to two requirements: certification by the Senator, and submission of itemized vouchers. As had been the case previously with the individual accounts, there was no requirement that documentation be submitted to the Disbursing Office or to the Rules Committee. It was left to the individual office to insure that expenses claimed had actually been incurred, and that the claimed expenses fell within an authorized category.

Greater flexibility was built into the system in the fiscal year 1978 Legislative Appropriations Act, by the addition of a ninth category within the official office account. Under section 112 of this law, 10 percent of the total amount of a Senator's account could be set aside for "such other official expenses as the Senator determines are necessary." Because it was recognized that an extraordinary amount of discretion was being granted Senators over this portion of their office accounts, the law required that not only would expenses under this section be certified by the Senator, but that "detailed itemized vouchers" would be required. In addition, banking on the logic that disclosure would prevent abuse of this discretion, the law stipulated that expenses under this section would be separately listed in the semiannual report of the Secretary of the Senate on receipts and expenditures.

PRESENT REIMBURSEMENT REQUIREMENTS

At present, expenses within all of the specific official expense categories of the official office accounts can be reimbursed only upon certification of the Senator and his or her submission of itemized vouchers, while expenses under the 10-percent category require certification of the Senator and submission of detailed itemized vouchers. In addition, based on its statutory authority over expenditures from the contingent fund, the Committee on Rules and Administration has required that documentation be submitted for reimbursement of certain expenses, such as some travel expenses. There is, however, no general requirement that expense be documented to any central Senate authority.

NATIONAL DIABETES WEEK

The joint resolution (S.J. Res. 98) designating the week of October 8 through October 14, 1979. as "National Diabetes Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, follows:

Whereas diabetes kills more Americans than all other diseases except cancer and cardiovascular diseases; and

Whereas ten million Americans suffer from diabetes and $6,800,000,000 annually are used for health care costs, disability payments, and lost wage costs due to diabetes; and

Whereas a national awareness of the diabetes problem may stimulate interest and concern leading to increased research and eventually a cure for diabetes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 8 through October 14, 1979, is designated as "National Diabetes Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Judiciary be discharged from further consideration of House Joint Resolution 209.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action taken by the Senate with respect to Senate Joint Resolution 98 be vitiated and I ask unanimous consent the Senate proceed to the immediate consideration of House Joint Resolution 209.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 209) designating the week of October 8 through October 14, 1979 as "National Diabetes Week."

The Senate proceeded to consider the resolution.

Without objection, the resolution was considered and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senate Joint Resolution 98 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–278), explaining the purposes of the measure.

There being no objection, the excerpt was orderd to be printed in the RECORD, as follows:

PURPOSE

The purpose of the joint resolution is to authorize and request the President to issue a proclamation designating the week of October 8 through October 14, 1979, as "National Diabetes Week," and calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

STATEMENT

Public awareness of the problems created by diabetes is distressingly low. Diabetes kills more Americans than any other disease except cancer and cardiovascular disease. Ten million Americans suffer from diabetes, and $6,800 million annually are used for health care costs, disability payments, and lost wage costs due to diabetes.

This resolution would focus national attention on the suffering and hardship caused by diabetes, and stimulate interest and concern leading to increased research and eventually a cure for diabetes.

COST AND REGULATORY IMPACT

No cost would result from the enactment of the Senate Joint Resolution 98, and there is no regulatory impact.

NATIONAL LUPUS WEEK

The joint resolution (S.J. Res. 99) to provide for the designation of a week as "National Lupus Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of September 16 through 22, 1979, as "National Lupus Week" and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States and the world to observe such same week with appropriate ceremonies and activities. The President is further requested and authorized to issue such proclamation in the official languages of the United Nations and provide each Ambassador of these nations a ceremonial copy so that the lupus erythematosus patients in their countries may know of the United States concern for the control of this deadly disease.

(Later the following occurred.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Judiciary be discharged from further consideration of House Joint Resolution 19.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to vitiate the action taken by the Senate with respect to Senate Joint Resolution 99.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for the immediate consideration of House Joint Resolution 19.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 19) to provide for the designation of a week as "National Lupus Week."

The Senate proceeded to consider the resolution.

Without objection, the joint resolution (H.J. Res. 19) was considered and passed.

Mr. ROBERT C. BYPD. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senate Joint Resolution 99 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the votes by which the various measures were adopted en bloc.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

NOMINATION OF PAUL A. VOLCKER

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the nomination of Paul A. Volcker to be a member of the Board of Governors of the Federal Reserve System. The clerk will report.

The second assistant legislative clerk read the nomination of Paul A. Volcker, of New Jersey, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1978, vice G. William Miller.

The Senate proceeded to consider the nomination.

The PRESIDING OFFICER. Time for debate on this nomination is limited to 30 minutes, with 15 minutes to be controlled by the Senator from Wisconsin (Mr. PROXMIRE), 5 minutes to be controlled by the Senator from Utah (Mr. GARN) and 10 minutes to be controlled by the Senator from Colorado (Mr. ARMSTRONG).

The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, Paul Volcker has all the experience, the record, the training to be a superlative Chairman of the Federal Reserve Board. Here is a man who graduated from Princeton University summa cum laude, top of his class, and even before he graduated from college, he was working at the Federal Reserve Board.

He had subsequent education at Harvard, and became an economist for the Federal Reserve Board. He served very ably for a number of years. He also served as a vice president of the Chase Manhattan Bank, with considerable distinction. He was also appointed Under Secretary of the Treasury, and served as Under Secretary of the Treasury in three different administrations with responsibility for monetary policy. He has been president of the New York Federal Reserve, the largest Federal Reserve Bank in the country, for the past 4 years.

In that capacity, he is a member of the Federal Open Market Committee, which is the principal policymaking committee of the Federal Reserve, and I think there is just no question that there has been no appointment, certainly no appointment in my memory, and probably no appointment since the Federal Reserve was created in 1913, in which the Chairman has had this kind of relevant, solid experience.

He has a great record. He has a record of understanding monetary policy thoroughly, of working consistently to have a policy that restrains inflation but, at the same time, it is a flexible record.

I must say in his appearance before our committee he impressed all the Senators there. He was questioned at considerable length, for almost 3 hours, by the members of the committee, and he acquitted himself with great distinction.

Mr. President, one of the problems we all know we have with the Federal Reserve Board is that it is an agency that should be independent of the executive branch. The money power is a congressional power. The Constitution gives that to Congress, not to the President, and it is a power we should very carefully safeguard. That power has been delegated to the Federal Reserve Board, and the Federal Reserve Board should be independent of the political needs and ambitions of whoever is President of the United States.

At the same time, the President appoints the members of the Federal Reserve Board, and it is necessary for the Federal Reserve Board to coordinate, at least communicate very carefully, with the President and with the Treasury Department so that we have an economic policy that works harmoniously and constructively, and achieves the goals of holding down prices, achieving greater growth, encouraging productivity, and reducing unemployment.

Mr. President, that independence has been threatened in the past frequently. Many people, who follow financial policy in this country very closely, have been concerned about the threat to the independence of the Federal Reserve Board. I think in appointing Mr. Volcker, the President has done a fine job in assuring that we are going to have a Board that will be about as independent as it can be and should be, for several reasons: In the first place, Mr. Volcker has demonstrated in his professional capacity that he understands what he is doing. He will not be staff-dependent; he will not be dependent on economists from the executive branch; he will be able to act forcefully, confidently, assuredly, on the basis of strong professional experience, reputation, and authority.

Also he demonstrated in his years as a member of the Open Market Committee his independence. He voted against the majority, against the position that sometimes is represented as being the administration position, without any question when he thought that position was wrong.

Mr. President, we should be particularly concerned with the independence because we have a Board that was set up in 1913 with 14-year terms, with terms that were that long so that no President would be able to dominate the Board.

But because there has been a turnover in the Board, and people have been resigning only after a few years—in some cases after a few months—the average term on the Board has been less than 3 years, in fact, it has been close to 2 years.

In fact, President Carter, in the short time he has been President, has already appointed four members of the Board, has in effect, been in control of the Board, and will appoint his fifth member in January. So this is a particularly important time to have a person who has that capacity for independence.

Mr. Volcker has given his assurance to the committee that he understands the need for independence, and will work for the independence while communicating aggressively and vigorously with the President and with the President's chief economic experts.

Finally, Mr. President, this man has a solid record over the years of recognizing the importance of stable prices and working for stable prices, and I am confident that Chairman Volcker will be very helpful in the No. 1 economic issue that confronts this country, that of combating inflation.

As I say, he has great experience, he has great competence, and I cannot remember any nomination which has been received with such acclamation.

I might point out that as an eastern banker, as somebody who has been representing Wall Street, in a sense, and the eastern establishment and international banking, you would think there would be a lot of criticism. Well, there has been very, very little criticism. Editorials all over the country have hailed this nomination.

Republicans and Democrats alike, liberals and conservatives, have recognized the tremendous confidence in Mr. Volcker. He is just the right man at the right time in the right position and, as I say, I think the President deserves great credit for having made a superlative nomination, and I am sure we can be confident that the monetary policy is in good hands.

I might say, as chairman of the Senate Banking Committee, we will continue to monitor the Federal Reserve Board very closely. In the years Mr. Miller or in the months Mr. Miller has been Chairman of the Board I have given him a report card every 3 months on the basis of his record, and I expect to do the same with Mr. Volcker.

I am sure, speaking for my colleague from Wisconsin, HENRY REUSS, chairman of the House Banking Committee, they will also follow the activities of the Federal Reserve Board very carefully.

I am very happy to support the nomination of Chairman Volcker, and I am sure he will do an outstanding job.

Mr. President, I reserve the remainder of my time. In view of the fact there are other Senators who have reserved time to speak, I ask unanimous consent that I might suggest the absence of a quorum without the time being taken from either side.

The PRESIDING OFFICER (Mr. BRADLEY). Is there objection? The Chair hears none, and it is so ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it was tentatively agreed upon last night that the votes on these two nominations, that of Mr. Volcker and that of Mr. Miller, would occur back-to-back. I put that in the form of a unanimous-consent request.

Mr. PROXMIRE. Mr. President, if the Senator will yield on a technical point, there are two nominations involved in the case of Mr. Volcker, one as Chairman of the Board and the other as a member.

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. I understand the one as a member of the Board could be by voice vote; just about everyone would agree to that, with a rollcall vote on the chairmanship.

Mr. ROBERT C. BYRD. All right, fine. I ask unanimous consent that the two rollcall votes occur back-to-back. This has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being taken out of either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, the nomination of Paul Volcker as Chairman of the Board of Governors of the Federal Reserve System has received widespread praise from U.S. business and the international community. In fact, some of the pundits indicate that the recent slowdown in declines of the strength of the dollar market abroad is at least partially in response to President Carter's nomination of Mr. Volcker to be Chairman of the Federal Reserve Board.

I share the perception that Mr. Volcker will be a very able Chairman, and I have some hope, at least, that he shares the concerns which Chairman PROXMIRE has has expressed and I have expressed and many other members of the Banking Committee have expressed that we show greater restraint in the management of our Nation's financial affairs, in order to somehow stabilize the inflation rate.

I have had occasion not only to chat with Mr. Volcker on the phone, but also to meet with him in the setting of the committee hearings, and I have been impressed with what I have seen. I am going to vote for confirmation of his nomination, and I am sure it will be unanimous, or nearly so.

Nevertheless, I did not want to let this nomination go through without expressing my concern with the speed with which this nomination and others are being handled, and to serve notice on my colleagues in the Senate that in the future I am not likely to acquiesce in such rapid handling of these nominations, and I will explain why.

When I inquired of Mr. Volcker when he was first approached with respect to serving in this capacity, he said he was not sure, but it was either a week ago Monday or a week ago Tuesday, that is to say, about 10 days ago. A day or so after that, I believe, or about a week ago Wednesday, the President sent his name to the Hill. Five days later, including 2 weekend days, we had a hearing in the Committee on Banking. We had a good hearing, a lot of meaningful questions were asked, and then, 2 days after that, a week after his name was first submitted by the President, the issue was brought to a vote by the committee and then the next day we have it on the floor of the Senate.

Mr. President, I think that is too fast. He is nominated for a position on the Board of Governors of the Federal Reserve System that will last, as I understand it, until 1992. He is going to have a term of office as Chairman that will be either 2½ years or 4 years; it is not entirely clear to me what the disposition of that will be. During all that time, a casual statement or a chance remark by him, if overheard and published in the newspapers, will have a profound effect on the economy of this country. Long after most of the present Members of this body have gone home to pursue other occupations, he will still be on the Board of Governors of the Federal Reserve System, influencing the prices of goods and services in this country, influencing job opportunities, the way we live—truly the economic future of every family, of every working man and woman, and of every business in this Nation.

This is a terribly important appointment, and to approve it with the haste which has been shown, I think, is unseemly. I think it is unfortunate, and I just want to be on record as expressing that concern.

Why should we delay when nominations of this importance are brought up? For the very simple reason that if there are any skeletons in the closet of a nominee, something that might be known by a member of the public, not necessarily a Member of this body but somebody out in the country, a lapse of time gives that person the opportunity to come forward to the committee in an official way, or to any member of the committee or any Senator, and simply point out what those concerns might be. A week is simply not enough time if somebody out in Peoria, Colorado Springs, or Milwaukee knows something about this nomination that we ought to know.

I happen to believe there are no skeletons in Mr. Volcker's closet. I know of nothing that gives rise to any doubt as to his character, credentials, or qualifications. But I think we ought to stretch the time out. We ought not to waive the normal deadlines.

The reason why I am inclined to go along with this nomniation today is that the President has put us in a box. He has sent the nomination up to the Senate under circumstances such that our choice is either to let the Federal Reserve System be without a Chairman while we are out during the August recess, or to act on it in a manner which I think is too fast and compromises the process.

On balance, after considering the qualifications of Mr. Volcker and, frankly, on the assurances of Chairman PROXMIRE, who is well acquainted with him and knows of his work and his activity at the New York bank, I am disposed to think the greater risk would be to leave the Federal Reserve without a head at this critical time in the economic history of our country by insisting upon the normal procedures. So I do support the nomination. My only reason for rising is to express concern with the integrity of the process, and to let anyone who may read the record of these proceedings know it is going to be my intention in the future to insist on better timing.

Mr. PROXMIRE. Mr. President, I congratulate the Senator from Colorado. He makes an excellent point. He is absolutely right. We should take our time on this nomination.

This is an extremely important nomination, in many ways the most important nomination the Senate will have this year, as the Senator has so well explained.

What we did with this nomination was to abbreviate the time of 5 days, the 5-day holdover that we have as a matter of procedure, to 2 days in order to be able to move, as the Senator explained, before we go out on recess. If we did not have Mr. Volcker as Chairman of the Federal Reserve Board, we would have a situation which would be most unfortunate with the financial market, for the stability of the economy as a whole, and confidence in our country.

I think we should recognize that this man is not just a newcomer who nobody has ever heard of. He is one of the best known men in top financial and governmental circles in the country. He was carefully investigated for his position as Under Secretary of the Treasury. He has come before congressional committees in the past. He served for 4 years as president of the largest Federal Reserve bank in the country, in New York. So his conduct, his activity, has been under the closest kind of scrutiny.

He has been in the financial sections of newspapers repeatedly. He is a man whose reputation, background, and activities are extremely well known.

So I think that under these circumstances we are right in going ahead, although the Senator is dead right that we should respect these procedural limitations that are absolutely essential if this Senate is going to be deliberative and careful in approving these very vital nominations.

We have a very important function to advise and consent to these nominations. By and large we do not take them seriously. That is one of the great failings of this body. I think the Senator from Colorado deserves great credit in calling upon us to be more deliberative, more careful, and to observe the procedures even when we have a person as well qualified as Mr. Volcker.

I take this excellent advice from the Senator from Colorado, and I will do my best as chairman of the committee to see that in the future we do abide by the rules and give full time, as the Senator said, for the consideration of any criticism which might arise.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I rise to support this nomination as ranking minority member of the Banking Committee. First, may I say that I agree completely with my distinguished colleague from Colorado, Senator ARMSTRONG, as to his objection with regard to the procedural manner in which we speeded up this nomination process. During the 5 years I have been on the Banking Committee, on numerous occasions I have made similar objections, feeling that we must observe the rules of the committee, giving the opportunity for people, particularly on nominations, to be heard both for and against. He is absolutely correct in his criticism.

The reason that I was willing to agree to the speedup, which violates the principle Senator ARMSTRONG has been objecting to and that I normally object to, is that we have an unusual situation. We have had a great deal of turnover on the Federal Reserve Board, an unusually high amount of turnover. They are 14-year terms and recently they have been serving an average of only 2½ years. We have a situation where the new Vice Chairman of the Federal Reserve Board has not yet even been sworn in. He will be sworn in tomorrow. Although he is a very well-qualified individual, he has had no experience on the Board whatsoever. So he would be the Acting Chairman during the next 4 to 6 weeks. This is certainly not to diminish his ability, but he will be in a learning process. Therefore, I felt it was absolutely necessary that we speed up the process.

Mr. Volcker, as has been outlined very well, has had a great deal of experience at the Treasury Department and as president of the New York Federal Reserve Board. Therefore, he can move right into this position.

The confidence in the money markets, and so on, went up 10 points just when it was announced that he was being nominated. He is extremely well qualified and is a talented individual. He did extremely well in the nomination hearings. He is without doubt one of the better appointments that the President has made so far during his term as President.

I agree with the chairman and Senator ARMSTRONG that we did cut 3 days off, and that it is an unusual procedure. But I feel it was absolutely necessary that Mr. Volcker be approved and be able to start to work immediately. I enthusiastically support his nomination.

Mr. President, Mr. Volcker is widely recognized and respected for his expertise in economic and financial matters, particularly in the area of international finance. Mr. Volcker's talents are certainly welcome at this time in our Nation's history. The positive reaction which the money markets and foreign exchange markets had to the President's announcement of Mr. Volcker as Chairman of the Federal Reserve illustrated the respect which Mr. Volcker has earned both here and abroad.

Mr. Volcker certainly had no difficulty in establishing his credentials with the members of the Committee on Banking, Housing, and Urban Affairs. He is well known to the members of that committee, and has appeared before them on a number of previous occasions. Little or no time was spent during his nomination hearing on questions regarding his qualifications. It was obvious to the members of the committee that Mr. Volcker would not need any on-the-job training. He has devoted his entire career to financial and economic matters. He has served as the president of the Federal Reserve Bank of New York during the past 4 years. Prior to that he served as both Deputy Under Secretary and Under Secretary for Monetary Affairs in the Treasury Department under three different Presidents.

Mr. Volcker will assume the chairmanship of the Federal Reserve Board under very trying conditions. The rate of inflation is accelerating, the economy appears to be in the early stages of a recession, interest rates are extremely high, and the dollar remains under pressure abroad. During his appearance before the committee at his nomination hearing, Mr. Volcker displayed a keen awareness of the seriousness of these problems. For that reason, and in view of Mr. Volcker's reputation, the committee has decided to push for his confirmation by the Senate prior to the August recess. I support that decision. It would be unfortunate to leave the chairmanship of the Federal Reserve vacant any longer than necessary in the face of existing economic uncertainties.

Mr. Volcker responded to a number of questions by committee members which illustrate his sensitivity to the important role which monetary policy plays in he economy. He told the members of the committee:

> The top single priority seems to me to deal with this problem of inflation.

He also said:

> If the growth of money is excessive over a period of time, we're going to have inflation.

Mr. Volcker also recognizes that interest rates are closely tied to the rate of inflation. He said:

> If we don't deal with the inflation problem in its overall context I unfortunately don't know of any way you can keep interest rates as low as they used to be.

At another point he noted:

> A policy which is interpreted as a noninflationary policy is good for long term interest rates.

He elaborated on that point by noting:

> I think the broad record of history is quite clear that the level of interest rates specifically is very much related to the level of inflation and if we want low levels of interest rates—which I think would be desirable—we have to recognize that that's not going to be feasible until we have a more stable economic and financial climate.

I was particularly pleased to hear Mr. Volcker agree on the importance of an independent Federal Reserve. He stated:

> Ultimately I think that the decisions on monetary policy are those of the Federal Reserve and we have to call the shots as we see them . . . the ultimate decisions on monetary policy are those of the Federal Reserve, and they might clash at some point with what an administration or what this Committee might think is appropriate under particular circumstances.

These are reassuring words from Mr. Volcker. They indicate a sensitivity on his part to the importance of the money supply and the effect it has on inflation and, in turn, interest rates. The important role which monetary growth plays in the inflationary process was assessed recently in a commentary prepared by the investment firm of Paine Webber. That commentary noted:

> With monetary policy shifting toward an increasingly accomodative posture, and nominal credit demand rising in accordance with expectations of rising inflation as well as the cheap price of money in inflation adjusted terms, it is no wonder that foreign exchange market participants have little or no confidence in American financial policy.

I am hopeful that Mr. Volcker will work within the independence of the Federal Reserve to restore price stability, reduce interest rates consistent with a lower rate of inflation and strengthen the U.S. dollar abroad.

I ask unanimous consent that the commentary by Paine Webber be included in the RECORD.

There being no objection, the commentary was ordered to be printed in the RECORD, as follows:

PAUL VOLCKER NOTWITHSTANDING

(Commentary by Paine Webber)

Paul Volcker is unquestionably an accomplished central banker. Having started near the bottom of the ladder at the Federal Reserve Bank of New York about thirty years ago, he moved up the pecking order to become president of the New York Reserve Bank and finally Chairman of the Federal Reserve Board. During this period he took two turns at the Treasury Department, first as Deputy Undersecretary of Monetary Affairs (under Roosa) in the Kennedy Administration, then as Undersecretary of Monetary Affairs during the Nixon Administration. In between Mr. Volcker served in a corporate planning function at the Chase Manhattan Bank.

With all this background it is quite clear that the new Fed Chairman will require no on the job training, as regrettably was the case for his immediate predecessor. Further, Mr. Volcker is as well schooled in the art of central bank diplomacy as anyone around, as evidenced in part by his performance at last week's press conference where the new chairman said very little, and what he said was cloaked in extensive generalities. This indeed reflects the art of central banking, and Mr. Volcker knows it well. Obfuscation is a virtue in that league, and henceforth it will be a pleasure to watch a pro at work.

So from the standpoint of style and approach Mr. Volcker is an eminently successful and pragmatic bureaucratic player, as attested by his steady rise to the top. But quite apart from matters of style, there are matters of substance which remain troublesome. For one, as a loyal alumnus of the New York Fed Mr. Volcker has indicated no opposition to the government practice of controlling or pegging interest rates and exchange rates as the principal operating lever and shortrun target in the conduct of monetary policy. The interest rate control approach to monetary policy is essentially a rejection of the market framework, with the corollary notion that without frequent intervention of wise and benign central bankers, markets left to their own devices would never be able to foster something called "orderly trading conditions."

Frequent intervention in foreign or domestic exchange markets may increase the self-importance and influence of senior government bureaucrats, but the process of interest rate fine-tuning and pegging has a decidedly destabilizing effect on economic activity. During periods of rising economic activity the maintenance of an interest rate peg forces the authorities to supply reserves in increasing quantities, thereby turning recoveries into credit booms. Conversely, during periods of falling aggregate demand the interest rate peg requires the absorption of bank reserves, thus turning economic weakness into recession. In sum, interest rate finetuning works in a procyclical not contracyclical manner, and serves as a strong destabilizing influence on economic activity.

This destabilizing influence in turn causes frequent changes in the thrust of monetary policy, and the more erratic nature of monetary policy in recent years has served as a depressant for investment, production, and real output growth. Moreover, over periods of time the rollercoaster stop and go nature of monetary policy has yielded a seemingly permanent trend toward higher rates of money supply growth and higher rates of inflation. Ironically, despite efforts to manipulate market interest rates, usually to restrain upward pressures, the evidence clearly points out that interest rates rise anyway, often in dramatic fashion. In the end, despite government efforts, the market and its expectations always carry the day.

The alternative approach to interest rate manipulation allows the market to determine interest rate levels, while the authorities focus instead on a steady growth target for bank reserves and the money supply. Over medium and longer time periods such an approach would yield price and interest rate stability, with fewer turns in monetary policy and a more stabilizing effect on economic activity. By maintaining moderate money supply growth, in line with trend real output growth and trend growth in money demand, the authorities would enhance the value of the dollar and the marginal utility of money. Opponents of this "hard money" view argue that in the short run interest rates would fluctuate too widely, yielding disorderly trading conditions. But hard money proponents believe that a steady monetary growth rule would stabilize inflation expectations and therefore interest rates. If exogenous disturbances occur, then let them occur. No one can predict or prevent such shocks, so why even try. And finally, if left alone market forces will adjust rapidly to unexpected shocks and thus interest rate conditions are likely to normalize with a minimum of friction and dislocation.

Mr. Volcker has never been an advocate of the hard money classical approach to financial policymaking, and thus there exists the rather high probability that his appointment will not alter the erratic nature of monetary policy. However, in fairness to Mr. Volcker he seems in recent years to be shifting to a more moderate position. Like many neo-Keynesians during the second half of the 1970's, Mr. Volcker appears to be somewhat more appreciative of the relationship between money and prices. Although concrete evidence is hard to find, it is likely that the new chairman would agree with the Arthur Burnsian view, a view by and large agreed upon by many key members of Congress, that high inflation rates could not persist without similarly high money supply growth rates. Therefore, in the spectrum of monetary affairs, Mr. Volcker in recent years appears to be shifting from his original New York Fed soft money stance to a more moderate middle of the road position. Perhaps it can be hoped that the shift has not yet been completed, and with the passage of time and the realities of the new job more progress will be made in the direction of the hard money view.

Certainly Mr. Volcker has solid anti-inflation biases, as demonstrated by his dissenting FOMC votes last March and April. These votes represent considerable improvement from the period stretching from mid-July 1976 until March 1979, when despite the persistent acceleration in money supply growth and inflation, Mr. Volcker expressed no dissenting views over the direction of FOMC policy initiatives. Thus it is hoped that the more recent past can be extrapolated into the future, with the new Fed Chairman seeking to lean against the wind in a more determined fashion. If this in fact turns out to be the case, it is likely that Reserve Bank members of the FOMC will provide the new chairman with dependable support, even while some of the recent soft money Carter appointees to the Board express opposition.

In any event, regardless of the views of the new chairman, monetary policy over the past 15 years has become increasingly dependent on government spending and budgetary policies. This analysis has little to do with constitutional law, or the Federal Reserve Act of 1913, but instead takes account of financial market realities under the circumstances of the growth of the American version of the modern welfare state. The extraordinary rise in government spending, budget deficits and debt creation has created a no-win situation for the Fed. If the growth in debt finance is accommodated by the authorities, then money growth spurts, price anticipations rise, and interest rates ratchet higher. If the Fed places a monetary wall in the way of the debt financing requirements, then the attendant rise in interest rates will yield economic problems and a higher unemployment rate.

Indeed, both scenarios merely represent different stages of the same dismal path that inevitably leads to higher prices, higher rates, more unemployment, slower investment and output growth, and substantial political costs. What's more, with a steeply progressive tax structure the rise in inflation induces rising marginal tax rates, and this tax brake effect serves only to depress investment and production even more.

With government spending and debt creation constantly on the rise, monetary policy has been subsumed under the broader category of government budgetary policies. In these circumstances the ability of the Fed to conduct appropriately restrained operations has been severely constrained, and this institutional constraint is in many ways far more important than the views and actions of any one man.

Except possibly the President. In our judgment President Carter could take swift and effective action in support of legislation to create a permanent ceiling for the growth of government spending. Such an approach would in all likelihood do more to restore confidence in the future value of the U.S. dollar than any other single effort, and would create an environment within which the Federal Reserve could pursue operations that would gradually over a period of perhaps three years reduce monetary growth to a stable non-inflationary rate of increase. Thus, with firm public announcements to limit government spending and money creation, and a sustained follow up effort toward execution of those policies, inflation expectations would decline and the value of U.S. greenbacks would immediately rise. And for those who doubt the validity of this policy prescription a careful look at the recent statements of Mrs. Margaret Thatcher, as well as an examination of recent movements of the British pound, might prove particularly instructive.

Regrettably, no such initiative from the populist oriented and election-minded White House appears forthcoming. Indeed, with the President's latest energy proposals, more rather than less government spending appears the likelier course. And at the same time, the Federal Reserve appears willing to continue to follow market interest rates rather than to lead them. The small policy adjustments taken two Fridays ago received no follow up this past week. Money market conditions tightened appreciably on Friday in the wake of disappointing money and credit numbers, but the Fed elected to resist the wisdom of the private market by pouring more reserves into the banking system in a futile effort to peg the Fed funds rate at 10⅝ percent.

With monetary policy shifting toward an increasingly accommodative posture, and nominal credit demand rising in accordance with expectations of rising inflation as well as the cheap price of money in inflation adjusted terms, it is no wonder that foreign exchange market participants have little or no confidence in American financial policy. As long as the Congress and the Administration continue to pursue policies of fiscal restraint and monetary ease, then the value of the dollar must continue to decline. With the tax brake effect pointing the real sector towards recession, and rising money growth driving the general price level higher, the marginal utility of U.S. sponsored money will continue to decrease.

The dollar sphere of the global money market in these circumstances is headed for a crisis. Fed actions to raise interest rates slightly, along with the Volcker appointment, have served only to briefly postpone the crisis. Events seem to be moving quickly, and thus it is our judgment that a new dollar crisis is imminent. Timing is difficult to pinpoint, but in all likelihood the U.S. money market is headed for a severe shock by the early fall at the latest. Short rates are expected to rise by at least a percentage point, and possibly more. Once again the foreign exchange market will force the hand of the U.S. market, and once again the U.S. authorities will follow events rather than lead them. Therefore, Paul Volcker notwithstanding, money and credit market danger signals abound, and investors are advised to act accordingly with a maximum degree of caution.

● Mr. TOWER. Mr. President, I support the nomination of Paul A. Volcker to be Chairman of the Federal Reserve Board. I believe that Mr. Volcker is an excellent choice for this very important position. He is a recognized expert in international financial matters. He has also dealt with a number of important domestic economic issues during his long and illustrious career. From the various statements which he has made to the Committee on Banking, Housing, and Urban Affairs and elsewhere, it is clear that Mr. Volcker recognizes the need to assure economic stability at home as an indispensable part of strengthening the U.S. dollar abroad.

Mr. Volcker will become Chairman of the Federal Reserve Board under very trying conditions. The challenges facing him and the other members of the Board are enormous. The rate of inflation is accelerating at the very time the economy appears to be in the early stages of a recession. Interest rates are extraordinarily high and the dollar is still on uncertain waters abroad.

The Federal Reserve will play a crucial role in seeking a solution to the economic problems facing our Nation over the months ahead. Monetary policy needs to be placed on a sound footing if economic stability is to be restored. The rate of growth in the money stock needs to be maintained on a noninflationary course if the problem of inflation is to be solved. Rapid monetary growth, particularly under existing economic conditions, is completely inconsistent with stable prices. Moreover, presently high interest rates cannot be reduced without a reduction in the rate of inflation, and the dollar will remain under pressure in foreign exchange markets until price stability is achieved domestically.

Mr. Volcker has served for the past 4 years as the President of the Federal Reserve Bank of New York. He appears to recognize the need for an independent Federal Reserve. Certainly he has had the opportunity to see first hand how important it is that the Federal Reserve remain independent from political pressures. I trust that Mr. Volcker will maintain the independence of the Federal Reserve to work for stable economic conditions here at home and a stable dollar abroad.●

Mr. PROXMIRE. Mr. President, it is my undertanding that under the agreement I had 15 minutes, and I am going to yield back my time in just a minute, the Senator from Utah had 5 minutes, and the Senator from Colorado had 10 minutes.

I do not believe there are any other speakers. I believe the majority leader expected to have back-to-back votes on the nomination for chairman. It is not necessary to have a rollcall vote on the nomination to be a member of the Board. And then the vote on the Miller nomination for Secretary of the Treasury.

I would suggest that perhaps we could act on the nomination for the member of the Board and then proceed to discuss and debate the Miller nomination. Then, as the majority leader suggested we act, we would act with the back-to-back votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the nomination of Paul A. Volcker, of New Jersey, to be a member of the Board of Governors of the Federal Reserve System?

The nomination was confirmed.

The clerk will state the next nomination.

DEPARTMENT OF THE TREASURY

The second assistant legislative clerk read the nomination of G. William Miller, of California, to be Secretary of the Treasury.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be taken from either side.

The PRESIDING OFFICER. Without objection, it is so orderd.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, we had before the Finance Committee the nomination of Hon. G. William Miller to be Secretary of the Treasury.

The committee interrogated Mr. Miller. We were very favorably impressed by him.

This is not the first time we have had Mr. Miller before the committee.

He has served with distinction as Chairman of the Federal Reserve Board. We believe he has served his Nation well.

The Senate has voted to confirm him previously, and the committee recommends that he be confirmed again.

We believe that the good judgment and the leadership he has shown throughout his life will serve the Nation well in his capacity as Secretary of the Treasury. We believe that the Senate will want to confirm Mr. Miller to the position of Secretary of the Treasury.

In some respects, Mr. President, it seems to me that Mr. Miller is not being promoted at all, but stepping down. The position of Chairman of the Federal Reserve Board gives an individual a great deal of independence to exercise his own judgment and lead this Nation in monetary policies which he thinks best for the Nation.

Of course, he must cooperate with the administration, the President, and those in the executive branch, but he is not required to accept their judgment.

Theoretically, he is working for Congress; but, as a practical matter, a person in that capacity is working for his own conscience, because he is more or less beyond the control of any congressional committee. On good behavior, a person in that position can exercise a great deal of independent judgment, and he is expected to.

I have no doubt that Mr. Miller will add wisdom and good judgment to this Nation's fiscal and monetary policies in his capacity as Secretary of the Treasury. Together with the Committee on Finance, I strongly recommend the confirmation of his nomination.

Mr. PROXMIRE. Mr. President, it is my understanding that, under the unanimous-consent agreement as to this nomination, I have 15 minutes. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, for more than 15 months, William Miller has been Chairman of the Federal Reserve. I opposed his appointment to this position. Nothing in the way Mr. Miller has performed on the job has changed my judgment.

Mr. Miller was never qualified to head the Federal Reserve. He had no experience in his background which would have indicated that he was at all qualified for the job. I graded him for each 3 months of his tenure on the job. His highest grade was a D-plus. The Fed's management of the money supply during his tenure has been unpredictable, and inflation continues to soar. Interest rates are at an all time high. The situation is not entirely Mr. Miller's fault, by any means; but every one of the economic elements under the Federal Reserve Board could not be worse.

Mr. President, I believe that Mr. Miller is better qualified to serve as Secretary of the Treasury. He is knowledgeable about the economy and has the confidence of the business community and the President. His principal difficulty will be in fending off the White House staff. Mike Blumenthal did it, and he was not rewarded for his efforts.

Nevertheless, I must oppose Mr. Miller's nomination to be Secretary of the Treasury.

Last year when Mr. Miller's nomination to be chairman of the Federal Reserve Board was before the Banking Committee, an inquiry by the committee indicated that Textron-Bell had paid a $2.9 million commission to an Iranian agent (Air Taxi) owned by a general in the Iranian Air Force (General Khahemi) in connection with the sale of over $500 million in helicopters to Iran. The committee also questioned whether bribes were paid in connection with the sale of helicopters to Ghana. Miller denied that Textron engaged in bribery. There was no evidence at that time that Miller personally had knowledge of any payment to a foreign government official in connection with the sale of helicopters.

Mr. President, 17 months after the Banking Committee's inquiry, the SEC has issued a 101 page report of an in depth look at Textron's overseas sales. What the SEC report shows is that while Miller headed Textron, international bribery occurred at least 10 times.

The SEC report reveals that Textron-Bell—and Mr. Miller was the chief executive officer of that conglomerate—paid bribes to foreign officials in 10 countries: Iran, United Arab Emirates, Morocco, Dominican Republic, Mexico, Columbia, Oman, Ceylon, and Indonesia. Over a half of 1-billion dollars of Textron sales depended on payments to foreign officials. The bribes paid were over $5 million, facilitated by commission payments to secret bank accounts in third party countries. The highest officials of Textron-Bell were knowledgeable.

Mr. President, there is no evidence in the SEC report indicating that Mr. Miller personally participated in the bribes. No document or testimony even mentions Mr. Miller in connection with the payment of bribes. It should be pointed out, however, that 11 Textron officials invoked their fifth amendment privilege against self-incrimination in the SEC investigation, so that the full truth may never be known about Textron's bribery of foreign officials.

The SEC has requested that this report remain confidential. I believe the report should be made public, but I will defer to the judgment of the SEC, which argues that public release of the report will inhibit appropriate enforcement action against Textron.

It is clear from the SEC report that up to the enactment of the Foreign Corrupt Practices Act in the last Congress, which made it a crime for an American company to bribe a foreign government official, Textron participated in international bribery just as it did with many other Fortune 500 companies subject to the jurisdiction of the SEC. I recognize that this has been a common practice. We all have to recognize that this was not an unusual or illegal practice at that time. It was something in which many American companies took part.

Should Miller have known about payments to foreign government officials on a worldwide scale by Textron-Bell? It appears to me that any reasonably prudent chief executive officer in his position would have known. Mr. Miller's responsibility as head of the company was to be informed about such matters since the sales volume was huge and for most of the time the helicopter division reported directly to Miller and that is where a large share of the bribes were paid.

In 1975 numerous instances of foreign bribery by American corporations caused the SEC to institute a voluntary compliance program whereby corporations would take it upon themselves to conduct complete inquiries of their affairs and publicly disclose instances of questionable payments. The SEC report says that Textron considered but decided not to conduct its own investigation of questionable corporate payments. The decision was reached at a Board of Directors meeting in which Miller participated.

The SEC report states that over 500 American companies made disclosures concerning questionable foreign payments after they conducted complete investigations. Among those making disclosures were the blue chips of the corporate world including Exxon, Colgate, Tenneco, and United Technologies. But what did Textron do? Textron said its skirts were clean. Miller refused a complete inquiry on the ground that Textron had made no questionable payments.

The evidence in the SEC report shows the undoubted reason why Miller rejected an investigation of questionable payments by Textron pursuant to the SEC's voluntary program. Textron was heavily involved in bribery of foreign government officials on a worldwide scale: Iran, the United Arab Emirates, Morocco, the Dominican Republic, Mexico, Colombia, Oman, Ceylon, Ghana, and Indonesia.

I specifically asked Miller at his confirmation hearings before the Banking Committee about Textron's compliance with the SEC voluntary program pointing out that most companies had chosen to have independent examinations of their businesses to comply with the SEC voluntary program. Miller said that at Textron they did not conduct an investigation. "There was a process of audit examination, of searching for commitments from employees, that they will certify, that they knew of no such circumstances." Instead of a complete and independent examination of Textron's business, Textron's own counsel conducted a 1-day inquiry of the $2.9 million payment to Air Taxi. The inquiry can only be described as incomplete. Counsel's report concluded that "none of the principals of Air Taxi are known or believed to be Iranian Government officials." Counsel did not question the individuals at Textron-Bell who had been told that General Khatemi had an ownership interest in Air Taxi nor did he review Textron-Bell documents which would show such ownership. On the basis of this 1-day inquiry, counsel concluded that the payment to Air Taxi was not in the questionable payment category and reported that to Miller.

Mr. Miller himself had discussed the matter of an internal investigation with his counsel at the time of the SEC voluntary compliance program. Mr. Miller advised counsel he knew of no illegal or improper payments and that the only significant commission payment by Textron was the Air Taxi situation. Thus Mr. Miller himself defined the scope of the limited internal inquiry that cleared Textron.

Any reasonable outside inquiry or complete inquiry would have uncovered the widespread bribery at Textron. The fact that Mr. Miller did not turn to an independent committee and the fact that he limited the scope of the inquiry dictated that it would be incomplete. Not only had Textron paid an agent owned by an Iranian general to get contracts, but we now know that Textron according to the SEC report:

Paid $400,000 in commissions to its agent in the United Arab Emirates in connection with sales made to the Dubai Police Air Wing knowing that officials of the Dubai Police Air Wing had a financial interest in the agent.

Promoted a foreign military sale by the Defense Department to Morocco knowing that the commission paid to its agent would be passed on to Moroccan Government officials.

Paid $150,000 directly to a Mexican colonel in connection with a sale to the Mexican Air Force.

This pattern of payments to foreign government officials was repeated by Textron in the seven other countries I have previously mentioned.

Foreign corporate bribery caused the United States severe foreign policy repercussions. A friendly democratic government was brought down in Japan. The monarchy was tarnished in the Netherlands perhaps for all time. In Italy the bribery of officials undermined democracy and added fuel to Communist charges of corruption.

Mr. President, no doubt the Foreign Corrupt Practices Act put a stop to all of this. This is not the question with Mr. Miller. The question is why did not Miller make sure that Textron came clean with the SEC as 500 other American companies did? Why did not Miller see to it that Textron came clean with the Banking Committee on the Air Taxi situation?

When Miller's nomination was before the Banking Committee, information came to the committee's attention that an Iranian general, Khatemi owned Textron-Bell's agent in Iran to which Textron had made a $2.9 million payment in connection with the sale of helicopter's to Iran. If true, it would have been strong evidence of Textron bribery in Iran.

I specifically asked Miller at the Banking Committee hearings about General

Khatemi's interest in Air Taxi, Textron-Bell's agent in Iran:

> Since General Khatemi was the owner of Air Taxi, wouldn't you agree that the $2.9 million payment included a payment to Khatemi?
>
> Mr. MILLER. I don't want to dispute your evidence. I don't think any evidence we had was that such a general owned Air Taxi.
>
> The CHAIRMAN. In the event I am correct, would you not agree that the payment to Air Taxi——
>
> Mr. MILLER. If you are correct you can draw your own conlusions. I don't believe it is correct.

Evidence of General Khatami's ownership interest in Air Taxi was in Textron's own files and other evidence was easily available to Textron auditors. Even Textron's special committee report of the board of directors which was appointed in the wake of the Banking Committee's inquiry issued its report last month concluded that "it is highly probable that Gen. Mohammed Khatemi, the deceased former commander of the Iranian Air Force, had a secret financial interest in Air Taxi, or in commissions earned by Air Taxi, during the time Air Taxi acted as (Textron) Bell's dealer in Iran and the settlement (of $2.9 million) was agreed upon." Evidence to support this conclusion as I say was known or available to Textron officials. Instead, Miller chose to brush off the suggestion by the committee that Khatemi owned Air Taxi. Miller approved the payment of $2.9 million. It is completely unrealistic to believe that Miller should not have known about General Khatemi's interest in Air Taxi.

In testifying before the Banking Committee, Miller repeatedly denied that Textron engaged in bribery. Miller repeatedly stated that Textron operated with the highest standards of ethics and conduct.

Miller stated that "Textron endeavors to maintain the highest standards of conduct. This has been a subject discussed at every major management meeting during my 22 years with the company. I have laid out a policy that it would live by the highest standards of ethics and conduct that are perceived to be possible in the world in which we live.

We now know after reviewing the SEC report that Mr. Miller's statement to the Banking Committee was not correct.

The following question was put to Mr. Miller: "Did you ever instruct any of your subordinates to not bother you with details but do whatever is necessary to conclude successful sales and contracts with foreign entities? Would you in effect say get on with the job and do not bother me with the details and I do not want to know that sort of thing—protect me, do not allow me to have to take the rap for anything that you might do that is slightly questionable from an ethical standpoint?

> Mr. MILLER. To the contrary, Senator. I have insisted that I be fully informed about any question of ethics that comes up in these matters. I suppose my associates would say that I have on occasion been too much involved in the details of the business, because I consider it essential for me to be vigilant I know of several cases where, because of this policy, officers came to me and reported a situation far down the line, saying, "We know what your policy is but we want you to be aware of this before we make a decision. In each case. I said that if any questionable payment was required we would discontinue the negotiation and that was done in each case. I have been informed on a number of occasions so I am sure the system is working, and I am sure my officers understand it. I do not seek to be protected. I seek to be involved, so that I can guide our officers in a way that will protect them from making mistakes.

Mr. President, the fact is that high officials of Textron-Bell knew of the payments to government official in 10 countries. Mr. Miller was incorrect once again in his testimony before the Banking Committee.

Mr. Miller was asked about bribery as follows:

> I understand that you have a policy in your concern not to engage in improper payments?
>
> Mr. MILLER. That is absolutely correct.
>
> Senator CRANSTON. I understand you find it possible also to do business without making improper payments.
>
> Mr. MILLER. We have taken the view that the way to do business in the world is to have superior products, to represent them thoroughly, to sell them as hard as we can, to service them well, and to win on the merits of our product. We have lost business where business could be obtained in other ways, but we do not consider that to be a detriment. We believe that in the long run a company prospers better by making itself competitive enough to win on the merits.

Mr. Miller was asked time and time again about bribery at Textron. He denied it vehemently always involving the high moral tone he had instilled in the company. Mr. Miller has reportedly said that he was disappointed in Textron employees and that bribery "violates my standards for the company." Mr. Miller was dead wrong about payoffs at Textron.

Mr. Miller was the boss according to his own standard and he was responsible. The payments to foreign government officials was not accomplished by low level junior field men. Knowledge of foreign government official ownership in foreign agent commissions paid by Textron-Bell were known by the operating heads of the Textron-Bell Division who reported directly to Miller. And these were not inconsequential transactions. They involved over one-half billion dollars in sales.

The largest of these were the Iranian transactions. The Banking Committee staff uncovered evidence which showed that General Khatami did indeed own Air Taxi and that Textron paid a $2.9 million commission payment to Air Taxi, a portion of which was directly passed on to General Khatami.

I questioned Miller about these facts at the Banking Committee hearing. Miller denied General Khatami had an interest in Air Taxi. He was wrong.

Textron knew that General Khatami owned Air Taxi at the time Miller testified. But a new document in Textron's files showing Khatami's ownership was not supplied to the committee until after Miller was confirmed by the Senate over my objection. The document was uncovered in the course of the SEC investigation. This document should have been supplied to the committee because it was called for by a Banking Committee subpoena. I referred the matter to the Justice Department to determine whether an obstruction of justice took place.

Mr. President, that was not the only occasion on which stumbling blocks were placed in the way of the Banking Committee making a complete record in the Miller nomination. Miller himself was not helpful to the committee in seeing to it that it had a complete record upon which to judge his nomination.

When I raised with Mr. Miller the matter of whether Textron had conducted an investigation on questionable payments Miller did not respond forthwith and frankly tell the committee that it had been considered and rejected and that a limited inquiry had been conducted by Textron's own counsel only on one transaction. In fact Textron did not inform the committee of this limited investigation until after the committee staff had learned independently of its existence.

Textron did not supply documents to the committee called for by subpena which were crucial to an understanding of the circumstances relating to the retention of Air Taxi as its agents in Iran including important evidence relating to Textron's knowledge of General Khatmi's ownership interest in Air Taxi. Other similar crucial documents were supplied to the committee after the staff had already completed taking testimony of Textron officials under oath.

Mr. President, we all know the time pressure the Senate operates under in important confirmation proceedings. The Miller nomination was one where the Banking Committee was under particular pressure to report favorably on the Miller nomination. It is up to the nominee in such circumstances to make sure that the committee reviews all the information it needs on a timely basis.

Mr. Miller had the responsibility to it to see that the committee's work was not obstructed. He did not lift a finger to help. He chose to come before the Banking Committee and deny everything.

One other matter that should be brought to the Senate's attention which is clear in the SEC report is that Mr. Miller made no personal effort to insure the integrity of the Senate Banking Committee's inquiry on a Ghanaian bribe transaction during his confirmation hearings. Mr. Miller was asked, on January 24, during the confirmation hearing about the sale of helicopters to Ghana. Mr. Miller testified that he was not familiar with the transaction and therefore, could not comment on it. Mr. Miller was requested to "report back details as fully as you can on services tropical (the agent) performed." On February 28, Mr. Miller reappeared before the committee. His testimony on Ghana repeated the substance of a letter provided to the committee by Textron-Bell's lawyer, on February 15. The SEC report says that "at no time between his hearings on January 24 and on February 28 did Mr. Miller make any personal inquiry; rather he relied on his subordinates for his information on Ghana."

His subordinates misled the committee. When his subordinates reviewed the Ghana transaction for the purpose of supplying information to the committee, one document was destroyed which "described the need to make a payoff to successfully conclude the sale of two helicopters to Ghana"; and Textron-Bell's lawyer was in possession of information indicating a payoff prior to his letter to the committee of February 15, which in substance exonerated Textron-Bell.

Mr. President, in summary, let me say this:

Over 500 American companies voluntarily disclosed questionable payments to the SEC, involving millions of dollars. Hundreds of other chief executive officers called for thorough audits of their companies and disclosed the results. Mr. Miller did not. Mr. Miller chose not to conduct an inquiry in response to the SEC voluntary program, although the SEC found that Textron had engaged in 10 bribes while Mr. Miller was its chief executive officer.

When his nomination came before the Banking Committee, Mr. Miller was called on to investigate bribery in his company. He conducted no significant inquiry but assured the committee there was no bribery. He was wrong.

I cannot vote for his confirmation on the basis of this record. Mr. Miller cannot run the Treasury Department the way he ran Textron. Based upon his past record, the risks are too great.

If a similar situation, alleged bribery and corruption, should develop at the Treasury, would it be enough to have a Secretary who failed to investigate and root out the corruption but just assured the country that there was no problem? I think not. And that is why I must vote against this nomination.

I ask the distinguished manager of the nomination, the Senator from Louisiana, if he will yield for a question?

Mr. LONG. I yield for a question.

Mr. PROXMIRE. Mr. President, I ask the Senator from Louisiana if during the consideration of the Miller nomination Mr. Miller was asked about a section in the SEC report which shows that the nominee-designate had been made aware twice by memorandum from his own staff that Textron was keeping no records of entertainment of U.S. defense officials, and it said for obvious reasons, and that Textron's policy of destroying the records of specific individuals entertained amounting to $600,000 continued under Mr. Miller. I ask the Senator whether he is satisfied that Mr. Miller observed the standards of ethics in this transaction that Mr. Miller himself stated he set for Textron?

Mr. LONG. Let me answer the question this way. We asked our staff to read all this report, which is rather voluminous, more than 100 pages.

Mr. PROXMIRE. 101 pages.

Mr. LONG. There are more than 100 pages in the document. Then in addition to that, in justice to the subject, one should read the report made by Textron itself which runs several hundred pages.

I asked two of our staff members to carefully study all this and see if they could find where there is any allegation that Mr. Miller had knowledge of any corruption to which the Senator refers and which he alleges, and the answer was no, that is not the case.

Now, the Senator can draw whatever inferences he wants to. He can attribute knowledge to Mr. Miller if he wants to do so.

Personally, I think a person, under our system of government, is presumed innocent until proved guilty.

Mr. PROXMIRE. I concur in that, and I said repeatedly——

Mr. LONG. I do not think we should assume someone is guilty because some other person might have done something that is harmful.

Mr. PROXMIRE. Mr. President, my time has expired. Will the Senator yield so that I can just continue with one more question?

Mr. LONG. I yield to the Senator an additional minute.

Mr. PROXMIRE. May I ask the Senator, we have a situation here where the SEC report shows Mr. Miller had been made aware twice by memorandum that Textron was keeping no records of entertainment of U.S. Government officials. This is different from the bribes of which, I concede, there is no record, no documentation, no evidence that Mr. Miller knew about it. But in this particular case the SEC found he had been made aware twice by memorandum that Textron's policy was to destroy the records of specific individuals entertained, and that that involved $600,000, that Mr. Miller knew about it, and that was the policy continued after he was informed.

Mr. LONG. Senator, if there was nothing illegal or unlawful about entertaining an American citizen I do not quite see the point of the Senator's argument.

But, Senator, you can draw your own conclusions from it. My understanding of the document to which you refer is that there is no evidence that the SEC or anyone else has that Mr. Miller himself did anything unlawful or that he condoned any unlawful activity.

Now, in the Banking Committee you had the same problem before you. I would like to ask you a question: I believe I am correct, am I not, that the committee voted unanimously, except for the chairman, Mr. PROXMIRE, to recommend that Mr. Miller be confirmed as Chairman of the Board of Governors of the Federal Reserve? Is that correct?

Mr. PROXMIRE. The Senator is correct, yes, indeed.

Mr. LONG. Then, Senator, I would assume the members of the Banking Committee, save the chairman, looked upon the matter in the same way as the Finance Committee does.

Mr. PROXMIRE. The Senator is correct.

Mr. LONG. We do not find Mr. Miller is guilty of what some other person in that company may have done. That was a very big company.

Mr. PROXMIRE. Mr. President, I ask unanimous consent for 5 more minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PROXMIRE. I point out to the Senator from Louisiana there was a great difference. At the time the Banking Committee made its inquiry there was no SEC report. The SEC had not found this corruption; they had not found this bribery. But they found it and established it. Now we have it before us. We have a document which substantiates these charges, and I think it is an entirely different situation.

There were only two Senators who voted against the Tonkin Gulf resolution. Those two Senators were right. All the rest who voted were wrong. We voted the other way. The fact that one Senator is in the minority does not mean he is wrong.

Let me ask the Senator one other question.

I ask the distinguished Senator from Louisiana if during the nomination hearing he inquired of Miller into the circumstances of a payment by Textron that Miller approved in the amount of $100,000 to the Southwestern Medical Foundation 3 months after the Foundation had approved a medical residence for Iranian General Toufanian's son. General Toufanian was a key Iranian involved in the approval of Textron's sale of $500 million in helicopters to Iran. The president of Textron-Bell—who reported to Miller—arranged General Toufanian's son's entry at the same time he discussed a contribution to the Foundation. And he kept Mr. Miller informed.

I ask the distinguished Senator if he has made inquiry into the matter to determine whether there was any impropriety on Miller's part?

Mr. LONG. Senator, I did not draw the same conclusion that you would draw, nor so far as I know did our staff, nor did the minority members of the committee.

You seek to draw a conclusion that because someone in the company, in your judgment—and I assume you probably are correct about that—committed an unlawful act that that should be attributed to the Chairman of the Board.

There have been all kinds of companies where people did something against the law where the man who was running the company did not know about it.

Here is what Mr. Miller said when interrogated in general about the subject. I asked him about it, and so did other members of the committee. This was in response to my question. He said:

> Senator, it has been disturbing to me to find that there have been some questionable payments in my former company. One thing I am pleased about is when I was nominated and when the Senate confirmed me, I had stated unequivocally that I was not involved in any way in such practices and had a strong policy against it and would disapprove any of my associates doing so.
>
> Both the Securities Exchange Commission and the company undertook an extensive investigation which has gone longer than any such inquiry I know about because it has been a year and four months since I was sworn in. Over this whole period of time these parallel tracks of inquiry have gone through the company apparently from top to bottom.
>
> As I understand from the report of the Textron independent committee which has been released to the public, over eight years there were employees involved in some

> questionable payments in connection with overseas sales which totaled some $800,000 in eight countries over eight years.
>
> I am disappointed that there could have been on dollar so expended because it violates my standards for the company. I also am reassured that this did not seem to be a case of either pervasive or large amounts of money and there were temptations to overseas people who may not have understood the standards that we apply in this country.
>
> I cannot defend that action. I cannot condone it. I just want to reassure the Committee that I am gratified that after such extensive inquiry, I believe my statements before the Banking Committee have been verified.

Now, that is what Mr. Miller's attitude was in regard to what you are saying here. It may be, Senator, for all I know, that he might have done something wrong and, if so, I say: Go ahead and prove it. You had a chance before the Banking Committee, and I welcome anything you can present here.

But the Finance Committee is not going to presume Mr. Miller to be guilty of misconduct without evidence to prove it, just as the Banking Committee, of which you are the chairman, did not so presume.

Mr. PROXMIRE. I am not saying he was guilty of misconduct. What am I saying? I am saying that whereas 500 companies came forward when they were urged to do so by the SEC, they conducted an audit of what they were doing, and they found in some cases there were bribes paid. They disclosed that. But Textron did not do it. Textron said, "We do not have that problem. We are not even going to investigate it." It turned out, on the basis of investigation, that Textron did have that problem in 10 different countries where they paid bribes over and over and over again 10 times. Mr. Miller was wrong.

As I say, this is not an easy vote, and I expect to be the only Senator voting against Mr. Miller. But I think under those circumstances the Senate should consider very seriously whether the Secretary of the Treasury, given a similar situation in the Treasury Department, with allegations of bribes, allegations of corruption, what would he do? Would he do as he did here and say, "No problem. My Department is clear. I am not going to investigate it?" Or would he root it out? Would he find out who is responsible and correct the problem?

Mr. LONG. Mr. President, I yield to the Senator from Rhode Island.

Mr. PELL. I thank the Senator very much indeed.

Mr. President, I am proud to have the opportunity today of urging my colleagues to support the nomination of G. William Miller to be the next Secretary of the Treasury. In his brief period of service as Chairman of the Federal Reserve Board, Mr. Miller has distinguished himself in his mastery of monetary policy. His actions at the Fed have contributed to stabilizing the dollar and restoring confidence in the money markets.

Mr. Miller is an example of the kind of outstanding leadership from the private sector which President Carter has attracted to his administration. In the past two decades he rapidly rose to the pinnacle of our business and community life in Rhode Island through brilliance and innovative leadership.

His unique background in law and finance has earned him a respected position in the business community, and his reputation for probity and good character are of the highest order. Within months after his appointment to the Fed, the Nation had learned what we in Rhode Island had known for a long time: that Bill Miller was one cf the most capable, energetic, and farsighted leaders of his generation.

I value him as a personal and good friend and extend my wife's and my own congratulations to him and best wishes to his lovely wife, Ariadne, as they face the pressures that will fall upon them.

I have no doubt that he will bring the same kind of creative thinking and dedication to the leadership of the Treasury Department which he has displayed at the Federal Reserve. I credit President Carter for spotting Bill Miller's talents and making use of them in the national interest, and I urge my colleagues to join me in supporting his nomination.

Mr. CHAFEE. Mr. President, I rise to support enthusiastically the nomination of G. William Miller to be Secretary of the Treasury. Mr. Miller, although I notice he is listed as coming from California, is a citizen of the State of Rhode Island, has been such for the past 15 or 20 years. He came to Rhode Island as a young man to assume a position with the Textron Co., through the ranks of which he rapidly rose to become president and, subsequently, chairman of the board.

Mr. Miller has been a most illustrious resident of our State, with a deep sense of human concern. In addition to that, he has been an outstanding citizen, participating in a multitude of charitable and other activities in Rhode Island, and not only in Rhode Island but nationally as well. Mr. President, I think the country is extremely fortunate to have attracted to its service a man with the capabilities, talent, integrity, and brilliance of the nominee, G. William Miller. As I said before, I think he will make an outstanding Secretary of the Treasury and I support him wholeheartedly.

Mr. DANFORTH. Mr. President, I am going to vote in favor of the nomination of William Miller as Secretary of the Treasury with some degree of enthusiasm. He is a truly remarkable individual, with an excellent background in both business and the practice of law and also as Chairman of the Federal Reserve Board.

The question that arises with respect to any new Cabinet official is whether this is just a change in faces or whether, in addition to being a change in faces, it represents a chance in economic policy on the part of the administration. It is the hope of the Senator from Missouri that this is a change in economic policy on the part of the administration.

Nearly every day's newspaper, Mr. President, brings further dark news as to the state of the economy. Just a few weeks ago, we were told that the current figures produced by the Bureau of Labor Statistics indicates an annualized rate of inflation of 13.2 percent. In this morning's Washington Post, the headline states "New Forecast Dims Outlook for the Economy." The article goes on to point out that the unemployment rate looks as though it is going to exceed 8 percent. At a time of a very high rate of inflation and a very high rate of unemployment, the hope of this Senator is that the administration will do something more than change faces at Treasury, that it will change its economic policy as well.

Last Monday, Mr. President, all 41 Republican Senators introduced a bill which states the direction we feel economic policy should take in the United States. That bill would do three things. It would encourage, by tax incentives, additional personal savings, because today, Americans save less of their disposable income than any of our competitors around the world. About 6.5 percent of disposable income is saved by the American people, as compared with 25 percent of disposable income in Japan.

Second, the bill would encourage more rapid depreciation, provide for more rapid depreciation of plant and equipment. Americans are falling well behind our competitors around the world in productivity. Our productivity is now decreasing at an annualized rate of over 5 percent. We are falling behind our competitors around the world and also, we are falling behind our historic average in the percentage of our gross national product invested in new plant and equipment.

The third thing the bill would do is encourage by a tax credit further private spending in research and development. Again, the United States is behind its historic average in what we are investing in research and development.

In short, Mr. President, what is happening to our economy is that we are digging ourselves into a hole. We are following economic policies and tax policies which encourage not saving and investment, but instead, borrowing and immediate consumption. We are trying to keep ahead of the rate of inflation and we are trying to keep ahead of the tax collector by spending now. The result is that the economic basis for a sound future is being eroded. So the time has come to act, to change policies.

During the past 2½ years, the point has been made consistently that we should follow tax policies to encourage additional savings and additional investment. Yet, month after month, the administration, through the Treasury Department, has appeared before the Senate Finance Committee, has appeared before the Joint Economic Committee, and has appeared before the House Ways and Means Committee, and has opposed those measures which would be necessary in order to get the economy moving in the right direction. The administration has consistently opposed tax cuts. The administration has consistently opposed incentives for savings and investment and for research and development.

Mr. CHAFEE. Will the Senator yield for a question?

Mr. DANFORTH. Certainly.

Mr. CHAFEE. It seems to me that as the Senator has outlined his program here, the single most serious problem facing the Nation is inflation. That has been accompanied by the decline of the dollar and trade deficits. Would not the proposal that he has advocated and that all 41 Republicans have advocated, especially the rapid depreciation, increased schedule in depreciation, help in increasing productivity, would it not lower costs, and would it not improve our competitive position with the rest of the world?

Mr. DANFORTH. The Senator from Rhode Island is absolutely correct. It would do all three of those things. What is encouraging about this nomination is that Secretary Miller has repeatedly stated his agreement with such a program. As a matter of fact, in a speech prepared for delivery in San Francisco on the day of his nomination, he advocated a depreciation program very similar to the one which is incorporated in the bill that has been introduced by all Republican Senators. It is for that reason that it is my hope that the Secretary of Treasury's policies, which he has consistently advocated over the last 2 years, will indicate a change in the economic policy of the administration and exactly the kind of tax reduction that the Senator from Rhode Island has referred to.

Mr. CHAFEE. Will the Senator yield for one more question?

Mr. DANFORTH. Certainly.

Mr. CHAFEE. Is it not true, Mr. Miller in his speeches has advocated the so-called 1, 5, 10 depreciation formula?

In other words, 1 year for Government-mandated pollution control equipment; 5 years for all kinds of industrial equipment; and 10 years for buildings and fixed assets.

Mr. DANFORTH. He has advocated that. He has advocated that as recently as on the day on which he was nominated. He has advocated that in confirmation hearings before the Finance Committee of the Senate. He has advocated that repeatedly in both the Finance Committee and the Joint Economic Committee.

Mr. CHAFEE. So is he not now, or should he not be, based upon his previous statements, an enthusiastic supporter of the bill which the Senator mentions, which is, namely, a 3, 5, and 10-year program; that is, 3 years for mobile equipment, wheeled vehicles, and so forth; 5 years for all the rest of manufacturing equipment; and 10 years for fixed assets, buildings, and such as that?

Mr. DANFORTH. The Senator from Rhode Island is absolutely correct.

Mr. President, there have been some signs, in addition to the nomination of G. William Miller to be Secretary of the Treasury, that the administration is about ready to change its economic policy.

A week ago last Monday, certain administration officials, including Stewart Eizenstat and Alfred Kahn, met with a few Republican Senators and Representatives on the question of economic policy. At that time, the administration officials asked our degree of receptiveness to a change in economic policy and, particularly, the kind of tax cut we have advocated.

We, of course, enthusiastically stated our agreement with such a program, and, not only that, but last Monday introduced the bill, which has been referred to earlier, which places in legislative form exactly those policies.

The week before last, the newspaper reports indicate that the President met with certain Members of Congress in the White House and at that time suggested that he was thinking about some form of tax cut, particularly what he called a noninflationary tax cut.

So, there have been some signs that the administration is going to change its economic policy. We hope so.

Yet, Mr. President, I would point out in connection with the windfall profits tax, which is now being discussed in the Senate Finance Committee, the indications are that the administration is ambivalent in its position, that at the same time that it is giving some signs that it is going to have some kind of tax reduction, it is, in the discussion of the windfall profits tax, talking about what would amount to a tremendous net increase in tax revenues by the Federal Government.

In his energy program, President Carter has stated that he would like $142.5 billion between now and 1990 to fund his energy program. That is now the question before the Senate Finance Committee.

Yet, yesterday, the Treasury Department and the staff of the Joint Committee on Taxation stated that even without a windfall profits tax, the additional revenue raised by today's income tax rates, plus royalties, as a result of decontrol of oil, would be $173 billion by 1990—$173 billion from royalties and from income taxation without a windfall tax, and that amounts, Mr. President, to $30.5 billion more than what is required by the President's energy program.

If the windfall tax is added to that, that is another $105 billion, for a grand total of $278 billion by 1990 in additional tax revenues to finance a program of $142.5 billion worth of energy.

Assuming that the President's energy program is a good one—I do not know if it is or not, some people say that with the CO_2 being released into the atmosphere we will all be cooked—but assuming that the President's energy program is a good one, we are raising not only the $142.5 billion to cover the President's energy program, we are raising an additional $135.5 billion to be used for we do not know what.

My position is this. If the additional $135.5 billion does not go back to the American people in the form of a tax cut, if we do not offset that by a tax cut, then what we are witnessing at a time of recession, at a time when we are looking toward 8 percent unemployment rates, is an increase in the Federal tax draw on the American economy.

So it looks as though we may be heading in the wrong direction, rather than the right direction.

I will vote, Mr. President, for Mr. Miller's confirmation. I will do so with a degree of enthusiasm because I believe he knows the direction in which our economy should be heading.

But it is my hope that the wisdom of the new Secretary of the Treasury will be listened to by the administration, that there will be a change in economic policy, and that instead of a net increase in Federal tax revenues which we are looking for by virtue of decontrol of oil with a windfall profits tax, that we will be looking toward a net, and substantial net, reduction of Federal income taxes that will permit our economy to grow, as it should be growing.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. KENNEDY). Who yields time?

Mr. LONG. I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, a colloquy or, if you will, a debate on the confirmation of a Cabinet member such as we are having today appropriately brings forth testimony and, indeed, testimonial on the part of Senators who have had the opportunity to know the nominee in earlier circumstances, particularly if they were Government related.

I would rise to state that it was indeed my privilege to know G. William Miller in the early years of the 1960's, under the administration of President Kennedy and President Johnson, when President Kennedy had established the President's Committee on Equal Employment Opportunity.

This was the first great movement in our Nation's Government for equal job opportunities for all races, sexes, ethnic groups, and minorities in our Nation. It was the beginning of what became a great national commitment in the years that followed. But it was a crucial beginning; had it not been done well, it could have come to nothing.

On the contrary, it became something of which we are as proud as we are of any achievement of this generation of American politics.

I was then Assistant Secretary of Labor for Policy Planning and Research, and worked very closely with this matter, which President Kennedy had given to Vice President Johnson to be his particular concern, and Vice President Johnson worked at it as hard as if he were managing the U.S. Senate itself as, indeed, he had been doing until just a few years earlier.

Bill Miller was chairman of the Industrial Advisory Council to the President's Committee on Equal Employment Opportunity. He was chairman; he was responsible for bringing the reputation and prestige and influence of American business behind this objective. It had never been done before. There were those who thought it could not be done; and, in the atmosphere in which it was begun, it was hard, indeed, to do it. It was hard to get people to serve on this Council. The fact that a man would be chairman was making a commitment to social purposes which was not easy for a businessman in those times. It is easy today because there were men like Bill Miller decades ago, or 15 years ago, who were prepared to lead.

He led. In the end, we have turned

the atmosphere on this issue, the spirit on this issue, 180 degrees. American business, which had avoided these issues, became committed. If you have heard of the National Urban Coalition, if you have heard of the various committees that President Johnson later created to bring businessmen to the support of the social purposes of this country, to create a consensus where there was division, it began with the Committee on Equal Employment Opportunity, and Bill Miller was the head of the industrial side of the Council. That was the weight that turned this country in the direction it has moved ever since.

We owe him an obligation which is rarely ever acknowledged. The public never says its thanks very well. I am grateful for this opportunity to stand up as someone who was a young man at that time—it seems more distant than really it is—and saw his leadership in action.

I would like to add my personal judgment that a man of those qualities cannot but serve with even greater distinction in the Office for which he is now presented.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, 15 minutes is allotted to the minority. I ask unanimous consent that Senator SCHMITT be allotted a part of that time.

The PRESIDING OFFICER. The Senator from Kansas (Mr. DOLE) has 15 minutes which he controls, which is available.

Mr. SCHMITT. Mr. President, I ask unanimous consent that I be yielded 5 minutes of that 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I have mixed feelings about the nominee. During his confirmation hearings before the Banking Committee when nominated as Chairman of the Federal Reserve Board, I, the distinguished Senator from Wisconsin, and others spent a great deal of time questioning Mr. Miller about not only his association with Textron, but also his philosophy by which he would operate as Chairman of the Fed.

I personally concentrated on two issues: First, his ideas on monetary policy in the broadest sense, and also his conception of the role of the Fed relative to that of the executive branch.

Mr. Miller had written extensively on monetary policy, and we had some concerns about that. I feel that he did very well in satisfying those concerns during those long hearings before the Banking Committee. I am no longer on that committee, but I also remember that we questioned him on the idea of the independence of the Fed, and he was very strong in his articulation of that concept of independence, a very essential concept within our financial institutions; and, frankly, Mr. President, I was very disappointed in Mr. Miller when, on at least one or two occasions, it later become very clear that he was operating hand in glove, in the establishment of financial policy, with the White House.

I do not have any objection to the chairman of the Fed agreeing with the White House, or agreeing with anyone, on monetary policy if it is a policy arrived at honestly and independently; but I do have an objection to a nominee, having testified before a committee of Congress strongly and forcefully about the role of an independent Fed, then, without seeming to show too much regret, reversing that role in the day-to-day actions of his office.

Mr. President, I have not made a final decision on this nominee for Secretary of the Treasury. I realize that Treasury is a political organization, in the sense that it is a Department under the general jurisdiction of the executive branch and the White House. But I am very much concerned about that attitude that seemingly was expressed by Mr. Miller, a man for whom I otherwise have very great respect and know that he has tremendous capabilties to offer this Government and the people of this country. But I still hope that we can expect greater candor from him than we seem to have gotten on the issue of the independence of the Fed. I expressed disappointment in that during the hearings we had last year after the circumstances that I have alluded to occurred. I still have great reservations on that issue.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, in response to the Senator's statement, I can only say that Mr. Miller has repeatedly expressed himself with regard to public policy at variance with the administration's position, both with regard to tax measures and with regard to a number of other issues. He was interrogated about that before the Finance Committee, and he stated that up until he was confirmed as Secretary of the Treasury, he felt he was free to have his own independent judgment, and he expressed it, so that we on the committee, for example, were privileged to have him come before us and testify with regard to revenue measures at variance with the administration position, which I think indicates that this nominee was independent while he held the job that permitted him to be so. At his confirmation hearing before the Finance Committee, Mr. Miller said this in response to a question of Senator DANFORTH:

> Senator Danforth, my independence at the Federal Reserve allowed me to speak my mind freely and now of course I am in a position of having to state to you that I stated it as I saw it and I still stand by those words.

Mr. Miller will, of course, not be independent as Secretary of the Treasury. That is a price a man pays, to move from chairman of the Board of Governors of the Federal Reserve to being Secretary of the Treasury of the United States. But I think he will serve the Nation well to take that position because the President needs a good man in the job of Secretary of the Treasury.

I have no criticism with the previous Secretary. I think he was an honorable man doing the best he could in his responsibilities, and I think he served us well. But in view of the fact that Mr. Blumenthal is no longer here, I believe we are fortunate to have the services of Mr. Miller, and I am sure he will do a good job for us.

Mr. SCHMITT. Mr. President, if the Senator will yield further, I would like to ask for 2 minutes additional time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. My criticism is not of his ability, because on other occasions he did express independent thoughts of the administration. But on others he seemed to go counter, and admittedly counter, to the concepts he expressed in front of the Banking Committee during his confirmation that he would act independently, not at divergence but independently, of the White House. He, in my judgment, did not live up to those assurances that he gave us in his previous confirmation hearings.

However, he is a man of tremendous ability, and the Secretary of the Treasury is a political job. It is more than likely that he will carry out that function very well. I think it is appropriate in a debate on a nomination to make sure that we understand any slight or major deficiencies that might exist in the history of a particular nominee. That is all I wanted to point out as a result of this colloquy.

Mr. LONG. Mr. President, I ask for the yeas and nays on the confirmation.

The PRESIDING OFFICER. Is there a sufficient second There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, as I understand, the majority leader wanted back-to-back votes on nomination of Mr. Volcker to be Chairman of the Federal Reserve Board and the nomination of Mr. Miller to be Secretary of the Treasury, the Volcker nomination to be first, I believe. I ask for the yeas and nays on the nomination of Mr. Volcker to be Chairman of the Federal Reserve Board.

The PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Will the Senator yield?

Mr. LONG. I yield.

Mr. HELMS. Mr. President, the nomination of Paul Volcker to be Chairman of the Federal Reserve Board is being hastened through the Senate or "expedited," to use the accepted idiom.

I shall not oppose his confirmation, but I think Mr. Volcker's nomination deserves somewhat more consideration. The nomination of a Chairman of the Federal Reserve Board is one of the most important a President can make. To let this nomination breeze through the Senate does not give the Senate or the American people enough time to discuss the important issues that should be aired when such an appointment is made.

But, Mr. President, I will vote for the Volcker nomination because I think it is probably the best we could have hoped for, at this time, and under the existing circumstances.

I am left, however, with a number of questions concerning the job Mr. Volcker will do. For example, his role in the collapse of the Bretton Woods system in 1971. Was Mr. Volcker a leader in the effort to disassociate the dollar from gold? Or did he counsel restraint? It will be noted, Mr. President, that after the fateful August 15, 1971, when the President closed the gold window, the United States plunged headlong into the worst period of inflation we have ever seen.

Mr. President, it was no coincidence that inflation followed our closing the gold window. The American people need to know whether it was just coincidence that the United States broke away from gold when Mr. Volcker was Under Secretary of the Treasury.

And, how about Mr. Volcker's present attitudes toward money supply and interest. Does he believe, as the run-of-the-mill Keynesians do, that interest rates are the best way to gage money supply growth? Does he think that high interest rates are a result of inordinate money supply growth; or that somehow, inflation can be cured by artificially holding down short-term interest rates by pumping up the money supply. If so, he is sadly mistaken.

An added, important question is whether Mr. Volcker believes in the importance of supply side effects of Federal actions. Traditional Keynesians feel that demand management is the key to governing economic performance, but stagflation has proven the fallacy of that theory. What are Mr. Volcker's views on the supply side fiscalists who are making such important contributions to economics today?

And what are Mr. Volcker's views on the chaotic international monetary system? Does he think that in the long run, we should move toward a system of fixed exchange rates, or does he think that the world will have to live with the undisciplined system of "floats" and "snakes" that presently pass for a global monetary system?

I would like to know, too, Mr. President, how much does Mr. Volcker share in the antigold phobia of most Washington bureaucrats. If he has as much experience in the international arena as I understand he has, then I am sure he knows that the United States is the Nation leading the fight against the discipline of gold in world monetary systems. He knows, I am sure, that more and more people around the planet are questioning the wisdom of the abandonment of gold.

Finally, Mr. President, I would like to know another thing which is probably even not known by Mr. Volcker himself. While Mr. Volcker's staff at the Federal Reserve Board could probably come up with some nice, smooth answers to the questions I have posed, I do not know if anyone could come up with the answer to the next question: How much will the election year affect his judgment on money supply? In other words, when those decisions on money supply are difficult to make, how much will he be tempted to err on the side of easy-money inflation, because it is an election year.

Mr. President, our colleagues who serve on the Banking Committee have had at least two meetings on Mr. Volcker's nomination, and they have recommended his confirmation without objection. I respect highly that committee and its distinguished chairman, Senator Proxmire. I will support the confirmation.

But, I will follow closely the work of this experinced and talented man, Paul A Volcker. I am sure I will be joined in that effort by many members of the Banking Committee and many other Members of the Senate. The money system of this Nation is failing. It is failing miserably to serve as a money system should. The Federal Reserve Board must take much of the blame. There is just no such thing as inflation without money supply creation in excess of the real growth in the economy, and the Fed creates money.

The U.S. dollar is no longer a standard of value. The U.S. dollar is no longer an adequate measure of value. It serves chiefly as a medium of exchange. The inflation of the dollar is the greatest cause of economic disruption in the free world. Worldwide inflation, in large part caused by the United States, threatens the institutions of every free or partially free society in the world.

The responsibilities Mr. Volcker faces are awesome. I hope he will know that he has at least one ally in this Member of the U.S. Senate whenever he moves to try to make the dollar a sound unit currency. We must have a money system that will provide for stable price levels at home and a reliable currency abroad.

Mr. President, I ask unanimous consent that an editorial from Tuesday's Wall Street Journal be printed at this point in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Dollar Dilemma

Paul Volcker is taking charge of the Fed at a time when the dollar faces difficulties, caught as it is between exchange rate weakness and political fears of domestic recession. According to the policy model that prevails in Washington, treating the one problem worsens the other. And so we do not envy Mr. Volcker as he starts out with the dollar in the woods.

The way Washington sees it, unemployment and recession are bad for the reelection of incumbents, and tight money and high interest rates are bad for employment. On the other hand, easy money and low real interest rates are bad for the exchange value of the dollar. So far the Fed has been buying time, allowing the discount rate to lag the expected rate of inflation while buying dollars to support the exchange rate. The Fed, of course, can't continue for long pumping out dollars at home and buying them back in foreign exchange markets. The Fed knows this, we trust, and is on this tack because it can't find the way out of the woods with the present policy model.

That means substantial dangers ahead. Faced with a sizable increase in the discount rate or intervening to slow a slide in the dollar, the temptation will be great to find a silver lining in an "orderly" depreciation of the dollar. Out will trot the rationale that says a falling dollar is ultimately strengthening, because it increases exports and reduces imports, thus firming the dollar while providing additional demand to help lead the economy out of a recession.

We doubt the dollar could survive the serious problems in this approach. Inflation results from imbalance between the demand for goods and their supply. Dollar devaluation worsens the imbalance. On the demand side, devaluation initially lowers the price of U.S. goods to foreigners. But it also raises the dollar value of foreign currencies, thus increasing the global money supply. The U.S. price level would come under pressure as this increase in global money flows into U.S. goods and as Americans themselves move into U.S. goods as a result of the higher priced imports.

On the supply side, the energy shock, the regulatory burden, inflated marginal tax rates and the underdepreciation of fixed assets are all operating as a brake on U.S. production. The additional demand for U.S. goods caused by dollar devaluation together with the factors retarding output would push up the domestic price level, restoring the ratio between the prices of domestic and foreign goods upset by devaluation. The end result would be a lower dollar exchange value and a higher domestic price level.

The higher price level would intensify the downward pressure on the exchange value of the dollar. And by pushing Americans into even higher marginal tax brackets, it would further tighten the tax brake on production. Dollar devaluation, then, worsens stagflation.

This is why it is necessary for the Fed to bring the money supply under control, and it can't do that as long as it is trying to fine-tune interest rates. The Fed should leave interest rates to the market and focus on eliminating bursts and contractions in the money supply. A stable monetary policy will not cause a recession, and the dose of certainty it would impart would do a lot for investment.

Policymakers are going to have a hard time getting the dollar out of the woods unless they change their policy model and learn to attack stagflation from the supply side. By this we don't mean wage, price, credit, and exchange controls; we mean a moderate and steady growth in money and a reduction in the tax and regulatory burdens. In the present fiscal and regulatory environment, increased demand calls forth higher prices. The economy can only produce its way out of stagflation, and it can't do that unless Washington adjusts the incentive structure.

● Mr. DOLE. Mr. President, I rise to state my strong support for the nomination of G. William Miller to succeed W. Michael Blumenthal as Secretary of the Treasury.

William Miller established an enviable record of success as president and chairman of the board of Textron, a significant and diversified corporation. While success in business does not guarantee success in Government, it will be reassuring to have a man at the helm of the Treasury Department who has experienced firsthand the problems that beset our economy; declining productivity, lack of incentive for new capital investment, and inflation that increases the cost of doing business so rapidly that the businessman finds it difficult to plan from month to month. Now we are beginning an economic downturn as well. Mr. Miller, indeed, has his task cut out for him, and I do not envy him the responsibilities he will assume as Treasury Secretary, although I do have the utmost confidence in his ability to meet those responsibilities with success.

As Chairman of the Federal Reserve, William Miller has struggled with what he acknowledges to be the No. 1 enemy of this country, inflation. He has committed himself to subdue that enemy and has demonstrated a refreshing commonsense approach to the task. He knows that inflation will not be eliminated by any instant cure, that it can only be restrained by a long-term commitment to fiscal integrity on the part of the Federal Government, by providing incentives for capital formation and new capital investment. Mr. Miller's pledge to balance the Federal budget in 1981 is characteristic of his determination to return this Nation to the path of stable economic growth. I offer my support without reservation to Bill Miller's efforts to achieve these goals.

Mr. Miller's tenure at the Federal Reserve gives him a unique understanding of the interaction of monetary and fiscal policies that will serve him well at this new post. I am confident that he and Mr. Volcker have the ability to restore the faith of our friends overseas in the economic strength of America. Our economic potential is the greatest in the world; it needs only to be exploited with determination and good sense. Mr. Miller has both, as did his predecessor, Mr. Blumenthal, whose contribution I wish to acknowledge as unsurpassed in intelligence and dedication to the well-being of America. We are, indeed, fortunate that a man with Mr. Miller's outstanding capabilities will succeed Secretary Blumenthal.

Mr. President, I urge the confirmation of G. William Miller as Secretary of the Treasury, and I welcome the opportunity to work with him in the coming months to achieve our common goals.●

VOTE ON NOMINATION OF PAUL A. VOLCKER TO BE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

The PRESIDING OFFICER. If all time has been yielded back, the question is, Will the Senate advise and consent to the nomination of Paul A. Volcker, of New Jersey, to be Chairman of the Board of Governors of the Federal Reserve System. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Carolina (Mr. MORGAN) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

The PRESIDING OFFICER (Mr. BUMPERS). Have all Senators in the Chamber desiring to vote done so?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 246 Ex.]

YEAS—98

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—2

Morgan
Weicker

So the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. PROXMIRE. I move to lay that motion on the table.

To motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senate will now proceed to vote on the nomination of Mr. G. William Miller to be Secretary of the Treasury.

VOTE ON NOMINATION OF G. WILLIAM MILLER TO BE SECRETARY OF THE TREASURY

The question is, Will the Senate advise and consent to the nomination of G. William Miller, of California, to be Secretary of the Treasury?

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Carolina (Mr. MORGAN) is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 247 Ex.]

YEAS—97

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—1

Proxmire

NOT VOTING—2

Morgan
Weicker

So the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 15 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. Will Senators desiring to converse please retire to the cloakroom?

SUGAR STORED IN UNITED STATES AS A SOURCE OF ALCOHOL FOR MAKING GASOHOL

Mr. STONE. Mr. President, for the past 4 years worldwide sugar production has exceeded consumption and the result has been the largest excess buildup of stocks in history. Prices have fallen below production costs even in the most efficient countries and have remained there. The current world price is between 8 and 9 cents per pound.

The International Sugar Agreement designed to increase prices to the range of 11 and 21 cents per pound by storing sugar and withholding it from the market has not been successful to date. This can partially be attributed to the United States not having ratified the ISA and European Common Market never having joined. However, the overriding reason for continued low prices is the massive buildup of stocks around the world.

In an effort to provide interim relief

to the beleaguered domestic sugar industry, Congress provided a price support loan program for the 1977–78 crops. Congress mandated that raw sugar be supported at 52½ to 65 percent of parity but not less than 13½ cents per pound. USDA opted to provide support loans at the minimum level—13½ cents for the 1977 crop and 14.73 cents for the 1978 crop (national average support level). Refined sugar was supported at 16.99 cents for the 1978 crop.

Inasmuch as the market price for raw sugar coupled with storage and interest costs has remained below the loan price, a large quantity of sugar has been placed under Government loan and forfeited to the Commodity Credit Corporation. Approximately 200,000 tons of 1977 crop sugar has been forfeited to the CCC—151,872 tons is Florida-produced sugar stored in Jacksonville warehouses.

As of May 24, 1,074,868 tons of 1978 crop cane sugar and 1,492,196 tons of beet sugar have been placed under loan. If the market price for raw sugar remains under the loan rate plus interest and storage costs for the remainder of 1979 and into early 1980, it is very likely that most of the raw sugar stored under loan will be forfeited to the Government. Some refined sugar may also be forfeited.

In Florida, approximately 590,943 tons of 1978 crop raw sugar is now under loan stored in warehouses at Florida mills. A large portion is expected to be forfeited between December 1979 and April 1980.

In total, according to one knowledgeable USDA official, it is likely that the U.S. Government will receive through forfeitures some 1,100,000 to 1,200,000 tons of sugar from the 1977 and 1978 crops by early 1980. Over 500,000 tons of this total is currently stored in Florida warehouses.

This substantial amount of sugar that is hanging over the domestic sugar industry could force Florida producers into disastrous consequences. It seems to me that there are 2 very immediately obvious ways to eliminate this sugar CCC storage problem. One way is to limit the amount of sugar imports; but, the administration has maintained that limiting imports is not in the best interest of the United States. The second alternative is to use the sugar in storage by feeding it into the market, but not dumping it into the marketplace. If the CCC does take a loss on it to reduce the surplus, the largest users of this sugar will not lower their prices to consumers for the duration of the time it takes to eliminate this surplus.

But simultaneously, our Nation is suffering from continually rising oil prices and there is no reason why the United States cannot successfully follow the path of Third World sugarcane producing nations. I raised this issue with the Florida sugarcane industry on May 10, 1979. On Tuesday, July 10, 1979, an article appeared in the Wall Street Journal, titled "Rising Oil Prices Spur the Third World to Convert Its Sugar Surpluses Into Fuel," that cites Brazil, the Dominican Republic, the Phillipines, Thailand and Costa Rica as some of the 65 cane-growing nations of the world interested in converting sugar surpluses into fuel.

When one stops to consider over 1 million tons of sugar at a price support level between 13.5 cents to 14.73 cents per pound being unused in Government storage with a storage cost of $14 per ton annually and interest costs of $28.56 per ton annually, the most practical solution comes to mind. Permit the CCC to sell this surplus sugar at below book value, for the purpose of facilitating the production of gasohol within the United States. Sugar gasohol is the most energy efficient of all the gasohol processes and it can add a measurable portion of energy to reduce our energy import vulnerability. I intend to press this concept until it becomes a reality.

Mr. President, I ask unanimous consent that the Wall Street Journal article be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Rising Oil Prices Spur the Third World To Convert its Sugar Surpluses Into Fuel

(By Raymond A. Joseph)

Sharply rising petroleum prices are driving many debt-ridden Third World nations to convert their sugar surpluses into fuel.

The idea isn't new. Brazil has an ambitious program aimed at running most vehicles in the country on alcohol—distilled from sugar cane and other plants—by the end of the 1980s. In the U.S., "gasohol," a blend of gasoline and alcohol, is on sale in parts of the country, but widespread use has been considered uneconomic.

Developing countries don't have the luxury of choosing their energy sources, however. Most are forced to import petroleum and few have spare cash to pay for it. Most are in debt to the U.S. and other international lenders and they need their scarce foreign exchange to pay debt-service charges, for import necessities and to buy oil.

Thus, countries as diverse as the Dominican Republic, the Philippines, Thailand and Costa Rica are experimenting with producing alcohol from the sugar cane they grow. Success could cut their oil-import bills and eat into the world sugar glut that has been depressing prices of the sweet stuff in recent years.

There are about 65 cane-growing nations in the world and most of them import petroleum. But while oil's price has done nothing but rise, the prices of sugar and other raw materials on which these nations economies depend swing sharply.

The Dominican Republic is a typical example. The Caribbean island state depends on sugar for about two-thirds of its foreign exchange. This year, it is expected to spend $350 million more abroad than it receives from foreigners.

ASSIGNING THE BLAME

Dominican officials blame this balance-of-payments deficit on the high cost of oil and the low price of sugar. The nation's oil bill is expected to reach $260 million this year, compared with $60 million in 1974. At the same time, sugar earnings are expected to be $225 million, down from the unusually high $500 million in 1974.

To learn more about gasohol, which generally consists of 10 percent to 20 percent alcohol and 90 percent to 80 percent gasoline, the Dominican Republic is hosting a conference on the subject next month. To be attended by many Western Hemisphere nations, the conference will be run by the Economic Commission on Latin America, a United Nations affiliate.

Elsewhere, the Philippines also is looking into gasohol. The country's imported fuel bill will be about $1.4 billion this year, up from $1.06 billion last year. The government said it intends to build two factories to make 100 percent pure alcohol directly from sugar cane and cassava, a starchy root.

ANOTHER BENEFIT

Besides cutting import costs, gasohol could help boost the price of sugar itself, thus giving developing nations a second financial lift, some analysts say. Current low prices reflect large world stocks of sugar, they note. F. O. Licht, a widely followed West German sugar-statistics firm, says world stocks are likely to total 31 million metric tons at the end of next month; about nine million metric tons of that can be considered excess, says Helmut Ahlfeld, the firm's managing director. A metric ton is 2,204.6 pounds.

That kind of excess will exert downward pressure on prices this year and probably for years to come, says Dan Dyer, a partner of B. W. Dyer & Co., New York sugar economists and brokers.

Gasohol had been considered uneconomic, but now that a barrel of crude oil costs $18 to $23.50, some experts think the product has become economic. Curtis Sittenfeld, president of White Plains, N.Y.-based I.R.A.S. Development Corp., says his firm is building anhydrous, or water-free, alcohol plants in the Philippines, Thailand, Greece and Guatemala. He asserts: "We are producing a gallon of alcohol for 95 cents." Meanwhile, a gallon of regular gasoline goes for $1 to more than $2 in most Third World countries. And the price keeps rising.

Thus, the interest in plants to produce 100 percent alcohol is increasing. Says Mr. Sittenfeld: "Five years ago we might have gotten one request a week about a potable alcohol plant. Now we're getting 30 letters a week, mostly from sugar cane-producing countries interested in 100 percent alcohol plants."

On the New York Coffee and Sugar Exchange yesterday, most sugar futures rose slightly. Quotes opened lower and then climbed on buying to cover short positions, or commitments to deliver sugar. Buying by traders following price-chart patterns and higher quotes in metals and grain markets also helped support prices, analysts said.

THE NEW WHITE HOUSE FORECAST SHOWS THAT WE NEED A TAX CUT NOW

Mr. BENTSEN. Mr. President, I am deeply disturbed by the new economic forecast at the White House.

It shows unemployment rising to 8.2 percent next year, instead of 6.9 percent as projected earlier. It shows inflation continuing at the double-digit rate of 11 percent for the last 3 months of this year, instead of 9.8 percent as projected earlier. It shows our economy shrinking by 1.4 percent this year, instead of 0.5 percent as projected earlier.

This disturbing new internal forecast clearly shows that our economic problems are far worse than expected and prompts me today to stand in the Senate and urge this Congress to take action to turn our economy around.

Sooner or later, the coming recession will force this Congress to enact a tax cut. Our economy will be far better served if it is done sooner.

We cannot rely on the traditional response of more Government spending.

It will do nothing but fan the flames of inflation if Congress tries to spend our way out of the coming recession.

Since June, I have been calling for a tax cut, and I renew that call again today.

I am not talking about a traditional tax cut that simply pumps more money into the economy. I am talking about a tax cut that will help combat both inflation and recession, that will help end the seemingly endless cycle of boom and bust in this country by increasing our productivity capacity.

I have been calling for a tax cut in the neighborhood of $20 billion, with half going to individuals to help them cope with an inflation rate that has pushed them into higher tax brackets and with half going to the supply side to help bring up our lagging productivity rate.

A $20 billion tax cut would not add one whit to inflation, not with higher social security taxes and higher corporate taxes and higher OPEC prices taking more than $50 billion out of consumers' pockets.

It is important that Congress act quickly to approve a tax cut. It moved far too slowly to combat the recession of 1974. By the time the tax cut went into effect, on May 1, 1975, the recession had ended and the economy was already moving up. Because of late timing in that case the recession was worse than it needed to have been and the recovery was too strong, which only added to the rate of inflation.

I have prepared a table which shows the disastrous effect of waiting too long, based on our experience during the 1974–75 recession, and I ask unanimous consent that the table be printed in the RECORD following my speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENTSEN. Mr. President, as this table shows, our gross national product began sliding during the first quarter of 1974 and kept sliding for five full quarters. But at the start, there was little effect on unemployment, and so we did not do anything. By the time unemployment, began to soar, it was too late for economic policy to have much effect. The President did not propose his tax cut until the State of the Union message in late January, and Congress took until late March to enact a tax cut. By then the upturn had started.

It is important to note the similarities between then and now. We have had skyrocketing inflation and rising oil prices that have drained consumer pocketbooks, just as we had then. We have had falling GNP with no rise in unemployment, just as then. We are pursuing restrictive economic policies to fight inflation, just as we did then. We are in just as great a danger of waiting too long to do what we will eventually have to do to turn the recession around, just as we did then.

I know that few of my colleagues favor reduced taxes at this time. But sooner or later the coming recession will force this Congress to enact a tax cut. Our economy will be far better served if it is done sooner and if it emphasizes expanding supply as well as expanding demand.

EXHIBIT 1

TABLE 1.—THE 1974–75 RECESSION AND ECONOMIC POLICY

Time period	Gross national product (percent) [1]	Unemployment rate (percent)	Other events
1973			
4th quarter:			
October	1.4	4.6	OPEC embargo began.
November		4.8	
December		4.9	
1974			
1st quarter:			
January	−3.9	5.0	
February		5.1	
March		5.0	
2d quarter:			
April	−3.1	5.0	
May		5.1	OPEC oil rose from $4.54 in September 1973 to $13.06 in June 1974.
June		5.3	
3d quarter:			
July	−2.6	5.5	
August		5.5	
September		5.9	Sept. 28–29: Inflation summit, with general agreement on need for restraint.
4th quarter:			
October	−6.8	6.1	
November		6.7	
December		7.2	
1975			
1st quarter:			
January	−9.6	7.9	President proposed $16,000,000,000 tax cut in state of the Union message.
February		8.0	
March		8.5	Congress enacted $21,000,000,000 tax cut in late March.
2d quarter:			
April	6.4	8.6	Rebates paid on 1974 taxes.
May		9.0	May 1: Withholding rates reduced.
June		8.7	

[1] Percent change from previous quarter, annual rate, seasonally adjusted.

PRESIDENT CARTER'S STATEMENT ON THE PALESTINIAN ISSUE

Mr. HEINZ. Mr. President, it is reported in yesterday's New York Times, in an article by Leonard Silk, that President Carter has likened the Palestinian issue to the "civil rights movement in the United States." I am shocked that up to this moment the White House has failed to set the record straight. If indeed the President has been quoted correctly and is comparing the Palestinians and their representatives, such as the PLO, to blacks in America and civil rights leaders such as Martin Luther King, he is betraying his total ignorance of history, denying today's reality, and dangerously misleading the American people.

There is no similarity whatsoever between the heroic struggle for equality of American blacks, culminating in what we call the civil rights movement, and what the PLO is doing in the Middle East.

Our civil rights movement, as the President should know, was characterized by an abiding commitment to nonviolence—eloquently, unforgettably, and most forcefully articulated by Martin Luther King. The PLO, time and again, has proved itself nothing more than a group of terrorists and murderers. They respect no rule of law. They seek not civil equality but the overthrow of a sovereign nation which is a staunch ally of the United States.

President Carter must not be allowed to cause such unconscionable confusion. If the quotation is incorrect, he should clarify it. I believe the President should fully retract his statement immediately, and urge him to do so without further delay.

SALT AND NATIONAL SECURITY

Mr. CULVER. Mr. President, in the SALT II hearings before the Foreign Relations and Armed Services Committees, Members of Congress and the American people have heard the testimony of a procession of distinguished and patriotic U.S. leaders. Some have argued for ratification of the treaty on the basis that it will enhance our national security. Others have argued for outright rejection or attempted renegotiation of the treaty on the basis that the pact would give the Soviets an unfair advantage. Some have suggested the addition of certain understandings that would not require renegotiation. Yet others have cited conditions on which their support of the treaty would be based that go far beyond the original scope of the debate.

As chairman of the Research and

Development Subcommittee of the Senate Armed Services Committee, I have the greatest respect for the views of my congressional colleagues and the ranking experts on national defense who have presented their judgments. We all share a common objective—the maintenance by the United States of a national defense capability second to none. The real issue is how best to achieve that goal.

I believe that the ability of our country to defend itself depends on more than troops and weapons. Our overall strategic power depends also on the strength of our economy, the health and morale of our people and their confidence in our political institutions. Every tax dollar spent for unnecessary military outlays fuels inflation and robs desperately needed funds for domestic purposes. You cannot effectively defend the country with the weapon of a depressed economy and a standing army of the unemployed.

It is wrong to focus the discussion on national security on the false dichotomy of "guns or butter." We need both to maintain our strength, but in a proper and balanced mix.

It has been contended by some that ratification of the SALT II Treaty should be hostage to a quantum expansion in our defense program far beyond that now underway. In other words, it is argued that we must agree to drastically escalate our own arms effort before we can safely enter into an agreement for arms limitation.

I support SALT because it enhances our security by putting important restraints on the Soviet strategic threat.

I support the modernization of our strategic forces so that there will be no doubt that we are maintaining nuclear parity with the Soviet Union.

But I reject obligatory commitments to arbitrary levels of even greater military spending for programs which have not been, or cannot be, adequately justified.

It is true that the Russians have been adding relentlessly to their defense budgets in recent years. Spending totals are about equal for the past decade, but our figures include $150 billion for the Vietnam war.

The United States is now in a new cycle of modernization, so our spending will have to rise accordingly.

But we have not been standing still. And we do not plan to relax our efforts or our vigilance.

Since the start of the SALT talks in 1969, we have spent nearly $900 billion on defense and have improved our forces dramatically in the process. The Carter administration has reversed the decline in defense spending and is committed to real growth in our military capability and in modernizing and strengthening our Armed Forces. In the next 5 years alone, the United States plans to invest $50 billion in strategic force improvements and hundreds of billions in conventional and theater nuclear forces.

The first real growth in the defense budget in 10 years occurred in the first year of the Carter administration. The decline in defense spending has been reversed. The President has made a commitment of 3 percent in real growth—no inconsiderable figure considering the vast dimension of the defense budget and the fact that virtually all other governmental programs are being held below the rate of inflation. The President believes this is sufficient. The Department of Defense believes it is sufficient.

I am for genuine improvements in our military capabilities. But I am against setting arbitrary spending targets which do not necessarily add to our real combat power. It is not what we spend that is important, but what we get for our dollars.

We have heard repeatedly about the projected vulnerability of our Minuteman missiles when the Russians achieve missile accuracies like our own present capabilities. A successful attack on our land-based missiles would, of course, be technically difficult and politically unlikely given the assured retaliation by thousands of our surviving nuclear weapons.

Minuteman vulnerability will not mean the vulnerability of our total strategic force, nor of our entire Nation. As the Chairman of the Joint Chiefs of Staff has testified, we will still be able to carry out our retaliatory objectives and thus will continue to deter nuclear war.

Our greatest vulnerability today is not military, but economic. And a reckless expansion in military spending, far beyond our genuine needs, would put at immediate risk the economic health of our Nation and the morale of our people.

The real issue raised by calls for a further expansion in defense budgets is whether we should drastically increase our force structure. The Defense Department's current 5-year plan will allow for modernization of our current forces with the latest and best weaponry, but it does not provide for more divisions, more air wings, or additional carrier groups which the proposed escalation would involve.

An abrupt increase in military spending would mean an increase in the established force structure for which no case has been made. It would mean an increase in the rate of weapon production that cannot be rationally decided in the aggregate but must be considered year by year, program by program.

Moreover, an increase in weapon deployment would also require an increase in manning levels, and probably a return to the draft.

The idea that we can spend our way into invulnerability in the nuclear age simply does not hold up in the light of day. It has been said of the serious social problems of the country that you cannot solve these simply by throwing money at them. The same applies to a strong, combat-ready defense.

With this suggested large, arbitrary increase in military spending, how are we going to balance the budget—a goal toward which Congress and the administration have been making steady progress in recent years? The additional defense spending that would be necessary to guarantee 4 to 5 percent real growth in the defense budget in the next fiscal year would add $5 to $7 billion to the deficit.

Any defense budget must be analyzed for what it can contribute to our actual fighting capability and weighed against competing priorities. By setting arbitrarily increased spending levels, we can only encourage the Department of Defense to be inefficient in looking for ways to commit funds.

Levels of defense spending should be set through the careful analysis of our foreign policy and national security objectives—and not by some arbitrary formula.

I believe we must spend what is needed to defend ourselves—whatever that may be—but that we should spend no more than is necessary and that we should get what we pay for.

If a credible case had been made for even greater increases in military spending, I would back it.

I do believe that the rapid and unanticipated surge of inflation does require compensation, and I would support a reasonable supplemental request to offset the erosion in the buying power of this year's defense budget.

But in the long run we have to get our economic house in order. The Pentagon also has a crucial stake in stopping inflation, which has robbed its own budgets considerably.

Ordinary citizens and the military—we are all in this together. With inflation running over 13 percent in the first half of this year, and with the darkening prospect of a more serious recession, it would be utter folly, and it would seriously weaken our economic power and hence our national security interests, to throw additional unnecessary billions of dollars into the military while millions of people in this country are out of work and many on the edge of losing hope.

There are some involved in the debate over SALT II whose prime objective is increased defense spending rather than arms limitation. They oppose SALT in the belief that ratification of the treaty would lull the people into a sense of false security and that a consensus for increased defense spending can be effected only by jolting the American people into panic over the defeat of SALT II. The twisted cynicism of this line of reasoning speaks for itself.

The other side of this strange coin is that with a two-thirds majority of the Senate required for ratification, a rejection of the treaty would likely be by a minority of the Senators—a fact that would not be apt to stampede the thwarted majority into approving a blank check for increased military spending.

I ask those who want even greater defense programs to compensate for SALT approval: What program do they offer to offset those increases in order to maintain the health of our economy? More taxes? Greater deficits? Greater inflation?

I think that the greatest threat to our security, and our economy, would come from rejecting SALT. Then the defense budget would have to soar, and with it the deficits and inflationary pressures.

Other needed military modernization programs would necessarily be delayed.

Whichever side one may be on in this matter of the ratification of SALT II, I think it should be recognized that this is a test of whether the country can be rallied, one way or another, on the crucial matter of national security.

I can only state what I believe, where I stand.

If this treaty were to be rejected out of unwarranted fear and confusion, it would destroy the positive potential for coalition and consensus that we now have in this country and usher in a period of unprecedented bitterness, insecurity, and divisiveness.

Similarly, if SALT were approved with an understanding that would obligate us to unwarranted and arbitrary levels of defense expenditures, it would not strengthen our security but weaken it, and it would fragment our people and prevent a consensus on a responsible national defense program.

No enlightened person, even the most ardent advocate of the treaty, claims that it is the millenium. It is, however, a useful step in a long and difficult process to reduce the danger of nuclear war. Consummation of this treaty will enable Americans to walk with a little more security on the streets where they live and will give some assurance to all humankind that the next chapter of their struggle for existence will not be the terminal terror of nuclear war.

The PRESIDING OFFICER. The Senator from Louisiana.

EMERGENCY ENERGY CONSERVATION ACT OF 1979

Mr. JOHNSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1030.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes.

(The amendment of the House is printed in the Record of August 1, 1979, beginning at page 21936.)

Mr. JOHNSTON. Mr. President, I move that the Senate disagree with the House amendments to S. 1030, agree to the request for a conference, and request the Chair to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Jackson, Mr. Johnston, Mr. Metzenbaum, Mr. Domenici, and Mr. McClure conferees on the part of the Senate.

Mr. JOHNSTON. Mr. President, I say to my colleagues very briefly that this is the bill providing for gasoline rationing and energy conservation. The House of Representatives last night passed this legislation in a form different from that adopted by the Senate.

By this action we have just appointed conferees.

Mr. President, I am totally confident that we can early in September agree in the conference committee on a form of gasoline rationing which will be totally suitable to the Senate, suitable to the House of Representatives, suitable to the administration, and appropriate as a standby rationing plan to meet the needs of this country.

I do not believe that we can properly do it, nor should we in the haste of the moment try to come up with a conference report to be finally approved by the conference in the haste of these waning hours before the recess. That is not because of the controversy of the Hill so much as it is because of the present work of these last few days. Of the Senate conferees, two are in a Budget Committee markup at this very minute, Senator Domenici and I. Another Senator, Senator Jackson, is in the SALT hearings. And to try with that press of time to put the final touches on this bill I think would be too difficult.

As I say, I am totally confident that we can get a plan which would be agreeable to both Houses and the President, and appropriate to the job and that we can do that in early September.

Mr. ROBERT C. BYRD. Mr. President, how many amendments are there to this bill? How many amendments did the House of Representatives have?

Mr. JOHNSTON. The House of Representatives had a fairly large number of amendments, I think in the neighborhood of a dozen or 14 amendments, I believe, as I look here at the summary of S. 1030. Some of those amendments will be acceptable, some will have to be modified to be acceptable, and some perhaps will be rejected.

I do not think they are of the nature and kind that are going to tie up the conference and beat the bill.

Mr. ROBERT C. BYRD. Mr. President, this House message is not subject to the 5-minute limitation on morning business, is it?

The PRESIDING OFFICER. It is a privileged matter but it is limited to 5 minutes under the unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be up to an additional 30 minutes if needed on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. Hatfield be recognized to make a unanimous-consent request in conjunction with the pending matter.

The PRESIDING OFFICER (Mr. Burdick). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Republican on the energy conference committee who has just now been appointed, Senator Stevens, from Alaska, be changed to read Senator McClure, from Idaho, so that the two Republican conferees will be Senator McClure and Senator Domenici.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I might add in connection with the gasoline rationing and conservation plan that the conferees will begin our conferences both formal and informal immediately, and I suspect that we will have a lot of work going on in August.

I want to make clear that the amendments put on by the House of Representatives are amendments with which we, I think, can clearly deal, but they are very technical amendments.

For example, under the 78 degree temperature regulation they provide for a different procedure for determining whether or not a public building will be in compliance with the 78 degrees.

I would say the Senate Committee on Energy and Natural Resources is committed to a program that lowers thermostats. We are not, on the other hand, committed to any particular method or strategy for bringing that about, and a conference on that very technical issue will take time. It is not the kind of disagreement that will hold the conference up or divide the two Houses, in my judgment.

In like manner there are a number of other technical amendments that will take time to unravel. They will take staff research.

I think, frankly, we are better off by having the month of August to contemplate these matters, to let the experts determine what the best mechanisms are to deal with this rather than to rush in and try to do it too quickly, because it is going to take a number of days to do it.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. MATSUNAGA. Is the Senator saying the conferees will not be meeting during the recess?

Mr. JOHNSTON. We may or may not have formal meetings of the conference. We will have informal communications between conferees and with staff and, indeed, have inputs from other Senators and will have work proceeding.

It is to a large extent a technical problem which simply is going to take the work of the technicians to work out some of these differences.

Mr. MATSUNAGA. Have the conferees yet been selected?

Mr. JOHNSTON. Yes, the conferees have been selected.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. ROBERT C. BYRD. Mr. President, I would express the hope that the conferees would attempt to work this matter out during the recess. I just talked to the Speaker, and he has indicated that Mr. Dingell will do whatever he can, as much as he can, to get their conferees in a position to work during the recess, because we are going to have just a tremendous amount of work when we come back.

We have seven appropriation bills yet in the Senate. We have at least a half dozen authorization measures, one of which is the omnibus water resources bill. We have the energy legislation. We have got the excess profits tax. We have the SALT treaty. All this is going to require that the Senate be in session on a lot of Saturdays, a lot of long evenings, in order to get the work done.

I do not want to be here until the 1st of January and just have the 2d day of January off before we start on the 3d of January for the commencement of the second session.

So I hope, and I think the American people would expect, and I think the Senate would expect, the conferees on both sides to attempt to get together during the recess and work this thing out.

I sympathize with the distinguished Senator from Louisiana. The Senate has expressed its support for and adopted the President's plan for rationing, sent it over to the other body, and the other body rejected it. I think the President should have sent another plan up to the Hill without simply washing his hands and saying, "I challenge them to come up with something." He has the responsibility as the leader of this country; it is a challenge to him as well as to us. I have urged him to get people from both Houses who are experts in the energy field and thus far I have seen no movement in that direction. I would have liked to have seen another plan sent up.

But I think what we have seen occur in the other body demonstrates the futility of working out a gasoline rationing plan on the floor of either body. It is exceedingly difficult, if not impossible. I would not say it is impossible.

But from what I have read in the newspapers, and I have not seen these amendments, so I do not know what the House has really done, except what I have heard through the media, it has emasculated this Senate bill, and the standby gasoline rationing plan that I have read in the newspapers is one which, in my judgment, is ludicrous. I hope that is not too strong a term.

But to say that the President has to notify the Congress, what is it, 60 days before he intends to put a plan into effect—is that one of the amendments, one of the provisions, in the House bill?

Mr. JOHNSTON. I believe the Senator is correct.

Mr. ROBERT C. BYRD. How could the President give the Congress 60 days' notice or 30 days' notice or 20 days' notice or 10 days' notice if the OPEC countries suddenly decide to cut off the oil supply or if some other emergency would occur which is unforeseen, could occur tonight, could occur this afternoon, could occur right now, without my knowledge, how could he be expected to give the Congress 30 or 60 days' notice before he intends to trigger the action?

Mr. BUMPERS. Mr. President, will the Senator yield for an observation?

Mr. ROBERT C. BYRD. Yes.

Mr. BUMPERS. I would use stronger language than the Senator did. I would not call it ludicrous; I would call it outrageous.

Mr. ROBERT C. BYRD. I will settle for that.

Mr. BUMPERS. I would just as soon face the crisis with no legislation before us as to face the crisis with this bill before us, and I hope your conferees feel the same way.

Mr. ROBERT C. BYRD. That is the way it appears to me.

Mr. JOHNSTON. Mr. President, may I reply to the distinguished Senator from West Virginia and the distinguished Senator from Arkansas?

Mr. ROBERT C. BYRD. Yes.

Mr. JOHNSTON. Mr. President, as head of the Senate conferees who will soon be going into conference, I think it would be better for me not to characterize the House bill in very crimson terms. Let me say I would expect that the conferees will come up with a few modifications to the House position which will make that bill acceptable on the Senate side, acceptable on the House side, and acceptable to the President.

I have great confidence, and I mean this sincerely, in the House conferees. Congressman DINGELL is a man of great vision, intelligence, and dedication to the national good, and that is not just idle conversation here on the Senate floor. I am confident of that, and I believe that, first, we will be able to work out a workable scheme for gasoline rationing. Second, the House conferees will accept it; and, third, that he can sell it on the House floor.

Frankly, I think we are better off with this August recess to work on this bill than to try to do it now because the House is just fresh off a vote, they have taken their positions. The August recess is going to give them a litte time to think and contemplate and hear from the American people and to gracefully change and modify some of their positions to make a more sensible framework.

As I say, I am confident that can be done. I do not really interpret the House action as being any final thrust in the direction of emasculating this plan. I think, frankly, there were probably some amendments accepted with the idea of getting a rationing bill so we could go to conference, so we would have the framework within which to work the will of a more workable framework for gasoline rationing because, in that conference, we can rewrite gasoline rationing in any way we want to, and I think that freedom, that flexibility, in a conference with the days of August to work out these problems and with a little time to leaven out the recent memory of those votes, will help and contribute to this resolution.

There is no reason to get this done today as opposed to, say, the early days of September when I am confident we can put it together, other than the symbolism of it and, frankly, the symbolism is important. But for the purpose of symbolism, let me say the Senate has passed gasoline rationing, the House has now passed a bill, albeit defective in its scope, so we have that symbol for the American people, and they can have my assurance and that of the other conferees that we will work it out.

Mr. ROBERT C. BYRD. Mr. President, symbolism is not the issue. I am not taking umbrage or issue here with what the Senator has said, but symbolism is not the issue. If taking the month of August to work out a feasible plan, if it requires weeks to work out a feasible plan, then that is something else. There is certainly no gain in passing a plan today or tomorrow or Saturday for the purpose of symbolism or anything else, if the plan is not going to work. If it is impossible to devise a workable plan within 2 or 3 days, that is quite another thing.

I am not interested in symbolism, but I am interested in a workable plan, and that is what the Senator is interested in. That is what the Speaker is interested in, I am sure. The Speaker deplores what has happened.

But all I want to know is whether or not the Senator will do all in his power to get the conferees together to work out a feasible, workable plan that can be brought back to both Houses in a conference report when the Houses return.

Mr. JOHNSTON. The Senator has my full assurance that we will make every effort to do that. He has my full pledge that it will be done, and will be done in early September. I have every reason to believe that will come about.

Mr. ROBERT C. BYRD. I have every confidence in the Senator from Louisiana. Let me say that I have just talked with the Speaker, and it was his opinion that it could not be done within the next few days. He said Mr. DINGELL would make every effort to have the conferees come together and try to work out a compromise during August.

Mr. President, on June 5 of this year the Senate passed S. 1030, the Emergency Energy Conservation Act of 1979, authored by the distinguished Senator from Louisiana, Senator JOHNSTON. This measure grants authority to the President to establish an emergency program to conserve energy and to permit the Governor of each State to identify the most appropriate methods of conserving energy within their respective States. In addition, the bill requires the President to devise a Federal conservation scheme, to be implemented in the event that a State cannot or does not take proper action. This legislation represents a fair and reasonable approach to the problem of emergency energy shortages by allowing each State to adopt conservation measures tailormade to suit their unique needs and conditions.

For the last 2 days the House has considered this measure and last evening voted to approve a bill which differs in several significant respects from the Senate-passed version. In particular, the House adopted an amendment which would provide a new statutory framework for the creation and implementation of a standby gas rationing plan. This provision would alter gas rationing authority established by the Energy Policy and Conservation Act of 1975, pursuant to which the President submitted a standby plan for congressional approval last spring. Although the Senate approved the President's rationing plan, it has not had an opportunity to consider the new legal framework which the House devised as a means of simplifying the approval process.

In addition to this significant new provision, the House made other important alterations to the conservation aspects of this bill. Many of these changes may be desirable but will require some careful thought and study to insure that the best possible conservation and rationing plan is adopted. Accordingly, the Senate has agreed to a conference with the House, and we have appointed conferees to consider this legislation. It is my belief that this procedure will lead to the most expeditious and judicious consideration of this important legislation.

● Mr. JACKSON. Mr. President, I think we should review the actions of the past few weeks in order to understand the significance of what the Senate has done today in agreeing to go to conference with the House on S. 1030.

On May 9—nearly 3 months ago—the Senate voted to approve President Carter's standby gasoline rationing plan. Legislation passed by the Congress in 1975 required the President to submit such a plan; it was almost 3 years later.

Unfortunately that plan was defeated by the House of Representatives. The existing law gives the President authority to send us another standby gasoline rationing plan for approval. Instead of doing so, the President said the Congress should devise its own rationing plan.

The House—which had defeated rationing—decided to add general rationing authority to a Senate passed bill, S. 1030. That bill had passed the Senate on June 5. The version of the rationing authority reported from the Subcommittee on Energy and Power, and then from the full Interstate and Foreign Commerce Committee, gave the President relatively straightforward rationing authority. It would have required him to base any rationing plan on a State's historic use of gasoline or diesel fuel, which was something the Senate had insisted upon in its consideration of the standby plan.

The bill reached the House floor last week. Then things began to get out of control. As a result the House leadership deferred House consideration of the bill for nearly a week. They took the bill up again on Tuesday and finally finished it yesterday evening.

The relatively simple Senate bill had picked up a lot of excess baggage along the way. Not only did the House add the rationing authority, which was a major departure from the Senate bill, but they also passed 16 amendments to the bill on the House floor.

The Senate was faced with a simple decision: Either try to amend something we had barely had time to read and complete action early today, so the House could have another try at the bill and attempt to send it to the President or we could agree to go to conference. We chose the latter route. But in doing so I need to stress that both the Senate and the House of Representatives have now approved giving the President standby rationing authority. We have also both approved the idea of insisting that any rationing plan be based upon historic use in each State.

There are many loopholes in the House bill; some of them are very serious as far as I am concerned. The House bill requires the President to find there is, or will be, a 20-percent shortfall in petroleum products prior to requesting implementation of the rationing plan. By that time we could be 30, 40, or even 50 percent short of gasoline or diesel fuel.

I also object to the strings attached to the mandatory public building temperature restriction program we already have in place. We need to study the effect of the provisions which purport to protect full food and fiber production, as well as the three standby middle distillate set-aside programs.

We will have to rewrite the bill in conference to make it adequate to meet the needs of the country. The respective staffs will be moving during August to put most of the pieces together. I hope we will be able to have a quick conference upon our return.

The people want the President to have standby gasoline rationing authority. They are beginning to realize that our source of supply is fragile. I am concerned that we could be up against another supply interruption or cutoff. We need to be prepared with a rationing plan that can be put into effect without delay.●

Mr. BUMPERS. Mr. President, most of the people who talk about why we do not need gasoline rationing are the ones who say continuously that this country can produce its way out of its present dilemma.

I am not here to say we cannot produce our way out of this dilemma, but I am willing to predict that this cannot be accomplished in the next 20 years. In his energy speech, the President wanted to commit the United States, with the acquiescence of Congress, to $142 billion for an energy program between now and 1990, $88 billion of which will be used for the development of synthetic fuel.

Under the most optimistic estimates, $88 billion will only produce 2.5 million barrels of synthetic fuel.

We are importing 9 million barrels of oil a day today, and I am willing to predict that by 1990 the U.S. domestic production of oil will be less than it is today. I do not care if the price of oil is $100 a barrel. God unhappily just made so much oil, and unhappily we can only produce so much of it.

So this brings me to the Kennedy-Durkin bill, which I think is precisely the right approach.

The only option open to the President today is dramatic conservation. The only way we are going to get inflation down in this country is to renegotiate trade agreements with Germany and Japan on the importation of electronics and automobiles, which is not about to happen, or reduce our dependence on foreign oil and reduce the $60 billion we are going to spend this year buying oil.

You can talk about Government spending; it is deplorable. You can talk about Government waste; it is outrageous. But when you start talking about oil and America's romance with the automobile, all of a sudden nobody can see the inflationary impact of the amount of oil we are trying to buy in this country.

It is not even a question of the availability of oil. It is a question of our ability to pay for the accelerating price of oil which contributes so heavily to our 12- and 13-percent inflation rate.

You know, there are some things, which are just as dangerous to the future of this country as Russian missiles, and one is wiping out the disposable income of the working people and the retired people with a 13-percent inflation rate.

And what are we doing about it? Well, we are making speeches about tax cuts and countercyclical spending and all those things. What do you think a billion dollars in countercyclical spending is going to do to either the unemployment rate or inflation in this country? The answer is, nothing significant enough to be counted.

So what options are left to the President right now? What can we do today?

You can raise the price of oil to $100 a barrel, and you are not going to get any more oil between now and 1985. We can almost promise it. Exxon ran an ad in every newspaper in the United States the other day and said, "Aren't we great? We only made $600 million in profits, and we spent that much and more in explorations." As the old saying goes, they drilled and drilled until they hit Reliance Electric Corp., paying $2.7 billion for an electric motor company and all the while trying to con the American people into believing they were doing us a big favor by spending $700 million on exploration.

A far more effective strategy is to use the energy we have more efficiently. We can conserve under the Kennedy-Durkin bill, 4.5 million barrels a day by 1990. We can accomplish this saving by spending less than half of what the President requested—$58 billion to be precise—over the next 10 years. In the process, we will have saved ourselves an enormous amount of inflation, because if we reduce our oil imports by 4.5 million barrels by 1990, at a projected cost of under $11 per barrel, that is a lot better than the $30 a barrel we are going to be paying in the next year or two for imported oil.

We also need to establish an equitable standby rationing plan. I tried to get the U.S. Senate to agree to ration gasoline back in 1976, and got 15 big votes in this body. I did not introduce that proposal because of the unavailability of gasoline—we had plenty of gasoline in 1976—but because, as we say in Arkansas, "You didn't have to be broke out with brilliance" to foresee the situation we are in today.

But that was like trying to sell cemetery lots to healthy people; it is not easy.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. BUMPERS. I am happy to yield.

Mr. MATSUNAGA. Mr. President, I rise in strong support as a cosponsor of the Energy Productivity Act.

The United States today finds itself in a critical position of having to import in excess of 8 million barrels per day, at a cost approaching $50 billion per year. Although the cost to implement this act will be $5.8 billion per year for 10 years, in full force, the effect will be to cut oil imports in half, thus saving more than $25 billion each year. The national security advantages, I might point out, also cannot be denied.

Mr. President, we are all well aware that our energy shortcomings have caused a deterioration of the general economy. Unemployment is again on the rise, and economic advisors have predicted at least a mild recession. The proposed legislation will create 500,000 new jobs. The multiplier effect of this increased employment should also be noted.

I agree with the Senator from Arkansas that conservation is one means of reducing oil imports, but it is not the only dramatic means. There are alternative sources of energy which can be developed within the next few years to meet the needs of limited areas throughout the United States. I will cite Hawaii as an example. Fortunately, the Department of Energy, under Secretary Schlesinger, selected Hawaii as a national laboratory to prove that energy self-sufficiency can be attained.

Hawaii was selected because Hawaii was practically 100 percent dependent upon imported oil. We started with the island of Hawaii—the so-called Big Island. In the last few years the Big Islanders have been able to reduce their need for petroleum, which is all imported, for the purpose of generating electricity, by as much as 40 percent, purely by burning sugar cane waste. This was accomplished within the last few years; and it is expected that within the next year an additional 10 percent of the electric needs of that island will be produced from biomass energy alone.

By August of next year, an additional 3 to 3.5 megawatts of electricity will be produced on the Big Island by the use of geothermal steam. The potential for this new source of alternative energy out of a single steam well is estimated to run as high as 500 megawatts.

We are also experimenting with OTEC, ocean thermal energy conversion, using the difference in the temperature of the water of the Pacific Ocean at the surface, as compared to that at the bottom, to generate electricity. We are looking into the use of low head hydro. Instead of thinking in terms of 300- or 400-foot dams, we hope to take advantage of the newly developed technology wherein all we will need is a 25- or 40-foot head of water to generate 3, 3.5, and even 5 megawatts with one or two tube turbines. Wind energy also provides a great potential as a replacement for imported oil.

These are some of the many alternatives to oil which are available today. The technology is known and waiting to be applied. Then, of course, there is solar energy, not only in its passive forms, but in its active, electricity-generating solar photovoltaic cells.

I believe the Senator from Arkansas was a cosponsor with this Senator from Hawaii of the demonstration which was held here on the grounds in front of the Capitol, wherein a one-bedroom unit, hauled in on a trailer, was supplied its electrical needs by solar photovoltaic cells. We do not have as much sunshine here as we do in California, Hawaii, Florida, or the other States further south, but the solar electric generators worked beautifully, without any hitch.

I was pleasantly surprised to learn that the technology has been developed to a point where these solar cells can be mass-produced. As a matter of fact, I put the question to the president of Arco Solar, Inc., which put on this demonstration: "Suppose I were a housing developer and I was going to build 1,000 three bedroom and two bedroom units, and I came to you and asked you to undertake the electrifying of all 1,000 units, when could you begin?" To my delight, but amazement, his response was "Today." Almost in disbelief, I said, "Today?" He remarked that the tone of my voice indicated what the average American believes today, and that he cannot get Americans to believe that the technology of solar photovoltaic cells is here today.

Then he revealed an even more incredible fact, that Saudi Arabia is buying all the solar photovoltaic cells as fast as his company has been producing them.

The wise men of Saudi Arabia are selling us their oil and buying our solar photovoltaic cells.

I also inquired about how much it would cost to electrify an average three-bedroom home with 1,200 square feet of floor space. His response, "$1,000 a year." At today's high cost, the price would be $25,000 with a life span of 25 to 30 years, making it $1,000 a year. Assuming the home was purchased or built on a loan, the financing charges would come out to about $2,000, bringing the total cost of the solar unit to about $3,000 a year. But that is still less than what you and I, Mr. President, are paying annually for the use of electric power in our homes now.

I agree with the Senator from Arkansas that we ought to go dramatically into conservation, but we also need to go dramatically into using these technologies which are here today and go into the accelerated development of alternative sources of energy.

The bill will provide for assistance to the residential, commercial, and industrial sectors. Although the blessed State of Hawaii might not be able to take full advantage of the home insulation section, which in itself accounts for half the cost of the act, both the commercial and industrial sectors can materially increase their productivity through participation in the program. For some companies and industries, the critical fuels energy rebate portion of the act could very well mean survival. In Hawaii, the substitution of various renewable alternatives for petroleum will no doubt be accelerated.

In conclusion, Mr. President, I would like to reaffirm my strong support for the passage of the Energy Productivity Act. There is no question in my mind that the proposed legislation will enable the United States to move ahead aggressively in its effort to resolve its energy problems.

Mr. BUMPERS. I thank the Senator very much.

Under the Kennedy-Durkin bill you can insulate almost every home in America and save 2 million barrels a day. We can do that now.

Solar energy and wind energy are developing technologies, and they are available now. Hydroelectric power is readily available. I am pleased to note that the Corps of Engineers is beginning a study of retrofitting the existing dams on the Arkansas River for development of hydroelectric power.

You have only three renewable sources, wind, hydro, and solar. They are all available now.

A synthetic fuels program is desirable. More natural gas and more oil is desirable, but I am thinking about what we do now. The truth of the matter is you have to conserve now.

The President of the United States is my good friend and a member of my party. I have tried to defend him where I thought I should defend him, responsibly.

The American people have confidence in the technology and the will of the people of this country. One of the reasons we have a confidence crisis is that the politicians of this country have consistently raised their expectations beyond any possible hope of fulfillment. Every time they get their hopes up they see them dashed, and the confidence level in this country goes down.

We will not solve the malaise which this country is experiencing right now by convincing the American people that we are the Saudi Arabia of coal, even if this is correct. It is also important to remember that we are also the Saudi Arabia of energy waste as a gentleman said in the Energy Committee the other morning.

What is going to happen? We tell the American people we have all of this coal, and oil companies say, "If you will give us enough money for our oil we will produce another 500 million barrels by 1985," but they cannot do it. They will not do it. American people will be asked to part with $25 billion to $50 billion a year more. And what will they get in return? Nothing. Nothing.

So the American people are being led to believe that we are going to produce our way out of this thing overnight, and we are not going to be able to do it. The very best we can hope for is to start making some kind of a dent on imports by 1990 under the present trend. So hopes are going to be raised again and dashed again. The confidence level of the people will recede to an even lower level.

Mr. President, I yield the floor.

ORDER FOR CONSIDERATION OF VARIOUS MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, it had been my hope that the Senate would be able to dispose of the countercyclical bill today, Calendar Order No. 290, S. 566, then go on to Calendar Order No. 289, S. 885 today, in which event, the Senate would have completed its work and could recess.

There are a number of other measures on the calendar which probably can be disposed of by unanimous consent, but these two measures and the veterans bill, which I hope the Senate will yet be able to do today, H.R. 2282, or Calendar Order No. 297, which is a companion bill—I hope the Senate will be able to complete that bill today.

Also, I had hoped the Senate would take up and dispose of the countercyclical bill and S. 885. I understand that there is a problem with the 3-day rule on the countercyclical bill. That 3-day period would not be up until tomorrow. Therefore, I ask unanimous consent that on tomorrow, after the order for the recognition of Senators have been entered into, the Senate then proceed to the consideration of Calendar Order No. 300, the budget waiver on the countercyclical bill, and that that be followed with Calendar Order No. 290.

Mr. BAKER. Mr. President, reserving the right to object, I do not plan to object. I think the majority leader has correctly stated the case. This is a matter of great importance and of great interest to a number of Members on my side. I regret that it is not possible to schedule this earlier, but it simply is not. The Members on this side who have expressed their concern are not concerned with just the procedural point involved, the maturation of the 3-day rule, but rather for the bill itself, the countercyclical bill. Under those circumstances, I have no problem with the majority leader's scheduling it for tomorrow. Indeed, I shall be here, and we shall be prepared to proceed at that time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on the disposition of the bill S. 566, Calendar Order No. 290, the Senate then proceed tomorrow with consideration of Calendar Order No. 289, S. 885.

Mr. BAKER. Mr. President, we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be an extension of morning business and that statements may be made by Senators therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMTRAK IMPROVEMENT ACT OF 1979—S. 712

Mr. ROBERT C. BYRD. Mr. President, I have a unanimous consent request relating to S. 712, the Amtrak Improvement Act of 1979, which was considered and passed by the Senate, as amended, yesterday. The purpose of this request is to make a technical change in an amendment offered by Senators CHURCH, MAGNUSON, and PACKWOOD, to delete language inadvertently included in the amendment as offered and adopted by the Senate. Senators CHURCH, MAGNUSON, and PACKWOOD have been consulted and are in full agreement with this unanimous consent request and, as I understand, are the managers of the bill on both sides of the aisle and also in full agreement.

The second purpose of the unanimous consent request is to call up the House-passed bill, H.R. 3996, the Amtrak Reorganization Act of 1979, and substitute for the text of that House bill the text of the Senate bill, S. 712, as passed by the Senate. Accordingly, I would now like to make the following unanimous consent request:

Mr. President, I ask unanimous consent that the motion to table the motion to reconsider, the motion to reconsider, and final passage of S. 712 be vitiated; that the third reading of the bill be vitiated; that an amendment at the desk, which I have already described, be considered to have been adopted thereto and the bill be considered as having been advanced to the third reading; that the Senate proceed to consider H.R. 3996, that S. 712, as amended, be inserted as an amendment in the nature of a substitute for H.R. 3996, that it be considered as having been read the third time, passed, and the motion to table the motion to reconsider adopted.

The PRESIDING OFFICER. Without objection, so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 712 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 3996 be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following Calendar Orders Nos. 293, 296, 306 through 315.

Mr. BAKER. Mr. President, reserving the right to object, all of these items are cleared on our calendar. We have no objection to their consideration and passage.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the various measures be considered en bloc, that the amendments as shown be agreed to en bloc, that the measures be adopted en bloc, that appropriate extracts from the committee reports be inserted in the RECORD in explanation thereof, that the motion to reconsider en bloc be laid on the table, and any preambles will be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

TITLE 5, UNITED STATES CODE, TECHNICAL AND CLERICAL AMENDMENTS

The bill (H.R. 4616) to make certain technical and clerical amendments to title 5, United States Code, was considered, ordered to a third reading, read the third time, and passed.

NATIONAL ENERGY EDUCATION DAY

The joint resolution (S.J. Res. 43) to proclaim March 21, 1980, "National Energy Education Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, follows:

Whereas inexpensive and abundant energy permitted our great Nation to rise to a position of preeminence in the world community of nations; and

Whereas events of recent years have shown that traditional energy resources are in potentially short supply and these massive changes in the world energy production and distribution system have made this subject a focal point of domestic and foreign policy; and

Whereas the development of new energy technologies, including solar energy and other renewable resources, promise to reduce our dependence on insecure and hostile foreign cartels; and

Whereas these fundamental changes require the update of our educational system at all grade levels to prepare our youth to meet the new demands which are being created; and

Whereas a National Energy Education Day (NEED) will bring together teachers, school officials, parent groups, to help the Nation's children understand the international energy crisis; and

Whereas NEED must be a total educational effort, the start of an ongoing process which can demonstrate that to ignore the plight of an energy shortfall and to fail to seek sound remedies would be an error: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 21, 1980, is proclaimed "National Energy Education Day" to commence an ongoing program of energy education in schools, both public and private, at all grade levels, and the President is authorized and requested to issue (A) a proclamation calling upon the general public and education institutions of the United States to observe this day with appropriate activities and ceremonies, and (B) to direct all appropriate Federal agencies to cooperate with and participate in, the celebration of "National Energy Education Day".

SOERJANTIBONZOUMET-SOETARTO

The bill (S. 88) for the relief of Soerjanti Bonzoumet-Soetarto, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(9) of the Immigration and Nationality Act, Soerjanti Bonzoumet-Soetarto may be issued a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

CHONG HUI SCHREIN

The bill (S. 216) for the relief of Chong Hui Schrein, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of sections 212 (a)(12) and 212(a)(23) of the Immigration and Nationality Act, Chong Hui Schrein may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of the Act: *Provided,* That these exemptions shall apply only to grounds for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

CERTAIN ALIENS

The bill (S. 707) for the relief of certain aliens, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of the Immigration and Nationality Act, the following named aliens shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the countries of the aliens' birth upon paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act:

BANMAN—Redecop, Diedrich
Banman—Redecop, Aganetha
Banman—Redecop, Agatha
Banman—Redecop, Hallena
Banman—Redecop, Mary
BERGEN—Neudorf, Bernard
Bergen—Guenther, Susana
Bergen—Guenther, Justina
Bergen—Guenther, Helena
Bergen—Guenther, Bernhard
BERGEN—Reddekopp, Bernhard
Bergen—Neudorf, Helena
Bergen—Neudorf, Elizabeth
BERGEN—Neudorf, John
Bergen—Wall, Elisa
DUECK—Loewen, Cornelius
Plett—de Dueck, Anna
Dueck—Plett, Cornelius
Dueck—Plett, Frederick
Dueck—Plett, John
Dueck-Plett, Anita
Dueck-Plett, Dennis
Dueck-Plett, Klaas
Dueck-Plett, Elizabeth
DUECK-Loewen, Edwin
Plett-de Dueck, Margaretha
Dueck-Plett, Bernard
Dueck-Plett, Norman
Dueck-Plett, Harold
Dueck-Plett, Peter
Dueck-Plett, Irene
Dueck-Plett, Raymond
Dueck-Plett, Robert
DUECK-Loewen, Henry
Kornelson-de Dueck, Mary
Dueck-Kornelson, Milton
Dueck- Kornelson, Dale
Dueck-Kornelson, Elizabeth
Dueck-Kornelson, Paul
Dueck-Kornelson, Kenneth
Dueck-Kornelson, Myrtle
DUECK-Plett, Lorenzo
Dueck-de Dueck, Erna
DUECK—Loewen, Norman
Kornelson—de Dueck, Elvira
Dueck—Kornelson, Glenn
Dueck—Kornelson, Carol
DUECK—Loewen, Peter
Wolfe—de Dueck, Maria
Dueck—-Wolfe, Lorna
Dueck—Wolfe, Richard
Dueck—Wolfe, Terry
Dueck—Wolfe, Garland
DYCK—Quiring, Francisco
Dyck—Wolfe, Agatha
Dyck—Wolfe, Aganetha
Dyck—Wolfe, Daniel
Dyck—Wolfe, Franz
Dyck—Wolfe, Susana
DYCK—Teichroeb, Heinrich
Dyck—Martens, Aganetha
Dyck—Martens, Aganetha
DYCK—Neudorf, Jacob
Wiebe—Froessen, Helen
DYCK—Dyck, Peter
Dyck—Loewen, Katharina
Dyck—Quiring, Aganetha
Dyck—Quiring, Aganetha
Dyck—Quiring, Benjamin
Dyck—Quiring, Elizabeth
Dyck—Quiring, Heinrich
Dyck—Quiring, Jacob
Dyck—Quiring, Margarita
Dyck—Quiring, Maria
DYCK—Loewen, Peter
Dyck—Freesse, Agatha
Dyck—Freesse, Franz
Dyck—Froesse, David
Dyck—Froesse, Helena
Dyck—Froesses, Abram
Dyck—Froesses, Aganetha
Dyck—Froesses, Bernhard
Dyck—Froesses, Guillermo
Dyck—Froesse, Helena
Dyck—Froesses, Peter
Dyck—Martins, Johan
Dyck—Martins, Margarita
FEHR—Friesen, Peter
Peters—Friesen, Aganetha
FRIESSEN—Peters, Abraham
Dyck—de Friessen, Getrudis
Friessen—Dyck, Elizabeth
FRIESEN—Friesen, Edward
Kornelson—de Friesen, Elizabeth
Friesen—Kornelson, Jim
Friesen—Kornelson, Dennis
Friesen—Kornelson, Ronald
Friesen—Kornelson, Floyd
FRIESEN—Friesen, Jacob
Friesen—Teichroeb, Elisabeth
Friesen—Teichroeb, Jacob
FRIESEN—Friesen, Johan
FRIESSEN—Peters, Corny
De Friessen—Dyck, Aganetha
Friessen—Dyck, Abraham
FROESE—Hamm, Cornelio
Froese—Bergen, Helena
Froese—Bergen, Jacob
Froese—Bergen, Katharina
Froese—Bergen, Katharina
Froese—Bergen, Margarita
FROESE—Peters, Pedro
Froese—Froesse, Elizabeth
Froese—Froesse, Pedro
Froese—Froesse, Jacob
Froese—Froesse, Elizabeth
GIESBRECHT—Bikert, Abraham
Giesbrecht—Klassen, Judith
Giesbrecht—Klassen, Abraham
GIESBRECHT—Friesen, Jacob
GIESBRECHT—Friesen, Peter
Froese, Katharina
GOERTZEN—Giesbrecht, Isaak
Goertzen—Knelsen, David
Goertzen—Knelsen, Francisco
Goertzen—Knelsen, Isaak
Goertzen—Knelsen, Katharina
Goertzen—Knelsen, Maria
Goertzen—Knelsen, Susana
GUENTHER—Fehr, Jacob
Guenther—Hiebert, Katharina
GUENTHER—Zacharias, Jacob
HARMS—Dyck, Abraham
Harms—Reimer, Abraham
Harms—Reimer, Maria
Harms—Reimer, Martha
HARMS—Andres, Abram
Harms—Neufeld, Abram N.
Harms—Neufeld, George
Harms—Neufeld, Helena
Harms—Neufeld, Jake
Harms—Neufeld, Johan
Harms—Neufeld, Margaretha
Harms—Neufeld, Maryann
Harms—Neufeld, Sara
Harms—Neufeld, Sara
Harms—Neufeld, Tina
HARMS—Dyck, Isaac
Harms—Rempel, Ana
Harms—Rempel, Abraham
Harms—Rempel, Bernardo
Harms—Rempel, Isack
Harms—Rempel, Katharina
Harms—Rempel, Susana
Harms—Rempel, Susana
HARMS—Dyke, Johan
Harms—Guenther, Elizabeth
Harms—Guenther, Margaret
Harms—Guenther, Elizabeth
HARMS—Andres, Peter
Harms—Thiessen, Helena
Harms—Thiessen, Abram
Harms—Thiessen, Jacob
Harms—Thiessen, Helen
Harms—Thiessen, Johann
Harms—Thiessen, Berman
Harms—Thiessen, David
Harms—Thiessen, Gerherd
Harms—Thiessen, Peter
HARMS—Dyck, Peter
Harms—Wall, Abraham
Harms—Wall, Anna
Harms—Wall, Helena
Harms—Wall, Helena
Harms—Wall, Johan
Harms—Wall, Maria
Harms—Wall, Pedro
KLASSEN—Rempel, David
Rempel—de Klassen, Margarita
Klassen—Rempel, Heinrich
Klassen—Rempel, Franz
Klassen—Rempel, David
KLASSEN—Dyck, John
Klassen—Kroeker, Elisabeth
Klassen—Kroeker, Katharina
Klassen—Kroeker, Peter
KLASSEN—Wolf, Martin
KNELSEN—Hamm, David
Knelsen—Wieler, Aganetha
Knelsen—Wieler, David
Knelsen—Wieler, Franz
Knelsen—Wieler, John
KORNELSON—Dueck, Francisco
Plett—de Kornelson, Roseline
Kornelson—Plett, Rhonda
KRAHN—Rempel, Johan
Neufeld—Biekert de Krahn, Maria
Katharina
Helena
Maria
John
Margaretha
KRHAN—Martens, Wilhelm
Krhan—Neufeld, Elisabeth
Khhan—Neufeld, Jacob
Krhan—Neufeld, Katharina
Krhan—Neufeld, Maria
Krhan—Neufeld, Maria
Krhan—Neufeld, Susana
LOEPPKY—Wiebe, Cornelius
Loeppky—Penner, Susan
LOEWEN—Wiebe, Cornelius
Peters—Friessen, Maria
Loewen—Peters, Heinrich
Loewen—Peters, Kathrina
Loewen—Peters, Cornelius
LOWEN—Dueck, Edwin David
Plett—de Loewen, Irma

MARTENS—Schmitt, Heinrich
Martens—Schmitt, Anna
Harms—Wall, Abraham
Harms—Wall, Anna
Harms—Wall, Helena
Harms—Wall, Helena
Harms—Wall, Johan
Harms—Wall, Maria
Harms—Wall, Pedro
KLASSEN—Rempel, David
Rempel—de Klassen, Margarita
Klassen—Rempel, Heinrich
Klassen—Rempel, Franz
Klassen—Rempel, David
KLASSEN—Dyck, John
Klassen—Kroeker, Elisabeth
Klassen—Kroeker, Katharina
Klassen—Kroeker, Peter
KLASSEN—Wolf, Martin
KNELSEN—Hamm, David
Knelsen—Wieler, Aganetha
Knelsen—Wieler, David
Knelsen—Wieler, Franz
Knelsen—Wieler, John
KORNELSON—Dueck, Francisco
Plett—de Kornelson, Roseline
Kornelson—Plett, Rhonda
Martens—Schmitt, Abraham
Martens—Schmitt, Anna
Martens—Schmitt, Fans
Martens—Schmitt, Johan
Martens—Schmitt, Peter
MARTENS—Schmitt, Katherina
Martens—Dyck, Katherina
MARTINS—Smitt, David
Martins—Zacharias, Margaret
Martins, Annie
NEUDORF—Bergen, Cornelius
Neudorf—Friessen, Anna
Neudorf—Friessen, Anna
Neudorf—Friessen, Cornelio
Neudorf—Friessen, Jacobo
Neudorf—Friessen, Katharina
NEUFELD—Schmitt, Cornelius
Neufeld—Bergen, Hellen
NEUFELD—Loewen, Heinrich
Klassen—Niefeld de Neufeld, Justina
Neufeld—Klassen, Jacob
NEUFELD—Giesbrecht, Herman
Neufeld—Wiebe, Elma
Neufeld—Wiebe, Richard Herman
Neufeld—Wiebe, Susana
NEUFELD—Wieler, Johan
Neufeld—Wieler, Anna
Neufeld—Wieler, David
Neufeld—Wieler, Enrique
Neufeld—Wieler, Getruda
Neufeld—Wieler, Juan
Neufeld—Wieler, Mary
Neufeld—Wieler, Patricia Lynn
NEUSTATER—Henrichs, Johan
Neustater—Loewen, Elena
Neustater—Loewen, Katharina
Neustater—Loewen, Tina
NEUSTATER—Klassen, Peter
Neustater—Friessen, Gerardo
Neustater—Fiessen, Pedro
Friessen—de Neustater, Elizabeth
PETERS—Bergen, Abram
Peters—Redakopp, Aganetha
Pedekopp—de Peters, Katharina
PETERS—Heide, Aron
Fehr—de Peters, Elisa
Peters—Fehr, Mary
PETERS—Beisbrecht, David
PETERS—Thiessen, Isaak
Peters—Kreeker, Anna
Peters—Kreeker, Abraham
Peters—Kreeker, Elizabeth
Peters—Kreeker, Katharina
Peters—Kroeker, Franz
Peters—Kroeker, Isaak
PETERS—Geisbrecht, John
Peters—Peters, Anna
Peters—Neufeld, Peter
Peters—Peters, Anna
Peters—Peters, Margaret
Peters—Peters, Tina
PLETT—Plett, Gerhard
Petkau—de Plett, Helena
Plett—Petkau, Wayne
Plett—Petkau, Burne
REDECOP—Wiens, Peter
Redecop—Zacharias, Anna
Redecop—Zacharias, Abram
Redecop—Zacharias, David
Redecop—Zacharias, Franz
Redecop—Zacharias, Isaac
Redecop—Zacharias, John
Redecop—Zacharias, Margareta
Redecop—Zacharias, Susanna
REDDEKOPP—Unrau, Jakob
Reddekopp—Bergen, Susana
Reddekopp—Bergen, Jakob
Reddekopp—Bergen, Lena
REDEKOPP—de Berg, Margaretha
REIMER—Friesen, Diedrich
Reimer—Fehr, Anna
Reimer—Fehr, Cornelius
Reimer—Fehr, Eva
Reimer—Fehr, Isidro
Reimer—Fehr, Jacob
Reimer—Fehr, Johan
Reimer—Fehr, Maria
Reimer—Fehr, Maria
Reimer—Fehr, Martha
Reimer—Fehr, Sara
REIMER—Rempel, Diedrich
Reimer—Froese, Anna
Jake
REIMER—Wiebe, Heinrich
Fehr—de Reimer, Sara
Reimer—Fehr, Helena
Reimer—Fehr, Jacobo
Reimer—Fehr, Johan
Reimer—Fehr, Katharina
Reimer—Fehr, Peter
REIMER—Fehr, Henry
Reimer—Friesen, Helena
REIMER—Friesen, Jacob
Reimer—Peters, Anna
Reimer—Peters, Cornelius
Reimer—Peters, Margaretha
Reimer—Peters, Maria
Reimer—Peters, Margaretha
Reimer—Peters, Abraham
REIMER, Johan
REIMER—Schellemberg, Johann
Reimer—Froese, Helena
Reimer—Froese, Jacob
Reimer—Froese, Bernard
REIMER—Frosese, Peter
Reimer—Fehr, Aganetha
Reimer—Fehr, Cornelius
Reimer—Fehr, Elizabeth
Reimer—Fehr, Heinrich
Reimer—Fehr, Juan
Reimer—Fehr, Pedro
Reimer—Fehr, Sara
Reimer—Rehr, Sarah Weibe
REMPEL—Enns, Cornelius
Plett—de Rempel, Elda
Rempel—Plett, Steven
REMPEL—Giesbrecht, David
Rempel—Friesen, Aganetha
Rempel—Friesen, Anna
Rempel—Friesen, David
Rempel—Friesen, Elizabeth
Rempel—Friesen, Katharina
REMPEL—Giesbrecht, Jacob
Wieler—Rempel, Elizabeth
Rempel—Wieler, Jacob
Rempel—Wieler, Anna
Rempel—Wieler, Johan
SCHMITT—Penner, Jacob
Schmitt—Thiessen, Helena
Schmitt—Thiessen, Maria
Schmitt—Thiessen, Gierhord
Schmitt—Thiessen, Bernard
Schmitt—Thiessen, Katharina
Schmitt—Thiessen, Helena
Schmitt—Thiessen, Peter
Schmitt—Thiessen, Franz
SCHMITT—Thiessen, Johann
Schmitt—Friessen, Margaretha
Schmitt—Friessen, Heinrich
Schmitt—Friessen, David
SCMITT—Sall, Johan
Scmitt—Klassen, Katharina
Scmitt—Klassen, Franz
Scmitt—Klassen, David
Scmitt—Klassen, Anna
Scmitt—Klassen, Aganetha
Scmitt—Klassen, Abraham
SIEMENS—Hine, William
Siemens—Peters, Margaretha
Siemens—Peters, George
Siemens—Peters, Nettie Colleen
TEICHROEB—Weibe, Bernardo
Teichroeb—Neufeld, Helena
Teichroeb—Neufeld, Monica Lyn
TEICHROEB—Knelsen, Johan
Teichroeb—Peter Siemens
Teichroeb—Siemens, Elizabeth
Teichroeb—Siemens, Johan
Teichroeb—Seimens, Katharina
Teichroeb—Siemens, Mary
TEICHROEB—Weibe, Johan
Teichroeb—Goertzen, Anna
Teichroeb—Goertzen, Bernardo
Teichroeb—Goertzen, Franz
Teichroeb—Goertzen, Maria
Teichroeb—Goertzen, Peter
Teichroeb—Goertzen, Susana
TEICHROEB—Siemens, William
Teichroeb, Anna Guenter
WALL—Bergen, Isaak
Fehr—de Wall, Justina
Wall—Fehr, Isaak
Wall—Fehr, Jacob
Wall—Fehr, Johan
WALL—Smith, Jacob
WIEBE—Dyck, Bernhard
Wiebe, Tina Neufeld
WIEBE—Klassen, Franz
Wiebe—Redekop, Maria
Weibe—Redekop, Jake
Wiebe—Redekop, Peter
Wiebe—Redekop, Susana
Wiebe—Redekop, Teena
WIEBE—Dyck, Gerado
Klassen—Wiebe, Susana
WIEBE—Klassen, Henrich
WIEBE—Gunter, Isaac
WIEBE—Peters, Isaak
WIEBE—Gunther, Jacob
Wiebe-Neufeld, Helena
Wiebe-Neufeld, Jacob
Wiebe-Neufeld, Tina
WIELER-Wiens, Benhamin
Wieler-Enns, Anna
Wieler-Enns, Cornelio
Wieler-Enns, Helena
WIELER-Klassen, Enrique
Wieler-Hiebert, Anna
Wieler-Hieberth, Francisco
WIELER-Wiebe, Peter
Wieler-Klassen, Anna
Wieler-Klassen, David
Wieler-Klassen, Elena
Wieler-Klassen, Katharina
Wieler-Klassen, Maria
FEHR-Klassen, Johan
Fehr-Peters, Agatha
Fehr-Peters, Agatha
Fehr-Peters, Ana
Fehr-Peters, Henrich
Fehr-Peters, Katharina
Fehr-Peters, Maria
Fehr-Peters, Peter
Fehr-Peters, Susana
NEUDORF-Buercker, Henry
Neudorf-Dyck, Aganetha
Neudorf-Dyck, Christina
Neudorf-Dyck, Henry
Neudorf-Dyck, Jake
Neudorf-Dyck, John
Neudorf-Dyck, Mary
Neudorf-Dyck, Peter
Neudorf-Dyck, Sysan
KLASSEN-Klassen, David
Wiebe-Klassen, Elizabeth
Klassen-Wiebe, David
Klassen-Wiebe, Hentry
Klassen-Wiebe, Peter
Klassen-Wiebe, Benjamin
Klassen-Wiebe, Helena
BANMANN, Diedrich
Banmann-Reddekopp, Susanna
Banmann, Maria

Banmann, John
Banmann, Jacob
BASCHMAN, Jacob Friesen
Baschman, Elizabeth Wieler
Baschman, Benjamin Wieler
Baschman, Jacob Wieler
BERGEN, Herman Neudorf
Bergen, Elisabeth Loewen
Bergen, Elisabeth
Bergen, Herman
Bergen, John
Bergen, Helena
Bergen, Jacob
Bergen, Susan
Bergen, Judy
DUECK—Barkman, Peter
Dueck—de Dueck, Marlene
DYCK, Abram Froese
FEHR—Neufeld, Jacob
Fehr—Penner, Aganetha
Fehr—Penner, Maria
Fehr—Penner, Johnny
FRIESEN, Bernhard Giesbrecht
Friesen, Katharina Funk
Friesen, Franz Funk
Friesen, Maria Funk
Friesen, Peter Funk
Friesen, Susana Funk
FRIESEN—Dyck, Clarence
Friesen—Dyck, Marolyn
FRIESEN—Teichroeb, David
Dyck—de Friesen, Anna
Friesen—Duck, Marlene
Friesen—Dyck, Ricky
FRIESEN, Gerhard Heidi
FRIESEN, Isaac Reimer
FRIESEN, Jacob Hiebert
Friesen, Anna Wieler
Friesen, Aganetha Wieler
Friesen, Jacob Wieler
FROESE, Johan Bergen
Froese, Aganetha Rempel
Froese, Aganetha Rempel
Froese, Bernhard Rempel
Froese, Gerhard Rempel
Froese, Jacob Rempel
Froese, Johan Rempel
Froese, Judith Rempel
Peters, Suana Knelsen
FROESE, Johan Hamm
Froese, Helena Ketler
Froese, Elisabeth Ketler
Froese, Helena Ketler
Froese, Johan Ketler
GIESBRECHT, David Dyck
Giesbrecht, Sara Redekop
Giesbrecht, Susie Redekop
Giesbrecht, Willie Redekop
GIESBRECHT, Peter Friesen
Giesbrecht, Elizabeth Neustaeter
Giesbrecht, Henrich Neustaeter
Giesbrecht, Jacob Neustaeter
Giesbrecht, Maria Neustaeter
GUENTHER-Friesen, Jacob
Doerksen-Wall, Katherina
Guenther, Helena O.
Guenther, Heinrich
Guenther, Eva
Guenther, Katharina
Guenther, Elizabeth
Guenther, Jacob
Guenther, Ana
Guenther, David
Guenther, Johann
HARDER, Peter
Harder, Anna Wiens
Harder, Agatha Wiens
Harder, Jake Wiens
Harder, Katherina Wiens
HIEBERT, Jacob Rempel
KLASSEN, Jacob Thiessen
Klassen, Helena Peters
Klassen, Anna Peters
Klassen, Elizabeth Peters
Klassen, Eva Peters
Klassen, Isaac Peters
Klassen, Jacob Peters
Klassen, Maria Peters
Klassen, Martha Peters
Klassen, Neta Peters
Klassen, Sara Peters
Klassen, Susana Peters
KLASSEN-Wiebe, Herman
Peters-Martens de Klassen, Helena
Johan
Herman
Sara
Jacob
Maria
Peter
Helena
Anna
Aganetha
LETKEMAN, Peter Harms
Letkeman, Maria Martens
Letkeman, Elizabeth Martens
LOEWEN, Frank Wiens
Loewen-Heide, Agatha
MARTENS, Frank Broese
Martens, Katerina
Martens, Frank Neufeld
Martens, David
Martens, Jacob
NEUFELD, David Teichroeb
Neufeld-Bergen, Judy
PETERS, Abram Guenther
Peters, Maria Bergen
Peters, David Bergen
Peters, Margareta Bergen
REDECOP, Benjamin Peters
REDDEKOPP-Zacharias, Jacob
Reddekopp-Wall, Helen
Cornelius
Margaret
Jacob
REDEKOP-Peters, Benjamin
Redekop-Klassen, Sara
Redekop-Klassen, Peter
Benjamin
Martin
Sara
Margartha
Susana
Helena
Maria
Franz
Abram
David
Heinrich
Cornelius
Wilhelm
REDEKOPP-Zacharias, Peter
Redekopp-Neufeld, Nancy
Redekopp-Neufeld, Maria
REIMER-Kornelson, Gustav
Petkau-de Reimer, Mary
Reimer-Petkau, Susie
Reimer-Petkau, Edward
Reimer-Petkau, Lena
Reimer-Petkau, John
Reimer-Petkau, Gustav
Reimer-Petkau, Alvina
Reimer-Petkau, Shirley
REIMER, Jacke
REIMER, Johan Fehr
REIMER-Fehr, Johan
Friesen-de Reimer, Elizabeth F.
Reimer—Friesen, Cornelius
Reimer, Friesen, Abram
REMPEL, Jacob Siemons
Teichroeb, Nattie Dyck
REMPEL—Siemons, Gerhardt
Rempel—Reimer, Justina
Rempel—Reimer, Susanna
Rempel—Reimer, Sara
Rempel—Reimer, Wilhelm
Rempel—Reimer, Abraham
Rempel—Reimer, Annie
REMPEL—Seinons, John
Rempel—Bueckert, Nettie
SIEMENS, Wilhelm Peters
THIESSEN, Wilhelm Reimer
Thiessen, Helena Siemons
WALL, Jacob Fast
Wall, Agatha Peters
Wall, Anna Peters
Wall, Nicolas Peters
Wall, Susana Peters
WIEBE, Abram Unrau
Wiebe, Margaret Hamm
Wiebe, Aganetha
Wiebe, John
Wiebe, Peter
Wiebe, Susie
WIEBE, Isaak Klassen
WIEBE—Klassen, Ben
Wiebe—Neufeld, Anna
WIEBE—Klassen, Katherin
Wiebe—Klassen, Agatha
Wiebe—Klassen, Eva

JOSEPH J. ANDREWS

The bill (H.R. 896) for the relief of Joseph J. Andrews was considered, ordered to a third reading, read the third time, and passed.

MR. AND MRS. AARON WAYNE OGBURN

The bill (H.R. 899) for the relief of Mr. and Mrs. Aaron Wayne Ogburn was considered, ordered to a third reading, read the third time, and passed.

DORIS MAURI COONRAD

The bill (H.R. 932) for the relief of Doris Mauri Coonrad was considered, ordered to a third reading, read the third time, and passed.

JAMES C. WILKINSON

The bill (H.R. 1158) for the relief of James C. Wilkinson was considered, ordered to a third reading, read the third time, and passed.

JERRY W. AND CEFERINO W. MANANDIC

The Senate proceeded to consider the bill (S. 151) for the relief of Jerry W. Manandic and Ceferino Manandic, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, in the administration of the Immigration and Nationality Act, Jerry W. Manandic and Ceferino W. Manandic may be classified as children within the meaning of section 101(B)(1)(F) of the Act, upon approval of a petition filed in their behalf by Mr. and Mrs. Jose Manandic, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CHAN SIU HA

The Senate proceeded to consider the bill (S. 319) for the relief of Chan Siu Ha (also known as Linda Chan), which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, for the purposes of the Immigration and Nationality Act, Chan Siu Ha (also known as Linda Chan), shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

TIN FOO CHAN

The Senate proceeded to consider the bill (S. 974) for the relief of Tin Foo Chan (also known as Michael Chan), which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, for the purposes of the Immigration and Nationality Act, Tin Foo Chan (also known as Michael Chan) shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of their required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number of the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

SELF-DETERMINATION FOR PUERTO RICO

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 301.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 35) reaffirming the commitment of Congress to the right of the people of Puerto Rico to determine their own political future.

The Senate proceeded to consider the concurrent resolution which had been reported from the Committee on Energy and Natural Resources with an amendment on page 2, line 5, strike "and to change their relationship with the United States,".

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the names of the Senator from Tennessee (Mr. BAKER) and the Senator from New Jersey (Mr. BRADLEY) be added as cosponsors of this concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, has the Senator honored my request that my name be added as a cosponsor?

Mr. MOYNIHAN. I had thought this was done. If it has not, Mr. President, I ask unanimous consent that the names of the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from Massachusetts (Mr. KENNEDY) be added as original cosponsors of the concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the name of the Senator from Hawaii (Mr. INOUYE) be added as an original cosponsor of the concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, this is a concurrent resolution which reaffirms the commitment of Congress to the right of the people of Puerto Rico to determine their own political future. It comes before us in the context of the pending debate and consideration by the so-called Committee on Decolonization of the General Assembly of the United Nations, on a resolution that will be introduced there by the Cuban Government, which once again will seek to misrepresent, to defame, and to denounce the relationship between the people of Puerto Rico and of the United States. This is a matter, in our judgment, of the internal affairs of the United States and in no way appropriate for consideration by the United Nations, much less for interference by the totalitarian Government of Cuba.

Mr. President, I see that my distinguished friend, the junior Senator from Hawaii (Mr. MATSUNAGA)—with whom I have worked closely and whom I admire greatly—is in the Chamber. I know he wishes to address himself to this subject, a matter on which he has made himself an expert. I look to him with respect and regard in this area, and I am happy to yield him such time as he may wish.

Mr. MATSUNAGA. I thank the Senator from New York for yielding.

Mr. President, I congratulate the Senator from New York for the leading role he has taken in the pending matter. I must congratulate him also for having pushed this resolution through the Energy and Natural Resources Committee with incredible expeditiousness. The feat is even more amazing in view of the fact that the Senator from New York is not even a member of the Committee on Energy and Natural Resources.

Mr. President, this resolution merely restates our basic and long-standing policy of self-determination. We recognize that a society of people has a right to determine for itself how it should be governed and under what form of government it should be governed—no more than that.

So, Mr. President, I rise to express my unequivocal support for the resolution introduced by the distinguished Senator from New York (Mr. MOYNIHAN), Senate Concurrent Resolution 35, which is designed to reaffirm the commitment of the U.S. Congress to self-determination for the people of Puerto Rico.

Mr. President, as the Senator from New York has so eloquently stated, it has been the position of the U.S. Government since 1952 that the people of Puerto Rico have the right to determine their own political future. Every Presidential administration since that of Dwight D. Eisenhower has confirmed that commitment, including the Carter administration. President Carter, speaking last year on the 80th anniversary of Puerto Rico's association with the United States emphasized that our Nation remains fully committed to the principle of self-determination for the people of Puerto Rico. The President made it very clear that whatever decision the people of Puerto Rico wish to make with respect to their future political status—statehood, independence, commonwealth status, or mutually agreed modifications of that status—it will be their decision, reached in accordance with their own traditions, democratically, and, above all, peacefully.

Unfortunately, Mr. President, even though it is abundantly clear that the U.S. Government will respect and support the rights of the Puerto Rican people to determine their political future, certain nations of the world have, in a United Nations resolution, declared that Puerto Rico is a non-self-governing territory—in effect condemning the United States for practicing colonialism.

I am sure that the Members of this body will agree that nothing could be further from the truth.

The pending resolution was introduced by the Senator from New York, who has served as our Nation's Ambassador to the United Nations, in the strong belief that the Congress should respond to the United Nations resolution by again reaffirming its view that the people of Puerto Rico retain their right to self-determination, and that the Congress will respect such decisions as Puerto Ricans may properly make in public referendum about their future political status.

Mr. President, I strongly agree that the 96th Congress should reaffirm its commitment to self-determination for Puerto Rico. I support the passage of this resolution as it is now worded because it is a simple reaffirmation of this country's long-standing commitment to self-determination for all of our territories. It does nothing more than that, Mr. President, and I would readily oppose it if it did.

Mr. President, as a former member of the Hawaii Territorial Legislature, I know very well what they are thinking and feeling in Puerto Rico right now. There are those advocating statehood; there are those calling for independence; there are those supporting continued commonwealth status; and there are those calling for combinations of these political relationships. When Hawaii was still in territorial status, its citizens engaged in similar debate; and, of course, they chose statehood by an overwhelming majority nearly 20 years ago. But the fact of the matter is, Mr. President, that we in Hawaii did have a choice about our political future, one that was decided through peaceful, open, and democratic processes, and one that was respected by the U.S. Government.

Mr. President, I ask my colleagues: Can we in good conscience provide the U.S. citizens in Puerto Rico with anything less than that? I think not. Puerto Ricans must be given the same free choice which we in Hawaii were granted and the U.S. citizens in other U.S. territories have had, to determine for themselves what type of political relationship they want with the United States.

Mr. President, as I have said, the Moynihan resolution is based on the commitment made by six Presidents to self-determination for Puerto Rico. It is based on the 1976 national party platforms of both the Democratic and Republican parties. And, most importantly, it is based on the fundamental principles of democracy vested in our Constitution. It gives the Congress the opportunity to express its unequivocal support for self-determination for the people of Puerto Rico. I, therefore, strongly urge favorable consideration of this important resolution.

Mr. MOYNIHAN. Mr. President, I am happy to yield to the distinguished minority leader. He is an original cosponsor of this resolution, and I look forward to his observations on this matter, which I know to be of central concern to him.

Mr. BAKER. I thank the distinguished Senator from New York for yielding.

Mr. President, it is a privilege for me to join Senator MOYNIHAN in cosponsoring Senate Concurrent Resolution 35, which reaffirms the long-held view of Congress that the people of Puerto Rico have an inalienable right to self-determination.

The ability of Puerto Ricans to exercise that right has been questioned by foreign powers who themselves are not governed by democratic principles. This issue is continuously raised in the United Nations Committee on Decolonization; and last year, for the first time, enough votes were mustered to officially "condemn" the United States/Puerto Rico relationship on the grounds that Puerto Rico does not have the right to self-determination.

Therefore, Congress must take this step this year in order to reemphasize the obvious, to restate a basic tenet of our relationship with Puerto Rico, and to meet head-on the misguided criticisms of nations which do not even practice the concept of self-determination themselves.

As both major party platforms have stressed and as every President since President Eisenhower has affirmed, the United States fully and whole-heartedly supports the right of the people of Puerto Rico to determine for themselves their political destiny.

I understand that Resident Commissioner Corrado of Puerto Rico has introduced this resolution in the House.

I commend him for his initiative, as I commend my colleagues on this side and in the Senate for their initiatives in bringing this matter to the Senate at this time.

Mr. President, this is a matter of extraordinary importance not only in its significance to the people of that commonwealth but also as a restatement of a fundamental commitment of the people of the United States and the Senate to the inalienable right of self-determination of a fine group of citizens of this country.

Mr. MOYNIHAN. Mr. President, I hope that the emphatic, unmistakable point made by the minority leader will be heard not simply in the halls of the United Nations, to which we, in a sense, address ourselves, but in the corridors of the Department of State as well.

This matter is coming up, and I am happy to say that Secretary Vance has indicated his full support for this measure. But it will take not only the support of the Secretary but also of his Department and of the bureaus specifically concerned.

It should be made clear to our friends in the United Nations, and those with whom we cannot always agree, that we regard this to be an internal affair of the United States having to do with the nature of our democratic processes, and the free choices made under them. We do not propose to be lectured by dictatorships on how to run a democracy. Most importantly, we expect the democratic nations in the United Nations to stand with us in this matter, or we are going to find ourselves asking how much we should stand with them.

We are going to expect the nonalined to stay nonalined. We shall have in September the spectacle of the nonalined nations meeting in Havana. To be nonalined means to accept the leadership of the Soviet satellite of Castro Cuba. What an appalling point for a movement begun in a high idealism and an intelligent assessment of the interests of many of the new nations in the world order, beginning in the Bandung Conference of 1954.

Mr. President, I am reluctant to raise this point, but I think it is necessary to do so. The chairmanship of the Committee on Decolonization continues to be held by the Government of Tanzania. That government is ably represented in the United Nations by their permanent representative, Ambassador Salim-Salim. It will be the Government of Tanzania which will give the lead to the response of the nonalined nations to this resolution. As it considers what it might do, I hope it will not be considered offensive to say that this is also the moment when the Government of Tanzania is looking to the world community to help defray the costs of its invasion of its neighbor, Uganda. This indeed was an invasion that was certainly provoked, there can be no question of this. But nonetheless Tanzania did it on its own. Now it is asking the world community, which means the United States in very considerable portion, to pay for the cost of that invasion.

Mr. JOHNSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MOYNIHAN. I yield.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Jim Beirne and Laura Hudson, of my staff, be accorded the privilege of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I hope as we take this action those in the United Nations who may be looking to us for assistance will pay heed to our remarks.

Mr. President, I observe that my distinguished friend, the Senator from Louisiana, is in the Chamber. Few men in this Chamber have so closely involved themselves with the matter before us. The junior Senator from Louisiana, Senator JOHNSTON, was at one time chairman of the Subcommittee on Territories and Insular Affairs on the then Committee on Interior and Insular Affairs, which dealt with Puerto Rican matters. If I recall correctly, he was also a member of the President's Commission on the Status of Puerto Rico. Am I correct in that?

Mr. JOHNSTON. The Senator is correct. The ad hoc Status Commission was the title.

Mr. MOYNIHAN. The ad hoc Status Commission, as it came to be known, did the distinguished job of constitutional inquiry that one would expect from any body with such a distinguished a member as my friend from Louisiana.

I understand that the Senator from Louisiana has some questions which he wishes to raise in connection with this.

Mr. JOHNSTON. The Senator is correct.

Mr. President, in its original form I frankly was opposed to this resolution because in its original form the resolution stated in its resolving clause that:

> The Congress take this opportunity to reaffirm its commitment to respect and support the right of the people of Puerto Rico to determine their own political future and to change their relationship with the United States through peaceful open and democratic processes.

Mr. President, in the committee the phrase "and to change their relationship with the United States" was stricken. The committee report was then written to reflect the meaning and implications of that change. Questions which I will shortly ask will, I think, place in proper perspective what the meaning of this resolution is. I hope that the answers to the questions which I am about to propound will assuage my opposition to this, although I must say I still have misgivings.

May I say that my misgivings with respect to the instant resolution are not based upon a lack of support for the principle of self-determination. Not at all. Indeed, as the distinguished Senator from New York pointed out, we worked over a period of months, holding hearings in Puerto Rico, having meetings with distinguished representatives of the government and the Legislature of Puerto Rico, with respect to perfecting the relationship of commonwealth.

We were, I thought, at that time, very close to achieving an agreement which was not only workable and acceptable to this Congress but also acceptable fully to the people of Puerto Rico.

In 1981 there will be a plebiscite in which the issues of independence, a more perfected status of commonwealth, as well as statehood will be put to the people of Puerto Rico.

Mr. President, I wish to make clear that this resolution if passed in no way takes away from the constitutional right and constitutional duty of this Congress to pass upon the question of independence, the question of statehood, or the question of the nature of the improved or modified position of the Commonwealth in Puerto Rico.

In other words, I did not want this resolution to be taken as a blank check to the plebiscite process by which we would be obligated to accept whatever that plebiscite approves either in its details or indeed in the fact that we would have to accept, for example, independence or statehood, or any particular form of commonwealth.

If I may just state, for example, that with respect to independence, the people of Puerto Rico are American citizens. If Puerto Rico should choose independence, it would be a very challenging job to work out a formula whereby the citizenship of the people of Puerto Rico would be protected, whereby the national defense of this country would not be weakened, whereby American property, including the Roosevelt Roads Naval Base, would be provided for. All of those are not just mere details, Mr. President, they are major issues which the Congress of the United States should not be called upon to say yea or nay with reference to right now; nor simply on the basis of this resolution, should we feel even a moral obligation to accept whatever interpretation of a formulation of a rationale or a solution for those problems that should be worked out in the plebiscite.

So I ask my distinguished friend from New York if Puerto Rico were to choose "statehood" in a future plebiscite, what would be the obligation or commitment of Congress under the terms of Senate Concurrent Resolution 35?

Mr. MOYNIHAN. May I first state what the distinguished Senator well knows, which is that no present Congress can commit a future Congress to any course of action, and this, of course, is true of all matters.

In this particular matter, of course, we have a constitutional provision with respect to such proceedings. If, for example, as was the case with all 37 States that were admitted to the Union after the original 13, under article IV, section 3 of the Constitution, congressionally approved legislation is necessary to grant statehood. Statehood invariably implies provisions, special provisions. We heard in the committee consideration of this matter by our distinguished chairman, Senator JACKSON. He noted that when the State of Washington applied for statehood, it was turned down because they had woman's suffrage in Washington in those days and they would not have it in Washington, D.C.

But the resolution before us would not, could not, bind the Congress either explicitly or implicitly to pass any particular form of statehood legislation or, indeed, to pass any legislation at all.

I believe the resolution would imply a duty on the part of Congress to negotiate with the Commonwealth of Puerto Rico in good faith to attempt to accommodate the wishes of the people of Puerto Rico as we have in the past for the people of 37 States. But Congress would fully reserve its powers and obligations under the Constitution.

I might make a further point, which I am sure the Senator would agree with, and that is that when we refer to the powers of self-determination for the people of Puerto Rico that extends, of course, to the power to leave the present arrangements in place. It was the thought of many members of the committee that to have the word "change" in the resolution would indicate a preference for one political position in Puerto Rico as against another. We have no preference for any. We believe in self-determination.

Mr. JOHNSTON. As a matter of fact, the record of the United States, Mr. President, with respect to Puerto Rico and its citizens, who are citizens of the United States, has been rather good in perfecting the commonwealth status and, indeed, the commonwealth status is the status which was some years ago chosen by a plebiscite, through the process of self-determination, as being that status which they wished.

So we are operating right now under a self-determination plan.

Mr. MOYNIHAN. The Senator is exactly right, and self-determination has determined the existing status.

Mr. MATSUNAGA. Mr. President, will the Senator from New York yield?

Mr. MOYNIHAN. I would be happy to yield.

Mr. MATSUNAGA. I would like to add my remarks in response to the question of the Senator from Louisiana, because Hawaii's experience may give some indication as to what could happen in the case of Puerto Rico.

When Hawaii first became a territory of the United States, it was annexed as an incorporated territory, with an implicit promise that Hawaii, if the people so decided, would be admitted as a State into the Union of States. That was in the year 1900.

The citizens of Hawaii, Americans all, myself included, journeyed to Washington and knocked at the doors of Congress for 59 years before we were finally admitted to statehood.

I do hope Puerto Rico will not suffer the same fate, if and when the Puerto Ricans decide they would want to become a State of the Union, that it will not take them 59 years as it took the people of Hawaii to gain the full status of statehood.

Mr. JOHNSTON. Mr. President, I hope that whatever changes a plebiscite should indicate are the wishes of the people of Puerto Rico would not take a similar 59 years to fulfill.

At the same time, I think what the Senator from New York is saying is that this resolution in itself does not constitute an implicit promise that Puerto Rico would be admitted as a State simply because a plebiscite might so state.

Mr. MATSUNAGA. That is precisely the point I was trying to make by stating Hawaii's experience, that while one Congress had made its commitment, other Congresses on their own refused to admit Hawaii until the senior Senator from Louisiana (Mr. LONG) finally led the South in supporting statehood for Hawaii. I note the presence of the senior Senator from Louisiana on the floor, and I wish to take this opportunity to thank him for the leadership he exercised in admitting Hawaii to statehood, for had it not been for his leadership I doubt that I would be standing here on the floor of the Senate addressing this august body. As we say in Hawaii, Mahalo—thank you—Senator LONG. Your leadership will also be essential to helping the Puerto Ricans in determining their future as citizens of this great country.

Mr. JOHNSTON. I thank the Senator.

Mr. President, a further question of the distinguished Senator from New York. If Puerto Rico were to choose "independence" in a future plebiscite, what would be the obligation or commitment, as that word is used in this resolution, of Congress under the terms of Senate Concurrent Resolution 35?

Mr. MOYNIHAN. I will give to the distinguished Senator an answer exactly parallel to the one I gave to his first question. As with the case with the Philippines under article IV, section 3 of the Constitution, it would require congressionally approved legislation to grant independence.

Independence would, of necessity, require conditions and special provisions, particularly with regard to defense, Government property, citizenship, and other aspects of our relationship with the people of Puerto Rico.

This resolution would not bind the Congress either explicitly or implicitly to pass any particular form of independence legislation or, again, to pass any legislation at all. Again I say, I believe the resolution would imply a duty on the part of Congress to negotiate in good faith with the Commonwealth of Puerto Rico to attempt to accommodate the wishes of the people of Puerto Rico, as we did with the people of the Philippines. Congress would reserve its powers and obligations under the Constitution, as necessarily it must do with respect to all future actions.

Mr. JOHNSTON. Would the Senator's response be similar with respect to a revised form of commonwealth?

Mr. MOYNIHAN. Precisely.

Mr. JOHNSTON. So what this resolution is saying is that whatever the people of Puerto Rico decide in their plebiscite in 1981, we will take that as being an expression of the wishes of the people of Puerto Rico, where that initiative should begin. Based upon that choice we will negotiate in good faith to try to give full life and viability to that expression consistent with the fact that there is no implication of an obligation on the part of Congress to accept that particular formulation or, indeed, to accept a particular status. We have the obligation to perform as we have in the past, to negotiate in absolute good faith to try to give full expression to their wishes.

Mr. MOYNIHAN. I would say to my distinguished friend that I think I can summarize my view on this matter and, I think, the view of the rest of this body. What is being said is simply that the Puerto Rican people, as American citizens, have their rights, we in the Congress have our duty, and we shall look forward to exercising both.

(Mr. TSONGAS assumed the chair.)

Mr. JOHNSTON. Mr. President, based upon these assurances, even though I continue to have misgivings, I will not object to this resolution.

I want to make it perfectly clear that my reservations and my misgivings have nothing to do with any objection to any particular form of status that the people of Puerto Rico may wish for; it has nothing to do with any lack of commitment on my part to self-determination, but because of my dealings with these very complicated and difficult problems, which involve everything from national defense to minimum wage, to communications, to trade, to emigration, to citizenship, to taxes, to block grants, to Federal benefits—all extremely complicated questions, involving an egg, in effect, which is already scrambled. I want to make it perfectly clear, Mr. President, that we do not allow this resolution to be used as an implication that these complicated problems can be solved simply by a yes or no vote for independence, a yes or no vote for statehood, or a yes or no vote for any particular formulation of commonwealth. These are indeed complicated problems, and Congress has a responsibility, under the Constitution of the United States, and a right under the Constitution which cannot be legally abrogated. This resolution does not constitute a moral commitment to the abrogation of those rights and responsibilities under the Constitution.

Mr. President, although I will not ask for a rollcall vote on this resolution, it is with deep regret and a grave sense of foreboding that I have misgivings over the enactment of this resolution. I have misgivings over this resolution not because I am opposed to the principle of consent of the governed or the concept of self-determination. I wholeheartedly endorse and support self-determination for all peoples. I have misgivings over this resolution because I believe that it is mischievous.

It is mischievous because it is premature, because it may give rise to false hopes in Puerto Rico, and because the text of the resolution is at variance with the purpose of its introduction.

First, this resolution was not introduced nor considered in order to allay any concerns in Puerto Rico that we in the Congress were insensitive to their aspirations or were not knowledgeable of the deep divisions among the Puerto Rican people concerning various status options or were not sympathetic to their efforts to develop Puerto Rico within the American family. This resolution was introduced solely and simply as a reaction to the 1978 Cuban resolution in the U.N. and the efforts of Cuba and other totalitarian regimes to interfere in the international affairs of the United States. Why? Why do we even care what Cuba says? Why must we respond like some puppet every time some country which has forsaken any concept of democracy, human rights, or self-determination chooses to criticize the United States? The relationship between Puerto Rico and the United States was freely chosen by Puerto Rico in the 1950–52 period by four referendums and agreed to by the U.S. Congress pursuant to the authority and responsibility of article IV, section 3 of the U.S. Constitution. The people of Puerto Rico and the Congress of the United States negotiated a compact which has governed our relationship for almost three decades. It can be modified by mutual consent—and I want to emphasize the word "mutual"—but whether it is modified or not is not the concern or business of anyone except the people of Puerto Rico and the Members of Congress. I reject in principle the idea of passing a resolution of self-determination because Cuba or any other country makes absurd comments in the U.N. or any other forum. I reject the waste of time in even acknowledging the carping of demagogic regimes, much less elevating their ill-informed hypocracy to the level of congressional consideration. If we are really bothered by the inane comments of Cuba, the so-called nonalined nations, and the Soviet dominated bloc, then let us pass a resolution stating exactly what we think of the true imperialistic and colonial countries interfering in the peaceful, open, and democratic processes which govern the relationship of the U.S. Government to the States, the Commonwealth, the trust territory, and the other insular areas which are part of the U.S. family. That would be an honest resolution—this is not.

Second, this resolution is premature. The people of Puerto Rico have not requested any change or alteration in their present status. Certainly the "Statehood" party has shown increasing strength in recent years, but that may in fact be due more to its urban constituency and the growth of the urban population than to a movement to statehood as a status. I do not know, and neither does anyone else. On Commonwealth Day, July 25, former Governor Hernandez Colon issued a "New Thesis" on commonwealth. I have not seen the details of that proposal, but neither that proposal nor statehood nor independence has been requested by the people of Puerto Rico. Why should this Congress with no proposal before it and no idea of the details of any alternative pass a resolution which seems to indicate that we think Puerto Rico should alter its status?

If and when the people themselves indicate that they desire a change, then and only then does this resolution have relevance. The people of Puerto Rico in four referendums adopted the Commonwealth and although there was a major study commission in 1965–66 and a subsequent study, on which I served, in 1973–75, the people themselves have not requested any change. This point is closely tied to my final concern.

Third, the resolution seems to say something which is manifestly untrue and clearly unconstitutional. The resolution seems to say that by an exercise of popular will, the people of Puerto Rico can unilaterally alter their political future and relationship with the United States. That implication is extremely mischievous. I hate to resort to the Constitution, but it seems that everyone has forgotten that article IV, section 3, states, quite clearly, that "New States may be admitted by the Congress into this Union."

I have read the language several times and I fail to see any provision for new States being created by local referendum, or action of the local legislature, or by straw vote, or by inference from interpretations of local election returns, and certainly no reference to creation of States by resolution of the United Nations. The Constitution quite clearly vests plenary and exclusive authority to admit or deny admittance in Congress. This resolution does not recognize that and to the extent that it does not recognize that any change in status must necessarily involve the consent and approval of Congress, it is mischievous.

I do not know whether Congress would approve statehood or not. I do not know whether Congress would approve the "New Thesis" or not. I do not know whether the Congress would approve independence or not. I honestly do not know what "Statehood," "New Thesis," and "Independence" mean in all their details. Without that knowledge, it would be dishonest on my part to vote for a resolution indicating I would approve a proposal I have not seen. I am not willing to do that with administration proposals sight unseen and I am certainly not going to do it with the future of 3½ million people. What is worse, the people of Puerto Rico do not know what these alternatives mean. They do not know and have not requested any change, we do not know but seem to be agreeing to some unstated change. This has nothing to do with selfdetermination, this is semantic-gamesmanship—a game in which the only winners will be the Cubans, not the United States or Puerto Rico.

Mr. President, in the history of this country, we have admitted 37 new States into the Union, and provided independence to the Phillipines. We have provided complete local autonomy to the Northern Marianas and Puerto Rico, and offered local autonomy to the Virgin Islands, which rejected their locally developed constitution in referendum, and Guam. American Samoa has been the subject of exhaustive efforts to reconcile organic legislation with traditional rights and customs. The recognition of selfdetermination and consent of the governed which has guided all of these actions does not mean that this 200 years of history has not been without controversy. On the contrary, virtually every State has in its statehood history debate, sometimes acriminious and violent, and sometimes extremely protracted.

Have we so casually forgotten the slavery question which dominated statehood considerations throughout the first half of the last century? The first bitter and heated debate came in 1811 over the admission of Louisiana because some elements of Congress were not sure that a territory with a French heritage and culture should be admitted. A similar debate raged for over a quarter of a century before Hawaii was admitted in 1959. We still have not finished the land settlement in Alaska which was part of the statehood debate then. Independence was not easy either. Both Cuba and the Phillipines achieved independence after lengthy and occasionally heated debate, although Cuba was never, strictly speaking, a territory. Only 4 years ago we debated the Northern Mariana Commonwealth and if anyone has forgotten the infighting and struggle, I suggest they review the RECORD. Even with extensive congressional involvement, the Commonwealth of the Northern Mariana Islands came close to being rejected.

Mr. President, I have always been willing to devote as much time as necessary to territorial affairs. I served on the advisory group on Puerto Rico, I handled the creation of the Commonwealth of the Northern Mariana Islands, and I handled the legislation authorizing the Virgin Islands and Guam to develop and adopt constitutions of their own choosing. I am willing to devote as much time and effort as is necessary to frame alternatives for the people of Puerto Rico to vote on. I sincerely believe that in lieu of this resolution, we should develop the precise terms and conditions for statehood, independence, and commonwealth with all the social, economic, and cultural implications, and lay those alternatives before the Congress.

Once the Congress has indicated either the precise terms or parameters for consideration of each status, then the people of Puerto Rico can vote with full assurance that their vote will be implemented by the Congress. To this end I have requested several studies by the Congressional Research Service and a comprehensive study by the GAO of the implications specifically of statehood, but also of the "New Thesis" and independence. From that information base I hope that the Congress and the people of Puerto Rico will be able to consider status in a fully informed and intelligent manner. With that information, we in the Congress can present the people of Puerto Rico with real and viable alternatives.

Mr. President, I object to the haste in which this is being considered, I object to the fact that the real reasons are not explicit, I object to the implication that the people of Puerto Rico should modify their status, and I object to the failure to specifically note the necessary and constitutionally required role of Congress. I do not object to self-determination nor to the principle of consent of the governed. Therefore, it is with considerable regret that I have misgivings over this resolution.

Mr. President. There are two final points I wish to make. The first is that I do not think this is going to be of the least help or effect in the United Nations. Frankly, I do not really care what Cuba and its allies think, but this resolution is not going to help. Cuba is not interested in self-determination and certainly not in freedom. They are solely interested, at the behest of their Soviet dominated colleagues, in embarrassing the United States and in spreading their own pernicious brand of revolution. A little history might be helpful.

During the 15th session of the General Assembly in the context of the cold war, the Soviet and Cuban delegations in 1960 charged the United States with colonialism in regard to Puerto Rico.

Also at the 15th Assembly two resolutions were adopted which continue to relate to this matter. One, Resolution 1514 (XV), declared that—

> Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, * * * in order to enable them to enjoy complete independence and freedom."

This resolution forms part of the basis of the Cuban position. The other resolution, Resolution 1541 (XV), set forth principles which should guide members in determining whether or not an obligation exists to transmit the information called for in article 73(e) of the charter. Principle VI states that a non-self-governing territory can be said to have reached a full measure of self-government by: First, emergence as a sovereign independent State; second, free association with an independent State; or third, integration with an independent State.

In November 1961, the Assembly established the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

In 1965 Cuba requested the inclusion of the question of Puerto Rico in the agenda of the special committee. Cuba said it was making the request in accordance with the final communique of the Conference of Heads of State or Government of Non-Aligned Countries, held at Cario in October 1964. Cuba said it was being guided by the principles underlying its foreign policy and was also "giving a brotherly echo to the appeal on this subject made by the Partido Nacionalista, the Partido Independentista the Cruzada Patriotica Cristiana and the Movimiento Pro-Independencia of Puerto Rico." This request was circulated as a committee document but no action was taken. The United States protested the circulation of the request as irrelevant to the work of the committee.

In 1971, Cuba requested inclusion in the agenda of the 26th General Assembly of an item entitled "The Colonial Case of Puerto Rico." Its request was not approved and subsequent attempts by Cuba to include a similar item on subsequent Assembly agendas have also been unsuccessful.

Most recently in 1978, Cuba was sucessful in having the special committee adopt the following resolution:

> THE SPECIAL COMMITTEE
>
> Having heard and considered the statements of the petitioners, whose views reflect the major trends of political opinion in Puerto Rico.
>
> Recalling its resolutions of 28 August 1972 and 30 August 1973, as well as its decision of 7 September 1976, concerning Puerto Rico.
>
> Bearing in mind the decision on Puerto Rico adopted by the Conference of Foreign Ministers of the Co-ordinating Bureau of Non-Aligned Countries, held at Belgrade in 1978, and by the Fifth Conference of Heads of State or Government of Non-Aligned Countries, held at Colombo from 16 to 19 August 1976.
>
> Conscious of the right of the people of Puerto Rico to modify the present status of Puerto Rico and aware that proposals for such modification have been made in the past by official organs of Puerto Rico.
>
> Bearing in mind the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960.
>
> Conscious also that all peoples have an inalienable right to self-determination and independence, to the exercise of their national sovereignty, to respect for integrity of their national territory and to the exercise of complete control over their natural wealth and resources in the interest of their development and well-being.
>
> Bearing in mind the fact that in their statements the petitioners have demonstrated that the major parties in Puerto Rico favour a change in the present status of Puerto Rico or modification of aspects thereof.
>
> Recalling the statement on Puerto Rico made on behalf of the President of the United States of America by the Permanent Representative of the United States to the United Nations at the eighth session of the General Assembly on 27 November 1953.
>
> Noting the public statements on Puerto Rico made by the President of the United States on 25 July 1978 and by the Permanent Representative of the United States to the United Nations on 28 August 1978.
>
> 1. Reaffirms the inalienable right of the people of Puerto Rico to self-determination and independence in accordance with General Assembly resolution 1514 (XV);
>
> 2. Reaffirms that by virtue of that right the people of Puerto Rico should freely determine their future political status and pursue their further economic, social and cultural development;
>
> 3. Affirms that self-determination by the people of Puerto Rico in a democratic process should be exercised through mechanisms, freely selected by the Puerto Rican people in complete and full sovereignty, in accordance with resolution 1514 (XV) which inter alia provides for the full transfer of all powers to the people of the Territory, and that all determinations concerning status should have the approval of the Puerto Rican people;
>
> 4. Considers that the persecutions, harassments and repressive measures to which the organizations and persons struggling for independence have been continuously subjected constitute violations of the national right of the Puerto Rican people to self-determination and independence;
>
> 5. Deems that, in the event the Puerto Rican people decide to form an independent republic, they have the right to recover the totality of their territory, including all lands now used by the authorities of the Government of the United States of America;
>
> 6. Deems also that any form of free association between Puerto Rico and the United States must be in terms of political equality

in order to comply fully with the provisions of the relevant resolutions and decisions of the General Assembly and of applicable international law, and must recognize the sovereignty of the people of Puerto Rico;

7. Urges the Government of the United States to release unconditionally the four Puerto Rican political personalities who have been incarcerated for more than 24 years;

8. Urges the Government of the United States to abide by the principles of resolution 1514 (XV) with respect to Puerto Rico;

9. Decides to keep under review the question of Puerto Rico and requests the Rapporteur, with the assistance of the Secretariat, to update information on this question in order to facilitate consideration of appropriate follow-up steps by the Special Committee in 1979.

Resolutions 1514 (XV) and 1541 (XV) state:

1514 (XV). Declaration on the granting of independence to colonial countries and peoples

The General Assembly,

Mindful of the determination proclaimed by the peoples of the world in the Charter of the United Nations to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small and to promote social progress and better standards of life in larger freedom,

Conscious of the need for the creation of conditions of stability and well-being and peaceful and friendly relations based on respect for the principles of equal rights and self-determination of all peoples, and of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recognizing the passionate yearning for freedom in all dependent peoples and the decisive role of such peoples in the attainment of their independence,

Aware of the increasing conflicts resulting from the denial of or impediments in the way of the freedom of such peoples, which constitute a serious threat to world peace,

Considering the important role of the United Nations in assisting the movement for independence in Trust and Non-Self-Governing Territories,

Recognizing that the peoples of the world ardently desire the end of colonialism in all its manifestations.

Convinced that the continued existence of colonialism prevents the development of international economic cooperation, impedes the social, cultural and economic development of dependent peoples and militates against the United Nations ideal of universal peace.

Affirming that peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law.

Believing that the process of liberation is irresistible and irreversible and that, in order to avoid serious crises an end must be put to colonialism and all practices of segregation and discrimination associated therewith,

Welcoming the emergence in recent years of a large number of dependent territories into freedom and independence, and recognizing the increasingly powerful trends towards freedom in such territories which have not yet attained independence,

Convinced that all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory,

Solemnly proclaims the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations;

And to this end

Declares that:

1. The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.

2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

3. Inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence.

4. All armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected.

5. Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order ot enable them to enjoy complete independence and freedom.

6. Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.

7. All States shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration on the basis of equality, noninterference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity.

947th plenary meeting, 14 December 1960.

1541 (XV). Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73 e of the Charter.

The General Assembly,

Considering the objectives set forth in Chapter XI of the Charter of the United Nations,

Bearing in mind the list of factors annexed to General Assembly resolution 742 (VIII) of 27 November 1953,

Having examined the report of the Special Committee of Six on the Transmission of Information under Article 73 e of the Charter, appointed under General Assembly resolution 1467 (XIV) of 12 December 1959 to study the principles which should guide Members in determining whether or not an obligation exists to transmit the information called for in Article 73e of the Charter and to report on the results of its study to the Assembly at its fifteenth session.

1. Expresses its appreciation of the work of the Special Committee of Six on the Transmission of Information under Article 73e of the Charter;

2. Approves the principles set out in section V, part B, of the report of the Committee, as amended and as they appear in the annex to the present resolution;

3. Decides that these principles should be applied in the light of the facts and the circumstances of each case to determine whether or not an obligation exists to transmit information under Article 73e of the Charter.

948th plenary meeting, 15 December 1960.

ANNEX

Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for in article 73e of the Charter of the United Nations.

Principle I

The authors of the Charter of the United Nations had in mind that Chapter XI should be applicable to territories which were then known to be of the colonial type. An obligation exists to transmit information under Article 73e of the Charter in respect of such territories whose people have not yet attained a full measure of self-government.

Principle II

Chapter XI of the Charter embodies the concept of Non-Self-Governing Territories in a dynamic state of evolution and progress towards a "full measure of self-government". As soon as a territory and its peoples attain a full measure of self-government, the obligation ceases. Until this comes about, the obligation to transmit information under Article 73e continues.

Principle III

The obligation to transmit information under Article 73e of the Charter constitutes an international obligation and should be carried out with due regard to the fulfillment of international law.

Principle IV

Prima facie there is an obligation to transmit information in respect of a territory which is geographically separate and is distinct ethnically and/or culturally from the country administering it.

Principle V

Once it has been established that such a prima facie case of geographical and ethnical or cultural distinctness of a territory exists, other elements may then be brought into consideration. These additional elements may be, inter alia, of an administrative, political, juridical, economic or historical nature. If they affect the relationship between the metropolitan State and the territory concerned in a manner which arbitrarily places the latter in a position or status of subordination, they support the presumption that there is an obligation to transmit information under Article 73e of the Charter.

Principle VI

A Non-Self-Governing Territory can be said to have reached a full measure of self-government by:

(a) Emergence as a sovereign independent State;

(b) Free association with an independent State; or

(c) Integration wtih an independent State.

Principle VII

(a) Free association should be the result of a free and voluntary choice by the peoples of the territory concerned expressed through informed and democratic processes. It should be one which respects the individuality and the cultural characteristics of the territory and its peoples, and retains for the peoples of the territory which is associated with an independent State the freedom to modify the status of that territory through the expression of their will by democratic means and through constitutional processes.

(b) The associated territory should have the right to determine its internal constitution without outside interference, in accordance with due constitutional processes and the freely expressed wishes of the people. This does not preclude consultations as appropriate or necessary under the terms of the free association agreed upon.

Principle VIII

Integration with an independent State should be on the basis of complete equality between the peoples of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated. The peoples of both territories should have equal status and rights of citizenships and equal guarantees of fundamental rights

> and freedoms without any distinction or discrimination; both should have equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government.
>
> *Principle IX*
>
> Integration should have come about in the following circumstances:
>
> (a) The integrating territory should have attained an advanced stage of self-government with free political institutions, so that its peoples would have the capacity to make a responsible choice through informed and democratic processes;
>
> (b) The integration should be the result of the freely expressed wishes of the territory's peoples acting with full knowledge of the change in their status, their wishes having been expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage. The United Nations could, when it deems it necessary, supervise these processes.
>
> *Principle X*
>
> The transmission of information in respect of Non-Self-Governing Territories under Article 73 e of the Charter is subject to such limitation as security and constitutional considerations may require. This means that the extent of the information may be limited in certain circumstances, but the limitation in Article 73 e cannot relieve a Member State of the obligations of Chapter XI. The "limitation" can relate only to the quantum of information of economic, social and educational nature to be transmitted.
>
> *Principle XI*
>
> The only constitutional considerations to which 73 e of the Charter refers are those arising from constitutional relations of the territory with the Administering Member. They refer to a situation in which the constitution of the territory gives it self-government in economic, social and educational matters through freely elected institutions. Nevertheless, the responsibility for transmitting information under Article 73 e continues, unless these constitutional relations preclude the Government or parliament of the Administering Member from receiving statistical and other information of a technical nature relating to economic, social and educational conditions in the territory.
>
> *Principle XII*
>
> Security considerations have not been invoked in the past. Only in very exceptional circumstances can information on economic, social and educational conditions have any security aspect. In other circumstances, therefore, there should be no necessity to limit the transmission of information on security grounds.

The point is that what the Cubans want is for the United States, in complete disregard for the wishes of the people of Puerto Rico, to unilaterally impose independence. Without the consent of the people, we should ignore the Constitution and their rights as U.S. citizens, deliberately violate the understanding and pledge of Public Law 600 and impose independence so the people can decide their future. In short we must decide their future so they can decide their future. This is insanity. In 1976, in the general elections, 45.3 percent of the people in Puerto Rico voted for the "Commonwealth" party, while 48.3 percent voted for the "Statehood" party, and 6.4 percent voted for the "Independence" parties.

We should impose the desires of 6.4 percent on the other 93.6 percent to satisfy Cuba? This is Alice in Wonderland, Mr. President. This resolution, in even acknowledging Cuba does a disservice to the 94 percent of the people of Puerto Rico who support permanent ties to the United States in one form or another.

The second point is that I think we should clearly understand the purpose of the amendment adopted by the committee. The committee report is very clear and I ask unanimous consent that the "Background and Need" and the "Committee Amendment" sections be printed in the RECORD at the conclusion of my remarks. There should be no misunderstanding over what this resolution does and does not do. The choice of a future status and the decision to request any change or modification in status rests with the people of Puerto Rico. Congress will not unilaterally impose any status on the people of Puerto Rico without their consent and approval. However, although the people of Puerto Rico may request a change in status, and indeed they must make such a request before Congress will act, only Congress can give effect to that request.

BACKGROUND AND NEED

The principle of self-determination has been an integral and inviolable element of U.S. policy since the Declaration of Independence. The first measure adopted for the western lands to be ceded by the original States to the United States was a resolution adopted in 1780 by the Congress that such lands should "be settled and formed into distinct republican States, which shall then become members of the Federal Union and have the same rights of sovereignty, freedom, and independence, as the other States." The principle was explicitly stated and incorporated in the Northwest Ordinance of 1787 which set forth its provisions "as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent." In recognition of the fact that portions of the Northwest Territory were inhabited almost exclusively by people of French descent, Congress specifically provided that French and Canadian inhabitants who had professed allegiance to Virginia which had ceded the area in 1781—could be governed by their own laws and customs relative to the conveyance and descent of property and thus be exempt from the provisions of the ordinance regarding inheritance.

Recognition of the principle of self-determination and self-government has led to the creation of 37 new States, independence for the Phillipines, and self-governing Commonwealth for both Puerto Rico and the Northern Mariana Islands—upon termination of the trusteeship over the Trust Territory of the Pacific Islands—as well as authorizations for the people of the Virgin Islands and Guam to develop and adopt constitutions of their own design—the Virgin Islands has rejected its proposed constitution in referendum while Guam has not yet voted on its constitution. The Congress has also, at the specific request of the people of American Samoa, refrained from enacting an organic act nor conferred U.S. citizenship to avoid any abridgement of the traditional rights and customs guaranteed under the treaties of cession.

Puerto Rico was discovered by Columbus on his second voyage in 1493 and was administered by Spain from that time until it was ceded to the United States in 1898 following the conclusion of the Spanish-American War. Puerto Rico as an unincorporated territory was organized first under the Foraker Act of 1900 and then under the Jones Act of 1917 which also extended U.S. citizenship to the residents of Puerto Rico. Through a variety of measures Puerto Rico was accorded and ever increasing measure of self-government, including popular election of the Governor, until 1950 when full local autonomy was provided by Public Law 81–600.

Public Law 600 provided, in language similar to that of the Northwest Ordinance, that "fully recognizing the principle of government by consent, this act is now adopted in the nature of a compact so that the people of Puerto Rico may organize a government pursuant to a constitution of their own adoption." The constitution was drafted and approved by the people of Puerto Rico and then approved by the Congress by Public Law 82–447 with modifications which were subsequently ratified by Puerto Rico. The Senate report on the joint resolution approving the constitution stated:

> Approval of this constitution will make the historic American concept of "government by consent of the governed" a reality for the 2¼ million American citizens in the American territory of Puerto Rico. This concept is set forth in our Declaration of Independence and has been realized through our State constitutions within the Federal system.
>
> The Commonwealth of Puerto Rico is not a State of the United States. Neither is it an independent republic. It is a self-governing community bound by the common loyalty and obligations of American citizens living under the American flag and the American Constitution and enjoying a republican form of government of their own choosing.
>
> In accordance with their express wishes the people of Puerto Rico are establishing self-government in the security and dignity of continued union with the United States on the basis of relationships which have developed through many years (S. Rept. 82–1720).

Following the approval of the compact and the constitution by both the Congress of the United States and the people of Puerto Rico, the Commonwealth constitution was promulgated on July 25, 1952, and the Commonwealth of Puerto Rico came into being.

Article 73(e) of the Charter of the United Nations provides that:

> ARTICLE 73
>
> Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

> a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;
>
> b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;
>
> c. to further international peace and security;
>
> d. to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and
>
> e. to transmit regularly to the Secretary General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

Pursuant to Article 73(e) of the Charter of the United Nations, the United States transmitted information on Puerto Rico—as well as Alaska, Hawaii, the Virgin Islands, Guam, and American Samoa—as a nonself-governing entity to the Secretary-General of the United Nations from 1946 to 1952.

Upon the establishment of the Commonwealth of Puerto Rico the United States, in response to a suggestion from the Governor of Puerto Rico, concluded it would no longer be appropriate to continue to submit information on Puerto Rico as if it were nonself-governing. The Governor's letter, dated January 17, 1953, stated that Puerto Rico was a Commonwealth in free and voluntary association with the United States and its people had attained a full measure of self-government. He asked that the United States take the necessary steps to notify the U.N. of the status of Puerto Rico, that it was no longer a nonself-governing area and that reports concerning it were no longer appropriate under article 73(e) of the Charter.

The United States informed the UN of its cessation of the transmission of information and submitted appropriate documentation to the Secretary-General for the information of United Nations members. These communications dated January 19 and March 20, 1953, were considered first by the General Assembly's Committee on Information from Non-Self-Governing Territories which approved a resolution noting that the people of Puerto Rico had achieved a new constitutional status after expressing their will in a free and democratic way and noted that the information indicated that Puerto Rico was outside the scope of article 73(e) of the Charter. The 8th General Assembly, on November 27, 1953, adopted resolution 748 (VIII) which noted the conclusions of the Committee on Information from Non-Self-Governing Territories, recognized that the people of Puerto Rico had achieved a new constitutional status, that in choosing this status the people of Puerto Rico had effectively exercised their right to self-determination, considered that the declaration regarding Non-Self-Governing Territories and the provisions established under it in chapter XI of the Charter no longer applied to Puerto Rico and considered it appropriate that transmission of information on Puerto Rico should cease.

On the same day, Ambassador Henry Cabot Lodge, Jr., stated:

> I am authorized to say on behalf of the President that if at any time the Legislative Assembly of Puerto Rico adopts a resolution in favor of more complete or even absolute independence, he will immediately thereafter recommend to Congress that such independence be granted.

Successive administrations have affirmed the commitment of the executive branch to support before the Congress any change of status chosen by the people of Puerto Rico.

The committee wishes to make clear that this resolution means precisely what it says—that the Congress respects the right of the people of Puerto Rico to determine their own political future within the free, open, and democratic processes provided by the Constitution of the United States. This resolution is not intended nor should it be construed to favor one particular status—Commonwealth, statehood, or independence—over another, nor to foreclose the constitutional processes by which the Congress gives effect to any decision by the people of Puerto Rico.

As the United States-Puerto Rico Commission on the Status of Puerto Rico concluded in its 1966 report:

> CONCLUSIONS
>
> Before presenting its conclusions and recommendations, the Commission wishes to record its satisfaction that the bonds which unite Puerto Rico and the United States have been reaffirmed in the course of the Commission's work.
>
> Both Puerto Rico and the United States share a common commitment to individual freedom, to fundamental human rights, and to the traditions of democratic, representative government. Both are vitally interested in the economic growth and in the political development of the Caribbean area, within which Puerto Rico has provided a worthy example of progress and stability. Finally, both Puerto Rico and the United States have pledged their resources and their efforts to the success of the Alliance for Progress in its historic mission for hemispheric development.
>
> These mutual interests of Puerto Rico and the United States are the product of a history of increased understanding out of which has grown a creative association. The foundation for both the mutual interests as well as the creative association has been the common U.S. citizenship. In 1952, 77 percent of the people of Puerto Rico voted for their two principal political parties that advocated, although in different forms, a permanent union between Puerto Rico and the United States based upon common U.S. citizenship; and this percentage has since increased steadily with each election, reaching 94 percent in 1964.
>
> Throughout its deliberations the Commission has been particularly aware of the intimacy of the relationship between the United States and Puerto Rico and of the obligation which the association imposes for the consideration of the wishes of the people of Puerto Rico. In full appreciation of the importance of the maintenance of a mutually satisfactory relationship between Puerto Rico and the mainland, the Commission presents the following conclusions from its study of the factors bearing on the present and future relationship between the United States and Puerto Rico.
>
> The Commission's major conclusion is that all three forms of political status—the Commonwealth, Statehood, and Independence—are valid and confer upon the people of Puerto Rico equal dignity with equality of status and of national citizenship. Any choice among them is to be made by the people of Puerto Rico, and the economic, social, cultural, and security arrangements which would need to be made under each of the three status alternatives will require the mutual agreement and full cooperation of the Government of the United States. A first step toward any change in political status must be taken by the Puerto Rican people acting through constitutional processes.
>
> From the examination of the legal and constitutional factors affecting the status question, the Commission concludes:
>
> 1. The policy governing the relationship between the United States and Puerto Rico is and should continue to be based on the principles of mutual consent and self-determination.
>
> 2. In accordance with this policy and these principles, it is essential to any change in political status that Congress fully understand the wishes of the people of Puerto Rico in order that it can be properly guided in working with the people of Puerto Rico to carry out their wishes.
>
> 3. The right of the U.S. citizens of Puerto Rico to participate effectively in decisions affecting their present and future welfare is protected by the Constitution of the United States and the Constitution of Puerto Rico.
>
> 4. All three status alternatives—the Commonwealth, Statehood, and Independence—are within the power of the people of Puerto Rico and the Congress to establish under the Constitution.
>
> 5. As a form of political status, each alternative confers equal dignity and equality of status.
>
> From the examination of the sociocultural factors affecting the status question, the Commission concludes:
>
> 6. Each of the three status positions contains an ideological dimension: Each involves a concept of the identity of the people of Puerto Rico, an interpretation of history, a way of life, and an aspiration for the future.
>
> 7. Each of the status alternatives is committed to the growth of Puerto Rico's culture and the preservation of the Spanish language. Each alternative would require a different form of adjustment to fulfill its commitment.
>
> 8. Insofar as the questions of ideology and of culture and language are involved in arriving at a consensus regarding their future political status, it is the people of Puerto Rico themselves who must resolve these questions.

Although the committee is aware that the present Governor of Puerto Rico, Carlos Romero Barcelo has advocated statehood as a preferred status for Puerto Rico and the former Governor Rafael Hernandez Colon has advocated a "New Thesis" proposing alterations in the present Commonwealth arrangement, no alteration nor change has been approved by the people of Puerto Rico nor requested by the people of Puerto Rico of the United States Congress. The necessary and indispensable first step in any such proposal is the expression of the desire of the people of Puerto Rico. The details and terms of any such proposal will then be before the Congress for consideration pursuant to article IV, section 3 of the Constitution.

COMMITTEE AMENDMENTS

The committee adopted an amendment by Senator Bumpers to delete the phrase "and to change their relationship with the United States," in order to prevent any possible misinterpretation of the intent of the resolution. Puerto Rico, like the States of the Union, and the Federal Government is bound by the requirements and provisions of the Constitution of the United States. Under article IV of the Constitution, the Congress must necessarily be involved in any change or alteration in the status of Puerto Rico and its relationship to the United States, but the initial decision for any such change or alteration properly resides in the people of Puerto Rico.

The relationship of the Federal Government to the several States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, upon termination of the Trusteeship, and the territories of Guam, American Samoa, and the Virgin Islands is governed and controlled by the U.S. Constitution which binds us together, guarantees our freedom, protects our rights, and provides the free, open, peaceful, and democratic process for the growth of the Union. The right to choose their political future resides in the people of Puerto Rico. The fact that the Constitution requires the Congress to enact legislation to give effect to that choice does not in any manner diminish nor denigrate the basic right of self-determination. The choice of status is up to the people of Puerto Rico and we in the Congress have a responsibility and obligation to insure that the choice is an informed choice and then to respect that choice in the exercise of our Constitutional responsibilities to work sympathetically with the people of Puerto Rico in framing and drafting the specific language and provisions to give effect to their choice. Those deliberations may be very brief or they may be lengthy, I do not know. I am certain, however, that this Congress, and any subsequent Congress, will execute our responsibilities with the full involvement of the people of Puerto Rico and respect for the expressed desires of our fellow U.S. citizens there.

I would say to the Senator from New York that I think he has spelled out very clearly that this country continues to be committed to the principle of self-determination, a principle which I support; but I think the terms of this particular resolution are now sufficiently clear that I would not have any opposition to it, and I thank the distinguished Senator from New York for making so clear and concise what the meaning of the resolution is.

Mr. MOYNIHAN. Mr. President, I think the Senate is indebted to the Senator from Louisiana for his scholarship and learnings on this matter, and the care with which he has stated the position we now have reached.

Mr. President, I see the distinguished Senator from Kansas has risen. I believe he wishes to address himself to this subject, on which he has previously established a reputation for fair-mindedness and sagacity.

Mr. DOLE. And brevity. I thank my distinguished colleague for New York for yielding.

On Wednesday, July 25, I did discuss the general issue with reference to the 27th anniversary of the Commonwealth of Puerto Rico. At that time I had the same reservations expressed by the distinguished Senator from Louisiana about some of the wording in the concurrent resolution. I declined at that time to cosponsor the concurrent resolution; but, having listened very carefully to the colloquy between the distinguished Senator from New York and the distinguished Senator from Louisiana, the reservation I had has now, I think, been satisfied, and I ask that my name be added as a cosponsor of the resolution.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the name of the Senator from Kansas be added as an original cosponsor of the concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I am proud to be an original cosponsor of the resolution, as amended and as clarified, which reaffirms the commitment of Congress to the right of the people of Puerto Rico to determine their own political future.

Mr. President, the consideration of this significant sense of the Congress comes 8 days after the 27th anniversary of the Commonwealth of Puerto Rico.

JULY 25, 1952, A GREAT DAY FOR PUERTO RICO

On July 25, 1952, the people of Puerto Rico adopted a commonwealth status and established a new relationship with the U.S. Congress, an imaginative experiment in democratic self-government; an experiment which over time has proven that a people committed to preserving their own particular cultural roots can yet maintain their relationship with a political entity differing in geographic scale, history, and power. In commemorating this event we pay tribute to the contributions and important roles that citizens of Puerto Rico have played in America's progress.

A PROGRESSIVE PUERTO RICO

The fruition of what may be called modern Puerto Rico has emerged over the last 40 years, as Puerto Ricans have made energetic progress in their efforts at improving health, education and job opportunities for all their citizens. Political ideals, as varied as they may be, have joined, through history, a rich heritage, America's contributions, and Puerto Rico's own unique characteristics to achieve a well-established and successful means for enacting change and yet maintaining continuity through democratic processes. We have a common commitment, as Americans, to individual freedom and the democratic tradition of representative government. Our common concern for economic growth and political development binds us in a unique relationship with our fellow Americans from Puerto Rico.

U.S. COMMITMENT TO THE PRINCIPLE OF SELF-DETERMINATION FOR THE PEOPLE OF PUERTO RICO

The nature of a commonwealth status carries with it the inherent obligation to examine, and if necessary, re-interpret the political aspects of that relationship.

The relationship between Puerto Rico and the United States is long overdue for a thorough evaluation and revision. The question of political status in Puerto Rico has sometimes been a source of confusion, yet we remain committed to the fundamental principle of self-determination for the people of Puerto Rico, whatever decision the people may make.

I commend the distinguished Senator from New York and particularly the distinguished Senator from Louisiana, because we were in an area we did not have time to explore, and having made some calls to Puerto Rico with reference to the concurrent resolution, I found that some of the same questions raised by the leaders in Puerto Rico were raised by the Senator from Louisiana.

Mr. President, I urge my colleagues to support passage of this important resolution.

Mr. MOYNIHAN. Mr. President, I appreciate the statement of the Senator from Kansas, who, with the minority leader, has stood for firm bipartisan support of the position we enunciate today. It is a matter of which both parties can be proud.

Mr. President, I do not believe there are other Senators who wish to speak. That being the case, I move the adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the concurrent resolution, as amended.

The concurrent resolution, as amended, was agreed to.

The preamble was agreed to.

UNANIMOUS-CONSENT AGREEMENT—S. 566

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the following time agreement cover the consideration of Calendar Order No. 290, S. 566, the countercyclical bill:

I ask unanimous consent that there be 2 hours on the bill, to be equally divided between Mr. Moynihan and Mr. Danforth; that there be a time limitation on any amendment of 30 minutes, except that there be a time limitation on each of three amendments by Mr. Bellmon of 1 hour; that there be a time limitation on any debatable motion, appeal, or point of order, if such is submitted to the Senate, of 20 minutes; and that the agreement be in the usual form, with a further proviso, as I understand it, that Mr. Bellmon would like to order the yeas and nays on each of his amendments and on passage; therefore, I ask unanimous consent that it be in order to order the yeas and nays on each of three amendments by Mr. Bellmon and on final passage at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection it is so ordered.

The text of the agreement follows:

Ordered, That on Friday, August 3, 1979, when the Senate proceeds to the consideration of S. 566 (Order No. 290), a bill to authorize a targeted fiscal assistance program for payments to local governments requiring fiscal relief, an anti-recession fiscal assistance program, and for other purposes, debate on any amendment shall be limited to 30 minutes (except on three amendments to be offered by the Senator from Oklahoma (Mr. Bellmon), on each of which there shall be 1 hour), to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: Provided further, That no amendment is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from New York (Mr. Moynihan) and the Senator from Missouri (Mr. Danforth): Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, it having been ordered that it is in order to order the yeas and nays on each of the three amendments by Mr. Bellmon and on final passage, I ask unanimous consent that that be done with one show of seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the resolution, as amended, was agreed to.

Mr. MAGNUSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that a companion House measure, House Concurrent Resolution 165 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

AN UNFORTUNATE COMPARISON

Mr. MOYNIHAN. Mr. President, President Carter's likening of the "Palestinian cause" to "the civil rights movement here in the United States" has properly evoked utter disbelief. What explains it? It is simply wrong on the facts, but more, seems to demonstrate a lack of sensitivity to the domestic or international implications of such an unseemly comparison.

I can do no more than join the New York Urban League, which has pointed out that our civil rights movement is "first and foremost based upon a solidly nonviolent and nonterrorist approach." Indeed, there can be no other reaction from those who seek to carry on the work of Dr. Martin Luther King. In my mind, any comparison—no matter how oblique—between Dr. Martin Luther King and Yasir Arafat affronts our own history.

I associate myself completely with the statements issued by Bertram Gold of the American Jewish Committee, Richard Cohen of the American Jewish Congress, Nathan Perlmutter and Arnold Forster of the Anti-Defamation League, and Rabbi Alexander Schindler of the Union of American-Hebrew Congregations.

Even more, I share the dismay of those who regard the President's remarks as giving encouragement to those who would add legitimacy and respectability to the grotesquely misnamed "Palestine Liberation Organization." This is an ill-advised intrusion into the Mideast peacemaking process, serving only to harden the attitude of the most intransigent elements in the Arab world, the same elements who have violently rejected the Camp David accords the President himself helped to achieve.

I have urged the President to apologize for his remarks. I urge him, even more, to use the opportunities created by the latest round of Mideast negotiations to further America's interests not only in a secure Israel but in the reaffirmation of democratic processes for political change.

VISIT TO THE SENATE BY CONSERVATIVE PARTY MEMBERS FROM GREAT BRITAIN

Mr. JAVITS. Mr. President, I have great pleasure and honor in introducing to the Senate three Conservative Party members from Great Britain who have been elected to and taken office as members of the European Parliament, the newest in the world: James Moorhouse, Peter Beazley, and Robert Battersby, whom I have invited into the Chamber to observe our activities.

LOW-INCOME ENERGY ASSISTANCE

Mr. JAVITS. Mr. President, I am submitting the low-income energy assistance report, a profile of need and policy options for the poor and near poor who will be suffering seriously from a high fuel oil crisis, prepared by the Fuel Oil Marketing Advisory Committee of the U.S. Department of Energy.

This question is the subject of S. 1270 which I introduced together with the Senator from Washington (Mr. Jackson) as the principal cosponsor, to which are being added today the following other cosponsors: Senators Tsongas, Moynihan, and Ribicoff.

Mr. President, yesterday the Department of Energy's Fuel Oil Marketing Advisory Committee submitted to DOE its recommendations for a program of permanent fuel cost assistance for low income Americans. Months of painstaking research, public hearings and careful thought have gone into the preparation of this balanced program.

The recommendations include: a system under which even the poorest families pay some part of their income for heat; a consolidated energy program which insures that every eligible family will be offered effective help in conserving home energy supplies; a direct payment system which permits adequate cash flow for energy suppliers; an outreach and service system that will encompass the elderly and others sometimes neglected by existing assistance programs; and a fair level of assistance which could begin to relieve the disproportionate burdens of high energy costs which are forcing some families to make impossible choices between paying utility bills and buying groceries.

Mr. President, the program the distinguished chairman of the Energy Committee Senator Henry Jackson and I have proposed in S. 1270, the Basic Fuel Assistance Act of 1979, contains most of the features the FOMAC recommends for an energy program. So far, the President has not offered us details of his more modest $2.4 billion program, but his staff has given us reason to believe many of the necessary elements of a program package will be overlooked. I cannot state too strongly how crucial it is for the Congress to enact a workable, equitable program at realistic funding levels in the very near future.

Mr. President, I ask unanimous consent that the report, although somewhat lengthy it is of such great importance in respect to our energy policy and program, be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

LOW-INCOME ENERGY ASSISTANCE: A PROFILE OF NEED AND POLICY OPTIONS

Memorandum for David J. Bardin, Administrator, Economic Regulatroy Administration, Department of Energy.
From Anthony J. Maggiore, Jr., Chairman, Subcommittee on Energy Assistance Program, Fuel Oil Marketing Advisory Committee, Department of Energy.
Subject Low-Income Energy Assistance.

Attached for your review is the final report of the Fuel Oil Marketing Advisory Committee titled "Low-Income Energy Assistance: A Profile of Need and Policy Options". The Committee held a Public Comment Forum on April 10, 1979 in Washington, D.C. Comments and testimonies received from members of Congress and the Senate, state legislators, city and county representatives as well as the general public were incorporated, to the extent possible, in the final report.

The Committee aggrees with the President's concern regarding the increasing inability of low-income people and the elderly our our country to pay for their fuel and energy bills. Our concern grows with each passing day. Since the original "working draft" on the subject was developed, energy prices have risen significantly placing additional financial hardships on low-income individuals, families and the elderly. Household energy costs are now approaching

25 percent of annual income for low-income persons.

If a major low-income Energy Assistance program is not established by next winter (1979–1980), the health and safety of thousands of low-income people and the elderly will be jeopardized.

We are hopeful you can assist our Committee in establishing a program, as envisioned in the attached document, or a similar one—as soon as possible. Methods of financing such a program include utilization of the increased tax revenues which result from decontrol or general revenue funds. The President has asked the Congress to enact a program of low-income energy assistance to be funded from the Energy Security Trust Fund.

Your review and support of the attached proposal will be greatly appreciated. The Committee would like to acknowledge the effective working relationship that exists with your staff. We look forward to working together on this and other issues.

Attachment.

EXECUTIVE SUMMARY

This document represents the efforts of the Fuel Oil Marketing Advisory Committee (FOMAC) of the Department of Energy (DOE) to develop and recommend a program designed to alleviate the problems of low income and elderly persons in obtaining and purchasing essential home energy supplies.

During the past heating season, this Committee, composed of consumers, refiners, wholesalers, retailers, and state government representatives, became increasingly aware of the problems confronting low income and elderly persons in obtaining necessary household energy. A Subcommittee was appointed by the Chairman of the FOMAC to develop a needs assessment and a program design tailored to meet identified needs. The full Committee reviewed the work of the subcommittee and agreed that the draft should be presented for public comment.

A public forum was held on April 10, 1979, at which United States Senators and Congressmen, national and state governmental officials, public utilities, trade associations, Community Action Agencies, and consumer groups provided comments. The Committee reviewed the transcripts of the public forum as well as other written communication to the Committee at their meeting on April 23, 1979 and incorporated such relevant testimony into this final document. (See Appendix E for list of persons commenting on the working draft document.)

This document is presented to DOE for consideration, with the recommendation that as soon as possible they seek legislation to implement the proposed program.

NEEDS

The assessment of need among low-income families for energy assistance addressed three broad topics:

1. The existence of a government mandate for a program to redress the harm caused the poor by energy cost increases.

2. The impact, in dollar terms, of the rising cost of home energy since 1972 on low-income families.

3. The specific economic factors in the marketplace that make energy cost burdens particularly onerous for the poor.

Overall, the Needs Assessment document finds that:

1. There is a specific federal mandate for an energy policy that protects the poor from "disproportionately large effects on their income" resulting from increased energy prices.

2. In 1978 alone, rising energy costs in the U.S. caused low-income households to suffer a loss in purchasing power of more than 4 billion dollars, over and above that which they would have suffered if energy costs had risen at the rate of inflation.

3. The average total income of the poor household has decreased in real terms since 1972, making the acquisition of adequate energy for this group more difficult.

4. In December, 1978, the average low-income household spent approximately 18.4 percent of its annual income on household energy, excluding gasoline costs.

5. Poor in certain regions of the country bear a particularly harsh, and disproportionate, burden in paying for energy use.

6. Structural factors in the energy pricing and delivery system work against the low-income user.

7. The quality of the poor's housing stock further penalizes them in their efforts to cut energy costs.

8. Reduction in costs through conservation is extremely difficult in poor households, who are often already using energy at lower levels than might be considered safe or healthy.

9. The ability to offset increased energy costs through product substitution in the marketplace is lower for energy than for any other necessity good utilized by poor households.

Program Design

The Committee believes that action must be taken to alleviate the burden placed upon the poor caused by the above combination of factors through the implementation of an energy assistance program.

The general population for which the program should provide assistance would be those households whose total annual income is less than 125 percent of the federal poverty level and who are spending more than 10 percent of their annual household income on energy. In addition, the Committee felt that for households headed by elderly persons (60 and above) the annual income level for eligibility should be 150 percent of poverty.

Utilizing such income criteria, the Committee determined that 16.2 million households would be eligible for the program, with over 7 million of such eligible households being headed by an elderly person.

The Committee's initial cost estimate for a program of this size, including 10 percent of total budget for administrative costs, is approximately $3.2 billion, assuming a 75 percent participation level of eligible households.

The Committee sought to incorporate the following five criteria in its design of a program to provide assistance:

Equity: Benefits should vary directly with need. Both horizontal and vertical equity should be addressed.

Conservation: The provision of benefits should discourage excessive use of energy.

Efficiency of Administration: Administrative costs should be held to a minimum while adequately serving the recipients of assistance.

Assistance should be provided prior to the onset of a crisis and before household energy expenditures have imposed severe financial burdens and health risks.

The program should be flexible enough to adapt to market changes.

After examination of many different program designs, the Committee determined that an income-indexing program design would be the best choice in terms of implementing the Committee's eligibility and program design criteria. Such a design would relate assistance for needed energy in a manner that responded both to energy prices and household income. It is also the most efficient in terms of meeting the five criteria noted above.

In this design, assistance would be determined on the basis of a household's needed energy times the cost of such energy less a percentage of annual household income representing the annual energy cost for which the household would be responsible. The low income population would be responsible for payment of a percentage of fuel costs. Assistance would be provided only for energy costs which exceed a certain percentage of household income.

The following details of the program were agreed up:

Provision of assistance to low-income people should be implemented through a vendor line of credit established with the recipient's energy suppliers.

There should be a special portion of the program designed to meet the needs of renters who do not pay their own energy bills, and who are thus unable to take direct advantage of line of credit assistance.

Conservation incentives should be built into the program through the financial assistance formula, as well as through integration of energy audits, weatherization, and consumer education programs in the overall program design.

Three agencies were considered by the Committee for administration of the program; each was thought to possess different strengths and weaknesses. The agencies cited were the Department of Housing and Urban Development; the Social Security Administration of HEW; and the Community Services Administration.

The Committee considered several different options for program funding. These were:

Utilization of a portion of the oil import tariff.

Utilization of a portion of a crude oil equalization tax.

Utilization of the refiner rebates to the DOE resulting from prosecution of refiner overcharges.

Funding from general revenues.

Utilization of a value added "BTU tax" on all energy.

Utilization of a portion of the Federal gasoline tax.

Utilization of the increased tax revenues which result from decontrol.

After careful consideration, the Committee rejected the first three options as being inequitable, legally and politically unsound, and incapable of generating the broad base of support necessary to ensure the program's success. The Committee felt that the fourth option—general revenue funds—was the most equitable but also favored full exploration and development of the latter three options. The Committee also recommended that other funding sources be explored and considered.

The Committee believes that the need for a program of this nature is immediate and urgent. As a result of the recent dramatic increases in the price of household energy, unless a major low-income energy assistance program is established by next winter (1979–80), the health and safety of thousands of low-income people and the elderly will be jeopardized. Thus, the Committee recommends to the Department of Energy that they seek legislation to implement this or a similar program as soon as possible.

II. NEEDS ASSESSMENT

A. Introduction: The cost of home energy use

Relative price stability in energy existed in the United States until the early 1970's. Historically, Americans have paid little by world standards for their energy, and supplies have been assumed to be inexhaustible. However, beginning in 1972–73, abrupt changes in international and national economic and govermental policies caused energy prices to increase explosively, with crude oil prices more than quadrupling by 1978.

Figure 1 traces the movement of fuel prices from 1972 to 1978. A period of relative price stability extended through 1972. In 1973, this pattern altered abruptly; the overall Consumer Price Index (CPI), measuring the price of all goods and services in the economy increased 55.9 percent between 1972 and 1978, while fuel oil/coal prices increased 151.7 percent in the same period.[1] And because the cost of energy is itself a large factor in the CPI, the differential between energy price movements and price increases in non-energy goods and services is, in fact, even more dramatic than this comparison suggests.

Footnotes at end of article.

Low income households have been hit hard by this increase in energy costs—far, far harder than they would have been had energy cost increases simply matched the rate of inflation. Further, the increase in energy cost has taken, proportionately, a much larger bite out of the low-income family's budget than it has out of the budget of middle-income families.

In 1978, the national average of total direct household expenditures for energy (including transportation and gasoline), by low income households exceeded one quarter of their average income (25.3%). In this same year, median income families were spending an estimated one tenth (10.4%) of their income for their total energy costs. (See Table I)

While the average household spent approximately 4.7% of its annual income on energy for household purposes in 1978 (fuel and utilities, excluding transportation and gasoline), the average low income household spent over 18.4% of its income on household fuel and utilities. (See Table II).

Estimates further indicate that with additional price increases of 25 percent in the near future (possibly prior to 1980)—a not unthinkable occurrence—the percentage of a median income household budget spent on home energy will rise to 6% for median income households and to almost 23% for poverty households. (See Table II).

Indeed recent data indicates that price increases may have already placed average home energy costs for the poor at 23 percent of their budgets for 1979. While the CPI for fuels and utilities has increased only 216.0 to 232.2 (an increase of over 16 points), much larger increases have occurred in those fuels by which homes are customarily heated. From January 1, 1979 through April 30, 1979 the CPI for fuel oil and piped gas rose dramatically. The fuel oil index jumped over 75 points (from 296.9 to 375.3); the piped gas index rose over 35 points (from 263.1 to 296.8);

TABLE I.—ESTIMATED NATIONAL AVERAGE OF HOUSEHOLD EXPENDITURES FOR TOTAL ENERGY COSTS, 1978[1]

	Annual costs (in dollars)		Cost as percentage of income	
	Low income household median income ($3,283)[2]	Typical median income household ($16,000)[3]	Low income household	Typical income household
1978 average energy expenditure	832	1,678	25.3	10.4
10-percent increase in energy expenditure	915	1,846	27.8	11.5
25-percent increase in energy expenditure	1,040	2,097	31.6	13.0
50-percent increase in energy expenditure	1,248	2,517	38.0	15.7

[1] Estimates for all direct household expenditures including gasoline costs. It should be noted that these figures represent national averages and do not reflect regional differences. Estimates in this table are based on the Energy Information Agency CHRDS data base.

[2] Bureau of the Census Current Population Reports, "Consumer Income" series P–60, No. 115, issued July 1978.

[3] Bureau of the Census, Current Population Report, series P–60, No. 116, issued July 1978.

TABLE II.—ESTIMATED NATIONAL AVERAGE OF HOUSEHOLD EXPENDITURES FOR HOUSEHOLD ENERGY COSTS, 1978[1]

	Annual costs (in dollars)		Cost as percentage of income	
	Low income household median income ($3,283)[2]	Typical median income household ($16,000)[3]	Low income household	Typical income household
1978 average energy expenditure	604	768	18.4	4.7
10-percent increase in energy expenditure	668	845	20.0	5.3
25-percent increase in energy expenditure	755	960	22.9	6.0
50-percent increase in energy expenditure	906	1,152	27.5	7.2

[1] Estimates include only household expenditures; gasoline expenditures are not included. It should be noted that these figures represent national averages and do not reflect regional differences. Estimates in this table are based on projections based on unpublished data received from the Bureau of Labor Statistics. Similar projections based on data from the Urban Institute's Survey of Households (1976), the Energy Information Agency CHRDS series and data contained in the Consumer Expenditure Survey (1972–73) produced similar results, with the range of difference being plus or minus $30.

[2] Bureau of Census Current Population Reports, "Consumer Income" series P–60, No. 115, issued July, 1978.

[3] Bureau of Census, Current Population Report, series P. 60, No. 116, issued July, 1978.

CONSUMER PRICE INDEX

	Year end/1978 average	May 31, 1979	CPI increase	Percent increase
Fuel and utilities	216.0	232.2	16.2	6.9
Fuel oil	296.9	375.3	78.4	26.4
Piped gas	263.1	296.8	35.5	13.5

Clearly, the continually increasing prices in 1979 will impose even burdens on the incomes and thus, lives of the elderly and poor.

It should be once again stressed that the above data reflects the national average cost. A wide range of cost differences exist as heating requirements, type of fuel utilized, and cost of energy vary from region to region. In New England, for example, 1978 expenditures for household energy exceeded 23% of mean poverty income and total energy costs exceed 30% of income. Because of a high utilization of fuel oil, costs in this region have increased sharply since that time. (See Table III.)

Data from a Community Services Administration Crises Intervention Program in a large Midwestern city show that poverty level clients of this Program were using over ⅕ (20.5%) of their income on gas heating bills and oil users were spending 31.8% of their income on heating bills during the winter months (October 1978 through March 1979).

TABLE III.—ESTIMATED NEW ENGLAND LOW-INCOME HOUSEHOLD EXPENDITURES FOR TOTAL ENERGY AND HOUSEHOLD ENERGY COSTS, 1978[1]

	Annual costs low-income household[2] (median income $3,283)		Cost as percentage of income	
	Household energy	Total energy	Household energy	Total energy
1978 average energy expenditure	$784	$1,008	23.6	30.7
10-percent increase in energy expenditure (exceeded May 1979)	862	1,109	25.9	33.8
25-percent increase in energy expenditure	980	1,260	29.5	38.4
50-percent increase in energy expenditure	1,176	1,612	35.8	49.1

[1] Household energy figures do not include transportation gasoline expenditures; total energy costs include transportation gasoline expenditure.

Estimates in this table are based on the Energy Information Agency CHRDS data base. See also January 1979 "Analyzing Impacts of Energy Costs of Residents of New England" prepared for the New England Regional Energy Project and Griers "High Fuel Oil Prices: the Impact on Low Income Households" (August 1978).

[2] Bureau of the Census current population reports, "Consumer Income" Series P–60, No. 115 issued July 1978.

Total fuel and utility bills for gas users represented 25.7 percent of their income; for oil users total fuel and utility bills represented 45.7 percent of monthly income. These low income families spent 81.9 percent of their monthly income on total shelter (heating, utilities and housing) if they used gas and 92.9 percent of monthly income if they used oil.

In addition, many low-income households and especially elderly households have incomes which are less than the median poverty income and, therefore, expend more than 18 percent of their income on household energy.

The increases in energy prices since 1972 have meant that the poor, whose average income has not increased in real terms, have lost ground in real purchasing power. In 1972 low-income persons spent approximately $216 on home fuels and utilities. If fuel prices had risen with the general rate of inflation, low-income families would have spent approximately $340 on energy costs in 1978. The above estimates, however, indicate that an average low-income family was spending approximately $604 on household energy costs. This increase represents an average loss of purchasing power of $265, due to rising energy costs over and above general inflation.

In the aggregate, this would indicate that the 16.2 million low-income households would have suffered a loss of over $4 billion in purchasing power in 1978—$4 billion of income transferred away from the most economically disadvantaged in our society because of escalating prices.

B. Government reaction: Concern and mandate

During this period, there has been continued and increasing governmental recognition that low income households face an energy dilemma with an order of magnitude greater than that faced by most American households. Initial government concern was demonstrated by the Community Services Administration (CSA) in 1973–74 through pilot project funding of a weatherization program in the State of Maine and energy crisis intervention programs in Wisconsin, Colorado, and Pennsylvania. In 1977, 1978, and 1979, Congress and the Senate expressed their concern through authorization of Special Crisis Intervention and Energy Assistance Programs implemented through CSA. Such programs have been helpful but not adequate.

The crux of the problem was stated by one observer in these words: "Budgets, which cannot meet basic living needs to begin with, cannot reallocate resources to pay for energy without taking money away from other basic needs, such as food, clothing, and health care."[8]

Governmental acknowledgement of the problem was expressed in 1977 by John O'Leary, then Administrator of the FEA. Mr. O'Leary produced figures for the Senate Committee on Aging which showed that as early as 1975 the percentage of disposable income spent on energy in some parts of the country was as high as 27 percent and estimated that in the recent winter there were many elderly poor who were spending as much as 50 percent of their disposable income on energy.[9]

President Carter and the Office of Energy Policy and Planning also recognized the special problems caused by rising energy costs for the low-income household. The fifth guiding principle of the National Energy Plan I (NEP I) was that the U.S. must solve its energy problem in a manner that "is equitable to all regions, sectors and income groups." Specifically, the White House stated that:

> In particular, the elderly, the poor, and those on fixed incomes should be protected from disproportionately adverse effects on their income. Energy is as necessary to life as food and shelter.[10]

NEP I further recognized that:

> Existing emergency assistance programs are deficient in assisting low-income persons to meet sharp, temporary increases in energy costs due to shortages or severe winter.[11]

Clearly, then, those in government have been concerned with the effects of energy price increases on those least able to afford them. Yet in 1979, every indication is that the poor have borne the brunt of rising energy costs in exactly the manner that public officials hoped to prevent. Senator Kennedy recognized this fact in his January 9, 1979, speech to the National Association of Broadcasters. He stated that:

> In major northern cities those at or under the poverty level last winter paid more than 45 percent of their income for energy, according to the National Center for Community Action. 'Let them freeze in the dark' has become not just a clever cliche, but a cruel reality.

The time is obviously right for a specific government program to alleviate the harm caused to the poor by escalating energy prices.

C. The particular energy hardship of the poor

It is apparent that the low-income households in America pay a far higher proportion of their total annual income for energy than do higher-income households. However, it must be understood that these aggregate factors represent only a national average. The poor in various regions of the country where climate conditions are more severe than average—and energy costs are higher—face a still greater problem. For example, it was estimated in 1978, that it costs New England residents 38.8 percent more than the national average to supply adequate energy to their homes.[12] (See figure 2). This points to the magnitude of the disparities in need and the resulting numerous cases of extreme hardship that lie behind the aggregate average figures.

Structural factors inherent in the energy delivery system combine to make the energy burden on the poor yet higher. First among these factors is the operating of the energy pricing structure. Utilizing inverted pricing schedules, with declining rates at higher usage levels, utility companies charge higher unit prices for those consumers using smaller amounts of energy (See Table IV).

TABLE IV.—NATIONAL WEIGHTED AVERAGE CHARGES FOR RESIDENTIAL SERVICE, 1972–78

[Cities of 2,500 population and more; in cents]

	Average charge per kilowatt-hour				
	100 kWh	250 kWh	500 kWh	750 kWh	1,000 kWh
Jan. 1:					
1978	6.87	5.39	4.44	4.16	4.10
1977	6.54	5.14	4.17	3.90	3.82
1976	6.15	4.82	3.85	3.57	3.49
1975	5.89	4.60	3.59	3.30	3.28
1974	4.99	3.79	2.82	2.55	2.49
1973	4.65	3.47	2.51	2.26	2.19
1972	4.51	3.34	2.40	2.15	2.07

Source: DOE/EIA, 0040/1, typical electric bills, Jan. 1, 1978.

As low-income households consume less energy than the average household they are particularly affected by inverted pricing schedules. Due to higher per-unit prices paid by low-income households, the difference in total amounts spent annually for energy between low-income households and all households was *less* than the difference in energy consumption (See Table V).

The same inverted pricing structure applies to fuel oil; for economic reasons most companies reduce the cost per gallon of fuel for large orders and increase the cost per gallon for smaller orders. Further, those using fuel oil are confronted with additional problems. In general, low-income consumers have smaller storage capacities and, with rare exception, do not have adequate resources to purchase larger orders even if they have larger storage capacities.[13]

In addition, the credit and delivery practices of fuel oil dealers inadvertently penalize the poor. Because of credit practices, low-income persons are normally prevented from using credit or budget payments to pay for the fuel. They generally do not have a high enough credit rating to warrant these deferred approaches.

As a result, low-income consumers are forced to pay "cash on delivery" (COD) for fuel oil. The COD system is particularly onerous for the poor and near-poor. For most households, fuel expenditures occur in a relatively short period of a few months. Those on credit or budget plans can spread fuel cost over a much longer time period than the low-income household which is forced to pay cash on delivery.

Further, since low-income households do not generally have credit plans, they are for the most part denied automatic refills. They cannot have their tank filled when oil is needed, but only when they have sufficient cash for immediate payment. In addition, it must be noted that in many cases, persons who are not on credit or budget payments are forced to pay certain "surcharges" for such items as delivery at certain times and to certain places.[14]

The low-income family is further penalized by the quality of their housing stock, which is generally older, in poorer repair, and less well insulated than those houses utilized by higher income households. In northern climates, this results in the need to use more fuel to maintain a certain temperature than in well insulated homes. Thus, the low-income family's home is likely to be even less well heated than is suggested by the fact that the poor consume less energy per household than does the average American family.

TABLE V.—DIFFERENTIAL IN CONSUMPTION AND EXPENDITURES FOR ELECTRICITY AND NATURAL GAS BETWEEN LOW-INCOME HOUSEHOLDS AND ALL U.S. HOUSEHOLDS, 1975

	Low-income households	All U.S. households	Difference (percent)
Electricity: [1]			
Average annual Btu's per household (millions)	60.6	94.2	55.4
Average annual cost per household	$188	$278.10	47.9
Average price per million Btu's	$3.10	$2.95	
Natural gas:			
Average annual Btu's per household (millions)	109.8	136.3	24.1
Average annual cost per household	$182.30	$224.60	23.2
Average price per million Btu's	$1.66	$1.65	

[1] The Public Utility Regulatory Act of the National Energy Act states that utility companies must consider, among other things the applicability of a prohibition against declining block rates which favor larger users by pricing successive blocks of electricity at lower per unit prices, and further, lifeline rates for essential needs.

Source: Washington Center for Metropolitan Studies, National Survey of Household Energy Use, 1975.

In the South, the substandard quality of the poor's housing stock also manifests itself in higher energy costs. In cheaply designed dwelling units—particularly in mobile homes which are prevalent in Southern states—air conditioning is a necessity. Temperatures in non-air conditioned low-income southern homes present severe health hazards to the occupants—many of whom are elderly, suffering from respiratory or heart ailments made worse by increase in home temperature. In Dallas, Texas, July 1978, over twenty people died from heat prostration. They were *all* elderly, poor and lacked air conditioning.

D. Economic constraints in the marketplace: Why the poor have lost ground since 1972

There are three overriding economic factors in the marketplace which explain the poor's exceptional inability to adjust to higher energy costs. These are:

The average real income of the poor household has actually decreased since 1972;

Reduction in costs through conservation is extremely difficult for poor households;

Substitutability is lower for household energy needs than for most other goods or services in the economy.

According to the most recent national figures the disposable income of the poor and near-poor has not kept pace with the overall CPI (See Figure 3). The major public assistance programs have not made up the inflationary gap for those low-income households receiving aid. All items in the CPI rose approximately 30 percent from 1973 to 1976. Unemployment insurance payments rose only 27.8 percent during the same period; further, since unemployment insurance is an inherently unstable and limited form of income, this probably had less impact on real

---

Footnotes at end of article.

income maintenance than is generally assumed.

The more steady income maintenance programs did not come close to matching inflation during this period. Average AFDC benefits rose about 19 percent between 1973 and 1976, indicating a drop of roughly 8.5 percent in real income, while Supplemental Security Income (SSI) rose an average of 19.19 percent, amounting to a decrease in real income of about 7.8 percent.[15]

Thus, a situation existed in 1976/1977 in which the major income transfer mechanisms did not maintain the real purchasing power of those receiving aid. This same decline in real purchasing power faced all households whose income from any source had risen less than 30 percent during the 1973 to 1976 period. Clearly, the low-income and elderly households, many of whom are on fixed incomes, are most seriously affected.

On a national aggregate level, reduction in household energy consumption through conservation has been somewhat successful in helping people live with higher energy prices. Northeast fuel oil dealers estimate that the response by homeowners to the first wave of price increases in 1973–1974 was a 15 percent average reduction in the use of home heating oil.[16]

However, this tactic for reducing the amount of income spent on energy has not and will not work well for the poor. Simply put, evidence is ample that the poor generally are already conserving as much as they are able—more, in fact, than could be regarded as healthy. As Table V shows, low-income households use 54.0 percent less electricity and 24.1 percent less natural gas than the average U.S. household. Thus, the average low-income family subsist on lower amounts of energy than the average American, and has already conserved to the point of endangering health.

Conservation methods involving the upgrading of the quality of the housing unit are, by and large, out of the financial reach of the low-income family. While many poor would stand to gain through conservation resulting from the upgrading of their homes—as the dwellings tend to be highly inefficient in per-Btu utilization of energy—the cash is simply not available to them.

Unlike most middle and upper-income families, the cash flow of the low-income family is not flexible enough to meet crisis situations. The large cash outlays needed for weatherization would be available only by foregoing expenditures on such pressing necessities as food or clothing.

Further, due to low credit ratings, or in some cases because their homes are in an allegedly "redlined" neighborhood, low-income households' access to "home improvement" loans is severely limited. Further, since a higher proportion of low-income families rent, rather than own, their homes, there is little incentive to make improvements in which they would have no equity.

To compound the problem, landlords renting units to low-income families often keep their units in poor repair and are reluctant to make improvements. Clearly, low-income families are already financially constrained to be thrifty in their energy use. This thriftiness is an illustration of the fact that low-income families have little or no scope for further reduction of energy use.

Substitutability is the dynamic economic factor which sets energy-caused income problems apart from other price and inflation-related income problems affecting the poor.

Substitution is the avenue that a consumer has open to offset the effect of an increase in price for a given good or service in the marketplace. If a good increases in price to the point that consumers cannot afford sufficient quantities of that good, they will substitute for it a different, cheaper good of the same general type. In most necessity items, substitution is a practical possibility. In food and clothing there are many alternative goods which consumers may substitute for a single good that they can no longer afford—for instance, there has been a dramatic rise in the purchase by consumers of non-name brand food products in the last five years of spiralling prices.

But in energy, substitution, particularly in the short term, is a practical impossibility. Current options available to the greatest number of low-income people for provision of household energy are limited to three: oil, gas, and electricity.

Capital costs of substitution among the three options are so prohibitively high that substitution has been proven to take place only over the very long-term—only with changes in the housing stock itself. Thus, low-income consumers do not have the practical option of substituting a different form of energy for their present source as their bills climb even higher. (Clearly, efforts should be made to utilize alternative sources where practical—such as solar, etc.).

Thus, energy, of all goods and services consumed by low-income households, presents a unique threat to the poor's well being. They are in a worse overall position to fight high energy prices than they were before the beginning of the oil price spiral in 1972. They are incapable, generally, of reducing their costs through reductions in consumption. And they have no other available option to continued consumption—there is no practical substitution possible that would provide cheaper energy sources. The unique nature of this hardship demands direct action to meet the goals of National Energy Plan I (NEP I). It is incumbent upon the government to institute a plan of assistance to ease the hardship caused the poor by high energy prices.

III. ELIGIBLE POPULATION AND PROGRAM SIZE

The Committee determined that households at or below 125 percent of poverty should be eligible for energy assistance. At 1978 levels, the income of a family of four (4) at 125 percent of poverty was $7,750 per year. It was recognized that households at somewhat higher income levels were also in need of aid. However, given the probability of financial constraints being placed on the program, broader coverage was deemed impractical.

The only exception to the 125 percent eligibility criterion recommended by the Committee was the inclusion of elderly households with incomes up to 150 percent of poverty. Given the special needs of the elderly poor, the fixed nature of their income and their usually small household size, the Committee recommended that income eligibility levels be set at 150 percent of poverty.

Using the above income eligibility criteria, there would be approximately 16.2 million households initially eligible for assistance. Of these 16.2 million, almost 7.2 million households (44%) are headed by persons 60 or older.

This group of households represents those who have been most affected by increased energy costs. This is the sector for which calculations have been presented which show a loss of purchasing power due to higher energy prices of over $4 billion dollars in 1978 alone. To fully redress the situation would be impossible. Death and suffering are not easily forgotten with the mere reimbursement of funds. However, an energy assistance program could help alleviate the dilemma confronting low-income people.

IV. PROGRAM MODEL

A. Program criteria

Once an income ceiling was placed on an eligibility, policy judgments, as well as fiscal considerations, concerning the nature and extent of program coverage were required.

After lengthy discussion, the following criteria were developed by the Committee to judge a variety of program options:

1. Equity: Benefits should vary directly with need. The subsidy should take into consideration climate, type of fuel, household size and household income. The program should include the concepts of horizontal and vertical equity—benefits should be distributed on the basis of need both within specific income groups and across different income groups. For example, horizontal equity should result in equal treatment of low-income urban and rural recipients.

2. Conservation: The provision of benefits should seek to encourage the conservation of energy, preferably directly, but at least indirectly.

3. Efficiency of Administration: Within the requirements of adequate fiscal controls, program integrity, and responsiveness to clients, administrative costs should be held to a minimum while helping the broadest range of eligible persons.

4. Provision of Energy Assistance Prior to Severe Crisis: Benefits should be provided in a form that reduces initial client payments and removes financial burdens from vendors, i.e. "front-end assistance," should be available.

5. Adequacy: The program design should offer benefits which are significant and outweigh the costs of the program. The program should also have the flexibility to be responsive to market charges.

The Committee examined several possible forms which a low-income energy Assistance Program could take. In evaluation, two aspects of any possible system were appraised:

1. The type of program which would satisfy objectives 1, 2, and 5 above.

2. The delivery system for the program, which, when implemented, would best satisfy objectives 3, and 4 above.

(A summary of the positive and negative aspects of the types of programs examined, as well as a brief description of each program type is contained in Appendix A.)

B. Income indexing program design

The type of program which the Committee recommends to provide assistance to low-income persons is income indexing. The Committee felt that a program based on needed energy and cost for such energy, less an acceptable percentage of energy expenditures which would be required of the household, could meet the needs of low income persons in the most equitable fashion.

An income eligible household would receive program assistance if the generic total cost of needed home energy exceeded a certain percentage of household income. See Appendix D for a brief description of the recommended formula).

The amount of assistance would be based on needed energy and the cost of such energy. Regional differences would be taken into account in the formula through inclusion of degree days and regional costs of energy. Those households in regions which had higher degree days for heating or cooling and had higher prices for energy would receive proportionately more assistance.

The "percentage of income" criterion could take two distinct forms. First, the standard "percentage of income" could be fixed. An eligible household would receive assistance for energy costs which exceed a certain fixed percentage of income. For example, if a

---

Footnotes at end of article.

household had an income of $5,000 annually, it would receive assistance for needed energy costs which exceed $500.00 (10 percent of the household income). For reasons of equity and ease of administration, the Committee favored this approach.

However, a sliding "percentage of income" scale could be utilized to possibly expand program coverage. For example, a household earning $3,000 a year could perhaps only be expected to spend three percent of its income on home energy use to be eligible for the assistance program, while the minimum home energy expenditure of a family earnig $7,000 might be set at 11 percent of income for qualification. With a sliding "percentage of income" scale, assistance would vary inversely with the income and thus would provide greater assistance to eligible households with lower incomes than the fixed percentage approach.

The income-indexing system is best equipped to satisfy the Committee's belief that eligibility and amount of assistance should be derived from both energy needs and income level. Income indexing ties these two parameters together more closely than any other available program option and best meets program criteria 1, 2, and 5 above.

C. Subsidy disbursement

The delivery system for the subsidy that the Committee believes best satisfies criteria 3 and 4 is the vendor line of credit with credit flowing through the individual's primary energy suppliers. In this system, once program eligibility is determined and a client selects his/her vendor(s), actual payment of subsidy is a matter between the selected vendor and the government. Administrative costs are greatly reduced by this system in comparison to one which must process payments to each individual recipient on a regular basis. Further, for the dealer, costs are reduced as cash flow problems are minimized. The vendor is not constrained in peak season purchasing decisions by delays of government reimbursement. Rather, the vendor is provided a predetermined amount of payment for such energy delivered against which bills sent to the recipient are reduced.

Several options exist for the disbursement of the subsidy. First, the line of credit could be established in such a way that a monthly subsidy would be made to vendor(s) chosen by the client. The subsidy amount would be in proportion to energy usage in each month in the heating/cooling season.

Second, the line of credit could be provided to the vendors on a quarterly or an annual basis. The drawdown rate would be determined by the client's usage and the amount by which bills have been reduced through the guaranteed government subsidy.

Generally, regardless of what variation of subsidy disbursement is utilized, there is an increased likelihood that delivery practices for low-income households will be regularized in such a way that costs for all parties concerned will be reduced. Indeed, an incentive may exist for the vendor to encourage low-income households to standardize their purchasing and payment practices because of the attractiveness of possible cost savings.

In these ways the low-income household may find itself, for the first time, able to take advantage of financing practices usually available only to most other Americans.

The Committee includes with its recommendation of the above form of subsidy disbursement, a recommendation that those vendors who participate in the program be required to abide by a termination policy and procedure which should be detailed in the program legislation and guidelines which are established for this assistance program.

D. Coverage of households in which energy costs are included in rent

The Committee realized that some special provisions had to be made for the approximately 4,000,000 low income households whose fuel and/or utility costs are included in their rental payment.

Such renters are not responsible for direct payment of energy bills—rather, the property owner pays these bills from the rental payment. This category of renter would be bypassed by an energy-subsidy delivery system which provides a subsidy directly through the individual's principal fuel supplier. Thus, a method had to be developed to include eligible renters in the energy assistance program.

A variety of alternatives were considered to assist renters whose energy bills are included in their rent. Cash payments were rejected as being too difficult to monitor and not tied directly to energy costs. Provision of fuel stamps in lieu of subsidy was determined to be too administratively cumbersome.

The use of vouchers to apply as part of the rent and to be redeemed by the landlord at the landlords' energy supplier appeared to be the best approach to assist renters whose energy costs were included in their rent. On the basis of needed energy, each household would be allocated a certain amount in a fuel voucher. These vouchers would be submitted along with the remainder of the rent due for given periods. The landlord would receive the voucher in lieu of part of the rent payment. The landlord could then redeem these vouchers with his or her energy supplier.[17]

For example, a household would be allocated a certain amount for needed energy, e.g. $40.00 for a winter month. This voucher would be included as partial payment of rent, e.g. if the rent in the above case were $200.00, the household would submit a check for $160.00 and include the voucher for $40.00 to cover total rental costs. The landlord would then redeem the voucher at his/her fuel provided for the energy costs which were included at the building.

Another alternative is also possible:

1. The renter establishes an account at the landlords energy supplier;
2. The amount of subsidy would be taken directly from the bill which the vendor provides the landlord;
3. The renter would pay the difference between the total rent and the amount provided by the subsidy.

In this way, front end assistance would be provided for the entire program and payment mechanism would be constant. However, this approach would be administratively complex. The renter would have to negotiate with the fuel supplier to establish a subsidy amount.

A specific agreement would have to be worked out between the landlord and renter to assure that the amount would indeed be deducted from the rent owed by the tenant.

In either approach, renters could receive assistance; the landlord could use the vouchers for reimbursement of his/her energy expenses or have an energy bill reduction. The vendor would be able to assist low-income renters with basically the same program design as used for eligible households who pay their own energy expenses directly.

E. Conservation incentives

The program is designed to provide ongoing assistance, and at the same time, to offer incentives and opportunities for conservation.

A variety of conservation incentives are built directly into the method of providing assistance.

Assistance will be provided only for needed energy.[18]

In almost all cases, the household will be required, on a monthly basis, to pay for energy beyond the subsidy amount. Conserving energy will reduce the amount which the household would pay.

By utilizing conservation approaches which reduce energy usage below the established norm, the household is able to utilize its income for other purposes.

In addition, the overall program design calls for the inclusion of a broad range of energy conservation assistance. Energy audits, weatherization, energy education, and appropriate technology services to low-income households served by the energy assistance program are integral elements of the total approach. A systematic approach to the energy problems and needs of low-income persons requires such integration of conservation services with the provision of assistance in paying for needed energy.

The local administering agency would be responsible for coordinating provision of energy assistance with other local energy conservation programs. When clients are declared eligible for energy assistance, they would simultaneously be enrolled in a range of energy conservation programs. Energy audits would be implemented in homes in which assistance is provided. Whenever possible, weatherization would be performed in those households which receive assistance. Clients would also be enrolled in conservation education programs. Such programs would provide information, skills and motivational techniques which would assist low-income households to implement conservation practices. Appropriate technology information would be shared, and assistance would be provided to implement such alternatives.

It should be recognized that this program will indeed result in expansion in the recipient's purchasing power (the "income effect" produced by any income transfer program), but it is the Committee's belief that the income effect produced by the program will be small enough that there is no possibility that the program will cause excessive use of energy. This belief is based upon several factors. First, there is ample evidence that low-income household's present utilizations of energy often is lower than is safe or healthy. There are many deaths each year attributed to inadequate home heating or cooling. Second, it is evident that the income elasticity for home energy over the relevant range of income is low. Third, the proposed amount of the subsidy is not at levels to make substantial differences in the family's consumption habits for any commodity or service.

The net projection, therefore, is that this program may provide many low-income families the opportunity for the first time since 1972, to experience energy consumption at minimum humane levels—levels thought reasonable and proper for all other members of our society.

In summary, conservation is viewed as an integral part of the overall program and will be encouraged to the largest extent possible. Most importantly, the incentives for conservation clearly relate to the households' ability to have income available for other purposes. Savings through conservation will accrue to the household and the net impact on increased energy use through provision of subsidy will be minimal.

Not only will the program design provide an incentive for conservation, but by making energy payment assistance part of a comprehensive Energy Conservation program, it assures that the poor will have both opportunities and incentives to conserve.

F. Program administration

Three agencies appear to offer certain strengths in terms of program administration at the Federal level.

Footnotes at end of article.

The Community Services Administration is one alternative. Its experience in energy, its mandate to serve as a demonstration agency, its Community Action Agency network, and its established relationship to nonwelfare poor are basic strengths of this agency.

The Department of Housing and Urban Development (HUD) also has several strengths. HUD's delivery system has access to all regions of the country and some established ties to rural as well as urban areas. HUD's principle responsibility is housing, and it has considerable experience in programs related to low-income needs and shelter.

The Social Security Administration (SSA) has strong experience with income transfer programs and with the elderly, who comprise approximately 44 percent of the eligible population. Further, SSA has a wide scope in terms of outreach to potential recipients. SSA offices are numerous and its penetration into urban and rural areas is the most thorough of the agencies considered.

The administration of the program on a local level would necessarily include at least the following functions:

1. Determination of individual household income eligibility.
2. Establishment of the amount of subsidy to which each eligible household would be entitled.
3. Authorization of vendor to establish a "line of credit" for subsidy.
4. Execution of public information and outreach efforts.
5. Monitoring to prevent system abuses.
6. Provision of energy conservation counseling and service integration with other energy assistance agencies. (Example: weatherization, energy audit, etc.).

V. PROGRAM COST ESTIMATE

To arrive at an estimate of cost for this type of program, the Committee decided to limit eligibility to those families at or below 125 percent of poverty level who currently spend more than 10 percent of their annual household income on energy and also included elderly households whose incomes were at or below 150 percent of poverty. While additional detailed research is required, the cost of a program with these eligibility requirements is estimated to lie between three and four billion dollars annually.

A preliminary analysis of total program cost was carried out using the following formulas on a state by state basis.[19] These state totals were then added to obtain a national figure.

No. 2 Fuel Oil:

(400 x .119 (deg. days) x fuel cost—$310 (Number of households).

Natural Gas:

(47,000 x 15.5 (deg. days) x fuel cost—$310 (Number of households).

Electricity:

The total cost of electricity used was calculated using the average use figure for low-income families in "The Energy Crisis and Low-Income Americans, by Eunice Grier (1977) and the September, 1978, per kwh cost of electricity (MER. January, 1979).

While it is clear that there are great differences in regional costs and usage which should be taken into account, specific use data for low-income households is scarce. It is hoped that while regional differences need to be addressed to include cooling needs, the aggregate average will suffice as a rough estimate of total use of energy, including use for cooling. Based upon the calculation above and in Appendix B, total home heating/cooling program cost was estimated at between 2.5 and 3.0 billion dollars.

Inclusion of other household energy costs would result in the addition of approximately 33 percent of total assistance costs. Thus, if all household energy costs are included, the total costs of the program would lie between three billion and four billion dollars. If it is assumed that the administrative cost runs 10 percent to total budget, then projected program costs range from $4.3 billion, assuming a 100 percent rate of participation, to $3.2 billion at a participation rate of 75 percent, utilizing the subsidization level contemplated above.

Clearly, estimated costs will vary greatly if different final eligibility criteria and level of subsidization are selected, and a different rate of participation is assumed.

VI. PROGRAM FINANCING

A variety of options for financing the program were studied by the Committee. After careful consideration, the Committee rejected the following three options as being inequitable, legally and politically unsound, and incapable of generating the broad base of support necessary to ensure the program's success:

Utilizing the rebates from refiners to the DOE resulting from prosecution for refiner overcharges.

Utilizing the crude oil import tariff.

Utilizing a crude oil equalization tax.

The following options were considered much more acceptable:

Direct funding from the Federal Treasury. (The Committee felt this to be the most equitable option.)

Funding from the imposition of a value added, "Per-Btu" tax on all forms of energy.

Utilization of a portion of existing Federal gasoline tax. (It is probable that utilization of only 2 cents of the existing tax would yield full program funding.)

Utilization of the increased tax revenue which will result from decontrol.

The Committee recommended exploring the latter four options in detail, while seeking out further detailed information regarding all possible methods for program funding.

FOOTNOTES

[1] Bureau of Labor Statistics.

[8] Anthony J. Maggiore, Jr., testimony to Subcommittee on Housing and Consumer Interests of the U.S., House Select Committee on Aging, September 26, 1978, p. 3.

[9] John O'Leary, testimony before the Senate Select Committee on Aging, April 7, 1977, p. 2.

[10] The National Energy Plan, Executive Office of the President, Energy Policy and Planning, April 29, 1977, p. 29.

[11] Ibid., p. 28.

[12] Eunice and George Grier, "The New England Energy Consumer," January, 1979. p. 28.

[13] Testimony, Anthony Maggiore, Fuel Oil Evidentiary Hearing.

[14] Ibid.

[15] Social Security Bulletin, April 1977, Dept. of HEW, Social Security Administration.

[16] Transcript, Case #DEH-0058, DOE Office of Hearings and Appeals, August 1978.

[17] A variety of voucher systems could be established. The renter could have a voucher redeemable at a particular vendor. General vouchers could be used which the renter would sign and could be redeemed by any vendor.

[18] It was recognized that unusually severe weather as well as other factors will, at times, result in additional justified need. In these cases, a crisis intervention program similar to the one operated by the Community Services Administration should be utilized. The Committee strongly recommends the continuation of a crisis program at a $40–$50 million level.

[19] The following is a brief explanation of the formulas. (400+.119 degree days) and (47,000+15.5 degree days) are taken from the INGAA formulas for average fuel oil and gas use, respectively; $310 equals 10 percent of the median income for poverty households.

APPENDIX A: PROGRAM DESIGN OPTIONS

	ENERGY STAMPS	INCOME INDEXING	INCOME INDEXING WITH PERCENT PAYMENT
Basic program	On the basis of income eligibility persons would be able to purchase or receive stamps redeemable for fuel or utility expenses at authorized vendors. Stamps could be free or purchase requirements based on income could be established.	Once a household has spent 10% of its income on energy, the household's remaining costs for energy would be paid through the household's energy vendor.	Same as income indexing with percent amount of government subsidy varying with energy use and income.
Some possible advantages	Similar to food stamps. Only income criterion needed, which simplifies administration.	Both income and energy use are used as criteria for eligibility. Households must use their own income first before payments are made.	Both income and energy use are used as criteria. Household makes first payments, then continues to pay.
Some possible disadvantages	Receipt of stamps is not tied to energy use. If there is payment for stamps there would be an increased burden on income of poor.	No upper limits are placed on energy expenses reimbursed which could encourage unnecessary usage. Administration complex.	Local administration is required and is complex. No ceiling is placed on usage.
Conservation Incentives	May occur if recipients must pay for a portion of the stamps.		Indirect incentives.

	ENERGY ENTITLEMENT	PER CAPITA/HOUSEHOLD FORMULA GRANT	DEALER CREDIT
Basic program	A household is guaranteed a set amount of energy. The household pays for the first 10% of its energy. Remainder of cost, up to set energy amount is paid to an energy vendor.	Each eligible household would receive a grant of money, to cover additional costs due to energy expense increase.	Using a formula incorporating income criterion, each dealer would send to the administrating agency an invoice for energy delivered over set amount.
Some possible advantages	Standard energy use as well as energy costs and income are used as criteria. Upper limits are placed on expenditure by set energy amount.	Ease of administration e.g., using Welfare Department.	Income and energy costs are included as criteria. Minimal local government administration would be involved. After certification, transactions would flow between funding source, dealer, and client.
Some possible disadvantages	Government required to set standard energy amount. Administration is complex.	Allocation is tied to income, not to energy. In addition the money need not be spent on energy.	Financial and Administrative strain could be placed on fuel dealers.
Conservation Incentives	Indirect incentives.	Indirectly, through income limits.	

	TAX CREDIT	"INDIANA" PLAN	HEW PROJECT FUEL
Basic program	Each low income person would receive a cash tax credit for all energy bills over a certain ceiling, e.g. 10% of income.	Senior citizens in poverty are provided a credit, not to exceed $200, for electricity and heating fuel. The credit is deducted from their bill prior to the bill being sent. The vendor deducts the credit amount from his state sales tax deposit.	In emergency or crisis situations, local administering agencies would provide assistance within broad federal guidelines. The amount of assistance would be paid in cash and tied to need.
Some possible advantages	Energy use and Income are used as criteria. Only one central agency is required for processing.	Clients receive bill deductions. Vendor receives payment immediately. Administration is simple. Energy tax is used for energy cost.	Tied to local need and circumstance. Allows for broad administrative discretion at the local level.
Some possible disadvantages	Low-income persons cash flow does not allow rebate process. Complex accounting for client required. Many low-income persons do not file taxes. Cost of auditing returns would increase. Local staff would have to assist clients in tax preparation.	Payments are extremely limited. Not all states have sales tax. Total burden is on the state.	Cash payment not clearly tied to fuel. Assistance is not provided until serious crisis occurs. There is no provision for ongoing assistance.
Conservation Incentives		Indirect incentive through providing limited assistance.	

	HEW UTILITY GRANT PROGRAM
Basic program	A subsidy would be paid to utility company or fuel vendor for a portion of the fuel cost of an eligible household. The amount of subsidy would vary inversely with the income of the eligible population.
Some possible advantages	Direct vendor payments are used.
Some possible disadvantages	No upper limit is placed on usage.

APPENDEX B

DATA USED IN COST CALCULATION

Federal region	Households below 125 percent of poverty[1] (thousands)	Average heating degree days[2]	Fuel prices		
			No. 2 heating oil (cents/gallon)	Natural[6] gas (cents/cubic foot)	Total[7] electric bill
1	655	6, 956	[8] 55. 1	0. 0041	$795. 65
2	1, 506	[3] 5, 703	[8] 54. 0	. 0034	795. 65
3	1, 443	4, 803	[8] 52. 8	. 0029	795. 65
4	3, 063	2, 797	[10] 47. 9	. 0024	795. 65
5	2, 470	6, 748	[8] 49. 8	. 0023	795. 65
6	1, 859	3, 011	[9] 50. 1	. 0019	795. 65
7	755	5, 640	[10] 45. 9	. 0019	795. 65
8	378	7, 797	[10] 46. 3	. 0018	795. 65
9	1, 644	[4] 3, 125	[10] 45. 9	. 0023	795. 65
10	434	[5] 7, 321	[10] 48. 3	. 0029	795. 65

[1] From 1975 ESEA Special Poverty Census.

[2] Source: For each State this involves weighting the heating degree day totals for several intra-State geographical divisions by the percent of the State population residing in each division. Figures used here are averages over the period 1931 to 1973.

[3] Excludes Puerto Rico and Virgin Islands.

[4] Excludes Hawaii and trusts.

[5] High due to influence of Alaska.

[6] Averaged from State figures. Source: "Gas Facts", 1977 American Gas Association.

[7] For average low-income households. This gross estimate was derived from the everage consumption of electricity for a low income family in 1975 (Grier, 1977), and the average cost per kilowatt hour for September 1978 (DOE, MER, January 1979).

[8] Price derived from DOE telephone survey of Jan. 2-6, 1979. The figures for regions I and II were averaged from the fuel oil prices for all the States in the region; for region III the figure is based on the State of Pennsylvania; and the region IV figure is based on the average of 6 States within the region.

[9] Price taken from "Residential Heating Oil Prices By Region," MER, November 1978.

[10] National average of heating oil prices for October 1978, DOE, MER, January 1979.

APPENDIX C

GENERIC TOTAL HOME ENERGY COST

A generic total home energy cost would be used with the income level to determine eligibility, and the amount of assistance. The cost formula would be simple, yet take into account regional differences through climate, fuel used and fuel prices. The formula would also take into account the size of the dwelling. For example, it has been estimated that the amount of fuel oil required to heat a 5–6 room house equals, in gallons, $400+(.119 \times \text{heating degree days})$. The number of gallons obtained through this formula would be multiplied by cost per gallon to provide a dollar amount for heating costs.

APPENDIX D

AMOUNT OF ASSISTANCE

Regardless of the delivery system, assistance would be provided to each eligible household for a given heating or cooling season according to a simple formula:

Amount of assistance = (needed energy × cost of such energy) × percent of household income.

The generic total (needed energy × cost) would be the figure calculated to determine, in conjunction with income, program eligibility. This total cost figure would be reduced by a percent of income to determine subsidy amount. If a fixed percent were used, the generic energy cost would be reduced by that specific percent to reach the subsidy figure. If a sliding "percent of income" scale is implemented, the generic energy cost would be reduced by the appropriate percent for differing income levels.

APPENDIX E

STATEMENTS AND WRITTEN PAPERS PRESENTED TO THE FUEL OIL MARKETING ADVISORY COMMITTEE (FOMAC) RE: LOW-INCOME ASSISTANCE PROGRAM

The following is a listing of statements and written comments presented to FOMAC re: a proposed Low-Income Assistance Program.

Statements and papers provided to the Committee in the order of receipt as of 5/31/79, are as follows:

1. Opening remarks of Honorable Larry Young—Chairman of the FOMAC Forum—April 10, 1979—Representative of the State of Maryland—Director, Joint Center for Urban Environmental Studies, Washington, D.C.
2. Deputy Secretary John O'Leary, U.S. Department of Energy.
3. Senator Edward M. Kennedy, State of Massachusetts.
4. Congressman Toby Moffett, State of Connecticut.
5. Congressman Edward J. Markey, State of Massachusetts.
6. William R. Hutton, Executive Director, National Council of Senior Citizens and Secretary-Treasurer, Citizens/Labor Energy Coalition.
7. Frank Welch, State of Maryland Office of Economic Opportunity.
8. David Lukas, Member, Georgia State Legislature.
9. Robert McDongall—National Conference of State Legislatures.
10. Frank Hodgdon—American Gas Association.
11. Robert Greenes—Public Fuel Service, New York, New York—FOMAC Member.
12. Robert Fortes, Member, Massachusetts State Legislature.
13. Stephen Schachman, Philadelphia Gas Works, Philadelphia, Pennsylvania.
14. James Feldesman, Counsel, Consumer Energy Council of America, Washington, D.C.
15. Dennis Eckhardt, Member, Ohio State Legislature.
16. Martin Garber, American Petroleum Institute.
17. Clark Watson, Chairman, American Association of Blacks in Energy.
18. John Buckley, Vice-President, Northeast Petroleum FOMAC Member.
19. Governor Ella Grasso—State of Connecticut.
20. Phillip H. Gillespie—National Community Action Directors Association, Washington, D.C.
21. Allen Davis—National Consumer Law Center—Boston, Massachusetts.
22. Carol Allen—New Jersey Energy Advocacy Project, Trenton, New Jersey.
23. Jane Jachinczyk—National Oil Jobbers Council, Washington, D.C.
24. Larry Martinez—Community Affairs Division, State of New Mexico.
25. James G. Miller—Wisconsin Power and Light Company.
26. Chuck Clinton, Office of the Mayor, Washington, D.C.
27. Lieutenant Governor Thomas P. O'Neill III—State of Massachusetts.
28. Congressman Henry S. Reuss, State of Wisconsin.
29. Ottavio Manco, Multi-Country Commuduty Development Corporation, Highland, New York.
30. Henry W. Maier, Mayor, City of Milwaukee, Wisconsin.

31. George Sterzinger, New England Regional Energy Project—Burlington, Vermont.
32. Russell G. Murray, Research Institute, Legal Services Corporation—Washington, D.C.
33. Greg Glass, Florida Association of Community Action Agencies, Tallahassee, Florida.
34. John Harder, Kauai Economic Opportunity, Inc., Lihue, Kauai, Hawaii.
35. Mark Sachs, Community Action Programs Executive Directors Association of New Jersey, Inc., Trenton, New Jersey.
36. J. C. Halbrooks—Sterling, Connecticut.
37. Senator Mike Gravel, State of Alaska.
38. Pat Stewart, Kentucky Association of Community Action Agencies.
39. Congressman Clement J. Zablocki, State of Wisconsin.
40. Ben E. Johnson, President of the Common Council, Milwaukee, Wisconsin.
41. Gerald Miller, State Department of Management and Budget, Lansing, Michigan.
42. Phil Smith, Rural Alaska Community Action Program, Inc., Anchorage, Alaska.
43. Senator William Proxmire, State of Wisconsin.
44. Bruce Ratner, Commissioner—Department of Consumer Affairs, New York, New York.

FUEL OIL MARKETING ADVISORY COMMITTEE

Committee member, firm, and location:

Joseph R. Albers, 5556 Vine Street, Cincinnati, OH 45217, 513-242-5300, Este Oil Company, North Central.

Ellen Berman, 1990 M Street, NW., Washington, D.C. 20036, 202-659-0404, Executive Director, Consumer Energy Council of America, Mid-Atlantic.

Sid Berson, 50 Harvard Street, New Britain, CT 06051, 203-223-2717, Energy Unlimited, Inc., New England.

Vern Birrenkott, Rural Route, Lemmon, SD 57638, 605-374-3612, Birrenkott Oil Co., North Plains.

Charles Burkhardt, 20 Summer Street, Watertown, MA 02172, 617-924-1000, Executive Vice Pres. & Treasurer; New England Fuel Institute, New England.

Dr. Chas. J. Cicchetti, Hill Farms State Office Building, 4802 Sheboygan Ave., Madison, WI 53702, 608-266-1242, Chairman, Public Service Commission, North Central.

Robert DeBlois, Colfax Street, Pawtucket, RI 02860, 401-722-8000, DeBlois Oil Co., New England.

Robert W. Fawcett, Tyler Court, Cambridge, MA 02140, 617-547-2360, Fawcett Services, Inc., New England.

Rod Flannery, 318 E. Main Street, Wessington Springs, SD, 57382 605-539-1300, Flannery Oil Co., North Plains.

Robert B. Greenes, 357 E. 116th St., New York, NY 10029, 212-722-3000, Public Fuel Service, East Coast.

Ken Guscott, Prudential Center, Boston, MA 02199, 617-267-9260, Ken Guscott & Assoc., New England.

Charles Jacobus, 700 W. State St., Milwaukee, WI 53213, 414-258-7700, Quick Flash Fuel Co., North Central.

John Kaneb, 295 Eastern Avenue, Chelsea, MA 02150, 617-884-7570, Northeast Petroleum, Ind., New England.

William F. Kenny, Jr., 44 E. 23rd Street, New York, NY 10010, 212-254-1111, Meenan Oil Co., Inc., East Coast.

Henry Lee, 79 Boylston Street, Cambridge, MA 02138, 617-495-1350, Research Program Coordinator for Energy and Environmental Policy Center, New England.

Robert P. McGinley, 15 Mt. Joy St., Mt. Joy, PA 17552, 717-653-1411, The SICO Company, Mid-Atlantic.

Tony Maggiore, 161 W. Wisconsin Avenue, Milwaukee, WI 53203, 414-272-5600, Assoc. Dir., Community Relation & Social Development Commission, North Central.

Louis G. Reames, Camden, S.C. 29020, 803-432-6106, Camden Gas & Oil, Inc., Southeast.

George Romanoff, 1741 4th Ave. South, Seattle, WA 98134, 206-622-6050, Cascade Fuel Oil Co., Inc., West Coast.

Robert W. Schrimpf, P.O. Box 484, Alton, IL 62002, 618-254-7341, Piasa Motor Fuel, North Central.

Jake J. Simmons, 1185 Avenue of the Americas, New York, NY 10036, 201-636-3000, Amerada Hess Corp., East Coast.

John B. Wade, 533 S. 5th Street, Elizabeth, NJ 07296, 201-248-3300, The Fairlie & Wilson Company, East Coast.

Byron S. Weil, 300 W. Washington St., Chicago, IL 60606, 312-726-9606, Oils, Inc., North-Central.

Larry Young, 1012 14th Street, N.W., Suite 906, Washington, D.C. 20005, 202-347-6020, Director, Joint Center for Urban Environmental Studies, State Legislator (Maryland), Mid-Atlantic.

BIBLIOGRAPHY

Publications

Baldwin, F. P. and Kinney, L. F. *Weatherization Program in Region III. A Management Study. Final Report.* NTIS PC All/MF AOL. Syracuse, N.Y.: Syracuse Research Corp., Dec. 1976.

Baroni, Fr. Geno, Assistant Secretary of HUD for Neighborhoods, Voluntary Associations, and Consumer Protection, "Energy and Urban Policies/Programs," DOE Office of Consumer Affairs, Washington, D.C., 1978.

Barth, Michael C.; Mills, Gregory; and Seagrave, Charles. *The Impact of Rising Energy Prices on the Low-Income Population: An Analysis of the Home-Heating Problem and Policy Alternatives.* Technical Analysis Paper 3. Washington: Office of the Assistant Secretary for Planning and Evaluation, Department of Health, Education, and Welfare, March 1975.

Bendick, Campbell et al, "Final Interim Report The Special Crisis Intervention Program." The Urban Institute, CSA Grant 31607.

Berman, M. B.; et al. *The Effect of Electricity Price Increases on Income Groups: Western United States and California.* R-1050 NSF/CSA. Santa Monica, CA: The Rand Corp., 1972.

Berman, M. B., and Hammer, M. J. *The Impact of Electricity Price Increases on Income Groups: A Case Study for Los Angeles.* R-1102-NSF/CSA. Santa Monica, CA.: The Rand Corp., 1973.

Bloom, Martin, et al. *The Effect of Rising Energy Prices on the Low and Moderate Income Elderly.* Washington: Federal Energy Administration, March 1975.

Bolling, Royal, Jr., Massachusetts State Representative, "Energy and Urban Policies/Programs." DOE Office of Consumer Affairs, Washington, D.C. 20461, 1978.

Bossong, Ken. Citizen's Energy Project of the Center for Science in the Public Interest, selections from "Local Energy Action Program Survey." Washington, D.C., September, 1977.

Brannon, Gerald M. "The Income Distribution Effects of Energy Policy" *Ford Foundation Energy Policy Project Report: Energy Taxes and Subsidies*, 1974.

Brazzel, Hewlett, et al., A distributional Analysis of the 1985 Energy Projections for *The Annual Report* To Congress of the Energy Information Administration." Analyses Memorandum AM/IA/78-09, Department of Energy, June, 1978.

Davie, Bruce F. and Duncomke. Bruce F. (Georgetown Univ.), "Income Distribution Aspects of Energy Policy *Ford Foundation Energy Policy Project: Studies in Energy Tax Policy*, 1975.

Frankena, Frederick. *Energy and the Poor: An Annotated Bibliography of Social Research.* Exchange Bibliograph 1307. Monticello, Ill.: Council of Planning Librarians, July 1977.

Goedert, Jeanne E. and Goodman, Jack L., Jr., *Indicators of the Quality of U.S. Housing*. Paper 249–2. Washington: The Urban Institute, September 1977.

Grier, Eunice S. and Greer, George. "High Fuel Oil Sales: The Impact on Low-Income Households. A report to the CSA," The Grier Partnership, Aug. 1978.

Grier, Eunice S. *The Energy Crisis and Low-Income Americans: An Analysis of Impact and Options*. Washington: The Washington Center for Metropolitan Studies, June 1977.

Hampton, John (National Tenants Organization) "Poverty and Power", *Equilibrium*, July 1974, Vol. 2, No. 3.

Herendeen, Robert A. "Affluence and Energy Demand", *Mechanical Engineering*, October 1974: 18–22.

Herenden, Robert A. and Tanaka, Jerry. *Energy Cost of Living*. Document 171. Center for Advanced Computation, University of Illinois, 1975.

Hull, Everson W. "Implications of U.S. Energy Policy and a Vibrant Economy for Employment Opportunities of Black Americans," March, 1977.

Kelley, Tom. "The American Energy Consumer," *Ford Foundation Energy Policy Project Report: The American Energy Consumer, 1975.*

King, Jill A. *Impact of Energy Price Increases on Low-Income Families*. FEA/B–76/126. Washington: Federal Energy Administration, 1975.

Kinney, L. F. DeWitt, L. B., et al. *Weatherization Training: A Notebook for Weatherization Projects*. NTIS PC A08/MF AOYL, Contract OEO–30200/L/76/01. Syracuse, N.Y.: Syracuse Research Corp., Dec. 197.

Lockeretz, William. "Growth of Residential Consumption of Electricity: Distribution Among Households at Various Consumption Levels," *Land Economics*, May 1975: 149–157.

Newman, Dorothy K., and Day, Dawn (eds.). *Ford Foundation Energy Policy Project Report: The American Energy Consumer*. Washington: The Ford Foundation, 1975.

Pace, John P. (National Economic Research Association, New York City, "Lifeline rates: Will They Do The Job?" *Public Power*, Nov.–Dec. 1975, Vol. 33, No. 6.

Palmer, John L.; Todd, John E.; and Tuckman, Howard P. "The Distributional Impact of Higher Energy Prices: How Should the Federal Government Respond" *Public Policy* 24, Fall 1976: 545–568.

Richardson, Paul. "York Branch Study of Fuel Debts. *Poverty* 36 Spring 1977: 16–17.

Roach, Patricia M. Citizens Energy Project of the Center for Science in the Public Interest, Selections from "Local Energy Action Program Survey," Washington, D.C., Sept. 1977.

Robinson, Stuart N.; Clark, Roy E. Margulis, Stephen T.; and Turner, George E. "*Review of Existing Data on Energy Use in Residential Buildings*. Washington Center for Building Technology, National Bureau of Standards.

Saunders, R. B. II. "Social Impacts of National Energy Plans on Minority Communities," April 1978.

Schenider, Alvin (Syracuse University). "Blacks, Cities, and the Energy Crisis," *Urban Affairs Quarterly*, Sept. 1974, Vol. 10, No. 1.

Schlesinger, James, Secretary of Energy, "Energy and Urban Policies/Programs", DOE Office of Consumer Affairs, Washington, D.C., 1978.

Struyck, Raymond J. *The Housing Situation of Elderly Americans*. Paper 0001–3. Washington: The Urban Institute, November 1976.

Walker, Nolan E., and Draper, E. Linn. "The Effect of Electricity Price Increase on Residential Usage of Three Economic Groups," *Texas Nuclear Power Study Social-Demographic and Economic Effects*. Study No. 1, Vol. 5. Austin: Center for Energy Studies, University of Texas, 1975.

A Community Planning Guide to Weatherization, Sept. 1975, CSA.

"Analysis of the Proposed National Energy Plan," Pre-publication Draft, Office of Technology Assessment, Congress of the United States, Washington, D.C. June 1977, p. 8.

Annual Housing Survey: 1974, United States and Regions General Housing Characteristics. Part A. U.S. Dept. of Commerce—Bureau of the Census, U.S. Dept. of HUD—Office of Policy Development and Research.

Annual Housing Survey: 1974, U.S. and Regions, Financial Characteristics of the Housing Inventory. Part C U.S. Dept. of HUD—Bureau of the Census, U.S. Dept. of HUD—Office of Policy Research and Development.

"Energy and the Poor: An OTA Price Study. Design Alternatives, Inc.

"New Analysis Shows Dramatic 15 percent Inflation Rate for Basic Necessities in Second Quarter of 1978"—News Release from National Center for Economic Alternatives.

Preliminary Report for Public Review. New England Energy Congress, November 1978.

"Shares of Heating Fuels in U.S. Housing. Petroleum Industry Research Foundation, Inc., August, 1978.

The Effects of Rising Energy Prices on the Low and Moderate Income Elderly, March 1975. GPO: 041–018–00059–3.

"The Impact of Rising Energy Costs on Older Americans, Part 1," Senate Committee on Aging Hearings, 93 Con. 2, Sept. 24, 1974.

"The Impact of Rising Energy Costs on Older Americans, Part 2," Senate Committee Aging Hearings, 93 Con. 2, Sept. 25, 1974.

TESTIMONY

Hutchinson, John, Mayor of Charleston, West Virginia, Chairman of Energy and Environment Committee, U.S. Conference of Mayors, "Energy and the City," Washington, D.C. 1977: p. 289.

Keith, John P., President, Regional Plan Association, also at hearings published in "Energy and the City," Washington, D.C. 1977: p. 7.

Kelly, Richard, U.S. Congressman of Florida, also in "Energy and the City," Washington, D.C. 1977: p. 354.

Kennedy, Edward M., U.S. Senator of Massachusetts, "Opening Statement before the Subcommittee on Energy," Joint Economic Committee, U.S. Congress, March 16, 1978.

Maggiore, Anthony, J. Jr., "Energy Needs of the Elderly Poor" Testimonies to House Subcommittee of Housing and Consumer Interests 1978, Senate Committee on Aging, 1979.

O'Leary, John F., currently DOE Deputy Secretary, Testimony before the Committee on the Budget published in "Distributive Impacts of Proposed Changes in National Energy Policies." U.S. Government Printing Office (92–695–0), Washington, D.C. 1977: p. 6, 16.

O'Leary John F., at hearings before the Subcommittee on Energy of the Joint Economic Committee, Congress of the United States published in "The Impact of the President's Energy Plan on the Northeast," U.S. Government Printing Office, Washington, D.C. 1977: p. 14.

Roach, Patricia M., Member National League of Cities Task Force on Energy. Testimony at hearings before the Subcommittee on the City of the House Committee on Banking, Finance and Urban Affairs, September 16, 1977 published in "Energy and the City." U.S. Government Printing Office (98–452–0), Washington, D.C. 1977: p. 255–256.

SPEECHES AND PAPERS

Clements, A. C. (A. C. Clements & Assoc., Puerto Rico) "Self Sufficient Energy Integrated Design and Construction Method for Low Cost Self Help Housing Programs". Paper presented at ISES/SES of Canada Sharing the Sun Conf., Winnepeg, Aug. 15–20, 1976.

Cohen, Ruben, *Setting Equitable National Goals for Household Energy Conservation*. Paper presented at the Annual Meeting of the American Sociological Association, New York, August 1976.

Kauvant, William, "City Future—Energy Future, the Interrelationships Among Metropolitan Physical and Social Structure and Energy Supply and Use". Paper delivered at a symposium sponsored by the Energy Institute and the College of Social Sciences, University of Houston, June 1977.

Kennedy, Senator Edward M., "Restoring Competition to Energy". An address before the New England Broadcasters Association, January 9, 1979.

Newman, Dorothy K., and Wachtel, Dawn Day. *Energy, the Environment, and the Poor*. Paper presented to the Society for the Study of Social Problems, Montreal, August 1974.

Ohio Energy Credits Advisory Committee. *Alternatives to the Ohio Energy Credits Program*, March 1979 and draft copy of the *Energy Credits Advisory Committee's Report to the Ohio General Assembly*, March 1979. *Energy Assistance Programs and Pricing Policies in the Fifty States to Benefit Elderly, Disabled, or Low-Income Households*, March 1979.

Perlman, Robert, and Warren, Roland. *Effects of the Energy Crisis on Households of Different Income Groups*. Paper presented to the Annual Meeting of the Society for the Study of Social Problems, San Francisco 1975.

Perlman, Robert, and Warren, Roland. *Energy Savings by Households of Different Incomes in Three Metropolitan Areas*. Waltham, Mass.: Heller School for Advanced Studies in Social Welfare, Brandeis University 1975.

Smith, A. E., et al. (Univ. of Pennsylvania) "Solar Energy Application Considerations for Housing in Depressed Communities". Report presented at ISES/SES of Canada Sharing the Sun Conf., Winnepeg, Aug. 15–20, 1976.

DEPARTMENT OF STATE AUTHORIZATIONS, 1980—CONFERENCE REPORT

Mr. CHURCH. Mr. President, I submit a report of the committee of conference on H.R. 3363 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3363) to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency and the Board for International Broadcasting, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of July 31, 1979.)

Mr. CHURCH. Mr. President, I urge my colleagues to support the conference report on H.R. 3363, a bill authorizing appropriations for fiscal years 1980 and

1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting.

For fiscal year 1980, the conference substitute authorizes appropriations totaling $2,134,216,000, which is $9.7 million less than the bill which passed the House and only $4.5 million more than the executive branch request.

For fiscal year 1981, the conference substitute authorizes appropriations totaling $2,356,097,000, which is $13.2 million less than the bill which passed the House and only $7.9 million more than the executive branch request.

The increase in the executive branch request contained in the conference substitute is due largely to additional authorization for migration and refugee assistance for Soviet and Eastern European refugees migrating to Israel.

The total amount authorized in this conference report for fiscal year 1980 is essentially within the guidelines set for this purpose in the second concurrent resolution on the budget for fiscal year 1980.

The conference substitute contains specific authorizations totaling $1,619,752,000 for fiscal year 1980 and $1,803,366,000 for fiscal year 1981 for the Department of State; $432,547,000 for fiscal year 1980 and $465,944,000 for fiscal year 1981 for the International Communication Agency; and $81,917,000 for fiscal year 1980 and $86,787,000 for fiscal year 1981 for the Board for International Broadcasting.

The conference report also contains supplemental fiscal year 1979 authorizations of $104,910,000 for migration and refugee assistance.

Mr. President, in addition to the authorization of appropriations, the conference substitute retains various identical or modified policy and administrative provisions which were contained in either the Senate or House version of the bill.

I ask unanimous consent that the Statement of Managers be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3363) to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate to the text of the bill with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached in the committee of conference, and minor drafting and clarifying changes.

TABLE I.—BUDGET ISSUES: FISCAL YEAR 1980

[In thousands of dollars]

	Executive branch request	House bill	Senate amendment	Conference
Department of State:				
Administration of foreign affairs	849, 423	849, 423	849, 423	849, 423
International organizations and conferences	502, 945	502, 945	502, 945	502, 945
International commissions	26, 733	26, 733	26, 733	26, 733
Migration and refugee assistance	223, 951	[1] 248, 951	[1] 248, 951	[1] 248, 951
Science and technological agreements	7, 000	1, 400	1, 400	1, 400
Subtotal Department of State	1, 610, 052	1, 629, 452	[2] 1, 629, 452 (1, 610, 052)	[3] 1, 629, 452 (1, 619, 752)
International Communication Agency	432, 782	432, 547	426, 982	432, 547
Board for International Broadcasting	86, 917	81, 917	86, 917	81, 917
Total	2, 129, 751	2, 143, 916	2, 143, 351 (2, 123, 951)	2, 143, 916 (2, 134, 216)

[1] Includes an earmarking of $25,000,000 for Soviet and Eastern European refugees migrating to Israel.

[2] Despite the fact that the line items total $1,629,452,000 for fiscal year 1980, the Senate amendment required the Secretary of State to make cuts necessary to bring the authorization down to the administration's budget request. Accordingly, the Secretary of State was authorized to reduce the amount authorized to be appropriated for administrative purposes by $19,400,000 for fiscal year 1980.

[3] The conference substitute places an aggregate ceiling of $1,369,401 on the appropriations for fiscal year 1980 for the following accounts: Administration of foreign affairs, international organizations and conferences, and international commissions.

TABLE II.—BUDGET ISSUES: FISCAL YEAR 1981

[In thousands of dollars]

	Executive branch request	House bill	Senate amendment	Conference
Department of State:				
Administration of foreign affairs	1, 009, 815	1, 009, 815	[1] (1, 009, 815)	1, 009, 815
International organizations and conferences	525, 082	525, 082	(525, 082)	525, 082
International commissions	26, 081	26, 081	(26, 081)	26, 081
Migration and refugee assistance	229, 188	[2] 254, 188	[2] (254, 188)	[2] 254, 188
Science and technological agreements		1, 400	(1, 400)	1, 400
Subtotal, Department of State	1, 790, 166	1, 816, 566	(1, 816, 566)	[3] 1, 816, 566 (1, 803, 366)
International Communication Agency	466, 179	465, 944	(460, 379)	465, 944
Board for International Broadcasting	91, 787	86, 787	(91, 787)	86, 787
Total	2, 348, 132	2, 369, 297	(2, 368, 732)	2, 369, 297 (2, 356, 097)

[1] The figures in parentheses reflect the amounts authorized to be appropriated for fiscal year 1981 by the Senate amendment. However, according to sec. 407 of the Senate amendment, no funds are authorized by this act for fiscal year 1981.

[2] Includes an earmarking of $25,000,000 for Soviet and Eastern European refugees migrating to Israel.

[3] The conference substitute places an aggregate ceiling of $1,547,778 on the appropriations for fiscal year 1981 for the following accounts: Administration of foreign affairs, international organizations and conferences, and international commissions.

TITLE

The House bill contained a descriptive title encompassing both fiscal years 1980 and 1981. Short titles were provided for the separate titles of the bill.

The Senate amendment contained a descriptive title encompassing only fiscal year 1980 and the fiscal year 1979 supplemental authorization. One short title was provided for the bill.

The conference substitute is identical to the House provisions.

2-YEAR AUTHORIZATION

The House bill authorizes appropriations for both fiscal years 1980 and 1981 for the

Department of State, the International Communication Agency, and the Board for International Broadcasting.

The Senate amendment authorizes appropriations for these agencies only for fiscal year 1980.

The conference substitute is identical to the House provisions.

LIMITATION ON AUTHORIZATIONS OF APPROPRIATIONS

The Senate amendment (section 106) limited the total authorization for the Department of State for fiscal years 1980 and 1981 to the executive request level * * * accounts was greater than the executive request. In order to carry out this requirement, the Senate amendment authorized the Secretary of State to reduce accordingly the amounts authorized for administrative purposes. This would result in a $19.4 million reduction in the "Administration of Foreign Affairs" account.

The House bill contained no comparable provision.

The conference substitute amends the Senate provision to place a ceiling of $1,369,401,000 on the appropriations for the following fiscal year 1980 Department of State accounts: "Administration of Foreign Affairs", "International Organizations and Conferences", and "International Commissions". An aggregate ceiling of $1,547,778,000 is also placed on the three accounts for fiscal year 1981.

PROHIBITION ON SALT LOBBYING

The Senate amendment contained a proviso that none of the funds authorized for the "Administration of Foreign Affairs" account could be used to lobby the U.S. Senate on behalf of any arms control treaty or agreement in contravention of 18 U.S.C. 1913 (relating to lobbying with congressionally appropriated moneys).

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this issue.

FISCAL YEAR 1979 REFUGEE SUPPLEMENTAL

The House bill authorized $104,910,000 for fiscal year 1979 for the "Migration and Refugee Assistant" account.

The Senate amendment amended the fiscal year 1979 Foreign Relations Authorization Act to authorize the same amount. The effect of amending the 1979 Act would be to raise the total amount available by $10.4 million over the $104,910,000 request, due to the annual 10-percent transfer authority.

The conference substitute is identical to the House provision.

The committee of conference feels that the designation of groups or classes of refugees to be admitted into the United States should take into account the underlying intent of the United Nations Convention and Protocol Relating to the Status of Refugees and, in particular, article 3, which requires that "the contracting states shall apply the provisions of this convention to refugees without discrimination as to race, religion or country of origin."

The United Nations High Commissioner for Refugees estimates that there are now 3 to 4 million African refugees, the highest number in the world for any continent and the fastest growing refugee population in existence.

In view of these growing problems, and their domestic implications, the new analysis of U.S. refugee and immigration policy which is being undertaken by the Select Commission on Immigration and Refugee Policy should strongly consider the matter of African and Caribbean refugees.

NONDISCRETIONARY PERSONNEL COSTS, CURRENCY FLUCTUATIONS, AND OTHER CONTINGENCIES (DEPARTMENT OF STATE)

A. The House bill provided permanent authorization (thus precluding the need for annual authorization) for currency fluctuations in order to maintain the "authorized level of program activity", thus giving the Appropriations Committees the authority to provide funds in anticipation of currency fluctuations.

The Senate amendment was similar, but required certification from the Director of OMB to the Congress that the currency fluctuation increases were necessary before funds could be appropriated to maintain the "budgeted level of operation of the Department of State".

The conference substitute is identical to the House provision.

B. The House bill provided that any funds appropriated to the Department of State or to the Secretary could be made available until expended.

The Senate amendment provided that only funds appropriated for nondiscretionary personnel costs and currency fluctuations were authorized to remain available until expended.

The conference substitute is identical to the House provision.

FOREIGN LANGUAGE STANDARDS FOR FOREIGN SERVICE OFFICERS AND OTHER U.S. EMPLOYEES

The House bill contained two provisions which expressed the sense of Congress with regard to language proficiency of U.S. Government personnel abroad.

The first emphasized the need for language proficiency for Foreign Service officers assigned abroad. The second called upon the Secretary of State to conduct a comprehensive review and submit a report in 6 months concerning U.S. Government needs for personnel with foreign language competence and for services involving foreign languages. It also required him to establish standards for designating foreign language-required positions for U.S. personnel.

The Senate amendment did not contain comparable provisions.

The conference substitute contains no provisions on these issues.

The committee of conference believes that U.S. Government personnel abroad must be proficient in the language of the country in which they are serving, to the greatest extent possible, and that study of the kind provided for by the House bill ought to be undertaken.

The committee of conference, therefore, requests the General Accounting Office to conduct a study which evaluates the effectiveness of current programs and personnel practices with regard to foreign language needs in all agencies and to recommend standards for designating foreign language-required positions for United States personnel.

Such study shall include an estimate of the costs, if any, to be incurred in upgrading the language proficiency of U.S. personnel abroad. Within 8 months of the date of enactment of this legislation, the General Accounting Office shall submit a report to the Senate Foreign Relations Committee and to the House Foreign Affairs Committee containing the results of this study and recommendations for correcting any deficiencies which might exist.

ISSUANCE OF VISAS TO MEMBERS OF PROSCRIBED ORGANIZATIONS

The House bill stated that the so-called "McGovern amendment" dealing with visa waivers shall not apply with respect to any alien who is associated with the Palestine Liberation Organization and aliens from signatory countries which are not in substantial compliance with provisions of the Helsinki Final Act, particularly the human rights and humanitarian affairs provisions.

The Senate amendment stated that the so-called "McGovern amendment" dealing with visa waivers shall not apply with respect to any alien who is associated with the Palestine Liberation Organization or to representatives of purported labor organizations in countries where such organizations are in fact instruments of a totalitarian state.

The conference substitute combines the language of the House bill and the Senate amendment.

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

The Senate amendment repealed the provision in the fiscal year 1979 Department of State Appropriation Act which precluded assessed funds for the U.N. and its specialized agencies from being used for technical assistance activities.

The House bill contained no comparable provision.

The conference substitute is identical to the Senate provision.

EFFECTIVE DATE FOR CERTAIN PROMOTIONS OF FOREIGN SERVICE OFFICERS

The Senate amendment provided retroactive effect to December 17, 1978 for the promotions of 64 Foreign Service officers of classes 8 and 7 to which the Senate gave advice and consent on March 21, 1979.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate provision.

WAIVER OF CERTAIN NONIMMIGRANT VISA REQUIREMENTS

The Senate amendment amended the Immigration and Nationality Act to authorize an expansion of existing authority to waive nonimmigrant business and tourist visa requirements for persons coming from countries where visa fraud was low and which extend reciprocal privileges to U.S. citizens.

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this issue. The committee of conference strongly endorses the concept of expanding visa waiver authority as envisioned by the Senate amendment. The Committee notes that under this procedure an estimated saving of $1.5 million and 65 positions could be realized within the Department of State. Such a procedure would also contribute to the further implementation of the Final Act of the Conference on Security and Cooperation in Europe. The members of the conference committee agree that the Senate amendment has considerable merit and express the hope that prompt consideration be given by the House Judiciary Committee to this proposed change in the Immigration and Nationality Act. If the House does not act on the waiver authority embodied in the Senate amendment, the committee of conference believes that any re-enactment by the Senate of the waiver authority should be favorably considered.

U.S. CONSULATES

The House bill stated the sense of the Congress that U.S. consulates in the following cities should remain open: Salzburg, Austria; Bremen, Germany; Nice, France; Turin, Italy; Goteborg, Sweden; and Adana, Turkey.

The Senate amendment mandated the continued operation of the same consulates included in the House bill, plus the following consulates: Tangier, Morocco; Mandalay, Burma; Brisbane, Australia; and Surabaya, Indonesia. The Senate provision also authorized "the allocation of additional positions as may be necessary".

The conference substitute incorporates the Senate language mandating the reopening of the consulates and including all the consulates mentioned in the Senate provision. In addition, the conference substitute clarifies the Senate language relating to allocation of personnel positions in order to make clear that personnel assigned to these consulates shall not be counted toward any personnel ceiling for the Department of State established by the Office of Management and Budget.

PERSONNEL STUDY AND REPORTING REQUIREMENT

The Senate amendment required the Secretary of State to conduct a study of the personnel needs and resources of the Department of State and to submit the report to the Congress together with recommendations by January 1, 1980.

The House bill did not contain a comparable provision.

The conference substitute contains no provision on this issue.

IMPROVEMENT IN FOREIGN NATIONAL PAY PLANS

The Senate amendment expressed the sense of the Congress that the Secretary of State should implement, to the extent possible, the recommendations of the April 5, 1979 General Accounting Office report concerning improved coordination and greater uniformity in foreign national pay plans through regulations prescribed by the Secretary.

The House bill did not contain a comparable provision.

The conference substitute identical to the Senate provision with an amendment to change "uniform" pay schedules to "compatible" pay schedules and to add an amendment to provide for the substitution of local retirement plans for Civil Service retirement "whenever possible."

LEASEHOLDS FOR RADIO TRANSMISSION FACILITIES

The House bill authorized ICA, among other things, to acquire leaseholds for our radio facilities for periods of 10 years or longer if provided for in an appropriation act.

The Senate amendment authorized the acquisition and operation of radio facilities, but did not specify the duration of the leases, and also eliminated the provision of existing law that leases of radio facilities may not be for periods longer than 10 years unless provided for in an appropriation act.

The conference substitute is identical to the House provision.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

The House bill changed the name of the Advisory Commission overseeing ICA to the U.S. Advisory Commission on Public Diplomacy and provided authority for the Commission to hire staff.

The Senate amendment did not contain a comparable provision.

The conference substitute is identical to the House provision.

TECHNICAL AMENDMENT

The House bill corrected a reference in section 108(a)(2) of the Mutual Educational and Cultural Exchange Act of 1961.

The Senate amendment did not contain a comparable provision. The conference substitute is identical to the House provision.

NONDISCRETIONARY PERSONNEL COSTS AND CURRENCY FLUCTUATIONS (INTERNATIONAL COMMUNICATIONS AGENCY)

The House bill provided permanent authorization (thus precluding the need for annual authorization) for currency fluctuations in order to maintain the "authorized level of program activity" for ICA, thus giving the Appropriations Committees the authority to provide funds in anticipation of currency fluctuations.

The Senate amendment was similar, but required certification from the Director of OMB to the Congress that the currency fluctuation increases were necessary before funds could be appropriated to maintain "the budgeted level of operation" of the Agency.

The conference substitute is identical to the House provision.

BOARD OF FOREIGN SCHOLARSHIPS

The Senate amendment established the compensation of members of the ICA's Board of Foreign Scholarships at a level not to exceed the daily equivalent of GS-15 rather than the current $50 per day.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate provision.

DISTRIBUTION WITHIN THE UNITED STATES OF CERTAIN FILMS

The House bill provided for the domestic distribution of the ICA film entitled "Aspen".

The Senate amendment further provided for distribution of the film entitled "Margaret Mead—Reflections".

The conference substitute is identical to the Senate provision, but also adds a clarifying amendment relating to the release of out-takes from the film "Margaret Mead—Reflections."

DISTRIBUTION WITHIN THE UNITED STATES OF THE ENGLISH TEACHING FORUM

The House bill provided for the domestic distribution of the ICA publication entitled "English Teaching Forum".

The Senate amendment did not contain a comparable amendment.

The conference substitute is identical to the House provision.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The House bill clarified the authority of CSCE to use up to $6,000 of appropriated funds each fiscal year for reception and representational expenses.

The Senate amendment did not contain a comparable provision.

The conference substitute is identical to the House provision.

CHANGE IN STATUTORY REFERENCES

The House bill conformed existing provisions of law to the change made in the House Rules in the name of the Committee on Foreign Affairs.

The Senate amendment did not contain a comparable provision.

The conference substitute is identical to the House provision.

PANAMA CANAL TREATIES

The House bill precluded the use of appropriated funds in this bill to implement the Panama Canal Treaties of 1977 until the Secretary of State had communicated to the Government of Panama our insistence that Panama must meet fully all its treaty obligations.

The Senate amendment did not contain a comparable provision.

The conference substitute contains no provision on this issue.

AUTHORIZATIONS OF APPROPRIATIONS (BIB)

The Senate amendment earmarked not less than $800,000 for the expenses of the Board for International Broadcasting for fiscal years 1980 and 1981.

The House bill did not contain a comparable provision.

The conference substitute earmarks not less than $790,000 for the expenses of the Board for International Broadcasting for fiscal years 1980 and 1981.

FOREIGN CURRENCY FLUCTUATION (BOARD FOR INTERNATIONAL BROADCASTING)

The House bill provided permanent authorization (thus precluding the need for annual authorization) for currency fluctuations in order to maintain the "authorized level of program activity" for RFE/RL, Inc. and required certification from the Director of OMB to the Congress that increases were necessary, thereby giving the Appropriations Committees the authority to provide funds in anticipation of currency fluctuations.

The Senate amendment was similar, but authorized funds to "maintain the budgeted level of operation".

The conference substitute is identical to the House provision.

USE OF BROADCASTING FACILITIES BY COMMUNIST COUNTRIES

The Senate amendment repealed section 307 of the fiscal year 1979 Foreign Relations Authorization Act relating to the prohibition of funds to RFE/RL, Inc. if Communist countries were permitted to use those radio facilities on a nonreciprocal basis.

The House bill did not contain a comparable provision.

The conference substitute does not contain a provision on this issue.

The committee of conference welcomes initiatives by the administration and the Board for International Broadcasting to encourage the Soviet Union and other governments to end jamming of RFE/RL broadcasts. Many in Congress are understandably concerned that a unilateral offer by the United States to permit Soviet or Eastern European governments to have a "right of reply" might be misused by Communist countries, providing them with access to U.S. facilities without achieving an end to jamming. The Congress would welcome a proposal by the President or the Board for International Broadcasting which would insure an end to jamming and which might permit foreign use of RFE/RL on a selective basis to provide a right of reply whenever the President deems such a reply appropriate.

REPORTING REQUIREMENT

The Senate amendment required the Board for International Broadcasting to submit a report setting forth alternative plans for the relocation to the United States of 10 percent, 25 percent and 50 percent of RFE/RL, Inc. personnel and outlined issues to be covered in that report.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate provision.

EGYPTIAN-ISRAELI CULTURAL, SCIENTIFIC, AND ECONOMIC RELATIONS

The Senate amendment expressed the sense of the Congress that the United States should promote and encourage cultural, scientific, and economic relations between Egypt and Israel.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate amendment.

APPLICATION OF THE INTERNATIONAL ORGANIZATION IMMUNITIES ACT TO THE ILO

The Senate amendment amended section 12 of the International Organizations Immunities Act to authorize the continuation of diplomatic immunities and privileges to employees of the International Labor Organization even though the United States withdrew from the ILO in November of 1977.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate amendment.

The committee of conference notes that, while the United States was a member, the International Labor Organization was entitled to certain privileges and immunities (e.g., legal capacity to sue, tax exemption, immunity for its archives and for official acts of personnel) under the International Organizations Immunities Act. However, the application of that act is generally limited to international organizations to which the United States belongs.

Since the United States no longer belongs to the ILO, its status in the United States is ambiguous and legislation is necessary to clarify the situation. The ILO operates two offices in the United States, in Washington, D.C. and New York, with a total of 17 employees. The conference substitute simply authorizes the continuation of the application of the International Organizations Immunities Act to the ILO. The organization would not receive any new or additional benefits. The committee of conference notes that this action is consistent with prior actions taken by the Congress to extend the application of the statute to organizations to which the United States does not belong. The committee further notes that the adoption of the conference substitute in no way signifies support for or opposition to renewed U.S. membership in the ILO.

MORATORIUM ON THE COMMERCIAL KILLING OF WHALES

The Senate amendment stated several findings of the Congress with respect to the commercial killing of whales and urged the International Whaling Commission and all whaling nations to recognize and comply voluntarily with a moratorium on the commercial killing of whales as endorsed by the United Nations Conference on the Human Environment and the United Nations Governing Council for Environment Programs.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate provision.

ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS

The Senate amendment established within the Executive Office of the President an Assistant and a Deputy Assistant to the President for National Security Affairs, who would be appointed by and with the advice and consent of the Senate.

The House bill did not contain a comparable provision.

The conference substitute does not contain a provision on this issue.

The committee of conference is, however, deeply concerned about the role of the President's Assistant for National Security Affairs and the lack of his accountability to the Congress. The members of the conference committee believe it is essential that the Secretary of State be perceived clearly to be the principal officer other than the President with responsibility for formulation and implementation of foreign policy. The President clearly should have appropriate personal staff support in the White House to enable him to discharge his Constitutional responsibilities. Officers, however, who enunciate and shape U.S. foreign policy must be accountable to Congress. The committee of conference believes that a thorough review by both the Congress and the Executive of the function of the NSC structure and the specific role of the Assistant to the President for National Security Affairs is necessary and should be conducted in the near future.

ADDITIONAL TRAVEL EXPENSES FOR STATE AND ICA EMPLOYEES' DEPENDENTS

The Senate amendment provided for two, rather than one, annual round trips from the United States for dependents of the Department of State and International Communication Agency employees, who are obtaining an undergraduate college education, and whose parents are serving in a post overseas.

The House bill did not contain a comparable provision.

The conference substitute does not contain a provision on this issue, since the International Development Cooperation Act (H.R. 3324) contains a similar provision which includes the Department of State, the International Communication Agency, and the Agency for International Development.

UNITED STATES CITIZENS ABROAD

The Senate amendment amended section 611 of the Foreign Relations Authorization Act, Fiscal Year 1979, relating to United States laws discriminating against U.S. citizens abroad. The Senate amendment would revise that provision to (1) change the required reporting date from January 20, 1979, to January 20, 1980, and (2) substitute the existing provision's policy statement with a statement that American statutes and regulations should be designed so as not to create competitive disadvantage for American citizens living abroad and working in international markets.

The House bill did not contain a comparable provision.

The conference substitute is similar to the Senate provision with an amendment to change "and" to "or" to make it clear that the report should include American citizens living abroad *or* working in international markets. It is the intent of the conferees that the word "citizens" not include corporations and other juridicial entities.

PRIVATE SECTOR REPRESENTATIVES ON U.S. DELEGATION TO THE WORLD ADMINISTRATIVE RADIO CONFERENCE

The Senate amendment exempted from certain conflict of interest provisions a private sector representative, who is specifically designated to speak on behalf of or represent the interest of the United States, on the U.S. Delegation to the World Administrative Radio Conference in Geneva beginning September 24, 1979. Such representatives would have to file with the Department of State the financial disclosure report required for special Government employees.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

SANCTIONS ON ZIMBABWE-RHODESIA

The Senate amendment stated that no later than 14 days after the installation of a new government in Rhodesia or June 30, 1979, whichever was earlier, the President would submit to the Congress a report setting forth a determination with respect to section 27 of the International Security Assistance Act of 1978, together with his reasons for such a determination; and stated the findings of Congress with respect to section 27 of the International Security Assistance Act of 1978 that (1) the Government of Zimbabwe-Rhodesia had demonstrated its willingness to negotiate in good faith at an all parties conference, held under international auspices, on all relevant issues, and (2) Zimbabwe-Rhodesians had approved through free elections the transfer of power to a black majority government; and expressed the sense of the Congress that the President, within the time limits specified above, should determine that the requirements of that act have been met and should not enforce sanctions against Zimbabwe-Rhodesia.

The House bill did not contain a comparable provision.

The conference substitute incorporates the Senate provision with an amendment.

The committee of conference notes with approval the progress made in Zimbabwe-Rhodesia toward majority rule under the government installed as a result of the elections of April 1979. The Committee expresses its hope that additional progress will be made toward the establishment of majority rule and the protection of the rights of all the people in that troubled land.

FRANK CHURCH,
CLAIBORNE PELL,
GEORGE MCGOVERN,
JOE BIDEN,
JACOB K. JAVITS,
CHARLES H. PERCY,
JESSE HELMS,
S. I. HAYAKAWA,
Managers on the Part of the Senate.

CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
STEPHEN J. SOLARZ,
DONALD J. PEASE,
DANIEL A. MICA,
MICHAEL D. BARNES,
WM. H. GRAY III,
DAVID R. BOWEN,
WM. BROOMFIELD,
EDWARD D. DERWINSKI,
JOHN BUCHANAN,
JOEL PRITCHARD,
Managers on the Part of the House.

Mr. CHURCH. Mr. President, one of these issues of particular concern to both the House and Senate conferees was the provision dealing with sanctions on Zimbabwe-Rhodesia.

The Senate amendment: First, stated that no later than 14 days after the installation of new government in Rhodesia or June 30, 1979, whichever was earlier, the President would submit to the Congress a report setting forth a determination with respect to section 27 of the International Security Assistance Act of 1978, together with his reasons for such a determination; second, stated the findings of Congress with respect to section 27 of the International Security Assistance Act of 1978 that the Government of Zimbabwe-Rhodesia had demonstrated its willingness to negotiate in good faith at an all parties conference, held under international auspices, on all relevant issues; and Zimbabwe-Rhodesia had approved through free elections the transfer of power to a black majority government; and third, expressed the sense of the Congress that the President, within the time limits specified above, should determine that the requirements of that act have been met and should not enforce sanctions against Zimbabwe-Rhodesia.

The conference substitute incorporates the Senate provision with an amendment which requires the President to lift sanctions against Zimbabwe-Rhodesia by November 15, 1979, unless the President determines that such action would be contrary to the interests of the United States. The Congress may override such a Presidential determination by a majority vote of both Houses.

It is the belief of the Senate conferees that this compromise is a reasonable solution to a very difficult issue.

Mr. President, in conclusion, the Foreign Relations Authorization Act is by its nature a long and complex bill. The committee of conference resolved more than 35 differences between the two Houses. The managers on the part of the Senate were diligent in their efforts to uphold the Senate position and were, I believe, reasonably successful in that effort. Therefore, I urge the adoption of the conference report.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. JAVITS. Mr. President, I ask the Senator: This is a 2-year authorization, is it not?

Mr. CHURCH. Yes, it is a 2-year authorization.

Mr. JAVITS. Mr. President, I commend this report to the Senate. I participated actively in its negotiation. It was closely monitored and closely contested.

The solution respecting Zimbabwe-Rhodesia which was developed by the conferees enlisted the approval of the House conferee, who was the chairman of their Subcommittee on Africa and who was very strong on the continuance of sanctions, and enlisted the support of our conferee on the Republican side, who is very much opposed to the continuance of these sanctions. It was an extremely happy compromise.

Also, we made a very material increase in the amount available for refugee assistance, responding to the response which our people definitely wish to give to the plight of the boat people.

I asked the chairman especially about the 2-year authorization, because in a time of such international stress, the ability to have a settled policy on the financial side, on the part of the State Department, and the stability which it gives to their operations are very much to be commended.

Mr. President, I commend, also, the members of the conference committee on both sides of the aisle. Senator ZORINSKY is in the Chamber. They were diligent; they were there; they espoused the matters in which they had a particular interest. They were very fair in the recognition that we had to bring about a result, and we did it. Altogether, I consider it one of the most satisfactory conferences I have carried on as ranking minority member of the Committee on Foreign Relations.

I especially compliment the chairman, Senator CHURCH, who presided with his customary tact and skill in bringing the parties together.

I commend the report to the Senate, and I hope the Senate will approve it now.

Mr. CHURCH. Mr. President, as always, the assistance of the able Senator from New York proved invaluable in the conference. It was his initiative which led to the resolution of the Zimbabwe-Rhodesia controversy.

I join him in extending my commendation to the distinguished Senator from Nebraska (Mr. ZORINSKY) as well as the other Members of the Senate who participated as conferees.

I also would like to recognize, once again, the dedicated work of the staff. As always, they were not only extremely diligent but also immensely helpful to the conferees in working out the differences in the two versions of the bill.

Mr. President, I yield to the able Senator from Nebraska (Mr. ZORINSKY).

Mr. ZORINSKY. I thank the chairman.

Mr. President, the conference report on H.R. 3363, the State Department authorization bill, notes the deep concern of the conferees about the role of the President's Assistant for National Security Affairs and the lack of his accountability to the Congress.

The amendment which I offered and the Senate accepted to H.R. 3363 would have established within the Executive Office of the President an Assistant for National Security Affairs who would be appointed by and with the advice and consent of the Senate. I—and apparently a majority of the Senate—believed this amendment would address and resolve our deep concern about the role in foreign policy of the President's National Security Affairs Adviser.

Despite this, the conference deleted the Senate amendment; and I ask the chairman of the Foreign Relations Committee, the chairman of the Senate conferees, if he can provide in greater detail the precise reasons for the conference action on this amendment.

Mr. CHURCH. I will be happy to do so. First, however, I would like to emphasize that the Senator from Nebraska presented his arguments for the amendment very vigorously, and I have considerable sympathy for the amendment he offered.

As he pointed out in the conference, there are a number of Presidential advisers who must be confirmed by the Senate. It was not as if his amendment were unprecedented. Moreover, he made the point forcefully that the President's Special Adviser for National Security Affairs possessed great influence in matters relating to our foreign policy, that he is often as important in determining the course of our action abroad as the Secretary of State.

Therefore, I think that we should give greater consideration in the next session of Congress to the propriety of requiring that any person who occupies this exalted position in the White House should properly be subject to confirmation by the Senate.

Under the circumstances, neither House has had the opportunity to give sufficient consideration to the issue posed by the Senator's amendment. Moreover, we were advised that had the amendment been retained in the bill, the bill itself would have been vetoed by the President.

Mr. Carter took the position that this adviser was so important to him and was regarded as so much a part of the President's staff that he would either veto the bill or insist on a reciprocal right to pass judgment on the chiefs of staff of the two respective committees. Under the circumstances, it did not seem prudent to force the issue, particularly inasmuch as the two committees had not had an adequate opportunity to consider all of its ramifications.

It was for that reason that the conferees finally decided the best course of action this year would be to strike the amendment from the final version of the bill.

Mr. ZORINSKY. I thank the distinguished chairman of the Senate conferees for a very clarifying review of the actions of the conference. Inasmuch as the report goes on to call for a thorough review of the National Security Council structure and the specific role of the President's adviser, would we be able to establish for the record a date next year by which time that thorough review by the Foreign Relations Committee will have begun?

Mr. CHURCH. Let me say that, although I am not now in a position to indicate the exact date on which such a hearing would occur next year, I do assure the Senator that the committee will conduct a hearing and that we will explore in detail the practicality of requiring Senate confirmation in the future of any persons occupying this particular position in the Government.

I believe the Senator knows that I share his concern for the bifurcated character of having two men in the Government so highly placed both of whom are charged with being major architects of American foreign policy. It often gives rise to considerable confusion, particularly when Mr. Brzezinski appears to have taken one position on a major foreign policy issue and the Secretary of State appears to have taken another.

I would be much more comfortable with one Secretary of State and even though the President himself has indicated that Mr. Vance as Secretary of State has primacy in this field as, indeed, it should be, there is, nevertheless, the continuing problem of possible frictions and disagreements between two men who profoundly influence the President in this field.

In the beginning when the position of Special Adviser for the President for National Security Affairs was first created, it was thought of more as a liaison position so that the President could be kept adequately informed of developments on the foreign front and indeed with the positions of the State Department. It has become something quite different in the ensuing years. The staff has grown within the White House to such a degree that it is often referred to today as a mini-State Department. Thus we have not only the problem of two people involved at the highest level in directing American foreign policy under the President but we have two departments, one within the White House, the other over at State, actively involved in the effort to formulate American foreign policy from day to day.

This is another aspect of the question that needs to be carefully examined by the committee.

Mr. ZORINSKY. I thank the chairman for his views and they certainly are parallel to the ones I have indicated on that subject. I wish to remain on record as determined to continue to pursue this type of amendment in the future. I certainly feel much more secure in knowing that the chairman of the Foreign Relations Committee has committed himself to a hearing next year during the second session of this Congress, to further pursue the duplicative nature of the NSC structure and the Office of National Security Affairs Adviser together with its evolution from a $70,000 budget to the current $3.5 million budget.

I thank my chairman for this commitment and I wish to thank him and also the ranking minority member of the Foreign Relations Committee, Senator JAVITS, from New York, for the expeditious manner in which they resolved the 35 or 36 differences between the House and the Senate in this legislation.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. CHURCH. Yes.

Mr. JAVITS. I would like to add my assurances to that of the chairman about a hearing. My views are not necessarily the same as those of the chairman or the same as those of the Senator from Nebraska, but I respect the issue and I believe it well deserves consideration, serious consideration, by our committee.

I join the chairman in assuring the Senator that his initiative and enterprise will not be frustrated by lack of hearing or consideration.

Mr. ZORINSKY. I thank the Senator.

Mr. CHURCH. If either of us proves forgetful, the Senator from Nebraska has all the tenacity of a bulldog, and I am quite certain hearings will be held. He will see to it.

The PRESIDING OFFICER. Is there further discussion?

Mr. CHURCH. Mr. President, I urge the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CIVIL RIGHTS AND HEW

Mr. McGOVERN. Mr. President, the reports in the Washington Star and the Washington Post this morning indicate that the administration plans in effect to weaken its civil rights enforcement program in the Department of Health, Education, and Welfare. The Star reports that Patricia Harris, the new HEW Secretary will now take into consideration the "politics" of her decisions recommended by the Department's Office for Civil Rights. That promise can only mean that the Government agency charged with responsibility for protecting the legal rights of the most powerless members of this society will be seriously undermined—and that the rights of minorities may now be in jeopardy.

I for one do not know of any civil rights issue that is not controversial, nor are issues like desegregation, affirmative action or bilingual education ever easy. It has been said that the administration's recent cabinet purge was motivated not by any substantive problem, but by the President's plunge in the opinion polls. But it would be particularly disturbing to those of us who have long worked for civil rights to see them abandoned for political expediency.

The Office for Civil Rights, since Joe Califano resurrected it from the dead after 8 years of Republican neglect, has become the best enforcement agency in the Federal Government. Its reputation among the civil rights groups is flawless—a condition that exists because OCR has never failed to take on the hard issues and has done the right thing, not the politically popular thing. Under the direction of David Tatel, a brilliant, dedicated and competent lawyer, OCR has changed the lives of millions of our disadvantaged citizens by ending discrimination. OCR has taken a major step toward enhancing the possibilities of viable northern school desegregation by building the best Federal record of northern school segregation in the city of Chicago. And, OCR has persuaded five southern States to end their racist and unconstitutional dual systems of higher education.

I would hate to see President Carter trade constitutional principle for a few electoral votes. I urge the President to forgo any attempt to politicize the civil rights program, to keep David Tatel in place as Director, and most importantly, to make sure that Secretary Harris does everything she can to vigorously enforce the civil rights laws. Such a commitment may or may not be politically wise, but it is morally and legally right—and that should be the standard—the only standard—upon which civil rights decisions are made.

ENERGY ISSUES

Mr. McGOVERN. Mr. President, during the congressional recess several Senate committees will try to achieve consensus on the President's new energy program. The emphasis of the President's plan is on a multibillion dollar development of synthetic fuels in concert with an Energy Mobilization Board which would expedite the location and construction of priority energy projects.

Despite the need for the implementation of a major energy program aimed at reducing our Nation's dependence on foreign fuels, I doubt that this proposal will provide us with the necessary relief. Although some synfuel technologies have been proven on a pilot project and demonstration basis, the private sector has shown little confidence in these or other synfuel technologies through their minimal investment. In point of fact, few private research and development efforts have been undertaken without substantial Government assistance.

Of equal concern is the impact of synfuel development on water supplies and other natural resources. Although some easing of environmental controls may be necessary to pursue some degree of energy independence, the development of many synfuel technologies requires considerable water resources. Oil from shale, which is particularly plentiful in the West, has a prohibitive water requirement. Unfortunately, water is a scarce commodity in the West. I cannot support this kind of an effort at the expense of the ranching and farming industries who are heavily dependent on an adequate water supply.

Perhaps the aspect of the President's program, most deserving of careful examination is the proposed Energy Mobilization Board. Under the language drafted by at least one congressional committee, this Board would have the authority to waive substantive laws at not only the Federal level, but at the State and local levels as well, in order to expedite the construction of certain projects. I do not believe such action is necessary or wise. To exercise such power would be to undermine our country's entire judicial system as well as denying State and local governments basic rights.

In sum, Mr. President, the administration's new energy plan, as presently construed, is fraught with uncertainties. The President is asking the taxpayers to foot a multibillion dollar bill to pay for a program that may only displace a few barrels of oil while creating irreparable damage to our environment and to our judicial system. I strongly urge the Senate committees considering various portions of this plan during the congressional recess to examine these concerns and redirect the program to the development of safe, clean energy technologies which will promote public support and not dissent. We are in desperate need of an effective energy plan and one that the American people can rally around, not a boondoggle that will simply fuel our already double-digit inflation.

Mr. President, I ask unanimous consent that the following editorial of the July 26, 1979, edition of the Rapid City Journal be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SYNFUEL PROPOSAL MAY BE A MONSTROUS BOONDOGGLE

Panic and political grandstanding rather than serious analysis appears to be the basis for creation of a new three-letter government agency—the ESC—which President Carter wants to add to the ever-bubbling kettle of Washington alphabet soup.

The initials stand for Energy Security Corporation, an independent, government-sponsored enterprise which would direct the investment of $88 billion to produce 2.5 million barrels a day of substitutes for imported oil by 1990.

Sole objective of the proposed corporation would be development of domestic production of synthetic fuels from coal liquids, coal gases, peat, agricultural and forestry products, shale oil and unconventional gases. It would not engage in research and development.

The coal industry, which stands to benefit the most from the infusion of billions of dollars of government (read that tax) money, doesn't share the enthusiasm of Congress and the administration for "synfuels." And with good reason.

Presidents Nixon and Ford also proposed synfuel programs. They didn't materialize and the present proposal could suffer the same fate as oil from conventional sources becomes more readily available.

With the atmosphere of crisis past, Congress might not be willing to pass the further appropriations necessary to complete the projects. Such uncertainty is unlikely to encourage investors. The possibility of government involvement can retard, ventures by private industry which may not wish to assume the risk if there is any chance of the government doing it for them.

There are questions also about the cost of synfuel production, not only in dollars spent but in terms of lasting damage to land and water resources. No mater how high the per-barrel price of imported oil is at any given time, the projected price of a barrel of synthetic oil is always substantially higher. The reason is it takes energy to produce energy and more is needed to process synthetic fuel sources than to extract, transport and refine petroleum.

The momentum behind the push for synfuel development is helped by the ability of Congress to sniff a pork barrel in the offing. With the interstate highway system all but complete and water projects unpopular in the White House, energy projects open up new and appealing projects. A full-scale synfuel program would be one of the most expensive pork barrels of all time and no one can say if the eventual benefits will outweigh the costs.

Our main objection to the synfuel proposal is that it involves a government authority. The most effective way to promote synthetic fuels is to decontrol the price of conventional fuels. This would make synthetic fuel prices competitive and provide an incentive for the private sector to invest capital and not commit taxpayer money to a monstrous boondoggle.

WILLIAM COTTER ON AFRICA

Mr. McGOVERN. Mr. President, the peaceful development of African nations is one of our most important foreign policy goals. If effective, U.S. economic assistance allows us to contribute toward building a productive future for some 50 African states. However, it is imperative that our spending abroad be carried out in the most constructive and efficient way possible.

An article in the July 9, 1979, New York Times by Mr. William R. Cotter, president of the African-American Institute, focuses critical attention on the soundness of our current AID programs in Africa. Mr. Cotter points out that we are currently putting the bulk of our African aid into the short range assistance which a few well trained Americans can provide—rather than using our funds more constructively to train African technicians who can make ongoing contributions to local economic development.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GIVE A MAN A FISH? NO. TEACH A MAN TO FISH

(By William R. Cotter)

Congress is right to insist that development assistance help the poor, rather than a narrow elite. But that worthy end has been undermined by highly inefficient means. Instead of rapidly building local manpower capable of tackling rural development priorities, the United States has flooded the developing world with expensive American technicians. These technicians have not had and cannot have a meaningful, long-term impact on the staggering problems afflicting the impoverished rural masses; only skilled nationals and national institutions can achieve that impact. It would be good to remember the Chinese proverb "Give a man a fish, and you feed him for a day. Teach a man to fish, and you feed him for a lifetime."

Most development experts agree that it is the shortage of high-level manpower, more than any other constraint, that retards development. Shortages of well-trained local manpower impede development everywhere, but this lack is particularly acute in Africa. Asia has more than four times as many university students per capita as Africa, and Latin America nearly five times as many. The United States has 35 times as many students per capita in its universities as Africa.

Despite Africa's manpower shortage, the Agency for International Development continues to lavish money on expensive Americans while neglecting the development of Africa's own manpower. For fiscal year 1979, only 12.2 percent of A.I.D. funds spent on that continent are devoted to training. Of this, just over half ($18 million) is allocated for long-term, higher level education, while 60 percent of the 1979 grantees are enrolled in short-term courses, some lasting less than a month. By contrast, nearly 90 percent of A.I.D.'s African program money goes for A.I.D. technicians ($88 million, or 33.2 percent), commodity purchases ($60 million, or 22.8 percent), and construction and miscellaneous costs ($84 million, or 33.8 percent).

Since 1973, A.I.D. has vastly expanded the number of United States technicians it sends to Africa. For example, in the fiscal year 1973—before the new A.I.D. directions took effect—A.I.D. planned to station 391 American technicians in Africa. By fiscal year 1978 (the year of the last Ford administration budget), the number had almost trebled to 1,144. By 1979 (the year of the first Carter budget), it had nearly quadrupled to 1,516.

United States technicians are fearfully expensive, often frustrated and ineffectual, and frequently criticized by Congress and the press for living more luxuriously abroad than they could at home.

High-level manpower training for Africans is not just the fastest way to reach the rural poor. It is also the cheapest. According to the fiscal 1979 A.I.D. submission to Congress, each United States national serving in Africa costs an average of $80,000 a year (some say $120,000 a year). On the other hand, it costs an average of $8,000 to support an African student at a United States university per year. For $16,000 then, A.I.D. can train an African for a master's degree, and for $32,000 it can finance him or her in a four-year Ph.D. program. This means that for $160,000, A.I.D. can either finance one American technician for a typical two-year tour in Africa—with all the waste involved in settling, learning local customs, history, conditions, climate and language, and packing up—or it can train 10 Africans to the master's degree level or five Africans to the Ph.D. level.

Experience shows that United States-educated African graduates do, in 80 to 90 percent of the cases, return home upon completion of their studies and make extremely important contributions to their own nations' development. While African universities now offer first quality undergraduate training in many disciplines, they have very few graduate facilities. As a result, Africans generally must turn to the United States or Europe for advanced work.

Given their superior knowledge of local conditions, those well-trained Africans should be at least as well qualified as most American technicians to strengthen their countries' development efforts. Since each African graduate can be expected to assist his country's development for at least 20 years, a $160,000 investment by A.I.D. may purchase either two American man-years of service or 100-200 African man-years: an efficiency ratio of at least 50 to 1 in favor of African training in the United States.

The Soviet Union and other Eastern European countries are aware of the importance of offering extensive training opportunities. Sub-Saharan Africa has always been a focal point for Soviet and East European training grants, and according to one recent United States Government report, there were 18,000 African scholarship students in Communist countries in 1977, an increase of 6,000 over 1975. This heavy investment contrasts with AID's scholarship program for Africans: in 1979 A.I.D. will support fewer than 2,000 Africans for study in the United States, about one-ninth the number in Soviet and East European programs.

Increased opportunities for higher education and graduate training will not be "elitist" if training grants are awarded on the basis of talent rather than ascribed position in society. The United States should encourage fluid economic and social systems that allow talented students in poor rural schools to work their way up the education ladder.

Given the recent expansion of African universities (although there are still only 36 on the continent compared with 1,000 in Latin America), Africans from poor families are now entering local higher educational institutions in ever-increasing numbers. Consequently, we need not fear that United States colleges and universities will be forced to select only wealthy African students for admission. Assuming United States Government or other scholarship funds are available, large numbers of talented Africans from poor families now have the educational background to do post-secondary and graduate training in America. Of course, many of these, like A.I.D. technicians going to Africa, suffer culture shock when they first arrive and need some extra time to settle in. But this does not delay the attainment of their degree objectives which, in our experience, they complete earlier and with higher grades than their average American counterparts.

If A.I.D. heeded African priorities and looked at cost-efficiency, it would reduce expenditures on technicians from the current 33 percent of its budget to around 20 percent. This would free $35 million in the African program alone for increased manpower training, enough to double the number of training grants.

Mr. McGOVERN. Mr. President, I yield the floor.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER RESUMING PERIOD FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a resumption of the period of routine morning business, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEATH OF T. HARRY WILLIAMS

Mr. LONG. Mr. President, it is with a profound feeling of sadness that I comment today on the death this month of Prof. T. Harry Williams, the Pulitzer Prize-winning author who recently retired as head of the history department at Louisiana State University.

It was my privilege to participate in Mr. Williams' retirement ceremonies in Baton Rouge this spring, when he was properly honored for a lifetime of dedication to his duties at LSU.

At the time of his death, Mr. Williams was working on a biography of our late colleague, President Lyndon B. Johnson. If he had been able to continue to show his diligence in researching and writing about President Johnson, as he had done on past literary efforts, more honors would have resulted for a decent, honorable historian.

During the years 1955 to 1965 Harry Williams put in 10 years of research, interviews and collecting material on the life of my father, the late Huey P. Long. He employed the then-new method of oral history, or use of the tape recorder in assembling this information.

It was for that biography that Harry Williams won the Pulitzer Prize. But Harry Williams had been honored earlier, in 1952, when his book, "Lincoln and His Generals," was a book-of-the-month selection. His first book, "Lincoln and the Radicals," was a revised version of his doctoral thesis from the University of Wisconsin. Other published works include "P. G. T. Beauregard: Napoleon in Gray," "Hayes of the Twenty-Third," and coauthored "A History of the United States."

Mr. President, Harry Williams is no longer with us. His untimely death denied us the pleasure of reading his planned biography of Lyndon Johnson.

We have lost Harry Williams to a greater kingdom, but in a sense he will always be with us. He will always be a part of the moving picture which he produced so well in living color. Harry Williams was a historian who made himself a place in history.

Mr. President, I ask unanimous consent that a story that appeared in the Baton Rouge Morning Advocate on April 25, 1979, be printed in the RECORD following these remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RETIRING "T. HARRY" SAYS HE'LL MISS TEACHING

(By Ed Cullen)

He had pneumonia when word came that he'd won the National Book Award. The day the Pulitzer committee called he was at the ear doctor's. Soon to be 70, Dr. T. Harry Williams is as frail in appearance—Dickensian—as ever and still hard at work.

The day Williams won the Pulitzer for *Huey Long*, students in his Civil War night class applauded as he stepped into the classroom. Williams' almost 40-year career as teacher and writer has often been punctuated by applause.

Williams will retire from LSU in May. He is working on a biography of Lyndon Johnson, and there's a book on the military history of the United States on the back burner. Williams regards his imminent retirement from the classroom with ambivalence.

"There'll be an opportunity to do more work, but I'll miss the mystic thing about teaching and meeting classes, the exultation of the classroom. A constant coming into contact with younger minds is a good thing. Conversely, younger minds should be exposed to older ones."

One weekday evening, Williams sat in his book-lined study under a haze of blue-gray pipe smoke and talked. He talked of his fondness for Louisiana, its people and politics. He talked, too, of teaching, writing and the happy accident that led to his becoming a professor of Civil War history.

"I was talking to a Bossier alumni group last week. There were about 200 people in the audience, many of them former students of mine. Sometimes, I say I should have been a politician. I'm intoxicated by a crowd.

"I talked and I kept feeling better and better. There was that same thing between me and my classes."

Former students remember "T. Harry," as he's known by friends and strangers alike, stalking across campus, trailing a small cloud of graduate assistants. Entering the classroom, he removed his coat while an assistant scribbled words on the blackboard.

Then, in shirtsleeves and tie, one hand and arm cutting swaths through the air, Williams was off. Twisting and jerking, he resurrected "retreating Joe Johnston," "Lee looking like a knight or cavalier" and the uncommon commoner, Grant.

"The biggest draw has always been the Civil War course," Williams says.

For years, the course met at night. Enrollment was as high as 300 students.

"I had to give it up as I got older. Got too hard on me. When I was younger, I didn't use a microphone. I could holler at 'em for hours."

Williams came to LSU in 1941. He was in his early 30s. Aside from a year spent at Oxford, he's been on the Baton Rouge campus ever since.

Williams didn't set out to be a writer, nor a university professor for that matter.

"People think there has to be planning to one's life," Williams smiles. "There was little planning in my life."

Williams was born in Vinegar Hill, Ill., May 19, 1909, "just two axe handles and a twist of tobacco" from Galena, home of Ulysses S. Grant. He grew up on a farm in Wisconsin.

As a boy, Williams read collections of orations, historical novels and the classics. When he graduated from high school in 1927, he enrolled in a teachers' college. He thought he wanted to teach high school. He received his undergraduate degree in 1931.

"There were no teaching jobs open. My father suggested that I go to the University of Wisconsin and take a master's degree. Thought a job might open up in the meantime.

"Nine months later I had a master's degree but still no job. So, I decided to work on a Ph.D.

"Someone told me to ask for Professor Carl Russell Fish." Williams laughs. "I didn't even know what his field was."

Williams enrolled in the University of Wisconsin's doctoral program, requesting and getting Carl Russell Fish. Professor Fish's field was the Civil War.

Williams' first book, *Lincoln and the Radicals*, was a revised version of his doctoral dissertation.

"It was well written for a first book," Williams says, "but wordy."

Lincoln and His Generals was a Book-of-the-Month Club selection in 1952, but Williams' contribution to a Time-Life series in 1963 was a turning point.

"I learned from those editors up there. They said I wrote too much in my own words. There was a need to point up things with quotes and anecdotes."

Williams credits Pat Smiley, a free-lance editor living in Baton Rouge, with polishing and smoothing out his writing. Mrs. Smiley worked on *P.G.T. Beauregard: Napoleon in Gray and Huey Long*.

"I'm a narrative historian. I don't write intellectual history. I write for the lay reader. I think it's important for even a moderately educated person to know history."

It was this feeling for history that Williams tried to impart to his students. He attempted to bring historical figures to life.

"They live. They sweat. They fornicate. In context, it makes them living characters."

Williams never learned to type. He writes in longhand on legal sized tablets. Six or seven sheets a day, "that's my maximum."

Williams grins, "Malcolm Cowley said a good writer wants to see the words flow out from his fingers."

The flow of words from Williams' fingers has slowed somewhat.

He rarely writes at night anymore. Summer has always been his most productive writing time, and he plans to devote this summer to research on his biography of Johnson.

"I'll key on Johnson as a political type. There was a lot of myth surrounding Huey Long. There's more known about Johnson."

Williams says his relationship with LSU has been a good one . . .

"When I came in 1941, there was really a feeling of excitement. There was the Journal of Southern History and Southern Review. Huey Long had pumped money into the university.

"The problem of southern universities is building up and keeping quality teachers in depth. The teachers are after more money and they leave."

For years, Williams has traveled the state talking to alumni groups, civic clubs, historical societies. He knows the state and its politics better than many natives.

"I've come to be fascinated with the state. It's different because of its long history, Latin American culture, French and Anglo-Saxon cultures. I've never seen a state where the people follow politics so intensely."

He laughs, "Corruption with style and flair.

"The people are realists about the existence of corruption. It's so open that maybe there's less of it than in other states where it's hidden.

"And it's a great state for food, south Louisiana at least."

Over the years, his students have served as barometers for the state's changing attitudes.

"Reconstruction was hard to teach at one time. Southerners had preconceived notions. You almost had to fight a class to get its attention. That's disappeared in the last 10 years."

The university put Williams' Civil War lectures on videotape last fall. He met his last class of undergraduates Dec. 5. Stepping behind the lectern, he told the class: "I feel as though I'm about to be embalmed."

In this final lecture, Williams talks about the last days of the war, the troop movements and battles leading to Appomattox. His description of Lee's meeting with Grant is simple and moving.

He ends the lecture with the story of the Confederate raider Shenandoah, a converted British steamer, making its way to England after Lee's surrender.

"That's it," Williams tells the class.

For a few seconds, the room is silent. The silence is broken by applause that becomes increasingly louder. Then, the students are on their feet, applauding, shouting, whistling.

Williams starts moving toward the door. "Thank you . . . Thank you . . . Thank you very much."

The students are still applauding, calling out to him. A girl's voice rises above the din:

"I really enjoyed it."

A testimonial dinner honoring T. Harry Williams will be held at 7 p.m. Thursday at the LSU Union, and a one-day symposium will be held Friday.

Williams, Pulitzer-prize winning author and Boyd professor of history at LSU, retires at the end of this semester.

"War and Politics" will be the topic of the symposium, which will be open to the public.

Speakers will be Frank E. Vandiver, professor of history at Rice University; Don E. Fehrenbacher, professor of history at Stanford University; U.S. Sen. Russell B. Long and Washington attorney Harry McPherson.

Long is the son of Huey Long, subject of a biography that won Williams a Pulitzer prize.

McPherson is a native of Texas and served as special counsel to President Johnson. Williams is working on a political biography of Johnson.

Sessions of the symposium will be at 9:30 a.m. and 2 p.m. at the LSU Union Theater.

PRODUCTIVITY STANDARD FOR WAGE PRICE GUIDELINES

Mr. JAVITS. Mr. President, over the last few weeks we have been hit with a steady stream of discouraging economic reports. Our inflation is rampant at double-digit levels, our leading economic indicators are pointing downward, and our productivity growth is sagging to new lows. At the end of the week, we may well be faced with yet another economic setback as the figures for unemployment are released. There is no dissension among the various economic experts as to the causes of this dismal performance. The shortfall in our productivity and its resultant impact on real economic growth and on the inflation spiral have been now clearly identified as the main operative cause.

Mr. President, this last April, I introduced an amendment to the Council on Wage and Price Stability Act directing the Council "to review its policies with respect to the national interest in promoting greater productivity growth and to submit a report of its findings and recommendations to the Congress."

Specifically, I urged that the Council review the feasibility of incorporating some productivity factor into the wage-price guidelines. That report by the Council is now ready and was released on July 23. Mr. President, I ask unanimous consent that the report, along with a New York Times article on the productivity study be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JAVITS. Mr. President, I ask unanimous consent further that a statement prepared by Dr. William Freund, vice president and chief economist at the New York Stock Exchange, with respect to incorporating productivity growth into the wage-price guidelines be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. JAVITS. Mr. President, I commend the Council for its excellent study on the importance of productivity growth to our economy and on analyzing the causes of, and potential solutions to, our productivity problems. The report perceptively focuses on the dual role that productivity plays in the economic scheme; that "the growth rate of labor productivity is a major element of the inflation process as well as the principal vehicle for improving living standards."

When labor productivity gains are absent, then any increase in hourly wages will automatically inflate unit labor costs. Under these conditions, unless the increase in labor costs is absorbed by private business through declining profit margins, output prices will be raised by the same percentage as the wage changes, undermining the original wage increase and automatically precluding any improvement in the general standard of living. In essence, this is the heart of the price-wage-price spiral.

The report further stresses that any increase in real income can only come at the expense of reduced real living standards for others. We can see this clearly from the data released recently on productivity growth in the second quarter of this year when unit labor costs, in the absence of real productivity gains, rose sharply by 13.4 percent.

The Council's report makes reference to numerous causes of poor productivity performance, including: diminished opportunities for intersectoral employment shifts; changes in the composition of the labor force; variances in the capital/labor ratio; the growing burden of regulatory compliance; and other factors such as sharp hikes in energy costs; declines in research and development expenditures and in worker motivation. In presenting its solutions to the problem of diminished productivity growth, the report stresses the need for a substantial increase in business capital investment, and states that the single most important contribution that the Government can make toward this end is to restore a stable noninflationary environment.

I was encouraged to see that the Council is considering the possibility of including a productivity factor in the revised wage-price guidelines that are scheduled to be released later this month.

I strongly endorse the Council's intention to include an exception from the voluntary guidelines for group productivity incentive plans. Under this proposal, groups of employees who are compensated under these plans will receive pay in excess of the standard if it can be clearly demonstrated that the additional pay is solely the result of additional work effort. This exception would apply only to those plans that base additional compensation on measurable increases in actual productivity.

While this proposed change is encouraging, I would hope that the Council would explore new ways of incorporating the productivity factor into the guidelines.

Dr. Freund puts forth a number of recommendations, which, if incorporated into the guidelines, would yield a marked improvement in productivity growth. One of Dr. Freund's suggestions is to allow some higher percentage wage settlement—he suggests 1 percent—if a firm demonstrates that it has established an effective joint labor-management committee—a vehicle which I have long advocated could be used effectively to improve working life and working morale.

Another suggestion is to offer an additional wage allowance only where substantial productivity gains have actually been achieved. In other words, labor contracts could allow for an additional 1 percent or 2 percent wage increase at the end of the year and only upon demonstration of a measurable productivity growth rate exceeding a specified percentage—Dr. Freund suggests 4 percent or 5 percent.

Finally, he suggests an incentive that would modify profit margin standards to allow some maximum increase in profit margins where the improvement can be demonstrated to have resulted in actual productivity growth exceeding a certain percentage—again the 4 or 5 percent rate appears to be an acceptable figure.

I would urge the Council to pay particular attention to this recommendation. I understand that the Council expressed some reservations about providing such exceptions.

It has become increasingly obvious that we must direct our energies toward refining our measurement tools for productivity. Dr. Freund (New York Stock Exchange) has suggested that firms be given help in measuring and monitoring productivity as an important and ongoing activity. I commend Dr. Freund for his excellent suggestions and on the overall quality of his report, and I believe the Council should want to give careful consideration to his recommendations.

But, Mr. President, what we need now is—an action program—to implement the recommended solutions to our productivity malaise. Late last week all 41 Senate Republicans agreed upon an economic policy statement for the decade. One of the recommendations we make calls for the adoption of policies that will foster improved capital investment, productivity, research and development, personal savings and personal investment in order to expend productive capacity and efficiency of our economy. The specific recommendations are as follow:

CAPITAL FORMATION AND PRODUCTIVITY

1. Personal savings and investment should be encouraged by incentives, rather than penalized through taxation. There should be universal eligibility for Individual Retirement Accounts of up to $1,500/year. By saving for their own future, Americans would be investing in a stronger, healthier economy.

2. As an incentive for greater savings and investment, a savings interest exclusion should be provided and the present dividend exclusion from federal personal income taxes should be expanded.

3. Government at all levels should revise regulatory systems which presently divert investment capital away from productivity and job creation and divert business enterprise into non-productive purposes.

4. Improved levels of productivity in the private sector are paramount if the United States economy is to make progress in winning the inflation battle. Business incentives toward increased capital formation and investment must be encouraged through business tax reductions, tax credits, and accelerated depreciation allowances. Realistic tax incentives spur investment. Depreciation allowances for plants and equipment, including equipment to meet environmental regulations, should be accelerated and adjusted for inflation, in order to permit depreciation allowances to approximate more closely the true replacement costs rather than historical costs of capital equipment.

5. To increase productivity, the United States must recover its former place as the world's leader in industrial research and development. Tax credits for new R & D expenditures would provide a significant incentive for improved research and development spending. The United States must increase properly conceived federal expenditures for accelerated research and development in order to replenish the nation's reservoir of technology and energy alternatives.

6. Sunset legislation for all federal regulatory agencies should guarantee the periodic review and, if necessary, adjustment of their scope and purpose.

7. The Congress should exercise effective but practicable control over proposed federal regulations to ensure that they carry out the intent of Congress. On the federal level, every proposed regulation should be subject to cost-benefit analysis to ensure that potential benefits are not outweighted by its economic impact.

Mr. President, I ask unanimous consent that the latest data released by the Bureau of Labor Statistics on July 10 on preliminary measures for 1978 international comparisons of manufacturing productivity and labor costs be printed in the RECORD following the statement of Dr. William Freund.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. JAVITS. Mr. President, we had a lot of bad economic news lately but the worst is the report that production has sagged in the last quarter with a 3.8-percent dip in productivity, the worst since 1974. This is worse than the OPEC price raise, worse than about anything that has happened to this country.

April last in an amendment to the bill which authorized the Council on Wage and Price Stability, which is adopted, it is law, I called upon them to file a report on productivity. They have now done that.

I also have a report from an economist for the New York Stock Exchange, Dr. Freund, which demonstrates how productivity can be cranked into the wage-price problem and enable labor to do better because that is its agitation and its right, in view of inflation, provided it produces.

Mr. President, I recommend strongly these findings and urge—and the President should pound the table for it—that the Wage and Price Council crank into its formula means for compensating for productivity of American labor. And that may very well be the answer to our problem of inflation and to the very legitimate problem raised by American labor that it simply cannot get out of the woods and its standard of living is going down.

EXHIBIT 1

PRODUCTIVITY

PREFACE

The Council on Wage and Price Stability submits this report in response to Section 3(c) of the Council on Wage and Price Stability Act, as amended by P.L. 96-10 (May 10, 1979). The Council was directed by this Act to "review its policies with respect to the national interest in promoting greater productivity growth and [to] submit a report of its findings and recommendations to the Congress."

The Congressional request for a productivity study reflects a growing concern about productivity performance in the U.S. The growth rate of labor productivity is a major element of the inflation process as well as the principal vehicle for improving living standards. Unfortunately, in the 1970s, our productivity trend has fallen far below earlier trends, and, since 1960, productivity has grown less in the U.S. than in any other major developed country.

A reversal of our productivity slowdown will not be easy to accomplish. While some of the causes for the slowdown can be identified, no one has been able to explain fully the recent decline. Furthermore, the policy options that could have a substantial impact on the identified problems are limited and often involve relatively long time lags before favorable results are evident. This is equally true of any alterations in the pay and price standards, to which the Congress specifically directed our attention.

This report is organized to develop these general points, discussing the importance to the American economy of maintaining a strong productivity growth rate (Section I); examining the post World War II record of U.S. productivity growth (Section II); analyzing the causes of, and potential solutions to our problems (Sections III and IV); and reviewing the relationship between the voluntary pay and price standards and productivity growth (Section V).

I. THE IMPORTANCE OF PRODUCTIVITY GROWTH

Real income gains and the inflation process

Growth in labor productivity plays a vital role in improving real living standards.[1] This relationship is rather simple. In the absence of labor-productivity gains, any increase in hourly wages must inflate unit labor costs. Unless the costs of other inputs do not increase as much as labor costs, or the increase in labor costs are absorbed by business through a declining profit margin, output prices be raised by the same percentage as the wage change, thus undermining the original wage increase. There can be no general improvement in the standard of living under these conditions. Increased real incomes for some can come only at the expense of reduced real living standards for others.

To put the matter differently, increases in nominal compensation costs—whether due to wage, fringe-benefit, or employment-tax increases—will not result in increases in real hourly compensation in the absence of productivity growth. Instead, such increases will be dissipated in increased unit labor costs and increased price inflation.

This point is exemplified by contrasting the experiences of the U.S. economy in three postwar periods (see Table 1). From 1948 to 1965, hourly compensation on the nonfarm business sector increased at an annual rate of 4.6 percent. With an annual productivity growth rate of almost 2.6 percent acting as a buffer between unit labor costs and money wages, real hourly compensation grew, on average, 2.9 percent annually. From 1965 to 1973, the growth rate of hourly compensation accelerated to 6.6 percent annually, but productivity growth declined to an annual rate of 2.0 percent. As a result, real hourly compensation increased at a somewhat slower annual rate of 2.1 percent. Since 1973, there has been almost no productivity increase, and the deceleration of real compensation gains has continued, despite a further acceleration—to 9.0 percent—in the growth rate of nominal hourly compensation. The annual rate of productivity growth over the period has been only 0.8 percent, and real hourly compensation, consequently, has increased by only 0.9 percent per year.

TABLE 1.—PRODUCTIVITY AND REAL HOURLY COMPENSATION GROWTH

	Annual rates of growth		
	1948–65	1965–73	1973–78
Hourly compensation	4.6	5.5	9.0
Productivity	2.6	2.0	0.8
Unit labor costs	1.9	4.6	8.1
Consumer Price Index	1.6	4.4	8.0
Productivity	2.6	2.0	0.8
Real hourly compensation	2.9	2.1	0.9

Source: U.S. Department of Labor, Bureau of Labor Statistics. Hourly compensation and productivity series are for the nonfarm business sector. Real hourly compensation is hourly compensation deflated by the Consumer Price Index.

Thus, in spite of the rapid growth in nominal compensation in recent years—almost double the growth rate between 1948 and 1965—real hourly compensation growth has declined in step with the falloff in productivity growth. In order to revive the growth in real living standards, the U.S. must revive its productivity performance. No nominal wage increase in the aggregate, regardless of size, will be able to ensure an increase in real earnings.

The historical relationship between productivity levels and real hourly compensation levels and the lack of a historical relationship between nominal hourly compensation and real hourly compensation is depicted in Figure 1 for the 1960–78 period. The figure also illustrates the growth in real hourly earnings, which, unlike hourly compensation, do not include employer social insurance taxes and fringe benefit costs. While trends in real hourly compensation levels closely match the gains in productivity, the real average hourly earnings index falls substantially behind over this period. This shortfall reflects the substitution of improved private fringe benefits for wage-rate gains and the rapid increases in employment taxes over this period. These non-wage increases have driven a wedge between the growth in real hourly compensation—dominated by productivity growth—and the growth in real hourly earnings.

The productivity slowdown is especially troublesome at a time when we are trying to unwind an inflationary wage/price spiral. When workers push for wage increases to recoup the gains that were undermined by price increases, unit labor costs are driven up by an amount that is inversely related to productivity growth. This leads to further price increases. Thus, the productivity slowdown helps to propagate the wage/price spiral.

Again, Table 1 shows this relationship. At the annual rate of growth of unit labor costs (the difference between the growth rates of nominal hourly compensation and productivity) accelerated from 1.9 percent, to 4.6 percent, to 8.1 percent in the three respective time periods, the inflation rate (as measured by the CPI) accelerated from 1.7 percent, to 4.4 percent, to 8.0 percent.

Of course, the slowdown in productivity is only one factor in the acceleration of unit labor costs and consumer prices. Indeed, inflation could have been held to the low rates of the 1948–65 period even with the present trend rate of growth of productivity if nominal hourly compensation had grown at a 2.5-percent rate (instead of 8.1 percent). Conversely, inflation would be increasing at its present rate even if productivity were growing at the 1948–65 rate if nominal hourly compensation were rising at a 10.6-percent rate.

International comparisons

Insofar as slow productivity growth exacerbates the inflation problem, it can also worsen our balance of trade. If U.S. productivity growth slackens relative to our foreign competitors and if the American workers' wage demands do not taper off correspondingly, rising U.S. labor costs encourage more foreign investment of U.S. dollars and more importation of foreign goods.

---

[1] This report focuses on *labor* productivity, defined as the ratio of total output to labor input. One can, however, define productivity for any input; for example, the productivity of capital is simply total output divided by capital input. For many purposes (such as analyzing the productivity collapse and policies for reviving productivity growth), any of these concepts can be used. However, labor productivity is the most natural concept because labor is the predominant input. Moreover, labor productivity is the only productivity concept relevant to the following discussion of the arithmetic of real-income gains.

International comparison of economic data is always suspect because the conceptual foundations and reliability of the data differ widely across countries. With this caveat in mind, available data indicate that the U.S. productivity performance has lagged behind that of all other major developed countries. Table 2 illustrates this point.

The reasons for this relatively poor American performance are not fully understood. However, the two most common explanations for the higher rates of productivity growth of our foreign competitors are their relatively higher rates of investments and savings and their initial low levels of capital and productivity after World War II.

TABLE 2.—GROWTH IN PRODUCTIVITY AND CAPITAL INVESTMENT

	Productivity growth (average annual percent change)		Capital investment as percent of output [3] (all industries 1960–76 average)
	Manufacturing 1960–78 [1]	All industries 1960–76 [2]	
United States	2.8	1.7	14.8
United Kingdom	2.9	2.2	17.0
Canada	4.0	2.1	19.7
Germany	5.4	4.2	19.6
France	5.5	4.3	19.3
Italy	5.9	4.9	16.3
Belgium	[4] 6.9		17.7
Netherlands	[4] 6.9		21.1
Sweden	5.2		19.2
Japan	8.2	7.5	[5] 28.2

[1] Productivity data are output per hour of all employed persons (wage and salary earners, the self-employed, and unpaid family workers) in the United States and Canada, and all employees (wage and salary earners) in the other countries.

[2] Real gross domestic product per employed civilian.

[3] Fixed investment at factor prices as a percent of domestic output at factor cost (excludes construction).

[4] 1960–77.

[5] Average ratio for fiscal years beginning Apr. 1, 1960–76.

Source: U.S. Department of Labor, Bureau of Labor Statistics

The first suggested explanation—that foreign countries have higher rates of investment and savings—is supported by data shown in Table 2. While cause and effect are somewhat difficult to prove when comparing growth rates of different countries, there appears to be a fairly consistent relationship between the level of capital investment and the annual percentage change in productivity. The U.S. ranks last in both the growth of output per hour and the ratio of capital investment to output. At the other end of the spectrum, Japan's remarkable productivity growth is matched by an equally remarkable rate of capital investment.

The second explanation of the relatively low U.S. productivity growth rate—the low levels of capital and productivity in foreign countries after World War II—is illustrated in Table 3. Countries that had very low productivity levels relative to the U.S. after the war have grown most rapidly. These countries had a large portion of their capital stock destroyed during the war and were able to make rather large discrete improvements in their productivity by borrowing the most modern technologies from more advanced economies, such as the U.S. Since they had little or no fixed costs in terms of old, depreciating capital, these countries were able to adopt the newest innovations as quickly as their resources permitted. And, given the very large portion of their national income devoted to investment, the innovations were diffused quite rapidly.

The most distressing aspect of these data is that the trend is continuing. Although the U.S. may still enjoy one of the highest levels of productivity in the world, our advantage is clearly shrinking and our recent performance is a matter of extreme concern. The next section explores more closely some of the apparent causes of the virtual collapse in the productivity growth rate.

TABLE 3.—REAL GDP PER EMPLOYED CIVILIAN 1950–77 OUTPUT BASED ON U.S. PRICE WEIGHTS

[Indexes, United States equals 100]

Year	United States	Canada	France	Germany	Italy	Japan	United Kingdom
1950	100	83	48	40	32	18	57
1955	100	85	50	47	35	21	55
1960	100	87	61	56	40	27	57
1965	100	86	66	60	47	36	54
1970	100	89	78	72	61	54	59
1975	100	93	89	80	65	66	62
1976	100	93	91	83	66	67	63
1977 [1]	100	92	92	85	63	69	62

[1] Data for 1977 are based on preliminary estimates.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

II. HISTORICAL U.S. PRODUCTIVITY PERFORMANCE

The dramatic decline in productivity growth in recent years is illustrated in Table 4, which shows productivity growth rates for major sectors of the economy in several different periods.

TABLE 4.—LABOR PRODUCTIVITY GROWTH, 1948–78

[Average annual percentage change]

	1948–65	1965–73	1973–78	1977–78
Sector:				
Private business	3.2	2.3	0.9	0.3
Nonfarm	2.6	2.0	.8	.5
Manufacturing	3.2	2.4	1.7	2.5
Nonmanufacturing	2.4	1.7	.3	−.4
Cyclically corrected:				
Private business	3.1	2.3	1.3	
Nonfarm	2.5	2.1	1.1	
Manufacturing	2.7	2.6	2.4	
Nonmanufacturing	2.4	1.9	.6	

Source: U.S. Department of Labor, Bureau of Labor Statistics and the Council on Wage and Price Stability.

In the private business sector, the average annual rate of growth declined by about a full percentage point in each time period—from 3.2 percent in 1948–65 to 2.3 percent in 1965–73 to 0.9 percent in 1973–78. The decline in the private nonfarm sector has been less pronounced, primarily because a substantial part of the decline in the private business sector is attributable to a curtailment of the shift of workers from the relatively low-productivity farm sector to the relatively high-productivity nonfarm sector, but it is still obvious. The largest part of the nonfarm slowdown has occurred in the nonmanufacturing sector.

Many experts contend that there have been three distinct trends in productivity in the postwar period, which conform roughly to the time-period breakdown above. The productivity data in Table 1 tend to support this contention, but, because of the erratic nature of year-to-year productivity data, the existence of a new trend since 1973 has not yet been firmly established. Evidence is mounting however, in favor of this interpretation.

The reason for the uncertainty about a recent shift in the trend is that some of the slowdown in the 1974s can be attributed to cyclical (short-term) factors. Because of lags in the response of employment to output changes, labor productivity varies considerably over the business cycle. The growth rate falls below the trend rate during contractions and rises above it during expansions. This lag, in turn, is usually attributed to labor hoarding: During periods of low demand, many firms do not lower their employment commensurately because of the costs of recruiting and training new workers when demand recovers. As a result, measured productivity has a cyclical component as output declines more than employment in downturns and recovers more than employment during expansions.

The Council has used some econometric techniques to adjust for cyclical variations in productivity growth rates. The trend estimates for major sectors, using these techniques, are shown in Table 4. These estimates indicate that, even after adjustment for cyclical factors, the U.S. has suffered a decline in trend productivity growth in the mid-1960s and another trend decline since 1973. The one possible exception to this conclusion is the manufacturing sector, where the estimated trend declines are small (and not statistically significant).

Table 5 provides a more disaggregated picture of productivity trends (not cyclically corrected) in the three time periods. The slowdown appears to be pervasive. Only communications had a larger productivity growth rate in 1973–78 than in previous periods.

The decline in productivity growth has been exceptionally sharp for a few industries. The rate of growth in mining slowed from 4.2 percent per year during 1950–65 to 2.0 percent between 1965–73. Productivity growth has actually been negative, declining at a 4.1-percent annual rate, since 1973. Productivity growth in the construction industry also has been low relative to previous periods. Although the worst decline occurred between 1965 and 1973, productivity growth has continued to decline since 1973, and productivity remains a problem in construction. Also experiencing significant productivity troubles are utilities, trades, transportation, and services.

The breakdown of productivity trends by sector in Table 5, however, is still highly aggregative. This high level of aggregation can be especially misleading in the manufacturing sector, where the different industries range from the high-technology industries such as electronics to the low-technology industries such as textiles. Further disaggregation of the data is provided in Tables 6 and 7. Because the manufacturing sector is particularly cyclical, the data in Table 6 include an econometric correction for cyclical factors.

TABLE 5.—PRODUCTIVITY GROWTH BY INDUSTRY, 1950–78

[Average annual percentage change]

Industry	1977 output share [1] (percent)	1950–65	1965–73	1973–78 [2]
Agriculture	3.4	5.2	5.3	1.8
Mining	3.0	4.2	2.0	−4.1
Construction	5.1	2.9	−2.3	−.9
Manufacturing	27.4	3.0	2.4	1.6
Nondurable	10.9	3.2	3.2	2.3
Durable	16.5	2.4	1.9	1.3

TABLE 5.—PRODUCTIVITY GROWTH BY INDUSTRY, 1950–78

[Average annual percentage change]

Industry	1977 output share[1] (percent)	1950–65	1965–73	1973–78[2]
Transportation	4.3	3.2	2.9	.8
Communication	3.0	5.4	4.7	6.1
Utilities	2.8	6.2	4.0	−1.4
Trade	19.8	2.7	2.9	.4
Wholesale	8.4	3.0	3.9	.2
Retail	11.4	2.4	2.2	.4
Finance, insurance, and real estate	15.9	2.4	.5	1.4
Services	14.2	1.6	1.9	.2

---

[1] Share of private domestic output. Detail may not add to 100 percent because of rounding.

[2] Based on preliminary figures for 1978.

Sources: U.S. Department of Labor, Bureau of Labor Statistics and U.S. Department of Commerce, Bureau of Economic analysis.

TABLE 6.—PRODUCTIVITY GROWTH IN MANUFACTURING INDUSTRIES

[Average annual percentage change]

Industry	1948–65	1965–73	1973–77
Food and kindred[1]	4.7	1.7	3.9
Tobacco[1]	4.5	4.5	3.7
Textile mill products[1]	5.2	4.2	2.7
Apparel and other textile products	2.1	3.2	4.9
Lumber and wood products[1]	4.7	4.3	1.3
Furniture and fixtures[1]	2.2	.9	2.6
Paper and allied products	2.8	3.5	2.8
Printing and publishing	4.0	.8	2.6
Chemical and allied products	6.4	3.7	3.5
Petroleum and coal products	6.9	2.0	2.2
Rubber products	3.2	1.6	1.3
Leather and leather products	1.8	1.9	5.1
Stone, glass, and clay products	3.1	.2	2.5
Primary metals	2.1	.7	−1.0
Fabricated metals	3.0	.7	1.8
Machinery, except electrical	3.0	2.4	.8
Electrical equipment and supplies	5.5	4.4	3.3
Transportation equipment	4.6	1.7	4.0
Instruments and related products	5.5	2.7	1.7
Miscellaneous manufacturing industries	3.7	3.6	2.3

---

[1] Cyclical variable is not statistically significant.

Source: Council on Wage and Price Stability.

TABLE 7.—PRODUCTIVITY GROWTH IN SELECTED INDUSTRIES, 1950–77

[Average annual percentage change]

Industry	1950–65	1965–73	1973–77
MINING			
Iron mining, crude ore	5.7	3.7	−2.9
Iron mining, usable ore	4.0	3.3	−4.5
Copper mining, crude ore	4.7	2.6	3.7
Copper mining, recoverable metal	3.1	−.4	3.5
Coal mining	6.6	−1.3	−3.6
Bituminous coal and lignite mining	6.7	−1.4	−3.4
Nonmetallic minerals	[1]4.1	3.9	−.8
Crushed and broken stone	[2]3.7	5.0	−2.1
MANUFACTURING			
Canning and preserving	2.8	3.7	[3]1.7
Grain mill products		2.9	[3]5.1
Flour and other grain mill products	4.4	2.3	1.9
Cereal breakfast foods		1.7	[3].8
Rice milling		1.7	[3]1.2
Blended and prepared flour		.6	[3]4.2
Wet corn milling		4.3	[3]9.8
Prepared feeds for animals and fowls		3.2	[3]6.2
Bakery products	2.9	2.4	1.2
Sugar	4.5	2.4	4.2
Candy and confectionery products	3.7	5.9	−5.6
Malt beverages	4.4	6.7	4.8
Bottled and canned soft drinks	[2]2.1	3.1	6.6
Tobacco products—total	3.7	1.3	3.6
Cigarettes, chewing and smoking tobacco	1.5	1.1	3.2
Cigars	6.6	1.5	4.7
Hosiery	4.8	8.4	8.8
Sawmills and planning mills, general	[3]3.5	2.7	.8
Veneer and plywood	[2]5.8	4.3	[3]2.8
Household furniture	[2]2.1	2.8	.8
Wood household furniture	[2]2.3	3.2	9 [3]−.3
Upholstered household furniture	[2]1.3	1.8	[3]2.2
Metal household furniture	[2]2.7	2.5	[3]1.8
Mattresses and bedsprings	[2]3.0	4.6	[3]4.0
Paper, paperboard, and pulp mills	4.1	4.4	1.
Corrugated and solid fiber boxes	[2]3.3	4.4	3.9
Synthetic fibers	[2]3.7	8.0	7.6
Pharmaceutical preparations		5.9	4.6
Paints and allied products	[2]3.4	1.4	[3]7.6
Petroleum refining	6.2	5.3	−.6
Tires and inner tubes	4.2	2.4	1.3
Footwear	1.6	.4	.3
Glass containers	1.6	2.0	.8
Hydraulic cement	5.3	4.0	−.2
Structural clay products	[2]3.3	4.0	1.1
Clay construction products	[2]3.2	4.0	1.5
Clay refractories	[2]3.7	3.7	−.2
Concrete products	3.5	3.2	[3].5
Ready-mixed concrete	[2]2.2	1.7	[3]−1.6
Steel	2.1	2.8	−.2
Gray iron foundries	[1]2.6	2.4	2.4
Steel foundries	[1]1.2	1.4	1.6
Primary copper, lead, and zinc	2.7	2.4	2.0
Primary aluminum	4.9	1.8	.9
Copper rolling and drawing	[2]5.9	.9	−1.5
Aluminum rolling and drawing	[2]6.7	5.6	2.3
Metal cans	2.1	1.7	5.9
Motors and generators	[1]5.3	1.2	[3]−1.2
Major household appliances	[2]6.4	4.5	4.2
Electric lamps	[1]2.8	.6	1.4
Lighting fixtures	[4]2.2	3.6	.8
Radio and television receiving sets	[2]5.3	4.2	[3]4.4
Motor vehicles and equipment	[2]4.7	3.3	2.9
OTHER			
Railroads, revenue traffic	5.3	5.1	−.3
Railroads, car-miles	4.5	3.3	−.3
Intercity trucking	[1]2.8	2.8	3.7
Intercity trucking (general freight)	[1]2.9	1.9	[5]−5.2
Air transportation	7.7	5.8	4.0
Petroleum pipelines	[2]9.9	9.8	3.1
Telephone communications	[1]7.9	4.8	7.8
Gas and electric utilities	7.7	5.3	2.0
Retail food stores	[2]3.0	1.7	−.3
Franchised new car dealers	[2]1.9	2.5	3.3
Gasoline service stations	[2]2.6	4.8	4.2
Eating and drinking places	[2]1.0	1.2	0
Hotels, motels, and tourist courts	[2]3.0	2.1	−.8
Laundry and cleaning services	[2].0	2.9	.2

---

[1] 1956–65.

[2] 1959–65.

[3] 1973–76.

[4] 1962–65.

[5] 1973–75.

Source: Department of Labor, Bureau of Labor Statistics.

One manufacturing industry, primary metals, stands out as a problem area. In the recent time period, productivity in this industry has actually been declining at about one percent annually. This poor performance is especially disconcerting since primary metals play a crucial role in the U.S. economy and since imports of primary metals have grown substantially in recent years. Nonelectrical machinery is another industry in which the productivity performance has been particularly disappointing. Other industries that have slowed substantially since 1965 without any significant recent rebound are textile mills, lumber and wood products, chemical and allied products, petroleum and coal products, rubber, fabricated metal, electrical equipment, and instruments and related products. On the other hand, transportation equipment, food, apparel, furniture, leather, and stone, clay, and glass products have shown signs of productivity resurgences.

A further disaggregation is shown in Table 7. These data are measured in physical units of output, rather than the deflated output figures used in all other tables in this study. This means that the difficult task of correcting output for the effects of inflation should not be a problem. As indicated here, the slowdown in mining is widespread. Within the manufacturing sector, nine industries have productivity growth rates since 1973 of negative value. Only 12 out of 52 industries show a generally increasing rate of growth since 1965. Industries within the transportation sector also have experienced widespread growth declines, as have a few industries in the utilities, trade, and service sectors. The fact that these data, measured in physical output, also show long-run declines in productivity growth further substantiates the notion that the U.S. is experiencing a pervasive slowdown. These data, however, are not cyclically adjusted, and such an adjustment could raise some of the 1973–77 trend estimates.

III. DETERMINANTS OF THE DECLINES IN THE PRODUCTIVITY TREND

There is not yet complete agreement about the causes of the cyclically corrected productivity slowdown. Some factors can be identified with reasonable certainty whereas others are more controversial. This uncertainty is particularly true of the 1973–78 slowdown, which still remains as somewhat of a mystery to economists. The more important known sources of the productivity decline are discussed below.

Intersectoral employment shifts

The shift of workers out of the relatively low-productivity agricultural sector into the higher-productivity sectors, primarily manufacturing, increased productivity in the private business sector by almost one-half of a percentage point from 1948 to 1965. This movement ceased in the mid-1960s, contributing to the trend decline. Since 1973, however, intersectoral shifts of employment have not been an important source of the slowdown. Instead, entire sectors of the economy have experienced declines in the trend rate of growth, as shown in Table 7. These declines are not the result of shifting work forces and must be attributed to problems within sectors and/or to economy-wide problems.

Shifts in the composition of the labor force

The baby boom of the 1940s and early 1950s and the cultural changes that have attracted large numbers of women into the labor force in more recent years have brought about a dramatic change in the age-sex composition of the labor force. The proportion of the labor force accounted for by youths and women has risen sharply since the mid-sixties. As many of these workers are new entrants into the labor force, they have little previous work experience and job training. Hence, it is possible that the shift in the labor-force composition has contributed to the slowdown in productivity growth. This is very difficult to quantify, but the studies that have been completed suggest that about two- to three-tenths of a percentage point of the slowdown before 1974 are attributable to this occurrence. Since 1973, the composition of the labor force has not contributed to the slowdown. Moreover, demographic trends suggest that this factor should change from negative to positive sometime in the next decade as this large cohort of new labor-force entrants acquire work skills.

Another important property of the labor force is the average educational level. The 1960s were a period of rapid expansion in educational achievement. Since then, the growth in average median years of education has slowed. Thus, educational achievement has ceased to be a factor in labor-productivity growth.

Capital/labor ratio

An important source of growth in labor productivity is the growth in the capital/labor ratio—a measure of the amount of productive capital per worker. Estimation of the contribution of this factor to labor-productivity growth is difficult because of a number of complications. The most important of these is the fact that growth in the capital stock also entails technological change insofar as technological innovations are embodied in new capital equipment. Since there is no reliable measure of technological innovations, simple measures of the capital stock do not reliably reflect quality-adjusted data. In addition, fluctuations in the rate of utilization of capital confound attempts to ascertain its contribution to output.

Due to the imprecision involved in measuring a capital/labor ratio, there is much debate as to the actual magnitude of its contribution to the secular declines in productivity growth. There is little doubt that this is an important factor in the trend decline since 1973, accounting for about 0.5 percentage point of the slowdown. But there is conflicting evidence concerning its contributions in the 1965–73 slowdown.

Government regulations

The problem of a slowdown in the rate of capital formation has been exacerbated by the proliferation of government regulations that require that an increasing proportion of capital investment be diverted to improving the health and safety of workers and the environment rather than to expanding productive capacity. While these regulations have benefits, those benefits are difficult to measure and are not counted in our National Income Accounts. They are also frequently ignored when impressions of real living standards are formed. One study estimates that the direct impact of the growth in these regulations has been nearly a 0.2-percentage-point decline in measured productivity in the 1965–73 period and an additional 0.3-percentage-point decline since 1972.

In addition, important indirect costs are generated by these regulations. The implementation of new regulatory statutes is often associated with considerable litigation and uncertainty, which tends to reduce innovation and investment. Moreover some regulations specify or suggest the technology to be used to meet new standards, rather than prescribing a level of performance to be attained. As a consequence, innovations that could meet the standards at lower cost are not encouraged.

The substantial impact of these regulations shows up most dramatically in the collapses of productivity growth rates in two sectors that have been especially affected: in mining, where the 4.1-percent annual rate of decline in productivity growth may be attributable largely to the Mine Safety Act and environmental regulations; and in primary metals, where environmental regulations have been very costly in recent years and productivity growth has declined to an estimated —1.0 percent annually. In addition, environmental regulation may also help to explain the 1.4-percentage-point decline in productivity growth for utilities during 1973–77, although the major impact of these regulations will occur over the next decade. The precipitous decline in productivity growth in this sector is also attributable, however, to the sudden slowdown in the rate of growth of demand, while plants—planned for in preceding years on the basis of projections of rapid growth—continued to come on line, producing a growing margin of spare capacity.

Other factors

The foregoing factors, taken together, probably suffice to explain the 0.9-percentage-point decline in the growth rate of productivity in the 1965–73 period. They are not sufficient, however, to explain all of the further deterioration since 1973, accounting for only half of the 1.4-percentage-point decline between 1965–73 and 1973–78. This has caused speculation concerning other sources of the deterioration. Three of the most commonly mentioned factors are the sharp rise in energy prices in 1973–74, a decline in research and development, and a decline in workers' motivation. None of these causes is well documented and none is capable of explaining the very sudden and dramatic decline in productivity in 1974.

Energy prices in 1973–74 quadrupled overnight. Insofar as higher energy prices cause a switch in production processes (away from energy-using technologies to more labor-intensive techniques) or a shift in demand from energy-intensive to labor-intensive products, it is conceivable that the oil embargo of 1973 could sharply reduce labor-productivity growth.

However, changes in production techniques and in demand patterns generally occur very gradually, and only a very abrupt and massive switch in technologies or product mix could explain much of the decline since 1973. Moreover, the U.S. was less affected by the international oil-price hikes in 1973–74 than other countries. The fact that these countries did not experience slowdowns of a similar magnitude raises doubts about this explanation. Hence, while the surge in energy prices may have added somewhat to the decline in the growth rate, it is probably not possible to attribute much of the slowdown to this source.

Many analysts argue that the leveling off of research and development (R&D) expenditures has slowed productivity growth. This is more difficult to document because most of the decline in the growth of R&D expenditures appears to be concentrated in military-related research, and these expenditures may be less productivity-enhancing than are expenditures on basic research and product innovation. In any event, there are long lags between R&D expenditures and economically feasible innovations. Thus, this is just as unlikely an explanation of the sudden 1973–74 deterioration as are energy price increases. However, it could be another factor in the gradual decline in productivity growth.

Finally, some analysts contend that workers have changed their attitude toward their jobs, that they do not work as hard as they once did. This also is difficult to document, but, likewise, it cannot explain any sudden declines in growth rates. Attitudes typically change gradually and would take years before the cumulative impact was sufficiently large to be detected.

IV. POSSIBLE GOVERNMENT ACTIONS

The outlook for productivity in the near future is uncertain at best, but there is little room for complacency. The drag on productivity caused by the changing composition of the labor force should be reversed automatically in the 1980s as the baby-boom generation matures, perhaps adding as much as 0.4 percentage point to the growth rate. Investment rates in the last two years have also improved somewhat. But there is no reason to hope for an automatic reversal of the other factors contributing to the productivity slowdown. The bonus from the shift of workers from the farm to the nonfarm sector is gone forever. The lower productivity growth due to environmental and health-and-safety regulations, at least in part, is the price that we are paying now for years of neglect of the environment. It will take years to restore a clean environment, and we must be prepared to consume fewer purchased goods and services (even with economically rational regulations) than heretofore in order to pay for the attainment of these social goals.

Although capital investment is improving, there can be no doubt that much larger increases in business investment will be required to improve productivity growth significantly in the years ahead. The government can provide additional investment incentives, described below, but the most important contribution to this objective would be the restoration of a stable, noninflationary business environment. The uncertainty created by high and variable rates of inflation, wide swings in cyclical conditions, and rapid additions of business regulations have seriously deterred investment incentives since 1971.

Other measures that the government can take to improve productivity growth include the use of tax policy to stimulate investment, the reform of economic and social regulations to make them more cost effective, expanded R&D assistance, and the dissemination of research results and information.

Anti-inflation measures and productivity

As noted above, there can be no doubt that an improved productivity performance could be an important factor in alleviating inflationary momentum. But an improved inflation outlook could, in turn, improve the productivity performance of the economy. High and variable inflation rates create uncertainty and lack of confidence about the future. With future business conditions more certain, businesses' long-term planning would be easier and they would be more likely to undertake the type of capital improvements that lead to productivity growth.

Thus, one important policy for improving productivity growth is an effective anti-inflation policy. The anti-inflation program announced by the President last October, and reinforced in November, was designed to bring the inflation under control gradually. The program combines aggregate demand restraint with pay and price standards. Prudent monetary and fiscal policy are employed to slow the economy and ease pressures on prices and wages. The standards are complementary to aggregate demand management. Their purpose is to slow inflationary momentum and moderate inflationary expectations of business and workers, creating an environment in which the effect of fiscal and monetary restraint on unemployment and real growth will be minimized and the effect on inflation will be maximized.

Government policies to encourage capital accumulation

Tax policy is a traditional method of encouraging investment. The most recent revisison of the tax code, the Revenue Act of 1978, contained two important changes directed towards this end: a reduction in corporate tax rates and an improvement in the investment tax credit.

A reduction in the corporate tax rate directly improves corporate profitability, a key determinant of investment. Profits are just now beginning to recover from the recession of 1974–75 but, as of the end of 1978, profit as a share of GNP and rates of return on investment were still generally below the 1955–70 averages. The lower tax rates implemented through the Revenue Act of 1978 will further improve the after-tax profit outlook for corporations and make investment more attractive. The investment tax credit is intended to encourage capital accumulation by lowering the cost of purchasing capital goods. Last year this credit was liberalized and made permanent.

Future reductions in corporate taxes could be carefully designed to stimulate investment. Another method of encouraging investment would be to permit accelerated depreciation on capital.

Another important aspect of capital formation is the provision of enough savings to accommodate our investment needs. Independent regulatory agencies have moved to loosen regulations on interest rates on savings accounts. The Administration and the Council have supported these reforms. These reforms should increase savings by eventually allowing interest rates for small savers to rise to their market-clearing price. By doing so, savings and investment will be efficiently encouraged, thus expanding our productive capacity and easing potential supply bottlenecks throughout the economy.

Government regulations

Government can also improve productivity growth through regulatory reform. The Council plays a major role in the regulatory review process. Through a formal filings procedure with regulatory agencies, the Council has repeatedly stressed the need to make the regulatory process more economically rational. In addition, the Council participates in the Regulatory Analysis Review Group, which selectively analyzes the more important regulations of various regulatory agencies before final rulemaking.

Mention has already been made of the cumulative impact of environmental and health-and-safety regulations on productivity. Government must continue to encourage a cleaner environment and safer workplace, but it should strive to accomplish these goals with lower-cost alternatives. Quite often, it is possible to achieve the same levels of safety or environmental quality as required by traditional inflexible regulations, but at a lower cost, by drafting regulations that promote efficiency, innovation, and flexibility.

In addition to social regulations governing the environment and health and safety, the government also promulgates economic rules. Many economic regulations mandate inefficient business practices while others protect firms from competition, thus reducing the incentive to innovate. The Administration, with major input from the Council, is examining anti-competitive regulations with the objective of phasing-out those that are no longer justified on rational economic grounds. Transportation deregulation is particularly important in this regard. Airline deregulation has already provided obvious benefits in the form of heightened competition among carriers. This competition undoubtedly will improve productivity in following years as carriers attempt to provide the best service at the lowest cost. The trucking and railroad industries should be the next sectors to undergo regulatory reform. Indeed, there may be even more potential for productivity-improving deregulation in surface transportation than in the airline industry. Both these industries have been bound by an accumulation of inefficient and outdated rules that mandate practices that can no longer be rationalized.

Various types of import restrictions are another form of economic regulation that hinders productivity by reducing incentives for innovation. Resistance to special-interest protectionist appeals is necessary if counterproductive trade restrictions are to be avoided. When an industry faces competition from abroad, it all too often requests import relief instead of adopting the newest technologies. To this end, the Multilateral Trade Negotiations (MTN) recently concluded in Geneva will be an important element not just in our international trade policies, but also in our efforts to improve productivity.

The MTN will open up major export markets for U.S. firms as tariff rates are lowered by approximately 30 percent and as major nontariff barriers are reduced. The heightened competition resulting from this freer international trade should substantially improve U.S. productivity as worldwide efficiency is encouraged and as our high-productivity export sector is expanded.

Research and development

Research and development funding represents another area in which improvements have recently been made. Although it is difficult to determine whether the decline in R&D expenditures has contributed to the recent productivity shortfall, government funding of basic research could prove beneficial in improving future growth rates. A *careful* expansion of such funding is already underway. Outlays for basic research and development will increase by almost 18 percent in fiscal year 1979 and by an additional 10 percent in fiscal-year 1980.

The Government as a clearinghouse

CWPS also is an active participant on the National Productivity Council. The Council coordinates the decision-making process among government agencies in matters related to productivity. This includes but is not restricted to, coordination of Federal productivity programs in the private and public sectors, establishment of innovative projects to encourage public and private productivity, and improvement of productivity statistics.

V. THE PAY AND PRICE STANDARDS AND PRODUCTIVITY GROWTH

The pay and price standards are related to productivity growth in two important ways. First, the standards were designed to be consistent with one another and with constant functional income shares (i.e., constant shares going to labor and to capital owners), and this design depends critically upon the assumed trend rate of productivity growth. Second, every precaution was taken to ensure that the standards did not dampen businesses incentives to improve productivity.

Productivity growth and the design of the standards

The relationships between productivity growth, the inflation target, and the pay/price standards can be seen as follows. Full compliance with the 7-percent limitation on pay-rate increases would imply an average increase in total hourly compensation of about 8¼ percent. This takes into account the slippage due to large increases in employment taxes, the low-wage exemption, exempted increases in excess of 7 percent in the cost of maintaining *existing* health benefits, and exceptions for existing labor contracts, tandem pay changes, and acute labor shortages. Deducting from this figure the 10-year productivity trend growth rate of about 1¾ percent, we obtain the targeted increase of unit labor costs of 6½ percent. Constant income shares is essentially equivalent to equal increases in unit labor costs and prices. Thus, with full compliance and no exogenous price shocks, prices would rise by 6½ percent during the first program year.

Unfortunately, the economy has been particularly hard-hit by exogenous price shocks in the first program year, resulting in an annual inflation rate of about 11 percent thus far. In the monitored sector of the economy, the inflation rate has been about 7½ percent. The one-percentage-point difference between this rate and the 6½ percent target rate is attributable primarily to the effect of crude-material price increases rippling through the monitored sector of the economy, forcing many companies off of price deceleration and onto the alternative cost-passthrough provisions of the profit-margin limitation.

The standards and incentives to improve productivity

The pay and price standards were designed to be effective with a minimum loss of efficiency and to avoid the dampening of investment incentives. As with most government intervention in the marketplace, the call for restraint in pay and price decisions runs the risk of inducing some economic inefficiencies by distorting market incentives and signals, resulting in a misallocation of resources and dscouragement of productivity growth. While it is undoubtedly the case that some inefficiencies will result, these are likely to be small compared to the fundamental economic inefficiencies caused by inflation itself.

Our concern for maintaining productivity incentives is evident in several aspects of the standards.

First, the price controls of the early 1970s applied to individual product prices, and this approach tied companies into a pricing straitjacket that prevented them from reacting rationally to changing cost and market conditions. In contrast, the current price standard applies to the average rate of price change across all product lines of a company. Companies are free to adjust relative prices in response to changing market conditions so long as they meet the overall deceleration objective. This freedom to adjust relative price is essential if distortions and shortages, whch could seriously damage productivity incentives, are to be avoided.

Second, the notion of a price standard based primarily on a cost-passthrough principle was rejected at the outset. Under the 1971–73 program of price controls, price limitations were based on a percentage passthrough of costs. This approach provided no incentive for firms to search for cost efficiencies, since any decrease in costs would have to be reflected in reduced prices. In contrast, under the present price standard, if the price deceleration goal is achieved, no limitations are placed on profits. This encourages firms to take cost-reducing actions, with the resultant profits available for investment and capital accumulation—a major determinant of productivity growth.

The design of the standards recognizes, however that price deceleration is impossible for companies that experience significant uncontrollable cost increases. If no exception to the standards were available for such companies, they would be forced either to violate the price standard or to curtail production of some items. The latter decision, if widespread, could lead to artificially induced shortages that, in turn, lower productivity for companies that are unable to purchase adequate amounts of required inputs. In order to avoid the inducement of such shortages, a profit-margin exception was incorporated into the standards. Firms experiencing uncontrollable cost increases can comply instead with a restriction on their profit margins.

Finally, the notion of a differential pay standard for differing rates of productivity growth at the industry or firm level was rejected. There is no theoretical or empirical justification for the notion that wage-rate increases should be solely determined directly by productivity growth at the industry or firm level. The disparities between productivity growth rates across industries have little to do with differences in the diligence of the workers; rather, they are due to the fact that there is more potential for productivity-improving innovations in some industries (for example, most manufacturing industries) than in others (for example, services). Rapid productivity growth in some industries is the result primarily of the embodiment of new, more advanced technologies, which can in turn be traced back to general scientific progress. The productivity growth rate for the economy as a whole determines the rate at which real wages can increase on average, but there is no reason why the distribution of real-wage increases across industries should correspond closely to the distribution of productivity increases *across* industries. Rather, disparities in productivity growth rates across industries are mainly reflected in divergent price trends: price increases are relatively low in high-productivity-growth sectors and relatively high in low-productivity-growth sectors.

However, in the first program year, special treatment was given to productivity where it is clearly and directly measurable and where it is clearly tied to a demonstrable improvement in the diligence of the individual workers. For instance, pay-rate increases that are traded for work-rule changes that result in demonstrable improvements in productivity are not counted against the 7-percent standard. This exception applies only to collective-bargaining situations, in which a company has no means of eliminating outdated work-rule restrictions other than through a buyout using additional wage-rate increases.

There are also exceptions in the first program year for cases in which an individual's pay is directly linked to physical measures of his or her own industriousness, such as piece-work pay and sales commissions. In these cases, the 7-percent standard does not apply to pay increases related to increased physical output per hour worked.

In the second program year, both of the above exceptions are likely to continue as before. In addition, however, the Council is considering proposing an exception for group productivity incentive plans. Under the contemplated exception, groups of employees who are compensated under these plans can receive pay in excess of the standard if it can be clearly demonstrated that the additional pay is solely the result of additional work effort. Productivity improvements that are due to new capital equipment, changing technology, or any other productivity improvement not tied to workers' diligence would not be eligible for this exception. Furthermore, this exception would apply only to those plans that base additional compensation on measurable increases in physical productivity. Plans that provide additional pay for increases in dollar-valued output, profits, or any measure other than units of output are not presently exempted, since profits can increase for many reasons other than increased work effort, including an increase in prices. The Council is examining the possibility of providing exceptions for such plans, but, at the moment, there is considerable skepticism about the ability to monitor such plans effectively.

PAY LIMIT EXCEPTION CONSIDERED

(By Edward Cowan)

WASHINGTON, July 24.—The Council on Wage and Price Stability said today that it was leaning toward granting an exception to its voluntary limits on wage increases to employees who raise their productivity by "additional work effort."

The council said it was considering a change in the rules that would permit a pay increase in excess of its 7 percent standard for "group productivity incentive plans" if such plans "base additional compensation on measurable increases in physical productivity."

The council outlined its thinking in a report to Congress on productivity. The report emphasized the Administration's view that, because labor productivity—or output per worker-hour—has not been rising, it is self-defeating for workers to try to "catch up" with rising prices by demanding higher pay. Higher labor costs in turn lead to higher prices, the report said.

COMPANIES CITED FOR VIOLATIONS

Meanwhile, a council spokesman said that the Aug. 1 target date for publication of proposed changes of the pay and price standards could not be met and that the list of proposals would be issued in the week of Aug. 6 instead. The council will then receive comments from the public, business and labor before putting the revised standards into effect Oct. 1, the start of the second year of the voluntary restraint program.

In a related development today, the council, for the first time, recommended denial of Federal contracts to an employer found to have violated the pay standard. The employer, Mason Contractors of Mount Prospect, Ill., was said to have given an excessive pay rise to 400 bricklayers. The council made a similar referral, citing alleged violation of the price standard, for the Northwestern Steel and Wire Company of Sterling, Ill.

Such a referral is not binding. Federal agencies can ignore it if they find that the cited company is the low bidder on a contract, is the only supplier of a necessary item or should be awarded a contract for some other reason. The first company so cited was subsequently awarded a Defense Department contract.

NONWORKER EFFORTS EXCLUDED

Other findings, definite or tentative, of violations of the pay standards have been made, including one involving United Airlines and the International Association of Machinists union. But, pending reconsideration, none of these employers has been referred to the Office of Federal Procurement Policy for debarment from contracts.

With respect to the proposed productivity rule, the council said: "Under the contemplated exception, groups of employees who are compensated under these plans can receive pay in excess of the standard if it can be clearly demonstrated that the additional pay is solely the result of additional work effort."

The report also recommended that "future reductions in corporate taxes" be "carefully designed to stimulate investment." Another method would be faster tax write-offs, the report said.

EXHIBIT 2

THE NEW YORK STOCK EXCHANGE,
May 17, 1979.

Hon. JACOB K. JAVITS,
U.S. Senate,
Committee on Human Resources,
Washington, D.C.

DEAR SENATOR JAVITS: In response to your letter of April 5th, I am delighted to enclose a statement on means for modifying wage-price standards for productivity growth. This statement has been reviewed also by Professor John Kendrick with whom the New York Stock Exchange has been working on its detailed analysis of productivity trends in the United States.

I hope that this document meets your needs and that you will let me know if I can be of any further service to you in this connection.

With best personal regards.

Sincerely,

WILLIAM C. FREUND.

INCORPORATING PRODUCTIVITY GROWTH INTO WAGE-PRICE GUIDELINES

BASIC RATIONALE

The sagging rate of productivity growth in the U.S. during recent years is analyzed in the study of the New York Stock Exchange on "Reaching a Higher Standard of Living" (January, 1979). It contains a discussion of—

The shocking decline in productivity growth during the past decade: Productivity growth has virtually collapsed in the U.S. This has been not merely a cyclical occurrence but a longer-term trend. (1967–1978, 1.6 percent per annum versus 3.3 percent, 1947–1967).

The basic economic factors underlying this slowing in productivity growth: Prominent among the factors have been lagging investment in new capital equipment and in research and development.

The multiplier effect of lagging productivity growth in winding up inflation over time: The study finds that faster productivity growth could be a potent factor in unwinding inflation over time.

The impact of productivity on the rate of real economic growth.

Some suggestions for improving productivity gains in the future.

One important way to stimulate greater productivity would be to provide a direct incentive to productivity through the wage-price guidelines. Unfortunately, the guidelines presently serve as a disincentive to productivity since productivity gains reflected in higher wages and profits may be disallowed. We therefore suggest that productivity growth become an explicit factor in establishing wage-price guidelines.

Many observers have noted that recent inflation rates pose a risk to current wage-price standards. Unless the guidelines are more closely related to the actual decline in purchasing power, the voluntary control apparatus stands in some danger of collapse or disregard. Yet, any new degree of flexibility should be economically justifiable and not merely an ex-post arbitrary upward adjustment of the standard.

In providing for greater flexibility, it would be highly desirable to create new incentives for more productivity growth and, in the process, to encourage the widespread adoption of productivity measures. A wage increase above 7 percent is less inflationary than one below 7 percent if offset by a sufficiently high productivity gain. Similarly, a wage increase below 7 percent can be very inflationary if accompanied by very low productivity growth. A wage standard which does not distinguish among relative rates of productivity growth provides no encouragement to productivity.

SPECIFIC PROGRAM

A variety of ways can be devised to use wage guidelines to achieve faster productivity growth. One way, which would simplify the administrative burden, is simply to allow some higher percentage wage settlement (say, one percent) if a firm demonstrates that it has established effective joint labor-management productivity committees.* Minimum standards can be set for their operation. A more powerful way to encourage productivity growth is to require companies seeking a productivity adjustment to set up an operational labor-management committee and to demonstrate achievement of an actual above-average *ex-post* productivity growth rate. Firms could choose whether they wish to avail themselves of the productivity allowance.

A practical program for incorporating productivity into the wage standard, therefore, might consist of the following conditions:

Require establishment of an effective labor-management productivity committee within a firm. (Appendix A considers some minimum requirements for effective labor-management committees.)

Limit the additional wage allowance to a small, yet meaningful percentage, say, a maximum of 1% or 2% per annum.

Permit the additional wage allowance only where substantial productivity gains have *actually* been achieved. This means that labor contracts would allow for an additional 1% or 2% maximum wage increase only at the end of the year (calendar or fiscal) and only upon demonstration of an actual productivity growth exceeding a specified percentage—say, 4 or 5%.**

Modify the profit margin standard to allow some maximum (say, 1–2%) increase in profit margins where the improvement can be demonstrated to have resulted from an improvement in actual productivity growth exceeding a specified percentage—say, 4 or 5%.

Assist firms in measuring and monitoring productivity as an important and on-going activity. (Appendix B discusses some approaches which might be used to measure productivity growth.)

Such a program is unlikely to inundate COWPS with applications for productivity adjustments. Not every firm covered by the guidelines could meet the strict requirements. Yet, if the guidelines are to be used in generating increased awareness and action of one of our nation's most pressing economic problems, it will inevitably require additional staff and surveillance. The benefits, however, are likely to exceed the costs of the program by a considerable margin.

---

* Professor John Kendrick of George Washington University, a noted authority on productivity and consultant to the NYSE on the subject, favors this policy as the sole means for integrating productivity into the guidelines.

**This proposal would be in addition to Section 705B–6 (pay rate increases for productivity improving work-rule changes) and would have to be integrated with it.

SOME POSSIBLE OBJECTIONS

Those opposed to productivity adjustments in the guidelines generally cite three specific reasons:

Productivity is difficult to measure at the company level.

Rising productivity should serve to reduce prices, not increase wages and profits.

Wages tend to equalize for the same jobs irrespective of the rate of productivity growth in various industries.

We discuss each of these familiar objections below:

Measurement.—It is true that productivity is not easy to measure, particularly in firms with a diversity of companies and product lines. The difficulty has been exaggerated. Many firms already use productivity measures as an important management tool to achieve greater efficiency, with a sharing of the higher efficiency by labor, stockholders, and customers. Appendix B contains a brief discussion of measuring productivity. Professor John Kendrick's 1977 book, Understanding Productivity, as well as other literature, contains further discussion.

One purpose of the guidelines should be the achievement of faster productivity growth. Difficulties in measurement should not be allowed to defeat this aim. On the contrary, the guidelines program could provide a powerful incentive to achieve improved productivity. Productivity measures are an essential part of that purpose.

Productivity to Reduce Prices.—Another argument is that productivity should serve to reduce prices rather than increase wages and profits. Perhaps so in pure economic theory. But in the real world, better productivity will be achieved only if there is an incentive through a sharing of productivity growth by both labor and capital. Our proposal would put a cap on the proportion of productivity growth shared by wages and profits. The result would be to limit price increases as well as to stimulate labor and capital to cooperate in fostering productivity gains.

Wages Tend to Equalize.—Higher compensation resulting from greater productivity in some industries will tend to spread to wages in all industries for similar jobs. That again is good economic theory. But the effect of greater productivity gains on wages and profits in some industries will attract labor and capital to these industries. This shift of resources out of low to high productivity industries is, of course, highly desirable as a means of encouraging dynamic growth and less inflation.

We conclude that the usual arguments against productivity adjustments in the guidelines are not sufficiently persuasive to recommend against providing productivity encouragement through the guidelines program.

CONCLUSION

The basic question is whether current wage standards should be modified in order to:

Provide increased flexibility.

Encourage faster productivity growth and thus assist in unwinding inflation over time.

Use the existing apparatus in an effective way to stimulate the sluggish productivity record of the U.S. in recent years.

Appendix A: Requirements for Labor-Management Productivity Committees

Establish a company-wide program.

Involve personnel at all levels—plants, departments, work units.

Provide recognition of individuals and groups for superior ideas and performance.

Provide direction and technical assistance to all labor-management committees established within the firm.

Excerpt from "Improving Productivity," National Center for Productivity and Quality of Working Life, December 1975, page 2:

"A number of characteristics that are requisites of a workable program standout:

Company support for the effort at top management levels.

Recognition of the key role of the company's employees.

A full understanding at all levels of the purposes and objectives of the productivity improvement program.

Establishment of goals and the development of valid measurements to reveal whether, and to what extent, the goals are being met.

Improvement in productivity should be obtained to the extent possible without impairment of job security."

It is suggested that companies seeking to take advantage of the productivity factors in the wage-price guidelines certify that they have met the minimum requirements for the establishment and operation of labor-management productivity committees.

Appendix B: Company Measurement of Productivity Gains

Firms wishing to obtain the benefits of productivity provisions in the wage-price guidelines would be required to measure their productivity gains over a preceding 12 month period.

"To a major extent, the data required to produce productivity estimates are available from the records ordinarily maintained by firms and other organizations." [*]

Calculate output as the value of sales plus change in inventories.

Deflate output by a price index constructed for the firm. In developing the price index, use current year production as weights. The formula would be

$$P = \Sigma P_n Q_n / \Sigma P_o Q_n \text{ (Paasche's index).}$$

Divide real output by averaging number of employee hours worked to obtain real output per employee hour.

The measure described above would provide a useful gauge to productivity changes. It would be flexible in that it allows the addition or subtraction of products and services without distorting the index. Where companies produce a variety of products and services, a separate price index for each operation would have to be calculated and then combined into an overall company index.

Exhibit 3

International Comparisons of Manufacturing Productivity and Labor Costs Preliminary Measures for 1978

Japan, Canada, and Germany recorded more favorable developments in manufacturing productivity and unit labor costs than the United States in 1978, according to preliminary measures released today by the Bureau of Labor Statistics of the U.S. Department of Labor. Japanese productivity rose more than 8 percent, compared with a 2½ percent gain in the United States and about 4 percent in Canada and Germany. Hourly compensation increased in the United States 9½ percent, more than in the other three countries. Consequently, U.S. unit labor costs rose 7 percent, Japanese unit labor costs declined slightly over the year, and Canadian and German unit labor costs rose at moderate rates.

Unit labor costs, however, rose more sharply in the United Kingdom, Italy, and France than in the United States. In Italy and the United Kingdom, relatively low productivity gains and substantial increases in hourly compensation led to increases in unit labor costs of 10½ and 15 percent. In France where productivity gained 5 percent but hourly compensation rose sharply—the unit labor cost gain was over 7½ percent.

When each country's unit labor costs are measured on a U.S. dollar basis, which takes account of relative changes in currency values, Canada shows a decline while Japan and the European countries show increases of 18 to 26 percent, with Japan and the United Kingdom recording the largest rises.

The Bureau's preliminary 1978 estimates of percent changes in productivity (as measured by output per hour), hourly compensation, and unit labor costs, measured on a national currency basis, for seven major countries are summarized in the tabulation below, along with the corresponding figures for 1977:

	Output per hour		Hourly compensation		Unit labor costs	
	1976–77	1977–78	1976–77	1977–78	1976–77	1977–78
United States	2.4	2.5	8.8	9.5	6.3	6.9
Canada	4.8	4.2	10.7	7.0	5.6	2.7
Japan	5.6	8.3	9.2	6.3	3.4	−1.8
France	5.0	4.9	14.9	13.0	9.5	7.7
Germany	5.4	3.7	9.7	7.2	4.1	3.4
Italy	1.1	2.9	18.8	13.9	17.5	10.6
United Kingdom	−1.0	1.6	10.2	16.9	11.3	15.1

PRODUCTIVITY, OUTPUT, EMPLOYMENT, AND HOURS

Manufacturing productivity rose 2½ percent in 1978 in the United States, compared with increases of about 8 percent in Japan, 4 to 5 percent in Canada, France, and Germany, 3 percent in Italy, and 1½ percent in the United Kingdom. The productivity gains recorded by the United States, Canada, and Japan were accompanied by output increases of about 6 to 7 percent, whereas output growth in the European countries was modest—2½ percent in France, less than 2 percent in Germany and Italy, and about 1 percent in the United Kingdom.

The United States continued its steady recovery in employment and hours following the 1974–75 recession, with both measures rising by 3½ percent or more in each of the past 3 years. Employment and hours also increased in Canada in 1978, but fell in each of the other countries. The United States is the only country among the seven in which employment and hours returned to pre-recession levels. The following tabulation shows the 1977–78 percent changes in productivity and the underlying variables of output, hours, and employment:

	Output per hour	Output	Hours	Employment	Average hours
United States	2.5	6.3	3.7	3.6	0.2
Canada	4.2	7.4	3.1	1.7	1.4
Japan	8.3	6.2	−1.9	−2.5	.6
France	4.9	2.5	−2.3	−1.6	−.7
Germany	3.7	1.7	−1.9	−.4	−1.5
Italy	2.9	1.7	−1.2	−1.0	−.2
United Kingdom	1.6	.8	−.8	−.5	−.3

---

[*] John W. Kendrick, "Understanding Productivity," The Johns Hopkins University Press, Baltimore, 1977, page 122.

HOURLY COMPENSATION AND UNIT LABOR COSTS

Hourly compensation rose 9½ percent in 1978 in the United States, a rate of increase that was, as in 1977, somewhat higher than the year before. These increases, unaccompanied by similar increases in output per hour, continued to put pressure on unit labor costs, which rose over 6 percent in 1977 and nearly 7 percent in 1978.

Hourly compensation rose 13 to 17 percent in France, Italy, and the United Kingdom in 1978 and 6 to 7 percent in Canada, Japan, and Germany. For the latter three countries, this represented a significant slowing over the preceding year when hourly compensation rose 9 to 11 percent. Because of Japan's 8 percent gain in productivity, unit labor costs fell nearly 2 percent. Unit labor costs were held to about a 3 percent rise in Canada and Germany, but France, Italy, and the United Kingdom had larger increases than the United States because of the wider spread between gains in hourly compensation and gains in productivity.

UNIT LABOR COSTS ON A U.S. DOLLAR BASIS

The Japanese yen and each of the European currencies rose against the U.S. dollar in 1978—the yen by 29 percent, the German mark by 16 percent, and the other European currencies by 4 to 10 percent. On the other hand, the value of the Canadian dollar declined by 7 percent. These changes in currency valuations had a substantial effect on relative rates of change in unit labor costs expressed on a U.S. dollar basis. After adjustment for exchange rate movements, unit labor costs fell 4 percent in Canada, but rose 15 to 20 percent in France, Germany, and Italy, and by 26 percent in Japan and the United Kingdom. Thus, on a U.S. dollar basis, U.S. unit labor costs improved greatly relative to every other country except Canada. The following tabulation shows the 1977–78 percent changes in unit labor costs measured in national currencies and in U.S. dollars:

	National currency basis	U.S. dollar basis
United States	6.9	6.9
Canada	7.7	−4.3
Japan	−1.8	26.2
France	2.7	17.6
Germany	3.4	19.7
Italy	10.6	15.1
United Kingdom	15.1	26.5

HISTORICAL DATA

Table 1 presents the 1972 to 1978 annual indexes of manufacturing productivity, labor costs, and related measures for the seven countries discussed in this release plus the available data for four additional countries: Belgium, Denmark, the Netherlands, and Sweden. The table includes some revisions of the Bureau's previous estimates published in "Productivity and Unit Labor Costs in 11 Industrial Countries, 1977," Monthly Labor Review, November 1978.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

COMPREHENSIVE MESSAGE ON ENERGY AND ENVIRONMENT—MESSAGE FROM THE PRESIDENT—PM 93

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Environment and Public Works, the Committee on Energy and Natural Resources, the Committee on Labor and Human Resources, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Commerce, Science, and Transportation, jointly, by unanimous consent:

To the Congress of the United States:

Four months after I took office, I presented to the Congress a comprehensive Message on the Environment, a charter for the first years of my Administration. Building on the record of the Congress in the 1970's, I sought both to protect our national heritage and to meet the competing demands on our natural resources.

Certain basic ideas remain the foundation of American environmental policy. Our great natural heritage should be protected for the use and enjoyment of all citizens. The bounty of nature—our farmlands and forests, our water, wildlife and fisheries, our renewable energy sources—are the basis of our present and future material well-being. They must be carefully managed and conserved. The quality of our environment must be nurtured by wise decisions and protected from hasty or unplanned actions. Clean air and water remain essential goals, and we intend to achieve them in the most efficient and effective ways possible. And we have a serious responsibility to help protect the long-term health of the global environment we share with all humanity.

I am proud of the achievements of this period. The program I offer today emphasizes continuity, but it also reflects a keener awareness of certain serious emerging problems—such as disposition of the toxic wastes our highly technological society produces.

ACCOMPLISHMENTS SINCE 1977

We have made great strides together since I took office. With my strong support, the Congress enacted and I signed into law:

—the 1977 Amendments to our two fundamental laws for cleaning up pollution, the Clean Air and Clean Water Acts, including strict but enforceable standards and a strong wetlands protection program;

—the 1977 Surface Mining Reclamation Act, which established the first federal environmental standards for coal mining, and under which regulations were developed with strong public involvement;

—the 1977 Federal Mine Safety and Health Act, which established the Mine Safety and Health Administration in the Department of Labor to promulgate and enforce health and safety standards in all mines;

—the 1977 Nuclear Non-Proliferation Act, which sets conditions on U.S. nuclear exports to deter the spread of nuclear weapons, and offers other countries incentives to cooperate with our safeguards against proliferation;

—indefinite deferral of other activities which might lead to weapons proliferation, particularly nuclear fuel reprocessing and commercialization of the breeder reactor;

—the 1978 National Energy Act, with specific policies and programs emphasizing energy conservation;

—the 1978 Federal Environmental Pesticide Control Act, which provided for generic registration and control of pesticides;

—reauthorization, in 1978, of the Endangered Species Act, including new procedures for resolving conflicts under the Act;

—enactment of the National Parks and Recreation Act of 1978 and other legislation to preserve nationally significant areas, adding 45 million acres to the National Park System, 13 new Wild and Scenic Rivers and National Trails, and protecting more than 4.5 million additional acres of wilderness.

In addition, I issued Executive Orders in 1977 and 1978 directing federal agencies to improve their implementation of the National Environmental Policy Act under new regulations, which were issued in 1978; examine the environmental effects of federal actions abroad; preserve and restore natural values of wetlands and floodplains; protect our public lands from damage caused by off-road vehicles; and analyze the impacts of new federal policies on urban areas. These directives are being implemented.

ENVIRONMENTAL PROGRAM

With these accomplishments behind us, we can turn our attention to new issues and to other key issues that are still unresolved.

In the decade ahead, we will face difficult decisions as we confront the necessity of reducing dangerous dependence on foreign oil. The leaders of the major industrial democracies met in Tokyo last month to chart a course that would help cut the use of imported oil from uncertain foreign suppliers. Each nation committed itself to a specific reduction in imports, to be accomplished in a way appropriate to its particular needs and resources.

For the past two and one-half years, conservation and energy from the sun have been major thrusts of my energy program. Solar energy funding has been tripled during that period and the Congress in 1978 enacted the National Energy Act which will save 2.5 million barrels of imported oil per day. Much of these savings will be accomplished with conservation initiatives. In addition, another 1.5 million barrels of imported oil will be saved as a result of my April energy message and June solar energy package.

To build on these major savings, I have proposed an expanded effort to put this nation on a sound energy footing, with clear goals for the next decade. That effort is based on a bold program to increase domestic energy production and on additional energy conservation initiatives. Overall, this program will reduce our dependence on foreign oil by 4.5 million barrels per day by 1990.

Some of the measures I have proposed will simultaneously serve the goals of reducing oil imports and enhancing our environment. I proposed establishing a major new residential and commercial conservation program designed to save at least 500,000 barrels of oil a day by 1990. I further proposed a total of $16.5 billion over the coming decade for improvements in the nation's public transportation system and in transportation fuel efficiency. A major solar energy program will help us to meet our goal of 20 percent solar energy by the year 2000.

We must also embark on a major energy production effort through a new Energy Security Corporation that will have broad responsibility for developing 2.5 million barrels a day of replacement fuels by 1990. That Corporation will be specifically authorized to develop not only synthetic fuels but also sources of energy which could have significant environmental benefits, such as natural gas and biomass. I do not pretend that all new replacement sources of energy will be environmentally innocuous. Some of the new technologies we will need to develop pose environmental risks, not all of which are yet fully understood. I will work to ensure that environmental protections are built into the process of developing these technologies, and that when tradeoffs must be made, they will be made fairly, equitably, and in the light of informed public scrutiny. We will examine not only the impact of new energy technologies on land and water and the effects of toxic chemicals, but also the longer term implications of increasing carbon dioxide concentration in the atmosphere.

I am pledged to be sensitive both to energy needs and to environmental considerations. There is no excuse for unnecessary red tape, which has plagued construction of some needed energy projects. I have proposed the creation of an Energy Mobilization Board to accelerate decision-making on critical energy facilities. This will cut out excessive delay, but I will not allow it to undermine protection of our nation's environment. I intend, for instance, to make the environmental impact statement process fit the decision schedule set by the Energy Mobilization Board so that waivers of these statements will be rare. Onlv in exceptional cases will alternative procedures be necessary for the orderly completion of a critical energy facility. With the exception of new requirements imposed when construction of a critical facility is underway, the Board could not waive substantive environmental standards. The President will retain the right to override decisions of the Board on any waiver issue, and Board waiver decisions would be subject to judicial review.

Solving the nation's energy problem is essential to our economy and our security. We will not lose sight of our other goals but we must not fail in ending the energy crisis. This Administration's basic commitment to clean air, clean water and the overall protection of the environment remains strong.

ALASKA LANDS

The highest environmental priority of my Administration is the passage of adequate legislation designating National Parks, Wildlife Refuges, Wilderness Areas, National Forests, and Wild and Scenic Rivers in Alaska.

To protect these magnificent Alaskan lands, I took several actions after the 95th Congress failed to provide protection against exploitation of certain areas in Alaska. By executive action, I designated 17 areas as National Monuments, covering 56 million acres. Additional areas were set aside by the Secretaries of Interior and Agriculture. These areas should be promptly and permanently protected by legislation.

The legislation I support not only protects Alaska's natural and cultural heritage but also accommodates the need for balanced development of Alaska's natural resources. Under the Alaska Statehood Act and Native Claims Settlement Act, federal land comprising an area nearly as large as Texas will soon be in state, native and private ownership. My proposals leave most of Alaska's mineral and timber wealth available for development, both on federal and non-federal lands. In particular, all of the off-shore and 95 percent of the on-shore areas in Alaska with favorable potential for oil and gas would be open to exploration and development.

The only area with significant potential for oil and gas reserves that would be foreclosed from exploration and development is the Arctic Wildlife Refuge, the calving grounds of the largest remaining caribou herd in the world and an important part of the herd's migratory route. Because of our responsibility to protect this extraordinary remnant of our continent's original wildlife, and because oil and gas are plentifully available elsewhere in Alaska, I firmly believe that the Arctic Wildlife Refuge deserves the full protection the House bill would provide.

There are other Alaskan areas where disagreements and conflicts exist over proper management. The Administration's proposals strike a balance that offers future generations of all Americans—especially Alaskans—broad opportunities for prosperity and enjoyment without the mistakes in land management we have seen elsewhere in the country.

I applaud the recent passage by the House of Representatives, by a margin of 300 votes, of a strong and fair bill which will protect Alaska's wildlife and wild areas, while providing for America's future economic needs. I urge the Senate to act with equal foresight this session.

HAZARDOUS WASTES

In August 1978, I declared Love Canal in Niagara Falls, New York, a national disaster, thus authorizing the use of federal disaster relief aid. The tragedy of Love Canal exemplifies the legacy of past improper hazardous waste disposal.

Last month I submitted to Congress a legislative proposal designed to prevent future disasters like the one at Love Canal. My proposed legislation—the Oil, Hazardous Substances and Hazardous Waste Response, Liability and Compensation Act—will provide the first comprehensive program to address releases of oil and hazardous substances from spills and from inactive and abandoned sites into navigable waters, ground waters, land and air. The legislation builds on present authority and fills gaps where present authority is inadequate to protect the human environment.

We do not yet know all of the problems associated with the disposal of hazardous wastes, but we must take further steps immediately. A report done for the Environmental Protection Agency estimates that there are 33,000–50,000 dumpsites which may contain some hazardous wastes. Of these, EPA estimates that 1,200 to 2,000 may present potentially significant problems, and 500 to 800 of them may have to be abandoned. Other accounts of improper disposal describe shallow burial in steel drums which leak after years in the ground, dumping in open lagoons, and clandestine dumping in sewers and along our highways. These abuses have caused serious damage to human health and economic welfare, pollution of ground and drinking water, and degradation of residential and recreation areas. The cost of cleaning up these sites runs into the billions of dollars. But the costs of ignoring the problem would be far higher.

Timely action by the Congress on my program will enable the Federal government, in cooperation with State and local governments and industry, to:

—identify abandoned hazardous dump sites across the nation;

—establish a uniform system of reporting spills and releases;

—provide emergency government response and containment to clean up and mitigate pollution without delay in cases where those responsible do not respond adequately or cannot be quickly identified;

—provide vigorous investigation of releases of oil, hazardous substances or hazardous waste from spills or abandoned and inactive sites;

—provide stronger authority to compel the responsible parties to clean up dangerous sites wherever possible;

—provide compensation for damages to property and for some other economic losses resulting from spills; and

—provide financing for these actions through a national fund of appropriations and a fee on the oil and chemical industries, and State cost-sharing over certain limits.

SOLAR ENERGY

My Solar Energy Message, submitted to the Congress on June 20, 1979, calls for a national commitment to the use of solar energy. That message and the program it lays out came from a 13-month effort by my Administration and the public, begun on Sun Day—May 3, 1978.

Solar energy is renewable and secure. It is clean and safe. In the long run, solar and other renewable sources of energy provide a hedge against inflation. Unlike the costs of depletable resources, which rise at increasing rates as reserves are consumed, the cost of energy from the sun will go *down* as we develop better and cheaper ways of applying it to everyday needs. For everyone in our society—especially our low-income or fixed-income families—solar energy will provide an important way to avoid rising fuel costs in the future. No foreign cartel can embargo the sun or set the price of the energy we harness from it.

I have set a national goal of achieving 20 percent of the Nation's energy from the sun and other renewable resources by the year 2000. To do this we must commit ourselves to several major new initiatives which will hasten the introduction of solar technologies. I am proposing a variety of solar programs to be funded from my proposed Energy Security Trust Fund, including a Solar Bank to help finance solar installations in homes and commercial buildings; tax credits for new buildings that use solar energy and for using the sun's heat for industrial and agricultural processes; and stronger efforts to remove institutional, financial, and information barriers that currently inhibit the use of solar energy by citizens. These proposals are in addition to the expanded research, development and demonstration program I included in my budget for fiscal year 1980.

NUCLEAR WASTE MANAGEMENT AND SAFETY

I will soon announce a national nuclear waste management policy that will be designed to deal effectively with nuclear wastes from all sources, including commercial, defense, medical, and research activities. This nuclear waste management policy will be based primarily on recommendations presented to me by the Interagency Review Group on Nuclear Waste Management. Some of the important findings of that Report include the following:

—Existing and future nuclear waste from military and civilian activities, including discarded spent fuel from the once-through nuclear fuel cycle, should be isolated from the biosphere so that it does not pose a significant threat to public health and safety.

—The responsibility for establishing a waste program should not be deferred to future generations.

—A broader research and development program for waste disposal, particularly geologic isolation, should begin promptly.

—Public participation should be developed and strengthened for all aspects of nuclear waste management programs.

I also look forward to receiving the recommendations on reactor safety from the Kemeny Commission in the aftermath of the Three Mile Island accident so that we can assure that nuclear reactors are as safe as the public expects them to be.

WATER RESOURCES POLICY

I remain firmly committed to the resources policy reforms I announced in my Message to Congress one year ago. The revised criteria used by the Administration in reviewing proposed water projects have already shown their worth. They are producing environmental benefits and reducing wasteful government spending. In 1979, for the first time in four years, the Executive branch proposed funding new water projects, using the more systematic and objective evaluation procedures I have instituted. With the help of Congress and State and local governments, the Administration has prepared legislation to make further reforms in water resources management, including cost-sharing and assistance to states for comprehensive water resources planning. I look forward to cooperation with the 96th Congress in this area.

NATIONAL HERITAGE POLICY ACT

I strongly support the establishment of a comprehensive Federal program to identify and protect significant natural areas and historic places. I will soon propose a National Heritage Policy Act which would help Federal agencies, State and local governments, Indian tribes and citizens identify potential heritage areas; establish a new National Register of Natural Areas to supplement the existing National Register of Historic Places; and protect areas listed on either Register, or eligible for listing, from adverse federal actions. This important legislation would support the Heritage Conservation program already established by the Secretary of the Interior in 1977.

SAVING THE WHALES

With U.S. leadership, the nations of the world are making encouraging progress toward protecting the great whales. At the July 1979 meeting of the International Whaling Commission (IWC), proposals by the United States and other countries for a moratorium on commercial whaling led to dramatic improvements. By the necessary three-fourths majority, IWC members voted to:

—End whaling from factory ships on the high seas (except for hunting of the relatively numerous minkes) and allow whaling only from coastal stations;

—Reduce killing of the commercially valuable but jeopardized sperm whales by more than three-quarters, with world quotas down from 9360 sperm whales to 2203;

—Establish a whale sanctuary in most of the Indian Ocean where no hunting of any of the great whales will be allowed for 10 years.

I am wholeheartedly committed to strong action to guarantee the survival of the great whales. The progress made in this year's IWC meeting shows that many other nations share the American commitment. I will continue to press for better scientific understanding of these magnificent and highly intelligent creatures and will maintain the effort to halt commercial whaling.

IMPLEMENTATION OF 1978 NATIONAL PARKS AND RECREATION ACT

Following passage of the National Parks and Recreation Act of 1978, the Administration has sought to speed the acquisition of new park land before it is spoiled or priced out of reach. We shall continue to do that.

Among the most significant and imaginative actions included in the 1978 legislation is the program to establish a million-acre Pinelands National Reserve in New Jersey. The Department of the Interior will support local and State efforts to protect the Pinelands and its unique scenic and natural resources while maintaining private ownership and a sound local tax base. The Administration strongly supports this new Federal, State and local partnership in the Pinelands, and will work hard to see that federal agencies cooperate with State and local governments to ensure its success.

POLLUTION CONTROL

Making the Clean Air and Clean Water Acts work is an important commitment of my Administration. We will continue the progress we have made in the past two years in promulgating fair standards and regulations, and we will continue to encourage new approaches to control of pollution, such as alternative and innovative waste water treatment projects. The Environmental Protection Agency has taken a number of steps in the right direction. For example, the "bubble concept," "offset" policy, and permit consolidation are intended to simplify pollution controls.

I will seek the reauthorization of the Safe Drinking Water Act, which expires next year. This law protects our citizens from newly-discovered toxic pollutants within drinking water, as well as imposing standards for conventional contaminants. For toxic substances which may enter the environment in a multitude of ways, my Administration is committed to the reauthorization and vigorous enforcement of the comprehensive Toxic Substances Control Act.

OIL POLLUTION OF THE OCEANS

The recent collision in the Caribbean of two supertanker behemoths, each carrying more than 1.4 million barrels of oil, underscores the importance of effective national and international programs to reduce oil spills. At the outset of my Presidency, I proposed a comprehensive program to reduce the threat of oil pollution from tankers in United States waters, and to win international agreement to higher standards of tanker safety and pollution prevention.

Responding to the U.S. initiative, maritime nations of the world agreed in 1978 to tighten inspection requirements and significantly raise world standards for tanker construction and equipment. The Department of Transportation is completing new rules, based on the international agreement, to require improved features on both U.S. ships and foreign tankers entering our ports, including: segregated ballast, protective location of ballast space, crude oil washing, inert gas systems, and improved emergency steering systems. Dual radars and other aids to navigation are already required.

In addition, for the past two and one-half years, the Coast Guard has boarded and examined at least once a year every foreign-flag tanker entering our ports, recorded any deficiencies, and required repairs if necessary.

The Secretary of Transportation will promptly add to this program requirements for:

—improved construction of tank barges;

—safe conduct of lightering (ship to ship transfer of oil);

—improved U.S. standards for tanker crews and pilots; and

—pollution prevention features for older, smaller tankers not covered by the international standards.

Requirements for collision avoidance aids will also be added; international agreement is near on standards for these important tanker safety devices.

The United States will continue to urge other nations to put into effect promptly the requirements of the 1978 international agreements on tanker safety and pollution prevention. I also urge the prompt adoption by all nations of the new international standards for training and certification of seafarers, agreed upon in 1978.

The proposed Oil, Hazardous Substances and Hazardous Waste Response, Liability and Compensation Act, submitted to the Congress by the Administration, provides for swift cleanup of oil spills, strict liability of spillers, and compensation for victims of oil spill damage.

I expect the Coast Guard to report to me promptly on the results of its study of devices to improve tanker maneuverability and stopping. In addition, the Coast Guard is undertaking a study of past accidents to evaluate further the usefulness of double bottoms and side protection in reducing oil spills. The Department of Transportation will continue to evaluate promising ideas to preserve the oceans and its resources from pollution by oil.

REGULATORY REFORM

Improving government regulations is important to my effort to make government more efficient and private-sector responses more cost-effective. Environmental protection can and should benefit. I intend to improve the regulatory process in a way that does not weaken our commitment to environmental quality.

If there are better methods to achieve our environmental goals, we should use them. Agencies should seek and adopt innovative alternatives to government regulations which reduce burdens on private citizens or businesses. The Environmental Protection Agency has become a leader among federal agencies in examining new approaches and has made several moves to streamline its regulatory process. In addition to the permit consolidation, bubble concept, and offset policy mentioned above, EPA is doing an effective job of implementing my Executive order on regulatory reform and published the first agenda of regulations issued by any federal agency. A regulatory calendar is now prepared and published on a government-wide basis by the Regulatory Council I recently established.

Since 1977 the Occupational Health and Safety Administration has gotten rid of hundreds of unnecessary standards, and has reorganized its program to devote 95 percent of its resources to the most serious workplace hazards. In addition, regulatory agencies have begun to work together to coordinate their activities and use their resources more efficiently. I expect such progress to continue and I intend that it reinforce—not diminish—our environmental improvement efforts.

PENDING LEGISLATION AND REAUTHORIZATIONS

I have proposed and will continue to support reauthorization of important environmental statutes, including the Endangered Species Act, the Toxic Substances Control Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act. I also continue to support a nongame wildlife program, and a wide range of wilderness proposals.

The Environmental Program I am outlining today expands upon the efforts we have already begun with a series of new initiatives in land and resource management, agricultural conservation, urban quality, and improving the global environment.

NEW INITIATIVES

I. LAND AND RESOURCE MANAGEMENT

America's land and natural resources have nourished our civilization. Because our original heritage was so abundant, we sometimes take these resources for granted. We can no longer do so. Our land and natural resources do have limits, and our demands upon them are growing at increasing rates. Renewable resources—farmlands, fisheries, and forests—can be depleted through overuse and misuse. We must build into our decisions the understanding that unwise actions affecting our lands and resources are difficult and costly, if not impossible, to correct.

Conservation of resources takes care and planning, and requires a partnership between various levels of government, and public and private actions. The following initiatives for protection and wise management of our coastal resources, public lands, wildlife and rivers and trails reflect this understanding.

NATIONAL COASTAL PROTECTION

America's coast lines are extraordinarily varied, productive and beautiful. Congress recognized the need for special protection in the Coastal Zone Management Act of 1972, which established a voluntary Federal-State partnership for the conservation and management of coastal resources. Under this partnership, many states have already made notable progress. They have passed comprehensive coastal management laws; adopted new measures to protect wetlands, barrier islands, mineral resources, historic sites and other important coastal resources; worked out better management of hazardous areas; and streamlined Federal, State and local actions affecting the coast. By the end of 1979, 75 percent of the U.S. shoreline will be covered by Federally-approved state coastal zone management programs.

The coastal zone is subject to unusual pressures, both from natural causes and human activities. The land and water resources which support the environments and economies of coastal communities are in danger of depletion. The opportunity for our citizens to enjoy beaches, bays, and marshes is often threatened. I support efforts to improve our understanding of these coastal issues, and I heartily endorse the designation by conservation organizations of the year 1980 as the "Year of the Coast."

To help achieve the balanced, comprehensive and wise management intended by the Coastal Zone Management Act, I am announcing three initiatives to continue and improve our resource protection policy.

First, I will submit to Congress legislation to reauthorize Federal assistance to state coastal zone management programs under the Coastal Zone Management Act. Under this extension, each state would be guaranteed a total of five years of federal assistance at current levels after a state management program is approved and before federal support is gradually phased down. This will help ensure that recently developed state and local coastal zone management efforts become fully established and accepted functions of government.

Second, I will recommend enactment of new amendments to the Coastal Zone Management Act that will establish a national coastal protection policy. Working through the states, the goals of this policy will be:

—to protect significant natural resources such as wetlands, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife;

—to manage coastal development to minimize loss of life and property from floods, erosion, saltwater intrusion and subsidence;

—to provide predictable siting processes for major defense, energy, recreation and transportation facilities;

—to increase public access to the coast for recreation purposes;

—to preserve and restore historic, cultural and aesthetic coastal resources; and

—to coordinate and simplify government decisionmaking to ensure proper and expedited management of the coastal zone.

Third, I am directing the Secretary of Commerce to conduct a systematic review of federal programs that significantly affect coastal resources. This review, to be conducted by the National Oceanic and Atmospheric Administration, will provide the basis for specific recommendations to improve federal actions affecting the coastal zone and to develop any additional legislation needed to achieve our national coastal management goals.

PUBLIC LAND RESOURCES

Among the many natural resource issues facing the Nation, few are more important than the management, protection and use of the 417 million acres of public lands owned by all Americans and administered by the Secretary of the Interior through the Bureau of Land Management.

The public lands include vast tracts of the arid rangelands of the West which were once lands that no one wanted. Now, some of these lands are highly valued for their energy and other valuable resources, and they have come to be appreciated for their scenic and natural values. My Administration is committed to purposeful management of the public lands and resources administered by the Bureau of Land Management in an environmentally sound and cost-effective manner.

Therefore, I am directing the Secretary of the Interior to manage the public lands administered by BLM in accordance with these principles:

—The Federal Government will be a good steward of the land, seeking to find the best balance of uses to assure that resources are available to meet the Nation's needs and that environmental values are carefully protected.

—the Federal Government will be a good neighbor, providing full opportunities for those affected by our management decisions to be involved in making them, with a special concern for the people and institutions of the Western States that are most directly affected.

—The Federal Government will make cost-effective investments in protecting and enhancing these lands within the constraints of fiscal responsibility.

—The Federal Government will seek to resolve conflicts among competing uses in a spirit of cooperation and trust, and will make—not avoid—tough decisions on the allocation of the valued resources of public lands.

We have already made significant progress in bringing these lands under effective management. A concerted Federal effort is now underway to reverse the declining productivity of the 174 million acres of rangeland ecosystems managed by the Bureau of Land Management for livestock, wildlife, soil and moisture conservation, and other beneficial purposes. We have developed a comprehensive on-the-ground planning process for each unit of BLM-managed land which involves the public and assesses the environmental impacts of alternative actions. On June 4, 1979, the Secretary of the Interior announced our new Federal coal management program, which establishes a balanced and efficient process for determining coal leasing and management on Federal lands.

Much more remains to be done. I am therefore directing that the following actions be taken:

—The Secretary of the Interior will establish a comprehensive "program development process" for managing all the lands under BLM stewardship, which will, for the first time, set long range goals to ensure balanced protection and use of the resources and develop and analyze alternative programs and investment strategies to meet the goals. Each alternative program will be designed to achieve environmentally sound, fiscally responsible, and economically efficient investment, development, protection, and resource use. This new program planning process will supplement BLM's current unit-by-unit planning. It will invite State and local governments and interested citizens to participate in making better informed choices among the alternative programs.

—The Secretary will give special attention to protecting areas of BLM-administered lands with nationally significant wildlife, natural, scientific, cultural, or scenic resources. An example is the Birds of Prey area, located along the Snake River in the Idaho desert, that has North America's richest concentration of birds of prey, including dense nesting populations of falcons, eagles, and other raptors.

—Finally, I am directing the Secretary of the Interior and the Secretary of Agriculture to work together to coordinate their Departments' natural resource policies and programs, particularly those of the Bureau of Land Management and the Forest Service. I am requesting the two Secreatries to develop within six months a detailed statement of coordination objectives and a process and timetable for achieving them.

WILDLIFE LAW ENFORCEMENT

A massive illegal trade in wild animals, wild animal parts and products, and wild plants has been uncovered in the last year through investigations by the Department of Justice, the Fish and Wildlife Service, the Customs Service and the Departments of Agriculture and Commerce.

This illegal trade in wildlife and plants has several very serious consequences. It can introduce exotic diseases, threatening agriculture. It creates a market for thousands of species of wildlife and plants taken in violation of the laws of foreign nations, ultimately threatening the survival of these species. It is a danger to the survival of hundreds of species listed on the Convention on International Trade in Endangered Species, to which the U.S. is a signatory nation.

I am therefore submitting to Congress a bill to overcome obstacles inhibiting enforcement efforts.

In addition, I am directing the Departments of Agriculture, Commerce, Interior, Justice, and Treasury to investigate this trade aggressively and to prosecute violators of the law. I am directing the Department of the Interior to coordinate this effort, through an interagency Wildlife Law Enforcement Coordinating Committee which will review enforcement experiences, priorities and problems. I am also directing the Department of Agriculture to chair a task force to investigate the illegal trade in plants and to prosecute where appropriate.

I am further directing that the following specific steps be taken: The Treasury and Commerce Departments will raise the priority of wildlife enforcement cases; the Agriculture Department will place greater emphasis on coordinating its wildlife enforcement program with its disease quarantine program, and will begin hiring special agents to investigate the illegal plant trade; and the Department of Justice will establish a Wildlife Section which will be staffed principally by attorneys trained as wildlife law enforcement specialists.

WILD AND SCENIC RIVERS

Our nation's river corridors are a rich concentration of natural ecosystems, scenic beauty, and historic and recreational values. Since my Environmental Message of May 1977, eight rivers totalling 695 miles have been added to the National Wild and Scenic Rivers System, and nine new rivers have been recommended for study. As part of the Administration's Alaska proposals, 33 additional rivers have been proposed for National Wild and Scenic Rivers designation.

Development along the banks of our rivers continues to outpace our ability to protect those rivers that might qualify for designation. This problem is particularly acute near urban areas, where there are greater demands for recreational opportunities which can partly be met by river protection.

We need to speed up the process for studying Wild and Scenic Rivers for designation and to consider the protection of rivers or parts of rivers which can protect important natural ecosystems. Moreover, the Federal government should set an example of sound management for state, local, and private landowners by taking an aggressive role in protecting possible Wild and Scenic Rivers which flow through our public lands. Accordingly, I am directing the following actions be taken:

—federal land management agencies shall assess whether rivers located on their lands and identified in the National Inventory prepared by the Heritage Conservation and Recreation Service are suitable for inclusion in the Wild and Scenic Rivers System; if so, these agencies shall take prompt action to protect the rivers—either by preparing recommendations for their designation or by taking immediate action to protect them;

—all federal agencies shall avoid or mitigate adverse effects on rivers identified in the National Inventory; and

—the Secretary of Agriculture and the Secretary of the Interior shall jointly revise their Guidelines for evaluating wild, scenic, and recreational rivers to ensure consideration of river ecosystems and to shorten the time currently used to study rivers for designation.

In addition to the new policy initiatives, I am reaffirming my support for four river segments proposed in my last Environmental Message and recommending four new river segments which will add a total of 930 miles to the Wild and Scenic Rivers System:

—Gunnison River, Colorado (new)
—Encampment River, Colorado (new)
—Priest River, Idaho (new)
—Illinois River, Oregon (new)
—Bruneau River, Idaho (1977 Message)
—Dolores River, Colorado (1977 Message)
—Upper Mississippi River, Minnesota (1977 Message)
—Salmon River, Idaho (1977 Message)

I am also directing the Secretary of the Interior to develop, through the National Park Service and with full public participation, a conceptual master plan for the Upper Mississippi River in Minnesota. I expect this planning process to determine the specific requirements for protecting the river corridor and providing public access, campgrounds and other recreational facilities on the lands now in private ownership. The conceptual master plan for this important national resource will be developed in cooperation with the Minnesota Department of Natural Resources, affected Indian tribes, and the public. It will be completed by April 1980.

In my last Environmental Message, I proposed 20 river segments for study as potential additions to the National Wild and Scenic Rivers System. Several of those rivers have already been designated. Except for rivers where subsequent development has affected the river's qualifications for designation, I will continue to seek study authorizations for these rivers. In addition, I am submitting legislation to add the North Umpqua River in Oregon to the list of those rivers to be studied.

I am also forwarding to Congress reports on several rivers which, after thorough study, were found to qualify for inclusion in the National System. However, because of the interest of the states or local governments in protecting their natural values, the reports recommend that the rivers be protected and managed by state and/or local action. I am greatly encouraged by the efforts which all levels of government are taking to protect valued natural resources. I am particularly pleased to note that in the case of the Housatonic and Shepaug Rivers in Connecticut, local governmental agencies are taking the lead in developing management plans to protect these significant river resources. I am transmitting reports on:

—Pine Creek, Pennsylvania
—Buffalo River, Tennessee
—Youghiogheny River, Pennsylvania-Maryland
—Shepaug River, Connecticut
—Kettle River, Minnesota
—Lower Wisconsin River, Wisconsin
—Housatonic River, Connecticut
—Illinois River, Oklahoma

NATIONAL TRAILS

More than 61 million of the Nation's people go nature walking and more than 28 million people hike or backpack at least five times a year. To meet the growing needs of these and other trail users, Congress enacted the 1968 National Trails System Act and directed that a National Trails System be established. Since the establishment of the National Trails System, 257 National Recreation Trails have been designated, including 21 trails for those using wheelchairs and 13 trails designed for the use of blind people, with interpretive signs in braille.

The National Trails System is still in its fledgling stage and should grow to meet widespread public interest. National trails near urban areas can serve an energy-conscious nation by providing recreation close to home for the majority of our citizens and, in some cases, by providing commuter routes for bicyclists, walkers, and joggers.

To meet these objectives, under my direction, the U.S. Forest Service will establish 145 additional National Recreation Trails by January 1980, achieving a goal of two National Recreation Trails in each National Forest System unit. I am directing each Federal land management agency to follow the example set by the Forest Service and by January 1980 announce a goal for the number of National Recreation Trails each agency will establish during 1980 on the public lands administered by the agency. I am also directing that, by the end of 1980, a minimum of 75 new National Recreation Trails shall be designated on public land other than National Forests by the Federal land management agencies.

I am directing the Secretary of the Interior, through the Interagency Trails Council, to assist other Federal agencies in surveying existing trails on federal lands to determine which of those can be made part of our National Trails System and to initiate a grass-roots effort in every region of the country to assess our nationwide trails needs. In addition, I am directing the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense and the Chairman of the Tennessee Valley Authority to encourage states, localities, Indian tribes, and private landholders to designate trails on their lands.

Finally, I will submit legislation to the Congress which will designate the 513-mile Natchez Trace National Trail through Tennessee, Alabama, and Mississippi. I will resubmit legislation to establish the Potomac Heritage Trail through Pennsylvania, Maryland, West Virginia, Virginia and Washington, D.C. And I am reaffirming my support for the 3,200-mile North Country Trail, extending from the State of New York to North Dakota, which has already passed the House of Representatives.

I am also reaffirming the Administration's commitment to assuring the protection of the Appalachian Trail, one of America's best known and most popular recreation trails. The 2,000-mile Appalachian Trail winds through 14 states and is readily accessible to nearly half of the population of the U.S. It has been created by a volunteer movement without parallel in the history of outdoor recreation in America. In 1978 this Administration supported and I signed into law a bill to protect threatened portions of the right-of-way which are located on private lands. I expect this goal to be substantially achieved by September 30, 1981. This is a prompt but realistic timetable for the acquisition program.

II. AGRICULTURAL CONSERVATION

From our beginnings as a nation we have sustained ourselves and others on abundant yields from our farmlands. In this century, scientific and technological advances have increased our agricultural production to unsurpassed levels.

But in emphasizing ever-increasing production we have sometimes neglected to maintain the soil, water, and biological resources upon which the long-term stability and productivity of our agriculture depends. These resources are being degraded in many areas of the country. Our farm and land management practices have led to excessive soil erosion, we have overused chemical fertilizers and pesticides, and some of our most productive farmlands are being converted to nonagricultural uses. The agricultural conservation initiatives that I am announcing today address these issues.

SOIL CONSERVATION INCENTIVES

Over the past half century we have invested more than $20 billion of federal funds in efforts to conserve soil. These funds have been used for cost sharing, technical assistance, resource management, loans, research, and education. Yet in that same half century wind and water erosion have removed half the fertile topsoil from nearly one-third of the Nation's potentially usable croplands. The cost of replacing just the plant nutrients lost to erosion has been estimated at $18 billion a year. Moreover, agricultural runoff adversely affects two-thirds of the Nation's streams.

Our soil protection programs have undoubtedly prevented even worse soil loss, but we must do better to maintain the long-term productivity of the soil.

The Department of Agriculture is now making an important appraisal of soil and water conservation policies under the Soil and Water Resources Conservation Act of 1977. The first Appraisal, Program and Policy reports required by the Resources Conservation Act (RCA) are due in January 1980. These documents will analyze conservation problems nationwide, set conservation targets and propose ways to solve the problems. They will provide an essential first step in the wise management of agricultural lands, and will guide my Administration's overall soil and water conservation recommendations to the Congress. Reports will be updated every 5 years and I will receive annual reports of progress and program effectiveness.

I am directing the Secretary of Agriculture, in consultation with the Chairman of the Council on Environmental Quality, to build on the RCA process and to undertake a further detailed and systematic study of possible conservation incentives. The study will search for ways to modify or coordinate agricultural assistance programs already in existence in order to reduce soil erosion. Moreover, it will also look for conflicts or inconsistencies between farm income programs and soil conservation programs and will recommend measures to eliminate these conflicts where possible.

The results of this study will be submitted to me in January 1981. This report will provide me with specific administrative and legislative recommendations to reduce soil erosion and to improve soil stewardship in order to maintain the Nation's long-term agricultural productivity, building on the policy recommendations contained in the RCA 1980 program.

A second critical land issue for America's farmers and consumers is the availability of agricultural lands—particularly prime farmlands—and their conversion to other uses. In June, the Administration initiated an important new effort to address this issue. The Secretary of Agriculture and the Chairman of the Council on Environmental Quality are co-chairing an interagency study of factors affecting the availability of land for agricultural uses. The study will evaluate the economic, environmental, and social effects of the conversion or retention of agricultural lands and will make recommendations for consideration by federal, state, and local governments by January 1981.

Many members of Congress are particularly interested in these two critical issues affecting the stewardship of our nation's agricultural lands. I hope that the Administration and the Congress will work together to develop and implement appropriate actions, based on the results of these studies.

INTEGRATED PEST MANAGEMENT

For all their benefits, chemical pesticides can cause unintended damage to human health and the environment. Many pests have developed resistance to chemical pesticides, escalating the cost of pest control by conventional methods. This resistance to pesticides has also decreased our ability to control some pests, which has reduced agricultural yields from what they would otherwise be.

Integrated pest management (IPM) has evolved in recent years as a comprehensive pest control strategy which has important health, economic, and environmental benefits. IPM uses a systems approach to reduce pest damage to tolerable levels through a variety of techniques, including natural predators and parasites, genetically resistant hosts, environmental modifications and, when necessary and appropriate, chemical pesticides. IPM strategies generally rely first upon biological defenses against pests before chemically altering the environment.

The Federal government—which spends more than $200 million a year on pest control research and implementation programs—should encourage the development and use of integrated pest management in agriculture, forestry, public health, and urban pest control. As a result of a government-wide review initiated by my 1977 Environmental Message, I am now directing the appropriate federal agencies to modify as soon as possible their existing pest management research, control, education, and assistance programs and to support and adopt IPM strategies wherever practicable. I am also directing federal agencies to report on actions taken or underway to implement IPM programs, and to coordinate their efforts through an interagency group.

III. URBAN QUALITY

Our cities give us diversity and enjoyment, occupations and avocations, shopping and services, recreation and culture. By strengthening the health of our urban environment, we broaden the range of opportunities open to all of our citizens, as I emphasized in my National Urban Policy Message last year. The investments we make in maintaining and improving urban quality—particularly those involving federal taxpayer dollars—can be designed to meet environmental objectives, such as safe, convenient, well-planned public transportation, quieter communities, and assistance in mediating potential conflicts between healthy urban economies and environments. The initiatives I am proposing today will help to achieve these goals.

TRANSPORTATION POLICY

Our transportation systems can greatly affect the Nation's environment, for better or worse, especially in our cities. For many years, our energy and other resources were so plentiful that the Federal government encouraged the rapid expansion of a transportation system based on the private automobile without fully considering the profound effects on our resources, our urban environments, and our way of life. Although we have developed an extraordinary transportation system, we have missed opportunities in the past to improve transportation and at the same time to achieve these other national objectives.

The United States has built the most extensive and complex transportation system in the world. Federal transportation expenditures exceed $17 billion annually, including $12 billion in grants to state and local agencies. Transportation consumes approximately 53 percent of all petroleum used in the U.S. The energy and cost advantages of using this system more efficiently—for example, by greater use of carpools, vanpools and mass transit—are now obvious. Better design and use of transportation systems will also help to save and strengthen our cities and their amenities and to reduce air and noise pollution. Thus transportation decisions can help to conserve limited resources, and to further our energy, fiscal, and urban environmental goals.

Federal transportation decisions cannot escape difficult choices among competing objectives, but they must be guided by new transportation policies which I am establishing for my Administration. Urban transportation programs and projects should be reoriented to meet environmental, energy and urban revitalization goals. I am therefore directing the Department to take immediate actions to assure that:

—federal transportation funds are used to promote energy conservation, for example through special lanes for carpools, vanpools and transit vehicles;

—encouragement is given to using federal funds for public transportation projects;

—a careful review is made of any transportation proposals which would encourage urban sprawl (a major cause of high energy consumption) or which would tend to draw jobs away from urban centers;

—consideration is given to improving and rehabilitating existing facilities, or using non-construction methods—such as better traffic management—to improve transportation systems, as alternatives to constructing new facilities;

—major transportation projects are used to help improve the urban economy and to attract jobs to the urban cores; and

—firm actions are taken to mitigate adverse effects of transportation projects on the natural and urban environment and to carry out the environmental commitments that are made in planning and approving transportation projects.

We have done a great deal to make our transportation policies and actions more sensitive to our national environmental and energy goals. We can do a great deal more with cooperation of state and local governments as our partners in the national transportation system. The steps I have outlined will move us in that direction.

ECONOMIC ASSISTANCE PROGRAM

Most Americans benefit directly from the healthier and more agreeable environment that results from our air, water and other pollution control programs. Although economic data indicate that environmental programs are a strong positive factor in providing employment, there is continued concern about their possible adverse impact on individual firms, communities, or groups of workers. The fact that there have not been a large number of such economic dislocations does not suggest that those that do occur are unimportant. Furthermore, in some instances they can be avoided, or at least significantly mitigated, by appropriate government action.

In 1977 I established an Economic Assistance Task Force, chaired by the Council on Environmental Quality, to investigate whether we needed to improve federal assistance for those cases when jobs are lost partly as a result of actions taken to reduce pollution, and to recommend initiatives we might take. The Task Force concluded that existing federal assistance programs should be adequate, but that we need to take practical steps to let people know about the programs and to make sure help is delivered swiftly when it is needed.

I am therefore directing the Administrator of the Environmental Protection Agency to create an Economic Assistance Program in his agency and to designate Economic Assistance Officers both in headquarters and in the field, who will help the public understand and use the programs, and to make sure that eligible people receive assistance promptly. I am also directing all federal agencies with programs in this area to publicize and coordinate closely their programs. A booklet describing and locating available federal assistance programs will be released soon by the Council on Environmental Quality and the Environmental Protection Agency.

URBAN NOISE PROGRAM

A certain level of urban noise is tolerable or even agreeable, reflecting the multitude of activities that make a city thrive. However, most of our cities suffer from too much noise. Excessive noise is a serious disturbance in city dwellers' lives, and degrades the urban environment.

Most noise abatement actions are taken by state and local governments, but there is an important role for the Federal government. I am initiating today a program to reduce urban noise by directing the Departments of Commerce, Defense, Energy, Housing and Urban Development, Transportation, and the Environmental Protection Agency and General Services Administration, in consultation with other federal agencies, to take a number of actions to improve existing noise abatement programs, including:

—programs to achieve soundproofing and weatherization of noise sensitive buildings, such as schools and hospitals;

—use of quiet-design features in transportation projects affecting urban areas;

—measures to encourage the location of housing developments away from major noise sources;

—purchase of quiet equipment and products—such as typewriters and lawnmowers which have been designed to reduce noise—and assistance to state and local agencies to do likewise; and

—support for neighborhood efforts to deal with noise problems.

IV. GLOBAL ENVIRONMENT

Efforts to improve the environment cannot be confined to our national boundaries. Ten years ago, at the dawn of the environmental decade, we landed on the moon. For the first time people could stand on the surface of another world and look at the whole earth. The sight of earthrise was awesome. It was also sobering. From that moment we could no longer avoid understanding that all life must share this one small planet and its limited resources. The interdependence of nations is plain, and so is the responsibility of each to avoid actions which harm other nations or the world's environment. I am announcing today two initiatives which address global environmental problems of the greatest importance.

WORLD FORESTS

The world's forests and woodlands are disappearing at alarming rates. Some estimates suggest that world forests could decline by about 20 percent by 2000. More than 40 percent of the closed forests of South Asia, Southeast Asia, Pacific, and Latin America could be lost.

Nearly all the world's forest loss is occurring in or near the tropics. In these areas, environmental damage from deforestation can be severe—even irreversible—and the human costs extremely high. For example, denudation of Himalayan slopes has led to severe soil erosion, silting of rivers, loss of groundwater, and intensified, catastrophic flooding downstream. Many tropical forests, once cut, will not regrow because soils, rainfall, temperature, or terrain are too unfavorable; nor will the land support crops or pasture for more than a few years. Another serious possible consequence of tropical forest loss is accelerating extinction of species. Tropical forests provide habitat for literally millions of plant and animal species—a genetic reservoir unmatched anywhere else in the world. Equally serious is the possibility that forest loss may adversely alter the global climate through production of carbon dioxide. These changes and their effects are not well understood and are being studied by scientists, but the possibilities are disturbing and warrant caution.

The United States and other nations are just beginning to appreciate fully the scope and seriousness of the problem and to assess the effects of development projects on world forests. There is much more to be done. I am therefore directing all relevant federal agencies to place greater emphasis on world forest issues in their budget and program planning. An interagency task force established last fall and chaired by the State Department will report to me in November 1979 on specific goals, strategies, and programs that the United States should undertake. On the basis of these recommendations, I will direct federal agencies to carry out an integrated set of actions to help toward protection and wise management of world forests.

In the international arena, the Governing Council of the United Nations Environment Programme has just adopted a resolution—introduced by the United States—calling for a meeting of experts to develop proposals for an integrated international program for conservation and wise utilization of tropical forests, and to report to the next Governing Council meeting in April 1980. I am asking the Departments of State and Agriculture, the Council on Environmental Quality, and other federal agencies to give this program full support and assistance and to encourage and support high-level multinational conferences on forest problems in regions where forest losses are severe.

To help protect the earth's natural resource base, I issued an Executive Order earlier this year, which directs federal agencies to review carefully in advance the effects of many federal activities abroad. I am directing the Council on Environmental Quality and the Department of State to report to me within six months on the best ways to designate the globally important resources to which the order applies.

ACID RAIN

Acid rain has caused serious environmental damage in many parts of the world including Scandinavia, Northern Europe, Japan, Canada and the Northeastern part of the United States. Over the past 25 years the acidity of rainfall has increased as much as fifty-fold in parts of the Eastern half of the United States. In the Adirondacks in New York, many mountain lakes have become devoid of fish partly because of increasing acidification. Adverse effects on crops and forests are suspected; steel and stone buildings and art works may suffer as well.

Acid rain is produced when rain removes sulfur dioxide and nitrogen dioxide from the air, forming sulfuric and nitric acid. Sulfur and nitrogen oxides are emitted in all forms of fossil fuel combustion. Power plants, smelters, steel mills, home furnaces, automobiles—all may contribute to acid rain.

To improve our understanding of acid rain, I am establishing a ten year comprehensive Federal Acid Rain Assessment Program to be planned and managed by a standing Acid Rain Coordination Committee. The assessment program will include applied and basic research on acid rain effects, trends monitoring, transport and fate of pollutants, and control measures. The Committee will establish links with industry to promote cooperative research wherever appropriate. The Committee will also play a role in future research cooperation with Canada, Mexico, and other nations and international organizations. The Committee will prepare a comprehensive 10-year plan for review by the end of the year. In its first full year of operation, the program will have $10 million in reprogrammed research funds available, double the current amount for acid rain research.

It is important to emphasize that such a long-term acid rain research program will not delay application of necessary pollution control measures to meet the mandate of the Clean Air Act. In addition, interim results from the acid rain research program will be made available to the public, to states, to industry and to the federal government agencies responsible for developing measures to reduce air pollution.

CONTINUED AND COOPERATIVE EFFORTS

The preservation of our environment has needed to become a special concern to our country at least since the ending of the Western frontier. A former President put it clearly:

"The conservation of our natural resources and their proper use constitute the fundamental problem which underlies almost every other problem of our National life. We must maintain for our civilization the adequate material basis without which that civilization cannot exist. We must show foresight, we must look ahead. The reward of foresight of this nation is great and easily foretold. But there must be the look ahead, there must be a realization of the fact that to waste, to destroy, our natural resources, to skin and exhaust the land instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought by right to hand down to them amplified and developed."

That was President Theodore Roosevelt speaking in a State of the Union Message more than 70 years ago.

That message needs to be repeated and heard just as clearly today. Above all—it needs to be delivered.

My Administration will continue to lead in conserving our resources and reducing risks to the environment through sound and efficient management. But all our citizens must join the effort by contributing energies and ideas.

Only with your cooperation can we maintain our advance towards protecting our environment. Only together can we hope to secure our world for the life to come.

JIMMY CARTER

THE WHITE HOUSE, *August 2, 1979.*

Mr. **ROBERT C. BYRD.** Mr. President, I ask unanimous consent that a comprehensive message received from the President on the environment be jointly referred to the following committees: Environment and Public Works, Energy and Natural Resources, Labor and Public Welfare, Agriculture, Nutrition, and Forestry, Banking, Housing, and Urban Affairs, and Commerce, Science, and Transportation.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 11:29 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 4388, an act making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 3, 7, 9, 14, 17, 22, and 24 to the bill, and concurs therein; that the House recede from its disagreement to the amendments of the Senate numbered 1, 8, and 37 to the bill, and concurs therein each with an amendment; and that the House insists upon its disagreement to the amendment of the Senate numbered 30 to the bill.

At 1:33 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the following bill, without amendment:

S. 1318. An act to amend title 13 of the United States Code to provide a limited exemption to the Bureau of the Census from the provisions of section 322 of the Act of June 30, 1932.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to S. 917, an act to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1980, 1981, and 1982, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 3363, an act to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 4057, an act to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 165. A concurrent resolution relating to self-determination for the people of Puerto Rico.

At 3:23 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 4392, an act making appropriations for the Department of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 7, 21, 22, 32, 41, 51, 62, and 69 to the bill and concurs therein; that the House recedes from its disagreement to the amendments of the Senate numbered 1, 23, 24, 29, and 64 to the bill, and concurs therein each with an amendment; and that the House insists on its disagreement to the amendment of the Senate numbered 26 to the bill.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 3324, an act to authorize appropriations for fiscal year 1980 for international development and economic assistance programs and for the Peace Corps, and for other purposes.

The message further announced that the Speaker has appointed Mr. Minish and Mr. Campbell as additional managers of the conference on the part of the House on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 3875, an act to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, to those provisions relating only to title IV and those Senate modifications relating thereto.

ENROLLED BILLS SIGNED

At 5:37 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bills:

H.R. 2807. An act to amend the Bankruptcy Act to provide for the nondischargeability of certain student loan debts guaranteed by the United States;

H.R. 4057. An act to increase the fiscal year 1979 authorization for appropriations for the food stamp program, and for other purposes;

H.R. 4476. An act to extend certain programs under the Higher Education Act of 1965 for one year, and for other purposes; and

H.R. 4811. An act for the relief of the city of Nenana, Alaska, and to amend the Act of January 2, 1976, as amended, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on August 2, 1979, he presented to the President of the United States the following enrolled bill:

S. 961. An act to amend the Speedy Trial Act of 1974.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 1515. A bill to authorize the striking of Bicentennial medals (Rept. No. 96-296).

BICENTENNIAL MEDALS

Mr. PROXMIRE. Mr. President, from the Committee on Banking, Housing and Urban Affairs, I report favorably a bill to provide for the striking of medals commemorating the 200th anniversaries of historic events and personalities of the American Revolution. The legislation authorizes use of the Bureau of the Mint's facilities for the design and manufacture of these medals on behalf of the U.S. Capitol Historical Society, a private, nonprofit organization. The Society was granted a Federal Charter by the Congress last year. Revenues from the sale of these bicentennial medals will be used by the Society to help defray the cost of its programs, such as the restoration art work presently under way in the U.S. Capitol.

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1454. A bill to amend the act of August 10, 1956, as amended; section 716 of title 10, United States Code; section 1006 of title 37, United States Code; and sections 8501 (1)(B) and 8521(a)(1) of title 5, United States Code (Rept. No. 96–297).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with an amendment and an amendment to the title:

S. 1281. A bill to clarify that the steamship United States may operate in the domestic and/or foreign commerce of the United States and/or between foreign ports (Rept. No. 96–298).

By Mr. CHILES, from the Committee on Appropriations, with amendments:

H.R. 4393. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1980, and for other purposes (together with additional views) (Rept. No. 96–299).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Special Report Pursuant to section 302(b) of the Congressional Budget and Impoundment Control Act of 1974 (Rept. No. 96–300).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 1646. An original bill to amend the International Banking Act of 1978 (Public Law 95–369) to extend the time for foreign banks to obtain required deposit insurance with respect to existing branches in the United States (Rept. No. 96–301).

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

Special Report Pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96–302).

By Mr. BAYH, from the Committee on the Judiciary, without amendment:

S.J. Res. 41. A joint resolution to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week".

By Mr. RIBICOFF, from the Committee on Governmental Affairs, without amendment:

S. 1414. A bill to amend title 5 of the United States Code to allow congressional employees to purchase and receive civil service retirement credit for employment on the personal office staff of a former Presidential candidate in the period immediately following a Presidential election (Rept. No. 96–303).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the following nominations: Maj. Gen. Glenn Kay Otis, USA, to be lieutenant general and appointed as Senior U.S. Army Member of the Military Staff Committee of the United Nations; and, in the Air Force, Maj. Gen. Lincoln David Faurer to be lieutenant general; and in the Reserve of the Air Force, 22 nominations to the grade of major general and brigadier general (list beginning with Brig. Gen. Jay G. Benton). I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. The nominations will be placed on the Executive Calendar.

Mr. STENNIS. In addition, Mr. President, there are 825 for promotion to the grade of colonel and lieutenant colonel in the Army (list beginning with Frank S. Adams); in the Air Force and Reserve of the Air Force there are 50 to the grade of colonel and below (list beginning with Helen A. Brainerd to captain) and in the Regular Air Force there are 2,731 for appointment to the grade of captain and below (list beginning with Ralph I. Abravaya); in the Navy and Naval Reserve there are 215 for appointment/promotion to the grade of commander and below (list beginning with Kenneth C. Malokofsky, Jr.) and 399 for promotion to the grade of captain and below (list beginning with James N. Adkins, Jr.); and, in the Marine Corps there is a reappointment to the grade of Lt. Col. Ellen B. Moroney and 33 permanent appointments in the Marine Corps in the grade of second lieutenant (list beginning with Kathy M. Badzioch). Since these names have already appeared in the Congressional Record and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record on July 16 and July 27, 1979, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JACKSON (for himself, Mr. Stevens, Mr. Stone, Mr. Randolph, Mr. Stewart, Mr. Baker, Mr. Cannon, Mr. Heflin, and Mr. Goldwater):

S. 1629. A bill to amend section 9441 of title 10, United States Code, to provide for budgeting by the Secretary of Defense, the authorization of appropriations, and the use of those appropriated funds by the Secretary of the Air Force, for certain specified purposes to assist the Civil Air Patrol in providing services in connection with the noncombatant mission of the Air Force; to the Committee on Armed Services.

By Mr. INOUYE (for himself, Mr. Stevens, Mr. Laxalt, Mr. Pressler, Mr. Culver, and Mr. Stone):

S. 1630. A bill to amend the Internal Revenue Code of 1954 to provide for the designation of income tax payments to the United States Olympic Development Fund; to the Committee on Finance.

By Mr. RANDOLPH (for himself and Mr. Long):

S. 1631. A bill to provide additional funds for certain projects relating to fish restoration, and for other purposes; to the Committee on Environment and Public Works.

By Mr. JACKSON (by request):

S. 1632. A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments; to the Committee on Energy and Natural Resources.

By Mr. HEINZ:

S. 1633. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax to public utilities and other taxpayers which provide electrical energy, gas, wood, coal, or home heating oil at reduced costs to households of low-income elderly or disabled individuals; to the Committee on Finance.

By Mr. MATHIAS:

S. 1634. A bill for the relief of Dr. Rose Marie Gustilo; to the Committee on the Judiciary.

By Mr. CHURCH:

S. 1635. A bill to investigate the water and related resources of four Idaho river basins to determine ways to restore or improve the habitat of anadromous species of fish, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MATHIAS:

S. 1636. A bill for the relief of Rudolphe H. Ellert-Beck; to the Committee on Foreign Relations.

By Mr. JACKSON (by request):

S. 1637. A bill to establish competitive oil and gas leasing in favorable areas within producing geologic provinces; to the Committee on Energy and Natural Resources.

By Mr. ROTH:

S. 1638. A bill to amend the Internal Revenue Code of 1954 to provide for the amortization of start-up expenditures paid or incurred in starting a new trade or business; to the Committee on Finance.

By Mr. GRAVEL:

S. 1639. A bill to amend the Water Resources Planning Act of 1965 (Public Law 89–80; 79 Stat. 244 as amended.); to the Committee on Environment and Public Works.

By Mr. GRAVEL (by request):

S. 1640. A bill to extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRAVEL (for himself, Mr. Hatfield, Mr. McGovern, Mr. Burdick, Mr. Bentsen, Mr. Randolph, and Mr. Cohen):

S. 1641. A bill authorizing the Secretary of the Army, acting through the Chief of Engineers, to plan, design, and construct small hydroelectric power projects not specifically authorized by the Congress; to the Committee on Environment and Public Works.

By Mr. SCHWEIKER:

S. 1642. A bill to amend title VII of the Public Health Service Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DURENBERGER:

S. 1643. A bill to amend title II of the Social Security Act to provide better work incentives in the disability insurance program, and for other purposes; to the Committee on Finance.

By Mr. STEVENSON:

S. 1644. A bill to declare a national weather modification policy, to establish a national program of research and development in weather modification, to provide for the promulgation of regulations related to weather modification, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HAYAKAWA:

S. 1645. A bill to amend the Internal Revenue Code of 1954 to permit a credit for interest received on savings; to the Committee on Finance.

By Mr. PROXMIRE:

S. 1646. A bill to amend the International Banking Act of 1978 (Public Law 95–369) to extend the time for foreign banks to obtain required deposit insurance with respect to existing branches in the United States; from the Committee on Banking, Housing, and Urban Affairs.

By Mr. INOUYE (for himself, Mr. MATSUNAGA, Mr. HAYAKAWA, Mr. CRANSTON, Mr. MCCLURE, and Mr. CHURCH):

S. 1647. A bill to establish a commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order 9066, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CANNON (for himself, Mr. PACKWOOD, and Mr. INOUYE):

S. 1648. A bill to provide for the improvement of the Nation's airport and airway system, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1649. A bill to provide for the modification of airport and airway user taxes, and for other purposes; to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. BENTSEN, Mr. CANNON, Mr. COCHRAN, Mr. HATFIELD, Mr. HAYAKAWA, Mr. HOLLINGS, Mr. MATSUNAGA, Mr. PRYOR, Mr. STEVENS, Mr. STEWART, Mr. STONE, Mr. TALMADGE, and Mr. WARNER):

S. 1650. A bill to provide for the development of aquaculture in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation, jointly, by unanimous consent.

By Mr. McGOVERN (for himself, Mr. RIEGLE, Mr. KENNEDY, Mr. LUGAR, Mr. LEAHY, Mr. WILLIAMS, Mr. JAVITS, and Mr. METZENBAUM):

S. 1651. A bill entitled the "Department of Agriculture Nutrition Labeling and Information Act of 1979"; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. McGOVERN (for himself, Mr. RIEGLE, Mr. KENNEDY, Mr. WILLIAMS, Mr. JAVITS, Mr. METZENBAUM, Mr. LUGAR, and Mr. LEAHY):

S. 1652. A bill entitled "The Nutrition Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act"; to the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources, jointly, by unanimous consent.

By Mr. CRANSTON:

S. 1653. A bill for the relief of Zenaida Porte Rebultan; to the Committee on the Judiciary.

By Mr. DECONCINI:

S. 1654. A bill to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes; to the Committee on the Judiciary.

By Mr. LEVIN:

S. 1655. A bill to designate the building known as the Department of Labor Building in Washington, D.C. as the "Francis Perkins Department of Labor Building"; to the Committee on Environment and Public Works.

By Mr. KENNEDY (for himself, Mr. MAGNUSON, Mr. STEVENS, Mr. HOLLINGS, Mr. PELL, Mr. TSONGAS, Mr. PACKWOOD, Mr. HATFIELD, and Mr. WARNER):

S. 1656. A bill to provide for a national program of fisheries research and development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEVIN:

S. 1657. A bill to amend title XVI of the Social Security Act to remove certain work disincentives, and for other purposes; to the Committee on Finance.

By Mr. JAVITS (for himself, Mr. STAFFORD, Mr. MOYNIHAN, Mr. CRANSTON, Mr. KENNEDY, and Mr. BRADLEY):

S. 1658. A bill to establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to states and local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WALLOP (for himself, Mr. BENTSEN, Mr. TALMADGE, and Mr. HATCH):

S. 1659. A bill to amend the Internal Revenue Code of 1954 to provide for the treatment of property as energy property for investment credit purposes after December 31, 1982, where the taxpayer is affirmatively committed on that date to its construction, reconstruction erection, or acquisition; to the Committee on Finance.

By Mr. SCHMITT (for himself, Mr. DECONCINI, Mr. BAKER, Mr. STONE, Mr. THURMOND, Mr. HAYAKAWA, and Mr. WALLOP):

S. 1660. A bill to amend the Federal Civil Defense Act of 1950 to provide for an enhanced civil defense program for fiscal years 1980 through 1986, and for other purposes; to the Committee on Armed Services.

By Mr. LEVIN:

S. 1661. A bill to amend title IV of the Social Security Act to provide for a program of adoption assistance; to the Committee on Finance.

By Mr. CHILES (for himself, Mr. MELCHER, and Mr. PRYOR):

S. 1662. A bill to amend title XI of the Social Security Act to authorize civil monetary penalties for certain fraudulent activities in the Medicare and Medicaid programs, and for other purposes; to the Committee on Finance.

By Mr. STEVENSON:

S. 1663. A bill to encourage exports by providing for the licensing of export trading companies by the Secretary of Commerce, and by otherwise facilitating their formation and operation; to the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance, jointly, by unanimous consent.

By Mr. RIBICOFF (for himself, Mr. CHAFEE, Mr. DOLE, Mr. JAVITS, Mr. MOYNIHAN, Mr. PELL, and Mr. TSONGAS):

S. 1664. A bill to amend the Internal Revenue Code of 1954 to provide relief to residential users of refined petroleum products; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (for himself, Mr. STEVENS, Mr. STONE, Mr. RANDOLPH, Mr. STEWART, Mr. BAKER, Mr. CANNON, Mr. HEFLIN, and Mr. GOLDWATER):

S. 1629. A bill to amend section 9441 of title 10, United States Code, to provide for budgeting by the Secretary of Defense, the authorization of appropriations, and the use of those appropriated funds by the Secretary of the Air Force, for certain specified purposes to assist the Civil Air Patrol in providing services in connection with the noncombatant mission of the Air Force; to the Committee on Armed Services.

CIVIL AIR PATROL SUPPLY

● Mr. JACKSON. Mr. President, I am today introducing a bill entitled the Civil Air Patrol supply bill. This legislation, which eight of my distinguished colleagues have joined me in sponsoring—Senators STEVENS, STONE, RANDOLPH, STEWART, BAKER, CANNON, HEFLIN, and GOLDWATER—represents, in my opinion, an absolutely essential and long-overdue step on the part of the Federal Government.

Let me say a few words about the Civil Air Patrol. This private, nonprofit organization, established in 1941, has served by congressional mandate as an auxiliary of the U.S. Air Force since 1948. It has undertaken, since its founding, largely on the basis of membership dues, volunteered time, and private contributions, to provide the pilots, aircraft, and supplies necessary to carry out the vast majority of search and rescue missions performed in this country.

On this basis, the Civil Air Patrol has for nearly four decades significantly augmented the capabilities of the Air Force in peacetime and in times of crisis or war. Currently, the CAP flies three out of every four hours of search and rescue missions, saving the taxpayer at least $20 million per annum that it would otherwise cost to have the Air Force perform this role. More importantly, the Civil Air Patrol saves lives.

The cosponsors of this bill are concerned that the CAP will soon be unable to do the job expected of it. Inflation and the soaring cost of fuel, spare parts and equipment, and the substantial expenses involved in replacing aging aircraft are severely taxing the ability of the dedicated members of the CAP to continue to serve.

A few examples graphically illustrate the problem:

The cost of a standard, propeller-driven, four-seater aircraft has grown nearly 300 percent over the last decade.

There has been a comparable growth in fuel costs and the price of lubricants.

CAP members, who are asked to travel far from home to fly rescue missions are faced with the prospect of having to bear—out of their own pockets—the costs of motels and restaurants—costs which have also been greatly affected by inflation.

There is another important facet to

the Civil Air Patrol. The CAP has a cadet program which brings young people into a constructive, disciplined organization, trains them to become aviators and gives them an opportunity to serve others. A traditional aspect of this side of the Civil Air Patrol is the requirement that the cadets buy and wear uniforms while taking part in CAP activities. Inflation has taken its toll here, too, to the point where many young people are not becoming involved in CAP because of the prohibitive cost of uniforms.

Since 1970, membership in the CAP has dropped off sharply, falling by some 16,000 cadet and senior members, largely as a result of the increasingly expensive price of participating. This trend is likely to continue and to grow more severe. Ultimately, it may result in the Civil Air Patrol becoming unable to respond promptly and with sufficient numbers of trained, capable personnel to save people's lives in emergency situations.

It is in response to these undesirable developments that the nine cosponsors of this legislation are introducing the Civil Air Patrol supply bill. It would, at the cost of roughly $1 million per year in 1979 dollars, provide: Access to surplus Federal equipment and related supplies, uniforms for cadets, fuel and lubricants for the support of assigned missions, reimbursement for the costs incurred by CAP members while on assigned missions, including travel and subsistence, and other support services.

Late in the last session of Congress, the House of Representatives passed a virtually identical measure, H.R. 6237, which was not acted upon by the Senate due to the logjam on the legislative calendar in the hectic closing days of the 95th Congress. The bill we are introducing today differs from the House-passed version primarily in that the discretion of the Secretary of the Air Force in making available to the CAP such support as I have described is more specifically defined. I am confident that affirmative action by the Senate on this measure will lead to rapid reenactment of the Civil Air Patrol supply bill by the House.

In summary, Mr. President, I believe this is a sound bill, which will go a long way toward meeting the urgent needs of this outstanding organization. I urge my colleagues to join the nine original cosponsors of this legislation in seeking its prompt passage by the Senate so that the CAP can continue to do the job we expect of it—that of saving lives.●

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. LAXALT, Mr. PRESSLER, Mr. CULVER, and Mr. STONE):

S. 1630. A bill to amend the Internal Revenue Code of 1954 to provide for the designation of income tax payments to the U.S. Oylmpic Development Fund; to the Committee on Finance.

U.S. OLYMPIC DEVELOPMENT FUND CHECKOFF ACT OF 1979

● Mr. INOUYE. Mr. President, on behalf of my colleagues, Senator STEVENS, Senator LAXALT, Senator PRESSLER, Senator CULVER and Senator STONE, I am introducing legislation to provide for a $1 checkoff on future Federal income tax refunds. The money collected would be used to enhance the opportunity of our citizens to exercise their birthright to pursue any amateur sport of his or her choice.

Currently, our country has little in the way of early identification and encouragement of talent in a wide range of sports. Coaching is unavailable for many athletes. In many areas we lack adequate sports facilities. For example, there is only one Olympic-size speed skating rink and bobsled run in the entire United States. Modern pentathalon athletes can train only at Fort Sam Houston in Texas, supported by the United States Army. In a Nation of over 200 million, there exists only 14 cycling velodromes; approximately 1 velodrome per 15 million, whereas it is common in Western Europe to find 6 velodromes per 300,000 residents.

Existing athletic programs could be strengthened and innovative programs developed, benefiting all Americans—the young, the elderly, the handicapped, women and minorities—by encouraging participation in physical fitness events. While only a few gifted individuals eventually compete nationally or internationally, sports, in general, contribute toward our national vigor and enrich the lives of all who take part in them.

Under our proposal, the money would be collected by means of a voluntary $1 checkoff on income tax refund forms, similar to the Presidential campaign fund checkoff. Money raised would be directly transferred to the U.S. Olympic Committee, which would be responsible for appropriating funds to the various sports governing bodies. Approximately half of the revenues would be used as grants to those governing bodies that coordinate U.S. efforts in each amateur sport. In addition, about a quarter of the fund would be earmarked toward improving amateur athletic facilities, 20 percent for enhancing training programs, and 5 percent for furthering sports medicine. Any surplus of funds would be used to rent school athletic facilities for summertime sports clinics.

The U.S. Olympic Committee would submit an annual report to the President's Council on Physical Fitness and Sports, with a breakdown of the previous year's expenditures and recommendations. The Council would then submit its own report to Congress, discussing the committee's report, and evaluating the effectiveness and usefulness of the program.

We would like to stress that through this method, Government can provide a vehicle through which the public can mandate whatever funds and support it feels our amateur athletic system warrants, without additional bureaucratic burden.

With the recent Pan-American games and the advent of the Olympic games in Lake Placid and Moscow, we feel that a timely opportunity is at hand for this Congress to embrace its commitment to amateur athletics by initiating this long overdue effort to rejuvenate our national sports programs. Other countries have done this, including the Soviet Union and the lesser developed nations. Now it is our turn.

We urge our colleagues to give this important legislation your serious and favorable attention. Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Olympic Development Fund Checkoff Act of 1979".

SEC. 2. (a) With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1 of the International Revenue of 1954, such taxpayer may designate that either—

(1) $1 of any overpayment of such tax for such taxable year, or

(2) $1 of any contribution which the taxpayer forwards in money with such return, be available to the United States Olympic Development Fund established by section 3 of this Act.

(b) In the case of a joint return of husband and wife, each spouse may designate the $1 be available to the fund under subsection (a).

(c) Space shall be made available for the designations referred to in subsection (a) on the first page of the tax return forms for such tax.

(d) For purposes of the Internal Revenue Code of 1954, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the date prescribed for filing the return of such tax (disregarding any extension) or, if later, the date the return is filed.

(e) This section shall apply to taxable years ending after the date of enactment of this Act.

SEC. 3. (a) There is hereby established on the books of the Treasury of the United States a special fund to be known as the "United States Olympic Development Fund". There is appropriated to the fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, an amount equal to the amount designated during such fiscal year to be available to the fund under section 2 of this Act. The amounts appropriated by this subsection shall be transferred monthly to the fund by the Secretary of the Treasury.

(b) The Secretary of the Treasury shall pay to the United States Olympic Committee each fiscal year an amount equal to the amounts transferred to the United States Olympic Development Fund under subsection (a) during that fiscal year.

(c) The United States Olympic Committee shall use such funds to carry out a program for the expansion and improvement of amateur athletics in the United States so that all Americans (including women, minorities, the aged and the handicapped) are able to participate in athletic endeavors. Such funds shall remain available to the United States Olympic Committee without fiscal year limitation.

(d) Within 120 days after the close of each fiscal year, the United States Olympic Committee shall submit a report to the President's Council on Physical Fitness and Sports with respect to the expenditure of funds made available under this section. Such report shall include, but not be limited to—

(1) a listing of the major programs with respect to which funds were expended during such fiscal year,

(2) the amount of money, and percentage of total money available, expended on

each such program during such fiscal year, and

(3) any recommendations the United States Olympic Committee may have with respect to future expenditures of such funds.

(e) Within 120 days after receipt of the report submitted under subsection (d), the President's Council on Physical Fitness and Sports shall prepare and submit to the Congress an evaluation of the effectiveness of the expenditure of funds by the United States Olympic Committee for the fiscal year covered by such report. Such report shall include recommendations deemed necessary by the Council with respect to the expenditures of funds by the United States Olympic Committee, including its recommendations with respect to the continuance, modification or discontinuance of the providing of funds to the United States Olympic Committee under this section.●

● Mr. STEVENS. Mr. President, I am pleased to join with my colleague from Hawaii, Senator INOUYE, in cosponsoring this bill that will create the opportunity for Americans to donate $1 to the U.S. Olympic Committee simply by checking off a box on their income tax forms.

This system does not allocate funds from taxpayer revenue, but will instead enable and encourage taxpayers to donate $1 of their tax return checks to support and develop all amateur sports in America.

Many may not realize it, but the U.S. Olympic Committee does more than serve our young men and women who are preparing to represent our country in Olympic competition. Since the passage of the Amateur Sports Act during the 95th Congress, the U.S. Olympic Committee has become the coordinating body for all amateur sports in our country. They are charged with the responsibility of encouraging physical fitness and public participation in amateur athletic activities, and promoting athletic events for handicapped individuals.

The Olympic Committee is also in the process of establishing national goals for amateur sports and implementing the attainment of those goals.

Through the Amateur Sports Act of 1978, the U.S. Olympic Committee is increasing grassroots participation, particularly in lesser developed sports. They are striving to provide greater opportunities for women and minorities in athletic programs, and they are trying to integrate handicapped programs into the mainstream of athletic endeavor, whenever possible.

Mr. President, it is time that we, the American people become committed to amateur athletics, by giving them financial support. With this "sports for all" philosophy, the United States could not help but benefit. I urge all the Members of the Senate to support this legislation.●

By Mr. RANDOLPH (for himself and Mr. LONG):

S. 1631. A bill to provide additional funds for certain projects relating to fish restoration, and for other purposes; to the Committee on Environment and Public Works.

FISH RESTORATION ACT OF 1979

● Mr. RANDOLPH. Mr. President, fishing is the most popular participator sport in our country. Last year, 58 million Americans fished and, if historic trends continue, the number could double before the end of this century. That truly is recreation on a grand scale, but under present levels of support our aquatic resources cannot sustain this public use demand.

Fishing, the wholesome, outdoor sport of Americans from all walks of life, could become, as it has in Europe, a pastime of the wealthy. The legislation which I introduce will provide for expanded Federal-aid-to-fisheries grants to States from funds collected through "user pay" fees paid by the persons who share in the resource.

The management of America's inland fisheries resources is, as it should be, the responsibility of the 50 States. Inflation has destroyed many States' ability to manage their recreational fishery. Access to public waters is inadequate and many boat launching areas are deteriorating for lack of maintenance. Fish hatchery production is inadequate, most fisheries research remains to be funded, new recreational lakes are needed in water-starved areas and a wide range of other proven fisheries enhancement techniques await funding. A recent survey of State fisheries agencies, conducted by the organization of fisheries administrators, disclosed that an additional $75 million are needed each year simply to sustain the present, barely adequate program. Meeting future demands and starting new programs will require even more funding.

Fishing license revenues have proven to be inadequate to meet the need for fisheries management funding. In recognition of this problem. Congress passed the Federal Aid to Sport Fish Restoration Act in 1950, known as the Dingell-Johnson Act. This successful and popular act imposes a 10-percent Federal manufacturer's excise tax on most items of fishing tackle. Although paid by the manufacturers, the cost is passed along to the fisherman as a part of the cost of the tackle he buys.

The tax is collected by the Treasury Department and then apportioned to the States on a matching basis (up to $3 Federal for each State dollar) for fisheries restoration, development, enhancement and research. The apportionment is based on the State's total area and fishing license sales. No State can receive less than 1 percent and none more than 5 percent. In its 28-year history, this program has generated an average of about $10 million per year with less than 7 percent consumed for administrative purposes.

States have used grants to finance a considerable portion of their fisheries management activities. A special provision of the act has had the added benefit of preventing diversion of State fish license monies to the purposes. No other Federal fisheries program has been so successful. All States are heavily dependent upon this program. It does not generate enough funds, however, to do the job that must be done. Congress must act now to expand the funding base of the act in a fair and meaningful way.

A 1970 study by Darmouth College disclosed that the 10-percent excise tax on fishing tackle was not only successful and well received by anglers, but was popular with the tackle manufacturers as well. The report noted, however, that the tax was unfair because it applied to only part of the sport fishing industry even though all manufacturers benefited from the proceeds. As a consequence, the report recommended that the excise tax be extended to other products, including fishing boats and outboard motors. The author of the report noted that:

> Actually, the extension of the excise tax to the outboard motor industry constitutes the withdrawal of a subsidy to that industry rather than the imposition of a burden in the sense that it receives the advantages of the Dingell-Johnson program without sharing the costs with the other beneficiaries.

Mr. President, the user-pay principle requires that those who enjoy the benefits should contribute to the program. The boat, motor, and boat trailer industry, should be brought into the program so that they can begin assuming their share of the Nation's fisheries management costs.

Costs will inevitably be passed along to the consumer, and these consumers have indicated their willingness to pay. Good fishing sells boats and motors, so in all likelihood the plan will be as good for future sales as it is for future fishing.

Accordingly, I am introducing legislation to amend the 1950 act by adding a 3-percent manufacturer's excise tax to recreational boats, motors, and boat trailers, with the industry's endorsement, extending the 10-percent tax to tackle items not now covered.

Under this legislation the average fisherman will pay only about $2 per year in added excise taxes to support the aquatic resources which provide his fishing opportunity. Hunters already pay more than $3 each in excise taxes to support their sport, and that investment has been spectacularly successful. If our fisheries resources are to continue meeting the demands upon them they must receive the best management that science can provide. America's fishermen recognize the problem and have indicated their willingness to pay the bill.

The opportunity for "goin' fishin' " is as American as any legacy we have, and we cannot deny the same chance to future generations. Expanding the financial base of the Dingell-Johnson Act will help to maintain this tradition.●

By Mr. JACKSON (by request):

S. 1632. A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments; to the Committee on Energy and Natural Resources.

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill, the executive communication, and various background statements which accompanied the proposal from the Assistant Secretary of the Interior be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1632

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following proposals:

1. Hungry Horse Project, Hungry Horse Powerplant Enlargement and Reregulating Reservoir, located on the South Fork of the Flathead River in Flathead County, Montana.

2. Palisades Project, Palisades Powerplant Enlargement, located on the Snake River in Bonneville County, Idaho.

3. Boise Project, Power and Modification Study, located in southwestern Idaho (Ada, Boise, Canyon, Elmore, Gem, Payette, and Valley Counties) and in eastern Oregon (Malheur County).

4. Central Valley Project, Shasta Division, Enlarged Shasta Lake Investigation, located in Shasta County in northern California.

5. Central Valley Project, Trinity River Division, Whiskeytown Powerplant Study at the existing Whiskeytown Dam, located on Clear Creek in Shasta County in California.

6. Central Valley Project, Friant Division, Friant Powerplants Study located at Friant Dam on the San Joaquin River in central California.

7. San Francisco Bay Area Waste Water Reclamation Project, located in the San Francisco Bay area and western San Joaquin Valley of California.

8. San Joaquin Valley Drainage Investigation with a study area in the San Joaquin River basin, Tulare basin, and the Sacramento-San Joaquin Delta-Suisun Bay area of California.

9. Delta Overland Water Service Facilities, located in the Sacramento, San Joaquin, Solano, and Contra Costa Counties of California.

10. Chino Valley Project, located in north central Yavapai County and south central Coconino County in Arizona.

11. Canyon Ferry Powerplant, located on the Missouri River at the existing Canyon Ferry Dam in Lewis and Clark County of central Montana.

12. Yellowtail Afterbay Powerplant Investigation on the Bighorn River near the existing Yellowtail Dam in Big Horn County of Montana.

13. North Platte River Hydroelectric Power Study, Pick-Sloan Missouri Basin Program, Western Division, located in Natrona and Carbon Counties, Wyoming.

14. Wind-Hydroelectric Energy Project in Carbon and Albany Counties, Wyoming.

15. Lake Meredith Salinity Project, in Quay County, New Mexico, and Oldham, Potter, Moore, Carson, and Hutchinson Counties in Texas.

16. Colorado-Big Thompson Powerplants of the Pick-Sloan Missouri Basin Program in Colorado.

17. Central Valley Project, Sacramento River Division, Red Bluff Diversion Dam Powerplant in Tehama County, California.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C. July 11, 1979.

Hon. WALTER F. MONDALE,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill "To authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments." Authorizations of feasibility studies as proposed by this bill is required by Section 8 of the Federal Water Project Recreation Act of July 9, 1965 (79 Stat. 217; 16 U.S.C. 4601–19).

We recommend that the bill be referred to the appropriate committee for consideration, and that it be enacted.

The bill would authorize the Secretary of the Interior to engage in feasibility studies of 17 potential Reclamation projects. Appraisal studies (or comparable information) for each of the developments indicate that feasibility studies are justified. The Department proposes to undertake studies as soon as the study authorization is available and the work can be scheduled in the Bureau of Reclamation's planning and fiscal program.

Supplementary statements of information on the 17 projects and justification for seeking feasibility study authority are enclosed.

The effects of the potential projects on water, quality, recreation, fish and wildlife, historic, scenic, archeologic, and aesthetic values will be considered fully in the feasibility studies authorized.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft legislation from the standpoint of the Administration's program.

A similar letter is being sent to the Speaker of the House.

Sincerely,

GUY R. MARTIN,
Assistant Secretary.

BACKGROUND STATEMENT: GENERAL INVESTIGATIONS, FEASIBILITY INVESTIGATIONS

Project Hungry Horse Project, Montana, Hungry Horse Powerplant Enlargement and Reregulating Reservoir.

Location Existing Hungry Horse Dam and Powerplant are on the South Fork of the Flathead River, 5 miles upstream from its confluence with the main stem Flathead River. The project is 26 miles northeast of Kalispell, Montana, and 15 miles south of West Glacier, an entrance to Glacier National Park. Hungry Horse Dam is located in Flathead County.

Project data Preliminary appraisal, November 1977 and Western Energy Expansion Study estimates. July 1975 price level, 6⅜ percent interest rate.

Total construction cost	[1] $54,000,000
Adjustments	
Total allocation	[1] 54,000,000

Program goals	Cost allocation	
Irrigation:		
Full		
Supplemental		
Power (200 MW) [2]	[1] $54,000,000	Completion date fiscal year 1981.[3]
M & I water (acre-feet/year).		
Flood control		B/C ratio:
Fish and wildlife	(1)	1.57 to 1.[4]
Recreation	(1)	3.14 to 1.
Water quality	(1)	
Total	[1] 54,000,000	

[1] Costs are for both powerplant enlargement and downstream reregulating dam. Benefits are available only for power function, but current draft report of Montana State Study Team states that a reregulating pool below Hungry Horse Dam could create downstream benefits for (1) fish and wildlife, (2) recreation, and (3) water quality control. These opportunities will be explored in the feasibility study.

[2] In addition to existing installed generating capacity of 285 MW.

[3] Assumes fiscal year 1980 start.

[4] Power benefits for the Hungry Horse project enlargement were calculated using 2 approaches. The first approach is the incremental analysis whereby the additions to the existing plant are treated as a separate plant with its own capacity and energy values. This is the more stringent test, and results in a B/C ratio of 1.57 to 1. The second approach is the "with-without" analysis whereby the entire powerplant is examined before and after the addition. In this method, the difference in benefits is attributable to the addition, and results in a B/C ratio of 3.14 to 1.

Description: The existing Hungry Horse Project includes a reservoir, dam, powerplant, and switchyard; the dam impounds a reservoir with an active capacity of nearly 3 million acre-feet. Hungry Horse is one of the major projects in the long-range plan for control and use of the waters in the Columbia River basin. It plays an important role in the program for meeting the growing power load in the Pacific Northwest and in the plans for providing a storage system for control of devastating floods. It also contributes to irrigation, navigation, and other benefits in its multiple-purpose operation. Hungry Horse Reservoir is a valuable recreation area, and the pool is maintained at the near-full level during the summer. Construction of the dam and powerplant was completed in 1953.

The present power yield from the existing four-unit powerplant produces a dependable capacity of some 238 MW. An overload rating of some 328 MW is attainable with suitable head.

The feasibility study will evaluate development of additional generating capacity at Hungry Horse Powerplant. The existing installed powerplant capacity of 285 MW could be increased to about 485 MW. A new 200 MW powerplant adjacent to the existing plant and a reregulating dam about 2½ miles downstream would be the principal features. The plant would be operated in conjunction with the existing powerplant when the water and hydraulic head are available. A 60-foot-high reregulation dam with a pool capacity of about 5,000 acre-feet would be useful in smoothing out releases from Hungry Horse Powerplant. Fish and wildlife, recreation, flood control, and water quality aspects would also be considered, particularly in regard to operation of the reregulating reservoir. Also, the feasibility of installing a variable level intake structure at the dam will be evaluated in the study.

Envisioned characteristics of the new enlarged power generating complex at Hungry Horse would be 408 MW dependable capacity, about 106 MW average annual generation, and an overload rating of 528 MW. The facility could be peaked 6 days per week, 9 hours per day during the most critical period of peaking requirement. In addition, there may be potential of gains in the electrical limit at the existing powerplant by rewinding generators. This potential will be evaluated as a part of the feasibility study.

The effects of powerplant enlargement on the water level of Hungry Horse Reservoir would be minimal, and recreation uses should not be adversely affected. Streamflow conditions below the reregulating dam will be critical to fish and wildlife resources. Montana Department of Fish and Game is concerned about changes in operation at Hungry Horse which might affect the aquatic food chain organisms and the critical kokanee spawning and rearing area downstream from Hungry Horse. Also of concern are effects on other game fish which migrate through the area affected by Hungry Horse discharges. The study would be closely coordinated with the U.S. Fish and Wildlife Service and the Montana Fish and Game Department to arrive at a plan which will afford beneficial production of power as well as downstream fish and wildlife benefits.

An environmental impact study of the Flathead basin is currently being initiated under the leadership of the Environmental Protection Agency in cooperation with the State of Montana. The study is expected to extend over a 5-year period and is to provide data and guidance for government and private interests in regard to future development in the Flathead basin.

Status: The potential for enlarging Hungry Horse Powerplant was evaluated in the Western Energy Expansion Study with additional preliminary appraisal evaluation by an interdisciplinary team. Based on these analyses, the benefits from additional hydropower generating capacity at Hungry Horse would exceed its costs, beneficial environmental impacts from a new reregulating pool could occur, and possible adverse environmental impacts from the new facilities appear to be minor. Based on these favorable findings, an appraisal investigation was started in FY 1978 to evaluate the various possible powerplant enlargements and reregulating reservoir sizes and operations in more detail. The study is scheduled for completion in FY 1979. If the results in the early stages of the appraisal study are favorable, it would be highly desirable to immediately convert the study to feasibility level in order to eliminate unnecessary delays in completing the planning which is a prerequisite to the development of needed hydropower facilities.

Powerplant enlargements of about 200 MW will be evaluated. Geologic investigation and topographic mapping will be required to determine site conditions for the new powerplant and reregulating dam. Cooperative studies will be carried out with the appropriate Federal and State agencies, including fish and wildlife and recreation agencies, the Bonneville Power Administration, and the Corps of Engineers. These cooperative studies are needed in part to determine the best river operation when all competing needs are considered. The scope and geographical area of the EPA environmental impact study is currently being defined. Bureau of Reclamation studies would be designed to complement the EPA study where practicable.

Justification: Hungry Horse storage and generating capability make this project a key unit in the Columbia River system. Its favorable headwater location provides control of a principal tributary stream. Generation at Hungry Horse Powerplant has a marked effect throughout downstream power producing and storage facilities since coordinated releases made at Hungry Horse pass through other major power and storage facilities before reaching the Pacific Ocean.

A substantial amount of water now passes Hungry Horse Dam in excess of the hydraulic capacity of the existing powerplant. The current national energy problems have pointed up the critical need to develop new electric power production wherever possible. Hydroelectric power is desirable because it is a clean energy source which uses water—a renewable resource.

The Montana State Study Team, made up of the Montana Department of Natural Resources and Conservation and other State and Federal agencies, is preparing a "level B" plan for the Flathead River basin. The study team reports that (1) the Flathead basin is a net importer of electric power, (2) the major problem in providing electric power for the basin is that of meeting ever growing loads, and (3) nuclear and fossil-fuel generating plants are not viable alternatives to hydropower in this basin because they are more costly. There is no projected development of thermal plants in the basin.

The potential enlargement of Hungry Horse Powerplant is extremely attractive; preliminary indications are that dependable generating capacity could be increased about 60 percent. The powerplant enlargement would provide increased generating capacity to meet growing power needs while causing minimal adverse environmental impacts.

A reregulating pool is needed on the South Fork of the Flathead River downstream from Hungry Horse Dam under present conditions. The preliminary findings of the Montana State Study Team include the recommendation that the Bureau of Reclamation study the feasibility of constructing a reregulating dam below Hungry Horse Dam in the near-term future. The immediate need for the reregulating facility is to smooth out releases from Hungry Horse Dam in order to make South Fork Flathead River flows more compatible with those of the Flathead River downstream.

Project interest: Local and State support for the potential Hungry Horse Powerplant Enlargement and Reregulating Reservoir should be good. Montana citizens generally support careful resource development, and Flathead basin residents have become extremely interested in protecting and improving their high quality environment. These potential improvements in the Hungry Horse Project are in line with the current preliminary recommendations of the Montana Department of Natural Resources and Conservation and the other members of the Montana State Study Team; since these recommendations and the draft level B plans for the Flathead River basin were developed only after a planned basinwide public involvement program, the new hydropower installation and the potential reregulating pool should enjoy public support.

Remarks: Total estimated cost of the 3-year feasibility investigation would be $500,000 with first year funding of $200,000.

Background Statement: General Investigations Feasibility Investigations

Project Palisades Project, Idaho-Wyoming, Palisades Powerplant Enlargement, Idaho.

Region Pacific Northwest.

Location The existing Palisades Dam and Powerplant (119 MW) are on the Snake River in eastern Idaho about 45 miles east of Idaho Falls, Bonneville County, Idaho.

Project data Design and cost estimate for the additional generating facilities are largely feasibility level, October 1977 prices. Hydrology data for the current power analysis are generally feasibility level; other preliminary data were developed for the Western Energy Expansion Study and the Upper Snake River Water Management Study.

Total construction cost	[1] $46,000,000
Adjustments	
Total allocation	[1] $46,000,000

Program goals	Cost allocation	
Power (90 MW)[2]	[1] $46,000,000	
Flood control		
Fish and wildlife	(1)	
Recreation	(1)	
Irrigation		Completion date fiscal year 1982.[3]
Water quality		B/C ratio 2.01 to 1.[4]

[1] Costs are for added generating capacity of 90 MW only; investigation costs are not deducted. Costs and benefits of other potential functions would be identified during feasibility study.

[2] In addition to existing 119 MW generating capacity; resulting installed capacity at Palisades would therefore total 209 MW. A second increment of as much as 135 MW could also be added if reregulating storage could be developed downstream; the total potential generating capacity at this site is therefore 344 MW.

[3] Assumes fiscal year 1980 start.

[4] The benefit-cost analysis is at 6⅝ percent interest and a 100-yr period of analysis. Power benefits were estimated through the use of the standerd energy-capacity approach in which dependable capacity and average annual energy production were identified and given values equal to the alternate cost of obtaining equivalent capacity and energy from a thermal plant. In this case, the values were those for an alternative thermal plant as furnished in a June 21, 1977, letter from the Federal Power Commission for a plant in this area operating at a comparable capacity factor. The incremental analysis method was used; the 90 MW addition was therefore treated as a separate powerplant.

Description: The major features of the existing Palisades Project are Palisades Dam, Reservoir, and Powerplant. The project is a multiple-purpose development involving irrigation, power, flood control, recreation, and fish and wildlife conservation. Construction of the project was completed in 1958. The 270-foot-high Palisades Dam impounds a reservoir with a total capacity of 1,401,000 acre-feet, of which 1,200,000 acre-feet is active storage. The 119 MW hydroelectric powerplant at the dam furnishes energy needed in the upper Snake River basin to serve irrigation pumping loads, municipalities, rural cooperatives, and other power users.

The proposed study would evaluate the feasibility of additional generating capacity at the site. The present powerplant capacity can be increased from 119 MW to 209 MW by expanding the existing powerplant and adding new units with 90 MW of generating capacity. The new units could be served from the existing power tunnel through the dam. The new power units would probably be remotely controlled and run in conjunction with the existing plant.

Based on current hydrology studies, 90 MW is the largest powerplant enlargement that can be added without changing river and reservoir operations unless a reregulating reservoir is developed downstream from Palisades.

The operation of the enlarged hydropower facility would probably continue to be coordinated by the Bonneville Power Administration (BPA), and future operation would fit into the load or demand schedule projected by BPA for the southern Idaho area.

The proposed feasibility study should evaluate construction of a reregulation dam downstream from Palisades Dam. With a reregulating pool of adequate capacity, the total generating capacity at the Palisades site could be increased to some 344 MW by using the full hydraulic capacity of the existing outlet and power tunnels.

There could also be some power potential at a reregulating dam. The reregulating pool would be necessary to smooth fluctuating flows from peak operations at the larger sized Palisades Powerplant enlargements. Because the Snake River reach downstream from Palisades is valuable for its fish and wildlife and other qualities, care must be taken to avoid adversely affecting this reach. Accordingly, a reregulating pool located as near Palisades Dam as possible would be desirable.

Fish and wildlife, recreation, and other possible improvements associated with the potential developments outlined above would be evaluated in response to local problems and needs. Under current planning guidelines, the study should also evaluate, at least on a preliminary basis, the potential for enlarging Palisades Reservoir. Because of the reservoir's large surface area (16,100 acres), even a moderate increase in reservoir water surface elevation would create a large amount of new active storage.

Status: The potential increase in generating capacity at Palisades Dam was recently evaluated in Reclamation's Western Energy Expansion Study, and the potential enlargement is being investigated further in the current Upper Snake River Water Management Study. Much of the information used in these analyses was developed during Reclamation's recent feasibility studies on the potential Lynn Crandall Reservoir, which would be formed by a dam 30 miles downstream from Palisades Dam. The enlargement of Palisades Powerplant was considered as an integral part of the Lynn Crandall storage and power complex then under study. Accordingly, some feasibility grade data were developed on the potential enlargement of Palisades Powerplant before the Lynn Crandall study was suspended in 1973.

In order to fully evaluate the potentials at the Palisades site, feasibility studies would need to be completed on various sizes of powerplant enlargement, on potential reregulating reservoir sites near Palisades, and on needed fish and wildlife, recreation, and other improvements that could be developed in conjunction with an enlarged powerplant and reregulating reservoir. Powerplant enlargements larger than 90 MW could be accommodated without adverse impacts on downstream flows if an adequate amount of reregulating capacity could be developed. In accordance with current planning guidelines, preliminary studies are also needed on the potential enlargement of Palisades Reservoir. If environmental and economic factors were found to favor reservoir enlargement and public opinion indicated that further studies were warranted, more detailed studies could be undertaken on this alternative.

Studies would be closely coordinated with the U.S. Fish and Wildlife Service, the Idaho Department of Fish and Game, and other State, Federal, and local agencies with the goal of developing plans which would produce power production and other benefits without adversely affecting the fish and wildlife and other resources in this area. Plans would be developed to enhance fish and wildlife and recreation resources wherever possible.

Justification: A large volume of water is released past Palisades Dam each year in excess of the hydraulic capacity of the existing power units. With an enlarged powerplant, much of this water could be used to generate electric energy which is needed to help meet the rapidly growing loads in the southern Idaho system. Unlike the rest of the Pacific Northwest, which has its largest power demands in the winter, the greatest southern Idaho demands are during the summertime, caused largely by irrigation pumping loads and air conditioning demands.

Since much of the power at the potential enlarged Palisades Powerplant would be generated from irrigation releases, it would be available at the time of greatest demand. The proposed Idaho State Water Plan recently approved by the Idaho Water Resource Board specifically recommends installing additional hydroelectric units at existing powerplants. Two basic reasons were given for this recommendation: the additional units can use a water resource potential now being wasted, and the increase in hydroelectric power can frequently be obtained with a minimum of adverse environmental impacts. Both of these conditions appear to be the case at the Palisades site. The plan also concludes that to meet the State's objective of reducing reliance on imported power, considerable in-State sources of power should be developed in Idaho in the future.

The growing Federal energy demands in southern Idaho greatly exceed Federal generation in the area. During some summer periods, southern Idaho generation can meet only about half the total area demand. Deficits must therefore be made up by importing power from outside the area. Forecasts by the BPA indicate that import energy for future loads will not be available unless generating facilities are constructed for that purpose.

Reclamation's Western Energy Expansion Study evaluated the potential enlargement of Palisades Powerplant; the results indicated that the powerplant enlargement is one of the most promising of Reclamation's hydropower potentials in the western United States and that it should therefore receive a high priority for initiation of more detailed studies. Subsequent studies in the current Upper Snake River Water Management Study support these findings.

New storage is needed to conserve the abundant wet-year surface water supplies for later use. Unused storage sites in the basin are limited, and development of most of the remaining sites would have serious environmental consequences. As a result, the potential enlargement of the Palisades Reservoir is an alternative that should be examined, at least on a preliminary basis, during this study. Although there would be adverse impacts on shoreline areas and a short reach of the high quality Snake River area upstream, each foot of increase in reservoir water surface could create more than 16,000 acre-feet of new active storage. Various amounts of enlargement should be evaluated.

The new stored water supplies could be used to meet a well documented array of instream and consumptive water needs, including improved flows for fish and wildlife and recreation, replacement storage supplies to stabilize water levels at Grand Teton National Park's Jackson Lake (which contains storage space owned by downstream water users), water supplies for recharge of depleted ground water aquifers, and water for irrigation and power uses.

Project interest: There is strong public support throughout Idaho for new hydropower development, provided it can be accomplished without sacrificing environmental quality. The extensive public involvement programs recently conducted throughout Idaho in conjunction with the Idaho State Water Plan, the Snake River basin level B study, and other programs found that the people were strongly in favor of hydropower development to meet electrical energy demands. The most recent Idaho Department of Water Resources public opinion surveys confirm that hydroelectric power remains the preferred source.

State support for increased hydo development at the Palisades site is expected to be strong because of the positions expressed in the Idaho State Water Plan and the growing recognition throughout Idaho of the increasing need to develop the clean energy resources that are available.

The enlargement of Palisades Reservoir is a development potential that has not yet been widely discussed. There is sentiment on both sides of the issue; one of the purposes of the preliminary studies of enlargement would be to assess public opinion.

Remarks: Total estimated cost of the 3-year feasibility study would be $500,000 with first year funding of $125,000.

Project Boise Project, Idaho-Oregon, Power and Modification Study.

Location The Boise Project is located in southwestern Idaho (Ada, Boise, Canyon, Elmore, Gem, Payette, and Valley Counties) and in eastern Oregon (Malheur County).

Project data Based on Western Energy Expansion Study (WEES) estimates (rough appraisal), July 1975 price levels, and 6⅜ percent interest rate.

Total construction cost	[1] $28, 500, 000
Adjustments	
Total allocation	[1] $28, 500, 000

Program goals	Cost allocation	
Irrigation:		
Full		
Supplemental		
Power (50 MW) [1]	[1] $28, 500, 000	
M & I water		
Flood control		
Fish and wildlife	(2)	
Recreation	(2)	Completion date fiscal year 1982.[3]
Water quality	(2)	B/C ratio 2.23 to 1.[4]

[1] Costs are for the addition of a 50 MW (installed capacity) hydroelectric powerplant at existing Arrowrock Dam; no costs or benefits have been included for a potential small hydropower facility at existing Boise River Diversion Dam downstream. In addition to evaluating a potential powerplant at Arrowrock Dam, the initial phase of the study would (1) evaluate the potential for enlarging the existing 8 MW powerplant at Black Canyon Dam by about 12 MW to a total of 20 MW of installed capacity (construction cost of enlargement $8.2 million; benefit-cost ratio 1.37 to 1 at 6⅛ percent interest in February 1977 WEES report) and (2) evaluate the potential for adding a powerplant of about 12 MW capacity at existing Cascade Dam (construction cost $9.2 million; benefit-cost ratio 1.50 to 1 in February 1977 WEES report). These facilities would be the major features of the first phase of the Power and Modification Study; later phases would include irrigation distribution system improvements, other hydropower facilities, and other measures.

[2] Related benefits from initial phase may occur for fish and wildlife, recreation, and water quality control; these opportunities would be examined in this study. Later phases of the study would evaluate proposals to serve additional functions.

[3] For initial phases of study, assuming study start early in FY 1980.

[4] The benefit-cost analysis is at 6⅜ percent with a 100-year period of analysis. Power benefits were estimated through the use of the standard energy-capacity approach in which dependable capacity and average annual energy production were identified and given values equal to the alternate cost of obtaining equivalent capacity and energy from a thermal plant. In this case, values for an alternative thermal plant furnished in a January 19, 1977, letter from the Federal Power Commission for a plant in this area operating at a comparable capacity factor were used.

Description: Principal Bureau of Reclamation facilities in the Boise Project include five storage dams, two diversion dams, three powerplants with a combined installed capacity of 36,500 kilowatts, more than 500 miles of irrigation canals, 1,100 miles of irrigation laterals, seven pumping plants, and 400 miles of drains. These facilities provide irrigation water to about 400,000 acres, as well as providing flood control, power, recreation, fish and wildlife, and other benefits.

The initial phases of the proposed Power and Modification Study would evaluate the potential for (1) adding a hydroelectric powerplant at the existing Arrowrock Dam, as well as the potential for increasing the generating capacity at the existing Boise River Diversion Dam downstream; (2) enlarging the powerplant at the existing Black Canyon Dam; (3) adding a powerplant at the existing Cascade Dam; and (4) meeting instream and other water needs related to the above sites. Preliminary studies would also be made on alternatives for improving irrigation distribution systems within the Boise Project.

Arrowrock Dam was completed in 1915. The dam and spillway crest were raised 5 feet in 1937. The structure is located on the Boise River 21 river miles upstream from Boise. The concrete-arch dam has a structural height of 350 feet. Arrowrock Reservoir has a surface area of 3,100 acres and a total storage capacity of 286,000 acre-feet, all of which is active. Arrowrock Reservoir is operated as a part of the Boise River Storage system. The reservoir is used for irrigation, flood control, and other purposes. There is no powerplant at Arrowrock Dam.

Boise River Diversion Dam was completed in 1908; the dam is located on the Boise River 8 river miles upstream from Boise. The dam is a concrete and masonry weir, with a structural height of 68 feet and allows diversion of water to the New York Canal, one of the major canals serving the Boise Project. The powerplant, placed in operation in 1912, has an installed capacity of 1,500 kilowatts.

Feasibility studies evaluate the potential of installing a powerplant of about 50,000 kW capacity to produce needed hydropower from water now passing Arrowrock Dam for increasing the generation at Boise River Diversion Dam by a moderate amount through use of low-head bulb turbines or other facilities, and for implementing related measures, such as improved streamflows for fish and wildlife, recreation, and water quality.

Black Canyon Dam, completed in 1924, is located on the Payette River 5 miles upstream from Emmett, Idaho. The concrete gravity dam has a structural height of 183 feet. Little or no storage capacity is used actively since the dam functions primarily as an irrigation diversion structure. The reservoir has a surface area of 1,040 acres and is a popular recreation site. The 8,000 kW Black Canyon Powerplant was placed in operation in 1925. Additional generating capacity of about 12,000 kW would be evaluated at this site.

Cascade Dam, completed in 1948, is located on the North Fork of the Payette River about a mile upstream from Cascade, Idaho. The zoned earthfill dam has a structural height of 107 feet. Cascade Reservoir with a water surface area of 28,300 acres, has a total storage capacity of 703,200 acre-feet. Active storage amounts to 653,000 acre-feet. The reservoir is important for irrigation, flood control, recreation, and fish and wildlife. There is no powerplant at Cascade Dam, although a very small, old, privately owned powerplant is located a short distance downstream from the dam. A potential powerplant with about 12,000 kW of installed capacity would be evaluated at Cascade Dam. The Idaho Power Company, which owns the small powerplant downstream, has recently stated an interest in developing a new powerplant at the Cascade sites. Any Federal studies would be coordinated with the plans of the Idaho Power Company. Other functions also need analysis at Cascade in connection with a potential power development because recreation, fish and wildlife, and other values are very important both at site and downstream and because Cascade Reservoir contains some uncontracted storage space.

Other phases of the uplanned Boise Project Power and Modification Study include studies of the potential for restoring irrigation service to Boise Valley suburban areas which have water rights but which were developed without irrigation facilities, for improving existing irrigation systems through provision of pipe systems with sprinkler pressure or other improvements, for developing additional hydropower generating capacity at other existing Reclamation dams and at other promising sites in the Boise and Payette River basins, and for meeting other needs related to the Boise Project and its storage and water supply systems.

Status: The addition of a powerplant at Arrowrock Dam was evaluated under Reclamation's recent Western Energy Expansion Study (WEES), and additional preliminary studies were made under the current Southwest Idaho Water Management Study to further analyze the potential at the site. Both studies indicated good power potential. The power potential at the Boise River Diversion Dam was briefly analyzed under the Southwest Idaho Water Management Study and needs to be studied in more detail in conjunction with the Arrowrock hydro potential and with the Corps of Engineers' current proposals for installing a hydropower plant at Lucky Peak Dam, which is just upstream from the Boise River Diversion Dam.

The potential enlargement of Black Canyon Powerplant and the addition of a hydroplant at Cascade Dam were also analyzed on a preliminary basis in the WEES.

Other studies in progress or planned under the current Southwest Idaho Water Management Study would provide useful input for the Boise Project Power and Modification Study.

The Boise River system hydrologic studies now being conducted for the Anderson Ranch Powerplant study would be very useful in the power and hydrologic studies required for analysis of the Arrowrock and Boise River Diversion Dam potentials.

Justification: A large volume of water passes Arrowrock, Black Canyon, and Cascade Dams each year without generating hydroelectric power; and the Boise River Diversion Dam—New York Canal complex is only partly used for hydropower production. This water could be used to generate electrical energy which is needed to help meet the growing loads in the southern Idaho Federal power system. Unlike the Pacific Northwest, which has its largest power demands in the winter, the greatest southern Idaho demands are during the summertime, caused largely by irrigation pumping loads. Since power at the potential powerplants would be generated mainly from irrigation water releases, it would be available at the time of greatest demand.

Besides the near-term power needs, there is an additional element of urgency in this situation. Further studies by Reclamation are needed at an early date at Boise River Diversion Dam, and they would be highly desirable at Arrowrock Dam because of the current plans of the Corps of Engineers and others to proposed construction of a powerplant at Lucky Peak Dam, located between the two Reclamation dams. Lucky Peak Reservoir is operated as an integral part of the Boise River storage system, and the feasibility of winter peaking at the proposed Lucky Peak Powerplant cannot be determined until Reclamation has made additional studies of the potential powerplant addition and other possible modifications which may be needed at the Boise River Diversion Dam. In addition, it would be desirable to study potential power alternatives at Arrowrock Dam in combination with alternatives to be considered at Lucky Peak Dam.

Reclamation's recent WEES evaluated the potential Arrowrock and Cascade Powerplants, powerplant enlargement at Black Canyon Dam, and hydro development at other sites. Based on this preliminary evaluation, the potential Arrowrock facility was found to be one of the most promising Reclamation hydro potentials in the entire Western United States, and the Black Canyon and Cascade power potentials also ranked within the top 15 potential hydrodevelopments recommended for early study throughout the entire Western United States.

The proposed Idaho State Water Plan and the current Snake River basin level B study for Idaho have projected a statewide average generation requirement for the year 2020 at 10,600 megawatts—more than six times the 1973 use. The State Water Plan concludes that to meet the States objective of reducing reliance on imported oil, considerable in-State sources of power need to be developed in the future.

Further, the proposed Idaho State Water Plan specifically recommends installing additional hydroelectric units at existing powerplants and installing hydro units at dams which now have no power features since these potential hydropower facilities have the best prospects for development with minimal environmental impacts. Indications to date are that the potential powerplants in this proposed study could be developed with a minimum of adverse environmental impacts.

Project interest: There is strong local support in Idaho for using the hydropower potential at existing dams, particularly at Arrowrock and Boise River Diversion Dams, and there is interest in using Diversion Dam to reregulate releases from the potential Lucky Peak hydroelectric facility. At recent Corps of Engineers public meetings in Boise on the planned Lucky Peak powerplants, public sentiment has been virtually unanimous in favor of hydroelectric development in the Boise River system. In view of the near-term energy needs in the area, more and more entities are asking why the existing Federal dams in this area are not being used to generate hydropower, especially where it can be done with minimal environmental impact.

The recent extensive public involvement programs conducted throughout Idaho in conjunction with the proposed Idaho State Water Plan and the Snake River basin level B study found that the people were in favor of hydropower development to meet electrical energy demands. The Idaho Department of Water Resources public opinion surveys and other surveys conducted in recent years confirm that hydroelectric power remains the preferred source. Citizens in the Boise area, where power needs are growing the fastest, recently voted against construction of a large coal-fired power facility; observers attributed the vote largely to the adverse environmental impacts of such a plant.

State support for Boise and Payette River hydro development is expected to be strong because of the policies expressed in the proposed Idaho State Water Plan and the growing recognition throughout Idaho of the increasing need to develop the clean energy resources that are available.

Southwest Idaho citizens are showing an increasing awareness of the need to protect the area's high quality environment. This awareness is shown through their strong support for improved streamflows in the lower Boise River to meet fish and wildlife and water quality needs, their support for reservoir operations which enhance recreation and fishing, and their interest in similar measures.

Both Arrowrock Dam and the Boise River Diversion Dam and Powerplant have been placed on the National Register of Historic Places, and visitation at the facilities has increased. Opportunities to protect these facilities and improve their public use and appreciation would be explored in the planned study.

Remarks: Total estimated cost of the 5-year feasibility study would be $900,000 with first year funding of $95,000.

Project Central Valley Project, Shasta Division, Enlarged Shasta Lake Investigation.

Location The study area would encompass the general vicinity of existing Shasta Dam and Lake. The dam is in northern California, about 10 miles north of Redding.

Project data: Shasta Dam, with a drainage area of 6,700 square miles, creates the major storage unit of the Central Valley Project. The dam, 602 feet in height and 3,460 feet in crest length, was completed in 1945. The reservoir impounded by the dam, Shasta Lake, has a total capacity of 4,552,000 acre-feet.

The lake can regulate only a portion of the inflow, primarily from the McCloud, Pit, and Sacramento Rivers, which together average about 5,500,000 acre-feet annually. In determining the height of Shasta Dam, additional storage below the dam was assumed to be ultimately needed to make full beneficial use of the water resources. Table Mountain Reservoir site between Red Bluff and Redding, with a storage capacity of 5,600,000 acre-feet, had been considered for ultimate development. The potential for flooding of valuable agricultural land and damage to the fishery resources resulted in a low-level dam at the Table Mountain site, forming a reservoir with about 500,000 acre-feet of capacity, being authorized by Congress in the Flood Control Act of 1944. The Army Corps of Engineers had selected an alternative site, Iron Canyon, which is 13 miles downstream from Table Mountain and 3 miles upstream from Red Bluff, for this development. After periodic reevaluations of the Iron Canyon Project, the Corps recommended and Congress authorized deactivation of the Iron Canyon Project.

Preliminary evaluations have shown that Shasta Lake could be increased in capacity up to three or four times the existing size.

An enlarged reservoir would provide the opportunity to increase average annual generation by 30 to 40 percent depending on the minimum stage adopted. The enlarged reservoir would both increase the average head on the powerplant and permit more water to be passed through it.

Assuming a value of 30 mills per kilowatt-hour, the value of the increased generation of 600 to 900 million kilowatt-hours would be $18,000,000 to $27,000,000.

Depending on how the additional capacity would be used, the annual yield could be increased by 1,000,000 acre-feet. Other multiple uses could also be improved.

PROGRAM GOALS

Water Supply.
Water Quality Improvement.
Fishery Enhancement.
Power Generation.
Flood Control.
Recreation.

COST ALLOCATION

(Feasibility-level analysis required to determine) B/C Ratio: Greater than 1:1.00.

Description: A multi-objective investigation would be conducted to determine the feasibility of enlarging Shasta Lake. Included would be alternatives of enlarging the existing dam, constructing a new dam in the vicinity of the existing dam, and increased storage on the tributary drainages upstream from the existing reservoir. Various combination of uses of the increased storage and yield would be evaluated. If determined to be feasible, a plan would be formulated to provide most of the following benefits: increased firm water supply for both instream uses including fishery improvement and salinity repulsion and out-of-stream uses municipal, industrial, and agricultural; greater energy generation; improved flood protection; and more recreation opportunities.

In the process of conducting this complex feasibility study environmental aspects will be a major consideration of the planning process. Extensive studies will be required of fish and wildlife, recreation and forest impacts, and other environmental aspects. An archaeological survey will be made.

Engineering data and analysis will include gathering and analyzing considerable information on topography, geology, (including geologic mapping, drilling and seismic studies), hydrology, sedimentation, seepage, water quality, land classification and drainage, power production and marketing, and designs and cost estimates.

Complex social and economic impacts of the reservoir enlargement will be analyzed and benefits and costs will be presented in both monetary and non-monetary terms.

An extensive public involvement program would be needed throughout the planning process.

Status: As part of the Central Valley Project Total Water Management Study (CVPTWM), the Bureau has made a preliminary evaluation of the cost of raising the existing Shasta Dam. The study confirmed the $90 an acre-foot per year unit cost of increased yield as developed by the California Department of Water Resources (CWR) in 1976. This cost also compared favorably with other water resource development alternatives now being considered for authorization by the California Legislature.

Reclamation's evaluation together with work by the DWR on potential for a new dam just downstream from Shasta Dam encourage more detailed evaluation. Initial results from appraisal-level estimates of raising the existing dam demonstrate that, technically, the dam might be raised 100 to 200 feet, still at costs competitive with alternatives. The appraisal-level study, along with the previous evaluation by DWR, has shown that alternative solutions can be identified with sufficient clarity to justify a feasibility-level investigation.

Justification: A feasibility-level investigation is justified for the following reasons:

1. The 1976–77 drought in California has clearly demonstrated the need for additional surface water development to meet current groundwater overdraft in the San Joaquin Valley, existing contractual commitments of the Central Valley Project and State water project, proposed instream water uses in the Sacramento-San Joaquin Delta and elsewhere, and future growth requirements.

2. With California's designation as wild and scenic rivers of the major north-coastal drainages, the Sacramento River Basin is the remaining source of major new water supply.

3. Other than an enlarged Shasta Lake, other significant developments for water supply would require offstream storage which would use a considerable amount of pumping energy. Diverting from the Sacramento River to offstream storage could also have an adverse effect on the anadromous fishery, a major resource.

4. There is a need for increased hydroelectric power development to meet contractual commitments of the CVP.

5. The reduction of flood damage along the Sacramento River requires additional control storage.

Local interest: At public meetings held for the CVTWM Study, suggestions were made for more water supply development in the Central Valley and flood protection in the Upper Sacramento River area. Improved recreation at Shasta Lake by a higher minimum pool was also mentioned. DWR has encouraged Bureau evaluation of an enlarged Shasta because they consider it has high potential as a source of new water yield.

Remarks: Total estimated cost of a 4-year feasibility investigation: $3,850,000; first-year funding requirement: $1,000,000.

Project. Central Valley Project, Trinity River Division, Whiskeytown Powerplant Study.

Location. The vicinity of Whiskeytown Dam which is on Clear Creek, a tributary of the Sacramento River, approximately 10 miles west of the city of Redding, California, in the foothills of the Coast Range.

Project data: An appraisal-grade analysis of hydropower development at Whiskeytown Dam was recently made. The following are data from the Special Report "Whiskeytown Powerplant," April 1978.

It was estimated that available downstream releases could produce average annual generation of about 10,900,000 kilowatt-hours through a 3,000-kW plant located at the toe of Whiskeytown Dam. A 5-mile-long 115-kV transmission line would connect a switchyard at Whiskeytown with the Keswick Switchyard.

Capacity (kW) 3,000.
Generation (kWh) 10,900,000.
Cost allocation $2,500,000.
B/C ratio 1.30:1.00.

Description: Whiskeytown Dam and Lake were designed as part of a network, completed in 1964, to store and regulate imported waters of the Trinity River Division of the Bureau of Reclamation's Central Valley Project. The dam is an earthfill structure 282 feet high with a main crest length of 2,250 feet. The reservoir has a storage capacity of 241,000 acre-feet, and occupies an area of 3,210 acres. In addition to regulating and storing water, the lake provides many recreation facilities which are administered by the National Park Service. The runoff from Clear Creek averages about 338,000 acre-feet annually. Of this amount, 62,000 acre-feet is for downstream releases. The remainder, less evaporation, is combined with Trinity River inflows and diverted into the Whiskeytown Conduit and the Spring Creek Tunnel.

The study program would be conducted in cooperation with other Federal, State, and local agencies.

Status: The Western Energy Expansion Study Evaluation Team, after a preliminary screening in July 1976 of various potential power projects in the 17 Western States, recommended that a high priority energy study be made of Whiskeytown Powerplant. An appraisal study was initiated in FY 1978 and is scheduled for completion in FY 1979.

Justification: The purpose of the investigation is to determine the feasibility of developing additional electrical energy by constructing a hydroelectric powerplant at the existing Whiskeytown Dam. Adverse environmental impacts of the construction of this powerplant is considered to be minor. Production of pollution-free hydroelectric energy at a Whiskeytown Powerplant would conserve fuel while helping to decrease air and water pollution from alternative power sources. A feasibility study is justified by the National goal for energy self-sufficiency, increasingly higher costs for alternative sources of energy, renewable and non-polluting nature of hydroelectric power, and the potential for utilization of an untapped energy source.

Local interest: The California Energy Commission is encouraging adding powerplants at existing dams. The Northern California Power Agency, made up of 11 cities and one electric cooperative, is actively pursuing new sources of power to meet the growing needs of their members. At recent public meetings, as part of the Central Valley Total Water Management Study, the Bureau was encouraged to proceed with planning for adding powerplants at four existing dams, including Whiskeytown.

Remarks: Total estimated cost of a 2-year feasibility investigation: $90,000; first-year requirement: $60,000.

Project Central Valley Project, Friant Division, Friant Powerplant Study.

Location The vicinity of Friant Dam which is on the San Joaquin River; approximately 25 miles northeast of the city of Fresno, California, in the foothills of the Sierra-Nevada.

Project data: An appraisal-grade analysis of hydropower development from Friant Dam was recently made. The following are data from the Special Report "Friant Powerplants," April 1978:

Powerplant	Capacity (kW)	Generation (kWh)	Cost allocation	B/C ratio
Friant-Kern Canal	15,000	67,500,000		
Madera Canal	5,000	23,500,000		
Downstream	2,700	10,000,000	(1)	(2)
Total	22,700	101,000,000	$18,700,000	1.56:1

[1] Transmission line.
[2] 115 kV 7.5 mi long.

Description: Friant Dam is a key structure in the development of the water resources in the southern portion of the Central Valley. The average annual runoff of the San Joaquin River at the site of the dam is 1,800,000 acre-feet of water. The dam, completed in 1942, is a concrete gravity structure, 319 feet high and 3,488 feet long at the crest. The dam serves the dual purpose of storage for irrigation and flood control. The reservoir, called Millerton Lake, has a gross storage capacity of 520,500 acre-feet. Water stored for irrigation is distributed, by gravity, through two main arteries—the Friant-Kern and Madera Canals. In an average year, about 1,400,000 acre-feet are diverted to the Friant-Kern Canal, 350,000 acre-feet diverted to Madera Canal, and 50,000 acre-feet are released downstream.

Friant-Kern Canal diverts water southerly from Friant Dam to the lower San Joaquin Valley areas. The canal is 151.2 miles long and is designed for a capacity of 4,000 cubic feet per second for the first 71 miles.

The 35.9-mile-long Madera Canal diverts water northerly from Friant Dam to furnish lands in the Madera Irrigation District and the Chowchilla Water District with a supplemental and a new irrigation supply. The canal has an initial capacity of 1,000 cubic feet per second.

Status: The Western Energy Expansion Study evaluation team, after a preliminary screening in July 1976 of various potential power projects in the 17 Western States, recommended that a high priority energy study be made of Friant Powerplants. An appraisal study was initiated in fiscal year 1978 and is scheduled for completion in fiscal year 1979.

Justification: The purpose of the investigation is to determine the feasibility of developing additional electrical energy by constructing hydroelectric powerplants at the existing Friant Dam. Adverse environmental impacts of the construction of these powerplants are considered to be minor. Production of pollution-free hydroelectric energy at the Friant Powerplants would conserve fuel while helping to decrease air and water pollution from alternative power sources. The study program would be conducted in cooperation with other Federal, State, and local agencies. A feasibility study is justified by the National goal for energy self-sufficiency, increasingly higher costs for alternative sources of energy, renewable and nonpolluting nature of hydroelectric power, and the potential for utilization of an untapped energy source.

Local interest: The California Energy Commission is encouraging adding powerplants at existing dams. The Northern California Power Agency, made up of 11 cities and one electrical cooperative, is actively pursuing new sources of power to meet the growing needs of their members. At recent public meetings, as part of the Central Valley Total Water Management Study, the Bureau was encouraged to proceed with planning for adding powerplants at four existing dams, including Friant.

Remarks: Total estimated cost of a 2-year feasibility investigation: $130,000; first-year requirement: $60,000.

Project: San Francisco Bay Area Waste-Water Use Project.

Location: San Francisco Bay, Sacramento-San Joaquin Delta, and Sacramento and San Joaquin Valley agricultural areas.

Project data: Past studies of San Francisco Bay Area Waste-Water use potential have been carried out by various State and Federal, interagency groups, and private consultants. A P.L. 92–500, Section 208, grant study of waste-water availability and use alternatives is currently in progress involving State and Federal agencies and Bay Area sanitation districts and water service districts.

Total construction cost: $75 to $150 million.[1]

Program goals: Water quality maintenance, Fish, wildlife, and waterfowl habitat maintenance, Irrigation and M & I water supply, Ground-water recharge, Recreation use.

Cost allocation.[1] B/C Ratio: Assumed to be greater than 1:1.

Description: The purpose of this investigation is to develop feasibility designs and cost estimates for conveyance, distribution, and drainage (if required) works necessary for use of treated municipal waste water from the San Francisco Bay Area and to provide supporting data for justification of any Federal participation in the recommended waste-water use proposal. Possible alternatives for use of an estimated 440,000 acre-feet of waste water will include (1) maintenance of waterfowl habitat in the Bay and Delta Areas; (2) water quality and fish habitat maintenance in the Delta and Bay Areas; (3) irrigation and industrial uses on land areas in and adjacent to the Bay and Delta; (4) agricultural use in the Sacramento and San Joaquin Valleys.

Status: A P.L. 92–500, Section 208, grant study entitled, "San Francisco Bay Area Regional Water Reuse Study," is currently underway. Phase I of this study, final report in April 1979, will identify a potential waste-water supply in the Bay Area of some 440,000 acre-feet per year. Total dissolved solids (TDS) content of this water will be in excess of 800 parts per million, which will limit its utility prior to final disposal. Four alternatives for use of this waste-water supply have been identified by an appraisal analysis as follows: (1) multipurpose (fish and waterfowl habitat maintenance, agricultural and industrial use and powerplant cooling) in areas in and adjacent to the Bay and Delta; (2) water quality maintenance (i.e. salinity control) in the Delta; (3) agriculture in the northern San Joaquin Valley; and (4) agriculture in the southern San Joaquin Valley. Phase II of the 208 study will further explore alternatives identified in Phase I. Factors such as market demand, environmental issues, economic justification and financial feasibility will be explored. If the project (waste-water use) can be shown to represent a beneficial use, a recommendation will be made for incorporation of the project into the water supply system of the State. Phase II study data will be prepared to a degree of accuracy and reported with sufficient supporting data to be usable by the Bureau of Reclamation and Department of Water Resources in further feasibility-grade studies to support authorization for construction of project works required for use of the waste water. There will also be an analysis made in Phase II of the potential for funding project works through P.L. 92–500, Section 201, construction grant funds administered by the Environmental Protection Agency.

The proposed investigation would provide authority and funding for Bureau of Reclamation participation in a joint study with the Department of Water Resources of feasibility designs and cost estimates of project works required for use of Bay Area waste water, and will identify and provide justification for future State/Federal funding of works required for optimum feasible beneficial use of Bay Area waste water.

Justification: This investigation is justified by a need to explore use of waste water to meet a portion of present and future water demands which exceed presently developed water supplies. Ground-water overdraft in the State exceeds 2 million acre-feet annually and demands for surface water supplies have been projected to exceed water supply project yields by 6 to 11 million acre-feet by the year 2000.

Local interest: The State of California, Department of Water Resources, Office of Water Reuse, and Water Resources Control Board are participating financially with nine Bay Area waste treatment and water supply districts and local governmental agencies in funding the 25 percent contribution toward costs of the San Francisco Bay Area Regional Water Reuse Study not covered by the 208 grant funds administered by the EPA. These agencies support the feasibility investigation being proposed herein.

Remarks: Total estimated cost of 4-year feasibility investigation $400,000; first year requirement $100,000.

Project San Joaquin Valley Drainage Investigation.

Region Mid-Pacific.

Location This study area is located in the counties which comprise the San Joaquin River Basin, Tulare Basin, and the Sacramento-San Joaquin Delta-Suisun Bay Area

Description: This feasibility investigation is designed: (1) to develop an action plan for San Joaquin Valley drainage in cooperation with the interested agencies, entities, and organizations; (2) to develop various uses for the management of agricultural waste water including powerplant cooling, aqua-culture, marsh management and agricultural reuse; (3) to identify and offer a solution to the most urgent drainage problems; (4) to evaluate the possibility of staging construction of master drainage facilities; (5) to consider reauthorization of the San Luis Unit to include the San Luis Drain as the first phase of a master drainage facility; and (6) to identify steps necessary to safely dispose of the waste water.

Status: There is a very strong interest among local and State agencies to develop a plan and appropriate facilities to protect agricultural lands from waterlogging and high salinity. The Bureau of Reclamation is authorized to complete the construction of the 188-mile San Luis Drain which conveys subsurface agricultural waste water from the Federal San Luis Unit service area located on the west side of the San Joaquin Valley to the Sacramento-San Joaquin Delta. The Bureau has deferred completion of the San Luis Drain until (1) the report is completed; (2) agreement is reached with the State of California on the discharge location; and (3) due to a lag in the completion of the San Luis Unit service area drainage system. The Basin plans, developed under P.L. 92–500, emphasize the severe agricultural drainage and salinity problems within the San Joaquin Valley. Recent amendments to the act eliminate the need for a NPDES permit for agricultural drainage point source discharges but do not preclude a state from regulating these discharges.

The current USSR San Joaquin Valley Drainage Appraisal Investigation is being conducted in cooperation with the California Department of Water Resources and the California Water Resources Control Board. To date, various progress reports have been released and reviewed by the public. Various disposal alternatives have been evaluated and an NED and EQ plan have been formulated.

The preliminary benefit cost ratio for the recommended plan has been calculated at

---

[1] Estimate of costs and benefits will depend upon the place of use, quantity of water used, and any special treatment or handling processes required in the reuse of the waste water.

2:3 to 1:00. The investigation is scheduled for completion in fiscal year 1980.

Justification: The San Luis Drain is about 46 percent complete. The completion of the reach from Kesterson Reservoir to the Delta has been deferred until an Environmental Statement is completed on the drain from Kesterson north. This investigation will provide timely information on alternative courses of action which must be included in the Environmental Statement. The San Luis Task Force has recommended that the completion of the drain be delayed until the investigation has been completed.

A solution to San Joaquin drainage problems is required. The CVP will eventually deliver water in excess of 4,000,000 acre-feet to the valley service areas. There will be severe drainage and salt buildup problems resulting from the use of this water for irrigation purposes. Moreover, the subsurface drainage water, which must be collected, can become a water supply source for several uses under an integrated drainage plan.

If feasibility authority is not forthcoming and the Bureau is not able to participate in an integrated drainage program, a piecemeal solution to the valley's drainage problems will likely result. As a consequence, water reuse opportunities will probably be foregone. The drainage needs of the Bureau's service area will continue to require resolution and, in all probability, a Bureau-only drainage plan eventually will become necessary; a course of action which would be both costly and wasteful of land, water, and energy resources when compared with the integrated plans now under investigation. Feasibility study authority is needed, therefore, if an orderly program for drainage of the San Joaquin Valley is to be provided.

Project interest: There has been a growing concern by the public over the lack of prompt response by governmental organizations in solving the growing problems associated with the agricultural drainage water in the San Joaquin Valley. There are several public interest groups located in the lower valley anxiously awaiting the completion of the San Luis Drain. The State's Water Resources Control Board and Department of Water Resources are participating partners in this investigation. Other State and local agencies are interested in the results of this study.

Remarks: Total estimated cost of the 4-year feasibility investigation—$495,000; first-year requirement—$150,000.

Project: Delta Overland Water Service Facilities, California.
Region: Mid-Pacific.
Location: This study area is located in the counties of Sacramento, San Joaquin, Solano, and Contra Costa

Description: The Delta includes 736,000 acres of which about 530,000 acres are farmed extensively for a variety of crops. The Delta is interlaced with over 700 miles of waterways. The farming enterprises utilize these channels to obtain a water supply for irrigation. The Delta channel flows are maintained by both freshwater inflow and ocean intrusion. Although sufficient water supply always exists, its quality is directly dependent on the amount and quality of freshwater available for ocean salinity repulsion.

There is a competition for the freshwater entering the Delta. Negotiations with Delta water agencies have been underway for 20 years in an effort to arrive at an equitable division of water and payment for benefits resulting from the Central Valley Project and State Water Project operations.

The proposed investigation is designed to: (1) develop an action plan for service to the western and southern Delta agricultural lands with an adequate water supply; (2) optimize the use of freshwater for agriculture, recreation, and fish and wildlife uses; (3) identify alternatives for stabilizing present land subsidence and thus insure continued agricultural use of the land; (4) identify alternatives to relocating existing canal intakes to improve water quality while reducing the Delta outflow requirements; and (5) develop an action plan to remove or minimize the impact of agricultural return flow within the Delta.

Status: Evaluations have been made (equal to or less than appraisal level) of alternative means of providing overland water conveyance facilities in the western Delta, redistributing and augmenting water within the southern Delta, and relocating the intake of the Contra Costa Canal. These analyses, made by both the Bureau and Department of Water Resources, were discussed in office memorandums and working documents. These reports include: Southeast Delta Water Supply Investigation Working Documents (USBR) dated February 1978; Water Supply Requirements Western Delta Islands (USBR) dated May 1972, (includes facilities to save three separate tracks of land totaling 15,000 acres); Overland Agricultural Water Facilities—Sherman Island (DWR) Draft Report dated February 1978; Alternative Contra Costa Extension Canal Memorandum Report (DWR) dated July 1977; and Relocation of Contra Costa Canal Intake Memorandum Report (USBR) dated October 1977. Comparative cost estimates have been developed for alternative courses of action designed to resolve a specific Delta water quality problem. The benefit-cost ratios will vary with the degree to which the Federal Government is obligated to maintain water quality in the areas where the water service is to be provided.

During the recent drought (1976–1977) the DWR placed several temporary barriers within the Delta channels and both the DWR and USBR had planned to add more if the drought continued. The purpose of the channel closures was to either conserve the freshwater supply required to maintain Delta salinity levels or develop a more advantageous flow distribution. The use of a temporary pumping plant and an East Bay Municipal Utility District pipeline was used with the addition of two channel closures to improve the quality of the M&I water delivered to the Contra Costa County Water District. Most of these temporary works were financed with emergency drought relief funds.

Congressional authorization will be required for a feasibility level evaluation of alternative means of providing permanent reliable water service to these areas.

Justification: There are several efforts being made to resolve existing conflicts in priorities for use of Central Valley water supplies. Participation of the Federal Government in any solutions requiring construction of works will require congressional authority for a feasibility study of the entire Delta service area as a means of insuring that all the alternatives are properly evaluated from an economic and environmental basis.

Project interest: There has been for several decades a concern by the Delta interests that the agricultural lands be protected from salinity intrusion and upstream and local degradation due to agricultural return flows. Agricultural water districts in the Federal service areas both north and south of the Delta are also anxious to determine ultimate Federal Delta water commitments because of possible reductions in CVP yield available for service to their areas.

Contract negotiation between the USBR and DWR, and the North and South Delta Water agencies and Contra Costa County Water District should include consideration of facilities to serve portions of their service areas.

Remarks: Total estimated cost of the 4-year feasibility investigation: $450,000; first-year requirement: $100,000.

Project: Chino Valley Project, Arizona.
Region: Lower Colorado.
Location: Northwestern Arizona approximately 100 miles northwest of Phoenix, Arizona in north central Yavapai County and the south central portion of Coconino County.
Project data Appraisal Report dated April 1974. Total Estimated Construction Cost: $7,349,500.[1] Total Allocation: $7,349,500.[2]

	Program goals	Cost allocation
Irrigation	None	
Power	None	
Flood control	192 acre-feet	
M. & I	6,885 acre-feet	
Recreation	None	
Fish and wildlife	None	
Total		$7, 349, 500

Note: B/C ratio 1.2:1.

Description: This investigation will provide a feasibility-level study to develop the alternative plans and determine the feasibility of those plans to provide future needs for water supply and flood control to the 2,100 square miles of the upper hydrologic basin of the Verde River. All reasonable sources of supply, methods of conservation, integrated management of water quality and quantity, the conjunctive management of surface and ground waters, and efficient water use practices will be studied. Consideration will be given to recreation and fish and wildlife as project purposes. The feasibility studies will be conducted under the guidelines of Multiobjective Planning Principles and Standards.

The most feasible plans studied at the appraisal level appear to be: (1) the development of ground-water resources in Granite Creek Basin of Chino Valley for municipal and industrial (M&I) use by the City of Prescott and vicinity with associated collection and transmission facilities; (2) development of storage and flood protection by an earthfill dam and sediment pool on Miller Creek; and (3) development of ground-water supplies in Big Chino Valley for the town of Ashfork and water efficiency use and conservation practices to develop supplemental supplies for irrigation use by Chino Valley Irrigation District.

Environmental assessments indicate the possibility of creating a live stream and greenbelt area along Granite Creek which would also stabilize the level of Watson Lake. Sullivan Lake could be stabilized by development of ground water and structural improvements of the present dam, as well as the addition of natural runoff.

Status: The Bureau of Reclamation initiated the Chino Valley Unit Appraisal Report, which was completed in April 1974, under the Westwide Study of critical hydrographic basins in Arizona. Prescott, Arizona, at the lower end of the Chino Valley Unit, is the largest and principal city of the area with Chino Valley. Seligman, and Ashfork also in the basin. Williams, Arizona, is east of Ashfork and just outside the Chino Valley.

Subdividing the land into homesites and small acreages has accelerated urban and residential development with an increasing interest in recreation and retirement use. Yavapai County population has increased 58 percent in the past 10 years.

Justification: Increases in M&I water needs are estimated to be from 2,880 acre-feet in 1974 to 5,600 acre-feet in year 2030.

---

[1] April 1972 prices.

[2] Excludes interest.

Surface- and ground-water supply irrigated agriculture and urban uses. The deteriorated reservoirs and conveyance systems have reduced the surface water available for agricultural use to only about 21 percent of the needed supplies. Ground water is being relied upon to meet the increasing needs of the area. Some ground-water tables have declined and there is concern regarding growing water needs to accommodate the projected doubling of population in the area by the year 2030. A portion of the area has been declared a critical ground-water area by the state. There is potential for conservation and improved utilization of surface water. Flood damage and the resultant erosion and sediment deposition occur from thunderstorms during summer and snowmelt in winter causing damage to residential property and commercial property, including public service facilities.

Local interests: The studies were initiated as part of the Western U.S. Water plan. Local government, organizations, and citizens showed an intense interest in the study and requested expansion to other areas of the county. Data on needs and insight on local interest were provided by the Cocopai Resource Conservation and Development Project. Public participation meetings were held at the time of the appraisal and favorable interest was demonstrated. There continues to be strong interest in solving the water resource problems of the area and requests for the appraisal report are received regularly. Specific interest centers around meeting the needs of an increasing population for water supply, flood control, energy, and recreation while minimizing adverse environmental impacts.

The State of Arizona's participation in the Federal-State interagency planning team included the Arizona Water Commission, Game and Fish Department, State Land Department, and Outdoor Recreation Coordinating Committee.

Remarks: The total estimated cost of the 3-year feasibility investigation amounts to $750,000 with a first year funding requirement of $250,000.

Project. Canyon Ferry Powerplant.
Region Upper Missouri.
Location Missouri River at Canyon Ferry Dam, Montana.
Project data Special Report on Powerplant at Canyon Ferry Dam, Montana, May 1978.

	Program goals	Cost allocation
Irrigation		
Power	90 MW addition	$79,980,000
Flood control		
M. & I		
Recreation		
Fish and wildlife		
Total (October 1977 prices)		79,980,000

Note: B/C ratio 1.17. Interest rate: 6.625 percent.

Description: Canyon Ferry Dam currently has a 50–MW plant which is operated year round. Additional energy generation capability of 55 million kWh exists and could be developed with the addition of a 90–MW powerplant.

In past few years, the existing 50–MW powerplant has been operated almost continuously throughout the year with spills occurring during high-flow months. Additional energy would be generated with these spills; but the main purpose of additional generating capacity at the dam would be to change to a peaking operation. In lieu of an almost constant generation each day, as presently operated, the plants would be operated for two separate periods totaling about 8 hours each day and would be shut down the remainder of each day.

With more coal-fired powerplants to supply baseload requirements being constructed in Montana, and in other Western States, the energy generated at hydroelectric plants can be more effectively integrated into the system as peaking power. In addition, there would be about a 15 percent increase in annual generation.

The additional powerplant would be located downstream from the dam on the east side of the river. New penstocks would be required. The addition would require 85 miles of single-circuit, 230 kV line to the Bureau's existing Rainbow Substation. Additional switchyard facilities would be necessary at Canyon Ferry and Rainbow Substations.

The investigation would provide feasibility-level designs and cost estimates, studies of alternatives, public and other agency participation, and an environmental statement.

Status: This proposal was examined briefly during the Western Energy Expansion Study in 1976, and appeared very promising. Data were further defined during 1978.

Justification: Feasibility studies are justified by the following:

1. The new powerplant in conjunction with the existing powerplant would change the current baseload operation into a more valuable peaking operation.

2. The additional annual generation of 55 million kWh of clean, hydroelectric energy will help conserve nonrenewable resources and help to counter energy shortages and increasing energy imports for the Nation.

3. The proposal appears to be economically justified and financially feasible, and would make greater use of an existing dam and reservoir.

Project interest: Most of the preference power customers within the Pick-Sloan Missouri Basin complex and most likely the Montana Power Company.

Remarks: Estimated total cost of investigation: $200,000; first year requirement, $100,000. Period of study is estimated at 2 years.

Project Yellowtail Afterbay Powerplant.
Region UM.
Location Bighorn River at Yellowtail Dam. Montana.
Project data Special Report on Powerplant at Yellowtail Afterbay Dam, Montana, May 1978.

Program goals	Cost allocation
Irrigation	
Power (10 MW)	$17,766,000
Flood control	
M & I	
Recreation	
Fish and wildlife	
Total (October 1977 prices)	17,766,000

Note: B/C ratio: 1.02. Interest rate: 6.625 percent.

Description: The Yellowtail Afterbay Powerplant is a potential 10–MW powerplant that could be constructed at the existing Afterbay Dam located about 2¼ miles below Yellowtail Powerplant. The powerplant would be operated in conjunction with the existing 250–MW Yellowtail Powerplant.

The powerplant would utilize the head ranging to about 30 feet between the Afterbay Reservoir and the Bighorn River and would generate about 62 million kWh of energy annually. The plant would be operated to maintain the existing downstream regime of the Bighorn River in a manner equivalent to the present-day Afterbay operation.

This would be the first bulb-type turbine installed by the Bureau of Reclamation and could serve as a basis of proving the potential and value of this type of turbine. Blub-type turbines have been installed successfully in other countries in numerous installations.

The installation at the Afterbay Dam is attractive, because the power only has to be transmitted 2.1 miles to the existing Yellowtail Switchyard and at that point can be integrated into the Pick-Sloan Missouri Basin power system.

The investigations would provide feasibility-level designs and cost estimates, studies of alternatives, public and other agency participation, and an environmental statement.

Status: This proposal was examined briefly during the Western Energy Expansion Study in 1976, and appeared very promising. Data were further defined during 1978.

Justification: Feasibility studies are justified by the following:

1. The additional annual generation of 62 million kWh of clean, hydroelectric energy will help conserve nonrenewable resources and help to counter energy shortages and increasing energy imports for the Nation.

2. The proposal appears to be economically justified and financially feasible, and would make greater use of an existing dam and reservoir.

Project interest: Most of the preference power customers within the Pick-Sloan Missouri Basin complex and most likely the Montana Power Company.

Remarks: Estimated total cost of investigation: $150,000 first year requirement, $75,000. Period of study is estimated at 2 years.

Project North Platte River Hydroelectric Power Study Pick-Sloan Missouri Basin Program, Western Division.
Region: LM.
Location On the upper North Platte River system approximately 35 miles southwest of Casper, Wyoming, in Nartrona and Carbon Counties.
Project data: Preliminary Reconnaissance Report—Pumped Storage Investigations, Region 7, dated 1963. North Central Power Study, dated October 1971. Report on the Western Energy Expansion Study, February 1977.

	Program goals	Cost allocation
	(megawatts)	
Hydroelectric power:		
Alcova pumped storage [1]	500	$130,000,000
Seminoe pumped storage [2]	500	82,000,000
Freemont Canyon enlargement [3]	50	62,000,000

[1] B/C ratio—1.50:1 or greater.
[2] B/C ratio—1.50:1 or greater.
[3] B/C ratio—0.9:1 or greater.

Description: The investigation would include detailed feasibility studies of large scale development of pumped storage hydrounits at existing Reclamation storage reservoirs on the North Platte River. Other specific units may be identified in the ongoing appraisal investigations.

Some probable project features include:

Alcova pumped storage—The Alcova Pumped Storage Unit would be located on the left shore of the upper end of the existing Alcova Reservoir, about 2 miles below Fremont Canyon Powerplant. The forebay would be on the left canyon rim about 1,000 feet above Alcova Reservoir. This site could produce 500-MW of peaking capacity, which would be a very valuable addition to the area's power system.

Seminoe pumped storage—The potential Seminoe Pumped Storage Unit could be located underground or along the shore at

Seminoe Reservoir in Carbon County, Wyoming. The upper reservoir site could be to the west of Seminoe Reservoir, with a capacity of up to 9,000 acre-feet, and covering a maximum area of about 170 acres. The average pumping/generating head of 1,000 to 1,200 feet would support an installed capacity of 500 megawatts.

Fremont Canyon powerplant enlargement—This study would determine the feasibility of enlarging the Fremont Canyon Powerplant from an existing 48 megawatts to approximately 100 megawatts which would provide additional peaking capacity and add system flexibility for the Western Division power system. Fremont Canyon Powerplant enlargement would permit use of substantial amounts of water that have been bypassed around the turbines for 6 years out of the 12 years the powerplant has been in operation, resulting in an estimated loss of some 282 million kilowatt-hours of energy.

The enlargement of Fremont Canyon Powerplant would include the installation of one 50-MW generator, a 3-mile-long water power tunnel, and an 8-mile-long 115 KV transmission line paralling the existing line to the Alcova substation.

A low head hydroelectric site at Bessemer Bend is under construction. The costs appear to exceed benefits as a single purpose power development, however, a potential for wildlife enhancement exists. The combination of environmental quality and national environmental development plan may yield a viable plan.

Status: Initial reconnaissance pumped storage investigations were made in 1963. As a result of new technology and greatly increased demands for energy, additional investigations were undertaken. The October 1971 North Central Power Study was a coordinated undertaking of the power supply entities in the North Central and the February 1977 Report on the Western Energy Expansion Study addressed the potential of these sites. The ongoing North Platte River Hydroelectric Appraisal Study is scheduled for completion in FY 1979.

Justification: The greatly increasing requirements for power generation and peaking capacity in the Western Division of the P–SMBP could be substantially met by the construction of conventional peaking and pumped storage units, because these units could be incorporated into the operation of existing USBR facilities and proposed thermal generating plants. The need for additional sources of power to meet demands across the nation now and in the future is evident.

Project interest: In addition to the support evidenced by the public electric suppliers, the local support is believed to be very substantial from such entities as the Wyoming Municipal Power Agency, the North Platte Citizens Committee and the Tri-State Generation and Transmission Association.

Remarks: The total estimated cost of the feasibility investigations amounts to $1,080,000 with a first year requirement of $264,000. The investigation is estimated to take 4 years to complete.

Project Wind-Hydroelectric Energy Project.
Region: LM.
Location: The Upper North Platte River Basin in Carbon and Albany Counties near Medicine Bow, Wyoming.
Project data: Report of Western Energy Expansion Study, November 1976; Appraisal Investigations by Solar Energy Team Engineering and Research Center 1977, and Lower Missouri Region Draft "A Proposed Conceptual Plan for Integration of Wind-Turbine Generators with a Hydroelectric System," January 28, 1977.

Wind power site, near Medicine Bow, Wyoming.

Installed capacity, 100 MW.

Investment cost, $150 to $250 million.

B/C ratio, N/A.

Description: The investigation will study the feasibility of large scale development of wind turbine generators in an isolated area in southern Wyoming. A special study entitled "Wind-Hydroelectric Energy Integration Study," initiated in fiscal year 1978 would be converted into a feasibility grade investigation. Construction of a wind turbine generator project with approximately 50 units would be evaluated. Involved would be the integration of wind power with the Colorado River Storage Project (CRSP) hydroelectric system to produce marketable peaking power capacity to conserve oil and relieve critical power shortages in the mid-1980's. In addition, integration will help to optimize the utilization of the existing capacity in the hydro system. Environmental and socio-economic conditions and impacts associated with large numbers of wind turbine generators would be investigated. Power market analysis would be coordinated with local electrical utilities. The effect of the power supply integration on the hydroelectric system would be evaluated.

A system verification unit (SVU) installation was initiated in fiscal year 1979. The system verification installation will include design, construction and test operation of a large capacity ±2 MW wind turbine unit, with an inter-connected Reclamation hydroelectric system, and appurtenant monitoring and test equipment.

Status: A 190 meteorological tower was constructed in the fall of 1978 to collect more detailed wind data to be used in design.

Extensive environmental surveys to establish baseline conditions and determine presence of endangered species in the area were completed in the summer of 1978. Environmental assessments and regional determinuation were made in connection with construction of the instrumentation towers. Public information meetings have been held in Medicine Bow. The Federal Aviation Authority approved the installation of the 198-foot tower. Studies to identify the effects of integrating a wind farm into the CRSP are underway.

Work initiated for the system verification unit includes preparation of a Request For Proposal (RFP) for a megawatt size wind turbine. Negotiations are currently in progress with the National Aeronautics and Space Administration (NASA) to provide the RFP.

Also, the acquisition for the rights-of-way and environmental clearance for system verification are underway.

Congress approved funds for a special study by the Bureau of Reclamation entitled "Wind-Hydroelectric Energy Integration Study." The study will develop a plan to integrate energy from wind turbine generators to be located near Medicine Bow, Wyoming, with Colorado River Storage Project hydroelectric power. The Notice of Initiation was completed and distributed on October 12, 1977. A contract was executed on November 15, 1977, with the University of Wyoming, Department of Atmospheric Science in the amount of $7,500 for construction of five small towers of approximately 9 to 15 feet in height in the Medicine Bow area to collect wind data.

Justification: The technology for generating electricity from wind power has been well known in Europe for many years. Recently the Energy Research and Development Administration (ERDA), now identified as the Department of Energy (DOE), contracted with Boeing Company to develop wind turbine generators identified as MOD–2. The Bureau of Reclamation is carefully monitoring these developments and believes a windy site near Medicine Bow, Wyoming, is ideally suited for an initial operational installation of about 100 MW capacity. The innovative concept appears to be logical extension of the Bureau's role in production of energy. The need for additional sources of power to meet the increasing power demands across the nation now and in the future is evident. Preliminary studies indicate the capability exists to integrate the energy produced from variable winds with CRSP hydro-generation to increase firm peaking power.

The construction of a system verification wind turbine is extremely important. The verification unit will provide an opportunity to gather on-site data relative to wind-energy production capability and social and environmental impacts.

Project Interest: The Missouri Basin Systems Group (MBSG), an organization representing rural electric associations and municipal systems in a 9-state area, has interest in the concept of integrating wind turbine generation with hydroelectric system. The Mayor and Council members of the town of Medicine Bow, Wyoming strongly support this proposal.

Remarks: The total estimated cost of this investigation is $8,594,000 including the system verification unit. The first year requirement is $2,616,000. The feasibility study will take two years to complete.

Project: Lake Meredith Salinity Project, New Mexico-Texas.
Region: Southwest.
Location: The study area extends along the Canadian River downstream from Ute Dam in New Mexico approximately 150 river miles to Lake Meredith in Texas. Lake Meredith is about 25 miles northeast of Amarillo, Texas. The major saline contributory area is in New Mexico.
Project data: Canadian River Project Report (1960), and a draft appraisal report completed in fiscal year 1978.

Description: The Lake Meredith Salinity Project would primarily consist of facilities to reduce the salts of the Canadian River. The facilities are expected to reduce the amount of highly saline water being discharged under artesian pressure from a sandstone acquifer near Ute Dam in New Mexico. This natural saline water being discharged into the Canadian River, eventually reaches Lake Meredith, the municipal water supply storage facility for the Canadian River Project, Texas. A plan for facilities to reduce the static head of the saline aquifer, reduce the amount of saline water discharged to the river, and dispose of the contaminating water would be developed. Hydrological studies would be made to assess the long-term effect on Lake Meredith. Hydrological, engineering, and economic investigations would also consider desalinization facilities at Lake Meredith. Reimbursement of operation, maintenance, replacement, and energy costs would be addressed in the feasibility investigation. Direct benefits would involve such items as lower water treatment cost, lower maintenance cost of municipal distribution systems, and domestic plumbing, as well as health aspects. Depending upon the alternative solution chosen, indirect benefits would involve such items as recreation on Lake Meredith, increased domestic water usage, environmental enhancement for wildlife, and livestock watering along reaches of the Canadian River.

The long term effects on water quality for construction alternatives which provides for isolation of the saline aquifer in New Mexico will require special hydrologic studies.

Status: Sanford Dam which forms Lake Meredith was constructed in the mid-1960's as a result of the Canadian River Project Report of 1960.

Chloride and sulfate concentration levels of the Canadian River have been rising and are now above the Environmental Protection

Agency recommended maximum contaminant level.

Appraisal-level investigations were initiated in FY 1973 to examine alternative corrective measures to improve the quality of water in Lake Meredith. The investigations were completed in FY 1978.

Justification: The Canadian River is the principal surface water source for the High Plains of Texas. The river provides water for municipal use but is poor in quality. Ground water resources are being rapidly depleted. In the Canadian River Project, Lake Meredith water is piped to 11 member cities, including Amarillo and Lubbock, Texas. The Canadian River Project is operated by the Canadian River Municipal Water Authority, which is a state entity.

Water in Lake Meredith is approaching the maximum concentrations of dissolved constitutants which were projected for critical periods in the Bureau of Reclamation Canadian River Project Report (1960). These concentrations are considered undesirable by the Public Health Service and the Environmental Protection Agency (EPA). The historic trend is one of increasing concentrations of chlorides and sulfates in Lake Meredith. The concentration of chlorides has increased from about 235 miligrams per liter (mg/1) in 1967 to the present 325 mg/1. The EPA recommended maximum contaminent level for chloride concentration in public water systems is 250 mg/1. The concentration of sulfates has increased from about 200 mg/1 in 1967 to the present 282 mg/1. The EPA recommended maximum level for sulfate concentration is 250 mg/1.

Recent news media coverage (including national television) has focused on drinking water quality concerns raised by the EPA. Amarillo, Texas, has been listed with other cities by the EPA as having a drinking water problem. Action is required to maintain the concentration of salts within desirable limits and preclude additional expensive water treatment requirements.

Local interest: The feasibility investigation is being requested by concerned local interests through their area United States Congressional representatives. The Canadian River Municipal Water Authority has been cooperating with the Bureau throughout the appraisal investigations and will continue to assist during the terms of a feasibility investigation.

Remarks: The total estimated cost of the 4-year feasibility investigation is $600,000 with a first year requirement of $300,000.

EXECUTIVE SUMMARY

REPORT ON POTENTIAL HYDROELECTRIC POWER ADDITIONS TO THE COLORADO-BIG THOMPSON PROJECT COLORADO

This report is an extension and elaboration of results of the Western Energy Expansion Studies (WEES), conducted by the Bureau of Reclamation in 1976 and 1977 (report dated February 1977). The WEES was conducted to identify and evaluate opportunities for increased electrical power and energy generation in the 17 Western States which might warrant further, more detailed studies in the immediate future. The focus of that study was primarily on development of hydroelectric power, including pumped-storage, at both new sites and existing facilities. During the WEES assessments, the Lower Missouri Region concluded that potential hydroelectric additions to the Colorado-Big Thompson (C–BT) Project of the Pick-Sloan Missouri Basin Program, Colorado, appeared to have merit and should be studied in more detail.

The four potential hydroelectric additions to the C–BT covered in this report include a pumped-storage powerplant between Pinewood Reservoir and Carter Lake; and the Carter Lake-St. Vrain, Horsetooth-Charles Hansen, and the Charles Hansen-Poudre low-head powerplants.

Since none of the three low-head units were found to be economically justified under current criteria, they will not be covered in this Executive Summary.

POTENTIAL FOR DEVELOPMENT

The potential Pinewood-Carter pumped-storage development would utilize two existing Reclamation reservoirs. Pinewood Reservoir would serve as the upper reservoir and Carter Lake as the lower. The elevation difference between the reservoir and lake is about 256 meters (840 feet). New features would include about 4880 meters (16,000 feet) of waterways and a 108-mw pump-generator plant. The modification of 19 kilometers (12 miles) of 115-kV transmission facilities to 230-kV transmission line would be required to serve the load centers on the East Slope of the Colorado Rockies. The potential pumped-storage unit would be able to generate 108 mw for 8 hours per day, 5 days per week. Total annual generation of energy would be 224.6 MkWh including 57 MkWh generated from flowthrough water stored in Carter Lake. Total annual pumping energy would be 251.4 MkWh.

COST ESTIMATES

The costs associated with the pumped-storage unit include construction, interest during construction, and annual operation, maintenance, and replacement costs. Construction costs based on January 1977 price levels are estimated to be $120,000,000. Interest during construction computed at 6.625 percent interest over a 6-year construction period, would be $22,856,000, for a total capital investment cost of $142,856,000. The total annual operation, maintenance, and replacement (OM&R) costs are estimated to be $974,000. This figure consists of $885,000 for powerplant O&M, $57,000 for powerplant replacement costs, and $32,000 for transmission line system costs.

ECONOMIC ANALYSIS

The primary benefits associated with the potential unit are based on the most likely alternative from which the power would be derived in the absence of the project. Both baseload and peaking energy and capacity would be gained by this proposal; therefore, costs for both alternatives are presented in the analysis. The peaking alternative to the pumped-storage unit is a 77–MW oil-fired turbine powerplant located in Federal Power Commission Areas 31 and 32, which includes parts of Colorado and Wyoming. The baseload alternative is a 500–MW coal-fired powerplant located in these same areas.

Other benefits associated with the potential pumped-storage unit include: (1) a net savings in both energy and capacity because pumping requirements would be eliminated between Flatiron Reservoir and Carter Lake; (2) consequent savings in O&MR costs at Flatiron Powerplant; and (3) reduction in transmission system losses.

Some intangible benefit should be recognized for the flexibility and reliability in water operations to be gained by adding the potential unit. Also, a potential benefit exists for shifting some baseload generation at Flatiron Powerplant to peaking generation. Presently these benefits have not been valued.

Because of reservoir fluctuations at Pinewood Reservoir, which would serve as the pumped-storage upper reservoir, it was assumed that recreation visitation would be substantially reduced, if not eliminated. The reduction in value of that recreation use is accounted for in the benefit analysis.

The annual benefits for the potential pumped-storage unit and related C–BT system savings is summarized by the following table:

Pumped-storage generation (peaking):	
Capacity cost	$2,467,000
Net energy cost	5,790,000
Net flowthrough energy	2,149,000
Flatiron to Carter pumping:	
Energy savings	115,000
Capacity savings	216,000
OM&R savings	85,000
Transmission system loss savings	453,000
Recreation visitation loss at Pinewood Reservoir	−40,000
Total annual benefits	11,235,000

The analysis of the costs and benefits associated with the pumped-storage unit shows that it would be economically justified with a ratio of annual benefits to costs of 1.1 to 1, at an interest rate of 6⅝ percent. A summary of the benefits and costs and the derivation of the benefit-cost ratio is shown in the following tabulation:

Annual costs:	
Construction and IDC costs	$9,480,000
Operation, maintenance, and replacement	974,000
Total annual costs	10,454,000
Annual benefits:	
Capacity values	3,116,000
Net energy values	8,074,000
OM&R savings	85,000
Recreation visitation lost	−40,000
Total annual benefits	11,235,000
Benefit-cost ratio	1.1 to 1

FINANCIAL ANALYSIS

For the purpose of demonstrating financial feasibility, the pumped-storage unit was analyzed on an incremental basis. A study was also prepared to determine the marketing rate and the financial effect of adding the proposed unit to the Pick-Sloan Missouri Basin Program account. Since power is the only purpose being considered, the costs of the facilities to be authorized would be repaid with interest.

INCREMENTAL MARKETING

If the proposed unit is treated as an incremental investment to the existing C–BT Project and repaid at 7 percent interest over a 50-year repayment period, the pumped-storage powerplant capactiy would have to be marketed at about $103/kW-yr.

Combined P-SMBP marketing

It was assumed that if Pinewood-Carter is authorized as a unit of the Pick-Sloan Missouri Basin Program, then power operations, marketing, and repayment would be combined with the existing Western Division of the P-SMBP.

Assuming that current P-SMBP power rates were held constant, power from the potential pumped-storage unit would have to be marketed at a rate of about $44/kW-yr in order to repay the investment associated with the new unit within the 50-year repayment criteria.

In keeping with the policy to repay the highest interest bearing investment first in the P-SMBP, the power revenues available for repayment of power investment would be devoted to the repayment of the Pinewood-Carter unit for a 6-year period beginning in 1986 and ending in 1991. The repayment of the balance of the P-SMBP power system investment earning 2½ percent interest, would be delayed for a period of 8 years from 2023 to 2031. There are some future additions to the P-SMBP power system that have been scheduled to be in service in 2016. Those units would be repaid over a 19-year period without the Pinewood-Carter addition and over a 50-year period with Pinewood-Carter. In year 2078 ,the capitalized replacement balance to be repaid would increase from $81 million to $266 million or by $185 million as a result of the addition of the pumped-storage unit. A rate of about $47/kW would reduce the capitalized replacement balance below the $81 million in the base study. There would be no change in the repayment of irrigation costs from P-SMBP power revenues with the potential addition.

ENVIRONMENTAL AND SOCIAL ASPECTS

Environmental and social aspects associated with the potential unit would be primarily limited to the loss of recreational opportunities in the existing Pinewood Reservoir and to a very minor degree in Carter Lake. Other environmental impacts associated with the Pinewood Reservoir would be the deterioration of the aesthetic quality of the area and potential erosion associated with excessive reservoir drawdown under pumped-storage operations.

No endangered species or potential critical habitat were observed during preliminary field investigations of the project area. However, compliance with the Endangered Species Act cannot be achieved until a detailed field survey for endangered species has been conducted.

FINDINGS AND CONCLUSIONS

The findings and conclusions reached from study of the addition of the potential Pinewood-Carter pumped-storage unit to the Colorado-Big Thompson Project, Pick-Sloan Missouri Basin Program, Colorado, are that:

1. There is a demonstrated need for additional hydroelectric capacity and energy in the Western Division Power Market Area of the P-SMBP, which could be readily served by the potential Pinewood-Carter Unit. Comparable studies for other potential alternative pumped-storage developments were not considered in this investigation.

2. The 108-MW Pinewood-Carter unit could be added to the P-SMBP power system and serve the Federal preference customers in the area. The potential addition would be located close to the load center in the fast-growing area along the Front Range of the Rocky Mountains. It is assumed that the pumping power would be available from the coal-fired Craig Powerplant in Craig, Colorado, and the future coal-fired Laramie River Powerplant (Wyoming) and the Rawhide Powerplant (Colorado).

3. Additional power benefits would accrue through net savings in energy and capacity at the existing Flatiron Powerplant, when operated in conjunction with the potential Pinewood-Carter unit, due to elimination of pumping needs.

4. Savings in annual project operation, maintenance, and replacement (OM&R) costs would be possible at the Flatiron plant and within the transmission system.

5. With combined operations of the Flatiron Powerplant, increased flexibility and reliability in water operations to Carter Lake and the St. Vrain Canal service area would be obtained.

6. The Pinewood-Carter pumped-storage unit indicated marginal economic feasibility with a benefit-cost ratio of 1.1 to 1 at 6.625 percent interest.

7. The annual costs for Pinewood-Carter unit, when analyzed on an independent basis, at a 7 percent interest rate, 50-year repayment period, would be about $103/KW-yr. However, based on current information, there is some question as to whether peaking power could be marketed at this rate.

8. If the Pinewood-Carter unit is combined with the P-SMBP account, the unit would meet repayment criteria when marketed at a rate of about $44/KW-yr.

9. Environmental impacts associated with Pinewood-Carter would be limited to loss of outdoor recreational and fishing opportunities in the Pinewood Reservoir.

10. The potential low-head powerplants analyzed were not economically justified under current criteria.

Remarks: The total estimated cost of the 3-year feasibility investigation is $920,000 with first year funding of $200,000.

• —

Project: Central Valley Project, Sacramento River Division, Red Bluff Diversion Dam Powerplant.
Region: Mid-Pacific.
Location: Red Bluff Diversion Dam is located on the Sacramento River, 2 miles southeast of Red Bluff, California.

Project data: The Red Bluff Diversion Dam's primary purpose is to divert water from the Sacramento River to the Tehama-Colusa Canal. In addition, the intake channel for the Corning Canal Pumping Plant connects to the Tehama-Colusa Canal. The reservoir also provides recreational benefits.

The dam, completed in 1964, is on the Sacramento River approximately 2 miles southeast of Red Bluff. It is operated by the Bureau of Reclamation as a principal feature of the Sacramento Canals Unit of the Central Valley Project. The dam consists of 10 concrete overflow weir sections 60 feet wide; a concrete sluiceway section 60 feet wide, headworks for the Tehama-Colusa Canal with a capacity of 3,030 ft^3/s; fishways at both ends of the concrete section of the dam; and low earth dikes on each abutment. The height of the dam is 22 feet and the reservoir has a capacity of 3,920 acre-feet.

In an average year, downstream flows range from about 5,000 ft^3/s in the fall to 35,000 ft^3/s in winter due to flood runoff. In the middle of the summer, downstream flows are about 8,000 ft^3/s.

A preliminary estimate of the hydroelectric power potential of Red Bluff Diversion Dam showed that a 15,000 kilowatt powerplant could produce about 70 million kilowatt-hours of energy in an average runoff year. A comparison of benefits to costs resulted in a ratio of 1:10 to 1.

Description: The purpose of the investigation is to conduct planning studies to determine the feasibility of developing additional electrical energy by constructing a hydroelectric powerplant at the existing Red Bluff Diversion Dam. Environmental impacts of the construction of this powerplant are considered to be minor, and there should be no adverse effects on the dam or canal areas. Production of pollution-free hydroelectric energy at the Red Bluff Powerplant would conserve fuel while helping to decrease air and water pollution from alternative power sources. The study program would be conducted in cooperation with other Federal, State, and local agencies.

Status: An appraisal level study began in FY 1979.

Justification: Sufficient information is available to warrant bypassing the appraisal level and proceeding with a feasibility study. A feasibility study is also justified by the National goal for energy self-sufficiency, increasingly higher costs for alternative sources of energy, renewable and nonpolluting nature of hydroelectric power, and the potential for utilization of energy now being wasted.

Local interest: The California Energy Commission, is encouraging adding powerplants at existing dams. The Northern California Power Agency, made up of 11 cities and one electrical cooperative, is actively pursuing new sources of power to meet the growing needs of their members. At public meetings, as part of the Central Valley Total Water Management Study, the Bureau was encouraged to proceed with planning for adding powerplants at existing dams.

Remarks: Total estimated cost of a 3-year feasibility is $200,000: First year funding requirement is $50,000.●

By Mr. HEINZ:

S. 1633. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax to public utilities and other taxpayers which provide electrical energy, gas, wood, coal, or home heating oil at reduced costs to households of low-income elderly or disabled individuals; to the Committee on Finance.

FUEL COST ASSISTANCE ACT FOR THE ELDERLY AND HANDICAPPED

● **Mr. HEINZ.** Mr. President, the terrible impact of rising energy costs on elderly and handicapped individuals is well known and does not require a lengthy description. We have all heard of tragic episodes of utility services being cut off in below freezing weather, of deaths and illnesses resulting from exposure, and of old people eating fewer meals or resorting to dog food because energy costs have depleted their meager resources. No caring and responsible public official or citizen can fail to be deeply concerned by such events.

These are not isolated horror stories. The prevalence of such problems has been well documented by recent studies and statistical evidence. For example, a recent study by the Department of Energy showed that the average low-income household spends an astonishing 33 percent of its income on energy, while the average middle-income household spends only 9.6 percent of its income for this purpose. This reflects an extremely rapid increase in energy costs in a short time: Between 1972 and 1978, fuel oil prices increased by 151 percent while the consumer price index increased only 56 percent. This has affected low-income persons in a particularly harsh manner since they do not have the option of cutting back on inessential items and their incomes have not risen as the incomes of the remainder of the population.

The coming winter will be much worse. The latest OPEC price increases will directly affect the cost of home heating oil, and current estimates are that oil will rise to 80-cents per gallon, compared with 50-cents per gallon a year ago. If the winter is especially severe, or the anticipated shortages develop, this will make the situation worse. Electric costs will also rise in response to the increase in oil used for generating purposes. Indeed, the Department of Energy study estimates that an increase of 25 percent in energy costs is not unlikely, and that would increase the expenditures of low-income households on energy to 40-percent of income, an intolerable amount.

Winter will be here all too quickly. If the present situation continues, we can anticipate further hunger, illness, and suffering as poor people struggle to pay for energy. It is, therefore, imperative that we act promptly to provide assistance to needy elderly and handicapped persons and to avert further tragedy.

The bill that I am introducing would provide such assistance by granting a tax credit to utilities and sellers of oil, coal, and wood for homeheating that reduce their bills to eligible low-income elderly and handicapped persons. Those eligible for assistance would be persons who are age 60 or above or disabled and whose household income does not exceed the limits for eligibility for food stamps or supplemental security income. This would include single individuals whose income is up to $4,512 per year or $376 per month, and couples whose income is up to $5,676 per year or $473 per month. It is estimated that some 5 million persons, in some 3.5 million households, would be eligible for assistance under this program.

Eligible persons would have their fuel bills reduced by 25 percent below the regular price. The utilities or other participating firms could claim a credit that would compensate for the revenues lost as a result of providing the price reductions to such persons. The credit would be refundable so that utilities whose tax liability is less than the cost to them of participating in the program would receive a cash refund. This refund could be paid quarterly. The bill also provides for a reduction greater than 25 percent to those households that spend more than 10 percent of their incomes on utilities.

The advantages of this approach to assisting the needy elderly and handicapped are its administrative simplicity, its relatively modest cost, and the fact that it can provide benefits to all persons who meet the statutory eligibility requirements. The eligibility provisions are based on existing programs that verify income, age or disability, namely food stamps, SSI and social security. To the maximum extent possible, administrative procedures would be designed that relied on current records and information to identify eligible individuals and provide them with identification that establishes their eligibility for fuel cost reductions. Thus, a separate income verification procedure would not be necessary. Moreover, the administrative impact on utilities and sellers of home heating oil, coal, and wood, would be minimized, since their responsibility would be limited to recording the identities and numbers of households that had submitted evidence of eligibility to them, and of the amount by which their bills had been reduced. It is estimated that the cost of the program, if 100 percent of those eligible participate, would be in the range of $519 million to $770 million; if two-thirds of eligible persons participate, which is more typical, the cost would range from $347 million to $516 million.

Mr. President, I ask unanimous consent to print the text of the bill, and a summary of its provisions in the Record.

There being no objection, the bill and summary were ordered to be printed in the Record, as follows:

S. 1633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Allowance of Tax Credit.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"Sec. 44D. Credit for Reduction of Home Heating Costs for Low-Income Elderly or Disabled.

"(a) General Rule.—In the case of a public utility (as defined in section 247(b)(1)), or a taxpayer engaged in the trade or business of furnishing home heating energy to the public, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the revenues foregone by the public utility or the taxpayer for the taxable year as the result of a qualified program for the provision of home heating energy to eligible households during the taxable year.

"(b) Qualified Program.—For purposes of this section—

"(1) Basic program requirements.—The term 'qualified program' means a program—

"(A) under which home heating energy is furnished to eligible households at a cost to the household which is 25 percent lower than the cost at which home heating energy is furnished to other households, and

"(B) which meets such requirements with respect to verification, recordkeeping, and administration as the Secretary may prescribe.

"(2) Certain additional reductions permitted.—A program shall not fail to meet the requirements of subparagraph (A) of paragraph (1) because home heating energy is furnished to eligible households, the expenditures of which for home heating energy for the billing period (or for such other period as may be prescribed by the Secretary) exceed 10 percent of the amount of the household income for that period,

at a cost to the household which is more than 25 percent lower than the cost at which home heating energy is furnished to households which are not eligible households.

"(3) Home heating energy.—The term 'home heating energy' means electrical energy, gas, coal, wood, or home heating oil.

"(4) Administrative provisions.—In carrying out his responsibilities under this section, the Secretary shall consult with the Secretary of Health, Education, and Welfare, the Administration on Aging, the administrators of State and local public assistance programs, and the public utility commissions (or similar bodies) of the several States and the District of Columbia for the purpose of developing a system under which eligible households, and households described in subpargaraphs (A) and (B) of paragraph (2), can be reliably identified on the basis of current information, and a system for encouraging public utilities and taxpayers eligible for the credit allowed by subsection (a) to establish qualified programs.

"(c) Definition of Eligible Household.—For purposes of this section, the term 'eligible household' means—

"(1) an eligible household (within the meaning of such term for purposes of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.)) which includes one or more individuals who is—

"(A) 60 years of age or older, or

"(B) receiving disability benefits under title II of the Social Security Act, or

"(2) a household which includes one or more individuals who is an SSI recipient (as defined in section 51(d)(5)).

"(d) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations setting forth the procedures to be followed by a public utility or other taxpayer for identifying eligible households and verifying the information used for their identification.".

(b) Credit To Be Refunded to Extent It Exceeds Tax Liability.—

(1) Excess credit treated as overpayment.—Section 6401(b) of such Code (relating to amounts treated as overpayments) is amended—

(A) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit), and 44D (relating to credit for reduction of home heating costs for low-income elderly or disabled)," and

(B) by striking out "and 43" and inserting in lieu thereof "43, and 44D".

(2) Assessment authority for erroneous excess credit refunds.—Section 6201(a)(4) of such Code (relating to assessment authority) is amended—

(A) by striking out "or 43" in the caption thereof and inserting in lieu thereof ", 43, or 44D", and

(B) by striking out "or section 43 (relating to earned income)," and inserting in lieu thereof "section 43 (relating to earned income), or section 44D (relating to credit for reduction of home heating costs for low-income elderly or disabled),".

(3) Tentative refund of investment credit.—

(A) Section 6411 of such Code (relating to tentative carryback and refund adjustments) is amended by adding at the end thereof the following new subsection:

"(e) Tentative Refund of Home Heating Cost Credit.—

"(1) Application.—A taxpayer may file an application for a tentative refund of any overpayment attributable to section 44D (relating to credit for reduction of home heating costs for low-income elderly or disabled). The application shall be in such manner and form as the Secretary may prescribe by regulation and shall—

"(A) be verified in the same manner as an application under subsection (a),

"(B) be filed during the period beginning on the day after the last day of the first quarter of the taxable year and ending on the last day of such taxable year, and

"(C) set forth in such detail and with such supporting data as such regulations prescribe—

"(i) the amount of the quarterly estimated tax for the taxable year,

"(ii) the amount of the overpayment for the quarter attributable to the application of section 44D, and

"(iii) such other information for purposes of carrying out the provisions of this subsection as may be required by such regulations

"(2) Allowance of adjustments.—Within a period of 90 days from the date on which an application is filed under paragraph (1), the Secretary shall—

"(A) review the application,

"(B) determine the amount of the overpayment attributable to the application of section 44D, and

"(C) credit such amount against any tax or installment thereof then due from the taxpayer and refund any balance to the taxpayer.

"(3) Consolidated returns.—If an application is filed under paragraph (1) by a corporation which paid its income tax on a consolidated basis or made a consolidated return for the taxable year, this subsection shall apply under regulations prescribed under section 1502 (relating to consolidated return regulations).".

(B) Section 6213(b)(3) of such Code (relating to assessments arising out of tentative carryback or refund adjustments) is amended by inserting "(except subsection (e))" after "6411", and by adding at the end thereof the following new sentence: "Section 6201(a)(4) shall apply in respect of any amount credited or refunded under section 6411 (e) as if the application under such section were a claim for refund.".

(c) Table of Sections Amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately after the item relating to section 44C the following new item:

"Sec. 44D. Credit for reduction of home heating costs for low-income elderly or disabled.".

Sec. 2. Effective Date.

The amendments made by section 1 shall apply with respect to taxable years ending after the date of enactment of this Act.

Summary of the Bill

Section 1(a) amends the Internal Revenue Code to provide a credit to utilities and to firms engaged in furnishing home heating energy to compensate them for revenues foregone as the result of participating in a qualified program for reduction of home heating costs to the low-income elderly and handicapped.

A qualified program is one under which home heating energy is furnished to eligible households at a cost which is 25 percent lower than the cost to other households, and which meets administrative requirements to be established. A program which provides a greater reduction to individuals whose payments for energy exceed 10 percent of their household income during a specified period would also be qualified.

The costs that would be covered include electrical energy, gas, coal, wood, or home heating oil.

In administering the program, the Secretary would consult with the Secretary of HEW, the Administration on Aging, the administrators of State and local public assistance programs, and public utility commissions to develop outreach programs that would (a) identify persons eligible for assistance under the program, and (b) encourage utilities and firms providing home heating energy to participate in the program.

An eligible household is one whose income is within the limits for Food Stamp eligibility and contains one or more individuals either age 60 or above or receiving disability benefits under the Social Security Act; or which includes one or more individuals who is a recipient of Supplemental Security Income.

Section 1(b) makes the credit refundable, on a quarterly basis, to the extent that it exceeds the tax liability of the utility or provider of home heating energy.●

By Mr. CHURCH:

S. 1635. A bill to investigate the water and related resources of four Idaho river basins to determine ways to restore or improve the habitat of anadromous species of fish, and for other purposes; to the Committee on Environment and Public Works.

IDAHO ANADROMOUS FISH HABITAT RESTORATION ACT

● Mr. CHURCH. Mr. President, I am today introducing legislation to authorize the Bureau of Reclamation to investigate the potential for salmon and steelhead rehabilitation projects within four Idaho river basins. The four rivers covered under this bill are the Lemhi. Pahsimeroi, Potlatch, and Palouse.

The primary purpose for conducting detailed investigations of these rivers would be to determine where environmental improvements could be made or storage facilities constructed to restore anadromous fish runs. However, it is anticipated that the studies would look at other objectives as well, including opportunities for supplying irrigation water, municipal water, hydropower, and flood control.

At the turn of the century, hundreds of thousands of salmon and steelhead migrated up the Columbia River each year and returned to spawn in the same Idaho streams where they were reared. Today, however, the famous Columbia fish runs have been reduced precipitously. Instead of hundreds of thousands of returning fish only a few thousand now make their way around the dams which have been constructed on the Columbia and Lower Snake Rivers and come back to the spawning beds of our mountain streams. The primary reason for the decline is the many water resource projects which have been built on our rivers in the past 30 years. There is no question that these projects have brought great benefits to the people of the Pacific Northwest, but for the fish, the dams have been a series of unmitigated disasters.

Extensive efforts are now underway to reconstitute the upper river salmon and steelhead runs by reducing juvenile and adult losses at dams and by compensating for unavoidable dam losses through artificial propagation. These efforts are important, but they are not the complete answer. Additional steps must be taken throughout the Columbia River basin to restore the habitat of anadromous fish in important upriver tributaries. The bill which I am introducing today would be an important move in that direction.

The Lemhi, Pahsimeroi, Potlatch, and Palouse Rivers all offer excellent opportunities for salmon and steelhead rehabilitation projects. The runs of chinook salmon and summer steelhead that are native to these streams have been reduced over the years by depleted stream flows, excessive water temperatures, streambed erosion, channelization, denuded stream banks and fish migration barriers. Restoration of degraded habitat would be possible by constructing headwater storage dams to augment streamflow, revegetating stream banks, modifying channels to regain a natural hydraulic balance, and correcting fish passage problems. Another rehabilitation measure which might be considered is fish hatchery construction.

The potential for improving the anadromous fish habitat of each of these four rivers is enormous. Similarly, there are other benefits which could be identified through study. The Lemhi River, which is one of the four Idaho streams covered under this bill, is a good case in point.

THE POTENTIAL OF THE LEMHI RIVER

The Lemhi River is an important tributary of the Salmon River, which is in turn a major tributary of the Columbia. The Lemhi has many thousands of yards of spawning gravel which are not used at present, even though the river remains an important anadromous fish spawning and rearing stream. Irrigation diversions severely deplete the Lemhi River each year, and it is this constant annual depletion which poses significant problems for upstream passage of adult fish and downstream passage of smolts.

The Idaho Department of Fish and Game has recommended a 100 cubic feet per second minimum flow for the Lemhi and estimated that about 36,000 acre-feet of upstream storage would be required to meet this need. About 50,000 acres of cropland are now irrigated in the basin, but about 38,000 acres of this total experience annual water shortages late in the irrigation season due to inadequate runoff.

The study envisioned in this legislation would be an appraisal level investigation of the water and related resources of the Lemhi River basin. The study would develop plans to meet anadromous fish needs, provide supplemental water for watershort irrigated lands, and meet other purposes. Through new storage, or other means, adequate flows could eventually be provided to protect and improve the anadromous fish runs and to eliminate water shortages on at least some of the basin's croplands. Support for such a study has been expressed by the Idaho Department of Fish and Game, the Columbia River Fishery Council, and other fish, wildlife, and environmental organizations. In addition, Lemhi valley farmers and ranchers have shown an interest through the years in improving their water supply.

A NEW FOCUS FOR WATER RESOURCE PLANNING

Mr. President, traditionally, water resource projects have been built for such purposes as power, irrigation, and flood control, with fish and wildlife given only secondary consideration, or in many instances left adversely affected. My intent in sponsoring this bill is to take the initiative and begin to develop water resource projects which are specifically designed with fish enhancement as their primary purpose.

Under my bill, the Bureau of Reclamation will be required to work closely with local irrigators, Indian tribes, officials of the appropriate agencies of the State of Idaho, representatives of local governments, federal fish and wildlife authorities, and other interested parties. All of these interests would help the Bureau identify fish enhancement opportunities within the four Idaho river basins, and other opportunities such as the improvement of agriculture, municipal, and industrial water, supplies, the enhancement of water quality, the development of low-head hydroelectric power, and the enhancement of recreation. The studies would have to be completed within 2 years and a report of findings and recommendations for follow-up feasibility studies then forwarded to the appropriate congressional committees.

It is my intention to seek a prompt hearing on this proposal so as to assure that it might be moved forward as rapidly as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Idaho Anadromous Fish Habitat Restoration Act."

SEC. 2. The Secretary of the Interior (hereinafter referred to as "the Secretary"), acting through the Commissioner of Reclamation, is hereby authorized and directed to undertake appraisal-level investigations of the water and related resources of the following river drainages lying wholly or partially within the State of Idaho:

(a) The Lemhi River Basin;
(b) The Pahsimeroi River Basin;
(c) The Potlatch River Basin; and
(d) The Palouse River Basin.

SEC. 3. The primary objective of each of the investigations authorized under section 2 shall be to identify where environmental improvements could be made or water storage facilities constructed within each basin to restore or improve the habitat of anadromous special of fish. Each of the investigations shall also identify secondary opportunities within each basin for the improvement of agriculture, municipal, and industrial water supplies; the enhancement of water quality; the prevention of floods; the development of low-head hydroelectric power facilities; the enhancement of recreation; and other possible water-related opportunities.

SEC. 4. In conducting the investigations authorized under section 2, the Secretary shall consult with officials of the appropriate agencies of the State of Idaho, Federal fish and wildlife authorities, representatives of local governments, Idaho-based Indian Tribes with treaty fishing rights, local irrigators, and other interested parties.

SEC. 5. On or before September 30, 1983, the Secretary shall submit to the appropriate Committees of the Senate and the House of Representatives a report or series of reports on the findings of each of the investigations authorized by section 2, and recommendations for such subsequent feasibility studies as he deems desirable.

SEC. 6. In order to accomplish the purposes of this Act, there are hereby authorized to be appropriated the sum of $300,000 in fiscal year 1981; the sum of $500,000 in fiscal year 1982; and the sum of $400,000 in fiscal year 1983.●

By Mr. JACKSON (by request):

S. 1637. A bill to establish competitive oil and gas leasing in favorable areas within producing geologic provinces; to the Committee on Energy and Natural Resources.

FEDERAL OIL AND GAS LEASING ACT OF 1979

● Mr. JACKSON. Mr. President, I am today introducing at the request of the administration legislation submitted by Secretary of Interior Andrus which would modify the existing oil and gas leasing system on public lands.

Mr. President, I have long believed that the existing leasing system should be improved to promote competition, assure diligent development and obtain a fair market return to the public. On April 5, I introduced legislation (S. 902) designed to achieve these goals. The text of S. 902 is also contained in title VII of S. 1308, the omnibus Energy Supply Act which I introduced on June 11 and is cosponsored by 25 other Senators.

The committee has held hearings on this subject. At those hearings the administration stated that it supported the objectives of my bill but intended to offer its own proposal, which they have now submitted. I ask unanimous consent that the text of the bill, together with the August 1 letter from Secretary Andrus, be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 1637

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Oil and Gas Leasing Act of 1979."

Section 2. Subsections (a) through (c) and (e) of Section 17 of the Act Entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas and sodium on the public domain," approved February 25, 1920 (30 U.S.C. 226(a)–(c) and (e)), are amended to read as follows:

"Section 17(a)(1) Except as otherwise provided in this Act, the Secretary may lease lands which are favorable for the discovery of oil or gas within a producing geologic province only by competitive bidding. Competitive bidding shall be on the basis of cash bonus with a royalty of not less than 12½ per centum fixed by the Secretary in amount of value of the production saved, removed, or sold from the lease, or, at the discretion of the Secretary, on the basis of any other bidding system which will encourage competition and exploration, development and production of oil and gas.

"(2) The Secretary may lease lands for oil or gas outside of a producing geologic province or lands within a producing geologic province which are not favorable for discovery of oil or gas without competitive bidding."

"(b) Nothing in this section shall be construed to prevent the Secretary from leasing lands noncompetitively prior to identification of all those lands within a producing geologic province which are favorable for discovery of oil or gas."

"(c)(1) All leases issued under this section shall be for a tract not exceeding two thousand five hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic unit."

"(2) Each lease that the Secretary issues under this section shall be for an initial period of five years and so long thereafter as oil or gas is produced in paying quantities or drilling or well reworking operations as approved by the Secretary are conducted thereon. A lesee may, before the fourth anniversary of the lease, apply to extend the initial term for an additional period or periods not to exceed a total of five years. Each extension application shall include a detailed exploration plan for the extended term. The Secretary, in his discretion, may extend the initial term only if he finds that because of unusually adverse technical, environmental or economic conditions which are beyond the control of the lessee, the lessee cannot adequately explore the lease during the initial five-year term or any extended term. Nothing in this subsection shall be construed as affecting existing leases."

"(e) For purposes of this section—

(1) the term 'producing geologic province' means an area, as determined by the Secretary, which contains known petroleum production and all portions of which have similar or comparable geologic history, comparable characteristics or deformation, similar stratigraphy, and similar or peculiar types of petroleum accumulation; and

(2) the term 'lands favorable for discovery of oil or gas' means those lands which, in the opinion of the Secretary, may be valuable for oil or gas due to the geology of such lands, nearby discoveries or competitive interest by two or more parties in such lands. *Provided* that all lands within three miles of the boundary of a known geologic structure of a producing oil or gas field shall be considered favorable for the discovery of oil or gas."

Section 3. Section 30(a) of the Act of February 25, 1920 (30 U.S.C. 187a) is amended by striking the third sentence and inserting in lieu thereof "(T)he Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublessee or for lack of sufficient bond: *Provided, however,* That the Secretary may, in his discretion, disapprove an assignment 1) of a separate zone or deposit under any lease, 2) or less than 640 acres, 3) containing an overriding royalty which exceeds limitations established by regulations, or 4) which the Secretary determines would create or maintain a situation inconsistent with the antitrust laws."

Section 4. Section 27(l) of the Act of February 25, 1920 (30 U.S.C. 184(l)), as amended, is further amended by:

(1) adding after paragraph (2) a new paragraph (3), to read as follows:

"(3) The Secretary may refuse (1) to accept an otherwise qualified bid for, or (2) to issue a lease, or approve a sublease or assignment of, or (3) to renew, readjust, or extend any lease, sublease or assignment of, any minerals other than coal subject to leasing under this Chapter if he determines that such lease, sublease, assignment, renewal readjustment or extension may create or maintain a situation inconsistent with the antitrust laws. The Attorney General may review, pursuant to regulations established by the Secretary after consultation with the Attorney General, the likely effects upon competition of transactions subject to this Chapter and make appropriate recommendations to the Secretary."; and

(2) by renumbering existing paragraphs (3) and (4) as (4) and (5), respectively.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 1, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft bill, "To establish competitive Oil and Gas Leasing in Favorable Areas within Producing Geologic Provinces."

We recommend that the enclosed bill be referred to the appropriate committee and that it be enacted.

The principal purposes of the bill are to insure that the government receives fair market value for oil and gas leases on public lands and to encourage exploration. We believe that these objectives can best be accomplished by increasing the amount of public lands which are leased competitively. Under existing law, only those lands within a "known geological structure of a producing oil and gas field" ("KGS") may be leased competitively. As you know, a KGS is a fairly narrowly defined area surrounding a producing oil and gas well which is technically the same trap and which is presumptively productive. This limits the amount of public land which can be leased through competitive bidding to a small percentage of all lands which are leased. Our analysis of the existing noncompetitive leasing system indicates that there is broad competitive interest in a majority of public lands which are leased noncompetitively. The government is not receiving fair market value for these lands. We have convincing evidence that Federal noncompetitive leases have a large resale value. Also, a substantial number of filings in the noncompetitive simultaneous oil and gas drawing system (SOG) for leases near KGSs indicates that many noncompetitive leases are now issued without the Department having the opportunity to test the fair market value of such leases despite extensive interest in them. The enclosed bill would permit us to do this by increasing the discretion of the Secretary to lease competitively.

Under our proposal, lands "favorable for the discovery of oil or gas within a producing geologic province", if leased, would have to be leased competitively. Lands outside such areas could be leased noncompetitively. The outer limits of the competitive lease area, the "producing geologic province ("PGP"), is an area within a sedimentary basin which contains known petroleum production and all portions of which have similar or comparable geologic history, comparable characteristics of deformation, similar stratigraphy, and similar or peculiar types of petroleum accumulation.

The term petroleum province has been loosely used for a number of years to indicate, generally, large producing regions with rather indeterminate boundaries. Geologists and other petroleum industry specialists recognize subprovinces within major or larger provinces. For example, the Colorado Plateau encompassing parts of the States of Colorado, Utah, Arizona, and New Mexico, is considered a petroleum province. Within this broad region, however, are recognized and reasonably well-defined subdivisions, such as the Uinta Basin, the Paradox Basin, the San Juan Basin, and the Black Mesa Basin. It is these subdivisions that would be classified as "producing geologic provinces," providing, of course, that each such subdivision had demonstrated oil or gas production within its boundaries.

Within these producing geologic provinces, the Secretary under our bill would have to lease competitively, if at all, within three miles of the boundary of a KGS. In effect, in our bill we have expanded the existing KGS definition to encompasse an area three miles surrounding the KGS. Between the boundaries of the expanded KGSs and the boundary of the PGP, the Secretary would also have the discretion to classify other areas for competitive leasing by applying a three-part test. If it was determined that the three mile extension of the KGS was not sufficient to encompass those lands which should be leased competitively, the Secretary through the U.S. Geological Survey and the Bureau of Land Mangement may further extend competitive leasing to such lands because of: (1) their proximity to a producing well; (2) seismic or other geologic informaton; or (3) competitive interest in such lands.

We believe that these simple changes will insure that fair market value is received for oil or gas leases while continuing to encourage exploration of truly marginal "wildcat" lands through noncompetitive leasing. The leasing system we propose can be administered without complex leasing schedules or individual oil and gas lease tract resource evaluations.

We recognize that most of the discoveries of oil and gas on public lands are made by the small independent oil and gas operator on noncompetitive leases. Low entry and holding costs for these leases encourage these small operators to play their geologic "hunch" and to take risks with their limited capital for the exploration of lands which the major oil companies pass over or overlook.

We do not feel that increased competitive leasing should have any adverse effect on exploration of these lands by independent oil and gas operators. Our analysis indicates that at least 75 percent of the noncompetitive leases and as much as 88 percent of the competitive oil and gas leases are held by companies or individuals who may be defined as independent oil and gas operators. These "independents" seem to fare well in the existing onshore oil and gas competitive leasing system. We believe that the existing statewide acreage limitations on leases held by any one company or individual play a role in encouraging this competition. However, we believe this competition could be encouraged and leases could continue to be issued in large numbers to "independents" under the simple leasing system we propose.

If experience with increased competitive leasing under this system indicates the need for additional measures to encourage participation in the competitive system by independents, the bill authorizes the use of bonus bidding or other devices to permit such firms with limited capital to continue to participate. The bill does not change the division of authority between the Secretaries of the Interior and Energy to issue regulations.

To prevent even a temporary lull in oil and gas leasing, the bill contains a provision to permit continued leasing pending implementation of new leasing procedures. Section 2(b) of the bill would permit the Secretary to continue leasing pending identification of the PGP and favorable oil and gas areas. The bill also encourages prompt exploration by reducing the primary term of leases to five years, instead of ten years, as is now the case. To insure that this shorter term does not interfere with the occasional need for complex drilling and exploration efforts, the Secretary would have authority, if unusually adverse technical, environmental or economic conditions beyond the control of the lessee justify the extension, to extend the primary lease term for an additional period or periods, provided that any extensions shall not total more than five years. To obtain any extensions, the applicant must first apply for an initial extension before the fourth anniversary of the lease.

This shorter lease term will encourage development and curb holding leases for speculative purposes. It will also permit earlier reoffering (releasing) of marginal tracts. The automatic two year extension of leases if drilling operations are being diligently prosecuted is deleted, although no lease will terminate if active drilling operations are being conducted.

The maximum lease size is also increased to 2,560 acres with the option for the Secretary to increase the size further. The present limitation is 640 acres for competitive leases; there is no statutory limitation at present for noncompetitive leases. The proposed maximum lease size and the flexibility to increase lease size will provide an opportunity to offer tracts that can be more efficiently explored and developed. Because an expanded competitive system may involve some leasing of areas where prospective value is not as great as under the existing "known geologic structure," the larger area may be necessary for exploration of such marginal areas. It will also eliminate the necessity to break up existing noncompetitive leases within favorable areas of PGPs which exceed 640 acres if they are to be released under the new system.

The fixed royalty rate (12½ percent) for noncompetitive leases is repealed and replaced by a flexible royalty rate, i.e., not less than 12½ percent. This insures that the government receives an adequate return on noncompetitive leases with high production. Care will be taken in establishing the actual royalty rates by regulation to avoid discouraging production.

Section 4 of the enclosed bill provides that the Secretary may refuse to issue a lease or to approve a sublease or assignment of a lease for any minerals other than coal subject to leasing under the Mineral Lands Act if he determines that the lease, sublease or assignment might create or maintain a situation inconsistent with the antitrust laws. Section 4 provides further that the Secretary may promulgate regulations providing for the Attorney General to review the likely effects on competition of transactions subject to the Mineral Lands Leasing Act, and to make recommendations to the Secretary. Section 4 makes explicit existing authority of the Secretary to deny leases covering minerals subject to the Mineral Lands Leasing Act on antitrust grounds. It also restates the Secretary's authority, provided in section 3 of the enclosed bill, to disapprove assignments of leases on antitrust grounds.

Finally, section 3 of the bill would amend the existing law in section 30(a) of the Mineral Leasing Act of 1920 (30 U.S.C. 187(a)) to give the Secretary the authority to disapprove assignments of leases on three additional grounds. First, the Secretary may disapprove assignment of a lease of less than 640 acres. He may also disapprove assignments containing overriding royalty clauses which exceed limitations established by regulations. The first change is directed at preventing individuals from assigning small tracts for speculative purposes with no intention of achieving efficient exploration of oil and gas. However, it does not prohibit the Secretary from approving assignments of less than 640 acres. The second change is directed at discouraging overriding royalties which hinder efficient production of oil and gas resources. The third change provides that the Secretary may disapprove an assignment of a lease on antitrust grounds.

The Office of Management and Budget advises that this legislation is consistent with the Administration's objectives.

Sincerely,

GUY MARTIN,
Secretary.●

By Mr. ROTH:

S. 1638. A bill to amend the Internal Revenue Code of 1954 to provide for the amortization of startup expenditures paid or incurred in starting a new trade or business; to the Committee on Finance.

TAX RELIEF FOR STARTUP COSTS

● Mr. ROTH. Mr. President, I am introducing a bill to amend the Internal Revenue Code. This amendment allows taxpayers who enter a trade or business to evenly amortize certain preopening costs over a period of not less than 60 months. The purpose of this bill is to encourage persons to start new businesses and to help these businesses succeed.

It is not an unnoticed fact many new businesses fail each year. Many fail because the expenses of starting a business are so great a businessperson cannot overcome these initial costs. Existing tax laws do little to alleviate the cost burden of entering a new business and reduce its chances of surviving.

Presently, there is neither a deduction nor an amortization for most preopening expenses of a business which is considered to have an indeterminable life. For tax purposes, a business is usually deemed to have an indeterminable life. The only favorable tax treatment one receives for such preoperating costs is upon liquidation or disposition of the business. Owners of new businesses should not have to wait until liquidation or disposition of the company to recover their startup costs.

Inequity in the present law denies adequate tax relief for the ordinary and necessary expenses incurred in preparing a business to open, yet allows an existing business to deduct similar expenses. Under this bill all ordinary and necessary startup costs which do not create an asset having a useful life of its own and which relate to the business can be recovered over the first 60 months of the business. If a business has an ascertainable life shorter than the 60-month amortization period, its owner would not elect to come within this amendment.

Although this bill does not equalize the tax treatment between ordinary and necessary expenses of an ongoing business and ordinary and necessary expenditures of starting a business, it does allow the recoupment of many preopening expenses during the crucial young years of the business. Tax laws should not place new businesses at an unfair disadvantage.

Mr. President, adequate tax relief for preopening costs is overdue. This bill is a reasonable and fair answer to a problem of long standing.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"Sec. 193. Start-up Expenditures.

"(a) Election to Amortize.—Start-up expenditures paid or incurred by a taxpayer prior to the trade or business functioning as a going concern may, at the election of the taxpayer (made in accordance with regulations prescribed by the Secretary), be treated as deferred expenses. Such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the taxpayer in the trade or business (beginning with the month the trade or business starts functioning as a going concern) or if the trade or business is liquidated before the end of the 60 month period, such deferred expenses (to the extent not already deducted under this section) may be deducted to the extent provided in Section 165.

"(b) Start-Up Expenditures Defined.—The term 'start-up expenditures' means any expenditure which is—

"(1) an ordinary and necessary expense incident to the investigation, formation, and creation of the trade or business;

"(2) chargeable to capital account; and

"(3) of a character which, if expended incident to the investigation, formation, and creation of the trade or business having a determinable life, would amortizable over such life.".

(b) The table of sections for such part VI is amended by adding at the end thereof the following new item: "Sec. 193. Start-up Expenditures.".

Sec. 2. The amendments made by this section shall apply to amounts paid or incurred after December 31, 1979.●

By Mr. GRAVEL:

S. 1639. A bill to amend the Water Resources Planning Act of 1965 (Public Law 89–80; 79 Stat. 244) as amended); to the Committee on Environment and Public Works.

WATER RESOURCES PLANNING ACT AMENDMENTS OF 1979

● Mr. GRAVEL. Mr. President, today I am introducing a bill to amend the Water Resources Planning Act of 1965 (Public Law 89-80) as amended. This legislation would substantially strengthen and significantly alter the manner in which the Water Resources Council carries out both its mandated and assigned responsibilities.

I do not believe the Council has ever functioned in the manner in which the Congress intended it to function. Under the existing provisions of Public Law 89–90, the Council cannot provide the strong coordinating mechanism for water resources activities that it was intended to provide.

On June 6, 1978, the President announced his water policy initiatives. The cornerstone of the President's initiatives to improve the Federal water resources programs was the Water Resources Council.

Earlier this session the Water Resources Subcommittee of the Committee on Environment and Public Works held hearings on extending the authorization of the Water Resources Council and adding new programs. As a result of those hearings the bill S. 480, as reported, deleted some of the specific programs proposed by the administration. As chairman of the subcommittee, I strongly urged the deletion of those programs because I felt the Council urgently needed restructuring and a reorientation, rather than patchwork legislation, to function as the Congress intended. I feel certain that this bill accomplishes that goal.

This bill would create an independent chairmanship. I feel that such an independent chairman is essential for the Council to carry out its function in a manner free from agency pressures.

Voting membership would be limited to the departments and agencies with major Federal water programs. Other departments and agencies with water resources related programs would be associate members.

The most important feature of this bill is that it gives the States a stronger voice and role in the management and planning of the Nation's water resources programs. The bill establishes a State advisory committee with its chairman a full-time member of the Water Resources Council, recommended by the governing body of the National Governors' Association, to represent a national perspective on water problems.

This bill would establish an independent water project review, for a period of 60 days, in lieu of the existing review by the Office of Management and Budget. It would also establish a grant program for water conservation technical assistance.

The bill also provides that the Water Resources Council advise the President on water and related land resources investments, resolve disputes between Federal agencies over conflicting regulations relating to the management, planning, and development of the Nation's water resources, and compare periodically the regional distribution of the Federal investment in water resources and land related development.

In summary, this bill provides for a strong central focus for the Nation's water programs.

I urge my colleagues to support this important piece of legislation, and I would be honored to have my colleagues join me in cosponsorship of this bill.

Mr. President, I ask unanimous consent that the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1639

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Water Resources Planning Act Amendments of 1979."

TITLE I

Sec. 101. Section 3 of the Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is amended by inserting in subsection (b) a colon after the words "with respect to", by deleting immediately thereafter the words "the preparation and review of comprehensive regional or river basin plans and the formulation and evaluation of Federal water and related land resources projects;" and inserting in lieu thereof the words: "The continuing study of the adequacy of supplies of water necessary to meet the water requirements in each water resource region in the United States and the national interest therein; the continuing study of the relation of regional or river basin plans and programs to the requirements of larger regions of the Nation; the continuing study of the water and related land resources policies and programs of the several Federal agencies; the appraisal of the adequacy of existing and proposed policies and programs to meet requirements of larger regions of the Nation; the making of recommendations to the President with respect to Federal water and related land resources policies and programs; the provision of advice to the President on water and related land resources investments in accordance with section 102(c) of this Act; the establishment of principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects; the review of river basin commission plans and revisions; resolution of disputes over conflicting Federal agency regulations relating to water resources and water related land issues; the making of recommendations to the President regarding river basin commission plans and revisions; and the establishment and implementation of a grant program for financial and program assistance to the States for development, implementation, and modification of State water management and water conservation technical assistance programs as provided in title III of this Act;".

TITLE II

Sec. 201. Section 101 of the Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is hereby amended by inserting in lieu thereof a new section 101 to read as follows:

"Sec. 101. (a) There is hereby established a Water Resources Council (hereinafter referred to as the "Council") which shall be composed of the Secretary of Agriculture, the Secretary of the Army, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the Chairman of the Council as Members; and the Secretary of Commerce, the Secretary of Energy, the Secretary of Transportation, the Director of the Federal Emergency Management Agency and the Chairman of the State Advisory Committee as Associate Members. The Chairman of the Council shall request the heads of other Federal agencies to participate with the Council when matters affecting their responsibilities are considered by the Council. The Chairman of the Council shall, when he deems it appropriate, designate associate members to vote concerning issues or matters directly affecting their responsibilities.

(b) The Chairman of the Council shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate for level II of the Executive Schedule under Section 5313 of Title 5, United States Code. During the period of his service on the Council, the Chairman shall not hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the Federal Government.

(c) The Chairman of the Council shall appoint the Chairman of the State Advisory Committee from persons recommended by the governing body of the National Governors' Association for a term of not more than four years. The Chairman of the State Advisory Committee shall not represent a specific state or regional interest but shall have an overall knowledge of the Nation's water problems.

(d) The Chairman of the State Advisory Committee shall be compensated at the rate for Level V of the Executive Schedule under section 5316 of Title 5, United States Code.

(e) Actions of the Council shall be approved by simple majority vote of the members."

SEC. 202. Section 102 of the Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is amended as follows:

(a) by deleting, in subsection (a), the words "biennially, or such less frequent intervals as the Council may determine" and inserting in lieu thereof the words "at intervals of not less than five nor more than ten years", and

(b) by deleting, in subsection (a), the word "and", and adding the following new subsections after subsection (b):

(c) advise the President on water and related land resources investments, including planning, research, data collection and development; periodically compile for each of the regions past and current year funding levels of Federal, State and local governments for water and related land resources programs—such compilation to include in the case of the Federal Government, all Federal and federally assisted water and related land resources funding of Member agencies of the Council; and compare, at periodic intervals, the regional distributions reflected in historic funding for Federal and federally assisted water and related land programs with the regional distributions implicit in the future water needs for the people in each of the regions identified in the Council's periodic assessments of the Nation's water resources.

(d) review individual project studies to assure compliance with the principles and standards established under Section 103 of PL 89–80, as amended, and other laws and requirements related to the water resources project planning process. Such review shall normally be completed within 60 days of submission by an agency of a report, proposal or plan. When documents and information necessary for the review are not initially submitted, the Chairman of the Council may extend the review period by not more than 30 days. Projects for which a construction start has been funded prior to the effective date of this act are exempted from this review.

(e) To the extent possible consistent with agency statutory requirements, identify and resolve conflicting regulations controlling water and related land resources programs of the Council Member and Associate Member agencies.

SEC. 203. The Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is amended by inserting after the present section 105 a new section 106 to read as follows:

SEC. 106. (a) There is hereby established a State Advisory Committee (hereinafter referred to as the "State Committee") which shall be composed of eight Members selected by the Chairman of the Council from persons recommended by the governing body of the National Governors' Association to provide for broad national representation in the area of water management. Attention shall be given to balancing of regional interests in selection of the Committee.

(b) When authorized by the Chairman of the Council, the travel and other expenses of participation as members of the State Committee may be reimbursed by the Council.

TITLE III

SEC. 301. Section 202 of the Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is amended as follows:

(a) by deleting, in subsection (a), the word "President" and inserting in lieu thereof the words "Chairman of the Council", and

(b) by deleting, in subsection (e) the words "When deemed appropriate by the President, one member, who shall be appointed by the President," and inserting in lieu thereof the words, "One member appointed by the Chairman of the Council".

SEC. 302. Section 206 of the Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is amended by deleting in subsection (c) the word "President" and inserting in lieu thereof the words "the Chairman of the Council."

TITLE IV

SEC. 401. Section 401 of the Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is amended by inserting after the present subsection 401(c), a new subsection 401(d) to read as follows:

"(d) The sum of $118,000 for fiscal year 1980 and $118,000 for fiscal year 1981 for the expenses of the Chairman of the Council, and the sum of $132,000 for fiscal year 1980 and $132,000 for fiscal year 1981 for the expenses of the State Committee and its Chairman."

SEC. 402. The Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is amended by adding after section 404, a new section 405 to read as follows:

"SEC. 405. Notwithstanding any other provision of law, Federal appropriations for water and related land resource management studies to be conducted by and through the Council shall be made to the Council and the Council shall be responsible for assigning studies and apportioning funds: *Provided*, That for studies administered by the Commission, such funds shall be assigned through the Council offices to said Commission.".●

By Mr. GRAVEL (by request):

S. 1640. A bill to extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes; to the Committee on Environment and Public Works.

WATER RESEARCH AND DEVELOPMENT AMENDMENTS ACT OF 1979

● Mr. GRAVEL. Mr. President, I am today introducing by request, the Water Research and Development Amendments Act of 1979. This legislation will make necessary adjustments in Public Law 95–467, the Water Research and Development Act of 1978, and in Public Law 95–84, Saline Water Conversion Act of August 2, 1977.

On March 27, the President submitted to the Congress a report on the state of the Union with regard to science and technology. He spoke of the influence which science and technology have had on our lives in the last hundred years, and of what we expect of our scientists and engineers in the years ahead. He proposed working with the Congress to develop a national science and technology policy for the 1980's and beyond, and he presented an overview of the research and development programs supported by the Federal Government and the funding levels for these programs in his 1980 budget request. He asked for nonpartisan support for these research and development programs aimed at solving critical national and international problems.

One vital portion of the President's statement concerning increasing pressures on our limited water supplies, and the need for basic research and the application of appropriate new technologies to solve water problems. Last year, Senator DOMENICI and I introduced, at the request of the President, S. 2704, the Water Research and Development Act. That legislation was reviewed by the Subcommittee on Water Resources, Committee on Environment and Public Works, and by our colleagues in the House of Representatives.

With some amendments, the bill passed and was signed by the President in October of last year. The law renews and enlarges the scope of two earlier water resources research programs, and authorizes the Secretary of the Interior to develop a 5-year agenda for national water research priorities and goals. When he signed the bill, the President said:

> It brings together two important concerns of mine: greater support for basic research and a vigorous search for practical ways to solve the increasing problems of water quality and quantity in various parts of the nation.

Those concerns of the President are concerns shared by many Members.

The programs authorized in the Water Research and Development Act are being carried out by the Office of Water Research and Technology in the Department of the Interior. For the most part, the new law is working well, and promises a stronger and better coordinated Federal-State effort to resolve water problems at local, State, and national levels. However, as is often the case, operation of the new legislation has revealed the need for minor adjustments to make the program work more efficiently.

The amendments I am introducing today will extend the authority for appropriations for 2 additional years, and will provide refinements to both the Water Research and Development Act of 1978 (Public Law 95–467) and to the saline conversion legislation which was passed as the act of August 2, 1977 (Public Law 95–84).

Public Law 95–467 now requires the

State water research and technology institutes to review all proposals from colleges and universities under title I of the act. The proposed amendment would delete that provision and authorize the Secretary to require Institute review of all proposals under the act for relevance to water resource research, development and technology transfer needs and priorities within the originating State. This would provide the Secretary with information needed to develop a 5-year national water research agenda with assurance of coordination of effort at the State level.

Under the law as it now stands, the Office of Water Research and Technology operates a matching grant program for water research and development. This program is conducted through the Institutes and is open only to academic researchers. The proposed amendment would open this research matching grant program to State and local government agency researchers. A broader program would encourage the submission of problem-oriented proposals and new concepts. Local water agencies are directly and immediately concerned with water problems as they arise, and their inclusion in this program would help to coordinate State and local water agency R. & D. with the Institute and other academic R. & D. programs.

Section 411 of Public Law 95–467 now requires that "any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability" be transmitted to the Congress for a 30-day review period. The requirement is so all-encompassing that it has slowed the execution of the program.

The amendment proposed would require congressional review only for formally promulgated rules and regulations.

Finally, these amendments would provide for 2 additional fiscal years the authority for appropriations of "such sums that may be necessary" to carry out the provisions of the act.

The act of August 2, 1977, as amended, authorizes the construction of "no more than five" desalination demonstration plants, and makes specific requirements for in-kind contributions by local non-Federal entities of water rights, power source interconnections, water supplies, rights-of-way and brine disposal facilities. The proposed amendment would remove the limitation on the number of plants which could be constructed at the authorized level of $50 million. OWRT has completed a study of the initial 37 sites proposed by State water engineers as locations for these demonstration plants. Every one of the sites proposed was found by the study to be suitable for such a demonstration and to present a clear need for the new technology.

This nationwide study revealed the opportunity for an increased number of smaller and less expensive demonstrations, distinctly different from one another yet representative of water problems present or developing in many parts of the Nation. Failure to take advantage of this opportunity will limit the program to the demonstration of less than an adequate number of technologies or combinations of technologies.

The proposed amendment assumes that a greater number of demonstrations could be constructed under the existing authorization of $50 million. The Federal demonstration and technology transfer goals would be more fully met in this way. Although operation and maintenance costs to the Federal Government are now covered in an open-ended authorization, it is believed that even those O. & M, costs could be covered within the $50 million for these more numerous but smaller scale plants.

Finally, the proposed amendment would further modify Public Law 95–84 by providing a more flexible and practical cost-sharing plan. Currently, the cost sharing required to be performed by the local community is uneven, varying in actual contribution according to the site conditions at the location selected and according to the economic capability of the community to provide brine disposal. The proposed amendment calls for cost sharing by the non-Federal entity to the extent of at least 15 percent but not more than 50 percent of the total cost of the demonstration, based on all elements required to be provided by the community or the United States under the present law.

Costs for operation and maintenance for a period of 4 years following final acceptance of the plant from the contract would be considered as part of the total project cost. Contributions of the non-Federal entity could still be partially or fully in-kind. This would not necessarily put a heavier burden on the non-Federal entity, but it would allow greater flexibility in arrangements by the contacting parties. The local community would be realistically involved in planning, construction, operation and maintenance for the entire demonstration period, and would presumably be better prepared to take over from the Federal Government at the end of the demonstration period.

In addition, the Secretary would be authorized under the proposed amendments to conduct the demonstration through cooperative agreements where appropriate. Title in such cases would be vested in the non-Federal entity, but the Secretary would retain full access during all 4 years of Federal participation in the operation and maintenance.

Mr. President, these amendments will make the Water Research and Development Act of 1978 (Public Law 95–478) and the act of August 2, 1977 (Public Law 95–84) more effective laws. I have been assured by the administration that the legislative changes are consistent with the President's program.

I ask unanimous consent that the proposed amendments be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1640

That the Water Research and Development Act of 1978 (PL 95–467 92 Stat. 1305), and the Act of August 2, 1977 (PL 95–84; 91 Stat. 400) as amended, are hereby further amended as follows:

SEC. 1. In section 101(b)(5) of the Water Research and Development Act of 1978 delete current provisions and replace with the following: "The Secretary is authorized to require State Institutes to review grant and contract proposals originating within their respective States pursuant to any program under this Act, and such review shall be for the purpose of advising the Secretary of the relevance of such proposals to water resources research, development, and technology transfer needs and priorities within the originating State."

SEC. 2. Section 105(a) of the Water Research and Development Act of 1978 is amended by deleting all after "projects by two or more institutes" and inserting the following: "Any State or local government agency or academic institution is eligible to participate in the matching grant program activities of their State Institute if in the opinion of the Secretary it has competence to participate in the program. Applications by such agencies or institutions shall be made through the State Institute. Each application for a grant pursuant to this subsection shall, among other things, state the importance of the project to the nation, region, and State concerned, its relation to other known research projects theretofore pursued or currently being pursued, and the extent to which it will provide opportunity for training in water resources. No grant shall be made under this subsection except for a project approved by the Secretary, and all grants shall be made on the basis of the merit of the project, the need for the knowledge which it is expected to produce when completed and the opportunity it provides for training in water resources."

SEC. 3(a). Section 401 of the Water Research and Development Act of 1978 is amended as follows:

(1) In paragraph (a)(1) following September 30, 1980 add "and such sums as may be necessary for fiscal years 1981 and 1982."

(2) In paragraph (a)(2) following September 30, 1980 insert: "and such sums as may be necessary for fiscal years 1981 and 1982."

(3) In paragraph (b) following $8,500,000 insert "and such sums as may be necessary for fiscal years 1981 and 1982."

(4) In paragraph (c) following $8,000,000 insert "and such sums as may be necessary for fiscal years 1981 and 1982."

(5) In paragraph (d) following $1,000,000 insert "and such sums as may be necessary for fiscal years 1981 and 1982."

(b) In section 402 of the said Act, following $14,000,000 insert "and such sums as may be necessary for fiscal years 1981 and 1982."

(c) In section 403, following September 30, 1980, insert "and such sums as may be necessary for fiscal years 1981 and 1982."

(c) In section 411, following the word "rules" strike the words "regulations" through "prescribed' and susbtitute "and regulations promulgated."

SEC. 4(a). Section 2(a) of the Act of August 2, 1977, (Public Law 95–84) as amended, is deleted and replaced with a new section 2(a) to read as follows:

"SEC. 2(a) The Secretary of the Interior is authorized and directed to demonstrate the engineering and economic viability of membrane and phase-change desalting processes. Such demonstrations shall include the study, design, construction, operation, and maintenance of desalting plants at locations in the United States, (which may include the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Mariana Islands, and the Trust Territory of the Pacific Islands; *Provided*, That at least two such plants shall demonstrate desalting of brackish ground water; *and provided further*, That the plants constructed pursuant to this Section shall be for the purpose of showing that the technology being demonstrated is ready for application; such plants shall be no larger than necessary to demonstrate the specific application of the technology, shall not substitute for or supplant conventional water supply projects which are traditionally the responsibility of the local community, and shall be significantly different in operation and process so as not to duplicate any other demonstration plant constructed pursuant to this Section. The Secretary is further authorized to conduct such demonstrations or any portion thereof by means of cooperative agreements (as defined and authorized by 41 U.S.C. 504, et seq., the Federal Grant and Cooperative Agreement Act of 1977; Public Law 95–224) with duly authorized non-Federal public entities. Title to demonstration facilities constructed by the non-Federal public entity under a cooperative agreement shall vest in the non-Federal public entity."

(b) Section 2(b) of said Act is hereby amended by inserting after "but is not limited to," the phrase, "how the plant being proposed differs from others already constructed under this section," and further, by deleting all after "ancillary facilities" and inserting the following: "such report shall be accompanied by a proposed contract (or cooperative agreement) between the Secretary and a duly authorized non-Federal entity, in which such entity shall agree to provide not less than 15 percent and not more than 50 percent of the total cost of the demonstration; such cost to include, without being limited to necessary water rights, water supplies, rights-of-way, power source interconnections, brine disposal facilities, land, construction, ancillary facilities, and the operation and maintenance costs for a period of four years following final acceptance of the construction of the plant from the plant contractor. The contributions of the non-Federal entity under such proposed contract may be in-kind. During the participation by the Secretary in the construction and the operation and maintenance of such demonstration, access to the demonstration and its operating data will not be denied to the Secretary or his representatives. The period of participation by the Secretary in the operation and maintenance of any such demonstration shall not exceed four years. The Secretary is authorized to include in the proposed contract a provision for conveying as appropriate, and in such amounts as are appropriate, rights, title, and interest of the Federal government in the demonstration project to the non-Federal public entity."

(c) Section 2(c), as amended, of said Act, is revised to read as follows: "There is authorized to be appropriated, to remain available until expended, for the fiscal year ending September 30, 1978, and thereafter, the sum of $50,000,000 to finance the total Federal share of the cost of the demonstration plants authorized by this section; such cost to include, without being limited to, necessary water rights, water supplies, rights-of-way, power source interconnections, brine disposal facilities, land, construction, ancillary facilities, and the operation and maintenance costs for the four-year period of Federal participation in such costs. Section 205(c) of the Act of October 17, 1978 (Public Law 95–467) is hereby repealed."●

By Mr. GRAVEL (for himself, Mr. HATFIELD, Mr. MCGOVERN, Mr. BURDICK, Mr. BENTSEN, Mr. RANDOLPH, and Mr. COHEN):

S. 1641. A bill authorizing the Secretary of the Army, acting through the Chief of Engineers, to plan, design, and construct small hydroelectric power projects not specifically authorized by the Congress; to the Committee on Environment and Public Works.

NATIONAL SMALL HYDROELECTRIC POWER DEVELOPMENT ACT OF 1979

● Mr. GRAVEL. Mr. President, today I join my distinguished colleague from Oregon, Senator MARK O. HATFIELD, in introducing legislation which will authorize the Secretary of the Army, acting through the Chief of Engineers, to plan, design, and construct small hydroelectric power projects. Joining with Senator HATFIELD and me in sponsoring this legislation are Senators MCGOVERN, BURDICK, BENTSEN, COHEN, and RANDOLPH.

Under this legislation, each project would not exceed 25 megawatts in installed capacity and would be limited to $15 million in Federal cost. A duly constituted non-Federal entity would contract with the Secretary of the Army to own and operate these facilities as well as pay back 100 percent of the cost of the project, including interest, over a 50-year period. The total Federal program would be limited to $75,000,000 in any one fiscal year.

Recent events both at home and around the world dictate that we develop alternate energy sources. The fall of the Shah's government in Iran, the near catastrophic accident at Three Mile Island, and the escalating cost of OPEC oil have drastically impacted our Nation's energy production and threatens to send this country into a major recession. We must take steps to reduce our dependence on foreign oil and our future total dependence on fossil fuels.

Senator HATFIELD and I feel the development of small scale hydroelectric power is the first step. Energy, today, is our Nation's No. 1 priority. The economic stability of this country depends on a reliable energy supply. Hydroelectric power is the cleanest source of electrical energy available today. It is essentially a product of solar energy.

The poor and middle-class American incomes stand to suffer the most from higher electricity costs. Hydropower is a source of energy which is immune to rising fuel costs, it is entirely renewable. It could be made a significant factor in maintaining constant future electricity costs for those low-income communities located near hydro sites. Excellent sites exist everywhere in the United States, from Alaska to Florida and from Hawaii to Maine.

Escalating oil prices, the uncertain future of nuclear power as well as increasing environmental pressure to regulate the coal industry, and nuclear and thermal power production point to small hydroelectric power development as the immediate step we must take.

Senator HATFIELD and I join with our cosponsors in urging our colleagues in the Congress to consider and support this important piece of legislation.●

● Mr. HATFIELD. Mr. President, I am pleased to join Senator GRAVEL in introducing legislation to promote development of small-scale hydroelectric dams through the country. We are joined by Senators MCGOVERN, RANDOLPH, BURDICK, BENTSEN, and COHEN.

Mr. President, the construction of so-called low-head dams for the purpose of generating electricity has considerable potential for making a significant contribution to our energy requirements. While the extent of the resource is unknown, and there are many unresolved questions about how to develop it, there is a consensus across the country that small-scale hydro is a clean energy resource that should be utilized. Small towns and industries in particular could benefit greatly.

The bill provides a continuing authority for the Corps of Engineers to construct, pursuant to an agreement with local interests, small-scale hydroelectric projects of not to exceed 23 megawatts in capacity and $15,000,000 in Federal costs. Continuing authority will enable the Chief of Engineers to proceed with feasible, environmentally sound projects without waiting for specific congressional authorization for each one. Since we have had only two omnibus authorization bills in the past decade, this provision is necessary to expedite valuable energy production.

The sponsoring local interests would take over the operation and maintenance of the project, once completed, and use the power revenues to repay the Federal Government cost, with interest, over the life of the project. Saddled with this requirement, local interests will be sure they have a feasible, economic project with a market for the power produced before approaching the corps.

Mr. President, I believe the program this bill authorizes can make a substantial contribution to our energy needs. It is flexible, responsive to local interests, and results in no cost to the Federal Government. I commend Senator GRAVEL for this legislation, and urge my colleagues to join us in moving it through the Senate and on to enactment.●

By Mr. SCHWEIKER:

S. 1642. A bill to amend title VII of the Public Health Service Act, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH PROFESSIONS TRAINING AMENDMENTS OF 1979

Mr. SCHWEIKER: Mr. President, today I am introducing a bill entitled the "Health Professions Training Amendments of 1979." This legislation was created in response to the rapidly increasing cost of obtaining a health professions education; a cost that is beginning to impose a serious financial burden on all but the most affluent families. The provisions of this bill seek to expand student eligibility, modify interest subsidies and extend the repayment periods for federally funded or insured loans for health professions students.

The cost of training for a career in the health professions is escalating rapidly due to increasing tuition levels—a problem soon to be aggravated by the phaseout of capitation grants to the schools—increases in other educational fees, and inflation in the cost of living. During the academic year just completed (1978–79) there were 126,000 students enrolled in the seven categories of health professions schools.

The cost of tuition alone for these students was $387.8 million and their total costs exceeded $800 million. The Federal, State, and private programs that provide the vast majority of financial aid, through loans and scholarships, to health professions students made approximately $250 million available in 1978–79.

As student costs climb rapidly, the funds provided by some of these sources have declined; for example, student loans from the health professions student loan program have fallen from $36 million in 1974 to $18 million in 1978–79. It is obvious that the amount of educational and living expenses that students must provide from personal and family sources is increasing. This occurs at a time when commercial, nonfederally subsidized loans carry progressively higher interest rates. In addition, lenders for the most part are disinterested in making student loans without Federal guarantees or very high interest rates.

The current Federal policy for health professions student assistance centers on two mechanisms: First, scholarships such as the National Health Service Corps or the Armed Forces program both of which require Federal service in return for student aid; and second, the new Health Education Assistance Loan program (HEAL) with high interest rates that must either be paid during school and postgraduate training, or accrue and compound resulting in an enormous financial burden to be repaid during the early years when a newly trained professional is attempting to establish a career and a family.

At least two negative outcomes can be predicted as a result of increased educational costs and these current trends in financial assistance. First, many capable students from diverse socioeconomic, racial and ethnic backgrounds will be dissuaded from pursuing health careers. This will occur at a time when our health care system needs increased participation by minority groups, women and financially disadvantaged persons. A second problem is the potential for medical and dental students, who incur large debts for their college and professional education, to select practice and specialty locations that offer high financial rewards, regardless of the need for more manpower in these areas. This will clearly be detrimental to our efforts to increase the number of primary care providers and redistribute providers to rural and inner-city shortage areas.

I believe that our legislative goals for health manpower in the 1980's should include a student assistant program that ensures: First, equal access to health careers for qualified students of diverse backgrounds; second, the provision of financial aid at reasonable interest rates for all health professions students; and third, that our objective of balanced speciality and geographical distribution of health providers will not be undermined by financial considerations.

I urge my colleagues to look carefully at the legislation I am introducing today, as a first step in meeting these goals. The Health and Scientific Research Subcommittee will be considering the reauthorization of the Health Manpower Act later this year, and at that time I will have further recommendations concerning the other types of Federal financial assistance for health manpower training. The Health Professions Training Amendments of 1979, will be a first step in restructuring the federally insured loans programs which will play an ever-increasing role in the financing of health professions education.

The Schweiker Health Professions Training Amendments of 1979 would:

First. Eliminate the provision that prohibits students with HEAL loans from obtaining other Federal student loans (HPSL, GSLP, et cetera).

Second. Establish a Federal interest subsidy for HEAL loans so that interest does not accrue on the amount of the loan until the student has finished his or her residency training (7 year limit).

Third. Permit each school to set criteria for awarding the campus-based Health Professions Student Loans (eliminating the strict DHEW financial need criteria); and reauthorize this program through 1983.

Fourth. Extend the HPSL repayment period from 10 to 15 years and permit the Secretary of HEW to authorize loan forgiveness for service in health care fields determined to lack adequate health manpower, as well as shortage areas.

Fifth. Reauthorize the Exceptional Financial Need Scholarship Program through 1983.

By Mr. DURENBERGER:

S. 1643. A bill to amend title II of the Social Security Act to provide better work incentives in the disability insurance program, and for other purposes; to the Committee on Finance.

AN ALTERNATIVE FOR LONG-TERM DISABLED PERSONS

Mr. DURENBERGER. Mr. President, throughout the history of our country Congress has designed a multitude of social service programs to care for people who need assistance. In our efforts to provide for the financial needs of our citizens, however, we have too often ignored their need for self-respect. One of the most glaring examples of the shortcomings of our assistance programs is our aid to severely disabled persons.

I am introducing a bill today to correct this serious drawback in our assistance to the disabled person. This bill will remove the provisions under social security law that discourage the severely disabled person from seeking employment. The bill will also make it possible for both the public and private sectors to develop and implement innovative programs to help engage in meaningful, long-term employment.

Experts in the field of rehabilitation know the value of employment for the disabled person. They also know the difficult problems that exist for the disabled person who seeks a job and, in so doing, jeopardizes the necessary health and financial benefits he or she receives under the various public and private programs.

Widely recognized and most important is the fact that social security programs, which provide monthly payments and medical protection, include highly restrictive provisions that discourage and often prevent people from attempting gainful work. Examples of these inhibitive provisions are:

The low earning level constituting substantial gainful activity;

Two consecutive years of receiving social security disability benefits required for medicare eligibility;

One trial work period lasting 9 months, and applicable once in a person's lifetime; and

Reentitlement to financial and medical benefits necessitates a second waiting period, similar to the initial entitlement to benefits.

We can and must do more for people who are disabled. We must change the restrictive provisions and promote improvements in the law to encourage employers to provide employment alternatives to severely disabled persons. These programs can be successful ventures for both the employer and employee, as one example demonstrates.

In January 1978, Control Data Corporation, headquartered in Minneapolis, developed Project "Homework." Homework is a homebound employment program made possible through Control Data's computer-based education system called Plato. Through "Homework," a select group of Control Data's permanently and totally disabled employees have reentered the world of work.

Due to the encouraging results of the Homework experiment within Control Data, other major corporations within the United States have expressed an interest in having Control Data help them establish a Homework program for their company's disabled employees.

The most significant obstacle Homework has encountered since its inception is the disincentives currently contained in the Social Security regulations and law. Even though each Homeworker has been declared permanently and totally disabled by social security, the mere fact that each person attempts to work potentially leads to a discontinuation of all financial and medicare benefits.

Mr. President, my bill contains a number of provisions designed to encourage beneficiaries to attempt to return to work and leave the disability rolls. These provisions:

Authorize the Social Security Commissioner to develop and carry out demonstration projects designed to encourage work activity by disabled beneficiaries;

Provide that extraordinary expenses needed to permit a severely disabled person to return to work would not be counted as a part of the amount of earnings (current substantial gainful activity (SGA) level is $280 per month) that cause the person to lose benefits;

Extend the present 9-month trial work period to 24 months. In the last 12 months of the 24-month period, the individual would not receive benefits if he or she earned over the SGA amount, but would retain his or her eligibility for benefits if he or she finds he must return to the disability rolls;

Allow disabled widows and widowers to have the benefit of the trial work period;

Extend Medicare coverage for an additional 36 months to beneficiaries who have gone back to work but have been suspended or terminated from benefit status as a result of substantial earnings; and

Eliminate the second 24-month waiting period for Medicare which a beneficiary presently must undergo if he or she tries to return to work but then finds he or she must return to the disability rolls.

Mr. President, Congress must pass this legislation and give special consideration for research and demonstration authority to the public and private sectors. This would be a positive step toward saving taxpayers money in two respects:

It will produce general tax revenue from earnings realized by disabled persons.

It will reduce the payout of benefits made by social security.

Even more important, making it possible for disabled people to work means increased self-esteem, greater independence and a feeling of self-worth for disabled people.

Mr. President, I am emphasizing in my bill the need for a variety of experiments and demonstration projects conducted throughout the country to provide sufficient evidence for Congress to translate into permanent legislation at a later date the best lessons of these experiments.

I ask unanimous consent that a section-by-section analysis of the bill, a description of Homework and the bill be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the Disability Insurance Amendments of 1979".

TABLE OF CONTENTS

Sec. 1—Short Title.
Sec. 2—Work Incentive—SGA Demonstration Project
Sec. 3—Extraordinary Work Expenses Due to Severe Disability
Sec. 4—Provision of Trial Work Period for Disabled Widows and Widowers, Extension of Entitlement for Disability Insurance and Related Benefits
Sec. 5—Elimination of Requirement that Months in Medicare Waiting Period be Consecutive

WORK INCENTIVE—SGA DEMONSTRATION PROJECT

SEC. 2(a) The Commissioner of Social Security shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries.

(b) The experiments and demonstration projects developed under subsection (a) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any prospective system either locally or nationally.

(c) In the case of any experiment or demonstration project under subsection (a), the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner of Social Security to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

(d) The Commissioner of Social Security shall submit to the Congress no later than January 1, 1983, a final report on the experiments and demonstration projects carried out under this section together with any related data and materials which he may consider appropriate.

(e) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j) Expenditures made for experiments and demonstration projects under section 2 of the Disability Insurance Amendments of 1979 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.".

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

SEC. 3. Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to the individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions."

PROVISION OF TRIAL WORK PERIOD FOR DISABLED WIDOWS AND WIDOWERS; EXTENSION OF ENTITLEMENT TO DISABILITY INSURANCE AND RELATED BENEFITS

SEC. 4(a)(1). Section 222(c)(1) of the Social Security Act is amended by striking out "section 223 or 202(d)" and inserting in lieu thereof "section 223, 202(d), 202(e), or 202(f)".

(2) Section 222(c)(3) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof ", or, in the case of an individual entitled to widow's or widower's insurance benefits under section 202(e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.".

(3) The amendments made by this subsection shall apply with respect to individuals whose disability has not been determined to have ceased prior to the date of the enactment of this Act.

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof "or, if later (and subject to subsection (e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A).".

(B) Section 202(d)(1)(G) of such Act is amended—

(i) by redesignating clauses (i) and (ii) as clauses (I) and (II), respectively.

(ii) by inserting "the later of (i)" immediately before "the third month", and

(iii) by striking out "or (if later)" and inserting in lieu thereof the following: "or, if later, and subject to section 223(e), the fifteenth month following the end of such individual's trial work period dertemined by application of section 222(c)(4)(A)), or (ii)".

(C) Section 202(e)(1) of such Act is amended by striking out the period at the end and inserting in lieu thereof the following: "or, if later (and subject to section 223(e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(v)(4)(A).".

(D) Section 202(f)(1) of such Act is amended by striking out the period at the end and inserting in lieu thereof the following: "or, if later (and subject to section 223(e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(c)(4)(A).".

(2) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

"(e) No benefit shall be payable under subsection (d), (e), or (f) of section 202 or under subsection (a)(1) to an individual for any month after the third month in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).".

(3) Section 226(b) of such Act is amended—

(A) by striking out "ending with the month" in the matter following paragraph (2) and inserting in lieu thereof "ending (subject to the last sentence of this subsection) with the month" and

(B) by adding at the end thereof the following new sentence: "For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, but not in excess of 24 such months.".

(4) The amendments made by this subsection shall apply with respect to individuals whose disability or blindness (whichever may be applicable) has not been determined to have ceased prior to the date of the enactment of this Act.

ELIMINATION OF REQUIREMENT THAT MONTHS IN MEDICARE WAITING PERIOD BE CONSECUTIVE

SEC. 5. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out "consecutive" in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out "consecutive" in the matter following paragraph (2).

(2) Section 1811 of such Act is amended by striking out "consecutive".

(3) Section 1837(g)(1) of such Act is amended by striking out "consecutive".

(4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out "consecutive" each place it appears.

(b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

"(1) more than 60 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

"(2) more than 84 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period.".

(c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for months after the month in which this Act is enacted.

SECTION-BY-SECTION ANALYSIS OF THE BILL

WORK INCENTIVE-SUBSTANTIAL GAINFUL ACTIVITY DEMONSTRATION PROJECT

Section 2(a) of the bill directs the Commissioner of Social Security to develop and carry out experiments and demonstration projects to determine the relative advantages and disadvantages of alternative methods of treating work activity of social security disability beneficiaries including a reduction in benefits based on earnings, with the objective of encouraging disabled beneficiaries to return to work.

Section 2(b) provides that these projects be of sufficient scope to permit a thorough evaluation of the alternative methods under consideration without committing the disability insurance program to the adoption of any prospective system under consideration.

Section 2(c) provides that the Secretary may waive compliance with the benefit requirements of titles II and XVIII to the extent necessary to effectively carry out such projects; however, no such experiment or project can be implemented until 90 days after notification by the Commissioner of Social Security to the House Committee on Ways and Means and the Senate Committee on Finance. Periodic reports on the progress of such experiments or demonstration projects, including recommendations for changes in law or administration, shall be submitted to the committees.

Section 2(d) specifies that the Commissioner of Social Security shall submit to the Congress, no later than January 1, 1983, a final report on the experiments and demonstration projects, including appropriate related data and materials.

Section 2(e) adds to section 201 of the Social Security Act a new subsection (j) to provide that expenditures made for experiments and demonstration projects will be made from the Federal disability insurance and Federal old-age and survivors trust funds.

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

Section 3 of the bill amends section 223(d)(4) of the Social Security Act to provide that, where an individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, an amount equal to the cost to him of necessary attendant care services (not including routine drugs and routines medical care and services unless such drugs are necessary for the control of the disabling condition), whether or not such assistance is also needed for his normal daily functions, shall be excluded from his earnings in determining whether he is able to engage in substantial gainful activity by reason of his earnings.

PROVISION OF TRIAL WORK PERIOD FOR DISABLED WIDOWS; EXTENSION OF ENTITLEMENT TO DISABILITY INSURANCE BENEFITS AND RELATED BENEFITS

Section 4 in effect extends the present 9-month trial work period to 24 months. In the last 12 months of the 24-month period, the individual would not receive cash benefits unless he finds he must return to the disability rolls. The present 9-month trial work period is insufficient as an incentive for disabled people to return to work, and wants this situation corrected. This change would preclude people who work for some time and then, because of their impairment, must stop work, from having to refile an application and having to go through the lengthy disability determination process again.

Section 4 of the bill also extends medicare coverage for an additional 36 months over existing law to disabled beneficiaries who, though not medically recovered, have returned to substantial gainful work. Under present law, people who may be able to work despite their impairment often do not try to work because of the fear of losing their monthly cash benefits and medicare coverage. They are particularly concerned they will be unable to get any public or private medical care or coverage. Thus, this provision removes the potential loss of medicare coverage as a deterrent to work effort for this substantial period.

Section 4(a) of the bill amends sections 222(c) (1) and (3) of the act to provide a trial work period to disabled widows and widowers in the same manner as provided for disabled workers. These amendments shall apply to those whose disability has not ceased prior to enactment.

Section 4(b)(1) of the bill amends sections 223(a)(1), 202(d)(1)(G), 202(e)(1), and 202(f)(1) of the Social Security Act to extend an individual's status as a disabled individual for 15 months after the completion of a 9-month trial work period, as long as he has not medically recovered Subsection (b)(2) adds a new subsection (e) to section 223 to provide that no benefits would be payable during the last 12 months of this period as long as the individual is engaging in substantial gainful activity. The effect of this amendment will be to allow an individual to return to benefit status without going through the process of reestablishing the fact that he is disabled. Subsection (b)(3) extends medicare coverage for beneficiaries who have completed a period of trial work, but who have not medically recovered, through the benefit suspension period provided in subsections (b)(1) and (b)(2) and for 24 months afterward, or if earlier, until the person medically recovers. Subsection (b)(4) provides that these amendments apply to those individuals whose disability has not been determined to have ceased prior to enactment.

ELIMINATION OF REQUIREMENT THAT MONTHS IN MEDICARE WAITING PERIOD BE CONSECUTIVE

Section 5 of the bill eliminates the requirement that a person who becomes disabled again must serve another 24-month waiting period before medicare coverage is available to him. This amendment would apply to workers becoming disabled again within 60 months, and to disabled widow(er)s and adults disabled since childhood becoming disabled again within 84 months. This would remove the present-law requirement that frequently discourages a disabled beneficiary from returning to productive employment. Also, where a disabled person was initially on the cash benefit rolls but not for 24 months and did not receive medicare coverage, the time spent in cash benefit status would count for purposes of receiving medicare coverage if a subsequent disability occurred within a certain period of time.

Section 5(a) amends section 226(b), 1811, and 1837(g)(1) of the Social Security Act, and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 by striking out the word "consecutive" wherever it appears, thereby modifying the medicare 24-month waiting period requirement so that these months need not be consecutive.

Section 5(b) further amends section 226 by adding a new subsection which provides that, for an individual who is reentitled to the same type of monthly disability benefits, the 24-month waiting period may not include any month in a previous period of disability, if (1) the individual is reentitled as a disabled worker and the previous period of disability terminated more than 60 months before reentitlement; or (2) the individual is reentitled as an adult disabled since childhood, or as a disabled widow or widower, and the previous period of disability terminated more than 84 months before reentitlement.

Section 5(c) provides that these amendments apply to medicare protection for months after the month of enactment.

"HOMEWORK" AN ALTERNATIVE FOR LONG TERM DISABLED PERSONS

WHAT IS HOMEWORK

Homework is a program which uses the Control Data PLATO Computer-Based Education System to both train and provide work for long-term disabled employees.

The Control Data PLATO system makes it possible for disabled employees to learn to use and program the system at home. Some Homework participants have learned to develop courseware on the PLATO system using Control Data's Create cirriculum. Others have been trained as business applications programmers using the Computer Programming and Operations curriculum.

Plato terminals and telephone connections can be conveniently installed in the home. The keyboards of the PLATO terminals can be modified to accommodate most disabled workers.

The workload of each employee is determined by the individual and his or her physician. Consultants are available on the Plato system to assist the Homeworkers.

Homework participants are being trained to return to competitive employment as educational courseware designers, developers or evaluators, and as computer programmers (since these jobs can be done from the home). Additional employment opportunities for Homework are constantly being explored.

Homework reestablishes contact and communication between a company and its employees. It provides opportunities for each employee to use skills and experience previously acquired, as well as learn new skills.

Both employers and employees profit from Homework . . . Employees return to work and employers benefit from their productivity.

A SOLUTION TO A MAJOR SOCIAL AND ECONOMIC PROBLEM

Fact: There are currently more than two million Americans who are classified as being homebound. These people are multi-handicapped, have limited mobility, are economically and socially dependent, have experienced prolonged periods of unemployment, and report that monotony and boredom are among the most painful results of being homebound.

Fact: At one time, many of these disabled homebound people were productive and loyal employees proudly representing a company. They are now listed on corporate ledgers as employees on a long-term medical leave of absence.

Fact: It costs the taxpayers in the United States over $750 million per month to maintain 2.8 million disabled workers on Social Security Disability Insurance. This figure does not include private insurance or corporate benefits. Dependent coverage and Medicare are also an additional expense under Social Security.

HOMEWORK HELPS DISABLED PERSONS

In a seven year study on homebound employment programs sponsored by the Federation of the Handicapped and financed by HEW, several interesting findings were made. The most evident advance made by homebound persons was in relation to income. Other substantial gains observed were:

Improvement in family relations.

Higher levels of self-care.

Enhanced intellectual and cognitive functioning.

Heightened self-awareness and self-regard.

Greater involvement in community, home and leisure activities.

The program goes beyond training employees to develop courseware and programs. It has established a Plato system community and peer support group, comprised of Homeworkers nationwide.

Most importantly, Homework can give long-term disabled employees a chance to be productive once again. All want and deserve to be contributing members of society . . . and Homework makes this possible.

LEARNING FROM THOSE INVOLVED

"I think Homework is a tremendous program. I do not care if it was established to save the corporation money eventually, it is still a great program. Control Data has given my patient something I never could—a new interest in life and a new meaning. She is gloriously happy that there is a possibility to make her own way in the world again, and be independent of Government and insurance company handouts."

Statement received from a Homework participant's physician:

"Homework can bring the Plato terminal into the home and provide education, training and employment, as well as a means of communication for the disabled person. It is truly a network of disabled persons with various disabilities, learning different skills at different rates, but sharing the learning experience."

From a speech on Technology and the Handicapped presented by William C. Norris, Chairman of the Board, Control Data Corporation.

By Mr. STEVENSON:

S. 1644. A bill to declare a national weather modification policy, to establish a national program of research and development in weather modification, to provide for the promulgation of regulations related to weather modification, and for other purposes; to the Committee on Commerce, Science, and Transportation.

WEATHER MODIFICATION MANAGMENT ACT OF 1979

● Mr. STEVENSON. Mr. President, I introduce today the Weather Modification Management Act of 1979. This legislation will provide for Federal management of a 20-year coordinated program in weather modification within the Department of Commerce.

Most people take for granted the normal fluctuations in our weather. However, weather can also take the form of drought, flood, fog, hail, lightning, and severe storms such as hurricanes and tornadoes. Their devastating effects are well know. For example:

Hail causes an estimated $850 million average annual loss to U.S. crops and other property, with Illinois leading the Nation with annual losses of $315 million.

Drought conditions remained severe during 1977 in the eastern Great Plains, the northern Corn Belt, the Pacific Coast, and intermountain regions. Drought-related losses in California alone were estimated at $1.8 million, and trees valued at $30 million died in California and Alaska forests.

Fog causes air carriers to lose an estimated $80 million annually from flight delays, and highway accidents associated with fog annually cost hundreds of lives and over $300 million in damage.

More than 750 tornadoes were reported in the United States during 1978, killing 62 people and leaving thousands homeless.

Hurricanes and tropical storms take nearly 200 lives per year, and annual damage has been as high as $2.1 billion.

Weather modification has the potential to reduce or prevent these impacts on society. Emerging technologies that would enhance rainfall, increase snowpack, suppress hail and severe storms, and disperse fog may be able to provide society with substantial benefits.

In fact, the ability to dissipate cold fogs and locally increase rain and snow under certain conditions now exists. We could develop other technologies, but this requires research. Numerous studies have concluded that the past Federal effort in weather modification has been undirected, fragmented, and lean, sacrificing the potential of substantial societal benefits.

The Congress recognized these deficiencies more than 2 years ago when it passed the National Weather Modification Policy Act of 1976, Public Law 94-490. The act directed the Secretary of Commerce to develop a comprehensive and coordinated national policy on weather modification and a national program of weather modification research and development. The Secretary appointed a Weather Modification Advisory Board to help formulate the policy and program, and their recommendations were submitted last June. While we are still waiting for the Secretary's final report, I believe that the Advisory Board has done a commendable job and has provided the Congress and the public with a useful framework for a national program.

Many of the ideas embodied in the Weather Modification Management Act are from the Advisory Board's recommendations, including:

First, the Federal management structure for a national program in weather modification;

Second, the research and development effort within the program:

Third, the regulation of weather modification activities; and

Fourth, the protection of the public and the environment.

We have also benefited from previous reports by the National Academy of Sciences, the National Advisory Committee on Oceans and Atmosphere, the General Accounting Office, the Domestic Council, and the Congressional Research Service.

A key goal of this legislation is to provide better coordination and support of Federal weather modification activities. While several agencies are presently conducting useful weather modification research, their uncoordinated activities have slowed the development of usable knowledge. The first step, then, is to consolidate existing efforts into one national program under a single agency, the Department of Commerce. The program will use existing Federal resources, as well as the knowledge and experience of State agencies, private contractors, professional societies, and universities.

A Director of the national weather modification management program will supervise and coordinate the research and regulatory functions of the program. An Advisory Council will lend its expertise to the Director and the Secretary of Commerce to help in implementing the policies and provisions of the act. The Council will consist of recognized experts from the various disciplines related to weather modification.

The present regulations concerning weather modification are a patchwork with no uniformity among the State laws. Because weather does not respect political boundaries, we need to establish some base regulations for licensing those who want to modify the weather. First, this legislation provides for developing a licensing system for weather modification operators that is similar to the one examining the qualifications of airplane pilots. The licensing system will promote uniformity without being burdensom and will allow States to enact stricter regulations. In addition to the licensing system, a set of operating practices will also be developed, and this will serve as standards for all Federal weather modification activities and as guidelines for the non-Federal activities. Finally, existing reporting rquirements of weather modification activities will be strengthened.

A national program must maintain adequate protection to the public and the environment, and an informed society is a fundamental aspect of this protection. This bill requires that State and local governments and other affected groups be consulted before any program activity is begun. Together with the operating practices and the licensing and reporting requirements, the consultation provision will help to insure that weather modification activities are conducted safely and with adequate consideration of the economic, environmental, and legal impacts of such efforts.

To insure prompt consideration of a long-needed national effort in weather modification, I plan hearings in the fall on this bill and S. 829, the Weather Resources Management Act of 1979, introduced by Senator Bellmon. At that time we will examine the various approaches proposed in the bills.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1644

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Weather Modification Management Act of 1979".

FINDINGS

Sec. 2. The Congress finds that—

(1) the atmosphere belongs to no single person, interest or nation;

(2) weather produces both beneficial and harmful consequences for individuals and society;

(3) the management of weather resources may soon be technically possible and benefits may be realized from the prudent use of emerging technologies in weather modification;

(4) long-term, systematic research is required to realize the benefits of weather modification and to understand the impacts from unintentional weather modification;

(5) a parallel effort is needed to understand the economic, environmental, legal, and societal effects of weather modification;

(6) research competence and operational experience in weather modification is found in universities, private contractors, user groups, and State and local governments, as well as in the Federal Government;

(7) the United States lacks a well-defined and coordinated program in weather modification, and a lack of Federal leadership has slowed the development of science and technology in this field; and

(8) because of the potential wide-spread impact from weather modification activities and the non-uniformity of State laws regulating such activities, the Federal Government should establish a basic framework for regulating and reporting certain aspects of weather modification activities.

POLICY

Sec. 3. The Congress declares that it is the policy of the United States that—

(1) the United States should develop the capabiliy to manage weather resources;

(2) the development of this capability should occur under the direction of the Federal Government:

(3) the capability in weather modification should be designed to provide the maximum benefits with minimum adverse economic, environmental, and societal effects;

(4) the resources of non-Federal entities should be utilized in developing a weather modification capability;

(5) the Federal Government has responsibility for advancing knowledge of weather modification in the United States, but its regulatory activities should be limited to those essential to the national interest; and

(6) international cooperation in weather modification should be encouraged.

PURPOSE

Sec. 4. The purpose of this Act is to establish and provide for Federal management of a 20-year coordinated research program in weather modification within the Department of Commerce, that includes—

(1) research and experiments to develop weather modification technologies;

(2) licensing weather modification operations;

(3) reporting weather modification activities;

(4) promotion of technology transfer and uniform operating standards with States and private contractors; and

(5) protection of the public and the environment.

DEFINITIONS

Sec. 5. As used in this Act, the term—

(1) "Council" means the Weather Modification Advisory Council as established in section 7;

(2) "Director" means the Director of the National Weather Modification Management Program, appointed pursuant to section 6;

(3) "Program" means the National Weather Modification Management Program, as established in section 6;

(4) "Secretary" means the Secretary of Commerce;

(5) "State" means any State of the United States, the District of Columbia, or any Commonwealh, territory, or possession of the United States;

(6) "weather modification" means any artifically-produced change in the composition, behavior, or dynamics of the atmosphere, when such change is produced with the intent to alter the weather; and

POLICY

(7) "weather modification activity" means the use of any device, chemical, or other substance for the purpose of deliberately producing weather modification.

NATIONAL WEATHER MODIFICATION MANAGEMENT PROGRAM

Sec. 6. (a) Establishment.—There is hereby established, within the Department of Commerce, a National Weather Modification Management Program with the purposes of understanding, developing, improving, and managing weather modification technologies in accordance with the provisions, policies, and purposes of this Act.

(b) Program Elements—The Program shall include, but not be limited to, the following elements—

(1) basic and applied research to understand the atmospheric processes related to weather modification;

(2) research on unintentional weather modification that results from society's use of land, water, and energy;

(3) experimental activities designed to test the findings of these research efforts and to demonstrate the feasibility of new operational methods;

(4) technical and financial assistance to universities, private contractors, user groups, and State and local governments, as provided in section 11;

(5) investigation of the economic environmental, legal, and societal effects from weather modification;

(6) operating practices that will serve as standards for all Federal weather modification activities and as guidelines for private and other non-Federal weather modification activities;

(7) a system for licensing all individuals having responsibility to design or perform any weather modification activity, as provided in section 8;

(8) a procedure for reporting all weather modification activities, as provided in section 9; and

(9) a 5-year plan for the management of weather modification activities by the Federal Government. Each 5-year plan shall identify—

(A) goals and priorities for the Program;

(B) Program activities and accomplishments needed to ensure that Program goals are met within the time frame established by the plan; and

(C) Federal funding necessary for the Program to achieve such goals.

Such a plan shall be submitted to the Congress not later than 1 year after the date of enactment of this Act, and shall be revised and extended annually.

(c) Director.—The Secretary shall appoint a Director of the National Weather Modification Management Program. The Director shall be an individual who possesses recognized management ability in government operations and research and development projects. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) Duties.—In addition to any other duty prescribed by law or assigned by the Secretary, the Director shall—

(1) be responsible for planning and implementing the Program;

(2) secure and direct the services of a qualified professional staff and such other assistance as necessary to carry out the provisions, policies, and purposes of this act;

(3) utilize the expertise of the Weather Modification Advisory Council, as established in section 7, universities, private contractors, State and local governments, and professional societies;

(4) consult and cooperate with those State and local governments and other interested groups which are likely to be affected by or which are likely to affect Program activities;

(5) promote the dissemination of research and experimental results and the adoption of uniform operating standards by the States;

(6) with the assistance of the Secretary of State, encourage cooperation with other countries to exchange information, participate in international activities and enter into agreements; and

(7) assist in the preparation of the biennial report, as required in section 10.

WEATHER MODIFICATION ADVISORY COUNCIL

Sec. 7.—

(a) Establishment.—The Secretary shall establish a Weather Modification Advisory Council.

(b) Duties.—The Council shall advise the Secretary and the Director with respect to—

(1) planning, development, and implementation of the National Weather Modification Management Program, including—

(A) formulating and conducting research and experimental activities;

(B) developing operating practices;

(C) establishing an operator licensing system; and

(D) establishing reporting requirements.

(2) Preparing the biennial report, as required in section 10; and

(3) such other matters as the Council determines to be of importance and related to the provisions, policies, and purposes of this act.

The Director shall make available to the Council such information, personnel, and administrative services and assistance as may be reasonably required to carry out its duties.

(c) Membership, terms, and powers—

(1) The Council shall consist of up to 15 members who shall be appointed by the Secretary. The Council members shall be individuals who are knowledgeable in the areas of atmospheric sciences, weather modification, social sciences, law, user needs, and other areas related to weather modification;

(2) No member of the Council shall be an employee of the Federal Government;

(3) Each member of the Council shall serve for a term of 3 years, except for those members initially appointed to the Council, up to 5 members shall be appointed for a term of 1 year, up to 5 for a term of 2 years, and up to 5 for a term of 3 years. Any individual appointed to fill a vacancy on the Council shall serve for the unexpired term of the member whom he is appointed to succeed;

(4) The Council shall select a member to serve as its Chairman and another member to serve as its Vice Chairman. The Vice Chairman shall perform the functions of the Chairman in his absence; and

(5) Each member of the Council shall receive compensation at the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, while actually engaged in the performance of his duties, and shall be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

LICENSES FOR WEATHER MODIFICATION OPERATORS

Sec. 8.—

(a) In General.—The Secretary shall issue licenses to qualified persons who propose to conduct a weather modification activity.

(b) Individuals Subject to Licensing.—Any individual who has or will have the primary supervisory responsibility for designing or performing any weather modification activity in the United States must apply for and have been issued a valid licenses before conducting such activity.

(c) License Requirements.—Not later than 90 days after the date of enactment of this Act, the Secretary shall—

(1) develop standards and procedures governing the application, issuance, renewal, denial, suspension, and revocation of such licenses; and

(2) establish and revise as necessary the qualifications which an applicant must demonstrate to the Secretary in order to be issued such a license. Such qualifications shall include, but not be limited to—

(A) educational background;

(B) technical knowledge; and

(C) practical experience.

Such standards and procedures shall not be unduly burdensome, and the Secretary shall make a determination on any license application within a reasonable time.

(d) Review.—Any person whose license application is denied or whose license is suspended or revoked by the Secretary shall be entitled to a hearing on the Secretary's action, in accordance with section 554 of title 5, United States Code.

(e) Stricter State Standards.—Any State has the authority to adopt licensing standards that are more stringent than those approved by the Secretary, but no State shall adopt licensing standards that are not in compliance with those approved by the Secretary.

(f) Jurisdiction.—Upon application by an individual or the Attorney General on behalf of the United States, the district courts of the United States shall have jurisdiction to enjoin any violations of the provisions of subsection (b).

(g) Penalty.—Any individual who knowingly and willfully violates subsection (b) shall upon conviction thereof be fined not more than $10,000. Each day of such a violation shall constitute a separate offense.

REPORTING OF WEATHER MODIFICATION ACTIVITIES

Sec. 9.—

(a) In General.—The Secretary shall maintain a record of weather modification activities that take place in the United States and shall publish annual summaries of such activities.

(b) Individuals Subject to Reporting.—Any individual who has the primary supervisory responsibility for designing or performing any weather modification activity in the United States must prepare and maintain daily reports on such activity and submit summary reports before, during, and after such activity to the Secretary.

(c) Reporting Requirements.—The Secretary shall prescribe, by rule, the specific information and format required in such reports. Each such report shall include, but not be limited to—

(1) the date of the weather modification activity and its time of initiation and conclusion;

(2) the location and description of such activity, the target area, and actual location of any weather modification;

(3) the type and amount of any equipment used in such weather modification activity; and

(4) the type and readings of any instrument used to measure the effect of such weather modification activity.

(d) Authority of Secretary.—The Secretary may require, by regulation, subpoena, or otherwise, that any person who conducts weather modification activities shall maintain and furnish records and other information related to such activities. The Secretary or his authorized representative may inspect the records, information, premises, and property of any person as may be necessary or appropriate in carrying out the provisions of this Act.

(e) Similar State Requirements.—The Secretary has the authority to accept reports filed by individuals to satisfy State requirements, if such reports satisfy the information requirements of subsection (c).

(f) Jurisdiction.—Upon application by an individual or the Attorney General on behalf of the United States, the district courts of the United States shall have jurisdiction to enjoin any violations of the provisions of this section.

(g) Penalty.—Any person who knowingly and willfully violates this section or any rule issued thereunder shall be fined not more than $10,000.

BIENNIAL REPORT

Sec. 10.—The Secretary shall prepare and submit to the President and the authorizing committees of the Congress, not later than January 30 of the year occurring 2 years after the date of enactment of this Act and thereafter every 2 years, a report on the activities conducted pursuant to this Act during the 2 previous fiscal years. Each report shall include—

(1) a summary of the achievements of the Program during the 2 previous fiscal years;

(2) an analysis of the progress made toward achieving the goals of the Program;

(3) a copy of the 5-year plan and any changes made in such plan;

(4) a summary of the budget for the Program, including past expenditures, present requests, and future projections;

(5) a listing of other weather modification programs in the United States that are not part of the Program;

(6) a description of actions which have been taken to improve Federal-State and U.S.-international cooperation in weather modification; and

(7) recommendations, including additional legislation, for improving the Federal weather modification management effort in order to carry out the provisions, policies, and purposes of this Act.

CONTRACT AND GRANT AUTHORITY

Sec. 11.—

(a) In General.—The Director may enter into contracts and make grants in order to carry out his responsibilities under this Act. Any such contract or grant may provide—

(1) to a State or local government, up to 50 percent; and

(2) to any other entity, up to 100 percent of the total annual cost of the project or activity involved.

(b) Eligibility and Procedure.—Any individual, corporation, public or private educational institution, or State or local government may apply to the Director for a contract or grant under this section. The Director shall prescribe the form, manner, and content of the application for and actual terms of any contract or grant.

(c) Terms and Conditions.—Any individual or entity who receives Federal fund from a contract entered into or grant made under this section shall keep such records as the Director shall prescribe by regulation, including—

(1) records which fully disclose the amount and disposition by such recipients of such funds;

(2) the total cost of the project or activity for which such funds were so made available;

(3) any amount of such costs supplied from other sources; and

(4) such other records as will facilitate an effective audit. Such recipient shall maintain such records for 5 years after the completion of such a project or activity. The Secretary, the Director, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and evaluation to any books, documents, papers, and records of such recipient which, in the opinion of the Secretary, Director, or Comptroller General, may be related or pertinent to such contract or grant.

ADMINISTRATIVE PROVISIONS

Sec. 12.—(a) Transfer of Activities.—Not later than 1 year after the date of enactment of this Act, there shall be transferred to the Secretary—

(1) responsibility and management of the weather modification activities in all Federal departments and agencies, except those of—

(A) the National Science Foundation, which shall retain control over the supervision and direction of basic Federal research related to weather modification; and

(B) the Department of Defense, which shall retain the option to conduct research and development activities for the purpose of avoiding technological surprise; and

(2) authority and ownership of all personnel, property, funds, and other assets of such agencies and entities, which are related to weather modification and which are necessary or useful, as determined by the Secretary, to carry out the provisions, policies, and purposes of this Act.

Such transfer to the Secretary shall be under the supervision and direction of the Director of the Office of Management and Budget.

(b) Other Administrative Powers—The Secretary may construct, lease, purchase, or otherwise acquire laboratories or other equipment in order to carry out the functions under the Program or his duties under this Act.

MISCELLANEOUS PROVISIONS

Sec. 13.—(a) Federal and State Authority.—As described in subsection 6(c), the Secretary shall consult and cooperate with State and local governments and other interested groups that—

(1) are likely to be affected by the Program activities. When the Secretary determines that a particular Program activity is necessary to achieve the goals of the Program, the Federal authority of the Secretary's decision shall supersede State and local authority, laws, and interests. Any affected State that objects to the Secretary's decision may seek to enjoin such Program activity in the district courts of the United States.

(2) are likely to affect Program activities by conducting their own weather modification activities. When the Secretary determines that a particular non-Federal activity will interfere with an activity of the Program or will conflict with a policy or purpose of this Act, the Secretary may seek to enjoin such non-Federal activity in the district courts of the United States.

(b) Federal Liability Claims Allowed.—The provisions of the following sections of the United States Code shall not apply to claims based on acts performed (or failure to act) in any of the Director's activities with respect to weather modification—

(1) section 2680(a) of title 28, to the extent that it provides an exception from the tort claims procedure for claims based on the exercise or performance (or failure to exercise or perform) a discretionary function or duty on the part of a Federal agency employee; and

(2) section 2675 of title 28, to the extent that it would otherwise prevent a class action under the tort claims procedure.

(c) Sunset Provision.—The Program shall cease to exist 20 years after the date of enactment of this Act, unless otherwise provided by law.

(d) Repeal of Previous Reporting Law.—The Act entitled "An Act to Provide for the Reporting of Weather Modification Activities to the Federal Government", approved December 18, 1971 (15 U.S.C. 330(e)), is repealed.

AUTHORIZATION OF APPROPRIATIONS

Sec. 14.—There are authorized to be appropriated to the Secretary, for the purpose of carrying out the provisions of this Act, not to exceed—

$30,000,000 for the fiscal year ending September 30, 1981;

$35,000,000 for the fiscal year ending September 30, 1982;

$40,000,000 for the fiscal year ending September 30, 1983;

$45,000,000 for the fiscal year ending September 30, 1984; and

$50,000,000 for the fiscal year ending September 30, 1985.

Such sums shall remain available until expended.●

By Mr. HAYAKAWA:

S. 1645. A bill to amend the Internal Revenue Code of 1954 to permit a credit for interest received on savings; to the Committee on Finance.

TAX CREDITS FOR INTEREST INCOME

● Mr. HAYAKAWA. Mr. President, today, I am introducing legislation to provide relief for low and middle income Americans and to encourage savings.

The Consumer Price Index has topped 13 percent and the citizens of this country are hurting. Lower income people in the United States (those earning under $20,000 a year) are particularly hard hit. Many of these people are retired on fixed incomes and depend on the interest income from their savings to augment meager pensions. Even if they can afford to invest in Certificates of Deposit or other instruments earning high interest, inflation wipes out any gain. However, many of these people, for a variety of reasons, have their money in conventional accounts earning little more than 5 percent. Though these people are losing money on their investments, the Government taxes them as if the accrued interest on their accounts amounted to a real dollar increase.

In 1976, the savings rate for all Americans amounted to between 6 and 8 percent of income according to the Bureau of Labor Statistics and the Organization for Economic Cooperation and Development. The Department of Commerce estimates that household savings averaged 5.23 percent between 1976 and 1978. This is in sharp contrast to Canada with a savings rate of 11 percent, Japan with 25 percent, Germany 15 percent, Italy with 23 percent, and the United Kingdom with 13 percent. I think it is apparent that something must be done to spur savings among Americans particularly among those who do not have the financial resources to take advantage of higher market interest rates.

Many proponents of the move to provide some form of relief to the small-scale investor maintain that it is nothing more than Federal interest rate ceilings which have prevented these savers from earning more and saving more. In a recent advertisement by Citibank, a New York newspaper read "There's only one thing keeping your savings from catching up with inflation. The law." These regulations have been in effect since 1966 and have sought to hold down interest rates in the home mortgage market. It is precisely these regulations which must be eliminated to provide an incentive for Americans to save more than they presently are.

The current 5.5 percent is not enough. However, removing ceilings on interest rates would only produce periodic increases in interest rates of ¼ or ½ percent. This is hardly enough to spur additional savings. The only long-term effect from such a move would be an increase in mortgage interest rates at a time when housing costs are skyrocketing. I feel that there must be an alternative approach taken to help the lower income-earning American who is trying to save.

Under my proposal, persons with an adjusted gross income of $20,000 or less would be eligible for up to a $2,500 tax credit on all of their taxable interest. As a person's adjusted gross income increased above $20,000 the credit would be reduced by 5 percent of the amount by which their AGI exceeded $20,000. However, the credit could not be reduced below $1,000. In addition, this credit is targeted toward those taxpayers who need it most and all dollar amounts would be indexed to prevent inflation from negating the intent of the bill. Since all taxable interest is eligible for the credit, none of the incentives within the system will be changed and there would be no disintermediation.

It is necessary for Congress to provide incentives to savers and it is incumbent on us to reduce taxation and thereby the burden of inflation. I think that my bill focuses attention in the proper direction and I would hope that my colleagues will join me in my efforts to provide this needed incentive.

I ask unanimous consent that this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Credit Allowed for Interest.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"Sec. 44D. Credit for Interest.

"(a) General Rule.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter the amount received by the individual during the taxable year as interest.

"(b) Limitations.—

"(1) Maximum credit.—The amount of the credit allowed by subsection (a) for a taxable year shall not exceed $2,500.

"(2) Phase-out as adjusted gross income increases.—The $2,500 amount set forth in paragraph (1) shall be reduced by 5 percent of the amount by which the adjusted gross income of the taxpayer exceeds $20,000

"(3) Minimum credit.—The amount of the maximum credit allowable under subsection (a) for the taxable year under paragraph (1) may not be reduced below $1,000 under paragraph (2).

"(4) Adjustment for inflation.—

"(A) Adjustment.—The dollar amounts set forth in paragraphs (1), (2), and (3) shall be adjusted on a calendar year basis beginning with calendar year 1981 by multiplying such amounts by the inflation adjustment factor for that calendar year.

"(B) Determination and publication.—The Secretary shall, not later than September 1 of each year, determine and publish in the Federal Register the inflation adjustment factor for such year in accordance with this paragraph. The publication shall include an explanation of the calculations and data upon which such determination was made.

"(C) Inflation adjustment factor.—The term 'inflation adjustment factor', means, with respect to a calendar year, a fraction the numerator of which is the GNP implicit price deflator for the calendar year immediately preceding such calendar year and the denominator of which is the GNP implicit price deflator for the Calendar year 1979. The term 'GNP implicit price deflator' means the implicit price deflator for the gross national product as computed and published by the Department of Commerce.

"(c) Joint Accounts.—The Secretary may prescribe regulations allocating interest credited to joint accounts, or other accounts under which more than one individual is entitled to receive all of the interest credited to the account, on the basis of the economic interests of the individuals who are entitled to receive such interest. Until the Secretary prescribes such regulations, the amount of interest received by each such individual under such an account shall be considered, for purposes of subsection (a), to be an amount which bears the same ratio to the total amount of interest credited to the account for taxable year as the sum of the amounts contributed by that individual during all taxable years to the account bears to the sum of the amounts contributed by all individuals to the account for the taxable year.

"(d) Carryover of Excess Credit.—If the amount of the credit allowed by subsection (a) for a taxable year (after the application of subsection (b)) exceeds the liability of the taxpayer for tax under section 1 of this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, the excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for the succeeding taxable year.

"(e) Definition of Interest.—For purposes of this section the term 'interest' means—

"(1) interest on deposits with persons carrying on the banking business,

"(2) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, or similar organization, in respect of deposits, investment certificates, or withdrawals or repurchaseable shares, and

"(3) interest on bonds or other obligations (other than interest excluded from gross income under section 103).".

(b) Technical and Conforming Amendments.—

(1) The table of sections for such subpart is amended by inserting immediately after the item relating to section 44C the following new item:

"Sec. 44D. Credit for interest.".

(2) Subsection (b) of section 609 (6) of such Code (relating to designation of income tax payments to Presidential election campaign fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to taxable years beginning after December 31, 1979.●

By Mr. INOUYE (for himself, Mr. Matsunaga, Mr. Hayakawa, Mr. Cranston, Mr. McClure, and Mr. Church):

S. 1647. A bill to establish a commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order 9066, and for other purposes; to the Committee on Governmental Affairs.

COMMISSION ON WARTIME RELOCATION AND INTERMENT OF CIVILIANS ACT

Mr. INOUYE. Mr. President, I am introducing legislation today on behalf of Senator Matsunaga, Senator Hayakawa, Senator Cranston, Senator McClure, Senator Church, and myself which would establish a Commission on Wartime Relocation and Internment of Civilians.

The purpose of the Commission would be to gather facts to determine whether a wrong was done to those American citizens and permanent resident aliens affected by Executive Order 9066 and/or other associated acts of the Federal Government. In addition, if the Commission determines that a wrong was done and if it decides that any remedy is appropriate at this time, it would then recommend the form and extent of such remedy.

On February 19, 1942, President Franklin Roosevelt issued Executive Order 9066. This order authorized the military commander to exclude any and all persons from areas that he considered militarily sensitive, as well as granting the military commander authority to house those evacuated.

Gen. John DeWitt of the Western Defense Command issued a public proclamation on March 2, 1942. Those affected by this order were compelled to leave the western half of California, Oregon, and Washington, as well as the southern half of Arizona. They were given a short period in which they could comply with the evacuation order voluntarily. Shortly after this, DeWitt announced that the eastern half of the west coast States would be evacuated as well, and that no further voluntary relocation would be allowed.

Simultaneously, the War Relocation Authority was formed to establish a program for the removal, relocation, maintenance, and supervision of those evacuated.

These American citizens and permanent resident aliens were first placed in temporary relocation centers located throughout Arizona, California, Oregon, and Washington. Finally, 10 mass relocation centers were erected in Arizona, Arkansas, California, Colorado, Idaho, Utah, and Wyoming. Similar centers were established in the territory of Hawaii. Approximately 120,000 American citizens and permanent resident aliens spent an average of 2½ to 3 years in these camps.

I expect that one question which the Commission may contend with is whether Executive Order 9066 and associated acts of the Government can be justified as measures that were necessary for the security of our Nation.

A second question the Commission might consider is whether relocation and internment were required to protect those affected against wartime hysteria.

A third question that may come to the attention of the Commission is whether the loss and pain (if any), experienced by those affected merits remedy at this time.

I believe that a Presidential Commission should reckon fully with this matter.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Commission on Wartime Relocation and Internment of Civilians Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) approximately 120,000 civilians were relocated and detained in internment camps pursuant to Executive Order 9066, dated February 19, 1942, and other associated acts of the Federal Government; and

(2) no inquiry into this matter has been made.

(b) It is the purpose of this Act to establish a factfinding commission to determine whether a wrong was committed against those American citizens and permanent resident aliens relocated and/or interned as a result of Executive Order 9066 and other associated acts of the Federal Government, and to recommend appropriate remedies.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) There is established the Commission on Wartime Relocation and Internment of Civilians (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of fifteen members, who shall be appointed as follows:

(1) Eleven members shall be appointed by the President.

(2) Two Members of the House of Representatives shall be appointed by the Speaker of the House of Representatives.

(3) Two Members of the Senate shall be appointed by the President pro tempore of the Senate.

(c) The term of office for members shall be for the life of the Commission. A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(d) The first meeting of the Commission shall be called by the President within sixty days following the date of enactment of this Act.

(e) Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) The Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the Commission.

(g) Each member of the Commission who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day he or she is engaged in the actual performance of his or her duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

DUTIES OF THE COMMISSION

SEC. 4. (a) It shall be the duty of the Commission to gather facts to determine whether a wrong was committed against those American citizens and permanent resident aliens who were subjected to relocation and/or internment by the issuance of Executive Order 9600 and other associated acts of the Federal Government.

(b) The Commission shall hold public hearings in Los Angeles, San Francisco, and Fresno, California; Portland, Oregon; Seattle, Washington; Phoenix, Arizona; Salt Lake City, Utah; Denver, Colorado; Chicago, Illinois; New York, New York, Washington, D.C.; and any other city that the Commission deems necessary and proper.

(c) The Commission shall submit a written record of its findings and recommendations to Congress not later than eighteen months after the date of the enactment of this Act.

POWERS OF THE COMMISSION

SEC. 5. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable.

(b) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

ADMINISTRATIVE PROVISIONS

SEC. 6. The Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(3) enter into agreements with the General Services Administration for procure-

ment of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of General Services;

(4) procure supplies, services, and property, and make contracts, without regard to the laws and procedures applicable to Federal agencies; and

(5) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

REPORT AND TERMINATION

SEC. 7. (a) The Commissioner shall, within eighteen months from the date of enactment of this Act, transmit a final report to the President and the Congress concerning its actions and its findings and recommendations.

(b) The Commission shall cease to exist on the date six months from the date it transmits the final report unless extended by a subsequent Act of Congress.

AUTHORIZATION OF APPROPRIATIONS

SEC 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. MATSUNAGA. Mr. President, I am happy to join the senior senator from Hawaii, Mr. INOUYE, in introducing today legislation which provides for the creation of a commission to study and report on the internment of more than 110,000 Americans of Japanese ancestry and their families during World War II.

Although historians and many Americans have long recognized the internment of the Japanese Americans as a black page in American history, the Federal Government itself has yet to acknowledge the wrong which was committed in complete disregard of due process of law.

The proposed legislation is not a "redress" bill. It merely provides for an objective, unbiased study, to be conducted by a commission of fair-minded Americans to determine whether or not redress is warranted. In the event that the proposed study commission determines that some form of compensation is owed to Japanese Americans who were interned during World War II, the Congress would still have an opportunity to review the Commission's findings and to establish the amount of compensation which should be paid, if any.

Mr. President, a Federal review of the internment, during World War II, of Japanese Americans under Executive Order 9066, is long overdue. Although many of the Issei—first generation Japanese Americans—have died since the end of the war, the mass imprisonment of innocent Japanese Americans, who were guilty of no crime, remains the single most dramatic and disturbing experience in the lives of many Nisei—second generation Americans of Japanese ancestry.

More importantly, their children, the Sansei, have started to ask questions about the internment of their parents and grandparents in American-style concentration camps, complete with barb-wire fences, watch towers and armed guards. Why did they not "protest" when the U.S. Government herded them into concentration camps? If the Government was wrong, why has not the wrong been admitted and laid to rest forever? Why do not our parents talk about what happened to them during World War II? Did they commit any crimes they are ashamed to talk about?

Mr. President, answers to these questions have never been provided by the Government which committed the act against the Japanese Americans, now being recognized as being a mistake, if not wrongful. The proposed study commission would be mandated to look into these questions and provide answers. Whether or not "redress" is ever provided, I believe that the findings of the proposed study Commission will be valuable in and of themselves. I therefore urge the Senate to give early, favorable consideration to the resolution which we have introduced today.

Mr. McCLURE. Mr. President, I congratulate my colleague from Hawaii on the statement he has just made and the initiative he has undertaken.

Mr. President, I cannot help but think of the perhaps coincidental events the comments by my colleague have brought to mind. In less than 3 weeks, in Idaho, we will be dedicating a memorial at the Minidoka Relocation Center, reminding the people of Idaho and, hopefully, of the Nation of the injustice that was done to some of the finest citizens of this country in the emotional aftermath of the beginning of World War II and the bombing of Pearl Harbor. The Minidoka Relocation Center was one of those centers in which Japanese citizens, as well as people of Japanese ancestry who were not citizens, were interned by our Government for a period of time. In spite of that injustice on the part of our country, on the part of some of our people toward some others of our people, the Japanese people remain loyal. They never lost their faith in this country. They remain among some of the best citizens that we have.

I commend my friend from Hawaii for this legislation and for the comments he has just made.

Mr. MATSUNAGA. Mr. President, I thank the Senator from Idaho for his most generous remarks. I appreciate his calling to the attention of the Senate the fact that the State of Idaho is putting up a memorial to the Japanese Americans who were interned at Minidoka.

Mr. HAYAKAWA. Mr. President, I am joining my colleagues from Hawaii, Senators INOUYE and MATSUNAGA, in the introduction of the Commission on Wartime Relocation and Internment of Civilians Act. This legislation will establish a Presidential commission to gather facts in order to determine whether any wrong was committed by our Government against those American citizens and permanent residents who were relocated during World War II as a result of Executive Order 9066.

Executive Order 9066 was issued in February of 1942 and permitted the Federal Government to relocate those Japanese-American citizens and residents living on our west coast. They were removed to relocation camps to insure that they could not aid our wartime enemy, Japan.

During recent months there has been a great deal of discussion about a proposal to provide reparations payments to those people who were interned in the relocation camps—a proposal which has generated a large amount of controversy. It has focused our attention again on a subject which has been sensitive to the people of the United States.

My colleagues and I are calling for the establishment of a fact-finding commission in order to carefully investigate the question of wrongdoing by the Federal Government, and to make recommendations on the possible need for remedies. Nearly 40 years have passed since Executive Order 9066 was issued and a thorough look at the facts is long overdue.

Our legislation calls for the appointment of a 15-member commission. Eleven members will be appointed by the President, and the President pro tempore of the Senate and the Speaker of the House will each appoint two members. The Commission will be given the duty to gather facts to determine whether a wrong was committed against those American citizens and resident aliens who were relocated and interned as a result of Executive Order 9066 and other associated acts of the Federal Government. A final report of the Commission's findings and recommendations will be transmitted to the President and the Congress within 18 months of the enactment of this legislation.

I urge my colleagues to join us in this effort and enact the Wartime Relocation and Internment of Civilians Act promptly.

By Mr. CANNON (for himself, Mr. PACKWOOD, and Mr. INOUYE):

S. 1648. A bill to provide for the improvement of the Nation's airport and airway system, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1649. A bill to provide for the modification of airport and airway user taxes, and for other purposes; to the Committee on Finance.

● Mr. CANNON. Mr. President, I am very pleased to introduce two bills on behalf of Senators PACKWOOD, INOUYE, and myself, which offer a dramatic new approach to airport development legislation. These bills represent the defederalization of large air carrier airports and a substantial savings on airline fares for consumers.

The Airport and Airway Development Act was originally passed in 1970 to establish an aviation trust fund. This legislation expires on June 30, 1980 and requires renewal of both the 5-year authorization for expenditures for airport/airway development and the authorization of tax levels for the next 10 years. By the end of fiscal year 1980 the trust fund will have an uncommitted surplus of $3.25 billion.

The concept embodied in these 2 bills is the elimination of large and medium hub airports (those which enplane more than 700,000 passengers annually) from the ADAP program, with a concomitant reduction of the airline ticket tax from 8 percent of each fare to 2 percent. That represents a real 6-percent reduction of airline fares throughout the United States.

The ticket tax reduction will provide the funds for the airlines to pay increased user fees directly to each large and medium hub airport. Such a local collection and expenditure of funds will eliminate the cost of the middleman (the Federal Government), reduce the redtape for airport development, and speed up the implementation of needed capital improvements. The large and medium hub airports are professionally staffed, self-sufficient revenue generators where ADAP does nothing but reduce the costs to the airlines. If we do not provide ADAP funds to these airports, but instead provide the airlines with the potential for increased revenues (by reducing the ticket tax), the local handling of funds can save substantially in Federal administrative costs and bureaucratic delays.

The negotiation process between airlines and airports will continue as a responsible balance to the airport proprietors development desires. And, of course, safety regulation of airports by the FAA will be continued without diminution.

Increased needs for smaller airports and other system programs (such as navigational aids and other safety related equipment) can be funded at higher-than-present levels with a combination of the proposal's reduced ticket tax and the existing trust fund surplus.

The basic philosophy of this legislation is that two sophisticated business operations which rely on each other for their mutual economic life do not need the Federal Government involved in their financial relationships. The large and medium hub airports at present receive a very small percentage of their total capital and operating budget needs from ADAP funds, but as a result of accepting any Federal funds they are burdened with a mountain of redtape, bureaucratic requirements, and Federal Government meddling.

The reason we are facing a more than $3 billion surplus in the aviation trust fund is that OMB's under Republican and Democratic administrations have consistently sought to keep the fund's revenues high and expenditures low. There is no indication that this incentive will change in the future, so if we want user fees collected for system development to be spent for system development I am convinced that we must shift some of that financial transaction from the Federal level to the local level.

My colleagues and I have introduced two bills, one of which amends the Airport and Airway Development Act and another which amends the Airport and Airway Revenue Act. The funding levels in the development bill represent fiscally prudent increases to meet the important safety needs of smaller airports and other system programs. The tax bill reduces the airline ticket tax to 2 percent as I have noted, and it changes the general aviation fuel tax from 7 cents per gallon to 6 percent of fuel sales.

This does not represent an immediate increase of the general aviation tax but does provide an inflator for the private users contribution as system costs increase in the future.

Another feature of the development bill is the opportunity for a State to receive a block grant of funds and administer the development program for the smallest airports (those with less than approximately 70 passengers daily). We have endeavored not to provide an incentive for a State to administer such a program, in fact, we require the State to invest its own funds. But we have provided the opportunity for those States which can do a better job than the Federal Government for their smallest airports to do so. This is an admittedly controversial feature of any airport development legislation and I am openminded as to its final form.

One of the most important new features contained in this proposal is the "super discretionary fund" concept. In the past we have tried to guarantee individual types of smaller airports funds on an annual basis. The result has been that a lot of airports were guaranteed a small amount of money. But what is really needed at a smaller airport is a substantial amount of money, occasionally, when the airport has a major development or rebuilding project.

We are, therefore, combining the general aviation airports, reliever airports, commuter airports, and small air carrier airports into one eligible category and providing a large discretionary fund that will permit FAA the flexibility to allocate moneys in order to meet the real needs of these airports. Five-year minimum guarantees are provided for the total funding that will go to reliever and air carrier airports.

These pieces of legislation represent our continuing commitment to defederalizing industries and public agencies which can better operate without a "helping hand" from Washington. This proposal also recognizes the needs of smaller airports which cannot meet their capital requirements without assistance. And finally we are returning to the passengers the $3 billion that has been collected but never used for airport and airway improvements.

This is both essential and philosophically attractive legislation that I hope the Committees on Commerce and Finance will be recommending to the full Senate in the near future. The Aviation Subcommittee will hold hearings on ADAP reauthorization September 10 through 13.

I ask unanimous consent that the bills be printed in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 1648

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Airport and Airway System Development Act of 1979".

DECLARATION OF POLICY

Sec. 2. The Congress hereby finds and declares—

That the safe operation of the airport and airway system will continue to be the highest aviation priority;

That continuing airport and airway improvement programs and more effective management and utilization of the Nation's airport and airway system are required to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense;

That this Act should be administered in a manner to provide adequate navigation aids and airport facilities, including reliever airports, for points where scheduled commercial air service is provided;

That aviation facilities that receive assistance under this Act should be constructed and operated with due regard to providing substantial relief from current and projected noise impacts on nearby communities;

That certain airports that have the ability to finance their capital and operating needs without Federal assistance should no longer receive Federal assistance under this Act; and

That the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of a single project application to cover all airport improvement projects contained in the airport's annual expenditure program.

DEFINITIONS

Sec. 3. As used in this title—

(1) "Air traffic hub" means all of the commercial service and reliever airports determined by the Secretary to be serving the same geographical area.

(2) "Airport" means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(3) "Airport development" means any of the following activities, if undertaken by the sponsor, owner or operator of a public-use airport:

(A) any work involved in constructing, reconstructing, or improving a public-use airport or portion thereof, including—

(i) the removal, lowering, relocation, and marking and lighting of airport hazards;

(ii) the construction of physical barriers and landscaping for the purpose of diminishing the effect of aircraft noise on any area adjacent to a public-use airport; and

(iii) the preparation of plans and specifications, including field investigations incidental thereto;

(B) the soundproofing of any school or hospital, or of any publicly owned health facility, operating as such at the time of the enactment of this Act, or, when specifically approved by the Secretary, operating as such subsequent thereto, and located in an area proximate to the airport in which the noise levels caused by the operation of a public-use airport are not compatible with the operations of such institutions;

(C) any acquisition or installation at or by a public-use airport of—

(i) navigation and other aids used by aircraft for landing at or taking off from such airport, including any necessary site preparation thereby required;

(ii) safety or security equipment required by the Secretary by rule or regulation for the safety or security of persons and property at such airport, or specifically approved by the Secretary as contributing significantly to the safety or security of persons and property at such airport;

(iii) snow removal equipment;

(iv) noise suppressing equipment for the purpose of diminishing the effect of aircraft noise on any area adjacent to such airport;

(v) noise monitoring equipment; or

(vi) aviation-related weather reporting equipment;

(D) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any airport development described in paragraph 3(A) or 3(C) of this section or to remove or mitigate or prevent or limit the establishment of airport hazards; and

(E) any acquisition of land or of any interest therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of a public-use airport.

(4) "Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public-use airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.

(5) "Airport planning" means planning as defined by such regulations as the Secretary shall prescribe, and includes airport system planning.

(6) "Airport system planning" means the initial as well as continuing development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable and balanced system of public-use airports. It includes identification of system needs, development of estimates of systemwide development costs, and the conduct of such studies, surveys, and other planning actions, including those related to airport access, as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met by a particular system of airports. It also includes the establishment by a State of standards, other than standards for safety of approaches, for airport development as public-use airports which are not primary airports.

(7) "Annual expenditure program" means a program for the utilization of funds pursuant to a consolidated improvement plan.

(8) "Block-grant" means a grant of funds to a participating State for distribution by such State for projects contained in its approved annual expenditure program.

(9) "Commercial service airport" means a public airport which is determined by the Secretary either to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft, or to enplane annually 10,000 or more passengers

(10) "Consolidated improvement plan" means a 3-year plan for development and planning projects at one or more airports.

(11) "Eligible airport" means an airport that is eligible to receive Federal assistance under the provisions of this Act.

(12) "Government aircraft" means aircraft owned and operated by the United States.

(13) "Landing area" means that area used or intended to be used for the landing, take-off, or surface maneuvering of aircraft.

(14) "Passengers enplaned" means domestic, territorial, and international revenue passenger enplanements in the United States in scheduled and nonscheduled service of aircraft in intrastate, interstate, and foreign commerce as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.

(15) "Participating State" means a State authorized by the Secretary to receive a block-grant from funds apportioned under section 8(b)(3) of this act.

(16) "Primary airport" means a commercial service airport which is determined by the Secretary to have enplaned .02 percent or more of the total number of passengers enplaned annually at all commercial service airports.

(17) "Primary hub" means an air traffic hub, the commercial service airports of which are determined by the Secretary to have enplaned .5 percent or more of the total number of passengers enplaned annually at all commercial service airports.

(18) "Project" means a project (or separate projects submitted together) for the accomplishment of airport development or airport planning, including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

(19) "Project costs" means any costs involved in accomplishing a project.

(20) "Project-grant" means a grant of funds by the Secretary to a sponsor for the accomplishment of one or more projects.

(21) "Public agency" means a State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or Guam or any agency of any of them; a municipality or other political subdivision; a tax-supported organization; or an Indian tribe or pueblo.

(22) "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned

(23) "Public-use airport" means any public airport or any privately owned reliever airport which is used or to be used for public purposes.

(24) "Reliever airport" means an airport designated by the Secretary as having the function of relieving congestion at a primary airport.

(25) "Secretary" means the Secretary of Transportation.

(26) "Sponsor" means any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary, in accordance with this Act, an application for financial assistance.

(27) "State" means a State of the United States or the District of Columbia.

(28) "Trust Fund" means the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970, as amended.

(29) "United States share" means that portion of the project costs of projects for airport development or airport planning approved pursuant to section 11 of this Act which is to be paid from funds made available for the purposes of this Act.

NATIONAL AIRPORT SYSTEM PLAN

SEC. 4. (a) FORMULATION OF PLAN.—The Secretary shall review and revise as necessary the existing national airport system plan to provide for the development of public-use airports in the United States. The plan shall include the type and estimated cost of eligible airport development considered by the Secretary to be necessary to provide a safe and efficient system of public-use airports to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national defense as determined by the Secretary of Defense, and to meet identified needs of the Postal Service. In reviewing and revising the plan, the Secretary shall consider the needs of all segments of civil aviation, and take into consideration, among other things, the relationship of each airport to (1) the rest of the transportation system in the particular area, (2) the forecasted technological developments in aeronautics, and (3) developments forecasted in other modes of intercity transportation.

(b) In reviewing and revising the national airport system plan, the Secretary shall consult, to the extent feasible and as appropriate, with other Federal and public agencies, and with the aviation community.

(c) The Department of Defense shall make military airports and airport facilities available for civil use to the extent feasible. In advising the Secretary of national defense requirements pursuant to subsection (a) of this section, the Secretary of Defense shall indicate the extent to which military airports and airport facilities will be available for civil use.

NAVIGATION AIDS

SEC. 5. The costs of site preparation work associated with acquisition, establishment, or improvement of air navigation facilities by the Secretary pursuant to section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)) shall be charged to appropriated funds available to the Secretary for that purpose pursuant to section 7(a) of this Act. Nothing in this Act shall preclude the Secretary from providing, in a grant agreement or other agreement with an airport owner or sponsor, for the performance of such site preparation work in connection with airport development, subject to payment or reimbursement for such site preparation work by the Secretary from such appropriated funds.

AIRPORT IMPROVEMENT PROGRAM

SEC. 6. (a) AIRPORT GRANTS; OBLIGATIONAL AUTHORITY.—In order to maintain a safe and efficient nationwide system of public-use airports to meet the present and future needs of civil areonautics, the Secretary is authorized to make grants from the Trust Fund for airport development and airport planning by project-grants or block-grants in accordance with the provisions of this Act in aggregate amounts of not less than nor more than $750,000,000 for fiscal year 1981; $1,150,000,000 for the fiscal years prior to October 1, 1982; $1,600,000,000 for the fiscal years prior to October 1, 1983; $2,100,000,000 for the fiscal years prior to October 1, 1984; and $2,650,000,000 for the fiscal years prior to October 1, 1985.

(b) No obligation for airport development shall be incurred by the Secretary after September 30, 1985: *Provided*, That nothing in this section shall preclude the obligation by grant agreement of apportioned funds which remain available pursuant to section 9(a) of this Act after such date.

(c) No obligation shall be incurred by the Secretary after September 30, 1981 for airport development at any airport described in sections 23(a) or 23(b) of this Act.

(d) No obligation shall be incurred by the Secretary for airport development at a privately owned reliever airport unless—

(1) such airport is in a primary hub area,

(2) the Secretary finds that such airport plays an essential role in the national airport system plan, and

(3) the Secretary receives appropriate assurances that such airport will continue to function as a reliever airport during the economic life of any facility at such airport that was developed with Federal financial assistance under this Act.

AIRWAY IMPROVEMENT PROGRAM

SEC. 7. (a) AIRWAY FACILITIES AND EQUIPMENT OBLIGATIONAL AUTHORITY.—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)), the Secretary is authorized to make expenditures from the Trust Fund in aggregate amounts of not less than nor more than $400,000,000 for fiscal year 1981; $850,000,000 for the fiscal years prior to October 1, 1982; $1,400,000,000 for the fiscal years prior to October 1, 1983; $2,000,000,000 for the fiscal years prior to October 1, 1984; and $2,650,000,000 for the fiscal years prior to October 1, 1985. Amounts appropriated under the authorization in this subsection shall remain available until expended.

(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—The Secretary is authorized to carry out under section 312(c) of the Federal Aviation Act of 1958 such demonstration projects as the Secretary determines necessary in connection with research and development activities under such section 312(c). For research, engineering and development, and demonstration projects and activities under such section 312(c), there is authorized to be appropriated from the Trust Fund $90,000,000 for fiscal year 1981; $95,000,000 for fiscal year 1982; $100,000,000 for fiscal year 1983; $105,000,000 for fiscal year 1984; and $110,000,000 for fiscal year 1985. Amounts appropriated under the authorizations in this subsection shall remain available until expended.

(c) TRAINING OF STATE AND LOCAL GOVERNMENT EMPLOYEES.—The Secretary is authorized to conduct such training of State and local government employees as the Secretary determines to be appropriate to carry out the purposes of this Act. For costs incurred in such training, including tuition, travel and per diem expenses, there is authorized to be appropriated from the Trust Fund aggregate amounts not to exceed $250,000 for each of the fiscal years 1981 through 1985.

(d) OTHER EXPENSES.—The balance of the moneys available in the Airport and Airway Trust Fund may be appropriated for (1) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (2) direct costs incurred by the Secretary to flight check and maintain air navigation facilities referred to in subsection (a) of this section in a safe and efficient condition. Eligible maintenance expenses are limited to costs incurred in the field and exclude the costs of engineering support and planning, direction, and evaluation activities. The amounts appropriated from the Airport and Airway Trust Fund for the purposes of clauses (1) and (2) may not exceed $350,000,000 for fiscal year 1981; $375,000,000 for fiscal year 1982; $400,000,000 for fiscal year 1983; $425,000,000 for fiscal year 1984; and $450,000,000 for fiscal year 1985. No part of the amount appropriated from the Airport and Airway Trust Fund in any fiscal year for obligation or expenditure under clause (2) of this subsection shall be obligated or expended which exceeds that amount which bears the same ratio to the maximum amount which may be appropriated under clauses (1) and (2) of this subsection for such fiscal year as the total amount obligated in that fiscal year under paragraphs (3) and (4) of subsection (a) of this section bears to the aggregate of minimum amount made available for obligation under each such paragraph for such fiscal year. If in fiscal year 1981, or in any subsequent fiscal year, the total amount obligated under section 6(a) or obligated under section 7(a) of this Act in such fiscal year is less than the minimum amount made available for obligation under such subsection for such fiscal year, the amount available for obligation or expenditure as determined under the preceding sentence of this subsection shall be reduced by an amount equal to the difference between the amount made available under section 6(a) or made available under section 7(a) of this Act for such fiscal year and the total amount obligated under such subsection (c) for such fiscal year.

(e) PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.—

(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the Trust Fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in this section.

(2) Amounts equal to the minimum amounts authorized for each fiscal year by section 6 or sections 7(a), (b), (c), and the third sentence of section 7(d) of this section shall remain available in the Trust Fund until appropriated for the purposes described in such sections.

(3) No amounts transferred to the Trust Fund by subsection (b) of section 208 of the Airport and Airway Revenue Act of 1970 (relating to aviation user taxes) may be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation or of any unit thereof except to the extent authorized by section 7(d).

(4) No provision of law, except for a statute hereafter enacted which expressly limits the application of this paragraph (4), shall impair the authority of the Secretary to obligate an eligible airport by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to paragraph (5) of subsection 15(a), in addition to the minimum amounts authorized for that fiscal year by section 8(b)(3) of this Act.

APPORTIONMENT OF FUNDS

SEC. 8. (a) For each fiscal year for which any amount is authorized to be obligated for the purposes of section 6 of this Act, the amount made available for that year, and not previously apportioned, shall be apportioned by the Secretary in accordance with subsection (b) of this section: *Provided*, That in any apportionment for a fiscal year beginning after September 30, 1981, the Secretary shall not apportion any funds to airports described in section 23(a) or 23(b) of this Act.

(b) On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 6 of this Act, the amount made available for that year, and not previously apportioned, shall be apportioned by the Secretary as follows:

(1) PRIMARY AIRPORTS.—

(A) To the sponsor of each primary airport, as follows:

(i) $6 for each of the first fifty thousand passengers enplaned at that airport;

(ii) $4 for each of the next fifty thousand passengers enplaned at that airport;

(iii) $2 for each of the next four hundred thousand passengers enplaned at that airport; and

(iv) $.50 for each additional passenger enplaned at that airport.

(B) The Secretary shall not apportion more than $10,000,000 under paragraph (1) of this subsection to an airport sponsor for any airport for any fiscal year.

(C) In no event shall the total amount of all apportionments under paragraph (1) of this subsection for any fiscal year exceed 50 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 6 of this Act. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of a primary airport under this paragraph proportionately so that such 50 percent amount is achieved.

(D) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 6 of this title, the total amount of all apportionments under paragraph (1) of this subsection for such fiscal year shall not exceed 50 percent of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of a primary airport under paragraph (1) of this subsection proportionately so that such 50 percent amount is achieved.

(2) PRIMARY HUBS.—

(A) For each primary hub as follows: $.50 for each passenger enplaned at each commercial service airport which is a part of the air traffic hub.

(B) The Secretary shall not apportion more than $5,000,000 under paragraph (2) of this subsection to any primary hub for any fiscal year.

(C) In no event shall the total amount of all apportionments under paragraph (2) of this subsection for any fiscal year exceed 20 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 6 of this Act. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each air traffic hub under paragraph (2) of this subsection proportionately so that such 20 percent amount is achieved.

(D) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 6 of this Act, the total amount of all apportionments under paragraph (2) of this subsection for such fiscal year shall not exceed 20 percent of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment of each air traffic hub under paragraph (2) of this subsection proportionately so that such 20 percent amount is achieved.

(3) APPORTIONMENTS TO STATES, PUERTO RICO, AND INSULAR AREAS.—

(A) To the several States and to the Commonwealth of Puerto Rico, Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands for airports other than: (I) reliever airports which are public airports and which are part of a primary hub; (II) commercial service airports which are part of a primary hub; (III) commercial service airports which are determined by the Secretary to have enplaned .01 percent or more of the total number of passengers enplaned annually at all commercial service airports, and (4) nonparticipating airports described in subsections (a) or (b) of section 23 of this Act:

(i) $75,000,000 for fiscal year 1981; $80,000,000 for fiscal year 1982; $85,000,000 for fiscal year 1983; $90,000,000 for fiscal year 1984; and $95,000,000 for fiscal year 1985 shall be apportioned as follows:

(I) Puerto Rico, and Insular Areas. One percent of such amounts to the Commonwealth of Puerto Rico, Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(II) States. One-half of the remaining 99 percent in the proportion which the population of each State bears to the total population of all the States and one-half of the remaining 99 percent in the proportion which the area of each State bears to the total area of all the States. As used in paragraph (3) of this subsection, the term "population" means the population according to the latest decennial census of the United States and the term "area" includes both land and water.

(ii) In addition $150,000 shall be apportioned to each State for each commercial service airport located within the State which is included for the purpose of apportioning funds under paragraph (3)(A) of this subsection.

(B) In no event shall the total amount of all apportionments under paragraph (3) of this subsection for any fiscal year exceed 20 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 6 of this Act. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each State and to the Commonwealth of Puerto Rico, Guam, American Samoa, the Government of the Northern

Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands, under paragraph (3) of this subsection proportionately so that such 20 percent amount is achieved.

(C) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 6 of this Act, the total amount of all apportionments under paragraph (3) of this subsection for such fiscal year shall not exceed 20 percent of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each State and to the Commonwealth of Puerto Rico, Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Virgin Islands, under paragraph (3) of this subsection proportionately so that such 20 percent amount is achieved.

(4) DISCRETIONARY FUND.—Any amounts not apportioned under paragraphs (1), (2), and (3) of this subsection shall constitute a discretionary fund to be distributed at the discretion of the Secretary for such projects as the Secretary considers most appropriate for carrying out the purposes of this Act: *Provided*, That—

(A) In the case of reliever airports, no less than $150,000,000 of the funds apportioned to primary hubs pursuant to paragraph (2) of this subsection and the funds apportioned to the discretionary fund of the Secretary pursuant to paragraph (4) of this subsection shall be distributed to such reliever airports during the period from October 1, 1980 to September 30, 1985.

(B) In the case of commercial service airports that are not primary airports and are not eligible to receive assistance from a participating state under this Act—

(i) the Secretary shall promulgate regulations identifying high priority projects that would significantly increase the safety or capacity of such airports, and

(ii) during the period from October 1, 1980 to September 30, 1985, the Secretary shall make available to each such airport an amount from the discretionary fund that equals (I) the United States share of the costs of high priority projects at such airport up to the amount of $750,000 and (II) such funds in excess of $750,000 as the Secretary, in his discretion, considers appropriate; and

(C) After September 30, 1981, no funds from such discretionary fund shall be distributed to any airport that enplanes more than .25 percent of the total number of passengers enplaned annually at all commercial service airports.

(c) All apportionments for any fiscal year under this section shall be based on the number of passengers enplaned during the preceding calendar year.

USE OF APPORTIONED FUNDS; MISCELLANEOUS CONDITIONS

SEC. 9. (a) DURATION OF AVAILABILITY.—Each amount apportioned under sections 8 (b) (1), (b) (2), and (b) (3) of this Act shall be available for obligation by project-grant or block-grant agreement, as the case may be, during the fiscal year for which it was first authorized to be obligated and the 2 fiscal years immediately following. Any amount so apportioned which has not been obligated within such time shall be added to the discretionary fund established by section 8(b) (4) of this Act.

(b) MISCELLANEOUS CONDITIONS.—

(1) The following conditions apply to apportionments made under section 8(b) (1):

(A) Funds apportioned to a sponsor under section 8(b) (1) of this Act may be used at any public airport of such sponsor which is in the national airport system plan, except that after September 30, 1981, no such funds may be used at an airport that enplanes more than .25 percent of the total number of passengers enplaned annually at all commercial service airports.

(B) A sponsor may enter into an agreement with the Secretary whereby the sponsor waives receipt of all or part of the funds apportioned to it under such section on the condition that, at the election of the sponsor, the Secretary either—

(i) make the waived amount available for an approved project-grant to the sponsor of another eligible public airport which is a part of the same air traffic hub as the airport of the sponsor making the waiver, or

(ii) supplement by the waived amount any block-grant made to the State in which the airport of the sponsor making the waiver is located for use at any public-use airport included in the national airport system plan and identified in such State's consolidated improvement plan.

(2) The following conditions apply to apportionments made under section 8(b) (2):

(A) Prior to the distribution of any funds apportioned under section 8(b) (2) of this Act, the sponsor of each eligible commercial service airport and the sponsor of each reliever airport which is a public airport, whose airports are a part of the same primary hub, shall have submitted jointly to the Secretary a consolidated improvement plan and an annual expenditure program. In addition, such sponsors must certify that: (i) there is in existence a current airport system plan for such hub prepared by the public agency responsible for airport system planning for such hub; and (ii) the consolidated improvement plan and the annual expenditure program are consistent with such system plan, were prepared in cooperation with the public agency which prepared such system plan, and are consistent with the objectives of this Act as stated in sections 2 and 10 of this Act.

(B) Funds apportioned under section 8 (b) (2) of this title shall be distributed by the Secretary pursuant to project-grant agreements, in accordance with the annual expenditure program.

(C) Notwithstanding subparagraph (B) of this paragraph, an annual expenditure program for a primary hub may provide for the waiver of all or part of the funds apportioned to such hub, on the condition that the Secretary supplement, by the waived amount, any block-grant made to the State or States in which such hub is located. Amounts so waived may only be used for projects at eligible public-use airports included in the national airport system plan which are in the annual expenditure program of such hub.

(3) The following conditions apply to apportionments made under section 8(b) (3):

(A) AUTHORIZATION FOR STATE PARTICIPATION.—Upon application to the Secretary, a State may be authorized to receive a block-grant from funds apportioned under section 8(b) (3) of this Act. The Secretary may make such authorization upon finding that—

(i) the applicant State has an agency or organization capable of administering a block-grant. The Secretary shall make such determination upon consideration of the resources available to the applicant State's designated agency or organization, in accordance with such regulations as the Secretary may prescribe;

(ii) the State has adopted a State airport system plan consistent with such criteria as the Secretary may require;

(iii) the State has submitted a consolidated improvement plan, and an annual expenditure program acceptable to the Secretary;

(iv) the State has certified that—

(I) it will submit annually a revised consolidated improvement plan consistent with the State's airport system plan;

(II) it will submit annually for the Secretary's approval an annual expenditure program;

(III) it will administer the distribution of the block-grant in accordance with the current consolidated improvement plan and the approved annual expenditure program;

(IV) it will enforce compliance with assurances received from those to whom it distributes funds apportioned under section 8(b) (3) of this Act;

(V) it will monitor compliance with outstanding Federal Airport Act, Airport and Airway Development Act of 1970, as amended, and Surplus Property Act of 1944 assurances at all airports which are eligible to receive funds apportioned under section 8(b) (3) of this Act and will report to the Secretary any noncompliance with such assurances;

(VI) it has given notice to sponsors of airports located within the State that it intends to apply for a block-grant under this Act,

(VII) it will collect and provide any safety data regarding public-use airports within the State as may be required by the Secretary;

(VIII) it will provide the Secretary with such planning data as may be required by the Secretary for eligible airports located within the State and included in the national airport system plan; and

(IX) it will submit such environmental information regarding its consolidated improvement plan and its annual expenditure program as the Secretary may require;

(v) the State has, through appropriate legislative action, agreed to participate in the block-grant program under this Act, designated the State official or agency that will have responsibility for administering such program, and agreed to obligate State funds for airport development in an amount at least equal to 10 percent of the amount of Federal block-grant funds awarded to such State under section 6 of this Act; and

(vi) the State has provided reasonable assurance that Federal funds apportioned to the State under section 8(b) (3) will be used to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for allowable project costs as set forth in section 15 of this Act, and will in no event replace such State, local, and other non-Federal funds.

The Secretary may revoke such authorization upon finding that the State has not submitted an acceptable annual expenditure program or otherwise has not fulfilled the conditions of subparagraph (3) (A) of this section or the certifications given pursuant thereto.

(B) DISTRIBUTION OF FUNDS IN PARTICIPATING STATES.—The designated public agency of any participating State (authorized pursuant to the provisions of section 9(b) (3) (A) of this Act) may apply to the Secretary for a block-grant from funds apportioned to such State under section 8(b) (3) of this Act.

(C) DISTRIBUTION OF FUNDS IN NONPARTICIPATING STATES.—Each sponsor of an airport, located in a State which is not a participating State, which is eligible to receive funds apportioned under section 8(b) (3) of this Act may apply to the Secretary for project-grants from funds apportioned to the State in which such airport is located.

(D) USE OF BLOCK-GRANT FUNDS.—

(i) A participating State may not apply funds apportioned under section 8(b) (3) of this Act to the administrative costs incurred by such State in making project grants.

(ii) A participating State shall be entitled to apply not more than 1.5 percent of its annual apportionment under section 8(b) (3) of this Act to maintaining the currency of its State airport system plan.

(c) NOTICE OF APPORTIONMENT.—The Secretary shall give notice to primary airport sponsors, the Governor of each State, or the chief executive officer of the equivalent jurisdiction, the sponsors of commercial service airports which are part of primary hubs, and the sponsors of reliever airports which are public airports and are part of primary hubs, as the case may be, as soon as possible after April 1 of each year of the estimated amount of the Apportionment to be made on October 1 of that year.

TRANSPORTATION PLANNING

SEC. 10. It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of airport plans and programs which are formulated on the basis of overall transportation needs and coordinated with other transportation planning with due consideration to comprehensive long-range land-use and access plans and overall social, economic, environmental, system performance, and energy conservation goals and objectives. The process shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

SUBMISSION AND APPROVAL OF PROJECT-GRANT AND BLOCK-GRANT APPLICATIONS

SEC. 11. (a) SUBMISSION.—

(1) PROJECT-GRANT APPLICATION.—Subject to the provisions of this paragraph, any public agency, or two or more public agencies acting jointly, may submit to the Secretary a project-grant application for one or more projects, in a form and containing such information as the Secretary may prescribe, setting forth the project or projects proposed to be undertaken. No project-grant application shall propose airport development or airport planning except in connection with public airports included in the current national airport system plan prepared pursuant to section 4 of this Act.

(2) BLOCK-GRANT APPLICATION.—Subject to the provisions of this paragraph, the designated public agency of any participating State may submit to the Secretary an application for a block-grant, in a form and containing such information as the Secretary may prescribe. No block-grant application shall propose airport development or airport planning except in connection with public-use airports included in the State's current State airport system plan or in the national airport system plan. In the case of public-use airports which are not public airports, no such development or planning may be proposed except in connection with reliever airports included in the current national airport system plan prepared pursuant to section 4 of this Act.

Nothing in this subsection shall authorize the submission of a project-grant or block-grant application by any public agency which is subject to the law of any State if the submission of such application by the public agency is prohibited by the law of that State. All proposed airport development shall be in accordance with standards established or approved by the Secretary, including standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches.

(b) APPROVAL.—

(1) *Project-grant applications.*—

(A) No project-grant application may be approved by the Secretary unless the Secretary is satisfied that—

(i) the project is consistent with the objectives of this Act as stated in sections 2 and 10 of this Act;

(ii) the project is substantially consistent with plans (existing at the time of approval of the project) of public agencies authorized by the State in which such airport is located to plan for the development of the area in which the airport is located and will contribute to the accomplishment of the purposes of this Act;

(iii) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this Act;

(iv) the project will be completed without undue delay;

(v) the sponsor which submitted the project-grant application has legal authority to engage in the project as proposed; and

(vi) all project sponsorship requirements prescribed by or under the authority of this Act have been or will be met.

(B) No project-grant application for airport development may be approved by the Secretary unless the sponsor or a public agency or the United States or an agency thereof holds good title, satisfactory to the Secetary, to the landing area of the airport or site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(C) No project-grant application for airport development may be approved by the Secretary which does not include provision for (i) land required for the installation of approach light systems, (ii) touchdown zone and centerline runway lighting; and (iii) high intensity runway lighting, when it is determined by the Secretary that any such items are required for the safe and efficient use of the airport by aircraft, taking into account the type and volume of traffic utilizing the airport.

(D) No project-grant application for airport development may be approved unless the Secretary is satisfied that fair consideration has been given to the interest of communities in or near which the project may be located.

(E) It is declared to be national policy that airport development projects authorized pursuant to this Act shall provide for the protection and enhancement of the natural resources and the quality of the environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to any project included in a project-grant application involving airport location, a major runway extension, or runway location which may have a significant impact on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have significant adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all reasonable steps have been taken to minimize such adverse effect.

(F) HEARINGS.—

(i) No project-grant application for airport development involving the location of an airport, an airport runway, or a major runway extension may be approved by the Secretary unless the sponsor of the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of such planning as has been carried out by the community.

(ii) When hearings are held under subparagraph (i) of this paragraph, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary.

(G) AIR AND WATER QUALITY.—

(i) No project-grant application for a project involving airport location, a major runway extension, or runway location may be approved unless the Governor of the State in which such project is to be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality implementation plans. In any case where such plans have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from that Administrator. Notice of certification or refusal to certify shall be provided within 60 days after the project application has been received by the Secretary.

(ii) The Secretary shall condition approval of any such project-grant application on compliance during construction and operation with applicable air and water quality standards.

(2) BLOCK-GRANT APPLICATIONS.—

(A) Except as otherwise provided, no block-grant application may be approved by the Secretary which does not condition receipt of such grant on the requirement that the State approve projects funded with such grants subject to the same conditions and requirements as would apply to the Secretary under this Act in approving project-grant applications.

(B) The provisions of subsection (b)(1)(B) of this section shall not be applicable to the approval by a State of a project for airport development at a public-use airport which is not a public airport. No project for airport development at such airport may be approved by a State unless such State is satisfied that good title to the landing area of the airport or site therefor is held or will be acquired by the applicant for funds from such grant.

(c) STATE STANDARDS.—The Secretary is authorized to approve standards, other than standards for safety of approaches, established by a State for airport development at public-use airports in such States which enplane less than .01 percent of the total number of passengers enplaned annually at all commercial service airports, and, upon such approval, such State standards shall be the standards applicable to such airports in lieu of any comparable standard established under subsection (a) of this section. State standards approved under this subsection may be revised from time to time, as the State or the Secretary determines necessary, subject to approval of such revisions by the Secretary.

(d) ACCEPTANCE OF CERTIFICATION.—In determining compliance with the requirements of this Act and other Federal laws, the Secretary shall, to the greatest extent practicable consistent with the objectives of this Act or such other Federal laws, accept conclusionary certifications from participating States and sponsors that they have complied or will comply with all of the statutory, regulatory, and procedural requirements that are imposed in connection with a block-grant or project-grant under this Act or other Federal laws. Acceptance by the Secretary of certification from a participating State or sponsor may be rescinded at any time.

(e) REQUIREMENT OF NOTICE.—Each sponsor to which funds are apportioned under section 8(b)(1) of this title must notify the Secretary, by such time and in a form containing such information as the Secretary may prescribe, of the fiscal year in which it intends to apply, by project-grant application, for such funds. If a sponsor does not provide such notification, the Secretary may defer approval of any application for such funds until the fiscal year immediately following the fiscal year in which such application is submitted.

UNITED STATES SHARE OF PROJECT COSTS

SEC. 12. (a) GENERAL PROVISION.—Except as otherwise provided in this section, the United States share of allowable project costs payable on account of any project contained in an approved project-grant or block-grant application submitted in accordance with this Act shall not exceed 90 percent of the allowable project costs.

(b) PROJECTS AT CERTAIN PRIMARY AIRPORTS.—In the case of primary airports enplaning .25 percent or more of the total number of passengers enplaned annually at all commercial service airports, the United States share of allowable project costs payable on account of any project contained in an approved project-grant application shall not exceed 75 percent of the allowable project costs.

(c) PROJECTS IN PUBLIC LAND STATES.—In the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 percent of the total area of all lands therein, the United States share under subsection (a) of this section shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 percent, or (2) a percentage equal to one-half of the percentage that the area of all such lands in the State is of its total area. In no event shall such United States share, as increased by this subsection, exceed the greater of (1) the percentage share determined under subsection (a) of this section, or (2) the percentage share applying on June 30, 1965, as determined under subsection 17(b) of the Airport and Airway Development Act of 1970, as amended.

PROJECT SPONSORSHIP

SEC. 13. (a) SPONSORSHIP.—As a condition precedent to approval of an airport development project contained in a project-grant application submitted under this Act, the Secretary shall receive assurances, in writing, satisfactory to the Secretary, that—

(1) the airport to which the project relates will be available for public use on fair and reasonable terms and without unjust discrimination, including the requirement that (A) each air carrier, authorized by certificate or exemption to engage directly in air transportation pursuant to section 401, 402 or 418 of the Federal Aviation Act of 1958, using such airport shall be subject to nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed-base operator at any airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport utilizing the same or similar facilities;

(2) the airport and all facilities thereon or connected therewith will be suitably operated and maintained, with due regard to climatic and flood conditions;

(3) the aerial approaches to the airport will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards;

(4) appropriate action, including the adoption of zoning laws has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft;

(5) all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities used;

(6) the airport operator or owner will furnish without cost to the Federal Government for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction at Federal expense of space or facilities for such purposes;

(7) all project accounts and records will be kept in accordance with a standard system of accounting prescribed by the Secretary after consultation with appropriate public agencies;

(8) the airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection, except that no part of the Federal share of an airport development or airport planning project for which a grant is made under this Act or under the Federal Airport Act or the Airport and Airway Development Act of 1970, as amended, shall be included in the rate base in establishing fees, rates, and charges for users of that airport;

(9) the airport operator or owner will submit to the Secretary such annual or special airport financial and operations reports as the Secretary may reasonably request;

(10) the airport and all airport records will be available for inspection by any duly authorized agent of the Secretary upon reasonable request;

(11) the airport operator or owner who receives a grant for the purchase of land for noise compatibility purposes which is conditioned on the disposal of the acquired land at the earliest practicable time will, subject to the retention or reservation of any interest or right therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of the airport, use its best efforts to so dispose of such land. The proceeds of such dispositions shall be (A) refunded to the United States for the Trust Fund on a basis proportionate to the United States share of the cost acquisition of such land, or (B) reinvested in an approved project, pursuant to such regulations as the Secretary shall prescribe; and

(12) revenues generated by the airport will be used for capital and operating expenses of the airport. To insure compliance with this section, the Secretary shall prescribe such project sponsorship requirements in regard to the airport to which the project relates as are consistent with the terms of this Act and as the Secretary considers necessary. Among other steps to insure compliance, the Secretary is authorized to enter into contracts with public agencies on behalf of the United States. Whenever the Secretary obtains from a sponsor any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon at Federal expense, the Secretary is authorized to relieve the sponsor from any contractual obligation entered into under this Act, the Airport and Airway Development Act of 1970, as amended, or the Federal Airport Act to provide free space in airport buildings to the Federal Government to the extent the Secretary finds that space no longer required for the purposes set forth in paragraph (6) of this subsection.

(b) CONSULTATION.—In making a decision to undertake any airport development project under this Act, each sponsor of an airport shall undertake reasonable consultations with affected parties using the airport at which such project is proposed.

GRANT AGREEMENTS

SEC. 14. Upon approving a project-grant or block-grant application, the Secretary, on behalf of the United States, shall transmit to the sponsor or sponsors of the project-grant or block-grant application an offer to make a grant for the United States share of allowable project costs. An offer shall be made upon such terms and conditions as the Secretary considers necessary to meet the requirements of this act and any regulations prescribed thereunder. Each offer shall state a definite amount as the maximum obligation of the United States payable from funds authorized by this Act, and shall stipulate the obligations to be assumed by the sponsor or sponsors. In any case where the Secretary approves a project-grant application for a project which (1) will not be completed in 1 fiscal year, and (2) will not be accomplished at an airport described in sections 23(a) or 23(b) of this Act, the offer shall, upon request of the sponsor, provide for the obligation of funds apportioned or to be apportioned to the sponsor pursuant to section 8(b)(1) of this Act for such fiscal years (including future fiscal years) as may of the cost of such project. In and when an agreement constituting an obligation of the United States and of the sponsor. Thereafter, in the case of a project for airport development, the amount stated in the accepted offer as the maximum obligation of the United States may not be increased by more than 10 percent. Unless and until an agreement has been executed, the United States may not pay, nor be obligated to pay, any portion of the costs which have been or may be incurred.

PROJECT COSTS

SEC. 15. (a) ALLOWABLE PROJECT COSTS.—Except as provided in section 16 of this Act, the United States may not pay, or be obligated to pay, from amounts appropriated to carry out the provisions of this title, any portion of a project cost incurred in carrying out a project for airport development or airport planning unless the Secretary has first determined that the cost is allowable. A project cost is allowable if—

(1) it was a necessary cost incurred in accomplishing an approved project in conformity with the terms and conditions of the grant agreement entered into in connection with the project, including any costs incurred by a recipient in connection with any audit required by the Secretary pursuant to section 20(b) of this Act;

(2) it was incurred subsequent to the execution of the grant agreement with respect to the project, and in connection with airport development or airport planning accomplished under the project after the execution of the agreement. However, the allowable costs of a project for airport development may include any necessary costs of formulating the project (including the

costs of field surveys and the preparation of plans and specifications, the acquisition of land or interests therein or easements through or other interests in airspace, and any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of the project for airport development, which would not have been incurred otherwise) which were incurred subsequent to May 13, 1946;

(3) in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable, except that in no event may the Secretary allow project costs in excess of the definite amount stated in the grant agreement; and

(4) it has not been included in any project for airport planning or airport development for which Federal assistance has been granted.

The Secretary is authorized to prescribe such regulations, including regulations with respect to the auditing of project costs, as the Secretary considers necessary to accomplish the purposes of this section.

(b) TERMINAL DEVELOPMENT.—

(1) Notwithstanding the provisions of subsection (c) of this section, upon certification by the sponsor of any commercial service airport that such airport has, on the date of submittal of the project-grant application, all the safety equipment required for certification of such airport under section 612 of the Federal Aviation Act of 1958, as amended, all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning or deplaning from aircraft providing scheduled service, the Secretary may approve, as allowable project costs of a project for airport development at such airport, terminal development (including multimodal terminal development) in nonrevenue producing public-use areas if such project cost is directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities or between terminal facilities and aircraft.

(2) No more than 60 percent of the sums apportioned under section 8(b)(1) of this Act to the sponsor of an eligible primary airport for any fiscal year may be obligated for project costs allowable under paragraph (1) of this subsection. No more than $200,000 of the sums apportioned under section 8(b)(2) and (3) for any fiscal year may be used by the sponsor of a commercial service airport which is not a primary airport for project costs allowable under paragraph (1) of this subsection.

(3) Notwithstanding any other provisions of this Act, the United States share of project costs allowable under paragraph (1) of this subsection shall not exceed 50 percent.

(4) The Secretary shall approve project costs allowable under paragraph (1) of this subsection under such terms and conditions as may be necessary to protect the interests of the United States.

(c) COSTS NOT ALLOWED.—Except as provided in subsection (b) of this section, the following are not allowable project costs: (1) the cost of construction of that part of an airport development project intended for use as a public parking facility for passenger automobiles; or (2) the cost of construction, alteration, or repair of a hangar or of any part of an airport building except such of those buildings or parts of buildings intended to house facilities or activities directly related to the safety of persons at the airport.

PAYMENTS UNDER GRANT AGREEMENTS

SEC. 16. (a) PROJECT-GRANT AGREEMENTS.—The Secretary, after consultation with the sponsor with which a project-grant agreement has been entered into, may determine the times and amounts in which payments shall be made under the terms of such agreement. Payments in an aggregate amount not to exceed 90 percent of the United States share of the total estimated allowable project costs may be made from time to time in advance of accomplishment of the airport project to which the payments relate, if the sponsor certifies to the Secretary that the aggregate expenditures to be made from the advance payments will not at any time exceed the cost of the airport development work which has been performed up to that time.

(b) BLOCK-GRANT AGREEMENTS.—The Secretary, after entering into a block-grant agreement with a State, shall make payment to such State of the United States share of the allowable project costs of projects contained in the approved annual expenditure program. Such payment may be effected through a letter of credit system.

(c) PROJECT-GRANT AND BLOCK-GRANT AREEMENTS.—If the Secretary determines that the aggregate amount of payments made under a project-grant or block-grant agreement at any time exceeds the United States share of the total allowable project costs, the United States shall be entitled to recover the excess. If the Secretary finds that any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed, the United States may recover any part of the advance payment for which the United States received no benefit. Payments under a project-grant or blockgrant agreement shall be made to the official or depository authorized by law to receive public funds and designated by the sponsor.

PERFORMANCE OF CONSTRUCTION WORK

SEC. 17. (a) REGULATIONS.—The construction work on any project for airport development contained in an approved project-grant application submitted in accordance with this Act shall be subject to inspection and approval by the Secretary and shall be in accordance with regulations prescribed by the Secretary. Such regulations shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary. No such regulation shall have the effect of altering any contract in connection with any project entered into without actual notice of the regulation.

(b) MINIMUM RATES OF WAGES.—All contracts in excess of $2,000 for work on projects for airport development approved under this title which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

(c) VETERANS PREFERENCE.—All contracts for work on projects for airport development approved under this subchapter which involve labor shall contain provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans.

(1) A Vietnam era veteran is an individual who served on active duty as defined by section 101(21) of title 38 of the United States Code in the Armed Forces for a period of more than 180 consecutive days any part of which occurred during the period beginning August 5, 1964, and ending May 7, 1975, and who was separated from the Armed Forces under honorable conditions.

(2) Disabled veteran is defined in section 2108(2) of title 5 of the United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

USE OF GOVERNMENT-OWNED LANDS

SEC. 18. (a) REQUESTS FOR USE.—Subject to the provisions of subsection (c) of this section, whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for carrying out a project under this Act at a public airport, or for the operation of any public airport, including lands reasonably necessary to meet future development of an airport in accordance with the national airport system plan, the Secretary shall file with the head of the department or agency having control of the lands a request that the necessary property interests therein be conveyed to the public agency sponsoring the project in question or owning or controlling the airport. The property interest may consist of the title to, or any other interest in, land or any easement through or other interest in airspace.

(b) MAKING OF CONVEYANCES.—Upon receipt of a request from the Secretary under this section, the head of the department or agency having control of the lands in question shall determine whether the requested conveyance is inconsistent with the needs of the department or agency, and shall notify the Secretary of the determination within a period of 4 months after receipt of the Secretary's request. If the department or agency head determines that the requested conveyance is not inconsistent with the needs of that department or agency, the department or agency head is hereby authorized and directed, with the approval of the Attorney General of the United States, and without any expense to the United States, to perform any acts and to execute any instruments necessary to make the conveyance requested. A conveyance may be made only on the condition that, at the option of the Secretary, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport purposes or used in a manner consistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States.

(c) EXEMPTION OF CERTAIN LANDS.—Unless otherwise specifically provided by law, the provisions of subsections (a) and (b) of this section shall not apply with respect to lands owned or controlled by the United States within any national park, national monument, national recreation area, or similar area under the administration of the National Park Service; within any unit of the National Wildlife Refuge System or similar area under the jurisdiction of the Bureau of Sport Fisheries and Wildlife; or within any national forest or Indian reservation.

FALSE STATEMENTS

SEC. 19. Any officer, agent, or employee of the United States, or any officer, agent, or employee of any public agency, or any person, association, firm, or corporation who, with intent to defraud the United States—

(1) knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used or the quantity or quality of the work performed or to be performed, or the costs thereof, in connection with the submission of plans, maps, specifications, contracts, or estimates of project costs for any project submitted to the Secretary for approval under this Act;

(2) knowingly makes any false statement, false representation, or false report or claim

for work or materials for any project approved by the Secretary under this Act; or

(3) knowingly makes any false statement or false representation in any report required to be made under this act;

shall, upon conviction thereof, be punished by imprisonment for not to exceed 5 years or by a fine of not to exceed $10,000, or by both.

ACCESS TO RECORDS

Sec. 20. (a) Recordkeeping Requirements.—Each recipient of a grant under this Act shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and the disposition by the recipient of the proceeds of the grant, the total cost of the plan or program in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the plan or program supplied by other sources, and such other records as will facilitate an effective audit. The Secretary shall annually review the reporting and recordkeeping requirements under this Act to insure that such requirements are kept to the minimum level necessary for the proper administration of this Act.

(b) Audit and Examination.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to grants received under this Act. The Secretary may require, as a condition to receipt of a grant under this Act, that an appropriate audit be conducted by a recipient. The Secretary may require appropriate audit and examination by participating States of any books, documents, papers, and records of any recipient of funds from a block-grant apportioned to such States under this Act.

(c) Audit Reports.—In any case in which an independent audit is made of the accounts of a recipient of a grant under this Act relating to the disposition of the proceeds of such grant or relating to the plan or program in connection with which the grant was given or used, the recipient shall file a certified copy of such audit with the Comptroller General of the United States not later than 6 months following the close of the fiscal year for which the audit was made. On or before April 15 of each year the Comptroller General shall report to the Congress describing the results of each audit conducted or reviewed by him under this section during the preceding fiscal year. The Comptroller General shalll prescribe such regulations as are deemed necessary to carry out the provisions of this subsection.

(d) Withholding Information.—Nothing in this section shall authorize the withholding of information by the Secretary or the Comptroller General of the United States, or any officer or employee under the control of either of them, from the duly authorized committees of the Congress.

GENERAL POWERS

Sec. 21. The Secretary is empowered to perform such acts, to conduct such investigations and public hearings, to issue and amend such orders, and to make and amend such regulations and procedures, pursuant to and consistent with the provisions of this Act, as the Secretary considers necessary to carry out the provisions of, and to exercise and perform the Secretary's powers and duties under this Act.

CIVIL RIGHTS

Sec. 22. The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this Act. The Secretary shall promulgate such rules as the Secretary deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

NONPARTICIPATING AIRPORTS; WAIVER OF CERTAIN OBLIGATIONS

Sec. 23. (a) No obligation for airport development shall be incurred by the Secretary after September 30, 1981, at any airport that enplanes more than .25 percent of the total number of passengers enplaned annually at all commercial service airports.

(b) For any fiscal year beginning after September 30, 1981, any airport that otherwise would be eligible to receive Federal assistance for airport development under this Act may elect not to receive such assistance; *Provided*, That—

(1) Such airport shall not be eligible to receive assistance for airport development under this Act for that fiscal year or any subsequent fiscal year, and

(2) Any airport that elects not to receive such assistance during a fiscal year shall notify the Secretary of such election at least 60 days prior to the commencement of that fiscal year.

(c)(1) The Secretary shall issue criteria and requirements pursuant to which the sponsors of airports described in subsections (a) and (b) of this section may, at their option, terminate any existing assurances, requirements, or contractual obligations with the United States that arose from the acceptance of Federal assistance under, or that are contained in grant agreements, deeds, or other instruments of conveyance issued pursuant to, this Act, the Federal Airport Act of 1946 (49 U.S.C. 1101 et seq.), the Airport and Airway Development Act of 1970 (49 U.S.C. 1711 et seq.) or the Surplus Property Act of 1944.

(2) If the sponsor of an airport, pursuant to paragraph (1) of this subsection, elects to terminate a financial obligation owed to the United States, the Secretary is authorized to settle such obligation in an amount not exceeding the maximum obligation stated in the existing agreement, less any payments made thereon.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, neither the sponsor of an airport nor the Secretary may terminate any assurance specified in paragraphs 1 through 12 of section 13 of this Act or in paragraphs 1 through 10 of section 18 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1718).

(d) No State or political agency of one or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to (1) the operating safety of an airport subject to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432), or (2) any assurance, obligation, or requirement from which an airport sponsor has been released by the Secretary under this section.

REPEALS; EFFECTIVE DATE; SAVING PROVISIONS; AND STABILITY

Sec. 24. (a) Repeal.—Except as otherwise provided in this Act, sections 1 through 30 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701–1730), are repealed as of the close of September 30, 1980.

(b) Effective Date.—The provisions of this Act are effective as of the close of September 30, 1980.

(c) Saving Provisions.—

(1) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, grants, rights, and privileges which have been issued, made, granted, or allowed to become effective by the President, the Secretary, or any court of competent jurisdiction under any provision of the Airport and Airway Development Act of 1970, as amended, or the Federal Airport Act, as amended, which are in effect at the time this Act takes effect, are continued in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary or by any court of competent jurisdiction, or by operation of law.

(2) Notwithstanding any other provision of this Act, amounts apportioned before October 1, 1980, pursuant to section 15 (a)(3) of the Airport and Airway Development Act of 1970, as amended, and which have not been obligated by grant agreement before that date, shall remain available for obligation, for the duration of time specified in section 15(a)(5) of that Act, in accordance with the provisions of that Act, to the same extent as though that Act had not been repealed.

(d) Separability.—If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons or circumstances is not affected thereby.

S. 1649

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Airport and Airway Revenue Act of 1979".

Sec. 101. Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

AVIATION FUEL

Sec. 102. Subsection (c) of section 4041 (relating to tax on fuel used in noncommercial aviation) is amended to read as follows:

"(c) Noncommercial Aviation.—

"(1) Imposition and rate of tax.—There is hereby imposed a tax of 6 percent of the retail sale price upon any liquid—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft, for use as a fuel in such aircraft in noncommercial aviation; or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation, unless there was a taxable sale of such liquid under this section.

The tax imposed under this paragraph shall be reduced by any tax imposed under section 4081.

"(2) Definitions.—

"(A) Retail price.—For purposes of this subsection, retail price is the price of the fuel delivered into the purchaser's aircraft or bulk storage facility but shall not include the tax imposed by section 4081 or any State or local gallonage or sales tax imposed on motor fuel.

"(B) Noncommercial aviation.—For purposes of this subchapter, the term 'noncommercial aviation' means any use of any aircraft, other than use in a business of transporting persons or property for compensation or hire by air. The term also includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

"(3) Termination.—On and after October 1, 1990, the tax imposed by paragraph (1) shall not apply.".

TRANSPORTATION OF PERSONS AND PROPERTY BY AIR

SEC. 104. (a) Subsections (a) and (b) of section 4261 (relating to tax on transportation of persons by air) are amended by striking out "8 percent" and inserting in lieu thereof "2 percent".

(b) Subsection (e) of section 4261 (relating to tax on transportation of persons by air) and subsection (d) of section 4271 (relating to tax on transportation of property by air) are amended by striking out "June 30, 1980" and inserting in lieu thereof "September 30, 1990".

USE OF CIVIL AIRCRAFT

SEC. 105. (a) IMPOSITION OF TAX.—Section 4491 (relating to imposition of tax on use of civil aircraft) is amended—

(1) by striking out the period at the end of subsection (a), inserting in lieu thereof a semicolon, and adding at the end thereof:

"(3) In the case of the taxable period beginning on July 1, 1990, and ending on September 30, 1990, the tax under paragraph (1) shall be $6.25 for such period and the rates of tax under paragraph (2) shall be 0.5 and .875 cents a pound respectively.";

(2) by striking out the word "year" wherever it appears in subsection (c) and inserting in lieu thereof "taxable period"; and

(3) by striking out the section heading for subsection (d) and inserting in lieu thereof "ONE TAX LIABILITY PER PERIOD".

CONFORMING AMENDMENT

SEC. 104. Section 6416(a)(1) (relating to certain taxes on sales and services) is amended by striking the words "special fuels" and inserting in lieu thereof "noncommercial aircraft and special fuels".

EFFECTIVE DATE

SEC. 105. The amendments made in sections 102, 103, 104, and 105 of this Act shall take effect on July 1, 1980.

AIRPORT AND AIRWAY TRUST FUND AMENDMENTS

SEC. 201. Section 208 of the Airport and Airway Revenue Act of 1970, as amended (49 U.S.C. 1742), is further amended by—

(a) striking out "October 1, 1980," in subsections (b)(1), (b)(2), and (b)(3), and inserting in lieu thereof "October 1, 1990,";

(b) striking out "October 1, 1980," in subsection (f)(1) and inserting in lieu thereof "October 1, 1990,";

(c) striking out subsection (f)(1)(A) and substituting the following:

"(A) incurred under the Airport and Airway System Development Act of 1979 (as in effect on the date of the enactment of this Act), or the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 et seq.)";

(d) striking out "October 1, 1980," in subsections (f)(1) and (f)(2)(A) and inserting in lieu thereof "October 1, 1990,"; and

(e) striking out "October 1, 1980," in subsection (f)(3) and inserting in lieu thereof "October 1, 1990,".●

By Mr. INOUYE (for himself, Mr. BENTSEN, Mr. CANNON, Mr. COCHRAN, Mr. HATFIELD, Mr. HAYAKAWA, Mr. HOLLINGS, Mr. MATSUNAGA, Mr. PRYOR, Mr. STEVENS, Mr. STEWART, Mr. STONE, Mr. TALMADGE, and Mr. WARNER):

S. 1650. A bill to provide for the development of aquaculture in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation, jointly, by unanimous consent.

NATIONAL AQUACULTURE ACT OF 1979

Mr. INOUYE. Mr. President, today I am pleased to introduce the National Aquaculture Act of 1979. Aquaculture, the cultivation of aquatic plants and animals in marine, brackish, and fresh water, has been an important means of food production in Asia for several thousand years. It is a relatively recent practice in the United States, where the first aquaculture facilities were established roughly a century ago as a means of enhancing natural fisheries stocks. Since that time, and particularly since World War II, aquaculture in the United States has grown slowly but significantly, both in terms of the amount of food produced and in terms of the number of species cultured. Today, aquaculture in the United States produces salmon, catfish, trout, oysters, mussels, shrimp, clams, and other species. Despite the great potential of aquaculture as an energy-efficient means of food production, its growth has been much slower, and levels of production are much lower, than elsewhere in the world.

It is estimated that worldwide aquacultural production has approximately doubled in the last 5 years and now totals 6 million metric tons, or roughly 10 percent of world fisheries production. Some countries rely on aquaculture for over 40 percent of their total fisheries supply, and many countries, particularly China, Japan, and the U.S.S.R. are continuing to expand aquacultural production very rapidly. Closer to the United States, both Mexico, and Canada have recently committed themselves to expenditures of hundreds of millions of dollars to expand aquacultural production.

In contrast to the growth and importance of aquaculture in other countries, aquacultural production in the United States accounts for only 3 percent of domestically consumed fisheries products. According to a recent study by the National Academy of Sciences, annual aquacultural production in this country is only 65,000 metric tons, or roughly 1 percent of the world total.

Despite the current relatively low levels of production, it is clear that in the future aquaculture can and must make increasingly larger contributions to our supplies of aquatic foods and products. The National Oceanic and Atmospheric Administration (NOAA) has estimated that the domestic demand for seafood products will increase by 80 percent by the year 2000. However, most traditional fisheries resources in the United States are already being harvested at or near optimum sustainable yield levels. Even allowing for the increased use of nontraditional species, the amount of seafood domestically landed will probably be severely limited. In addition, NOAA has estimated a worldwide shortage of fisheries products within 3 to 10 years on the basis of projected rates of harvesting and consumption.

In response to this projected shortfall of supply, the National Academy of Science estimates that U.S. acquacultural production could increase from the current 65,000 metric tons to 250,000 metric tons by 1985 and, with proper support, could reach 1 million metric tons by the year 2000. Since current agricultural production in this country has focused on only a few species, the market potential for aquacultural products is very promising. Furthermore, the United States currently imports over 50 percent of its fisheries products, creating a balance of payments deficit of approximately $2 billion per year. Aquaculture can make a substantial contribution to reducing this deficit by reducing the import need and by producing products for export.

Proven techniques for rearing trout, salmon, catfish, and oysters are well known and a review of production records for these species provides a basis for estimating the potential for expansion of aquaculture in the United States.

The State of Hawaii is in the forefront in this country in recognizing this potential and in committing the resources necessary to achieve it. Hawaii has established the first comprehensive aquaculture development program in the United States, which serves as a model for the Federal Government and other States. Hawaii is also engaged in many activities to assist aquaculture, including loan programs, marketing studies, disease control, and extension/advisory services. This bold commitment to aquaculture serves as a lesson to the rest of the country on the potential importance of aquaculture.

Although the potential for growth of aquaculture in the United States is great, and the benefits many, several factors have been identified that limit this potential.

The Library of Congress indicates that the stages in development of commercial aquaculture are: First, basic scientific and technological research; second, experimental (applied) research and development; third, preliminary economic assessment; fourth, pilot or demonstration plant activity; and fifth, economic assessment. With the exception of a few species such as catfish, trout, and salmon, commercial aquaculture has not progressed beyond step three. Many species with potential have progressed to the experimental research and development stage, but have not progressed any further, partially due to lack of the necessary investment capital. Without completion of the last three stages, investors have been very reluctant to enter this developing field.

Some of the other limiting factors that emerged during hearings last year were:

Inadequate information.—Testimony received from the industry indicated that technical or economic information on certain species having potential for aquaculture is lacking. Consequently, industry had been reluctant to invest in these species. Researchers testified that in order to develop the necessary information prototype facilities are necessary.

Inadequate funding.—Both the aquacultural industry and those persons involved in aquacultural research indicated that more funds should be devoted to support aquacultural research. It was emphasized that the funds should be in addition to those now being spent and that current activities should not be sacrificed.

Marketing practices.—Industry expressed the general position that more work needs to be done on marketing of aquaculture species, especially trout, catfish, and salmon. It was felt that better marketing would provide the incentives to further develop the industry.

Inadequate credit and financing.—There is a generalized feeling in private financial markets that aquaculture is a high risk business and there is little interest in providing financial support to aquaculture.

This problem has been compounded by the generally tight money market conditions of the past decade. As a result individuals or small companies wishing to enter the field of aquaculture have generally been unable to obtain necessary financing in the private sector.

Existing laws and standards.—The National Academy of Sciences study identified the combination of local, State, and Federal regulatory requirements and procedures, many of which were established without consideration of their effect on, or their applicability to, aquaculture, as the most serious constraint on the development of aquaculture.

Water resource development.—It is generally felt that it is essential to insure adequate water quality for aquaculture facilities and the protection of land along the coast and adjacent rivers and lakes from infringements from other land uses such as condominiums, boat harbors, and marinas. This is critical when these lands are appropriate for aquaculture.

Duplication and lack of coordination among governmental agencies.—Within the Federal Government, there is inadequate coordination among the several agencies responsible for conducting aquacultural programs. There is also a lack of leadership and an absence of definitive goals.

Eleven Federal agencies have been identified as having direct involvement with aquaculture, and some 10 other agencies have programs that are indirectly related. The principal Federal acquaculture investments during 1975 in research and development were in the following Federal agencies: Department of Commerce, $6.9 million; Department of the Interior, $4.3 million; Department of Agriculture, $750,000; and Environmental Protection Agency, $50,000. The Department of Commerce programs are carried out by three agencies: the Office of Economic Development, $700,000; the National Marine Fisheries Service, $2.4 million; and the National Sea Grant Office, $3.8 million.

Several of these departments and agencies have conducted research and development within the framework of specific missions; yet any coordination that has taken place has been primarily to avoid undesirable overlaps. However, far more serious than the overlaps have been the gaps that result, because of the lack of proper coordination and direction.

Many State and local agencies, regional commissions, and universities are also involved to some degree in aquaculture. Generally, each of these entities has taken its own direction, often without awareness of the activities of others. This lack of coordination can be eliminated by the designation in each State of a State aquaculture agency.

What is needed in order for aquaculture to achieve its full potential in the United States is the development of a national policy and a national plan for carrying out such a policy. It is only in this way that the necessary coordination among the various Federal, State, and local agencies, universities, and others involved in aquaculture can be achieved.

Last year, at the close of the 95th Congress, the Congress passed H.R. 9370, a bill which was intended to achieve these goals. President Carter pocket-vetoed that bill, primarily because it contained financial incentive programs which would have provided loan guarantees and insurance to the aquaculture industry. While I still believe that a need for these programs has been clearly demonstrated and that the benefits would far exceed the costs, I have deleted these programs from the bill I introduce today in an effort to provide the basis for strong administration support both for this legislation and for the development of aquaculture.

In fact, since last year's pocket-veto, I have been encouraged by the administration's efforts to carry out under existing authority many of the actions which we called for in last year's bill. A Joint Subcommittee on Aquaculture, and interagency coordinating group under the auspices of the White House Office of Science and Technology Policy, has been established and is currently in the process of formulating a national aquaculture plan, as called for in last year's bill. In addition, the subcommittee is undertaking studies of the need for new financial incentive programs for aquaculture and the effects of regulatory constraints on aquaculture. The bill which I am introducing today would formalize these activities and provide the subcommittee with a legislative mandate. The bill is very similar to a version of last year's bill which the Office of Management and Budget has indicated it would find acceptable, and I am very hopeful that the administration will strongly support this bill.

In short, this bill finally recognizes the high priority which aquaculture development deserves and, if enacted, will constitute a major step in achieving that development. This is not to suggest that no future aquaculture legislation will be required, but this bill will provide a strong foundation for any future action.

Mr. President, I ask unanimous consent that the text of the bill and a summary of its provisions be printed in the Record.

There being no objection, the bill and summary were ordered to be printed in the Record, as follows:

S. 1650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aquaculture Act of 1979".

Sec. 2. Findings, Purpose, and Policy.

(a) Findings.—Congress finds the following:

(1) The harvest of certain species of fish and shellfish exceeds levels of optimum sustainable yield, thereby making it more difficult to meet the increasing demand for aquatic food;

(2) To satisfy the domestic market for aquatic food, the United States imports more than 50 percent of its fish and shellfish, but this dependence on imports adversely affects the national balance of payments and contributes to the uncertainty of supplies;

(3) Although aquaculture currently contributes approximately 10 percent of world seafood production, less than 3 percent of current United States seafood production results from aquaculture. Domestic aquacultural production, therefore, has the potential for significant growth.

(4) Aquacultural production of aquatic plants can provide sources of food, industrial materials, pharmaceuticals, and energy, and can assist in the control and abatement of pollution;

(5) The rehabilitation and enhancement of fish and shellfish resources are desirable applications of aquacultural technology;

(6) The principal responsibility for the development of aquaculture in the United States must rest with the private sector;

(7) Despite its potential, the development of aquaculture in the United States has been inhibited by many economic, legal, and production factors such as inadequate credit, diffused legal jurisdiction, the lack of management information, and the lack of reliable supplies of seed stock; and

(8) Many areas of the United States are suitable for aquaculture, but are subject to land-use or water-use management policies that do not adequately consider the potential for aquaculture and that many inhibit the development of aquaculture.

Purpose.—It is the purpose of this Act to promote aquaculture in the United States by:

(1) declaring a national policy for aquaculture;

(2) establishing and implementing a national aquaculture development plan; and

(3) encouraging aquaculture activities and programs in both the public and private sectors of the economy;

that will result in increased aquacultural production, the coordination of domestic aquacultural efforts, the conservation and enhancement of aquatic resources, the creation of new industries and job opportunities, and other national benefits.

(c) Policy.—Congress declares that aquaculture has the potential for augmenting existing commercial and recreational fisheries and for producing other renewable resources, thereby assisting the United States in meeting its future food needs and contributing to the solution of world resource problems. It is, therefore, in the national interest, and it is the national policy, to encourage the development of aquaculture in the United States.

Sec. 3. Definitions.—As used in this Act, unless the context otherwise requires:

(1) The term "aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching (except private ocean ranching of Pacific salmon for profit in those States where such ranching is prohibited by law);

(2) The term "aquaculture facility" means any land, structure, or other appurtenance that is used for aquaculture and is located in any State. Such term includes, but is not limited to, any laboratory, hatchery, rear-

ing pond, raceway, pen, incubator, or other equipment used in aquaculture;

(3) The term "aquatic species" means any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant;

(4) The term "person" means any individual who is a citizen or national of the United States, any Indian tribe, any institution of higher education, and any corporation, partnership, association or other entity (including, but not limited to, any community development corporation, producer cooperative, or fishermen's cooperative) organized or existing under the laws of any States;

(5) The term "Plan" means the National Aquaculture Development Plan required to be established under section 4;

(6) The term "Secretaries" means the Secretary of Aquaculture, the Secretary of Commerce, and the Secretary of the Interior; and

(7) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 4. NATIONAL AQUACULTURE DEVELOPMENT PLAN.

(a) IN GENERAL.

(1) Within 18 months after the date of the enactment of this Act, the Secretaries shall establish the National Aquaculture Development Plan. Within 6 months after such date of enactment, the Secretaries shall give interested persons and organizations an opportunity to comment during the develoment of the Plan;

(2) In developing the Plan, and revisions thereto under subsection (d), the Secretaries shall consult with other appropriate Federal officers, appropriate States, and appropriate Regional Fishery Management Councils established under section 302 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852); and

(3) If the Secretaries deem it to be appropriate, they may establish, and appoint the members of, an advisory committee to assist in the initial development of the Plan. Individuals appointed to the advisory committee shall be knowledgeable or experienced in the principles and practices of aquaculture. The members of the advisory committee (other than officers or employees of the Federal Government), while away from their homes or regular places of business in the performance of services for the advisory committee, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(b) CONTENTS OF PLAN.—The Plan shall:

(1) identify species that the Secretaries determine to have significant potential for culturing on a commercial or other basis;

(2) recommend actions to be taken by the public and private sectors (which may include, but are not limited to, research and development, technical assistance, demonstration, extension education, and training activities) that are necessary to achieve such potential. The Plan shall address the following matters, taking into account the status of aquaculture regarding the aquatic species concerned:

(A) aquaculture facility design and operation;

(B) water quality management;

(C) use of waste products (including thermal effluents);

(D) nutrition and the developing of economical feeds, including natural food sources;

(E) life history, genetics, physiology, pathology, and disease control (including research regarding organisms that may not be harmful to fish and shellfish, but are injurious to humans);

(F) processing and market development;

(G) production management and quality control; and

(H) the development of adequate supplies of seed stock.

(3) include, where appropriate, research programs on the effect of aquaculture on estuarine and other water areas and on the management of such areas for aquaculture;

(4) include, where appropriate, programs to analyze, and to formulate proposed resolutions of, the legal or regulatory constraints that may affect aquaculture; and

(5) include such other research and development, technical assistance, demonstration, extension education, and training programs as the Secretaries deem necessary or appropriate to carry out the purpose and policy of this Act.

In formulating the Plan, the Secretaries shall, to the extent practicable, take into account any significant action that (i) has been, or is proposed to be, undertaken by any other Federal department or agency, any State agency, or any person; and (ii) may affect the implementation of the Plan.

(c) ACTIONS AND IMPLEMENTATION.—The Plan shall specify:

(1) with respect to those actions that the Secretaries determine should be undertaken, the period of time within which each such action should be completed, in order to implement the program; and

(2) with respect to each such action which of the Secretaries, acting individually, jointly, or collectively, has the responsibility for implementing the action.

The specifications of Secretarial responsibilities under paragraph (2) for implementing actions shall be determined on the basis of:

(A) the responsibilities conferred on the respective Secretaries by law or by any executive action having the effect of law (including, but not limited to, Reorganization Plan Numbered 4 of 1970); and

(B) the experience, expertise, and other appropriate resources that the department of each such Secretary may have with respect to the action required under the program concerned.

(d) REVISION OF PLAN.—The Secretaries shall undertake periodic reviews of the operation and effectiveness of the Plan. If as a result of any such review, or the aquacultural assessment required under subsection (e), the Secretaries determine that:

(1) any aquatic species not currently identified in the Plan has significant potential for aquaculture;

(2) any action specified in the Plan is not being accomplished on a successful and timely basis; or

(3) any action specified in the Plan should be terminated because its objectives have been achieved or its projected benefits do not warrant further support;

the Secretaries shall appropriately amend the Plan.

(e) CONTINUING AQUACULTURE ASSESSMENT.—The Secretaries, through the Joint Subcommittee on Aquaculture (section 6), shall undertake a continuing assessment of aquaculture in the United States for the purpose of maintaining, on a continuing basis:

(1) a complete profile of the aquacultural industry with respect to the incidence, size, and status of commercial aquacultural enterprises;

(2) the identification of private and public institutions and organizations involved in aquacultural research, extension, credit, and market development;

(3) the identification of the various aquatic species being cultured and a description of the status of commercial development of each such species;

(4) to the extent practicable, the identification of aquacultural production regions, species, and markets that have significant potential for development;

(5) a catalog describing all Federal programs and activities that directly or indirectly encourage, support, or assist aquaculture; and

(6) the identification of the economic, physical, legal, institutional, and social constraints that inhabit the development of aquaculture in the United States.

SEC. 5. FUNCTIONS AND POWERS OF SECRETARIES

(a) MANDATORY FUNCTIONS.—In implementing any actions under the Plan, the Secretaries shall—

(1) provide advisory, educational, and technical assistance (including training) with respect to aquaculture to interested persons, but in providing such assistance, shall, to the maximum extent practicable, avoid duplication of similar assistance provided by other Federal departments and agencies and by State agencies;

(2) consult and cooperate with interested persons, Federal departments and agencies, State agencies, and regional commissions;

(3) encourage the implementation of aquacultural technology in the rehabilitation and enhancement of publicly owned fish and shellfish stocks (including such rehabilitation and enhancement by private nonprofit enterprises), and in the development of private commercial aquacultural enterprises; and

(4) prescribe such regulations as may be necessary to carry out such a program.

(b) DISCRETIONARY FUNCTIONS.—In implementing any program under the Plan, the Secretaries may—

(1) for the purposes of assessing the biological, technical and economic feasibility of any aquacultural system—

(A) conduct tests of the system and, if necessary, construct, operate, and maintain developmental aquaculture facilities for testing laboratory results, and

(B) conduct such other tests or analyses as may be necessary;

(2) develop methods to enhance stocks of aquatic species; and

(3) conduct such other tests or analyses or take such other actions as the Secretaries deem necessary or appropriate.

(c) INFORMATION SERVICES.—(1) In addition to performing such other functions that are required under this Act, the Secretaries shall—

(A) establish and maintain an information service for the collection, analysis, and dissemination of scientific, technical, legal, and economical information relating to aquaculture;

(B) conduct appropriate surveys, in coordination with other Federal departments and agencies, of public and private aquacultural activities being conducted in the United States for the purpose of acquiring information on acreages, water use, production, culture techniques, and other relevant matters;

(C) arrange with foreign nations for the exchange of information relating to aquaculture and support a translation service;

(D) conduct a continuing study to determine whether existing capture fisheries could be adversely affected by competition from products produced by commerical aquaculture enterprises and include in such study—

(i) an assessment of any adverse effect, by species and by geographical region on such fisheries, and

(ii) recommended measures to ameliorate any such effect; and

(E) report to Congress on the findings made under the study provided for under subparagraph (D) in the biennial status report required under subsection (d).

(2) Any production information submitted

to the Secretaries under paragraph (1)(B) shall be confidential and may only be disclosed if required under court order. The Secretaries shall prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretaries may release or make public any information in any aggregate or summary form that does not directly or indirectly disclose the identity, business transactions, or trade secrets of any person who submits such information.

(d) Biennial Report.—The Secretaries, through the Joint Subcommittee on Aquaculture, shall prepare on a biennial basis, and submit to Congress, a report on the status of aquaculture in the United States. Each such report shall contain a description and evaluation of the actions undertaken with respect to the Plan during the reporting period, and explanation of any revisions made to the Plan under section 4(d) during the reporting period, and such other comments and recommendations regarding aquaculture in the United States as the Secretaries deem appropriate. The first report required under this subsection shall be submitted to Congress by September 30, 1981.

Sec. 6. Coordination of National Activities Regarding Aquaculture.

(a) Establishment.—There is established the Joint Subcommittee on Aquaculture of the Federal Coordinating Council on Science, Engineering and Technology (hereafter in this section referred to as the "Subcommittee") that shall be composed of the following members or their designees:

(1) The Secretary of Agriculture,
(2) The Secretary of Commerce,
(3) The Secretary of the Interior,
(4) The Secretary of Energy,
(5) The Secretary of Health, Education, and Welfare,
(6) The Administrator of the Environmental Protection Agency,
(7) The Chief of Engineers,
(8) The Administrator of the Small Business Administration,
(9) The Administrator of the Agency for International Development,
(10) The Chairman of the Tennessee Valley Authority,
(11) The Director of the National Science Foundation,
(12) The Governor of the Farm Credit Administration, and
(13) Other Federal agencies as appropriate.

(b) Purpose and Functions.—The purpose of the Joint Subcommittee on Aquaculture is to increase the overall effectiveness and productivity of Federal aquaculture research, transfer, and assistance programs. In fulfilling this purpose the Subcommittee shall:

(1) Review national needs for aquaculture research, transfer and assistance.

(2) Assess the effectiveness and adequacy of Federal efforts to meet those national needs.

(3) Undertake planning, coordination, and communication among Federal agencies engaged in the science, engineering, and technology of aquaculture.

(4) Collect, compile, and disseminate information.

(5) Encourage joint programs among Federal agencies in areas of mutual interest.

(6) Recommend to the sponsoring Committees (the Committee on Atmosphere and Oceans and the Committee on Food Renewable Resources) and the Federal Council specific actions on issues, problems, plans, and programs in aquaculture.

(c) Chairman.—The Chairman of the Joint Subcommittee on Aquaculture shall serve a term of two years and shall be selected by mutual agreement of the Chairmen of the sponsoring committees of the Federal Council.

(d) Reports.—The Subcommittee shall regularly report to the Chairmen of the two sponsoring Committees and through them to the Chairman of the Federal Council, on the Subcommittee's activities and on recommendations concerning Federal policies and programs related to aquaculture.

(e) Federal Consistency.—Each Federal department and agency that has functions or responsibilities with respect to aquaculture or has jurisdiction over any activity that affects, or that may affect, the achievement of the purpose and policy of this Act, shall, in consultation with the Subcommittee and to the maximum extent practicable, perform such function, responsibility, or activity in a manner that is consistent with the purpose and policy of this Act.

Sec. 7. Contracts and Grants.

(a) In General.—The Secretaries may each carry out any action that such Secretary is responsible for implementing under the Plan through grants to, or contracts with, any person, any other Federal department or agency, any State agency, or any regional commission.

(b) Terms and Conditions.—Any contract entered into, or any grant made, under subsection (a) shall contain such terms and conditions as the Secretary concerned shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States, except that no such contract may be entered into, and no such grant may be made, for any purpose which is in violation of any applicable State or local law.

(c) Limitation.—The amount of any grant made under subsection (a) may not exceed an amount equal to one-half the estimated cost of the project for which the grant is made.

(d) Audit.—Each recipient of a grant or contract under this section shall make available to the Secretary concerned and to the Comptroller General of the United States, for purposes of audit and examination, any book, document, paper, and record that is pertinent to the funds received under such grant or contract.

Sec. 8. Capital Requirements for Aquaculture.

(a) Capital Requirements Study.—(1) The Secretaries, through the Joint Subcommittee on Aquaculture, shall conduct within 12 months after the enactment of this act, a study of the capital requirements of the United States aquaculture industry. The study shall:

(1) document and analyze any capital constraints that affect the development of aquaculture in the United States; and

(2) evaluate the role that appropriate Federal financial assistance does or could play in filling gaps in the normal credit market with respect to aquaculture.

The study will identify the capital needs of the U.S. aquaculture industry, with a focus on needs that are not being filled either in normal credit channels or through government programs for direct loans, loan guarantees, disaster loans, and insurance. Upon its completion, the Secretaries shall submit the results of the study to Congress.

(b) Capital Requirements Plan.—Based on the results of the Capital Requirements Study, and within six months of the completion of the study, the Secretaries shall formulate a Plan for acting on the study's findings. Such Plan shall include: (1) those Federal actions, if any, found to be necessary to meet financial needs unmet through normal credit channels and existing Federal programs; and (2) recommendations, if any, for legislative actions. Upon completion, the Plan shall be submitted to Congress.

Sec. 9. Regulatory Constraints on Aquaculture.

(a) Regulatory Constraints Study.—The Secretaries, through the Joint Subcommittee on Aquaculture, shall conduct, within 12 months after the enactment of this Act, a study of the state and Federal regulatory restrictions to aquaculture development in the United States. The study shall:

(1) Include a literature review and a descriptive list identifying overall parameters of the issue.

(2) Identify and list relevant current and pending Federal regulations restricting the development of commercial aquaculture operations.

(3) Identify and list relevant current State regulations restricting the development of commercial aquaculture operations in 5 states selected randomly in 5 separate geographic regions of the U.S.

(4) Conduct case studies of 10 commercial aquaculture operations in the U.S. representing a wide range of marine and fresh water species to determine practical effects of regulatory restrictions on aquaculture.

(5) Develop a prototypical flow-chart time line utilizing the information obtained in items 1–4 to identify those regulations and restrictions that could have the most detrimental effect in establishing commercial aquaculture operations in the U.S.

Upon completion of the study, the Secretaries shall submit its results to Congress.

(b) Regulatory Constraints Plan.—Based on the results of the Regulatory Constraints Study, and within six months of the study's completion, the Secretaries shall formulate a Plan for acting on the study's findings. The Plan will contain specific steps the Federal government can take to remove unnecessarily burdensome regulatory barriers to the initiation and operation of commercial aquaculture ventures. Upon its completion, the Secretaries shall submit the Plan to Congress.

Sec. 10. Authorization for Appropriations.

For purposes of carrying out the provisions of this Act (other than sections 9 and 10), there are authorized to be appropriated—

(1) to the Departments of Agriculture, Commerce, and the Interior, such sums as may be necessary to carry out the programs authorized by this Act.

Sec. 11. Disclaimer.

Nothing in this Act shall be construed to amend, repeal, or otherwise modify the authority of any Federal officer or any Federal department or agency to perform any function, responsibility, or activity authorized under any other provision of law.

Summary of National Aquaculture Act of 1979

FINDINGS, PURPOSE, AND POLICY

Section 2 sets forth findings concerning the potential benefits to the U.S. from the development of aquaculture; declares a national policy to encourage that development; and states that the purpose of the bill is to establish a plan and programs to carry out that policy.

DEFINITIONS

Section 3 defines the terms used in the act.

NATIONAL AQUACULTURE DEVELOPMENT PLAN

Section 4 requires the Secretaries of Agriculture, Commerce and the Interior, within 18 months, to establish a National Aquaculture Development Plan setting forth those actions which the Federal government should undertake to further the development of aquaculture. The plan shall include programs for each species which has a potential for aquacultural development. This section also requires an on-going assessment of aquaculture to determine the size and nature of the U.S. aquaculture industry.

FUNCTIONS AND POWERS OF THE SECRETARIES

Section 5 provides that in implementing the Plan, the Secretaries shall provide assistance to all interested persons, shall consult and cooperate with interested persons and agencies, and shall encourage the use of aquaculture to rehabilitate and enhance the public fisheries. The Secretaries may conduct tests of aquacultural systems, including production-scale facilities; produce and sell seed stock; and develop methods to enhance stocks of aquatic species. In addition, the Secretaries shall collect and disseminate information relating to aquaculture and shall report to Congress biennially on the status of aquaculture in the United States.

COORDINATION OF NATIONAL ACTIVITIES REGARDING AQUACULTURE

Section 6 establishes the Joint Subcommittee on Aquaculture of the Federal Coordinating Council on Science, Engineering and Technology consisting of the Secretaries and the heads of ten other federal agencies with functions relating to aquaculture. The functions of the Committee shall be to ensure a continuing exchange of information relating to aquaculture and to ensure that all Federal agencies with functions relating to aquaculture are carrying out those functions in a manner consistent with the purposes and policy of the Act.

CONTRACTS AND GRANTS

Section 7 provides that the Secretaries may use contracts or grants to carry out the purposes of the Act. Such contracts or grants can be made to any person, Federal department or agency, State agency or regional commission. The grant would be on a cost sharing basis and can only be made if the recipient at least matches the grant.

CAPITAL REQUIREMENTS FOR AQUACULTURE

Section 8 requires the Secretaries, through the Subcommittee, to conduct a study within 12 months of the capital needs of the U.S. aquaculture industry and the role of the Federal government in fulfilling those needs. Within six months of the completion of the studies, the Secretaries shall submit to Congress a Plan for meeting the needs identified in the study.

REGULATORY CONSTRAINTS ON AQUACULTURE

Section 9 requires the Secretaries, through the Subcommittee, to conduct a study within 12 months of the regulatory constraints on the development of aquaculture in the U.S. Within six months of the completion of the study, the Secretaries shall submit to Congress a Plan for acting on the study's findings.

AUTHORIZATION FOR APPROPRIATIONS

Section 10 authorizes to be appropriated to the Departments of Agriculture, Commerce, and the Interior such sums as may be necessary to carry out the provisions of the Act.

DISCLAIMER

Section 11 declares that this Act does not amend, repeal or modify the authority of any Federal department or agency authorized under any other law.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill introduced by the Senator from Hawaii (Mr. INOUYE), for himself and others, relating to aquaculture, be jointly referred to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I am pleased to join Senator INOUYE in introducing today a bill for the development of aquaculture in the United States.

The bill was jointly developed by the members of the Committee on Commerce, Science, and Transportation, and my Committee on Agriculture, Nutrition, and Forestry. Our two committees in the past Congress and this Congress have been cooperating in an effort to give aquaculture the legislative direction and leadership it needs at the national level. I want to commend Senator INOUYE and Senator STONE for their dedicated work on behalf of aquaculture and the two committees.

Mr. President, aquaculture in the United States is growing and becoming an important aspect of our food production system. This is happening in spite of the Federal Government. Literally dozens of agencies have responsibilities, programs, and authorities that affect aquaculture. Unfortunately, there has been little or no coordination of these Federal efforts.

While aquaculture is getting little help from Government, it is getting a lot of hindrance. Aquaculture is encumbered with more regulations than almost any other industry in America.

New aquaculture enterprises often have to get 40 or 50 permits from local, State, and Federal agencies before they can begin production. The acquisition of these permits can amount to over half of the time and effort an individual devotes to starting an aquaculture production facility. And the permit acquisition process can be prohibitively expensive.

The lack of central guidance and support, and the regulatory overload on aquaculture producers, whether they be catfish, trout, clam, or abalone producers, are the two principal barriers to a viable aquaculture industry in the United States.

I am pleased that the bill being introduced today addresses these two issues. The bill provides for coordination of the many programs that are already in place. Therefore, we can get full benefit from these efforts without any new costs. Secondly, the bill deals with the many redundant, unnecessary, and prohibitive regulatory requirements facing aquaculture.

Mr. President, I believe that the bill will be beneficial to both the marine and fresh water portions of the aquaculture industry. It is an important first step in getting the Federal act together.

By Mr. McGOVERN (for himself, Mr. RIEGLE, Mr. KENNEDY, Mr. LUGAR, Mr. LEAHY, Mr. WILLIAMS, Mr. JAVITS, and Mr. METZENBAUM):

S. 1651. A bill entitled the "Department of Agriculture Nutrition Labeling and Information Act of 1979"; to the Committee on Agriculture, Nutrition, and Forestry.

S. 1652. A bill entitled the "Nutrition Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act"; to the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources, jointly, by unanimous consent.

Mr. McGOVERN. Mr. President, today I am introducing two companion bills on nutrition labeling and information. These bills, one pertaining to the Department of Agriculture and the other to the Food and Drug Administration, are the end product of a year-long initiative. The process started last August with hearings before the Agriculture, Nutrition, and Forestry Committee. Then last fall the Department of Agriculture, the Food and Drug Administration, and the Federal Trade Commission held 10 days of hearings in 5 cities on the topic of food labeling. Those agencies testified both at the outset and again at the end of the oversight hearings held by the Agriculture, Nutrition and Forestry Committee which totaled 6 days and ended in February. Finally, earlier this year, staff from the Committees on Agriculture, Nutrition, and Forestry; Commerce; and Labor and Human Resources began meeting informally with individual food companies, trade associations, consumer groups, the Department of Agriculture, the Food and Drug Administration, and the Federal Trade Commission.

With the depth and breadth of effort over the last year, I believe that these two bills offer the best approach to date on the nutrition labeling and information issue. They represent a spirit of cooperation among the agencies administering the laws, and the committees of Congress who have legislative jurisdiction. They also equally reflect the interests of the food industry and the consuming public.

The enactment of this legislation is in the best interest of all Americans. The ability of consumers to select a more nutritious diet is critical in preventing disease and promoting good health because diet is a risk factor in 6 of the 10 leading causes of death, and it is a causative factor in obesity and dental caries. Furthermore, more optimal diet selection can help slow mounting medical care costs because healthier people need less medical attention.

The passage of these two bills is also in the best interest of the American food industry. This legislation focuses on removing overly restrictive regulation that has prevented the market from functioning on a competitive basis. The food market can only be truly competitive if consumers have sound, objective and relevant nutrition and ingredient information with which to make an informed choice. As a possible additional benefit, by being able to make such a choice, consumers will feel more confident about the American food system which in turn will enhance the credibility of our number one industry.

Because I am including both a short explanation, and section-by-section analysis of both bills, I will only mention a few of this legislations' more salient points. Overall, we have sought to meet: First, the consumer's need for objective and useful nutrition information that is suitably accurate, and that can be provided on food labels or labeling at the same or less cost as the current system, second, the food industry's need for greater flexibility and full participation in the development process, and third, both groups, stated position that a person has the right to know what is in the food that he or she chooses to eat. Furthermore, we have examined the problem comprehensively by considering it as an information svstem that includes packaged foods, fresh foods, and restaurant foods. Finally, the nutrition and ingredient label and labeling requirements are intended to apply to all packaged foods in the FDA bill—fresh fruits and vegetables, and restaurant foods could provide label and labeling information on a voluntary basis—and to processed meat food products and poultry products in the USDA bill—fresh meat and poultry could provide label and labeling information on a voluntary basis.

The Congress has never specifically enacted nutrition labeling legislation. As a result, current nutrition labeling is based on the existing statutes of the Federal Food, Drug, and Cosmetic Act—an act which is essentially punitive in nature because of the very real food and drug safety concerns that it addresses. However, the consumers' need for nutrition labeling is on a totally different plane from that of regulating toxic substances in our foods. Our hearings have demonstrated that, in fact, because the Congress has not taken direct action on nutrition labeling, we have overregulated this matter by overemphasizing the classic compliance aspect of food regulations.

I recognize that the public usually associates more legislation with more regulation. But this is not always the case. In this instance, this legislation is aimed specifically at ridding us of overly restrictive labeling regulations that have evolved as a result of trying to use inappropriate statutory language to meet an unintended purpose. This legislation addresses the problem of inappropriate regulation by redirecting the focus toward the vital information function of nutrition and ingredient labeling.

Specifically, it incorporates the nutrition data base approach to nutrition labeling. Such an approach is the key means for both large and small producers to reduce, if not eliminate, the economic and regulatory burdens that appear to have hindered providing more nutrition information on labels and labeling. The nutrition data base method of labeling offers a degree of accuracy that satisfies the public health concern. Changing over to a nutrition data base approach may reduce current labeling costs for some products by as much as 1,500 percent. Finally, it appears to be the only reasonable way to provide nutrition information for fresh foods and restaurant foods.

As a parallel step, there are no criminal penalties in the USDA bill for nutrition and ingredient labeling violations. Such an action also reflects our intent to focus on information instead of compliance by matching the penalty to the crime. Although this provision is not included in the FDA bill, I would expect that it will be a major issue to be addressed as that bill moves through the Labor and Human Resources, and the Commerce committees.

A third action that will facilitate greater flow of nutrition information is the inclusion in the FDA bill of preemption of State and local nutrition and ingredient labeling requirements. The Department of Agriculture already has such a preemption. This provision means that there will be uniformity in the labels and labeling of nutrition and ingredient information, while at the same time eliminating either real or potential problems for the food industry from needing multiple labels for the same product.

A fourth initiative involves voluntary demonstration projects to pilot test how best to convey nutrition and ingredient information. In order to avoid false starts, the bills provide for a 2-year period of testing prior to the implementation of the revised nutrition and ingredient labeling system. In approving demonstrations, it is intended that the agency and the applicant for a demonstration project would come to an agreement, prior to initiating the project, on the specific objectives of the proposed demonstration and the information that will be provided from the demonstration for evaluation by the Secretary.

Finally, a fifth provision in the FDA bill would insure that a program is undertaken to teach the consumer how to use nutrition labels and labeling. Clearly one of the biggest problems with the current system is that consumers were never educated on the use of the new information on labels.

In short, the bill is directed toward removing the impediments to providing nutrition information on food labels and labeling. Thus, even though there are mandatory nutrition and ingredient label and labeling requirements for packaged foods, I believe that this legislation has eliminated the burdens which might make it difficult for the food industry to provide such information. If not, then we will discover any additional burdens during hearings on the bills. Furthermore, I believe that the bipartisan support of this legislation by my colleagues indicates that this is reasonable legislation which is ready to be fine tuned for eventual passage.

The intent of the legislation is to allow the marketplace to function as freely as possible while insuring that consumers can obtain needed information in order to make informed choices. Such an approach avoids the potential of overregulation by also protecting the right of the food industry to market its products. Thus, we are seeking to protect the right of the consumers to know what is in the foods they select as well as their right to choose freely those foods that they desire to eat.

I look forward to continued close working relationships with all the interested parties, and anticipate that this legislation when finally enacted will be seen as a model for matching the appropriate level of regulatory action with public and private concerns. I want to thank especially Senators Kennedy and Riegle, and the staffs of the Committees on Agriculture, Nutrition, and Forestry; Commerce; and Labor and Human Resources for their support in the development of these two bills. I ask unanimous consent that the two bills with their short explanations and section by sections be printed at this point in the Record.

There being no objection, the bills and material were ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

S. 1651

SHORT TITLE: REFERENCE TO ACT

Section 1. This Act may be cited as the "Department of Agriculture Nutrition Labeling and Information Act of 1979".

DECLARATIONS AND FINDINGS

Sec. 2. Congress finds that:

(1) Consumers need accurate, objective, and easily understandable nutrition and ingredient information on the foods they eat in order to help them choose healthier diets at reasonable cost.

(2) The ability of consumers to select a more nutritious diet is a critical factor in preventing disease and promoting health because diet is a risk factor in six of the ten leading causes of death, and is a causative factor in obesity and dental caries.

(3) More optimal diet selection can help slow mounting medical care costs because healthier people need less medical attention.

(4) The requirements for nutrition labeling need to be altered to reflect better the significant impact on our health of the consumption of the macro-nutrients—protein, fats, and carbohydrates—as well as such other significant dietary components as sodium and cholesterol.

(5) In altering labeling requirements, special attention must be placed on improving labeling formats to convey more effectively needed information in a readily understandable fashion to the average consumer.

(6) In order to achieve maximum benefit from label modifications, consumers must be educated on the use of the nutrition information that is provided.

(7) Nutrition labeling should be an information function that allows for appropriate flexibility on the part of producers, and that also protects and enhances the right of consumers to know what is in the food they select so that they can make informed choices.

INGREDIENT AND NUTRITION LABELING INFORMATION

Sec. 3. (a) The Secretary, after consultation with the Secretary of Health, Education, and Welfare, shall develop and implement a nutrition labeling and information system for meat, meat food products, and poultry, and poultry products, capable of use of human food.

(b) The Secretary shall prescribe, in order to provide health information to consumers, that the labels and labeling of meat food products, and poultry products, capable of use as human food, shall include at least the following:

(1) unless a standard name is required under sections 1 or 7 of the Federal Meat Inspection Act, or 4(H)(7) of the Poultry Products Inspection Act, the common or usual name (if any);

(2) the common or usual name of each ingredient, including color additives and spices, in the descending order of its predominance by weight, except that (A) any ingredients that individually comprise five percent or less of a food need not be listed in such order but shall be named at the end of the ingredient list, and (B) any flavorings that are not sold as such shall be designated as artificial flavorings or natural flavorings. as the case may be, without naming each flavoring, unless the Secretary requires that the common or usual name of a flavoring be on the label for the purpose of providing health information to consumers;

(3) a declaration that ingredients are listed in the descending order of predominance by weight,

(4)(A) a declaration of the quantity or percentage (as determined by the Secretary) of any specified ingredient (other than a flavoring) or class of ingredients if the

Secretary determines that such ingredient or class has a significant bearing on the quality, consumer acceptability, or cost of a meat food product or poultry product, capable of use as human food;

(B) The Secretary may not require that an ingredient that comprises 5 percent or less of a meat food product, or poultry product, capable of use as human food, be declared under clause (A) of this paragraph unless, in addition to the determination under such paragraph, he determines that the absence of such declaration is likely to result in consumer deception or confusion.

(5) the total number of calories per serving;

(6) the amount per serving of protein, fats, and carbohydrates in terms of caloric content;

(7) the amount per serving of sodium unless the Secretary determines that providing such information is not necessary to provide health information to consumers.

(8) the amount per serving of cholesterol unless the Secretary determines that providing such information is not necessary to provide health information to consumers.

(c) To the extent that compliance with the requirements, of subsection (b) of this section is impracticable would result in unfair competition, or is not necessary to provide health information to consumers, the Secretary may prescribe exemptions from such requirements:

(d) The Secretary, for purposes of subsection (b), and after consultation with the Secretary of Health, Education, and Welfare, shall allow to the maximum extent feasible and appropriate, the use of nutrition data bases that indicate representative (weighted) nutritional value at point of purchase.

(e) The Secretary may, where appropriate, prescribe a system of symbols, figures, or other devices that will enable consumers to comprehend readily the nutrition information that is or may be required to be placed on labels or labeling by subsection (b) of this section.

(f) This section shall only apply with respect to meat food products, and poultry products, capable of use as human food, that are introduced or are delivered for introduction into interstate commerce two years after the date of enactment of this Act.

JURISDICTION AND ENFORCEMENT

SEC. 4. (a) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other Territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act, and shall have jurisdiction in all other kinds of cases arising under this Act.

(b) This section shall only apply with respect to meat food products, and poultry products, capable of use as human food, that 'are introduced or delivered for introduction into interstate commerce two years after the date of enactment of this Act.

DEMONSTRATIONS AND EVALUATIONS

SEC. 5. (a) The Secretary may approve proposals to undertake demonstrations to ascertain the most effective method of organizing the information on labels and labeling of meat, meat food products, and poultry and poultry products, capable of use as human food in order to convey to consumers the information that is or may be required to be placed on labels and labeling under section 3 of this Act—

(1) with particular emphasis on the following methods of conveying such information:

(A) nutrient density;

(B) serving size or standard unit of measure; and

(C) ingredient function; and

(2) with particular emphasis on conveying information on:

(A) protein, fats, and carbohydrates;

(B) sodium;

(C) cholesterol; and

(D) vitamins and minerals

(b) Proposals to undertake demonstrations shall state the specific objectives of the demonstration and the information that will be provided from the demonstration in order for the Secretary to evaluate its effectiveness. Upon completion of a demonstration under subsection (a) of this section, the Secretary shall prepare a written evaluation of any such demonstration within one hundred and eighty days of receipt of information from such demonstration.

(c) The Secretary may waive from the requirements of any applicable statute, under such terms and conditions, and for such periods of time as the Secretary prescribes, any meat, meat food product, and poultry, and poultry product capable of use as human food, that is engaged in demonstrations approved under subsection (a) of this section.

STANDARDIZED REFERENCE ON THE NUTRIENT COMPOSITION OF FOODS

SEC. 6. (a) The Secretary may, in cooperation with the Secretary of Health, Education, and Welfare, the land-grant colleges and universities (those institutions eligible to receive funds under the Act of July 2, 1862, (12 Stat. 503–504, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute), and other appropriate public and private entities, develop and publish a standardized reference on the nutirent composition of all foods.

(b) The standardized reference to be developed under subsection (a)(1) of this section shall indicate representative (weighted) nutritional value at point of purchase, and (2) when developed, can serve as the basis for the information that is or may be required to be placed on labels and labeling under section 3.

(c) For the purpose of this section, there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1981, $2,000,000 for the fiscal year ending September 30, 1982, and $1,000,000 for the fiscal year ending September 30, 1983.

NOTIFICATION TO AND REPORT BY THE FEDERAL TRADE COMMISSION

SEC. 7. (a) The Secretary shall notify the Federal Trade Commission of the nutrition information that is to be used on labels or in labeling pursuant to section 3 of this Act and recommend to the Commission which (if any) of such information should be required by the Commission under the Federal Trade Commission Act to be included in the advertising of meat, meat food products, and poultry and poultry products, capable of use as human food.

(b) The Chairman of the Commission shall report two years after the date of enactment of this Act and biennially thereafter to Congress on (1) any recommendations made to the Commission by the Secretary under subsection (a) of this section, (2) in those situations where the Commission accepts a recommendation, a description of any action taken to implement such recommendation, and (3) in those situations where the Commission fails to accept, in whole or in part, a recommendation, a description of the reasons for such failure.

UNIFORM RETAIL QUALITY GRADE STANDARDS

SEC. 8. (a) The Secretary, after consultation with appropriate public and private entities, shall develop and promulgate a system of retail quality grade standards for meat, poultry, dairy products, eggs, and fresh fruits and vegetables expressed in a uniform nomenclature.

(b) The Secretary shall establish the manner in which the system of retail quality grade standards shall be displayed and disseminated to the public. Such dissemination shall specifically include a program of consumer education to make retail quality grade standards widely known to consumers.

(c)(1) In developing and updating retail quality grade standards, the Secretary shall consider, where appropriate, the nutritional quality, of meat, poultry, dairy products, eggs, and fresh fruits and vegetables, as well as the acceptability of the products.

(2) To the extent consistent with paragraph (1) of this subsection, grading methods in use prior to the enactment of this Act may be used by the Secretary in establishing the system of retail quality grade standards for meat, poultry, dairy products, eggs, and fresh fruits and vegetables.

(d) Any meat, poultry, dairy products, eggs, and fresh fruits and vegetables sold after the implementation of the retail quality grade standards developed under this section shall either be conspicuously labeled in accordance with such standards or shall be conspicuously labeled "not quality graded by the United States Department of Agriculture".

(e) The retail quality grade system authorized under this section shall be implemented two years after the date of enactment of this Act.

DEFINITIONS

SEC. 9. For purposes of this Act,

(1) the term "capable of use as human food" has the same meaning as is assigned to that term by section 4(v) of the Poultry Products Inspection Act (21 U.S.C. 453(v)), and section 1(k) of the Federal Meat Inspection Act (21 U.S.C. 601(k));

(2) the term "commerce" has the same meaning as is assigned to that term by section 1(h) of the Federal Meat Inspection Act (21 U.S.C., 601(h));

(3) the term "label" means a display of written, printed, or graphic matter upon the immediate container (not including package liners) of any article;

(4) the term "labeling" means all labels and other written, printed, or graphic matter (a) upon any article or any of its containers or wrappers, (b) accompanying such article or (C) displayed at point of purchase of such article;

(5) the term "meat food product" has the same meaning as is assigned to that term by section 1(j) of the Federal Meat Inspection Act (21 U.S.C. 601(j));

(6) the term "poultry" has the same meaning as is assigned to that term by section 4(e) of the Poultry Products Inspection Act (21 U.S.C. 453(f));

(7) the term "poultry product" has the same meaning as is assigned to that term by section 4(f) of the Poultry Products Inspection Act (21 U.S.C. 453(f));

(8) the term "Secretary" means the Secretary of Agriculture or the Secretary's delegated agent.

SHORT EXPLANATION

As introduced, the major provisions of the bill would—

(1) two years after enactment require a listing of all ingredients (including colors and species) in descending order of predominance by weight for all meat food products, and poultry products, capable of use as human food, except that (a) any ingredients that individually comprise five percent or less of a food can simply be listed at the end of the ingredient list, and (b) flavorings shall be designated as artificial or natural flavorings without naming each such flavoring unless the Secretary requires such declaration for the purpose of providing health information to consumers;

(2) two years after enactment require on all meat food products, and poultry products, capable of use as human food, the declaration of the percentage or quantity of an ingredient that has a significant bearing on the quality, consumer acceptability or

cost of such food (this pertains to characterizing ingredients, i.e., an ingredient which is perceived as valuable such as shrimp in shrimp cocktail, or is a characterizing feature of a food such as grain in a cereal product);

(3) two years after enactment require on all meat food products, and poultry products, capable of use as human food, a declaration of (a) the total number of calories per serving; (b) the amount per serving, of protein, fats, and carbohydrates in caloric terms; and (c) the amount per serving of sodium and cholesterol (the most appropriate declaration of the subcomponents of fats and carbohydrates, and the best means to convey calorie information, such as in percentages or actual calories, will be determined through the demonstration projects described in No. 8 below);

(4) Two years after enactment allow, to the maximum extent feasible and appropriate, the use of nutrition data bases that indicate representative (weighted) nutritional value a point of purchase (this provision is the fundamental working principle of this Act, and it is the key to reducing, if not eliminating, the burdens of providing nutrition information on labels and labeling);

(5) upon enactment authorize the Secretary to develop and publish a standardized reference on the nutrient composition of all foods;

(6) two years after enactment allow the Secretary, where appropriate, to prescribe a system of symbols, figures or other devices that will enable consumers to comprehend readily the nutrition information that is or may be required to be placed on labels or labeling (this is intended to encourage simplification of nutrition labels and labeling through the use of graphics and is necessary if the use of nutrient density is ever to occur. However, as with any part of the nutrition label or labeling, the use of graphics to make subjective statements or to editorialize is to be avoided);

(7) two years after enactment eliminate criminal penalties for nutrition and ingredient labeling violations for meat food products, and poultry products, capable of use as human food;

(8) upon enactment allow the Secretary (a) to approve demonstrations to ascertain the most effective methods of organizing labels and labeling of meat, meat food products, and poultry and poultry products, capable of use as human food, and conveying to consumers the information that is or may be required to be placed on labels and labeling, and (b) to waive, under such terms and conditions and for such periods of time as the Secretary prescribes, any existing nutrition and ingredient label and labeling requirements for the foods that are engaged in the demonstrations (this provision provides an opportunity for the food industry, on a voluntary basis, to pilot test nutrition and ingredient label and labeling formats and information);

(9) two years after enactment direct the Secretary to notify the Federal Trade Commission of the nutrition and ingredient information that is to be used on labels or in labeling and recommend to the Commissioner which information should be required to be included in advertising. The Chairman of the Commission shall report biennially to the Congress what, if any, action was taken on the Secretary's recommendations;

(10) two years after enactment direct the Secretary to develop and promulgate a system of retail quality grade standards for meat, poultry, dairy products, eggs, and fresh fruits and vegetables expressed in a uniform nomenclature. The grade standards shall be based on product acceptability and, where appropriate, nutritional quality, and to the extent that it is possible, grading methods already in use will be continued.

SECTION-BY-SECTION ANALYSIS OF USDA NUTRITION LABELING AND INFORMATION ACT OF 1979

Section 1. Short Title.

The first section provides that the bill may be cited as the "Department of Agriculture Nutrition Labeling and Information Act of 1979".

Section 2. Declarations and findings.

Section 2 sets forth the following congressional findings:

(1) Consumers need accurate, objective, and easily understandable nutrition and ingredient information on the foods they eat in order to help them choose healthier diets at reasonable cost.

(2) The ability of consumers to select a more nutritious diet is critical in preventing disease and promoting health because diet is a risk factor in six of the ten leading causes of death and is a causative factor in obesity and dental caries.

(3) More optimal diet selection can help slow mounting medical care costs because healthier people need less medical attention.

(4) The requirements for nutrition labeling need to be changed to better reflect the significant impact on our health of the consumption of the macro-nutrients—protein, fats, and carbohydrates—as well as such other significant dietary components as sodium and cholesterol.

(5) In altering labeling requirements, special attention must be placed on improving labeling formats to convey more effectively needed information in a readily understandable fashion to the average consumer.

(6) In order to achieve maximum benefits from label modifications, consumers must be educated on the use of the nutrition information that is provided.

(7) Nutrition labeling should be an information function that allows for appropriate flexibility on the part of producers and that also protects and enhances the right of consumers to know what is in the food they select so that they can make informed choices.

Section 3. Ingredient and nutrition label and labeling information.

GENERAL AUTHORITY

Section 3(a) requires the Secretary of Agriculture, after consultation with the Secretary of Health, Education, and Welfare, to develop and implement a nutrition and ingredient label and labeling information system for meat, meat food products, and poultry and poultry products, capable of use as human food. Such a system would authorize the use of accurate, objective, and relevant ingredient and nutrition information on labels and labeling on a voluntary basis for fresh meats and poultry, and on a mandatory basis for meat food products and poultry products, capable of use as human food, as described in section (b) of this bill.

NUTRITION AND INGREDIENT LABELING REQUIREMENTS

Section 3(b) requires that the labels and labeling of meat food products and poultry products, capable of use as human food, include at least the following information:

(1) unless a standard name is required under sections 1 or 7 of the Federal Meat Inspection Act, or 4(H)(7) of the Poultry Products Inspection Act, the common or usual name (if any).

(2) the common or usual name of each ingredient, including colorings and spices, in the descending order of its predominance by weight except that:

(A) any ingredients that individually comprise five percent or less of a food need not be listed in such order, but must be named at the end of the ingredient list; and

(B) any flavorings that are not sold as such must be designated as artificial flavorings or natural flavorings unless the Secretary requires that the common or usual name of a flavoring be on the label for the purpose of providing health information to consumers.

(3) a declaration that ingredients are listed in the descending order of predominance by weight;

(4) a declaration of the quantity or percentage (as determined by the Secretary) of any specified ingredient (other than a flavoring) or class of ingredients, if the Secretary determines that such ingredient of class has a significant bearing on the quality, consumer acceptability, or cost of a meat food product, or poultry product, capable of use as human food.

Section 3(b)(4) addresses the concept of characterizing ingredients, which is primarily an economic concern. As a result, by using the term significant bearing, the intended emphasis is on conveying to consumers information about the amount they are purchasing of a perceived valuable ingredient (or ingredients) such as shrimp in shrimp cocktail or beef in beef stew, or an ingredient (or ingredients) that is the characterizing feature of a food such as the amount of fruit juice in a fruit drink or the amount of grain in a cereal product. Section 3(b)(4) neither provides authority to require percentage labeling of all ingredients, nor does it necessarily mean that all foods would have an ingredient designated by the Secretary as having a significant bearing. On the other hand, it is not expected that a food would have more than one or two ingredients designated as having a significant bearing i.e., be considered characterizing ingredients. Finally, no ingredient that comprises five percent or less of a meat food product, or poultry product, capable of use as human food, would be considered as having a significant bearing unless the Secretary determines that the absence of such declaration is likely to result in consumer deception or confusion.

(5) the total number of calories per serving.

(6) the amount per serving of protein, fats, and carbohydrates in terms of caloric content.

Sections 3(b)(5) and (6) address the importance of caloric information. The demonstration project provisions of the bill (Section 5) will help determine the best means to convey caloric information (such as in percentages or actual calories). The demonstration projects will also help determine what further breakdown of fats (such as saturated and polyunsaturated) and carbohydrates (such as sugars and starches) is best understood and most useful to consumers.

(7) the amount per serving of sodium, unless the Secretary determines that providing such information is not necessary to provide health information to consumers.

(8) the amount per serving of cholesterol, unless the Secretary determines that providing such information is not necessary to provide health information to consumers.

EXEMPTIONS FROM REQUIREMENTS

Section 3(c) provides for exemptions from the requirements of section 3(b) of this bill if compliance is impracticable, would result in unfair competition, or is not necessary to provide health informaion to consumers.

NUTRITION DATA BASES

Section 3(d) authorizes the Secretary to allow, to the maximum extent feasible and appropriate, the use of nutrition data bases that indicate representative (weighted) nutritional value at point of purchase. The use of nutrition data bases would be linked to effective, established processing procedures, such as the Good Manufacturing Practices that are presently prescribed by the Food and Drug Administration. The nutrition data base approach is the fundamental working principle of this bill, and its adoption is the key to reducing, if not eliminating, the economic and regulatory burdens that appear to have hindered providing more nutrition information on labels and labeling.

GRAPHICS

Section 3(e) authorizes the Secretary to prescribe a system of symbols, figures, and other devices that will enable consumers to comprehend readily the nutrition information that is or may be required to be placed on labels and labeling under section 3(b) of this bill. The objective of this section is to encourage simplification of the nutrition label and labeling through the use of graphics in order to provide accurate, objective and relevant nutrition information to consumers. The use of graphics to make subjective statements or to editorialize is to be avoided. The authority to employ graphics is especially important if the use of nutrient density on labels and labeling is ever to occur.

EFFECTIVE DATE

Section 3(f) provides that the provisions of section 3 of this bill will apply only with respect to meat food products, and poultry products, capable of use as human food, that are introduced or delivered for introduction into interstate commerce two years after the date of enactment of this bill.

Section 4. Jurisdiction and enforcement.

Section 4(a) defines which courts have jurisdiction to enforce, and to prevent and restrain violations of this bill. There are no criminal penalties for violations of the nutrition and ingredient label and labeling requirements of this bill.

Section 4(b) provides that this section shall apply only with respect to meat food products, and poultry products, capable of use as human food, that are introduced or delivered for introduction into interstate commerce two years after the date of enactment of this bill.

Section 5. Demonstrations and evaluations.

Section 5(a) authorizes the Secretary to approve proposals to undertake demonstrations to ascertain the most effective methods of organizing the labels and labeling of meat, meat food products, and poultry, and poultry products, capable of use as human food, in order to convey to consumers the nutrition and ingredient information that is or may be required to be placed on labels and labeling under section 3 of this bill. Participation in the demonstrations will be on a voluntary basis.

The demonstrations will place special emphasis on (1) methods of conveying information such as nutrient density, serving size or standard unit of measure, and ingredient function, and (2) conveying information about protein, fats and carbohydrates; sodium; cholesterol; and vitamins and minerals. It is intended that the demonstrations will help determine the most appropriate declaration of the subcomponents of fats (such as saturated and polyunsaturated) and carbohydrates (such as sugars and starches), and the best means of conveying calorie information.

Section 5(b) provides that in approving demonstrations, the Secretary and the applicant for a demonstration project must come to an agreement, prior to the initiation of the project, on the specific objectives of the proposed demonstration and the information that will be provided from the demonstration for evaluation. Upon completion of a demonstration, the Secretary is required to prepare a written evaluation of any such demonstration within one hundred eighty days of receipt of information from such demonstration.

Because such protections already exist in law, this bill does not include specific language affirming the rights of a participant in a demonstration to protect information which is proprietary in nature.

Section 5(c) allows the Secretary to waive from the requirements of any applicable statute, under such terms and conditions, and for such periods of time as the Secretary prescribes, any meat, meat food product, and poultry, and poultry product, capable of use as human food, that is engaged in demonstrations approved under subsection (a) of this section.

Section 6. Standardized reference on the nutrient composition of foods.

Section 6(a) authorizes the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, the landgrant colleges and universities, and other appropriate public and private entities, to develop and publish a standardized reference on the nutrient composition of all foods. Such a standardized reference would build upon existing data on the nutrient composition of foods such as the Department of Agriculture's Handbook No. 8, and acceptable nutrition data bases provided by appropriate public and private entities.

Section 6(b) provides that the standardized reference (1) shall indicate representative (weighted) nutritional values at point of purchase, and (2) when developed, can serve as the basis for the nutrition information that is or may be required to be placed on labels and labeling under section 3 of this bill.

Section 6(c) authorizes that $1 million be appropriated for fiscal year 1981, and $2 million for fiscal year 1982 and $1 million for fiscal year 1983, in order to develop the standardized reference on the nutrient composition of foods.

Section 7. Notification to and report by the Federal Trade Commission.

Section 7(a) authorizes the Secretary to notify the Federal Trade Commission of the nutrition information that is to be used on labels of inlabeling pursuant to section 3 of this bill, and to recommend to the Commission which of such information should be required by the Commission to be included in the advertising of meat, meat food products, and poultry and poultry products, capable of use as human food.

Section 7(b) directs the Chairman of the Federal Trade Commission to report, beginning two years after enactment of this Act, and biennially thereafter, to Congress on any recommendations made to the Commission by the Secretary, and what if any action the Commission has taken in response to the recommendations.

The intent of section 7 is to encourage greater cooperation between the Department of Agriculture and the Federal Trade Commission, and to delineate further the relationship between nutrition and ingredient labeling, and advertising.

Section 8. Uniform retail quality grade standards.

Section 8(a) authorizes the Secretary, after consultation with appropriate public and private entities, to develop and promulgate a system of retail quality grade standards for meat, poultry, dairy products, eggs, and fresh fruits and vegetables expressed in uniform nomenclature.

Section 8(b) authorizes the Secretary to (1) establish how the standards shall be displayed and disseminated to the public, and (2) develop a consumer education program to make the standards widely known to consumers.

Section 8(c) authorizes the Secretary (1) to consider, acceptability and, where appropriate, nutritional quality, in developing and updating the standards for meat, poultry, dairy products, eggs, and fresh fruits and vegetables, and (2) to the extent it is possible, continue in use grading methods in use prior to enactment of this bill.

Section 8(d) provides that any meat, poultry, dairy products, eggs, and fresh fruits and vegetables sold after the retail quality grade standards are promulgated shall either be clearly labeled in accordance with such standards, or labeled "not quality graded by the USDA."

Section 8(e) authorizes that the new retail quality grade standards shall be implemented two years after the date of enactment of this bill.

Section 9. Definitions.

Section 9 provides the definitions for this bill. Of the terms defined in the bill, only the term "labeling" is different from definitions under current law (the Federal Meat Inspection Act and the Poultry Products Inspection Act). The term "labeling" for the purposes of providing nutrition information will now also include all labels and other written, printed, or graphic matter displayed at point of purchase of such article. This definition would allow labeling of fresh foods at point of purchase.

S. 1652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE: REFERENCE TO ACT

SEC. 1. (a) This Act shall be cited as the "Nutrition Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act".

(b) Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

DECLARATIONS AND FINDINGS

SEC. 2. The Congress finds that:

(1) Consumers need accurate, objective, and easily understandable nutrition and ingredient information on the foods they eat in order to help them choose healthier diets at reasonable cost.

(2) The ability of consumers to select a more nutritious diet is a critical factor in preventing disease and promoting health because diet is a risk factor in six of the ten leading causes of death, and is a causative factor is obesity and dental caries.

(3) More optimal diet selection can help slow mounting medical care costs because healthier people need less medical attention.

(4) The requirements for nutrition labeling need to be altered to better reflect the significant impact on our health of the consumption of the macro-nutrients—protein, fats, and carbohydrates—as well as such other key dietary components as sodium and cholesterol.

(5) In altering labeling requirements, special attention must be placed on improving labeling formats to convey more effectively needed information in a readily understandable fashion to the average consumer.

(6) In order to achieve maximum benefit from label modifications, consumers must be educated on the use of the nutrition information that is provided.

(7) Nutrition labeling should be approached as an information function that allows for appropriate flexibility on the part of producers, while also protecting and enhancing the consumers' right to know what is in the food they select so that they can make informed choices.

NUTRITION INFORMATION AND OTHER LABELING REQUIREMENTS

SEC. 3. (a)(1) Section 401 is amended by striking out the fourth sentence thereof.

(2) Section 403(g) is amended to read as follows:

"(g) If it purports to be or is represented as food for which a definition and standard of identity have been prescribed as provided by section 401, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in such definition and standard.".

(b)(1) Section 403(i) is amended to read as follows:

"(i) Unless its label bears—

"(1) in the case of food that is not subject to paragraph (g) of this section, the common or usual name (if any) of the food; and

"(2) in case it is fabricated from two or more ingredients—

"(A) the common or usual name of each such ingredient in the descending order of its predominance by weight, except that (i) any ingredients that individually comprise five percent or less of a food need not be listed in such order but shall be named at the end of the ingredient list; and (ii) any flavorings that are not sold as such shall be designated as artificial flavorings or natural flavorings, as the case may be, without naming each such flavoring, unless the Secretary requires that the common or usual name of a flavoring be on the label for the purpose of providing health information to consumers,

"(B) a declaration that ingredients are listed in the descending order of predominance by weight, and

"(C) a declaration of the quantity or percentage (as determined by the Secretary) of any specified ingredient (other than a flavoring) or class of ingredients if the Secretary determines that such ingredient or class has a significant bearing on the quality, consumer acceptability, or cost of such food or food of its class. The Secretary may not require that an ingredient that comprises five percent or less of a food be declared under subparagraph (2)(C) unless, in addition to the determination under such subparagraph, the Secretary determines that the absence of such declaration is likely to result in deception or confusion. To the extent that compliance with the requirements of subparagraph (2) is impracticable or would result in deception or unfair competition, the Secretary may prescribe exemptions from such requirements.

"(3) The Secretary shall exempt from the provisions of this subsection any food that the Secretary determines is subject to comparable requirements established with respect to such food under any other Federal law.".

(2) The second sentence of section 403(k) is repealed.

(c) Section 403 is amended by adding at the end thereof the following new subsections as follows:

"(q)(1) If it is a food for human consumption and in package form, unless its label bears such nutrition information relating to the food as the Secretary prescribes to provide health information to consumers including at least the following:

"(A) The total number of calories per serving;

"(B) The amount per serving of protein, fats, and carbohydrates in terms of caloric content;

"(C) The amount per serving of sodium unless the Secretary determines that providing such information is not necessary to provide health information to consumers;

"(D) The amount per serving of cholesterol unless the Secretary determines that providing such information is not necessary to provide health information to consumers.

"(2) The Secretary, for purposes of paragraph (1), and after consultation with the Secretary of Agriculture, shall allow, to the maximum extent feasible and appropriate, the use of nutrition data bases that indicate representative (weighted) nutritional value at point of purchase.

"(3) The Secretary shall exempt from the provisions of this subsection any food that the Secretary determines is subject to comparable requirements established with respect to such food under any other Federal Law.

"(4) To the extent that compliance with the requirements of paragraph (1) is impracticable or not necessary to provide health information to consumers, the Secretary may prescribe exemptions from such requirements.

"(r) The Secretary may, where appropriate, prescribe a system of symbols, figures, or other devices that will enable consumers to comprehend readily the nutrition information that is or may be required to be placed on labels by this section.".

(d) The amendments made by this section shall only apply with respect to food that is introduced or delivered for introduction into interstate commerce two years after the date of enactment of this Act.

PREEMPTION

SEC. 4. (a) Chapter IV is amended by adding after section 411 the following new section:

"STATE AND LOCAL FOOD LABELING REQUIREMENTS

"SEC. 412. (a) Except as provided in subsection (b), no State or political subdivision of a State may establish or continue in effect a label or labeling requirement on manufacturers, wholesalers, and packers concerning nutrition and ingredient information applicable to any food that is different from or in addition to any label or labeling requirement applicable to such food under subsections (i) and (q) of section 403.

"(b) Upon application of a State or a political subdivision thereof, the Secretary may, after notice and opportunity for comment, exempt from subsection (a), under such conditions as may be prescribed, a label or labeling requirement of such State or political subdivision if the Secretary determines that the requirement is required by compelling local conditions and compliance with it would not cause a food to be in violation of a requirement under subsections (i) and (q) of section 403.

"(c) Subsection (a) does not prohibit a State or political subdivision of a State from establishing or continuing in effect a label or labeling requirement respecting the sell or use date of food.

"(d) Within one hundred and eighty days of the date the Secretary receives an application of a State or a political subdivision thereof pursuant to subsection (b), the Secretary shall either approve or deny the application.".

(b) The amendment made by subsection (a) shall only apply with respect to food which is introduced or delivered for introduction into interstate commerce two years after the date of the enactment of this Act.

DEMONSTRATIONS AND EVALUATIONS

SEC. 5. (a) The Secretary of Health, Education, and Welfare may approve demonstrations to ascertain the most effective methods of organizing the food label and of conveying to consumers the information that is or may be required to be placed on labels and labeling under section 403 of the Federal Food, Drug, and Cosmetic Act, as amended by section (3) of this Act,

(1) with particular emphasis on the following methods of conveying such information:

(A) Nutrient density;

(B) Serving size; and

(C) Ingredient function; and

(2) with particular emphasis on conveying information on:

(A) Protein, fats, and carbohydrates;

(B) Sodium;

(C) Cholesterol;

(D) Dietary fiber; and

(E) Vitamins and minerals.

(b) Upon completion of a demonstration under subsection (a), the persons conducting such demonstration shall submit to the Secretary such information as the Secretary shall require to evaluate the effectiveness of the demonstration. The Secretary shall prepare a written evaluation of any such demonstration within one hundred and eighty days of receipt of such information.

(c) Section 403, as amended by section 3 of this Act, is further amended by adding at the end thereof the following new subsection:

"(s) The Secretary may waive from any requirements of this section, under such terms and conditions and for such periods of time as the Secretary prescribes, any foods that are engaged in demonstrations approved under section 5 of the Nutrition Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act.".

CONSUMER EDUCATION PROGRAM ON THE USE OF LABELS AND LABELING

SEC. 6. (a) The Secretary of Health, Education, and Welfare, in consultation with the Secretary of Agriculture and other appropriate public and private entities, shall develop, pilot test and implement a program of consumer education on how to use nutrition labels and labeling effectively.

(b) The Secretary shall submit to the Congress on January 1, 1982 and on January 1, 1933, a report on the program established under subsection (a) including, but not limited to, a detailed description of and an evaluation of the effectiveness of such program.

(c) For the purpose of undertaking such a program, there are authorized to be appropriated $4,000,000 for the fiscal year ending September 30, 1981, $6 million for the fiscal year ending September 30, 1982, and $8 million for the fiscal year ending September 30, 1983.

NOTIFICATION TO AND REPORT BY THE FEDERAL TRADE COMMISSION

SEC. 7. (a) The Secretary of Health, Education, and Welfare shall notify the Federal Trade Commission of the nutrition information that is to be used on labels or in labeling pursuant to subsections (i) and (q) of section 403 of this Act and recommend to the Commission which (if any) of such information should be required by the Commission under the Federal Trade Commission Act to be included in the advertising of such food.

(b) The Chairman of the Commission shall report two years after date of enactment of this Act and biennially thereafter to Congress on (1) any recommendations made to the Commission by the Secretary under subsection (a) of this section, (2) in those situations where the Commission accepted a recommendation, a description of any action taken to implement such recommendations, and (3) in those situations where the Commission failed to accept, in whole or in part, a recommendation, a description of the reasons for such failure.

SHORT EXPLANATION

As introduced, the major provisions of the bill would—

(1) two years after enactment require a listing of all ingredients (including colors and spices) in descend-order of predominance by weight for all packaged foods except that (a) any ingredients that individually comprise five percent or less of a food can simply be listed at the end of the ingredient list, and (b) flavorings shall be designated as artificial or natural flavorings without naming each such ingredient unless the Secretary requires such declaration for the purpose of providing health information to consumers;

(2) two years after enactment require on all packaged foods the declaration of the percentage or quantity of an ingredient that

has a significant bearing on the quality, consumer acceptability or cost of such food (this pertains to characterizing ingredients, i.e., an ingredient which is perceived as valuable such as shrimp in shrimp cocktail, or is a characterizing feature of a food such as grain in a cereal product);

(3) two years after enactment require on all packaged foods a declaration of (a) the total number of calories per serving; (b) the amount per serving, of protein, fats, and carbohydrates in caloric terms; and (c) the amount per serving of sodium and cholesterol (the most appropriate declaration of the subcomponents of fats and carbohydrates, and the best means to convey calorie information, such as in percentages or actual calories, will be determined through the demonstration projects described # 8 below);

(4) two years after enactment allow to the maximum extent feasible and appropriate, the use of nutrition data bases that indicate representative (weighted) nutritional value at point of purchase (this provision is the fundamental working principle of this Act, and it is the key to reducing, if not eliminating, the burdens of providing nutrition information on labels and labeling);

(5) two years after enactment exempt from the bill's label and labeling requirements any food that the Secretary determines is subject to comparable requirements under any other federal law;

(6) two years after enactment allow the Secretary, where appropriate, to prescribe a system of symbols, figures or other devices that will enable consumers to comprehend readily the nutrition information that is or may be required to be placed on labels or labeling (this is intended to encourage simplification of nutrition labels and labeling through the use of graphics and is necessary if the use of nutrient density is ever to occur. However, as with any part of the nutrition label or labeling, the use of graphics to make subjective statements or to editorialize is to be avoided);

(7) two years after enactment preempt any State or local label or labeling requirement on manufacturers, wholesalers and packers concerning nutrition and ingredient information that is different from or in addition to the requirements of this bill unless there are compelling local conditions as determined through a notice and opportunity for comment process;

(8) upon enactment allow the Secretary (a) to approve demonstrations to ascertain the most effective methods of organizing food labels and labeling, and conveying to consumers the information that is or may be required to be placed on labels and labeling, and (b) to waive, under such terms and conditions and for such periods of time as the Secretary prescribes, any existing nutrition and ingredient label and labeling requirements for the foods that are engaged in the demonstrations (this provision provides an opportunity for the food industry, on a voluntary basis, to pilot test nutrition and ingredient label and labeling formats and information);

(9) upon enactment direct the Secretary to develop, pilot test and implement a program of consumer education on how to use nutrition and ingredient labels and labeling;

(10) two years after enactment direct the Secretary to notify the Federal Trade Commission of the nutrition and ingredient information that is to be used on labels or in labeling and recommend to the Commissioner which information would be required to be included in advertising. The Chairman of the Commission shall report biennally to the Congress what, if any, action was taken on the Secretary's recommendations.

SECTION-BY-SECTION ANALYSIS OF THE NUTRITION LABELING AND INFORMATION AMENDMENTS OF 1979 TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Section 1. Short Title.

Section 1(a) provides that the bill may be cited as the "Nutrition Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act".

Section 1(b) provides that whenever in this bill an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

Section 2. Declarations and findings.

Section 2 sets forth the following congressional findings:

(1) Consumers need accurate, objective, and easily understandable nutrition and ingredient information on the foods they eat in order to help them choose healthier diets at reasonable cost.

(2) The ability of consumers to select a more nutritious diet is critical in preventing disease and promoting health because diet is a risk factor in six of the ten leading causes of death and is a causative factor in obesity and dental caries.

(3) More optimal diet selection can help slow mounting medical care costs because healthier people need less medical attention.

(4) The requirements for nutrition labeling need to be changed to better reflect the significant impact on our health of the consumption of the macro-nutrients—protein, fats, and carbohydrates—as well as such other significant dietary components as sodium and cholesterol.

(5) In altering labeling requirements, special attention must be placed on improving labeling formats to convey more effectively needed information in a readily understandable fashion to the average consumer.

(6) In order to achieve maximum benefits from label modifications, consumers must be educated in the use of the nutrition information that is provided.

(7) Nutrition labeling should be an information function that allows for appropriate flexibility on the part of producers, and that also protects and enhances the right of consumers to know what is in the food they select so that they can make informed choices.

Section 3. Nutrition information and other labeling requirements.

Section 3(a)(1) strikes the fourth sentence of Section 401. That sentence reads as follows:

"In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Secretary shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label."

This sentence has been deleted because the mandatory ingredient label and labeling requirements of Section 3(b)(1) of this bill will supplant its provisions.

Section 3(a)(2) amends Section 403(g) to read as follows:

"SEC. 403. A food shall be deemed to be misbranded—"(g) if it purports to be or is represented as a food for which a definition and standard of identity have been prescribed by section 401, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in such definition and standard."

Section 403(g) was amended in order to conform that section with the mandatory ingredient label and labeling requirements of Section 3(b)(1) of this bill.

Section 3(b)(1) amends section 403(i). New section 403(i) requires that the labels and labeling of all packaged foods for human consumption include at least the following information:

(1) in the case of a food that is not subject to 403(g), the common or usual name (if any) of the food.

(2) in case it is fabricated from two or more ingredients—

(A) the common or usual name of each such ingredient in the descending order of its predominance by weight except that:

(i) any ingredients that individually comprise 5 percent or less of a food need not be listed in such order, but must be named at the end of the ingredient list; and

(ii) any flavorings that are not sold as such must be designated as artificial flavorings or natural flavorings unless the Secretary requires that the common or usual name of a flavoring be on the label for the purpose of providing health information to consumers.

(B) a declaration that ingredients are listed in the descending order of predominance by weight;

(C) a declaration of the quantity or percentage (as determined by the Secretary) of any specified ingredient (other than a flavoring) or class of ingredients, if the Secretary determines that such ingredient or class has a significant bearing on the quality, consumer acceptability, or cost of such packaged food or food of its class. The Secretary may not require that an ingredient that comprises 5 percent or less of a food be declared under section 403(i)(2)(C) unless, in addition to the determination under such subparagraph, the Secretary determines that the absence of such declaration is likely to result in consumer deception or confusion. To the extent that compliance with the requirements of section 403(i)(2) is impracticable or would result in deception or unfair competition, the Secretary may prescribe exemptions from such requirements.

New section 403(i)(2)(C) addresses the concept of characterizing ingredients, which is primarily an economic concern. As a result, by using the term significant bearing, the intended emphasis is on conveying to consumers information about the amount they are purchasing of a perceived valuable ingredient (or ingredients) such as shrimp in shrimp cocktail or beef in beef stew, or an ingredient (or ingredients) that is the characterizing feature of a food such as the amount of fruit juice in a fruit drink or the amount of grain in a cereal product. This subsection neither provides authority to require percentage labeling of all ingredients, nor does it necessarily mean that all foods would have an ingredient designated by the Secretary as having a significant bearing. On the other hand, it is not expected that a food would have more than one or two ingredients designated as having a significant bearing i.e., be considered characterizing ingredients.

Section 3(b)(1) further amends section 403(i) by adding a new subsection (3) that exempts from the provisions of 403(i) any food that the Secretary determines is subject to comparable requirements established with respect to such food under any other Federal law."

Section 3(b)(2) strikes the following sentence from section 403(k):

"The provisions of this paragraph and paragraphs (g) and (i) with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream."

This sentence has been deleted because of the mandatory ingredient label and labeling requirements as described in section 3(b)(1) of this bill.

NUTRITION INFORMATION

Section 3(c) amends section 403 by adding at the end thereof the following new subsections:

"(q)(1) If it is a food for human consumption and in package form, unless its label bears such nutrition information relating to the food as the Secretary prescribes to provide health information to consumers including at least the following:

"(A) the total number of calories per serving"

"(B) the amount per serving of protein, fats, and carbohydrates in terms of caloric content."

New sections 403(q)(1) (A) and (B) address the importance of caloric information. The demonstration project provisions of the bill (section 5) will help determine the best means to convey caloric information (such as in percentages or actual calories). The demonstration projects will also help determine what further breakdown of fats (such as saturated and polyunsaturated) and carbohydrates (such as sugars and starches) is best understood and most useful to consumers.

"(C) the amount per serving of sodium, unless the Secretary determines that providing such information is not necessary to provide health information to consumers.

"(D) the amount per serving of cholesterol, unless the Secretary determines that providing such information is not necessary to provide health information to consumers."

NUTRITION DATA BASES

New section 403(q)(2) authorizes the Secretary to allow, to the maximum extent feasible and appropriate, the use of nutrition data bases that indicate representative (weighted) nutritional value at point of purchase. The use of nutrition data bases would be linked to effective, established processing procedures, such as the Good Manufacturing Practices that are presently prescribed by the Food and Drug Administration. The nutrition data base approach is the fundamental working principle of this bill, and its adoption is the key to reducing, if not eliminating, the economic and regulatory burdens that appear to have hindered providing more nutrition information on labels and labeling.

EXEMPTIONS FROM REQUIREMENTS

New section 403(q)(3) authorizes the Secretary to exempt from the provisions of this subsection any food that the Secretary determines is subject to comparable requirements established with respect to such food under any other Federal law.

New section 403(q)(4) provides that to the extent that compliance with the nutrition information requirements of section 403(q) (1) is impracticable, or not necessary to provide health information to consumers, the Secretary may prescribe exemptions from such requirements.

GRAPHICS

New section 403(r) authorizes the Secretary to prescribe a system of symbols, figures, and other devices that will enable consumers to comprehend readily the nutrition information that is or may be required to be placed on labels and labeling under new section 403(q)(1). The objective of section 403(r) is to encourage simplification of the nutrition label and labeling through the use of graphics in order to provide accurate, objective and relevant nutrition information to consumers. The use of graphics to make subjective statements or to editorialize is to be avoided. The authority to employ graphics is especially important if the use of nutrient density on labels and labeling is ever to occur.

EFFECTIVE DATE

Section 3(d) provides that the provisions of section 3 of this bill shall apply only with respect to food that is introduced or delivered for introduction into interstate commerce two years after the date of enactment of this bill.

Section 4. Preemption

Section 4(a) amends Chapter IV by adding a new section 412 concerning State and local food labeling requirements. New section 412(a) provides that except as provided in section 412(b), no State or political subdivision of a State may establish or continue in effect a nutrition and ingredient label or labeling requirement on manufacturers, wholesalers and packers applicable to any food that is different from or in addition to any label or labeling requirement applicable to such food under sections 403(i) and 403(q).

New section 412(b) provides that upon application of a State or a political subdivision of a State, the Secretary may, after notice and opportunity for comment, exempt from section 412(a), under such conditions as may be prescribed, a label or labeling requirement of such State or political subdivision if the Secretary determines that the requirement is required by compelling local conditions and compliance with it would not cause a food to be in violation of a requirement of sections 403(i) and 403(q).

New section 412(c) provides that section 412(a) does not prohibit a State or political subdivision of a State from establishing or continuing in effect a label or labeling requirement respecting the sell or use by date of a food.

New section 412(d) provides that the Secretary shall act upon an application by a State or political subdivision of a State pursuant to section 412(b) within 180 days of the date of receipt of such application.

Section 4(b) provides that section 412(a) will apply only with respect to food which is introduced or delivered for introduction into interstate commerce two years after the date of enactment of this bill.

Section 5. Demonstrations and evaluations

Section 5(a) authorizes the Secretary to approve demonstrations to ascertain the most effective methods of organizing the labels and labeling of food in order to convey to consumers the nutrition and ingredient information that is or may be required to be placed on labels and labeling under section 3 of this bill. Participation in the demonstrations will be on a voluntary basis.

The demonstrations will place special emphasis on (1) methods of conveying information such as nutrient density, serving size or standard unit of measure, and ingredient function, and (2) conveying information about protein, fats and carbohydrates; sodium; cholesterol; and vitamins and minerals. It is intended that the demonstrations will help determine the most appropriate declaration of the subcomponents of fats (such as saturated and polyunsaturated) and carbohydrates (such as sugars and starches), and the best means of conveying calorie information.

Section 5(b) provides that upon completion of a demonstration under subsection (a), the persons conducting such demonstration shall submit to the Secretary such information as the Secretary shall require to evaluate the effectiveness of the demonstration. The Secretary is required to prepare a written evaluation of any such demonstration within 180 days of receipt of information from such demonstration. The intent of this section is that in approving demonstrations, the Secretary and the applicant for a demonstration project must come to an agreement, prior to initiation of the project, on the specific objectives of the proposed demonstration and the information that will be provided from the demonstration for evaluation.

Because such protections already exist in law, this bill does not include specific language affirming the rights of a participant in a demonstration to protect information which is proprietary in nature.

Section 5(c) allows the Secretary to waive from any requirements of this section under such terms and conditions, and for such periods of time as the Secretary prescribes, any foods that are engaged in demonstrations approved under section (5) of this bill.

Section 6. Consumers education program on the use of labels and labeling

Section 6(a) requires the Secretary of Health, Education, and Welfare, in consultation with the Secretary of Agriculture and other appropriate public and private entities, to develop, pilot test, and implement a program of consumer education on how to use nutrition labels and labeling effectively.

Section 6(b) directs the Secretary of Health, Education, and Welfare to submit to the Congress on January 1, 1982, and January 1, 1983, a report on the program established under section 6(a) including, but not limited to, a detailed description of and an evaluation of the effectiveness of such program.

Section 6(c) authorizes that $4,000,000 be appropriated for fiscal year ending September 30, 1981, and $6,000,000 for the fiscal year ending September 30, 1982, and $8,000,000 for the fiscal year ending September 30, 1983.

The intent of section 6 is to ensure that consumers are provided with information on how to use nutrition and ingredient information on labels and labeling. This is not to be a nutrition education program.

Section 7. Notification to and report by the Federal Trade Commission

Section 7(a) authorizes the Secretary to notify the Federal Trade Commission of the nutrition information that is to be used on labels or in labeling pursuant to section 3 of this bill, and to recommend to the Commission which of such information should be required by the Commission to be included in the advertising of food.

Section 7(b) directs the Chairman of the Federal Trade Commission to report, beginning two years after enactment of this Act, and biennially thereafter, to Congress on any recommendations made to the Commission by the Secretary, and what if any action the Commission has taken in response to the recommendations.

The intent of section 7 is to encourage greater cooperation between the Department of Health, Education, and Welfare and the Federal Trade Commission, and to delineate further the relationship between nutrition and ingredient labeling, and advertising.

Mr. McGOVERN. Mr. President, by prior approval of the chairmen and the ranking minority members of both the Human Resources Committee and the Committee on Commerce, and also with prior clearance from the distinguished majority leader and the distinguished minority leader, I ask unanimous consent that the second of these measures, the Nutritional Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act, be jointly referred to the Committee on Human Resources and the Committee on Commerce.

The PRESIDING OFFICER. The Chair is of the understanding that the measure has been cleared with the chairman and the ranking Republican members of the two committees, as well as with the leadership.

Mr. BAKER. Mr. President, was there a unanimous-consent request for joint referral?

Mr. McGOVERN. Yes.

Mr. BAKER. It has been cleared on this side.

Mr. McGOVERN. It was in fact cleared with all the leadership, that of the committees and that of the Senate as a whole.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. RIEGLE. Mr. President, I am pleased to join Senator McGovern, Senator Kennedy, and other colleagues in introducing the Nutrition Labeling and Information Amendments of 1979, and the Department of Agriculture Nutrition Labeling and Information Act of 1979. These two bills—one of which establishes nutritional labeling requirements for foods under the jurisdiction of the Food and Drug Administration and the other for foods under the jurisdiction of the Department of Agriculture—represent almost a decade of congressional action and concern in the area of nutrition labeling.

They are the result of nearly a year of discussion between staff of the Labor and Human Resources Committee, the Commerce Committee, and the Committee on Agriculture, Nutrition, and Forestry, and consumer groups, trade associations, individual food companies, the Food and Drug Administration, the Department of Agriculture, and the Federal Trade Commission.

They incorporate many of the provisions from nutrition labeling bills which have twice passed the Senate, only to die in the House. They also include many of the suggestions and concepts which emerged from hearings conducted by the Agriculture Committee and from 10 days of public hearings conducted by the Food and Drug Administration, the Department of Agriculture, and the Federal Trade Commission in five cities across the country.

The bills we are introducing today attempt to strike a careful balance between the consumer's need for objective and understandable information about the foods they eat and the needs and interests of the food industry in a labeling system which imposes a minimum of additional cost and which is responsive to the differing nutritional characteristics of the foods which are packaged, marketed, and sold by the food industry.

As a member of the Commerce Committee, I am particularly sensitive to the need to avoid unnecessarily restrictive regulation, which can prevent the market from functioning on a sound competitive basis. I believe that these two bills avoid the pitfalls of excessive regulation, while still assuring that consumers have access to basic nutritional information they need to select healthy diets for themselves and their families.

There can be no doubt as to the need for this legislation. Our present patchwork of food labeling requirements are limited in the scope of the foods they cover and in the nature of the information they convey. They do not provide American families with readily understandable information on which they can base their nutritional decisions. The relationship between diet and health is well established; if consumers selected more adequate diets, the incidence of disease, disability and even death would be reduced. These two bills, by assuring consumers access to more easily comprehensible nutrition information, will facilitate the consumer's ability to select their diets more wisely.

I believe that these bills meet the needs of both the American consumer and the food industry, without compromising the basic interests of either party. They address a vitally important area of public health concern. They have bipartisan support. I urge my colleagues to join me in supporting these bills and in working for their enactment during the 96th Congress.●

● Mr. KENNEDY. Mr. President, I am pleased to join Senator McGovern and Senator Riegle and my other distinguished colleagues in sponsoring the Nutrition Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act and the Department of Agriculture Nutrition Labeling and Information Act of 1979. These bills represent a refinement and expansion of legislation I introduced last Congress, S. 3117, as part of our disease prevention and health promotion initiative. I am pleased to note that most of the components of that initiative were enacted into law last Congress as Public Law 95–626. Because of the complexity of food labeling and in order to give us time to study and analyze the many constructive criticisms and suggestions that were received concerning S. 3117 from both industry and consumer spokespersons, we delayed consideration of the food labeling provision of that initiative until this Congress.

Mr. President, I believe that the bills that are being introduced today adequately address all the legitimate concerns that were raised concerning the content and scope of S. 3117. These bills adhere to two fundamental principles: One, that consumers must be provided with the information they need to construct healthy and wholesome diets; and, two, that information can be provided in such a way as not to impose costly and burdensome requirements on industry.

A need for this legislation is as strong today as it was in May 1978 when the National Disease Prevention and Health Promotion Act was introduced. That legislation was introduced to begin to correct an oversight that I found astounding—namely, that despite the more than $170 billion we spend annually on personal health services, despite our more than 7,000 hospitals, despite our 360,000 physicians, despite Federal medicare and medicaid expenditures of more than $40 billion a year, we had in this country no national strategy for the prevention of illness and disability among our people.

It seemed obvious to me that the prevention of illness and the maintenance of good health was the wisest, most cost effective, and most humane approach to reduce the burden of illness in the country. Yet, we found that the United States spends less than 2 percent of its health dollars on preventive health programs, and that the Federal Government had no coordinated strategy for taking advantage of the many new breakthroughs occurring in this field. The enactment of Public Law 95–626 will help correct this situation by encouraging the development of prevention programs at the State and local levels. I am hopeful that once these programs are adequately funded and implemented that they will represent the first major step in reprioritizing our Federal health care expenditures.

I believe the bills before us today represent the next important step in this process. At our hearings last year before the Subcommittee on Health and Scientific Research, we learned that because of epidemiological breakthroughs we are beginning to see the importance of lifestyle and health habits in causing the diseases which account for the major burden of illness in our society. We learned that diet is a risk factor in 6 of the 10 leading causes of death. Consequently, the consumer's ability to select a better diet is a critical factor in preventing disease and promoting health. Mr. President, that is what the legislation that is being introduced today is all about. Enactment of this legislation would enhance the consumer's ability to make better and more informed choices among foods, while, at the same time, not imposing unduly burdensome requirements on the part of food manufacturers.

I would like to briefly highlight the provisions of the legislation that I believe are most important. The bills would require that nutrition labeling better reflect the impact on our health of the consumption of protein, fats, carbohydrates, sodium, and cholesterol.

The legislation recognizes that special attention must be placed on improving labeling formats so that nutrition information can be conveyed to the consumer in a readily understandable fashion. Consequently, the bills authorize pilot testing and demonstration to determine the most effective way of conveying such information. In order to achieve maximum return from labeling, consumers must understand how to use the nutrition information that is provided. Thus, the bills would establish consumer education programs.

In drafting this legislation, the sponsors were guided by the belief that nutrition labeling was not an area where absolute precision was needed in order to give the consumer the ability to make an informed choice among foods. Rather, such precision would only serve to be burdensome and costly to the manufacturer and ultimately to the consumer without any redeeming value. Therefore, the legislation, for example, would authorize the use of nutritional data bases that indicate representative nutritional value at point of purchase when conveying nutrition information.

Mr. President, I would like to commend my colleagues, Senator McGovern and Senator Riegle, for the leading roles that they have played in crafting this legislation. Senator McGovern, first as chairman of the Select Committee on Nutrition and now as chairman of the Subcommittee on Nutrition, has long been the leading Senate spokesperson on the role that nutrition plays in disease prevention and health promotion.

He has probably done more than any other person in increasing the American consumer's awareness of the importance of diet. I also want to point out, Mr. President, that these food labeling proposals are in many respects merely a modification and extension of certain provisions of S. 2540, the Food Amendments Act of 1978, which was introduced by Senator RIEGLE. His work laid much of the groundwork for what we are today proposing and I commend him for his initative in this area.

I look forward to working with both Senator McGOVERN and Senator RIEGLE and my other colleagues as these bills work their way through the legislative process welcoming all constructive suggestions and criticisms. I believe the passage of this legislation will be another important step in formulation of a national strategy for health promotion and disease prevention.

In addition, Mr. President, I wish to point out that these bills are just part of a larger legislative package concerning food that the Subcommittee on Health and Scientific Research will be considering this Congress. The continuing controversies concerning saccharin and nitrites have convinced me that our overall food safety policy needs to be thoroughly reexamined.

The Congress should not be asked to intervene in the regulatory process on a product-by-product basis, as is currently the case. If the current regulatory statutes do not permit these issues to be thoroughly resolved, then those statutes should be reexamined and if necessary revised. It does no good to have laws which the Congress overrules each time their provisions are invoked by the regulatory agency.

The National Academy of Sciences has recently reviewed our food safety laws and concluded:

> The law has become complicated, inflexible, and inconsistent in implementation. Although complex in itself, the law is inadequate to meet changing and increasing problems with food safety.

This conclusion, in light of the growing number of controversies about individual products, argues for a full and complete congressional assessment of our food safety laws. The Subcommittee on Health and Scientific Research will begin such an assessment in the next several months and if legislation is necessary to correct the situation, I will introduce it. That legislation can then be considered in conjunction with the legislation that is being introduced today.●

● Mr. JAVITS. Mr. President, I am pleased to join with my colleagues in introducing the Nutrition Labeling and Information Amendments and the Department of Agriculture Nutrition Labeling and Information Act, two bills which will substantially aid consumers in choosing nutritious foods and understanding what they eat.

These bills will provide consumers with valuable information about the foods they purchase, and will have far-reaching implications on the health status of our Nation. More and more we are finding that diet plays a crucial role in both development and disease, and is a contributing or even primary factor in many of the major health problems facing Americans today. With increasing emphasis on preventive health care, the consumer's ability to choose a nutritious diet becomes of paramount importance.

To do this, consumers must have accurate and objective nutrition information, and the means to understand and judge the information they receive. Only then will they be able, by making informed choices, to assume greater responsibility for maintaining and promoting their own physical and mental health, a responsibility which has in the past been left to the experts in the medical profession.

Our proposal guarantees that consumers have access to that information in a consistent, readily understandable format and, through a program of consumer education, will enable individuals effectively to use that information in choosing a diet appropriate to their particular health needs.

At the same time, the bills' requirements are not unduly burdensome to producers or retailers, but will allow businesses to participate in the process of developing methods of conveying nutrition information to consumers.

I have been a major cosponsor of similar bills in the last several Congresses, and have long been concerned with the right of consumers to know what they are buying. I also believe strongly that this is one of the most fundamental and potentially fruitful efforts we can undertake in the area of preventive health, and that we should not hesitate any longer in implementing a nutrition information program that will benefit individual consumers, our Nation's health care system as a whole.●

● Mr. LUGAR. Mr. President, I am pleased to cosponsor this legislation to establish a comprehensive nutritional labeling system. According to a recent survey, 77 percent of American consumers include nutrition as an important consideration in the selection of food. Clearly, Americans are becoming increasingly aware of the fundamental relationship between a nutritious diet and better health. A majority of Americans believe that an individual has the responsibility to educate himself about steps that can lead to a longer, healthier life. I have long been committed to gathering and making available to every interested citizen information which can help each person to help himself by setting up an individual program of fitness, proper diet, and preventive health care. A major concentration on individual preventive health care is, in my judgment, the best strategy for reducing medical cost inflation and reforming our national health care system.

At the present time, consumers do not always have access to complete, accurate, and understandable information on the nutrition content of food products. Seventy years have passed since USDA and FDA food labeling laws were adopted, and a complete reevaluation of our labeling policies is long overdue.

Testimony before the Senate Agriculture Subcommittee on Nutrition in 1978 identified three major deficiencies in current Federal food labeling policies. These policies were found to be inconsistent, based on inadequate data concerning the needs and perceptions of consumers, and formulated without considering the relationship of food labeling to nutritional needs and consumer education. The intent of this legislation is to address these problems.

After careful and thorough examination of the issues involved, I am cosponsoring this legislation with a firm commitment to establishing a nutritional labeling system that is effective for the consumer, without placing excessive regulatory burdens on producers and retailers. By setting up a nutrition data base system, the bill will reduce current nutrition labeling costs dramatically. The bill also provides for 2 years of voluntary demonstration projects prior to implementation of the new labeling system. This feature will be instrumental in assuring that possible problems or inconsistencies are worked out. The bill is further strengthened by the inclusion of a comprehensive nutrition education program, so that consumers will have access to essential information on how to use nutritional labels.

As a member of the Senate Agriculture, Nutrition, and Forestry Committee, I will monitor closely the administration of this legislation to assure that the Department of Agriculture and the Food and Drug Administration stay within the intent of the legislation in the implementation of the bill's programs. I am confident that we can adopt an approach which avoids an adverse impact on industry, while it assures to consumers the opportunity to make educated, informed choices about the foods they will consume. I salute Senator McGOVERN for the great amount of effort he has expended in shaping legislation which incorporates many constructive proposals of representatives of the food industry. As the bill proceeds through the legislative process, I know that its sponsors will remain open to the ideas of experts on food industry, medical, and consumer affairs. I welcome our colleagues in joining with us to work toward the ultimate goal of an adequately informed public which makes increasingly responsible, healthful decisions in the food marketplace.●

By Mr. CRANSTON:

S. 1653. A bill for the relief of Zenaida Porte Rebultan; to the Committee on the Judiciary.

● Mr. CRANSTON. Mr. President, I today introduce for appropriate reference a private bill for the relief of Zenaida Porte Rebultan, of the Philippines, so that she might join the six members of her immediate family who have immigrated to the United States.

It is somewhat unusual for remarks to accompany the introduction of a private bill.

But this is an unusual case, and a letter from Ms. Rebultan's brother touched me deeply.

In plain words, Mrs. Rebultan—the only daughter in the Rebultan family—has been denied permission to join her family because she is a lesbian. In the words of her family "she is not a thief, a murderer, a prostitute, (or) a child molester." She has no police record.

But under current U.S. immigration law, her sexual orientation has caused her to be denied entry to the United States under a provision which equates homosexuality with "psychopathic personality" and "mental defect"—designations no longer medically valid when applied to homosexuals, according to the American Psychiatric Society, the American Psychological Association, and the American Public Health Association. Even the U.S. Public Health Service has requested that Immigration authorities stop asking them to decide if an alien is homosexual. The agency says homosexuality is not a medical condition.

So, while present medical opinion keeps pace with the times, U.S. immigration law remains an anachronism, sadly and often brutally out of touch with reality. INS says the fault lies with the Congress, and only through legislative action can any part of immigration eligibility requirements be changed. There is much truth in that view.

But I wonder why, in the face of changing definitions that directly affect eligibility requirements for aliens, the INS fails to inform and advise the Congress when INS statutes have become throwbacks to another age, reflecting neither current medical opinion (in the case of homosexual admissions) or the compassion that lies at the very heart of our system of justice.

We must take action to bring these statutes up to date. In the meantime, Zenaida Porte Rebultan waits in the Philippines, to join her family in America. Her mother, in ill health, waits in America for the chance to see her only daughter.

As Ms. Rebultan's brother, Estanislao Rebultan, of West Hollywood, Calif. explained in an eloquent letter he wrote to me on May 12, his sister was first denied admission in June 1977.

"Since then," Mr. Rebultan wrote—

> "We tried almost all legal means to get her to be *reunited* with us but we failed." "We love her so much like any other American loves his/her brothers, sisters, sons and daughters.
>
> Zenaida Porte Rebultan is a law-abiding citizen of her country and she has a clean police record. She is not a thief, a murderer, a prostitute, a child molester but only she happens to have a different sexual preference. And because of that reason, she is denied the right to be with us, her parents and brothers.
>
> "She is left behind with no one to comfort her in time of needs. The Rebultan Family who [chose] to adopt the great United States—the leader of human rights abroad and the defender of democracy, as their future homeland—are denied the freedom to be with one of the members of their family just because she is a lesbian.
>
> Please help us Senator. Our financial, moral and psychological resources are already drained. Our mother, who is ill, is constantly crying, hoping that someday her only daughter will be reunited with her.

Mr. President, this is a sad situation. It is also unjust, I believe that it must be remedied by the Congress, for the immediate relief of Zenaida Porte Rebultan, and as a real contribution to the reform of immigration law so clearly needed.●

By Mr. DECONCINI:

S. 1654. A bill to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes; to the Committee on the Judiciary.

CUSTOMS COURTS ACT OF 1979

● Mr. DECONCINI. Mr. President, I am today introducing a bill, the proposed Customs Courts Act of 1979, which would bring badly needed reform to the laws governing the jurisdiction and powers of the United States Customs Court and the United States Court of Customs and Patent Appeals.

In the late 1960's, it was recognized that both the procedures and the jurisdiction of the United States Customs Court were in need of revision. However, since it became apparent that the procedures of the court were in greater need of revision and because revision of these procedures would be a massive undertaking in itself, the decision was made to concentrate upon reform of the court's procedures and to leave revision to and clarification of the court's jurisdiction for the future. The proposed Customs Courts Act of 1979 represents the second aspect of the effort begun nearly 12 years ago.

Specifically, the bill would; First, provide for a comprehensive system of judicial review of civil actions arising from import transactions utilizing, wherever possible, the specialized expertise of the United States Customs Court and the Court of Customs and Patent Appeals and insure uniformity afforded by the national jurisdiction of these courts; second, assure access to judicial review of civil actions arising from import transactions, which access is not presently assured due to jurisdictional conflicts arising from the present ill-defined division of jurisdiction between the Federal district courts and the customs courts; third, provide expanded opportunities for judicial review of civil actions arising from import transactions; fourth, grant to the customs courts the plenary powers possessed by other courts established under article III of the Constitution; and fifth, change the name of the United States Customs Court to the United States Court of International Trade to be more descriptive of its expanded jurisdiction and its new judicial function and purpose relating to international trade in the United States.

The Department of Justice has been supportive of this legislation and believes that enactment is required at the earliest possible time. They have experienced an increase in the number of suits challenging governmental decisions which directly affect the importation of merchandise into this country. Due to the historical origins of the Customs Courts' jurisdictional statutes, the limitations upon the relief which those courts may award, and the rather vague terminology contained in the statutes granting residual jurisdiction to the district courts over import-related matters, these suits have resulted in a series of irreconcilable decisions relating to the division of jurisdiction between the customs court and the other Federal district courts. We simply can no longer tolerate this jurisdictional confusion which often results in the effective denial of judicial review. The availability of the underutilized resources of two national courts with expertise on the subject of international trade provides a perfect opportunity to eliminate these difficult jurisdictional questions quickly in an efficient and effective manner.

The Customs Court began as an administrative tribunal which was principally designed to resolve disputes between merchants and the Customs Service relating to the correct classification and valuation of imported merchandise under the tariff laws. While the decisions of this tribunal were important in terms of revenue, the decisions were of primary interest to merchants whose businesses could be and were substantially affected by the amount of duty they or their competitors were required to remit to the Government.

Today the Customs Court and its appellate court, the Court of Customs and Patent Appeals, have been declared by Congress to be article III courts and their procedures are similar in many respects to the procedures utilized in the other Federal courts of equal stature. However, the courts' jurisdiction is still bound by the courts' history and the purposes for which they were originally established.

Since its creation, the Customs Court, building upon the precedent of other judicial or quasi-judicial bodies, has developed considerable expertise in understanding the problems of international business as it affects valuation for duty and other import questions.

In my view this expansion of the jurisdiction of the Customs Courts is supported, not only by the fact that it will eliminate the considerable jurisdictional confusion which now exists, but also by two other important considerations: Considerations of judicial economy; and, the need to increase the availability of judicial review in the field of international trade.

It has become commonplace to refer to our district courts and courts of appeals as overburdened and overworked. The enormous increase in litigation instituted in the Federal courts has led to considerable delays in the resolution of these disputes due to calendar congestion. The comparatively recent increase in litigation involving the field of international trade has only compounded this problem by adding a new category of cases to those which are already instituted in the district courts.

Under these circumstances, it makes good sense in terms of the availability of judicial resources, to transfer some of the cases now instituted in the crowded district courts to the underutilized Customs Courts.

Another existing defect is that the court is hamstrung in exercising its responsibilities because, as a matter of settled law, it lacks critical equitable powers; it may only entertain cases and controversies which have often reached a degree of ripeness that could make equitable relief too late to be useful, and it cannot fashion equitable remedies when appropriate. The proposed Customs Courts Act of 1979 resolves this longstanding problem by granting the court full equitable powers. This provision will provide a forum for litigants seeking immediate relief in matters arising from import transactions. At present, litigants can only hope the district court will find subject matter jurisdiction and grant an equitable remedy.

The legislation I offer today represents a significant step forward for the Federal judiciary. This derives from the expansion and clarification of the powers and jurisdiction of the Customs Court as well as greater access to the court by parties affected. I urge that we give this legislation full consideration and expeditious approval in the Senate.

Mr. President, as chairman of the Judiciary Committee's Subcommittee on Improvements in Judicial Machinery, I have scheduled a hearing on this bill for September 10, 1979 at 9:30 a.m. in room 6226 of the Dirksen Senate Office Building. Concluding, I ask unanimous consent that the proposed Customs Courts Act of 1979 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1654

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Customs Courts Act of 1979".

TITLE I—PURPOSE

SEC. 101. The Congress declares that the purposes of this Act are—

(a) to provide for a comprehensive system of judicial review of civil actions arising from import transactions, utilizing, whenever possible, the specialized expertise of the United States Customs Court and Court of Customs and Patent Appeals and ensuring uniformity afforded by the national jurisdiction of these courts;

(b) to assure access to judicial review of civil actions arising from import transactions, which access is not presently assured due to jurisdictional conflicts arising from the present ill-defined division of jurisdiction between the district courts and the customs courts;

(c) to provide expanded opportunities for judicial review of civil actions arising from import transactions;

(d) to grant to the customs courts the plenary powers possessed by other courts established under article III of the Constitution; and

(e) to change the name of the United States Customs Court to the United States Court of International Trade to be more descriptive of its expanded jurisdiction and its new judicial function and purpose relating to international trade in the United States.

TITLE II—COMPOSITION OF THE COURT OF INTERNATIONAL TRADE AND ASSIGNMENT OF JUDGES TO OTHER COURTS

SEC. 201. Section 251 of title 28, United States Code, is amended by striking out the first and second paragraphs of such section and inserting in lieu thereof the following:

"The President shall appoint, by and with the advice and consent of the Senate, a chief judge and eight judges who shall constitute a court of record known as the United States Court of International Trade. The Court is a court established under article III of the Constitution of the United States. The chief judge shall be less than seventy years of age and shall continue as chief judge until he reaches such age, at which time the President shall, by and with the advice and consent of the Senate, appoint a new chief judge. The chief judge may continue to serve after reaching seventy years of age until the appointment of a successor is confirmed by the Senate.".

SEC. 202. (a) Section 293(b) of title 28, United States Code, is amended by striking out all that appears after "duties", and inserting in lieu thereof the following: "in any circuit, either in a court of appeals or district court, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit in which the need arises.".

(b) Section 293(d) of title 28, United States Code, is amended to read as follows:

"(d) The chief judge of the Court of International Trade may, upon presentation to him of a certificate of necessity by the chief judge of the Court of Customs and Patent Appeals or the chief judge of the Court of Claims, designate and assign temporarily any judge of the Court of International Trade to serve as a judge of the Court of Customs and Patent Appeals or the Court of Claims.".

TITLE III—JURISDICTION OF THE COURT OF INTERNATIONAL TRADE

SEC. 301. Sections 1581 and 1582 of title 28, United States Code, are repealed.

SEC. 302. Chapter 95 of title 28, United States Code, is amended to read as follows:

"Chapter 95—COURT OF INTERNATIONAL TRADE

"Sec.
"1581. Civil actions against the United States.
"1582. Civil actions commenced by the United States.
"1583. Set-offs, demands, counterclaims.
"1584. Cure of defects.
"1585. Powers generally.

"§ 1581. Civil actions against the United States

"(a) The Court of International Trade shall have exclusive jurisdiction of civil actions instituted by any person whose protest pursuant to the Tariff Act of 1930 has been denied, in whole or in part, by the appropriate customs officer, where the administrative decision, including the legality of all orders and findings entering into the same, involves: (1) the appraised value of merchandise; (2) the classification and rate of duties chargeable; (3) all charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury; (4) the exclusion of merchandise from entry or delivery under any provisions of the customs laws; (5) the liquidation or reliquidation of an entry, or a modification thereof; (6) the refusal to pay a claim for drawback; or (7) the refusal to reliquidate an energy under section 520(c) of the Tariff Act of 1930.

"(b) The Court of International Trade shall have exclusive jurisdiction of civil actions instituted pursuant to sections 516 and 516A of the Tariff Act of 1930.

"(c) After the decision of the President has become final, the Court of International Trade shall have exclusive jurisdiction to review advice, findings, recommendations, and determinations of the International Trade Commission pursuant to sections 131, 201, 202, 203, 301, 406, and 503 of the Trade Act of 1974, sections 336 and 338 of the Tariff Act of 1930, and section 22 of the Agricultural Adjustment Act, solely for the purpose of determining the procedural regularity of those actions.

"(d) After the decision of the President has become final, the Court of International Trade shall have exclusive jurisdiction to review the actions of the Office of the Special Trade Representative pursuant to section 302(b)(1) and 304 of the Trade Act of 1974, solely for the purposes of determining the procedural regularity of those actions.

"(e) The Court of International Trade shall have exclusive jurisdiction to review any decision of the Secretary of Labor or the Secretary of Commerce certifying or refusing to certify workers, communities, or businesses as eligible for adjustment assistance under the Trade Act of 1974. No injunction or writ of mandamus shall be issued in any case arising under this subsection.

"(f) The Court of International Trade shall have exclusive jurisdiction of any civil action brought by a party-at-interest to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979.

"(g) The Court of International Trade shall have exclusive jurisdiction of any application for the issuance of a protective order under section 777(c)(2) of the Tariff Act of 1930.

"(h) In addition to the jurisdiction conferred upon the Court of International Trade by this section, and subject to the exceptions contained in paragraph (i), the Court of International Trade shall have exclusive jurisdiction over all civil actions against the United States, its agencies and its officers which arise directly from import transactions and which arise under the Tariff Act of 1930, the Trade Expanison Act of 1962, the Trade Act of 1974, or the Trade Agreements Act of 1979.

"(i) The Court of International Trade shall not have jurisdiction—

"(1) of any civil action arising under section 305 of the Tariff Act of 1930; or

"(2) to review any advice relating to classification, valuation, rate of duty, marking, restricted merchandise, entry requirements, drawbacks, vessel repairs, and similar matters issued by the Secretary of the Treasury to members of the public or members of the Customs Service other than in connection with a civil action instituted pursuant to subsections (a) and (b) of this section; provided that, this subsection shall not apply if a member of the public demonstrates that without substantial doubt, it would be commercially impractical to obtain judicial review pursuant to subsections (a) and (b) of this section.

"§ 1582. Civil actions commenced by the United States

"(a) The Court of International Trade shall have jurisdiction, upon transfer from a district court, over any civil action which arises from an import transaction and which have been instituted by the United States to—

"(1) recover a civil fine or penalty or enforce a forfeiture imposed under any revenue statute administered by the Customs Service;

"(2) recover upon a bond relating to the importation of merchandise required by the laws of the United States or by the Secretary of the Treasury; or

"(3) recover customs duties.

"(b) A defendant may transfer a civil action referred to in subsection (a) of this section by filing a motion to transfer in the district court in which the action is pending.

"(c) The motion to transfer shall be filed within thirty days after the service upon a defendant of a copy of the complaint.

"(d)(1) Upon receipt of a motion to transfer, the district court shall determine whether the civil action is action described in subsection (a) of this section. If the determination of the district court is affirmative, it shall order the transfer.

"(2) In the case of a civil action described in subsection (a) of this section, the United States shall be afforded an opportunity to object to the transfer and, if the United States objects, such motion shall be granted only if the district court determines that the civil action involves a substantial question, other than the amount of any penalty involved, as to the proper classification or valuation of imported merchandise. The decision of the district court upon such motion shall be final and conclusive and shall not be reviewable on appeal or otherwise, except on appeal from a final judgment on the merits.

"(e) Within ten days after the issuance of an order of transfer, the clerk of the district court shall transmit copies of all pleadings and documents to the Court of International Trade.

"(f) Upon receipt of the copies of the pleadings and documents, the civil action shall be heard by the Court of International Trade, sitting without a jury, and unless the parties otherwise agree, the trial or hearing of the civil action shall take place within the judicial district in which the civil action was first instituted, as if the civil action had been instituted in the Court of International Trade in the first instance.

"(g) The relevant provisions of sections 2461, 2462, 2463, 2464, and 2465 of this title shall apply in any action transferred to the Court of International Trade pursuant to this section.

"§ 1583. Set-offs, demands, and counterclaims

"The Court of International Trade shall have jurisdiction to render judgment upon any set-off, demand, or counterclaim asserted by the United States which arises out of the same import transaction pending before the Court or a claim to recover upon a bond relating to the importation of merchandise or to recover customs duties.

"§ 1584. Cure of defects

"(a) If a civil action within the exclusive jurisdiction of the Court of International Trade is filed in a district court, the district court shall, in the interest of justice, transfer such civil action to the Court of International Trade, where the civil action shall proceed as if it had been filed in the Court of International Trade on the date it was filed in the district court.

"(b) If a civil action within the exclusive jurisdiction of a district court or a court of appeals is filed in the Court of International Trade, the Court of International Trade shall, in the interest of justice, transfer such civil action to the appropriate district court or court of appeals where the civil action shall proceed as if it had been filed in the district court or court of appeals on the date it was filed in the Court of International Trade.

"§ 1585. Powers generally.

"The Court of International Trade shall possess all the powers in law and equity of, or as conferred by statute upon, a district court of the United States.".

TITLE IV—COURT OF INTERNATIONAL TRADE PROCEDURE

SEC. 401. Chapter 169 of title 28, United States Code, is amended to read as follows:

"Chapter 169—COURT OF INTERNATIONAL TRADE PROCEDURE

"Sec.
"2631. Persons entitled to commence a civil action.
"2632. Commencement of a civil action.
"2633. Procedure and fees.
"2634. Notice.
"2635. Filing of official documents.
"2636. Time for commencement of action.
"2637. Exhaustion of administrative remedies.
"2638. New grounds in support of a civil action.
"2639. Burden of proof; evidence of value.
"2640. Scope and standard of review.
"2641. Witnesses; inspection of documents.
"2642. Analysis of imported merchandise.
"2643. Relief.
"2644. Decisions; findings of facts and conclusions of law; effect of opinions.
"2645. Retrial or rehearing.
"2646. Precedence of cases.

"§ 2631. Persons entitled to commence a civil action.

"(a) A civil action contesting the denial, in whole or in part, of a protest under section 515 of the Tariff Act of 1930 may be instituted in the Court of International Trade by any person entitled to file a protest pursuant to section 514 of the Tariff Act of 1930.

"(b) A civil action contesting the denial, in whole or in part, of a petition under section 516 of the Tariff Act of 1930 may be instituted in the Court of International Trade by any domestic interested party.

"(c) A civil action contesting a determination listed in section 516A of the Tariff Act of 1930 may be instituted in the Court of International Trade by any interested party who is a party to the proceeding in connection with which the matter arises.

"(d) A civil action to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979 may be instituted by a party-at-interest.

"(e) A civil action involving applications for orders directing the administering authority or the International Trade Commission to make confidential information available pursuant to section 777(c)(2) of the Tariff Act of 1930 may be filed in the Court of International Trade by any interested party who is a party to the administrative proceeding.

"(f) A civil action, other than one instituted pursuant to section 777(c)(2) of the Tariff Act of 1930 or one contesting the denial of a protest under section 515, the denial of a petition under section 516, a determination under section 516A of the Tariff Act, or a determination under section 305(b)(1) of the Trade Agreements Act of 1979, may be instituted in the Court of International Trade by any person adversely affected or aggrieved by an agency action within the meaning of section 702 of title 5, United States Code.

"(g) Except in cases instituted pursuant to section 1581(a) of this title or section 516 of the Tariff Act of 1930, any person, by leave of court, who would be adversely affected or aggrieved by a decision in a civil action pending in the Court of International Trade may intervene in that action. In exercising its discretion, the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

"(h) By leave of court, any person who would be adversely affected or aggrieved by an order disposing of an application for the issuance of an order pursuant to section 777(c)(2) of the Tariff Act may intervene with regard to that application.

"(i)(1) The term interested party means—

"(A) a foreign manufacturer, producer, or exporter, or the United States importer, of merchandise which is the subject of an investigation under Title VII of the Tariff Act of 1930 or a trade or business association a majority of the members of which are importers of such merchandise;

"(B) the government of a country in which such merchandise is produced or manufacturered;

"(C) a manufacturer, producer, or wholesaler in the United States of a like product;

"(D) a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a like product; and

"(E) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

"(2) The term domestic interested party means a party as defined in subparagraphs (C), (D), and (E) of paragraph (1).

"(3) The term party-at-interest means—

"(A) a foreign manufacturer, producer, or exporter, or a United States importer of merchandise which is the subject of a final determination;

"(B) a manufacturer, producer or wholesaler in the United States of a like product;

"(C) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product; and

"(D) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

"(4) The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation under Title VII of the Tariff Act of 1930 or a final determination under section 305(b)(1) of the Trade Agreements Act of 1979.

"§ 2632. Commencement of a civil action

"(a) Except as otherwise provided in subsection 516A of the Tariff Act of 1930, each civil action in the Court of International Trade shall be instituted by the filing of a summons, or of a complaint, or both, each with the content and in the form, manner, and style prescribed in rules adopted by the Court.

"(b) The Court of International Trade may prescribe by rule that any pleading or other document transmitted by registered or certified mail properly addressed to the clerk of the Court with the proper postage affixed and return receipt requested shall be filed as of the date of postmark.

"§ 2633. Procedure and fees.

"(a) A filing fee shall be payable upon commencing an action. The amount of the fee shall be fixed by the Court of International Trade but shall be not less than $5 nor more than the filing fee for commencing a civil action in a United States district court. The Court of International Trade may fix all other fees to be charged by the clerk of the Court.

"(b) The Court of International Trade shall provide by rule for pleadings and other papers, for their amendment, service, and filing, for consolidations, severances, suspensions of cases, and for other procedural matters.

"(c) All pleadings and other papers filed in the Court of International Trade shall be served on all parties in accordance with the rules of the Court. When the United States, its agencies, or its officers are adverse parties, service of the summons or complaint, or both, shall be made upon the Attorney General and the head of the Government agencies whose actions are complained of, and where injunction relief is sought, upon the named officials sought to be enjoined.

"§ 2634. Notice.

"Reasonable notice of the time and place of trial or hearing before the Court of International Trade shall be given to all parties to any proceeding, under rules prescribed by the Court.

"§ 2635. Filing of official documents

"(a)(1) Upon service of the summons on the Secretary of the Treasury in any civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930, or the denial of a petition under section 516 of that Act, the appropriate customs officer shall forthwith transmit to the Court of International Trade as part of the official record—

"(A) consumption or other entry and the entry summary;

"(B) commercial invoice;

"(C) special customs invoice;

"(D) copy of protest;

"(T) copy of denial or protest in whole or in part;

"(F) importer's exhibits;

"(G) official and other representative samples;

"(H) any official laboratory reports; and

"(I) any bond relating to the entry.

"(2) If any of the items listed in paragraph (1) do not exist in a particular case, an affirmative statement to that effect shall be transmitted to the Court.

"(b) Within forty days, or within such period of time as the Court of International Trade may specify, after service of a summons on the Secretary of the Treasury, the administering authority established to administer Title VII of the Tariff Act of 1930, the United States International Trade Commission, or any other agency whose determination or action is being contested, the Secretary or any other agency involved shall file with the Court of International Trade, as provided by its rules, the record which, unless otherwise stipulated by the parties, shall consist of:

"(1) a copy of all information presented to or obtained by the Secretary, the administering authority, the Commission or any other agency involved, during the course of the administrative proceedings, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be kept by section 777(a)(3) of the Tariff Act of 1930; and

"(2) a copy of the determination, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.

"(c) Any documents, comments, or information accorded confidential or privileged status and required to be filed with the Court of International Trade pursuant to subsection (b) shall be filed with the clerk of the Court of International Trade under seal and its confidential or privileged status shall be preserved in the litigation. Notwithstanding the first sentence of this subsection, the Court of International Trade may examine, in camera, the confidential or privileged material and may disclose such material under such terms and conditions as it may order.

"(d) Within ten days, or within such period of time as the Court of International Trade may specify, after service of a summons and an application for an order directing the administering authority or the International Trade Commission to make confidential information available pursuant to section 777(c)(2) of the Tariff Act of 1930, the administering authority or the Commission shall file with the Court of International Trade under seal the confidential information involved along with pertinent parts of the record.

"(e)(1) In any other civil action in which judicial review is to proceed upon the basis of the record made before an agency, the agency, upon service of a summons or complaint, or both, shall, within forty days of service of the summons, transmit to the United States Court of International Trade a copy of the contested determination, the findings or report upon which it is based, a copy of any reported hearings or conferences conducted by the agency, any documents, comments, or other papers filed by the public, interested parties, or governments with regard to the agency's action, identifying and submitting under seal any documents, comments or other information obtained on a confidential basis and including a nonconfidential description of the nature of such confidential documents, comments or information.

"(2) The confidentiality accorded such documents, comments, and information shall be preserved in the litigation, but the court may examine such documents, comments, and information in camera if necessary to the disposition of the action, and may order the disclosure of such documents, comments, or information under such terms or conditions as the court may order.

"§ 2636. Time for commencement of action

"(a) A civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930, is barred unless commenced in accordance with the rules of the Court of International Trade—

"(1) within one hundred and eighty days after the date of mailing of notice of denial, in whole or in part, of a protest pursuant to section 515(a) of the Tariff Act of 1930;

"(2) in any case in which notice is not mailed within the two-year period specified in section 515(a) of the Tariff Act of 1930, at any time after the date of the expiration of the two-year period specified in such section prior to the mailing of a notice of denial; or

"(3) within one hundred and eighty days after the date of denial of a protest by operation of law pursuant to the provisions of section 515(b) of the Tariff Act of 1930.

"(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 is barred unless commenced within thirty days after the date of mailing of a notice transmitted pursuant to section 516(c) of the Tariff Act of 1930.

"(c) A civil action contesting a determination by the administering authority, under section 703(c) or 733(c) of the Tariff Act of 1930, that a case is extraordinarily complicated is barred unless commenced within five days after the date of the publication of the determination in the Federal Register.

"(d) A civil action contesting a reviewable determination listed in section 516A of the Tariff Act of 1930, other than a determination under section 703(c) or 733(c) of that Act, is barred unless commenced within thirty days after the date of the publication of the determination in the Federal Register.

"(e) A civil action involving an application for an order making confidential information available pursuant to section 777(c)(2) of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within five days from the denial of a request for confidential information.

"(f) A civil action contesting a final determination made under section 305(b)(1) of the Trade Agreement Act of 1979 is barred unless commenced within thirty days after the date of the publication of the determination in the Federal Register.

"(g) A civil action, other than one enumerated in subsections (a) through (f), over which the Court has jurisdiction pursuant to section 1581 of this title is barred unless commenced in accordance with the rules of the Court of International Trade within two years after the right of action first accrues.

"§ 2637. Exhaustion of administrative remedies

"(a) A civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930 may be instituted only if all liquidated duties or exactions shall have been paid at the time the action is filed, except that a surety's obligation to pay such liquidated duties or exactions is limited to the sum of any bond relating to each entry included in a denied protest. If a surety institutes a civil action in the Court of International Trade, any recovery of the surety shall be limited to the amount of the liquidated duties or exactions paid on the entries included in the action.

"(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 may be instituted only by a person who has first exhausted the procedures specified in that section.

"(c) In all other cases, the Court of International Trade, where appropriate, shall require the exhaustion of administrative remedies.

"§ 2638. New grounds in support of a civil action

"In any case in which the denial, in whole or in part, of a protest is a precondition to the institution of a civil action in the Court of International Trade, the Court, by rule, may consider any new ground in support of the civil action if the new ground—

"(1) applies to the same merchandise that was the subject of the protest; and

"(2) is related to the same administrative decisions listed in section 514 of the Tariff Act of 1930 that were contested in the protest.

"§ 2639. Burden of proof; evidence of value

"(a) The decision of the Secretary of the Treasury, or his delegate, is presumed to be correct. The burden to prove otherwise shall rest upon the party challenging a decision.

"(b) Where the value of merchandise or any of its components is in issue—

"(1) reports or depositions of counsuls, customs officers, and other officers of the United States and depositions and affidavits of other persons whose attendance cannot reasonably be had may be admitted into evidence when served upon the opposing party in accordance with the rules of the Court;

"(2) price lists and catalogs may be admitted in evidence when duly authenticated, relevant, and material; and

"(3) the value of merchandise shall be determined from the evidence in the record and that adduced at the trial whether or not the merchandise or sample thereof is available for examination.

"(c) The requirements of subsections (a) and (b) apply in any matter in the Court of International Trade except an action transferred to the Court of International Trade pursuant to section 1582 of this title.

"§ 2640. Scope and standard of review

"(a) The Court of International Trade shall determine the matter upon the basis of the record made before the Court in the following categories of civil actions:

"(1) Civil actions contesting the denial of a protest under section 515 of the Tariff Act of 1930 involving—

"(A) the appraised value of merchandise, except to the extent judicial review is available under subsection (b) of this section in the case of assessment of countervailing or antidumping duties;

"(B) the classification, rate and amount of duties of fees chargeable, except to the extent judicial review is available under subsection (b) of this section in the case of assessment of countervailing or antidumping duties;

"(C) the required redelivery of imports pursuant to the terms of an entry bond or the exclusion of merchandise from entry or delivery under the customs laws or pursuant to an action of the Customs Service not taken upon the request or direction of a court or other Federal agency, except the exclusion of imports alleged to be pornographic;

"(D) all charges or exactions imposed upon imported articles, except to the extent judicial review is available under subsection (b) of this section in the case of assessment of countervailing or antidumping duties;

"(E) the refusal to pay a claim for a drawback; and

"(F) the refusal to reliquidate an entry under section 520(c) of the Tariff Act of 1930.

"(2) Civil actions instituted pursuant to section 1581(f) of this title.

"(3) Civil actions instituted under section 516(c) of the Tariff Act of 1930.

"(4) Civil actions for a protective order instituted pursuant to section 1581(g) of this title.

"(b) In civil actions instituted under section 516A of the Tariff Act of 1930, the Court shall determine the matter as specified in subsection (b) of that section.

"(c) In all other civil actions, the Court shall determine the matter as provided in section 706 of title 5 of the United States Code.

"§ 2461. Witnesses; inspection of documents

"(a) Except as otherwise provided by law, in any proceeding in the Court of International Trade, the parties and their attorneys shall have an opportunity to introduce evidence, to hear and cross-examine the witnesses of the other party, and to inspect all samples and all papers admitted or offered as evidence under rules prescribed by the Court. Except as provided in section 2639, subsection (b) of this section, or any rules prescribed by the Court, the Federal Rules of Evidence apply to all proceedings in the Court of International Trade.

"(b) In any civil action, the Court of International Trade may order that trade secrets and commercial or financial information which is privileged and confidential or any information provided to the United States by foreign governments or foreign persons, shall not be disclosed or shall be disclosed to a party, its counsel, or any other person, only under such terms and conditions as the court may provide.

"§ 2642. Analysis of imported merchandise

"A judge of the Court of International Trade may order an analysis of imported merchandise and reports thereon by laboratories or agencies of the United States.

"§ 2643. Relief.

"(a) In any case instituted under section 1581 of this title, the Court of International Trade may, if appropriate, enter a money judgment for and against the United States.

"(b) If, in any civil action referred to in section 2640(a)(1) or (a)(3), the plaintiff—

"(1) proves that the original decision was incorrect, and

"(2) introduces evidence as to the correct decision, but, based upon the evidence introduced by the plaintiff and the defendant, the Court of International Trade is unable to determine the correct decision, such court shall restore the case to the calendar for all purposes, including such further administrative or adjudicative procedures as may be necessary to enable the court to reach a determination as to the correct decision. The order of restoration or remand shall be final and appealable pursuant to sections 1541(a) and 2601 of this title.

"(c) In addition to the order specified in subsections (a) and (b) of this section, the Court of International Trade may order in any civil action any form of relief which is appropriate including, but not limited to, declaratory judgments, orders of remand, writs of mandamus, and prohibition and injunction.

"(d) In extraordinary circumstances, the Court of International Trade may grant appropriate preliminary or permanent injunctive relief upon a request by a person who would have the right to institue a civil action after exhausting all appropriate administrative remedies. In ruling upon such a request for injunctive relief, the Court of International Trade shall consider whether the person making the request will otherwise be irreparably harmed, and the effect of the requested injunction on the public interest.

"§ 2644. Decisions; findings of fact and conclusions of law; effect of opinions

"(a) A final decision of the judge in a contested case or a decision granting or refusing an interlocutory injunction shall be supported by—

"(1) a statement of findings of fact and conclusions of law, or

"(2) an opinion stating the reasons and facts upon which the decision is based.

"(b) Upon motion of a party made not later than thirty days after entry of judgment, the Court may amend its findings or make additional findings and may amend the judgment accordingly.

"(c) The decision of the judge is final and conclusive, unless a retrial or rehearing is granted pursuant to section 2645 of this title or an appeal is made to the Court of Customs and Patent Appeals within the time and the manner provided in section 2601 of this title.

§ 2645. Retrial or rehearing

"The judge who has rendered a judgment or order may, upon motion of a party or upon his own motion, grant a retrial or rehearing, as the case may be. A party's motion shall be made or the judge's action on his own motion shall be taken, not later than thirty days after entry of the judgment or order. In the event of the disability of the judge, the chief judge shall assign the motion to another judge of the Court of International Trade.

"§ 2646. Precedence of cases

"(a) Each civil action involving the exclusion or redelivery of merchandise or arising under section 1582 of this title, or sections 516 or 516A of the Tariff Act of 1930, shall be given precedence over other cases on the docket of the court and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(b) Of the civil actions given precedence under subsection (a) of this section, any civil action for the review of a determination under sections 516A(a)(1)(B) or 516A(a)(1)(E) of the Tariff Act of 1930 shall be given priority over other such civil actions.

TITLE V—COURT OF CUSTOMS AND PATENT APPEALS

SEC. 501. (a) Section 1541(a) of title 28, United States Code, is amended by striking out: "and for many interlocutory order granting, continuing, modifying, refusing, or dissolving as injunction, or refusing to dissolve or modify an injunction, under section 516A(c)(2) of the Tariff Act of 1930".

(b) Section 1541 is amended by adding at the end thereof the following:

"(c) The Court of Customs and Patent Appeals has jurisdiction of appeals from interlocutory orders of the Court of International Trade granting, continuing, modifying, or dissolving injunctions, or refusing to dissolve or modify injunctions.".

SEC. 502. (a) Section 2601(a) of title 28, United States Code, is amended by adding the following new sentence at the end thereof: "If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within fourteen days after the date on which the first notice of appeal was filed."

(b) The first sentence of section 2601(b) of title 28, United States Code, is amended—

(1) by inserting "or cross appeal" after "appeal" each time it appears; and

(2) by striking "which shall include a concise statement of the errors complained of".

(c) The third sentence of section 2601(b) of title 28, United States Code, is amended by striking out "and the Secretary of the Treasury or their designees" and inserting in lieu thereof "and any named official".

(d) Section 2601(c) of title 28 is amended by inserting the following after the first sentence: "Findings of fact shall not be set aside unless clearly erroneous and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses. A party may raise on appeal the question of the sufficiency of the evidence to support findings of fact, whether or not the party raising the question has made an objection to such findings in the Court of International Trade or has made a motion to amend them or a motion for judgment.".

SEC. 503. (a) Chapter 93 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1546. Rules of evidence; powers in law and equity; exclusive jurisdiction

"(a) Except as provided in section 2639 of this title, subsection (b) of section 2641 of this title, or any rules prescribed by the court, the Federal Rules of Evidence shall apply in the Court of Customs and Patent Appeals in any appeal from the Court of International Trade.

"(b) The Court of Customs and Patent Appeals shall have all the powers in law and equity of, or as conferred by statute upon, a court of appeals of the United States.

"(c) The Court of Customs and Patent Appeals shall possess exclusive jurisdiction to review—

"(1) any decision of the Secretary of Treasury to deny or revoke a customs brokers' license under section 641(a) of the Tariff Act of 1930, or

"(2) any action challenging an order to revoke or suspend a license under section 641(b) of the Tariff Act of 1930."

(b) The table of sections for chapter 93 of that title is amended by adding at the end thereof the following:

"1546. Rules of evidence; powers in law and equity; exclusive jurisdiction.".

SEC. 504. (a) Chapter 167 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 2603. Judicial conference

"The Court of Customs and Patent Appeals is authorized to conduct an annual judicial conference for the purpose of considering the business of the court and improvements in the administration of justice in the court.".

(b) The table of contents for chapter 167 of such title is amended by adding at the end thereof the following new item:

"2603. Judicial conference."

TITLE VI—TECHNICAL AND CONFINING AMENDMENTS

SEC. 601. The first sentence of section 250 (a) of the Trade Act of 1974 is amended by striking out all that appears after "United States" and by inserting in lieu thereof "Court of International Trade".

SEC. 602. (a) The second sentence of the second paragraph of paragraph (b) of section 641 of the Tariff Act of 1930 is amended by deleting all that appears after "filing," and before "sixty," and by inserting in lieu thereof "in the Court of Customs and Patent Appeals, within".

(b) The second paragraph of section 641 (b) of the Tariff Act of 1930 is amended by inserting the following immediately after the third sentence of that paragraph: "For purposes of this paragraph, all relevant rules prescribed in accordance with sections 2072 and 2112 of title 28, United States Code, apply to the Court of Customs and Patent Appeals.".

SEC. 603. Section 1340 of title 28, United States Code, is amended by adding at the end thereof the following: "The Court of International Trade shall have jurisdiction of any civil action, not within its exclusive jurisdiction, arising under any Act of Congress providing for revenue from imports or tonnage upon transfer from a district court as provided in section 1582 of this title.".

SEC. 604. Section 1355 of title 28, United States Code, is amended by adding at the end thereof the following: "The Court of International Trade shall have jurisdiction of any such action or proceeding upon transfer from a district court as provided in section 1582 of this title.".

Sec. 605. Section 1356 of title 28, United States Code, is amended by adding at the end thereof the following: "The Court of International Trade shall have jurisdiction of any such action or proceeding upon transfer from a district court as provided in section 1582 of this title.".

Sec. 603. Section 751 of title 28, United States Code, is amended by adding at the end thereof the following:

"(f) When the Court of International Trade is sitting in a judicial district, other than the Southern and Eastern Districts of New York, the clerk of that district court or an authorized deputy clerk, upon the request of the chief judge of the Court of International Trade and with the approval of that district court, shall act in the district as clerk of the Court of International Trade in accordance with rules and orders of the Court of International Trade for all purposes relating to the case then pending before the court.".

Sec. 607. The second paragraph of section 1491 of title 28, United States Code, is amended by inserting "within the exclusive jurisdiction of the Court of International Trade, or" after "suits" the first time it appears in the first sentence.

Sec. 608. The first paragraph of section 2414 of title 28, United States Code, is amended by inserting "or Court of International Trade" after "court" in the first sentence.

Sec. 609. Section 1919 of title 28, United States Code, is amended by inserting "or the Court of International Trade" after "court" the first time it appears.

Sec. 610. (a) Chapter 125 of title 28, United States Code, is amended by inserting immediately after section 1963 the following new section:

"§ 1963A Registration of judgments of the Court of International Trade

"(a) A judgment in an action for the recovery of money or property entered by the Court of International Trade which has become final by appeal or expiration of time for appeal may be registered in any district by filing a certified copy of such judgment. A judgment so registered shall have the same effect as a judgment of the district court of the district where registered and may be enforced in like manner.

"(b) A certified copy of the satisfaction of any judgment in whole or in part may be registered in like manner in any district in which the judgment is a lien.".

(b) The table of sections for chapter 125 is amended by inserting immediately after the item relating to section 1963 the following:

"§ 1963A Registration of judgments of the Court of International Trade"

Sec. 611. Section 1331(a) of title 28, United States Code, is amended by adding at the end thereof the following: "The district courts shall not possess jurisdiction pursuant to this section over any matter within the exclusive jurisdiction of the Court of International Trade.".

Sec. 612. (a) Section 2602 of title 28, United States Code, is amended to read as follows:

"§ 2602. Precedence of cases

"(a) Each civil action involving the exclusion of merchandise or arising under section 1582 of this title or sections 516 or 516A of the Tariff Act of 1930, shall be given precedence over other cases on the docket of such court, and shall be assigned for hearing at the earliest practicable date and expedited in every way.

"(b) Of the civil actions given precedence under subsection (a) of this section, any civil action for the review of a determination under section 516A(a)(1)(B) or 516A(a)(1)(E) of the Tariff Act of 1930 shall be given priority over other such civil actions.

"(c) Appeals from findings by the Secretary of Commerce provided for in headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States shall receive preference over all other matters.".

(b) The table of sections for chapter 167 of title 28, United States Code, is amended in the item relating to section 2602 to read as follows:

"2602. Precedence of cases.".

Sec. 613. Section 3 of the Act of July 5, 1884 (23 Stat. 119), is amended to read as follows: "The decision of the Commissioner of Customs on all questions of interpretation arising out of the execution of the laws relating to the collection of tonnage tax and to the refund of such tax when collected erroneously or illegally, shall be subject to judicial review in the Court of International Trade as provided in title 28, United States Code. In the Court of International Trade, and upon appeal, if any, from the Court, the findings of the Commissioner as to any fact, if supported by substantial evidence, shall be conclusive."

Sec. 614. (a) Section 1345 of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "The Court of International Trade shall have jurisdiction of any such action or proceeding upon transfer from a district court as provided in section 1582 of this title.".

(b) Section 1352 of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "The Court of International Trade shall have jurisdiction of any such action upon transfer from a district court as provided in section 1582 of this title.".

Sec. 615. Section 1337(c) of title 19, United States Code, is amended by inserting immediately after "Appeals" the following ", subject to chapter 7 of title 5, United States Code," and, striking out the last sentence and inserting in lieu thereof: "Notwithstanding the foregoing, review of Commission determinations under subsections (d), (e), and (f) as to its findings on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the amount and nature of bond, or the appropriate remedy shall be reviewable only for abuse of administrative discretion.".

Sec. 616. The second sentence of section 516A(c)(2) of the Tariff Act of 1930 is amended so as to read as follows: "In ruling upon a request for such injunctive relief the court shall consider the factors set forth in section 2643(d) of title 28.".

Sec. 617. Any references to the United States Customs Court, the U.S. Customs Court, or the Customs Court shall be deemed a reference to the United States Court of International Trade.

Sec. 618. (a) The provisions of subsections (c), (d), (e), and (f) of section 2631 of title 28, United States Code, as added by section 401 of this Act apply to entries liquidated on and after the date of enactment of this Act.

(b) This Act shall become effective on the date of its enactment.

(c) Nothing in this Act shall cause the dismissal of any action instituted prior to the date of enactment under jurisdictional statutes relating to the Court of International Trade or the Court of Customs and Patent Appeals in effect before the date of enactment of this Act.

(d) Notwithstanding section 106 of the Trade Agreements Act of 1979, any civil action in the Court of International Trade on January 1, 1980, pursuant to the Antidumping Act of 1921, shall be governed by the provisions of the Antidumping Act, 1921, in effect on the day before the effective date of title I of the Trade Agreements Act of 1979.●

By Mr. LEVIN:

S. 1655. A bill to designate the building known as the Department of Labor Building in Washington, D.C., as the "Frances Perkins Department of Labor Building"; to the Committee on Environment and Public Works.

● Mr. LEVIN. Mr. President, I am introducing legislation to name the main Department of Labor Building at 200 Constitution Avenue NW. the Frances Perkins Building.

At a time when many people believed that a "woman's place was in her home," Frances Perkins became the first woman to be appointed to the President's Cabinet. While her appointment to the post of Secretary of Labor in 1933 was an important milestone for American women, her compassion and genuine concern for the problems of all workers generated an extraordinary record of achievement.

Her appointment by President Roosevelt in 1933 was not the beginning but the continuation of a distinguished career. Her efforts, as the lobbyist for the Consumer League in New York, helped push for successful enactment of factory fire laws, better occupational safety and health regulations and a 54-hour maximum workweek for women. Ms. Perkins served as the industrial commissioner for then Governor Roosevelt of New York and participated in that State's little "New Deal" prior to 1932.

The tenure of Secretary Perkins at the U.S. Department of Labor was a time of massive social upheaval and equally massive social change. Under her stewardship, the Department was transformed from a relatively unimportant agency into a seedbed for social progress. Ms. Perkins worked actively to create many of the New Deal's jobs programs—the Civilian Conservation Corps, the Works Progress Administration—that provided temporary employment for the many millions of workers who were unemployed by the Great Depression. She sought to also provide more permanent and more meaningful employment to American workers through apprenticeship training programs and the U.S. Employment Service.

Secretary Perkins' most significant contribution, and one which has touched nearly every American, was her development of the programs which were embodied in the Social Security Act of 1935. Although the administration of social security was placed outside the Department of Labor, Ms. Perkins was the person most singularly responsible for the program's success.

This Nation's principle labor legislation was enacted during the tenure of Secretary Perkins. Her deep interest in child labor laws, establishing a minimum wage and setting a ceiling on hours, and her strong support of workers' rights to organize and bargain collectively, helped to insure passage of these landmark pieces of labor legislation during the

1930's. The Wagner Act of 1935, the Walsh-Healey Act of 1936, and the Fair Labor Standards Act of 1938 are monuments to Secretary Perkins' belief that all American workers should be treated with dignity and fairness.

It is my hope that the Frances Perkins Building will stand as a reminder to all of us of her insight and compassion.

Mr. President, I ask unanimous consent that a copy of the bill, and a letter from Secretary of Labor Ray Marshall supporting the bill, be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 1655

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 200 Constitution Avenue, N.W., in Washington, D.C. (commonly known as the Department of Labor Building) shall hereafter be known and designated as the "Frances Perkins Department of Labor Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Frances Perkins Department of Labor Building".

U.S. DEPARTMENT OF LABOR,
Washington, D.C., July 5, 1979.

Hon. CARL LEVIN,
U.S. Senate, Washington, D.C.

DEAR SENATOR LEVIN: I am pleased that you are preparing legislation to name the main Department of Labor building after Frances Perkins. It would honor both the Department and one of the great women in American history.

A year ago, I made a similar proposal to the General Services Administration and was advised that I should seek legislation. You can understand, therefore, why I welcome your proposal at this time. Enclosed is a copy of my letter to GSA outlining the reasons why I thought the Labor Department's headquarters should be named the Frances Perkins Building. Perhaps the information contained in it will be useful.

Please let me know if there is anything else I can do to help you in this effort.

The Office of Management and Budget advises that there is no objection to the submission of this report and that enactment of this proposal would be in accord with the President's program.

With best regards, I am
Sincerely,
RAY MARSHALL,
Secretary of Labor.●

By Mr. KENNEDY (for himself, Mr. MAGNUSON, Mr. STEVENS, Mr. HOLLINGS, Mr. PELL, Mr. TSONGAS, Mr. PACKWOOD, Mr. HATFIELD, and Mr. WARNER):

S. 1656. A bill to provide for a national program of fisheries research and development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL FISHERY DEVELOPMENT ACT

Mr. KENNEDY. Mr. President, I am introducing today, along with a number of my colleagues from coastal States, legislation to promote the development of a strong domestic fishing industry. The legislation has been drafted with the cooperation of the National Fisheries Policy Conference, and has strong support within our fishing industry.

The primary purpose of the bill is to clarify and strengthen the provisions of the Saltonstall-Kennedy Act which established a reserve fund to support fisheries development projects. This fund was originally established in 1954 for the purpose of promoting the free flow of domestically produced fisheries products, and is maintained through the transfer of 30 percent of the duties collected on imported fish products. Therefore, no appropriated funds are necessary to carry out the provisions of this act, or the legislation I am introducing today.

Congress clearly intended that Saltonstall-Kennedy (S-K) funds be used for a variety of development and demonstration programs, including research, education, vessel and gear development, and market development. However, most of the S-K revenue has traditionally been used to support fisheries development activities of the National Marine Fisheries Service (NMFS), and, in effect, has become part of the base budget of NMFS. NMFS has only recently begun to encourage the domestic fishing industry to submit their own projects for funding. The result has been that NMFS has consistently failed to obligate all of the S-K funds in any given fiscal year.

The problem was compounded this year when the Office of Management and Budget moved to defer over $12 million from the S-K Fund in fiscal year 1979. As a result, I introduced a resolution last February to disapprove this deferral in order to require that these funds be obligated. The resolution was enacted by the Senate, and NMFS subsequently funded a number of industry projects across the country.

I have recently been encouraged by the administration's renewed commitment to fisheries development. Just a few months ago, the Department of Commerce sponsored a national fisheries development conference and recommended a series of steps designed to improve Federal programs for industry assistance and economic development. The recommendations stem from a Department of Commerce task force report which identified a number of impediments to major fisheries development and called for efforts to stimulate better industry-government coordination. Passage of the National Fisheries Development Act would assist NMFS in implementing many of these recommendations. The legislation would also assure that the Saltonstall-Kennedy fund remains a major source of funding for these programs.

Mr. President, it is clear that we cannot afford to delay efforts aimed at rebuilding our fisheries. After a decade and a half of watching foreign fleets decimate some of the world's richest fishing grounds off our coast, Congress finally enacted the Fishery Conservation and Management Act in April of 1976. For all those years, the United States imported vast amounts of fish while our own fishing grounds attracted nearly 1,000 foreign ships each month. The New England fishing industry limped along—under-sized and under-financed—as fish imports from foreign countries grew year after year. The 200-mile zone was supposed to end this tragic story. The truth is that it has not. A look at our balance of trade reveals that our deficit in fish products has dramatically increased since passage of the 200-mile zone. In 1975, prior to passage of the act, that deficit was $1.3 billion. Today, it stands at over $2 billion. And, unless we both promote exports and gain a greater share of our own market, this deficit will continue to grow year after year.

The 200-mile limit created an opportunity for major industry expansion. Now we need the tools to capitalize on this opportunity.

The benefits of a coordinated and effective fisheries development program will be enormous. For example, the National Marine Fisheries Service estimates that the development of six fisheries off New England, Alaska, the West Coast, the Gulf of Mexico, and the mid-Atlantic could produce 38,000 new jobs and contribute $1 billion to the U.S. economy by 1990. Such a program would reduce our trade deficit in fisheries products by at least $1.5 billion.

The effectiveness of any fisheries development program will obviously depend on strong industry support and a high level of local control. The nature of the industry is such that development programs will be primarily regional in scope, and innovative partnerships among the industry, State and local governments, and the Federal Government will be necessary to move forward.

This legislation paves the way for such a coordinated approach to fisheries development. It assures the industry that at least one-half of the available Saltonstall-Kennedy moneys will be used to fund local industry projects. It assures that Saltonstall-Kennedy funds will be obligated on a timely basis. And it provides needed congressional oversight to assure that all parties follow through on commitments.

The bill also establishes a program to place fisheries attachés in U.S. embassies in order to promote new foreign markets for American fish products. The recently concluded multilateral trade negotiations made substantial progress in reducing foreign trade barriers which impede U.S. exports of fish products, and this program will enable us to capitalize on new markets opening up abroad.

Finally, this legislation will authorize the transfer of moneys from the fisheries loan fund to the Federal ship financing fund created under title XI of the Merchant Marine Act. Some $6 million in this fund have remained unobligated due to a spending moratorium imposed in 1973. The transfer of the funds would permit financial assistance to fishing vessels engaged in developing fisheries which have traditionally had the most difficulty in attracting private capital.

Mr. President, we now have a chance to seize new opportunities gained by the enactment of the 200-mile zone. We have the chance to encourage new and innovative partnerships between industry and Government. We have a chance to capitalize on new export opportunities. We can create new jobs and new sources of income for America's coastal communities, and we can provide major new sources of protein for the world community. Passage of this legislation will give our domestic industry the chance to seize these opportunities.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Fishery Development Act".

SEC. 2. Section 2 of the Act of August 11, 1939 is amended to read as follows:

"SEC. 2. (a) The Secretary of Agriculture shall transfer to the Secretary of Commerce each fiscal year, beginning with the fiscal year commencing October 1, 1979, from moneys made available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), an amount equal to 30 per centum of the gross receipts from duties collected under the customs law on fishery products (including fish, shellfish, mollusks, crustacea, aquatic plants and animals and any products thereof including processed and manufactured products), which shall be maintained in a separate fund and used by the Secretary of Commerce for:

"(1) financial assistance for the purpose of carrying out fisheries development projects approved under subsection (c) of this section; and

"(2) implementation of the National Fisheries Research and Development Program approved under subsection (d) of this section.

"(b) Any person, regional fishery development foundation, or organization involved with the commercial fishing industry, may, for the purpose of facilitating a fishery development project or projects, make application for moneys made available under the provisions of subsection (a) of this section.

"(c)(1) The Secretary shall specify the information to be contained in any application for funds made available under the provisions of this section to ensure compliance with applicable Federal law and to provide for the full and proper evaluation of such applications. The Secretary shall evaluate each proposed project as to soundness of design, possibilities of securing productive results, and other criteria which the Secretary may require prior to approval of funding.

"(2) The Secretary shall obligate funds for applications submitted under the provisions of this section pursuant to regulations adopted hereunder. Applications shall be submitted to the Secretary at such times and manner as is set forth in such regulations: *Provided,* That in no event shall the dates for submission and approval of applications be less often than every six months, and all applications must be approved or rejected within six months of the date of their receipt by the Secretary.

"(3) The Secretary shall require the person or organization obtaining funds under the provisions of this Act to submit periodic project status reports.

"(4) The Secretary shall include as part of the annual report of the National Marine Fisheries service and analysis and evaluation of all programs funded under this Act. Such report shall include, but not be limited to—

"(A) a list of those applications funded under this section, the amount of funding provided, a list of those applications not approved for funding, and the reason therefor;

"(B) an assessment of the extent to which the objectives of the funded project have been obtained and the information obtained from the project;

"(C) the extent to which the funded projects have contributed to fishery development; and

"(D) the programs funded under subsection (d) of this section and the levels of such funding.

"(d)(1) The Secretary of Commerce is hereby authorized to carry out a national program of fisheries research and development. The Secretary may use moneys made available under subsection (a) of this section to promote the free flow of domestically produced fishery products in domestic and international commerce by conducting fishery educational programs and fishery technological, biological, and related research programs.

"(2) The Secretary shall, 60 days in advance of the fiscal year in question, transmit to the Senate Committee on Commerce, Science and Transportation and the House of Representatives Committee on Merchant Marine and Fisheries a list of projects which are proposed under this subsection, together with a budget for each one of the proposed projects. In addition, the Secretary shall submit to such committees interim status reports on each of the projects funded hereunder and an annual report on the status of each project funded hereunder, including the amount of money actually expended on each such project.

"(e)(1) Not less than 50 per centum of the moneys made available under subsection (a) of this section shall annually be made available by the Secretary to fund projects or programs proposed under subsection (c) of this section.

"(2) The remainder of such moneys shall be available to implement the National Fisheries Research and Development Program established under subsection (d) of this section.

"(3) Moneys not obligated pursuant to paragraphs (1) and (2) of this subsection shall remain in the fund without fiscal year limitation.".

SEC. 3. (a) To carry out the export promotion and other international responsibilities under the amendment made by the first section of this Act, the Secretary of Commerce shall appoint not fewer than six officers who shall, with the concurrence of the Secretary of State, serve abroad to promote United States fishing interests. Such officers shall have the designation of Regional Fisheries Attachés, and shall be accorded the same status and privileges as those of other attachés in United States embassies. Such attachés will be employees of the Department of Commerce.

(b) Upon the request of the Secretary of Commerce, the Secretary of State shall officially assign the officers to the diplomatic mission of the United States in the country in which such officers or employees are placed by the Secretary of Commerce, and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by foreign service personnel of comparable rank and salary.

(c) The Secretary of State shall provide office space, equipment, facilities, clerical services and such other administrative support as may be required for the officers and their families affected by this section.

(d) The Secretary of Commerce may make such rules and regulations as may be necessary to carry out the purposes of this section.

SEC. 4. Any balance of funds remaining in, or other assets of, the fisheries loan fund created by section 4(c) of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742c(c)), as of September 30, 1980, shall at the close of that date be transferred to the Federal Ship Financing Fund established under title XI of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1271–1279b), to be used for the purposes hereafter set forth. In addition to continuing to provide the normal activities specified in such title for fishing vessels, the Secretary shall thereafter also provide for the guarantee of obligations relating to Fishing vessels engaged in developing fisheries which might not otherwise meet the normal economic soundness criteria of such title. The Secretary shall amend the rules and regulations relating to the fishing vessel portion of such title to specify the conditions under which fishing vessels engaged in developing fisheries will qualify for the guarantee of obligations.

⊙ Mr. MAGNUSON. Mr. President, I am glad to cosponsor the National Fisheries Development Act. This legislation is needed to renew our commitment to the full utilization of the fishery resources within 200 miles of our shore.

The Fishery Conservation and Management Act gave the United States fishery management jurisdiction over an area almost three times larger than the Louisiana Purchase. Our fishermen and processors have a preferential right to all of the fishery resources in that area. Even though our fishing industry contributes $7 billion to our GNP and creates direct employment for more than one-fourth million Americans, we still have a balance of payments deficit in fishery products of over $2.1 billion. And, foreign fishermen are still taking between one-third and one-half of the fish out of our waters. For example, the United States still lands less than 1 percent of the estimated 1.5 million tons of available Alaska bottomfish. Some of the fish we import is caught by foreigners in our waters, processed abroad, and then sent back to us.

Unless we develop our capacity and intent to utilize these fisheries for our industry, the foreign fleets will stay off our shores harvesting our fish, and we will be letting a golden opportunity lie dormant. We are beginning to see signals of the beginning of the end for these foreign fleets in our 200-mile limit. The time is right to provide the industry with encouragement and incentives needed to facilitate the expeditious development of our American industry.

This bill reaffirms the commitment expressed in the Saltonstall-Kennedy Act to provide a source of funding for industry proposals designed to facilitate the development of our fisheries. These projects encompass a wide range of proposals in harvesting, processing, marketing, research, and other areas. Recently, Congress has encountered reluctance within the administration to use these Saltonstall-Kennedy moneys as they were intended to be used.

Senate Resolution 50 this year clearly sent the message back to the administration that these moneys are to be so used. This bill provides greater guidelines for the Saltonstall-Kennedy program and delineates more clearly the use of the funds for industry and governmental efforts in fishery development.

The bill has several other features. Section 3 provides that the Secretary of Commerce shall appoint not fewer than six foreign fishery attachés. These officers will be instrumental in our national efforts to promote fishery exports and assist the industry in being aware of and utilizing foreign market opportunities. These foreign markets offer a tremendous potential and will be a key factor in this

Nation's ability to fully utilize our own fishery resources within 200 miles of our shores.

Finally, section 4 of the bill transfers the funds that presently exist in the fisheries loan fund established by the Fish and Wildlife Act of 1956 to the fishing vessel loan guarantee program under title XI of the Merchant Marine Act. The fisheries loan fund has been under a moratorium since 1973. Presently there is roughly $6 million in the fund that is not being used, and section 4 of this bill transfers that money to the active title XI loan guarantee program. There the money is to be used to support projects that might not presently meet normal economic soundness criteria but which have significant potential to assist the development of certain fisheries.

The present bill does not provide for the extension of the capital construction fund or the loan guarantee program to onshore facilities, because these items are presently items for conference with the House on another bill. However, if these measures are not agreed to by the conferees, then I intend to offer an amendment to this legislation to accomplish the CCF extension and to study closely the merits of a similar extension for the loan guarantee program.●

By Mr. LEVIN:

S. 1657. A bill to amend title XVI of the Social Security Act to remove certain work disincentives, and for other purposes; to the Committee on Finance.

SUPPLEMENTARY SECURITY AMENDMENTS OF 1979

● Mr. LEVIN. Mr. President, I am pleased to introduce this bill to provide greatly needed changes in the supplemental security income program for disabled persons. It is also a pleasure to have as cosponsors Senators Lugar, Durkin, Baucus, Hatch, Simpson, and Sarbanes. I would also like to express my commendations to my friend and colleague, Senator Riegle, who has also introduced legislation in this area. I sincerely believe that his most comprehensive bill closes the gap in the quality of life that currently exists between the handicapped and those Americans without disabling conditions. His bill would raise annual benefits for SSI recipients, would increase value limits and deductions to compensate for past inflation, and would index all of these items to inflation in the future. In addition, the changes it makes in the areas of presumptive eligibility and institutionalization would greatly increase the equitability of the SSI system. All of these reforms are necessary, and I again commend my colleague for his work toward effecting these changes.

Mr. President, my bill deals solely with correcting flaws in the law which have proven to be a disincentive to the disabled in their pursuit of habilitation. The bill is identical in almost all respects to the legislation recently passed by the House, and a similar proposal was approved by the Senate Finance Committee last year; unfortunately, the latter failed to gain full Senate approval during the closing hours of the session.

Under this bill, new methods are proposed for computing the "substantial gainful activity" (SGA) earnings limitation. The earnings limit would be raised to $481 per month from the current level of $280, and in determining "countable earnings" for the purposes of SGA the following items would be disregarded: First, the first $65 of monthly earnings (current law); Second, "standard work-related expense disregard" equal to 20 percent of gross earnings; Third, "Impairment-related work expenses" of certain severely disabled individuals equal to the cost to the individual of any attendant care services, medical devices, equipment, prosthesis, and similar items and services which are necessary for the individual to remain employed; and Fourth, 50 percent of remaining monthly earnings (current law). The result of the two new provisions would be that income eligibility would now take into consideration special disadvantages of the handicapped mentioned above and would greatly ease their financial burden.

Under present law, an individual retains disability status for a total of 12 months after obtaining "substantial gainful employment." Under the bill, a disabled individual would be allowed to retain disability status, without receiving monthly SSI payments, for 12 months following termination of SSI benefits due to earnings in excess of the SGA limit. During this 12-month period, if the person experiences a loss of earnings, he or she could begin receiving SSI payments without going through a new eligibility determination procedure. Individuals would also be considered "presumptively disabled" for 4 years following loss of disability status, which would allow them to reobtain all benefits upon proof of income eligibility without requiring disability status to be redetermined. The person would continue to receive benefits unless and until it was determined that the disability requirements were not met. These provisions would greatly aid the handicapped and also reduce administrative and bureaucratic paperwork.

Additionally, under this bill, an SSI beneficiary could not be terminated due to a determination of medical recovery while the individual was participating in an approved vocational rehabilitation program which the Social Security Administration determines will increase the likelihood that the person may be permanently removed from the disability benefit rolls.

Mr. President, the bill has been endorsed by the following organizations:

American Association of Workers for the Blind.

American Coalition of Citizens with Disabilities.

American Foundation for the Blind.

American Congress of Rehabilitation Medicine.

Epilepsy Foundation of America.

National Association for Retarded Citizens.

National Easter Seal Society for Crippled Children and Adults.

National Conference of Development Disabilities.

National Rehabilitation Association.

National Society for Autistic Children.

United Cerebral Palsy Association, Inc.

Mr. President, I believe the entire Senate would like to see that all Americans are able to have fulfilling and useful jobs, and the previous Congress did much to improve the Federal vocational rehabilitation program in order to increase employment opportunities for the disabled. Unfortunately, the handicapped face an enormous burden when trying to enter the job market, in terms of extraordinary medical, social and special employment costs as well as ordinary living expenses. These individuals must earn much more than the average person in order to be gainfully employed, yet the aid which permits them to work in the first place and which is needed to retain employment is frequently lost because of present SSI eligibility stipulations. There are over 2 million disabled persons in America, and if we would truly like them to have the ability to work we urgently need to adopt this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Supplemental Security Income Amendments of 1979".

EARNINGS LEVEL FOR DETERMINING SUBSTANTIAL GAINFUL ACTIVITY UNDER SSI PROGRAM

Sec. 2 (a Section 1614(a)(3)(D) of the Social Security Act is amended by inserting immediately after the first sentence thereof the following new sentence: "Such criteria must in any event provide that an individual engaged in gainful activity shall not, by reason of his earnings from such activity, be considered able to engage in substantial gainful activity unless the total amount of such earnings for the period involved exceeds the level at which the portion thereof not excluded (in determining such individual's income) under clauses (i) and (iv) of section 1612(b)(4)(B), reduced by the sum of the amounts (if any) excluded for such period under clause (iii) of such section 1612(b)(4)(B), equals the amount of the benefit or benefits that would be payable to such individual for such period under section 1611(b)(1) or 1611(b)(2) (whichever is applicable to such individual) if he had no income of any kind. For purposes of the preceding sentence, the term 'amounts (if any) excluded for such period under clause (iii) of such section 1612(b)(4)(B)' shall include, as amounts so excluded with respect to any of the care, services, or items referred to in clause (iii) of such section 1612(b)(4)(B) which were furnished without cost to the individual, such amounts as the Secretary may prescribe.".

(b) The amendment made by subsection (a) shall apply with respect to activities in which individuals engage on and after July 1, 1980.

EXCLUSION OF WORK-RELATED EXPENSES, AND CERTAIN COSTS OF IMPAIRMENT-RELATED WORK EXPENSES, FOR THE DISABLED

Sec. 3. (a) Section 1612(b)(4)(B) of the Social Security Act is amended by striking out "plus one-half of the remainder thereof, and (ii)" and inserting in lieu thereof the following: "(ii) an amount equal to 20 percent of such individual's gross earned income for the period involved, representing expenses attributable to the earning of such income, (iii) such additional amounts of earned income of such individual, if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, (iv) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (v)".

(b) The amendment made by subsection (a) shall apply with respect to expenses incurred on and after July 1, 1980.

EXTENSION OF TRIAL WORK PERIOD; PRESUMPTIVE DISABILITY

SEC. 4. (a) (1) (A) Section 1614(a) (3) of the Social Security Act is amended by adding at the end thereof the following new subparagraph.

"(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4) (D) (i) shall nonetheless be considered to be disabled through the end of the month preceding the month in which such individual's disability ceases or, if later (and subject to section 1611 (e) (4)), the fifteenth month following the end of such individual's trial work period.".

(B) Section 1614(a) (3) (D) of such Act is amended by striking out "paragraph (4)" and inserting in lieu thereof "subparagraph (F) or paragraph (4)".

(2) Section 1611(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) No benefit shall be payable under this title with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a) (3) (F) for any month after the third month in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 1614(a) (4) (D) (i).".

(b) Section 1614(a) (3) of such Act (as amended by subsection (a) (1) (A) of this section) is further amended by adding at the end thereof the following new subparagraph:

"(G) An individual applying for benefits under this title as a disabled individual (or as an eligible spouse on the basis of disability) shall be considered presumptively disabled if, within the 4 years preceding the date of the application, he was treated for purposes of this title or title II as a disabled individual but ceased to be so treated because of his performance of substantial gainful activity; but nothing in this paragraph shall prevent his performance of such gainful activity from being taken into account in determining whether he is currently disabled in fact.".

(c) The amendments made by this section shall become effective on July 1, 1980, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to that date.

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN CHILD ATTAINS AGE 18

SEC. 5. (a) Section 1614(f) (2) of the Social Security Act is amended by striking out "under age 21" and inserting in lieu thereof "under age 18".

(b) The amendment made by subsection (a) shall become effective on July 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child age 18 or over who receives a supplemental security income benefit for June 1980, during any period for which such benefit would be greater without the application of such amendment.

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 6. (a) Section 1631(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a) (3)) shall not be terminated or suspended because the physical or mental impairment on which the individual's eligibility for such benefit is based has or may have ceased if—

"(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(B) the Commissioner of Social Security determine that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(b) The amendment made by subsection (a) shall become effective on July 1, 1980, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to that date.●

By Mr. JAVITS (for himself, Mr. STAFFORD, Mr. MOYNIHAN, Mr. CRANSTON, Mr. KENNEDY, and Mr. BRADLEY):

S. 1658. A bill to establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to States and local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes; to the Committee on Labor and Human Resources.

ASBESTOS SCHOOL HAZARD DETECTION AND CONTROL ACT OF 1979

Mr. JAVITS. Mr. President, today I join with my colleagues, Senators STAFFORD, MOYNIHAN, CRANSTON, KENNEDY, and BRADLEY and introduce the Asbestos School Hazard Detection and Control Act of 1979. This legislation will establish a program of Federal assistance to States and local educational agencies to aid them in the detection and abatement of potentially hazardous and disease-causing asbestos materials in school buildings. This program will enable districts to limit and prevent the exposure of students and school personnel to asbestos fibers in the school setting.

ASBESTOS HAZARDS IN SCHOOLS

During the period 1946 to 1972, asbestos materials, particularly in sprayed form, were extensively used in the construction and renovation of school buildings for fireproofing, soundproofing, and other purposes. In many school buildings, these materials have become damaged or friable as a result of deterioration, abrasion, water leakage or forced air circulation, causing the release of asbestos fibers into the air, of a level far exceeding acceptable norms.

For some time, medical evidence has suggested linkages between exposure to asbestos fibers and chronic or terminal diseases. Although the well-known and highly respected studies by Dr. Irving Selikoff and his associates at Mt. Sinai Medical School showed a significantly higher rate of cancer and asbestosis in asbestos workers than in the general control population, there is also substantial scientific evidence that exposure at lower levels than that of asbestos workers may also be dangerous. Furthermore, there is no known threshold level below which exposure is considered safe. The medical evidence also suggests that children tend to be more susceptible to environmentally induced cancers than are older segments of the population. While this phenomenon has not been assessed specifically with respect to asbestos, concern has been voiced by leading scientists, including Dr. David Rall, Director of the National Institute of Environmental Health Sciences, that this linkage may exist. The logical conclusion to be drawn from this evidence is that unnecessary and excessive exposure, particularly the exposure of children, to asbestos, should be avoided.

PAST AND CURRENT FEDERAL ACTION

The potential hazards associated with exposure to certain forms of asbestos have resulted in the Federal action to control or reduce the extent of the extent of the exposure problem, particularly with respect to the work environment. Since the 1960's, when the Federal Government began to restrict the ambient levels of asbestos in the workplace, regulations issued by the Occupational Health and Safety Administration (OSHA) have become increasingly stringent in this regard, based upon new evidence of exposure hazards. The National Institute for Occupational Safety and Health (NIOSH) has recently recommended a limit of asbestos fibers in ambient air barely below the lowest currently measurable concentrations.

In 1973, the Environmental Protection Agency prohibited the spraying of materials containing more than 1 percent asbestos for use in insulation or fireproofing. Only last year, this prohibition was strengthened, to include all spray-on applications, for any purpose. Nevertheless, despite these recent activities, and the EPA's current effort to provide information and limited technical assistance to States and school districts, there is no clear Federal action—through statute or regulation—to protect children from asbestos-containing materials present in their schools.

MAGNITUDE OF THE PROBLEM

The extent of the exposure hazard is not necessarily uniform, and may vary from district to district within and among States. Ad hoc inspections of school buildings in certain States have demonstrated the presence of loose or flaking asbestos material in some schools, material which could contaminate the ambient air with high levels of asbestos fibers.

An investigation of schools in New Jersey, conducted under the auspices of the National Institute of Environmental Health Sciences indicated that 265 of 2,400 schools in the State had asbestos materials in student use areas; 48 of these 265 schools were visited, and 33 (69 percent) were found to have visible evidence of damage to asbestos contents, due to water leakage, deterioration, or physical abuse by students.

In some of these schools, according to the project director, Dr. William Nicholson, of the Mount Sinai School of Medicine, concentrations of asbestos fiber in the ambient air were up to 100 times the levels commonly experienced.

In testimony before the House Education and Labor Committee on this issue on February 21 of this year, Anthony Smith, director of the Division of School Buildings of the New York City Board of Education, stated that 144 of 932 school buildings inspected in New York contained asbestos material.

Mr. Smith estimated the cost to New York City of removing or controlling potentially hazardous asbestos materials in student use areas at $30 to $35 million. A partial survey of school districts in Kentucky indicated over half of the districts responding in that State had schools containing asbestos materials.

Yet these efforts to inspect schools for potential asbestos hazards have been sporadic, and provide only slight guidance as to the full extent of the problem—of the 90,000 elementary and secondary schools in the United States, less than 5 percent have been even visually inspected for the presence of asbestos-containing materials.

THE FEDERAL ROLE

The cost of removing, or at the least, containing asbestos hazards in schools may be quite high—estimates for removal and replacement range from $2 to $12 per square foot, with containment through encapsulation or enclosure estimated at 20 cents to $5 per square foot. With friable asbestos in some districts averaging 10,000 square feet per school, the costs to such district could be enormous. At a time when districts are operating on bare-bones budgets for the most basic education programs, large expenditures necessary to remove a hazard of this nature could result in a diminution of educational services.

Furthermore, in certain instances, districts may be required to seek bond issues to raise sufficient funds for capital expenditures to remove or contain hazards. Such issues have been turned down with increasing frequency by local taxpayers, regardless of need or merit. Moreover, tax limitation measures in certain States and local jurisdictions have cut off this method of raising capital for schools and other local services.

Thus, given the Federal Government's past activity in moderating or eliminating environmental and health hazards associated with asbestos and other materials, and the reluctance or inability of many districts to deal adequately with the problem, it is proper that the Federal role be one of financial and technical assistance to States and school districts to identify and, where appropriate, control asbestos hazards in schools. This Federal role is catalytic and cooperative—local or State education agencies are expected to match Federal financial assistance and provide for with qualified technical assistance, the detection and removal of potential asbestos hazards.

SUMMARY OF BILL

Our bill is quite similar to legislation, H.R. 3282, reported by the House Education and Labor Committee on May 15 of this year, and based upon earlier legislation introduced by committee chairman CARL PERKINS and Representative GEORGE MILLER of California.

First, the bill authorizes the Secretary of HEW to make grants to States, local education agencies, and private schools for the detection of asbestos hazards in schools, based upon applications which must include certain criteria, including: First, inspection methods to be used; second, cost estimates; third, designation of the party conducting the testing; and fourth, assurances that testing activities conform to health and safety standards. The Federal share of the detection program will be 50 percent of costs, with a waiver of the local share if the applicant cannot participate without greater levels of Federal assistance. Authorizations for the detection program are $30 million annually for fiscal years 1980 through 1982.

Second, a program of interest-free loans from HEW to States, LEA's, and private schools is established to help these entities meet the cost of control—removal or containment—of asbestos hazards. The Federal share, against is 50 percent, with the same waiver for fiscally pressed entities as in the detection program. The loans would be repayable to the Treasury over a 20-year period. Funds for the control program are authorized at $100 million for each of fiscal years 1980 through 1982. For both the detection and control program, Federal assistance is available retroactively for activities conducted after January 1, 1976.

Third, States are given the responsibility of providing school districts and private schools with information about the Federal program, and are charged with maintaining records on the presence of asbestos in school buildings, including past or current school activities to detect or control such hazards. A State may receive direct reimbursement from HEW for detection or control if it is providing or has provided, financial assistance to its schools for these purposes.

Fourth, the bill directs the Attorney General to investigate whether the United States should or could recover its expenditures under the Asbestos School Hazard Detection and Control Act from any person determined by the Attorney General to be so liable, and to submit a report to Congress on this issue within 1 year after its effective date. The bill permits the Federal Government to sue on behalf of any recipient of funds any person determined by the Attorney General to be liable to the recipient for the costs of activities taken under the bill. The proceeds from any successful judgment are to be used to repay the Federal Government for such activities.

Fifth, the bill establishes a task force, appointed by the Secretary of HEW, to serve as a resource for Federal administrators and recipient agencies under this program. The nine-member task force will be composed of representatives of Federal agencies engaged in education, health, safety, environmental protection, and of representatives of organizations concerned with education and health. The task force will aid recipients of funds by providing information regarding Federal activities, including medical, scientific, and technical data, and identification and control methods. It will also assist the Secretary of HEW in conducting the program by reviewing applications for grants and loans and reviewing and advising on program guidelines.

Mr. President, our legislation will enable us to determine the extent of the asbestos hazard in our schools, and provide us with the necessary mechanisms to control the hazards which may imperil the health of our children. I hope that we can get prompt hearings on this matter in the Education, Arts and Humanities Subcommittee, and act apace to provide our school districts with the assistance which they themselves have deemed so necessary. For, without a safe and healthy learning environment, the education of our children cannot proceed effectively.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Asbestos School Hazard Detection and Control Act of 1979".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentrations far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health, Education, and Welfare and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for identifying hazardous

conditions in schools or for remedying those conditions;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without an improved prorgam of information distribution, technical and scientific assistance and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this Act to identify and mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) It is the purpose of this Act to—

(1) direct the Secretary of Health, Education, and Welfare to establish a task force to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) require States receiving administrative funds for any applicable program (as defined under section 400(c)(1)(A) of the General Education Provisions Act) to prepare a plan describing the manner in which information relating to programs established under this Act shall be distributed to local educational agencies;

(3) provide scientific, technical, and financial assistance to local educational agencies to enable them to conduct an asbestos detection program to identify asbestos hazards in schools.

(4) provide loans to local educational agencies for the mitigation of asbestos hazards which constitute an imminent hazard to the health and safety of school children and employees; and

(5) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

TASK FORCE

SEC. 3. (a)(1) There is established a task force to be known as the Asbestos Hazards School Safety Task Force (hereinafter in this Act referred to as "Task Force"). The Task Force shall be composed of nine members, who shall be appointed by the Secretary within 30 days after the effective date of this Act, as follows:

(A) One representative of the Office of Education, recommended by the Commissioner of Education.

(B) One representative of the National Cancer Institute.

(C) One representative of the Environmental Protection Agency, recommended by the Administrator of such agency.

(D) One representative of the National Institute of Environmental Health Sciences.

(E) One representative of the Occupational Safety and Health Administration, recommended by the Secretary of Labor.

(F) Four representatives from among organizations concerned with education and health.

Members of the Task Force shall be individuals who have knowledge of the medical problems associated with exposure to asbestos, or individuals who are familiar with procedures for the following activities: the containment or removal of asbestos from buildings; the replacement of asbestos materials removed from school buildings with other appropriate building materials; and the restoration of such buildings to conditions comparable to those existing before such containment or removal was carried out.

(2) The Secretary shall designate a chairman of the Task Force from among its members.

(3) Members shall be appointed for the life of the Task Force. Any vacancy in the Task Force shall be filled in the same manner in which the original appointment was made.

(b)(1) The Task Force shall meet, no later than 30 days after the appointment of its members, at the call of the chairman of the Task Force.

(2) Five members of the Task Force shall constitute a quorum for purposes of conducting the business of the Task Force, but a lesser number may hold hearings.

(c)(1) Members of the Task Force who are not full-time officers or employees of the Federal Government shall receive compensation at a rate determined by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of pay in effect for grade GS-16 of the General Schedule, for each day (including traveltime) during which they are engaged in the performance of the duties of the Task Force.

(2) While away from their homes or regular places of business in the performance of the duties of the Task Force, all members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d)(1) Upon request of the Task Force, the Secretary shall make available to the Task Force personnel of the Department of Health, Education, and Welfare to assist the Task Force in carrying out its duties.

(2) The Task Force may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) The duties of the Task Force shall include—

(1) the compilation of medical, scientific, and technical information explaining—

(A) The health and safety standards associated with asbestos materials; and

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State educational agencies and to local educational agencies for the purpose of assisting such agencies in carrying out activities described in this Act;

(3) the review of applications for grants and loans under sections 5 and 6 of this Act, and the submission to the Secretary of recommendations respecting the approval or disapproval of such applications;

(4) the review of any guidelines established by the Environmental Protection Agency for identifying those schools in which exposure to asbestos fibers constitutes a health problem and for taking appropriate corrective actions at such schools, in order to determine whether any modifications of such guidelines should be recommended to the Secretary under paragraph (5); and

(5) providing the Secretary with assistance in formulating standards and procedures under section 7 of this Act by—

(A) submitting to the Secretary relevant information concerning the results of the review made under paragraph (4) of this subsection; and

(B) recommending such modifications to the guidelines referred to in such paragraph as the Task Force considers appropriate.

In carrying out its duties under this subsection, the Task Force shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

(f) The Task Force shall cease to exist at the end of the 180-day period beginning on the date that the authority of the Secretary to make loans under section 6 has expired.

STATE PLAN

SEC. 4. (a) Not later than six months after the effective date of this Act, the State educational agency of any State which receives administrative funds for any applicable program (as defined under section 400(c)(1)(A) of the General Education Provisions Act) shall submit to the Secretary a plan which—

(1) describes the manner in which the State, not later than nine months after the effective date of this Act, shall distribute to local educational agencies within that State's jurisdiction information describing—

(A) the programs established under this Act;

(B) the health hazards associated with exposure to asbestos fibers; and

(C) the procedures established by the Secretary under section 7 for carrying out activities under programs under this Act, and such other relevant information regarding such activities as the State considers desirable;

(2) contains a general description of the content of the information to be distributed in accordance with paragraph (1) and provides assurances that the State shall continually revise such information and distribute such revised material to local educational agencies to ensure that such agencies have available to them the most recent material available with regard to the matters referred to in paragraph (1);

(3) describes the procedures to be used by the State for maintaining records on—

(A) the presence of asbestos materials in school buildings of local educational agencies;

(B) the asbestos detection, containment, or removal activities conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(C) repairs made to restore school buildings to conditions comparable to those existing before the containment or removal activities referred to in subparagraph (B) were undertaken; and

(4) designates a State agency or other administrative unit with the responsibility for submitting to the Secretary the reports described in subsection (b) of this section and provides assurances that such agency or unit shall carry out the duties specified under subsection (b).

(b) Not later than six months after the submission of the plan described in subsection (a), and each six months thereafter during the three-year period beginning on the effective date of this Act, the State agency or unit designated under paragraph (4) of subsection (a) shall submit to the Secretary a report which describes the actions taken by the State in accordance with its plan under such subsection.

ASBESTOS HAZARDS DETECTION PROGRAM

SEC. 5. (a)(1)(A) The Secretary may make grants to local educational agencies for the Federal share of the costs of carrying out an asbestos detection program meeting the standards established by the Secretary under section 7(a)(1) of this Act.

"(B) The Secretary may make grants to State educational agencies for the Federal share of the costs of carrying out any asbestos detection program if—

"(i) the State, through the State educational agency or some other appropriate State agency, is making grants to local educational agencies for asbestos hazard detection programs, and

"(ii) such programs meet the standards

established by the Secretary under section 7 (a) (1) of this Act.

"(C) Grants may be made under this section only during the three year period beginning after the date of enactment of this Act.

(2) Subject to the second sentence of this paragraph, the Federal share of the costs referred to in paragraph (1) shall be 50 percent. Upon a determination by the Secretary that an applicant has limited fiscal resources and would be unable to participate in the program under this section without receiving from the Federal Government, as its Federal share of such costs, an amount greater than the amount permitted under the first sentence of this paragraph, the Secretary may increase the Federal share which may be paid to such applicant by such amount as the Secretary considers appropriate to permit the applicant to participate in the program.

(b) (1) No grant may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force. The Secretary may not approve an application unless the application—

(A) contains a description of the methods to be used by the local educational agency, or in the case of an application by the State educational agency the methods to be used by the local educational agencies receiving grants from the State, to determine whether hazardous concentrations of asbestos fibers or materials emitting such fibers exist in school buildings under the jurisdiction of such agency;

(B) contains an estimate of the total cost of the detection program, including such detailed descriptions of the costs of each component of the program as the Secretary may require;

(C) designates the party which shall conduct the testing for the detection program and describes such party's qualifications for conducting such testing; and

(D) contains assurances that the program shall be carried out in accordance with standards established by the Secretary under section 7(a) (1) and that any party employed to conduct such testing shall satisfy the competency standards established under such section; and

(E) contains such other information or assurances as the Secretary may require.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No grant may be awarded by the Secretary under this section for asbestos hazards detection programs conducted before the effective date of this Act unless the applicant has submitted an application to the Secretary—

(A) containing the information required under paragraph (1); and

(B) providing assurances that any program for any asbestos hazards detection program a manner which substantially conforms to the requirements established by the Secretary under section 7(a) (1).

No grant may be awarded under this section for any asbestos hazards detection program completed before January 1, 1976.

(4) After reviewing the application submitted under this section, together with any recommendations made by the Task Force, the Secretary shall determine the amount of any grant to be awarded under this section. Funds may be awarded by the Secretary for the administrative costs incurred in the preparation and supervision of the asbestos detection program and for the following activities:

(A) Visual inspections of school buildings.

(B) The sampling of building and insulation materials.

(C) Appropriate tests to determine the level of asbestos content in suspected materials, and tests determined to be essential to detect the likelihood of imminent danger to persons within school buildings.

(c) Local and State educational agencies receiving grants under this section shall file a report with the Secretary, not later than 120 days after the award of such grant, describing the detection activities which were undertaken, the results of the asbestos detection program, and plans for mitigating any imminent hazards which were detected by the testing. The report shall include a detailed accounting of the funds used to carry out the detection program.

(d) During the period in which grants may be made under this section, not more than 20 percent of the funds appropriated to carry out this section may be made available by the Secretary to the Task Force to conduct education and technical assistance programs related to the detection of asbestos hazards in school buildings and the implementation of appropriate actions to mitigate such hazards.

ASBESTOS HAZARDS CONTROL LOAN PROGRAM

SEC. 6. (a) (1) There is established within the Department of Health, Education, and Welfare an Asbestos Hazard Control Loan Program (hereinafter in this Act referred to as the "Loan Program"), which shall be administered by the Secretary in accordance with this section.

(2) The Secretary may make loans under this section to local educational agencies in an amount equal to 50 percent of the costs of carrying out projects for—

(A) the containment or removal of any materials containing asbestos in school buildings in which such materials pose an imminent hazard to the health and safety of children or employees;

(B) the replacement of the asbestos materials removed from school buildings with other appropriate building materials; and

(C) making repairs which the Secretary determines to be necessary to restore school buildings to conditions comparable to those existing before containment or removal activities were undertaken under subparagraph (A).

Loans may be made under this section only for projects affecting more than 2,500 square feet of surface and in which the asbestos material to be contained or removed consists of a minimum asbestos level, as determined by the Secretary under section 7(a) (2).

(3) If the Secretary determines that an applicant has limited fiscal resources and would be unable to carry out the projects described in paragraph (2) without receiving a loan under this section for an amount greater than the amount permitted under such paragraph, the Secretary may increase the amount of the loan payable to such applicant to an amount the Secretary considers appropriate to enable the applicant to carry out such projects.

(b) Loans under this section shall be made pursuant to loan agreements which shall provide for the following terms:

(1) The loan shall not bear any interest except as otherwise provided under paragraph (5).

(2) The loan shall have a maturity period of not more than 20 years (as determined by the Secretary) and shall be repayable during such period at such times and in such amounts as the Secretary may specify in the loan agreement.

(3) Repayment of the loan shall be made to the Secretary of the Treasury for deposit in the general fund of the Treasury.

Such loans shall be subject to such other terms and conditions as the Secretary may establish for the protection of the financial interest of the United States and in furtherance of the purposes of this Act.

(c) (1) No loan may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force, within the three-year period beginning on the effective date of this Act. The Secretary may not approve an application unless—

(A) the application contains such information as the Secretary may require, including information describing—

(i) the nature of the asbestos problem for which the loan is sought;

(ii) the asbestos content of the material to be contained or removed by the local educational agency, as determined under preliminary testing which was concluded in accordance with the standards established by the Secretary under section 7(a) (1), or, in the case of testing conducted before the effective date of this Act, was conducted in a manner which substantially conforms to such standards; and

(iii) the methods which will be used to contain or remove the asbestos materials, in accordance with section 7(b) of this Act, and any other pertinent details relating to the project or projects to be conducted by the applicant (as described in subsection (a) (2)); and

(B) the application contains assurances that—

(i) any employee engaged in any activity to carry out programs under this section shall be notified in writing by the local educational agency conducting the program of the hazards of working with asbestos, and shall be required to utilize all appropriate safety procedures to minimize health risks;

(ii) no child or school employee shall be permitted in the vicinity of any asbestos containment or removal activity; and

(iii) the local educational agency shall pay employees engaged in containment, removal, or replacement activities to carry out programs under this section at reasonable rates of pay, as established by the Secretary on the basis of prevailing wage rates in the location of such work.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No loans may be made by the Secretary under this section for projects described in subsection (a) (2) which commenced before the availability of loans under the Loan Program unless the local educational agency submits to the Secretary an application which—

(A) meets the requirements of paragraph (1); and

(B) contains assurances that any work already completed by the applicant has been carried out in substantial conformity with section 7(b).

No loan may be awarded under this section for any project described in subsection (a) (2) which was completed before January 1, 1976.

(d) During each of the four calendar years after the year in which this Act is enacted, the Secretary shall submit before February 1 of such year a report to the appropriate committees of the House of Representatives and the Senate, which shall—

(1) describe the number of loans made in the preceding calendar year and specify each applicant for and recipient of a loan;

(2) describe the nature of the asbestos problem of each applicant;

(3) describe the types of programs for which loans were made;

(4) specify the estimated total costs of such programs to the recipients of loans and specify the amount of loans made under the Loan Program; and

(5) specify the number of loan applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals.

STANDARDS AND SAFETY PROCEDURES

SEC. 7. (a) (1) Within 120 days after the first meeting of the Task Force, and after consultation with the Task Force, the Secretary shall establish and distribute to the State agency or unit designated under section 4(a)(4)—

(A) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;

(B) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(C) standards for determining which contractors are qualified to carry out the testing and evaluation described in this paragraph.

(2) After consulting with the Task Force, the Secretary shall establish criteria to be used for determining eligibility for loans under section 6 of this Act. The criteria shall be based on the assessment of the extent of the health hazards posed by the presence of asbestos fibers in schools, as determined in accordance with standards under paragraph (1)(B) of this subsection.

(b) After reviewing recommendations submitted to the Secretary by the Task Force under section 3(e)(5), the Secretary, with the concurrence of the Task Force, shall by regulation establish—

(1) procedures to be used by local educational agencies, in programs for which loans are made under section 6, for—

(A) containing and removing asbestos materials in school buildings;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

(2) standards for determining which contractors are qualified to carry out the activities referred to in paragraph (1).

(c) In carrying out his duties under this section, the Secretary shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

RECOVERY OF COSTS BY THE UNITED STATES

SEC. 8. (a)(1) As a condition of the award of any grant under section 5 or loan under section 6, the recipient of any such grant or loan shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such sections.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from any judgment recovered by the recipient in such suit) shall be used to repay to the United States, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount of any grant made to the recipient under section 5;

(B) the amount outstanding on any loan made to the recipient under section 6; and

(C) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Secretary).

(b) The Attorney General shall conduct an investigation to determine whether, by using all available means, the United States should or could recover, from any person determined by the Attorney General to be liable for such costs, the amounts expended by the United States to carry out this Act. Within one year after the effective date of this Act, the Attorney General shall submit to the Congress a report containing the results of the study, together with any appropriate recommendations.

(c) If the Attorney General determines in the report under subsection (b) that the United States should seek to recover the amounts expended by the United States to carry out this Act, the Attorney General shall proceed in an expeditious manner to recover such amounts from the persons referred to in subsection (b).

EMPLOYEE PROTECTION

SEC. 9. No State or local educational agency receiving assistance under this Act may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

RETAINED RIGHTS

SEC. 10. Except as otherwise provided in section 8, nothing in this Act shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

DEFINITIONS

SEC. 11. For purposes of this Act—

(1) the term "asbestos" means—

(A) chrysotile, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite;

(2) the term "Attorney General" means the Attorney General of the United States;

(3) the term "imminent hazard to the health and safety" means, for purposes of section 6, that an asbestos material is, according to standards established by the Secretary, friable or easily damaged, or within easy reach of students or otherwise susceptible to damage (including damage from water or air circulation) which could result in the dispersal of asbestos fibers into the school environment;

(4) the term "local educational agency" means—

(A) any local educational agency as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965; and

(B) the governing authority of any nonprofit elementary or secondary school;

(5) the term "nonprofit elementary or secondary school" means—

(A) any elementary or secondary school (as defined in section 198(a)(7) of the Elementary and Secondary Education Act of 1965) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which insures, or may lawfully inure, to the benefit of any private shareholder or individual, and

(B) any school of any agency of the United States;

(6) the term "school buildings" means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraph (A) through (C) of this paragraph;

(7) the term "Secretary" means the Secretary of Health, Education, and Welfare, or his designee;

(8) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Bureau of Indian Affairs, and the Office of Overseas Schools of the Department of Defense; and

(9) the term "State educational agency" has the same meaning given such term by section 198(a)(17) of the Elementary and Secondary Education Act of 1965.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a)(1) There are authorized to be appropriated—

(A) for the asbestos detection program under section 5, for the fiscal year ending September 30, 1980, and for the two succeeding fiscal years, a total of not more than $30,000,000; and

(B) for the asbestos hazards control loan program under section 6, not more than $100,000,000 for the fiscal year ending September 30, 1980, $100,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982.

(2) Sums appropriated under paragraph (1) of this subsection shall remain available for obligation until September 30, 1983.

(b) Programs under this Act shall be considered automatically eligible for the one-year contingent extension under section 414 of the General Education Provisions Act.

(c) If funds appropriated to carry out this Act are insufficient to pay the total amount required to make all the grants and loans authorized under this Act, the Secretary shall establish criteria to be used in determining which applicants for grants or loans under this Act have the greatest financial need for receiving funds under this Act and shall make determinations regarding the approval of applications for such grants or loans in accordance with such criteria.

(d) Notwithstanding any other provision of this Act, the authority of the Secretary to enter into agreements, or to make payments, under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

EFFECTIVE DATE

SEC. 13. The provisions of this Act shall take effect on the date of the enactment of this Act or on October 1, 1979, whichever date occurs later.

By Mr. WALLOP (for himself, Mr. BENTSEN, Mr. TALMADGE, and Mr. HATCH):

S. 1659. A bill to amend the Internal Revenue Code of 1954 to provide for the treatment of property as energy property for investment credit purposes after December 31, 1982, where the taxpayer is affirmatively committed on that date to its construction, reconstruction, erection, or acquisition; to the Committee on Finance.

● Mr. WALLOP. Mr. President, in the midst of today's climbing fuel prices and seemingly dwindling supplies, I would like to call your attention to one of the key energy sources available to us right here in our own country. Energy conservation and increased use of alternative fuels can greatly reduce U.S. oil imports over the next few years, by using existing technologies that are readily available.

Private enterprise is characterized by constant self-evaluation, in order to better allocate resources. It is not surprising that industry has been ahead of the rest of the economy as far as saving energy is concerned. Yet even industry is far below its potential. Improving insulation and turning off the lights and faucets are housekeeping steps that are effective, though simple and requiring little or no capital investment. But to install more energy-efficient equipment or equipment consuming fuel other than oil or gas requires major redesign of processes or plant equipment. Considerable investment in capital stock embodying more efficient technologies can bring American industry closer to its fuel-saving potential.

Once installed, such equipment can be a valuable energy source; for the foreign oil it is not consuming. Every barrel of oil saved through industrial energy conservation achieves beneficial economic and environmental effects. Converting our factories to domestic alternative fuel sources can bring our economy closer to energy independence. Conservation is one of the cleanest and most reliable alternatives to imported oil available to American industry.

In recent years, the ratio of energy to output actually declined in all U.S. manufacturing. Some of this progress was achieved through concerted efforts in businesses to cut down on energy consumption. Over a 4-year period, DOW chemical was able to reduce its energy use per pound of product by 40 percent. More recently IBM set a target of reducing energy consumption by 10 percent in its operations, but achieved an admirable 39 percent reduction. The major reason that industry has achieved substantial energy saving is more efficient technologies embodied in the turnover of capital stock. An obvious implication for Government policy is that tax or other policies that promote investment will speed energy conservation. This was the intent of Congress in passing the Energy Tax Act of 1978. The Energy Tax Act provides incentives to industry to make a commitment to saving energy and using alternative fuels that can be produced in the United States.

One of the provisions of the act, section 301, provides an energy credit of 10 percent for qualified "energy property" investments. The energy credit is available for costs incurred in installing qualifying property after September 30, 1978, amended by section 301 of the Energy Tax Act of 1978. My bill would provide transition rules in connection with the December 31, 1982, energy credit termination date.

It is now clear that the December 31, 1982 termination date—just 3½ years hence—will not cover the lead times necessary to bring on stream many of the kinds of projects contemplated by the 1978 Act. The act gives industry a total of 4 years and 3 months from its date of effectiveness to complete these projects. I submit to you that the sole purpose of this act, which is to conserve energy by the widest possible use of this credit, is being considerably frustrated by this time constraint.

There are many projects from which substantial energy savings and source development are likely to accrue but which would be foreclosed from the benefits of the energy tax credit because of its untimely termination date. A company in my State has completed an elapsed-time study for converting a multiple, noncoal-capable boiler facility from natural gas to coal. The estimated time for completion of this project is 6 years. Another company, in the Southwest, contemplating a coal gasification project, estimates 8 or more years from project design to completion. A further study by a large chemical firm finds that a coal-fired cogeneration facility would require about 8 years to be placed in service. And a demonstration project to produce solvent refined coal requires a lead time of 11 years to produce a commercial-scale plant. Although this is an experimental project, it is just such projects that we want to encourage. A major chemical company is interested in making a $30–50 million investment in a new process for making ammonia which would be very energy efficient, but would require construction of many energy recovery pieces of equipment. They estimate 5 to 6 years before completion. These examples are far from exhaustive.

Planning and construction of major industrial investments contributes to the time delays in finishing these projects, but there are many delays that are out of industry's control. Companies are faced with a wide array of local, State, and Federal construction or environmental siting permits. The paperwork and Government induced time delays are a large factor in industry's inability to complete energy saving projects prior to the 1982 expiration date.

Further compromising the usefulness of the energy credit has been the delay of the Treasury Department to issue regulations implementing the Energy Tax Act.

The bill I am introducing, which amends directly section 48 of the Internal Revenue Code of 1954, will encourage the major energy saving projects. The bill will not extend the termination date of the energy tax credit, but it will provide that if a taxpayer has made an "affirmative commitment" on or prior to December 31, 1982, to acquire or construct energy saving equipment he will receive the full energy tax credit even if the acquisition or construction cannot be completed until sometime in the future. The incentive to make such investments as soon as possible is still retained. The bill provides for a definition of affirmative commitment that is sufficiently broad to cover the situations which may arise with innovative types of property.

Under this bill, the application for local costruction permits or licenses is an affirmative commitment. The entering into of a binding written contract is an affirmative commitment, as is the placement of purchase orders for the acquisition of at least 50 percent of the total cost of all necessary permanent items of equipment.

I believe strongly in the purpose of this legislation. The private enterprise system and American ingenuity are the best and most likely means to a solution to our energy problems, and I think we can be effective in stimulating wide industrial energy conservation and increased use of domestic alternative resources by making the Energy Tax Act more functionable and realistic. This legislation has the endorsement of a wide array of business and industrial associations including the Business Round Table, Chemical Manufacturers Association, National Association of Manufacturers, National Coal Association, American Textile Manufacturers, Inc., Portland Cement Association, National Agricultural Chemicals Association, American Paper Institute, and the National Forest Products Association. This list only provides an example of the wide range of industrial energy users who endorse this means of encouraging energy conservation.

At a time when energy conservation and the development of equipment that will use alternative energy sources are crucial to the continued growth and well-being of the American economy, and a time when we have business and industry behind us in this effort, I urge my Senate colleagues to give prompt and favorable consideration to this bill, and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1659

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (1) of section 48(1) of the Internal Revenue Code of 1954 (relating to treatment of energy property as section 38 property) is amended to read as follows:

"(1) Treatment as section 38 property.—

"(A) Period of eligibility.—For the period beginning on October 1, 1978, and ending on December 31, 1982—

"(i) any energy property shall be treated as meeting the requirements of paragraph (1) of subsection (a), and

"(ii) paragraph (3) of subsection (a) shall not apply to any energy property.

"(B) Property for which taxpayer is affirmatively committed on December 31, 1982.—Notwithstanding subparagraph (C) of section 46(a)(2), upon being placed in service property the construction, reconstruction, or erection of which is completed by the taxpayer, or acquired by the taxpayer, after December 31, 1982, shall be treated as meeting the requirements of paragraph (1) of subsection (a), as not subject to the application of paragraph (3) of subsection (a), and as qualified for the application of the energy percentage under section 46(a)(2)(C)(i) if, before January 1, 1983, the taxpayer has made an affirmative commitment to the construction, reconstruction, erection, or acquisition of the property. For purposes of the preceding sentence, the term 'affirmative commitment' means—

"(i) the completion of detailed engineering studies and the application for construction permits or licenses with local authorities,

"(ii) the entry into a written, binding contract for the commencement of construction, reconstruction, or erection, or for the acquisition of the property, or

"(iii) the placement of purchase orders for the acquisition of at least 50 percent of the total cost of all items of permanent equipment necessary for the construction, reconstruction, or erection of the property.".●

By Mr. SCHMITT (for himself, Mr. DECONCINI, Mr. BAKER, Mr. STONE, Mr. THURMOND, Mr. HAYAKAWA, and Mr. WALLOP):

S. 1660. A bill to amend the Federal Civil Defense Act of 1950 to provide for an enhanced civil defense program for fiscal years 1980 through 1986, and for other purposes; to the Committee on Armed Services.

ENHANCED CIVIL DEFENSE FOR THE 1980'S

Mr. SCHMITT. Mr. President, today Senators BAKER, DECONCINI, HAYAKAWA, STONE, THURMOND, and WALLOP, are joining me in introducing a bill providing for an enhanced civil defense program for the 1980's. After years of neglect there is renewed interest in our civil defense programs. Natural disasters, terrorist threats, energy plant problems, hazardous materials accidents, and defense concerns have pointed out the difficulties in our present capabilities and the need for improvements.

In the other body Congressman IKE SKELTON, of Missouri, has been leading a major effort to increase the visibility and interest in civil defense improvements. I hope we can begin a comparable effort in the Senate.

The debate on our defense posture, especially as it relates to that of the Soviet Union, has pointed out the extensive civil defense network in the U.S.S.R. and the inadequacy of our own programs as a counter to those or our principal potential adversary. The programs currently in existence in the United States could not fulfill their mission of countering Soviet threats or of protecting our population and minimizing disruption in the event of a nuclear exchange, as much as we hope it will never be more than a threat of such exchange, and eventually not even that.

Unfortunately, civil defense fell upon hard times during the late 1960's and 1970's. Somehow it was felt that providing for the protection of our population was inconsistent with efforts for arms control. The Soviet Union has not followed suit. Their tremendous expenditure on civil defense is not viewed as inconsistent with increased military spending while negotiating for arms control. In fact, it leads one to suspect that that nation feels it could survive a nuclear war.

I hope they have no such thoughts, but it is hard to explain their actions in any other manner.

Mr. President, I support efforts to control and reduce arms. Later this year the Senate will decide whether SALT II qualifies as such a treaty. Arms control, however, does not eliminate the threat of war nor does it eliminate the need for the United States to protect its people, industrial capability, and economic well-being in the event of war or of other threats to its capacities. An adequate civil defense program will provide for shelters, evacuation plans, and reconstruction in the event that these plans are ever needed.

Civil defense programs, however, should not and must not be limited only to preparations for nuclear war. Every year we are faced with disasters such as earthquakes, floods, tornados, and severe storms and with the threats of industrial accidents and terrorist activities. Civil defense programs can and have minimized damage and saved lives during these types of disasters.

Mr. President, let me stress that this bill will not only improve our chance of survival in the event of a nuclear confrontation but will more than pay for itself by each year saving lives and minimizing damage to our industrial and economic capacity.

Presently and under this proposal State and local civil defense agencies will be the backbone of our civil defense network. The Federal Government will provide increased coordination and assistance. In addition, State and local civil defense agencies will be given priority with respect to surplus Federal property, which is so important to their day-to-day efforts in protecting lives and property.

This bill is based on improved management of the resources presently committed to civil defense efforts, increased education activities, research and development in civil defense systems, and effective planning in anticipation of various threats to lives and society.

I might say, Mr. President, that in my previous career in the space program this anticipation of various possible problems was one of the most important reasons why we were successful in that effort. We were prepared not only for those potential problems but for others that occurred that we had not anticipated.

More specifically, this bill would include the following program elements:

"(1) A survey of shelter facilities inherent in existing facilities or which would be inherent in such facilities through appropriate modifications.

"(2) Civil protection planning for both in-place protection and population relocation during times of international crisis or threat of technological disaster, natural disaster, and terrorism.

"(3) Planning for the development of additional shelters, development of capabilities for shelter management, marking and stocking of shelters, development and procurement of ventilation kits for shelters, and procurement or identification of necessary food, water, clothing, and medicial supplies.

"(4) Improvement or creation of warning and communications systems.

"(5) Improvement of the civil defense capabilities of civil governments at all levels, including development of a distributed and survivable network of emergency operation centers for local government and public health and safety services.

"(6) Improvement of public civil defense education activities.

"(7) Improvement of local radiological, chemical, and psychological defense capabilities for the general public.

"(8) Improvement of emergency public information and training programs.

"(9) Development of alternative plans for predisaster preparation for disaster operations, command and control, and recovery operations and assistance.

"(10) Appropriate training and simulation in the implementation of plans developed under clause (9).

"(11) Expanded research and development in civil defense systems and operations.

"(12) Development or improvement of such other systems and capabilities as are necessary to realize the maximum potential of the civil defense program to save lives and permit rapid governmental and economic recovery.

The effectiveness of civil defense programs can be improved with just marginal expenditures by increased use of available resources. One such example, of course, is the use of the National Guard and veteran organizations during times of crisis.

It is my belief that this use of existing organizational structures and the people within those structures could be extended to include veterans organizations and others of significant technical capability, inherent technical capability, to assist in civil defense activities. This bill provides for a study of the most effective manner in which these organizations can be further integrated into our local, State and national civil defense efforts.

Mr. President, an improved civil defense program will provide the President with increased flexibility in the management of international and domestic crises, protect, and save lives, and aid in the revitalization of our economy and industrial capacity after a disaster has occurred. This bill is the first step in the direction of an effective civil defense program.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this Act to define and provide for an enhanced civil defense program for the 1980's and to authorize the necessary funds for such program.

SEC. 2. (a) The Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—CIVIL DEFENSE PROGRAM FOR THE 1980'S

"STATEMENT OF FINDINGS AND POLICY

"SEC. 501. The Congress finds that recent studies have shown that a program providing for relocating or protecting the population of the United States during a period of strategic defense crisis or other domestic dangers can be effective and can contribute to the mitigation of such situations. The Congress further finds that the present civil defense program is inadequate, but that a new program can be developed rapidly which can significantly enhance the civil defense capability of the United States. The Congress further finds that a new civil defense program should be formulated and carried out in a manner that will—

"(1) significantly enhance the survivability of the American people and its leadership in the event of nuclear war, major technological accidents, and major natural disasters, thereby improving the basis for eventual recovery as well as reducing vulnerability to such events;

"(2) significantly enhance strategic nuclear deterrence and stability, contribute to perceptions of the overall strategic balance and crisis stability, reduce the possibility that the United States could be coerced by an enemy in times of increased tension, and provide for rapid recovery in the event of actual warfare;

"(3) continue and strengthen the Nation's policy of relying on superior strategic nuclear forces and conventional tactical forces as the preponderant factors in maintaining deterrence against nuclear attack;

"(4) include planning for population relocation during times of international and domestic crisis and be adaptable to deal with natural disasters and other peacetime emergencies; and

"(5) utilize the organizational structure and capabilities of the National Guard forces to the maximum extent practicable.

"PROGRAM ELEMENTS

"Sec. 502. (a) In order to implement the policy expressed in section 501, the President shall develop and carry out a civil defense program which includes the following elements:

"(1) A survey of shelter facilities inherent in existing facilities or which would be inherent in such facilities through appropriate modifications.

"(2) Civil protector planning for both in-place protection and population relocation during times of international crisis or threat of technological disaster, natural disaster, and terrorism.

"(3) Planning for the development of additional shelters, development of capabilities for shelter management, marking and stocking of shelters, development and procurement of ventilation kits for shelters, and procurement or identification of necessary food, water, clothing, and medical supplies.

"(4) Improvement or creation of warning and communications systems.

"(5) Improvement of the civil defense capabilities of civil governments at all levels, including development of a distributed and survivable network of emergency operation centers for local government and public health and safety services.

"(6) Improvement of public civil defense education activities.

"(7) Improvement of local radiological, chemical, and psychological defense capabilities for the general public.

"(8) Improvement of emergency public information and training programs.

"(9) Development of alternatives plans for predisaster preparation for disaster operations and assistance.

"(10) Appropriate training and simulation in the implementation of plans developed under clause (9).

"(11) Expanded research and development in civil defense systems and operations.

"(12) Development or improvement of such other systems and capabilities as are necessary to realize the maximum potential of the civil defense program to save lives and permit rapid governmental and economic recovery.

"ADMINISTRATIVE PROVISIONS

"Sec. 503. The authorities contained in titles II and IV of this Act shall be used to carry out the programs provided for in this title.".

(b) Such Act is further amended by adding at the end of the table of contents the following:

"TITLE V—CIVIL DEFENSE PROGRAM FOR THE 1980'S

"Sec. 501. Statement of findings and policy.
"Sec. 502. Program elements.
"Sec. 503. Administrative provisions.".

Sec. 3. Section 408 of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2260) is amended by striking out the first two sentences of such section and inserting in lieu thereof the following: "Subject to any increase hereinafter provided for in this section on account of inflation, there is authorized to be appropriated for the purpose of carrying out the provisions of this Act the sum of $145,900,000 for fiscal year 1980, $180,000,000 for fiscal year 1981, $243,000,000 for fiscal year 1982, $283,000,000 for fiscal year 1983, $293,000,000 for fiscal year 1984, $393,000,000 for fiscal year 1985, and $375,000,000 for fiscal year 1986. The amount authorized for fiscal years 1981 through 1986 shall be adjusted to reflect the amount of inflation since fiscal year 1980, calculated on the basis of the inflation factor used by the Office of Management and Budget in the preparation of budget estimates submitted to the Congress.".

Sec. 4. (a) The Director of the Federal Emergency Management Agency, Department of Defense, in consultation with the Secretary of the Army and the Governors of the several States, shall conduct a study to determine the feasibility of utilizing the National Guard as the principal organizing and training unit for local civil defense activities. The Director shall report the results of such study to the Congress within one year after the date of enactment of this Act.

(b) The Director, in consultation with the Secretary of the Army, shall also conduct a study to determine the feasibility of using organizations composed of veterans of the armed forces of the United States, and other appropriate groups and individuals, to help in developing staffing, and carrying out civil defense plans during periods of emergency. The Director shall report the results of such study to the Congress within one year after the date of enactment of this Act.

Sec. 5. Subsection (j) of section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)) is amended by adding at the end thereof a new paragraph as follows:

"(6) Notwithstanding any other provision of this Act, the Administrator shall give priority to State and local civil defense agencies with respect to the donation or transfer of surplus property under this section.".

Mr. SCHMITT. Mr. President, I yield to the distinguished minority leader, the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I thank the Chair. I thank especially my colleague from New Mexico for yielding to me, so that I can express my interest in this subject, my concern for the subject matter, and my appreciation to Senator Schmitt for bringing this matter to our attention in this manner today.

In many ways, Mr. President, one of the principal values of the SALT debate that is about to begin will be the stimulating effect it has on bringing to our attention once again old problems and renewing our interest or our concern, or both, for new problems. I believe the treaty has afforded us an opportunity, as an example, to reassess the disparity in civil defense capabilities between the United States and the Soviet Union.

Mr. President, Senate consideration of SALT II has afforded us an opportunity to reassess each aspect of our national defense posture. In the course of this reassessment, we are continuously reminded of the enormous disparity in civil defense capabilities between the Soviet Union and the United States. This in turn has spurred a renewed interest in those means by which this disparity may be alleviated.

I welcome this development because I have for several years expressed my concern with the inadequacy of our Nation's civil preparedness and my belief that civil defense is an essential element of a credible defense posture. The perceived ability to minimize the destructive prospects of a nuclear war must play an important role in the strategy of deterring nuclear attack, and maintaining a peaceful and stable world environment.

Moreover, in addition to diminishing our Nation's vulnerability in the event of a nuclear exchange, civil defense programs play a crucial role in helping to mitigate the devastating effects of natural disasters.

For these reasons, I believe it essential that we take the necessary steps to provide our Nation a civil defense program with adequate resources and funding to meet the multiple challenges it faces.

The bill that Senator Schmitt has introduced today, which I am pleased to cosponsor, recognizes the inadequacies of the current program, outlines the objectives of an upgraded civil defense system and provides both the funding and guidance to enable the program to attain these goals.

The distressing inadequacy of our civil defense program necessitates our giving it such attention, and I hope that my colleagues will join me in supporting this measure.

Parenthetically, Mr. President, I was delighted to notice in the Washington Post several days ago an article by two distinguished experts in the field of civil defense, Dr. Eugene Wigner and Dr. Edward Teller. The strategic implications of Soviet civil defense have long been a concern of these two gentlemen and their combined efforts have yielded an article which lucidly explains this threat to deterrence. I ask unanimous consent, therefore, that their article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

America Needs a Better Civil Defense Program

(By Edward Teller and E. P. Wigner)

An increasing number of Americans realize that the future is uncertain and threatening. Modern technology has wiped out our ocean barriers; the world has become a small neighborhood and not a peaceful one. The military power of the U.S.S.R. is steadily increasing; the total explosive power in their transcontinental missiles surpasses those of ours fourfold. These are weapons of attack, intended to harm the opponent.

The situation is much worse as far as defensive measures are concerned, weapons intended to protect the country and its people. We have no defense against their missiles; they have missile defense at least for Moscow. They also have widely spread antianticraft defenses; we have virtually none.

But the gravest disparity prevails in the area of population defense. They have an elaborate civil defense system; ours is tragically ineffective. They spend more than $1 billion annually on civil defense; our civil defense budget is less than one-tenth of this. Will this improve when all of our emergency relief efforts come under the same roof? We hope so.

The U.S.S.R. has elaborate plans for the evacuation of their cities. Children receive instruction in schools on this subject and it continues for the workers in factories. They are taught where to go and how, what to take along, what to do at the location of evacuation, how to build improvised shelters and how to act if they see the flash of a nuclear explosion.

All this is very effective: the estimates of fatalities from our missiles after evacuation range from 2 percent (which may be a bit low) to 6 percent of their population (which we believe to be too high). Our own estimates are around 4 percent.

At the present stage of our civil defense preparations—which are hardly in existence—their missiles could destroy the lives of half of our people.

The evacuation of cities takes time; the Russians claim it could be done in two days, but it may take longer. Hence, the evacuation plans would not be effective in the case of an atomic surprise attack from America. But the Russian leaders know there never will be such an attack.

Nevertheless, in the last few years, they started building elaborate shelters which are easily and immediately accessible for those whom they do not want to leave their jobs even for a short period. These shelters would provide protection not only against radiation but also against the other effects of nuclear explosions. The U.S.S.R. also started to accumulate food reserves and to build secure places for food storage.

Russian plans contain blueprints of shelters that protect against fallout and can withstand more than two atmospheres overpressure, sufficient for a dispersed population. The Russians also claim that people can erect these shelters in two days.

An experiment was tried near Oak Ridge, Tenn. Six farm families who volunteered were given translated Russian blueprints and no other help. They were promised $600 if they built the shelter, with a bonus of $200 if completed in two days. All six families built the shelters; five finished in two days; the sixth took three days.

We have not even informed our people about the Russian civil defense preparations, manifested not only in their school and factory instructions but also by their civil defense handbook, of which more than a million copies were printed. It is easily accessible and has even been translated into English.

How much would it cost us to organize an evacuation plan at least as elaborate as the Russian one? The estimates are all below $1 billion, less than 1/1,000th of our government's yearly expenditures. To create effective and rapidly accessible shelters would be much more expensive. The cost may amount to about 4 percent or even 5 percent of the yearly expenditures of our government, but it would be a single expenditure, not a yearly one. Our city evacuation would not be as effective as that of the U.S.S.R.: they have more powerful missiles than we have, fewer of their people live in cities than live in ours, their cities are not so close together as many of ours are.

Nevertheless, the evacuation, to be undertaken as a countermove to the evacuation of the Russian cities, would reduce the casualties they could cause to such an extent—by a factor of about five—that our president would not be forced to give in to their demand. This would be recognized by the leaders of the U.S.S.R. and, presumably, the demand would not be made. As the Swiss (who have an excellent civil defense system) say, the greatest advantage of a good civil defense effort is that it never will have to be used. Of course, a shelter system would be even more effectively.

Why do we have no evacuation plan and no shelter system? Why are our people not even informed of the Russian measures in that direction? The only explanation that we could think of is that such measures would irrevocably inform our people that a danger exists. It is understandable to want to avoid telling people of the existence of danger. Yet we believe that if one has to choose between pleasantly forgetting a danger but incurring it, and unpleasantly knowing about it but protecting against it, one must choose the latter.

THE ALASKA EXPERIENCE

Civil defense, small as it is our country, has proved helpful when disaster struck. In the spring of 1965, the Alaskan legislature in Juneau abolished civil defense in order to save $100,000. One week later, the biggest earthquake in U.S. history struck Alaska. But their civil defense was still in existence, and went into action.

On Kodiak Island, fishermen live along the shore; there is also a small naval station. Minutes after the earthquake, the naval station got a telephone call from a civil defense worker: "Use the radio station, send out sound trucks. Warn the population to leave the shore. A tidal wave may be coming." In half an hour the tidal wave arrived and killed seven people. Without the warning, the loss in human life would have been at least 10 times greater.

Total property damage in Alaska amounted to $400 million (in today's dollars that would be $1 billion.) Anchorage, with its population of 50,000, was hit hard, yet the death toll was relatively small, some 150 killed.

The greatest loss of life in San Francisco in 1906 was due not to the earthquake but to fire. In Anchorage, too, there was fire; the danger was there; the earthquake caused big oil spillages. But civil defense personnel roped off the danger zones and erected warning signs. The armed-forces also helped in Alaska, but that help came late, eight hours after the earthquake. Civil defense was small, but alert and effective.

There was as happy an ending as there can be after an earthquake: The legislature in Juneau mended its ways. The budget for civil defense was reinstated, even doubled to $200,000.

Civil defense and disaster preparedness belong together. The new organization that is to embrace both has, so far, unfortunately, only an acting head and no significant budget.

Against any kind of disaster, an effective evacuation plan can be valuable. Developing techniques of weather observation make it possible to predict floods further in advance than in the past, and the paths of hurricanes will be predicted with increasing reliability. Even earthquakes need no longer be completely unexpected, although earthquake prediction remains an art, not yet a science.

More lives will be saved if there is organization for evacuation. In our country, of course, evacuation will have to be voluntary. A governor or the president could issue the warning. People could then call an appropriate, preassigned phone number. In each section of a city, callers would be advised where and when to go. All traffic would be one way, and predetermined locations would be prepared to receive the evacuees. Food and medicine could be stored in advance; much must depend upon hospitality.

If people know there is a plan, they would be less likely to panic. That enormous emergency, nuclear war, should never come; if it does, though, it should find us prepared. If we are unprepared, it is probable that we will be hit; if we are prepared, most probably the preparation will not have to be used.

Mr. BAKER. Mr. President, I thank the Senator from New Mexico for yielding, and I commend him once again for his contribution in this important field.

Mr. SCHMITT. Mr. President, I commend the Senator from Tennessee for his support, his long-standing interest in this area, and his obvious commitment to see that we begin to do things right in an area we know how to do things right in and we have just neglected, maybe with the best of intentions but with unfortunately some serious consequences as well.

It is important, I think, that we do everything we possibly can to insure that we are protected in the event of natural disaster or in the event of man-made disaster; but that should not be viewed in any way as inconsistent with our increased emphasis on searching for a real and true arms limitation in this world.

This is one area, among several others, that I think we must find strong congressional and administration commitment in, in order to make the SALT II Treaty, which is before the Senate at this time, a positive rather than a negative force in the history of mankind.

○ Mr. DECONCINI. Mr. President, I am proud to join with Senator SCHMITT in introducing legislation which I believe is long overdue. The legislation represents a giant step towards accepting the fact that the condition of this Nation's civil defense system is deplorable. In this area of uncertainty created by growing Soviet military strength, it is imperative that we recognize the need for a strong national defense. This entails not only a strong offensive and defensive military capability, but also a civil defense system understood and supported by our citizens.

The current shocking state of our Nation's civil defense system reflects disinterest by local and Federal officials over a period of two decades. While the Soviet Union has been perfecting evacuation plans, supplying shelters, and educating its public, the United States has closed its eyes to the need for civil defense. We must respond to this Soviet challenge and improve our civil defense to prevent the Soviets from ever being tempted to actually evacuate their cities and subsequently threaten our own.

In discussing civil defense, we tend to forget that it serves an important function in non-war-related situations. Our highly technological society is, unfortunately, vulnerable to disasters of our own making. The recent events at Three Mile Island provide a graphic example of what could happen. Had that incident really developed into a major disaster requiring evacuation and shelter from radiation, the existence of an adequate civil defense system would have proved immensely valuable.

A change in the attitude in this country toward the Soviet threat is crucial to insure that that threat is not translated into potential gains. However, any new approach toward military preparedness must not stop with the revitalization of our military forces. It must encompass a strong civil defense system to insure preparedness at home. This legislation will be an important step toward that goal. It will provide for cooperation between State and local officials in determining what is already available for civil defense purposes, and will provide the means for improving and stocking existing facilities. Additionally, it will create civil defense educational programs.

These are times when the Soviet Union is pursuing an activist foreign policy in many parts of the world. Our own strategic and conventional forces have been questioned by experts inside and outside Government. The threat of Soviet political blackmail based upon both a disparity in capabilities and in civil defense potential is a real possibility in the coming decade. We must not ignore the pressing need for a thorough examination and revitalization of our civil defense system.

Thus, I applaud the efforts of Senator SCHMITT and commend to my colleagues the legislation that we introduce today.●

By Mr. LEVIN:

S. 1661. A bill to amend title IV of the Social Security Act to provide for a program of adoption assistance; to the Committee on Finance.

ADOPTION ASSISTANCE PAYMENTS

● Mr. LEVIN. Mr. President, the legislation I introduce today will greatly increase the number of foster care children placed in permanent homes. I am pleased to have as cosponsors Senators HATFIELD, DECONCINI, and RIEGLE. I am especially pleased that my colleague from Michigan, Congressman BILL BRODHEAD, is filing identical legislation in the House. As you know, he has done yeoman work in the restructuring of laws to enhance the quality of life for the less than privileged children on this Nation. I am hopeful that the combined efforts will lead to the speedy passage of this essential legislation in both Houses.

Mr. President, thousands of orphans in this country are eligible for adoption, but needlessly linger in temporary facilities. Fortunately, the trauma of being separated from a permanent family and home is one which this Senate can help to diminish.

Under present law, families are discouraged from adopting a special needs child because they often cannot afford the expense required to meet the medical or other needs of these children.

Note, Mr. President, that a special needs child is doubly disadvantaged; he or she is not only homeless, but also bears a special condition. This condition sometimes takes the form of a physical, mental, emotional, or medical handicap. Other times the handicap is less obvious, but equally pernicious—perhaps the child is of an age or race not eagerly adopted, or a member of an inseparable sibling group. The special needs of orphans understandably vary, and we should therefore allow a liberal definition.

There are many prospective parents who are willing to meet the primary requirements of the disadvantaged orphan—a permanent family and home. But they cannot always assume the second burden, which sometimes entails high medical costs. Thus the roadblock to adoption. The bill filed today, Mr. President, would eliminate this obstacle by providing an adoption subsidy to such parents. The actual amount of the subsidy would be determined by agreement between the adoptive parents and the administering agency, taking into consideration the economic circumstances of the adopting parents and the needs of the child. But in no case would the payment exceed the amount that would have been paid for foster care for such a child in a foster home. The sum would be subject to periodic adjustments in accordance with any changes in circumstances.

Important too, Mr. President, is the economic consideration. Most noteworthy is the direction of funds toward permanently situating the child. By insuring funds for a child's special needs, we increase the opportunity for the permanent adoption of thousands of children rather than augment the intermediary facilities where so many children needlessly remain.

By encouraging permanent adoption over temporary foster care, we may well save money; for the majority of children who will receive this assistance are AFDC children who otherwise would remain in more expensive foster care arrangements. I seek to emphasize the cost effective aspect of this proposal. Again, I would like to say that at no time will the adoption subsidy for a child be greater than the cost of retaining him or her in the least expensive setting in the foster care system. And most likely, it will be less.

Mr. President, as you well know, the area of child welfare is vast. The only boundaries are set by our recognition of our responsibility in this area and by the efforts we undertake to cope with the problems entrusted to us. My bill has a narrow focus—to increase the adoption of the special needs child. Success in this would be no little achievement for our society. But my bill is not exhaustive, even within the parameters of adoption legislation.

In introducing this bill, I do not exclude other roads to the same destination. My colleague from California, Senator CRANSTON, has a proposal similar with respect to the special needs child, but broader in other important aspects. I endorse the provisions suggested by Senator CRANSTON which allow for local flexibility, especially in defining what are the "special needs" of the individual child. I also share his concern over the future of the special needs child who reaches the age of majority with no improvement in his or her costly special condition. I concur in Senator CRANSTON's observation that there is a strong "case for not arbitrarily cutting off assistance for children with the most severe needs."

I applaud my colleague for his well-known work in the area of child welfare legislation; and I hope that the Senate will follow through on the work he has so diligently pursued over the years.

My fundamental concern, Mr. President, is that we enact soon legislation to assist the permanent placement of the child with special needs. Parents are ready to open their homes, if only provided the necessary means to meet the child's special needs. The decisive move lies with us.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"ADOPTION ASSISTANCE PAYMENTS

"SEC. 412. (a)(1) Notwithstanding any other provision of this part, each State having a plan approved under this part shall, directly or through another public or nonprofit private agency, make adoption assistance payments pursuant to an adoption assistance agreement (as defined in subsection (d)) in amounts determined under paragraph (3) to parents who, after the effective date of this section, adopt a child who—

"(A) meets the requirements of section 406(a), section 407, or section 408 with respect to eligibility for assistance under this part, or meets the requirements of section 1611(a)(1) with respect to eligibility for supplemental security income benefits, and

"(B) is determined by the State, pursuant to subsection (c), to be a child with special needs. Each State plan approved under this part shall be deemed to incorporate the provisions and requirements of this section.

"(2) The amount of the adoption assistance payments shall be determined through agreement between the adoptive parent (or parents) and the State or local agency administering the program under this section, which shall take into consideration the economic or other circumstances of the adoptive parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adoptive parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payments made with respect to any adopted child under this section exceed the payments of aid to families with dependent children which would have been made with respect to such child under the applicable State plan approved under this part during the period involved if such child (throughout that period) had been a child in a foster care (in a foster family home of an individual) subject to section 408.

"(3) Notwithstanding the preceding provisions of this subsection—

"(A) no payment may be made under this section to parents with respect to any child who has attained the age of 18 (or, where the State determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of 21), and

"(B) no payment may be made to parents with respect to any child if the State determines that the child is no longer receiving any support from such parents.

"(4) Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

"(5) In addition to any adoption assistance payments which may be made pursuant to paragraph (2), assistance under this section may include payments, to parents who adopt a child with special needs (as determined pursuant to subsection (c)), of an amount necessary to cover part or all of the nonrecurring expenses (as defined in regulations of the Secretary) associated with the proceedings related to the adoption of the child.

"(6) For the purposes of this part, individuals with whom a child (who the State determines, pursuant to subsection (c), is a child with special needs) is placed for adoption, pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted the child.

"(b) For purposes of this Act, the term 'aid to families with dependent children' shall, notwithstanding section 406(b), include payments made under and in accordance with this section.

"(c) In order to determine that a child is a child with special needs for purposes of this section, the State or local agency administering the program under this part must determine (in accordance with such standards and procedures as the Secretary may by regulation provide)—

"(1) that the child cannot or should not be returned to his biological family;

"(2) that the child is difficult or impossible to place with appropriate adoptive parents without providing adoption assistance payments because of his ethnic background, age, membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps; and

"(3) that, except where it would be against the best interests of the child because of such factors as the development of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable effort, consistent with the best interest of the child, has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section.

"(d) For purposes of this section—

"(1) the term 'adoption assistance agreement' means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which, at a minimum, specifies the amounts of the adoption assistance payments (if any) and any additional services and assistance which are to be provided as part of such agreement, and stipulates that the agreement shall remain in effect regardless of whether the adoptive parents are or remain residents of the State; and

"(2) the term 'parent' means a biological or adoptive parent or legal guardian, as determined by applicable State law.".

(b) Section 402(a)(24) of such Act is amended by inserting before the semicolon the following: "(but nothing in this paragraph shall affect the eligibility of any such individual or his adoptive parents for assistance under section 412)".

(c) The amendments made by this Act shall become effective in any State on the first day of such month during the period beginning October 1, 1979, and ending September 30, 1980, as the State may designate, but shall in any event be effective in all States no later than September 1, 1980.●

By Mr. CHILES (for himself, Mr. MELCHER, and Mr. PRYOR):

S. 1662. A bill to amend title XI of the Social Security Act to authorize civil monetary penalties for certain fraudulent activities in the medicare and medicaid programs, and for other purposes; to the Committee on Finance.

MEDICARE AND MEDICAID FRAUD AND ABUSE AMENDMENTS OF 1979

● Mr. CHILES. Mr. President, I am introducing a bill today, at the request of the administration, to provide the HEW Secretary with authority to impose civil money penalties on medicare and medicaid providers who have abused these programs by submitting false claims. The bill is identical to H.R. 4106, introduced in the House by Representatives WAXMAN, RANGEL, ECKHARDT, and GIBBONS.

HEW has estimated that the enactment of this bill will result in savings of about $9 million in medicare overpayments and $14 million in medicaid in the first year of operation.

Title I of the bill would give the HEW Secretary authority to impose a civil money penalty of up to $2,000 for a fraudulent claim. In addition, the Secretary could impose a fine for damages up to twice the amount of the fraudulent portion of the claim. Any provider determined to have filed a fraudulent claim could be denied participation in medicare and medicaid for up to 2 years.

The bill provides for protections of a written notice, a formal factfinding hearing with representation by counsel, and judicial review on appeal of an adverse determination.

Currently, the HEW Secretary has little authority to move directly against cases of medicare and medicaid fraud and abuse. Lengthy and costly criminal court proceedings, through the Justice Department, are often the only recourse.

I have been concerned about the slow progress made to date to bar unethical health care providers from participation in medicare and medicaid. Cases of outright falsification of home health claims and other program abuses exposed in hearings before the Senate Committee on Aging and the Subcommittee on Federal Spending Practices and Open Government as long as 4 years ago have still not been resolved. This is the case even though Congress took unprecedented action in 1977 to create an Office of Inspector General within the Department of Health, Education, and Welfare.

This bill would provide the Secretary with the ability to move decisively in cases in which criminal prosecution may not be warranted or feasible. I believe we need to make it clear, however, that the civil money penalty authority proposed by this bill should not be viewed as a substitute for the existing process of criminal court proceedings. The Justice Department and the court system should become more involved in medicare and medicaid fraud cases, not less.

Title II of the bill would make a number of amendments to improve and make more flexible existing authority to control fraud and abuse.

The bill would permit annual, rather than quarterly, calculation of limitations on payments for State medicaid fraud control units, for which Federal matching funds are authorized under Public Law 95-142.

The Secretary of HEW would be given additional authority to bar a health care provider from participation in medicare and medicaid once convicted of a medicare or medicaid-related crime.

Present requirements for reporting of financial interests as a medicare condition of participation would be amended to require an entity to report only those individual interests in mortgages or other obligations equal to at least $25,000 or 5 percent of the provider's total assets.

The bill would also authorize the Secretary to recover medicare overpayments from providers no longer participating in medicare by withholding medicaid payments.●

By Mr. STEVENSON:

S. 1663. A bill to encourage exports by providing for the licensing of export trading companies by the Secretary of Commerce, and by otherwise facilitating their formation and operation; to the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance, jointly, by unanimous consent.

EXPORT TRADING COMPANY ACT OF 1979

● Mr. STEVENSON. Mr. President, the United States has approved the multilateral trade agreements which, when implemented, will open new trade opportunities around the world. This chance to expand U.S. exports comes at an opportune time. Exports are needed to pay the oil import bill, which will continue to grow even if volume can be restrained, and to stimulate U.S. business investment during the impending recession.

But June brought the 37th consecutive monthly U.S. trade deficit. Exports are not growing fast enough. The reasons are many: U.S. Government disincentives to exports, subsidized foreign competition, an unstable dollar, and business reluctance to bear the costs and risks of international trade.

The Department of Commerce estimates there are 20,000 U.S. firms which could export profitably but do not. Most are smaller companies located outside the major metropolises of America. The United States market has served these companies well, but they could do better by exporting. They must learn to compete abroad or they will find they are unable to meet foreign competition here at home.

Many companies do not export because they do not have the funds to invest in market development abroad nor the time or personnel to master customs documents, shipping, packaging, marketing, and the myriad of details involved in exporting. Such companies need more than a Commerce Department brochure or a day-long seminar in Dubuque. They need someone to market their products for them; a way to spread among many firms the risks and costs they cannot afford on an individual basis.

Trading companies may be the only way to expand export participation by smaller U.S. companies. Trading companies could give U.S. manufacturers access to experienced traders who can handle all the servicing and selling of export sales and have the expertise to develop markets abroad.

Trading companies can pool talent and resources to do market analysis and marketing on behalf of thousands of U.S. manufacturers. Trading companies have been responsible for much of the success of Japan and Korea in selling their products around the world. More than one-half of Japanese exports are handled by trading companies. Trading companies offer manufacturers an inexpensive way to export to distant lands. Commissions charged by Japanese trading companies ordinarily range from 0.5 percent to 5 percent.

The bill I introduce today will facilitate the formation of U.S. export trading companies. The United States has no trading companies at present. There are small export management companies in the United States, but the difficulty in securing adequate financing to expand such low profit margin enterprises prevents export management companies from reaching more than a minute fraction of the U.S. companies which could export. Even the largest Japanese trading companies typically realize profits on total volume of no more than 2 percent—but their total volume per year is more than $200 billion.

To be successful, export trading companies must have a diversified set of products to sell and must sell them in geographically dispersed markets. A trading company must be able to provide all export services, including financing, transportation, warehousing, packaging, and marketing. A foreign sales network including offices abroad is essential.

The principal purpose of the legislation is to encourage U.S. exports, but it is important for the financial success of trading companies that they be able to engage in import trade and trade between foreign countries as well. Otherwise, the trading company would be unable to achieve sufficient trade volume and absorb foreign exchange fluctuations. Foreign countries would resent a U.S. company which existed only to sell U.S. exports when those countries are desperately trying to encourage their own exports.

The United States has a good opportunity over the next few years to expand exports. The price competitiveness of U.S. goods is better now than it has been for several years. There is strong foreign interest in United States consumer goods, both low and high technology. U.S. trading companies could develop markets for a wide range of U.S. goods, as Japanese trading companies have done for Japanese products. For example, the giant Nissho-Iwai general trading company does no manufacturing but does practically everything else, from market studies to buying, selling, shipping insuring, and financing sales. Nissho-Iwai has 160 offices in 72 countries with 8,000 employees, and handles 10,000 different products.

U.S. export trading companies on the Japanese model could provide the means for thousands of U.S. firms to market their products abroad. Without the kind of export servicing which trading companies can provide, most U.S. companies will continue to rely solely on the U.S. market. They will thereby forgo not only sales but the competitive experience of trying to penetrate foreign markets. All too often they will find that their lack of competitive experience in the world marketplace will serve them poorly when they face foreign competition in this country.

The bill I introduce today would encourage prompt formation of U.S. export trading companies by: First, providing loans and guarantees to help meet start-up costs; second, permitting initial formation of trading companies as wholly owned subsidiaries, provided that divestiture to ownership of not more than 20 percent occurs within 10 years; third, allowing banks to participate in such companies; fourth, limiting the antitrust liability of trading companies; and fifth, providing tax treatment comparable to that accorded similar entities by other countries. The Department of Commerce would be responsible for licensing U.S export trading companies and insuring that their activities remain consistent with the purposes of the legislation.

Export trading companies formed under this legislation are expected to be publicly owned private sector companies with offices in many countries and capable of performing all aspects of trading transactions in overseas markets, including feasibility analysis, marketing, legal assistance, transportation, warehousing, foreign exchange, and financing. The major function of U.S. export, trading companies would be to market U.S. products overseas, either by buying and reselling or by providing specified marketing and related services to the producer.

A group of manufacturers needing comparable distribution channels and marketing representation could together form an export trading company with ownership by any one investor not exceeding 20 percent. To get the program in operation quickly, large companies would be encouraged to set up such companies, but under conditions requiring them to dispose of ownership in excess of 20 percent over a period of years.

Export trading companies can operate profitably if high volume and efficient operations are achieved. It is estimated that export trading companies established under the conditions set forth in this legislation could begin to make a significant positive impact on U.S. exports within 2 to 5 years, just as the multilateral trade agreements are opening new export opportunities for U.S. producers.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis thereof be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Export Trading Company Act of 1979".

TITLE I—ESTABLISHMENT OF EXPORT TRADING COMPANIES

SEC. 101. DEFINITIONS.

As in this title—

(1) EXPORT TRADE.—The term "export trade" means trade or commerce in goods produced in the United States or services produced in the United States exported, or in the course of being exported, from the United States to any foreign nation.

(2) GOODS PRODUCED IN THE UNITED STATES.—The term "goods produced in the United States" means tangible property not less than 75 percent of the total value, or of the value added to a material or commodity through manufacturing or processing, of which is attributable to the United States.

(3) SERVICES PRODUCED IN THE UNITED STATES.—The term "services produced in the United States" means architectural, engineering, consulting, legal, training, financial, insurance, management, communications, and other services not less than 75 percent of the value of which is provided by United States citizens or is otherwise attributable to the United States.

(4) EXPORT TRADE ACTIVITIES.—The term "export trade activities" includes any activity which is incidental to export trade.

(5) UNITED STATES.—The term "United States" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(6) ANTITRUST LAWS.—The term "antitrust laws" means the antitrust laws defined in the first section of the Clayton Act (15 U.S.C. 12) and section 4 of the Federal Trade Commission Act (15 U.S.C. 44), any other law of the United States in pari materia with those laws, and any State antitrust or unfair competition law, and all amendments to the foregoing.

(7) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(8) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States.

SEC. 102. LICENSING.

(a) ELIGIBILITY.—In order to be licensed by the Secretary as an export trading company under this section, an applicant shall demonstrate, to the satisfaction of the Secretary, that it meets all requirements under this title for licensing and that it is, or will be, organized and operated principally for the purposes of—

(1) exporting goods and services produced in the United States, and

(2) facilitating the exportation of goods and services produced in the United States by providing export services such as international market research, advertising, marketing, insurance, legal assistance, transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, financing, and any other export services determined by the Secretary by regulation to be consistent with the purposes of this title.

(b) APPLICATION.—In order to be licensed by the Secretary as an export trading company, a firm shall file with the Secretary a written application setting forth the following:

(1) The name of the firm.

(2) The location of the firm's offices or places of business in the United States and abroad.

(3) The names and addresses of the firm's officers, stockholders, and members.

(4) A copy of the certificate or articles of incorporation and bylaws, if the firm is a corporation; for a copy of the agreement establishing the firm, if the firm is unincorporated.

(5) A general description of the goods or services which the firm exports or proposes to export.

(6) The methods by which the firm conducts or proposes to conduct export trade in the described goods or services, including, but not limited to, any agreement to sell exclusively to or through the firm, any agree-

ment with foreign persons who may act as joint selling agents, any agreement to acquire a foreign selling agent, and any agreement for pooling tangible or intangible property or resources.

(7) The names of all countries where export trade in the described goods or services is conducted or proposed to be conducted by or through the firm.

(8) Any other information concerning the organization, operation, management, or finances of the firm, the relation of the firm to other firms, corporations, partnerships, and individuals, and competition or potential competition the Secretary deems necessary for purposes of administering this title.

(c) OWNERSHIP REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may not issue a license to an export trading company under this section if—

(A) any partnership, association, or corporation owned or controlled by a foreign corporation or other foreign entity owns stock, or other securities with voting rights, issued by the export trading company, or

(B) any person owns, directly or indirectly, more than 20 per centum of the voting stock or interest in the export trading company.

(2) DIVESTITURE TO MEET CONTROL LIMITATION.—Notwithstanding the limitation of paragraph (1)(B), the Secretary shall not deny a license to an export trading company solely because of such limitation if—

(A) the person or persons whose ownership of stock or interest exceeds the limitation submits a divestiture plan under which he will divest himself of his stock or interest in excess of the limitation over a 10-year period beginning with the year in which the license is issued with—

(i) the first sale or transfer of stock or interest occurring not later than the fifth year of such period,

(ii) the divestiture progressing no less rapidly than ratably over the years remaining between the first year of divestiture and the last year of the 10-year period, and

(iii) divestiture completed, to the extent necessary to meet the limitation under paragraph (1)(B) by the close of such last year, and (B) such reports, no less frequently than annually, to the Secretary on the progress of the divestiture as he may require.

(d) LIMITATIONS ON ACTIVITIES OF LICENSED EXPORT TRADING COMPANIES.—The Secretary may not issue a license under this section to, and shall revoke any such license issued to, an export trading company if that company engages in manufacturing directly or through a domestic or foreign corporation which is a member of the controlled group of corporations (within the meaning of section 1563 of the Internal Revenue Code of 1954) of which the export trading company is a member. For the purposes of this subsection, the term "manufacturing" does not include packaging or limited fabrication and final assembly of products which otherwise meet the definition in section 101(2) of "goods produced in the United States." The Secretary may not decline to issue such a license, or revoke such a license, on the ground that the export trading company is engaged in activities (other than manufacturing) other than activities involving export trade to the extent that such other activities (other than manufacturing) are necessary to encourage and facilitate exports of goods and services produced in the United States.

(e) ISSUANCE OF LICENSE.—Based upon the information obtained from the application, the Secretary shall license an export trading company within 90 days after receiving the application for licensing if the Secretary determines that the firm and the proposed export trade activities meet the requirements of this title. The license may be issued subject to such terms and conditions as the Secretary determines to be appropriate to ensure that the export trading company and its activities meet the requirements for licensing during the period for which the license is in effect.

(f) MATERIAL CHANGES IN CIRCUMSTANCES; AMENDMENT OF APPLICATION.

(1) VOIDING OF LICENSE.—Whenever there is a material change in—

(A) the domestic and international conditions, circumstances, and factors which make an export trading company useful for the purpose of promoting the export trade of its goods or services, or

(B) the export trading company's export trade, export trade activities, or methods of operation which would cause the company to fail to meet any requirement of this title,

then the company shall apply to the Secretary for an amendment of its license.

(2) AMENDMENT OF APPLICATION.—The request for amendment shall be filed within 30 days after the date of the material change and shall set forth the requested amendment of the application and the reasons for the requested amendment. Any request for the amendment of an application shall be treated in the same manner as an original application for licensing. If the request is filed within 30 days after the material change which requires the amendment, and if the requested amendment is approved, then there shall be no interruption in the period for which the license is in effect.

(3) AMENDMENT UPON RECOMMENDATION OF SECRETARY.—After notice to the export trading company involved and the opportunity for a hearing on the record, the Secretary may—

(A) require that an export trading company's license be amended;

(B) require that the organization or operation of the export trading company be modified to correspond with the company's license; or

(C) revoke, in whole or in part, the license of the export trading company upon a finding that the company or its export trade activities do not meet the requirements of this title.

SEC. 105. ENFORCEMENT.

(a) EXCLUSIVE JURISDICTION OF SECRETARY.—The Secretary shall have exclusive jurisdiction to determine whether an export trading company licensed under this title—

(1) has failed to comply with the terms and conditions of its license, has engaged in activities or furnished services not described in its license application or not permitted under the license, or has knowingly violated any provision of this title, or

(2) has taken any action which is inconsistent with the requirements of this title.

(b) DETERMINATIONS.—The Secretary shall make a determination under subsection (a) after an investigation commenced after receipt of a complaint, filed with the Secretary at such time in such manner as the Secretary may require, or upon the Secretary's own motion, and after notice to the export trading company named in the complaint and an opportunity for a hearing on the record. The complaint may be filed by any person whose economic interest is, or may appear to be, adversely affected by activity to which the complaint relates.

(c) REMEDIES.—If the determination of the Secretary under subsection (a) is affirmative, then the Secretary may—

(1) in the case of an affirmative determination under subsection (a)(1)—

(A) require the company to file an amended application for license under section 102(d),

(B) require the company to modify its organization or operations,

(C) revoke, in whole or in part, the license of the company, or

(D) refer the matter to the Attorney General for prosecution under the antitrust laws, or

(2) in the case of an affirmative determination under subsection (a)(2)—

(A) bring an action in the appropriate Federal District Court to enjoin or restrain the company from engaging in any activity which constitutes or results in anything described in paragraph (1), (2), or (3) of section 106, or

(B) revoke, in whole or in part, the license of the company.

(d) STANDING REQUIREMENT.—No person shall have standing to bring an action against a company licensed under section 102 for any activity which constitutes or results in anything described in paragraph (1), (2), or (3) of section 106 other than an officer or employee of the United States acting in his official capactiy.

SEC. 104. REVIEW OF DETERMINATIONS.

Whenever the Secretary makes a determination under this Act with respect to an application for a license, the amendment, modification, or revocation of a license, or the modification of the organization or operation of an export trading company, the Secretary shall—

(1) notify the company of the determination and the reasons for the determination, and

(2) upon request made by the company, afford the company an opportunity for a hearing.

SEC. 105. INITIAL INVESTMENTS AND OPERATING EXPENSES.

(a) ELIGIBILITY FOR LOANS AND GUARANTEES.—Any export trading company licensed under this title is eligible for a direct loan or financial guarantee from the Export-Import Bank of the United States, and, in the case of a small business, from the Small Business Administration, and, where otherwise eligible, from the Economic Development Administration, to meet export-related operating expenses during the first 5 years of the company's operation. Any such assistance shall be used only for expenses directly related to exports and export services, and shall not exceed 50 percent of the total operating expenses of such company in any year. In no case may the credits or guarantees to any one company exceed $10,000,000 in any single year or $25,000,000 during the 5-year period.

(b) EXPORT-IMPORT BANK LOANS AND GUARANTEES.—Subject to the limitations set forth in this title and the Export-Import Bank Act of 1945, the Export-Import Bank of the United States may provide loan guarantees to any licensed export trading company which, in the judgment of the Board of Directors of the Bank is creditworthy but is unable to obtain sufficient financing or insurance on reasonable terms from other sources.

(c) OWNERSHIP OF SECURITIES BY BANK OR BANK HOLDING COMPANY.—Notwithstanding any other provision of law, but subject to the other provisions of this title, and rules and regulations of the appropriate regulatory agencies, any bank or bank holding company chartered or incorporated within the United States and any corporation organized under section 25(a) of the Federal Reserve Act may purchase for its own account equity securities of an export trading company which is licensed under this title: *Provided, However,* That total investment in export trading companies by any bank or bank holding company may not exceed 10 per centum of its capital stock actually paid in and unimpaired plus 10 per centum of its unimpaired surplus fund.

Sec. 106. Antitrust.

(a) In General.—An export trading company licensed under section 102 of this title is exempt from the application of the antitrust laws except to the extent that the activities in which it is engaged constitute or result in—

(1) a substantial restraint of trade within the United States or a substantial restraint of the export trade of a domestic competitor,

(2) an unfair method of competition against a domestic competitor, or

(3) an unreasonable enhancement, stabilization, or depression of prices within the United States of goods or services of the class exported by that company.

(b) International Obligations.—Subsection (a) shall not apply to an export trading company licensed under this title to the extent that its application would be inconsistent with international obligations of the United States.

Sec. 107. Regulations.

The Secretary shall promulgate such rules and regulations as may be necessary to carry out the purposes of this title. The Secretary shall consult with the Attorney General prior to promulgating rules and regulations to carry out sections 103 and 106 of this title.

TITLE II—TAX TREATMENT OF EXPORT TRADING COMPANIES AND THEIR SHAREHOLDERS

Sec. 201. Establishment and Taxation of Export Trading Companies and Their Shareholders.

(a) In General.—Chapter 1 of the Internal Revenue Code of 1954 (relating to normal taxes and surtaxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter V—Export Trading Companies

"Sec. 1398. Definition of licensed export trading company.
"Sec. 1398A. Election by licensed export trading company.
"Sec. 1398B. Rules applicable to the taxation of electing licensed export trading company shareholders.
"Sec. 1398C. Special rules applicable to an electing licensed export trading company.

"Sec. 1398. Definition of Licensed Export Trading Company.

"For purposes of this subchapter, the term 'licensed export trading company' means an export trading company licensed under section 104 of the Export Trading Company Act of 1979, the license of which is valid at all times during the taxable year of the company.

"Sec. 1398A. Election by Licensed Export Trading Company.

"(a) Eligibility.—Except as provided in section 1398C, a licensed export trading company may elect, in accordance with the provisions of this section, not to be subject to the taxes imposed by this chapter.

"(b) Effect.—If a licensed export trading company makes an election under subsection (a), then—

"(1) with respect to the taxable years of the export trading company for which such election is in effect, the company shall not be subject to the taxes imposed by this chapter, and, with respect to such taxable years and all succeeding taxable years, the provisions of section 1398E shall apply to that company, and

"(2) with respect to each such taxable year, the provisions of sections 1398B and 1398C shall apply to the shareholders of the company.

"(c) Where and How Made.—An election under subsection (a) shall be made by an export trading company at such time and in such manner as the Secretary shall prescribe by regulations.

"(d) Years for Which Effective.—An election under subsection (a) shall be effective for the taxable year of the export trading company for which it is made and for all succeeding taxable years of the company, unless it is terminated under subsection (f).

"(e) Taxable Year.—The taxable year of an export trading company shall end on December 31 unless the Secretary consents to a different taxable year.

"(f) Termination.—The election of an export trading company under subsection (a) shall terminate for any taxable year during which it ceases to be a licensed export trading company and for all succeeding taxable years. The election of a licensed export trading company under subsection (a) may be terminated at any other time with the consent of the Secretary, effective for the first taxable year with respect to which the Secretary consents and for all succeeding taxable years.

"Sec. 1398B. Rules Applicable to the Taxation of Electing Licensed Export Trading Company Shareholders.

"(a) Distributions Taxed as Ordinary Income.—Any amount distributed by an electing licensed export trading company shall be treated as a distribution to which section 301(a) applies. Any amounts includable in the gross income of any shareholder by reason of ownership of stock in an electing licensed export trading company shall not be considered as a dividend for purposes of section 116.

"(b) Special Rule for Investment Credit.—The investment credit of an electing licensed export trading company for any taxable year shall be allowed as a credit to the shareholders of such company and the manner and to the extent set forth in this subsection.

"(1) Credit.—There shall be apportioned among the shareholders a credit equal to the amount each shareholder would have received if, on each day of such taxable year, there had been distributed pro rata to the shareholders the election licensed export trading company's net investment credit divided by the number of days in the company's taxable year.

"(2) Net investment credit.—For purposes of this subsection, the term 'net investment credit' means the investment credit of the electing licensed export trading company for its taxable year less any tax from recomputing of prior year's investment credit in accordance with section 47.

"(3) Recapture.—There shall be apportioned among the shareholders of an electing licensed export trading company, in the manner described in paragraph (1), an additional tax equal to the excess of any tax resulting from recomputing of prior year's investment credit in accordance with section 47 over the investment credit of the electing licensed export trading company for its taxable year.

"(c) Special Rule for Foreign Tax Credit.—

"(1) In general.—For purposes of subpart A of part III of subchapter N, a shareholder in an electing licensed export trading company who receives a distribution in any taxable year from such company shall be deemed to have paid the same proportion of any income, or profits, or excess profits taxes paid or deemed to be paid by such electing licensed export trading company to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such electing licensed export trading company from which such distributions were paid, which the amount of such distributions bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes (other than those deemed paid).

"(2) Definition of accumulated profits; accounting periods.—For purposes of this subsection, the term 'accumulated profits' has the same meaning as in section 902(c)(1), in the rules relating to the application of the word 'year' with respect to accounting periods of less than one year (set forth in section 902(c)(2)) shall apply. For purposes of this paragraph, the provisions of section 902(c) shall be applied by substituting 'electing licensed export trading company' for 'foreign corporations' each place it appears.

"Sec. 1398C. Special Rules Applicable to an Electing Licensed Export Trading Company

"The provisions of section 482 (relating to allocation of income and deductions among taxpayers) shall not apply with respect to gross income, deductions, credits, or allowances between an electing licensed export trading company and a foreign subsidiary of such a company.".

"(b) Net Operating Loss Deduction.—Paragraph (1) of section 172(b) of such code (relating to net operating loss carrybacks and carryovers) is amended by adding at the end thereof the following new subparagraph:

"(I) in the case of an electing licensed export trading company which has a net operating loss for any taxable year, such loss shall not be a net operating loss carryback to any taxable year preceding the year of such loss, which shall be a net operating loss carryover to each of the 10 taxable years following the year of such loss.".

(c) Return of Electing Licensed Export Trading Company.—Subpart A of part III of subchapter A of chapter 61 (relating to information on returns) is amended by adding at the end thereof the following new section:

"Sec. 6039C. Return of Electing Licensed Export Trading Company.

"Every electing licensed export trading company (as defined in section 1398) which makes the election provided by section 1398A shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by subtitle A, the amount of investment credit or additional tax, as the case may be, the names and addresses of all persons owning stock in the company at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, the amount of money and other property distributed by the company during the taxable year to each shareholder, the date of each such distribution, and such other information, for the purposes of carrying out the provisions of subchapter V of chapter 1, as the Secretary may by regulation prescribe. Any return filed pursuant to this section shall, for purposes of chapter 66 (relating to limitations), be treated as a return filed by the company under section 6012. Every electing licensed export trading company shall file an annual report with the Secretary summarizing its operations for such year.".

(d) Clerical Amendments.—

(1) The table of subchapters for chapter 1 of such Code is amended by adding at the

end thereof the following: "Subchapter V.—Export Trading Companies.".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following:

"SEC. 6039C. Return of electing licensed export trading company.".

SEC. 201. EFFECTIVE DATE.

The amendments made by this title shall apply with respect to export trading companies licensed after December 31, 1979.

SECTION-BY-SECTION ANALYSIS

Section 1 would provide for citation of the Act as the "Export Trading Company Act of 1979". Title I would provide for the establishment of export trading companies.

Section 101 would define terms used in title I including: "export trade", "goods produced in the United States", "services produced in the United States", and "export trade activities".

Section 102 would provide authority for the Secretary of Commerce to license export trading companies, specify the information to be included in license applications, set forth procedures for issuing, amending, and revoking licenses, and prohibit licensing of companies in which any person owns more than a 20 percent interest (except in accordance with a plan to divest such ownership within 10 years of formation of the company). Export trading companies and their subsidiaries would be prohibited from engaging in manufacturing other than packaging and limited fabrication and final assembly of products produced principally in the United States.

Section 103 would grant the Secretary of Commerce exclusive jurisdiction to determine whether an export trading company is acting in accordance with the Act and its license, and to take remedies including court action, revocation of license, or referral to the Attorney General for prosecution. Private persons would not have standing to bring court actions to enforce the Act.

Section 104 would provide for notification to export trading companies, and opportunity for hearings, on determinations by the Secretary of Commerce to issue, amend, modify or revoke licenses.

Section 105 would establish the eligibility of export trading companies to receive loans and guarantees from the Export-Import Bank, the Small Business Administration, and the Economic Development Administration to meet up to 50 percent of export-related expenses during the initial 5 years of the company's operation, up to a maximum of $10 million in one year or $25 million in total. Export trading companies, if creditworthy, would be eligible to utilize all loan, guarantee and insurance programs of the Export-Import Bank. Private banks, bank holding companies, and Edge Act Corporations could purchase shares in export trading companies so long as total purchases did not exceed ten percent of the capital and surplus of the bank, bank holding company or Edge Corporation.

Section 106 would establish antitrust restrictions applicable to export trading companies and exempt them from other antitrust laws.

Section 107 would empower the Secretary of Commerce to issue rules and regulations to carry out Title I of the Act.

Title II would establish tax treatment for export trading companies.

Section 201 would add a new subchapter "V" to the Internal Revenue Code. Export trading companies licensed under the Act could elect the tax treatment provided by subchapter V. Distributed earnings would be treated by shareholders as ordinary income not dividends. Investment credits and foreign tax credits would flow through to shareholders. Section 482 of the Internal Revenue Code could not apply to transactions between an export trading company and its foreign subsidiaries. Net operating losses would be carried over for ten years. The form and contents of returns to be filed annually by export trading companies are specified.

Section 201 would provide for Title II to apply to export trading companies licensed after December 31, 1979.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced today by the Senator from Illinois (Mr. STEVENSON), to encourage exports, be jointly referred to the Committees on Banking, Housing, and Urban Affairs and Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. RIBICOFF (for himself, Mr. CHAFEE, Mr. DOLE, Mr. JAVITS, Mr. MOYNIHAN, Mr. PELL, and Mr. TSONGAS):

S. 1664. A bill to amend the Internal Revenue Code of 1954 to provide relief to residential users of refined petroleum products; to the Committee on Finance.

HOME HEATING OIL CONSUMERS NEED RELIEF

Mr. RIBICOFF. Mr. President, I am today reintroducing legislation to provide relief for taxpayers who are facing the skyrocketing costs of home heating oil. I am very pleased that Senators CHAFEE, DOLE, JAVITS, MOYNIHAN, PELL, and TSONGAS are joining me as cosponsors of this measure.

Home heating oil consumers in Connecticut, New England, and elsewhere in the country bear a disproportionate share of the burden of the Nation's energy crisis. With no indigenous energy resources, the Northeast in particular has no choice but to depend on expensive imported oil to heat our homes. Although New England accounts for 5.8 percent of the U.S. population, it uses 20 percent of the Nation's heating oil and our energy costs are nearly 40 percent higher than in the rest of the Nation.

Seventy-one percent of all New England's buildings are heated by oil and 74 percent of the population heat with this form of energy. In Connecticut, 73.4 percent of the population—well over 2 million people—depend on oil for space heating. Over 1 million buildings in my State are heated with oil. Connecticut's consumers this winter will pay an estimated $562 million for home heating oil, $248 million more than they paid last winter. As Governor Ella Grasso has stated:

> This increase is disastrous for our already overburdened consumers.

Prices could well be over a dollar before the end of the winter. This should be compared to 34 cents just 5 years ago. Therefore, a family that spent $340 dollars to keep warm in 1974 will probably spend close to a thousand dollars in the winter coming up.

New England's oil consumption is met almost totally—87 percent—by imported oil, while the United States meets less than half—47 percent—of its needs with this supply source. Since OPEC provides 77 percent of New England's total demand, prices are therefore dramatically higher than the national average.

Testimony recently presented to the Senate Finance Committee indicates that a serious inequity exists between the treatment of residential fuel oil consumers and residential natural gas users. The inequity results in heating oil consumers paying substantially higher prices than natural gas consumers. A central provision of the Natural Gas Policy Act, enacted last year, requires that residential gas users not bear the burden of gas decontrol until all industrial users' natural gas prices have risen to the level of home heating oil. This effectively protects the Nation's millions of residential natural gas users from the impact of natural gas decontrol.

There is no comparable insulation or relief for consumers of heating oil, who are beginning to feel the devastating effects of the combination of oil price decontrol and sudden hikes by OPEC nations. Together, these forces are driving per gallon heating oil prices up by 35 to 40 cents over last winter's levels. It is probable these prices will climb into the high 80-cent range before January, a 75-percent increase in costs in less than a year.

The impact on the poor will be devastating, and the strain on middle income families in the range of $8,000 to $20,000 yearly income will be very substantial. For the poor, relief must come in the form of a fuel assistance direct grant program such as has been proposed by Senator JAVITS. I am a cosponsor of this measure because I feel a direct grant system will be more effective in reaching the poor than a mechanism in the tax system. The bill I am introducing today is intended to reach the income level above the poverty line into the middle income bracket.

There is no way to predict how high uncontrolled heating oil prices will rise. When the President's oil import quota program begins to bite, prices may well continue to skyrocket beyond the ability of the poor and many middle income families to pay without making painful choices among necessities. It seems certain that OPEC prices will continue to rise briskly over the next several years.

Mr. President, I do not mean to imply that this problem is exclusively one for the Northeast. It is more accurate to characterize it as a northern U.S. problem, because most States in the northern Middle West as well as the Northwest are significantly affected. In fact, 24 States make up at least 25 percent of their heating needs with fuel oil. I ask unanimous consent on a State-by-State basis, in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

HOME HEATING FUELS BY STATE, 1970 CENSUS

[In percent, except units]

	Utility gas	Fuel oil	Electricity	Other	Total occupied units (thousands)
Alabama	55.0	1.8	13.6	29.6	1,034
Alaska	25.3	55.7	5.1	13.9	79
Arizona	78.7	.7	12.2	8.4	539
Arkansas	64.9	.7	4.3	30.1	615
California	86.0	.7	8.6	4.7	6,573
Colorado	84.8	1.6	3.5	10.1	690
Connecticut	20.6	71.9	5.1	2.4	933
Delaware	29.9	61.4	4.3	4.2	164
District of Columbia	52.3	34.7	5.7	7.3	262
Florida	15.4	29.2	32.3	23.1	2,284
Georgia	59.0	4.9	10.7	25.4	1,369
Hawaii	.3	.3	3.0	96.4	203
Idaho	32.1	40.4	9.6	17.9	218
Illinois	70.5	14.1	3.0	12.4	3,502
Indiana	57.0	26.9	5.8	10.3	1,609
Iowa	62.8	20.8	1.8	14.6	896
Kansas	82.3	1.5	3.0	13.2	727
Kentucky	58.0	8.9	8.2	24.9	983
Louisiana	81.7	.4	6.0	11.9	1,052
Maine	1.6	92.1	2.0	4.3	302
Maryland	46.7	43.7	4.9	4.7	1,175
Massachusetts	28.0	65.8	4.0	2.2	1,759
Michigan	70.0	22.0	2.5	5.5	2,653
Minnesota	53.9	34.3	2.5	9.3	1,153
Mississippi	52.2	.6	11.0	36.2	636
Missouri	67.8	8.7	2.8	20.7	1,520
Montana	69.6	13.4	3.7	13.3	217
Nebraska	71.9	9.7	3.2	15.2	473
Nevada	38.8	15.6	34.4	11.2	160
New Hampshire	10.7	80.4	4.0	4.9	225
New Jersey	41.2	52.6	3.2	3.0	2,218
New Mexico	77.9	1.4	2.4	18.3	289
New York	37.8	56.8	1.8	3.6	5,913
North Carolina	14.9	61.9	10.7	12.5	1,509
North Dakota	31.5	48.1	3.3	17.1	181
Ohio	76.5	14.0	3.4	6.1	3,289
Oklahoma	79.1	.2	4.9	15.8	850
Oregon	23.6	37.8	29.7	8.9	691
Pennsylvania	48.3	35.0	3.9	12.8	3,702
Rhode Island	27.5	68.0	2.7	1.8	291
South Carolina	27.0	44.6	9.0	19.4	734
South Dakota	40.0	38.0	3.0	19.0	200
Tennessee	32.6	6.3	40.4	20.7	1,213
Texas	78.8	.4	8.2	12.6	3,433
Utah	81.8	4.7	2.7	10.8	297
Vermont	4.5	80.3	6.0	9.2	132
Virginia	30.4	48.6	8.9	12.1	1,390
Washington	23.3	40.8	30.3	5.6	1,105
West Virginia	68.7	9.1	4.6	17.6	547
Wisconsin	49.2	39.2	1.8	9.7	1,328
Wyoming	76.9	2.9	2.9	17.3	104
Total United States, 1970	55.2	26.0	7.7	11.1	63,446
Total United States, 1976	55.7	22.2	13.7	8.4	74,005

Note: Other fuels include coal or coke, wood, LP gas, and no heating fuel used. Kerosine is included in fuel oil.

I am therefore reintroducing legislation to provide a refundable tax credit against these alarming price rises. Similar to the Senate-passed energy tax measure of the 95th Congress, the bill is directed at partial relief of the most recent price increases. Using this past January's costs as a base, it allows a maximum credit of $250 if and when prices reach a calamitous $1.50 per gallon. The full credit is available for a household's adjusted gross income up to $20,000 per year and is phased out at a 5 percent rate until no credit is available after $25,000. The bill is intended as a companion to a low income assistance program and therefore has a provision whereby the credit is offset dollar for dollar by any such direct payment system.

Calculations of the revenue loss for this year are about $35 per family and for 1980 will probably climb to about $100. Revenue loss estimates are around $350 million for 1979. It is estimated that the revenue loss is about $100 million for each penny of credit given per gallon. Thus in 1980 the credit, assuming a price of 94 cents per gallon, would cause a revenue loss of about $1 billion. In the event that prices rose so high as to allow a taxpayer to take the full credit, the loss would be about $2.5 billion. In this event, fuel costs would have risen 200 percent over last January's rate, imposing the staggering burden of a $1,500 per winter cost on the average family.

Mr. President, we must strike to achieve equity in energy pricing. We must carefully evaluate the impact of differing fuel sources on all Americans and attempt to equalize the burden. It is my intention that this bill be a starting point in this direction.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowed) is amended by inserting immediately before section 45 the following new section:

"SEC. 44D. CREDIT FOR RESIDENTIAL USERS OF REFINED PETROLEUM PRODUCTS.

"(a) GENERAL RULE.—In the case of an individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the products of—

"(1) the applicable percentage with respect to any refined petroleum product for the calendar year in which such taxable year ends, multiplied by

"(2) the amount paid or incurred during the taxable year by the taxpayer for the purchase of such refined petroleum product for use as a qualified use.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—

"(A) IN GENERAL.—The amount of the credit allowed by subsection (a) for the taxable year shall not exceed $250.

"(B) REDUCTION OF CREDIT FOR ADJUSTED GROSS INCOME IN EXCESS OF $20,000.—The amount of the credit allowable by subsection (a) for the taxable year (after the application of paragraph (1)) shall be reduced by 5 percent of the amount by which the adjusted gross income of the individual for that taxable year exceeds $20,000 ($10,000 in the case of a married individual who files a separate return).

"(2) GRANT OFFSET.—If any person with respect to whom the credit is allowable under subsection (a) receives any funds under any Federal or State program providing funds for the purchase of a refined petroleum product for a qualified use, the amount of the credit under subsection (a) (determined after application of paragraph (1)) shall be reduced (but not below zero) by the amount of funds so received.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE PERCENTAGE.—The term 'applicable percentage' with respect to any refined petroleum product means a percentage equal to the fraction determined by multiplying—

"(A) a fraction—

"(i) the numerator of which is equal to the national average price for such refined petroleum product minus the national average base price for such refined petroleum products, and

"(ii) the demoninator of which is equal to such national average price,

by—

"(B) .25.

"(2) NATIONAL AVERAGE PRICES.—

"(A) NATIONAL AVERAGE PRICE.—The term 'national average price' with respect to any refined petroleum product for any calendar year means an amount determined by the Secretary, after consultation with the Secretary of Energy or his delegate, to be the average price for such product in the United States during the first 10 months of such calendar year.

"(B) NATIONAL AVERAGE BASE PRICE.—The term 'national average base price' with respect to any refined petroleum product means the amount determined by the Secretary, after consultation with the Secretary of Energy or his delegate, to be the average price in the United States for such product on January 1, 1979.

"(3) QUALIFIED USE.—The term 'qualified use' means use in connection with the principal residence of the taxpayer (within the meaning of section 44C(c)(8)) for residential purposes.

"(4) TENANTS.—

"(A) IN GENERAL.—In the case of a tenant (other than a tenant-stockholder in a cooperative housing association), the credit allowable under subsection (a) for any taxable year for any refined petroleum product used for a qualified use shall be equal to the applicable percentage for such product multiplied by an amount equal to that portion of rent paid by the taxpayer during such taxable year as is equal to the qualified rental portion.

"(B) QUALIFIED RENTAL PORTION.—For purposes of this paragraph, the term 'qualified rental portion' means that percentage of rental amounts paid for principal residences during a calendar year which the Secretary determines, after consultation with the Secretary of Housing and Urban Development or his delegate, to be the average percentage of rental amounts paid in the United States attributable to the payment of the costs of refined petroleum products used for a qualified use in connection with the principal residence.

"(5) CONDOMINIUMS AND COOPERATIVES.—The Secretary shall provide by regulation for the application of this section to condominium management associations (as defined in section 528(c)(1)) or members of such associations, and tenant-stockholders in cooperative housing corporations (as defined in section 216), in such a fashion that the amount allowed by subsection (a) is allowed, whether by allocation, apportionment, or otherwise, to the individuals paying, directly or indirectly, for the refined petroleum products so used.".

(b) REFUND OF EXCESS CREDIT.—

(1) Section 6401(b) of such Code (relating to amounts treated as overpayments) is amended—

(A) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit), and 44D (relating to credit for residential users of refined petroleum products),", and

(B) by striking out "and 43" and inserting in lieu thereof "43, and 44D".

(2) Section 6201(a)(4) of such Code (relating to assessment authority) is amended—

(A) by striking out "or 43" in the caption thereof and inserting in lieu thereof ", 43, or 44D",

(B) by striking out "or section 43" and inserting in lieu thereof ", section 43", and

(C) by inserting "or section 44D (relating to credit for residential users of refined petroleum products)," before "the amount so overstated".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately after the item relating to section 44B the following new item:

"Sec. 44D. Credit for residential users of refined petroleum products.".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to taxable years beginning after December 31, 1978.

● Mr. CHAFEE. Mr. President, I am pleased to join as an original cosponsor of this bill which provides a tax credit for users of home heating oil. The credit would be available to residential users of home heating oil, with income up to $25,000, to offset the price increase in heating oil that is due to decontrol. The maximum available credit would be $250. The credit would be available to homeowners and renters alike.

As everyone knows, oil prices are increasing at an alarming rate. Home heating oil prices are rising especially fast. At the end of last year, the price of heating oil was 54 cents in New England. Today it is nearly 78.5 cents—an increase of 31 percent during this year alone. The price rose 8.6 percent again last month. And, it is sure to continue to rise.

Mr. President, I support decontrol of oil prices because I believe it is the surest way for us to regain control of our energy situation. Decontrol will serve the dual purposes of encouraging conservation and promoting development of additional supplies of oil as well as alternative forms of energy, such as solar power.

However, home heating oil users are especially vulnerable to these price increases. The average household in New England pays $1,100 per year for heating oil; 72 percent of the homes in my State of Rhode Island use this fuel as the main source for heating their homes. They depend on fuel for heating during the long, cold winter. Many changes can be made to use less fuel. Homes can be insulated, storm windows installed, and wood stoves purchased. As the price continues to rise, more homeowners will take these steps in order to cut down their bills and save energy.

But, Mr. President, is it right to ask home heating oil users to bear the full brunt of price decontrol? During consideration of the Natural Gas Policy Act, which phased out controls on natural gas prices, residential users were protected from the full force of the price increases. NGPA provides that higher priced gas must be passed on to industrial customers before it is applied to residential users.

In the past, President Carter and both Houses of Congress have advocated assistance to heating oil users. President Carter's Crude Oil Equalization Tax, proposed as part of the national energy plan, included a rebate to home heating oil customers. Heating oil customers would receive a dollar-for-dollar reduction in price when they bought fuel oil from dealers.

Both the House and the Senate accepted versions of a heating oil tax credit last year. Unfortunately, these measures were dropped in conference.

The bill we are introducing today demonstrates our commitment to help those who bear the brunt of higher oil prices, just like we helped residential users of natural gas. The bill directs assistance to lower- and middle-income persons, since both are seriously affected by higher heating oil prices. Those who do not file tax returns would remain eligible for energy assistance through direct payment programs.

The credit will hopefully provide an additional incentive for homeowners to invest the money gained from the credit in making their homes more energy efficient. Conservation is our surest, safest, and least expensive route to energy security in the short term. The tax credit we are proposing today is the most equitable way we can help heating oil users meet the higher prices and have enough money to invest in the future—conservation.●

● Mr. DOLE. Mr. President, dramatic increases in energy prices are pushing the cost of residential utility bills to unacceptable levels for many Americans. The impact in world price is particularly severe on consumers dependent on home heating oil. Home heating oil, which is used in 22 percent of residential homes, will increase between 40 and 50 cents a gallon this year. Despite their efforts to conserve energy and improve the energy efficiency of their homes, they will be hard pressed to meet the ever increasing prices.

I am pleased to join with Senator RIBICOFF in introducing legislation to provide relief for the residential use of home heating oil. To the average home heating oil consumer, the price increases of oil will mean that an additional $600 of their income a year will go toward heating their homes. This is almost three times the price increases experienced by home heating oil consumers in the prior 5 years since the Arab oil embargo. I do not believe that the home heating oil consumer, or residential users in general, should bear a disproportionate share of the burden which has resulted from the whims of the OPEC cartel.

Mr. President, I support, in general terms, initiatives to help the poor, the elderly, and the disadvantaged to cope with our energy problem. We cannot turn our back on those who are not in a position to deal with the havoc of energy inflation. The proposal introduced today seeks to lessen the impact of increase in the price of heating oil. Generally, an individual could receive a tax credit of up to $250 a year to help soften the blow. In order to target the program to those hit the hardest, the credit phases down at income levels exceeding $20,000 a year.

Mr. President, legislation, comparable to the legislation which the Senator from Connecticut and I are introducing today, has been favorably considered in Congress before. In 1977, the Energy Tax Act contained a provision designed to reimburse the amount of price increase caused by the crude oil equalization tax. However, because Congress rejected the discredited crude oil equalization tax.

However, because Congress rejected the discredited crude oil equalization tax, the proposal was unnecessary.

While I lend my support to this proposal, I believe the Senate should also consider broader concepts. Residential consumers across the country are feeling the pinch of increased utility bills. A temporary program which helps individuals adjust to higher utility costs has merit.●

● Mr. MOYNIHAN. Mr. President, I am pleased to join Senator RIBICOFF in introducing this bill to provide much needed relief to those households who will be among the most severely impacted by the continued rise in home heating oil prices. The bill would provide a tax credit of up to $250 per family for those families with incomes under $25,000 that heat their principal residences with oil. It is especially fitting that we provide tax relief to this segment of our society who contribute so much to our economy and ask so little of it in return. These households carry their own mortgages, pay their continually rising real estate taxes and finance the education of their children. As we assess the impact of higher oil prices on our society, it is most appropriate that these citizens not be forgotten.

This is not to say that the neediest in our society should be overlooked. Although details of its proposal have not been submitted, the administration has advised the Congress that it proposes to provide relief from the escalating costs of energy to the bottom quintile of our society—families with incomes of less than $7,000 per year. While I wholeheartedly agree that the neediest in our society must be protected, I believe that limiting our protection solely to them is not enough. I am therefore proposing to include a much broader component of our population in this plan. I believe it deserves the support of my colleagues.●

ADDITIONAL COSPONSORS

S. 330

At the request of Mr. HART, the Senator from Delaware (Mr. BIDEN), the Senator from Michigan (Mr. LEVIN), the Senator from New Hampshire (Mr. DURKIN), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 330, the Veterans Administration Administrative Procedures and Judicial Review Act of 1979.

S. 523

At the request of Mr. HART, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 523, the Uniformed Service Health Professional Special Pay Act.

S. 625

At the request of Mr. WALLOP, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 625, to amend the Federal Mine Safety and Health Amendments of 1977.

S. 753

At the request of Mr. INOUYE, the Senator from Florida (Mr. STONE) was added as a cosponsor of S. 753, a bill to amend the Internal Revenue Code of 1954 to increase the amount of the credit for the elderly and to adjust the adjusted gross income limitation.

S. 878

At the request of Mr. ROTH, the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 878, the Federal Assistance Reform Act.

S. 971

At the request of Mr. HART, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 971, a bill to amend the Public Works and Economic Development Act to provide economic development assistance to regions suffering from increases in energy-related employment.

S. 1079

At the request of Mr. PRESSLER, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1079, to amend the IRC to permit farmers and small businesses to obtain investment credits for used section 38 property acquired from a related party.

S. 1112

At the request of Mr. HAYAKAWA, the Senator from Arizona (Mr. GOLDWATER), the Senator from Georgia (Mr. TALMADGE), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of S. 1121, a bill to amend the Saccharin Study and Labeling Act.

S. 1213

At the request of Mr. HART, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 1213, a bill to amend the Federal Aviation Act to provide a criminal penalty for placing, attempting to place, or attempting to have placed a loaded firearm aboard an aircraft.

S. 1270

At the request of Mr. JAVITS, the Senator from Massachusetts (Mr. TSONGAS), the Senator from New York (Mr. MOYNIHAN), and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of S. 1270, a bill to amend section 1662(a) of title 38, United States Code, to authorize an additional 2 years for educationally disadvantaged veterans of the Vietnam era to complete a technical or vocational training program or a program of apprenticeship or other on-job training under chapter 34 of such title.

S. 1411

At the request of Mr. CHILES, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 1411, a bill to improve the economy and efficiency of the Government and the private sector by improving Federal information management.

SENATE JOINT RESOLUTION 99

At the request of Mr. CRANSTON, the Senator from New Mexico (Mr. SCHMITT) and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of Senate Joint Resolution 99, designating the week of September 16–22, 1979, as "National Lupus Week."

SENATE RESOLUTION 216

At the request of Mr. PROXMIRE, the Senator from Alabama (Mr. STEWART) and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Resolution 216, relating to construction of Senate office buildings.

SENATE CONCURRENT RESOLUTION 35

At the request of Mr. MOYNIHAN, the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Jersey (Mr. BRADLEY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Tennessee (Mr. BAKER) were added as cosponsors of Senate Concurrent Resolution 35, reaffirming the commitment of Congress to the right of the people of Puerto Rico to determine their own political future.

AMENDMENT NO. 145

At the request of Mr. HART, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Amendment No. 145 intended to be proposed to S. 971, a bill to amend the Public Works and Economic Development Act to provide economic development assistance to regions suffering from increases in energy-related employment.

SENATE RESOLUTION 221—SUBMISSION OF A RESOLUTION PROVIDING FOR THE RENEGOTIATION OF THE SALT II TREATY

Mr. GARN submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 221

Whereas on June 18, 1979 in Vienna, Austria, the United States and the Soviet Union (hereafter in this resolution referred to as the "Parties") signed the Treaty Between the United States of America and the Union of Soviet Socialistic Republics on the Limitation of Strategic Offensive Arms;

Whereas before the President may ratify a treaty on behalf of the United States, the Senate shall have given its advice and consent to ratification;

Whereas on June 22, 1979 the President transmitted the Treaty for the advice and consent of the Senate to ratification;

Whereas the Senate has determined that ratification of the Treaty does not adequately meet the national security interests of the United States; and

Whereas the Senate has not given its advice and consent to ratification: Now, therefore, be it

Resolved, That the Secretary of the Senate shall transmit to the Secretary of State, to be deposited with the archives of the Department of State, the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Arms (hereafter in this resolution referred to as the "Treaty"), including the Protocol relating thereto, both done at Vienna, Austria, on June 18, 1979, heretofore transmitted to the Senate by the President and for which the Senate did not give its advice and consent to ratification.

SEC. 2. It is the sense of the Senate that—

(1) the President should promptly resume negotiations with representatives of the Union of Soviet Socialist Republics to modify the Treaty in such a way as to more adequately protect the security interests of the United States than does the Treaty;

(2) during any period of renegotiations pursuant to clause (1), the United States should continue to restrain its build-up of strategic nuclear offensive forces so as not to exceed the limitations established under the Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with Respect to the Limitation on Strategic Offensive Arms, the Protocol and other agreements relating thereto, and the Vladivostok Accord, for such period as the Union of Soviet Socialist Republics adheres to such limitations and otherwise restrains the build-up of its strategic nuclear offensive forces;

(3) to the maximum extent practicable, the President should, in negotiating under clause (1)—

(A) seek to achieve equity, including equal aggregate limitations on numbers of launchers, total throw-weight, total megatonnage, numbers of warheads generally, and numbers of warheads with respect to certain types and sizes of missiles, and

(B) seek to assure that each Party retains the right to develop, test, or deploy such strategic offensive weapons as may be necessary for a second-strike capability; and

(4) the President should not, during the period of negotiations called for in clause (1), negotiate on a bilateral basis with the Soviet Union with respect to theater nuclear forces inasmuch as such forces of the North Atlantic Treaty Organization (NATO) have not achieved sufficient progress in modernizing to offset the theater nuclear forces of the Warsaw Pact countries.

SEC. 3. It is further the sense of the Senate that the President should negotiate quantitative limitations on strategic offensive arms to be effective, unless otherwise specified, on a date six months after the date of entry into force of the modified Treaty, including—

(1) a limitation of 2,400 on the aggregate number of strategic nuclear delivery vehicles (SNDVs), to be reduced to 2,000 SNDVs by December 31, 1981 and further reduced to 1,600 SNDVs by December 31, 1983;

(2) a limitation of 1,320 SNDVs equipped with multiple independently targetable reentry vehicles (MIRVs), to be reduced to 1,220 SNDVs by December 31, 1981 and to 1,120 SNDVs by December 31, 1983;

(3) a limitation of 1,200 MIRVed ballistic missiles launchers, to be reduced to 1,050 such missiles by December 31, 1981 and to 900 such missiles by December 31, 1983;

(4) a limitation of 820 MIRVed intercontinental ballistic missile (ICBM) launchers, to be reduced to 720 such launchers by December 31, 1981 and to 620 such launchers by December 31, 1983;

(5) a limitation of 308 heavy ICBM launchers and 300 medium ICBM launchers for each Party, reduced to 250 heavy ICBM

launchers and 250 medium ICBM launchers for each Party by December 31, 1981 and to 200 heavy ICBM launchers and 200 medium ICBM launchers for each Party by December 31, 1983, with heavy ICBM launchers counting as two SNDVs after December 31, 1983;

(6) requirements that each Backfire bomber should be counted as three-fourths of an SNDV and each United States-based FB-111 bomber should be counted as one-half of an SNDV;

(7) a prohibition on the deployment at any one time on heavy bombers equipped for cruise missiles capable of a range in excess of 600 kilometers of a number of such cruise missiles which exceeds the product of 40 and the number of such heavy bombers, except that neither Party should deploy on any heavy bomber equipped for such cruise missiles more than 60 such cruise missiles or, on any current heavy bomber so equipped, more than 20 such cruise missiles;

(8) a requirement that each number of 40 cruise missiles under clause (7) should be counted as one MIRVed SNDV for purposes of the limitations in clause (2);

(9) the dismantling or destruction of excess and retired missiles;

(10) a limitation on the number of missiles or bombers of each Party which may be in reserve, in storage, or mothballed of not to exceed 10 percent of the number of missiles deployed by such Party; and

(11) a provision to permit the construction of a multiple protective structure basing mode for ICBMs.

Sec. 4. It is further the sense of the Senate that the President should negotiate qualitative limitations on strategic offensive arms, including:

(1) throw-weight limitations defined in terms of the range and payload of a missile, using a number of nautical miles for a given number of pounds;

(2) throw-weight limitations for ICBMs capable of a range of not to exceed 5,000 nautical miles of—

(A) a payload of not to exceed 3,000 pounds for light ICBMs;

(B) a payload of not to exceed 8,000 pounds for medium ICBMs;

(C) a payload of not to exceed 17,000 pounds for heavy ICBMs; and

(D) a payload of not to exceed 4,500 pounds for SLBMs;

(3) a definition of intermediate range ballistic missiles as missiles capable of a range of not less than 1,000 nautical missiles or not more than 3,100 nautical miles and capable of a payload of not less than 500 pounds or more than 2,000 pounds;

(4) a definition of ICBMs as ballistic missiles capable of a greater range and heavier payload than intermediate range ballistic missiles;

(5) an authorization of only two new types of SLBMs;

(6) a prohibition on the flight-testing or deployment of any new type of SLBM with more than 10 reentry vehicles or of any SLBM flight-tested before May 1, 1979, with more than 14 reentry vehicles; and

(7) an effective definition of new types of ICBMs and of new types of SLBMs, which definition should be in terms of the qualitative improvements in the propulsion systems of such missiles and should prohibit a new-type missile from being built inside an old missile by using new components.

Sec. 5. It is further the sense of the Senate that in the renegotiated Treaty the President should include a protocol which would terminate before the date of termination of such Treaty and which should—

(1) limit ground-launched cruise missiles and submarine-launched cruise missiles to a range of 2,500 kilometers and permit their immediate deployment;

(2) contain no prohibition on the deployment of ICBMs in a multiple protective structure or other survivable mode if the number of ICBMs actually deployed can be adequately verified through cooperative measures;

(3) limit to 300 launchers intermediate range ballistic missiles capable of being rapidly converted to ICBMs, stipulating that, if any such intermediate range ballistic missiles are discovered with a third additional stage deployed all such missiles will henceforth be counted as ICBMs;

(4) not prohibit or restrict the transfer of technology or hardware to allies of the United States or the Soviet Union, except that transfers will be based on the legitimate defense needs of such allies, defined by the degree of restraint, if any, regarding a military build-up demonstrated by the other Party; and

(5) prohibit extension or modification of any provision of the protocol without Senate approval or without consideration of the effect of such extension or modification on the overall strategic and theater balances.

Sec. 6. It is further the sense of the Senate that under the renegotiated Treaty and Protocol—

(1) each Party should be permitted three intelligence collection sites on the territory of the other Party in order to monitor missile testing;

(2) no telemetry encryption should be permitted;

(3) activities which are considered as impeding verification should be specified;

(4) cooperative verification procedures should be defined, and scheduled on-site inspections and a specific number of on-site inspections without advance notice should be permitted, including provisions for the inspection and counting of warheads of all deployed and previously tested missiles; and

(5) the Parties should establish a data base which provides specific information regarding their strategic offensive arms, including detailed data on the dimensions, throw-weight, launch-weight, and number of warheads on all deployed and tested SNDVs.

Sec. 7. It is further the sense of the Senate that the provisions of clauses (5) and (6) of section 3, clauses (1), (2) and (4) of section 5, and clause (2) of section 6 represent minimum essential provisions.

Sec. 8. It is further the sense of the Senate that the President, in negotiating the SALT III agreement after concluding a renegotiated SALT II agreement, should adhere to the following guidelines:

(1) equal aggregate limitations should be agreed to for SNDVs for throw-weight, megatonnage, and warheads;

(2) medium and heavy ICBMs should be prohibited and warheads of more than 1.5 megatons for any missile equipped with a single reentry vehicle and of more than .5 megatons for any MIRVed missile should be banned;

(3) attempts should be made to ameliorate the vulnerability of the SLBM forces of both Parties by prohibiting attack submarines of either Party from entering waters near the coast of the other Party, and prohibiting ocean-based surveillance systems in such waters;

(4) defining and classifying theater and strategic nuclear forces in such a way as to place controls on all nuclear forces;

(5) additional verification measures should be formulated in order to build the confidence of the Parties in the effectiveness of arms control measures; and

(6) both Parties should consider some changes in the limitations on strategic defensive forces to permit more than one anti-ballistic missile (ABM) system deployment area having a radius of at least one hundred fifty kilometers and containing ICBM launchers, including multiple protective structures for ICBM launchers, and to create limitations on defenses against bombers and cruise missiles

Sec. 9. As used in this resolution—

(1) the term "cruise missiles" means unmanned self-propelled, guided, weapon-delivery vehicles which sustain flight through use of aerodynamic lift over most of their flight path; and

(2) the term "strategic nuclear delivery vehicles" means ICBM launchers, SLBM launchers, heavy bombers, and air-to-surface ballistic missiles (ASBMs), but not heavy bombers equipped only for ASBMs.

Sec. 10. The Secretary of the Senate shall transmit copies of this resolution to the President of the United States and the Secretary of Defense.

● Mr. GARN. Mr. President, I have today submitted a resolution providing for the renegotiation of the treaty on Strategic Arms Limitations, and expressing the sense of the Senate with regard to specific issues to be taken up in the renegotiation process.

I take this action today, notwithstanding the fact that the committee hearings on the SALT II Treaty are still underway. Naturally, I would not expect to press for action on this resolution until those hearings are completed, and the form of the treaty as recommended to the Senate, is established. My immediate purpose in proposing this resolution, as I suggested on June 26, when I announced my intention to submit it, is to demonstrate that there are indeed alternatives to the provisions of the treaty submitted by the President; alternatives which I believe, more clearly reflect the present strategic balance; alternatives which, I also believe, more directly address the question of true arms reductions.

I believe that my colleagues can examine these alternatives and readily see that the SALT Treaty, as negotiated, is sufficiently flawed to demand a thorough and complete reassessment.

Virtually every aspect of this resolution calls attention to the serious imbalance—both real and potential—between the strategic arms of the United States and the Soviet Union. That imbalance, which, if allowed to continue its present trend, will give the Soviet Union a politically meaningful nuclear superiority in the early-to-mid 1980's, is not addressed in the treaty, as it is presently written.

In recent days, during the hearings on SALT II, several Senators and witnesses have called attention to the dangerous strategic situation. I share the views expressed by the distinguished Senator from Georgia (Mr. NUNN) and by the Joint Chiefs of Staff, General Alexander Haig, Dr. Henry Kissinger, and others, that the issue of the strategic balance must also be addressed, with or without SALT. I believe, however, that the terms of this treaty are inequitable and unverifiable, and thus make it essential that not only our strategic forces be improved and enhanced, but that the treaty be amended or renegotiated.

It is a simple fact, Mr. President, that the United States will be forced to make substantial expenditures on strategic arms in order to insure the security of this Nation. As Dr. Kissinger said in his testimony before the Foreign Relations Committee on Tuesday of this week:

> If we want equality we must build to equality. We must reverse the strategic trends if we are serious about an equitable SALT treaty. Nothing in the Vienna Treaty diminishes the need for a substantial military build-up by the United States. In fact, the situation which SALT reflects make such a build-up imperative.

None of us, Mr. President, wants a costly arms race. That is not what Dr. Kissinger is proposing. But if this treaty, as proposed is ratified, our Nation's security will require the expenditure of billions of dollars to offset the advantages granted to the Soviet Union by its terms. The alternative terms for a SALT Treaty, as outlined in my resolution, would reduce that burden. These terms would not eliminate the need for real defense program growth to improve our defenses, for the policies and decisions of the past 15 years have left us in a dangerously weakened position. What I propose is a compromise; a middle ground between unrestrained growth and unilateral disarmament.

An important fact which has arisen from the hearings, is that the SALT debate is far more than a debate over mere numbers and limitations on weapons systems. It is perhaps the most important, and far-reaching foreign policy debate of this decade, and possibly beyond. Far more is involved than limits, sublimits, and the esoteric jargon of strategic weapons systems. Consequently, we must construct a philosophical and policy framework prior to addressing a defense program or an arms control approach. Without it our efforts will be disjointed and misdirected.

The framework in which I believe SALT II must be considered, and in which, consequently, this proposed alternative is offered, is a most important first step. Therefore, Mr. President, I would like to repeat the statement I made on June 26, describing that framework before turning to the resolution itself.

Mr. President, I ask unanimous consent that the framework for SALT II, the Senate resolution, and the section-by-section analysis of key provisions be printed in the RECORD.

The material follows:

THE FRAMEWORK FOR SALT II

Changes in the world balance of power since the beginning of the strategic arms limitations process in 1969 make this treaty, at this time, the most decisive single statement of the comparative positions of the world's two superpowers. It will determine the make-up of the strategic military forces which each will have available to preserve its place in the world community and to use, in addition to its political and economic capabilities, to pursue national and international goals and objectives.

AMERICA'S GOALS

It is necessary, therefore, to begin the debate on SALT II, both in the Senate and throughout the country, by posing the question of what are America's goals in a changing world. We cannot hope to fairly consider and decide the many questions raised by SALT II if we do not first know where we want the United States to be when we are through. We need to find answers for questions such as: What kind of a country is the United States of America? What are the values and ideals which motivate us as a nation? What is our responsibility to the free world? If it is to provide leadership and stability, are we prepared to look beyond our own needs and assume that role? If so, what form should that leadership take? If not, who will we expect to assume that responsibility?

Not only do we need to answer these questions and others about ourselves, but an accurate understanding of the world situation is essential. We cannot simply hope—or assume—that all nations of the world share our ideals and convictions. We must accept the fact that the world may not be as we would like it. Other nations have goals and ideals that conflict with our own, and whatever course of action we take as a nation must recognize those conflicts.

While this seems very basic and elementary, I am convinced that we have assumed too much about the world. We have been so preoccupied with our own problems and domestic concerns that we have not really kept an eye on the rest of the world. Our failure in Vietnam seems to have convinced many that the very existence of U.S. military power is dishonorable, much less its actual use in an area of conflict not within our own borders. Watergate seems to have fostered a sense of shame or lack of confidence in the virtues of the American political system. We have been afraid to unfurl the flag for fear someone will point out that it is a little frayed or soiled. It is disheartening to look back at the past several years and witness what can only be described as America's retreat from the world. Fortunately, as I travel around this great country of ours, I sense a change in that attitude. I hear Americans asking to be proud again and to be respected again for the good things we can offer and for the heritage and ideals we have as a nation. I firmly believe that the people of this country are ready to take a hard look at themselves as a society, and decide anew what to do about the role of world leadership that fell to the United States after the disorder and destruction of the Second World War. The timing is right for that kind of re-evaluation, and the debate of SALT II provides—I think it even requires—an opportunity to build a consensus in this country about what its role should be and how it should be carried out.

THE U.S. ROLE IN THE WORLD

Like any country, the United States has at least four fundamental objectives: national survival, safety, well-being and ideological and spiritual enhancement. The efforts of nations are generally directed at meeting all four of these goals, but the changing world environment alters their order of importance from time to time.

Other nations have more ambitious goals—the expansion of their power and influence or the creation of an empire or sphere of influence. When faced with such an adversary, democratic societies are faced with some hard choices—choices which in recent years we have been increasingly reluctant to make.

The end of World War II left the United States in possession of overwhelming military and economic power. If we had so desired, we could have literally conquered the world. No one could have stopped us. But what did we do? We reduced our military power, demobilized our millions of troops, mothballed most of our ships and planes, and returned to a peacetime economy and began to provide vast sums to rebuild the shattered economies of friend and foe alike. Even with our reduced strength, we were still the most secure nation in the world; our national survival virtually was guaranteed. Quite naturally, we turned our attention to improving our well-being, and we demonstrated our ideological and spiritual values by helping to rebuild a war-torn world, and by coming to the aid of countries seeking freedom and independence, such as Korea. The United States became a beacon to the world, not only because of its military strength, but because of the inherent values of its society and the emphasis on them.

America was to be befriended and emulated. Such a place in the world, however, cannot be taken for granted, as America's people and its leadership seem to have done. It has to be earned daily to be continually justified.

I am one who believes the United States cannot escape the responsibility to lead the world in the search for freedom, self-determination, and lasting peace. There is no question that we have the resources. We must also have the will. As I have already said, I believe that the people of this country have that will, but in our democratic society, it needs to be expressed by the elected leadership. That is what I expect and hope that the Senate will do in this debate on SALT II. We must determine what the will of the people is, and then express it through our collective action as we consider the treaty. To the extent that we do this, the Senate will make a statement to the world about the course America will take. The world and its leaders are watching very carefully. They wait to see not only the outcome of this great debate, but what the nature of the debate itself will reveal about the forces at work in our society today. They certainly have every reason to be confused about the internal dynamics of our nation in view of the vagueness, indecisiveness and contradictions in U.S. foreign policy in recent years. What they see during this debate will determine their view of America's role in the world. Regardless of what we in the Senate, or the people of the United States, believe our role to be, what matters most is how it is perceived by others. If they perceive we are weak, then we will be weak. If they perceive we are strong, then we will be strong. If they perceive we are irrelevant, we will be increasingly irrelevant. Miscalculations in any direction could lead to war.

There are, then, two important reasons the debate on SALT II is so vital to America's future: First, the ultimate outcome will impact our ability to live and prosper in the world. And second, the way we reach that outcome will tell the world what we believe about ourselves, and what we are prepared to do to preserve and share the values and ideals we hold as a nation.

Against this backdrop, I believe the SALT debate must confirm that the United States is prepared to be the leader of the free world. We must demonstrate a firm resolve to develop and maintain the necessary economic, political and military strength to fulfill that role, and that we will not be afraid to use that strength to support our allies and friends in their efforts to choose their own course toward freedom.

We must allow that our society has problems, but not allow a preoccupation with them to deter us from our global responsibilities. Nor should we apologize for the strength that the United States has achieved through its free and pluralistic society.

We must make it clear that we recognize the condition of the world we all live in, that there are competing interests and ideologies which may be impossible to reconcile. The world must know that our experience with detente has convinced us that the Soviet Union is still our ideological enemy and potential military adversary.

In short, the SALT debate should affirm that we have placed the national security of the United States and its allies at the head of our fundamental national objectives. We know there is no such thing as absolute security in today's world. But we have a system of government and a society worth defending, and we can and will develop the means to deter an attack upon them. Not only will we develop and improve our own military capability, we will continue to rely on the strength of our alliances. Where we can identify areas of mutual self-interest with our adversaries, we will seek to establish agreements and understanding with them. Those agreements will be negotiated by the United States and her allies from a position of strength. They must not be based on weakness or fear of the consequences of failure to reach an agreement. Our obligation to ourselves and to the world is too great for that. If we find ourselves adopting this SALT II treaty, or any other agreement, on the basis of fear, then I am afraid that we are already dangerously close to having failed the test of world leadership.

NEW DIRECTIONS FOR U.S. NATIONAL SECURITY STRATEGY

What does all of this mean, more specifically, for United States national security strategy? And what, then, does that strategy mean for SALT II?

The national security strategy of the United States must first recognize the military strength of our major adversary, the Soviet Union. Since the time of the Cuban missile crisis, the Soviet Union has been engaged in the most massive arms build-up in the history of the world. It has gone, with the help of SALT I and U.S. unilateral restraint, from a position of inferiority with the United States to a position today where its military strength is more than equal to our own. The numerical strength of its conventional forces in the Warsaw Pact countries is vastly superior to that of the NATO alliance. The impressive technological improvements in Soviet strategic forces have been coupled with a counterforce targeting and damage-limiting doctrine which poses a real and direct threat to our own strategic forces. The near-term vulnerability of our ICBM force is acknowledged by virtually every responsible analyst. The Soviet Union has rejected the concept of Mutual Assured Destruction and its basic assumption that nuclear war is unthinkable. The Soviets believe it is possible to not only fight and survive a nuclear war, but to win it, and they have designed their military forces and civil defense program accordingly.

Our response to this growing Soviet strength must be based on these realities, not on the idealistic hopes of the SALT process which, so far, has provided little reason for confidence. With or without SALT, our national security policy must be modified along the following lines: We must change our strategic targeting—aiming most of our own weapons at Soviet military targets, instead of at cities; reduce the vulnerability of our ICBM force; develop the technology which will allow us to build defenses against in-coming missiles, both for our own civilian population and our weapons; modernize our bomber force; ensure the survival of effective command, control, communications and intelligence systems under attack; modernize our capacity to conduct limited theater nuclear operations: improve our conventional forces with modest increases in Army and Marine division strength; improve our ability to project our conventional forces by expanding our tactical air and military transport forces; expand military consultation with, and consider increasing military assistance to, our allies and pro-Western governments and parties in deterring Soviet proxies, such as Cuban forces in Africa, by providing them with funds, arms, training and intelligence. We must have a vigorous program and ready forces in all areas of our defense posture. The fabric of our military cloak must be a seamless web of capabilities. As Mr. Michael Howard, of Oxford University, said in a recent article in Foreign *Affairs:*

"The maintenance of adequate armed forces in peacetime, and the will to deploy and support them operationally in war, is in fact a symbol of that social unity and political resolve which is as essential an element in nuclear deterrence as any invulnerable second-strike capability."

We can no longer afford to be passive in the world. Our allies and friends need to know that they can rely on the United States for assistance. The Soviet Union must know that we will not stand idly by while it attempts to create a new, world-wide Russian Empire. Winston Churchill said it very well on a visit to the U.S. in 1946:

"From what I have seen of our Russian friends and allies during the war, I am convinced that there is nothing they admire so much as strength, and there is nothing for which they have less respect than for weakness, especially military weakness. For that reason, the old doctrine of balance of power is unsound. We cannot afford, if we can help it, to work on narrow margins, offering temptations to a trial of strength."

Mr. Churchill went on to say, in essence, that peace could be maintained in the world only if the democracies remained united and strong. The policies I have mentioned would make it possible for the United States and her allies to preserve and protect international peace, through strength.

ESSENTIAL CONDITIONS FOR SALT II

What can we say, then, about SALT II in the context of a new, more active, although not provocative, U.S. national security strategy? I believe such a strategy suggests five basic criteria for acceptance and ratification of a new SALT treaty:

First, the treaty must meet the criteria of equality, stability and verifiability, and it must arrest the growth of Soviet strategic forces.

Second, we and our allies must be prepared to modernize and improve theater nuclear forces or agree to equitable arms limitations in this area with the Soviet Union and her allies;

Third, we and our allies must be willing to modernize and expand our conventional forces so as to pose an effective conventional deterrent;

Fourth, we and our allies must be prepared to resist the destabilization of third world nations by Soviet power and proxy forces;

Fifth, we must rebuild our vital intelligence organizations and restore their effectiveness.

If these conditions cannot be met, then SALT II should not be ratified. Instead, we should then seek to restore and maintain strategic nuclear "parity-plus" with the Soviet Union and declare our intent to use whatever means to protect ourselves and our allies.

SALT AND U.S. SECURITY

The SALT process can be of greater value to the United States. It should be able to enhance our security in the following ways:

(1) By establishing equal limits on the quantity of nuclear arms—not just the number of launchers—which may be held by the U.S. and the Soviet Union, and in so doing, end the expansion of Soviet strategic forces.

(2) By reducing arms, it will lower the chances of accidental war.

(3) By allowing us to build and develop weapons and forces which may be necessary to deter a potential attack or the use of nuclear coercion against us or our allies, it will support our alliance structure and discourage the proliferation of nuclear weapons;

(4) By prohibiting or markedly slowing the deployment of weapons systems that would destabilize the strategic balance by giving one side a "first strike" or war-winning capability over the other, it will maintain crisis stability. At the same time, no SALT treaty should restrict our options to meet the threat more than it reduces the growth of that threat.

As difficult as these objectives may be to achieve, we must not weaken our commitment to them. We must remember that the security of the United States is the only reason to participate in the SALT process in the first place. It is not to seek an agreement simply for the sake of having an agreement.

A flawed SALT treaty which would give the Soviet Union low-cost, "politically meaningful" nuclear superiority would be worse than no treaty at all. It would be the foundation for a continuing policy of global expansion by the Soviet Union, and allow it to divert military resources to the build-up of other forces while extending its nuclear umbrella over Western Europe, the Middle East, Africa and the Far East.

The treaty that has been signed by the President is such a flawed treaty. It is not equitable. It allows the Soviet Union to have types and sizes of missiles that the United States is not allowed. It is not adequately verifiable, and it only masquerades as arms control. It does not effectively limit the spread of nuclear weapons.

To accept this treaty, as proposed, would be to turn away from our obligation as a world power to preserve international peace. A treaty which would effectively give the Soviet Union a war-winning nuclear capability by the mid-1980's is an even greater threat to peace than an uncontrolled arms race. At least in a race, the outcome is in doubt. I believe that we do not have to choose between either nuclear inferiority or an expensive arms race. We have a third option.

That option is to return to the bargaining table with a renewed commitment to insist on a fair and equitable treaty. Throughout the SALT negotiating process, the Soviet Union has taken firm, immovable positions on every issue critical to its national interests. The United States, in the spirit of accommodation and "compromise," has accepted the Soviets' position on every major issue. Compromise is one thing, but surrender is another. I believe we can reach compromises with the Soviet Union at the negotiating table, but we cannot do it without first drawing the line beyond which we are unwilling to move; beyond which we will not sacrifice our own national interest. Such a demonstration of our steadfast commitment to our own interests is in itself an important deterrent to war.

Section-by-Section Analysis of Key Provisions

Section 2. Negotiating Principles.

Paragraph 1 expresses the Sense of the Senate that the President should resume negotiations to achieve a treaty that more adequately protects the interests of the United States.

Paragraph 2 proposes bilateral restraint on any buildup of strategic nuclear forces beyond the limitations established by SALT I and the Vladivostok Accords during the period of renegotiation. U.S. restraint would be conditional upon Soviet restraint.

Paragraph 3 calls for true equity in the agreement regarding launcher total throw-weight, total megatonnage, total numbers of warheads and numbers of warheads with respect to certain types and sizes of missiles. It also suggests that each party retain the right to develop, test, and deploy weapons necessary for the maintenance of a second strike capability.

Paragraph 4 calls for the involvement of NATO allies in any discussions relating to theater nuclear forces.

Section 3. Numerical Limits.

Paragraph 1 would initially limit both sides to 2400 strategic nuclear delivery vehicles (SNDVs). SNDVs include intercontinental ballistic missiles (ICBMs) launchers, submarine launched ballistic missiles (SLBMs) launchers, heavy bombers, and air-to-surface ballistic missiles (ASBMs). Each side would be required to reduce their total number of SNDVs to 2,000 by 31 December 1981 and to 1,600 by 31 December 1983. There would be "freedom to mix" various systems under the totals. Reductions of this degree would represent real progress in arms control while not endangering the security of either side.

Paragraph 2 places a sublimit of 1320 on multiple independently-targetable reentry vehicles (MIRV) SNDVs. Reductions to 1220 and 1120 are required by the end of 1981 and 1983 respectively. Presently, ICBMs and SLBMs are MIRVed. Heavy bombers (or cruise missile carriers) with cruise missiles having a 600 kilometer range or greater will count as MIRVed SNDVs. ASBMs with MIRVs will count as MIRVed SNDVs, but the aircraft launch platform will not count as an SNDV. This will reduce by several thousand the vast buildup in warheads now projected for both sides.

Paragraph 3 limits MIRVed ballistic missiles to 1200 with two reductions of 150, one at the end of 1981 and at the end of 1983. Heavy bombers with cruise missiles do not count in this sublimit. This provision tends to encourage a force posture that includes 120 heavy bombers with long range cruise missiles. Such a force component is useful in times of crisis in the sense that it can be alerted or sent to express grave concern, and it does not represent a rapidly deliverable First Strike potential.

Paragraph 4 limits MIRVed ICBMs to 820 with reductions to 720 in 1981 and then 620 in 1983. The effect of this sublimit is to encourage force diversification, particularly as each sides' ICBMs become vulnerable to an attack by the other side. Also, since ICBMs can have more throw weight than SLBMs, it slows the growth in total megatonnage and warheads on both sides.

Paragraph 5 allows both sides to have 308 "heavy" (up to 17,000 pounds throw weight) ICBMs and 300 "medium" (up to 8000 pounds throw weight) ICBMs with reductions to 250 heavy ICBMs and 250 medium ICBMs by end 1981 and to 200 heavy ICBMs and 200 medium ICBMs by end 1983. The limits would provide for equality which does not exist under the current SALT II Treaty. Moreover, the provision to count heavy ICBMs as two SNDVs will provide an incentive to destroy the heavy missiles which can carry so much megatonnage and so many warheads.

Paragraph 6 provides for equity by counting the Backfire as ¾ SNDV and the FB–111 as ½ SNDV. A provision of this sort represents the real world facts about the capabilities and operational plans for these aircraft. Also, because these aircraft are included, the total number of other allowed systems will be reduced.

Paragraphs 7 and 8 mean that the number of cruise missile on aircraft will not exceed the product of 40 and the number of such aircraft and, for every 40 deployed ALCMs (air launched cruise missiles) each side must count one MIRVed SNDV. This limit is higher than the 28 limit in the SALT II Treaty. The 28 figure unfairly limits the U.S. capability to deploy in the near term ALCMs on wide-body jets, configured as cruise missile carriers (CMC). This compensates in some small way for the massive Soviet air defenses.

Paragraph 9 would require the destruction of excess and retired missiles. This would alleviate the concerns both sides might have about the other trying to stockpile missiles for movement to concealed soft launch sites or for use as silo refire missiles.

Paragraph 10 is directed at prohibiting the production of new missiles/bombers far above deployment limits. Together with Section 8, this provision should control the temptation to let production lines continue to run for the production of "launch training" missiles. A limitation of 10 percent above deployed levels should provide for plenty of test and training launch missiles or aircraft attrition replacements over the life of the Treaty.

Paragraph 11 would allow the construction of a multiple protective structure basing mode for ICBMs. This may be absolutely essential if we are to ensure the invulnerability for our ICBMs.

Section 4. Qualitative Limitations.

Paragraph 1 states that throw weight limitations should be defined as a composite range-payload measure. The throw weight limits in the SALT II accord are not specifically defined. The lack of any such definition allows the replacement of current missiles with improved versions with substantially higher range-payload capabilities. The lack of any linkage of payload to range facilitates cheating and makes the detection of cheating more difficult. It also creates an important potential breakout threat, because it is legitimate to build missiles that have much more potential capability than they are allowed to demonstrate under the agreement.

Paragraph 2 calls for specific throw weight limits (to 5,000 nmi) of 3,000 pounds for "light" ICBMs, 8,000 pounds for "medium" ICBMs and 17,000 pounds for "heavy" ICBMs. A throw weight limit of 4,500 pounds to 5,000 nautical miles for SLBMs should be established. This modification in the SALT II Treaty specifically defines throw weight for various types of missiles, eliminating the major degree of ambiguity in SALT II (the limiting of the throw weight of "light" missiles to that of the SS–19 and "heavy" missiles to that of the SS–18 without specifying what this is). This modification of the Treaty also makes it much more enforcible, and by establishing the new category of "medium" missile and limiting the number of such weapons allowed, reduces the potential threat level to both nations. The limit on SLBM range-payload capability has the same effect. Under the current Treaty, every Soviet ICBM and SLBM can be upgraded to the throw weight of the SS–19 allowing an enormous increase in the Soviet capabilities to damage the U.S. The proposed modifications significantly reduce the growth of that threat.

Paragraphs 3 and 4 provide for effective range-payload limits on IRBMs. The upper limit should be 2,000 pounds to 3,100 nm (and lower limit of 500 pounds to 1,000 nm). Capabilities above this place the missile in the ICBM category. The lack of an effective range-payload definition for an IRBM is a major loophole in SALT II. The Soviets are currently deploying the SS–20 missile, a two stage derivative of the SS–16 ICBM, that is as large as the U.S. Minuteman III ICBM and can be upgraded to an ICBM in several ways. The current SALT Treaty does not preclude the Soviet deployment of even more threatening missiles as IRBMs in the future. The proposed IRBM definition very substantially reduces the potential IRBM upgrade threat to the U.S.

Paragraph 5 would limit each side to only two new types of SLBMs. This provision limits the unrestricted development of SLBM weapons allowed under the proposed SALT II Treaty. The proposed modification to the Treaty will reduce the growth of the Soviet threat to the U.S. and reduce the possibility of deploying SLBMs as clandestine land-based missiles.

Paragraph 6 limits future SLBMs to only 10 warheads (existing SLBMs could carry 14). There is no reason to establish a limit of 14 warheads on new SLBMs as the SALT II Treaty currently does. This combined with the very high throw weight limits provided for under the Treaty allows an enormous expansion of Soviet capabilities against the United States. The proposed reduction in the number of warheads allowed combined with the proposed limits on SLBM throw weight will reduce the threat and probably prevent the development of U.S. and Soviet SLBMs capable of destroying large numbers of very hard targets. A limit of 10 RVs on future SLBMs would also eliminate the risk that the Soviets could develop an SLBM with 14 warheads (more than is allowed by the Treaty for land-based ICBMs or air mobile ICBMs) and deploy it in a land or aircraft based mode.

Paragraph 7 redefines "new-type of ICBM." The definition must be formulated specifically with respect to qualitative improvements in the missile propulsion technology. As it is, the restrictions do not prohibit building a new-type of missile "inside an old one," using new components. The present Carter Treaty puts an almost insignificant limit on the introduction of new ICBMs. It is the technology of the missile, not small differences in the size, that primarily determines its effectiveness. Very substantial improvements can be made in Soviet ICBMs without changing their size a single inch. For example, an improved ICBM could have new engines, a higher energy fuel, a new structure, a new MIRV bus, and new warheads and still not be a "new" missile under SALT II. The proposed redefinition would put an end to this loophole. As the Treaty now stands, the "new" missiles provision would allow the U.S. to introduce one new missile and allow the Soviets to introduce five new-types Moreover, the "new" missile provision in the Carter Treaty will allow the Soviets to introduce a fifth generation of missiles in the early 1980s and a sixth generation in the middle to late 1980s. It also facilitates cheating on the allowable throw weight by permitting major improvements in the propulsion system of "old" missiles.

Section 5. Protocol Issues.

Paragraph 1 would set range limits on ground launched cruise missiles (GLCMs) and sea launched cruise missiles (SLCMs) of 2500 kilometers instead of the 600 kilometers set as a limit by the SALT II Treaty. This change is necessary if U.S. cruise missiles are to overcome the disadvantages of Eurasian geography and be able to reach targets in the Soviet Union from Western Europe or contiguous seas. The Soviet Union's SLCMs could be used in a strategic role against the U.S. even though they only have a 600 kilometer range, because many of our major cities lie near the U.S. coastline. Immediate deployment should be allowed under the protocol, because the Soviets already have SLCM carrying submarines which can approach our coasts so as to give these SLCMs strategic target attack capability.

Paragraph 2 is most important in that it eliminates the precedent that the protocol would create which prohibits a multiple protective structures basing mode for ICBMs. It also would allow the deployment of ICBMs in other survivable basing modes. Verification would be a controlling factor, and each side could not refuse on-site inspection of any such system if that were the only means to ensure thorough verification.

Paragraph 3 is aimed at closing a loophole brought on by the dangerous behavior of the Soviet Union in which the Soviets have fielded a large mobile IRBM (SS–20) that can be rapidly converted to a mobile ICBM by the addition of a third boost state. The proposed counting rule of this provision, which would count all SS–20s as SS–16s if one SS–20 is discovered configured as an SS–16 or if one SS–20 unit is discovered with the third stage deployed with the unit, is an incentive not to cheat. The limit of 300 launchers is an incentive for both sides not to develop additional systems of this sort.

Paragraph 4 would delete the non-circumvention part of the protocol. The Soviet Union hopes to undermine the confidence of our allies and stunt the growth of their military capabilities by prohibiting the transfer of essential technology and hardware from the U.S. to our allies. On the one hand our lead in technology is "ballyhooed" as the offsetting strength to Soviet and Warsaw Pact quantity, and then our comparative advantage is traded away in the protocol.

Paragraph 5 clarifies the Senate's resolve that protocol provisions cannot be extended or modified except as part of the treaty process. It further ensures that any proposed extension of the protocol must take into consideration the overall military balance. This would include an assessment of the role of those systems covered by the protocol and should ensure that any extension or modification will not disrupt the planned development of systems covered by the protocol.

Section 6. Verification.

Paragraph 1 would allow 3 intelligence collection sites on the territory of the other side to monitor missile testing. The qualitative limits on missiles are the most important element and the least verifiable provisions of the SALT II treaty. Cheating in the area of missile throw weight and number of warheads per missile can add thousands of additional warheads to the Soviet stockpile. Qualitative cheating also increases the incentive for quantitative cheating since the clandestinely deployed missiles would be more destructive. Since the loss of the Iranian collection sites, an enormous margin of uncertainty exists concerning the vital qualitative limits of SALT II. The capabilities of this type of collection site would do much to reduce this uncertainty.

Paragraph 2 states that telemetry is vital to the verification of the qualitative aspects of the agreement. Photography or other sources of intelligence are inadequate substitutes. The legitimization of encryption in SALT II allows the Soviets to hide essential design features of their missile systems. No one should seriously believe that the Soviets will abide by U.S. interpretations of what can and cannot be encrypted anymore than they abided by U.S. interpretations of SALT I. Any encryption of telemetry opens the possibility that false or misleading information is being broadcast and the real data is being sent out over encrypted channels.

Paragraph 3 would provide for a specific list of activities which impede verification. The lack of any enumeration of prohibited activities substantially reduces the effectiveness of the provision of SALT II banning deliberate concealment that impedes verification. The word "impede," is not often interpreted by the U.S. government to mean "prevent," thus legitimizing an enormous number of Soviet concealment activities that are "supposedly ineffective" in preventing verification. The Soviet Union appears to have a nationwide concealment and deception program underway at this time, and it is becoming increasingly effective. This provision of the agreement can only be enforced if there is a specific delineation of what can and cannot be done in the concealment area.

Paragraph 4 calls for cooperative verification procedures. It suggests that they include scheduled on-site inspection, and a specific number of "no-notice" on-site inspections should be allowed. The procedures would include a provision allowing for inspection and counting of warheads on a "MIRV bus." The U.S. record in the enforcement of SALT I has been a consistent record of retreat, with lack of data on what the Soviets were doing often used to justify the non-enforcement of Treaty provisions. The increased importance of the qualitative limits of SALT II combined with the dubious nature of their verifiability—ie., the number of warheads actually deployed on Soviet missiles—demands some provision for on-site inspection. The Soviet SS-18 ICBM force clearly has the potential for the deployment of 40 percent more warheads than is allowed under the Treaty (14 vice 10 warheads)—some 1,200 additional weapons. Only the inspection of these MIRV buses will allow certainty in this area.

Paragraph 5 describes the specific information that should be included in the data base exchange. The data base exchange must provide for such specific information as detailed data on the dimensions, throw weight, launch weight, and number of warheads of all deployed and previously tested missiles. The data exchange provisions of SALT II are almost meaningless. They involve only the most basic type of information concerning the number of launchers operations and number of warheads tested. Information required for the enforcement of the qualitative provision of SALT II is not provided. The provision of this type of information would do much to improve the capability of U.S. intelligence collectors to monitor the terms of SALT II.

Section 7. Minimum Essential Provisions.

This section states that the six provisions listed (heavy missile equity, Backfire limitation, GLCM/SLCM range increase, allowance for MPS basing mode, allowance for technology transfer to allies, prohibition on telemetry encryption) are considered to be minimum essential provisions for any new treaty.

Section 8. Guidelines for Negotiation of SALT III.

Paragraph 1 proposes that each side agree to equal aggregate limits on throw weight, megatonnage, and warheads, as well as SNDVs. The number of SNDVs would be reduced modestly, while the limits on throw weight, megatonnage, and warheads should represent substantial reductions from the deployed forces. Restrictions such as these would constrain the exploitation of loopholes, build confidence in the SALT relationship, and reduce the destructive power of both sides' forces.

Paragraph 2 would reduce in the medium term, a first strike capability against ICBMs, particularly the MX, by prohibiting "heavy" ICBMs (such as the SS-18) which can carry a large number of powerful (one megaton) and accurate warheads. Also, the limit on single warhead megatonnage of 1.5 megatons and on megatonnage for MIRVed warheads to .5 megatons would also contribute to the reduction of first strike capabilities.

Paragraph 3 attempts to preserve the survivability of the SLBM forces of both sides, this being singularly important as ICBMs are growing even more vulnerable to attack. This probably cannot be done forever, but providing large "safe haven" areas from which hostile attack submarines and ocean based surveillance systems are banned would be most efficacious in this regard.

Paragraph 4 is concerned with ensuring that gray area systems negotiations and SALT III negotiations are structured in such a way that neither side can develop and deploy systems that are not caught in the arms control "dragnet." Both sides would agree that new nuclear delivery systems could not be deployed without falling into a controlled category.

Paragraph 5 recommends diligent efforts in the formulation of additional verification and confidence building measures. The use of technical and human means should be explored. "No-notice or challenge" on-site inspection seems to hold great promise. Perhaps, four man inspection teams (a team consisting of two U.S. and two U.S.S.R. colonels) could be formed and placed on call, one in each country. Upon receipt of a challenge inspection request, and each side would have 20 or so challenges available to it each year, the teams would have to be on-site within 12 hours. This should make cheating a high risk option.

Paragraph 6 asks that both sides consider some changes in the limits on strategic defensive forces. This would include allowing ABM complexes around more than one MPS ICBM site and creating some limits on defenses against air-breathing threats (bombers and cruise missiles).

Section 9. Definitions.

This section defines the term "cruise missile" as an unmanned, self-propelled, guided, weapon-delivery vehicle which sustains flight through the use of aerodynamic lift over most of its flight path and the term "strategic nuclear delivery vehicle" means either an ICBM launcher, SLBM launcher, heavy bomber or air-to-surface ballistic missile (ASBM), but not a heavy bomber equipped only for ASBMs.●

SENATE RESOLUTION 222—SUBMISSION RELATING TO THE NEED TO ACCELERATE EFFORTS TO DEVELOP RENEWABLE RESOURCES AS A SOURCE OF ENERGY

Mr. TALMADGE (for himself, Mr. STEWART, and Mr. LUGAR) submitted the following resolution, which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 222

Whereas the effective production and marketing of agricultural commodities in the United States are dependent on an adequate supply of fuel;

Whereas rural communities suffer inordinately from shortages of fuel;

Whereas fossil fuels are becoming less available and more expensive for farmers and rural communities;

Whereas renewable resources produced by farmers have great potential as a source of energy;

Whereas farmers and rural communities should reduce dependence on fossil fuels through increased reliance on energy produced from renewable resources;

Whereas energy produced from renewable resources can meet a substantial part of the energy needs of the people of the United States, helping stabilize energy prices and reducing the flow of dollars out of the United States for imported oil;

Whereas because of the great potential for production of energy from renewable resources and the benefits that will result from such production, efforts should now be made to develop the advanced technology and production facilities necessary for the effective and energy-efficient production of energy from renewable resources;

Whereas Congress has given the Secretary of Agriculture authority that can be used to implement programs to develop advanced technology and production facilities for obtaining energy from renewable resources; and

Whereas it is vital that the Secretary of Agriculture act immediately to exercise this authority in order that effective and efficient use of renewable resources for energy production can begin as soon as feasible: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of Agriculture act now, under the authority provided under existing law, to implement programs to develop advanced technology and production facilities for obtaining energy from renewable resources produced by United States farmers, including, but not limited to—

(1) a program, using the research resources available to the Department of Agriculture, to develop (a) economical and energy-efficient fuel from agricultural com-

modities and forest products, (b) uses for the byproducts of alcohol production, (c) alternative crop-livestock systems specifically designed to produce both foodstuffs for domestic and export markets and biomass for use in the production of energy, (d) techniques for using energy derived from non-fossil fuel sources in the production and processing of agricultural commodities and forest products, especially techniques that farmers may use, (e) economical ways in which rural communities can use energy derived from non-fossil fuel sources, and (f) uses for wood, particularly hardwood, as an economical and energy efficient material in building construction;

(2) a program, using the extension resources available to the Department of Agriculture, to disseminate (a) energy research results, as they become available, to farmers and others, and (b) information now available on energy-conserving farming techniques (including reduced tillage farming and soil testing to maximize use of fertilizer) and on steps that all persons can take to conserve energy (such as increased reliance on insulation in housing);

(3) the establishment of energy centers throughout the United States demonstrating production of fuel from wood and other biomass material, the use of energy derived from agricultural commodities and forest products for industrial parks and small cities, wood gasification for crop drying, poultry housing, and other agricultural uses, and direct burning of wood in industrial production, such as in the textile industry;

(4) increasing Agricultural Stabilization and Conservation Service and Soil Conservation Service efforts to assist farmers in converting to the reduced tillage farming system and in testing soil prior to application of fertilizer;

(5) a loan program under the Consolidated Farm and Rural Development Act providing operating loans to farmers for on-farm energy production systems or to establish wood-based energy plantations;

(6) a loan program under the Consolidated Farm and Rural Development Act to provide financing to rural communities for the construction, establishment, or operation of energy systems using wood, peat, water power, or other effective nonfossil fuels;

(7) a loan program under the Rural Electrification Act to provide financing for the construction, establishment, or operation of projects for the generation and distribution of electricity produced from energy derived from low-head hydropower;

(8) a research and development program by the Rural Electrification Administration to develop wood and peat as sources of electricity and to improve the efficiency of generation of electricity by hydropower;

(9) a program under the Food Safety and Quality Service to reduce energy consumption in food processing by revising processing standards and providing information to processors on energy efficient processing methods; and

(10) a joint program under the Agricultural Stabilization and Conservation Service, the Forest Service, the Science and Education Administration, and the Soil Conservation Service to develop guidelines to insure that biomass and synthetic fuel production does not irreparably harm United States soil and water resources.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of Agriculture.

● Mr. TALMADGE. Mr. President, yesterday I was happy to join the distinguished Senator from Alabama (Mr. STEWART) and the distinguished Senator from Indiana (Mr. LUGAR) in introducing S. 1613, the Rural Energy Independence Act of 1979.

S. 1613 would establish programs necessary for the rapid development of renewable resources (including wood and wood wastes) as a source of energy production, and to insure that farmers and rural communities have reliable supplies of energy as fossil fuels become less available and more expensive.

There are, however, a number of actions that the Secretary of Agriculture can take under existing law to accelerate efforts to develop renewable resources as a source of energy. These efforts should be taken even before S. 1613 or similar legislation is signed into law.

I am, therefore, introducing a sense of the Senate resolution urging the Secretary to act now, in a number of areas, to implement programs to develop advanced technology and production facilities for obtaining energy from renewable resources produced by U.S. farmers.●

SENATE RESOLUTION 225—SUBMISSION OF A RESOLUTION TO ENCOURAGE MORE EFFECTIVE MARKETING OF AGRICULTURAL COMMODITIES BY FARMERS

Mr. McGOVERN submitted the following resolution, which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 225

Whereas, the American farmer has traditionally worked long hours for low profits; and

Whereas, farming is an extremely risky business, subject to variations in weather, insect infestation, and viscissitudes of world markets, and unpredictable other factors over which the farmer has no control; and

Whereas, the farmers' profit margin has been reduced even further by rampant inflation in the cost of farm inputs such as fuel in recent years; and

Whereas, farmers have seen an increase in the number and importance of their marketing decisions in recent years; and

Whereas, the traditional emphasis of the Department of Agriculture, the land grant colleges and the Cooperative Federal-State Extension Service has been on the production of agricultural commodities rather than the marketing commodities; and

Whereas, American farmers should have an opportunity and ability to avail themselves of a favorable market price at the time they make their planting decisions: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of Agriculture, using all of the agencies within the Department of Agriculture and working closely with the State land grant colleges, the Commodity Futures Trading Commission, and the Cooperative Federal-State Extension Service, devote increased emphasis to teaching farmers how to better market their agricultural commodities.

SEC. 2. The Secretary of Agriculture should emphasize the use of all the marketing tools that are available to farmers, including but not limited to use of futures markets and forward contracting.

SEC. 3. The Secretary of Agriculture, in consultation with the Commodity Futures Trading Commission, should appoint a task force of individuals from the futures industry, the Department of Agriculture, and the State land grant colleges for the purpose of educating farmers as to availability of futures markets and forward contracting as a means of hedging against future risks.

SEC. 4. The Secretary of Agriculture should report to the Senate 120 days after the enactment of this resolution his plans to implement the intent thereof.

SEC. 5. The Secretary of the Senate shall transmit a copy of this resolution to the Secretary of Agriculture and to the chairman of the Commodity Futures Trading Commission.

Mr. McGOVERN. Mr. President, I introduce a resolution with reference to the marketing of farm commodities and the role that futures trading plays in a successful agricultural market.

This resolution would urge the Secretary of Agriculture to establish a task force for the purpose of educating farmers in the use of futures markets and food contracting to decrease the risk of farming.

I have long felt that American farmers are not receiving a proper share of the food dollar. There is no group of farmers in the world that is nearly as efficient as the American farmer. When it comes to the production of wheat, corn, soybeans, and many other commodities, there is no group of farmers that can compare with the American farmer.

Unfortunately, American farmers are not as effective in marketing their commodities as they are in producing them. All too often the Nation's farmers sell their commodities at a low price and then see prices skyrocket at a later date. At other times, they plant their crops when prices are high only to see prices fall drastically at harvest time. They are frustrated and disillusioned because they feel that the profits on their commodities are going to middlemen and speculators.

Many of our larger farmers have in recent years learned how to use the most sophisticated marketing techniques to guarantee a proper return on their products. However, the majority of the Nation's farmers still remain at the mercy of the marketplace.

I believe that it is imperative that the Secretary of Agriculture do a better job in teaching the Nation's farmers to market as well as to produce their products. I would like to see the Nation's farmers have much more expertise in the use of the Nation's futures markets. I would like to see individual farmers and groups of farmers take advantage of the price hedging features of the Nation's futures markets to lock in a profit at the time their planting decisions are made.

Therefore, I am today introducing a sense of the Senate resolution that would urge the Secretary of Agriculture to place increased emphasis on the marketing of agricultural commodities by farmers. He would be urged to teach farmers to use all the marketing tools that are available, including futures markets and forward contracting.

This resolution would urge the Secretary of Agriculture to establish a task force for the purpose of educating farmers in the use of futures markets and forward contracting to decrease the risks of farming.

AMENDMENTS SUBMITTED FOR PRINTING

ENERGY SUPPLY ACT—S. 1308

AMENDMENT NO. 388

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. KENNEDY (for himself, Mr. DURKIN, Mr. JACKSON, Mr. HATFIELD, Mr. TSONGAS, Mr. BUMPERS, Mr. MATSUNAGA, Mr. WALLOP, Mr. BAUCUS, Mr. PERCY, and Mr. MELCHER) submitted an amendment intended to be proposed by them, jointly, to S. 1308, a bill to set forth a national program for the full development of energy supply, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. KENNEDY. Mr. President, today I am introducing, along with Senator DURKIN, and Senators JACKSON, HATFIELD, TSONGAS, BUMPERS, MATSUNAGA, WALLOP, BAUCUS, PERCY, and MELCHER, a major program to reduce oil imports by more than 4 million barrels of oil equivalent per day by 1990. The program concentrates on the positive side of conservation by offering incentives to the private sector to increase the efficiency of our energy use. It has been offered as a printed amendment to S. 1308, the Energy Supply Act currently being considered in the Energy Committee. It is designed to reduce our dangerous dependence on oil imports as quickly, surely, and cost effectively as possible.

The oil saved through this program will cost an average of $11 per barrel while reducing our dependence on imported oil costing $20 per barrel. It will maximize employment, ease inflation, and involve all Americans in a genuine national effort. It relies on technologies that for the most part have been demonstrated and are familiar to energy users, thereby increasing the certainty that our imports can indeed be dramatically reduced in the near future.

The program has three parts:

First, it provides for direct grants to individual homeowners or apartment dwellers who insulate and take other measures to increase the efficiency of the home energy use. The maximum grant would be $750, and would be taxable. It is modeled after the Canadian grant program which began 2 years ago in Nova Scotia and is now being used nationwide. Participation by Canadian citizens in their grant program is currently right on schedule while participation by U.S. citizens in our tax credit program is lagging far behind.

Second, our program provides low-interest loans to commercial property owners and developers for making investments to increase the efficiency of energy use in buildings like restaurants, shopping centers, and offices. The repayment terms of the loans will be made attractive by insuring that the repayment period exceeds the estimated payback of the conservation investment.

Third, our program includes a series of incentives to accelerate investment in increased efficiency measures by industry. We are increasing research and development for industrial processes that show the most potential for significant energy savings. We are providing a loan forgiveness program for engineering grants so that industrial firms will be encouraged to study the cost-effectiveness of altering their systems. Loans would be repaid only if the study established that investing in a more efficient industrial process was cost-effective. And we are providing the incentive of a $15 per barrel rebate for every barrel of oil saved for the first year following an investment to increase industrial process efficiency.

Taken together, these programs will require approximately $58 billion over 10 years in Federal outlays. The Federal cost will be about $34 billion. The program will result in a net savings to the American economy of $230 billion. Clearly this program deserves to play a central role in any national effort to increase our energy independence.

The background material describes the program in more detail. I ask unanimous consent that several articles that have appeared recently regarding the overall potential of energy productivity be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, July 26, 1979]

CONSERVATION IS THE KEY

Is that a Papermate pen in your pocket? It can now be produced for 30 percent less energy than in 1973. Is it a sacrifice to make or use such a pen? No. But somehow the idea of conserving energy has become confused with the idea of sacrifice, penalty, loss, lack of growth. A pocket pen is a tiny example of a message that is being written large in Washington this week. The Congress, the President, and the American people ought to read it carefully. For there are realistic limits on the conventional and new-form fuel production increases over the next decade, even with massive governmental support. Conservation produces more for less—immediately. It must have high priority both to get the United States through the transition period to reduced dependence on imported oil and to make sure that the energy of the future is used wisely and well.

A major disappointment in Mr. Carter's new energy proposals is the scant encouragement ($2 billion) given to conservation in comparison to, say, synthetic fuel ($88 billion). While direct comparison is difficult, his predicted conservation goal (500,000 barrels of oil a day) seems an obvious bargain compared to the synfuel goal of 2½ million barrels for 44 times that $2 billion conservation budget figure.

Now, indeed, the President seems more concerned about conserving the energy of Congress. After trying to make the nation believe it is in a state of crisis, he says it's okay with him if Congress takes August off and gets back to the crisis in the fall.

Fortunately some parts of Congress have not lost interest in developing an effective energy program. They are this week considering the views of a Harvard Business School team some of whose members are testifying on Capitol Hill on their report on a six-year project, "Energy Future," which is officially published today. They take account of all the possibilities for increased production but come back to conservation as "the key energy source."

Congress also has just been offered a legislative proposal on conservation by Senators Kennedy and Durkin. It would offer, among other things, quick and direct payments to people who insulate their homes, somewhat in the manner of a Canadian program that has resulted in substantial savings of fuel, according to a Canadian official involved.

The Harvard and Kennedy-Durkin proposals on conservation follow a growing cry from environmentalists and others to use the earth's resources with care. But sometimes the cry has been dismissed as romanticism or no-growth philosophy. We do feel that there is a moral question here. Waste by the affluent cannot be tolerated in a world haunted by poverty. Thrift, nonmaterialism, voluntary simplicity, as it has been called—these are virtues. Yet there is also a hard-nosed, dollars-and-cents, enlightened-self-interest case to be made for conservation. This is what is being made in Washington now.

Canada's experience with grants is instructive. When the national program began in 1977, the response fell far below forecasts. As fuel prices increased and energy became world topic number one, the response has increased. By the end of last year, some 60,000 grants had been made, and inquiries are coming in at the rate of 1,400 a day. In Nova Scotia and Prince Edward Island, particularly dependent on imported oil, grants were made nontaxable, and virtually all the homes in metropolitan areas are or will be insulated. But people seemed to need the push of higher prices with or without government help.

In the U.S. an added question is—why should there be this kind of government expenditure for certain people and industries, including, say, the insulation industry which is benefited by residential insulation subsidies? The answer depends on how the public feels about any government subsidy for energy purposes. We believe the need is such that taxpayers will have to bear some of the load. If they are to underwrite industries producing fuels, they also ought to underwrite the saving of fuels, with its higher proportionate payoffs. Not only is the owner of the insulated home benefited but so are other Americans who now share in the extra energy released to go around.

Then comes the argument that America's way is to produce its way to the future, not to cut back its way to the future. Here is where the Harvard scholars and others demonstrate that economic growth is not incompatible with efficient use of energy and can indeed be enhanced by it. They cite examples abroad. They cite periods in U.S. history when economic growth at lower expenditures of energy was higher than at times when energy expenditures were higher. There is a flexibility here that can be exploited.

Capital investment is required in many cases. But there is also much that can be done with little of it. For example, Colgate-Palmolive cut energy use by 18 percent over three years by "mostly housekeeping," according to Harvard. Western Electric's Kansas City plant cut by 38 percent in five years with "almost no investment."

Each of us around the house is finding out how much can be cut by better housekeeping. How a little more can be saved with weatherstripping. How another jump can be taken with insulation. As for those gas-hungry cars: It may be a sacrifice to sit in a gas line, but there is really no sacrifice in driving a car that gets good mileage. Keeping Detroit up to mileage standards required over the coming years is another way government can help. It is a common enterprise of the sort President Carter called for even if he has not yet gone to bat for conservation itself as we hope he will.

[From the Journal of Commerce, July 26, 1979]

HARTFORD ANNOUNCES ENERGY SAVING PLAN

HARTFORD.—The Hartford Insurance Group has pledged to Gov. Ella T. Grasso that it will dramatically expand the company's energy conservation program.

The Hartford said its actions will include the installation of solar reflective film on 1,638 windows of the major building in its home office complex, the purchase of 800 compact cars for its countrywide fleet, introduction of van pooling and a variety of other programs to encourage changes in energy usage by employees.

The Hartford, whose home office complex houses about 4,000 staffers in the city's Asylum Hill area, summarized its plans in a report to Gov. Grasso who has requested that the state business community act to reduce energy consumption. The governor visited the company last week to take part in an "energy fair" for employees.

TO CUT FUEL USE 48 PERCENT

DeRoy C. Thomas, the Hartford's chairman and president, said that the more than one dozen new actions, coupled with substantial energy savings already achieved, will result in a net 48 percent decrease in fuel use by his company.

The Hartford has surveyed workers on mass transit needs, including the additional leasing of buses by the company and the introduction of a van pooling program. Nearly 500 employees have expressed an interest in taking part in such new programs and the potential exists for eight to 10 vans being purchased initially, Mr. Thomas said. In addition, the company is helping employees match up with each other to make carpooling easier.

Solar reflective film is now being installed in the Hartford's Tower Building on its Asylum Avenue home office complex. It will cover windows on all but the north side where it is judged unnecessary. The film is expected to reduce the amount of fuel needed to heat and cool the Tower Building by 20 to 25 percent, or 42,000 gallons of oil annually, Mr. Thomas said. The $60,000 project will be completed by early August.

In a major effort to reduce gasoline consumption, all 800 cars added this year to the company fleet will be compact cars and a substantial number of those will be four-cylinder models, Mr. Thomas said. All fleet drivers will be asked to reduce their mileage by 10 percent and each company car will carry a bumper sticker saying "The Hartford's Pushing 55" to promote the 55-mile-per-hour speed limit.

The company is sponsoring four two-day "energy fairs" in the home office. The weekly events will provide employees with extensive information on fuel saving measures related to mass transportation, personal car use and home energy use. The "energy fairs" will be followed by workshops on home insulation.

The Hartford also will hold a one-hour "gasoline conservation course" for interested employees, and the company said it is considering construction of an off-street bus center on its property which will offer employees a large, comfortable shelter.

Mr. Thomas said that through several programs started in recent years, fuel consumption has been reduced by 37 percent since 1973—a period which included the addition to the home office complex of the 335,000 square feet North Plaza Building.

That structure, Mr. Thomas noted, houses the company's computer operations and the heat generated by the computers has been harnessed to provide about 55 percent of the six-story building's heating needs.

Mr. Thomas said that although the energy program reported to Gov. Grasso principally involves the Hartford's home office, the company's 50 regional offices will be directed to reduce their energy use as well.

[From Los Angeles Times, July 15, 1979]

Energy-Conservation Lessons Applied: Second-Generation Experimental House Finished

(By Terence M. Green)

Building on lessons learned in the first phase of the experiment, a major utility, a large land company and the federal government have produced a second-generation energy-thrifty house.

Called MED II (for minimum energy dwelling), the single-family house incorporates a multitude of energy-saving features designed and selected to cost the practicable minimum.

Partners in the project are the Southern California Gas Co., which is spending $75,000 to lease the house for the demonstration period; the Mission Viejo Co., which built the house in its Orange County new-town development, and the Department of Energy, which is allocating $50,000, principally for engineering, monitoring and other specialized personnel.

MED I consisted of two houses, both of Mission Viejo's 1,150-square-foot Cordova model, one of which was used as a demonstration and exhibit structure, the other occupied by a family.

In contrast, one only house (again a Cordova) is involved in MED II; it is not occupied and there are no firm plans at present for its occupancy.

"This second phase of MED is a logical extension of the more experimental original project," said Pat Shea, gas company vice president for consumer affairs.

"Valuable information gained from MED I research enabled us to demonstrate more advanced, cost effective energy-saving features in MED II."

Energy consumption was reduced by more than 50% in the two original houses, the gas company said, but the cost of technology and the houses' experimental nature made the total price too high for practical consideration by many builders.

In contrast, the goal of MED II is to use 30% to 40% less energy with features costing only 2% to 3% of the standard tract home's price.

As one example, the MED I houses were heated and cooled and supplied with hot water by solar energy equipment. In MED II, the only solar use is water heating and that will be optional.

Heating is accomplished by an English-made unit, the British Hydronic System, which takes a fraction of the space required by more traditional units. Gas-fired, it keeps hot water in a closed loop for both domestic use and for space heating through the use of fan-coils.

Cooling is accomplished by an "economizer cycle" device which brings in cool air from outside, replacing the conventional air conditioner.

Styrofoam sheeting on the outside of conventional walls brings their insulation rating to R–19 (state standard is R–11) and the ceilings are insulated to an R–30 rating (R–19 is standard).

Other features, some of which were carried over from the MED I experience, include an aluminum ridgevent to let hot air out of the attic and a sealed, insulated foundation.

Mission Viejo Co. estimated that all of the MED II conservation features, except the solar option, can be installed in a new 1,150-square-foot house for about $1,500. The solar water heating system would cost $2,000 to $2,500.

[From the Christian Science Monitor, July 24, 1979]

A Building Design That Cuts Energy Costs by 70 Percent: Planned TVA Offices To Use Sun, Groundwater Sources

(By Robert M. Press)

ATLANTA.—Most of the office buildings in the United States are "horribly inefficient" in energy use, according to one solar power expert.

Built to give the maximum number of employees a view, many structures in winter lose precious heat through large glass panels on the north side while practically broiling employees on the south side. And natural heat from bodies, computers and lights usually escapes through poorly insulated walls and ceilings.

Now the Tennessee Valley Authority (TVA)—which President Carter recently assigned the goal of becoming the nation's "solar showcase"—is about to begin constructing a massive building designed to cut typical big-office energy operating costs by 70 percent.

The five-story office for some 5,000 TVA employees—to be built in Chattanooga, Tennessee—will tap solar, underground water, and other fuel-saving sources in what is said to be the largest combined application ever of such alternative techniques.

Construction will cost about $5 a square foot more than a quality office building without such features. But within six or seven years the reduced energy cost in operating the new TVA office building will make up the difference, TVA officials say.

TVA board member Richard Freeman says he hopes the new structure will be "a demonstration for the rest of the valley and, hopefully, for the rest of the nation" of what can be done to make office buildings more energy efficient.

These are the main features of the $60 million, 1-million-square-foot building, on which construction is expected to begin before the end of the year:

1. Solar. A transparent roof will let in maximum sunlight in winter, with the warm air pumped through the building to reduce heating costs. Louvers will shade the roof during hot months.

Large windows on the south side and 12-foot ceilings (higher than for most offices) will allow maximum penetration of daylight. With the aid of reflectors, even most desks far from any window will get some natural light, reducing normal lighting costs.

2. Insulation. Much of the warmth from bodies, office machines, and lights will be trapped by tight insulation in ceilings and walls, further reducing heating costs.

3. Underground aquifer. Water 59 degrees F. in a large underground stream will be pumped up into the building's air-conditioning system. The water is then returned at 70 degrees F. to the underground stream.

The well will be at least 50 and possibly up to 250 feet deep. The construction costs of this system, including drilling and pumps, will be "comparable" to the cost of installing a conventional air-conditioning system, says TVA's John O'Donnell, assistant project manager. Operating costs for the aquifer system will be 73 percent lower than running a regular air-conditioning system, he says.

Use of the ground water for heating and cooling, not a modern technology by any means, is still not very common in the U.S., says John Salisbury, the US Department of Energy's deputy director of geothermal energy.

Drilling costs are the main drawback, he says. And some states have laws restricting the kinds of water recycling the TVA plans.

But with the growing cost of fuels and a fairly widespread availability of underground water sources, the TVA design holds promise, says Dr. Salisbury.

Designing less "horribly inefficient office buildings through greater use of solar techniques can reduce the use of coal and reduce the environmental problems associated with increased coal-burning, says Donald Abrams of the Southern Solar Center in Atlanta.

If offices become more energy self-sufficient, he adds, there will be less need for costly electric power plants.

[From the Boston Globe, July 25, 1979]

Melding an Energy Program

For all its size—$88 billion for starters—President Carter's proposed Energy Security Corp. has a rather narrow scope for meeting the highly laudable objective of replacing 2.5 million barrels of imported oil.

The President's Energy Security Corp. would quite properly pursue development of our major energy resources locked up in shale and coal in the western states. The enormous capital requirements of such development very likely demand a public enterprise that can endure investment of billions of dollars without fairly speedy income on that investment.

Also quite properly, the corporation would be able to use its financial strength to encourage development of other sources such as alcohol fuels and natural gas from hard-to-reach reservoirs.

But the President might have used the corporation to formalize the more comprehensive approach everyone knows will be required if the country is to escape its embarrassing dependence on imported oil. The President should codify the penny-saved-is-a-penny-earned approach to energy by making conservation a part of the package as well.

Congress will have a lot to say about the final format of the package, of course, and it is therefore highly appropriate that rival packages begin appearing, as one from Sen. Edward M. Kennedy did on Monday before the Urban League convention in Chicago.

The most appealing feature of the Kennedy package is its inclusion of direct subsidies for householders' expenditures for energy-saving steps. Kennedy places high hopes on the amount of energy that can be saved through improved household and industrial energy efficiency, the equivalent of about 4 million barrels of oil daily. He gets at the heart of the problem by proposing up to $750 for each household, a far more vigorous program than the $300 in tax credits available to families under the current system of conservation assistance.

The problem with the current system, based on a 15 percent tax credit on investments up to $2,000, is that it assumes that householders have the $2,000 in the first place and they can wait until the following year to get their partial reimbursement. The energy problem is too severe to depend on a diluted system.

Kennedy's second useful expansion of the Carter program is assistance to an even broader spectrum of energy sources. Kennedy proposes subsidies to solar and any other oil-displacing fuel through a system of bidding for aid. The proposal places greater emphasis on efforts by the private sector than by the Energy Security Corp. It should accelerate development of more efficient energy exploitation of new sources.

Both Kennedy and Carter obviously recognize the need for massive effort. If their proposals can be melded, and augmented by others in Congress or elsewhere, the nation will be a real gainer in energy. The point, in any case, is to avoid relying on too few alternatives.

Mr. DURKIN. Mr. President, I am here today to introduce along with Senator KENNEDY what I consider to be the most important piece of energy legislation to be considered by this Congress; "the Energy Productivity Act."

Not only is this legislation important in terms of providing help to energy distressed homeowners and businesses, it is unique among the energy proposals introduced thus far in that it will produce results in time to help us get through the next few winters and get our economy back on its feet. It will immediately begin to make available more gasoline and heating oil.

The events of the past few months, the nuclear accident in Pennsylvania, the President's decontrol of oil prices and OPEC's decision to further squeeze the economies of the world have made it crystal clear that we will not be able to make it through the next several winters without a great deal of distress and suffering. This is inevitable unless we enact legislation now which has the potential of bearing fruit in the next few seasons.

Virtually all of the energy proposals relating to the production of oil, gas, coal or synthetic fuels, including the proposals offered 2 weeks ago by the administration, fail to address the immediate needs of people for energy and economic relief. In fact no meaningful energy supplies would be produced by any of the proposals for at least a decade.

Increasing energy supplies by expanding reliance on imported oil or developing synthetic fuels is also costly and risky, both economically and environmentally. Increasing energy productivity on the other hand, eliminates the need to expose ourselves to the costs and risks of banking our Nation's energy independence solely on the development of new energy sources or on imported energy supplies.

Additionally, most of the active energy proposals pending in the Congress involve massive Federal subsidies for traditional energy production. That means giving a lot of money to the energy companies not to the people affected by high energy prices. I am convinced that this legislation will provide a valuable new way of looking at energy—from the energy consumer's standpoint rather than from the energy producer's standpoint. Rather than subsidizing big energy corporations to produce energy, we should provide financial assistance to consumers to improve efficiency.

This is the cheapest, most equitable short-term way to decrease our reliance on imported oil.

This legislation saves energy. However, it does not mean doing without energy, or "going back to the caves and candles" but doing more with the energy that is available; in other words, increasing the amount of productivity extracted from each bit of energy used. I am not talking about great personal and collective sacrifices, nor am I talking about slowing the growth of our Nation's economy, but about improvements in the productivity of energy used in industry, homes, and businesses. What this legislation is all about can be properly called energy thrift; using the ingenuity of which America is proud to increase the productivity of every Btu of energy used.

As Daniel Yergin at the Harvard Business School wrote recently:

> If the United States were to make a serious commitment to conservation, it might well consume 30 to 40 percent less energy than it now does, and still enjoy the same or an even higher standard of living.

This legislation is the way to start now to reduce dependence on foreign supplies and thwarting the continuing upward spiral of energy prices.

The costs of my proposal are small in comparison to the costs of the alternatives. Simply stated, slowing the growth of energy consumption by increasing energy productivity can save us a great deal of money. While some investment is needed to improve energy efficiency, it is almost always cheaper to produce the same energy from new sources. Therefore, it is no exaggeration to say that energy savings are the most economical new energy source available.

Another advantage of this program over those proposed by the administration is that it will create twice as many new jobs. By 1990 we expect to have created 400,000 unskilled and semiskilled jobs; a labor market which is in acutely short supply.

My proposal addresses all three sectors of the economy, residential, commercial, and industrial, with energy incentive programs designed to accelerate the use of energy-efficiency in each sector with the least Federal interference and lowest economic cost. The specific proposal is described below:

RESIDENTIAL SECTOR

In 1978, the United States used the equivalent of 4 million barrels of oil each day for space and water heating of residences. This could grow to 6 to 8 million barrels by 1990 unless we increase the efficiency of energy use in our homes. Measures which increase residential efficiency result in fuel savings of 50 percent or more. They include insulation, storm windows, caulking, weatherstripping, and furnace retrofits.

Our present 15 percent tax credit to homeowners, the sole incentive in the residential sector, has been ineffective in promoting residential energy efficiency.

Participation in this program is only half as high as the administration expected. Some of the reasons for this disappointing result are that the benefits do not reach the consumer until he receives the credit on his income tax. This may not occur until months after the initial investment and even then the credit is available only to those who use IRS form 1040, not the simpler 1040A. Moreover, the homeowner must provide up to 85 percent of the capital for energy-efficiency improvements; a cost which many people simply cannot afford.

The residential part of our proposal is modeled after the Canadian home insulation program (CHIP). CHIP is a 7-year, $1.4 billion grant program designed to reduce Canadian residential energy consumption by 30 percent in 70 percent of their homes. Currently, Canadian citizens are applying for this program at the rate or 1,500 to 2,000 applications per day, which is approximately the participation rate necessary to reach their 7-year goals.

Like CHIP, this program relies on taxable grants as an incentive to U.S. citizens to make their homes more efficient. Since the grants are taxable, the program will have a positive distribution of benefits for low-income homeowners.

Just as importantly the benefits are immediate. The legislation requires DOE to mail grant checks out within 30 days of the time the application is received.

I believe that this program can be spectacularly effective both in reducing energy consumption in the residential sector, and in finally providing a way for the Government to provide relief for citizens from spiraling energy prices. This will be accomplished without complex financial schemes, burdensome paperwork or the creation of another massive bureaucracy.

The bottom line is that if we promote this program vigorously, we can reduce the use of oil and gas in our homes by 1.6 million barrels a day by 1990.

COMMERCIAL

It is essential to include the commercial sector in any national program to encourage energy productivity. In 1978 alone the commercial sector used the equivalent of 5 million barrels of oil per day—or the equivalent of 60 percent of this country's oil imports. In light of the national security problems posed by this imported oil, it is clearly in the national interest to vigorously promote programs in the commercial sector to reduce import consumption.

There are more than 20 billion square feet of commercial property in the United States which are ineligible for any Government building programs. Experts in the conservation field say that implementation of cost-effective, proven technologies can often reduce energy use by 40 percent or more in this sector.

One might ask if technologies exist and are cost-effective, why businesses do not take advantage of the savings potential of energy productivity investments. I believe that the answer lies in the fact that the cost of capital for these investments is too high. Businessmen wisely ration their limited borrowing ability to finance investments which are either urgently needed or which provide the highest rate of return. They will therefore not borrow to invest in energy efficiency unless these investments are made more attractive than competing uses of capital.

The low-interest loan program which we are proposing today does just this. It presents a direct and positive incentive to private business to transfer investments to energy productivity. Best of all, it is estimated that within 10 years this legislation can save the equivalent of 700,000 barrels of oil per day.

One feature of the proposal I would especially like to bring to your attention is the "small business set-aside" which we have included. This provision protects the interests of small firms who have the least access to cheap capital to make energy-efficient improvements. These small businesses are the backbone of the national economy. Over 48 percent of this country's GNP is produced by these firms. Therefore the set-aside I propose is an identical 48 percent of the total funding available.

It is especially important to make this money easily available to small firms which must compete for customers by keeping the prices of products and services low. If energy prices skyrocket, as all signals indicate they will, these small businesses which cannot afford energy efficiency investments, will be put at a substantial disadvantage and possibly forced out of business. This will result in decreasing competition and increasing the concentration of power in the hands of big business interests.

The principal features of our proposal for the commercial sector are outlined below:

The Secretary of Energy would establish a commercial property energy conservation loan program within DOE.

The administrator of the program would be advised by a four-member advisory board, with the members appoisted by the President.

The loans would be given at a 3-percent interest rate.

The repayment period of the loans would be 1½ times the payback period of the energy productivity investment, thus improving the borrower's cash flow. For example, if the investment is estimated to pay for itself in 4 years, through energy savings, the repayment period of the loan would be at least 6 years.

Costs of the loan may be passed through to tenants where the energy savings also are passed through.

The initial outlays for the loans ($5 billion per year for 5 years) would be rolled over. The value of the loan commitments by 1990 is estimated to total $54 billion.

The Federal Government's costs for this program are only $13.4 billion, while it would save $17.5 million a day or $3.4 billion a year in oil purchases by 1990.

INDUSTRIAL SECTOR

The industrial sector has made major strides in increasing the productivity of energy use in recent years. Thus, a program designed to accelerate this trend has great promise. Although the industrial sector uses 35 percent of the energy consumed in the United States, the energy costs for many industrial users are a small component of their total costs. The reluctance of industry to introduce energy saving techniques into their existing production process is very great.

Further, although many energy efficient techniques may be socially beneficial in that they reduce oil imports, private firms legitimately pursue their own interests in their decisionmaking. From the firm's perspective, these investments may be submarginal.

The industrial portion of the energy productivity program has three elements:

First. An accelerated energy productivity R. & D. program. The research and development program which the Department of Energy conducts on a cost-sharing basis with industry is one of the Government's most successful energy programs. The program has produced a number of important breakthroughs in energy productivity and tested several energy-saving processes to the point where industry can now begin to use them with confidence in their economics and reliability.

While I have always advocated the termination of wasteful programs, such as the Clinch River white elephant, I am a supporter of those successful, productive Federal programs. Therefore, I propose that we add $200 million over the next 5 years to DOE's industrial research and development program.

The projects to be pursued under this program have especially attractive economic and energy saving features. Each of the projects would have a maximum payback period of 3 years and would generate $10 in energy savings for each dollar of Federal investment. These features insure that the processes and equipment which will emerge from this program will be attractive to industry and will penetrate the marketplace rapidly, providing large energy savings on a reasonable timetable.

The main points of my proposal for the industrial sector are as follows:

Second. Industrial energy loan program. This provision would establish a loan program within the Department of Energy. Loans would be given to industrial firms to conduct engineering studies of proposed energy-saving process changes. If it is determined that the project studied would be cost effective, the loan would be repaid. If the project is not cost effective, the loan would be forgiven. This program is expected to save 400,000 barrels of oil per day, with an investment of only $23 million per year.

Third. Industrial energy grant program. Under this part of the program, the Federal Government would pay industrial firms $15 for each barrel of oil (or its natural gas equivalent) which is saved in a 1-year period through the implementation of an energy-saving industrial process change. Experts calculate that it would cost $8 billion in Federal grants to reduce industrial energy consumption by 20 percent through this program.

The grant is based on the savings achieved in the first full year after the implementation of the process change. The base period is the year preceding the change. Figures will be adjusted for output changes to assure a true improvement in energy productivity per unit output.

The grant is paid only one time. The recipient would certify the intention to use the new process for 5 years. Thus, the savings to the economy continue to accrue for many years in the future.

SUMMARY

For a long time now I have appealed to the survival instincts of the administration to do something about energy prices and the great hardships imposed on the people of my region by persistent energy shortages. I am now convinced that it must be Congress which takes the lead and fully commits itself to boosting the Nation's energy efficiency. If we fail to do this, we will be seriously abdicating our duties and endangering the economic well-being of this generation and future generations. I will not be convinced that Congress and the administration have taken a serious stand on high prices and energy shortages until I see that we are helping the people of New Hampshire, New England, and the Nation achieve greater energy efficiency.

I have been fighting for similar measures for some time, I am here calling for positive action now, and I will continue my efforts to get the Federal Government to stand behind its promise to make energy productivity its No. 1 energy priority. Enacting the legislation proposed today by Senator **KENNEDY** and me will be an important step toward that goal. By 1995 this bill will save 16.2 billion barrels of oil. We cannot wait any longer.

Mr. President, I ask unanimous consent that a factsheet and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACT SHEET ON THE ENERGY PRODUCTIVITY ACT

Cuts imports by 4.4 million barrels per day by 1980.

Increases employment by ½ million jobs.

Costs $58 billion over 10 years ($5.8 billion per year).

Average cost per barrel of oil saved is $3.60.

PROVISIONS OF THE BILL

1. Residential Sector—Adopts Canada's approach to home insulation by using a taxable grant (max. $750) to any owner, tenant or landlord who installs approved conservation materials in a principal residence.

Estimated Cost (7 years)—$25 billion. Estimated Savings (10 years)—1.5–1.8 mmb/d in oil equivalent.

2. Commercial Sector—Sets up a Commercial Energy Conservation Loan Program to make low-interest loans available to building owners willing to make improvements in the energy efficiency.

Estimated Cost (10 years)—$25 billion. Estimated Savings (10 years)—0.7 mmb/d in oil equivalent.

3. Industrial Sector—Research and Development Program at about twice the present level targeted where energy savings potential is the greatest ($200 million).

Loan forgiveness program for the architectural, engineering and planning costs of energy productivity investments ($230 million).

Grant program providing $15 for each barrel of oil saved by a firm during a one year period ($8 billion).

SECTION-BY-SECTION ANALYSIS

Sec. 1021.—Definitions.

Sec. 1022.—Residential Energy Conservation Office.

A Residential Energy Conservation Office (RECO) is established within the Department of Energy to be administered by a Director.

Sec. 1023.—Energy Conservation Improvements.

Renters or owners, including landlords, of principal residences may apply to the RECO for reimbursement of expenditures made for the purchase and/or installation of energy conservation improvements. This list of such improvements (see Sec. 1021) parallels the list included in Title II of the National Energy Conservation Policy Act.

The application must be answered within 30 days.

Maximum ceilings for reimbursement are imposed according to the following schedule:

Maximum total grant, $750.

Maximum labor cost, $200.

Type of residence, detached, semi-detached, attached independent residence.

Maximum total grant, $500 per unit; maximum labor cost, $150 per unit; Type of residence—apartments in buildings of 3 stories or less and containing 6 units or less.

Maximum total grant, $300 per unit; maximum labor cost, $100 per unit; type of residence—apartments in buildings of 3 stories or less and containing more than 6 units.

Maximum total grant, $200 per unit; maximum labor cost, $50 per unit; type of residence—government-owned or nonprofit hotels used as a principal residence.

Sec. 1024.—Promotion of Program.

Sec. 1025.—Program Evaluation.—The Director shall report to Congress on the success of the program in reaching eligible persons and inducing cost-effective investments.

Sec. 1026.—Audit of Transactions.—GAO is authorized to conduct audits of the program and report its findings to Congress.

Sec. 1027.—Authorization.—$25 billion in funds are authorized for the life of the program.

Sec. 1028—Consumer Information.—Any person selling eligible materials to homeowners shall certify whether it complies with RECO regulations.

Sec. 1029—Penalties.—Willful falsification of an application or certification shall be punishable with criminal penalties.

SECTION-BY-SECTION ANALYSIS

Section 1031.—Findings and Purpose.

Section 1032.—Definitions.

Section 1033.—Loans.

This Section authorizes the Secretary to make loans to industrial firms. The loans are to be used to pay for all or part of engineering costs for energy-efficient process changes.

The Secretary is directed to consider the potential energy savings, cost, and risk of each project when he sets terms and conditions for the loan.

Certain minimum conditions are specified in the legislation:

(1) The industrial firm must intend to implement the change under study, provided the change is judged to be cost-effective.

(2) If the firm implements the project, the loan is repaid to the government at the previously negotiated terms.

(3) If the firm decides not to proceed, it must document its decision as required by the Secretary. The Secretary then forgives 50–100 percent of the loan. It is the specific intent of this legislation that loans be fully forgiven only where the engineering study determines, and the Secretary concurs, that the proposed project is not cost-effective.

The Secretary is further directed to act in a manner to assure good faith on the part of the firms.

Sec. 1034.—*Funding.*

This Section authorizes appropriations as follows:

[In millions]

Fiscal year:	*Appropriation*
1980	$8
1981	27
1982	39
1983	40
1984	42
1985	43
Total	199

Section 1041. Findings and Purpose.

Section 1042. Definitions.

Section 1043. Rebates.

This Section gives the Secretary of Energy the rulemaking authority to implement the industrial energy rebate program.

Eligible projects must be approved by DOE. The projects must save oil or natural gas directly measured on a per unit of output basis. It is the specific intent of this legislation that only direct oil and natural gas savings, and not electricity savings, qualify for the rebate.

The rebate is equal to $15 for each barrel of oil or the equivalent in natural gas saved.

The savings are defined as the oil and gas used in the year before the project less the oil and gas used in the first full year after implementation, adjusted for output variations.

To qualify for the rebates, applicants must certify their intent to use the new process or equipment for at least 5 years.

Section 1044.—Authorization of Appropriations.

This Section authorizes such sums as may be necessary.

Section 1051. Purpose.

Section 1052. Definitions.

Section 1053. Establishment of the Loan Program.

This Section establishes the Commercial Property Energy Conservation Loan Program and locates it in the Department of Energy. The Program is provided with a three-year authorization.

The operation of the Program is managed by an Administrator who is a senior grade civil servant.

This Section further provides that the Secretary of Energy shall consult with the Secretary of Housing and Urban Development and with the Secretary of the Treasury in the management of the Program.

Section 1054. Advisory Board.

This Section creates a four-member citizen Advisory Board to assist in establishing Program policy. The president is directed to name four private citizens to the Board: one to represent the general public, one to represent the scientific community, one to represent the commercial building industry, and one to represent lending and financial institutions.

It is hoped that persons nominated to the Board will be persons of outstanding ability and expertise and that the Secretary of Energy and the Administrator of the Program will involve them deeply in the Program's operation. It is anticipated that members of the Board will be present at public hearings and rulemaking proceedings of the Program.

Section 1055. Loans.

This Section sets out the substantive lending provisions of the Statute. Loans are intended to be made to owners, builders, or developers of commercial property. These loans are intended to be available for the renovation or other adjustment of existing property as well as for that portion of the construction costs of new building which falls within the qualifications of Section 1055(a)(2).

The listing of qualified energy conservation systems in Subsection 2 is based on Department of Energy regulations with respect to similar programs for schools and hospitals. This list is not intended to be exhaustive or complete, as the Secretary is specifically authorized in Subsection (aa) to add to the list the financing of any other measures which will save a substantial amount of energy. Additionally, it should be noted that under this Section funds are available for the planning and design of energy conservation systems whether or not such systems involve the purchase of new hardware.

Section 1056. Terms of Loans.

The loans will be made at the rate of 3 percent interest per year. The terms of loans will be established by the Program at between one and 15 years. However, no loan will be required to be repaid in a period of less than one and one-half times the payback period of the energy conservation systems which are required. It is intended that, consonant with sound business practices, the Program will adopt a liberal policy toward the periods of time for which money is lent, in order to establish the greatest incentive for the use of the program.

No single loan made by the Program will exceed the lesser of $5,000,000.00 or $4.00 per square foot of environmentally conditioned property.

Section 1057. Rules and Regulations.

This Section gives the Program the basic rulemaking authority possessed by the Department of Energy. However, it is the specific intent of this Section that the Program be functioning at the earliest possible date and that the Secretary may suspend or adjust rulemaking procedures in order that the Program may be fully operational as soon as possible.

Section 1058. Energy Savings and Loan Cost Pass-Through.

This Section provides that, where a borrower has leases which provide for an energy savings pass-through, the borrower may also pass through the annual payments on his loans from the Program. Building owners are thus encouraged to undertake a program of energy conservation and the rights of tenants to energy savings are preserved.

Section 1059. Penalties.

This standard Section provides criminal penalties for fraudulent loan applications.

Section 1060. Reports.

This Section requires an annual report from the Secretary to the Congress and the President. It specifically requires that the Secretary estimate with as much precision as possible the energy savings which the Program has made possible. The Advisory Board is encouraged to report in detail on the operation of the Program and to make its own recommended changes as part of the annual report.

Section 1061. Promotional Program.

This Section authorizes the Program to undertake an affirmative program to advise possible borrowers of the Program's existence and of the availability of funds for these energy conservation purposes.

Section 1062. Use of Department of Energy Personnel.

This Section authorizes the Secretary of Energy to permit other employees of the Department to assist in the operation of the Program and is intended especially to make available to the Program the technical and analytical assistance of the Department.

Section 1063. Authorization of Appropriations.

This Section authorizes appropriations for the Program for the Fiscal years 1980, 1981, 1982, 1983 and 1984.

Mr. HATFIELD. Mr. President, few Members of this body doubt that we are about to embark on a very ambitious program to produce synfuels—particularly those liquid hydrocarbons that many hope will power American automobiles right on through the next crisis. Clearly we need to reduce our dependence on foreign oil, and hydrocarbon fuels produced from coal, shale, and biomass will be a part of this effort, in the long term. But we need to back foreign oil out of our economy now.

Every new report we obtain at the energy and natural resources committee is more bleak in its prospects for world oil stability than the one before. The world oil supply situation is still extremely tight and will remain so for the foreseeable future. This means that even small future supply disruptions, which are inevitable, will reverberate throughout the Western industrialized world. We simply cannot leave ourselves exposed to economic pneumonia when the Arabs sneeze, or the Iranians, or the Nigerians, or any other foreign oil producers.

We are about to pursue the early commercialization of synfuel technologies, and we are serious enough about the word "early" that I anticipate we will set up an organization separate from the Department of Energy, out of reach of the Office of Management and Budget, and on a very long congressional leash. That new organization will likely have great authorities to assist synfuel commercialization, and access to a large account at the Treasury. I would propose that its authorities and budgetary clout also be brought to bear on the one system that can make a significant difference in our oil situation in the short run. That system is conservation.

We should be just as willing—more willing—to invest in people's homes, in our transportation systems, and in our present places of work as we apparently are willing to invest in the oil companies. We can buy barrels of oil by backing out their use in many sectors of our economy just as surely as we can buy barrels of synthetic fuels. If we would have a special Government board throw money at the oil companies to have them do what is not economically prudent today, we should also direct that board to throw money at American homeowners who do not have sufficient incentive today to buy more insulation.

I am joining several of my colleagues in introducing legislation to finance a conservation effort in homes, in business, and in industry. They include, significantly, the chairman of the Energy and Natural Resources Committee (Mr. JACKSON), and the chairman (Mr. DURKIN) and ranking minority member (Mr. WALLOP) of the Subcommittee on Conservation and Supply. Clearly, we believe this legislation can be the vehicle to carry consideration of a conservation effort similar in impact to synfuels, yet sooner and cheaper than synfuels. While I have reservations about certain details of the legislation we are introducing today, I have none about the concept. I am willing to embrace this bill as a starting point, and I am very eager to begin the discussion, including early hearings to move consideration to the markup stage as soon as possible.

I thank the senior Senator from Massachusetts (Mr. KENNEDY) for his leadership and for sparking the necessary action on this score. I intend to do all I can to keep the spark fanned.

Mr. WALLOP. Mr. President, I rise today to offer my cosponsorship of amendment No. 388. I do so enthusiastically, for this approach via conservation will enable citizens of this country to be active participants rather than hapless victims in our war for energy security. This legislation will assist homeowners, businesses, and industries to form a creative partnership with the Federal Government to implement both proven and innovative techniques to conserve energy.

This conservation program has three parts:

First, it would provide direct grants to homeowners or renters who insulate their homes or take other steps to increase home energy use efficiency. The maximum grant would be $750, and the grant level would vary depending on the building and the improvements made. Grants would be taxable. The program is modeled after a Canadian grant program called the "Canadian Home Insulation Program" which began 2 years ago in Nova Scotia and which is now successful nationwide. While the U.S. program providing tax credits for energy efficiency improvements has lagged behind schedule, participation in the Canadian program is right on schedule.

Second, the program would provide low-interest loans to commercial property owners and developers for increasing energy efficiency in commercial establishments like offices and restaurants. The repayment period would in all cases exceed the payback period of the conservation investment, thereby making the loans attractive.

Third, the program would include incentives to accelerate better energy efficiency in industry. Increased funds would be made available for research and development of energy-saving industrial processes. A loan forgiveness program for engineering grants would encourage industrial firms to study the cost-effectiveness of changing to more energy-efficient systems. Loans would be repaid only if the study found that investing in a new industry process was cost-effective. Finally a per-barrel rebate incentive is offered for every barrel of oil saved in 1 year following an investment to increase industrial process efficiency.

The United States clearly needs to take bold and effective measures to curb our dangerous dependence on foreign oil. The pain of the 1973–74 oil boycott was acute. Unfortunately, the memory of the pitfalls of dependence on foreign oil was not permanent. In 1974 the United States imported 6.1 million barrels of oil per day from foreign sources. Last year, that figure had grown to 8.2 million barrels per day. Immediately after the Arab oil embargo this country spent $24.3 billion per year on imported oil. This year that figure is expected to skyrocket to $50 billion.

In December of 1978 our complacency was again shattered. Political unrest in Iran forced the closure of oil fields and a termination of exports to the United States as well as other foreign countries. By early spring the results of this action were beginning to be felt in the towns and cities of America. Gasoline lines formed. Farmers and truckers scrambled for diesel. Dangerous tensions developed between suppliers and consumers of petroleum products. Once again we were reminded that both our economic well-being and our national security were not within our control. We were, and are, too dependent on foreign oil.

In response to this intolerable dependence on foreign oil, Congress is considering a number of alternatives. Several initiatives call for massive, rapid acceleration of synthetic fuel development. Under this approach a production goal is established which ranges between 1.5 million and 2.5 million barrels per day by 1995. Also, the legislation provides financial incentives to carry out these tasks. The cost of such undertakings range upwards to $100 billion.

In addition, there are various so-called fast track proposals designed to expedite the siting of "priority" energy facilities. Under these proposals the Federal Government could set deadlines for State completion of whatever State actions are required by State law—a truly novel way of implementing "cooperative" federalism. In the rush for more energy, Congress could impair the State's freedom to structure the delivery of traditional

Government services. In essence, Washington will be intruding in the State's ability to site and license major energy facilities, when States are in fact far better suited to knowing what data and information is needed for a particular site than is the Federal Government.

Washington's interest in accelerating synthetic fuel development as well as stepping into a role of plant siting implies that the States have been remiss in developing energy and siting facilities. Yet an objective examination of the facts proves this is not so.

The West has experienced a tremendous growth in energy activities since the Arab oil embargo of 1973–74. In my State of Wyoming, we have tripled coal production, tripled uranium production, and increased thermal generating capacities by 50 percent since the Arab oil embargo. We are now fifth in the Nation in crude oil production, seventh in natural gas, and second in uranium production. We may soon lead the nation in coal production and are presently undergoing the most ambitious oil and gas exploration and development program in the history of the lower 48 States. In fact, so prolific is our warehouse of minerals, that a wildcatter's single hole could find crude oil, natural gas, coal, oil shale, uranium, hot water, hot steam, iron ore, bentenite, soda ash, or pure drinking water.

In spite of the accelerated growth in energy production from such States as Wyoming, our dependence on foreign oil has continued to grow. Why? I suggest, Mr. President, that it is because a very important ingredient has been missing from the energy equation—conservation. Without conservation, States such as Wyoming could continue to double or triple their energy output and still be unable to satisfy the ever-growing energy needs of this Nation. Therefore, it is essential that we adopt dual goals: The ability to both produce and save our way out of this energy crisis.

Conservation is an appropriate energy alternative to a massive commitment to unproven energy technologies such as a rapid synthetic fuels program. Synthetic fuels can and will be a viable option for the future, but they must be developed in logical steps instead of massive crash programs. In addition, an influx of federally financed synthetic fuel plants coupled with ambitious development of conventional energy resources can place intolerable burdens on the environment, health, and social fabric of this Nation, particularly the West. If the Federal Government will respect the role of the marketplace, many of the technological and economic problems associated with synthetic fuels will take care of themselves. If the selling price of energy is able to reflect its replacement costs, that is, free market system, then synthetic fuels production will be able to attract investors by its own merit and not because of massive Federal subsidies. In addition, higher energy prices will encourage the efficient exploration and development of our own conventional energy resources.

You may ask, Mr. President, is it not contradictory to on one hand be opposing large Federal subsidies for synthetic fuel development while on the other hand advocating those subsidies for conservation initiatives? The answer is no. An active Federal presence in the area of conservation is justified because it attempts to correct some of the inequities fostered by misguided energy policies of the past—policies promulgated by the Federal Government. For years, Federal policies have enhanced the notion that fuel is abundant and cheap. Through price controls, the Government kept the price of energy below the replacement cost of new supplies. This encouraged consumers to rely more heavily on energy consumption than on conservation. OPEC has jarred us out of this fantasyland. But it happened only after we had developed an economic system based on inefficiency and waste. The time has now come to correct those inequities. While I continue to advocate decontrol of oil and natural gas, I feel Federal incentives for conservation embodies in this bill will help citizens save energy as market prices rise.

In joining the list of cosponsors to this legislation, I notice with interest that there is a wide array of ideological views. Our diverse philosophies will not disappear simply because we have joined together in calling for a nationwide effort toward conservation. There will undoubtedly be disagreement over some of the substantive ways to bring about conservation.

There are some conceptual changes that I already have identified and want to explore during hearings on this bill. In the residential section of the bill, I want to examine ways to deliver grants which can take into account local variances in climate and energy use patterns. It may prove that Statae energy conservation offices or local utilities companies could more effectively deliver these services than a new office within the Department of Energy. In the area of low interest loans to commercial property owners and developers I believe the Committee on Energy and Natural Resources should give careful attention to whether or not 3 percent efficiency loans are too low. Such a low interest rate could make the loans so attractive that it would be impossible to keep up with the demand for this benefit. The provisions for improving industrial energy efficiency also need review. It may be that the loan forgiveness program should be aimed primarily at small industry. Also, industry may be more responsive to a series of accelerated depreciation and tax credits rather than to a per barrel rebate for saved energy. In the past, industry has been sensitive to devulging the amount of energy used in an individual process and might be unwilling to participate.

Also, there is a fourth sector that has not been mentioned in this bill. Agriculture has traditionally been an energy-intensive industry and I would like to work with the Department of Agriculture as well as various State agencies in developing ways in which the agriculture sector could qualify for provisions of this bill.

Finally, the Federal Government should be a partner in this Nation's drive to conserve energy. The National Energy Act which Congress passed last year calls for Federal building energy performance standards and other efforts to conserve Federal energy use. I would like to see Congress review how well these efforts are proceeding, to see if additional savings can be achieved.

In closing, Mr. President, I want to reemphasize that this conservation approach is a needed balance. If it is the concensus of Congress that it is in the best interest of national security to commit billions of taxpayer dollars to break the OPEC stranglehold, then we most certainly owe the American people the assurance that our expenditures will accomplish the goal. Conservation has a proven track record. Synfuels do not. To quote from a July 27 letter from the Comptroller General of the United States to the chairman of the Synfuel Subcommittee on the Budget Committee:

> While synthetic fuel development is clearly an important and worthwhile national goal, we believe that conservation should take just as high or a higher priority. Conservation is likely to be considerably cheaper on a per-barrel-of-oil basis, will have a sure, a more rapid payoff, and can be implemented on every level, individual citizens, up through businesses, local government, and including the federal government, and even international bodies.

I urge my colleagues to join in this worthwhile effort. It is a valid framework in which to begin a constructive and necessary debate.

RECLAMATION REFORM ACT OF 1979—S. 14

AMENDMENT NO. 389

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted an amendment intended to be proposed by him to S. 14, a bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes.

• Mr. MORGAN. Mr. President, today I am submitting an amendment which is designed to strengthen the Reclamation Reform Act of 1979, S. 14 (Rept. 96–235).

This legislation is to be considered by the Senate shortly upon our return from the August recess in September.

The amendment I am offering today will strengthen S. 14 in at least three ways.

First, the amendment will recognize property rights, rights that are central in American life.

Second, the amendment affirms the concern of the Congress in the family farm, an institution that is central to the welfare of all Americans.

Third, the amendment will return to the taxpayers of America, either directly or indirectly, hundreds of millions of dollars more than S. 14.

My amendment is a straightforward approach to recognizing the important values that I have discussed above.

Unfortunately, much of the discussion that has occurred in the press and in various other forms since the time this legislation was reported out of the Committee on Energy and Natural Resources has tended to confuse and sensationalize rather than to elucidate the important issues and values at stake in this bill.

Mr. President, my interest in this legislation is not new. On May 10, I addressed the Senate with my concerns regarding reclamation reform. My comments are recorded in the Congressional Record of that day, beginning on page 10644.

In a way, I feel somewhat uncomfortable about involving myself in what has been described as a Western issue. Nonetheless, I believe that it is important for the Members of this Chamber to have the opporutnity to make a clear choice on this significant legislation.

Mr. President, I ask unanimous consent that my amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT No. 389

On page 12, beginning with line 10, strike out all through line 21.

On page 12, line 22, strike out "(d)" and insert in lieu thereof "(b)".

On page 16, between lines 15 and 16, insert the following:

(k) (1) Nothing in this Act nor in any other provision of Federal reclamation law shall prohibit the delivery of water, made available pursuant to a contract with the Secretary, to land owned or leased by a qualified recipient in excess of a landholding: *Provided,* That the recipient thereof agrees to pay, for such water deliveries, a surcharge in an amount which shall be based upon the charges paid by a qualified recipient for the capital recovery component of the cost of water service to non-excess lands, upon a progressive basis as follows:

(A) for the first additional 320 acres in excess of a landholding, 10 percent of the cost to non-excess lands;

(B) for the next additional 320 acres in excess of a landholding, 40 percent of the cost to non-excess lands;

(C) for the next additional 640 acres in excess of a landholding, 80 percent of the cost to non-excess lands; and

(D) for all additional lands in excess of a landholding, 100 percent of the cost to non-excess lands.

(2) (A) Water service surcharges required pursuant to this subsection shall be used by the contracting entity for the reduction, by an amount not to exceed 50 percent, of the water service charges otherwise required from qualified recipients farming 160 acres or less.

(B) Any such surcharge funds not required for purposes of subparagraph (A) of this paragraph shall be deposited in a special account, in an amount not to exceed one-hundred million dollars, in the Treasury of the United States for use, as provided for in appropriation Acts, by the Farmers Home Administration in subsidizing interest costs at below market rates to individuals buying farms of 160 acres or less located in an irrigation district in one of the so-called seventeen land reclamation States. Any moneys remaining in such fund at the end of the fiscal year in which such moneys are credited to the fund and not otherwise earmarked for the purposes of this subsection shall be deemed transferred to the general revenues of the United States as miscellaneous receipts and shall be first credited against the repayment obligation of the appropriate contracting entity, and if none, then to the operation and maintenance charges.

MEDICAID COVERAGE FOR CHILDREN—S. 1204

AMENDMENT NO. 390

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. Church, Mr. Hatfield, Mr. Javits, Mr. Kennedy, Mr. Metzenbaum, Mr. Moynihan, Mr. Randolph, Mr. Riegle, and Mr. Williams) submitted an amendment intended to be proposed by them, jointly, to S. 1204, a bill to strengthen and improve Medicaid services to low-income children and pregnant women, and for other purposes.

● Mr. CRANSTON. Mr. President, today I submit for printing an amendment to S. 1204, a bill to expand medicaid coverage for children and for other purposes. I am pleased to be joined in introducing this amendment by Senator Church, Senator Hatfield, Senator Javits, Senator Kennedy, Senator Metzenbaum, Senator Moynihan, Senator Randolph, Senator Riegle, and Senator Williams.

Mr. President, our amendment would mandate medicaid coverage of low-income women who are pregnant with their first child. This amendment is identical in concept to title II of S. 1204, as introduced by the distinguished Senator from Connecticut (Mr. Ribicoff), and to S. 1211, legislation I introduced on May 22 with the cosponsorship of Senator Williams, Senator Stafford, Senator Riegle, Senator Javits, Senator Hatfield, Senator Church, and Senator Baucus.

Our amendment, which has the strong support of the administration, would correct the current inequitable situation in many States under which a woman becomes eligible for medicaid coverage only after her first child is born, but is not eligible during the all important prenatal period when conditions for a safe and healthy delivery are fostered and, to a major extent, the future health of the child is determined.

Mr. President, experience has shown that without assurance of third-party reimbursement many low-income women will not seek prenatal care but rather will arrive at the hospital emergency room when the birth of the child is imminent. This practice, obviously, creates a greater risk for the mother as well as the child.

Under the proposed amendment, the expectant mother can seek early prenatal care, secure in the knowledge that the physician fees will be covered. The result will be a greater chance for a healthy delivery and a greater chance for a healthy child.

I would like to point out, Mr. President, the specific benefits this proposal has in relation to the increased numbers of teenage pregnancies. These young women are particularly susceptible to bearing low-birth-weight infants. The report entitled "11 Million Teenagers" pointed out that low birth weight is not only a major cause of infant mortality, but also can lead to other childhood illnesses and neurological defects which may involve lifelong mental retardation—and quite possibly lifelong dependence on governmental support. That report went on to say that the death rate from complications of pregnancy is significantly higher for adolescents than it is for mothers in their twenties. Good prenatal care can help prevent these tragedies.

Our amendment would help assure that these young women will get the all-important health care they need during their pregnancies.

As the chairman of the Subcommittee on Child and Human Development of the Labor and Human Resources Committee, these issues are of major concern to me.

Mr. President, last Congress the subcommittee held hearings on the issue of adoption reform. Several witnesses testified that the provision of birth-related costs to women with problem pregnancies would help stem the tide of blackmarket adoptions, since women who have no other way of having their medical costs covered often resort to blackmarketeers. Baby sellers, these women have found, are all too ready to provide prenatal, natal, and postpartum medical coverage in exchange for the child. This situation is more tragic when viewed in the context of the teenage pregnancy epidemic. More than three-quarters of mothers who give birth at age 17 or younger have no health insurance at all. Only one-sixth are covered for prenatal care; fewer than one-fifth for payment of their hospital or doctor bills. These youngsters are ripe targets for blackmarket exploitation.

Of course this exploitation is not limited to teenagers but may be directed toward any pregnant woman fearful of her ability to pay for the costs of childbirth.

Then there is what seems to be an alarming increase in the rate of abortions among adolescents. A recent study shows that among those adolescents who became pregnant in 1976 only 62 percent of the pregnancies subsequently ended in live births. These data seem to indicate a marked increase in recourse to abortions in this age group. Many of these abortions may be precipitated by the woman's concerns about her inability to defray the costs of continuing her pregnancy to term.

Our amendment would address all of these situations by providing medicaid eligibility to women who do not have the economic resources to enable them to afford the all important prenatal, natal, and postnatal care so necessary for their health and the health of their expected baby. These women would thus be able to make their decisions with respect to their pregnancy free of the coercive effects of these economic considerations.

Under the Social Security Act at present, States are required to provide medicaid coverage for a woman only if she has a dependent child and is poor. Our amendment would require that medicaid eligibility be made available for all pregnant women whose resources would make them eligible for medicaid under the State medicaid program and whose income does not exceed the higher of the State medicaid income eligibility standard or 55 percent of the poverty level. This latter level is approximately $4,140 for a family of four and $2,800 for an individual. The medicaid coverage under our amendment would be provided for a pregnant woman and any child resulting from her pregnancy for 60 days after the birth of the child, even though the woman may, at some time after she becomes pregnant, become ineligible because of increased income.

It is estimated that 100,000 women would be covered each year under our amendment, at a total additional cost in the first full year of operation—fiscal year 1981—of $94.1 million to the Federal Government and $60.0 million to the States. Our amendment makes the effective date September 1, 1980, so the Federal cost in fiscal year 1980 would be no more than $7.7 million with a State cost of approximately $5 million.

Some form of coverage of women during first pregnancies is now provided by 31 States. Our amendment would make this coverage consistent in all States, broadening the coverage in 21 of them.

Our amendment has wide support among organizations concerned with the health of mothers and children and with the strength of families. These organizations are:

The National Conference of Catholic Charities; the Child Welfare League of America; American Citizens Concerned for Life; American Academy of Pediatrics; American College of Obstetrics and Gynecology; Coalition of Family Organizations (COFU) (composed of the American Home Economics Association, the Family Service Association of America, the National Council of Family Relations, and the American Association of Marriage and Family Therapy); and the Children's Defense Fund.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the Record at this point.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 390

At the appropriate place in the bill, insert the following new title:

TITLE : MEDICAID ELIGIBILITY OF PREGNANT WOMEN

Sec. . Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) as amended by section 203 of this Act is further amended by inserting at the end of subparagraph (A) the following new clause:

"(iii) for making medical assistance available to any woman for care and services provided during pregnancy and for 60 days following the termination of such pregnancy and to any child born as a result of such pregnancy until the end of that 60-day period if such woman's resources (including the resources of her family) meet the resources test of eligibility for medical assistance under the State plan approved under this title applicable to a family with dependent children, and whose income either (I) meets the income test of eligibility for medical assistance under such plan applicable to a family with dependent children or (II) does not exceed 55 per centum of the amount established for an individual or for a family of that size, as appropriate, by the income poverty guidelines for the nonfarm population of the United States as prescribed by the Office of Management and Budget (and adjusted annually) pursuant to section 625 of the Economic Opportunity Act of 1964;".

Sec. . Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) as amended by section 206 of this Act is further amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of this title, each State plan approved under this title must provide that any pregnant woman who is eligible for, has applied for, and has received medical assistance under this title and who becomes ineligible for such assistance because of increased income from employment of herself or her family, shall, nonetheless, remain eligible for all such medical assistance provided under the State plan until the end of the 60-day period beginning on the date of the termination of her pregnancy and that any child born as a result of such pregnancy shall remain eligible for all such medical assistance provided under the State plan until the end of that 60-day period.".

Sec. . Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) as amended by section 204 of this Act is further amended by—

(a) striking out "or" at the end of clause (vi);

(b) inserting "or" at the end of clause (vii);

(c) inserting after and below clause (vii) the following new clause:

"(viii) women during pregnancy and during the 60 days following the termination of pregnancy and during such sixty days any child born as a result of such pregnancy,"; and

(d) striking out "and" before "(C)" in paragraph (4), and by inserting "and (D) prenatal and postnatal services" before the semicolon at the end thereof.

Sec. . (a)(1) Except as provided in paragraph (2) of this subsection, the amendments made by this title shall apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of September, 1980.

(2) Where the Secretary determines that State legislation is necessary to permit amendment of the State plan under title XIX of the Social Security Act to meet the additional requirements imposed by the amendments made by this title, he shall not find a failure to comply with the requirements of title XIX of the Social Security Act solely on the basis of such State's failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this title.

(b) The Secretary shall issue the regulations required by this title within six months after the date of enactment of this title.●

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

● Mr. CHILES. Mr. President, there will be hearings of the Special Committee on Aging on "Energy Assistance for the Elderly," on Wednesday, September 12, and Thursday, September 13, at 10 a.m. in room 6226 of the Dirksen Senate Office Building.●

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, the Select Committee on Indian Affairs will hold a business meeting on August 3, 1979, at 10 a.m. in room 457 Russell Building, to consider S. 751 and S. 1077, the Navajo-Hopi Relocation Act.

SPECIAL COMMITTEE ON AGING

● Mr. CHILES. Mr. President, I would like to announce that I will chair a hearing of the Special Committee on Aging on home health fraud and abuse in Miami, Fla., on August 28, 1979. The hearing will take place at 10 a.m. in the Dade County Courthouse, 73 W. Flagler Street, Miami.

The hearing will explore progress being made by the Department of Health, Education, and Welfare and others to curb home health fraud, and abuse. Witnesses will be announced at a later date.●

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

● Mr. SASSER. Mr. President, I wish to announce the hearing schedule for the Subcommittee on Intergovernmental Relations, Committee on Governmental Affairs, for the month of September:

September 5, 9:30 a.m., room 3302, Dirksen: S. 1108, a bill to amend the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970.

September 6, 9:30 a.m., room 3302, Dirksen: Grant reform legislation with focus on S. 878, the Federal Assistance Reform Act; and, S. 904, the Federal Assistance Reform and Small Community Act of 1979.

September 20, 9:30 a.m., room 3302, Dirksen: Oversight hearing on General Revenue Sharing.●

SPECIAL COMMITTEE ON AGING

● Mr. CHILES. Mr. President, there will be a hearing of the Special Committee on Aging on "The Impact on Older Workers of Occupational Health Hazards: What Is Being Done To Address the Health Needs of Older Workers," on Thursday, August 30, at 1:30 p.m., in Grants, N. Mex. Senator Domenici, ranking minority member of the committee, will preside.●

ADDITIONAL STATEMENTS

THE BENEFITS OF DECONTROL

◉ Mr. McCLURE. Mr. President, Americans have been flooded with many solutions to our energy problems. Some maintain that we should ignore the workings of the free market, by continuing to impose artificial price controls on oil. This response invites economic disaster. Regulation stymies production and restrains development of alternative energy sources. We cannot allow this to occur, especially in view of the critical need to reduce our oil imports.

Mr. President, a recent editorial by Wayne C. Cornils, president of KFXD-FM in Nampa, Idaho, accurately explains the illogic of placing price controls on our oil. I urge my colleagues to read this excellent editorial and ask that it be printed in the Record.

Oil Decontrol

It's astounding to me that the President of our country can, with a straight face, try to convince us that decontrol of oil prices will hurt the country. That is an out and out politically motivated lie. Right now, today, there is a 36 year supply of oil in the free world at today's prices. With decontrol, allowing prices to flow to their free market level, that figure climbs to a 100 year supply. We don't have to plow billions of dollars into finding new fuels, we've got oil right now. Remember the natural gas shortage of a few years ago? Well, Congress decontrolled natural gas prices and now we have all the natural gas we need and at affordable competitive prices. In 1974 coal prices were decontrolled with no windfall profits tax, and now, with the government out of the price fixing game, we have a surplus of coal at affordable prices. And the same exact thing will happen to gas if and when the politicians stop playing politics with our future and our pocketbook and accept the fact that the free market works.●

S. 1601 AND S. 1602—ENERGY LEGISLATION

● Mr. SASSER. Mr. President, on Monday of this week I introduced two bills which respond to problems created by the delayed and insufficient information on oil production with which the Congress and the public have been supplied. I would like to request that the text of both of these bills, S. 1601 and S. 1602, be printed in the Record following my remarks today.

The first of these bills, S. 1601, would amend the Department of Energy Organization Act to insure that the Department collects and compiles sufficient and timely information from the oil companies with which to monitor a steady supply of needed crude oil and derived products. In view of the recent reports of substantial increases in earnings by the major oil companies, I feel the public and Congress have a right to expect reports on recent production and anticipated resources which will be available to meet demand in the coming quarter.

My bill requires the DOE to meet its responsibility to inform the public about current and future supplies of crude oil. It also authorizes DOE to set production goals after consultation with the industry and establish reasonable quotas and enforcement measures for meeting these quotas on production. These measures are designed to encourage planning for adequate short-term availability of supplies to meet our domestic demand and to promote maximum production from our domestic oil resources.

My second bill would create a position of Special Coordinator of Investigations to look into the causes of the recent fuel shortages. The purpose of this measure is to speed along the existing investigations in the Departments of Justice and Energy, and to expedite any necessary future investigations.

Without the information which will be provided and made available to Congress and the American people, we can have no control over availability of energy supplies. We are left at the mercy of the oil companies who certainly, as we have read, have not suffered much in the past few months.

Again, I request that the text of S. 1601 and S. 1602 be printed in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 1601

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205 of the Department of Energy Organization Act is amended by adding at the end thereof the following new subsection:

"(i)(1) The Secretary shall compile on the fifteenth of each month a report of the crude oil supplies received at all domestic refineries. The report required by the preceding sentence shall include—

"(A) the total supplies of crude oil, lease condensate, and natural gas liquids received by each refinery during the preceding month;

"(B) the name of each supplier of crude oil delivered;

"(C) the total refinery capacity of each company;

"(D) the amount of crude oil actually refined by each refinery into products such as gasoline, kerosene, jet fuel, distillate fuel oil, residual fuel oil, lubricants, and other products;

"(E) the amount of projected crude oil supplies required by each refinery for the following two months and the anticipated suppliers; and

"(F) the amount of crude oil by-products expected to be refined from the crude oil projected to be received in the following two months.

"(2) The report required by paragraph (1) shall—

"(A) consist of three categories of crude oil established according to gravitational weights of the elements within that oil;

"(B) consist of figures collected and released as company by company reports; and

"(C) indicate the original source of crude oil supplies.

"(3) All information supplied to the Secretary shall be subject to independent audit.

"(4) The report required by paragraph (1) shall be transmitted to the President and the Congress not later than the twentieth day of each month.

"(5) The Secretary shall, on a annual basis require each major oil producing company to submit the maximum efficiency recovery rate figures on a field by field basis.

"(6) The Secretary shall, on a monthly basis, establish for each major oil company reasonable production levels for the next succeeding two months. The Secretary shall notify the President and the Congress of the capacity of the major domestic oil companies to provide their share of crude oil and petroleum products to meet the energy needs of the Nation.

"(7) The Secretary shall by regulation require each major oil company to produce not less than 95 percent of the reasonable production level established for such company under paragraph (6).

"(8) If major oil companies do not supply 95 percent of the reasonable production levels determined under paragraph (6), the Secretary shall take one or more of the following actions—

"(A) require a written and independently verifiable report of the reasons why the oil companies were not able to meet their supply schedule;

"(B) Suspend domestic oil producing rights on federally owned lands if the Secretary has determined that such oil company did not exercise due diligence in producing domestic oil to meet its reasonable production levels; or

"(C) revoke entitlement allotments for crude oil if the Secretary determines that such oil company did not exercise due diligence in producing crude oil from domestic sources.

"(9) All mineral leasing rights and entitlements described in paragraph (8) shall be redistributed as soon as possible to any other oil producing company determined willing and able to meet production capacity.

"(10) The Inspector General of the Department of Energy shall make a full and complete report to the Congress of the actions taken by the Secretary pursuant to this section.

"(11) For the purposes of this subsection the term—

"(A) 'energy needs of the Nation' means that national crude oil supplies delivered to the nation's refineries are sufficient to meet production requirements for an orderly supply of gasoline and other petroleum products needed for mineral interruption in the nation's commerce including the normal routine of jobs and business, the steady provision of public services and the uninterrupted production and transportation of agricultural goods. Energy needs of the Nation shall be deemed not to be met when five States having more than 20 percent of the nation's populace have to implement measures to require rationing or staggered purchase requirements for gasoline; and

"(B) 'major domestic oil company' means a domestic producer having not less than 1 percent of domestic reserves of oil, or is producing not less than 1 percent of the national total, or has not less than 1 percent of domestic refining capacity or petroleum product sales.

"(12) There are authorized to be appropriated such sums as are necessary to carry out the provisions of this subsection.".

S. 1602

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Special Investigator of Fuels Shortages Act".

APPOINTMENT OF SPECIAL INVESTIGATOR

Sec. 2. (a) There is established a Special Board of Investigations of Petroleum Fuels Shortages (hereinafter referred to as the "Board"). The Board shall consist of 3 members to be appointed by the President by and with the advice and consent of the Senate. One member of the Board shall serve as chairman, and shall be known as the "Special Investigator". One member of the Board shall be an individual from the Department of Energy and one member shall be from the choose. Without a strong effort by EPA to inform it is unlikely the public will ever understand their choices. The result could be environmental overkill or an unwarranted reaction leading to a reversion to the more smog filled days of the past. Neither result need occur if choices are more clearly displayed to the public. There is no other institution in our society capable of providing this public guidance—save EPA.

Nothing is easier than recommending to one's successor how he ought to act. With some justification Mr. Costle or others could suggest that a healthy heeding of my own advice while at EPA would have helped. My response has to be that I will not shrink from urging statesmanship on others simply because I did not always practice it. Anyone who has spent time wrestling with the problems at EPA and who thinks—and that certainly includes Mr. Costle—knows how illusive is the public interest in these areas and how important is public knowledge if that interest is to be served.

It is time for EPA to go public with all its knowledge about scientific certitude or its lack in the area of public health. Only then can the public be aided in making intelligent choices about our environmental programs. It's a tough assignment but then EPA's a tough agency.●

FEDERAL TRADE COMMISSION'S PROPOSED REGULATION OF TV ADVERTISING FOR CHILDREN

● Mr. CRANSTON. Mr. President, a great deal of controversy has surrounded the Federal Trade Commission's—FTC—proposed rulemaking regarding television advertising directed toward children.

As chairman of the Subcommittee on Child and Human Development of the Committee on Labor and Human Resources, I have a special interest in the effects of television ads on children to young either to understand the selling purpose of the ads or to evaluate the nutritional and dental consequences involved with the consumption of highly carcinogenic and other harmful products.

I share the feelings of many parents and child advocates who believe that naive children should be protected from being manipulated by TV ads, and I can understand why the FTC is considering a staff proposal to ban advertising directed at children under 8 years old and the advertising of highly-sugared products directed at children from 8 to 11 years old and to require advertisers to fund nutritional counter-ads with respect to other sugared products.

I also believe that the FTC proposal and hearings have had and will have a positive impact in focusing attention on these issues and encouraging more concern and supervision on the part of parents who are, of course, the persons responsible for the well-being of their children.

At the same time, however, I am concerned about the proper role for the Federal Government in this matter. I am not convinced that it is the proper role for the Federal Government to limit severely or ban television advertising—not false or clearly deceptive—just because it may be aimed at certain vulnerable population groups. Although I do not think that we should ignore the problem and the need to protect children from undue influence from certain types of advertising, I am concerned about further governmental encroachments on first amendment rights. There is, I believe, generally a need to reduce—not increase—Federal regulation of the marketplace and the family.

Mr. President, at this point, I am convinced that the best approach would be for those in the television industry to undertake a serious effort to develop and enforce policies that take into account the naiveté of children and the power and persuasion of TV ads and that tailors the number, rapidity, intensity, and deceptiveness of these commercials.

I recently wrote to the presidents of ABC, NBC, and CBS to ask them to work with the FTC and the Federal Communications Commission to develop policies for self-regulation of this sort of advertising which has so much influence—much of it adverse—on the health and development of American children. I believe that a forceful effort of this nature within the television industry would reduce or eliminate the need for further governmental action.

Mr. President, I ask that the texts of the letters I recently sent to the heads of ABC, NBC, and CBS concerning this matter be printed in the RECORD.

The material follows:

U.S. SENATE,
Washington, D.C., July 19, 1979.

DEAR ———, as Chairman of the Labor and Human Resources Committee's Subcommittee on Child and Human Development, I have a special interest in the Federal Trade Commission (FTC)'s proposed rulemaking regarding television advertising directed towards children.

A great deal of controversy has surrounded the issue of the FTC's proposed regulation of manufacturers' advertising directed toward children too young either to understand the selling purpose of the ad or to evaluate the nutritional and dental consequences involved with the consumption of highly carcinogenic and other harmful products. The FTC staff report preceding the proposed rulemaking concluded, and many child advocates and parents agree, that naive children should be protected from being manipulated by advertising on TV. Personally, I find some of the child-directed ads offensive and against the public interest, and I can understand why the FTC is considering a staff proposal to ban advertising directed at children under 8 years old and the advertising of highly-sugared products directed at children from 8 to 11 years old and to require advertisers to fund nutritional counter-ads with respect to other sugared products.

Moreover, I am convinced that the FTC proposal and hearings have had and will have a positive impact in focusing attention on these delicate issues and encouraging more concern and supervision on the part of parents.

At the same time, however, I am not convinced that it is the proper role for the federal government to limit severely or ban television advertising (not false or clearly deceptive) just because it may be aimed at certain groups of children. There is legitimate concern that we should be working to reduce—not increase—Federal regulation of the marketplace and the family. I share this concern, as I do the concerns for further governmental encroachments on First Amendment rights.

I do not feel, however, that we should ignore the problem and the need to protect children from undue influence through the type of advertising that is presently aimed at their young minds. The best approach, I believe, would be for television networks to undertake a serious effort to develop and enforce a code that takes into account the naivete of children and the power and persuasion of TV ads and that tailors the number, rapidity, intensity, and deceptiveness of these commercials with these considerations in mind. I strongly prefer self-regulation and a voluntary approach.

I am, therefore, writing to each network head to ask that, in consultation with the Federal Trade Commission and the Federal Communications Commission, a policy be developed for self-regulation of this advertising, which can have so much influence—much of it adverse—on the health and development of our children. A serious effort of this nature within the television industry should reduce or eliminate the need for further governmental action.

I would appreciate your thoughts on the feasibility of such an approach.

With best wishes,
Sincerely,
ALAN CRANSTON.●

SALT II IMPLICATIONS

Mr. WARNER. Mr. President, one of the many areas of concern that has emerged from the Senate hearings on the SALT II Treaty, is the matter of whether our NATO Allies truly support the treaty in its present form.

We have heard repeated testimony from administration witnesses that the governments of our NATO Allies have given their strong support to the SALT Treaty. We have heard testimony that a failure to ratify SALT might lead to the very dissolution of NATO.

However, there have been other witnesses who have testified that European support for the treaty is shallow and that, if one looks beneath the surface, there is a very real concern that the treaty has weaknesses that may harm European interests.

I have recently read an article and an interview published recently in Germany by two respected defense experts.

These knowledgeable Germans provide a useful insight into some of the more serious European concerns over the SALT II Treaty and its implications.

I request that the article and interview be printed in the RECORD.

The material follows:

CAN AMERICA STILL PROTECT US? SALT AND EUROPEAN SECURITY

Moscow's arming also does not seem to be restrained by the SALT talks. The inferiority of the United States touches the West Europeans in particular.

If the signs are right, in the first quarter of 1979 the second agreement on the limitation of strategic offensive weapons (SALT II) will be signed by the heads of state of both superpowers. The high hurdles of the American ratification process still have to be overcome before the agreement is finally put into effect but the goal of SALT II opponents now seems to be not so much completely denying agreement to the treaty as to attempt to, by amendments, defuse the treaty if not actually rob it of its substance. Despite these certain amendments to the now 60-page treaty document, a discussion of SALT II at present is nevertheless possible, logical and necessary.

SALT II directly affects European security through the planned or plannable regulation passage of the Act as administrator of EPA, I set the standards for the four major pollutants associated with the automobile—hydrocarbons (HC), carbon monoxide (CO), oxides of nitgrogen (NO_x) and photo chemical oxidents.

In examining the criteria documents on the basis of which I made my decision, I became aware of just how conflicting and uncertain our evidence for causal links between pollution and health really are. Just for starters, there are scientific debates on appropriate statistics methodology, on what we can infer either from citizen reports or medical diagnosis and observations, on whether we can usefully relate one factor in a person's environment from many others. That is part of the reason why there is such intense debate about the usefulness of examining effects found in real human populations (epidemiology) and laboratory tests on animals. For example, I found myself looking at conflicting health results from tests using quite similar methods in two different locations or with slightly different control factors.[3]

The weight of the evidence was that there are associations between health and air pollution—though probably not thresholds. I made my judgments. But it was patently clear to me that my summing up of the evidence came at a specific slice of time; that new evidence would and should overtake my decisions; and that we would probably later learn, too, that the criteria that Congress gave me should be refined by what we would later find.

Again under the Act, all these ambient air quality standards were to be met all over the country by 1975. If the mandated 90% reductions of HC, NO_x, and CO did not do the job (and they could not) under Section 110, the Administrator then was to impose land use and/or transportation controls. The attempted imposition of the latter by EPA in response to the congressional mandate is where the individual citizen faced squarely the trade-off between clean air as defined above and his freedom. In most cases to date the individual citizen in defiance of laws passed pursuant to his demand for clean air has opted for freedom. The auto use restriction laws have not been effectively enforced because the average citizen would not hear of it.

The ambient standards have been modified since the passage of the 1970 Act. Under the 1977 congressional amendments the time for achieving the HC and CO standards was extended until 1981 in successive steps. The Congress tightened the NO_x standard from current levels but postponed the final 90 percent reduction until further research is conducted. Recently, Administrator Douglas Costle slightly loosened the photochemical oxident standard. And in the 1977 Act, Congress established a process for again looking at whether it had properly defined the basis for EPA action.

Still the ambient standards remain controversial. Scientists are divided over many aspects of air pollution and its relation to human health.

The 1974 National Academy of Sciences and National Academy of Engineering report on Air Quality and Automobile Emissions Control remains the most frequently cited source for estimating health impact of automotive emissions. It is the range of the estimates which most impress me. The NAS/NAE report states that air pollution may account for as much as 10 percent or as little as .01 percent of the urban health hazard. And automotive emissions are variously thought to account for as much as ¼ or as little as 1/100th of that pollution.[4] Hence the NAS/NAE report suggests that autos may contribute as little as 1/millionth to the urban health hazard or as high as 1/40th. The NAS/NAE's own estimate that it was 1/400th—or ¼ of 1 percent of the urban health hazard. We all get lost in numbers like these. And, of course, it has been five years since these scientific soundings and calculations made from them were taken.

But as time moves on, so also do the effects of both our emissions control efforts and our economic patterns. The OTA report further points out that if the 1977 standards are met, and no other controls are imposed, continued improvement in our nation's air will result. Under this scenario by the year 2000 even though automobiles will decrease by 60 percent CO and HC emissions from automobiles will decrease by 60 percent and NO_x by 30 percent. We will still not meet the ambient standards in all areas, but our present rate of progress gives us time to ponder the wisdom of trying.

What is needed in my judgment is a reexamination of our basic goal—zero health risk air quality—in light of our experience in trying to achieve it.

There are two essential elements to any serious reexamination effort. First we must establish a credible data base on health effects, with a clear understanding of what we know about the health effects of automobile related pollutants and what we don't know. We further need to have a coordinated health effects research program to get at the important unanswered questions. Secondly the government, in this case EPA, must abandon the role of advocate and assume the role of educator.

As to the first we need a full and complete look at the health effects of various pollutants—both traditional gaseous and emerging—and a good prioritization of which kinds of pollutants are of the most grave concern. We don't need more studies by either manufacturers or environmental groups or regulators developed for the purpose of winning the next legislative, judicial or regulatory battle. What we need is a cooperative effort in which all of the interested parties step back and allow our best scientists to really assess what we know and what we can learn relatively rapidly in order for us to be able to assess what pollutants and at what levels we should be most worried about. We will never know all we want to know about this. Our health effects knowledge is certain to be a moving target for as far ahead as we can see. But a national consensus could be developed on this and an absolutely bewildered public could again begin to make intelligent democratic decisions as to what risks it wanted to run if it had available the data in understandable form from truly credible sources. There is absolutely no excuse for the present contentiousness and mystery that shrouds—and will shroud—the public understanding in the absence of a reliable source prepared to communicate its findings intelligently.

Why is this important? Because we are reaching the place where, with both current and projected motor vehicle power sources, we are going to have to choose which kind of emissions we can live with. On the diesel, for example, there appears to be a trade-off between NO_x and both hydrocarbons and particulates. The trade-offs will be negotiated in an aura of acrimony by ideologists and self-interested parties unless we can develop facts which will inform all of us whether we can live with any of these emissions and which are more harmful.

If we know this, we would then be able to take another step which is crucial to rational urban environmental planning—to assess which sources we can most cost-effectively control and whether we need to or could distinguish regionally which power plants will be allowed in which areas.

Currently a car or truck on the Wyoming flats has the same emissions requirements as one operating in NYC. That may have been the most cost-effective solution when controls involved relatively inexpensive devices. But if there are significant trade-offs between fuel economy and emissions and between different emissions, it may be preferable to allow the Wyoming driver or the line-haul truck to roam except within certain SMSA's. Or, it may turn out that we can more cost-effectively establish healthy air in the cities if we reduce the on highway volume (i.e., through higher energy prices), leave transportation controls where they are (except, for example, on urban buses) and go after the large stationary sources. The 1977 Clear Air Act Amendments mandate such an analysis. If we really know something about health effects so that we know what to be most concerned about, such an analysis would be a significant policy tool.

Lastly, EPA must abandon or at least modify its traditional role as an advocate for a cleaner environment and instead adopt the role of educator. When EPA started in 1970, a skeptical public was insisting that steps be taken immediately to reverse what seemed to them the rapid despoliation of spaceship earth. The public demands resulted in a blizzard of environmental laws and new agencies created by a responsive Congress and Administration. It was necessary then for EPA to prove to a doubting public that progress could be made and the government was willing to crack down on polluters. That case has been made. Progress in a few short years has been remarkable and clearly the EPA has shown its willingness to act to protect the environment. As comprehensive laws like the Clean Air Act of 1970 have taken hold social strain has occurred. This was to be expected. No law that complex and all encompassing could be perfect. Its periodic adjustment was anticipated by Congress and should become a more natural, less contentious process if the public interest is to be served. EPA must now serve the public by informing. The time for advocacy is past. Spurs have been won.

The public, aided by credible scientific data, needs to fully understand what levels of health protection they are buying for what costs—both economic and social. It may be the public will decide that zero health risk is worth the costs. If the alternatives and their costs are clearly displayed to the public then through their representatives they can

---

environment. In establishing an ambient standard necessary to protect the health of these persons, reference should be made to a representative sample of persons comprising the sensitive group rather than to a single person in such a group. Ambient air quality is sufficient to protect the health of such persons whenever there is an absence of adverse effect on the health of a statistically related sample of persons in sensitive groups from exposure to the ambient air. An ambient air quality standard, therefore, should be the maximum permissible ambient air level of an air pollution agent or class of such agents (related to a period of time) which will protect the health of any group of the population.

"For purposes of this description, a statistically related sample is the number of persons necessary to test in order to detect a deviation in the health of any person within such sensitive group which is attributable to the condition of the ambient air."

L. B. Lave/E. P. Seskin, *Air Pollution and Human Health*, John Hopkins, Baltimore, 1977, pp. 312–313.

[3] For example, in 1967 investigators in Buffalo found close association between pollution and respiratory disease mortality during the same time period that other investigators in Nashville were finding no significant correlation.

[4] Volume 1, *Summary Report*, U.S. Government Printing Office, Washington, D.C. 1974.

July 1978, over 20 persons died from heat prostration. They were all elderly, poor, and lacked air conditioning.

With the President's recent energy proposals, which include a recommendation of low income energy assistance, the Special Committee on Aging has scheduled hearings to explore the subject of energy assistance for the elderly.

At the recommendation of Senator PERCY, the committee has adopted a resolution calling on the President and Congress to develop a program of assistance to meet the particular energy needs of the elderly.

Mr. President, I request that this resolution be printed in the RECORD.

The resolution follows:

RESOLUTION OF THE SPECIAL COMMITTEE ON AGING

ENERGY ASSISTANCE FOR THE ELDERLY

Whereas, energy costs have drastically risen and will continue to rise in the future;

Whereas, the President and the Congress are in the process of developing a national energy plan; and,

Whereas, the U.S. Senate Committee on Aging has documented that elderly persons pay a higher percentage of their income for energy costs and are more susceptible to hypothermia and heat prostration due to inadequate heating and cooling: Now therefore be it

Resolved, that it is the sense of the U.S. Senate Committee on Aging, that in the development of a national energy plan, the President and Congress shall assure that an adequate program of assistance to meet the particular needs of elderly persons is enacted.●

ADDRESS BY W. D. RUCKLESHAUS, DELIVERED TO ASPEN CONFERENCE ON FUTURE URBAN TRANSPORTATION

● Mr. LUGAR. Mr. President, I wish to commend to the attention of my colleagues a speech by William D. Ruckelshaus, former Administrator of the Environmental Protection Agency. The speech, entitled "The Future and Air Quality, a Time to Reassess," raises some extraordinarily important questions about the benefits we are deriving from our present clean air goals.

Ruckelshaus says:

> Since in my view we are at present approaching the limits of current technology and the substitutes appear to be beyond the horizon, and since other strategies do impinge forcefully on individual choice, it is time to carefully examine our goal to ensure that it conforms with the costs and social disruption it is causing. In other words, are the clean air standards worth the candle?

Because of Mr. Ruckelshaus' experience in this area and general reputation as one who is rational and intelligent, I believe that his ideas must be carefully considered even by those who come at the issues from a very different perspective.

I respectfully request that Mr. Ruckelshaus' speech be printed in the RECORD.

The speech follows:

THE FUTURE AND AIR QUALITY: A TIME TO REASSESS

My assignment in this program is to discuss the environmental aspects of our country's urban transportation program for the future. Believing that in transportation, as in the environment "everything is connected to everything else" to attempt to adequately treat the environmental problems associated with urban transportation in isolation is not only unwise but impossible. I take it the conference will seek to pull together the various papers delivered into a coherent whole to which I respond good luck!

We all know what the environmental problems of urban transportation are, air pollution, noise and aesthetics. In this paper I will restrict my discussion to air pollution because it is far and away the most important, costly and controversial of the three. Besides I don't hear very well anyway and I think highways are beautiful.

Further I am going to dwell on one aspect of the air pollution problem and that is the question of health effects. In most of what is written about urban transportation policy as it relates to air pollution there is an underlying assumption that it is necessary to achieve current federal air quality standards, whether statutory or regulatory, in order to protect the public interest. It is time to seriously examine that assumption if sound credible public policy is to result. A timely, indeed timeless, question is do we really need to take the costly, socially disruptive steps to achieve air quality standards? The answer must be only if achieving those standards is of sufficient social benefit to justify the resultant costs and disruption.

I am not suggesting that during the reexamination we should abandon efforts to reduce the costs of achievement or the search for less disruptive means of compliance. Instead, simultaneous with these efforts we must launch a serious credible program to understand where we will be in terms of human health when the standards are achieved and further what are the implications for public health if we fall short of the current goals.

One further word of explanation is necessary at the outset. Our country has a growing body of information regarding the costs of imposing emission limitations on the automobile at the point of manufacture. We are undoubtedly approaching the limits of what we can do with existing technology to reduce the levels of hydrocarbons (HC) oxides of nitrogen (NO_x) and carbon monoxide (CO). Further gains will be incremental and probably cost-ineffective both in terms of emission reductions and energy consumption. As to newer less polluting technology, hope springs eternal but the magic box has not appeared.

This leaves us with control over the user of the automobile either for the purpose of reducing vehicle miles traveled (vmt) in order to reduce emissions or checking for deterioration of emission systems. The techniques already tried range from diamond lanes, to mandatory (voluntary) work-related car pooling, to parking restrictions in downtown areas, to mandatory inspection and maintenance programs and other schemes. Often these proposals are coupled with efforts to increase the availability of mass transit provided in part by increased federal subsidies—primarily for buses. To date the common element in all these use restrictions is that where massively employed they have been massively resisted. The American people want clean air, the polls tell us, but apparently not at the expense of their freedom to use their automobile as they see fit. The one exception may be the mandatory inspection program but on this the jury is still out.

There is an excellent discussion of the options available to the government to improve air and quality in Chapter 6 of the Congressional Office of Technology Assessment's new report on the Auto Transportation System. (OTA Report) [1]

Lest we be too quick to criticize our ambivalent public or the recalcitrant car owner let's understand what is involved. Any solution, short of a technological miracle, that would achieve the existing air pollution standards involves limitations on individual choice. These limitations may or may not be severe but based on the reaction to date, they are perceived by the public as important. Since, in a free society, we must place a high premium on the maintenance of individual choice, any effort to limit that choice must be carefully examined. There must emerge from that examination a clear public benefit—in this case positive public health effects—or the choice should remain unrestrained. The tendency of an individual, bureaucracy or institution when charged with the responsibility of achieving a social good to ignore all competing social concerns is often overwhelming, which is precisely why that tendency must be understood and resisted by anyone exercising publicly granted power. Whenever social engineers gather to plot to deliver for the benefit of man a "good," what is quickly sacrificed is individual choice. Of course, the range of individual choices in any society is one measure of its grant of freedom. In any free society we must attach a high value to choice and seek to preserve it where possible.

Since in my view we are at present approaching the limits of current technology and the substitutes appear to be beyond the horizon, and since other strategies do impinge forcefully on individual choice it is time to carefully examine our goal to ensure that it conforms with the costs and social disruption it is causing. In other words are the clean air standards worth the candle?

My short answer is I don't know and I would submit neither does anyone else. This is true primarily because we have no credible, universally accepted process to arrive at a common data base. Nor is there any public understanding of what adverse health effects we are trying to protect against.

The Clean Air Act of 1970 mandated that 90 days after its enactment, national ambient air quality standards be set to protect the public health. The Administrator of EPA was to establish a threshold below which no adverse health effect was known to exist on even very susceptible or vulnerable subgroups in the population and, after adopting an adequate margin of safety, set the standard. Thus, the standard mandated by Congress effectively sought a threshold for a health risk.[2] Dutifully, 90 days after the

---

[1] *Changes in the Future Use and Characteristics of the Automobile Transportation System, Volume II: Technical Report:* Office of Technology Assessment, U.S. Government Printing Office, Washington, D.C., February, 1979.

[2] The Senate Committee on Public Works Report discussion is worth quoting since it is the key to the legislative history and intent.

"In requiring that national ambient air quality standards be established at a level necessary to protect the health of persons, the Committee recognizes that such standards will not necessarily provide for the quality of air required to protect those individuals who are otherwise dependent on a controlled internal environment such as patients in intensive care units or newborn infants in nurseries. However, the Committee emphasizes that included among those persons whose health should be protected by the ambient standard are particularly sensitive citizens such as bronchial asthmatics and emphysematics who in the normal course of daily activity are exposed to the ambient tions of the previous treaty and her rockets and satellites are transmitting in codes not broken. Further, there is undeniable evidence that Russia has developed killer-satellites, and, as I mentioned earlier, American satellites have been developed to such an extent, it is claimed, that their cameras can actually distinguish numbers on a license plate and indeed, an officer's shoulder insignia.

The antecedents of the new war as might be expected, are found in the secret annals of World War II, now surfacing. As a result, much history currently accepted as accurate will have to be rewritten. The simple all-important reason can be stated in one sentence, namely those German codes which the Germans regarded as unbreakable had been broken. As a result, the Allied High Command knew exactly what the enemy's estimate of the situation was strategically, what it proposed to do about it tactically, and its order of battle and its capacity down to platoon level.

This precise knowledge far transcended the basic axiom that forewarned is forearmed. Among other things, the Allied intelligence's Bureau of Misinformation, called Department Twenty after the Roman Double Cross, was not only able to hoodwink the German High Command into believing that there was a huge Allied army under General George Patton which would attack Calais, but was able to ascertain how well the gigantic hoax was succeeding. As a result, to the very last, the German High Command refused to move critically needed divisions to repel the Normandy invasion, but actually immobilized its reserve in stubbornly clinging to the induced belief that the main Allied attack would come between Le Havre and Calais.

The British estimated that approximately 35,000 people were necessary to accomplish the full monitoring, not including its evaluation. At combat level, not only were the tanks identifiable individually, but their conversations with their bases outlining their damages and estimated time of repair were, unbeknowst to them, simultaneously in the hands of their foes. Thus, in early December of 1944, a line of submarines running from north of Ireland down to the Azores started broadcasting weather reports to the German Admiralty at 11 P.M. Simultaneously all tank communication on the battle line ceased. Allied intelligence at once divined what was going on. German Headquarters was waiting for the approach of huge winter storm, one which would ground the Allied air force. Under cover of the storm, the enemy would then launch a supersecret panzer assault. The Allies were forewarned, and when the storm broke, the panzers swarmed out of the Ardennes, and the Battle of the Bulge was on.

Even more dramatic was the effect of the breaking of the codes on sea warfare. Actually, the messages of a German submarine reporting to the German Admiralty were decoded, read, and relayed to the Allied hunter-killer fleets as quickly as they were received in Berlin. Moreover, with the acceleration and refinement of location techniques, the sub's position could be pinpointed within a quarter of a mile.

As a result, it was estimated that the odds of a German submarine returning to its pen were 5 to 1 against. The Battle of the Atlantic was won in the decoding rooms. This was equally true of the war in the Pacific. The Japanese code had been broken, giving the U.S. a tremendous advantage. Then, a newspaper in this country broke a story that the Japanese code was no secret. Damage was heavy; it took months to repair the hurt that was done. The British were furious. In London, punishment would have been most severe.

Then, as now, security leaks in the American press are of such incredible dimension that no other country would permit them. In another area, Admiral Rickover angrily declared that after exhaustive experimentation and research, a revolution in submarine hull design broke the barrier of slow underwater speeds, only to have the model of the new hull on sale for a dollar in minature hobby shops.

Since the Second World War, the technology of electronics has progressed geometrically. Much, of course, remains secret. However, that which is known tells much. The sound of every Russian submarine was as individually identifiable as the fingerprints of a man. This was so super-secret that a number of Senators refused to be told about it—but they were able to read about it in a full page story of a national newsweekly a few weeks later. The knowledge isn't one way. Thus, when a U.S. submarine went down in the Bermuda deep, a prowling Russian sub was able to supply its exact location. Nevertheless, it is believed that the U.S. holds a vast lead in undersea detection. More particularly, it is felt that our main deterrent, the deep-sea Polaris submarines carrying nuclear warheads of more power than all artillery fired in both world wars, are beyond the state of the art of Russian undersea detection at this time.

When the war concluded, both British Security and the American OSS came up with the same conclusion: in a Third World War, our intelligence system would be both the first—and last—line of defense. In technical terms, it held that when mutual offensive destructive power reaches infinity, the only differential is in time of application. In ordinary terms, it means that whoever is quicker on the draw wins because, in brutal terms, a .45 automatic in a man's hand is worthless if he already has a .32 bullet through his brain. That, of course, is what the electronic war is all about, heavily accelerated by the acceptance that there is no second place.

It is fatuous to deny that a world-wide intelligence war of life-and-death intensity is in progress. That the American people do not wish to face this is assumed by both political parties. Hence neither will risk its political life as the bearer of bad news but the facts are inescapable.

In fact, an open democratic society is at great disadvantage in an intelligence war. Unfortunately, for lack of understanding its nature, the Congress has fearfully stacked the odds against the U.S. by exposing the operations of the CIA. The CIA operations are ghastly from the standpoint of ordinary, civilized life as it has flourished in our free country.

For their infractions the CIA perpetrators should have been punished, perhaps even by death. But the operations themselves should never have been exposed. This might well mean a fundamental change in the law of the land, through a waiver and alienation of invaluable constitutional rights by those who enter the intelligence service. It undoubtedly means much stricter supervision and much more discipline in internal security. However, whatever else is demonstrated it is clear that untrained, unprofessional and unsophisticated Congressional committees are not the ones to do the job.

Exposure of secrets and of personnel not only paralyzes the organization, it compromises nearly all of its operations, and in some cases, probably has led to detection, torture and death. Worse, from a functional standpoint, it so multiplies the hazard of recruiting that major paralysis in the field cannot help but ensue. For example, the utterly lethal safeguards surrounding a special operation team in other countries, particularly in time of war, is such that if a member appears to be losing his nerve, he is either whisked off to a lonely headland for incommunicado incarceration or killed.

There is no way such iron discipline could be administered in the U.S. intelligence services. Perhaps it shouldn't be, so alien is it to our principles. However, the security problem is there. Cockeyed as our CIA and the intelligence services have been, it is our only eye and without intelligence we are a Cyclops with his eye put out. In this day and age, this means a blind man attempting to be quicker on the draw in a death duel. The immediate problem of the average citizen is neither so complex nor so agnoizing.

In principal part it consists of what Thomas Jefferson called the first duty of citizenship in a democracy, that of keeping informed. The machinery for accomplishing that duty is as close as the nearest mail box.

Under the circumstances, it is little less than an imperative call to duty for every Legionnaire to write his Congressman, asking the details and then informing the Congressman of his view.

The new war is a war of survival. Because naval battles in the past were so swift and decisive and annihilating, it was once said there is no such thing as a second best navy. In the coming decades, there's no such thing as a second class intelligence and nuclear system—as Hiroshima and Nagasaki proved. The first step is not to place gun on shoulder; it is to take pen in hand and write the Senators, Congressmen and the President.●

ENERGY ASSISTANCE FOR THE ELDERLY

● Mr. **CHILES**. Mr. President, in the coming weeks the Congress will be engaged in the development of a national energy plan. One very important element of this plan is the issue of assistance to those individuals who suffer a unique hardship from high energy prices. The Senate Special Committee on Aging, in a series of hearings over the past several years focusing on the impact of energy pricing and shortages on the elderly, has documented that older Americans are particularly hard hit by the problem of energy costs.

Many elderly live on low, fixed incomes and simply have not been able to cope with the tremendous increase in energy costs. With the predicted continued rise in prices, their already difficult financial situation may well deteriorate to the point of very harsh choices between food, medicine, and fuel. In 1977 Deputy Secretary of Energy John O'Leary testified before the Special Committee on Aging that even in 1975 households in some parts of the country were spending as much as 27 percent of disposable income on energy and estimated that during winter months many elderly poor would spend up to 50 percent of their income to heat their homes.

The overwhelming problem of cost is compounded for the elderly by other factors. Often the housing stock of elderly persons is old, in poor repair, and inadequately insulated. Without the capital to correct these deficiencies, there is little realistic opportunity to conserve fuel use and maintain any level of adequate heating and cooling.

The option for the elderly is to cut back on fuel use at the expense of their health. Older persons, often suffering from heart or respiratory ailments, are much more susceptible to temperature-related problems such as hypothermia and heat prostration. In Dallas, Tex., able appraisal of potential success for the goal sought to be obtained, it is clear that Hoover proceeded upon a notably steadfast and vigorous course. Such terms as "enthusiastic," "lukewarm," "neutral," or "uninspired" do not fit Hoover's outlook toward these international institutions. A more accurate depiction is to say that his support was "rational," "analytical," "steadfast," "long-term," "constructive," "hopeful," a hope based on faith," and more than anything else "pragmatic."

Hoover was commited to international institutions as essential steps "on the road of fundamentals to all real peace . . . [and] the elimination of the causes of war." (*Ibid.*, 67.)

As the world has moved from the small community that existed prior to the outbreak of World War II into the large world community of the present, the ideas and example of Herbert Hoover remain as significant considerations for all who would profit from the past. One may perhaps wonder if he would hold firm to all of the specifics of his practical assessments of the era in which he assisted in guiding the destinies of peoples and nations. One could not have any doubt that he would continue to support wide-ranging international institutions as elements in a continuing design for world peace.●

ARE WE DESTROYING OUR FIRST LINE OF DEFENSE?

● Mr. GOLDWATER. Mr. President, sometimes we forget that there are many Members of the Congress who have no reason to remember war and that is going to include more and more the distasteful one we call Vietnam. Partly because of this, the subject of the importance of intelligence is not fully appreciated. Then when we add to this fact the one that the press and the media also do not have much of an understanding of the importance of intelligence and have been riding herd on the intelligence community for many years, it is understandable that the intelligence family is not looked upon with the respect and favor that we older people, who learned to live with it and to learn that we could not live without it, have for the services.

During the course of my reading, I have just finished a book on how the German code system called Ultra was broken in the early days of World War II, which gave the allies intelligence of every move that any unit of the military of the Germans made. Another book on this subject, "The Wizard War," describes how young scientists early in World War II perfected infrared sensors, radar, and so forth. These are the kinds of people who have made victory for the United State, I will not say easy, but much easier than had we tried to live without them. A very interesting article appears in the August issue of the American Legion magazine with the question, "Are We Destroying Our First Line of Defense?"

I urge my colleagues to read this. It is not long, but it will give each of us a better idea of just what intelligence means to everything that we do, whether it involves the military, State Department negotiations, White House negotiations, or even our own discussions as legislative members with other countries.

I ask that the article be printed in the Record.

The article follows:

[From the American Legion, August 1979]

Are We Destroying Our First Line of Defense?

(By Ernest Cuneo)

Most of the histories written today about World War II are woefully inadequate. This is because they do not tell how the Allies had access to Hitler's most secret code and were thus instantly informed of his orders to his generals and admirals; and how, when and where the Nazi forces would attack.

The Germans had a code machine for war use of fantastic complexity which would produce an infinite number of different cipher alphabets. It was called Enigma and the intelligence it delivered was referred to as Ultra. So certain was Hitler that no one could penetrate its ciphers that he went to his death in that belief.

The fact is that from the first shot of the war the British were reading every one of his orders as fast as they were received by the German commanders in the field. Churchill and Field Marshal Alexander, major beneficiaries of this intelligence, declared that Ultra had altered the whole concept of modern warfare.

Since 1945, the secret scientific war has accelerated. There have been tremendous advances in the state of the art. Among other things, the U2 photographic plane, able to fly at 90,000 feet, carried cameras which, even in 1960, were capable of amazing focus. The late Allen Dulles, Chief of the CIA, told me even then that he had a photograph of every blade of grass in Russia. Since then the spy-satellites, at a distance of 160 miles, carry cameras of such refinement that the numbers of the license plate of a car or the rank on one officer's shoulder can be discerned.

The importance of these mind-boggling advances can be measured from what Ultra did to revolutionize modern war. Among other things, all of the Allied leaders, from Churchill to Eisenhower, regarded it as the most decisive factor in achieving victory, Ultra not only revealed the exact battle plans of the Germans in the Normandy landings, but succeeded in misleading the German General Staff into believing that there was a third great army in existence, under General Patton, which would attack at Calais. This Patton army, theoretically stationed in Kent, was totally non-existent. However, a tremendous air traffic of its pseudo activities was simulated. Ultra revealed that the German Staff was completely hoodwinked. The result was that seven German divisions were kept at Calais and four full panzer divisions were kept in reserve near Paris. Since they were out of the Normandy landing, the Allies carried the beaches.

Ultra's list of triumphs is endless: Patton's great dashes across Europe were due to the fact that he knew at all times where the Germans were, what strength they had and what they were going to do. Rommel's Afrika Korps tactics were an open book to Montgomery. Thus, knowing Rommel would attack his left flank, Montgomery massed his artillery and shredded the German battalions. Every battle, from the withdrawal of the British army to Dunkirk and the victory of the RAF in the Battle of Britain was due to the breaking of the Germany codes. The effect was even more dramatic at sea. German subs signalling the German Admiralty, were also transmitting to Allied Naval Intelligence, based at 620 Fifth Avenue, New York, and revealing their positions within a quarter of a mile. Thus, the Battle of the Atlantic ended as slaughter at sea. The German submarines were as vulnerable as fish in a barrel. About 785 out of 1100 were sunk. Considering the Allied triumphs achieved, the wonder is that to the end the German High Command did not discover that it had no secrets from the Allies.

The electronic war has intensified since then. Indeed, the American intelligence services at the end of World War II came to the same conclusion. That conclusion is that in the next war the American intelligence services will be the first—and maybe the last—line of American defense. Certain it is that no modern state can maintain even a semblance of security without first-class intelligence. This being so, it is all but beyond belief to witness the terrifying destruction of America's intelligence services.

Ask the average American what he knows of Karagaburun, Belbosi and Diyukbakir and it is doubtful if he will know where they are, much less what they do. Actually, they are American electronic listening posts, high in the mountains of Turkey. They monitor the electronic traffic of Russia, particularly the signals by which Russia guides and directs her intercontinental missiles and the electronic control of their multiple warheads. Moreover, ominously enough, the Russians now insist on their right to transmit secret signals to their missiles, a huge stumbling block in the SALT II proposals.

In the 19th century the rugged mountains of the Northern Tier States, running from Turkey through Iran and Afghanistan to the Himalayas of India, were the land bastions of the lifeline of the British Empire. Following the discovery and development of the Middle East oil fields after the Great War, the Middle East became the energy mainstream of Western Europe, Japan and Israel. Middle East oil is as important to the industrial world of the West as oxygen is to the human body.

Yet, such is the expanding dimension of modern war, that the greatest immediate importance of the Northern Tier States is for accurate surveillance of the super-secret Soviet missiles, nuclear ranges, satellites and satellite destroyers. Most important are the codes and the controls by which these frightful weapons are directed. In effect, a super-scientific electronic war is in progress. The basic speed is 186,000 miles per second, the speed of light. This means a basic change in the nature of conflict. As late as the early 20th century, the breaking of the enemy's will by crushing of his armies on the field was the accepted standard of waging war. The Second World War developed the attack by or on vital centers, as a means of defeating armies in the field by destroying their base.

At Hiroshima and Nagasaki, the introduction of nuclear weaponry demonstrated that the capacity for destruction was approaching the absolute. With the introduction of the supersonic rocket capable of delivering warheads across the seas within a few hundred yards of target created an annihilating weapon with an electronic nervious system, capable of giving reports, finding its objective and receiving commands. As a plane basically is the essential defense against another plane, it follows that the defense against an electronic system or electronically directed attack is a superior electronic system, capable of locating, intercepting and if possible, directing the electronically-guided missile of the enemy.

A principal bastion of U.S. counterelectronic activity was centered in Turkey and Iran. Methods and measures of incredible delivery have been sufficient, until recently, to result in a reasonable state of assurance at the Pentagon. In the past few months, however, matters have taken a grave turn. For one thing, Russia has broken the condito overcome the fearful objections of Father Coughlin and the Hearst press. Thus, despite the conscientious efforts of many highly experienced Americans, united by their conviction that the world judicial process would serve as an instrument of peace and justice, the United States finally turned its back on the Permanent Court of International Justice. Its non-acceptability in the Senate, as was true of the League of Nations, can be broadly explained in terms of America's preoccupation with self-containment and immunity from foreign involvements. It can also be explained in terms of intense partisanship, and, ultimately because of a necessary concern for the central issue of the early 1930ies, as a consequence of the Great Depression.

As president it must be acknowledge that Hoover was considerably influenced by the strong convictions of Root and Stimson concerning U.S. membership. However, in view of Hoover's long and continuing commitment to the Court, the observation appears to be incorrect that "President Hoover was less sympathetic to this effort than Stimson, but was willing to place the Court before the Senate if only because such an action would please Stimson and Root." (R. H. Ferrell, *American Diplomacy in the Great Depression, Hoover-Stimpson Foreign Policy, 1929–1923*, p. 31.)

Rather, membership in the Court was an essential portion of Hoover's great and long-abiding design for a peaceful, orderly, just and lawful world.

REFLECTION ON THE COURT

Mr. Hoover continued to watch the workings of the World Court upon his return to private life. Former Secretary Kellogg served on the Court until 1935. Hoover never lost confidence in the Court as a part of an overall design exhibiting man's "impelling will to peace." (H. Hoover and H. Gibson, *Lasting Peace* 21.) He did not allow the criticism of the 8 to 7 split among the judges in the *Austrian Customs Union Case* in 1931—allegedly judges were influenced by national considerations in their voting—to destroy his faith in the objectivity of the Court. He did suggest, however, that a rule might be established allowing for the disqualification of judges, if they possessed the nationality of one of the parties to a case. (*Ibid.*, 183.)

Also, no longer concerned with obtaining Senate approval for membership, he was freer to identify a modest weakness in the world judicial process. He noted that the law generally applied by international tribunals is set forth in treaties, and that there is an expectation that the court would maintain the *status quo* provisions of such agreements. Such courts, in his judgment, would not be able to make fundamental changes in treaty provisions. (*Ibid.*, 175.) Nonetheless, he continued to link the World Court with the League and with the peace-seeking international agreements of the 1920's and early 1930's as "monuments" to the "greatest definite effort of mankind to organize peace and international co-operation." (*Ibid.*, 140.)

CONCLUSION

Herbert Hoover was a central figure in American government during the 15 year period 1918–1933. In the 20 years preceding 1918 he had been engaged in a series of enormously varied international activities. Perceptions derived from these 20 years allowed him to offer meaningful suggestions to the principal American participants at the Paris Peace Conference.

Through all the years of his informal training in world affairs, during his apprenticeship from Paris in 1918 through the end of his term as Secretary of Commerce in 1929, and during his period of responsibility as President of the United States, 1929–1933, Hoover clearly demonstrated his leadership in world affairs. This leadership was directed toward securing the national interest of the United States through the effectuation of a peaceful world. He also realized that he must obtain for other nations a condition of stability, economic viability, and representative government if they were to achieve a minimum amount of world order for themselves. He was, indeed, a trans-national man.

Throughout his public life he was continually influenced by his sense of moral outrage. Perhaps this was most clearly indicated in his identification of Japan's aggression in China in 1931, but it also was evidenced on other occasions. Thus, he identified Japan's conduct as "an outrageous violation of all international law," (II *Memoirs* 374.) as the "rape of Manchuria," (*Ibid.*) as an act of "rank aggression," (*Ibid.*, 365) as "gross" and "cynical" violations of Japanese treaty commitments, and as an "impudent violation" of Japanese obligation under the Kellogg Pact. (*Ibid.*) On another occasion, his moral fervor allowed him to observe that in 1934 "Italy outrageously invaded Ethiopia." (*Ibid.*, 376, note 7.)

Hoover's experience led him to efforts to bring the moral power of world public opinion down on the heads of offending nations. In the great arena of international politics he held violence to be counterproductive. Hence, his reasonable alternative was moral influence. He has written that in March, 1929, he discussed with Secretary Kellogg "the possibility of proposing that the world put some moral teeth in the Kellogg Pact." (II *Memoirs* 372.) And, despite the heated condition following Japan's aggression in Manchuria, Hoover would not budge from his view—despite a much more militant outlook on the part of Secretary Stimson—that "in the circumstances the only weapon was moral pressure." (*Ibid.*, 367.)

In his *Memoirs* Hoover explained that this Far Eastern experience served to confirm his views as to American policies. He wrote:

> Besides effective defense of the Western Hemisphere, America can take either of two roads in international relations. The one is to develop moral standards of conduct among nations and to support them with moral forces. The other is to use economic and inevitably military force against aggressors. Having seen the wreckage to civilization by World War I, I believed that the long-view contribution to preserving peace would be for America to stand on moral forces alone in support of law between nations. It was not isolationism. It was a belief that somewhere, somehow, there must be an abiding place for law and sanctuary for civilization. (*Ibid.*, 377–378. In this context he also indicated his belief that Japan's attack at Pearl Harbor "was ample proof that 'economic sanctions' not only failed in their purpose to restrain Japan; they probably had some part in precipitating war." *Ibid.*, 377, note 7. Thus, those who brandished such sanctions, as well as pistols, needed to be aware that they might be obliged to shoot. Compare, p. 370.)

Thus, it is evident that Hoover, despite his ultimate support for the League of Nations, was unable to have enormous confidence in its early capacity to maintain international peace and security. Despite the best of current intentions on the part of statesmen engaged in bringing a serious conflict into resolution, including a promise on their part to employ economic or military sanctions on behalf of peace, he believed this would not be able to withstand "the shifting tides in relations between nations and the changing interest of peoples."

(*Ibid.*, 378.) Nonetheless, Hoover continued to hope for an effective world political institution, and wrote that "after the hideous experience of World War II, I advocated that the world should try again to organize collective force against military aggression." (*Ibid.*, 377, note 8.)

Clearly, his vigorous efforts to bring the United States into World Court membership was based on his firm support of the fact-law process in world affairs. It was also the product of his concern that the League was deficient as a peace keeping institution. Further, the Court was a part of the larger design to secure for the United States and the world at large a minimum amount of public order. While he was obliged to admit that the United States would not accept membership in the League, he continued throughout his term in office and thereafter to advance the merit of such an international institution. With the Court, as with the other non-violent procedures in his peace keeping design, he hoped that the judgments would be accepted for their basic logic and pragmatism. It did not occur to him, as it has to some critics of the international legal process, that the only way in which court judgments will be honored is for forceful sanctions to be employed to secure compliance. In this outlook Hoover was more deeply aware of the potential of the international legal process than his narrowly positivist critics. (See generally, O. Schachter, "The Enforcement of International Judicial and Arbitral Decisions," 54 *Am. J. Int. Law* 1 (1960).) It was never his thought that membership in the Court would produce a panacea. As an incrementalist he considered the Court as a part, but an important part, of his entire design for achieving international peace, law, and justice.

As a practitioner of the "art of the possible," Hoover was aware of the need to provide facts to the consuming public. He was particularly aware of his relations with the Congress as he sought to secure support for the League and for the Court. The enormity of the task of getting support for even modest proposals in an atmosphere in which there was a "tryanny of emotions" caused him to consult with men of influence, either in public life, or whose opinions were respected by practitioners of the political art, before he asked for their public support for his international policies and programs. The extent to which he practiced these considerations is identified in his 1923 address to the League of Women Voters, where he sought support for both League and Court. He said:

> To some people, the League is such anathema that even its many good acts are bad. Let us admit frankly that there are among our people many thousands, perhaps hundreds of thousands who, as regards the phrase 'League of Nations,' are still under the tyranny of emotions associated with that phrase during the political controversy of the last four years. It is unhappily true that in such controversies a phrase is given an odium which disturbs the orderly march of entirely disassociated ideas. What they would willingly assent to as a thing standing by itself, they shrink from merely because it has association with a phrase. There are a few people who apparently maintain an open mind on international co-operation by re-arrangement of their prejudicies. ("America's Next Step," 6 *World Peace Foundation Pamphlets* 66.)

At the time of these remarks the League had become a political football. Yet, Hoover was pragmatically then, as later, seeking to maximize America's participation in the two international institutions under consideration here.

The quality of Hoover's support for international institutions capable of delivering a high prospect for international peace, law, and justice was very high throughout. While for some there is an inclination to substantially shape or vary their support for institutions as to time, place, issue, or knowledgeterest in the controversy, as distinguished from a claim of interest. All that happens in case our claim is not allowed by the League is that we withdraw from the Court.

The Amendment to the statute of the Court applies, as I understand it, only to such cases as the Eastern Carelian case, and would not cover a case where we claim an interest only because the decision might create a precedent that at some future time might affect us. (Myers, *op. cit.*, 36. In *The Eastern Carelian* case it was held that the court in the exercise of its advisory opinion jurisdiction is not permitted to proceed on the merits if the defendant State refused to participate in the proceedings. The Court observed "It is well established in international law that no State can without consent be compelled to submit its dispute. . . ." *P.C.I.J., Series B, No. 5*, p. 7 (1923.)

Being sure that he and his Secretary of State were on common ground, Hoover authorized Secretary Stimson to make arrangements for the acceptance by the United States of the September 14, 1929 protocol. This took place on December 9, 1929.

President Hoover in his First Annual Message to Congress on December 3, 1929, prepared them for the signature on December 9 of the three protocols concerning adherence of the United States to the Court, i.e., the December 16, 1920 Protocol of Signature, the September 14, 1929 Protocol of Accession to the Protocol of Signature, and the September 14, 1929 Protocol for Revision of the Statute. He pointed out that 1929 protocols contained the terms set out by the Senate in its 1926 reservations, and stated that the new protocols even went beyond the 1926 reservations in order that there could be no doubt that the Court was a true international court of justice.

It is clear in addressing this message to Congress that President Hoover was drawing upon his entire background in world affairs, including, of course, the calculated advice of such associates and advisers as Hughes, Kellogg, Root, and Stimson, as well as friendly members of the Senate. With this perspective he was able to say:

> I believe it will be clear to everyone that no controversy or question in which this country has or claims an interest can be passed on by the court without our consent at the time the question arises. The doubt about advisory opinions has been completely safeguarded. Our adherence to the International Court is, as now constituted, not the slightest step toward entry into the League of Nations. (I *State Papers* 139.)

Hoover's attempt to establish a climate in the Senate favorable to the Court led him to restate his support for it in an address to the Daughters of the American Revolution on April 14, 1930. He continued to premise his thinking on his opposition to the use of force in world affairs and upon his refusal to commit the United States to use coercion to enforce settlements arrived at through political processes. In his effort to organize the world for peace he saw the need for the development and use of the judicial process. In a strongly supportive pronouncement he called for U.S. membership in the court as being both desirable and necessary as an additional method of pacific settlement. The extent of his conviction as to the importance of U.S. membership is reflected in these words.

> Such a court—the World Court—has been established at The Hague with the aid of American jurists. It has been accepted by 90 percent of the civilized people of the earth. It is established and no other court is practicable. It has demonstrated the highest integrity and capacity, and the continuance of these qualities is assured. It has already settled a great number of controversies. It is only one, but an important one of the six or seven methods of securing pacific settlements, and thus a contribution to the prevention of war. Adherence to that court by the United States has been earnestly recommended by every one of our Presidents and every one of our Secretaries of State living since its inception. No one can challenge the patriotism of these 10 men, nor the ripe wisdom which is theirs from having borne the actual burden of responsibility for our foreign relations. They have found no entanglement or limitation of the independence of the United States by safeguarded membership in it. (I *State Papers* 238).

In his Armistice Day address on November 11, 1930, Hoover again pointed to the contributions which the World Court could make to the cause of world peace. The tribunal would extend the "body and principles of international law" on which pacific settlements would be based. (I *State Papers* 416.) Moreover, as a permanent and strongly established institution it was offering a continuity to the application of international legal principles and rules. This, he said, was a necessary improvement on the more sporadic reference of international legal matters to arbitral procedures. He also observed that it was in the national interest of the United States, as well as in the more general interests of peace, to participate in this ongoing institution, since only through membership would the United States be able to assist in giving direction to the steadily growing body of precedent flowing from the decisions of the Court. As in prior public expressions on the subject, he combined with his practical outlooks his affirmative faith in man's capacity to substitute pacific processes for violence in the relations of nations.

Hoover, despite the apparent acceptance by the public of his rational arguments for membership, continued to be guided by the counsels of caution. One straw in the wind had been the nomination in April, 1930, of Ruth Hanna McCormick in the Republican primaries in Illinois, where it was contended that her success had been in part the product of an anti-Court stand. (Myers, *op. cit.* 37.) In order to identify potential newspaper support for the Court Hoover on December 8, 1930, received a tabulation of editorial positions of daily newspapers. This indicated that 1357 with a circulation of about 27 million were favorable to the Court; that 265 with a circulation of 10 and one-half million were opposed; and that 58 with a circulation of about one-half million had taken no stand. (*Ibid.*)

In his message to the Senate on December 10, 1930, he relied upon the foregoing evidence that his action met with or would be supported by the approval of a large segment of the public. The message implied that it would be a breach of faith on the part of the United States to delay becoming a member of the Court, since Court members had previously agreed to the conditions put forward by the United States for membership. He put forward for consideration by the Senate many of the reasons previously identified: the nonentanglement of the United States in the diplomacy of other nations; the fact that the United States could not be made a defendant without its consent; the right of the United States to withdraw from the Court without reproach or ill-will; the historic support of the United States for the Court including the preceeding three presidents and Secretaries Hughes, Kellogg, and Stimson; the American people considered it as an opportunity for securing "justice in international relations and to strengthen the foundations of peace;" (I *State Papers* 461.) and the need to extend the pledge contained in the Kellogg-Briand Pact through pacific processes—including the Court—to secure settlement of all controversies. He concluded: "our great nation, so devoted to peace and justice, should lend its cooperation in this effort of the nations to establish a great agency for such pacific settlements." (*Ibid.*, 461.)

Hoover had miscalculated senatorial responsiveness to his earnest proposal. Senate inactivity produced fears on the part of certain highly verbal supporters of generalized peace programs that Hoover's own commitment might be weakened. One observer assessed the situation: "During all this time, through their usual lack of perspective or sense of appropriateness, also with a thorough misunderstanding, Hoover was hounded by the emotional and professional peace advocates who were attempting to force his hand, although he knew better than they what might be accomplished under the circumstances." (Myers, *op. cit.* 38.)

He tried twice more to persuade the Senate to take affirmative action. In his Annual Message to Congress on December 10, 1931, he reviewed in short form the essential reasons for U.S. membership. (II *State Papers* 80–81.) In his 4th Annual Message of December 6, 1932 he noted that among his prior recommendations to the Congress which still awaited their action was membership in the World Court. (II *State Papers* 501). The 1931 request followed an extended memorandum of January 21, 1931, to the Senate Committee on Foreign Relations by Elihu Root in which the latter had cogently supported the principles previously identified by Hoover. (*Hearings before the Committee on Foreign Relations, United States Senate*, 71st Cong., 3rd sess.; M. O. Hudson, *The World Court, 1921–1934*, p. 262.) The 1932 request followed additional efforts on the part of Secretary Stimson in March of 1932 to persuade Senator Borah, Chairman of the Senate Committee on Foreign Relations to take a favorable attitude toward U.S. membership. (*World Court, Hearings before the Committee on Foreign Relations, United States Senate* 72d Cong., 1st sess, relative to Executive A (71st Cong.); Hudson, *op. cit.*, 272.) In each case senatorial opposition prevented the recommendation from coming to a vote.

This need not be regarded as a rejection of the merits of Hoover's steady and well-considered efforts and arguments. During a time in which the nation was experiencing the agonies of a disastrous depression the attention of the Senate was easily diverted from issues of lesser magnitude. Moreover, the Senate itself was riven with strife and was engaged in forfeiting its own capacity to share in the governing process. The inherent limitations imposed on both the efficiency and wisdom of the governing process, flowing from the constitutional doctrine of separation of powers, were allowed to manifest themselves.

Hoover still allowed U.S. membership to rest on his conscience. Thus, in his campaign speech of August 11, 1932, he stated that his foreign policies had been devoted to the strengthening of the foundations of world peace. He said, simply, "I have recommended joining the World Court under proper reservations preserving our freedom of action." (*Campaign Speeches of 1932 by President Hoover and Ex-President Coolidge 21.*) The brevity of this comment should not be as evidence of a lessening of his design for world order. He continued:

> This world needs peace. It must have peace with justice. I shall continue to strive unceasingly, with every power of mind and spirit, to explore every possible path that leads toward a world in which right triumphs over force, in which reason rules over passion, in which men and women may rear their children not to be devoured by war but to pursue in safety the nobler arts of peace. (*Ibid., 22.*)

It was not until January, 1935, in the administration of F. D. Roosevelt that the Senate was able to bring the issue of membership to a vote. Proponents were unable ideals. But no less must its real march be achieved through men and women whose feet are upon the ground, whose proposals are devoid of illusions, and above and beyond all that are within the practicability of day-to-day statesmanship. (*Ibid.*, 67).

In his own words, by way of summary:

> The Court relies upon the upbuilding of the processes of justice between nations, and upon public opinion for their enforcement. By it we enter into no obligations to use arms or take no commitment that limits our freedom of action. Its purpose lies solely in facilitating the elimination of many of the causes of war before they rise to the threat of war. The sincere devotion to this principle has been traditional with our people. (*Ibid.*, 62.)

> This is one more and an essential step on the road of fundamentals to all real peace, and that is the maintenance of good will through the elimination of the causes of war. (*Ibid.*, 67.)

One cannot but be impressed with the depth of his perceptions and the clarity of his analysis. He was quite aware of what he described as America's "present mood of distrust. . . ." concerning "processes of international co-operation . . ." (*Ibid.*, 65.) He accepted that challenge and devoted himself during the next 10 years to the task of bringing the United States into the Court.

President Hoover on many occasions called for U.S. membership in the Court. Frequently the Court was connected with other processes used in the mitigation of international tensions. Frequently he referred to U.S. obligations under the Kellogg-Briand Pact and pointed to the Court as an instrument facilitating the terms of that agreement. Thus, in his Inaugural Address, March 4, 1929, Hoover stated that the full realization of the accompanying objective of armament limitation implied the need for a more effective use of and perfection of the formal processes for pacific settlement. He continued:

> In the creation and use of these instrumentalities we should support every sound method of conciliation, arbitration, and judicial settlement. American statesmen were among the first to propose and they have constantly urged upon the world, the establishment of a tribunal for the settlement of controversies of a justifiable character. The Permanent Court of International Justice in its major purpose is thus peculiarly identified with American ideals and with American statesmanship. A more potent instrumentality for this purpose has never been conceived and no other is practicable of establishment. The reservations placed upon our adherence should not be misrepresented. The United States seeks by these reservations no special privilege or advantage but only to clarify our relation to advisory opinions and other matters which are subsidiary to the major purpose of the court. The way should, and I believe will, be found by which we may take our proper place in a movement so fundamental to the progress of peace. (I *State Papers* 9.)

As President Hoover was making the foregoing statement Root was in Geneva in connection with U.S. membership. Secretary of State Kellogg discussed Root's communication of March 4 with Hoover on the 5th, and on the 6th Kellogg advised Root that the "Root Formula" for U.S. membership "seems to us feasible and we think well of it." (L. E. Ellis, *Frank B. Kellogg and American Foreign Relations, 1925–1929*, p. 231.) Hoover, realizing the necessity of consulting with influential Senators, met with Senator Borah on March 7. With Secretary Kellogg he also conferred with Senator Walsh and Swanson. Following these meetings Hoover wrote his Secretary of State on March 8. In his letter Hoover observed:

> My understanding is that Senator Borah is opposed to the Court undertaking any advisory opinions, and voted against our adherence to the Court for this reason. He also feels that Mr. Root's plan satisfies the requirements of the fifth reservation. He seems to feel that those who believe we should adhere to the Court subject to the reservations ought to be satisfied with Mr. Root's plan. (Myers, *op. cit.*, 34.)

Hoover also indicated that Borah preferred a plan in which the Court would be unable to give advisory opinions in respect to nonmembers of the League.

Commenting on the prospects for U.S. membership as he attempted to move the Senate in this direction during 1929, Hoover in his *Memoirs* said:

> A study of the Senate gave promise that we might get that body to accept membership in the World Court if we could eliminate certain specific criticisms of its protocol. At least the necessary number of senators stated to Secretary Stimson that they would vote for it if this were done. I was suspicious that some of them were practicing avoidance but resolved to try. (II *Memoirs* 336–337.)

Timing became a matter of considerable importance, and Hoover was aware that he should not act precipitously. However, Stimson feeling the importance of the issue, and believing that the Senate was then prepared to accept membership, subject to the terms of the protorol prepared by Root and adopted by the League Assembly on September 14, 1929, urged executive action. Moreover, Stimson considered that it would be bad faith on the part of the United States, were it not to honor the changes accepted by League members as they were reflected in the protocol. This induced Hoover to write to Stimson on October 18, 1929:

> If you feel that the good faith of the United States is involved, I think you had better sign the protocol. I am afraid you will not be able to justify withholding it from Congress the next session if you do so, and I am in turn afraid that this would seriously impair our hope of securing adhesion to a naval treaty. I am, however, of course, prepared to go through with it if our promises are in any way in question. (Myers, *op. cit.*, 35.)

In his Armistice Day Address, November 11, 1929, Hoover reemphasized one of his principal reasons for Court membership. The Kellogg-Briand Pact was, he said, more than a renunciation of war. It was also a covenant to settle all controversies by pacific means. He restated his concern that the machinery for pacific settlement of disputes was at that time inadequate. He appraised the matter:

> We need further to extend our treaties with other countries providing methods for reference of controversies to conference, to inquiry as to fact, or to arbitration, or to judicial determination. We have need to define the code of conduct of nations and to formulate an authoritative system of international law. We have need under proper reservations to support the World Court in order that we may secure judicial determination of certain types of controversies and build up precedents which add to the body of international law. By these agencies we relegate a thousand frictions to orderly processes of settlement and by deliveration in action we prevent their development into national inflammation. (*I State Papers* 127.)

In his address on that occasion President Hoover reasserted his faith in public opinion as a factor in checking violence. This when coupled with the perfection of methods of dispute solving continued to be his viable alternative to the use of force as a means for compelling states "to be reasonable." (*Ibid.*, 128.)

As the United States turned its attention to Court membership, Secretary Stimson provided President Hoover with a cogent analysis of the reasons for such membership. In a lengthy letter of November 18, 1929, Stimson reviewed the case for membership. He noted that for over half a century "the United States has taken a leading part in promoting the judicial settlement of international disputes." (*The United States and the Permanent Court of International Justice, Documents Relating to the Question of American Accession to the Court*. Publications of the Department of State, Government Printing Office, 5 (1930). M. O. Hudson, *The World Court, 1921–1934*, 251–259.

Other considerations included: the Court was independent of the League. Many legal benefits would result from membership. Far outweighing such legal considerations, the United States would resume its respected position of leadership in the movement for the judicial settlement of international disputes. Moreover, through U.S. participation the Court would be molded to serve U.S. conceptions of law and justice. The terms of the March 9, 1929, protocol would protect U.S. interests. Changes on the world scene had made the Court more important than ever before, especially because of the acceptance of the Kellogg-Briand Pact.

In stressing the latter, Stimson wrote:

> By this event not only has the need of developing judicial means instead of war to settle the inevitable controversies between nations become more pressing, but it has become even more important to establish and clarify the standards and rules of international conduct by which such controversies can be prevented or minimized. Never has there been a period in the world's history when there was such an imperative need for the development of international law by an international court. . . . It is . . . to the judicial action of a World Court, passing upon individual controversies which arise between nations, that we must look not only for the application and interpretation of these compacts and codes but for the flexible and intelligent development in this way of all the subsidiary principles and detailed rules which will surely be found necessary in such application. (*Ibid.*, 12.)

Stimson also referred to the similarity of roles of the U.S. Supreme Court and the World Court, to the need for a tribunal able to convert general principles of international law into more specific rules through the process of application and interpretation, to the utility of advisory opinions as a means of preventing the augmentation of world tensions, to the substantial contributions already made by the Court to the resolution of international disputes, to the potential of the Court for further service in the cause of peace, to the fact that the Court was closely in line with the traditions and habits of thought of America—more so for America than of any other nation—, and to the fact that it "is now possible for us to assist in the support and development of this judicial agent without in the slightest degree jeopardizing our traditional policy as a government, of not interfering or entangling ourselves in the political policies of foreign states or of relinquishing our traditional attitude as a government toward purely American questions with which we are concerned." (*Ibid.*, 12–13.)

On November 27, 1929, Hoover wrote to Stimson again. Realizing that the issue of the Court's jurisdiction relating to advisory opinions was a matter of continuing concern in the Senate, Hoover wished to be sure of his ground in the event that he would at a later date become involved with the Senate on the interpretation to be given to the protocol. He wrote:

> If we claim an "interest" and object for that reason, our objection is made to the League and not to the Court. If, notwithstanding our objection, the League asks for an advisory opinion, the Court must render it unless it finds that we have an actual in-

considering asking the Court for an advisory opinion, the United States was given the right to file a formal objection, and such an objection was to be accorded the same weight as a negative vote by a member of the Council or Assembly. Finally, the protocol provided that if it were impossible to obtain the required unanimity in the Council or Assembly for requesting an advisory opinion, and if the United States were unwilling to withdraw its objection, then it would be permissible for the U.S. to withdraw from the Court. It was stipulated in the protocol that such a withdrawal by the U.S. would not constitute "any imputation of unfriendliness or unwillingness to cooperate generally for peace and goodwill." (6 Hackworth, *op. cit.*, 75; I *State Papers* 460–467.)

On Dec. 9, 1929, the United States, through its Chargé d'affaires ad interim in Switzerland, signed the relevant agreements. There still remainded the need for the President to persuade the Senate to give its advice and consent. Hoover delayed for one year and a day—until December 10, 1930—before he asked for Senate approval. This long wait was intended to give him the most propitious moment to seek the required authority. According to Myers "It was evident that the proposal could not be passed in the Senate, until there was a change of views there." (Myers, *op. cit.*, 35.) Despite Hoover's continuing interest in U.S. membership, the Senate evidenced a positive disposition to avoid the issue. Hoover resubmitted the amended protocol on December 10, 1931. "But many of the Democratic members joined Republican isolationists, Hiram Johnson, Norris, Moses, and others, in keeping it bottled up." (II *Memoirs* 337.) Thus, no vote was taken until after Hoover had left the White House. On January 29, 1935, the Senate voted 52 in favor of membership with 36 opposed, thus failing by eight votes to obtain the requisite two-thirds majority. This ballot can be compared with the Senate's outlook on January 27, 1926, when the issue of membership had first come to a vote in the Senate. At that time 76 Senators had voted for membership, subject to the first reservations enumerated above, whereas only 17 Senators had been totally opposed. Three had not voted. (In his *Memoirs* Hoover credited Secretary Hughes with having made a "valiant effort" to secure U.S. membership in the Court. 2 *Memoirs* 37.)

It is necessary to understand the reasons which induced Hoover to favor U.S. membership in the Court. This requires a review of his views going back to the Paris Peace Conference. Following an assessment of these basic reasons it will be easier to comprehend the reasons he put forward in his recommendation to the Senate on December 10, 1930.

Hoover found in the international judicial process a meaningful alternative to violent means for dealing with international disputes. His deep aversion to violence "always" caused him to be "strong in his support of the principle of the settlement of international disputes by means of judicial process." (Myers, *Foreign Policies* 27.) Hoover's experiences in Paris in 1918–1919 provided him with contacts and insights concerning the potential of an international tribunal. As Secretary of Commerce he moved in a circle composed of practical internationalists who considered the Court as a valuable adjunct to the cause of world order. Through their influences and his own observations and instincts he concluded that the condition of world order would allow for the attaining of the largest amount of human freedom and dignity. His faith in the power of public opinion suggested that a Court could through its reasoned opinions cause litigants to determine and apply the values most suited to common interests. He respected the judgments of such associations as Root, Hughes, Kellogg, and Stimson. He became a strong supporter of American membership because he viewed the Court as a practical response to practical problems.

Hoover on many occasions had the opportunity to provide support for U.S. Court membership or to explain his reasons for favoring it. It will be recalled that Hoover had applied pressures on Harding as a candidate to become supportive of the League of Nations. Following Harding's election Hoover continued to influence U.S. foreign policy. Thus, in July, 1923, while accompanying Harding on a trip from Vancouver to Seattle, at Harding's request, Hoover modified the prepared address which Harding would make in San Francisco. With Harding's approval the speech, as made, contained "some changes pledging his administration to the World Court and to a larger degree of world cooperation in maintaining peace. . . ." II *Memoirs* 50.)

On February 24, 1923, Harding had submitted to the Senate the World Court Protocol so that the U.S. might become a member of the Court. In order to muster supportive public opinion a concerted effort produced addresses in April by Hoover, President Harding, Supreme Court Justice John H. Clarke, Elihu Root, and Secretary of State Hughes. (Hughes became a World Court Judge in 1928 and served until his appointment in 1930 as Chief Justice of the United States. According to Hoover, Hughes "had great enthusiasm for the World Court as an outgrowth of years of effort by statesmen of good will, including himself," II *Memoirs* 37.) Thus, on April 11, 1923, Hoover addressing the League of Women Voters in Des Moines, Iowa, made his most extended public analysis of the Court. He began by identifying foreign policy proposals of varying degrees of plausibility which had been put forward at the end of World War I. Among those mentioned were included the establishment of a world police to enforce peace, military defense alliances containing advance commitments for joint action which could limit national independence, or the formation of a world association designed to promote peace by negotiation and agreements. Hoover observed that in the search by the United States for world peace that "the rejection of one particular device does not mean that America has lost its interest in finding a solution." (H. Hoover, "America's Next Step," 6 *World Peace Foundation Pamphlets* 62.) Clearly, the Court would not fall into any of the foregoing prototypes. Rather, it had, in Hoover's view, the potential of a respectable alternative.

Hoover proceeded to examine the merits of the Court from the American perspective. First, through time-honored judicial processes it would be possible to apply international law to cases and controversies. Second, the tribunal would be expected to resolve disputes on their merits. Third, a Court would be able to obtain results which were not always produced by the processes of negotiation and arbitration. These judicial potentialities would minimize international friction, distrust, hate, danger and even war. (*Ibid.*, 63) Further, such a Court could be put to the service of constructive efforts for peace and justice. Hoover's perception of the significance of the legal process is important enough to quote at length. He said:

> It was from instinctive forestalling of this violence [violence affecting not only parties but also involving others] that grew the law and our courts of many thousand years' standing. Underlying all civil law is the essence of justice and the obvious objective of courts is to assure its administration. The great body of law has been the slow growth of experience and enlightenment, centering around courts for its upbuilding. For while courts deal with law and equity, yet in the multitude of cases they perfect the law and thus enlarge the area of administered justice. (*Ibid.*)

He then observed that the concept of a world court had long found informed support in the United States. "The Court as constituted today is to a large degree the product of American thought and the handiwork of American men of both parties. . . . We were well represented in its formulation." (*Ibid.*, 64.) Moreover, he noted, the Republican Party had long been pledged to world judicial processes through the voices of President McKinley, President Roosevelt, President Harding, and their several Secretaries of State. In fact the "Republican platform in the last election pledged the party to consummate this idea." (*Ibid.*)

Perhaps one of the most telling points in his address was put forward under the heading "Security by Process of Law." His theme was that it is the function of a growing law to replace reliance on force. He said:

> The security that such organized process of law can give to international life itself is great, far beyond the upbuilding of international law itself. The difficulties of internal opinion in nations, of racial prejudicies that threaten the political life of every statesman, contribute far more than people realize to failure in settlements by negotiation and thus to the growth of friction. The reference to such a court gives statesmen of all lands a resort of great relief to them. The elimination of contentious negotiations must construct good will by stifling the springs of hate which inevitably arise from every petty dispute. (*Ibid.*, 64–65.)

Having reemphasized his view that the judicial process was also an improvement over arbitration, Hoover rebutted criticisms which had been directed at the world judicial process. He denied that Court membership would lead the U.S. "into some undescribed political entanglement." (*Ibid.*) He pointed to the falsity of the contention that other States could summon the United States into court without its consent. Moreover, he correctly stated that the Court itself could not bring the United States before it without the required specific consent. Putting critics to route, he observed that concerning the enforcement of judgments, U.S. membership "is based upon the assumption that compulsion is not necessary for peoples of good will and a sense of justice." (*Ibid.*)

He also examined the areas where U.S. membership would impose fixed and absolute duties. First, the United States would be required to contribute to the running expenses of the Court, which he estimated would be about $40,000 a year. Second, the United States would be expected to participate in the selection of the judges. He also commented on other court related issues. Court membership did not entail League membership. The Court would not have jurisdiction as Senator Borah had vigorously urged, to "try war itself." (*Ibid.*, 67.) The judges were all to be men of "international reputation who sit nine years and are freed of all prejudices except to maintain principle and law." (*Ibid.*, 66.)

He wove into his remarks elements of his fundamental outlooks on philosophy and government. Urging that the United States should take a practical view of its prospective relationship with the Court, he said:

> Wisdom does not so much consist in knowledge of the ultimate; it consists in knowing what to do next. Frequently those who contribute most to destroy good causes are those who refuse to work day by day within the field of practicable accomplishment, and who would oppose all progress unless their own particular ideas be adopted in full. Progress in the world must come about through men and women of high aspirations and high

tion which the League had taken in endeavoring to arrive at a definition of "aggression." Moreover, he put forward a thesis which had not been previously disclosed. It will be recalled that during the Japanese invasion of China in 1931 he had indicated that he would have used force to protect the lives of American nationals who were placed in danger by foreign troops. In the context of the League's incapacity to effect peaceful change and the fact of subjection of a nation flowing from a long previous aggression, Hoover indicated during World War II a further condition in which he would tolerate the international use of force. He observed:

> Nations may be in subjection as the result of aggression long previous. Such nations have a right to be free from oppression even if it takes war. It may not be aggression to aid them to freedom by military means. And aggression may comprise economic domination or pressure such as boycotts from other nations until they become intolerable and military action is justified in defense. (*Ibid.*, 174.)

Hoover also offered the view that the League had become an instrument to preserve a victor's *status quo*, so that a State which had been the object of a long prior aggression would find it difficult to obtain adequate community support as it sought to be released from harsh restrictions. In a passage acknowledging that peaceful processes could, under certain circumstances, be avoided, he wrote:

> Pacific methods are indeed applicable to a large number of run-of-the-mine international difficulties. But those which arise from treaties which were onerous to start with or have been made inapplicable by a thousand circumstances raise problems which are beyond arbitration and judicial decisions. (*Lasting Peace* 174.)

Perhaps Hoover did not intend, as he wrote during World War II, to suggest a departure from his long-held philosophy of peaceful settlement. Moreover, the above was written in the specific context of the League's unsuccessful effort to find a definition for "aggression." The foregoing sought to give emphasis to the point that "the net effect of all this seems at least to affirm that the Covenant attempted too detailed a program." (*Ibid.*, 175.)

His second criticism during the 1940's concerning the League was that the members failed it rather than the other way round. Since he had always understood that League members would act "in compliance with the dictates of their military alliances," he did not expect it to guarantee international peace and security (*The Basis of Lasting Peace* 37.) Thus, in his view it was the fault of States that they allowed the Versailles settlements to further the "underlying forces among nations that make for war," and it was the fault of League members that they never followed the Covenant in effecting reductions of armaments and so conducting themselves that "the time for action never came." (*Ibid.* 5, 35.) He believed that it was neither the League nor the failure of the League which produced World War II. States, he thought, justified violence as they searched for their short-term national interests. As members of the League they "acted and voted, not on their own judgment or on considerations of world interest, but in compliance with the dictates of their military alliances." (*Ibid.* 37.)

Hoover and Gibson made a comparison of the Covenant and the Dumbarton Oaks proposals for the UN. They observed an important similarity. They wrote: "Both organizations are based on the theory that peace can be preserved by settling the controversies among nations. Both are predicted on first using the pacific methods of conciliation, arbitration and judicial processes to settle such controversies." (*Ibid.* 3–4.) In view of the other considerable similarities between League and UN, as well as very substantial differences, it is interesting to speculate why Hoover elected to emphasize this specific similarity. Undoubtedly it reflected the fact that he had always placed enormous emphasis on the peaceful processes for the alleviation of world tensions. Yet, he closed on a broader theme. "It would be folly to ignore," he said, the successes as well as failures of the League. (*Ibid.* 3.) His prescription for the post-World War II era was "some sort of co-operative international organization which will continuously allay and keep in check the vicious elements of the dynamic forces which make for war and will constantly strengthen those forces which make for peace." (*Lasting Peace*, 252.) Undoubtedly he would have wished that a wider ranging participation by the United States in the League would have cleared the way for a UN more fully equipped to meet many of man's critical needs of the present.

HOOVER AND THE WORLD COURT

a. Organization of the Court

Prior to the outbreak of World War I a number of distinguished Americans had examined the contributions potentially realizable from an international court and had become ardent supporters of the prospect. Thus, "at the end of the World War, it was generally taken for granted that a new court would be established." (M. O. Hudson, *The World Court, 1922–1928*, p. 4.) Although such a tribunal was proposed at Paris by Italy, the time of the attending statesmen was given to the more pressing problems of healing the wounds of war. At the second meeting of the League of Nations Council in February, 1920, an invitation was extended to ten distinguished jurists from as many States to compose a Commission of Jurists. This body, of whom Elihu Root was one, met at The Hague shortly thereafter and drafted the "Statute of the Permanent Court of International Justice." When President Harding submitted the Statute to the Senate in February, 1923, all of the latent hostility which had been engendered over U.S. membership in the League was revived. President Coolidge was obliged to seek Senate approval, following the refusal of that body to bring the Harding recommendation to a vote, in his Annual Message of December 2, 1925. After many delays, the Senate on January 27, 1926 gave its advise and consent to Presidential ratification, subject to five reservations and two understandings.

Under the Senate's 1926 reservations the United States through Court membership would not enter into legal relations with the League nor acquire obligations under the Treaty of Versailles. The U.S. would be allowed to participate equally in the election of judges. It would share Court expenses as determined by Congress. It would be free to withdraw its adherence at any time, and during its membership the Statute could not be modified without U.S. consent. The U.S. expressed its concern over the advisory opinion jurisdiction of the Court by requiring that such opinions might be given only after full notice to all concerned, subject to the right of an affected State to have an opportunity for a public hearing on the issue presented, and further subject to the right of the United States to refuse to participate in any future dispute in which it had or claimed it had an interest. Pursuant to the Senate's understandings the United States might only become a party to a dispute before the Court if the United States had previously given its consent in either general or special treaties. The Senate attached a further understanding that Court membership would not involve the U.S. in the internal or political problems of a foreign State, nor would membership constitute a "relinquishment by the United States of its traditional attitude toward purely American questions." (6 Hackworth, *Digest of International Law* 74–75.)

Between 1926 and February 19, 1929, the United States engaged in negotiations with the original signatories of the Court Statute. The purpose was to obtain acceptance of the U.S. conditions.

One of the first issues to which President Hoover addressed himself, following his inauguration on March 4, 1929, was membership in the Court. His willingness to give immediate attention to this subject undoubtedly was influenced by his detailed prior involvement with the campaign for U.S. membership, his continuing commitment to peaceful dispute resolving processes, the fact that Secretary of State Kellogg, who had served under President Coolidge, agreed to continue in office until the new Secretary of State, Henry L. Stimson, assumed this position, and because at this very moment Elihu Root was in Geneva negotiating a protocol with Court members which would allow the United States to become a member under the terms proposed by it.

By 1929 Senator Borah had emerged as a leading exponent of changes in the Statute as a condition for U.S. Court membership. His principal concern centered on the advisory opinion jurisdiction of the Court and his determination that advisory opinions should not be rendered which might cause damage to U.S. policies and interests. Thus, on the evening of March 7, 1929, Hoover and Borah discussed the latter's opposition to the advisory opinion jurisdiction of the Court. Hoover also consulted with Senator Walsh. Out of these conversations came an understanding that these senators would not oppose Court membership provided Root were able to obtain a protocol assuring the United States against becoming involved in the advisory opinion jurisdiction of the Court without its consent. (Myers, *op. cit.*, 33–34.) Hoover's detailed attention to the outlooks and attitudes of influential Senators—an insight gained from his personal involvement in the Covenant debacle—marked his intensive and extended efforts to bring the United States into the Court.

On March 9, 1929, following Root's presentation of the U.S. position to the governments signatory to the Senate in Geneva, the League Council asked the Commission of Jurists to prepare a draft protocol containing the provisions required to assure U.S. accession to the Statute. By September 14, 1929, the Commission had completed its assignment, and on that date the Assembly of the League approved the protocol and opened it for signature. These terms, which satisfied the consensus arrived at between Hoover, his advisers, and members of the Senate, dealt with three subjects. First, the United States was to be allowed to participate in the voting procedures of the League Assembly and Council when judges were being elected, and the U.S. vote was to be counted in determining the absolute majority of votes required for election. Second, it was agreed that amendments to the Statute were to be based on the rule of unanimity. Third, specific rules were fixed concerning advisory opinions.

Thus, in order to protect U.S. concerns it was agreed that such opinions were to be rendered only after notice and hearing, and the subsequent opinions were to be made public. Further, in the event a request were made to the Court for an advisory opinion it was the function of the League Secretary-General to notify the United States so that it might express its views as to whether any of its interests were affected. This was to allow the United States to have sufficient time to prepare its position and to engage in an exchange of views. If the League were atives to engage in systematic cooperation in "non-political" functions involving military and naval conferences on disarmement. (H. Hoover, *Ordeal* 298, footnote 3.)

Some alarm was expressed in the United States at these modest involvements with the League, particularly because of President Hoover's active and on-going campaign to secure U.S. membership in the World Court. To relieve this agitation he told Congress on December 3, 1929, that our proposed "adherence to the International Court is, as now constituted, not the slightest step toward entry into the League of Nations." (1929 *Foreign Relations of the United States*, Vol. I, p. vi.)

President Hoover had no hesitancy in implementing a detailed working arrangement with the League when Japan embarked on aggression in China, 1931–1932. Hoover acknowledged the potential difficulties in such a situation, remarking that in order to effect such cooperation it was necessary to "cut a trail through the thickets of American public opinion and the power politics of Europe." (II Memoirs 372.)

Following the seizure in September 1931 by Japanese militarists of areas in Manchuria the United States protested to Japan. When China appealed to the League, Hoover authorized Secretary Stimson to "cooperate fully with the League as it furnished a central point for coordination of action with the European nations. I insisted that we encourage the League to take the lead, and that we would cooperate with them. We directed our representative in Geneva to sit with the Council of the League." (II *Memoirs* 365–366.)

Prentiss Gilbert was the American Consul in Geneva in October, 1931, when the League considered Chinese protestations. Hoover has written that "to show our desire to cooperate with the League" Mr. Gilbert was "directed . . . to attend the meeting of the League Council on the 13th." (II *Memoirs* 371.) Hoover stated:

> They asked him to take a seat at the actual Council table which, with our approval, he did. But instantly the League enthusiasts at Geneva and in the United States welcomed this as the first step toward America's joining the League. There was a hailstorm of protests from a section of the press which, by stimulating the Senate, threatened defeat to our every effort at cooperation with the League. So we had to hoist Gilbert from his seat at the Council table and seat him at the side of the room so that all America could see that we had not joined the League. (*Ibid.*)

When the League Council convened in Paris on November 14, 1931 to consider measures to be taken against Japan, Hoover instructed Ambassador Dawes to represent the United States. His instructions allowed him to sit at the Council table or to sit beyond it, if this were his choice. Hoover noted that Dawes conducted his work very ably at a distance from the table. When the League Council created a commission of Enquiry to view conditions in China (Lytton Commission) on January 14, 1932, the United States accepted membership. In order to support the League in this function Hoover appointed General Frank R. McCoy to the Commission, who fully participated in an examination of circumstances threatening to disturb peace between China and Japan and assisted in the writing of the Commission Report. Lest Congress become unduly alarmed at Hoover's policy of examining a breach of the peace, he set forth the situation and announced his determination to cooperate with the League in his Annual Message of December 10, 1931. (II *Memoirs* 372).

Out of these events emerged the Hoover policy, commonly known as the Stimson Doctrine after Hoover's Secretary of State, of nonrecognition of a nation's right to territory when seized through aggression. Hoover acknowledged that the policy of "nonrecognition of spoils or territory seized" had been advanced originally by Secretary of State Bryan and had been considered by Hoover with Secretary Kellogg. Hoover has written:

> Recollecting these ideas, I suggested to Secretary Stimson early in December, 1931, in Cabinet meeting, that we consider proposing to the League that the members refuse to recognize any territory obtained by the Japanese in violation of the Kellogg Pact and emphasized the refusal by withdrawing all legations from the offending nation. (II *Memoirs* 373.)

The decision to censure Japan raised the question of additional measures. Secretary Stimson proposed two alternatives. The first would have involved some form of collective economic sanctions, which Stimson favored. The second would have required the building of world public opinion against the Japanese aggression. Hoover advised his Secretary that he was "greatly disturbed" (*Ibid.*, 366.) over the prospect of an economic boycott, for it was his belief—and had been ever since Versailles—"that 'economic sanctions' meant war when applied to any large nation." (*Ibid.* Compare, however, his 1919 Stanford Address, where he expresses a more favorable view on economic boycotts.) His experience in World War I relief and reconstruction matters recalled the unemployment, starvation, and total demoralization—in fact, all the penalties of war except shooting—produced by such measures. In his view "sanctions or the threat of them also meant rising emotions, the development of incurable hatreds, and an insensate opposition to any remedial action." (*Ibid.*) Thus, he rejected the first alternative. Hoover observed: "I was willing to go to war for the preservation of America, but I believed we should not go around alone sticking pins in tigers, or alone impose futile sanctions." (*Ibid.*) However, before following his preferred policy Hoover obtained information that the British would not embark on an economic boycott. He also learned from his military advisers that U.S. military activity in the Far East at that time was impractical. (*Ibid.*, 377.)

Hoover and Stimson differed as to the means of implementing the non-recognition doctrine. Stimson wished to use sanctions including economic ones. Hoover objected on the grounds that economic sanctions would inevitably lead to more violent ones. Hoover has noted that "I held that one who brandishes a pistol must be prepared to shoot." (*Ibid.* 370.) Hoover consistently rejected Stimson's overtures for measures involving force, and wrote to his Secretary of State on February 23, 1932, that "if I recommended the use of force it would be a recommendation that Congress should declare war; and that was wholly unjustified." (*Ibid.*, 375.) After Britain had failed to demonstrate an interest in the proposed policy, the United States gave further publicity to its proposal. This was followed by a meeting of the League Assembly on March 3, 1932. According to Hoover "on the 11th, to our surprise, it expressed its adherence to the doctrine of nonrecognition." (*Ibid.*, 376.) Hoover subsequently observed that "the Council passed a resolution of disapproval of the Japanese, and we approved their action." (II *Memoirs* 366.) This experience offered evidence of the fact that formal membership in an international organization was not necessary to the exercise of influence within such a body. Hoover was able to remain firm in his conviction that the best pressures in international politics still remained the moral force of an active and enraged world public opinion.

d. Hoover's reflections on the League experience

As might have been expected, Hoover in his post-White House days vigorously pursued his vital concern for institutions and conditions contributing to a lasting peace. It will be recalled that at the end of World War I he expressed support for "a" League of Nations. He was, nonetheless, opposed to the provisions of Article X of the Covenant which called upon member States to use force to preserve the status quo flowing from the treaties of peace. By 1942 Hoover was able to generalize by affirming that he had "supported adherence to the League and the Court as at least an experiment in preserving peace." (H. Hoover and H. Gibson, *The Problems of Lasting Peace* 177, hereafter *"Lasting Peace"*.) By 1942 he made explicit additional criticisms of these institutions. Hoover would have been satisfied with a less ambitious League than the one contemplated by Wilson. He would not have assigned it an immediate and major peace-keeping function.

Rather, he would have favored an institution designed to safeguard personal liberties and prospects for representative governments as "forces of freedom." (*Lasting Peace* 108.) Recalling Wilson's efforts at Paris, Hoover wrote in his *Memoirs* that Wilson may have been right, but if it had to be done over again, the light of subsequent experience shows that my line was the only practical one *for the time*. It would have avoided a thousand pitfalls, and would assuredly have secured American membership and support. And I believe it would have been of infinite service. It might cure the festering cancers to future peace. (I *Memoirs* 459. Italics added.)

Nonetheless, Hoover was clear that the real League was an exhibit of "the impelling will to peace," (*Ibid.*, 21.) as well as the "world's greatest experiment in the maintenance of peace," (H. Hoover and H. Gibson, *The Basis of Lasting Peace* 2.) and "the greatest experiment and the greatest effort that mankind has ever made to assure the peace of the world." (*Lasting Peace* 121.) Despite his well-known reservations as to Wilson's League Plan, Hoover wrote in 1942 that he had "ardently supported adherence to the League and the Court as at least an experiment in preserving peace." (*Ibid.*, 177.)

From the vantage point of World War II Hoover turned his thoughts to a new universal international organization, and noted that both the League's successes and failures should be examined in order to provide lessons for the future. It was his view that the working League was plagued by several serious defects. The first broad category was what he elected to call the "internal weaknesses in the League structure." (*Ibid.*, 171.) Instances were the gaps in the Covenant and the resulting "legalistic discussions of constitutional construction." (*Ibid.*, p. 172.) Although many would regard such an outcome inevitable no matter what precise words were chosen, yet the result in Hoover's view was to produce "interminable discussion of the interpretation of words and phrases . . ." as well as "hairsplitting distinctions and disputes to contest its authority or to avoid action." (*Ibid.*) It will, however, be recalled that Hoover had once counselled Wilson that the Covenant should contain generalized prescriptions.

Another internal difficulty was the mixed personality of the League: it sought to organize and preserve peace through the application of military or economic force; it also sought to prevent war "by settlement of controversy through pacific methods." (*Ibid.*) He considered that the "two concepts proved to be in both philosophic and practical conflict." (*Ibid.*, compare, *The Basis of Lasting Peace* 11.)

Reflecting on the League, as in prior plans for preserving peace, he found that it—with its focus on collective security—had become infected with a "vital defect." Versailles and the Covenant had "set up a new order, and knowing it to be good, they provided that it shall be kept unchanged." (*Lasting Peace*, 171.) He acknowledged that enormous frustrations could result from the forceful maintenance of a *status quo*.

He also expressed concern over the direcsider that such a council should have the right to commit, either actually or morally, any of the member nations without their considered vote." (*Ibid.*)

Fourth, he stated that the Covenant, subject to the Republican "mild" reservations, described the kind of international organization which he was able to accept. Again, as so frequently in the past, he observed that any institution would grow and change, and that through practical statesmanship the League could become an important element in his larger design for minimum world order.

Finally, Hoover asserted that in his view the vast majority of Americans supported his concept of a League. He announced his ardent support for his prototype of a League, criticized the Democratic Party for its failure to obtain U.S. membership in the League under the Republican reservations, and observed his confidence that the Republican Party would be able to "install the major purposes of a League." Aside from the slight transigence concerning Article X, and his more complete assessment of what the League should not be, he had added little to his public views. Through his consistency and his repetition, it had become clear that because of his view of the world's intricate political interrelationships he was entirely convinced that mankind required a new and important international organization. His earlier views of a new Concert of Europe had been put aside.

As the political campaign of 1920 wound toward its close, Hoover was called upon once again to address a mid-western audience. On October 9, 1920, he spoke in Indianapolis, where he divided his remarks between party responsibility, economic programs, and the League of Nations. (*Speech by Herbert Hoover before the Columbia Club of Indianapolis, October 9, 1920,* Herbert Hoover Archives.) Displaying his partisanship more than previously, he began by asserting that if the Democratic Party were seeking martyrdom by adherence to the great principle of the unmodified Covenant that the search was based on a "false premise." (*Ibid.*) Seeking to put the issue in its most simple and yet most important terms, and at the same time indicating his view of the need for political compromise, he stated "there is but one principle involved, and that is the preservation of peace by organized international action." (*Ibid.*) He did not seek compromise on the principle of such an institution, but rather on the methods to be employed by it in seeking to fulfill its mission.

He called attention once again to his objection to a League having the power to employ the processes of war. He challenged the Democrats for having allowed the nation to become involved in a debate over the League, when the only matters truly involved were the terms of the reservations. In this vein he suggested that the Democrats should have accepted the League, with reservations, and then if they were dissatisfied with this condition they would have been able to go "to the country on the political issue of correcting the reservations alone." (*Ibid.*) By contrast he observed:

> The Republican party has pledged itself by platform, by the actions of its majority in the Senate, by the repeated statements of Senator Harding, that they undertake the fundamental mission to put into living being the principle of an organized association of nations for the preservation of peace. (*Ibid.*

Since Hoover had some doubts as to the completeness of Harding's support for the League, this reference may be considered as identifying Hoover's expectation of League support.)

Hoover thought it fitting to identify what he labeled his "personal view" concerning the practical development of the League. In this context he said:

> Some articles in the present treaty must be abandoned and some modified. But a great many parts of the present treaty are good and are intertwined with the stability of the world. They offer opportunity to secure cooperation of the great majority of nations who have joined it. Therefore, I believe that in keeping faith with the promise to use all that is good in the Covenant for the development of the great principle to which it has pledged itself, practical Republican statesmanship must build upon the foundations of the existing treaty, and include in it the great step forward in international justice now settled by Senator Root. (*Ibid.*)

During the 1920 campaign major Republican leaders became concerned over Harding's somewhat inconsistent support of the League. Hoover described the condition as one in which "Mr. Harding carried water on both shoulders." (II *Memoirs* 13.) Thirty-one leading Republicans, including former President Taft, Charles E. Hughes, Presidents Lowell of Harvard and Butler of Columbia, Senator Elihu Root, and Hoover issued an open letter on October 15, 1920, in which they proclaimed their support of the League. The purpose was to keep candidate Harding "in line as a supporter of the League." (P. C. Jessup, *Elihu Root*, Vol. 2, p. 414). Hoover observed in his *Memoirs* that the letter "was issued in consequence of personal assurances from Mr. Harding." (II *Memoirs* 13.)

Following the nomination of Warren G. Harding at the Republican Convention, Hoover made several speeches in support of the candidate. Hoover wished to jockey Harding into a position so that he would not "desert his original position as a Senator, of being for the League with reservations. He, however, wobbled a good deal. He privately assured me and others that he favored it. Many of us protested to him whenever he leaned the wrong way on the issue." (*Ibid.*, 35–36.)

Following Harding's election and the appointment of Hughes as Secretary of State and Hoover as Secretary of Commerce on February 24, 1921, the two met to review their respective positions on foreign policy. They agreed that they remained firm in support of the terms of the October 15, 1920 letter with the expectation "that the new administration make good the ratification of the treaties with reservations . . ." according to the terms of the foregoing declaration. (II *Memoirs* 36.) Hoover left the meeting with the continuing assurance that "Hughes was a warm advocate of the League . . ." (II *Memoirs* 37.)

c. Non-membership in the League

During the Administrations of Presidents Harding and Coolidge the American people evidenced substantial uncertainties as to the wisdom of United States participation in action-oriented foreign policies. Particular doubt was expressed as to the desirability of further involvement by the United States in picking European chestnuts out of European fires. The bitter attacks of the provincial elements within the Senate prevented the United States from becoming a party to the Treaty of Versailles, from joining the League, and from accepting membership in the World Court. Such opposition also made it difficult for the political leaders who saw future merit in suitable international involvements to move aggressively in pursuit of sound international goals. Thus, with the defeat of U.S. membership in the League, through the vote of the Senate on March 19, 1920, this precise issue in American politics came to an end. Yet, the wisdom of that decision lingered and thoughtful people continued to nurse hopes for membership in an acceptable world political organization.

During his active candidacy for the office of President Mr. Hoover had few occasions to refer to U.S. membership in the League.

Mr. Hoover was aware of the apparently adverse sentiments of a majority of the American voters, with League membership popularly coupled with possibilities of bloodshed. Yet, because of his earlier affirmative and special support for a League of Nations as an institution for world cooperation, his approach to the on-going institution was both practical and supportive. Throughout he retained his basic position that a viable League should not seek to enforce the political judgments of its members. Thus, in his Inaugural Address he said:

> Our people are determined that we should make no political engagements such as membership in the League of Nations, which may commit us in advance as a nation to become involved in the settlements of controversies between other countries. They adhere to the belief that the independence of America from such obligations increases its ability and availability for service in all fields of human progress. (I *State Papers* 9.)

By 1929 the League of Nations had covered a lot of ground in three principal areas: military and political, economic and social, and the technical fields of health and communications. Non-membership was not able to isolate the United States from such matters, and some means had to be found for the United States to establish and maintain contact with the League.

During his administration President Hoover had no hesitancy in establishing a condition of active cooperation with the League in non-force fields. He summed this up as follows:

> The League was doing splendid work in advancing a wide range of international action outside the force field. Through our Minister in Switzerland we joined in these efforts, and in such particulars as international trade in narcotics, expansion of marine law, and radio regulation, we took the lead. As a consequence we became parties to several score of treaties covering such matters as commerce, aviation, merchant marine, protection of intellectual property, control of international traffic in narcotics, black and white slavery, and disease. Aside from their high importance in developing a civilized world, these treaties served to bring a better realization of world responsibility to our people. (II *Memoirs* 337.)

Illustrations of U.S. involvement with the League included an arrangement between the United States and Liberia for the establishment of an International Commission of Inquiry into the Existence of Slavery and Forced Labor in Liberia whereby the League Secretary-General was to assist in the membership of the Commission. (1929 *Foreign Relations of the United States*, Vol. III, p. 296.) During the Hoover administration the United States continued an earlier practice of sending copies of U.S. treaties to the League for publication in the League of Nations Treaty Series. Although these international agreements were not formally "registered" with the League under the terms of Article 18 of the Covenant, there was an element of official relationship with the League. (G. Hackworth, 5 *Digest of International Law*, 91.) During this period the United States advised Japan that it had no objection to a Japanese registration of a bilateral agreement dealing with the prevention of the smuggling of liquor which had been entered into by the two States. (*Ibid.*, 92.) Of greater significance was the authority conferred on the U.S. Consul General Blake in Geneva to maintain constant contact with League officials and members of delegations attending League sessions. (1929 *Foreign Relations of the United States*, Vol. II, p. 295.) Hoover authorized U.S. represent-world. Some of us hope that the League will not interpose in international differences except at the last stage necessary to mitigate the growth of conflict. Some of us have no liking for mandates of any European state, for we would thus plunge ourselves territorially into Europe itself with a long train of dangers. Most of us have no ambitions to moral or other domination. (*Ibid.*, 5.)

Just as U.S. membership in the League would allow the League to maximize its potential, so also a functioning League would allow for the constructive development of the Versailles Treaty. With these considerations in mind, Hoover had no difficulty in supporting the generalized commitment by the United States to both League and Treaty.

In an interview with the *Washington Star* on March 18, 1920, Hoover restated several of his earlier arguments in favor of early acceptance of the League and Treaty. He observed that out of the many compromises had emerged a final product which "gives us freedom of action and room for constructive development of peace." (*Washington Star, March 18, 1920; Some Notes on The League of Nations*, Herbert Hoover Archives.) He pointed to the increasing world tensions which required reference to an international organization for their consideration, and restated his opposition to Article X of the Covenant. After pointing to long continuing world antagonisms, which were barely held under control and the potential harm likely to befall the United States, he asked concerning the Treaty: "Is it not the practical thing to ratify it and then to build constructively toward peace and good will? If the League proves a success, the world will readily grant it greater powers." (*Ibid.*)

On March 19, 1920, the Senate rejected by a vote of 49 for and 35 against—7 short of the necessary two-thirds majority—the resolution of ratification of the Versailles Treaty. Part I of the Treaty contained the League Covenant. The Senate had attached 15 reservations, which in Wilson's view "emasculated" the Covenant. (The reservations are set out at 59 *Congressional Record* 4599, 66th Cong., 2nd sess. Compare H. C. Lodge, *The Senate and the League of Nations* 178–220.)

Perhaps one reason, in addition to his commitment to the principles of a League, for the dissemination of his views related to his enlarging involvement in the American domestic political scene. In 1920 friends in widely scattered portions of the country were suggesting that he should be a candidate for the presidency. He discouraged such efforts in all states except California where Senator Hiram Johnson had embarked upon an effort to obtain the Republican nomination and had heaped violent abuse on League membership. According to Hoover the nomination of Johnson "would have pledged the Republican party to abandon the League altogether." (II *Memoirs* 34.) Since the other leading Republican candidates did not wish to oppose Johnson in a state where he had demonstrated popularity at the polls, and thereby offer a referendum as to their more moderate views of the League, Hoover agreed to the placing of his name on the primary ballot so as "to allow an expression on the issue of the League." (II *Memoirs* 35.)

Hoover explained the strategy:

> As I was not a real candidate, and as Senator Johnson controlled the state organization, there was no possibility that he could be defeated. However, a reasonably large vote for me might show enough protest in the Republican party of that state to prevent the Republican Convention from out-and-out opposition to the League. (II *Memoirs* 35.)

Hoover did not conduct an active campaign. Yet he received 210,000 votes to 370,000 for Johnson which undoubtedly weakened Johnson's position at the Convention. (Hoover reported that at the time of the Convention his name was placed in nomination by Nathan Miller of New York. "He wanted the League, and he wanted me in the Cabinet." *Ibid.*, 35.)

During the California campaign Hoover was asked by members of the Republican Party to identify his views. Consistent with his opposition to the views of Senator Johnson, Hoover stated briefly that he opposed Article X of the Covenant, that he favored U.S. membership subject to reservations, and that he opposed the position of those who considered membership in the League as detrimental to U.S. interests. He observed that the issue was "whether, with reservations protecting our position, we should join the moral forces of the world to reduce the dangers again growing around us, or whether we will, by pretense of an insularity that we do not possess, sit by in the face of growing armies, navies, national antagonisms, reaction, or in reverse, the spread of Bolshevism, through much of the world." (*Telegram to California Committee, March 30, 1920;* Hoover Institute Archives.)

By May, 1920, Hoover sought further clarification of Johnson's position. In a press statement of May 7, 1920, Hoover challenged Johnson's observation that he (Johnson) was opposed to an "English League." Specifically, Hoover wanted to know if Johnson considered the Covenant subject to the Lodge reservations as being the "English League." At this time Hoover unequivocally indicated his support for the Lodge reservations as approved by the Senate in November, 1919. As to Johnson's position, Hoover asked: "Will the Senator speak out plainly on this subject so that the people may know where he stands and what he stands for in this matter." (*Press Statement, May 7 1920;* Herbert Hoover Archives.)

Then, on May 8, 1920, Hoover asserted that Johnson "apparently does not wish to say 'Yes' or 'No' as to whether the 'English League' as he calls it, is the covenant with the Lodge reservations." (*Press Statement, May 8, 1920;* Herbert Hoover Archives.) And, he stated: "Will the Senator change his expression from 'I have never opposed a League' to 'I will support a League for this purpose,' and will he state what the construction of that League is to be, and where it will differ from the League with the reservations as agreed to by the majority of the Senate?" (*Ibid.*) Hoover regarded the League as a device for the constructive solution of world problems. He sought to deflate the candidacy of Johnson because of the latter's destructive criticism of the League without providing alternatives.

Oregon Republicans sought to obtain Hoover's views on the League in connection with the presidential primaries in that state. In a telegram of May 13, 1920, Hoover contrasted Wilson's efforts to obtain the unmodified Covenant submitted by him to the Senate with Johnson's total opposition to the League. Hoover observed that "two more destructive attitudes towards a great issue could not be found." (*Telegram to Hoover Republican Club, Portland, Oregon, May 13, 1920;* Hoover Institute Archives.) Hoover restated his conviction that the League should be promptly approved with reservations and that the Republican platform should contain such a pledge. He also urged Oregon Republicans to disavow any "no League" candidates, namely, Johnson. He urged that Oregonians concentrate their energies against Johnson rather than in the advancement of a Hoover candidacy. Thus, Hoover's commitment to membership in the League, subject to the "mild reservations," allowed him to incur the wrath of an exceedingly important member of the Republican Party. Because of his support for the principles of the League, Hoover was willing to entertain such a situation.

By September, 1920, Hoover was prepared to provide ample evidence of his continuing support for U.S. acceptance of League membership. Following a talk at West Point on September 6, he made identical detailed statements on September 8 and 9, and on September 15 he provided the *Chicago Daily News* with a further clarification. In his statements of September 8 and September 9 he again identified practical considerations for accepting the "mild" Lodge reservations as a part of the U.S. membership plan. He looked at the Versailles Treaty as a many faceted agreement which required acceptance by all parties. It contained matters, he believed, which could not be settled by a separate U.S. treaty with Germany. Further, the League was a going concern engaged in a variety of important activities which were not objectionable to either of the major political parties. Finally, "aside from its European intertwining, the League is also intertwined with us even if we refuse to enter it." (*Treaty Statement, September 8, 1920*; Herbert Hoover Archives. The statement of September 9 appeared in the *New York Evening Post*. Herbert Hoover Archives.)

Hoover's statement to the *Chicago Daily News* on September 15, 1920 was one of his hardest hitting and most tightly argued analyses of American participation in the League. He acknowledged his "a" vs. "the" League outlook saying "I stand earnestly for 'a' League of Nations to minimize war, and, moreover, I stand for 'the' League with alternations pointed by the Republican reservations." (*Chicago Daily News, September 15, 1920*, Herbert Hoover Archives.)

He made four key points. First, he pointed to the world's disarray as reflected by ongoing social revolutions, the enhanced scientific capacity for destruction in the event of war, and the increasing reliance on armaments. He observed "to at least try to lessen the dangers of these things, we require cooperative international action—'a' League." (*Ibid.*)

Second, he identified his design for such a League. It would be "a continuous council of men representing the authority and confidence of their own countries in continuous service to mitigate the causes which give rise to war." (*Ibid.*) Its object would be to obtain progressive disarmament, settlement of disputes through peaceful processes, the protection of life and property at sea, defenses against the spread of contagion, the development of international communications, and development of the powers of public opinion against wrongdoers. He identified, once again, his somewhat inconsistent outlook regarding economic boycotts, which he identified as the "most powerful weapon in modern civilization." He would, he said, apply this device "against countries who would disregard the decisions of international tribunals and start ventures that could involve the world in war." (*Ibid.*) He held the view that such economic boycotts could be implemented without military force, and he noted that the world's economic unity was such that "no nation can morally or physically survive continued isolation." (*Ibid.*)

Third, he identified the functions and activities which the League would not be asked to assume. It would not be granted any power which would lead it in the direction of supergovernments, nor would its performance constitute a minimization of "the very essential principle of nationalism upon which our patriotism and progress is founded." (*Ibid.*) For the first time he somewhat conditioned his outlook concerning Article X of the Covenant, saying "While to get peace I would have accepted Article X, subject to super-authority of Congress, I have always believed that any power of such a body to call for military force undermines the intrinsic strength of any institution that must be based on moral forces and public good will." (*Ibid.*) Then he added: "I do not coninoperable, provided him with a real dilemma. As Myers has pointed out: "While he believed in some form of international organization for purposes of conference and cooperation, he did not believe in the League of Nations *as organized*. But he saw the imperative need for peace and the need for getting it quickly. For these reasons he came out in favor of the League and urged its acceptance by the Senate with the minor changes, through reservations, offered in that body." (Myers, *Foreign Policies* 18.)

As the issue of reservations emerged in the Senate, Hoover became persuaded that it would be necessary to accept them in order "to secure the ratification of the Covenant." (II *Memoirs* 11.) He also concluded that the reservations "on the whole . . . do not impede the great principle of the League." (*Ibid.*)

Because of his strong commitment to the establishment of an international organization designed to facilitate international cooperation in order to obtain world peace, Hoover was anxious to express his views as soon as possible after his return to the United States. The opportunity presented itself in an address before the students of Stanford University on October 2, 1919. His immediate support for the League undoubtedly was intended to make the general public aware of its strong points, for he realized that the novelty of the idea to many Americans and outlooks summed by the expression "fear of entangling alliances" would produce opposition. Hoover wanted the case for the affirmative to be put forward as early as possible. In commenting on the theme of this talk he later observed "I stated that the League was an experiment in the concept of collective action against aggressions which should be tried out." (II *Memoirs* 10–11.)

Since the reasons advanced in this talk set the tone for a number of other public pronouncements during 1919 and 1920, it is worthwhile to examine the Stanford address with care. As was characteristic with him, Hoover distinguished between ends and means. The Paris Conference had identified as critical ends, first, a settlement which "should remove as many of the immediate causes of war as possible by destroying enemy domination over other races; second, by establishing the new governments on a democratic basis so that wars should not be made by autocracies for the profit of their class. . . ." ("Mr. Hoover's Address before the Students of Stanford University, October 2, 1919," p. 2, Hoover Institute Archives; hereafter Stanford Address.) The principal means to achieve the condition of peace—with all the enormous benefits flowing from this condition—would be "a world council—the League." (Ibid. He preferred the term "council" to "League" since the latter term "smacks of military alliance." Ibid., 3.)

He distinguished between the basic objectives of such a "council" and the methods to be employed. He considered that the new international organization would offer to the newly constituted states consisting of liberated peoples "some measure of protection from invasion." (Ibid., 2.) Further, "with the stimulation of the world conscience awakened by this war, there could be hope that the wrongs among other peoples could be brought for discussion and negotiation. Here, if aggression were undertaken, the public opinion of the world could be enlightened and the aggressor could be made an outcast from the society of the civilized nations. Thus only could something constructive be done to end war." (Ibid.) Disarmament might also be achieved.

As to means, he noted that all important decisions of the League would have to be unanimous. Such means were essentially twofold: "Its most potent weapon is the determination of the rights and wrongs of international quarrels, and the enlightenment of the world upon them, and by consequences the moral isolation of the aggressor. If this fails, its second weapon is the boycott, the most potent force in the world to-day, the force that more than any other brought Germany to her knees." (Ibid., 3.) This comment in the context of his general aversion to boycotts appears to be more a description of the sanction than an endorsement of its use.

Hoover portrayed peace as universal. If the condition of peace were to break down anywhere it would inevitably involve the United States. He supported the League because of his hope that the League "will forever relieve the United States of the necessity to again send a single soldier outside of our boundaries." (Ibid., 3.) The League would be a bulwark against war-promoting reactionaries who "contend that without the exercise of military power there is no hope of the maintenance of human efficiency or control of the masses." (Ibid., 4.) Moreover, only, through the success of the League would stability be achieved among the new and old States of Europe. Only through the League would peaceful international cooperation replace the bankruptcy of the pre-war balance-of-power theory. Thus, a central argument for the League was its role of war prevention. If the League were to break down, he contended, then the United States "must at once prepare to fight" once again in Europe. (Ibid., 5.)

Hoover also urged U.S. participation in the League so that it would have an on-going opportunity to identify its own international needs and concerns. He observed:

> The Allies may themselves ratify this treaty without us, and thus assemble a council of nations of their own in an endeavor to solve the problems of Europe. It would be a council of Europe, and in the midst of these terrible times—considering the debts they owe to us, the material they must have from us or starve—I would rather that we be represented therein lest it become a League of Europe against the western hemisphere." (Ibid., 6.)

New European States were seeking membership in the League in order to protect their new existence. Hoover believed that U.S. membership would serve the general purpose of giving strength and credibility to the League. It would also produce a League better able to ensure the survival of the new States.

Hoover also supported League membership on idealistic grounds. Through the League there could emerge a larger commitment to democratic self-government. Through it there could be an extension of justice and sympathy to the down-trodden. Through it there could be the development of peace under international law. He closed on this theme by saying: "The liberal world is asking us to come into a council to find a solution for these things. That world is not asking for soldiers; it is asking for our economic and moral weight, our idealism, and our disinterested sense of justice." (Ibid., 7.) The hope for a League able to assist in the struggle for peace was an ageless expression coming from "the heart and mind of the world." (Ibid., 3.)

Following his address to Stanford students, Hoover publicly expressed himself, either through talks or press releases, in favor of the League twelve times between October 15, 1919 and October 9, 1920. In his October 15 address to the Commonwealth Club of San Francisco he stressed the need for the United States to cooperate with Europe in order to advance the capabilities of democratic institutions. In his view the League more likely than not would produce a democratically oriented peace in Europe, which would serve universal needs. ("Address of Hon. Herbert C. Hoover, 15 October 1919," Hoover Institute Archives.) He later identified his theme on this occasion as being "that the best protection from radical infections in the United States was the preservation of these new governments and the consequent disinfection of the cesspools at the source." (II Memoirs 11.)

Confident that Wilson's respect for his judgment would allow for consideration of his on-going views, Hoover wrote the President on November 19, 1919, urging acceptance of reservations promulgated by the Senate as a condition for accepting the Covenant. Hoover explained that he was "impressed with the disparate necessity of early ratification." (Myers, Foreign Policies, 19, footnote 8.) Hoover later made a copy of this letter available to members of the Senate Committee on Foreign Relations. He hoped to win them to the cause of the Covenant with the argument that "as the League gained experience in a venture unprecedented in history, it would have to change anyway." (II Memoirs 11.) Throughout this period he consulted with "more reasonable senators." (Ibid.) He sought support for the League in principle and was resentful of "the destructive attacks on President Wilson then being made by Senators Lodge, Johnson and others." (Ibid.)

In his address at The Johns Hopkins University, February 23, 1920, Hoover expressed impatience with the Senate in not adopting suitable reservations to the Versailles Treaty and then in giving its approval. In his judgment the majority of the American people favored reservations respecting Covenant terms and that the Senate was unduly concerned with what he described as "secondary questions." ("Mr. Hoover's Address at Johns Hopkins University, February 23, 1920," p. 4, Hoover Institute Archives.) He expressed the view that the position held by the "mild reservationists" should be accepted by the "lesser reservationists" so that their combined votes in the Senate would allow for ratification. He expressed the conviction that no narrow and delaying approach to the subject of reservations would result in partisan domestic political advantage. He was clear that delay in the Senate would produce substantial harm to U.S. world interests. Only through U.S. acceptance of the Versailles Treaty would world conditions achieve some stability so that the condition of world peace might be more probable.

Hoover also returned to his practical argument that no matter what terms were contained in the Treaty, including the Covenant, that experience with them would require modification over time. He said: "If it be put into being and if it prove its living value in the world, no one can doubt that any necessary changes will be granted to it by common consent as years go on." (*Ibid.*, 4–5.)

He also asserted the point, frequently made, that "the League is not a principle; it is an organization." (*Ibid.*, 5.) Since in his view organizations possessed organic qualities, the League would be bound to change over time as it was confronted by the facts and issues of the future. And, as he was to observe on future occasions, as he had in the past, the League's "greatest function is to organize moral forces. Its major authority will be moral force." (*Ibid.*, 5.)

Hoover also speculated on the policy positions which the United States might advance within the League, following U.S. membership. He stated:

> We all hope for its immediate energies in the reduction of armament, the development of engines of conciliation, of arbitration and codes and courts of international justice. We hope for its influence in the destruction of the economic barriers set up before and since the war, which stifle the recuperation and the free entry of our own commerce over the

international law at that time. (B. C. Stowell, *Intervention in International Law*.) Hoover was willing to engage in this course of conduct to protect the lives and welfare of American nationals. In his view international force for the purpose of securing more esoteric and less laudable political gains was likely to be counterproductive and hence neither morally acceptable nor practically tolerable.

With these considerations in mind one can now turn to a more detailed analysis of his role in the formation of the League of Nations, his outlook on the desirability of United States membership, and the areas of cooperation with it in view of non-membership. His reflections on the League expressed in the decade of the 1940's will also be considered.

HOOVER AND THE LEAGUE OF NATIONS

a. Organization of the League

Hoover's presence in Paris during the closing months of 1918 and through June of 1919 allowed him to observe the negotiations for the Peace Treaties including the League of Nations Covenant. He was in direct contact with President Wilson, Secretary of State Lansing, Colonel House, and a host of other leaders—American and foreign. His support for world peace and his distrust of foreign political objectives ultimately produced a sincere conviction during 1918–1919 that the Peace Treaties and the Covenant should be separated, and that the United States would be well advised to support a new world organization, even if not the League of Nations as governed by the terms of the agreed upon Covenant. Later he was to favor U.S. acceptance of the Versailles Treaty including League membership, but subject to certain "mild" reservations centered around Article X of the Covenant and dealing with forcible sanctions.

As the negotiations for the Covenant proceeded Hoover made suggestions and stated his own attitude. In one of his meetings with President Wilson early in 1919, the former inquired if Hoover had seen a draft of the Covenant, and if he had any suggestions regarding it. Hoover replied that it seemed to him that the proposed machinery of the League with its Council, Assembly and Secretariat, the right of members to bring before the League any danger to peace and the provisions for the League to examine, report, arbitrate and conciliate, develop judicial action, and denounce a nation as an aggressor was all admirable.

I added that it seemed to me that a Covenant going that far would meet the prayers of most thoughtful people. I was doubtful, however, whether an organization so revolutionary and so young could successfully carry the burdens imposed by Article X, which guaranteed the boundaries of all the signatory nations, or the provisions for economic and military sanctions in case of aggression. I mentioned that the Concert of Europe had been dominated by the Great Powers, as would be the League, and by moral and diplomatic pressures had prevented widespread wars for one hundred years without so definite an organization as that proposed for the League. (H. Hoover, *The Ordeal of Woodrow Wilson* 183–184, hereafter *Ordeal*.) On one occasion Wilson wrote concerning Hoover's opinion that it was "an opinion which I always respect . . ." (H. Foley, ed., *Woodrow Wilson's Case for the League of Nations* 175.) Wilson had written Hoover on April 15, 1919, in response to Hoover's letter of April 11, 1919, that he (Wilson) was "very much impressed" (Myers, *Foreign Policies* 18) by Hoover's objections to continued U.S. participation on the Financial Commission of Reparations. Article X provided: "The members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression the Council shall advise upon the means whereby this obligation shall be fulfilled."

Wilson replied that something stronger was needed than the Concert of Europe. In discussing the matter with Colonel House it was made clear that the President considered Article X the heart of the League proposal. Hoover then noted that, since he was not charged with the responsibility for formulating the Covenant, he dropped the subject although he "was not convinced." (Hoover, *Ordeal* 184.) Hoover was, in fact, "disturbed" by Wilson's concept of Article X as a means to guarantee "in effect . . . the boundaries of Europe." I *Memoirs* 459.) Hoover was not alone in his feeling as to the wisdom of Article X. He observed at this time that "Lansing was explosive in his opposition to Article X and the coercive provisions in the Covenant." (Hoover, *Ordeal* 184, note 4.)

However, Hoover was not content to dismiss the issue from his own thinking. Commenting on suggestions made to Wilson prior to the middle of February, 1919, Hoover placed his reasons on the following considerations:

> If an international body has too elaborate a contract, and too precise powers, the organization would exhaust itself disputing over the extent of its powers and the application of them. Having the powers, if it fell short of performance, it would be damned. Without such powers it was far more effective, for then its efforts would be devoted to finding solutions for immediate problems, and through the building of precedents from successful solutions it could create the greatest of all powers—moral power and prestige. And failure to perform would not be an irreparable injury. (I *Memoirs* 458.)

Hoover reminded Wilson of the experience of the "Concert of Europe" in dealing with Europe's major jeopardies. He then noted:

> In that light I suggested he set up the League Council and Assembly, its place of residence and its working machinery including the World Court. That he then give it no powers but the right to enquire into facts and to state the facts. That it should have broad purposes to promote, negotiate and arbitrate peace in the world, and to call the nations concerned into session in times of jeopardy. But the President's mind was on a great detailed political document such as the Constitution of the United States to be applied to the whole earth.

(*Ibid.*, 459.)

Wilson, having obtained advice in the United States as to the terms of the peace, returned to Paris on March 14, 1919, for additional negotiations. As revised, the Covenant received the approval of the Conference subcommittee on April 12. Indicating his continuing concern, Hoover noted that "none of the amendments that were adopted reached the heart of the opposition—which was Article X and the coercive provisions." (Hoover, *Ordeal* 190.)

On April 11, 1919, Hoover again addressed a memorandum to Wilson. The subject was whether the United States should continue to participate in the numerous Allied economic and military control commissions established during the war. In opposing such participation Hoover stated that "any continuation of the United States in such Allied relationship can only lead to vast difficulty and would militate against the efficiency of the League of Nations." (I *Memoirs* 452; Myers, *Foreign Policies*; H. Hoover, *Some Notes on the League of Nations*, Hoover Institute Archives.) Hoover indicated in the memo that "nothing in letter or spirit or any statement of your own, or in the 14 points that directly or indirectly ties the United States to carry on this war through the phase of enforcement of the multitudinous demands and intrigues of a great number of other governments and their officials." (I *Memoirs* 457, Myers, *Foreign Policies*, 17–18.) Hoover added: "It does appear to me that your conception of the League of Nations is with view to a great moral Court, where these difficulties could be threshed out, but if we sit as one of the prosecutors, the Court will have no judge." (Myers, *op. cit.*, 18.) In the foregoing memorandum Hoover observed that "this whole matter has a very practical relationship to the League of Nations. . . . If "we can again secure our independence, we can make of the League that strong and independent Court of Appeal that will have authority." (I *Memoirs* 457.)

Again on June 4, 1919, Hoover wrote to Wilson urging that the latter focus on the fundamental need for a democratically oriented peace with such policies to be implemented through the creation of "*a* league of nations which might be able further to correct international wrongs." (Myers, *op. cit.*, 7, Italics in original.)

b. The desirability of U.S. membership in the League

Hoover's counsel as to the terms of the post-war agreements had been respectfully received and considered along with that of others who were in contact with President Wilson and other foreign policy leaders. With the signing of the Treaty on June 28, 1919, Hoover was obliged to reassess his position concerning the Versailles Treaty and the League Covenant. His commitment to each was different. Thus, in June of 1919, following the acceptance of the final compromise in the Versailles Treaty with the necessary exclusion of many of the provisions for which Wilson had so diligently worked, Hoover observed that "the deterioration in Europe was such that a break now would have been a world catastrophe. With all my forebodings about the Treaty, I decided for myself to support its ratification by the United States as a lesser evil." (I *Memoirs* 468.) His outlook toward the League, per se, was completely different. At the same time he stressed that "The League idea re-enforced the idea of international co-operation to preserve peace, which will not die if civilization is to endure." (*Ibid.*, 472.) From June 1919 onward Hoover continued to make a clear distinction between his reasons for hesitant support for the general provisions of the Treaty of Versailles and his active support for the Covenant of the League of Nations, subject in the latter case to what came to be known by 1920 as the "mild" reservations directed essentially at Article X of the Covenant.

Hoover did not return to the United States until September, 1919. By then the Senate was embroiled in controversy concerning the Treaty. As the attention of the entire nation began to focus on the issue of membership in the League, Hoover allowed his views to be known throughout the country. In his *Memoirs* he summed his views as follows:

> I was fully aware of the weaknesses of the treaties, as distinguished from the League Covenant, perhaps more aware than most Americans. Nevertheless, I had concluded that they should be ratified in order to save what was left of the European structure. I hoped that the League might later revise and modify the destructive parts of the treaties. I also felt that, if the League did not work, we could get out on a year's notice and, since our consent as a member of the council was necessary to any action, no harm could some to us. (II *Memoirs* 10.)

Hoover's concern for the emergence of a fair and stable peace and his conviction that a League, founded on the duty to "preserve" the integrity of League members from external aggression through the employment of economic and military sanctions, would prove national man and was able to counsel Woodrow Wilson through Secretary Lansing on June 5, 1919, that the peace negotiations must again focus on "the interest of the world as a whole." (I The Memoirs of Herbert Hoover 466, cited hereafter I Memoirs. Hoover's official relationship to the Conference was on Relief and Reconstruction matters, serving as Economic Director for the Supreme War Council.) He perceived differences between the objectives of the United States and her European Allies. His focus was on the needs of humanity and of the world as a whole rather than on specific, and frequently nationally oriented, proposals put forward by the Allies at Paris.

Over the years this outlook took the form of advancing broad policies of international cooperation. He summarized it when he identified his Presidential "General Peace Policies" in his Memoirs. He stated: "My ambition in our foreign policies was to lead the United States in full cooperation with world moral forces to preserve peace." (II The Memoirs of Herbert Hoover 330, cited hereafter II Memoirs.)

Only through a full understanding of his commitment to the goal of peace is it possible to appreciate the processes which he considered appropriate in the kind of world which confronted him. He was clear in his view that historic divisions and conflicts in Europe were deep, pervasive, and irreconcilable and were almost inevitably war producing. Since it was beyond the capacity of the United States to "make a lasting peace," it was the function of Americans to "lend ourselves to measures preventing war, maintaining peace and healing the wounds of war." (I Memoirs, 473.) Also, in identifying the postwar problems and in considering processes open for the future he observed:

> But Europe was infested with age-old hates and fears, with the offspring of military alliances and increasing armament. Its rival imperialisms continued as smoldering fires which were the principal source of dangerous wars. Power politics was both the consequence and the cause. I had no desire to see the United States involved. From the beginning I believed that the hope of peace lay in the maintenance of representative government over the world, and I felt there was still some security in the recoil of horror from the war. But I desired that we might contribute to more solid foundations of peace. I believed fervently that we should collaborate with every sincere movement to reinforce peaceful processes. (II Memoirs 331; compare II Memoirs 11.)

Hoover, as a practical idealist, frequently identified his reasons for striving for a peaceful world. Thus, in his Inauguration Address, March 4, 1929, he observed: "The United States fully accepts the profound truth that our own progress, prosperity and peace are interlocked with the progress, prosperity and peace of all humanity. . . . Our sympathies are broadening beyond the bounds of our Nation and race toward their true expression in a real brotherhood of men." (I State Papers 8.) He pledged that the United States in order to advance civilization would take "a practical part in supporting all useful international undertakings." (Ibid.) Moreover, "we not only desire peace with the world, but to see peace maintained throughout the world. We wish to advance the reign of justice and reason toward the extinction of force." (Ibid.) Emphasizing the practical aspect of peace in his Armistice Day Address on Nov. 11, 1929, he stated: "We must realize that our industrial life, our employment, our comfort, and our culture depend greatly upon our interchange of goods and ideas with other nations." (Ibid., 126. He was to emphasize the same considerations in his Armistice Day Address of Nov 11, 1930, and again on Nov. 11, 1931. I State Papers 414; II State Papers 28–30.)

Having decided to advance the principle of peace, Hoover concluded that he must disavow the use of force as a means for attempting the resolution of international tensions. He further believed that a revision of international misunderstandings "could not be founded upon words or preachments, it must be founded on action." (I State Papers 271.) Aside from the continuing example of a mosaic of good deeds, he urged that the United States "must cultivate methodical procedures by which controversies between nations can be settled by pacific means." (I State Papers 235, Address to the Daughters of the American Revolution, April 14, 1930. In this address he acknowledged the need for national defense forces pending the development and testing of peace machinery over "long years.")

His aversion for coercion was well summed up at the Annual Gridiron Club Dinner meeting on April 26, 1930. He told this group:

"We have not hesitated to emphasize the fact that the United States will not involve itself in any political agreement which commits it to the use of coercion upon other nations. In our position of transcendent power the very association in military or other coercive measures would dim the picture of our pacific intentions We have emphasized the American position of independence clear and clean. The United States, devoted to peace, will make its own political policies." (I State Papers 271–282.)

Recapping his experience in the area of international relations during the period prior to and during his presidency, he observed that two roads were open to him. The one, he said, "is to develop moral standards of conduct among nations and to support them with moral forces. The other is to use economic and inevitably military force against aggressors." (II Memoirs 377.) He continued:

> Having seen the wreckage to civilization by World War I, I believed that the long-view contribution to preserving peace would be for America to stand on moral forces alone in support of law between nations. It was not isolationism. It was a belief that somewhere, somehow, there must be an abiding place for law and a sanctuary for civilization. (I Memoirs 377–378.)

He considered it his function as President to "pull the people of the United States out of the extreme mental and spiritual isolation which for years had made impossible a proper American participation in the constructive building of peace in the world." (Ibid., 378.)

In his Inaugural Address he frankly acknowledged that he coveted for his administration "a record of having further contributed to advance the cause of peace." (I State Papers 10.) Reflecting his consistent adherence to his fundamental principle he committed the nation to rational and moral behavior as opposed to violence, and to international cooperation—within limits—as opposed to unilateral State action. Thus, in his Inaugural Address he stated "Peace can be promoted by the limitation of arms and by the creation of the instrumentalities for peaceful settlement of controversies." (Ibid., p. 10.)

Hoover sought the fulfillment of this fundamental outlook through U.S. membership in the Permanent Court of International Justice (World Court), and through initial support for his particular rendition of a League of Nations and subsequent "full cooperation with the League of Nations in its non-force activities." (II Memoirs 332. One author has put it thus: "Implementing his broad policies of international co-operation as an aid to furthering peace, he sought to . . . (d) bring about better non-political co-operation with the League of Nations." H. Hinshaw, Herbert Hoover: American Quaker 184.) He was aware that such efforts would have to overcome substantial opposition. Thus, he wrote:

> When I took office America was so isolationist that our proper responsibilities were neglected. Congress was adamant against the World Court, and even to suggest that we would collaborate with the League of Nations in its many nonpolitical activities brought storms of protest. (II Memoirs 330.)

Having seen the rejection of League membership as proposed by Wilson, and not being able during his term of office to secure Senate approval of membership in the World Court, President Hoover geared his foreign policies to other commitments. He endeavored to secure the objectives identified in the 1921–1922 Washington Conference on the Limitation of Armament, the 1922 Nine-Power Treaty, the 1923 Peace Treaty of Lausanne, the 1925 Locarno Treaty of Mutual Guarantee, the 1928 Kellogg-Briand Peace Pact, the 1930 London Naval Treaty, and the 1932 Stimson Doctrine. (Hoover was willing to accept as the sole sanction the element of "public opinion." Letter to the Secretary of State, Feb. 24, 1932. III *Foreign Relations*, 1933, p. 209; II *Memoirs* 377; Myers *The Foreign Policies of Herbert Hoover* 22, hereafter *Foreign Policies*.) He also secured the negotiation and ratification of important conciliation and arbitration agreements.

In his speech accepting his second presidential nomination Hoover asserted that his foreign policy accomplishments "have been devoted to strengthening the foundations of world peace." (II *State Papers* 260.) As to the resolution of world disputes, he observed:

> We have expanded the arbitration of disputes. I have recommended joining the World Court under proper reservations preserving our freedom of action. We have given leadership in transforming the Kellogg-Briand Pact from an inspiring outlawry of war to an organized instrument for peaceful settlements backed by definite mobilization of world public opinion against aggression. We shall, under the spirit of that pact, consult with other nations in times of emergency to promote world peace. We shall enter no agreements committing us to any future course of action or which call for use of force to preserve peace.

(*Ibid*. This position was also set forth in his radio address to Women Supporting the Election Campaign, October 7, 1932, *Ibid*., 326. During the 1932 campaign Roosevelt, according to Raymond Moley, did not make a foreign policy campaign speech since the former considered Hoover's approach as being "good." H. Hinshaw, *op. cit*., 184.)

However, Hoover's commitment to the non-use of force in international relations was not absolute. His opposition to force stemmed from his awareness that it could serve the power politics interests of those States which did not place an exceptionally high value on democratic goals. Further, Hoover considered that such States would be willing to use the newly developing structures of international cooperation, such as the League of Nations, in order to advance their narrowly conceived international interests. Ultimately, considerations such as these caused him to avoid those League activities of a peace keeping nature.

The conditions under which Hoover was willing to employ force came to light during the Far Eastern crisis of 1931–1932 including the Japanese "rape of Manchuria" and Japan's seizure of "Shanghai with large naval and military forces." Hoover observed: "Their behavior toward the civil population was brutal beyond belief. At once I ordered a strong contingent of American troops and naval forces to Shanghai to protect the lives of Americans. I increased our Pacific fleet. I reenforced our Hawaiian and Philippine bases. There was no bluffing about this." (II *Memoirs* 374.)

The use of force as an aid to humanitarian intervention was clearly permissible under recognize that neighborhood organizations, as well as ordinary private contractors, are eligible to bid for and perform public services in their neighborhoods; and

decentralize the power in order to allow neighborhood corporations to decide whom the services will be contracted to.

The campaign should extol not only expected tax savings, but also the potential for radical restructuring of public service delivery systems to neighborhood public and private bodies. It should offer citizens both genuine tax relief, and also should open the door to a restructuring of government that promises to bring power back to the people themselves.

If tax cutters continue to focus only on protecting their wallets from the tax collector, they have little chance of effecting this important liaison with neighborhood movement leaders. If the latter, on the other hand, vocally oppose any attempt at tax limitation out of fear that their neighborhoods will be short-changed, they will force the tax cutters into open combat. Since many neighborhood organizations represent the poor, the non-white, and the non-English speaking, that combat could mean accentuated racial, class, and ethnic conflict.

Seizing the opportunity will take wisdom and statesmanship on both sides. Neighborhood people want a devolution of power—but they are not likely to get much of it so long as local government can get all the resources it needs to keep on doing business in the traditional and expensive way. Tax cutters want to pay less—but their chances of winning a tax cut in the face of terrified clamoring from the poor and minorities are substantially less; and even if they are able to muster a majority, the consequences could be socially and politically unpleasant.

Both tax cutters and neighborhood movement leaders are disgusted with the old ways—the former because they must pay too much for what they are getting; the latter because they get only what a public bureaucracy thinks is good for them. Here is a situation begging for a creative synthesis. Whoever first achieves that synthesis in practice is likely to be in the spotlight for a long time.●

FIFTIETH ANNIVERSARY OF INAUGURATION OF HERBERT HOOVER AS 31ST PRESIDENT OF THE UNITED STATES

● Mr. HATFIELD. Mr. President, with much of the Senate's attention these days focused on the debate over the SALT II treaty and our defense budget, I feel we can all benefit from the historic perspectives of the past. For me, the views of President Herbert Hoover, which span the troubled times from World War I to World War II, never fail to provide inspiration and guidance.

Hoover completed his apprenticeship in international affairs at the Paris Peace Conference just after World War I. During his years as Secretary of Commerce and later as President, his leadership in international affairs reached its full force. Even after he left the White House, he continued to maintain a lively interest in the external interests of our Nation.

Because of his international vision, Hoover played a key role in our Nation's debates over the League of Nations and the Permanent Court of International Justice (World Court). In an essay which traces the foundations of Hoover's views on these institutions, Prof. Carl Christol of the University of Southern California also succeeds in highlighting the broader sweep of Hoover's foreign policies. Mr. President, I am submitting this essay for publication as part of a series of writings honoring the 50th anniversary of the inauguration of Hoover as President in 1929, and I also recommend it as timely reading for today.

What are the lessons of a President who served 50 years ago? By tracing our 31st President's arguments for American participation in the League and the World Court, Professor Christol concisely summarizes Hoover's strong commitment to the moral force of the world opinion. His was a firm conviction that the best pressure to bring to bear in foreign policy was the moral force of an active and enraged public opinion. Here, also, we find the development of the Stimson doctrine, the philosophy for nonrecognition of a nation's right to territory seized through aggression.

Just as Professor Christol's essay is a timely addition to our review of President Hoover's life, so is it also a valuable reminder of our Nation's role in the world. Using Hoover's own words, Christol renews the large challenge facing us:

> Besides effective defense of the western hemisphere, Americans can take either of two roads in international relations. The one is to develop moral standards of conduct among nations and to support them with moral forces. The other is to use economic, and inevitably military, force against aggressors. Having seen the wreckage to civilization by World War I, I believed that the long-view contribution to preserving peace would be for America to stand on moral forces alone in support of law between nations. It was not isolationism. It was the belief that, somewhere, somehow, there must be an abiding place for law and a sanctuary for civilization.

Although the debates over the League of Nations and the World Court are long behind us, the philosophical issues which confronted Hoover are very much with us today. This essay brings these ideas into clear focus, and I commend it to my colleagues.

Mr. President, I ask that Professor Christol's work, as well as a brief biographical sketch of the author, be printed in the RECORD.

The material follows:

CARL Q. CHRISTOL

Dr. Christol is Professor of International Law at the University of Southern California. Professor Christol's formal education includes: A.B., University of South Dakota; A.M., Fletcher School of Law and Diplomacy; Certificate, Graduate Institute of Higher International Studies, University of Geneva; Ph. D. University of Chicago, and LL.B., Yale Law School.

His research interests have been in legal and political problems associated with the oceans, outer space, the world's environment, Human Rights, and U.S. Constitutional Law. Pursuant to these interests he has held several honorary and professional appointments. He had a Rockefeller Foundation Fellowship, 1958–1959, occupied the Chair of International Law at the U.S. Naval War College, 1962–1963; President of the American Branch of the International Institute of Space Law, 1974–1975, Member of the Executive Council of the American Society of International Law, 1973–1976, and Chairman, International Law Section of the International Studies Association, 1977–1979.

He is a member of the American Bar Association, the State Bar of California, the Commission to Study the Organization of Peace, the American Political Science Association, and the American Institute of Aeronautics and Astronautics. He has held elective offices in several of these organizations. He served in the Infantry during World War II and is now a Colonel in the USAR (Retired).

Dr. Christol is the author of six books and numerous professional articles. He also serves on the Board of Editors of The International Lawyer.

At the University of Southern California since 1949, Dr. Christol has received two of the University's highest faculty honors, "The Dart Award for Academic Innovation" in 1970 and the Associate's Award for Excellence in Teaching in 1977. In 1977 he received an honorary Doctor of Laws and Letters from the University of South Dakota.

He is listed in Who's Who in America, Who's Who in the West, and in other biographical services.

HERBERT HOOVER: THE LEAGUE OF NATIONS AND THE WORLD COURT

(By Carl Q. Christol)

INTRODUCTION

The world experiences of Herbert Hoover provided him with a very special background for understanding the central forces of his time. His intimate and practical contacts with foreign business and political leaders in a variety of contexts certainly shaped his perceptions of international politics. These experiences suggested to him the limitations which world forces impose upon the policies, programs, and achievements of world leaders. In simple terms, Hoover realized that his essential idealism would always be conditioned by the very real and very practical opposing and contending private and public needs of his era.

By the end of World War I Hoover's principal concerns were, as they remained throughout his life, to protect humanity's needs against War, Death, Famine, and Pestilence—the "Four Horsemen of the Apocalypse." (He summed his awareness of the influence of these forces when he wrote in 1922: "We have witnessed in the past eight years the spread of revolution over one-third of the world." H. Hoover, American Individualism 1.) As he participated in the formulation of the agreements bringing World War I to an end he manifested serious concerns over the commitment by European States to power politics.

He evidenced support for the establishment of suitable new international institutions to possess substantial influence and authority in world affairs. He steadfastly urged that the political institution—the League of Nations—be founded on principles of equity and justice and that its influence be based essentially on moral strength rather than economic and military force.

In all of his governmental involvements Hoover endeavored to move the potential of mankind forward. He did this as an individualist much concerned for the workings of representative government, as a sensitive person having faith in the view that man's higher qualities are provided with their best chance for fruition in a peaceful and orderly world, and as a human being possessing phenomenal moral conviction and having the capacity for enormous moral outrage in the presence of human weakness, national attempts at aggrandizement, and the vicious reliance on violence.

The manner in which he exercised his intellect, authority, and moral influence within the framework of these commitments and restraints, as respects the League of Nations and the World Court, is the subject of this study.

At the time of the Paris Peace Conference in 1919 Hoover had already become a multiformative magazine published by the Institute for Contemporary Studies in San Francisco. The article is by my former colleague on the National Commission on Neighborhoods, Mr. John McClaughry. I think those who are interested in both neighborhood revitalization and in tax limitation, as I am, will find Mr. McClaughry's thesis very provocative and worthwhile. I ask that the article be printed in the RECORD.

The article follows:

TAX LIMITATION: OPPORTUNITY FOR NEIGHBORHOODS

(By John McClaughry)

Preserving the neighborhood is an idea that has probably been around since mankind overcame Isaiah's malediction against those who lay up houses row unto row. In the last half of the 1970s the save-the-neighborhood movement in the United States has taken on new strength. Politicians now assiduously court neighborhood groups. Congress has passed a National Neighborhood Policy Act (which, not surprisingly, set up a commission). An Assistant Secretary of Housing and Urban Development has been designated to minister to the needs of "Neighborhoods, voluntary associations, and consumer protection."

Some argue that President Ford's failure to comprehend the importance of the neighborhood movement—especially in white ethnic neighborhoods—may have cost him the 1976 election. Perhaps taking note of his predecessor's errors, President Carter accorded neighborhood preservation an important rhetorical role in his 1978 national urban policy. And indeed a couple of small pieces of neighborhood assistance legislation have been salvaged by Congress from the oil slick where the Carter urban policy went down.

The neighborhood movement in the United States is extremely diverse. There is no national command center, no agreed-upon party line, no Jarvis or Gann. Its leaders are not even household words in their own metropolitan areas. They are black, white, Chinese, and Hispanic. They may have considerable hostility toward one another. Some clamor for massive federal handouts; others demand that Washington issue copious instructions to mortgage lenders and insurance companies to force those businesses to enter where even the disbursers of taxpayers' dollars fear to tread. Still others ask nothing more than that government give them back their own tax dollars and stay out of their way while they solve their own problems.

CLASH OF TITANS

Despite this fragmentation, the neighborhood movement is powerful and growing. Now, however, it seems destined to wage a wholly unnecessary battle against the equally dynamic movement for property-tax limitation.

At one level, the reason for this impending clash of titans is obvious. The enthusiasm for a California Proposition 13-style tax-limitation measure threatens massive public service cutbacks, which can only damage neighborhoods—particularly those inhabited by the poor, the aged, and the non-white and non-English-speaking. The best organized neighborhood movement leaders, who have the most communication with other urban leaders, are invariably liberal. They have been nurtured on federal grant programs beginning with the War on Poverty, and they have come to see progress as dependent upon large infusions of public money. Tax limitation threatens to turn off the spigot. Thus, as the Neighborhood Commission hearings indicate, the movement is getting ready to wage war against Jarvis, Gann, and their clones in other states.

But the struggle may be unnecessary. With some careful thought, neighborhood leaders could find in the tax-limitation movement a truly breathtaking opportunity for neighborhood revitalization. A properly designed tax-limitation measure—created with neighborhood improvement in mind—could result, not only in lower property taxes, but also in urban government reorganization, economies in public spending, improved services, more citizen participation, and, last but far from least, a devolution of real political and economic power in the direction of neighborhood people.

Proposition 13, of course, was a poor model for achieving these ends. The amendment was not designed to advance neighborhood interests, and the massive state bail-out threatens to make things worse. As many analysts have noted, the bail-out plan, which may well become perennial, will probably further centralize government power in the state capital, thereby destroying small, special district government bodies, which are much more popular than distant government behemoths.

Another, perhaps equally unfortunate, result of the Prop 13 bail-out is the protection it gives local officials against thinking radical new thoughts about municipal service delivery. So long as somebody in the state capital or Washington can be found to pay the bills, little incentive exists for city officials to find ingenious new ways of meeting their responsibilities.

Proposition 13 has already encouraged a number of changes in the way local Government operates. Increased user-fee programs in place of formerly "free" amenities have become common. Important changes in municipal personnel management have also come about. The existence of the bail-out money, however, has slowed down the trend toward contracting for services that Prop 13 would have been expected to produce. Nonetheless, a number of California communities, under taxpayer pressure both before and after Prop 13, have explored some wholly new ways of contracting for services.

CITIES, NEIGHBORHOODS AS CONTRACTORS

Some 35 recently incorporated cities in California have already made great progress in service contracting. At least 36 kinds of municipal services are being carried out by contract, allowing the cities to avoid the creation of powerful, union-dominated, civil service monopolies. The cities often contract with one another, or with higher levels of government, or with private suppliers and contractors.

In 1977 economist Robert Deacon at the University of California at Santa Barbara examined 23 "contract cities" and 41 non-contract cities in terms of police protection and street maintenance. He found, on the average, that street maintenance costs 43 percent more in non-contract cities, and police protection 72 percent more. Barbara Stevens and E. S. Savas of Columbia University found that it costs 68 percent more for a city department to collect garbage than for private firms to do the same job.

With cities forced into cost-effective contracting for services by a tax-limitation measure (absent a state bail-out), the potential role of strong neighborhood organizations becomes apparent. Provided the neighborhood organization—community services district, cooperative, community development corporation, or whatever form the neighborhood group may take—can develop the capacity to act effectively (and that is a very important proviso), cities should directly experiment with decentralizing the service contracting responsibility.

Robert K. Yin and Douglas Yates, in their extensive study of "Street Level Governments" for the Rand Corporation, found that where the service delivery group was not highly professionalized (such as policemen) strong decentralization—neighborhood-based with strong client participation—usually produced more managerial efficiency, increased client control, improved services to citizens, and more client satisfaction. These results strongly suggest that much municipal service delivery can be decentralized to sub-city levels without losing economies of scale.

The neighborhood organizations or corporations—again assuming they have sufficient capacity—can also act as providers of services along with other private and public firms. Neighborhood organizations, for example, could perform refuse collection on contract with the city, or directly on contract with its own residents.

Developing neighborhood organizations capable of providing services and accountable to neighborhood residents could stimulate the flowering of neighborhood institutions of all kinds. There is no reason why neighborhoods of 10,000 people could not operate their own schools, just as thousands of small towns do across the nation. Neighborhood housing rehabilitation is another likely by-product. With strong, meaningful neighborhood organizations conducting important programs for the benefit of their residents, there is bound to be an increase in their participation.

Tax limitation can push cities in this direction, and that possibly it is itself an important rationale for tax limitation. Instead of threatening funds for conventional neighborhood improvement, tax limitation can encourage expansion of neighborhood functions.

The problem is getting neighborhood leaders to recognize this. Frankly, it is a lot simpler to whine at the back door of city hall until the mayor tosses out some block grant scraps than it is to plan and organize a neighborhood-based refuse collection service. Those who have fattened at the grantsmanship table will have a hard time adjusting their minds to focus on the generation of revenues.

In searching for a model, the contrast between the community development corporations and the community action agencies, both funded by the Community Services Administration in Washington, is instructive. The CDCs—at least the most accomplished ones—have gotten into the habit of assessing revenue potential, calculating life-cycle costs, securing management training, and looking for customers. The CAAs, on the other hand, have almost invariably become the creatures of the granting agency; their budget can be met only by another handout from Washington.

Thus community development corporations can be the base for achieving a federated city in which neighborhood organizations both enter into contracts for the provision of services by private vendors, and conduct those services themselves as vendors. Existing special districts, in states where they are common, can also become the nucleus of a federated city model. In California, they have proven that they can efficiently discharge a very wide range of public duties while retaining the confidence and support of their constituencies.

RESTRUCTURING NECESSARY

The leaders of the neighborhood movement have been slow to perceive the potential of tax limitation for advancing their own neighborhood interests. That potential exists, but it depends critically on how the tax-limitation measure is drafted.

To command neighborhood organization support, the proposal must go beyond the narrow provisions of tax limitation and must:

remove barriers to the use of user fees, shifting the cost of public services from the general public to specific service users;

authorize service contracting as an alternative to municipal employee service monopolies;

approximately two million radioactive shipments than to the others. Yet not a single death or injury has occurred from radiation or radioactivity in the material being transported.

I am not an expert or particularly knowledgeable in the areas of environmental effects of other forms of power generation. However, I am aware that many knowledgeable people conclude that the total risk involved in the use of nuclear power is no greater than that of any alternate source which can meet our needs in the next few decades.

Today many are optimistic about the possibility of widespread use of solar and other so-called "natural sources of energy." However, in their enthusiasm they often disregard the limitations and environmental effects of these sources. Others advocate exploitation of shale oil deposits without mentioning the vast amounts of water and earth removal required.

Any large-scale generation of energy—whether nuclear or from other sources—involves major engineering difficulties and potential environmental impacts. It is incorrect to assume that technology and increased Government spending can overcome limits nature imposes.

I remember the optimistic projections made for nuclear power when it was first being developed. It was predicted that electricity from nuclear power would be too cheap to meter. These predictions sprang from hope, from ignorance of the engineering problems that would be encountered in using nuclear power.

In similar vein, many advocates exaggerate the benefits and ignore the problems of the energy sources they are promoting. The solution to our energy needs is not just over the hill at the end of the rainbow. Nature always demands its price; providing adequate amounts of energy will exact its proper price.

CONCLUSION

The technical problems involved in developing additional sources of energy are great, and will require our best talent.

I am not a proponent of nuclear power or of any other energy source. All alternatives have their own limitations; none are without risk.

In addition to the technical problems of generating the energy, environmental concerns must be factored into the equation. Whether these can be solved on a scale enabling us to sustain our present standard of living is not clear at this time.

One thing is clear. These problems cannot be dealt with effectively—from a technical or political standpoint—if those responsible are not set free to work on the problems. We cannot make progress unless those truly interested in solving these problems act responsibly.

Too many so-called technical, medical, and scientific people have been abrogating their professional responsibility to present facts accurately and objectively and in a context which enables others to evaluate them.

Too many in the media are sensationalizing the news in an attempt to attract readers, generate controversy, and make a name for themselves.

Too many self-proclaimed public interest advocates are pushing single interest ideas in ways that make it increasingly difficult to place the issues in true perspective.

Too many, in exercising their so-called rights, are exploiting environmental issues to obtain grants from the Government; through study contracts, improper injury claims and other methods.

These conflicting pressures have left the public uncertain, distrustful, confused, and in need of help. I consider this audience can provide a signal service by answering this call for help. Environmental issues must be put into proper perspective. Balancing risks and benefits must become a standard approach to evaluating environmental matters. The significance of environmental data must be explained to the public, so it can reach its own conclusions.

The present crisis in confidence over energy requires this approach to environmental issues. The Chinese word for crisis combines two ideographs. wei chi (pronounced weigh gee) literally, dangerous opportunity. A time of crisis is also a time of opportunity. We should take advantage of this opportunity to achieve a proper perspective in environmental matters.●

HANDGUNS AND POLITICAL COURAGE

● Mr. JAVITS. Mr. President, every year 250,000 citizens are assaulted with handguns. Of these, 9,000 are murdered. Handguns which are easily obtainable and for which no one is accountable are responsible for an average of 24 deaths a day. There are 50 million handguns in circulation, with 2.5 million more pouring into society yearly. When will this nightmare stop?

A recent article in the New York Daily News suggests that most Americans recognize the need to get the entire system of trafficking handguns under control and not to be overridden by the organized gun lobby. I would like to share with my colleagues this article which asks Congress to have the political courage to fight "for what is right and for what the people want."

The article follows:

[From the New York Daily News, July 27, 1979]

HANDGUNS AND POLITICAL COURAGE

(By N. T. (Pete) Shields)

April 16th marked the fifth anniversary date of my son, Nick's, death, He was killed instantly by handgun while helping a friend move a rug. Nick was the last of 14 people slain in the ZEBRA murders in San Francisco.

Since Nick's death, I have dedicated my life to reducing the uncontrolled availability of these deadly weapons. Repeated polls have indicated overwhelming public support for intelligent handgun controls; even among gun owners. Outside Washington, Americans wonder why the Congress and the President won't act to reduce handgun deaths. They don't understand why their elected representatives won't listen to the people and act out of common sense to prevent our becoming an armed society.

Working in Washington, I quickly learned that the Congress and the President do not always listen to the majority unless it is sufficiently organized to affect their reelection. A well organized 5% can be more important to politicians than an unorganized 80%.

The gun lobby is a prime example. Heavily funded by a fanatical minority, it has been able to block responsible legislation through a carefully orchestrated campaign of computerized mailings. These fine-tuned communications to gun advocates prompt thousands of postcards, filling the mailboxes of congressmen. They each harp on the same point of view, often using identical language. Even so, the elected representative, fearing his own reelection could be jeopardized, even by such a small minority, soon embraces the gun position, often contradicting his own personal beliefs. The gun forces reward these newfound friends with financial contributions to insure their reelection, while targeting those courageous enough to challenge the gun lobby for defeat.

I was encouraged by the election of Jimmy Carter. A Republican, I voted for Carter because I truly believed he would bring a refreshing change to Washington's political climate. As a professed "outsider" now on the "inside," President Carter pledged he would combat the powerful minority lobbies. On the handgun issue, I believed his leadership would make the difference. During his campaign for President, Mr. Carter had forcefully come out for handgun controls. As a hunter, he would effectively explain the need to place controls on handguns, while leaving rifles and shotguns alone.

Soon after taking office, Hamilton Jordan invited our organization to work with them on a handgun control bill. The legislation was sent from the Justice Department to the White House in June of 1977. There it remained for over two years, while hundreds of thousands of Americans suffered and died from handguns. Why? Apparently the President fears the organized minority more than the unorganized majority—the people who elected him. So he has now joined the insiders and is playing the gun lobby's game. Although we elected a President to lead, President Carter now says he will "follow" what the Congress does on the handgun question. He has abdicated the leadership to the gun lobby and those cowed by a well organized minority and their money.

There are some in Washington who do have the courage to stand up to the gun lobby and truly represent the public. One is Sen. Edward Kennedy whose comprehensive legislation provides the most far-reaching approach to controlling handguns in America. He is chairman of the Senate Judiciary Committee and has tragic knowledge of handgun violence. Sen. Jacob Javits is another. He is a Republican leader who has bucked the prevailing tide in his party to fight for effective handgun controls. But we'll need many more courageous legislators to win.

Until we get them, thousands and thousands of Americans will be killed, wounded or assaulted by handguns. To pass a handgun control law, we need a Congress and a President who will exert political courage, who will risk their political lives for what is right, and what the people want. ●

TAX LIMITATION: OPPORTUNITY FOR NEIGHBORHOODS

● Mr. GARN. Mr. President, two powerful movements are at work in the Nation today, the neighborhood revitalization movement, and the tax limitation movement. At first glance, these movements might seem to be heading for a collision. Many neighborhood organizations are seeking more governmental money to improve their neighborhoods, while tax limitation organizations are working to cut government spending at all levels.

But that collision may well not be inevitable. Indeed, there is a possibility that a creative synthesis could emerge from the two movements. If putting a ceiling on local government taxes and spending forces some radical changes in the ways that local public service needs are met, and if neighborhood people can see their opportunity for playing a larger role in the provision of those services, or in supervising the contracting to private enterprise of those services, then tax limitation victories could become a great charter of opportunity for those who advocate decentralized neighborhood power.

This thought is the central theme of an intriguing article in the current issue of Taxing and Spending, a very in-ment. Some Government agencies themselves have become a sort of special-interest group. In this way the Government itself has been unable to provide the perspective to balance the problems inherent in new technologies. Those who criticize Government's inability to respond effectively to the challenges it confronts, should work equally hard to promote within the Government an atmosphere in which it is possible for us to devote our attention to important issues.

"EXPERTS" IN SCARE STORIES

Many have come to realize they can make names for themselves by scaring the public on radiation and other environmental risks. This approach creates reputations because the news media play them up. It creates research grants—with the Government, of course, paying—to explore the newly discovered problems. Time and again a so-called "expert" makes a startling "discovery" followed by a not-so-startling conclusion that he is the one who should conduct further research at Government expense.

To illustrate the trouble one self-proclaimed expert can cause, I will recount a situation I have followed closely. Two years ago a young medical doctor with little if any experience in radiation or epidemiology research started investigating the effects of radiation on workers at the Portsmouth, New Hampshire Naval Shipyard. Studies in this field are complex, and require considerable talent and effort to find answers and avoid mistakes. In conducting the study he enlisted the help of an investigative reporting team from the Boston Globe.

In February 1978 the front page of this paper carried results of the investigation. This was not the case of a newspaper reporting something out of a technical journal; it was a report by the paper itself. No technical reviews were printed with this story. Reservations were stated in the story, but in a manner that made the reservations appear doubtful or readily dismissed. In the name of investigative reporting the newspaper itself had become an advocate for a highly questionable study, thereby dropping any vestige of objectivity. This was a classic case of limited information being blown into sensational news.

The story was printed in many newspapers here and abroad. The summary featured in many papers was that cancer deaths were six times higher for radiation workers at Portsmouth than for other workers. The news accounts spread fear among the workers, their families, and neighbors. Others here and abroad wondered if being near a nuclear-powered ship was dangerous.

The articles and concerns of constituents generated immediate Congressional interest. Within a week, a Congressional hearing took place. But little was done at this hearing to explore the validity of the study's conclusions.

White House officials used the results of this private study to order a Government-wide investigation of radiation. Millions of dollars will be spent carrying out these investigations.

For the past year and one-half I and key people in my organization and at the shipyards have been tied up with this issue. It has consumed our time and interfered with our proper work. Ironically, it has diverted attention from an important technical aspect of our job, which is to ensure safety of workers.

Throughout the controversy, the news media headline writers found it difficult to resist inserting the word "deadly" in front of "radiation." They rarely reported the Navy's achievements in radiation control, and the careful attention paid in this area. Those promoting the stories did not bother to explain that, despite a doubling in the number of nuclear-powered ships, radiation exposure had been reduced to one quarter what it had been fifteen years previously; that no one involved in the program had exceeded the Federal radiation exposure limits in a dozen years; that no one is the program had received more than one-tenth the radiation exposure allowed for radioactivity inside the body.

Official risk estimates indicate that about 1600 cancer deaths are expected for every 10,000 people. Among the 10,000 radiation workers who have worked at the Portsmouth Naval Shipyard, exposure received on the job might add two cancer deaths. Many scientists believe the true effects of radiation will be much smaller.[2] These facts are in sharp contrast to the exaggerated statements made in the Boston Globe.

Eventually the facts began to come out. In a Congressional hearing one and a half years after his report was published, the investigating doctor entirely changed his results. He repudiated his earlier conclusion that the cancer death rate for radiation workers at Portsmouth was double the death rate of their co-workers. He testified he could no longer support his earlier conclusion that the leukemia rate was six times higher for Portsmouth radiation workers than for non-radiation workers.

I do not intend to denigrate those who are addressing valid public health issues in a responsible fashion. But a true professional does not publish until he knows the facts and acknowledges the significance of potential errors. Those who do not follow this path of credible scientific inquiry are acting irresponsibly. Not everyone who proclaims himself an expert, is an expert. Not everyone with the title of "doctor" merits public esteem. Not everyone who claims to be acting in the public interest, is actually doing so. We must guard against those who in the name of public interest pursue fame through exaggeration. It is easy to use statistics improperly to predict large problems or to emphasize risk, out of context. Those who do so cause great harm by preventing a balanced assessment of the risks, thereby distorting proper preventive and remedial actions.

Since the doctor's new testimony, the Boston Globe has been comparatively silent. To my knowledge, the publishers have made no move to return the award they received for their earlier investigative reporting. There has been no apology to the workers and families they scared. The publishers have sold newspapers and have now moved on to other issues. I doubt if this experience will have any impact on their future reporting.

When a newspaper teams up with a doctor and then rushes preliminary, unsubstantiated results into print, it develops a vested interest to show that its reports are correct. Thus, it discounts or does not report information which conflicts with its own stand. That is the apogee of irresponsibility.

Such irresponsibility is a failure of newspaper management—not of the reporter. Much of the blame for other problems in the media also lie with management, who set the standards, style, and tone, and create the pressure for instant sensational reporting.

NUCLEAR POWER

I have spent considerable time discussing how public understanding of the true risks of radiation has been distorted in the name of protecting the environment. I have concentrated on radiation, although the problems I have mentioned are common to other environmental issues as well. The public perception of radiation has a direct bearing on the use of nuclear power in this country.

Nuclear power is not easy to deal with in this country because it has become a highly polarized issue. It involves individuals' concerns for themselves and their families, and it is a highly technical, sophisticated technology. Ultimately, the decision whether we should have nuclear power is a political one—in the true sense of the word—that is, one made by the people through their elected representatives. It is essential that the decision be made on the basis of fact, not rhetoric, nor conjecture, or hope; nor as a result of the widespread tendency to sensationalize or ignore the true limits and risks of the alternatives.

According to the estimates I have already stated, the actual radiation exposure to workers and to the public from today's use of nuclear power can be estimated to result in about eleven extra cancer deaths per year out of a total of 360,000. On this basis, to eliminate nuclear power here would then potentially save an estimated eleven lives per year, but reduced the energy available. This loss of energy itself, might well result in loss of life.

If the saving of eleven human lives were the sole objective, better results could be obtained from the following, than by eliminating nuclear power:

Reduco cigarette consumption for each smoker by one cigarette per year.

Reduce medical radiation exposure by one percent.

Move the population of the Denver region to coastal areas which have lower background radiation levels.

Eliminate stock car racing.

Reduce the overweight condition of those in this room by an average of three pounds.

Some analysts have reported there may be greater radiation exposure from operation of a coal-fired central power station than from a nuclear power station. Whether this assertion on radiation is or is not true, accidents in mining and transporting coal, and the effects on the public from sulphur and other pollutants, result in a demonstrably higher death rate from use of coal than from nuclear power.

Concern over a nuclear accident is often cited as a reason for prohibiting nuclear power. Obviously, a repeat of the Three Mile Island accident cannot be lightly accepted and corrective actions are called for to prevent recurrence. I have provided my views to Congress and to others responsible for assessing what might be done in the commercial nuclear power program. The record and risks of this source of energy should be put into perspective, as compared with other risks we face.

Here are some examples of accidents far worse than anything resulting from Three Mile Island, yet without comparable repercussions on public policies:

In 1947, a ship loading ammonium nitrate fertilizer exploded, killing 561 people and leveling much of Texas City, Texas.

Many fires, explosions and wrecks have occurred in which more people than this were killed.

Forty-eight earthquakes, floods, tidal waves, and storms have been recorded in each of which 10,000 or more people were killed.

The DC-10 airplane which recently crashed, killed several hundred people. No one is considering abolishing aviation—it is too important to our way of life.

I am not aware of anyone advocating relocating cities such as Los Angeles or San Francisco away from geological faults which might cause earthquakes or away from risk of flood or storm damage.

As another example, there are approximately one hundred million shipments of hazardous material annually in this country. Hundreds of people each year are killed, or seriously injured by hazardous materials in accidents. More scrutiny is being given to the service. Instead, they should explain how much we do know about the small actual effects.

---

[2] The National Academy of Sciences 1979 Report of the Advisory Committee on the Biological Effects of Ionizing Radiation is in contention over the views of a majority of the committee members on how much smaller the true effects will be.

STUDIES

Today, the universal answer to a claimed lack of knowledge of environmental effects is to conduct a study—nearly always at Government expense. I am not against studying environmental or health effects per se. But studies must be high quality; they have to cover tens or hundreds of thousands of people, and they must extend for many years, to have any chance of validly detecting effects as small as those from low-level radiation. One wonders whether this is a proper expenditure of taxpayer money. Are there not other areas more deserving of this kind of attention?

The compulsion to study is often used to quell public fears. It is also a way to show that something is being done. At Three Mile Island, epidemiological studies are being launched. One study has been commissioned to investigate the radiation effects of all pregnant women in the area—there were only a few hundred. These pregnant women received less extra exposure to radiation as a result of the Three Mile Island accident than they would have received had they moved to Denver, Colorado for a few months. If we must have a new study, it would make more sense to study radiation effects in Denver, with its higher background radiation due to the high altitude. Or members and staffs of the U.S. Congress could be studied because there are places on Capitol Hill with radiation levels above normal background due to natural elements in the buildingstone. If the idea of conducting studies on Congressional groups strikes you as strange, you may understand why I have reservations about the real need for some of the studies underway.

A study is often the way to forestall taking meaningful action or making a decision. Doing a study is usually doing nothing. deMontaigne said "Too much study suffocates the active part of understanding." Studies are frequently used to quiet an outcry. The study takes time. During this period the clamor dies down. The study is issued, filed and forgotten. Meanwhile a new issue has aroused the public. Another study is authorized. The report is filed in the archives, and so on, and so on.

INJURY CLAIMS

Another aspect of radiation where scare stories are contributing to the problem is in the realm of radiation injury claims. Here, as in other areas, our approach to life is to turn from self-sufficiency to excessive reliance on Government. Many have come to presume that any risk, no matter how small, warrants indemnification by the Government. I am not against the payment of legitimate claims where the cause can be substantiated and it can be clearly shown that the Government was at fault. But when the risks are minimal, common sense should prevail.

In 1978, a worker in New Mexico was awarded $75,000 in worker's compensation because he feared radiation. No physical injury was claimed. No excessive exposure to radiation was claimed. In 1979, the Connecticut State Supreme Court awarded compensation to a municipal employee for injuring his ankle playing ping pong before his work shift started. A compensation claim was approved for a Navy worker for headaches allegedly caused by sitting at a desk with his head down. Such abuses are becoming common. The implications of these awards are far-reaching—not simply for the money involved but in the attitudes being inculcated into large numbers of Americans.

There are about 65,000 employees in Government-owned Naval shipyards. About 22,000 past and present employees have filed claims for damage to their ears from noise. These Government workers are being paid an average of $12,000 per claim. No distinction is made for normal loss of hearing with age. No effort is made to differentiate hearing damage caused on the job from that caused by modern music played at deafening volume.

Secretaries whose only exposure to noise was a typewriter or copy machine are receiving awards. Workers apparently feel it is their right to receive these awards for normal work. In the last ten years, over $75,000,000 has been awarded to Naval shipyard employees for alleged hearing loss. The General Accounting Office has studied this area and found it riddled with fraud and abuse.

Since risk from radiation cannot be proven to be zero, suggestions have been made that the Government should pay all shipyard workers who get cancer just to be sure that none which might be related to radiation are missed. At a typical shipyard, about 10,000 workers have received radiation exposure from Naval Nuclear Propulsion work since the beginning of the program. Their radiation exposure from such work may add one or two cancer deaths to the 1600 normally expected in a group this size. To pay compensation to 1600 individuals so that one or two possibly deserving ones are not denied is absurd and unaffordable.

Demands have been made that all veterans who develop cancer be compensated because the cancer might have been caused by radiation from nuclear weapons tests. This would result in the Government making payment to almost 100,000 men who, according to normal incidence, will die of cancer, so that an estimated twelve possibly valid claims are not missed. Many claims have already been filed by these veterans.

The Navy's experience with hearing loss claims demonstrates that as long as there is money in the U.S. Treasury and Government agencies are willing to hand it out, there will be plenty of claimants. Many are urged on by unscrupulous lawyers who promote frivolous claims for a fee or a percentage of the award. Ordinary citizens, if they knew what was going on in some of these programs would demand a halt to such generosity with their taxes.

To those who get paid, this kind of cancer payment program may seem like getting something for nothing—like chain letters, the Pyramid Club, or the Circle of Gold confidence games. But the taxpayer foots the bill. In my view, environmental issues are badly out of perspective when we end up with a system that pays tax money to all who get cancer, merely to take care of a few for whom the real cause was radiation.

NEWS MEDIA

The news media have contributed substantially to getting environmental issues out of perspective. In their efforts to generate interesting stories that help sell newspapers, many members of the press have distorted the facts and the issues. In complex areas like energy and environment, bare facts are unexciting. To spice up otherwise dull articles, there is at times a tendency to be selective in the facts used or in the topics covered. At times conclusions are shown as facts. I understand that in some publications, the advertising department has a say in what gets printed as news.

Too often, facts have lost their proper separation from opinions. Merely by choosing what stories are reported, the media expresses opinions. Publishing a statement without reservations lends authority to that statement. Serious articles are often written by those who lack the technical background to understand even the available facts. And sometimes news is contrived. Let me give you examples:

During the Three Mile Island emergency, residents and local officials commented how useful the local news reports were, but that the national news reports were distorted. For example, one national television crew requested that an entire street be cleared so that their film could show, by the empty street, how frightened the people were.

A so-called documentary television report on radiation was strongly anti-nuclear. It led to a conclusion in which the reporter was said to have been killed by radiation. However, nowhere in the report of his death from lung cancer was it mentioned that he was a long-term heavy smoker.

In areas such as nuclear power, even innocuous events are frequently blown into issues by a zealous reporter or editor. Not long ago, a hose broke, spilling a few gallons of pure water into one of our most polluted rivers. Because this happened on a nuclear-powered submarine, the story appeared the next morning in the newspaper .

The failures of the media—its preoccupation with the sensational and its lack of balance and perspective—are understandable to some extent. News is like fish—it must be sold quickly. But these stories can have a harmful effect on the public. Doctors report that following a series of news stories which fan the fear of radiation, the risk of death increases for people who will not take X-rays they should take.

Our country's growth has been fueled by technology. The bulk of the information on this subject is in the news media. It, therefore, has a special obligation to educate, through responsible reporting. Given the facts in proper perspective, the public can understand environmental issues. The tendency of the press to omit facts interferes with understanding these issues. For proper perspective, the news media must exercise self restraint, and make available enough information so the public can understand the significance of the events reported.

I have no simple solution for this problem. The media are not really accountable to anyone. Freedom of the press belongs to the person who owns the press. The only way I can see a change is for the public to demand more enlightened and factual reporting; perhaps the media will respond. Loss of sales or viewer interest is something a newspaper or TV network understands immediately.

GOVERNMENT

In environmental matters, there is a tendency to view Government officials as if working for the Government were in itself evidence of incompetence and bad intentions, therefore guilty of the charges leveled at them.

Some self-proclaimed public interest groups tend to focus on a single issue, demanding an immediate solution regardless of cost. But when Government agencies are pressured into solving one problem in a narrow fashion, this often leads to exacerbation of other problems. In some cases companies have been forced to switch from coal to gas for environmental reasons only to have to switch back a few years later because of energy considerations.

The Government agencies involved in these issues have an almost impossible job. Faced with problems that would challenge the wisdom of Solomon, Government agencies are increasingly plagued with other demands on their limited resources. The flood of injury claims is but a small part of the problem. Today we in Government can be tied in knots by frivolous law suits, Freedom of Information Act requests, investigations, and studies. These demands, individually, seem reasonable and necessary safeguards over the activities of Government officials. But faced with limited resources, the cumulative effect of these demands diverts attention and effort from their primary functions. It is analogous to the case of Cyrano de Bergerac who had to compose a sonnet while fighting a duel.

To be sure, we do have problems in Govern-

The environmental risk having the greatest effect in the United States today is smoking. Smoking causes us about 325,000 deaths each year, half these are from heart disease, and about one-quarter from lung cancer. Sixty years ago we had little lung cancer. Today more are dying from it than from automobile accidents.

Each cigarette has been estimated to shorten life expectancy by five minutes. Another method of estimating the risk shows that of a group of 10,000 who continue smoking, 1600 die from the effects.

Another major health problem in the United States is caused by overweight. Our affluence and use of television contribute to this. Each ounce above normal weight is estimated to reduce life expectancy by two days.

We accept the inevitability of automobile accidents. Chances are that ten people in this room will be seriously injured this year from automobiles. By building safer cars or further reducing speed the risk could be reduced. But even a parked car is not risk free. You could choose not to drive, yet pedestrians and bicyclists also are injured by cars. Reducing the risk of injury from automobiles to zero requires moving to a place where there are none.

These comparisons should give some idea of the risk involved in things you are familiar with. They give a basis for judging what smoking, or eating, or watching Skylab fall, could mean to your health and safety. This is the kind of perspective to which people can relate. Everyone knows life is risky. If he has the basis for judgment, he can decide what to do or not to do.

RADIATION RISK

While accepting the many daily risks of living, many seem to be getting the idea that their demands for energy should be met on essentially a risk-free basis. Since this is impossible, attention should be focused on taking reasonable steps to safeguard the public, on developing realistic assessment of the risks, and on placing them in perspective. One of the most widely distorted risks is radiation.

At the start of the Navy's Nuclear Propulsion Program in 1946, I realized the need for careful attention to radiation. It was clear to me that if nuclear ships were to be viable, there would have to be assurance that workers and crews not be subjected to excessive radiation. To emphasize this, I designed the shielding for our Naval nuclear plants to be many times more stringent than required by the standards then in effect. As a result, the shielding built into the first nuclear submarine, the Nautilus, was so conservative that it continues to be far more than adequate to meet the considerably lower radiation levels permitted today.

My approach to radiation shielding design was not agreed to in some places. For example, in 1957, the Chief of the Bureau of Ships—my boss—asked me to reduce the shielding in our submarines in order to save weight. Likewise, in 1965, a Congressional Committee launched an investigation to determine whether my conservative approach to shielding was unnecessarily increasing the cost of submarines. In both cases I held to my determination to keep radiation levels as low as I could reasonably get.

Insofar as the environment is concerned Naval plants have been so designed and operated that in each of the last eight years the total gamma radioactivity discharged to all harbors of the world has been less than two thousands of a curie. This quantity is for the operation of over 100 ships and of all their support facilities. To give you an idea what this means, if one person were able to drink the entire amount of this radioactivity discharged into any harbor in all of 1978, he would not exceed the annual radiation exposure permitted by the Nuclear Regulatory Commission for an individual worker.

The word "radiation" has come to connote danger. It is often described as so dangerous that any amount is unsafe—as if the only question worth addressing is "how fast will radiation harm you?" Because you cannot see, feel, taste, hear, or smell radiation, it has an aura of mystery. But this same mystery appears to be absent from other potentially hazardous things for which we have a lack of sensory perception, such as radio waves, carbon monoxide, and small concentrations of numerous cancer-causing substances. These do not generate the same degree of fear as radiation.

The fear instilled by radioactivity today is akin to the fear of electricity following the invention of the electric light bulb one hundred years ago by Thomas Edison. Public fear of electricity was inflamed. Wall plaques had to be installed in rooms with electric lights, assuring people that "the use of electricity for lighting is in no way harmful to health, nor does it affect the soundness of sleep." Yet electricity has helped to transform man's life from a short one of drudgery to one where long life and higher aspiration can be realized.

Scientists have stated for decades that radiation can cause harm. However, all of us have been subjected to radiation throughout our lives from time of conception and, in fact, even prior to conception. The entire human race has been subjected to radiation, as has every living thing, throughout the entire evolution of our earth. The average person in the United States receives each year about one-tenth rem from natural radioactivity in the earth, in his body, and from cosmic radiation.

The unit of radiation, rem, ought to be required knowledge in all technical societies. It is defined in terms of energy absorbed in body tissues. Receiving one rem of gamma radiation is equivalent to absorbing 100 ergs of radiation energy for each gram of body tissue. There are 454 grams in a pound. An erg is the amount of energy required to lift a mosquito weighing one thousandth of a gram about one centimeter. In terms of energy the rem is a small unit. A dose of one rem would raise body temperature only two millionths of a degree centigrade.

We are not accustomed to fear background radiation; after all it is part of our natural environment. Yet in scientific terms it can be shown that its risk is not zero. More is known about radiation than almost any substance that can affect humans. More money has been spent to learn the effects of radiation on humans than for any other hazard in our modern society. The main effect is cancer. Effects other than cancer have not been found for low-level radiation exposure to adults. While genetic effects from radiation can occur, they are so small that none have been found in 35,000 children conceived after the nuclear explosions, by parents irradiated in Hiroshima or Nagasaki in 1945.

The combination of one-tenth rem per year background radiation, together with nearly the same average amount from medical diagnostic radiation, is estimated to cause almost one percent of cancer deaths in the United States. In an average group of 10,000 people, 1600 will die of cancer. Sixteen of these deaths will be from background and medical radiation. If the lifetime radiation exposure of 10,000 people is increased by an average of one rem per person—a total of 10,000 rem—it is estimated that one additional fatal cancer may occur.[1]

This estimate of risk gives perspective on what radiation exposure means in the following ways:

Of all industrial and medical radiation workers in the United States, about 15,000 die each year from cancer. The total radiation exposure from their work adds an estimated 25 cancer deaths per year.

Radiation from the nuclear accident at Three Mile Island may add one fatal cancer death to the public within fifty miles. Of the two million people living within this fifty mile radius, 325,000 are expected to die of cancer from causes other than the radioactivity released from this accident.

The perspective on radiation can be improved by comparison. For example, I know an apparently healthy person who forty years ago received more radiation from medical chest x-rays than the total exposure all 15,000 radiation workers at nine shipyards received in 1978 from Naval nuclear power plant work. Others have had similar radiation exposure, and years later are alive and well.

Another example: for years rumors have persisted that radiation-induced cancer has killed the crew of the first nuclear-powered ship, the Nautilus. In 1978 the Navy traced each of the 96 officers and enlisted men of this first crew. Despite the rumors, all the men associated with operating the nuclear propulsion plant were alive and well.

With this perspective you are in a position to better answer the question, "Is radiation safe?" If safe means zero effect, then you have to conclude radiation is unsafe. But to be consistent, you should also conclude that background radiation and medical radiation are unsafe. Or more simply, that being alive is unsafe.

"Safe" is a relative term. Comparisons are necessary for actual meaning. For a worker, safe means the risk is small compared to other risks accepted in normal work activities. Aside from work, safe means the risk is small compared to other risks routinely accepted in life. From what I have said, it should be clear that the radiation encountered in our daily activities should not be the scary subject it is proclaimed to be.

EXTRAPOLATIONS

In radiation, as in other areas, a most effective way to frighten people is to proclaim that no one knows what the effects are. This has been repeated so often that it has become an article of faith that no one knows the effects of low-level radiation on humans.

One could well state, "No one knows the risks of smoking a few cigarettes," but the risks of smoking a large number of cigarettes are well known. If 10,000 people smoke an average of four cigarettes a day, about 100 deaths will result; data are not available for lower smoking rates. For radiation, doses of 100 rem to each of 10,000 people would be required to cause an equal number of deaths. The effects of radiation on humans at doses of 100 rem are well known. The major controversy over radiation risks today is how to extend the risk estimates to even lower levels. As we get to lower levels, it becomes more and more difficult to detect the effects, and this becomes a problem. Would it be possible to determine the effect on the death rate of doing one situp or one pushup a day?

Using the figures I just presented you can extend the numbers to show that one rem has about the same risk of death as smoking one cigarette per month. I make this comparison only to show that finding out the effect on the death rate of one rem of exposure is about the same as trying to find out the effect of smoking one cigarette a month.

The point is that the effect of one rem is extremely small. There are physical limits to how far we can go to ascertain precisely the size of this risk, but we do know it is small. Those who sing the refrain of how little we know about low-level radiation do a dishas tried to manage the oil market—including, of course, allowing domestic prices to align themselves with world levels—would have accomplished those two objectives.

---

[1] This risk estimate was made in 1977 by the United Nations Scientific Committee on the Effects of Atomic Radiation and by the International Commission on Radiological Protection. It is within the range of estimates in the 1979 draft report of the U. S. National Academy of Sciences Committee on Biological Effects of Ionizing Radiations, and in the 1972 report of this committee.

That was not the strategy which the President chose. The strategy that came down from Camp David was to retain existing controls and to ask for more (authority to ration). The President thereby opted for a strategy that will continue to expose the American economy to unnecessarily large dislocations from "shortages" and uncertain availability, unemployment and arthritic gains in the real purchasing power of pay checks. Thereby the economy's basic vitality is unnecessarily weakened for the years immediately ahead at precisely the time it needs to be strong in order to make the adjustments to the higher real costs of energy it is now confronting.

The second set of concerns about the President's program is that he proposes, in effect, the nationalized-industry strategy for bringing new sources of energy to the market in the longer run. This is the meaning of the proposal for an Energy Security Corporation to be financed apparently outside the budget. (At least the President proposes that it "will be outside the federal government. . .")

We are asked, in short, to depend for our future energy supplies on a Post Office corporation approach. The Post Office has not been notably successful in bringing innovative new products and services to its customers, and the evidence is clear that it has been incapable of avoiding a serious inflation of its costs. There can be no other interpretation of the extent to which the Postal Service pales at the proposal that there be competition in the first-class mail service.

And the Energy Mobilization Board simply adds another layer of government to deal with a problem that is now completely out of hand already because of too much government—namely, the extent to which agencies have been given or have arrogated to themselves power to block meaningful progress on energy. Even if oil were to become plentiful, it is doubtful if another major refinery could be built in this country. In spite of our enormous coal reserves, a quantum jump in coal production could not be achieved, and thanks to the decrepit state of our railroads (another condition "Made in Washington") it could not be transported even if the added coal could be mined.

PRUNE THE AUTHORITY

The straightforward way to deal with these blockages would be to prune the authority that makes it now possible for these agencies and programs to go beyond a prudent regard for such matters as safety and the environment and stall efforts to make progress on other urgent objectives of policy. To "solve" this problem by creating yet another agency with seemingly totalitarian powers is apt to produce in practice an oscillation from paralysis to harsh actions that in turn imprudently disregard these other concerns. If we go this route, we are apt to see demands for yet another agency to redress this imbalance—perhaps an Environmental and Safety Equalization Board to ride herd on the Energy Mobilization Board?

Finally, the President has some "moral" questions of his own to face. One is a consistent pattern of saying in general that we need to get government off the backs of people and proposing specific programs that vastly extend the scope and power of government over the lives of the citizenry. Whatever the merits of reliance on a nationalized-industry approach for our future energy, it is not a proposal that moves toward getting government off the backs of people—which has been assumed to be the general principles of first candidate and later President Carter. And this may be a part of the public's continuing bewilderment.

Another question must also now be asked. Is it really fair or even "moral" to keep up a drumfire of innuendo implying that oil companies and their officials are (the words must be used) involved in some sort of conspiracy or dishonesty without ever in a straightforward way providing the evidence? The problem perhaps even transcends morality and fairness. Even on his own terms there is no case for the President's energy proposals unless there is a "real" problem. Yet each time he indulges in this rhetoric and innuendo implying an oil industry cabal, he correspondingly weakens the credibility of his insistence that there is a "real problem."

As Talleyrand is alleged once to have observed, when someone said that what the Duke's enemy had done was a crime: "It is worse than a crime, it is a blunder." ●

THE NEED FOR ENVIRONMENTAL PERSPECTIVE

● Mr. JACKSON. Mr. President, Adm. Hyman G. Rickover is truly one of the great men of our time. On August 1 Admiral Rickover's contributions to our Nation and the world were once again recognized when he received the Winston Churchill Award from the International Platform Association. I applaud their choice of Admiral Rickover to receive this prestigious award.

Today, as we work toward finding domestic energy sources to replace our dependence on foreign oil supplies, we are faced with developing new energy alternatives while still adequately protecting the environment. In his acceptance speech to the International Platform Association, Admiral Rickover presented some of his views on this public policy issue in a speech entitled "The Need for Environmental Perspective." I believe that his views warrant broad reading and discussion. I therefore request that the text of Admiral Rickover's remarks be printed in its entirety in the Record.

The speech follows:

Environmental Perspective

(By Adm. H. G. Rickover)

I am greatly honored to be the recipient of the Winston Churchill Award. I had the privilege of meeting this great statesman when I visited the House of Commons in the early 1960's. I admired him greatly for his achievements and because he was a singularly warm-hearted human being.

I want to thank the members of the International Platform Association for this award and for inviting me to speak here this morning.

Long before the term environmentalist become a household word, I was concerned about our environment. Early in my career I became concerned that our natural resources were being consumed too rapidly; that the world's finite supply of petroleum would eventually be depleted; that the hydrocarbons we were burning for energy would be desperately needed by future generations as raw materials. Back in 1936, I had computed that the oil used in all history was one cubic mile in volume. By 1979, the total oil consumption had reached 17 cubic miles (463 billion barrels), a cube about 2.6 miles on a side. These figures show how small this precious resource is.

For too many years every new highway or invention was welcomed as an indicator of progress without taking into account the long range consequences. Mankind has been profligate—as if we were owners rather than trustees of this planet.

Today, there is a greater awareness of these problems, but not the recognition of the limits that nature imposes. From many quarters there are pressures to come up with a "safe" source of abundant energy. But each alternative has its limitations. Some, such as nuclear power, are opposed by single interest groups that often vie to be the loudest to cry doom. As more aspects of everyday life are being characterized by one group or another, as involving high risk, ordinary citizens are finding it increasingly difficult—perhaps impossible—to get the issues into perspective.

Within some special interest groups are those who favor returning to the simpler style of 100 years ago. Their objective is clear: they tend to be against most forms of energy.

The great majority of people, however, want to sustain today's advanced life style. For them the problem is one of evaluating alternatives—of comparing risks and weighing them against benefits.

The media, in search of exciting news, and special interest groups, encourage embellishing and sensationalizing facts. Since tough facts are often bland and hard to market as "news," the public gets a distorted picture of environmental matters. We face a danger that public policies in technology will be determined, in effect, by the media and by single interest groups.

While the problems we face today are immense, the increased public interest in energy and environmental matters offers an opportunity for progress toward solving these difficult, long range problems. But these will have to be dealt with intelligently, not on an emotional basis. Scientists, engineers, businessmen, medical people, lawyers, and others with professional knowledge and training are being called upon for facts and advice. It is essential that all involved take to heart their professional responsibilities; that they feel duty bound to convey what they know and what they do not know, with balance and perspective. That is not the case in many areas of society and is why, as the President recently said, America is suffering a crisis of confidence. The American people simply do not know what or whom to believe.

Our society now abounds with so-called experts who deal in half-truths and play on human fears or suspicions to further their own special interests. And a half-truth is like a half-brick—it will go farther. In so doing, they abrogate their professional responsibility to the public and cloud important issues. Those knowledgeable in the various disciplines have an obligation to see that these issues are kept in perspective, so they can be addressed intelligently by our leaders and understood by ordinary citizens. Consistency is needed in evaluating risks, and in providing proper perspective.

ENVIRONMENTAL RISKS

Nothing we do is without risk. Risk is an inherent and accepted part of daily life. The problem lies in determining how great are the risks and what should we truly be afraid of. For this, it is important to acquire a sense of perspective. Should the falling of Skylab have been a major concern? It was estimated that there was only one chance in 150 that Skylab debris would hit one person in the entire world. Nevertheless, in some areas emergency preparedness centers were activated and airplanes grounded. A more meaningful risk to me was that I had one chance in six hundred billion of being hit. This risk was worth worrying about for about one billionth of my time, which translates to about one second.

The risk from Skylab was inconsequential.

changes in the sunset concept, tailoring the mechanics of the bill to our unique legislative structure.

But I fear that each year we delay in passing a sunset bill into law, the more vital the sunset concept becomes.

This is because sunset is the best way of providing Congress a means of eliminating low-priority spending—and thereby freeing up resources for higher priority programs that this Nation wants or needs.

For this reason, in this new era of fiscal austerity, sunset is becoming more and more important. In just the past 2 months, for example, I have heard my colleagues on both sides of the Hill talk about extremely costly new initiatives that they regard as indispensable. Let me mention just three of them:

National health insurance, synthetic fuels development, and increased defense spending to complement the SALT accords.

If we are going to support all of these measures, or even just one of them, and at the same time maintain our commitment to balancing the budget, and fighting inflation, then we clearly need a tool like sunset.

Now sunset will not settle any arguments on which of these new initiatives we should support, or how much money we should provide them.

But sunset will give Congress the chance to get a handle on the Federal spending process so that we can eliminate programs that are no longer necessary. Sunset will give us a chance to get a handle on uncontrollable spending, the nearly three-quarters of the Federal budget that is now effectively beyond our control.

Now many of you have heard Senator MUSKIE, the architect of the Budget Act, and the architect of this sunset bill, make these arguments before. I think that with each passing year, the arguments of the distinguished Senator from Maine, in behalf of sunset, are becoming more and more well taken.

For we are beginning to realize that our budgetary resources, like our energy resources, are an extremely limited commodity. We know we must practice conservation measures with our citizens' tax dollars just as we are asking them to conserve energy when they drive and heat their homes.

Sunset will give us a rational framework within which we can practice such fiscal conservation. Sunset will provide the most reasonable and rational response to the new reality which demands that Federal funds be spent more prudently and effectively.

I am confident that the Governmental Affairs Committee will come back after the August recess and report out this legislation expeditiously. And I hope that once again, when sunset comes to the floor, that my colleagues give it their strong support.●

MR. CARTER'S CONFIDENCE SPEECH

● Mr. TOWER. Mr. President, the fifth chapter of Jeremiah, Mr. President, reminds us that "there are none so blind as those who will not see." I believe that sage observation has application to the events we are witnessing in Washington this summer.

President Carter stressed to the Nation on July 15 his belief that a "crisis of confidence" plagues the land. He warned Americans that the crisis of confidence which he sees is more serious than the problems this country is experiencing with either inflation or energy. In woeful tones, and with a flavor to his remarks reminiscent of his anti-Washington campaign oratory of several years past, Mr. Carter painted a picture of an island government, unable to produce solutions because it is removed from the people. As a result, the American spirit of abiding optimism has sunk to serious lows; in fact, to the point that America's prestige as a world power now rests precariously on the brink.

The gravity of this Nation's economic problems, Mr. President, is indeed threatening our future. Republicans, and many serious economists who have been preaching budget restraint until we are blue in the face, as well as an end to deficit spending, and measures to free this country's energy production capability from incessant Government interference, have seen the pressure building for the "crisis" for some time. In fact, Republicans last week offered a set of economic proposals for the next decade an action plan to help now in restoring American confidence in the future. If enacted, it will point this country on the path toward realistic economic stability and an economic future Americans can look forward to with confidence.

The crisis the President describes is real enough. No one denies that. But the reasons were inadequately explored by the President in his televised address to the Nation.

Paul McCracken, a noted economist and former Chairman of the Council of Economic Advisers, expands on the crisis in greater detail in the August 1 Wall Street Journal. It is penetrating, provocative, and eye opening in its analysis of what happens when those who lead see only what they choose to see. It is worthy of review by my Senate colleagues, and I ask that it be printed in the RECORD.

The material follows:

CARTER'S CONFIDENCE SPEECH

(By Paul W. McCracken)

". . . I want to speak to you tonight about a subject even more serious than energy or inflation. . . . It is a crisis of confidence."

Thus did the President in his address to the nation on July 15 state his theme. It might, in fact, be called the confidence speech since the word was used fifteen times during those Sunday night minutes—and the themes were repeated the next day.

That confidence, a sense of optimism about the future, is at a low level is undeniable. The studies regularly conducted by the Survery Research Center at the University of Michigan show consumer sentiment at levels lower than at any other time in the last quarter of a century except briefly during the 1974–75 recession.

The President is also right that there is a particularly low level of confidence about our longer run future. When asked about the longer run outlook, the pessimists outnumber the optimists by a widening margin. The American citizenry is clearly not put in an ebullient mood by what it sees when it looks out over the political and economic landscape.

More than confidence in confidence is, however, required. In a Book which the President reads and teachers there is a statement (King James Version): "Now faith is the substance of things hoped for, the evidence of things not seen."

RESTORATION OF CONFIDENCE

The restoration of that confidence which would contribute to renewed economic vigor will not occur simply because we are exhorted to become more confident about confidence. Renewed confidence will emerge when it becomes evident that substantive actions and programs have been put in place providing evidence that we are beginning to deal effectively with our basic problems.

Has the President, with his Camp David reappraisal and the restructuring of his official family, aimed programs and policies in directions that will deal effectively with the two most urgent concerns of people generally—namely, energy and inflation? That is the question which must be answered, and the Congress should be certain that the answer is in the affirmative—even if the necessary time requires delaying action until after the summer recess. There is one thing even more troublesome than the slow, cumbersome pace of Congress and that is its occasional spasm of hasty action. If the Congress will now give itself time to sort out the energy issue, and will look at it candidly, it will find itself disturbed by three related sets of concerns about the wisdom of the July 15 program proposed by the President.

For one thing it offers nothing for the short run except authority to ration gasoline. It offers, in short, an ambulance down in the valley. It, therefore, exposes the economy for several years to unnecessarily severe dislocations, because of uncertain and unpredictable availability. That is the real significance of the decision against immediate deregulation of the oil markets in this country. With the problems upon us of auto workers unemployed, people in tourist-industry establishments now facing hard times and the loss of life savings and retail stores with all the requirements for a good day except customers, the Federal Trade Commission should require that these all carry the label "Made in Washington."

While we could not control the interruption of Iranian oil or OPEC price increases, we do have control of the responses we make to these actions. Our response has been for government to manage the details of the market for oil, including controls on prices that held them below world market levels. What happened was what always happens when prices are held by brute force below market-clearing levels—demand exceeded supply, and there was "a shortage."

It should quickly have been evident from foreign experience that we were ourselves the source of our problems. Such countries as Germany (which imports all of its oil) and Japan (which must import virtually all of its energy) experienced far less in the way of economic dislocations than the United States (which still produces all of its coal and half of its oil).

That available oil supplies will not be rising as rapidly in the future as during the recent decades seems clear enough (though numerous such predictions in the past have been contradicted by later discoveries). What is needed at this juncture, therefore, is a policy that would do two things. It must bring overall demands into balance with a supply that will be growing, we must assume, less rapidly. And at the same time it must provide assurance to each individual that when he heads for the filling station there will be gasoline available for him to buy.

Immediate elimination of the tangled and labyrinthine controls by which government the university is in the interest of the Senate and the United States.●

THE BENEFITS OF NUCLEAR POWER

● Mr. McCLURE. Mr. President, I intend to keep stressing to my colleagues the absolute necessity of using nuclear power to produce a major share of our electricity. I was encouraged by the recent vote on the NRC authorization bill. A major drive to clamp a moratorium on the construction of new nuclear power plants was solidly defeated. Although perfecting amendments I offered were also voted down, a fundamental support for nuclear power prevailed through the debate.

We cannot afford to set aside such a valuable energy option. U.S. uranium resources can supply us with electricity for 580 years based on 1977 use rate figures using light water reactors and with breeders, 59,000 years. This compares with 1,500 years supply of coal resources, 24 years with oil (excluding imports), and 48 years with natural gas. An editorial by an Idahoan, Dorothy Strait, quotes Dr. Petr Beckmann of the University of Colorado as saying,

> If no more than the uranium tailings (U-238) now going to waste in storage vessels around the country were used as breeder fuel, they could provide the energy now imported as OPEC oil for 700 years.

Mrs. Strait brings out the juxtaposition of nuclear power safety and electrical current safety. What if our Nation had stopped the development of electricity because of its supposed hazards, represented by the Times in 1883 as dead horses lining the streets killed by fallen electrical wires and of workers being also striken as they tried to remedy the situation. She also includes Beckmann's comments on nuclear's safety. People living next to a nuclear powerplant receive substantially less than 5 millirems of additional exposure per year, the amount allowed by Federal regulations. A person's added chances of dying of cancer from 5 millirems would be about the same as from smoking a single cigarette during a year.

I am not attempting to overlook the problems encountered with this source of energy but asking my colleagues to focus on its benefits as well. Dorothy Strait's article, which was published in the Boise Statesman, is worthwhile reading and I request that it be printed in the Record.

The article follows:

Nuclear Power: Not the Terrible Genie It Is Painted

(By Dorothy Strait)

The May 5 guest opinion, "Dangers of Nuclear Power Outweigh Benefits," seems to add to the fear of nuclear plants that is being promoted by the anti-nuclear people.

The first example used is fear of bombs being made from the waste from nuclear plants. Time magazine admits that all nuclear wastes "generated up to the year 2000 by the U.S. nuclear plants could be stacked up six feet high on a single football field."

According to William P. Hoar, feature columnist, in his article "Independence for American Energy," "The Swedes have just developed a sealed storage container to hold such wastes that is almost as hard as diamonds and will outlast the nuclear radioactivity. And if waste is still a concern, there is the breeder reactor that is used in other nations that consumes the "waste" matter from conventional reactors as fuel, which means that we have a century's worth of energy in the form of atomic "waste" stored in the U.S. today that could be used for breeder reactors. Japan has now begun to operate its first fast-breeder reactor. Even normal nuclear reactors (using enriched uranium) take only 42 months to set up in Japan; regulations in the United States require 11 to 14 years before production starts."

Paul Harvey commented for the Los Angeles Times Syndicate: "The fuel pellet consumed by a fast breeder reactor is half the size of an eraser on a pencil. Yet that little bitty BB of fuel will produce essentially the same amount of energy as three tons of coal or 12 barrels of gasoline or 75,000 cubic feet of natural gas. And really, it doesn't bite."

Leonard C. Koch reports in Energy Perspectives that plutonium for the breeder reactor is "the most abundant energy resource on earth that we have the technical and productive capability to use now. Since a pound of plutonium is equivalent to more than 5,000 barrels of oil, and since we have known reserves of plutonium (uranium-238 convertible to plutonium) of about 250,000 tons already mined, simple arithmetic reveals that this energy resource is virtually inexhaustible. We already have the equivalent of some 2.5 trillion barrels of oil in storage." We can use that and conserve oil, gas and coal for petrochemical and pharmaceutical purposes for which they have unique properties.

Dr. Petr Beckmann observes, "The possibilities of the breeder boggle the mind. Consider just this single aspect: if no more than the uranium tailings (U238) now going to waste in storage vessels around the country were used as breeder fuel, they could provide the energy now imported as OPEC oil for 700 years. There are more than 200,000 tons of such "waste," i.e. uranium depleted of its fissionable U235 contents, stored in steel vessels at Oak Ridge, Tenn., and elsewhere. These neatly packaged, above ground, ready-for-use supplies could be converted to fuel in a breeder of the type that France already has in operation. The energy available from this stored "waste" amounts to the equivalent of 400 billion tons of coal—about as much as the U.S. has recoverable underground. If all of the 'waste' is utilized by means of breeders, the supply amounts to 10 times as much energy as is contained in all of U.S. coal reserves—a supply for centuries."

Then we have the fear of what could happen with a nuclear accident, which has never happened, but could happen. So most of us could imagine almost any sort of thing that could happen that would take many lives, that would be highly improbable. Even the Three Mile Island mishap—of which there is much evidence that it wasn't an accident—released radiation no greater than a body X-ray at your local clinic.

Beckmann of the University of Colorado explains that those living next to a nuclear plant receive much less exposure than the 5 millirems allowed by federal regulations. But even if a person did get a full 5 mrems in a year from a nuclear plant, his added chances of dying from cancer would be the same as those due to smoking a single cigarette during that year.

In 1883 the Times painted a picture of streets filled with dead horses, killed by fallen electrical wires, and increasing numbers of workers trying to remedy the situation becoming victims themselves of the dread electrical current.

Try to imagine what it would be like today if the "antis" had succeeded in preventing the development of electricity.

I grew up without the modern conveniences provided by electrical energy and do not want to go back to that way of living. If the demonstrators who are against nuclear power and other forms of energy want to live without the technological developments we now enjoy and future technological developments, let them find a spot—and there is still lots of wasteland in the United States or go to a communist country and live that way—but let the rest of us live comfortably.

But what can we do? Again the answer is Congress. Watch how the senators and congressmen vote. Are they voting to help the American taxpayer, or for more give-away programs at home and abroad? Then when we go to vote we can vote by their record.●

THE SUNSET ACT OF 1979

● Mr. SASSER. Mr. President, I would like to give my colleagues a progress report on an important piece of legislation which has not gone unforgotten in this Congress.

The legislation is sunset; the bill, the Sunset Act of 1979.

To the 80 Members of this Chamber that were serving in the Senate in the last Congress, this bill is very familiar. It is virtually identical to the measure that we passed by an 87 to 1 vote last fall.

And to our 20 new Members, this measure is also familiar because many of you supported the sunset concept as a pillar in your election campaigns.

The sunset bill was redrafted and introduced in the early days of this session, and now the Governmental Affairs Committee has completed a thorough series of hearings on sunset to review the various parts of the bill.

Fortunately, our task was not very difficult, because sunset is basically a simple idea. It proposes that nearly all Federal programs be reviewed and reauthorized on a 10-year, five Congress cycle, with similar programs to be reviewed at the same time.

I am pleased to report, however, that we made some valuable progress during this series of hearings.

We saw the administration and Senator Percy starting at odds with one another but then gradually work toward a basic agreement on one of the important titles that my distinguished colleague from Illinois added to the sunset bill.

In another important session, we heard State legislators and officials from across the country testify that while State sunset programs have had some technical, start-up problems, the sunset concept has given many State governments their first chance to reexamine programs and agencies that have piled up over the years, layer upon layer, without the oportunity for thorough review.

Finally, I saw that my colleagues on the Governmental Affairs Committee who attended these sessions were in virtually unanimous agreement on the need to enact a sunset bill into law.

I hope that the Governmental Affairs Committee, when it returns from the August recess, will act quickly to report out the Sunset Act of 1979. And I hope that the consensus on sunset that I witnessed during our hearings, continues on into the markup sessions on this bill.

The current sunset bill has been 4 years in the making. And we have used that time well to make constructive

However, more serious is the bad precedent such a tax would set. It would be just another intrusion by government into the private sector and a first step toward government control of all industry profits.

The government would receive the revenues from the tax to put itself into the energy business. And that is not needed. The Joint Committee on Taxation has estimated that over the next five years, such a tax would soak up over $40 billion of revenues which otherwise go for energy production.

This $40 billion tax burden will cost the country approximately 400,000 barrels per day in lost production by 1985, according to National Chamber estimates.

4. As I mentioned earlier, the Clean Air Act must be amended if we want to increase domestic refinery capacity, make more use of synthetic fuels, and make greater use of our nation's most abundant resource—coal. The Clean Air Act has the greatest potential to delay or prohibit a wide range of energy activities, such as locating a coal mine, drilling an oil well, expanding petroleum refinery capacity, or burning coal.

The Clean Air Act has become so rigid, that in some areas, emissions from natural sources of pollution such as vegetation, exceed federal air pollution standards, closing off these areas to any type of development. On two occasions, in Utah and Colorado, oil shale development was halted precisely because of this.

The Administration has repeatedly urged and in fact is now requiring conversions to coal, and that is a very sound suggestion. Yet the Clean Air Act will prevent substantial shifts to coal, particularly in urban and industrial centers unless it is amended. Without these amendments, coal conversion and increased coal utilization goals are unlikely to be met.

5. The last recommendation that I am going to mention concerns the topic of federal lands. The first step of the energy development process must be exploration and production of domestic natural resources. And as I said earlier, much of these are on federal lands.

In fact, 50% of the nation's energy resources may lie beneath public government-controlled lands. To pay millions of dollars to OPEC, to threaten our nation's very independence, and to seriously damage our nation's economy by importing oil while we simultaneously withdraw from use some of our nation's most promising oil producing lands, is ludicrous. It makes no sense to keep the nation's energy potential locked up.

The National Chamber made several other recommendations to the President on the topics of solid waste disposal, nuclear energy, synthetic fuels, and others. If you are interested in obtaining a copy of the Chamber's suggestions, you can get one by letting me know.

I began this morning by telling you about the three groups of people in this world and how they relate to the energy situation. So let's look again at those three groups—those that make things happen, those that watch things happen, and those that don't know what happened.

If we are really interested in limiting the role of government in our business and personal lives, then it's time for those who make things happen (that's business) to use their energies to inform those who don't know what happened (that's the government) that the solutions to our energy problems can be best found in private sector approaches. And that applies as well to our inflation problems, trade problems, unemployment problems and most other national problems as well. It's time as well for business to inform those that watch things happen (that's the public and the media) that they need to help press the government to get out of the energy business.

Deep down our citizens know that their high standard of living, their economic and personal freedoms, and their tremendous freedom of choice all depend on a healthy enterprise economy—composed of small and large businesses working for our mutual benefit.

So the question becomes—What can you do? Can you really do anything that will make a difference? I am convinced that the answer to that question is Yes!

You can make a difference by getting involved and supporting:

(1) The local Chamber of Commerce in your town or city.

(2) Continue to support the work of the Georgia Business and Industry Association. The GBIA has been doing an excellent job representing your views as Georgian businessmen and women. I encourage you to actively involve yourself in their programs.

(3) The U.S. Chamber of Commerce. The Chamber is working hard to represent your views in Washington, and their efforts are paying off. Our membership has grown from 50,000 to 85,000 in just three years and when it comes to national issues, the Chamber's lobbying and communications program on your behalf is second to none.

(4) Get involved with Citizen's Choice. Citizen's Choice is a national grass roots citizens' lobby affiliated with the Chamber of Commerce of the U.S. Citizen's Choice is effectively unifying the forces of thousands of individual taxpayers into a voice that is being heard in Washington. 36,000 Citizen's Choice members are lobbying at the grass roots level to support a strong enterprise economy and to limit the growth of the federal government.

I'm hoping that each of you here today will decide to get involved in the public policy arena.

The health of our society a year from now will reflect the commitment you are willing to make now to get involved.

The historian Edward Gibbon wrote of ancient Athens: "In the end, more than they wanted freedom, they wanted security. They wanted a comfortable life and they lost it—security, comfort, and freedom. When the Athenians finally wanted not to give to society but for society to give to them, when the freedom they wished for was freedom from responsibility, then Athens ceased to be free."

Whether that epitaph will one day be written of us is now the great choice before us.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4 PERMITTING ACCEPTANCE OF A GIFT OF TRAVEL FROM A FOREIGN GOVERNMENT OR FOREIGN EDUCATIONAL OR CHARITABLE ORGANIZATION

● Mr. STEVENSON. Mr. President, it is required by paragraph 4 of rule 43 that I place in the Congressional Record a notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization. The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Mr. Carroll Leggett, of Senator Morgan's staff, during the period from August 1 to August 18, 1979, to participate in a program sponsored by the American Council of Young Political Leaders which involves travel within the Peoples' Republic of China, the costs of which will be borne by the PRC. It has been determined that Mr. Leggett's travel within the PRC at the expense of the Government of the Peoples' Republic of China, the costs of which will be borne by the PRC, is in the interests of the Senate and the United States.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4 PERMITTING ACCEPTANCE OF A GIFT OF TRAVEL FROM A FOREIGN EDUCATIONAL ORGANIZATION

● Mr. STEVENSON. Mr. President, it is required by paragraph 4 of rule 43 that I place in the Congressional Record this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization. The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Neal J. Houston, of Senator Stafford's staff, to participate in a program sponsored by a foreign educational organization, Soochow University, Taipei, Taiwan, from August 6 to August 14, 1979. It has been determined that Mr. Houston's travel, at the expense of the university is in the interest of the Senate and the United States.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4 PERMITTING ACCEPTANCE OF A GIFT OF TRAVEL FROM A FOREIGN EDUCATIONAL ORGANIZATION

● Mr. STEVENSON. Mr. President, it is required by paragraph 4 of rule 43 that I place in the Congressional Record this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization. The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Kenneth E. deGraffenreid, of Senator Chafee's staff, to participate in a program sponsored by a foreign educational organization, Soochow University, Taipei, Taiwan, from August 5, to August 10, 1979. It has been determined that Mr. deGraffenreid's travel, at the expense of overcome by the innovativeness, flexibility and efficiency of the private sector—not by the public sector. Yet is appears that the Administration will once again try to rely on the public sector and more government to bring us through the energy squeeze. And I for one, don't find that very encouraging.

MORE GOVERNMENT INVOLVEMENT

Our energy problems started when government first began imposing its controls over the energy industry. I could point to several government actions spread out over the past years which have only exacerbated the energy squeeze.

These government actions include: price controls on oil and natural gas, removal of tax incentives for energy exploration, creation of a vast Department of Energy which regulates and ties up almost every phase of energy exploration and production, a policy of land lock-ups that has tied up hundreds of millions of acres of this nation's precious natural resources, and environmental regulations that often conflict with energy goals such as increased use of coal.

I had hoped that the President would have taken this opportunity to remove some of those government controls. Instead, the Administration's thrust seems to be toward more government control rather than less. And that's no solution; that's the problem.

The New York Times noted that one of the television programs canceled for the Sunday night's energy speech was an episode of "Moses the Lawgiver" in which Moses comes down from the mountain with the Ten Commandments. Well, apparently Jimmy Carter used that for inspiration because he sure enough has come down from the mountain and laid down the law!

And it appears that the new law is going to mean a lot more government involvement in the energy field.

HOW MUCH GOVERNMENT INVOLVEMENT?

According to the latest White House figures, the government will be getting involved to the tune of an additional $142 billion! That's a lot of government involvement! Just how much is $142 billion?

$142 billion would pay for every drop of imported oil that this nation will import over the next two and a half years!!

$142 billion would also completely pay the fuel bill of our nation's utility companies for the next 150 years!!!

$142 billion is equal to the annual budget of 14 Departments of Energy.

$142 billion is equivalent to $2,600 for each American family of four.

WHAT ARE WE GETTING FOR $142 BILLION?

We can only hope that what we may get for $142 billion won't be the same as 14 more Departments of Energy. The Department of Energy after all has an annual budget that is almost equal to the annual profits of all the oil companies combined, and yet the DOE has never refined or marketed a single quart of oil.

In his Kansas City speech on Monday, President Carter said (and I quote), "We are going to change the way we create energy in this country." Given the track record of our government in the energy field, I don't find that a comforting statement.

Apparently the newly proposed Energy Security Corporation is going to be a big part of this. This new layer of bureaucracy is going to have operating expenses of over $50 million for the first year and will be funded through an 88 billion dollar government appropriation to develop alternate energy sources.

The World War II synthetic rubber program is often used as an analogy for this new government corporation. We need to remember, though, that the only reason the synthetic rubber program was successful was because industry and government were working together. And to date, it looks like the government is more interested in making business the scapegoat for inflation and the energy crisis than it is in building a productive relationship.

Another big part of the Administration's program is a new Energy Mobilization Board which is supposed to work like "the War Production Board did in World War II," said the President. This Mobilization Board brings three thoughts to my mind.

First of all, I have to wonder if anyone has bothered to read the history of World War II and the War Production Board. If they did, it would quickly become apparent that war production got rolling in spite of the WPB, NOT because of it.

In fact, if the U.S. had relied on the WPB to get war production going, we might all be speaking German right now.

Second, the fact that an Energy Mobilization Board even has to be created is a de facto admission by the government that its own policies and regulations have created miles of red tape, countless delays and endless roadblocks to completing key energy projects, which is precisely what the National Chamber and Citizen's Choice have been pointing out all along.

And my third thought was this: given this government admission that there is a vast regulation problem, did anyone consider the fact that the best way to deal with all the red tape and delays would be to eliminate or drastically cut the government regulations that are the very root of the problem?

That would simplify things greatly, cost less and do away with the need for the entire mobilization board. But apparently such are not the ways of this Administration.

WHAT DOESN'T THE $142 BILLION PROGRAM INCLUDE

This brings me to a perhaps even more important point, and this is "What is missing from the Administration's energy program?" And this is more telling than what was included. In addition to ignoring the decontrol issue, there are two other critical omissions in the Administration's plan.

The President said nothing about more reasonable federal land-use policies and he completely ignored the terribly important question of environmental policy.

On the federal lands question the President recognized our nation's massive energy resources—24 percent of the world's supply—but he proposed nothing new to free up the use of those resources. Public lands have been estimated to contain approximately 50 percent of the nation's energy resources, yet at the present time, they account for only 10 percent of the U.S. energy production!

For example, the government has not allowed a single coal lease on federally-owned land in the last eight years.

There is a disturbing trend by government to withdraw public lands from any type of economic and energy development, and at this very moment there are several programs before the Congress and Administration which would withdraw an additional 250 million acres of public lands for wilderness designation. Classification as a wilderness would prevent any type of energy development.

The second omission, that of ignoring the collision course of present environmental regulations and the Administration's energy goals, must have been a deliberate omission. Any student of the energy situation recognizes that there must be some amendments made to the Clean Air Act if our nation is to reach the President's goals of greater reliance on coal and synthetic fuels.

By ignoring the public lands and environmental questions and by refusing to address the harmful effects of government price controls, the President's energy program becomes a "Paper Tiger,"—a very expensive paper tiger. Or as one observer put it, the President's plan is a brilliant piece of "Rafshoonery."

WHAT DIRECTION SHOULD THE ENERGY PROGRAM TAKE?

The U.S. is blessed with a super-abundance of both natural resources and the world's most advanced technology. These two ingredients, if allowed to work in a free market economy, could quickly make this nation energy independent once again.

No other nation on earth is blessed with the energy advantages that we enjoy. Of course, no other government on earth has tried as hard as ours to control and hamstring its energy industry.

I can think of no justifiable reason for the government to subsidize a massive energy development program while it is simultaneously preventing its own energy industry from functioning effectively.

In addition, the government is proposing to finance its intrusion into the energy field by taxing the profits of the energy industry!

In the entire history of man nothing has ever proven to be more efficient, inventive or innovative than the profit incentive found in a free market economy. And that's why, as we continue to look for solutions to our energy needs, we must stress the role of the private sector, and seek to diminish the increasing role of the state. For if we don't, we will only find ourselves slipping deeper and deeper into political and economic quicksand.

SOME PRACTICAL ENERGY SUGGESTIONS

Before I leave here today, I would like to share with you a few of the recommendations that the National Chamber gave the President in a letter last Friday. These are the same recommendations that the Chamber has been making for the past 2 years.

1. Speed up the schedule of decontrol of crude oil prices. Price controls since 1973 have kept oil prices artificially low—70% lower in fact than they otherwise would have been. This had reduced supply; increased demand and led to a 2.8 million barrel per day increase in imports! This in turn has drained hundreds of millions of dollars out of the U.S. economy and into the coffers of the OPEC nations. Inflation, national security concerns and a devalued dollar have been the direct results.

Decontrol would significantly increase the incentive to explore, refine and market more domestic oil and it would simultaneously signal to the world—and particularly OPEC—that the U.S. is serious about energy production and intends to cut its reliance on foreign oil.

2. Remove federal price controls from gasoline. Gasoline prices have been under Federal control since 1971. The price of crude oil now stands at over 50¢ a gallon. There is no incentive to produce gasoline selling for 90¢—when the 40¢ difference will not adequately compensate for the costs required to refine, transport, and market the final product, let alone offset local, state, and federal taxes.

3. The government should abandon its "Windfall Profits" Tax proposal. First of all, this tax is not a windfall profits tax at all. It is clearly a tax on revenues, not profits, which makes it a pure and simple excise tax. An oil company would pay the excise tax even if it hadn't made one nickel in profit. This misnomer is just another example of an Administration that twists the English language for political gain.

Live television and radio coverage would provide the widest exposure possible of this historic debate. It would allow all Americans to watch and listen and to make up their own minds on the treaty.

Since live broadcast coverage of the SALT II debate can provide an important means of informing the American people about the treaty, I would welcome it for this debate. I do have reservations, however, about televising regular Senate debate and would not want this to set a precedent.

To promote discussion of this issue, I ask for printing in RECORD the resolution passed by the American Federation of Television and Radio Artists and a letter to Senator BYRD transmitting it to the Senate.

The material follows:

AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS,
New York, N.Y., July 23, 1979.

Hon. ROBERT C. BYRD,
The Senate Office Building,
Washington, D.C.

DEAR SENATOR BYRD: Senate debates concerning SALT II are considered so vital to the well-being of the American people that after considerable deliberation, the 300 delegates present at this Union's annual convention directed me to urge you to use your good offices to authorize live coverage on television and radio of these historic debates.

It was the unanimous opinion of the delegates to the convention and the officers of this Union that the American public is entitled to and should receive the fullest possible information about the treaty and the debates in the most effective manner, namely, live broadcasting.

We would appreciate your efforts in this regard and would hope to hear from you that steps are being taken to achieve the ends of this request.

Very sincerely,
SANFORD I. WOLFF.

LIVE COVERAGE OF SALT II DEBATES

Be it resolved, that this 1979 AFTRA Convention believes that since the Senate's debates of the Salt II treaty are vital to the lives of the American people and that the people are thus entitled to the fullest possible information about the treaty and the debates, it follows that Americans are entitled to observe the course of those debates in live broadcast form; and

Be it further resolved, that the National Executive Secretary be directed to call upon officers of the United States Senate to authorize such live coverage so the American people will not be denied their just participation in these historic debates.●

ADDRESS BY THOMAS J. DONOHUE TO THE GEORGIA BUSINESS AND INDUSTRY ASSOCIATION

● Mr. ARMSTRONG. Mr. President, recently Mr. Thomas J. Donohue, executive vice president of Citizen's Choice, spoke to the Georgia Business and Industry Association. In forceful and convincing terms, Mr. Donohue pointed out what more Government intervention in private markets is not the answer to the Nation's worsening energy shortage.

In view of recent proposals to vastly expand the Federal role in producing, distributing, and managing the Nation's energy supply, I commend Mr. Donohue's thoughts to my colleagues for their consideration and request that the speech be printed in the RECORD.

The address follows:

THE ENERGY CRISIS—MORE GOVERNMENT IS NOT THE ANSWER

Thank you Mr. Dyson, ladies and gentlemen. This morning I'd like to begin by talking about the three groups of people who are involved in the energy predicament in which this nation presently finds itself.

The first group is made up of those that don't know what happened.

The second group are those that watch things happen.

The third group is made up of those that make things happen.

First there's the group that doesn't know for sure what happened. That's the federal government. They blame others for the energy crisis. For example, in the past few weeks the Administration has gone on record and blamed the oil companies for the energy crisis, they have blamed the consumers for the energy crisis, they have blamed the media for the energy crisis, they have blamed Iran for the energy crisis, and they have most recently blamed OPEC for the energy crisis. (OPEC is lucky enough to be blamed for inflation too!)

Then there's the group that watches things happen. They are the public, the media and the consumers . . . the group most immediately affected by disruptions in the energy industry.

Then there's the third group, the group that makes things happen, and that group is the business community which has developed and utilized the technology which is responsible for giving the U.S. the most advanced energy industry in the world. It is this group that has, after all, been able to deliver an ever-growing supply of energy, and it is the business community, who, by informing the public and by putting pressure on the government, can provide an atmosphere in which the energy battle can be won.

My talk has been titled in your program as "Shaping Public Policy: How to Get Government Out of Your Business." And I need to state at the outset that we are never going to get the government totally out of our businesses. But if each of us makes a commitment to get involved in shaping public policy we can succeed in reducing the government's growing share in this partnership. There are numerous ways to do this, and I will discuss them in a few minutes.

The events of the past few days give me an opportunity to point out how this ominous trend of government authority is continuing. I'm speaking of course of the recent developments on the energy front.

APPLAUD CARTER'S COMMITMENT

In spite of the fact that I have some serious reservations about the details of the President's latest series of energy speeches, I do want to applaud his sincere commitment to reverse U.S. dependence on imported oil. By making this a national goal President Carter has encouraged all Americans to join the fight to reduce our nation's vulnerability and our demand for foreign oil. This in turn will help hold down future OPEC price increases and relieve some of the pressure on the fragile governments of the oil exporting nations.

President Carter should be commended for his efforts to lead the nation through this present energy crisis. This nation needs a strong leader, and Jimmy Carter is making a valiant effort in this regard. He is a man of courage and his words of Sunday were encouraging and needed. Because he has made a good faith effort toward long range energy solutions while admitting his shortcomings and the shortcomings of his Administration, I welcome his speech to the nation on Sunday night.

However, as the details of what he said that night sunk in, and as he elaborated on Monday with further explanation of his energy plans, I became puzzled. On Sunday he appeared to come out against more government; but on Monday he clearly called for more government control and involvement in the energy field than ever before. I have become increasingly troubled by what I heard. For the next several minutes I'd like to share with you some of those concerns.

IS THERE A CONFIDENCE CRISIS?

The President said on Sunday that there is a crisis of faith and confidence in America. He said that Americans lack purpose in life and that we have become a nation that disrespects our government and other institutions. Well, I tend to disagree. May I suggest that if there is a crisis of confidence in America it is Americans' lack of confidence in Big Government—government that for 40 years has promised more and more and delivered less and less. That's what has been frustrating Americans. In fact, it isn't a lack of faith but an overabundance of misplaced faith that plagues Americans—misplaced faith that our government should and will be able to solve all our nation's problems.

If the U.S. citizens are guilty of anything it is that we threw up our hands too easily and said, "Let the government handle it." And you all know what that has led to. Often the government's cure has been worse than the disease. The President himself alluded to that when he admitted that the nation has focused too long "on what the isolated world of Washington thinks is important." Too many times we learn that Washington's solutions don't fit our nation's problems. For example: The government enters the health care field and costs begin to skyrocket. New York state hospitals alone spent over $1 billion (or 25 percent of their operating costs) on paperwork generated by Washington. And business funded $34 billion of the nation's health care bill that came to $163 billion in 1977.

The government enters the field of worker safety and health—regulations skyrocket! New agencies such as OSHA are created . . . billions are spent by industry in compliance . . . with the net result being little change at all in the safety records for workers, even though thousands of jobs were lost because job-creating investments weren't made due to lack of funds.

In the energy field, the government decided that it knew better than the market system how to price energy. As a result you have complicated price controls on oil and natural gas which have kept the price of energy artificially low and demand unusually high. This in turn has kept production levels low, because the incentive to explore and develop new sources of energy or to go after harder-to-extract fossil fuel deposits doesn't exist.

Recently, the government has once again shown how it likes to take on tasks which it invariably cannot do well. I'm speaking of course of the gasoline allocation program administered by the Department of Energy. It seems that no matter where the government attempts to take over a function of the market system, economic disaster follows.

This is particularly true when the government tries to supersede the price mechanism which is the heart of any market economy.

Historically, the challenges that have faced our nation have been successfully met and

More ominous is the precedent for public land ownership established by the Bureau of Land Management Act of 1976. For the first time, the principle of Federal trusteeship was altered to establish Federal retention of real property as permanent policy. Section 603 of this Act authorized study of all federal lands under BLM jurisdiction for wilderness withdrawal.

Finally, there is section 17(d)2 of the Alaskan Native Claims Settlement Act of 1971. The federal government granted Alaska statehood lands—but environmental extremists have sought to deny the state land it has selected and lock up over 150 million acres in wilderness or other single use categories. Right now, less than one percent of Alaska's vast land is inhabited. Our Native Corporations and citizens have been waiting 20 years—two decades—to enjoy the full rights of statehood and citizenship which they have worked so hard for. During this period, my state established the Nation's best record in wilderness, wildlife refuge and park planning. Yet we have not been accorded our full, secure, constitutionally due property rights . . . and when the 95th Congress failed to solve this problem the President invoked the 1906 Antiquities Act to withdraw 57 million acres as National Monuments. This was compounded by the Department of Interior's invocation of section 204(e) of the BLM Organic Act which, under the guise of an emergency, withdrew an additional 68 million acres for a total withdrawal of 125 million acres. These actions were arbitrary, illegal, and defy rational interpretation.

There was no emergency. This land was protected under several provisions of law . . . d-1, d-2; mining claim permits.

There was no basis under law. 204(e) orders must be approved by the full House Committee based on an emergency. None existed and no valid emergency was demonstrated by the Secretary of the Interior. This order was signed only by the Chairman of the House Committee as Congress was not in session.

There is no logic in land selected for protection. It apparently takes in submerged lands; inland navigable waters; complete river systems; Native claims; and State lands.

There is no clear definition of what (if any) uses would be permitted. We do not know whether this withdrawal is limited to mining claims; whether it restricts the right to enter or right of entry; if it applies to subsistence hunting and fishing.

The implications of this action are clear. The Administration does not know the facts. There is no coordination, discipline, professionalism. They are operating with preconceived prejudices, capitulating to extremist pressures. This is tragic for Alaska; terrifying for the West . . . for what happened to Alaska's public lands can happen to your public lands. The impact on Alaska's economy is applicable to your economy.

Right now public lands in the west are tied up in Section 603 and RARE II wilderness review studies. You have lived with uncertainty and watched investment dwindle or be diverted due to this uncertainty.

Right now, we're being robbed of our rights and our resources without reason. We're in the middle of a recession kicked off by an energy crisis, yet the public lands we're talking about . . . particularly in Alaska and the western states include energy resources, potential energy resources and access to them.

John Adams said private ownership is the foundation of a free and progressive political system when he wrote:

"The balance of power in a society accompanies the balance of property in land . . . if the multitude is possessed of the balance of real estate, the multitude will have the balance of power and in that case, the multitude will take care of the liberty, virtue and interest of the multitude in all Acts of Government."

No matter how far we progress in science, technology or in our concepts of social justice and government service—no one in this nation, who genuinely believes in the democratic system, will dispute that statement. Our people remain the safest repository of political power—and private property ownership remains the best way to preserve the citizens' power.

Consider where we would be if only half of public owned land was in private hands? The land would not lie fallow. It would be rationally used, energy resources would be developed . . . if economically feasible. The government still would have the right to provide incentives for and enforcement to assure environmental protection. Our economy would benefit from increased jobs and decreased balance of payment deficits due to dependence on foreign oils and minerals. State and local government would benefit from an expanded rather than shrinking tax base. Our standard of living would be sustained; our political stability maintained.

Renewable resources—forests, agricultural and rangeland—would be replenished. Environmental extremists are in error in their belief that private owners would permit wanton destruction of woodlands or wildlife to make a profit. This elitist mentality refuses to credit our national appreciation for nature.

We, who live close to the land and off the land, are its greatest defenders. It's not the bureaucrat in Washington, who comes out here to back-pack or fish or ski in Sun Valley two weeks a year who knows Idaho best. It's you who have committed, invested your whole lives to this state. The same applies to Alaska.

We don't want to live in a world stripped of wilderness and wildlife. We don't want to drink toxic water or breathe polluted air. We know about environmental hazards and are paying the price necessary to conserve and protect our life and lifestyle.

We're way ahead of government . . . and this elite, in their arrogance and ignorance, is rendering us powerless. The Administration's policy has been either ignorant of, or outrightly hostile to, economic and resource development in the West. We are underrepresented in Congress. The President owes Western states nothing because he didn't carry a single one of them. Easterners, for the most part, have absolutely no perception of public land, forest or national park policy implications. We have the fight of our life on our hands . . . and we will win only if we establish a bipartisan political and economic coalition with the coordination, sophistication and strength to educate the East, the Administration, and the 96th Congress.

Land is the basic commodity. When government owns it our tax base shrinks . . . and with it our ability to control our lives. The federal government acknowledges this to the extent that we're reimbursed for the impact of land withdrawn for national parks and monuments and conservation on our local economy. But carried to its logical conclusion, the cumulative impact of RARE II and d-2 and Section 603 could result in total dependence on the federal government. They would own, finance, and therefore, run states like Idaho and Alaska.

There is still hope and there still is time. You still have power. Idaho has two key votes on the Senate Energy Committee . . . Senators Church and McClure. Right now, Alaska's d-2 bill is before that Committee. Its disposition can reverse the public ownership syndrome that threatens your lives, livelihoods, lifestyles and our great Nation's future.

The Idaho Mining Association can launch a Truth Campaign—

The truth that economic development and environmental protection can coexist.

We have the technology to preserve the ecology.

We have the resources to make America energy independent and economically prosperous.

We have ample parkland but without access and amenities these areas are valueless for recreation.

Our public land used for grazing and timbering holds down inflation, reduces balance of payment deficits, creates jobs, assures renewable resources.

Our policy is not rape, ravage and ruin, but to develop, restore, and stabilize productivity to secure prosperity.

If we reach the American people, they will reach Congress and Congress will compel the Administration to revise their policies. We cannot be passive. We cannot just lobby in Washington. We cannot hope the nation will come to its senses. We must bring it to its senses before it's too late.

Government ownership and control are alien to the American system. Negative growth is unnatural to the American spirit. This country has never been afraid and we have never failed, and I for one do not intend to see our land, or our opportunities, or liberty shrink under the manipulation of extremists or elitists who have no objectivity on the issues or trust in the average citizen. These people are our servants, we are not theirs.

We fought a Revolution over these exact principles 203 years ago and perhaps we have to do it again. Fortunately, we can use ballots instead of bullets. But we in the West are not going to be colonized. We are states—not colonies.

The time has come to reaffirm and reassert our Declaration of Independence . . . our inalienable right to life, liberty and property which is essential to the pursuit of happiness.

The energy and economic crises will not disappear. No foreign policy can cajole, convince or coerce OPEC to act against its own interests. We can only liberate ourselves through liberating our land, spirit and intelligence. The American people have the strength to take risks and the discipline to make sacrifices and the common sense to know when each is required.

I have not lost faith in our system nor confidence in our citizens . . . in you. Together, we can triumph and we shall.●

TELEVISING THE SALT DEBATE

● **Mr. HART.** Mr. President, one of the most important issues the Senate will consider this year—and perhaps this decade—is the ratification of the proposed SALT II Treaty. It is a debate in which every American has a stake.

Although the Senate has never had live television coverage of its sessions, there is significant public interest in allowing it for the debate on SALT II. Among those who have called on the Senate to allow live broadcast coverage of this Senate debate are the American Federation of Television and Radio Artists (AFTRA). At the 1979 AFTRA convention in July, a resolution was passed unanimously urging that the Senate debate be broadcast live on both radio and television.

near major refineries in Richmond, Martinez. Benicia and Southern California sites.

"U.S. civil defense looks good on paper ... (but) no one at all thinks the United States has an effective civil defense." The Defense Civil Preparedness Agency estimates that, with existing U.S. civil defense plans, a full-scale nuclear attack in the mid-1980s would wipe out 70 percent of the population.

RADIATION POISON

The arms control agency has forecast—based on the experience of Hiroshima and Nagasaki—what might be expected in the aftermath of an attack by a one-megaton warhead.

The explosion would be visible up to 40 miles away and create temperatures as hot as the sun.

The immediate radiation, heat and wind would spread nearly nine miles in all directions (see map).

Those who survived the blast would be faced with the continuing terror of radioactive fallout. Some areas of San Jose would be coated with doses of up to 5,000 rems—10 times the fatal level—and many residents who took shelter would receive doses in the weeks ahead of up to 450 rems.

"More than half the people in basements would still die from radiation exposure," the report says.

The arms control report concludes that rebuilding the economy could take "from a few years to never. . . . Anarchy could exist in some places."

What if an A-Bomb Were To Fall on Pasadena

(By Dan Meyers)

WASHINGTON.—Below the malevolent nose of the SS–18 missile, the tops of the San Gabriel Mountains poke through the blanket of summer smog settled over the Los Angeles basin.

The nose tilts toward the ground. Eight nuclear warheads detach, headed for pre-set targets. Ground zero, detonation point for one of the warheads, is the intersection of Colorado Boulevard and Lake Avenue.

The warhead explodes with the force of one million tons of TNT, carving a crater 200 feet deep and 1,000 feet across, and hurling highly radioactive dirt for 500 feet on all sides. Winds of up to 500 mph slam down the Colorado Boulevard corridor. Everything flammable is incinerated.

The only objects left standing within a mile and a half are the heavy concrete pillars that support part of the Foothill Freeway.

The destruction spreads in waves.

At Pasadena High School, three miles away, heat from the nuclear fireball causes third-degree burns. Clothing ignites.

The Department of Motor Vehicles building almost four miles away on Rosemead Boulevard is cracked by pressure waves. The grandstand at Santa Anita racetrack is damaged and Fashion Park is littered with glass.

The Los Angeles basin, and civilization, for that matter, may never recover.

When the government thinks about the unthinkable—an all-out nuclear attack—that is what it seems. The gruesome scenario is contained in a report by the Office of Technology Assessment, a congressional office.

The OTA report has been released in time for the debate on the strategic arms limits agreed to by President Carter and Soviet President Leonid Brezhnev. The Senate will vote on approval this fall.

"Nuclear war is not a comfortable subject," the report says in an opening understatement "The mind recoils . . . but the fact remains that nuclear war is possible and the possibility of nuclear war has formed part of the foundation of international politics, and of U.S. policy, ever since nuclear weapons were used in 1945."

In an all-out war, the report says, the Soviet Union will aim its SS–18 intercontinental ballistic missiles at major transportation and industrial hubs, such as the Los Angeles area, as well as prime military sites.

Vulnerable areas under this scenario also include the coastal centers from San Diego to Oceanside to Long Beach, Oxnard-Ventura-Thousand Oaks, Santa Barbara and the San Francisco-Oakland-San Jose region.

Prime targets in California are March Air Force Base, near Riverside, and the more northern bases of Castle, near Merced, Mather, near Sacramento.

Theorize that the Soviets might launch a "limited" attack aimed at destroying energy sources such as oil refineries.

In that case the refineries at El Segundo and along the San Diego Freeway just north of Long Beach would be prime targets, the report says.

As a test case for yet another scenario, the OTA researchers theoretically destroy Detroit and Leningrad.

Detroit residents could suffer 2.5 million deaths and 1.1 million injuries, similar to estimates for Leningrad.

In an unrestrained war, the report estimates that between 20 million and 160 million people would die immediately.●

WHO OWNS AMERICA?

● Mr. McCLURE. Mr. President, an issue of particular concern to Western States is the increasing Government ownership and control of public lands; 66.8 percent of my own State of Idaho is possessed by the Federal Government. An excellent speech on this subject was delivered on behalf of my distinguished colleague and friend from Alaska, Senator TED STEVENS, to the Idaho Mining Association on July 25, 1979. In this time of energy shortage when the country must address the need for locating and developing in a reasonable manner additional resources, it is an issue we ought to be especially aware of. I ask unanimous consent that Senator STEVEN's remarks be printed in the RECORD at the end of my remarks.

I might note, Mr. President, that the distinguished Senator from Alaska (Mr. STEVENS), was unable to attend because of the press of business on the floor of the Senate (which, also, prevented me from being there) and that his remarks were presented by Ms. Tricia Bennett, one of Mr. STEVENS' staff aides. From all of the comments I have heard, many, if not most, of those present applauded the substitution and the substitute. I add my personal congratulations to her as well.

The address follows:

Senator Ted Stevens' Address Before the Idaho Mining Association

I've really looked forward to today. I feel a real kinship with you. Alaska and Idaho have a lot in common. We're both rich in minerals and scenic beauty. We both share the same devotion to our raw, rugged land and pioneer spirit of raw, rugged individualism. We even share that same sourdough sense of humor with an inclination to exaggerate.

Down here they tell of the farmer who refused to chop up a potato for a customer who only wanted to buy 100 pounds. Back in Alaska, we talk about the pilot who pumped 50 gallons of gas into a plane before he discovered he was fueling a mosquito.

We're both used to a land that's larger than life . . . a land that holds something for everyone . . . the miner, farmer, lumberjack, hunter, fisherman, manufacturer, tourist. We have wide open space and opportunity . . . and yet we're in trouble. Alaska is in trouble. The Rocky Mountains are threatened . . . the West is threatened . . . and unless the Administration and Congress take immediate corective action, all America will be in trouble. Because the majority of this land isn't ours.

66.8 percent of Idaho's land is held by the Federal Government.

96.4 percent of Alaska's land is held by the Federal Government.

And in a country that's dedicated to the principle of private ownership, this policy of increasing public land ownership and control poses a fundamental threat to both our economic and political systems.

We're witnessing a syndrome that can destroy the American system. Not just out here in the West but throughout America, a pattern exists where more private land is being transferred into public ownership and once in public ownership it's use is constrained . . . stringently controlled.

Right now, the Federal government owns 762.2 million acres—one third of the Nation's total land mass. This area is equivalent to the entire United States east of the Mississippi River, plus Louisiana and Texas.

State and local governments own another six percent and their acquisition power is growing with revenues granted through the Land and Water Conservation Act of 1965. In fifteen years, State and local government holdings have increased 12.4 percent through the purchase of 17 million private acres. This area equals Delaware, Rhode Island and West Virginia—combined.

In addition, approximately two percent of the Nation's land mass is held in trust for Native Americans.

This means that . . . in a nation dedicated to individual rights including property rights . . . only 58 percent of real property is in non-public ownership and that slim majority is under siege.

Now what's happening to that 42 percent of public land is equally disturbing because it's destroying the local tax base and disrupting the national economy.

State and local purchases have largely been dedicated to park, recreation and conservation systems. Another 4.6 million acres have gone for urban and transportation uses. The economic consequence has been to shrink their own revenue base and to reduce rural property at the rate of 1.1 million acres each year.

93.5 percent of Federal land holdings are located in the 18 westernmost states . . . almost half the total acreage in Alaska. The great bulk of this property—until recently—has been available for multiple use, including grazing, timbering, hunting, and natural resource production.

However, pressure from environmental extremist groups has eroded the economically valid, ecologically sound multi-use policy. The recently completed Roadless Area Review and Evaluation (RARE II) study considered some 62 million acres in 38 states . . . recommended 15 million acres for wilderness withdrawal and another 11 million for further study. This means almost 42 percent of study acreage has been permanently or temporarily lost for multiple use . . . productive use . . . economic use.

almost nobody survives. Downtown Long Beach, some four miles away, is raked by 160 mph winds, and clothing ignites spontaneously. Waves of high pressure destroy wood houses in San Pedro and fires erupt in Cerritos, nine miles from ground zero.

More than one million people die in California and, nationwide, 64 percent of the oil refining capacity is destroyed.

This is a "limited" nuclear attack.

Timed with the debate on Senate ratification of the SALT treaty on strategic arms limits, the federal government has released a report that paints the gruesome picture of nuclear war.

"Nuclear war is not a comfortable subject," the report by the Office of Technology Assessment says in an opening understatement. "The mind recoils . . . but the fact remains that nuclear war is possible, and the possibility of nuclear war has formed part of the foundation of international politics, and of U.S. policy, ever since nuclear weapons were used in 1945."

As the OTA researchers thought about the unthinkable, they considered four scenarios. One of these is the so-called "limited" attack in which the Soviet Union launches 10 missiles, each bearing eight warheads, aimed at knocking out the refining capacity of the United States.

The concentration of refineries near Long Beach makes the area a prime target.

Other possibilities in the report are:

A counterforce attack. In this case, the Soviet Union seeks to destroy U.S. military capacity. March Air Force Base, near Riverside, would be a target in this event because it could be used to launch B-52 bombers bearing nuclear weapons.

The other four bomber bases in California are Travis, near Fairfield; Castle, near Merced; Mather, near Sacramento, and Beale, near Marysville.

All-out war. The next level of targets includes economic or transportation hubs and other military sites. These include the metropolitan area of Long Beach and Los Angeles; Oceanside; Oxnard-Ventura-Thousand Oaks; San Diego, Santa Barbara; military bases in the Mojave Desert, and the San Francisco-Oakland-San Jose region.

A single nuclear weapon exploding over a city. The domestic case taken in the study is Detroit, which could suffer an estimated 2.5 million dead and 1.1 million injured. "Even if only one city is attacked, and the remaining resources of a nation are available to help, medical facilities would be inadequate to care for the injured," the OTA concluded.

In an unrestrained nuclear war, the report states, between 20 million and 160 million people would die.

Half the population of the United States could be warned by outdoor siren within 15 minutes after a national warning was issued, the report says. "Dissemination of warning to the public, however, is inadequate in many places."

The Soviet Union could better withstand the immediate effects of nuclear war, the report indicates. The Soviet refineries are far from population centers and the government is better equipped to take control of an emergency situation. Economic and agricultural recovery, however, would be slower in Russia in the long run.

The horror of war would not end quickly. For at least a decade, disease rates would be much higher than normal and, even after that radioactivity would cause an increase in cancer. If the planet's protective ozone layer were depleted sufficiently, ultraviolet rays from the sun could hit with enough intensity to blister human skin in 10 minutes, the study said.

Beyond that, are more possibilities.

"There are cases in history," the report concludes, "of high civilizations that simply stopped functioning (though people survived biologically) after some shattering experience."

WHAT WOULD HAPPEN IF H-BOMB FELL ON THE SILCON VALLEY?

(By David Hoffman)

WASHINGTON.—It is a clear afternoon in Silcon Valley. Traffic clogs the Bayshore Freeway as workers leave their jobs in the world's heaviest concentration of high-technology industry and head for their homes in San Jose and its sprawling suburbs.

Then comes the unthinkable.

A Soviet nuclear warhead explodes with the force of one million tons of TNT. Ground zero—the intersection of Highways 101 and 17—is showered with intense heat and a deadly, crushing pressure.

Within a mile and a half in all directions, the devastation is swift and nearly absolute. There are few survivors, no buildings remain standing and winds howl over the landscape at 500 mph.

From there, the impact spreads in concentric waves, as when a stone plummets into the surface of a still pond:

At Valley Fair Shopping Center, about three miles away, the intense heat causes third-degree burns on skin exposed to the blast, clothing catches fire, and the buildings are severely damaged.

Winds at 160 mph whip the grounds at Agnew State Hospital. High-pressure waves demolish surrounding brick and wood frame structures at more than four miles from ground zero.

Nearly nine miles from the blast site, at the IBM plant at U.S. 101 and Cottle Road, the heat causes second-degree burns to people and severe damage to buildings.

In a few hours, the Santa Clara Valley becomes a radioactive cauldron that may remain uninhabitable for years. Depending on wind conditions, deadly fallout may be carried hundreds of miles across the rest of the Bay Area.

These gruesome predictions have been laid out by the government's top defense planners in a series of recent studies on the effects of all-out nuclear war.

SALT ARGUMENT

Such hellish prospects recently led President Carter and Soviet President Leonid Brezhnev to sign a new strategic arms limitation agreement in Vienna, known as SALT II.

To illustrate the holocaust that would follow nuclear attack, the Arms Control and Disarmament Agency has recently published a graphic study on the aftermath of nuclear war.

Agency officials insist that the release of the report was coincidental with the June signing of SALT II. "But," said spokesman Jim Tope, "if it helps us get SALT II ratified, we'll take it."

The congressional Office of Technology Assessment has completed a similar report at the request of the Senate Foreign Relations Committee. This study was specifically timed to appear on the verge of Senate debate over the treaty.

However, one informed official said: "The study could be used either way—to support SALT or against it." The grim consequences of nuclear attack might bolster treaty backers, he said. But the study also point out that Soviet warheads would inflict greater casualties on U.S. targets—providing an argument for treaty opponents who say SALT II is not tough enough to restrain the Russians.

In a decision that has been likened in historical importance to the deliberations 60 years ago over the Treaty of Versailles, the Senate will vote later this year on whether to ratify SALT II.

For the most part, the Senate battle over SALT II will focus on such arcane topics as counterforce targets, verification and telemetry.

HIGH-RISK AREAS

But whatever the final outcome when the roll is called, probably in October, San Jose and all of Northern California have a stake in it.

The Defense Civil Preparedness Agency has identified Bay Area and Northern Californian cities—including San Jose—that are considered "high risk" areas in the event of a nuclear attack.

Those areas of highest risk in the state are so-called "counterforce" targets, which the Soviets would bomb first in an effort to neutralize any U.S. response. These include four Northern California Air Force bases that could be used to launch B-52 bombers carrying nuclear-armed missiles and rockets.

These four bases—all within 120 miles of San Francisco—are: Travis, near Fairfield; Castle, near Merced; Mather, near Sacramento; and Beale, near Marysville.

Attacks on such bomber bases would "cause considerable blast damage to nearby populations," according to the OTA report. For example, it said, "attacking Mather Air Force Base . . . would put more than 600,000 people at risk."

There is also one Southern California counterforce target: March Air Force Base near San Bernardino.

Since the Soviets would seek to destroy the actual bombers rather than simply wreck the runways, the OTA study estimates that an attack would be carried out with nuclear weapons detonating in the air instead of on the ground. This could reduce fallout but would increase casualties.

Of the next highest risk, after counterforce targets, are those areas with other military bases, military-supporting industry and major economic and transportation hubs, according to the Defense Civil Preparedness Agency.

Russell Clanahan, a spokesman for the agency, said San Jose falls into this category of "high risk" because of the heavy concentration of high-technology firms in Silicon Valley.

Other California areas listed as "high risk" are: the San Francisco-Oakland complex, the Los Angeles-Long Beach complex, San Diego, El Centro, China Lake, Edwards Air Force Base, Portola in Pumas County, LeMoore in Kings County, Oro Grande in San Bernardino County, Lathrop, Santa Barbara, and the Oxnard-Ventura-Thousand Oaks complex.

Nationwide there are 400 high-risk areas containing about 137 million people.

20 MILLION DEAD

Among the conclusions of the OTA study:

The impact of a small or limited nuclear attack would be enormous, perhaps killing as many as 20 million people. (Defense experts have in recent years generally discounted the theory that a "limited" nuclear war could be fought without escalating into a full-scale confrontation.)

The Soviets, who possess bigger warheads, would probably inflict more deaths in the United States than they would suffer in Russia. However, Soviet agriculture and industry would be slower to recover than the U.S. economy.

Americans would be particularly susceptible to a Soviet attack aimed at U.S. oil refineries. Such an offensive would kill more than a million people instantly in California

Department of Justice and each shall be familiar with investigations concerning fuel shortages. The Board shall investigate the causes of petroleum fuels shortage arising during the period beginning July 1, 1978.

(b) The Board shall be responsible for reviewing ongoing investigations being conducted by the Department of Energy and the Department of Justice and for compiling the report required by section 3.

(c) The Board may request assistance from the Department of Justice and any other Federal department or agency, including, to the extent permitted by law, access to any records, files, or other materials relevant to matters within such Board's jurisdiction and the use of the resources and personnel necessary to perform such Board's duties.

REPORT TO THE PRESIDENT, THE CONGRESS, AND THE ATTORNEY GENERAL

SEC. 3. (a) (1) Not later than 3 months after the appointment of the Board under section 2, the Board shall submit a written report to the President and to each House of Congress which includes the findings and recommendations of the Board with respect to the causes of the petroleum fuels shortage arising during the period beginning on July 1, 1978.

(2) Any information contained in such report which, in the opinion of the Board would prejudice an investigation by the Department of Justice or any other Federal department or agency, of alleged criminal conduct, shall be submitted in such report with the provision that such information shall not be disclosed to the public.

(b) The Board shall report any information concerning alleged criminal conduct or any possible violation of a Federal law to the Attorney General whenever such information is obtained, and shall make recommendations to the Attorney General with respect to the prosecution of any person for any such alleged criminal conduct or violation of a Federal law.●

THE FIRST REPUBLICAN NATIONAL HISPANIC ASSEMBLY CONVENTION

● Mr. DOLE. Mr. President, recently the Republican National Hispanic Assembly held its first annual convention in San Antonio, Tex.

The RNHA discussed some very important issues facing, not only Americans of Hispanic origin but also issues affecting all Americans. The Republican National Hispanic Assembly is to be commended for its dedicated effort in reaching out to Americans of Hispanic origin and informing them of the Republican philosophy on issues facing all Americans, and in particular, Americans of Hispanic origin.

Mr. President, I request that the statement of policy on national security and related issues as well as a resolution adopted by the assembly be printed in the RECORD.

The statement follows:

RESOLUTION

Whereas, the Republican National Hispanic Assembly is concerned not only with the welfare of over 20 million hispanos in the United States but also with our fellow Spanish speaking countries in the Western Hemisphere; and

Whereas, the presence of Fidel Castro continues to plague the efforts of all freedom loving people of our hemisphere; therefore be it,

Resolved, that we oppose any kind of recognition by the US government and be it further;

Resolved, that we endorse and encourage the application of the Monroe Doctrine in all of the Hemisphere to keep away all foreign powers who interfere with local governments, and be it

Resolved, that we request that the government of the US not to interfere with the efforts of freedom-loving Cuban exiles who seek to legitimately liberate their country from communism; and be it further

Resolved, that this assembly officially request the appropriate US government sources to free all Cuban exiles political prisoners currently serving jail terms for their efforts to liberate Cuba, and be it further

Resolved, that we request the appropriate government sources to expedite the release of all political prisoners from Cuban jails.

STATEMENT OF POLICY ON NATIONAL SECURITY AND DEFENSE ISSUES

The ability of the United States Armed Forces to carry out their primary task—to deter war, or, if need be, to prevail in it—depends on having in place enough men and women equipped with enough effective weapons to counter the military threats, regardless of origin or types, that can be foreseen or reasonably expected. The ability of the members of our Armed Forces to do their job when properly supported and equipped has never been a cause for concern. Declining force levels and cutbacks in essential training, however, are causes for concern, as are the deficiencies and deferrals in the modernization of our offensive and defensive weapons and their support systems.

For over a decade, official Washington has been unilaterally disarming the United States. Soviet military might continues to grow ominously and at an awesome pace, and which covers all facets of military power from below the sea to outer space and from tactical defense to strategic offense. The United States, by contrast, is living largely off past investments and every passing day brings reductions in some of our technological leads or further decline in areas where we are already behind the Soviet Union. It is clearly obvious that Soviet Russia seeks full military superiority over the United States, no matter the price and sacrifices demanded from its own people. It is customary in democratic countries to deplore expenditures on arms as conflicting with the requirements of social services. There is a tendency to forget that the most important social service a government can render its people is to keep them alive and free.

In view of the above, the Republican National Hispanic Assembly adopts and supports the following objectives as essential for the survival of our Nation:

First, and fundamental, the United States must regain unequivocal military strategic superiority. Parity is not good enough.

Second, all international treaties and other actions must satisfy one major and readily identified criteria—the total security of the nation and our allies.

Third, we must support an effective national intelligence structure, with strong capabilities in military, political, economic and technical fields, and possessing assets for the conduct of covert political actions against hostile foreign governments or parties when deemed necessary in the national interest by the President and the appropriate congressional authorities.

Fourth, the Congress and the people of the United States must take more positive steps to assure continuance of an effective All-Volunteer Military Force by assuring the military community—and reassuring it from time to time that our nation stands fully behind its uniformed personnel and that its existing benefits will not be adversely tampered with. The volunteer force must be strengthened by a strong, active Selective Service System in being as a backup in the event of emergency.

Fifth, the United States must fund and pursue a vigorous research and development program for military or militarily-related purposes. The dangers of a technological military surprise, especially in the fields of high-energy physics are highly probable due to the Soviets increasing investment in research and development—now accounting for about one-fourth of all Soviet defense expenditures.

Sixth, we must be consistent in supporting our friends and allies without exception. In today's international environment allies are essential, and the United States of America must not destroy its reputation for reliability and integrity.●

THE CONSEQUENCES OF ALL-OUT NUCLEAR WAR

● Mr. CRANSTON. Mr. President, the consequences of all-out nuclear war—millions of Americans instantly killed, our cities and countrysides in ruin, our Nation devastated possibly beyond reclamation—are hard for the mind to grasp. The horror is almost beyond comprehension.

To make such a possible calamity more understandable—and understanding by the American people is much needed during the current SALT II debate—three California newspapers have published major articles of the effect a single megaton nuclear bomb would have if dropped in their respective communities.

Because of the public service nature of these graphic, well-written articles and because California is not alone in having a number of "high risk" nuclear areas—there are some 400 throughout the Nation—I ask that the following articles be reprinted in the RECORD: "Nuclear Blast—Rippling Circles of Devastation," Long Beach Press Telegram, July 22, 1979; "What Would Happen If H-Bomb Fell on the Silicon Valley?" San Jose Mercury, July 15, 1979, and "What If an A-Bomb Were To Fall on Pasadena," Pasadena Star-News, July 8, 1979.

The articles follow:

NUCLEAR BLAST—RIPPLING CIRCLES OF DEVASTATION

(By Dan Meyers)

The coastline of Southern California, choked with summer smog, speckled with oil refineries, manufacturing plants and bathers, lies below the malevolent nose of the SS–18.

The nose tilts toward the ground. Eight nuclear warheads detach from the Soviet Intercontinental Ballistic Missile and steer for pre-set altitudes and targets.

The gentle rise of Palos Verdes and, jutting claw-like into the bay, the Port of Long Beach are frozen in the glare from 8,000 feet as one-megaton nuclear bombs detonate over Refinery Alley in Carson, over the Chevron complex at El Segundo, over Torrance and Wilmington.

Within three miles of the Carson blast, equal in force to one million tons of TNT, of Soviet weapon systems which do not have an intercontinental range—and thus cannot reach the American continent—but can threaten every European capital as well as North Africa and the entire Near East. Of particular quality in this association is the Soviet SS-20 mobile medium range missile which can, at a range of 5,000 kilometers, deliver warheads of 600 kilotons (KT) each—the Hiroshima bomb had an explosive power of 20 KT—to a target with high accuracy. This missile, of which about 150 are now deployed but with about 50 directed against China and some against the Near East/Persian Gulf region, will almost certainly not be covered by the SALT II agreement.

Since NATO in Europe does not possess a similar system, there is now forming, underneath the strategic nuclear balance again agreed by SALT II, an increasingly precarious imbalance in the area of nuclear medium and long range weapons. What this can mean over the medium run becomes clear when the present Soviet deployment rate for the SS-20 is extrapolated. According to this the Soviets could have about 1,000 SS-20 missiles in the mid-1980's when SALT II expires. Anyone wishing, as so many in the Federal Republic do, to leave the problem of a reaction to the SS-20 to a SALT III agreement should carefully consider the possible configuration of a western negotiating position capable of eliminating or neutralizing this powerful potential.

GRAY AREA SYSTEMS

This situation in the "gray area" systems is aggravated by the fact that the United States may well succeed in so effectively limiting, by certain treaty prohibitions on stationing, the Soviet Backfire long range bomber that the threat to the American continent is minimized—if not also excluded—but Europe, whose air defense is weak and who has practically no civil defense, lies completely in the coverage of this weapon system.

It is thus little comfort that the Soviet Union has, in the course of the SALT negotiations, informally agreed not to increase the present Backfire production rate. It is even less so since the Soviet Union has naturally denied any information about how high the present production rate is. The American estimate of a maximum of 30 to 50 per year is thus vague and far from unchallengeable. And not just this. In SALT I the United States had some bitter experience with informal agreements and unilateral declarations. Reason enough not to place too high a value on the Soviet statements on the Backfire problem which, by Soviet wish, is not an object of the treaty text.

The "gray area" problem is capped by the fact that the "cruise missile," the only American medium range system capable of, in the short run, restoring the balance in the continental strategic weapons area in Europe, will probably be subjected to a limitation in the SALT II treaty protocol prohibiting the deployment of sea- or land-based "cruise missiles" with a range of more than 600 kilometers during the originally planned three-year term of the protocol. It is true that the last word has not been spoken on this matter but there are not likely to be any significant changes in substance.

This does not effect the Europeans too greatly as operational "cruise missiles" will not be available before 1981. The decisive point from the European view for the entire "cruise missile" problem is whether the SALT II protocol will expire after three years at the most. It is today already certain that the Soviet Union will press massively—if not also formally—for an extension and here will not hesitate to invoke the spirit of detente. The chances for success of this are uncertain as it is completely possible that the protocol will expire as early as 1980, thus in an election year.

There are still more imponderables in this area. Unless all signs are false, the Soviet Union will also have "cruise missiles" available in about three years. Since they have, because of their many ballistic medium range missiles, no requirement for the medium and long range versions of the "cruise missiles," their goal could be to compel the United States to a mutual rejection of this option. There are thus sufficient reasons to support the American attempt to set the protocol expiration as far forward as possible.

So much for the "hardware" of the "gray area" problem, for that which the quantitative and qualitative restrictions of the SALT II agreement will probably leave behind in actual threats and inherent possibilities for NATO in Europe. But this does not solve the "gray area" problem. It also has a "software" dimension, a political side, which can essentially be reduced to the question of whether the states of Europe are capable of deploying weapon systems which are unpleasant to the potential enemy and could be classed by him in a noisy campaign as dangerous to detente.

In this respect the fate of the neutron weapon is still a far too unpleasant memory—not just here but primarily in the United States where often expressed worries about this often serve as a pretext for their own insecurity and also as a sore point. Anyone following the present "gray area" problem debate in the Federal Republic finds it difficult to escape the impression that a solution to the problem is more apt to founder on European-caused "software" than on the "hardware" to be made available by the Americans.

No matter how one counts and measures the potentials of the superpowers, it is certain that in about 1982/83 the American land-based intercontinental ballistic missiles (ICBM) would, for all practical purposes, not survive a Soviet nuclear first strike whereas, in a similar case, the Americans would, at best, take out 65 percent of the Soviet ICBM potential. It is true that the survivability of one element of the strategic triad is, as Defense Secretary Brown has said, "not the same as the survivability of the United States" but is certainly more than a regrettable amputation of an inadvertently three-legged giant.

The discussion of this problem still revolves substantially around the aspect of the development and deployment of a new generation of land-based intercontinental ballistic missiles—the MX—but it is increasingly clear that behind the prominent technical arguments are hidden fundamental political and strategic questions: questions about the future world political role of the United States; questions about the future crisis stability and conflict readiness of the United States; questions about the relationship between national independent and military balance, about power and politics; questions about the association between defense and deterrence; questions about the criteria of the strategic stability; questions for America; questions thus also of necessity of interest to Europe.

END OF STABILITY?

NATO does not live by conventional formations and weapons alone. NATO also needs a materially and conceptionally credible nuclear security through its alliance power. Since NATO will, for the foreseeable future, not be able to establish a conventional balance in Europe, strategy and weapons must be so configured that they make first use, escalation and execution of flexible and selective options possible. In view of the strategic nuclear parity of the superpowers, this can be achieved only if there is added to the. already difficult to formulate under these conditions, strategy of a "flexible response" a potential that thoroughly and credibly secures the escalation dominance of the United States.

Against this background the vulnerability of the American ICBM is reason for the greatest worry since the ICBM is still and will be for the foreseeable future the most reliable, quickest in reaction, most accurate and thus most flexible element of the strategic nuclear potential, in particular with regard to the operational options required for Europe. Anyone wishing to threaten with selective nuclear first use—and NATO must do this—requires weapons which give him limited nuclear first strike capability—thus the invulnerable ICBM. It is true that in the second half of the 1980's the sea-based intercontinental missiles of the United States should achieve performances now reached only by land-based intercontinental missiles but sea-based systems will never be a genuine equivalent. The European states thus have a "legitimate" strategic interest in the retention of an invulnerable American ICBM potential.

In the context of SALT this means that the United States must keep open the option of protection of its intercontinental missiles. It is true that, given the present state of negotiations, both the testing and deployment of mobile intercontinental missiles, which are presently being discussed as an alternative to the "Minutemen," are forbidden until the protocol expires but the development of such a missile remains possible. Since, as is the case with the "cruise missile," testing and deployment of an MX cannot, in any case, be started in coming years, the proposed regulation does not signify a particularly grave limitation for the United States.

But this does not solve the problem. It is not completely certain that the United States is now determined to even eliminate the vulnerability of its ICBM's. And even if a positive decision should be made, Europe would still not be able to breathe easy. It is still an open question as to whether the American government can prevail against the ubiquitous environmental groups who view the huge silo complex required for this system as an intolerable burden.

At the end of this development could be the danger that, once the SALT protocol expires, both superpowers would begin setting up a mobile intercontinental missile system but that this would remain an intention on the American side. Then, of course, the strategic balance would finally be destabilized.

Although SALT II is neither signed nor ratified, everyone here is already talking about SALT III. Just as if it were an unavoidable event. But we are still a long way from this—for many reasons. One of these is that, in view of the present difficulties in bilateral negotiations, no one can really imagine how such a project with active European participants—thus multilateral—can be begun and ended with a view to success.

Another reason is, however, of greater significance in association with SALT II. It derives from the question of whether the Soviet Union will still be interested in concluding SALT III in 1985. This depends solely on whether the United States documents in coming years that it is not prepared to accept a unilateral Soviet superiority in the strategic nuclear weapons area. If there should be a situation in 1985 in which, on the one hand, the Soviet Union has accumulated production-ready new developments in all strategic areas and the United States, on the other hand, could not show anything corresponding, then there would be a serious danger that the Soviet Union would either deliberately allow SALT to expire or, at the least, set the price so high that the United States would be left with only the choice between codified and noncodified inferiority.

For the period of duration of the SALT II treaty, this means that the United States must take full advantage of all options from the treaty and maintain a perceptible parity in the strategic weapons area. Not just for the sake of America but also in the interest of the alliance.

No matter how the American public would react to superiority of the world political opponent, West Europe would, in any case, not survive a decline of its alliance superiority into inferiority. The path is marked. But it does not lead, as is repeatedly assumed in America with a complete misunderstanding of the European scene, to a unified initiative by the free states of Europe but rather to a race to Moscow by the European national states—roughly in accordance with the motto: the king is dead, long live the king! The United States should have no illusions here. There may be periods of perceptible, if marginal, Soviet strategic superiority with which the United States could cope to a degree. But Europe would not survive this double inferiority. The United States thus has a double responsibility—to itself and to the freedom of the western world.

TREATY IN NO WAY BRINGS MORE SECURITY TO EUROPE

(An interview with Manfred Wörner, Chairman, Armed Services Committee, of the German Bundestag)

WELT. Does the SALT II bring more or less security for Western Europe and does this treaty influence the conventional components of defense?

WÖRNER. The SALT II Treaty in no way brings more security for Western Europe. European security depends on the balance of power at all levels. Of decisive importance is the credibility of the U.S. nuclear deterrent. The massive Soviet buildup in the area of intercontinental weapons will lead by the beginning of the 80s to the vulnerability of the land-based American intercontinental missiles and through it to a threatening imbalance in favor of the Soviet Union. The SALT agreements do not change anything here. It is indispensable for European security that the United States reestablish the invulnerability of its land-based strategic missiles and that the SALT provisions not prevent it from doing this.

In the area of medium-range weapons, the protocol of the SALT II Treaty creates an imbalance at the expense of Europe, which would be unbearable in the long run. The Soviet medium-range weapons (SS-20 missiles and the Backfire Bomber) are unrestricted toward Western Europe, whereas the cruise missiles, one of the possible counter weapons of the West, are subjected to limitations. Europe can live under these provisions only if it is made clear that the protocol expires after three years and will not be made a basis for SALT III negotiations.

It is also important to European security that the non-circumvention clause be so unequivocally defined and so understood that it does not hamper the defense efforts of NATO in the nuclear and conventional area.

The establishment of nuclear parity in the strategic area increases the necessity of reducing the superiority of the USSR at the other threshold levels, including the conventional one.

WELT. Is the NATO doctrine that rests on the total system of flexible deterrence not put in jeopardy?

WÖRNER. The NATO doctrine of flexible deterrence grows out of the linkage between conventional, tactical-nuclear and strategic nuclear levels, and thus imposes unacceptable risks for the potential attacker. A Soviet superiority in the strategic area, or in the field of theater nuclear weapons, would cut this connection and would practically detach Europe from the United States' nuclear protection, with all of its political and military consequences. The SALT Treaties should sanction such a situation and they should not close the road to a balancing of power.

WELT. How can SALT II constitute the basis for the negotiations intended by the West on the so-called gray area weapons?

WÖRNER. This question cannot be answered definitively either without the knowledge of exact treaty texts. However, it is important that for the gray area weapons the principle of parity be established. The continuing expansion of the Soviet medium-range potential undermines the strategic equilibrium and makes Europe a hostage of the Soviet Union against the United States. Counter measures by NATO are urgently needed.●

S. 1241: COMMENTS AND CLARIFICATIONS ON NATIONAL WATER POLICY

● Mr. DOMENICI. Mr. President, I know that I speak for the distinguished Senator from New York (Mr. MOYNIHAN) when I express our gratitude for the broad interest that has developed in S. 1241, the National Water Resources Policy and Development Act of 1979. This legislation, which Senator MOYNIHAN and I introduced 2 months ago, would establish a national program and strategy for water resources development, a program that seeks to meet our national needs over coming years.

In an effort to bring my colleagues and others interested in water resources development up to date on S. 1241, I shall review many of the comments we have received so far, most of which are taken from letters that I shall include in our hearing record when the Subcommittee on Water Resources meets again on September 6 and 7 to continue its hearings on S. 1241 and other water policy initiatives.

GENERAL COMMENTS

Possibly the most succinct comment among many expressing general support for the bill came from Governor Grasso of Connecticut. She stated:

> I support S. 1241 introduced by you without reservation.

From the opposite coast, Ronald B. Robie, director of California's Department of Water Resources, termed the bill:

> A well-reasoned and creative departure from the often confusing and contradictory morass of existing laws and programs relating to water resources development.

Governor Atiyeh of Oregon offered this view:

> I believe it is generally agreed that little progress is currently being made toward the development of water resources. The proposed legislation would not only expedite construction, it would provide for a local voice in the determination of project priorities.

Governor Milliken of Michigan stated this:

> I strongly support your efforts to streamline the existing cumbersome system for water resource development projects . . . The concept of providing block grants to states for the timely implementation of approved projects would be a definite improvement over the present system.

Governor Hunt of North Carolina noted that S. 1241:

> . . . offers the potential for an effective partnership between federal and state governments in meeting water management needs. The federal government would contribute the expertise of existing water management agencies and its project financing capabilities, while the state would contribute its ability to set priorities by placing projects (within) the framework of its own goals for development. The state would also continue to contribute a significant share of project cost, as under present policies. One of the bill's strongest features is that it would significantly change the present system for planning and implementing water resources projects, thus eliminating many of the delays and frustrations currently experienced.

Governor Ariyoshi of Hawaii offered this thought:

> We certainly support the provisions of S. 1241 which increases state responsibility and control over Federal water resources programs. As you know, the Federal system in water resources development currently does not provide adequate state involvement in its decisionmaking process.

Maurice B. Rowe, secretary of Commerce and Resources for the State of Virginia, stated:

> I have concluded that this proposed Act is definitely needed to improve the efficiency and effectiveness in the implementation of federal water resource programs and projects.

Theodore M. Schad, who served as executive director for the National Water Commission, said:

> Enactment of the provisions dealing with the reconstitution of the Water Resources Council as an independent agency with five members appointed by the President, studies of national priorities for water resources development through the year 2000, construction loans, regional projects, deauthorization of unfinanced projects, and involvement of the states in setting priorities would represent a giant leap forward in water policy reform.

William Whipple, Jr., director of the Water Resources Research Institute at Rutgers University, made this observation:

> The bill represents a praiseworthy attempt to short circuit the procedural bottleneck which now inordinately delays the authorization and construction of much needed water projects. It would also serve to strengthen the participation of the states in the decisionmaking process. This would be a healthy development.

Otto Eckstein, the noted economist, wrote as follows:

> I do agree that the Federal water resources programs have only a loose link to our national goals, reflect little in the way of priorities, and have only the weakest of built-in systems to assure a minimum economic quality to the work actually undertaken.

That problem, of course, is precisely what S. 1241 seeks to address and resolve. The rationale for S. 1241 is clear: The present structure of the Federal water resources program simply is not working. The United States is not building very many water projects. We are not building them very rapidly. And we certainly have no real idea whether those that we are building are the truly needed ones. They simply are the projects that somehow filter through the system, so we build them. A system of such ad hoc decisions and ad hoc construction fails to serve the needs of our society as we enter the final 20 years of the 20th century.

Our dilemma was expressed well by Ray K. Linsley, a retired Stanford University professor and water resources expert. Dr. Linsley said:

> National water development is in disarray.

Dr. Linsley goes on to say:

> Underestimates of projects costs and overestimates of benefits have made the traditional economic evaluation almost meaningless as an indicator of project worth and a basis for assigning priorities . . . Our failure to establish national priorities for water development has been a major factor leading to the current "disarray" . . . S. 1241 proposes steps which will ameliorate many of these problems.

Allen V. Kneese of the University of New Mexico, said of S. 1241:

> The legislation, if passed, would produce a significant improvement in our national water policy which I agree is in shambles.

Senator MOYNIHAN and I, of course, agree. We believe S. 1241 would improve the system dramatically, by converting the program into a block grant approach where project selection would be largely transferred from the Congress to the States. And with each project would go reasonable and standardized levels of project cost-sharing.

I am convinced that projects would move ahead far more rapidly under S. 1241 than under the present system; it is hard to imagine that we can not improve a system that now dawdles along for 26 years—a generation—before construction begins on the typical Corps water project.

We essentially have three choices:

First. Do we allow the present program of delays and ad hoc decisions to continue?

Second. Do we graft upon that system the President's cost-sharing proposals, adding 5 or 10 percent to local costs?

Third. Or do we recognize that the States and the Federal water agencies have a basic understanding and shared interest in water projects upon which we can build to develop a program that emphasizes State responsibility and State priorities. That is the nature of S. 1241.

The intent of S. 1241 has been confused or misunderstood by some, and it may have been distorted by others, who wish to perpetuate the existing inefficiencies. This may stem from imperfections that exist in the language of the bill.

To clarify our thinking, I believe it would be valuable to indicate some of the areas where confusion has arisen, and to give our thoughts and evaluations.

SPECIFIC COMMENTS

Some critics argue that S. 1241 would be a vehicle to transfer control of the water resources program from Congress to a reconstituted Water Resources Council that is devoted to a "hit list" philosophy. Nothing could be farther from our intent. Under the terms of S. 1241, the WRC would be restructured to assure it has an independence from the executive departments that is now lacking. In its work implementing S. 1241, the WRC would serve essentially as a bookkeeper, allocating authorized funds among the States on a congressionally established formula, initiating those studies that a State requests, and refereeing project disagreements that may arise between the States and the Federal water agency. Someone must serve as a referee.

An independent WRC would be a logical group to perform this service. But since I believe technical disputes over projects are likely to be rare, I can also see merit in returning to Congress for such decisions, if my colleagues believe that would expedite decisions and action. But I emphasize, our intent is to make the WRC a fair and independent arbiter and bookkeeper, not the keeper of a "hit-list."

If a State wishes to build an authorized project, it could do so if that State made the decision that a particular project merits priority consideration. And the State would be free to allot all of its money for 1 year to that project, or spread the funds among several projects. All the State need determine is what degree of contracting is merited on the project for that year, then put that sum aside on the priority list.

Another issue centers on the cost-sharing formula under the block grant approach, 75 percent Federal, 25 percent local. In a letter to Senator MOYNIHAN and myself, Governor Lamm of Colorado notes that "50 percent of recreation costs; 25 percent of fish and wildlife enhancement; well over 25 percent of flood channelization costs" and other costs are now provided by local interests. "We fail to see why additional cost-sharing is necessary," Governor Lamm concludes.

S. 1241, of course, requires no "additional" cost-sharing. It provides for an elegantly simple and consistent system for cost-sharing, replacing the haphazard patchwork of existing cost-sharing arrangements. The formula provided by S. 1241, in fact, is often lower than that now charged. While there is nothing magical about the 25 percent local share in S. 1241, that percentage appears to me to be a fair one, one that is at the level of many other Federal grant programs.

The complicating factor, of course, involves those projects where certain types of benefits are sold to the public, such as hydropower or water supply. S. 1241 does not alter the sale requirements on those benefits. But one-fourth of the revenues from such sales would be returned to the States or local sponsor, or would count toward the local share on a project that was authorized prior to S. 1241.

Another comment about S. 1241 involves the analysis of alternative projects, such as "structural" and "nonstructural" flood control projects, and alternative methods for water conservation. Adam B. Jaffe, of the Environmental Defense Fund, has suggested:

> A provision which specifically provides that a state's allocation can be used to effectuate any structural, nonstructural or semi-structural plan for solving a perceived water resource problem.

Frankly, I see no conflict between these various activities and S. 1241. "Nonstructural" flood control solutions merit equal consideration with structured solutions. S. 1241 is designed to achieve this, although additional language may be required in the definition of a "project" to clarify this point. The goal of S. 1241 is to provide the Nation with a more adequate water resources program, including supplies of water. If a particular State wishes to use its funds for an innovative system of conservation or flood control, such an approach should merit action under this bill.

Oregon's Governor Atiyeh makes this point:

> Procedures for establishing repayment requirements, determination of national priorities affecting water resources, and determination of the best available techniques for conservation of water are some of the areas that appear vague in the legislation.

I would agree that greater clarity appears needed and I would hope that witnesses at our September hearings will suggest language to achieve this.

It has been pointed out that the bill fails to include Puerto Rico, the District of Columbia, and other areas outside the 50 States. This needs to be rectified in the bill.

Abel Wolman, of Johns Hopkins University, is concerned that S. 1241 contains no "sharp definitions of the projects and programs to which the act is directed." S. 1241 is intended to cover the types of projects now within the authorization of the U.S. Army Corps of Engineers, the Bureau of Reclamation, and the Soil Conservation Service. The bill also authorizes Federal support for two types of projects not now eligible for Federal support on a national basis. These are single purpose water supply projects and desalination projects. S. 1241 does not alter existing laws, such as the Reclamation Act or various omnibus water resources laws. It alters the method to fund projects previously and subsequently authorized.

Governor Rockefeller of West Virginia expressed concern "that there is no provision for assistance to States for administering the program." That is a sound point. We did not include such funding in S. 1241 because of the existence of S. 480, now on the Senate Calendar. The bill authorizes $25,000,000 yearly for matching, water-management grants to the States. We assumed enactment of that initiative.

Vernie R. Glasson, director of national affairs for the Farm Bureau Federation, said:

> The grant program proposed in S. 1241 would, we believe, result in the diversion of federal assistance from projects which are beneficial to agriculture . . . to projects which are basically urban in character and which state and local governments have the capability of understanding themselves.

It, of course, was not our intent to undermine or discourage agricultural projects in any way. And I doubt very seriously that agricultural projects would suffer. That could only occur if a particular State decided to ignore the needs of its agricultural community. I cannot imagine that that would occur in New Mexico. And from listening to Governor Lamm and others, I do not see how it could reasonably be expected to occur in other States of the West.

Robert W. Teater, director of the Ohio Department of Natural Resources, expressed concern over "the need for completion of projects in a more timely manner"—one of our goals. But Mr. Teater then indicates opposition to S. 1241, suggesting that a pending study by the General Accounting Office can resolve the problem of lengthy delays in project development. While commendable, a GAO study is a wholly unrealistic foundation upon which to build major changes and improvements in water project implementation.

It has been noted that S. 1241 requires a higher level of State cost sharing (50 percent) for operations and maintenance work than it requires for construction work (25 percent). It appears to me that there may be merit in equalizing those percentages, to assure that localities are not tempted to choose a capital-intensive project simply because it "costs" less, as opposed to a more effective project with higher maintenance costs, and therefore higher local cost sharing. I would hope that some of our September witnesses would address this point.

It has been noted that nowhere in the section of S. 1241 on regional projects is there a mention of who pays operating costs. It would be my intention that those costs would be 100 percent Federal, as would now be the case on many projects of this character. Section 108—operations and maintenance fund—would be available for this regional work, as the money would be for a 50-50 match on all other water projects.

Some argue that because water is interstate in character, the program for its development must be wholly Federal. While a few projects may be so big as to require full Federal activity, I am convinced that these projects are relatively rare, and shall be met by the regional project authorization contained in S. 1241. These projects—to be selected by Congress—would, I assume, involve major navigation projects and regional water supply and distribution efforts. But as States cooperate on highway planning, there is no reason the States cannot share work on a bistate or tristate flood control project, or to lessen beach erosion on a barrier reef along two or more States. Our Federal system is based on cooperation among States. I see no reason that this cannot be achieved in water projects, without the Federal Government calling all the shots.

It has been argued that the $4 billion a year in construction money authorized by S. 1241 should be distributed by a "needs" formula, rather than a formula that gives equal weight to population and land area, as now provided in S. 1241. I do not believe a fair "needs" formula is likely to be achieved. More likely, it would become a wish list, as the sewage treatment grants needs list has become. A "needs" formula will tend to encourage a scramble for costly, unneeded projects simply as a way to increase a State's share. That is just the opposite of what S. 1241 seeks to achieve. S. 1241 seeks to emphasize priority projects, not gimmickry.

Some also argue that it is unclear who will do the actual design and construction work on projects under this bill. The intent, which will be clarified in the bill, if necessary, is that that existing Federal water agency—the corps, for instance—would design the project, as they do now, construct it, as they do now, and operate and maintain it. The major difference would be the enhanced State control over priorities, et cetera, the ability of the States to initiate new studies, and the ability of States to plan ahead knowing what their annual share of the construction budget will be.

Several States have asked if the States themselves can design projects for funding under S. 1241, rather than using the expertise of Federal agencies. That does not appear wise to me, given the existing engineering expertise of the Federal agencies. However, the use of State planners in the Federal process should develop the necessary cooperative approach.

Some argue that the States will not be involved fully in project planning under S. 1241. Just the opposite is true. The intent is to have State personnel become involved right from the beginning in planning—a stark contrast from the present situation where the State's input rests largely on the whim of the Federal agency.

Under S. 1241, a Governor is allowed to appoint up to five persons from the State staff to work on the project planning, with the Federal agency picking up those salaries. On an interstate project, the various States could appoint a total of seven persons. To assure that each State is treated fairly, it may be wise to limit the number on a multi-State project to three staffers per State, with no limitation on the total.

Charles W. Howe, professor of economics at the University of Colorado, suggested that:

> Agencies should be directed to carry out not only engineering design studies, but social, environmental and economic impact studies, according to professionally accepted practice. This is to guarantee the generation of information needed for intelligent, informed decision-making. Correctly, there is no requirement in S.1241 regarding the weight to be placed on such impacts on the prioritizing process.

A major concern of many analysts of S. 1241 involves the role of the current principles and standards used by Federal agencies in project development. Should S. 1241 ratify those principles and standards, or should it establish a new, more flexible approach to planning? This is a difficult issue, one that deserves careful attention in our September hearings. My inclination is that the present principles and standards should, under a block grant approach, be altered to emphasize a more flexible planning approach, stressing local needs and requirements. With the broader range of projects and diversified responsibility of S. 1241, we need a more flexible approach on principles and standards.

Some have questioned whether all States are capable of spending the sums that would be allocated to them annually out of the $4 billion authorized by this bill, and what happens if a State, for some reason, wants to hold back on water project spending for several years. With the expanded list of those types of projects that would be eligible for support under S. 1241, I am confident that need exists in every State. The Corps of Engineers alone has a backlog of close to $30 billion in authorized work. S. 1241 now directs that any unused money be reallocated (after 3 years) among those States that can spend it. That may not serve as the best way to balance spending. An alternative that would certainly be acceptable to me would allow one State to loan allocated grant funds to another State to gain optimum use of the funds that year, than be repaid in a succeeding year.

It has been noted that some of the deadlines in the bill—such as July 1, 1980, the date for initial submission of State priority lists—may not allow the State sufficient time to do an adequate job. I agree, and believe we may need to move some of these dates back a bit.

It is pointed out that S. 1241 imposes no deadlines on various actions of the WRC, such as the deadline for publication in the Federal Register of preauthorization project notification (Section 103(d)), or the time under which the WRC would make a decision on a project where there is a dispute between the Federal agency and the participating State (Section 103(f). In both cases, there is a need to insert a deadline for action to assure a prompt decision. A limitation of 90 days in each case would seem appropriate.

It has been suggested that projects for flood control under S. 1241 should be required to incorporate the best available techniques for flood plain management. That appears appropriate to me, if we can define "best available techniques."

Questions have been raised about the deauthorization of projects on which construction has begun, but then halted. It would be my assumption that such a project, if the State no longer supports it, would be deauthorized under S. 1241 if the State fails to include the project or its priority list for 5 years.

It has been suggested that S. 1241 money should be available for rebuilding or repairing publicly owned water supply dams that are found to be unsafe. That appears meritorious and within the flexibility of the bill.

Others have argued that the various River Basin Commissions need to be expanded and utilized more effectively in setting project priorities. While I do not believe we should impose an additional layer of government on this program, I believe we can use the expertise of the river basin commissions. We should not require the development of wall-to-wall river basin authority. But I would be most interested in the thoughts of our September witnesses on ways to incorporate the views of the river basin commissions effectively in the State priority setting.

What should be the yardstick, some ask, for a State's decisions on priorities? Does language need to be added to S. 1241 on general guidelines on what should be considered as a priority project, or should that be left entirely to the State? My inclination is to leave that decision strictly to the States.

How will the reconstituted WRC operate under S. 1241? I believe it needs to be clarified in the bill that the decisions of the WRC should be a majority vote, not unanimity.

Mr. President, those are some of the points that have been discussed so far in connection with S. 1241. I believe the range of issues that I have summarized here shows clearly how much attention and interest the bill has generated to date. I would hope that this statement proves useful in clarifying some points. I certainly invite others to bring their views on these and other points to the attention of the committee, to express them at our September hearings, and to contact both Senator MOYNIHAN and myself directly with suggestions and viewpoints.

Mr. President, we believe this is a very important initiative, one that offers the chance to head off a crisis (in water development) that will almost certainly otherwise occur. It offers a chance to make the program a national one, not a regional one. We value the interest by those who share an interest in this goal.●

● Mr. MOYNIHAN. Mr. President, it is indeed an honor to join with my distinguished colleague from New Mexico, Senator DOMENICI, in submitting to the RECORD some of the thoughtful comments we have received on S. 1241. We are pleased that this proposal for much-needed reform of water policy has met with such wide acceptance. At this time, Mr. President, I ask unanimous consent that a brief outline of the provisions of S. 1241, the "National Water Resources Policy and Development Act of 1979," be introduced into the RECORD.

S. 1241 is a proposal for major reform in the purposes and procedures through which the Federal Government participates in the development and conservation of the Nation's water resources. It covers projects for flood control; hydropower; municipal, industrial and irrigation water supply; saline water conversion; hurricane and beach protection; the improvement of navigation; erosion control; and related programs.

It will replace the present arrangement, under which water projects are authorized on an ad hoc, case-by-case basis by the Congress, with a more rational procedure, based on the principles of federalism, which will engage the government of every State in determining how best to address its water resource needs. It will help us to protect those of our water resources which are in danger of being over-exploited while enabling us to meet new and pressing needs which are presently being denied.

A summary of the provisions of S. 1241 follows:

First. Cost sharing.

S. 1241 replaces the current melange of 185 different Federal, State and local cost-sharing arrangements with one elegantly simple and consistent provision: State or local sponsors of federally-supported water projects will be required to contribute 25 percent of a project's costs. The contribution may be in-kind—for example, land, easements and rights of way—in keeping with current practice. On projects authorized prior to enactment of S. 1241, the state or local 25 percent contribution may be paid over the life of the projects; in other projects it must be paid during project implementation.

Second. Formula for allocating funds.

Four billion dollars in Federal funds will be authorized for fiscal year 1980 for the States to use in implementing water projects. These moneys will be divided among all the States according to a formula which allocates one-half of the funds according to the ratio of each State's population to that of the nation, and one-half according to the ratio of each State's land area to that of the nation.

Third. State priority list. Each State, after holding public hearings, will establish a priority list for the study and implementation of federally-supported water projects.

Fourth. Authorization for engineering and feasibility studies (WRC).

The Federal Water Resources Council will be authorized to spend up to $150 million annually to support engineering and feasibility studies by the Army Corps of Engineers, the Bureau of Reclamation, and the Soil Conservation Service in order to determine which projects placed on their priority lists by State water authorities merit federal support.

Fifth. Project authorization.

A project will be automatically authorized for construction when approved both by a State's governor and by the Federal agency designated by the WRC to study it. If a State requests a project but the Federal agency disapproves of it, the final decision on authorization will be made by the WRC. If the Governor of another State in the affected watershed objects to a project on the grounds that it will adversely affect the water resources of that State, Congress itself will decide whether or not to authorize the project.

Sixth. Nonstructural projects.

Under this bill, water projects employing non-structural and partially structural approaches—flood plain management, land use planning, recycling and reuse of existing water supplies, leak detection and repair, and altering demand patterns—will be provided equal financial incentives to those for water projects involving construction—dams, canals, levees, etc.—in order to encourage conservation of resources and the natural environment.

Seventh. Projects currently authorized.

Projects authorized under present practices will be automatically deauthorized 5 years after the enactment of this bill unless work has begun or unless the project is included on a State's priority list. However, a special fund of $3 billion will be established to make Federal loans available to States so that they may complete projects authorized before passage of this bill.

Eighth. Regional projects.

A special category of regional water projects will be established, to be funded fully and directly by the Federal Government with funds authorized and appropriated by the Congress. These projects may be located entirely in one State, but must provide significant benefits to more than one State. It must be demonstrated through analysis that the benefits of these projects clearly outweigh the costs. Up to 10 of these projects may be under construction and up to 20 studies may be in progress at any one time.

Ninth. Operation and maintenance.

S. 1241 will authorize $1 billion annually for water project operation and maintenance by the Army Corps, the Bureau of Reclamation, and the Soil Conservation Service.

Tenth. Environmental safeguards.

S. 1241 preserves the procedures of the National Environmental Policy Act, the Fish and Wildlife Act, and the Endangered Species Act.

Eleventh. Restructure water resources council.

The Water Resources Council will be reorganized under S. 1241, given an independent chairman, and a majority of its members will be appointees from outside the President's Cabinet.

In summary, S. 1241 will establish policies and processes for development and conservation of water resources which are both rational in method and national in scope. It will encourage vigorous and efficient development of additional water resources, while at the same time encouraging greater conservation both of our water resources and other aspects of our natural environment.●

RAIL TRANSPORTATION VITAL TO AMERICA

● Mr. RANDOLPH. Mr. President, yesterday the Senate passed the Amtrak Improvement Act, S. 712, which reauthorizes the Amtrak system for 2 years. Amtrak is a critical factor in our national transportation network. I believe that S. 712 with the Leahy amendment preserves national rail passenger service. Further, I feel that the regional balance amendment goes even further to insure continuation of the Amtrak system.

This bill, with these amendments, is an improvement over the originally proposed restructure of Amtrak recommended by the Department of Transportation in January. The committee members and our many colleagues, have worked arduously to preserve rail passenger service. I commend them for their labors and for the results.

I am firmly convinced that a national transportation system must be a balanced system. It must include all modes of transportation, airways, highways, waterways, and railways. Railroads have been a vital link across our Nation and we must preserve that link.

Many times in my career, I have had an opportunity to act positively on my strong commitment to Government programs and projects that serve people. Amtrak, an essential element in our transportation system, serves our people. We must continue to improve that service. We must improve transportation opportunities to our eldery and handicapped citizens. I cosponsored an amendment which passed that facilitates this goal by mandating a reduced fares program for elderly and handicapped persons.

We must, Mr. President, encourage and insure that Amtrak serves rural areas as well as urban centers. I am confident that S. 712, as passed with amendments, will provide the vehicle for a continued strengthening of rail passenger service.●

NEW REFUGEE PREDICTIONS

● **Mr. HUDDLESTON.** Mr. President, the United States has consistently followed a policy of accepting a disproportionate share of the refugee resettlement burden. We have already accepted about 220,000 Southeast Asian refugees and will accept another 168,000 (210,000 including other refugees) in 1980. The total cost for our foreign and domestic assistance programs for refugees will be over $1 billion in fiscal year 1980. While our assistance efforts are highly commendable, there are limits to what we as one nation can continue to do for the 14 million refugees in the world today.

Unfortunately, the resettlement commitments made at the recent Geneva Refugee Conference do not significantly readjust the U.S. resettlement burden. Furthermore, the commitments do little more than take care of the approximately 400,000 refugees who are now in temporary camps. The real crisis will come after the rainy season in Southeast Asia when thousands will again make the effort to flee. Assumptions which used an ultimate resettlement figure of about 1 million are now being seriously questioned by those closely associated with the refugee situation. An article in the Washington Post on August 2, 1979 quotes an Asian diplomat who believes that "the number eventually will be between 4 and 5 million and will include many non-Chinese."

The magnitude of these numbers and the apparent willingness of other countries to let the United States assume the major burden for these people must cause us to seriously rethink our present open-ended refugee policy. This policy makes no effort to integrate refugee admissions into a total immigration policy and will be continued by S. 643, which will be taken up after the August recess.

I request that the following article be printed in the RECORD.

The article follows:

[From the Washington Post, Aug. 2, 1979]

REFUGEE TRANSIT CAMPS IN VIETNAM POSE MORAL DILEMMAS

(By William Chapman)

TOKYO.—Much of the world was relieved when Vietnam, at Geneva, promised to restrain the exodus of refugees. For a while, anyway, there would be fewer photos of floundering boats and weeping women.

For Malaysia and other Southeast Asian countries, there would be no more drenched souls to push away from their shores. The international community, moreover, would have a breathing spell in which to arrange some less tragic system of receiving those who risk everything to flee Vietnam.

But tricky moral dilemmas lie barely under the surface of the new situation. Does the world really want Vietnam forcibly bottling up those desperate enough to risk death on the seas? Does it want a system of Vietnamese temporary transit camps holding perhaps hundreds of thousands unwanted by the government in Hanoi? Does it favor the idea of bureaucrats picking and choosing who can go, who must stay behind?

After the months of drownings, of helpless people being towed out to sea in hastily repaired boats, the natural response is to believe that serving a stretch in a Vietnamese camp is clearly preferable.

"There is a dilemma," conceded U.N. Secretary General Kurt Waldheim, defending the Vietnamese decision he announced in Geneva. "But these people are drowning in the sea. We've got to do something about it."

But asking the Vietnamese to "restrain the outflow," as it is usually phrased, contradicts some respected rules, including the U.N. charter's insistence on unfettered emigration. It also clashes with the U.S. human rights policy, which asserts that those who want to should come out, period. Many in the State Department have been opposed to the idea of transit camps in Vietnam from the start and their fears are now being expressed in the chilling suggestion that the trend of events is drifting toward a system of U.N.-sponsored concentration camps on Vietnamese soil.

To the Southeast Asian countries that have begged Vietnam to turn off the tap, as they say, such arguments are moralistic thumb-twiddling. Some think it reflects a private decision by the United States and other countries to evade the task of resettling those who eventually would come out.

If the United States and other countries oppose the idea of Vietnamese transit camps, Malaysian Home Minister Mohammed Ghazali Shafie said recently, he wants to hear no more humanitarian handwringing from those corners of the world.

The Vietnamese agreed several months ago to a U.S.-proposed plan that would bring out certain refugees, mostly those with families settled elsewhere, and said at Geneva they would curb the flow of others as much as possible.

It wasn't so much a noble gesture as it was a Vietnamese attempt to placate Southeast Asian neighbors who had demanded that the exodus halt. Vietnamese officials then announced they would immediately begin organizing centers for those wishing to depart.

The U.S. proposal is for an orderly emigration that would permit Vietnamese to step forward freely, get on an airplane or safe boat, and head for a temporary home somewhere in Southeast Asia outside of Vietnam. Large transit camps would be built with U.N. assistance, perhaps in the Philippines or Indonesia, to house the refugees until permanent resettlement is arranged in other countries.

The problem is that nothing like that is available and probably won't be for months. Two small island camps are being readied on Tara in the Philippines and Galang in Indonesia but they could only hold about 20,000 refugees, hardly enough to make a dent.

While the Philippines has promised an island for about 50,000, it has not yet said where and preliminary surveys are yet to begin. Officials in Manila say Busuanga probably would be chosen.

Until the promises of resettlement become real, the Malaysians insist, the best temporary solution is to keep the refugees at home in Vietnamese transit camps. Any illegal emigrants who tried to escape on their own, Home Minister Ghazali asserts, should be picked up at sea and taken to those camps.

A number of countries endorse the idea, although reluctantly, as the least bad among a lot of unpleasant choices. They assume that Vietnam would permit some degree of U.N. supervision and care for the waiting refugees. But even the optimistic, in the view of one Asian diplomat, do not believe the Vietnamese would permit the close supervision needed to assure a free choice by every Vietnamese who might want to flee by way of the camps. Many would hang back out of fear of repression and choose illegal flight through Vietnamese patrols—patrols now encouraged by the international community to turn them back forcibly.

Moreover, this diplomat, who has been deeply involved in the international rescue effort, says the world has not yet faced up to the sheer size of this exodus. It has been assumed that the maximum number to be resettled eventually would be about a million, based on a belief that there are that many ethnic Chinese in Vietnam who are being given the choice of fleeing or accepting harsh new lives in "new economic zones."

This diplomat, though, suspects the number eventually will be between 4 and 5 million and will include many non-Chinese. Officials in Malaysia said recently that of those fleeing in May and June a majority were ethnic Vietnamese.

Another approach, until a resettlement system is a fact, would be for the Vietnamese to do nothing—neither assembling the unwanted people in camps nor forcing them to choose between flight or the new economic zones. That seems to be what the French had in mind at Geneva in proposing a six-month moratorium on departures.

It presumably would require the Vietnamese to suspend their lucrative practice of exacting exit fees in gold. But there is a certain timeliness in the proposal: the rainy season is developing in Southeast Asia and fewer refugees will be trying to buy their way out to stormy seas regardless of what the Vietnamese do.●

STATES AMENDMENTS TO THE SURFACE MINING ACT

● **Mr. HATFIELD.** Mr. President, the Committee on Energy and Natural Resources, by a vote of 10 to 8 adopted the Hatfield-Ford substitute, and reported S. 1403, the Surface Mining Control and Reclamation Act Amendments of 1979, on Friday July 27.

As a coauthor of the committee bill, and, as my colleagues know, one who has consistently supported national surface mining legislation and who is committed to the principle that development of this Nation's natural resources must be carried out in an environmentally acceptable manner, I was extremely disturbed and disappointed to find that Secretary Andrus has written a letter to Senator JACKSON stating that if the committee bill is sent to the White House in its present form, then he will recommend it be vetoed.

I plan to respond to the allegations contained in Secretary Andrus' letter in some detail when the Senate resumes its legislative activities in September. However, I think it important that some of the misimpressions contained in the letter be addressed now, so that the Members of this body may have as accurate an understanding of the committee bill as possible.

On June 19 and 21, the Committee on Energy and Natural Resources held 2 full days of oversight hearings on the Surface Mining Control and Reclamation Act of 1977. Members of the committee heard testimony from over 30 witnesses representing environmental organizations, the coal mining industry, and the States. All presented a litany of grievances regarding the deficiencies of the Interior Department's Office of Surface Mining in its implementation of the Act.

While the concerns raised by the environmental and industry witnesses are of substantial concern to me and, I am sure, will merit the continued attention of the committee, the most troublesome issues were raised by Gov. Ed Herschler of Wyoming and other witnesses representing the States of West Virginia, Montana, Kentucky, and Colorado.

The States' testimony clearly demonstrated to members of the committee that the Office of Surface Mining's implementation of the act has knocked out of kilter the careful balance between the States and the Federal Government so carefully crafted by the Congress when the act was passed.

The committee bill does nothing other than to restore this balance. It makes no substantive changes in the a act. It is neither an environmentalist bill nor an industry bill. It is a Governors' bill—and one which has been carefully written to address the concerns of the States expressed at the committee's oversight hearings, on behalf of those very same Governors who came before the Congress urging enactment of the Surface Mining Act.

The committee bill will resolve three problems: First, it will authorize additional time to the States to submit their programs to the Secretary for approval. The act requires States to submit their programs to the Secretary by August 3, 1979. Secretary Andrus, himself, has recommended an extension of time for States to submit their programs because the long delay in promulgating the Federal regulations severely shortened the time available to the States to prepare their programs. The committee bill would simply restore to the States, as originally intended by Congress, the time necessary to prepare their program; restore to the Secretary, as originally intended by the Congress, the time for his review and approval of State programs; and begin to restore balance to the Federal-State partnership as intended by Congress.

Although the Interior Department has been cognizant for a number of months that States would have insufficient time to submit their programs by August 3, the Department waited until the 11th hour to recommend a legislative correction. Because of the Department's refusal to seek corrective measures, States found it necessary to sue the Secretary for a restoration of their rights.

In a preliminary order issued on July 25, the Federal District Court for the District of Columbia extended the time for States to submit their programs to March 3, 1980. This judicially ordered extension is consistent with the additional time permitted by the committee bill. The court found "* * * that the Surface Mining Control and Reclamation Act of 1977 * * * contemplates that the States have a year to prepare State plans for the regulation of surface mining within their boundaries, if they must implement legislation to do so."

The court noted that the Interior Department's delay in promulgating final regulations had:

> Deprived the States of much of the year that Congress intended them to have. It is important that the States have the time to consider alternatives to the proposed regulations, and that they have time to solicit public comment and enact legislation in an orderly fashion. To deprive the states of this time would be to abuse their rights in the federal system. It would also, by depriving them of adequate time to prepare a viable state plan and to consider alternatives, subject them to the possibility that the Secretary would reject their plan. This would be a grievous loss to the states, depriving them at least for the indefinite future of the ability to regulate surface mining within their own boundaries.

While the court addressed some of the time problems created by the tardy promulgation of the Federal regulations, the order left undisturbed the June 3, 1980, date for final approval of State programs, thereby compressing the total time for secretarial review and approval from 10 months to 3 months.

The court said that it:

> Recognizes that this injunction will cause problems for the Secretary. Having interpreted the June 3, 1980 deadline as mandatory, he will probably have to press Congress for relief . . . In any case, he cannot escape the effect of his own delays and for his administrative convenience, take time from the states that the Act requires them to have. Such a result would be an affront to the principles of federalism that underly this Nation's structure.

Not only does the Secretary's letter to Senator JACKSON fail to note the existence of the court's order, but it also fails to recognize that the committee bill will provide the relief that the Secretary as well as the States need.

Another purpose of the committee bill is to provide that the Federal lands program be implemented at a time to coincide with the implementation of State programs, thereby preserving the viability of the cooperative agreements with the States. This is necessary to avoid having two separate programs operable, simultaneously, in States with substantial public lands. The chaos resulting from having two separate agencies, one State and one Federal, issuing differing orders and applying differing regulations to adjoining parcels of land must be avoided. A majority of the Senate Energy Committee was persuaded by the recommendations of Governor Herschler of Wyoming to adopt this amendment.

The other element of the substitute was suggested by Gov. Jay Rockefeller of West Virginia, who, as Senators know, was a leading proponent of the Surface Mining Act and is currently the chairman of the President's Coal Commission. Its purpose is to restore to the States the concept of "State lead" by specifying that the essential requirement for State programs is to comply with the specific provisions of the act. Section 101(f) of Public Law 95–87 clearly enunciates the congressional policy that ". . . the primary governmental responsibility for developing, authorizing, issuing and enforcing regulations for surface mining and reclamation operations subject to this act should rest with the States."

As the distinguished majority leader, Senator BYRD, stated in remarks on the Senate floor on July 27:

> The clear intent of Congress when it fashioned the Surface Mining Act was to provide a set of specific guidelines which each state would use to craft its own reclamation plan. That plan would be tailor-made for each state, taking into account the special needs and unique features of each state. In this way, Congress sought to protect the environment and at the same time respect the rights and responsibilities of the states.
>
> Unfortunately, . . . the states have been unable to exercise the discretion due them under the Act. The Act has been interpreted by the Department of Interior as requiring the states to comply with, and in effect duplicate, every jot and tittle of the Federal regulations.

The committee bill simply requires the States to develop the implementing rules and regulations to comply with the act. No substantive change is made to the act. Senators will recall that the Surface Mining Control and Reclamation Act provides for a two-phase implementation. The first phase, which is designed to protect against all the major environmental concerns, was implemented in May of last year, and will remain in force until replaced by phase 2—the secretarially approved permanent State programs or Federal programs. The environment is now and will continue to be protected.

States wishing to assume exclusive jurisdiction as authorized under section 503 must comply with all the requirements of the act, and the Secretary of Interior will review State programs to insure such compliance. Some States may elect not to assume exclusive jurisdiction, and in that event the Secretary becomes the regulatory authority for such States. In those circumstances, the Secretary will write regulations for a State, taking into account geographical, geological, climatic and other physical differences as contemplated in the act.

The committee bill does not, as one of my colleagues has indicated, take a broad axe approach. The Secretary will continue to approve or disapprove State programs (including the State rules and regulations) and determine whether they are in accordance with the act. The Secretary's authority to issue regulations remains.

Mr. President, the Governors of the coal-producing States have told the committee that they have never before dealt with a Federal agency as arrogant as the Office of Surface Mining. Secretary Andrus's letter to Senator JACKSON does not even begin to recognize the fact that OSM's credibility with the States is bankrupt. The committee bill will send a clear message to the Interior Department that the Congress demands the States be treated as equal partners in the regulation of surface mining.

Mr. President, at the conclusion of my remarks, I request that the order of July 25 issued by the Federal District Court for the District of Columbia be printed in the RECORD.

The order follows:

[U.S. District Court for the District of Columbia, Civil Action No. 79-1144]

IN RE: PERMANENT SURFACE MINING REGULATION LITIGATION

PRELIMINARY INJUNCTION

The court has considered the Motions for Preliminary Injunction presented by the State of Illinois and the Commonwealth of Virginia in this consolidated action, as well as the memoranda in support thereof, the affidavits, the record in this case, and the opposition filed by the Secretary of the Interior. The court has determined that the moving parties are entitled to relief, and will issue an opinion in early August fully setting forth its findings and conclusions. In the interim, however, the court deems it advisable to place in the record a short outline of the court's conclusions.

The court finds that the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C.A. § 1201 et seq. (Supp. 1978), contemplates that the States have a year to prepare State plans for the regulation of surface mining within their boundaries, if they must implement legislation to do so. See 30 U.S.C.A. §§ 1253(a), 1254(a). The Secretary has already made the determination that the States must implement legislation, and he is bound by that decision. The Act is designed to allow the States to consider alternatives to the proposed Federal plan, which is set forth in the regulations under review in this case. If they fail to submit a plan, or if the Plan is deemed inadequate by the Secretary, the Secretary is empowered by the Act to institute a Federal program governing surface mining within the State.

The Secretary was required by the Act to promulgate permanent regulations by August 3, 1978. They were not actually promulgated until March 13, 1979, a delay of seven months. The delay, perhaps inevitable, in promulgating the final regulations, has deprived the States of much of the year that Congress intended them to have. It is important that the States have the time to consider alternatives to the proposed regulations, and that they have time to solicit public comment and enact legislation in an orderly fashion. To deprive the States of this time would be to abuse their rights in the federal system. It would also, by depriving them of adequate time to prepare a viable State plan and to consider alternatives, subject them to the possibility that the Secretary would reject their plan. This would be a grievous loss to the States, depriving them at least for the indefinite future of the ability to regulate surface mining within their own boundaries.

The Secretary of the Interior has recognized the need for relief. He has gone to Congress to ask for it. He has also promised the States that he will grant them "appropriate" relief. At the hearing in this matter on July 25, 1979, the Secretary through counsel proffered to the court a proposed regulation that would enable the States to extend their time for submission up to 60 days on a case-by-case basis. The regulation provides that the submission date could only be extended on a showing by the state that the delay was justified, after an application for an extension, with the final decision in the hands of the Secretary. The court concludes that this proposal is wholly inadequate, in view of the Congressional intent that the States have a year, the Secretary's own delay in promulgating the final regulations, and the harm that would befall the States if, due to inadequate time to prepare, their plans were rejected or alternatives insufficiently considered.

The court recognizes that this injunction will cause problems for the Secretary. Having interpreted the June 3, 1980 deadline as mandatory, he will probably have to press Congress for relief. Again, he has already done so. In any case, he cannot escape the effect of his own delays and for his administrative convenience, take time from the States that the Act requires them to have. Such a result would be an affront to the principles of federalism that underly this Nation's structure.

Accordingly, it is, by the court, this 25th day of July, 1979

Ordered, that the motions for injunctive relief filed by the State of Illinois and the Commonwealth of Virginia[1] shall be, and they hereby are, granted, and it is further

Ordered, that the enforcement of Parts 730, 731, 732, 733 and 736 of Title 30, Code of Federal Regulations of the Secretary of the Interior is enjoined, except as to those States which may voluntarily submit State programs under such aforementioned regulations, and it is further

Ordered, that no State shall be required to submit a State program pursuant to the Surface Mining Control and Reclamation Act, P.L. 95-87, Section 503(a), Title 30, U.S.C., Section 1253(a), until March 3, 1980, or further order of this court, and it is further

Ordered, that nothing in this Order shall prohibit the States from voluntarily submitting draft programs or otherwise informally discussing proposed programs with the Secretary, nor is the Secretary enjoined from soliciting the submission of State programs, and reviewing the same informally or otherwise assisting the States in program development and implementation, and it is further

Ordered, that the submission of a State program pursuant to the challenged regulations shall be without prejudice or waiver of any issue or claim raised in these proceedings, and it is further

Ordered, that for the purposes of Section 503 and 504 of the Act, 30 U.S.C. §§ 1253-54, the failure of any State to take any action the purpose of which is to prepare, submit or enforce a State program, or any portion thereof, because of or in reliance on this Order, shall not result in the loss of eligibility for financial assistance under Titles IV and VII of the Act, or in the imposition of a Federal program in that State, and it is further

Ordered, that regulation of the surface coal mining and reclamation operations covered or to be covered by a State program subject to this injunction shall be conducted by the State pursuant to Section 502 of the Act, 30 U.S.C. § 1252, until further Order of this court.

THOMAS A. FLANNERY,
U.S. District Judge.

---

[1] The Commonwealth of Virginia's motion to stay these proceedings was withdrawn at the hearing in this matter, and is not within the scope of this order.●

AMERICA'S MOST HAZARDOUS OCCUPATION

● Mr. MATHIAS. Mr. President, just a week ago the Senate approved the funding of the National Fire Academy which will be located on the campus of what was formerly St. Joseph's College in Emmitsburg, Md. The Senate's action paves the way for training firefighters from all over America with the aim of reducing the tremendous loss of life and property the country sustains every year as a result of fire.

Firefighting is our most dangerous profession. More people are killed and injured in fighting fire than in any other single American occupation. The hazards are enormous. The hardships are very great. I am always impressed when I see firefighters carrying out their jobs, undergoing the tremendous and harrowing hardships of cold, of freezing water, and the imminent dangers of fire, smoke and the threat of explosion or cave-in.

As an illustration of the life-threatening risks faced by firefigters, I would like to pay tribute today to three members of the District of Columbia Fire Department, who just recently faced the kind of mortal danger I am talking about. Their story has never been told in the press.

At 8 p.m. on July 13, Lt. Charles Harmon of Alexandria, and Firefighters George Lockey of Waldorf, Md., and Albert Drew of Oxon Hill, Md., entered a building in the 2400 block of Elvans Road, SE., in the District. They were responding to a call about a gas leak in the four-story garden apartment building. They entered an apartment which appeared to be the source of the leak and attempted to shut off the gas line. As they moved through the room the action of their bodies set up a static electric charge, and the room exploded. The three men were hurled 10 feet into a hallway, and were burned. Luckily, they were not injured fatally. After several days at Greater Southeast Community Hospital, they were released, and are soon expected to return to their jobs.

I cite this as an example of the dangers our firefighters face every day of their lives. So, I am particularly pleased that the Senate has taken the step to establish a national training center for our country's firefighters. At Emmitsburg not only will men and women from every State be given the very latest instruction in firefighting, but they will return to their communities with renewed confidence that the effects of America's greatest domestic peril—fire—can be significantly reduced.●

ENERGY FACILITIES

● Mr. WALLOP. Mr. President, there are several proposals before Congress which would permit the Federal Government to override State law if a State did not make a timely decision on siting of a "priority" energy facilitiy. However, there has been no demonstrated evidence that State procedures are barriers to siting energy facilities.

The tendency has been to point to the regulatory labyrinth encountered by the Sohio pipeline project and then assume that all State regulatory agencies act in a similar manner. To counter this argument, I am submitting for the RECORD a letter from Gov. Richard Lamm, chairman of the Committee on Natural Resources and Environmental Management of the National Governors' Conference. Along with the letter is a comprehensive study prepared by the National Governors' Association on the same topic.

Mr. President, I ask that the material be printed in the RECORD.

The material follows:

NATIONAL GOVERNORS' ASSOCIATION,
August 1, 1979.

DEAR SENATOR WALLOP: As you are aware, the Administration's proposal for an Energy Mobilization Board involves the establishment of fixed deadlines for state action and possible federal preemption of state facility siting decisions. While the Governors support the President's desire to cut through red tape, I am convinced that a careful analysis of the causes of recent energy project delays will show what fixed deadlines and preemption cannot effectively expedite the construction of major energy facilities for the following reasons:

State siting processes have not been a major cause of energy project delay. Far more often, the federal government has lagged behind timely state approval of energy facility permits.

Most delays which do occur in state processes result from incompleteness of permit applications, changes in the project, or judicial challenges.

The states are generally better organized to make good decisions quickly than is the federal government.

States have been leaders in developing one-stop permitting processes for energy projects and streamlining site selection procedures.

A recent 36-state study indicated the average time for state processing of a power plant application was 12–18 months.

These facts, I believe, point to a far more effective strategy for the expediting of major energy facilities—increased consultation and cooperation with the states. The preemption of state reviews or the enforcement of strict deadlines are likely to destroy the necessary and legitimate evaluation of energy project proposals with questionable gains in project review time. It makes much more sense, I believe, to investigate methods of joint federal/state review and concurrence.

I urge you not to support enforced deadlines for preemption of state facility siting processes. For your further information, I have enclosed a white paper detailing the record of states in expediting the siting of energy projects.

Sincerely,

Governor RICHARD D. LAMM,
Chairman, Committee on Natural Resources and Environmental Management.

Enclosure.

STATE INITIATIVES IN EXPEDITING ENERGY FACILITY SITING REVIEW PROCEDURES

Several current legislative proposals, including that of the Administration, would override state laws and regulations based on the belief that state regulatory processes have been a significant cause of delays in the siting of major energy facilities. This white paper analyzes the validity of that belief by presenting the states' record in energy facility siting.

FEDERAL PERMITTING—OVERLAPS AND INADEQUATE COORDINATION

Several recent studies have examined the performance of state and federal agencies in permitting energy facilities. The Nuclear Regulatory Commission conducted a series of studies of both nuclear and non-nuclear facilities in 1977 entitled "Improving Regulatory Effectiveness in Federal/State Siting Action" which concluded that state site examination activities were not a significant source of delay in certifying proposed facilities. In contrast, the study found that federal agencies were inconsistent in their implementation of regulations and in the application of statutory authority. Offices within the same federal agency often issued conflicting directives. The study also found the multiplicity of federal permitting agencies led to significant coordination problems which it termed "a serious deficiency of the present process, a deficiency which must be remedied before the system could be fairly deemed effective." The NRC study recommended a series of changes; principal among these the creation of a federal siting council which could deal with all federal activities related to energy facility siting. While NRC did not recommend granting authority to the council to waive federal statutes, it did suggest granting power to set timetables for federal decisions and coordinating federal decisions with state and local decisions.

STATE SITING PROGRAMS

The siting of energy facilities is a controversial and extremely complex process. The construction and operation of large energy facilities impose large economic, social and environmental costs on surrounding communities and often impact those at a distance. There was a period when such projects were viewed as providing unblemished benefits for local and state economies. Any comprehensive analysis of the totality of a facility's impact was deemed unnecessary. Those days have passed.

State analyses conducted within the context of site review programs have brought attention to the full social costs of a project, and have emphasized the need to deal with the social, economic and environmental consequences of a facility's construction and operation.

State site review processes are generally equal to, and in many cases, are superior to federal reviews. Any diminution of state responsibility by unwise federal legislation that seeks to override or preempt state authority can damage the comprehensive analysis of project suitability without corresponding benefit.

As was pointed out in the recently completed Northwest Energy Policy Project Study, sponsored by the Pacific Northwest Regional Commission, "There is a tangle of jurisdiction oversight, a plethora of internal conflicts in legislation and an uncertain relationship with programs in the federal agencies. In both the pacific northwest and the nation, the framework of the older institutional energy-related arrangements is increasingly unworkable."

States have and are responding to the necessity of streamlining and making site selection and suitability procedures more effective. There are numerous ways in which the federal government can be supportive of these efforts: by providing needed assistance, and improving its own in-house review capabilities, rather than by seeking a heavy-handed, inappropriate, unmanageable, and perhaps unconstitutional preemption of state authority and responsibility. The questions posed in meeting the nation's demand for energy can be more effectively resolved through cooperative action and improved federal administration systems. What is sorely needed at present is a corresponding federal initiative which would improve the federal response to site analysis questions paralleling state efforts over the past several years.

CONSOLIDATION OF SITE ANALYSIS PROCEDURES

A number of states have moved aggressively to integrate their siting procedures starting with Washington State in 1970 when that state adopted a comprehensive site examination system through the establishment of a state site energy facility site evaluation council. The legislature created this state body as a one-stop process for the rapid identification and resolution of relevant issues. Following this action many other states have aggressive action to make their siting program more responsive to the needs of their citizens. A principal objective has been to reduce bureaucratic delays with respect to site certifications and permits. These state efforts have centered on analyzing the significant effects of proposed major energy facilities on natural resources, the state and local economy, pollution (air, water, and land), community facilities and services, and individual impacts. A number of states have followed Washington's example and created one-stop siting mechanisms. Not all states have shown equal interest in dealing with siting questions, but most states, have developed coordinative mechanisms to more effectively deal with multi-agency interests. In recent years, the track record for states in meeting this problem has been favorable, particularly in comparison with federal efforts. The states of Oregon, Wyoming, New York, Florida, Washington, California, Maryland, Massachusetts, Ohio, Wisconsin, Montana and Iowa have been leaders in making major changes in their siting programs.

TIME SCHEDULES FOR ACTION

In recent years, states have attempted to speed up the processing of site suitability certificates and permits to allow construction and operation of major energy facilities through the placing of statutory or administrative time limits for agency action. While the time limits vary, the basic rationale for statutory scheduling is to prevent unnecessary delays in administrative reviews and enhance timely decisionmaking. Differing conditions within states have resulted in differing time limits. The typical time limitation ranges from 12 to 18 months. Some states have shorter periods. In Arizona and Maine, the time allowed is 180 days. In the former state, a hearing is held not more than 60 days after notice is first given. The certificate must be issued or denied within 180 days after the application has been filed with the Power Plant and Transmission Line Siting Committee.

Oregon has a two year time frame, North Dakota six months to a year, South Dakota and Washington, 12 months, and Wisconsin, 18 months. In Wyoming, the Industrial Siting Council has a 180–630 day period for review and decision. In practice, however, Wyoming has never exceeded 285 days in making a decision. California has established two separate 180 day reviews; one for the designation of an appropirate site, and the other to determine the suitability of an energy facility. In some states, there is no specified statutory review time restriction, but there is an expectation that the analysis of an application will take place in a reasonable time. In Ohio, for exmple, review takes from six months to one year, although this is not a statutory directive.

Where circumstances warrant, extensions of these statutory or administrative time limits are allowed on the basis of: orders of a state agency, agreement between the applicant and lead state agency, good cause, failure of the applicant to submit the required materials in a timely manner, availability of new data or information affecting the siting decision, or some other unusual circumstance. However, the overall intent of states is to adhere to strict schedules of review and to make final decisions as soon as is appropriate.

Relying on state governments' knowledge and expertise could assist federal agencies in the licensing of energy facilities. While the proposed legislation is not directed at nuclear installations, it is useful to note that in Washington State, the Energy Facility Site Evaluation Council, considered exhaustively the application for twin reactors at the Skagit River site in Northwest Washington and recommended that the Governor approve the application for a site certificate. The Governor approved the recommendation, concluding the proceedings as required under state law. Those actions were taken in the latter part of 1976. The nuclear power plant is still not under construction, three years later. At the present time, there still are administrative proceedings underway by the NRC dealing with issues that were addressed by the state years ago. This case is illustrative of many situations in which comprehensive state analysis and decision based upon that information and data does not conclude the bureaucratic process which energy facility sponsors must follow. The inevitable results of such delays add heavily to the costs of the plant and impacts negatively on the scheduling and availability of needed energy.

Overlapping and duplicative procedures continue to exist, to the detriment of sound and timely decisionmaking. The states strongly support the need for increased federal attention and action to better interrelate and coordinate their responsibilities and to properly recognize the ability of states to conduct effective project feasibility reviews. Consultation and coordination with the Governors and the appropriate administrative agencies can significantly improve siting decisions without the imposition of the proposed Administration presumed "improvements" which may, by interfering in traditional and constitutional state authority, only compound and make existing difficulties more severe.

STATES WITH IDENTIFIED TIME LIMITS FOR CERTIFICATION OF MAJOR ENERGY FACILITIES

State and time frame:

Arizona, hearing to be held not more than 60 days after notice. Certificate issued or denied 180 days after filing of application.

California, two 18 month procedures: (a) notice of intention (site alternatives); and (b) application for site/facility.

Florida, 14 months.

Georgia, varies with particular permit program.

Kansas, 90 days, plus the required hearing time for energy facility permits.

Maine, 180 days.

Massachusetts, one year (Siting Council), no specified time for other state agencies.

Minnesota, need certificate 6 months; site certificate one year; specific design permits, unspecified.

Missouri, air quality permit, 60 days; water quality, minimum of 45 days; no discharge permitted until 180 days after permit is issued.

Montana, two years.

New Jersey, in most cases, 90 days for permits.

North Carolina, six months.

North Dakota, six months to one year.

Ohio, one to one and one/half years (not statutory).

Oregon, up to 2 years.

South Dakota, 12 months.

Washington, 12 months.

Wisconsin, 18 months.

A CASE STUDY OF TIMELY STATE DECISION MAKING: THE MISSOURI BASIN POWER PROJECT

A recent study by Missouri Basin Power Project, detailed the timely performance of the State of Wyoming in siting the 1,500 megawatt, $1.3 billion coal-fired electric generating facility at Wheatland, Wyoming. This facility is designed to serve base load power requirements during the 1980's for six participating consumer-owned bulk power suppliers serving municipalities and rural cooperatives in 8 neighboring states.

The Missouri Basin Power Project is complex and expensive, involving the acquisition of water, the construction of a dam and reservoir, and the construction of the generating plant and major transmission facilities. This project is subject to some 31 permits and/or certificates which must be acquired for construction and operation of the facility, of which 24 are state permits. A number of intervenors, including the Sierra Club and the Laramie River Conservation Council, objected to the Missouri Basin Project and used the state permitting process and judicial appeal to stop it. Nonetheless, all state permits and certificates were granted expeditiously, and the project received its final go-ahead only 14 months after its first application under the state's Industrial Development and Siting Act.

The major permits and certificates issued by the State of Wyoming include:

Certificate of Public Convenience and Necessity, Public Service Commission. Applied for February 1975; issued June 1976. This permit considered need for power, cost of power, availability of water, and feasibility of transmission.

Air and Water Pollution Permits, Department of Environmental Quality. Applied for February 1975; issued December 1975. These permits considered effects of the project on regional air and water quality.

Industrial Siting Permit. Applied for December 1975; issued April 1976. This permit, which allowed the initiation of construction, was issued in less than 5 months. It considered the availability of water, long-range socioeconomic impacts of the project including its effects on agriculture and government services, environmental effects, and the geologic suitability of the site.

COMPLETENESS OF APPLICATIONS

While states vary in approach, generally the date an application is received by a state is the date upon which the designated time periods begin to run. Some advocates of stronger federal action, including the authority to preempt state processes and decisions, point to the fact that the deadlines for action are not always adhered to and that decisions are consequently unnecessarily delayed. One of the assumptions made is that when an application is received by a state, it includes all the information that a state needs to carry out its responsibilities. Often this is not the case. Ordinarily, supplemental information is needed from an applicant after filing, or an application is submitted with the understanding that the project sponsor will be providing more data as it becomes available. During the analysis period, additional information is often required by state siting agencies in order to proceed.

An example in Washington State illustrates this point. In July 1976, the Northern Tier Pipeline Co. submitted an application for construction of an oil port and pipeline from that state into the northern interior states to make crude oil available to those refineries that would have no supply alternatives once Canadian crude oil exports to the United States are stopped. That initial application was so lacking in information that the state Energy Facility Siting Council initially determined that it could not even accept it for processing. Upon further consideration, however, the Council concluded that it would accept the application upon condition that the company supply the needed data and documentation so that adequate state review and analysis could proceed. During the review process, the state siting agency is required under state law to make a determination that an application for an energy facility covered by the act is complete for purposes of state review. That determination was finally made by the Council in early summer 1979, three years after initial submission by the applicant. This three year period was not caused by the delaying activities rather by the fact that essential information necessary for the application to be properly examined was not in hand. The intent of state law assumes that with sufficient information available at the time an application is received by the state, processing could commence.

The State Siting Council has extended its consideration of Northern Tier's application three times at the applicant's request for a total of two and one-half years. Some 17 months after the original filing, the company acknowledged that the state did not have sufficient information to make a decision. The Council at one point recommended that an expedited schedule be adopted, but this was not acceptable to the company. As a result, the state has had to repeat a number of procedural steps because of changes in the application. These include land use and zoning hearings in several counties of the state through which the pipeline would be constructed. Hearings originally were conducted in 1976, then again in 1978 after changes were made by the applicant. In July 1979, a repetitive set of hearings were begun due to pipeline route changes requested by the company. The applicant has been quite candid, in this instance, in admitting that the delays have not been due to the state procedures. In fact, the company has stated that the state could not have taken any action to speed up the process.

This example points up the serious dangers involved in requiring states to meet a mandatory timetable set by a federal Energy Mobilization Board, as proposed by the Administration. In this case, Washington State would have had to appeal to the Mobilization Board for repeated extensions of the decision deadline in order to retain sufficient time for a decision on a complete application and to avoid the intervention by the EMB and a hasty preemptive federal decision. The additional bureaucratic loops that would be occasioned by the Administration's proposal would simply have added to delays rather than expediting the siting process. The Administration's proposal would build in an incentive for states to simply reject applications to avoid the bureaucratic procedures with the EMB over extensions, etc. The state later on could reopen the proceeding once the project was no longer on the "fast track." This too, would cause further delays in siting the project, contrary to the desired speedup goal. In addition, the applicant could use the mandatory federally-determined deadline as a means to obtain concessions from the state on the completeness isssue, particularly, if the state were basically in favor of the proposed project because of the benefits it promised for the area.

It should be noted that delays also occur because of citizen intervention though the state often receives the blame for the delay. The State of Oregon completed its site analysis and certification for the Pebble Springs nuclear facility in less than one year. Litigation brought by private citizens delayed the licensing for several years and forced the state to reopen the siting process. Yet, this is often cited as an example of state delays in permitting.

In sum, any presumed evidence that states and their administrative systems are improperly delaying the resolution of issues or the processing of project proposals needs to be carefully and critically examined to determine the exact cause. States have little desire to make decisions on major siting issues without first obtaining sufficient information and analysis to support a reasoned decision. The notion that the federal government can mandate a better and quicker decision assumes either that those working at the federal level have greater intelligence and competence in these matters or a stronger desire to solve this nation's energy problems. Both conclusions are suspect.

STATE ACTION TO ACCELERATE SITE REVIEWS

Under applicable state law, also in Washington State, the sponsor of three 500 megawatt coal-fired steam electric generating stations at Creston, Washington requested that the State Energy Facility Site Evaluation Council prepare a potential site study. The purpose of the study is to evaluate the potential impacts of the site and to identify and analyze those effects and impacts which may:

1. Preclude the siting of the plant;
2. Require substantial mitigation to enable satisfactory siting;
3. Need to be addressed in detail in order to have a complete application for a site certification agreement.

The study is not construed as an advance environmental impact analysis since it is limited to adverse impacts and negative factors. It is assisting the state and the applicant in determining whether or not there are substantial problems that would make the pursuing of a formal application inappropriate. Early identification and analysis of negative factors will improve the entire site analysis and certification process.

The study includes a number of significant factors:

Avian Biology, Agriculture, Recreation, Sewage and Water, Solid Waste, Cultural Resources, Terrestrial Biology, Transportation, Air Quality, Hydrology, Fisheries, Aesthetics/Noise, Geology, Water Quality, Flood Risk, Socioeconomics.

The state anticipates that there will be no major barriers to the project, identified in the advance site study. The conduct of this study could reduce the time for application processing by six months. It is estimated that it may only take six months after the submission of the application to prepare for the required contested casehearing, which would give sufficient time for the preparation of the environmental impact statement. A decision could be rendered four months later, and submission to the Governor for his decision would take place well within the statutory guidelines. The state also has embarked on discussions with principal federal agencies to determine the most effective way of preparing the EIS. It is likely that there will be agreement on the designation of a lead agency for the preparation of the EIS that would fulfill the requirements of both the state and federal agencies, thereby avoiding the waste of resources in duplicating the analysis.

STATE/LOCAL RELATIONSHIPS IN THE SITING PROCESS

There is substantial concern on the part of state governments that units of local government be strong participants in the energy facility siting process. States feel that the strength of a proposal depends largely upon how well the impacts on a site-specific area are to be mitigated.

Local units of government commonly are parties to the siting process. In Washington State, the unit of local government in which the facility is to be located becomes a part of the siting council during its deliberations. Conformance to local planning and zoning and other regulations is usually expected. Several states do have provisions for dealing with an overriding state interest after efforts are made to work out an accommodation with local governments. Typically, detailed study is undertaken to determine whether local plans or regulations were unreasonably restrictive. Local governments are encouraged to work with states on siting problems.

Review of environmental factors

There has been an assumption by some that the federal government can make more timely and more comprehensive analysis of the environmental impacts of proposed energy facility projects than can state governments. This assumption is not borne out in the experience of a number of states. In the State of Maryland, for example, there is a strong record that indicates that the federal government cannot match the local experience, reliability and accuracy of a state's environmental and socioeconomic determinations without the conduct of an extremely expensive and duplicative detailed site investigation program. In nuclear power plant siting, for example, it would be difficult for the Nuclear Regulatory Commission to conduct the detailed investigations of the type Maryland makes at every location throughout the state. As has been articulated by the state, "Site specificity is the key to avoiding superficial efforts to protect single components of an ecosystem without causing other environmental dislocations. The ecological community of plants and animals is too varied. The state is best suited to know for a particular site what data and information needs to be collected, the frequency, degree of precision and accuracy of the data, and the availability of competent local scientists to interpret the data."

As a result of extensive field studies of aquatic impact, Maryland officials were able to identify needed changes in plant design early in the review process for a nuclear plant that was not identified by federal agencies. This work far exceeded an oversimplified federal analysis which treated an estuary as a lake. Other examples revealed that federal agencies lacked awareness of the significance of the impact of groundwater withdrawal and relied on obsolete data. These and other situations were not the result of either incompetence or lack of ability. They result from the inherent difficulties which can be avoided if states have the basic responsibility for carrying out site-specific reviews. Imposition of a federal takeover will not make the system work better. States are the logical unit of government to deal with environmental and socioeconomic impacts. The federal government can be involved to the extent that there is an overriding national interest (e.g., the safety of nuclear plants).

CONCLUSION

The Governors have long supported the need for federal coordination with the states and for a central federal siting authority such as is embodied in the concept of the Energy Mobilization Board. However, granting meat-axe like authority to the Board in dealing with state and local governments overlooks a number of more effective and less Draconian measures.

The following opportunities for improvement in federal/state siting are available:

Close federal/state consultation and concurrence on the designation of priority energy projects and the setting of decision timetables;

Clear statutory authority for joint federal/state development of environmental assessments and impact statements (states have long favored delegation of federal environmental reviews to states).

Greater reliance on joint hearings and concurrent reviews;

Expanded technical assistance to states and federal support for the development of state energy mobilization boards;

Greater access for states to federal information.

The Administration appears to have bypassed these opportunities in favor of a more simplistic effort to focus attention on time deadlines and rapid decisionmaking. As noted earlier, such an approach merely builds in an incentive to say no to energy projects rather than encouraging improvements in state/federal coordination. States have for the past ten years concentrated on strengthening their review programs by emphasizing the integration, consolidation and coordination of state agency permits. This has resulted in a more comprehensive and timely review of the relevant issues. To focus solely on tightening decision deadlines and waiving state laws begs the far more significant question of how to rationalize the permitting process.

The National Energy Plan and its specific program elements pursue the principal objective that the federal government should provide a clear and consistent statement of energy policies and programs with clear and consistent rules and regulations emanating therefrom. To carry out this objective, the states must be included as partners and not perceived as combatants, antagonists or obstacles in that process. What is sorely needed is not confrontation with state interests and concerns, but an accommodation that leads to good, timely and effective decisions.

The legitimate frustration with the existing complex array of regulatory authority and activity in energy facility siting should not be permitted to result in the choice of state inadequacies as a major scapegoat. An end to the regulatory tangle is a laudable goal, but efforts should be focused where reform is needed most—in the federal administrative sector.●

ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today, but I would want to remind our colleagues that on tomorrow there will be rollcall votes. Already four rollcall votes have been ordered for tomorrow. There may be other rollcall votes tomorrow. Senators can schedule their day accordingly.

SENATE RESOLUTION 223—DESIGNATING THE EMPLOYING AGENCY UNDER THE ETHICS IN GOVERNMENT ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. STEVENSON, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 223

Resolved, that the Senate assigns responsibility for administering the reporting requirements of Title I of the Ethics in Government Act of 1978 to the Select Committee on Ethics.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

● Mr. STEVENSON. Mr. President, this resolution is a ministerial act which formally designates the Select Committee on Ethics as the committee of the Senate charged with administering title I of the Ethics in Government Act of 1978, as amended.

Title I of the Ethics in Government Act requires Members of the Congress and certain employees to submit annual public financial disclosure reports. The act thus requires by statute that which the Senate had required of itself when it passed rule 42 of the Standing Rules of the Senate in 1977.●

The PRESIDING OFFICER. Does the Senator move the adoption of the resolution?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on table was agreed to.

ORDER FOR EXTENSION OF TIME TO REPORT ON NOMINATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Government Affairs have an extension of time until September 28, 1979, to consider the nomination of Frankie Freeman to be Inspector General of the Community Services Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 1 minute to consider the two nominations under National Credit Union Administration Board.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I reserve for the purpose of advising the majority leader that the items to which he refers are cleared on our calendar and we have no objection to proceeding to their consideration and confirmation.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the first nomination.

NATIONAL CREDIT UNION ADMINISTRATION BOARD

The assistant legislative clerk read the nomination of P. A. Mack, Jr., of Indiana, to be a member of the National Credit Union Administration Board.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The assistant legislative clerk read the nomination of Harold Alonza Black, of North Carolina, to be a member of the National Credit Union Administration Board.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore of the Senate, pursuant to Public Law 95-521, appoints Robert K. Kelley as Deputy Senate Legal Counsel, effective August 27, 1979.

SENATE RESOLUTION 224—APPOINTING ROBERT K. KELLEY TO BE DEPUTY SENATE LEGAL COUNSEL

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution on behalf of Mr. BAKER and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 224

Resolved, that the appointment of Robert K. Kelley to be Deputy Senate Legal Counsel, made by the President pro tempore of the Senate this day, shall become effective on August 27, 1979, and the term of service of the appointee shall expire at the end of the 97th Congress.

Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Without objection, the resolution (S. Res. 224) is considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that on the table.

The motion to lay on the table was agreed to.

REMOVAL OF INJUNCTION OF SECRECY

(EXECUTIVES AA AND BB)

Mr. ROBERT C. BYRD. Mr. President, as in executive session, ask unanimous consent that the injunction of secrecy be removed from two treaties with the Republic of Turkey, on Extradition and Mutual Assistance in Criminal Matters and on the Enforcement of Penal Judgments, both signed at Ankara on June 7, 1979 (Executives AA and BB, 96th Congress, first session), sent to the Senate today by the President of the United States, and ask that the treaties be considered as having been read the first time, that they be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty on Extradition and Mutual Assistance in Criminal Matters between the United States of America and the Republic of Turkey, signed at Ankara on June 7, 1979.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the treaty.

The treaty is one of a series of modern extradition and mutual assistance treaties being negotiated by the United States. At the request of the Turkish side, the subjects are combined into one treaty. The treaty is self-executing and utilizes existing statutory authority.

The extradition portion of the treaty replaces the current treaty between the United States and Turkey which was signed in 1923. It greatly expands the list of extraditable offenses to include narcotics offenses, aircraft hijacking, bribery and obstruction of justice, as well as many other offenses not now covered by our existing treaty. Upon entry into force, it will terminate and supersede the existing Treaty of Extradition. The new treaty will have only limited retroactive effect. American citizens are not extraditable to Turkey under the present treaty, although they are under the new treaty. Under the new treaty, however, they will not be extradited for extraditable offenses under the present treaty committed prior to entry into force of the new treaty. Also, the new treaty provides that extradition shall not be granted for an offense committed before this treaty enters into force which is not an extraditable offense under the present treaty.

The mutual assistance portion of the new treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the treaty includes (1) executing requests relating to criminal matters; (2) taking of testimony or statements of persons; (3) effecting the production, preservation and authentication of documents, records, or articles of evidence; (4) returning to the Requesting Party any objects, articles or other property or assets belonging to it or obtained by an accused through offenses; (5) serving judicial documents, writs, summonses, records of judicial verdicts and court judgments or decisions; (6) effecting the appearance of a witness or expert before a court of the Requesting Party; (7) locating persons; and (8) providing judicial records, evidence and information.

I recommend that the Senate give early and favorable consideration to the treaty and give its advice and consent to ratification.

Jimmy Carter.

The White House, *August 2, 1979.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the United States of America and the Republic of Turkey on the Enforcement of Penal Judgments which was signed in Ankara on June 7, 1979.

I transmit also, for the information of the Senate, the Report of the Department of State with respect to the treaty.

The treaty would permit citizens of either nation who have been convicted in the courts of the other country to serve their sentences in their home country; in each case the consent of the offender would be required.

This treaty is significant because it represents an attempt to resolve a situation which has inflicted substantial hardships on a number of citizens of each country and has caused concern to both governments. It also represents a significant element in the modernization of our relations with Turkey in the field of international judicial cooperation.

I recommend that the Senate give early and favorable consideration to this treaty.

Jimmy Carter.

The White House, *August 2, 1979.*

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 95–45, appoints the following Senators to the 66th Interparliamentary Union Conference, to be held in Caracas, Venezuela, September 13–21, 1979: The Senator from New Jersey (Mr. Williams), chairman; the Senator from Arizona (Mr. DeConcini); the Senator from Vermont (Mr. Stafford), vice chairman; and the Senator from South Carolina (Mr. Thurmond).

ORDER FOR CONSIDERATION OF SENATE RESOLUTION 220 TOMORROW AND TO ORDER YEAS AND NAYS THEREON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, following the disposition of the countercyclical bill and before taking up the Bonneville bill, which has already been scheduled, the Senate proceed to the consideration of Calendar Order No. 316, Senate Resolution 220, for a period of not to exceed 30 minutes, to be equally divided between Mr. Morgan and Mr. Schmitt; and that it be in order to order the yeas and nays at any point on passage of that resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I believe I am correct in stating that first, tomorrow, after the orders for the recognition of any Senators, if such there be, have been completed, following the recognition of the two leaders or their designees, the Senate will proceed to the consideration of the countercyclical bill, Calendar Order No. 289, in connection with which four rollcall votes have already been ordered, three of which are on amendments by Mr. Bellmon and one of which is on passage of the bill. Upon the disposition of that bill, the Senate will proceed to the consideration of Calendar Order No. 316, S. 220, a resolution amending the Standing Rules of the Senate. There is a time limitation on that resolution of 30 minutes. There will be a rollcall vote on the adoption of that resolution.

On the disposition of the resolution, the Senate will turn to consideration of Calendar Order No. 289, S. 885. There may be a rollcall vote on that measure.

Mr. CRANSTON. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. CRANSTON. Is it possible to consider H.R. 2282 ahead of that?

Mr. ROBERT C. BYRD. As I understand it, the minority, as of the moment, is exploring the situation in regard to the veterans compensation measure.

Mr. BAKER. If the majority leader will yield to me, we are checking that now. It may be possible to provide for the sequence of the distinguished majority whip's request. If he will withhold that for the time being, I shall see what we can do.

Mr. ROBERT C. BYRD. Mr. President, my statement of the sequence of measures taken up tomorrow overlooked the budget waiver resolution in connection with the countercyclical bill. That resolution, Calendar Order No. 300, will be the first matter of business before the countercyclical bill is taken up. I assume there will be a rollcall vote on that measure.

ORDER FOR CONSIDERATION OF H.R. 2282 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, upon the disposition of Calendar Order No. 289 tomorrow, a bill to assist the electrical consumers of the Pacific Northwest, the Senate then turn to the consideration of Calendar Order No. 262, H.R. 2282, the disability compensation for disabled veterans bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR MOYNIHAN'S CONSTRUCTIVE PROPOSAL RE SALT II AND SALT III

Mr. CRANSTON. Mr. President, yesterday the distinguished Senator from New York, Daniel Patrick Moynihan, made a most significant contribution to the SALT ratification debate and to the goal on which both proponents and opponents of SALT II agree—the actual reduction of nuclear arms and the guarantee of strategic balance between the United States and the Soviet Union.

Senator Moynihan noted that the United States had "entered into the negotiations for SALT I with a pronounced advantage in strategic weapons and those for SALT II with a sufficient advantage." Based on the results of SALT I and SALT II, the prospect in Senator Moynihan's view is that "the SALT III negotiations will begin with the Soviets anticipating strategic supremacy by the end of the process." The Senator concludes that the only hope to obtain agreement for SALT III reductions of arms is now, while the United States still has the option to head off such a shift in the strategic balance.

The distinguished Senator expresses concern over what many see as the change of strategic force posture from, first, the superiority of U.S. strategic forces to, second, essential equivalence of United States and Soviet strategic forces, to, third, the very real threat of strategic force superiority by the Soviets. I wholeheartedly agree with Senator Moynihan that SALT III must achieve real reductions in nuclear arms, both quantitative and qualitative, while preserving the strategic force balance.

Senator Moynihan would propose to achieve this goal by adding an amendment to the SALT II treaty, article XIX thereof, as follows:

> 4. The Parties shall conclude, by December 31, 1981, an agreement which shall, as a result of the negotiations undertaken in accordance with the Joint Statement of Principles and Guidelines for Subsequent Negotiations on the Limitation of Strategic Arms agreed upon at Vienna on June 18, 1979, effect significant and substantial reductions in the numbers of strategic offensive arms, consistent with the requirement for the maintenance of essential strategic equivalence. This agreement shall enter into effect immediately upon the expiration of the present Treaty or sooner, as the Parties shall decide. If the Parties are unable to conclude such an agreement by December 31, 1981, the present Treaty shall terminate on that date.

The proposed Moynihan amendment to the SALT II Treaty warrants our serious consideration. I have some doubt as to whether the substance of Senator Moynihan's proposal should be achieved by the amendment route, however, because this would require resubmission to the Soviets and runs the possibility of opening the Pandora's box of total renegotiation of the SALT II Treaty. I am still strongly inclined to the view that all needed improvements of the SALT II Treaty can be achieved by the route of understandings and reservations in the resolution of ratification rather than by direct amendment to the treaty text.

However, my questions concerning the precise means by which Senator Moynihan would achieve his goal in no way lessen my agreement with the constructive substance of Senator Moynihan's proposal. We must devise a means to achieve in SALT III, in the words of Senator Moynihan's amendment, "significant and substantial reductions in the numbers of strategic offensive arms, consistent with the requirement for the maintenance of essential strategic equivalence."

Therefore, I welcome Senator Moynihan's proposal and I hope that all of us will be able to work with him to achieve the goal of that proposal. I trust that Senator Moynihan, in making this constructive proposal, is not irrevocably wedded to this particular amendment or to the amendment form as such. I know we both agree that the substance is far more important than the form. I look forward to working with the distinguished Senator from New York for the successful ratification of SALT II and to laying the essential foundation for a genuine reduction of nuclear arms in SALT III, a reduction that this Senate must do all it can to assure is achieved expeditiously and effectively.

Mr. President, although Senator Moynihan made his proposal in a floor statement which was included in the Record for Wednesday, August 1, 1979, I believe the importance of his proposal warrants consideration by each Senator, and to help assure that this occurs, I ask unanimous consent that the statement by Senator Daniel Patrick Moynihan, Democrat, New York, on SALT II be printed once again in full in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

SALT II

The SALT debate has become a debate on rearmament. If this is cause for dismay, it is no occasion for surprise.

For some while the pace of the Soviet arms buildup and the "asymmetry" of the SALT I agreement has been obvious to all save those whose concern it has been to avoid the obvious.

This avoidance was the subject of my first address to the Senate on March 4, 1977. At that time—not so very far distant—to draw attention to the rise of Soviet strategic power was to invite suspicion of grave unorthodoxy.

Thus in March 1977 the principal thrust of my remarks was to question the assumption, seemingly in place within the Administration, that Soviet behavior in nuclear weapons was basically imitative of United States behavior. This of course implied that if the United States restrained the growth of its forces, so also would the Soviets. I stated that there was no evidence for this.

I continued to press this point, and its corollary that the Soviets were approaching the moment when they will have neutralized our Minuteman force and attained to something like strategic superiority.

I put the case that the longer we took to recognize this reality the more likely it was to astound and confound us when finally we did.

It took a good two years, so far at least as the public pronouncements of the present Administration are concerned. Whether this was longer than need have been is beside the point. The time came.

Specifically, on February 21, 1979, in presenting the fiscal year 1980 defense budget to the Senate Budget Committee, Defense Secretary Harold Brown said that it "reflects the President's determination to begin countering the Soviet military buildup that has been underway for over fifteen years." The Secretary went on to document the trends in military spending during this period, here and in the Soviet Union. U.S. military investments, measured in terms of constant dollars, have been in a general decline since 1969.

The Soviets have had uninterrupted growth since about 1960. Since the early 1960s the Secretary said, "Soviet investment in new military hardware has increased twofold . . . and is more than twice ours to day. . . . The upward trend shows every sign of continuing. . . . Soviet spending has shown no response to U.S. restraint—when we build they build; when we cut they build."

In terms of military power, the Secretary used the phrase "rough equivalence, parity" to describe the balance today. During a brief colloquy, I asked "Would you say this, Mr. Secretary, that if the trend lines proceed, the Soviets would be ahead?" Secretary Brown replied, "They would be clearly ahead militarily."

The President finally spoke to the point in his address to the American Publishers Association in New York City on April 25, 1979. He stated: "Over the past decade, the Soviets have steadily increased their real defense spending, while ours has had a net decrease."

In the hearings now concluding on SALT II the thrust of this statement has been repeated over and again by the Secretary of State and the Secretary of Defense. On Monday of this week, the present head of the Arms Control and Disarmament Agency predicted the Soviet Union would continue a "relentless" arms buildup, with or without the pact.

An administration that has seemed blind to reality, suddenly seems blinded by it.

On Wednesday of last week I met with a high official whom the Administration had had testifying before the Senate Foreign Relations Committee in favor of the SALT II. He had made his support conditional on a considerable increase in arms expenditure. I asked him to consider that the MX missile might never be built. In that event, he said, "We are lost."

Without wishing to belabor the point, I would repeat that the present alarums are in many ways the predictable consequence of the previous torpor. This is nothing new, and would be of no great matter if not that in the course of our present debate on rearmament we risk abandoning all hope of a Strategic Arms Limitation Treaty that might actually limit strategic arms.

More and more SALT II is referred to as peripheral or even irrelevant to our international position, either military or diplomatic.

More and more it is said of SALT II that its value, such as it may be, is that it preserves the SALT process.

I would contest this. The only value I can see in a SALT treaty is that it should limit strategic arms. The great irony is that the SALT process may in fact have become a barrier to just that. Far from solving the problem, the process has become the problem.

Certainly certain facts are clear.

In 1969 when discussion of an arms limitations treaty began, the Soviets had 1,050 ICBM warheads. In 1985 at the conclusion of SALT they will have upwards of 12,000. This is four warheads for every county in the United States. In terms of missile throwweight the Soviets will continue their rapid increase from their current level of 11.3 million pounds to 15.0 million pounds by 1985, the treaty's expiration date. This will be half again the American throwweight. The number of Soviet MIRVed missile launchers alone will almost double under the treaty period from the present level of about 700 to 1,200 in 1985.

The problem I suggest with the process is that—so far—it has required American negotiators to reach agreement with the Soviet Union in an area where there is no agreement. The strategic buildup has been underway, as Secretary Brown attests, for fifteen years. It was well underway when formal SALT negotiations began. It has never ceased because the Soviets would not agree to do so.

As a result, more often than not, the actual negotiations in SALT have taken place within the American government. The process goes something as follows. The advocates of strategic arms limitations obtain agreement to have "talks"—that is the term—with the Soviets. In these talks they find the Soviet government has already agreed with its military to continue their nuclear buildup. (At the time of SALT I the Soviets had already decided to build the SS 19, which they proceeded to do. This is one reason why our Minuteman force is now threatened.)

Accordingly a treaty is drafted which permits the increase in Soviet strategic forces the Soviets have already planned. Our negotiators return with this treaty which the American military in all honor cannot support unless a corresponding increase in American nuclear forces is also to take place. This is then agreed to on our side through a complex negotiation involving the White House, the State Department, and the Defense Department and the Congress.

Thus, as the Washington Post observed only this morning, the commitment to the Trident submarine was made in order to gain approval of SALT I. Whatever its military utility, it was deemed to serve the purpose of the moment—to win ratification of SALT I—simply because it was—big.

Similarly the M-X has become the price of SALT II. It is hard to describe this weapons system, for it changes every day. At minimum it is complex. More seriously, it will require the Soviets to deploy some 8,000 warheads to neutralize it. (Two warheads per twenty possible sites for two hundred missiles.)

Thus the United States joins the arms race the Soviets insist on. This is the ultimate irony. Without thinking, without so far as I can tell even noticing, United States behavior in nuclear weapons has become basically imitative of Soviet behavior, because we have accepted the Soviet definition of "arms control."

By the end of SALT II the United States will have four nuclear warheads for every "rayon"—the Soviet equivalent of our county—in the Soviet Union.

In the meantime our conventional military forces grow relatively weaker with respect to the Soviets. In the kind of conflict one can imagine and could accept we are ever more likely to be overmastered. All because we wanted arms limitation and went about it badly.

The gods must weep.

I would hope we do not have to settle for this. I believe we can still negotiate a strategic arms limitation agreement that will limit arms.

Such hope as there exists for this is found in the "Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations on the Limitation of Strategic Arms," an appendage to the treaty, though not a part of it that sets the agenda for the next round of SALT. This Joint Statement calls for a third SALT agreement that will bring about a "reduction in the number of strategic arms, as well as for their further qualitative limitation."

These are not instructions; even if they were they are not binding. They reflect nothing more than the ideals with which SALT I and SALT II were entered upon—on our side. For it is an open secret that when the United States in Moscow, in March, 1977, proposed a specific reduction in strategic arms of one-third, the Soviets rejected any such specific. Less known, but now more important, at Vienna in June the United States proposed to the Soviets that the Joint Statement on SALT III call specifically for a one-third reduction in strategic arms and again the Soviets refused.

Worse. The United States entered into the negotiations for SALT I with a pronounced advantage in strategic weapons and those for SALT II with a sufficient advantage. The prospect is that the SALT III negotiations will begin with the Soviets anticipating strategic supremacy by the end of the process. In such circumstances, to hold out hopes for any real reduction is self-deception or worse.

Our only hope is to obtain agreement for a SALT III reduction of arms now while the United States still retains the option to head off that shift in the strategic balance. If there are to be reductions in SALT III, their attainment must be written into SALT II.

I therefore propose an amendment to the treaty which will add a new provision to Article XIX of the text:

> 4. The Parties shall conclude, by December 31, 1981, an agreement which shall, as a result of the negotiations undertaken in accordance with the Joint Statement of Principles and Guidelines for Subsequent Negotiations on the Limitation of Strategic Arms agreed upon at Vienna on June 18, 1979, effect significant and substantial reductions in the numbers of strategic offensive arms, consistent with the requirement for the maintenance of essential strategic equivalence. This agreement shall enter into effect immediately upon the expiration of the present Treaty or sooner, as the Parties shall decide. If the Parties are unable to conclude such an agreement by December 31, 1981, the present Treaty shall terminate on that date.

Unlike other proposals which have been made to force the pace of the SALT III negotiations, this provision does not require undoing the present SALT II treaty. With respect to timing, it meshes with the expiration of the Protocol to the Treaty, which will itself automatically lapse on December 31, 1981.

This much is certain: our margin for error in SALT has disappeared. We must rescue the "process" from itself, otherwise it will present us with ever more unappealing choices. We must recover for SALT the possibility of arms limitation and genuine arms reductions. This, so it seems to me, is the major contribution the Senate can make to the preservation of the SALT process which the President, and others, seek. We must at least make the effort.

What I propose, in short, is to make it plain, so far as the future of the SALT process is concerned, that there will be no alternative to arms reductions. And I should think that two years is a sufficient time to achieve this goal, if there is a willingness to do it.

We have been at this process for ten years. We must now face the real issue and our real prospects. And we must now say to the Soviets—and to ourselves—that if there are not going to be any significant strategic arms reductions, we will not wait until the Soviets surpass us in strategic nuclear power or are on the verge of so doing, before establishing this fact.

If the Soviets have no intention of reducing strategic arms until they have first attained to strategic superiority, now is the time to find out.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 o'clock tomorrow.

I do not believe there are any orders for the recognition of Senators.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, after the two leaders or their designees have been recognized under the standing order the Senate will proceed to the consideration of Calendar Order No. 300, Senate Resolution 213, which is the budget waiver in connection with the countercyclical bill. There will be a rollcall vote on final passage of that measure, and at the longest it will be 1 hour, probably not that long. But at the outside, it would be 1 hour before that vote is reached. But, as I say, the vote may come earlier.

Then upon the disposition of the budget waiver, the Senate will go to the bill, S. 566, the countercyclical measure. There is a time agreement on that bill. Mr. BELLMON has three amendments, on each of which there is a 1-hour time limit, and the rollcall vote has already been ordered. So that is three rollcall votes.

A rollcall vote has been ordered on final passage of the countercyclical bill. So that is four rollcall votes that have already been ordered, and if we count the one on the budget waiver, which has not yet been ordered, that will be five.

Then upon the disposition of that countercyclical bill, the Senate will take up Calendar Order No. 316, Senate Resolution 220, a resolution amending the standing rules of the Senate. There will be a rollcall vote on that resolution, although it has not yet been ordered, and that is six rollcalls.

Then upon the disposition of that measure, the Senate will take up Calendar Order No. 289, S. 885, the bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System.

There may be rollcall votes in connection with amendments or motions in relation thereto and on passage of the bill.

Upon the disposition of that measure, the Senate will take up the veterans compensation bill, H.R. 2282, Calendar Order No. 262. Rollcall votes could occur in relation to that bill.

Other measures cleared for action will be acted on tomorrow and there could be rollcall votes on conference reports.

So I would urge Senators not to schedule early departures from the city tomorrow unless they go with the full understanding that they may miss several rollcall votes.

It appears the Senate will complete its business on tomorrow at some hour, albeit late. It appears that way, at least. But I would also state the caveat as a reminder to Senators that the recess resolution provides for the Senate to be in session on Saturday, if necessary.

RECESS TO 9 A.M. TOMORROW

Mr. CRANSTON. Mr. President, if there be no further business to come before the Senate, I move that we now stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and at 5:46 p.m., the Senate recessed until tomorrow, Friday, August 3, 1979, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate August 2, 1979:

DEPARTMENT OF TRANSPORTATION

Neil Goldschmidt, of Oregon, to be Secretary of Transportation.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Moon Landrieu, of Louisiana, to be Secretary of Housing and Urban Development.

CONFIRMATIONS

Executive nominations confirmed by the Senate, August 2, 1979:

TENNESSEE VALLEY AUTHORITY

Robert N. Clement, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority for the remainder of the term expiring May 18, 1981.

FEDERAL RESERVE SYSTEM

Paul A. Volcker, of New Jersey, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1978.

Paul A. Volcker, of New Jersey, to be Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years.

DEPARTMENT OF THE TREASURY

G. William Miller, of California, to be Secretary of the Treasury.

NATIONAL CREDIT UNION ADMINISTRATION

P. A. Mack, Jr., of Indiana, to be a Member of the National Credit Union Administration Board for the term of 4 years.

Harold Alonza Black, of North Carolina, to be a Member of the National Credit Union Administration Board for the term of 2 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

THE NEED FOR COAL HAUL ROADS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. MURTHA. Mr. Speaker, today I am reintroducing legislation to provide $200 million over the next 4 years to repair highways damaged by heavy energy traffic, particularly by the increase in heavy coal truck traffic.

Every report and recommendation on energy has concluded we face a serious problem—particularly in the Northeast—with damage to roads by coal trucks as we increase coal production. Most recently, the report of the National Transportation Policy Study Commission stated:

> Local roads and other highways not designed for heavy coal traffic create road safety problems in the form of deterioration of roads and hazardous driving and passing conditions. Funds appear inadequate to correct this problem.

This is another case in energy planning where the lead must come from the Federal Government. To leave this to the States, or to urge them simply to use other highway funds for this purpose is a nice theory, but it is a theory that if adopted will mean that the problem simply never is solved.

The House of Representatives is already on record as wanting to solve this problem. Last year in the surface transportation legislation, through the leadership of Congressmen Applegate and Rahall and the subcommittee work of Chairman Howard and Minority Chairman Shuster, this amendment was adopted in the bill. Chairman Johnson backed the amendment and it was part of the bill approved by the House. Unfortunately, the Senate did not agree in the amendment. During the Conference Committee, the Transportation Department requested that the amendment be dropped from the bill so the Department could formulate its own recommendation. That recommendation was promised to us in January. Then, it was promised by June. Today, we are still without any recommendation and the latest report I have received is that an administration position is still being negotiated by the Departments of Transportation, Treasury, and Energy.

There has been considerable discussion that the final administration recommendation will be for a special severance tax on coal production to finance that work. While I personally oppose that as a solution, I would be pleased to see that or any recommendation made by the administration so the debate can begin again on this issue, and we can resolve a way to insure we have the transportation road system to move the coal our Nation needs.

President Carter has committed his administration and the Nation to increased coal use. That is a position I have supported for 5 years. To make that commitment a reality, there are a number of steps that must be taken, and insuring the proper transportation system is one of them. It is essential that we begin to move on improving energy impacted roads. It is a crucial step in our overall energy plan, and I am pleased to introduce this bill today to develop that debate further.●

FEDERAL PROTECTION FOR U.S. PROBATION OFFICERS

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. JENKINS. Mr. Speaker, it may surprise my colleagues to learn that U.S. probation officers and U.S. pretrial service officers are not afforded the protection of Federal law if victims of the serious crimes of murder and manslaughter. While 18 U.S.C. section 114 provides a Federal offense in the instance of murder or manslaughter of U.S. attorneys and their assistants, judges of the Federal judicial system, U.S. marshals and deputy marshals, and U.S. law enforcement officials including officers and employees in Federal penal or correctional institutions, the U.S. probation officer has been overlooked.

To remedy this oversight in our Federal Criminal Code I have introduced a bill, H.R. 4829, which would include the murder or manslaughter of a U.S. probation officer or pretrial service officer as a Federal criminal offense. This amendment would enable the U.S. attorney to prosecute the offender.

Under existing law the murder of a U.S. probation officer may go unsolved or even unprosecuted because the U.S. attorney has no offense for which to prosecute. State attorneys may hesitate to commit the resources of the State to prosecution where they believe that it should be a Federal matter.

It is estimated that U.S. probation officers are involved in a sizable number of hazardous incidents every year. The probation officer works under conditions of hazard equal to or exceeding those officials currently covered under title 18.

The shooting of two U.S. probation officers in their performance of their official duties—one in Memphis in May, 1973 and the other in the District of Columbia in June, 1974—demonstrate the need for this legislation. Last December a probation officer in Laredo, Tex., was killed from ambush as he approached the Federal building. I believe that the U.S. Government should prosecute these crimes and should be empowered to do so.

In conclusion I would point out for the Record that the U.S. Judicial Conference adopted at its meeting in March of this year a resolution that the U.S. probation officer receive this statutory protection.

I would urge my colleagues on the Judiciary Committee to include this provision in their revision of the U.S. Criminal Code.●

HOME HEATING OIL AND FUEL OIL

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. KOSTMAYER. Mr. Speaker, on July 17, 1979, I introduced legislation to reimpose price and allocation controls on home heating oil and diesel fuel.

In my own State of Pennsylvania and throughout the country, the price of home heating oil may well double by next winter. Simple social equity and economic justice require that we restore price and allocation controls if we are to avoid the problems caused by the increases in price and by potential severe shortages.

Because I believe this matter is of significant importance I have written to the distinguished chairman of our Democratic Caucus, the Hon. Thomas S. Foley, asking that the matter be placed on the agenda of the Democratic Caucus which is to occur on September 19, 1979.

Below are my "Dear Colleague" on the legislation and the letter to Chairman Foley.

I urge Members to consider this significant matter during the upcoming recess and to talk with their constituents about it and to be prepared to consider the resolution in the caucus and hopefully the bill in the House upon our return.

The letter follows:

House of Representatives,
Washington, D.C. July 23, 1979.

Dear Colleague: Last Tuesday I introduced legislation to reimpose price and allocation controls on home heating oil and fuel oil. Although several of our colleagues have introduced resolutions or drafted letters to the President urging him to use his authority under existing law to reimpose controls, my bill would have the force of law.

The dramatic rise in home heating oil prices over the past year has been widely documented and many agree that home heating oil prices could reach $1 per gallon by this winter.

In examining this situation, keep in mind these facts:

From April '78 to April '79 crude oil and product costs to refiners rose by 22 percent, reflecting OPEC price increases and purchases on the spot market. But during the same period, refiner profits rose by almost 90 percent, and this does not account for profit taking further down the distribution chain.

Despite the prospect of a 100 percent increase in the price of home heating oil to consumers, the elimination of marginal customers, widespread shortages, and regional dislocations, DOE has only now just begun to evaluate its options with respect to crisis intervention and assistance to the poor and the elderly.

Deputy Secretary of Energy John O'Leary stated on June 25 that "price and allocation controls can be effective as a last resort during a severe shortage to prevent price gouging or inequitable distribution of supply." And Senator Russell Long has said, ". . . Unless we can come up with something better, the reimposition of controls will be necessary to avoid critical shortages and skyrocketing heating oil prices this winter."

Competition and market forces alone are totally inadequate to protect consumers from both shortages and inequitable prices. The Emergency Petroleum Allocation Act provides that the President may reimpose controls for, among other things, the "protection of public health, safety, and welfare," and the "equitable distribution of refined petroleum products at equitable prices among all regions and areas of the United States . . ." Please support this urgent task. If you would like to co-sponsor or if you have any further questions, please call me or Herb Sambol at x54276.

Thank you.

Sincerely,

PETE.●

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 31, 1979.

THOMAS S. FOLEY,
Chairman,
Democratic Caucus,
U.S. House of Representatives.

DEAR TOM: Pursuant to our earlier conversation, I am requesting that it be in order for the House Democratic Caucus to consider the following resolution at the September 19, 1979 meeting of the Caucus:

"Resolved, that it shall be the Democratic policy in the House of Representatives that mandatory price and allocation controls for middle distillates as established in the Emergency Petroleum Allocation Act be reimposed."

Thanks for your attention to this matter.

Sincerely,

PETE.

CLARIFICATION OF STATE ENERGY CONSERVATION PLANS

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. LUKEN. Mr. Speaker, I rise as the House finalizes the 1979 energy legislation to again clarify the intent of section 635C(B) part 3, subpart C S-1030, "Approval of State Plan."

Similar language, "(B) that, taken as a whole, the plan is likely to impose an unreasonably disproportionate share of the burden of restrictions of energy use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof," has been carefully placed in earlier energy legislation. My colleagues in both Houses have taken the same efforts I undertake today to make sure as the State plans to conserve energy are formulated that those local officials take notice of this section.

Mr. Speaker, it is most important that as energy conservation plans are drawn and implemented, efforts must be taken to avoid hardships on small businessmen such as those engaged in recreational business, roadside business, outdoor advertising, and general aviation.

If severe shortages should develop, then all segments of business should contribute to energy conservation in an equitable manner.●

HUMAN RIGHTS IN THE SOVIET UNION

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. FROST. Mr. Speaker, I would like to submit for publication into the RECORD copies of letters I have recently mailed to Soviet Secretary Leonid Brezhnev and Interior Minister Nikolai Shchelokov on behalf of a Soviet prisoner of conscience and a "refusenik" family. The plight of these individuals was called to my attention during my participation in "Intervention 96," a project sponsored by the National Council on Soviet Jewry. Labeled "the new adopting the old," seven freshmen Members each spoke on the House floor on behalf of Russian Jewish dissidents who were at that time incarcerated in Soviet jails.

Mr. Speaker, both the "refuseniks" and the prisoners of conscience have been subjected to a kind of terror few here in the United States can imagine. In the case of the Hess family, for daring to express his desire to leave Russia and resettle in Israel, Grigori Hess has spent 1 year in prison, has lost his job, and his family has been subjected to anti-Semitic reprisals that have intensified to a frightening level, particularly in the Minsk area where the Hesses now live. The safety of him and his family is in constant jeopardy.

Mr. Mendelevich was imprisoned after the notorious Leningrad trials; although all but two others arrested at the same time and for the same offense have been released, this man remains incarcerated. most likely for his insistence on faithfully observing the practices of his Jewish faith.

I am pleased to submit these letters for my colleagues' inspection. The letter on behalf of Grigori Hess was signed by 41 other Members who not only share my concern for him and others like him, but who also recognize the unique advantage our membership in the House of Representatives affords us to shape the course of human rights development in Soviet Russia. Using our position as a forum, we are advising the Soviet leadership that we consider them to be long past due in honoring internationally recognized human rights for their citizens, regardless of nationality or religion, and that we will continue to advise them until such time as their record no longer warrants it.●

CHRYSLER CORP. LOSSES

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. HILLIS. Mr. Speaker, the Chrysler Corp. announced yesterday that for the second quarter of 1979 it lost $207.1 million. This represents one of the largest quarterly losses ever for an American business.

Since Chrysler's losses are in part caused by Federal regulations, I am inserting in the RECORD a statement released by John Riccardo, chairman of the board for Chrysler Corp., explaining the effects of these regulations. I am also inserting a consolidated statement of net earnings for Chrysler Corp., and Consolidated Subsidiaries.

It is possible that the Federal Government will be asked to assist Chrysler Corp. in the near future. I hope my colleagues will consider the comments of Mr. Riccardo and work toward easing the effects of Government regulations on all private sectors of our economy.

STATEMENT BY JOHN RICCARDO, CHAIRMAN OF THE BOARD, CHRYSLER CORP., AT PRESS CONFERENCE, DETROIT, MICH., JULY 31, 1979

Before we open this conference up to questions, I'd like to make a brief statement about the losses we have just announced, and some of the causes for the current condition of Chrysler Corporation.

Our second quarter losses were not a great surprise to anyone who has been paying attention to recent events in the automobile industry. The recent hysteria about gasoline availability, and the sharp drop in van and truck sales, has left us with a heavy inventory of unsold cars and trucks. That's a short-term problem we are going to have to work out of. And we have some sales programs coming that should help to do the job.

But in addition, for a long time now we have been pointing out the effects that the heavy burden of regulation would have on Chrysler Corporation. And those effects are now beginning to show in a very real way as well.

It's now generally accepted by everyone who has studied the situation that government regulations have hit Chrysler a lot harder than they've hit the bigger manufacturers.

But even the best-supported facts don't always get the kind of attention they deserve. So we've decided to illustrate the anti-competitive effect of regulations another way—visually.

This bar chart shows the disproportionate effect auto regulations have on Chrysler, compared to GM—even though the regulations are theoretically imposed in an even-handed manner. The height of each bar represents total production volume, or the number of units each company produced in 1978. As you can see, Chrysler produces less than one-quarter as many as GM.

The bottom of each bar shows the per-unit cost of regulations for each company. These are estimated costs based on published material which was available in 1977 and are quite frankly very conservative. The illustrations are based on the recent Wainwright study of the relative impact of government regulations on the U.S. auto industry. Wainwright estimated the yearly fixed expenditures by GM and Chrysler for meeting government regulations between 1978 through 1985, and we calculated the cost per unit using 1978 production figures for both companies. The point is, the cost per unit of meeting government regulations is twice as much for Chrysler as for GM. That's because GM produces a lot more cars than Chrysler to begin with, so they can spread their costs over a greater number of units.

I urge you to read the Wainwright report. If you would like further verification of the findings in that report, I suggest you read a copy of the Harbridge House study commissioned by the DOT. There are other studies as well, all pointing out the same effects of regulation.

The message is clear. Auto regulations are having a double-whammy effect on Chrysler's per-unit costs—and by virtue of our size, we're the company that is least able to afford the skyrocketing costs of regulations to begin with.

Over the past couple of years, we have pointed out that Chrysler was going to experience a very difficult period in the short term because of the massive expenditures required to meet Federal regulations for air bags, final emissions controls, and 2 m.p.g. fuel economy increments—all of which fall into place in the early 1980's. We made a special effort to point out the coming problems so there would be no surprise for anyone. We understood the dimensions of the job required to meet the law and return Chrysler to a position of strength and profitability. And we were willing to take whatever actions were necessary to do the job.

The list of the steps we have taken in the past year or two is very impressive.

We have restructured all of our overseas investments so we could concentrate our resources on the North American market.

We have put in place a large share of the record financing we need to carry out our programs, through a series of ingenious and sometimes highly unusual financing arrangements.

Lee has brought on board some new, outstanding people who are doing a good job. Our new product programs are now on time, and they will stay on time. Our product quality is tremendously improved, and is the best we've had in years.

We have moved to restructure Chrysler so it will be as lean and effective as possible. We have taken over $500 million in cost out of the company in the past year without sacrificing our long term goals. In other words, we have taken all the steps that could be taken to make our own way, and to pay the cost of government regulations.

But then just as we are finally on track with all the programs we can control, we're hit with two events over which we have absolutely no control. First, we manage to develop a gasoline hysteria that's unique to the United States and that hurts the markets where we're strongest. There are no gas lines in Japan or Europe. And on top of that—we now are in a recession that makes all our problems worse.

You couldn't write a tougher scenario for the third largest auto company.

We're in a tough period, but we intend to make it. We've got the products and the people to do the job, and with a little time and patience, and a lot of money, we have the programs to bring us back to profitability.

REGULATIONS COST CHRYSLER NEARLY TWICE AS MUCH PER CAR AS THEY COST GENERAL MOTORS

	Total units	Estimated cost of regulation per car
General Motors	5,000,000	$340
Chrysler	1,000,000	620

Source: Cost figures based on estimates from "The Impact of Government Regulations on Competition in the U.S. Automobile Industry," H. C. Wainwright & Co., Mar. 23, 1978. Production figures taken from MVMA "Motor Vehicle Facts & Figures," 1978.

CHRYSLER CORP. AND CONSOLIDATED SUBSIDIARIES—CONSOLIDATED STATEMENT OF NET EARNINGS, 6 MO ENDED JUNE 30, 1979, AND 1978

[Dollar amounts in millions]

	2d quarter		6 mo	
	1979	1978 [1]	1979	1978
Net sales	$3,154.6	$3,754.1	$6,456.2	$6,733.5
Equity in net earnings of unconsolidated subsidiaries	7.6	4.8	18.2	.5
Net earnings from European and certain South American operations		10.5		26.0
Total	3,162.2	3,769.4	6,474.4	6,760.0
Costs, other than items below	3,030.7	3,389.3	6,050.5	6,220.1
Depreciation of plant and equipment	41.1	39.4	84.4	79.2
Amortization of special tools	50.6	53.5	101.2	106.2
Selling and administrative expenses	136.4	152.0	278.3	282.1
Pension plans	67.9	75.1	137.8	145.5
Interest expense—net	50.0	29.5	95.7	57.6
Total	3,376.7	3,738.8	6,747.9	6,890.7

	2d quarter		6 mo	
	1979	1978 [1]	1979	1978 [1]
Earnings (loss) before taxes on income	($214.5)	$30.6	($273.5)	($130.7)
Taxes on income (credit)	(7.4)	.1	(12.6)	(41.4)
Net earnings (loss)	(207.1)	30.5	(260.9)	(89.3)
Dividends on preferred shares (includes amortization of discount)	7.2		14.5	
Net earnings (loss) attributable to common stock	(214.3)	30.5	(275.4)	(89.3)
Earnings (loss) per share of common stock (dollars)	(3.31)	0.51	(4.26)	(1.47)
Average number of shares of common stock outstanding during the period (in thousands)	65,215	61,204	64,649	60,784

[1] Restated to reflect deconsolidation of European and South American operations.

Note: In 1979, the abnormally low tax credit is attributable primarily to the effect of losses for which no carryback credits are available. In 1978, the tax credit was lower than would be indicated by the customary relationship of pretax losses and income taxes principally because of the impact of the investment tax credit. ●

GET CRACKING CONGRESS

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. HEFTEL. Mr. Speaker, for all the recent oration about our "national malaise" and the "crisis of confidence" we have heard in the last few weeks, I am certain my colleagues concur in my belief that no more eloquent voice exists than that of the people directly. Despite the proficiency of self-styled experts and opinion makers here in Washington, it is from the letters of my constituents that I receive the most clear-cut, nononsense advice on the issues.

A case in point: Mr. Bert Fraleigh of Hawaii was recently kind enough to alert me to a letter in the July 26, 1979 Honolulu Advertiser from Mr. Walt Jones. I commend Mr. Jones' expression of frustration concerning this Congress to the attention of each of the Members:

GET CRACKING, CONGRESS

I am certain that the rest of the tax-paying, voting public was as relieved as I to read that our U.S. House of Representatives put aside trivial matters—such as energy, inflation and the nation's distrust of government—in order to debate and vote on the tremendously important principle of whether or not those dignified public officials (I wish I could say "servants," but I can't bring myself to it) can work in those hallowed chambers without a coat.

Isn't it about time that our Congress takes off its collective coat and rolls up its collective sleeves and gets down to solving some of our country's problems—many of which seem to have originated in their own little corner of the world? They have already proved to the country that they can't function in coats and ties.

Wouldn't it be wonderful if Washington were swamped with letters from millions of Americans telling them to forget ending this session until they can relieve the minds of their constituents that they have indeed put into motion positive solutions to many of our troubles? Something subtle like, Dear Congressman/Senator: Get cracking or don't come home!"—WALT JONES. ●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent from the House of Representatives on Thursday, July 26, and Friday, July 27, 1979. Had I been present, I would have voted: "No" on rollcall No. 390, an amendment to H.R. 3000, DOE civilian programs authorizations, seeking to strike the authorization for the Clinch River breeder reactor; "no" on rollcall No. 392, an amendment to H.R. 2462, Maritime authorizations, seeking to reduce the construction-differential subsidies authorized under the measure; "aye" on rollcall No. 393, an amendment to H.R. 2462 seeking to prohibit the use of funds authorized for construction-differential subsidies to construct any vessel which will have subsidized manning levels 50 percent above the minimum determined by the Coast Guard to be necessary for the safe operation of the vessels; "no" on rollcall No. 395, an amendment to H.R. 3633, making certain amendments to title VIII of the Public Services Health Act, seeking to reduce authorizations for special project grants and for nurse practitioner training; and "aye" on rollcall No. 396, final passage of H.R. 3633.●

KEELER McCARTNEY OF ATLANTA CONSTITUTION RETIRING

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. GINN. Mr. Speaker, I know we all recognize that American journalists play a dynamic role in protecting the freedom of all of our citizens. By informing us of the news of our communities, our States, and our Nation, they provide Americans with the essential flow of information that is the foundation of our democracy.

The work of our news reporters is most closely linked to our citizens at the local level, and I would like to take this opportunity to recognize one of our Nation's most distinguished local news reporters, Mr. Keeler McCartney of the Atlanta Constitution. Mr. McCartney is retiring after some 37 years in journalism, and I believe the following column by Ms. Celestine Sibley, which appeared in the July 26 edition of the Atlanta Constitution, provides a valuable insight into the life of one of America's truly outstanding citizens. I ask that this column be reprinted in the RECORD at this point.

99 PERCENT COP, REPORTER GETS FOND SO-LONG

(By Celestine Sibley)

One day about a week ago some of his pals in law enforcement invited Constitution reporter Keeler McCartney to have lunch with them. He was busy and usually eschews lunch time sociability but Sara Passmore, who does public relations for the State Department of Offender Rehabilitation, used to sing in the church choir with his only daughter, Tona, and he has a soft spot in his heart for her.

So Sara and Bill Wilson, public information officer for the State Patrol and a longtime friend, picked Keeler up in front of the building. They thought, they explained to him, of having lunch at the police academy. Keeler was amenable. The food there is good, he said. What he hadn't counted on was a party there—the first police academy soiree he has ever attended and it was in his honor.

Keeler, one of the most celebrated police reporters in the country, is retiring today.

NOTHING HE COULD DO

He is appalled and uncooperative about attentions of this kind but there wasn't a thing he could do about the State Patrol, the Georgia Bureau of Investigation, or the Peace Officers Association. Their members came in from all parts of the state to do honor to a man they have valued and respected for more than 35 years. And grinning sheepishly, Keeler accepted their tributes with the same equanimity with which he has accepted their jibes and cries of outrage all the times in the past when he has offended them.

There was a plaque from the State Patrol which he admitted, he reread when he got home. It said "Keeler McCartney 99 percent cop, 100 percent reporter, 200 percent human being." And after all these years he now has his own badge from the GBI bearing his name and the legend: "Our favorite reporter until July 1979 and always our friend."

The wonder is that Keeler McCartney, the last of the old-time police reporters, never intended to cover police and never really liked it. The youngest of 11 children growing up on a Louisiana farm, he intended to study medicine. But when he arrived at Emory University he realized he didn't have enough money. He went back to LSU and turned his attention to his second love, journalism. He arrived to work at The Constitution in 1942 and ran afoul of nasty coincidence. Time Magazine had just run a piece saying The Constitution had a woman on the city desk (me) and a copy boy on the police beat.

"Mr. McGill read it and didn't like it," Keeler recalls. "He came out in the newsroom and saw me and said, 'You go to the police station tonight. We'll hire a police reporter Monday.' "

TO THE "COP SHOP"

Keeler had to ask directions to the old Decatur street "cop shop" and when he got there the police, ever wary of a new boy in the press room, wouldn't have anything to do with him. Disgusted and disconsolate, he wandered out into the street walking as far as Peters Street where he ran into a big gun battle involving the police. Somehow the reporters back in the press room at police headquarters never got word of it. The Constitution scored a clean beat and the next day publisher, Major Clark Howell, said happily, "I've got me a police reporter now!"

A non-drinker and a devoted churchman, Keeler never fraternized socially with cops or robbers and somehow won the confidence of both. To the trade cliche that old police reporters come to think like old policemen, Keeler has one answer. His stories exposing their misbehavior have put more policemen in jail than his stories doing the same for crooks. But he has never had much patience with editorial mentality which doesn't attempt to understand the problems police face daily.●

DEFENSE PRESS CORPS RATES OUR 14 SECRETARIES OF DEFENSE—MEL LAIRD RATED NO. 1

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. MICHEL. Mr. Speaker, an article in the August 1979 issue of the Armed Forces Journal reports on a poll of Defense Department Press Corps on the effectiveness of our 14 Secretaries of Defense. The article covering this poll was written by Benjamin F. Schemmer and Robin J. Stein. The poll shows that our former colleague, Mel Laird. who served nine terms in the House of Representatives as clearly the most effective Secretary in the history of the Department. Mel served as Secretary of Defense from 1969 to 1973. His training here in the House as a ranking member of the Defense Appropriations Committee for many years speaks well for Mel and for the Congress.

THE REPORTERS WHO BRING YOU THE DEFENSE NEWS—AND HOW THEY RATE THE MEN WHO MAKE IT

Pounding the beat in search of a front page headline or opening spot on prime time TV news are the 37 men and one woman who comprise the Pentagon press corps. An average of 49 years old, the reporters who cover DoD regularly represent 14 daily newspapers, eight magazines and 13 news services. All three major television networks and one radio network have correspondents assigned to the Pentagon.

The 38 journalists have career and educational backgrounds as varied as the media they work for.

Roughly half of them have had military service, averaging about two years each, experience that undoubtedly gives them an edge deciphering acronym-loaded DoD memorandums. The number who served in commissioned and enlisted ranks is split about evenly. Six of the reporters have published books whose subjects range from press censorship to reminiscences about former presidents.

The nucleus of the Pentagon press corps consists of the 15 or so regulars who show up on Tuesdays and Thursdays for DoD spokesman Tom Ross' 11:30 a.m. on-the-record briefing sessions. Dubbed "the follies" by its frequenters, the half hour briefings usually consist of Ross' answering reporters' questions or promising to "get back to you on that one."

The secretaries

		Rating
Forrestal	47–49	7
Johnson	49–50	1
Marshall	50–51	6
Lovett	51–53	6
Wilson	53–57	3
McElroy	57–59	3
Gates	59–61	4
McNamara	61–68	—3
Clifford	68–69	—2
Laird	69–73	46
Richardson	73–73	0
Schlesinger	73–75	30
Rumsfeld	75–77	—8
Brown	77-Present	24

How do these professional Pentagon watchers, several of whom have been on the beat long enough to see six or seven Defense Secretaries come and go, rate the men who have followed James Forrestal's footsteps? What do they think of their spokesmen, the assistant secretaries of defense for public affairs?

AFJ asked the reporters to rate the last 14 Secretaries and their spokesmen, noting which one (or ones) they considered to be the MOST (and LEAST) Competent, Candid, Honest, Likeable, Effective, Forthcoming, Trustworthy, and Strong. The majority of reporters answered the survey (*AFJ* refrained from voting in its own poll); many added comments with their own characterization of the Presidential appointees who run or have run the US national security establishment.

Harold Brown's appointment as Secretary of Defense has been widely lauded by many commentators as one of Jimmy Carter's better Cabinet choices, and by some as his best. The Pentagon press corps seems to concur with that opinion. Those responding to *AFJ's* anonymous survey give Brown high marks for competence, candor and honesty.

Overall, however, Brown was rated only third best of the 14 men who have served as Defense Secretaries.

The Secretary with the highest rating from the press was Richard Nixon's Melvin Laird. Laird was endorsed as the most effective (by a nine to one margin over Brown), likeable (by a factor of three over Brown), trustworthy (roughly two to one over Brown), strong (by a factor of five), and forthcoming (seven times more so than Brown). Laird, it also turns out, was the only

SecDef who won nothing but positive comments.

Behind Laird in the poll was another Nixon appointee, but one of Carter's least popular—current Energy Secretary James Schlesinger. While Schlesinger got less than a third of Brown's votes for competence as SecDef, the press named him by far the most candid of the recent Secretaries and also rated him highly for being strong, forthcoming, and trustworthy. He was also found to be twice as likeable as Brown.

In total voting, Laird received 46 positive votes, Schlesinger a net of +30, and Brown a net of +24.

The three worst Defense Secretaries, according to the reporters, were Robert McNamara, Clark Clifford and Donald Rumsfeld. McNamara was seen as a weak leader and called "experimental and dangerous." Clifford was characterized by one reporter as "a tool of LBJ" and found to be "suffering from tunnel vision" by another. Rumsfeld, Brown's predecessor, got good marks for being candid and likeable. He was rated twice as high as Brown on both of those qualities—but got only negative votes on every other attribute. Elliott Richardson, who served for five months during Nixon's 1973 Cabinet shake-up, was called "aloof" and "a mistake." In fact, Richardson was the only Secretary to get as many negative votes as positive ones. Overall, Rumsfeld led the negative voting with a net score of −8, subtracting such votes as "Least" competent, for instance, from his positive votes as "Most" likeable and candid.

McNamara and Clifford were next, with −3 and −2, respectively.

Opinions were far from unanimous, but they were strong when expressed. One correspondent summoned up thusly:

"While Laird was open, he was not effective. While Schlesinger was effective, he was arrogant. While Rumsfeld was a simple yes-man, Brown is a bigger yes-man and even more arrogant than Schlesinger."

The incumbent Assistant Secretary for Public Affairs, Tom Ross is, by far, the press' favorite of recent Pentagon spokesman. Ross was picked as the most honest, likeable, forthcoming, competent, candid, trustworthy, and strong.

Their spokesmen

		Rating
Seaton	53–55	3
R. Ross	55–57	0
Snyder	57–61	−7
Sylvester	61–67	5
Goulding	67–69	−8
Henkin	69–73	16
Freidheim	73–74	21
Beecher	74–75	24
Laitin	75–75	14
Greener	75–76	15
Woods	76–77	−7
Tom Ross	77–Present	46

On the other hand, William Greener, Rumsfeld's spokesman, was rated as the most effective spokesman—even though his boss was voted the least effective SecDef. Ross was named "the best" by one reporter who added that "Republican spokesmen have been worthless." Running second to Ross was one of the five spokesmen who served during the Nixon era, William Beecher, like Ross, left journalism to take the public affairs post. (Beecher is now back on the other side of the podium as a reporter for the *Boston Globe*, and his profile appears below.)

In sum, Ross received a landslide of positive votes—46–50% more than his boss. Ross. was followed by Beecher with 24. Coming in third with 21 was Jerry Friedheim, whom one reporter called "as honest as the institution allows." Former *AFJ* editor Dan Henkin ranked next, with 18 positive votes and no negative ones.

Sixty-four percent of all the comments about Phillip Goulding, Assistant Secretary from 1967 to 1969 under Secretaries McNamara and Clifford, were negative. Tied for second place as the worst Pentagon spokesmen were Murray Snyder and Alan Woods as incompetent and untrustworthy. Arthur Sylvester, spokesman for Robert McNamara (a man who liked to speak his own piece), was the next least popular; it's a tribute to the man, since he held the hot seat for six years, almost twice as long as any other.

Caution: This survey may be somewhat askew statistically because many of the correspondents polled had no experience with early defense secretaries and their spokesmen. However, AFJ believes it's a credible montage of the men who've been running our defense establishment since 1947 and of their spokesmen, painted by professionals whose job it is to interpret their stewardships for the American public.

Two Pentagon regulars, ABC–TV's William Wordham and free-lancer Hugh Lucas, did not answer AFJ's questionnaire and therefore could not be included in the profiles that follow on the next page.●

SOVIET "PRISONER OF CONSCIENCE" LEV BLITSHTEIN

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. BARNES. Mr. Speaker, "Alone in Moscow," that is the fate of long-time refusenik Lev Blitshtein, who ought to be celebrating his 25th wedding anniversary on August 8 with his beloved wife Buma in the secure circle of his family that includes a son and a daughter, both married this past year, and an expected grandchild.

But it has been nearly 4 years since Blitshtein last saw his wife when she and their son Boris were finally given permission to emigrate from the Soviet Union in 1975. Their daughter Galina followed 6 months later, and today the family is settled on Long Island, N.Y.

Forbidden by the Soviet OVIR authorities to emigrate because he knows "too much about the time of storage of canned meats" and "how to make sausage without meat," Blitshtein endured the humility of a divorce unwanted by both partners in a brave effort to allow his family to seek refuge and freedom without him.

Stripped of his position as chief administrator in the Ministry of Meat and Dairy and without meaningful work, Blitshtein, age 49, waits and suffers silently as he longs to overcome his government's forced separation of husband and wife, parent and child.

So it is we who must speak for him. We must tell the world repeatedly that the Soviet Union is clearly in violation of the Helsinki accords of 1975 which affirm the right of reunification of families. We must ask the Soviet Government to restore to its citizens the basic human rights that are guaranteed in its constitution. Now more than ever it is crucial for that nation to show its willingness to live up to its commitments.

Perhaps, with my colleagues' support, Lev Blitshtein may rejoin his family in America as well as symbolize a new faith in United States-Soviet relations built on mutual trust, honor, and belief in the decency and dignity of man.●

TESTIMONY OF HON. JOHN H. ROUSSELOT ON CRUDE OIL WINDFALL PROFITS TAX ACT OF 1979, H.R. 3919, BEFORE SENATE FINANCE COMMITTEE ON JULY 19, 1979

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. ROUSSELOT. Mr. Speaker, as we begin our August district work period, most of us will be faced with the unpleasant task of explaining our Nation's energy policy. The questions will range from: "Do we have an energy policy?" to "Why are the major oil companies reporting higher profits when consumers are suffering on long lines at service stations?" Irate constituents will tell us: "If the oil industry's profits are so large today, then surely they will skyrocket when price controls are lifted."

We face a major educational task this August. For the sake of our Nation's energy future we must convince our constituents (as well as those who are writing about the energy situation for the news dailies and weekly magazines in our districts) that: First, decontrol will not mean higher prices at the gas pump—quirks in the DOE's cost recovery formulas have already enabled refiners to charge world prices to their service station customers for years; second, oil industry profits are not excessive when compared to other industries, indeed their efficiency in earning profits as measured by "return on total invested capital" is below the national average; and third, higher profits do not necessarily mean higher prices, in fact they can mean lower prices if they are the result of technological advances which have lowered production costs.

The questions I will counterpose to my constituents are :"If big oil's profits are so large then why is not Congress considering a tax on profits? Why is the House passed version of the President's tax proposal a tax on revenues, but not a tax on actual profits?" The answer is abundantly clear to both questions: "The Congress is greedy for revenues—from any source. Big Government strikes again."

In my testimony before the Senate Finance Committee on July 19, I raised these points and even went as far as recommending a less pernicious tax that could be applied to both OPEC oil as well as domestic oil. We do not need new taxes on oil production. But the administration and the free spending Congress thinks that we do. I can already hear the pork barrels rumbling down the hill. The least Congress can do is pass a tax that is not destructive of American oil production. As I pointed out in my testimony, Since the House-passed tax bill will not be applied to the sale of imported oil, domestic oil producers will continue their flight from the lower forty-eight states.

They will produce and market less expensive oil from outside the continental United States. In short, the President's proposal as amended and passed by the House will, without a doubt, result in the flight of American investment capital to foreign shores and the American economy will continue to rely heavily on foreign crude oil production.

I offer my colleagues my Senate Finance Committee testimony, which includes a summary of my statement before the House just prior to the vote on the so-called windfall profits tax. The summary is entitled "Burning the 'Oil Witch'." I believe that both offer a dimension on analysis that will assist in shaping a new energy policy predicated on sound economic grounds, and not on the shifting sands of political faddism.

My testimony follows:

TESTIMONY OF HON. JOHN H. ROUSSELOT

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear before you to express my views on H.R. 3919—the Crude Oil Windfall Profits Tax Act of 1979.

It is a misnomer to call the House-passed measure a tax on windfall profits. By definition, a tax on profits is a tax on money left over after all business expenses have been paid. The bill under consideration levies a tax on revenues which are received before business expenses have been calculated. The assumption underlying the tax is that there will be a huge increase in oil company revenues when price controls are lifted. The belief is that revenues will skyrocket and somehow oil producers will reap huge profits.

In actuality, integrated producer-refiners are already receiving roughly 90 percent of the world price for price controlled oil they bring to the market. The catch is that to get world prices for this oil, producer-refiners must produce less domestic oil while importing more foreign oil—an unusual profit maximizing production constraint to be sure.

Like a baker mixing a precise amount of sugar with a precise amount of flour, milk, butter, and eggs to bake a cake, integrated oil companies have been mixing roughly one part price controlled oil with about 4 parts imported or uncontrolled oil to receive world market prices for their oil despite price controls at the well-head. When price controls are lifted the prices integrated producer-refiners receive will rise only about $2.00 per barrel because they have found a way to partially circumvent price controls.

This surprising result is a byproduct of the DOE's entitlement system which subsidizes refiners to import oil. The system works roughly this way: Refiner A, a distiller of low priced domestic oil literally writes out a check to refiner B, a distiller of foreign oil. In exchange refiner B sends to refiner A a ticket stub permitting A to distill domestically produced controlled oil. These tickets are distributed by DOE each month to all refiners based on the volume of price controlled and uncontrolled they distilled the prior month.

The purpose of the entitlements system is to equalize any competitive imbalance that might arise because of unequal access to price controlled oil. The buying and selling of entitlement tickets results in a situation in which all refiners pay the same average price for a barrel of crude oil notwithstanding whether the oil originates from a price control well, or from a domestic uncontrolled source. Naturally, producer-refiners are importing oil to get entitlement tickets which they can sell to themselves instead of purchasing these tickets from non-affiliated refiners. The less the producer-refiner pays out to other refiners for the right to refine his own oil, the closer he comes to receiving the world price for that oil. What the producing division loses under controls, the refining division almost makes up through the entitlement system.

Independent producers are not so lucky. Because they are not integrated through the refinery stage of production, any lower tier oil they sell now is priced at roughly $6.00 per barrel. Independents are not able to recoup more of the market value of their lower tier oil by tinkering with the entitlements system. They are suffering disproportionately more under price controls than are integrated companies. When controls are finally lifted the incremental increase in revenues they will receive per barrel of lower tier oil sold will exceed the incremental revenue increase per barrel going to integrated companies.

After controls are lifted, integrated oil company revenues obtained from lower tier oil are likely to increase by only about $2.00 per barrel based on DOE's April estimates of the dollar value of the entitlement tickets changing hands in the refinery marketplace. More significantly, the number of barrels of lower tier oil brought to market will increase significantly. Revenues will increase, but any increase in profits that are earned by integrated oil companies will be earned because revenues rose roughly $2.00 per barrel—not $12–$14 per barrel.

In comparison, independent producers will receive $12–$14 more per barrel of lower tier oil sold, but of course they are not recouping any of the lost value of their oil through the refinery stage of production at the present time. There is a question of equity here. Under current controls independent producers are being taxed disproportionately more on the marginal barrel of lower tier oil they produce in comparison to integrated companies. They are, in effect, subsidizing refiners who are buying this cheap oil and mixing it with enough imported oil to minimize cash payments to non-affiliated refiners.

It seems reasonable that independents should at least be able to obtain as much value for their oil as integrated companies are obtaining right now. If the independents were integrated through the refinery stage, then decontrol would result in a revenue increase of about $2.00 per barrel instead of $12–14 per barrel. Despite all the political rhetoric against bigness and vertical integration, the system is severely biased against the small guy.

Decontrol will not help if the Congress passes an oil industry tax in excess of $2.00 per barrel. An integrated producer-refiner's production of lower tier oil will decrease—his taxes having been increased. And independent oil company production of lower tier oil will continue to taper off—since incremental revenues under decontrol will be substantially reduced because of royalty payments and various state excise taxes which are tied to the price of the oil.

If raising revenues is the objective then a $1.00 excise tax on all oil, both foreign and domestic, could raise twice the amount of money now being transferred from one refiner to another through the buying and selling of entitlement tickets. $2.5 billion will be transferred through the mail this year alone. A $1 excise tax on all oil would raise roughly $5.5 billion and would be less harmful to domestic production in comparison to the present system of controls and entitlement payments.

Mr. Chairman, if there is to be a tax, I sincerely hope that it will be an even-handed one. It should apply to all oil, including oil coming into this country, as well as all imported refined products. The cause of our energy problems, OPEC, should share any tax burden levied by the Congress. A one dollar per barrel excise tax at the well-head or the port entry for foreign product will result in about a 5¢ increase in the cost of a gallon of gasoline. I do not believe that the American people will be willing to pay much more at the gas pump.

Of course, if the Congress was really interested in imposing a windfall profits tax, it would do just that. It would tax profits, and not sales revenues from production. In so doing, it would be surprised to learn after the fact, that increases in production costs have already wiped out almost all of the windfall profits that might have accrued to oil companies. Why?

When the OPEC cartel began raising prices in 1973, the demand for drilling and oil producing equipment quickly escalated as nations around the world began exploring for crude oil to reduce their reliance on OPEC. Naturally, as demand increased, manufacturers of oil field equipment began selling their products at higher prices to take advantage of conditions in the marketplace. The price of drilling and production equipment has been rising with increases in the price of crude oil in almost lock-step fashion. In other words, crude oil is worth more today because of OPEC's price increases, but it also costs more to produce because of the rise in equipment costs.

In addition, labor costs have also risen dramatically since OPEC first became a world price-setter. American laborers are receiving "battle pay" because of the adverse conditions that they must work under in Alaska. Production costs have also risen because oil production is "energy-intensive," and is therefore an "energy-expensive" business.

In sum, the justification for imposing a windfall profits tax rests heavily on the actual existence of abnormally high profits. Historical data and economic price theory suggests that increases in production costs have already wiped out virtually all of the windfall profits that might have been caused by OPEC inspired price increases. In fact, in comparison to American industry as a whole, oil companies are nearer to the lower rung of the profitability ladder than they are to the top when we measure profits by return on equity, or by return on total capital employed. Integrated oil companies are not abnormally profitable even though they are already capturing almost 90% of the world price for their domestically produced oil.

The Congress seems determined to tax the sale of domestically produced oil as if real world dynamics in the marketplace do not exist. Since the House-passed tax will not be applied to the sale of imported oil, domestic oil producers will continue their flight from the lower forty-eight states. They will produce and market more oil from outside of the continental United States.

As OPEC continues to raise its prices, domestic production costs will also continue to rise, but the total sales revenue received by domestic producers will be lessened by the amount of sales tax. As long as the costs of transporting foreign oil to domestic markets is less than the sales tax, then everything else being equal, oil companies will earn more gross revenue and hence profit by producing oil on foreign soil.

In short, the President's tax proposal as amended and passed by the House will, without a doubt, result in the flight of American investment capital to foreign shores and the American economy will continue to rely heavily on foreign crude oil production.

The targets of the new House tax, the major integrated oil companies, are likely to avoid the penalties by sitting on their domestic oil reserves. They will find it less profitable to develop domestic supplies than to market imported oil—since foreign oil will not be covered by the tax.

With U.S. production bound to decline, it is only a matter of time before the increased demand for imports equals the President's import quota ceilings. When this happens, prices will rise dramatically since demand will overwhelm total domestic and foreign oil supplies available to American consumers. Perhaps, then, synthetic fuels will become economically profitable to produce. The cost to the American consumer will be very high.

The ultimate victims of the new tax, along with the consumers, will be the 10,000 or so independent oil producers who are not integrated through the refinery stage of production. These producers rely exclusively on domestically produced oil as their sole source of revenue. As costs rise, but sales revenues do not keep pace, they will be put out of business or at best be forced to sell out to some major oil producer who can better afford to wait in hopes that the tax will be repealed.

Such "fire sales" will lead to increased concentration in the oil industry. The major companies will get larger at the expense of the small independent producers. This prospect is not what the gas-starved American consumer has in mind when he writes to his Congressman or Senator and demands a solution to the oil crisis.

The House, in its zeal to raise revenues, is overlooking fundamental economic theory and documented history. It is trying to sneak a tax on the American people by burning the "oil witch." Unfortunately, the new tax enhances OPEC's ability to raise prices by destroying a market competitor—U.S. domestic oil production.

Let me encourage you to review a summary of my remarks before the House on June 28 entitled: "Burning the Oil Witch."

BURNING THE "OIL WITCH"

Since 1973 OPEC's prices for crude oil have skyrocketed in comparison to prices for domestically produced crude oil. Despite these higher prices we find ourselves importing almost twice as much crude today as in 1973, when OPEC first embargoed oil from the western world. Why hasn't consumption of OPEC oil decreased as OPEC's prices have risen? Why has domestic crude oil production declined in the face of higher prices?

One often cited, but incorrect explanation for our increased reliance on OPEC is that the United States is running out of crude oil. Geologists across the country tell us that there are huge amounts of crude oil and other hydrocarbon fuels which have yet to be included as part of "proven" domestic reserves.

Much of this fuel is going to be expensive to produce because it is either located deep beneath the ground, or, because it is located in areas where traditional drilling will not work. At the present time oil is very expensive to buy because the nations of the OPEC cartel control so large a portion of the world's readily producible supplies that they can raise prices by reducing output in the face of rising world demand.

The OPEC finance ministers do not set oil prices capriciously. These men are trying to find a price that will support their authority over the marketplace. To find that price they must carefully estimate the changing capability of the rest of the world to produce oil in response to the lure of higher prices. One of the key variables in their calculations is what the production response of the United States oil industry will be as the price of crude oil rises.

American producers are the unquestioned leaders in oil exploration and drilling technology. If and when they shift into high production gear, the amount of new oil produced will not be trivial and the OPEC nations know this. Why hasn't U.S. production been increasing to meet the challenge of OPEC? The answer can be summed up in two words: Price controls.

Consider the following: In 1970 domestic crude oil production reached historically high levels of production. Since then it has dropped 10 percent—from 9.6 million barrels per day in 1970 to 8.7 million barrels per day in 1979. Meanwhile, imports of crude oil have skyrocketed from 12.1 percent of consumption in 1970 to 42.7 percent in 1979.

The table follows:

SOURCES OF U.S. CRUDE OIL: BEFORE AND AFTER PRICE CONTROLS

[In millions of barrels per day]

Year	Average daily domestic production	Average daily imports	Imports as a percent of total crude oil needs
1965	7.8	1.2	13.7
1966	8.3	1.2	12.9
1967	8.8	1.1	11.4
1968	9.1	1.3	12.4
1969	9.2	1.4	13.2
1970	9.6	1.3	12.1
1971[1]	9.5	1.7	15.1
1972	9.4	2.2	19.0
1973[2]	9.2	3.2	26.0
1974	8.8	3.5	28.4
1975	8.4	4.1	32.9
1976	8.1	5.3	39.4
1977[3]	8.2	6.6	44.4
1978	8.7	6.0	41.1
1979 preliminary	8.7	6.5	42.7

[1] Wage and price controls imposed in August 1971.

[2] OPEC cartel embargoes crude oil, November 1973.

[3] Alaskan North Slope oil begins flowing to market, March 1977

Source: Data from the U.S. Department of Energy.

The reasons behind the acceleration in the growth of oil imports are apparent. Since price controls were imposed in 1971, the Federal government has discouraged domestic oil production by, in effect, telling oil producers to "milk their assets." Under the price guidelines, and later under specific rules engendered by the Emergency Petroleum Allocation Act of 1973 (EPAA), the sale of most domestically produced oil has been controlled at prices below the world market.

Unfortunately, the cost of bringing oil to the marketplace has been rising faster than the controlled price of oil. Prices for oil field equipment have been rising almost lockstep with OPEC's price increases because of the world-wide increase in the demand for drilling and producing equipment. In addition the oil business is "energy-intensive" and therefore "energy-expensive."

With prices controlled, but production costs escalating to wipe out any windfall profits that might have accrued to the industry, oil producers were quick to realize that if the trends continued they would be forced out of business. They were faced with three choices: 1) stop pumping their reserves and wait until controls were lifted, or 2) pump dry existing wells until profits turned negative (using the funds to get into another business where they could make more money), or 3) do some combination of both while looking for oil in places not governed by price controls—places like Arabia, Equador and Indonesia.

Given the choices, it is not surprising that domestic oil production has fallen off as the spread between the world market price and the DOE below market controlled price has widened. Instead of "milking their assets", much of the oil industry has shifted its drilling and exploration efforts overseas because oil produced there can be sold at world market prices.

DOE ENTITLEMENTS—SUBSIDIZING REFINERS TO IMPORT OIL

Once price controls were in place, the DOE bureaucracy had to find a way to assure that lower prices would be passed on to consumers while maintaining competitive equality in the marketplace. DOE realized that refiners who were able to purchase controlled low price domestic crude were in a position to undersell refiners who relied exclusively on higher priced foreign crude Therefore, it developed the entitlements program.

The genius behind this program is that refiners of domestically produced oil must pay importing refiners roughly one-half the difference between the price tag on foreign oil and the price tag on domestically produced oil. Payment is made by refiners of domestic oil to refiners of foreign oil for "entitlement" or "right to refine" tickets which are distributed by DOE. In this way, all refiners pay the same average price for crude oil.

Where does the money come from? Most refiners of domestically produced oil are also crude oil producers. The money originates from the same pocket. Most of the loss to U.S. producers is shared with refiners of imported oil. The rest goes straight to OPEC. None of it has been going to consumers.

WHY DECONTROL IS INEVITABLE

With the crude oil price paid by refiners rapidly approaching the world price, the President has been forced to recommend decontrol. Without decontrol domestic production will continue to decline and imports will continue to rise. As this happens, the entitlements program will fall apart, and all refiners will find themselves paying the world price for crude oil. In the end, price controls will have contributed to increased reliance on OPEC without saving consumers one dime. Consumers have been paying the "world" price for gasoline at service stations for five years. How is this possible when everyone knows that gasoline in Europe costs far more than it does in the United States?

PAYING THE WORLD PRICE FOR GASOLINE DESPITE FIVE YEARS OF PRICE CONTROLS

In actuality, the retail price paid for gasoline in Europe, includes steep taxes. The prices we should be looking at in making comparisons across continents are pretax, wholesale prices for refined gasoline, and not retail prices.

AVERAGE ANNUAL WHOLESALE PRICES FOR REGULAR GASOLINE ACROSS CONTINENTS

[In cents per gallon]

Year	New York Harbor spot price[1]	Rotterdam, Holland spot price[1]	Average U.S. dealer tank-wagon price (excluding tax)[2]
1974	33.2	35.4	30.5
1975	33.4	32.6	35.8
1976	35.5	37.1	39.0
1977	38.4	36.4	42.5
1978	42.8	42.6	43.7

[1] Spot price—The price for a cargo of gasoline sold on a daily basis.

[2] Dealer tankwagon price—The wholesale price charged to deliver gasoline from the refinery to the service station.

Source: Data from the Platts Oilgram Price Service.

The virtual equality of wholesale spot prices across continents strongly supports the "paying-the-world-price" position advanced by two economists, Charles Phelps at the Rand Corporation, and Rodney Smith at the University of Chicago. Two years ago they said the DOE's complicated formula, which enables refiners to raise prices to cover costs, also enables refiners to sell their products at world prices.

In support of this position, Phelps and Smith cited the existence of the "banks" of unrecouped costs which are reported each month by the Department of Energy. These "banks" represent cost increases which refiners are permitted to pass through in the form of higher prices directly to their service station customers. Even higher prices have not been charged because of competition in the marketplace for the consumer's dollar.

In other words, until recently when the "banks" began to be depleted as refiners and service stations raised prices to meet increased demand, their very existence has meant that refiners have been charging as much as consumers have been willing to pay. All this changed when market conditions, resulting from the reduction in Iranian oil production collided head-on with Federal price controls and allocation rules to create "The Great California Gas Shortage."

CALIFORNIA'S CRISIS: SPREADING ACROSS THE NATION

The shortage hit California first because the total demand for gasoline has been rising there much faster there than in the rest of the nation due to California's higher-than-average economic growth during the past year (800,000 more vehicles on the road). In contrast the supply of gasoline available to California has not been keeping pace. In the wake of the Iranian upheaval, the DOE told refiners not to purchase high priced crude oil on the spot market. Inadequate production of domestic crude due to price controls, strict environmental standards, and especially DOE allocation rules which do not allow refiners to shift the flow of gasoline from areas of low demand to areas of high demand, also contributed to the shortage. These allocation rules guarantee localized shortages whenever supplies tighten in the face of rising demand.

The growing imbalance between the forces of supply and demand finally erupted in a series of rapid price increases in California in the months of April and May. These price increases were followed by shortages and long lines at service stations everywhere when prices at gas pumps bumped against maximum Federal price ceilings. DOE's inflexible allocation rules lengthened the lines. With the marketplace no longer signalling to consumers how much to consume, Federal and state governments were forced to step in and adjust gasoline allocations while consumers were forced to wait in line. Unfortunately, consumers will have to get used to the lines because the new oil industry tax virtually guarantees increased reliance on unstable OPEC supplies for years to come.

THE WINDFALL PROFITS TAX: BURNING THE "OIL WITCH"

The new tax will be on sales revenues. It is not actually a tax on windfall profits although it has been heralded as one. To avoid the tax, domestic oil producers will at first try to pass it on to refiners by raising prices. They will not be successful. Refiners will instead purchase less costly foreign oil. The producer's second and more profitable option, is to sit on their unpumped reserves while marketing imported oil—since this oil will not be covered by the tax.

Tax revenues are likely to decrease, and not increase, as domestic oil production continues to falter under the heavy yoke of new taxes. Naturally as production decreases, OPEC's stranglehold on the market will tighten. The new tax enhances OPEC's ability to raise prices by destroying a market competitor—U.S. oil production. The Congress may burn the "oil witch" but it is guaranteeing higher consumer prices at the gas pump.

The ultimate victims of the new tax, along with the consumers, will be the 10,000 or so independent oil producers who are not integrated through the refinery stage of production. These producers rely exclusively on domestically produced oil as their sole source of revenues. As costs rise—but sales revenues do not keep pace—they will be put out of business or at best be forced to sell out to some major oil producers who can better afford to wait in hopes that the tax will be repealed.

Such "fire sales" will lead to increased concentration in the oil industry. The major companies will get larger at the expense of the small independent producers. This prospect is not what the gas-starved American consumer has in mind when he writes to his congressman and demands a solution to the oil crisis.●

SOVIET DAY OF SHAME

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. DERWINSKI. Mr. Speaker, as the Congress will be in recess for its August district work period, I would like to take this time to direct the attention of the Members to the 11th anniversary of the "Soviet Day of Shame," August 21, 1968. On that day, the Soviet led armies invaded Czechoslovakia, and crushed the reform-minded government of Alexander Dubcek.

Although the invasion of Czechoslovakia by the military forces of the Soviet Union contravened the independence of a sovereign state and denied its people the right of self-determination, it is important to note that there exists a strong yearning for freedom and a strong nationalistic spirit of the people of Czechoslovakia. This is especially evident by the continued activities of those brave men and women who continue to oppose the violations of their human rights by the Soviet-imposed government of Czechoslovakia. They demanded restoration of their fundamental civil and political rights in a manifesto, "Charter 77." This was followed by "Petition 78," which was developed for the practical purpose of supporting the signers of Charter 77.

The signatories of these two human rights manifestos and their supporters are still being persecuted by the Communist government. Based on reports from Western European newspapers, the Czech regime is highly displeased with the Charter 77 document, and is monitoring the actions of the nearly 1,000 signatories. To express an unpopular view in any Soviet-occupied country is to invite retaliation in the form of physical abuse or imprisonment. Reports have verified that such action is being used on those signers of the human rights manifestos.

Czechoslovakia, between World War I and World War II was a progressive and thriving democracy. But this democratic structure of government was eliminated by the Communist takeover in 1948, when the Reds seized absolute control.

In 1968, the Soviet Army and forces of Eastern European satellite states occupied the country to crush any resurgence of Czechoslovakian democracy. This day dealt a deathblow to the liberalization that was developing in that small country.

It is of paramount importance for us to encourage the brave people of Czechoslovakia in their ongoing struggle for fundamental rights. We must continue to publicize and object to the heavy-handed reprisals which are a way of life under Communist regimes.

In conclusion, I wish to insert a statement by the Czechoslovak National Council of America, Chicago, Ill., listing the violations of the United Nations Charter by the Soviet Government, and a press release by Amnesty International regarding the trials of a Czech human rights group:

CZECHOSLOVAKIA NATIONAL
COUNCIL OF AMERICA,
Chicago, Ill., August 21, 1979.

FREEDOM IS INDIVISIBLE

On this sad occasion of the eleventh anniversary of the brutal Soviet-led invasion and occupation of peaceful and freedom-loving Czechoslovakia, we American citizens of Czech, Slovak and Subcarpatho-Ruthenian descent, again remind the entire world of this Soviet violation of key principles of international law incorporated into the Charter of the United Nations:

The brutal Soviet aggression and occupation:

(1) violated the sovereignty of a member state of the United Nations (Article 2, Section 1);

(2) was carried out in violation of Article 2, Section 4, which prohibits the use of military force in the relations between individual members of the United Nations;

(3) violated the principle of self-determination of peoples (Article 1, Section 2);

(4) was in conflict with Article 2, Section 7, which prohibits outside intervention in matters essentially within the domestic jurisdiction of any state;

(5) was in conflict with a number of resolutions of the General Assembly of the United Nations, particularly with Resolution 2131 (XXI) adopted at the meeting of December 21, 1965, upon the Soviet Union's own motion, prohibiting any intervention in the domestic affairs of any state and guaranteeing its independence and sovereignty.

The continued Soviet occupation of Czechoslovakia is another crime against the right of a small country to determine its own destiny and aspirations. The invasion was an intervention by the forces of reactionary communism to prevent the Czechs and Slovaks from establishing their own social order that did not endanger anyone and sought to contribute to the building of bridges across the discords of a divided world and to lend aid to a better understanding and cooperation among all nations on the basis of true progress and humanity.

The people of Czechoslovakia have not resigned themselves to these aggressive plans of Moscow. The day of August 21, is being commemorated in Czechoslovakia as a Day of Soviet Shame in a mighty and disciplined resistance against Soviet pressure. We are joining our friends in Czechoslovakia in asking the entire civilized world to support the people of Czechoslovakia in their effort to achieve "The withdrawal of Soviet troops from Czechoslovakia."

AMNESTY INTERNATIONAL,
New York, N.Y., June 27, 1979.

AMNESTY INTERNATIONAL SEEKS TO OBSERVE CZECH TRIALS

Amnesty International today (Wednesday, June 27, 1979) announced that it would ask the government of Czechoslovakia for permission to observe the forthcoming trial of 10 members of an unofficial Czech human rights group who are now in pre-trial detention in Prague, facing possible prison terms ranging from one to 10 years.

The defendants, who were arrested on May 29, are all members of the Committee for the Defenso of the Unjustly Prosecuted (known in Czechoslovakia as VONS). The committee, formed in April 1978 by signatories of Charter 77, had issued 113 statements on human rights violations in Czechoslovakia up to the time that its members were arrested.

One of the 10, Peter Uhl, is reported to have been charged under Article 98 (2B) of the Czechoslovak Penal Code with conducting subversion on a large scale. He faces a sentence of between 3 and 10 years' imprisonment.

The other nine face possible prison terms of up to 5 years on charges of conducting "activities inimical to the interest of the Czechoslovak state."

According to a statement issued by the committee when it was founded, its purpose has been "to monitor the cases of people who are prosecuted or imprisoned for the expression of their convictions or who have become victims of arbitrary actions by the police or judiciary."

Amnesty International said it believed the detention of the 10 men was in breach of Article 29 of the Czechoslovak constitution which gives citizens the right to submit suggestions and complaints to the authorities.

"We have adopted them as prisoners of conscience. Their detention infringes the International Covenant on Civil and Political Rights which Czechoslovakia has ratified," said Amnesty International.

The defendants are Otta Bednarova, Jarmila Belikova, Dr. Vaclav Benda, Jiri Dienstbier, Vaclav Havel, Dr. Ladislav Lis, Vaclav Maly, Dana Nemcova, Dr. Jiri Nemec and Petr Uhl.

Vaclav Havel and Petr Uhl have previously served terms of imprisonment and been adopted by Amnesty International as prisoners of conscience. Vaclav Havel was sentenced in October 1977 to 14 months' imprisonment, suspended for 3 years and, if found guilty in the forthcoming trial, may have to serve this previous sentence of 14 months' imprisonment in addition to any fresh sentence imposed on him.

Dr. Vaclav Benda and Jiri Dienstbier were spokesmen for the domestic human rights movement Charter 77 at the time of their arrest.●

FOOD FOR FUEL?

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. FINDLEY. Mr. Speaker, two recent editorial page opinions of Midwestern origin merit nationwide attention and support and I commend them to the reading of my colleagues. I strongly endorse the viewpoint that to try to use our food exports as a leverage against OPEC would not only be futile but in fact would be damaging to farmers, to consumers, and to the hungry millions of the developing countries.

The first editorial is from the respected Midwestern farm publication, Prairie Farmer, dated July 7, 1979:

No National Grain Board

This National Grain Board idea should be shot down quickly. Essentially the bill creating the board—HR 4237—would nationalize grain merchandising. USDA's Commodity Credit Corporation would be the sole sales and marketing agency for all exports sales of US grain and oilseeds.

The idea is patterned after the operation of grain boards in Canada and Australia. Both have been reasonably successful. But they don't deal with the variety of products of the tonnage we do in the US.

The world's grain marketing complex probably could stand some reform. But we don't figure that the National Grain Board is the way to handle that reform.

In the same vein is the opinion of U.S. Senator Rudy Boschwitz of Minnesota which echoes my oft-expressed view. Senator Boschwitz's comments appeared in the Outlook Section of the July 29 Washington Post:

"Food for Crude" Proposal Has Too Little Leverage

Cheaper crude or no more food! That gauntlet is being flung at OPEC members by American wheat farmers in an attempt to raise wheat prices at the same time and rate that OPEC raises oil prices. The message is: It's a barrel of oil for a bushel of wheat.

The challenge has considerable justification: While our farmers pay OPEC ever-increasing prices for energy products (and much is used in food production), they find themselves giving those same OPEC countries bargain basement prices on wheat.

However, I'm afraid that OPEC's answer to wheat farmers will be: okay, then no more food! Unfortunately, I believe we still need them more than they need us, at least when oil and wheat are compared.

My understanding of international markets suggests different conclusions than those reached by "food for crude" proponents. Their position was outlined in an article in The Washington Post Outlook section on July 8.

Those who believe that America could effectively tie the price of crude to wheat base their contention on conditions that exist now, namely, that the United States is presently supplying OPEC with over half of the 10 million tons of wheat imported each year.

This contention overlooks a major factor: While you can't produce oil if you don't have it, virtually every country can grow wheat or expand its production.

If this country imposes a higher and fixed price for wheat, changes in the production levels of other countries could occur. Such changes would doom either our fixed prices or our exports.

The U.S. Department of Agriculture estimates that an additional 12 to 20 percent of land would come into production outside of the United States by 1985 if we raise the market price of wheat to around $6 a bushel. Much of this land would be in Africa, Latin America and eastern Europe.

An increase in crop yields in many countries would be aided by investment in irrigation, fertilizers, mechanization and new cropping techniques—investment attracted by the promise of higher returns.

We must also take into account the realization that four-fifths of the world grain output is consumed in the countries in which it's grown. If we were successful in raising the worldwide price to $6 a bushel, other countries would be encouraged to export some of that four-fifths, cut world prices and undersell us internationally.

Thus, I fear American farmers would suffer from consequences that are being overlooked in an unduly optimistic analysis of the "food for crude" proposal. In actuality, it's likely they would see their foreign markets dwindle. Also, broad government acreage and production controls would need to be imposed to enforce the fixed price, an extent of government control over farmers I find it hard to believe they really would want.

Meanwhile, the present world grain market, now expanding rapidly in both price and demand, would be undermined. So would our balance of trade and the value of the dollar.

"Food for crude" proponents have little economic leverage for another reason. In 1978, 64 percent of the oil imported by the United States came from four OPEC nations, Saudi Arabia, Libya, Nigeria and Algeria. This represented $17 billion worth of petroleum imports.

However, these four countries imported only 1.8 million tons of wheat from us. That amounted to a value of $240 million, only 1.4 percent of the amount of our oil imports.

The United States grows only 15 percent of the world's wheat supply; total wheat production worldwide in 1978 was 437.6 million tons. The amount imported by those four OPEC countries is just four-tenths of one percent of world production. They could buy elsewhere. Our leverage against them with grain is not impressive.

We must keep in mind, too, the potential part which could be played by Russia. The Soviet Union is one nation that could upset any pricing system devised by a U.S. grain board. In a normal crop year, the U.S.S.R. grows about twice as much wheat as does the United States. In the Soviet Union, however, wheat is used as animal feed as well as a food grain. If the U.S. raised its price to $6 per bushel, the U.S.S.R. could easily undercut that price by selling abroad that portion of wheat normally used for feeding livestock and then importing corn or sorghum to use instead.

If we were successful in raising the worldwide price to $6 a bushel, a cruel tax would be levied upon the hungry and poor of the world, a similar burden to that they're currently suffering from OPEC prices.

For these reasons, I doubt our efforts to control OPEC through our wheat would be successful. We do have potential strong leverage against OPEC with respect to their defense and technological needs.

However, the most effective route we can pursue to help our wheat farmers is to work to develop new markets overseas for our grain. This path would assure us of a consistently high demand from one year to the next.●

TAIWAN AND THE OLYMPICS

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. SOLOMON. Mr. Speaker, next summer, athletes from across the globe will converge on Moscow to take part in the Olympic games. The Olympics have, in the past, symbolized international unity and good will, but during the recent past they have become increasingly politicized.

During the 1972 Munich Olympics, Palestinian terrorists thrust the games into the international political spotlight, when they murdered members of the Israeli national team. The 1976 Montreal games saw the International Olympic Committee (IOC) buckle under to international pressure and ban the Taiwan delegation from the games. The United States acquiesced in this shameful episode and, I fear, may do so again.

If the United States once again remains neutral while the IOC yields to international pressure and excludes Taiwan, the effect will quite likely further politicize the Moscow games. It is quite evident already that the Soviet Union plans to use the Olympics to enhance its global image. Thus the danger and likelihood that the 1980 Olympics could be politicized is real. If we, in the United States, sit idly by while Taiwan is again excluded by the IOC from the 1980 Olympics, we signal those forces who oppose Taiwanese participation that our will to resist increased politicalization of the 1980 games is weak.

Although the United States, to my regret, has dropped diplomatic recognition of Taiwan the use of this episode as a political tool against a legitimate government—an ally of 30 years standing—is both immoral and corrupt. Taiwan is recognized by 21 countries. It has its own flag and national anthem and has every right to full representation in the 1980 Olympics, regardless of political issues.

Some argue that because Taiwan is not a member of the United Nations, it does not have a right to participate in the games. But in the past, the IOC has allowed West and East Germany to field separate teams, even though neither were represented at the U.N. and even though the West German Constitution called for the ultimate reunification of the two Germanies. The two Chinas issue should be accorded the same fairness.

Mr. Speaker, we in the United States must voice our solid support for Taiwan's Olympic participation. The issue of fair play and justice for all nations is too high a point to be sacrificed on the altar of political expediency.●

PATIENTS AND POLITICS

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. PURSELL. Mr. Speaker, for the past 5 years the National League of Nursing (NLN) has offered nursing students the opportunity to learn about and become involved in the processes of Federal health policy formulation. Funded by the Robert Wood Johnson Foundation, 10 summer study fellowships in public policy were awarded to nursing students this year. The fellows were selected, from nominations submitted by deans, on a competitive basis for leadership abilities, academic performance, interest in political affairs, and potential for maintaining an active role in health policy development.

Nurses, as direct health care providers, have special knowledge and expertise to contribute to health policy formulation. Recognizing this fact, the NLN Robert Wood Johnson Fellowships are designed to provide nursing students with an overview of the political process and to introduce them to the many opportunities available for participating in health policymaking. Thus for 10 weeks in the summer, the fellows work full-time as professional staff in congressional and administrative offices. During this summer experience the fellows are actively involved in such activities as analyzing bills, developing proposals, researching issues, as well as writing reports, testimony, and briefings. In addition to learning, the fellows are also able to teach those with whom they work, so that they may gain a better understanding of nursing and the contributions this profession can offer the health care system.

This year's fellows, representing baccalaureate (BSN), master's (MSN and MPH), and doctoral (Ph. D.) level students, have been involved in all of the health issues confronted by Congress this summer.

Their experience as public policy fellows promises to increase the number of nursing leaders contributing to Federal health policy development. Pamela Maraldo, R.N., NLN public affairs director, Martha Driessnack, R.N. and Betsy Emerson, past fellows and current program consultants, are to be commended for their efforts to strengthen nursing's contributions to health policy formulation. The fellows also are to be congratulated, and I would like to take this opportunity to publicly recognize them. This year's fellows and their assignments are: Charlene Connolly, R.N., MSN candidate at the University of Maryland, House Subcommittee on Health and Long-Term Care; Carol Crawford, R.N., MSN candidate at Yale University, minority counsel staff, Senate Finance Committee; Janet Dean, BSN candidate at the University of Michigan, office of Representative Tim Lee Carter; Constance Gillett, BSN candidate at Southeastern Massachusettes University, Food and Drug Administration; Barbara E. Hanley, R.N., Ph. D. candidate of Health University of Michigan, Office of Health Maintenance Organizations; Charlotte Hughes, R.N., MPH candidate at the University of North Carolina, House Select Committee on Aging; Paula Mason, R.N., MSN candidate at the University of Maryland, Office of the Assistant Surgeon General, U.S. Public Health Service; Lynn T. Rinke, R.N., MSN candidate at the University of Michigan, Office of Legislation, Health Services Administration; Sally Solomon, MSN candidate at Yale University, Office of Health Policy, Health Care Financing Administration; and John Tatarakis, BSN candidate at the University of San Francisco, Office of Senator Daniel Inouye. ●

JUVENILE JUSTICE

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. RAILSBACK. Mr. Speaker, I have long been concerned with the question of how best to deal with juvenile offenders so as to protect society without abandoning the goal of rehabilitating these youth before they fall into a lifetime pattern of repeat offenses. My concern has grown in recent years as the number of serious offenses committed by juveniles has reached critical levels all across the United States.

Though our colleagues in the State legislatures of this country are more directly confronted with this issue than are we, we may nevertheless have to face this problem head on during this Congress as we consider the issues of Criminal Code reform, LEAA reauthorization, and reauthorization of the Office of Juvenile Justice and Delinquency Prevention.

It is for this reason that I am today including in the Record an excellent article I recently read in the Saturday Review entitled "The Search for Juvenile Justice." I believe that this article, authored by Michael Serrill, provides a concise perspective on the continuing changes in our juvenile justice system.

The article follows:

The Search for Juvenile Justice

(By Michael Serrill)

"These are the armies of the night!" blares the advertising slogan for the controversial film The Warriors. The "armies" are made up of youthful thugs, some as young as 12. In New York City, the film tells us, there are tens of thousands of them wandering the streets and subways in loosely federated packs. Given half a chance each one of them will happily kill.

The Warriors is only the latest in a long series of media presentations, fictional and factual, that seem designed to depict young criminals, and sometimes teen-agers generally, as ogres. As always, it is hard to tell whether the media are molding the public mood or merely reflecting it. But there is little doubt that the public mood as regards juvenile crime is sour, even venomous. The people—at least those who influence state legislatures—want children accused of violent crimes locked up and locked up for a good long time.

Legislatures in at least a dozen states have obliged. They have passed laws making it much easier for serious juvenile offenders to be tried and sentenced in the adult courts, lowered the age of majority for those accused of a variety of crimes, and stipulated that certain juvenile offenders must be sent to secure state institutions. They have effectively dismissed the traditional belief that children are less responsible for their acts than adults.

While this harsh line has been capturing the headlines, a much quieter but equally powerful countermovement has succeeded in gaining the release from state institutions of thousands of children who are neglected, abused, or minor criminal offenders. The efforts of "child advocacy" groups have ranged from massive class-action lawsuits—one succeeded in having the entire Texas juvenile corrections system declared unconstitutional—to a Colorado suit in which a teenager has charged his mother and father with "parental malpractice."

But the get-tough forces and the children's rights' groups will agree on one point: The existing juvenile justice system has no consistent standards for the treatment of any juvenile in trouble, whether he is a murderer or an orphan, whether he has committed assault or been victimized by it. In several states, conservative and liberal groups have joined in an effort to rewrite the juvenile laws so that they define specifically the rights and obligations of juveniles in trouble, and the rights and obligations of the courts and other agencies that attempt to redirect their lives. The most comprehensive new statute took effect in Washington State a year ago and is widely regarded as a model for juvenile law reform.

The target of every effort to rewrite the juvenile laws is a single institution: the juvenile court (also known as "family" and "domestic relations" court). Its sustaining beliefs have been that troubled children must be treated differently from their adult counterparts, that they bear little or no responsibility for their acts, and that the state's obligation is to do everything necessary to resolve the social or familial problems that brought them to court. The court's mandate in almost every state has been to look at each individual case and take whatever action is in the "best interest" of the child. The word "punishment" has been anathema. Juvenile court judges have thus come to see themselves as administrators of social-service agencies rather than courts of law.

The broad discretion of the juvenile courts has been under relentless attack for many years now. The anti-institution forces claim that judges have always taken the easy way out by sentencing too many of their charges to training schools. The pro-institution forces charge that the judges, obsessed with fulfilling juveniles' social needs, have lost sight of their obligation to protect the community.

Until just a few years ago, the United States relied almost entirely on large public institutions for the imprisonment and treatment of juvenile offenders of all kinds. The entire legal and philosophical justification for the existence of these institutions—many of which were, and are, operated directly by juvenile courts—has been that they are rehabilitative. It is technically illegal in many states to send a child to an institution if it is not in his "best interest."

But in the late Sixties and early Seventies, a reform movement revealed many juvenile institutions as brutal, dehumanizing places where children had their heads shaved, were marched around in formation, were assaulted and held for years without hearings to determine if they could be released. There was a tide of revulsion against these conditions in the late Sixties that depopulated both adult and juvenile jails.

The culmination of the movement to get juvenile offenders out of public institutions came in 1971 and 1972, when Massachusetts Department of Youth Services Commissioner Dr. Jerome Miller stunned the juvenile justice community by closing down all of the state's juvenile training schools, which once held more than 1,000 children. The youngsters were sent home or were placed in privately operated "group homes"—small residences for eight to 12 children—or were placed in foster care. By 1974, almost all of the major states had reduced their juvenile institution populations by over half. Experiments were launched with a dozen different kinds of community programming.

But the anti-institution movement has run up against several obstacles in recent years. A controversial seven-year study of the experiment in Massachusetts by the Harvard Law School concluded that the children treated in community programs in 1973 were just as likely to commit new crimes as those released from institutions in 1968. A more recent and even more hotly debated study of community programs for hard-core delinquents in Chicago came to a still more discouraging conclusion: Teen-aged offenders sent to institutions or other highly structured programs were less likely to commit new crimes when released than those held in more therapeutic programs.

Even if the reformers could prove that community programs are effective, they would be fighting an uphill battle against the many politicians who are determined that violent juvenile criminals be locked up, whether it does them any good or not. Between 1960 and 1975 the number of juveniles arrested for FBI Index crimes increased 283 percent. More than half of all arrests for serious crimes are of youths under 18. While 20 years ago juvenile delinquents confined their criminal activity to shoplifting, car theft, and burglary, they now commit robbery, rape, arson, and murder.

There is no scientific evidence that this explosion of juvenile crime has anything to do with juvenile court or corrections procedures; sociologists, in fact, are at a loss to explain why it has happened. But the angry political response was predictable. (It is ironic, however, that it has come now, since crime rates among both adults and juveniles have been declining since 1976.) New York and California, along with a growing number of smaller states, have stiffened penalties for juvenile crimes or lowered the age at which juveniles can be prosecuted as adults. There are several teen-agers among the 500 men and women on death rows around the country.

New York, which has a reputation as the state that is softest on juvenile criminals, passed a law last summer mandating that all 13-year-olds charged with murder and all 14- and 15-year-olds charged with murder and 14 other crimes be initially prosecuted in the adult courts. Maximum terms in institutions were expanded from 18 months to as long as life. (At least with respect to convicted offenders, New York's reputation for leinency is undeserved. It is one of only three states that send all 16- and 17-year-olds, whatever their crime, to adult prisons. On a given day, New York has more than 2,000 offenders aged 16–18 in adult jails, compared with about 40 in California.)

The anti-institution reformers have held their own against this tide of reaction, but not without some abandonment of their own ideals. The new laws which they have proposed effectively sacrifice the serious offenders to the brutalities of institutions while allowing—in Washington, mandating—lesser penalties for minor offenders and "status" offenders—runaways, truants, "ungovernable" children, and all others whose offense would not be punishable in an adult court.

While a number of states, under pressure from various interest groups, have made piecemeal reforms in their juvenile codes and procedures, only Washington has attempted to restructure the entire system. On July 1, 1978, a new juvenile code went into effect in Washington that glistens with modernity. It includes almost all the elements that reform groups have advocated.

The new law diverts all status offenders and many minor offenders out of the criminal justice system altogether. They will be dealt with by community agencies that will mete out both sanctions and social services. Chronic and serious juvenile law violators must be sent to institutions under the new law. The judges no longer have a choice. Every ounce of their discretion has been taken away from them, at least as far as dispositions are concerned.

The state now operates under a point system, with each juvenile offender receiving a certain number of points based on his age, prior record, and current offense. Those who accumulate more than 110 points are committed to the state for a fixed period of time based on the same three factors. They cannot be paroled; parole release has been abolished. Those with less than 110 points cannot go to institutions, but they are not let off scotfree. They must make restitution to their victims, pay fines of as much as $100, and do as much as 150 hours of "community service"—work in local government or private programs for no pay. If they fail to live up to the terms of their restitution and community-service agreements, they can be locked up in the local juvenile detention center for as long as 30 days.

The new code comes as close as that of any other state to constituting a "bill of rights for children. Children are no longer the chattels of their parents. If they run away from home and are picked up by police, they can refuse to go back home. When the new structure is fully in place, those who refuse to go home will be taken to nonsecure "crisis residential centers," where they can stay up to 72 hours while counselors negotiate between the parents and children to resolve the family problem that caused the child to leave home. If the problem is not resolved within 72 hours, the case will be taken to court. But the judge cannot order the child to go home if the child doesn't want to, as he could before the new law was passed, and as judges in other states still can. If the child refuses to cooperate the judge cannot declare him "ungovernable" and send him to an institution. Parents, judges, probation counselors, and community workers can recommend counseling or therapy for both delinquent and nondelinquent youths, but the youngsters have the right to refuse it. Those who are deliquent enough to be sent to institutions also have the right to refuse counseling and therapy; they cannot be punished for not cooperating and, since their terms are fixed, they cannot be denied release.

The Washintgon law is being held up as a model by reformers inside and outside the state. But for all its virtues, it has yet to squarely confront the problems raised by serious offenders. The new law provided no additional funds to expand school and counseling programs for the 625 children (down from 1,500 in the late Sixties) in Washington's seven institutions. The main emphasis of the law was to expand services for the minor and status offenders who were diverted out of institutions by the law. The hard core of juvenile offenders are locked up at places like the Green Hill School in Chehalis. Green Hill includes two maximum security units. These are new and clean, but very prisonlike buildings where serious offenders are required under Washington's new juvenile law to spend at least 90 days. Most spend much longer there—some as long as a year. Some of them go to school a few hours a day; for the rest of the day the staff has to scramble to find something for them to do. There are no vocational education programs they can attend, according to "group-life" counselor Allie Thurman, and the counseling they get is minimal. "It makes me sick—the waste," says Thurman angrily, waving his hand toward the 16 boys meandering aimlessly around the narrow day room at Fir Cottage, one of Green Hill's two maximum-security units.

The inmates are quick to second the point Thurman was making.

"They don't do nothin' for you here," said one boy in Fir Cottage matter-of-factly as a half-dozen of his fellow inmates nodded agreement. Asked what they could do for him, the boy, convicted of armed robbery and assault and serving 40 months, said they could teach him a trade. He could think of nothing else. He said he didn't need "treatment"; he wasn't sick.

Thurman and many other staff members at Green Hill denounce the "determinate" sentencing and absence of parole of the new juvenile code. Green Hill, the state's oldest and most secure facility, currently holds 112 boys, most of them convicted of violent crimes. Before the new law went into effect last July, most delinquents spent less than a year in the institution; now they are being sentenced to terms as long as four years.

Law enforcement officials respond to criticisms of harshness by pointing to the gross deficiencies, as well as the injustice, of the old system. The determinate-sentence aspect of the law, for example, was pushed—in fact, written—by officials of the King County (Seattle and environs) prosecutor's office and the Seattle police department. Like their counterparts in most cities, the police and prosecutors in Seattle had long been angry at the fact that the seriousness of a teenager's crime and the length of his criminal record seemed to have nothing to do with the disposition of his case. Seattle Assistant Chief of Police Elmer E. Knechtel, who spent more than 20 years in the department's juvenile bureau, can tell countless "horror stories" about juveniles who committed crime after crime with seeming impunity. "We had a kid who had been arrested 64 times," Knechtel recalls, "35 of them for felonies. And he had never done time in an institution." Knechtel says that 30 years ago juveniles comprised 20 to 25 percent of those arrested for burglary and 33 percent of those arrested for car theft. By 1977, he said, the respective percentages had risen to 63 and 82 percent. At least some of this change, said Knechtel, "has got to be due to the fact that we didn't do anything about it."

But the ire of law-enforcement officials was aroused not merely by leniency but by an almost wild inconsistency in sentencing, apparently unrelated to the severity of the crime involved. Jay Reich, head of the juvenile division of the King County prosecutor's office, describes an example of this "bizarre" process. "We had back-to-back cases before the same judge. The first case was a young gal who had been convicted of prostitution at age 14 and had tremendous dependency problems. She was committed to the state institution. . . . The next case before the judge was a 16- or 17-year male who had been convicted of rape in the first degree. He was given four weekends in detention, because he was amendable to the social services available in the community. . . . There was no sense of proportionality or predictability. I don't know what the message given to the kids was about committing crimes.

Though grave injustices of this sort appeared to provide adequate justification for a more rational, and harsher, system of punishment, even enforcement officials expect the new toughness to have little or no effect on juvenile crime rates. Warren Netherland, director of the Division of Juvenile Rehabilitation, which runs the state institutions, admits, "As near as I can tell, there is nothing that any part of the criminal justice system does that affects crime rates. The thing we [in the juvenile system] have going for us more than anything else is maturity. A lot of credit we take for programs would probably happen if we did nothing."

In fact, it is hard to find anyone, in Washington or elsewhere, who thinks he has found a method of rehabilitating criminals, juvenile or adult. The advantages of the new system, says state Representative Mary Kay Becker, one of its principal backers in the legislature, are not that it will reduce crime or rehabilitate more offenders, but that it is more fair and more honest. The juveniles who are sent off to institutions should be the first to know, she added, that "we are not sending [them there] to do them any good. We're sending them there because their behavior has demonstrated that they are a menace to society."

The trend to deal more seriously with serious offenders and less harshly with others is likely to continue. The Office of Juvenile Justice and Delinquency Prevention, created by Congress in 1974, has adopted regulations forbidding any state or county agency that receives its funds from placing nondelinquents or status offenders in secure institutions. It also forbids the mixing of delinquents and nondelinquents and the mixing of adult and juvenile offenders in any program. At stake is more than $100 million annually in federal juvenile-justice funds. There was great indignation among local officials at this federal attempt to coerce them. But in the end the money was too attractive to ignore, and most of them are making grudging attempts to comply. The number of juveniles in state correctional institutions has been steadily declining since at least 1965, when there were about 43,000, to 26,000 today; this decline has continued in the past few years despite an increase in the number of serious offenders sent to institutions.

Furthermore, the effort to expand the due process rights of juveniles got a powerful push on February 12, when the House of Delegates to the American Bar Association approved no less than 17 volumes of "standards" for the operation of juvenile courts and correctional systems. Portions of the standards have already been incorporated verbatim into the Washington State law and into proposed new laws in several other states. The ABA recommends a "due process model" in which juvenile defendants are entitled to the full panoply of due process rights now provided for adults, including open hearings (all are now closed, to protect the child from the glare of publicity) and jury trials, which no state now permits. Perhaps the most radical ABA recommendation is that the sentences of juvenile offenders be standardized according to the severity of the offense, the age of the child, his criminal record, and that his "social history" play no role in deciding a disposition.

Although the object of these recent reforms is a more fair and just juvenile system, there remains the danger that the agencies of government will see their entire mission as the imposition of legal justice and forget about the equally pressing imperative of social justice. While it may not be the courts' proper role to address the history of poverty, discrimination, abuse, and deprivation that most defendants carry with them to the courtroom, it is certainly someone's responsibility. If the new juvenile sentencing systems mean that delinquent youngsters' individual problems and needs will be ignored, then this attempt at reform, like those before it, will be a failure.●

CAPTIVE NATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. DERWINSKI. Mr. Speaker, the 1979 Captive Nations Week has passed and along with it the 20th Anniversary of Congress' Captive Nations Week Resolution. However, the purposes of Public Law 86–90 continue to be realized as Americans raise their voices against Soviet Russian imperialism and its long record of conquest of nations. As in previous observances, the recent one emphasized not only the past record of Moscow's exploitation of nations—a valuable reminder in itself—but also the strategic importance of the captive nations for the future of our national security and that of the free world. The continuing hope that this Captive Nations Week tradition provides to over 1 billion captives in the Red totalitarian world is of incalculable worth in itself.

In addition to the manifestations and expressions of the '79 Week that already are on record, I wish to bring to the attention of my colleagues the following items: First, proclamations by Gov. Dick Thornburgh of Pennsylvania; Mayor Charles A. "Pat" Rose of Chattanooga, Tenn.; and Mayor Elerth S. Erickson of Garden Grove, Calif.; Second, an article on "Kremlin Fears Growing Nationalism," by Patrick Robinson, appearing in the July 16th, Spotlight; Third, a Polish-American radio statement over stations in New Hampshire and Vermont; and Fourth, the address by Dr. Ku Cheng-kang at a Captive Nations Week luncheon in the Rayburn Building:

[Pennsylvania Proclamation]

CAPTIVE NATIONS WEEK—JULY 15–21, 1979

Twenty years ago, President Dwight D. Eisenhower issued a proclamation declaring the 3rd week in July as Captive Nations Week. This week was designated as a time when Americans could take part in activities that recognize those millions of people around the world who are denied their basic human rights.

Though the world has changed immeasurably since 1959, here in the United States we are still committed to the ideals that our Founding Fathers stated so eloquently in the Declaration of Independence and continue our respect and support for those individuals around the world who strive for freedom and justice in their own lands.

In recognition of the gains that have been and continue to be made in the achievement of universal rights of all mankind, I, Dick Thornburgh, Governor of the Commonwealth of Pennsylvania, do hereby proclaim the week of July 15–21, 1979 as Captive Nations Week. May this week serve as a time when the American public can reaffirm its support for the ideals of liberty and justice for all.

[Chattanooga Proclamation]

Whereas: The republican form of government—based upon "the consent of the governed"—which has existed in the United States of America for 192 years, has resulted in the development of a warm understanding and sympathy for the aspirations for freedom of peoples everywhere and in the recognition of the natural interdependency of the peoples and nations of the world; and,

Whereas: The enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful co-existence between nations and constitutes an impediment to the natural bonds of understanding between the people of the United States and other peoples; and,

Whereas: Since 1918 the imperialistic and aggressive policies of the vast military depotisms of International Communism have resulted in the creation of a constant threat to the security of the United States and of all the free peopels of the world; and,

Whereas: The imperialistic policies of the Communist regimes have led, through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, Serbia, Croatia, Slovenia, Cuba, and others; and,

Whereas: It is vital to the national security of the United States and the other free nations of the world that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive,

Now, therefore, I, Charles A. "Pat" Rose, Mayor of the City of Chattanooga, do hereby proclaim the week of July 15 through 21, 1979 as "Captive Nations Week" and urge that all citizens support this annual recognition of the intent and purpose of the Communist dominated and oppressed peoples of the world to regain their freedom.

[Garden Grove Proclamation]

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of a substantial part of the world's population; and

Whereas, the desire for liberty and independence by the overwhelming majority of peopels in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Now, therefore, I, Elerth S. Erickson, Mayor of the City of Garden Grove, do hereby proclaim that the week commencing July 16, 1979, be observed as Captive Nations Week in Garden Grove and call upon all citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

[From Spotlight, July 16, 1979]

Kremlin Fears Growing Nationalism

(By Patrick Robinson)

Ukrainian nationalist and separatist sentiment is gaining strength behind the Iron Curtain, a development informed observers say may be the key to breaking up the Kremlin's empire of Captive Nations.

The Kremlin's growing fear of Ukrainian Nationalism was evident in the April 27 "release" (expulsion) of Valentyn Moroz. Moroz, a leader of Ukraine's nationalist movement was sent to the West with four other Soviet prisoners in exchange for two captured Soviet spies (SPOTLIGHT, June 4).

Moroz's escape from the USSR was described by the Establishment media as a great victory for "human rights," and as evidence of the Soviets' compassion.

Perceptive analysts however, charge that the Soviets' purpose was to undermine Ukraine's nationalist movement by expelling its leader. Moroz, they note, is now thousands of miles from his homeland and people, unable to inspire and lead them.

INDEPENDENT UKRAINE

Ukraine, the largest non-Russian nation in Eastern Europe, has been described as the most important of the USSR's Captive Nations because of its large population, productive economy and fertile land.

Russia conquered Ukraine in the mid-1600's, and for 260 years Ukraine was under czarist Russian domination.

After World War I, however, Ukraine regained independence during the turmoil which accompanied the two revolutions which swept the Russian Empire following the collapse of the czarist government.

Amid the upheaval of the revolutions, and the subsequent civil war, many nations in the Russian Empire in addition to Ukraine secured independence; most received diplomatic recognition as independent states from Western powers and the Bolshevik government of Soviet Russia.

Very few Americans realize there was no "Union of Soviet Socialist Republics" until the mid-1920's, although there was Soviet Russia.

Thus, Ukraine secured independence following two centuries of Russian colonial domination; significantly, the Soviet Russian government recognized Ukraine's independence.

In 1918, however, Soviet Russia attacked Ukraine; in 1922–23, Soviet Russia organized itself, Ukraine, and every other independent nations it had also recognized, then conquered, into the USSR.

In addition to imprisoning Ukraine and its people in a slave empire of Captive Nations, Soviet Russians are systematically destroying Ukrainian culture and the nation's heritage.

"Russification" is the term describing the imposition of Russian culture on non-Russian ethnic minorities in the USSR; the purpose is to homogenize and standardize the empire's subject peoples, making them more easily controlled.

Soviet Russian fear has intensified the policy of cultural genocide in recent years; the Soviet Russians are frightened because they themselves are most likely already a distinct minority in their empire.

RUSSIANS MINORITY

The Soviet Russians' official census says they (Russians) constitute 53 percent of the population of the USSR; other observers, however, say Russians may be as little as 42 percent of the empire's population (SPOTLIGHT, June 27, 1977). Significantly, even the Soviet Russians do not deny that their proportion of the USSR's population has been shrinking since at least the 1940s.

Russian cultural imperialism was the major factor in Ukraine's renaissance of the late 1700s and 1800s. Many authorities trace today's nationalist movement to those years.

Taras Schevchenko, Ukaine's greatest poet of that time, is today honored throughout Ukraine; Schevchenko's works set the nationalist pot bubbling, and stirred in Ukrainians an independent national consciousness.

Significantly, the czarist Russian government sent Schevchenko into exile, just as the Soviet government did Moroz.

HERITAGE DESTROYED

Moroz's exile follows years of imprisonment. Moroz was jailed for four years in the late 1960s for "anti-Soviet propaganda and agitation," a euphemism for his nationalist efforts.

"I beg you not to call me a Russian dissident," Moroz said to reporters upon his arrival in New York. "I am a Ukrainian dissident." He sopke of forcing the "occupiers" of Ukraine from his homeland with "bayonets."

Moroz's major works deal with the attempted "russification" of Ukraine through the wholesale destruction of centuries-old manuscripts, art, entire libraries, and priceless religious artifacts and icons.

Moroz was returned to prison in 1970 after a closed trial for his works exposing the annihilation of Ukraine's heritage.

He will participate in Captive Nations Week observances in the U.S.

Captive Nations Week

Once again in the second part of July we will observe "Captive Nations Week". Captive Nations Week became a part of American history, and there is no hope in sight, that the captive countries will be free again. There is a saying, what the communists have they never give up. This should be a reminder to the people of the United States. From coast to coast in the United States, refugees from the enslaved countries, their American friends, and also many American leaders bring freedom to the foreground by observing Captive Nations Week. Their pleas will reach the hearts of many freedom loving Americans and tell them about the misery people have to endure under communism. We are here to remind every American and people of the Free World about the enslaved brothers by the Communist Regime and communist tyranny.

Once again, we are appealing to all Americans, to young and old, men and women, girls and boys, red, yellow, white and black, to highschool or college students, to all Americans of different origin, clergy, to everyone who desires to live in freedom with liberty, justice and peace, join me to save the United States from the Red Tyranny from communism.

In this Captive Nations Week observance, we are asking you to pray for those who have lost their lives in communist labor camps and prisons. To pray for many famililes who live behind the Iron Curtain, and who are persecuted by the Communist Regimes. To pray for those who are longing to be free. Pray to keep our country free and that freedom may come soon to all captive nations. Remember freedom is the greatest gift and blessing for all kind and today we are demanding freedom for the captive nations. Look at the map of the world. In the last ten years you will notice that the communists have gained countries, territory and people! I think it is a right time for you my friends to examine this before it will be too late! God Bless America, God be with our brothers behind the Iron Curtain. Help us destroy the communist influence and protect our beloved country that it may never fail prey to communist tyranny.

[From the China Post, July 20, 1979]

New Starting Point of USA–ROC Relations

(Speech by Dr. Ku Cheng-kang)

Mr. Chairman, Distinguished Representatives:

Twenty years ago when the U.S. Congress initiated Captive Nations Week, the torch of New York Statue of Liberty turned brighter in the eyes of those kept in chains under Communism. Freedom and democracy-loving people everywhere were encouraged. The moral courage displayed in line with America's national spirit won wide-spread acclaim.

A decade thereafter when I was invited to this country for the 10th Captive Nations Week Anniversary, my visit covered this Capitol Hill. The intense enthusiasm with which American supporters of captive peoples marked the occasion convinced me that as long as the United States stood firmly with all other freedom forces, the state of a half free and half slave world would end before long.

Another decade has passed and here I am again, this time for the 20th Anniversary. The District of Columbia unfortunately has added a flag that stands for Communism and enslavement. But the righteous voices ringing out from the Capitol since mid-December last year have powerfully reflected the noble spirit of this Congress in support of freedom and democracy. As such, the voices have brought echoes of admiration from those others who are similarly for freedom and democracy. It is a great honor for me to be with you Members of the House today. My heartiest respect goes to everyone of you.

PAINFUL ROARS OF 800 MILLION CAPTIVE PEOPLE

More than a billion people are kept enslaved by Communists in the world today. The plight of the 800 million on the Chinese mainland is particularly lamentable. Washington's recognition of the Chinese Communists no doubt was a heavy blow to the fight for freedom, democracy and human rights waged by those people. Their endeavor reminds us of the U.S. Declaration of Independence that says it is the right of the people to alter or abolish a government when it becomes destructive of the people's rightful goals. When the Chinese mainland people heard the U.S. government decision to recognize the tyrannical regime that had kept them in servitude, their grief was understandably very poignant.

But the 800 million people have not given up their fight for inalienable rights. Their roars for freedom, democracy and human rights are ever louder and stronger.

Young people are surging back to cities with demands for freedom of schooling, occupation and marriage.

Workers at every factory are asking for the right to choose works and remain free from exploitation.

Farmers at every commune want assurance of freedom from hunger.

Masses of people throughout the Chinese mainland are waging fierce struggles for human rights and democracy.

The Chinese mainland is an extreme case of closed society. Most people there today have grown up under Communist propaganda, education and ideological control. And yet, they are rising for freedom, democracy and human rights. With concrete steps they are spelling the total failure of Chinese Communist mobocracy and providing that even those raised with Communist milk cannot tolerate tyranny and enslavement.

This fact also is a proof of the following three points:

First, the Chinese Communists have failed to rule the Chinese mainland effectively and therefore cannot represent the 800 million people there.

Second, those who are opposed to the Chinese Communist rule of slavery are the very masses of 800 million people that the regime has been brandishing in its attempt to bluff international circles.

Third, the call "Learn from Taiwan," issued by people on the Chinese mainland, shows that the Chinese behind the Iron curtain share the anti-Communist and anti-slavery determination of the Chinese in Taiwan.

FRIEND THE UNITED STATES CAN TRULY TRUST

The United States and the Republic of China have basked in lasting friendship. The 17 million ROC people in Taiwan think in terms of freedom and democracy just as the Americans do. The Three Principles of the People that guides the Republic of China embodies the ideal of "government of the people, by the people, and for the people" that the American forefathers enunciated.

The way of life of the ROC people in Taiwan, like that of the Americans, is on the basis of freedom and democracy.

Free economy is practiced in the Republic of China just as in the United States. The ROC is America's eighth trade partner. The two-way trade total between the U.S. and the ROC is expected to reach 12 billion dollars in the early 1980s, and the six-year total from 1980 to 85 is likely to top the 100-billion-dollar mark. All the sharp objective American entrepreneurs regard the Republic of China as a place of great potentiality where investment is safe and profitable.

The strategic position of Taiwan makes the ROC island a shield for American's bases in the Western Pacific. As the Russians are fast stretching out into the region by sea and air, Taiwan stands as a strong ROC base in the passage from the Sea of Japan to the Indian Ocean and in the way from the Taiwan Straits to Guam and Hawaii. The Republic of China is a friend the United States can truly trust.

MAJOR DETERMINING FACTOR OF ASIA'S FUTURE

The 800 million people on the Chinese mainland account for a fifth of the world population. Their fate is a major factor in setting Asia's course, be it for the better or worse. If this vast manpower is further used as a tool of aggression, Asia and the whole world will never be peaceful. But the entire situation will be tremendously improved the moment those people join the free camp. If free nations are really to have global equilibrium through a system that can truly restrain Communist forces of enslavement the Chinese mainland populace must not be kept as capital of Red aggression.

Through building of democracy and improvement of social well-being, the Republic of China has built Taiwan as a beacon of hope for the Chinese mainland inhabitants and as a correct model for future rebuilding of all of China. As many people on the Chinese mainland have clearly indicated, what the ROC has accomplished in Taiwan is to them an object of envy and emulation. This being the case, preservation of security in the Taiwan area and support to the ROC endeavor to uphold freedom and democracy are in the interest of the Chinese mainland people's struggle for freedom, democracy and human rights. This in other words is the only effective safe way to win over the vast Chinese mainland manpower as a major stabilizing force for Asia.

OUR NEW RELATIONSHIP

Since the Republic of China and the United States of America have so much inseparable common interest, the two nations must as a matter of course seek expanded relationship and enhanced cooperation to promote the common interest.

To establish the present new relationship, our two nations had to tread a tortuous path. The relationship should be viewed as a new starting point rather than a mere substitute of what used to exist. On this new basis of ours, we should strengthen our economic cooperation, develop our mutual trade, further our cultural ties, and promote exchange of visitors. We must enhance our joint endeavor for the defense of freedom and democracy and for the checking of Communist expansion. Above all, the new status should be developed into indissoluble friendly ties of the two peoples.

Our common stand or freedom and democracy is such that cooperation between the two nations will certainly be mutually beneficial. If we are to drift apart from each other, we will be playing into the hands of the Chinese Communists who want to estrange us by all means. Because of this understanding, the government and people of the Republic of China, despite their difficult situation have continued to cherish their traditional friendship with Americans. I am certain that because of our common political philosophy, life patterns and concepts of value, our two peoples will be with each other forever.

Distinguished Representatives: The Republic of China was among the first to respond to the call for Captive Nations Week observance and has in the subsequent two decades consistently striven with the United States for the goal of Captive Nations Week. This is an unmistakable indication of our lasting friendship. The noble sense of justice you have shown for the ROC people has added much brilliance to America's long-standing national spirit. Now that we have started a new relationship, all of you who have been elected to reflect U.S. public views will we hope, exert ever greater influence and accomplish ever more importantly as regards promotion of U.S.-ROC relations. This is the earnest desire of my people. Allow me once again to express my sincere respect for all of you.●

THE CABINET SHAKEUP

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for August 1, 1979, into the CONGRESSIONAL RECORD:

THE CABINET SHAKE-UP

Sunday, July 15, opened the most tumultuous week of the Carter Presidency. It was without doubt an extraordinary seven-day period. The President began it with a compelling speech on the crisis of confidence in America and the relation of the energy problem to that crisis. On Monday, he followed with the details of a new energy program. Mr. Carter then broke the spell with the mass resignation offer of his cabinet and the senior White House staff. Five of the 12 cabinet secretaries were out within a matter of hours, and important changes were made in the White House staff. Public and congressional reaction was swift.

The public's view of the week was generally critical. After the Sunday speech, which appeared to galvanize a faltering government to action, the feeling nearly everywhere was that the President might have lost a great initiative in the turmoil of the cabinet shakeup. The confidence renewed by the urgency of Mr. Carter's words seemed to give way to concern for his actions and doubt whether he really could rally the nation. His administration suddenly looked as if it were in disarray, spinning out of control. The President gave assurances that the transition to a new team would be orderly, but the public was right to express it misgivings. It will be months before the vast federal bureaucracy recovers from the week's events. Fresh staffs will have to get into place, uncertainty about the continuation of old policies will arise, and ongoing legislative negotiations will have to be started again. Key policy and planning decision will inevitably be delayed as the new team gets its bearings in Washington.

The reaction of the Congress seemed sharper than that of the public. Legislators with whom I spoke used words such as "unwarranted" and "detrimental" to describe the week's events. Many of them saw the President's problems in the senior White House staff, not in the cabinet, and they could not help but ask what was going on. Why a cabinet shakeup 30 months into the President's first team, perhaps only weeks away from the anticipated announcement of presidential candidacy? No one denied that a President should feel free to arrange his top appointees in the way that suits him best, or that he should probably have a chief of staff whom he knows well to handle administrative chores. After all, an administration can be unevenly staffed or improperly organized. Efforts to make policy can be dissipated by too much debate or too little coordination. Mr. Carter may indeed have thought that his administration had such problems, but an extensive shake-up so far into the term made members of Congress wonder why the President took so long to establish the order he wanted among his top lieutenants.

All during that turbulent week, I found myself wishing that the President would make it clear why he was shaking up the cabinet. What did he hope to achieve? What did he think was wrong with his administration? I also felt a bit uneasy with his dismissal of some of the most independent and strong-minded cabinet secretaries. It seemed to me that the move could dampen meaningful dissent within his government. The fact that the shake-up did not foreshadow any major change in policy only added to my bewilderment. Mr. Miller for Mr. Blumenthal at Treasury, Mr. Civiletti for Mr. Bell at Justice, Mr. Duncan for Mr. Schlesinger at Energy, and Ms. Harris for Mr. Califano at Health, Education, and Welfare just did not suggest to me a substantive redirection of the President's policies.

I am certain that one must look for political motives in the President's move. For example, Mr. Schlesinger may be a scapegoat for the recent gasoline shortage. Also, Mr. Califano has caused trouble in the South with his anti-smoking campaign and his rulings on school desegregation. His replacement, Ms. Harris, would be the first black to head the largest domestic department of the federal government, a department in which blacks have an enormous stake. Beyond politics, however, the question of loyalty to the President must be considered. Every President, especially when he falls on hard times, yearns for subordinates who are fiercely loyal. Those advisors who are closest to him usually set the standard by which loyalty is measured. Friction between senior White House staffers and individual members of the cabinet may have prompted Mr. Carter to say to the latter, in effect, "get along or get out." If loyalty was in fact at issue, then the so-called "Georgia Mafia" won the argument hands down.

Everyone in Washington is commenting on the President's own reaction to the week's events. He has rocked his administration to its very foundations, but he seems secure and relaxed. He appears to believe that his objectives were well worth the disruption of recent days. He has said that he is pleased with his work, and he has no qualms or apologies. In his opinion, the fuss will die down in a few weeks, his administration will be stronger in backing his programs, and the Congress will quickly enact most of the elements of his new energy plan. The greatest change of all in the past weeks may just be the President's self-confident attitude.

Ever since the Sunday speech, I believe most Americans have been hoping that the President might breathe new life into his administration. They want to believe that he is "getting his act together," even if belately, and that he will summon the strength to lead. We should remember that Mr. Carter was, and still is, in deep trouble with the voters. Business as usual was not working, and there was no indication that it was going to work. Everyone was asking the President to get tough. The cabinet shake-up was a sign that he intends to try. The key to success will be the effectiveness of the new team. Extensive cabinet shake-ups have been politically costly in the past, but it is only with big risks that one reaps big rewards.●

HANDGUN MISUSE

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. DRINAN. Mr. Speaker, the tragic results of handgun misuse in the United States requires a prompt legislative response by the Congress. The latest monthly bulletin issued by Handgun Control, Inc. reports that in June, 635 Americans died in media-reported, handgun related deaths, bringing the total this year to an incredible 3,816.

Mr. Speaker, a number of bills have been introduced in the House and the Senate to curb the escalating misuse of handguns. I strongly urge my colleagues to give serious consideration to these proposals. We cannot stand idly by while, each month, the statistics continue to prove beyond a shadow of a doubt that the Members of this body must act now.

The Handgun Control, Inc. list follows:

ROLL OF HANDGUN DEAD

ALABAMA (9)

Phillip Adams, Birmingham, Gulanze Falconer, Mobile, Jack Gillespie, Ashville, Donald Hill, Tuscaloosa, Bennie Mays, Mobile, Mahaley Mays, Mobile, Lovell Nolen, Overton, Earleen Sudduth, Roanoke, and Melba Wren, Fort Payne.

ARIZONA (7)

Manuel Gonzales, Tucson, Howard Gregory, Sun City, Sally Gregory, Sun City, Manuel Hernandez, San Simon, Robert Horton, Phoenix, Michael Locke, Tucson, and Janet Reasons, Phoenix.

ARKANSAS (13)

Harold Collins, Hot Springs, Milan Drobac, Hot Springs, Larry Fields, Pine Bluffs, Robert Gunstone, Hot Springs, Kenneth Murray, Little Rock, Rita Noland, Fort Smith, James Paul, Jacksonville, Wilson Ross, Pine Bluff, Moses Sampson, Little Rock, Harold Shelton, Fort Smith, Kenneth Skinner, Judsonia, David Waldo, Jasper, and William Wyant, North Little Rock.

CALIFORNIA (96)

George Acey, Union City, Rudy Aguilar, Los Angeles, Cherie Al-Aobaidi, Bell Gardens, Anselmo Alvarado, Los Angeles, Bonnie Amaro, Oceanside, Jose Amaro, Oceanside, Miguel Avalos, Woodville, Burel Beaver, Amador County, Leslie Bell, San Diego, John Biro, Torrey Pines, Milton Blackman, Los Angeles, Willie Brannan, Brea, Armando Cardenas, Pico Rivera, James Carmichael, Long Beach, Alejo Castaneda, Oxnard, Thomas Chavez, La Puente, Richardo Cordeiro, Orosi, Noah Cotsen, Beverly Hills, Michael Cromer, Sanger, Vernon Dedmon, Inglewood, Jerry Dennard, Chowchilla, Richard Durst, Orangevale, Dianne Endess, Arleta, Michael Ewing, Concord, Ricky Franco, Highland Park, Gary Funk. La Palma, and Norman Gainey, Oakland.

Ruben Gastelum, Los Angeles, Pasqual Gentilcore, San Diego, Benny Gifford, Atascadero, Garrie Goodyear, Vacaville, Lydia Goodyear, Vacaville, Paul Griffith, El Monte, Jose Guajardo, San Gabriel, Ismael Guzman, Lodi, Prentice Harrison, Oroville, Joe Hernandez, Watsonville, Beatrice Hunt, San Jose, Mary Jackson, Los Angeles, Clydie Jefferson, San Diego, Harry Johnson, Rosemead, Ellen Jordan, Santa Barbara, and Bill Kafantaris, Fresno.

Vicki Keller, Concord, Thomas Kohout, Los Angeles, Rufus Hightower, Los Angeles, Russel Kruse, Bishop, Frank Lamas, Fair Oaks, Linda Lamas, Fair Oaks, James Lang, San Diego, Jeffrey Loflin, Boony Doon, James Loken, Buena Park, Mario Lopez, Fresno, Stanley Lumbo, San Francisco, Ester Manuel, Torrance, Jose Maradiaga, Los Angeles, Samuel Marcantonio, Prunedale, Julian Marin, Oxnard, Ruben Martinez, Oxnard, Nora McGee, Oakland, David Monrreal, Santa Fe Springs, Henry Munoz, Hollywood, Chris Myles, Fresno, and Dennis Nagle, Yucaipa.

Allenchery Nambiar, Torrance, Danny Ogdon, Palm Desert, Katherine Parrott, Santa Ana, George Petros, San Pedro, Sam Redford, Los Angeles, George Rivas. Los Angles, John Robinson, La Plata, Joe Rocha, Escalon, Angel Rodriguez, Highland Park, Robert Rodriguez, Los Angles, Rudy Rodriguez, Highland Park, Robert Rosales, Riverside, Lamont Sacadelis, La Palma, Patricia Sanders, Westminster, Gerald Shane, Los Angeles, Ahamd Sharifradi, Los Angeles, and Hurley Shearer, Los Angeles.

Craig Stell, Riverside, Alfred Talavera, Harbor City, Richard Wagner, Brea, Fraidoun Valizadeh-Afshar, Westwood, Randy Watkins, Modesto, Victor Weiss, Los Angeles, Jonathan Whitecomb, Pomona, Michael White, Riverside, Hermann Wolf, Monterey, Anthony Young, San Francisco, Unidentified Male, Fresno, Unidentified Male, La Puente, Unidentified Male, Panorama City, Unidentified Male, San Francisco, and Unidentified Male, Westwood.

COLORADO (23)

Oral Addie, Denver, Adam Albert, Fort Morgan, Anthony Anderton, Lakewood, Martha Brunhoff, Littleton, Kathleen Buczek, Boulder, Jeffrey Burford, Denver, Lionel Chavez, Denver, Thomas Compton, Jefferson County, Joni Femmer, Denver, Richard Gomes, Denver, Kenneth Grier, Denver, Thomas Jackson, Aurora, Donna Maestas, Denver, Roger Neil, Wheat Ridge, Charles Orindgreff, Loveland, Francis Price, Denver, Jimmy Puterbaugh, Trinidad, Allison Ramadhan, Chama, John Robinson, Durango, Sandra Rushing, Lakewood, John Shelton, Denver, Milton Stovall, Fort Collins, and Michael Thomas, Denver.

CONNECTICUT (3)

Lewis Glynn, Hartford, Anthonia Raibikis, Wolcott, and Allen Randall, Jr., New Haven.

DELEWARE (2)

Marcel Devaux, Newark, and Julius Wilson, Wilmington.

DISTRICT OF COLUMBIA (4)

John Bowman, Linda Garner, Robert Jurek, and Stanley Washington.

FLORIDA (33)

William Adcock, Zephyrhills, Joann Bradley, Hallandale, Richard Brewer, Brandenton, George Brower, Fort Myers, Valerie Brower, Fort Myers, Fred Burns, Jacksonville, Renford Campbell, Fort Lauderdale, Willie Dunlap, Hollywood, Robert Eller, Fort Lauderdale, Daniel Golden, Miami, Larry Helfrich, Lauderhill, Robert Hillard, Orange County, and Robert James, Altamonte Springs.

Robert Kotleski, Lehigh Acres, Betsy Little, Goulds, Mario Martinez, Fort Pierce, Orlan Moony, Orlando, Gaye Lynn Parks, Bonita Springs, Franklin Pierce, Pensacola, Emma Reid, Miami Beach, Mario Riveron, St. Cloud, Fitzhugh Rollins, III, Miami, Juan Sanchez, Miami, Nathaniel Sholtz, Highway Park, Jack Smith, Zephyrhills, Andrey Stone, Panama City, Roy Stone, Panama City, Joe Swain, Miami, William Thomas, Gulf Breeze, Charles Williams, Fort Lauderdale, Unidentified Male, Bonita Springs, and Unidentified Male, Miami.

GEORGIA (13)

Eddie Barnard, Collins, Margaret Bell, Americus, Randy Brown, Albany, Guy Fish, Atlanta, Ronnie Jinks, Glennville, John Jones, Macon, Hiram Polk, Griffin, Larry Powell, Lyons, Phyllis Rolland, Macon, Lawrence Shreve, Atlanta, Marc Tetalman, Atlanta, Richard Van Horn, Marietta, and Unidentified Male, Atlanta.

HAWAII (2)

John Dutro, Hilo, and Paul Featherman, Hanalei, Kauai.

IDAHO (5)

Douglas Blakenhorn, Iowa City, Orville Ross, Idaho Falls, Richard Shaffer, Sandypoint, Dennis Spurlock, Coeur d'Alene, and Troy Vance Jr., Caldwell.

ILLINOIS (23)

Otis Bailey, Chicago, Marling Back. Jr., Bushnell, Thomas Brown, Chicago, Fred Delle, Cicero, Charles Drake. Chicago. Robert Fields, Chicago, Roberto Galaviz. Chicago, Mark Hamilton. Chicago. Ben Hemeli. Chicago. Otis Mcelya, Cairo, Russell McKibben, Chicago.

Lonni McKinney, Chicago, Timothy Meisner, Sprinfield, Andrew Mink, Moline, Carolyn Nelson, Chicago, James Norals, Chicago, Nagdie Noush, Chicago, Scott Oedewaldt, Bartonville, Ronald Snyder, Chicago, Judith Stamm, Alton, Wilhelmina Wade, Chicago, Barbara Williams, Chicago, and unidentified male, Chicago.

INDIANA (7)

Brian Lesley, Monon, Janice Lewis, Gary, Roy Newton, Weiser, Virgil Reburn, Evansville, Gregory Runyon, Gary, unidentified child, Gary, and unidentified male, Gary.

IOWA (2)

James Goslee, Council Bluffs, and Lacie Taylor, Waterloo.

KANSAS (9)

Jacqueline Burnett, Kansas City, Wallace Daniels, Jr., Kansas City, Clifford Dinges, Hays, Michael Harper, Kansas City, Douglas Jones, Kansas City, Darin Mach, Scandia, Willie Mitchell, Topeka, Rodney Nichols, Goodlands, and Jeanie Trickel, Hutchinson.

KENTUCKY (8)

Roger Anderson, Pikeville, James Hinkle, Lexington, Esta Howell, Pikeville, Jack Matney, Pikeville, James Starks, Evarts, Pamela Stevens, Fort Gay, James Vice, Mt. Sterling, and Gerald Wallace, Richmond.

LOUISIANA (23)

David Band, Mandeville, Mark Barquet, New Orleans, Kyer Brown, New Orleans, Darnell Collins, Monroe, Don Davis, Tallulah, David Dickerson, Independence, Tena Dickerson, Independence, Aubrey Diked, Abita Springs, Caroline Ezeb, New Orleans, and William Hardy, New Orleans.

Harold Henry, New Orleans, Randall Herbin, Baton Rouge, Glenn Holmes, Harahan, Shirley Holmes, Harahan, Andrew Miller, Kenner, Marjorie Mohl, Campti, Jimmie Joyce Morrow, Slidell, Edward Roussell, New Orleans, Henry Simmons, Belcher, Earl Summers, New Orleans, Joseph Ward, New Orleans, Richard Wilburn, Baton Rouge, and Lionel Williams, New Orleans.

MARYLAND (17)

Alvin Fullard, Baltimore, Charles Gilchrist, Seat Pleasant, Leon Gordon, Baltimore, Gloria Grant, Baltimore, Blair Green, Silver Spring, Isaac Handy, Baltimore, Charles Henson, Baltimore, Raymond Kent, Baltimore, William Mills, Jr., Brookview, Lillian Monroe, Baltimore, Sherman Monroe, Baltimore, Patricia Morgan, Baltimore, William Reel, Riverdale, Gail Sine, Gaithersburg, Myron Thomas, Rhodesdale, William Walker, Baltimore, and Rodney Winder, Baltimore.

MASSACHUSETTS (2)

Epifano Acaco, Roxbury, and Robert Hames, Clinton.

MICHIGAN (2)

Phillip Fields, Detroit, and Vive Gains, Saginaw.

MINNESOTA (5)

Teresa Hoffman, Mankato, Javier Mancho, Bixby, Duane Morben, Thief River Falls, Emmanuel Rogers, Minneapolis, and Unidentified Male, Minneapolis.

MISSISSIPPI (16)

Sandra Blakeney, Taylorsville, Lee Carouthers, Okolono, Richard Craig, Gulfport, Pam Cupstid, Lawrence County, Buford Dedeaux, Gulfport, Robert Fields, Amory, Larry Graham, Gulfport, Robert Karl, Waveland, M. C. McCarver, Ryans Well, William Miller, Sandersville, Thomas Perry, Columbus, James Puckett, Jackson, David Shows, Laurel, Mark Stephens, Wesson, Ralph Teague, Pascagoula, and J.T. Trest, Walnut Grove.

MISSOURI (18)

Keith Cain, St. Louis, Salvatore Fedele, St. Louis, Sandy Henderson, Kansas City, Lakeitha Hobbs, St. Louis, Dan Krato, St. Charles County, Maurice Langston, St. Louis, Michael McClatchery, St. Louis, Leroy Meekie, Bell City, Donald Rich, Carthage, Robert Nolan, Kansas City, Willdine Nolan, Kansas City, Vernon Poggemoeller, St. Louis, John Smith, St. Louis, Michael Taylor, St. Louis, Martha Terry, Windsor, Bertha Thomas, Alton, Norman Wallace, Collinsville, and unidentified male, Kansas City.

NEBRASKA (3)

Randall Hotler, Lincoln, Lloyd Johnson, Bluffs, and Larry Newell, Omaha.

NEVADA (4)

Donald Brown, Reno, Henry Greathouse, Las Vegas, John Grundy, Reno, and Michael Jones, Las Vegas.

NEW HAMPSHIRE (1)

Unidentified female, Hooksett.

NEW JERSEY (5)

Kevin Butler, Whiting, Frank Fullerton, Moorestown, Elmer Krauss, Hasbrouck Hts., Thomasina Krauss, Hasbrouck Hts., and Donald Stanton, Eatontown.

NEW MEXICO (8)

Richard Gutierrez, Albuquerque, Richard Horton, Albuquerque, Nina Jones, Ruidoso, Virginia Mata, Carlsbad, Rick Russell, Albuquerque, Martin Sanchez, Albuquerque, Jose Trujillo, Albuquerque, and unidentified male, Albuquerque.

NEW YORK (22)

William Byrd, New York City, Archimedes Cervera, Hauppauge, Ted Donald, New York City, Michael Doyle, Mineola, Jesus Figueroa, Brooklyn, John Flynn, Suffolk County, Angel Gonzalez, Brooklyn, Darryl James, Bronx, Joenell Johnson, Sag Harbor, Bruce Kay, New York City, Paola Licastri, New York City, George Manz, Brooklyn, Brian Mulhern, New York City, Sonya Naegely, Lansing, Williard Nichols, Lansing, Angel Niedo, Bronx, Adam Scepaniak, Lansing, Henry Tan, Queens, Juan Vives, Brooklyn, A. C. Young, Geneseo, Unidentified female, Beacon, and Unidentified male, Bronx.

NORTH CAROLINA (7)

Dennis Bugg, High Point, Odell Casteen, New London, Jeffrey Corriher, China Grove, Anthony Hiller, Benson, Robert Kincaid, Charlotte, John Simpson, Rock Hill, and Lester White, Charlotte.

OHIO (41)

Benton Allen, Hartville, Rosalie Allen, Hartville, Debra Baragona, Reynoldsburg, Elta Biles, Columbus, Willie Burns, Cleveland, Manuel Byers, Cincinnati, Lois Carter, Columbus, Herman Ciers, Cleveland, Thomas Class, Columbus, Carl Ennis, Columbus, Carrol Freeman, Columbus, William Gordon, Cleveland, Charles Hossman, Bellaire, John Hubbell, Cleveland, Barbara Jones, Cleveland, Robert Jones, Columbus, Abraham King, Cleveland, and Paul Kitchen, Zanesville.

Connie Martin, Columbus, Thomas Mays, Toledo, Roy McDonald, Mount Vernon, Richard Myroniak, Cleveland, Buddy Neal, Steubenville, Elaine Poullas, Youngstown, Dewitt Powell, Toledo, Ronald Richey, Cleveland, Nicholas Santoriella, Cleveland, Benjamin Smith, Columbus, Michael Smith, Columbus, and Roosevelt Smith, Columbus.

Ricardo Todd, Cleveland, James Vines, Cleveland, Ira Wallace, Columbus, Robert Whisner, Columbus, Dennis White, Cincinnati, Richard Widner, Galloway, Diana Wiegele, Cincinnati, Betty Wooten, Toledo, Unidentified Female, Middleburg Heights, Unidentified Male, Middleburg Heights, and Unidentified Male, Cleveland.

OKLAHOMA (7)

Patsy Faught, Oklahoma City, John Fields, Seminole, Vernon Gulley, Del City, Debra Sullivan, Tulsa, J. W. Weaver, Oklahoma City, Elloyd West, McAlester, and David Weidemann, Oklahoma City.

OREGON (3)

Sharon Brooks, Portland, Fathi Khatar, Portland, and Anthony Marcott, Coos Bay.

PENNSYLVANIA (11)

Barry Bernick, Norristown, Kathleen Bernick, Norristown, Anthony Brown, Philadelphia, Daniel Cantreras, Philadelphia, James Hatch, Philadelphia, Albert Izzo, Pittsburgh, Robert Loader, Norristown, Gordon MacMaster, Pittsburgh, Iva MacMaster, Pittsburgh, Andrew Thomas, Philadelphia, and Joseph Thomas, Philadelphia.

RHODE ISLAND (1)

William Keenan, Central Falls.

SOUTH CAROLINA (13)

Stephen Baldwin, Williston, Andrew Brown, Lugoff, Randy Dyar, York, Ruby Lewis, Anderson, Barry McCoy, Columbia, Willie Peeples, Walterboro, James Sharpe, Columbia, Charlie Smith, Rock Hill, Robert Starling, Lugoff, Richard Thompson, Fountain Inn, Jean Vachon, North Myrtle Beach, Thomas Vachon, North Myrtle Beach, and Johnny White, Spartanburg.

TENNESSEE (27)

D. C. Chaffin, Memphis, Charles Chumbley, Nashville, Elbert Faulkner, North Claybrook, Jerry Greenhill, Nashville, Carlease Grissom, Memphis, Lillian Henig, Memphis, Arthur Holmes, Memphis, Randy Houston, Memphis, Phil Jackson, Chattanooga, Lonnell James, Collieville, Ronnie Jones, Chattanooga, Patricia Kilgore, Nashville, Horace King, Whitehaven, Marcia King, Nashville, Carolyn Love, Jackson, Orbra McCoy, Dungannon, Jeffrey Miller, Caryville, Alloah Pipkin, Kingsport, Geneva Pritchett, Maryville, Jack Smith, Chattanooga, Fannie Spight, Memphis, Pamela Twiddy, Memphis, Jesse Walsh, Memphis, Lawrence Weatherbee, Hixson, William Webb, Memphis, James Winters, Nashville, and unidentified male, Memphis.

TEXAS (106)

Claudell Adams, Houston, Salim Audi, Houston, Juan Baca, San Antonio, Willie Ballou, Beaumont, Merlene Bass, East Mountain, Herman Beesley, Hurst, Jimmy Bobo, Santo, Gregory Booker, Dallas, Abel Borrejo, San Antonio, Cleotha Braggs, Houston, Richard Bridges, Durant, Winniford Brigham, Houston, Itaspa Britton, Fort Worth, Frank Bryan, Denison, Xa Duc Bui, Houston, Walter Butler, Sweeney, Raymond Campo, Houston, Michael Cardoree, Dayton, and Robert Carona, San Antonio.

Joe Carreon, San Antonio, Robert Carter, Elgin, Ofelia Castillo, El Paso, Ofelia Castillo, Jr., El Paso, Juan Castillo, El Paso, Jose Castillo, El Paso, Alan Clemons, Amarillo, Glenn Collins, Houston, Eugene Cordry, Fort Worth, Benjamin Culberson, Wichita Falls, Aurea Debarrera, McAllen, Earl Erving, Azle, Farris Flowers, Houston, Richard Franklin, Houston, and Leonardo Gaonoa, San Antonio.

Gilbert Garza, Houston, Leonardo Gona, San Antonio, Chomas Gordon, Fort Worth, Santos Granados, San Antonio, Gary Hamilton, Houston, Chrystal Hansen, San Antonio, Joe Henson, Ladonia, Angel Hernandez, Houston, Ascension Hernandez, Hearne, Clemente Hernandez, Houston, Myrtle Hinze, Carmine, Perrie Hinze, Carmine, Charles Hopkins, Galveston, Todd Hopkins, Galveston, Moses Jefferson, College Station, Craig Johnson, Dallas, Eugene Johnson, Fort Worth, Samuel Knotts, Houston, Herbert Lampmann, Bridge City, and Jose Landeverde, Houston.

Arturo Leal, Corpus Christi, Margarito Lopez, Fort Worth, Wayne Lucas, Texas City, Arturo Martinez, Corpus Christi, Julian Martinez, Cameron, Dwayne McGowan, Midland, Mario Medellin, Laredo, Robert Miller, Sansom Park, Dana Mills, Orangefield, Jose Moreno, Houston, Jon Moss, Galveston, Vincent Neil, Dripping Springs, Robert Orsburn, Clarksville, Langford Outlaw, Beaumont, Geraldine Paine, Houston, Solono Palomo, Houston, and Wanda Parson, Lubbock.

Van Hue Pham, Amarillo, Doyle Pittman, Fort Worth, Ruben Ramirez, McAllen, Larry Rankin, San Antonio, Francisco Reyes, San Antonio, Berry Reyna, San Antonio, Bob Rhoades, McDade, Olivia Richardson, Houston, Thomas Richardson, Houston, Bruno Rios, San Antonio, Lois Roberts, Waco, Wanda Roberts, Fort Worth, Elizabeth Schattel, Big Spring, and Jeraldeen Scurry, Texas City.

Merlina Shippey, Manor, Santos Silva, Houston, Darryl Speed, Dallas, Karl Stevens, Arlington, Harry Stewart, Houston, Michael Stuart, Dallas, Michael Tarver, Beaumont, Cathie Taylor, Fort Worth, Jack Thompson, Borger, Chester Underwood, Marshall, Anita Valdez, Dallas, Joe Valdez, Fort Worth, Raul Vidales, Houston, Tony Walls, Taylor, and James Weatherford, Ft. Bend County.

Clarence Webb, Fort Worth, Robert Wright, Houston, Unidentified Child, Austin, Unidentified Female, Houston, Unidentified Male, Houston, June 11, 1979, and Unidentified Male, Houston, June 29, 1979.

UTAH (4)

Retta Heath, Hill Air Force Base, Robert Miller, Hill Air Force Base, John Pyne, Provo, and Harry Schlickeiser, Tremonton.

VIRGINIA (9)

Richard Childress, Franklin County, Woodrow Hudson, Bon Air, Thomas Jacques, Alexandria, Otis Johnson, Providence Forge, Alton McIntyre, Norfolk, Eric Roop, Roanoke, Blaine Stewart, Richmond, Lawrence Wilson, Richmond, and Unidentified Male, Christiansburg.

WASHINGTON (10)

Kay Handsborough, Tacoma, Danny Leroue, Wapato, Dennis Milford, Seattle, Ronald Nowicki, Tacoma, Theodore Sawyer, Puyallup, Ricky Wheeler, Tacoma, Michael Whittenberg, Seattle, Robert Willis, Spokane, Edward Wilson, Tacoma, and Stacy Wilson, Tacoma.

WEST VIRGINIA (1)

Pamela Stevens, Fort Gay.

WISCONSIN (7)

Dennis Berhow, Dresser, Timothy Bird, Dresser, Bruce Genke, Greenfield, Roger Hoeft, Hurley, Wayne Noe, Milwaukee, Jimmy Walker, Milwaukee, and Andrew Watkins, Milwaukee.

WYOMING (3)

Mayne Miller, Casper, Jack Peltomaa, Gillette, and Robert Rush, Rock Springs.●

POPULATION PLANNING: CONGRESS NEEDS TO ACT NOW

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. OTTINGER. Mr. Speaker, I am introducing today a bill to declare a national policy of population stabilization and to establish a White House Office of Population Policy to guide Federal planing toward that goal.

This bill contains no prescription for specific measures of birth control. It addresses sweeping demographic trends that already are changing the face of the Nation. Although couples are having smaller families than ever before, the U.S. population grows by about 2 million people each year. More and more people from other countries are moving into the United States illegally, while millions of Americans are leaving metropolitan areas to resettle in rural communities. Together, as a people, we are becoming an older population.

These kinds of dramatic population changes will have a profound impact in every sector of society: Health care, education, transportation, housing, employment, environmental protection. They will deeply affect every Federal effort to advance human well-being.

Yet, the Federal Government persists in ignoring these changes which are reshaping our lives and our children's futures. The House Select Committee on Population wound up its year's work with the finding that—

The United States has no explicit policy outlining goals relating to the over all size, growth, and distribution of the population; and the benefits and disadvantages of those policies and programs that do affect the U.S. population are not assessed in terms of their impact on population.

Ignoring population growth and change will not stop them from reshaping our lives. Only conscious efforts at every level of government to understand them and plan ahead will make a difference. Balance with our environment and the improved well-being of every citizen must be our goal. That is why I believe Congress should act now to make population stabilization the Nation's goal and to establish a White House Office of Population Policy to coordinate Federal planning for it.

In seeking a commitment to planning ahead for population stabilization, we are asking for nothing new. President Franklin Roosevelt's administration raised the need to plan ahead in 1938 and President Nixon's Commission on Population Growth reiterated it 34 years later.

We are not asking for anything which we do not already advocate to the less developed nations of the world. In our foreign aid programs and in our participation in the United Nations World Population Conference in 1974 we urge other nations to develop their own population policies.

Nor are we asking for anything which Americans themselves have not said they will not support. Repeated private and public surveys during the past decade have found the great majority of Americans support an end to U.S. population growth.

We need to face up to the population realities of today and tomorrow—to debate them, understand them, and commit ourselves to influancing them to the benefit of all Americans. The time is right for Congress to act by passing this legislation.

The text of this legislation follows:

H.R. —

A bill to declare a national policy goal of national population stabilization, and to establish an Office of Population Policy

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSE

SECTION 1. The purposes of this Act are—

(1) to declare a national policy of coordinated planning for the Nation's approach to population change and declare as a national goal eventual population stabilization;

(2) to attain a balance between the environment and human demands made upon it;

(3) to permit sound adjustments in Federal, State, and local programs directed at education, jobs, and senior citizens based on realistic projections of the population that will require these services;

(4) to allow greater opportunity and a high standard of living for all; and

(5) to establish an Office of Population Policy to coordinate the Federal Government's population-related activities.

DECLARATION OF POLICY

SEC. 2. (a) Congress recognizes the negative impact of continued, unplanned population change on the Nation, particularly as that change affects national ability to fulfill needs for education, training, and jobs, to provide needed health care, to maintain adequate energy supplies, to conserve natural resources, to produce food and agricultural goods, to protect the environment, to provide income maintenance for retired and disabled persons, and to control government expenditures. Congress recognizes further the economic, social, governmental, and environmental advantages of a stabilized population.

(b) Congress declares that the Federal Government has responsibility for coordinated planning for population change and declares as a national goal eventual population stabilization. It is the continuing policy of the Federal Government, consistent with other essential considerations of national policy and in cooperation with State and local governments as well as other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare by creating and maintaining conditions under which it is possible to stabilize the Nation's population voluntarily at a level which is consistent with a high standard of living relative to available resources and without incurring major social or economic dislocations, at the earliest possible time.

OFFICE OF POPULATION POLICY

SEC. 3. (a) There is created in the Executive Office of the President an Office of Population Policy headed by a Director appointed by the President, by and with the advice and consent of the Senate. The Office shall employ such officers and employees as may be necessary for the carrying out of its functions under this Act. It shall be the duty and function of the Office—

(1) to assist and advise the President in the preparation of the National Population Change and Planning Report required by section 6 of this Act;

(2) to gather timely and authoritative information concerning the conditions and trends in current and foreseeable population change; to analyze and interpret such information for the purposes of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policies set forth in this Act; and to compile and submit to the President and Congress studies relating to such conditions and trends;

(3) to review and appraise the various legislation, regulations, programs, and activities of the Federal Government in light of purpose and policy of this Act to determine the extent to which they are contributing to the achievement of such purpose and policy, and to make recommendations to the President and Congress with respect thereto;

(4) to develop and recommend to the President and Congress national policies to plan for population changes, as well as to foster and promote population stabilization to meet the environmental, social, economic,

health, and other requirements and goals of the Nation;

(5) to conduct investigations, studies, surveys, reesarch, and analysis relating to population change and eventual national population stabilization;

(6) to document and define changes in the Nation's population and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to prepare the report required in section 6 of this Act for submission at least once a year to the President and Congress on the state and conditions of population change; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request or the Congress authorizes.

(b) (1) In exercising its powers, functions, and duties under this Act, the Office shall—

(A) consult with such representatives of science, industry, health, education, agriculture, labor, conservation, social welfare and population organizations, State and local governments, and other groups, as it deems advisable; and

(B) utilize to the fullest extent possible, the services, facilities, and information of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Office's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

(2) Each department, agency, and instrumentality of the executive branch of the Government, including any independent agency, is directed to furnish the Director such information as the Director deems necessary to carry out the functions of the Office under this Act.

(c) (1) Directors of the Office shall serve full-time and shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) Section 5314 of title 5, United States Code, is amended by inserting immediately after paragraph (37) the following new paragraph:

"(38) Director, Office of Population Policy."

(d) In carrying out the functions of the Office under this Act, the Director is authorized to—

(1) appoint such officers and employees as may be necessary to perform the function now or hereafter vested in the Office and to prescribe their duties;

(2) obtain service as authorized by section 3109 of title 5, United States Code, at rates not to exceed the rate prescribed for GS-18 under section 5332 of such title; and

(3) enter into contracts and other arrangements, subject to prior appropriation of funds, for studies, analyses, and other services with public agencies and with private persons, organizations, or institutions, and make such payments as may be necessary to carry out the provisions of this Act.

(e) There are authorized to be appropriated to carry out the provisions of this Act not to exceed $800,000 for the first fiscal year commencing after the date of enactment of this Act, $1,200,000 for the succeeding fiscal year, and $1,600,000 for each fiscal year thereafter.

ADMINISTRATION

SEC. 4. The Congress authorizes and directs that, to the fullest extent possible—

(1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act:

(2) all agencies of the Federal Government shall—

(a) utilize a systematic, interdisciplinary approach which will insure the integrated use of reliable demographic research in planning and decisionmaking affecting population change and eventual national population stabilization;

(B) identify and develop, in consultation with the Office of Population Policy established by section 3 of this Act, methods and procedures which will ensure that population change and the goal of eventual national population stabilization be given appropriate consideration in decisionmaking along with other environmental, economic, and technical considerations;

(C) make available to States, counties, municipalities, institutions, and individuals, advice and information useful to planning for population change and eventual national population stabilization; and

(D) assist the Office of Population Policy established by this Act.

POLICY REVIEW

SEC. 5. All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedure for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act. They shall propose to the President and Congress such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and policies set forth in this Act within six months of its enactment.

ANNUAL REPORT

SEC. 6. (a) The President shall transmit to the Congress annually a National Population Change and Planning Report (hereinafter referred to as the "report") which shall set forth—

(1) the status of national population change;

(2) current and foreseeable trends in national population change;

(3) the adequacy of available natural resources for fulfilling human, environmental, and economic requirements of the Nation for current and foreseeable population change;

(4) a review of the legislation, regulations, and programs and activities of the Federal Government, State and local governments and nongovernmental entities, or individuals, in relation to their effect on and planning for population change and eventual national population stabilization; and

(5) a program for remedying the deficiencies of existing legislation, regulations, and programs and activities consistent with the purposes and policies of this Act.

DEFINITIONS

SEC. 7. For the purposes of this Act, the term—

(1) "national population stabilization" means that stage in population change when births and immigration approximately equal deaths and emigration from one generation to the next in the United States; and

(2) "population change" means changes in fertility, mortality, immigration, emigration, and inmigration which affect the number of people in the population, their age structure, and their geographic distribution as well as their health, education, employment, income, and resource needs.●

THE SS-19 AND THE NEW SOVIET ICBM'S VIS-A-VIS SALT II

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. KEMP. Mr. Speaker, the evolution of U.S. knowledge of the SS-19 ICBM is important to examine, because there may be similarities between how U.S. knowledge of the SS-19 unfolded and how U.S. intelligence will determine the characteristics of the four or five new fifth generation Soviet ICBM's. One of the key claims made in defense of the SALT II Treaty is that it will constrain all but one of these new Soviet ICBM's from being deployed. Yet, in SALT I, there was a similar intent to constrain new Soviet heavy ICBM's from replacing light missiles, and this attempted constraint failed utterly. The Soviet SS-19 was, in fact, a heavy ICBM, and it successfully replaced the Soviet light SS-11 ICBM's in large numbers, despite the SALT I prohibition.

The story of the SS-19 has now been revealed by several unnamed Defense Department officials. Most of the story was already public in bits and pieces, but was never put together.

USAF intelligence warned in 1971 that it was likely that the Soviets would replace their small SS-11 missiles with a much larger, heavier throwweight missile. Yet, this warning went unheeded, and in 1971, the U.S. intelligence community estimated that the SS-11 replacement missile would be a "new small ICBM." The judgment that what was to become the large, heavy SS-19 was a "new small ICBM" persisted through the May 1972 negotiations.

In early May 1972, the Soviets gave us some interesting information on their new SS-11 replacement missiles. According to Ambassador Gerard Smith in the New York Times (January 1976), the Soviets informally told U.S. SALT negotiators that they had two new missiles then under development. Further, they indirectly implied that these new missiles, now known as the SS-19 and SS-17, were somewhat larger than the SS-11.

How much larger and how committed the Soviets were to these new missiles were the crucial questions, however. On these two key points, it is clear that the Soviets actively misled the United States. First, they implied that the SS-19 was not much larger than the SS-11, when in fact they knew the SS-19 was indeed much larger. By suggesting that it was not their intention to approach the midpoint in volume between the old SS-11 and the old SS-9, as Ambassador Smith reveals, they were exploiting United States uncertainties about the volumes of these earlier missiles as well as complete United States ignorance of the volume of the then still unflight-tested SS-19. The Soviets knew that the SS-19 was much larger. Second, and more significantly, the Soviets also hinted that they might be able to agree to a total ban on any larger missiles replacing the SS-11. This suggestion was, however, diametrically the opposite of their probable true deployment intentions for the SS-19, as revealed by their later large-scale deployment of the SS-19. Both of these little-known Soviet ploys were deliberately misleading and each constituted negotiating deception.

The Soviets knew all along that the SS-19 was a large, heavy ICBM and that it was their top priority as the SS-11's replacement.

Further evidence of Soviet deception is

the fact that the SS-19 was not flight-tested until early 1973, so there probably was no feasible way that the United States could have known in May 1972 about its large size and heavy throw-weight. Also consistent with this is the fact that in the fall of 1972, before the SS-19 was flight-tested, the U.S. intelligence community was still referring to the SS-19 as the "new small ICBM," further evidence that the United States did not know the facts and that the Soviets misled the United States about the large SS-19.

A final interesting question is what other evidence U.S. intelligence had of the SS-19 in May 1972, and what became of this evidence. According to William Beecher (in the Boston Globe, October 10, 1976, "United States May Reply to Soviet Rays," p. 7), the United States had eavesdropped on Soviet communications in Moscow. Beecher stated in 1976 that—

> By way of example, one source noted that in May 1972, in the hours immediately preceding agreement on the SALT I pact in Moscow, a conversation was intercepted in which Soviet Party Chairman Leonid Brezhnev check with a top weapons expert to get assurance that an about-to-be concluded formula covering permissible silo expansion would allow the Soviets to deploy a bigger new missile then under development. That intercept provided the first solid information that the SS-19, as it is now known, was destined to replace some of the relatively small SS-11 missiles, which comprise the bulk of the Soviet ICBM force. The SS-19 has three to four times the throw-weight of the older missile.

The question we should ask is what happened to this evidence? Did it suggest that the SS-19 was a heavy, larger missile destined to replace the SS-11 on a large scale? If so, why was U.S. intelligence still referring to what became the SS-19 as the "new small ICBM" in the fall of 1972? Why did Dr. Kissinger tell Congress on June 15, 1972, that "there is the safeguard that no missile larger than the heaviest light missile now existsing can be substituted" and that we had "adequate safeguard against a substantial substitution of heavy missiles for light missiles?" The contradiction between Dr. Kissinger's statements and what may have been revealed in the intercepted conversation is puzzling. Was any vital evidence ever suppressed within the intelligence community, and did Dr. Kissinger have any role in this? The answers to these questions may also have some bearing on the credibility of the U.S. intelligence community.

In sum, if it took from early 1973 to early 1975 for the United States to learn the characteristics of the SS-19 with sufficient confidence to protest to the Soviets, how long will it take us to find out the capabilities of the four to five new Soviet fifth generation ICBM's? In the 1973-75 period, we had the benefit of the Iranian listening posts, the above evidence, and there was little encryption of ICBM telemetry. Now, we have lost Iran and encryption is allowed.

We should also remember what happened when in early 1975, we did protest to the Soviets. We immediately conceded to the Russians that the SS-19 was a light missile, while all along the Soviets have regarded it as a heavy ICBM. Will we similarly concede in 2 or 3 years that all of the five new fifth generation ICBM's do not violate the "10 percent tunnel" or the 5-percent increase allowed in SALT II's new type ICBM provision, and therefore, can be deployed?

The administration has already acknowledged that the Soviets will not accept any definition of the size of a "heavy" or a "light" missile. The United States offered to define a "light" ICBM as one with a throw-weight not to exceed 3,600 kilograms; our current estimate of the SS-19. By way of comparison, the throw-weight of the largest U.S. light missile, the Minuteman III, is approximately 1,000 kilograms. The Soviets refused to accept any definition of a light missile. Hence, the United States has no basis for enforcing the provisions of SALT II on the modernization of ICBM's since the provisions which limit changes in several missile parameters are expressed in percentage terms of an undefined base. The Soviets have at least four new ICBM's currently in development which will be ready for deployment in the early 1980's. Due to the fact that U.S. negotiators did not insist upon having the Soviets agree to a data base that would enable the United States to enforce limitations on ICBM modernization makes this so-called limit a dead letter.●

CONGRESSMAN ROUSSELOT COMMENDS THE JEWISH COMMUNITY IN LOS ANGELES FOR AIDING FLEEING REFUGEES FROM VIETNAM

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

Mr. ROUSSELOT. Mr. Speaker, the flight of the Vietnamese refugees from their homes to any country in the world that will take them is a reminder of events that took place just over 40 years ago.

While the world watched ambivilently, the holocaust of Nazi tyranny became a reality to millions of Jews in Europe who struggled to reach freedom by land and by sea and then were denied free passage at ports of entry around the world. They were the "boat people" of the last generation, but they and their sons and daughters have not forgotten how they expected the world to react to their own plight.

In accordance with their fundamental religious beliefs, as embodied in the precepts of "Pikuach Nefish" the savings of lives, and "Pidyon Sh'vooim," redemption of prisoners, the Jewish community in Los Angeles is sponsoring 45 family groups of Vietnamese "boat people." Eleven synagogues in west Los Angeles will provide the financial sustenance these families will need to establish new lives in America.

The Jewish Federation Council, the umbrella organization for these synagogues, and the Lutheran Social Service organization which has established the mechanism to bring these people into this country should be commended and recognized by all who sanctify life and charity.

I encourage my colleagues to read the July 26, 1979, Los Angeles Times article by Jim Schacter entitled "11 Synagogues Joint 'Boat People' Rescue" which describes in detail how the effort is being undertaken—an effort which I hope other communities will follow:

ELEVEN SYNAGOGUES JOIN "BOAT PEOPLE" RESCUE

(By Jim Schachter)

Eleven West Side synagogues are joining an area wide rescue effort aimed at bringing more than 200 Vietnamese "boat people" to Los Angeles from a refugee camp in Malaysia.

Shop owners, tradesmen, seamstresses and nurses—some with their families, some alone—will come to Los Angeles within the next month, said businessman Robert Feldman, coordinator of the program for Southland Reform congregations.

The refugees, mostly ethnic Chinese expelled from Vietnam aboard boats after the spring border war with China, will be sponsored by congregations. Working through "contact families," the congregations pledge to provide housing, furniture and clothing for the immigrant families, Feldman said.

Sponsoring synagogues also will help the refugees find jobs and language training and will provide financial assistance.

"Saving a life, that's what this project is all about," Feldman said. "It is our obligation to save lives whether they are Jewish or non-Jewish, rich or poor, European or Indochinese."

Reform, Conservative and Reconstructionist congregations have joined the effort, according to Norman Eichberg, chairman of the Council on Jewish Life and the Council of Synagogue Assns. of the Jewish Federation-Council of Greater Los Angeles, which is providing overall coordination of the program. Orthodox and Sephardic temples also are expected to participate, he said.

"This is a joint effort of the federation and the synagogue community," Eichberg said.

The Los Angeles Jewish community, he added, is the first in the United States to organize a program for aiding the boat people.

"The Jews were the boat people of the last generation, and we feel an extra obligation to these people," said Feldman, referring to the Holocaust.

The 45 family groups and individuals who will come to Southern California are residents of a refugee camp on the Malaysian island of Pilou Bidomg, Feldman said.

Between 45,000 and 80,000 boat people live on the island, which only a year ago the Malaysian government considered uninhabitable, he said.

The timing of the refugees' arrival in Los Angeles depends on several factors, Eichberg said.

"You never know when they are going to arrive," he said. "It depends on how quickly the paper work gets done and how soon they can be released from the camp they are in and how quickly a flight can be arranged for them."

Feldman said the State Department charters the flights from Malaysia, but expects the Vietnamese immigrants to eventually reimburse the government for the costs.

The Jewish Federation-Council has contracted with Lutheran Social Services, an affiliate of the American Lutheran Church, to assist with social services for the refugees.

Based on the organization's experience in settling Indochinese after the American withdrawal from Vietnam, the refugees probably will become self-sufficient six months to a year after their arrival here, Feldman said.

The cost to sponsoring congregations is an estimated $500 a month for each adopted family. Feldman said many synagogues are raising the funds from small contributions by members.

"Congregants are being asked to donate *chai* each month," he said. *Chai,* the Hebrew word for "life," has a value of 18 in Hebrew numerology. Thus, Feldman said, "for every 27 congregants who donate $18, that's enough to bring a family" from Indochina.

One refugee, 19-year-old Phan Nguyet, has arrived in Los Angeles under the program. Adopted by a Van Nuys congregation, she reportedly spends her time studying English and looking for a job.

West Side congregations participating in the adoption effort are Temple Isaiah, Leo Baeck Temple, Temple Beth Am, Stephen S. Wise Temple, University Synagogue and Beth Chaim Chadashim in West Los Angeles; Temple Emmanual in Beverly Hills; Temple Akiba in Culver City; Temple Beth Shalom in Santa Monica; the Jewish Congregation of Pacific Palisades; and Sinai Temple in West Hollywood.●

JANE FONDA—THANKS FOR THE MEMORIES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. DORNAN. Mr. Speaker, in spite of the recent repudiation by the California State Senate for a position on the California Arts Council, Jane Fonda has been flexing some political muscle in the State of California. She has accomplished an incredible feat. She has somehow managed to convince Gov. Jerry Brown, who lusts to become Commander in Chief of the Armed Forces of the United States, to win for himself the undying enmity of virtually every veteran and POW group in the Nation by his appointment of former POW collaborator and stool pigeon Edison Miller to the Orange County Board of Supervisors. That was a weird move.

Rumors abound that Jane Fonda, southern California's chief contributor to "pop" Marxism, has mellowed. No way. So, for the edification of my colleagues, I would like to refresh their memories with an item in the Detroit Free Press of November 22, 1970, "Jane Fonda—An LP Record With a Socialist Sermon." I ask my colleagues to sample some vintage Fonda. She has not retracted or even watered down a single utterance from the early 1970's:

JANE FONDA—AN LP RECORD WITH A SOCIALIST SERMON

(By Lee Winfrey)

Barbarella has gone revolutionary.

Actress Jane Fonda, who only three years ago was playing the mindless role of an outer space sex doll, is now traveling around the country promoting socialism.

Miss Fonda swept through Detroit and East Lansing this weekend near the end of a 15-day speaking tour to raise money to defend American soldiers who get in trouble with the Army.

She's gone through a lot of changes within the last year. The girl who once played Cat Ballou is now infatuated with the Black Panthers.

At 33, she is still more stunning, eyes iridescent, shanks slim, the whole of her lit from within by that kind of luminosity that people call presence.

But she talks like a long-playing record, her words a socialist sermon. It is as though the Weatherman faction kidnaped Barbarella and then turned her loose again with a Movement tape recording running in her throat.

"I would think that if you understood what communism was, you would hope, you would pray on your knees that we would someday become communist," she told about 2,000 students at Michigan State University.

The peace proposal of the Vietcong, she told them, "is the only honorable, just, possible way to achieve peace in Vietnam."

Black Panther Party founder Huey P. Newton "is the only man I've ever met that I would trust as the leader of his country," she said in an interview.

Probably the Pentagon wishes she would go back to making movies like "Barefoot in the Park." Her idea of a good soldier is nothing Gen. George Patton would want to recognize.

Discussing the kind of troopers she likes, Miss Fonda said: "They're a new kind of soldier. They're not John Wayne freaks over there. No order goes unchallenged.

"When they're sent out on patrol," she said, "they just go out a little ways. They lie down on a little knoll and blow grass and stargaze.

"They're good soldiers. We should be proud of them. They're not only doing what they're not supposed to do, but they're not even performing the basic functions of soldiers."

To defend soldiers who have gotten into trouble over pot or disciplinary things like that, Miss Fonda and Mark Lane, the attorney who wrote "Rush to Judgment," a book critical of the Warren Report, have set up an organization in Washington called the GI Office.

Miss Fonda's talk at Michigan State was her 22d on a tour of 32 college campuses this month.

She plans to wind up just in time to attend a Black Panther convention in Washington, at which the party plans to write a new constitution for the United States.

She's really going all out, she said, planning to sell her house and furniture and clothes to bankroll the GI Office and put up bail money for jailed Panthers and support another organization she likes, the Vietnam Veterans Against the War.

A student government leader said she got $1,750 for speaking at MSU, money Miss Fonda said would go to these causes.

Once a fashion plate who began her career as a magazine cover girl, Miss Fonda now affects the uniform of the Movement—jeans and boots, no bra, no wedding ring.

Largely invisible in all of this is her husband of the last five years, French movie director Roger Vadim.

While she flies around the country, Vadim, once the bedmate of such beauties as Brigitte Bardot and Catherine Deneuve, is back home in California playing parent to their two-year-old daughter, Vanessa.

Things are apparently kind of cool out there, when Actress Jane Fonda brings her message to students at Michigan State University.

Vadim being quoted as saying things like, "I feel like I'm baby-sitting for Lenin." Asked at MSU if she still loves him, Miss Fonda said:

"I love him. He is my friend. I'm not in love with him, but I care for him very much."

So much for Vadim. Meanwhile, Miss Fonda marches on, headlong forward on a crusade she began one year ago.

It all started, she said, with a three-week trip to India last year. "It's impossible to go to India without being wiped out," she said, and the squalor of Calcutta made her want to check on how American Indians are doing.

After helping Indians on such projects as seizing Alcatraz Island, Miss Fonda then went to work on behalf of dissident GIs and defending repressed Panthers. Now she is full of concern for all the oppressed, including those in the Women's Liberation and Gay Liberation movements.

Sometimes it's hard making all the right connections, especially if you are Henry Fonda's daughter and have grown up rich.

"The hardest thing for me," she said in an interview at MSU, "is to take the subway instead of taxis. It's very hard for someone who has all the luxuries to understand people who are less fortunate."

As she attempts to grow accustomed to the subways, Miss Fonda is worrying now about the nurse who takes care of her daughter. "The fact that I have a governess means I can't relate to people who don't," she said.

Well, the life of a revolutionary was always hard, as Che's writings reveal. But there are occasional laughs along the way, like when Miss Fonda got arrested in the Cleveland airport Nov. 3.

As one of her sacrifices for the Movement, Miss Fonda has given up smoking marijuana on her currrent tour because she doesn't want to get busted for drug possession.

In Cleveland she was arrested nevertheless after she came in from Canada with 102 vials including a quantity of Dexedrine, which is an amphetamine, and Valium and Compazine, which are tranquilizers. The case has since gone to a grand jury.

Some of the pills were labeled B, L and D, which the Feds thought looked ominous. Her lawyer Mark Lane said, however, that the initials only meant "Breakfast, Lunch and Dinner," and that the pills were dietary supplements taken by Miss Fonda, who is a vegetarian and eats haphazardly.

Asked by a student if she is in any danger from political repression or police harassment, Miss Fonda said in reference to Cleveland:

"I'm afraid dope will be planted on me. When the FBI gave me back my belongings, I spread it out all over their office. I went through everything, every lining. I played all my tapes to see that they hadn't been erased. The FBI had to sit there and listen to all of them."

The MSU students laughed with her about that. She made a few mistakes in her speech—like saying that Venezuela and Colombia have fascist governments, which they don't. But the students were basically sympathetic toward her, particularly when she spoke against the unpopular war.

As a speaker she has one great advantage which is, paradoxically, also a handicap. She is not only a famous and beautiful star, but there is also about her an air of fragility, of a menaced waif who needs protection.

You look at her and at least partially you see Gloria, the doomed marathon dancer in "They Shoot Horses, Don't They?", her greatest role. You can't help being charmed.

At the same time, however, this advantage of her occupation makes it hard to take her seriously as a revolutionary. She sounds like she has only memorized a catechism, swallowed unquestioningly an entire philosophy.

It is hard to escape the cynical feeling that, despite her fervence and intensity, this is basically just another role, one she will grow bored with and eventually cast aside. Huey Newton's options are severely limited. Jane Fonda's are unlimited.

But she at least talks like the change is permanent. She says she's not going to make any more movies like "Barbarella," which she now calls "a sexist picture."

How much change there will be remains to be seen. In her next movie, "Klute," she plays a prostitute. In her second movie, "Walk on the Wild Side," made nine years ago, she played Kitty Twist, who was a prostitute.

If she can't get further work in Hollywood, which she considers a possibility because of her present politics, she wants to act in revolutionary pictures, produced under a commune arrangement with no stars, and distribute them through a network of Movement theaters which will charge cheap prices.

Meanwhile, there is work to be done on behalf of the Vietcong, who she says are "driven by the same spirit that drove Washington and Jefferson, and whom she calls "the conscience of the world."

"I think," she said at her MSU stop, "that the majority of students are scared of the word 'socialism.' It's a good message (socialism), and the more people give it, the better." ●

STATEMENT ON FAIR HOUSING AMENDMENTS BY THE CONGRESSIONAL BLACK CAUCUS

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mrs. COLLINS of Illinois. Mr. Speaker, when Congress returns from the August district work period, we will have the opportunity to pass important legislation strengthening the Nation's fair housing laws. The Fair Housing Amendments Act, H.R. 2540, provides additional tools necessary to achieve equal housing opportunities for all persons. In addition, this bill, by moving us toward desegregated neighborhoods both in cities and suburbs, will lessen the need for school busing as a means of desegregating public schools.

I am inserting into the RECORD a statement issued by the Congressional Black Caucus in strong support of H.R. 2540. I hope that our colleagues in the Congress will carefully review this legislative proposal and support this significant civil rights initiative.

The Congressional Black Caucus statement follows:

CONGRESSIONAL BLACK CAUCUS STATEMENT IN SUPPORT OF THE FAIR HOUSING AMENDMENTS ACT OF 1979

The members of the Congressional Black Caucus strongly support the Fair Housing Amendments Act of 1979, H.R. 2540. Nearly a dozen years after Congress outlawed discrimination in housing by enacting Title VIII of the Civil Rights Act of 1968, black Americans and other minorities continue to confront a range of blatant and subtle discriminatory practices in their attempts to obtain decent housing, and are effectively precluded from exercising the freedom to choose where they will reside. The Fair Housing Amendments Act will remedy these problems by addressing the inadequacies of existing fair housing legislation.

The violation of individuals' fundamental constitutional rights of equal opportunity of access to decent housing is a matter of vital concern to the Black community. The impact of residential segregation exacerbates problems in many areas of our public life, including public schooling, access to health care, public services, access to employment opportunities, and access to many other facilities and services. Discriminatory lending policies and a multiplicity of other practices have limited opportunities to buy housing in desirable inner-city neighborhoods and have continued segregated residential patterns, as the Kerner Commission predicted over a decade ago. Recent direct evidence of discriminatory practices is documented by a recent survey by the National Committee Against Discrimination in Housing which found that Blacks responding to advertisements for rental housing were discriminated against in 29.1 percent of their inquiries, and when responding to advertisements for the sale of homes were discriminated against in 21.5 percent of their inquiries.

Without doubt, the housing problem is complex and its solution is dependent in large part on economics. Provision of new subsidized housing opportunities in central cities is equally important as enforcing constitutional rights; displacement of minorities as the result of housing rehabilitation and renewal which only the wealthy can afford is also a critical problem.

But restricting minority families to limited—and less desirable—housing choices is a critical aspect of the housing problem, and that aspect of the problem can be remedied in large part through the passage of the Fair Housing Amendments Act to give HUD the tools to enforce existing law and the Constitution.

CEASE AND DESIST POWER

There are several important provisions in the proposed legislation which the Congressional Black Caucus vigorously supports. Most vital is providing the Department of Housing and Urban Development with cease and desist power. The cease and desist power authorized by H.R. 2540 provides HUD with administrative powers to enforce fair housing laws within the mandates of Title VIII, which specifically charges that agency with the responsibility of ensuring equal opportunity of housing to all citizens. At present, the only mechanism available to HUD for enforcing Title VIII is the process of conciliation. The Congressional Black Caucus firmly believes that a purely voluntary process of "conference, conciliation and persuasion" is clearly an ineffective means of investigating and remedying violations of the law, and that lack of adequate enforcement power is the major impediment to the development of an effective fair housing program within HUD. The extremely small percentage of complaints that have been satisfactorily resolved through the conciliation method is further justification for strengthening HUD's enforcement powers.

The Congressional Black Caucus maintains that H.R. 2540, by authorizing the Secretary of HUD to issue cease and desist orders and to impose civil penalties against continued discriminatory activities, would enable HUD to act more effectively on behalf of the victims of discrimination. It would also provide the same legal tools to remedy housing discrimination as are available in many other areas of the law.

Cease and desist authority is essential to the rapid resolution of disputes. It will create within the administrative arm of HUD injunctive powers similar to those used by the courts. Also, the availability of administrative relief will provide the victims of housing discrimination with an expeditious and inexpensive alternative to time-consuming and costly litigation, and will simultaneously ease the burden on the court system. The existence of additional forums in which to seek relief will also increase, in the long term, the total number of cases that can be heard. Finally, the authority of the Secretary to impose civil penalties where discrimination is found will create an important incentive to reduce the incidence of discriminatory practices.

The Fair Housing Act is too often misperceived as a statute primarily designed to provide housing opportunities for those wealthy enough to live in suburban areas. In the first place, many aspects of the law directly and positively affect all residential opportunities. These include prohibitions against "racial steering", mortgage red-lining, whereby lending institutions refuse to provide mortgages in certain inner-city areas, and insurance red-lining whereby insurance underwriters refuse to prepare contracts for homes bought in neighborhoods of a certain racial or ethnic composition. In suburban areas, less costly, sound housing is frequently available, but it has been made unavailable to minorities through similar discriminatory practices.

The Congressional Black Caucus also believes that the inclusion of a prohibition against discrimination against the handicapped in H.R. 2540 bears an even greater significance than the obvious concern for protecting the disabled. Our laws cannot sanction and our society cannot tolerate invidious discrimination against any group of persons.

OTHER KEY PROVISIONS

There are several other provisions of H.R. 2540 which the Caucus specifically endorses. These include:

Lengthening the statute of limitations to three years, so that aggrieved parties may have sufficient time to file a claim.

Providing for the awarding of attorneys' fees to the prevailing party in either judicial or administrative proceedings.

Enhancing the Attorney General's power to intervene in cases raising major public issues.

Removing the present $1,000 limitation on punitive damages, which would increase the seriousness with which those who might discriminate in the housing market would take their legal responsibilities.

Critics of broadening administrative powers for HUD cite the burgeoning bureaucracy and particularly the increase in the taxpayers' burden as reasons for defeating the legislation. What should be pointed out, however, is that the taxpayers are already bearing the costs of maintaining housing segregation and its impact on the real estate market. Thus arguments couched in economic terms lose impetus in the face of more compelling counterclaims.

In short, the Congressional Black Caucus endorses the Fair Housing Amendments Act of 1979 as a crucial and indispensable extension of existing fair housing legislation. Without its enactment, Title VIII will continue to be crippled by deficiencies that will prevent it from fulfilling its promise of equal opportunity of housing to all Americans. Our civil rights laws, themselves, must be made equal to our other laws by the inclusion of the same provisions for enforcement and for sanctions that have discouraged and provided remedies for illegal conduct in many other areas of American life.●

THE REPUBLICAN ECONOMIC PROGRAM OFFERS OPPORTUNITY AND A CHANCE TO END BOTH RECESSION AND INFLATION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. KEMP. Mr. Speaker, I have long been convinced that an American renaissance must begin with a revolution within the Republican Party, and I believe that today helps reaffirm the GOP's reemergence as a party of ideas and renewed opportunity for all Americans.

I am proud to join my Republican colleagues today in introducing a Republican economic program to fight both recession and inflation. We renounce the mistaken and destructive theory that guides economic policy under the current administration—that higher unemployment is the cure for inflation. Because inflation is an imbalance between excess money and scarce goods, unemployment can only worsen inflation. Instead of imposing "austerity," and slowing the economy our plan is to tighten money and produce our way out of inflation and recession.

Unfortunately, Congress has only a short time to reverse past mistakes before they result as predicted in a costly and entirely unnecessary rise in unemployment. The Secretary of the Treasury estimates that current policy will raise the unemployment rate from 5.6 percent now to as high as 8.25 percent by next year. This is a tragedy we intend to prevent.

Unemployment is no way to balance the budget, because each 1 percent rise in unemployment widens the deficit by $20 billion. Fiscal responsibility in Government begins with Government's responsibility to its citizens. Our society cannot prosper unless Americans can prosper individually by their own efforts.

Therefore, to restore growth and opportunity, to fight inflation, and to balance the budget, the first order of business must be to restore the incentives for initiative. The greatest barriers to more employment, saving, investment and production, I am convinced, are the excessively high income tax rates on working, saving, investing and general productivity. Under our tax code, a 13.2-percent inflation is raising income tax rates at 21.1 percent a year. We must immediately "inflation-proof" and continuously reduce income tax rates for all Americans. Today's proposal for an immediate 10-percent cut in income tax rates is only the first step toward restoring incentives lost since 1965 because inflation raised marginal tax rates an average of 65 percent.

At the same time, we must eliminate other perverse aspects of the tax code. Just as inflation pushes individuals into higher tax brackets, inflation creates phony business profits which are taxed under current tax law as though they are real. Accelerated depreciation of fixed business assets is essential to restore a healthy and efficient business climate.

Finally, by freezing payroll tax rates, we affirm that the best guarantee of the social security system's health is not an ever-higher tax on payrolls, but rather a more prosperous and expanding economy which can afford to repay the retired, survivors and the disabled the full measure of their past contributions to society.

Let this be a message to workers, businessmen, minorities, and to all men and women of initiative, the Republican Party is committed to the idea of opportunity for all and prosperity without inflation, in other words the restoration of hope.●

CHRISTIANE BUCHANAN: BRIDGE OF UNDERSTANDING

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. GUDGER. Mr. Speaker, we have long known that one of the ingredients which has made America great is the introduction of new citizens from foreign lands. Next week, on Friday, August 10, 1979, it will be my privilege to participate with the residents of western North Carolina in a dinner honoring Christiane Roze Buchanan, commemorating her retirement after 28 years of service to the North Carolina public school system.

This native of Soissons, France, emigrated to the United States in 1946 after 3 years of teaching experience in her native land and was naturalized as a U.S. citizen in 1948. Graduated with honors from Appalachian State University in Boone, N.C., she has taught not only the language but the art, music, and literature of her native land to North Carolina school children until her retirement last June, first at Crossnore School in Avery County and later at Harris and Mitchell County High Schools.

Over the years, she touched the lives of thousands of students, providing a bridge of communication and understanding between the country of her birth and her adopted land. No nation has made stronger contributions to music, the arts, and letters than France and this leadership is reflected in the role of the French language as a leader in civilized dialog between nations and among individuals in the international community.

Madame Buchanan's love and command of her native tongue, her singular ability to inspire her students to share this love, have made her an unusually effective teacher. As an educator, she served as an unofficial goodwill ambassador for her native country, infusing her western North Carolina students and neighbors with an understanding of France that went far beyond mere language.

I take great pride in her accomplishments, which also include:

Helping to organize service groups to help American soldiers in France during World War II.

Serving as Conservation Director for NDEA Language Institutes at Appalachian State University for 6 years.

Preparing French instructional material and cultural materials for many North Carolina language teachers.

Organizing many student travel-study tours of Europe, Canada, and the United States.

Preparation of slides of every facet of life in France for use by the North Carolina Department of Public Instruction.

Serving on the North Carolina Textbook Selection Committee.

And uncounted programs for civic and educational organizations.

The Mitchell County Chamber of Commerce voted her Woman of the Year in 1978.

I look forward to sharing her neighbors' appreciation day for Madame Buchanan and only wish my colleagues here could join with me. I do expect that my colleagues in the U.S. Senate will be represented as well as leading offices of North Carolina, for in truth, Christiane Roze Buchanan has given more than she has received from her adopted land.●

60TH ANNIVERSARY FOR ALEX AND HELEN STATHIS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. LEWIS. Mr. Speaker, I was once told that to succeed it was imperative to keep doing what it took to get started. Today I would like to commend two of the most successful people I have the pleasure to know.

On August 5th, Alex and Helen Stathis will be celebrating their 60th wedding anniversary. It is my honor to be part of this commemoration. The story of Alex and Helen Stathis is truly that of the American dream. Alex immigrated this country, began with nothing and built a successful business and homelife.

Born in Greece in 1895, orphaned at the age of 8, Alex Stathis' dream was to come to the United States. Working at odd jobs until he had saved the money for his trip, at the age of 19, Stathis embarked upon a journey to the proverbial land of milk and honey.

Penniless, he arrived in the United States where his hard life really started. He had no relatives or friends and he could not speak the language. Stathis got a job with the railroad and after a few years moved to Latrobe, Pa., where, on Easter Sunday, he met Helen Walchock. In August they were married and moved to Columbus, Ohio.

Once in Columbus, with the money he saved from the railroad, they opened a confectionary store. Two years later, they bought a second store. As a result of hard work, they next bought a candy shop and ice cream parlor and used these to supply the other two stores. Later, they moved to Greensburg, Pa., where they estabilshed a number of restaurants. They also purchased a Hotel in Confluence, Pa., which, after 16 months, they sold for a handsome profit. In 1954, they bought the Hotel Brenisler in Ligonia, Pa., and after 8 years, in 1963, the Stathis' moved to San Bernardino where Alex joined his son in business until he retired in 1973.

The Stathis' are pillars of the Greek Nicholas, Georgia, and Mary Ann, who have all grown to be active in their communities. They also have eight grandchildren and two great-grandchildren.

The Stathis' have three children, Community and their church in the San Bernardino area. Alex and Helen Stathis should be an example to us all. They have worked hard at what it took for them to get started and their lives have been rich, full, and happy.

On the occasion of their 60th wedding anniversary, I wish Alex and Helen Stathis continued success and great happiness in all their years ahead.●

WHY WE NEED NUCLEAR POWER

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. BOB WILSON. Mr. Speaker, when the subject of nuclear energy comes up, so do the scare stories and the rumors. And Three Mile Island added enough fuel to keep those stories and rumors going for a long time.

Today in this country, we are in the process of becoming energy poor. There is no need to go into how much oil we import annually. We have beaten that to death. And no need to talk about how much coal we have got and how long it will last us. We have done the same to that topic.

The plain fact is, the United States is energy poor and in danger of getting poorer. We need to use every source at our disposal, and that means nuclear energy for electricity.

I have spoken numerous times on our energy deficiency, and that we need to bring more nuclear powerplants on line as soon as we can if our economy is going to grow and prosper. But now listen to an acknowledged expert, a premier authority in the field, Dr. Edward Teller. His words I would hope can bring some reason to the discussion of why we need nuclear power, and just what nuclear power is all about.

[From the Wall Street Journal, July 31, 1979]

I WAS THE ONLY VICTIM OF THREE-MILE ISLAND

"On May 7, a few weeks after the accident at Three-Mile Island, I was in Washington. I was there to refute some of the propaganda that Ralph Nader, Jane Fonda and their kind are spewing to the news media in their attempt to frighten people away from nuclear power. I am 71 years old, and I was working 20 hours a day. The strain was too much. The next day, I suffered a heart attack. You might say that I was the only one whose health was affected by that reactor near Harrisburg. No, that would be wrong. It was not the reactor. It was Jane Fonda. Reactors are not dangerous.

Now that I am recovering, I feel compelled to use whatever time and strength are left to me to speak out on the energy problem. Nuclear power is part of the answer to that problem, only a part, but a very important part.

I have worked on the hydrogen bomb and on the safety of nuclear reactors. I did both for the same reasons. Both are needed for the survival of a free society. If we are to avoid war, we must be strong and we must help to generate the progress that makes it possible for all nations to grow and prosper.

And what is the greatest present-day threat to the prosperity and even the survival of nations! A lack of energy. Both developed and developing nations are threatened.

The citizens of the United States have just begun to recognize the impact of the world's growing energy shortage. Gasoline lines, electrical brownouts and higher prices are minor irritants. They are nothing compared to what may lie ahead. In a struggle for survival, politics, law, religion and even humanity may be forgotten. When the objective is to stay alive, the end may seem to justify the means. In that event, the world may indeed return to the 'simpler' life of the past, but millions of us will not be alive to discover its disadvantages.

When our existence is at stake, we cannot afford to turn our backs on any source of energy. We need them all.

When it comes to generating electricity, we especially need nuclear power. Contrary to what Nader and Fonda, and their friends such as Sternglass, Wald and Kendall, would have you believe, nuclear power is the safest, cleanest way to generate large amounts of electrical power. This is not merely my opinion—it is a fact. Due to the lessons learned at Three-Mile Island, the nuclear way of generating electricity will be made even safer.

I have attempted to respond briefly to some of the questions which people ask about nuclear power. The problems that these questions raise are problems because of political indecision or public fear. Technically, they are non-problems, because the dangers they imply either do not exist or else we have the know-how to solve them. I am absolutely convinced of this, after a lifetime of work as a nuclear scientist.

I was one asked how I would like for my grandson, Eric, to think of me and my life's work after I am gone. Eric is nine years old. He is a terrible guy—he beats me at the game of "GO." I am enormously fond of him, but I have not given much thought to what he will someday think of my life's work. I have given a great deal of thought to whether he will be alive in the next century, and whether he will be living in freedom or in slavery. If he is living under communism, he will know I was a failure.

I believe that we have reached a turning point in history. The anti-nuclear propaganda we are hearing puts democracy to a severe test. Unless the political trend toward energy development in this country changes rapidly, there may not be a United States in the twenty-first century.

The President has recognized the danger of the energy shortage. As yet, he has given only some of the answers. I think—I hope—that democracy has enough vitality to evaluate the risks and to recognize the great benefits of nuclear power to human health and well-being, and to the survival of our free society.

Q. Can a nuclear reactor explode like an atomic bomb?

A. No. Energy cannot increase fast enough in the reactor. Therefore, it is absolutely impossible for a nuclear power plant to explode like a bomb. For this to happen, the laws of nature would have to be repealed.

Q. What is the risk of nuclear power compared to other forms of producing electricity?

A. It is far safer than coal or hydroelectric power, but all three are necessary to meet our need for energy. It may sound strange to say it, because coal has been around so long, but we know more about controlling radiation than we do about controlling the pollutive effects of burning coal. And, of course, a dam has no backup system to protect those who live below it. Indeed many of these people have lost their lives and more their homes.

Q. I live within 50 miles of a nuclear power plant. What are my chances of being injured by a nuclear accident?

A. About the same as being hit by a falling meteor.

Q. What about the effect of an earthquake on a nuclear plant?

A. At the first sign of a tremor, the reactor would shut down automatically. Also, reactors are built to withstand enormous structural damage. The only man-made structures I can think of that are more stable are the pyramids of Egypt.

Q. Is it true that we still have no satisfactory way to dispose of nuclear wastes?

A. No. Ways do exist. What we have not had is a decision by our government on which way to go. Waste disposal is a political problem, not a technical problem.

Q. How much radioactive waste materials are produced by nuclear plants?

A. At the moment, about 12½% of our electricity is generated by nuclear power. If all of it were produced this way, the wastes from these plants over the next 20 years would cover a football field to a depth of about 30 feet. To dispose of this waste a mile underground would add less than one percent to the cost of electricity.

Q. How dangerous is the release of low-level radiation from a nuclear power plant?

A. If you sat next to a nuclear power plant for a whole year, you would be exposed to less radiation than you would receive during a round-trip flight in a 747 from New York to Los Angeles.

Let me put it another way: The allowable radiation from a nuclear plant is five mrems* per year. In Dallas, people get about 80 mrems per year from the natural background of buildings, rocks, etc. In Colorado, people get as much as 130 mrems per year from the natural background. Therefore, just by moving from Dallas to Boulder you would receive ten times more radiation per year than the person gets who lives next to a nuclear power plant.

Q. How much radiation were the people around Three-Mile Island exposed to during the accident?

A. Let me put it this way. Your blood contains potassium 40, from which you get an internal dose of some 25 mrems of radiation in one year. Among the people not working on the reactor, a handful may have gotten as much radiation as 25 mrems.

Q. Should "spent" nuclear wastes be reprocessed to save the plutonium and other by-products?

A. Yes. Plutonium, for example, is as valuable as the original uranium fuel, because of its potential use to produce still more energy. In the end, reprocessing is needed to make nuclear energy abundant and lasting.

Q. Is there a danger that the plutonium produced by nuclear reactors might be stolen by terrorists and used to construct homemade nuclear explosives?

A. I believe that reactor products can be properly safeguarded from terrorists. This can be much more easily done than the guarding of airplanes. Also, any terrorist who puts his mind to it can come up with ways to terrorize a population that are less dangerous to himself than handling plutonium. The answers is not to get rid of the reactors—let's get rid of the terrorists.

Q. Will the expansion of nuclear power by other countries enable them to produce nuclear weapons?

A. Unfortunately, yes. This is already happening. Two-thirds of the reactors in operation in the free world today are outside the United States. Since we can't stop other nations from building nuclear plants or weapons, what we must do is find better solutions to international problems. An energy starved nation is much more likely to make and use nuclear weapons as a last resort to survival. The only way to prvent that is to see to it that there is enough energy to go around, and to strengthen cooperation and confidence among the nations.

---

* A "mrem" is an appropriate unit used to make comparisons.

Q. What have we learned from the accident at Three-Mile Island?

A. Two things. First, that nuclear reactors are even safer than we thought. Despite many human errors and a few mechanical failures at Three-Mile Island, the damage was contained. No one was killed, or even injured. We have also learned that a lot can be done by better educated, better paid and more responsible reactor operators, and by a more efficient display of the state of the reactor by modern instrument panels.

Three-Mile Island has cost $500-million, but not a single life. We must pay for safety and, even after we have paid for it, nuclear energy is the cheapest source of electrical power. It is most remarkable that in the case of nuclear energy we are paying for our lessons in dollars, not in lives.●

GEORGIA'S MINUTEWOMAN

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. FOWLER. Mr. Speaker, I applaud Congresswoman Pat Schroeder's "Minutewomen" series and am pleased to join her in celebrating the contributions of America's outstanding women. I wish to acknowledge the excellent assistance of Ms. Louise Shaw of the Atlanta Historical Society in cooperation with Dr. William L. Pressly, director, and Mr. Franklin M. Garrett, historian, in gathering the biographical information included below.

One Georgia woman in particular, Jane VandeVrede, was a distinguished pioneer in promoting health and welfare in the State. She devoted over 60 years of service to the people of the South and the Nation.

A nurse by profession, Ms. VandeVrede helped establish the first State public health clinics and later organized chapters of the Red Cross in Georgia. In addition to teaching home nursing and first aid, she was instrumental in recruiting nurses during 1918 for service in World War I and was subsequently appointed director of the Southern Division of the American Red Cross.

Among her many contributions to the advancement of health care in the State were her efforts to establish a Bureau of Public Health Nursing within the State Health Department. Development of the Georgia Nurses Association, the Georgia League of Nursing, the Georgia Hospital Association, and the National Organization of Public Health Nurses should also be attributed to Ms. VandeVrede. Serving as the first executive secretary of the Georgia Nurses Association and as the Governor's appointee to the board of nurse examiners, she worked tirelessly to advance the quality of nursing education in Georgia.

During the depression, Ms. VandeVrede was appointed by President Franklin D. Roosevelt to the Works Projects Administration in Georgia, and in that capacity she continued to promote educational and health programs which provided work opportunities for Georgia's citizens.

Jane VandeVrede has earned a place of high regard in Georgia's history. I take great pride in sharing her accomplishments with my colleagues.●

OPEN AND CLOSED COURTS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. DRINAN. Mr. Speaker, a recent editorial in the Ashburnham Pilot & Westminster Times, published in north-central Massachusetts, sets forth very well the reasons why a recent 5 to 4 decision of the Supreme Court granting trial judges almost unlimited authority to close their courts to the public should be reversed.

I am happy to share this excellent editorial with my colleagues.

Open and Closed Courts

A recent decision of the Supreme Court, 5–4, establishes that a trial judge has almost unlimited authority to close his court to the public. The long, slow, centuries-old growth of the common law rule that civil and criminal proceedings be open to the public has been left to the discretion of the trial judge. Justice Stewart Potter wrote the opinion for the majority. In that opinion, Justice Potter said the history of the common law rule "fails to demonstrate that the framers of the Sixth Amendment intended to create a constitutional right in strangers to attend a pretrial proceeding when all that they actually did was to confer upon the accused an explicit right to demand a public trial." Such an opinion, we think, tends to interpret the Constitution in complete isolation from the society that produced and lives under it.

As recently as three years ago, the Court was persuaded that an open courtroom played a vital role in our society. In a similar, but not identical, case, the Court then unanimously sustained this interpretation. Justice Potter then joined that opinion which stated: "Secrecy of judicial action can only breed ignorance and distrust of courts and suspicion concerning the competence and impartiality of judges. Free and robust reporting, criticism and debate subject (the criminal justice system) to the cleansing effects of exposure and public accountability." That view, most Americans might agree, is in harmony with the legal tradition in America and in the West generally. The present decision of the Supreme Court, 1,000 days later, is retrogressive.

In a dissenting opinion filed in the present instance, Justice Harry A. Blackmum, echoing the opinion of the Court three years ago, re-establishes the guiding principles that should govern in this vital area.

"The right to a speedy and public trial . . . reflects the tradition of our system of criminal justice that 'a trial is a public event' and that 'what transpires in the courtroom is public property.'

"More importantly, the requirement that a trial of a criminal case be public embodies our belief that secret judicial proceedings would be a menace to liberty. This nation's accepted practice of providing open trials . . . 'has always been recognized as a safeguard against any attempt to employ our courts as instruments of persecution. The knowledge that every criminal trial is subject to contemporaneous review in the forum of public opinion is an effective restraint on possible abuse of judicial power.'

"It has been said that publicity 'is the soul of justice.' And in many ways it is: open judicial processes, especially in the criminal field, protect against judicial, prosecutorial, and police abuse; provide a means for citizens to obtain information about the criminal justice system and the performance of public officials; and safeguard the integrity of the courts.

"Publicity is essential to the preservation of public confidence in the rule of law and in the operation of the courts."

We can but hope that, in its own good time, the Supreme Court will reconsider the significance for our society of its recent decision.●

BLOCH RECEIVES HUMPHREY AWARD

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. CARR. Mr. Speaker, recently our colleague, Congressman Chris Dodd of Connecticut presented the Peace Corps' Hubert H. Humphrey Award to Julia Chang Bloch. Congressman Dodd is himself a recipient of the award. She richly deserves such recognition for her international humanitarian efforts. In addition to those of us who are privileged to call her a friend she is not only a distinguished public servant, but also a bright, charming woman of many talents. Ms. Bloch is currently serving as the International Communication Agency's Deputy Director for African Affairs. USICA's World recently devoted a few inches to her accomplishments. I include them in the Record at this point:

Bloch Receives Humphrey Award

Julia Chang Bloch, Deputy Director for African Affairs, received the second Hubert H. Humphrey Award in May in a ceremony at the U.S. Mission to the UN.

The annual Award and ceremony, cosponsored by USUN and the Peace Corps, recognizes the outstanding service of former Peace Corps volunteers.

Bloch, who served as a volunteer in the Peace Corps in Malaysia from 1964–66, held positions as Evaluation Officer for the Peace Corps in Washington, D.C. and Minority Staff Director of the Senate Select Committee on Nutrition and Human Needs, before assuming her present job in 1977.

A graduate of the University of California at Berkeley, Bloch has a Master's Degree in East Asian Government and Regional Studies from Harvard University.

She has been a member of the Young Political Leaders Delegation to the People's Republic of China and the National Committee on U.S.-China Relations.

Bloch has spoken widely on women's rights, U.S. participation in international organizations, nutrition and food assistance, and national health insurance. She organized the Congressional Symposium on International Women's Year in 1975 and, the following year, helped implement the U.S. Aid for International Development "Integration of Women in Development" program.

The Director of ACTION, Sam Brown, gave the official welcome at the award ceremony, and Peace Corps Director-designate Richard Celeste delivered the keynote address.

Among the more than 500 invited guests were Ambassadors from a number of countries where Peace Corps volunteers serve, former volunteers, and members of the staffs of the United Nations and ACTION.●

RETIREMENT OF JUDGE DANIEL C. JENKINS

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. MILLER of Ohio. Mr. Speaker, Judge Daniel C. Jenkins of New Lexington, Ohio, retired February 8, 1979, after 30 years of distinguished service on the bench. Judge Jenkins is the only lawyer to have served in both the probate and juvenile courts in Perry County, Ohio. He is also the longest tenured judge in Perry County.

Born in Shawnee, Ohio, on October 24, 1911, Judge Jenkins is a graduate of Denison University, Granville, Ohio, and the University of Cincinnati, where he received his law degree in 1936. He practiced law until 1941, when he volunteered for the U.S. Army as a private in infantry.

In 1942 he was commissioned as a second lieutenant at Fort Benning, Ga. He then served as a captain at Fort Jackson, S.C., and later graduated from the Command and General Staff College at Fort Leavenworth, Kans. He had a distinguished military career in World War II in Europe as a major. Returning to the United States in 1945, he continued to serve as an instructor in the U.S. Army Reserve until 1955, when he resigned as a lieutenant colonel.

After the war, he resumed his law practice in New Lexington until 1948, when he was elected judge of the probate and juvenile courts, Perry County, Ohio, an office he held until his retirement.

Judge Jenkins and his wife, the former Katherine Jean Montgomery, are the parents of four children, Daniel, Katherine, Anne, and David. Judge Jenkins' civic activities are many. He has distinguished himself in the Methodist Church and in the Masonic Lodge, where he was elected Grand Master of Ohio in 1961.

Judge Jenkins has proven himself worthy of the high office bestowed on him and is held in high esteem and affection by his colleagues and by the community. His contribution on the bench has set a high standard for others to follow. His fairness in reviewing cases and his guidance to the youth of the community will long be remembered.

But perhaps best of all, he will be remembered for his kindness, his sensitivity, and generous spirit. He is well loved, and we all feel better for having known him. He is a true humanitarian. We wish him and his family well on a much deserved retirement.

Mr. Speaker, I ask unanimous consent that an article commemorating Judge Jenkins' tenure that appeared in the January 26 edition of the Columbus Dispatch, be printed in its entirety in the RECORD.

The article follows:

Jan. 26, 1979

30 YEARS ON BENCH TO END: JUDGE JENKINS IS HONORED

SOMERSET, OHIO.—The Perry County Bar Association Thursday night paid tribute to Judge Daniel C. Jenkins, who retires Feb. 8 after 30 years on the bench.

Judge Jenkins is the only lawyer to have served in the probate and juvenile courts in Perry County.

His predecessor was a nonlawyer who served under a grandfather clause of a law which was passed to require that probate and juvenile judge be lawyers.

Veteran attorney Joseph C. Allen spoke in honor of Jenkins and praised him for his fairness, promptness and courtesy.

"He (Jenkins) was always up on the law, and his decisions were just and unreversed," Allen said.

Allen said he was sorry to see Jenkins leave the bench, that he enjoyed practicing in his court and that he kept his court active and his docket up to date.

"He kept us on our toes," Allen concluded.

Common Pleas Judge Robert G. Tague echoed Allen's comments and called it a "rare and honored privilege" to have served as a colleague on the bench for 16 years.

Tague said Jenkins was the longest tenured judge in Perry County, and that he served with dignity, integrity, sensitivity and scholarship.

"He has made an indelible imprint on Probate Court of the county," Tague concluded.

Jenkins was born in Shawnee, graduated from New Lexington High School, Denision University and the University of Cincinnati Law School.

He served in the armed services in World War II and has been active in veteran's organizations.

He also became active in the Masonic Lodge and served as grandmaster of the Ohio Masonic Order.

Tague said Jenkins has had a lifetime of service to others.●

IS THE PRESIDENT GETTING THE RIGHT INTELLIGENCE?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. MICHEL. Mr. Speaker, during his July 25 news conference, the President was asked if Nicaragua could become "another Cuba." He did not directly answer the question.

The New York Times, Sunday, July 29, 1979, told of the Sandinistas enforcing of a "new economy" in Leon, the nation's second largest city.

The Times quoted the Sandinista Director of the Office of Supplies for that region:

> We don't want reform: we want socialism . . . there are a lot of people here who would like this to be a Marxist state.

One of the men chosen to head a Nicaraguan popular army is Humberto Ortega Saavedra. Mr. Ortega is prominently featured in a front page photograph in the New York Times, with Fidel Castro "holding open arms" to him.

Is the President a victim of such poor intelligence gathering that he really does not know what is going on in Nicaragua? Just by reading stories in the Times one can tell the direction the Nicaraguan revolution is taking. It is predictably following the "Cuban model." Why does not the President tell the American people the truth.●

NATIONAL ARCHITECTURAL BARRIER AWARENESS WEEK

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. NOLAN. Mr. Speaker, I would like to take this opportunity to thank the 78 Members of Congress who have already cosponsored my bill, House Joint Resolution 338, which would authorize the President to proclaim the third week in May 1980 as "National Architectural Barrier Awareness Week."

I recognize that our energy crisis demands the immediate attention of Congress. However, we should not lose sight of the fact that other national problems exist and in my view one of the most serious is accessibility for the handicapped.

Although some progress has been made in removing architectural barriers, a continuing national effort is imperative if millions of handicapped Americans are to enjoy the opportuntiy for development and achievement available for all citizens. One important way to continue this national effort is establishment of National Architectural Barrier Awareness Week next May.

The Post Office and Civil Service Committee requires 218 cosponsors before consideration of legislation of this kind. I strongly urge you to add your name as a cosponsor and help end the present architectural double standards which allows access to the able-bodied and dead ends to the handicapped.

Following is a list of the 78 Members who are cosponsors of House Joint Resolution 338.

HOUSE JOINT RESOLUTION 338—NATIONAL ARCHITECTURAL BARRIER AWARENESS WEEK COSPONSORS

Mr. Moakley, Mr. Mitchell of Maryland, Mr. Santini, Mr. Stewart, Mr. Scheuer, Mr. Walgren, Mr. Winn, Mr. LaFalce, Mr. Green, Mr. Carr, Mr. Hughes, Mr. Gray, Mr. Flood, Mr. Dougherty, Mr. Simon.

Mr. McHugh, Mr. Natcher, Mr. Nichols, Mr. Forsythe, Mr. Coelho, Mr. Lehman, Mr. Murphy of Pennsylvania, Mr. Richmond, Mr. McDade, Mr. Brown of California, Mr. Downey, Mr. Neal, Mr. Ford of Michigan, Mr. Kildee, Mr. Wolpe.

Mr. Bedell, Mr. Lowry, Mr. Frenzel, Mr. Treen, Mr. Stokes, Mr. Vento, Mr. AuCoin, Mr. Wilson, Mr. Guarini, Mr. Waxman, Mr. Dodd, Mr. Evans, Mr. Abdnor, Mr. Pepper, Mr. Thompson.

Mr. Brodhead, Mr. Corrada, Mr. Whitehurst, Mr. Holland, Mr. Hagedorn, Mr.

O'Brien, Mr. Erdahl, Mr. Sabo, Mr. Hall of Ohio, Mr. Mazzoli, Mr. Beard, Mr. Bonior, Mr. Miller of California, Mr. Won Pat, Mr. Fazio.

Mr. Murphy of New York, Mr. Maguire, Mr. Burgener, Mr. Fischer, Mr. Wampler, Mr. Daschle, Mr. Hawkins, Mr. Russo, Mr. Mineta, Mr. Robinson, Mr. Skelton, Mr. Heftel, Mr. Hollenbeck, Mr. Jenrette, Ms. Oakar, Mr. Fowler, Mr. Lent, Mr. Blanchard.●

PRESERVING CIVIL WAR HISTORY: EXPANDING MANASSAS NATIONAL BATTLEFIELD PARK

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. HARRIS. Mr. Speaker, today I am introducing a bill to expand the boundaries of the Manassas National Battlefield Park in Prince William County, Va. The addition of approximately 1,715 acres to the 3,000-acre park would preserve several areas which have great historical significance relating to the two battles of Manassas, important engagements of the American Civil War.

The addition of this land would greatly enhance the historical importance of the current park. For example, one of the sites to be acquired is the opening scene of the second battle of Manassas, where Jackson made his decision to fight. One piece of land is the site of Portici, General Johnson's headquarters during the first battle. And, the historical Conrad House, used as a field hospital during both battles, is located on one tract. On another stands an imposing woods of trees imbedded with the shrapnel of Civil War battles. The park is one of the few remaining in the Nation where visitors can view the natural terrain on which such engagements occurred.

PROVISIONS OF THE BILL

The bill will add 1,715 acres to the 3,000-acre park by direct Federal purchase, donation, exchange, or easement from owners who could continue using their property for 25 years or until their death. Certain parcels would be purchased in fee through direct acquisition and others through acquisition of scenic easements. The acquisition program is designed to be completed within 2 years.

Under the legislation, all property within the 1954 boundaries of the park, not already acquired, could not be acquired without the owner's consent so long as the property continued to be maintained in its present use. It also gives the owner the right to a formal hearing on the record before an independent third party if the Secretary proposes to acquire the property because of a change in use.

I have carefully reviewed all the alternatives being considered by the Prince William County Board of Supervisors and the Virginia Department of Highways and Transportation concerning the construction of the proposed Route 234 by-pass. Only one of the five alternative routes being reviewed would impact on land being considered under my bill. The bill stipulates that if V.D.H. & T. chooses this alternative as the best course of action, the Secretary will make the land available for the right of way. Further, the Secretary is specifically prohibited from closing any State roads within the park without the consent of State officials.

The language of this bill reflects suggestions I have received during many meetings over the last 6 months with individual property owners, local officials, historical groups, and other interested parties.

ENACTMENT NEEDED NOW

Prince William County, just 30 miles from the Nation's Capitol, is one of the fastest growing counties in the Nation. From 1960 to 1970, its population more than doubled, jumping from 50,000 to 111,000. Today, Prince William County has more than 170,000 people, with every indication that rapid growth will continue. Residential and commercial development has seen a steady increase in the last 15 years, and the costs of land is constantly escalating. High housing costs in and around Washington, D.C., are leading many families to seek homes in the county.

Contributing to this growth is the completion of two major interstate highways that cross the county. Interstate 66, a major highway artery, is in close proximity to the current border of the park. This has created tremendous pressure for the development of highway-oriented uses, which threaten desecration of this historic and sacred land.

Currently, commercial development is encroaching on the park and several parcels bordering Interstate 66 are zoned commercial. A motel, gas station and a commercial cemetery are next to the park. We must act now to expand the boundaries of the park.

The expansion of the park is important for another reason—to provide necessary recreational opportunities and open space to this fast growing suburban area. The county is facing growing pains common to many of our suburban areas. With the rapid infusion of people in recent years, it has been difficult to provide adequate services. And as we all know, when services must keep pace with growth, sewers and schools often come first. Parks and recreation facilities are usually relegated to a lower priority. The addition of these 1,715 acres to the park will not only provide added historic lands for the park but will provide new and much needed recreational and open space areas for local citizens.

My efforts to preserve these properties are supported by such organizations as the Prince William Federation of Civic Associations, the Prince William League for the Protection of Natural Resources, the Fairfax County Board of Supervisors, The Virginia Division of the United Daughters of the Confederacy, and nationally, the American Legion and the Civil War Roundtable Associates. Protecting the park has been editorially endorsed by the Washington Post and the Washington Star as well as the Potomac News in Prince William County.

Congress must take the lead now in protecting our precious historical lands and monuments before it is too late. The adjacent lands to the Manassas National Battlefield Park are priceless and cannot be left to "fall as they may." I urge my colleagues to join me in preserving this important chapter of our Nation's history.

At this point, I include the text of the bill to be printed in the CONGRESSIONAL RECORD:

H.R. 5048

A bill to amend the Act entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of of Manassas, and for other purposes", approved April 17, 1954 (68 Stat. 56; 16 U.S.C. 429b)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Manassas National Battlefield Park Amendments of 1979".

SEC. 2. The Act entitled "An Act to preserve within the Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (16 U.S.C. 429b), is amended to read as follows: "That there is established as a unit of the National Park System in the Commonwealth of Virginia the Manassas National Battlefield Park, which shall contain within its boundaries the important historical lands relating to the two battles of Manassas. The total area of the park shall not be greater than 4,715 acres. The boundaries of the park shall be the boundaries depicted on the map entitled 'Boundary Map, Manassas National Battlefield Park', dated August 1979, and numbered 80,001; which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary shall publish in the Federal Register, as soon as practicable after the date of the enactment of this Act, a detailed description and map of the boundaries. Notwithstanding Section 7(c) of the Land and Water Conservation Fund Act of 1965 (91 Stat. 211), the Secretary may not make any changes in the boundaries of the park. The Secretary shall administer the park in accordance with laws, rules, and regulations applicable to the national park system.

SEC. 2. (a) In order to effectuate the purposes of this Act, the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds or exchange, any property or interests therein which are located within the boundaries of the park, except that property owned by the Commonwealth of Virginia or by any political subdivision thereof may be acquired only by donation.

"(b) With respect to areas within the 1954 boundaries of the park, as identified on the map referred to in the first section of this Act, the Secretary may not acquire fee simple title to such areas without the consent of the owner so long as the lands continue to be devoted to their present use. Further, if the Secretary proposes to acquire fee simple title to such property because of a change in use, the owner of such property may seek a review of the proposed acquisition of his or her property and is entitled to a hearing on the record in accordance with Section 554 of Title 5 of the United States Code.

"(c) If the Virginia Department of Highways and Transportation determines that the proposed Route 234 bypass should be properly located between the VEPCO power-line easement and Route 705, the Secretary shall make available the land necessary for such road.

"(d) The Secretary may not close any State roads within the park unless action permitting the closing of such roads has been taken by appropriate officials of the Commonwealth of Virginia.

"SEC. 3. (a) Subsequent to the date of enactment of this section, the owner of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than 25 years or for a term ending at the death of the owner or the death of the spouse of the owner, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner an amount equal to the fair market value of the property on the date of its acquisition less the value on such date of the right retained by the owner. If such property is donated (in whole or in part) to the United States, the Secretary may pay to the owner such lesser amount as the owner may agree to. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

"(b) No property owner who elects to retain a right of use and occupancy under this section shall be considered a displaced person as defined in section 101(6) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894). Such owners shall be considered to have waived any benefits which would otherwise accrue to them under sections 203 through 206 of such Act.

"SEC. 4. For purposes of this Act—

"(1) The term 'improved property' means a detached, one-family dwelling, construction of which was begun before January 1, 1979, which is used for noncommercial residential, purposes, together with not to exceed three acres of land on which the dwelling is situated and together with such additional lands or interests therein as the Secretary deems to be reasonably necessary for access thereto, such lands being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

"(2) The term 'park' means the Manassas National Battlefield Park established under this Act.

"(3) The term 'Secretary' means the Secretary of the Interior.

"SEC. 5. (a) From funds available for expenditure from the Land and Water Conservation Fund, as established under the Land and Water Conservation Fund Act of 1965, not more than a total of $20,018,000 may be expended for the acquisition of property and interests therein under this Act.

"(b) It is the express intent of Congress that the Secretary shall acquire property and interests therein under this Act within 2 years after the date of the enactment of the Manassas National Battlefield Park Amendments of 1979.

"SEC. 6. (a) Authorizations of moneys to be appropriated under this Act from the Land and Water Conservation Fund for acquisition of properties and interests shall be effective on October 1, 1980.

"(b) Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts as are provided in advance in appropriation Acts.".●

DECLINING PRODUCTIVITY

HON. STANLEY N. LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. LUNDINE. Mr. Speaker, Monday, the Department of Labor reported that productivity in the nonfarm business sector dropped at an annual rate of 5.7 percent during the second quarter of this year—the worst showing since the Government began keeping record in 1947.

Normally, I would not be unduly concerned by the measures for a single quarter, since indicators like productivity can be expected to fluctuate. But in this case, coming after more than 5 years of extremely low productivity growth, a decline of this magnitude is cause for alarm.

Productivity measures are sensitive to cyclical influences, of course. As administration officials pointed out, the quarterly data may primarily reflect the onset of a recession. But the unsatisfactory productivity performance that we have experienced has much longer-run implications for the health of our economy. Dramatic improvement is critical to our ability to achieve our central economic objectives in the years ahead.

This country does not need to settle for continued "stagflation"—the awful combination of high inflation and high unemployment we have experienced for much of this decade. A high rate of productivity growth will enable us to attack both of these problems simultaneously, and sustain a strong rate of economic growth.

The dimensions of the problem are very disturbing. From post-war rates of 3 to 3.5 percent a year, productivity growth began to decline in the mid-1960's, falling to 2.3 percent between 1975 and 1973 and to 1 percent between 1973 and 1977. Overall, productivity has ceased to improve much at all since 1977 and began to drop during the first quarter of 1979.

Even in manufacturing, U.S. productivity gains on the order of 2.5 percent a year compare unfavorably with those of other industrialized countries. In Japan, manufacturing productivity increased by 8.3 percent from 1977 to 1978; in Sweden, the rate was 5.4 percent; in France, 4.9 percent; in Canada, 4.2 percent; in Germany, 3.7 percent. Among the major developed countries, only Great Britain exhibited a slower productivity growth rate than we did.

These trends have not been fully explained. The 1974 recession, for example, had a major negative impact on productivity, but cyclical forces are thought to account for only about one-fourth of the drop experienced at that time. A number of additional reasons have been advanced, and experts argue about virtually all of them. Probably, some combination of the following factors is involved:

Sectoral shifts, such as movements of population out of agriculture into manufacturing and changes in the industrial composition of the economy;

Demographic changes affecting the quality and composition of the work force;

Lack of innovation and invention;

Rising energy costs and instability of energy supply; and

Changes in the rate and nature of capital investments. Regulatory requirements, for example, have motivated substantial investments in pollution control equipment and other activities that do not directly raise output.

In examining investment policy, we have tended, in my view, to underestimate the importance of investing in our human resources. And while I am disturbed by signs that our technological superiority may be waning, I consider human investments equally critical. Unfortunately, this country has not paid sufficient attention to the skill and motivation levels of its workers, or really understood the potential for more effective utilizations of our human resources.

A survey of worker attitudes conducted by the University of Michigan Institute for Social Research found substantial declines in job satisfaction—among all groups except for the self-employed. In 1977, nearly 36 percent of those surveyed believed that their skills and talents were not adequately utilized in their current jobs. Eight years earlier, only 27 percent had reported such feelings of underutilization.

Only 21 percent of the workers surveyed in 1977 cited work as a main source of satisfaction in their lives. Increasingly, workers criticize their jobs as tedious and claim to have little control over both the content and scheduling aspects of work. While rising expectations may be part of the explanation for these developments, it also seems likely that for many people, the quality of working life has deteriorated.

It may sound simplistic to say that deeply dissatisfied workers would not be very productive. But to me, these survey findings underline the need for much more extensive efforts by business, labor, and government to improve the quality of working life.

In Washington, we have not fully faced up to the problem. Too often, there is complacent acceptance of discouraging productivity statistics, as if changing them were somehow out of the question.

Ironically, it often requires a crisis to impress upon us the need for change. We now face a crisis—involving far more than just energy supplies.

To alter our basic economic condition, we must make productivity improvement a major focus of national policy. We must call on our experts for a thorough examination of the causes of the problem. Business and labor must collaborate to develop mutually acceptable approaches. Both the administration and the Congress must be convinced of the need for new solutions.

In the months ahead, I intend to develop a set of comprehensive proposals and define the structure of such an initiative. If we succeed in reversing the patterns, the returns to our economy will fully justify the effort required.●

CONGRESSMAN BERKLEY BEDELL INTRODUCES GASOHOL TAX EXEMPTION CLARIFICATION LANGUAGE

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. BEDELL. Mr. Speaker, I am introducing a bill to make it easier for producers and sellers of gasohol to obtain the benefits which Congress intended to give them in the Energy Act of 1978. While the bill deals with technical tax matters, correction of the problems it addresses is necesary to promote the production and use of gasohol.

Certain types of alcohol—such as ethanol and methanol—can be made from surplus agricultural and forestry products and wastes including urban wastes, and these alcohols can be mixed with gasoline in combinations of up to 15 percent alcohol to make a fuel which can be used by today's automobiles with little or no need for engine modification. Since use of gasohol can reduce the amount of petroleum products consumed by existing vehicles, Congress decided to encourage its development as an alternative fuel.

Thus, under the Energy Tax Act of 1978, gasohol—that is, fuel which is a blend of gasoline, or other motor fuel, and alcohol—that is at least 10-percent alcohol, other than alcohol derived from petroleum, natural gas, or coal, is exempted from the Federal excise taxes on motor fuels on or after January 1, 1979, and before October 1, 1984. The act provides that gasoline may be sold free of tax if it is to be used in the production of gasohol. The act also provides that, if the gasohol for which an exemption from the tax is obtained is later separated into gasoline and alcohol, the person doing such separation is to be treated as the producer of the gasoline, and thus would ordinarily be liable for the 4-cent-a-gallon tax.

Unfortunately, in what appears to have been a technical oversight, the Energy Tax Act made no provision for refund of the tax on gasoline if tax-paid gasoline is mixed with alcohol to produce gasohol.

The Technical Corrections bill (H.R. 2797), as it passed the House of Representatives, tries to remedy this problem by providing a credit or refund mechanism for the taxes on tax-paid fuel used to produce gasohol—and by providing a "recapture" mechanism to reimpose the tax if the gasohol is later separated. Unfortunately, the refund mechanism so provided requires that a person who acquires tax-paid gasoline and mixes it with alcohol to produce gasohol can obtain a refund of the gasoline tax only by a procedure which requires the consent and cooperation of the producer and parties in the chain of title between the producer of the gasoline and the person who mixes the alcohol and gasoline. Not only is this procedure cumbersome and somewhat time consuming, but also there is no provision of law which requires that these other parties cooperate in the refund process. They might well refuse to cooperate in some circumstances for reasons such as the amount of paperwork involved.

To surmount this problem, the bill I am introducing today would provide that if a person mixes alcohol—other than alcohol derived from petroleum, natural gas or coal—and tax-paid gasoline to produce gasohol for resale or for use in his trade or business, that person may obtain a direct refund or credit of the Federal excise taxes paid on the gasoline. Such a person may obtain a refund of these taxes directly from the Treasury. These refunds may be obtained for each of the first three quarters of a person's taxable year if $200 or more is payable with respect to gasoline purchased for use in gasohol in such quarter. With respect to any amount of Federal excise tax on tax paid gasoline for which a quarterly claim for refund is not made—because the amount payable for a quarter is less than $200, a claim for refund is not made during a quarter, or the fuel is purchased during the last quarter of a taxable year—the taxpayer may claim the amount of taxes paid as a credit on his income tax return for the taxable year.

This credit or refund approach applies to sales of gasoline made after December 31, 1978, and before October 1, 1984. This is the same effective date as applies with respect to excise taxes on gasohol. In order to facilitate the refund process for pre-enactment purchases of gasoline, the bill provides that sales of gasoline made after December 31, 1978, but prior to the date of enactment of this provision would be treated as having occurred in the quarter of the taxpayer's taxable year in which the date of enactment falls.

To prevent the allowance of more than one credit or refund of the same taxes, the bill also provides that if a credit or refund of excise taxes on gasoline is allowable under these new provisions, no credit or refund is allowable for these taxes under other provisions of the Internal Revenue Code. Further, in order to prevent avoidance of the excise tax on gasoline, the bill provides that the "recapture" treatment that applies if "tax exempt" gasohol is separated should apply not only if the gasohol was obtained free of tax but also if a credit or refund of excise taxes had been obtained. This result is achieved by amending the provision which treats a person who separates an exempted gasoline-alcohol mixture into gasoline and alcohol as the producer of such gasoline—and therefore subject to the 4-cents-a-gallon tax—by providing that this treatment applies not only if the gasoline was originally acquired free of tax but also if a credit or refund of excise taxes had been obtained.

Mr. Speaker, in my home State of Iowa, nearly 6 million gallons of gasohol are sold each month. The executive director of the Iowa Independent Oil Jobbers Association has informed me that a very large percentage of these sales is done by relatively small jobbers who operate on a tight budget and with limited resources. The enactment of this legislation would insure that these smaller operators would be able to obtain their tax credits by the use of form 843 on a quarterly basis, an allowance which will mean that they will not have to be subjected to extensive paperwork requirements and delays that could otherwise make it prohibitive for them to sell gasohol. Thus, the intent of Congress is honored: gasohol sales will be furthered by the 4-cent tax exemption, thereby promoting the use of an alternative fuel that is badly needed in this country.

In conclusion, Mr. Speaker, I would like to note that the Department of Treasury does not oppose this measure; in fact, the Department has suggested much of the technical language used in its drafting. I sincerely hope that my colleagues will give this legislation their wholehearted approval and that it can be given serious and expeditious consideration.

The bill follows:

H.R. 5044

A bill to amend the Internal Revenue Code of 1954 to provide for the credit or refund of the tax on any gasoline which is used in the production of certain alcohol fuels

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFUND OF TAX ON GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.

(a) GENERAL RULE.—Section 6427 of the Internal Revenue Code of 1954 (relating to fuels not used for taxable purposes) is amended—

(1) by redesignating subsections (f), (g), (h), (i), and (j) as subsections (g), (h), (i), (j), and (k), respectively; and

(2) by inserting after subsection (e) the following new subsection:

"(f) GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (i), if any gasoline on which tax is imposed by section 4081 is used by any person in producing a mixture described in section 4081(c) for sale or use in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such gasoline. The preceding sentence shall not apply with respect to uses described in such sentence after September 30, 1984.

"(2) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No payment shall be made under subsection (d) or (e) of this section or under section 6420 or 6421 with respect to any gasoline with respect to which an amount is payable under paragraph (1)."

(b) QUARTERLY REFUND ALLOWED WHERE $200 OR MORE PAYABLE.—

(1) Subparagraph (A) of section 6427(g)(2) of such Code (as redesignated by subsection (a)(1)) is amended by striking out "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) $200 or more is payable under subsection (f),".

(2) Subparagraph (B) of section 6427(g)(2) of such Code (as redesignated by subsection (a)(1)) is amended to read as follows:

"(B) SPECIAL RULE.—If the requirements of clause (ii) or clause (iii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause (or clauses) of subparagraph (A) the requirements of which are met by such person for such quarter."

(c) Treatment of Subsequent Separation.—Paragraph (2) of section 4081(c) of such Code (relating to later separation of gasoline) is amended by inserting "(or with respect to which a credit or payment was allowed or made by reason of a use described in section 6427(f)(1))" after "this subsection".

(d) Technical Amendments.—

(1) Subsections (a)(4) and (b) of section 39 of such Code are each amended by striking out "6427(h)" and inserting in lieu thereof "6427(i)".

(2) Subsections (a), (b)(1), (c), (d), and (e)(1) of section 6427 of such Code are each amended by striking out "(h)" and inserting in lieu thereof "(i)".

(3) Subsection (g)(1) of such section 6427 (as redesignated by subsection (a)(1)) is amended by striking out "(a), (b), (c), (d), or (e)" and inserting in lieu thereof "(a), (b), (c), (d), (e), or (f)".

(4) Subsection (i)(2) of such section 6427 (as redesignated by subsection (a)(1)) is amended by striking out "(f)(2)" and inserting in lieu thereof "(g)(2)".

(5) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) are each amended by striking out "6427(g)(2)" each place it appears and inserting in lieu thereof "6427(h)(2)".

(e) Effective Date.—

(1) In general.—The admendments made by this Act shall take effect on January 1, 1979.

(2) Transitional rule.—Any use on or after January 1, 1979, and before the date of the enactment of this Act which is described in section 6427(f)(1) of the Internal Revenue Code of 1954 (as amended by this Act) shall, for purposes of section 6427 of such Code, be treated as occurring on the date of the enactment of this Act.●

WHAT PRICE CHARISMA?

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. ROTH. Mr. Speaker, much has been written recently about the crisis of leadership in America. Time magazine, in its cover story on "Leadership in America" this week suggested: "As much as any time since World War II, the occasion has called for leadership."

That, Mr. Speaker, may be the greatest understatement since World War II.

Across America, the people are concerned about the leadership gap in the White House. Typical of the concern is the following editorial that appeared July 26, 1979, in the Clintonville Tribune Gazette, in my district.

It effectively describes the leadership problem, and I am pleased to share it with our colleagues:

What Price Charisma?

In our insulated view of national events there's a pattern developing that seems to indicate a profound lack of leadership in the White House and it may be due as much to the provincial attitudes of the Georgian palace guard as to the titular head of state himself. The country gets nowhere.

The president's showy meanderings from empty event to empty event haven't changed the nature of our problems a bit. The Camp David exercise in headlopping seems designed not so much to correct leadership inadequacies as to divert attention from the policy vacuum that stymies government action.

Probably the most disturbing news we get here in the hinterlands is that there is no real attempt being made to bring the powerful, diverse forces of Congress to grips with what the administration sees as our major concerns. It appears that the White House wants its way regardless of what it takes to make cooperative effort possible. Congress, for all its ideosyncrasies is the people and no program will be available to the nation unless it comes from Congress. Why should we be left with the feeling that the Georgians so fear, disdain or distrust Congress that they will have nothing to do with it?

The 1976 presidential election campaign has been over for more than two and a half years but the presidency still has a pre-election preoccupation with image rather than performance. We get plenty of posturing and sermonizing, but no action.

It can be argued that the national spirit has suffered somewhat in recent decades, but there is no "crisis" of spirit in this land. We're no more materialistic than our grandparents were, perhaps less.

Yet we are dispirited, if that's what you call being tired of whining preachments when what we need is an executive team that goes to Congress with a measurable problem and asks for honest help in its solution. We're beginning to feel relieved that the election of 1980 is little more than a year away.●

PROGRESS IN ST. LOUIS

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. YOUNG of Missouri. Mr. Speaker, the question of St. Louis' economic growth—present and future—has been much debated in the regional news media over the past decade. Within the past few months, this debate has spread to the national news media. The most authoritative discussion was provided in an analysis in U.S. News & World Report by Ted Gest, the magazine's prize-winning White House correspondent. The U.S. News report, as well as others, prompted a broadcast editorial by KMOX, the CBS radio station in St. Louis, which concluded that St. Louis is moving ahead with "signs of progress all around us." I would like to share the KMOX editorial, presented by Robert Hyland, CBS' regional vice president, with my colleagues. Following is the text of the editorial:

This past spring, Newsweek magazine named St. Louis as one of the nation's most obvious examples of urban decline. That publication accused our city of having "decaying everything."

KMOX Radio took issue with Newsweek in a broadcast editorial. We cited the many examples of progress in St. Louis—general business vitality and individual projects like the May and Gateway Malls, to name a few.

Now, another national magazine has come up with an evaluation of St. Louis. It is diametrically opposed to Newsweek's. The current edition of U.S. News & World Report describes our city's neighborhood spirit, aggressive business leadership and booming commercial activities.

The U.S. News view is the correct one. There are signs of progress all around us, from the commercial and recreational developments in the downtown area, to the restoration of homes in older parts of the city. St. Louis is moving forward, not fading away in a fatal decline.

The geographic advantage St. Louis possesses is a major factor in this new growth, just as it was when our nation was young. With energy in short supply, the central location of St. Louis enhances its position as a manufacturing, transportation, and tourist center.

The City of St. Louis is the focal point for new strength in the entire metropolitan area. St. Louis County continues to be one of the most desirable suburban areas of the nation. And East St. Louis, under its new administration, is reversing its image as a "poor relation" welfare town.

We're gratified St. Louis is finally winning national recognition as a dynamic urban center. We knew it all along.●

SALT II IS NECESSARY STEP ON PATH TOWARD MEANINGFUL ARMS CONTROL

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. DRINAN. Mr. Speaker, the national debate on the strategic arms limitation treaty signed in Vienna is an important part of the ongoing efforts to control the proliferation of nuclear weapons. Today, the nuclear arsenals of the United States and the Soviet Union have the capability of destroying the world 15 times over, the equivalent of 15 tons of explosives for every single person on earth. Each year the world's expenditures for arms total more than $400 billion.

The SALT process has been designed to restrict the proliferation of offensive and defensive nuclear weapons through the negotiation of successive agreements. These agreements seek to control the level of armaments while maintaining mutual deterrence through assured retaliation to prevent a nuclear war. The first negotiations between the superpowers on this subject resulted in the limited nuclear test ban treaty of 1963 which prohibited atmospheric testing. The first comprehensive strategic arms reduction talks began in 1969 and resulted in the first SALT agreement signed in 1972.

SALT I was designed to restrict the proliferation of both offensive and defensive nuclear weapons. Its ceilings were higher than those included in SALT II and left limitations on specific weapons largely undefined. The anti-ballistic missile agreement included in SALT I effectively banned the deployment of defensive missile systems, allowing only one system to each country. This provision has been honored as proof that the SALT process can achieve its desired results.

The interim agreement on strategic

offensive arms was less significant, as it merely froze the number of intercontinental ballistic missiles and submarine launched ballistic missiles then in operation or under construction.

The Vladivostok agreement of 1974 sought to establish the framework for SALT II by adopting target ceilings of 2,400 for deployment of nuclear delivery systems, and 1,320 for launchers of ICBM's carrying multiple warheads.

PROVISIONS OF SALT II

SALT II provides for the first real numerical limits on the strategic arsenals of the Soviet Union and the United States. The treaty being considered for ratification at this time specifically defines limitations on certain weapons and includes unprecedented restrictions on the use of multiple warheads.

SALT II may be divided into three parts: First, the treaty itself which remains in effect until 1985; second, a 3-year protocol temporarily restricting the use of certain weapons; and third, a joint statement of principles expressing the commitment of both countries to the SALT process and to moving forward toward further arms limitations agreements immediately upon ratification of SALT II.

Today, the United States' strategic force consists of land-based intercontinental missiles, submarine based intercontinental missiles, and heavy bombers. The treaty calls for an equal ceiling of 2,250 on each side's strategic nuclear delivery systems beginning December 31, 1981. Until then, the Vladivostok ceilings of 2,400 will remain in place, followed by a series of interlocking subceilings on multiple warhead missiles and heavy bombers. An equal ceiling of 1,320 ballistic missiles and heavy bombers armed with long range cruise missiles will also be imposed. Multiple warhead ballistic missiles—ICBM's and SLBM's—will be limited to 1,200 with a further limit of 820 on multiple warhead ICBM's for each side. Throw-weight is also limited under provisions of the new treaty as a way of controlling deployment of new models.

The treaty allows for only one additional new type of missile system to be tested and deployed, and a freeze on the number of existing intercontinental ballistic missiles. A maximum of 10 reentry vehicles will be allowed on the new system as well as on currently deployed air to surface missiles. No telemetry encryption will be tolerated that would interfere with either side's ability to monitor weapons tests, and other SALT related matters.

The protocol provides for a ban on testing and development of launchers equipped with ICBM's and long-range ground and sea launched cruise missiles. It prohibits the deployment of mobile ICBM launchers, places limits on the mobile ICBM's themselves, and bans the testing and deployment of air to surface ballistic missiles with a range in excess of 600 km. These restrictions are temporary and serve to slow down the process of weapons modernization while still allowing the United States to adequately deter any Soviet threat.

Perhaps the most important part of SALT II is the joint statement of principles which expresses the intent of each country to actively continue the SALT process and begin to work on SALT III.

WHY SALT II CAN WORK

The very real threat of nuclear war can never be forgotten when judging the merits of the SALT II Treaty. The case for arms reductions is overwhelming when one considers that we possess the capability to destroy the world 15 times, when one warhead on a Minuteman missile has more explosive power than 16 Hiroshima bombs, and when the world's nuclear arsenals have reached the equivalent of 15 tons of explosives for every person on earth. The vicious progression of nuclear proliferation must be reversed before control is lost. True security for the superpowers and the rest of the world can only be attained through the realization of the necessity of limiting the number, scope, and cost of nuclear weapons.

The treaty calls for the Soviet Union to destroy 300 nuclear systems while the United States will not have to destroy any operational weapons. It provides unprecedented controls on weapons with multiple warheads which will restrict the most threatening Soviet MIRVed ICBM's and for the first time, the agreement makes qualitative reductions by prohibiting new weapons in addition to making numerical cutbacks. A strategic balance will be maintained.

Without SALT II the Soviet Union could deploy at least 3,000 nuclear systems instead of the 2,250 with SALT II. Without the agreement the Soviet Union could arm each of their first line heavy missiles with as many as 40 nuclear warheads. With the treaty these missiles are limited to 10 warheads. Without SALT II each country would spend billions of dollars frantically trying to keep up with the perceived capabilities of the adversary, until it reaches the conclusion that true security can only be reached through mutual arms reductions, not escalations. In short, the treaty provides a new sense of stability, certainty, and a program less costly than unrestricted arms competition.

Of primary importance to the viability of SALT II is the ability of each country to monitor the other's compliance with the treaty provisions. Verification, under the terms of the treaty, is to be maintained by national technical means. This country's means of verifying the terms and conditions of the treaty remain highly effective, despite recent doubts that have been raised. Former CIA director, William Colby, has testified exhaustively on this point. Today, a photo-reconnaissance satellite can photograph the numbers on Soviet army trucks from an altitude of 100 miles. Our satellites can identify military objects that are camouflaged or buried underground. The United States is now using a new superpowerful radar station in the Aleutians that can "read" the characteristics of a Soviet missile and its individual warheads. A large sea and air tracking force can intercept and analyze signals from Soviet missile tests. All these instruments of verification and many others form an intricate listening network to monitor all significant Soviet movements. Interference with such systems is banned under the Treaty.

Recent polls have indicated that a distinct majority of the American public favors ratification of the SALT II Treaty. Among our NATO allies, support for the treaty is strong. Many of our allies view ratification as tantamount to a restatement of U.S. commitment to the security of our friends around the globe.

SALT II will signal the Soviet Union and the rest of the world that the United States is willing and able to commit itself to the process of arms control. Failure to ratify the treaty will signal the Soviet Union that the United States is unwilling to proceed with further SALT talks at this time. Without SALT II, United States-Soviet relations would quickly become unstable and dangerous.

Nuclear war must never be considered a feasible option by the leaders of the two superpowers. To this end, our country must not lose sight of the worldwide devastation a nuclear war would inevitably bring. SALT II is a small, but important step in the process of arms control and disarmament. As the national debate continues over the SALT II agreement, it is my sincere hope that the overriding need for ratification of this accord will not be clouded by other issues.

As a member of the Members of Congress for Peace Through Law (MCPL) SALT II Task Force, I include for the RECORD an editorial which appeared in the Boston Globe of June 20, 1979 urging ratification of the SALT II agreement. The editorial follows:

SALT: A SMALL BUT SOUND STEP

The fate of President Carter's foreign policy centerpiece, SALT II, now depends on 34 votes in the U.S. Senate. That's all the "no" votes it would take to scuttle the Strategic Arms Limitation Treaty signed by Carter and Soviet President Leonid I. Brezhnev in Vienna.

The treaty is a small but sound step toward avoidance of sudden global incineration, and a slowdown of the race to possess a slight edge in the capability to create an Armageddon. The Senate, in its deliberations on the treaty this fall, should keep that in mind above all else. More steps should follow, but they are not likely to come if SALT II is botched.

At the moment there is a small core of senators that solidly favors the treaty. Sen. Kennedy is among them. Numerous others lean toward ratification but are technically "undecided." Sen. Tsongas is among them. Wooing those undecided senators and the conservative opponents is going to be an exercise fraught with peril for the Carter Administration.

The question is how much Carter will have to give to corral the necessary Senate votes. If he gives too much on the treaty and it is significantly altered, it will probably not survive Soviet ratification. If he holds fast on the treaty, but tries to pacify the opposition with political trade-offs, domestic programs like federal aid to cities and alternative energy initiatives could suffer. Carter should resist the temptation to be generous with trade-offs.

The President has already moved to muffle the cries of Senate hawks and other SALT II opponents by deciding to go ahead with the proposed MX missile system. With an arms limitation treaty based largely on surveillance, a new missile system designed partially to confound surveillance creates an obvious conflict in concept and it caused Carter problems in last-minute SALT II negotiations.

If diplomacy is ever to catch up with technology, a SALT II agreement must not be allowed to languish through more years of negotiations for incremental advantages. Back-and-forth American and Soviet advances in the design of war machinery make such agreements harder to reach or quickly obsolete once they are reached.

The President deserves credit for having as the main pieces of his foreign policy program the making of treaties rather than international conflicts. And his SALT II treaty deserves ratification.●

DIRECTING RESEARCH AND DEVELOPMENT—A GLOBAL CHALLENGE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. BROWN of California. Mr. Speaker, this body regularly makes multibililon-dollar decisions about research and development projects, generally with very little perspective on the alternatives or even the priorities that should be considered. We make other decisions, such as in regulatory or tax policy, which indirectly affects the research and development investments of private industry.

The concerns of this country are, of course, concerns which are shared throughout the world. The upcoming United Nations Conference on Science and Technology for Development will be one forum where these issues will be considered in the global context.

Among the most difficult questions we must consider is the role of military research and development in accelerating the arms race, and in diverting scarce intellectual and capital resources into nonproductive parts of society. Another difficult question we must consider is how capitalist economies can direct private investment toward the common good.

These major philosophical issues will not be readily resolved, but they really must be faced. One contribution to this discussion which I would recommend to my colleagues is a recent publication by the Worldwatch Institute, entitled "Knowledge and Power: Global Research and Development Budget." A recent article by the author of this publication, Colin Norman, appeared in the Los Angeles Times. For those who do not have time to read the full report, I commend this article.

The article follows:

[From the Los Angeles Times, Aug. 1, 1979]

MORE R&D FUNDS SHOULD GO TO BETTER CAUSES

(by Colin Norman)

Nearly $150 billion is now spent around the world each year on scientific research and development. This massive investment, made by governments and corporations with the express purpose of shaping future events, will influence the physical, economic and political structure of the world inherited by future generations.

Yet there is little public knowledge of the world's research-and-development system—its aims, its priorities and its international dimensions. Much scientific work is cloaked in secrecy, either for military or commercial reasons, and few governments publish up-to-date figures on research and development conducted within their borders.

Nevertheless, we have enough information to know that most of that $150 billion investment is not well geared to solving the major social problems facing the world in the coming decades. It is in fact, more atuned to the military needs of the 1950s than to the social needs of the 1980s.

More than $35 billion a year, roughly one-fourth of the world's research-and-development investment, is swallowed up by military programs, and more than 500,000 scientists and engineers are believed to be working on the development of new weapons. Military programs soak up more research-and-development funds, and occupy the talents of more researchers, than do programs related to energy, health, food production and environmental protection combined.

As a result of these skewed investments, the United States has the ability to survey every square meter of the Soviet Union, yet world scientists have barely begun to survey the complex ecosystems of fast-disappearing tropical rain forests and the malignant spread of the world's deserts. The nuclear arsenal of the superpowers contains enough explosive power to reduce to rubble most of the cities on the globe, yet the more challenging task of providing clean, safe power to those cities has received far less scientific attention.

Today, almost six years after the Arab oil embargo clearly underlined the fragility of the industrial world's oil-based economies, investments in energy still lag far behind those devoted to military programs, and they are running about even with expenditures on space science and technology. Yet the development of a secure and safe energy supply is likely to be far more important to the security of most nations than is the development of more devastating weapons.

Although some governments have stepped up their expenditures on energy research and development in recent years, nuclear programs still claim the bulk of these funds. The British, Canadians, German and Japanese governments devote more than two-thirds of their energy research-and-development budgets to nuclear power, while renewable resources account for less than 7% of the energy research budgets of the major Western countries according to the International Energy Agency.

There are signs that priorities are beginning to change in some countries, however. The fastest-growing areas of the global research-and-development budget in recent years have been those concerned with nonmilitary objectives, such as energy production, the development of new medical technologies and environmental protection. Such trends have been most conspicuous in the United States. But there are ample opportunities to accelerate this change in priorities, and to develop new ways to channel resources into socially beneficial areas.

One such avenue is greater cooperation between government and industry on problems that have been relatively neglected. The recent initiative by former Secretary of Transportation Brock Adams to bring government, university and industry scientists together in a major research effort to develop more efficient automobiles is a case in point.

Government regulations can also play an important role in directing industrial research toward socially beneficial goals. For example, government-imposed pollution-control and fuel-efficiency standards have led to great increases in corporate research-and-development funds devoted to environmental protection and energy conservation in recent years.

In most Western countries, universities constitute a vast storehouse of scientific and technical expertise but, aside from agricultural extension services, this resource is not being tapped to help solve problems in nearby communities. Although much university research will necessarily continue to focus on the unearthing of knowledge that may not have immediate practical application, university scientists and engineers could get more involved in designing local transportation systems and energy-conservation programs.

Reordering research-and-development priorities by channeling more resources into neglected programs would not solve the world's problems by itself, but it would be a step in the right direction.

(Colin Norman is a researcher at Worldwatch Institute in Washington.)●

THE DEMISE OF EUROCOMMUNISM COMES AS GOOD NEWS TO UNITED STATES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. BIAGGI. Mr. Speaker, for the benefit of my colleagues I wish to place into the CONGRESSIONAL RECORD an article which appeared on the front page of Monday's Christian Science Monitor. The title conveys the good message: "Eurocommunism: The Threat Fades."

Of particular importance to me was the rapid ascension in the earlier part of the 1970's of the Italian Communist Party. When the party garnered more than 30 percent of the vote in elections in 1975 and 1976 many observers felt it was the prelude to a Communist government in Italy. However, in this year's elections the Communists suffered a major setback now setting off speculation that they have had their last hurrah.

The article I am inserting today also discusses declines in communist activities in other European nations. The news is encouraging but by no means should be deceived into thinking the threat has totally dissipated. We must continue to insure a strong Europe through our NATO commitments.

The memory of World War II and the cold war still lingers in the minds of millions of Americans. Let us hope that a new era of peace and freedom will be the order of the day for Europe.

The article follows:

EUROCOMMUNISM: THE THREAT FADES

VIENNA.—Eurocommunism—the terror of Western Europe just two years ago—seems to have lost its sting for both East and West Europe.

Western Europe's economic problems persist. But no one now blames the problems on Eurocommunism or sees Eurocommunists cashing in on these problems.

And Moscow has shelved its earlier fears that Eurocommunism might tempt East European Communist parties out of the Kremlin fold.

This year has seen a remarkable drop in Eurocommunism's ratings with:

A serious election setback to the movement's founder and most effective protagonist, the Italian Communist Party.

Sharp differences between the Italians and Eurocommunisms' other main adherents on style, ideology, and approach to international and East-West relationships.

Clear indications that the Soviet Union is shifting its concern to diplomatically building "Communist solidarity" among the bloc's own parties and with securing greater cohesion within the world movement against the possible Chinese challenge.

Yet not so long ago, the movement was riding high and looked set to go higher.

Its three main parties held a kind of baptismal conference in Madrid in March, 1977. Their leaders—Italy's Enrico Berlinguer, France's Georges Marchiais, and Spain's Santiago Carrillo—adopted a manifesto tied to political and social pluralism and respect for individual liberties.

At that time, Eurocommunism was the most hotly debated—and often overrated—political topic in Western Europe. It became an obsession for the Soviets.

Now, it is scarcely talked about in either quarter.

"Eurocommunism," says a veteran European socialist who once sympathized but remained skeptical about its staying power, "can no longer be regarded as a 'wave of the future' for the socialist-labor-progressive forces in Western countries, nor for the mildly 'liberal' Communist parties of Eastern Europe."

Differences among the three Eurocommunists first appeared at the Madrid conference when the Spanish argued for an explicit statement of where they disagreed with Moscow.

The differences emerged more clearly as the French Communists—though going through the motions of dropping old doctrinaire labels—torpedoed the Left alliance with the Socialists in the run-up to France's March, 1978, elections.

At that time the Italian party was trying to build on its local election gains in 1975 and 1976. Communists were propping up Italy's Christian Democratic government in a kind of apprenticeship in responsibility that, hopefully, might take them into partnership in government later on.

Mr. Marchais's tactics—suggesting that the French Communists were interested in an alliance only as the dominant partner—may well have been one of the factors in the Italian party's loss of a significant 4 percent of votes last June.

In terms of numbers and standing on the Eurocommunist ticket, it was the French and Italian parties that really mattered. Now the two are divided by profound divergences of approach.

The French party has swung back to close accommodation with Moscow. It generally supports Soviet foreign policy, and this includes opposition "a la Russe" to an "imperialist" NATO and to France's involvement in it.

The Italian party has never courted any open break with the Soviets, and it no longer is so publicly critical as it was over the invasion of Czechoslovakia in 1968.

But it reserves a party's "right to dissent" within the movement and still does so, though more discreetly.

There are, however, deeper, more politically significant differences.

Following his election disappointment, Mr. Berlinguer quickly rejected any return to a lone-Left alternative. The Italian party, he said, would continue to fight for "broad democratic unity" in which the Communists still accept Italy's place in NATO and European economic integration as the realities of an essential balance in East-West relations.

So Eurocommunism as a movement (if ever it really qualified as such) seems to be moving into history. In early July, at an ideological conference among 11 ruling Communist parties, Eurocommunism apparently was never mentioned—not even by the formerly most vituperative hard-liners.●

AMERICAN INDEPENDENCE UNDER WORLD GOVERNMENT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. DORNAN. Mr. Speaker, I would like to call to the attention of my colleagues in the House of Representatives, an essay written by a young constituent of mine, Mary Alessandro.

The subject, "American independence under world government" is one which has been debated for decades with good cause. The turmoil which would be created by various groups vying for power under such a world scheme, is effectively addressed in this work.

I find it extremely inspiring and refreshing to hear from young people like Mary, whose strong convictions and courageous stands shine bright amidst the negativism of our age. I am confident that our Nation's heritage and ideals will be preserved by young citizens such as Mary Alessandro.

Mary, a senior at Rolling Hills High School, placed second in the Herbert Albright Americanism Essay Contest for her succinct, well-thought-out literary piece. I was obviously very, very proud to present this award to Mary at the annual Palos Verdes Peninsula Fourth of July picnic.

Her essay, which I again request that you read, follows:

CAN AMERICAN INDEPENDENCE SURVIVE UNDER A WORLD GOVERNMENT?

American independence today flourishes under a form of government called a democracy. Democracy, by definition, is a government in which supreme power is held by the people and is used by the people. All Americans hold the belief that democracy is fair and just for the common man. A world government would have to make laws that would be applicable to all men. American independence cannot survive under a world government because the majority of Americans view democracy as the only kind of government that should exist.

Democracy is based on the belief that all men are created equal. However, since religions are different all over the world, governments of other nations adhere to many varying religious beliefs. In some nations there is a caste system in which all men are not created equal. This is in direct conflict with American independence which manifests the belief that all men should be treated equally and fairly. It is improbable that a world government could ever exist; people are not united towards a specific goal. Americans would have to share the same beliefs as those of other nations in order to have a world government.

Moreover, the United States' Constitution provides its democratic government with a special system of checks and balances. This means that no branch or faction of government could ever gain more power than another. Checks and balances would be essential to a world government, but it would be very ineffective. An example of this problem is currently happening in Iran. A militaristic government has been overthrown and replaced by a religious one. Both groups are fighting for power, and this has caused turmoil in the country. A world government would have various groups or nations vying for power, and it would soon be in a state of anarchy and utter chaos.

Choosing the leadership of a world government also creates some problems. Each country would want direct representation of its own particular views. A communistic president could never work well with a capitalistic vice-president. Both the Soviet Union and the United States would not want to be treated as equals under a world government; each wants to become the dominant nation in the world. Also, it would be almost impossible to hold a world-wide election. Language would be a problem as well as the number of votes. It would be unfair to let one nation have a number of votes equal to the population of that nation because the population of countries varies widely.

American independence could never survive under a world government. There is no unity among people because countries and lifestyles are so different. Since there is a slight correlation between religion and government, one would have to share the same beliefs as others in order to have a world government. Hopefully, American independence will never have to suffer the evils of a world government. It definitely could not exist.●

POSTSECONDARY EDUCATION

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. JEFFORDS. Mr. Speaker, today I introduced a bill which would amend title XII of the Higher Education Act. The Subcommittee on Postsecondary Education is nearing the end of the hearing process on the reauthorization of the Higher Education Act. Many good, recommendations have been made by several higher education associations, among which is the bill I introduced.

This bill, which was drafted by the Education Commission of the States, provides for better opportunities for coordination between the Federal Government and the States in the area of comprehensive planning in postsecondary education. As we enter the decade of the 1980's, we are faced with several problems that educators and legislators did not have to consider when the Higher Education Act was first written in 1965. Declining enrollments, increased costs, severe competition for limited public resources, and continuing needs for expanded access and opportunities for unserved and underserved populations make better and more comprehensive statewide planning desirable.

I introduced this bill for the purpose of discussion and anticipated that the subcommittee will consider its merits, along with the many other worthy recommendations that have already been received. Thank you.●

INFLATION BATTLEGROUND

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, last week the Labor Department interrupted the news that President Carter was trying to restore American confidence by firing his Cabinet to inform us that the inflation rate during the first half of 1979 was at a 13.2 percent annual rate.

When President Carter was elected in 1976, the annual inflation rate was under 5 percent. After 1 year, inflation had already grown to 7 percent. In 1978, it reached 9 percent. And now inflation is rising at a rate close to three times the rate when President Carter took office.

If inflation proceeds at an annual rate of 10 percent, which would require some success at controlling our present inflation rate, a dollar 5 years hence will buy only as much as 62 cents now buys.

Inflation is caused when the Government—to finance its debt—prints money faster than the Nation can produce new goods. In other words, the Government is taxing, spending, regulating, and printing money faster than Americans can produce.

Inflation is the battleground for two opposing philosophies. On one side, the no-growth, small-is-beautiful philosophy creates more inflation. This philosophy taxes and regulates products to make them more expensive. By making things more expensive, this mentality hopes to save us from our own gluttonous appetites. Advocates of this philosophy tax gas and oil to make it more expensive so we can afford only to use less. They regulate office thermostats to make sure we are not greedy. They tax away our income so we are sure to misuse our earnings. They create Government agencies to increase the cost of almost everything by imposing regulations.

All these taxes and regulations make it impossible for America to grow, or produce more at a faster rate. America no longer has the investment capital to build modern factories. Instead we get along with outdated equipment. Productivity falls. Inflation climbs. Clearly this philosophy has been winning the Government battle and causing inflation.

On the other side of the battle, a growth and progress philosophy strives to reduce inflation. This philosophy would cut taxes and regulations to allow Americans to produce more. By giving Americans capital and incentive to produce, this philosophy would permit every citizen to decide what and how much to produce and consume. Advocates of this philosophy would cut taxes and regulations on gas and oil to get the domestic wells flowing again. They would let individuals determine where to set their thermostats. They would cut taxes and let every family decide what to do with the extra income. They would get rid of Government agencies that are producing nothing but costly regulations. Productivity would soar. Inflation would disappear. This philosophy will not continue to suffer setbacks. Americans have suffered too much inflation, too much taxation, too much regulation, and too much Government. They are ready to get the economy growing again.

The President talks about curbing inflation. Yet until he stops advocating windfall profits taxes, new energy bureaucracies, and dozens of new regulations daily, he is only talking. His actions are fighting for, not against, higher inflation. I hope the President can explain to our senior citizens living on fixed incomes why their dollar will only be worth 62 cents in five years.●

DRUG ABUSE BY FEDERAL EMPLOYEES

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. RUDD. Mr. Speaker, the Metropolitan Police Department of the District of Columbia has uncovered widespread illegal drug use and trafficking by Federal employees on the job in the Nation's Capital.

This is a most disturbing situation.

It is in no way helped by U.S. drug enforcement officials who have told news reporters that such drug abuse by Federal workers "reflects the increasing acceptance and general popularity" of drugs in society at large.

Instead of rationalizing such action, U.S. officials from the President on down should be taking firm action to stop the use of any illegal drugs by Federal workers, whether they be marijuana, cocaine, or whatever.

I have today written to the Administrator of the U.S. Drug Enforcement Administration, asking for a report on the extent of illegal drug use and trafficking within Federal agencies in Washton, and what action is being taken by Federal officials in cooperation with other law enforcement agencies to stop this illegal drug activity.

I would like to include a news story about drug abuse at the U.S. Department of Labor, and my letter to the U.S. Drug Enforcement Administration, at this point in the RECORD.

[From the Washington Post, August 1, 1979]

GETTING HIGH AT LABOR: ON-THE-JOB DRUG USE IS PROBED

(By Kathy Sawyer and Alfred E. Lewis)

The Department of Labor, acting on a complaint of widespread employe drug use in its restrooms and corridors, has called in the D.C. police force to help curb trading in marijuana and cocaine.

After a rare, 2½-month investigation by an undercover policewoman posing as a typist in Labor's black lung division, five employes have been arrested and charged with selling marijuana to their fellow workers.

Two others, one a typist at Labor and one man presently unemployed, were arrested after the undercover officer bought some cocaine from them during a lunch-hour excursion to an apartment a few blocks away in Northwest Washington.

One police officer characterized the use of marijuana at Labor as "blatant." Other drug enforcement officials said the casual use of drugs on the job probably is no more widespread at Labor than at other federal agencies and reflects their increasing acceptance and general popularity.

Francis Kiley of the Labor Department inspector general's office confirmed that the agency requested the investigation after an employe complaint and said he "helped coordinate" the arrests. He declined further comment.

The undercover policewoman—who no longer is typing and filing at Labor—said she easily infiltrated the ranks of those getting stoned during the lunch hour.

"Basically, all you have to do is wear sunglasses and be able to talk their language," she said in an interview. Drug use is "a social thing, like a coffee break, only you smoke a joint instead."

The smokers, mostly young and single, often gathered around a noon-hour pipe of marijuana on the Labor Department roof or in a park across the street, according to the undercover officer referred to in police reports as "No. 244."

Then, for the rest of the day, the drug would make the workers "slow and drowsy" at their typing and filing, she said.

The sellers, not large scale operators, dealt mostly in amounts worth $10 to $30. A $10 bag will make about 10 cigarettes, police said.

Protected by civil service rules and an active union, the arrested workers have been allowed to stay at their jobs, pending trial, although two reportedly left for other reasons.

"They'll probably just get their hands slapped," said a supervisor in the black lung division, who asked not to be named. "I told them it won't affect my feelings toward them, as long as they do their jobs."

Other employees in the offices where No. 244 worked, posing as a typist, and where the arrests were made, on the first, second and fifth floors, said they were "not surprised" by the arrests. Several indicated they were much more shocked by the fact that an undercover officer was planted among them. Some just giggled.

In keeping with police department policy, the undercover officer said she avoided using any drugs herself, coming up with various excuses when invited to "get high," or "get down."

The purchases were made in restrooms or in hallways, she said, and the marijuana was usually contained in a manila envelope about the size of an open book of matches, easily concealable in the palm of a hand.

Among those lower-echelon employees, whose pay is in the $8,000 to $10,000 a year range, there was little demand for the much more costly cocaine, which sells for about $100 a gram, according to #244.

"If you wanted a large amount, you had to place your order a day in advance."

The maximum penalty the sellers could be assessed is a year in jail and a $1,000 fine, police said.

The profits from the Labor Department trade probably amounted to a few hundred dollars a month in most cases, and a few hundred a week for one seller, according to a source on the narcotics squad. Of those arrested, only one employe had a prior record. She was believed to be a sometime heroin user, selling marijuana to support her occasional craving for heroin, he said.

The investigation grew out of a complaint by a disgruntled woman employe who received an "unsatisfactory" job performance rating from her supervisor, police said. She retaliated by turning in a 14-page statement naming drug sellers around the office and complaining that many of her coworkers were stoned, yet they received "satisfactory" ratings.

The narcotics squad usually resists spending its time and money on such an investigation unless a large operation or hard drugs are involved, police sources said, but was persuaded to do so this time by an influential former District police officer now working at the Labor Department.

While a small number of high-ranking Labor Department officials, including Secretary Ray Marshall, reportedly knew of the presence of the undercover officer, her immediate supervisor, Jim Robinson of the black lung division, did not.

The officer took the civil service exam, made a score of 98, and entered as a GS3 through regular channels, she said.

"When I first started, it was a problem because my supervisor wouldn't give me any freedom. He complained constantly that I was out in the hall socializing instead of typing and filing . . . I had to go over his head to get him off my back, so I could do my real job."

How did she like government work? "Terrible," she said. "I was glad to get back on the street."

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 1, 1979.
Mr. PETER B. BENSINGER,
Administrator, Drug Enforcement Administration, U.S. Department of Justice, 1405 Eye Street, N.W., Washington, D.C.

DEAR MR. BENSINGER: I am most concerned about continuing reports concerning widespread use of illegal drugs by Federal employees.

There were reports earlier this year that officials of the White House staff routinely use marijuana, and that some have even used cocaine and other hard drugs. Now I understand that an undercover officer of the District of Columbia Metropolitan Police Department has discovered widespread drug abuse on the job by employees of the U.S. Department of Labor. This problem is apparently widespread throughout the Federal government.

It is disturbing that U.S. drug enforcement officials are quoted as minimizing the discovery of drug abuse by Federal employees on the job, by stating that such actions "reflect the increasing acceptance and general popularity" of drugs in society at large. The fact is that drug use and drug trafficking are against the law, and U.S. Government officials should never minimize that fact or try to justify drug violations.

Please inform me what your agency knows about the true extent of drug abuse by Federal employees on the job, the availability of illicit drugs within Federal buildings and on Federal property, particularly in the department and agency headquarters in Washington, and the nature and extent of the Federal Government's official action to stop illegal drug sales and use by Federal employees.

I would appreciate knowing what action is being taken by all agency heads to inform their own employees of Federal laws and policies regarding illegal drug use, to investigate and stop such activities by employees under their jurisdiction in cooperation with other law enforcement agencies, and to discharge employees who use drugs on the job or are involved in the sale or purchase of drugs on Federal property.

Your prompt response to this inquiry will be appreciated.

Sincerely,

ELDON RUDD,
Member of Congress.●

THE REAL CAUSE OF THE ENERGY CRISIS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. PAUL. Mr. Speaker, one of our country's leading free-market economists, Dr. Hans Sennholz, has recently written an excellent analysis of the energy crisis for the Freeman magazine.

Dr. Sennholz, chairman of the economics department at Grove City College, deserves to be heard on the real cause of our energy problems. I would like to call his words to my colleagues' attention:

A SYMBOL OF CHAOS: THE GAS PUMP

Until just a few years ago most people were indifferent to all questions of energy. They were as heedless of the very industry that produces heat and power as of many other industries meeting their daily needs. Surely they were aware of basic materials such as wood, coal, gas or oil burned to produce heat and kinetic energy. But the term "energy industry" was yet unknown. Even the dictionaries of economics designed to include the terms commonly used in college courses listed neither energy nor the energy industry. It was left to the 1970's to call attention to the industry and bring us the energy crisis.

In retrospect there were earlier indications of things to come. By 1970 there was a United States Department of Transportation, a Federal Power Commission, and an Atomic Energy Commission. In 1973 Congress added the Federal Energy Administration to centralize all regulatory functions relating to oil. The Energy Research and Development Administration came into existence in 1974. In October 1977, the Department of Energy brought all these governmental functions together into a single organization under the direction of a Secretary of Energy.

This observation of demonstrable facts raises a fundamental question: was the growth of government intervention in all matters of energy the cause or effect of the painful crises that developed during the 1970s? If it can be proven that government intervention brought about the dilemma in which we find ourselves today, the solution can be no other than early reduction and ultimate abolition of this harmful intervention. But if the causes are found to be elsewhere, and the growth of government was merely a reaction to a new situation, we need to search for other solutions.

SURPLUSES AND SHORTAGES

Our search for an objective answer calls to mind a basic principle of political economy that may be applicable also to energy problems: whenever unhampered enterprise provides products and services, it tends to create surpluses that clear the market only through major sales campaigns. Its advertising message to the consuming public is to buy ever more and better products. Wherever government provides products and services, it invariably creates shortages that inconvenience the public and sometimes bring economic crises. Wherever government is in charge, its advertising message is always the same: consume less, eat less, drive less, let there be austerity! This has not changed from the wheat and bread shortages of 1918 to the gasoline shortages of 1979.

Where government is in charge and shortages inconvenience the public, we can observe yet another regularity. Through intensive publicity campaigns government officials and politicians point the finger of blame at one or several culprits who are bitterly denounced for selfishly causing the shortages. In televised press conferences the President of the United States himself may make ugly charges against oil producers, or any other producers whose regulated services are in short supply. Or he may point at some foreigners, e.g., the Arabs, as the culprits who sinisterly inflicted the evil on us.

When unhampered individual enterprise generates surpluses, there are no press conferences, no headlines and no charges. The public looks at them with indifference in a mood of affluence that comes from choice and selection. The press ignores them although it prospers from the paid advertisements that seek to market the products. Radio and television thrive on advertisement campaigns that pay for the amusement and entertainment of the public.

But all such reflections may reveal mere coincidences that have no bearing on the energy crisis. Perhaps the politicians are correct in pointing at the OPEC countries for charging too much, at the oil companies for seeking ever higher profits, and at the public for consuming too much.

In that direction of deliberation lies a wide open sea of arbitrary judgments. What is "too much"? Millions of people are giving different answers to this very question throughout their busy days. They are making their choices as they are consuming oil and gas for heat, refrigeration and air conditioning, turning on electric lights, operating power tools, or driving up to the service station to tank up on gasoline. They are giving vivid answers to the question in long lines waiting to buy more fuel. We must not blithly ignore or reject their answers, nor those given by the oil companies or OPEC spokesmen.

If millions of people are said to be wrong wanting too much, is it not likely that the critic who is censuring them is judging too much? Is he proposing to change human nature by his criticism? Or, is he a would-be tyrant who is longing to impose his judgment and will on others? To explain the energy crisis in terms of value judgments or culprit condemnations is to open the gates for arbitrary judgment and political power.

IS OPEC CAUSING THE FUEL CRUNCH?

Such an explanation also leads to puzzling conclusions that seem to contradict human nature. If the Arab oil producers are causing our dilemma, why are they not accomplishing identical, or at least similar, effects on other nations? It is an established fact that they are treating their customers equally, charging identical prices and surcharges. But we know of no energy crisis other than ours. There are no reports of empty gasoline pumps in Europe, Africa, Asia, or Latin America, no empty oil tanks anywhere, except in these United States of America.

This observation is all the more startling as most of the oil we consume comes from wells within our national borders, while most foreign countries, such as Germany and Japan, lack any domestic production. And yet, they are prospering although the price of Arab oil has soared in those countries too. Surely, they too feel the pinch of rising energy costs, which reduces their productivity and income by corresponding amounts. Rising oil costs necessitate many changes in goods prices and readjustments of production patterns. But they do not breed an energy crisis that threatens to disrupt economic production and reduces standards of living severely.

Our energy crisis is all the more mysterious inasmuch as OPEC is accepting the United States dollar as its primary medium of exchange. Other buyers of Arab oil must scramble to earn dollars first before they can place oil purchase orders. But Americans can use their own currency for any quantity of Arab oil they may wish to acquire. Our monetary authorities may create any amount without cost, and thus facilitate the payment of Arabs with newly created money. That is, they can avail themselves of inflation as a tool of international finance, which partially shifts the burden of rising oil costs from the energy users to inflation victims. Thus the United States can victimize the Arabs themselves, who own large dollar balances, by exporting inflation in exchange for Arab oil.

It is obvious that such objectionable devices of international finance do not make for international peace and harmony. Since the United States was exporting inflation long before the oil producers combined to form an international oil cartel, we may understand the Arab reaction that led to OPEC. To them, joint action afforded the only way to adjust the price of oil to the ever-rising demand for oil payable in depreciating dollars. After all, there was no free and open Arab oil market on which the daily demand and supply determined the price.

UNDER GOVERNMENT MANAGEMENT AND CONTROL

The OPEC oil industry is a nationalized industry owned and managed by the member governments. They legislate every aspect of the industry from the allowable quota of production to the price of the product, and determine who may buy under what conditions, and so forth. Theirs is a political process that is very slow to adjust. When compared with the market process that facilitates adjustments from day to day, yea, minute to minute, the political process of managing an industry and marketing its products may appear irrational although its political planners are deliberate in devising their plans and adopting their policies.

In such a world of politics that seeks to manage nationalized industries, there is confusion and chaos—unless the governments as owners agree on a common plan and act jointly to restore some semblance of order. The international cartel arrangement is a natural manifestation of a world economy in in which export industries are government owned and operated. It also points up the growing danger of international conflict through world-wide socialism.

It is idle speculation to deliberate on the world market of oil if market forces were unhampered and free to determine prices. If there were no OPEC, no nationalized oil industry, and no Department of Energy regulating and fixing United States production—just unhampered markets and unrestrained competition—the energy world would be quite different. Surely, the price of oil would be much lower without the staggering costs of politics,. And there would be no energy crisis.

ARE THE OIL COMPANIES GOUGING THE PUBLIC?

To many critics, Arab behavior alone does not explain the energy crisis. They are pointing at the oil companies whose profits have been rising in recent years. Most politicians and even the President of the United States are openly denouncing the "disgraceful" and "exorbitant" profits and are demanding a tough "windfall profits" tax. Some politicians even are clamoring for a speedy expropriation and nationalization of the companies.

It is difficult to ignore this crescendo of cheap demagoguery, which, when left unanswered, may lead to most harmful and regrettable legislation. Every effort must be made to refute and explode the political propaganda and repel the politicians who are anxious to extend their influence and power. Their attacks on the profits of one industry actually are attacks on the profits of all industries and on the profit system itself. Just listen to their charges against the energy industry. You will search in vain for a difference between those charges and those leveled against the private property order by the professional socialists and communists around the world.

It is rather inconsistent and therefore most puzzling that American politicians should be the most vocal critics of an industry that has been under their careful supervision and control. After all, the Nixon price control edict of August 15, 1971, was never lifted from the energy industry. Even today the ceiling prices as set by the Department of Energy are posted on every gasoline pump in the country.

The political attacks on the very industry that, under a heavy barrage of regulations and denunciations, continues to provide us with energy remind us of some gruesome tales of human behavior during the Dark Ages. When the black death was stalking Europe, public sentiment was often aroused against those people who bravely sought to alleviate the suffering, comforting the dying and healing the sick. Thousands of aging women who survived the disaster were accused of precipitating the disease through witchcraft and were put to a cruel death. Similar forces of darkness now accuse the American oil industry, which provided the people with an abundance of cheap energy for most of this century, of creating the shortage in order to reap ever higher profits in a moment of national crisis. Surely, no person will be put to death, merely our economic order.

At the trial of the private property order the defense is pointing out that the Government of the United States is enforcing energy prices that are arbitrary and confiscatory. They are fixed below those prices free people would choose to pay if there were no mandated ceilings. That is to say, the Government is forcing energy producers to sell their products and services below their objective exchange values and thereby causes the producers to be gouged on a massive scale. If a company tires of this legislated plunder and for a moment should ignore the price edict, it is hauled into court and charged with consumer gouging. That is, the political gougers are taking the victims to court and accusing them of the very crime that is perpetrated against them. If there were justice in the court of public opinion, the charges would be promptly dismissed and the persecutors would be arrested for expropriating private property without due process.

GROUNDLESS CHARGES

The charges against the energy companies are based on the crude assumption that their profits are the evil fruits of worker exploitation and consumer gouging. Profits are the scourge of greed and egotism, which is the charge all socialists and communists are making against the private property order. A mere glance at the living and working conditions of the people in capitalistic countries vividly disproves the charges. When compared with the conditions in the socialistic countries, the American people are living in a land of milk and honey, enjoying far greater material comforts and cultural opportunities. The steady stream of refugees and immigrants to American shores is illustrating the point.

Blinded by socialistic propaganda, the critics of the profit system fail to see its inherent benefits and justice. What is a profit, after all? It is the remainder of proceeds after all factors of production have been fully compensated. Businessmen may earn it through efficient management of their resources in the service of their customers. The most efficient producer earns the highest profits, which give him the means to expand his production and render even more services. Surely, the profits thus earned benefit the people through more and better production. Similarly, the workers employed by profitable enterprises enjoy higher wages and more benefits than others less fortunate who happen to work for employers suffering losses.

Exceptionally high profits can only be reaped through the correct anticipation of changes. When a change in market conditions, e.g., in demand, supply, technology, institutional restrictions, international situations, and the like, necessitates quick readjustments in production, the most alert producer who correctly anticipates the changes and makes prompt preparations, may reap high entrepreneurial profits. His alertness and prompt action redound to the benefit of the public. In short, he who addresses himself to the most urgent needs of the public tends to earn the greatest rewards, which, as an economic principle of the market order, meets our criterion of justice. In an energy crisis, we expect the most efficient energy producer to earn the highest profits, as we would expect physicians and nurses to earn highest incomes in a public health crisis. To burn them at the stake of political demagoguery is preposterous.

IT IS SO EASY TO CREATE A SHORTAGE

The public hostility against business profits has brought chaos to the fuel pump. It has given rise to ever more government regulation, which is the root cause of the energy crisis. Politics has become hopelessly entangled in the production and distribution of energy.

In 1954 the Supreme Court set the tone by giving the Federal Power Commission control over natural gas prices in interstate commerce. These controls at first did not hamper production because they did not deviate by much from prices established by the demand and supply forces of the market. But during the 1960s, the United States Government legislated significant increases in demand and boosts in production costs. Environmental restrictions and pollution regulations that discourage the burning of coal, favoring the use of gas and low-sulfur fuel oil, mandated increases in consumption and made production much more expensive. In addition, the inflationary policies of the Government eroded the purchasing power of the dollars received by energy producers.

In 1971, President Nixon placed domestic crude oil under price control as part of his overall price-stop edict. While many other harmful controls were subsequently lifted, the price fixing of domestic oil and gas was continued. His successors continued to fix with vigor and force.

It is always much easier to prevent production and create shortages than to engage in productive activity. Every freshman economist knows how to create an energy shortage: impose rigid price ceilings, reduce the real price through monetary depreciation, legislate an increase in demand and raise the costs of supply. To make matters worse, he would impose substantially higher taxes on crude oil production, on the use of natural gas by industry and utilities, and boost the Federal gasoline tax. To intensify the pain of shortage and compound the confusion, he would entrust government officials with administering a ration coupon system that would allocate the scarce supply according to their rules of "fairness." And finally, to prolong the chaos he would create an economic incentive for hoarding the given supplies. For instance, on every first day of the month he would permit gasoline producers to raise their prices by less than they anticipate earning through storing their supplies until the controls are lifted. He would openly announce his program and pursue it for 28 months in order to assure maximum hoarding for 28 months. If it were not for the limitations of storage facilities he would cause all production to be withheld from the market.

Unfortunately, this is not just a theoretical exercise for freshman economists. This is the official policy of the United States Government, or at least the loudly touted program of the present administration. It touches 200 million Americans and threatens their way of life. It is an efficient policy in creating shortages, as our experience at the gasoline pumps so clearly demonstrates. As a policy designed to improve economic conditions it is counterproductive. The resultant chaos and damage is just as real, whether the policy is the poisonous fruit of socialistic thinking, or just a relic of the Dark Ages.●

ANNE ARUNDEL COUNTY LACROSSE ALL STARS

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mrs. HOLT. Mr. Speaker, 52 boys from Anne Arundel County, Md., have just returned from 2 weeks of lacrosse competition in England, where they distinguished themselves as representatives of our country and as athletes.

Three teams with maximum age limits of 15, 13, and 12 made the trip. They played a total of 15 games against comparable English teams without a loss. They have arrived home after compiling a record of 14 wins and one tie game.

I am proud of these Anne Arundel County lacrosse all stars and I invite the House to share my sense of pride in them. I am also grateful to the Southport Lacrosse Club of England for the splendid hospitality they showed to our team. The boys were boarded with English families near Manchester, and they will cherish memories of their friends across the sea.

The 15-year-olds were coached by Robert T. Lewald of Annapolis, Gene Reckner of Crofton, and Dr. Bill Barnett of Annapolis. Coaches of the 13-year-old team were Gilbert Bellistri of Severna Park and Mark Lehner of Annapolis. Coaching the 12-year-olds were Kevin Fidgeon of Annapolis and John Cooper of Annapolis.

The 15-year-old team included the following boys: Chip and Christopher Bullen, David Lewald, Michael Greene, Jeff Larcher, John Cox, Jim Gyory, Charles Turner, James Noble, Roger Hall, David Jones, Michael Bender, William Barnett, Daniel Bresnahan, and Donald Gayhardt, all of Annapolis; Doug Trettin, Greg Bannon, Jeff Belistri, and Doug Appleton, from Severna Park; Paul McAllister of Arnold; and Michael Brandenburg of Crofton.

The following participated with the 13-year-old team: Steven Bradford, John Hawley, Michael Budowski, Christopher Caramanico, and Jason Faust, all of Crofton; Mark Wanamaker, Michael Keough, Jeff Williams, Derek Holtman, and Douglas Smith, of Annapolis; Paul Connor and Thomas McClelland of Severna Park; and Steve Truffer and Sandy Engelke from Arnold.

Playing with the 12-year old team were: Buzz Priddy, Gregory Awalt, and Joshua Summers of Severna Park; Thomas Probst, Michael Fidgeon, Ralph Lively, Jack Cooper, John Rivers, Shawn Benner, Jeffrey Feen, Keith Fleming, and Richard Cooper, all from Annapolis; and John Hollerbach and Andy Ferguson of Arnold.●

FURTHER EVIDENCE OF THE CARTER ADMINISTRATION'S DUPLICITY ON NICARAGUA

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. RUDD. Mr. Speaker, increasing evidence is becoming known about the Carter administration's duplicity on Cuba's active role in the Marxist Sandinista takeover in Nicaragua.

Throughout the final months of President Somoza's constitutionally elected government, top U.S. officials were aware of intelligence reports and U.S. eyewitness accounts that Castro functionaries were orchestrating, arming, and directing the terrorist Sandinista assault against the Government and people of Nicaragua.

Yet knowing the role and objectives of Fidel Castro and the Soviet Union in Cuba's support of the terrorist overthrow of Nicaragua, President Carter and his administration officials actually took steps to prevent Nicaragua's National Guard from being resupplied with arms, munitions, and other supplies so that the country could be successfully defended against the Castro-supported Sandinista takeover.

Every government of the world now knows the true extent of the Carter administration's action to allow the fall of the pro-U.S. Government of Nicaragua to probable Marxist control.

Many countries may also view the President and the U.S. State Department as silent accomplices in the Sandinista overthrow of Nicaragua, which has now fueled further Castro-supported terrorism aimed at undermining other Latin American countries throughout the hemisphere.

This should be viewed by all Americans as a foreign policy scandal of major proportions.

The State Department is now shedding "crocodile tears" over the probability that a Communist tide is sweeping over Latin America, following the Sandinista victory.

But where were these officials long before the fall of the Nicaraguan Government, when they had solid evidence of Castro Cuban involvement and objectives in order to take firm action to protect U.S. interests and free governments from the threat of Communist takeover?

Congress also had adequate information about what was happening, reported independently by many of its own Members who were concerned about the administration's role in ousting President Somoza and bringing in the Castro-supported Sandinistas.

But Congress failed to call the administration properly to account for its disastrous foreign policy actions leading up to the fall of the Nicaraguan Government and the Marxist terrorism that now threatens other countries of Central America.

A report by columnists Rowland Evans and Robert Novak, detailing some of the intelligence information and U.S. eyewitness accounts that the Carter administration refused to act upon prior to the Sandinista overthrow of the Nicaraguan Government, appeared today in the Washington Post.

I include the report at this point in the RECORD:

LATIN DOMINOES

(By Rowland Evans and Robert Novak)

A few hours before President Carter declared over prime-time television July 24 that "I do not attribute at all the change in Nicaragua to Cuba," teletype wires into the Pentagon clattered out another link in the chain of evidence to the contrary.

The pilot of a U.S. Air Force C130 in Managua that day transmitted to Washington this most interesting travel note: Members of the Sandinista junta governing Nicaragua were seen piling into a Cubana Airlines plane enroute to Havana.

A few days earlier, a U.S. intelligence report teletyped into Washington reported an even more fascinating detail. A ranking official of DGI—the Cuban secret police—played a key role in masterminding the Sandinista takeover. Julian Lopez, DGI's chief of covert operations for Costa Rica, was present in the Sandinista command bunker (located over the border in Costa Rica) during the height of Nicaraguan fighting.

This buttressed a detailed CIA report of May 2 on Cuban military aid to the Sandinistas. It also fits another piece of intelligence that the Carter administration has not publicized: Command elements of a Soviet brigade have been introduced into Cuba. In addition, some 2,000 Soviet military personnel—brigade-sized, though there is no information that they are formed into an organic military unit—are in Cuba.

While intensification of Soviet-Cuban interests in the Caribbean is either ignored or overlooked by Jimmy Carter, its meaning is well understood by his own professional analysts in national security and intelligence: Central America is going red. Only the time, not the eventual outcome, is in question, unless there is a reversal of U.S. policy.

Specifically, the president's most sophisticated advisers do not doubt that, sooner or later, the Sandinista regime will be overtly communist. Present cordiality from Managua is, like Fidel Castro's smiles in 1959, an effort to shake down Uncle Sam before the true colors are shown.

Nor is there any doubt about what's next on the agenda: extension of the Soviet-Cuban thrust into El Salvador, Guatemala and Honduras over an undefined but probably protracted period. However slowly, Central American dominoes are falling.

Havana's aims were described July 20 by Ramon Sanchez, Cuba's top envoy to Washington in an exposition of chilling candor that has received too little attention. He told a breakfast sponsored by Foreign Policy magazine that Cuba will send aid "of all sorts"—including weapons—to guerrillas in El Salvador, Guatemala and Honduras just as it had in Nicaragua.

Sanchez issued no denials about Soviet military reinforcements in Cuba. Ties between Moscow and Havana, Castro's man in

Washington proclaimed, "will continue to increase in all fields, including military collaboration."

Tomas Borges, interior minister and Marxist strongman of the Nicaraguan junta, has been similarly candid. In leaflets that appeared in Honduras immediately after the Sandinista victory, Borges promised to join forces "with the revolutionary organizations of Latin America" and hailed "development of the Central American revolution." On the leaflet's first page, a photo shows Borges in Havana with Castro.

Panicky leaders in the targeted Central American countries fix U.S. visitors with one question: Will you help us? One indirect reply came from Carter July 24 when he said, "We worked as closely as we could without intervening in the internal affairs of Nicaraguans" to let them decide "what form of government they should have."

In that, Carter administration policy was decidedly interventionist against Anastasio Somoza's regime and for the Sandinistas. U.S. pressure stopped military aid for Somoza's National Guard from Israel and Guatemala. U.S. officials refused to supply weapons to the National Guard even in return for Somoza's resignation. The National Guard ultimately gave up, not for a lack of will but for a lack of arms.

The rationale for Carter's policy is the view, long cherished by revisionists, that Castro, Ho Chi Minh, Mao Tsetung and maybe even Lenin would have been fond friends of the United States had not Washington rebuffed them. The theory is now being put to the test in Nicaragua.

To a worried segment of U.S. officials, including some in senior positions, this is madness. They believe the United States should have braved the propaganda barrage from the left at home and abroad, held its nose and supported the unsavory Somoza. Nicaragua is gone, but there will be further demands for tough-mindedness in Washington as the Central American dominoes slowly fall.●

ANOTHER LITTLE-KNOWN ATOMIC ACCIDENT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. CONYERS. Mr. Speaker, with the long but little-known history of atomic accidents in this country, I offer for my colleagues' review the following excerpt from Leo Goodman's "Catalogue of Mishaps Involving Nuclear Materials":

1945 ATOMIC ACCIDENT

September 1945—Harry Dahlian, Los Alamos, N. Mex.

Source: Excerpt from ORNL–2748 Part A ("Radiation Accidents: Dosimetric Aspects of Neutron and Gamma-Ray Exposures") Page 3.

The first nuclear accident occurred at the Los Alamos Scientific Laboratory, Los Alamos, New Mexico, in August 1945. In a criticality experiment involving a metal system a nuclear excursion occurred and two people were exposed to the mixed radiation field from this assembly. Dahlian, who died following the accident, was touching the assembly when the chain reaction occurred, and so received a very high dose to his hands and a smaller dose to the bulk of his torso. He was exposed to considerable gamma radiation from fission products while dismantling the experiment and would possibly have survived had he left the room immediately. His actions during this period are not well known and the total dose received is correspondingly uncertain. Neither he nor the other person exposed was wearing a film badge at the time of the accident. Since the number of fissions which occurred in the assembly is not known accurately, the best index of his neutron exposure is the Na 24 activity induced in his blood.

Source: Excerpt from TID–5360 ("A Summary of Accidents and Incidents Involving Radiation in Atomic Energy Activities, June 1945 through December 1955") Page 2.

Description of Operation:

In the process of making critical mass studies and measurements, an employee was stacking blocks of tamper material around a mass of fissionable material.

Details of Incident:

Employee was working in the laboratory at night alone except for a guard seated 12 feet away.

As the assembly neared a critical configuration, employee was lifting one last piece of tamper material which was quite heavy. As this piece neared the set-up, the instrument indicated that fission multiplication would be produced, and as the employee moved his hand to set the block at a distance from the pile he dropped the block which landed directly on top of the set-up.

A "blue-glow" was observed and the employee proceeded to disassemble the critical material and its tamper. In doing so, he added heavily to the radiation dosage to his hands and arms.

Nature of Injuries or Loss:

Employee who performed the experiment received radiation dosage sufficient to result in injuries from which he died 24 days later.

The guard was exposed beyond the established daily limit, but suffered no observable permanent injury.●

JOHN F. KENNEDY HIGH SCHOOL MARCHING BAND AND COLOR GUARD

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. MATSUI. Mr. Speaker, today the John F. Kennedy High School Marching Band and Color Guard from Sacramento, Calif., visits our Nation's capital. We of Sacramento are proud of this group and it is my privilege to welcome the supporters and musicians as they commence their musical performance on the steps of the Capitol. They have arrived in Washington following their appearance in Canton, Ohio, at the Hall of Fame Football Game and Parade.

Each of the students participating in this trip has assumed financial responsibility for himself. With the support of parent organizations and the alumni association funds are raised to contribute to uniform and instrument needs. Their support is an effort of love and admiration. The John F. Kennedy Marching Band and Color Guard for many years has had an outstanding reputation and enjoys national recognition for its excellence.

Especially we acknowledge the significant role in the band's history of Mr. Nick Angiulo, director, and Mr. Richard Gury, business manager. Through the years they have devoted themselves to creating and sustaining the quality of the band. It is a continuous challenge, for, as in this year, they face the loss of many graduating seniors whom they have trained and assisted over 3 years.

A few of the band's many memorable performances include: Sacramento Wheel Chair Basketball Benefit at California State University; California State Fair and Exposition; San Francisco 49er's Half-Time Show; Portland Rose Festival, Portland, Oregon; Mentally Gifted Olympics Half-Time Show; San Francisco St. Patrick's Parade; Philadelphia Bicentennial Parade (190 special performances in 1976); Queen's Birthday Parade, Victoria, British Columbia.

It has been the experience of those associated with the musical organization throughout the years that the students who participate in the band are industrious also in scholarship. Many go on to college and continue to utilize their musical talent. The discipline of band performance and the qualities of character demanded by such participation are the qualities that serve the students so well in their total lives.

I salute the citizens of my community whose efforts through the years have secured the continuation of the John F. Kennedy High School Marching Band and Color Guard. To the following members of the band, I welcome you to Washington, D.C., and congratulate you for your accomplishments:

LIST OF MEMBERS

John and Marsha Ackerman, Kris and Lori Adams, Joyce Akiyama, Matt Allbee, Kayleen Allman, Todd Appleman, Karla Barrett, Mark Barrett, Ken Bauder, Marta, Richard and Robert Benson, Rich Bergdahl, Joel Bettencourt, Ellen Boothby, Kim Borcalli, Doug Boyce, Gordon Brown, Kelly Buchanan, Tami Calbo, Helena Carley, and Jenny Ceccato.

Beverly Chan, Jennifer Chan, Ken Chan, Lorraine Chew, Kasey Clark, Scott Clifford, James Colgrove, Jim Collier, Scott Cruit, Marilyn Cumming, Lisa Davis, Diane and Matthew Davis, Joey De Kellis, Patrick Duncan, Aaron Ellison, Warren Evans, Vicki Feliz, Beck and Terri Fong, Denise Fong, Linda Ford, Michael Fujii, Brian and Tim Fukuda, Janet Gaither, Jeannie Gee, Elaine Gisler, Tom Gonzales, Angela Gordon, Scott Gunderson, and Ron Hall.

Dan Harris, Susie Hasegawa, Andrew Hironaka, David Hulbert, Adriane Jackson, Marcia Jackson, Geoff Jumper, Ames Kanemoto, Debbie Kauffman, Dale Kramer, Roger Kuroda, Mitchell Lehman, Diane Lew, Susan Little, Scott and Lori Loberg, Karen Louie, Brett Lovell, Eric Mar, Wendy Matsuo, Kathy McHugh, Debra Montiero, Kathy and James Morris, Nancy Murakami, Kevin Murdock, Beth Myers, and Mike Mynsted.

Brian Nagai, Kristine Nelson, Trudi Nodohara, Cindy Nuse, Kendra Ota, Greg Owyoung, Laura Palmer, Chris Parrott, Mark Phillips, Kim Pihera, Stacey Pompei, Brian Powell, Steven Reeder, Greg and Jon Richardson, Dan Ridens, Edwin Sakauye, Carolyn Sanborn, Gary Sands, Sandy Shahbazian, Michelle Shepard, Teri Shikasho, Glenn Shintaku, Aliza Shubb, Shelly Smith, Coleen Spradley, Linda Svilich, and Karl Tademaru.

David Traversi, Lori Uyemura, Tracy Van Cleave, Julie Waterbury, Tracie Wessler, James White, Reggie White, David Whitted, Sally Wiegel, Selina and Steve Wiget, Steve Willey, Brooke Wolf, Wayne Wong, Nick Angiulo, Director, and Dick Gury, Business Manager.●

THEY GAVE A D----

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. ADDABBO. Mr. Speaker, I wish to call to the attention of my colleagues an article which appeared in a June 1979 publication of the "New York Urban Coalition" concerning a Queens community I represent.

This article illustrates the residents' deep-rooted sense of involvement to save their community. They agree there is a crisis and they are cognizant of the fact that money alone, whether it be city, State or Federal, will not answer to all the problems. The citizens responded and formed community-based organizations to deter the tide of neglect, abandonment, commercial strip deterioration and reduced city services. This article quotes from many of these community leaders and I am proud to share its contents.

The article follows:

YOU CAN CALL IT SOUTH JAMAICA, SOUTHEAST QUEENS, BAISLEY-SOUTH OZONE, OR JUST PLAIN 11434

(By Thomas Glynn)

Whatever ails Manhattan, Brooklyn, and the Bronx, it has always been thought that Queens has the cure. Forgetting about Staten Island for the moment, Queens offered what the other three lacked: a chance to see the sky, a house instead of an apartment, trees and grass in places other than parks.

As far as Queens was concerned, there was the "city," which was Manhattan, and the only reason you went there was to work. As far as the tourist to New York City was concerned there was no such place as Queens. And as far as the City Fathers were concerned, there were no concerns in Queens.

The Bronx had housing problems, Staten Island development problems, and Brooklyn just had problems; but everything was rosy in Queens. Oh sure, once in a while they got a little upset when the snow wasn't removed as fast as it might have been. But by and large, Queens was fairly quiet, and best left alone. If you had a moderate income, had to work in the "city" but didn't want to live there, couldn't afford to send your kids to private school but were concerned about their education, Queens wouldn't disappoint you. The schools were good, the streets quiet, the homes sturdy and well maintained.

As one Queens resident who moved from the Bronx said, "We were all looking for greener pastures, because we had children and we wanted a better environment to raise our children. We were impressed with the local schools and the other nice things about the area. And I was thrilled with what I saw out here, so I moved to South Jamaica in 1950."

Many of the Blacks that were moving into the area were city employees or veterans on the GI Bill. Queens was a low density community that provided them with an opportunity for homeowning. There was few problems, and little friction. As Blacks moved in, Whites moved out, helped by realtors who blockbusted (on a one-block stretch of Hillside Avenue there are at least a dozen realtors). As one resident said, "It's the subtle way it's done, as soon as they see the color of your skin, then the tradition continues."

By 1960, the Black and Puerto Rican population of South Jamaica was 78 percent of the total. By 1970, the Black population was 91 percent. It was a hard-working population of moderate-income people who found in Queens part of the American dream that had been denied them in Manhattan, Brooklyn and the Bronx. While the population of the area had increased from 25,892 to 34,749, the average persons per household decreased slightly from 3.8 to 3.7 (1960–1975). While the population of eighteen to sixty-four year olds decreased by 4 percent from 1970 to 1975, the number of those sixty-five and older increased by 28 percent from 1960 to 1975. Many of the original residents had mortgages which had been paid off by 1975. But by 1975 not enough younger Black families were moving in. Some of the elementary schools were underutilized. Young people, especially those who were career oriented, wanted to leave the area.

Problems appeared. Who was buying the homes of those who couldn't continue their mortgage payments? Or of those who moved further out on the Island? Or of those who retired and moved down South?

South Jamaica was still a stable area of well-maintained, well-kept up homes. But problem pockets too numerous to ignore began to sprout. Local residents were concerned. If these "rust spots" were left unchecked, they could spread and threaten the entire community. Moreover, community residents knew it was cheaper to correct them now, rather than later.

In the early seventies, a further complication was introduced. Redlining appeared, as it did in the rest of the city. Mortgages from banks and savings and loan institutions began to dry up, as did remodeling loans. Absentee landlords, among them real estate speculators, banks, insurance companies, or people who moved elsewhere and couldn't sell their homes, became a factor in the area. Some of them bought up houses for next to nothing, or took over defaulted mortgages, or got stuck with defaulted mortgages, or turned them over to realtors to rent out. Many charged exorbitant rents and moved in welfare tenants, doubling up occupants. Most of the housing had been built before 1940; they were largely two- and three-story wooden residences. Many of them were in need of major maintenance and repair.

Then a new phenomenon appeared—the boarded up house. Part of it was a legacy from the HUD scandals. But whatever the circumstances that caused a home to become abandoned, it had a terrible psychological effect on stable blocks. People were upset at these boarded up houses, frustrated when they couldn't do anything about it, and then just furious. These empty houses were a threat to their homes—homes that many of them had sunk their life savings into.

In 1969, the median family income was $9,702 in South Jamacia. But from 1970 to 1976, there were 30 percent more welfare cases, and the number of taxlots in arrearage four or more quarters increased 44.6 percent from 1972 to 1975.

As the city's fiscal resources slid to a new low, maintenance and repair of the neighborhood's parks, sewers, lighting, and streets went on the skids. Potholes became the feature attraction of Sutphin Boulevard. A badly needed sewer and drainage system, as recommended by the 1969 Hoberman & Wasserman South Jamaica Community Development Study for the Housing and Development Administration of New York City, was ignored. When streets flooded during heavy rains, the water hid the potholes, and the only happy people were the owners of auto repair shops. Empty lots, piled high with garbage, were ignored by the Sanitation Department, despite many complaints. But service to the area, operated by a private company, left a lot to be desired (this was confirmed by a survey of neighborhood residents). And bus service was crucial—to get to and from the subway lines, to get to supermarkets and drugstores and shopping and hospitals—none of which were in the neighborhood.

When Macy's left Jamaica Avenue, the community was shocked, but it merely highlighted the downhill slide of Jamaica Avenue as a retail shopping center. As one resident put it, "The East Indian-type shop doesn't help the area. We need drugstores, supermarkets, department stores." Another resident stated, "Jamaica Avenue is a disaster if you want to shop. Now they have nothing but discount stores selling cheap, shoddy merchandise which is overpriced because of the high insurance rates they have to pay since they get ripped off so often. Middle-class working Blacks who work in Manhattan shop in Manhattan because they want quality merchandise, merchandise that reflects the jobs they have and the positions they hold."

And where jobs are concerned, when Manhattan sneezed, Queens had a fit. As companies moved out of the city, many residents in Queens, and especially those in South Jamaica, often did not have the option of following them. This accelerated mortgage default, and resulted in vacant homes. And those who could follow the jobs and leave the area were often replaced by people without jobs.

The seventies marched through South Jamaica leaving problem pockets of abandoned homes, flooded, potholed streets, and the tattered remnants of anti-poverty corporations that had spent much of their time in power struggles and petty bickering. Recognizing the problems in the area, and recognizing that most of the area is still stable and thus the rough spots can still be saved at a relatively modest cost, the neighborhood between the Long Island Rail Road tracks and North Conduit, New York Boulevard and the Van Wyck Expressway, has just recently been designated a Neighborhood Strategy Area.

The community has substantial assets. The most obvious are the people. They are hard-working homeowners and the pride they feel is reflected in their homes. Most of the housing in the area is owner-occupied, and most of the homes are in good condition. Pride is also measured by civic spirit, and community involvement is high—reflected by a number of strong community organizations. One of these is the Better Community Civic Association. It covers a fifty-three-square block area, bounded by Linden Boulevard, the Van Wyck Expressway, Foch Boulevard, and 157th Street. Most of the homes are detached one-family bungalows in good condition. It is a neighborhood that likes to be called Baisley-South Ozone (in reality, two neighborhoods).

THE BETTER COMMUNITY CIVIC ASSOCIATION

In 1954, in the neighborhood that M. Louella Saunders had moved to, a service station on the corner of 116th Avenue and 149th Street planned to put in a car wash. Several neighbors, among them M. Saunders and Livingston Chrichlow and several others, stopped the car wash from opening, and then decided that South Jamaica needed a civic association to deal with the emerging problems of the area, and to allow newcomers to get to know one another. So, the Better Community Civic Association was formed.

After the proposed car wash had been scrubbed, the newly formed Better Community Civic Association (BCCA) began to attack some of the problems of the fifties. They went after the city to upgrade the streets and curbs, improve the street lighting and sewers, and provide better sanitation. They wrote letters and made phone calls, but sometimes neglected the necessary follow up. They met with mixed success. As they admit, "We were not as organized as we were later on." Some street lights were improved, especially with the block cleanups that BCCA helped to organize. They helped in the formation of block associations and block parties, and held an annual Miss BCCA contest (one year it was a Mr. BCCA contest) which got them publicity in the local papers. Politicians and public officials began to notice the fledgling organization. Later, when anti-poverty corporations came into being, they submitted a number of proposals, only to see them turned down. The same thing happened to the proposals they submitted to the Community Development Agency. Politics, and not the merits of their proposal, they believed, was the reason.

During this time, urban renewal came into the area and set in motion a series of events which greatly influenced the effectiveness of BCCA.

The urban renewal effort was associated with York College. The Jamaica Steering Committee set up some training programs with the college, and as Livingston Chrichlow says, "The Urban Training Studies Program at York caused a number of civic leaders in the community to sit down and look at some of the theories they should be interested in. It gave us an opportunity to get back into our communities and focus better on how to deliver the services we should be getting. I think we all would agree that these programs were somewhat of a turning point."

This took place in the late sixties. They still relied on volunteer help, as they do today), but the training programs helped to give them a sophistication about the way New York City worked that helped them in their struggles to improve the community.

After meeting in homes, the American Legion Building, and the Lemuel Haynes Congregational Church, BCCA purchased their own building on the corner of Sutphin Boulevard and 115th Drive in 1970. Buying the building was really an expression of faith by the community in BCCA. The community lent them the five thousand dollars they needed for a down payment. Two years later, it had all been paid back, with interest. (Funds to support the building came from fund raising events such as a dinner/dance which raised twenty-five hundred dollars.)

In 1968, they started Teen Action Corps, a youth program that involved youngsters in recreational and cultural activities. Despite some shaky time (volunteer supervision, BCCA admits, was a problem), very good proposals were developed around youth leadership and career development (these were turned down because the emphasis on funding from the anti-poverty corporations centered around recreation). The youngsters ran their own program, and helped BCCA with the surveys that provided the basis for some of their community action programs.

Then, in quick succession, BCCA achieved a number of significant victories.

When the franchise of the Green Bus Line came up before the Board of Estimate (Queens has private bus lines that supplement the MTA), the residents of the community had some longstanding complaints about the kind of service they were (or were not) getting. But rather than just complain, BCCA used teenagers from the Teen Action Corps and conducted a survey among bus riders. The results were announced before a surprised Board of Estimate, with the result that franchise approval, usually an automatic affair, was put aside for further study. This resulted in concessions from the bus company and improved service.

When the library was threatened with a cutback, BCCA mobilized the community to show support for the library. A plan to increase circulation succeeded so well they had to print a notice in their newsletter asking people to please return the books they had borrowed.

As crime in their neighborhood increased, they formed a civilian patrol in conjunction with the local precinct, and rode around in cars equipped with CB radios. Much of the equipment was paid for with their own money. In a conversation with the 103rd Precinct, they learned that crime statistics in their area dropped after the patrol began.

When urban renewal came to South Jamaica and the city wanted to put five skyscrapers of housing into an area that was composed of one- and two-family home, they went into action. An alternative plan was prepared, and presented. Rather than have just low-income people in the buildings, they requested that a mix of incomes be represented in the projects. Second, they said, "Don't make them all high rises. You'll destroy the character of our neighborhood." Third, they asked for shopping centers and youth recreation areas to service the people who would be brought into the area and for people already in the area. It was an intelligent, well though out response, gently blunting was could have been an aggressive intrusion into the community.

To get traffic patterns changed, BCCA went to the Traffic Department with a proposal, changed some things in discussions with officials, then went back to the community and got approval of the plan—before it went through. The Traffic Department thought so highly of their plan and approach, they used it in surrounding communities.

These incidents were typical of the way BCCA works. Take the negative and turn it into something positive. Don't just complain. Be prepared to do some of the work yourself. Build alliances. And back up your proposals with facts—statistics to document the problem and community surveys to highlight how the neighborhood feels about the problem.

Their BCCA Newsletter not only includes the latest neighborhood news, but contains articles on how the city operates and outlines the responsibilities of neighborhood people. These responsibilities they've taken to heart.

Their members are on the Board of Directors of Neighborhood Housing Services on Community Planning Board #12, and on the Community School Board. They are constantly down at Board of Estimates meetings, at the City Planning Commission, and have made several trips to Albany. Congressman Addabbo and City Councilman Archie Spinger are well aware of their presence.

They've had Summer Youth Corps Programs, presented scholarship medals, helped several youngsters go to summer camp, and with money from the Molly Parness Dress Up Your Neighborhood Contest, they helped blocks put lights up, paint trees and curbs, put out litter baskets and signs identifying block associations, and planted flowers and grass.

BCCA works basically on a committee structure, and one of their most important committees is the Urban Action Committee. The first project they tackled was a master plan for their community. Building upon the Hoberman & Wasserman Plan of 1969, they conducted a thorough study of their fifty-three-square block area and not only outlined six areas for improvement (curbs and streets, drainage, street lighting, street signs, traffic control, and vacant lots) but actually pinpointed the specific areas where these improvements were most needed. This was done in 1972, and updated in 1977. They made a movie of their neighborhood that dramatized the plan. Volunteers conducted block-by-block surveys, and the results of their findings were coordinated by Livingston Chrichlow. It would have cost the city thousands to come up with such a plan—and they were offering it to the city free. Unfortunately, while everyone applauded the plan, the city has seen fit to implement little, if any, of it. To underscore the priorities of the plan, they conducted a bus tour of the area in 1972. Another bus tour in 1977 showed that nothing had changed.

One of the problems they pointed out on the bus tour was housing. A survey they've made shows that as many as three hundred homes may be abandoned or vacated in the area bounded by Van Wyck, 111th Avenue, New York Boulevard and North Conduit Avenue (this covers a 250-block area within which is BCCA's fifty-three block area). Who owns these homes—banks, other financial institutions, real estate speculators or private individuals? They intend to find out.

They would like to set up a nonprofit neighborhood preservation unit to deal with the problem buildings in their area. Building code enforcement is high on their priority list. Plans also call for the establishment of a local development corporation for revitalizing Sutphin Boulevard, which is now composed mainly of vacant storefronts, mom and pop candy/variety stores, "after-hours" clubs, storefront churches, cleaners and a supermarket. Most shopping, by necessity, takes place outside the community.

"To do all these things," says Dorothy Washington, president of BCCA, "we need a full-time staff person to answer phones and conduct the right follow-up." And Livingston Chrichlow adds, "Our representatives must fight to get our compensatory share of the budget. We must hold them accountable."

They've come a long way with volunteer help. Just imagine the good they could accomplish with some paid staff!

THE RUSH TEMPLE A.M.E. ZION CHURCH

Who in their right mind would spend over eight hundred thousand dollars on one building on Sutphin Boulevard?

Only someone with a lot of faith—and a lot of spirit—in the community. The Rush Temple A.M.E. Zion Church.

But the story of the marvel they have wrought on Sutphin Boulevard begins in 1951 with the Reverend Eldridge Gittens. Having been overseas in the Army, educated in Washington, D.C. and New York, he moved to South Jamaica from Manhattan and felt the urge to organize a church. He went from door to door, found eleven adults and twenty children who were of like mind, and they began holding services in his living room at 155 115th Street. Later, he rented a loft behind a bar for $115 a month. In 1955, the expanding congregation needed new quarters, and they bought the Assembly of God Church on the corner of 119th and Sutphin for fifty thousand dollars. It was a big gamble for them, but they secured loans from several sources that had faith in the future of the congregation and in the area. By the early seventies, they had outgrown their present quarters. It was time to move again. But this time the church decided to do so by staying put and expanding their present church. They entered upon an ambitious remodeling program, one that would enlarge the church to almost twice its size and include a separate building at the rear for a day-care center. They included the day-care center because they had been promised city funds to operate it. Unfortunately, when the fiscal crisis hit, they were left with a beautiful day-care facility and no funds to operate. But that, as is turned out, was the least of their problems.

Halfway through the $881,000 reconstruction, the general contractor walked off the job. The bank had paid him all his money, so he simply left. Now, Rush Temple had to pay all the subcontractors. During all this time they were meeting temporarily in a vacant supermarket. Even in these temporary quarters, they continued to grow. When the construction loan was used up and the church still wasn't finished, church members rolled up their sleeves and pitched in. They worked day and night, finishing the building themselves.

Today, except for some landscaping on the outside, the remodeling is done—after five years, $881,000, and much effort on the part of church members. With over one thousand members on the church roll, and an interior that can fit eight hundred, Rush Temple A.M.E. Zion Church is a thriving, positive force in the community. Along with the Lemuel Haynes Congregational Church and the Baisley Park Neighbors, they are part of a group called the Baisley Park Coalition that will soon bring into being the 210-unit Baisley Gardens, a low-rise housing project that will vary from three to eight stories and will reserve 20 percent of its units for senior citizens, with the remainder for middle-income residents. It will be produced with a combination of public and private funds, and the Coalition will screen prospective tenants, serving as a representative of the community.

"The churches took a lot of flack from some people in the anti-poverty corporations during the years they were formed," said the Reverend Gittens, "but look around you," and he waved his hand, "and ask yourself, who's left? I don't see them. But the churches are still going strong. There's a lot of strength in the Black church."

NEIGHBORHOOD HOUSING SERVICES OF JAMAICA

As housing deterioration began to grow in South Jamaica—with homes abandoned, boarded up, neglected—people in the community got nervous. What could be done? Many in the area were first-time homeowners with no background or experience in owning or caring for a home. This was a phenomenon they were ill-prepared to deal with.

Norman Hunt, the street banker from Citibank, who was working with the community at the time, saw the problem. Through the Ford Foundation, the community had learned of a new program in Pittsburgh called Neighborhood Housing Services (NHS) that might help them. So, Norman joined with a group from South Jamaica (among them Jo Golden, Fern Hurst, John Cuff. Sherman Brown and Lois Phillips) who went down to look at the program. What they found was a neighborhood that had been turned around through an unusual coalition of neighborhood people, banks, and the city. This coalition had an impressive track record of saving a lot of housing in the area by making rehab loans, giving technical assistance, and pressing the city to enforce code violations, among other things. Most important, they had helped the community care about, and for, itself. And amazingly, they had come into being during the late sixties, at a time when violence and chaos in the cities seemed to be the norm.

There were certain parallels between the neighborhood in Pittsburgh and the one in Queens. "When we look at the Baisley Park community, we see that 67 percent of the housing stock is owner-occupied," said Norman Hunt. "Also, it's 98 percent Black, and the median income is about eighty-five hundred dollars. There are pockets of housing deterioration that we would like to isolate and correct and thus keep from spreading into surrounding communities. This way, we not only help Baisley Park, we also help St. Albans, Laurelton, and what have you."

But seeing a solution for South Jamaica in a neighborhood in Pittsburgh and being able to replicate that solution are two different things. The problem facing the community in Baisley Park was: How do we duplicate it? The answer was simple. They convinced (some say stole) the man largely responsible for the success of NHS in Pittsburgh to come to Queens. So, in 1974, Jim Cook came to South Jamaica.

"The first thing I wanted to do was to get a feel of the neighborhood," Jim said. "The intensity of New York was like being in Vietnam. I wanted to find out what were people's concerns, where do you launch your program, where are you going to get your exposure, where are you going to get your back-up support. And we had to start very soon, and show positive results right away. People in this neighborhood had been burned too often."

The Board of Directors of Neighborhood Housing Services of Jamaica (composed of several bankers, among them Norman Hunt from Citibank, Sherman Brown from Chase, and John Cuff from Immigrant Savings Bank, along with neighborhood people such as Dorothy Washington, Reverend Gittens, and Lois Phillips) had their job cut out for them. They had to steer Jim through the intricacies of how Jamaica "worked," and of city politics, and how New York City "worked." It was basically a process of education. "He'd ask the questions," Norman said, "and we'd give him the directions."

Jim knew what he had to do to make the NHS program work. NHS acts as a neighborhood catalyst, a sort of facilitator. He had to get the people in the community to commit themselves to the program, and get the banks and the foundations involved, and then bring the city along to see that it did its part. It was, and is, the bringing together of these three elements that makes the program work.

The first thing Jim decided to tackle when he came here was to establish credibility. "I wanted to rehab one of the worst houses I'd seen in the area." He learned in his street conversations how disappointed people had been with the "war on poverty." "There was just controversy after controversy, and anything that looked like a storefront operation was looked down upon." A lot of money had come into the area, and disappeared, without doing much.

He found the house he was looking for. It was a little house, sitting on a corner, that probably should have been torn down. NHS rehabed it, moved their office in, and started to work. "It created a real stir in the community, people would walk down and see this house and say, 'Where'd that come from?' and then, 'Oh, I'd love to have that.' Very few people in this neighborhood knew about the nomenclature of their houses. They'd say, 'I wish my walls were like that, I wish my floors were like that,' and these were the things we wanted to help them with." People came in off the streets and Jim began to get a good idea of what the community wanted. And, his office was the best demonstration of what they could have.

As people dropped in, they often became clients, and asked for a rehab loan or technical advice. Jim began developing an idea of what people in the neighborhood wanted, and what they needed. The two weren't always the same. It was difficult to tell people who wanted facade improvements on their house that they may need rewiring or replumbing. That was something they couldn't see. Many were first-time homeowners who had to learn what it meant to take care of a house.

Of course, along with rehab work to be done, there was a need for someone to do it. This meant jobs. It's a long term goal of NHS to build up local economic development, so whenever possible, they would bid jobs to local craftsmen. "You find a lot of craftsmen here, I mean good craftsmen, who never got a five thousand dollar job," he said, "but they're getting it now, and they're from the community."

NHS's office was on a block with many absentee landlords who were pulling the block down. There was no code enforcement. Instead of fixing up, the landlords were waiting to see how much more they could sell their houses for now that NHS was in the picture. In looking for a way to halt that attitude, Jim decided to focus on blocks that were relatively stable, with a majority of owner residents.

He talked to residents on 121st Avenue and they were all troubled by the same abandoned house—160–16. NHS bought it, put in twenty-four thousand dollars to renovate it, and moved in. It was like a signal. Sixty thousand dollars worth of home improvements appeared, as if by command, on the block.

"You always look for the positive spin-off effect your work is going to have on the rest of the block . . . the next door neighbor fixing gutters and leaders, someone deciding to put in a new stoop, someone else painting the outside of their house or putting on a new roof."

In order to stretch their budget, NHS altered the way they worked. They would no longer do everything that was needed in a house. Along with this change (instilling a new sense of responsibility on the part of homeowners) there was now a need for maintenance classes. "We got a call from a little old lady who said a new boiler we put in wasn't working," Jim said. "We went out and checked the furnace and found that all she had to do was turn up the thermostat." So, they went to their Board and told them there was another component that went along with rehabilitation—home maintenance courses—educating the homeowner to care for his home. Now, they teach basic carpentry, plumbing, wiring and several other things in a twelve-week course. This allows the homeowner to deal with minor repairs, and to be knowledgeable if a contractor has to be called in. Queens, and especially areas where the unknowing first-time homeowner lives, is prey to unscrupulous contractors—who all seem to live out on Long Island. (Their signs are plastered all over Queens.) Now, when NHS puts up sheetrock, they tape and spackle but frequently don't paint. If the owner complains, NHS tells them, "We'll teach you how to paint."

Harvey Hodge is the construction specialist with NHS. It is his job to estimate what a rehab will cost. He listens to what the client wants, usually pares it down, sees what must be done in terms of basics, estimates what the total price of the job should be and puts it out to bid. "People make requests for improvements on their home, and frequently they have no knowledge as to what they really need. Often they can get what they want for much less than what a contractor quotes them. It's a big job combating the shady contractors. Education is essential in turning a neighborhood around."

The maintenance program has been in operation for about three years, and though emphasis is on the NHS boundary area, interest is great from the surrounding areas. Curriculum guidelines for the course were established by York College, and enrollees are taught the basics of how their house works: the heating system, the boiler, plumbing, electricity, etc.

"All our activities are geared around stabilization," Jim said, "and it just doesn't happen through brick and mortar alone. The whole point is, why did it fall into disrepair, and how do you keep it in repair?" NHS feels that they are giving people in the area a whole new sense of awareness, a feeling that there is a resource they can call on, and that if NHS can't loan them the money for renovation, at least they can advise them on what they need for their own house—including the best and cheapest way to go about getting it.

"We've made a lot of mistakes," Jim said, "but we are slowly turning things around. People are calling us. It seems they think that we are going to be responsible for bringing back all of southeast Queens. But that's a little too much for us to chew."

Currently, NHS is starting up a vacant homes program. Since one vacant home on a block can sometimes tip that block, if they can acquire it, rehab it, and sell it, then a block in danger of tipping can remain stable.

But finding out who owns the house, and what is a fair market price can take time.

While the vacant homes program will take care of that house in the good area that requires attention, another component of the program will address itself to the house in the blighted area that may require gut rehab. This is called SHIP—Small Home Improvement Program. These homes, even if acquired for two to three thousand dollars need at least twenty-five thousand dollars worth of rehab to bring them back. But they'll never bring on the open market what it costs to bring them back. Who will make up the difference?

NHS hopes the city will. They've just been approached by the city to manage a SHIP program to bring back houses that, theoretically, should have been leveled. It may take as much as thirty thousand dollars per house to complete the job—from acquisition to turnkey rehab—and the market value of the house may still be only twenty thousand dollars or so. Someone has to make up the difference. If the city does, they could put someone in a virtually new house for about ten thousand dollars—someone who's going to pay taxes on that house and return it to the tax rolls, someone who is going to take care of that house, relieve the city of that responsibility, and contribute towards the betterment of the block. Anyway you look at it, it's a bargain for the city.

NHS hopes to rehab as many as four or five houses on a block under this program, and has already built up an inventory of people who are interested in homes.

"But you've got to be systematic," Harvey Hodge says. "You start with a survey, then go into feasibility selection, acquisition, estimating, evaluating and appraisal, reinsurance and construction, financing and marketing, screening applicants, getting them into the house and then reeducating them, making sure a full NHS program is available to them to guarantee the success."

"Harvey hit on a beautiful point," Jim added. "Each and every one of the homeowners we've gotten ourselves involved in—with a major rehabilitation or other technical service—we stick with them. We are a member of this community. We provide follow-up service. You have somewhere to go, someone to call, somebody that's going to be concerned. You know, we're starting a tool library, and next year, we're going to have Phone-An-Expert."

Currently, NHS offers counseling, community organization, loan programs (the high-risk loan fund is contributed to by the Neighborhood Reinvestment Corporation, the Taconic Foundation, the Rockefeller Foundation, the Astor Foundation, the Klingenstein Foundation and the New York Community Trust; operating expenses are contributed to by the banks—Chase Manhattan, Citibank, Bankers Trust, the New York Savings Banks Association, Manufacturers Hanover Trust, and the New York Life Insurance Company), technical assistance for construction, contract referral, maintenance training, and vacant home acquisition and resale. About 40 percent of their time and the backbone of their service is their loan program. As a financial resource they have money to lend, but only lend it if the applicant exhausts all local resources. At times, they can push someone to a bank, and indeed, 50 percent of their clients eventually get their loans through banks. Those who can't are subject to a financial survey to set up a realistic payback schedule. The NHS loan committee is made up of two bankers and three community residents. If the loan is approved, NHS makes a survey of the house and ascertains what work is necessary and what it will cost to do it. They act as the general contractor, and keep 10 percent of the money until the job is done to their satisfaction. NHS can be seen as a sort of combination bank and general contractor—except that they are willing to take risks that most banks won't, and their general contracting goals are not profits but a good job efficiently done, and the positive spin-off they can have on a block.

Since they started four years ago, they have been responsible for rehabing about 150 homes, ranging in size from several hundred dollars to a construction loan for a brand new house.

Have they succeeded in turning the neighborhood around?

A cursory inspection of the Baisley Park area still shows vacant homes (the problem seems to be more acute on the South Ozone side of Baisley Park where there are more absentee landlords). And the rate of increase is not comforting. But if it weren't for NHS, the community would now be in need of intensive care—and while Baisley Park isn't back where it should be, the momentum is in the right direction.

More money would certainly help NHS expand and accelerate their program. But money alone isn't the answer. The success of the program requires the involvement of the community, and the cooperation of the city.

Unfortunately, of the eighty-five NHS programs operating throughout the country, the program in New York City is the only one that does not have the solid backing of the municipal government. But maybe that will change now that this neighborhood has been included as part of the Neighborhood Strategy Area.

BAISLEY PARK NEIGHBORS (BPN)

Lois Phillips, a board member of the Neighborhood Housing Services and one of the people responsible for bringing it to South Jamaica, remembers how the Baisley Park Neighbors was formed. A crime wave had hit the area. People's homes were being robbed, and angered community residents got together, went out, and got five thousand signatures to petition the city to do something. "Something really wasn't quite right with the police at the time," says Lois Phillips, director of the Baisley Park Neighbors, "but they did bring vans in at 119th Avenue and start to arrest the loiterers on the corner." Of course, they were released soon after, but the message was loud and clear.

That was in 1966. The newly formed group realized they would soon have to deal with other issues. They petitioned the city for improved streets, curbs, and sidewalk repairs. "The petitions from the community gave us more leeway in dealing with the commissioner," said Lois Phillips, "because they came to us to find out our needs. And we met with them constantly, and they began to do a number of things."

In 1969, an anti-poverty corporation, the Jamaica Community Corporation, funded them for the first time. They became a housing agent and started dealing with social and tenant problems. And the more they dealt with tenant problems, the more they saw that landlords also had problems. Through surveys, they found that many home improvements were needed. Urban renewal was then coming to Jamaica, and they tried, without luck, to get a 312 program for the area.

The Baisley Park Neighbors is a certified HUD counselor, and the bulk of the cases they deal with are people who are in the process of losing their homes. It is a painful process to watch. As jobs leave New York, the people whose jobs left are stuck with mortgage payments they can't make. Sometimes, they can pick up other jobs, but often, these are not comparable to what they had before.

Since most of their clients are behind on mortgage payments, the first thing that BPN does for them is a budget analysis. Then, they call the bank and try to work out some type of arrangement. Frequently, banks sell the mortgage to mortgage companies. When that happens, even if someone is two months behind and scrapes up a month's payment, the mortgage company will not accept it. Mortgage companies rarely have a commitment to keep the owner in the house. "If the bank is still involved," Lois said, "we work with the bank and make out a payment schedule which will give the client a chance to catch up." If they see that it is a real hardship case, they request the bank to send out a "number 3 letter"—the final letter the banks sends out—and the bank also sends them an application stating that they feel they can no longer carry the mortgage. The form asks for a HUD takeover of the mortgage.

HUD works out a reduced payment schedule or tacks on the arrears at the end of the mortgage contract.

BPN tries to do this before foreclosure proceedings have begun to take place and substantial legal fees have been generated. Often an owner can catch up on missed mortgage payments, but the added expense of legal fees makes the incurred debt too great. Lois also finds that help from welfare takes too long, with too much redtape, so that by the time welfare acts, the delay has generated too much additional expense in legal fees. In some cases, homes could be saved if it was the mortgage alone that had to be made up.

In addition to assisting in housing problems, ranging from helping to prevent foreclosure, to eviction assistance, relocation, mortgage counseling, and senior citizen counseling, they offer technical assistance to block associations, and youth programs that include high school equivalency programs and special summer trips.

BPN is funded, in a spartan fashion, by the Community Development Agency. The five staff members are paid marginal salaries, but there is little money for travel, consumable supplies or telephones.

In addition to joining with other groups to get Neighborhood Housing Services in Jamaica, Baisley Park Neighbors, is a co-sponsor, along with two other groups, of a housing project—Baisley Garden—that will provide 210 units of Section 8 housing.

AREA-1 CIVIC FEDERATION

Fighting among community groups before the local community planning board can be disasterous. How can the planning board make recommendations to the city when the community can't even decide what it wants?

With this in mind, Area 1 of Community Board No. 12 in Queens (there are five areas in No. 12) decided to get together and take care of all their dirty laundry in private, so they could present a united front before the community board. The 250-block area—Van Wyck to North Conduit to New York Boulevard to 111th Avenue—is comprised of 130 different civic groups, not all of whom are members of the Federation.

This year, they went before the Board as a single body and recommended five projects, all of which had been incorporated in the master plan for the area for several years: (1) South Jamaica street and drainage improvements; (2) the commercial revitalization of Rockaway Boulevard, Sutphin Boulevard and New York Boulevard; (3) the rehabilitation of Baisley Park and Lake and the construction of Baisley Park Extension; (4) institution of the Neighborhood Preservation Program to rehabilitate over three hundred deteriorated and abandoned houses; and, (5) the acquisition of a site for the construction of a community multi-service center.

SOUTHERN QUEENS PARK ASSOCIATION (SQPA)

Imagine fifty-five acres of grass, shrubs, trees, sports fields, a lake, and an energy park in the middle of an area of Queens threatened by blight. A utopian vision? A mistake? Or the chance to revitalize a neighborhood, a community, and perhaps an area the size of two community planning boards.

The Southern Queens Parks Association believes it is the latter—if, certain key elements can be put together.

In 1973, St. Albans Naval Hospital, a 119.4-acre complex, was phased out. The Veterans Administration retained sixty-six acres, including the major hospital facilities, and the excess property, 53.4 acres, was declared surplus by the GSA. In 1977, the federal government transferred the excess land to a reluctant New York City, which was having trouble taking care of its own parks. Subsequently, a number of organizations in the area got together and formed the Southern Queens Park Association to develop and oversee the property.

It was a unique opportunity for the city, for Queens, and for South Jamaica. Nowhere else could a parcel of such a size be assembled in New York City with such ease . . . and for an area that was in desperate need of health and recreation facilities. With four hundred thousand dollars in Community Development IV funds to repair an existing building for recreation, two hundred thousand dollars from the New York City Youth Board for youth programs, and twenty-eight thousand dollars from the New York State Division of Youth for work demonstration program in which ten kids aged sixteen to twenty are paid three dollars an hour to rehabilitate some brick housing on the site, SQPA is on its way towards creating an exciting catalyst for the surrounding community. The thrust of SQPA's proposal centers around recreation, with facilities for basketball, baseball, football, jogging, biking, ping-pong, swimming, soccer, tennis, and track and field events. "The most pressing need is for funds to repair Building 82," said Solomon Goodrich, executive director of SQPA. "The prospect for funds looks good. By 1980, we hope to have the outdoor playgrounds resurfaced and begin working on Building 82. We will probably move our offices there. By 1981, we hope to occupy Building 82. By 1983, we hope to have the energy park and the health/sports complex in place."

It's an ambitious plan, and a rare opportunity for the area and for New York City. If everybody does his part, it will not only serve as an inspiration to help revitalize Jamaica, it will serve as a buffer to prevent blight from spreading from Jamaica to St. Albans. But at this point, the plan requires additional funds, and a commitment on the part of New York City to fulfill certain obligations toward caring for this unique park.

THE FUTURE

The problems in South Jamaica are both smaller and larger than in other areas of the city. Smaller in the sense that single family rehab is easier than rehabing multiple dwellings. Larger in the sense that the cost for the drainage and sewer system needed for the area is estimated at $500 million. So far, the city has been lucky. The people in the area are concerned, aroused, informed, and willing to work. The civic associations are strong. And Neighborhood Housing Services is one of the best things that ever happened to Queens. But now, it's the city's turn to do something. As one neighborhood resident says, "No longer can they ignore the filthy vacant lots, the potholed streets, and weed-clogged Baisley Pond. Now, they've got to provide back-up service to Neighborhood Housing Services, and to the community. For too long, the community has been crying for help—and the city has done everything it can to ignore them. This neighborhood could have a domino effect in Queens—and the city ignores South Jamaica at its peril."

It's cheaper to save a still stable and viable community like South Jamaica now, instead of waiting until the problem pockets get worse and more expensive to save later on. And New York City cannot afford to lose any working-class neighborhoods.●

WAGE-PRICE CONTROLS—OR BUST

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. WEISS. Mr. Speaker, the inflation crisis continues to undermine our economy and to impose severe hardships on millions of Americans.

The current annual rate of increase in the cost of living is 13.2 percent, a level not reached since the end of World War II. Clearly, Congress must address this critical situation immediately and in an effective manner.

Giving the President authority to establish mandatory wage and price controls is now the only course of action that can stop the inflationary spiral before it stops our economy. I would like to commend to the attention of my colleagues an article appearing in the July 22 Fort Lauderdale News and Sun Sentinel written by our distinguished colleague from Florida, Congressman Edward J. Stack.

Mr. Stack presents his own historical perspective and analysis of how the Nation reached the terrible straits in which we now find ourselves. While one may have differing perspectives, I find his solution to our economic ills to be unassailable. The text of the article follows:

Why Mandatory Wage-Price Controls?

(By Edward J. Stack)

Before I answer my question, allow me to portray, in broad outline, the background which has created the present double-diget inflation. The current inflationary trend stems from the decision of President Johnson to continue his Great Society programs and to finance the war in Viet Nam without a tax increase. This Guns and Butter policy started the inflationary spiral—which continued under President Nixon, until, for a short time, he imposed mandatory controls which worked well during their imposition, but which, in the long run, failed because they were removed too soon and too precipitiously. In addition, the problem of inflation has been compounded, more recently, by the oil embargo, world wide crop failures, devaluation of the dollar resulting from our continued and massive negative foreign trade balance, and, of course, the current energy crisis.

Two years ago last April, President Carter stated that the energy crisis constituted "the moral equivalent of war". His appraisal was, in fact, an understatement. The country is literally at war—not as yet a shooting war, but an economic war. The weapons are not missiles and tanks, but oil rigs and oil drums. The Fifth Column is our national refusal to come to grips with our dependence on imported oil. The OPEC nations have brought us to our knees—we have already lost control over foreign policy decisions. When the Congress voted three weeks ago not to lift sanctions against Rhodesia, it was very clear that the recommendation of the House International Relations Committee, which the House adopted, was to continue sanctions in order not to offend Nigeria which supplies the United States with about 10% of our imported oil. An even more blatant attempt to dictate American foreign policy was the statement by Sheik Ahmed Zaki Yamani, the Saudi-Arabian oil minister, that unless the United States pressured Israel to agree to a Palestinian State on the West Bank, we had better be prepared to "face the consequences", which, he suggested, would be OPEC oil at $50 a barrel. This, in turn, he said, would precipitate an economic depression which would make that of the 1930 period pale by comparison into insignificance. He added that he would not be at all surprised if the frustrated Palestinians did not sink one or two super tankers in the Strait of Hormuz, between the Persian Gulf and the Gulf of Oman, which would cut off the 20 million barrels of oil which daily transit the Strait. That statement virtually invites the terrorists to take this action.

Have a happy Fourth of July in 1980 folks, but don't forget to fly your OPEC flag.

If anyone does not believe this country is facing its most critical economic crisis since the War Between the States, let me dissuade him.

The current rate of inflation, annualized, is about 13%. Since the first of the year, oil prices have increased by 60%. This will increase the rate of inflation annually by 2%, more or less. Additionally, we are heading into a recession. The economic pundits are predicting that in 1980, unemployment will increase to 7 or 8%. This will trigger increased unemployment insurance payments, reduction of income tax collections and other tax receipts. Discussion is already rampant in Congress to cut taxes, especially from the Republican side of the aisle. Other countercyclical programs will be put into place to check unemployment. In consequence government budget deficits will increase and the Federal Reserve System will increase the money supply. The net result will be that we will pour additional fuel on the fire of inflation by discarding responsible fiscal and monetary policy. The concept of a balanced budget will go out the window. Inflation will escalate at an unprecedented rate.

The only sensible course of action to reverse the process, I suggest, is to impose mandatory wage-price controls.

Mandatory controls will have two immediate consequences:

1. They will buy us the time we need, as a nation, to achieve energy independence. In his speech on Sunday, July 15th, the President talked in terms of achieving energy independence by 1990—what, may I ask, do we do in the interim to check inflation? If the current rate continues until 1990, our energy independence will come too late—every savings account, government bond, insurance policy, long-term mortgage and other fixed dollar investments, will be virtually worthless.

2. Controls will have a psychological impact, which may shake the American public out of its lethargic state and make people aware of the seriousness of the situation.

Americans must understand that our national independence—our national survival—is at stake.

The imposition of mandatory controls would prove to the public that somebody is minding the store in Washington, that someone is in charge. Confidence in the ability of government would be restored.

Admittedly, no one likes price controls—but if, indeed, as Mr. Carter restated on July 15th, we are at war, we have no choice. Price controls can work. They did work in World War II, Korea, and during the Nixon Administration.

There are two basic conditions which must accompany the imposition of mandatory controls to avoid the creation of a large bureaucracy and to make controls effective:

1. Control prices only in basic industry,

the 1000 or so corporations in the United States which do 60% of the nation's business. By controlling the prices and wages of steel companies and other corporations in heavy industry: autos, chemicals, electronics, insurance, banks, as well as the large labor unions, will avoid the necessity of imposing price controls in small business.

For example, General Motors gross annual business is about $70 billion. The company employs over 500,000 people. It has many small companies from which it buys components. Prices & wages in these small companies need not be controlled. Control of the major industry will have a trickle down effect on the smaller companies.

2. To work successfully, mandatory controls must be of long duration. Certainly, at the present, they should be retained until we have achieved energy independence. When controls are removed, the process must be gradual and tied to constant dollar increases in productivity. If prices tend to rise above that level, controls should be reinstated.

This is no time for half-way measures. What is needed is the bold type of action which was taken during the first 100 days of F.D.R.'s administration—mandatory controls may cause a measure of pain, but the alternative is the death of our economic system.●

ROBERTA WEINTRAUB ON SCHOOL BUSING

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. DORNAN. Mr. Speaker, Roberta Weintraub is a representative of parents all over the United States who are struggling to reclaim their rights as parents. She recently won an overwhelming victory with her election to the Los Angeles City School Board. Her win was a triumph for all people who are victims of a social scheme profoundly affecting the lives of America's children and parents: Forced busing.

Mrs. Weintraub successfully led a campaign to recall a school board member who, once elected, performed an about-face from his anti-busing campaign stance. She endured the usual lies and slurs directed at people who oppose the time-consuming counterproductive transportation of schoolchildren great distances to achieve racial quotas in the classroom. Fortunately, the people of her district would not accept lies. Mrs. Weintraub won convincingly.

Mr. Speaker, in light of this body's vote last week on Mr. Ron Mottl's resolution, I would like to direct your attention, and the attention of my colleagues, to an article from the Los Angeles Herald Examiner by one of southern California's most popular columnists, the best selling author Ben Stein. Mr. Stein recently met Mrs. Weintraub before the taping of former Mayor Sam Yorty's weekly television show. He came away impressed. His reaction is shared by all who have encountered or worked with her. School board members recently elected Mrs. Weintraub their new president. I only wish that my colleagues on the floor could have the chance to meet with this dynamic and super-informed new leader in education. In lieu of this, I present Mr. Stein's article:

Busing Underdog Wouldn't Play Dead

(By Ben Stein)

A few days ago, while I was sitting in a windowless room at a TV studio, in walked a tall woman with a halo of frizzy red hair and a big, innocent smile.

"I want you to meet the woman of the hour," said former Mayor Sam Yorty. Since I had never seen the woman before, I had no idea who she was until everyone started to call her Roberta and ask her questions about busing. Then I figured out the woman was Roberta Weintraub, our new school board member, and an amazing person.

I spent a long time talking with Roberta Weintraub, and I came away with a feeling of elation. Roberta is a housewife from an obscure part of the San Fernando Valley who has never held elective public office, whose means, while comfortable, are not enormous, who has no national or local political ties of any significance, who carries an ideological message which made her own mother embarrassed. She took on the massive liberal establishment of Los Angeles and in the life-or-death struggle for the future of Los Angeles schools, she won.

Roberta Weintraub first emerged on the scene as a champion of the right—a simple, little right—of children not to be kidnapped by the state and taken away from their homes to schools far away because of the whims of an ignorant and militant judiciary. She was a leading organizer of people of every race and religion who wanted to be allowed to keep their children in their neighborhood schools. When former school board president Howard Miller engineered a program to destroy the public schools of Los Angeles by forced busing last fall, Roberta Weintraub was always at every meeting and rally, full of facts and figures on just how poorly busing worked and how deadly an effect it would have on an already seriously ill school system.

When Howard Miller lied time after time about the true significance of busing, about white flight, about empty buses, about bus accidents on the streets of Los Angeles, Roberta Weintraub began her campaign to recall him from office and to replace him with herself.

In the course of that campaign, Roberta Weintraub was shunned by many of her longtime friends. Her son was publicly taunted by a teacher during religious training. The rabbi of her synagogue repeatedly criticized her from the pulpit.

Roberta Weintraub walked and drove all over the city to campaign for a school system which would provide parents with the same rights to guide their children's lives that would have been taken for granted a generation ago, but which are relentlessly being taken away today.

Roberta Wintraub relied for her campaign on the efforts of volunteers and the contributions of hundreds of the ordinary citizens of Los Angeles. She ran a perfectly straightforward campaign on a shoestring budget—which ran her and her family deeply into debt.

She faced Howard Miller, who had the backing of the well-heeled, politically active Hollywood community. Miller received more in contributions from two wealthy show business types than Roberta spent in her entire campaign, from all sources.

But as we all know, Roberta Weintraub won, and won big.

The victory of Roberta Weintraub is extremely similar to the victory last year of Proposition 13. In both cases, the established power centers of society fought bitterly against the will of the people. In both cases, the electorate was thoroughly outraged by the examples of a wasteful and overbearing government. And in both cases, untrue smear campaigns were waged against the representatives of the ordinary citizen in the condescending belief that the ordinary California or Los Angeles voter is too stupid to see through obvious lies.

Roberta Weintraub wants to have a school system in which children get good educations, regardless of race. She wants a society where parents—not the state—control a child's life. She does not want race to be a factor at all in deciding who goes to what school. She does not want children's lives wasted by being on buses all day. She does not want children to be in a state of constant terror from violence by their totally undisciplined classmates and outsiders.

When I think that there are leaders emerging from the people who have the sense and the courage of Roberta Weintraub, it gives me hope for the future.●

A NEW DIRECTION FOR GOVERNMENT

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. VANDER JAGT. Mr. Speaker, this morning's Washington Post contained a very interestsing commentary on the direction of this Nation. The eight concerned citizen who apparently paid for this one-page advertisement have sent President Carter an extremely well reasoned message on steps that should be taken to get this country progressing once again through efforts to get Government, industry, and labor working together.

President Carter's recent effort at Camp David to bring together some of the principal forces in America was a first step in the right direction, but he just did not go far enough. Building a consensus on the Nation's energy policy should be of the highest priority, but we are unfortunately still hearing rhetorical attacks on the country's largest energy producers coming from the White House instead of more effective proposals for cooperation.

Mr. Speaker, during the first week in March I called for the President to convene a high-level energy summit conference to bring together all the major interests and policymakers to develop a consensus on a realistic energy program. I called on the President to bring together the key congressional leaders from both parties, energy industry representatives, consumer group representatives, Government officials, and other important opinion makers. This was not done.

The President missed a golden opportunity at Camp David to have more than a self-examination and public relations exercise. The public's reaction to the President's nationwide address indicates that the American people are ready for a realistic plan for dealing with the Nation's problems of energy and inflation and are ready to be led. However, the confusion and warmed-over rhetoric which followed the Camp David exercise signals that President Carter is really not leading this Nation on a new direction. I want to share with my colleagues in the House the commentary which was printed in today's Washington Post and provides a meaningful outline of the kind of philosophy we need in the Federal Government:

[Advertisement from the Washington Post, Aug. 1, 1979]

A STATE OF THE UNION MESSAGE TO THE PRESIDENT

President JIMMY CARTER,
White House,
Washington, D.C.

DEAR MR. PRESIDENT: We know that you appreciate citizen input. Responding to the spirit of Pittsburgh and Martinburg, this letter is our means of communicating with you regarding a subject of deep mutual concern—the future of our country. We believe your faith has set your priorities and purposes for life in the correct order, which equips you to give our country the truly unselfish leadership it needs.

HOW DOES ONE LEAD?

Besides natural aptitudes, all great leaders have a compelling vision or goal that possessed them. Some examples are:

Socrates: The immortality of the soul.
Napoleon: The domination of Europe.
Lincoln: The preservation of the Union.
Jesus Christ: The Kingdom of God.

Mr. President, your past statements indicate you have a vision and goal of a "Strengthened and Revitalized America," both spiritually and materially. Your vision and goal are shared by us. Materially, it translates into an inflationless economy, competitive with all other nations. Please hear us on that one subject.

NATIONAL GOALS

Our people feel we must regain leadership in exports of manufactured products—steel—TV sets—automobiles. It is a little embarrassing and quite damaging that we are importing so many foreign goods because our products are not competitive here at home. Continuation of this trend will increase inflation, destroy the dollar, and assure us a position as a second-rate nation.

We must rebuild our industrial base. For years now we have spent billions on environmental considerations. The pendulum has swung entirely too far. We can't afford to continue to divert so much of our assets to non-productive facilities. Investment in modern production facilities must be encouraged with a more balanced approach to environmental regulations. How do we revitalize and make competitive our basic industries? It starts with your leadership and the cooperation of the Congress. It starts with a New Direction For Government and its policies toward business and industry.

A NEW DIRECTION FOR GOVERNMENT

You have called for our people to work with you to help solve our problems. Our people in universities, labor, and industry have everything we need to solve our problems—if we add a "cooperative" government. The day is past for government and industry to remain adversaries. National policies must be developed (with the Congress) that will set goals of revitalizing our basic industries—not because we favor anyone, but because it is vital to our nation. Antagonism must give way to cooperation because it is in the enlightened self-interest of our country.

Past is prologue. The present approach to the oil companies reminds us of another President who made a scapegoat of the steel industry. We now are reaping the benefits of that type approach and attiude. Steel is basic. We can and should be producing this commodity for less than our foreign competition. We believe we are second-rate in steel because other governments have set a national policy of working with their steel industries to encourage modern up-to-date steel mills.

We suggest that you seek agreement with Congress that we should have a government policy of strengthening that industry. Then call together the producers—both industrial leaders and labor leaders—and discuss with them what it takes in governmental cooperation to make our nation No. 1 in steel again. Then ask the Congress for the legislation. We could then export steel again, and our whole country would benefit.

ENERGY—INCENTIVES VS. DISINCENTIVES

What happened years ago to steel we feel developing again in energy. Mr. President, the oil companies are not any more greedy than the independent truckers or the gasoline station owners or most of the rest of us. Castigating them, and punitively taxing them is a "disincentive." We need "incentives" rather than disincentives. These are the people who can best do what we need done—produce energy.

The government isn't going to produce any energy. Based on past history, we can expect only more bureaucracy and higher taxes, and probably larger deficits to pay for it. Can't we call together leaders of the oil industry, labor leaders, and our appropriate university people, and ask them how we can solve our energy problems? Our country does have tremendous energy resources. It is our people and not our government that have made our nation great and can solve this problem, too. A clearly developed governmental policy that cooperates with industry to develop additional energy out of its earnings without additional bureaucracy or government spending would be in the public interest. With the cooperation of Congress, you can make this a matter of governmental policy which serves to hold in check big government to the benefit of all of us.

INFLATION

The American people are being universally hurt by inflation. We are getting wiser about the causes. Most people don't really believe that OPEC, oil companies, or wasteful citizens are really the main causes of our troubles. (Japan imports 97% of its oil needs.) We really think the root cause of our inflation problem is the Federal Government and its:

1. Deficit spending,
2. Excessive monetary growth,
3. Cost of bureaucratic rules and regulations.

We strongly support your commitment to control inflation, and urge you to stand steadfast concerning the above three items, or else we lose by default your vision of a Strengthened and Revitalized America.

GREAT EXPECTATIONS

We have a tendency to raise the expectations of people falsely. We suspect that this is because we are running the biggest business (United States Government) in the world like amateurs, and we do not really know what the future expectations can and should be. For instance, do we have a five-year budget of expected income and expenses? Even medium-sized companies have one. If so, what does it indicate? What can we really afford? Can we balance the budget with inflationary increases in the future? Can we really afford a new National Health Plan? Can we really expect to have $1.00 a gallon gasoline while other nations pay $2.50, and have conservation by our people? People understand about what they can and cannot afford. You can talk to them about it. In our judgment, the American people are ready for some straight talk on expectations for the future, and will join you in austerity if it moves us toward the goal of a Strengthened and Revitalized America.

YOU AND CAMP DAVID

You have had some notable successes at Camp David when you had people there who were experts on the problem and also part of the solution. This was not the case in the most recent past. Mr. President, go back to Camp David and develop policies for cooperation between government and industry that will put us in first place again. Ask the people to visit with you who can really contribute to the solution of the problems and can do what we need done.

THE MAIN GOAL

The folks in the country frequently get the impression that in Washington the main goal is to get re-elected. In business, this would be called letting the "sales department" run the company. It isn't good enough for our country today.

You are a man with a vision for our country far beyond 1980. We believe that you would rather do what is best for our Nation and put re-election second, rather than operate under political expediency. Some of your staff may not feel that way.

THE NATION WILL RESPOND TO A NEW DIRECTION: GOVERNMENT, INDUSTRY, LABOR WORKING TOGETHER

Our nation's people are becoming more sophisticated. We sense when someone is doing or saying something just to gain votes and it is a "turn off." We believe that the majority of voters will respond to a "new direction" for our government and our country—even though it is tough and upsets all kinds of special interest groups. Yes, we must have an inflationless economy competitive with other nations. Even if it makes some folks unhappy today—they'll be pleased tomorrow.

You have been placed by God in a position of unparalleled opportunity to be His servant and the servant of your neighbor—the American people. It is time for A New Direction For Government. We will continue to pray for you that you will have His Wisdom, Courage, and Strength. As you deal openly with our people, and work for a Strengthened and Revitalized America, you will earn the long term appreciation of all the American people, and a unique place in history.

God bless you,

Eight Concerned Citizens,
Charles I. Babcock, Jr., Chairman, Development Firm; James M. Brown, Retired Phone Company Executive; Paul Belardino, High School Principal; R. Ray Goode, President, Building Company; R. Douglas Hazen, Air Conditioning Distributor; David Hume, Advertising Agency Executive; Al Palmer, Attorney; and Ralph Renick, Television Journalist.●

CONSERVATION—OIL HEAT RETROFIT PROGRAM

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. WYDLER. Mr. Speaker, the Science and Technology Committee last year adopted my amendment for $5.4 million to initiate a comprehensive oil heat R. & D. and marketing program. That money was appropriated for fiscal year 1979 and this year DOE requested $3.85 million for their followon activity. This is a vital program for people in the Northeast who depend heavily on oil to heat their homes.

The $500,000 of the DOE request was set aside by our committee from the important oil-fired unit demonstration to the space conditioning in research project activity at Brookhaven National Laboratory. This demonstration activity was designed in three phases, the first two of which require Federal stimulation.

The redirection of funds in this program will speed the introduction of advanced combustion concepts and furnaces to raise efficiency 40 to 50 percent. This is a vital R. & D. program for the Northeast and deserves strong support.

FOSSIL ENERGY (COAL-OIL COMBUSTION RESEARCH)

This $250,000 is for restoration of the university research on coal-oil mixtures which was funded last year under advanced research and supporting technology but was not included in the fiscal year 1980 request. The coal-oil mixtures program was reduced by $2,950,000 in fiscal year 1980 and there are insufficient funds to complete important activity on contracts outside the energy technology centers. This set-aside is specifically for Adelphi College Center for Energy Studies and complements a smaller program sponsored by EPA which is directed at reducing emissions by coal/oil combustion. The work consists of coal desulfurization during combustion of coal-oil water emulsions. This is an economic alternative to clean liquid from coal.

SYNTHETIC FUELS PRODUCTION

This bill, as the Moorhead bill before it and the DOE authorization, H.R. 3000, is a genuine energy supply bill. I recall 3 years ago when our Science and Technology Committee struggled vainly to push major initiatives for synthetic fuels production.

Outside of projects at the pilot plant scale, this country has made little progress since then because industry has not been given the incentive. I believe that setting production goals of 500,000 barrels a day by 1985, as in H.R. 4930, is the incentive that should catalyze the synthetics program.

In the Northeast we are particularly interested in major liquefaction projects but advanced gasification techniques cannot be ignored because they are a vital source for petroleum substitutes.

I urge my colleagues to support this bill. I also want to congratulate Mr. McDade and Mr. Yates for bringing it to the floor. It is a genuine energy supply bill.●

ONE MAN'S ANSWER TO THE PRESIDENT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. MICHEL. Mr. Speaker, we have read numerous editorials and commentary by syndicated columnists concerning President Carter's demogogic attacks against the oil companies. But perhaps it would be helpful if we could hear from someone who works for one of the major oil companies in order to understand how he sees his role.

It so happens I received a copy of a letter an oil company lobbyist sent to President Carter. The lobbyist has given me permission to place that letter in the Record. I believe this letter gives us a different perspective on the President's views. At any rate, I think it is only fair to add to the public record the view of one person who represents only himself and who believes in what he is doing.

At this point I wish to insert a letter written to the President the day after his televised speech on energy:

The President,
The White House,
Washington, D.C.

Dear Mr. President: I am an oil lobbyist. I have been for the past 3½ years. Before that, for 15 years I was a farm lobbyist.

I am a member of a profession that has become a necessity around seats of government—whether that's Washington or Atlanta.

I am proud to be a lobbyist. I am proud to be an oil lobbyist. As a farm lobbyist, I always felt I was playing an important role in helping to keep this nation's farm industry in a position to feed not only this country, but half of the free world. While it is the American farmer who does the production job, we lobbyists play an important role in making sure that his ability to produce is not inhibited by government actions.

The same is true in the domestic energy field. Our members are the producers of energy, but they have hired me and others to look after their interests in Congress and the regulatory agencies.

My job is a legal profession. I am required by the rules of the game to file and report regularly to the Secretary to the Senate and the Clerk of the House. These filings are a matter of public record.

I work for a 501c(3) organization. As such, its annual tax return, including details of income and expenses is open to the public at the Internal Revenue Service.

I can say without exception, to my knowledge I have never professionally done anything which was illegal or improper.

Yet again last night, you went before the Nation and told millions I was wrong, greedy, not to be trusted and that I was about to help "rob" $54 billion from the windfall profits tax. I am not a "robber" and I resent your insinuation. That is like suggesting that you "robbed" Georgians of thousands of dollars in recent years because your farm and warehouse have been underassessed.

If there is any "robbing" going on, it is being done by policies of the Federal government on the oil and natural gas industry through price controls which have "robbed" producers of income needed to find more oil and natural gas and have "robbed" consumers of needed energy supplies. Other government policies restricting the use of public lands, both on and off-shore have "robbed" this nation's energy users of additional supplies and made them more susceptible to the OPEC "robbers".

Personal and business income, contrary to what some would suggest, does not belong to the government. It is ridiculous to suggest that an industry or individual trying to keep as much of his or her income from ending up in public coffers is a "robber".

Which brings me to another point, one I admit is a bit emotional on my part.

I have a 19-year-old son who is having a real struggle with drugs—yet he is surrounded by illegal drug pushers and people who in high places scoff at our drug laws. As he tells me, "Dad, it is easier to buy cocaine and PCP than it is to buy gasoline".

Where, in the name of God are our priorities? We have thousands of "Policemen" at work enforcing price controls. We are going to get more "police" to check thermostats. The Mafia is killing one another in the streets of Brooklyn. Organized crime is skimming millions from the poor. Drunken driving is a national disgrace.

Yet, you attack me—and my colleagues—repeatedly as if we were public enemies of the worst kind—but not one word about these other problems. How about the "robbers" at GSA and HEW? How about drug pushers and users in the White House?

Yes, I'm angry—but I'm honest. I do my job in spite of your attacks. I have my shortcomings, but I readily admit them. When I no longer have the will and desire to do my job or a willingness to admit my shortcomings, I'll quit—I hope I won't point my finger at everyone else and lash out at everyone around me.

You told me I lacked pride and confidence. I disagree. I'm proud to be an American, an oil lobbyist, a husband, a father, a contributor to my community—and I am confident that no problem faces this nation that is insurmountable. Not as long as we work together as reasonable people and are honest about our problems and all share our failures as well as our successes.

I have plenty of confidence—it's you, I think who lacks confidence—at least you don't instill much confidence in me when you continually attack those of us who you are supposed to represent.

Only two weeks ago, Stu Eisenstadt told you to attack OPEC—make them the bad guys. That's not what you did last night.

Forgive me, if I sound harsh. But you said you wanted to hear from "the people". I'm one of "the people" and I'm telling you to get off my personal back. I'll meet you and your policies on Capitol Hill. If your ideas and perceptions of our energy problem are better than mine and you can articulate them better—you win. If I do better, I'll win—but don't keep up these personal attacks on nationwide television if you want me and others like me to have any pride and confidence at all. They are difficult traits to maintain and enhance in the gutter of political rhetoric which you chose last night.●

TRIBUTE TO EWING JOHNSON, MEMPHIS PRESS SCIMITAR

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to pay special tribute to my dear friend, Mr. Ewing Johnson, of the Memphis, Tenn., Press Scimitar.

Today is the first day in many, many years that Mr. Johnson did not oversee the composition of that paper's editorial page. Today is the day that Ewing Johnson began his retirement after 61 years in the newspaper business. I know the Press Scimitar and its readers are already missing the dedication he demonstrated to his work. He provided them with many years of outstanding service putting together every day an editorial page that people would want to read.

I want to take this time to express to Ewing our very best wishes for a long and happy retirement; a retirement that is long deserved and I want him to know that we shall miss him greatly.●

GOVERNOR BROWN, EDISON MILLER, AND THE POW'S

HON. ROBERT K. DORNAN

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. DORNAN. Mr. Speaker, like many Californians, I was awe struck and outraged at Governor Brown's appointment of former Marine Edison Miller, a POW who squealed on his friends and collaborated with his North Vietnamese captors, to the Orange County, Calif., board of supervisors. Miller becomes the first POW from the Vietnam war to be honored with a political office. St. Augustine, echoing the teaching of the Gospels, reminds us that it is in vain to seek for perfect justice in this world. Bowing to the wishes of Jane Fonda and Tom Hayden, the Governor of California displayed in his action an arrogance and insensitivity rarely found even among the most crass of cynical politicians. I say that this action was arrogant and insensitive because, more than anything else, it was a direct slap in the face of the brave men who served their country in Vietnam. The pain was greatest for those who were imprisoned by the North Vietnamese Communists and suffered almost every conceivable violation of the Geneva Convention concerning the treatment of POW's including watching beloved comrades tortured to death.

Who is best to judge the merits of the Miller appointment? Not I, or those of us who held our special order on the subject last week. The best judges of this appointment are those who were imprisoned by the North Vietnamese; those who experienced, painfully and directly, the cowardly, perfidious behavior of Miller. The Los Angeles Herald Examiner of June 30, 1979, published an excellent summary of POW opinion, "How POW's Remember Miller." I ask my colleagues to please give it their intense attention. Brown is a disgrace. He bragged of knowing all of this both before and after the infamous and insulting appointment.

How POW's Remember Miller

(By Mike Qualls and Carol Gulotta)

Navy Capt. David Rutledge pushed open his cell door in the "Hanoi Hilton" and slipped quietly toward the rear of the compound where the prisoners were allowed to bathe. But Rutledge wasn't going to bathe. He had a message to deliver, an important message.

The message had originated at the top of the POW chain of command, and was destined for a group of prisoners who, in the opinion of the top-ranking POW officers, were cooperating with the North Vietnamese.

Reaching a high woven-bamboo fence, Rutledge quickly scrambled to the top until he could see the open exercise yard on the other side. Seated there, according to Rutledge, were Marine Corps Lt. Col. Edison Miller, Navy Capt. Walter E. Wilber and Navy Cmdr. Robert J. Schweitzer.

"Hey, guys," Rutledge recalls saying. "If you stop all your antiwar activities, we'll take you under our wing. You are ordered to stop all your activities."

The trio looked at Rutledge and then yelled for the guards. He scrambled down from the fence and ran.

Rutledge made it back to his area without being caught, but later that day guards came and threatened to torture him if he tried to contact the trio again.

It was a day still fresh in Rutledge's mind nine years later.

Miller's conduct as a POW is something that many of his fellow prisoners have found difficult to forget, and now the entire issue has been thrust back into the public spotlight by his controversial political appointment to the Orange County Board of Supervisors.

Many POWs claim that Miller, who spent 5½ years as a POW, defied superior officers and cooperated with the North Vietnamese in return for special treatment, and they now challenge whether Miller should be given a position of public trust, particularly since he was censured by the Navy Department as a result of this POW coduct.

Miller admits that he made anti-war tapes for the North Vietnamese, but claims he did it out of a heart-felt conviction. He also claims he underwent severe hardship as a POW (including being denied medical treatment, denies receiving any special treatment and maintains that he never refused to obey a legal military order.

The Herald Examiner has interviewed 15 former POW's who lived with or around Miller during his captivity. Their recollections about Miller's conduct as a POW raised a number of allegations, including:

Shortly after Miller was imprisoned, he abandoned military zeal he had exhibited as a squadron commander prior to capture and began defending the communists to fellow POW's. He advised other prisoners to adopt a less aggressive attitude toward the North Vietnamese.

He apparently made an anti-war tape during his first year of captivity, which was two years before he said he made his first recording.

Miller, who maintains his public statements as a POW were "anti-war' 'and not "anti-American," made tapes that claimed the socialist system was superior to the American form of government.

He received as much medical treatment as other POW's, including penicillin tablets for infection, sulphur powder for his wounds, medication for dysentery, and surgery.

Miller received numerous special privileges, including a cell with an open window, access to an open exercise area, shoes, books, a fish aquarium, a Vietnamese-style bed and meals with meat, fruit and beer.

He repeatedly ignored direct orders from POW senior officers to cease his activtiies and obey the Code of Conduct.

Miller was once present in an interrogation room, "nodding his head in agreement" while North Vietnamese guards threatened another POW with torture for trying to persuade Miller to stop cooperating with the communists.

As a result of his activities and repeated refusals to obey orders. the senior ranking POW officer stripped Miller of his military authority in 1971, and ordered prisoners to ignore any orders he might give.

Tensions between Miller and other POWs became so great in 1971 that a group of prisoners wanted to kill him.

Those are some of the allegations raised by former POWs. Here is their story:

It begins Oct. 13, 1967, with the recollections of James Warner, now a lawyer in Detroit. On that day he was a Marine lieutenant flying as a radar operator, or "backseater," with Miller.

Miller, an 18-year veteran who had flown 50 combat missions in the Korean War and 70 more in Vietnam, was commanding a squadron of F-4 Phantoms based at Chu Lai. Although Miller had been in South Vietnam less than two months he already had a reputation as a gung-ho officer intent on moving up the military promoting ladder.

A few minutes out of Chu Lai, Miller and Warner began their attack run near the DMZ separating North and South Vietnam. As the F-4 screamed out of the first run, Warner recalls that Miller suddenly announced that they had lost the aircraft's flight control hydraulic system.

Warner waited for Miller to break off the attack, as prescribed by standard operating procedure, and head for an open area where they might be rescued. But, to Warner's amazement, Miller brought the F-4 back around for another attack on the same target.

"It was that sort of 'headwork' that was the reason I was flying with Miller in the first place," Warner recalled, referring to Miller's reputation. "Nobody else would fly with him."

"When we were hit I said, 'Let's get over the water,'" Warner recalled, "but he (Miller) said, 'Oh, no. I've still got six bombs and I'm going back again.'"

Moments later, Miller and Warner found themselves hanging in their parachutes, drifting down toward the DMZ and awaiting enemy soldiers.

Miller says his parachute failed to open properly and when he reached the ground he found he had suffered a broken vertebra, broken shinbone and crushed ankle. Warner landed uninjured about three miles away.

Miller says he was forced to walk long distances with his injuries, and Warner confirmed that their captors "did make him walk about three miles to a place where I was being held. But thereafter I tried to carry him, or at least let him lean on me."

They were force-marched six to eight miles to a North Vietnamese artillery emplacement. It was night by that time. Then they began a torturous 40-day trip by truck and on foot to Hanoi where they were to be cellmates until July 18, 1968.

"He (Miller) got pretty infected and was very sick by the time we got to Hanoi." recalls Warner. "He had lost 20 or 30 pounds and he was infected everyplace. But, they did give him something—they told him penicillin. He suffered frequently from dysentery, and occasionally they would give him something for that."

Air Force Lt. Leon Ellis, another cellmate who is now a major stationed at Randolph AFB in Texas, also remembers that Miller "got medical treatment—about the same as everybody else."

Miller claims he was physically abused and put in solitary confinement before he began cooperating with the North Vietnamese, but neither Ellis nor Warner recall being aware of it, or ever seeing any physical signs of torture while they were with him.

"He didn't undergo any torture that I knew of," said Ellis. "He never told us of any physical abuse whatsoever."

However, Ellis remembers that he and the fourth man in their cell, Air Force Cpt. Kenneth Fisher, were abused by interrogators during that period when they refused to fill our biographical forms.

After more than 24 hours of torture, Ellis recalled that "I ended up eventually filling out their form. I put in a couple of bases I had been assigned to and lied about the rest."

At this time, according to Warner, Miller was being frequently being taken alone to interrogations and didn't appear to mind going.

During this period two other POWs—Air

Force Maj. George Day and Navy Lt. Cmdr. John S. McCain III—recall hearing a biographical tape recording condemning the war that they believe was made by Miller although the speaker did not identify himself by name.

Said McCain, "It went on with a whole lot of statements condemning the United States government. He (the speaker) didn't identify himself by name, but he identified himself in every other way."

Day, a congressional Medal of Honor winner for his actions as a POW and now a retired colonel living in Florida, said the tape "wasn't the sort of thing the Code of Conduct had in mind."

The tape was played for McCain, now a captain assigned to the Navy Department's congressional liaison staff in Washington, by an interrogator who identified the speaker as a senior Marine officer and demanded that McCain make a similar recording. McCain, who at the time was seriously ill with a bayonet wound, two broken arms, a fractured leg and a broken shoulder, refused.

Both Warner and Ellis recall having heated political discussions with Miller while they were roommates.

"Miller would often go out to interrogations and come back and explain to us how the communist side was correct and we were wrong," said Warner.

"I did realize something was wrong," Ellis added, "when I, as a young first lieutenant, told him on one occasion that I didn't think that, based on what he was being told in a communist camp, that he should be changing his opinion on the war and our leaders. He just sat there and didn't say anything."

In October 1968 Miller and Schweitzer, an aviator who was shot down on Jan. 5, 1968, became cellmates in a Hanoi stockade known as the "Desert Inn." Schweitzer died in a car crash near Sacramento after his return to the United States. Shortly after he and Miller began sharing a cell, other POWs began hearing over camp PA systems an hour-long tape which became known as "The Bob and Ed Show."

Miller says the tape was made as they sat in a room carrying on what they thought was a private conversation.

Former POW's described the tape as basically saying that America's Vietnam involvement was deplorable, that the undeclared war was illegal, that their captors had every right to call them criminals and prosecute them as such. Other POWs were appalled. Many initially refused to believe that the voices on the tape were those of captured American pilots.

By late February 1970 the first order was passed via the forbidden communications network to Miller and his cellmates by Navy Cmdr. Jerry Denton.

Denton later recalled during interviews with the authors of "POW," a Reader's Digest book published in 1976, that the message said, "Stop writing, stop taping. Communicate with us." He also recalled that there was no response.

That was followed by a series of similar orders passed to Miller and his various cellmates for the next two years.

It was the summer of 1970 when Rutledge, who was chief communications officer for a succession of senior POW officers, scaled the bamboo fence to directly confront Miller, Wilber and Schweiker and had to flee when they called the guards.

Earlier in 1970, Rutledge, who is now a captain in charge of the Naval ROTC program at the University of Oklahoma, had been moved from the camp known as "Alcatraz," where he had spent an entire year in irons, to the "Hanoi Hilton," where Miller was confined. Rutledge was struck by the fact that Miller seemed to have special privileges. For example, he saw Miller and his cellmates "out in the sunshine in the courtyard (while) there were some people stuck in some pretty dark, grungy cells."

"They (Miller and his cellmates) knew that," said Rutledge. "We told them that. They knew there was inequality in the treatment and that we were trying to get some form of humane treatment for everybody. But they ignored us."

During mid-1970 McCain, his health improved, encountered Miller and Wilber in the section of the "Hanoi Hilton" known as "Little Las Vegas."

McCain said, "For a period of about four months—August through November in 1970—I saw them, Miller in particular, with their arms around the gooks.

"They'd come out in the morning and they'd embrace the guards. I saw them drinking beer, eating fruit of all kinds—such as oranges and bananas. I saw them getting plates full of meat. I saw them getting all the bread they could possibly want ... My diet at the time was a small bowl of soup and a piece of bread twice a day."

McCain said he also overheard Miller making tapes "on numerous occasions."

"They were not just in opposition to United States involvement in Vietnam," McCain said. "They were in opposition to the United States as a country—that the United States was degenerate, that the government was degenerate, that the American Congress didn't represent the people; that the socialist system was far superior, and that the system in North Vietnam was far superior."

In the fall of 1970, Miller, Wilber and Schweitzer were transferred to the camp known as the "Zoo" where they took up residence with four other POWs including Air Force Maj. Roger D. Ingvalson, who lived around Miller until early 1972.

The seven men became known as "Outer Seven" because guards kept them isolated from other POWs.

Ingvalson and the other four POWs, eventually managed to separate themselves from Miller and Wilber after they were ordered by senior POW officers to join the overall camp organization.

Ingvalson, now retired and living in Tennessee, also recalled the special treatment Miller received.

"They (Miller and Wilber) had things like leather shoes and tennis shoes, and a Vietnamese-style bed while we slept on concrete," said Ingvalson. "They even had a fish aquarium in their cell."

Another POW, Col. John Stavast, who also was near Miller in 1972, added, "When the wake-up-gongs went off in the morning, their (Miller and Wilber) cell door was opened. Nobody ever saw their door locked, as a matter of fact.

"I also saw Miller involved in a volleyball game with the North Vietnamese."

Finally in 1971 Navy Cmdr. James Stockdale, then the senior ranking officer and the man who would file formal charges against Miller and Wilber upon his release by the North Vietnamese, shouted direct order for Miller and his cellmates to stop cooperating with their captors.

With Stockdale at the time were Rutledge and Navy Cmdr. Harry Jenkins, both of whom related the episode in separate interviews.

Stockdale attempted communication by shouting out the back window of a cell to Miller and his cellmates who were located out of sight, but within hearing, in a room about 80 feet away. Stockdale kept shouting for several days though the guards repeatedly came running to try to find the culprit who was violating the no-communications rule.

"At first, the admiral (which Stockdale later became) yelled out questions, and we got a lot of Bible verses in return," recalled Jenkins. "This went on for several days," added Jenkins. "Finally, the admiral gave him the direct order to stop. Miller did not stop."

Rutledge recalls that Miller and his cellmates passed a written reply "that quoted a passage from James—about how everybody ought to love joy and peace."

It was in 1971 Miller made his "Mother's Day Message" tape which was sent to his mother in Clinton, Iowa. The lengthy message declared at one point that "America's mothers must face the fact that their sons are killing fellow human beings and destroying foreign countries for an unjust cause, making our actions not only illegal, but immoral."

• • • • •

Shortly afterwards, Stockdale issued an order to all POWs under his command: "Write nothing for the V. Meet no delegations. Make no tapes. Are you with us?"

Then when Miller and Wilber continued to make a series of tapes, the POW leaders decided to strip Miller of his military authority. The order made its way through the covert communications network, being passed on slips of paper hidden in rice bowls, tapped through walls in Morse code and shouted from one stockade to another. Finally, it reached Ingvalson, who delivered the message to Miller face-to-face. "He was very quiet," recalled Ingvalson. "The only thing I could get out of him when I'd talk to him was that the war was wrong."

It was also in 1971 that other POWs in the stockade, which contained 26 prisoners, decided that Miller had to be killed to end his activities. The group approached Ingvalson who was in charge of the stockade. "It was a serious situation," Ingvalson said. "They wanted very much to impose physical abuse on him—to kill him. But, being in charge, I decided not to. And, I told my men that we would take evidence home when we were released, and then it would be taken care of."

Meanwhile, Ingvalson continued trying to talk Miller into ceasing his activities. On several occasions after contacting Miller, Ingvalson would be threatened with torture by the communist guards.

Ingvalson remembers that during one such session Miller was in the room "not saying anything, but he was nodding his head in agreement with them."

Another POW who lived with Miller from the fall of 1970 until the spring of 1972 was then Marine Lt. Paul Brown, who had been shot down July 25, 1968.

After the Stockdale order, Brown recalled that all the members of the "Outer Seven" except Miller and Wilber wanted to obey it.

"Miller and Wilber did not," said Brown. "Miller was very vehement about it, saying he wanted nothing to do with communicating with the others and requested that we go along with him. We refused.

Brown said he recalls that Miller would taunt the men and "say, very sarcastically, 'Now listen to your leader. Be a good little boy and obey all the rules" to the junior officers.

Then came 1972 and, although the POWs didn't know it, they were nearing the end of their long ordeal. More orders were sent to Miller and Wilber but they continued their activities.

Stavast said, "We told them, in effect, that if they would come over to our side and stop collaborating with the North Vietnamese, we would think about forgiving them. But, they absolutely refused.

"In fact, there were some very derogatory things that came out of them—that we were the losers and they were the winners."

On April 16, 1972, the bombing of Hanoi commenced again. A few days later, Miller, Wilber and others held a news conference with correspondents from Hanoi, the Soviet Union, China, Germany and France and denounced the American escalation of the war.

In July 1972 Jane Fonda visited Hanoi and met with Miller and Wilber and other POWs. In August 1972 Miller met with Ramsey Clark, who later returned to the United States and lauded the POWs living conditions, treatment and health.

After the peace agreements, Miller returned to the United States in February 1973.

"Wow, it's great to be back on Marine Corps property," Miller was reported to have said when he was driven through the gate at Camp Pendleton.

Shortly after Miller's return, he and Wilber became the target of formal military charges.

The charges included conspiracy, solicitation, failure to obey an order of regulation, mutiny, aiding the enemy, misconduct as a prisoner and causing and attempting to cause insubordination and disloyalty.

The resulting inquiry was conducted personally by then-Secretary of the Navy, John Warner who finally announced his decision on Sept. 27, 1973.

"Secretary Warner concluded that the convening of a pre-trial investigation under Article 32 of the Uniform Code of Military Justice was warranted by the evidence," stated the official news release issued by the Department of the Navy. "He further concluded, however, that any beneficial purposes would be more than offset by the disruptive effects such proceedings would be bound to have upon the entire community of former POWs and their families."

The same day, Warner dismissed the charges brought by Stockdale and issued administrative letters of censure to both Wilber and Miller.

The news release ended, "Secretary Warner also announced that both officers will be retired. The secretary determined that both retirements would be in the best interests of the Naval service." ●

MILITARY JUNIOR COLLEGES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. SKELTON. Mr. Speaker, our Army Reserves and National Guard are facing a shortage of over 4,000 junior officers. This projected shortfall could have a serious impact on our Nation's ability to mobilize effectively in the event of an emergency.

Mr. Speaker, there are unique American educational institutions which can make a significant contribution to reducing this shortage. These are our Nation's six military junior colleges. These institutions have been turning out superior officers for our Nation's military forces for an average of 109 years. Their graduates have learned self-discipline, they accept responsibility and they have practiced leadership. Because of the total military environment and the intensive training offered, these are the only schools authorized to commission a person at the end of the sophomore year after only 2 years of military training.

However, Mr. Speaker, when it comes to awarding ROTC scholarships to potential students, the military junior colleges are at a distinct disadvantage when compared to 4-year colleges and universities. To win a scholarship at a military junior college, a student is required to attend basic ROTC camp at Fort Knox, Ky., and compete for a scholarship. At Fort Knox he is often competing against students with 1 or 2 years of college. That same student, however, may receive an ROTC scholarship to a 4-year college or university directly out of high school.

Mr. Speaker, I have introduced legislation which would enable us to better utilize the ability of the military junior colleges to produce highly qualified, highly motivated junior officers for our reserves and national guard in only 2 years. H.R. 3308, currently pending before the House Armed Services Committee, provides scholarships for cadets at any of the military junior colleges in return for not less than 6 years service in the Army Reserves or Army National Guard. The military junior colleges are capable of increasing their production of officers, and this bill will give them a tool with which to do it. The result will be in the best interest of our reserve forces and our national defense.●

THOMAS HOOKER

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. PANETTA. Mr. Speaker, a constituent of mine, Mr. Gene Buck, of Monterey, Calif., has brought to my attention the deeds of a very important American from the past who has not, in Mr. Buck's view, received adequate credit for his contribution to our democratic traditions. The gentleman to whom I refer, who apparently is an ancestor of Mr. Buck, is Thomas Hooker.

Hooker was an English puritan pastor and preacher who became one of the builders of colonial New England. Born in Leicester, he was forced to flee England for Holland in 1630 because of his popular presentation of puritan ideas. Then, in 1633, he followed many of his former parishioners to Massachusetts.

From Massachusetts, Hooker led his constituents to Connecticut, where he founded the city of Hartford in 1636. It was there that his democratic ideology formed the basis of the fundamental orders, which served as the Connecticut colony's constitution. This contribution to democracy in America has often gone unheralded, and it is for this reason that I am addressing my colleagues today.

I hope those who hear my words now, and who later read them in the RECORD, will take some time to consider the contributions made by Thomas Hooker to our colonial history. Certainly, we owe him a debt of gratitude, as we struggle with the problems of our own day, for helping to establish the traditions under which our national debates take place. ●

TELEVISION COVERAGE OF THE HOUSE AND SENATE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. GILMAN. Mr. Speaker, most Members of the House agree that it was a wise and proper decision to open our proceedings to television and radio. Our debates and discussions now reach millions of residents around the Nation and world through the cable system, and network news programs also make use of the floor action.

In this regard I would like to submit for publication in the RECORD an article written by a constituent, Edward Branca of Nanuet, N.Y., who more than a year ago had his views on televising the House proceedings published in the Nyack, N.Y., Journal News.

I think my colleagues will find the article both interesting and prophetic; Mr. Branca having proposed, in March of 1978, that the Congress arrange with the National Aeronautics and Space Administration to use the communications technology satellite to broadcast live gavel-to-gavel coverage, and noting that satellite-to-home radio, is presently used in Canada.

[From the Rockland Journal-News, Mar. 8, 1978]

RADIO VIA SATELLITE

(By Edward J. Branca, Jr.)

NANUET.—Recently, many in the nation's radio audience listened intently to the first congressional floor debate allowed to be broadcast live from the U.S. Senate chamber.

This debate on ratification of the proposed Panama Canal treaties was broadcast by National Public Radio. Many Americans such as myself wish to hear more live coverage of congressional sessions. We also wish to hear other programs that attract too small an audience to be profitable on commercial stations. National Public Radio, at its current low level of funding, is simply unable to afford to program such high quality programs regularly. I wish now to suggest a way that new satellite technology can be used to revolutionize radio and give birth to a new age of broadcast excellence.

My proposal is that Congress arrange with the National Aeronautics and Space Administration (NASA) to use the Communications Technology Satellite (which is now in orbit) to broadcast live gavel-to-gavel coverage of House and Senate debates directly to the home. Contrary to widely-held belief, this is possible with today's technology.

Since the satellite is being used for many communications experiments, the time it will be available to broadcast the debates will be limited. (It should be noted that the satellite has many radio channels and the congressional experiment would only use two of them). The debates will be able to be received by simple inexpensive receivers costing no more than AM-FM sets now in domestic use.

These transmissions will be received only by radios tuned to receive the higher satellite frequencies. This will no doubt mean that most people will choose not to purchase receivers so tuned. This does not mean that satellite-to-home radio will never be popular. This conclusion may be drawn by taking into account the following two factors:

The future introduction of commercial and non-commercial programs will encourage the public to buy sets. It should be noted that the American people purchased FM TV, color TV and FM stereo sets all after the introduction of AM radio in the 1920s.

There are many parts of the United States that have only one or two radio stations. Satellite-to-home (with its many channels) would be considered a godsend.

Once the initial experiment is completed, Congress may want to begin a regular satellite service. This service can be paid for by Congress passing a law giving the federal government a monopoly on the ownership of broadcasting satellites. If a broadcasting satellite had the capability to transmit on 50 channels (I picked this number out of my head), Congress would lease perhaps 42 of them to commercial users who would air programming and sell advertising the same way they do now.

The fees commercial broadcasters paid the government for use of the satellite would go into a trust fund (similar to the highway trust fund) to pay the costs of airing the congressional debates and non-commercial programs on the other eight channels of the satellite.

It should be pointed out that it is not unfair to require commercial satellite users to pay the government to use the satellite. After all, the right to have advertising messages reach a potential audience of all the nation's homes—without having to divide the profits with affiliated stations—will be an extremely lucrative proposition. It is only fair that the holders of such a franchise should pay fees for the privilege. After all, if the sportsman wishes to hunt or fish, he is required by law to purchase a license to do so.

Up to this point, I have written of satellite-to-home radio only. This is because, with the present state of the art technology, it is not possible to transmit television to home receivers without requiring the viewer to purchase augmentation costing up to $1,000. But by 1980, it is expected that technology will have advanced to the point that augmentation will not be necessary.

Many readers may now be asking themselves why, if broadcasting satellites are so advantageous, have they not yet been introduced. The answer is that the broadcasting monopoly (i.e., ABC. CBS, NBC) has used its muscle to have the Federal Communications Commission and Congress not allow broadcasting satellites to be introduced in the United States. (It should be noted that satellite-to-home radio is used in Canada as well as in a number of other countries.)

Let's hope that Congress will soon end this prohibition and we will soon begin an era of broadcast excellence via satellite directly out of the sky.●

HOMEBOUND PROGRAM MUST BE SAVED

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. WOLFF. Mr. Speaker. I rise today in support of a program which is vital to some of the residents of my district—the Queensborough Community College external education program for the homebound. Unfortunately, this program faces possible expiration at the end of this month if new funding is not approved.

The homebound program was initiated in 1973 as a service for severely disabled students in the New York metropolitan area who qualify for college courses, but who are unable to participate on campus because of physical limitations. Instead, students take courses via telephone hookup.

At first, the program was funded by the Queensborough Community College Student Association, but as the service grew, funding responsibilities were assumed by the HEW Office of Education under their Bureau of Education for the Handicapped. The program was a huge success by all standards, and in fact, it was so successful that HEW began using it as a model for other universities across the Nation.

Due to shifting allocations within HEW, funding for homebound will expire at the end of August 1979. The Queensborough program has submitted new funding proposals to HEW's special programs for the disadvantaged division, but no action has been taken.

Homebound offers hope and opportunity to those who might otherwise be without hope. It would be a tragic mistake to curtail this vital service. If funding is not approved soon, we will lose a valuable humanitarian service.●

HEMPSTEAD TOWN COUNCILMAN URGES ADMINISTRATION ACTION TO THE PROBLEM OF NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

Mr. BIAGGI. Mr. Speaker, I would like today to bring to the attention of my colleagues the efforts of Peter T. King in helping to bring the problem of Ulster to the attention of the Carter administration.

Peter King is a town councilman in Hempstead, Long Island, N.Y., where he succeeded in collecting over 1,000 signatures from his fellow residents of Hempstead on a petition which he sent to President Carter, as well as Senators JACOB JAVITS and DANIEL MOYNIHAN of New York. The petition, which was presented to me last month by Councilman King himself, reads as follows:

> We the undersigned, call upon the United States Government to take whatever political and economic measures are necessary until Great Britain ceases its violation of human rights in Northern Ireland.

As chairman of the 130-member Ad Hoc Congressional Committee for Irish Affairs, I am always heartened to see efforts, such as those of Peter King and his fellow residents, which enhance the work of our own committee. We have long been involved in bringing to light the continuing violations of human rights in Northern Ireland as a result of the presence of Great Britain there. These violations have been documented time and time again, by the Nobel prize winning Amnesty International as well as the Bennett Commission, which was a British-appointed group. This Commission confirmed the fact that these human and civil violations continue to exist in Ulster.

Most recently, our own State Department sanctioned the sale of over 3,000 weapons to Great Britain for use in Northern Ireland. In response to this unjustified action on the part of our own Government agency which preaches human rights the world over, I offered an amendment to the 1980 Department of State appropriations bill to prohibit such actions in the future. This amendment eventually was withdrawn in exchange for the promise of hearings by Chairman Clement Zablocki of the Foreign Affairs Committee on this action. I am heartened by this acknowledgement by this committee of the urgent need for inquiry into this issue and will continue to press this Congress and the administration to take action in Ulster to help bring an end to these human rights violations.

Mr. King is to be commended for his own activities in making the administration ever aware that the human rights violations in Ireland at the hand of the British must cease. This country has committed itself to human rights, here and abroad. Our cumulative efforts to advance the cause of peace and justice in Ireland can only be intensified with the continued help and support of dedicated people, such as Peter King.●

PREDICTING 1980 DIESEL SHORTFALLS

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. BEREUTER. Mr. Speaker, I would like to have placed in the RECORD the following remarks relating to an amendment that was offered by my colleague, Mr. TAUKE.

I believe the gentleman from Iowa has accurately addressed the recent problem we have witnessed regarding the diesel shortage in the Midwest. The amendment he offered will go a long way in making sure that adequate supplies of middle distillate will be available for next year's agricultural crop. The gentleman from Iowa and I know all too well the disaster that was barely averted this year. Our offices became virtual hotlines for farmers and jobbers who were either running out, or completely out of diesel fuel. We simply cannot ask the farmers in the Midwest to face the instability and confusion that surrounded this year's planting season.

The gentleman's amendment will identify supply-short States by way of a monitoring service, and correct as quickly as possible that shortage. This, I feel, is badly needed. The Department of Energy has made no attempt in the past to monitor or even predict where those shortfalls may occur. As would be required by this amendment, much of this responsibility will be placed on the State energy offices to help alleviate the problem. It is time to stop this guessing game, and assure the farmers and jobbers that next year, we will indeed know where a shortage will occur and what is being done to relieve it.●

SAM BROWN OF "ACTION"

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. DORNAN. Mr. Speaker, the President has announced that the top level firings are completed and that all of those who were requested to submit their resignations can now breathe easier. Carter has allowed the Director of ACTION, Sam Brown, to be among the reprieved. This means that in ACTION, an agency dedicated to the alleviation of human suffering at home and abroad, this Nation is represented by someone who is on record as praising a regime, Communist Vietnam, that has caused and is causing untold human suffering.

With this in mind, I cannot believe that President Carter with his constant public statements on human rights would not have picked up Sam Brown's resignation when it was recently tendered to him. The Director of ACTION's insensitivity and failure to live up to the high standards of humanitarian concern that his Agency stands for together with his contemptuous disregard for the millions of victims of totalitarian genocide, are reasons enough for the President to take such action.

The President in his nationally televised address after coming down from the mountain, and his subsequent statements asserted he was taking some of the actions that he did because he did not feel that he was receiving the full support of some members of his team. Sam Brown certainly is one in question.

Over 2 years ago as a Presidential appointee Brown went to New York City to greet the Communist Vietnamese representatives to the United Nations. His praise of them was overwhelming, tears staining his strained face.

Since then, of course, the world has learned the truth of those before whom Brown and others have fawned and prostrated themselves. Joan Baez, who like Brown was instrumental in the propaganda war waged against the South Vietnamese Government, has properly criticized the atrocities of the new masters of Vietnam. But Sam Brown is unethically silent.

The boat people are dying by the thousands but Jimmy Carter's appointee will not even admit that anything is wrong in Vietnam. He will not publicly or even privately admit that his praise for the genocidal criminals who now rule Vietnam was a sign of political and moral idiocy.

At this point, Mr. Speaker, I wish to insert in the RECORD a column by Andrew Greeley which puts into sharp perspective the ignominious story of Sam Brown.

SAM BROWN, JOE CALIFANO AND THE BOAT PEOPLE

(By Andrew M. Greeley)

Genocide is going on again, and the world barely notices. The offending country is the Socialist Republic of Vietnam and the victims are the ethnic Chinese, who are being forced to buy their way out of the country so their government can confiscate their wealth. They are loaded onto ships and put to sea, with maybe a 50/50 chance of making it alive to some port, where they may or may not be permitted to get off the boat.

According to some observers, Vietnam is making $20 million a year on genocide, which makes them much better merchants of death than even the Nazis, who at least didn't make the Jews pay to go to concentration camps.

Over 90,000 "boat people" may well have died last year, or will die this year—or maybe next year—until the Vietnamese have gotten rid of all the ethnic Chinese in their country and have confiscated all the hard-earned income of these diligent and industrious people. The rest of the world is apparently prepared to absorb some of these refugees, but by no means all of them. In America, HEW Secretary Califano is helping the situation by setting up control centers to make sure no sick "boat people" get admitted to the United States. One wonders how many of Secretary Califano's ancestors or the ancestors of any of the rest of us could meet the current HEW health standards.

What's 90,000 more people in Indochana? The Cambodian government murdered a couple of million before it was driven from power. So some of the 90,000 are old men and women and children. So some of them drown at sea or starve to death or die of disease in an overcrowded ship as they watch freedom fade from view just a few yards away at the port where their ship is docked. Why is there anything so special about the "boat people"?

They are the victims of racism—every bit as much as the Jews slaughtered by the Nazis, the Tasmanians wiped out by British settlers, the white Catholic missionaries slaughtered by Rhodesian guerrillas (who are partially funded by the World Council of Churches), the blacks who are brutalized in Soweto by the South African police. The "boat people" are being killed off because they are racially different from the Vietnamese. Their crime is that their ancestors were Chinese, in a country that doesn't want the Chinese around anymore.

I wonder where are all the great supporters of the Vietnamese republic? As far as I can figure out, Jane Fonda hasn't spoken out to condemn the genocide of the boat people; nor has Sam Brown, the Carter appointee to direct ACTION—a man who attended the celebration welcoming the Vietnamese delegation to the U.S. George McGovern, who at least had the decency to condemn the genocide in Cambodia, has yet to speak out against the persecution of the ethnic Chinese in Vietnam.

There are occasional articles in newspapers, but the religious, political, cultural and intellectual leaders of the American republic remain silent. The same folks who raised hell when a thousand people were killed in the so-called "Christmas bombing" of Hanoi (which, it now appears, was indeed aimed at military targets) seem not to find their consciences at all pricked by the deaths through drowning, disease or starvation of 90,000 boat people. If they ever get around to saying anything about it, I suppose they will blame the United States, just as they blamed the U.S. for the genocide committed by the Pol Pot regime in Cambodia.

In a way, maybe they would be right—though for the wrong reasons. The boat people would be an asset to any nation that would admit them. For generations they have been an industrious, hardworking, resourceful, gifted people. The United States and the other nations of the free world could easily ring Vietnam with ships that would pick up these people and take them into nations that would offer them new homes and new outlets for their energy and ambition. Those who would be admitted to America would quickly become as important an asset to our society as the hundreds of thousands of Cuban refugees we admitted in the 1960s.

It would be a marvelous act of political public relations showing the world we still are a humane nation and also showing up our sometime-Vietnamese enemies for the nasty monsters they really are.

It won't happen, of course, because America's currently going through one of its periods of viciously nativistic anti-immigrant mania. It is a neat but convenient irony that some of those who are enthusiastic supporters of the Socialist Republic of Vietnam are also the most vigorously anti-immigrant. Too bad for the boat people.●

SIDNEY S. BARTH—33 YEARS OF SERVICE WITH THE LOS ANGELES POLICE DEPARTMENT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. ANDERSON of California. Mr. Speaker, on August 19, 1979, Sidney S. Barth will be honored at the Los Angeles Police Academy for his 33 years of faithful service to the city's police department. Today, I want to share with my colleagues a review of his career accomplishments. It is a record of dedication to exceptional public service that illustrates why this special day of recognition is one he truly deserves.

Sidney Barth joined the Los Angeles Police force in 1946 after serving 3 years in the U.S. Army. His rise in the Los Angeles Police Department was a steady one. He was promoted to the rank of sergeant in 1951, lieutenant in 1956, captain in 1960, and to the position of commander in 1970, the rank in which he will retire.

Throughout his police career, the Los Angeles Police Department made full use of his education and work experience by placing him in numerous and varied assignments. Some of the most recent are worthy of special note. From 1962 to 1966 he was commander of the Los Angeles Police Academy, responsible for conducting all formal training given by the department. In the years 1972–76, he carried a position of great responsibility as administrator of discipline in the office of Chief Edward Davis. His final assignment was as assistant to the commander of operations, South Bureau. Here, he supervised law enforcement all along the vast Los Angeles coastal area.

In each of his assignments, this man performed admirably, reflection on the LAPD. His abilities were recognized through his appointment by both Mayor Tom Bradley and former Mayor Sam

Yorty to the emergency preparedness commission for the county and city of Los Angeles. He served as chairman of this group in 1975.

Sidney Barth has also generously devoted much of his spare time to civic affairs making him a valued member in his community. The Indian Guides, American Legion, Alumni Asociation of the Delinquency Control Institute, B'nai B'rith Justice Lodge, and the Los Angeles-Bordeaux Sister City Affiliation are just some of the organizations that have benefited from his participation.

Mr. Speaker, my wife Lee joins me in congratulating Sidney Barth on completing a most outstanding career as a law enforcement officer and administrator. Having known him as a friend for over 20 years, we share the pride his family must feel at this high point in his life. We look forward to his continued participation in the many community activities that make life here in the South Bay area a better place to live. To his wife, Margaret, and their sons, Robert and James, we send our best wishes for a prosperous future.●

WILLIE MAYS TO BE HONORED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. RANGEL. Mr. Speaker, this weekend Willie Mays will be inducted into the Baseball Hall of Fame.

Today, Willie's friends and fans, including New York State and city officials, baseball officials and players, business, industry and community leaders and just plain baseball fans, will honor Willie by designating an area for a plaque commemorating his exploits on the field. The Polo Grounds, where Willie played, is no longer there, having given way to a low and moderate income housing development.

Baseball observers have said: "to watch Willie play was to watch Rembrandt paint or hear Caruso sing." His excellence on the field was unparalleled. He was, indeed, a national hero. Yet, Willie Mays did something special for my community, Harlem. He came to Harlem in 1951 and became a part of us. His enthusiasm was infectious; he instilled pride; he radiated confidence; he put a premium on excellence; he set an example for our youngsters. I, for one, can never forget newspaper photos of the greatest baseball player in the world playing stickball with poor, inner city kids.

An article in Sunday's New York Times captures much of the life and meaning of Willie Mays. It was written by Charles Einstein, the author of Willie's biography, "Willie's Times." I want to share this article with my colleagues.

Willie, thank you for all you have done and what you have meant to so many.

[From the New York Times, July 29, 1979]

SAY HEY, WILLIE MAYS IS GOING TO THE HALL OF FAME

(By Charles Einstein)

If historians of the future ever unearth a time capsule containing the 1972 baseball results, specialists may have to be called in to interpret the evidence. The record will show that the '72 Mets finished 13½ games behind in a lackluster National League East. Yet those same Mets that same year led both major leagues in both home and road attendance.

To more contemporary scholars, so outrageous-seeming a paradox is less mystifying, for on May 11, 1972, New York traded a minor league pitcher to San Francisco for a 41-year-old outfielder. The Giants instantly farmed out their new acquisition. No less thoughtfully, the Mets decided to keep theirs. He was Willie Mays. Overnight, the average attendance at Shea Stadium jumped by more than 12,000 extra spectators per date.

That a Mays in his 40's could attract a crowd was no more than an inevitable extension of two solid decades preceding. A week from today, Mays will be inducted into the Hall of Fame at Cooperstown, N.Y., holder not only of the largest vote total in the Hall's history and more individual records than any other player but well-established as the game's biggest fan attraction.

I saw him play on perhaps 700 occasions, and the sense you had was always the sense of the crowd: something was going to happen. In Willie's case, and in Willie's case alone, that something could happen anyplace on the field at any moment.

COULD HIT, THROW, RUN

Mays could hit: a lifetime batting average of .302. Mays could throw: a record number of times he led his league in double plays for an outfielder. But he could also steal and run bases. Ty Cobb said that Mays had single-handedly restored the art of base-running to the game; the Cobb observation came after a season in which Mays stole third base 13 times in 13 attempts.

And he could catch the ball—Lord, could he catch the ball! People traveled hundreds of miles just to see that. For a man who could score from first base on a bunt, who got more than 3,000 hits, who hit four home runs in one game and 660 lifetime, who in one game made four throws that beat four runners at all four bases—first, second, third, and home—the most extraordinary and arresting testimony is that he made more than 7,000 catches in the outfield.

Nobody is likely to match or exceed that total, ever. Henry Aaron played one year longer and recorded some 1,500 fewer putouts. Nobody ever paid to watch Babe Ruth catch a ball. Mays's total reflects not just the longevity of his career, which began in 1951 and ended in 1973, but the sheer fact his putout total included a few hundred catches that no other human being was going to make. More than once, he made a catch with his bare hand. Tommy Henrich, a longtime teammate of Joe DiMaggio's, saw Mays make a catch in Pittsburgh, then found himself being asked if DiMaggio could have made that same catch. "No way," Henrich responded. "Joe might have got to that ball. But no man except Willie could have held onto it." When Mays won the 1959 All-Star Game for the National League with a triple, Bob Stevens, a sportswriter, summed it up: "The only man who could have caught it," he wrote, "hit it."

REMBRANDT AND CARUSO

"To watch Mays play," wrote another veteran baseball observer, Bob Broeg, "was to watch Rembrandt paint or hear Caruso sing."

"If Plato's Theory of Forms had included a baseball player," said a reviewer in the scholarly Library Journal, "that player couldn't have been any better than Willie Mays. Mays graced a baseball diamond like some kind of existential god—everything in front of him was contained within his field of energy." And yet another journalistic appreciation, in a small-city California daily, would say: "Thomas Carlyle wrote that all greatness is unconscious. Nothing could better describe the genius which Mays brought to the baseball diamond. His was the purest form of athletic beauty, a rare and magnificent talent tempered by nothing and excited by a love for the game matched by no man before or since."

Upon his election to the Hall of Fame last January, The Sporting News, venerable bible of the game, had a headline that said simply: Mays Was the Soul of Springtime. No problem there: baseball itself is the soul of springtime.

And baseball had no clock on it, so Mays again did what baseball does: he made time stand still.

SYMBOL OF CHANGE

Yet he symbolized the game's internal change, and the change of this country as well. Mays more than anyone, including Jackie Robinson, represented the end of segregation in baseball. His coming to the Giants in 1951 meant that not just a black, not just a token black, but a *young* black could make it in the majors. Almost overnight, the country's Negro Baseball League went out of business.

His career would symbolize further change. The New York Giants represented baseball's immutable geographic format, unchanged for more than half a century. The San Francisco Giants represented its Westward migration. The Mets represented expansion. Those were the teams Mays played with.

A recent poll named him the greatest player in the history of the All-Star Game. "They invented that game for Willie," Ted Williams said, and indeed Mays holds the All-Star records for times at bat, hits, runs and stolen bases. He also robbed Williams blind with an incredible catch in 1955.

Another poll, undertaken by Sport magazine during the 1960's, called Mays far and away the greatest clutch hitter in the game. Here, too, some sound credentials exist. In the eighth inning of the final game of the regular season in 1962, Mays came to bat with the score tied. In the ninth inning of the third and final playoff game that year, he batted with the Giants trailing by two runs. In the ninth inning of the seventh and final game of the World Series he came up with the Giants trailing by a run. Left to right on those three occasions Mays went home run, single, double.

In a more relaxed setting—spring training at Phoenix in 1958—the Giant manager, Bill Rigney, assembled his rookie infielders and said: "If they hit a ball to the center fielder, please go to a base. Don't confuse the issue by asking me why. Just go there."

This may have sounded a trifle visionary, or so it could have appeared to a rookie first baseman, Orlando Cepeda. In the course of that day's exhibition game, with a man on first and one out, an enemy hitter propelled a sharp, sinking line drive to center field. Cepeda turned and thrilled at the sight of the Giants' center fielder as he somersaulted while making an impossible catch. "The next thing I knew," Cepeda reported afterward, "there was a baseball in my face. I threw up my glove to protect myself. Nobody could make a catch like that and come up throwing!"

The ball ricocheted off Cepeda's glove. The runner advanced. The official scorer, an understanding man, gave the error to Mays.●

TRIBUTE TO ADAM E. ARNOLD

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mrs. SPELLMAN. Mr. Speaker, I am sure we all agree with England's Izaak Walton that good health is a "blessing money cannot buy." I rise today to say a few heartfelt words about one known to all of us who has played a key role in insuring that we in Congress are blessed with this priceless gift.

That individual, Mr. Speaker, is Adam E. Arnold, who, for the last 13 years, has managed the office of the Capitol's Attending Physician in a truly exemplary manner. It was with mixed emotions that I learned recently that this dedicated public servant will be leaving us soon to take up retirement in St. Petersburg, Fla.

To be sure, I was delighted that this former Navy man who has served in an extremely sensitive post with two different Attending Physicians would be starting a well earned and most well deserved retirement August 31. At the same time, I know the Physician's Office will not easily replace one who is at once so efficient and so compassionate.

Make no mistake, Mr. Speaker, Adam's job is one that not just anyone can handle. It takes a special kind of person with a special kind of talent to help with the medical needs of 100 Senators, 435 Members of Congress, nine Supreme Court Justices, and assorted Cabinet members and other high government officials. Adam—or perhaps I should say "Arnold" since that is how most of us know him—has the qualities needed for the job and more.

Of course, Adam needs no introduction to anyone in this Chamber. He enjoys a truly unparalleled reputation among the Members of the House and Senate he has served. We all know of his initiative and industry. We all know of his dedication and concern. We all have felt the warmth of his smile at times when we most needed his cheerful competence.

Adam's caring attitude is such that, although I was touched, I was not really surprised when he appeared at my door during my own recent stay in Bethesda Naval Hospital. We was not working. He had no official reason to be there. He came by simply to say, "hi," and ask how I was doing. He was truly concerned and it is difficult to put into words how much I appreciated it at the time.

What may be news to some of my colleagues is that, before becoming manager of the Attending Physician's Office, Adam completed some 24 years' service with the U.S. Navy, retiring in 1966 as a senior chief hospital corpsman. He obviously showed the same exceptional qualities in his naval service as he has on Capitol Hill. He saw action with Marine units in the Pacific in World War II, earning a Purple Heart for wounds received during the Battle of Peleliu. He met his wife, Mary, while serving at the Navy Finance Center in Cleveland and was assigned to the Washington Naval Dispensary before joining the Attending Physician's staff.

Mr. Speaker. I know my colleagues here today will want to join me in acknowledging the many fine achievements of Adam E. Arnold. I know, too, they will want to join me in wishing him, as they say in the Navy, "fair winds and following seas" in retirement. And most of all, Mr. Speaker, I know my colleagues will want to join me in offering heartfelt thanks and sincere appreciation to Adam Arnold for 13 years of truly extraordinary service to the Members of Congress. Throughout his assignment in the Attending Physician's Office, he has brought the priceless blessing of good health a little closer to each of us.●

TRIBUTE TO THELMA THOMAS DALEY

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. LELAND. Mr. Speaker, it is highly satisfying for me to join my colleagues in honoring an outstanding citizen—Mrs. Thelma Thomas Daley. I make these remarks in behalf of 95,000 college-educated women who comprise the predominately black organization that Mrs. Daley represents—Delta Sigma Theta, Inc., a public service sorority with 700 chapters distributed among 48 States and three foreign countries.

It is fitting that we recognize the outstanding public service accomplishments of Mrs. Daley and Delta Sigma Theta as she relinquishes her duties as its president. While in office, Mrs. Daley led the organization into avenues of service completely foreign to its past endeavors. In addition to annually giving $1,250,000 in awards and contributions to college students and other groups, the organization, using its own funds, courageously produced a film, "Countdown at Kuisini," starring Ossie Davis and Ruby Dee. The film reversed the traditional stereotype approach to themes about Africa, black America, and black women.

Mainly because of Mrs. Daley's personal efforts and the reputation of the organization for competent performance, Delta Sigma Theta received more than $5,200,000 in 1978 to provide services affecting more than 100 communities. Some of their major efforts include a women's educational equity training and assessment program designed to combat sex stereotypes and promote educational equity for women. Recognizing the need for continuous financial support of black colleges, Delta established a unique trust—the Distinguished Professor Endowed Chair; and, to increase the number of scientists and engineers from minority and low income groups, established a resource center in science and engineering. In its direct search for talent project in Baltimore, Md., and North New Jersey, Delta identifies and provides counseling, tutoring, career testing, and financial aid services to students from selected high schools. The organization has designed a program to increase the awareness of black people to public television in eight selected cities; and, in Washington, D.C., it has received a $5 million grant to provide housing for senior citizens and handicapped persons. Using the power of the pen, Delta has also impacted selected legislation. It wrote 4,000 letters in support of ERA, 700 letters in support of full voting representation for the District of Columbia, and 900 letters to HEW Secretary Joseph Califano encouraging increased funding for black colleges.

I am proud to salute Thelma Thomas Daley, who spearheaded these accomplishments during a time when she also served as preesident of the American Personnel and Guidance Association. Today's tribute is only one of the many tributes and honors she has and will likely receive for turning a traditionally social-oriented organization into one of public service.●

NATIONAL HEALTH INSURANCE

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. YATRON. Mr. Speaker, on Saturday, August 4, a conference entitled, "Your Health and Well Being, Why National Health Insurance" will be held, in Reading, Pa. This conference is sponsored by the AFL–CIO Community Service Committee of the United Labor Council of Reading and Berks County AFL–CIO and the legislative and education committee of the United Steelworkers of America, Reading subdistrict.

The United States falls far behind many countries on several of the statistical measures of health, such as infant mortality and life expectancy as compared to other industrialized nations which have health insurance programs. Many Americans do not have access to proper health care, and are not able to obtain the quality health care that citizens of other nations receive, despite the fact that the United States offers many Americans the best medical attention in the world.

It has become obvious that our present system of health care is expensive, inadequate and to some segments of the population—unattainable. One of the most poignant examples of the hardships caused by our present health care system is that one severe illness can financially ruin the average American family. Clearly, action must be taken and the need for adequate health care must be one of the major priorities of our country.

I know that all my colleagues will join with me in commending the efforts of my good friend, Mr. Jack Unangst, chairman of the legislative and education committee of the United Steelworkers of America, Local 3733, and the members of this committee, and the members of the AFL–CIO Community Service Committee of the United Labor Council of Reading and Berks for their efforts to arrive at comprehensive solutions to our health care problems by holding a conference to discuss the validity and the need for national health insurance. The conference will include representatives from government, labor, the medical profession, insurance companies and hospitals.

This kind of seminar not only allows individuals to hear all sides of the national health insurance question, but it also brings to the attention of the community the need to provide Americans with protection and security against the high cost of health care, as well as improving the efficiency of our Nation's health system.

Because I believe that this initiative is one whose example should be followed by many communities and organizations across the country, I have introduced a resolution in the House to designate August 4 as National Health Day.●

ARKANSAS EXPERIENCE WITH REFUGEES

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. HAMMERSCHMIDT. Mr. Speaker, tomorrow the nine of us you appointed to form a bipartisan congressional mission to survey the refugee situation in Southeast Asia will leave for Vietnam and other Far Eastern nations.

Although the plight of Vietnamese refugees tugs at nearly everyone's humanitarian instincts, the citizens of the city of Fort Smith, Ark., have personal experience with the refugee situation dating back to the use of nearby Fort Chaffee as a refugee processing center in 1975.

In the August 6 issue of U.S. News & World Report, Paul Recer of their Houston bureau filed a report reflecting on the changing relationship between the refugees and the townspeople, from a perspective of 5 years later.

Tonight, on the eve of our departure to investigate the handling of the more recent exodus from Vietnam, the article entitled "An Arkansas Town That Took In 2,000 Refugees," is included in the Record and recommended to the attention of my colleagues.

[From the U.S. News & World Report, Aug 6, 1979]

An Arkansas Town That Took in 2,000 Refugees

Fort Smith, Ark.—Life has been so good for Vietnamese refugees living in this commercial center at the junction of rivers and railroads that others are flocking to join them.

So far, 2,000 Indo-Chinese have settled in the community of 68,000 nestled in the foothills of the Ozark Mountains near the Oklahoma line. And if the past is any guide, still more will arrive in the coming year as the United States admits at least 168,000 additional refugees to join the more than 210,000 already in America.

Like many communities in the U.S., Fort Smith initially had mixed emotions about helping Vietnamese refugees. When the federal government turned nearby Fort Chaffee into a resettlement camp in 1975 to house and process 50,000 of the first wave of refugees, some local citizens were irate. Said one woman at the time: "I hope they all catch pneumonia and die."

But seeds of acceptance already existed in the community first settled by French traders in 1780. At the meeting where the woman complained about refugees, a wheelchair bound veteran who had lost both legs in Vietnam challenged: "If I can accept them, why can't you?"

When the first planeload of refugees arrived in this former governing center for surrounding Indian territories, the Indo-Chinese were met by enthusiastic church groups—and a man bearing a sign with a swastika. "There was a feeling among some people that they were losers," say Jack Moseley, managing editor of the *Southwest Times Record*. "We gave them American soldiers, lives and weapons. The attitude was, 'We've done enough for them.' "

But hostility has gradually given way to acceptance. Churches organized aid. The newspaper published feature stories. Local teen-agers volunteered to work in the resettlement camp—amusing the children, strumming guitars, playing volleyball. The community college organized an orientation course for the new immigrants. An FM radio station broadcast information in Vietnamese throughout the manufacturing and agricultural trading center.

"We had a neighbor who was unhappy about us moving in until they talked with us," recalls Van Bich Le. "Now, they're our friends."

And another refugee woman says: "Many thought that the Vietnamese would be something else until they saw us and got used to us."

Reversal of problem. Early fears that sponsors would be hard to find have given way to an abundance of them. Local people were fearful that "we'd have a refugee camp out there [at Fort Chaffee] for years," recalls Sue Chiolino, regional director for United States Catholic Conference, which helped to settle 60 percent of the refugees. "But in seven months, they were all gone."

The problem developed into one of oversponsorship: "The sponsors would not let the refugees do anything for themselves."

Paying their way became a point of pride for the refugees, who have a higher employment rate nationwide than native Americans. Notes Kim Ben Wilson, a Vietnamese woman who recently married an American language instructor: "I tell people we better not be on welfare. They feel ashamed to get it."

Local employers are finding the Vietnamese to be hard workers and loyal—a valued asset in a community where furniture, scissors, brick, mirrors and auto bodies are manufactured.

Life has been so attractive that the original refugee population of 1,000 has doubled as Vietnamese in other parts of the country learn of the community's reputation and move here.

"The attitude generally has become rather positive," notes the editor of the local newspaper. "That's one reason there was a natural migration to Fort Smith. They haven't seen the prejudice here they felt elsewhere."

Another attraction is that the weather more closely resembles the warm, humid climate of Indo-China than the Northern states where many refugees first settled.

Although most of the Vietnamese are enjoying a greater sense of personal security and freedom from want and war than they ever knew before, problems do exist. An occasional ugly comment surfaces. "From time to time," says one Vietnamese woman, "people talk and it hurts us. But not often."

Adds Le Nguyen, owner of the Diamond Head Restaurant: "Almost 90 percent of the Americans were glad to have us and wanted to help us."

"Pain of loss." A more subtle and potentially longer-lasting problem may be the yearning for home felt by elderly Vietnamese now that the immediate needs of food and shelter have been fulfilled. "Physically, they're better off," says one Vietnamese. "But many still have family back in Vietnam, so their emotional life is very hard for them. There's an emotional pain of loss."

Ha Doan, 22, who fled Vietnam in 1977 by boat, says simply: "I want back in my country. . . . I wish they'd let my people go."

Vietnamese parents see their children adapt quickly to American ways, dressing in American styles and learning English with an Arkansas accent. Youngsters already are losing fluency in Vietnamese. Others desperately try to keep alive old-country traditions in a new land. Thiep Duc Nguyen, for example, publishes books about Vietnamese history and culture.

Anxieties about the homeland are unremitting as refugees recall missing relatives and friends, lost traditions and culture. A sadness colors the outlook of many Vietnamese even as they speak enthusiastically of their hopes and dreams in their new country.

Widely shared, whether spoken or unspoken, is the dream of Van Bich Le: "I wish I could go back home," he says. "Even if it not free, I like go home to die in my Saigon." ●

KABC AND THE SALT II DEBATE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. DORNAN. Mr. Speaker, the survival of the United States as we know it is now being debated in the other body. I am speaking, of course, of the SALT II Treaty. I have seen no public commentary that does a clearer job of summarizing the pitfalls of SALT II than that of Bruce Herschensohn of KABC–TV in Los Angeles. The crux of his argument is simple. If the opponents of the SALT II Treaty are wrong, the cost to the United States will be a temporary diplomatic setback in relations with the Soviet Union, and an increase in the Nation's defense budget. If the proponents of SALT II are wrong, the cost of their miscalculation could very well be our survival as a free people. I commend this superb commentary to my colleagues:

Bruce Herschensohn Commentary

The SALT Treaty has many complexities, many descriptions of weapons systems, and many numbers to memorize. Please do it. All of them are worthy of your study, because you're here now, alive, while this Treaty is being debated and whether or not the U.S. agrees to it could well decide the fare of your family, of this Nation and in fact, no exaggeration, the world. It's that important. The primary question must be, do we or do we not want this Nation to be superior in strategic arms to any other nation. This Treaty prohibits our superiority. That's fact.

Further, from talking to those who attended SALT negotiation sessions and from studying their reports, I'm convinced that it will give the Soviet Union superiority. Apparently the President thinks so too, though he says the opposite. In my opinion he let that knowledge slip less than 2 weeks ago, April the 26th when, in saying that under the agreement systems would have to be destroyed by the Soviet Union, he explained, "Naturally the Soviets will choose to phase out their older systems but those systems are still formidable. The missiles, for instance, to be torn down are comparable in age and payload in our Minuteman II and to our Polaris missiles, presently deployed." Minuteman II and Polaris are some of the best operational systems that we have.

If he admits that they'll choose to destroy systems comparable to them, then the ones they choose to keep must be better. They are. Much better. 308 of them are heavy missiles with which we have nothing to compete and SALT prohibits our building them. We, incidentally, will have to destroy 35 of our best bombers, the B-52. Their Backfire bomber, superior to our B-52's won't even be counted under the agreement, nor will their mobile, SS-20 missiles, be counted. We have no mobile missiles.

Secretary Brown estimates that if we don't sign the SALT agreement it can cost us as much as $30 billion over the next decade. That's 3 billion a year. That's a lot, but remember, HEW can't even find $7 billion that they lost last year. And so in short, if those who oppose SALT, like me, are wrong, then it can mean that at worst, our Nation will spend $3 billion more a year, to become superior or equal. But if those who endorse SALT are wrong, then it can mean that at worst, our Nation will no longer exist. That's the issue.●

SAVE THE MONTREALER

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. JEFFORDS. Mr. Speaker, Senator George D. Aiken, the dean of the U.S. Senate for many years, worked hard to have train service resumed along the Montrealer route. He succeeded in this task, with the able assistance of the late Senator Winston L. Prouty and Senator ROBERT STAFFORD, then Vermont's Congressman. Senator Aiken has continued since then to fight for retention of the route. I have placed the following statement of his into the RECORD. He delivered it during a recent public hearing at Burlington, Vt. on the value of the Montrealer to citizens and businesses in the State held May 11, 1979, by the Senate Select Committee on Small Business and hosted by Senator LOWELL WEICKER.

Senator Aiken, formerly ranking minority member of the Foreign Relations Committee, very eloquently and simply points out that a national commitment to rail transportation services, especially linking the Nations of this hemisphere, is a necessity in these days of uncertainty.

I now quote to you the words of Senator Aiken.

On Christmas Day 1977, I read that Mr. Haswell, a new nominee for the Amtrak Board, had recommended to the Secretary of Transportation Brock Adams that the Montrealer train be dropped in favor of a route from Albany north.

Mr. Haswell was consistent anyway since he had opposed the Montrealer in 1971 and it was evident that he had not followed the ridership records of the two routes in the meantime.

Fortunately, for the Country, Mr. Joseph MacDonald, a native Vermonter who knew railroading to the nth degree, but who was then a resident of Chicago, became a member of the Amtrak Board about the time the Montrealer was restored to service on September 29, 1972.

It was because of Joe MacDonald's interest in maintaining this very important railway passenger service that parties most concerned, including myself, were kept informed of the records of Amtrak services throughout the Nation.

I don't mean that Joe leaked the information—it was public anyway to those who wanted it.

Unfortunately, Joe MacDonald, to whom we owe so much, passed away last year.

Since the records are already in the hands of this Committee, I will not go into them in detail but will simply say that the Montrealer has been one of the most popular and essential trains of the entire system.

Having been an advocate of the Montrealer since its beginning, I was naturally pleased to learn that Committees of both Houses of Congress have recommended that this train be kept in operation after October of this year.

One of the most important functions of the Montrealer is the maintaining of our good relations with Canada.

Montreal, the largest population center of Canada, and Washington, D.C., the Capital of the United States, are now only a comfortable overnight trip apart, with no change of train necessary and from Montreal it is a short trip by train, car or air to Ottawa.

Many more people now make the trip from New York or Washington or even further south to Canada on the Montrealer than take the train from Albany north.

Mr. Haswell is reported to have said, in effect, "Let Canada take care of her own business and only run one day train to St. Albans."

This is a ridiculous proposal. No one would want to walk or ride a bicycle the last fifty miles.

With the world in a state of turmoil and uncertainty today, it is more essential than ever that we maintain the best possible relations with adjoining nations of the Western Hemisphere, namely, Canada and Mexico.

Food and energy are perhaps the most important needs of the world today.

Canada has both—food for the hungry people of the world—and energy from all sources of production.

More than once while I was Chairman of the Senate Interparliamentary Committee, which met with the Canadian Committee twice a year, I had to appeal to Canada to help us on power shortages in Northern New England.

And never once did the Canadians fail to help us out.

To even suggest stopping train service at St. Albans is a ridiculous and unneighborly proposal.

In this unsettled world of ours, we can take little for granted.

Disturbances are the order of the day.

There is the threat of a shortage of gasoline and oil.

War clouds are gathering again and may or may not develop into crises.

Inflation is generating prices beyond the reach of millions of people and also the taxpayer.

I am not predicting disaster, but the better prepared we are to meet one the less likely one is to occur.

We are putting billions of dollars into highways, but highways alone cannot meet a critical need.

In the event of a gas shortage, highway and air travel would be crippled.

Again I say, I do not predict disaster, but let's be prepared for it.

Preparedness may scare it away.

At this time, I wish to thank those who have risen to the defense of the Montrealer passenger train.

Almost the entire force of New England's Congressional Delegation has risen to defend our States and our Nation.

They have been joined by people from the South, East and West.

It looks now as if Congress will insist on the continuance of the Montrealer.

We cannot take this for granted, however, and must continue to oppose all efforts to abandon it.

Again, thank you Senator Weicker for arranging this hearing today.

Keep up the good and necessary work.

Mr. Speaker, I will now add my comments. A functioning train route through western New England to Montreal has been a nearly constant feature of this Nation's transportation network since the advent of the rail age.

In 1972 the Montrealer made its trial first run as an Amtrak train. Brass bands, schoolchildren, boards of selectmen, and thousands of citizens lined the platforms of the stations as the new Montrealer made its maiden run through the State. I feel confident in saying that nowhere else in the Nation was the public support for a rail route as warmly demonstrated.

This public support has continued in the form of ever-increasing numbers of fare-paying passengers. About 26 percent of all Amtrak customers are within one of two low-income groups—the elderly and students. Amtrak is more than a convenience for the businessman, tourist, or shopper; it is an essential means of providing equal mobility to the lower income residents of Vermont and many other locales. It is more than a mere convenience to the touring family that needs and desires moderately priced, spacious, and comfortable transportation for long-distance trips.

The Montrealer is an international route. The very time in the history of United States-Canadian relations when clear expressions of American concern about the economic and political well-being of our neighbor to the North are necessary is decidedly not the occasion to restrict or limit the ties that have united us for so many years.

The mandate Congress gave to the Department of Transportation in the Amtrak Improvement Act of 1978 was unequivocal in its emphasis on the need for public input into the restructuring process, as well as the need for an optimal intercity rail system. Indeed, over 50 hearings were held around the country. But no hearings were conducted in Vermont, New Hampshire, western Massachusetts, or Connecticut. Vast regions affected by the termination of passenger rail service proposed in the DOT final report has no advance notice and no opportunity to be heard. This situation was certainly contrary to the spirit and plain meaning of the Amtrak Improvement Act.

The preliminary report on Amtrak restructuring, published in May 1978, indicated that the Montrealer should be continued. As late as a few weeks before the Department of Transportation's final report was made public on January 31 of this year, the Montrealer was still on the list of routes to be continued. I suspect that only last minute arm twisting by the Office of Management and Budget obliged the Department of Transportation to eliminate the Montrealer, and other long and short distance trains as well, not on the basis of its own analysis, but rather as a result of an arbitrary budget limitation. The Nation's railway system is being forced into a procustean bed where its body and limbs will be truncated to satisfy not the people, nor even transportation experts, but rather the faceless bureaucrats with green eye shades. (See CONGRESSIONAL RECORD, July 24, 1979, pp. 20447–20450.)

DOT asserts that the portion of the Montrealer's route north of Springfield should be cut out of Amtrak's system because that portion records fewer riders at most stations than the ridership witnessed in the middle of the Northeast corridor, say between Philadelphia and New York. But the plain fact is and has been for several years that the portion of the Montrealer's route north of Springfield accounts for two-thirds of the route's total business. The average trip length for a passenger using the northern portion of the route is about 413 miles per trip and increasing. The average trip length for those traveling only from and to points between Washington and Springfield on the Montrealer is about 100 miles. This is why in terms of both service rendered and passenger revenues, the portion of the Montrealer doomed by DOT, and likely resurrected by this bill, is in reality the stronger, not the weaker, part of the route.

Ridership on the northern leg of the Montrealer's route has increased significantly in recent years, while the southern leg's ridership has remained relatively stable. However, DOT continues to belittle this growth by reducing the Vermont ridership figures to the small numbers of passengers which board or deboard at a given station. In fact, the number who board and deboard as a total in Vermont is more than 160 per day, which is more than impressive considering Vermont's rural nature, the hours of arrival, and the fact that the 160 figure is larger than the total boarding and deboarding in New York, the population of which outstrips the entire State of Vermont by a factor of about 20 to 1. The Montrealer is not a marginal route and the portion north of Springfield is well worth saving.

Amtrak's own statistics support this assertion. A detailed avoidable cost projection made by Amtrak's chief financial planner at the request of the Vermont congressional delegation concluded that on a car mile basis the avoidable cost of continuing the train from Springfield to Montreal would be about $2.35 per mile. The total route cost per mile would be about $2.60 and the segment south of Springfield, by our calculations, would be $3.33 per car mile.

Cutting off the portion of the Montrealer north of Springfield is equivalent to amputating a head and telling the body to keep functioning. Chickens may be able to run around with their heads chopped off, but I do not think that a railway can.

Taken together, the facts speak for themselves; the Montrealer should be maintained. In terms of ridership popularity, revenue generated from customers, and cost to the public, the Montrealer is one of Amtrak's best performers. It is not a marginal train route. Recent actual performance data from Amtrak itself proves that the opposite is the case.

Beyond doubt the actual ridership aboard the Montrealer increased signficantly from a first quarter fiscal year 1978 level of 128 PB/TM to a level of 150 for a similar period 1 year later. During the 7-month period ending with April—the most recent period for which Amtrak has compiled ridership statistics—the Montrealer averaged 166 passenger miles per train mile. The April monthly ridership, which occurred just before the recent scourge of gas station lines and scarcity, shows the PM/TM figure for the route was 195, 36 percent higher than April of last year. The year to date ridership for the route is running 17 percent ahead of last year, ranking the Montrealer fourth highest among long distance Amtrak trains, and substantially above the long train average of 130 PM/TM. Ridership has been increasing on the Montrealer for several years.

These most recent figures honestly portray the service rendered to the traveling public. The earlier DOT-developed figures are simply out of date. First, and perhaps most importantly, the Montrealer was transformed from a train of conventional aging cars that often broke down and ran off schedule, last spring, into a train composed of modern Amfleet equipment. This new equipment is much more reliable and comfortable. Ontime performance has increased significally from 32.3 percent ontime runs in December, 1977 to an 83.3 percent on time for November, 1978. The route was on time 72 and 76 percent of the time in March and April of this year, compared to 43 and 49 percent for all long distance trains. Along the portion of the Montrealer scheduled for discontinuance by the DOT, north of Springfield, the train was on time 83 and 92 percent of the time during these 2 recent months, according to Amtrak.

Amtrak President Boyd has already testified in Congress that new Amfleet equipment improves service and cuts maintenance costs. The customer reaction to outfiting Amtrak with modern locomotives and passenger cars has been proven by the Montrealer. Passenger use of the Montrealer has increased for other reasons as well, notably the spiraling price of gasoline and periodic gas shortages throughout New England.

The passenger miles per train mile factor measures the average number of passengers carried by a train over its entire route. The Montrealer stands out in its greater than average performance in this regard, especially during fiscal year 1978 and the most recent data available for the first 7 months of fiscal 1979. Actual ridership on the Montrealer has been above the average for all long-distance Amtrak lines for several years and recent trends only increase the gap between the average of the long-haul routes and the Montrealer's overall performance.

Significantly, the Montrealer during 1978 enjoyed a higher ridership factor than two-thirds of the long distance train routes now operating and better than 5 of the 11 long-distance routes that are scheduled for continuation under DOT's route restructuring plan. The latest figures released by Amtrak reveal that Montrealer ridership during the first and second quarter of fiscal year 1979 continued to increase and is expected by Amtrak officials to rise to a level of 170 PM/TM during fiscal year 1980. This ridership projection is higher than the 156 PM/TM break point used by DOT for continuing long-distance trains after October 1, 1979.

Passengers on the Montrealer are paying some of the highest per train mile prices for this valuable service and the Montrealer is a high performer in terms of revenue generated. In this connection I might add that historically the Montrealer has outproduced many, and sometimes, all of the long-distance routes in passenger revenue yield per passenger mile.

The Montrealer's growing popularity has brought down the public subsidy for this service, so much so that in the first quarter of fiscal year 1979, it ranked fourth among all long-distance routes in the amount of train revenue paid by its passengers as a share of total train costs. These figures were obtained by simply dividing total train route revenues by total train route costs for comparable periods. All of the data was released by Amtrak's financial planning office in the form of regularly issued route performance reports.

The decision to cut a train route depends not only on how it compares to other routes in terms of ridership and revenues but also on how much of a loss could be eliminated by dropping the route. This amount is calculated by Amtrak and is called the avoidable loss. During the fiscal years 1977 and 1978 the Montrealer's avoidable loss per passenger mile dropped from about 6.5 cents to just over 5 cents. This most recent level of avoidable loss, like the ridership and route profitability data, illustrates that the Montrealer should logically fall within the group of lines that DOT has recommended for continuation. It is not on the edge or even near the edge. In fiscal year 1980 Amtrak estimates the figure at about 6 cents, which is less costly than many of the trains to be continued under the DOT plan.

I am not unmindful of the need to economize. However, simply lopping off strong, well-utilized routes is not the way to proceed. Cutting costs and increasing ridership by making available services that are well used by the public are the ways to better Amtrak's financial position. The Montrealer has proven by any standard that it is one of the stronger long distance rail lines. It offers a service that is enjoyed by ever increasing numbers of riders.

Amtrak must be given the bargaining power it needs to eliminate the vestiges of featherbedding that remain along various routes. For instance, the Montrealer, over its 670 miles of track currently uses six different crews of five to six persons each to operate it. These crews are well paid. Often these crews work for only several hours on the Montrealer over a fraction of its length and yet Amtrak pays them nearly a full day's wages. I am informed that the crews operating upon Amtrak's own Northeast corridor track between Washington and Springfield contain firemen whose duties have long since disappeared. The train runs on electric current through New Haven and on diesel fuel the rest of the way. I am informed that one crew takes the train from White River Junction, Vt., to Springfield, a trip of 80 minutes, receives a full day of pay and then backs the train into the Springfield station and receives another premium payment for this task, on top of its wages. Perhaps the Montrealer can be run with two or three crews of four persons each. If this were done I am told the route could cut its labor costs by $1 million a year.

Currently, both the Immigration and Naturalization Service of the Department of Justice and the Department of Treasury's Customs Bureau each employ two officials who board the Montrealer every night as it crosses the border into the United States. These four individuals spend approximately a half-hour satisfying themselves that the passengers and goods on the train are entering this country legally. Because of the Montrealer's schedule their work is undertaken on an overtime basis for which they are paid double time. And these costs must be borne by Amtrak by law. The overtime and other incidental costs relating to border crossing could be lowered if the INS and the Customs Bureau entered into an agreement, similar to that utilized elsewhere, for dual inspection under which employees of one agency are empowered to fulfill some of the duties of the other agency. Preinspection by Immigration and Customs of passengers as they board the train in Montreal might also serve to reduce costs. These possibilities should at least be given serious consideration as part of a concerted effort to lower costs. The law does not require trucks, buses, ferries or private autos to pay premium overtime at the border crossing.

Revenues might be raised by encouraging the U.S. Postal Service to make greater use of the Montrealer, and other trains, for mail transport. In recent years revenues from the Postal Service have decreased sharply. The Montrealer has a largely underutilized capacity to carry mail and packages. The recent construction of an impressive regional mail handling center in White River Junction, on the Montrealer's route, makes a reassessment of the potential of rail transport for some mail even more logical.

These are some steps which could be taken in the near future if the administration would make a concerted effort to coordinate Government activities with the goal of creating a vibrant, and financially viable, and extensive national rail passenger system.

There can be no doubt that we are entering a phase of our history in which energy must remain a paramount concern of our public policy. The President has recently underscored this. We must look to the future and attempt to reduce our use of scarce resources. The Department of Transportation's environmental impact statement points out that the Montrealer in Vermont uses about half of the energy which would be necessary if its passengers were obliged to travel by private automobiles. An even greater loss of energy would be caused by diversion to airplanes, Amtrak's chief competition, but the DOT has not estimated this gap. The elimination of the Montrealer is a poor policy choice from the standpoint of energy conservation in a region chronically plagued by high fuel prices and supply shortages.

According to the Vermont State Energy Office, a shift from the Montrealer to private autos would result in an increase in use of gasoline by automobiles in the State of 0.3 percent. This is a significant figure for a State in which gasoline consumption is increasing while allocations have dropped 7 percent during the last year and are likely to decrease even further, since the DOE has recently urged oil companies to divert up to 5 percent of rural supplies to gas-starved urban areas.

Using the Office of Technology Assessment's 1979 report on the Nation's automobile transportation system and DOT's report entitled "Trends and Choices in the Year 2000," I note that the average intercity car trip includes 2.2 people and the average fuel economy of the Nation's passenger car fleet is 13.5 miles per gallon. Because interstate highways closely follow the track route it is fair to compare fuel consumption of the Montrealer with the private car over the 670 miles from Washington to Montreal. According to our calculations the Montrealer is twice as energy efficient as the automobile at present ridership levels.

The Montrealer and just about every other Amtrak train is demonstrably much more energy efficient than air travel. Likewise according to the Department of Energy's report, "Energy and Related Parameters of Selected Transportation Modes," the potential energy savings of the train are larger than those of the bus. While the comparative energy efficiencies vary from route to route, one important issue here is the relative fuel efficiency of the Montrealer. Based on actual ridership, fuel use by the Vermont Transit Bus Co., a competing bus service, during calendar 1979, averaged about 90 passenger miles per gallon. Projections indicate that, with its substantially growing ridership, the Montrealer will increase its fuel efficiency to 96 passenger miles per gallon in fiscal 1980.

More than half of the oil we use in America does work for us by moving people and goods. Oil is becoming scarce and its refined products are rapidly approaching the high retail price that has long been prevalent in the energy importing nations of Europe. Therefore, our people and our Government must reconsider how we live and find answers to the question: "How can we do the things we want and use less energy?" Using less energy means conserving precious oil and gas as well as saving money. The potential energy savings from a modern, speedy, comfortable passenger rail network are very substantial. That is basically what Congress is up to today; assuring that our people can take advantage of the potentially great energy savings promised by a modern Amtrak system. This is true especially during our seemingly perpetual energy crisis which, by all accounts, is not soluble very soon and can only be managed over the long pull while we make the fundamental changes in our society that are required. One of the basic changes that we must make is to develop alternative energy sources. At the same time we must develop and encourage the patronage of alternative transportation means.

Amtrak's day has come and the people are telling us this in the strongest possible terms. It is a fact that Amtrak has been so deluged recently by requests from our people for long-distance train reservations that more calls are not answered than are answered, despite the fact that the company hired an additional 200 reservations clerks to handle the sudden demand for train service of the last several months. Even before the gas shortage that has driven many thousands to travel by train instead of by personal auto or airplane, Amtrak ridership figures prove that the public's demand for train service has grown substantially faster than the Department of Transportation or even Amtrak expected as late as last fall.

All of this comes down to one simple imperative that we face today. We must give a vote of confidence to our peoples' developing choice in favor of trains. We should maintain and even expand that part of Amtrak's nationwide train system that is being used to capacity or to near capacity. Everyone seems, at long last, to agree that the train routes that are strong, those that the public chooses to ride in large numbers, are not only worth saving but worth improving. We should outfit the Amtrak system with the proper equipment to keep these newfound customers, to improve the service to our people. We can make Amtrak trains more cost efficient, more convenient, and less susceptible to breakdowns and delays. Congress can restore the low morale within the ranks of Amtrak's employees, and more importantly, within the ranks of the American traveler.

Mr. CONTE's amendment to the Transportation appropriation bill, in combination with the Amtrak Reorganization Act passed by this House on July 25, 1979, are intended clearly to accomplish these aims.●

UNCONSTITUTIONAL RESTRAINT OF THE PRESS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. WEISS. Mr. Speaker, on March 26 of this year U.S. District Court Judge Robert W. Warren issued an unprecedented ruling restraining the Progressive from publishing an article entitled "The H-Bomb Secret: How We Got It, Why We're Telling It." On June 15, in a secret opinion, Judge Warren reaffirmed his earlier decision in response to the Progressive's motion to lift the injunction. This ruling is the first case in the history of this country in which a Federal judge has imposed prior restraint on the press on national security grounds.

This case generated three major constitutional concerns. The first, and possibly most important of these is when, if ever, the Government can justifiably resort to prior restraint in order to halt the publication of potentially harmful materials.

Advance censorship is the most serious attack on freedom of expression possible. It puts the burden of proof upon the person who desires to communicate information instead of upon the Government officials attempting to suppress it. It forces the defendent to comply with the censor or to be found in violation of the law. And it corrodes the right to freedom of expression, even if the suppression order is eventually overruled, because it delays the thought's timely expression. In past decisions the Supreme Court has ruled that prior restraint may be appropriate in a few narrowly defined situations such as one in which a member of the media intended to publish the number and location of troops in a time of war. However, until this decision, that rigorous standard has never been satisfied.

The second constitutional issue dealt with in this opinion is whether the definition of "restricted data" as "all data concerning: First, design, manufacture, or utilization of atomic weapons; second, the production of special nuclear material; and third, the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the restricted data category pursuant to section 2162 of this title" is unconstitutionally overbroad. In effect, the vagueness of this definition presupposes all nuclear information to be restricted unless otherwise specified. This stands one of the most basic precepts of the Constitution on its head; all information should be available to the public unless the Government can prove that it should not be, not vice versa.

The third question generated by this case is whether the concept that ideas can be "born secret" is a constitutionally viable one. In this case all the information used in the article was in the public domain. The Government contended that even though the facts used were public knowledge, they were combined by the author in such a way that they created "classified concepts." The danger of assuming that certain original ideas should not be expressed because the thought ought to have been a secret, is obvious. The "born secret" concept, if upheld on appeal, could conceivably be used to stifle much of the scientific inquiry in this country.

The controversial nature of Judge Warren's ruling has been compounded by the recent finding that documents revealing "the essential secret of the H-bomb" had been erroneously declassified and on the public shelves of the Los Alamos scientific library for 4 years. Discoveries such as this one critically weaken the Government's contention that the publication of this article would have devastating effects on our national security. In fact, the Justice Department's refusal, after such a discovery, to withdraw their request for advance censorship of a markedly less informative article, shows a basic misunderstanding of the concept of prior restraint, and of the tremendous care and reluctance with which it should be imposed.

In a case such as this one, in which such basic constitutional issues are at stake, it is important that Congress not fail to exercise its oversight functions. Every day that the publication of this article is delayed constitutes a further violation of the fundamental right of freedom of expression. It is our responsibility to insure that the most basic rights of our citizenry, to speak and to be heard, are not violated.●

THOUGHTFUL CONSIDERATION NEEDED FOR LARGE ENERGY PROGRAMS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. OTTINGER. Mr. Speaker, today I received an extremely thoughtful letter from Frank von Hippel and Jeremy Stone, president and director, respectively, of the Federation of American Scientists. In their letter they review some of the potential pitfalls of the President's latest energy proposals and provide some excellent insights on their preferred short-term alternative, conservation, and productivity.

Messrs. von Hippel and Stone have spent a great deal of time in pondering our energy needs and seeking appropriate ways to solve our problems. I would like to share their letter with my colleagues, and that it be inserted in the RECORD.

The letter follows:

FEDERATION OF AMERICAN SCIENTISTS,
Washington, D.C., July 26, 1979.

Congressman RICHARD L. OTTINGER,
Chairman, Subcommittee on Energy Development and Applications, Committee on Science and Technology, Washington, D.C.

DEAR MR. CHAIRMAN: It is, in our view, incontrovertible that the various proposals for subsidizing a crash program of synthetic fuel production need more study, and at every level. Extensive hearings are clearly indicated.

At the level of feasibility, we find that the President is proposing that $88 billion would lead to the production of 2.5 million barrels of oil substitutes per day. But the largest user of synthetic fuel plants in the world, South Africa only produces tens of thousands of barrels of oil per day! Thus the President is proposing a hundred-fold increase from what is being done today. No person in the world can grasp the various financial, environmental, legal, and procedural implications of this effort. In particular, the real price of the various kinds of synthetic fuel are quite unknown. Newspaper reports, and the way in which the proposal has surfaced, reveal only too clearly that analyses of sufficient weight to support a program do not exist.

On the contrary, the Administration proposals attempt to finesse the need for environmental, and legal, analyses by embedding in their provisions, sweeping methods of neutralizing such existing legislation as the National Environmental Protection Act (NEPA). This act, painfully legislated to protect important environmental rights, also includes a requirement to weigh alternatives. It is significant that the synfuels supporters seem to believe that this legal lobotomy has to be performed on the body politic to give the synfuel program a chance.

Consistent with the awareness of impending difficulties, the Administration clothes its proposals in the rhetoric of a "war." If we were really in a situation justifying that kind of rhetoric, proposals like these would deserve crisis consideration. But if we were in a war situation, much easier, more reliable, and more immediately effective proposals such as gasoline rationing, or higher gasoline prices, would already be instituted. The Administration is proposing a "business-as-usual-type-war" in which giant leaps of technological faith are put forward to disguise political weakness. In the Alice in Wonderland world of Washington politics, higher gasoline prices are a "hard" decision and an $88 billion investment in untried technologies is an "easy" way.

The fact of the matter is that America can make do with much less energy use than is customarily realized and that such conservation, often with no lifestyle changes, is by far the cheapest way to "increase" supply. Conservation methods require no untried technologies and far less massive investments. Once instituted, they work indefinitely with much less cost to the environment. They require no destruction of existing legislation. And they give the world much more confidence that America is getting its house in order than these long-range airy predictions of future technological fixes. Conservation will work.

The main ingredients in such conservation measures are these: (1) an intellectual awareness of the sources of unnecessary waste, and (2) full cost energy pricing to motivate elimination of that waste. Today, in stark contrast with the war rhetoric, America has about the lowest prices for gasoline in the industrialized world, far lower than in Europe or Japan. Can it really be efficient for our society to invest $88 billion in synthetic fuels while keeping real fuel prices artificially depressed? This seems ludicrous.

To justify the kind of subsidies involved in the synthetic fuel program, analyses would have to make it plausible—among many other things—that the program could be terminated at some future point when synthetic fuels became cost-effective in their own right. Obviously, we do not want to discover, in some future year, that we have an $88 billion investment in synthetic white elephants which must be subsidized year after year for the indefinite future. But this is obviously possible, and, it would seem, even likely if national fuel prices are kept artificially low.

In two recent cases, the Government has gotten into financial and political difficulties by artificially stimulating research and development activities—much less the full-scale construction here involved. These were the cases of the Supersonic Transport and the Clinch River Breeder Reactor. It was supposed that, with Government stimulation, the SST would eventually make it. After a titanic battle, the Government got out of the SST subsidy business, and history has completely vindicated that decision by the failure of Concorde to sell. The assumption that the Clinch River Breeder would be needed when ready—an assumption that underlay that subsidy—was based on unrealistically high projections of nuclear power growth and unrealistically low projections of Breeder capital costs, among other things. Here also, we learned the limits of man's ability to project his technological future.

By contrast, the Administration, in its synfuel program, is pushing the technological future far further, and pushing its legislative program far faster, than any program we have ever witnessed. Without even hearings on the implications of this program, important parts of the Congress want to pass it! Our own quick-to-react organization is itself so short of time to examine the implications of this unprecedented and major effort that we are unable to consult all of our intellectual resources and must send, instead, this reminder of basic principles.

No good can come of passing legislation like this without, at the least, the most detailed and prolonged scrutiny. After all, the program will take years to mature and its effects will be with us for decades. We therefore wish, in the strongest terms, to urge extended hearings on all aspects of this legislation.

Sincerely,

Frank von Hippel,
Chairman,
Jeremy J. Stone,
Director.●

THE UNISEX MILITARY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1979

● Mr. DORNAN. Mr. Speaker with dangerous recruitment shoftfalls and discussions of reinstating the peace time draft many citizens are wondering just how we can maintain our military strength. Suggestions have surfaced that America should become the first military power in Western history to use women in direct combat with enemy troops if necessary.

I hope to make information available to my colleagues both pro and con on this most sensitive topic as we debate the registration of our younger citizens during this 96th Congress. As the available manpower pool continues to grow smaller, we as a nation will have to develop policies to meet this situation. We cannot run from this. However, we should formulate a defense policy with our eyes wide open.

I urge my colleagues to read the "Wacs in Combat," an article taken from the Army Times magazine February 23, 1976. The article follows:

WACS in Combat

By Joseph E. Revell/Second of two parts

Army SFC Jim Adams is one of those professional noncommissioned officers for whose services an experienced infantry company commander would trade his last case of cleaning patches, two spare machine gun barrels, and most any other three NCOs in the company. Adams is commandingly competent. He's a drill sergeant in Company C, 1st Basic Training Battalion, WAC Center, Fort McClellan, Ala.

I met him in a classroom crowded with young women learning how to assemble, adjust and wear the Army's field pack. I wasn't at ease there. It was my first real close-up look at those fatigue clad, booted females. Recognizing Sergeant Adams as the only refuge in the room, I sidled over and stood near him as he helped a student with her pack.

When we got a chance to talk, I asked him what special consideration he had to give to his female charges, what changes he'd had to make in the normal way he dealt with soldiers.

"None!" he replied. "They are soldiers and I treat them like soldiers!"

"Come on now, Sergeant Adams, I know something about soldiering. You can explain it to me.

He did. Reiterating his first statement, he then added, "So far as the Army is concerned, these women are soldiers."

But are they? The sergeant's statement implies a male-female equality of soldiers that doesn't quite exist. As I reported in the first part of this article two weeks ago, the Army doesn't train its women for combat as well as it trains its men. However, the Army's assignment policies are putting women in combat support units overseas where they need to—and should—have the same training as the men in their units.

This placing of women in units in possible combat theaters causes practical and philosophical problems. The practical concern, the quality and fairness of training and assignments, as well as the attitudes of the sexes toward each other. The philosophical concern, the probability of Army women sharing in the killing and dying in the next shooting war.

When pressed for an answer to whether or not Army women will find themselves in combat in the next shooting war, Army personnel officials admit that they would. Although the Army knows women in combat will be killed, its public position implies very strongly that they will not become casualties. The Army's standard answer is that it doesn't want women in combat, thus doesn't assign them to combat units or give them combat jobs. However, any person assigned to a combat theater is liable to be killed, wounded or captured, and the Army knows this.

But there has been no substantial discussion of this real possibility either in Congress or, as best I can tell, in the Army. More importantly, this issue of women in combat has not become one for general public discussion in the news media and elsewhere. Press coverage of military women too often deals with superficial issues, such as barracks partitions and separate toilets.

The Army's official policy of the woman as soldier has acquired a life of its own. "The women are on the move now that the male foot is finally off their necks," a male officer told me at Fort Jackson, S.C. "Anyone who stands in their way is going to get run down."

Unless the American people are made aware that Army women will be shooting and dying in the next war, it could be the Army itself will "get run down" by a surprised public.

When the Times magazine suggested this probability to Army personnel officials, Deputy Assistant Secretary for Manpower and Reserve Affairs Paul D. Phillips, a retired Army brigadier general, had a frank answer:

"You know, your premise may be very correct—that the American public doesn't know women are going to get killed if we go to war. And I think you can do us a great service if you tell them they are."

Phillips speculated that about 10 percent of the women assigned and working behind the front lines in a combat theater would become casualties, in addition to those who would be injured or killed in "emergencies" in the front lines.

Whether or not the American people are told, the Army has got a tiger by the tongue. Equality can't mean a patronizing equality for women at the expense of men. The men, after all, have fought America's wars until now—all 10 of them—and likely will constitute a majority of any future force committed to battle, regardless of how America and the Army decide the issue of women in combat.

Reports that the Army is considering the adoption of an equal, unisexual basic combat training program merely confirm what I believe is the next step: women serving in the combat arms as full-fledged soldiers. In what follows I explain how and why this will happen.

Throughout the semi-peacetime era since World War II, when the threats to America's security haven't been as obvious as on Dec. 7, 1941, the nation's young men generally have avoided the Army. Life in the combat arms isn't all that glamorous, it's usually uncomfortable, and it can be hazardous. Until 1973, therefore, we got most of our combat soldiers by military conscription.

The Navy and Air Force, offering skills, schools, and safer and softer service, have had little trouble attracting draft-induced volunteers. The Marine Corps has had enough response to its recruiting challenge to need the draft only during the heat of wartime expansion. But the draft was the Army's lifeblood, and the arrival, on July 1, 1973, of the all-volunteer armed forces put the Army into a recruiting crisis.

"The Army Wants to Join You," a slogan that somehow didn't carry the galvanizing urgency of the actual requirement for soldiers, shouted from magazine ads and billboards. Bounties of up to $2,500 were offered for service in combat arms. The news media soon were carrying reports of recruiters, pressed to meet impossible quotas, turning to questionable practices and outright fraud while trying to get the warm bodies demanded by the Army.

Somewhere along the way, the Army remembered the pool of available warm bodies were nicely divided, about down the middle, into male and female.

"We may as well be frank," said Phillips, "the first few months of the all-volunteer Army . . . we missed some of our recruiting objectives—month after month we missed them. So we started casting about. . . ." He also said there was "pressure on the Army, from outside sources, from OSD [Office of the Secretary of Defense]. 'Can't you find places to use more women?' "

"We were here all the time," Maj. (Flora) Jerry Thompson said, "and could have done fantastic things." Major Thompson, 22 years in the Army, the executive officer of a basic training battalion at the Fort McClellan

WAC Center, added, "Someone got smart. The all-volunteer armed force is the greatest thing that ever happened for the WACs."

First Lt. Andrea Kapolka told me, as we watched her women trainees running an obstacle course at Fort McClellan, "The Army's where it's happening for women!"

It hasn't always been so. The social barrier against women serving in the armed forces didn't fall easily. A few thousand women served, in the Navy and Marine Corps, in World War I. It became hundreds of thousands in the national abandon of WWII as all four services enrolled women. The guiding philosophy then was "free a man for combat." Officially noncombatants, the WWII women did everything short of fighting that was needed to win the war.

Members of the Women's Army Corps, first formed during WWII, served throughout the U.S. and in every military theater overseas. As one woman sergeant major told me recently, "This is no big deal! Everyone has forgotten that we did all this before, during WWII, and no one got excited about it." She's almost correct; WWII women in the WAC were not combat soldiers.

After WWII and before 1967 the WAC was limited by public law to not more than two percent of the Army's total strength. That year Congress changed the law, giving the service secretaries authority to recruit women as needed by the military departments. The stage was set for a giant leap for Army women, far beyond what even the women could imagine.

An Army pamphlet, published in 1972 when WAC strength was about 12,000 looked ahead to all-volunteer days and made a glowing prediction of "a 50 percent increase in [WAC] strength by 1978–79," or a corps of 18,000 women. It was a bad call; WAC strength is now over 40,000 and the new 1978 forecast is 50,000.

Col. Edith Hinton, Deputy Director of the WAC, also believes the all-volunteer force has been responsible, along with "changes in the civilian culture and the Army's traditional role in providing equal opportunity," for the rapid increase in women's strength. What's the Army doing with the added women?

Colonel Hinton, after noting that all but the combat arms specialties are now open to women (415 of the Army's 451 occupational fields), explained the assignment policy by giving percentages of women to total strength in the field army's combat support units.

U.S.-based combat support units may have as many as 25 to 50 percent women, Colonel Hinton said. Overseas, including units in combat theaters, the Army has set up a sliding scale based on a unit's closeness to combat outfits (those that usually are a part of combat brigades).

Support units serving directly behind brigades would have no more than 10 percent women. Units farther back (in Army terms, from division to corps) would have from 15 to 30 percent women. Behind the corps area, or very distant from the front lines in a combat theater, women would make up 25 to 45 percent of a unit.

"But," Colonel Hinton added, "there is no magic percentage of women to men in the combat support units. These are the figures being kicked around. In the next year or so we'll . . . validate these unit percentages and what the total figures on women's strength should be. It might be above 50,000; we consider our goal of 50,000 women in the Army is a floor, not a ceiling."

How much above 50,000? With planned Army strength in the years ahead set at around 785,000, 50,000 women amounts to 6.36 percent of the Army's total strength. The nation's female population can easily supply that many, and more.

Is the Army laying a foundation for a wider role for women? Will the all-volunteer recruiting problem be solved by enrolling more and more women? Not even the Army manpower planners know. No modern nation ever has maintained a volunteer force on the scale we're attempting, nor in an "equal opportunity" environment.

But to see the problems—overseas rotations is a major one—related to women in the volunteer Army, look at two other services. Adm. James L. Holloway, Chief of Naval Operations, recently explained the Navy was limited in assigning its women by two factors, in an interview in US News & World Report.

"One," he said, ship "billets must [by law] be filled with men, and secondly, we must preserve some billets ashore for those men at sea to rotate to. Otherwise, we would be putting our men on open-ended sea duty."

Army Lieutenant Kapolka was for three years an officer in the Marines, got out and taught school for several years, then joined the Army. Why didn't she go back to the Marines? "Women in the Marine Corps are more of a fringe," she said.

It's apparently by calculation. Maj. Ruth Woidyla, administrative assistant to the director of Women Marines, said that, "Marine planners are taking a careful, conservative approach to women's assignments. We have a lot of specialties open that we don't put women in because we're trying to avoid interfering with normal male Marines rotation and assignments."

The Army already has an imbalance in its male assignments, caused by the women already serving. One male field grade officer at Fort Jackson said, "I really hate to see these women coming in and taking our men's jobs."

When he realized how imprudent that sounded in an Army going all-out to integrate women, he asked that I please not attribute it to him, then spent more than five minutes explaining how the restrictions against women serving in combat has upset the system. Male soldiers, according to that officer, are getting the undesirable, unaccompanied assignments while the women are getting the plush assignments.

Commanders who have troops they can't, by policy, take everywhere the unit goes are commanders with problems. As a Marine CO, I was faced many times with sorting out the male undeployables—the 17-year-olds, the soon-to-be-discharged, the temporarily physically unfit, men under other administrative or legal holds—while we packed hurriedly for possible combat commitment. I can sympathize with Army commanders who now must add women to their undeployable rosters.

How, for example, would the Army handle a 45 percent-woman unit that had been working far behind the front lines and suddenly was needed near a front line brigade? How would field commanders have applied the Army's women-assignment policy in Vietnam? Did a behind-the-front zone have any meaning in that war? Hardly. Having women soldiers who can't go near the battle is an unmitigated can of worms.

What prohibits female assignments to combat units and duties? "An Army regulation," said Colonel Hinton. "There's nothing in the law that says that women in the Army may not serve in combat. Congress does restrict women in the Navy and Air Force; they may not serve on combat ships and aircraft [Title 10, U.S. Code]. It's really by extension that the Army has adopted the no women in combat rule. [We feel it's] the sense of Congress."

Donald G. Brotzman, Assistant Secretary of the Army for Manpower and Reserve Affairs, is a former congressman and was a WWII infantryman. He and his deputy, Paul D. Phillips, were asked to explain the Army's assignment policies regarding women.

"There is a clear-cut national policy that we shall not discriminate against women—that's the law of the land," said Brotzman. Then, after explaining that the Army is studying how women can be assimilated without reducing the effectiveness of Army units, he added, "The Air Force and Navy have laws expressly prohibiting [women serving in combat], but just as clearly it is the policy of the Department of the Army that women not serve in a combat capacity."

I suggested that he was talking around the problem. When women are assigned to combat support units operating throughout a combat theater, up to the rear boundaries of combat brigades, they are in combat, especially considering the modern threats of parachute drops, helicopter-borne assaults, guerrilla attacks, and so forth.

In response, Brotzman cited a "three-tiered policy" that had been recommended by the Army's Training and Doctrine Command and accepted by the Department of the Army:

Women will not be assigned, one, to "combat arms units;" two, to "units whose primary mission is to engage and inflict casualties on the enemy;" nor three, to "other units that habitually operate in areas where close combat is likely—forward of the brigade rear boundaries." He added, "I don't want to see women in combat and I think I could speak generally for the leadership of the Army. I don't know any exceptions to that particular rule."

But Phillips addressed the exceptions: "There could be women in there [forward of combat brigade rear boundaries], no question about it. All we can say is the general rule which says, 'which habitually work forward of the brigade rear boundaries.'

"Now, you know, emergencies? Sure they're going ahead of the brigade rear-boundaries. Are they going to get killed? Damn right! In the same proportion as they exist in these zones, and as the men get killed in these zones, so will they."

Apparently, the Army is under no legal restraints—other than its own—from making women combat soldiers. It seems to be abiding by the "sense of Congress" as expressed in Title 10. As to what the future "sense of Congress" might be concerning women, Brotzman said, "We cannot comment on what congressmen might think or what they might say."

Will Congress buy sending women into combat? Rep. Samuel Stratton (D-N.Y.), chairman of the House Armed Services Subcommittee on Military Compensation, answered that question in *Navy Times* (Oct. 1, 1975). Stratton said he was impressed by former Army Secretary Howard "Bo" Callaway's report the Army had found that "a woman could do about anything a man could." After the Congress gets used to the idea of women in "something other than the secretarial role," said Stratton, the legislators could "approach this issue in a less emotional light." They don't think we need women in rifle squads, he said, but it would "make good sense to assign women to general combat areas."

Later reports out of Stratton's subcommittee indicate that his might be the conservative congressional view. Some members of his committee are urging abolition of all restrictions against combat assignments for women now.

The Army apparently is preparing for that change by Congress. As the numbers of women soldiers grow, the rotation-assignment relationship will get further and further imbalanced. Specifically, men in some specialties will be finding themselves spending more and more time on the outposts of the world, while the women hold the U.S. and overseas rear area jobs in those same specialties.

The Army is painting itself into a corner from which there's just one exit short of a return to the draft: unrestricted combat assignments for women.

Are American service people themselves

ready for that big step? I think there's a generational disagreement on that question. Most Americans of my generation don't cotton to that sort of treatment of our womenfolk.

Reading Zane Grey, we were properly shocked when a cowboy hero in some minor gunplay with a mysterious stranger he met on the trail—a stranger who unbeknownst to the hero and the reader would prove to be a woman—drilled her clean through. When he then made a damage assessment and found a small, blue-edged, blood-oozing hole beside a creamy white and throbbing breast, shivers of revulsion ran straight through that cowboy and stabbed us in our hearts.

It might be fit treatment for a Ma Barker, or a Bonnie who ran with a Clyde, but for God's sake, says my generation, keep our women—our sisters, wives, daughters and the girl next door—out of the world of bullet holes, gut shots and dismembered limbs.

Two important differences are at work, though, in the present generation. First is the blurring of sex roles that's come from the easier, less formal relationships existing between younger males and females. While my generation was too preoccupied with its own hangups to see what was happening, our sons and daughters formed easy friendships across the sexual barrier. Most of them see one another first as fellow human beings, something we never could quite pull off.

Second, especially in the Army, males and females compete as equals. With equal ranks and pay, and equal opportunities to work at most jobs in the Army, young people of both sexes now believe they also should share the hazards.

Army Sp4 Vickey Mouze told me, "Women should be required to serve in combat." Army Sgt. Tom Block said, "Men and women should pull their fair share." Army CSM John Sanderper, just returned from Europe where he supervised both male and female soldiers, said, "The young male soldier today doesn't expect the women to be treated differently." Army 1st Sgt. Ted Daw said, "I hear young men asking the question: 'Why don't women have to fight?' "

I didn't find any Army women demanding the right to kill, kill, kill. Many, however, brought so tantalizingly close to being full-fledged soldiers, recognize that final step, abolition of combat restrictions against women, as the move that would ensure their individuality. Women recognize the Army's present use of women as basically inequitable. They are ready for a change.

The women's present split into half soldiers, half traditionally protected females, is frustrating for both the women and the men. The strain manifests itself everywhere, sometimes thoughtfully, sometimes bitterly, sometimes humorously. Items:

On the question of women's assignments: Col. Edith Hinton said, "I really think that the Army has moved pretty cautiously on this. I think we're looking and evaluating as we go along." A male sergeant major said, "The Army's possibly not looking carefully enough at some of the occupational specialties now open to women. DA [Department of the Army] might have to go to the field to see what's really required, considering each specialty on a case-by-case basis."

On special privileges or considerations required for women: A male officer at Fort Jackson said, "The women want hot and cold running privacy." A young woman drill sergeant, scornfully dismissing the tendency of her trainees at Fort McClellan to cry when they found the training tough said, "After all, they've been 'Daddy's Little Girl' all their lives; you can't expect them to change overnight."

A senior female officer, responding to my question, "What, if any, special provisions do you make for basic trainees having their menstrual periods?", replied curtly, "None. We don't even mention it. Does your wife stop doing the housework?"

The same question was answered by a male NCO running a Fort Jackson training course: "Of course, if one of these little gals is having her monthly time, we let her stand aside. She'll be able to [complete the training] tomorrow, or when she feels better."

On how men and women see women in the Army: A female field grade officer said, "Women are making greater progress in the Army than in the civilian world." A female sergeant major said, "It will be a long time before we're accepted!" A junior woman NCO said bitterly, "We'll never be accepted!"

A male captain, explaining why he's glad to have women working for him: "In the early '50's I'd have taken a black over a white; now I'd take a female over a male, for the same reason. They have something to prove."

Colonel Hinton said, "Throughout this whole thing it takes some sensitizing of both men and women. Women do tend to see themselves in the traditional women's roles . . . it's the cultural influence . . . as girls they played with dolls. And maybe it still has a lot to do with the civilian community. [A woman] comes in to get training in a particular skill and she looks for something that's marketable on the outside. If she's a Hawk missile mechanic . . ."

When I ignore the emotional and ask myself the professional question, whether we can accept women combat soldiers, I believe the answer is clear: We can't afford to accept half soldiers. We must either get our women completely out of the traditional man's world of soldiering, back to a well-defined "fringe"—even if it means returning to the draft, or we must abandon tradition entirely and lift virtually all combat limitations from the women.

If we choose the latter course, I believe recently retired Air Force Maj. Gen. Jeanne M. Holm's idea, that women can do all the combat related jobs "except where sheer brute force is essential to ensure victory," can be the only realistic, equitable criterion for excluding anyone. It should be as impartially applied as, say, height requirements for selecting and rejecting aviators.

Deputy Assistant Secretary Phillips had another angle: "I think we're going to have to come to a place where there will be a physical aptitude test for every skill: Can she lift 55 pounds—or he—five times over her head and push it in a truck 10 times a minute, if that's what the job requires? And everybody will have to pass it, men and women. Maybe that's where we're coming to.

Meanwhile, I think it's time the nation deal with the issue of women warriors realistically, considering all the ramifications. The nation and the Army should stop marveling at it like small boys examining some new creature found by a brook on a warm spring afternoon—see little Private Sally drive her big Army bulldozer; see Lieutenant Jane fire her Army rifle—and make the hard decision of whether or not we want or need our women to help fight our wars as combat soldiers.

Following the present course, the Army's sneaking into it by the back door. In the national agonizing that will follow the first female combat casualties, the Army will be asking itself how in the hell it happened, and why didn't someone think to ask Americans whether they were ready to send their women into the brutishness of war.●

SENATE—*Friday, August 3, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore, Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Reverend James David Ford, Chaplain of the House of Representatives, offered the following prayer:

Eternal Father, we thank You for Your act of creation whereby You made us one people to dwell on the face of the Earth. Remind us of our common heritage in the human family and of the opportunities we have to show forth Your goodness to every person.

Forgive us for our arrogance of seeing only a part of Your creation, and not sharing with others. May Your spirit strengthen our minds and open our hearts that we may be faithful stewards of Your grace, and by our deeds witness to the unity we know in You.

In the name of the Lord, we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

METHANOL FROM COAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excellent statement prepared by Dr. James Sawyer on one of the most promising technologies for making synthetic fuels—namely, production of methanol from coal. Dr. Sawyer is a Congressional Budget Office expert on synthetic fuels who has provided my staff with a great deal of useful information on methanol.

There being no objection, the state-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ment was ordered to be printed in the RECORD, as follows:

METHANOL

At the present time methanol is one of the major raw materials of the organic chemical industry. It is made by reacting synthesis gas, a mixture of carbon monoxide and hydrogen, at some specified temperature and pressure, in a catalytic bed. Synthesis gas can be made from natural gas, petroleum refinery products, or coal. In the last 2-3 decades the usual raw material has been natural gas or some liquid refinery product. Before that time synthesis gas was customarily made from coal.

This brief historical view of the process technology demonstrates an important fact—the technology of methanol production is mature. Large numbers of companies routinely run methanol plants. Since the catalysts used are poisoned by even trace quantities of sulfur and nitrogen compounds in the synthesis gas, simple but effective technologies have been used for decades that thoroughly and inexpensively remove these substances from the synthesis gas before it is reacted to form methanol. The methanol produced is virtually free of contaminants and is essentially as clean burning as natural gas.

Since processes exist for the routine production of the required synthesis gas from almost any coal and production of methanol is a thoroughly demonstrated technology, it now appears that methanol from coal is a promising synthetic fuel.

Methanol from coal is estimated to cost about $25–30 per barrel of oil equivalent, as compared with petroleum now priced at about $21. Because of its ease of transport and storage, its freedom from nitrogen and sulfur impurities, and its compatibility with gasoline, methanol makes an ideal fuel. It could be substituted for natural gas or oil in boilers and electric power plants, and no special stack gas scrubbing equipment investment would be required. Because of its low specific gravity as compared with oil, larger liquid storage facilities would be desirable, but these would be relatively low in cost.

Since methanol mixes easily with gasoline with no significant effects on automobile performance up to the five percent methanol level, and is low in cost, methanol offers the potential of augmenting transportation fuel supply with a minimum of difficulty. Levels much above 5 percent methanol will result in corrosion in current automobile fuel systems. Thus, methanol is not a total solution to the transportation fuels problem, unless some fairly simple modifications are made in automotive engines by the automobile industry.

In short, the technology of methanol production is well understood, its cost is expected to be low, it is a clean burning fuel, it is readily transported and stored, and conversion to its use could be made on a large scale and in a short time frame. It thus seems an ideal candidate for early synthetic liquid fuel production.

RECOGNITION OF THE MINORITY LEADER

Mr. ROBERT C. BYRD. Mr. President, I am ready to yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

THE MAJORITY LEADER'S REPORT ON CONGRESS

Mr. BAKER. Mr. President, I have no need for my time, beyond saying that I had the privilege this morning of watching the distinguished majority leader on television, as he gave a report on Congress thus far in this session. I think he did a good job and comported himself well, to his own credit and that of the Senate. I congratulate him.

Mr. ROBERT C. BYRD. I thank my friend, the distinguished minority leader.

Mr. BAKER. Mr. President, I yield back my time under the standing order.

BUDGET ACT WAIVER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of Senate Resolution 213, which will be stated by title.

The assistant legislative clerk read as follows:

Resolution (S. Res. 213) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 566.

Mr. BAKER. Mr. President, I take this opportunity to advise the majority leader that we know of no requests for time to speak on this issue, and I am prepared to agree to the adoption of this resolution.

Mr. ROBERT C. BYRD. Mr. President, is there 1 hour for debate thereon?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. On behalf of Mr. MUSKIE, I yield back the 30 minutes on my side.

Mr. BAKER. On behalf of Mr. BELLMON, I yield back the remainder of the time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution was agreed to, as follows:

Resolved, (a) That pursuant to section 402(c) of the Congressional Budget Act of 1974, section 402(a) of such Act shall not apply with respect to the consideration in the Senate of the bill S. 566 to authorize a targeted fiscal assistance program for payments to local governments requiring fiscal relief, an antirecession fiscal assistance program, and for other purposes, or with respect to the consideration of an amendment the substance of which is the same as the substance of such S. 566 as reported by the Committee on Finance of the Senate; and

(b) That waiver of such section 402(a) is necessary in order to enable the Senate to consider legislation which will establish a program of targeted and antirecession fiscal assistance; and

(c) That it was infeasible to complete action on this legislation within the usual time limits prescribed by such section because the program is so particularly related to economic conditions as to make it highly desirable to delay action beyond the usual deadline in order to obtain as accurate a view of present economic trends as possible; and further

(d) That, although the legislation was not reported by the date established in such section, action on this program was anticipated and considered in the fiscal 1980 budget process as evidenced by a specific discussion of the legislation in the statement of managers accompanying the conference report on the first concurrent resolution on the budget for fiscal year 1980.

INTERGOVERNMENTAL ANTIRECESSION AND TARGETED FISCAL ASSISTANCE AMENDMENTS OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 566 which will be stated by title:

The assistant legislative clerk read as follows:

A bill (S. 566) to authorize a targeted fiscal assistance program for payments to local governments requiring fiscal relief, an antirecession fiscal assistance program, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. This Act may be cited as the "Intergovernmental Antirecession and Targeted Fiscal Assistance Amendments of 1979".

SEC. 2. Section 201 of the Public Works Employment Act of 1976 (42 U.S.C. 6721) is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof ";", and by adding at the end thereof the following new paragraphs:

"(8) that both an antirecession fiscal assistance program and a targeted fiscal assistance program which aid governments requiring fiscal relief constitute essential elements of a sound Federal fiscal policy;

"(9) that many local governments continue to experience high unemployment and fiscal strain, and have been adversely affected by the loss of antirecession fiscal assistance which has resulted in service cutbacks, increased taxes, municipal layoffs, or sale of municipal assets; and

"(10) that highly targeted fiscal assistance which aids those jurisdictions requiring fiscal relief and provides necessary time to take steps toward the fiscal stabilization of these governments would be least disruptive of employment or service levels.".

SEC. 3. The Public Works Employment Act of 1976 (42 U.S.C. 6721 et seq.) is amended by inserting after section 201 the following:

"SUBTITLE A—ANTIRECESSION FISCAL ASSISTANCE".

SEC. 4. (a) Section 202(b) of the Public Works Employment Act of 1976 (42 U.S.C. 6722(b)) is amended—

(1) by striking out "subsections (c) and (d)" and inserting in lieu thereof "subsection (c)";

(2) by striking out "five" and inserting in lieu thereof "thirteen";

(3) by striking out "title" and inserting in lieu thereof "subtitle, the sum of"; and

(4) by striking out "6 percent" and inserting in lieu thereof "6.5 percent".

(b) Section 202(c) of such Act (42 U.S.C. 6722(c)) is amended—

(1) by striking out "five" and inserting in lieu thereof "eight";

(2) by striking out "July 1, 1977" and inserting in lieu thereof "October 1, 1978"; and

(3) by striking out "$2,250,000,000" and inserting in lieu thereof "$1,000,000,000 for any fiscal year".

(c) Section 202(d) of such Act (42 U.S.C. 6722(d)) is amended to read as follows:

"(d) SUSPENSION OF ASSISTANCE.—

"(1) SUSPENSION.—If the average rate of unemployment for the United States is less than 6.5 percent for a calendar quarter, no amount may be paid under this subtitle for the third calendar quarter of the three-calendar-quarter period which began with the first of such calendar quarters, or for any subsequent calendar quarter.

"(2) TERMINATION OF SUSPENSION.—Notwithstanding paragraph (1) of this subsection, amounts shall be paid under this subtitle for calendar quarters for which the average rate of unemployment for the United States equals or exceeds 6.5 percent beginning with the third quarter of the three-calendar-quarter period which began with the first of such calendar quarters until such time as paragraph (1) may require another suspension of payments.".

SEC. 5. Section 203(a) of the Public Works Employment Act of 1976 (42 U.S.C. 6723(a)) is amended to read as follows:

"(a) RESERVATIONS.—

"(1) ELIGIBLE STATES.—The Secretary shall reserve one-third of the amounts appropriated pursuant to authorization under section 202 for each calendar quarter, less the amounts allocable under section 216(b), for the purpose of making payments to eligible State governments under subsection (b).

"(2) ELIGIBLE UNITS OF LOCAL GOVERNMENT.—The Secretary shall reserve two-thirds of the amounts appropriated pursuant to authorization under section 202 for each calendar quarter, less the amounts allocable under section 216(b), for the purpose of making payments to eligible local governments under subsection (c).".

SEC. 6. Section 203(b)(3)(C) of the Public Works Employment Act of 1976 (42 U.S.C. 6723(b)(3)(C)) is amended to read as follows:

"(C) the State unemployment rate is equal to the average rate of unemployment within the jurisdiction of the State during the six-month period which ended three months prior to the beginning of the appropriate payment calendar quarter, as determined by the Secretary of Labor and reported to the Secretary; and".

SEC. 7. (a) Section 203(c) of the Public Works Employment Act of 1976 (42 U.S.C. 6723(c)) is amended—

(1) by striking out ", subject to the provisions of paragraph (4)," in paragraph (1);

(2) by amending paragraph (3)(B) to read as follows:

"(B) the local unemployment rate is equal to the average rate of unemployment within the jurisdiction of the local government during the six-month period which ended three months prior to the beginning of the appropriate payment calendar quarter, as determined or assigned by the Secretary of Labor and reported to the Secretary (and, in the case of a local government for which the Secretary of Labor cannot determine a local unemployment rate, he shall assign such government the unemployment rate for the county, balance of county, or other appropriate geographic area in which the government is located and for which he has determined a local unemployment rate).";

(3) by redesignating paragraph (4) as (5) and inserting after paragraph (3) the following new paragraph:

"(4) STATISTICAL METHODOLOGY FOR UNEMPLOYMENT RATES.—Notwithstanding any provision of paragraph (3) to the contrary, in the case of a unit of local government which encompasses, or is within, a standard metropolitan statistical area or central city for which current population surveys were used to determine annual unemployment rates before January 1, 1978, the Secretary of Labor shall determine or assign the unemployment rates for such government calculated by the current population survey methodology used prior to January 1, 1978, if such rates are higher than rates determined or assigned by the Secretary of Labor for that government without applying the current population survey methodology, unless the Secretary of Labor determines that current population survey data are available for use on a satisfactory basis for such areas and the remaining areas of such State.";

(4) by striking out "SPECIAL LIMITATION.—" in paragraph (5), as so redesignated, and inserting in lieu thereof "MINIMUM ALLOCATION.—"; and

(5) by striking out "$100" in paragraph (5) and inserting in lieu thereof "$2,500".

(b) Section 203 of such Act (42 U.S.C. 6723) is amended by adding at the end thereof the following new subsections:

"(d) REALLOCATION OF UNDISTRIBUTED RESERVED AMOUNTS.—If, for any calendar quarter, the amount reserved under subsection (a)(1) for payments to State governments or under subsection (a)(2) for payments to local governments exceeds the sum of the amounts allocated to State or local governments because of the limitations contained in subsection (c)(5) or (e), or because of the suspension-of-payments requirement contained in section 210(b), then the Secretary shall reallocate the excess among State governments or local governments, as the case may be, receiving payments for the calendar quarter and allocate to each such State or local government an amount which bears the same ratio to the amount of the excess as the amount allocated to such government for the calendar quarter without regard to this subsection bears to the sum of the amounts allocated to all State or all local governments, as the case may be, for the calendar quarter without regard to this subsection.

"(e) PER CAPITA INCOME LIMITATION.—

"(1) IN GENERAL.—Except as provided in paragraph (3), no amount shall be allocated under this subtitle or subtitle B to any local government which had within its jurisdiction a per capita income equal to or in excess of 150 per centum of the national per capita income for the most recently completed calendar year for which data are available, as determined by the Bureau of the Census for general statistical purposes and reported to the Secretary.

"(2) NONCONTIGUOUS STATE ADJUSTMENT.—The percentage of the national per capita income used to limit allocations in paragraph (1) shall, for local governments in the States of Alaska and Hawaii, be increased by the average State percentage of basic pay which civilian employees of the United States Government receive as an allowance under section 5941 of title 5, United States Code. Such average State percentage shall be determined for the most recently completed calendar year for which data are available based on data provided by the Office of Personnel Management and reported to the Secretary.

"(3) UNEMPLOYMENT RATE EXCEPTION.—The per capita income limitation in paragraph (1) shall not apply to a local government in the State of Alaska for which the local unemployment rate for the appropriate six-month period exceeds 10 per centum.".

SEC. 8. Section 205 of the Public Works Employment Act of 1976 (42 U.S.C. 6725) is amended by striking out paragraph (6) and by redesignating paragraphs (7) and (8) as (6) and (7). Title II of such Act is amended by striking out section 209 (42 U.S.C. 6729).

SEC. 9. Title II of the Public Works Employment Act of 1976 is amended by inserting after section 205 the following new section:

"ADJUSTMENTS OR OVERPAYMENTS AND UNDERPAYMENTS

"SEC. 206. Payments under this subtitle and subtitle B may be made with necessary adjustments on account of overpayments or underpayments.".

SEC. 10. Section 210 of the Public Works Employment Act of 1976 (42 U.S.C. 6730) is amended—

(1) by adding at the end of subsection (a) the following new sentence: "Payments made under this subtitle and subtitle B for a fiscal year or calendar quarter beginning prior to the date of enactment of the Intergovernmental Antirecession and Targeted Fiscal Assistance Amendments of 1979 shall be made as soon as practical, but no later than sixty days after such date."; and

(2) by striking out subsections (b) and (c), and inserting in lieu thereof the following:

"(b) SUSPENSION OF PAYMENTS FOR LOW UNEMPLOYMENT.—

"(1) SUSPENSION.—No amount shall be paid to any State or local government under the provisions of this section for any calendar quarter if the average rate of unemployment within the jurisdiction of such State or local government during the six-month period which ended three months before the beginning of such calendar quarter was less than 6 per centum.

"(2) TERMINATION OF SUSPENSION.—Notwithstanding paragraph (1), amounts shall be paid under this subtitle to any State or local government for which payments were suspended under paragraph (1) beginning with any calendar quarter following such suspension which follows an appropriate six-month period for which the State or local unemployment rate equals or exceeds 6 per centum until such time as paragraph (1) may require another suspension of payments.".

SEC. 11. Section 215 of the Public Works Employment Act of 1976 (42 U.S.C. 6735) is amended to read as follows:

"DATA PROVISION RESPONSIBILITIES

"SEC. 215. The Secretary of Labor shall provide information and other necessary data and shall determine and assign unemployment rates necessary for the administration of this title. Such information, data, and rates shall be provided for each State and local government, and shall be made available to the Secretary to assist him in carrying out the provisions of this title. The Secretary of Labor shall also advise the Secretary as to the availability and reliability of relevant information and data. The Director of the Bureau of the Census and the Director of the Office of Personnel Management shall provide such information and other data as may be necessary for the administration of this title, and shall advise the Secretary as to the availability and reliability of relevant information and data.".

SEC. 12. Section 216 of the Public Works Employment Act of 1976 (42 U.S.C. 6736) is amended—

(1) by striking out the caption of the section and inserting in lieu thereof the following:

"ALLOCATIONS TO PUERTO RICO, GUAM, AMERICAN SAMOA, AND THE VIRGIN ISLANDS",

(2) by amending subsection (a) to read as follows:

"(a) IN GENERAL.—The Secretary shall make payments under this subtitle and subtitle B to the governments of the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.",

(3) by amending paragraph (1) of subsection (b) to read as follows:

"(1) The Secretary shall allocate to such governments from the amounts appropriated pursuant to authorization under this title an amount equal to 1 per centum of such amounts for the appropriate fiscal year or calendar quarter, multiplied by the applicable territorial percentage.", and paragraph (C) of subsection (b)(3) and inserting in lieu thereof "203(c)(5),", and by striking out "209," in such subparagraph.

Sec. 13. Title II of the Public Works Employment Act of 1976 is amended by inserting after section 216 the following new subtitle:

"Subtitle B—Targeted Fiscal Assistance

"FINANCIAL ASSISTANCE AUTHORIZED

"Sec. 231. (a) In General.—The Secretary shall, in accordance with the provisions of this subtitle, make an annual payment for the fiscal year beginning October 1, 1978, and quarterly payments during the fiscal year beginning October 1, 1979, to local governments with a local unemployment rate equal to or above 6 per centum.

"(b) Payment to Recipient Governments.—The Secretary shall pay, in accordance with section 210(a), to each local government which has filed a statement of assurances under section 205, an amount equal to the amount allocated to such government under section 232.

"(c) Authorization of Appropriations.—There are authorized to be appropriated $150,000,000 for the fiscal year beginning October 1, 1978, and $85,000,000 for each calendar quarter in the fiscal year beginning October 1, 1979, for the purpose of making payments to local governments under this subtitle.

"(d) Suspension of Assistance.—

"(1) Suspension.—If payments are being made under subtitle A for a calendar quarter, no amount may be paid under this subtitle for that calendar quarter.

"(2) Termination of suspension.—Notwithstanding paragraph (1), amounts shall be paid under this subtitle for any calendar quarter for which the average rate of unemployment for the United States is less than 6.5 per centum beginning with the third calendar quarter of the three calendar quarter period which began with the first of such calendar quarters, until such time as paragraph (1) requires another suspension of payments.

"ALLOCATION OF TARGETED AMOUNTS

"Sec. 232. (a) Allocations to Local Governments.—

"(1) In general.—The Secretary shall allocate from amounts appropriated under the authorization contained in section 231(c), an amount for the purpose of making a payment to each local government, equal to the product of—

"(A) the total amount appropriated for the fiscal year or calendar quarter, multiplied by

"(B) the applicable local government percentage.

"(2) Applicable local government percentage.—For purposes of this subsection, the local government percentage is equal to the percentage resulting from the division of the product of—

"(A) the local excess unemployment percentage, multiplied by

"(B) the local revenue sharing amount, by the sum of such products for all local governments.

"(3) Minimum allocation.—If the amount which would be allocated to a unit of local government under this subtitle for the fiscal year beginning October 1, 1978, is less than $10,000, or for a calendar quarter during the fiscal year beginning October 1, 1979, is less than $2,500, then no amount shall be allocated for such unit of local government under this subtitle for such year or quarter.

"(4) Targeted fiscal assistance payment not in excess of $10,000 to be combined with general revenue sharing payment.—If the amount of any payment to be made under this subtitle to a unit of local government is not more than $10,000 for a calendar quarter, the Secretary shall combine the amount of such payment with the amount of any payment to be made to such unit under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.), and shall make a single payment to such unit at the time payments are made under that Act. Whenever the Secretary makes a single, combined payment to a unit of local government under this paragraph, he shall notify the unit as to which portion of the payment is allocable to amounts payable under this subtitle and which portion is allocable to amounts payable under that Act.

"(b) Reallocation of Undistributed Amounts.—If, for any fiscal year or calendar quarter, the amount appropriated under section 231(c) for payments to local governments exceeds the sum of the amounts allocated to local governments because of the limitation contained in subsection (a)(3) or section 203(e), or because of the suspension-of-payments requirements contained in subsection (c), then the Secretary shall reallocate the excess among local governments receiving payments for the fiscal year or calendar quarter, and allocate to each such local government an amount which bears the same ratio to the amount of the excess as the amount allocated to such government for the calendar quarter without regard to this subsection bears to the sum of the amounts allocated to all local governments for the fiscal year or calendar quarter without regard to this subsection.

"(c) Suspension of Payments for Low Unemployment.—

"(1) Suspension.—No amount shall be paid to any unit of local government under the provisions of this section for the fiscal year beginning October 1, 1978, if the average rate of unemployment within the jurisdiction of such local government during calendar year 1978 was less than 6 per centum, or for a calendar quarter during the fiscal year beginning October 1, 1979, if the local unemployment rate during the six-month period which ended three months before the beginning of such quarter was less than 6 per centum.

"(2) Termination of suspension.—Notwithstanding paragraph (1), amounts shall be paid under this subtitle for calendar quarters during the fiscal year beginning October 1, 1979, to any local government for which payments were suspended under paragraph (1), beginning with any calendar quarter following such suspension which follows an appropriate six-month period for which the average rate of unemployment within the jurisdiction of the local government equals or exceeds 6 per centum until such time as paragraph (1) requires another suspension of payments.

"(d) Definitions.—For purposes of this subtitle, each term used in this section which is defined or described in paragraph (3) or (4) of section 203(c) shall have the meaning given to it in that paragraph, except that the local unemployment rates for the purposes of this subtitle for the fiscal year beginning October 1, 1978, shall be the rates of unemployment within the jurisdiction of a local government for the calendar year 1978.

"APPLICATION OF CERTAIN SUBTITLE A PROVISIONS TO THIS SUBTITLE

"Sec. 233. The provisions of sections 204, 205, 206, 207, 208, 211, 212, 213, 214, 215, and 216 shall apply to funds authorized under this subtitle.".

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours, to be equally divided between and controlled by the distinguished Senator from New York (Mr. Moynihan) and the distinguished Senator from Missouri (Mr. Danforth), with 30 minutes on any amendment, except on three amendments by the Senator from Oklahoma (Mr. Bellmon), on each of which there shall be 1 hour, with 20 minutes on any debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, after securing the agreement yesterday, I was advised that Mr. Bradley is to control the time on this side of the aisle. I overheard the discussion between Mr. Bradley and Mr. Moynihan; and on behalf of Mr. Moynihan, I ask unanimous consent that the time to be under his control be allocated to Mr. Bradley.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to exceed 10 minutes, and that Senators may speak therein for 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE GENOCIDE CONVENTION: A CIVILIZED STANDARD

Mr. PROXMIRE. Mr. President, critics of the Genocide Convention have argued that the treaty is too weak, that it will not prevent genocide from occurring. There is some truth in this argument. The Genocide Convention alone does not preclude the possibility that acts of genocide will reappear on this Earth. That decision, of course, is up to history.

But the Genocide Convention does set a standard—a civilized standard—of human conduct. It declares, in absolute terms, that genocide is an "odious scourge" which is "condemned by the civilized world."

Nations which go on record as signatories of the agreement are less likely to sanction acts of genocide within their borders. And nations which go on record as signatories are less likely to stand silently aloof when acts of genocide occur elsewhere.

In conjunction with other efforts to preserve human rights, the Genocide Convention can be a valuable tool. We cannot underestimate the importance of international cooperation in the effort to establish a more humane international order. To build this order, to build a world forever free from the crime of genocide, we need this treaty.

In addition to this treaty, we need more human rights agreements, a greater awareness of the tragedies of the Holocaust, and, perhaps most importantly, a feeling of unity in the struggle against man's capacity to commit terrible and terrifying crimes against his fellow man.

Unfortunately, the United States has not adopted the civilized standard the Genocide Convention sets.

I urge my colleagues to support prompt ratification of the Genocide Convention so that the United States can join the international effort to wipe out genocide.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

INTERGOVERNMENTAL ANTIRECESSION AND TARGETED FISCAL ASSISTANCE AMENDMENTS OF 1979

The Senate continued with the consideration of S. 566.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it not be charged to either side at this point.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, today I urge the Senate's approval of S. 566, the Antirecession and Supplementary Fiscal Assistance Amendments of 1979, as amended.

I am very pleased to be able to bring this legislation to the floor. Cosponsoring the bill are my distinguished colleagues Senators DANFORTH, MOYNIHAN, and DURENBERGER. I am also pleased to ask unanimous consent to add the names of my colleagues, the senior Senator from New Jersey (Mr. WILLIAMS), the senior Senator from New York (Mr. JAVITS), the Senator from Connecticut, (Mr. RIBICOFF), and the Senator from Michigan (Mr. LEVIN).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, the legislation we consider today is the result of very careful consideration by the Finance Committee and by the Subcommittee on Revenue Sharing, of which I am the chairman.

The subcommittee held extensive hearings this spring, and we heard from a very distinguished list of experts. We heard from mayors and county leaders from across the country, and from every section and area. They described graphically how the Nation's last recession still lingers in their own communities. They spoke of chronic unemployment that, if it were national, would mean a depression, not merely a recession. They spoke of their need to find new revenues despite the exhaustion of the tax base from which to draw. And they spoke of cuts in essential services, which only made their economic plight worse.

The subcommittee also heard from experts in the field of economics and finance. Testifying before us were executives of major banks who described how a fiscal pinch for a community becomes self-perpetuating and self-aggravating.

Following the hearings, the subcommittee spent much time refining and perfecting the legislation. We have crafted a bill which takes the best parts of the proposal introduced by Senator MOYNIHAN on behalf of the administration, and the proposal introduced by Senator DANFORTH.

With the able, and dedicated assistance of Senator DURENBERGER, the Senate can consider a bill which I believe best resolves the issues raised about the program.

I wish to take a moment to express special appreciation to the contribution of Senator DURENBERGER. This legislation is of critical importance to New Jersey. It is not generally regarded as life or death in Minneseota. Senator DURENBERGER gave generously of his time and wisdom, nonetheless. If nothing else, this demonstrates his understanding that the plight of the communities helped by this program is a national problem; that this is not a regional program, to be judged on whether a particular State or region "gets enough."

Mr. President, this legislation is designed to provide targeted fiscal assistance and standby countercyclical assistance to hard pressed local governments. The targeted fiscal assistance portion of the proposal calls for the expenditure of $490 million:

One hundred and fifty million dollars in fiscal year 1979 for approximately 2,100 local governments with average unemployment rates of 6 percent or more for the calendar year 1978; and

Three hundred and forty million dollars in fiscal year 1980 for approximately the same number of local governments based on average unemployment rates for the relevant two calendar quarters—for example, January to June 1979 as the basis for October 1, 1979, payments.

Recipient governments, large and small alike, are those which have been hardest hit by termination of the antirecession fiscal assistance program last year.

The legislation also provides for a standby countercyclical assistance program in the event that the quarterly national unemployment rate rises to 6.5 percent. This program would provide assistance to State and local governments with average unemployment rates of 6 percent or more—average for 2 quarters—at $125 million per quarter plus an additional $30 million for each one-tenth of 1 percent by which national unemployment exceeds 6.5 percent. Countercyclical assistance provides sensible fiscal insurance for State and local governments in the event of future economic downturn.

Together, this two-tiered program addresses immediate and prospective needs: a highly targeted program for a limited number of fiscally strained local governments and a more comprehensive standby program as a protection against adversity.

These programs will expire on September 30, 1980, at the same time the general revenue sharing program expires. This will facilitate a 1980 congressional and executive branch review of the entire issue of Federal fiscal assistance to State and local governments.

This bill has its historical roots in the antirecession fiscal assistance legislation passed by Congress in 1976. The rationale behind that program of emergency aid to State and local governments was to combat the effect of the 1974–75 recession on the public sector, through emergency financial assistance to governments. The prime mover behind this idea in Congress was Senator MUSKIE. The 1976 legislation authorized the distribution of Federal moneys to State and local governments with an unemployment rate exceeding 4.5 percent, and funds have been used for a wide range of basic governmental services—from jobs creation programs to funding parks and library services to police, sanitation, and fire personnel salaries. Between its enactment in 1976 and its expiration last fall, the antirecession fiscal assistance program distributed approximately $3 billion to State and local governments.

Last year the administration proposed changes in the program to target moneys on the Nation's most distressed communities. Although legislation was passed by the Senate, it was not acted on by the House of Representatives before the end of the session. As a consequence, this aid to State and local governments ceased on September 30, 1978.

The abrupt termination of this program, coming in the middle of a budget cycle, has brought several hardships to many local communities which have not shared in the Nation's general economic recovery from the recession of 1974–75.

These local governments have chronic problems of high unemployment, a shrinking tax base, and a citizenry made up of a large proportion of very young and very old Americans, whose needs for services are pronounced. The targeted fiscal assistance program created by the bill before us now will help prevent job layoffs, reduced services and/or increased taxes in these communities.

Moreover, with predictions of an economic downturn later this year, with the impending reduction in fiscal year 1980 funding for CETA public service jobs and the elimination of local public works programs, and with the prospect of a tightening municipal bond market, the plight of these communities and their needs for targeted fiscal assistance are compelling.

TARGETING AND DISTRESSED COMMUNITIES

Mr. President, in considering the legislation it is important to note that the distribution of Federal grants to State and local governments in the last decade has had two thrusts: The first is "spreading" Federal funds broadly instead of narrowly was a particular feature of the "new federalism" of previous administrations. General revenue sharing was the flagship, with almost 39,000 State and local governments receiving funds. This spreading has tended to benefit counties, suburban governments and small cities that had not benefited significantly from earlier Federal programs. The net effect of such broad purpose programs has been to increase the fraction of Federal funds going to smaller governments. In 1968, 62.8 percent of all Federal grants for communities went to cities of over 500,000 population; in 1977, it was 34.6 percent. Grants going to cities under 100,000 rose from 20.3 percent in 1968 to 45.3 percent in 1977.

The inclusion of smaller cities and suburban governments has been an important means of aiding poor smaller communities. Although the absolute dollar amounts of aid going to the larger cities has indeed grown during this period of extraordinary Federal aid expansion, the failure of these cities to maintain their share of this aid, and their increasing economic difficulties, have created significant additional hardships for the more distressed of these communities. (See table 1.)

Mr. President, on the other hand "targeting" Federal funds is a more recent phenomenon. It involves the adoption of programs and allocation formulas designed to increase the share of Federal funds going to communities with particularly serious social, economic and fiscal needs. The economic stimulus programs of 1977 which increased CETA public service jobs, local public works and countercyclical revenue sharing aid to State and local governments are examples of the increase in targeting programs.

However, the picture of 1979 presents a dramatic shift in this pattern, with a decline both in the amount of funding provided to States and local governments and in the extent to which funding is focused on the most distressed communities. OMB estimates that Federal aid to State and local governments during 1979 will total $81.5 billion, an increase of 4.4 percent from 1978. This rate of increase compares with administration projections of a 9.8-percent increase in inflation over calendar year 1979 and an increase of 9.7 percent in inflation for State and local government service expenditures between spring 1977 and spring 1978. In short, according to the administration's estimates, direct Federal aid to States and localities will decline from 1978 amounts in real terms both this year and next.

The largest reductions will come in the programs expanded in 1977 under the rubric of the "economic stimulus program"—CETA public service jobs and local public works—programs designed in conjunction with countercyclical revenue sharing to hasten the recovery from the 1974–75 recession for those governments still experiencing serious fiscal distress. The magnitude of the financial loss to these local governments was highlighted by Dr. Richard Nathan of the Brookings Institution. Dr. Nathan demonstrated that for 4 U.S. cities, Baltimore, New Orleans, St. Louis, Detroit, the bill welfare considering replaces only 24 percent in real terms of the aid, given to local communities in fiscal year 1978 under the CETA, and countercyclical aid programs. And what is more troubling these overall cuts come at a time when the economy is heading into another downturn.

	$150,000,000 (fiscal year 1979)	$340,000,000 (fiscal year 1979)
Projected receipts under different assumptions, fiscal year 1980	$26,800,000	$59,800,000
Replacement percentage ratios for antirecession fiscal assistance (ARFA) losses (proposed TFA program monies as percent of fiscal year 1978 ARFA payments) 1980 dollars adjusted for inflation	22/18	49/40
Replacement percentage ratios for ARFA and CETA public service employment losses	13	29
1980 dollars adjusted for inflation	11	24

FEDERAL AID TO STATE AND LOCAL GOVERNMENTS: THE LARGER CONTEXT

Mr. President, there is a natural tendency to view individual Federal aid programs in isolation and to identify them with special interests and specific regions of the country. Forgotten in this narrow reading of Federal program purposes and benefits is the fact that billions of dollars flowing from the Federal coffers fund State and local government services and capital projects in a vast number of American communities.

Federal aid to State and local governments has grown dramatically over the last decade, tripling between 1970 and 1978, from $24 billion to over $80 billion. Grants to city governments have exceeded this rate of increase at an even greater rate, increasing by over 400 percent for the same period.

It is important to note that Federal aid is widely distributed to communities throughout the country—not just to the Nation's most distressed cities.

For example, in 1978 Tulsa, Okla., received $48 million in Federal grants; these funds accounted for 27 percent of the city's spending for traditional city services. This was a fivefold increase over 1972.

Houston, Tex., received $210 million in Federal aid in 1978, of which $140 million was for capital purposes and $70 million for operating purposes. Total available Federal aid in 1978, including funds in the pipeline, was over $450 million. From 1973 to 1978 Federal aid to Houston increased by more than seven-fold.

The conclusion to be drawn here is that while targeting in some newer Federal aid programs has provided higher benefits to distressed communities, targeting by no means dominates the Federal aid scene. It does in the targeted fiscal assistance portion of this legislation, provide a modest amount of money for 2,100 seriously distressed communities which do not benefit significantly from the Federal water and dam projects or from the highway funds or from the presence of large military bases which mean so much to the economies of many newer, growing communities and regions of the country.

THE COUNTERCYCLICAL PROGRAM

But, Mr. President, all state and local governments live with the background possibility that the national economic health will deteriorate, and generate increasing unemployment, a decreasing local tax base and growing welfare rolls.

While our economic future is unclear, none can ignore such predictions as those recently made by the Congressional Budget Office of 7½ percent unemployment by the end of next year. In recognition of these potential problems, the Federal Government in 1976 legislated a countercyclical revenue sharing program. A program automatically triggered by certain conditions of unemployment or economic downturn is far preferable to after-the-fact legislation whose lack of timeliness in assisting State and local governments is predictable.

The 1976 countercyclical program was passed in response to the recession of 1974–75. The program has clearly been of benefit to recipient governments, but the delay in its enactment seriously limited its effectiveness. What is required, and what the countercyclical program in this legislation would provide, is a standby program which would respond automatically to changes in economic conditions at both the national and local levels.

This "safety net" program should also better equip us to meet the goals of reducing inflation and the federal deficit by resisting immediate pressures for greater Federal Government spending.

In conclusion, Mr. President, I would call attention to the action of the Budget Committee on Wednesday night in adopting Senator MOYNIHAN's amendment to the second budget resolution to provide $800 million in budget authority and outlays to accommodate this legislation in the second concurrent resolution. This action by those who have demonstrated such caution on behalf of the Senate about precipitous spending only underscores the growing consensus in this body as well as in the country about the importance of enacting these vital programs of targeted fiscal assistance and countercyclical revenue sharing.

Mr. President, this is a needed program, a balanced program, a program that combines a highly targeted assistance for a limited number of fiscally strained local governments with a more comprehensive standby program as protection against a national recession.

Set forth below is a fuller explanation of the Intergovernmental Antirecession and Targeted Fiscal Assistance Amendments of 1979.

The extension and amendment of title II of the Public Works Employment Act of 1976, by the Intergovernmental Antirecession and Targeted Fiscal Assistance Amendments of 1979, extends the availability of a standby antirecession assistance program for State and local governments and establishes a targeted fiscal assistance program for local governments that are continuing to experience high unemployment despite the recovery of the national economy from 1974 to 1975 recession. The committee has concluded that it is appropriate to target Federal fiscal assistance to the most economically distressed local governments, as measured by the rates of unemployment prevailing within their jurisdictions. The committee believes the program of antirecession and targeted fiscal assistance constitutes an essential element of sound Federal fiscal policy.

The committee has amended the funding provisions of the antirecession program and has provided a targeted fiscal assistance program in recognition of the need for continued assistance to local governments that have not fully participated in the national economic recovery. Many of these jurisdictions have been adversely affected by the loss of antirecession funding. The committee has retained the general administrative provisions which have previously been a part of the program.

The antirecession assistance and targeted fiscal assistance programs are authorized for an additional 2 years, until September 20, 1980. The funds will generally be distributed quarterly based on available unemployment data, except that targeted fiscal assistance will be paid in a lump sum for the fiscal year that began October 1, 1978. The amount of funds payable for fiscal year 1980 will depend upon whether subtitle A, the antirecession program, or subtitle B, the targeted fiscal assistance program, is in effect. When the average rate of unemployment for the United States (seasonally adjusted) equals or exceeds 6.5 percent for one calendar quarter, subtitle A provides for the distribution of $125 million, plus an additional $30 million for each one-tenth of 1 percent by which the rate of unemployment exceeds 6.5 percent. No funding under subtitle A will be provided during fiscal year 1979 because the national unemployment rate did not exceed the requisite 6.5 percent level for the trigger period.

When the national unemployment rate has been less than 6.5 percent for a calendar quarter, antirecession payments are suspended and the targeted fiscal assistance program will be in effect. For the fiscal year beginning October 1, 1978, $150 million would be distributed to local governments with unemployment rates of 6 percent or more. For the fiscal year beginning October 1, 1979, $85 million per quarter in targeted assistance would be paid to local governments. One percent of the total funds appropriated for any fiscal year or calendar quarter is set aside for distribution to Puerto Rico, Guam, American Samoa and the Virgin Islands. The total funds authorized during the 2-year extension may not exceed $1 billion per fiscal year.

The distribution of antirecession funds under subtitle A, when the national rate of unemployment is at least 6.5 percent, is based on the difference between local and statewide unemployment rates and 4.5 percent and the general revenue sharing distribution formula. However, eligibility for payments under subtitles A and B is restricted to governments with unemployment rates of 6.0 percent or more. This is a change from prior law which required only a 4.5 percent rate for eligibility purposes. The committee has concluded that this method of distributing funds will be effective in targeting assistance to those governments most in need. State governments will continue to receive one-third of the total antirecession funds allocated. Each local government in a standard metropolitan statistical area with a higher rate of unemployment when determined on the basis of the current population survey methodology used before January 1, 1978, will be assigned such higher rate in determining its allocation.

When the national rate of unemployment has been less than 6.5 percent for a calendar quarter, the committee has determined to continue funding a program of targeted fiscal assistance to local governments only and to preserve the basic pattern of distribution based on local government rates of unemployment in excess of 4.5 percent. Unemployment rates will be assigned on the basis of current population survey data for those local governments that would receive higher rates from such assignment.

A limitation on eligibility based on per capita income has been added under both subtitles. A government may not receive funding under this bill if the per capita income within its jurisdiction exceeds 150 percent of the national per capita income level, except in Alaska and Hawaii where special provisions are made due to noncomparable per capita income levels. This provision will prevent more well-to-do governments from receiving funding.

Further, the level of minimum payment has been raised from $100 quarterly to $10,000 for annual allocations and $2,500 for quarterly allocations. This upward revision will provide that governments will not receive limited amounts that would be inadequate to assist in maintaining services.

Most of the administrative provisions of the current law will be continued, including provisions relating to the use of payments, nondiscrimination and labor standards. Special reports, which have been found to create an excessive paperwork burden for recipients, and provision for program studies and recommendations already completed, are eliminated. The Secretary of Labor, the Bureau of the Census, and the Office of Personnel Management are directed to provide information and necessary data. The Secretary of Labor is also directed to determine and assign the unemployment rates necessary for the administration of the act.

In cases where a local government is scheduled to receive not more than $10,000 for a calendar quarter, that government will receive a single payment which includes its entitlement under the State and Local Fiscal Assistance Act of 1972, as amended. In such cases, the Secretary of the Treasury will provide the Government with a notice which states the portion of such single payment that is attributable to this bill.

I urge favorable consideration by all of my colleagues of this legislation, S. 566.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. MOYNIHAN. I rise to congratulate the distinguished chairman of the Subcommittee on Revenue Sharing of the Committee on Finance, the junior Senator from New Jersey who on this occasion makes his first appearance on the floor as a manager of a major item of legislation. I think it altogether augurs well for the future of this body and our Government that he brings to the floor a piece of legislation which, I dare to hope, is going to be as permanent a feature of our Government as will be, for the moment, the junior Senator from New Jersey.

This legislation, as the Senator notes, is essentially not different from that which the Senate adopted on September 23 of last year, which would have been enacted had there not been the characteristic rush of business in the very last days of the 95th Congress. Now we have an opportunity to set those matters right, but we do so in an importantly different context.

Last Congress we were hoping to make countercyclical revenue sharing the compensatory balancing of fiscal problems, a permanent aspect of the distribution of the Federal fisc. We did so in a somewhat abstract economic situation. Inflation had begun to seem to be more of a problem than anticipated, but other than that, there were no particular signals of movement in the economy.

We now do so in the midst of a recession. A recession is under way. The question is how serious it will be.

In any event, the question before us is how serious we will be about it. Will we take the opportunity to adopt this simple standby system of compensating different parts of the country and areas of our economy for the different rates of growth, of rise and decline, that they necessarily experience in a continental economy?

This is a good idea. Congress has

already experienced or adopted it in response to a previous downturn in the economy, and it has won the most consistent praise of any significant response which the American Government has yet made to a sharp economic recession. I would remind my colleagues of the last recession of 1974–75. These are features of an industrial economy, and though they can be modulated, no one has found a way to avoid them. Recessions have been a basic feature of industrial economies since the onset of the industrial revolution.

The basic response of government has always taken place by spending for public works—digging canals in the 19th century or massive public works in the 20th century. As a matter of fact, digging is a timeless characteristic response.

However, nothing more characterizes our responses than that they lag 18 months or 2 years behind the need for stimulus, and by the time the whole lumbering machinery of Government has acted, we have commenced to stimulate an economy already rising and on the verge of overstimulation. It is not hard to understand the process, but it is easy to avoid it.

You avoid it by putting in place sensible, moderate, proven legislation of this kind. The response comes automatically to the need for stimulus, and it drops off automatically as the need expires. The Advisory Council on Intergovernmental Relations, which is an organization to be attended to, was established in the 1950's by President Eisenhower, at a time when there was a situation of crisis in federalism, when no one seemed to truly have a sense of how to maintain the balance between the various levels of American Government. We had only known the increase in National Government for the previous 3 decades. No one seemed to have any idea of how to maintain a balance, particularly in the case of the Federal fisc, which disproportionately grows; with every 1-percent increase in the GNP, the revenues of the Federal Government grow by 1.5 percent. The revenues of other levels of government do not. Hence, the very source of strength in the American economy is the trend—throughout other levels of American government—the trend toward more Federal Government, with more money coming here, with more authority, more direction, and the ever increasing intensity of our schedules as Congress proceeds to dispose of issues that scarcely ought to demand the attention of a State legislature—that are more appropriate for the consideration of local governments and city councils.

This is the best antirecession program yet devised. It works. It scarcely takes the time of three persons in Washington to administer it. It goes directly to where it is needed. It is used by people who are in the best position to know what ought to be done with it.

Mr. President, we have an opportunity here to act with responsibility at a time when the need for action is unmistakable. I am happy to see in the Chamber our distinguished colleague and friend from Missouri (Mr. Danforth), who has worked so ably in the Finance Committee on this matter, who is concerned about retargeting the shape of the legislation we have before us, and who is on the floor not only in his own distinguished right, but to represent the fact that this is a bipartisan measure. By a unanimous vote, if that can be said of a voice vote, this was passed out of the Finance Committee by a bipartisan majority. It was adopted by the Budget Committee only on Wednesday evening, and we are here on the floor with it today. I assume we will do the same, and if we do, we will let the people of this Nation, not only those in Missouri, know that it is to their astonishingly gifted junior Senator that the country owes so much.

Mr. DANFORTH. Mr. President, I very much appreciate the very kind remarks of the Senator from New York. The thoughts expressed by him are mutually held.

The bill which we consider today, S. 566—the "Intergovernmental Antirecession and Targeted Fiscal Assistance Amendments of 1979"—reported without objection by the Finance Committee—represents a compromise between S. 200, a bill which I introduced with Senators Williams, Moynihan, and Javits, joined by Senators Riegle and Muskie, and S. 566, a bill introduced on behalf of the administration by Senator Moynihan. It is a true compromise, the product of the concerted effort of my office, Senator Bradley's office, Senator Moynihan's office, Senator Durenberger's office, and the administration, working together with the common purpose of providing—first—necessary assistance to America's cities in fiscal distress, and—second—a standby program of countercyclical fiscal assistance to States as well as cities with high unemployment, in the unhappy but increasingly likely event of serious national recession.

But in order to understand the bill before the Senate today—and what it represents—it is necessary, in my opinion, to review—however briefly—the history of this legislation.

Title II of the Public Works Act of 1976 authorized the establishment of an antirecession fiscal assistance program to distribute assistance to State and local governments experiencing fiscal distress when national unemployment exceeded 6.0 percent. For this purpose, $1.25 billion was authorized for the five quarters beginning in July of 1976 and extending through September of 1977.

Then, in 1977, the program was modified and extended for an additional five quarters, from July 1977 through September 1978. For this purpose, $2.25 billion was authorized. Then, in 1978, the Carter administration asked for, and the Finance Committee approved, a continuation of the program for an additional 2 years, with an authorization of $2.25 billion.

I opposed that effort.

I opposed it because I believe the countercyclical aid program, as then structured, represented Federal policymaking at its worst. I did not challenge the fundamental principle of the program—namely, that assistance should be provided to local governments in time of recession to replace revenues lost due to downswings in the economy. What I did challenge was the "something for everyone" philosophy embodied in the definition of fiscal distress.

The old countercyclical program defined a community in "fiscal distress" as any State or county or city with unemployment at 4.5 percent or worse. Mr. President, I do not know for sure what 4.5 percent unemployment means—some say it is—statistically—full employment—but I do know that 4.5 percent unemployment does not mean "fiscal distress." Mr. President, when we distribute scarce Federal tax dollars to communities with 4.5 percent unemployment, we may please a lot of mayors and Governors, but we do a serious disservice to the taxpayers of this country. The bill reported by the Finance Committee sought to perpetuate that absurdity. Plainly and simply stated, it made no sense.

Mr. President, that was the bill presented to the Senate last year.

We amended that bill on the Senate floor.

Instead of providing assistance to jurisdictions with 4.5 percent unemployment, we limited aid to communities with unemployment greater than 6 percent, a valid measure of distress.

And we prohibited aid to States entirely unless national unemployment was greater than 6 percent.

Mr. President, with those amendments we brought some rationality to the countercyclical revenue sharing program—and we passed that bill. Unfortunately, there was not time to act on the legislation in the House, and the bill died.

On January 23 of this year, I reintroduced the Senate-passed bill as S. 200. In the House, Mr. Rodino, with 83 cosponsors, introduced an identical measure as H.R. 1246.

On March 7, the administration countered with its proposal, presenting a plan for assistance even more highly targeted than my own. Over the past several months, my staff has worked with the staff of the Treasury Department, as well as with the staff of Senators Bradley, Moynihan, and Durenberger, to construct a sound, well-structured program of assistance. This bill represents the results of that effort.

As reported by the Finance Committee, the bill:

First. Authorizes $150 million in immediate assistance for fiscal year 1979—and $340 million—distributed in quarterly payments for fiscal year 1980—to local governments, and local governments only serving jurisdictions with unemployment at 6 percent or worse;

Second. Authorizes a standby program of assistance to State as well as local governments serving jurisdictions with unemployment at 6 percent or worse, when national unemployment meets or exceeds 6.5 percent. A quarterly allotment of $125 million is authorized for this purpose, with an additional $30 million for each tenth of a percentage point unemployment exceeds 6.5 percent. In no event, however, could aid exceed $1 billion under the countercyclical program in any given year;

Third. Renders ineligible for assistance communities which would receive less than $10,000 a year ($2,500 a quarter) and, with certain exceptions for Alaska and Hawaii, renders ineligible for assistance communities with a per capita income equal to or greater than 150 percent of the national average.

Mr. President, I am convinced that this is a tight, sound, highly targeted program. Anyone who doubts this need only check the statistics. The bill reported by the Finance Committee last year was targeted to provide assistance to 18,000 communities. The bill before the Senate today—the work of several months of study—will provide assistance to an estimated 2,100 jurisdictions. Mr. President, those statistics explain better than any words the work which has been done—and the progress achieved—in reforming this program.

Mr. President, I would like to talk briefly about the targeted fiscal assistance program. Some of us, I know, come from States that have managed to avoid the throes of economic depression. For them, viewed from a purely parochial, standpoint, there is little economic incentive to vote for this legislation. I trust that they recognize, however, that there are cities and counties in this country that desperately need the money which can be provided by this bill.

That is to say that no matter what the national rate of unemployment, even if it is very low, if there is a city or a county in a particularly depressed area, if it has, say, 15 percent unemployment, it is very little comfort to it that the national rate of unemployment is below 6½ percent.

Which brings me to the countercyclical program—the standby program of fiscal assistance which provides aid to States and local governments with high unemployment when national unemployment reaches 6.5 percent.

Mr. President, I spoke just a while ago about the emergency nature of these funds. Yet commentators have observed that it was precisely that sense of emergency which—in the past—was lacking in the Federal Government's response to recession. While the politicians in Washington quarreled over the question of whether we were or were not in a recession, state and local governments—experiencing an erosion in their tax base—were laying off employees, with the attendant cost to taxpayers in cutbacks in important services. It is important, therefore, that we establish an automatic standby program when it is still possible to view these issues with some measure of dispassion.

This bill, in my opinion, achieves that goal, establishing 6.5 percent national unemployment as a trigger for countercyclical assistance. At that level we trigger assistance at a time when we stand a good chance of enabling State and local governments to arrest problems before they become serious. To go any higher, in my opinion, would not provide assistance until the economy was in truly difficult straits—the 6.5-percent trigger provides reasonable assurance that the money will get out to the cities when it can do the most good. Here again it is worthwhile to note that the fact that these payments go out with almost no strings attached means that the money can go out quickly and be put to work quickly.

Unlike, for example, a public works program where it is said that by the time the projects get underway the recession is over, this bill provides funds to local governments and distributes money throughout the country which can be used without a long waiting period when it can still have a positive effect in curbing the recession.

As the Advisory Commission on Intergovernmental Relations observed last year in its analysis of countercyclical revenue sharing, neither CETA nor public works programs can provide assistance as quickly.

Mr. President, I think this is a good bill—a sound bill—and I hope for its passage by the Senate.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, are we under a time agreement?

The ACTING PRESIDENT pro tempore. Yes.

Mr. BELLMON. Will the Senator yield me 10 minutes?

Mr. DANFORTH. I will be happy to yield 10 minutes to the Senator.

Mr. BELLMON. Mr. President, let me begin by saying that I consider it to be extremely unfortunate that the Senate is taking up this bill today. I can see no purpose served by the Senate's consideration of this measure now versus taking it up early after we return from our August recess. This is a major piece of legislation and it has major budgetary and economic impacts. There has been inadequate time to fully analyze the impact of this measure since it was reported to the floor, and not adequate time to fully prepare the amendments which I believe Members of the Senate will want to support in order to make this bill a little less damaging.

I can recall two other times when serious errors were made by Congress rushing through such legislation.

In the spring of 1977, we rushed the President's economic stimulus package through Congress when it was anticipated that the economy was headed into a downturn. Most Members, I now believe, would agree that the action Congress took resulted in wasted Federal dollars. The mild downturn was over before the money was pumped into the economy, and the untimeliness of that action caused additional inflationary pressures—inflationary pressures from which we now suffer.

Mr. President, most Americans rightly consider inflation to be the most serious economic problem facing the Nation. Recent statistics show that the rate of inflation now exceeds 13 percent.

Let me emphasize that number: We are now having inflation at about 13.2 percent. American wage earners are hurt by the serious resulting loss of purchasing power.

Most Members of Congress eagerly condemn inflation, yet we seem equally eager to vote to make the problem worse. While condemning the monster, we vote to feed it and make its devastation worse. The fact is that this monster, inflation, was born right here in this Chamber, and if it is ever controlled, that action must take place right here, not some far distant place.

Effective anti-inflation action will probably not be a dramatic, one-time action but rather on a case-by-case resistance to excessive or unnecessary spending, which I consider this bill to be.

The irony is, Mr. President, that the U.S. Government has no revenue to share. Anyone who looks at our situation will realize that we have already shared far more revenue than we have. Our Treasury is facing a deficit of over $30 billion in fiscal year 1979, the year which will end on October 1. It now appears that the 1980 deficit will be even higher.

So we talk about sharing revenues. We are absolutely kidding ourselves. We do not have any revenues to share. What we have to share is not revenues but, rather, control of the Government printing presses and we can crank out some more millions of green paper dollars and these will have the effect of eroding the value of every American's savings and earnings and thereby cause more inflation.

The irony of this bill is that the debt-ridden Federal Government is shipping out dollars we do not have to local governments which, in most, if not all cases, are in a far more healthy financial condition than we are. If there is going to be any revenue sharing, it ought to be the other way around.

Houston and Tulsa, I say to my friend from New Jersey, are in a far more healthy condition than is the Federal Government. I think it is a tragedy that under past bills—I realize it has been changed in this bill—those cities, which are in great shape, were given money which the Federal Government did not have.

CBO estimates that there is an aggregate State and local surplus—this is a surplus, not a deficit. We are having a $30 billion deficit. State and local governments will be in surplus by $4.5 billion in 1980. If there is any revenue to be shared, it ought to be coming from the

State and local governments to the Federal Government, rather than the other way around.

Another thing, Mr. President, in the late fall of 1977, just before adjournment, we rushed through major social security tax changes rather than taking the time to review them and take them up for consideration when the Congress reconvened a month or two later in early 1978. It is now clear that additional time should have been spent to constructively improve the social security bill on which many Senators were forced to vote without having adequate opportunity to study them and get fully familiar with the provisions.

The same problem exists today. I feel additional time could be better spent designing the programs contained in this legislation. Nevertheless, the bill is before us. I consider it to be a part of a dangerous inflationary trend which current actions of the Senate are exacerbating. Senators will all be home during August decrying the evils of inflation. I hope the Senate will vote today the same way we will be talking next week when we are back among our constituents agreeing that inflation is the greatest problem this Nation faces.

Mr. President, it is my intention to offer three amendments in an effort to improve this bill. I do not want the sponsors of the bill to be misled. I have no intention of voting for this bill even if the amendments are adopted. I think a bad bill now will be less bad if the amendments are adopted, but I think we would be better off to put this bill over to vote on when we know what we are doing.

Once more I hope the Senate will agree on my amendments.

Mr. DANFORTH. Mr. President, a very brief reply to the Senator from Oklahoma. I normally am fighting on the same side as the Senator from Oklahoma, trying to bring sense out of the Federal budget and restrain excessive Federal spending. I applaud him for that effort. I only make three brief comments to his remarks.

First, this is hardly a rush to legislation. The concept of countercyclical revenue sharing was first enacted into law in 1976, was reauthorized in 1977. It was on the floor of the Senate last year, was passed by the Senate last year. Again, this year, 3 days of hearings were held on this bill last March. So it is not really being rushed into law.

The fact of the matter is, however, that if we are going to increase the likelihood of the House dealing with this bill, we should get on with it and pass it before the recess.

Second, if the bill were to provide aid, so-called targeted aid, to cities like Houston and Tulsa, I would oppose it. As a matter of fact, it was for that reason that I opposed the Finance Committee's version of it last year and offered the amendment on the floor of the Senate which was finally adopted to increase the trigger figure from 4.5 percent to 6 percent, thereby removing relatively well-to-do communites from the coverage of the bill. So I think Senator BELLMON is exactly right on that point. That is what we aim to do here.

Finally, I really do not think it is a relevant argument to say there is an aggregate surplus in local governments. That may well be. But the fact that there is an aggregate surplus in local governments does not address the issue of this bill. This bill does not send money out to those kinds of governments which have surpluses. This bill send money to those communities which have high rates of unemployment, which have had their tax bases eroded by high rates of unemployment of over 6 percent. It is the very targeted nature of this bill, not that it is just spraying money out everywhere we can think of, that makes it a very desirable bill, in my opinion.

Mr. BRADLEY. Mr. President, if I could respond as well to Senator BELLMON's comment, this bill has three specific measures to insure that only those communities that have severe problems receive the aid. There is an unemployment rate cutoff of 6 percent. We then decided it would not be appropriate to send $2,000 or $3,000 to a community, so we had a cutoff of a minimum of $10,000 that could be sent to a community.

Third, we felt it was unfair that even those communities that do have over 6 percent unemployment but have very high income base, it was not right for them to receive the aid. So we put a per capita income limitation of 150 percent of the national average, thereby cutting out such places as Birmingham, Mich.; Englewood Cliffs, N.J., or Marin County, Calif. The purpose of the bill was to aim at areas that need it.

A quick comment on the surplus. The aggregate surplus in State governments amounts to a sizeable sum; 50 percent of that comes from three States. Three more States provide the bulk of the remaining 50 percent. So we are talking about, really, a surplus in 6 States, not 50 States.

Another point to consider is that a surplus sometimes is prudent, particularly if there is a State law requiring a balanced budget. The more important figure to look at is what percent is that surplus of the operating funds of the State? If it is under 1, 2, 3, or 4 percent, having that surplus on hand is prudent because, in a national downturn, a State's share of medicaid welfare will expand dramatically and the States must have the revenues to pay for those increased expenditures.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ZORINSKY). Does the Senator withhold his request?

Mr. BELLMON. Mr. President, to respond briefly, let me simply say that this bill, in my opinion, is being handled in a rushed manner. It came to the calendar on Tuesday afternoon.

The PRESIDING OFFICER. Who yields time to the Senator from Oklahoma?

Mr. DANFORTH. I am happy to yield time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, there has not been time yet to even find out what the costs of this bill are going to be. The Congressional Budget Office has not had a chance to compute the costs.

I do not know whether the authors have an expected cost, or not, or where they would have gotten it.

The fact is, we are, to an extent, buying a pig in a poke because we do not know what the actual costs are going to be.

UP AMENDMENT NO. 507

(Purpose: To strike the fiscal year 1979 program authorizations)

Mr. BELLMON. Mr. President, I have an amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 507.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, strike lines 3 and 4, and insert in lieu thereof "(2) by striking out for each of the five succeeding calendar quarters (beginning with the calendar quarter which begins on July 1, 1977)" and insert in lieu thereof "for each of the four calendar quarters of the fiscal year beginning October 1, 1979".

On page 19, line 12 strike "eight" and insert "four".

On page 19, line 14, strike "October 1, 1978" and insert "October 1, 1979".

On page 19, line 16, strike "any" and insert "the".

On page 28, lines 23, 24, and 25, strike "an annual payment for the fiscal year beginning October 1, 1978, and".

On page 29, lines 9 and 10, strike "$150,000,000 for the fiscal year beginning October 1, 1978, and".

On page 30, line 25, and page 31, line 1, strike "for the fiscal year beginning October 1, 1978, is less than $10,000, or".

On page 32, lines 18–22, strike "October 1, 1978, if the average rate of unemployment within the jurisdiction of such local government during calendar year 1978 was less than 6 per centum, or for a calendar quarter during the fiscal year beginning".

On page 33, lines 16–20, strike "paragraph, except that the local unemployment rates for the purposes of this subtitle for the fiscal year beginning October 1, 1978, shall be the rates of unemployment within the jurisdiction of a local government for the calendar year 1978." and insert "paragraph."

The PRESIDING OFFICER. Is this one of the three amendments the Senator reserved 1 hour of debate time on?

Mr. BELLMON. It is.

The PRESIDING OFFICER. The Chair thanks the Senator.

Mr. BELLMON. Mr. President, I yield myself 5 minutes.

Mr. President, this amendment strikes the fiscal year 1979 authorizations for the standby antirecession fiscal assistance program and the targeted fiscal assistance program from the bill. I do not see, and I think most Members of the Senate will agree with me, that there is any likelihood at all that these authorizations will materialize into appropriations in fiscal year 1979—I remind the Senate that there are only 19 legislative days from now until we enter fiscal year 1980—and it is absolutely foolish to carry unnecessary budget authority on the books.

Mr. President, Congress started a countercyclical, revenue-sharing program under title II of the Public Works Employment Act of 1976 and extended that program again in 1977. Attempts to extend the program for a third time failed in the House. As a result, antirecession fiscal assistance to States and localities expired at the end of fiscal year 1978. For a whole year, States and localities have survived quite well without this program.

Without my amendment, what this bill would do if, in fact, the House finally approved it and the Senate approved it, would be to dump the money into the coffers of municipalities at the end of the fiscal year when they have no way to spend that money in the time for which it was appropriated.

In his January budget this year, the President proposed reauthorization of antirecession fiscal assistance on a "standby" basis and requested $250 million in fiscal year 1979 and $150 million in fiscal year 1980 for a temporary program of targeted fiscal assistance to help fiscally distressed local jurisdictions adjust to the October 1978 termination of antirecession fiscal assistance payments. However, the July OMB mid-session review of the budget includes no funds for this program in fiscal year 1979 and ups the fiscal 1980 request to $350 million instead. Therefore, the administration no longer believes these funds are likely or needed in fiscal year 1979, and the reason cited for no longer including fiscal year 1979 money in the budget is congressional inaction on this program.

The bill before us, which was filed by the Finance Committee only last Tuesday, authorizes a "standby" antirecession fiscal assistance program in fiscal years 1979 and 1980, and authorizes $150 million in fiscal year 1979 and $340 million in fiscal year 1980 for a program of targeted fiscal assistance to local jurisdictions experiencing unemployment of 6 percent or above.

Under the Congressional Budget Office's current economic projections, no funding would be required in fiscal year 1979 under the antirecession fiscal assistance program contained in subtitle A of this bill. Therefore, the fiscal year 1979 authorization is not only late—it is also unnecessary.

Further, in my opinion, it is also unrealistic to expect any fiscal year 1979 appropriation to materialize for the targeted fiscal assistance program contained in subtitle B of this bill.

Countercyclical programs have received strong opposition in the House in the past. Even if the composition of the House has changed to allow favorable consideration of such measures, key House Members remain strong opponents.

It is very unlikely they will allow a measure of this kind to move quickly enough for the final action and the appropriations to materialize in just 19 legislative days.

In addition, there is the matter of timing. Even if the Senate approves this legislation today, it will need to wind its way down the other paths dictated by the legislative process. The bill will need to be considered and approved by the House. Senate and House conferees will need to resolve any differences between them, and appropriations action will need to occur in both the House and the Senate.

Mr. President, it is an absolute impossibility that all of those legislative acts will take place.

Given the fact that the 1979 fiscal year ends in 2 months—on September 30—and the fact that we will be in recess for one of those months, until after Labor Day, it is clear that this process cannot be completed in time for fiscal year 1979 spending under substitle B of this bill to be anything other than a retroactive giveaway.

This amendment does not touch the fiscal year 1980 program authorizations. It simply strikes the fiscal year 1979 authorizations from the bill and recognizes the reality of the calendar and time problems the bill faces. Under current economic projections, we do not need a fiscal year 1979 authorization for the standby antirecession fiscal assistance program and a fiscal year 1979 authorization for the targeted fiscal assistance program is both unnecessary and highly unlikely.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Several Senators addressed the Chair.

Mr. BRADLEY. Mr. President, I yield 5 minutes to the distinguished Senator from Michigan.

Mr. RIEGLE. I thank the Senator for yielding.

Mr. President, I rise in opposition to the Bellmon amendment and in support of S. 566.

This bill is absolutely essential to States such as Michigan and damage should not be done to it.

The amendment that is presently before us would strike out the moneys for fiscal 1979. We are entering a recession right now. The administration even now is conceding publicly that we are in a recession. Many local governments have not yet recovered from the last recession. And they tend to be the ones that will be hit first by the next one. Those fiscal 1979 funds will help at a time when help will be badly needed.

The value of this program is that it stands ready to make funds available when and where they are most needed.

The Senator from Oklahoma intends to offer several amendments that would damage this concept and the effectiveness of the program. I must oppose those amendments.

This program has been thoroughly debated in this Chamber before, Mr. President.

The Senate last year passed a similar bill by a wide margin. That bill died without action in the House during the closing hours of the 95th Congress.

The effectiveness of this program during fiscal years 1977 and 1978 was clearly demonstrated.

Present developments in the economy point up the fact that we should not be dismantling a program that has worked so well at a time when the need for it is becoming greater.

The Treasury Department conducted a major study of economic stimulus programs and in doing so found that the countercyclical revenue-sharing program was by far the most effective in targeting aid to cities according to their fiscal condition.

In that study, cities were classified into those that suffered a high degree of fiscal strain, those with moderate strain, and those with low strain.

The results indicate the per capita allocations to cities in the high strain category averaged $29, while moderate strain cities received an average of about $12, and the low strain about $7.

Cities with the greatest need received over four times as much aid per capita as those with less need.

The countercyclical program is well targeted to localities of greatest need, as follows:

THE COUNTERCYCLICAL REVENUE SHAR'NG PROGRAM IMPACT OF (ARFA) ON THE FISCAL CONDITION OF 48 LARGE CITY GOVERNMENTS

	High strain cities	Moderate strain cities	Low strain cities	All 48
Total ARFA allocation (millions)	$458.7	$189.0	$41.5	$687.2
Percent of total	67	27	6	--------
Per capita total ARFA allocations	$28.65	$12.01	$6.65	$18.04
Estimated 1978 ARFA allocations as an equivalent increase in propertx tax (dollar/000 FMV)	$0.15	$0.05	$0.02	$0.08
Estimated 1978 ARFA allocations as percent of adjusted own source revenue	2.5	1.8	1.3	2.1

Many analysts believe that a number of cities were able to avoid financial collapse only because of this Federal aid. I know how important the program was to my own State government and to many local governments in the State of Michigan.

The city of Pontiac, for instance, received $2.2 million per year at the height of the countercyclical program, over 7 percent of the city's general fund. When the national economy recovered, Pontiac was left behind. The city now has an unemployment rate of 13 percent. When countercyclical spending was shut off, the city was forced to lay off 13 policemen and 13 firemen. This cutback in forces caused such severe problems that the city had to finance the reinstatement of those officers and firefighters by shutting down other activities such as street, park and building maintenance.

Detroit received $20.7 million from the countercyclical revenue sharing program during the year it was under the most severe stress of the last recession. The city is still under stress. This year the city is being forced to reduce it police force by 520 men. The countercyclical aid was sufficient to support 520 officers. Today Detroit is taxing just about everything it can. It imposes income taxes at a rate double that of any other locality in the State. It is the only city with a utility tax. Its local taxes are 4.4 times the average in the State. The city simply is in no position now to bear by itself the additional shocks of another recession.

So, failure to continue the countercyclical fiscal assistance program could not come at a worse time. It will provide a safety net for those governments that are going to be hardest hit by the recession. It will result in spending only if national unemployment rises in response to a real downturn. And that spending will help stave off disruptive actions by local officials—such as sharp cutbacks in services, large layoffs of public employees, and substantial increases in taxes—actions that can greatly complicate our efforts to maintain a steady Federal fiscal policy.

This program is also one of the few programs that reduces and terminates Federal spending when the need recedes.

So I hope the Senate will adopt the legislation and reject the amendments of the Senator from Oklahoma.

Mr. BRADLEY. Mr. President, I oppose the amendment of the Senator from Oklahoma.

I believe that eliminating targeted fiscal assistance for the fiscal year 1979 would cancel out one of the most important elements of the antirecession objectives in the proposed legislation. It is the timing of the distribution of funds to local governments which are suffering from severe economic distress that is critical.

By the time targeted fiscal assistance for fiscal year 1979 actually is received by the approximately 2,100 eligible local governments, the impact of our current recession will have been fully felt.

Recent confidential administration forecasts and the CBO forecasts say that we are headed for unemployment of close to 7.5 percent before the end of 1980. Based on these forecasts, it is clear that the distribution of targeted fiscal assistance funds, which might not occur until the end of this year or early next year at the earliest, will just be going out when they are most needed.

Severely distressed communities should not suffer the increased burden because the course of this legislation has been slow. The bills to provide this aid were introduced in the Senate last January and February, and we recognize that time is against us. However, we feel that it is essential that we move on this legislation to get the aid where it is most critically needed, in distressed communities across the country which are being forced today to raise taxes, to sell public property, and to lay off important service personnel in the government.

Therefore, I urge strongly that we vote against this amendment.

I yield to the Senator from New York.

Mr. MOYNIHAN. I thank the distinguished chairman of the subcommittee.

I should like to emphasize what the Senator from Michigan has said. We are in a recession. No less an authority than the new Secretary of the Treasury, formerly Chairman of the Federal Reserve Board, stated it to the Finance Committee in our hearings on the confirmation on his nomination. We have known this for some time.

I take it that the gravamen of the argument of the distinguished Senator from Oklahoma is that Government is very complicated and the governmental process is hazardous, and this will face those familiar hazards. Exactly so. This bill was passed last September. It should be in place now. There is a recession now. It is not a moment too late to get on with the work we have agreed to do and should do.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. MOYNIHAN. It is not my time. The Senator from New Jersey has the time.

Mr. BELLMON. I will be glad to have the time charged to the sponsor of the amendment.

Will the Senator agree that 1979 is virtually over, that only 2 months remain, and that this has not been a year of recession?

The idea of coming along at the end of the year and dumping $150 million—money the Federal Government does not have—into the tills of the municipalities, which have already survived this nonrecession year, makes absolutely no sense.

I can agree that there is need to act in a timely way if the country gets into a genuine recession and some assistance to cities is probably in order. But what concerns me about this bill is that if it is a countercyclical bill, intended to help cities during the time unemployment is high, first of all, we have not had that condition this year; second, we are now putting the money into the cities after the year is over. The purpose of this amendment is to knock out the fiscal year 1979 funds.

Mr. MOYNIHAN. I say to the Senator from Oklahoma that I rest my case. I do not ask anybody else to do it. We are in a recession. The gross national product declined in the last quarter and is declining in this quarter. The question is, is the U.S. Government going to respond currently to these problems or always be a year and a half or 2 years late and respond in the wrong way?

Mr. DANFORTH. I yield myself 2 minutes.

Mr. President, the issue in this particular amendment is $150 million. This $150 million, if the amendment is rejected, will be distributed to communities which, by definition, are in need—namely, they have unemployment of more than 6 percent. Therefore, the reasoning behind the whole bill is that their tax bases have been eroded.

The testimony of then Secretary of the Treasury Michael Blumenthal before the Finance Committee on March 12, 1979, indicated the specific steps that were taken by cities such as Detroit, St. Louis, New Orleans, Newark, El Paso, and Pittsburgh as a result of the fact that last year the House killed this bill. Therefore this is to redress that, somewhat.

It is too late—there is no doubt that it is later than we would like it—but, still, it is $150 to communities that, by definition, are in distress. Despite the fact that so far in 1979, until very recently, we were not in a recession, these communities really were disaster areas.

The question is, first of all, are we going to target $150 million to communities which really have been suffering? Second, are we going to restart the program, which has been entered for a year, in a timely fashion, before the coming recession, the recession that is just starting, picks up a full head of steam?

Mr. MOYNIHAN. Well said.

Mr. BELLMON. Mr. President, I doubt whether further debate would serve any good purpose. I am ready to yield back my time.

Mr. BRADLEY. I am ready to yield back the remainder of my time.

Mr. BELLMON. The yeas and nays have been ordered.

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the amendment of the Senator from Oklahoma. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. Biden), the Senator from Florida (Mr. Chiles), the Senator from Nebraska (Mr. Exon), the Senator from Alaska (Mr. Gravel), the Senator from Kentucky (Mr. Huddleston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from Georgia (Mr. Nunn), the Senator from Mississippi (Mr. Stennis) and the Senator from Florida (Mr. Stone) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. Pell) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Texas (Mr. Tower), and the Senator from Wyoming (Mr. Wallop) are necessarily absent.

Mr. BENTSEN. Mr. President, regular order.

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted?

The result was announced—yeas 51, nays 34, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—51

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Cannon
Church
Cochran
Cohen
DeConcini
Dole
Domenici
Durkin
Garn
Hatch
Hatfield
Heflin
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Lugar
McClure
Muskie
Packwood
Percy
Pressler
Proxmire
Pryor
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Thurmond
Warner
Young
Zorinsky

NAYS—34

Bradley
Burdick
Byrd, Robert C.
Chafee
Cranston
Culver
Danforth
Durenberger
Eagleton
Ford
Glenn
Hart
Hayakawa
Heinz
Inouye
Jackson
Javits
Levin
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Nelson
Randolph
Ribicoff
Riegle
Sarbanes
Talmadge
Tsongas
Weicker
Williams

NOT VOTING—15

Biden
Chiles
Exon
Goldwater
Gravel
Huddleston
Kennedy
Long
McGovern
Nunn
Pell
Stennis
Stone
Tower
Wallop

So Mr. Bellmon's amendment (UP No. 507) was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 508

(Purpose: To strike subtitle B, targeted Federal assistance)

Mr. BELLMON. Mr. President, I call up my second amendment at the desk and ask that it be reported.

Mr. MOYNIHAN. Mr. President, may we have order?

THE PRESIDING OFFICER. The Senator from New York is correct. The Senate will be in order.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. Bellmon) proposes an unprinted amendment numbered 508.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 28, line 17, strike Sec. 13 of the bill.

Mr. BELLMON. I yield myself 5 minutes.

Mr. President, this amendment strikes subtitle B, providing for a program of targeted fiscal assistance, from the bill.

The administration proposed this program for fiscal year 1979 and 1980 to help fiscally distressed jurisdictions adjust to the termination of antirecessionary fiscal assistance. If this remains the purpose of the program, enactment now is certainly not going to be of significant "phasing out" benefit to localities. Antirecession fiscal assistance payments to State and local governments terminated at the close of fiscal year 1978 and local governments have done without this Federal financial aid since that time. It is too late to accomplish the goal of easing budget adjustments caused by termination of the antirecession fiscal assistance program.

This program is a prime example of our inability to "turn off" Federal aid to State and local governments. The antirecession fiscal assistance program enacted in 1976 was intended to provide temporary relief to States and localities at a time of economic downturn. It was to shut off as economic conditions improved. Instead, we built a new program constituency and aid to that constituency was again extended in 1977. If the Senate had had its way, it would have again extended that aid last year. Fortunately, the extension measure died over in the House. Now, we do see an economic downturn in the near future—a downturn which is considered to be mild by historic standards—and the push is on to extend this Federal aid again.

The PRESIDING OFFICER. Will the Senator suspend for a moment?

The Senator from Oklahoma is entitled to a chance to present his amendment. Senators will please refrain from conversations. The Senate will be in order.

The Senator from Oklahoma.

Mr. BELLMON. I thank the Chair.

To have a standby, fallback insurance program of antirecessionary fiscal payments to State and local governments may have some merit. To spin off a new permanent program of supplemental fiscal assistance to localities continuing to experience high unemployment is uncalled for. It is an example of the overdependence of local jurisdictions on Federal aid—our inability to "wean" them from the Federal bottle.

The program was never characterized as a permanent program. It was characterized as a temporary, antirecessionary measure. To justify the continuation of assistance on the basis that local jurisdictions have built this Federal money into their local budgets is unsound. They should not have presumed the flow of Federal funds would continue after the program's expiration date. If they have a budget "gap," they created it themselves.

What this program appears to be now is an "aid to cities" program. This being the case, it is a program aimed at those cities continuing to experience high unemployment as a result of structural, rather than cyclical, decline factors. As such, it is inappropriately placed in this bill. It is disguised in this bill as a "countercyclical" rather than a counterstructural" program, as it truly is. The program deserves consideration as a supplemental general revenue sharing payment to fiscally distressed local jurisdictions and should be considered in connection with reauthorization of the general revenue sharing program next year. Perhaps it is a new direction we wish general revenue sharing to take.

To add more money to the Federal pot going to aid urban areas in fiscal year 1980 is inconsistent with our efforts to restrain Federal spending. We have already given urban areas priority status in the fiscal year 1980 budget. Programs such as economic development assistance and urban development action grants are receiving substantial increases. To add more money in the form of general fiscal assistance to these areas is not called for at this time. The use of a 6-percent unemployment rate as the eligibility requirement also must be questioned.

I propose this amendment for the purpose of allowing us to consider what the balance of this legislation represents—countercyclical fiscal assistance to State and local governments. A program of straight fiscal assistance to cities should be taken up at another time and in another context.

I reserve the remainder of my time.

Mr. DANFORTH. Mr. President, this amendment really goes to the heart of the program. The fact that national unemployment, nationally, might be below 6 percent does very little to help those communities where it might be 10 or 12 percent, or even higher. Targeted revenue sharing is administered to help those communities which are in true financial distress. It is true that national unemployment—temporarily, I think—according to the figures that the administration issued yesterday, looks as though it is going up over 8.2 percent, but so long as it stays below 6 percent, that is of very little help to communities such as, for example, East St. Louis, Ill., or the city of St. Louis, or Newark, N.J., or Gary, Ind., or the other communities that are desperately hit by high rates of unemployment.

The fact of the matter is that targeted revenue sharing would go only to 2,100 jurisdictions throughout the country. It is targeted. Last year's bill would have gone to 18,000. We corrected that; we felt that was spreading to much money out. This would go only to 2,100 jurisdictions throughout the country, only to communities with rates of unemployment of 6 percent or more. Sixty percent of the funds would go to communities with unemployment of over 8 percent. So this particular amendment, Mr. President, really guts the whole purpose of the bill.

This amendment, if adopted, would mean that communities which are in distress would not get any help until the whole Nation is in extreme distress. I think the whole point of helping communities is not to wait until the Nation is at a rate of 6.5 percent or more unemployment, but to help those communities when they are in need before the whole country is in a serious situation itself.

Further, Mr. President, with respect to the form of the aid, revenue sharing is string free, and that is what is good about it. It does not come with a lot of instructions to local governments and a lot of regulations as to how funds are to be spent. Revenue sharing funds allow local governments to make their own decisions on the expenditure of money. I think that is really a basic philosophical question. Where are decisions to be made in this country? Are they to be made in city hall or are they to be made in Washington?

For philosophical reasons as well as economic reasons, I think that this targeted concept of revenue sharing is an excellent one and I would hope that the amendment of the Senator from Oklahoma would be defeated.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise in strong opposition to the amendment of the Senator from Oklahoma. The entire rationale of targeted fiscal assistance is that it provides aid to those local governments which are suffering from chronic economic problems, which are separate and distinct from the economic hardships which occur during the national business cycle.

The Senator from Oklahoma mentioned that this was a permanent program. It is not a permanent program. It expires September 30, 1980.

I agree with the Senator from Oklahoma that it is important to consider targeted fiscal assistance in the whole revenue sharing debate.

This is a program directed at those communities which have not recovered from the last recession. These communities do not benefit significantly at other times.

Mr. BOSCHWITZ. Mr. President, may we have order in the Chamber, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BRADLEY. These communities do not benefit from other types of Federal assistance. Their problems and needs are different and they require a different form of Federal aid. These are governments with shrinking tax bases, high unemployment, a citizenry made up of the very young and the very old, who need services and who do not have resources, who constitute a heavy financial burden on local government.

Mr. BELLMON. If the Senator will yield, will he not agree that these are structural programs? These are cities needing help in a general way and not in a program called countercyclical.

Mr. BRADLEY. I would agree with the Senator that in the general revenue sharing debate, which we will have next year, and on which we will have a number of hearings, perhaps the entire debate should have as a consideration developing not just general revenue sharing but targeted and fiscal assistance components in the general revenue-sharing bill.

It is important also to note that in a recession these communities are most adversely affected, that they are more adversely affected than other communities by a recession. In fact, these reductions in police and fire personnel, the raising of taxes, will drive remaining businesses and tax-paying residents out of the city and perpetuate this downward spiral.

I think it is important to recognize that the bill we are considering today would replace only 24 percent of what these municipalities were receiving in 1978, with CETA job programs and fiscal assistance.

Mr. JAVITS. Will the Senator yield?

Mr. BRADLEY. I yield.

Mr. JAVITS. I listened to Senator BELLMON with great interest and great respect, but I think he misses this because he does not live in that kind of a communty. As I understand it in his community of Oklahoma there is no material unemployment. We cannot wait until next year, until structural catches up with us, because we may not be alive to receive it. The fact is that these problems of ours, whether we call them structural or cyclical, are galloping and draining us of our ability to recover. New York City is a remarkable example because, as you encourage this situation in which we are located, people move out, the young move out, to find other opportunities. The situation decelerates. To ask us to wait for the doctor to come next year is asking us to take mortal blows from which we probably will be unable to recover as we have been unable to recover, I say to Senator BELLMON, from 1973 and 1974. We have not recovered from that recession. We are unique in that in the United States.

Mr. BELLMON. Will the Senator yield for 1 minute?

The PRESIDING OFFICER. Who yields time?

Mr. BELLMON. I will use my own time, Mr. President.

Mr. President, I would like to simply say that the Congress has been very considerate of the needs of cities. I think in many cases appropriately so. We still have CETA programs. We help with the cost of welfare, we have community grants, UDAG grants, concentration grants, and there are many other ways.

Mr. BRADLEY. In the 10 selected cities studied by the Brookings Institution, in the countercyclical measures composed of targeted fiscal assistance, countercyclical, CETA job programs and public works, the amount of money now being received by municipalities with these three funds has almost disappeared. The bill which we are considering today would consider replacing two of those programs, CETA jobs and countercyclical targeted assistance. The amount of revenue this bill would replace is simply 24 percent of what they had in 1978. These cities have received a dramatic amount of Federal assistance precisely at a time in the economic cycle when we are moving into a recession, when they need that kind of assistance.

Mr. JAVITS. If the Senator will yield, the very same people propagating this amendment, and I do not say that invidiously, have cut CETA 40 percent for this very same period. I handled CETA. I know about it.

Mr. BRADLEY. I thank the Senator.

Mr. BELLMON. Mr. President, the structural part of CETA has not been cut. We have cut back on the countercyclical aspect of CETA, but this leaves the jobs where most needed in the areas where we have structural unemployment.

Mr. JAVITS. We need rescue, we need those dollars. You can call them anything you want. The fact is we cannot wait until you get ready with structural in 1980. That is our problem.

Mr. BRADLEY. I would like to point out that we did cut title 6. That might be, in part, part of the reason that municipalities have had to lay off police and fire, people in education, in sanitation. They have had to lay them off because of cuts precisely in these areas.

In addition, I would like to make the point that the bulk of this targeted assistance, meaning between 60 and 65 percent, goes to communities not with 6-percent unemployment but with 8-percent unemployment. So the Senator might ask the question, Why do you have a 6-percent trigger? Why is it not even more targeted? The answer to that is that we want to take into consideration those small communities that have one industry, one industry that might be lost and create unemployment that cannot so readily be met by employment in the region. We have to protect them as well. That is why we have a 6-percent cutoff.

I would also like to point out to the Senator that of the 2,100 communities which are receiving assistance in this measure, over 60 percent have less than 25,000 population. To me it is an important consideration that the $340 million to be spent in fiscal year 1980 will help to alleviate the fiscal stress that is presently being experienced in these communities. There is only a small number of communities, relatively, 2,100, and this will get aid to these communities in a way that they can handle it in a flexible manner, aid to them without excessive impact on the Federal budget.

The PRESIDING OFFICER. Who yields time?

Mr. BOSCHWITZ. Will the Senator yield?

Mr. BELLMON. How much time does the Senator desire? I will yield 5 minutes.

Mr. BOSCHWITZ. Mr. President, I understand that the figure that the Senator from New Jersey speaks about is both titles A and B. We are only talking about title B in this amendment, about $200 million. I rise in support of the amendment of the Senator from Oklahoma. We do continue to fund very generously in CETA even though, as the Senator from New York pointed out, title 6, of CETA has been cut. But there is still $8 billion in CETA nationally, and that indeed is countercyclical.

That, indeed, does apply to the urban areas where there is 10- or 12-percent unemployment and where the structural unemployment does exist.

One of the things that I think is particularly important about countercyclical help and about this amendment is the fact that, since I have been here, I have seen the large number of disincentives that we, through our programs, Mr. President, continue to give to various areas of our economy. The areas that do well are not being rewarded for doing well but are, indeed, penalized for doing well. Those areas that do poorly, sometimes not through their own fault, but largely, things do happen through the fault of individuals involved—indeed, if they do poorly, they are rewarded and if they do well, they are penalized. That is my basic objection to countercyclical aid.

In addition, the States and cities are certainly in better shape, by and large, financially, than we. By adding to the deficit that we here, in the Senate, vote as part of the budget, we certainly bring about the specter of larger degrees of inflation, of a larger type of problem in its entirety.

I join with Senator BELLMON in supporting his amendment. If we are going to balance the budget, if we are going to bring about some type of economic base for squeezing the inflation out of our society so these debates, perhaps, will not even be necessary, we simply have to stop the disincentives of our type of authorizations and give incentive, rather, for producing.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BRADLEY. I yield 1 minute to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I wish to respond to the Senator from Minnesota in the simplest terms: If you wish to see the wide range of often cumbersome and outmoded and inefficient programs continued and increased as this recession gets deeper, vote against this efficient and targeted measure to put the money necessary when it is needed and not when it is not needed. This is a vote for an economical response to a recession and not for an across-the-board, ineffective, and delayed response. If you care about economy in government, I respectfully suggest you should be for this measure.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BRADLEY. I am pleased to yield.

Mr. JAVITS. There are two points which we fail to note, Mr. President. That is that the biggest revenue producers in this country are these very cities. Where do you get your billions over and above what is received if not from these cities, including the great city from which I come, New York City, the biggest single revenue producer in the country? Are we going to cut their arteries so that they bleed to death? That is just what is happening now, a new recession coming when we already now have 8-percent unemployment as against 5.6 percent for the country?

Second, Mr. President, I rarely hear these arguments when we are going to help the farmers or the meat growers or the wheat growers or the dams. We never hear an argument then about the fact, well, we have to save on them. It is only when we get to the cities and their distress, especially the older cities, that everybody suddenly gets very economical.

Let us be fair. This is a de minimis bill. It is mighty small, considering the problem. Let us be fair about this: We support you. This is the time for you to support us.

Mr. BRADLEY. Mr. President, I yield 5 minutes to the Senator from Michigan.

Mr. LEVIN. I thank my friend.

Mr. President, I rise in opposition to this amendment and in support of targeted fiscal assistance.

I have listened to my friend from Oklahoma say that this is not a year of recession, as he said a few minutes ago. That is not true for the 2,100 communities which have unemployment in excess of 6 percent.

I have heard my friend say that the need is past and this is not intended to help after the need is past. That is not true for the 2,100 communities who have unemployment in excess of 6 percent.

These communities continue to suffer from unemployment rates well above the national average. They are communities which, for one reason or another, could not fully share in the recovery from the last recession. In fact, the whole country is no longer on that road to recovery, but, in fact, on the road to a new recession.

Targeted fiscal assistance is an economical way to assist. It is targeted; it is not throwing money at problems which do not exist. It is trying to apply the financial resources of this Government to the greatest problems that exist before they become worse.

Targeted fiscal assistance recognizes the regional and local disparities that exist in the area of economic stability. Our national unemployment rate looks at this country with a telescope, but the truth of the matter is that we have great diversity, great dispartities in this country. We have thousands of places with high and growing unemployment rates. Let me give the unemployment rate for Michigan, announced today. Anybody who says that this is not cyclical, that it is purely structural, should listen to this rate.

One month ago, the unemployment rate in Michigan was 7.2 percent. Today, announced today, it is 7.7 percent. That is a growth of one-half of 1 percent in the unemployment rate in 1 month.

Mr. President, that involves tens of thousands of workers who are now unemployed who were not unemployed but 1 month ago. That is deeply cyclical. Unless we take this action, we are going to increase the structural problem that everybody says we ought to put off until next year.

This assistance is not extravagant, by any means. Restrictions are imposed insuring that only the most hard-pressed areas receive aid. In the targeted fiscal assistance program, the bulk of funds will be distributed to local governments where unemployment rates are 8 percent or more. A limitation on eligibility based on per capita income is operative under both programs.

Local communities often confront financial and social problems beyond their control. Communities with high levels of unemployment and dwindling tax bases are pressed for needed funds to provide those services expected of local governments. It is not uncommon that a decision of a business to close or relocate will disrupt the economic and possibly social fabric of a small community, placing tremendous burdens on the resources of the local government. Large and small communities relying on businesses prone to cyclical adjustments of its labor force or propelled into such patterns by any number of intervening factors are similarly affected. The chronic levels of unemployment resulting from these actions are difficult to combat without Federal assistance.

The targeted fiscal assistance of this legislation is the gut of this legislation. It will help prevent job layoffs, reduced services, and increased taxes. It is going to help avoid the kind of structural unemployment which everybody says we ought to attack, but let us wait until next year. It is going to accomplish these goals without an excessive impact on the Federal budget.

These moneys will be even more needed by these distressed local governments once fiscal year 1980 begins, given the deep cuts Congress has made in the CETA program, local public works and other programs which had particularly benefited distressed localities.

The tax revolt has further constrained the resources and ability of local communities to face various problems. With new limitations on taxes throughout the country, we are facing a belt tightening in the coming years. In the name of fiscal restraint, local responsiveness to community problems may be jeopardized. This Federal assistance will permit readjustment without major cutbacks in such vital services as police and fire protection.

Mr. President, areas continue to struggle to recover from the 1975 recession and to avoid going into a deeper one. These communities were caught by surprise last year when Congress failed to renew the Antirecession Fiscal Assistance Act. As a result, some had had to cut back services in police protection and health services, to name only a few. This assistance is urgently needed.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator's time has expired.

Mr. LEVIN. Will the Senator yield 1 more minute to me?

Mr. BRADLEY. I yield 30 seconds.

Mr. LEVIN. I thank the Senator from New Jersey.

Mr. President, each day of delay brings another community closer to fiscal disaster. I am grateful for the bipartisan efforts I have seen in the Senate to bring this responsible piece of legislation to the floor and I commend the Senator from New Jersey for his floor leadership on it.

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

Mr. BRADLEY. I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that this be a 10-minute rollcall.

Mr. PERCY. Mr. President, I certainly do not intend to object to that request. I should like about a half minute first.

Mr. BELLMON. I yield to the Senator that half minute.

Mr. DANFORTH. Mr. President, I yield all the time the Senator from Illinois would like.

The PRESIDING OFFICER. Is there objection to the request by the Senator from New York? Without objection, it is so ordered.

Mr. PERCY. Mr. President, my distinguished colleague (Mr. DANFORTH) serves on the Governmental Affairs Committee. I worked in that committee with Senator MUSKIE in developing the original countercyclical assistance program and it proved to be of critical help to local governments which had been affected negatively by rising unemployment and an eroding tax base.

Would not striking this section take the very heart out of the kind of program we conceived of there?

This section aims funds at the targeted areas with the highest unemployment. Those are the areas, such as East St. Louis, the city of Chicago, and Williamson County in Illinois, which need the help the most.

Mr. DANFORTH. I completely agree with the Senator from Illinois. I think that if we believe that, at least under some circumstances, the Federal Government should provide assistance to local government, this particular form of targeted assistance is the most rational help the Federal Government can provide.

Why? Because it does not just spray the money all across the countryside. It puts the money in those communities which have their own tax bases eroded.

When unemployment occurs, it is not only a tragedy for the individuals involved, it has an effect on the local community. It puts a greater drain on the local community in providing services for people in need, which the local communities do, and it also tends to erode the tax base.

Therefore, if the Federal Government, under any circumstances, is going to provide aid to any local community, it would seem to me that it would want to concentrate its attention on those communities which are having a hard time keeping up with their governmental services.

Second, it would seem to me that if the Federal Government is to provide help to local communities, it should do so in the way of distributions of cash.

Why not let those communities in times of distress make their own decisions as to where their needs are, rather than to have somebody in Washington say, "Well, we know you're hurting, but we only want to provide relief from your pain in this little area or that little area."

So I think from the whole standpoint of the operation of the Federal system, it makes sense. I do believe that this amendment by the Senator from Oklahoma really goes at the whole concept, destroys the whole concept of what this bill is about.

Mr. PERCY. I thank my distinguished colleague.

I believe deeply in the concept of countercyclical funding. I supported the distinguished Senator from Oklahoma on his last amendment because given our tight fiscal situation, I do not believe a completely retroactive payment to recipients who had not planned for it, and certainly did not have reason to count on it, can be justified.

I think we do have to cut down. But in this case, this amendment, I believe, would remove one of the key thrusts of this anti-recession measure for State and local governments. When hit with distressed conditions, local governments can counteract this much better on their own, without the strings and bureaucratic delays which characterize so many Federal programs.

I thank my distinguished colleague.

Mr. BELLMON. Mr. President, I yield myself 1 minute.

I say to the Senator from Illinois, the program, in the title we are striking, is not countercyclical. It is a program that goes on and on and on!

I would agree with the Senator from Illinois and tend to support a bill dealing with the problems of the cities that are hit by the conditions he describes. But this program is one that simply provides constant support to cities that have no cyclical problems.

If we go that route, I think it should be on a general revenue sharing bill.

Mr. DANFORTH. Mr. President, this bill is, of course, in two parts. One part is countercyclical and the other part is targeted. What we are talking about now is targeted.

It seems to me, though, that from the standpoint of a community with a high rate of unemployment, from the standpoint of a community with a lot of people out of work, from the standpoint of a community which has to provide services to the people who are out of work and has its tax bases eroded, it is a little bit of a debater's point to ask city hall in that community, "Is this structural unemployment or cyclical unemployment?"

Unemployment is unemployment. An erosion of a tax base is an erosion of a tax base.

From the standpoint of New York City, or Newark, or East St. Louis, Illinois, or St. Louis, Mo., Gary, Ind., any of these communities, when people are out of work, when the tax base of a city is eroded, I think it is a little bit of a debater's point to say, "Well, really, you shouldn't qualify for Federal assistance because your problem is structural rather than cyclical."

The amendment is keyed at the targeted portion of this bill.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BELLMON. I yield back my time.

Mr. BRADLEY. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered, pursuant to the authority previously granted on yesterday, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Georgia (Mr. NUNN), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators who wish to vote?

The result was announced—yeas 31, nays 59, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—31

Armstrong
Bellmon
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Cannon
Domenici
Exon
Garn
Hatch
Heflin
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Proxmire
Pryor
Roth
Schmitt
Schweiker
Simpson
Thurmond
Tower
Wallop
Warner
Young

NAYS—59

Baker
Baucus
Bayh
Bradley
Burdick
Byrd, Robert C.
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Ford
Glenn
Hart
Hatfield
Hayakawa
Heinz
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Pressler
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stevens
Stewart
Talmadge
Tsongas
Weicker
Williams
Zorinsky

NOT VOTING—10

Bentsen
Biden
Goldwater
Gravel
Huddleston
McGovern
Nunn
Stennis
Stevenson
Stone

So Mr. BELLMON's amendment (UP No. 508) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BRADLEY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 509

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 509.

Mr. BELLMON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 26, strike lines 8 through 14, and insert in lieu thereof "(1) Suspension.—No amount shall be paid to any State or local government under the provisions of this section for any calendar quarter unless the average rate of unemployment within the jurisdiction of such State or local government during the six month period which ended three months before the beginning of such calendar quarter was greater than or equal to 7 per centum or, in the case of any State or local government in which the average rate of unemployment has increased by 2 percentage points or more from the lowest average unemployment rate attained in any calendar quarter during the preceding five calendar years, equal to or greater than 6 per centum."
>
> On page 26, line 22, strike "6 per centum" and insert in lieu thereof "7 per centum, or in the case of any State or local government receiving funds under the provision of paragraph (1) regarding unemployment increases of 2 percent or more during the preceding five years, 6 per centum,".

Mr. BELLMON. Mr. President, the Senate has just voted for what is called targeted fiscal assistance. This amendment has the effect of tightening the target. It addresses the local criteria for eligibility of title A of this bill. Title A establishes the standby authority for antirecession fiscal assistance.

What the amendment does is to raise the general unemployment trigger for local jurisdictions. It has nothing to do with the national trigger. But for local jurisdictions it raises the trigger from 6 to 7 percent.

We have had a lot of argument here this morning about the serious problems of communities that experience high unemployment, and we are simply trying to target these funds. We have to realize, I believe, that the amount of funds we have available is limited. We are trying to target the funds more tightly toward those jurisdictions which are in the greatest need. That is the whole thrust of the amendment.

It has one other provision which says that if a community has had a relatively low level of unemployment, say 4 or 5 percent, and then it suddenly jumps by 2 percent, then that community is covered.

Mr. President, the third and final amendment I am introducing this morning addresses the local criteria for eligibility under title A of the bill. Title A establishes the standby authority for antirecession fiscal assistance. Senate just voted for targeting amendment tightener.

This amendment raises the general unemployment trigger for jurisdictions from 6 to 7 percent. However, this amendment also provides that jurisdictions which have an unemployment rate greater than 6 percent but less than 7 percent would qualify for assistance if they have experienced an increase in their rate of 2 percentage points or more. This increase would be measured using as a base, the lowest unemployment rate attained by the jurisdiction during any quarter during the previous five years.

Mr. President, I emphasize that title A is the countercyclical portion of the bill. For this reason, I think that it is important to restructure the local triggering mechanism to reflect countercyclical stress. This is the goal that I hope to achieve by raising the general local trigger to 7 percent and establishing some measure of the increase in the local unemployment rate as a second criterion for those jurisdictions that have increased unemployment, but do not meet the 7-percent limit.

Clearly, jurisdictions that have unemployment rates of 7 percent or more are experiencing stress—and their unemployment rate will likely rise further if the economy plunges into a full scale recession. However, many local governments currently have unemployment rates above 6 percent despite the relatively low level of national unemployment. In April 1979—the last month for which local unemployment data are available—almost 25 percent of the large and medium sized metropolitan areas had unemployment rates of 6 percent or more.

In recent years, the Senate has attempted to tailor programs to serve specific needs more directly. This approach is based in part on the belief that broad approaches to problems like unemployment often increase the inflationary consequences of such actions. In addition, the policy is also based on the recognition that many of our problems are local rather than national.

Every economist who appeared before the Senate Budget Committee this year, expressed extreme concern about the current high rate of inflation and they recommended that the Federal Government avoid responding to a recession with additional spending. Moreover, several economists indicated that should a recession occur that it was likely to strike some parts of the country with greater severity than others.

In keeping with this policy of more carefully directing programs to specific needs, this amendment would change the local trigger in the bill so that it will respond more directly to changes in local unemployment due to recession. This will provide aid to the various parts of the country when they need it. It also responds to possible inflationary biases in the existing bill by raising the generalized local trigger to 7 percent. This provides a greater margin between the jurisdictional trigger and what is now considered to be the unemployment rate at which inflationary pressures begin to rise—5½ to 6 percent. I hope that my colleagues will support this amendment.

I reserve the remainder of my time.

Mr. BRADLEY. Mr. President, I rise in opposition to this amendment. I think that it is precipitate at this stage of the legislation to propose altering trigger figures.

We have had lengthy hearings on this matter. We have had a number of computer runs on unemployment figures and what it would mean for municipalities.

I think that it is a little precipitate now at this stage to move to alter the qualifying number of unemployment.

I might suggest, however, that the effect of what the Senator from Oklahoma is recommending would be adverse to many communities in this country that have less than 25,000 population for the following reason: That if countercyclical triggers in at 6.5-percent national unemployment and the eligibility at the local level must be 7-percent unemployment, we are eliminating many of those local communities now that would be eligible because our eligibility level is 6-percent unemployment.

Who are those communities? Those communities are specifically small, under 25,000, with perhaps one industry, an industry which goes bankrupt, goes out of business, and creates severe hardship in that community that leads to unemployment of 6.5 percent.

I think this is a terrible burden to place on those communities.

I urge the Senate to reject this amendment.

Mr. President, I am pleased to yield a few minutes to the Senator from Maryland.

Mr. SARBANES. I thank the Senator for yielding.

Mr. President, I rise in opposition to this amendment and in very strong support of this legislation.

I think it is important to underscore some past unemployment figures, which I did not fully appreciate, which were brought out this morning in testimony by Commissioner Norwood, commissioner of the Bureau of Labor Statistics, before the Joint Economic Committee.

In the 1974 to 1975 recession, the unemployment figure went from 5.4 percent in August 1974, to 9.1 percent in May 1975. That is a 9-month period in which the unemployment rate deteriorated from 5.4 percent to 9.1 percent—I emphasize from 5.4-percent unemployment to 9.1 percent in 9 months.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. SARBANES. I yield.

Mr. BELLMON. This trigger comes into play at 7 percent. That community would clearly be covered by the amendment.

Mr. SARBANES. I want it at 6 percent. The point I am trying to make to the Senator, and I am glad he asked the question because the very point I am trying to make is that once you start downward if you do not have in position measures that will move in and try to stem the tide you can go into an incredibly bad situation in a very short period of time. In 1974–75 we went to the worst recession the country has seen since the 1930's in 9 months.

Mr. BELLMON. Mr. President, if the Senator will yield further, this amendment also provides any time unemployment rises by 2 percent in a community, then that community is also eligible.

Mr. SARBANES. I understand that.

All I am saying to the Senator is that we have to position these economic defenses and get them into place if we are not going to open ourselves up to a rapidly deteriorating situation. Once it starts downward, if you are not in a position to snap in and try to check it, you are headed for real trouble.

Now the White House has just revised, according to an internal memo, its own predictions of the unemployment rate. In 3 weeks from July 12 to August 2 the White House revised its expectations on the unemployment rate from 6.9 percent at the end of 1980 to 8.2 percent at the end of 1980; 8.2 percent, which is their current expectation, would be the worst recession the country has had since the Depression of the thirties with the exception of the recession of 1974–75. In that recession, as I noted earlier, within 9 months we went from an unemployment rate of 5.4 percent, which is better than what we have at the moment—the July rate just announced is 5.7 percent. And in 9 months we were at 9.1 percent, to an unemployment rate of 9.1 percent in 9 months, the worst unemployment figure since the Depression of the 1930's.

I think it is imperative to put this legislation into place so that we will have some countertrends working, if we start into any sort of comparable downward spiral with respect to our economy.

Mr. President, I ask unanimous consent that the article from the Washington Post of yesterday on the outlook for the economy be printed in the Record.

There being no objection, the article was ordered to be printed in the Record as follows:

[From the Washington Post, Aug. 2, 1979]

NEW FORECAST DIMS OUTLOOK FOR ECONOMY

(By Art Pine)

A new internal Carter administration forecast shows that inflation and the recession are likely to be significantly worse than the White House predicted just one month ago, with the jobless rate topping 8 percent by the end of 1980.

The revised predictions, completed by Carter economists late Tuesday, are expected to jolt White House policmakers and heighten pressure within the administration for the president to propose a tax cut for 1980.

The new forecast is visibly gloomier than that projected by the Congressional Budget Office last month and parallels the most pessimistic predictions published by the independent Federal Reserve Board.

The darkened outlook stems from a variety of factors ranging from the continued rise in oil prices to the tighter money and credit policies being pursued by the Federal Reserve Board and an expected speedup in wage increases late this year and next.

The forecast also predicts the recession will last through the first quarter of 1980, at least three months longer than the White House was projecting last month. The figures were compiled by a subcabinet task force.

The forecast said:

The economy's output will decline this year by a sharper 1.4 percent, rather than the milder 0.5 percent dip the administration predicted in its last official forecast published July 12.

Inflation will average 11 percent through the fourth quarter of this year and then edge down to 9 percent in 1980, rather than the 9.8 percent for 1979 and 8.1 percent for next year the White House predicted in July.

The nation's unemployment rate, now 5.6 percent of the work force, will rise in the remaining months of this year and soar to 8.2 percent by the end of 1980, rather than 6.9 percent as the White House forecast earlier.

The recovery in 1980 will be weaker than the White House predicted only three weeks ago. The administration's July 12 forecast showed output growing 2 percent in 1980. The new figures call for a 1.1 percent rise.

The new worsened economic outlook appeared likely to spark a fresh look by top policymakers at the question of whether to propose a tax cut. The Administration's official line has been to hold off, for the moment.

The task force that compiled the revised forecast was made up of senior economists from the Treasury, the Office of Management and Budget, the Council of Economic Advisers and the Labor and Commerce departments. The interagency group, which also helped formulate the July 12 predictions, performs the initial work for all White House forecasts.

President Carter was reported to have said as late as Tuesday he views the recession as an "energy spasm" that is likely to be brief and mild and may not require any new government stimulus measures.

However, if the new projections are accepted by the president, it could alter that situation. Most observers believe the specter of an 8 percent-or-higher jobless rate would spur Congress into moving quickly.

The new set of projections was contained in a detailed discussion document that also included forecasts of the impact of various kinds of tax cuts and antirecession measures.

In one, combining a $20 billion cut in Social Security taxes and a $5 billion worth of investment tax incentives, the stimulus was shown as likely to hold the maximum unemployment rate to 7.9 percent and also slow the inflation rate to 8.5 percent in 1980.

Carter has pointed to the possibility of a cut in Social Security taxes as a "noninflationary" way of stimulating the economy. The rationale is that paring payroll taxes also cuts business costs, and thereby helps slow price rises.

The $20 billion to $30 billion figure was cited by Carter last week in a meeting with key congressional leaders. However, aides said later the president was merely reporting advice he had received from economists, not endorsing that view.

The major factor behind the more gloomy economic forecast this week was the June 27 decision by the oil-exporters' cartel to raise crude oil prices to more than $20 a barrel from about $16 before.

Although the price boost was announced before the White House issued its July 12 forecast, the computations were completed too early to include the full impact of the producers' decision.

Most economists believe the increase in oil prices will exert a $50 billion to $60 billion "fiscal drag" on the economy that will act much like a tax increase—dampening output further and exacerbating inflation.

The argument behind proposing a new tax cut is to help offset this "fiscal drag." However, opponents caution that slashing taxes could also heighten inflationary pressures.

Apart from the president's reluctance to rush into a tax cut, the decision has been delayed by the recent Cabinet reshuffling, which resulted in new appointments as Treasury secretary and Fed chairman.

Also, Carter's chief economist, Charles L. Schultze, chairman of the Council of Economic Advisers, has been ill. Schultze played a major role in fashioning earlier Carter tax-cut packages.

Carter's nominees for both Treasury and the Fed were approved initially yesterday by congressional committees, but the Senate was not expected to act on either appointment until sometime today.

The document estimated that the rise in unemployment would reduce government tax collections by about $10 billion in fiscal 1980, raising the projected deficit for that year to $38 billion, from $28 billion now.

Mr. SARBANES. Mr. President, I thank the Senator for yielding.

Mr. DANFORTH. Mr. President, obviously, any time a percentage trigger is set for a program there is room for debate as to precisely what that figure should be. Last year we had just such a debate on the floor of the Senate. At that time the bill that had been reported from the Committee on Finance had an unemployment trigger of only 4½ percent. The argument was made that 4½ percent really does not constitute fiscal distress under most economists' definitions of what local fiscal distress is.

Therefore, it was worked out at that time in the bill that was on the floor that we would move it up to a 6 percent trigger, and again in the Committee on Finance this year when we went through exactly the same drill we discussed the same question and again set it at 6 percent.

The effect of moving it from 4½ percent to 6 percent, and putting a de minimis rule in was that instead of funneling a limited amount of funds or spraying a limited amount of funds out to 18,000 communities, as was true with the committee bill a year ago, we have in this bill reduced it from 18,000 to 2,100 communities.

The Senator from Oklahoma says, "Well, 6 percent is too low. We should move to 7 percent."

I do not know how many communities would be covered by 7 percent, but my guess is it would very substantially reduce the constituency for this bill and, perhaps, turn it into a very regionalized approach to targeted revenue sharing.

The second thing I would say about the Senator from Oklahoma's amendment is that, to say the least, it is a complicated kind of formula. It lacks the kind of clarity and ease of explanation that I think the bill in its present form has.

As I understand the Senator from Oklahoma's position, if a community has 4-percent unemployment consistently over a period of years, and suddenly moves up to 6-percent unemployment it is for some reason covered by targeted revenue sharing. However, a community with 6½-percent unemployment consistently which continues to have 6½-percent unemployment is not covered. If I understand that correctly, I am not sure about the reason for that distinction.

Mr. BELLMON. Mr. President, the reason is the reason that the Senator from Maryland raised. If the community has been rocking along at, say, 4½-percent unemployment, and suddenly gets a 2-percent jump in unemployment, it would need aid immediately, so we figured to aid that community more rapidly than if it was at 6 percent and is rising to 7 percent.

I agree with the Senator from Maryland that these programs ought to head off a disaster before it becomes complete and becomes irreversible, and that is the reason for the 2-percent increase.

Mr. SARBANES. Mr. President, will the Senator yield on that point, because the point I tried to make to the Senator from Oklahoma, since he is moving the trigger upwards, is that by doing that you are permitting so much leeway there before any response that you are going to get the roller coaster started downward, and you are not going to be able to check it or turn it around.

That is why I think the arrangement which the committee has arrived at is a sensible arrangement, and that is why I underscored the figures which occurred in 1974 and 1975. I do not think most Members realize that in August of 1974 we were at a 5.4-percent unemployment rate and that once it started downward it started moving very fast, and it just kept on going, and you were at a 9.1-percent rate by May of 1975, the worst unemployment since the Depression.

Mr. BELLMON. Mr. President, the idea back of the amendment, as I said before, is to target these funds more tightly toward the communities that are in genuine need. If we had unlimited resources around here it would be no problem to take care of all the problems that these sponsors of the bill have brought up. But the fact of the matter is that we are in a very tight budgetary situation, and inflation is a problem, the main cause of which is the Federal deficit.

I have great sympathy for what the sponsors are talking about, but it seems to me that if we trigger a program like this at 6 percent, which is very close to the average unemployment rate, we are not targeting it at the cities which are in genuine need, and that is what this amendment tries to do.

Mr. DOMENICI. Mr. President, I wonder if I could ask the Senator from Maryland a question. Did I understand the Senator to say that if we have a countercyclical program that gets involved early enough in the beginning of a recession that you feel we have a way to stop this recession? I mean, if that is the case I think we ought to just put a lot of money into it, put $5 billion, $6 billion or more in, and make sure we find a trigger so that we can stop the recession.

I do not believe it has any effect on the recession even if you get it in on time. If you are talking about distress that we ought to help take care of, then I am with you. But I do not believe there is any indication from the economists that the countercyclical way is any kind of magical way to enter at the right time and cause a recession to abate.

Quite to the contrary, it probably will cause more inflation certainly than it will abate the recession. But perhaps the Senator was saying something different from that.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. DOMENICI. I would be delighted to yield.

Mr. SARBANES. I think it is fair to say that I was saying something different from that because I was not asserting that this was either a magical solution or that working alone it could accomplish the kind of results which the Senator has portrayed.

The only point I was trying to make, using the 1974–75 figures—and I think the Members ought to be very sensitive to them—is that once you start into a downturn it can happen very, very fast.

Now, perhaps the Senator was aware of these figures, but they came as something of a surprise to me that in 1974 and 1975 we went from an unemployment figure in August of 1974 of 5.4 percent to an unemployment figure of 9.1 percent in May of 1975.

Mr. DOMENICI. Let me say to my good friend I was aware of them on the committee on which I served. But the point I am trying to make is that I do not think we ought to leave the impression that there is a direct relationship in abating a recession and the timeliness of a countercyclical program of this type. Quite to the contrary. Once that recession started, it did move very rapidly, as the Senator indicated, and the same economics indicate that inflation picked up and continued for a very long period thereafter. It did not abate nearly as quickly. In fact, it has not abated to this point, and it is now occurring at about 13.4 percent, and it is still on the upswing since that recession that you spoke of caught fire and disappeared as a recession.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. DOMENICI. So Senator BELLMON is only saying that if you are going to err, you should err on the side of trying not to rekindle the fires of inflation, especially if you are talking about a program about which there is no proof of its effectiveness in abating a recession. That is the only reason I raised the point.

I thank the Senator from Oklahoma.

Mr. BRADLEY. Mr. President, I would like to yield a minute to the Senator from Hawaii if he desires it. While he is determining whether he would or would not, I would like to comment briefly about what countercyclical assistance does to abate a recession.

I would like to point to, perhaps, a series of events we do not normally think of when we think of countercyclical assistance stopping or lessening the impact of a recession.

During our hearing process we have testimony from Mr. James Howell, who is a senior vice president of the First Boston Corporation, who has done a very extensive survey on municipal finances, and he revealed that in 1975 at the height of the recession between April and October that 106 municipalities in this country withdrew from the municipal bond market because of the recession.

The startling thing was that these communities were not only in the Northeast but they were also evenly distributed through the South, Midwest, the Southwest, the West, and High Plains. So it is, perhaps, impossible to conclude that *x* amount of dollars will prevent a recession if it is administered in a countercyclical fashion. But I think it is sufficient to say that in many communities, some we think are not distressed, that they could use this money effectively so that their fiscal condition would allow them at least to go into a municipal bond market to obtain money they need for essential capital improvements.

Mr. DANFORTH. Mr. President, I wonder if the Senator from Oklahoma would let me ask him some questions just to clarify what this amendment would do. If I understand this amendment, it applies to the countercyclical portion of the bill, but not to the targeted portion of the bill; is that right?

Mr. BELLMON. That is right.

Mr. DANFORTH. Now, if this amendment were adopted, if national unemployment were less than 6.5 percent, and therefore the countercyclical part of the bill were not applicable, if national unemployment were under 6.5 percent what would be the local trigger?

Mr. BELLMON. The trigger under the circumstances the Senator describes would remain at 7 percent.

Mr. DANFORTH. Six percent, right?

Mr. BELLMON. I am speaking of the local trigger now.

Mr. DANFORTH. But it is my understanding that if only the targeted revenue sharing portion of the bill were in effect, under the Senator's amendment the local trigger would be 6 percent.

Mr. BELLMON. That is—that is true.

Mr. DANFORTH. However, if the countercyclical portion of the bill were in effect, the local trigger would be 7 percent?

Mr. BELLMON. That is true, except for the provision that if unemployment has increased by 2 percent, then——

Mr. DANFORTH. I understand, but putting aside for a moment that 2 percent feature, if national unemployment is below 6.5 percent, then a community with, say, 6.1 percent unemployment would get some relief?

Mr. BELLMON. Under the targeted portion of the bill.

Mr. DANFORTH. However, if national unemployment exceeded 6.5 percent, then the local community would have to have unemployment of 7 percent in order to get relief?

Mr. BELLMON. Except under the conditions I described earlier, the 2 percent.

Mr. DANFORTH. Except under the 2 percent rule. Now, the 2 percent rule, as I understand it, is for those communities where their unemployment rate has jumped 2 percentage points, say from 4.5 percent to 6.5 percent, or something like that.

Mr. BELLMON. Yes.

Mr. DANFORTH. Now, what I do not understand is why a community should be able to receive fiscal relief if its unemployment rate is, say, 6.5 percent when the national unemployment rate is under 6.5 percent, but it has to go up above 7 percent if national unemployment is over 6.5 percent. I mean it seems to me that what you are saying is that the higher unemployment goes nationally, the deeper the national recession, the more difficult it is for each community to get assistance under this bill.

Mr. BELLMON. Well, if the Senator will recall, we undertook to strike subtitle B from the bill. We are trying now to target more entitlement. I think the Senator will agree that if the national unemployment rate is higher, then it is logical to expect that unemployment in the targeted communities would also probably be more severe. Therefore, we have put into the amendment the provision the Senator has described: and if, nationally, unemployment is higher, the communities in distress will certainly have a little higher rate of unemployment.

Mr. DANFORTH. But my understanding is that if a community has an unemployment rate of, say, a little over 6 percent, between 6 percent and 6.5 percent, say, and the national unemployment rate is at 6.4 percent, then that community would get assistance. However, if its unemployment stayed the same, and national unemployment were to jump from 6.4 percent to 6.5 percent, then that community would lose its fiscal assistance under this amendment.

Mr. BELLMON. I believe the Senator is correct.

Mr. DANFORTH. Now, when you have a 2 percent increase, as I understand it—let us suppose two communities, one of which has a 4.5 percent unemployment rate and the other has a 6.5 percent unemployment rate. As I understand it, under this amendment, the one that stays 6.5 percent does not get any assistance, but if the other goes from 4.5 percent to 6.5 percent it would. So you could have two communities with exactly the same unemployment rate, and one would get fiscal assistance and one would not.

Mr. BELLMON. I believe the Senator has identified an area of the amendment that could stand some improvement. I will be glad to prepare some language to modify the amendment to try to correct this problem.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objections, it is so ordered.

Mr. BRADLEY. Mr. President, I know that the distinguished Senator from Hawaii (Mr. MATSUNAGA) had wanted to make a statement. I do not see the distinguished Senator from Hawaii in the Chamber at the moment. However, my senior colleague from New Jersey would like to be recognized. I yield him 2 minutes.

Mr. WILLIAMS. I appreciate that. I thank my colleague, and I applaud the work he has done in presenting this very necessary measure to us at this time. I would like to address myself briefly to the bill itself, while there is some further development on the amendment that is pending.

Mr. President, I strongly support and am pleased to cosponsor S. 566, which I believe constitutes an acceptable compromise between S. 200—which I introduced with Senator DANFORTH on January 23 of this year—and the administration proposal which Senator MOYNIHAN introduced in March.

I have felt throughout this year that the failure of the House to act on the Senate-passed antirecession bill in the closing days of the 95th Congress has left municipal leaders throughout the Nation in a steadily worsening position. This abrupt and unexpected termination of Federal assistance created chaos in public services and potential fiscal disaster which is inimical to local efforts to rebuild the foundations of self-sufficiency.

The present worsening economic situation—which, in the case of my own State, is expected to result in the loss of 30,000 jobs, driving unemployment to 8 percent, over the next 12 months—demands that we act now on this vital legislation. Many of our major cities, which bear a disproportionate share of the Nation's unemployment, have never fully recovered from earlier economic downturns. A Treasury Department survey taken earlier this year found that two-thirds of the Nation's largest cities had rates of joblessness exceeding the national average. In Newark, New Jersey's largest city, the unemployment rate is twice the national average.

Mr. President, some have charged that an extension of this program encourages localities to become "addicted" to Federal aid. I can emphatically state that, citing Newark as an example, quite the opposite is true.

Newark's residents already make high contributions to city revenues. Forcing property taxes still higher would discourage reinvestment and encourage abandonment.

Newark has not used Federal aid to continue wasteful expenditures. In fact, per capital city outlays have declined from $360 in 1970 to $280 in 1979, a remarkable record in light of inflation during that span. As a result, the city's bond rating has improved significantly.

Newark's problems are not irreversible. It has been making great strides against crime, disease, and blight.

But Newark has been hurt by the cessation of Federal aid. Mayor Gibson was forced to lay off 450 city employees, almost 10 percent of the municipal workforce, including 200 police.

Forcing Newark and America's other distressed cities to make further slashes in employment and vital services in a time of recession will establish an insurmountable roadblock to further recovery. Such an action would serve neither our economy nor our citizens.

We have alreday slashed CETA, we have already slashed local public works, and we have made deep cuts in other programs which assist America's troubled communities. To fail to enact a countercyclical aid program, at the very moment in which we are entering a new period of economic downturn, would be to ignore reality and the demands it places upon responsible leadership. Such an action would guarantee the prolongation of the urban conditions which require Federal aid, because the inevitable result would be job layoffs, reduced municipal services, and increased taxes. In a darker day of medical practice, "bleeding" was the prescribed cure for the ill, but it killed more than it cured. In our own day, "bleeding" our ill urban areas will have the same result.

Mr. President, only an adequately funded and properly targeted program of fiscal assistance can help distressed areas to overcome their structural economic problems. The approaching recession makes the need more urgent. Therefore, I enthusiastically support S. 566.

Mr. President, I ask unanimous consent that an article from the July 31 Trenton Times, describing the expected effects of the economic slowdown on the State of New Jersey, be printed in the RECORD, together with an article on the same subject published in the Bergen (N.J.) Record.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Trenton (N.J.) Times, July 31, 1979]

SLUMP TO CUT N.J. JOBS

(By Celestine Bohlen)

New Jersey could lose more than 30,000 jobs during the next 12 months as the nationwide recession takes its toll on the state's economy, a panel of leading economists predicted yesterday.

But the economic impact here should be "mild" compared to the ravages inflicted by the 1975 recession according to a mid-year report by the Governor's Economic Policy Council.

At a press conference yesterday, the three-member council forecast a 1.2 percent rise in the state unemployment rate—from 6.8 percent to 8 percent. The national jobless rate is expected to rise from 6.6 percent to 7 percent in the same period.

Meanwhile, inflation—here and nationally—is expected to drop below the double-digit range as the projected slowdown takes the steam out of the overheated U.S. economy, the council said.

"This may be the pause that refreshes—even though it will cause pain in terms of unemployment," said council member William Freund, senior vice president of the New York Stock Exchange.

Since New Jersey's economic mix more or less reflects the national picture, "as goes the nation, so goes the state," Freund predicted.

At yesterday's press conference, Freund said New Jersey is in a better position to weather a year-long recession now than it was in 1975 when unemployment hit a high of more than 13 percent.

"I hope it will be a mild recession," said Freund, who based his "relative optimism" on a number of economic indicators, including a prediction that the New Jersey housing market will "hold up reasonably well" in the months ahead.

The boom in investment and the overload in industrial inventories that preceded the 1975 recession are not evident in New Jersey this year, Freund noted.

The council yesterday advocated a stepped-up capital construction program in New Jersey—in particular road improvements and new casino construction in Atlantic City—to help keep the unemployment rate at an acceptable level.

Robert Mulcahy 3d, chief of staff to Gov. Brendan T. Byrne, said the state would also continue its search for foreign investment, another hedge against recession.

Nationally, the recession is expected to cool the current 13 percent inflation rate down to 9.5 percent. In New Jersey, the rise in the cost of living is expected to drop from last month's high of 15 percent to 8.5 percent.

New Jersey's annual inflation rate—measured before the hike in oil prices this summer—was 8.8 percent, less than the 10.8-percent increase experienced nationally during the past year.

According to council chairman Joseph Seneca, New Jersey has done a better job than either Pennsylvania or New York in making a recovery from the 1975 recession.

Approximately 58,000 new jobs have been created in the state in the last year alone—300,000 since the low point in 1975. And in last few months, New Jersey's economy has generally fared better than the nation's as a whole—a trend largely due to an "extraordinarily strong" growth in retail sales, Seneca said.

This year—unlike 1975—New Jersey's wage rate is equal to or just below the national average, making the state more competitive for new industry, Seneca noted.

According to council executive director Adam Broner, the April 1979 average hourly wage for workers in manufacturing was $6.47 in New Jersey and $6.53 nationally—a reversal in a trend that in 1975 put the state average at $4.90, compared to a national figure of $4.78.

The relatively lower wage rate is due in large part to the "enormous" increase in wages paid in the Sunbelt states where businesses are now having difficulty finding skilled labor, said Broner.

New Jersey can also look forward to a steady increase in housing starts which for the last few years have averaged 30,000, the council predicted.

While the recession may cause a brief drop in construction, council member Dwight Jaffee yesterday predicted that in the next few years the number of new housing starts could rise to 60,000.

[From the Bergen (N.J.) Record, July 31, 1979]

NEW JERSEY STUDYING RECESSION DATA

(By Charles Saydah)

TRENTON.—The recession most economists have predicted for nearly two years and now gripping the country also holds New Jersey's economy.

"As the nation goes, so goes New Jersey," said William Freund, chief economist of the New York Stock Exchange and a member of Governor Byrne's Economic Policy Council. Freund made the comment after a meeting yesterday with the governor's cabinet and chief of staff, Robert Mulcahy. Byrne was in Washington participating in a presidential conference on domestic issues.

Most economists don't expect the current slowdown to send the state or the nation into an economic tailspin similar to the one experienced during the 1973–75 recession—what many describe as the nation's worst economic period since the Depression.

That one caused double-digit inflation and unemployment—as high as 13 percent of the state's labor force.

Yesterday, the three-man EPC said they expected unemployment to rise to 8 percent, the inflation rate to drop to 8.5 percent, and personal income to decrease by 1.5 percent.

New Jersey's current unemployment rate is 6.8 percent, or 253,000 of the state's 3.6 million workers. Increases in the Consumer Price Index (CPI) cut a wage earner's purchasing power by about 10 percent a year.

Ominous as the predictions sound—the expected 1.2-percent rise in the unemployment rate means an additional 43,200 people could be out of work at this time next year—they look better against forecasts for the nation as a whole.

Joseph Seneca, a Rutgers economist and EPC member, said the national unemployment rate should rise 1.4 percent over the year to 7 percent, considerably faster than the state's rate of increase.

After the nation's current 13.2-percent rate of inflation slows down to 9 percent next year, it will still be above New Jersey's cost-of-living increase. And personal income should drop 2 percent nationally, 33 percent faster than the state's rate of decline.

"Our forecast would have to be revised if the administration in Washington were suddenly to panic and cut taxes or open up faucets in government spending," Freund said.

However, government spending is one economic pressure that might soften the negative impact of the current slowdown, EPC members said. They advised Mulcahy and Byrne's cabinet to spend some of the state's unused bond appropriations for public projects to help absorb many of the workers idled during the year.

Other factors expected to soften the recession in New Jersey include:

Atlantic City and all the construction planned or underway by casino operators waiting to take advantage of the state's gambling laws.

Spending on new plants and equipment, which shows signs of slowing down later in the year. However, right now, Princeton economist and third EPC member Dwight Jaffee said, it's in the middle of a slight surge.

Inventories of manufacturers products at realistic levels, neither too great nor too small. Before the last recession, producers increased their output to take advantage of demand which never materialized. Rather than take losses on their entire production, they raised prices on what they sold, contributing to the virulence of both the inflation and the economic stagnation which occurred between 1973 and 1974.

A healthy housing industry. More younger people, reaching the home-buying ages of the late twenties and early thirties, have made demands for housing unusually strong recently—stronger than economists expected. Jaffee said he expects that strength to continue.

Freund said he expected the recession to have positive side effects. It would give consumers a chance to stop spending, save money, and repay some of the monumental debt they've built up during the four years of recovery since the 73–75 recession.

The EPC's forecast assumes that there will be no oil embargo. It accounts for the latest oil price hike, which Freund equated to a $20-billion sales tax without such an assessment's benefits—all the money went to foreign oil producers rather than the public treasury. And it is based on the expectation that there will be no energy crisis next year.

"Recession always solves energy problems," he said.

But he said the difficulty of meeting future energy needs is a critical problem.

"We will need a 20- to 30-percent increase in energy supplies nationally just to allow for a 3-percent increase in real growth rate in gross national product, assuming conservation efforts remain as it has," Freund said. "It is the next five to 10 years which look to us to be critical, because it takes that long to get new plants on stream."

Mr. BRADLEY. Mr. President, I yield 2 minutes to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, the present national economic situation makes imperative the enactment of S. 566, the Intergovernmental Antirecession and Supplementary Fiscal Assistance Amendments of 1979.

The Washington Post and New York Times yesterday published the projections of a White House economic analysis, an analysis which paints a bleak economic picture, worse than that which economists had earlier predicted. The new analysis concludes that the present recession will last into the first quarter of 1980, longer than earlier anticipated. The unemployment rate which is now 5.6 percent, had been earlier projected to rise to 6.9 percent at the end of 1980. The new analysis now projects the unemployment rate by the end of next year at 8.2 percent. Inflation for 1979, which the administration had hoped would be 9.8 percent, will probably rise to 11 percent.

During his nomination hearings before the Senate Finance Committee, Secretary of the Treasury designate, William Miller, suggested that the Federal Government must act humanely to ease economic hardship. In other words, the Government must assist those most in distress. S. 566 is designed to do precisely that.

The first of a two-part program extends targeted fiscal assistance to about 2,100 distressed communities. These are the communities which have not yet recovered from the effects of the last recession and which continue to suffer from high rates of unemployment. The resultant reduced tax base has forced the curtailment of basic community services and precipitated further economic difficulties. As the national economy worsens and still another recession sets in, these communities will be very hard pressed indeed.

The second part of the program establishes standby fiscal assistance to State and local governments when the national unemployment rate reaches 6.5 percent. Both parts are essential to meeting the present, as well as the anticipated future economic difficulties.

No one wants the newly predicted recession, and it is hoped that the predictions will prove to be overly pessimistic. But if those economic predictions prove true, the mechanism for relief must be in place to assist State and local governments. Although the funding provided is a relatively modest one, it offers needed assistance to communities which may otherwise not be able to weather the economic storm in which they find themselves. I urge the Senate to pass S. 566 to render that necessary assistance, for the national economy will fare well only to the extent that State and local economies fare well.

I thank the Senator for yielding.

Mr. BRADLEY. I thank the distinguished Senator from Hawaii.

Mr. BELLMON. Mr. President, I ask unanimous consent to modify my amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I send the modification to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 26, strike lines 8 through 14, and insert in lieu thereof "(1) Suspension.—No amount shall be paid to any State or local government under the provisions of this section for any calendar quarter unless the average rate of unemployment within the jurisdiction of such State or local government during the six month period which ended three months before the beginning of such calendar quarter was greater than or equal to 7 per centum or, in the case of any State or local government in which the average rate of unemployment has increased by 2 percentage points or more from the lowest average unemployment rate attained in any calendar quarter during the preceding five calendar years, equal to or greater than 6 per centum."

On page 26, line 22, strike "6 per centum" and insert in lieu thereof "7 per centum, or in the case of any State or local government receiving funds under the provision of paragraph (1) regarding unemployment increases of 2 percent or more during the preceding five years, 6 per centum,".

On page 29, line 2, strike "6" and insert in lieu thereof "7".

Mr. BELLMON. The effect of this is to raise the subtitle B loan trigger from 6 percent to 7 percent and thus close the gap that the distinguished Senator from Missouri pointed out between the programs in subtitle A and subtitle B of the bill. This gap exists because of the failure of the second amendment. I appreciate the Senator from Missouri finding the problem and making it possible for it to be corrected.

Mr. DANFORTH. Mr. President, this amendment, if adopted, would have an enormous effect on the program. It would cut out I do not know how many communities. It is just my view that a change as important as this, which would have such a tremendous effect on the program, should not be hastily adopted in this kind of hurried fashion. Therefore, I urge rejection of the amendment.

Mr. BRADLEY. Mr. President, I stand in strong opposition to the amendment. The 6-percent trigger is one that we have carefully considered, one that we have had a great many hearings about. We have had a number of computer runs to determine which communities would receive aid at that percent. It is specifically targeted to small communities under 25,000 in population. I would suggest that the amendment of the Senator from Oklahoma would automatically cut out the bulk of those communities under 25,000 in population which now are eligible, and I strongly oppose the amendment.

Mr. BELLMON. Mr. President, I yield myself 1 minute and then I will yield back the remainder of my time. I want to make clear what we are trying to do. This bill is supposedly providing aid on a targeted basis to communities where the unemployment is high and the base to support employment has been eroded. I am not against countercyclical amendment. All this amendment tries to do is to target it more tightly to the communities most in need.

At the present time the national level of unemployment is very close to the level that will trigger this assistance to a local community. This means it is going to be spread widely across the country. All my amendment would do is to target more title aid into the communities in the greatest distress. If we had plenty of money to spread around, I would be in favor of the bill as now drawn. But since we do have such limited resources, since our deficit is rising past the $30 billion mark, I feel we should be careful how we use these resources. My amendment I believe will provide the help to communities which need the help and will not schedule communities that can get by without it. I yield back the remainder of my time.

Mr. BRADLEY. I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Georgia (Mr. NUNN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The PRESIDING OFFICER (Mr. PRYOR). Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 31, nays 61, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—31

Armstrong
Bellmon
Boren
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Cannon
Cochran
Domenici
Garn
Hatch
Heflin
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Proxmire
Pryor
Roth
Schmitt
Schweiker
Simpson
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—61

Baker
Baucus
Bayh
Biden
Bradley
Burdick
Byrd, Robert C.
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Hayakawa
Heinz
Hollings
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Pressler
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stevens
Stevenson
Stewart
Talmadge
Tsongas
Weicker
Williams

NOT VOTING—8

Bentsen
Goldwater
Gravel
Huddleston
McGovern
Nunn
Stennis
Stone

So Mr. BELLMON's amendment (UP No. 509, as modified) was rejected.

● Mr. DOLE. Mr. President, I support S. 566, antirecession and targeted fiscal assistance for State and local governments. This bill is a compromise between a proposal introduced by Senators DANFORTH and MOYNIHAN and the administration proposal. I believe the compromise strikes the right balance between easing the burden of unemployment in this country and the need for fiscal restraint.

Mr. President, the committee report shows that Kansas receives no additional funds as a result of the "targeted" part of this bill. It is, of course, eligible to receive funds under the "countercyclical" part of the bill if its unemployment should drastically increase. In spite of this, I support the bill for three reasons.

First, this is a national program. We have an obligation to spread as evenly as possible the suffering from severe economic distress. S. 566 accomplishes this by distributing the fiscal assistance to those communities most in need.

Second, philosophically, I agree with the "no strings attached" type grants to the local governments that are embodied in this legislation. Indeed, Senators LONG, PACKWOOD, TALMADGE, BENTSEN and I embraced this same approach in our welfare reform proposal. The trend toward greater and greater Federal Government control over local and State decisions is antithetical to our Federal system and must be reversed. I believe that in passing this bill we will be acknowledging that State and local governments are best able to deal with their own economic and social problems. I hope that this philosophy carries over into other areas.

Finally, the countercyclical part of the bill will benefit our older cities even if it is never triggered. Having a program in place which automatically will give these cities extra aid if their economy is dramatically turned down will give their citizens and businesses the confidence needed to reinvest in the local economy.

Mr. President, I would like to commend the leadership of Senators DANFORTH, DURENBERGER, MOYNIHAN, and BRADLEY in forging this strong compromise proposal.●

● Mr. BUMPERS. Mr. President, I join in support of the efforts of the Senator from Oklahoma. I applaud his efforts to eliminate additional unnecessary Federal spending by offering these amendments.

Since January 1, 1978, 19 States have reduced taxes because they were running large revenue surpluses. As of March of this year, the cumulative State surplus was $2.6 billion. The Congressional Budget Office now estimates that in fiscal year 1980, State and local governments will enjoy a $14.5 billion surplus. Compare that figure against our growing Federal budget deficit. Will our deficit be $23 billion in fiscal year 1980, or $30 billion, or even more? At our current rate of spending we will soon be breaking even last year's deficit. And this is supposed to be a budget-minded Congress.

I get tired of hearing my colleagues speak publicly about the need to cut Federal expenditures, when they turn right around and vote for grant-in-aid programs such as this one. It is inconsistent. And it is terribly irresponsible.

Just last week, the Senate approved $6.85 billion in general revenue sharing. I voted for this aid primarily because many of the Nation's State and local governments had counted on receiving these funds when they devised their fiscal year 1980 budgets. Legislatures in some of the States, such as Arkansas, were out of session and consequently could not have responded to the budgetary shortfall if the funds had been deleted.

But we are looking at a whole different ballgame today. Having given the State and local governments this assistance, we would now give even more. In the next breath we are criticized for the Federal Government's inability to control spending.

The countercyclical aid program being proposed today is not something that the States had counted on receiving when they prepared their fiscal year 1980 budgets, nor is it something that the localities had counted on when they prepared their budgets. This source of funds was terminated last fall when the House refused to act on the Senate-passed bill. In essence, we had finally broken the drug-like dependency that these grant recipients had developed for countercyclical funds. But today we are out here dangling that tantalizing carrot in front of their noses once again.

Let us look at what these programs are supposed to do. The new targeted fiscal assistance program is touted as providing relief to hard-pressed localities throughout the country. But look at the facts. According to the Finance Committee's report, in fiscal year 1979, two States will receive more than 41 percent of all funds. What are the other regions of the country supposed to do if they have only 59 percent of the $150 million to fight a recession? My question is this: How does one fight a recession with $150 million? An even better question is this: How will 48 States overcome the recession with less than $90 million? The answer is that they cannot. Once again the Federal Government will have poured money down the proverbial rathole.

Let us look at the countercyclical aid program. I thought the Congress killed this program last year, but obviously it had only been temporarily suspended. The program is also designed to aid those communities that are hurt by recession. But look what the General Accounting Office has said about the program. In May of 1978, GAO reported that the program "has not been effective in meeting its principal objective." That report identified four ways in which the program could be improved. Has the committee heeded this advice? Not at all.

As GAO stated:

> A better formula for allocation funds is needed to make the program more effective.

The problem is that excess unemployment—the criterion on which allotments are based—is, in GAO's words—

> A measure of limited statistical reliability and does not necessarily correspond to a recession's impact on governments' budgets.

The sponsors of the bill state that they are preparing to initiate a full-scale review of the program next year. Conceivably, future versions of countercyclical aid might include the improvements which GAO had suggested. But what are we to do in the meantime? Why the answer is quite simple, we will spend up to $1 billion on a program that does not work. This is how our taxpayers' dollars are being spent—on programs that do not work.

I will not belabor the point, Mr. President. I just want to point out that we do not need this program now. The Labor Department today announced that the unemployment rate for July was 5.7 percent. If we are headed for a recession, which is not evident yet, let us consider the proposal when we know, and better target the funds.●

● Mr. BENTSEN. Mr. President, I strongly oppose the intergovernmental fiscal assistance bill pending before the Senate. I believe this proposal is seriously flawed—methodologically, if not substantively.

First of all, title I, so-called targeted fiscal assistance, would distribute aid based on a local government's high unemployment rate—an arbitrary and less than satisfactory indicator of distress. Further, this formula allocates 40 percent of all funds to New York and California. While these States clearly have distressed cities within their boundaries, unfortunately they do not have a monopoly on distress. Different cities, in different regions are afflicted by different types of distress. That is my main point. There is economic, social, and fiscal distress—each determined by different indicators. Unemployment is but one of many indicators and when utilized as in the bill before us today, distributes funds unequitably and arbitrarily.

The unemployment rate is also the trigger for the countercyclical title II. However, both the General Accounting Office and the Congressional Budget Office have concluded that unemployment is not a proper measure for this purpose. GAO notes that changes in unemployment rates are not a sufficient measure of the recession's impact on the fiscal conditions of State and local governments." CBO reports that countercyclical grant programs which distribute aid on the basis of unemployment rates do not differentiate regions with high but long-term levels of unemployment from those with cyclical problems that can be relieved by temporary aid.

In addition, because unemployment rates will be used to "trigger" allocations to eligible jurisdictions, those cities with structurally high unemployment rates will be immediately eligible even though there is often little association between unemployment and fiscal stress, the problem that the antirecessionary program seeks to address. Clearly, the primary beneficiaries of the program will be the cities of the Northeast and Midwest where unemployment rates (often structural and not cyclical) are high—thus enhancing eligibility—and general revenue sharing grants are generous—thus increasing allocations.

Furthermore, there are real questions about the use of the grants under this legislation. The Congressional Budget Office observed that for grants to meet economic stabilization goals, "the grants must include provisions to assure that the funds are used for the specific purpose of stimulating aggregate demand." If, for example, Federal grants are used simply to substitute for local money that would have otherwise been spent, aggregate demand will not be increased over the level it would have reached without the Federal grant, and the economic stimulation purpose of the program will be compromised.

For these reasons I oppose the bill.●

Mr. STEVENS. Mr. President, I would like to take a minute to explain my support for final passage of the antirecession and targeted fiscal assistance legislation, S. 566. The existence of the recession is hardly disputed, although the severity of the slowdown remains in question. I think it is important that the standby, countercyclical provision of this legislation be authorized and ready for implementation should the national unemployment rate reach 6.5 percent. With some economists predicting an unemployment rate of 8.2 percent by the end of 1980, we can not afford to ignore our responsibility to those hardest hit by the impending economic slowdown.

I would like to clarify, however, my feelings with regard to Federal spending as a means for dealing with our economic problems. I believe that the economic stimulation needed can best be supplied by a substantial tax cut for both individuals and business. Allowing individuals to retain a larger portion of their incomes will, in turn, favorably affect the level of savings, investment, and personal spending to a degree that is economically stimulating. In addition to the fact that citizens in this country are overtaxed and are on the verge of a tax revolt, the national economic benefits of reducing individual and business tax rates are substantial. We cannot continue to increase Federal outlays without exacerbating the already dangerously high inflation rate. We must seek a new policy direction and rely more heavily on the marketplace and on the economic decisions of individuals.

Thus, Mr. President, while I will vote for passage of this bill to help those areas hit hardest by the recession, I hope that, in the near future, Congress will push for tax reductions. The initiation of a tax cut would get at the source of our problem: the lack of adequate personal savings and investment and a poor rate of capital formation.

Mr. ROBERT C. BYRD. Mr. President, we have seen a major decline in the national unemployment rate over the past 30 months. Millions of Americans have been added to the job rolls. In early 1977 the national unemployment rate was recorded at over 7 percent. In July 1979, it was at a level of 5.7 percent. This represents a most dramatic achievement.

Nonetheless, there are areas of our country which continue to experience high levels of unemployment. If we are to promote balanced and equitable growth, their needs must be met.

Under the targeted fiscal assistance program provided by this proposed legislation, aid would be available for the more than 2,000 communities which have unemployment rates above the national average.

In addition, this proposed legislation will provide for a standby national program of antirecession assistance to State and local governments in the event that the national level of unemployment equals or exceeds 6.5 percent.

S. 566, as amended, has been well-designed to meet the current economic difficulties of communities around the Nation, as well as to provide a safety net to State and local governments which may in future months experience hardships as the result of declining economic activity.

The distinguished Senators from New York and New Jersey, Mr. MOYNIHAN and Mr. BRADLEY respectively and the distinguished Senator from Missouri, Mr. DANFORTH, are to be commended for their bipartisan effort in framing this proposed legislation which is so important to communites around the country.

Mr. President, third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. BRADLEY. I yield back my time.

Mr. BELLMON. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is, Shall the bill (S. 566) as amended pass? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted?

The result was announced—yeas 69, nays 23, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—69

Baker
Baucus
Bayh
Biden
Boschwitz
Bradley
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Ford
Glenn
Hart
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Pressler
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Simpson
Stafford
Stevens
Stevenson
Stewart
Talmadge
Tsongas
Weicker
Williams
Young
Zorinsky

NAYS—23

Armstrong
Bellmon
Boren
Bumpers
Byrd, Harry F., Jr.
Domenici
Exon
Garn
Hatch
Helms
Humphrey
Laxalt
Lugar
McClure
Proxmire
Pryor
Roth
Schmitt
Schweiker
Thurmond
Tower
Wallop
Warner

NOT VOTING—8

Bentsen
Goldwater
Gravel
Huddleston
McGovern
Nunn
Stennis
Stone

So the bill (S. 566), as amended, was passed, as follows:

S. 566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Intergovernmental Antirecession and Targeted Fiscal Assistance Amendments of 1979".

SEC. 2. Section 201 of the Public Works Employment Act of 1976 (42 U.S.C. 6721) is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof ";", and by adding at the end thereof the following new paragraphs:

'(8) that both an antirecession fiscal assistance program and a targeted fiscal assistance program which aid governments requiring fiscal relief constitute essential elements of a sound Federal fiscal policy;

'(9) that many local governments continue to experience high unemployment and fiscal strain, and have been adversely affected by the loss of antirecession fiscal assistance which has resulted in service cutbacks, increased taxes, municipal layoffs, or sale of municipal assets; and

"(10) that highly targeted fiscal assistance which aids those jurisdictions requiring fiscal relief and provides necessary time to take steps toward the fiscal stabilization of these governments would be least disruptive of employment or service levels.".

SEC. 3. The Public Works Employment Act of 1976 (42 U.S.C. 6721 et seq.) is amended by inserting after section 201 the following:

"SUBTITLE A—ANTIRECESSION FISCAL ASSISTANCE".

SEC. 4. (a) Section 202(b) of the Public Works Employment Act of 1976 (42 U.S.C. 6722(b)) is amended—

(1) by striking out "subsections (c) and (d)" and inserting in lieu thereof "subsection (c)";

(2) by striking out "for each of the five succeeding calendar quarters (beginning with the calendar quarter which begins on July 1, 1977)" and inserting in lieu thereof "for each of the four calendar quarters of the fiscal year beginning October 1, 1979".

(3) by striking out "title" and inserting in lieu thereof "subtitle, the sum of"; and

(4) by striking out "6 percent" and inserting in lieu thereof "6.5 percent".

(b) Section 202(c) of such Act (42 U.S.C. 6722(c)) is amended—

(1) by striking out "five" and inserting in lieu thereof "four";

(2) by striking out "July 1, 1977" and inserting in lieu thereof "October 1, 1979"; and

(3) by striking out "$2,250,000,000" and inserting in lieu thereof "$1,000,000,000 for the fiscal year".

(c) Section 202(d) of such Act (42 U.S.C. 6722(d)) is amended to read as follows:

"(d) SUSPENSION OF ASSISTANCE.—

"(1) SUSPENSION.—If the average rate of unemployment for the United States is less than 6.5 percent for a calendar quarter, no amount may be paid under this subtitle for the third calendar quarter of the three-calendar-quarter period which began with the first of such calendar quarters, or for any subsequent calendar quarter.

"(2) TERMINATION OF SUSPENSION.—Notwithstanding paragraph (1) of this subsection, amounts shall be paid under this subtitle for calendar quarters for which the average rate of unemployment for the United States equals or exceeds 6.5 percent beginning with the third quarter of the three-calendar-quarter period which began with the first of such calendar quarters until such time as paragraph (1) may require another suspension of payments.".

SEC. 5. Section 203(a) of the Public Works Employment Act of 1976 (42 U.S.C. 6723(a)) is amended to read as follows:

"(a) RESERVATIONS.—

"(1) ELIGIBLE STATES.—The Secretary shall reserve one-third of the amounts appropriated pursuant to authorization under section 202 for each calendar quarter, less the amounts allowable under section 216(b), for the purpose of making payments to eligible State governments under subsection (b).

"(2) Eligible units of local government.—The Secretary shall reserve two-thirds of the amounts appropriated pursuant to authorization under section 202 for each calendar quarter, less the amounts allocable under section 216(b), for the purpose of making payments to eligible local governments under subsection (c).".

Sec. 6. Section 203(b) (2) (C) of the Public Works Employment Act of 1976 (42 U.S.C. 6723(b) (3) (C)) is amended to read as follows:

"(C) the State unemployment rate is equal to the average rate of unemployment within the jurisdiction of the State during the six-month period which ended three months prior to the beginning of the appropriate payment calendar quarter, as determined by the Secretary of Labor and reported to the Secretary; and".

Sec. 7. (a) Section 203(c) of the Public Works Employment Act of 1976 (42 U.S.C. 6723(c)) is amended—

(1) by striking out ", subject to the provisions of paragraph (4)," in paragraph (1);

(2) by amending paragraph (3) (B) to read as follows:

"(B) the local unemployment rate is equal to the average rate of unemployment within the jurisdiction of the local government during the six-month period which ended three months prior to the beginning of the appropriate payment calendar quarter, as determined or assigned by the Secretary of Labor and reported to the Secretary (and, in the case of a local government for which the Secretary of Labor cannot determine a local unemployment rate, he shall assign such government the unemployment rate for the county, balance of county, or other appropriate geographic area in which the government is located and for which he has determined a local unemployment rate).";

(3) by redesignating paragraph (4) as (5) and inserting after paragraph (3) the following new paragraph.

"(4) Statistical methodology for unemployment rates.—Notwithstanding any provision of paragraph (3) to the contrary, in the case of a unit of local government which encompasses, or is within, a standard metropolitan statistical area or central city for which current population surveys were used to determine annual unemployment rates before January 1, 1978, the Secretary of Labor shall determine or assign the unemployment rates for such government calculated by the current population survey methodology used prior to January 1, 1978, if such rates are higher than rates determined or assigned by the Secretary of Labor for that population survey methodology, unless the Secretary of Labor determines that current population survey data are available for use on a satisfactory basis for such areas and the government without applying the current remaining areas of such State.";

(4) by striking out "Special limitation.—" in paragraph (5), as so redesignated, and inserting in lieu thereof "Minimum allocation.—"; and

(5) by striking out "$100" in paragraph (5) and inserting in lieu thereof "$2,500".

(b) Section 203 of such Act (42 U.S.C. 6723) is amended by adding at the end thereof the following new subsections:

"(d) Reallocation of Undistributed Reserved Amounts.—If, for any calendar quarter, the amount reserved under subsection (a) (1) for payments to State governments or under subsection (a) (2) for payments to local governments exceeds the sum of the amounts allocated to State or local governments because of the limitations contained in subsection (c) (5) or (e), or because of the suspension-of-payments requirement contained in section 210(b), then the Secretary shall reallocate the excess among State governments or local governments, as the case may be, receiving payments for the calendar quarter and allocate to each such State or local government an amount which bears the same ratio to the amount of the excess as the amount allocated to such government for the calendar quarter without regard to this subsection bears to the sum of the amounts allocated to all State or all local governments, as the case may be, for the calendar quarter without regard to this subsection.

"(e) Per Capita Income Limitation.—

"(1) In general.—Except as provided in paragraph (3), no amount shall be allocated under this subtitle or subtitle B to any local government which had within its jurisdiction a per capita income equal to or in excess of 150 per centum of the national per capita income for the most recently completed calendar year for which data are available, as determined by the Bureau of the Census for general statistical purposes and reported to the Secretary.

"(2) Noncontiguous state adjustment.—The percentage of the national per capita income used to limit allocations in paragraph (1) shall, for local governments in the States of Alaska and Hawaii, be increased by the average State percentage of basic pay which civilian employees of the United States Government receive as an allowance under section 5941 of title 5, United States Code. Such average State percentage shall be determined for the most recently completed calendar year for which data are available based on data provided by the Office of Personnel Management and reported to the Secretary.

"(3) Unemployment rate exception.—The per capita income limitation in paragraph (1) shall not apply to a local government in the State of Alaska for which the local unemployment rate for the appropriate six-month period exceeds 10 per centum.".

Sec. 8. Section 205 of the Public Works Employment Act of 1976 (42 U.S.C. 6725) is amended by striking out paragraph (6) and by redesignating paragraphs (7) and (8) as (6) and (7). Title II of such Act is amended by striking out section 209 (42 U.S.C. 6729).

Sec. 9. Title II of the Public Works Employment Act of 1976 is amended by inserting after section 205 the following new section:

"ADJUSTMENTS OR OVERPAYMENTS AND UNDERPAYMENTS

"Sec. 206. Payments under this subtitle and subtitle B may be made with necessary adjustments on account of overpayments or underpayments.".

Sec. 10. Section 210 of the Public Works Employment Act of 1976 (42 U.S.C. 6730) is amended—

(1) by adding at the end of subsection (a) the following new sentence: "Payments made under this subtitle and subtitle B for a fiscal year or calendar quarter beginning prior to the date of enactment of the Intergovernmental Antirecession and Targeted Fiscal Assistance Amendments of 1979 shall be made as soon as practical, but no later than sixty days after such date."; and

(2) by striking out subsections (b) and (c), and inserting in lieu thereof the following:

"(b) Suspension of Payments for Low Unemployment.—

"(1) Suspension.—No amount shall be paid to any State or local government under the provisions of this section for any calendar quarter if the average rate of unemployment within the jurisdiction of such State or local government during the six-month period which ended three months before the beginning of such calendar quarter was less than 6 per centum.

"(2) Termination of suspension.—Notwithstanding paragraph (1), amounts shall be paid under this subtitle to any State or local government for which payments were suspended under paragraph (1) beginning with any calendar quarter following such suspension which follows an appropriate six-month period for which the State or local unemployment rate equals or exceeds 6 per centum until such time as paragraph (1) may require another suspension of payments.".

Sec. 11. Section 215 of the Public Works Employment Act of 1976 (42 U.S.C. 6735) is amended to read as follows:

"DATA PROVISION RESPONSIBILITIES

"Sec. 215. The Secretary of Labor shall provide information and other necessary data and shall determine and assign unemployment rates necessary for the administration of this title. Such information, data, and rates shall be provided for each State and local government, and shall be made available to the Secretary to assist him in carrying out the provisions of this title. The Secretary of Labor shall also advise the Secretary as to the availability and reliability of relevant information and data. The Director of the Bureau of the Census and the Director of the Office of Personnel Management shall provide such information and other data as may be necessary for the administration of this title, and shall advise the Secretary as to the availability and reliability of relevant information and data.".

Sec. 12. Section 216 of the Public Works Employment Act of 1976 (42 U.S.C. 6736) is amended—

(1) by striking out the caption of the section and inserting in lieu thereof the following:

"ALLOCATIONS TO PUERTO RICO, GUAM, AMERICAN SAMOA, AND THE VIRGIN ISLANDS",

(2) by amending subsection (a) to read as follows:

"(a) In General.—The Secretary shall make payments under this subtitle and subtitle B to the governments of the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.",

(3) by amending paragraph (1) of subsection (b) to read as follows:

"(1) The Secretary shall allocate to such governments from the amounts appropriated pursuant to authorization under this title an amount equal to 1 per centum of such amounts for the appropriate fiscal year or calendar quarter, multiplied by the applicable territorial percentage.", and

(4) by striking out "203(c) (4)," in subparagraph (C) of subsection (b) (3) and inserting in lieu thereof "203(c) (5),", and by striking out "209," in such subparagraph.

Sec. 13. Title II of the Public Works Employment Act of 1976 is amended by inserting after section 216 the following new subtitle:

"Subtitle B—Targeted Fiscal Assistance

"FINANCIAL ASSISTANCE AUTHORIZED

"Sec. 231. (a) In General.—The Secretary shall, in accordance with the provisions of this subtitle, make quarterly payments during the fiscal year beginning October 1, 1979, to local governments with a local unemployment rate equal to or above 6 per centum.

"(b) Payments to Recipient Governments.—The Secretary shall pay, in accordance with section 210(a), to each local government which has filed a statement of assurances under section 205, an amount equal to the amount allocated to such government under section 232.

"(c) Authorization of Appropriations.—There are authorized to be appropriated $85,000,000 for each calendar quarter in the fiscal year beginning October 1, 1979, for the purpose of making payments to local governments under this subtitle.

"(d) Suspension of Assistance.—

"(1) Suspension.—If payments are being

made under subtitle A for a calendar quarter, no amount may be paid under this subtitle for that calendar quarter.

"(2) Termination of suspension.—Notwithstanding paragraph (1), amounts shall be paid under this subtitle for any calendar quarter for which the average rate of unemployment for the United States is less than 6.5 per centum beginnning with the third calendar quarter of the three calendar quarter period which began with the first of such calendar quarters, until such time as paragraph (1) requires another suspension of payments.

"ALLOCATION OF TARGETED AMOUNTS

"Sec. 232. (a) Allocations to Local Governments.—

"(1) General.—The Secretary shall allocate from amounts appropriated under the authorization contained in section 231(c), an amount for the purpose of making a payment to each local government, equal to the product of—

"(A) the total amount appropriated for the fiscal year or calendar quarter, multiplied by

"(B) the applicable local government percentage.

"(2) Applicable local government percentage.—For purposes of this subsection, the local government percentage is equal to the percentage resulting from the division of the product of—

"(A) the local excess unemployment percentage, multiplied by

"(B) the local revenue sharing amount, by the sum of such products for all local governments.

"(3) Minimum allocation.—If the amount which would be allocated to a unit of local government under this subtitle for a calendar quarter during the fiscal year beginning October 1, 1979, is less than $2,500, then no amount shall be allocated for such unit of local government under this subtitle for such year or quarter.

"(4) Targeted fiscal assistance payment not in excess of $10,000 to be combined with general revenue sharing payment.—If the amount of any payment to be made under this subtitle to a unit of local government is not more than $10,000 for a calendar quarter, the Secretary shall combine the amount of such payment with the amount of any payment to be made to such unit under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.), and shall make a single payment to such unit at the time payments are made under that Act. Whenever the Secretary makes a single, combined payment to a unit of local government under this paragraph, he shall notify the unit as to which portion of the payment is allocable to amounts payable under this subtitle and which portion is allocable to amounts payable under that Act.

"(b) Reallocation of Undistributed Amounts.—If, for any fiscal year or calendar quarter, the amount appropriated under section 231(c) for payments to local governments exceeds the sum of the amounts allocated to local governments because of the limitation contained in subsection (a)(3) or section 203(e), or because of the suspension-of-payments requirements contained in subsection (c), then the Secretary shall reallocate the excess among local governments receiving payments for the fiscal year or calendar quarter, and allocate to each such local government an amount which bears the same ratio to the amount of the excess as the amount allocated to such government for the calendar quarter without regard to this subsection bears to the sum of the amounts allocated to all local governments for the fiscal year or calendar quarter without regard to this subsection.

"(c) Suspension of Payments for Low Unemployment.—

"(1) Suspension.—No amount shall be paid to any unit of local government under the provisions of this section for the fiscal year beginning October 1, 1979, if the local unemployment rate during the six-month period which ended three months before the beginning of such quarter was less than 6 per centum.

"(2) Termination of suspension.—Notwithstanding paragraph (1), amounts shall be paid under this subtitle for calendar quarters during the fiscal year beginning October 1, 1979, to any local government for which payments were suspended under paragraph (1), beginning with any calendar quarter following such suspension which follows an appropriate six-month period for which the average rate of unemployment within the jurisdiction of the local government equals or exceeds 6 per centum until such time as paragraph (1) requires another suspension of payments.

"(d) Definitions.—For purposes of this subtitle, each term used in this section which is defined or described in paragraph (3) or (4) of section 203(c) shall have the meaning given to it in that paragraph.

"APPLICATION OF CERTAIN SUBTITLE A PROVISIONS TO THIS SUBTITLE

"Sec. 233. The provisions of sections 204, 205, 206, 207, 208, 211, 212, 213, 214, 215, and 216 shall apply to funds authorized under this subtitle.".

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DANFORTH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY. Mr. President, after final passage of the bill, I express my appreciation to the staff members who contributed so much to this legislation.

They are Martha Darling, of my staff; Allen Moore and Chris Brewster of Senator Danforth's staff; Bill Morris and Mike Stern of the Finance Committee; Martin Katz of Senator Moynihan's office: Rodger Schlickeisen of the Budget Committee; Mike Hoon of Senator Durenberger's office; as well as Mary Jane Checchi of the majority leader's office.

Mr. ROBERT C. BYRD. Mr. President, I suggest the Senate proceed with the order.

SENATE PUBLIC FINANCIAL DISCLOSURE PROVISIONS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate Resolution 220 which the clerk will state by title.

The legislative clerk read as follows:

A resolution (S. Res. 220) amending the standing rules of the Senate.

The Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending business, Senate Resolution 220, be set aside temporarily until 2:30 p.m. today and that at this time the Senate proceed, instead, to the consideration of Calendar Order 289, S. 885.

The PRESIDING OFFICER. Without objection, it is so ordered.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act".

FINDINGS

Sec. 2. The Congress finds that—

(a) The Federal Columbia River Power System offers a unique opportunity to encourage policies of conservation and efficiency in the use of electric power within the Pacific Northwest.

(b) The participation and consultation of the Pacific Northwest States, local communities, ratepayers, the Administrator's customers, users of the Columbia River system (including fisheries agencies), and the public at large within the region are essential in development of regional plans and programs related to energy conservation, renewable resources, other generating resources and orderly planning of the Federal Columbia River Power System.

(c) The ratepayers of the Pacific Northwest should continue to pay all costs necessary to produce, transmit, and conserve electric power to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River Power System.

DEFINITIONS

Sec. 3. As used in this Act—

(a) "Administrator" means the Administrator, Bonneville Power Administration.

(b) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production or distribution.

(c) A conservation measure or any resource is "cost effective" if it is forecast to be available within the time it is needed and if it is forecast to meet or reduce the electric power demand of the consumer at an estimated incremental system cost no greater than that of the least-cost similarly available alternative conservation measure or resource: Provided, That such cost estimates shall include estimates of all direct systems costs of the conservation measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer, and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs, and such such quantifiable environmental and social costs and benefits as the Administrator determines, on the basis of a methodology developed by the Council as part of the plan, are directly attributable to the conservation measure or resource: Provided further, That any conservation measure may have an estimated incremental system cost of up to 110 per centum of the least cost alternative nonconservation resource.

(d) "Council" means the Pacific Northwest

Electric Power Planning Council established pursuant to this Act.

(e) "Customer" means an entity that contracts for the purchase of power from the Administrator, either for resale or for direct consumption.

(f) "Direct service industrial customer" means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption.

(g) "Electric power" means electric peaking capacity or electric energy or both.

(h) "Federal base system resources" means the Federal Columbia River Power System hydroelectric projects, resources acquired by the Administrator under long-term contracts in force on the effective date of this Act, and resources acquired by the Administrator to replace reductions in capability of the foregoing resources.

(i) "Major resource" means a resource having a capability greater than fifty average megawatts, and, if acquired by the Administrator, is acquired for a period longer than five years.

(j) "New large industrial load" means an industrial load associated with a new industrial plant or an expansion of an existing plant or an existing industrial plant load which is not contracted for or committed to by a public body, cooperative, or Federal agency customer prior to October 1, 1978, any of which will result in an increase in power requirements of ten average megawatts or more in any three-year period: *Provided*, That the Council may recommend to the Congress for approval a different limitation in the maximum size of such new large industrial load.

(k) "Pacific Northwest", "region", or "regional" means:

(1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region.

(l) "Plan" means the regional electric power plan prepared and adopted pursuant to this Act.

(m) "Renewable resource" means a resource which utilizes a renewable source of energy, including, but not limited to, solar, wind, hydro, geothermal, and biomass, and which is used for electric power generation or which will reduce the electric power requirements of a consumer by direct application.

(n) "Reserves" means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator either from resources or through rights to interrupt, curtail, or otherwise withdraw, as provided by specific contract provisions, portions of the electric power supplied to customers.

(o) "Residential use" or "residential load" means all usual residential, apartment, seasonal dwelling and farm electrical loads or uses, but only the first four hundred horsepower of farm irrigation and pumping for any farm.

(p) "Resource" means (1) electric power, including the actual or planned electric power capability of generating facilities or (2) actual or planned load reduction resulting from direct application of a renewable energy resource, or from a conservation measure.

REGIONAL PLANNING AND PARTICIPATION

SEC. 4. (a) There is established the Pacific Northwest Electric Power Planning Council composed of five members. The Governors of the States of Idaho, Oregon, Montana, and Washington may under applicable State laws each appoint one member to the Council from their respective States. The Administrator shall serve as the fifth member of the Council.

(b) The Council shall select a chairman from among its members. Three members of the Council shall constitute a quorum for conducting business. Decisions of the Council shall be by majority vote: *Provided*, That any action to approve or amend the plan described in subsections (d) and (e) of this section, or any element thereof, must receive the votes of at least three members of the Council, including the vote of the Administrator, to be adopted. The Council shall adopt rules of procedure, including rules applicable to its public hearings.

(c) Each State's member of the Council may request Council approval of funding in support of his State's participation in the Council and activities of his State related thereto. The Administrator shall include in his annual budget submitted pursuant to Public Law 93-454 (as amended), such requests approved by the Council, not to exceed a total amount equal to 0.02 mills per kilowatt-hour of the Administrator's estimated sales in the year the budget is to be effective. In order to assist initial State participation in the Council, the Administrator shall prepare and propose an amended annual budget as soon as practicable after the enactment of this Act to expedite payments to the States.

(d) The Council shall direct the preparation of a regional electric power plan, and shall adopt such plan within two years after the effective date of this Act. The adopted plan or any portion thereof may be amended from time to time, and shall be reviewed not less frequently than once every five years. Within one year from the effective date of this Act, and thereafter prior to each review, the Council shall identify major subject areas to be included in the plan. Public hearings shall be held in each member's State on (1) major subject areas to be addressed in the plan, and (2) the plan or amendments to the plan, proposed by the Council for adoption: *Provided*, That a public hearing shall also be held in any other State of the region on the plan, or amendments, proposed for adoption if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which may be developed in that State and which the Administrator may seek to acquire. The Council shall take action under this subsection pursuant to section 553 of title 5, United States Code.

The Administrator's implementation of the authorities under this Act shall be consistent, to the extent he determines feasible, with the plan: *Provided*, That the Administrator shall notify the Council of any actions not consistent with the plan together with his reasons for taking such actions: *Provided further*, That the Administrator's implementation of the authorities in sections 6 (a) through (d), (f) and (h) shall be consistent with the plan as he determines or, notwithstanding his determination, as the Council, within sixty days of his determination by majority vote of the full Council, may determine: *Provided however*, That if no plan is in effect or a proposed implementation of a conservation measure or an acquisition of a resource is not consistent with the plan, the Administrator may proceed to implement the conservation measure or acquire the resource pursuant to the procedures in sections 6 (a) through (c).

(e) The plan shall give the following priority to resources: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat and generating resources of high fuel conversion efficiency; and fourth, to all other resources: *Provided*, That all such resources shall be cost effective and feasible.

(1) The plan shall set forth a general scheme for implementing conservation and developing resources to reduce or meet the Administrator's obligations with due consideration for environmental quality, compatibility with the existing regional power system, preservation and enhancement of fisheries, and other criteria which may be set forth in the plan.

(2) The plan shall also include, but not be limited to, model conservation standards, areas for research and development, a methodology for determining the average system cost of resources exchanged under section 5(b)(2), a methodology for determining quantifiable environmental and social costs and benefits under section 3(c), and a twenty-year demand forecast which includes regional reliability and reserve requirements.

(f) Model conservation standards for inclusion in the plan shall (1) include, but not be limited to, standards applicable to new and existing structures, utility, customer and governmental conservation programs, and other consumer actions for achieving conservation, and (2) be designed to produce all power savings that are reasonable, feasible and cost-effective to consumers. If the Council so recommends by majority vote of the full Council, the Administrator may impose additional charges on customers for those portions of their load within the region that are within States or political subdivisions which have not, or on his customers which have not, implemented conservation measures applicable to themselves that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such model conservation standards. Such charges shall be set to recover additional costs the Administrator determines he will incur because such energy savings have not been achieved, but in no case may such charges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof.

(g) To insure widespread public involvement in the formulation of regional power policies, the Administrator (1) shall maintain comprehensive programs, including programs in cooperation with the Council, to inform the Pacific Northwest public of major regional power issues, to obtain public views concerning those issues, and to secure advice and consultation from the Administrator's customers and other parties; and (2) may form advisory committees as appropriate.

(h) The Council shall request annually from the region's State and Federal fisheries agencies and the appropriate Indian tribes their recommendations of measures which would contribute to the preservation and enhancement of the fish resources of the Columbia River and its tributaries for inclusion in the plan and their recommendations for the funding of research and development efforts which have the potential of providing improved passage for anadromous fish migrants at and between the region's hydroelectric dams. The Council shall consider such recommendations in the preparation of the plan or amendments to the plan. Upon the adoption of the plan or amendments to the plan by the Council, the Administrator shall (1) include in his annual budget funds for fisheries research and development to be paid from the Bonneville Power Administration fund, or from appropriations, and (2) acquire and dispose of power and utilize the flexibility of the resources available to him in a manner which will assist in the preservation and enhancement of the anadromous fisheries resource while meeting his other obligations.

SALE OF POWER

Sec. 5. Subject at all times to the preference and priority provisions of the Boneville Project Act of 1937, Public Law 75–329 (as amended), and, in particular, sections 4 and 5 thereof, and at rates established pursuant to section 7 of this Act—

(a) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under Public Law 75–329 (as customer's firm power load in the region amended), and to each requesting investor-owned utility, electric power to meet such customer's firm power load in the region which is in excess of the capability of such customer's firm resource which such customer had used in the year prior to enactment of this Act to serve its firm load and such other resources as such customer shall determine, pursuant to contracts under this Act, will be used to serve its firm load: *Provided*, That such resources shall continue to be so used except with the consent of the Administrator or because of obsolescence, retirement, loss of resource or loss of contract rights.

The Administrator shall include in contracts executed in accordance with this subsection provisions that enable him to restrict his obligations to meet such loads in the event he determines, after a reasonable period of experience under this Act, that he cannot be assured of acquiring sufficient resources purusant to section 6 to meet such loads, but (1) no such restrictions shall be applicable to the Administrator's public body and cooperative customers entitled to preference and priority under Public Law 75–329 (as amended), or to his Federal agency customers, until the Federal base system resources are fully allocated to such customers; and (2) sales to customers pursuant to this subsection shall not be restricted below the amounts of electric power, as specified in such contracts, acquired by the Administrator from or on behalf of such customer pursuant to subsection 5(b)(2) and section 6. The Administrator shall, consistent with the provisions of this Act, insure that any such restrictions pursuant to this subsection are distributed equitably throughout the region.

(b) Additionally, (1) the Administrator is authorized to sell electric power to Federal agencies in the region, and (2) whenever a Pacific Northwest utility offers to sell electric power to the Administrator at the average system cost of resources then available to that utility, the Administrator shall purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region: ***Provided***, That (A) such sale shall be limited to an amount not to exceed 50 per centum of each such utility's regional residential load in the year beginning July 1, 1980, and increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985; (B) the cost benefits, as specified in contracts, of any such exchange sale which are attributable to any utility's residential load within a State shall be passed through directly to the utility's residential loads within such State: ***Provided***, That a State which lies partially within and partially without the region may require that such benefits be distributed among all of the utility's residential loads in that State; (C) a utility may terminate, upon reasonable terms and conditions, its exchange purchase and sale in the event the supplemental rate charge provided for in section 7(b) is applied and the cost of electric power sold to the utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by the utility to the Administrator under this subsection; and (D) the Administrator may acquire the electric power necessary to carry out the exchange sale from other resources, rather than purchase the electric power offered him by the utility pursuant to this subsection, if the cost of doing so is less than the cost of purchasing the electric power offered by the utility.

The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator, subject to review and approval by the Federal Energy Regulatory Commission as provided in section 9(g), on the basis of a methodology developed for this purpose. Such methodology shall be developed by the Council as part of the regional electric power plan identified in section 4, or, until such a plan has been adopted, shall be developed by the Administrator in consultation with his customers in the region and appropriate State regulatory bodies. Average system cost shall not in any event include: (i) the cost of additional resources in an amount sufficient to serve any new large industrial load of the utility that was not contracted for or committed to prior to October 1, 1978; (ii) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and (iii) any costs of a generating facility which is terminated prior to commercial operation.

(c)(1) The Administrator is authorized to sell electric power to direct service industrial customers which have contracts for the purchase of electric power from him on the effective date of this Act, so long as such sales provide a portion of the reserves for firm power loads within the region. To effectuate the purposes of this subsection the Administrator shall offer to such customers new long term contracts in accordance with section 9(c) that provide such customers an amount of power equivalent to that to which such customers are entitled under present industrial firm contracts. The offer and execution of these initial new contracts shall be deemed to be supported by a sufficiency of electric power available to the Administrator.

(2) The Administrator shall not offer to sell amounts of electric power, including reserves, to new direct service industrial customers or to existing direct service industrial customers in addition to the amounts provided under subsection (c)(1) unless the Council has approved such sale by majority vote of the full Council and the Administrator determines that such proposed sale is consistent with the plan and that (A) additional power system reserves are required for the region's firm loads, (B) additional direct service industrial loads would provide a feasible and cost-effective method of supplying such reserves, (C) loads of similar character cannot provide equivalent operating or planning benefits to the region if served by a utility, and (D) the Administrator has or can acquire sufficient electric power to serve such loads. After such determination and approval by the Council, the Administrator is authorized to offer to new or existing direct service industrial customers an additional amount of power providing reserves in the amount determined to be necessary.

(d) The Administrator is further authorized to sell or otherwise dispose of electric power, including acquired power, that is surplus to his obligations incurred pursuant to subsections (a), (b), and (c) of this section in accordance with this and other statutes applicable to the Administrator.

CONSERVATION AND RESOURCE ACQUISITION

Sec. 6. (a) The Administrator shall, to the maximum extent practicable, implement all conservation measures he determines to be consistent with the plan. If no plan is in effect the Administrator shall implement conservation measures he determines are feasible and consistent with the criteria of section 4(e): *Provided*, That no mandatory conservation requirements shall be set by the Administrator pursuant to this authority in the absence of a plan. Such measures may include, but are not limited to, financial assistance for insulation or weatherization, increased system efficiency, and waste energy recovery by direct application. The Administrator may, in accordance with the provisions of this section, conduct demonstration projects to determine the feasibility of conservation measures and direct application renewable energy resources: *Provided further*, That no obligation may be incurred for any such demonstration project until such proposal is explicitly noted in the Administrator's budget submittal to the Congress pursuant to Public Law 93–454 (as amended). In addition, he shall assist conservation by and among regional consumers by (1) providing technical or financial assistance, (2) cooperating with his customers and governmental authorities to encourage maximum cost-effective voluntary conservation, and (3) aiding his customers and governmental authorities in implementing conservation standards adopted pursuant to 4(f).

(b) The Administrator shall meet his contractual obligations that remain after taking into account planned savings from conservation measures provided in this section by acquiring additional resources (in addition to electric power acquired on a short term basis pursuant to section 11(b)(6)(i) of Public Law 93–454 (as amended)) he determines to be consistent with the plan or, if no such plan is in effect, which he determines, after compliance with section 6(c), are consistent with section 4(e). The Administrator shall acquire resources to replace Federal base system resources in accordance with the provisions of section 6 of this Act except in the case of federally constructed resources otherwise authorized by the Congress. Notwithstanding any acquisition of resources, the Administrator shall not reduce his efforts to achieve conservation savings pursuant to section 6(a).

(c)(1) In proposing to acquire any major resource, the Administrator shall give notice of the proposed action to the Council, his customers and the State in which the resource would be acquired, solicit views and relevant information, conduct a public hearing, and not less than ninety days after such notice may make a decision supported by a written statement, which statement shall include specific findings that the proposed acquisition is consistent with the plan unless such acquisition is proposed pursuant to parts (3) or (4) of this subsection.

(2) The Administrator shall submit to appropriate committees of the Congress the administrative record which shall consist of his written statement in support of any major resource acquisition decision made pursuant to this subsection together with (A) all statements, data, and other information on which the Administrator relies, including information received by him from the Council and his customers; (B) the transcript or other record (including all exhibits) of the hearing; (C) a record of all other relevant views and reactions received by him; and (D) a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act, Public Law 91–190 (as amended). The Administrator thereafter shall publish notice of his decision in the Federal Register. The Administrator may not implement any such deci-

sion or make any financial commitment for a major resource acquisition under this subsection prior to ninety days after the date of publication in the Federal Register and until it has been noted in the Administrator's budget submittal made pursuant to Public Law 93–454 (as amended): *Provided,* That in the absence of a plan or if the proposal is inconsistent with the plan, no financial commitment for a major resource acquisition shall be made until the acquisition has been specifically approved by Act of Congress.

(3) If within two years after the effective date of this Act, the Administrator proposes to acquire a major resource, but no plan is yet in effect, the Administrator may acquire such resource by following the procedure set forth in subsection (c) (1) and (2), except that his written statement shall include specific findings that acquisition of the resource is consistent with the criteria of subsection 4(e).

(4) If, subsequent to the adoption of a plan the Administrator wishes to be able to acquire a resource or undertake a conservation measure which he determines to be inconsistent with such plan, or in the absence of an adopted plan two years after the effective date of this Act, the Administrator may acquire a resource or undertake a conservation measure pursuant to the following procedure: (A) the Administrator shall propose to the Council a plan, or an amendment to the existing plan, with which the proposed action would be consistent, and submit a written statement to the Council that the plan or proposed amendment is needed to permit the proposed action, that the resource or conservation measure is needed to meet the Administrator's obligations, and that the resource or conservation measure is consistent with the criteria set forth in subsection 4(e); (B) the Council shall proceed with hearings in accordance with provisions of section 4(d)(2); (C) if within ninety days after the submission of the Administrator's proposal the Council has not adopted a plan or plan amendment with which, in the Administrator's determination, the proposed action is consistent, the Administrator may proceed with the action after following the procedure established under parts (1) and (2) of this subsection. For the acquisition of a resource or implementation of a conservation measure, either of which the Administrator determines to be inconsistent with the plan, public hearings shall be held pursuant to section 556 of title 5, United States Code, and the Administrator shall make a written statement in support of his decision pursuant to section 557 of title 5, United States Code.

(5) The Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest utility for ownership, participation, or other sponsorship but not in excess of the amounts needed to meet its regional load.

(d) The Administrator is authorized to acquire a resource, other than a major resource, which does not meet criteria of section 4 but which he determines is an experimental, developmental, demonstration or pilot project of a type with a potential for providing feasible, cost-effective, and reliable service to the region. The Administrator is authorized to construct such a project if it is a renewable resource and he determines that no utility or political subdivision in the Pacific Northwest is willing to construct such project at reasonable cost. The Administrator shall make no obligation for the acquisition or construction of such a resource until it has been noted in his budget submittal to the Congress pursuant to Public Law 93–454 (as amended).

(e) To the extent conservation measures or acquisition of resources require direct arrangements with consumers of electric power, the Administrator shall make maximum practicable use of his customers and other local entities capable of administering and carrying out such arrangements.

(f) For resources which the Administrator determines will be not inconsistent with the plan or for which he proposes to follow the procedures of section 6(c) (3) and (4), the Administrator is authorized to enter into agreements with sponsors of (1) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource which may be proposed for acquisition by the Administrator, or (2) any other resource, which on preliminary data he finds would satisfy criteria of this act, to provide for the reimbursement of the sponsor's investigation and preconstruction expenses (which expenses shall not include procurement of capital equipment or construction material for such resource) if such resource is subsequently denied State siting approval or other necessary Federal or State permits, 'or if such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the criteria of this act, or is not acceptable because of environmental impacts, or after such investigation the Administrator determines not to purchase the resource and the resource is not constructed: *Provided,* That any such agreements shall provide the Administrator an option to acquire any such resource: *Provided further,* That the Administrator shall terminate his financial commitment as to any further expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after a final denial of application for State siting approval. No further commitment may be made by the Administrator until the Administrator has completed such procedure as may be required by the National Environmental Policy Act, Public Law 91–190 (as amended).

(g) At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible by the Administrator, shall be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

(h) The Administrator is authorized to grant billing credits and provide services to any of his customers for independent conservation activities undertaken by such customers or political subdivisions served by a customer and for resources constructed, completed or acquired by a customer or political subdivision after the effective date of this Act which reduce the obligation of the Administrator to acquire resources under this Act. Any such credits which are granted for a major resource shall be granted only if such grant is determined by the Administrator to be not inconsistent with the plan or if such credits are authorized pursuant to the procedures of section 6(c)(4). The Administrator shall be required to grant credits (1) to the extent such customer or political subdivision undertakes independent conservation measures which the Administrator finds will achieve energy savings beyond the measures included in the plan, and (2) for a renewable resource or a multipurpose project uniquely suitable for such customer's or political subdivision's development. The Council may develop and propose guidelines to the Administrator to assist in the determination of the amount of such credits. The Administrator shall determine the amount of credits taking into account guidelines recommended by the Council and the risks and benefits assumed by the entity to be credited and the risks and benefits provided to the Administrator's customers: Provided, That any credits under this subsection shall be granted only to the extent they are cost effective.

(i) Contracts for acquisition of resources entered into pursuant to this section shall contain such terms and conditions as the Administrator finds necessary or proper to insure timely construction, scheduling, completion, and operation of new resources, to insure that the costs of any acquisition are as low as reasonably possible, consistent with sound engineering, operating, and safety practices, and to provide the means for the Administrator to exercise effective oversight, audit, and review of all aspects of such construction and operation.

(j) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(1) acquire any electric power required by (A) any customer or group of customers to enable them to replace resources determined to serve firm load under subsection 5(a) or (B) direct service industrial customers, to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power he is himself obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting it: Provided, That the Administrator may prescribe policies and conditions for the independent acquisition of replacement power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial customer an opportunity to participate in such acquisitions; and

(2) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable statutes, and with respect to direct service industrial customers, if such sale is under terms and conditions acceptable to the Administrator.

The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on the effective date of this Act, if such capability has been offered for sale at cost, including a reasonable rate of return, to the Administrator pursuant to this Act and such offer is not accepted within one year.

(k) All obligations incurred by the Administrator pursuant to this Act shall be secured solely by the Administrator's revenues received from the sale of electric power and other services. Such obligations shall not be, nor shall they be deemed to be, general obligations of the United States of America.

(l) In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this Act, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations. and experimental projects, services, and billing credits, are distributed equitably throughout the region.

RATE DIRECTIVES

SEC. 7. (a) The Administrator shall establish and periodically modify rates for the sale and disposition of electric power and the transmission on non-Federal power. Such rates shall be set to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to law. Such rates shall be established in accordance with sections 9 and 10 of Public Law 93–454 (as amended) and the provisions of this Act, and shall become effective upon confirmation and approval by the Federal Energy Regulatory Commission on the finding that such rates (1) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs, (2) are based upon the Administrator's total system costs including contingencies, and (3) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.

(b) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body, cooperative, and Federal agency customers within the Pacific Northwest, and sold to utilities under section 5(b)(2). Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply the foregoing loads until such sales exceed the Federal base system resources. Thereafter, such rate or rates also shall recover the costs of additional electric power as needed to supply the foregoing loads, first from the electric power purchased by the Administrator under section 5(b)(2) and then from new resources: *Provided*, That after July 1, 1985 the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers, exclusive of amounts charged such customers under section 7(g) for the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, shall in no event exceed in total, as determined by the Administrator, during any year plus the ensuing four years, an amount equal to the power costs for general requirements of such customers if, as estimated in accordance with the following assumptions for the same five-year period:

(1) the public body and cooperative customers' general requirements had included the direct service industrial customer loads located within or adjacent to the geographic service boundaries of such public bodies and cooperatives during the applicable period;

(2) public body, cooperative, and Federal agency customers were served in the applicable period with Federal base system resources not obligated to other parties under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in part (1) above;

(3) no purchase or sales as provided in section 5(b)(2) were made during the applicable period;

(4) all resources that would have been required to meet remaining general requirements of the public body, cooperative and Federal agency customers not met by the available Federal base system resources determined under part (2) above were resources purchased from such customers by the Administrator pursuant to section 6 or resources not committed to load pursuant to section 5(a) and were the least expensive resources owned or purchased by public bodies or cooperatives with any additional needed resources having been obtained at the average cost of all other new resources acquired by the Administrator: and

(5) the quantifiable monetary savings to public body, cooperative, and Federal agency customers resulting from actions of the Administrator under section 6 were not achieved.

Any amounts not charged to such public body, cooperative, and Federal agency customers because of this proviso shall be recovered through supplemental rate charges for all other power sold by the Administrator.

General requirements as used in this section shall be the public body, cooperative, or Federal agency customer's electric power purchased from the Administrator under section 5(a) and 5(b)(1) exclusive of any new large industrial load that was not contracted for or committed to by the customer by October 1, 1978.

(c) The rate or rates applicable to direct service industrial customers shall be established:

(1) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 5(b)(2), based upon his projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other classes of power sold by the Administrator; and

(2) for the period after July 1, 1985, at a level which the Administrator determines by rule to be equitable in relation to the retail rates charged by the public body and cooperative customers to their industrial customers in the region (to be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates) but taking into account (A) the comparative size and character of the loads served, (B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions, and (C) direct and indirect overhead costs, all as related to the delivery of power to industrial customers: *Provided*, That the Administrator's rates during such period shall in no event be less than his rate in effect for the contract year ending on June 30, 1985.

The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers.

(d) In order to avoid adverse impacts on—

(1) retail rates of the Administrator's customers with low system densities, the Administrator is authorized to apply discounts to the rate or rates for such customers;

(2) direct service industrial customers using raw materials indigenous to the region as their primary resource, the Administrator is authorized to establish a special rate applicable to such customer if all power sold to such customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region under contract provisions equivalent to those of present modified firm contracts.

(e) In establishing rate schedules of general application, the Administrator may establish a uniform rate or rates for sale of peaking capacity.

(f) Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 5(b)(2) and additional resources (including new resources) which, in the determination of the Administrator, are applicable to such sales.

(g) The Administrator shall allocate to power rates, as he may determine appropriate, all other costs and benefits including, but not limited to, conservation, uncontrollable events, reserves, the excess costs of experimental resources under section 6, the cost of credits granted pursuant to section 6, operating services, and the sale of or inability to sell excess electric power.

(h) Notwithstanding any other provision of this section (except the provisions of subsection (a)), the Administrator shall adjust power rates to include any additional charges arising under section 4(f), and shall allocate any revenues from such charges in a manner he determines will help achieve the purposes of section 4(f).

AMENDMENTS TO EXISTING LEGISLATION

SEC. 8. (a) Section 11(b) of Public Law 93–454 (as amended) is amended by striking the word "and" at the end of subparagraph (10), and by substituting "; and" for the period at the end of subparagraph (11) and adding a new subparagraph (12) as follows:

"(12) making such payments, as shall be required to carry out the purposes of the Pacific Northwest Electric Power Planning and Conservation Act.".

(b) Public Law 93–454 (as amended) is amended by striking subsections 13 (a) and (b) and substituting the following new subsections:

"SEC. 13. (a) The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name of and on behalf of the Bonneville Power Administration bonds, notes, and other evidence of indebtedness (in this Act collectively referred to as 'bonds') to assist in financing the construction, acquisition, and replacement of the transmission system, to implement the Administrator's authority (including the provision of financial assistance for conservation measures and renewable resources) pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, and to issue and sell bonds to refund such bonds. Such bonds shall be in such forms and denominations, bear such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary of the Treasury taking into account terms and conditions prevailing in the market for similar bonds, the useful life of the facilities for which the bonds may be issued, and financing practices of the utility industry. Refunding provisions may be prescribed by the Administrator. Such bonds shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of America of comparable maturities, plus an amount in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rates prevailing in the market for similar bonds issued by Government corporations but not to exceed the interest rate which would be applied to such bonds if they were purchased by the Federal Financing Bank. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $1,250,000,000 prior to October 1, 1980, and $1,750,000,000 thereafter.

"(b) The principal of, premiums, if any, and interest on such bonds shall be payable solely from the Administrator's net proceeds as hereinafter defined. 'Net proceeds' shall mean for the purposes of this section the remainder of the Administrator's gross receipts from all sources after first deducting trust funds and the costs listed in section 11(b)(2) through 11(b)(7), 11(b)(11) and 11(b)(12), and shall include reserve or other funds created from such receipts.".

(c) Public Law 88–552 (as amended) is amended by striking subsection 1(b) and inserting a new subsection 1(b) as follows:

"(b) 'Pacific Northwest' means (1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.".

ADMINISTRATIVE SECTIONS

SEC. 9. (a) In carrying out the provisions of this Act, the Administrator is authorized to enter into such contracts, agreements, and arrangements, including the amendment, modification, adjustment, or cancellation thereof and the compromise or final settlement of any claim arising thereunder, and to make such expenditures, upon such terms and conditions and in such manner as he may deem necessary.

(b) The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by Public Law 75–329, as amended, this Act and sections 302(a) (2) and (3) of Public Law 95–91. The Secretary of Energy and the Administrator shall take such steps are are necessary to (1) assure the Administrator's timely implementation of this Act and (2) enable the Administrator to operate in a sound and businesslike manner.

(c) (1) As soon as practicable after the effective date of this Act, and in no event later than nine months after the enactment of this Act, the Administrator shall, in addition to offers otherwise authorized or required in other sections of this Act, offer long-term contracts simultaneously to (A) existing public body and cooperative customers and investor-owned utilities under section 5(a); (B) Federal agencies under section 5(b) (1); (C) direct service industrial customers under section 5(c) (1); and (D) utilities under section 5(b) (2).

(2) Each customer offered a power sales contract pursuant to this subsection shall have one year from the date of offer to accept such contract. Such contract shall become effective as follows:

(A) A contract with a public body, cooperative or investor-owned utility pursuant to section 5(a) or a Federal agency pursuant to section 5(b), on the date executed by such public body, cooperative, investor-owned utility or Federal agency, unless otherwise agreed upon the by contracting parties.

(B) A contract with a utility pursuant to section 5(b) (2), on the date executed by the utility, but no earlier than the first day of the tenth month after the effective date of this Act.

(C) A contract with a direct service industrial customer pursuant to section 5(c) (1), on the date agreed upon by the parties, but no later than the first day of the tenth month after the effective date of this Act; such contract when executed may for rate purposes be given retroactive effect to such day.

The Administrator shall be deemed to have sufficient resources for the purpose of entering into the power sales contracts specified in this subsection.

(d) Any contract of the Administrator for the sale or exchange of electric power for use outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of Public Law 88–552 (as amended) for any contract for the sale, delivery or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest: Provided, That, for the purposes of this subsection, "surplus energy" shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and "surplus peaking capacity" shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for the disposition of such capacity. The authority granted, and duties imposed upon, the Secretary of Energy by sections 5 and 7 of Public Law 88–552 (as amended) shall also apply to the Administrator in connection with resources acquired by the Administrator. The Administrator, in making any determination of the electric power requirements of a Pacific Northwest customer which is a non-Federal utility having its own generation shall exclude, in addition to hydro generated energy excluded in section 3(d) of Public Law 88–552 (as amended), any amounts of energy included in the resources of such utility for service to firm loads in the region which were disposed of by the utility outside the region if and to the extent that as the result of such disposition the firm energy requirements of such utility and other customers on the Administrator are greater than if such energy had been or reasonably could have been conserved or otherwise retained for service to regional loads.

The Administrator may sell as a replacement therefore only that which would be surplus energy.

(e) (1) For purposes of section 701 of title 5, United States Code, and the following: acquisition of resources, granting of credits under subsection 6(h), assistance to sponsors under subsection 6(f), sales of electric power under section 5 (a) through (c), implementation of conservation measures, adoption of the plan or amendments thereto insofar as the plan or such amendments relate to specific resources acquisition or conservation decisions, determinations of the Administrator or the Council under section 4(d), and rate determinations under section 7 shall be final actions subject to judicial review. The record upon review shall be limited to the administrative record compiled in accordance with this Act. The scope of reviews shall be governed by section 706 (1) and (2) (A) through (D) of title 5, United States Code, except that review of rate determinations under section 7 shall be on the basis of substantial evidence on the record. The adopted plan or portions thereof shall not be reviewable as a part of a review of a resource acquisition decision or a conservation measure implementation decision.

For purposes of this subsection, (A) resources shall be deemed to be acquired upon publication in the Federal Register of the Administrator's section 6(b) determination or section 6(c) (2) written statement; (B) conservation measures shall be deemed to be implemented upon publication in the Federal Register of the determination required of the Administrator pursuant to section 6(a); and (C) the plan or amendments thereto shall be deemed to be adopted upon adoption by the Council and publication of notice of adoption in the Federal Register pursuant to section 4(d), or as otherwise provided for by this Act.

(2) Suits brought to challenge final actions taken pursuant to this Act, or the implementation of such final actions, whether brought pursuant to this Act or Public Law 75–329 (as amended), or Public Law 88–552 (as amended), or Public Law 93–454 (as amended), shall be commenced within ninety days of the action, or, if notice of the action is required by this Act to be published in the Federal Register, within ninety days of such notice, or be barred.

(f) For the purpose of enabling the Administrator to acquire resources from State or local governmental units at a cost no greater than the costs which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provided in section 103(a) (1) of title 26 of the United States Code shall not be affected by the Administrator's acquisition of such resources if the Administrator, prior to contracting for the acquisition, certifies to his reasonable belief, in accordance with a procedure approved by the Secretary of the Treasury, as to the persons for whom the Administrator is purchasing such resources for sale pursuant to section 5 of this Act and as to the amount for each such person, and if, based upon such certification, which shall be conclusive as to the facts stated therein, the Secretary of the Treasury determines that less than a major portion thereof is to be furnished to persons who are not exempt persons as defined in section 103(b) of such title.

(g) When reviewing rates for the sale of power to the Administrator by an investor-owned utility under sections 5(b) (2) and 6, the Federal Energy Regulatory Commission shall convene a joint State board pursuant to section 209 of the Federal Power Act (16 U.S.C. 824h), and shall invest such board with such duties and authority as will assist the Commission in its review of such rates.

(h) No "company" (as defined in section 79b(a) (2) of title 15, United States Code), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 6 shall be deemed an "electric utility company" (as defined in section 79b(a) (3) of title 15, United States Code), within the meaning of any provision or provisions of chapter 2C of title 15 of the United States Code: *Provided*, That the Administrator shall have approved the organization of such "company" and all material contracts entered into by and between such "company" and any sponsor company: *Provided further*, That (1) participation in any facilities of such "company" shall have been offered to public bodies and cooperatives in the region pursuant to subsection 6(c) (5), and (2) the Administrator shall include in any contract for the purchase of a major resource from such "company" provisions limiting the amount of equity investment, if any, in such "company" to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource. This subsection shall continue to apply to any such "company" unless the Administrator or the Securities and Exchange Commission determines that the "company" no longer operates in accordance with this subsection, and notifies the "company" in writing of such determination, in which event this subsection shall cease to apply to such "company" thirty days after receipt of such notification.

SAVINGS PROVISIONS; WAIVER OF PREEMPTION

SEC. 10. (a) Nothing in this Act shall alter, diminish, or abridge the right of any State or political subdivision thereof to (1) determine retail electric rates except as provided by section 5(b) (2); (2) develop and implement its own plans and programs for the conservation, development and use of electric power resources or facilities; or (3) make energy facility siting decisions including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Nothing in this Act shall alter, diminish, or abridge the authorities or obligations of the Administrator granted by or arising under any other applicable statute, unless otherwise specifically provided herein.

(c) Nothing in this Act shall alter, diminish, or abridge the rights and obligations of the Administrator or any other party under any contract or agreement existing as of the effective date of this Act.

(d) Nothing in this Act shall alter, diminish, abridge or otherwise affect the provisions of other Federal statutes by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(e) Nothing in this Act shall alter, diminish, or abridge the authority of the Administrator to meet with his customers or with other groups or individuals in order to discuss regional power issues or other matters of interest or concern.

(f) Nothing in this Act shall (1) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States, or (3) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(g) The reservation under law of electric power for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State, plus 50 per centum of any electric power produced at Libby Reregulating Dam when built, is hereby affirmed. Electric power so reserved shall be sold at the rate or rates set pursuant to section 7.

Mr. JACKSON. Mr. President, this bill is a monument to the cooperative spirit of the Senators from Oregon, Washington, Montana, and Idaho. Faced with electric energy problems that cover the entire Pacific Northwest, the Senators of the respective States have transcended State boundaries and partisan politics and have truly addressed a regional problem with a regional solution.

As my colleagues know, this measure has been the subject of intense debate and discussion both in the Senate Committee on Energy and Natural Resources and in the Pacific Northwest. I believe that the legislative process has succeeded in hammering out a consensus measure that addresses the needs and interests of the citizens of the Pacific Northwest. As my colleagues from the Pacific Northwest know, and in particular those who are members of the Committee on Energy and Natural Resources, S. 885 is a truly bipartisan effort and I would particularly commend the efforts of the senior Senators from Oregon and Idaho and the junior Senator from Idaho for their respective efforts in bringing this important measure to the floor for consideration by the Senate.

Mr. President, I ask unanimous consent that for the benefit of those who will read these proceedings that the purpose, background, need and summary of major provisions sections of the committee report No. 96-272 which accompanied S. 885 when reported by the Committee on Energy and Natural Resources be printed in the RECORD at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE REPORT NO. 96-272

PURPOSE

S. 885 has several major elements:

To establish a procedure for the Bonneville Power Administration to participate with regional entities in a public planning process to coordinate the provision of electric power resources to meet the needs of the region.

To extend the benefits of the Federal Columbia River Power System to the residential and farming consumers of investor-owned utilities.

To supplement the authority of the Bonneville Power Administration to utilize regional power revenues to assist in the financing of future conservation measures and electric power supply resources development in the region.

BACKGROUND

The Bonneville Power Act of 1937 (Act of August 1937, 50 Stat. 731), authorizing the construction of the Bonneville Dam by the Corps of Engineers, provided that the electric power generated at the dam should be marketed by a Bonneville Power Administrator to be appointed by the Secretary of the Interior. The Administrator was authorized to construct, operate, and maintain transmission lines necessary to market the power. The Administrator was not authorized to construct or operate either hydro or thermal electric generating facilities.

The Bonneville Power Administration, through subsequent legislation and interpretation of the Act, has become a major part of the electric power system in the Pacific Northwest. The Federal Columbia River Power System, for which BPA is the marketing agency, had 30 hydroelectric power projects in operation in 1978, with a total generating capacity of 16,441 megawatts. In that year, the system (including federally acquired thermal) generation represented 54 percent of the region's total electric generation. The BPA transmission system includes 12,454 circuit miles with an additional 1,652 miles in various stages of design and construction. The BPA transmission system, containing 80 percent of the region's primary transmission system, forms the backbone for what constitutes a regional grid.

Traditionally, the Pacific Northwest's power needs have been satisfied by the energy produced by large hydroelectric projects. For the most part, the projects were constructed and operated by the Federal Government with the power marketed through the Bonneville Power Administration. However, some of the larger utilities built and operated their own generating facilities and purchased part of their regional power needs from BPA. In the late 1960's projections of future regional power needs by the Bonneville Power Administration indicated that by the mid-1970's, regional loads would exceed system capacity. As a result, in 1969 the "Hydrothermal Power Program" was initiated in the region in an effort to provide an orderly transition from a hydro based system to one using a blend of hydro and thermal resources. By 1970, rising costs associated with thermal plant construction and BPA's inability to acquire thermally generated resources indicated that an alternate to the Hydrothermal Power Programs would be needed if future regional needs were to be met.

By 1973, BPA stopped selling firm low-cost hydro power to investor-owned utilities because of inadequate supplies and the utilities turned to higher cost thermal power. Public utilities also realized that they too faced problems in meeting future demands when in 1976 the BPA issued notices of insufficiency to all public utilities and direct service customers, stating that BPA would not be able to meet new load requirements after 1983. Concern for future sources of electric power lead public and private utilities, industries, and customers to seek legislative assistance from the Congress.

NEED FOR THE LEGISLATION

As reported, S. 885 addresses problems associated with the future of electrical energy production and consumption in the Pacific Northwest as identified by interested regional entities. Critical in the problems facing the Northwest are the needs to initiate and carry-out a comprehensive regional electric energy conservation program, to extend to residential and rural consumers the benefits of the Federal Columbia River Power System, and to assure future electric supplies for consumers at reasonable rates. Paramount in achieving these goals is the establishment of a mechanism providing for an effective regionwide planning process. S. 885 mandates the preparation of a regional electric energy plan and assures that such a plan will reflect and be responsive to the diverse interests represented in the region.

Traditionally, utility planning in the Pacific Northwest has been geographically fragmented. While in other parts of the Nation large areas may be served by a single utility which generates and distributes electric energy on an areawide basis, the Pacific Northwest has been served by a myriad of small- to medium-sized utilities, which, for the most part, have relied upon the generation and transmission resources of the Federal Columbia River Power System. In spite of this fragmentation, the FCRP, the Bonneville Power Administration, and the distinct needs and resources of the region have served to facilitate a high degree of cooperation between utilities in forecasting regional power requirements and the integration of available resources. However, seriously lacking in the region is a comprehensive planning process providing for the integration of new generating facilities on a regional basis and a lack of opportunity for State and public participation at an early stage in the planning process. The regional electric energy plan which would be prepared pursuant to the Pacific Northwest Electric Power Supply and Conservation Act is conditioned upon these, and other premises.

Without the planning framework and authorities contained in S. 885, the region faces potentially damaging power shortages, an inability to involve on a formalized basis the States and various interest groups in the region in the planning process, and a lack of direction for and financing of a truly regionwide conservation plan which would not only benefit the individual consumers in the area, but could serve as a model for the rest of the Nation as well.

SUMMARY OF MAJOR PROVISIONS

As amended, S. 885 addresses several major issues related to power problems in the Pacific Northwest, and in some instances would mandate significant departures from past or present practice. Major issues and related provisions of the bill are briefly described as follows:

Public participation and control

Section 4 establishes a Pacific Northwest Electric Power Planning Council to consist of the Administrator of the Bonneville Power Administration and four appointees of the Governors of the States in the region. Using the procedures of the Administrative Procedures Act, the Council is to prepare and adopt a regional electric power plan that will govern most regional conservation efforts and resource acquisitions of the Administrator. The composition, duties and functions of the Council and other public participation provisions are primarily contained in section 4.

Preference

The preamble of section 5 makes all Bonneville power sales subject to the preference and priority provisions of the existing Bonneville Project Act. Public bodies and cooperatives entitled to preference and priority under that Act may not be subjected to restriction on the amount of power sold them unless and until their loads exceed the amount of Federal base system resources. Section 7(b) provides that rates charged such public bodies and cooperatives may not exceed a limit designed to reflect the power costs such public bodies and cooperatives would have experienced in the absence of this legislation. Section 10(d) preserves the general preference and priority to which public bodies and cooperatives are entitled under other statutes governing the sale of power from federally-owned generating facilities.

Allocation

Sections 5 and 7 contain most provisions related to allocation of the Administrator's existing and newly acquired power and related power costs. Public bodies and cooperatives entitled to preference and priority under the existing Bonneville Project Act are to receive new requirements contracts that provide power at the Administrators' lowest rate (except power needed to serve new large industrial loads). Investor-owned utilities are to receive requirements contracts that provide power at a new resources rate, and are permitted to exchange with the Administrator an amount of power sufficient to serve their residential and small farm loads. The latter power will also be sold at the Administrator's lowest rate, with the cost benefits of the exchange required to be passed through directly to the residential and farm consumers involved. Direct-service industrial customers of the Administrator may surrender existing contracts providing low-cost power in order to receive new long-term contracts, but at substantially higher rates. Such higher rates are to recover to the Administrator his additional costs incurred in making the power exchange with the investor-owned utilities.

Acquisition of resources

Section 6 grants new authority to the Administrator to acquire resources, including conservation, to meet the loads of his customers. This authority is granted subject to the requirement that the Administrator make such acquisitions subject to the plan developed by the Council in section 4. In the absence of a regional electric power plan or if a proposed resource acquisition is inconsistent with the plan a special procedure, including specific approval of a major resource acquisition by Act of Congress, is provided.

Conservation and renewable resources

Sections 4 and 6 require conservation to be treated as the region's first priority resource, and renewable resources to be treated as the second priority resource, ahead of all other resource types. Sections 4 (e) and (f) require model conservation standards to be adopted as part of the Council's regional plan. Savings from such standard are to be assured by rate surcharges, if recommended by the Council, of up to 50 percent in the event of nonattainment of expected load reductions.

The Administrator is required under sections 4 and 6 to rely upon conservation to the maximum extent it is feasible and cost effective, to provide financial assistance for conservation and renewable resource purposes, and to continue conservation efforts even if he possesses an adequate supply of power. The existing Bonneville Power Administration borrowing authority is increased by $500,000,000 under section 8(a) to aid in the initial funding, after fiscal year 1980, of conservation and renewable resource efforts, as well as other resource activities. Conservation measures, which are treated as a resource, are to be compared with other resources available for acquisition. Conservation resources are to be considered cost-effective under section 3(c) if their life-cycle incremental system costs are less than or equal to 110 percent of the life-cycle incremental system costs of alternative nonconservation resources. The Administrator is required under section 6(h) to grant rate credits to utilities or local governments for conservation efforts that will achieve extra savings, and for renewable resources or multipurpose projects which reduced demand on the Administrator and allow the Administrator to avoid acquiring other resources.

Other power resources

Sections 4 and 6 require conventional fueled generating resources, including coal and nuclear, to be treated as the region's lowest priority resources. Section 6(c) sets forth a detailed procedure for the acquisition of any major resource and for acquisitions which are either inconsistent with the regional plan or which are made when a regional plan is not yet adopted; specific approval by Congress is required if no plan is in effect or the proposed acquisition is inconsistent with the plan. Section 6(h) prohibits rate credits being granted to utilities for major resources unless such credits are not inconsistent with the plan or Congressional approval is obtained. The cost-effective determination under section 3(c) would consider all costs associated with conventional resources, including the applicable waste disposal costs, end-of-cycle costs, and fuel costs, among other costs.

Financing provisions

In section 2(c), Congress finds that Northwest ratepayers should continue to pay all costs necessary to meet the regions electric power requirements, including repayment with interest of the Federal investment in the Federal Columbia River Power System. Section 6(k) prohibits Federal "guarantees" of new investments and requires that all obligations of the Administrator incurred under this act be secured solely by his revenues from the sale of power and other services. This provision makes explicit in this act the self-financing requirements of the Federal Columbia River Transmission System Act of 1974, Public Law 93-454 (as amended). Section 8(a) increases Bonneville's present borrowing limit from $1.25 billion to $1.75 billion. Section 9(f) preserves the tax-exempt status of obligations issued by State and local governments to finance resources that may be acquired by the Administrator primarily for the needs of such entities.

Mr. HATFIELD. Mr. President, I commend the chairman (Mr. JACKSON) and my Northwest colleagues on the committee, the Senators from Idaho (Mr. CHURCH and Mr. McCLURE) and Montana (Mr. MELCHER), for lending their tremendous efforts to the fashioning of this most remarkable piece of legislation.

Without any doubt, I predict it will be viewed in the future as the most important bill ever to have affected the Pacific Northwest. Certainly not since the Federal decision to build Bonneville Dam have we considered anything with such profound long-range impact on the region as we are considering today.

We owe special recognition today to the willingness of the many interest groups of the Northwest to bury old differences and historic animosities and work cooperatively toward a regional solution to our electric power problems. Public power, private power, the direct service industries, the four Governors the cities of Seattle and Portland, and several environmental and consumer organizations provided the needed threads to weave this complex fabric. We also owe thanks to the personnel at Bonneville Power Administration who provided the necessary backup for the negotiations that have taken place, and who worked tirelessly on endless details when less capable and less dedicated people would have given out. I am particularly appreciative of the work of Mr. Earl Gjelde and Mr. Larry Hittle of Administrator Sterling Munro's staff.

The bill the committee has reported incorporates the proposals of the Governors for establishment of a planning council and the planning and resource acquisition procedures that are central to the regional power program. Their joint action solved what otherwise would have been an issue of extreme difficulty for the congressional delegation.

The bill incorporates the "preference clause" protections recommended by the Northwest Public Power Council, solving another delicate problem and heading off potential opposition from the national public power organizations.

It incorporates many amendments suggested by consumer- and environment-oriented groups, and squarely addresses objections that were leveled at the original bill by them.

Perhaps the most critical section of the bill is the definition of "cost effectiveness"—the test future resource acquisitions must stand. The committee incorporated in total my amendment describing this test. The test is perhaps the most complete ever prescribed for utility-type decisionmaking.

The committee also accepted an amendment Senator CHURCH and I offered, patterned after suggestions by Senator PACKWOOD, to provide for preservation and enhancement of the Columbia River Salmon and steelhead fishery. It assures that such efforts as the council may identify will be made by the administrator to operate the system compatibly with our fishery maintenance and improvement objectives.

I believe the Pacific Northwest power program as described in this legislation will be the most enlightened, advanced, public-spirited, and cost-effective program in the country.

Mr. President, there are several printer's errors in the committee report that need attention. Appendix A on page 55 not only mislocates and misspells several direct service industrial customers, it fails to list the Reynolds aluminum plants in Troutdale, Oreg., and Longview, Wash. There are 16 DSI's that will be eligible for new contracts under this legislation, and I ask unanimous consent that a corrected Appendix A, listing them and their proper locations, be printed in the RECORD.

There being no objection, the appendix was ordered to be printed in the RECORD, as follows:

APPENDIX A—DIRECT SERVICE INDUSTRIAL CUSTOMERS

1. Alumax, Inc., Oregon.
2. Aluminum Company of America, Addy, Wenatchee and Vancouver, Washington.
3. The Anaconda Company, Aluminum Division, Columbia Falls, Montana.
4. Carborundum Company, Vancouver, Washington.
5. Crown Zellerbach Corporation, Port Townsend, Washington.
6. Georgia Pacific Corporation, Bellingham, Washington.
7. Hanna Nickel Smelting Company, Riddle, Oregon.
8. Intalco Aluminum Company, Ferndale, Washington.
9. Martin Marietta Aluminum, Inc., Goldendale, Washington, and The Dalles, Oregon.
10. Kaiser Aluminum and Chemical Corporation, Mead, Tacoma, and Trentwood, Washington.

11. Oregon Metalurgical Corporation, Albany, Oregon.
12. Pacific Carbide and Alloys Company, Portland, Oregon.
13. Pennwalt Corporation, Portland, Oregon.
14. Reynolds Metals Company, Troutdale, Oregon and Longview, Washington.
15. Stauffer Chemical Company, Silver Bow, Montana.
16. Union Carbide Corporation, Portland, Oregon.

Mr. HATFIELD. Mr. President, on page 25, in the second paragraph of the analysis of section 4(f), a line is missing from the second sentence. The sentence should read,

> It is not intended that the administrator investigate or monitor the conservation activities or compliance with conservation standards of individual consumers, but rather that he assess the conservation performance of his consumers and of political subdivision within the region when the council has recommended implementation of the standards.

On page 26, at the beginning of the analysis of section 5, the third sentence is not a part of the report and should be deleted. Is is a repetition, with some additional typographical errors, of the second sentence.

Mr. President, I ask unanimous consent that a brief summary I prepared of the power program as contained in S. 885, as amended and passed by the Energy and Natural Resources Committee, together with a summary of some major issues the committee faced and resolved in this bill, appear at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Northwest Power Program Contained In S. 885, As Amended and Passed by the Senate Committee on Energy and Natural Resources

I. BRIEF SUMMARY

Power planning. A regional council to be comprised of representatives of the four Governors and the Bonneville Power Administrator will forecast loads and devise a 20-year plan of resource acquisitions to meet those loads. The plan will set out the mix of resources to be employed, targeting conservation as the first and preferred resource. The council will devise a strategy for achieving all feasible and cost-effective conservation, and will develop a system of electric rate surcharges and credits to aid this endeavor. Their plan must be updated no less frequently than every 5 years.

Implementation of Plan. The BPA Administrator will seek to acquire resources consistent with the plan to meet the utilities' power requirements that are beyond the capability of their own resources. To the extent such resources are generating plants, he will acquire the power from them but not build or operate them (except that he may build an experimental renewable-resource plant if no utility or governmental unit will). The Administrator will be authorized to use his power revenues and to issue bonds backed only by the region's power revenues and not by the U.S. Treasury to acquire these resources. Conservation measures will be treated exactly as if they were power generating resources, as will end-use applications of renewable resources which reduce power consumption (such as solar water heating). The Administrator will be able to back new or experimental resource developments even though they may not at the time be cost-effective, so long as they represent potential future resources that the region might someday employ to provide reliable, cost-effective electric power generation or conservation. The Administrator will not be authorized to acquire cost-effective thermal power resources (such as coal or nuclear) prior to demonstrating that he is already acquiring all available cost-effective renewable resource development and all cost-effective conservation. Conservation resources will be given an additional priority, in that they will be acquired up to 110% of normal cost-effectiveness levels.

Operation of the regional power system. Residential and farm customers of the investor owned utilities (IOU's) will share in the benefits of the federal hydropower system in the Northwest. During the first years of the regional program, these parties' access to the federal system will be phased in. After the fifth year, they will be sharing in the system on the same basis as the customers of the publically owned utilities. In order for the Administrator to be able to sell amounts of federal system power to the investor-owned utilities to meet their residential and farm loads, the Administrator will buy equivalent amounts of power from these utilities at their average system cost and combine it with the federal hydropower (the "federal base system").

BPA's direct service industrial (DSI) customers will pay the difference between the higher-cost IOU system power and the lower-cost federal base system power involved in the IOU exchange in order that the cost of power to BPA's present utility customers (the publicly-owned systems) is not increased. In return for paying this cost which will quadruple their power rates in 5 years, the DSI's will be offered new power supply contracts to replace those expiring in the 1980's.

In sum: The industries will immediately pay higher rates for power in order to be assured a future supply; these additional revenues will entirely offset the impact of the IOU residential and farm customers' access to the federal base system, preventing any increase in system costs to the publically owned utilities; and the customers of the publicly owned utilities will be assured a full-requirements future power supply which will vitiate the "insufficiency" notification these utilities have received from BPA in regard to the impending inadequacy of the present federal system to meet their load growth after 1983.

II. ISSUES AS RESOLVED BY THE COMMITTEE

Preference clause. The clause of the Bonneville Project Act of 1973 which provides that public bodies and cooperatives be accorded preferred access to power generated at federal projects is completely protected in S. 885, as amended by the Committee. While many public power advocates in the country have doubts about the particular language and mechanics of the bill, the preference concept will remain completely intact in the Northwest. The public system preference is valuable for two reasons: supply and price. In that the BPA Administrator will be granted new authority under the Committee bill to meet the power needs of the public systems after the existing federal base system runs out, and in that they will receive this power at prices no higher (this is guaranteed in the Committee version of S. 885) than those they would experience in the absence of any new legislation, they are not only fully protected in terms of supply and price, they are better off. They will benefit from having the Administrator marshaling all the financial clout of region to produce new resources to cover their load growth and to spread the risks that attend these endeavors over the entire region.

Rate equity. Residential customers of the IOU's (such as PGE, PP&L, Puget Sound Power & Light, and Idaho Power Company) will gain access to the power generated at our federal hydroelectric projects. The wholesale cost of power from BPA to serve all residential customers will therefore be the same for all utilities in the region. IOU's will not be permitted to make a profit on this power, so that the full cost benefits of this access will be passed straight through to their residential consumers.

Federal guarantees and subsidies. They are not allowed. The Committee bill states explicitly that all obligations incurred by the Administrator will be secured solely by the revenues generated by his sale of power—in other words, secured only by the region's ratepayers and not by the U.S. Treasury.

Cost effectiveness. The test provided in the Committee bill is the most comprehensive ever applied to power plant decision making. It will compare all incremental costs to the region's power system (including required new transmission) of any proposed new resource, with those of any alternative. Conservation and end-use applications of renewables will be treated like any power generating resource (but no transmission costs are associated with them, which gives them a particular cost advantage). Nuclear plant proposals must include all waste storage, fuel cycle and decommissioning costs. Proposals must show all environmental and social costs and benefits that are quantifiable and directly attributable to the resource. Despite the completeness of this test, there is a further recognition that classic economic comparisons omit certain important values, some non-quantifiable, such as the benefit of using less of our Nation's depletable fuels, and intangible environmental and social benefits of employing conservation rather than building large new power plants. In this regard, the cost-effectiveness test contains a proviso that any conservation measure may cost up to 110% of that of the least-cost nonconservation resource and still be financed and achieved ahead of the non-conservation resource.

Public involvement. The Council must hold at least four regional hearings, one in each State, in the course of developing their power plan, and must hold another four on the question of adopting their final proposal. In addition, each major resource acquisition will require a Council hearing. Each Council member will be accorded money sufficient to assist his or her participation in Council activities, including the provision of staff and the utilization of such advisory committees as each member or each State's governor may choose to establish. As the Council members, except the BPA Administrator, will be appointees of the governors, they will be quite directly answerable to their state's constituents.

Renewable resources. Renewable will be given second priority, behind conservation, for meeting the region's power needs. In addition, the Administrator will have authority to conduct demonstrations in conservation and end-use renewable resource application, and build experimental generating facilities which will utilize renewable energy resources.

Council-administrator relationship. The votes of three members of the five-member Council, including the vote of the Administrator, will be required to adopt the regional power plan. This gives the Administrator a veto, which is necessary to avoid a collision with the U.S. Constitution over inappropriate delegation of powers over a federal agency. Nonetheless, a plan once adopted will be a powerful controlling force in the region's energy future. All resource acquisitions must be consistent with it, unless the Administrator cannot fulfill some statutory responsibility, in which case he must seek an amendment to the plan (triggering four regional hearings by the Council). If the Council leaves him still unable to act to fulfill such requirement, he can then hold an additional hearing and take his findings to Congress, where the Northwest's delegation would essentially have to decide whether to override the Council. An override cannot be made except through passage of an Act of Congress—a new law. This entire process should be sufficiently onerous to prevent its being used except in most unusual circumstances.

The Columbia River fisheries. The Council will obtain annually from the state, federal and Indian fisheries agencies their recommendations for actions which will preserve and enhance the Columbia River salmon and steelhead fishery. The Council will decide what to include in its plan which will then guide the actions of the Administrator. The Administrator will be authorized to conduct fisheries research and development and to acquire and dispose of power and otherwise utilize his resources in whatever manner is most conducive to fish preservation and enhancement consistent with his other statutory obligations.

Conservation. Not only is it the preferred resource for meeting our power needs, it will be pursued by the Administrator unrelentingly, up to 110% of non-conservation resources and without regard to any recent large new generating plant he may have acquired and which may, technically, have provided the region's power needs for some time to come. The Administrator will not reduce his efforts to achieve conservation no matter what other resources he may acquire.

New aluminum plants. BPA may not sell power for new DSI loads, either associated with new plants or existing ones, unless it is consistent with the plan, he determines it to be a cost-effective way to provide new regional reserves, and the Council specifically votes to approve. Alumax, having a power supply contract with BPA but still having been unable to site their plant in the region, is treated by the bill just like any other DSI in the region.

Credits. Any utility or governmental unit which can obtain a resource that is uniquely suited for its development (such as a co-generation project at a local wood products plant) is encouraged to do so by the availability of rate credits from the Administrator. Since such resources will reduce the obligation of the Administrator to go out and find other power resources to meet the load of the utility, which new resources would raise the cost of power to everyone from the base system, the Administrator can offer rate credits to the utility in recognition of the regional saving the utility's action caused.

Cost controls on new plants. The bill requires the Administrator to obtain in contracts whatever terms and conditions are necessary to insure that the costs of any new resource he agrees to acquire will be as low as possible, and that he has the right to effective oversight and audit of all aspects of construction and operation.

"Dry hole" risk. The Administrator will be authorized to make commitments to acquire the capability of new resources. Such commitments, whether for conservation measures, renewables, or thermal plants, will enable the region's utilities and governmental units to finance these new resources much more cheaply than is the case today, since the entire region will stand behind such new resources and share the risks. Should a resource fail, or produce less power than planned (or, in the case of conservation and end-use renewables, should load reductions not be as great as planned), the region will absorb the blow rather than just the ratepayers of a particular utility or the people living in a particular jurisdiction. If the Administrator were not permitted to make such capability acquisitions—if, for example, he were constrained just to purchasing the actual output of the resource, when and if it produced—there would be no financing and cost advantages to the region's ratepayers from his participation.

Grandfathering of plants. There are no provisions in the bill to require the Administrator to acquire any plants now under construction or planned in the region, such as WPPSS 4 and 5, Skagit 1 and 2, or Pebble Springs 1 and 2. There are no provisions biasing any future acquisitions in favor of such plants. They must stand the full test of the bill's acquisition procedures, including cost-effectiveness and conservation priorities, like any other resource that may be proposed. (Note: WPPSS 1, 2 and 3 and Eugene's 30 percent share of Trojan are already part of the federal base system from contractual net-billing agreements between BPA and the public-system sponsors of these resources consummated a decade ago.)

State jurisdictions. The bill explicitly preserves state facility-siting and ratemaking authorities.

Mr. McCLURE. Mr. President, I am pleased to participate in the presentation of S. 885, the Pacific Northwest Electric Power Planning and Conservation Act, to the Senate at this time.

At the outset of this discussion I want to commend my two colleagues on the committee from the Pacific Northwest who have worked so closely with me to build a consensus position on this bill, the Senator from Washington and our chairman, Mr. JACKSON and the Senator from Oregon and our ranking minority member, Mr. HATFIELD. Through countless hours and days spent over the past several years, both here in Washington and at home in the region, my colleagues and close friends, Senator JACKSON and Senator HATFIELD, have labored tirelessly to produce the consensus legislation before the Senate today. I take this opportunity to thank them for their continued efforts to produce their legislation and their unprecedented contribution in seeking a regional consensus on this most important of bills for the future of the entire Pacific Northwest region. On behalf of my constituents in Idaho and this Senator, I want to thank them very sincerely for their efforts.

Mr. President, I am convinced that the bill before the Senate will establish an objectively balanced foundation for regional cooperation in the planning and implementation of the electric power future of the Pacific Northwest in the years and decades ahead. Many of our constituents would agree that the original construction of the Federal hydroelectric system in our region and the subsequent hydrothermal accords dealing with additional regional power cooperation constitute two strategically important milestones or benchmarks in the historical development of the entire Pacific Northwest region. I would humbly suggest, Mr. President, that S. 885 will become recognized as a third major benchmark for the future development of the Pacific Northwest. Accordingly, I am convinced that the action of the Senate today is of critical importance in support of that continued development.

This Senator, despite a currently popular and for some, politically appealing notion that there is no further need for electric power generation in the United States to support economic growth, is absolutely convinced that there remains an inextricable linkage between increased electric power generation capacity and the steady and predictable economic growth which is essential to meet the needs and provide the social basis for the future of the Pacific Northwest. There is absolutely no doubt in my mind that the Pacific Northwest must have additional power resources in the decades ahead to support minimum levels of required economic growth, let alone levels of economic growth which will provide the same kinds of opportunity which my generation had in the Pacific Northwest.

I consider it my responsibility and the responsibility of all the Representatives of the region to insure the predictable availability of that needed electric power for our future growth. To do anything else would be to deny our children and their children the opportunities which we have had and to fail our responsibilities to future generations who will wish to share the truly unique qualities of our region. This bill, S. 885, will hopefully provide the basis for an optimistic and successful approach to providing that future.

Mr. President, I am particularly pleased that, in the consensus process by which we have developed this bill, I was successful in restoring to the bill the mandatory balance between the Federal Administrator of the Bonneville Power Administration and the people of the Pacific Northwest. This balance was restored through a series of amendments throughout the bill to circumscribe the otherwise unconstrained authority and discretion of the Administrator in carrying out the vast new authorities given to him in this bill.

At the outset of our markup efforts in committee, the bill as proposed would have reduced the region and its representatives to mere advisory capacity. The various customers and consumers dealing with the Administrator in the region would have been subject to power allocation, ratemaking, resource acquisition and conservation measure implementation, which would have been completely within broad discretionary powers of the Administrator.

Virtually none of these authorities would have been subject to any administrative procedure protections nor any reasonable judicial review. Additionally, much of the text of S. 885, as introduced, contained such gross ambiguities and undefined terminology, as to render any guidance contained in that bill relatively powerless as a constraint on the Administrator's discretion. I was convinced at the time, and remain convinced now, that adoption of that original would have effectively conveyed nearly complete discretion for the future electric power and economic development of the Pacific Northwest to the Bonneville Administrator. I do not mean to imply any general or specific intention nor motivation for this result, nor do I intend to suggest any avarice or malice on the part of the current Administrator or any future Administrators. Rather, I am expressing a personal legal opinion as to the grant of authority by the Congress which would have occurred under the original bill. As I said before, I am particularly satisfied that our consensus process has restored a balance and a control element in this bill before the Senate.

At this point, it might be useful to review the nature of some of the specific improvements which I believe were the result of my requests in the consensus process.

The definitions in section 3 have been sharpened materially in order to avoid any uncontrolled discretion or potential abuses which might have occurred as a result of the original ambiguities and choice of terminology.

Most importantly, by definition, the first 400 horsepower of farm irrigation and pumping for any farm will be treated as a residential load and thereby will qualify for the lower Bonneville rate under this bill.

The Administrator of BPA will not be designated by statute as the chairman of the regional planning council, but rather the council will make its own decision on a chairman. For myself, I would hope that the council will adopt a rotating chairmanship among the State representatives, and not the Administrator.

The Bonneville Adminstrator will have no power to appoint a State's representative, as proposed originally. Additionally, the representative of a State on the council can be made subject to confirmation by the State legislature.

The council shall have statutory authority to determine whether or not key actions of the Administrator are pursuant to the regional plan under the bill, rather than be purely advisory as originally proposed. Additionally, the Administrator must implement authorities under the bill whenever feasible in a manner consistent with the regional plan, and when he does not, he must utilize a very detailed procedure to seek an alternative approval, including formal hearings, administrative procedures, congressional action, and judicial review.

A majority vote of the full council will be required prior to any imposition of punitive, penalty rate surcharges on the customers of a given service area for failing to implement any specific conservation measures.

The BPA Administrator will be required by law to insure that any restrictions on power sales or allocation under the bill are distributed equitably throughout the region and cannot be allocated in an arbitrary or capricious fashion.

Several highly important formulas for determining rates under the bill will be made subject to specific approval by the council, rather than left to the discretion of the Administrator as originally proposed.

The Administrator's actions in obtaining new electric power resources and in implementing conservation measures will be constrained by a requirement for strict consistency with the regional plan adopted by the regional council.

The Administrator's authority to make major investments in conservation demonstrations and research and development projects will require the review and approval of the Congress, thereby protecting the rights of the region's ratepayers.

All new electric power resources required to replace the original Federal base system, primarily the hydroelectric system, will be subject to all of the requirements and procedures of this bill, so that the obvious future requirements for replacement power will not constitute a loophole in the regional system.

The Administrator's authority to grant billing credits for new electric power capacity and to provide preconstruction assistance to sponsors of new capacity have been limited by a requirement for consistency with the regional plan or in the alternative, strict procedures for approval.

Any new direct service industry customer must be expressly approved by a majority vote of the full council, as well as be consistent with the adopted regional plan.

The Administrator is statutorily required to insure that all of the benefits in the area of new resources and conservation implementation, such as financial and technical assistance, conservation demonstrations and experimental projects are distributed equitably throughout the region.

The Administrator's ratemaking under the bill must be approved by the independent Federal Energy Regulatory Commission and will be subject to strict administrative procedures and judicial review involving the requirement for the Administrator to affirmatively prove that his rates are consistent with the criteria in the bill. Additionally, for several key determinations in the ratemaking formulas, such as for direct service industries, the council must make the required determination or the Administrator must proceed by formal rulemaking. These requirements accompany a general sharpening of the criteria in ratemaking to remove ambiguities which gave the Administrator broad discretion.

The bill now contains an express provision to preserve the full rights of States and the region regarding jurisdiction over State waters. Consequently, despite the broad new authorities for regional power activities granted to the BPA Administrator in this bill, there should not be any reduction in the control of the individual States over their precious water resources in the future.

Mr. President, I consider that the above modifications in the bill, as well as a series of other technical changes in the original draft presented to the committee last month, make a truly important and significant difference in the complexion of this bill and its implications for a balanced and objective Pacific Northwest regional power future. The rights of the States will be strictly protected through their representation on the regional council and its role in establishing and enforcing a regional plan. The rights of the many participating utilities, both public and investor-owned, in the region will be protected through the more precise criteria and terminology in the bill, and related administration and judicial protections.

The rights of the ratepaying consumers in the region will be protected by the far more constrained discretion on the part of the Administrator to expend and oblige regional power revenues. These consumers will not be penalized punitively by rate surcharges in the name of energy conservation measures unless there is a consensus in the region through the council to do so. The Federal Government's role in this regional power concept is far more predictable and definitive to allow a careful balancing of the relative roles and prerogatives of the States and the Federal Government.

In sum, the regional power concept contained in this bill has been restored to an objective and balanced equation among all of the parties in the region with protected equality among each of the several parties.

Again, Mr. President, I wish to commend my colleagues from the Pacific Northwest region for their extreme diligence and seemingly endless patience for the past several years in the near continuous efforts to bring this bill before the Senate today. The balance and objectivity carefully crafted and perfected in the bill now, as I have described in some detail, is a tribute and a memorial to their diligence and patience.

I sincerely hope that our colleagues and good friends in the other body will be successful in completing their work in a similarly crafted piece of legislation in the weeks ahead. I certanly wish them well in that endeavor and commend to them the process by which we have come to this bill today. Thank you.

Mr. MAGNUSON. Mr. President, I congratulate the Senate Energy and Natural Resources Committee for completing action on the Pacific Northwest Electric Power Planning and Conservation Act and reporting it to the floor. I know that the committee has worked very hard on this matter. The Energy Committee held 4 full days of field hearings in the Pacific Northwest on the regional power issue in the spring of 1978, and 2 days of hearings in Washington, D.C., last fall. During the 96th Congress, the Energy Committee held 2 more days of hearings in May of this year. These extensive hearings have provided an opportunity for all of the various interests in the Pacific Northwest to be heard on this most important issue.

I want to especially thank the distinguished chairman of the Energy and Natural Resources Committee, my good friend and colleague from the State of Washington (Mr. JACKSON) for his patient leadership on this most difficult issue.

I would also like to take this opportunity to compliment all of the individuals and organizations that have worked so hard to improve this complicated piece of legislation. As part of the legislative process, compromises have been made to accommodate the concerns of a number of interests. The Energy Committee has strived to develop a workable, fair bill. I know that there are still some differences about some of the provisions of this bill. I am sure that these issues will be considered as the House works on this legislation.

Mr. President, the consideration of

the Pacific Northwest Electric Power Planning and Conservation Act has a special significance for me. As some of my colleagues will recall, I was a freshman Congressman in the House of Representatives in 1937 when the Congress passed the Bonneville Project Act, authorizing the construction of the Bonneville Dam by the Corps of Engineers. That bill provided that the electric power generated at the dam should be marketed by a Bonneville Power Administrator to be appointed by the Secretary of the Interior. The Administrator was authorized to construct, operate, and maintain transmission lines necessary to market the power.

The Bonneville Power Administration, through subsequent legislation and interpretation of the act, has become a major part of the electric power system in the Pacific Northwest. The Federal Columbia River Power System, for which BPA is the marketing agency, had 30 hydroelectric power projects in operation in 1978 with a total generating capacity of 16,441 megawatts. In that year, the system represented 54 percent of the region's total electric generation. Clearly, the Federal hydroelectirc system and the Bonneville Power Administration have played a vital role in building the economy of the Pacific Northwest.

Mr. President, the Pacific Northwest now stands at the threshold of a new energy era. Historically, over 90 percent of all the electricity in the region was produced from hydroelectric dams. These dams produced some of the cheapest electricity in the world. Between 1937 and 1966, the unit cost of electricity in the Northwest actually declined—each new unit of power lowered rates to the consumer.

But there is general consensus now that most of the major, environmentally acceptable hydroelectric sites in the region have been developed. That means that future requirements for electricity will have to be met by conservation, renewable resources including small hydro projects, generating resources utilizing waste heat, generating resources of high fuel conversion efficiency, and finally, by new thermal plants. All of these sources of energy will be more expensive than the power from our existing hydroelectric dams. In fact, it has been estimated that the retail cost of electricity may double in the Pacific Northwest by 1985. New electrical growth will increase everyone's electric bill.

With this inevitable increase in the cost of electric power, I am pleased to note that this bill affords some mitigation and protection for residential customers throughout the region, while protecting the principles of public power that have distinguished the history of Washington State. Under the bill, public bodies and cooperatives entitled to preference and priority under the existing Bonneville Project Act are to receive new requirements contracts that provide power at the Administrator's lowest rate. Investor-owned utilities are to receive requirements contracts that provide power at a new resource rate, and are permitted to exchange with the Administrator an amount of power sufficient to serve their residential and small farm loads. This exchange power will also be sold at the Administrator's lowest rate, with the cost benefits of the exchange required to be passed through directly to the residential and farm consumers involved.

This legislation protects the preference clause. Public bodies and cooperatives entitled to preference and priority under the Bonneville Project Act may not be subjected to restrictions on the amount of power sold them unless and until their loads exceed the amount of Federal base system resources. The bill also provides that rates charged such public bodies and cooperatives may not exceed a limit designed to reflect the power costs that the public bodies and cooperatives would have experienced in the absence of this legislation.

Mr. President, I believe that this bill goes a long ways toward striking the difficult balance between short-run, economic concerns, and long-run considerations of investment, wise use of energy, and the protection of the natural environment.

Both short-run and long-run needs are important. Fortunately, in many instances these needs are compatible. A prime example is energy conservation that is cost effective.

Mr. President, I am pleased to note that the legislation requires conservation to be treated as the region's first priority resource, and renewable resources to be treated as the second priority resource, ahead of all other resource types. The legislation requires model conservation standards to be adopted as part of a regional plan. Savings from such a standard are to be assured by rate surcharges, if recommended by the Council, of up to 50 percent in the event of nonattainment of expected load reductions.

The Administrator is required under the bill to rely upon conservation to the maximum extent it is feasible and cost effective, to provide financial assistance for conservation and renewable resource purposes, and to continue conservation efforts even if he possesses an adequate supply of power. To help accomplish this task, the existing Bonneville Power Administration borrowing authority is increased by $500 million under the legislation to aid in the initial funding, after fiscal year 1980, of conservation and renewable resource efforts, as well as other resource activities. Conservation measures, which are treated as a resource, are to be compared with other resources available for acquisition. Conservation resources are to be considered cost effective under the legislation if their lifecycle incremental system costs are less than or equal to 110 percent of the lifecycle incremental system costs of alternative nonconservation resources. Moreover, the Administrator is required under the legislation to grant rate credits to utilities or local government conservation efforts that will achieve extra savings, and for renewable resources or multiple purpose projects which reduce demands on the Administrator and allow the Administrator to avoid acquiring other resources.

Mr. President, I believe that this legislation provides the framework for the Pacific Northwest to become the model for the rest of the Nation in energy conservation. An aggressive energy conservation program will meet both the short-run need to minimize future electric power rate increases and long-term needs to provide adequate energy while protecting the natural environment. Thus, by putting conservation first, this bill advances the common purposes of the people in the Pacific Northwest.

Mr. President, as the cost of energy goes up, the need to involve the public and elected officials in energy decisions will increase. As a recognition of this fact, the legislation establishes a Pacific Northwest Electric Power Planning Council to consist of the Administrator of the Bonneville Power Administration and four appointees of the Governors of the States in the region.

The Council is authorized to direct preparation of a regional power plan, among the components of which will be a 20-year load forecast, a scheme for resource acquisition by the Administrator to meet such loads, and model conservation standards to set the norm for the region in achieving load reductions which will be the priority power-related resource. Public involvement in planned development through regional hearings is mandated by this legislation.

As the region develops its energy plan, the citizens of the region must look to the Governors—who have greatly improved this legislation through their constructive suggestions—and the Bonneville Power Administration, which continues to serve the region loyally and capably.

Mr. President, under this legislation the Pacific Northwest taxpayers would continue to pay all costs necessary to meet the region's electric power requirements, including repayments with interest of the Federal investment in the Federal Columbia River power system. The legislation requires that all obligations of the Bonneville Power Administration Administrator incurred under this act shall be secured solely by his revenues from the sale of power and other services. This provision makes explicit in this act the self-financing requirements of the Federal Columbia River Transmission System Act of 1974. I am particularly pleased, as chairman of the Appropriations Committee, to note that this self-financing provision means that all costs incurred by BPA under this act will be paid by BPA's own customers, and not by the U.S. Treasury or the U.S. taxpayer. Moreover, the purchase provisions in this act will allow the region to aggressively pursue conservation, renewable resources, and cogeneration and high efficiency resources. If these forms of energy are not adequate to meet the region's needs, purchase provisions will help minimize the cost of building new thermal plants.

In closing, Mr. President, let me say that I believe that this legislation represents a very good start in our efforts to address the energy challenges facing the Pacific Northwest. No doubt, additional changes will be made by the House of Representatives as it works on this legislation. Senate passage of this legislation today will continue the process of forging a program that will meet the energy needs of the Pacific Northwest in the years to come.

When Congress voted to establish BPA in 1937, we had a lot of argument about whether we should set up this marketing agency.

BPA has survived for a long time, and served the region well.

The time has come to revise BPA and bring it up to date. I think this bill does that.

UP AMENDMENT NO. 510

Mr. JACKSON. Mr. President, I send to the desk two amendments to clarify the intent of S. 885.

The PRESIDING OFFICER. Does the Senator desire that they be considered en bloc?

Mr. JACKSON. I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Washington (Mr. Jackson), for himself, Mr. Hatfield, and Mr. McClure, proposes amendments en bloc numbered unprinted amendment No. 510.

The amendment is as follows:

On page 58, line 9, strike the comma after "code", and insert in lieu thereof a period. Strike the remainder of the sentence on lines 10 and 11.

Page 51, line 22, insert a new subsection 7 (1), as follows:

"(1) In establishing rates under this section, the Administrator shall use the following procedures, which procedures shall be established by rule.

(1) Published the initial proposed rates in the Federal Register with a statement of the justification and reasons supporting such rates pursuant to this section;

(2) Appoint a hearings officer empowered to conduct ratemaking hearings and to administer oaths;

(3) After a reasonable time, conduct one or more hearings to receive public comment in the form of written and oral presentation of views, data, questions and argument, related to such proposed rates. In any such hearing any party shall be provided with the opportunity to offer refutation or rebuttal of any material submitted by any other party. The hearings officer, in his discretion, may allow for limited cross examination in any such hearing to develop fully any essential fact which is material and relevant directly to any such proposed rate.

In his discretion, the Administrator may hold such additional hearings as he believes are necessary for the full development of the records;

(4) In addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions and argument submitted by interested persons before the close of hearings shall be made a part of the administrative record;

(5) Based upon review of the full record adduced at any such hearings and written submissions, the Administrator shall publish the revised proposed rates in the Federal Register. Such rates shall be subject to an additional hearing or hearings using the procedures of (2) and (3) above, after which the Administrator shall make a final decision based on the record of all written submissions and all hearings. The decision shall include a full and complete justification of the final rates pursuant to this section.

(6) The final decision of the Administrator shall be reviewed and approved by the Federal Energy Regulatory Commission pursuant to subsection 7(a). The Commission shall have the authority to approve the final rate submitted by the Administrator on an interim basis, pending its final decision;

(7) Judicial review of any rate approved by the Commission shall determine that the Administrator, in establishing such rate, has borne affirmatively the burden of proof on the basis of the administrative record developed pursuant to this subsection."

On page 29, lines 16 and 17: strike "Upon the adoption of", and insert in lieu thereof, "If the Council so recommends in"; and strike "by the Council".

Mr. JACKSON. Mr. President, the first amendment clarifies the ratemaking procedures to be followed and the standard of judicial review applicable to rate determinations under this act.

The amendment is necessary to clarify an ambiguity resulting from the committee's adoption during the markup of provisions relating to judicial review of rate determinations.

This amendment is a useful first step in developing a definitive rate procedure applicable to rate determinations under this act. The amendment codifies the BPA ratemaking procedures and provides an opportunity for judicial review of BPA rates.

The ratemaking process is extremely important. The economic consequences of rate determinations and the overriding need that such determinations be made in a timely manner argues for a thorough but expeditious procedure with an opportunity for review. I would caution that we need to be very careful that the procedure which is ultimately approved by the Congress is workable and will not result in unnecessary delays which do not contribute significantly to exposition of the issues involved in rate determinations. I would hope that in the weeks and months ahead we can give this issue the additional careful attention it requires and that we take advantage of the advice and expertise of knowledgeable parties in the Northwest to make sure that we will achieve the desired results.

Mr. President, the second amendment is a technical amendment to clarify the intent of section 4(h) regarding fishery coordination.

I especially wish to thank the junior Senator from Idaho (Mr. McClure) for his cooperation and his help in working out the amendments in question.

Mr. MAGNUSON. As I understand the first amendment, if someone did not like the rate structure handed down by the Commission or the group they could go into court and there would be judicial review; is that correct?

Mr. JACKSON. The Senator is correct. It does establish the right of judicial review, and the way in which the record in rate proceedings is made.

Mr. MAGNUSON. I thank the Senator.

Mr. JACKSON. The distinguished senior Senator from Oregon (Mr. Hatfield) played a very important part in this legislation.

May I say, as I said in my opening remarks, there has been unanimous bipartisan support for this legislation; that applies to the junior Senator from Oregon (Mr. Packwood) as well and, of course, I have already mentioned Senator McClure.

It has been a bipartisan effort all the way through. We have set a good example of how to get something accomplished through working out the varying points of view.

I want to commend all the Senators for their help.

Mr. President, I know of no opposition to the amendments that are being considered en bloc, and I think we are prepared to vote on them.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc of the Senator from Washington.

The amendments, en bloc, were agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the votes by which the amendments were agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 511

Mr. JACKSON. The senior Senator from Washington, I believe, has an amendment.

Mr. MAGNUSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. Magnuson) proposes an unprinted amendment numbered 511.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Page 26, line 21, strike out "and"; and insert after "(h)"; "and (m)".

Page 45 after line 15, insert the following:

'(m)(1). The Administrator is authorized and directed to investigate opportunities for adding to the region's power resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the region, if such resources are renewable resources, and are now or in the future planned or considered for eventual development by non-regional agencies or authorities that will or would own, sponsor or otherwise develop them. The Administrator shall keep the council informed of such investigations as they progress, and seek from the council its advice as to the desirability of pursuing such investigations further.

(2) The Administrator is authorized to acquire resources of the type identified in this section, and to enter into such contracts or agreements as may be necessary to facilitate such acquisitions, if he determines that such resources meet the criteria of this section and that such acquisitions are consistent with the plan; provided, that if the Administrator determines that such acquisitions are not consistent with the plan or in the absence of a plan, the Administrator may acquire such resources, which he determines, after compliance with section 6(c) are consistent with section 4(e).

(3) The Administrator shall conduct the investigations and the acquisitions, if any,

authorized under this section with the assistance of those departments or agencies of the Federal government whose responsibilities include negotiation of the type of contracts or agreements that would be necessary to facilitate an acquisition under this section.

(4) No later than January 1, 1981, and thereafter not less frequently than once each year, the Administrator shall submit to the Congress a report that outlines investigations undertaken pursuant to this section, together with the prospects for obtaining additional resources under the authority granted by this section.

(5) The authority granted in this section shall not diminish or abridge any other authority of the Administrator to carry out similar activities under this Act or other Acts.

Mr. MAGNUSON. Mr. President, the purpose of my amendment is to add to the power available in the Pacific Northwest by accelerating the development of renewable resources outside the region. This amendment could postpone or even eliminate the need for certain generating facilities inside the Pacific Northwest.

The Northwest Regional Power legislation gives strong support to conservation as a desirable power resource that can take the place of at least some generating facilities that would otherwise need to be built within the region. This amendment would authorize the administrator of BPA to identify and acquire another potential class of power resources that might postpone or even avoid the need for certain generating facilities inside the region: generating resources outside the region which would eventually be built in any event and that rely upon renewable resources.

I know that the distinguished chairman of the Energy and Natural Resources Committee has played a major role in the events that made similar resources available to the Northwest in the past. My distinguished colleague from Washington is familiar with the circumstances under which the Bonneville Power Administration now receives large quantities of power as the result of cooperative development between the United States and Canada of major hydroelectric facilities and storage reservoirs in British Columbia. These resources, whose development has been and will continue to be highly beneficial to the Canadians, were built as a result of the Canadian treaty. Most important, they are resources the Canadians would eventually have built themselves, but whose construction ahead of schedule has provided substantial power benefits to the northwest United States. These benefits include an adequate power supply, lower power costs, and avoidance of the need to construct additional thermal plants in the Pacific Northwest States. For their part, the Canadians have received a long-term power supply, lower imbedded costs, and the security of knowing that the resources will be available when Canadian loads require them.

I feel strongly that similar opportunities exist again for cooperative development with other regions. Unfortunately, little work appears to have been done in the recent past to determine whether additional projects, already in the planning stages outside the region, could be accelerated in order to help avert or minimize projected firm energy deficits inside the Pacific Northwest.

For instance, I understand that B. C. Hydro, the British Columbia power authority, has already identified several potential generating projects that may produce very substantial amounts of power. All of these projects would be located in British Columbia. Several very large hydroelectric projects appear to be among those that B. C. Hydro has investigated. Some of these projects may face insurmountable environmental or technical problems, but if any are eventually built, they will be built in order to meet anticipated Canadian demand.

Without having consulted B. C. Hydro, and without wishing to suggest that the United States has any entitlement to the United States as quickly as possible to see if the early development of one or more of these projects might not offer substantial benefits to the citizens of both countries. It is conceivable that there are opportunities for cooperation that would build upon the cooperative foundation already present in the existing treaty with Canada.

By mentioning the B. C. Hydro projects specifically, I do not mean to limit the potential projects outside the Northwest that should be considered. Many other projects in other areas may be worthy of consideration, depending upon advances in transmission technology or the existence of unexploited and relatively benign generation possibilities in other regions. Any project that relies on renewable resources, and could be built at an earlier rather than a later date, should be explored if it offers potential power benefit to the Pacific Northwest and the region in which the project itself would be located.

However, I want to make it clear, that this amendment is not intended to establish an inter-region electrical grid system.

Mr. President, this amendment would authorize and direct the administrator of the Bonneville Power Administration to investigate opportunities for adding to the region's power resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the region, if such resources are renewable resources, and if such resources have already been planned or considered for eventual development by the agencies or authorities that will or would own, sponsor, or otherwise develop them.

The administrator is directed to keep the council informed of such investigations as they progress, and seek from the council its advice as to the desirability of pursuing such investigations further.

The amendment would also authorize the administrator to acquire resources of the type that I have just discussed, and to enter into such contracts or agreements as may be necessary to facilitate such acquisitions, if the Administrator determines that the resources meet the the criteria I have discussed above and the acquisition of the resources will, in a cost-effective manner, add to the region's resources or reduce the region's power costs; provided, that such acquisitions are consistent with the plan.

This amendment also provides a procedure for the Administrator to acquire these resources when he determines that such acquisitions are inconsistent with the plan, or in the absence of a plan. Under these circumstances, the Administrator may acquire the resource if he determines, after compliance with section 6(c), that it is consistent with section 4(e). The amendment would also give the council the authority to review such determination, as outlined in section 4(d).

The amendment would also direct the Administrator to submit a report to Congress once each year that outlines his investigations undertaken pursuant to this amendment, together with the prospects for obtaining additional resources under the authority granted by this amendment.

I want to make it clear that power obtained in this manner is not likely to be cheap. All new power resources are expensive, and in the case of resources outside the region pricing policies are subject to decisionmaking over which we have little effective control. But, from a supply standpoint alone, such resources should be extremely beneficial to the Northwest; acceleration of an already-planned project represents, along with conservation, the best short-term and mid-term method of meeting Northwest power needs. The firm power deficits projected for the 1980's under critical water conditions cannot, at this late date, be met by any fresh start on new thermal resources inside the Northwest. Therefore, I urge the adoption of this amendment.

I have discussed this with my colleague, and I do not know whether the other Senators are familiar with it, but he is willing to accept the amendment.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. JACKSON. I want to thank my friend and colleague from the State of Washington (Mr. MAGNUSON) for offering this most useful amendment to the Northwest Electric Power Planning and Conservation Act. Senator MAGNUSON and I have both been involved in the cooperative efforts between Northwest utilities and the Canadian Government to develop resources in Canada that benefit consumers in that country and the United States.

I agree with my good friend from the State of Washington that in the future there may be other renewable resource projects that are planned or under consideration outside the Pacific Northwest that could be accelerated. Clearly, the administrator of the Bonneville Power Administration should have the authority to investigate these projects to determine whether an accelerated construction schedule was in the best interest of all the parties involved.

In situations where the accelerated cooperative development of resources located outside the region would be cost effective and add to the region's power supply, the administrator would be able to acquire power from the resource if such acquisitions are consistent with the plan. If such acquisitions are not consistent with the plan or in the absence of a plan, the administrator would have to comply with the applicable provisions of section 6(c) and determine that the resource is consistent with section 4(e) before acquiring the resource. The council would be able to review such a determination.

Mr. President, I believe this will be a very helpful amendment. It will promote further exploration of opportunities for the Northwest to cooperate, with Canada, and with other regions of the United States.

I am hopeful we will be able to find situations that will provide benefits to consumers in the Pacific Northwest, and I am very pleased to accept the Senator's amendment. I am sure it is agreeable to the other side.

Mr. HATFIELD. Mr. President, it is perfectly agreeable on our part to accept this amendment by the Senator from Washington, and I think it improves the bill and certainly broadens the opportunity to develop the renewable resources of the Northwest.

Mr. MAGNUSON. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. JACKSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. I yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I wish to expand upon my earlier remarks and to express my appreciation to the Senator from Washington (Mr. JACKSON) and to the ranking Republican on the committee, the distinguished Senator from Oregon (Mr. HATFIELD) for the cooperation we have had in very difficult negotiations trying to make certain the language of this bill stated exactly what we meant, and I think we have achieved that objective.

It has not always been easy. It took hours and hours of work. I certainly could not pass the opportunity to commend my staff and the senior staff, Dan Dreyfus, and Steve Hickok on the minority side; and Chuck Trabandt of the committee staff, and Tom Hill of my staff.

Mr. President, I want to mention just two things in passing. One is that in the amendment which has been offered by Senator JACKSON, Senator HATFIELD, and myself with respect to the rate structure, which deals with the process at the ratemaking hearings, and for the hearings officer, in his discretion—I quote from the language of the amendment:

> The hearings officer, in his discretion, may allow for limited cross examination in any such hearing to develop fully any essential fact which is material and relevant directly to any such proposed rate.

Mr. President, that provision is intended to give the hearings officer the opportunity to limit the amount of cross-examination which may take place at any of the hearings in the rate determination, but it is not intended and should not be read to allow the hearings officer to completely exclude the cross-examination of the administrator's witnesses.

I think a fair reading of the requirement in the context of the amendment would indicate that, yes, it should not be interminable, because there is almost total access for interested parties to the hearings process and for putting material in the record. The hearings officer may have to, as a matter of practice, limit the number of people who are permitted to cross-examine, but not to the extent of fully excluding those who might produce evidence or ask questions that were necessary to develop fully any essential fact which is material and relevant directly. And, if, as a matter of fact, the records of all of the proceedings, the administrative record which goes to the court for review, would indicate that the hearings officer had totally excluded that opportunity, and that the opportunity was focused upon such material and relevant essential facts, the court could then remand the proceedings back to the Administrator for further proceedings. The court could upset the rate if as a matter of fact the hearings officer took that action.

I think there is one other area in this amendment that needs a possible clarification, and that is with respect to the question of whether or not the Administrator is a party in the hearing, because under the first part of the amendment, under subsection (3), there is the reference that:

> In any such hearing any party shall be provided with the opportunity to offer refutation or rebuttal of any material submitted by any other party.

The Administrator and his expert witnesses are a party within the meaning of that section, so that the opportunity to refute is accorded to people who may be in opposition to what the Administrator and his witnesses have indicated.

There are two other matters that I think might well be clarified. One is in paragraph 7(i)(7) of the amendment, which refers to the burden of proof. It is very clear that the burden of proof is initially on the Administrator to sustain the rate structure which he has proposed, and that burden of proof remains with the Administrator through to the judicial review of the administrative record. And, the judge must find that that burden has been carried on the administrative record in order to sustain the rate, in the event it is carried to judicial review.

Mr. MAGNUSON. As I understand it, the burden of proof is on the Administrator to justify the rate.

Mr. McCLURE. The Senator is correct.

Mr. MAGNUSON. That should be made clear, and I am glad that the Senator from Idaho has made it clear.

Mr. McCLURE. I thank the Senator. It is, I think, clear in the wording, and I agree with the Senator that it should be made absolutely clear in the legislative history as well.

I think it is important to point out that they will be required also that in meeting that burden of proof, the BPA must include a showing that embedded costs are applied even-handedly to all classes of customers. This would include identifying the component parts of these costs in a manner everyone will understand.

I think the meaning of this amendment is clear. I think it assures that all of the parties who are affected by the rate structure and the distribution of power will be treated in a fair manner. It gives the BPA Administrator the authority that he must have, at the same time carefully making certain that there is no abuse of that authority.

The PRESIDING OFFICER (Mr. FORD). The question is on agreeing to the committee amendment in the nature of a substitute.

Mr. METZENBAUM. Mr. President, may I ask a question of the author of the amendment?

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, we are not under any time restraints.

Mr. METZENBAUM. Will the Senator from Idaho yield for a question on his amendment?

Mr. McCLURE. I am happy to yield for a question.

Mr. METZENBAUM. I understand this is an amendment in the nature of a substitute for the entire bill.

Mr. McCLURE. No, the amendment I have been discussing is the committee floor amendment that deals with ratemaking procedures. It is a substitute for one subsection of the bill.

Mr. METZENBAUM. Is there anything contained therein that would provide any exemption from the antitrust laws?

Mr. McCLURE. Nothing of that kind is contained in the committee floor amendment I have been discussing.

Mr. METZENBAUM. Is there anything in this amendment that would free an electric generation facility owned by a group of utilities from effective regulation by the Federal Regulatory Commission?

Mr. McCLURE. Absolutely not. If anything, under the committee floor amendment, they would be freed from no existing regulation, but they would be subject to some additional regulation that is not there now, with respect to the merging of the rates.

Mr. METZENBAUM. But there would be no lesser amount of regulation provided?

Mr. McCLURE. The Senator is correct.

Mr. METZENBAUM. I thank the Senator from Idaho.

Mr. MAGNUSON. As a matter of fact, it tightens it up.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I yield to the Senator from Idaho.

Mr. CHURCH. Mr. President, I am pleased to lend my strong support to S. 885, the Northwest power bill. I believe this legislation will not only insure the most efficient and least costly utilization of electricity in the northwest region of this country, but will also permit the individual States involved to play a major role in the formulation and implementation of these policies. While the administrator of the Bonneville Power Administration will have the flexibility to perform his duties without facing onerous constraints, which can only serve to hamper his ability to respond quickly to important issues at hand, the States will also play an essential role in developing the policies which will serve to provide direction to the Administrator.

I am particularly pleased that the language of this bill provides for the selection of a Council Chairman by a vote of all its Members; that it provides certain constraints upon the Administrator until a plan has been approved by the full Council; that it provides dispensation for farm irrigation and farm pumping; and that it provides for special consideration of the preservation and enhancement of the fish resources of the Columbia River and its tributaries. I would like to commend my colleague and good friend from the State of Washington, Senator JACKSON, for his leadership and understanding in the development of this legislation. It is largely because of his efforts that the final provisions of this bill will prove to be beneficial to the entire northwest region and still address my concerns regarding specific interests of my State.

A generous measure of credit also belongs to my colleague, Senator MCCLURE, and to the other Senators from the Northwest who have joined together to make this bill possible.

Because this legislation represents a first attempt at managing such a large power system on a regional basis, we must not dismiss the possibility that certain portions may require modification somewhere down the road. For this reason, we must not lose sight of one of the cornerstones of this legislative effort—to encourage the development of renewable energy resources. The congressional oversight provisions of this bill will permit us to reexamine any portions of the law which prove to discourage, instead of encourage, such developments. I am optimistic, therefore, that the direction of this legislation can only serve to greatly promote such renewable resource projects. I wholeheartedly urge my colleagues to support this bill.

The PRESIDING OFFICER. Is there further amendment?

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 512

(Purpose: To include certain areas of Nevada within the definition of "Pacific Northwest, region, or regional")

Mr. CANNON. Mr. President, I have an amendment at the desk. I ask that it be stated.

THE PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) for himself and Mr. LAXALT, proposed an unprinted amendment numbered 512.

Mr. CANNON, I ask unanimous consent that further reading of the amendment be dispensed with. I shall explain the problem.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, insert the following between lines 16 and 17: For the purposes of this subsection areas in the State of Nevada within seventy-five airline miles from said region which are not part of the service area of a distribution cooperative served by the Administrator shall be included in said region.

On page 54, line 14, strike "region.'." and substitute "region. For the purposes of this subsection areas in the State of Nevada within seventy-five airline miles from said region which are not part of the service area of a distribution cooperative served by the Administrator shall be included in said region.".

Mr. CANNON. Mr. President, I say to the chairman and the ranking minority member on the bill, in the northern part of Nevada, within 75 miles of the service area of the Bonneville Power Administration, there are a number of ranchers and some small communities that are not currently served as a part of any service area presently being served by the Bonneville Power Administration or by the co-ops that service part of my State with power from this source.

On the westerly side, we have Harney Electric, a co-op which receives BPA power and services the north part of the State of Nevada. On the east, we have Wells Rural Electric, that gets power out of Idaho and out of Bonneville and services some of the eastern part of the State. As a result of this situation, there is an area of some ranches and small communities but, as I said, within 75 miles of the present service area, not now served by Bonneville power. As a result, the prices that they pay are very, very inequitable. There will be a ranch in one location paying a power bill that is maybe 10 times that of his neighbor who is not a great distance away, simply by reason of the service areas.

I pose this question to my distinguished colleague: Based on that premise and the fact that the areas are within the 75-mile range, I ask if the law as now drafted would permit an existing co-op receiving power from BPA to extend service to these areas provided the residents elected to join up with those particular co-ops in accordance with the State law?

Mr. JACKSON. The Senator is correct. As I understand the situation, the Harney Electric Cooperative runs up to the border with Idaho——

Mr. CANNON. And is in Idaho, as well.

Mr. JACKSON. Across the border, then—is now being served by Bonneville.

Mr. CANNON. The Senator is correct.

Mr. JACKSON. Then there is an area to the east of the Harney service area which involves approximately 8,000 people—ranches, small towns, and communities—that is not now being served by Bonneville.

Mr. CANNON. That is correct.

Mr. JACKSON. Then to the East of that area is the Wells Rural Electric Cooperative. Wells is now being served by Bonneville.

Mr. CANNON. Wells Rural Electric is receiving Bonneville power and power out of Idaho.

Mr. JACKSON. For distribution; is that right?

Mr. CANNON. Correct.

Mr. JACKSON. It is the area between Harney and Wells where there is a great rate disparity, in some instances a tenfold difference. It is my interpretation, as manager of this bill, that under the provisions of the bill now before us, that the people in the area between these two cooperatives—Harney Electric and Wells Rural Electric—who reside within the 75-mile area contiguous to the BPA service area mentioned by the senior Senator from Nevada could receive power from Bonneville if either one of the two existing electric cooperatives that are currently eligible to receive power from BPA should decide to serve that area. I am referring specifically to the definition of Pacific Northwest region or regional, which appears in section 3(k) (1) and (2), and again in section 8.

This bill will not prohibit that result; it will make it possible for that area to receive the power.

Mr. CANNON. That would, of course, be on the condition that they decided to join up with the co-op in accordance with the law.

Mr. JACKSON. That would have to be a local decision within those communities. The communities and the cooperatives in question would have to decide to do it; but they would be eligible under this bill.

I think that would solve the problem that the Senator from Nevada seeks to solve with his amendment. I just want to give him that assurance and make it a part of the legislative history of this measure.

I believe the ranking minority member (Mr. HATFIELD), the Senator from Oregon, has a comment to make on this matter.

Mr. HATFIELD. I affirm the interpretation given by the chairman of the committee. We have done nothing to this bill to prohibit those individuals from making that determination under existing Nevada State law which governs such matters. In no way would we, of course, want to impose that decision from the outside, as I know the Senator from Nevada has no intention of suggesting.

In this act, it is possible for those people—individual ranchers, acting corporately, and the communities under whatever State law prescribes—to join up with one of the existing two co-ops and thereby permit those co-ops under this act and the existing statutes to expand their service district to include those areas.

That would have to be a self-determination on the part of the people in the areas.

Mr. CANNON. Mr. President, I thank my colleagues for clarifying the law as it now stands.

This is precisely what we are interested in accomplishing, and accomplishing it provided those people in the areas decide they do want to join with the co-ops and be serviced by them with the Bonneville power.

With that representation, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

● Mr. LAXALT. Mr. President, I am pleased to join my distinguished senior colleague (Mr. CANNON) in cosponsoring this amendment. As you are aware, S. 885 contains a definition of "Pacific Northwest" region which includes portions of the State of Nevada that are within the Columbia River drainage basin and the prescribed 75-mile boundary. In fact, over 21,000 square miles of northern Nevada are already included within this region.

But existing law and the bill before us would continue to preclude Bonneville hydropower from servicing loads in the Winnemucca and Elko areas of Nevada, even though these areas are within the prescribed 75-mile boundary. These limitations in effect, grant super-preference to cooperatives over States or other public bodies. As I see it, this is contrary to the intent of sections 3 and 4 of the Bonneville Project Act of August 20, 1937.

Mr. President, as I am sure you are aware, there is a trend in our country that is eliminating vasts amounts of agricultural farmland. This trend is caused by several things. First, and probably the most obvious, is the increasing number of people who are moving from the congested populations in the United States to its urban towns and cities. These small areas are quickly changing their landscapes from green fields and rolling hills to tract houses and mobile home subdivisions. As the countryside changes, so does the amount of taxes and operating costs of the ranchers and farmers. Less agricultural land will eventually lead to higher costs to food consumers.

Additionally, a way of life is being removed from our society. What we need is to give those who want to till the soil incentive to make our remaining land more productive. The inclusion of the Winnemucca and Elko areas of Nevada by the Bonneville Power will help develop this land to its highest potential. In the Winnemucca-Orovada area, sagebrush valleys have been turned into green potato fields and golden rows of grain. These fields help produce a variety of products—everything from potato chips to baby food. The Elko area is of course one of Nevada's most scenic areas. Its ranches contain a large portion of Nevada's cattle herds.

However, it only takes one trip to the local supermarket to purchase a steak to realize the decline in U.S. cattle herds. Lower operating costs to the ranches would help toward rebuilding cattle numbers. Elko has a promising future for further development of its agriculture industry—whether it be increased cattle and sheep herds or larger hay crops.

Northern Nevada has a promising future, it is important that we maintain and increase the potential this area has to supply our vital food resources. Wherever possible, inflation must be kept down. This amendment helps to provide northern Nevada with an energy resource that is vital to its existence. I urge my colleagues to support this amendment.●

Mr. BAUCUS. Mr. President, I wish to commend the Energy and Natural Resources Committee for reporting S. 885. I think the bill has very good provisions beneficial to the Pacific Northwest. However there are several problems presented to the State of Montana.

As the Senate considers S. 885, a bill to restructure the Bonneville Power Administration, I wish to praise the Senate Energy Committee for acceding to a number of improvements during mark-up, and to express the hope that a number of remaining problems will be cleared up by the House of Representatives.

I am most pleased that the essence of the position adopted by the Governors of the four States involved—Washington, Oregon, Idaho, and Montana—has been incorporated in S. 885. Section 10(c) of the bill addresses many of the more important points. As described in the committee report, this section would, among other things—

> Preserve the right of States and their political subdivisions to . . . regulate retail sales . . . and make energy facility siting decisions . . .

I am also pleased that measures of public accountability were included, as well as the development of a master plan which sets high priorities for conservation and development of natural resources.

I continue to be troubled with those reference in section 4(d) which may give the Administrator too much latitude to avoid the strictures of the plan. I am also concerned at the broad mandate contained in the guaranteed purchase provisions of the bill. It is my hope that the distinguished Members of the House of Representatives who have yet to consider this measure will improve these and other features which appear to be deficient.

Mr. PACKWOOD. Mr. President, I hope my colleagues in the Senate will, today, support the Pacific Northwest Electric Power Planning and Conservation Act, S. 885.

This legislation could benefit Oregonians more than any action Congress has taken in many, many years. Residents served by private electric utility companies will again have access to much cheaper hydroelectric power generated at Federal installations. They will not be required to pay twice or three times the rate of those served by public utilities.

The bill also established proper procedures for financing, developing, and allocating new electric power resources. It will begin an era of energy conservation in the Northwest unmatched by any other region of the country.

Since I am not a member of the Energy Committee, I will not, and cannot, claim a major role in the legislation's development. I can, however, say with pride that the legislation now includes satisfactory responses to each of the concerns I raised when I twice testified about the bill before the Energy and Natural Resources Committee. The economic benefits of the bill must now be passed on directly to the consumers. Local government, like the city of Portland, will be able to buy power at the same favorable rates available to Federal agencies. The Bonneville Power Administration will now have to recognize and provide benefits to those communities which conserve more energy than the rest of the region. The BPA administrator will have new authority to fund creative demonstration projects for efficient energy use. The bill addresses the urgent need to improve the viability of salmon which must pass by the hydroelectric facilities on our region's rivers. These and other concerns of mine have now been set aside by this bill.

I am pleased by the final product. I hope the full Senate is pleased and supportive. I hope the House of Representatives will adopt similar provisions so that we can move on to the many other problems in Oregon and the Northwest we should consider in coming days.

Finally, I would like to thank Senators JACKSON and HATFIELD. As chairman and ranking member, respectively, of the Senate Energy Committee. They have made this process one that every interested party can participate in fully. They and the other committee members deserve our gratitude.

Mr. JACKSON. Mr. President, I know of no further amendments.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 885

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act".

FINDINGS

SEC. 2. The Congress finds that—

(a) The Federal Columbia River Power System offers a unique opportunity to encourage policies of conservation and efficiency in the use of electric power within the Pacific Northwest.

(b) The participation and consultation of the Pacific Northwest States, local communities, ratepayers, the Administrator's customers, users of the Columbia River system (including fisheries agencies), and the public at large within the region are essential in development of regional plans and programs related to energy conservation, renewable resources, other generating resources and orderly planning of the Federal Columbia River Power System.

(c) The ratepayers of the Pacific Northwest should continue to pay all costs necessary to produce, transmit, and conserve electric power to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River Power System.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Administrator" means the Administrator, Bonneville Power Administration.

(b) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production or distribution.

(c) A conservation measure or any resource is "cost effective" if it is forecast to be available within the time it is needed and if it is forecast to meet or reduce the electric power demand of the consumer at an estimated incremental system cost no greater than that of the least-cost similarly available alternative conservation measure or resource: *Provided*, That such cost estimates shall include estimates of all direct systems costs of the conservation measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer, and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs, and such quantifiable environmental and social costs and benefits as the Administrator determines, on the basis of a methodology developed by the Council as part of the plan, are directly attributable to the conservation measure or resource: Provided further, That any conservation measure may have an estimated incremental system cost of up to 110 per centum of the least cost alternative nonconservation resource.

(d) "Council" means the Pacific Northwest Electric Power Planning Council established pursuant to this Act.

(e) "Customer" means an entity that contracts for the purchase of power from the Administrator, either for resale or for direct consumption.

(f) "Direct service industrial customer" means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption.

(g) "Electric power" means electric peaking capacity or electric energy or both.

(h) "Federal base system resources" means the Federal Columbia River Power System hydroelectric projects, resources acquired by the Administrator under long-term contracts in force on the effective date of this Act, and resources acquired by the Administrator to replace reductions in capability of the foregoing resources.

(i) "Major resource" means a resource having a capability greater than fifty average megawatts, and, if acquired by the Administrator, is acquired for a period longer than five years.

(j) "New large industrial load" means an industrial load associated with a new industrial plant or an expansion of an existing plant or an existing industrial plant load which is not contracted for or committed to by a public body, cooperative, or Federal agency customer prior to October 1, 1978, any of which will result in an increase in power requirements of ten average megawatts or more in any three-year period: Provided, that the Council may recommend to the Congress for approval a different limitation in the maximum size of such new large industrial load.

(k) "Pacific Northwest", "region", or "regional" means:

(1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region.

(l) "Plan" means the regional electric power plan prepared and adopted pursuant to this Act.

(m) "Renewable resource" means a resource which utilizes a renewable source of energy, including, but not limited to, solar, wind, hydro, geothermal, and biomass, and which is used for electric power generation or which will reduce the electric power requirements of a consumer by direct application.

(n) "Reserves" means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator either from resources or through rights to interrupt, curtail, or otherwise withdraw, as provided by specific contract provisions, portions of the electric power supplied to customers.

(o) "Residential use" or "residential load" means all usual residential, apartment, seasonal dwelling and farm electrical loads or uses, but only the first four hundred horsepower of farm irrigation and pumping for any farm.

(p) "Resource" means (1) electric power, including the actual or planned electric power capability of generating facilities or (2) actual or planned load reduction resulting from direct application of a renewable energy resource, or from a conservation measure.

REGIONAL PLANNING AND PARTICIPATION

SEC. 4. (a) There is established the Pacific Northwest Electric Power Planning Council composed of five members. The Governors of the States of Idaho, Oregon, Montana, and Washington may under applicable State laws each appoint one member to the Council from their respective States. The Administrator shall serve as the fifth member of the Council.

(b) The Council shall select a chairman from among its members. Three members of the Council shall constitute a quorum for conducting business. Decisions of the Council shall be by majority vote: *Provided*, That any action to approve or amend the plan described in subsections (d) and (e) of this section, or any element thereof, must receive the votes of at least three members of the Council, including the vote of the Administrator, to be adopted. The Council shall adopt rules of procedure, including rules applicable to its public hearings.

(c) Each State's member of the Council may request Council approval of funding in support of his State's participation in the Council and activities of his State related thereto. The Administrator shall include in his annual budget submitted pursuant to Public Law 93-454 (as amended), such requests approved by the Council, not to exceed a total amount equal to 0.02 mills per kilowatt-hour of the Administrator's estimated sales in the year the budget is to be effective. In order to assist initial State participation in the Council, the Administrator shall prepare and propose an amended annual budget as soon as practicable after the enactment of this Act to expedite payments to the States.

(d) The Council shall direct the preparation of a regional electric power plan, and shall adopt such plan within two years after the effective date of this Act. The adopted plan or any portion thereof may be amended from time to time, and shall be reviewed not less frequently than once every five years. Within one year from the effective date of this Act, and thereafter prior to each review, the Council shall identify major subject areas to be included in the plan. Public hearings shall be held in each member's State on (1) major subject areas to be addressed in the plan, and (2) the plan or amendments to the plan, proposed by the Council for adoption: *Provided*, That a public hearing shall also be held in any other State of the region on the plan, or amendments, proposed for adoption if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which may be developed in that State and which the Administrator may seek to acquire. The Council shall take action under this subsection pursuant to section 553 of title 5, United States Code.

The Administrator's implementation of the authorities under this Act shall be consistent, to the extent he determines feasible, with the plan: *Provided*, That the Administrator shall notify the Council of any actions not consistent with the plan together with his reasons for taking such actions: *Provided further*, That the Administrator's implementation of the authorities in sections 6(a) through (d), (f), (h), and (m) shall be consistent with the plan as he determines or, notwithstanding his determination, as the Council, within sixty days of his determination by majority vote of the full council, may determine: *Provided, however*, That if no plan is in effect or a proposed implementation of a conservation measure or an acquisition of a resource is not consistent with the plan, the Administrator may proceed to implement the conservation measure or acquire the resource pursuant to the procedures in sections 6(a) through (c).

(e) The plan shall give the following priority to resources: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat and generating resources of high fuel conversion efficiency; and fourth, to all other resources: *Provided*, That all such resources shall be cost effective and feasible.

(1) The plan shall set forth a general scheme for implementing conservation and developing resources to reduce or meet the Administrator's obligations with due consideration for environmental quality, compatibility with the existing regional power system, preservation and enhancement of fisheries, and other criteria which may be set forth in the plan.

(2) The plan shall also include, but not be limited to, model conservation standards, areas for research and development, a methodology for determining the average system cost of resources exchanged under section 5(b)(2), a methodology for determining quantifiable environmental and social costs and benefits under section 3(c), and a twenty-year demand forecast which includes regional reliability and reserve requirements.

(f) Model conservation standards for inclusion in the plan shall (1) include, but not be limited to, standards applicable to new and existing structures, utility, customer and governmental conservation programs, and other consumer actions for achieving conservation, and (2) be designed to produce all power savings that are reasonable, feasible and cost-effective to consumers. If the Council so recommends by majority vote of the full Council, the Administrator may impose additional charges on customers for those portions of their load within the region that are within States or political subdivisions which have not, or on his customers which have not, implemented conservation measures applicable to themselves that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such model conservation standards. Such charges shall be set to recover additional costs the

Administrator determines he will incur because such energy savings have not been achieved, but in no case may such charges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof.

(g) To insure widespread public involvement in the formulation of regional power policies, the Administrator (1) shall maintain comprehensive programs, including programs in cooperation with the Council, to inform the Pacific Northwest public of major regional power issues, to obtain public views concerning those issues, and to secure advice and consultation from the Administrator's customers and other parties; and (2) may form advisory committees as appropriate.

(h) The Council shall request annually from the region's State and Federal fisheries agencies and the appropriate Indian tribes their recommendations of measures which would contribute to the preservation and enhancement of the fish resources of the Columbia River and its tributaries for inclusion in the plan and their recommendations for the funding of research and development efforts which have the potential of providing improved passage for anadromous fish migrants at and between the region's hydroelectric dams. The Council shall consider such recommendations in the preparation of the plan or amendments to the plan. If the Council so recommends in the plan or amendments to the plan, the Administrator shall (1) include in his annual budget funds for fisheries research and development to be paid from the Bonneville Power Administration fund, or from appropriations, and (2) acquire and dispose of power and utilize the flexibility of the resources available to him in a manner which will assist in the preservation and enhancement of the anadromous fisheries resources while meeting his other obligations.

SALE OF POWER

SEC. 5. Subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937, Public Law 75-329 (as amended), and, in particular, sections 4 and 5 thereof, and at rates established pursuant to section 7 of this Act—

(a) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under Public Law 75-329 (as amended), and to each requesting investor-owned utility, electric power to meet such customer's firm power load in the region which is in excess of the capability of such customer's firm resources which such customer had used in the year prior to enactment of this Act to serve its firm load and such other resources as such customer shall determine, pursuant to contracts under this Act, will be used to serve its firm load: Provided, That such resources shall continue to be so used except with the consent of the Administrator or because of obsolescence, retirement, loss of resource or loss of contract rights.

The Administrator shall include in contracts executed in accordance with the subsection provisions that enable him to restrict his obligations to meet such loads in the event he determines, after a reasonable period of experience under this Act, that he cannot be assured of acquiring sufficient resources pursuant to section 6 to meet such loads, but (1) no such restrictions shall be applicable to the Administrator's public body and cooperative customers entitled to preference and priority under Public Law 75-329 (as amended), or to his Federal agency customers, until the Federal base system resources are fully allocated to such customers; and (2) sales to customers pursuant to this subsection shall not be restricted below the amounts of electric power, as specified in such contracts, acquired by the Administrator from or on behalf of such customer pursuant to subsection 5(b)(2) and section 6. The Administrator shall, consistent with the provisions of this Act, insure that any such restrictions pursuant to this subsection are distributed equitably throughout the region.

(b) Additionally, (1) the Administrator is authorized to sell electric power to Federal agencies in the region, and (2) whenever a Pacific Northwest utility offers to sell electric power to the Administrator at the average system cost of resources then available to that utility, the Administrator shall purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region: *Provided,* That (A) such sale shall be limited to an amount not to exceed 50 per centum of such utility's regional residential load in the year beginning July 1, 1980, and increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985; (B) the cost benefits, as specified in contracts, of any such exchange sale which are attributable to any utility's residential load within a State shall be passed through directly to the utility's residential loads within such State: *Provided,* That a State which lies partially within and partially without the region may require that such benefits be distributed among all of the utility's residential loads in that State; (C) a utility may terminate, upon reasonable terms and conditions, its exchange purchase and sale in the event the supplemental rate charge provided for in section 7(b) is applied and the cost of electric power sold to the utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by the utility to the Administrator under this subsection; and (D) the Administrator may acquire the electric power necessary to carry out the exchange sale from other resources, rather than purchase the electric power offered him by the utility pursuant to this subsection, if the cost of doing so is less than the cost of purchasing the electric power offered by the utility.

The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator, subject to review and approval by the Federal Energy Regulatory Commission as provided in section 9(g), on the basis of a methodology developed for this purpose. Such methodology shall be developed by the Council as part of the regional electric power plan identified in section 4, or, until such a plan has been adopted, shall be developed by the Administrator in consultation with his customers in the region and appropriate State regulatory bodies. Average system cost shall not in any event include: (i) the cost of additional resources in an amount sufficient to serve any new large industrial load of the utility that was not contracted for or committed to prior to October 1, 1978; (ii) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and (iii) any costs of a generating facility which is terminated prior to commercial operation.

(c)(1) The Administrator is authorized to sell electric power to direct service industrial customers which have contracts for the purchase of electric power from him on the effective date of this Act, so long as such sales provide a portion of the reserves for firm power loads within the region. To effectuate the purposes of this subsection the Administrator shall offer to such customers new long term contracts in accordance with section 9(c) that provide such customers an amount of power equivalent to that to which such customers are entitled under present industrial firm contracts. The offer and execution of these initial new contracts shall be deemed to be supported by a sufficiency of electric power available to the Administrator.

(2) The Administrator shall not offer to sell amounts of electric power, including reserves, to new direct service industrial customers or to existing direct service industrial customers in addition to the amounts provided under subsection (c)(1) unless the Council has approved such sale by majority vote of the full Council and the Administrator determines that such proposed sale is consistent with the plan and that (A) additional power system reserves are required for the region's firm loads, (B) additional direct service industrial loads would provide a feasible and cost-effective method of supplying such reserves, (C) loads of similar character cannot provide equivalent operating or planning benefits to the region if served by a utility, and (D) the Administrator has or can acquire sufficient electric power to serve such loads. After such determination and approval by the Council, the Administrator is authorized to offer to new or existing direct service industrial customers an additional amount of power providing reserves in the amount determined to be necessary.

(d) The Administrator is further authorized to sell or otherwise dispose of electric power, including acquired power, that is surplus to his obligations incurred pursuant to subsections (a), (b), and (c) of this section in accordance with this and other statutes applicable to the Administrator.

CONSERVATION AND RESOURCE ACQUISITION

SEC. 6. (a) The Administrator shall, to the maximum extent practicable, implement all conservation measures he determines to be consistent with the plan. If no plan is in effect the Administrator shall implement conservation measures he determines are feasible and consistent with the criteria of section 4(e): *Provided,* That no mandatory conservation requirements shall be set by the Administrator pursuant to this authority in the absence of a plan. Such measures may include, but are not limited to, financial assistance for insulation or weatherization, increased system efficiency, and waste energy recovery by direct application. The Administrator may, in accordance with the provisions of this section, conduct demonstration projects to determine the feasibility of conservation measures and direct application renewable energy resources: *Provided further,* That no obligation may be incurred for any such demonstration project until such proposal is explicitly noted in the Administrator's budget submittal to the Congress pursuant to Public Law 93-454 (as amended). In addition, he shall assist conservation by and among regional consumers by (1) providing technical or financial assistance, (2) cooperating with his customers and governmental authorities to encourage maximum cost-effective voluntary conservation, and (3) aiding his customers and governmental authorities in implementing conservation standards adopted pursuant to section 4(f).

(b) The Administrator shall meet his contractual obligations that remain after taking into account planned savings from conservation measures provided in this section by acquiring additional resources (in addition to electric power acquired on a short term basis pursuant to section 11(b)(6)(i) of Public Law 93-454 (as amended)) he determines to be consistent with the plan or, if no such plan is in effect, which he determines, after compliance with section 6(c), are consistent with section 4(e). The Administrator shall acquire resources to replace Federal base system resources in accordance with the provisions of section 6 of this Act except in the case of federally constructed resources otherwise authorized by the Congress. Notwithstanding any acquisition of resources, the Administrator shall not reduce his efforts to achieve conservation savings pursuant to section 6(a).

(c)(1) In proposing to acquire any major resource, the Administrator shall give notice of the proposed action to the Council, his customers and the State in which the resource would be acquired, solicit views and relevant information, conduct a public hearing, and not less than ninety days after such notice may make a decision supported by a written statement, which statement shall include specific findings that the proposed acquisition is consistent with the plan unless such acquisition is proposed pursuant to parts (3) or (4) of this subsection.

(2) The Administrator shall submit to appropriate committees of the Congress the administrative record which shall consist of his written statement in support of any major resource acquisition decision made pursuant to this subsection together with (A) all statements, data, and other information on which the Administrator relies, including information received by him from the Council and his customers; (B) the transcript or other record (including all exhibits) of the hearing; (C) a record of all other relevant views and reactions received by him; and (D) a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act, Public Law 91–190 (as amended). The Administrator thereafter shall publish notice of his decision in the Federal Register. The Administrator may not implement any such decision or make any financial commitment for a major resource acquisition under this subsection prior to ninety days after the date of publication in the Federal Register and until it has been noted in the Administrator's budget submittal made pursuant to Public Law 93–454 (as amended): *Provided*, That in the absence of a plan or if the proposal is inconsistent with the plan, no financial commitment for a major resource acquisition shall be made until the acquisition has been specifically approved by Act of Congress.

(3) If within two years after the effective date of this Act, the Administrator proposes to acquire a major resource, but no plan is yet in effect, the Administrator may acquire such resource by following the procedure set forth in subsection (c) (1) and (2), except that his written statement shall include specific findings that acquisition of the resource is consistent with the criteria of subsection 4(e).

(4) If, subsequent to the adoption of a plan the Administration wishes to be able to acquire a resource or undertake a conservation measure which he determines to be inconsistent with such plan, or in the absence of an adopted plan two years after the effective date of this Act, the Administrator may acquire a resource or undertake a conservation measure pursuant to the following procedure: (A) the Administrator shall propose to the Council a plan, or an amendment to the existing plan, with which the proposed action would be consistent, and submit a written statement to the Council that the plan or proposed amendment is needed to permit the proposed action, that the resource or conservation measure is needed to meet the Administrator's obligations, and that the resource or conservation measure is consistent with the criteria set forth in subsection 4(e); (B) the Council shall proceed with hearings in accordance with provisions of section 4(d)(2); (C) if within ninety days after the submission of the Administration's proposal the Council has not adopted a plan or plan amendment with which, in the Administrator's determination, the proposed action is consistent, the Administrator may proceed with the action after following the procedure established under parts (1) and (2) of this subsection. For the acquisition of a resource or implementation of a conservation measure, either of which the Administrator determines to be inconsistent with the plan, public hearings shall be held pursuant to section 556 of title 5, United States Code, and the Administrator shall make a written statement in support of his decision pursuant to section 557 of title 5, United States Code.

(5) The Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest utility for ownership, participation, or other sponsorship but not in excess of the amounts needed to meet its regional load.

(d) The Administrator is authorized to acquire a resource, other than a major resource, which does not meet criteria of section 4 but which he determines is an experimental, developmental, demonstration or pilot project of a type with a potential for providing feasible, cost-effective, and reliable service to the region. The Administrator is authorized to construct such a project if it is a renewable resource and he determines that no utility or political subdivision in the Pacific Northwest is willing to construct such project at reasonable cost. The Administrator shall make no obligation for the acquisition or construction of such a resource until it has been noted in his budget submittal to the Congress pursuant to Public Law 93–454 (as amended).

(e) To the extent conservation measures or acquisition of resources require direct arrangements with consumers of electric power, the Administrator shall make maximum practicable use of his customers and other local entities capable of administering and carrying out such arrangements.

(f) For resources which the Administrator determines will be not inconsistent with the plan or for which he proposes to follow the procedures of section 6(c) (3) and (4), the Administrator is authorized to enter into agreements with sponsors of (1) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource which may be proposed for acquisition by the Administrator, or (2) any other resource, which on preliminary data he finds would satisfy criteria of this Act, to provide for the reimbursement of the sponsor's investigation and preconstruction expenses (which expenses shall not include procurement of capital equipment or construction material for such resource) if such resource is subsequently denied State siting approval or other necessary Federal or State permits, or if such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the criteria of this Act, or is not acceptable because of environmental impacts, or after such investigation the Administrator determines not to purchase the resource and the resource is not constructed: *Provided*, That any such agreements shall provide the Administrator an option to acquire any such resource: *Provided further*, That the Administrator shall terminate his financial commitment as to any further expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after a final denial of application for State siting approval. No further commitment may be made by the Administrator until the Administrator has completed such procedures as may be required by the National Environmental Policy Act, Public Law 91–190 (as amended).

(g) At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible by the Administrator, shall be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

(h) The Administrator is authorized to grant billing credits and provide services to any of his customers for independent conservation activities undertaken by such customers or political subdivisions served by a customer and for resources constructed, completed or acquired by a customer or political subdivision after the effective date of this Act which reduce the obligation of the Administrator to acquire resources under this Act. Any such credits which are granted for a major resource shall be granted only if such grant is determined by the Administrator to be not inconsistent with the plan or if such credits are authorized pursuant to the procedures of section 6(c)(4). The Administrator shall be required to grant credits (1) to the extent such customer or political subdivision undertakes independent conservation measures which the Administrator finds will achieve energy savings beyond the measures included in the plan, and (2) for a renewable resource or a multipurpose project uniquely suitable for such customer's or political subdivision's development. The Council may develop and propose guidelines to the Administrator to assist in the determination of the amount of such credits. The Administrator shall determine the amount of credits taking into account guidelines recommended by the Council and the risks and benefits assumed by the entity to be credited and the risks and benefits provided to the Administrator's customers: *Provided*, That any credits under this subsection shall be granted only to the extent they are cost effective.

(i) Contracts for acquisition of resources entered into pursuant to this section shall contain such terms and conditions as the Administrator finds necessary or proper to insure timely construction, scheduling, completion, and operation of new resources, to insure that the costs of any acquisition are as low as reasonably possible, consistent with sound engineering, operating, and safety practices, and to provide the means for the Administrator to exercise effective oversight, audit, and review of all aspects of such construction and operation.

(j) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(1) acquire any electric power required by (A) any customer or group of customers to enable them to replace resources determined to serve firm load under subsection 5(a), or (B) direct service industrial customers, to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power he is himself obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting it: *Provided*, That the Administrator may prescribe policies and conditions for the independent acquisition of replacement power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial customer an opportunity to participate in such acquisitions; and

(2) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable statutes, and with respect to direct service industrial customers, if such sale is under terms and conditions acceptable to the Administrator.

The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on the effective date of this Act, if such capability has been offered for sale at cost, including a reasonable rate of return, to the Administrator pursuant to this Act and such offer is not accepted within one year.

(k) All obligations incurred by the Administrator pursuant to this Act shall be secured solely by the Administrator's revenues received from the sale of electric power and other services. Such obligations shall not be, nor shall they be deemed to be, general obligations of the United States of America.

(l) In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this Act, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, are distributed equitably throughout the region.

(m)(1) The Administrator is authorized and directed to investigate opportunities for adding to the region's power resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the region, if such resources are renewable resources, and are now or in the future planned or considered for eventual development by nonregional agencies or authorities that will or would own, sponsor or otherwise develop them. The Administrator shall keep the council informed of such investigations as they progress, and seek from the council its advice as to the desirability of pursuing such investigations further.

(2) The Administrator is authorized to acquire resources of the type identified in this section, and to enter into such contracts or agreements as may be necessary to facilitate such acquisitions, if he determines that such resources meet the criteria of this section and that such acquisitions are consistent with the plan: *Provided*, That if the Administrator determines that such acquisitions are not consistent with the plan or in the absence of a plan, the Administrator may acquire such resources, which he determines, after compliance with section 6(c) are consistent with section 4(e).

(3) The Administrator shall conduct the investigations and the acquisitions, if any, authorized under this section with the assistance of those departments or agencies of the Federal Government whose responsibilities include negotiation of the type of contracts or agreements that would be necessary to facilitate an acquisition under this section.

(4) No later than January 1, 1981, and thereafter not less frequently than once each year, the Administrator shall submit to the Congress a report that outlines investigations undertaken pursuant to this section, together with the prospects for obtaining additional resources under the authority granted by this section.

(5) The authority granted in this section shall not diminish or abridge any other authority of the Administrator to carry out similar activities under this Act or other Acts.

RATE DIRECTIVES

SEC. 7. (a) The Administrator shall establish and periodically modify rates for the sale and disposition of electric power and the transmission of non-Federal power. Such rates shall be set to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to law. Such rates shall be established in accordance with sections 9 and 10 of Public Law 93-454 (as amended) and the provisions of this Act, and shall become effective upon confirmation and approval by the Federal Energy Regulatory Commission on the finding that such rates (1) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs, (2) are based upon the Administrator's total system costs including contingencies, and (3) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.

(b) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body, cooperative, and Federal agency customers within the Pacific Northwest, and sold to utilities under section 5(b)(2). Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply the foregoing loads until such sales exceed the Federal base system resources. Thereafter, such rate or rates also shall recover the costs of additional electric power as needed to supply the foregoing loads, first from the electric power purchased by the Administrator under section 5(b)(2) and then from new resources: *Provided*, That after July 1, 1985, the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers, exclusive of amounts charged such customers under section 7(g) for the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, shall in no event exceed in total, as determined by the Administrator, during any year plus the ensuing four years, an amount equal to the power costs for general requirements of such customers if, as estimated in accordance with the following assumptions for the same five-year period:

(1) the public body and cooperative customers' general requirements had included the direct service industrial customer loads within or adjacent to the geographic service boundaries of such public bodies and cooperatives during the applicable period;

(2) public bodies, cooperative, and Federal agency customers were served in the applicable period with Federal base system resources not obligated to other parties under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in part (1) above;

(3) no purchases or sales as provided in section 5(b)(2) were made during the applicable period;

(4) all resources that would have been required to meet remaining general requirements of the public body, cooperative and Federal agency customers not met by the available Federal base system resources determined under part (2) above were resources purchased from such customers by the Administrator pursuant to section 6 or resources not committed to load pursuant to section 5(a) and were the least expensive resources owned or purchased by public bodies or cooperatives with any additional needed resources having been obtained at the average cost of all other new resources acquired by the Administrator; and

(5) the quantifiable monetary savings to public body, cooperative, and Federal agency customers resulting from actions of the Administrator under section 6 were not achieved.

Any amounts not charged to such public body, cooperative, and Federal agency customers because of this proviso shall be recovered through supplemental rate charges for all other power sold by the Administrator.

General requirements as used in this section shall be the public body, cooperative, or Federal agency customer's electric power purchased from the Administrator under sections 5(a) and 5(b)(1) exclusive of any new large industrial load that was not contracted for or committed to by the customer by October 1, 1978.

(c) The rate or rates applicable to direct service industrial customers shall be established:

(1) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 5(b)(2), based upon his projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other classes of power sold by the Administrator; and

(2) for the period after July 1, 1985, at a level which the Administrator determines by rule to be equitable in relation to the retail rates charged by the public body and cooperative customers to their industrial customers in the region (to be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates) but taking into account (A) the comparative size and character of the loads served, (B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions, and (C) direct and indirect overhead costs, all as related to the delivery of power to industrial customers: *Provided*, That the Administrator's rates during such period shall in no event be less than his rate in effect for the contract year ending on June 30, 1985.

The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers.

(d) In order to avoid adverse impacts on—

(1) retail rates of the Administrator's customers with low system densities, the Administrator is authorized to apply discounts to the rate or rates for such customers;

(2) direct service industrial customers using raw materials indigenous to the region as their primary resource, the Administrator is authorized to establish a special rate applicable to such customer if all power sold to such customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region under contract provisions equivalent to those of present modified firm contracts.

(e) In establishing rate schedules of general application, the Administrator may establish a uniform rate or rates for sale of peaking capacity.

(f) Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 5(b)(2) and additional resources (including new resources) which, in the determination of the Administrator, are applicable to such sales.

The Administrator shall allocate to power rates, as he may determine appropriate, all other costs and benefits including, but not limited to, conservation, uncontrollable even limited to, conservation, uncontrollable events, reserves, the excess costs of experimental resources under section 6, the cost of credits granted pursuant to section 6, operating services, and the sale of or inability to sell excess electric power.

(h) Notwithstanding any other provision of this section (except the provisions of subsection (a)), the Administrator shall adjust power rates to include any additional charges arising under section 4(f), and shall allocate any revenues from such charges in a manner he determines will help achieve the purposes of section 4(f).

(i) In establishing rates under this section, the Administrator shall use the following procedures, which procedures shall be established by rule:

(1) publish the initial proposed rates in the Federal Register with a statement of the justification and reasons supporting such rates pursuant to this section;

(2) appoint a hearings officer empowered to conduct ratemaking hearings and to administer oaths;

(3) after a reasonable time, conduct one or more hearings to receive public comment in the form of written and oral presentation of views, data, questions, and argument, related to such proposed rates. In any such hearing any party shall be provided with the opportunity to offer refutation or rebuttal of any material submitted by any other party. The hearings officer, in his discretion, may allow for limited cross examination in any such hearing to develop fully any essential fact which is material and relevant directly to any such proposed rate.

In his discretion, the Administrator may hold such additional hearings as he believes are necessary for the full development of the record;

(4) in addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions, and argument submitted by interested persons before the close of hearings shall be made a part of the administrative record;

(5) based upon review of the full record adduced at any such hearings and written submissions, the Administrator shall publish the revised proposed rates in the Federal Register. Such rates shall be subject to an additional hearing or hearings using the procedures of (2) and (3) above, after which the Administrator shall make a final decision based on the record of all written submissions and all hearings. The decision shall include a full and complete justification of the final rates pursuant to this section;

(6) the final decision of the Administrator shall be reviewed and approved by the Federal Energy Regulatory Commission pursuant to subsection 7(a). The Commission shall have the authority to approve the final rate submitted by the Administrator on an interim basis, pending its final decision;

(7) judicial review of any rate approved by the Commission shall determine that the Administrator, in establishing such rate, has borne affirmatively the burden of proof on the basis of the administrative record developed pursuant to this subsection.

AMENDMENTS TO EXISTING LEGISLATION

SEC. 8. (a) Section 11(b) of Public Law 93–454 (as amended) is amended by striking the word "and" at the end of subparagraph (10), and by substituting "; and" for the period at the end of subparagraph (11) and adding a new subparagraph (12) as follows:

"(12) making such payments, as shall be required to carry out the purposes of the Pacific Northwest Electric Power Planning and Conservation Act.".

(b) Public Law 93–454 (as amended) is amended by striking subsections 13 (a) and (b) and substituting the following new subsections:

"SEC. 13. (a) The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name of and on behalf of the Bonneville Power Administration bonds, notes, and other evidence of indebtedness (in this Act collectively referred to as 'bonds') to assist in financing the construction, acquisition, and replacement of the transmission system, to implement the Administrator's authority (including the provision of financial assistance for conservation measures and renewable resources) pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, and to issue and sell bonds to refund such bonds. Such bonds shall be in such forms and denominations, bear such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary of the Treasury taking into account terms and conditions prevailing in the market for similar bonds, the useful life of the facilities for which the bonds may be issued, and financing practices of the utility industry. Refunding provisions may be prescribed by the Administrator. Such bonds shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of America of comparable maturities, plus an amount in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rates prevailing in the market for similar bonds issued by Government corporations but not to exceed the interest rate which would be applied to such bonds if they were purchased by the Federal Financing Bank. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $1,250,000,000 prior to October 1, 1980, and $1,750,000,000 thereafter.

"(b) The principal of, premiums, if any, and interest on such bonds shall be payable solely from the Administrator's net proceeds as hereinafter defined. 'Net proceeds' shall mean for the purposes of this section the remainder of the Administrator's gross receipts from all sources after first deducting trust funds and the costs listed in section 11(b)(2) through 11(b)(7), 11(b)(11) and 11(b)(12), and shall include reserve or other funds created from such receipts.".

(c) Public Law 88–552 (as amended) is amended by striking subsection 1(b) and inserting a new subsection 1(b) as follows:

"(b) 'Pacific Northwest' means (1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.".

ADMINISTRATIVE SECTIONS

SEC. 9. (a) In carrying out the provisions of this Act, the Administrator is authorized to enter into such contracts, agreements, and arrangements, including the amendment, modification, adjustment, or cancellation thereof and the compromise or final settlement of any claim arising thereunder, and to make such expenditures, upon such terms and conditions and in such manner as he may deem necessary.

(b) The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by Public Law 75–329, as amended, this Act and sections 302(a) (2) and (3) of Public Law 95–91. The Secretary of Energy and the Administrator shall take such steps as are necessary to (1) assure the Administrator's timely implementation of this Act and (2) enable the Administrator to operate in a sound and businesslike manner.

(c)(1) As soon as practicable after the effective date of this Act, and in no event later than nine months after the enactment of this Act, the Administrator shall, in addition to offers otherwise authorized or required in other sections of this Act, offer long-term contracts simultaneously to (A) existing public body and cooperative customers and investor-owned utilities under section 5(a); (B) Federal agencies under section 5(b)(1); (C) direct service industrial customers under section 5(c)(1); and (D) utilities under section 5(b)(2).

(2) Each customer offered a power sales contract pursuant to this subsection shall have one year from the date of offer to accept such contract. Such contract shall become effective as follows:

(A) A contract with a public body, cooperative or investor-owned utility pursuant to section 5(a) or a Federal agency pursuant to section 5(b), on the date executed by such public body, cooperative, investor-owned utility or Federal agency, unless otherwise agreed upon by the contracting parties.

(B) A contract with a utility pursuant to section 5(b)(2), on the date executed by the utility, but no earlier than the first day of the tenth month after the effective date of this Act.

(C) A contract with a direct service industrial customer pursuant to section 5(c)(1), on the date agreed upon by the parties, but no later than the first day of the tenth month after the effective date of this Act; such contract when executed may for rate purposes be given retroactive effect to such day.

The Administrator shall be deemed to have sufficient resources for the purpose of entering into the power sales contracts specified in this subsection.

(d) Any contract of the Administrator for the sale or exchange of electric power for use outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of Public Law 88–552 (as amended) for any contract for the sale, delivery or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest: *Provided*, That, for the purposes of this subsection, "surplus energy" shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and "surplus peaking capacity" shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for the disposition of such capacity. The authority granted, and duties imposed upon, the Secretary of Energy by sections 5 and 7 of Public Law 88–552 (as amended) shall also apply to the Administrator in connection with resources acquired by the Administrator. The Administrator, in making any determination of the electric power requirements of a Pacific Northwest customer which is a non-Federal utility having its own generation shall exclude, in addition to hydro generated energy excluded in section 3(d) of Public Law 88–552 (as amended), any amounts of energy included in the resources of such utility for service to firm loads in the region which were disposed of by the utility outside the region if and to the extent that as the result of such disposition the firm energy requirements of such utility and other customers on the Administrator are greater than if such energy had been or reasonably could have been conserved or otherwise retained for service to regional loads.

The Administrator may sell as a replacement therefore only that which would be surplus energy.

(e)(1) For purposes of section 701 of title 5, United States Code, and the following: acquisition of resources, granting of credits under subsection 6(h), assistance to sponsors under subsection 6(f), sales of electric power under section 5 (a) through (c), implementation of conservation measures, adoption of the plan or amendments thereto insofar as the plan or such amendments relate to specific resource acquisition or conservation decisions, determinations of the Administrator or the Council under section 4(d), and rate determinations under section 7 shall be final actions subject to judicial review. The record upon review shall compiled in accordance with this Act. The scope of review shall be governed by section 706 (1) and (2) (A) through (D) of title 5, United States Code. The adopted plan or portions thereof shall not be reviewable as a part of a review of a resource acquisition decision or a conservation measure implementation decision.

For purposes of this subsection, (A) resources shall be deemed to be acquired upon publication in the Federal Register of the Administrator's section 6(b) determination or section 6(c)(2) written statement; (B) conservation measures shall be deemed to be implemented upon publication in the Federal Register of the determination of the Administrator pursuant to section 6(a); and (C) the plan or amendments thereto shall be deemed to be adopted upon adoption by the Council and publication of notice of adoption in the Federal Register pursuant to section 4(d), or as otherwise provided for by this Act.

(2) Suits brought to challenge final actions taken pursuant to this Act, or the implementation of such final actions, whether brought pursuant to this Act or Public Law 75–329 (as amended), or Public Law 88–552 (as amended), or Public Law 93–454 (as amended), shall be commenced within ninety days of the action, or, if notice of the action is required by this Act to be published in the Federal Register, within ninety days of such notice, or be barred.

(f) For the purpose of enabling the Administrator to acquire resources from State or local governmental units at a cost no greater than the costs which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provided in section 103(a)(1) of title 26 of the United States Code shall not be affected by the Administrator's acquisition of such resources if the Administrator, prior to contracting for the acquisition, certifies to his reasonable belief, in accordance with a procedure approved by the Secretary of the Treasury, as to the persons for whom the Administrator is purchasing such resources for sale pursuant to section 5 of this Act and as to the amount for each such person, and if, based upon such certification, which shall be conclusive as to the facts stated therein, the Secretary of the Treasury determines that less than a major portion thereof is to be furnished to persons who are not exempt persons as defined in section 103(b) of such title.

(g) When reviewing rates for the sale of power to the Administrator by an investor-owned utility under sections 5(b)(2) and 6, the Federal Energy Regulatory Commission shall convene a joint State board pursuant to section 209 of the Federal Power Act (16 U.S.C. 824h), and shall invest such board with such duties and authority as will assist the Commission in its review of such rates.

(h) No "company" (as defined in section 79b(a)(2) of title 15, United States Code), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 6 shall be deemed an "electric utility company" (as defined in section 79b(a)(3) of title 15, United States Code), within the meaning of any provision or provisions of chapter 2C of title 15 of the United States Code: *Provided*, That the Administrator shall have approved the organization of such "company" and all material contracts entered into by and between such "company" and any sponsor company: *Provided further*, That (1) participation in any facilities of such "company" shall have been offered to public bodies and cooperatives in the region pursuant to subsection 6(c)(5), and (2) the Administrator shall include in any contract for the purchase of a major resource from such "company" provisions limiting the amount of equity investment, if any, in such "company" to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource. This subsection shall continue to apply to any such "company" unless the Administrator or the Securities and Exchange Commission determines that the "company" no longer operates in accordance with this subsection, and notifies the "company" in writing of such determination, in which event this subsection shall cease to apply to such "company" thirty days after receipt of such notification.

SAVINGS PROVISIONS; WAIVERS OF PREEMPTION

SEC. 10. (a) Nothing in this Act shall alter, diminish, or abridge the right of any State or political subdivision thereof to (1) determine retail electric rates except as provided by section 5(b)(2); (2) develop and implement its own plans and programs for the conservation, development and use of electric power resources or facilities; or (3) make energy facility siting decisions including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Nothing in this Act shall alter, diminish, or abridge the authorities or obligations of the Administrator granted by or arising under any other applicable statute, unless otherwise specifically provided herein.

(c) Nothing in this Act shall alter, diminish, or abridge the rights and obligations of the Administrator or any other party under any contract or agreement existing as of the effective date of this Act.

(d) Nothing in this Act shall alter, diminish, abridge or otherwise affect the provisions of other Federal statutes by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(e) Nothing in this Act shall alter, diminish, or abridge the authority of the Administrator to meet with his customers or with other groups or individuals in order to discuss regional power issues or other matters of interest or concern.

(f) Nothing in this Act shall (1) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States, or (3) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(g) The reservation under law of electric power for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State, plus 50 per centum of any electric power produced at Libby Reregulating Dam when built, is hereby affirmed. Electric power so reserved shall be sold at the rate or rates set pursuant to section 7.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar No. 316, Senate Resolution 220, continue to be laid aside temporarily until 2:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS' AND SURVIVORS' BENEFITS ADJUSTMENT ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 2282, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2282) to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans.

UP AMENDMENT NO. 513

Mr. CRANSTON. Mr. President, I send to the desk a committee amendment to H.R. 2282, consisting of the text of S. 689 as reported, Calendar No. 297, and a committee amendment that I offer for myself, Senator JAVITS, Senator PERCY, Senator SIMPSON, and Senator MOYNIHAN, which is identical to an amendment adopted on June 18 as part of H.R. 3892.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON on behalf of the Committee on Veterans' Affairs) proposes an unprinted amendment numbered 513.

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) this Act may be cited as the "Veterans' and Survivors' Benefits Adjustment Act of 1979".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended by—

(1) striking out "$44" in subsection (a) and inserting in lieu thereof "$49";

(2) striking out "$80" in subsection (b) and inserting in lieu thereof "$89";

(3) striking out "$121" in subsection (c) and inserting in lieu thereof "$134";

(4) striking out "$166" in subsection (d) and inserting in lieu thereof "$184";

(5) striking out "$232" in subsection (e) and inserting in lieu thereof "$258";

(6) striking out "$292" in subsection (f) and inserting in lieu thereof "$324";

(7) striking out "$346" in subsection (g) and inserting in lieu thereof "$384";

(8) striking out "$400" in subsection (h) and inserting in lieu thereof "$444";

(9) striking out "$450" in subsection (i) and inserting in lieu thereof "$500";

(10) striking out "$809" in subsection (j) and inserting in lieu thereof "$899";

(11) striking out "$1,005" and "$1,408" in subsection (k) and inserting in lieu thereof "$1,117" and "$1,564", respectively;

(12) striking out "$1,005" in subsection (l) and inserting in lieu thereof "$1,117";

(13) striking out "$1,107" in subsection (m) and inserting in lieu thereof "$1,230";

(14) striking out "$1,258" in subsection (n) and inserting in lieu thereof "$1,398";

(15) striking out "$1,408" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,564";

(16) striking out "$604" and "$900" in subsection (r) and inserting in lieu thereof "$671" and "$1,000", respectively;

(17) striking out "$905" in subsection (s) and inserting in lieu thereof "$1,005"; and

(18) striking out "$175" in subsection (t) and inserting in lieu thereof "$194".

ELIGIBILITY FOR AID AND ATTENDANCE ALLOWANCE FOR CERTAIN VETERANS

(b) Subsection (r) of section 314 is further amended by—

(1) striking out "the" the first place it appears;

(2) striking out "or" after "this section" and inserting in lieu thereof a comma;

(3) inserting "or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section," after "subsection (p) of this section,"; and

(4) striking out "compensation under subsection (o) or (p) of this section—" and inserting in lieu thereof "compensation—".

INTERMEDIATE RATES

(c) Subsection (p) of section 314 is further amended by inserting before the semicolon at the end thereof a period and "Any intermediate rate under this subsection shall be established at the arithmetic mean between the two rates concerned".

AUTHORITY FOR ADMINISTRATIVE ADJUSTMENTS IN CERTAIN CASES

(d) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended by—

(1) striking out "$49" in clause (A) and inserting in lieu thereof "$54";

(2) striking out "$83" in clause (B) and inserting in lieu thereof "$92";

(3) striking out "$110" in clause (C) and inserting in lieu thereof "$122";

(4) striking out "$137" and "$27" in clause (D) and inserting in lieu thereof "$152" and "$30", respectively;

(5) striking out "$34" in clause (E) and inserting in lieu thereof "$38";

(6) striking out "$61" in clause (F) and inserting in lieu thereof "$68";

(7) striking out "$88" and "$27" in clause (G) and inserting in lieu thereof "$98" and "$30", respectively;

(8) striking out "$40" in clause (H) and inserting in lieu thereof "$44";

(9) striking out "$89" in clause (I) and inserting in lieu thereof "$99"; and

(10) striking out "$75" in clause (J) and inserting in lieu thereof "$83."

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$218" and inserting in lieu thereof "$242".

EFFECTIVE DATE

SEC. 104. The amendments made by sections 101 (a), (b), and (c), 102, and 103 of this title and the provisions of section 101(d) of this title shall take effect on October 1, 1979.

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 201. Section 411 is amended by—

(1) amending subsection (a) to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the persons upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	"Pay grade	Monthly rate
E-1	$330	W-4	$473
E-2	341	O-1	418
E-3	349	O-2	431
E-4	371	O-3	462
E-5	381	O-4	488
E-6	390	O-5	538
E-7	409	O-6	604
E-8	431	O-7	655
E-9	[1] 451	O-8	718
W-1	418	O-9	771
W-2	434	O-10	[2] 844
W-3	447		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $486.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $904.";

(2) striking out "$35" in subsection (b) and inserting in lieu thereof "$39;

(3) striking out "$89" in subsection (c) and inserting in lieu thereof "$99"; and

(4) striking out "$45" in subsection (d) and inserting in lieu thereof "$59".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended by—

(1) striking out "$150" in clause (1) and inserting in lieu thereof "$167;

(2) striking out "$216" in clause (2) and inserting in lieu thereof "$240";

(3) striking out "$278" in clause (3) and inserting in lieu thereof "$309"; and

(4) striking out "$278" and "$56" in clause (4) and inserting in lieu thereof "$309" and "$62", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended by—

(1) striking out "$89" in subsection (a) and inserting in lieu thereof "$99";

(2) striking out "$150" in subsection (b) and inserting in lieu thereof "$167"; and

(3) striking out "$76" in subsection (c) and inserting in lieu thereof "$84".

EFFECTIVE DATE

SEC. 204. The amendments made by this title shall take effect on October 1, 1979.

TITLE III—MODIFICATIONS OF CERTAIN VETERANS' LIFE INSURANCE PROGRAM PROVISIONS

ASSIGNMENTS OF NATIONAL SERVICE LIFE INSURANCE POLICY PROCEEDS BY BENEFICIARIES

SEC. 301. Subsection (b) of section 718 is amended by—

(1) striking out "his" and inserting in lieu thereof "such person's"; and

(2) inserting at the end thereof the following new subsection:

"(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

SEC. 302. Section 753 is amended by—

(1) inserting "(a)" before "Any";

(2) striking out "his" and inserting in lieu thereof "such person's"; and

(3) inserting at the end thereof the following new subsection:

"(b) In any case involving a dispute between two or more persons each of whom is claiming proceeds of a policy maturing on and after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to persons other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

AUTHORITY FOR DIVIDENDS—VETERANS' REOPENED INSURANCE

SEC. 303. Section 725 is amended by—

(1) inserting "and" after the semicolon in clause (6) of subsection (b);

(2) striking out before the period in subsection (b) the semicolon after "practicable" and all of clause (8);

(3) striking out clause (4) in subsection (c) and redesignating clauses (5), (6), and (7) as clauses (4), (5), and (6), respectively;

(4) inserting "and" after the semicolon in clause (5) (as redesignated by clause (3) of this section); and

(5) striking out in the first sentence in paragraph (1) of subsection (d) "shall be made from that fund" and inserting in lieu thereof a comma and "including payments of dividends and refunds of unearned premiums, shall be made from that fund and the interest earned thereon".

AUTHORITY FOR HIGHER INTEREST RATES FOR AMOUNTS PAYABLE TO BENEFICIARIES

SEC. 304. (a) Subchapter I of chapter 19 is amended by inserting at the end thereof the following new section:

§ 726. Authority for higher interest rates for amounts payable to beneficiaries.

"Notwithstanding sections 702, 723, and 725 of this title, where the beneficiary of an insurance policy issued pursuant to the provisions of this subchapter receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at rate that is higher than the interest rate prescribed in the appropriate section of this subchapter. The Administrator may, from time to time, establish such higher rate only in accordance with a determination that such higher rate is administratively and actuarially sound for the program of insurance concerned. Such higher interest rate shall be paid on the unpaid balance of such monthly installments.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 725 the following new item:

"§ 725. Authority for higher interest rates for amounts payable to beneficiaries.".

SEC. 305. (a) Subchapter II of chapter 19 is amended by inserting at the end thereof the following new section:

"§ 761. Authority for higher interest rates for amounts payable to beneficiaries.

"Notwithstanding section 744(b) of this title, where the beneficiary of an insurance policy issued pursuant to the provisions of this subchapter receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in such section. The Administrator may, from time to time, establish such higher rate only in accordance with a determination that such higher rate is administratively and actuarially sound. Such higher interest rate shall be paid on the unpaid balance of such monthly installments.".

(b) The table of sections at the beginning of such chapter is amened by inserting after the item relating to section 760 the following new item:

"§ 751. Authority for higher interest rates for amounts payable to beneficiaries.".

EFFECTIVE DATE

SEC. 306. The amendments made by this title shall take effect on the date of enactment of this Act.

TITLE IV—EXEMPTION OF VETERANS' ADMINISTRATION HOME LOANS FROM STATE ANTI-USURY PROVISIONS

SEC. 401. (a) Chapter 37 of title 38, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1828. Exemption from State anti-usury provisions

"If, under any law of the United States, loans and mortgages insured under title I or title II of the National Housing Act are exempt from the application of the provisions of any State constitution or law limiting rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, loans and mortgages guaranteed or insured under this chapter shall also be exempt from the application of such provisions.".

(b) The table of sections at the beginning of such chapter is amended by inserting at the end thereof the following new item:

"§ 1828. Exemption from State anti-usury provisions.".

(c) The amendments made by this title shall be effective on the date of the enactment of this Act.

TITLE V—MISCELLANEOUS PROVISIONS

TECHNICAL AMENDMENTS

SEC. 501. (a) Paragraph (1) of subsection (c) of section 611 is amended by striking out "recognized by the Administrator for the purposes of" and inserting in lieu thereof "named in, or approved by the Administrator under,".

(b) Subsection (d) section 612A is amended by striking out the comma after "this title)".

(c) Setcion 620A is amendded by—

(1) striking out "of" after "treatment facilities" in paragraph (1) of subsection (a) and inserting in lieu thereof "for"; and

(2) striking out the comma after "such request" in paragraph (2) of subsection (d).

(d) Subsection (d) of section 663 is amended by striking out "order to carry" and inserting in lieu thereof "carrying".

(e) Subsection (a) of section 5005 is amended by striking out "section 5031 of this title" and inserting in lieu thereof "subchapter III of this chapter".

ASSISTANCE IN LOCATING CERTAIN INDIVIDUALS EXPOSED TO OCCUPATIONAL HAZARDS DURING MILITARY SERVICE

SEC. 502. In order to effectuate more fully the policy underlying the enactment of section 6103(m)(3) of the Internal Revenue Code regarding the location, for certain purposes, of individuals who are, or may have been, exposed to occupational hazards, the Director of the National Institute of Occupational Safety and Health, upon request by the Administrator of Veterans' Affairs (or the head of any other Federal department, agency, or instrumentality), shall (1) pursuant to such section 6103(m)(3), request the mailing addresses of individuals who such Administrator (or such department, agency, or instrumentality head) certifies may have been exposed to occupational hazards during active military, naval, or air service (as defined in section 101(24) of title 38, United States Code) and (2) provide such addresses to such Administrator (or such department, agency, or instrumentality head) to be used solely for the purpose of locating such individuals as part of an activity being carried out by or on behalf of the Veterans' Administration (or such other department, agency, or instrumentality) to determine the status of their health or to inform them of the possible need for medical care and treatment and of benefits to which they may be entitled based on disability resulting from exposure to such occupational hazards.

SEC. 503. (a) The Secretary of Health, Education, and Welfare, in consultation with the heads of other appropriate Federal departments and agencies, shall conduct a scientific, epidemiological study of various populations to determine if there may be long-term health effects in humans from exposure to the class of chemicals known as "the dioxins", especially those dioxins produced during the manufacture of the various phenoxy herbicides including those used during the period of the Vietnam conflict.

(b) The report of the study shall include (1) a comprehensive review and professional analysis of the literature covering other such studies conducted or underway of such long-term health effects; and (2) a description of the results of epidemiological studies conducted by the Secretary of populations of chemical workers, agricultural workers, Service personnel and veterans, and others exposed in connection with the production or use of such phenoxy herbicides. Such report, together with such comments and recommendation as the Secretary and such department and agency heads may deem appropriate, shall be submitted to the appropriate Committees of the Congress not later than two years after the date of the enactment of this Act.

Mr. CRANSTON. Mr. President, I rise to urge the Senate to approve the committee amendment to H.R. 2282. The committee amendment is identical to S. 689, the proposed Veterans' and Survivors' Benefits Adjustment Act of 1979, as reported from the Committee on Veterans' Affairs plus it includes a committee amendment authorized to be offered on the floor requiring HEW to conduct a study regarding the contaminant "dioxin." As amended by the committee amendment, H.R. 2282 would provide for an 11.1-percent cost-of-living increase in compensation and dependency and indemnity compensation—DIC—benefits that is based on an actual increase in the Consumer Price Index for urban wage earners and clerical workers—CPI-W.

The 11.1-percent increase would be effective on October 1, 1979, and would benefit 2,258,000 service-connected disabled veterans and 324,000 survivors of those who have given their lives in the service of our country.

BACKGROUND OF LEGISLATION

Mr. President, on July 12, 1979, our committee unanimously ordered S. 689 reported with an amendment in the nature of a substitute and a title amendment, and at a later point in my remarks I will insert extracts from our report, Senate Report No. 96-260.

Mr. President, on March 15, 1979, the Senator from Georgia (Mr. TALMADGE) and I introduced S. 689 at the request of the administration. As introduced, the bill provided for a 7.8-percent increase in the compensation and DIC rates. On June 7, 1979, I submitted, together with Senator TALMADGE and five other committee members—Senators STONE, DURKIN, MATSUNAGA, STAFFORD, and HUMPHREY—amendment No. 223 to S. 689, providing for a 10.7-percent increase in those rates. This increase reflected the actual percentage increase in the CPI-W for the 12 months ending in April 1979.

On June 14, 1979, Senator TALMADGE, at my request, held hearings on S. 689, amendment No. 223, and S. 754, and administration-requested bill introduced on March 26, 1979, to make certain modifications in VA insurance program provisions. Testimony was received from J. C. Peckarsky, director of the Compensation and Pension Service, E. J. Mason, assistant director for insurance, and other representatives of the Veterans' Administration, and representatives of the American Legion, Veterans of Foreign Wars, Disabled American Veterans, Paralyzed Veterans of America, Blinded Veterans Association, Non-Commissioned Officers Association, and Military Widows.

On June 20, 1979, I chaired committee oversight hearings on the difficulties experienced by veterans in establishing claims for compensation for disabilities resulting from exposure to low-level radiation during nuclear weapons testing.

On June 25, 1979, the House passed H.R. 411, introduced by Congressman HAMMERSCHMIDT on January 15, 1979, to exempt VA-guaranteed home loans from State anti-usury provisions; and the bill was subsequently referred to our committee.

After reviewing the testimony received during the June 14 and June 20 hearings, the committee met in open session on July 12, 1979, to consider S. 689, amendment No. 223, S. 754, and H.R. 411, and unanimously voted to report S. 689 with an amendment in the nature of a substitute incorporating and revising many provisions from those measures.

Mr. President, S. 689, as reported, would provide for an 11.1-percent cost-of-living increase in the rates of service-connected disability compensation for some 2,258,000 veterans who were disabled as a result of their service to our country and in the rates of DIC for some 324,000 surviving spouses and children of those who died in service or as the result of service.

PURPOSES OF COMMITTEE AMENDMENT

Mr. President, the base period and the percentage increase for the compensation and DIC cost-of-living increase in the committee amendment differ from the base period used for H.R. 2282 as passed by the House on July 16, 1979. Under the committee amendment, the cost-of-living increase is 11.1 percent, based on the increase in the CPI–W for the 12 months ending in June 1979. Under H.R. 2282, as passed by the House, the rate increase is 8.3 percent, based on projected inflation for the 12 months ending on September 30, 1979.

Mr. President, the committee amendment also provides for certain modifications, derived in part from S. 754, in veterans' insurance program provisions; for the exemption of VA home loans from State antiusury laws, derived in part from H.R. 411; and for use of the so-called "NIOSH exemption" during their service veterans exposed to occupational hazards in a manner tailored to meet more effectively the need to locate certain individuals who may have been exposed to occupational hazards during military service such as low-level radiation or the contaminant dioxin found in "agent orange."

The NIOSH exemption refers to section 6103(m)(3) of the Internal Revenue Code, under which the Director of the National Institute of Occupational Safety and Health—NIOSH—may request address information from the Internal Revenue Service taxpayer files in order to locate certain individuals who have been exposed to occupational hazards for the sole purpose of advising those individuals that they may need health care.

This provision of the committee amendment is based on testimony received at the June 20 hearing on the difficulties experienced by veterans and their survivors in establishing claims for service-connected compensation and DIC benefits, and on testimony and communications we have received concerning the slow progress being made in certain long-range studies concerning the impact of low-level radiation and dioxin because of the inability of the researchers to contact exposed individuals.

Finally, the committee amendment would require an epidemiological study, by the Secretary of Health, Education, and Welfare, of the long-range effects on the health of veterans and other individuals exposed to the contaminant dioxin, as found in agent orange, a herbicide used in Vietnam during the Vietnam conflict.

"CROSSWALK" ISSUE UNDER FIRST BUDGET RESOLUTION

Mr. President, this cost-of-living increase in the committee amendment will benefit 2.3 million service-connected disabled veterans and about 320,000 survivors of those who gave their lives in the service of our country. At this time of soaring inflation rates, it is essential to provide this—the very most deserving—group of Federal beneficiaries full protection from the ravages of inflation.

Mr. President, I would like to explain briefly the reason why the committee amendment provides for an 11.1-percent cost-of-living increase. The increase is based on the actual increase in the Consumer Price Index for the 12 months ending in June 1979.

Mr. President, our committee has proposed this increase because we believe that it is extremely important to base the cost-of-living raise on an actual increase in the CPI. Last year, and in years before that, the compensation increase was based on projected rather than actual inflation. In some cases, these projections resulted in increases that exceeded or fell short of the actual increase in inflation during the base period.

Mr. President, the result of using a projection of inflation last year was a shortfall of 1.5 percentage points. The base period used then in determining the rate increase was one for which actual data with respect to the rise in the Consumer Price Index was not available when the increase was enacted. Thus, veterans and survivors were denied a full measure of protection against inflation even though Congress intended such protection.

Our committee believes that we must solve the problem of assuring rate increases adequate to counter the effects of actual inflation; and that problem cannot be solved unless Congress adopts a base period for which actual data regarding changes in the CPI are available.

Mr. President, under our committee's first concurrent resolution crosswalk, $11.7 billion in budget authority was allocated to the compensation and pension programs. The estimate being used by the Budget Committee of the fiscal year 1980 current law costs of those programs in budget authority is $11.051 billion and the estimate of the costs of this cost-of-living increase is $758 million. The total, $11.809 billion, thus exceeds by $60 million the maximum that would be within our committee's crosswalk—$11.749 billion in unrounded figures. But this Budget Committee estimate is derived from outdated CBO estimates.

The crosswalk violation, Mr. President, is thus a purely technical one. CBO's most recent current-law estimate of the cost of the compensation and pension program is $65 million lower; and if we were to use that estimate, the committee amendment would be within the crosswalk.

Mr. President, the compensation program is one of the very highest priorities of the Congress and the top priority of the Veterans' Affairs Committee. Moreover, the Congress clearly assumed, in adopting the first concurent resolution, that a cost-of-living increase would be granted.

Also, at my request, the Appropriations Committee, to which S. 689—the provisions of which are incorporated in the committee amendment—was referred last Friday in compliance with the Budget Act acted expeditiously to report the bill without recommendation on Tuesday in order to get the bill considered on the floor before the August recess.

In summary, Mr. President, let me stress that this legislation is being considered in full accord with the Congressional Budget Act. No one is trying to short circuit that process. The bill went to the Appropriations Committee because of the technical crosswalk problem, and that committee did not object to the bill or propose any costs in the rate increase figures. So the budget process is being fully preserved and respected.

Therefore, Mr. President, it seems clear that there should not be any substantive objection to passage of this bill to provide a badly needed cost-of-living increase; and the fact that the increase technically exceeds the crosswalk—simply because the rate of inflation rose to a higher level than expected and out of date cost estimates of curent law are being used in score keeping—should not stand in the way of immediate passage.

In fact, Mr. President, the fact that inflation has risen faster than expected should be a strong argument for expeditious action. I want to stress that passage before the recess is essential in order to help assure that the differences between the House- and Senate-passed versions can be resolved in time for the increase to be reflected in compensation checks for October, the first month that the increase would be effective. To delay action on this measure will mean that service-connected disabled veterans and their survivors will not get their rate increase on time.

SUMMARY OF PROVISIONS

Mr. President, the committee amendment has five titles: Veterans' disability compensation benefits; dependency and indemnity compensation benefits; modifications of certain Veterans' Administration life insurance provisions; exemption of Veterans' Administration home loans from State anti-usury provisions; and miscellaneous provisions.

TITLE I: VETERANS' DISABILITY COMPENSATION BENEFITS

Mr. President, the provisions of title I would:

First, provide an 11.1-percent cost-of-living increase, reflecting the actual CPI-W percentage increase for the 12 months ending in June 1979, in basic compensation rates for service-connected disabled veterans and in the special rates payable for certain severe disabilities; in the allowances for spouses, children, and dependent parents, paid to service-connected disabled veterans rated 30-percent or more disabled; an in the annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance, including a wheelchair, that tends to tear or wear out their clothing.

Second, provide that a veteran compensated at the rate intermediate between the rates authorized under subsections (n) and (o) of section 314 of title 38 plus the rate authorized under subsection (k) of title 38—the so-called n ½ plus k rate—shall be eligible for the consideration of the need for an aid-and-attendance allowance authorized under subsection (r) of section 314.

TITLE II: DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

Mr. President, the provisions of title II would provide an 11.1 percent cost-of-living increase, again reflecting the actual CPI-W percentage increase for the 12 months ending in June 1979, in DIC benefits payable to surviving spouses of veterans whose deaths were service connected; in the additional allowances paid to surviving spouses receiving DIC for dependent children and to surviving spouses who are so disabled as to be in need of regular aid and attendance or permanently housebound; and in DIC benefits for the children of veterans whose deaths were service connected where no surviving spouse is entitled to DIC, the child is age 18 through 22 and attending an approved educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

TITLE III: MODIFICATION OF CERTAIN VETERANS' ADMINISTRATION LIFE INSURANCE PROGRAM PROVISIONS

Mr. President, the provisions of title III would:

First, expand, beyond specified close family members of the insured veteran, the categories of persons to whom assignments of the proceeds of National Service Life Insurance—NSLI—and U.S. Government life insurance—USGLI—policies are authorized in order to include, where the purpose of an assignment is to facilitate the resolution of disputes between claimants for those proceeds, any person who claims such proceeds on the ground that he or she was designated by the insured veteran as the beneficiary, had a contract with the insured veteran to be designated as the beneficiary, or was named in a court order as the person whom the insured veteran must designate or retain as the beneficiary.

Second, authorize the payment of dividends on Veterans Reopened Insurance policies—NSLI—policies issued to certain disabled veterans during the limited reopening in 1965 of the NSLI program—from the Veterans Reopened Insurance trust fund.

Third, authorize the payment of interest on NSLI, USGLI, and Veterans' Special Life Insurance policy proceeds, where the proceeds are payable in a limited number of monthly installments, at rates that are higher than those currently payable and that the Administrator of Veterans' Affairs finds to be actuarially and administratively sound.

TITLE IV: EXEMPTION OF VETERAN'S ADMINISTRATION HOME LOANS FROM STATE ANTI-USURY PROVISIONS

Mr. President, the provisions of title IV would exempt VA guaranteed and insured home loans from State "anti-usury" provisions—constitutional or statutory provisions limiting the rate or amount of interest that may be charged—wherever any other Federal law provides an exemption from State antiusury provisions for home loans insured under title I or II of the National Housing Act.

TITLE V: MISCELLANEOUS PROVISIONS

Mr. President, the provisions of title V would:

First, require the Director of the National Institute of Occupational Safety and Health—NIOSH—upon the request of the VA or another Federal agency, and under the provisions of section 6103 (m)(3) of the Internal Revenue Code, to request from the Internal Revenue Service current mailing-address information on persons who the agency head certifies may have been exposed to occupational health hazards while serving in the Armed Forces and so supply that information to the VA, or another Federal agency, solely for purposes of locating such persons as part of an activity being carried out by or on behalf of the VA, or another Federal agency, for certain medical followup and benefits notification purposes relating to such possible occupational hazard exposures.

Second, require the Secretary of Health, Education, and Welfare, in consultation with other appropriate Federal agency heads, to conduct an epidemiological study of the long-term health effects of the exposure of various populations to the chemicals known as the dioxins, as found in agent orange, a herbicide used in Vietnam during the Vietnam conflict, and in other herbicides used in the United States. The report of the study, together with any recommendations of the Secretary and the other Federal agency heads, is to be submitted to the appropriate congressional committees no later than 30 months after the date of enactment of the committee amendment.

Mr. President, the provisions of titles I and II of the committee amendment would be effective on October 1, 1979, and the provisions of the remaining titles would be effective upon enactment.

Mr. President, in order that all Senators and the public may have a full understanding of the various provisions of this measure, I ask unanimous consent that there be printed in the RECORD pertinent excerpts from Senate Report No. 96–260 accompanying S. 689.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

DISCUSSION

TITLE I: VETERANS' DISABILITY COMPENSATION BENEFITS

The Committee bill provides for an 11.1-percent increase in the monthly rates of service-connected disability compensation and in the annual clothing allowance. The 11.1-percent increase is based on the actual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) for the 12 months ending in June 1979.

In addition, the Committee bill provides, for certain severely disabled veterans, eligibility for the aid-and-attendance allowances authorized under section 314(r) of title 38, United States Code.

The provisions of title I would become effective on October 1, 1979, and the cost-of-living increase would be reflected in monthly payments to veterans beginning on November 1, 1979.

Background

The service-connected disability compensation program provides monthly cash benefits to veterans who have suffered disabilities during, or a a result of, their service in our Nation's Armed Forces. This program ranks as the highest program priority of the Veterans' Affairs Committee.

Section 355 of title 38, United States Code, provides that the ratings for disability shall be based "as far as practicable, upon average impairments of earning capacity resulting from such injuries in civil occupations." Other less tangible factors have also been considered by Congress in establishing compensation rates for those who sustained disabilities in the service of our country.

The amount paid in individual instances is contingent upon the nature of the veterans' disability or combination of disabilities and the extent to which earning capacity is considered to have been impaired. Compensable disabilities are rated according to the VA's Schedule of Rating Disabilities on a graduated scale ranging from 10 to 100 percent. A totally disabled veteran is thus compensated at not less than the 100-percent rate. Higher monthly rates are payable to totally disabled veterans with certain specific, very severe disabilities and combinations of disabilities.

The Veterans' Administration disability compensation program currently provides benefits for 2,258,808 veterans who have service-connected disabilities. This number is composed of disabled veterans with the following periods of service: 35,500 are World War I veterans; 1,224,000 World War II veterans; 237,800 Korean-conflict veterans; and 532,400 Vietnam-era veterans.

The following table reveals average costs and caseloads for veterans and survivors:

TABLE 1.—AVERAGE COST AND CASELOAD OF VETERANS DISABILITY AND SURVIVOR COMPENSATION CASES

[Total cost in thousands of dollars]

Total costs	Fiscal year 1978			Fiscal year 1979 (estimated)			Fiscal year 1980 (estimated)		
	Average cases	Average cost	Total cost ($9, 629, 300)	Average cases	Average cost	Total cost ($10, 720, 414)	Average cases	Average cost	Total cost ($11, 201, 800)
Compensation (total)	2, 617, 108	$2, 367	$6, 195, 203	2, 619, 664	$2, 579	$6, 756, 221	2, 616, 538	$2, 583	$6, 757, 405
Veterans (total)	2, 253, 738	2, 252	5, 075, 999	2, 258, 808	2, 453	5, 539, 831	2, 257, 308	2, 456	5, 554, 849
Spanish-American War	3	8, 153	24	3	8, 748	26	3	8, 748	26
Mexican border period	5	9, 812	49	5	10, 528	53	5	10, 528	53
World War I	40, 424	2, 865	115, 800	35, 500	3, 115	110, 571	30, 700	3, 114	95, 603
World War II	1, 250, 571	2, 109	2, 637, 936	1, 224, 400	2, 295	2, 810, 414	1, 194, 000	2, 297	2, 742, 481
Korean conflict	238, 783	2, 539	606, 227	237, 800	2, 760	656, 341	236, 800	2, 760	653, 604
Vietnam era	509, 163	2, 301	1, 171, 343	532, 400	2, 502	1, 331, 895	553, 300	2, 502	1, 384, 484
Peacetime service	214, 789	2, 536	544, 620	228, 700	2, 757	630, 531	242, 500	2, 757	668, 598
Survivors (total)	363, 370	3, 080	1, 119, 204	360, 856	3, 371	1, 216, 390	359, 230	3, 375	1, 212, 556
Indian wars	1	2, 840	3	1	3, 047	3	1	3, 047	3
Civil War	5	4, 892	24	3	5, 259	16	2	5, 249	10
Spanish-American War	174	3, 372	587	150	3, 667	550	125	3, 672	459
Mexican border period	3	3, 883	12	2	4, 166	8	2	4, 166	8
World War I	32, 460	3, 552	115, 307	31, 300	3, 861	120, 858	30, 400	3, 867	117, 556
World War II	181, 188	2, 659	481, 746	177, 300	2, 905	514, 975	173, 400	2, 903	503, 371
Korean conflict	39, 279	2, 968	116, 599	39, 200	3, 241	127, 074	39, 100	3, 234	126, 468
Vietnam era	61, 796	3, 647	225, 358	63, 900	3, 984	254, 605	66, 700	3, 972	264, 949
Peacetime service	48, 464	3, 705	179, 568,	49, 000	4, 047	198, 301	49, 500	4, 035	199, 732

Source: Department of Veterans' Benefits, Veterans' Administration, July 1979.

History of Cost-of-Living Increases

The Committee periodically reviews the service-connected disability compensation program to ensure that the benefits authorized provide reasonable and adequate compensation for disabled veterans and their families. Congress has traditionally acted periodically to provide cost-of-living increases in compensation benefits, in order to assure that those benefits kept pace with inflation.

The following table shows statutory increases in the rates of disability compensation since 1957:

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT

Sec. 314, title 38, subsection—	Public Law 85–168, Oct. 1, 1957 monthly rate	Public Law 87–645 Oct. 1, 1962		Public Law 89–311 Oct. 31, 1965		Public Law 90–493 Jan. 1, 1969		Public Law 91–376 July 1, 1970		Public Law 92–328 Aug. 1, 1972	
		Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
(a)	$19	5. 3	$20	5. 0	$21	9. 5	$23	8. 7	$25	12. 0	$28
(b)	36	5. 6	38	5. 3	40	7. 5	43	7. 0	46	10. 8	51
(c)	55	5. 5	58	3. 4	60	8. 3	65	7. 7	70	10. 0	77
(d)	73	5. 5	77	6. 6	82	8. 5	89	7. 9	96	10. 4	106
(e)	100	7. 0	107	5. 6	113	8. 0	122	10. 7	135	10. 3	149
(f)	120	6. 7	128	6. 3	136	8. 1	147	10. 9	163	9. 8	179
(g)	140	6. 4	149	7. 4	161	8. 1	174	10. 9	193	9. 8	212
(h)	160	6. 3	170	9. 4	186	8. 1	201	10. 9	223	9. 9	245
(i)	179	6. 7	191	9. 4	209	8. 1	226	10. 6	250	10. 0	275
(j)	225	11. 1	250	20. 0	300	33. 3	400	12. 5	450	10. 0	493
(k)											
(l)	309	10. 0	340	17. 6	400	25. 2	500	12. 0	560	10. 0	616
(m)	359	8. 6	390	15. 4	450	22. 2	550	12. 0	616	10. 1	678
(n)	401	9. 7	440	19. 3	525	18. 2	625	12. 0	700	10. 0	770
(o)	450	16. 7	525	14. 3	600	16. 7	700	12. 0	784	9. 0	862
(p)	450	16. 7	525	14. 3	600	16. 7	700	12. 0	784	9. 9	862
(q)											
Subsec. (r) "Aid and Attendance" nonhospitalization, Public Law 85–782, effective Oct. 1, 1958:											
(1)	150	33. 3	200	25. 0	250	20. 0	300	12. 0	336	10. 1	370
(2)											
Subsec. (s) (housebound cases) Public Law 86–663, effective Sept. 1, 1960	265	9. 4	290	20. 7	350	28. 8	450	12. 0	504	9. 9	554
(t)											
Sec. 362 of title 38											

Sec. 314, title 38, subsection—	Public Law 93–295 May 1, 1974		Public Law 94–71 Aug. 1, 1975		Public Law 94–433 Oct. 1, 1976		Public Law 95–117 Oct. 1, 1977		Public Law 95–479 Oct. 1, 1978	
	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
(a)	15	$32	9. 4	$35	8. 6	$38	6. 6	$41	7. 3	$44
(b)	15	59	10. 2	65	7. 7	70	6. 6	75	7. 3	80
(c)	15	89	10. 1	98	8. 2	106	6. 6	113	7. 3	121
(d)	15	122	9. 8	134	8. 2	145	6. 6	155	7. 3	166
(e)	15	171	9. 9	188	8. 0	203	6. 6	216	7. 3	232
(f)	18	211	11. 9	236	8. 1	255	6. 6	272	7. 3	292
(g)	18	250	12. 0	280	7. 9	302	6. 6	322	7. 3	346
(h)	18	289	12. 1	324	8. 0	350	6. 6	373	7. 3	400
(i)	18	325	12. 0	364	8. 0	393	6. 6	419	7. 3	450
(j)	18	584	12. 2	655	7. 9	707	6. 6	754	7. 3	809
(k)	10	52	0	52	8. 0	879	6. 6	56	7. 3	56
(l)	18	727	12. 0	814	8. 0	879	6. 6	937	7. 3	1, 005
(m)	18	800	12. 0	896	8. 0	968	6. 6	1, 032	7. 3	1, 107
(n)	18	909	12. 0	1, 018	8. 0	1, 099	6. 6	1, 172	7. 3	1, 258
(o)	18	1, 017	12. 0	1, 139	8. 1	1, 231	6. 6	1, 312	7. 3	1, 408
(p)	18	1, 017	12. 0	1, 139	8. 1	1, 231	6. 6	1, 312	7. 3	1, 408
(q)										
Subsec. (r) "Aid and Attendance" nonhospitalization, Public Law 85–782, effective Oct. 1, 1968:										
(1)	18	437	11. 9	489	0	528	6. 6	563	7. 3	604
(2)									(1)	900
Subsec. (s) (housebound cases) Public Law 86–663, effective Sept. 1, 1960	18	654	11. 9	732	7. 7	791	6. 6	843	7. 3	905
(t)									(1)	175
Sec. 362 of title 38					8. 6	190	6. 6	203	7. 3	218

Source: Department of Veterans' Benefits, Veterans' Administration, July 1979.

---

[1] From Oct. 1, 1978.

In this way, Congress has shown its dedication to the needs of our Nation's service-connected disabled veterans and the survivors of those who have given their lives in the service of our country.

Base period for cost-of-living increases

From 1957 to 1978, 11 Public Laws were enacted by Congress in order to provide for rate increases. Five of those Public Laws were enacted in the last 5 years. Public Law 93-295, effective May 1, 1974, provided for an average increase of 17.2 percent. Public Law 94-71, effective August 1, 1975, provided for an average increase of 11.8 percent. Public Law 94-433, effective October 1, 1976, provided for an increase of 8 percent. Public Law 95-117, effective October 1, 1977, provided for an increase of 6.6 percent. Public Law 95-479, effective October 1, 1978, provided for an increase of 7.3 percent.

Each of these increases was intended to make up for inflation during the period from the effective date of the most recent increase to the proposed effective date of the new increase. Thus, Congress projected the rate of increase that would be required in order to make up both for inflation that had already occurred during that particular base period and the inflation that was expected to occur prior to the proposed effective date. In recommending the rate increases that were subsequently enacted by the 95th Congress, the Committee relied upon projections made by the Congressional Budget Office (CBO) and submitted to the Committee in July 1977 and July 1978.

However, when the base period used for a rate increase does not permit the use of an actual measure of the CPI increase, the increase enacted may be either more or less than what is actually required to keep pace with inflation. For example, in 1977, Public Law 95-117 provided for a rate increase of 6.6 percent, effective October 1, 1977. This increase was intended to make up for inflation from the date when the previous increase had become effective, October 1, 1976 to September 30, 1977. The actual measurement of the CPI over that base period was 6.5 percent, resulting in a rate increase that exceeded the CPI increase by one-tenth of a percentage point. A second example occurred, as a result of the enactment of Public Law 95-479. Under that law, the rate increase, effective October 1, 1978, was 7.3 percent, based on CBO's July 1978 projection of inflation for the 12 months ending in October 1978. However, the actual rate of inflation for the 12 months ending in October 1978 was 8.8 percent.

The result of using a projection of inflation in Public Law 95-479 was a shortfall of 1.5 percentage points. The base period used in determining the rate increase was one for which actual data with respect to the rise in the Consumer Price Index (CPI) was not available when the increase was enacted. Thus, veterans and survivors were denied a full measure of protection against inflation, even though Congress intended such protection.

This shortfall did not occur because of any negligence or lack of concern in the Congress. In recommending the 7.3-percent increase to the Senate in July 1978, the Committee relied on economic projections of the rate of inflation made by CBO based on economic indicators available at that time. The actual increase—8.8 percent—in the CPI for the October-to-October base period was not available until late in November 1978, many weeks after the legislation had already been passed by Congress and signed by the President.

CBO makes economic projections of inflation for the current and future fiscal years shortly after the submission of the President's budget each January for the coming fiscal year. In June, using updated economic indicators, CBO begins a revision of its economic assumptions and its projections. The revised projections are generally made available to the Congress during July, and they are not revised again until the following January.

These CBO projections are invaluable tools with regard to making decisions in the Congressional budget process and many other decisions that must be made by Congress. But, as a means by which to determine a rate increase, a projection is, in the Committee's view, inappropriate because there are far too many variables.

Thus, the Committee believes that the problem of assuring rate increases adequate to counter the effects of actual inflation cannot be solved unless Congress adopts a base period for which actual data regarding changes in the CPI are available.

Cost-of-Living Increases in Other Income Security Programs Based on CPI Increase

It is generally conceded that the most precise measure of the impact of inflation is provided by the CPI. The CPI is compiled on a monthly basis by the Bureau of Labor Statistics of the Department of Labor, and percentage changes in it are used as the basis for automatic cost-of-living adjustments in social security benefits, military retirement benefits, and civil service annuities. For example, social security and railroad retirement benefits are adjusted by reference to the percentage increase in the CPI, averaged over 3 months, between the first quarter of the calendar year in which the benefit increase is to become effective and the first quarter of the previous calendar year. Although the mechanisms in the military retirement and civil service annuity programs differ, in each of those Federal programs the semi-annual adjustments are based on the actual increase in the CPI. Also, Public Law 95-588, the Veterans' and Survivors' Pension Improvement Act of 1978, provides, with regard to the new pension program established by that Act, for automatic annual cost-of-living increases based on the social security increase and thus on the actual increase in the CPI. Thus, social security beneficiaries, military retirees, civil service annuitants, and VA pensioners are safeguarded against shortfalls in their cost-of-living increases.

Committee Bill Base Period and Use of CPI-W

By basing the cost-of-living increase on the actual change in the CPI for the 12 months ending in June 1979, the Committee bill will assure the veterans and survivors concerned of an increase commensurate with the actual increase in inflation over the most recent one-year base period for which CPI data is available.

The Consumer Price Index for Urban Wage Earners and Clerical Workers (formerly referred to simply as the "Consumer Price Index") was revised by the Bureau of Labor Statistics in 1978, and a new Consumer Price Index for All Urban Consumers was established. The former is now known as the "CPI-W" and the latter as the "CPI-U". Both the CPI-W and the CPI-U are published toward the end of each month for the previous month. Although the CPI-U was intended to provide a better measure of increases in prices of goods and services purchased by persons living on fixed incomes and others who do not fit into the categories of wage earners and clerical workers, the new index has not varied significantly from the CPI-W.

On May 15, 1979, the Social Security Administration published a notice in the Federal Register, beginning on page 28423, that social security benefits would be increased by 9.9 percent, effective June 1, 1979, and that this automatic cost-of-living increase is based on the increase in the CPI-W over the appropriate base period.

Since social security benefit increases are based on the CPI-W, the Committee believes that measure is the most appropriate measure for computing increases in the VA's compensation and DIC programs.

Comparison between rate increase in Committee bill and projections of inflation by OMB and CBO

The base period of the Committee bill is, as has been noted, the 12-month period ending in June 1979; and inflation over that period, as measured by the actual rise in the CPI-W, was 11.1 percent.

By contrast, the base period of S. 689 as introduced is October 1, 1978, to September 30, 1979, that is, from the effective date of the most recent rate increase to the day preceding the bill's effective date. At the time S. 689 was introduced, the Office of Management and Budget (OMB) was projecting inflation of 7.8 percent over that period whereas CBO was projecting inflation of 8.3 percent. However, OMB's projection of inflation for that period has been revised to 9.4 percent, as noted by the VA's Director of Compensation and Pension Service at the June 14 hearing on S. 689, and CBO's July 1979 projection of inflation for that same period is 10.9 percent.

Administration position

The President indicated his strong support for a cost-of-living increase in compensation benefits by making provisions in his budget for fiscal year 1980 for the cost of a 7.8-percent rate increase and by recommending the enactment of legislation for such an increase. In a letter dated February 23, 1979, accompanying the draft legislation, the Administrator of Veterans' Affairs, Max Cleland, stated that the VA "supports increases designed to offset the decline in purchasing power due to inflation which are based on changes in the Consumer Price Index (CPI)". During the 95th Congress, in responding to questions submitted by the Chairman following the June 30, 1978, hearing on compensation legislation, the VA stated:

> The Veterans' Administration has always favored the concept that increases in the rates payable in the disability compensation and dependency and indemnity compensation programs, designed to offset the decline in purchasing power due to inflation, should be based on changes in the Consumer Price Index (CPI)....
>
> We would have no objection to the Congress establishing a new base period such as from July 1 to June 30 on which to determine the actual CPI increase....

Subsequently, at the June 14 hearing on S. 689, the Director of the Compensation and Pension Service stated that the Administration preferred to use the October-to-October base period.

Committee bill provisions

Cost-of-living increase

The 11.1-percent increase provided for by the Committee bill would apply to the monthly rates of disability compensation under section 314 of title 38, United States Code, except for the monthly rates specified in subsection (k) of section 314; the rates of additional monthly compensation for dependents payable under section 315 to veterans rated 30 percent or more disabled; and the annual clothing allowance under section 362 for disabled veterans who must use prosthetic or other orthopedic appliances, such as wheelchairs, that tend to tear or wear out clothing. The maximum monthly amounts specified in subsections (k) and (p) of section 314 would also be increased. Those are specific dollar amounts that may not be exceeded in the event that a veteran would otherwise be entitled to a higher amount by reason of entitlement to two or more monthly rates.

The following table shows the current rates of disability compensation and those proposed by the Committee bill, together with the number of veterans receiving compensation in each category:

TABLE 3.—COMPARISON OF COMPENSATION RATES UNDER PRESENT LAW AND UNDER S. 689 AS REPORTED

Applicable subsection of sec. 314, United States Code	Percentage of disability	Increases in monthly rate		Number of veterans
		From—	To—	
(a)	10	$44	$49	878, 138
(b)	20	80	89	354, 423
(c)	30	121	134	315, 110
(d)	40	166	184	184, 577
(e)	50	232	258	114, 808
(f)	60	292	324	123, 816
(g)	70	346	384	88, 987
(h)	80	400	444	40, 819
(i)	90	450	500	13, 974
(j)	100	809	899	121, 004
	HIGHER STATUTORY AWARDS FOR CERTAIN MULTIPLE DISABILITIES			
(k) (1)	Anatomical loss or loss of use of 1 or more creative organs, 1 foot, 1 hand, or both buttocks, or blindness of 1 eye, or complete organic aphonia, or deafness of both ears—for each loss.	56	56	85, 871
(2)	Maximum limit for veterans receiving payments under (a) to (j), above	1, 005	1, 117	
(3)	Maximum limit for veterans receiving payments under (l) to (w), below.	1, 408	1, 564	
(l)	Anatomical loss or loss of use of both hands, both feet, 1 foot and 1 hand, blindness in both eyes, permanently bedridden or so helpless as to require regular aid and attendance.	1, 005	1, 117	6, 769
(m)	Anatomical loss or loss of use of 2 extremities so as to prevent natural elbow or knee action with prosthesis in place, or blind in both eyes, either with light perception only or rendering veteran so helpless as to require regular aid and attendance.	1, 107	1, 230	2, 804
(n)	Anatomical loss of 2 extremities so near shoulder or hip as to prevent use of prosthesis or anatomical loss of both eyes.	1, 258	1, 398	402
(o)	Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), above, no condition being considered twice in the determination, or deafness rated at 60 percent or more in combination with total blindness.	1, 408	1, 564	53
(p) (1)	If disabilities exceed requirements of any rates prescribed, Administrator of VA may allow next higher rate or an intermediate rate is payable—but compensation may not exceed.	1, 408	1, 564	6, 979
(2)	For blindness of both eyes together with bilateral deafness rated at 40 percent or more disabling or total deafness of 1 ear, next higher rate or intermediate rate, respectively, is payable—but compensation may not exceed.	1, 408	1, 564	
(3)	Anatomical loss or loss of use of three extremities, next higher rate or intermediate rate is payable—but compensation may not exceed.	1, 408	1, 564	
(q)	[This subsection repealed by Public Law 90–493.]			
(r) (1)	If veteran entitled to compensation at the rate provided for under (o), above, or at the maximum rate under (p), above, is in need or regular aid and attendance, in addition to such rate.	604	671	8, 645
(2)	If veteran described in (r)(1) above, is in need of a higher level of care by a licensed health-care professional or a person under the regular supervision of such a professional, in addition to the rate payable under (o) or (p).	900	1, 000	
(s)	If veteran has a disability rated as total, plus additional disability independently ratable at 60 percent or over, or is permanently housebound.	905	1, 005	6, 780
(t)	If veteran entitled to compensation under (a) through (i), above, has suffered the service-connected loss or loss of use of an extremity ratable at 40 percent or more and the non-service-connected loss or loss of use of paired extremity, and the latter loss would be rated at 40 percent or more if service connected, in addition to the rate payable under (a) through (i), above.	175	194	14

Source: Department of Veterans' Benefits, Veterans' Administration, July 1979.

Veterans whose disabilities are rated at 30 percent or more may receive additional compensation for the veteran's spouse, children, and dependent parents. Under the Committee bill, those dependents' allowances would also be increased by 11.1 percent. Such dependents' allowances are prorated according to the percentage of disability. In 1978, the number of dependents for whom veterans received additional compensation exceeded 1 million.

The following table shows the current rates of additional compensation for dependents and those that would be provided for under the Committee bill:

TABLE 4.—ADDITIONAL COMPENSATION FOR DEPENDENTS

	Monthly rate	
	From—	To—
Spouse	$49	$54
Spouse and child	83	92
No spouse, 1 child	34	37
Each additional child	27	30
Each dependent parent	40	44
Each child age 18 to 22 attending school	75	83
Spouse in nursing home or severely disabled	89	99

Source: Department of Veterans' Benefits, Veterans' Administration, July 1979.

Eligibility of certain veterans for aid-and-attendance allowance

The Committee bill would make veterans receiving compensation at the so-called "n½+k" rate eligible for consideration for the aid-and-attendance allowances under subsection (r) of section 314 of title 38, United States Code. Compensation at the "n½+k" rate means that the veteran is entitled by reason of certain severe disabilities, to receive compensation at the rate intermediate between the rates provided for under subsections (n) and (o)—called the "n½" rate for purposes of convenience—and is also entitled to a "k" award, that is, additional compensation under subsection (k) of section 314.

The intermediate rates are authorized under subsection (p) of section 314 to be determined administratively by the VA, for cases in which the veteran's disabilities exceed the requirements for a particular rate but do not meet the requirements for the next higher rate.

Under current law, in order to receive consideration for the aid-and-attendance allowances under section 314(r) of title 38, a veteran must be compensated either at the highest rate under subsection (p) or under subsection (o). Prior to 1978, veterans paid at the "n½+k" rate received compensation equal to or greater than the highest rate under subsection (p), and, in accordance with a 1963 VA General Counsel's opinion (Op. G.C. 9–63), were granted consideration for the regular aid-and-attendance allowances under subsection (r). For example, in 1977, the highest rate under subsection (p) was $1,231; a veteran compensated at the "n½+k" rate received $1,232.

Until 1974, the "n½" rate was established by the VA at the arithmetic mean between the (n) and (o) rates, and, as has been noted, a veteran compensated at the "n½+k" rate received compensation that equaled or exceeded the highest rate under subsection (p). However, the fact that Congress did not provide for cost-of-living increases in the "k" award during those years meant that "n½+k" veterans would not remain eligible for aid-and-attendance allowances if the "n½" rate were set at the arithmetic mean. From 1974 to 1977, the VA administratively adjusted the "n½" rate by making the "n½" rate an amount higher than the arithmetic mean between the (n) and (o) rates so that those veterans would remain eligible for the aid-and-attendance allowance.

The following table shows a comparison between the "n½+k" rates and the section 314(p) rates under laws enacted since 1965:

TABLE 5.—COMPARISON OF MONTHLY "n½+k" RATE AND HIGHEST RATE UNDER SECTION 314(P) OF TITLE 38 FROM 1965 TO THE PRESENT

Public Law and effective date	"n½+k"	Highest rate under sec. 314(p)
89–311, Dec. 1, 1965	$610	$600
90–77, Oct. 1, 1967	610	600
90–493, Jan. 1, 1969	710	700
91–376, July 1, 1979	789	784
92–328, Aug. 1, 1972	863	862
93–295, May 1, 1974	1, 017	1, 017
94–71, Aug. 1, 1975	1, 140	1, 139
94–433, Oct. 1, 1976	1, 232	1, 231
95–117, Oct. 1, 1977	1, 312	1, 312
95–479, Oct. 1, 1978	1, 389	1, 408

Source: Veterans' Administration, December 1978.

In 1978, following the enactment of Public Law 95–479, the VA adjusted the "n½" rate to the arithmetic mean. As a result, a veteran compensated at the "n½+k" rate could not be considered for an aid-and-attendance allowance because no such veteran was receiving compensation equal to or exceeding the highest rate under subsection (p). By rerating certain "n½+k" cases so that the veterans concerned would remain eligible for aid-and-attendance allowances, the VA tried to avert any hardship to individual veterans, but about 58 veterans—all very seriously disabled—are rated "n½+k" at present and are not eligible for consideration for an aid-and-attendance award.

In the Committee's view, the disabilities of these veterans may be so severe as to require assistance by another person to the extent required for the award of an aid-and-attendance allowance under section 314(r). Thus, the Committee bill would amend section 314(r) of title 38 to provide eligibility to such veterans for consideration for the award of an aid-and-attendance allowance.

Also, in order to clarify Congressional intent with regard to the method used by the VA to establish the intermediate rates, the Committee bill would amend title 38 to require explicitly that intermediate rates be established at the arithmetic mean between the two rates concerned.

Increase in annual clothing allowance

The Committee bill would provide for an increase of 11.1 percent in the annual clothing allowance commensurate with the rate increases being provided for in the compensation and DIC programs.

Under current law (section 362 of title 38), a special clothing allowance is provided to veterans whose service-connected disabilities require them to wear or use a prosthetic or orthopedic appliance which tends to wear out or tear their clothing. In 1971, in Public Law 92-329, Congress first authorized an annual clothing allowance (of $150) for these veterans. Prior to the enactment of that law, the Administrator has been authorized to furnish "special clothing" necessitated by the wearing of prosthetic appliances. However, the law did not authorize the replacement of conventional clothing subjected to extraordinary wear and tear.

Congress has acted in recent years to assure that the clothing allowance keeps pace with inflation; and, in the Second Session of the 95th Congress, as part of Public Law 95-479, an increase of 7.3 percent was authorized, consistent with the compensation cost-of-living increase provided for under that 1978 law.

In 1979, 62,607 veterans are receiving clothing allowances.

TITLE II: SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

The Committee bill would also provide for a cost-of-living increase of 11.1 percent in the rates of dependency and indemnity compensation (DIC) authorized under chapter 13 of title 38 for surviving spouses and children of veterans whose deaths were service connected. The increase would be effective October 1, 1979, and reflected in payments to survivors beginning on November 1, 1979.

Background

The dependency and indemnity compensation (DIC) program, which supplanted the earlier death compensation program, was established in 1956 with the enactment of the Servicemen's and Veterans' Survivor Benefits Act (Public Law 84-881).

DIC is paid to the survivors—surviving spouses, unmarried children under the age of 18, as well as certain helpless children age 18 or over, children between the ages of 18 and 23 who are enrolled in school, and certain needy parents—of servicemen or veterans who died on or after January 1, 1957, from: (1) a disease or injury incurred or aggravated in line of duty while on active duty or active duty training; or (2) an injury incurred or aggravated in line of duty while on inactive duty training; or (3) a disability compensable under laws administered by the VA.

Surviving spouses, children, and parents who are receiving death compensation by reason of a veteran's death occurring before January 1, 1957, may elect to receive DIC benefits in lieu of death compensation. Once they so elect, however, they cannot thereafter receive death compensation.

DIC is paid to surviving spouses at rates determined by the pay grade—service rank—of the deceased veteran. A higher rate is payable if the surviving spouse is so disabled as to be housebound or in need of regular aid-and-attendance, and additional amounts are payable for the veteran's surviving children. Children become entitled to DIC where there is no surviving spouse, or where the child age 18 or over has become permanently incapable of self support before reaching the age of 18 or the child is age 18 to 23 and pursuing an approved course of education.

During 1978, DIC benefits were paid to or for 317,429 surviving spouses and children.

In addition, DIC is paid to the needy surviving parents of a veteran whose death was service-connected. Under Public Law 95-588, the provisions of chapter 13 of title 38, United States Code, governing the parents' DIC rates, were amended to provide for automatic annual adjustments at the same time and by the same percentage as social security benefits.

Under section 410(b) of title 38, benefits are also paid at DIC rates to the surviving spouses and children of veterans whose deaths are not determined to be service connected where the veteran received compensation at the 100-percent rate over an extended period of time immediately prior to his or her death.

Committee bill provisions

The Committee bill would provide for a cost-of-living increase of 11.1 percent in DIC rates for surviving spouses and children, the same rate of increase provided service-connected disabled veterans under title I of the Committee bill. Additional allowances for surviving spouses in need of aid-and-attendance or housebound, helpless children age 18 or over, children between the ages of 17 and 23 attending school, and surviving spouses and dependent parents in receipt of death compensation and in need of regular aid and attendance, would also be increased by 11.1 percent.

The following table shows a comparison of those rates under current law with the rates provided for under the Committee bill:

TABLE 6.—COMPARISON OF MONTHLY DIC RATES UNDER PRESENT LAW AND S.689 AS REPORTED

	From—	To—
Veterans' pay grade:		
E-1	$297	$330
E-2	307	341
E-3	314	349
E-4	334	371
E-5	343	381
E-6	351	390
E-7	368	409
E-8	388	431
E-9	406	451
W-1	376	417
W-2	391	434
W-3	402	447
W-4	426	473
0-1	376	418
0-2	388	431
0-3	416	462
0-4	439	488
0-5	484	538
0-6	544	604
0-7	590	655
0-8	646	718
0-9	694	771
0-10	760	844

The 11.1-percent increase would also be applicable to benefits paid at DIC rates under section 410(b) of title 38, United States Code, to the surviving spouses and children of certain totally disabled service-connected disabled veterans whose deaths were not service connected.

TITLE III: MODIFICATIONS OF CERTAIN VETERANS' LIFE INSURANCE PROGRAM PROVISIONS

The Committee bill would provide for three modifications of certain Veterans' Administration life insurance program provisions under chapter 19 of title 38: A limited expansion of the class of persons to whom a beneficiary may assign all or part of the proceeds of a National Service Life Insurance (NSLI) or U.S. Government life insurance (USGLI) policy; authority for the payment of dividends on certain NSLI policies; and authority for interest rates higher than those currently payable on certain NSLI, USGLI, and Veterans Special Life Insurance (VSLI) insurance proceeds. These modifications are derived from S. 754, the proposed "Veterans Insurance Amendments of 1979", an Administration-requested bill introduced by the Chairman on March 26, 1979.

Background

Life insurance protection for the Nation's veterans and service men and women is provided both under programs administered by the Veterans' Administration and programs supervised by the Veterans' Administration through a contractual relationship with private insurance companies.

Of the five programs administered by the VA—U.S. Government life insurance, National Service Life Insurance, Veterans Reopened Insurance, Veterans Special Life Insurance, and Service disabled veterans' insurance, the Committee bill concerns all but the last-named and does not modify any of the three programs—Servicemen's Group Life Insurance, Veterans Group Life Insrance, and Veterans Mortgage Life Insurance—supervised by the VA.

At the end of fiscal year 1978, the eight life insurance programs administered or supervised by the VA provided coverage exceeding $105 billion to more than 8 million insureds.

U.S. Government life insurance

U.S. Government life insurance (USGLI), the oldest Government-administered insurance program, was established in 1919 to accommodate the conversion of World War I Risk Term Insurance. The program was closed to new issues in 1951. From 1919 to 1951, approximately 1,150,000 policies were issued, of which 116,000 policies remained in force at the end of fiscal year 1978. The present face value of USGLI policies is $479.8 million. The steady decline during recent years in the number of policyholders will continue to accelerate, as the average age of the insureds advances. In 1977, the death rate was 73.8 per thousand insureds.

The program is self-supporting except for administrative expenses and claims traceable to the extra hazards of military service, which are funded through appropriations. Dividends are paid to USGLI policyholders from excess earnings of the USGLI trust fund. The 1979 dividend payments will amount to $25.6 million.

National Service Life Insurance

The largest Government life insurance program, National Service Life Insurance (NSLI), was established in 1940, to help meet insurance needs of World War II service personnel. The program was closed to new issues in 1951. From 1940 to 1951, more than 22 million policies were issued. At the end of fiscal year 1978, 3.8 million policies remained in force with face values totalling $24.5 billion. In 1977, the death rate was 11.5 per thousand insureds. The program is self-supporting except for administrative expenses and claims traceable to the extra hazards of military service, which are funded through appropriations. The 1979 dividend payments from the excess earnings of the NSLI trust fund will amount to $433.3 million.

Veterans Reopened Insurance

In 1965, Public Law 88-664 provided for the Veterans Reopened Insurance (VRI) program under a limited reopening of the NSLI program for certain disabled veterans who, because of their disabilities, were unable to obtain commercial life insurance or could not obtain it at reasonable cost. Applications for VRI policies were accepted from May 1, 1965, through May 2, 1966. About 210,000 policies were issued, of which 174,000 policies remain in force at the end of fiscal year 1978 with face values totaling $1.21 billion. The costs of administration of the program are borne by the insureds through premium payments. Under Public Law 88-664, the Administrator is authorized to adjust premium rates at intervals of not less than 2 years in order to keep the program self-supporting. Since the beginning of the program, the insurance premiums have been reduced twice on those policies with a "J" prefix and once on "JR" policies. The latest reduction in premiums was effective beginning in October 1976. All premiums on "JS" policies were eliminated effective in October 1977. Under section 725(c)(4) of title 38, dividends may not be paid on VRI policies.

Veterans Special Life Insurance

In addition to the USGLI, NSLI, and VRI programs, the VA administers the Veterans Special Life Insurance (VSLI) program for Korean-conflict veterans as a component of the NSLI program.

The VSLI program was closed to new issues in 1956. About 570,000 VSLI policies, with face values totaling $5 billion, remained in force at the end of fiscal year 1978. In 1974, Public Law 93-289 authorized the payment of dividends on VSLI policies; and the dividends paid in 1979 from excess earnings of the VSLI trust fund will amount to approximately $26.1 million.

Committee bill provisions

Assignments by Beneficiaries

The Committee bill provides for a limited expansion of the class of persons to whom all or part of the proceeds of a NSLI, VSLI, or USGLI policy may be assigned.

These provisions are intended to facilitate the settlement of insurance-proceeds cases in which two or more claimants are involved in a dispute over insurance proceeds.

A settlement of the dispute can occasionally be facilitated by cross-assignments of the policy proceeds by each claimant to the other, that is, by the claimants' agreement that each shall receive part of the proceeds. However, under current law, no assignments are lawful unless the assignee is within the classes of family members of the insured veteran specified in sections 718 and 753 of title 38. Thus, when a dispute over proceeds results from the fact that the veteran exercised his or her right to change the beneficiary without notice to the prior beneficiary, and the last-named beneficiary concedes that the prior beneficiary should receive all or part of the proceeds, an assignment cannot be made, regardless of the merits of the claim or the wishes of the proposed assignor, unless the prior beneficiary is a specified family member.

The Committee bill would provide that such assignments could be made to certain other persons: Any person designated by the insured veteran as a beneficiary, any person with whom the insured veteran had contracted to designate as the beneficiary, and any person whom a court ordered the insured veteran to designate or retain as the beneficiary. In this way, an assignment would be authorized only to a person whose claim to the proceeds was based on one of the specified legal relationships with the veteran prior to the veteran's death. These requirements are designed to provide limited authority for assignments that would, nevertheless, cover the common types of cases identified by the VA as involving disputes that could appropriately be resolved by assignments.

The Committee bill also provides that, in any case where the proceeds are to be paid other than in a lump sum, any such assignment must be joined in by the designated contingent beneficiary, if any, if the assignor is a person upon whose death or disqualification the contingent beneficiary's claim to the proceeds would be predicated. This would provide a further safeguard against the abuse of the power to assign and is similar to a provision in current law regarding assignments to specified members of the insured veteran's family.

This carefully limited provision is intended to facilitate the resolution of disputes without opening the door to abuses of these VA insurance programs and would be effective upon enactment.

Authority for dividends—Veterans reopened insurance

The Committee bill provides authority for the payment of dividends on Veterans Reopened Insurance (VRI) policies issued under the limited reopening of the NSLI program in 1965.

The VRI Fund was established for the collection of premiums and the distribution of proceeds for those policies, but, by law, dividends are not payable. Since the late sixties VRI Fund has been in surplus, and the surplus will continue to grow. Under the Committee bill, the VA would be authorized to distribute part of the surplus in the form of dividends. This provision of the Committee bill would be effective upon enactment.

The payment of dividends in fiscal year 1980 would increase outlays by about $2.4 million; however, there would be no net cost to the Federal Government nor would the distribution of dividends in any way affect the actuarial soundness of the funds.

Authority for higher interest rates for amounts payable to beneficiaries

The Committee bill provides authority for interest rates, higher than those currently prescribed by law, for proceeds payable in monthly installments to beneficiaries under USGLI, NSLI, and VSLI programs.

A veteran insured under the USGLI, NSLI, or VSLI programs may, during his or her lifetime, require that the proceeds be paid to the beneficiary in a lump sum, in a limited number of monthly installments, or in the form of an annuity. The settlement option selected by the veteran cannot be changed by the beneficiary. When the veteran dies, the proceeds vest in the beneficiary, and, if the veteran has elected that they be paid in monthly installments, interest on the unpaid balance is added to each such installment.

Under current law, the interest rates payable for each program are governed by particular sections of title 38 relating to interest-rate calculations for each program of insurance. For example, section 702 of title 38 provides for an interest rate of 3 percent-per annum for all calculations pertaining to National Service Life Insurance. However, the USGLI and NSLI trust funds—out of which the monthly installments and the interest on the proceeds are paid—are earning interest at rates averaging about 6 percent.

Thus, this provision of the Committee bill, which would be effective upon enactment, authorizes the VA to pay interest, to be added to those monthly installments, at rates that are higher than the statutorily-set interest rates, but only in accordance with the Administrator's determination that the higher rates are administratively and actuarially sound.

It is unlikely that, in the foreseeable future, any higher interest rate established by the VA in accordance with the authority provided in the Committee bill would thereafter have to be reduced; however, the bill would, in effect require the VA to readjust the interest rate in order to maintain the actuarial soundness of the trust funds concerned. Of course, the interest rates currently authorized in the pertinent sections of title 38 would remain the *minimum rates* payable.

The Committee anticipates that, if this provision is enacted, the VA will act promptly to increase the interest rates for the programs concerned and that the average rate will be 6 percent.

TITLE IV: EXEMPTION OF VETERANS' ADMINISTRATION HOME LOANS FROM STATE ANTI-USURY PROVISIONS

The Committee bill would amend chapter 37 of title 38 to exempt VA guaranteed and insured home loans from State anti-usury laws and constitutional provisions.

Under this provision, wherever loans insured by the Federal Housing Administration (FHA) are exempted from a State anti-usury provision by a provision of the National Housing Act, or any other Federal law, VA loans would also be exempted. In this way, the coordination of Federal policy regarding the exemption of VA and FHA home loans from State anti-usury provisions would be assured.

Background

VA Loan-Guaranty Program

The VA provides housing credit assistance to eligible veterans, active-duty service personnel, and certain survivors for the purchase of a home or for home improvements. The program substitutes the guaranty of the Federal Government, up to a maximum of $25,000 in the case of a house or condominium, for the investment protection afforded by substantial downpayments and shorter terms of loans under conventional mortgages. The program also assists those eligible in purchasing mobile homes.

Under section 1803 of title 38, United States Code, the interest rate for VA loans for conventional homes and condominiums is established by the Administrator of Veterans' Affairs, in consultation with the Secretary of Housing and Urban Development (HUD), and the Administrator and the Secretary are directed to carry out a coordinated interest-rate policy with regard to VA home loans and loans insured under section 203(b) (FHA loans) of the National Housing Act.

In addition to interest, veterans (under section 36.4312(d)(2) of the Code of Federal Regulations) may be required by lenders to pay one "discount point"—that is, one percent of the face amount of the loan—to cover the origination fee and other costs of the loan. Discount points and other lenders' charges may, in some States, be regarded as interest, and the total amounts—interests plus discount points and other charges—thus be subject to the State anti-usury provision.

On April 23, 1979, the VA and HUD jointly announced that the interest rate for VA and FHA home loans was increased from 9½ to 10 percent.

State Anti-Usury Provisions

State anti-usury provisions—constitutional, statutory, or both—generally bar loans in which the annual interest rate exceeds a certain specified rate, either by making the amount in excess of the specified rate unrecoverable by the lender or by making the contractual agreement void and unenforceable. The purpose of such laws is to protect residents against exorbitant interest rates. (Historically, any interest rate exceeding 6 percent per annum was regarded as usurious, but in many States, the specified rate is far higher than 6 percent.)

In any State with an anti-usury provision, the State prohibition may, in effect, bar lenders from making VA loans and thus prevent veterans from using their loan-guaranty entitlement.

Some States have repealed or modified their anti-usury laws or have exempted VA and FHA loans; in other States, such as Rhode Island, the rate not to be exceeded is high enough to prevent veterans in those States from being affected. Some States—for example, Texas and Missouri—have recently raised the rate or are in the process of doing so. However, in Arkansas, the State constitutional bar, which can be removed only through cumbersome amendatory procedures, has brought VA loan activity to a virtual halt.

Public Law 94–324

Under section 8 of Public Law 94–324, effective June 30, 1976, VA and FHA loans are exempted from State anti-usury provisions that are applicable to certain classes of lenders. This exemption was made necessary by a situation occurring in California during the early 1970's. A California constitutional anti-usury provision, adopted in 1934, specifically exempts most commercial lenders but, as interpreted, does not exempt mortgage bankers, who are the primary originators of VA loans in the United States. As a result of the Public Law 94–324 exemption, VA loans originated by mortgage bankers in California were exempted from the State constitutional provision.

Section 8 of Public Law 94–324 is not applicable to States—such as Arkansas—with a blanket Constitutional anti-usury barrier and, apparently, has no application in any State other than California.

H.R. 411

H.R. 411, introduced by Congressman Hammerschmidt on January 15, 1979, and passed by the House on June 25, 1979, would exempt VA home loans only in States having both constitutional and statutory anti-usury provisions and thus appears to be designed to exempt VA home loans only in Arkansas.

Pending legislation to exempt FHA loans

On June 7, 1979, the House passed H.R. 3875, a comprehensive housing bill. Section 310 of that bill would amend title V of the National Housing Act to exempt FHA loans from State anti-usury provisions by adding a new section as follows:

> SEC. 529. (a) The provisions of the constitution of any State expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders and the provisions of any State law expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, or advance which is insured under title I or II of this Act.
>
> (b) The provisions of subsection (a) shall apply to loans, mortgages, or advances made or executed in any State until the effective date (after the date of enactment of this section) of a provision of law of that State limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance.

On July 13, 1979, the Senate passed H.R. 3875 after substituting the provisions of S. 1149, the proposed "Housing and Community Development Amendments of 1979" as reported and amended in the Senate. Section 319 would amend the National Housing Act by adding an exemption provision identical to the one in the House-passed version.

Under proposed section 529 of the National Housing Act, loans insured under title I or title II of the National Housing Act would be exempted from State constitutional or statutory provisions expressly limiting the amount or rate of interest, discount points, or other charges; however, those loans would not be exempt in any State that reinstated its anti-usury provision after the effective date of the new Federal law.

Thus, the State's right to set an interest-rate limitation that overrides the Federal exemption would be preserved. Public Law 94–324 also preserves this State prerogative, as would H.R. 411.

Committee bill provisions

The Committee bill would provide for an exemption from State anti-ursury provisions, of VA guaranteed and insured home loans wherever any Federal law—such as the National Housing Act—exempts FHA loans. Under this provision, any State that overrode the exemption for FHA loans would also be overriding the exemption for VA loans.

The purpose of providing for an exemption in the Committee bill in this manner is to assure a coordinated Federal policy with regard to the application of State anti-usury provisions to FHA and VA home loans. This provision would be effective upon enactment. If H.R. 3875 is later signed into law by the President with the amendatory language discussed above, the exemption would become effective on the effective date of H.R. 3875. If H.R. 3875 is not enacted, this provision would become effective upon the enactment of a provision similar to section 319 of H.R. 3875 as passed by the Senate.

The VA has informally advised the Committee that the enactment of this provision—assuming that H.R. 3875 is also enacted—would permit approximately 15,000 veterans in Arkansas and other States to make use of their loan-guaranty entitlement in fiscal year 1980.

TITLE V: MISCELLANEOUS PROVISIONS

The Committee bill would correct minor technical errors in sections 611, 612A, 620A, 663, and 5005 of title 38 resulting from the recent enactment of the Veterans' Health Care Amendments of 1979 (Public Law 96–22). Also, the Committee bill would provide for Federal assistance in locating individuals who may have been exposed to occupational hazards during military service.

ASSISTANCE IN LOCATING INDIVIDUALS EXPOSED TO OCCUPATIONAL HAZARDS DURING MILITARY SERVICE

BACKGROUND ON NUCLEAR WEAPONS TESTS

Beginning in 1945, and continuing until the Limited Test Ban Treaty in 1963, the United States exploded some 235 nuclear weapons in atmospheric tests. The Department of Defense (DOD) has recently estimated that approximately 250,000 DOD personnel participated in the testing program and that some 200,000 of these were uniformed personnel. Most of those persons were subsequently discharged from the Armed Forces and are thus veterans.

The testing was heaviest in the mid-1950's. At certain tests, 3,000 to 4,000 troops were positioned near blast sites. On occasion, volunteer service personnel were placed in open trenches as close as 2,000 yards to ground zero, and at one test six volunteers stood at ground zero under an air burst some 20,000 feet above them. At other tests, units were marched or taken by helicopter to ground zero after the explosion and put through simulated combat maneuvers to test their psychological and military responses to what had just occurred. Film badges and dosimeters intended to monitor individual radiation exposures were sometimes provided to only one individual in a unit rather than to each individual. Variations in the accuracy of monitoring techniques are known to have existed, and some types of radiation were not measured at all.

In the Committee's view, it is important to remember that this testing occured immediately following the use of atomic weapons during World War II and during the height of the Korean conflict and the "Cold War." During that period of great international tension, there was overwhelming national concern about the possibility of the United States being forced to use nuclear weapons. National security considerations were of paramount importance. Safety standards were generally set in accordance with the scientific knowledge of the day, which tended to minimize the risk of disability resulting from exposure to low levels of radiation. Since that time, scientists have moved toward a consensus regarding safety standards and are in general agreement today that there is no completely safe exposure level for ionizing radiation.

Scientific uncertainties regarding health effects

The long-term health effects of exposure to "low levels" of ionizing radiation are not yet completely understood. It is clear that ionizing radiation causes an increased incidence of malignant tumors and can cause genetic damage. What is unclear is how much increased risk is caused by exposure to levels of radiation that are not "massive". It is also recognized that there is a long interval —the "latent period"—between radiation exposure and the subsequent development of malignancies. Without a clear scientific basis in fact, the issue of just compensation for conditions that develop in individuals who have been exposed to relatively low levels of ionizing radiation is a highly complex one.

Current national statistics indicate that approximately 62,500 of the 250,000 DOD personnel who participated in the nuclear weapons test program would be expected to develop some form of cancer during their lifetimes because of "natural" causes, and, of that number, some 40,000 would be expected to die of some form of cancer. At present, it is not possible to distinguish malignancies caused by radation from those caused by other hazards of "natural" causes. This further complicates the difficult factual context of the claims process. Thus, it is currently impossible to find a way to compensate only those individuals who develop cancer as a direct result of radiation exposure while serving the Armed Forces.

Long-term weapons-test participant followup studies under way

Because of the scientific uncertainty surrounding the question of the long-term health effects of exposure to *low* levels of ionizing radiation, several follow-up studies of nuclear weapons test participants have been initiated. The Center for Disease Control (CDC) in Atlanta, Georgia, is studying 3,153 individuals who participated in the 1957 test known as Shot SMOKY in Operation PLUMBBOB in Nevada to determine their current health status, or, if deceased, the cause of death. The technical nature of this type of study makes it impossible to predict a completion date. The Medical Follow-Up Agency of the National Academy of Sciences (NAS) has recently begun to study, for the same purpose, a larger group of persons who were participants in various other nuclear weapons tests. This NAS study is jointly funded by the DOD and the Department of Energy (DOE). Neither of these studies is complete, however, and the questions raised remain unanswered.

Claims process difficulties

In recent years, the VA has received more than 600 claims for benefits from veterans who were nuclear weapons test participants and their survivors. Fewer than twenty claims have been granted for radiation-induced illness related to weapons testing. The claims process has clearly been made more difficult by problems caused by incomplete or missing records, documents that may be or have been classified, or records that are unavailable because of destruction in the 1973 fire at the St. Louis National Personnel Records Center. The Committee therefore believes that veterans and their survivors should be afforded every possible assistance in gathering the information necessary to develop claims for radiation-related disability resulting from participation in weapons testing.

Review of historical documents concerning the atmospheric weapons testing program reveals that considerable controversy existed at the time of the tests about the safety of radiation exposure standards and that a considerable amount of information about the controversy over the safety of the exposure standards was withheld from the test participants and the public until very recently. The Government also failed to follow test participants systematically after their exposure in order to determine the long-term health effects of low-level ionizing radiation and until very recently has done little in the way of systematic efforts to assist veterans and their survivors in the claims process. The Committee thus believes that there can be no doubt that the Federal government has a compelling moral responsibility to act emphatically now to do everything possible to facilitate the presentation of VA disability and death claims related to nuclear weapons testing.

Strong concern about the claims process and about steps that should be taken to facilitate the claims process was articulated by the Chairman in his May 16, 1979, letters to the Secretaries of Defense; Energy; and Health, Education, and Welfare; and the Administrator of Veterans' Affairs, requesting that a series of steps be taken to facilitate the claims process. (These letters are reproduced in full in the Appendix to this report.) The steps urged were:

For the Secretaries of Defense and Energy to begin an immediate, systematic review of all relevant records spanning the 18 years of atmospheric nuclear weapons tests and, in every case where declassification would not jeopardize national security, to make this information available to veterans who volunteered or were ordered to participate in nuclear weapons tests and who now suffer disabilities that might be related to that participation.

For the Administrator of Veteran's Affairs to direct the VA to adopt and publish claims processing standards that would facilitate presentation of a weapons-test radiation-related claim, and require that the VA request, in every such case, records from DOE and DOD that might be helpful to a claimant but that an individual veteran might have some difficulty in obtaining. Such records include radiation exposure records maintained by a DOE contractor, Reynolds Electrical and Engineering Company—REECO—and records currently being reconstructed by DOD of each weapons test indicating the dose of radiation an individual participant probably received.

For the Secretary of Defense to initiate a new project to reconstruct each weapons test to provide an estimate of radiation exposure based on general geographic areas rather than the apparent precise location of the participant at the site. Such general geographic reconstruction was recommended to counteract some of the errors created from using imprecise data to perform what purports to be a precise, individual reconstruction.

For the Administrator of Veterans' Affairs to make full and routine use of these geographic reconstruction records as well as REECO records and individual exposure estimates to gain the exposure estimate most favorable to the claimant's case.

For the Secretary of Health, Education, and Welfare to do everything reasonably possible to expedite the crucial CDC followup study of 3,153 service personnel who participated in the 1957 Nevada SMOKY test and to cooperate with and support the NAS followup study on test participants.

Committee Oversight Hearing

The Committee held hearings on June 20, 1979, to gather information about difficulties veterans and survivors had experienced in using the claims process for weapons test-related claims. Testimony was received from veterans and their survivors who had personal experience with such claims, and representatives of veterans' service organizations, DOD, DOE, VA, the Interagency Task Force on Ionizing Radiation, HEW, and the NAS.

Outcomes

The hearings provided much valuable information to the Committee and resulted in a number of positive outcomes.

As a result of the Chairman's May 16 letters and the hearing:

1. The VA agreed to issue agencywide instructions establishing liberal presumptions on the issue of test participation and directing that credible estimates of radiation exposure, even if higher than actual badge readings of radiation exposure, be used in adjudicating a claim. These instructions will also specify and affirm the VA's role in assisting the claimant in gathering information to support the claim. The Committee has been informed that these instructions will be issued very shortly.

2. The VA has also agreed to develop, in collaboration with other interested and appropriate Federal departments and agencies, generally accepted medical principles concerning radiation-related illnesses as well as an enumeration of areas where uncertainties exist about that knowledge.

3. The VA and DOD also agreed, in a memorandum of understanding dated June 15, 1979, to conduct further research into all 229 previously denied nuclear test-related claims and, with respect to those cases where records are incomplete, DOD will reconstruct an estimate of the highest likely exposure for that claim. The Committee has been informed by DNA that 80 to 90 percent of these reconstructions will be completed within the next 6 months. This memorandum of understanding also provided that a reconstructed estimate will be done at the VA's request for each future or pending claim on a timetable designed to provide a prompt response to each request in terms of priorities related to the veteran's current medical disability. (This memorandum of understanding is reproduced in full in the Appendix to this report.)

4. The DOD stated that the principle of geographic reconstruction was being used in the techniques involved in making radiation exposure estimates for test participants.

5. The DOD has agreed to make publicly available, through declassification if necessary, any document or section of a document that related to personnel participation or radiation exposure and that would not jeopardize national security by its release, to make publicly available, and keep updated, a list of such documents, and to continue to assign a high priority to the reconstruction effort for each weapons detonation involving military personnel. The DOD has stated it is impossible to estimate when the process of making these documents publicly available and compiling a list of such documents will be completed.

6. The DOD has also agreed to contact, and arrange medical examinations in VA hospitals for all test participants who received more than 5 rem exposure during the testing program.[1] According to the most recent of several DNA estimates, the initial mailing of notifications to approximately 70 of the group of test participants will take place on August 7, 1979; the timing of future mailings will depend upon the availability of further information and addresses, which, as to the latter factor, will be improved by a provision in the Committee bill.

7. On May 31, 1979, the Defense Nuclear Agency (DNA) released a report, prepared by a contractor—Science Applications, Incorporated—summarizing the reconstruction of Shot SMOKY in Operation PLUMBBOB. The Chairman announced at the June 20 hearing that he intended to ask the Office of Technology Assessment (OTA) to review the technology used in this reconstruction effort and report to the Committee on whether or not any serious limitations to widespread application of the technology might exist. This request was formally transmitted to OTA on July 11, 1979. (This letter is reproduced in full in the Appendix to this report.)

8. The DOE likewise has agreed to review systematically all documents in its control that pertain to personnel participation or radiation measurement and to make those documents publicly available, through declassification if necessary, on a regional and decentralized basis. The Committee expects to receive DOE's timetable for completion of this review in the near future.

9. The DOE has also agreed to continue to assign a high priority to the REECO Dosimetry Master File improvement program and estimated that the expenditures for this project in fiscal year 1980 would be twice the amount expended in fiscal year 1979.

10. The DOE has also asserted that it is in the process of carrying out similar medical followup of non-DOD civil service and contract personnel who participated in the weapons testing program.

11. The DHEW has agreed to work with the VA in developing generally accepted medical principles and enumeration of areas of uncertainty about radiation-related illnesses.

IMPEDIMENTS TO LONG-TERM STUDIES

Testimony from DOD, VA, HEW and the NAS revealed that there remains a significant impediment to performing and completing epidemiological followup studies that are necessary to define the long-term health effects of exposure to radiation or other hazardous substances. As this problem relates to long-term health effects of exposure to ionizing radiation from nuclear weapons testing, it is clear that the difficulty in obtaining current addresses for test participants is slowing and impairing the progress of these crucial studies. A similar impediment can be expected to occur regarding epidemiological followup studies of persons exposed to other long-term health hazards such as "Agent Orange" and its contaminant, dioxin, discussed at greater length below. Since DOD and VA records do not contain current addresses for many of the persons who should be contacted, and the Internal Revenue Service (IRS) is the only Federal agency which, in its taxpayer files, maintains records containing the current addresses of such persons, it is vital that controlled availability of current addresses in the IRS files be permitted.

NIOSH exemption

Access to addresses in these IRS files was generally forbidden by provisions in the Tax Reform Act of 1976. However, in 1977, Public Law 95-210 amended the Internal Revenue Code to provide for a highly limited exemption. Under this exemption, IRS is directed to supply to the National Institute for Occupational Safety and Health (NIOSH), upon request, the current mailing addresses of individuals "who were or may have been exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment." This so-called "NIOSH exemption" is contained in section 6103(m)(3) of the Internal Revenue Code.

Because NIOSH is an organizational component of the CDC, the CDC was able to use the "NIOSH exemption" to contact some 3,153 persons who participated in Shot SMOKY. DOD and DOE, however, are not authorized to use the "NIOSH exemption" to contact persons to be included in the NAS followup study. Although IRS has agreed to address and mail a small number of questionnaires and notifications for DOD as part of that Department's followup efforts, serious problems remain, including DOD's inability to document receipt of the mailed material and limitations on the volume of mailing that can be accommodated.

---

[1] A "rem", an abbreviation for *roentgen equivalent man*, is a unit of radiation exposure measurement which reflects the amount of biological damage done by a particular form of radiation.

The inability of DOD and DOE to use the IRS mailing address files for this narrow purpose has significantly impeded the progress of the crucial NAS followup study. As indicated, the same result will very likely obtain with respect to the epidemiological studies to be conducted regarding the contaminant, dioxin, discussed immediately below.

BACKGROUND ON EPIDEMIOLOGICAL STUDY OF THE LONG-TERM HEALTH EFFECTS OF AGENT ORANGE AND ITS CONTAMINANT DIOXIN

Agent Orange

Agent Orange was the military name for an herbicide or defoliant used in Vietnam from 1962 to 1971. It was a 50–50 mixture of the chemicals, 2,4-dichlorophenoxyacetic acid (2,4-D) and 2,4,5-trichlorophenoxyacetic acid (2,4,5-T). When 2,4,5-T was manufactured, an unavoidable contaminant known informally as "dioxin" was present. (Although it has usually been known only as "dioxin", it properly should be called 2,3,7,8-tetrachlorodibenzo-para-dioxin (TCDD). TCDD is only one example of the class of chemicals known as the dioxins. Nontechnical writers usually refer to the contaminant in Agent Orange simply as dioxin. This report will use the nontechnical term dioxin.)

Dioxin is one of the most toxic substances produced by man. Amounts as small as one millionth of a gram have produced serious short-term and long-term health effects in laboratory animals, and very small doses may, in fact, cause the death of the animal. According to a 1971 report prepared by the White House Office of Science and Technology Policy (Executive Office of the President, 1971, Report on 2,4,5-T, a report of the Panel on Herbicides of the President's Science Advisory Committee, C. M. MacLeod, Chairman, Office of Science and Technology, Executive Office Building, Washington, D.C.), the 2,4,5-T produced during 1965 and 1968, 2 years of heavy Agent Orange use, had high concentrations of dioxin contamination.

Agent Orange was sprayed from aircraft, helicopters, and on the ground to defoliate areas in Vietnam. It was sprayed from aircraft ("Operation Ranch Hand") and helicopters for the purpose of denying jungle cover to the enemy and occassionally for destroying food crops that might be used by the Vietcong. It was sprayed by hand to clear vegetation around military bases and encampments in order to improve visibility. There seems to be good reason to believe that the service personnel actually involved in these spraying operations received exposures to dioxin higher than any other personnel in Vietnam.

2,4-D and 2,4,5-T have been used alone or in mixture in this country since the late 1940's to control weeds in lawns and agricultural crops, to control vegetation along rights of way and highways, and, by the Forest Service, to control unwanted plants in national forests. The levels of dioxin in the 2,4,5-T produced for domestic use in the 25 years of use in this country are not known with any degree of accuracy. On March 1, 1979, the Environmental Protection Agency announced an emergency ban against further domestic use of 2,4,5-T, the first ban of a chemical on an emergency basis in that agency's history. This action followed an apparent increase in miscarriages among women in Alsea, Oregon, after nearby forests were sprayed with 2,4,5-T.

Scientific uncertainties regarding health effects

Although massive doses of 2,4,-D and 2,4,5-T can produce acute illness, these chemicals have generally been considered to be quite safe when used in appropriate amounts. It is known that where the contaminant dioxin is present in significant quantities, the possibility of acute toxic effects is increased. But the long-term toxic effects from dioxin exposure are poorly understood. Because dioxin has been shown to cause birth defects, tumors, and various other disorders in laboratory animals, there is understandable concern that these same problems might be found in humans. The studies needed to answer these questions, however, have either only recently been initiated or have not been broad enough in scope to provide the necessary answers.

Epidemiological dioxin studies

In 1976, an industrial accident in Seveso, Italy, exposed a number of Seveso residents to dioxin. A long-term follow-up study of those residents is being conducted by the Italian Government, but this study is not complete and no conclusions may yet be drawn. Because of the technical nature of this type of followup study, it is not yet known when this study will be completed. Likewise, a study of the miscarriages among women in Alsea, Oregon, is too small to provide scientifically satisfactory answers to the questions about dioxin's health effects. The Committee is not aware of any major long-term epidemiological followup study currently under way that would supply the necessary answers.

Claims process difficulties

Approximately 500 claims for service-connected disability have been filed with the Veterans' Administration for such problems as cancer, nervousness, birth defects, and miscarriages alleged to have resulted from exposure to Agent Orange. Only one claim for the one proven long-term dioxin effect—a skin condition called "chloracne"—has been allowed. Some Vietnam-era veterans view the denial of almost all Agent Orange claims by the VA as suggestive that a deliberate "cover-up" by the Federal Government is being carried out in much the same way as information about potential adverse health effects from radiation was withheld from nuclear weapons test participants in the 1950's and 1960's.

CONGRESSIONAL AND EXECUTIVE BRANCH ACTIVITIES

On October 11, 1978, the House Committee on Veterans' Affairs held a hearing on the subject of the long-term health effects that might relate to dioxin exposure.

In January 1979, the VA announced plans to begin a scientific study to search for traces of dioxin in the body fat of individuals exposed to Agent Orange and compare the results of that search to body fat samples from persons who had never been exposed to Agent Orange. The VA has informed the Committee that "15 to 20" biopsies of fat tissue from veteran "volunteers" have been conducted, but results are not yet available. The VA is unable to estimate when this study will be complete. The Committee continues to be concerned about an apparent lack of appropriate priority being assigned to completion of this project by the VA.

On April 6, 1979, the General Accounting Office, in response to a request from the late Representative Ralph H. Metcalfe, issued a report (CED–79–22) recommending that "the Department of Defense, with the assistance and guidance of an appropriate interagency group, should conduct a survey of any long-term medical effects on military personnel who were likely to have been exposed to herbicides in South Vietnam."

On April 5, 1979, the VA announced the formation of the Advisory Committee on the Health-Related Effects of Herbicides which was formed to "assemble and analyze information concerning toxicological issues which the Veterans' Administration needs in order to formulate appropriate medical policy and procedures in the interest of veterans who may have encountered herbicidal chemicals used during the Vietnam War". This committee met for the first time on June 11, 1979.

On June 26 and 27, 1979, the Subcommittee on Oversight and Investigations of the House Committee on Interstate and Foreign Commerce held hearings on the subject of the health effects of exposure to Agent Orange.

VETERANS' AFFAIRS COMMITTEE ACTION

The concern of the Committee was expressed in the Chairman's February 7, 1979, letter to President Carter, which is reproduced in full in the Appendix of this report. The Chairman expressed the belief that it was necessary to begin a larger scale epidemiological study of various populations exposed to dioxin in order to begin to answer the troublesome questions about the long-term health effects of dioxin exposure.

On March 2, 1979, Assistant to the President for Domestic Affairs and Policy, Stuart Eizenstat, replied to the Chairman's February 7 letter stating:

"Recently, the VA Administrator has submitted a formal request for the establishment of an advisory committee on herbicides to the Administrator of the General Services Administration. The advisory committee has been approved and will be established very soon. We expect that during its twelve month mandate the advisory committee will advance recommendations to resolve the complex and compelling questions involved with this issue. Furthermore, we will request that the advisory committee consider, as soon as possible, the need for and feasibility of a major long-term epidemiological study of individuals exposed to dioxin as you have suggested. I will ask my staff to monitor the deliberations of the committee as well as seek the guidance of other appropriate White House staff on the question of undertaking such a study. My staff will be reporting back to you on this matter."

In the Committee's view, because of the broad health ramifications of exposure to dioxin and because of the types of resources required to perform an epidemiological study of the various populations exposed to dioxin, the Center for Disease Control (CDC) in the Department of Health, Education, and Welfare (HEW) is the agency of the Federal government best suited to perform the necessary epidemiological study rather than the VA or the Department of Defense. Thus, on June 18, 1979, during Senate consideration of S. 1039, the Chairman, in order to reemphasize the importance that such a study be undertaken forthwith, offered and the Senate adopted an amendment, on behalf of himself and Senators Jacob K. Javits, Alan K. Simpson, Daniel P. Moynihan, and Charles Percy, as section 304 of that bill, to direct that such a study be conducted. The provisions of S. 1039 were subsequently passed by the Senate on June 18 in H.R. 3892. On July 11, 1979, the Chairman wrote to the Secretary of HEW urging that the study be undertaken by the CDC without awaiting enactment of the statutory mandate. (This letter is reproduced in full in the Appendix to this report.)

The Committee also considered the need to proceed with this study to be so important that it has directed that a Committee amendment (identical to section 304 of H.R. 3892 as passed by the Senate) be offered when this bill (S. 689) is considered on the Senate floor.

COMMITTEE BILL PROVISIONS

The Committee bill would direct that the "NIOSH exemption" in section 6103(m)(3) of the Internal Revenue Code (described above) be used to contact individuals who were or might have been exposed to an occupational hazard as a result of their service in the Armed Forces. The Committee bill specifies that the Director of NIOSH shall request from the IRS, and supply to the VA (or other Federal department, agency, or instrumentality) current mailing addresses for individuals who the Administrator or other department, agency, or instrumentality head certifies as having experienced a possible occupational hazard exposure during military service. The VA (or other Federal department, agency, or instrumentality) would be authorized to use the addresses solely for the purpose of locating these individuals as part of an activity being carried out by or on behalf of the VA (or other Federal department, agency, instrumentality) to determine the status of the health of such individuals or to inform them that they may need medical care and that they may be entitled to benefits such as VA compensation and health care. The Committee bill incorporates the language used in the NIOSH exception in section 6103(m)(3) of the Internal Revenue Code so that the addresses may be used solely in connection with the limited purpose specified in that statutory exception.

Thus, the purpose of this provision under the Committee bill is to facilitate the completion of the weapons-test radiation long-range followup studies currently under way and the dioxin study required under section 304 of H.R. 3892 as passed by the Senate (and proposed as a Committee amendment to the Committee bill), and comparable medical followup studies of persons exposed to occupational hazards during service in the Armed Forces.

COST ESTIMATE

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-150, 91st Congress), the Committee, based on information supplied by the Congressional Budget Office, estimates that the 5-year cost resulting from the enactment of the Committee bill would be $758.1 million in fiscal year 1980; $765.5 million in fiscal year 1981; $773.6 million in fiscal year 1982; $784.1 million in fiscal year 1983; and $792.3 million in fiscal year 1984. A detailed breakdown of the costs, as estimated by CBO, over the 5-year period follows:

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE—JULY 26, 1979

1. Bill Number: S. 689.

2. Bill title: Veterans' Disability Compensation and Survivor Benefits Act of 1979.

3. Bill Status: As ordered reported by the Senate Committee on Veterans' Affairs, July 12, 1979.

4. Bill purpose:

Title I

Sections 101 (a) and (d), 102 and 103: Would increase the monthly rates of disability compensation by an average of 11.1 percent.

Sections 101 (b) and (c): Would entitle certain severely disabled veterans to aid and attendance allowances.

Section 104: Sets the effective date for provisions in title I to be October 1, 1979.

Title II

Sections 201, 202 and 203: Would increase the monthly rates of dependency and indemnity compensation by an average of 11.1 percent.

Section 204: Sets the effective date for provisions in title II to be October 1, 1979.

Title III

Sections 301 and 302: Would provide for a limited expansion of the class of persons to whom the beneficiary may assign all or part of the proceeds of a National Service Life Insurance (NSLI) or a U.S. Government life insurance (USGLI) policy.

Section 303: Would provide authority for the payment of dividends on Veterans Reopened Insurance (VRI) policies.

Sections 304 and 305: Would provide authority for higher interest rates under the NSLI and USGLI programs than those currently authorized.

Section 306: Sets the effective date of provisions in title III to be the date of enactment.

Title IV

Section 401: Would provide authority to exempt VA-guaranteed and VA-insured home loans from State anti-usury laws and constitutional provisions.

Title V

Section 502: Would require the National Institute of Occupational Safety and Health (NIOSH) at the request of VA or another Federal agency, to obtain from the Internal Revenue Service (IRS) the current mailing addresses of veterans and other individuals who may have been exposed during their military service to low-level radiation or other occupational hazards.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984
Title I:					
Sec. 101(a)(d), 102 and 103:					
Required budget authority	623.6	631.4	639.3	649.4	657.4
Estimated outlays	573.7	631.0	638.7	648.7	656.8
Sec. 101(b)(c):					
Required Budget Authority	(1)	(1)	(1)	(1)	(1)
Estimated Outlays	(1)	(1)	(1)	(1)	(1)
Title II: Secs. 201, 202 and 203:					
Required budget authority	134.4	134.0	134.3	134.6	134.9
Estimated outlays	123.7	133.9	134.2	134.5	134.8
Title III:					
Secs. 301 and 302:					
Estimated budget authority	0	0	0	0	0
Estimated outlays	0	0	0	0	0
Sec. 303:					
Estimated budget authority	0	0	0	0	0
Estimated outlays	2.8	3.8	3.9	3.9	4.0
Secs. 304 and 305:					
Estimated budget authority	0	0	0	0	0
Estimated outlays	0	0	0	0	0
Title IV: Sec. 401:	0	0	0	0	0
Estimated budget authority	0	0	0	0	0
Estimated outlays	(1)	(1)	(1)	(1)	(1)
Total:					
Required budget authority	758.1	765.5	773.6	784.1	792.3
Estimated outlays	700.2	768.7	776.8	787.1	795.6

[1] Less than $500,000.

Note: Detail may not add to total due to rounding. The cost of this bill falls within budget function 700.

6. Basis for estimate:

Title I

Sections 101(a)(d), 102 and 103: The cost of the 11.1 percent increase in disability compensation rates was estimated by multiplying the projected average benefit level in each year by 11.1 percent. The anticipated increase in the average benefit is then multiplied by the projected caseload to calculate the cost of the rate increase.

Sections 101(b)(c): This provision would extend eligibility for aid and attendance allowances to veterans who are entitled to compensation at an intermediate rate between the rates provided by section 314 (n) (title 38, U.S.C.) and section 314(o) and who are also entitled to additional compensation under section 314(k). According to the VA there were only 58 such cases receiving compensation in fiscal year 1978. There are no data available upon which to estimate the number of these veterans who would qualify for aid and attendance allowances. The maximum possible cost of this provision would be $696,000, if all the affected cases were determined to be eligible for the higher level aid and attendance allowance of $1,000 a month. This is not expected to be the case, however, since the types of disabilities involved are not likely to require the higher level of attendant care. If it is assumed that 50 percent of the newly eligible veterans would qualify for regular aid and attendance and an additional 10 percent would require the higher level care, the annual cost of this provision would be approximately $300,000.

Title II

Sections 201, 202 and 203: The cost of the 11.1 percent increase in dependency and indemnity compensation rates was estimated by multiplying the projected average benefit level in each year by 11.1 percent. The anticipated increase in the average benefit is then multiplied by the projected caseload to calculate the cost of the rate increase.

Title III

Sections 301 and 302: This provision would expand the class of persons to whom the proceeds of NSLI or USGLI policies could be paid but would not affect the amount of such payments. It should, therefore, have no cost impact.

Section 303: The VRI fund is not currently authorized by law to pay dividends. Since premium payments and interest coming into the fund exceed the cost of claims, a large surplus has accumulated in the fund which would allow the payment of dividends at no cost to the Federal Government. The payment of dividends would, however, increase the outlays from the fund. The estimated outlay increase shown for fiscal year 1980 only reflects the impact for three-fourths of the year, as the fund operates on a calendar year basis. The first dividend, therefore, would not be declared until January 1980.

Sections 304 and 305: The beneficiary of a NSLI or USGLI policy has the option of receiving the proceeds of that policy in a limited number of monthly installments rather than in a lump sum. Interest is paid on the unpaid balance of such proceeds at the rate of 3 percent per annum. These unpaid balances are earning interest, however, at an average rate of 6.8 percent. The excess interest currently goes into the surpluses of the two funds and is paid out in dividends to policyholders. This provision would allow the Administration to adjust the rate at which interest is paid to beneficiaries to the rate at which the interest is actually being earned. There would be no Federal cost associated with this amendment, nor any significant change to total outlays, because the provision would only change the recipients of the outlays but not the total amount.

Title IV

Section 401: This provision would exempt VA home loans from State anti-usury laws and constitutional provisions. According to VA information, only the State of Arkansas would be significantly affected by this amendment. Other States either have State laws that exempt Federal home loan programs from the restrictions on their usury laws or have interest ceilings high enough to avoid conflict with current interest rates. Although enactment of the provision would increase loan activity in Arkansas, the increase should not significantly raise total program costs.

Title V

Section 502: The provision would require NIOSH to obtain from IRS current addresses of persons who may have been exposed to radiation or other occupational hazards during military service. This amendment would be expected to result in some net savings to Federal expenditures as it would eliminate the need for these addresses to be obtained by VA through less efficient means. Neither the increase in costs to NIOSH and IRS nor the savings to VA should be significant. If these changes are absorbed in the current funding levels of the three agencies, there would be no budgetary impact.

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: K. W. Shepherd.
10. Estimate approved by:

C. G. NUCKOLS

(For James L. Blum, Assistant Director for Budget Analysis).

SECTION-BY-SECTION ANALYSIS OF S. 689 AS REPORTED

Section 1

Subsection (a) of section 1 would provide that this Act may be cited as the "Veterans' and Survivors' Benefits Adjustment Act of 1979".

Subsection (b) of section 1 would provide that, except when otherwise expressly provided, reference in the Committee bill to a section or other provision shall be considered to be made to a section or other provision of title 38, United States Code, relating to veterans' benefits.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

Section 101

Would amend present section 314 of title 38, relating to the rates of service-connected disability compensation.

Subsection (a) of section 101 would amend subsections (a) through (j) of present section 314 to increase by 11.1 percent the basic monthly rates of compensation paid to veterans with disabilities rated from 10 to 100 percent. Currently, a veteran with a 10-percent disability receives $44 monthly, and a veteran with a disability rated as total—100 percent—receives $809 monthly. Those rates would be increased to $49 and $899, respectively, by the Committee bill, and the rates for disabilities rated 20 to 90 percent would be increased by the same percentage. This section would also increase by 11.1 percent the higher monthly rates of compensation authorized under subsections (l) through (o) of such section for veterans with certain combinations of severe disabilities, the aid-and-attendance allowance rates authorized under subsection (r), the housebound rate authorized under subsection (s), the additional amount payable under subsection (t) to certain veterans who have suffered the service-connected loss or loss of use of an extremity and the non-service-connected loss or loss of use of the other, paired extremity; and the limitations on the total amount payable monthly to a veteran entitled to compensation under subsection (k) who is also entitled to compensation under another subsection of present section 314. Also, the maximum amount payable monthly to a veteran under subsection (p), which authorizes the Administrator to pay the next higher rate or intermediate rate to a veteran whose disabilities exceed the requirements for any of the rates prescribed in such section 314, or who is both blind and deaf, would be increased by 11.1 percent.

Subsection (b) of section 101 would further amend subsection (r) of present section 314 to make eligible for consideration for the aid-and-attendance allowances authorized under that subsection any veteran who is compensated at the rate intermediate between the rates authorized under subsections (n) and (o) of present section 314 of title 38 plus the rate authorized under subsection (k)—the so-called "n½+k" rate. Under current law, in order to receive consideration for those aid-and-attendance allowances a veteran must be compensated either under subsection (o) or at the highest rate authorized under subsection (p).

Subsection (c) of section 101 would further amend subsection (p) of present section 314 to clarify Congressional intent with regard to intermediate rates by providing that any intermediate rate established under subsection (p) by the Administrator of Veterans' Affairs be set at the arithmetic mean between the two rates concerned. For example, the intermediate rate between the rates authorized under subsections (n) and (o), as amended by the Committee bill, which are $1,398 and $1,564, respectively, would be determined by adding the two rates and dividing the total by two, resulting in an intermediate rate of $1,479.

Subsection (d) of section 101 would authorize the Administrator of Veterans' Affairs to increase by 11.1 percent of the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who do not receive compensation under chapter 11 of title 38. Public Law 85-857 generally codified in title 38 of the United States Code the laws relating to veterans' benefits; and section 10 of that law provided that any individual who was receiving benefits as a veteran on December 31, 1958, under public laws administered by the VA but not so codified, was to continue to receive benefits at the rates payable under such public laws or under corresponding provisions of title 38, whichever is the greater, as long as he or she remains eligible.

Section 102

Would amend present section 315 of title 38, relating to additional compensation payable monthly to veterans with service-connected disability ratings of 30 percent or more who have spouses, children, and dependent parents, to increase those allowances by 11.1 percent.

Clauses (1) through (10) of section 102 would amend clauses (A) through (J) of present section 315 (1) of title 38, relating to additional compensation—"dependents' allowances"—payable monthly to a totally disabled veteran who has dependents, to increase those allowances by 11.1 percent. Under existing law, a veteran so disabled who has a spouse, but no child, receives a monthly allowance of $49; if the married veteran has one child, the amount is $83; if two children, $110; if three children, $137; and if more than three children, $137, plus $27 for each child in excess of three. Under the Committee bill, those amounts would be increased to $54, $92, $122, $152, and $30, respectively.

Also, under existing law, a totally disabled veteran who has no spouse receives a monthly allowance of $34 for one child; $61 for two children; $88 for three children; and $27 for each child in excess of three. Under the Committee bill, those amounts would be increased to $31, $66, $98 and $30, respectively.

The Committee bill would also increase by 11.1 percent the amount of the dependents' allowance payable monthly to a totally disabled veteran who has a dependent parent or parents, from $40 (for each such parent) to $44; to such a veteran who has a severely disabled spouse, from $89 to $99; and to such a veteran who has a child of age 18 or over who is pursuing a course of education at an approved educational institution, from $75 to $83.

Under paragraph (2) of present section 315, the additional compensation payable to veterans rated from 30- to 90-percent disabled veteran who has a dependent parent or veteran rated at 30 percent would receive 30 percent of the amount specified in paragraph (1) of such section.

Section 103

Would amend present section 362 of title 38, relating to the clothing allowance payable annually to a veteran receiving compensation whose disability requires the use of a prosthetic or orthopedic appliance or appliances, including a wheelchair, that tends to wear out or tear the veteran's clothing, to increase that allowance by 11.1 percent, from $218 to $242.

Section 104

Would provide that the effective date of the provisions of title I shall be October 1, 1979.

Title I—Cost: This title would benefit approximately 2,258,800 veterans and its enactment is expected to cost $623.6 million in fiscal year 1980.

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

Section 201

Would amend present section 411 of title 38, United States Code, relating to the rates of dependency and indemnity compensation (DIC) for the surviving spouses of veterans whose deaths were service connected.

Clause (1) of section 201 would amend subsection (a) of present section 411, relating to basic dependency and indemnity compensation rates payable to surviving spouses of veterans whose deaths were service connected, to increase by 11.1 percent the DIC benefit payable monthly to such a surviving spouse. Under current law, DIC benefits are paid according to the pay grade—service rank—of the deceased veteran; and the amounts range from $297 per month for the surviving spouse of a veteran who had attained the grade of E-1 to $760 for the surviving spouse of a veteran who had attained the grade O-10. Those rates would be increased to $330 and $844, respectively; and proportionate increases would be provided in the rates for the intermediate pay grades and in the rates payable to the surviving spouses of veterans who had served in the positions specified in footnotes 1 and 2 to the table of grades and rates in existing section 411. Thes increases would automatically result in identical increases in the benefits payable at DIC rates under section 410(b) of title 38, United States Code, to surviving spouses of certain veterans compensated at the 100-percent rate whose deaths were not service connected.

Clause (2) of section 201 would amend subsection (b) of present section 411, to increase by 11.1 percent, from $35 to $39, the additional amount—dependents' allowances—payable for each child under the age of 18 to a surviving spouse receiving DIC.

Clause (3) of section 201 would amend subsection (c) of present section 411 in order to increase by 11.1 percent, from $89 to $99, the additional amount of DIC payable monthly to a surviving spouse who is a patient in a nursing home, or who is helpless or blind or so nearly helpless or blind as to require the regular aid and attendance of another person.

Clause (4) of section 201 would amend subsection (d) of present section 411 to increase by 11.1 percent, from $45 to $50, the DIC payable monthly to a surviving spouse who is so disabled as to be permanently housebound, but not in need of regular aid and attendance.

Section 202

Would amend present section 413 of title 38, relating to DIC for surviving children of veterans whose death were service connected, to provide an 11.1-percent increase in the monthly rates of DIC payable for the veteran's children where no surviving spouse is entitled. The current rates of $150 for one child, $216 for two children, $278 for three children, plus $56 for each additional child would be increased to $167, $240, $309, and $62, respectively. Benefits payable at DIC rates under present section 410(b) of title 38, to the surviving children of certain veterans compensated at the 100-percent rate, veterans whose deaths were not service connected would also be automatically increased as a result of the section 413 increase.

Section 203

Would amend section 414 of to title 38, relating to supplemental DIC for certain surviving children.

Clause (1) of section 203 would amend present section 414(a) to provide an 11.1-percent increase, from $89 to $99, in the additional allowance payable monthly to a child eligible for DIC who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Clause (2) of section 203 would amend present section 414(b) to provide an 11.1-percent increase, from $150 to $167 in the DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Clause (3) of section 203 would amend present section 414(c) to provide an 11.1 percent increase, from $76 to $84, in the additional DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child pursuing a course of education approved under present section 104 of title 38.

Benefits payable at DIC rates under present section 410(b) of title 38 to similarly-situated surviving children of certain veterans compensated at the 100-percent rate whose deaths were not service connected would also be automatically increased as a result of the section 414 increase.

Section 204

Would provide that the effective date of the amendments made by title II shall be October 1, 1979.

Title II—Cost: This section would benefit approximately 366,000 survivors, and its enactment is estimated to cost $134.4 million in fiscal year 1980.

TITLE III—MODIFICATIONS OF CERTAIN VETERANS' LIFE INSURANCE PROGRAM PROVISIONS

Section 301

Would amend present section 718 of title 38, relating to assignments of insurance policy proceeds by beneficiaries of National Service Life Insurance (NSLI) policies.

Clause (1) of section 301 would amend subsection (b) of present section 718 to delete a gender reference.

Clause (2) of section 301 would amend present section 718 to add a new subsection (c), as follows:

New subsection (c): Would authorize in certain specifically defined circumstances the assignment of all or part of the proceeds of a NSLI policy by a person claiming such proceeds to another person claiming the same proceeds in order to facilitate the resolution of the dispute between them. Under present section 718, a designated beneficiary or other person to whom NSLI proceeds are payable (other than under present section 722(b)) may assign all or any portion of the proceeds only to the insured veteran's surviving spouse, child, parents, grandparent, brother, or sister, and, unless the proceeds are to be paid in a lump sum, only if the designated contingent beneficiary, if any, joins in the assignment.

An assignment is authorized under this new subsection only with respect to NSLI policies maturing on or after the date of enactment and only if the proposed assignee claims the proceeds on the ground that the insured veteran, during his or her lifetime (1) designated the proposed assignee as the beneficiary, (2) entered into a contract with the proposed assignee to designate that person as the beneficiary, or (3) was ordered by a court to designate or retain the proposed assignee as the beneficiary. Unless the proceeds are to be paid in a lump sum, the designated contingent beneficiary, if any, would be required to join in any assignment by a person upon whose death or disqualification such contingent beneficiary's claim to those proceeds would be predicated. This new subsection does not apply to payments of insurance granted under present section 722(b) of title 38, to statutorily designated survivors of certain mentally incompetent veterans.

Section 301—Cost: No costs are anticipated from the enactment of this provision.

Section 302

Would amend present section 753 of title 38, relating to assignments of insurance policy proceeds by beneficiaries of U.S. Government life insurance (USGLI) policies.

Clause (1) of section 302 would amend present section 753 by redesignating that section as subsection (a).

Clause (2) of section 302 would further amend subsection (a) of section 753 (as to redesignated) to delete a gender reference.

Clause (3) of section 302 would further amend present section 753 to add a new subsection (b), as follows:

New subsection (b): Would authorize in certain specifically defined circumstances the assignment of all or part of the proceeds of a USGLI policy by a person claiming such proceeds to another person claiming the same proceeds in order to facilitate the resolution of the dispute. Under present section 753, a person to whom USGLI proceeds are payable may assign all or any portion of the proceeds only to the insured veteran's spouse, child, grandchild, parent, brother, sister, uncle, aunt, nephew, niece, brother-in-law, or sister-in-law, and, unless the proceeds are to be paid in a lump sum, only if the designated contingent beneficiary, if any, joins in the assignment. An assignment is authorized under this new subsection only with respect to USGLI policies maturing on or after the date of enactment and only if the proposed assignee claims the proceeds on the ground that the insured veteran, during his or her lifetime (1) designated the proposed assignee as the beneficiary, (2) entered into a contract with the proposed assignee to designate that person as the beneficiary, or (3) was ordered by a court to designate or retain the proposed assignee as the beneficiary. Unless the proceeds are to be paid in a lump sum, the designated contingent beneficiary, if any, must join in any assignment by the person upon whose death or disqualification such contingent beneficiary's claim to those proceeds would be predicated.

Section 302—Cost: No costs are anticipated from the enactment of this provision.

Section 303

Would amend present section 725 of title 38, relating to NSLI policies issued to certain disabled veterans during the limited reopening in 1965 and 1966 of the NSLI program—the so-called "Veterans Reopened Insurance" (VRI) policies.

Clauses (1) through (4) of section 303 would amend subsections (b) and (c) of present section 725, relating to the terms and conditions of VRI, to delete the clauses (clause (8) of subsection (b) of clause (4) of subsection (c)) providing that VRI policies are issued on a nonparticipating basis, and thus authorize the payment of dividends on such policies.

Clause (5) of section 303 would amend paragraph (1) of subsection (d) of present section 725, relating to the VRI Fund, a revolving fund established in the Treasury of the United States, to provide that VRI dividends and refunds of unearned premiums on VRI policies as well as other payments on VRI policies shall be made from such Fund and the interest it earns.

Section 303—Cost: No costs are anticipated from the enactment of this provision, but the distribution of dividends from the VRI Fund is anticipated to increase outlays from that Fund by $2.8 million in fiscal year 1980.

Section 304

Subsection (a) of section 304 would amend subchapter I of chapter 19 of title 38, relating to NSLI, to add a new section 726, as follows:

New section 726.—Authority for higher interest rates for amounts payable to beneficiaries: Would authorize the payment of interest rates higher than those prescribed under present sections 702, 723, and 725 for various types of NSLI and Veterans Special Life Insurance (VSLI) policies on the unpaid balance of policy proceeds where the veteran elected to provide for the payment to the beneficiary of such proceeds in equal monthly installments over a limited period of months. Interest payments are, under current law, added to each such monthly installment. Under this new section, any higher rate of interest (or subsequently reduced rate) may be established only in accordance with a determination, which the Administrator of Veterans' Affairs may make from time to time, that such higher interest rate (or subsequently reduced rate) for the insurance program concerned is administratively and actuarially sound. Under present sections 702, 723(a) and 725(b), various interest rates are prescribed for calculations of interest on NSLI and VSLI policies; and those prescribed rates would remain the minimum interest rates payable in connection with proceeds to which this new subsection applies.

Subsection (b) of section 304 would amend the table of sections at the beginning of chapter 19 to reflect the addition of new section 726, made by the amendment in subsection (a) of this section of the Committee bill.

Section 304—Cost: No costs are anticipated from the enactment of this provision.

Section 305

Subsection (a) of section 305 would amend subchapter II of chapter 19, of title 38, relating to USGLI, to add a new section 761, as follows:

New section 761.—Authority for higher interest rates for amounts payable to beneficiaries: Would authorize the payment of an interest rate higher than the rate prescribed under present section 744(b) on the unpaid balance of USGLI proceeds where the veteran elected to provide for the payment to the beneficiary of such proceeds in equal monthly installments over a limited period of months. Interest payments are under current law added to each such monthly installment. Under this new section, any higher interest rate (or subsequently reduced rate) may be established only in accordance with a determination, which the Administrator of Veterans' Affairs may make from time to time, that such higher interest rate (or subsequently reduced rate) is administratively and actuarially sound. Under present section 744(b) of title 38, an interest rate of 3½ percent is prescribed for all calculations on USGLI; and that rate would remain the minimum interest rate payable in connection with proceeds to which this new section applies.

Subsection (b) of section 305 would amend the table of sections at the beginning of chapter 19 to reflect the addition of new section 761, made by the amendment in subsection (a) of this section of the Committee bill.

Section 305—Cost: No costs are anticipated from the enactment of this provision.

Section 306

Would provide that the effective date of the amendments made by this title of the Committee bill shall be the date of enactment.

TITLE IV—EXEMPTION OF VETERANS' ADMINISTRATION HOME LOANS FROM STATE ANTI-USURY PROVISIONS

Section 401

Subsection (a) of section 401 would amend chapter 37 of title 38, relating to home, condominium, and mobile-home loan programs for veterans, to add a new section 1828, as follows:

New section 1828.—Exemption from State anti-usury provisions: Would exempt loans and mortgages guaranteed or insured under chapter 37 of title 38, United States Code, from the application of the provisions—so-called "anti-usury" provisions—of any State constitution or law limiting the rate or amount of interest, discount points, or other charges which lenders may charge, take, receive or reserve, if, under any Federal law, loans insured under title I or title II of the National Housing Act are exempt from the application of such provisions. Titles I and II of the National Housing Act provide for several programs of federally insured loans for residential housing; and, under current law, there are no Federal laws generally exempting such insured loans from such State provisions.

Section 8 of Public Law 94–324 exempts both VA guaranteed and insured loans as well as those insured under titles I and II of the National Housing Act from interest rate limitations that are applicable to certain classes of lenders. Under section 310 of H.R. 3875, the proposed "Housing and Community Development Amendments of 1979", as passed by the House on June 7, 1979, title V of the National Housing Act would be amended to insert a new section 529, as follows:

"SEC. 529. (a) The provisions of the constitution of any State expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received or reserved by lenders and the provisions of any State law expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, or advance which is insured under title I or II of this Act.

"(b) The provisions of subsection (a) shall apply to loans, mortgages, or advances made or executed in any State until the effective date (after the date of enactment of this section) of a provision of law of that State limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance."

Under section 319 of H.R. 3875, as passed by the Senate on July 13, 1979, title V of the National Housing Act would be amended to insert an identical provision.

Subsection (b) of section 401 would amend the table of sections at the beginning of chapter 37 to reflect the addition of new section 1828, made by the amendment in subsection (a) of this section of the Committee bill.

Title IV—Cost: No costs are anticipated from the enactment of the provisions of this title.

TITLE V—MISCELLANEOUS PROVISIONS

Section 501

Would amend chapter 17 of title 38, relating to veterans' hospital, nursing home, domiciliary, and medical care, and chapter 81 of such title, relating to the acquisition and operation of veterans' hospital and domiciliary facilities, in order to correct minor technical errors resulting from the enactment of the Veterans' Health Care Amendments of 1979 (Public Law 96–22).

Subsection (a) of section 501 would amend present section 611(c)(1) of title 38 to conform to the wording of present section 3402 the reference to certain organizations described in section 3402.

Section (b) of section 501 would amend present section 612A(d) of title 38 to delete an unnecessary comma.

Subsection (c) of section 501 would amend present section 620A of title 38 to correct a grammatical error and to delete an unnecessary comma.

Subsection (d) of section 501 would amend present section 663(d) of title 38 to make a grammatical correction.

Subsection (e) of section 501 would amend present section 5005 to provide a correct reference to the provisions of title 38—subchapter III of chapter 81—under which State home construction grant assistance is authorized.

Section 502

Would require the Director of the National Institute of Occupational Safety and Health (NIOSH), upon the request of the VA (or other Federal department, agency, or instrumentality) and under the provisions of section 6103(m)(3) of the Internal Revenue Code, to request from the Internal Revenue Service current mailing address information on persons who the agency head certifies may have been exposed to occupational health hazards while serving in the Armed Forces and to supply that information to the VA (or other Federal department, agency, or instrumentality) solely for purposes of locating such persons as part of an activity being carried out by or on behalf of the VA (or other Federal department, agency, or instrumentality) for certain medical followup and benefits notification purposes relating to such possible exposure.

Relevant portions of section 6103 of the Internal Revenue Code are as follows:

§ 6103. Confidentiality and disclosure of returns and return information

(a) GENERAL RULE.—Returns and return information shall be confidential, and except as authorized by this title—

(1) no officer or employee of the United States,

(2) no officer or employee of any State or of any local child support enforcement agency who has or had access to returns or return information under this section, and

(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii), subsection (m)(4)

(B), or subsection (n),

shall disclose any returns or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term "officer or employee" includes a former officer or employee.

* * * * *

(m) Disclosure of taxpayer identity information.—

* * * * *

(3) NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.—Upon written request, the Secretary may disclose the maling address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purpose of locating individuals who are, or may have been, exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.

Title V—Cost: No costs are anticipated from the enactment of the provisions of title V.

CONCLUSION

Mr. CRANSTON. Mr. President, S. 689 as reported was estimated to entail the following cost over the next 5 years, as more fully described in the committee report excerpts printed above, $758.1 million in fiscal year 1980; $765.5 million in fiscal year 1981; $773.6 million in fiscal year 1982; $784.1 million in fiscal year 1983; and $792.3 million in fiscal year 1984. The committee amendment costs would be the same, except that CBO has informally advised the committee that $1.3 million should be added in each of fiscal years 1980 and 1981 to reflect the cost of the Agent Orange study required under title V of the committee substitute.

Unfortunately, as previously indicated, the fiscal year cost of S. 689 as reported was not deemed to be within our committee's crosswalk allocations under the first concurrent budget resolution and was thus referred to the Appropriations Committee on July 27. The Appropriations Committee, chaired by my distinguished colleague, the Senator from Washington (Mr. MAGNUSON), was extremely helpful in reporting the bill promptly on July 30. Thanks are due also to the able chairman of the Subcommittee on HUD-Independent Agencies, the Senator from Wisconsin (Mr. PROXMIRE), and to the distinguished ranking minority members of the Appropriations Committee and the subcommittee, the Senator from North Dakota (Mr. YOUNG) and the Senator from Maryland (Mr. MATHIAS), respectively, and the very capable Appropriations Committee staff members Featherstone Reid, Terry Lierman, and Joel Bonner, and Appropriations Subcommittee staff members Tom van der Voort and Wallace Berger.

As I stated earlier, the service-connected disability compensation program is the highest priority of this committee, and I strongly believe that the 11.1-percent cost-of-living increase and other provisions in the committee amendment are fully warranted. I am most grateful for the excellent contributions and cooperation of all the committee members in working on this legislation and am very thankful for the help of their staff members.

I would particularly like to express my appreciation to our ranking minority member, the Senator from Wyoming (Mr. SIMPSON), for his help and guidance; to his staff member, Ken Bergquist; and to Minority Counsel Garner Shriver, Assistant Minority Counsel Gary Crawford, and Associate Minority Counsel John Pressly.

I would also like to thank the able Senator from Georgia (Mr. TALMADGE) for his excellent work in the development of this legislation and his staff member, Bobby Avary.

Finally, I would like to thank Senior Counsel Hugh Evans of the Senate Legislative Counsel's Office, committee staff members Mary Sears, Ed Scott, Jon Steinberg, Gerry Charles, Harold Carter, Terri Morgan, Janice Orr, Becky Walker, Mikki Day, the committee's GPO-detailed printers, James MacRae and Walter Klingner, and Shelley Madden of my personal staff. I would also like to take this opportunity to express my deep appreciation for the many fine and significant contributions made by Dr. Gerry Charles during his all too brief service with our committee staff as a Robert Wood Johnson fellow.

Does the Senator from Idaho wish to be recognized?

Mr. McCLURE. Mr. President, as the Senator from California knows, I have had some questions concerning this bill, not with respect to the question of whether veterans are entitled to the benefits or whether or not the increase in veterans benefits is justified. I think it is. I support the increase from the 8.3 percent that was in the House bill to the 11.1 percent which is in the Senate bill.

My question does not have to do with the veterans benefits at all but with the budget process.

The first concurrent budget resolution, according to the Budget Committee staff, is being exceeded by the passage of this bill. The only way this bill can be held to be within the bounds of the first concurrent resolution is to assume that there will be some offsetting savings which may or may not occur in the future.

The Budget Committee has, of course, been working on the second concurrent resolution and a couple of days ago took action which would accommodate the increase for this legislation.

But after having taken that as they again looked at what was happening to the budget, I think some $15 billion over the first concurrent resolution in total, if the remainder of the actions expected during the remainder of this session come about, with no offsetting savings, they late last night adopted a resolution that said each legislative committee is going to be asked to cut back the total amount of money which has been committed by that committee to the amount in the first concurrent resolution.

Mr. President, the Veterans' Affairs Committee is unable to give us assurances that they will or are able to do that or that they even intend to do that.

It is also my understanding that this budget figure that I am talking about is prior to two other events or perhaps three other events that have occurred since the first concurrent resolution.

One is that the optimistic projections of economic performance that were—I use the term "optimistic." Their projections that I thought were too optimistic in regard to the performance of the economy have, as a matter of fact, proven to be too optimistic. The economy is neither performing so well nor is inflation behaving as well as the first concurrent resolution assumed that it would.

Second, we are now involved again under an urgency stimulated by the President as a result of the reduction in oil imports from Iran to again take some massive emergency actions that will have budgetary impact in the next fiscal year in energy programs. And again they may be justified, but they have budgetary impact.

We are now involved in the beginnings of the great debate upon foreign policy stimulated by the discussion of the SALT II treaty proposal and whether or not it will be balanced by sufficient amount of effort to build our own military strength in this country which will have, if it comes out in the way that some are suggesting, large budgetary effect in the next fiscal year.

That all in the face of the fact that the economy is not behaving in the way of the standard economic theory in vogue within the administration, within Congress, within CBO, and within the Federal Reserve. That the economic theory is not being matched by economic facts.

So there is a great deal of confusion around here as to what needs to be done to reduce the current rate of inflation. The economic labor statistics just released indicate that rather than the problem geting reduced in size it is getting worse, rather than inflation slowing down it is continuing to heat up, and rather than unemployment problems going away the expectations are that unemployment problems will become greater.

Mr. President, I am absolutely convinced, as I have been for some years, that this economic situation will not yield to the current economic panaceas that have been so in vogue in this country for too long and that there is a very great need for this Congress to focus on those problems.

Hence my concern about a budgetary process that has worked to some degree and failed in a large degree, in my opinion, to accomplish what was hoped for it by many of those who supported the installation of that budget process.

Mr. President, it is not my intention to hold up the passage of this legislation today. I have no intention of trying in any way to amend it, or to limit the amount of the gain in benefits which the Senator from California and the majority of the Veterans' Affairs Committee have suggested is necessary for them.

But I am suggesting at this time that we cannot promise everyone in our society everything that everyone in this Chamber wishes to give them and survive. Economics will not yield to callous political platitudes. We cannot say to people we are going to hold you harmless from the economic conditions that we have created; You veterans, because inflation has run, are entitled to more benefits; You elderly who are on fixed incomes are entitled to help from us because we have created inflation; You who are on social security must be assured that you are going to be protected over all the years to come because we politicians find it necessary to make promises to you about what we will do that will get us past the next election. And devil take care of those who in the future have to pay the bills in inflation, in the taxes that will destroy the stability of this country and in the loss of real earning power for the majority of the working men and women in this country.

There is no way for us to keep dividing up a pie into larger and larger pieces when the pie itself does not grow. Hence, my concern about our failure to look at the consequences of abiding by a budgetary process that is supposed to deal with those very questions.

This bill is certainly not a popular place to raise that issue. I happen to be committed to veterans' benefits, and I have voted that way ever since I have been in Congress and, of course, since my service on the Veterans Committee, although I do not any longer serve there.

But, Mr. President, I think those of us who have a feeling toward a particular program of this nature, as I do, perhaps have a greater responsibility to restrain our appetite to satisfy the urge to respond to the very real needs of the people who are affected by it, recognizing that if we do not control the spending appetites within this Congress, there is no way we can tax the American people enough to pay for all of it.

When we refuse to tax people enough to pay for all of it, we create the inflation which is the cruelest and most regressive tax of all because it has no deductions, it has no exemptions, it is no respecter of the ability of anyone to pay.

That cruel tax is levied by the Members of Congress who do not have the political courage to say, "No," on spending proposals and new schemes for new Federal programs.

Mr. President, again I do not intend to try to obstruct this bill because I tend to favor it. I do not intend to try to amend this bill because I believe they are entitled to that relief. I do not intend to raise the budgetary question because the Budget Committee itself has not elected to raise that issue.

Mr. President, I cannot allow this opportunity to go by, this moment to go by, without saying that what we are doing is symptomatic of the reasons why this country is in trouble today because politicians will not restrain their appetites to assure everyone that we can help them out of every mess we have created.

Mr. THURMOND. Mr. President, the needs of the service-connected disabled veteran must always remain first in priority in the scheme of veterans' benefits. S. 689, Veterans' and Survivors' Benefits Adjustment Act of 1979 will continue to maintain this high priority and demonstrate our Nation's commitment to those disabled while in the service of our country.

Mr. President, the premier provision in S. 689 is an 11.1 percent cost-of-living increase for those individuals receiving compensation and DIC benefits. This rate increase reflects the rise in inflation over the 12 months ending in June 1979, as indicated by the Consumer Price Index.

S. 689 also would provide that a category of very severely disabled veterans not presently eligible for consideration for aid-and-attendance allowances under subsection (r) of section 314 of title 38 would be eligible for such consideration. Prior to this legislation, this category of veterans had been eligible for the regular aid-and-attendance allowance but, because of certain complexities in the compensation rate structure, they are now excluded. This legislation remedies the existing situation and permanently restores this eligibility. Although this measure will affect only a few veterans, I believe that these individuals—all of whom are severely disabled—are the most deserving of their benefits and entitlements.

During the 94th Congress, legislation was enacted which exempted VA and FHA home loans from certain types of State anti-usury statutes. However, due to technical difficulties regarding the language of this Federal statute, all States were not included in this exemption. Therefore, S. 689 provides that an exemption from all State constitutional or statutory usury provisions would exist for the VA home loan program. I believe this will be of great assistance to those veterans, especially the younger Vietnam-era veterans, who are attempting to purchase a home during this time of high inflation and interest rates.

Changes in the VA insurance programs are included in S. 689. There is a provision which would authorize the payment of dividends on certain policies, and also higher rates of interest on insurance proceeds paid on an installment basis would be authorized. Also contained in this measure is a provision which would allow the assignment of VA insurance policies to certain close family members. Under current law, these policies are not assignable.

Mr. President, these are several of the important provisions of S. 689. Others exist, but I will not discuss them at this time. I believe this bill is meritorious and fully support it, and I urge my colleagues to do likewise.

● Mr. BELLMON. Mr. President, I support this bill, S. 689, the Veterans' Disability Compensation and Survivor Benefits Act of 1979.

This bill provides an 11.1-percent increase in compensation benefits for veterans who have service-connected disabilities and dependency and indemnity compensation for spouses and dependent children of veterans who have died from service-connected causes. While I am concerned about the cost of adjusting Federal benefit programs for inflation, I agree that it is important that we increase benefits for disabled veterans and their surviving spouses and children to help them cope with increases in the cost of living.

However, Mr. President, I would like to note that the Veterans' Affairs Committee has not yet reported legislation achieving savings assumed in the first budget resolution. I am aware that the Veterans' Affairs Committee did not agree with some of the specific savings assumed in the budget resolution. Nevertheless, if the various committees do not achieve savings comparable to those assumed in the budget resolution, Congress will find itself with a much higher spending level and a larger deficit than it set out to achieve.

I am personally pleased, Mr. President, that the Senate will have the opportunity next month to reaffirm the legislative savings goals it set in the first budget resolution. If the Senate does ratify these goals, the Veterans' Committee will be required to re-examine all of its programs and achieve fiscal year 1980 savings of $0.1 billion in budget authority and $0.2 billion in outlays. The Veterans' Committee would have the responsibility of deciding specifically how to achieve these savings.

As I have already indicated, I see no reason why this bill should not pass, but I feel it is important to alert the Senate to the implications for the Veterans' Affairs Committee of the decisions to be made next month as part of the Senate's action on the second budget resolution for fiscal year 1980.●

Mr. CRANSTON. Mr. President, I share the concern of the Senator from Idaho about the many budgetary and economic difficulties that our country faces. I share his concern about the congressional budget process since I helped to create it and served on the Budget Committee for a time with the Senator from Idaho.

We have been very prudent in our approach to spending.

I would like to outline some very significant steps—which were somewhat controversial—that we have taken to deal with spending in veterans' programs in a very responsible way. Mr. President, our committee will deal with the specific issues the Senator has raised relating to veterans' affairs as they come before us and in the coming budget resolution.

During this session, Mr. President, the Veterans' Affairs Committee has dealt, and will continue to deal, very seriously with its obligations regarding cost savings proposals assumed in the first concurrent budget resolution.

Mr. President, with respect to flight and correspondence training, the committee ordered reported, just last Friday, legislation—S. 870—which would, if enacted, result in cost-savings in this area of more than $31 million. As ordered reported, the committee bill would modify the authorities for pursuit of both flight and correspondence training and would tighten the so-called 50-percent employment rule applicable to these types of training, as well as to other vocational objective courses.

I believe the committee has taken most responsible action in this regard, since outright termination of the authorities for pursuit of these types of training would deny certain veterans access to benefits already utilized by their peers, would prohibit the use of GI bill benefits for pursuant of types of training that have, in many instances, resulted in jobs, and could deny to some veterans the chance to utilize in a meaningful way benefits to which they are entitled. Thus, the committee has attempted to deal fairly and reasonably with the issue by designing legislation to curb abuses through avocational use of GI bill benefits for these courses.

CBO has estimated the savings that would result from the modifications in these GI bill authorities to be $31 million in fiscal year 1980. The savings that would result from tightening of the 50-percent employment rule have not yet been determined, but we expect them to be substantial. The net fiscal result, then, of the committee's actions last Friday will be a cost savings.

I certainly hope we can count on the support of Budget Committee members for that bill on the floor next month.

Second, with regard to cost savings proposals affecting the VA health care system, our committee reported savings of $38 million—after a hard-fought battle in committee—and the Senate passed H.R. 3892 to provide for those savings. With regard to the health insurance reimbursement legislation, S. 759—an administration proposal that has been around for several years—such as the administration's ability to implement the bill and the effect on health insurance premiums—staff has met with representatives of the administration, the health insurance industry, CRS, and CBO, and a further meeting is scheduled this month to which staff of the Budget Committee has been invited. We have scheduled hearings on S. 759 for September 25. I would like to note that the cost savings assumed in the first concurrent budget resolution for fiscal year 1980—$0.2 billion—have now been reestimated by CBO at $0.1 billion.

But let me read from the July 27 letter to the chairman and ranking minority member of the Budget Committee from the Veterans' Affairs Committee on this so-called savings and on other unrealistic—I stress that point, unrealistic—cost savings legislation assumed by the Budget Committee in connection with the first concurrent resolution. We wrote, on July 27:

> [E]ven if it is assumed that such legislation would be enacted—which seems most unlikely this year—we believe strongly that the estimated cost-savings should not be deducted, just as we have previously urged they should not be deducted in connection with the FCR, from amounts otherwise allocable to the Appropriations Committee for the first fiscal year following enactment of the legislation. Our reasons for this are primarily based on the fact that collections of reimbursements under this measure would not be available to the VA until toward the end of fiscal year 1980; and any reduction of appropriations premised on the enactment of this legislation would, to the extent of such a reduction, force the VA to operate at a reduced program level for much of that year—perhaps for the entire fiscal year in the event that estimated collections later in the year do not materialize in the amounts forecast. In our Committee's view, this would be a most unsatisfactory result, and an alternative method of accounting for the estimated savings is clearly necessary.
>
> . . . [W]ith regard to legislation to eliminate or reduce certain veterans' burial benefits, the enactment of which your Committee assumed would result in cost savings of $0.1 billion in fiscal year 1980, no such legislation has been introduced either in the House or the Senate. In our view, it is totally unrealistic to expect the Congress to reduce these benefits; and we have no plans to consider such legislation. Thus, we urge that the estimated savings be restored in the SCR.
>
> . . . [W]ith regard to legislation to reduce the period of eligibility for GI Bill—educational assistance—benefits, in connection with which your Committee assumed cost savings of $0.1 billion in budget authority and outlays, as in the case of burial benefits, no such legislation has been introduced in either House. In our view, there is no basis whatever for assuming enactment; and we have no plans to consider such legislation. Thus, we recommend that the estimated savings be restored in the SCR.

Mr. President, I ask unanimous consent that our July 27 letter be printed in full in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 27, 1979.

Hon. EDMUND S. MUSKIE, *Chairman,*
Hon. HENRY BELLMON, *Ranking Minority Member, Committee on the Budget, U.S. Senate, Washington, D.C.*

DEAR ED AND HENRY: We are writing, on behalf of the Committee on Veterans' Affairs, in response to your letter of July 23 pertaining to legislation under the First Concurrent Resolution on the Budget for

Fiscal Year 1980 (FCR). In that letter you asked for information regarding the Veterans' Affairs Committee's plans with respect to legislation having cost implications in order to assist the Budget Committee in its deliberations on the Second Concurrent Resolution (SCR).

You specifically asked about the prospects for cost-savings legislation that your Committee has assumed would be enacted. First, with respect to S. 759, health-insurance reimbursement legislation, estimated by the Congressional Budget Office (CBO) at the time of your report to result in savings of $0.2 billion in budget authority and outlays in fiscal year 1980, Committee staff has conducted an extensive review of the complex issues involved, has met with VA, CBO, Congressional Research Service, and health insurance industry representatives, and has scheduled a further meeting for August 15 with representatives of the same organizations, staff of your Committee and other Congressional Committees, and White House staff. Hearings will be held on S. 749 on September 12. In light of the difficult constitutional and policy issues that this legislation presents, we are not now in a position to predict what action will be taken in our Committee.

There has been no movement on counterpart legislation in the House of Representatives, and the House Committee on Veterans' Affairs has clearly indicated that it will not take any action on it this year.

In any event, even if it is assumed that such legislation would be enacted (which seems most unlikely this year), we believe strongly that the estimated cost-savings should not be deducted, just as we have previously urged they should not be deducted in connection with the FCR, from amounts otherwise allocable to the Appropriations Committee for the first fiscal year following enactment of the legislation. Our reasons for this are primarily based on the fact that collections of reimbursements under this measure would not be available to the VA until toward the end of fiscal year 1980; and any reduction of appropriations premised on the enactment of this legislation would, to the extent of such a reduction, force the VA to operate at a reduced program level for much of that year—perhaps for the entire fiscal year in the event that estimated collections alter in the year do not materialize in the amounts forecast. In our Committee's view, this would be a most unsatisfactory result, and an alternative method of account for the estimated savings is clearly necessary.

We would also note that on July 6, 1979, we received an informal CBO estimate (copy enclosed) of cost-savings (collections) of only $107 million in fiscal year 1980, based on an optimistic assumption of an effective date of January 1, 1980; this is a reduction of $58 million from the previous CBO estimate dated April 19, 1979.

Second, with regard to legislation to eliminate or reduce certain veterans' burial benefits, the enactment of which your Committee assumed would result in cost savings of $0.1 billion in fiscal year 1980, no such legislation has been introduced either in the House or the Senate. In our view, it is totally unrealistic to expect the Congress to reduce these benefits; and we have no plans to consider such legislation. Thus, we urge that the estimate savings be restored in the SCR.

Third, with regard to legislation to reduce the period of eligibility for GI Bill—educational assistance—benefits in connection with which your Committee assumed cost savings of $0.1 billion in budget authority and outlays, as in the case of burial benefits, no such legislation has been introduced in either House. In our view, there is no basis whatever for assuming enactment; and we have no plans to consider such legislation. Thus, we recommend that the estimated savings be restored in the SCR.

Fourth, with regard to legislation to eliminate GI Bill benefits for flight and correspondence training, as proposed in Administration-requested legislation, S. 370, and assumed to result in cost-savings of $57.8 million at the time your Committee reported the FCR, the Veterans' Affairs Committee, after very careful study and with the benefit of preliminary data from a General Accounting Office report on these two programs, will not recommend such legislation but rather has ordered reported legislation (S. 870) to tighten administration of the flight and correspondence programs and reduce payments for flight training by requiring greater cost sharing by the trainee. According to CBO, fiscal year 1980 estimated cost savings of $31 million in budget authority and outlays would result from the enactment of the provisions that our Committee has approved.

With respect to other legislation, there are several matters on which we would like to give you our views. First, our Committee plans to report legislation making improvements in the GI Bill, including a targeted extension of the period of GI Bill eligibility for educationally disadvantaged veterans and those who could benefit from on-job training to acquire needed job skills, all of which, when taken into account together with the above mentioned cost-savings, will result in net costs that are within our crosswalk under the FCR for Mission 2 of Function 700—$2.2 billion in budget authority and $2.3 billion in outlays. As soon as we have a CBO estimate of the costs of this bill, we will make certain that you also have copies.

We also recommend that Mission 1 of Function 700 be increased to provide for the 11.1-percent cost-of-living increase in service-connected disability compensation rates which our Committee has favorably reported in S. 689.

Also, as our Committee had previously urged in our March 15, 1979, report of views and estimates for the fiscal year 1980 budget, we strongly recommend that the SCR include provision for a "capped" 7-percent cost-of-living increase in GI Bill benefits, estimated to result in costs of $275 million in budget authority and outlays in fiscal year 1980. (Although your Committee had assumed enactment of such a cost-of-living increase in making its recommendation on the FCR, various cost-savings proposals for Function 700 entitlement programs that your Committee had assumed would be enacted, but will not be enacted—together with the fact that the cost-of-living increase in the compensation legislation has become more costly than had been expected—ultimately resulted in a crosswalk that realistically left no room for any cost-of-living increase.) If the SCR makes provision for this badly needed increase, our Committee will shortly thereafter recommend the enactment of this legislation.

With respect to Mission 3 of Function 700, we recommend that provision be made in the SCR for appropriations for VA accounts that are included in H.R. 4392 as reported by the Appropriations Committee plus $30.1 million, which would consist of an additional $25.1 million for the medical care account for the implementation of the Veterans' Health Care Amendments of 1979 (Public Law 96–22), which was enacted on June 13, 1979, and an additional $5 million for the grants to State extended-care facilities account to maintain the veterans' State home construction assistance program in fiscal year 1980 at the same $10 million level of appropriations provided in the current fiscal year. Senator Cranston will propose an amendment to H.R. 4392 for the $25.1 million increase; and Senator Randolph, for the $5 million increase.

Finally, we would like to clarify on behalf of the Veterans' Affairs Committee one aspect of our Committee's crosswalk report (S. Rept. No. 96–244) under the FCR. Our Committee, in subdividing among major programs the allocations to it of $14.1 billion in budget authority and outlays, allocated $11.7 billion in budget authority in $11.6 billion in outlays to "Income security" and $0.2 billion in budget authority and outlays to "Burial benefits". The Committee's intention regarding this subdivision is that the only programs included in the "Income security" category are the disability compensation and pension programs; and "Burial benefits" includes all other non-direct spending programs in Mission 1 of Function 700—for which $211 million in budget authority and outlays (in unrounded figures) were included.

With respect to the projections you requested for fiscal years 1981 through 1984, we are unable to provide you with firm estimates for those years because of the very uncertain prospects for S. 759, the health insurance reimbursement measure discussed above, and the complexities involved in forecasting legislative activities in future years. However, if you require further information in this regard to update the projection included in the attachment to our Committee's March 15 report to your Committee (pages 51–52), we would ask that you have a member of the Budget Committee staff contact Edward Scott, General Counsel of the Veterans' Affairs Committee, for whatever analysis or data that is needed and that our Committee staff can provide with respect to those years.

We hope that you find this response helpful in your Committee's deliberations on the SCR for fiscal year 1980.

Sincerely,

ALAN CRANSTON,
Chairman.
ALAN K. SIMPSON,
Ranking Minority Member.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., July 6, 1979.

To: Ed Scott.

From: Steven Crane.

Attached is an informal estimate of S. 759 on a cash basis, reflecting a January 1, 1980 effective date, as you requested in your letter of June 4, 1979.

If you have any questions, please let me know.

[Informal draft]

COST ESTIMATE

JULY 6, 1979.

1. Bill number: S. 759.

2. Bill title:

A bill to amend title 38, United States Code to provide for the right of the United States to recover the costs of hospital, nursing home or outpatient medical care furnished by the Veterans Administration (VA) to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts or rights with respect to such care, or have entitlement to private medical care under workers' compensation or automobile accident reparation statutes of any State, and for other purposes.

3. Bill status:

As introduced by the Senate Committee on Veterans Affairs, March 26, 1979.

4. Bill purpose:

To amend title 38, U.S.C., to give the United States the right to recover the cost of hospital, nursing home, and outpatient care provided by the VA to veterans with non-service connected disabilities to the extent that such veterans have health insurance or similar coverage for such care.

5. Cost estimate:

Estimated authorization/costs by fiscal years, in millions of dollars

1980	—107
1981	—302
1982	—364
1983	—391
1984	—420

Total five year savings: —1584

The costs/savings of this bill fall within budget function 700.

6. Basis of estimate:

According to information published in the 1977 VA Annual Report and the Fiscal Year 1980 VA budget justification document, approximately 70 percent of VA hospital discharges are veterans under 65 years of age who have been treated for non-service-connected disabilities. A recent survey conducted by the VA indicates that about 16 percent of such veterans have some type of medical insurance coverage. This survey did not collect information concerning the depth of coverage of these policies, or whether the policies had remaining coverage. It may be true that some veterans with private insurance utilize VA care only after such coverage has been exceeded or has temporarily lapsed, or have policies that cover only a limited number of services. In the absence of additional information, CBO assumes that the average policy would cover 88 percent of inpatient charges and 60 percent of outpatient charges based on a 1978 study by the Health Insurance Association of America of group medical insurance coverage. CBO further assumes that all veterans who reported private coverage in the VA study had valid policies that on the average would reimburse the above percentage of charges.

The proposed legislation would allow the U.S. to recover the costs of care from private health insurers according to the terms of agreement between the insured person and the insurer. In most cases, insurers are liable for only those costs which are deemed to be "reasonable or customary" for a particular episode of care. A number of studies have indicated that VA hospitals in general have lengths of stay that are approximately twice as long as stays for similarly aged persons treated in community hospitals for similar diagnoses. According to the VA, preliminary discussions with major private insurers have indicated that carriers would likely not reimburse at least some portion of these additional days of care in VA facilities if medical need could not be demonstrated. Although it is presently unclear what proportion of a VA hospital stay carriers would consider reasonable, CBO assumes that for most type of care private insurance would cover two-thirds the normal VA length of stay for reimbursement purposes.

Enactment of the proposed legislation would require the VA to establish a formal billing system to collect reimbursement from the insurance carriers. Although there has been some controversy as to how quickly the VA could implement such a system, the VA presently claims that a collection system could be made operational within three months. The proposed system would bill carriers on an inclusive per diem rate, which would be based on average cost information which is currently collected by the VA. In addition, a recent VA study indicates that patient recordkeeping would require only minor modification to accommodate such billing. According to the VA, preliminary discussions with several major carriers suggest that the proposed system would be acceptable to most insurers and could be implemented within several months.

Based on the VA claim, CBO assumes that collection could begin 90 days after enactment of the proposed legislation. CBO further assumes that administrative costs would amount to about 2.5 percent of the amount collected, based on experience with the medicare program. Administrative costs are assumed to represent a higher percentage of collections in the first year as the program is phased in. Because the proposed legislation would apply only to insurance policies that are written, revised, or renewed after the law becomes effective, the first year's collections would be considerably less than succeeding years. The VA presently defines a policy revision or renewal to include changes in the premium rate. Based on information from the insurance industry, CBO assumes that all policies of the affected veterans population are normally rewritten or revised every year, and that these revisions are distributed evenly throughout the year. Therefore, only about half the amount of collections could be made the first year as could be made during succeeding years.

According to information provided by the Congressional Research Service and private insurance companies, the average lag in cash payments to hospitals following a patient's release is about 3–4 weeks. Hospitals require about seven working days to prepare the claim and present it for reimbursement; carriers require about the same period of time to process the claim and provide payment. CBO assumes that during the first year of the program, the cash lag for the VA would average about six weeks as the billing system is developed and perfected. In the following years, CBO assumes an average lag of four weeks.

Based on the above assumptions and analysis, CBO estimates the VA could collect a net of $107 million in FY 1980, assuming a January 1, 1980 effective date. Five year collections are estimated to total about $1.6 billion. The outyear estimates reflect CBO's assumptions of inflation in the general economy. Although the proposed legislation includes private reimbursement for nursing home care, CBO estimates savings for such care to be insignificant.

7. Estimate comparison:

A cost estimate prepared by the VA for this bill shows savings of $170 million in fiscal year 1980 and five-year savings of $1.1 billion. In formulating their estimate, the VA assumed that 74 percent of inpatient charges would be reimbursable by the average private insurance policy, and only 28 percent of outpatient charges. In addition, the VA apparently did not include psychiatric care as a reimbursable service. Finally, the VA assumed that 75 percent of full-year savings could be realized in fiscal year 1980, which reflects an implicit assumption that a higher proportion of insurance policies turn over during the first part of the fiscal year than the latter part. The five-year savings do not reflect the impact of inflation in the general economy.

8. Previous CBO estimate:

CBO prepared an estimate of S. 759 on April 19, 1979. The estimate assumed an October 1, 1979 effective date, a shorter cash lag, and lower assumptions about inflation of medical care costs in the out-years.

9. Estimate prepared by: Steven Crane (225–7766)

10. Estimate approved by: —— ——.

The PRESIDING OFFICER (Mr. GLENN). The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. SIMPSON. Mr. President, the Veterans' and Survivors' Benefits Adjustment Act of 1979, S. 689, was unanimously recommended for passage by our Senate Committee on Veterans' Affairs on July 27, 1979. In these remarks I will refer to this legislation as the committee bill. All of our committee members contributed and worked together to bring to the Senate a greatly improved veterans' compensation program.

The principal provisions of the committee bill are an 11.1-percent increase in the monthly rates of service-connected disability compensation and a corresponding 11.1-percent increase in the rates of dependency and indemnity compensation (DIC) for surviving spouses and children of veterans whose deaths were service-connected.

The veterans' compensation program provides monthly benefits to veterans who have suffered disabilities during, or as a result of, their service in our armed forces. Through the years, Congress has granted the highest priority in behalf of those veterans with service-connected disabilities. Throughout the history of the Veterans' Compensation Act, the purpose of the act has been to compensate for the loss in income veterans have suffered because of disabilities from military service.

Over the years, our committee has attempted to assure that the purchasing power of these compensation benefits keeps pace with the rising cost of goods and services.

Our Committee on Veterans' Affairs periodically reviews the service-connected disability compensation program to make sure that the disabled veterans and their families are provided reasonable and adequate compensation, and to make sure that the purchasing power of these compensation benefits keeps pace with the rising costs of goods and services. It has been the intent of our committee and I believe of the Congress that cost-of-living increases be provided to service-connected disabled veterans and their families to keep pace with inflation.

If there is any group our Nation and its citizens want to assist, it is those who have suffered a loss in their earning capacity from disability growing out of their period of service to the country. Payment of benefits to a survivor of a veteran who died of service-connected causes is an effort by the Nation to replace, in part, the loss to the family of its provider.

There have been frequent cost-of-living increases through the years. In fact, cost-of-living increases have been provided in each of the last 5 years. The last such increase was effective October 1, 1978, and provided for an increase of 7.3 percent.

The committee bill now before us calls for an 11.1-percent rate increase. The Consumer Price Index (CPI) for the 12 months ending in June of 1979 shows the CPI has increased by 11.1 percent. The Congressional Budget Office estimate of costs for S. 689 with this rate of increase is $758.1 million in budget authority and $697.4 million in outlays.

Our bill would provide for the same percentage of rate increase of dependency and indemnity compensation (DIC) for surviving spouses and children of veterans whose deaths were service connected.

DIC is paid to surviving spouses at rates determined by the pay grade—service rank—of the deceased veteran. A higher rate is payable if the surviving spouse is so disabled as to be housebound or in need of regular aid-and-attendance, and additional amounts are payable for the veteran's surviving children. Children become entitled to DIC where there is no surviving spouse, or where the child 18 years of age or over has become permanently incapable of self-support before reaching the age of 18 or the child is age 18 to 23 and pursuing an approved course of education.

In addition DIC is paid to the needy surviving parents of a veteran whose death was service connected.

Our committee bill provides for a cost-of-living increase of 11.1 percent in DIC rates for surviving spouses and children. Additional allowances for surviving spouses in need of aid-and-attendance or housebound, helpless children age 18 or over, children between ages of 17 and 23 attending school, and surviving spouses and dependent parents in receipt of death compensation and in need of regular aid-and-attendance would also be increased by 11.1 percent.

The committee bill provides for an 11.1 percent increase in the annual clothing allowance. It is presently $218 and would be increased to $242. This special clothing allowance is provided to veterans whose service-connected disabilities require them to wear or use a prosthetic or orthopedic appliance which wears out or tears their clothing. It is interesting to note that 62,607 veterans are receiving clothing allowances.

In addition to the rate increases, the committee bill would permit aid-and-attendance benefits to be paid to a very limited number of severely disabled veterans. It would extend a basic but not automatic consideration for a monthly aid-and-attendance allowance under section 314(r) of title 38, United States Code, only to those veterans who have entitlement to compensation at the rate intermediate between the rates provided by section 314(n) and section 314(o) and who are also entitled to added compensation under section 314(k) of title 38. This is a highly technical but important clarification affecting no more than a possible 58 severely disabled veterans. A more detailed explanation is found in our committee report.

At this time there are 2,265,000 service-connected disabled veterans drawing compensation and 323,515 surviving spouses and children receiving disability indemnity compensation. The passage of this legislation will greatly affect lives of many of our most deserving citizens. We cannot fail those who have contributed so much toward our Nation's survival.

The committee bill now before this body would provide for three modifications of certain Veterans' Administration insurance programs. The first would authorize the payment of dividends on nation service life insurance policies issued under the limited reopening of that program in 1965. There is a revolving fund for the collection of premiums from those policies, but, under the law, dividends are not payable. For some time now, that fund has had a surplus, and it will continue to grow. Part of that surplus would be used to pay for the dividends that this legislation authorizes.

Another insurance provision related within the committee bill concerns payments of insurance proceeds of national service life insurance and U.S. Government life insurance policies in monthly installments and would provide authority for interest rates higher than those now paid on the unpaid balance of those proceeds. The legally established rates for each program range from 2¼ percent to 3½ percent. The trust funds out of which they are paid are earning interest that averages about 6 percent. This bill provides for the VA to pay higher interest rates determined by the administrator to be actuarily and administratively sound.

The bill also permits assignments by beneficiaries, intending to facilitate the settlement of insurance proceeds cases in which two or more claimants are involved in a dispute over the same proceeds. The VA has identified the common types of cases involving disputes that could appropriately be resolved by assignments. The carefully limited provision in the committee bill is intended to facilitate the resolution of disputes without opening the door to abuses of the VA insurance programs.

The committee bill would provide for an exemption, from State anti-usury provisions, of VA guaranteed and insured home loans wherever any Federal law exempts FHA loans. The purpose of providing for an exemption is to assure a coordinated Federal policy with regard to the application of State antiusury provisions to FHA and VA home loans. The enactment of this provision together with enactment of H.R. 3875, the "Housing and Community Development Amendments of 1979," would permit veterans of the State of Arkansas and other States to make use of their loan-guaranty entitlement in fiscal year 1980.

The need for this legislation has evolved at this time because of the antiusury prohibition in the State of Arkansas where the State constitutional bar, which can be removed only through cumbersome amendatory procedures, has brought VA loan activity in that State to a halt.

Our Senate Committee on Veterans' Affairs has the responsibility of a continuing concern for the health of our Nation's veterans. In June we held hearings on veterans' claims for disabilities resulting from nuclear weapons testing.

In the past few years the Veterans' Administration has received more than 600 claims for benefits from veterans who took some part in nuclear weapons testing. Very few claims have been approved for radiation-induced illness related to weapons testing. The committee believes that the Federal Government has a responsibility to do everything possible to facilitate the presentation of VA disability and death claims related to nuclear weapons testing.

The oversight hearings conducted by our Senate committee provided much useful information to the committee, but one problem was made very clear, and that is the matter of locating veterans who were exposed to serious health hazards during their military service.

Often the only way to locate the veterans who need to be contacted is through the taxpayer address files of the Internal Revenue Service. The Revenue Code presently authorizes the National Institute of Occupational Safety (NIOSH) to obtain addresses for the purpose of locating persons who may have been exposed to an occupational hazard.

The committee bill would direct that the NIOSH exemption within the Revenue Code be used to contact individuals who are or might have been exposed to an occupational hazard as a result of their service in the armed forces. Our bill specifies that the Director of NIOSH shall request from the IRS, and supply to the VA or other Federal department, current mailing addresses for individuals whom the VA Administrator certifies as having experienced a possible occupational hazard exposure during military service.

This provision should facilitate the completion of the weapons-test studies now underway or to be undertaken, and should greatly assist in the protection of veterans' claims rights.

S. 689 contains many provisions of significance and importance to our Nation's veterans. The bill was unanimously reported by our committee, and we recommend and urge the support of our colleagues. This bill will be of tremendous benefit to disabled wartime veterans and their families. We are again fulfilling our obligations to those who have served so well in time of war and conflict.●

● Mr. HUMPHREY. Mr. President, I rise today in support of an actual cost-of-living increase for disabled veterans' compensation. I join my distinguished colleagues on the Senate Veterans' Affairs Committee in sponsoring this very worthy legislation.

It is only fair that we support such an increase. While reduced Government spending is necessary to attack the root cause of inflation, we must not penalize the disabled veterans who depend on their monthly check. They sacrificed so much to help keep this country free, and we must not forget our debt to them.

Mr. President, this increase is strongly supported by veterans nationwide. Many groups testified before the Veterans' Affairs Committee and spoke eloquently of the need for a cost-of-living increase in compensation. They reminded us in the Senate that these benefits are for the veterans disabled in the service of our country, and for the survivor of veterans whose deaths were service connected. We should not deny these brave Americans an actual cost-of-living increase. We must keep the faith with them.●

● Mr. TALMADGE. Mr. President, I rise to speak in support of S. 689, the Veterans Disability Compensation and Survivor Benefits Act of 1979, a bill that I introduced together with Chairman CRANSTON on March 15, 1979.

I am pleased that this legislation, as reported by the Senate Committee on Veterans' Affairs, provides for an 11.2-percent increase in the rates of service-connected disability compensation and dependency and indemnity compensation (DIC). With spiraling inflation running rampant in our country, it is indeed tough to make ends meet. Many of those receiving service-connected disability compensation and DIC are the hardest hit by rising food prices, increasingly higher energy bills, and medical costs. With this in mind, I am especially delighted that our bill reflects an actual rate of inflation rather than projected inflation. Using the actual rate of the Consumer Price Index rather than projected inflation will alleviate the problem of a shortfall of 1.5 percentage points that we incurred last year.

In addition to the proposed rate increases, S. 689 addresses several other important issues. Those service-connected disabled veterans classified N-½ +K will be provided the opportunity to be considered for aid and attendance. Modifications in Veterans' Administration insurance programs are also included in this legislation.

On June 14, 1979, I chaired the hearings of the Senate Committee on Veterans' Affairs on S. 689. We heard testimony from the Veterans' Administration, various veterans service organizations, and other interested persons. Certainly, we appreciate their guidance and cooperation in formulating this legislation. Finally, I want to compliment the staff of the Senate Committee on Veterans' Affairs and the staff of representatives for each member of the committee for their work on this legislation.

Mr. President, along with the distinguished chairman and other members of our committee, I urge favorable approval of S. 689, and I hope that final congressional action will take place very soon. Millions of deserving service-connected disabled veterans and their families will be helped by this important legislation.●

Mr. ROBERT C. BYRD. Mr. President, the Senate today acted on the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979. The veterans' disability compensation program provides monthly cash benefits to veterans whose earning capacity has been reduced as a result of service-connected disability. Under this program, the amount paid to individual veterans varies. Payment depends upon the nature of the disability as well as the extent to which earning capacity has declined as a result of disability. Understandably, this program is of major importance to our Nation's veterans.

Veterans' survivor benefits are paid monthly to the spouses and children of veterans whose deaths were service connected. Additionally, in some instances, these benefits are paid to needy parents of a veteran whose death was related to military service.

The measure which was before the Senate today, will provide cost-of-living increases in compensation and survivor benefits to assure that those benefits keep pace with inflation. The Congress record on such legislation is a solid one. Over the last decade, eight public laws have been enacted to provide needed rate increases in these benefits.

We have had a longstanding commitment in this country "to care for him who shall have borne the battle" and "to care for his widow and orphan." Senator CRANSTON, chairman of the Veterans' Affairs Committee, has been an eloquent spokesman for those men and women who have sacrificed and endured hardship in the service of our country. Senator CRANSTON's diligent and effective leadership has resulted in significant improvements in veterans' programs. I wish to thank my colleague from California and the distinguished Senator from Wyoming, Mr. SIMPSON and all members of the Veterans' Affairs Committee for the bill before the Senate today.

● Mr. DURKIN. Mr. President, I urge my Senate colleagues to grant their full and overwhelming support for the 11.1 percent raise in monthly rates of Veterans' Disability Compensation and Survivors' benefits that I am sponsoring. This rate of increase is considerably higher than what the administration first proposed and it is a pleasure to note that the VA has revised its thinking in favor of our actual inflation adjustment.

As the only member of the Senate on the Veterans' Affairs Committee and on the Senate Appropriations Committee, I firmly believe this Nation owes a special debt to the men and women who have valiantly served in our Armed Forces. Today, my legislative effort is particularly dedicated to those who suffer from service-connected disability and to the survivors of those who have given their lives in the service of our country. The 11.1 percent COLI will serve to keep some 2,265,000 veterans and 323,000 survivors from losing ground to rising costs. It is needed and, certainly, well deserved.

Since the last increase in compensation benefits was October 1, 1978, the raise I am sponsoring carries an effective date of October 1 of this year. Senate passage is vitally important and I want to thank all who join me in support of this effort.●

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass? (Putting the question)

The bill (H.R. 2282) was passed as follows:

H.R. 2282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' and Survivors' Benefits Adjustment Act of 1979".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended by— and inserting in lieu thereof "$49";

(2) striking out "$80" in subsection (b) and inserting in lieu thereof "$89";

(3) striking out "$121" in subsection (c) and inserting in lieu thereof "$134";

(4) striking out "$166" in subsection (d) and inserting in lieu thereof "$184";

(5) striking out "$232" in subsection (e) and inserting in lieu thereof "$258";

(6) striking out "$292" in subsection (f) and inserting in lieu thereof "$324";

(7) striking out "$346" in subsection (g) and inserting in lieu thereof "$384";

(8) striking out "$400" in subsection (h) and inserting in lieu thereof "$444";

(9) striking out "$450" in subsection (i) and inserting in lieu thereof "$500";

(10) striking out "$809" in subsection (j) and inserting in lieu thereof "$899";

(11) striking out "$1,005" and "$1,408" in subsection (k) and inserting in lieu thereof "$1,117" and "$1,564", respectively;

(12) striking out "$1,005" in subsection (l) and inserting in lieu thereof "$1,117";

(13) striking out "$1,107" in subsection (m) and inserting in lieu thereof "$1,230";

(14) striking out "$1,258" in subsection (n) and inserting in lieu thereof "$1,398";

(15) striking out "$1,408" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,564";

(16) striking out "$604" and "$900" in subsection (r) and inserting in lieu thereof "$671" and "$1,000", respectively;

(17) striking out "$905" in subsection (s) and inserting in lieu thereof "$1,005"; and

(18) striking out "$175" in subsection (t) and inserting in lieu thereof "$194".

ELIGIBILITY FOR AID AND ATTENDANCE ALLOWANCE FOR CERTAIN VETERANS

(b) Subsection (r) of section 314 is further amended by—

(1) striking out "the" the first place it appears;

(2) striking out "or" after "this section" and inserting in lieu thereof a comma;

(3) inserting "or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section," after "subsection (p) of this section,"; and

(4) striking out "compensation under subsections (o) or (p) of this section—" and inserting in lieu thereof "compensation—".

INTERMEDIATE RATES

(c) Subsection (p) of section 314 is further amended by inserting before the semicolon at the end thereof a period and "Any intermediate rate under this subsection shall be established at the arithmetic mean between the two rates concerned".

AUTHORITY FOR ADMINISTRATIVE ADJUSTMENTS IN CERTAIN CASES

(d) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons with the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 314(1) is amended by—

(1) striking out "$49" in clause (A) and inserting in lieu thereof "$54";

(2) striking out "$83" in clause (B) and inserting in lieu thereof "$92";

(3) striking out "$110" in clause (C) and inserting in lieu thereof "$122";

(4) striking out "$137" and "$27" in clause (D) and inserting in lieu thereof "$152" and "$30", respectively;

(5) striking out "$34" in clause (E) and inserting in lieu thereof "$38";

(6) striking out "$61" in clause (F) and inserting in lieu thereof "$68";

(7) striking out "$88" and "$27" in clause (G) and inserting in lieu thereof "$98" and "$30", respectively;

(8) striking out "$40" in clause (H) and inserting in lieu thereof "$44";

(9) striking out "$89" in clause (I) and inserting in lieu thereof "$99"; and

(10) striking out "$75" in clause (J) and inserting in lieu thereof "$83".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by strikout "$218" and inserting in lieu thereof "$242".

EFFECTIVE DATE

SEC. 104. The amendment made by sections 101 (a), (b), and (c), 102, and 103 of this title and the provisions of section 101(d) of this title shall take effect on October 1, 1979.

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS FOR SURVIVING SPOUSES

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION

SEC. 201. Section 411 is amended by—

(1) amending subsection (a) to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the persons upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	*Montly rate*
E–1	$330
E–2	341
E–3	349
E–4	371
E–5	381
E–6	390
E–7	409
E–8	431
E–9	[1] 451
W–1	418
W–2	434
W–3	447
W–4	473
O–1	418
O–2	431
O–3	462
O–4	488
O–5	538
O–6	604
O–7	655
O–8	718
O–9	771
O–10	[2] 844

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $486.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouses' rate shall be $904.";

(2) striking out "$35" in subsection (b) and inserting in lieu thereof "$39";

(3) striking out "$89" in subsection (c) and inserting in lieu thereof "$99"; and

(4) striking out "$45" in subsection (d) and inserting in lieu thereof "$50".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended by—

(1) striking out "$150" in clause (1) and inserting in lieu thereof "$167";

(2) striking out "$216" in clause (2) and inserting in lieu thereof "$240";

(3) striking out "$278" in clause (3) and inserting in lieu thereof "$309"; and

(4) striking out "$278" and "$56" in clause (4) and inserting in lieu thereof "$309" and "$62", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended by—

(1) striking out "$89" in subsection (a) and inserting in lieu thereof "$99";

(2) striking out "$150" in subsection (b) and inserting in lieu thereof "$167"; and

(3) striking out "$76" in subsection (c) and inserting in lieu thereof "$84".

EFFECTIVE DATE

SEC. 204. The amendments made by this title shall take effect on October 1, 1979.

TITLE III—MODIFICATIONS OF CERTAIN VETERANS' LIFE INSURANCE PROGRAM PROVISIONS

ASSIGNMENTS OF NATIONAL SERVICE LIFE INSURANCE POLICY PROCEEDS BY BENEFICIARIES

SEC. 301. Subsection (b) of section 718 is amended by—

(1) striking out "his" and inserting in lieu thereof "such person's"; and

(2) inserting at the end thereof the following new subsection:

"(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

SEC. 302. Section 753 is amended by—

(1) inserting "(a)" before "Any";

(2) striking out "his" and inserting in lieu thereof "such person's"; and

(3) inserting at the end thereof the following new subsection:

"(b) In any case involving a dispute between two or more persons each of whom is claiming proceeds of a policy maturing on and after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to persons other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

AUTHORITY FOR DIVIDENDS—VETERANS' REOPENED INSURANCE

SEC. 303. Section 725 is amended by—

(1) inserting "and" after the semicolon in clause (6) of subsection (b);

(2) striking out before the period in subsection (b) the semicolon after "practicable" and all of clause (8);

(3) striking out clause (4) in subsection (c) and redesignating clauses (5), (6), and (7) as clauses (4), (5), and (6), respectively;

(4) inserting "and" after the semicolon in clause (5) (as redesignated by clause (3) of this section); and

(5) striking out in the first sentence in paragraph (1) of subsection (d) "shall be made from that fund" and inserting in lieu thereof a comma and "including payments of dividends and refunds of unearned premiums, shall be made from that fund and the interest earned thereon".

AUTHORITY FOR HIGHER INTEREST RATES FOR AMOUNTS PAYABLE TO BENEFICIARIES

SEC. 304. (a) Subchapter I of chapter 19 is amended by inserting at the end thereof the following new section:

"§ 726. Authority for higher interest rates for amounts payable to beneficiaries

"Notwithstanding sections 702, 723, and 725 of this title, where the beneficiary of an insurance policy issued pursuant to the provisions of this subchapter receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in the appropriate section of this subchapter. The Administrator may, from time to time, establish such higher rate only in accordance with a determination that such higher rate is administratively and actuarially sound for the program of insurance concerned. Such higher interest rate shall be paid on the unpaid balance of such monthly installments.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 725 the following new item:

"726. Authority for higher interest rates for amounts payable to beneficiaries.".

SEC. 305. (a) Subchapter II of chapter 19 is amended by inserting at the end thereof the following new section:

"§ 761. Authority for higher interest rates for amounts payable to beneficiaries

"Notwithstanding section 744(b) of this title, where the beneficiary of an insurance policy issued pursuant to the provisions of this subchapter receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in such section. The Administrator may, from time to time, establish such higher rate only in accordance with a determination that such higher rate is administratively and actuarially sound. Such higher interest rate shall be paid on the unpaid balance of such monthly installments.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 760 the following new item:

"761. Authority for higher interest rates for amounts payable to beneficiaries.".

EFFECTIVE DATE

Sec. 306. The amendments made by this title shall take effect on the date of enactment of this Act.

TITLE IV—EXEMPTION OF VETERANS' ADMINISTRATION HOME LOANS FROM STATE ANTI-USURY PROVISIONS

Sec. 401. (a) Chapter 37 of title 38, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1828. Exemption from State anti-usury provisions

"If, under any law of the United States, loans and mortgages insured under title I or title II of the National Housing Act are exempt from the application of the provisions of any State constitution or law limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, loans and mortgages guaranteed or insured under this chapter shall also be exempt from the application of such provisions.".

(b) The table of sections at the beginning of such chapter is amended by inserting at the end thereof the following new item:

"1828. Exemption from State anti-usury provisions.".

(c) The amendments made by this title shall be effective on the date of the enactment of this Act.

TITLE V—MISCELLANEOUS PROVISIONS

TECHNICAL AMENDMENTS

Sec. 501. (a) Paragraph (1) of subsection (c) of section 611 is amended by striking out "recognized by the Administrator for the purposes of" and inserting in lieu thereof "named in, or approved by the Administrator under,".

(b) Subsection (d) of section 612A is amended by striking out the comma after "this title)".

(c) Section 620A is amended by—

(1) striking out "of" after "treatment facilities" in paragraph (1) of subsection (a) and inserting in lieu thereof "for"; and

(2) striking out the comma after "such request" in paragraph (2) of subsection (d).

(d) Subsection (d) of section 663 is amended by striking out "order to carry" and inserting in lieu thereof "carrying".

(e) Subsection (a) of section 5005 is amended by striking out "section 5031 of this title" and inserting in lieu thereof "subchapter III of this chapter".

ASSISTANCE IN LOCATING CERTAIN INDIVIDUALS EXPOSED TO OCCUPATIONAL HAZARDS DURING MILITARY SERVICE

Sec. 502. In order to effectuate more fully the policy underlying the enactment of section 6103(m)(3) of the Internal Revenue Code regarding the location, for certain purposes, of individuals who are, or may have been, exposed to occupational hazards, the Director of the National Institute of Occupational Safety and Health, upon request by the Administrator of Veterans' Affairs (or the head of any other Federal department, agency, or instrumentality), shall (1) pursuant to such section 6103(m)(3), request the mailing addresses of individuals who such Administrator (or such department, agency, or instrumentality head) certifies may have been exposed to occupational hazards during active military, naval, or air service (as defined in section 101(24) of title 38, United States Code) and (2) provide such addresses to such Administrator (or such department, agency, or instrumentality head) to be used solely for the purpose of locating such individuals as part of an activity being carried out by or on behalf of the Veterans' Administration (or such other department, agency, or instrumentality) to determine the status of their health or to inform them of the possible need for medical care and treatment and of benefits to which they may be entitled based on disability resulting from exposure to such occupational hazards.

Sec. 503. (a) The Secretary of Health, Education, and Welfare, in consultation with the heads of other appropriate Federal departments and agencies, shall conduct a scientific, epidemiological study of various populations to determine if there may be long-term health effects in humans from exposure to the class of chemicals known as "the dioxins", especially those dioxins produced during the manufacture of the various phenoxy herbicides including those used during the period of the Vietnam conflict.

(b) The report of the study shall include (1) a comprehensive review and professional analysis of the literature covering other such studies conducted or underway of such long-term health effects; and (2) a description of the results of epidemiological studies conducted by the Secretary of populations of chemical workers, agricultural workers, Service personnel and veterans, and others exposed in connection with the production or use of such phenoxy herbicides. Such report, together with such comments and recommendation as the Secretary and such department and agency heads may deem appropriate, shall be submitted to the appropriate committees of the Congress not later than two years after the date of the enactment of this Act.

Amend the title so as to read: "An act to amend title 38, United States Code, to provide for a cost-of-living increase in the rates of service-connected disability compensation for veterans and dependency and indemnity compensation for surviving spouses and children of veterans that reflects an actual increase in the Consumer Price Index; to modify certain veterans' life insurance programs; and to exempt Veterans' Administration home loans from State anti-usury provisions; to provide for certain assistance in locating individuals who were exposed to occupational hazards during military service; and for other purposes.".

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the title of H.R. 2282 be amended with the title amendment of S. 689, as reported.

The PRESIDING OFFICER. Without objection, it is so ordered.

The title was amended so as to read as follows:

> A bill to amend title 38, United States Code, to provide for a cost-of-living increase in the rates of service-connected disability compensation for veterans and dependency and indemnity compensation for surviving spouses and children of veterans that reflects an actual increase in the Consumer Price Index; to modify certain veterans' life insurance programs; and to exempt Veterans' Administration home loans from State anti-usury provisions; to provide for certain assistance in locating individuals who were exposed to occupational hazards during military service; and for other purposes.

Mr. CRANSTON. Mr. President, I ask unanimous consent that H.R. 2282 be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that S. 689 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL FAMILY WEEK

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. Burdick, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 322.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the joint resolution by title.

The legislative clerk read as follows:

> S.J. Res. 41, a joint resolution to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week."

The Senate proceeded to consider the joint resolution, which was reported without amendment.

Mr. BURDICK. Mr. President, I rise in support of my resolution authorizing National Family Week. Twenty-eight Senators have joined in cosponsoring this resolution. They include Senators Bayh, DeConcini, Wallop, Johnston, Cochran, Goldwater, McGovern, Pressler, Young, Hatch, Church, Melcher, Ford, Stafford, Lugar, Chiles, Moynihan, Garn, Schmitt, Levin, Stevens, Bumpers, Thurmond, Durenberger, Morgan, Jepsen, Armstrong, and McClure. If the House approves this resolution, we will again be able to celebrate National Family Week this November, as we have for the past 3 years.

National Family Week sets aside a specific time to recognize the importance of the family and the fundamental role it has played in the formation of our Nation. National Family Week is neither commercial nor promotional. It is simply a means of encouraging people to pause for a moment and consider the way families have affected their lives and the course of the Nation. Because of the nature of this observance, it comes during that week in November which includes Thanksgiving Day. This is a time when families traditionally gather and is an especially appropriate time to recognize the role of the family in American life.

Sociologists tell us that the role of the family has changed dramatically in America. The basic social unit in this country today is made up of only two people—a far cry from the social structure at the beginning of this century when the extended family was the basic economic and social unit of society. Despite these statistics, the family is still the basic structure through which values and experiences are passed from one generation to the other. National Family Week recognizes the essential role the family plays in American life and honors it.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue annually a proclamation designating the week beginning on the Sunday preceding the fourth Thursday in November of each year as "National Family Week", and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such day with appropriate ceremonies and activities.

NATIONAL GRANDPARENTS DAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 244, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will state the resolution by title.

The legislative clerk read as follows:

H.J. Res. 244 to authorize and request the President to issue annually a proclamation designating the first Sunday of September following Labor Day of each year as National Grandparents day.

The Senate proceeded to consider the joint resolution.

Mr. BURDICK. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, in West Virginia we have had interest, especially on the part of Mrs. Marion McQuade of Oak Hill, in legislation leading to the recognition of Grandparents Day. We have a Mother's Day, we have a Father's Day, and she has worked for years with others throughout the country, feeling that it is proper that a special recognition, not just a gesture, should be given to our grandparents.

This is a recognition of the value of grandparents, who have an important and vital role in the structure of the family circle. They make life more interesting, productive, and worthwhile.

It has been my privilege to sponsor a Grandparent's Day Resolution in the past three Congresses. We celebrated our first observance in 1978. The resolution we consider today will establish an annual day of honoring our grandparents.

I am most appreciative of the general support that Senator NUNN and I have received on the resolution we sponsored this year, Senate Joint Resolution 60. Also, a special thanks to Senators KENNEDY and THURMOND for moving the proposal in the Judiciary Committee and to the majority and minority leaders, Mr. BYRD and Mr. BAKER, for giving us the opportunity to have this resolution considered and approved.

The PRESIDING OFFICER. The question is on the third reading of the joint resolution.

The joint resolution was read the third time, and passed.

Mr. RANDOLPH. I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

TREASURY AND POSTAL SERVICE APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on H.R. 4393, the Treasury and Postal Service appropriation bill, there be the following time agreement: Two hours on the bill, equally divided between Mr. CHILES and Mr. SCHMITT; 1 hour, equally divided, on any amendment, except 3 hours on an amendment dealing with electronic mail and 3 hours on an amendment dealing with IRS debt collection, with 30 minutes on any amendment in the second degree, and 20 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate; and that the agreement be in the usual form with respect to division and control of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 4393 (Order No. 320), an act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1980, and for other purposes, debate on any amendment in the first degree shall be limited to 1 hour (except on an amendment dealing with electronic mail, on which there shall be 3 hours, and on an amendment dealing with IRS debt collection, on which there shall be 3 hours), to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Florida (Mr. CHILES) and the Senator from New Mexico (Mr. SCHMITT): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

KENNEDY CENTER AUTHORIZATION

Mr. ROBERT C. BYRD. I ask unanimous consent that upon the disposition of the Treasury-Postal Service appropriation bill, which will be when the Senate reconvenes in September, the Senate then proceed to the consideration of S. 1142, Calendar Order No. 160, the Kennedy Center authorization; that there be a time limitation on that bill of 1 hour, to be equally divided between Mr. RANDOLPH and Mr. CHAFEE, with 30 minutes on any amendment, except for 1 hour on an amendment by Mr. DOMENICI relating to tickets, and 20 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate; and that the agreement be in the usual form as to division and control of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 1142 (Order No. 160), a bill authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts and for other purposes, debate on any amendment shall be limited to 30 minutes (except an amendment by the Senator from New Mexico (Mr. DOMENICI) relating to tickets, on which there shall be 1 hour), to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Rhode Island (Mr. CHAFEE): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

REFUGEE ASSISTANCE

Mr. ROBERT C. BYRD. I ask unanimous consent that upon the disposition of Calendar Order 160, S. 1142, the Senate proceed to the consideration of Calendar Order No. 271, S. 643, Refugee Assistance, under the following time agreement: That there be a limitation of 2 hours, to be equally divided between and controlled by Mr. KENNEDY and Mr. THURMOND, on the bill; with 30 minutes, equally divided, on any amendment, and 20 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate; and that the agreement to be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 643 (Order No. 271), a bill to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Massachusetts (Mr. Kennedy) and the Senator from South Carolina (Mr. Thurmond): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

LAND RECLAMATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the following time agreement obtain on Calendar Order No. 246, S. 14, Land Reclamation, with the understanding that it not be called up before Monday, September 10:

Four hours on the bill, to be equally divided between and controlled by Mr. CHURCH and Mr. HATFIELD; with 1 hour, equally divided, on any amendment in the first degree except for a limitation of 2 hours, equally divided, on an amendment by Mr. MORGAN; 30 minutes on any amendment in the second degree, and 20 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That not before Monday, September 10, 1979, when the Senate proceeds to the consideration of S. 14 (Order No. 246), a bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes, debate on any amendment in the first degree shall be limited to 1 hour (except on an amendment by the Senator from North Carolina (Mr. Morgan), on which there shall be 2 hours), to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Idaho (Mr. Church) and the Senator from Oregon (Mr. Hatfield): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

FILING OF COMMITTEE REPORTS DURING THE RECESS

Mr. ROBERT C. BYRD. I ask unanimous consent that committees be permitted to file reports during the recess of the Senate on Thursday, August 9 and Friday, August 24, during the hours between 9 a.m. and 3 p.m. on each of those days.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

TITLE AMENDMENT TO H.R. 3996

Mr. ROBERT C. BYRD. Mr. President, on yesterday the Senate passed H.R. 3996 after amending it with the text of S. 712, as amended by the Senate.

Through inadvertence the title was not amended. I ask unanimous consent that the title of H.R. 3996, as passed by the Senate, be amended to read: "An act to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for two additional years, and for other purposes."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there is no problem with a possible motion to reconsider that bill, is there?

I move to reconsider the vote by which the title amendment was adopted.

Mr. BAKER. I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, there is no problem that I can see with any possible motion to reconsider the action on that bill.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

SAFE DRINKING WATER AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1146.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1146) entitled "An Act to amend title XIV of the Public Health Service Act, as amended by the Safe Drinking Water Act (88 Stat. 1680, 42 U.S.C. 300j), to extend for three fiscal years the authorization for appropriations, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. (a) The first sentence of subsection (e) of section 1442 of the Public Health Service Act (42 U.S.C. 300j–1(e)) is amended by striking out "; and" and substituting a semicolon and by inserting the following before the period at the end thereof: "; $21,405,000 for the fiscal year ending September 30, 1980; $30,000,000 for the fiscal year ending September 30, 1981; and $35,000,000 for the fiscal year ending September 30, 1982".

(b) The second sentence of such subsection (e) is amended by striking out "and 1979" and substituting "through 1982".

SEC. 2. (a) Paragraph (7) of subsection (a) of section 1443 of the Public Health Service Act (42 U.S.C. 300j–2(a)(7)) is amended by striking out "and" and by inserting the following before the period at the end thereof: ", $29,450,000 for the fiscal year ending September 30, 1980, $32,000,000 for the fiscal year ending September 30, 1981, and $34,000,000 for the fiscal year ending September 30, 1982".

(b) Paragraph (5) of subsection (b) of such section is amended by striking out "and $10,000,000" and substituting "$10,000,000" and by inserting the following before the period at the end thereof: ", $7,795,000 for the fiscal year ending September 30, 1980, $18,000,000 for the fiscal year ending September 30, 1981, and $21,000,000 for the fiscal year ending September 30, 1982".

SEC. 3. Paragraph (2) of subsection (f) of section 1441 of the Public Health Service Act (42 U.S.C. 300j(f)) is amended by striking out "1979" and substituting "1982".

Amend the title so as to read: "An Act to extend for three fiscal years the authorizations for appropriations under the Safe Drinking Water Act".

● Mr. CULVER. Mr. President, I have long believed that the Environmental Protection Agency (EPA) has not been sufficiently committed helping small and rural communities develop effective and economical drinking water purification systems.

Among a community's most important assets is an adequate supply of good quality drinking water. Both its physical and economic well-being are diminished if its water is unsafe for human consumption. The Safe Drinking Water Act (Public Law 93–523), enacted by Congress in 1974, recognized this basic fact by directing EPA to develop drinking water standards to protect the public health and welfare.

The Safe Drinking Water Act, however, does not authorize construction grants to help communities meet the cost of upgrading their drinking water systems. These improvements must be borne by the communities themselves. This puts a particularly severe financial burden on small towns with fewer financial resources to utilize. A number of Iowans who reside in small and rural communities have told me about the difficulty of assuring safe, affordable water in these areas.

We need to develop economical and efficient water treatment systems that are applicable to small communities. While EPA has undertaken some research and development work on small system technologies—including aeration and resin absorption—the Agency has not carried out this vital task in a systematic way. EPA must determine whether these treatment methods are adaptable to small community water systems. The Agency should also increase its technical assistance program so that these technologies can be made available to the communities which urgently need them.

During consideration of the reauthorization of the Safe Drinking Water Act by the Environmental Pollution Subcommittee, I offered an amendment which authorized EPA to spend $1 million for demonstration projects to assess new or alternative treatment methods for water purification systems serving towns with populations of 5,000 or less.

This amendment would enable EPA to test systems that may be applicable throughout small towns and rural America, and would allow communities to have safe drinking water at affordable costs. This would be of significant benefit to a State like Iowa, in which more than 90 percent of the State's communities are under 5,000 in size.

My amendment was accepted by the subcommittee, and subsequently passed by the Environment and Public Works Committee and the Senate. While the House Commerce Committee supported my amendment, and would have likely included a similar provision on the floor, the House of Representatives passed the Safe Drinking Water reauthorization under suspension of the rules, a parliamentary device which does not permit amendments to be added to the original committee bill.

Mr. President, I am pleased to state that the EPA recognizes the need, and fully supports the goal, of providing more assistance to small communities seeking to improve their drinking water systems. Yesterday, I received assurances from EPA Administrator Douglas Costle, that the Agency will implement a small community water system demonstration program using funds already allocated to it. EPA will direct a minimum of $1 million to this effort, and will help small towns acquire the equipment and trained personnel necessary to get this program under way. Thus, the Agency is committed to instituting the program originally mandated by the Culver amendment to the Safe Drinking Water Act. As a result, my amendment is not part of the legislation the Senate is considering today.

The implementation of the demonstration program first called for by the Culver amendment will help meet a pressing need of rural areas and small towns, and assures that safe, high quality drinking water will be available to all Americans. EPA will now accelerate development of efficient and economical treatment technologies so that the drinking water needs of these communities can be achieved. I am confident that Iowa and other predominantly rural States will apply for funding under this innovative and worthwhile program.

Mr. President, I ask that a copy of the letter sent to me by EPA Administrator Costle be inserted in the RECORD.

The letter follows:

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, D.C.

Hon. JOHN C. CULVER,
U.S. Senate, Washington, D.C.

DEAR SENATOR CULVER: In your amendment to the Safe Drinking Water Act, you included an authorization for the demonstration of water treatment technologies for small systems serving fewer than 5,000 people. We share your view that there is a definite need to help small communities gain first hand experience with the technological systems that are available to them to treat their water in order to meet drinking water standards. This is especially true with regard to technology for controlling organic chemical contamination. In addition, there is a major need to deal with the management problems which must be overcome to insure that the identified technologies can be practically implemented.

Recognizing the small system problem, we are prepared to devote both money and personnel over the next several years to try and come up with a feasible solution. At least $1 million and most likely substantially more will be devoted to this effort. This would be accomplished by demonstration projects for new technologies and also by developing information on the performance and reliability of those treatment systems that are available.

In addition, we will make a concentrated effort in our drinking water program to assist small communities to become aware of those techniques that will help them secure the equipment, funds, training, and expertise necessary to implement the technology.

I appreciate your strong leadership in this critical area and pledge our full cooperation in addressing the problem as quickly as possible.

Sincerely yours,
DOUGLAS M. COSTLE.●

● Mr. MUSKIE. Mr. President, today, the Senate is again considering S. 1146, the 1979 amendments to the Safe Drinking Water Act. These amendments were passed by the Senate in June. The House of Representatives acted on this legislation earlier this week.

The bills passed by the Senate and House of Representatives are nearly identical. They conform closely to the suggested amendments proposed by the administration earlier this year. Several differences should be noted.

The bill as passed by the House of Representatives, the bill which is before the Senate today, does not contain an amendment authored by Senator CULVER. That amendment was designed to encourage the Environmental Protection Agency to dedicate additional resources to developing affordable treatment technologies for small community water supply systems. This was a good provision. However, EPA has agreed to pursue this research program under existing authorities. It is a credit to Senator CULVER for raising this issue. Clearly, his legislative work has borne fruits in the administration of this program.

A second difference in the bills passed by the two Houses of Congress is the provision of an emergency fund in the House bill. The House bill maintains authority in present law to fund emergency clean-up efforts in public water supply systems. The administration omitted this from its recommendations pending the enactment of the "superfund" legislation. Due to the delay in enactment of a comprehensive compensation and liability program for chemical spills, this authority is necessary. It will provide needed flexibility to the Administrator of the Environmental Protection Agency to deal with localized emergency water contamination problems.

The House bill provides somewhat higher program authorization levels than did the Senate bill. This increment will give EPA the resources necessary to fully implement the drinking water program in States which have not assumed primacy. This is consistent with congressional intent. This legislation authorizes EPA to administer all elements of the program, including enforcement, monitoring, information collection, granting of variances and exceptions in the absence of a State program.

The 1962 Public Health Standards for drinking water were voluntary. The 1974 Safe Drinking Water Act mandated uniform national regulations. In enacting the 1974 act, the Congress intended States to assume primary enforcement responsibility, or primacy, once minimum standards had been met. Meeting national standards in the absence of State primacy is the responsibility of the Environmental Protection Agency. In short, the added authorization provides necessary operating room to manage these responsibilities effectively.

The House bill also provides somewhat higher authorizations for the underground injection control program. The administration figures, upon which the Senate bill was based, contemplated only 22 States participating in the program. That assumption is no longer valid. At present, EPA anticipates that all 50 States will be included in the program. Supervision of programs in all of the States and territories will make even the higher House authorization inadequate. These sums will be stretched, but it is clear they will be effectively employed in this program.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate agree, en bloc, to the amendments of the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:45 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2:45 p.m. today.

There being no objection, at 2:18 p.m. the Senate took a recess until 2:45 p.m., whereupon the Senate reassembled, when called to order by the Presiding Officer (Mr. BURDICK).

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 95-561, appoints the following Members to the Commission on Proposals for the National Academy of Peace and Conflict Resolution: Mr. John P. Dunfey, Senator Spark M. Matsunaga, and Mr. John Dellenback.

SENATE PUBLIC FINANCIAL DISCLOSURE PROVISIONS

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of Senate Resolution 220.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time coming out of either side.

The PRESIDING OFFICER (Mr. Glenn). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, what is the pending business?

The PRESIDING OFFICER. Senate Resolution 220.

Mr. STEVENSON. Mr. President, this resolution, which has been reported by the Senate Ethics Committee, conforms rule 42 on financial disclosure to the requirements of the newly enacted Ethics in Government Act. Thus, the Senate would be subjected by this resolution to the same financial disclosure requirements as all other agencies of the Government, including the House of Representatives.

The most significant changes made by conforming Senate rules to the law are to increase the salary threshold for disclosure requirements. Only employees compensated at the GS16 or higher levels would be subject to the disclosure requirements if this resolution is approved. If a Senator had no employee at that level, the disclosure requirement would fall upon another individual within his office. Senators are not affected by this change.

The resolution also eliminates the requirement for random GAO audits. These audits have been expensive and unproductive. According to GAO figures, each audit of a Senator's disclosure statement costs GAO about $7,000; each audit for a staff member costs about $2,400. Thus, with about 25 audits for Members and about 90 for staff, the annual cost of these audits to the GAO is in the neighborhood of $400,000.

That sum would better be spent by GAO rooting out inefficiency and corruption in Government. The accounting cost associated with compliance with audit requirements to Members and staff is also chargeable to the Government. Thus, the annual cost of this audit requirement exceeds $500,000. In addition to the expense, these audits divert the time of GAO auditors, staff and Members away from more important duties. And for all that, little of significance is learned. Only one audit report to date has raised the possibility of any significant irregularity in a disclosure statement.

The Ethics Committee reviews all financial disclosure statements. If any evidence of irregularity comes to the attention of that committee either through its review of these reports or by complaints or other means, it can investigate. It can order audits. And it would do so should the need arise.

The Senate has mandated a consideration of financial disclosure requirements by the appropriate committees, including the Ethics Committee. That study has not been completed and I regret that. We bring up this resolution now upon the recommendation of the Ethics Committee because the audits of the 1978 financial disclosure statements have commenced. If that provision with respect to audits is to be repealed, it would make more sense to do so before the audits than after or in mid course.

In no way will approval of this resolution prevent the Ethics Committee, the Rules Committee, the Governmental Affairs Committee, and the Senate itself from reconsidering the whole question of financial disclosure in the code of conduct. And, indeed, I renew the commitment of the Ethics Committee to consider the code of conduct, including Senate Resolution 109, as the circumstances permit, but in time for action no later than the beginning of next year. The purpose of this resolution is simply to avoid an unnecessary expenditure of funds and an extraordinary diversion of time for Members and staff from their duties. The results of the audits are in no way commensurate with their cost in time and in public funds. I am hopeful, therefore, that the Senate will approve this resolution.

Mr. MORGAN. Mr. President, I simply echo what the distinguished Senator from Illinois has said. This resolution, by which we conform our Rules to the Ethics in Government Act of 1978, simply puts the Members of this Senate in the position of living under the same rules that the executive branch of Government lives under, the same rules that the members of the Supreme Court live under, and the same rules that the House of Representatives lives under.

In 1977 when we adopted our Code of Conduct, which included rule 42, it was anticipated at that time that we would enact in Congress an Ethics in Government Act, and I think it was anticipated by most of us that whenever the Ethics in Government Act was enacted we then would conform our rules to that.

The House of Representatives has done that.

So this confers no specific privileges upon the Senate. It simply requires that Members of the Senate shall live under the same rules as all other members of Government. The main difference is it eliminates a random audit by the GAO which requires that every Senator's disclosure statement be audited at least once in 6 years. Some because of the random selection will be audited twice in 6 years. Some will be audited three times in 6 years. And by their formula there will be two audited four times in 6 years.

This does not deprive the Ethics Committee of the authority to order an audit for cause.

The only thing, as the Senator points out, it does make the number of staff members who are subject to audit and filing returns manageable.

Right now when 1,600 staff members submit their returns or their disclosure statements, it simply becomes meaningless and unmanageable. So I hope the Senate will adopt it, and it will conform the rules to the law.

As the Senator pointed out, it does not prevent us from attempting to alter or change the Ethics in Government Act of 1978 whenever it is the will of the Congress that it do so.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. Boren). Who yields time?

Mr. METZENBAUM. Mr. President, I ask the distinguished minority leader who, I understand, is controlling the time for the opposition, to yield me 5 minutes.

Mr. BAKER. Mr. President, on behalf of the distinguished Senator from New Mexico, who is the ranking member of the Ethics Committee, I am happy to yield that time to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Have the yeas and nays been ordered on this amendment?

The PRESIDING OFFICER. They have not.

Mr. METZENBAUM. I ask for the yeas and nays.

Mr. ROBERT C. BYRD. I join in asking for them. I stated on yesterday there would be a rollcall vote on this.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, I rise to indicate my concern and my opposition to Senate Resolution 220, which will change the Senate rules governing financial disclosure to make them conform with the Ethics in Government Act. I do so not because there is any evil intent or because I believe the proposal has any perniciousness in it, but, because I think it is bound to be perceived as a letting down or a breaking down of the protections we have built up by the enactment of rule XLII at an earlier date.

At the present time, the U.S. Senate has 6,000 employees. Sixteen hundred of those employees are presently covered by rule XLII and are required to file financial disclosure statements. Only 300 will be covered if this resolution is agreed upon today. The other 1,300 employees presently covered will not have to file any financial disclosure statement. I believe very strongly they should, and I think by our failure to have them do so there will be misinterpretation. Although it may or may not be evil, the fact is it will make the people of this country feel that for some reason we are closing off important information to them.

Under the rule today, Members and employees who leave the Senate must file a report to the date of leaving, but under this provision they would not have to file a report as of the date of leaving.

Under the present Senate rule—Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. METZENBAUM. Under the present rule, Members—and this part does not apply only to staffs but also applies to the Members, and, it may be one of the most important parts of the change—today, every Member must indicate his financial holdings, and in doing so there are different brackets going all the way up to the last bracket, which is in excess of $5 million.

It is possible under those brackets for outsiders or those who care to know to learn what the financial holdings of the individual Member of the Senate are, as well as the holdings of staff members.

Under this proposal all that the Member would have to do, or the staff member would have to do, is to use one bracket for those assets which are in excess of $250,000.

There can be no doubt about it, this will keep the American people from knowing what the assets of their Senators are and what the assets of the employees, the staffs, of the Senate are.

I think it is very important, particularly with respect to this category, that Senators be required to make such disclosures.

I am one who has not always felt very comfortable or very pleased about having to make such disclosures. I cannot say that I relish making them. But those are the rules of the Senate. They are the ones under which I came into this body. I think changing them at this time would cause a misinterpretation across the breadth of our country. I think changing them would be a major step backward. When people are calling for more openness in Government, this will give them less.

The last item I bring to the attention of the Members of the Senate is that of the audit requirements of Members and staff under rule XLII. The act eliminates these requirements.

I think this is a step backward. I think it is a matter that will be interpreted as throwing a cloak around the information concerning the financial position of the Members of the Senate, as well as those who are in leadership roles on our staffs, those earning between $25,000 and $44,000.

I think this resolution, this change, will prevail. I think it should not prevail. I urge the Members of the Senate not to support the rule change. I think it is a move in the wrong direction.

Mr. SCHMITT. Mr. President, I feel in a somewhat unusual position in standing in opposition to the repeal of rule XLII. Having been one of the nine Members of this body who voted against the Code of Conduct, I feel I may be a little bit awkward in defending one of its provisions, and one of the provisions that caused me to vote against it.

I do not think rule XLII is a good provision. My proposal to the Senate in the 95th Congress was, my proposal still to the Senate is, that we go to a true full disclosure code so that there is a minimum of bureaucracy for the Senate to deal with and a maximum of visibility for our constituents into the affairs of their elected representatives.

I think we are making a mistake if we repeal rule XLII at this time without doing what the distinguished Senator from Connecticut has advocated and I have advocated, and that is a full review of the philosophy and of the provision of the Code of Conduct.

I am happy to see at the very least it appears that this will be done in the not too distant future. In the meantime I think we are making a mistake. It is premature of the Senate to consider this repeal. It is premature because at this time there remain fundamental policy issues that the Select Committee on Ethics and other committees of jurisdiction have not yet resolved.

In addition, since Senate rule XLII requires more information in almost every respect than does title I of the Ethics in Government Act, the public is likely to perceive—and I think correctly—that this repeal is a retreat from the openness of the affairs of those of us who enjoy the public trust. There is nothing wrong with the Senate requiring more from itself and its employees than the Congress requires from the top levels of the Federal Government or of the judiciary or even of the other body.

More particularly, I and others are deeply concerned by serious questions raised by repeal of the random audit required by Senate rule which are not required by the act.

The philosophy of random audits has been one that has made our Tax Code operate as a largely voluntary code. It is one of which we should not be afraid.

Repeal of the audit provisions for routine, random or confidential audits of financial disclosure reports could remove a significant mechanism through which the public may be assured the reports are accurate, thorough, and complete.

It is a great incentive upon all of us and our employees to do that job correctly.

In addition the act requires the Comptroller General to study the desirability of adding an audit requirement to the law. As yet, the results of that study are not available, and the Ethics Committee has not yet had an opportunity to review the results of the audits for calendar year 1977, the first year for those audits which have only recently been completed and made available to the committee.

Mr. President, I think that the GAO has acted irresponsibly in the conduct of these audits. I think they have not acted within the spirit of the requirement that was built into our Code of Conduct. They did not want to do this job, and they made it as onerous as they possibly could, hoping that just this kind of action would occur. I may be wrong, but I do not think I am.

Repealing rule XLII would drastically limit the number of Senate staff who are required to file a financial report, thus limiting the financial accountability of those of our employees who have a direct responsibility to the public trust.

When the Senate passed a limited disclosure rule in 1968—old Senate rule 44—all employees paid at or above a rate of $15,000 had to file a report, which was then about one-quarter of Senate staff. Today's rule 42 has a $25,000 reporting threshold, which is also about one-quarter of all staff. Repealing the rule would mean that only those staff paid at or above the GS-16 level, about $44,000, and approximately 5 percent of staff, would have to file. This would be a significant departure from 10 years of Senate policy concerning those employees that we require to be accountable to the public for their financial holdings and dealings.

Repealing rule 42 would also mean the Senate was departing further from its supposed policy of full and complete financial disclosure. If we were operating only under the Ethics in Government Act, liabilities of less than $10,000 would not have to be disclosed, and the ownership of homes and mortgage indebtedness would be deleted. There would also be no requirement that assets worth over $250,000 be valued by the higher categories of value that our rule provides. If the policy of the Senate is full disclosure, repealing the rule would be a retreat from that policy.

Finally, there is no need to act hastily today because no new annual financial disclosure reports are due from Members or staff until next May 15. There is time for the committee and then the Senate to make a complete and careful judgment on what the Senate should require of itself in making itself accountable to the American people.

I believe, as I said when I began, that rule XLII should be drastically revised, but only in the light of a major review of the whole issue of ethics in Government. So, Mr. President, I am sorry that this appears to be the action that is going to be taken today. I hope, in the general review of the rules to be provided for in the unanimous-consent request, we will repeal the action that we are about to take, however unwisely, today.

Mr. MORGAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes and 36 seconds remaining. The opposition has 3 minutes.

Mr. MORGAN. Mr. President, I yield the Senator from Rhode Island (Mr. PELL) whatever time he desires.

Mr. PELL. I thank the Senator very much. There are several points I would like to make.

The first is that the basic premise

seems to be that as was said of the old Romans, we are all guilty until we have proved ourselves innocent.

Mr. President, there is no Government more open than our own Government. We bare our chests, our pocketbooks, and our lives. You can look at other governments, and I am sure we all agree that no other governments, parliaments and legislative bodies are as honest as we are. Officials of other governments laugh at the conniptions through which we force ourselves in this regard. We know any rascal can get around these rules anyway. For the many honest officials they are an invasion of privacy, an insult to our intelligence, and an expense.

I would like to touch on the expense. The GAO spends $400,000 a year, or an average of almost $3,500 each, for these audits they do. The cost to the individual Senators is also a substantial amount. While a Senator can pay for these costs out of office accounts perfectly legally, the Senator then has his office account depleted when he needs those funds for other legitimate purposes. I hate to see the Government ripped off, just as much as I hate to see myself ripped off.

Finally, to illustrate the difference between the Senate rules this past year and the year before, I ask my colleagues to consider, as I flutter these two sheafs of paper, that the 1978 report is a great deal thicker than the 1977 report. I can assure you that is the case, because my accountants' bill was six times higher for this one than for that one.

So I would hope something can be done to simplify this procedure, which has really become a bonanza for the accountants and a burden for all Senators. I support the amendment of the Senator from North Carolina.

Mr. MORGAN. Mr. President, I reserve the remainder of my time.

Mr. SCHMITT. Mr. President, just very briefly in response, let me state that some of us on the floor of the Senate will recall that early in the 95th Congress, Mr. Muskie, Mr. Weicker, myself, and others tried to create a Code of Conduct that was truly the kind of code of which the Senate could be proud, by which the American people could judge us, and which would, in fact, respond to some of our constituents'—and that is the taxpayers'—demand for greater accountability in our activities.

I wonder where the critics of the code today were when we were trying to create the code that in fact the public demanded of us? I believe the majority of Congress voted for this code because they perceived that their constituents wanted a code. In that context, the taxpayer was asked to bear the burden of whatever costs might accrue from such a code.

I do not believe this is the way in which we relieve the taxpayers of that burden which, through their elected representatives, they apparently chose to bear.

I reserve the remainder of my time, unless the Senator from North Carolina is prepared to yield back.

Mr. MORGAN. Mr. President, I have one further point. It is true, as the Senator from New Mexico points out, that IRS uses a random audit system. But the law does not require that they audit every taxpayer at least every 6 years, and use a random selection that would require some to be audited twice in 6 years, some in three times, and some four. Moreover, this does not remove from the Ethics Committee the right to order an audit at any time for cause.

Mr. SCHMITT. The Senator is correct in that. I, too, believe, though, that the more responsible and considered procedure would have been to revise the audit procedure, rather than eliminate it.

Mr. MORGAN. I do not think we could have done that without putting ourselves in the position of saying to the GAO that we want them to audit, and then trying to dictate the terms under which they audit. It is unfortunate both ways.

Mr. SCHMITT. Unfortunately they are dictating the terms, and they are extremely onerous; the Senator and I are in agreement on that.

Mr. MORGAN. I say to the Senator, if your disclosure statement got as much radio, press, and TV coverage in your State as mine did in my State, I do not think an audit can add or detract much from public knowledge of my affairs. Even my children read it, and had more difficulty with their allowances since then.

I am prepared to yield back the remainder of my time.

Mr. SCHMITT. My children have not read mine yet.

Mr. LEAHY. For the record, Mr. President, the distinguished Senator from New Mexico is a bachelor. It is just as well they have not.

Mr. SCHMITT. I yield back the remainder of my time.

Mr. MORGAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the resolution (S. Res. 220). The yeas and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senate Resolution 109, which is currently in the Committee on Rules and Administration, be referred jointly to that committee and the Committee on Governmental Affairs. I further ask unanimous consent that each of those committees be directed to report the measure no later than Friday, November 16, 1979, by separate action if they so desire.

I ask unanimous consent that the majority leader be authorized to call up Senate Resolution 109, as a privileged matter, anytime after 2 weeks following the convening of the Senate for the second session of the 96th Congress, next January.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Mr. President, reserving the right to object, and I will not object, this has been cleared with interested parties on this side of the aisle. I think it is extremely important that we do proceed to fully examine and debate the subject of revising the Code of Conduct and all matter relating to the action being taken now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the resolution (S. Res. 220). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. Bentsen), the Senator from New Jersey (Mr. Bradley), the Senator from Arkansas (Mr. Bumpers), the Senator from Florida (Mr. Chiles), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Kentucky (Mr. Huddleston), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from New York (Mr. Moynihan), the Senator from Maine (Mr. Muskie), the Senator from Georgia (Mr. Nunn), the Senator from Connecticut (Mr. Ribicoff), the Senator from Mississippi (Mr. Stennis), the Senator from Illinois (Mr. Stevenson), the Senator from Alabama (Mr. Stewart), the Senator from Florida (Mr. Stone), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) would vote "yea."

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) would vote "nay."

Mr. STEVENS. I announce that the Senator from Utah (Mr. Garn), the Senator from Arizona (Mr. Goldwater), and the Senator from Pennsylvania (Mr. Heinz) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators present desiring to vote?

The result was announced—yeas 50, nays 29, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—50

Armstrong
Baker
Baucus
Bellmon
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Culver
Danforth
DeConcini
Dole
Ford
Glenn
Hart
Hatch
Hatfield
Hayakawa
Helms
Hollings
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Levin
Long
Lugar
Matsunaga
Melcher
Morgan
Nelson
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Sasser
Schweiker
Stevens
Tower
Wallop
Warner
Williams
Young

NAYS—29

Bayh
Biden
Boren
Boschwitz
Church
Cochran
Cohen
Cranston
Domenici
Durenberger
Durkin
Exon
Heflin
Javits
Leahy
Mathias
McClure
Metzenbaum
Pressler
Riegle
Roth
Sarbanes
Schmitt
Simpson
Stafford
Thurmond
Tsongas
Weicker
Zorinsky

NOT VOTING—21

Bentsen
Bradley
Bumpers
Chiles
Eagleton
Garn
Goldwater
Gravel
Heinz
Huddleston
Magnuson
McGovern
Moynihan
Muskie
Nunn
Ribicoff
Stennis
Stevenson
Stewart
Stone
Talmadge

So the resolution was agreed to.

Mr. MORGAN. Mr. President, I move

to reconsider the vote by which the resolution was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, if we may have order in the Senate, we will know within a period of 60 seconds whether or not there will be any further rollcall votes. But I would like to have the attention of all Senators.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the only remaining business before the Senate will be the nominations on the Executive Calendar, and if no Senator wishes to ask for a rollcall vote on any nomination, and if no Senator wishes to ask for a rollcall vote on the motion to recess, then I am prepared to state that there will be no more rollcall votes today.

Is there any Senator who wants a rollcall vote on any nomination?

Is there any Senator who wishes a rollcall vote on the motion to recess?

Then, Mr. President, there will be no more rollcall votes today.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF ENERGY

The assistant legislative clerk read the nomination of John Mark Deutch, of Massachusetts, to be Under Secretary of Energy.

Mr. Melcher addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I have had a great deal of interest in the nomination of Dr. Deutch.

The PRESIDING OFFICER. If the Senator will suspend, the Senate is not in order.

The Senate will be in order.

The Senator from Montana.

Mr. MELCHER. Mr. President, I have had a great deal of interest in the nomination of Dr. Deutch for Under Secretary in the Department of Energy. He is a very learned individual in his field and is a great asset for the Department of Energy.

However, we have had discussions with Dr. Deutch and with the Secretary of Energy on a very important point.

I wish to draw this to the attention of my colleagues and also to the attention of the majority leader, that many of us have had this great interest in making sure that the Department of Energy gives more attention to research and development programs on fossil fuels such as magneto hydrodynamics (MHD) to burn coal for more efficiently and cleaner to generate electricity.

I, and other Senators, have discussed with Dr. Deutch that promising technologies for coal be supported by the Department of Energy and that it is important to have an Assistant Secretary with broad experience in fossil fuel research and development programs.

I want to note that it is important that an Assistant Secretary within the Department of Energy focus full attention on developing fossil fuel programs.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MELCHER. I am delighted to yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I have been assured that there will be an assistant secretaryship created which will have jurisdiction over fossil fuels technology in the Department of Energy.

Mr. MELCHER. I thank the majority leader.

I am very much pleased to be assured of that. I feel that the Department of Energy's efforts will be greatly enhanced by such an Assistant Secretary.

Mr. FORD. Will the Senator yield for a moment that I may comment?

Mr. MELCHER. I am delighted to yield to the Senator from Kentucky.

Mr. FORD. Mr. President, I am delighted with the Senator's remarks on the new Under Secretary for Fossil Fuel.

It is my understanding that the organization in this area now will go by subject. Not only will it give a more organizational ability to zero in on the problems of energy than ever before, but I think it is a compliment to Secretary Duncan that in the beginning he is organizing by subject.

This is the way I think it should be. I am very pleased we are going to have someone that will look after the fossil fuel industry.

I thank the Senator for allowing me to have a few moments.

Mr. DOMENICI. Will the Senator yield?

Mr. MELCHER. I am delighted to yield to the Senator.

Mr. DOMENICI. I thank the Senator.

Mr. President, I do not rise to laud the creation of an assistant secretaryship for fossil fuels. While that may be an excellent idea, I rise to talk about Dr. Deutch and what he has done to this point.

I think everyone would acknowledge that the Secretary of Energy has been a most difficult job. I have had the privilege of working with Dr. Deutch. He has appeared before committees I serve on many times. He is handling many matters of grave importance to our country and my State.

I have found him to be a man of high intelligence, extreme dedication, and that he is not afraid to make decisions.

I think he will do an excellent job in the position we are going to confirm him in this afternoon.

If our new Secretary is interested in moving ahead in areas of solving our energy crisis, John Deutch will be an excellent part of that team.

I totally support his nomination.

I thank my friend for yielding.

Mr. McCLURE. Will the Senator yield?

Mr. MELCHER. I yield to my friend from Idaho.

Mr. McCLURE. Mr. President, I want to associate myself with the remarks of the Senator from New Mexico.

Those of us who have had the opportunity to work with Dr. Deutch have come to respect his ability. While we may not always agree on every detail, we certainly found it to be an open exchange and a very honest exchange.

I am delighted to be able to support this nomination.

Mr. MELCHER. I thank both my friends from Idaho and New Mexico for their very astute remarks. I also thank my friend from Kentucky, and the majority leader, for their remarks.

I think it is most encouraging. I do not want to indicate we are just interested in fossil fuels. I think we have great interest in solar and gasohol also, along with the other research and development programs in the Department of Energy.

I believe the new Secretary of Energy, Mr. Duncan, has indicated his strong support for these programs and will emphasize stepped up research and development programs for all three—coal, solar, and gasohol.

Mr. MATSUNAGA. Will the Senator yield?

Mr. MELCHER. I am glad to yield to my friend from Hawaii.

Mr. MATSUNAGA. Mr. President, I wish to join my colleagues in encouraging the confirmation of Mr. Deutch.

I have found in him one who believes in the principle that one in public office is a public servant.

I endorse his confirmation.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Montana (Mr. MELCHER) for his observations and also for his support of fossil fuels and support of an assistant secretaryship which will have jurisdiction over that area of our energy resources and energy problem.

Mr. TSONGAS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. TSONGAS. Mr. President, I speak in favor of the confirmation of Mr. Deutch. First, because he is a citizen of the State of Massachusetts and the fact that he was involved in public office himself, although he was defeated in his bid for reelection, would suggest some sensitivity to the political process.

Second, I do not think there is anybody in the country as technically proficient in the physics of energy as Dr. Deutch is. I think that kind of proficiency is important in the Department of Energy.

The only discussions I have had in reservation would be the commitment of this Department of Energy to the renewable resources, solar, and the like, hopefully getting away from the mind set that has marked the Department for years.

It is my hope that Dr. Deutch will read these statements and that, even though he is a professor from MIT, he will read the Harvard Business School book "Energy Future," which I believe, in essence, tells it like it is and, in essence, will be the bible of an energy program in the future.

I am pleased to join in the confirmation of his nomination, and I urge my colleagues to do the same.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining nominations be considered and confirmed en bloc, that the motion to reconsider en bloc be laid on the table, and that the President of the United States be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc, the motion to reconsider en bloc is laid on the table, and the President of the United States will be notified of the confirmation of the nominations.

The nominations considered and confirmed en bloc are as follows:

U.S. AIR FORCE

Sundry nominations in the U.S. Air Force.

U.S. ARMY

Sundry nominations in the U.S. Army.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY, AND MARINE CORPS.

Sundry nominations placed on the Secretary's desk in the Air Force, Army, Navy, and Marine Corps.

(All nominations confirmed today are printed at the conclusion of Senate proceedings.)

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER (Mr. Levin). Without objection, it is so ordered.

SENATE RESOLUTION 226—RESOLUTION AUTHORIZATION SENATE COUNSEL IN PENDING LITIGATION

Mr. ROBERT C. BYRD. Mr. President, title VII of the Ethics in Government Act of 1978 establishes a Joint Leadership Group to oversee the Office of Senate Legal Counsel. The membership of the Leadership Group consists of the President pro tempore, the majority and minority leaders, the chairman and ranking minority member of the Judiciary Committee, and the chairman and ranking minority member of the Rules Committee.

The Senate Legal Counsel has reported to the Joint Leadership Group on the status of pending litigation. Most of these are matters for which the Senate has expended funds for outside counsel. The Counsel's report also advised the Joint Leadership Group of pending matters for which counsel had not been retained.

The Joint Leadership Group unanimously concluded that the cases listed in the resolution should be assigned to the Office of Senate Legal Counsel.

On behalf of Mr. Baker and myself, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 226) authorizing representation by the Senate legal counsel and deputy Senate legal counsel in pending litigation.

The resolution was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 226

Whereas the Senate by S. Res. 463, approved August 9, 1976, authorized the payment of expenses in *Hutchinson* v. *Proxmire, et al.*, No. 76 C 257 in the United States District Court for the Western District of Wisconsin;

Whereas the Senate has incurred and continues to incur expenses in providing counsel for officers and employees of the Senate in respect to discovery in *Common Cause* v. *Bailar*, C.A. 1887–73, in the United States District Court for the District of Columbia;

Whereas the Secretary of the Senate has appeared on behalf of the Senate as amicus curiae in *Chadha* v. *Immigration and Naturalization Service*, No. 77–1702 in the United States Court of Appeals for the Ninth Circuit, and that proceeding is still pending;

Whereas the Senate has incurred and continues to incur expenses in providing counsel for one of its committees in the case of *McSurley* v. *McAdams, et al.*, C.A. 516–69, in the United States District Court for the District of Columbia;

Whereas the Secretary of the Senate has been named as a defendant in *Albaugh* v. *United States Government, et. al.*, No. 79–1258, in the United States District Court for the District of Columbia;

Whereas Senator Robert C. Byrd and the Members of the Senate are appellees in *Dawson* v. *Byrd, et. al.*, No. 79–1798, in the United States Court of Appeals for the District of Columbia Circuit;

Whereas Title VII of the Ethics in Government Act of 1978, Pub. L. 95–521 ("the Act"), establishes the Office of Senate Legal Counsel and provides that the Senate may direct its Counsel to represent the Senate, its committees, Members, officers or employees;

Whereas, in one of the cases embraced by this resolution, *McSurley* v. *McAdams, et. al.*, the Senate Legal Counsel is disqualified from providing representation by virtue of his prior employment at the United States Court of Appeals for the District of Columbia while an appeal in the case was pending;

Whereas it is appropriate to direct the Deputy Senate Legal Counsel to provide representation when the Counsel may not do so;

Resolved, That S. Res. 463, approved August 9, 1976, is repealed and, pursuant to section 704(a) (1) of the Act, the Senate Legal Counsel is directed to assume and continue the defense of Senator William Proxmire and Morton Schwartz, his legislative assistant, in *Hutchinson* v. *Proxmire, et. al.*;

Sec. 2. That, pursuant to section 704(a) (2) of the Act, the Senate Legal Counsel is directed to represent the Senate, its committees, Members, officers, and employees in respect to discovery in *Common Cause* v. *Bailar, et. al.*;

Sec. 3. That, pursuant to section 706(a) of the Act, the Senate Legal Counsel is directed to assume and continue with the representation of the Secretary of the Senate as amicus curiae on behalf of the Senate in *Chadha* v. *Immigration and Naturalization Service*;

Sec. 4. That, pursuant to section 704(a) (2) of the Act, the Deputy Senate Legal Counsel is directed to represent the Senate Permanent Subcommittee on Investigations in respect to discovery in *McSurley* v. *McAdams, et al.*;

Sec. 5. That, pursuant to section 704(a) of the Act, the Senate Legal Counsel is directed to defend the Secretary of the Senate in *Albaugh* v. *United States Government*; and

Sec. 6. That, pursuant to section 704(a) of the Act, the Senate Legal Counsel is directed to defend Senator Robert C. Byrd and the Members of the Senate in *Dawson* v. *Byrd, et al.*

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR PRINTING S. 855

Mr. FORD. Mr. President, I ask unanimous consent that 200 copies of S. 855, as passed by the Senate today, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS DURING RECESS OF THE SENATE

Mr. FORD. Mr. President, I ask unanimous consent that during the recess of the Senate until September 5, 1979, the President of the Senate and the President pro tempore be, and they are hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

EARTH DAY

Mr. FORD. Mr. President, in 1970, Senator Nelson organized Earth Day. Across the Nation, millions of Americans in the cities and villages and on the campuses participated in a dramatic nationwide expression of concern over the status of our environment and the conservation of our resources.

Three years later, in 1973, Senator Nelson organized Earth Week around the theme of energy conservation and the need for alternative energy sources.

Long before there was any national discussion of the energy crisis, and before the Arab oil embargo, Senator NELSON gave a prophetic speech in Burlington, Wis., in which he delineated the problem this Nation would face in the second half of the 1970's. Below are four brief excerpts from the speech:

> The evidence overwhelmingly shows that we had better start coming to grips with the energy issue quickly, or the situation is going to go from bad to worse to disastrous . . .
>
> In order to maintain a good standard of living and the technology on which it is based, this country must immediately launch a crash effort to bring order and planning to the present chaos in our energy affairs; to develop massive new, clean supplies of energy, and to conserve the tremendous amounts of energy we now waste.
>
> Energy experts have estimated that with good conservation practices, this country could save about one-third of the energy it consumes and still enjoy a decent standard of living.
>
> For the first time, our fast consuming nation is in real danger of "running out of gas" without having any easy answers near at hand.

Senator NELSON clearly saw the energy crisis on the horizon but few shared that vision with him.

Interestingly enough, most of the proposals being mentioned now by President Carter and the Congress were advocated in Senator NELSON's 1973 speech. He called clearly and persistently for energy conservation, alternative energy supplies, synthetic fuels, solar energy, fusion energy, and a reassessment of the American way of consumption. He called for a Presidentially appointed National Energy Council to draw up the Nation's plan for conservation and increased supply. He called for a joint congressional committee to accelerate consideration of energy legislation. And, he called for a national energy development project to meet America's energy needs through coal liquefaction, gasification, solar and geothermal energy.

I commend this insightful address to my colleagues and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ENERGY POLICY ADDRESS BY SENATOR GAYLORD NELSON

Today's energy experiment in Burlington, Wisconsin, could be tomorrow's reality in America. This candlelight dinner and the simulated energy shortages that Burlington homes have experienced during the past few days of energy consumption tests could be just a prelude.

Ask South Florida. A surprise blackout last week along 120 miles of that state's fabled Gold Coast affected some three million people. It was not an experiment.

Ask the people in New York City. One day a few years ago, their lights went out. The elevators froze. The subway trains stopped. The darkness descended over that giant of the modern age, that capitol of communications, industry, and finance; that home and place of work for millions of people. It was not an experiment.

Ask the people of Wisconsin and other Midwestern states who were threatened this past winter with a serious fuel oil shortage. It was not an experiment.

Ask the independent gas stations around the country who have closed or cut operations because of insufficient gasoline supplies from large oil companies on whom they rely. It has not been an experiment.

How many test and mini-crises do we need to make the lesson clear? America now has serious energy problems which could escalate into a major national crisis at some point in the not too distant future.

In order to maintain a good standard of living and the technology on which it is based, this country must immediately launch a crash effort to bring order and planning to the present chaos in our energy affairs; to develop massive new, clean supplies of energy, and to conserve the tremendous amounts of energy we now waste.

Author-physicist Ralph Lapp dramatically shows in some recent speeches the "energy gap" which threatens America between now and the year 2000.

For instance, for the key resource of natural gas, he estimates that the gap between U.S. demand and domestic supplies could total 570 trillion cubic feet between now and the end of the century. Therefore, it is essential that we develop new energy supplies to fill this gap. Currently, we are consuming 22 trillion cubic feet of natural gas per year.

For oil, another vital resource, Dr. Lapp estimates that the gap between U.S. demand and domestic supply could total 170 billion barrels from now to the end of the century. Currently, we are consuming about 6 billion barrels of oil a year.

While such figures on fuel availability vary significantly, depending on asssumptions and interpretations, the energy experts are almost unanimous in their view that the age of unlimited clean, cheap energy is ending fast.

For the first time, our fast-consuming nation is in real danger of "running out of gas" without having any easy answers near at hand.

For instance, while there are tremendous coal reserves in this country, a major investment in technology and environmental protection is going to be required in order to tap the great quantities of this fossil fuel that appear to be necessary, without scarring and polluting large sections of the West and more of Appalachia.

If we convert the coal to gas, which is a possibility, Dr. Lapp estimates that in order to supply half of the U.S. needs for natural gas 27 years from now, we would have to build 275 coal gasification plants at a cost of nearly $100 billion, with an input of over two billion tons of coal a year.

As another example, while nuclear power is viewed by many experts as the long-range source to rescue America from an energy crunch, we must somehow find ways to safely store radioactive wastes from these plants for many thousands of years until the wastes become harmless. And current estimates are that our huge energy appetite will demand the equivalent of 1200 nuclear power plants by the year 2000.

Still, our historical belief in an easy abundance is so strong that the announcement of energy problems in this country has brought reactions of astonishment and even indignation.

Actually, when we look at the evidence, the real surprise is that the nation has gotten as far as it has without energy problems that were much worse.

Is it any wonder we are in an energy dilemma when our per capita electricity consumption has been doubling almost every ten years, and when it is estimated that over the course of this century, this consumption will have increased more than 1,000 fold?

Is it surprising that we are facing energy problems when about 66 billion gallons of gasoline were consumed in 1970 in the United States just by automobiles?

Is it any wonder that energy experts are urgently calling for conservation measures when 210 million Americans waste about as much energy as 105 million Japanese consume; when an estimated two out of three cars of coal sent into power generating plants end up as waste heat; when less than 10 per cent of the fuel burned by our automobiles ends up as useful work?

Does the concern about government's effectiveness in energy affairs surprise anyone when energy authority currently is divided among 64 Federal departments and agencies, and when nuclear power plants have been licensed by the Atomic Energy Commission despite the recent discovery of major, unanswered safety questions?

Is anyone shocked by our lag in finding more efficient, cleaner energy methods when public and private research and development funding for all energy sources comes to around two per cent of the country's $75 billion annual spending for energy, including only $700 million a year by the Federal Government, and when it is estimated by an electric utility task force that for electric power alone, an average of $1.1 billion a year will be needed in research and development funds over the next 30 years?

The causes of our dilemma are bound up in the whole history of this country, in our belief as a people that nature would provide an endless bounty and that technology could solve any problem. The resources of the planet and its capacity to support life are, after all, finite.

After nearly 200 years of rosy optimism that there would always be a new frontier, America is finally being confronted with the necessity of facing some tough realities.

It has been a painful awakening. It started a few years ago when we began to realize that in our unthinking, pell mell national growth, we were destroying the air, the water, the land—the very environment which provided our unique natural heritage, supported our well being, and sustained our existence.

The threat of blackouts and fuel shortages is but another debt coming due on the mortgage for America's unprecedented material success. Our unceasing demand for MORE has simply stretched to the breaking point the energy systems and resources that are the foundation of our style of life.

Just as Earth Day, 1970, symbolized the nation's awakening concern about the environmental devastation, this Earth Week, three years later, may symbolize the country's growing awareness of the seriousness of our energy dilemma.

In fact, the pollution crisis and the energy crisis are merely different sides to the same coin, and both must be dealt with together.

To try to solve an energy crisis while blinding ourselves to environmental problems, or vice versa, as some have been advocating, would be a fool's course.

A future of poisoned air, a gutted landscape, and dead seas, but abundant energy, would be as insufferable as one with pure air and water, but no heat, light or transportation.

The real answers lie not in the piecemeal, "me first" approach that has characterized our resource and energy activities in the past.

We must reject the myth of easy abundance and adopt an ethic of conservation and stewardship.

We must shed the illusion that endless, reckless growth is a panacea that brings all the sweet and none of the sour.

We must recognize that there is no way we can safely go on doubling and redoubling our energy consumption. An exponentially increasing energy demand will quickly soar beyond the capacity of man's technology and nature's resources.

Individually and collectively, we must make adjustments in our energy policies, priorities and values today as a down payment toward meeting our energy needs tomorrow.

Unless the people of our country are willing to make a modest investment now for an adequate energy future, an even greater cost will be exacted in other ways. For instance, we must be very careful to assure that giant oil companies are not permitted to take advantage of the public's energy concern by increasing their profits, or achieving energy monopolies, or ravaging the environment. In fact, five of the largest oil companies reportedly paid only five per cent in Federal taxes on their 1971 profits, and the sprawling interests of six of the ten largest oil companies include holdings in oil, gas, coal, and uranium.

As in the environmental area, meaningful and effective energy policies will be established only when the public itself demonstrates its concern and becomes actively involved in the issue.

In fact, perhaps there should be a National Energy Day, so that the public will be heard, just as we had a National Earth Day three years ago to express the overwhelming public concern about the environment.

It is also long past time for the leaders of this country to say where they stand on the energy issue.

For twenty years, experts have been warning that we were in for serious energy trouble and urging that steps be taken to coordinate our energy policies.

Yet under this Administration and the previous three Presidents, we have stumbled and bungled our way along, while the signs of energy trouble have been showing up everywhere.

For one Administration after the other, the attitude seems to have been that the best energy policy is No Policy at All.

As the latest example of this ad hoc approach, the comprehensive energy policy message President Nixon promised early this year has yet to be delivered. Reportedly, the message may finally be coming later this week. While the President's energy message two years ago addressed the issue, it left the major, critical questions unresolved.

Meanwhile, the Administration, backed by the oil companies involved, is crusading for quick approval of the Trans-Alaska pipeline route, despite studies showing that a Trans-Canadian route might be better from both a consumer and an environmental view to bring Alaska's North Slope oil and gas to Midwest and East Coast markets.

Never mind the fact that energy is the vrey foundation of our modern, technological society—the view from the White House for the past two decades seems to have been that if we just look the other way long enough, with the help of some plain old good luck, any energy problems would just take care of themselves.

Well, no energy troubles that I know of look as if they are going to solve themselves. The evidence overwhelmingly shows that we had better start coming to grips with the energy issue quickly, or the situation is going to go from bad to worse to disastrous.

To seriously address the energy issue, we must launch a massive, Federally coordinated program funded and manned on the same scale as the Apollo program that put man on the moon and the Manhattan Project that developed the atomic bomb.

To show just how urgent the matter is, even with an immediate, top priority national push, it will be a number of years before the highly sophisticated technologies needed to close the energy gap can be developed for full scale use.

The National Energy Program must include the following major, fundamental steps:

I. A Presidentially-appointed National Energy Council must be established with the responsibility for drawing up an overall national energy conservation and development plan and the authority to coordinate the plan's implementation.

In the anarchy of the nation's energy policy today, what goes for decision-making and planning is actually a chaos of scattered Federal and state efforts, the pulling and hauling of powerful private interests, and a minimum of public participation.

Federal agencies don't even have the basic prerequisite for intelligent decision-making available to them—adequate data independently obtained. Instead, the agencies have had to rely on private energy companies' own estimates of proven oil and gas reserves.

A. The National Energy Council must provide the high level leadership necessary to help plan and coordinate the nation's activities on energy supplies, research and development, energy conservation, price regulation, energy and foreign policy, and environmental protection.

Under the Council's guidance, the bits and pieces of the nation's energy affairs must be pulled together into a coherent, cooperative effort involving public agencies, private industry and the American public.

B. Congress must establish a Joint Committee on Energy to better coordinate and oversee its own energy decisions and numerous energy jurisdictions.

C. Import quotas on oil must be removed. Under any policy taking a comprehensive, public interest view of the nation's energy picture, the Federal government's import quotas on oil, which artificially maintain prices and limit supplies, and favor one industry, should have been lifted long ago. They can and must be lifted now by Presidential order.

II. A $2.5 billion a year National Energy Development Project of research and development must be undertaken to meet America's energy needs. This must be a crash effort continuing for as many years as are necessary to develop new, clean, reasonably priced energy resources and to find ways to cut energy wastes.

A National Energy Development Project must aim at the following goals:

A. To supply energy between the 1980's and the end of the century, environmentally-safe technologies must be developed for mass production of energy from sources such as coal gasification, solar energy, nuclear power, geothermal energy, and coal liquefaction.

B. Major research and development is necessary to insure protection of the environment in energy activities. Environmental controls and protections must be vastly improved in existing areas such as strip mining, ocean oil shipping and drilling, power plant siting and operation, and power transmission. Also, sound environmental and safety measures must be designed before emerging energy technologies such as coal gasification and oil shale are put into production.

C. Energy efficiency must be improved through methods such as advanced power cycles, a national power grid, recycling of waste heat, and energy from solid wastes.

D. To supply energy in the next century and beyond, technologies must be explored for new energy sources such as nuclear fusion and solar energy, again with the standard that before such technologies are utilized, environmental and safety questions such as storage of radioactive wastes must be resolved.

III. A National Energy Conservation Program must be launched to reduce our energy waste and postpone an energy crisis while new supply technologies are developed.

Energy experts have estimated that with good conservation practices, this country could save about one-third of the energy it consumes and still enjoy a decent standard of living.

As the signs of an impending energy crunch increase, energy conservation becomes an urgent necessity. Furthermore, if effective steps aren't undertaken to bridge the energy supply-demand gaps projected between now and the end of the century, America may have no choice but to see "conservation" efforts replaced with "rationing" on a broad scale.

A. A major first step toward wiser energy use in this country would be a reduction in the weight and engine size of the automobile.

In the near future, I will request that the Office of Technology Assessment recently established by Congress do a one year study of the best means of achieving a major reduction in auto weight and engine size and of the energy benefits this would bring.

Last year alone, the nation would have saved about 17 billion gallons of gasoline if the average automobile weight were reduced to 2500 pounds, with a corresponding reduction in engine size. That would be an annual saving of about 5 gallons of gas for every human being on earth.

Automobile weight—which has actually been increasing—is the single most important factor affecting urban fuel economy, according to the Environmental Protection Agency. A 5000 pound vehicle will have one half the fuel economy of a 2500 pound vehicle, according to the EPA.

Either by sound planning and foresight now, or by the compulsion of gasoline shortages later, the American automakers will almost certainly be required to go to a lighter car, a smaller engine and much better gas mileage.

If the American automakers don't act, innovative foreign car makers probably will, just as some foreign manufacturers have already developed auto engines that meet the 1975 Federal clean air standards.

Loss to foreign automakers of the vast market for small cars and small engines that would be created by a gasoline squeeze would knock the American automobile industry for a loop, with possibly catastrophic results for the whole nation's employment and economy.

B. Other energy conservation measures must include changing electrical rate structures to eliminate the built-in penalty on the small energy user; requiring "truth-in-energy" labelling on appliances, automobiles and housing to aid consumers; increasing the incentives for more energy-efficient transportation; improving insulation and design for office and apartment buildings and homes; establishing tax incentives to encourage recycling of "wastes"; requiring Federal agencies to consider the energy consumption implications of their proposed projects and actions, and providing better information to the public on energy conservation costs and benefits.

Additionally, there are many steps the individual can take to cut energy consumption, measures which are now being widely reported.

In conclusion, in carrying out this energy experiment, the people of Burlington have provided an important service to their country. These tests have helped awaken America to the need to confront the challenge of an impending energy crisis.

Now, the American public and its leaders must act, as individuals and as a nation, adopting the policies that are necessary to assure a decent energy and environmental future.

SALT II

Mr. McCLURE. Mr. President, there is at present no consensus on SALT II and as the national debate on the treaty develops we find Senators falling not just into SALT yes and SALT no camps, but into a strange and ironic SALT if camp. It is ironic because proponents of the

SALT if position believe that the ratification process of the strategic arms limitation treaty can be used to force a reluctant President to augment our defense program and redress the military balance. It therefore becomes important for us to examine the effect SALT I and Vladivostok have had on our willingness to provide for an adequate defense. Henry Kissinger, the leading SALT if spokesman, has pointed out that our default on the arms race was not dictated by the terms of SALT I.

The B-1 bomber could have been operational this year. We chose to cancel it.

The MX missile was to be operational in 1983. We chose to postpone it.

The Trident submarine was to be operational in 1978 and the various cruise missiles in the 1980's.

Each of these vital programs was abandoned or delayed by Congress and the administration. We could have done each of them and more. We chose not to, and we may well pay dearly for that weakness. SALT did not prevent us from acting, but the SALT process was used by opponents of military preparedness to stifle these needed weapons. For example, Carter administration witnesses before various congressional committees in support of budget requests for fiscal year 1978, fiscal year 1979, and fiscal year 1980 indicated that the budgets were presented in the expectation that SALT would be successfully negotiated and ratified by the Congress. Hence, the administration delayed a full-scale engineering development decision for nearly 3 years after the MX was ready for engineering development because it would be ready for flight tests during the protocol period. As a result, the deployment of MX is made moot as a point of contention in SALT II. Only the Trident can be operational during the period covered by SALT II. The pitfalls of depending on the SALT ratification to buttress our weak defense posture is discussed in a thought-provoking editorial in this morning's Wall Street Journal, and I ask unanimous consent that it be printed in the RECORD for the benefit of my colleagues.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MR. KISSINGER ON SALT

Henry Kissinger says it would be OK to ratify the strategic arms treaty during the Carter administration, provided the leopard changes its spots. The administration thanks him for his support, and treaty advocates profess a great victory.

The same thing happened last week to Senator Sam Nunn, who also coupled approval of SALT to large increases in the U.S. military budget. Senator Nunn certainly did not think he was handling out a victory for the administration. We doubt that Secretary Kissinger did either, with his catalog of Ford administration weapons programs killed by Mr. Carter. The cheering from treaty advocates is to some extent mere whistling past the graveyard, but it is also something beyond that.

What the advocates plainly believe, or at least hope, is that Mr. Kissinger and Senator Nunn are not serious. The Senator wants real growth of 4% to 5% in U.S. military spending; the former Secretary of State wants a supplemental defense spending bill signed and sealed before ratification. But in the view of treaty advocates, these are merely the opening bids in protracted real estate haggling. In the end, they believe, the selling price will be merely some hawkish presidential rhetoric, and some spending promises that can be negotiated away in SALT-III or sacrificed to a balanced budget. So the treaty will be ratified, and nothing fundamental will be changed.

What's more, we ourselves are far from sure that this view is wrong. There is something unserious, after all, in the argument that we can afford disarmament if only we spend more on weapons. Or for that matter, the argument that we need to spend more to offset the menace of a determined foe and the way to build support for the spending is to negotiate arms limitation with our adversary. These positions have the very smell of something that will wither under the heat of a roll-call vote.

Yet we by no means doubt the sincerity of Mr. Kissinger or Senator Nunn in wanting to do something to react to the Soviet build-up, and it is possible the dissonance in their current positions may be resolved against the treaty rather than for it. It is, first of all, not easy to imagine how the Carter administration could attain credibility with any commitment to sharply higher defense spending, after rejecting or stretching out so many programs and after failing to meet its NATO commitment to a real increase of 3 percent. And as the debate proceeds, surely it will become clearer that there really is a connection between strategic arms treaties and the strategic arms balance.

So far even skeptical Senators have uncritically accepted the bland assertion that ratification or rejection of SALT II is irrelevant to the evolution of the military balance. This despite the experience of a rapid shift in the Soviet favor during the term of SALT I. In a narrow sense Secretary Kissinger is quite right that the trend results from unilateral decisions by current and past American administrations. But the whole point is that these decisions are profoundly shaped by strategic arms negotiations, past, present and future.

The clearest example is Mr. Carter's decision to delay deployment of the sea-launched cruise missiles, in which his Budget Bureau specifically cited "uncertainty as to how SALT protocol provisions affecting these systems will be reflected in future agreements." The same dynamic proceeds today. In recent weeks Rep. Jack Kemp offered the defense appropriations subcommittee an amendment to provide funds to extend the range of the Pershing missile in Europe, and lost to the argument that this may be banned in SALT III, though the extended Pershing is merely an answer to the SS-20 the Soviets have already put in the field.

Or look at it this way: What would a U.S. administration do, perhaps in 1981, if it felt the Soviet build-up was an unmistakable threat to our way of life? In the absence of SALT, it would press our remaining technological advantages. It would protect our Minuteman fields against a first strike with an anti-missile system. And it would expand our deterrent with swarms of small, mobile and inexpensive cruise missiles. The first option was effectively killed by SALT I, and the second will be effectively killed by SALT II. Neither treaty affects the principal area of Soviet advantage, the huge size of their missiles.

At the political level, meanwhile, heavy emphasis on arms talks has meant that our leaders have been handicapped by the same kind of dissonance that now allows the disarmament lobby to declare victory over the testimony of Secretary Kissinger and Senator Nunn. With the message of defense needs clouded by disarmament hopes, it has been hard to get voters to support military spending, and hard to get allies to do their part. It is harder still when the treaty provisions foreclose the best options and leave only dubious ones. SALT does not so much leave the people "tranquilized" as it leaves the leaders incoherent.

The Kissinger and Nunn statements are a good first step, though, toward the kind of coherence we now need. They focus the debate squarely on the first question, which is the need to respond to the unprecedented Soviet military build-up and unprecedented Soviet political gains. But at some point we will need to move on to the second question, which is whether we are more likely to find the right response if the treaty is ratified or rejected.

Mr. McCLURE. Mr. President, some Senators believe the solution to the SALT dilemma lies in linking ratification to an agreement between Congress and the President to improve our defense program.

If this idea is to be more than a sham, the method by which we link ratification to future action must be binding and enforceable. Unless it is binding and enforceable, I fear it will turn out to be merely a minor inconvenience to those steering us toward unilateral disarmament. We need only look at the fate of the Jackson amendment to SALT I to see how little concern the administration has for congressional mandates. The Jackson amendment required future agreements to be equal. The administration gave us a treaty with at least a 4-to-1 payload advantage for the Soviet Union.

Only if breach of the defense commitment automatically nullifies the treaty can we be sure our effort to redress the military balance will not be subverted. Such a legally binding, conditional ratification will be difficult to draft, but anything less will be an exercise in self-delusion.

Although I shall oppose this treaty because it is unequal, destabilizing and unverifiable, I will support genuine efforts to reverse our military decline.

Mr. TSONGAS. Mr. President, before the Senator from Idaho goes away for August and enjoys his vacation, in the light of the remarks he just made, there are 12 of us who sent a letter to the President on the issue of SALT and defense spending which I think he might enjoy reading.

I am not sure if a copy got to his office.

Mr. McCLURE. I hope the Senator is right.

Mr. TSONGAS. It may ruin his August recess, but I think it is worth reading nonetheless.

Mr. McCLURE. Mr. President, will the Senator yield a moment?

Mr. TSONGAS. I yield.

Mr. McCLURE. I thank the Senator for yielding.

I will look forward to receiving that letter and I hope that it does not spoil my August. I am sure it will be interesting reading.

Mr. TSONGAS. I say to the Senator I have a copy of Mr. Kissinger's speech which I have promised to read during my recess, and I find it intriguing that the fellow who was as responsible as anyone for what happened in Hanoi and the bombing, that scenario, in SALT I should argue about linkage in SALT II. I think that kind of a paradox is worth a great deal of contemplation, and I intend to invest about 30 seconds of my Cape Cod time reviewing that paradox.

Mr. McCLURE. Is the Senator suggesting that his reading of Kissinger is therapeutic and my reading of the TSONGAS letter is equally therapeutic?

Mr. TSONGAS. The Senator is welcome to draw whatever conclusion he draws on the situation.

HAVERHILL, MASS.—AN ALL-AMERICAN CITY

Mr. TSONGAS. Mr. President, Haverhill, Mass., has been recognized for outstanding achievement in community development through citizen action. Haverhill was cited by the National Municipal League for sustaining a long-term economic development program through the Greater Haverhill Foundation, Inc., which has created over 1,200 jobs; the renovation and reuse of mills as housing for elderly by Bethany Homes, Inc.; and the creation of associations for neighborhood revitalization.

The award reflects the imaginative and vigorous efforts the Haverhill citizens have taken to improve their city.

Haverhill was settled in 1640 and grew steadily to become the leading manufacturer of shoes in the late 1800's and was known as the "Queen Slipper City of the World."

Haverhill was like so many other Northeastern cities following World War II whose factories closed and chronic unemployment plagued the area. She typified the deteriorating old northeast industrial city fighting for its survival and experiencing an intolerable unemployment rate. This had a disastrous effect on her citizens who were demoralized by the decline in the central business district, empty industrial buildings and deteriorating homes.

Civic leaders in Haverhill committed to overcoming this disastrous trend, recognized that with the unavailability of Government relief, that any industrial rehabilitation became dependent upon the work of her citizens. Civic leaders, made up of 20 concerned citizens, formed the nonprofit Haverhill Foundation whose main objective was to bring jobs to the city. They, in turn, enlisted support of others in industry, banking, commerce, property owners, and residents to invest in the city's future. Local citizens became experts in financing and industrial tract development with great results. Since 1963, the foundation with its offer of 100 percent financing has filled two industrial parks which employs a total of 1,300 persons. This success attracted funding from the Federal, State, and municipal governments to create a third park, which will employ another 2,500 persons. This success was recently acknowledged in an SBA report citing Haverhill for having the State's second largest rate of industrial growth and development.

Another example which combined citizen civic action with the private sector was in the areas of providing housing for the low and moderate income elderly. The elderly comprised 11 percent of Haverhill's population and were the ones who were uprooted from their homes in the 1950's and 1960's by the urban renewal program. The directors of the privately operated nonprofit Bethany Homes Corp. together with 65 church members and clergy and concerned neighbors investigated every possible method of raising funds to build modern, decent housing and health facilities for the elderly. This resulted in the construction of two large housing complexes within walking distance from the downtown area and a 120-bed nursing home. Currently, Bethany Homes is again responding to the need for more elderly housing by converting empty shoe factories to another 80 units of elderly housing. Their innovative planning has not only provided a great service to the elderly but is also helping to revitalize the historic shoe district which has recently been placed on the national register.

Another area which involved citizen participation was in the improvement of deteriorating neighborhoods. Many of the beautiful 19th century homes of wealthy shoe manufacturing families showed severe signs of neglect. They were unable to be maintained by single ownership and fell into the hands of absentee landlords and subdivided. Enforcement of building codes failed and decay, crime and arson for profit spread throughout these neighborhoods during the 1950's and 1960's. Beautiful streets and magnificent homes once representing a lucrative era were rapidly becoming slums. To help reverse this situation, groups of private citziens formed neighborhood associations such as the Highlands Association. They identified the most pressing problems and worked with various city officials and the public safety department. They attempted to combat crime and to arrest the major arsonists and burglars. Building codes began to be enforced and a rise in owner-occupied buildings took place. They were able to secure $400,000 in Federal community development funds to rehabilitate existing structures and to repair streets. A resurgence of spirit and pride in the Highlands became evident. A proposal is being prepared to designate the area as an historic district. This positive impact on neighborhoods is now being shared with other citizen groups.

Citizens and municipal employees in Haverhill have set an excellent example of overcoming the neglect suffered by our older industrial cities hit by the economic crunch. Their determined efforts, imagination, and perseverance have been able to attract some Federal aid which is crucial to maintaining cities like Haverhill.

I grew up not far from Haverhill and it was not a very romantic place to visit. Like other mill towns in the northeast, Haverhill was a forgotten city struggling for her survival. I have watched her emerge as a vibrant, active and exciting city as a result of the resourcefulness of its private and public sector. It has become a city with a bright future and a prototype for other old industrial cities. There is a whole new spirit in Haverhill resulting from the industrial parks, elderly housing construction, retail activities in the old downtown and the improvement of neighborhoods.

Haverhill was a city in the forefront of two revolutions, the American Revolution and the industrial revolution. Today, it is the leader of the third, the redevelopment revolution.

SELECTIVE SERVICE

Mr. MORGAN. Mr. President, last year, I tried to get Selective Service registration started again so we could cut some precious time off the months we would need to induct and train people for a national emergency mobilization. I got very little support here on the floor.

This year, I introduced a bill to begin Selective Service registration and have received more support from my colleagues. President Carter is also coming around to this position. As he said recently, "We are now reassessing the status of whether or not people ought to be registered. I do not see any prospect anytime soon of actually calling people to a draft, but we might have to have, as a precautionary measure, registration for the draft, just as a standby measure".

I am also pleased to see that the press is now speaking favorably of registration. I read in the RECORD an editorial from the Washington Star of July 30, 1979.

REGISTERING FOR THE DRAFT

The recent debate about resuming some form of the draft or instituting national service has been fitful. The opposition often has been virulently rhetorical, while proponents have often presented their case clumsily.

Thoughtful discussion has, however, gone on in the interstices, to a degree that there is no need any longer, we think, to defer conclusion. We must pull our heads from beneath the blanket.

Pending in the House, as a rider to a weapons authorization bill, is a proposal by Rep. Sonny Montgomery, D-Ala., that would require registration of all 18-year-old males beginning in January 1981. In the Senate, a bill sponsored by Sen. Sam Nunn, D-Ga., would also require registration, but beginning next January. Neither is a draft bill. The requirement simply would be for those eligible to get on the rolls.

The White House does not want registration and, on Friday, Speaker O'Neill said he would support removal of the amendment from the weapons bill.

But we think registration is a sensible and necessary first step to dealing with a military manpower situation that is potentially devastating. "In a real sense," Senator Nunn has said, "the choice is between realistic preparation of our conventional forces, including peacetime registration, or more and more reliance on quick use of nuclear weapons."

To those still suffering from extreme post-Vietnam blahs, the possibility of American military involvement, anywhere or in any degree, is intolerable. If only the world were so simple.

Right now, U.S. military manpower deficiencies are so pronounced that we could not respond adequately to a national-security emergency. Senator Nunn does not pussyfoot: The Defense Department's present contingency mobilization plan is, he says, a "hoax".

Peacetime registration will not, of course, make whole a flawed mobilization plan and severely inadequate numbers of trained Reservists. But a peacetime registration would be a constructive approach to shoring up these shaky timbers of national defense.

Representative Montgomery has drafted a separate bill that would go beyond registration. It would provide for a partial draft—of up to 200,000 men a year for the Ready Reserve. These men would serve four to six months on active duty and then would be subject to active-duty calls for six years. Draftees would be chosen from a non-deferment lottery pool and those drafted for the Ready Reserve would receive GI educational benefits. His proposal would quickly address the deficiencies in Reserve units which would be a primary resource in an emergency.

There is nothing wrong with the Montgomery bill. But it's more feasible now to begin with registration.

Senator Nunn's proposal has been approved by the Armed Services Committee and, under a unanimous consent agreement, will become the Senate's pending business once the House acts on its registration measure. Senator Nunn wants his bill to provide a forum for full public debate on this crucial and sensitive matter and he thinks the timing is urgent. He is right on both counts.

Is the question here—the obligation of a citizen to his nation—really as controversial among those who would be affected as shrill opponents would have us believe?"

THE BROWN LUNG DISEASE ACT

Mr. MORGAN. Mr. President, I am pleased to become a cosponsor of S. 381, the Brown Lung Disease Act of 1979, a bill introduced earlier this year by Senators HOLLINGS and THURMOND. This bill would insure that textile workers who have been victimized by byssinosis, also called brown lung disease, receive minimum levels of compensation.

Mr. President, brown lung is a disease of the lungs which afflicts textile workers repeatedly exposed to cotton dust. When it first appears, its symptom is just a simple irritation of the bronchial tubes. But over time, it gets progressively worse until it finally developes into a highly disabling disease resembling emphysema. Victims of brown lung have no lung capacity, and therefore, have no stamina and have trouble catching their breath.

Mr. President, I challenge anyone who looks into the plight of brown lung victims, and who looks into the failure of the private sector or the public authorities to take action, not to be distressed and disturbed. Senator HOLLINGS has referred to this inaction as a "conspiracy of neglect." Brown lung is a disease that was first diagnosed over 200 years ago. In Great Britain, textile workers have been able to get compensation for brown lung for nearly 40 years. But, in this country, brown lung victims are forced out of work to live without or on pitiful pensions. If they try to obtain compensation, they end up spending years appearing at hearings and going to court, and are likely to be dead before they receive a penny.

I strongly believe that workmen's compensation issues are best handled at the State level. But in this case, the States simply have not done the job. This is not a national problem for it only arises in those 20 or so States which have textile workers; it is an especially serious problem in North Carolina, which I am proud to represent, and South Carolina, where the textile industry is one of the primary employers. We have a situation here which is very similar to what existed in the coal-producing States prior to the establishment of the black lung program, and we need a similar congressional response now.

Mr. President, a human tragedy is going on, and I hope that the distinguished chairman of the Senate Human Resources Committee will hold hearings on this issue, and push for the enactment of S. 381 at the earliest possible time.

TRIBUTE TO SHAHPOUR BAKHTIAR

Mr. HATCH. Mr. President, on July 31, the last premier appointed by Shah Reza Pahlavi, Shahpour Bakhtiar, held the first press conference since the overthrow by the forces supporting the Ayatollah Khomeini. The reemergence of this highly intelligent man who, despite the opposition to the corruptions of the government of the Shah, represented a moderate political philosophy is of major importance.

Bakhtiar, now 63 years old, is still the leader of the Bahktiaris, Iran's oldest and largest tribe, whose members form as much as 60 percent of the work force in some oilfields. He was born in Tehran and attended French schools in Beirut. He attended the University of Paris where he received a doctorate in international and French law, political science, and philosophy. During World War II, he fought in the French Army against Nazi Germany. As a result of his direct participation in the war, he became an opponent of any kind of dictatorship, racial discrimination, and religious intolerance. In 1948, only 2 years after his return to Iran, he joined the Iran Party that represented social democratic ideas within the National Front. In 1953, when Mohammed Mossadegh became the Prime Minister, Mr. Bakhtiar was awarded with a sensitive government job. He became the Deputy Minister of Labor. After the overthrow of Mossadegh, he started to work in private law offices. Although he was jailed six times by the police for political activities. Mr. Bakhtiar maintained a low profile, among the leaders of the opposition.

When he was asked by the Shah to form a new government he accepted the call by saying, "time is working against my country and the King too. The King does not concern me, but it is a question of the country." With enormous dedication, Mr. Bakhtiar tried to calm the whirlwind caused by the Soviet Union and a confused opposition. During the short period of time he was in power, he articulated his ideas on how Iran's crisis could be defused. First, he said, "the people must be shown that corruption will no longer be tolerated." Second, "all the top office holders in the country must be dismissed and replaced by men not identified with corrupt government and the past." Finally, "the King must pledge publicly that he will not try to recover the powers he is now being forced to give up after the current crisis passes."

Mr. Bakhtiar pursued his political goals with remarkable toughness. Even the strong criticism of his political friends could not shake his belief that the monarchy must be preserved in order to prevent a drift into chaos. "If the Shah falls now," he said, "the military would split into several factions, coup would follow coup, and Iran would drift into chaos or civil war."

His iron will and political toughness were exemplified by his personal behavior during the crisis. He did not flee until the very last moment. First he was hidden by faithful members of his work force tribe and later, when the new regime became increasingly violent, he left Iran and established his residence on the French side of Lake Geneva.

In his press conference, Mr. Bakhtiar emphasized the need for a politically and economically stable society that could end the political and economic mess created by Khomeini and his followers. He promised that if he returned to power he would hold a free referendum on the question of the form of government and that he would master the problems of the country within 18 months.

Mr. President, I personally do believe that Mr. Bakhtiar deserves our sincere admiration for his political beliefs. I do hope that history would provide him with another opportunity to serve the people of Iran who so much need his talents.

THE LEADERSHIP OF WILLIAM HENSLEY

Mr. STEVENS. Mr. President, I am amazed at the wave of sentiment that is sweeping the country today, blaming many of our domestic troubles on the fact that we have very few young charismatic leaders.

The State of Alaska has never lacked for imaginative young people willing to spend their lives molding the future of a great land. This is a truly exciting time for Alaska, and our young leaders have pioneered new approaches to wise natural resource planning, to the protection of indigenous people's rights and to farsighted land use-planning. One young Alaskan leader on the scene for many years has been Willie Hensley. Mr. Hensley has always brought a courageous yet balanced point of view into the political arena and I wholeheartedly agree with Time magazine's recent designation of him as one of the 50 young leaders of America.

I ask unanimous consent that the profile of William Hensley from Time magazine be printed in the RECORD.

WILLIAM HENSLEY

William Hensley, 38, an Eskimo, grew up in in northwest Alaska living as a nomad. After catching the attention of teachers in the town of Kotzebue, he boldly set out for the nation's capital, where he got a degree in political science from George Washington University. In 1966 Hensley returned to Alaska to lead the struggle for native rights. As a state legislator, he flew to Washington more than 100 times to help keep the land claims issue before Congress. In 1971 Congress passed the Alaska Native Claims Settlement Act that gave Eskimos, Indians and Aleuts nearly $1 billion and 40 million acres of land. Hensley now heads the influential development arm of the Northwest Alaska Native Association (NANA), one of 13 regional corporations created by the act to manage Alaskan native assets. Under his tenure, NANA has built rural schools, offices, rescue stations and even owns a reindeer herd of 4,200 head to provide meat to northwest natives. Hensley, who speaks English, Russian and Inupiaq (an Eskimo language in western Alaska), lost a bid for his state's sole House seat in 1974, but is often introduced by Alaskans as "our next Senator."

DEATH OF RICHARD E. TUKEY OF SPARTANBURG

Mr. THURMOND. Mr. President, a distinguished South Carolina businessman, Mr. Richard E. Tukey of Spartanburg, S.C., passed away on July 25, 1979.

I had known Dick Tukey for many years, and he was both a fine man and an excellent businessman.

He was recognized by State, Federal, and foreign governments for his singular role in promoting Spartanburg and South Carolina to industrial investors and attracting over 60 foreign companies from nine nations to invest in Spartanburg County.

In 1973 he was awarded the Officers Cross of the Order of Merit by the Federal Republic of Germany. It is the highest civilian award made by that Government.

As executive vice president of the Greater Spartanburg Chamber of Commerce for the past 28 years he was instrumental in aiding nearly every public project that developed in the county since 1951. Among these projects is the branch of the University of South Carolina in Spartanburg.

In May he was awarded the honorary degree of doctor of public service by the University of South Carolina for his exemplary work in civic and business affairs for his county and State.

He was past president of the South Carolina Association of Chamber of Commerce Executives, a member of the Spartanburg Airport Commission, the South Carolina Educational Television Commission, and the South Carolina Regional Export Expansion Control.

Mr. Tukey strove for continued improvements in schools, housing, and recreation for Spartanburg County.

He was an outstanding South Carolinian and an outstanding American. I am very proud to have known him. He will be greatly missed by all, and I extend my heartfelt sympathy to his family.

Mr. President, in order to share this editorial and newspaper article about Mr. Tukey with my colleagues, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RICHARD E. TUKEY, 61, DIES

Richard E. Tukey, 61, of 209 Arbor Rd., died Wednesday at 2:15 p.m. in General Hospital after a long illness.

Tukey, for the past 28 years the Executive Vice President of the Chamber of Commerce of Greater Spartanburg, was born in Brooklyn, N.Y., the son of the late Frank and Mabel Russell Tukey.

Tukey's health had been failing in recent months and he was hospitalized for a series of operations. His condition worsened in the past two weeks.

In recent years, Tukey has been recognized by state, federal and foreign governments for his singular role in selling Spartanburg and South Carolina to industrial investors in this country and abroad.

He was called South Carolina's "secret weapon" in connection with his successful efforts to attract more than 60 foreign companies from nine nations to invest in Spartanburg County.

In 1973 the Federal Republic of Germany awarded him the Officer's Cross of the Order of Merit, the highest civilian award made by that government. It was in recognition of Tukey's efforts in the reverse investment program that brought a large number of German manufacturing firms to this country.

This past May, Tukey was awarded the honorary degree of Doctor of Public Service by the University of South Carolina in recognition of his many endeavors in the civic and business affairs of his county and state.

Tukey had been the driving force in the Chamber of Commerce of Greater Spartanburg since he was employed as the Executive Vice President in May, 1951.

He jokingly told friends that he actually arrived in South Carolina during World War II when flying over the northern part of the state and having to bail out of a disabled plane. His parachute set him down in a field near Walhalla. He was in the Army at the time, stationed at Ft. Benning, Ga.

Beginning in 1954, industrial developers began to scout this area for plant sites and resources. Tukey is credited with taking the lead in a sales campaign in which new industry was being wooed. At one time, late in his career, Tukey was challenged by a local official to tell whether he was the one who decided that an industrial prospect was a "good" or a "bad" one for the county. Tukey's response was that he would be happy to bring any prospect to that particular official and let him make that decision.

Tukey's sales tools, he often repeated, were Spartanburg County people, the excellent water and power supplies, the schools and the cooperative spirit of the community.

At the direction of the Board of Directors of the Chamber, Tukey was instrumental in aiding nearly every public project that has developed in the county since 1951. Among these projects were the merger of the city and county health departments, the adoption of a *no situs* law for South Carolina, the Spartanburg County Tax Equalization program, Home Rule legislation, and the several urban redevelopment and renewal projects in the city.

He was instrumental in the creation of the branch of the University of South Carolina in Spartanburg. A lecture auditorium in the library building there is named in his honor.

Tukey was the prime mover in the creation of the Foreign Trade Zone near Wellford in 1978.

Through Tukey's efforts, Spartanburg has received national and international press exposure. Articles about the community's success in attracting foreign industrial investment have appeared throughout Europe, and even in the Soviet Union. Spartanburg's story has appeared in major American newspapers and magazines, including the Reader's Digest, and on the television networks.

Before coming to Spartanburg, Tukey was vice president of operations for the Ettinger Company (public relations) in New York City, and before that was assistant to the president and executive director of the Cigar Institute of America in New York.

He served as executive director of the Columbus, Ga., Chamber of Commerce, 1946–48; was a staff specialist in the U.S. Army, 1941–46; a reporter for International News Service in New York, 1940–41; and during college vacation (from Bowdoin College where he graduated cum laude) was a reporter for the White Plains (N.Y.) Daily Reporter.

Tukey and the former Virginia Walker Ligon were married in 1954.

Among the honors given to Tukey have been his selection as Kiwanis Club Man of the Year in 1970; the Sertoma Clubs' award for Service to Mankind, 1975; and a resolution by the South Carolina General Assembly in 1975, which said in part: ". . . no individual has made a greater contribution to the industrial expansion of Spartanburg County and the State of South Carolina than Richard E. Tukey."

In 1978 he was named Man of the Year by the Spartanburg Board of Realtors.

Tukey was a past president of the S.C. Association of Chamber of Commerce Executives, and was a member of the Spartanburg Rotary Club, the Greenville-Spartanburg Airport Commission, the South Carolina Educational Television Commission from the Fourth District and the S. C. Regional Export Expansion Council.

Surviving in addition to his wife are sons Philip A. Tukey of Ft. Mill and William E. Tukey of the home; stepsons James W. Spencer of Atlanta and Pinckney L. Spencer of Ft. Mill; grandchildren Cecily, Quentin, Jonathan and Travis Pinckney; sister Mrs. E. A. Frederick of Delray Beach, Fla.

Funeral services will be conducted at 11 a.m. Friday at the Episcopal Church of the Advent by the Revs. Charles Duval and Robert Spencer; burial will be in Greenlawn Memorial Gardens.

The family requests that in lieu of flowers, memorials be made to the Richard E. Tukey Scholarship for International Relations at the University of South Carolina at Spartanburg; or the S.C. ETV Endowment.

Pallbearers will be Gerhard Faulstitch, Paul Foerster, Dr. G. B. Hodge, Hubert Hendrix, Jones Hobbs, Fred D. Moffitt, Arno Wildman, Rudolf Mueller, Mack Quattlebaum, Al Willis and Kurt Zimmerli.

The honorary escort will be the president and past presidents of the Chamber of Commerce of Greater Spartanburg.

The family is at the home, 209 Arbor Rd., Spartanburg.

J. F. Floyd Mortuary is in charge of arrangements.

DICK TUKEY: OUR LEGACY

Dick Tukey.

The name always will have the ring of Spartanburg to it. From the day he arrived here in 1951 to the day he died, Richard Ellery Tukey was very much in harmony with the spirit and soul of this community.

In considerable measure, he plotted its course into this bright era of the New South.

His own exodus is symbolic of the development we have witnessed over these three decades.

He was born in Brooklyn and reared in White Plains, N.Y. He first came South from New York City as a National Guardsman called to active duty as the United States tumbled into World War II.

After the war, he remained in Georgia for a time, then returned to the Big Town. When the opportunity arose, he happily agreed to come to Spartanburg as executive of the Chamber of Commerce.

He married the former Virginia Ligon and called Spartanburg home.

From the beginning, he was confident, aggressive and imaginative. He took it as a personal crusade to bring a sense of new development to the county. He succeeded magnificently.

For the past 28 years, he has worked tirelessly to cultivate a prosperous harvest of industry and jobs for the people of this area and the entire state.

Dick Tukey learned early that he had a good product to sell—Spartanburg County and its industrious people. He sold it with complete enthusiasm. He had a remarkable ability to marshall the resources and talents of the community—of the state when necessary—to convince top corporate executives that this was the place for their investments.

In recent years, his salesmanship almost singlehandedly was responsible for the location here of about 60 firms from nine other nations. His friends from abroad have dubbed Interstate 85, along which the flags of several nations fly, as "Tukey Turnpike."

He was selective in his efforts to attract new industry, believing that "industry at any cost" was too expensive. When corporate representatives came to him, he told them promptly that this community does not sell "cheap labor" or "no taxes." He offered a healthy business climate and productive, loyal workers.

During the 1960's he once commented that "industry is going to come whether we like it or not." He intended to see that the total community interest was served in the process.

An accurate appraisal of how well he did was a resolution adopted by the S.C. General Assembly in 1975 which said: "No single individual has made a greater contribution to the industrial expansion of Spartanburg County or the State of South Carolina than Richard E. Tukey."

Among the many honors he received during this decade was the "Officers Cross of the Order of Merit," highest medal awarded by the West German government to citizens of other nations. Instrumental in granting that decoration was the present chancellor, Helmut Schmidt, who as finance minister, visited Spartanburg by Turkey's invitation.

Dick Tukey had an avid interest in community affairs—civic and governmental. His influence often was applied as a gentle, steady pressure for cautious public officials, to undertake large-scale projects.

Among them were massive slum clearance and urban renewal, in which the City of Spartanburg became the state pioneer; Home Rule legislation for the county; establishment of the University of South Carolina in Spartanburg; business-district of revitalization; major bond issues for city improvement; and development of the joint airport.

His very name is a permanent legacy to the hometown he chose and loved.

SALT II

Mr. BIDEN. Mr. President, this afternoon I announce my unqualified support for Senate ratification of the SALT II Treaty. I believe the Senate should ratify the treaty on its merits and, at the same time, avoid the strategic spending splurge that has been suggested by some.

My purpose today is to take a formal position on SALT. With 5 years having passed since the Vladivostok accord set the basic terms for a SALT II agreement, and with a full month of Foreign Relations Committee hearings having been conducted since the treaty was signed in Vienna, I think it fair to say that the issues surrounding this agreement have been thoroughly aired. Having now studied these issues to the best of my ability and having reached a decision, I find no reason to delay issuing a clear statement of intent.

I approached SALT II with three questions which would require affirmative answers if I were to support the treaty. First, are the treaty's terms consistent with our need to maintain essential equivalence with the Soviet Union, so that we can preserve a stable condition of mutual nuclear deterrence? Second, are U.S. monitoring capabilities sufficient to provide us with the necessary confidence in Soviet compliance with those terms? Third, would a ratified treaty contribute to the political solidarity and military security of the Atlantic Alliance, which for 30 years has been the foundation of our national defense?

With regard to all three of these questions—concerning the treaty's terms, its verifiability, and its effect on NATO—numerous doubts have been raised. Some of these doubts I did not take seriously; they arose quite clearly from the mindless machismo which continues to afflict some Americans who cannot accept that the Soviet Union has emerged as a superpower with certain capabilities rivaling our own and who therefore resist any measure which recognizes this fact. Other doubts about the treaty I did take seriously, and I have focused my efforts on determining whether these doubts could, to my satisfaction, be laid to rest. That has now been accomplished.

I am therefore today announcing my unqualified intent to support the SALT II agreement, and to argue energetically in favor of its ratification throughout the remaining Senate deliberations on the treaty issue.

My expression of unqualified support for SALT II does not mean that I find the treaty to be flawless with respect to all we might hope such an agreement to contain. Rather, my support is based upon a confirmed belief that over 7 years, through three administrations, the U.S. SALT Delegation—public servants of sharp intelligence and high patriotism—have negotiated a tough, practical compromise which embodies a reasonable balance of concessions by both sides and which enhances U.S. security.

Nor does my unqualified support mean that I am ignoring the necessity that certain clarifications be made in the course of ratification. Indeed, at the very outset of the Foreign Relations Committee's hearings, I put forward a comprehensive eight-point "understanding" which I proposed be incorporated into the Senate's resolution of ratification and then into the Treaty itself at the time of actual ratification. I judge this to be necessary for two reasons: First, to clarify certain of the treaty's terms, and second, to clarify our own national intent and purpose in ratifying the treaty. I still feel that this is necessary, and I have now augmented my proposal into a 10-point understanding to cover additional points requiring clarification.

As I stressed, however, when originally proposing these "understandings," I consider them secondary in importance. For this debate should not be focused on technical questions of legislative craftsmanship or on the pretense of the Senate making perfecting changes in the treaty terms. The issue here is too important for a charade. It is nuclear weapons, the terrible destructive power they represent, and our solemn duty to ourselves and future generations to reduce that threat. At his inauguration, President Carter spoke hopefully, and I believe with deep sincerity, about ridding the world of this danger. Yet 2½ years later we find little progress toward this end. Indeed, we see the superpowers continuing to expand their strategic arsenals at the rate of several new nuclear warheads each day. In our deliberations, what we must constantly be asking is how this race can be curbed.

As we face this perplexing question, there is one fact of which we can be sure: Arms reductions will not be achieved if we abandon the SALT process. However marginal the achievement thus far, continued negotiation represents our only hope for slowing and eventually reversing the momentum of the nuclear race. This does not mean that we must accept any arms agreement, whatever its content, in order to keep the SALT process alive. But it does mean that we should never lose sight of our long-term goal, which is to move steadily toward substantial mutual arms reductions in a way which stabilizes the military relationship between the two superpowers and enhances the security of each.

In emphasizing this goal, I should draw a distinction concerning certain of my colleagues who have called for deeper cuts than have thus far been achieved. Some are expressing sincere misgivings about the slowness of progress in SALT and about the arms build-up which the two sides have continued even while negotiating in Geneva on limitations. I share this concern, for there is in the SALT process an element of inherent perversity, as each side struggles to accumulate bargaining chips and to extract every advantage possible from the negotiation.

Meanwhile, there is in each country a constituency of arms builders whose support for the arms limitations process is conditional at best and whose consent is necessary if negotiations are to proceed. There is thus a constant tension between the SALT process itself and the goals it is meant to achieve. In our debate, a valuable contribution has been made by those who have asked whether the SALT process does not tend to undermine its own purposes. This tendency is real, and one we must seek to resist.

Certain others who have decried the treaty's failure to achieve "deep cuts" are, in my judgment, less credible in their criticism. Upon examination, the cuts they would have us achieve are essentially one-sided cuts in the Soviet arsenal—cuts which could not be obtained during 7 years of hard bargaining and compromise. Thus, while they speak the language of arms control, the real purpose of these critics is to attack the treaty itself, while portraying themselves as tough on the Russians, tough on the State Department, and ivory pure on the issue of arms control. This kind of political posturing is unfortunate in a debate of such momentous consequence. In describing my own support for the Agreement as "unqualified," I am simply seeking to stress my belief that we have witnessed enough posturing and positioning, and that it is now time for some Senators to stand up and support this treaty with energy and conviction.

THREE CRITERIA FOR EVALUATING THE TREATY

I should now like to turn to the three questions which I established as the framework for my decision on SALT.

ADEQUACY OF THE TREATY TERMS

The first concerns the adequacy of the treaty in preserving essential strategic equivalence between the two superpowers. The treaty does, of course, establish common ceilings and subceilings on missile launchers and heavy bombers. But the question which must be answered is whether this apparent equality disguises an imbalance of any kind detrimental to the United States. It is in this context that two specters have been raised: the Soviet heavy missile and the Soviet Backfire bomber.

A feature of the treaty by now well-known—because it has been avidly publicized by SALT critics—is that the Soviets would be allowed 308 heavy missiles—SS-18s—while the United States would have no missiles of comparably large throw-weight. This isolated fact has been seized upon as supposed evidence that the United States got the worst of the SALT bargain.

A scenario has been postulated in which the Soviets, using their highly accurate and MIRVed SS-19s, launch a first-strike against our Minuteman/Titan ICBM force; the President chooses not to launch these ICBMs; they are destroyed; and the President is then paralyzed by the knowledge that any retaliation against Soviet cities using our airborne bombers and submarine-based missiles would invite a massive attack on American cities by heavily-MIRVed SS-18s. Thus, according to this scenario, the United States, with perhaps 10 million Americans already dead, could suddenly find itself caught in a horrible dilemma between national impotence and national suicide.

About this scenario, several points need be made. The first is that it is in no way dependent upon the existence of the Soviet SS-18. As I believe I successfully demonstrated when the committee heard testimony from Secretary of Defense Harold Brown, the scenario proves equally plausible—if it has plausibility—even if the SS-18 were eliminated and replaced by smaller Soviet missiles such as the SS-17 or SS-19. The simple fact is that, with or without the SS-18, the Soviets will, in the early 1980s, have the theoretical capability to conduct a first-strike on our silo-based ICBMs. This is the so-called "problem of Minuteman vulnerability," and it arises not from the existence of the SS-18, nor indeed from any provisions of the SALT II agreement, but rather from the steady technological advances being made in the accuracy of Soviet ICBM's.

Whether Minuteman vulnerability is a real problem—or simply a theoretical construct—can be debated by reasonable men. Some argue, and I think persuasively, that the first-strike scenario is so implausible as to have little or no validity as a basis for American defense planning, for Soviet leaders could never rationally stake their future and that of their society on a cosmic, long-shot gamble that the United States, possessing more than 9,000 nuclear warheads, would respond with the total passivity postulated.

Others argue that deploying a new U.S. ICBM—the mobile MX—would eliminate any possibility of Soviet temptation and thereby stabilize the nuclear balance. It is perfectly consistent with either position, however, to discern and declare that the SS-18 is essentially irrelevant to this issue of U.S. vulnerability.

The true importance of the SS-18 should be suggested by the absence of any desire among our own strategic planners to develop a similar weapon for the U.S. arsenal. We long ago decided to use the superiority of American technology to develop and deploy smaller nuclear weapons of higher accuracy, and this decision has never been seriously challenged. An extremely heavy missile possesses only one significant virtue—its capacity to carry many warheads—and it is precisely that characteristic which the SALT II agreement would constrain—by establishing a "fractionation" limit of 10 re-entry vehicles on each SS-18 launcher, which could otherwise carry up to 30 or 40 warheads. Thus, to the degree that the SS-18 does pose a threat to the United States, that threat is markedly curtailed by the treaty terms.

The second specter raised by treaty citics alleging imbalance concerns the Soviet Backfire bomber. Although this weapon is clearly oriented toward theater rather than intercontinental missions, it has been asserted that, because of the range and refueling capabilities of these bombers, they could conceivably be used if the Soviets were ever to unleash a massive strike on the United States.

The theoretical truth of this assertion is undeniable. But the implausibility of the Soviets actually using the Backfire in this way is so great as to deprive the scenario of any real validity. It is indeed virtually impossible to imagine circumstances under which such a decision would be made.

If Soviet planners were to contemplate a surprise first strike against the United States, they would hardly call upon the Backfire because, as an air-breathing weapon, it would arrive hours after the attack was over. Alternatively, if Soviet leaders were to find themselves in a prolonged confrontation with the United States—a situation which would almost inevitably bring the Soviets and their Warsaw Pact allies into conflict, or a serious risk of conflict, with America's NATO allies—they would be foolhardy in the extreme to assign a highly capable theater asset to a marginally valuable intercontinental mission. There would, moreover, be ample opportunity for the United States to detect that the Kremlin was even considering any such bizarre option, for the necessary preparation would entail detectable changes in the pattern of Soviet pilot training and bomber deployments.

Complaints by treaty critics that the Backfire was not included under the ceilings established by the agreement also fail to acknowledge the assets on our side which are likewise not included. Here must be mentioned U.S. forward-base systems, which encompass more than 500 U.S. aircraft deployed in the Atlantic and Pacific theaters and able to strike Soviet territory; the additional aircraft based in the United States capable either of direct strikes against the Soviets, or of rapid repositioning for such strikes; and also the substantial nuclear capabilities of our NATO Allies, capabilities which help to insure that Soviet leaders would not feel free to divert the Backfire from its theater role.

Given the pronounced implausibility that Backfire would be used against the United States, and the very significant U.S. and Allied strategic assets that are not counted under the treaty ceilings, I find little merit in the argument that the treaty should be amended to place Backfire under the strategic ceilings. President Brezhnev has provided formal assurances that Backfire production will be limited and that Backfire will indeed be deployed for theater missions.

In my judgment, the incorporation of those assurances into the treaty context, which can be accomplished during the ratification process, represents a satisfactory resolution of this issue, as least as regards the SALT II agreement. In SALT III, where theater systems will likely be under discussion, the subject of the Backfire bomber should again be addressed because of the threat it poses to our NATO Allies. But that is an argument for moving ahead promptly into SALT III, not for scuttling SALT II.

All in all, I find that the treaty terms are fully consistent with the imperative that we maintain essential strategic equivalence with the Soviet Union. Indeed, I believe that far too little attention has been accorded to the substantial concessions which our negotiators extracted from the Soviets. Surrounded as they are by multiple nuclear threats—from the United States, from Britain, from France, and from China—the Soviets can only have agreed most reluctantly to the principle of equal ceilings with the United States alone, and even more reluctantly to our insistence that these ceilings not include U.S. forward-based systems.

In fact, concessions of this magnitude seem explicable only by reference to President Brezhnev's obvious political stake in the SALT process, as well as his desire to attain for the Soviet Union the prestige of bargaining as an equal with the United States, and to perpetuate some version of détente.

Whatever the reason for Soviet concessions, however, I believe that our negotiators deserve more praise and less scorn than they have thus far received. Pointing selectively to heavy missiles and Backfire bombers, American critics of SALT have condemned the treaty as "fatally flawed." In so doing, they have vastly overestimated Soviet capabilities while seriously underestimating Soviet vulnerabilities. I submit that a Soviet critic of this treaty could point to far more glaring deficiencies in its terms than those alleged by his American counterparts.

VERIFIABILITY

With regard to my second standard for judging the treaty—our ability to verify Soviet compliance—I will say little here today. There is in this area the obvious and unfortunate paradox that to explain in detail the basis for confidence in our monitoring capability is to reveal information that would jeopardize that very capability. I will say, however, that as one of two Senators who sit simultaneously on the Foreign Relations and the Intelligence Committees, I have felt a special responsibility to analyze the verification issue indepth.

As a consequence, I have devoted much of my time in recent months to briefings and study, on the basis of which I am now satisfied that the United States is fully capable of detecting any Soviet violation of this treaty which could affect the strategic balance.

My conclusion is based on four judgments:

That the United States has, in operation now, the national technical means to monitor the SALT II agreements with an acceptable degree of certainty;

That any cheating or break-out potential which exists as a result of low montoring confidence would not result in an undetected alteration of the strategic balance;

That, given current administration plans for the deployment of new strategic systems, the U.S. possesses and will retain the weapons flexibility to respond to any discovery of Soviet cheating; and

That the leadership of the United States, including the Congress as a monitor of the verification process, has the political will to challenge the Soviet Union on any questions of compliance which may occur.

With respect to the first point—concerning national technical means—I concur with the statement of Senator GOLDWATER, vice chairman of the Intelligence Committee, that while our monitoring capability is now sufficient, it will—to be effective over the period of SALT II and to support negotiations for SALT III—require increased budgetary support. In this regard one should note, however, that SALT verification does not exist in a vacuum but rather is a part of our overall intelligence collection and analysis capability. Thus, support for our SALT monitoring capability is also support for our general intelligence capability, which must exist with or without SALT.

Overall, with regard to verification, I would suffice it to say that to become aware of the full extent of our intelligence capability is, first, to be greatly impressed by the remarkable achievements of advanced American technology and, second, to be greatly reassured that, in monitoring Soviet compliance with this treaty, nothing need be left to trust.

EFFECT ON THE ATLANTIC ALLIANCE

The third standard against which I evaluated the treaty is its effect on the strength and security of the Atlantic Alliance, and here I focused my efforts on learning as much as possible about the views of our allies.

In early June, I traveled to West Germany for extended meetings with Chancellor Helmut Schmidt, Foreign Minister Hans-Dietrich Genscher, and Defense Minister Hans Apel, and with a number of other German parliamentarians of both government and opposition parties. Subsequently, I met with French Foreign Minister Jean Francois-Poncet, British Defense Minister Francis Pym, and other top European officials concerned with defense issues. In addition, in order to probe more deeply and to elicit informed views on a less formal basis, I assigned the Foreign Relations Committee's two senior specialists on European affairs to investigate this matter fully, first by analyzing the record of U.S. consultations with the Allies, and then by travelling to the key Allied capitals to conduct extensive off-the-record interviews with knowledgeable government officials in Allied defense and foreign ministries, and with top journalists and academics who could reflect the European view of SALT. The report on this investigation will be formally issued later this month.

On the basis of all of these soundings, I have concluded that the Allies deeply and sincerely support the ratification of SALT II. This, it should be acknowledged, is primarily a political judgment rather than a military one.

The Allies view the SALT process as integral to the process of détente and the stability of East-West relations, and are generally content to allow the United States to determine its own interests as regards the technical negotiations on central strategic systems. But the Allies have by no means been reluctant to voice their views on those aspects of the SALT negotiations which relate directly to West European defense.

Hence, such provisions as the non-circumvention clause and the temporary protocol ban on cruise missile deployments have been a central topic in U.S. consultations with the Allies as the SALT negotiations proceeded. It seems fair to say that early in the SALT II talks, when it first became known that theater systems were under discussion, the Allies were uneasy about the possibility that their interests might be directly affected by a bilateral U.S.-Soviet contract.

Now, however, it seems clear that those concerns have been genuinely allayed through the process of consultation and clarification of the treaty and protocol provisions.

This is not to say that the Allies are sanguine or complacent about the future of West European defense. Soviet deployments of the accurate and mobile SS-20 IRBM, along with Soviet production of the Backfire, which the Europeans rightly see as an effective theater weapon, have generated strong Allied support for a unified NATO response.

As a result, a new high level group in NATO has recommended to Allied leaders a significant new program of theater nuclear force—or TNF—modernization, which would include not only improvements in existing NATO theater nuclear weaponry but also new deployments on the continent of both ground-launched cruise missiles and newly developed Pershing missiles with extended range.

At the same time, a special group in NATO has analyzed a variety of arms control approaches which might prove effective in negotiating with the Soviets toward a stable balance in theater nuclear forces. Integrating these modernization and arms control efforts into a unified strategy is now a major NATO priority. Such an effort is keyed, however, to Allied expectation that United States-Soviet negotiations will continue into SALT III.

As West European leaders have stressed to me repeatedly, this positive Allied approach would be seriously undermined if U.S. leadership of the alliance were suddenly to be brought into question by a failure of the American Government to uphold the United States-Soviet agreement negotiated in SALT II.

In short, those who warn of deep-seated Allied concerns about SALT fail to make a crucial distinction. The Allies are concerned about SALT, for they stand keenly aware that the Soviet buildup poses a direct challenge to West European security. But were SALT to collapse, and being confronted with the serious task of maintaining an adequate theater balance, they would have no alternative to an arms race within Europe amidst the unstable climate which a SALT breakdown would inevitably have produced.

On the other hand, a continuance of SALT offers the prospect that a European balance can be negotiated—with lower levels of nuclear weaponry on each side and greater theater stability. Faced with this choice, the Allies' interest is clear, and the response they seek from us is not a repudiation of SALT, but rather the demonstration of American leadership which would come from consummating SALT II, collaborating with the Allies to develop a solid program of theater nuclear force modernization, and then moving ahead into a SALT III negotiation during which the Allies would be closely consulted regarding any provisions governing theater nuclear forces. To do otherwise—in my view and that of our NATO allies—is to abrogate our responsibilities as leader of the Atlantic alliance.

In this connection, I might point out that later this month I will lead a delegation of Senators on a trip to London, Moscow, and Brussels to discuss East-West relations in general and SALT in particular. In the Allied capitals, the delegation will confer with top NATO defense officials and in Moscow with the Soviet leadership.

For myself, the principal purpose of the visit will be to assess future prospects for SALT by developing additional insight concerning Allied and Soviet priorities in SALT III, particularly with regard to theater nuclear systems.

A WORD ON THE PROPOSED 10-POINT "UNDERSTANDING"

Because some confusion surrounds the Senate's options with regard to the SALT II agreement, I believe that a word of clarification may be in order concerning the status of my own "understandings" and proposals which may be made by other Senators. The nomenclature in this area—which includes amendments, reservations, declarations, statements, and understandings—is, in its diversity, somewhat misleading.

For the Senate's options, if it approves the treaty, are essentially twofold: We may approve ratification in a way which in effect endorses the agreement as negotiated, or we may approve in a way which requires the Soviets to accept, at the time of actual ratification, any changes or clarifications we have specified. The nomenclature we apply to our action may be indicative of which of these we have done, but is not determinative. What is determinative is content.

I have therefore chosen to call my 11-point proposal an "understanding," recognizing that some of its points are hortatory, while others, depending upon how the Soviets view it, may have the effect of slightly altering the treaty terms. It is an interesting aspect of the ratification process, however, that this distinction need never be explicitly made, for if the Senate makes U.S. ratification subject to these "understandings," and the Soviets then agree to ratify, the understandings become integral to the treaty.

Although the points in my understandings are self-explanatory, I would point out that those which are clearly hortatory are designed less as a message to the Soviets than as a message to ourselves. Because so much confusion has surrounded the significance of ratification, it seems useful, for example, to reiterate that consummating this treaty does not in any way mitigate either our disapproval of many aspects of Soviet foreign policy or our determination to take all steps necessary to maintain essential strategic equivalence.

The final two points, I might also point out, are intended as alternatives to any proposals which may be made with respect to Soviet heavy missiles or the Backfire bomber. In large measure, I think, concerns regarding these systems have become exaggerated because they have been viewed in isolation rather than as part of an overall balance of negotiated concessions by both sides. Instead of allowing proposals on these weapons to be voted on in similar isolation, it seemed to me useful to craft substitute language which places those weapons more properly into context.

THE PROCEEDINGS TO DATE AND AN ALTERNATIVE POSITION

Such substitute language may well prove unnecessary, for clearly the most remarkable aspect of the treaty deliberations to date has been the shift of focus away from the treaty itself and onto issues surrounding the overall U.S. strategic position. Those who began the debate with high oratory about the treaty's "fatal flaws" have now begun to sound calmer, and attention has been redirected to the possibility of expanding the defense budget. In part, this shift is attributable to the demonstrable weakness of the arguments supporting the "fatal flaws" position, a weakness which has been fully exposed during a month of hearings. In part, the shift may be traced to the increasingly well understood fact that the treaty would not in any significant way actually curtail U.S. strategic deployments.

Thus, those who wish to express concern about the Soviet buildup and Soviet adventurism seem to have found an alternative to the "killer amendments" which were in fashion a few weeks ago. As it is emerging, their new approach appears to be to support the treaty, since it does in fact curtail certain Soviet programs, while conditioning their support upon an augmented program of U.S. strategic spending.

In one sense, such a shift represents progress, for it would mean that the treaty itself had ceased to be a whipping boy for those who wish to vent disapproval of Soviet foreign or domestic policy, or to attack the Carter administration, or simply to ride what they perceive to be a current tide of conservatism in America.

In another sense, however, this shift means no more than the replacement of one delusion by another. Time and again, during the committee's hearings, witnesses invoked the concept of a looming Soviet nuclear superiority which, if and when attained, would embolden the Soviets to embark on an unprecedented adventurism, confident of their ability to intimidate the United States and other nations into acquiescence. Yet mysteriously vague through all testimony was exactly what this nuclear "superiority" would consist of and how it would be used.

As he does so well, Dr. Kissinger caught the mood of the day and converted it into a theological pronouncement about the dangers which lie ahead. In the process, he even went so far as to repudiate what may have been his single most eloquent utterance while in office. During SALT negotiations in 1974, he had asked:

> What in God's name is strategic superiority? What is the significance of it * * * at these levels of numbers? What do you do with it?

A rhetorical question which aptly summarized the virtual impossibility of using nuclear weapons for any rational purpose other than nuclear deterrence.

Still more unfortunately, Dr. Kissinger went on in his testimony to associate himself with a concept newly in vogue: That in the early 1980's—after Soviet ICBM accuracy has improved and before our mobile MX is deployed—the Soviets will, because of the theoretical vulnerability of our Minuteman ICBM, enjoy a so-called window of opportunity, which portends grave peril for the United States. Again, exactly how the Soviets might use this opportunity was unspecified. Indeed, upon examination, the so-called window of opportunity becomes no more than another chance for the Soviets to commit nuclear suicide, an opportunity they have heretofore shown themselves pleased to reject.

To criticize these assertions by Dr. Kissinger and others is not to suggest that we downplay the Soviet threat, or to ignore it. Rather, it is to argue that our response must be deliberate and precise. Dr. Kissinger recommended a bold 5-year program of expanded strategic spending, a congressional and Presidential commitment to which should be explicitly tied to treaty ratification. Yet, during questioning, Dr. Kissinger was remarkably vague about what such a program would accomplish beyond what the current administration has already planned.

Air-, ground-, and sea-lanuched cruise missiles are under active development; procurement of the Trident submarine has begun; the highly-accurate Mark-12A warhead is now being emplaced on our Minuteman force; and a full go-ahead on the mobile MX missile was recently announced by President Carter, subject to the still-difficult choice of proper basing made. Even while speaking with the voice of doom, Dr. Kissinger under questioning felt compelled to admit that within a few years these programs could render the Soviet arsenal highly vulnerable, far more vulnerable in fact than our force will be at any point.

I think the danger that the Senate is now presented with is those who opposed the treaty in the past are now suggesting that the treaty might warrant support if the Senate will make specific and large commitments to strategic expenditures, the symbolic strategic splurge to which I refer.

My overwhelming concern is if we buy that approach we may be mortgaging our defense capabilities, because I think we may very well, if we are put in that position, find we have diverted funds away from the very area of our military power most in need, and which is going to be needed first. if ever needed. I refer to our conventional forces, land, sea, and air.

The perversity of such a stampede to strategic armaments, I would think, is apparent, or should be apparent, to my colleagues for if there is a single dominant lesson in the postwar periods it is that in any crisis or test of strength conventional and not nuclear superiority has been the determinative factor in controlling the events.

This was true, for example, in Korea, in Hungary, in Vietnam, in Czechoslovakia, and even in the Cuban missile crisis where our proximity with conventional capability is what carried the day. Our localized supremacy was the important factor.

This lesson also underlies our current doctrine within NATO where it has been recognized that the strategic nuclear umbrella is no substitute for strength at the theater nuclear level or conventional level.

We should thus be warned against the symbolic gestures born out of political opportunism and/or a failing self-confidence that has been expressed, and then later echoed by some of the more prominent Americans who have testified in this matter.

I am convinced that SALT II has been completely negotiated. I am convinced that it can be explained to the American people, a people whose basic instinct is to support efforts to limit the danger of nuclear war.

I think a true sign of our national confidence would be for the United States to ratify this treaty, to reaffirm our leadership in the Western alliance, and to move ahead with a policy of negotiation from strength. It is a true sign of statesmanship, I submit, for Senators to support this treaty on its merits, and then approve—but only after deliberation—those strategic and conventional programs necessary to our national defense.

I ask unanimous consent to have printed in the RECORD the 10-point understanding.

There being no objection, the understanding was ordered to be printed in the RECORD, as follows:

TEN-POINT UNDERSTANDING

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty on the Limitation of Strategic Offensive Arms, known as SALT II, including the Protocol thereto, both signed at Vienna on June 10, 1979, subject to the understanding which shall be included in the instruments of ratification:

(1) with regard to the foreign policy of the Soviet Union, that ratification of this Treaty shall not be construed as acceptance by the United States of Soviet aims or conduct, but is instead based upon the imperative that U.S.-Soviet competition be regulated to reduce the danger of nuclear holocaust;

(2) with regard to future strategic policy and nuclear weapons deployments, the United States shall continue to take all steps necessary to maintain essential equivalence with the Soviet Union and a stable condition of mutual nuclear deterrence;

(3) with regard to future arms negotiations, that the arms limitations required by this Treaty shall be considered only an interim measure, leading to future intensive efforts to achieve significant reductions in established levels of strategic nuclear weaponry;

(4) with regard to the non-circumvention provision of Article XII, that such provision shall not impede traditional patterns of military and technological cooperation between the United States and its allies, and that such cooperation shall continue in all ways necessary to ensure the common defense of member-states of the North Atlantic Alliance;

(5) with regard to the provisions of the Protocol, that such provisions shall not without Senate concurrence be legally extended beyond December 1981 and shall not be construed as having precedential significance for subsequent arms limitations;

(6) with regard to production and deployment of the Soviet Backfire bomber, that the written and verbal assurances set forth by President Brezhnev shall be considered integral to the Treaty;

(7) with regard to agreed statements and common understandings, the memorandum of understanding regarding data, and the joint statement of principles and basic guidelines for subsequent negotiations, that such associated documents shall also be considered integral to the Treaty;

(8) with regard to future United States deployment of mobile land-based missiles, that such deployment, regardless of mode, shall, if accompanied by procedures conducive to appropriate Soviet verification efforts, be acceptable under the Treaty;

(9) with regard to strategic systems limited by the Treaty, which are governed by equal aggregates, that any Soviet advantage attributable to greater overall throw-weight is and shall be balanced *inter alia* by the superior accuracy, diversity, and number of United States weapons; by the forward-based systems of the United States; and by the nuclear forces of United States allies; and

(10) with regard to long-range nuclear weapons not limited by the Treaty, that the Soviet Backfire bomber is balanced *inter allia* by the forward-based systems of the United States, certain United States-based bombers not governed by the Treaty, the nuclear forces of United States allies, and the residual right of the United States to deploy an aircraft with the characteristics of the Backfire bomber.

A STRATEGY FOR ENERGY

Mr. TOWER. Mr. President, at the root of the energy problems facing our country today is public cynicism and misunderstanding about the proper course to be taken to solve the problem of fuel shortages. The American people are experiencing an erosion of confidence in government that is directly proportional to government's expanded role in the regulation of energy. Today we are plagued with shortages aggravated by the Government which, because of blind adherence to misguided energy policies of the past, is needlessly pushing a problem toward a crisis.

The President in his July 15 message issued a call to arms to overcome the energy problem and restore our American confidence and spirit. Sadly, though, what he offered was only more of the same governmental poisons that are killing that spirit right now. The President reaffirmed his intentions not to trust free market forces to allocate scarce resources, but rather to assign this task to the hands of government, on the premise that only a federal bureaucracy can do it.

Americans who are serious about finding a meaningful solution to our energy problems can only be disappointed by the content of the President's message. Entirely omitted was any reference to the immediate need to lift artificial price controls on domestic crude oil, natural gas, and gasoline, and to abolish the unwieldy allocation and entitlement programs. Instead, the President's aim is to direct a massive Federal intervention into the private economy, urging more government to attack the problems fundamentally caused by too much government in the first place. In so doing, he has signalled a vote of no confidence in our free enterprise system in the quest for developing new energy sources.

It is undoubtedly true that we must focus on both long-term and short-term solutions to assure ourselves of abundant energy supplies for the future. The Government must continue aggressively to encourage and foster research, development, and demonstration of advanced, alternative energy sources, such as solar energy, designed to satisfy our energy needs in the long run. Nor can any serious national energy plan be complete in the absence of reasonable measures designed to encourage conservation and more efficient use of energy.

The glaring defect of the President's program, however, is its failure to provide any remedies for the short term. It conspicuously ignores the essential steps that must be taken immediately to remove the economic and regulatory shackles that impede efforts to exploit our domestic energy potential.

Mr. President, the complexities of the problems before us do not lend themselves to solutions motivated largely by consideration of political expediency. They cannot be explained away in a distrustful atmosphere of name calling and old-fashioned, populist scapegoating. As the President correctly observes, the American people are looking for honest answers, not easy answers. Indeed, this necessarily involves hard decisions and requires strong and effective leadership. But regrettably, the President's program only shys away from these hard choices, seeking instead to obscure the true causes of the current energy debacle.

Government overregulation is the root cause of our present energy supply problem, and any energy plan which fails to recognize that fact is doomed to failure. The President's plan gives lip service to the need for a lessened Government role, but the substance of the plan belies any understanding of the problem. I propose instead a plan which has as its very foundation an appreciation of the efficiency of the marktplace and the productivity of the American free enterprise system.

The recent gasoline shortages have served to demonstrate quite vividly the gross ineffectiveness and myriad inequities of the present Federal gasoline price and allocation program. Despite the Carter administration's long overdue effort to redesign and improve the retail price control formula, it is increasingly clear that the gasoline control program has outlived any usefulness it ever had. That was my opinion in January 1977, when President Gerald Ford proposed gasoline decontrol, and I remain convinced that continuation of these controls is unwise and counterproductive. It is obvious that the price controls have not protected consumers from high prices and equally obvious that the allocation controls have only served to magnify the effects of the shortage. Price and allocation controls on motor gasoline and other refined petroleum products still subject to regulation should be removed immediately.

Federal regulation of the price of domestic crude oil must end. Domestic crude oil prices have increased substantially in recent years, but so have the risks and costs of domestic oil exploration and development. Oil decontrol is urgently needed to provide the capital and economic incentives necessary to add substantially to domestic oil supplies.

By holding prices below market-clearing levels, oil price controls encourage wasteful consumption and discourage efforts to expand supplies through increased exploration and development. Because depressed production means increased reliance on higher priced imported oil, the consumer benefits not one bit from continued controls. Instead, the costly and counterproductive oil price control program costs industry and government—and, ultimately all energy consumers—hundreds of millions of dollars for program compliance, enforcement, and administration.

President Carter's program for the gradual, phased removal of oil price controls is a significant step forward, but the urgency of our present crisis requires a bolder approach. The President should exercise the authority he now has to decontrol new crude oil by January 1, 1980; to escalate old oil prices to the upper tier level by that same date; and to complete decontrol of old oil by October 1, 1981, the expiration date of the President's authority to control oil prices. Along with complete decontrol should also come the complete elimination of the complicated crude oil entitlements program which effectively subsidizes and encourages oil imports.

In my view, there is no justification whatsoever for any "windfall profits tax." Such a tax is antagonistic to the purpose of decontrol itself—to provide the necessary incentive to achieve energy self-sufficiency—and will only serve to aggravate our growing dependency on oil from foreign, and often unstable, sources.

The President's windfall profits tax proposal was billed as a vital deterrent to oil companies' reaping "huge and undeserved windfall profits," and, he assured us that it would be borne only by profiteering oil companies, not by the consumer. Its primary purpose was to reduce the dominance of "big oil" in our economy, while remaining true to the President's other commitments of reducing Federal intervention into the private economy, providing incentives to increase domestic exploration and production, and improving our competitive position internationally through lessened reliance on imported oil.

All of the premises on which the windfall profits tax is based, however are unfounded. In fact, the tax will ultimately be paid at the pump by the American consumer himself. It will actually increase the dominance of the major oil companies by effectively taxing to death the 10,000 small and independent producers who carry out 90 percent of the country's oil exploration. In addition, it will stymie domestic production—to the benefit of foreign producers—erode our competitiveness overseas with respect to OPEC, and threaten our national security if we become too dependent on volatile suppliers from abroad.

The tax is mislabeled as a "windfall profits tax" on excessive profits, but this is a misnomer. It is not a true income tax on either "windfall" or "profits," but rather an excise, or severance tax on sales at the wellhead which is levied without regard to profits. Ironically, oil company earnings are not "excessive" by any ordinary standard of measuring profitability. They are not out of line with those in other industries, and, in real terms, have even declined comparatively.

Unfortunately, the need for a windfall profits tax has been developed not on the merits, but has been bred out of a distrustful political and social environment in which rational argument has ceased to be heard. The President defends the windfall profits tax as a necessary adjunct to the additional revenues accruing to oil producers as a result of decontrol. But the President overlooks the facts and relies on the force of rhetoric to inflame public opinion against this essential, productive sector of American private industry. Most of whom, incidently, are independents and not major corporations. Such divisive demagogic attacks serve not only to lower the level of Presidential communication, but also to impede our national effort to solve the energy problem.

In trying to assuage those who believe price controls should never be removed, the President devised an incompatible combination of two steps going in opposite directions by insisting on a tax that effectively removes the very incentive decontrol would provide. Such a fractured policy can only result in lower returns to the oil producers, higher prices to consumers, and the same vulnerability to extortion at the hands of the OPEC nations.

A major purpose of the President's decision to decontrol crude oil prices was to reduce the level of governmental interference in the marketplace, allowing greater freedom to economic forces to set prices. Ironically, the result of the windfalls profits tax is just the opposite. Any "windfall profit" that accrues will accrue to the Federal Govrnment. Reversing the benefits of decontrol by such a tax only subverts the efforts of reducing governmental interference in the marketplace.

To say that the tax will "protect" the American consumer because it will be paid by the oil companies ignores the economic fact of life that businesses—including oil companies—do not pay taxes. The Government may use the oil companies, and other businesses, as collection vehicles, but the American people themselves are the ultimate source of all taxes imposed by Congress.

Continued reliance on crude oil from foreign sources also raises very serious issues of national security. Today, 47 percent of our oil is imported, much of which is from some of the most politically unstable areas in the world. But because the tax applies only to production in the United States, it will dramatically increase the value of the multinational oil companies' foreign assets, because they will find it less profitable to develop domestic supplies than to market imported oil. This will only increase the enormous economic leverage already held by our foreign suppliers. Such a result carries serious national security implications which deserve careful attention.

Despite last year's enactment of the Natural Gas Policy Act, it is time to turn again to the issue of natural gas pricing policy. No one in Congress can relish the thought of reopening this controversy which has so bitterly divided Congress for many years, but the dangerous degree of our dependence on imported oil cries out for a speedy transition to market-regulated pricing for natural gas. With the encouragement of prudent Government policies and favorable economic incentives, natural gas can reduce our dependence on foreign oil and satisfy a major portion of our energy needs for many decades to come.

Federal Government policy at present, however, continues to be characterized by uncertainty and overregulation. Although the Natural Gas Policy Act of 1978 is often erroneously referred to as a deregulation bill, this unfortunate law is in fact a disastrous jumble of redtape and overregulation which has perpetuated producer uncertainty and continued to depress exploration and production by holding the price of gas artificially low. The law's incredible complexity and ambiguity, coupled with the severity of the penalties for noncompliance, have made it necessary for small producers in particular to divert substantial resources of time and money into nonproductive efforts to understand and comply with the law.

The Natural Gas Policy Act should be amended to provide for the deregulation of onshore and offshore new natural gas by January 1, 1980, and the deregulation of all other natural gas by January 1, 1981.

The incident at the Three Mile Island nuclear plant notwithstanding, a realistic consideration of the options leads to the conclusion that continued and increased reliance on nuclear-generated electricity is a necessary ingredient in any responsible national energy policy. Three Mile Island focused attention on the potential risks and problems associated with nuclear power and on the need for unfailing vigilance on matters of safety, but it is important to remember that the accident was contained and that nuclear power remains to this day among the safest of fuels for the generation of electricity. We have the ability to solve the problems and the risks involved are not unreasonable ones, in my judgment.

We can and must do more to improve Federal nuclear regulation and the procedures and safeguards designed to insure safety in nuclear plant operation and nuclear fuels transportation, and I am supporting legislation to achieve these objectives. Congress should also proceed with the approval of legislation to streamline the licensing process and shorten the time it now takes to bring needed new powerplants into operation. In the meantime, Nuclear Regulatory Commission consideration of licensing applications should proceed without delay after prompt resolution of legitimate policy questions arising in the wake of the Three Mile Island incident. Improvements in the licensing and review process need not result in more paperwork and longer delays.

Coal can make the single most significant contribution toward solution of our Nation's energy supply problems if not prevented from doing so by unwise governmental overregulation. In fact, most of the real obstacles to massively increased coal production and utilization are governmental in origin. Overly restrictive environmental laws enacted in recent years have made it unnecessarily difficult and costly both to mine coal and to burn coal.

Early experience with the landmark Surface Mining and Reclamation Act of 1977 has already demonstrated the need for changes in that law. Certainly, it is imperative that land reclamation follow the surface mining of coal, but the 1977 Federal law goes far beyond what should reasonably be required. State governments—not Federal agencies—should retain maximum authority to regulate coal development within their respective boundaries.

The greatest single obstacle to the increased use of our abundant coal resources is the Clean Air Act. The air pollution standards mandated by that law can be relaxed without unacceptable environmental and health effects, and any substantially increased reliance on coal as an energy source will depend on the enactment of amendments to the Clean Air Act.

There are numerous additional actions which can and should be taken by Government now to help assure this Nation an adequate supply of energy in the years to come. Legislation is necessary in many instances, but there is much that the present administration can do immediately under current law.

As we work toward the goal of energy independence in the future, some energy imports can serve the national interest now. Oil and gas imports from Mexico are the most obvious examples, and the Carter administration must be more aggressive in its efforts to reach realistic and mutually acceptable trade terms for the importation of Mexican energy. The current administration stance disfavoring additional imports of liquified natural gas is another example of shortsighted Carter energy policy. LNG can play an important role in the Nation's overall energy supply strategy, and a more favorable attitude toward LNG would reduce present uncertainties about future gas supply availability.

Inadequate domestic refinery capacity and quality continues to be a major contributing cause of petroleum supply and distribution problems. Not a single major new refinery has been built in this country since 1973, and current policies affecting construction and operation of refineries also discourage needed improvements in existing facilities. Clean air act modifications and motor gasoline decontrol will go a long way toward elimination of current disincentives, but Congress should also provide positive incentives to encourage additions to domestic refinery capacity.

Effective utilization of Alaskan North Slope crude oil is seriously hampered by inadequate west coast refinery capacity and oil transportation bottlenecks which prevent efficient distribution to coast and east coast refineries capable of processing the higher sulfur Alaskan oil. The ultimate solution to such problems will come through construction and modification of west coast refineries and completion of west-to-east oil pipelines. One possible interim solution would be to arrange for export or swap of some Alaskan production in exchange for delivery of imported oil which would otherwise go, for instance, to Japan. Such arrangements could substantially reduce oil transportation costs and would ease existing logistical problems and increase our ability to utilize Alaskan oil effectively.

The idea of exporting or swapping Alaskan crude oil is understandably controversial, and current law imposes strict conditions on the President's authority to approve such arrangements. The President should have greater flexibility to approve specific export arrangements which are in the national interest.

The apparent collapse of Sohio's Pactex oil pipeline project and our seeming inability to utilize fully Alaskan oil in a time of national shortages is another tragic example of the kind of Government overregulation which has so far thwarted efforts to solve this nation's energy problem. In addition to calling for substantive modifications of existing environmental laws, we must do all that we can to permit expedited review and approval of priority projects in the national interest.

By now it should be crystal clear to everyone that our current domestic energy shortage is largely the result of two and one-half decades of foolish national energy policies and Federal overregulation. In view of this fact, it is inconceivable that the President would propose yet another round of massive governmental intervention into the energy industry. Our goal ought to be to keep government involvement to a minimum.

We can and must develop a viable synthetic fuels industry in order to utilize better our vast coal and oil shale resources. That can best be done, however, not by massive government-owned and government-operated energy facilities but by stripping away the Government-imposed layers of overregulation and regulatory uncertainty which now stifle private investment.

A prudent, cost-effective approach to synthetic fuels commercialization should include the following elements: first, a program of limited loan guarantees, with substantial private capital at risk; second, a form of refundable tax credit, which would function as a floor price for those investors undertaking the massive capital risks involved in synfuels production; and third, a program to make the Government the "purchaser of last resort" of fuels produced from unconventional sources. There is no justification for the creation of another Government agency to administer a synthetic fuels program.

Had the Federal Government pursued a more reasonable course in energy policy and environmental protection in the past, these extraordinary Government inducements would not now be necessary. Particularly with respect to efforts to protect our environment, the laws of the last decade have erroneously assumed that environmental purity and pristine wilderness have no economic cost. We cannot afford to despoil our air and water, but neither can we afford to have legitimate national needs of growth and development held hostage to overly restrictive environmental standards.

In the long run, we may well realize the dream of clean, nonpolluting, renewable energy. If we are to meet our goals of energy production and supply in the short run, however, it is imperative that national policy recognize the need for reasonable trade-offs between energy development and environmental protection.

Much of the U.S. known and potential energy resources is found on Federal public lands, and yet the Carter administration has withdrawn enormous tracts of those lands from leasing, exploration, and potential development. If President Carter is serious about attaining the energy production goals he has established, he must see that his administration pursues a more balanced approach to public lands mineral development and wilderness preservation.

Current provisions of the Clean Air Act unduly restrict and impede energy development, refinery expansion, coal utilization, synthetic fuels commercialization. The burning of high-sulfur residual oil, and a host of other energy-related activities. The Clean Air Act should be amended to place more emphasis on economic consideration and cost effectiveness and to deal more realistically with naturally occurring pollution. Most importantly, the Clean Air Act's overly stringent provisions limiting growth and development must be modified to take into account urgent national energy needs. Even the national ambient air standards themselves should be reassessed.

The environmental impact statement process established by the National Environmental Policy Act of 1969 has become a tool for mindless obstructionism and unfounded delays. That act should be amended to provide for a reasonable statute of limitations, such as 180 days, on suits filed for judicial review of the adequacy of environmental impact statements.

The refining of high octane, unleaded gasoline is costly and wasteful. Current EPA restrictions on the use of octane-boosting additives such as lead and MMT in gasoline should be removed.

There is still no demonstrated need for Federal environmental regulation of oil field brines, salt water disposal, and underground injection. The Resource Conservation and Recovery Act and the Safe Drinking Water Act should be amended to insure that hazardous waste and underground injection control regulations do not duplicate adequate State regulatory programs and would unnecessarily impede oil and gas exploration and development.

Mr. President, the energy strategy which I propose offers the promise of substantially increased supplies of energy for the American people now. It is not a painless plan of action, but it is a plan which will increase the U.S. supply of energy and make us much less dependent on foreign oil. The President's program. on the other hand, is built on faulty premises which result in an energy scheme that completely ignores the short run, effectively nationalizes the energy industry and fails to address the long range trade-offs that any rational program must face.

FARMING THREATENED BY ENERGY CRISIS

Mr. THURMOND. Mr. President, with the energy shortage at hand, we need to give special attention to the impact oil has on the agricultural industry. From trucks to tractors, almost every phase of farming operates on petroleum.

Recently Americans have become acutely aware of the importance of saving energy. Accordingly, we must employ techniques to insure that farming, which is heavily dependent upon oil, does not suffer from any future energy crisis.

An editorial in the State newspaper of Columbia, S.C., adds some insight by Harry Bell, president of the South Carolina Farm Bureau Federation into the need to maintain a sufficient supply of energy for our farms.

Mr. President, in order to share this editorial with my colleagues, I ask unanimous support that it appear in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FARMING THREATENED BY ENERGY CRISIS

When (and if) the average consumer thinks of energy in terms of its agricultural implications, his thoughts usually center on the truckers who move produce from farm to market.

That image, incidentally, was reinforced by the recent demonstrations of independent truckers seeking concessions in their quest for fuel supplies and compensation to meet the current energy crunch.

But energy, in all of its diversity from diesel fuel for tractors to electricity for brooders, undergirds the entire field of agriculture as it exists in the United States today. And let it be noted that U.S. agriculture today provides food not only for more than 200 million Americans but for additional millions overseas—many of them in lands with far greater natural energy resources than exist in this country.

City folk, in their blissful ignorance of the rural scene, tend to believe that the energy crisis on the farm front can be met by such simple expedients as returning to animal power and natural fertilizers. True, there is some merit to such thoughts, and some relatively small opportunity for successful exploitation of that theme. But the limitations of any such approach are effectively described by Harry Bell, president of the S.C. Farm Bureau Federation, in the current issue of South Carolina Farmer.

Here are some of the achievements which Mr. Bell says would be needed to make any such program work:

Find 18 to 20 million horses and mules to provide the motive power now supplied by mechanical equipment. Devote 40 to 50 million acres to the feeding of these animals. Draft 20 to 30 million workers to produce, harvest and manually store food which now is handled mechanically. Finally, tolerate drastic declines in crop production and quality.

Mr. Bell has his own ideas of how the problem should be faced, and he outlines them editorially in this series of recommendations:

Dismantle oil and natural gas price controls.

Assign top priority to development of policy to minimize effects of dwindling domestic petroleum supply.

Expand coal use and production.

Increase incentives for private energy research.

Encourage private exploration and development of gas and petroleum supplies.

Intensify university research in agricultural energy conservation.

Restore oil and gas depletion allowances.

Simplify and streamline environmental procedures.

Use allocations of petroleum products only in extreme emergencies.

Those suggestions, as we said, come from Mr. Bell in his capacity as president of the Farm Bureau in South Carolina. Without necessarily endorsing them in toto, The State feels that they warrant public—and political—attention.

But we do endorse, unequivocally, this broader assessment by Mr. Bell:

"America has the resources, technology, willpower and common sense to solve the energy problem—if we'll stop looking for someone to blame for our present situation and get on with the job that must be done."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on August 2, 1979, he had approved and signed the following act:

S. 961. An act to amend the Speedy Trial Act of 1974.

MESSAGES FROM THE HOUSE

At 11:50 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 4389, an act making appropriations for the Departments of Labor, and Health, Education and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 17, 30, 31, 42, 48, 51, 52, 71, 77, 88, 101, 111, 112, 113, 115, and 117 to the bill, and concurs therein; that the House recedes from it disagreement to the amendments of the Senate numbered 3, 16, 21, 62, 64, 65, 78, 127, 139, 140, and 142 to the bill, and concurs therein each with an amendment; and that the House insist upon it disagreement to the amendment of the Senate numbered 137 to the bill.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 35. A concurrent resolution reaffirming the commitment of Congress to the right of the people of Puerto Rico to determine their own political future.

The message further announced that, pursuant to the provisions of 44 U.S.C. 2501, as amended, the Speaker has appointed Mr. BOWEN as a member of the National Historical Publications and Records Commission, vice Mr. PREYER, resigned.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 12:30 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 41. An act to require the Secretary of Agriculture to convey a reversionary interest held by the United States in certain lands located in Bell County, Ky., to the Board of Education, Bell County, Ky.;

S. 917. An act to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1980, 1981, and 1982, and for other purposes;

S. 1318. An act to amend title 13 of the United States Code to provide a limited exemption to the Bureau of the Census from the provisions of section 322 of the act of June 30, 1932;

H.R. 896. An act for the relief of Joseph J. Andrews;

H.R. 899. An act for the relief of Mr. and Mrs. Aaron Wayne Ogburn;

H.R. 932. An act for the relief of Doris Mauri Coonrad;

H.R. 1158. An act for the relief of James C. Wilkinson;

H.R. 3324. An act to authorize appropriations for fiscal year 1980 for international development and economic assistance programs, and for the Peace Corps, and for other purposes;

H.R. 3363. An act to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting;

H.R. 3914. An act to amend the National Capital Transportation Act of 1969 to remove the limitation on the amount authorized for District of Columbia contributions for the cost of construction of the rapid transit system of the National Capital Region;

H.R. 4616. An act to make certain technical and clerical amendments to title 5, United States Code;

H.J. Res. 19. A joint resolution to provide for the designation of a week as "National Lupus Week"; and

H.J. Res. 209. A joint resolution designating the week of October 8 through October 14, 1979, as "National Diabetes Week".

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore (Mr. MAGNUSON).

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on August 3, 1979, he presented to the President of the United States the following enrolled bills:

S. 41. An act to require the Secretary of Agriculture to convey a reversionary interest held by the United States in certain lands located in Bell County, Ky., to the Board of Education, Bell County, Ky.;

S. 917. An act to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1980, 1981, and 1982, and for other purposes; and

S. 1318. An act to amend title 13 of the United States Code to provide a limited exemption to the Bureau of the Census from the provisions of section 322 of the act of June 30, 1932.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–1906. A communication from the Director, Defense Security Assistance Agency, reportings, pursuant to law, concerning the Department of the Navy's proposed letter of offer to Japan for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1907. A communication from the First Vice President and Vice Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on loan, guarantee and insurance transactions supported by Eximbank during June 1979 to Communist countries (as defined in Section 620(f) of the Foreign Assistance Act of 1961, as amended); to the Committee on Banking, Housing, and Urban Affairs.

EC–1908. A communication from the Administrator, National Aeronautics and Space Administration, reporting, pursuant to law, on the proposed use, in the fiscal year 1979 Space Shuttle program, of $10,000,000 in funds appropriated pursuant to the National Aeronautics and Space Administration Authorization Act, 1979 (92 Stat. 857), in excess of the amount authorized therefor; to the Committee on Commerce, Science, and Transportation.

EC-1909. A communication from the Administrator, National Aeronautics and Space Administration, reporting, pursuant to law, with respect to waiving the contract clause requirement in section 2313(b) of title 10 which provides for the examination of books and records of a foreign contractor by the Comptroller General; to the Committee on Commerce Science, and Transportation.

EC-1910. A communication from the Assistant Secretary for Budget and Programs, Department of Transportation, transmitting a draft of proposed legislation to establish uniform national standards for the weight and length of vehicles using the National System of Interstate and Defense Highways during fuel emergencies; to the Committee on Commerce, Science, and Transportation.

EC-1911. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to establish competitive oil and gas leasing in favorable areas within producing geologic provinces; to the Committee on Energy and Natural Resources.

EC-1912. A communication from the Federal Cochairman, Four Corners Regional Commission, transmitting, pursuant to law, the Commission's eleventh annual report; to the Committee on Environment and Public Works.

EC-1913. A communication from the Acting Deputy Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes a succeeding lease for space presently occupied in the Vanguard Building, 1111 20th Street NW., Washington, D.C.; to the Committee on Environment and Public Works.

EC-1914. A communication from the Acting Deputy Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes a succeeding lease for space presently occupied at 100 Summer Street, Boston, Mass.; to the Committee on Environment and Public Works.

EC-1915. A communication from the Acting Deputy Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the renewal of a lease for space in Queens, New York for the Department of Health, Education, and Welfare, Social Security Administration; to the Committee on Environment and Public Works.

EC-1916. A communication from the Acting Deputy Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the Houston, Tex., Federal Building-Courthouse, 513 Rusk Avenue, in the amount of $2,446,000; to the Committee on Environmental and Public Works.

EC-1917. A communication from the Acting Deputy Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the Federal Building-Courthouse, 230 North First Avenue, Phoenix Ariz., in the amount of $965,000; to the Committee on Environment and Public Works.

EC-1918. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to extend certain authorities of the Secretary of the Interior with respect to water research and development and saline water conversion research and development programs, and for other purposes; to the Committee on Environment and Public Works.

EC-1919. A communication from the Acting Deputy Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the Greenville, S.C., Federal Building-U.S. Courthouse, in the amount of $1,750,000; to the Committee on Environment and Public Works.

EC-1920. A communication from the Secretary of Labor, transmitting, pursuant to law, the ninth annual report on the Work Incentive (WIN) program; to the Committee on Finance.

EC-1921. A communication from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, justification of an increase in the funding level of the proposed fiscal year 1979 program in Senegal; to the Committee on Foreign Relations.

EC-1922. A communication from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, justification of an increase in the funding level of the proposed fiscal year 1979 program in Mali; to the Committee on Foreign Relations.

EC-1923. A communication from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, justification for an increase in the funding level of our proposed fiscal year 1979 program in Costa Rica; to the Committee on Foreign Relations.

EC-1924. A communication from the General Counsel of the Navy, transmitting, pursuant to law, a report concerning allegations of mismanagement at the Naval Weapons Center, China Lake, Calif.; to the Committee on Governmental Affairs.

EC-1925. A communication from the Mayor, The District of Columbia, transmitting, pursuant to law, a report on the status of the alcoholism program in the District of Columbia; to the Committee on Governmental Affairs.

EC-1926. A communication from the Attorney General, transmitting a draft of proposed legislation to create a charter for the Federal Bureau of Investigation, and for other purposes; to the Committee on the Judiciary.

EC-1927. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered under the authority contained in section 13(b) of the Act of September 11, 1957; to the Committee on the Judiciary.

EC-1928. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to set limits on increase in hospital capital stock, and for other purposes; to the Committee on Labor and Human Resources.

EC-1929. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the 1978 annual plan for fiscal year 1980-1984, on the National Cancer Program; to the Committee on Labor and Human Resources.

EC-1930. A communication from the Governor, Farm Credit Administration, transmitting, pursuant to law, the 45th annual report of the Farm Credit Administration and the Cooperative Farm Credit System, which includes a report of the activities of the Federal Farm Credit Board; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1931. A communication from the Vice Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report with reports to a transaction involving U.S. exports to Algeria; to the Committee on Banking, Housing, and Urban Affairs.

EC-1932. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report from the U.S. Government Comptroller for Guam/TTPI/NMI on Federal Grant Management and Accounting, Government of Guam; to the Committee on Energy and Natural Resources.

EC-1933. A communication from the General Counsel, Department of Energy, transmitting, pursuant to law, notices of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-1934. A communication from the Administrator, U.S. Environmental Protection Agency, reporting, pursuant to law on a study relating to sludge; to the Committee on Environment and Public Works.

EC-1935. A communication from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, justification of an increase in the funding level of the proposed fiscal year 1979 program for Gambia; to the Committee on Foreign Relations.

EC-1936. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of GAO reports for the month of June 1979; to the Committee on Governmental Affairs.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-411. A resolution adopted by the Senate of the Legislature of the State of Massachusetts; to the Committee on Banking, Housing, and Urban Affairs:

"RESOLUTION

"Whereas, a reduced United States slaughter has decreased the availability of domestic hides by approximately seven million (almost twenty per cent) while United States and world demand have remained high; and

"Whereas, other nations traditionally selling hides in the world market such as Argentina, India, Pakistan, Brazil, Mexico and Uruguay have stopped all exports in order to retain supplies for their domestic users; and

"Whereas, the United States has traditionally supplied about seventy-five per cent of cattle hides in world commerce; and

"Whereas, foreign purchases of the United States hides in recent months accounted for eighty-five per cent of the available supply, with Japan purchasing an ever increasing per cent of its supply from the United States; and

"Whereas, United States consumers of leather products face price increases because of the inflationary increases in leather costs which exceed those of any other commodity; and

"Whereas, the over two hundred per cent increase in the costs of raw material threatens the future existence of industries such as tanners, and makers of shoes, boots, bags, furniture and other manufactured products which are dependent upon leather hides as a raw material; and

"Whereas, there has been no attempt by the meat packing industry or the United States Government equitably to allocate the existing supply of hides in order to provide both domestic users and foreign customers with their traditional shares of hides; now therefore be it

"*Resolved*, That it is the sense of Senate that the President and Congress should recognize the crisis nature of the situation and take such action as may be necessary to assure an equitable distribution of existing supplies of cattle hides to domestic and foreign users of such products; and be it further

"*Resolved*, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, and to the Members of Congress from the Commonwealth."

POM-412. A resolution adopted by the Assembly of the Legislature of the State of California; to the Committee on the Judiciary:

"HOUSE RESOLUTION NO. 13

"Whereas, the California Supreme Court, in its 1970 decision of Castro v. State of California, 2 Cal. 3d 223, ruled that the requirement of literacy in the English language as a qualification for registering to vote or voting was a violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution; and

"Whereas, The State Supreme Court decided as it did, because, although a requirement of literacy might be constitutional in order to ensure that voters had access to sufficient sources of printed information to cast an informed vote, a requirement of literacy in English was unconstitutional since it discriminated against persons literate in other languages who had access to equal amounts of printed information on the issues in an election in their own language; and

"Whereas, In the Castro case the petitioners, who were citizens of the United States, resident in California, and literate in Spanish, but not in English, demonstrated that they had access to 17 newspapers and 11 magazines printed wholly or partially in Spanish and circulated in the area in which they resided which served to keep them informed about the issues; and

"Whereas, In 1970, Congress adopted amendments to the Voting Rights Act of 1965 which prohibited the use of literacy tests for five years in all state and federal elections; and

"Whereas, In the November 1972 General Election, the voters of California deleted from the California Constitution the requirement of literacy in English as a condition to voting upon their approval of Proposition 7 by a vote of 5,226,396 to 2,426,818; and

"Whereas, The number of persons in California literate in Spanish, but not literate in English, who were enfranchised by the above was estimated in 1970 as being as many as 500,000; and

"Whereas, California, like other states in the southwestern part of the United States, is unique in several ways, including the fact that it was under the control of Spain until 1821 and of Mexico from 1821 to 1846, a control which ended only as a result of the military defeat of Mexico; and

"Whereas, Following the treaty of Guadalupe-Hidalgo, the new government of California, under the Constitution of 1849, had special obligations to protect the rights of its Spanish-speaking citizens, among which was the publication in Spanish as well as English of all laws, decrees, regulations, and provisions, which, from their nature, required publication; and

"Whereas, The government of the State of California failed to live up to its obligations to provide Spanish translations of its laws and regulations; and

"Whereas, The population of California consists of a significant number of persons descended from the original Spanish and Mexican settlers, in addition to large numbers of persons descended from emigrants from Mexico and other Spanish-speaking countries; and

"Whereas, The immediate proximity of the nation of Mexico has the effect of maintaining and reinforcing the Hispanic culture, including the Spanish language; and

"Whereas, Federal law does not require a person to be able to speak English in order to become an American citizen if such person is 50 years of age or older and has been in the United States for 20 years or more; moreover, it requires no more than a second grade level of proficiency in the English language for naturalization for anyone else; and

"Whereas, By making election materials available in languages, other than English, to voters who do not speak English, such voters will be encouraged to participate in the electoral process and thereby become more fully integrated into the broader American society and more likely to want to learn English as the language of that society; and

"Whereas, The California Legislature has long recognized the needs of voters speaking languages other than English by having passed legislation in 1967 and 1971 requiring that translations of the ballot be posted in Spanish in all polling places and in other languages as required, and in 1973 by requiring recruitment of bilingual precinct boards in precincts with 3 percent or greater non-English speaking voting age residents; and

"Whereas, The United States Congress, citing voting discrimination against citizens of language minorities, denial of equal educational opportunities by state and local governments for such citizens, and exclusion of such citizens from the electoral process by the conduct of elections only in English, enacted the 1975 amendments to the Voting Rights Act of 1965, to require that election and registration materials be made available to minority language citizens in their own languages; and

"Whereas, Congress determined that the foreign language election materials would have to be provided if 5 percent of the citizens of voting age of the state or political subdivision were members of a single language minority and that their illiteracy rate was higher than the national illiteracy rate, using failure to complete the fifth primary grade as a measure of illiteracy since no census question on illiteracy has been asked since 1920; and

"Whereas, The nearest data that Congress had to a measure of English language literacy was the 1970 census question, based upon a 15 percent sample, which asked: "What language other than English was spoken in the person's home while he was a child?"; and

"Whereas, The 1970 census failed to ask what a person was speaking now, as an adult, and how well he spoke English, if at all; and

"Whereas, The 1980 census will ask if the individual speaks a language other than English at home and, if so, what language it is, and how well the person speaks English based on the following responses: "very well," "well," "not well," and "not at all"; and

"Whereas, The 1980 question on languages spoken will be based on a 50 percent sample in any place of 5,000 people or less and a 16⅔ percent sample in any place over 5,000 people; and

"Whereas, The 1970 census question on national origin was based on a 20 percent sample as to each individuals place of birth and a 15 percent sample for each person's parents' places of birth, but the 1980 census question on national origin will use a 50 percent sample for places under 5,000 population and a 16⅔ percent sample for places over 5,000; and

"Whereas, The 1970 census question on Spanish (Hispanic) background used a 5 percent sample, but the 1980 census question will use a 100 percent sample; and

"Whereas, The formula adopted by Congress in the 1975 amendments to the Voting Rights Act of 1965 does not reflect the greater precision which will be available from the 1980 census; and

"Whereas, The General Accounting Office of Congress in a report issued in 1978 noted that the 1975 formula was a percentage formula which fails to provide foreign language assistance to some groups that may be in need of assistance; and

"Whereas, The proportion of the voting population in need of bilingual election materials in a city, school district, or special district may be considerably different from that in a county but the formula adopted by Congress in the 1975 amendments to the Voting Rights Act of 1965 fails to take this into account; and

"Whereas, Title II of the 1975 amendments to the Voting Rights Act imposes additional obligations on a county in which, among other things, less than 50% of the voting age population voted in the 1972 presidential election; and

"Whereas, The four California counties subject to Title II have large nonvoting, or absentee voting, military populations assigned to military installations located in those counties which account for the seemingly low voter participation which the 1975 amendments to the Voting Rights Act of 1965 fail to take into account; and

"Whereas, The guidelines published by the United States Department of Justice to implement the 1975 amendments and the subsequent specific guidance from the department have left state and local election officials uncertain as to what procedures they should follow in order to comply with the 1975 law; and

"Whereas, As a result of lack of guidance from the Justice Department, local election officials in California have adopted programs that are inconsistent in their implementation and less than cost-effective; and

"Whereas, The voters of California in their overwhelming adoption of Proposition 13 at the June 1978 primary election showed their determination that government programs should be cost-effective; and

"Whereas, The United States Department of Justice is a valuable enforcement agency, but lacks managerial skills needed if local governments are to be provided with adequate assistance in devising and implementing cost-effective programs; and

"Whereas, Congress adopted amendments to the Voting Rights Act of 1965 to ensure equal access to the electoral process by all minority language groups, but put the burden of paying for the program on the local property taxpayer; and

"Whereas, California provides more voter assistance than virtually any other state, and, therefore, is obligated to spend far more per capita on translations of election materials than virtually any other state; now therefore, be it

"*Resolved by the Assembly of the State of California*, That the Members respectfully memorialize the Congress of the United States to amend the Voting Rights Act of 1965, as amended, to: (1) transfer administration of the bilingual election materials portion of the act to the Federal Elections Commission which would be responsible for assisting election administrators in developing compliance plans, assessing needs for bilingual election assistance, and developing cost-effective means of providing bilingual assistance to voters; (2) develop an information system which would include cost, dissemination, and usage data to evaluate the cost-effectiveness of various methods of providing language assistance; (3) use the more detailed 1980 federal census questions as the basis for identifying those persons who genuinely need foreign language assistance in elections instead of the present 5 percent formula; (4) make a distinction between the needs for bilingual election materials in a county, on the one hand, and a city, school district, or special district on the other; (5) take into account the presence of large numbers of military personnel in identifying Title II counties; (6) provide federal reimbursement to state and local jurisdictions for the cost of compliance with the bilingual election materials requirement of the Voting Rights Act of 1965, as amended; and (7) provide federal assistance to state and local election officials for a program to identify and register to vote persons who are not now being reached by the electoral process in areas where registration is low in proportion to the population; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative in the Congress."

POM-413. A resolution adopted by the Colorado River Indian Tribal Council, Parker, Ark., opposing the establishment of a hazardous waste disposal site within the proximity of the Colorado River Indian Reservation; to the Committee on Environment and Public Works.

POM-414. A resolution adopted by the Hibbing City Council, Hibbing, Minn., opposing transer of authority and/or jurisdiction of the Corps of Engineers relating to the Western Lake Superior Drainage Basin of Minnesota and Wisconsin to the Detroit, Mich., office of the Corps of Engineers; to the Committee on Environment and Public Works.

POM-415. A petition from a private citizen, relating to confidence and faith in our Government; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary with amendments:

S. 1477. A bill to provide for improvements in the structure and administration of the Federal courts, and for other purposes (Rept. No. 96-304).

By Mr. DECONCINI, from the Committee on the Judiciary, with an amendment:

S. 658. A bill to correct technical errors, clarify and make minor substantive changes to Public Law 95-598 (Rept. No. 96-305).

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment:

S. 1691. An original bill to provide for improvements in the structure and administration of Federal tax courts, and for other purposes (Rept. No. 96-306). Referred to the Committee on Finance until not later than December 31, 1979, by unanimous consent.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE ARMED SERVICES COMMITTEE, APRIL 11, TO JUNE 30, 1979

		Per diem		Transportation		Miscellaneous		Total	
Name and country	Name of currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Charles J. Connelly:									
Saudi Arabia	Riyal	776	230.95					776.00	230.95
Bahrain	Dinar	40.375	106.25					40.375	106.25
Greece	Drachma	5,565	150.00					5,565.00	150.00
Senator Harry F. Byrd:									
Saudi Arabia	Riyal	761.60	226.67					761.60	226.67
Bahrain	Dinar	39.215	103.20					39.215	103.20
Greece	Drachma	5,565	150.00					5,565.00	150.00
Edward B. Kenney: Panama	U.S. dollar		266.00		355.00		18.00		639.00
Senator Carl Levin: Panama	U.S. dollar		73.60						73.60
Peter Lennon: Panama	U.S. dollar		60.70						60.70
John C. Roberts: Panama	U.S. dollar		96.80		5.00				101.80
David Hansell: Panama	U.S. dollar		60.70						60.70
Total			1,524.87		360.00		18.00		1,902.87

July 31, 1979.

JOHN C. STENNIS, Chairman.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE COMMITTEE ON THE BUDGET, FROM APR. 26, TO MAY 7, 1979

		Per diem		Transportation		Miscellaneous		Total	
Name and country	Name of currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Edmund S. Muskie:									
Portugal	Escudo	692	14.27	308	6.35			1,000	20.62
Spain	Peseta	13,232	195.74	1,978	29.26			15,210	225.00
Belgium	Belgian franc	2,616	86.94	604	20.06			3,220	107.00
Poland	Zloty	9,405	300.00					9,405	300.00
West Germany	Deutsche mark	476.28	252.00					476.28	252.00
John T. McEvoy:									
Portugal	Escudo	3,377.5	69.64					3,377.5	69.64
Spain	Peseta	15,210	225.00					15,210	225.00
Belgium	Belgian franc	2,200	73.11					2,200	73.11
Poland	Zloty	6,815	217.59					6,815	217.59
West Germany	Deutsche mark	366.28	193.80					366.28	193.80
Robert R. Rose:									
Portugal	Escudo	2,510	51.75					2,510	51.75
Spain	Peseta	14,947	221.11					14,947	221.11
Belgium	Belgian franc	2,220	73.78					2,220	73.78
Poland	Zloty	5,810	185.62					5,810	185.62
West Germany	Deutsche mark	453.33	239.86					453.33	239.86
Leon G. Billings:									
Portugal	Escudo	2,510	51.75					2,510	51.75
Spain	Peseta	15,210	225.00					15,210	225.00
Belgium	Belgian franc	2,220	73.78					2,220	73.78
Poland	Zloty	6,695	213.78					6,695	213.78
West Germany	Deutsche mark	453.48	239.94					453.48	239.94
Delegaton expenses:									
Portugal	Escudo					32,624.1	663.79	32,624.1	663.79
Spain	Peseta					83,634.04	1,237.19	83,634.04	1,237.19
Belgium	Belgian franc					15,101.17	501.85	15,101.17	501.85
Poland	Zloty					47,446.21	1,507.55	47,446.21	1,507.55
West Germany	Deutsche mark					4,053.35	2,111.78	4,053.35	2,111.78
Total			3,204.46		55.67		6,022.16		9,282.29

EDMUND S. MUSKIE, Chairman.

June 27, 1979.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAUCUS (for himself and Mr. Melcher):

S. 1665. A bill for the relief of Mondakota Gas Co.; to the Committee on the Judiciary.

S. 1666. A bill for the relief of F. H. Stoltze Land and Lumber Co., Inc.; to the Committee on the Judiciary.

By Mr. CHURCH:

S. 1667. A bill to provide mitigation for Rocky Mountain Elk habitat lost as a result of construction of the Dworshak Dam and Reservoir on the North Fork of the Clearwater River within the State of Idaho; to the Committee on Environment and Public Works.

By Mr. CHURCH (by request):

S. 1668. A bill to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal years 1980 and 1981; to the Committee on Foreign Relations.

By Mr. TALMADGE:

S. 1669. A bill relating to Federal payments with respect to expenditures for the operation of State plans for child support established pursuant to title IV–D of the Social Security Act; to the Committee on Finance.

S. 1670. A bill to amend title IV of the Social Security Act to provide for more effective implementation of the work and training requirements under AFDC programs; to the Committee on Finance.

S. 1671. A bill to amend title IV–A of the Social Security Act to provide an incentive for recipients of aid, under AFDC programs, to report earned income; to the Committee on Finance.

S. 1672. A bill to amend title IV–A of the Social Security Act to provide additional Federal funding under AFDC programs for certain mechanized claims processing and information retrieval systems; to the Committee on Finance.

S. 1673. A bill to amend title IV–A of the Social Security Act to provide 75 percent Federal matching in expenditures incurred by separate fraud units in investigating and prosecuting cases of fraud under State AFDC plans; to the Committee on Finance.

S. 1674. A bill to amend provisions of title IV–A of the Social Security Act which relate to safeguards restricting disclosure of certain information under AFDC programs; to the Committee on Finance.

S. 1675. A bill to amend title IV–D of the Social Security Act so as to provide increased Federal matching for computer systems under State child support and establishment of paternity programs; to the Committee on Finance.

S. 1676. A bill to amend title IV–D of the Social Security Act to authorize Federal financial participation in court expenses attributable to the performance of services directly related to the operation of a State plan for child support established pursuant to such title; to the Committee on Finance.

S. 1677. A bill to amend title IV–D of the Social Security Act to authorize use of internal revenue service to collect child support for non-AFDC families; to the Committee on Finance.

S. 1678. A bill to amend title IV–D of the Social Security Act and appropriate provisions of the Internal Revenue Code of 1954 so as more adequately to provide access to wage information for purposes of carrying out State plans for child support approved under such title.

By Mr. BAYH:

S. 1679. A bill to amend the Patent Laws, title 35 of the United States Code; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. Goldwater, Mr. Cannon, Mr. Stevens, Mr. Helms, Mr. Garn, Mr. Zorinsky, Mr. DeConcini, and Mr. Jepsen):

S. 1680. A bill to provide for the cession and conveyance to the States of federally owned unreserved, unappropriated lands, and to establish policy, methods, procedures, schedules, and criteria for such transfers; to the Committee on Energy and Natural Resources.

By Mr. PRYOR:

S. 1681. A bill to reduce paperwork in the administration of certain construction contract provisions of law relating to wage rates; to the Committee on Governmental Affairs.

By Mr. JACKSON:

S. 1682. A bill to amend the Act of August 9, 1955 (69 Stat. 539) (25 U.S.C. 415), as amended, to authorize a ninety-nine year lease for the Moses Allotment No. 10, Chelan County, Washington; to the Select Committee on Indian Affairs.

By Mr. HATCH (for himself, Mr. Domenici, and Mr. Cochran):

S. 1683. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the annual gift tax exclusion from $3,000 to $6,000; to the Committee on Finance.

By Mr. JOHNSTON:

S. 1684. A bill to encourage the development, improvement and operation of domestic refinery capabilities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. EAGLETON (for himself and Mr. Danforth):

S. 1685. A bill to designate certain lands in the State of Missouri as wilderness; to the Committee on Energy and Natural Resources.

By Mr. ROTH (for himself, Mr. Randolph, Mr. Stafford, and Mr. Biden):

S. 1686. A bill to designate the building known as the Federal Building in Wilmington, Del., as the "J. Caleb Boggs Building"; to the Committee on Environment and Public Works.

By Mr. LUGAR (for himself and Mr. Cranston):

S. 1687. A bill to amend title 10, United States Code, to eliminate certain limitations imposed on excess profits arising from any contract with any military department of the United States for the construction or manufacture of all or part of any complete aircraft or any contract with the Secretary of the Navy for the construction or manufacture of all or part of any complete naval vessel, and for other purposes; to the Committee on Armed Services.

By Mr. MATHIAS (for himself, Mr. Huddleston, and Mr. Wallop):

S. 1688. A bill to amend the Internal Revenue Code of 1954 to clarify the extent to which a State, or political subdivision, may tax certain income from sources outside the United States; to the Committee on Finance.

By Mr. RANDOLPH (by request):

S. 1689. A bill to establish national standards for weight and length of vehicles using the National System of Interstate and Defense Highways during fuel emergencies; to the Committee on Environment and Public Works.

By Mr. STEVENS (for himself and Mr. Gravel):

S. 1690. A bill to provide for conveyance of certain lands near Fairbanks, Alaska, to the University of Alaska; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY:

S. 1691. A bill to provide for improvements in the structure and administration of Federal tax courts, and for other purposes; from the Committee on the Judiciary; to the Committee on Finance, by unanimous consent with instructions that it be referred until not later than December 31, 1979.

By Mr. MELCHER (for himself and Mr. Muskie):

S. 1692. A bill to amend the Federal Mine Safety and Health Act of 1977; to the Committee on Labor and Human Resources.

By Mr. MELCHER:

S. 1693. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so; to the Committee on Labor and Human Resources.

By Mr. DOLE (for himself and Mr. Cohen):

S. 1694. A bill to amend the Internal Revenue Code of 1954 to make permanent the allowance of a deduction for eliminating architectural and transportation barriers for the handicapped and to increase the amount of such deduction from $25,000 to $100,000, to the Committee on Finance.

By Mr. NELSON:

S. 1695. A bill for the relief of Fred L. Timm and Leona M. Timm; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. McGovern, Mr. Young, Mr. Zorinsky, Mr. Melcher, Mrs. Kassebaum, and Mr. Boschwitz):

S. 1696. A bill to further the purpose of the Food and Agriculture Act of 1977 in providing price and income protection for farmers and assuring consumers of an abundance of food and fiber at reasonable prices; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WEICKER:

S. 1697. A bill to amend the Internal Revenue Code of 1954 to permit a credit, or exclusion from tax, for interest received on savings in residential finance institution; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 1698. A bill to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. FORD (for himself, Mr. Glenn, Mr. Huddleston, and Mr. Hart):

S. 1699. A bill to amend title VI of the Powerplant and Industrial Fuel Use Act of 1978 to provide financial and technical assistance to States, local governments, and regional agencies to promote the establishment of consolidated programs to mitigate certain adverse social and economic impacts caused by major energy developments, and for other purposes; to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs, jointly, by unanimous consent.

By Mr. KENNEDY (for himself, Mr. Stafford, and Mr. Tsongas):

S. 1700. A bill to amend the Federal Election Campaign Act of 1971 to reduce campaign contributions by nonparty multicandidate political committees for election for the Senate, and for other purposes; to the Committee on Rules and Administration.

By Mr. METZENBAUM:

S. 1701. A bill to amend the Magnuson-Moss—Federal Trade Commission Improvement Act to extend the protections contained in such Act to owners of new passenger motor vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEVIN:

S. 1702. A bill to amend title 18 of the United States Code to provide that the provisions of chapter 119, relating to the interception of wire and oral communications, apply to pen registers; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself, Mr. Cochran, Mr. Matsunaga, Mr. Moynihan, Mr. Jepsen, Mr. Ribicoff, Mr. Boren, and Mr. Long);

S. 1703. A bill to amend the Internal Revenue Code of 1954 to provide an exclusion for income earned abroad attributable to certain charitable services; to the Committee on Finance.

By Mr. WEICKER:

S. 1704. A bill to amend title 23 of the United States Code in order to improve transportation throughout the Nation; to the Committee on Environment and Public Works.

By Mr. PACKWOOD (for himself, Mr. Eagleton, and Mr. Moynihan):

S. 1705. A bill to amend the Internal Revenue Code of 1954 with respect to the deduction of charitable contributions to organizations from which the taxpayer or a member of his family receives services; to the Committee on Finance.

By Mr. LEVIN:

S. 1706. A bill to amend the Federal Rules of Criminal Procedure to require that the court instruct the jury, upon the defendant's request, that the defendant is presumed innocent until proven guilty; to the Committee on the Judiciary.

By Mr. SASSER:

S. 1707. A bill to authorize funds for the William Levi Dawson Institute of Public Affairs; to the Committee on Labor and Human Resources.

By Mr. PERCY (for himself, Mr. Kennedy, Mr. Tsongas, Mr. Domenici, Mr. Stevens):

S. 1708. A bill to reorganize the executive branch of the Government to consolidate different governmental agencies with respect to energy technology, and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHURCH:

S. 1667. A bill to provide mitigation for Rocky Mountain elk habitat lost as a result of construction of the Dworshak Dam and Reservoir on the North Fork of the Clearwater River within the State of Idaho; to the Committee on Environment and Public Works.

ELK MITIGATION AT THE DWORSHAK DAM

• Mr. CHURCH. Mr. President, I am introducing legislation today to provide long overdue mitigation for the Rocky Mountain elk habitat lost as a result of construction of the Dworshak Dam and Reservoir on the North Fork of the Clearwater River in Idaho.

This legislation is sorely needed. For 25 years, wildlife interests in Idaho have been trying to assure that critical elk winter habitat flooded by the Dworshak Reservoir would be replaced in kind. Their efforts, I am sorry to say, have been met primarily with bureaucratic buck-passing and prolonged foot-dragging. Although some elk mitigation has been accomplished by the Army Corps of Engineers, much remains to be done.

Fortunately, this problem has a solution, and it is not nearly as complex a solution as some would imagine.

The State of Idaho owns 4,680 acres of land on the North Fork of the Clearwater River known as Smith Ridge. These lands are heavily timbered and lie adjacent to the federally controlled Hard-Core area at the Dworshak project. The south side of Smith Ridge, upstream from the Hard-Core area, represents the most important additional area that could be acquired for the benefit of the elk. State and Federal wildlife officials, after an exhaustive examination of potential alternatives, have all reached a mutual, longstanding agreement: Smith Ridge is essential to the success of the mitigation program. An excerpt from the Idaho Fish and Game Department's summary of elk mitigation activities at Dworshak demonstrates this fact:

> Most of the wintering elk migrate to the hard-core area and Smith Ridge from areas upstream and at higher elevations. They are effectively blocked by the arms of the reservoir from going further and concentrate on this area. This area could be managed with the hard-core block as a single, contiguous unit. The entire area could be kept roadless and a virtual winter sanctuary for elk. It generally has a south aspect and snow depth is minimal. A resident elk herd already exists and as long as the area remains roadless and free of human activity, this elk herd can be maintained. The hard-core area alone simply cannot support the big game herds in this area during critical winter months.
>
> In 1971, the [Idaho Fish and Game] Department and the U.S. Fish and Wildlife Service initiated two major actions. The first was a request to acquire the control of about 4,500 acres of land on Smith Ridge specifically for management of elk . . . These lands are administered by the Idaho Department of Public Lands and state law provides they must be managed to provide maximum income to the Idaho School Endowment Fund. This requirement makes it unfeasible to manage the same lands for big game winter range enhancement because that requires removal of timber. The [Idaho Fish and Game] Department, U.S. Fish and Wildlife Service and the Corps [of Engineers] have explored all potential alternatives for resolving the problem of obtaining additional winter forage for big game animals and concluded the most desirable solution is to exchange land already held in federal ownership . . . for state lands on Smith Ridge which are of equal value and have similar or greater timber stands.

For the last 8 years—since the importance of the Smith Ridge lands were known—I have repeatedly urged Federal land managers to come forward with proposals to exchange Federal land holdings for the State land at Smith Ridge. Early in 1977, the Department of the Interior stated definitively that its agencies "did not have suitable lands to exchange for Smith Ridge." That left only the Forest Service with the type of land holdings which could be used for the exchange.

Several serious attempts have been made in past years, both by my office and by other interested parties, to get the Forest Service to relinquish some of its holdings in north Idaho in exchange for Federal title to Smith Ridge. These attempts have all failed. The Forest Service remains convinced that the elk mitigation problem at Dworshak is "a problem which must be solved by the Army Corps of Engineers."

Mr. President, this is not just a Corps of Engineers problem. It is a Federal problem, and it requires a Federal response. The Government has a longstanding commitment to provide elk mitigation. My bill fulfills that commitment. The Idaho State Board of Land Commissioners has identified some 8,158 acres of Clearwater National Forest lands in the Charlie Creek area which the board of commissioners would be willing to exchange for the Smith Ridge lands. Under the terms of this legislation, as soon as the State of Idaho transfers to the United States "all right, title, and interest" in the Smith Ridge lands, then the Secretary of Agriculture must convey to the State "all right, title, and interest" to the Charlie Creek lands. I am advised that both parcels are of roughly equal value.

My legislation further provides that when control of the Smith Ridge lands is conveyed to the United States, they shall be administered by the Secretary of the Army as part of the Dworshak project. The land must be managed primarily for elk mitigation purposes.

Mr. President, I ask unanimous consent that the text of the bill, a summary of Dworshak Dam mitigation efforts prepared by the Idaho Department of Fish and Game, and certain letters be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 1667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

Section 1. At such time as the State of Idaho conveys to the United States all right, title, and interest to the following lands lying within the State of Idaho:

T41N, R4E, Boise Meridian

Section 36: N½NE, E½SWNE, SENE, N½NENW, SENENW, NENWNW, E½SWSW, SESW, NESE, E½NWSE, S½SE.

T41N, R5E

Section 22: S½.
Section 23: S½.
Section 24: S½.
Section 25: NE¼, N½NW, N½SWNW, SENW, N½NESE, SENESE, NENWSE.
Section 26: N½NE, SWNE, N½SENE, SWSENE, NW¼, NENESW, NWNWSE.
Section 27: N½, N½N½SW¼.
Section 28: N½, N½S½, SWSW, N½SESW.
Section 29: All.
Section 30: E½SW¼, SE¼.
Section 31: NE¼, E½NW, Lots 2, 3, 4, E½SW, N½SE, SWSE, N½SESE.
Section 32: W½NENE, NWNE, N½SWNE, SWSWNE, NW¼, NWSW, N½NESW.

then the Secretary of Agriculture shall convey to the State of Idaho all right, title, and interest to the following national forest system lands lying within the State of Idaho:

T43N, R1W, Boise Meridian

Section 5: Lot 4.
Section 6: All (includes Lots 1–11).
Section 7: W½NE, SENE, E½W½, Lots 1–8 NWSE.
Section 17: S1/2.
Section 18: Lots 1–8, E½W½, W½SE, SESE.
Section 19: All (includes Lots 1–8).
Section 20: All.
Section 29: N½NE, NW¼, NWSW.
Section 30: N½NE.

T43N, R2W, Boise Meridian

Section 1: All (includes Lots 1–4).
Section 2: All (includes Lots 1–7).
Section 11: All (includes Lots 1–4):
Section 12: NE¼, N½NW, SENW, S½.

Section 13: E½, E½W½, NWNW, SWSW.
Section 14: N½NE, E½NW, Lot 1, SWNW.
Section 24: N½NE.

T44N, R1W, Boise Meridian

Section 29: SW¼.
Section 30: SENE, E½SE.
Section 31: E½E½.
Section 32: SENE, S½SW, SE¼.
Section 33: E½.
Section 34: N½SW, SWSW.

SEC. 2. At such time as the conveyances under section 1 occur, then the lands conveyed from the State of Idaho to the United States shall be administered by the Secretary of the Army as part of the Dworshak Dam and Reservoir Project, authorized by the Act of October 23, 1962 (Public Law 87-874), and said lands shall be managed primarily to provide mitigation for Rocky Mountain Elk habitat lost as a result of construction of the Dworshak Dam and Reservoir Project.

ELK MITIGATION AT DWORSHAK DAM AND RESERVOIR: A SUMMARY

(Prepared by the Idaho Department of Fish and Game)

This is a summary of highlights of the history of mitigation efforts concerning the Dworshak Dam and Reservoir project (formerly Bruce's Eddy) located in Clearwater County on the North Fork of the Clearwater River in northern Idaho.

Wildlife studies were started by the Idaho Department of Fish and Game (Department) in the fall of 1954 on the basis of preliminary planning by the U.S. Army Corps of Engineers (Corps). This was "The Clearwater Game and Range Study", a Pittman-Robertson project which covered the period October 1, 1954 through September 30, 1957. The study area covered 6,400 square miles and included both the Dworshak and Penney Cliffs Reservoir sites. The Department recommendation in the final report of this study was that neither dam should be built.

The U.S. Fish and Wildlife Service (FWS) established procedures for wildlife studies, based on a meeting at Lewiston, August 29, 1955, under the Fish and Wildlife Coordination Act.

The Corps was authorized to proceed with detailed studies of this project by public law 85-500, 85th Congress, 2nd Session, July 3, 1958. The dam is located at mile 1.9 of the North Fork of the Clearwater River. The dam is 630 feet high, maximum pool level is 1,600 feet with a crest elevation of 1,613 feet. The reservoir stores 3,454,000 acre feet at 1,600 feet elevation. This extends 53 miles upriver and covers 16,970 surface acres.

During the early period of the study there was considerable controversy regarding the effects of the project on fish and wildlife. A story in the July 23, 1958 Lewiston Tribune quoted Major General E. C. Itchner, Chief of the Corps as testifying before Congress as follows: "If Bruce's Eddy is going to hurt fish and wildlife resources a great deal, we would be hesitant about giving it our full-hearted support. I have testified before Congress that there is no truth in opposition. The opponents are not fair or they are completely ignorant. It would cause infinitesimal damage". The damage which has resulted to date has been substantial.

Feeling was reported so great among local people that fish and game personnel were not welcome in the vicinity of the project. Local businessmen resented the Department interests opposing the project.

A report released by the FWS in 1960 on the then proposed 1,540 foot pool elevation (later changed to 1,600 feet by the Corps) requested acquisition of 24,000 acres of project lands being made available for wildlife management and habitat improvement to mitigate the loss of wildlife habitat to the reservoir project.

A Corps report released September 15, 1961 recognized this recommendation for acquiring 24,000 acres for wildlife management. The Corps indicated about 12,000 acres of land would be acquired for flowage and other project purposes, above pool level, and these perimeter lands could be improved and used as big game winter range.

The Corps report recommended acquiring an additional 12,000 acres of the most suitable land available in order to attain the 24,000 acres needed. This Corps report included a recommendation that the project provide a $70,000 budget as annual operation and maintenance cost for the wildlife area.

A second wildlife report, August 1962, based on an increased maximum pool of 1,600 feet increased the required wildlife need to 26,000 acres. The estimated budget was increased to $75,000 per year for the first five years and $35,000 annually thereafter for operation and maintenance.

The construction of Dworshak Reservoir was authorized by Public Law 87-874 dated October 23, 1962. Joint policies of the Department of the Army and Department of Interior, executed February 16, 1962 provided for acquisition in fee title of such lands as are necessary to meet present and future mitigation requirements for fish and wildlife as determined pursuant to the Fish and Wildlife Coordination Act.

In 1963 the Corps requested more detailed requirements from the FWS and the Department concerning the wildlife land area recommended in the 1962 report.

During March, 1963 the Idaho Department of Fish and Game supplied the Corps of Engineers a completion report for the Comprehensive Plan for land development provided in Article 1, paragraph 3 of the Bruce's Eddy (now Dworshak) Wildlife Study.

A meeting of Department, FWS and Corps personnel took place in Walla Walla, Washington in August 1963 to determine procedures for delineating and justifying land areas required for mitigation.

Field studies were made in the fall of 1963 to define lands required and the conclusion, as outlined in a March 12, 1964 letter was that a 50,000 acre wildlife management area be established surrounding the junction of the North Fork and Little North Fork of the Clearwater River (Heezen Block). About 12,000 acres of that tract was privately owned and it was recommended 2,616 acres be acquired in fee title and management agreements be negotiated on 9,624 acres. It was further stipulated if satisfactory agreements could not be negotiated, it would be necessary to acquire all the private land in fee title. It was assumed, at that time, a management agreement could be made on the 34,700 acres of state land included in the proposed management area.

In May 1964, a meeting with Potlach Forest, Inc. (PFI) officials produced a statement that PFI would not enter into an agreement for wildlife management on their lands. PFI would prefer to sell the acreage in question. When these results were reported to the Corps, they replied they would not purchase that amount of land (12,000 acres). At a subsequent meeting with the Corps later that month, Mr. Glenn von Gunten of the Corps stated his office would not consider any wildlife land purchase in our proposed area until they were certain management agreements had been negotiated for the various tracts of public land within the area. He was highly critical of wildlife studies conducted by both the FWS and the Department and state we greatly exaggerated the magnitude of wildlife losses on the Dworshak site.

His proposal was that we should have recommended enhancement instead of mitigation. The Department agreed to proceed with negotiations for a wildlife agreement for state land within the area (Heezen Block) with the State Land Board. This was signed in final form August 12, 1965. The requirements were:

1. Lands described in the agreement were to be managed with "special attention" given to fish and wildlife and especially to meet winter range requirements for big game animals compatible with management for timber production and other multiple uses. It further specifies timber cutting practices be planned to provide as much palatable browse and useful cover for big game animals and upland game birds as practicable.

2. Establishment of a technical committee, consisting of a minimum of two persons each from the Land Board and Department who are "responsible for reviewing management plans for state lands". This agreement was considered the only alternative at that time since it was then impossible to transfer to or acquire the land for the Department.

In September, 1965 the Corps informed us PFI officials agreed to discuss the possibility of entering a reasonable cooperative agreement similar to the one signed by the State Land Board for wildlife management.

A copy of the agreement was provided the Corps for negotiation with PFI but subsequent correspondence pointed out the State agreement provided either party could cancel without giving a reason; it would, therefore, be possible for a private party to cancel. Further, we felt an arbitration clause was essential should a difference arise. It was also requested that an option for purchase by the Government be included in the agreement in case the private owner should desire to sell any or all parcels of land involved.

Further negotiation resulted in the Department recommending (June 28, 1966) the total area be reduced from 51,600 acres to 46,000 acres and that instead of buying 2,616 acres of private land and negotiating for management agreements on 9,624 acres, that 7,045 acres be purchased with no land under agreement. There were 3,970 acres of private land deleted from acquisition plans. This action resulted in the Department giving up north-facing slopes and left islands of private land within the boundaries of the Heezen Block.

The State Land Department informed us on November 1, 1966 that mineral leases were granted or pending for kyanite mining on about 5,000 acres of state land on the east central part of the Heezen Block. This was inadvertently done but they also pointed out nothing was said in the agreement about mineral leases.

The Corps informed us, June 28, 1966 they had recommended to their Chief's office that some 5,000 acres in the Heezen Block be acquired but they deleted 2,000 acres in the northern part known as Cobblers Knob.

During May 1967, in response to a protest of this action to Senator Church, we received a copy of a letter from Col. Max McCord stating the acquisition cost of the Cobblers Knob tract would exceed 1 million dollars. He did imply further discussion could be held to resolve differences.

District Engineer McElwee sent a letter in May 1967 that he was authorized to purchase the 5,000 odd acres at the confluence of the North Fork and little North Fork of the Clearwater River but further justification would be required to acquire the Cobblers Knob area. He predicted condemnation would be necessary and "warned" we would be expected to furnish "expert witnesses" to testify in Federal Court to support condemnation action.

Further information and answers to questions were furnished the Corps during June 1967 to justify acquiring Cobblers Knob. Telephone word was subsequently received that the District Engineer would take necessary action to acquire the lands requested but no written confirmation followed. In July, 1967, PFI met with the Corps to protest possible condemnation action (White's memo, July 31, 1967).

On July 27, Governor Samuelson, met with the FWS, PFI and Department personnel and urged the Department to sign an agreement, for management of PFI lands, simiIiar to the one discussed in 1964 which was determined inadequate. This agreement was not signed but taken for further study.

On August 1, 1967, Col. Robert Giesen, District Engineer wrote the FWS indicating he expected authority soon to acquire all wildlife areas suggested. He requested assistance in drafting a letter to appropriate congressmen, the Governor of Idaho and others to provide them with maps and a statement covering the wildlife studies leading to the selection of private lands to be acquired.

On August 8, 1967, he wrote another letter nullifying his letter of August 1. This was apparently the result of much opposition from PFI and Governor Samuelson.

This was followed August 25, 1967 by a letter from the District Engineer requesting a report which would demonstrate why the lands requested were essential to maintain the population of big game present on the area at the time. He further requested that we show the value of the big game resource to be preserved would be worth the cost of the land to be acquired. He also wanted the loss quantified in order to determine its value. He said acquisition would be withheld, pending receipt and review of this material.

The Regional Director of the FWS sent a letter to the Director of the Department on September 8, 1967 advising that in view of the Governor's position, we should sign the agreement as written applying only to the Cobblers Knob tract. We should reduce our land acquisition plan to include only a hard-core area of about 5,000 acres on which long-term, intensive development of wildlife habitat could take place.

On November 1, 1967, Director John R. Woodworth answered this request with a copy of the agreement dated October 27, 1967, signed by him and Vice President Rauch of PFI covering the Cobblers Knob area.

Director Woodworth maintained the hard-core area should be acquired.

Senator Len B. Jordan sent a letter to Col. Pick of the office of the Chief of Army Engineers on November 2, 1967 expressing his displeasure at the Corps proposing to acquire any private land for wildlife in the Dworshak project area. He stated the North Fork was not an important elk producing area and private land should be kept in private ownership. The Col. answered with an explanation of justification and stated the Corps intended to furnish lands necessary to comply with mitigation requirements of the authorization.

The Department issued a news release December 18, 1967 covering the plan for mitigation for wildlife loses at Dworshak Reservoir including the proposal to purchase 5,000 acres of land. Col. Giesen wrote to Mr. Gordon Trombley, State Land Commissioner, December 26, 1967 to provide information requested by Mr. Trombley on lands that were proposed for acquisition. A map outlined 5,189.82 acres being considered.

Vice President Rauch of PFI wrote to Director Woodworth on January 2, 1968 proposing a supplemental management agreement to cover 4,077 acres of PFI lands in the hard-core area. He stated the agreement should be adequate on this area as it was on the 3,016 acres in the Cobblers Knob area. Mr. Rauch also informed Senator Jordan of the plan to negotiate an agreement on the property in the hard-core area. The Senator informed Col. Pick of the Corps who replied they would seriously consider any management proposal for Dworshak and the Fish and Game Commission would meet January 24, 1968 to consider this proposal.

Senator Jordan wrote letters to Secretary of Interior Udall on December 15, 1967 and January 3, 1968 inquiring of decisions he made regarding proposed acquisition of hard-core lands. The Secretary's reply dated February 2, 1968 explained the necessity of these purchases pointing out the management agreement would not adequately mitigate losses to wildlife.

The previously requested justification (August, 1967) was sent to the Corps February 27, 1968 providing an estimate of wildlife losses expected to occur when the dam was constructed, the plan for mitigating those losses and the results anticipated if the plan were accomplished. These results were quantified for big game, small game and upland game plus harvest and hunter days involved.

In April 1968, Director Woodworth informed Vice President Rauch of PFI that the Fish and Game Commission would not agree to sign the proposed agreement covering the 4,077 acres of Potlatch land in the hard-core area.

In July 1968, District Engineer Giesen contacted Governor Samuelson to obtain his comments regarding purchase of hard-core lands. The response was there should be no purchase; a cooperative agreement should be made to manage these lands.

The Fish and Game Commission reiterated its position (on August 15, 1968) that the Corps should acquire hard-core lands.

The FWS Deputy Director informed Col. Giesen, District Engineer, August 29, 1968, that FWS urged acquisition of hard-core land.

Senator Frank Church wrote Secretary of Interior Hickel on May 27, 1970 reviewing problems with land acquisition to that date and he outlined the proposal of trading Bureau of Land Management (BLM) land for about 5,000 acres of private land in the hard-core area. He stated this solution was acceptable to the FWS, Corps and the Department and urged the speeding up of this operation as the dam was to be completed and the pool to begin filling in 1971. Secretary Hickel responded on August 3, 1970 that everything possible would be done to complete the land trade as rapidly as possible.

The "hard-core" block is actually three separate units separated by arms of the reservoir and big game animals cannot move freely between the aras. The west and south blocks are further subdivided. The west block has an all-weather road at or above the 2000' contour from Grandad Bridge north to Breakfast Creek. This eliminates big game use in the area between the road and the pool. This road bisects the south block from Grandad Bridge enroute to Headquarters. Another all-weather road goes south from Grandad Bridge to the Silver Creek road and continues to Long Creek and Breakfast Creek. Numerous logging roads bisect the area at places and elevations critical to elk. Because of the nature of the hard-core block the only portion of it substantially used by elk is the north block. When the hard-core area was designated and selected it was not known by the Department that these roads would be built. Connecting roads extensively reduce the value of the area to elk and other big game.

Also, the cooperative agreement for state lands on Smith Ridge—the most important area outside the hard-core area—had not proved adequate and needs of elk winter range are not being met by state logging sales.

It was realized earlier that the south side of Smith Ridge upstream from the hard-core block would be the most valuable additional area that could be acquired for the benefit of elk. Most of the wintering elk migrate to the hard-core area and Smith Ridge from areas upstream and at higher elevations. They are effectively blocked by the arms of the reservoir from going further and concentrate on this area. This area could be managed with the hard-core block as a single contiguous unit. The entire area could be kept roadless and a virtual winter sanctuary for elk. It generally has a south aspect and snow depth is minimal. A resident elk herd already exists and as long as the area remains roadless and free of human activity, this elk herd can be maintained. The hard-core area alone simply cannot support the big game herds in this area during critical winter months.

In 1971, the Department and the FWS initiated two major actions. The first was a request to acquire the control of about 4,500 acres of land on Smith Ridge specifically for management of elk. The tract is within the original Heezon Block. These lands are administered by the Idaho Department of Public Lands and state law provides they must be managed to provide maximum income to the Idaho School Endowment Fund. This requirement makes it unfeasible to manage the same lands for big game winter range enhancement because that requires removal of timber. The Department, FWS and the Corps have explored all potential alternatives for resolving the problem of obtaining additional winter forage for big game animals and concluded the most desirable solution is to exchange land already held in federal ownership and presently under jurisdiction of the BLM for state lands on Smith Ridge which are of equal value and have similar or greater timber stands.

The second major action was developing plans for logging portions of wildlife mitigation lands on the hard-core area.

Meanwhile, the Corps reported to Senator Church on February 1, 1972 that by April 1, 1972 all 5,120 acres of the hard-core land would be acquired through exchange, agreement or fee acquisition.

The gates on Dworshak Dam were closed in September, 1971. By December the upper pool was nearly full and frozen over. Deer were having trouble negotiating the ice and a flight on December 22 showed where over 100 deer had fallen through the ice and drowned. During the balance of December an additional 106 deer were observed to have died on the ice. These deaths were from slipping on glare ice and breaking legs and from being killed by coyotes. A deer on slick ice has no chance against coyotes. These ice conditions only lasted a few days and subsequent flights showed different circumstances.

On April 1972, a memorandum of understanding was completed to provide that the BLM prepare the logging plan to enhance big game browse on 1,567 acres of hard-core land. All agencies agreed on helicopter technique of logging at that time.

The Corps engaged a private appraiser to prepare a report on the 4,500 acres of State Endowment lands on Smith Ridge at the same time.

Since 1972, the involved agencies have been working out management plans on Corps "take lands".

The logging sale was advertised in 1973 and no bids were received. Plans to advertise the sale again were immediately formulated and again no bids were received. Major General J. W. Morris wrote Under Secretary of Interior John Whitaker on September 20, 1973 and stated the most reasonable solution to resolving the problem of obtaining area for winter forage for big game animals is "to exchange land already held in federal ownership and presently under BLM jurisdiction with the state in return for the Smith Ridge area". He further stated the land exchanged should be retained under the jurisdiction of the Department of Interior and be managed specifically for wildlife through cooperative agreement with the Department.

Several exchanges of correspondence took place between the Corps and the State Land Board with regard to the Corps acquiring approximately 4,500 acres of land on Smith Ridge. The Corps furnished a justification report with the request. Commissioner Trombley replied on November 21, 1972 that the only alternative acceptable to the State Land Board was that lands to be taken for project purposes must be exchanged for other federal land of equal value.

During March 1974, a meeting of all management agencies involved produced the following:

1. Another effort would be made to advertise the logging sale on Hughes Point. The helicopter portion of this sale would be deleted and considered separately. This sale was made during the summer of 1975.

2. Colonel Conover, District Engineer, said no official word has been received from Department of Interior stating whether or not it would agree to a trade procedure of Smith Ridge lands. Subsequent to this meeting, the Secretary of Interior replied by letter dated April 24, 1974 directing coordination be made to initiate the trade of BLM lands for the needed 4,500 acres of state lands.

The State Land Board was quoted in an April 23, 1975 Lewiston Morning Tribune newspaper article as rejecting a request to trade state land for federal land. Some of the reasons listed by the newspaper in this AP release were:

1. This is prime timber land and they could not vote to take away producing land and give it to a federal agency. Comment: the agencies involved all have the same goal, and intent with regard to the trade which is that it be acre for acre of equal value land. Further, when the trade is completed, the Idaho Department of Public Lands would still have 4,500 acres plus the Department would have an equal amount to manage specifically for the benefit of wildlife.

2. The Board voted to inform federal agencies that the state is not interested in any land trade until it gets more action on other exchanges the state has been trying to consummate with the federal government.

It is our understanding that problems with the other land trades have been resolved so we are now in the planning to ask the Board reconsider our request for approval to move ahead with the Smith Ridge exchange.

This is a necessity to more nearly fulfill the mitigation obligation created by the Dworshak project.

CORPS OF ENGINEERS,
Walla Walla., Wash., April 20, 1979.

Mr. JOSEPH C. GREENLEY,
Director, Idaho Department of Fish and Game, Boise, Idaho.

DEAR MR. GREENLEY: This is in reply to your letter of 29 March 1979 in which you posed several questions concerning Dworshak mitigation lands.

As to the Smith Ridge land trade, there appear to be two main stumbling blocks: the agreement on selection of lands to trade and the encumbrance of the Smith Ridge lands by the Hutchins and Allgood lawsuit. On 17 November 1978 the Department of Lands wrote to the Panhandle National Forest Office reaffirming the State's 13 April 1978 selection of Forest Service lands. In our last contact with Department of Lands on 9 April 1979 there had been no progress either in land selection or in the lawsuit. On 10 April 1979 we were informed by the Forest Service Region I office in Missoula that, on 9 March 1979, they had sent a report and recommendation to their Washington, D.C., office. We were later furnished a copy of that report. Mr. Worf informed us that Region I is not in favor of using Forest Service lands for the exchange unless they are replaced, preferably by the Corps' acquiring lands on Hope Peninsula. The Department of Lands' selection in the "Charlie Creek" block is not acceptable to USFS and they recommend use of BLM lands for exchange as previously proposed. The course of action preferred by USFS is to reopen the total wildlife mitigation question and approach it from the standpoint of providing additional elk forage through intensive habitat improvement on existing state, BLM, and National Forest lands. They do not believe any authority exists at the Regional level to enter into any Forest Service-State-Corps exchange even if the lands were agreed to. I would appreciate any assistance you could give in impressing on the State Land Board the urgent need for Smith Ridge and for an early agreement on exchangeable lands.

In reference to O&M funding for the big game mitigation lands, our regulations direct us to make the lands available first to the Fish and Wildlife Service to assume budgetary funding and operation and maintenance responsibilities. If the Service will not assume these responsibilities, then the lands will be offered to the appropriate state agency to assume funding and management. If the state refuses, then the lands will remain under Corps' jurisdiction and be managed by the Corps according to an approved management plan in the same manner as all other unlicensed project lands having wildlife values. We requested and received further clarification of this directive which stated: "In the latter situation, the District Engineer may implement the management plan entirely with in-house personnel, or, if more appropriate, he may contract with the State or a private company to do part or all of the work set forth in the plan. Since both the Service and your Department have refused to assume O&M funding responsibilities, the latter situation prevails."

Management of the wildlife resources within the state is the responsibility of your agency and the Corps does not wish to infringe on that responsibility. Also, the Fish and Wildlife Service has already stated that management of these mitigation lands should be by your Department. Therefore, upon completion of an approved management plan, we will contract directly with the Fish and Game Department.

This same policy, however, does not apply to the take-lands along the lower reservoir. Our directives are very specific in that we can only fund O&M on lands which are designated for mitigation needs. Project lands, other than mitigation lands, classified for wildlife management can be leased to a state wildlife agency for development and management in the same manner as other single-purpose project lands but that would mean that the lessee would be required to provide the funding. We have tried several times on other projects to get this policy changed but without success.

Getting back to the mitigation lands, we do not have a completely developed unit to turn over to you for management yet but we would be able to make portions of the area available by this fall. Before we can do this, however, a management plan must be prepared and agreed to. Preparation of this plan should be initiated by you as the managing agency. We will be glad to work with you on this as needed. It would be of considerable value to both our agencies in preparation of this management plan if we had a full evaluation of the research conducted on these lands. As you will recall, at our meeting in June 1977 we agreed to defer further contracting until your Department had completed a summary report on studies conducted from 1969 to 1977 with recommendations for management procedures. Receipt of this report would be a big step in determining our management goals.

If you wish, I will be glad to discuss any of these other items further with you at your convenience.

Sincerely yours,

C. J. ALLAIRE,
Colonel, CE, District Engineer.

DEPARTMENT OF FISH AND GAME,
Boise, Idaho, May 25, 1979.

Mr. JOHN D. HOUGH,
Director, Western Field Offices, Department of the Interior, Seattle, Wash.

DEAR JOHN: Your June 22, 1977, memo following the June 17 meeting at Smith Ridge cogently summarized the whole land exchange situation and stimulated action toward resolving the longstanding elk mitigation problem at Dworshak.

A subsequent meeting to start negotiations for exchange between the Idaho Department of Lands and the U.S. Forest Service raised our hopes that after 25 years of frustration the solution was finally forthcoming.

However, we recently inquired about progress and learned from the Corps (April 20, 1979, letter from Colonel Allaire, copy of which you received) and the Idaho Department of Lands that little has been accomplished in the almost two years since involvement of Forest Service lands in the exchange was directed.

John, the central facts of the issue remain as you summarized them in 1977:

"The BLM does not have suitable lands—to exchange—for Smith Ridge—;

"There is not a suitable alternative for mitigating habitat losses; State and federal wildlife officials have reached this mutual longstanding agreement: Smith Ridge is essential.

"The Forest Service does have suitable holdings in the area which could be used for the exchange. The Senators' representatives, Mr. LaRocco and Mr. Goller, agree that the USFS is the only realistic alternative."

As we perceive it the current obstacle is that the Forest Service still holds a negative attitude toward pursuing this exchange with any degree of enthusiasm. While this may be understandable, since they were only recently made unwilling participants in this 25 year attempt to achieve mitigation, we don't think it should be necessary to replow a quarter-century of negotiations to bring them up to speed when the solution is so near and obvious.

This has been a long, tedious, frustrating, often discouraging road, in attempting to achieve reasonable mitigration for losses caused to Idaho by a federal project.

We still believe, again quoting from your analysis, that—"The issue is resolvable, but only if there is direction from the top through Assistant Secretary Cutler to his regional forester at Missoula."

What can be done at this time to re-stimulate its resolution? Your advice and assistance would be most helpful.

Sincerely,

JOSEPH C. GREENLEY,
Director.●

By Mr. CHURCH (by request):

S. 1668. A bill to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal years 1980 and 1981; to the Committee on Foreign Relations.

● Mr. CHURCH. Mr. President, I introduce by request a bill to authorize additional appropriations for fiscal years 1980 and 1981 in order that the Department of State may carry out its authorities, functions, duties and responsibilities in the conduct of the foreign affairs of the United States, and other purposes authorized by law.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with an analysis and justification of the proposed legislation, and the letter from the Acting Assistant Secretary of State for Congressional Relations to the President of the Senate dated July 25, 1979.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1668

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ADDITIONAL AUTHORIZATION FOR MIGRATION AND REFUGEE ASSISTANCE

Section 102(a)(4) of H.R. 3363 and section 101(a)(4) of the Senate amendment thereto (Foreign Relations Authorization Act, Fiscal Years 1980 and 1981) are amended for fiscal year 1980 by striking out $248,951,000 and inserting in lieu thereof $456,241,000 and for fiscal year 1981 by striking out $254,188,000 and inserting in lieu thereof $457,798,000.

JULY 25, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
U.S. Senate.

DEAR MR. PRESIDENT: There is transmitted herewith a legislative proposal to authorize additional appropriations for fiscal years 1980 and 1981 in order that the Department of State may carry out its authorities, functions, duties and responsibilities in the conduct of the foreign affairs of the United States, and other purposes authorized by law.

The proposal provides for an additional authorization of $207,290,000 and 49 positions in fiscal year 1980 and $203,610,000 in fiscal year 1981 to cover the costs associated with a budget amendment for the Migration and Refugee Assistance appropriation which will be transmitted to you shortly. An analysis further explaining the proposed legislation is enclosed.

The Department has been informed by the Office of Management and Budget that there is no objection to the presentation of this proposed legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

J. BRIAN ATWOOD,
Acting Assistant Secretary
for Congressional Relations.

ANALYSIS

Additional Authorization for the Migration and Refugee.

Assistance Appropriation.

This amendment provides additional authorization of $207,290,000 in fiscal year 1980 and $203,610,000 in fiscal year 1981 to cover the costs associated with a fiscal year 1980 appropriation request to fund the costs of the increased flow of refugees—primarily from Indochina.

The United Nations High Commissioner for Refugees will receive an additional $84,000,000 from the fiscal year 1980 appropriation. This increased contribution will assist in meeting the care and maintenance and camp development costs associated with the increased flow of Indochinese refugees.

Increased costs amounting to $105,000,000 are expected to occur in the United States Refugee Program. These costs represent the processing, transportation, reception and initial resettlement costs associated with the recently increased rate of Indochinese refugee resettlements in this country from 7,000 a month to 14,000.

Seventeen million dollars is required to reimburse the Department of Defense for the use of vessels and aircraft to transport refugees to processing centers, and to search for refugee boats in distress.

The dramatic increase in projected refugee flows from Southeast Asia has made existing staffing arrangements insufficient. An additional $1,290,000 to cover operational and administrative expenses is necessary to establish a proper level of staffing to meet the needs of the refugee programs.

The estimated cost of continuing these new initiatives in fiscal year 1981, less the one-time cost of reimbursing the Department of Defense for refugee-related services, is an additional $203,610,000. This increases our authorization request for fiscal year 1981 to $457,798,000.

ANALYSIS OF FISCAL YEAR 1980 AMENDMENT REQUEST—MIGRATION AND REFUGEE ASSISTANCE

Program by activities	Fiscal year 1980 pending request[1]	Amendment requested	Fiscal year 1980 total request	Justifications appear on the following pages
United Nations High Commissioner for Refugees	$62,950,000	$84,000,000	$146,950,000	4–5
U.S. refugee program:				
Indochinese program	97,344,000	105,000,000	202,344,000	6–8
Soviet, Eastern European, and other refugees program	49,824,000	0	49,824,000	
Subtotal, U.S. refugee program	147,168,000	105,000,0.0	252,168,000	
Intergovernmental Committee for European Migration	4,120,000	0	4,120,000	
International Committee of the Red Cross	6,000,000	0	6,000,000	
Reimbursement to the Department of Defense	0	17,000,000	17,000,000	9
Operational and administrative expenses	3,713,000	1,290,000	5,003,000	10–11
Assistance to refugees settling in Israel	[2] 25,000,000	0	25,000,000	
Total	248,951,000	207,290,000	456,241,000	

[1] Includes earlier amendment of $87,066,000.

[2] Congressional initiative.

JUSTIFICATION

I. United Nations High Commissioner for Refugees, $84,000,000.

Indochina refugee program

The present camp population in Southeast Asia continues to grow by tens of thousands of refugees per month. In May and June these arrivals averaged over 50,000 per month. If these trends continue for the balance of this year and through the end of fiscal year 1980, the population in the camps outside of the People's Republic of China could reach 800,000 with nearly another 300,000 in the PRC. This compares with the initial estimate for fiscal year 1980 of 318,000 which foresaw no growth from the prior year level of operations. It is likely that the UNHCR will be supporting an average calendar year camp population of 812,000 (including those in the PRC) at a daily cost of about $1.18 per day per refugee which generates a fiscal year 1980 UNHCR program of about $352 million.

Over the past several years, the United States has attempted to contribute about fifty per cent of the cost of the UNHCR's care and maintenance program for refugees in Southeast Asia. However, the Government of Japan, along with other nations, has pledged to increase their contribution to the care and maintenance program of the UNHCR to a degree which will allow the United States share of the program to decrease from fifty per cent to thirty per cent. Thus, for the care and maintenance of this increased caseload (offset partially by increased contributions by other nations) there is an additional fiscal year 1980 requirement of $64,000,000. Please note that the projected contribution is computed on a U.S. fiscal year basis rather than the calendar year basis commonly used for the UNHCR's programs.

Also requested is $20,000,000 for an initial U.S. contribution to help defray the cost of establishing Refugee Processing Centers (RPCs) in Southeast Asia. It is expected that RPCs sufficient for a population of 250,000 refugees will be established in the near future. Initial costs associated with the first centers are estimated to be $66,000,000 of which the U.S. plans to contribute 30 percent or $20,000,000.

CONTRIUTIBUON TO THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

	Fiscal year 1980 pending request[1]	Amendment requested	Fiscal year 1980 total request
Indochinese refugees (including contribution to establishing refugee processing centers)	$41,500,000	$84,000,000	$125,500,000
African refugees	20,000,000	0	20,000,000
All other refugees	1,450,000	0	1,450,000
Total	62,950,000	84,000,000	146,950,000

[1] Includes earlier amendment of $16,500,000.

II. United States refugee program, $105,000,000.

Indochinese program

On June 28, the President announced that the U.S. Government was increasing its rate of Indochinese refugee resettlements from the current rate of 7,000 per month to 14,000. The Department of State, therefore, is requesting a budget amendment for fiscal year 1980 of $105,000,000 to finance the processing, transportation, reception and initial resettlement of these additional 84,000 refugees. This increase will raise the fiscal year 1980 request for this portion of the United States Refugee Program to $202,344,000.

This amount is required to meet the following needs:

1. Selection and Documentation: $5,040,000.

The additional request for refugee processing and documentation is $5.04 million. This amount will provide for contractual costs associated with the operations of the overseas system of refugee processing for refugees from Indochina. This request is based on the assumption that per capita costs for this function will not vary with the increasing numbers of refugees admitted to the U.S. by this decision.

2. Transportation: $54,600,000.

The Department proposes to contribute $54.6 million to the loan funds of the Intergovernmental Committee for European Migration to finance the transportation to the U.S. of these 84,000 refugees. The per capita contribution will be $650 which is an increase of $75 per capita over the amount requested in the pending FY 1980 budget. This increase stems from the necessity to rely exclusively on charter arrangements for the movement of these refugees and the higher costs therefore incurred. In view of objections raised to the Department's proposal to shift from transportation loans to grants, it proposes to use this budget amendment as the opportunity to retract the earlier plan to adopt a transportation grant system. Instead it proposes to retain the current system, but implement a ceiling on the loan made to any principal applicant.

3. Reception and Placement Grants: $42,000,000.

The Department requests an additional $42 million to finance the payment of reception and placement grants to the voluntary agencies which arrange for the sponsorship of these refugees. This request envisions the continuation of the grant at the $500 level currently planned for fiscal year 1980.

4. Short-term Transit Centers: $2,520,000.

A new feature of this program is the requirement to finance the establishment by the involved voluntary agencies of short-term transit centers at the major ports of entry of Los Angeles, San Francisco and Seattle. These centers would provide short-term accommodations for refugees while they await onward flights to their final destinations and would also provide facilities to meet the immediate health needs of arriving refugees. It is believed that centers such as these could be provided for $30 per capita. These facilities are required only for the additional resettlements; the original 7,000 resettlements per month would have been accommodated without resorting to these centers. The request of the Department of State for this activity is $2.52 million.

5. Enhanced Medical Screening: $840,000.

At the request of Ambassador-at-Large Clark, a team of health screening experts, specialists in contagious diseases and epidemiologists, has been examining the health screening provided to refugees. As a result of this study, the Center for Disease Control (CDC) has estimated that improved health screening and services can be provided to the portion of the refugee population resettled in the U.S. for an additional $5 per-capita. This project will require an additional $840,000 in fiscal year 1980.

Details of the Indochina Program follow:

	Fiscal year 1980 pending request [1]	Amendment requested	Fiscal year 1980 total request
Selection and documentation	$5,043,000	$5,040,000	$10,083,000
Transportation and related costs	48,301,000	54,600,000	102,901,000
Reception and placement grants	42,000,000	42,000,000	84,000,000
Resettlement in Southeast Asia of Indochinese refugees	2,000,000	0	2,000,000
Short-term transit centers	0	2,520,000	2,520,000
Enhanced medical screening	0	840,000	840,000
Total	97,344,000	105,000,000	202,344,000

[1] Includes an earlier amendment of $55,773,000.

III. Reimbursement to the Department of Defense, $17,000,000.

President Carter has ordered the Department of Defense to augment immediately its air and sea presence in the shipping lanes off of Vietnam so that assistance can be provided to refugees who are in distress. This mission is to be undertaken on a reimbursable basis with the Department of State.

The estimated cost for charactering ships through the facilities of the Military Sea Lift Command and using those ships for a 120 day period to assist and transport refugees is $14,000,000. Transportation provided would also include movements of large numbers of refugees to Refugee Processing Centers as they are established. In addition, the Department of State is required to reimburse the Department of Defense for the costs associated with dedicating a half squadron of long range air reconnaissance planes to efforts to identify and assist "boat people" who are in distress. The estimated cost of this operation, for a six month period, is $3,000,000. This brings the total sought for reimbursement to the Department of Defense to $17,000,000.

The funds are required to reimburse the Department of Defense for activities undertaken in fiscal year 1979 and fiscal year 1980.

IV. Operational and administrative expenses, $1,290,000.

Currently, there are only 40 positions provided to the Migration and Refugee Assistance appropriation. This number is clearly insufficient for either current or planned operations. This insufficient number of positions has forced this program to rely on a reimbursable and/or TDY staff to provide services to refugees in Southeast Asia. While this situation was reasonable when refugee flows of only 30,000 per year were projected, it is clearly inadequate when annual refugee flows of 168,000 for Indochinese refugees alone are projected. Therefore, it is necessary to: 1) Provide 24 positions to formalize existing staffing arrangements (in this case these 24 positions are currently funded through this appropriation, although the positions are not allocated to this account). 2) Provide 25 additional positions, and $1,290,000 to meet the expanded workload resulting from the President's recent decisions on refugee admissions; and, 3) Fund three additional person-years of inspectors in the Office of the Inspector General who will audit the refugee program.

The estimated annual cost of the newly required positions is $1,290,000. This raises the FY 1980 request for operational and administrative expenses to $5,003,000.

Fiscal year 1980 pending request [1]		Amendment requested		Fiscal year 1980 total request	
Positions	Funds	Positions	Funds	Positions	Funds
40	$3,713,000	49	$1,290,000	89	$5,003,000

[1] Includes an earlier amendment of $432,000.

By Mr. BAYH:

S. 1679. A bill to amend the patent laws, title 35 of the United States Code; to the Committee on the Judiciary.

PATENT LAW AMENDMENTS OF 1979

● **Mr. BAYH.** Mr. President, today I am introducing a bill entitled the "Patent Law Amendments Act of 1979." This legislation is designed to cut through the delays and legal expenses that many patent holders encounter when someone challenges the validity of a patent in court on the basis that an incomplete search of the patent files was made before the patent was issued.

The problem is this: Because of underfunding of the Patent and Trademark Office, an estimated 2 percent to 28 percent of the search files are missing in every patent subclass. This means that many times when patent examiners are searching these files seeking prior patents and relevant materials in order to determine whether or not to grant a requested patent, some of the materials that are needed to make this decision might be missing. The result has been that there is a great deal of uncertainty over the validity of issued U.S. patents among many in the business community. Such uncertainty is a direct contributor to our lagging rates of innovation and productivity. Countries such as Japan and West Germany are renowned for the strength of their patent systems, which encourage inventors to pursue new ideas and processes without continuing doubt about the worth of their patents.

It has been estimated by patent experts that it frequently costs both parties in civil patent challenges more than $250,000 apiece to pursue these questions through the court system. The Subcommittee on Patent and Information Policy, which is a part of the President's innovation and productivity study, said that the question of reexamination of issued patents should be handled by the Patent and Trademark Office rather than through the courts. About 50 percent of these challenged patents are now being found to be invalid in court when evidence is presented that not all of the relevant material was considered by the patent examiner before issuance of the patent. Businesses are understandably reluctant to invest millions of dollars in developing and marketing new products when there is a 50-percent chance that their patent might be no good. I am concerned that the threat of long court challenges is especially serious to small businesses, which simply does not have the resources to defend their patents in these cases. This type of threat hangs like a sword over important small business patents and has been used to induce these companies to allow rivals to infringe on important patents rather than undertake the expense and delay of court actions.

The bill that I am introducing today would allow the Patent and Trademark Office to reexamine these challenged patents and to consider the evidence that not all of the relevant materials were considered prior to patent issuance. Because this can be a very technical question and because the patent examiners are the best trained people to decide these questions, both parties would save considerable amounts of money in court costs and would receive a much quicker determination of the patent's validity than is now possible. This bill would also reduce part of the enormous case load from our Federal court system.

Under this legislation, whenever anyone wanted to challenge an issued patent they would file a request with the Patent and Trademark Office along with a modest fee and the evidence that is relevant to the patent challenge. The patent holder would be informed of the challenge and would receive a copy of any cited material being used to question his patent. Within 90 days of receipt of this request, the Commissioner of Patents would issue his decision. If the Commissioner determined that the challenge was invalid, the patent would be upheld and this decision could not be appealed. If the patent was found to be too broad, the patent holder would have the opportunity of narrowing the patent claim. The Commissioner could also invalidate the issued patent. Such an action would be subject to appeal by the patent holder.

The Patent Law Amendments Act would also give the courts the option of sending patent challenges that are already pending back to the Patent Office for reexamination, although it would not require that such action be taken. The courts would still have the option of accepting patent validity cases if they chose to do so, but this bill would give an inexpensive alternative to costly legal actions.

I would like to point out to my colleagues that our patent system which was once the envy of the world is no longer the most efficient patent system. I think that part of the responsibility for this sad situation lies with the Congress which has neglected the patent system for too long. This bill will go a long way toward restoring confidence in our patent system and will also remove the possibility that patent holders will be subjected to long, expensive law suits to determine the validity of issued patents.

This bill would insure that both parties to patent challenges would get speedy justice at a reasonable price. I urge my colleagues to join me in support of this important bill. There has been a great deal of concern in the Congress about the drop in our productivity and innovation rates; this bill is an opportunity for the Congress to directly address a very real part of this problem.

I ask unanimous consent that the text of the bill be printed in the RECORD, along with a copy of the recommendation of the Advisory Subcommittee on Patent and Information Policy of the Advisory Committee on Industrial Innovation.

There being no objection, the bill and report were ordered to be printed in the RECORD, as follows:

S. 1679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Patent Law Amendments of 1979".

SEC. 2. Title 35 of the United States Code, entitled "Patents", is amended by adding the following chapter: "Chapter 30.—PRIOR ART CITATIONS TO PATENT OFFICE AND REEXAMINATION OF PATENTS

"§ 301. Rules established by Commissioner of Patents

"The Commissioner shall establish rules and regulations for the citation to the Office of prior art patents or publications, pertinent to the validity of patents, and for the reexamination of patents in the light of such prior art.

"§ 302. Citation of art

"Any person may, at any time within the period of enforceability of a patent, cite to the Office prior patents or publications which may have a bearing on the patentability of any claim of the patent, provided that the person citing such prior art identifies in writing the part(s) of the same considered pertinent and the manner of applying the same to at least one claim of the patent. The writing identifying and applying the same shall become a part of the official file of the patent. The identity of the person citing the prior art will be excluded from such file upon his request to remain anonymous.

"§ 303. Request for examination

"Any person may, at any time within the period of enforceability of a patent, request reexamination of the patent as to the patentability of any claim thereof in the light of any prior art cited under the provisions of section 302 of this chapter, by filing in the Office a written request for such reexamination accompanied by a reexamination fee prescribed according to this title and by a statement of the relation of such prior art to the patentability of the claim or claims involved. Unless the requesting person is the patentee, the Commissioner shall promptly send a copy of such request and statement to the owner of the patent appearing from the records of the Office at the time of the filing of the request.

"§ 304. Determination of issue by Commissioner of Patents

"(a) Within ninety days following the filing of a request for reexamination under section 303 of this chapter, the Commissioner shall make a determination as to whether a substantial new question of patentability affecting any claim of the patent concerned, not previously considered in examination or reexamination of such claim, is raised by the consideration, with or without any other prior art, of the prior art which has been cited in relation to the patent according to section 302 of this chapter. The Commissioner on his own initiative may make such a determination at any time.

"(b) A record of the Commissioner's determination under paragraph (a) of this section shall be made in the file of the patent, and a copy of it sent promptly to the owner of the patent.

"(c) A determination by the Commissioner pursuant to paragraph (a) of this section that such a new question of patentability is not so raised shall be final and nonappealable.

"§ 305. Reexamination ordered by Commissioner of Patents

"If, in a determination made pursuant to paragraph (a) of section 304, the Commissioner finds that a substantial new question of patentability affecting a claim or claims of the patent is raised by consideration of the patents and publications that have been cited in relation to the patent according to section 302 of this chapter, he shall order a reexamination of the patent for the resolution of the question, and shall proceed to resolve it as though the claim or claims involved were present in a pending application. The patent owner shall be given a reasonable period, not less than two months, after the filing of the reexamination order within which he may file a statement on such question for consideration in the reexamination. The patentee shall serve a copy of such statement on any person who has requested examination according to section 303 of this chapter and such person shall have the right, within a period of two months from such service, to submit a reply to the patentee statement. Any reexamination proceeding under this section shall be conducted with special dispatch within the Office.

"§ 306. Response or amendment by patent owner

"The patent owner shall be provided an opportunity in any reexamination proceeding under this chapter to amend any claim of his patent in order to distinguish the claim from prior art cited according to section 302 of this chapter, or in response to a decision adverse to the patentability of the claim, but no amendment enlarging the scope of a claim shall be permitted in a reexamination proceeding under this chapter.

"§ 307. Appeals

"The owner of a patent involved in a reexamination proceeding under this chapter may appeal from a final decision in such proceeding adverse to the patentability of any claim, or amended claim, of the patent.

"§ 308. Certificate of patentability; unpatentability and claim cancellation

"When in a reexamination proceeding under this chapter the time for appeal has expired or any appeal proceeding has terminated, the Commissioner shall issue and publish a certificate cancelling any claim of the patent finally determined in such proceeding or on appeal therein to be unpatentable, confirming any claim of the patent so determined to be patentable, and incorporating in the patent any amended claim thereof so determined to be patentable.

"§ 309. Reliance on art in court

"No patent or (printed) publication may be relied upon as evidence of nonpatentability in a civil action involving an issue of validity or infringement of a patent unless (a) the patent or publication was cited by or to the Office during prosecution of the application for the patent or was submitted for consideration by the Office in accordance with sections 302 and 303 of this chapter and was actually considered in accordance with section 304, or (b) the Court, upon motion, concludes such submission and reconsideration to be unnecessary for its adjudication of the issue of validity or infringement. The limitation provided by this section shall apply in any civil action in which a pleading presents a claim for infringement or for adjudication of the validity of a patent, upon the basis of the contents of the patent file as it existed on the date of the filing of such pleading, excepting that a party may rely upon a patent or publication cited later, and upon the final determination had on a request for reexamination in the light of such patent or publication, if such patent or publication was cited and such request was filed in the Office within the period of a stay ordered by the court in accordance with section 310 of this chapter.

"§ 310. Stay of court proceedings to permit Office review

"(a) Any party to a civil action against whom a pleading presents a claim for infringement or for adjudication of the validity of a patent shall have the right, by motion brought before any responsive pleading, to secure a stay of all proceedings in the action by order of the court for a period, not less than four months, sufficient to enable such party to search for and cite patents or publications considered pertinent to the patent and to request reexamination of the patent in view of such prior art according to sections 302 and 303 of this chapter. If such party files a request for such reexamination in the Office and serves and files a copy of it in the action within the period of the stay provided by such order, the stay shall be extended by further order of the court until at least twenty days after the final determination of the request for reexamination.

"(b) The court, on motion and upon such terms as are just, may at any time stay the proceedings in a civil action in which the validity of a patent is in issue for a period sufficient to enable the moving party to cite to the Office newly discovered additional prior art in the nature of patents or (printed) publications and to secure final determination of a request for reexamination of the patent in the light of such additional prior art, provided the court finds that such additional prior art, in fact, constitutes newly discovered evidence which by due diligence could not have been discovered in time to be cited to and considered by the Office within the period of a stay of such proceedings that was or could have been secured according to subsection (a) of this section.

"§ 311. Dismissal of complaint

"The party or parties whose complaint commencing a civil action presents a claim for infringement or for adjudication of the validity of a patent shall have the right, by notice served upon the other party or parties and filed in the action at any time within the period of a stay ordered by the court pursuant to section 310 of this chapter, to dismiss such complaint without prejudice and without costs to any party.".

DRAFT REPORT ON PATENT POLICY

(A draft report of the Advisory Subcommittee on Patent and Information Policy of the Advisory Committee on Industrial Innovation established as part of the Domestic Policy Review, Dec. 20, 1978)

(*Notice:* This report represents the views of the Subcommittee on Patent and Information Policy of the Advisory Committee on Industrial Innovation, an advisory committee convened by and reporting to the Secretary of Commerce. The views of the Subcommittee do not necessarily represent those of the Department of Commerce or any other agency of the Federal Government.)

ADVISORY SUBCOMMITTEE ON PATENTS AND INFORMATION

Herbert R. Brinberg, Co-Chairman, Information, President, Aspen Systems Corporation.

*Robert B. Benson, Co-Chairman, Patents, Director, Patent Law Department, Allis-Chalmers Corporation.

Rudolph J. Anderson, Jr., Associate General Counsel, Merck & Company, Inc.

*Tom Arnold, Arnold, White & Durkee.

Henry L. Bachman, Vice President—Quality, Hazeltine Corporation.

Gerard M. Beaugonin, Vice President, Control Data Corporation.

*Homer Blair, Vice President, Patents & Licensing, Itek Corporation.

Gloria Cohen, Consultant, Information Services.

*Joseph A. DeGrandi, Beveridge, Degrandi, Kline & Lunsford.

*Joe Engelberger, President, Unimation.

*Charles Heiken, Esq.

H. E. O'Kelley, President & Chief Executive Officer, Datapoint Corporation.

Dan Lacy, Vice President, McGraw-Hill.

*Pauline Newman, Director, Patent & Licensing, FMC Corporation.

Donald J. Quigg, Patent Counsel, Phillips Petroleum Company.

William Ragan, Vice President, Research & Development, Becton & Dickinson Company.

*Eric P. Schellin, Esq.

Clarence Spangle, President, Honeywell Information Services.

*David E. Sunstein.

Leo J. Thomas, Jr., Director of Research, Eastman Kodak.

Lawrence Welke, President, International Computer Program.

PROPOSAL II—PROVIDE FOR REEXAMINATION OF PATENTS

One of the fundamental problems of the existing patent system is that pertinent prior art is very often found after the patent has issued and has become commercially important. At this point in time, additional prior art, not considered by the PTO, is often found which creates uncertainty concerning the enforceability of the patent. Such uncertainty often deters the patent owner of licensee from commercializing the invention. Such uncertainty can also deter commercialization by an interested party who cannot quickly and cheaply assess the value of the patent. Litigation is slow and very expensive. Such uncertainty coupled with such expense can be utilized by infringers to avoid respecting the patent property, especially those owned by independent inventors and small businesses, which in turn reduced the value of patents as an incentive to innovate. Therefore, a need exists for a fast, inexpensive method for increasing the certainty as to the enforceability and scope of a patent.

Accordingly, the subcommittee proposes that the PTO initiate a system for the reexamination of U.S. patents by any party requesting such reexamination during the life of the patent. The reexamination system should provide for submission of written arguments by the patentee and other interested persons concerning patentability over prior patents or printed publications. Such reexamination should be handled on an expedited basis by the PTO so that a prompt decision can be rendered. If the claims are held to be patentable over the cited art, the presumption of validity of the patent is enhanced and patentees and interested parties would have a clearer idea about the strength of the patent, without resorting to litigation. In some instances, the reexamination procedure should help avoid litigation costs.

If the patent claims were held to be invalid over the cited art, the patentee would have the right to amend his claims and to define his invention more accurately or assert his position to the Board of Appeals and, on appeal, to the Court of Customs and Patent Appeals or the U.S. District Court for the District of Columbia.

This reexamination system would be available whether or not the patent to be reexamined was already involved in litigation. In such case, however, it would be solely within the court's discretion as to whether the litigation should be stayed pending the reexamination, so as to avoid undue delays in obtaining a final court adjudication.

The importance of having prior art relied upon to invalidate a patent reviewed in the first instance by the PTO, when obtainable without delay of infringement litigation, cannot be too highly emphasized. Indeed, reliable statistics suggest that a significantly higher percentage of litigated patents are held invalid where prior art relied on in court was not previously considered by the PTO than was the case where the prior art had been so considered.[1]

The subcommittee recommends enactment of suitable legislation[2] to fully implement the reexamination system; in the interim, the subcommittee encourages the Commissioner to use his rule-making authority to institute reexamination to the fullest extent possible.

The net effect of this subcommittee's proposal for reexamination would be to provide a simple, inexpensive method of greatly improving the quality and reliability of those U.S. patents which have demonstrated commercial value and to avoid expensive and wasteful procedures with respect to noncommercial developments. It would also provide a system whereby competitors of the patentee can request a more accurate definition of the invention (claims) as guidance in their efforts to legitimately compete with the patentee.[3]

FOOTNOTES

[1] See Koenig, "Patent Invalidity—A Statistical and Substantive Analysis" (Clark Boardman Co., Ltd. 1976).

[2] Such as H.R. 14632, 94th Congress, January 30, 1976, as modified by Resolutions Two and Three of the August, 1977 annual meeting of the Patent, Trademark And Copyright Law Section of the American Bar Association, the effect of which is to (1) give the courts discretion to stay litigation for determination of the issue by the PTO, and (2) provide third parties who have initiated a reexamination proceeding to have an opportunity to submit a written response to the statements filed by the patentee.

[3] See Appendix H.●

By Mr. HATCH (for himself, Mr. GOLDWATER, Mr. CANNON, Mr. STEVENS, Mr. HELMS, Mr. GARN, Mr. ZORINSKY, Mr. DECONCINI, and Mr. JEPSEN):

S. 1680. A bill to provide for the cession and conveyance to the States of federally owned unreserved, unappropriated lands, and to establish policy, methods, procedures, schedules and criteria for such transfers; to the Committee on Energy and Natural Resources.

WESTERN LANDS DISTRIBUTION AND REGIONAL EQUALIZATION ACT OF 1979

● Mr. HATCH. Mr. President, I have introduced today a comprehensive bill which will correct a longstanding inequity in the adjudication of rights and privileges to the various States of the Union. This bill, entitled "Western Lands Distribution and Regional Equalization Act of 1979," establishes a mechanism by which States west of the 100th meridian may obtain rightful title to certain public lands within their respective boundaries.

In recent years, citizens of these Western States have experienced abnormally high levels of apprehension toward the Federal Establishment. This concern has directly resulted from the enactment of the Federal Land Management and Policy Act of 1976 and other, similar legislative and administrative measures that effectuated absolute control over many aspects of the public domain by Federal land managers. More specifically, it has been observed that in the absence of some form of external restraint, Federal land managers have interpreted discretionary legislative mandates to extremes with devastating effects on economic, social, and political institutions in those Western States where lands are preponderantly of Federal ownership.

---

*Member of the Working Group on Patent Policy.

Mr. President, no conceivable benefit to the American public can be derived from extreme and inflexible management of the national resource lands. This kind of management benefits only the politicians who have chosen to use the public lands as political cannon fodder in the battle for the votes of indignant dogmatists. Perhaps of greater significance, it benefits and fertilizes the inflationary growth of a Federal bureaucracy; the only true function of which is to preserve and proliferate itself at the public's expense.

I ask you, Mr. President, is it in the Nation's best interest, at a time when shortages of energy resources are causing civil strife and catastrophic economic disorder, to have precious resources, so abundant in the West, subjected to the whims and vagaries of the politically and bureaucratically inspired? I ask you—is it just to subject the unfortunate citizenship of a few of these United States to a degree of Federal involvement in their lives that most, if not all Americans, would find intolerable? Can you not imagine how BLM district managers might be likened to the sheriff of Nottingham, or colonial magistrates, by westerners?

The common solution to these critical problems is clear: The transferral of the unappropriated public lands to States' jurisdiction. The various Western States have repeatedly demonstrated the capability to manage public resources in an evenhanded, dynamic and effective fashion. They have, for decades, managed wildlife resources in such a manner that the resource has flourished and the harvest by all Americans has been abundant. The States have for decades, managed and regulated the most complex and technical aspects of oil and gas production and development on all lands within their borders. These activities by States clearly refute the argument that State control of the public domain would be dominated by parochial interests.

I believe that while the idea of a public land transfer has flourished for some time, what has been lacking is a mechanism to effectuate such a transfer. This bill provides that mechanism.

First, in an effort to avoid legislation that would contribute to the growth of Federal bureaucracy, the bill provides that Federal involvement in each transfer process will be conducted by a seven-person inter-agency "Federal Land Transfer Board." The membership of the Board will be appointed by the President each time an individual State applies for lands transfer and the Board will dissolve immediately upon completion of the particular transfer for which it was established.

Second, the bill provides a definite schedule of events that spans a maximum of 28 months be established during which applications that are in compliance with the act are pursued to completion.

Third, the bill requires that applicant States establish "State Land Commissions" to conduct the actual management of the subject lands after they are transferred.

Fourth, the bill stipulates that certain State legislation be passed prior to lands transfers which would insure that all contracts and covenants currently in force with the United States will continue uninterrupted under subsequent State jurisdiction.

Fifth, this proposal requires that specific management planning direction be provided the State land commissions.

Sixth, the bill provides extensive machinery to assist in the relocation and reemployment of Federal employees who may be displaced by the act.

Mr. President, this bill will allow the States to regulate their own course of affairs much better than they now can under the omnipresent hand of Federal regulators. It will put the decisionmaking power into the hands of Western States in the way that the same power has been vested in all other States. It will place all States on an equal footing as the Founding Fathers intended.

Last, it will prevent the further regulatory entanglement of western lands which has seriously curtailed the appropriate utilization of needed western resources.

I believe, Mr. President, that if this country is to overcome the crisis facing it today, it must utilize all of its resources; including the vast amount of natural resources in Western States. These resources will never be fully developed while the Government subjagates the Western States. We must act now to provide all States with equality. I urge my colleagues to support this concept.●

By Mr. PRYOR:

S. 1681. A bill to reduce paperwork in the administration of certain construction contract provisions of law relating to wage rates; to the Committee on Governmental Affairs.

Mr. PRYOR. Mr. President, the legislation I am introducing today is very simple but significant in its impact on the thousands of contractors for Federal construction work who get bogged down the senseless requirements of the Copeland Anti-Kickback Act, originally passed in 1934.

The bill simply requires that a contractor on a Federal public construction project submit a notarized statement at the beginning and the end of each contract with respect to the wages and fringes to be paid or which have been paid on the project.

Under current law and regulations, the contractor must submit weekly a copy of all payrolls to the contracting agency. The prime contractor is made responsible for assuring that all subcontractors used on the construction project adhere to the requirements, and for certifying and passing on the subcontractors weekly payrolls to the contracting agency. This is in addition to a requirement that payroll and other basic records relating thereto be preserved by contractors and subcontractors for a period of 3 years after the work is completed.

The required payroll report forms include the following: name and address of the contractor, project and location project or contract number, payroll number, week of filing, and for each employee his name, address, social security number, number of withholding exemptions, number of hours worked each day of the week, rate of pay, gross earnings, FICA, withholding tax and other deductions, and net wages paid for the week. Additional requirements include more certifications that no rebates have been made, and certifications about apprentices employed and about fringe benefits paid. It is not difficult to see that a large amount of time and manpower is needed to complete this information to be submitted each week.

These weekly payroll requirements are costly to the contractors and a significant contribution to the cost of construction. Verification of the weekly payrolls by Government personnel is a time-consuming and costly activity. According to a recent GAO report on Davis-Bacon, the estimated cost of complying with these administrative requirements was $202.5 million for 1976 and $201.6 million for 1977. Mr. President, this is a tremendous amount of money needlessly spent and this situation can be easily corrected with my amendment.

The requirements appear even more onerous when one realizes that they are not an effective enforcement tool. According to a 1972 report by the Commission on Government Procurement, few, if any, violations of significance were ever disclosed as a result of the Government's review and verification of weekly payrolls. The errors in position classification or rates of pay that are occasionally spotted are often mistakes in the records themselves rather than actual violations.

The paperwork involved in this reporting requirement is unnecessary. Whatever purpose it was originally intended to serve—whether to facilitate and assist the contracting agency in its enforcement responsibility or to help prevent fraud in administering the Davis-Bacon Act—it is obvious that these purposes are not being served now. The legislation I am offering would still guarantee that the contractors are meeting the enforcement responsibilities of the Davis-Bacon Act, but eliminate a huge amount of weekly paperwork so characteristic of our burgeoning bureaucracy today.

To give some examples of how burdensome these reporting requirements are: In 1971, a study group was formed to investigate controls over the Government procurement process. In their advisory report to the Commission on Government Procurement, contractors visited by the study group identified as a major item in their overhead the preparation of reports such as the weekly payroll records under Davis-Bacon. The report states that one firm, engaged in subcontracting work of which $700,000 of its 1970 volume of business was on Federal construction, estimated that it cost $5,000, or 2½ percent of its general overhead expense, to prepare and submit weekly payrolls. The report states further that the total cost of complying with the reporting requirements for all Government construction contracts annually is about $200 million. The Commission recommended that the requirement that contractors submit weekly payrolls be eliminated. In a recent report to the Congress, the General Accounting Office made this same recommendation.

Based on the statistical information provided by a sample of its membership, the Associated General Contractors estimated that one-half of 1 percent—$5,000 per million of contract—of overall contract costs was required for Davis-Bacon report requirements alone. With over 60,000 Federal construction contracts per year—totaling as much as $40 billion or more—a very small cost on each project or a very small percentage of contract costs for administration magnifies itself with alarming speed.

I might also point out that the submission of weekly payroll records is not required under other laws containing labor standard provisions. Compliance under such statutes as the Service Contract Act or the Fair Labor Standards Act is accomplished through employee interviews and inspections of payroll records maintained by the employer or the contractor.

In sum, the time and money required to complete the weekly payroll report is not well spent. These reports just go on to join endless, neglected mounds of paperwork sitting in a hundred Federal basements. With the adoption of this bill, millions of dollars can be saved every year, with absolutely no detrimental effects.

Mr. President, it is irresponsible for us to continue to allow these reporting requirements when they serve no needed purpose, while costing millions of dollars, and can be so easily corrected. Private businessmen and citizens in this country are resentful and sick of the heavy responsibilities an increasingly unresponsive Federal Government is placing on them. The reporting requirement is just the sort of picky, difficult regulation that makes our citizens doubt the competence and understanding of their national leaders.

While this legislation may seem small in the overall picture, it will substantially affect the day-to-day operations of thousands of contractors.

Mr. President, when I came to the U.S. Senate I pledged to my constituents that I would seek to reduce the redtape nightmare that is choking so many American businesses to death. Doubtless many of my colleagues made similar pledges, and I urgently ask them to join me today in this attempt to eliminate one more unnecessary regulation from the bureaucratic morass.

By Mr. JACKSON:

S. 1682. A bill to amend the Act of August 9, 1955 (69 Stat 539) (25 U.S.C. 415), as amended, to authorize a 99-year lease for the Moses Allotment No. 10 Chelan County, Wash.; to the Select Committee on Indian Affairs.

● Mr. JACKSON. Mr. President, normal Indian trust property administered by the Bureau of Indian Affairs may be leased for periods of up to 25 years with an option to renew for an additional 25 years. Exceptions to the normal practice have been authorized by statute on a case-by-case basis primarily for the purpose of facilitating commercial development of trust lands under appropriate circumstances. A longer term lease is required in order to obtain financing for substantial capital investments.

I am introducing legislation to authorize the Indian trust land comprising Wapato Point on Lake Chelan to be leased for a term of up to 99 years by the Wapato family. This bill would simply add the Wapato Point property to the list of trust properties previously included under 25 U.S.C. 415 as eligible for leases of up to 99 years. The Wapato family has requested this legislation.

I ask unanimous consent that the bill and a report of the Department of the Interior to me concerning this bill be printed in the RECORD.

There being no objection, the bill and report were ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of August 9, 1955 (69 Stat. 539) as amended (25 U.S.C. 415), is amended by striking out "and the Navajo Reservation" and inserting in lieu thereof the following: "the Navajo Reservation, and the lands comprising the Moses Allotment No. 10, Chelan County, Washington".

BUREAU OF INDIAN AFFAIRS,
Washington, D.C., July 23, 1979.

Hon. HENRY M. JACKSON,
U.S. Senate
Washington, D.C.

DEAR SENATOR JACKSON: Further reference is made to your inquiry and our acknowledgment of June 6 on behalf of the Wapato family and their request to extend the leasing period to 99 years by a special bill.

The Portland Area Office has the following to report:

The four owners to Moses Agreement Allotment No. 10 have entered into a lease for the development of their property with Wapato Point Development Co., Ltd. The lease term is for 25 years with an option to renew for an additional 25 years. The term is the maximum term allowable under Federal law. The limited term of this lease has created problems for the developer in their obtaining long term financing. The 99 year lease authority that the Wapato-Evans family is seeking through this proposed legislation was fully discussed prior to approval of this lease. The family raised the question: How could we get authority to legally obtain a longer term for the orderly development of our property? The Regional Solicitor's Office and the Bureau of Indian Affairs agreed the best method would be by special legislation. The Wapato-Evans family decided they would initiate a request to their congressional representatives, with assistance from their lessee.

The income generated to the Wapato-Evans family will be greatly increased and will benefit this family for generations to come. The Wapato-Evans family members are all direct descendants of the original allottee, Peter Wapato. The passage of the special bill would provide the family the ability to extend a longer term on their lease and would substantially facilitate long term financing, which would benefit the family and their lessee.

We concur with the recommendation of Portland Area Office that every effort be made toward obtaining passage of this proposed special bill.

Sincerely,
DAVID C. HARRISON,
Acting Director, Office of Trust Responsibilities.●

By Mr. HATCH (for himself, Mr. DOMENICI, and Mr. COCHRAN):

S. 1683. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the annual gift tax exclusion from $3,000 to $6,000; to the Committee on Finance.

● Mr. HATCH. Mr. President, I am introducing a bill to raise the gift tax exclusion from its current level of $3,000 to $6,000. The bill is designed to correct an inequity that has long been overlooked in our tax code.

The gift tax was first imposed in 1932 to prevent individuals from avoiding estate and income taxes by transferring property in the form of gifts. At that time, the law allowed a donor to give up to $5,000 to another individual without being taxed. After the $5,000 limit was reached, the donor was then taxed for any additional amount given.

In an effort to raise revenue during the Second World War, Congress lowered the gift tax exclusion to $3,000 in 1942. It has remained at that level ever since. Because today's dollar is worth less than one-fourth its value in 1942, it seems only reasonable that some adjustment must be made to raise the level of the gift tax exclusion.

It is not my desire to eliminate the gift tax; only to restore it to its original purpose. The bill I am introducing will begin that process. By adjusting the per donee exclusion to $6,000, a figure only half as large in real terms as the exclusion allowed in 1942, I believe Congress will be taking a necessary step in the right direction. Congressman NORMAN SHUMWAY has introduced an identical bill that has already received widespread support within the House of Representatives.

The failure of Congress to raise the gift tax exclusion is yet another glaring example of Government benefiting from inflation. As the value of the dollar declines, the Federal Treasury reaps the profit—at the expense of the already overburdened American taxpayer. I hope, Mr. President, that many of my colleagues will join me in helping to bring about this fair change in our Nation's law.●

By Mr. JOHNSTON:

S. 1684. A bill to encourage the development, improvement and operation of domestic refinery capabilities, and for other purposes; to the Committee on Energy and Natural Resources.

DOMESTIC REFINERY DEVELOPMENT AND IMPROVEMENT ACT OF 1979

● Mr. JOHNSTON. Mr. President, today I am introducing comprehensive legislation to establish a firm policy for the United States with respect to the refining of crude oil into gasoline, home heating oil and the other petroleum products so essential to the functioning of our domestic economy. We have had no coherent refinery policy for years and the state of our refinery capacity shows it.

We import approximately 2 million barrels per day of fuel from foreign refineries.

We cannot produce the unleaded gasoline and low sulfur oil our environmental laws require.

We cannot produce the home heating oil and diesel fuel our economy needs, despite the fact that practically all uses of these fuels are high priority uses.

During the recent domestic middle distillate shortages our dependence on imports resulted in very, very sharp increases in domestic prices. These increases were triggered almost entirely by speculation in the Rotterdam fuels market.

Our refineries are not prepared to process heavy, high sulfur crude oil, such as the crude oil produced in Alaska, which is increasingly available both domestically and on the world market.

The bill I am introducing today will, I hope, become the vehicle for correcting the deficiencies which have been fostered by our nonpolicy of past years. It will insure, by building the refinery capacity we need, that consumers need not face the threat of a continuing tightness in the supply of refined products. It will encourage new entry into the refining industry by independent firms, and, by promoting competition, guarantee that consumers will be more adequately served at lower prices.

This bill has been several months in preparation and contains specific approaches to a number of different problems in the refining industry. I ask unanimous consent that a section-by-section analysis of its provisions be included in the RECORD at the conclusion of my remarks. By way of summary, this bill—

Provides a basic 3 cents per gallon protection for domestic refineries from foreign refineries which operate in a situation characterized by lower taxes, lower wage scales, and far more relaxed environmental standards;

Directs that the funds generated in this way would be made available to inpendent firms to encourage such firms to supply formerly import-dependent regions with domestically refined petroleum products;

Provides that these funds will also be used to encourage the construction of new refineries and the modernization of existing refineries by independent firms to meet the national need for environmentally acceptable fuels;

Establishes a comprehensive program of Federal loan guarantees to provide capital to independent firms seeking to construct or modify domestic refineries;

Streamlines and shortens the process for obtaining the necessary permits for refinery construction and improvement; and

Provides for access to crude oil for small, independent firms engaged in refining in order that these firms may effectively compete with the major oil companies.

Mr. President, I expect to begin hearings on this bill soon after the August recess to begin the debate on the refining policy we need. A key feature of this debate, which cannot be forecast at this time, will be the proposal of the administration to establish quotas on the importation of crude oil and refined petroleum products. All we know about this proposal is what was contained in the President's recent energy message. Yet, these quotas will have far more impact on our energy situation in the short term than any other issue discussed in that speech. It will clearly have immense and, at present, totally uncertain implications for the domestic refining industry.

In what manner, how frequently, and by whom will the amount of the quota for each year be established?

Will the quota system contain a preference for crude imports over product imports?

If the quota system actually restrains imports of crude oil at some future date, will there be a fair method for allocating all crude, domestic as well as foreign, among domestic refineries?

If available crude is "allocated" by price, either by lifting all price controls on crude oil or auctioning the right to import crude, will the administration lift price ceilings on refined products? Conversely, will independent domestic refiners face a situation in which the price of crude is forced up by quotas while the price of refined products is artificially restrained by Government price and allocation controls?

Will any allocation system of crude oil under the quota provide access on an equal or preferred basis to new, expanded, or retrofitted refineries most able to serve our national needs for certain products?

Will the system encourage investment in refineries, particularly new refineries, with the potential of serving the east coast market now overly dependent on product imports?

What procedure, if any, will be established for enlarging the quota in "emergencies?" Will there be an "oil import appeals board?"

By what process will the above questions be answered? Will there be an opportunity for public input?

I intend that there will be a close congressional oversight of these matters and, if necessary, a legislative statement of the import policies which are necessary to maintain a healthy, competitive, and viable domestic refining industry.

During the 95th Congress the beginnings of a community of interest in domestic refinery policy was forged. This consensus was expressed in the form of a letter written to the Secretary of Energy by several Senators setting forth the view that a comprehensive refining policy is urgently needed. I ask unanimous consent that a copy of this letter be inserted in the RECORD at the conclusion of my remarks. I am looking forward to working with all my colleagues in the Senate as we attempt to renew this consensus, this time on legislation to put our ideas into effect.

Mr. President, the story of our past failures in refinery policy is a sad one. I ask unanimous consent that a brief compilation of recent materials setting forth this story be printed in the RECORD to underscore these points. I anticipate that we will receive a substantial volume of comment on the bill being introduced today. I hope we can get on with the job of putting together the legislation this country so desperately needs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 2. Statement of finding and Policy.

Section 3. Definitions.

The definitions of "small refiner" and "independent refiner" have the same definition as in the Emergency Petroleum Allocation Act except that the definition of "independent refiner" is based on refinery input as of the date of enactment of the Domestic Refinery Development and Improvement Act.

The definitions of "new refinery", "expanded refinery", and "retrofitted refinery" are all conditioned on ownership by small refiners or independent refiners, on construction commencing after the date of enactment of this Act, and on possession of refining characteristics essential to national needs. "New storage capacity" has a similar definition except that importers may be the owners of these new storage facilities.

Tho definition of "refining characteristics essential to national needs" includes references to crude oils of low gravity, desulphurizing capability, unleaded gasoline, enhancing competition in the refining industry, and other characteristics designated by the Secretary.

TITLE I. OFFICE OF REFINERY DEVELOPMENT

Section 101. Office of Refinery Development.

This section establishes an Office of Refinery Development within the Department of Energy to administer certain programs created under this act and to advise the Secretary of Energy on refinery matters.

Section 102. Refinery Development Fund.

This section creates a trust fund to be administered by the Secretary of Energy acting through the Office of Refinery Development. Fees obtained under Section 106 are placed in the fund and the fund is used to make the refined petroleum products of small and independent refiners more competitive with imported products in import-dependent regions of the United States.

Section 103. Qualification for Payments.

This section defines who qualifies for payments from the fund established under section 102.

Section 104. Amount of Payment.

This section directs the Secretary of Energy to determine the differential per barrel between the shipping rate actually paid and the amount that would have been paid had the quantity of refined petroleum product been shipped in a subsidized U.S. flag ship or a foreign flag ship. The Secretary is to pay that differential per barrel to qualified purchasers of refined petroleum products.

Section 105. Competition.

This section describes the conditions relating to market competition under which the Secretary of Energy may discontinue payments from the fund.

Section 106. Funding.

This section describes the source of funds for the Small and Independent Refinery Development Fund. Every barrel of foreign-refined petroleum product imported into the United States is subject to a fee of $1.26 per barrel and this fee will be adjusted for inflation.

Section 107. Effect on the Trade Expansion Act of 1962.

This section acts so as to remove the import fees imposed under authority of existing law on crude oil and petroleum product. Otherwise, there would be two fees imposed on imported petroleum products, one under section 106 and the other under existing law.

Nevertheless, this section does not alter the authority of the President to impose or remove fees under the Trade Expansion Act of 1962, but if he does so, he shall take into account the fee already imposed under the separate authority of Section 106.

Section 108. Exemptions.

Under this section small and independent refiners who refine crude oil in a new refinery, an expanded refinery, a retrofitted refinery or those who construct new storage capacity receive licenses exempting them for one year from the fee imposed under Section 106. The license is with respect to a specified number of barrels of imported products and this license is freely transferable.

Furthermore, under this section the President may exempt new small refiners from the petroleum pricing and allocation regulations altogether.

Section 109. Entitlements Treatment for the Nation.

This section requires the President to amend the DOE regulations to grant entitlements within certain limitations on imported residual fuel oil and No. 2 heating oil.

Section 110. Miscellaneous.

TITLE II. LOAN GUARANTEES

Section 201. Definitions.

Section 202. Federal Independent and Small Refinery Loan Guarantee Fund.

This section creates a $100 million loan guarantee fund that the Secretary of Energy shall use as a revolving fund to carry out the provisions of this title.

Section 203. Authorization of Secretary to Guarantee Obligations.

This section authorizes the Secretary to make loan guarantees and imposes restrictions on those guarantees.

Section 204. Eligibility for and Terms of Guarantee.

This section specifies the uses to which the obligations guaranteed under this title may be put. Further conditions are imposed on the loan guarantees and the Secretary is instructed to give priority in the granting of these guarantees to those projects which the Secretary determines are designed to have to the greatest extent refining characteristics essential to national needs.

Section 205. Defaults.

Section 206. Offenses and Penalties.

This section enumerates the offenses and penalties with respect to the loan guarantee program.

Section 207. Escrow Fund.

Section 208. Rules and Regulations.

This section authorizes the Secretary of Energy to conduct rulemaking as necessary and appropriate under this title.

Section 209. Appropriations.

$100 million is authorized to be appropriated to carry out this title.

TITLE III. PRIORITY REFINERY PROJECT ACT

Section 301. Authority to Designate Priority Refinery Projects.

The Secretary of Energy is authorized to designate priority refinery projects.

Section 302. Authority to Apply for Priority Status.

This section addresses applications requesting designation as a priority refinery project.

Section 303. Procedure and Criteria for Designating Priority Refinery Projects.

Under this section the Secretary of Energy determines whether a proposed refinery project is of sufficient national interest to be designated a priority refinery project. That determination is based on a list of enumerated criteria.

Section 304. Extension of Deadlines.

Section 305. Relation to National Environmental Policy Act.

This section provides that the Secretary's determination as to whether a project is a priority refinery project and the establishment of the project decision schedule do not necessitate the preparation of a Federal environmental impact statement.

Section 306. Early Action Requirement.

The purpose of this section is to encourage early prospective application for designation as a priority refinery project.

Section 307. Federal Agencies Required to Submit Information.

Under this section Federal agencies are to transmit to the Director various information and items needed for the final approval of the project.

Section 308. Project Decision Schedule Established by the Secretary.

Under this section the Secretary will compile and publish a Refinery Project Decision Schedule that contains all the deadlines for all Federal actions relating to the project and this decision schedule shall constitute the lawful decision-making deadlines for the project.

Section 309. Sanctions for Failure to Meet a Refinery Project Decision Schedule.

This section enumerates the sanctions applicable to a Federal agency that does not meet a deadline in a Refinery Project Decision Schedule.

Section 310. Exceptions to Procedures Required by other Legislation.

Under this section the Secretary may require a Federal agency to make its decision or take action under a Refinery Project Decision Schedule within a period of time that is shorter than that required under existing law.

Section 311. Certification of Completed Federal Agency Review.

Section 312. Request for State Cooperation an Information.

This section requires the Director to request information from the Governor of a State in which a priority refinery project is located so as to permit the Director to establish a decision schedule for State and local agencies.

Section 313. Decision Schedules for State and Local Authorities.

This section requires the Secretary to establish a decision schedule for State and local agencies. In addition, this section enumerates the sanctions to be applied against a State whose agency or local government is unable or unwilling to implement a schedule for timely review and decision. These sanctions include the withholding of federal financial assistance authorized by this Act and ultimately the Secretary may make the decision or take the action for the State or local agency, but by applying the State or local law which would otherwise have been applied.

Section 314. Waiver of Law.

This section enumerates the conditions under which State or local law may be waived.

Section 315. Precedence over Other Laws.

This section provides that actions of Federal officers or agencies pursuant to this title are not subject to judicial review except as provided in this title.

Section 316. Decision Regarding Priority Energy Project Status.

This section limits judicial review of the designation of a priority refinery project and the establishment, modification or extension of a Refinery Project Decision Schedule.

Section 317. Other Action Pursuant to this Act.

This section limits the period of time in which judicial review of a final agency action pursuant to this title is available.

Section 318. Time Bar: Jurisdiction of the Court of Appeals.

This section provides expedited judicial review directly to the U.S. Court of Appeals.

Section 319. Supreme Court Review.

Section 320. Injunctive Relief.

This section limits injunctive relief.

Section 321. Grant Program.

Under this section the Secretary is authorized to be appropriated funds to make grants to States to support the establishment and operation of a uniform expedited procedure for processing refinery-related siting and construction permits.

Section 322. Effective Date.

TITLE IV. CRUDE OIL ALLOCATION FOR SMALL REFINERS

Section 401. Eligibility for Allocation.

This section enumerates the conditions under which a small refiner is eligible for an allocation of crude oil under this title.

Section 402. Access to Imported Crude Oil.

One of the conditions of eligibility under Section 401 is that the small refiner is deemed not to have access to imported crude oil. This section defines the meaning of that phrase.

Section 403. Procedures and Rulemaking.

Section 404. Purchase Opportunities of Refiner-Buyers.

This section defines the size of the allocation of crude oil which a qualified small refiner may purchase under this buy-sell program.

Section 405. Emergency Allocations.

Under this section a small refiner may apply to the Secretary of Energy for an emergency allocation of crude oil. The criteria for eligibility for an emergency allocation is provided here as well as the amount of the emergency allocation and the priority under which requests for allocations will be granted.

Section 406. Leased or Purchased Refineries.

This section states that leased or purchased refineries are eligible for allocations if the owner or lessee is a small refiner.

Section 407. Computation of the Total Allocation Obligation of Refiner-Sellers.

This section states that the total allocation obligation of refiner sellers as a whole is equal to the sum of the volumes of crude oil that all the refiner-buyers are eligible to purchase.

Section 408. Individual Allocation Obligation of a Refiner-Seller.

This section determines how much crude oil a refiner-seller is obligated to sell to a small refiner. Refiner-seller is defined in Section 3.

Section 409. Notification.

This section directs the Secretary of Energy to prescribe procedures for carrying out this title.

Section 410. Price Restrictions.

This section limits the price for crude oil that a refiner-seller may charge a refiner-buyer pursuant to this title.

Section 411. Dates of Effectiveness.

Section 412. Review of Eligibility, Purchase Opportunities and Emergency Allocations.

[Exerpts from the Annual Refining Report, Oil and Gas Journal, Mar. 26, 1979]

U.S. REFINING GAINS ARE LACKLUSTER

(By Leo R. Aalund, refining editor)

Some five years of congressional and bureaucratic influence on the U.S. energy system is again clearly reflected in this year's survey of the U.S. refining industry.

At a time when the lusty appetite of Americans for gasoline is whetted further by federal crude-oil and gasoline price controls, the refining industry is poorly positioned to respond this summer—if crude oil is available and if gasoline price hikes or a possible recession don't dampen demand.

Combined capacity of the four major gasoline making and octane boosting processes (catalytic crackling, catalytic reforming, hydrocracking, and alkylation) climbed only 64,000 b/d, or 0.6 percent, last year to stand at 10.58 million b/d the first of this year (Table 1).

Primary distillation capacity rose only 1.9 percent to 17.2 million b/cd.

Of course, the weakness in conversion capacity gains is not surprising in that gasoline (and jet fuel until recently) is price controlled. Payout is chancy under these conditions.

Also, 1979 or 1980 had been predicted to be the last year of gasoline consumption growth. The auto fuel economy law was to improve the mileage of the U.S. auto fleet so much that a plateau, then a downturn in demand would occur. But the lawmakers left a loophole in the law big enough to drive a van or light duty truck through. Sales of these inefficient exempted vehicles have been stunning of late and their drivers are shattering forecasts that weigh heavily on the mandatory fuel economy measures.

The current weak growth in conversion capacity is also evident from another aspect—a comparison of this capacity with primary distillation capacity. Since 1972, except for a bump upward in 1975, the year Detroit turned in earnest to the production of autos requiring unleaded gasoline, the ratios have been going downward. This trend must be tempered, however, by several facts:

The industry's current low ratio is still much higher than that of any other industrial nation in the world.

There has been over the charted period a vast amount of modernization of catalytic reforming capacity, which doesn't translate into capacity gains. But the major benefit from this is octane, not gasoline volume.

The ratio is diluted by the expansion or construction of refineries with little or no downstream conversion capability. Large expansions and one new 200,000 b/d grassroots refinery several years ago that were designed to fill an expected market in low sulfur heavy fuel oil helped dip the ratio. The last major, high-conversion grassroots refinery went on stream in the U.S. almost seven years ago. That was Mobil Oil's Joliet, Ill., unit. None are now being built.

Another strong depressing factor comes from the numerous tiny refineries that have proliferated as a result of the small refinery entitlement bias. Since January 1, 1974, according to Department of Energy statistics, over 40 of these grassroots refineries have been built and added about 430,000 b/d of crude capacity.

But they added practically no gasoline making or high sulfur crude oil capability to industry totals. The ratio of conversion to crude capacity of these small hydroskimmers is about 10 percent compared to some 59 percent for the industry as a whole.

As Table 2 reveals, bimetallics now fill over 67 percent of U.S. cat reforming capacity as compared to 29 percent the first of 1972.

Crude capacity. A sizeable increase in crude distillation capacity of 515,000 b/d is expected this year. This comes from numerous incremental expansions and small refineries. For that reason, and given the uncertainty of the current world crude oil situation, the increase can hardly be described as firm.

Phillips Petroleum Co. and Dow Chemical Co. account for the bulk of the new crude capacity expected next year. Both have projects near Freeport, Tex. Dow has delayed the timetable for its project several times. It now says 1980 startup. Initial capacity has apparently been decreased to 180,000 b/d from 200,000 b/d. The refinery will have no conversion capability. The Phillips modernization includes major conversion and high sulfur crude units.

But the share of distillation capacity that larger companies hold decreased as of the first of this year (Table 1) and is expected to go down further by Jan. 1, 1980.

Upturn. But there is expected to be a sizeable upsurge in catalytic cracking and reforming and alkylation capacity during 1979. This is related to the Environmental Protection Agency's edict that the lead in the gasoline pool must be reduced to 0.5 g/gal by October of this year.

The first step in this phasedown program was due to go into effect January 1, 1978. But the EPA, apparently fearing it would prompt a gasoline shortage, waived the deadline for 70 larger refineries, accounting for about 67 percent of U.S. refining capacity (smaller ones were exempted from phasedown). To obtain the waiver the larger refineries had to submit plans showing they had octane upgrading projects underway. Much of the conversion capacity surge will be due to that.

There will also be a great deal of modernization of catalytic reforming and cracking capacity that isn't reflected in the expansion. This is mirrored in part of the anticipated growth in hydrotreating capacity because several major refiners are converting their cat reformers from conventional to bimetallic catalysts that require treated feedstocks.

TABLE 1 —LULL IN CRUDE AND DOWNSTREAM GROWTH TO END IN 1979

	Capacity, 1,000 b/d			Construction, 1,000 b/d		
	As of Jan. 1, 1979	Volume change from Jan. 1, 1977	Percent change from Jan. 1, 1978	Estimated percent change by Jan. 1, 1980	1979 completions [1]	1980 completions [1]
Crude b/cd	17,169.9	+321.2	+1.9	+3.0	515.0	445.0
		Feed, b/sd				
Thermal operations	1,496.6	−.5	------	+7.0	105.3	6.8
Cat reforming	3,794.4	[2] +29.8	+.8	+6.6	252.0	96.7
Cat cracking (fresh feed)	4,985.4	+28.7	+.6	+4.6	232.0	119.4
Cat hydrocracking	887.0	−25.6	−2.8	------	------	20.0
Other hydroprocessing	7,892.2	+116.6	+1.5	+7.3	578.8	344.7
		Product, b/sd				
Alkylation	919.9	+31.7	+3.4	+6.0	55.5	11.4
Aromatics and isomerization	387.9	−10.7	−2.7	+14.7	57.0	5.0
Lubes	231.9	−4.7	−2.0	0	0	------
Coke, ton/day	45.2	−1.0	−2.1	+3.0	+1.4	.3
Asphalt	814.4	+41.4	+5.4	+.7	+5.9	5.0

[1] Based on known projects. Does not include factor for debottlenecking or shutdowns.
[2] Cat. reforming capacity as of Jan. 1, 1978, has been revised to 3,764.6 b/sd.

TABLE 2.—CAT REFORMING MODERNIZATION REACHES NEW PEAK

Type reformer: Catalyst	Capacity Jan 1, 1972, 1,000 b/sd	Percent of total	Capacity Jan 1, 1978, 1,000 b/sd	Percent of total	Capacity Jan 1, 1979, 1,000 b/sd	Percent of total
Semiregenerative: Conventional	1,421.0	44.8	616.6	16.3	562.0	14.8
Cyclic: Conventional	743.4	23.4	785.3	20.8	599.8	15.8
Other: Conventional	80.8	2.6	63.1	1.7	63.1	1.7
Semiregenerative: Bimetallic	874.8	27.6	2,009.6	53.1	2,179.4	57.4
Cyclic: Bimetallic	------	------	215.5	5.7	297.1	7.8
Other: Bimetallic	49.1	1.6	91.5	2.4	93.0	2.5

TABLE 3.—HYDROPROCESSING OF IMPORTANT STREAMS SHOWS GOOD GROWTH

	Capacity 1,000 b/sd, Jan. 1, 1978	Capacity 1,000 b/sd, Jan. 1, 1979	Percent change
Hydrorefining:			
Resid and heavy gas oil	[1] 532.2	571.7	+7.4
FCC and cycle stock pretreatment	[1] 655.9	632.7	−3.5
Mid distillate	727.3	703.3	+3.3
Visbreaking and other	29.3	50.4	+72.0
Hydrotreating:			
Cat reformer feed and naphtha desulfurization	3,603.0	3,671.9	+1.9
Straight run distillate	[2] 527.4	605.9	+14.9
Other distillate and material	[2] 1,411.4	1,381.8	−2.0
Lube oil polishing	169.7	156.6	−7.7
Naphtha olefin and aromatic saturation	120.4	117.9	−2.0

[1] Revised from 515.2 on Jan. 1, 1978.
[2] Revised from 519.4 and 1,419.4 on Jan. 1, 1978.

TABLE 4.—SMALL REFINERS AGAIN HAVE BIG CRUDE CAPACITY HIKE—BUT LAG IN CONVERSION

	Companies with more than 200,000 b/d crude capacity		Companies with less than 200,000 b/d crude capacity	
	Jan. 1, 1979	Jan. 1, 1978	Jan. 1, 1979	Jan. 1, 1978
Number of companies	20	20	133	125
Number of refineries	112	112	177	173
Capacity, b/cd	13,427.6	13,267.4	3,742.3	3,578.6
Capacity, b/sd	14,078.7	13,897.9	3,972.2	3,718.5
Percent of U.S. total (b/cd basis)	78.2	78.8	21.8	21.2
Cat cracking (F.F.), b/sd	4,274.5	4,235.2	710.9	721.5
Percent on crude	30.4	30.4	17.9	19.4
Cat. reforming, b/sd	3,179.6	3,170.3	614.8	611.3
Percent on crude	22.6	22.8	15.5	16.4
Hydrocracking, b/sd	853.8	865.4	30.1	47.3
Percent on crude	6.0	6.2	0.8	1.2
Other hydroprocessing, b/sd	6,787.7	6,658.2	1,104.4	1,118.4
Percent on crude	48.2	47.9	27.8	30.0
Alkylation, b/sd	771.9	756.7	145.4	131.4
Percent on crude	5.5	5.4	3.7	3.5

TABLE 5.—PROCESSING PROFILE OF LARGE REFINING COMPANIES [1]

Company and rank	Refineries	Crude capacity, b/cd (1,000 b/d)	Crude capacity, b/sd (1,000 b/d)	Cat cracking (fresh feed), b/sd	Cat reforming, b/sd	Hydro-cracking, b/sd	Other hydro-processing, b/sd	Alkylation, b/sd
1. Exxon	5	1,574.0	1,666.0	502.2	314.5	73.9	1,051.6	79.2
2. Chevron	12	1,464.5	1,539.4	258.0	309.5	192.0	663.2	41.1
3. Amoco	10	1,238.0	1,295.3	487.0	267.8	59.0	436.8	68.1
4. Shell	8	1,151.0	1,213.0	398.7	290.8	77.5	744.5	76.4
5. Texaco	12	1,098.0	[2] 1,155.8	452.2	259.4	38.9	476.1	69.0
6. Gulf	7	911.6	935.9	333.9	212.5	37.5	382.9	76.4
7. Mobil	7	891.0	937.6	357.0	264.5	50.7	536.1	65.3
8. Arco	4	834.0	872.0	132.0	228.0	88.0	520.6	16.2
9. Marathon	4	526.0	545.0	101.5	108.9	22.0	181.0	22.1
10. Union Oil	4	490.0	513.0	138.0	142.0	51.0	264.2	27.7
11. Sun	5	484.0	510.0	205.0	140.3	26.0	161.0	41.9
12. Sohio/BP	3	452.0	480.0	140.7	137.7	80.0	249.2	19.5
13. Ashland	7	382.0	395.0	136.0	64.0	------------	254.2	17.5
14. Continental	7	361.0	375.0	95.0	86.9	------------	143.1	18.0
15. Phillips	5	302.0	316.3	131.5	90.8	------------	197.6	38.9
16. Coastal States	3	295.0	311.6	29.8	55.0	3.0	94.0	5.5
17. Cities Service	1	291.0	306.0	125.0	46.0	------------	96.0	33.0
18. Champlin	3	240.0	247.5	84.0	46.3	------------	103.7	22.1
19. Getty	2	220.5	232.0	93.0	63.5	20.0	177.3	18.0
20. Tosco (Lion)	3	222.0	232.3	74.0	51.2	34.0	54.8	16.8
Total	112	13,427.6	14,078.7	4,274.5	3,179.6	853.8	6,787.7	771.9

[1] Companies controlling more than 200,000 b/d of capacity.
[2] Not reported—calculated.

SIGNALS TO THE DOMESTIC REFINING INDUSTRY REGARDING THE CLIMATE FOR FURTHER INVESTMENT

Date, event, and documentation

December 5, 1974: Federal Energy Administration petroleum product price regulations deny the inclusions of capital investments by refineries when computing the expenses involved in producing refined products; 39 Fed. Reg. 42368 (December 5, 1974).

July 21, 1976: The FEA proposes rules increasing protection for the domestic refinery because the present level of protection is too low. However, it refuses to raise protection to the level indicated by "security consideration alone." The proposed level of protection is "minimum" according to the FEA rulemaking; 41 Fed. Reg. 30058 (July 21, 1976).

February 16, 1977: Federal Government adopts regulations subsidizing imports of more heating oil to the East Coast. Actions involved cost/sharing by domestic refiners across the nation; 42 Fed. Reg. 9379 (February 16, 1977) and New York *Times* (February 10, 1977).

May 10-12, 1977: Carter Administration statements concerning proposed COET estimate that domestic refiners will be forced to absorb one-third of the cost of COET due to the pressure of world markets on U.S. prices; *see* White House statement: May 10, 1977, *Overall Economic and Budgetary Impact of the National Energy Plan*, as reported in the *Daily Executive Reporter, Bureau of National Affairs*, No. 93, May 12, 1977.

June 10, 1977: Joint Committee on Taxation staff report outlines Carter Administration's estimate that refiners would absorb one-third of the proposed increase in costs due to COET; *see* Joint Committee on Taxation report on *Crude Oil Equalization Tax and Rebate*, June 10, 1977 (House Ways and Means Committee Print).

June 17, 1977: Deputy Secretary of Energy, John O'Leary, states before the Subcommittee on Antitrust and Monopoly of the Senate Judiciary Committee that: (a) the present fee level on imported refiner products is sufficient to maintain the competitive viability of the domestic refining industry; (b) if a differential in the $1.88 to $3.26 range, per PACE study, is needed, it would raise a serious question as whether or not we want the on-shore additional refining capacity; and (c) if everything works under the NEP we will not need substantial additions to refinery capacities but that if everything doesn't work, we will have a serious problem in this country; testimony before subcommittee on Antitrust and Monopoly of the Senate Judiciary Committee.

July 13, 1977; Alfred F. Dougherty, Jr., Director of the Federal Trade Commission Bureau of Competition, in a letter to Senator Edward Kennedy (D-Mass.) states that the NEP may cause refined product imports to rise which will deter "domestic *de novo* refining entry and [created] a relative advantage to foreign refineries." He goes on to say that "the market pressure of these foreign imports could severely depress domestic refinery margins; letter to Senator Kennedy from Mr. Dougherty.

July 13, 1977: House Ways and Means Committee Report states that COET could cause the domestic refining industry to be placed at a competitive disadvantage in relation to foreign refiners, and that the Administration should take appropriate action to protect against this eventuality; House Ways and Means Committee, Energy Tax Act of 1977, H.R. Doc. No. 94–596, 95th Congress, 1st Sess. 79 (1977).

August 26, 1977: Federal Energy Administration issues regulations, effective September 1, 1977, which prevent firms which use the net cost method to compute marine transportation costs in crude from recovering the cost of capital for an equity status vessel; 42 Fed. Reg. 43054 (August 26, 1977).

October 5, 1977: The Federal Energy Administration amends the Oil Import Program and expands the fee-exempt license program for residual fuel oil imports; 42 Fed. Reg. 54255.

February 22, 1977: Al Alm, Assistant Secretary of the Department of Energy, states that the Administration opposes the Haskell Amendment which would clarify the President's discretionary authority to take actions he deems necessary to ensure that imports of refined products do not threaten or impair our national security; letter from Al Alm to Mr. Clyde A. Wheeler, Jr., V.P. of Sun Co.

April 1978: Administration officials indicate that they are seriously considering imposing import fees on crude oil. Crude fees without corresponding fees on imported products would escalate domestic refining cost vis-a-vis foreign refineries; Finance Committee consideration of Dole Amendment, April 10, 1978.

June 1978: Congressional Budget Office report states that crude fees would affect "the scale and competitiveness" of domestic refineries and "might jeopardize U.S. refineries position vis-a-vis refineries in Europe and the Caribbean"; CBO publication (#95–110); Direct Federal Action on Oil Imports: An Analysis of Import Fees and Quotas.

June 4, 1979: ERA analysis memorandum concerning residual fuel oil amendments to Entitlements Program indicates that foreign refineries may receive benefits while domestic refiners are hurt; *see* December 4, 1978 memo from Akin & Gump.

June 15, 1978: DOE officially publishes its proposals to increase the entitlements subsidy for imported residual fuel oil from 50% entitlement to a 100% entitlement. All domestic refiners would be required to pay for this subsidy; 43 Fed. Reg. 26551 (June 20, 1978).

October 7, 1978: Senator Edward Brooke (R–Mass.) states on Senate floor that DOE has promised to propose a suspension of the 63-cent import license fee which will reduce protection for domestic refiners; *see* December 4, 1978 memo.

October 10, 1978: OPEC claims industrialized nations are obstructing OPEC countries from participating in the making of finished petroleum products; Washington *Post*.

October 10, 1978: It is reported that while U.S. refiners puzzle over whether they should build plants at home, OPEC is campaigning for a bigger stake in the world's refining and petrochemical industry; *Wall Street Journal*.

October 12, 1978: OPEC demands aid from oil consuming countries in developing petroleum refining industries; *See* Washington *Post*.

November 15, 1978: DOE Secretary Schlesinger states his willingness to allow the United States to become more dependent upon imports of petroleum products; Secretary Schlesinger's press conference.

December 11, 1978: At hearing before Senate Energy and Natural Resources Committee, DOE endorses further reliance on additional foreign product imports to deal with sudden gasoline shortages. Senator Jackson criticizes proposal to decontrol gasoline; he believes that the Senate would veto gasoline decontrol; O'Leary's statement and Washington *Post*, December 18, 1978.

December 19, 1978: DOE increases the quantity of residual fuel which may be imported into PAD District I not subject to license fees; 43 Fed. Reg. 59458.

January 2, 1979: Department of Interior releases letter opposing Corps of Engineers approval of Hampton Roads Energy Co.'s plan to build a refinery in Virginia; Copy of letter, press release and Washington *Post* article, January 3, 1979.

January 16, 1979: EPA refuses to grant the Pittston Co. a water pollution discharge permit for the Company's planned Maine refinery. EPA cites the possible danger to the bald eagle as primary objection to the refinery proposal; EPA Notice of Determination to Deny NPDES Water Discharge Permit No. ME0022420 and Washington *Post,* January 17, 1979.

January 16, 1979: DOE adopts a standby mandatory crude oil allocation and refinery yield control program. This gives the ERA administrator the power to implement the program in a variety of ways to affect all or selected refiners. The knowledge that this program could be applied at any time plus the fact that ERA will review the regulations continuously so that can be made as needed injects tremendous uncertainties to the refinery investment decision process; 44 Fed. Reg. 3418 (January 16, 1979).

January 18, 1979: DOE adopts standby product allocation and price regulations and imposed allocations fractions program. The ERA administrator may order any or all of the provisions of these special rules into effect on a national or regional basis, at any level of distribution, and upon any or all refined products; 44 Fed. Reg. 3928 (January 18, 1979).

March 1, 1979: DOE adopts amendments to allocate increased costs to gasoline on a greater than *pro rata* volumetric basis. However, gasoline controls continue; 44 Fed. Reg. 15,600 (March 14, 1979).

[From the Wall Street Journal, June 27, 1979]

HOSTILE RECEPTION: LOCAL OPPOSITION HALTS OIL-REFINERY PROJECTS ALONG THE EAST COAST—SOME GAS SHORTAGES TRACED TO LIMITS ON REFINERIES; OILMEN ARE FRUSTRATED—"EVERYBODY CAN SAY NO"

(By Douglas Martin)

PORTSMOUTH, VA.—John K. Evans, a transplanted Welshman, claims he knows one good reason why gasoline supplies are so tight along the East Coast: There simply aren't enough refineries to turn crude oil into gasoline. Mr. Evans says it makes him downright angry to realize that the last major East Coast refinery was built in 1957.

The 72-year-old oil-business promoter is an expert on the subject because for the past 14 years he has been roaming from Maine to Georgia trying to build a large refinery. His latest attempt, which has been going on since 1974, is to build a large, modern refinery on the west bank of the Elizabeth River here. He hasn't succeeded, and neither has anyone else, despite more than 30 separate attempts in the past 20 years.

The reason for the failures, a government study of 24 failed attempts concludes: People don't want a large refinery in their backyards and they have become skilled at enlisting government red tape to turn back promoters' efforts. "You can never build a refinery if the people in a local community object," says Donald O'Hara, president of the National Petroleum Refiners Association. "We have reached the stage of participatory democracy where almost everyone in the society can say 'no' but no one can say 'yes,'" complains Energy Secretary James Schlesinger.

THE "NO'S" HAVE IT

The voicing of too many "no's" is finally catching up with energy consumers in the East. The East Coast gobbles up a third of all petroleum products consumed in the U.S., but only refines a quarter of its needs. The rest has to be brought in by tankers from overseas and by pipeline and barges from refineries in Texas and on the Gulf Coast, where the industry's major expansion has been concentrated. This not only increases consumers' costs but also adds to distribution problems.

The fuel shortage is likely to worsen in the East. An Energy Department study estimates that the East Coast needs five to 10 major new refineries by 1985. "We cannot overstate the seriousness of the need," Deputy Energy Secretary John O'Leary says.

There are just 19 large refineries along the East Coast from Maine to Florida. But the actual capacity is less than this because only 11 can make gasoline, and one of these has been closed down for environmental reasons. These plants are running at approximately the national average rate of 84.5% of capacity, but the Energy Department wants this raised to 87%, and others want it raised even higher. The oil companies say they are processing as much oil as they can prudently take out of their inventories. But the Energy Department is pressing them to reduce their inventories faster to increase the use of available capacity and thus produce more fuels.

Not all of the Eastern refineries producing gasoline can also refine the higher grades of unleaded gasoline, and not all of the Eastern refineries can produce low-sulphur heating oil. This is creating a tight market for two products increasingly in demand.

SHORT-SIGHTEDNESS

Opposition and red tape aren't the only reasons for the small number of plants: Government shortsightedness can also be blamed. Although the government limited imports of crude oil throughout the 1960s, it placed minimal restrictions on imports of "residual" oil for generating plants, which adeqautely supplemented the residual oil being produced by the Eastern refineries. It made sense to import as much as possible because the foreign product was cheaper than the domestically refined oil. All that, of course, ended with the Arab oil embargo that began in 1973 and the subsequent price increases. But until then it hadn't appeared justifiable to build new refineries on the East Coast, with the exception of a few small plants that can only produce residual oil.

Now Washington is trying to catch up, and a top-level task force is reviewing a range of possible measures to promote refinery investment, including protective tariffs. In addition, a group of senators from the Northeast and from oil-producing states is calling for a broad program of incentives.

Even today not everyone agrees on the need for new refineries. Government projections show the percentage of oil consumed in the U.S. that is also refined in this country increasing by three percentage points—to 91.2%—over the five years ending in 1981. Some oil-industry people say that these figures show that there is no impending crisis and that the U.S. has adequate refining capacity, even if it isn't all in the most ideal locations. They note that it costs about one billion dollars to build a big refinery from scratch. "How do you compete against such a plant that's already paid for? That's the real problem," one oilman says.

PROBLEMS WITH EAGLES

But other oil-industry people believe that the impending shortfall of refining capacity is very real, and promoters are struggling up and down the East Coast to build new refineries. Pittston Co. has been trying to build a 250,000-barrel-a-day refinery in Eastport, Me., since 1973, but the project has been stalled by government worries about the plant's effect on bald eagles and whales. "We seem hopelessly hung up with bureaucracy," sighs Pittston vice president Arthur Kaulakis. In the meantime, he says, the cost of the project has more than doubled to $750 million.

Usually, companies give up in despair. Crown Central Petroleum Co. fought fierce opposition to a proposed refinery in Baltimore harbor for more than five years before dropping the idea. Now the company has proposed building a refinery near Wilmington, N.C., but already an opposition group has sprung up.

Mr. Evans, the promoter who opened this story, is determined to hang on in his effort to build a 175,000-barrel-a-day refinery at Portsmouth, Va. He has bruises to show for his previous efforts. He struggled for almost four years to put up a refinery on the banks of Virginia's Nansemond River, but he was defeated by environmentalists who objected to plans for an undersea pipeline running into the plant. And in the mid-1960s he tried, unsuccessfully, to build refineries in Maine, Rhode Island and Georgia.

But he did succeed in building a refinery near Waikiki Beach, Hawaii, in 1971. It has been his sole successful refining venture to date.

Mr. Evans is a burly, mustachioed man who left his home in Wales at the age of 14 and spent several years at sea. He worked for over 30 years for Royal/Dutch Shell, and for nearly two decades he has traveled the world promoting various oil-business ventures.

His job is to seek out investors to back projects ("I've had a number of very rich friends," he says with a wink). For the proposed Portsmouth refinery he was able to attract Cox Enterprises Inc., a privately held publishing company that is trying to diversify. But as the opposition has dragged on, Cox has spent more than $6 million without seeing a girder being put into place. Mr. Evans, who has poured in $500,000 of his own money, laments that "we've got lawyers coming out of our ears."

When Mr. Evans first had the idea for the plant in 1971, the cost was estimated at $100 million. By 1975 it had reached $350 million. Now the cost has soared to $650 million.

The sour, stalemated history of Mr. Evans' refinery, named the Hampton Roads Energy Co. after the deep harbor it would overlook, can be largely explained by local opposition. An opposition group called CARE (for Citizens Against Refinery Effects) has gathered the signatures of 13,000 local people who oppose the refinery.

The refinery's opponents make a number of arguments, not the least of which is that the area, with over a million people, has a high incidence of certain types of cancer. Three local medical societies contend that the cancer rate could be increased by emissions from the refinery.

Then there are economic arguments based on the devastating effect that a tanker oil spill could have on the area's seafood industry. "Wherever refineries have been located, we've lost our oysters," says Cranston Morgan, the owner of a seafood-processing company. An oil spill also could harm tourism, another major source of local revenue. "We depend entirely on the clean beaches and clean air," says Michael Savvides, a restaurateur in the area.

But there also are residents who believe that the refinery would aid the faltering economy of the area. Supporters speak of the 50% increase in local real-estate taxes the refinery would provide, as well as the 400 jobs that Mr. Evans has promised. "The opposition is mainly composed of free loving hippies and wealthy elitists," railed a recent editorial in the Virginia Observer, a local labor newspaper.

Now the bitter fight shows signs of entering a new stage. The chief engineer of the Army Corps of Engineers, which is responsible for gathering evidence of the project's worth, has recommended that the plant be built. The Secretary of the Army has promised a final decision by the end of July. But Joanne Berkley, a leader of CARE, says the opposition group will probably file suit against a favorable decision. National environmental groups are offering CARE their financial support.

Hampton Roads Energy also has been forced to contend with a bewildering number of environmental regulations, including rules governing atmospheric emissions, hazardous-waste disposal and water pollution. "This is a horrible time in the history of environmental laws to try to get permits," says George Pence of the Philadelphia office of the Environmental Protection Agency.

Although the EPA has granted virtually every permit that Hampton Roads Energy has requested, the agency has recommended that the Secretary of the Army kill the project. Officials say that although the company was able to prove that it would provide adequate controls, the agency believes the overall ecological effect could be disastrous. "You'r mortgaging the future of the area," says one agency official.

To come this far, the leaders of CARE have attended more than 20 federal and state hearings, have produced hundreds of pages of written comment and have brought several lawsuits. "We've been called terribly clever," says Mrs. Berkley. "What we're clever for is understanding the system." ●

By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 1685. A bill to designate certain lands in the State of Missouri as wilderness; to the Committee on Energy and Natural Resources.

MISSOURI WILDERNESS

● Mr. EAGLETON. Mr. President, as you are aware, the Department of Agriculture earlier this year completed its review of the National Forest System's lands for potential wilderness areas. The program, the roadless area review and evaluation II, or commonly known as RARE–II, called for 15 million acres of roadless lands for wilderness, 11 million acres for further planning, and 30 million acres for nonwilderness. It is, of course, up to Congress to finally resolve the proposed allocation of these lands.

Today, Senator DANFORTH and myself are pleased to submit a bill that would designate four areas in Missouri's Mark Twain National Forest as units of the National Wilderness Preservation System. These four areas were recommended by RARE–II for wilderness, and there is consensus within the Missouri delegation that they be so protected.

At the same time that my colleague and I introduce this bill we recognize that other areas in Missouri deserve to be studied more closely for their potential wilderness qualification. Specifically, there are seven areas in the Mark Twain National Forest that did not emerge from RARE–II with protected status. Various members of the Missouri delegation have today cosigned a letter to Secretary Bergland expressing their concern that these seven areas be protected administratively until we, and the Forest Service can more thoroughly study them.

The four areas are superb remnants of Missouri's original landscape. They are rich in wildlife and rustic Ozark scenery. Three of these areas have been formally recognized as wilderness study under previous legislation, and all have been carefully defined during the RARE–II process.

We are pleased to propose the national designation and are confident that the wilderness areas constitute an exceptional contribution to our Nation's wilderness preserves.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1685

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the purpose of the Wilderness Act (78 Stat. 890), the following lands as generally depicted on maps appropriately referenced, dated July 1979, are hereby designated as wilderness and components of the National Wilderness Preservation System:

(1) certain lands in the Mark Twain National Forest, Missouri, which comprise about eight thousand five hundred and thirty acres, as generally depicted on a map entitled "Bell Mountain Wilderness, Proposed," dated July 1979, and shall be known as the "Bell Mountain Wilderness";

(2) certain lands in the Mark Twain National Forest, Missouri, which comprise about four thousand one hundred and twenty acres, as generally depicted on a map entitled "Rockpile Mountain Wilderness, Proposed," dated July 1979, and shall be known as the "Rockpile Mountain Wilderness";

(3) certain lands in the Mark Twain National Forest, Missouri, which comprise about eight thousand four hundred and thirteen acres, as generally depicted on a map entitled "Piney Creek Wilderness, Proposed," dated July 1979, and shall be known as the "Piney Creek Wilderness";

(4) certain lands in the Mark Twain National Forest, Missouri, which comprise about six thousand seven hundred and fifty-eight acres, as generally depicted on a map entitled "Devils Backbone Wilderness, Proposed," dated July 1979, and shall be known as the "Devil's Backbone Wilderness".

SEC. 2. As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area with the Energy and Natural Resources Committee of the United States Senate and the Interior and Insular Affairs Committee of the United States House of Representatives, and each such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in each such legal description and map may be made and such maps shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

SEC. 3. Wilderness areas designated by this Act shall be administered in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.●

By Mr. ROTH (for himself, Mr. RANDOLPH, Mr. STAFFORD, and Mr. BIDEN):

S. 1686. A bill to designate the building known as the Federal Building in Wilmington, Del., as the "J. Caleb Boggs Building"; to the Committee on Environment and Public Works.

J. CALEB BOGGS BUILDING

● Mr. ROTH. Mr. President, as a long time friend and admirer of the Honorable James Caleb Boggs, Senator from Delaware in the period 1947–73, I take the greatest satisfaction in introducing a bill to designate a Federal office building in Wilmington, Del., as the J. Caleb Boggs Building, in honor of a public servant unparalleled in nature.

If ever there can be said to have been a man worthy of the honor here involved, it would have to be Senator Boggs whose political performance rendered him outstanding in every conceivable respect.

Born on a farm in Kent County, Del., in 1909, and initially educated in the Delaware public school system, he did his undergraduate work at the University of Delaware and obtained his law degree at Georgetown in Washington, D.C. Entering the law profession in his native State, he attracted wide attention through his considerable abilities and soon was appointed judge of the Family Court of New Castle County.

In the meantime, Judge Boggs had enlisted in the Delaware National Guard as a private, and later, obtained a commission with which he entered World War II. Assigned to the European theater, he engaged in five campaigns, acquiring through frequent displays of courage and military capacity, the Legion of Merit, the Bronze Star with cluster, and the Croix de Guerre with Palm. Upon his discharge from the service at the close of hostilities, he obtained the Republican nomination for an at-large seat in the 80th Congress, and was handsomely elected. In the famous battles between President Truman and the 80th Congress, Representative Boggs declared for economy in government and fought the President tooth and nail, through the election of 1948.

Although Truman was the winner in that contest, at the national level, Representative Boggs carried his district once again with a magnificent majority. He was once more reelected in 1950, and in 1952 won the Governorship, in the same year that Dwight D. Eisenhower was elected President.

As Governor, J. Caleb Boggs revealed an executive ability unmatched throughout the country, in my humble opinion. Careful with State finances, yet imbued at all times with a full recognition of the needs of the people, he expended what funds needed expending, without extravagance and to the overwhelming satisfaction of the voters. When he stood for reelection in 1956 he was returned to office with a sizable majority. In 1957, he was elected chairman of the National Governors' Conference, and in 1960, served with distinction as president of the Council of State Governments.

At the close of his second term in the state house, Governor Boggs was offered and accepted the 1960 Republican nomination for U.S. Senator. He was once again elected, and when he sought a second Senate term in 1966, he was once again successful. In the Senate, he served with high capacity and wide recognition as a member of the Committees on Appropriations, Public Works, and Post Office and Civil Service.

The record established by this remarkable son of Delaware was one of outstanding performance, worthy of the greatest praise. On all problems brought to his attention he performed in the manner of the finest kind of legislator, responding with alacrity and always with that same resourcefulness which never seemed to fail him.

In his 12 years in the Senate and in his many years in public life in general, J. Caleb Boggs revealed himself as one man in a million, a true and earnest friend of the people.

It is highly appropriate that he be honored as this measure seeks to honor him today, and for that reason, I am pleased to introduce S. 1686, a bill to name a Federal building after the Honorable J. Caleb Boggs, former U.S. Senator from Delaware.●

By Mr. LUGAR (for himself and Mr. CRANSTON):

S. 1687. A bill to amend title 10, United States Code, to eliminate certain limitations imposed on excess profits arising from any contract with any military department of the United States for the construction or manufacture of all or part of any complete aircraft or any contract with the Secretary of the Navy for the construction or manufacture of all or part of any complete naval vessel, and for other purposes; to the Committee on Armed Services.

● Mr. LUGAR. Mr. President, I am pleased to join my colleague, Senator ALAN CRANSTON, in introducing S. 1687 to repeal the Vinson-Trammell Act. This legislation is identical to H.R. 3254, introduced in this Congress by Congressman McCLOSKEY. Enactment of this legislation is essential if the Congress is to avoid reimposing unnecessary and confusing reporting burdens on firms contracting with the Department of Defense similar to those which were only recently eliminated by the termination of the Renegotiation Board.

Last Congress Senator CRANSTON and I authored legislation to place the Renegotiation Board in abeyance until such time as the President declared a national emergency. A majority of the Senate Banking, Housing, and Urban Affairs Committee agreed with us and the legislation was reported out for consideration by the full Senate. Although S. 2791 remained on the calendar for the balance of the 95th Congress, the Board's activities were finally terminated through the appropriations process.

The statutory authority for the Renegotiation Board expired September 30, 1976, but the Board continued to conduct business through annual appropriations from the Congress until March 31 of this year when the 6 months appropriation provided for the current fiscal year expired.

The expiration of the Renegotiation Board's authority on September 30, 1976, automatically reinstated the Vinson-Trammell Act, a relic of pre-World War II, as its application had only been suspended by the renegotiation statutes of World War II and the Korean War, including the Renegotiation Act of 1952.

Vinson-Trammell was enacted in 1934 to place a ceiling of 10 percent profits on shipbuilding contracts and was amended in 1939 to include a 12 percent ceiling on aircraft construction contracts. Compliance with Vinson-Trammell would entail considerable additional expense to ship and aircraft contractors in meeting reporting requirements—a factor which weighed heavily on the Congress in allowing the Renegotiation Board to expire.

An additional irony exists here in that the Defense Department's "Profit '76" study indicated an average pretax return on defense sales of 3.7 percent for aircraft and 0.6 percent for naval vessels, both clearly within the profit limits set by Vinson-Trammell. Although the Internal Revenue Service, which has enforcement authority under the statute, has not yet published new proposed regulations to implement Vinson-Trammell, considerable effort has been expended by IRS to draft regulations to implement this superflous statute. Congress must act to avoid this absurd result.

The Department of Defense believes that Congress should repeal Vinson-Trammell.

In a letter to IRS Commissioner Kurtz on May 22, 1978, DOD Assistant Secretary William Perry (Research and Engineering) said in part:

> The existing Treasury Department regulations . . . implementing the Act were first published in 1939. These regulations do not take into account changes in laws and IRS and DOD regulations that were made during the period of Vinson-Trammell Act Suspension.
>
> Our statistics on defense contract profit levels lead us to doubt that substantial amounts of excess profit will be collected under the Act. The data from our "Profit '76" study indicated an *average pre-tax return on defense sales of 3.7 percent for aircraft and .6 percent for naval vessels*. Moreover, the context for administration of the Vinson-Trammell Act profit limitations has changed substantially in the 43 years since enactment of that statute.
>
> *These and other considerations have led us to conclude that the Vinson-Trammell Act is out of date and should be repealed.* (emphasis added)

To allow Vinson-Trammell to remain on the books would contradict the fundamental rationale underlying the Congress explicit decision to let the Renegotiation Board go out of business. Clear and convincing evidence was presented to the Congress that the Renegotiation Board was an unnecessary agency, imposed expensive reporting burdens on businesses, and in the final analysis was counterproductive to an efficient defense production industry.

To allow the automatic reinstatement of the anachronistic Vinson-Trammell Act requirements would produce the same results, and, therefore, the Congress should act expeditiously to repeal it.●

REPEAL OF THE VINSON-TRAMMELL ACT

● Mr. CRANSTON. Mr. President, I am pleased to join my colleague Senator LUGAR as a cosponsor of his bill to repeal the Vinson-Trammell Act of 1934, as amended in 1936 and 1939.

The Vinson-Trammell Act dates back to the time when President Franklin D. Roosevelt asked Congress to modernize America's then-antiquated Army Air Corps and Navy. The act established a profit limitation of 12 percent on contracts to build airplanes and 10 percent on contracts to build ships. The act does not cover contracts for missiles, tanks, vehicles, guns, and other items of defense procurement.

The act is administered by the Internal Revenue Service which is to add up the profits and losses on all contracts of the taxpayer for the tax year just ended, and then assess a tax on the amount exceeding the limitation. At the time, 1939, the Internal Revenue Service had only a fraction of the work it now performs. The personal income tax hardly affected the majority of citizens, and other tax matters were relatively uncomplicated.

The Vinson-Trammell Act is out of date, has not been enforced for more than a quarter of a century and is relevant today only because of a quirk in the law.

The Vinson-Trammell Act preceded the renegotiation statutes of World War II and the Korean war. Those statutes suspended the Vinson-Trammell Act for the duration of renegotiation. When the Renegotiation Act of 1952 finally expired on September 30, 1976, the Vinson-Trammell Act automatically was reactivated.

After years of dormancy, this Rip Van Winkle statute suddenly appeared on the doorsteps of the Internal Revenue Service and the Department of Defense.

IRS wisely responded by doing nothing. No regulations reimplementing the statute have been issued and for a very good reason: The Vinson-Trammell Act, like old Rip, simply is not suited to today's defense procurement conditions.

Defense procurement has come a long way since the 1930's when the Vinson-Trammell Act was last seriously considered by Congress.

Since that time we have the Truth-in-Negotiations Act, a powerful sanction which promotes sound and open negotiations between the Government and defense contractors. And, the Cost Accounting Standards Board has accomplished pioneering work in establishing common standards of accounting for contract costs so that the Government can better determine what costs it actually is paying for in a negotiated contract.

Procurement officials and contracting officers are highly trained competent individuals today. Contracting officers have power to conduct onsite audits at any time during the performance of a contract. Upon renewal of a contract full opportunity exists for the Government to review performance of the contractor and to insist upon a better price if the contracting office thinks the Government did not receive the best possible bargain.

Vinson-Trammell, on the other hand, deals with an after-the-fact situation. The contractor has completed his work, IRS adds up his wins and losses and then taxes the overage, in addition to his regular taxes. The procurement agency could not care less. In fact, the Vinson-Trammell Act is an open invitation to inefficiency and waste since costs can always be charged against the profits of a contract, thereby bringing the contractor below the profit limitation.

It is not in the interest of the Government or the taxpayer to establish a system which rewards waste but penalizes efficiency. The Vinson-Trammell Act is designed to do just that.

Our best protection against price-gouging and profiteering must be strong cost-conscious procurement practices.

Defense procurement drains the Treasury primarily by costly, unnecessary, and poorly conceived weapons systems. A second source of a great fiscal drain is cost overruns due to poor contract negotiations, poor planning by both Government and the contractor, and poor contract management by the Government.

Billions in waste and inefficiency can be saved through continued improvements in defense procurement practices. Good negotiations followed by strong management of the contract on the part of government will greatly reduce profiteering and price gouging by reducing opportunities for these practices to occur. We do not need another layer of bureaucratic enforcement after-the-fact to do the job.

Retaining Vinson-Trammell affords little or no advantage to the Government. Compliance and enforcement will be time consuming, confusing, and expensive for both the Government and contractors. Repeal simply removes from the books what is virtually dead letter law.

By Mr. MATHIAS (for himself, Mr. HUDDLESTON, and Mr. WALLOP):

S. 1688. A bill to amend the Internal Revenue Code of 1954 to clarify the extent to which a State or political subdivision may tax certain income from sources outside the United States; to the Committee on Finance.

● Mr. MATHIAS. Mr. President, in April I introduced a new interstate taxation bill that sought to solve comprehensively the many problems that face businesses engaged in interstate commerce. That bill—S. 983—has been well received and I look forward to hearings on it late this year or early next year.

Two of the major issues addressed in my bill—worldwide combination of corporate income for State tax purposes and the taxation of dividends—were recently the subject of some debate in the course of the Senate's consideration of the United States-United Kingdom Tax Treaty. These two issues in particular need further focussed debate in both Houses and for that reason I today introduce with my distinguished colleagues a scaled down version of my interstate taxation bill. I am pleased to note that an identical bill has just been introduced in the House by Mr. CONABLE of New York..

With the introduction of these bills, I hope that we will sharpen the debate on the most important issues that separate us.

Article 9(4) of the United States-United Kingdom Income Tax Treaty would have limited the use of the worldwide combined reporting system (WCRS) by the States in assessing taxes of corporations doing business in this country, which are affiliated with foreign corporations not doing business in this country. The article was removed by reservation.

During the Senate debates, much importance was placed upon the objection to article 9(4) as applied to the States in that such limitations via a treaty did not afford an opportunity to provide a full legislative hearing involving both Houses of the U.S. Congress. Both the House of Representative and the U.S. Senate have addressed the problem caused by the use of the worldwide combined reporting system. In 1976 a task force on foreign source income chaired by Congressman DAN ROSTENKOWSKI recommended that States be precluded from taking into account, under the unitary method or any other method, income of foreign affiliates of corporations doing business within the State until such time as that income is subject to Federal income tax. In the report of the Committee on Foreign Relations of the U.S. Senate of June 15, 1979, regarding the United States-United Kingdom Tax Treaty, the committee urged "the tax writing committees of the Congress—the Finance and the Ways and Means Committees—to hold hearings in the very near future" in order to permit all sides of the issue to have their views known for the record.

The attached bill would limit the use of the worldwide combined reporting system so that a State in imposing an income tax on any corporation could not take into account any amount of income of, or attributable to, any foreign corporation which is also a member of an affiliated group of corporations, unless such amount is subject to Federal income tax.

The purpose of the section of the bill regarding dividends, which will become section 7518(e) of the Internal Revenue Code of 1954, is to bring the taxation by States of dividends into accord with the Federal Government procedure as recommended by the Rostenkowski task force and to specify that in taxing dividends from foreign corporations, or from domestic corporations treated as foreign corporations, the fact that they have paid taxes overseas will be taken into account.

The Federal Government has not used the worldwide combined reporting system, but relies on the arms-length method of taxation. The attached bill would eliminate the chances of double taxation and insure that the United States speaks with one voice in matters of foreign commerce.

I urge all of my colleagues to give the bill their closest scrutiny, and I ask unanimous consent that the text be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as as follows:

S. 1688

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

(a) Chapter 77 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions is amended by adding at the end thereof the following new section:

"SEC. 7518. INCOME OF CORPORATIONS ATTRIBUTABLE TO FOREIGN CORPORATIONS.

"(a) IN GENERAL.—For purposes of imposing an income tax on any corporation, no State, or political subdivision thereof; may take into account, or include in income subject to such tax, any amount of income of, or attributable to, any foreign corporation which is a member of any affiliated group of corporations which includes both such corporations unless such amount is includable in the gross income of such corporation for purposes of chapter 1 (including any amount includable in gross income under subpart F of part III of subchapter N of chapter 1) for the taxable year in which or with which the taxable period (for purposes of State or local law) ends.

"(b) INCOME TAX DEFINED.—For purposes of this section, the term 'income tax' means any tax which is imposed on, according to. or measured by income.

"(c) AFFILIATED GROUP DEFINED.—For purposes of subsection (a), the term 'affiliated group' means a common parent corporation and one or more chains of corporations connected through stock ownership with such common parent corporation.

"(d) CERTAIN CORPORATIONS TREATED AS FOREIGN CORPORATIONS.—For the purposes of this section, a domestic corporation shall be treated as a foreign corporation if under section 861(a)(2)(A) a dividend received from such corporation in the taxable year referred to in subsection (a) would not be treated as income from sources within the United States.

"(e) CERTAIN DIVIDENDS PAID OR DEEMED PAID.—

(1) DIVIDENDS EXCLUDED FROM TAX.—If a corporation receives in any taxable year a dividend from a foreign corporation (or is by application of section 951 treated as having received such a dividend), in imposing an income tax on such corporation no State, or political subdivision thereof, may tax, or otherwise take into account—

(A) in the case of a dividend received from a corporation described in subsection (d), the amount of the deduction allowed by section 243 or the amount not taken into account in determining the tax liability of an affiliated group of corporations in accordance with section 1502, or

(B) in the case of a dividend to which subparagraph (A) does not apply, more than the lesser of—

(i) the amount of the dividend (exclusive of any amount determined under section 78), or (ii) the amount by which the dividend plus any amount determined under section 78 exceeds the excluded portion of the dividend determined in accordance with paragraph (2).

(2) EXCLUDED PORTION OF A DIVIDEND.—The excluded portion of any dividend shall be determined by multiplying the amount of the dividend (including any amount determined under section 78) by a fraction—

(A) the numerator of the fraction shall be the sum of

(i) the total amount of tax withheld from all such dividends at the source, and

(ii) the total amount of tax which by application of section 902 or section 960 to all such dividends, the domestic corporation is deemed to have paid.

(B) The denominator of the fraction shall be 46 percent of all such dividends. For the purposes of this section, only a tax for which a credit against tax would be allowed under section 901 (determined without regard to the limitation in section 904) shall be taken into account.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable periods (for purposes of State or local law) beginning after December 31, 1978.

(c) AMENDMENT OF THE TABLE OF SECTIONS.—The table of sections for chapter 77 of such Code is amended by adding at the end thereof the following new item:

"Sec. 7518. Income of corporations attributable to foreign corporation."●

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 1690. A bill to provide for conveyance of certain lands near Fairbanks, Alaska, to the University of Alaska; to the Committee on Energy and Natural Resources.

Mr. STEVENS. Mr. President, the bill which I introduce, for myself and Mr. GRAVEL today, concerns the conveyance of approximately 76 acres of Federal land near Fairbanks, Alaska, to the Mine Field Laboratory of the University of Alaska's School of Mineral Industry. This land contains mineral prospects, including zinc, gold, lead, silver, tungsten, and molybdenum, and the Federal conveyance is coordinated with a State conveyance of about 445 additional acres, which comprises the extent of the mining claims of a well known Alaskan miner, Mr. Turry Anderson. The purchase of these claims is in process and must be arranged before the Federal conveyance could occur. Public donations, including a $25,000 grant from the State, have been collected to do this. These funds also will be utilized to purchase the existing mining-related structures on the total 520 acres, which includues a 600-foot adit and a small mine plant. Similar conveyances have obtained successful results for the University of New Mexico, the Colorado School of Mines, and Michigan Tech.

This bill provides a beneficial conveyance of Federal lands for an in-the-field learning experience to complement the present facilities and curricullum at the University. The University agrees with the position of the Engineers' Council for Professional Development that such a working and authentic facility is a necessity for maintaining accreditation status in their mining engineering and geological engineering programs. The Mine Field Laboratory will be able to offer instruction in detailed geological mapping and location of mineralized zones, mine surveying and drilling, blasting, mucking, track laying and timbering and also students will be able to accomplish applied and basic research.

The University at one time had a working mine adit, plant and mill, but this has long since been exhausted and its utility has been limited to basic observation. Another piece of University property contains an adit, but which has difficult access and is partially caved. It would be uneconomical for the school to remedy this situation. Contrary to this situation, the mining facility of this bill is easily reached and the adit is secure and has track and ventilation hose for its full extend and is well-timbered where necessary. There is an adequate electrical lighting system underground and various other supporting supplies and equipment.

Public tours of the operations will continue to be given to provide tourists a chance to view several items of memorabilia which were used in the prospecting, mining, and milling industry of another era.

This bill is the most expedient vehicle by which this important facility can fulfill these worthy dual purposes. I am hopeful that the Congress will give this measure favorable consideration. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to the conditions and limitations specified in this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey to the University of Alaska all right, title, and interest of the United States in the following described land comprising approximately seventy-six acres:

E½SE¼SW¼NE¼SE¼, N½SW¼SE¼NE¼SE¼, S½S½SE¼NE¼SE¼, E½NE¼NW¼SE¼SE¼, NE¼SE¼SE¼, N½SE¼SE¼SE¼, N½S½SE¼SE¼SE¼, S½SE¼SE¼SE¼SE¼, section 8; W½SW¼SW¼, S½SW¼NW¼NE¼SW¼SW¼, SW¼NE¼SW¼SW¼, SE¼SW¼SW¼, W½W½SW¼SE¼SE¼SW¼, SW¼SE¼SW¼, S½SW¼NW¼SE¼SW¼, section 9; N½N½NW¼NW¼NW¼, N½NE¼NW¼NW¼, N½NE¼SE¼NE¼NW¼NW¼, NW¼NE¼NW¼, N½NE¼SW¼NE¼NW¼, N½NW¼SE¼NE¼NW¼, W½NE¼NE¼NW¼, section 16; township 2 north, range 1 east, Fairbanks, Meridian, Alaska.

SEC. 2. Conveyance under this Act shall be made only (a) upon the Secretary being satisfied that no valid mining claims exist on the described lands, other than the unpatented mining claims of Turry F. Anderson; and (b) upon the condition that the described land shall be held and used by the University of Alaska and shall not be conveyed by the university.

SEC. 3. No conveyance shall be made unless application for conveyance is filed by the university with the Secretary within six months of the date of approval of this Act.

SEC. 4. The Secretary may in his discretion require that he be furnished a perimeter survey of the described lands. All costs of obtaining such survey and any costs of supplying the Secretary with the proof that no valid unpatented mining claims, other than those held by Turry F. Anderson, exist on the property, shall be borne by the university.

SEC. 5. No conveyance shall be made under this Act until the university has shown to the satisfaction of the Secretary that all right, title, and interest of Turry F. Anderson to unpatented mining claims in the above described lands have been conveyed to the University of Alaska.

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment:

S. 1691. An original bill to provide for improvements in the structure and administration of Federal tax courts, and for other purposes (Rept. No. 96-306). Referred to the Committee on Finance until not later than December 31, 1979, by unanimous consent.

TAX COURT IMPROVEMENT ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that the original bill reported today by the Committee on the Judiciary to provide for improvements in the structure and administration of the Federal tax courts, and for other purposes, be referred to the Senate Committee on Finance for a period not to extend beyond December 31, 1979.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. MELCHER (for himself and Mr. MUSKIE):

S. 1692. A bill to amend the Federal Mine Safety and Health Act of 1977; to the Committee on Labor and Human Resources.

Mr. MELCHER. Mr. President, I am today joining with my distinguished colleague from the State of Maine (Mr. MUSKIE) in introducing legislation which is designed to deal with a classic case of bureaucratic and regulatory overkill by the Federal Government against our local and State governments. Our bill, S. 1692 which closely parallels the provisions of the Occupational Safety and Health Act of 1970, provides that State and local governments will not be subject to the Federal Mine Safety and Health Act of 1977, as amended, unless the individual State elects such coverage pursuant to a State-administered mine safety and health plan.

Our reasons for introducing this legislation may be summarized as follows. First, the Federal Mine Safety and Health Act of 1977 and the training regulations issued pursuant to the act by the Mine Safety and Health Administration (MSHA), effective on October 13, 1978, impose an onerous new financial and administrative burden on local and State governments which was never intended by the Congress and which has not been justified by any demonstrated need. Second, there is a substantial legal question as to whether the act may be constitutionally applied to local and State governments.

We have heard much in recent days concerning the impact of the act and of the MSHA training regulations on private sector sand, gravel and stone operations. Numerous Members of Congress and industry representatives have pointed out the substantial economic and administrative burden being placed on small, private operators by the act and the training regulations. But while the plight of the private operator has received much deserved attention, I am not sure how many of us realize that the Office of Solicitor of the U.S. Department of Labor has recently issued an opinion interpreting the act as applying to State, county and municipally-owned or operated sand, gravel and crushed stone operations despite the absence in the act's legislative history of any express indication of congressional intent that local and State governments were to be covered.

While there do not seem to be any accurate statistics regarding the number of State and local government sand, gravel and stone operations, it appears that there are hundreds, or perhaps, thousands, of such operations throughout the Nation. Generally, State and local governments extract sand, gravel and other granular materials for a single basic purpose—public road maintenance and improvements. Sand, gravel, and other materials are removed by State and local government employees from State and local government-owned or operated pits, and such materials are used solely for road maintenance and improvement.

Furthermore, the great majority of such operations appear to be entirely local in scope. Governmental entities are not in the business of selling gravel, sand and crushed stone to other users. In most cases, those Government employees which work in sand and gravel pits perform a variety of other functions relating to public road maintenance and construction including transporting materials to road sites, sanding of roads for highway safety purposes, repairing paved and unpaved roads on a continuing basis and dealing with emergency situations such as road washouts.

Based upon my conversations and meetings with numerous local government officials from my own State and from other States, I firmly believe that most local and State governments simply do not have the administrative and financial capacity to comply with the various mandates of the act and the regulations issued by MSHA. As noted recently by Mr. MUSKIE, "MSHA's training requirements and other regulations would impose unreasonably complex procedures on nonspecialized and undermanned local governments."

While Congress clearly stated in section 103(e) of the act its intention to minimize the administrative burden imposed by the act on mine operators, I do not believe the question was ever addressed as to what the administrative and financial impact of the act would be on local and State governmental entities.

Needless to say, while at least large private operators can pass on the substantial costs of compliance to others in the market distribution chain, governmental entities do not have such an option. Operating under severe budgetary and other financial constraints, local government highway departments, in order to comply with the act, must either reduce the level of service to the public or locate an additional source of revenue by increasing the tax burden on the public. And since many local and State governments are operating under State constitutional or statutory taxation and spending limitations, those entities will have no alternative but to cut back on highway personnel and reduce road maintenance and improvement activities.

While the act with its system of enforcement inspection, and recordkeeping procedures arguably may be suited to the requirements of large, private sector sand, gravel, and stone operations, it clearly is not tailored to the realities of local and State government operations. This point applies with particular force to the mandatory penalty provisions of the act.

Under section 104 of the act, if an MSHA inspector believes that a violation of the act or of a mandatory standard has occurred, he must issue a citation irrespective of the significance of the violation or the operator's prior safety and health record. Section 110(a) further provides that the operator "shall be assessed a civil penalty" for any violation of a mandatory standard or of other provisions of the act. Thus, unlike the Occupational Safety and Health Act of 1970 where the Secretary of Labor is accorded administrative discretion to determine whether or not a civil penalty should be proposed in cases of "nonserious" violations of OSHA, the act grants no such administrative discretion. In my view, it is extremely difficult to see how the imposition of such mandatory monetary penalties against financially hard-pressed local or State governments meets a compelling public policy objective particularly when it is considered that the cost of such penalties must be borne, in one way or another, by the public.

In addition to the substantial problems imposed by the act itself, the MSHA training regulations mandate an unduly restrictive and complex system of training on local and State governments. The training standards which are applicable to all mines under the act require each mine site to have a written training plan approved by the MSHA training center chief having jurisdiction over the mine. Five specific types of training are set forth in the regulations: new miner training, newly employed experienced miner training, task training, annual refresher training, and hazard training. Newly employed miners are required to receive 24 hours of training; 12 specific courses are required as well as any additional courses which the training chief deems appropriate. A minimum of 8 hours of annual refresher training is prescribed; 10 specific courses must be covered. In addition, the regulations mandate extensive, repetitive, and time-consuming bookkeeping to maintain the records of training and certification including requirements relating to submission of written training plans for each mine (as opposed to each operator), training and qualification of instructors and the retention of records at the mine site.

To illustrate the impact of the act and of the MSHA training regulations on local and State governments, I would like to cite the case of Missoula County, Mont.

Missoula County, which has a population of approximately 65,000 and is located in the western part of Montana, operates several sand and gravel pits during the summer in connection with its winter-sanding and road maintenance and paving activities. County officials have informed me that they operate these pits at a considerable savings to Montana taxpayers. They calculate that if they were forced to close down their sand and gravel operators, it would cost approximately three times as much to purchase sand and gravel materials from outside sources.

Nevertheless, Missoula County is seriously considering closing down its sand and gravel pits because of the financial and administrative burden imposed by the act and the MSHA training regulations. County officials believe it will cost between $10,000 and $15,000 in order to comply with the various dictates of the act and the MSHA training regulations. This figure may not appear particularly significant until it is considered that the total county road budget for this year is only $2 million. When we consider that Missoula County has an outstanding safety record in its sand and gravel pits, never having experienced a serious accident, and that the county prides itself in maintaining an excellent safety and health training program for its employees who work in the sand and gravel pits, the fact that county officials may be forced to close down their sand and gravel operations indicates the magnitude of the regulatory burden being imposed by the act and the MSHA regulations on local and State governments.

There are hundreds of other counties across the Nation which face similar problems in attempting to comply with the act and MSHA regulations. When combined with the effects of spiraling inflation and stringent revenue limitations, I am forced to conclude that the act and the MSHA training regulations will inevitably result in a substantial reduction in the level of service provided by local and State highway departments to the public.

Before I conclude my remarks, Mr. President, I think it also should be briefly indicated that there is a serious legal question as to whether or not there is a Federal constitutional bar to extending application of the Federal Mine Safety and Health Act of 1977 to State and local governments. In a statement submitted to the Labor and Human Resources Committee on May 11, the National Association of Counties (NACo) argues that extension of the act to State and local governments violates the U.S. Supreme Court's decision in *National League of Cities* v. *Usery*, 426 U.S. 833 (1976). NACo specifically takes issue with the Department of Labor's view that a local government sand and gravel operation is not a traditional governmental activity but rather is a "commercial" activity which is not within the ambit of the Usery decision. It points out that this view ignores the fact that virtually all State and local government sand, gravel, and stone operations are conducted for a single noncommercial purpose—public road maintenance and improvement, a traditional State and local function dating back to colonial times.

It should be noted that State and local governments are specifically exempted from the Federal Mine Safety and Health Act's sister statute, OSHA. I have to assume that it was considerations of federalism and concern regarding the possible unconstitutionality of extending OSHA's coverage to State and local governments which served as primary motivating factors in granting this exemption. Our bill, S. 1692, does nothing more than bring the Federal mine safety statute into line with OSHA.

Mr. President, I am a strong supporter of Federal occupational safety and health laws. I voted for the Mine Safety and Health Act when it was enacted in 1977 because I was appalled at the fatality and injury record in this industry. However, at that time, I was not aware, nor, I suspect, were most of my colleagues aware, that the act could be stretched to include local and State governments.

There is a distressingly pervasive attitude in this city that the Federal Government always knows what is best for State and local governments. I want to make the record unequivocally clear: The county commissioners and city officials of Montana and throughout the Nation care just as much about the safety and health of their employees as does any Member of Congress or any other Federal official. Indeed, they may care more since the potential accident victims are their friends and neighbors. Counties in my State have established excellent safety and health training programs for their employees which are specifically tailored to the realities of local government sand and gravel operations. No need has been demonstrated to replace these programs with a uniform miner safety and health program dictated from Washington, D.C. Our bill appropriately places the responsibility for establishing and maintaining effective safety and health programs for local and State sand, gravel, stone, and clay operations on those layers of government in our Federal system which are best equipped to make these decisions—local and State governments.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3 (d) of the Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 802 (d)), is amended by inserting immediately before the semicolon at the end thereof a comma and the following: "but does not include any State or political subdivision of a State".

(b) Section 4 of such Act is amended by inserting immediately before the period at the end thereof a comma and the following: "except that in no case (other than as provided for in section 117 of this Act) shall any coal or other mine owned by any State or political subdivision thereof be subject to the provisions of this Act".

SEC. 2 Title I of the Federal Mine Safety and Health Act of 1977, as amended, is amended by adding at the end thereof the following new sections:

"SEC. 116. Upon the request of any State or political subdivision thereof which owns or operates any coal or other mine, the Administration is authorized to make available to such State or Subdivision safety and health training opportunities and materials and other data for use by such State or subdivision in the operation of such mines.

"SEC. 117. (a) Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any mandatory health or safety standard issue involving a coal mine or other mine owned by such State or a political subdivision thereof.

"(b) Any State which, at any time, desires to develop and enforce any mandatory health or safety standards established by or pursuant to this Act in connection with coal mines and other mines owned by any such State or political subdivision therein may submit a State plan to the Secretary for the development of such standards and their enforcement.

"(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modifidation thereof, if such plan in his judgment—

"(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

"(2) provides for the development and enforcement of mandatory health and safety standards relating to one or more safety or health issues, which standards (and the enforcement of which standards) will be at least as effective in providing safe and healthful employment and places of employment as the mandatory health and safety standards promulgated pursuant to this Act which relate to the same issues;

"(3) provides for a right of entry and inspection of all work places subject to such State standards which is at least as effective as that provided in this Act for mines subject to the provisions of this act, including a prohibition on advance notice of inspections;

"(4) contains satisfactory assurances that such agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards;

"(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards; and

"(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive training and education program for operators, agents, and miners involved in State-owned coal and other mines.

"(d) If the Secretary rejects a plan under this section, he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.".

By Mr. MELCHER:

S. 1693. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so; to the Committee on Labor and Human Resources.

Mr. MELCHER. Mr. President, I am introducing a bill, S. 1693, to provide that workers with bona fide religious convictions against joining a labor union may instead contribute an amount equal to the union dues to a nonreligious, nonlabor charity of their choice.

A similar bill passed the House last year but failed to survive in the Senate as part of the labor law reform bill. The AFL–CIO is on record as supporting this type of legislation. I know of no one who opposes it.

Several States, including Montana, have this "conscience clause" as a provision in State law. Supporters of the proposal have been seeking appropriate congressional action for over 15 years. I see no reason why there should be any further delay.

By Mr. DOLE (for himself and Mr. COHEN):

S. 1694. A bill to amend the Internal Revenue Code of 1954 to make permanent the allowance of a deduction for eliminating architectural and transportation barriers for the handicapped and to increase the amount of such deduction from $25,000 to $100,000; to the Committee on Finance.

● Mr. DOLE. Mr. President, I am pleased to introduce this legislation today which would amend the Internal Revenue Code of 1954 to extend permanently a provision which allows for expenses incurred when removing certain architectural and transportation barriers to be counted as a deduction by the taxpayer. The Senator from Maine (Mr. COHEN) joins me in this effort to provide income tax incentives to promote the accessibility of existing facilities.

The idea of a tax incentive for the removal of barriers is not a new idea, for it was first proposed several years ago. In 1976 I introduced legislation which was incorporated into the 1976 Tax Reform Act which allowed a deduction of up to $25,000 for cost incurred in the removal of barriers. That provision expires at the end of this calendar year, so I am therefore introducing this legislation to continue indefinitely that provision. The only change in this provision from current law is that a maximum of up to $100,000 is allowed to be claimed as a deduction, rather than $25,000.

Undoubtedly the disabled face many problems in our society. However, one of the most frustrating—and certainly one of the most needless—is that which they incur because of inaccessible design. Mr. President, I firmly believe that in this day and age there is no reason why facilities cannot be designed to accommodate the mobility limitations of the handicapped. Recognizing that there is much discrepancy between the way things should be and the way things are, I offer this legislation as a means to help bridge that gap. Under present law, Government facilities are required to be accessible if they are constructed or renovated after 1968. While there have been many violations of this regulation, considerable progress has been made in recent years. This bill would address the problem of private facilities which are riddled with obstacles by giving private enterprise an economic incentive to take their own steps toward removing barriers.

Three years ago when I introduced similar legislation there was considerable support from disabled advocate groups. They were excited about the prospect of offering an incentive rather than a mandate to private industry, and thought that this was a workable approach to take. This year, in anticipation of the expiration, I have again received many letters of support from various groups urging me to introduce legislation to extend this provision. I am pleased that the handicapped groups have continued to believe that this is a reasonable means by which to address this problem, and look forward to discussing it in the Finance Committee.

Since 1976 I believe that disabled persons have made some gain. In general, I think the public is more sensitive to their needs and to the Federal legislation designed to protect their civil rights. However, this does not mean that the work has been accomplished. However, regardless of how much gain we make in the areas of education, employment, or whatever, all achievements will be somewhat limited until disabled persons are allowed to circulate freely on our sidewalks, in our buildings, and on our public transportation systems.

In many ways the problem of accessibility is one of the most pressing which faces disabled persons. We have made some progress with the provision in the 1976 tax law and I hope we will continue to press forward by extending and expanding it.

In all truthfulness, I will admit that I have been somewhat disappointed with the results of the 1976 tax provision. In many ways, response to it has been more limited than anticipated. Although I briefly debated whether or not to introduce legislation extending that provision, I decided that the provision was worthwhile. I consulted the Building Owners and Managers Association International to solicit their opinion on this legislation. Their feeling was that the provision in current law is good, but too limited. First of all, the $25,000 limitation is quite low. With inflation, the high cost of labor, and the ever increasing cost of construction, it is almost impossible to make substantial modification for under $25,000. Thus, the incentive becomes less attractive in reality than it is on paper. Second, I understand that the temporary regulations issued by the Department of the Treasury were not only late in forthcoming, but are also quite restrictive. This legislation gives us the opportunity to address both concerns.

In conclusion, I suggest that inasmuch as this legislation is designed to increase the mobility of physically disabled persons and to encourage their circulation along the pathways of society. I anticipate that this legislation will lead to increased employment of handicapped persons. It is difficult for disabled persons to seek gainful employment when they are denied access to transportation systems and buildings. It is my hope that this bill will continue efforts being made to integrate the disabled into all walks of life, and to allow them to make greater contributions to the world around us.●

● Mr. COHEN. Mr. President, I am pleased to join with the Senator from Kansas (Mr. Dole) in cosponsoring legislation to upgrade and extend section 190 of the Internal Revenue Code.

This little-known section is based on legislation I originally introduced in the House during the 93d Congress, entitled the Freedom of Access Act. This bill provided tax incentives to encourage owners of buildings and transportation facilities to remove structural barriers from the paths of the aged and disabled. Subsequently, the bill was introduced in the Senate by Senator Dole and, at his instigation, it was added as an amendment to the Tax Reform Act of 1976. As enacted, this provision allows an annual deduction of up to $25,000 for the expenses of barrier removal for a 3-year period ending this December.

As we move in Congress to reassess this provision, it is difficult to come to any conclusions about its true impact. Only last week, the IRS published final regulations on the section in the Federal Register. Some extension is necessary so that private industry will have a full opportunity to take advantage of this tax incentive.

Senator Dole's new proposal would upgrade the allowable deduction from $25,000 to $100,000 per year, and make the section a permanent addition to the Code. I think these modifications are reasonable and desirable.

One of the most serious and least understood problems facing elderly and handicapped citizens today is the large number of architectural barriers that stand in their way. It is estimated that one out of 10 persons in the United States has limited mobility, because of a temporary or permanent physical handicap. With our growing elderly population and our improved medical technology, which provides many with mobility not previously possible, this number will continue to expand. Unfortunately, all too often, our communities are designed to accommodate only the able-bodied adult. As Dr. Henry Betts of the Rehabilitation Institute of Chicago has remarked:

> Centuries ago, parents of deformed on handicapped babies in Sparta abandoned their infants on the hills, and the Eskimos still abandon their aged on icebergs. We're supposed to be the most progressive of societies. But by designing the vast majority of facilities and services to meet the needs of the "average" young, able-bodied American, by creating an environment with architectural barriers which limit the mobility of millions of Americans, we have taken the disabled and aged off the hills and the icebergs and imprisoned them in their homes.

For too long, we have tacitly ignored our duty as a compassionate Nation to see that our handicapped and elderly have as productive a role in our society as possible. Handicapped people must surmount many obstacles alone. We need not compound the physical and psychological problems of these citizens with structural barrriers that keep them shut away from interaction with the rest of their community.

Obviously, the best time to eliminate barriers is before they are constructed. Studies have shown that when a barrier-free environment is planned prior to construction, the expense usually runs less than 1 percent of the total cost. Where barriers are already in place, it is important to remember that the costs of removal are generally a onetime expense. Afterward, as customers and employees, handicapped persons will return the investment through their patronage.

The National Commission on Architectural Barriers to Rehabilitation of the Handicapped concluded that the "greatest single obstacle to the gainful employment of handicapped persons is the architectural barriers they must contend with." The promises of equal employment opportunity in the Rehabilitation Act and the Age Discrimination in Employment Act ring hollow if the elderly and handicapped cannot reach places of employment to begin with.

In 1975, the Urban Institute estimated that $1.3 billion could be saved from Government disability and welfare programs if public transportation alone was accessible to handicapped persons, thus enabling them to get to and from work. Other estimates suggest that employment of this group would yield an additional minimum of $824 million in wages. Such sums overwhelmingly offset the costs of this bill. Clearly, more can and must be done to open up the workplace to those with limited mobility.

Mr. President, I submit that it is time to give the Nation's disabled and elderly a productive place in our society. We must now take the necessary steps to place commercial buildings and transportation within the reach of all American citizens. A country which can leap the barrier of space to put a man on the Moon, should not stumble at a street curb. Mobility need not stand in the way of equal access to services and opportunities.●

By Mr. DOLE (for himself, Mr. McGovern, Mr. Young, Mr. Zorinsky, Mr. Melcher, Mrs. Kassebaum, and Mr. Boschwitz):

S. 1696. A bill to further the purpose of the Food and Agriculture Act of 1977 in providing price and income protection for farmers and assuring consumers of an abundance of food and fiber at reasonable prices; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. DOLE. Mr. President, Senator Nancy Kassebaum and I are introducing today a bill to further the purpose of the Food and Agriculture Act of 1977 in providing price and income protection for farmers and assuring consumers of an abundance of food and fiber at reasonable prices.

I believe some legislative changes are necessary to the Food and Agriculture Act of 1977 to update the bill and give the Secretary of Agriculture some additional authorities.

On Wednesday, August 1, Secretary of Agriculture Bob Bergland announced the 1980 wheat program. The Secretary announced that U.S. wheat producers will be eligible for farm program benefits in 1980 without setting aside or diverting acreage.

The Secretary also announced the 1980 wheat loan rate will be $2.50 a bushel, up 15 cents from the rate in effect the past 2 years. It was also announced that administrative or legislative steps will be taken to discourage planting wheat on fragile land.

The Secretary said a detailed review of target prices for all target price commodities was also underway and should administrative or legislative changes be necessary in that system of income protection, they would be recommended.

I believe the legislation I am introducing today will give the Secretary of Agriculture the authorities he needs to adequately implement his 1980 crop programs.

The Food and Agriculture Act of 1977 gives the Secretary certain authorities when he announces a set-aside. He does not have those authorities when he announces no set-aside. This bill gives the Secretary certain authorities when there is not a set-aside.

I have also been informed by farmers and farm organizations that with a zero set-aside the normal crop acres do not have to be maintained. Farmers can plant fence row to fence row and can bring marginal, fragile land into production. Farmers are concerned this will increase wheat production too much and affect needed conservation practices.

This bill amends the Food and Agriculture Act of 1977 to:

First. Require that the target prices for the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice be not less than the target prices for the crops of the respective commodities for the previous year, adjusted to reflect any change in the inflation rate.

This provision would set the 1980 target price for wheat at not less than $3.40 per bushel, up from the present minimum of $3. Without this legislation the Secretary has announced that the 1980 target price for wheat will probably be $3.07 per bushel. I do not believe $3.07 is an adequate target price given the tremendous increases in the farmers' cost of production.

The 1977 act contained a cost of production formula to adjust the target price. This formula has not been working. With 20 percent or more inflation in the past 2 years the target price according to the formula can only be raised from $3 to $3.07. I am replacing this formula with a provision that the Secretary shall adjust the target price to reflect any change in the inflation rate, as determined by the percentage change in the Bureau of Labor Statistics' Consumer Price Index for the crop year immediately preceding the crop year for which the determination is made. This should provide farmers with better price protection.

Second. Authorize the Secretary of Agriculture to require as a condition of eligibility for loans, purchases, and payments for the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary—under existing law the Secretary may require compliance with the normal crop acreage only when a set-aside is in effect for the respective commodity.

This provision is needed to keep plantings of wheat within normal crop acres when there is not a set-aside and to discourage planting wheat on fragile land.

Third. Authorize the Secretary to increase the target prices for the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice above what they would otherwise be whenever the Secretary requires that producers of the commodity not exceed the acreage on the farm normally planted to crops designated by the Secretary—under existing law, the Secretary may increase the target price only when a set-aside is in effect for the respective commodity.

Fourth. Continue existing law under which the Secretary may increase the established price for any of the other target price commodities in such amount as he determines necessary for the effective operation of the program whenever he adjusts the target price for one of such commodities—however, under existing law, the authority to adjust other target prices may be exercised only when an increase is made in the target prices for a commodity for which a set-aside is in effect.

Mr. President, I believe the provisions of this bill should be enacted into law as soon as possible. They will give the Secretary of Agriculture the authority to implement an adequate farm program for the 1980 and 1981 crop years. Without the changes brought about by this bill the 1980 wheat program will not provide price and income protection for farmers.

I appreciate, in addition to Senator KASSEBAUM, the cosponsorship of Senators MCGOVERN, YOUNG, ZORINSKY, MELCHER, and BOSCHWITZ.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective for the 1980 and 1981 crops, section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended to read as follows:

"NORMALLY PLANTED ACREAGE AND ESTABLISHED PRICES"

"SEC. 1001. (a) Notwithstanding any other provision of law, effective for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary of Agriculture may require, as a condition of eligibility for loans, purchases, and payments under the Agricultural Act of 1949, that producers not exceed the acreage on the farm normally planted to crops designated by the Secrteary, adjusted as deemed necessary by the Secretary to be fair and equitable among producers. The acreage for any farm normally planted to crops designated by the Secretary shall be reduced by any set-aside or diverted acreage.

"(b) Notwithstanding any other provision of law—

"(1) Whenever the Secretary requires that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary in accordance with subsection (a) of this section for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary may increase the established price for any such commodity by the amount the Secretary determines appropriate to compensate producers for participation in the program for the commodity.

"(2) In determining the amount of any increase in the established price for any commodity under this subsection, the Secretary shall take into account changes in the cost of production resulting from participation in the program for the commodity involved.

"(3) The established prices for the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice shall be not less than the established prices for the previous year's crop of the respective commodities, and shall be adjusted to reflect any change in the inflation rate, as determined by the percentage change in the Bureau of Labor Statistics' Consumer Price Index, for the crop year immediately preceding the crop year for which the determination is made.

"(4) If the established price is increased for any commodity under this subsection, the Secretary may increase the established price for any other commodity in such amount as the Secretary determines necessary for effective operation of the program.

"(5) The Secretary shall adjust any increase in the established price under this subsection to reflect, in whole or in part, any land diversion payments for the commodity for which an increase is determined.".

SEC. 2. The provisions of this Act shall become effective October 1, 1979.●

By Mr. WEICKER:

S. 1697. A bill to amend the Internal Revenue Code of 1954 to permit a credit, or exclusion from tax, for interest received on savings in residential finance institutions; to the Committee on Finance.

ALL SAVERS TAX INCENTIVE ACT OF 1979

● Mr. WEICKER. Mr. President, whatever happened to the old adage "a penny saved is a penny earned?" Well, because of runaway inflation and a tax system that rewards spending and penalizes savings, Americans today are following a different prescription to cure their economic woes, and that is, "a dollar spent is worth more than a dollar saved." Americans have become insatiable consumers, gorging their salaries and increasing their debt at a frightening pace.

Mr. President, in 1975, I introduced legislation to grant tax "relief" for all savers, including small savers. And today, I am reintroducing this proposal at a crucial economic turning point for consumers and the entire economy. The citizens of this country are victims of high interest rates on loans, chronic high inflation, low interest rates on savings, and a tax system that encourages consumption.

The small savers have virtually no opportunity for financial growth in today's economy. They are unable to keep pace with the wealthy money-market fund investors. Productivity has declined tremendously, thus we are relying more on imports. Our economy, in actuality, provides disincentives for savings.

My bill approaches the savings issue with a different slant. I propose to offer a tax credit with the option of an exclusion from interest earned on savings accounts. This bill will stimulate the economy, provide incentives for saving, help the senior citizens who most often live off their savings, and make additional funds for the depressed housing market more accessible.

The primary intent of this legislation, Mr. President, is to encourage people to save their money. As you well know, this country is suffering a grave financial crisis. The buy now syndrome is showing up in declining savings rates. According to the U.S. League of Savings Associations, Americans saved an average of 6.7 percent of their disposable income in the years from 1973 to 1977, one of the lowest savings rates in all industrialized nations. The rate in Japan during the same period was 24.9 percent, and in West Germany it was 17.7 percent. Today, Americans save at a record low rate of 5.1 percent of their disposable income.

These figures are an embarrassment to the greatest nation in the world. This is the time to set a few priorities, and our priority should be people. The small depositor utilizing a passbook savings account can earn only 5.5 percent at savings and loan associations and 5.25 percent at commercial banks. The administration has estimated that a person in a 30-percent marginal Federal income tax bracket would receive an after-tax yield of about 3⅔ percent, but when this return is adjusted for the 1978 inflation figure of over 9 percent, the return is a negative 5⅓ percent.

A negative rate of return on interest obviously discourages savings, and thrift institutions are feeling the consequences of this at present. In 1975, I stated that savers were seeking higher yields in the open market to prevent inflation from eroding earnings, and today small savers are being lured further away from saving. The current investment options favor the large investor because of the exemption from ceilings on certificates of $100,000 or more. Money market certificates also provide high interest rates for depositors with at least a $10,000 investment.

Mr. President, at this point, I ask unanimous consent that an article which appeared in Business Week on December 11, 1978, entitled "The U.S. Bias Against Savings Leads to High Inflation, Weak Dollar, Slow Growth and Declining Productivity," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The U.S. Bias Against Saving Leads to High Inflation, Weak Dollar, Slow Growth, Declining Productivity

During the Depression, the ideas of John Maynard Keynes galvanized the world's economists into a war on the problems of chronic underconsumption and unemployment. Because more saving meant less current spending, Keynes argued with rapier-like logic that excessive saving, by households and companies, was what prevented an economy from pulling itself out of an economic slump. Indeed, increasing the amount people save would lead to more unemployment, thereby slowing business activity and reducing national income even further.

Ever since, economists and U.S. policymakers have treated saving as a stepchild—and an ugly one at that. Although the 1930s have become little more than a blurred dream, two generations of economists have scorned saving, maintaining instead that government stimulus of consumer spending and business investment was necessary to bridge the valleys of the business cycle and sustain long-term growth. Reflecting the antisaving bias of economists, policymakers have enacted measure after measure—ranging from the taxation of interest income to the sharp increase in Social Security benefits—to discourage or reduce the public's incentive to save.

But it is now becoming increasingly clear—even to some leading Keynesians—that stacking the economic deck against saving and toward more and more current consumption has turned out to be a mistake of monumental proportions. As Franco Modigliani of the Massachusetts Institute of Technology puts it: "The view that saving is a nuisance that threatens full employment is dead, and as far as I'm concerned, it should have been dead by the mid-1950s." Because policymakers have discouraged saving over the years, the nation now faces the bleak prospects of continuing high inflation, a weak dollar, lackluster long-run growth, and declining productivity brought about by anemic capital investment. And economists are warning that unless economic policy changes to encourage more saving, then there is no way that the U.S. can get onto a stable high-investment, high-growth path.

There are encouraging signs that Washington is getting the message. Top economic officials in the Administration and members of the Federal Reserve Board are at least talking about the need to spur saving by removing government disincentives. A chronic high federal deficit (the biggest drain on private savings) and a high inflation rate (the biggest discouragement to savers) have become the prime targets of President Carter, who wants to cut the deficit from $39 billion this fiscal year to $30 billion or less in fiscal 1980. The depth and durability of the President's commitment to budget restraint, which means controversial cuts in social programs, remain to be tested. But it will augur well for saving and the economy if this policy turn can be executed successfully.

THE $15 BILLION SHORTFALL

At the very heart of the about-face on saving lies the relationship between saving and investment. The old Keynesian view held that cause and effect ran from investment to saving. High investment generated high income growth, which, in turn, automatically created the pool of savings to provide the wherewithal to continue a high level of investment. So a dearth of saving was never a problem to Keynes. Most economists today see cause and effect moving in both directions. "To some extent, high growth produces high saving, but high saving also creates growth," says Modigliani. "In the long run, it is saving that limits investment and not vice versa." Adds Harvard University's Martin S. Feldstein: "Over the long term, the real problem is saving and how to stimulate a high rate of saving."

Robert Solow, president of the American Economic Assn. and a capital theorist, will not go quite as far as Modigliani and Feldstein, but he notes that as the nation gets closer to full employment, more incentives are needed to increase saving than to increase investment. Says Solow: "You need to sacrifice current consumption to create the productive capacity to gain future consumption. And it is not too soon to start the economy moving to higher saving to achieve higher long-run growth."

Saving means that the public does not consume its full income, explains growth theorist Evsey D. Domar of MIT. This gives the nation the opportunity to enlarge its capital stock, generate more productive capacity, and raise the standard of living of its people. "More saving gives you the chance to invest more," says Domar.

Another top expert on U.S. growth, Keynesian economist John Kendrick of George Washington University and former chief economist of the Commerce Dept., says: "We are in a stage of the expansion in which it is desirable to stimulate saving as well as investment. This is in contrast to the early stages of a recovery, when autonomous increases in investment stimulate income and employment, which, in turn, yield the required saving."

But rather than moving to a higher rate, consumer saving continues to fall below its long-run trend of 6% to 6½% of disposable income. In the third quarter of this year, the rate of personal saving declined to 5.1%, continuing the downward trend of the past two years. Although seemingly small, this below-trend shortfall amounts to $15 billion a year. Moreover, as Michael J. Boskin of Stanford University points out changes in the labor force, such as the sharp rise in two-earner households, should have led to an increase in the rate of saving.

To Boskin and others, the future growth in the nation's income is being sacrificed in favor of a short-run stabilization policy. Every time the economy sputters, he says, the government cuts taxes to encourage consumption. This increases the budget deficit. The government must then borrow to finance the deficit, so the already low level of saving is diverted from corporate investment for plant and equipment.

DISINCENTIVES TO SAVING

Alan Greenspan, president of Townsend-Greenspan & Co. and former chairman of the Council of Economic Advisers, is not convinced that total private saving in the economy is deficient. But he agrees, "We face a tremendous problem of overcoming the increasing preemption by government of large chunks of saving flows from productive private investment both through government deficits and off-budget government spending." In addition, Greenspan notes that government-mandated spending in the private sector for antipollution equipment and other social goods is diverting business saving from productive to unproductive investment.

Increasing the rate of saving means reducing consumption. This could lead to an economic slump unless investment spending rises to take up the slack. So it is vital to create the incentives for business investment. Greenspan and many economists argue that "we must work on the saving and investment levers simultaneously." Federal Reserve Board Governor Henry C. Wallich is also a "two-lever" man. "If you merely stimulate saving, you may not get the higher investment but only lower total income," he says. "On the other hand, if investment goes up without an adequate supply of saving, interest rates will rise until they choke off investment."

But it is the inadequate supply of savings that is worrying more and more economists these days, particularly the decline in personal saving. Otto Eckstein, president of Data Resources Inc., says that "the government could create more tax incentives for business to save by liberalizing depreciation allowances, for example, and thus increasing real retained earnings." But he notes that it is perhaps more crucial to have a large pool of personal savings than corporate savings to ensure that the savings flow goes into those corporate ventures that offer the highest rates of return. Moreover, personal saving over the past 30 years has on the average accounted for 65% of the nation's net private saving, and it is the net saving that adds to the country's capital stock.

No one is advocating that government policy move headlong into pushing the private saving rate up sharply overnight; if that were to happen, the economy would surely go spinning into a recession. Rather, what seems to be called for is a reversal of a system of incentives that has pushed the public toward spending and away from saving. The major disincentives to saving include:

Chronic high inflation. As consumers saw high inflation erode the value of their financial assets in the early 1970s, they first increased their rate of saving to replenish the lost value. And they tightened their belts even further as the economy moved into the 1974–75 recession. But with economic recovery and continued high inflation, the public has discovered that financial assets are a poor hedge against inflation. In the past few years real assets—especially diamonds, gold, houses, and even automobiles—seem to offer the best bet against inflation. This may be considered saving by the individual, but from the economy's point of view, saving means refraining from consumption: not buying autos or diamonds.

Increased social security benefits. As social Security benefits have risen faster than national income over the years, the need for wage earners to save for the proverbial rainy day has been reduced. The fact that Japan has a modest social security and pension system compared with the U.S. explains, in part, why the Japanese rate of personal saving in 1978 is five times the U.S. rate.

The income tax system. Earnings that are saved are taxed twice, once when earned and again when they earn interest. A dollar spent, therefore, is worth more today than a dollar saved in a system that rewards spending and penalizes saving. Furthermore, since interest costs are deductible, borrowing for current consumption is encouraged.

Ceilings on interest rates. While most industrial countries spur private saving, especially by small savers, U.S. bank regulators spurn the small saver. Regulation Q puts a ceiling on the interest rates payable on regular thrift accounts, and that ceiling is now almost 50% below the going market interest rate.

"Today the small saver is mistreated—not to say ripped off by the Regulation Q ceiling," says the Fed's Wallich. Not only is the inflation rate running well above the 5¼% ceiling that thrift institutions can pay on regular accounts, but when interest income is taxed, the real aftertax return is even more negative.

The government Series E savings bond may be one of the major swindles of all time on low- and middle-income wage earners, at least according to economist Solow. The government gets free air time, he says, to push bonds that pay 6% as a solid investment, while its own economists are forecasting an 8% inflation rate. With 8% inflation, the real rate of return on E bonds is a negative 2% before taxes and worse after taxes.

Indeed, because interest income is subject to taxes, the real rate of return for both small and big savers has turned negative ever since inflation really got rolling. Since 1972 the aftertax real rate of return on regulated savings and loan association accounts has remained negative. In 1974 the tax- and inflation-adjusted rate was minus 6%, and now that rate is only slightly better. Even for corporate bonds whose yield is determined by market forces and therefore contains an inflation premium, the aftertax real return is still almost minus 2%. As the system taxes the interest that reflects the rate of inflation as well as the real interest rate, the aftertax return can easily be pushed into negative territory when inflation rises. If the market interest rate were 6%, of which 3% was inflation premium, a person in the 50% marginal tax bracket would have a zero real aftertax return, because taxes would be paid on the entire 6% yield. If the rate of inflation were to double to 6% and this premium were incorporated by the market into the yield, then the interest rate would rise to 9%. At the same 50% marginal tax rate, the tax would come to 4½%, which provides a negative real rate of 1½%.

A TURN TO TANGIBLES

The combination of inflation and taxes has also clobbered savers who put their money into the stock market, even when stocks performed well. An analysis by Feldstein and Joel Slemrod, of Harvard, of stocks sold in the very good stock market year of 1973 showed that investors paid taxes on some $4.6 billion in capital gains. But when costs of these shares were adjusted for the increase in the price level since they were purchased, the $4.6 billion gain turned out to be a $1 billion capital loss. Individuals were paying taxes on nominal capital gains, which were actually losses when adjusted for inflation.

It is little wonder that consumers, expecting a chronically high inflation rate, are putting their dollars into tangible assets rather than financial assets. And this shows up as a decline in saving and an increase in consumption. William Fellner, of the American Enterprise Institute and a former CEA member, is now conducting a study demonstrating that the ratio of tangible assets held by households—houses, cars, and other durables—to their financial assets increased sharply over the past decade. "The public, because of inflation, finds it gets better value on current consumption through tangible asset, which it uses as a proxy for saving," he notes.

"When you have high inflation, people turn from financial to other assets," says Modigliani, "and as the prices of these assets rise, then this further reduces the incentive to save." When wealth rises because such unproductive assets as gold or diamonds are bid up, he explains, saving is reduced because people are wealthier and need to put away less for later in life.

The realization by the public that houses were a good hedge against inflation has perpetuated the boom in housing and led to sharp rises in home prices in the past year. This not only has pushed huge dollar savings flows into housing rather than into more productive corporate investment but also has reduced the incentive of homeowners to save because their homes have appreciated in value. Furthermore, as Greenspan has been warning, the consumer is overextending himself by cashing in on the inflated value of housing. Homeowners are using second mortgages to finance current consumption on everything; from paying college tuitions to buying boats. "The upshot of the profound shift toward investing in real assets," says Gary M. Wenglowski of Goldman, Sachs & Co., "is that it exacerbates the already high rate of inflation."

On top of the turn toward tangible assets, consumers are buying in advance with the hope of beating expected price increases. Buy-in-advance psychology is especially evident in big-ticket items, where purchases can be made on credit. F. Thomas Juster, director of the University of Michigan's Survey Research Center, notes that the uncertainty caused by the reacceleration of inflation should have pushed up precautionary saving, but "people keep buying in anticipation of worsening inflation."

Harvard's Feldstein, who is also president of the National Bureau of Economic Research, is the economist who focuses most heavily on Social Security's role in reducing the incentive to save. For the majority of Americans, he argues, the most important form of household wealth is the anticipated Social Security retirement benefits. As these benefits have increased in recent years, employees have reduced their retirement nest eggs almost dollar for dollar with the rise in benefits, his studies show. "Social Security significantly depresses saving, and, in turn, business capital accumulation," he says.

Feldstein's findings are controversial. Says Stanford University's Boskin: "If Feldstein's numbers are right, the Social Security system has resulted in a capital stock that is about one-third smaller than it would be otherwise. I don't believe that. His estimate overstates the Social Security effect." While they may dispute the size of the Feldstein effect, most economists accept his overall conclusion. Says Modigliani: "There is a negative impact of Social Security on saving."

Institutional factors account for much of the spread between the high rate of saving abroad and the low U.S. rate. In addition to the underdeveloped Japanese social security and pension system, the high rate there "has deep roots in Japanese culture and the Buddhist religion," says Teruo Takeda, secretary of the Federation of Bankers' Association of Japan. Germans save more than Americans, says Charles Roberts, economist at Munich's IFO Institute, in part because "German workers are simply thriftier. They believe in saving for tomorrow and not using so much credit."

Not only is the U.S. rate of personal saving the lowest of all the major industrial countries, but the U.S. rate has fallen from the level of a decade ago, while the rates in many other industrial nations have risen, and so has the percent of their gross national products that go into capital investment. In Japan, for example, the rate of saving increased from 20% in 1970 to 24.3% in 1977, and in Canada it has more than doubled in the same period.

No one argues that the U.S. saving rate should be moved up to the rates prevailing overseas, but a reversal of the current downward trend is clearly a must. An increase in personal saving in the U.S. would lead to an increase in the nation's capital stock, thus improving productivity and raising real wages, which have shown only minuscule upward movement in the past decade.

And increased saving could prevent a major confrontation between the nation's workers and retirees. Because of demographic changes, the number of retirees-per-worker at the turn of the century will decline from the current 1 per 3 workers to 1 for every 2 workers. If those future retirees continue to save so little, then those who will be working will have to carry a backbreaking financial burden to pay for their Social Security benefits.

FINDING THE REMEDIES

Now that economists have become acutely aware of the importance of saving, they are turning to the problem of how to induce both households and business to save more. Almost all economists see inflation control as the first step in a program to increase the rate of personal saving. Chipping away at the rate of inflation would induce more saving in the short run. This, in turn, would lessen demand pressures, thus further reducing the rate of price increases. More saving will mean higher productivity and thus lower inflation over the longer run, too.

Just as clearly, the U.S. Tax Code should be changed to correct the biases against saving. "What you want to do," says Feldstein, "is tilt the federal tax system from taxing income, which penalizes saving, toward a tax on expenditures." Feldstein and many other economists favor eliminating the tax on interest income. And he notes that the U.S. already has provisions in the tax code that provide incentives to save and postpone consumption. Deductions for the Individual Retirement Accounts (IRA) and Keogh plans allow taxes to be postponed until the plans are terminated and the contributions become available for spending. Feldstein wants to expand the Keogh-IRA concept to include a lot more individuals and not only those who are self-employed or whose companies do not have pension plans.

Another economist who makes the case for expenditure taxes is David F. Bradford of Princeton University, a Deputy Assistant Treasury Secretary in the Ford Administration. In early 1977 the Treasury issued a study, *Blueprints for Basic Tax Reform*, on which Bradford did the primary work. The study has become a bible for tax reformers. Bradford and his associates in the Treasury's Office of Tax Analysis laid out alternative methods for developing a comprehensive tax system, either through overhaul of the income tax or substitution of an expenditure or cash-flow tax. The expenditure tax would favor saving by excluding savings from taxation—and that includes all capital gains—until they are withdrawn or tapped for consumption of goods and services.

At first blush, the expenditure tax might appear to be a radical and alien concept to a nation accustomed to the income tax. But Bradford notes that the U.S. Tax Code already tries to offset the penalty on saving by allowing special tax rates on capital gains and tax deferrals on certain investments for retirement purposes. Thus, he argues, "a shift to a full consumption tax would really constitute less change in the present system than most people think."

Although Bradford and other proponents of consumption taxation note that it can be made as progressive as the income tax or be shaped in other ways to suit social goals, Joseph A. Pechman, director of economic studies at the Brookings Institution, faults the concept precisely on the point of equity. Pechman fears that it would inherently resemble a straight sales tax and hence hit hardest at low-income taxpayers. It would, therefore, says Pechman, benefit those who already have the wherewithal to achieve higher lifetime savings rates.

Pechman does agree with those who want to protect the small saver through some form of partial indexation, or inflation adjustment, for savings. Ironically, Pechman concedes that a consumption tax could be an even more flexible instrument for fiscal policy than the income tax, as "rates could be raised or lowered to influence consumption more quickly for countercyclical purposes. The consumption tax would work directly on consumer spending, while income tax changes work on both consumption and saving."

The central idea of the consumption tax, like other proposals to increase saving, is to increase the return on thrift, thereby making a dollar saved worth at least as much as a dollar spent. Another way to raise the rate of return on thrift is to allow interest rates to rise, particularly for the average individual. The evidence is not altogether clear on how many savers would respond to relatively small changes in interest rates. Economists, however, generally agree that eliminating the interest rate ceiling on thrift accounts now would induce a significant increase in saving because market rates are so much higher than the regulated rates.

Likewise, offering savers bonds that are indexed to the price level would give them a means of preserving their financial capital against the ravages of inflation. "It would have a strong positive effect on savings," says Solow.

Feldstein cautions that the immediate removal of interest rate lids on all types of accounts at the thrift institutions would almost certainly bankrupt them, because most of their assets are tied up in mortgages that yield well below the current market interest rate. "It has to be done gradually," he warns. Indeed, the thrifts already feel the pinch from new six-month savings certificates that carry interest rates slightly above the market T–bill rate, now over 9%.

But Feldstein opposes gradualism in slowing the rate of growth of Social Security benefits. Past and scheduled benefit increases are so large as to require a bold effort at control if the rate of saving is to be prevented from falling further. Indeed, a tightening in benefit formulas is one of the options currently being studied by the Treasury Dept. to remedy the problem of the shortfall in the Social Security fund.

TACKLING THE BUDGET

Economists are almost unanimous in calling for tax measures that raise the business aftertax rate of return to spur business investment. Such measures include some or all of the following: cutting the corporate tax rate further (on Jan. 1 it drops to 46% from 48%), extending the investment tax credit to new structures (the 1978 Revenue Act extended it to renovation of existing structures more than 20 years old), indexing depreciation allowances for inflation, and increasing the tax exclusion for dividends to reduce double taxation of corporate profits. Increasing the corporate aftertax rate of return will not only provide more incentive to investment but will produce more retained earniings, or busines saving, to carry out the investment.

The Revenue Act of 1978, while appalling to some liberal tax reformers, is the best thing that has happened since 1964 in the incentives provided for saving and investment. In addition to business investment incentives, the law reduces the maximum capital gains tax from 49 percent to 28 percent for individuals. "We need further steps in that direction," says Greenspan.

But all such steps will do little to funnel dollars from saving to investment unless Washington takes a giant step to reduce the huge budget deficit. Says Bradford: "You can't answer the question of the impact of increased private saving on the capital stock without looking at the budget. And a balanced budget is more important for investment than almost any incentive for increasing savings." Because government is a prime borrower, large budget deficits suck up savings from consumers and businesses alike. This leaves less savings to increase the nation's capital stock.

To be sure, government does invest some of the dollars it borrows in such projects as roads, schools, dams, and other programs that increase the nation's future output in almost the same way that private capital spending does. But the proportion of federal outlays going into public capital investment is declining. Over the past decade government purchases of goods and services have fallen sharply as a percent of total budget outlays, while transfer payments have increased. Even such die-hard Keynesians as George L. Perry of the Brookings Institution, who does not worry much about a lack of private saving in the ecoonmy, calls for a move toward a balanced budget to spur private investment. Lyle E. Gramley of the CEA agrees. Says he: "To increase the share of GNP going into investment, we must reduce the federal deficit. Getting the deficit down to $30 billion in fiscal 1980 and federal spending down to 21 percent of GNP are only interim goals. A budget balance could be struck at 20 percent or 19.5 percent in the early 1980s."

Gary Fromm, an economist for SRI International, is a sharp eye on the Washington economic scene. He remains skeptical about the will of the Carter Administration to cut the deficit. Despite the President's Oct. 24 commitment not to cut taxes further until inflation is curbed, he expects the Administration and Congress to seek another tax reduction in the next year or so. "Is Carter really going to resist using fiscal policy to stimulate the economy in the election year of 1980?" he asks.

If Fromm is right, then it will be some years before the turn in economists' thinking on the critical issue of saving will be matched by a corresponding turn in the actions of U.S. policymakers. This means that if the Administration bends its goal of a balanced budget and opts for the old Keynesian quick fix in the pursuit of a short-term burst of economic activity, it could cost the nation years of slower long-run growth, slumping productivity, and further loss of international competitiveness.

Mr. WEICKER. Mr. President, as this article points out, one solution to the "saving bias" offered by the U.S. Treasury in its 1977 study, "Blueprints for Basic Tax Reform," is to exclude from taxation the interest earned from depositing one's savings in a passbook account if reinvested and until it is withdrawn. The bill which I am introducing would give the taxpayer the option of choosing a limited tax credit or exclusion.

My proposal would exempt from taxes the first $1,000 of interest income earned by savers. In addition, for those people with more modest savings, they could receive a tax credit of up to $250 on their income tax payments. In this way, all Americans can take advantage of a tax incentive on their savings.

Specifically, section I provides a tax credit of up to $250 per individual taxpayer. The credit has been made such that most credits provided in current tax laws are taken before the proposed credit for interest earnings. The proposed credit is a nonrefundable credit. Thus, if tax liability is zero, the credit would cause a negative tax liability, and no moneys would be refunded by the Federal Treasury. Therefore, the loss to the Federal deficit is lessened. According to the Joint Committee on Taxation, for fiscal year 1980, the revenue loss is estimated at $1.2 billion.

Section II provides an alternative to the $250 credit by an exemption of $1,000 from gross income. The taxpayer may not take advantage of both the credit or exemption, but has the right to choose which would be more profitable. The basic provisions for the exemption are the same as for the credit. In the case of joint returns, both the credit and the exclusion would also be offered as an option.

With this incentive to save, we can help stimulate the housing industry by creating more available funds in our banks and thrift institutions and by relieving the pressure on high interest rates which prevent young couples from purchasing their first home. With adequate savings at their disposal, commercial banks, savings and loan associations and credit unions could also fund the construction of new plants and purchases of equipment. As a consequence, productivity increases, inflation declines and new jobs are created. An increased level of saving would, therefore, provide new capital investment and reduce consumption levels.

Mr. President, we must get back to the priorities of the people. This proposal would encourage all savers, small and large, to save for retirement, education, housing, or other needed objectives. The inequities suffered by the savers in this country must be remedied immediately. At present, borrowers can deduct interest as an expense for tax purposes while savers are forced to pay taxes on their accumulated interest. Savers are penalized by this system of taxation, because they are taxed not once, but twice, on their savings. They are taxed first when the money is earned, and again, when that money earns interest. With mounting inflation acting as a third tax, savers are actually getting a negative rate of return on their savings.

I recognize, in addition to this legislation, other bills introduced in both the House and Senate which would provide increased incentives to those individuals who managed to save a portion of their incomes. But I urge my colleagues to closely study this bill which would give all taxpayers the incentive of a tax credit or exclusion on interest from earned savings.

Mr. President. I ask unanimous consent that the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1697

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "All Savers Tax Incentive Act of 1979".

SEC. 2. CREDIT ALLOWED FOR INTEREST.

(a) IN GENERAL.—Subpart A of part IV of

subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 44D. CREDIT FOR INTEREST ON CERTAIN SAVINGS.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter so much of the amount received by the individual as interest on savings in a residential finance institution as does not exceed $250 for the taxable year.

"(b) JOINT ACCOUNTS.—The Secretary may prescribe regulations allocating interest credited to joint accounts, or other accounts under which more than one individual is entitled to receive all of the interest credited to the account, on the basis of the economic interests of the individuals who are entitled to receive such interest. Until the Secretary prescribes such regulations, the amount of interest received by each such individual under such an account shall be considered, for purposes of subsection (a), to be an amount which bears the same ratio to the total amount of interest credited to the account for the taxable year as the sum of the amounts contributed by that individual during the taxable year to the account bears to the sum of the amounts contributed by all individuals to the account for the taxable year.

"(c) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by this chapter for such taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(d) DEFINITIONS.—For purposes of this section—

"(1) INTEREST.—The term 'interest' means—

"(A) interest on deposits with persons carrying on the banking business, and

"(B) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, or similar organization, in respect of deposits, investment certificates, or withdrawals or repurchasable shares.

"(2) RESIDENTIAL FINANCIAL INSTITUTION.—The term 'residential financial institution' means—

"(A) a bank (as defined in section 581),

"(B) a savings institution (within the meaning of section 591), or

"(C) a credit union, the accounts of which are insured under the Federal Credit Union Act or otherwise insured under State law,

which provides mortgage financing for the purchase of residential housing.

"(3) RESIDENTIAL HOUSING.—The term 'residential housing' means property which is a principal residence (within the meaning of section 1034).".

(b) Technical and Conforming Amendments.—

(1) The table of sections for such subpart is amended by inserting immediately after the item relating to section 44C the following new item:

"Sec. 44D. Credit for interest on certain savings.".

(2) Subsection (b) of section 609 (6) of such Code (relating to designation of income tax payments to Presidential election campaign fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

SEC. 3. EXCLUSION OF INTEREST ON CERTAIN SAVINGS.

(a) In General.—Part III of subchapter B of the Internal Revenue Code of 1954 (relating to items specifically excluded in gross income) is amended by redesignating section 128 as 129, and by inserting immediately after section 127 the following new section:

"SEC. 128. PARTIAL EXCLUSION OF INTEREST RECEIVED BY INDIVIDUALS.

"(a) GENERAL RULE.—In the case of an individual who elects to have this section apply for the taxable year, gross income does not include so much of the interest received by the individual from a residential finance institution as does not exceed $1,000.

"(b) APPLICATION WITH SECTION 44D.—An individual may not elect to have this section apply for any taxable year for which he claims a credit under section 44D.

"(c) DEFINITIONS; SPECIAL RULES.—

"(1) DEFINITIONS.—The terms used in this section which are defined in section 44D (d) have the same meaning as when used in section 44D.

"(2) JOINT ACCOUNTS.—With respect to interest received under a joint account or similar arrangement, subsection (a) shall be applied in accordance with section 44D (b)."

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"SEC. 128. Partial exclusion of interest received by individuals.

"S53. 129. Cross references to other acts.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1979.●

By. Mr. MATSUNAGA:

S. 1698. A bill to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes; to the Committee on Governmental Affairs.

Mr. MATSUNAGA. Mr. President, I am today introducing legislation which I have introduced in each of the past three Congresses designed to eliminate one of the most glaring inequities in the Federal service—the basic workweek of Federal firefighters. An identical bill has already been introduced in the House of Representative by Congressman HERBERT HARRIS of Virginia, which, as I understand, will be the subject of hearings in the House Post Office and Civil Service Committee immediately after the August recess.

Mr. President, during the last Congress, both the Senate and the House of Representatives focused their attention on the problem of the unreasonably long workweek of Federal firefighting personnel. The congressional committees with jurisdiction over the civil service—the Governmental Affairs Committee in the Senate, and the Post Office and Civil Service Committee in the House—held hearings on bills introduced by myself and Congressman HARRIS designed to improve the basic workweek and compensation system for Federal firefighters. These hearings revealed very conclusively that Federal firefighters are being treated unfairly by the Federal Government in terms of work hours and overtime compensation. They work a scheduled 72 hours per week, and receive about the same pay which most municipal firefighters receive for working a 54-hour week. Federal firefighters testified that they are being required to work 18 hours of overtime for which they are paid at a rate which is $1 less than the minimum wage.

In my judgment, Mr. President, this treatment of Federal employees is intolerable and should be corrected. Despite the objections of the administration, both the House and Senate Civil Service Committees agreed with this view and reported corrective legislation, the primary purpose of which was to provide that the regularly scheduled workweek of each Federal firefighter shall average 56 hours per week, rather than the current 72 hours. In addition, the legislation authorized the payment of 25 percent "premium pay" to firefighters who have a 56-hour workweek, and authorized overtime pay under the Fair Labor Standards Act for all hours worked in excess of the basic 56-hour workweek.

Mr. President, the House of Representatives, for the first time since I initially introduced this legislation during the 93d Congress, passed by an overwhelming margin a firefighter workweek bill on April 12, 1978. Shortly thereafter, the Senate approved unanimously the House-passed bill, with minor committee amendments. Unfortunately, as my colleagues will recall, the firefighter bill which was cleared for the White House was vetoed by President Carter on June 20, 1978—the action being described by the administration as anti-inflationary.

In his veto message to the Congress, the President stated three principle objections to the bill:

First, the Federal firefighter workweek would be reduced without a concomitant reduction in premium pay which was designed for a longer standby schedule.

Second, the ability of agency heads to manage the work force and regulate the workweek of Federal firefighters.

Third, the Department of Defense would be forced to hire additional personnel.

Mr. President, these objections were a reiteration of those forwarded to the House and Senate Civil Service Committees by the Civil Service Commission during the consideration of the legislation. It should be noted that each committee rejected them outright. Let me explain why.

First, the Civil Service Commission claimed that if the regularly scheduled administrative workweek of Federal firefighters was reduced to 56 hours, a concomitant reduction in the 25 percent premium pay firefighters now receive would be required. The Commission estimated that premium pay would have to be reduced to 12½ percent of base pay. In other words, Mr. President, the Commission claimed that firefighters are misperceiving their compensation scheme and should recognize that about half of their premium pay percentage is attributable to the 18 hours which they work each week in excess of 54. To support its view that premium pay be reduced, the Commission said that Federal firefighting positions are attractive because there are a great many applicants for vacancies in the firefighter work force. This argument completely disregards the present high unemployment rate among workers who might be qualified for firefighter jobs. Moreover, it ignores the fact that numerous Federal firefighters leave their jobs each year for employment with municipal fire departments, where they will most likely work a normal 54-hour workweek. In addition, the Commission stated that Federal firefighters should work an additional 18 hours per week to earn the same pay as their counterparts in municipal departments because Federal firefighters do not work as hard and their duties are not as hazardous. In other words, the Commission was saying that firefighters are only earning their pay when they are involved, ax in hand, in fighting a fire. The Civil Service Commission apparently did not consider fire prevention to be work. An extension of the Commission's argument would be that armed services personnel earn their pay only when the Nation is at war, or that police officers justify their pay only when involved in gun battles. Needless to say, I cannot agree with the Commission's contention.

Mr. President, in the final analysis, the President and the Civil Service Commission objected to the continuation of the 25-percent premium pay benefit because they considered it to be a salary windfall for Federal firefighters, which would be unacceptable under the President's wage increase guidelines. The fact of the matter is, Mr. President, that pay and hour comparisons between Federal firefighters and municipal firefighters just do not support the administration's conclusion.

Most municipal firefighters work an avearge of 56 or less hours per week, far less than the Federal standard of 72. And a comparison between Federal firefighter locals and the corresponding municipal locals in their areas reveals that municipal firefighters earn at least $500 more per year for an average 56-hour workweek than the Federal firefighters earn for a 72-hour workweek.

It should be emphasized that even the firefighter pay figures presented to both Civil Service Committees by the Civil Service Commission do not support the administration's call for a reduction in premium pay. The Commission's pay figures, which involved a comparison of Federal firefighters' pay to all municipal firefighters' pay in cities over 10,000 in population, indicate that Federal firefighters now work 33 percent more hours each week than municipal firefighters, but receive only 12.5 percent to 23 percent more pay.

Furthermore, the Commission's pay comparisons with cities over 10,000 in population may be inappropriate, since many Government installations are located in or near much smaller communities where municipal firefighter salaries are likely to be lower.

At this point, Mr. President, I would like to provide my colleagues with a more in-depth explanation of the center of controversy in this legislation—premium pay.

Under existing law, Federal employees who regularly perform substantial amounts of standby duty beyond a normal tour of duty are entitled to receive additional compensation in lieu of overtime, night differential, Sunday, and holiday pay. This sum is called premium pay. It is a percentage, not to exceed 25 percent, of an employee's base pay. The actual percentage of premium pay which an employee receives is fixed by the Office of Personnel Management on the basis of overtime, nights, Sundays, and holidays worked. Irregular overtime work beyond a Federal firefighter's scheduled 72 hours results in further overtime compensation.

As a result of this requirement, Federal firefighters receive as compensation in lieu of overtime, night differential, Sunday, and holiday pay, the maximum percentage of premium pay—25 percent—which the Office of Personnel Management may authorize. Should legislation be enacted reducing the Federal firefighter workweek to 56 hours, Federal firefighters would continue to be entitled, under the criteria set by the Office of Personnel Management, to full premium pay.

The President's second major objection to the legislation was that it would impair the ability of the heads of the Federal agencies to manage the work force. In my judgment, Mr. President, no provision of the vetoed bill would have had this affect. The legislation simply said that, "the reguarly scheduled administrative workweek of Federal firefighters shall be an average of 56 hours per week, computed on the basis of a period of 21 consecutive days." It went on to provide that, "the duration and frequency of workshifts occurring within such period shall be determined under regulations prescribed by the Civil Service Commission." It seems to me that this provision would fully permit agency heads to manage Federal firefighters.

The President's third and final objection to the House and Senate-passed legislation was that the Department of Defense would be required to hire 4,600 new Federal firefighters at an annual cost of $46.7 milion. I seriously question the accuracy of the Defense Department's figures in light of the fact that the Congressional Budget Office estimated that only 2,200 new Federal firefighters would be needed if the 72-hour workweek was reduced, at a cost of $24.3 million.

Mr. President, it is my view that the cost of this firefighter workweek legislation would not have been excessive. According to the Congressional Budget Office, the reduction alone in Fair Labor Standards Act overtime wages in 1979 for Federal firefighters would have covered more than one-third of the estimated costs for hiring additional personnel. Furthermore, with a workweek more comparable to municipal fire companies, the excessive training costs for new firefighters hired each year to offset the 23 percent turnover rate in Federal fire departments might be reduced.

Mr. President, I would like at this point to bring to the attention of my colleagues a chart which I have prepared showing the 1979 average workweeks for 42 of the Nation's largest cities. I ask unanimous consent that the table be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATSUNAGA. Mr. President, although much more complete data on national averages for firefighter workweeks and salaries will be prepared for committee hearings on the legislation I am introducing today, I would like to point out from this chart that the workweek for firefighters employed by the fire departments of 42 of the Nation's largest cities is just about 52 hours per week, as compared to the 72-hour week for Federal firefighters.

Mr. President, I ask my colleagues: Is it any wonder, in view of these statistics, that young firefighters are leaving the Federal service to work for municipal fire departments? Is it any wonder that Federal officials are finding it difficult to adhere to existing Federal personnel standards, or to attract motivated, high quality firefighters for the Federal force?

Like many of those who have long been concerned about the workweek of Federal firefighters, I thought that Congress had resolved the problem of excessive hours for Federal firefighters when it passed the Fair Labor Standards Act of 1974. That legislation extended special overtime provisions to all fire and police personnel, including Federal. Overtime was to be paid for all hours in excess of 60 as of January, 1975, with further phased reductions over the next several years. The goal was to require overtime pay—commonly calculated at "time-and-a-half"—for hours worked in excess of 60. The Fair Labor Standards Act ordered that beginning January 1, 1977, overtime pay be paid to firefighters for all hours worked in excess of 54 hours a week.

Incredible as it may seem, Mr. President, under a decision of the Comptroller General of the United States, Federal firefighters who work 72 hours a week receive only one-half time, not time-and-a-half, for every hour worked in excess of 54 hours a week. The rationale was that since they receive the regular rate of pay for each of the 72-hours in their duty period, Federal firefighters are entitled, under the Fair Labor Standards Act, to be paid only one-half times their regular rate of pay for the 18 hours that they work overtime each week.

Despite the workweek reductions mandated by the Fair Labor Standards Act, the Department of Defense, which employs approximately 90 percent of all Federal firefighters, has not reduced the number of hours a firefighter must work per week. The DOD has maintained a 72-hour workweek, and has paid its firefighters the "one-half overtime" for the extra 18 hours, under the ruling of the Comptroller General. In the case of a GS-5, step one, firefighter, this means that each of his 18 hours of overtime under the Fair Labor Standards Act is worth only an extra $1.66 in overtime pay. Mr. President, the unfortunate ruling of the Comptroller General has convinced me that in the 1974 amendments to the Fair Labor Standards Act were not a sufficient remedy for Federal firefighters.

Mr. President, in view of the fact that there is a preponderance of evidence to show that Federal firefighters continue to be treated unfairly by the Federal Government in terms of work hours and compensation, Congressman HARRIS and I have decided to reintroduce in the 96th Congress legislation identical to that which passed both houses of Congress and was vetoed by the President last year. Once again, we expect both the House of Representatives and the Senate to be sympathetic to the problems of Federal firefighters and move expeditiously to enact this legislation. Furthermore, we are extremely hopeful that the President and his administration will reconsider their objections, in light of the evidence which I have propounded here and which will be forwarded in later committee hearings, and sign into law a bill to improve the basic workweek and compensation of Federal firefighters.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 61 of title 5, United States Code, relating to hours of work, is amended by inserting after section 6101 the following new section:

"§ 6102. Basic workweek of firefighters

"(a) The regularly scheduled administrative workweek of each firefighter shall be an average of 56 hours per week, computed on the basis of a period of 21 consecutive days. The duration and frequency of work-shifts occurring within such period shall be determined under regulations prescribed by the Office of Personnel Management.

"(b) For the purpose of this section, 'firefighter' means an employee in an Executive agency, the duties of whose position are primarily to perform or to supervise work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment. Such term does not include any employee who has a regularly scheduled administrative workweek of 40 hours which is established under section 6101(a)(2)(A) of this title.".

(b)(1) Section 5545 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) Each firefighter with a regularly scheduled administrative workweek established under section 6102(a) of this title shall be entitled, in lieu of premium pay provided by other provisions of this subchapter (other than premium pay provided in paragraph (2) of this subsection), to premium pay equal to 25 percent of so much of his annual rate of basic pay as does not exceed the minimum rate of basic pay for GS–10.

"(2) Hours of work officially ordered or approved in excess of the regularly scheduled administrative workweek established under section 6102(a) of this title are overtime work and shall be paid for in accordance with the rates specified in section 5542 of this title.

"(3) For the purpose of this subsection, 'firefighter' has the meaning given it in section 6102(b) of this title.".

(2) Section 5545(c)(1) of title 5, United States Code, is amended by inserting ", unless subject to subsection (e) of this section," after "shall receive".

(3) Section 5547 of title 5, United States Code, is amended by striking out "sections 5542, 5545(a)–(c), and 5546(a), (b)" and inserting in lieu thereof "sections 5542, 5545 (a)–(c) and (e), and 5546(a) and (b)".

(4) Sections 5595(c), 8114(e), 8331(3) (C), and 8704(c) of title 5, United States Code, are each amended by striking out "section 5545(c)(1)" and inserting in lieu thereof "section 5545(c)(1) and (e)(1)".

(c) The analysis of chapter 61 of title 5, United States Code, is amended by inserting after the item relating to section 6101 the following new item:

"6102. Basic workweek of firefighters.".

SEC. 2. The first section of this Act shall take effect at the beginning of the first applicable pay period which begins at least 60 days after the date of the enactment of this Act.

EXHIBIT 1

Average 1979 workweeks for selected municipal fire departments

[Average work hours per week]

City:	
Atlanta	56
Baltimore	48
Birmingham	52
Boston	42
Chicago	47
Cleveland	48
Columbus	56
Dallas	56
Denver	48
Detroit	50.4
Fort Worth	56
Houston	56
Indianapolis	56
Jacksonville	56
Long Beach	56
Los Angeles	56
Los Angeles Co.	56
Louisville	56
Memphis	56
Miami	52
Milwaukee	52.3
Minneapolis	56
Nashville	56
Newark	42
New Orleans	56
New York City	40
Oakland	52
Omaha	56
Philadelphia	42
Phoenix	56
Pittsburgh	42
Portland	56
Rochester	40
San Antonio	56
San Francisco	48.7
Seattle	45.7
St. Louis	56
St. Paul	56
Tampa	52
Toledo	50
Tulsa	56
Washington, D.C.	48
Average municipal workweek	51.7
Average firefighter workweek	72

SOURCE: International Association of Fire Fighters.

By Mr. FORD (for himself, Mr. GLENN, Mr. HUDDLESTON, and Mr. HART):

S. 1699. A bill to amend title VI of the Powerplant and Industrial Fuel Use Act of 1978 to provide financial and technical assistance to States, local governments, and regional agencies to promote the establishment of consolidated programs to mitigate certain adverse social and economic impacts caused by major energy developments, and for other purposes; to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

ENERGY IMPACT ASSISTANCE ACT OF 1979

Mr. FORD. Mr. President, today I am introducing with Senators GLENN, HUDDLESTON, and HART the Energy Impact Assistance Act of 1979. This measure would expand the existing energy impact assistance contained in the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620) to reflect recent legislative initiatives to foster greater domestic energy production.

The amendment would authorize energy impact assistance to State and local governments to mitigate any adverse impact of major energy developments such as synthetic fuels. The amendment also would increase the fiscal year 1980 authorization of appropriations to the Department of Energy from $30 million to $150 million and would extend the authorization to cover fiscal years 1981 through 1985 at $150 million each year.

Mr. President, this program has been consistently supported by the Committee on Energy and Natural Resources. The committee's report on the fiscal year 1980 annual authorization bill for the Department of Energy, S. 688, states:

> Subsequent to Senate approval of section 601 of the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620), the President announced support for a comprehensive energy impact assistance program. Similar support was enunciated in the President's 1979 State of the Union Message to the Congress. However, no appropriations in Fiscal Year 1980 are sought for the 601 program although $120 million are authorized. Rather, the proposed budget requests $150 million pursuant to legislation yet to be enacted which would provide a generic energy impact assistance program to be administered by the Economic Development Administration.
>
> Committee Action: The Committee recommends an appropriation of $120 million to fund the 601 program. The Committee further recommends that such appropriation be accompanied by an equivalent reduction in the budget authority provided in the President's proposed budget for Fiscal Year 1980 for the proposed generic program so as to avoid double counting such budget authority within the budget resolution. At such time as further legislation is enacted its interrelationship with section 601 can be addressed by the Congress.

Mr. President, as we are all aware, national policy being fashioned by the Senate and the administration commits the United States to the greater use of our most abundant energy resource—coal—over the next quarter century. We are all acutely aware of the enormous burden this commitment will place on individual coal-producing States such as Kentucky to assure to our citizens that the increased energy production will be consistent with their economic, social and environmental well-being.

In the pursuit of our national quest for greater energy independence the Federal Government has a responsibility to help impacted areas meet the increased social and economic pressures posed by major energy development. Emphasis must be on the creation of adequate Government mechanisms to facilitate orderly growth in the many small towns and rural areas of our country, notably Appalachia, that are shaken by the major influx of the new workers and their families that accompany any new major energy development.

What we are talking about is the provision of new public facilities and services prior to establishment of the tax base that normally would support the construction of such new public facilities as schools and hospitals, as well as roads, streets, and sewers.

The Congress has taken steps to help the coastal zone States which are experiencing rapid energy development through the Coastal Environmental Impact Fund. In addition, Federal energy impact assistance loans are provided under the Federal Land Policy and Management Act. It is nothing less than fair and equitable for the Federal Government to aid the inland States which are experiencing the same kinds of social and economic effects from expanded coal and uranium development activities, such as expansion of the Federal uranium enrichment facilities at Portsmouth, Ohio.

The major problem facing the Appalachian region today involves finding ways to provide the housing that is required for the new workers coming into the coalfields. Housing sites are at a premium because of steep terrain, complications of landownership and difficulties in obtaining financing. An equally serious problem is providing adequate health care. This problem is becoming more acute and requires a concerted effort among State, local, and Federal governments to assure that adequate planning and resources are available to meet the needs for basic public and personal health care. A third problem, and part of the public health need is to provide adequate water and sewer capacity to meet both the immediate needs and to accommodate the expanded population already arriving.

Finally, we must provide adequate safeguards to protect the environment. This will require close cooperation among all levels of government and the private sector.

From this perspective, I fully support the regulations proposed by the Farmers Home Administration for the comprehensive energy impact program set forth in section 601 of the Powerplant and Industrial Fuel Use Act of 1978. As a Senate sponsor and conferee on this statute, I am aware of the difficulties involved in formulating a comprehensive but responsive energy impact assistance program. This is further complicated by the existence of other Federal programs.

Nevertheless section 601 represents an initial judgment of the Congress on a Federal policy for inland energy impact assistance. Section 601 significantly expands the authorities of the Secretary of Agriculture to provide financial assistance to areas which have been or will be impacted by increased coal or uranium development activities including production, processing and transportation. This assistance includes grants for comprehensive planning and for public facilities and services and land acquisitions for new housing sites.

As envisioned by the Congress the section 601(b) planning grants are to be administered comprehensively so as to address the broad socio-economic impacts of such energy developments which have occurred or which are expected to occur and the overall needs for public facilities and services as well as housing. This will facilitate coordination by the Farmers Home Administration of the section 601 program with other Federal and State programs to alleviate the problems of the energy impacted areas, as is provided for in section 603 of the Rural Development Act of 1972.

In administering the section 601 program, the Congress intended that particular attention be given to the coordination of Federal assistance to reflect the priorities established by State and local government bodies serving a designated energy impact area. This will permit an optimization of the joint financial and institutional resources of Federal and State government so as to effectively meet the vital needs of energy impact areas for public facilities and services.

Mr. President, the Department of Agriculture is to be commended for its expeditious implementation of this impact assistance program 6 months ahead of the schedule provided in the Fuel Use Act. Experience with the 601 program has been invaluable in formulating the amendment I introduce today which is cosponsored by Senators GLENN, HUDDLESTON, and HART.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Impact Assistance Act of 1979".

FINDINGS AND STATEMENT OF PURPOSES

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) the protection of public health and welfare and the preservation of national security require greater production and utilization of domestic energy resources in lieu of foreign energy supplies;

(2) there are potential adverse social, economic and environmental impacts that can accompany rapid or major energy developments;

(3) the need for public facilities and services often precedes the availability of the government revenues required to finance such facilities and services;

(4) States and units of local government often lack sufficient technical and financial resources to adequately mitigate against such adverse impacts, in advance; and

(5) States and units of local government should have increased financial and technical resources to provide necessary public facilities and services prior to the availability of increased State and local governmental revenues necessary to pay for such public facilities and services.

(b) STATEMENT OF PURPOSES.—The purpose of this Act is to provide technical and financial assistance to States, regions and local governments to foster the development and implementation of programs to prevent and mitigate the potential adverse economic, social and environmental impacts resulting from major energy development, to finance public facilities and services, and for other purposes.

AMENDMENTS TO THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

SEC. 3. (a) The Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620) is amended by amending Title VI of the table of contents to read as follows:

"TITLE VI—FINANCIAL ASSISTANCE

"SUBTITLE A

"Sec. 601. Assistance to areas impacted by increased coal or uranium production.
"Sec. 602. Loans to assist powerplant acquisitions of air pollution control equipment.

"SUBTITLE B—ENERGY IMPACT ASSISTANCE

"Sec. 611. Definitions.
"Sec. 612. Energy Impact Development Planning.
"Sec. 613. Financial Assistance.
"Sec. 614. Regional Commissions.
"Sec. 615. Intergovernmental Coordination.
"Sec. 616. Administration.
"Sec. 617. Appropriations—Authorization.
"Sec. 618. Miscellaneous Provisions".

"(b) Title VI of the Powerplant and Industrial Fuel Use Act of 1978 is amended by inserting at the beginning thereof, "Subtitle A".

"(c) Title VI of the Powerplant and Industrial Fuel Use Act of 1978 is further amended by inserting the following new subtitle:

"SUBTITLE B—ENERGY IMPACT ASSISTANCE

"SEC. 611. DEFINITIONS.

"Unless otherwise expressly provided, for the purposes of this subtitle the term—

"(1) 'eligible applicant' means—

"(A) a State,

"(B) a local government (except for expedited assistance under section 613(e)), with the concurrence of the Governor,

"(C) the governing bodies of Indian tribes, or an Alaskan Indian tribe or Alaskan tribal group, as defined in the Indian Self-Determination and Educational Assistance Act (Public Law 93–638), if they can demonstrate the capability to effectively administer a comprehensive program under this subtitle, or

"(D) a regional commission pursuant to section 614, which serves a designated geographic area for which a local planning unit has been appointed under subsection 612(b).

"(2) 'Federal agency' means an executive agency (as defined in section 105 of title 5 of the United States Code).

"(3) 'Geographic area' means one or more areas within a State which is a special purpose district or other region recognized for governmental purposes within such State or a unit of local government.

"(4) 'Governor' means the chief executive officer of a State or his designee.

"(5) 'Indian tribe' means an Indian tribe, as defined in the Indian Self-determination and Educational Assistance Act (Public Law 93–638).

"(6) 'Local government' means—

"(A) any political subdivision of a State including, without limitation—

"(i) any town, township, parish, borough, village, or other general purpose political subdivision of the State, or

"(ii) any special unit or district of the foregoing State, or

"(iii) a council of local governments, or

"(iv) any special entity created by a State, or a political subdivision of a State and

"(B) which (in whole or in part) is located in, or has authority over the energy impact area and which—

"(i) has authority to levy taxes, or to establish and collect user fees, or "(ii) provides any public facility or public service which is financed in whole or in part by taxes or user fees, or

"(iii) in the case of a council of local governments, serves an area designated and approved under section 612(b).

"(7) 'Local Planning Unit' means a temporary intergovernmental body of State and local officials appointed by the Governor of the State pursuant to section 612(b).

"(8) 'Major energy development' means any facility or installation such that its primary use is for the exploration, production, extraction, conversion, or processing of any energy resource; or for the generation of electricity; or any federally funded energy project (including uranium processing and nuclear spent fuel storage and waste facilities).

"(9) 'Public facilities and services' means facilities and services which are financed, in whole or in part, by any State or political subdivision thereof, or Indian tribe including highways and secondary roads, parking, mass transit, parks and recreational facilities, governmental administration, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care and any other facility or service so financed which the Secretary finds is necessary to support increased population.

"(10) 'Regional commissions' means the Appalachian Regional Commission established by the Appalachian Regional Commission Act of 1965, as amended, (40 U.S.C. App. 301) or any regional commission established under subtitle D of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3171).

"(11) 'Secretary' means the Secretary of Energy.

"(12) 'State' means a State, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

"SEC. 612. ENERGY IMPACT DEVELOPMENT PLANNING.

"(a) AREA DESIGNATION.—(1) The Governor or in the case of an area under the control of an Indian Tribe, the governing body of such Indian tribe, may designate a community or geographic area as an energy impact area if it is found that—

"(A) there exists or will exist a major energy development in such community or geographic area;

"(B) as a result of the construction or operation of such development either—

"(i) employment in energy development activities in such area has increased by eight percent or more in any year not more than five years before the date of the designation, or

"(ii) employment in such activities will increase by 24 percent or more during the three years following the most recent year.

"(C) the increases in population or employment resulting from such major energy development requires or will require substantial increases in public facilities and services in such community or geographic area in the five years succeeding initiation of construction or operation of such major energy development;

"(D) a predominant amount of the energy-related products or services produced or provided by such major energy development will not be used by or consumed in such community or geographic area; and

"(E) the State and the local governments, or the governing body of an Indian tribe, serving such geographic area, lack the financial and other resources (including resources available under other Federal programs), to meet the immediate or long-term needs for increased public facilities and services identified in clause (c) which cannot be met in a timely manner without assistance under this title.

"(2)(A) The Secretary of Agriculture, after consultation with the Secretary of the Interior, Secretary of Labor, and Secretary, shall approve any designation of an area under paragraph (1) only if—

"(i) the designating official provides the Secretary of Agriculture in writing with the data and information on which such designation was made;

"(ii) the Secretary of Agriculture determines that the requirements of clauses (1) (A) through (E) have been met.

"(B) For the purposes of clause (1)(E), increased revenues, including severance tax revenues, royalties, and similar fees to the State and local governments which are associated with the increase in energy activities (including natural gas, petroleum, coal or uranium development activities) and which are not prohibited from being used under provisions of law in effect on the date of the enactment of this subtitle shall be taken into account in determining if a State or local government lacks financial resources.

"(3) An energy impacted area designated pursuant to section 601 shall be deemed an energy impact area for the purposes of this title.

"(b) LOCAL PLANNING UNIT.—(1) Any Governor, after consultation with appropriate officials of local government, or the governing body of an Indian tribe, as the case may be, shall designate a local planning unit to prepare a mitigation plan for each energy impact area. Staff may be detailed to such unit from the member organizations to carry out its responsibilities pursuant to this section: *Provided, however*, That such staff shall remain employees of the entity from which they are appointed.

"(2) For the purposes of this subsection, a Governor may designate as the local planning unit—

"(A) a local development district certified under section 301 of the Appalachian Regional Development Act of 1965;

"(B) after consultation with appropriate elected local officials, an economic development district designated under title IV of the Public Works and Economic Development Act of 1965, as amended, for energy impact areas in whole or in part within such district;

"(C) an agency of local government;

"(D) a regional consortium of local governments; or

"(E) other appropriate districts or entities.

"(c) PLANNING GRANTS.—(1) The Secretary of Agriculture, is authorized upon request to make planning grants or provide other financial and technical assistance to eligible applicants. Such grants or assistance shall be to carry out the purposes of this section, including planning and management of the activities necessary to prevent or mitigate the adverse impacts of major energy developments.

"(2) The Governor of any State receiving a grant under this subsection shall make subgrants to local planning units to assist in paying for preparation of mitigation plans required under subsection (d) and related management activities to prevent or mitigate the adverse impacts of major energy development.

"(d) MITIGATION PLANS.—(1) For each designated energy impact area the local planning unit for such area shall prepare a mitigation plan. Such unit shall consult with representatives of the appropriate Federal agencies and with representatives of the owner or operator of each major energy development within such area. Such unit also shall, to the extent practicable, seek the active participation by regional, State and local agencies and instrumentalities and the private sector through public hearings in cities and rural communities and other appropriate means to insure that the views and proposals of all segments of the economy within the designated energy impact area are taken into account in the formulation of such mitigation plan.

"(2) A mitigation plan shall be approved by the Secretary of Agriculture as a condition of receipt of assistance under section 613. Such plan shall—

"(A) identify—

"(i) the projected impact of each major energy development on the economy of the designated energy impact area, the surrounding communities and the State, for the period of five years following construction or operation of the major energy development;

"(ii) the specific needs with the designated area for public facilities and services resulting from the major energy development for the period of the succeeding five years from the initiation of the construction or operation of the major energy development;

"(iii) specific proposals for mitigating such needs, including specific public and private programs, projects, and activities;

"(iv) priorities for implementing the proposals specified in clause (iii);

"(v) the availability and location of funds and other resources to implement proposals identified in clause (iii):

"(vi) any existing or additional legislative or other authority necessary for the State or local government or Indian tribe to carry out the proposals specified in clause (iii); and

"(vii) the functions and activities in responding to such needs that the State, local government or governing body of an Indian tribe is prepared to carry out;

"(B) contain assurances satisfactory to the Secretary of Agriculture that the proceeds from any repayment of loans made by a State or Indian tribe under section 613(c) will be returned to the Secretary of the Treasury;

"(C) provide for the establishment of a planning process for review and revision, as appropriate, of the mitigation plans; and

"(D) be coordinated with, and take into account, planning assisted or required under this subtitle or any other appropriate Federal statute, including the Coastal Zone Management Act of 1976 (P.L. 94–370); the Outer Continental Shelf Act, as amended (P.L. 95–372); title IV of the Intergovernmental Cooperation Act of 1968 (7 U.S.C. 2201 et seq.); the Federal Land Policy and Management Act of 1976 (P.L. 94–565); the National Forest Management Act of 1976 (16 U.S.C. 1609): the Federal Coal Leasing Amendments of 1976 (P.L. 94–377); Payments in Lieu of Taxes Act (P.L. 94–565); and the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201).

"(3) The mitigation plan described in paragraph (2) shall be in such form, and contain such additional information as the Secretary of Agriculture may by regulation prescribe.

"(4) No assistance other than assistance under subsections 612(c) and 613(e) may be made to an applicant under this section for any project which has not been approved as part of an approved mitigation plan. Notwithstanding the preceding sentence, no assistance may be made to an applicant under section 613(e) unless the Secretary of Agriculture determines that the preliminary mitigation plan provides an adequate basis for such aid.

"(5) The Secretary of Agriculture shall approve or disapprove a mitigation plan within thirty days after receipt of such plan.

"SEC. 613 FINANCIAL ASSISTANCE

"(a) COMPREHENSIVE INVESTMENT STRATEGIES.—(1) Except as provided under subsections (b) and (c) funds may not be provided pursuant to this section to implement mitigation plans approved pursuant to subsection 612(d) unless the State or Indian tribe having the designated energy impact area for which such plan was prepared shall have submitted to the Secretary of Agriculture a comprehensive investment strategy describing the intended use within such State or by such Indian tribe of all financial assistance requested under this title to implement mitigation plans and preliminary mitigation plans. Such comprehensive investment strategy shall be submitted by a State or Indian tribe to such Secretary for approval within nine months of the time an energy impact area is first designated for such State or Indian tribe and shall be updated as appropriate.

"(2) The Secretary of Agriculture shall not approve a comprehensive investment strategy unless he determines that—

"(A) such strategy is based upon the appropriate energy impact plan or plans;

"(B) such strategy, to the maximum feasible extent, identifies priorities among the measures identified in the appropriate energy impact plan or plans for possible funding under this title;

"(C) contains satisfactory assurances that other public or private assistance is not available on a timely basis for the measures identified in paragraph (B);

"(D) contains satisfactory assurances that the proceeds from any repayment of loans made by the recipient with funds under this section will be used to meet future energy impact needs; and

"(E) the procedures of this subsection have been followed.

"(3) (A) The Secretary of Agriculture shall rule on the acceptability of comprehensive investment strategies within thirty days.

"(B) In the event such Secretary does not approve a comprehensive investment strategy he shall notify the State or Indian tribe submitting the strategy of his reasons for not doing so. The State or Indian tribe may modify and resubmit the comprehensive investment strategy within thirty days of such notification.

"(b) IMPLEMENTATION GRANTS.—(1) If the Secretary of Agriculture finds that an eligible applicant is unable, because of any restriction via a State Constitution existing on the date of enactment of this subtitle relating to the incurrence of debt, to accept a loan under subsection (c) for the purpose of carrying out proposals identified in mitigation plans approved pursuant to section 612(d), and if such Secretary further determines that there is no practical alternative for providing financial assistance to such applicant under this subtitle other than by grant, then such Secretary upon the request of such applicant may make a grant to such applicant for such purposes.

"(2) Grants made pursuant to this subsection may be used for the acquisition, construction, rehabilitation, alteration, expansion or improvement of public facilities and services which are necessary to carry out the proposals identified in such mitigation plan.

"(3) (A) Grants made pursuant to this subsection shall be redistributed by such recipient through financing mechanisms approved by such Secretary to appropriate public entities in the form of grants, loans, payments to reduce interest on loans, loan guarantees or other appropriate assistance.

"(B) Such recipient may redistribute funds in the form of grants only if—

"(i) constitutional or other legal restrictions prevent the use of loans by the recipients;

"(ii) the remaining borrowing capacity of the recipients is inadequate;

"(iii) the recipients are unable to reasonably amortize repayment;

"(iv) specific local conditions or considerations of equity preclude loan and loan guarantee assistance;

"(v) the adverse social or economic impacts of energy resource development are occurring in municipal, county, or State jurisdictions which have no existing statutory authority to tax the energy resource development and to make the revenues available for impact mitigation; or

"(vi) such Secretary determines that grants are otherwise warranted to accomplish the purpose of this subtitle.

"(4) Except for grants made pursuant to section 612(c), not more than two percent of any grant to a recipient under this title may be used for the administrative expenses of such recipient for administering such grant.

"(c) IMPLEMENTATION LOANS.—(1) (A) The Secretary of Agriculture is authorized to make loans pursuant to this subsection to eligible applicants (i) for the purpose of carrying out the proposals identified in mitigations plans approved pursuant to section 612(d) and (ii) to meet needs for expedited assistance identified in the preliminary mitigation plan prepared pursuant to subsection (e). Loans made under this subsection may be made only if such Secretary determines that there is a reasonable expectation of repayment of the loan.

"(B) Loans made pursuant to this subsection may be used for the acquisition, construction, rehabilitation, alteration, expansion, or improvement of public facilities and services which are necessary to carry out the proposals identified in such mitigation plans.

"(C) Loans made pursuant to this subsection may be expended directly by the recipient or may be redistributed by such recipient through financing mechanisms approved by such Secretary to nonprofit public entities in the form of grants, loans, payments to reduce interest on loans, or other appropriate assistance.

"(2) If the Secretary of Agriculture finds that any recipient of a loan under this subsection, despite good faith efforts, is unable to meet its obligations, such Secretary may, pursuant to regulations—

"(A) modify the terms and conditions of such loan;

"(B) make a supplemental loan, the proceeds of which shall be applied to the payment of principal or interest due under such loan; or

"(C) forgive all or any portion of such loan, only if such Secretary finds that insolvency will otherwise ensue or substantial economic hardship will result and consequently frustrate the purposes of this subtitle.

"(3) In the event that any recipient of a loan under this subsection is forgiven any loan obligation such recipient shall be ineligible for further loans under this subsection or subsection (e) for a period of two years from the date of such forgiveness. Nothing in the preceding sentence shall be construed to make a State ineligible for continued assistance solely because a loan obligation of a local government or Indian tribe located within such State has been forgiven.

"(4) (A) A comprehensive investment strategy prepared by a local planning unit that includes a local development district or economic development district designated pursuant to section 612(b) (2) shall serve as the basis for the distribution of assistance under this subsection where application for such assistance has been made under this subsection and such plan meets the requirements of the development planning process established under section 225 of the Appalachian Regional Development Act of 1965 (Public Law 89–4) and has been approved pursuant to section 303 of such Act (including the affirmative vote of the Federal Cochairman).

"(B) A mitigation plan prepared by a local planning unit that includes any regional commission shall, pursuant to section 614, serve as the basis for the distribution of assistance has been made under this subsection and such plan has been reviewed and approved (including the affirmative vote of the Federal Cochairman) in accordance with sections 502 and 503 of that Act.

"(d) LOAN GUARANTEES.—(1) The Secretary of Agriculture, with the concurrence of the appropriate Governor or Indian tribe, may guarantee loans to eligible applicants to carry out projects proposed under a mitigation plan approved pursuant to section 612(d) and pursuant to a comprehensive investment strategy.

"(2) Loans guaranteed under this subsection shall be on the same terms and conditions as required for loan guarantees and interests payments under the Coastal Energy Impact Program (16 U.S.C. 1456a(d) (2), 1456a(d) (3), 1456a(e) (4), and 1456a(f)); except that no guarantee shall be made after September 30, 1984.

"(e) EXPEDITED ASSISTANCE.—(1) A local planning unit established pursuant to section 612(b) upon finding a serious threat to the public health and safety within a designated energy impact area as a result of the appropriate major energy development, may prepare a preliminary mitigation plan identifying and addressing the need for expedited assistance. Such preliminary plan shall be the basis for an application for expedited assistance under this subsection.

"(2) (A) The Secretary of Agriculture may, at any time, make grants, loans, payments to reduce interest on loans, and loan guarantees to any eligible applicant on an expedited basis for public facilities or public services in a designated energy impact area if such Secretary finds that such needs cannot be met with other Federal programs or other assistance in a sufficiently timely manner to avert a serious threat to the public health and safety identified by the local planning unit and if the public interest so requires.

"(B) Applications for such assistance shall contain the information required under paragraphs (a) (2) (C) and (D).

"(C) The guarantee of loans, payment of interest, and loans under this subsection shall be under the same terms and conditions as required for loan guarantees, interest payments, and loan under the Coastal Energy Impact Program (16 U.S.C. 1456a(d) (1), 1456a(d) (2), 1456a(d) (3), 1456a(e) (3), 1456a(e) (4), 1456(e) (5), and 1456a(f)).

"(3) The amount of any assistance made available within a State or to an Indian tribe under this subsection in any fiscal year shall be deducted from the amount of assistance which would otherwise be allocated to such State or to such Indian tribe under the provisions of section 616(b) for that fiscal year. In the event that the amount of assistance made available within a State or to an Indian tribe under this subsection in any fiscal year shall exceed the amount of assistance allocated to that State or Indian tribe under the provisions of section 616(b) for the same fiscal year, any such allocation shall be reduced, accordingly, until a total reduction equal to the amount of assistance made available under this subsection shall be obtained.

"(f) TERMS AND CONDITIONS OF ASSISTANCE.—(1) Any assistance under this title may not be used to provide the non-Federal portion of costs of any other Federal assistance program.

"(2) No financial assistance shall be provided under this subtitle in implementing proposals identified in an approved mitigation plan unless the Secretary of Agriculture finds that such plan meets the requirements set forth in section 612(d) or in implementing a preliminary mitigation plan unless such Secretary finds that such preliminary mitigation plan substantially meets the requirements set forth in section 612(d).

"(3) No loan may be made under this subtitle unless, in the opinion of the Secretary of Agriculture, there is a reasonable expectation of repayment within twenty years from the date such loan is made.

"(4) No assistance under this title shall be used for interest subsidies in connection with loans guaranteed under subsection (d) or to establish reserves to cover losses on such loans.

"(g) Non-Federal Share.—(1) Except as provided in paragraph (2), for the first fiscal year of any grant assistance made pursuant to this section the recipient shall provide funds equal to 12.5 per centum of the total cost of implementing the proposal for which the assistance is made. For the second fiscal year of such assistance, the recipient shall provide funds equal to 25 per centum of such costs for such purpose. For the third fiscal year of such assistance, the recipient shall provide funds equal to 37.5 per centum of such costs for such purpose. For the fourth and fifth fiscal years of such assistance, the recipient shall provide funds equal to 50 per centum of such costs for such purpose.

"(2) Where the Secretary of Agriculture determines, after consultation with the Secretary of the Interior, that an Indian tribe, which is an applicant for assistance under this section has exhausted its effective revenue producing and borrowing capacity, or where such Secretary determines that a local government which is an applicant for assistance under subsection (e) has exhausted such capacity and the State does not concur in the assistance such Secretary may waive the requirements of paragraph (1) with regard to the non-Federal share for such applicant.

"(h) Limitation on Financial Assistance.—(1) Except for grants under section 612(c), any assistance under this section to any energy impact area may not be for more than five years following the receipt of the first funds for public facilities and services under this section.

"(2) Financial assistance under this section shall not replace other public or private assistance reasonably available on terms that, in the opinion of the administering Secretary, would permit the accomplishment of the project or program.

"(3) No funds appropriated to carry out the purposes of this section shall be expended in support of any program, project or activity which is eligible for Federal financial support and funds are available for such support under section 308 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(a)); or the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201).

"(i) Energy Impact Fund.—There is established in the Treasury of the United States an Inland Energy Impact Fund, to be available to the Secretary of Agriculture for carrying out the provisions of this title relating to loan guarantees and loans, under the same terms and conditions as apply to the Coastal Energy Impact Fund (16 U.S.C. 1456 a(h)).

"Sec. 614. Regional Commissions.

"(a) Appalachian Regional Commission.—Upon application of the Appalachian Regional Commission established by the Appalachian Regional Development Act of 1965, in accordance with established decisionmaking and operational procedures which require the affirmative vote of a majority of the States and the Federal Cochairman, funds allocated under section 616 for energy impact areas located within the Appalachian region as defined in such Act may be made available to the Federal Cochairman of such Commission to provide comparable assistance as described under sections 612(c) and 613 (b), (c) and (e).

"(b) Title V Regional Commissions.—Upon application of any regional commission established under title V of the Public Works and Economic Development Act, as amended (42 U.S.C. 3171), in accordance with established decisionmaking and operational procedures which require the affirmative vote of a majority of the State and the Federal Cochairman, funds allocated under section 616 for energy impact areas within such region may be made available to the Federal Cochairman of such Commission to provide comparable assistance as described in sections 612(c) and 613(b), (c) and (e).

"(c) Terms and Conditions.—(1) Funds shall be made available to a Federal Cochairman under this section only for States whose Governors concur in such action.

"(2) The amount of any assistance made available within a State under this section in any fiscal year shall be deducted from the amount of assistance which would otherwise be allocated to such State under the provisions of section 616 for that fiscal year.

"Sec. 615. Coordination of Federal Programs.

"(a) The President shall establish an interagency council, to be chaired by the Secretary of Agriculture pursuant to section 603 of the Rural Development Act of 1972 (Public Law 92–419) to coordinate all Federal programs which may provide assistance to meet the needs resulting from major energy developments. Such council shall coordinate the various Federal planning processes related to major energy developments with the preparation of mitigation plans assisted under this title, in order to minimize duplication of effort or activities and to avoid delay in the consideration or carrying forward of such major energy developments.

"(b) The Secretary of Agriculture shall create an organizational unit—

"(1) to administer the program established by this subtitle;

"(2) to provide information to State and local officials and Indian tribes about Federal assistance from programs other than those authorized by this subtitle to prevent or mitigate adverse impacts from energy resource development;

"(3) to advise other appropriate Federal agencies of the needs and proposals for public facilities and services identified in energy impact plans; and

"(4) to provide information and technical assistance, when requested, to States, local governments, and Indian tribes about energy impact mitigation.

"(c) The heads of all Federal departments or agencies shall cooperate with the Council in carrying out the purposes of this subtitle and shall review the programs which each administers to determine what assistance is or may be made available to areas eligible for assistance under this title.

"Sec. 616. Administration.

"(a) General Rulemaking.—The Secretary of Agriculture in consultation with the Secretary, is authorized to promulgate such regulations as necessary to carry out this subtitle, including (1) terms and conditions for financial assistance pursuant to Section 613, including a requirement for assurances of repayment of loans under section 613(c); (2) procedures to carry out the provisions of section 616(b), which shall not be subject to sections 554, 556 or 557 of title 5 of the United States Code; and (3) criteria for the allocation of funds appropriated under section 617. Such regulations shall be promulgated not later than one hundred and eighty days after the enactment of this subtitle.

"(b) Termination of Financial Assistance.—Whenever the Secretary of Agriculture, after affording the State reasonable notice and opportunity to present views, finds that a State receiving financial assistance under this subtitle has failed to comply with the provisions thereof or with any regulation issued pursuant thereto, such Secretary shall notify the State that such State is no longer eligible to receive all or a portion of the financial assistance provided under this subtitle until such Secretary is satisfied that there is no longer any such failure to comply. Such Secretary may withhold all or part of further financial assistance under this subtitle for so long as such State is deemed not to comply.

"(c) Recordkeeping and Reporting.—(1) Each State, unit of local government or Indian tribe receiving financial assistance under this title or under a State energy program shall keep records and shall make reports to the Secretary of Agriculture with copies to the Secretary, which may include information on (A) the amount and disposition expended by such State or Indian tribe of the proceeds of the financial assistance, and amount of funds for the plan, programs, projects, measures or systems for which the assistance was given or used, (C) the source and amount of funds for the plan, programs, projects, measures or systems not supplied by the Secretary of Agriculture; and (D) such other information as such Secretary may deem necessary to prepare the annual report pursuant to subsection (d) and to facilitate an effective audit and performance evaluation.

"(2) The Secretary, the Secretary of Agriculture and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination at reasonable times and under reasonable conditions, to any pertinent books, documents, papers, records and reports of any recipients of financial assistance under this subtitle or under a State energy grant program.

"(d) Annual Report.—The Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit an annual report to the Congress on the status of the programs authorized under this title.

"Sec. 617. Appropriations Authorization.

"(a) Authorization.—(1) There is hereby authorized to be appropriated to the Secretary to carry out the purposes of sections 601(b) and 612(c) $30,000,000 for fiscal year ending September 30, 1980, and $15,000,000 for each of the fiscal years ending September 30, 1981, through 1985.

"(2)(A) There are authorized to be appropriated to the Secretary to carry out the provisions of this title (other than the purposes of sections 601(b) 612(c)) $135,000,000 for each of the fiscal years ending September 30, 1981 through 1985. Appropriated funds shall remain available until expended.

"(B) Of the amounts appropriated under this subsection for any fiscal year not more than 40 per centum thereof shall be expended in the form of grants.

"(C) Not more than 15 per centum of the funds appropriated under this subsection shall be used to provide expedited assistance under section 613(e).

"(D) The total principal amount of loans guaranteed under this subtitle shall not exceed $1,500,000,000.

"(b) Allocations.—(1) The Secretary of Agriculture shall allocate funds available for assistance under subsections 612(c) and 613(b); for assistance under subsection 612(e) other than guaranteed loans; and for payment of interest under subsection 612(d) among States with energy impact areas, by a formula based fifty per centum on the absolute increase and fifty per centum on the relative increase in employment related to major energy development in energy impact areas.

"(2) The Secretary shall determine a minimum amount necessary for the efficient administration of an energy impact program by a State. The Secretary of Agriculture shall adjust the allocation under paragraph (1) to increase any allocations less than such minimum amount.

"(3) Before allocating funds, the Secretary of Agriculture shall set aside a portion of the funds available for Indian tribes and for energy impact areas in States not qualifying for a separate allocation under paragraph (2).

"(4) If the Secretary of Agriculture finds that allocated funds cannot be obligated within a reasonable time by the State, energy impact area, or Indian tribe for which the allocation was originally made, such Secretary may make those funds available to other States, energy impact areas, or Indian tribes.

"SEC. 618. MISCELLANEOUS PROVISIONS.

"(a) PROHIBITION OF DELAY OF MAJOR ENERGY DEVELOPMENT.—No action or failure to act to designate an energy impact area, to create an assessment team, to develop or implement an approved mitigation plan, to obtain or implement expedited assistance or any other assistance under this title may not be used as a legal basis for delaying or prohibiting the obtaining of any licenses, permits, or other authority necessary for the development, construction or operation of a major energy development.

"(b) GAO REPORT.—The General Accounting Office shall prepare and submit to the Congress two years after the date of enactment of this subtitle an implementation report reviewing the status of the program of assistance provided under this title and analyzing the effectiveness of that program in carrying out the purposes of this title.".

Mr. FORD. Mr. President, I have checked with the chairman and the ranking minority member of the Government Affairs Committee. I have checked with the chairman and ranking minority member of the Committee on Energy and Natural Resources. I have checked with the majority and minority members.

I ask unanimous consent that the bill I am introducing be jointly referred to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I send the bill to the desk.

Mr. President, I yield to the distinguished Senator from Ohio.

Mr. GLENN. Mr. President, the Energy Impact Assistance Act of 1979, which I have co-authored with Senator FORD and which he has today introduced, is a major initiative aimed at addressing the serious social and economic dislocations which can arise from our national efforts to develop our domestic energy resources to their fullest potential. Major energy developments of the kind envisaged in President Carter's recent address to the Nation and in legislation pending before several committees of the Congress are often located in rural or isolated areas and, while they hold the promise of increased employment and economic prosperity in the long term, during the early stages of development the rapid population growth they inevitably bring can lead to drastic disruptions in the lives of persons living in the area.

As hearings held last year before my Subcommittee on Energy, Nuclear Proliferation and Federal Services on similar energy impact assistance legislation revealed, rapid growth of this kind is unpredictable in many cases and often public services and facilities cannot accommodate the overload created by the sudden influx of new inhabitants. In many cases health care facilities cannot meet demand; transportation and communication networks are undeveloped; schools become overcrowded, and water and sewer systems, overtaxed. Housing shortages often arise, increasing the price of existing homes to astronomical figures, and often trailer camps become prevalent as available land grows scarce.

Along with the service and facility shortages, social disruptions accompanying sudden energy development on a large scale are often manifest as tranquil rural communities become subject to the pressures of increased growth. There have been numerous cases where these "boomtowns" experience dramatic increases in the rate of crime, alcoholism, divorce, child abuse, and prostitution statistics which tear at the very social fabric of the community.

The Energy Impact Assistance Act is an effort to deal directly with these problems associated with the development of new energy resources. It provides for careful planning to meet community needs and for the necessary Federal funding of such projects. However, the funding contemplated by this legislation is not a Federal giveaway, but rather a carefully structured program of Federal loans and loan guarantees, with grants from the Federal Government playing a small role and available only in those cases where State constitutional restrictions make the acceptance of loans an impossibility. Rigorous planning requirements are also part of this legislation, which is based largely on a similar bill reported by the Governmental Affairs Committee last summer, to insure that Federal assistance is spent where it is most needed. At the same time a strong role for the States in establishing priorities for such expenditures is also included as a way of taking advantage of local expertise regarding local needs.

Impact assistance of this kind is, in my view, a most important component in any overall national energy strategy. We must make it clear to communities which will be receiving major energy developments that their legitimate concerns about undesirably rapid growth will not be thrust aside in an effort to meet some Federal energy quota. At the same time, the achievement of Federal energy goals will be fostered by this bill because communities which might otherwise object to new energy facilities will find that their concerns are being addressed.

By Mr. METZENBAUM:

S. 1701. A bill to amend the Magnuson-Moss Federal Trade Commission Improvement Act to extend the protections contained in such act to owners of new passenger motor vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AUTOMOBILE FULL WARRANTY ACT OF 1979

● Mr. METZENBAUM. Mr. President, I am today introducing the Automobile Full Warranty Act of 1979, legislation designed to help eliminate one major source of consumer complaint—poor automobile warranty performance.

After the home, the automobile is probably the single, most expensive purchase Americans make in a lifetime. In return for the thousands of dollars that a new car costs, consumers have the right to expect a quality product. Unfortunately, today's car buyers can expect no such guarantee.

Today, the consumer faces one chance in three that his or her new car will be delivered with a defect or problem. But under current automobile warranty systems, these owners can expect little relief. Not only must they bear the inconvenience and frustration involved in having defective vehicles repaired, but in many instances, they are forced to take time off from work to pay for alternate transportation while their new car is in the shop.

Automobile warranty systems work against the consumer. Too often, they offer empty promises to the new-car buyer. Too often, the new-car owners must contend with long delays in repair or with insufficient temporary repairs. And too often, dealers and manufacturers refuse to recognize problems and defects covered under the warranty.

With the Magnuson-Moss Act of 1975, Congress sought to improve warranty performance for all consumer products. Magnuson-Moss set forth minimum standards governing the performance of warranties in all categories. And, in order to give meaning to these standards, Magnuson-Moss created judicial and administrative remedies to help enforce warranty rights and obligations.

Unfortunately, with respect to automobiles, warranty performance has not improved as much as many of us had hoped, largely because the Big Three auto manufacturers have chosen to offer limited rather than full warranties on their products. Currently, more than 98 percent of all new cars are sold with limited warranties. As Esther Peterson, Director of the Office of Consumer Affairs, pointed out in her letter of support for this bill:

> The warrantor who gives a "limited" warranty has no obligation to actually remedy a defect in a reasonable time. Nor is the manufacturer obligated to provide a refund or replace an automobile which still contains defects after a reasonable number of repair attempts. Instead, the warrantor of a "limited" warranty has only the obligation to attempt to repair the defects—often until the warranty expires.

The bill I am introducing today, which has the support of Mrs. Peterson, the Federal Trade Commission, and the Center for Auto Safety, will take the standards for "full" warranties as set forth in Magnuson-Moss and apply them to automobile warranties. By extending "full" warranty protection to automobiles, the legislation will give the consumer the important legal right to a replacement or refund for unrepairable "lemons."

A significant number of companies, including many of the manufacturers of such large and expensive products as home appliances, currently offer such comprehensive protection to the consumer. In fact, full warranties are the rule rather than the exception in the major home appliance industry. In the recreational vehicle industry, more and more companies are beginning to offer full warranties. And, finally, even one auto manufacturer, American Motors, has seen fit to offer consumers full warranty protection.

In addition to providing new car owners with clear rights for unrepairable lemons, the bill will improve the legal remedies available for enforcing those rights. It will provide greater opportunities for consumers who face identical warranty problems to join together in seeking legal redress. And, it will insure that when a manufacturer is found to have violated warranty rights, the manufacturer will bear the full cost of litigation.

In addition to providing consumers with greater protection from major warranty problems, the bill also recognizes that consumers and manufacturers need a less costly, nonjudicial means for settling the majority of less drastic problems.

Already, the major American automobile manufacturers have begun to move in this direction by creating experimental third-party appeals boards to arbitrate minor warranty problems. Although limited to only a few areas in the country, these panels have proven valuable to both the consumer and the auto manufacturer in effectively handling complaints. Last week, in testimony before the House subcommittee on Consumer Protection, a spokesperson for Ford Motor Co. stated:

> Its handful of consumer appeals boards have motivated dealership personnel to take a greater interest in improving dealership relations with their customers. The program is bringing a speedy resolution to customer problems at a minimal expense in time and money to the customer. We are convinced it has also resulted in improved confidence in our products and dealers.

The Automobile Full Warranty Protection Act will expand these existing programs nationwide. It will insure that all new car buyers with warranty-related problems will have the benefit of these impartial appeals boards.

It may not be possible to produce defect-free automobiles 100 percent of the time. But it is possible to provide assurance to the consumers of this country that new car problems will be handled promptly and satisfactorily.

I believe that the legislation I am introducing today will help achieve this objective and I ask unanimous consent that the text of the bill be printed in the RECORD along with letters in support of the bill from Esther Peterson, Director of the Office of Consumer Affairs, and from Clarence Ditlow, executive director of the Center for Auto Safety.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1701

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Automobile Full Warranty Act of 1979."

SEC. 2. (a) The Magnuson-Moss—Federal Trade Commission Improvement Act (15 U.S.C. 2301 et seq.) is amended by redesignating section 105 through section 112 as section 106 through section 113, respectively, and by inserting after section 104 the following new section:

"PASSENGER MOTOR VEHICLE WARRANTIES

"SEC. 105. The provisions of section 104 apply to any written warranty for a passenger motor vehicle.".

(b) Section 101 of that Act (15 U.S.C. 2301) is amended by adding after paragraph (15) the following:

"(16) The term 'passenger motor vehicle' means a motor vehicle with motive power, designed for carrying twelve persons or less, except (A) a motorcycle, or (B) a truck designed to carry no passengers other than its operator.

"(17) The term 'warranty dispute resolution system' or 'system' means an informal dispute settlement procedure, which may include arbitration, mediation, conciliation procedures (or any combination thereof), available to resolve consumer warranty disputes.".

SEC. 3. Section 110(a) of that Act (15 U.S.C. 2310(a)) is amended by adding at the end thereof the following:

"(6) Each manufacturer and importer of new passenger motor vehicles shall offer to all purchasers no later than January 1, 1982, a comprehensive warranty dispute resolution system which shall remain in operation for a period of three years. The systems shall operate under guidelines issued by the Commission to ensure that they are impartial, accessible to consumers, expeditious, and operate at minimum cost to consumers. Each such system shall—

"(A) provide for a determination resolving questions of law and fact raised in any consumer complaint relating to the performance of warranty obligations by the vehicle warrantor or the warrantor's designated representative for warranty service, under any written or implied warranty;

"(B) operate pursuant to rules and procedures that—

"(i) provide that the consumer may elect to submit a dispute to the system when the dispute arises;

"(ii) provide that the decision of the system shall be binding on the manufacturer, but not on the consumer;

"(iii) insure that if the consumer elects to be bound by the decision of the system, that the decision is carried out by the warrantor; and

"(iv) provide that evidence of the decision shall be admissible in any subsequent proceeding;

"(C) provide for public information to make consumers aware of the system's availability; and

"(D) keep such records as the Commission shall require to determine whether the system is operating in compliance with this title and with Commission guidelines, and to assist the Commission in making the report to Congress required in paragraph (7) of this subsection.

"(7) The Commission shall submit by January 1, 1984, a report to the Congress evaluating the performance, effectiveness, costs, and benefits of the systems required under paragraph (6). The report shall contain the Commission's recommendations for continuing, modifying, or terminating the requirements of paragraph (6).".

SEC. 4. (a) Section 110 (d) of that Act (15 U.S.C. 2310 (d)) is amended—

(1) in paragraph (2), by striking out "he may be allowed by the court to recover" and inserting in lieu thereof "he shall be awarded by the court";

(2) in paragraph (2), by striking out ", unless the court in its discretion shall determine that such an award of attorney's fees would be inappropriate";

(3) by adding at the end thereof the following:

"(4) A court shall have jurisdiction over an action filed as a class action under paragraph (3) of this subsection in which the defendant stipulates that the proposed class is one hundred persons or more. Furthermore, no court shall dismiss an action commenced under paragraph (3) of this subsection on the grounds of failure to name one hundred persons as plaintiffs unless a reasonable opportunity to conduct discovery on this issue has been provided.

"(5) In any action brought under this title with respect to a passenger motor vehicle, the consumer is entitled to retain possession and use of the passenger motor vehicle during the pendency of the action.".

SEC. 5. (a) Section 101(7) of that Act (15 U.S.C. 2301 (7)) is amended by striking out "sections 108" and inserting in lieu thereof "sections 109".

(b) Section 104(a)(2) of that Act (15 U.S.C. 2304(a)(2)) is amended by striking out "section 108(b)" and inserting in lieu thereof "section 109(b)".

(c) Section 104(e) of that Act (15 U.S.C. 2304(e)) is amended by striking out "section 110(d)" and inserting in lieu thereof "section 111(d)".

(d) Section 112(b)(2) of that Act, as so redesignated in section 2(a) of this Act, is amended by striking out "sections 108" and inserting in lieu thereof "sections 109".

(e) Section 112(c)(2) of that Act, as so redesignated in section 2(a) of this Act, is amended by striking out "section 109" and inserting in lieu thereof "section 110".

OFFICE OF CONSUMER AFFAIRS,
Washington, D.C., July 23, 1979.

Hon. HOWARD M. METZENBAUM,
U.S. Senate, Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR METZENBAUM: I am writing to express my views on the "Automobile Full Warranty Act," which I understand you intend to introduce in the near future. Generally, this bill would require that any warranty provided for a new passenger motor vehicle meets or exceeds the "Federal Minimum Standards for Warranty" under Section 104 of the Magnuson-Moss Warranty Act.

I heartily support the objective of this bill to provide more comprehensive warranty protection for new automobile owners. Today, more than 98 percent of new cars in this country are sold with only a "limited" warranty under the Magnuson-Moss Warranty Act. Unlike the manufacturer who offers a "full" warranty, the warrantor who gives a "limited" warranty has no obligation to actually remedy a defect in a reasonable time. Nor is the manufacturer obligated to provide a refund or replace an automobile which still contains defects after a reasonable number of repair attempts. Instead, the warrantor of a limited warranty has only the obligation to attempt to repair the defects—often until the warranty expires.

The fact that more than 50 percent of the automobile-related complaints received by my office involve warranty problems indicates that these "limited" warranties do not provide adequate protection for new car owners. In my opinion, "full" warranty protection for new automobiles would not only encourage warrantors to be more responsive to the needs of new car owners, but would also insure that consumers are given viable means of recourse in case of a failure of a warrantor to fulfill its obligations under warranty.

I believe that the enactment of the "Automobile Full Warranty Act" would be a positive step towards reducing the frequency and severity of warranty problems that confront owners of new automobiles. I congratulate you on your endeavors in this area.

Sincerely,

ESTHER PETERSON,
Director.

CENTER FOR AUTO SAFETY,
Washington, D.C., June 25, 1979.
Hon. HOWARD M. METZENBAUM,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR METZENBAUM: This is in response to your letter of June 21, 1979, regarding your bill to amend the Magnuson-Moss Act. When this act was passed, Congress expected it to significantly reduce the difficulties consumers had in getting defective vehicles remedied or replaced. Because of loopholes, vagueness and the resistance of the auto manufacturers, the Magnuson-Moss Act did not accomplish its intended purpose of helping consumers with auto problems, which remain the top consumer complaint in America.

The Center for Auto Safety commends your proposal to strengthen the Magnuson-Moss Act to improve warranty performance of the automobile manufacturers. This bill is a significant step to alleviate some of the frustration, inconvenience, and economic loss too often suffered by new car purchasers.

While the Center finds the proposed bill basically sound, several modifications could be made to strengthen the warranty protection for consumers. For example, the bill should require the auto manufacturers to provide consumers with a free loaner car for substitute transportation if the repair is going to take more than a full day. This provision would not only provide the consumer with a means of transportation, but also create an economic incentive for the manufacturer/dealer to avoid unnecessary delays in repairing the car.

The Center for Auto Safety is confident that it can work with you to develop more adequate protection for the automobile consumer.

Sincerely,
CLARENCE M. DITLOW III,
Executive Director.●

By Mr. LEVIN:

S. 1207. A bill to amend title 18 of the United States Code to provide that the provisions of chapter 119, relating to the interception of wire and oral communications, apply to pen registers; to the Committee on the Judiciary.

Mr. LEVIN. Mr. President, today I offer legislation that would bring what has come to be known as a "pen register" within the limits and controls of title III of the Omnibus Crime Control Act of 1968.

On June 20, 1979, the U.S. Supreme Court in a case entitled Smith against Maryland held that a search warrant was not constitutionally required for the installation of a pen register. A pen register is a device, usually installed at a central phone facility, that records the numbers dialed from a particular phone. It does not record the contents of a conversation, but does, however, let the listener know just whom and how often the dialer is calling.

Over 10 years ago in a now-famous case entitled Katz against United States, the Supreme Court determined that a Government agent had violated the fourth amendment when he attached an electronic listening device to a telephone booth in order to overhear the occupant's conversation. The Court stated in that opinion that the Constitution "protects people, not places" and that the Government cannot intrude without a search warrant where the person under surveillance has a reasonable expectation of privacy. That case has been definitive of 4th and 14th amendment rights on this issue, and its standards have been applied to numerous situations in subsequent decisions.

In Smith, too, the Supreme Court applied the Katz test and somehow concluded that the dialer of a private phone did not have a reasonable expectation that the number he/she dialed would remain private. The Court reasoned that since long distance calls are routinely reported on monthly bills, no phone user can expect even local calls to be unrecorded and/or unpublished. Justices Stewart, Brennan, and Marshall disagreed. Justice Stewart wrote in his dissenting opinion in which he was joined by Justice Brennan:

> I think that the numbers dialed from a private telephone—like the conversations that occur during a call—are within the constitutional protection recognized in Katz. It seems clear to me that information obtained by pen register surveillance of a private telephone is information in which the telephone subscriber has a legitimate expectation of privacy. The information captured by such surveillance emanates from private conduct within a person's home or office—locations that without question are entitled to Fourth and Fourteenth Amendment protection. Further, that information is an integral part of the telephonic communication that under Katz is entitled to constitutional protection, whether or not it is captured by a trespass into such an area.
>
> The numbers dialed from a private telephone—although certainly more prosaic than the conversation itself—are not without "content". Most private telephone subscribers may have their own numbers listed in a publicly distributed directory, but I doubt there are any who would be happy to have broadcast to the world a list of the local or long distance numbers they have called. This is not because such a list might in some sense be incriminating, but because it easily could reveal the identities of the persons and the places called, and thus reveal the most intimate details of a person's life.

I agree with that analysis, and for that reason, I am submitting this bill today.

The question of limiting the use of a pen register is part of a growing interest and concern in the issue of privacy as it is affected by the advent of sophisticated electronic and technological devices. We are just now coming to terms with the significance of our computerized world—just now beginning to realize the wealth of information that unknown and impersonal agencies and businesses have as to each of us—credit bureaus, credit card companies, banks, financial institutions, insurance companies. Like credit cards, checking accounts, and insurance policies, the phone is a modern device that has become a virtual necessity and we have become dependent upon the company that offers the service. As such, and given the fact that the phone company in each locality is a virtual monopoly, an individual cannot have a phone without using the phone company's equipment. Should that, however, give the company and the Government access to information passing through that equipment? I strongly think not.

Title III establishes procedures that Federal and State law enforcement authorities must use in order to intercept a wire or oral communication. My amendment would simply require that such procedure also be used for the installation of a pen register. Because the information gained through the use of a pen register can be so personal and revealing, and because a telephone subscriber would not reasonably expect that information to be revealed to Government agents, I believe requiring court intervention prior to installation of the pen register to be a reasonable and necessary procedure to protect our 4th and 14th amendment rights.

By Mr. CHAFEE (for himself, Mr. COCHRAN, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. JEPSEN, Mr. RIBICOFF, Mr. BOREN, and Mr. LONG):

S. 1703. A bill to amend the Internal Revenue Code of 1954 to provide an exclusion for income earned abroad attributable to certain charitable services; to the Committee on Finance.

● Mr. CHAFEE. Mr. President, last year's efforts by Congress resolved a number of problems relating to the taxation of Americans working abroad but, inadvertently, it has increased Federal income taxes severely for the overseas employees of charitable organizations.

This afternoon, I am introducing a bill to correct this problem. I am honored to be joined in this effort by my colleagues, Senator COCHRAN, Senator MATSUNAGA, Senator MOYNIHAN, Senator JEPSEN, Senator RIBICOFF, Senator BOREN, and Senator LONG. Our proposal would amend Internal Revenue Code section 911 to allow American employees of charitable organizations the option of using the $20,000 income tax exclusion now available only to corporate employees working in remote camps. We believe it is a reasonable solution to a problem which should be cleared up this year.

Mr. President, the Foreign Earned Income Act of 1978 was passed last fall to deal with complex issues concerning the tax treatment of Americans employed overseas. It replaces the old section 911 foreign income exclusions for corporate workers ($15,000) and charitable workers ($20,000) with new provisions under section 913. The act establishes a series of tax deductions for excess living, housing, educational, and other expenses associated with living and working abroad. The $20,000 income exclusion is, however, retained for optional and exclusive use by corporate employees in work camps.

U.S. corporate employees stationed in foreign countries are generally well-paid and living in high-cost cities of Europe, Asia, and Latin America. For them, the section 913 cost-of-living deductions provide the protection from unfair taxes which was originally intended by the committee.

On the other hand, charitable employees are generally low paid and living under hardship conditions in less developed countries. To these persons, tax deductions based on excessive costs of living, housing, and so on are not particularly helpful. Their situation is more akin to that of company employees in work camps who are entitled to use the section 911 $20,000 income exclusion. We seek the same tax treatment for charitable workers.

Our proposal has broad support from international service organizations. I have received a good deal of correspondence on it as, I suspect, have many of my colleagues. These organizations are deeply concerned that burdensome taxes on their employees will impede their ability to carry on the international services and goodwill they have so selflessly provided in the past. To name a few, CARE, Catholic Relief Services, Foster Parents Plan, Technoserve, Foreign Mission Board of the Southern Baptist Convention, United Israel Appeal, National Association of State Universities and Land Grant Colleges, and the American Council of Voluntary Agencies for Foreign Service have endorsed the bill which we submit today.

Why is there concern that tax changes provided under the 1978 Foreign Earned Income Act will weaken the overseas programs of American charities? CARE, whose charitable activities are diverse and worldwide, has been able to provide us with detailed information about the tax consequences to their 178 overseas workers.

In 1978, CARE conducted feeding programs, and provided emergency disaster relief, medical aid and self-help development in 37 less developed countries located throughout Latin America, Africa, and the Middle East. Their feeding program alone offers food to some 25 million people each day, including approximately 18 million children.

Like most other charitable organizations, CARE has limited funds to pay the salaries of its employees. Their total 1978 budget for overseas employee salaries was under $2.5 million. One-quarter of CARE's employees had salaries of $10,000 per year or less. The average worker's current salary is only $12,376.

Yet, Mr. President, as a result of implementation of the Foreign Earned Income Act of 1978, virtually all of CARE's workers will experience a sudden and severe increase in tax. For the average worker, the total increase in income tax will be $1,457 per year. That is an additional tax bite equal to 12 percent of their average overseas worker's total salary.

I know that it was not the intent of Congress that such a burden be placed on these dedicated individuals. Certainly, no case can be made that we have closed a gaping loophole in the law which allowed highly paid Americans to escape their fair share of taxes.

Instead, the result will be devastating for CARE and other charitable organizations. They will either lose good employees or they will be forced to pay substantially higher salaries. If CARE were to attempt to compensate its employees for this increase in tax, it would be necessary to raise its payroll by a total of $350,000 to $389,000 per year, or 16 to 18 percent of its workers' total salaries.

The problem is that CARE, like other charities, has no customers to whom it can pass along these increased costs. By necessity, they will be absorbed by the organizations and reflected through reduced program activity. Because CARE receives matching funds for the contributions it raises, and because it is able to utilize food and materials under Government surplus programs, the loss of a dollar to increased salaries means the loss of considerably more than that in terms of the relief and assistance it provides needy people around the world.

A 16-percent increase in CARE's payroll, for instance—$350,000—is sufficient to fund participation in any of the following programs:

Constructing 9 bridges and 22 culverts to increase irrigated farm land in Bangladesh;

Promoting better nutritional practices during pregnancy and early child rearing for 70,000 mothers in Egypt;

Feeding 475,000 individuals in Haiti;

Constructing 400 classrooms in Peru;

Feeding 250,000 children and mothers per year in Tunisia;

Constructing 180 classrooms and teachers' quarters for earthquake victims in Guatemala.

Is it national policy that the Federal Government undercut activities of our charitable organizations so they have to be replaced by the Peace Corps or the U.S. Agency for International Development?

Of course not. Voluntary efforts have always been encouraged by our Government. The problem we are addressing today is one which emerged inadvertently from efforts by Congress to restructure the law relating to the taxation of foreign-earned income. It is not a statement of new policy toward voluntary foreign service. It is simply a mistake.

We urge our colleagues to join us in restoring equitable tax treatment to Americans providing charitable service abroad. Their dedication and good will just cannot be replaced by Federal programs or taxpayer dollars.

Mr. President, I ask that our bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 911 of the Internal Revenue Code of 1954 (relating to income earned by individuals in certain camps) is amended by inserting "or who performs qualified charitable services," after "hardship area,".

(b)(1) Subparagraph (A) of subsection (c)(1) of such section 911 is amended to read as follows:

"(A) Dollar limitations.—

"(i) Camp residents.—In the case of an individual who resides in a camp located in a hardship area, the amount excluded from the gross income of the individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000 for days during which he resides in a camp.

"(ii) Employees of charitable organizations.—If any individual performs qualified charitable services during any taxable year, the amount of the earned income attributable to such services excluded from the gross income of the individual under subsection (a) for the taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000.

"(iii) Special rule.—If any individual performs qualified charitable services and performs other services while residing in a camp located in a hardship area during any taxable year, the amount of the earned income attributable to such other services excluded from the gross income of the individual under subsection (a) for the taxable year shall not (after the applicator of clause (i) with respect to such earned income) exceed $20,000 reduced by the amount of the earned income attributable to qualified charitable services excluded from gross income under subsection (a) for the taxable year.".

(2) Subsection (c)(1) of such section 911 is amended by adding at the end thereof the following:

"(D) Qualified charitable services.—For purposes of this subsection, the term qualified charitable services' means services performed by an employee for an employer which meets the requirements of section 501(c)(3).".

(c)(1) The heading for such section 911 is amended by inserting "or from charitable ble services" after "camps".

(2) The item relating to section 911 in the table of sections for subpart B of part III of subchapter IV of chapter 1 of such Code is amended by inserting "or from charitable services" after "camps".

Sec. 2. The amendments made by this section shall apply to taxable years beginning after December 31, 1978.●

By Mr. WEICKER:

S. 1704. A bill to amend title 23 of the United States Code in order to improve transportation throughout the Nation; to the Committee on Environment and Public Works.

HIGHWAY AND PUBLIC TRANSPORTATION IMPROVEMENT ACT OF 1979

● Mr. WEICKER. Mr. President, once again I rise to offer legislation designed to conserve energy by abolishing the highway trust fund and allowing the flexible use of Federal transportation dollars. This legislation represents my continued commitment to remove the existing bias toward highway construction in Federal transportation programs and to create a balanced transportation system in the United States.

In 1956, Congress passed legislation establishing the highway trust fund to finance the construction of a nationwide Interstate Highway System. This fund is supported by a set of taxes levied on users of highways. The most important of which is the 4-cents-a-gallon tax on motor fuels which accounts for approximately 70 percent of the total revenue. Fiscal year 1978 total net receipts of highway trust fund was $7.567 billion; fiscal year 1979 estimate of total net receipts is $8.157 billion.

Although the 1956 legislation was subsequently amended to allow for the use of some funds from the trust fund for mass transit and other urban transportation projects, it represents a minute portion of the total trust fund outlays. Approximately $100 million has been used by the States and localities since 1973 from the urban systems program.

Since the highway trust fund was created 23 years ago, the needs of our society have dramatically changed. In 1956, energy was plentiful and cheap. Today, energy availability is one of the crucial problems facing this Nation. Our heavy reliance on insecure foreign sourced oil threatens our national security, creates economic turmoil and fuels inflation. The highway trust fund has helped to exacerbate this problem. By acting as an automatic pilot for highway construction, where expenditures were based on Trust Fund revenues regardless of demonstrated need, we have created the best highways and the worst overall transportation system in the modern world. This unequal and fragmented approach to transportation funding has led to a society dominated by the automobile. More than four out of every five American families own cars today and 90 percent of all urban travel is by car or truck.

I recognize the importance of having a good highway system both at the interstate and intrastate levels; I know that our country basically runs on tires. But have not we already built the greatest highway system in the world? Presently our interstate highway system comprises over 39,000 miles of superhighways; we have more than 900,000 miles of other Federal-aid roads, not to mention the State and local roadway system, and we have spent over $104 billion from the fund alone. Enough is enough. It is well understood that more roads generate more cars and more traffic, and cars are one of the biggest categories of petroleum consumers.

We all know the facts: transportation is the largest single end use of energy consumption in the country. Currently, 52.6 percent of our total energy use is for transportation with 39.5 percent of that going into automobile gasoline tanks. The Federal Government, through the development and implementation of its transportation programs, has had an enormous impact on the yearly waste of millions of gallons of gasoline. Today, mobility means the automobile—no real choice exists for most of the American public.

Mr. President, it is time for the Congress of the United States, through the implementation of policy and programs, to lead this nation out of the grasp of OPEC and toward measures of conservation and eventual energy independence. If we really want to do something about the energy problems facing this country today, if we really want to reduce our level of gasoline consumption, and if we really want to improve our environment at the same time, we should abolish the highway trust fund and spend a good deal of the substantial funds raised by these excise taxes to finance more energy-efficient transportation.

With the long gasoline lines of just a few weeks ago it is obvious that alternatives to private automobile travel must be found. And yet the existence of the highway trust fund prohibits balanced transportation planning. Because of the fund, Federal transportation programs provide approximately 97 cents of each dollar for highways. Broken down into separate categories, the transportation dollar actually dictates transportation priorities to the States and cities. Local officials see money in one specific category of the existing highway code and then build a road that fits the Federal guidelines, rather than building what they need.

We, as a responsive legislative body, need to weigh our many national needs and seek a better balance in the use of limited financial resources. We must create a mechanism that allows States and local units to be more responsive to the changing transportation needs of our society.

In order to allow the development of more rational transportation programs, ones that reflect our current energy, environmental and community development plans, the legislation I propose today would drastically reform the Federal highway program.

This legislation was drafted to maintain many of the existing administrative procedures presently utilized for highway programs. These procedures have proved successful in developing an excellent road system in the United States, but the bill, while attempting to build upon an existing apparatus, makes important structural revisions. Title XXIII of the United States Code has been rewritten precisely to establish the new transportation priorities we clearly need.

First, and most significantly, this legislation would abolish the highway trust fund, effective September 30, 1980. Federal gasoline and other user taxes that support the fund would remain in place, but the revenues derived would flow into the general fund of the Treasury. Thus, funding levels for the revised transportation programs, as approved under this act, would be analyzed and set by the Congress through its normal authorization and appropriation process.

Second, the proposal would consolidate the existing categorical programs into three major systems: interstate, urban and rural. Funds would be distributed to these systems in the following manner:

Interstate. The apportionment formula would remain the same as current law.

Urban system. Each State would receive urban system funds based on a population factor. Cities over 150,000 in population would receive funds directly from the Federal Government. Thus, local officials will be given greater control over their programs.

Rural system. The rural system funds would continue to be appropriated to a State on the basis of mileage, land area and population. However, the 1976 Federal Aid Highway Act inserted some urban construction into the rural road system and altered the apportionment formula to reflect this change. Since the new rural system has no urban components, the Kennedy-Weicker bill would revert back to the pre-1976 formula for distributing rural system moneys.

The bill would also equalize the Federal State funding ratios amongst the various programs. Under existing law, urban and rural systems are funded on a 70 to 30 basis, while the interstate enjoys a 90 to 10 split. In order to eliminate any bias that this imposes on local officials, all transportation funding, authorized by this act, would be 90 percent Federal, 10 percent State and local.

Third, this legislation removes any restriction on the use of moneys distributed to the urban and rural systems. Funds authorized for the urban and rural systems would now be available to States and cities for either highway construction and maintenance, or for mass transit construction, maintenance and operating assistance. Thus, State and local officials would have a wide range of options to choose from in deciding how best to meet their own transportation needs.

Finally, this bill sets up a statewide transportation planning mechanism to be administered by a single state agency with jurisdiction over all State transportation programs. The Governor would be required to develop rural aspects of the plan and incorporate plans formulated by urban areas into his statewide plan. Under the bill, urban areas would retain control of their own planning. These plans would have to reflect Federal and State priorities in energy conservation, urban development, environmental concerns, and safety factors. The Secretary of Transportation and the State legislature each exercise approval power over the plans. The Secretary's disapproval of any plan may be subjected to court review.

Once the State plan was approved, the Governor would submit for the Secretary's approval a program of projects to receive Federal funding. To qualify for that approval, the projects would have to give priority to fixed-guideway and electric-powered projects—mass transit—in areas failing to meet ambient air quality standards. The bill also requires that State plans must emphasize reconstruction of unsafe rural-system highways, development of safety programs, access to public airports, and port facilities and energy-saving projects.

Mr. President, the goal of this legislation is to provide flexibility for State and local officials. They best know their own transportation needs. Federal assistance should be equally available for whatever transportation system they think best for their region. Once this flexibility and improved planning is achieved, the Nation will enjoy better transportation, cleaner air to breathe and less energy wasted.●

By Mr. PACKWOOD (for himself, Mr. Eagleton, and Mr. Moynihan):

S. 1705. A bill to amend the Internal Revenue Code of 1954 with respect to the deduction of charitable contributions to organizations from which the taxpayer or a member of his family receives services; to the Committee on Finance.

● Mr. PACKWOOD. Mr. President, today Senators Moynihan and Eagleton and I are introducing a bill which will have the effect of reversing a recent Internal Revenue Service ruling which can hamper continued support for all types of charitable, educational, and religious organizations. The ruling is most likely to adversely affect charitable organizations which provide substantial benefits for individuals, such as homes for the aged, handicapped, or retarded, schools, colleges, or day care centers.

Revenue ruling 79-99, announced March 5, 1979, dealt with the deduction of a voluntary contribution made to a Lutheran school in Texas. The contribution was made by parents with a child attending the school. The school charged no tuition.

The contribution was voluntary. The IRS specifically stated that no child had been denied admission because of failure of parents to make a contribution. In addition, funds were solicited from parents on the basis of ability to pay. The ruling holds that the parent may deduct the contribution only to the extent that it exceeds the "fair market value" of the service received from the donee organization.

This bill provides that voluntary contributions will be deductible, even if the contributor receives a service from the donee organization, so long as the contribution was not earmarked for the benefit of contributor or a member of his family. This is similar to the rule stated in revenue ruling 54-580, in which the IRS indicated that voluntary payments to an organization—even if a member of the taxpayers family received benefits from the organization—are deductibe, so long as use of the contribution is not earmarked for particular children.

Revenue ruling 79-99 bars the deduction of voluntary contributions except to the extent they exceed the "fair market value" of the education. We believe this standard is inadministerable. The ruling provides no guidance as to calculating the fair market value of education received from a nonpublic school or any other service provided by nonprofit organization. The standard is hopelessly subjective. The IRS may apply "value" to mean "cost." However, this is also difficult or impossible to calculate. There are no uniform accounting standards applicable to private schools and other nonprofit organizations. Problems could arise regarding application of depreciation or valuation of volunteer services. Compliance with these requirements could force church-sponsored organizations to disclose substantialy more financial information to the IRS than is currently required. We believe this is unnecessary to proper application of the charitable deduction rules, is unwise public policy, and in some situations could lead to an unconstitutional entanglement between church and state.

Although revenue ruling 79-99 dealt with a church-sponsored educational organization, the logic of the ruling could be applied to any nonprofit organization. For example, assume an individual makes a voluntary contribution to a nonprofit volunteer fire department. If the individual subsequently receives a benefit from the fire department he could be denied deductibility for his contribution.

Similarly, a not for profit cultural organization may sell tickets for performances at below cost. If a contributor makes a voluntary contribution, he could lose the deduction for the amount of the voluntary contribution up to the "fair market value" of the performance he attends. Similar problems could arise for contributors to an organization to which they have previously paid a fee for a service, such as parents who make voluntary contributions in addition to tuition payments at a college or any other school, a nonprofit day care center, or a center for the handicapped or mentally retarded.

We look forward to receiving suggestions for modifying this bill from other Senators, the Treasury Department, and private citizens.

I request unanimous consent that the text of the bill be printed in this RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1705

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 170 of the Internal Revenue Code of 1954 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (i) as (j), and by inserting immediately after subsection (h) the following new subsection:

"(i) Contributions to Certain Organizations Providing Services.—No amount paid to a corporation, community chest, fund, or foundation described in subsection (c)(2) shall be denied treatment as a charitable contribution under subsection (a) solely because of any educational benefit or other service received by the taxpayer or any other person from such corporation, community chest, fund, or foundation, or a related organization, except to the extent that the payment is made subject to an express instruction or designation, written or verbal, that the payment will be used or applied for the direct benefit of the taxpayer or a "member of his family."

SEC. 2. The amendments made by the first section of this Act shall apply with respect to taxable years ending after the date of enactment of this Act, and to all taxable years ending before such date for which the period for filing a claim for credit or refund for an overpayment of tax imposed by chapter 1 of the Internal Revenue Code of 1954 has not expired.●

● Mr. EAGLETON. Mr. President, I am pleased to be a cosponsor of S. 1705 introduced here today with Senators MOYNIHAN and PACKWOOD. I strongly believe that this bill is both timely and necessary in light of the IRS action last March which I believe overturned 25 years of IRS practice by revising previous rulings for charitable contributions.

Last March, the Internal Revenue Service ruled that a church member may not be entitled to a tax deduction for a contribution to his church if his child attends a parochial school financed solely by all the members of the congregation. A deduction would be allowed only to the extent the contributions exceeded the fair market value of the child's education. I believe this new ruling—revenue ruling 79-99—completely ignores what has been IRS practice since 1954. Revenue ruling 54-580 states that payments made to a religious organization operating a nontuition school cannot be regarded as a charitable contribution if the contribution is earmarked for the benefit of a particular child or children. However, this ruling—which has been cited as recently as 1978—goes on to say that "payments made to or for the use of such organizations in carrying out their general purposes and not in any way earmarked for the benefit of particular children would constitute deductible contributions or gifts under section 23(o) of the Code." I believe this new IRS ruling directly contradicts revenue ruling 54-580, which has been IRS policy for 25 years.

I believe Congress would set a dangerous precedent if it were to continue to allow IRS to carry out this ruling. By doing so, IRS has assumed the role of judge over a charitable organization to determine its motives insofar as expenditures of charitable contributions are concerned. I believe it is sufficient that the IRS make determinations of whether or not a donation to a chairtable organization is in return for a benefit for a particular person. If it is not, then I believe the IRS should go no further in its judgments of charitable functions: That is what my bill provides.●

● Mr. MOYNIHAN. Mr. President, the bill Senator PACKWOOD and I are introducing today would clarify the intent of Congress with respect to an important aspect of the charitable deduction. This would not be necessary had not the Internal Revenue Service recently embarked on a course that, if pursued, would do grave violence to what we have long assumed was the correct interpretation of the ideas of charity and voluntarism as embodied in the tax code.

The issue is whether a taxpayer loses his right to take a deduction for a voluntary contribution to a qualified, exempt organization if he or his dependents receive some benefit from the activities of that organization.

Our bill would not affect the general requirement that any contribution for which a charitable deduction may be claimed must be truly voluntary. Required payments—dues, membership fees, tuitions, fees, mandatory subscriptions and the like—are not and should not ordinarily be entitled to this deduction. Our bill would not lessen the responsibility of the taxpayer to prove the voluntary nature of a contribution for which he takes a charitable deduction.

But our bill would make clear that the charitable impulse, and the right to a charitable deduction, are not vitiated or impaired by the fact that a donor or a member of his family receives some benefit from the activities of the organization to which the contribution is made.

Consider the absurd and wholly unacceptable situations that would arise if, instead, the Internal Revenue Service persisted with the argument of revenue ruling 79-99 that the voluntary contribution is deductible only to the extent that it exceeds the "fair market value" of the benefit received.

A donation to the local volunteer fire company would not be deductible if the fire company extinguished a blaze in the donor's house.

A donation to the community rescue squad would not be deductible if the donor suffered a heart attack and was rushed to the hospital in the ambulance operated by that rescue squad.

A donation to the Girl Scouts would not be deductible if the donor's daughter were a Girl Scout.

A donation to the college attended by one's child would not be deductible, even though contributions by parents, as well as alumni and friends, are today an integral part of the annual giving programs of most higher education institutions.

A donation to a hospital would not be deductible if the donor's spouse were hospitalized there during the same calendar year.

A donation to a church would not be deductible if the donor worshipped there, or received counseling from the minister, or held his mother's funeral there.

Further absurdities arise if the Internal Revenue Service attempts to require the taxpayer to document the "fair market value" of the benefit received, so as to restrict the charitable deduction to amounts in excess of that value. What is the fair market value of a kindergarten education? What is the fair market value of a wedding or funeral? What is the fair market value of a visit to the Metropolitan Museum of Art? What is the fair market value of an evening at the Folger Theater? What is the fair market value of prompt and competent firefighting?

We must recognize that the charitable impulse is seldom wholly disinterested, nor ought it be expected to be. We contribute to organizations and institutions and causes because we are interested in them, in the services they render and in the benefits they provide. Frequently we are interested in them because we and members of our families have enjoyed the benefits they provide and hope that we and others will be able to continue enjoying those benefits. We do not want them to disappear. We do not want or expect them to rely for their support on persons who have little knowledge or experience with them. We do not want them to depend on Government support or, failing to obtain such support, to vanish, leaving the Government with the responsibility of replacing their services if it can. We recognize that often this is impossible—as in the case of churches and church-related organizations—and that often the assumption by Government of responsibility for activities would drain them of their essential value to those who cherish their distinctive private qualities.

Some months ago, Senator PACKWOOD and I introduced S. 219, which would extend the charitable deduction to all taxpayers, whether or not they itemize their other deductions. The purpose of that bill, which now has 23 cosponsors, is to encourage voluntary support of charitable organizations and activities, insofar as it is within the ability of the Federal Government to do so. That bill, too, would not be necessary had the Congress original understanding of the charitable deduction been unaffected by subsequent developments, but the gradual increase in the standard deduction, now know as the zero bracket amount, has greatly restricted the incentive effect of the charitable deduction, and corrective legislation must now be passed if we are to sustain the principle that income voluntarily contributed to qualified exempt organizations should not be subject to Federal taxation.

Today's bill could reasonably be described as a companion measure, the need for which is created by the seemingly irresistible impulse of the Internal Revenue Service to narrow the definition of charity and to erode the financial base of all activities not explicitly controlled by Government and supported with Government funds.

This animus is especially clear in the case of religious education. I fear it is no coincidence that the specific situation that led to the issuance of revenue ruling 79-99 was the effort of a denominational school to support itself with voluntary contributions. But the implications of that ruling are far broader and more worrisome, for they would intrude the IRS into determinations of the motive behind a charitable contribution and that, I submit, is no proper concern of the Government, so long as the recipient organization has the proper tax exemption and so long as the individual contribution is voluntary.

I wish to be clear that this bill does not in any way affect the determination by the IRS of an organization's tax exempt status, which, in the case of a nonpublic school, must include satisfactory proof of racial nondiscrimination. And I wish further to be explicit that this bill states a general rule in general terms. It is conceivable that in hearings and committee deliberations we will discover unforseen, complicated situations that call for greater specificity in the law. We welcome such suggestions and look forward to the discussions that will ensue.●

By Mr. LEVIN:

S. 1706. A bill to amend the Federal Rules of Criminal Procedure to require that the court instruct the jury, upon the defendant's request, that the defendant is presumed innocent until proven guilty; to the Committee on the Judiciary.

Mr. LEVIN. Mr. President, I am introducing a bill today that would require that a Federal judge, when requested by a defendant in a criminal case, instruct the jury that the defendant is presumed to be innocent until proven guilty. Although it is a basic tenet of our system of criminal justice, the Supreme Court in a recent case entitled Whorton against Kentucky held such an instruction not to be constitutionally required.

In that case, defendant's counsel had requested that the jury be instructed on the presumption of innocence. The trial judge refused. On appeal, the defendant argued that this refusal was a denial of due process in violation of the 14th amendment. A divided Kentucky Supreme Court agreed, holding that "when an instruction on the presumption of innocence is asked for and denied, there is reversible error."

The U.S. Supreme Court reversed and stated that—

> The failure to give a requested instruction on the presumption of innocence does not in and of itself violate the Constitution . . . such a failure must be evaluated in light of the totality of the circumstances—including all the instructions to the jury, the arguments of counsel, whether the weight of the evidence was overwhelming, and other relevant factors—to determine whether the defendant received a constitutionally fair trial.

Although the Supreme Court says such instruction is not constitutionally mandated, I believe it should be included upon request as part of our criminal procedure. Regardless of the "totality of the circumstances," I believe the presumption of innocence to be such an important part of our sense of criminal justice that every defendant should be allowed to have the jury reminded of his/her presumption of innocence prior to deliberation.

Justice Stewart in his dissenting opinion, in which he was joined by Justices Brennan and Marshall, pointed out that—

> While an instruction on the presumption of innocence in one sense only serve to remind the jury that the prosecutor has the burden of proof beyond a reasonable doubt, it also has a separate and distinct function. Quite apart from considerations of the burden of proof, the presumption of innocence cautions the jury to put away from their minds all the suspicion that arises from the arrest, the indictment, and the arraignment, and to reach their conclusion solely from the evidence adduced.

The bill I introduce today would amend rule 30 of the Federal Rules of Criminal Procedure to require such instruction in Federal criminal cases. Although the bill is short and the language simple, the right conferred is a very important and serious one.

For those who may question the authority of Congress to change the Federal Rules of Criminal Procedure since Congress has delegated such power to the Supreme Court, let me point out that caselaw is very clear that such delegation is not so extensive and final that Congress must either revoke this delegation or wait for the Supreme Court to propose changes before Congress can act to amend; changes may be effected at any time by statute. I refer my colleagues to the case of *United States* v. *Mitchell*, D.C.D.C. 1974, 397 F. Supp. 166, affirmed 559 F. 2d 31, *cert*. denied 431 U.S. 933, on this subject. We have the authority to make this change, we also have the responsibility to maintain the basic safeguards of our criminal justice system.

I urge my colleagues to support this bill.

By Mr. SASSER:

S. 1707. A bill to authorize funds for the William Levi Dawson Institute of Public Affairs; to the Committee on Labor and Human Resources.

WILLIAM LEVI DAWSON INSTITUTE OF PUBLIC AFFAIRS ASSISTANCE ACT

● Mr. SASSER. Mr. President, today I am introducing legislation to establish the William Levi Dawson Institute of Public Affairs at Fisk University in Nashville, Tenn. The act would authorize up to $8 million in grants to provide specialized training in public administration, in a living tribute to Bill Dawson.

Mr. President, William Dawson served his country as a U.S. Congressman from 1942 to 1970. He was only the second black person to so serve since the Reconstruction, the first black Congressman to chair a committee, and the first black person to serve as assistant chairman of the National Democratic Committee.

William Levi Dawson graduated magna cum laude at Fisk University in 1909, and received his law degree from Northwestern University in Chicago. He fought with the famed 365th Infantry Division during World War I, and he was wounded in the Argonne offensive. His dedication to serving his country then took him back to Chicago, where his political career blossomed. He once said:

> There's only one formula for making a success out of politics. Hard work and plenty of it. Start in on the ground floor and go from there.

With this philosophy, he went from city alderman in 1935 to Democratic Party committeeman to Congressman at the age of 56.

For 28 years, Mr. President, Bill Dawson served his Chicago constituency and the American people as a Congressman. He became known as a "politician's politician," seeing politics as a serious, full-time profession. "Politics for me is a full-time business," he said. "It is not a hobby to be worked on in leisure hours, but it is an honorable profession, a full-time job that rewards only those who are willing to apply their energy, start in from scratch, and benefit by his experience."

William Levi Dawson was possessed by the conviction that public service, the need to serve the people, was the primary business of politics. He felt that the "participation in politics is the crowning glory of an American citizen and is the greatest weapon to gain and safeguard the rights of citizens." He believed strongly that black Americans should develop political leaders in their own right—something that could only be accomplished with proper training and education.

Mr. President, although the number of black Americans in managerial and administrative jobs has greatly increased in the past few years, there is a conspicuous lack of adequate facilities in which to prepare black youth for public service.

The William Levi Dawson Institute of Public Affairs at Fisk University would permit many more black youths, interested in politics and public service, to obtain the educational background and practical experience necessary for a successful career in public administration. Our future generation of leaders vitally depends on these very youths—we cannot ignore the need to assist them. When our leaders are well informed, well prepared, and dedicated to excellence, the benefits to the general population geometrically increase.

Mr. President, I offer this legislation as a living monument to William Levi Dawson. He once lamented that "* * * there are so few well-trained men and women among us devoting their entire time to political leadership." The Dawson Institute will fill this void, provide trained public administrators, and increase the opportunities for black men and women in this exciting and fulfilling field. The institute will thus be a lasting tribute to the career of a dedicated public servant, William Levi Dawson, and I look to the Senate for the early adoption of this important measure.

I want to commend Dr. Walter Leonard, the president of Fisk, and the outstanding faculty at Fisk for developing this recommendation and this plan to establish this Institute of Public Affairs. This would be a tremendous asset to the black community—and indeed for all people—in the years to come by developing strong public leadership.●

By Mr. PERCY (for himself, Mr. KENNEDY, Mr. TSONGAS, Mr. DOMENICI, and Mr. STEVENS):

S. 1708. A bill to reorganize the executive branch of the Government to consolidate different governmental agencies and activities with respect to energy technology, and for other purposes; to the Committee on Governmental Affairs.

SMALL SCALE ENERGY TECHNOLOGY PROGRAMS REORGANIZATION ACT

● Mr. PERCY. Mr. President, small-scale energy technologies can make an enormous contribution to America's energy needs. Moderately sized windmills are already meeting the electrical needs of several small communities. Solar collectors currently supply tens of thousands of American homes with space heat and hot water. Conservation devices, many of them small in scale, allow for vast reductions in energy consumption—in our homes, our automobiles, our factories, our farms, and our commercial and public buildings.

A recent study by the Army Corps of Engineers offers striking evidence of the potential impact of small-scale technologies. The corps has calculated that the United States could save 727,000 barrels of oil per day—nearly one-tenth of our current demand for imported oil—by installing small-scale generating equipment at existing dams.

Small businesses and individual inventors, like small-scale technologies, are a vastly underutilized energy resource in America today. Their capacity for productive innovation has been substantially proven over the decades. Air-conditioning, automatic transmissions, the jet engine, photo-typesetting, magnetic recording, and the helicopter are but a few of the technological breakthroughs which small independent or university-affiliated research teams can claim. I would like to point out additionally that the radio arose from the discoveries of inventors who had no ties to established firms in the communications industry.

Given their impressive history of accomplishments, individual inventors and small businesses should be recognized as key assets to America in its search for solutions to our energy dilemma.

FEDERAL INDIFFERENCE

In March 1978, I introduced an earlier version of the bill which I am now introducing. This bill, the Small Scale Energy Technology Programs Reorganization Act, proposed to establish an Office of Small Scale Technology within the Department of Energy, to give small businesses and small-scale technologies the visibility and support which they so clearly deserve.

I was not the first to call for the creation of an Office of Small Scale Technology. In April 1977, President Carter promised to create such an office, "in order to tap more fully the potential of individual inventors and small business firms." Several months later, he created a Department of Energy but failed to establish an Office of Small Scale Technology within that agency. By introducing the Small Scale Energy Technology Programs Reorganization Act last spring, I hoped to break the administration's complacency on this important matter.

Through the summer and fall of 1978, I repeatedly prodded the Department to take action. In January 1979, an Office of Small Scale Technology was finally created. I welcome this accomplishment, and I commend the administration for its prudent selection of Mr. Web Otis as the Office's Director. The Office will benefit enormously from the leadership of this knowledgeable and resourceful individual.

The mere existence of an Office of Small Scale Technology is no cause for complacency, however. Having created an administrative entity, the administration has chosen to leave that entity largely lacking in resources. The Office of Small Scale Technology, or "OSST," is one of eight offices within the Department of Energy's conservation and solar applications division. This division has 477 staff positions. Of these, a mere 11 slots—slightly more than 2 percent—have been assigned to the OSST.

In terms of funding, the OSST has been dealt an even tinier share. The conservation and solar applications division has a fiscal 1979 budget of $796 million. Only $8 million, or 1 percent of the division's total budget, is available to the OSST. For fiscal 1980, the Office of Management and Budget has recommended that the OSST receive $8.5 million of an overall budget for the division of $940 million.

Understaffing and underfunding gravely limit the potential impact of the OSST. These constraints have prevented the new office from undertaking a number of important tasks which are essential to the successful promotion of small-scale energy technologies.

SMALL GRANTS PROGRAM—A GREAT SUCCESS

At the present time, the OSST's principal undertaking is the administration of the Department's appropriate energy technology small grants program. This unusual program provides modest funding to inventors and innovators involved in researching, developing, and demonstrating small-scale technology concepts.

Starting as a pilot effort on the west coast in September 1977, the small grants program has since become a highly successful nationwide program. The following examples illustrate the range of projects funded by the program:

The City of Palo Alto, Calif., received $20,000 to build a "minisolar utility." Solar collectors mounted atop a parking garage will provide space heating and hot water to fourteen surrounding homes.

A farmer in Cooks, Mich., has been given $6,000 to install a water-pumping windmill. This device will provide irrigation water for 15 acres of strawberries, and will replace an electric motor which draws 3,937 watts per hour of electricity.

In Hawaii, a research institute is using a $12,700 grant to experiment with a method of using waste heat from refrigerators to provide domestic hot water.

The small grants program has generated tremendous enthusiasm among energy innovators. So far this year, it has attracted $337 million in funding proposals. OSST Director Web Otis conservatively estimates that 25 percent of these proposals—totaling at least $80 million—will earn "good" to "excellent" technical ratings. Because of the office's very limited budget, no more than 10 percent of these technically qualified proposals will receive assistance.

MARKETING SMALL SCALE TECHNOLOGIES

In spite of its budgetary limitations, the small grants program is able to help many small businesses and inventors through the often difficult research, development, and demonstration stages. The Office of Small Scale Technology is unable, however, to carry the inventors of promising technologies to the next, even more crucial stage: market entry.

We have long recognized that American small businesses face certain unique economic disadvantages. To obtain bank loans, they generally must pay higher interest rates than large firms, and unlike large firms, they cannot successfully float low-yield stock. These problems are particularly acute when a small firm has nothing to offer but a new idea.

Small businesses are also at a disadvantage when applying for Government grants or contracts. Government agencies tend to overlook small firms in an attempt to minimize the number and maximize the size of its grants and contracts—all in the name of bureaucratic efficiency.

In the energy field, the Federal Government has sorely neglected small businesses. In fiscal 1977, the Department of Energy's major predecessor, ERDA, allocated 50.8 percent of its procurement budget to 10 large firms, their subsidiaries and affiliates. Only 10.3 percent of the agency's procurement budget reached small businesses. In fiscal 1978, only 14 percent of the Department of Energy's procurement budget went to small businesses.

In such an unsupportive environment, it is not surprising that many potentially useful small-scale energy technologies never leave the inventor's laboratory or the tinkerer's workbench.

PURPOSES OF THE BILL

Today I am introducing a revised version of the Small Scale Energy Technology Programs Reorganization Act, to address some of the unmet needs of small-scale energy technology developers.

My proposed legislation would allow the appropriate energy technology small grants program to reach a funding level of at least $14 million in fiscal 1980. Even with this expanded funding, little more than 15 percent of the program's qualified applicants would receive funding. The current high caliber of small grants recipients would therefore be guaranteed.

The bill also instructs the Office of Small Scale Technology to provide a number of services to small businesses which are attempting to market small-scale energy technologies. The Office would conduct workshops to educate energy-related small businesses as to marketing skills, and would help small business to identify financial backing in the private and public sectors. In special cases, the Office would be able to provide modest grants to small businesses, to facilitate the marketing of their new technologies.

A number of studies are also required by the bill. One study would explore the advisability of incorporating the energy-related inventions program into the Office of Small Scale Technology. Under this program, inventors currently submit their ideas to the National Bureau of Standards. If certified by the Bureau, a given technology is then eligible for funding from the Department of Energy. As currently administered, the program forces applicants to endure months of anticipation while their inventions are being reviewed. Moreover, those which receive certification are by no means guaranteed funding by the Department of Energy, due to limited funding resources. Bringing the energy-related inventions program into the Office of Small Scale Technology could significantly enhance the impact of this foundering program.

An Interagency Council on Small Scale Technology would be another product of my proposed legislation. This Council would promote and coordinate small-scale technology programs in the various agencies of the Federal Government. Small-scale technology programs originating in one agency would surely benefit from constructive cooperation with similar programs in other agencies.

Overall funding for the Office of Small Scale Technology, as proposed by my bill, would be $23,635,000 for fiscal 1980. This is the amount recommended in the Department of Energy authorization bill, which was reported out of the Energy and Natural Resources Committee on June 7.

Small-scale technologies can and should figure more prominently in the molding of our Nation's energy policy. Building a stronger Office of Small Scale Technology is essential to this goal.

I am pleased to have Senators KENNEDY, TSONGAS, DOMENICI, and STEVENS as original cosponsors of this legislation.

Mr. President, I ask unanimous consent that a summary of the Small Scale Energy Technology Programs Reorganization Act, together with the text of the bill, be printed at this point in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 1708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Scale Energy Technology Programs Reorganization Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) small scale technologies can significantly reduce our Nation's dependence on imported petroleum, by enabling individual regions, communities, and households to make fuller use of locally available energy resources;

(2) the cumulative impact of many small scale technologies on national energy consumption and production can be highly significant;

(3) an expanded national focus on small scale technologies will engender individual and community efforts toward energy innovation and self-reliance;

(4) small scale technologies can provide many more jobs per dollar invested than centralized power generation facilities;

(5) small businesses can play a major role in innovating, producing, and marketing small scale technologies;

(6) small businesses and localities receive limited opportunities for participation in the programs of the Department of Energy;

(7) simplified grant and contract procedures and other forms of assistance are necessary to enable innovative small businesses and localities to realize their potential energy contribution; and

(8) current Federal programs dealing with small scale technology are scattered and lack overall coordination and visibility.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(1) "small scale technology" includes renewable energy and other technologies, products, and services which contribute to energy production, conservation, and awareness among individual or small groups of end users, in a manner which is simple in design and use, environmentally sound, and reliant upon locally available labor and other resources;

(2) "small business" means any person, inventor, partnership or corporation including all affiliates thereof, tax-exempt organization, community action agency, community corporation, or other profitmaking or nonprofit group which employes 40 or fewer individuals;

(3) "locality" means a city, town, borough, county, parish, district, Indian Tribe, or other public body created by or pursuant to State law, with responsibility for the planning and administration of local affairs;

(4) "Office" means the Office of Small Scale Technology established by section 4;

(5) "Director" means the Director of the Office of Small Scale Technology;

(6) "Secretary" means the Secretary of the Department of Energy;

(7) "Small Grants Program" means the Appropriate Energy Technology Small Grants Program of the Department of Energy;

(8) "Department" means the Department of Energy; and

(9) "Council" means the Interagency Council on Small Scale Technology, established by section 10.

OFFICE OF SMALL SCALE TECHNOLOGY

SEC. 4. (a) There is established within the Department of Energy an Office of Small Scale Technology.

(b) The Office shall be headed by a Director who shall be appointed by the Secretary and shall report to the Assistant Secretary for Conservation and Solar Applications.

(c) The Office shall incorporate the Appropriate Energy Technology Small Grants Program of the Department of Energy, and such program shall be administered in accordance with section 6.

FUNCTIONS

SEC. 5. The Secretary, acting through the Director, shall—

(1) make grants to small businesses and localities for small scale technology, subject to the restrictions of section 6;

(2) inform small businesses and localities about opportunities for participation in the programs of the Office;

(3) evaluate and certify the performance of small scale technology equipment and demonstration models developed by small grants recipients, in accordance with the provisions of section 7(c);

(4) assist in the promotion and marketing of small scale technology applications which have received technical certification;

(5) provide information to the general public concerning the benefits and availability of small scale technologies;

(6) provide analyses of the potential contribution of small scale technologies to our Nation's energy needs, and of the role of small businesses and competition in the financing, production, and marketing of such technologies;

(7) work with, and provide information and assistance to, State and local governments to encourage the widespread use of small scale energy technologies, energy conservation and renewable energy technologies;

(8) coordinate the activities of the Office with other programs within the Department of Energy, including the Energy Extension Service, the Regional Solar Energy Centers, and the Solar Energy Research Institute; and

(9) coordinate domestic and international small scale technology programs of the Federal Government through the Interagency Council on Small Scale Technology established by section 11.

SMALL GRANTS PROGRAM

SEC. 6. (a) The Secretary, in administering the appropriate Energy Technology Small Grants Program, shall make grants to qualified applicants for the purpose of research, development, and demonstration of small scale technologies. Grants to any small business or locality under this section shall not exceed $50,000 for any two-year period, unless the Secretary determines that the potential benefits to the Nation of a particular grant are sufficiently great to warrant a grant in a larger amount, in which case no grant shall exceed $100,000 over a two-year period.

(b) Applications shall be made in such form and contain such information as the Secretary may reasonably require. Application procedures shall be simple, so as to place a minimum burden upon the applicant.

(c) The Director shall administer the Small Grants Program through the regional offices of the Department of Energy, taking into consideration the unique social, economic, geographical, and political characteristics of each region.

(d) The Secretary, acting through the Director, shall appoint review committees in each region, consisting of representatives of small businesses and other interested persons. Such committees shall review grant applications within the region, and make advisory recommendations for funding to the regional administrators of the Small Grants Program.

TECHNOLOGY PROMOTION

SEC. 7. (a) The Secretary shall initiate a program to promote the increased utilization of small scale technologies and to enhance the opportunities and competitive position of small, energy-related businesses. The Secretary, acting through the Director, shall—

(1) conduct seminars, conferences, and other projects to educate small businesses as to marketing skills and to inform them of public and private sources of capital;

(2) encourage public and private financial institutions to adopt innovative policies favorable to small, energy-related businesses; and

(3) encourage State and local units of government to develop programs which will assist small, energy-related businesses.

(b) The Secretary shall provide grants to a selected number of small businesses and localities for the purpose of expanding the use of small scale technologies which have been certified in accordance with section 7

(c) Grants to any small business or locality under this section shall not exceed $20,000 for any two-year period.

(c) The Secretary shall cooperate with the National Bureau of Standards, the Consumer Product Safety Commission, the Environmental Protection Agency, the National Center for Appropriate Technology, and other appropriate public and private agencies in evaluating the effectiveness, reliability, and durability of selected small scale technologies.

(d) Participants in programs under this section may include, but shall not be confined to, small businesses and localities which have received assistance under section 6.

ENERGY-RELATED INVENTIONS PROGRAM

SEC. 8. (a) The Director shall conduct a study with regard to the advisability and practicality of integrating all functions of the Energy-Related Inventions Program into the Office of Small Scale Technology.

(b) Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report to the Congress which shall include recommendations with respect to the study required by section 8(a).

OTHER STUDIES

SEC. 9. (a) Not later than 18 months after the date of enactment of this Act, the Secretary shall conduct a study and submit a report to the Congress. Such report shall provide—

(1) an analysis of the degree to which the Nation can utilize small scale technologies to meet its energy needs; and

(2) recommendations as to appropriate policy actions to be taken by the Department to achieve the level of small scale technology utilization suggested in such study.

(b) Not later than one year after the date of enactment of this Act, the Secretary shall report to the Congress on the advisability of modifying the Department's patent policy to further the ability of small businesses to commercialize emerging small scale technologies.

(c) Not later than 90 days after the end of each fiscal year, the Secretary shall report to the Congress on the overall activities of the Office of Small Scale Technology.

STAFFING

SEC. 10. The Office shall include a minimum of 22 full-time staff members, in addition to the Director, who shall assist the Director in implementing the provisions of this Act. Not less than 12 of the staff members reporting to the Director shall be located in the regional offices of the Department of Energy.

INTERAGENCY COUNCIL

SEC. 11. (a) There is established an Interagency Council on Small Scale Technology as an independent instrumentality of the United States in the executive branch. The Secretary of Energy shall serve as chairman of the Council.

(b) The Secretary of Agriculture, the Secretary of Housing and Urban Development, the Secretary of State, the Director of the Agency for International Development, the Director of the National Science Foundation, the Administrator of the Small Business Administration, the Administrator of the Community Services Administration, and the Director of the National Center for Appropriate Technology shall each appoint representatives to the Council. The Secretary may request other departments, agencies, and instrumentalities of the United States to appoint representatives to the Council.

(c) The Council shall review and coordinate all small scale technology programs of the Federal Government and, through the Secretary of Energy, shall report annually to Congress on—

(1) the ongoing and potential interagency projects using small scale technology in housing, farming, energy, international assistance, integrated systems, and other areas at the discretion of the Secretary; and

(2) the ongoing and potential programs within individual Federal agencies promoting the application of small scale technologies.

(d) The Secretary shall also coordinate the activities of the Council nationwide through the established interagency Federal Regional Council system.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a) There are authorized to be appropriated for the purpose of carrying out the provisions of this Act $23,635,000 for the fiscal year ending September 30, 1980.

(b) Not less than 60 percent of the amount appropriated under section 12(a) shall be used for the purposes of section 6.

(c) Not less than 25 percent of the amount appropriated under section 12(a) shall be used for the purposes of section 7.

SUMMARY: SMALL SCALE ENERGY TECHNOLOGY PROGRAMS REORGANIZATION ACT

Findings (Sec. 2).

The Small Scale Energy Technology Programs Reorganization Act recognizes the important role which small scale technologies can play in meeting our Nation's energy needs. It recognizes that small scale technologies can provide many more jobs per dollar invested than centralized power generation facilities, and that small businesses and localities can play a major role in developing and promoting small scale technologies. It further recognizes that small businesses and localities have received limited opportunities for participation in the programs of the Department of Energy, and that simplified grant and contract procedures and other forms of assistance are necessary to enable innovative small businesses and localities to realize their potential energy contribution. Finally, the bill recognizes that Federal programs dealing with small scale technology need better overall coordination and higher visibility.

Office of Small Scale Technology (Sec. 4).

Section 4 mandates the establishment of an Office of Small Scale Technology within the Department of Energy, to be headed by a Director who shall report to the Assistant Secretary for Conservation and Solar Applications. (While this Office has in fact already been established, the bill provides a legislative mandate whereby Congress can determine its structure and functions.)

Functions of the office of small scale technology (Sec. 6-9).

The principal functions of the Office of Small Scale Technology can be divided into three categories:

(1) Appropriate energy technology small grants program (Sec. 6).

The Office shall assume responsibility for administering the Appropriate Energy Technology Small Grants Program. Under this program, grants shall be made to qualified applicants for the purpose of research, development, and demonstration of small scale technologies. Grants are generally not to exceed $50,000 per recipient over a two-year period. In special cases, the Director can award larger grants of up to $100,000 over a two-year period.

Application requirements are to be kept as simple as possible, in recognition of the limited resources available to many individual inventors and small businesses.

The Office shall administer the Small Grants Program through the regional offices of the Department of Energy, and shall appoint a review committee in each region to evaluate grant applications and make advisory recommendations for funding to the regional administrators of the Small Grants Program.

(Section 6 essentially mandates that the Department of Energy follow its current practices in administering the Appropriate Energy Technology Small Grants Program.)

(2) Technology promotion (Sec. 7).

The Office shall take a number of steps to promote the market penetration and broadened utilization of small scale technologies. It shall conduct educational seminars for small businesses; work with public and private lending institutions as well as state and local units of government to develop policies more favorable to small, energy-related businesses; and cooperate with other Federal agencies in evaluating and certifying small scale technologies. In addition, the Office shall provide grants to a select number of small businesses and localities to assist in promoting the broader use of small scale technologies which have received Federal certification. Grants to any small business or locality under Sec. 7 shall not exceed $20,000 for any two-year period.

(3) Studies (Sec. 8 and 9).

The Secretary shall study and report to Congress on the advisability and practicality of incorporating the Energy-Related Inventions Program into the Office of Small Scale Technology.

The Secretary shall also study and report to Congress on the potential contribution of small scale technologies to our Nation's energy needs. This study shall include recommendations as to steps which the Department of Energy could take to promote the maximum feasible use of small scale energy technologies.

The Secretary shall also report to Congress on the advisability of modifying the Department of Energy's patent policy to provide better opportunities to small businesses engaged in small scale technology development.

The Secretary shall also report annually to Congress on the overall activities of the Office of Small Scale Technology.

Staffing (Sec. 10).

In addition to the Director, the Office of Small Scale Technology shall include a minimum of 22 full-time staff members, at least 12 of whom shall be located in the regional offices of the Department of Energy.

Interagency Council (Sec. 11).

An Interagency Council on Small Scale Technology shall be created as an independent instrumentality of the executive branch. The Secretary of Energy shall serve as Chairman of the Council. Eight other Federal departments and instrumentalities shall appoint representatives to the Council. The Secretary of Energy shall be able to make additional appointments. The Council shall review and report annually to Congress on Federal activities, within individual agencies as well as joint projects, pertaining to small scale technology development.

Funding (Sec. 12).

The bill authorizes $23,635,000 for fiscal year 1980. Not less than 60 percent of that amount shall be earmarked for the Appropriate Energy Technology Small Grants Program (Sec. 6), and not less than 25 percent of the amount shall be used for the promotion of small scale technologies (Sec. 7).●

By Mr. ROBERT C. BYRD (for himself, Mr. Baker, Mr. Harry F. Byrd, Jr., Mr. Hatfield, Mr. Jackson, Mr. Mathias, Mr. Randolph, and Mr. Stevens):

S.J. Res. 102. Joint resolution providing for the commemoration of the 100th anniversary of the Constitution and other events related to the establishment of the Federal Government during the period 1776 to 1800 and establishing a Commission for the Commemoration of the Federal Government Bicentenary Era; to the Committee on the Judiciary.

FEDERAL GOVERNMENT BICENTENARY

Mr. ROBERT C. BYRD. Mr. President, on behalf of the minority leader and myself, I am introducing a joint resolution to provide for the commemoration of the 200th anniversary of the Constitution and events related to the establishment of the Federal Government during the period of 1776 to 1800. The resolution also establishes a Commission for the Commemoration of the Federal Government Bicentenary Era.

All too often, our Nation becomes enmeshed in temporary problem while neglecting our strengths and the quality of our national heritage. In these coming years, it is most appropriate to reflect on our Nation's origins, its unique form of democratic Government, and our great national strength.

Our forefathers signed the Declaration of Independence on July 4, 1776, and within 25 years a new, vibrant nation was forging into its future, with 16 States already admitted into the Union. In that short time period, our Nation's founding citizens won the Revolutionary War; they drafted, signed, and ratified the Constitution of the United States—the greatest legal document in the world since the Magna Carta; and they established a new form of government, creating three equal legislative, executive, and judicial branches.

I take great pride in introducing this resolution, and I urge my fellow citizens to reflect on the resilience and strength of our great Nation.

Mr. President, I ask unanimous consent that the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 102

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that the years from 1776 to 1800 were the critical and formative years in the development of our federal form of government; and, that the bicentenary of this period is an era which provides the opportunity for the Nation better to understand and appreciate its history and heritage by focusing attention on the Revolutionary War, the trying period following the Treaty of Paris, the great leadership in drafting and ratifying the Constitution, the establishment of a new form of government creating the three equal legislative, executive, and judicial branches, the inauguration of the first President of the United States, the creation of a new capital city—Washington, the beginning of the two party system, and other significant events of the era.

Sec. 2. (a) In order that the events of this period may be commemorated and appropriately observed throughout the Nation, there is hereby established a Commission for the Commemoration of the Federal Government Bicentenary Era (hereinafter referred to as the "Commission").

(b) The Commission shall be composed as follows:

(1) the President of the United States, who shall serve as Honorary Chairman, ex officio;

(2) the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the United States, and the Governors of the States; all of whom shall serve as Honorary Vice-Chairmen, ex officio;

(3) the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of the Interior, and the Librarian of Congress; all of whom may designate alternates;

(4) four members to be appointed by the President of the United States;

(5) two members of the Senate, to be appointed by the President of the Senate, one upon recommendation of the Majority Leader of the Senate and one upon recommendation of the Minority Leader of the Senate;

(6) two members of the House of Representatives, to be appointed by the Speaker of the House of Representatives;

(7) four members of the Federal judiciary, to be appointed by the Chief Justice of the United States; and

(8) four members to be appointed by the White House Historical Association, four members to be appointed by the United States Capitol Historical Society, four members to be appointed by the Supreme Court Historical Society, and four members to be appointed by the Washington National Monument Society.

(c) The Commission shall elect from among its membership a Chairman, a Vice Chairman, an Executive Committee of not to exceed eleven members, and such other officers as it deems necessary.

(d) Vacancies in the appointed membership of the Commission shall be filled in the same manner as the original appointments.

Sec. 3. (a) It shall be the duty of the Commission to—

(1) stimulate interest in the bicentenary of the Constitution, the organization of the Government of the United States, and other significant events of the 1776–1800 era, and to plan, encourage, coordinate and participate in appropriate commemorative observances of the events;

(2) encourage or sponsor programs of education and information designed to reinforce public understanding and appreciation of the problems, issues, personalities, and public debate involved in formulating a Federal Government that has stood the test of time;

(3) invite governmental bodies, historical and civil organizations, and other interested groups to cooperate and participate in accomplishing the objectives of this joint resolution;

(4) consult, cooperate with, and seek advice and assistance from appropriate Federal departments and agencies;

(5) seek financial support from public and private sources to finance the objectives of this joint resolution; and

(6) establish advisory committees from which it may request advice and assistance in connection with the bicentenary observances.

(b) The Commission is authorized to make grants to the States and their political subdivisions and to nonprofit organizations and institutions to assist in the development and support of projects and programs devised to carry out the objectives of this joint resolution and approved by the Commission. No grant may be made for more than one-third of the cost of any such project or program.

Sec. 4. (a) The members of the Commission shall receive no compensation for their services. Members from the legislative, executive, and judicial branches of the Federal Government shall be allowed necessary travel expenses as authorized under law for official travel. Other Members shall be allowed necessary travel expenses as authorized by section 5703 of title 5, United States Code.

(b) The Commission may appoint and fix the compensation of a Director and such other officers and employees as it deems advisable. The Director may be compensated at a rate not exceeding the annual rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c) The Commission may procure services as authorized by section 3109 of title 5, United States Code.

(d) The Commission may accept donations of money, property, and personal services and, subject to the provisions of subsection (e), use any donations received to carry out the objectives of this joint resolution.

(e) Within the limit of funds available to it by appropriation or donation, the Commission may procure supplies, services, and property; make contracts; and make expenditures to carry out the objectives of this joint resolution.

Sec. 5. The Commission shall submit to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the United States annual reports of its activities, including an accounting of funds received and expended.

Sec. 6. To enable the Commission to carry out its duties and functions under this joint resolution, there is authorized to be appropriated for the fiscal year ending September 30, 1981, the sum of $1,800,000, and for each fiscal year thereafter such sums as may be authorized. Seventy-five percent of all funds appropriated as authorized by this section shall be available only for making grants under section 3(b).

Sec. 7. The Commissioner shall terminate on March 31, 2001.

Sec. 8. This joint resolution shall become effective on October 1, 1980, except that appointments to the Commission may be made before such date to be effective on such date.

Mr. BAKER. Mr. President, I rise in support of the resolution offered by the distinguished majority leader, providing for a Citizen's Commission for the Commemoration of the Federal Government Bicentenary Era.

It has been 3 years now since the American people celebrated the 200th anniversary of our independence, and through that celebration millions of Americans came to a fuller knowledge and deeper appreciation of their heritage.

But the signing of the Declaration of Independence in 1776 was only the beginning, rather than the end of a remarkable era in the history of our country—a time in which we waged and won a revolution, drafted and ratified a brilliant Constitution, inaugurated our first President of the United States, created a new Capital City for the new Nation, and built the foundation for the greatest nation in the history of mankind.

All of these events are cause for celebration, Mr. President, and each is a subject of enormous historic interest.

So I am happy to join the distinguished majority leader in sponsoring this resolution, and I urge its favorable consideration by my colleagues.

ADDITIONAL COSPONSORS

S. 100

At the request of Mr. Packwood, the Senator from Louisiana (Mr. Long) was added as a cosponsor of S. 100, the Reforestation Incentive Act of 1979.

S. 208

At the request of Mr. Wallop, the Senator from Georgia (Mr. Talmadge) was added as a cosponsor of S. 208, to amend the IRC to subject foreign investors to the capital gains tax from the sale of real property in the United States.

S. 451

At the request of Mr. Schweiker, the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of S. 451, the Diabetes Research and Training Amendments and the National Diabetes Advisory Board Extension Act.

S. 689

At the request of Mr. Talmadge, the Senator from Indiana (Mr. Bayh) was added as a cosponsor of S. 689, the Veterans' and Survivors Benefits Adjustment Act of 1979.

S. 930

At the request of Mr. Percy, the Senator from Rhode Island (Mr. Chafee), the Senator from Massachusetts (Mr. Tsongas), the Senator from North Carolina (Mr. Morgan), and the Senator from Nebraska (Mr. Zorinsky) were added as cosponsors of S. 930, the Federal Employee Parking Act.

S. 1121

At the request of Mr. Hayakawa, the Senator from North Carolina (Mr. Helms) and the Senator from Oklahoma (Mr. Boren) were added as cosponsors of S. 1121, to amend the Saccharine Study and Labeling Act.

S. 1241

At the request of Mr. Domenici, the Senator from Minnesota (Mr. Durenberger) was added as a cosponsor of S. 1241, a bill to authorize the National Water Resources Policy and Development Act of 1979, to direct the Water Resources Council to act as the coordinating body for a program of water resources assistance to the States.

S. 1313

At the request of Mr. Sarbanes, he was added as a cosponsor of S. 1313, a bill to amend the Federal Water Pollution Control Act, as amended.

S. 1333

At the request of Mr. Roth, the Senator from North Carolina (Mr. Helms) was added as a cosponsor of S. 1333, a bill to provide for the inclusion of certain Federal entities in the budget effective with fiscal year 1983.

S. 1398

At the request of Mr. Metzenbaum, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 1398, the Industrial Equipment Efficiency Act of 1979.

S. 1435

At the request of Mr. Nelson, the Senator from the State of Minnesota (Mr. Boschwitz), the Senator from Vermont (Mr. Leahy), and the Senator from Hawaii (Mr. Inouye) were added as cosponsors of S. 1435, the Capital Cost Recovery Act of 1979.

S. 1437

At the request of Mr. Culver, the Senator from Washington (Mr. Magnuson) was added as a cosponsor of S. 1437, for the relief of Carmichael Peters.

S. 1505

At the request of Mr. Cochran, the Senator from Texas (Mr. Tower) and the Senator from Utah (Mr. Hatch) were added as cosponsors of S. 1505, to amend the IRC to provide that a deduction in the case of a disaster loss shall be increased by an amount computed with regard to the replacement cost of property lost in the disaster.

S. 1523

At the request of Mr. Thurmond, the Senator from Pennsylvania (Mr. Heinz) and the Senator from Ohio (Mr. Glenn) were added as cosponsors of S. 1523, a bill to amend title 38, United States Code, to establish demonstration centers of geriatric research, education, and clinical operations within the Veterans' Administration.

S. 1543

At the request of Mr. Nelson, the Senator from Texas (Mr. Tower) was added as a cosponsor of S. 1543, a bill relating to tax treatment of qualified dividends reinvestment plans.

S. 1546

At the request of Mr. Cohen, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 1546, the Long Term Care Residents' Rights Act.

S. 1577

At the request of Mr. Jepsen, the Senator from Nevada (Mr. Laxalt) was added as a cosponsor of S. 1577, to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 1590

At the request of Mr. Schweiker, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of S. 1590, the Comprehensive Health Care Reform Act of 1979.

S. 1648

At the request of Mr. Cannon, the Senator from New Mexico (Mr. Schmitt) was added as a cosponsor of S. 1648, a bill to provide for the improvement of the Nation's airport and airway system, and for other purposes.

S. 1649

At the request of Mr. Cannon, the Senator from New Mexico (Mr. Schmitt) was added as a cosponsor of S. 1649, a bill to provide for the modification of airport and airway user taxes, and for other purposes.

S. 1656

At the request of Mr. Kennedy, the Senator from Maine (Mr. Muskie) was added as a cosponsor of S. 1656, a bill to amend the Saltonstall-Kennedy Act to provide for a national program of fisheries research and development, and for other purposes.

S. RES. 216

At the request of Mr. Proxmire, the Senator from Texas (Mr. Tower) and the Senator from Florida (Mr. Stone) were added as cosponsors of S. Res. 216, relating to the construction of Senate office buildings.

SENATE JOINT RESOLUTION 85

At the request of Mr. Schweiker, the Senator from Maine (Mr. Cohen), the Senator from Kentucky (Mr. Ford), the Senator from Indiana (Mr. Lugar), the Senator from Oregon (Mr. Packwood), and the Senator from New Mexico (Mr. Schmitt) were added as cosponsors of Senate Joint Resolution 85, to authorize and request the President to proclaim the week of September 16–22 as "National Meals on Wheels Week."

SENATE JOINT RESOLUTION 97

At the request of Mr. DANFORTH, the Senator from California (Mr. CRANSTON), the Senator from Georgia (Mr. NUNN), the Senator from Illinois (Mr. STEVENSON), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Joint Resolution 97, designating April 13 through April 19 as "Days of Remembrance of Victims of the Holocaust."

AMENDMENTS SUBMITTED FOR PRINTING

REFUGEE ASSISTANCE ACT OF 1979—S. 643

AMENDMENT NO. 391

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself and Mr. HAYAKAWA) submitted an amendment intended to be proposed by them, jointly, to S. 643, a bill to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes.

● Mr. CRANSTON. Mr. President, I am joining with my junior colleague from California (Mr. HAYAKAWA) to submit an amendment to S. 643, the Refugee Assistance Act of 1979, to provide continued Federal reimbursement for public assistance to all Indochina refugees for 2 more years. Thereafter, Indochina refugee welfare costs would be paid by the Federal Government only during the 36 months following entry of the refugee into the United States.

This is a matter of urgency.

The Indochina Refugee Migration and Assistance Act will expire on September 30. This is the authorizing statute for the Indochina refugee assistance program (IRAP) which has paid for the assistance given to Indochina refugees since their arrival in the United States in 1975.

The Refugee Act of 1979 (S. 643), as reported from the Senate Judiciary Committee, does not provide for continued assistance to Indochina refugees who have been in the United States for more than 24 months. This means the overwhelming number of refugees no longer will be assisted wholly by the Federal Government but will become charges on State and local taxpayers.

All of this comes at a time when our Nation is responding to the humanitarian need to rescue thousands of refugees fleeing Southeast Asia in order to escape what appears to be certain genocide.

We are doubling the number of Indochina refugees being admitted from the present 7,000 a month to 14,000 a month by October 1.

But the Indochina refugee assistance program expires on September 30.

The amendment I am proposing with Senator HAYAKAWA will greatly strengthen our ability to assimilate the new influx of refugees.

First, we provide for continued Federal reimbursement for those refugees who have not successfully been assimilated into society. Language training in English has been insufficient for these people. Many of them live in extended families with only one wage earner. Some families include more than 10 individuals. Some refugees have medical or other disabilities and require expensive and lengthy treatment before they can be self-sufficient, if ever.

Relieving States and local governments of these costs will provide time to assess accurately patterns of assimilation before a final decision is made as to how refugee welfare cases should be treated.

This action also will enable local agencies to concentrate their funds on their continuing efforts to educate and train refugees so that they may obtain better paying jobs.

It also will prevent a sharp discrepancy in treatmetn in favor of new arrivals as against earlier refugees.

Second, we provide for 36 months of assistance reimbursed by the Federal Government for all new refugees from Indochina. S. 643 provides only 24 months.

Welfare officials in California, who have extensive experience with refugees from Southeast Asia, report to me that the average refugee receives assistance for more than 30 months. This compares with the average AFDC case in the State which continues for only 23 months.

I will ask that a brief report prepared by the California Department of Social Services on "What We Know About the Indochinese Refugee Assistance Program (IRAP)" be printed at the conclusion of my remarks.

It is clear from the California experience that we know very little about providing effective assistance to refugees from Southeast Asia. The early arrivals were Vietnamese, Laotians, Cambodians, and other indigenous ethnic groups to Southeast Asia. The new boat people and camp refugees include large numbers of Chinese and other minorities driven from their homes for racial reasons as much as for political ones.

Mr. President, our amendment is not the last word on this subject. It is a proposal to give the States and local governments 2 years in which to work to assist refugees to become self-supporting. Ours is a proposal to postpone for 2 years the very basic question of who should pay for those refugees who clearly have not been assimilated and who have become welfare cases.

S. 643 decides this question without full consideration and guided solely by short-sighted budgetary considerations.

Unfortunately, the overall context in which S. 643 presents the question of who pays is established by the far more compelling moral mandate to provide for the rescue and relief of refugees from death at sea or in substandard refugee camps or concentration camps.

The estimated costs of our proposal are very rough. HEW has not been able to provide me with final estimates. The first year cost of our proposal appears to add about $67 million to the bill for fiscal year 1980 and $110 million for fiscal year 1981.

These costs, I remind Senators, actually represent costs which will otherwise be raised from state and local property taxpayers. I do not think it a wise or fair policy to ask only a few taxpayers to share the cost of our refugee admissions policy.

Our amendment deals with this problem directly.

I ask unanimous consent that the report and the text of the amendment be printed in the RECORD.

There being no objection, the report and amendment were ordered to be printed in the RECORD, as follows:

WHAT WE KNOW ABOUT THE INDOCHINESE REFUGEE ASSISTANCE PROGRAM (IRAP)

1. How many Indochinese refugees are living in the U.S.?

The U.S. Department of HEW estimates there are currently 182,000 refugees living in the U.S.[1]

2. How many Indochinese refugees are living in California?

Of the estimated total number of refugees (182,000) approximately 27.5 percent (50,000) are living in California.[1]

3. How many Indochinese refugees are currently receiving aid in California?

The estimated number of persons on aid in California for F.Y. 1978–79 is 35,400.[2]

4. How long are these people in California before they apply for assistance?

Over three quarters (76.6 percent) of the total active cases applied for aid within the first two months of arrival. Almost half (46.7 percent) applied for aid in the same month that they arrived in California.[3]

5. How many Indochinese refugees lived in another U.S. State prior to applying for aid in California?

Of the Indochinese population currently receiving aid in California, 17.0 percent had established residence in another State. Of the population that migrated to California, over half (54.4 percent) had received public assistance in another State.

6. How long do Indochinese refugees remain on AID?

We do not know the average number of months a refugee will remain on aid. We do know, however, based on the length of time in California, these refugees have received assistance for 81.4 percent of the total time they have been in California.[3]

7. How does the length of time on AID for the assisted Indochinese compare with the typical AFDC recipient?

The median length of time on aid since the most recent case opening for an AFDC recipient is 22.9 months.[4] This number is not comparable to any average which might be computed at this time for IRAPS. The AFDC program has been in existence for a much longer period of time and the program is essentially stable. The Indochinese Refugee Assistance Program has only been in existence since 1975 and we cannot yet track the entire cycle of receiving public assistance. Any average computed now would be skewed toward the lower end because of the continuing influx of refugees into the country and onto public assistance.

8. What changes have taken place in the profile of the typical IRAP family from the first refugees to those arriving after January 1, 1978, that would affect their length of time on AID in California?

In comparing the first wave of refugees to the boat refugees now appearing in California who are receiving assistance, significant differences can be seen in their social and economic characteristics:

Footnotes at end of article.

Generally speaking, a higher percent of the later arrivals could not speak English (84.6 percent as compared to 70.6 percent of the pre-January 1978 arrivals).

The educational level of the early arrivals was that of at least a high school graduate for 28.9 percent. Of the later arrivals, this percentage decreased to 14.9 percent.

The later arrivals' occupational background is different from that of the earlier arrivals. The early refugees had a higher percentage of professional and semi-professional workers (10.3 percent as compared to 4.3 percent). A higher proportion of soldiers arrived as boat refugees (17.7 percent compared to 6.5 percent).

The gross income level has dropped from $407 per month for the early arrivals to $146 per month for the more recent arrivals.

9. How does the December 1978 IRAP characteristics survey compare with other data sources?

The only other data source available about the IRAP is the Los Angeles County IRAP Survey which reviewed data from the May 1978 payroll. The two surveys are supportive of each other for the characteristics which depict the Indochinese recipient in California in general.

10. What conclusions can be drawn?

Based on the information from the recent survey done by Department of Social Services' staff, we conclude that Indochinese refugees arriving in California, either directly or through in-migration, will go on aid almost immediately. Once on aid we believe that these recipients will remain on aid longer than the typical AFDC recipient and longer than the 24 month federal proposal. Any computation of average length of time on aid for IRAP recipients would be skewed toward the lower end due to the recent influx of Indochinese refugees. We expect the influx to continue. Until the program and the population has stabilized, the longevity cycle cannot be known. The characteristics of the recent arrivals indicate that they will have a more difficult and lengthy time assimilating into the American culture and economy than the earlier arrivals.

Of the current IRAP population, 79 percent are receiving and would continue to receive assistance if federal fiscal participation stopped. Twenty-one percent of the IRAP caseload would be terminated from aid.

Of those remaining on aid, 79 percent would continue to be eligible for AFDC with normal federal fiscal participation. Another 5 percent would receive AFDC benefits with no federal fiscal participation. Six percent would receive SSI/SSP benefits. The remaining 10 percent might receive General Relief depending on the county of residence.

In comparing certain characteristics of the earlier arrivals to those boat refugees who are now receiving aid in California, the trend appears to show a much more vulnerable type of recipient. Such things as basic occupational skills and educational levels are lower now. It would seem that these people would need a longer time to adjust. In addition, we can reasonably expect that their health care needs will be greater than the earlier arrivals.

We conclude that these people will need a longer time to adjust to both the American economy and to our culture. All available data indicate that 24 months is not enough time to assimilate the refugees into the American culture. Because the population has not stabilized it is too early to predict when federal fiscal participation should be withdrawn.

FOOTNOTES

---

[1] Information from the Los Angeles County Fact Sheet—April 4, 1979.

[2] Estimates from May 1979.

[3] Information from the DSS IRAP Characteristics Survey, December 1978.

[4] From the AFDC Quarterly Characteristics Survey, October 1975.

AMENDMENT NO. 391

On page 20, line 18, strike out "No payment" and insert in lieu thereof "Except as provided in paragraph (5), no payment".

On page 21, line 11, strike out the close quotation marks and the second period.

On page 21, between lines 11 and 12, insert the following:

"(5) Payment may be made under paragraph (G) with respect to aid or services, furnished directly or through a project or program, to any Indochina refugee who entered the United States prior to October 1, 1979, without regard to the limitation specified in paragraph (2) of subsection (6) for the fiscal years ending September 30, 1980, and September 30, 1981, and thereafter such payments may be made for aid and services furnished under paragraph (G) to any Indochina refugee who entered the United States less than 36 months prior to receiving such aid or assistance. For the purposes of this paragraph, the term 'Indochina refugee' means a refugee from Cambodia, Vietnam, or Laos." ●

ADOPTION ASSISTANCE, FOSTER CARE, AND CHILD WELFARE AMENDMENTS OF 1979—S. 966

AMENDMENT NO. 392

(Ordered to be printed and referred to the Committee on Finance.)

Mr. CRANSTON (for himself, Mr. MOYNIHAN, and Mr. RIEGLE) submitted an amendment intended to be proposed by them, jointly, to S. 966, a bill to amend the Social Security Act to strengthen and improve the program of Federal support for foster care of needy dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

● Mr. CRANSTON. Mr. President, we are today submitting amendment No. 392 to S. 966, the proposed "Child Welfare Amendments of 1979".

The amendment we are introducing today—the proposed "Adoption Assistance, Foster Care, and Child Welfare Amendments of 1979"—was developed after deliberations with Finance Committee leadership, White House staff members, and HEW officials. I am delighted to say that this legislation, which is a total substitute for the version which I introduced on April 10 at the request of the administration, has the support of the administration. This legislation is vitally important for the hundreds of thousands of children in this Nation's foster care system, and I personally intend to do everything possible to secure the approval of this legislation by the Finance Committee and the Senate during this Congress.

Mr. President, I am delighted to be joined in sponsoring this legislation by the distinguished chairman of the Public Assistance Subcommittee of the Finance Committee, Mr. MOYNIHAN, with whom I worked closely on similar legislation during the 95th Congress, as well as a highly dedicated member of my Child and Human Development Subcommittee, the Senator from Michigan (Mr. RIEGLE). Senator MOYNIHAN and Senator RIEGLE have each been tremendously supportive and actively involved in past legislative efforts to reform the present foster care system and facilitate the adoption of children with special needs, and I am pleased to have their continued support.

BACKGROUND

Mr. President, the legislation we are introducing today is aimed at strengthening and improving the existing federally-supported foster care system for dependent and neglected children, establishing an adoption assistance program to encourage the adoption of children with special needs, and improving the existing federally-supported child welfare services program.

It is very similar to the legislation—in H.R. 13511 and H.R. 3968—which passed the Senate twice last October and is the product of extensive work and negotiations between members of the Finance Committee and Labor and Human Resources Committee, officials from HEW, and White House staff members during the 95th Congress and the first few months of the 96th Congress.

The need for reform of our existing foster care system has been documented time and time again. Foster care is an important part of our national efforts to protect helpless children from abuse and neglect, but too often children have been taken away from their natural parents, only to become lost in the "foster care limbo" at enormous expense to the taxpayers and irreparable damage to the children involved. The legislation being introducede today represents a major step in the direction needed both to reduce unnecessary foster care and to provide adequate protection for those children who, because of abuse or neglect, or other circumstances, cannot live with their families.

Mr. President, a tremendously important aspect of this legislation—and of deep personal concern to me—are the provisions which remove the barriers which exist in present law and practices to finding permanent, loving adoptive homes for those children who cannot return to their families. I have been working for adoption reform legislation for the past 7 years and introduced legislation in this area in the 93d, 94th, and 95th Congresses. Hearings which I conducted during the 95th Congress demonstrated that there are thousands of families eager to adopt children with special needs and provide these children with the warm, loving family life every child is entitled to have.

In too many instances, however, our current laws and practices prevent families from adopting these needy children. During the 95th Congress, we were successful in enacting the Adoption Reform Act—title II of Public Law 95-966. This act, which provides for the establishment of a national foster care and adoption data gathering and analysis system, training and education programs, a national adoption information exchange to assist in the placement of children awaiting adoption, and the development of model adoption legislation, provides a first step toward eliminating the barriers which exist and inhibit finding permanent, loving homes for the thousands of children presently locked in the foster care system. We have been content too long to pour millions of dollars into foster care and virtually nothing into programs aimed at keeping children with their families or finding new families where necessary.

When I originally introduced S. 966 on April 10, at the request of the administration, I expressed my reservations about certain provisions of the administration's proposal, particularly those which dealt with the adoption assistance program. Today's legislation, as I will explain shortly, corrects those and other deficiencies.

EFFORTS IN THE 95TH CONGRESS

Mr. President, for the benefit of my colleagues, I would like to review briefly, the history of the development of this legislation and our efforts during the last Congress to enact similar legislation.

During the first session of the 95th Congress—July of 1977—I introduced S. 1928, the proposed "Child Welfare Amendments of 1977", on behalf of the administration. This proposal was the result of many hours of discussion and negotiations which a number of us in Congress had with Vice President MONDALE, and with HEW and White House staff. Vice President MONDALE provided the kind of leadership which brought together many diverse opinions on the direction this legislation should take. He has continued to provide this leadership.

The adoption provisions of S. 1928, were taken largely from legislative proposals I had been working to develop over the past few years and which I introduced in the 95th Congress as S. 961. S. 961 represented the culmination of years of work with experts in the adoption field, and the redrafting and refining of legislation dealing with adoption reform that I had sponsored during the 93d and 94th Congresses.

The foster care provisions of S. 1928 built upon the legislation passed by the House of Representatives, H.R. 7200, which largely reflected years of work by my colleague from California, Congressman GEORGE MILLER, who is widely recognized as being a national leader of efforts toward the reform of the foster care system. GEORGE MILLER's outstanding efforts in this area provided the stimulus to focus national attention upon the enormous problems in the foster care system.

Mr. President, despite widespread recognition of the need to reform foster care and remove barriers to adoption of children with special needs, we were not successful in our efforts during the 95th Congress to enact legislation in this area. It is indeed ironic to note that foster care-adoption reform legislation was passed by the Senate twice in the 95th Congress—in H.R. 13511 and H.R. 3968—and twice by the House—in H.R. 7200 and H.R. 11711. Unfortunately, neither House was able to act on the same legislation at the same time, and each bill died in the 95th Congress.

Mr. President, I want to comment briefly on the excellent assistance and contributions made during the last Congress by my good friends the chairman of the Finance Committee, Mr. LONG, and the chairman of the Public Assistance Subcommittee of the Finance Committee, Mr. MOYNIHAN, to the development of legislation—based upon the administration's proposal in the last Congress, S. 1928—passed by the Senate the last year. The Finance Committee worked hard to develop a compromise proposal which in some areas, such as adoption assistance, was more generous and responsive than that originally proposed by the administration.

That legislation—H.R. 7200—was reported by the Finance Committee in December of 1977; unfortunately, there were other, non-child welfare, controversial measures contained in other provisions of the Finance Committee reported bill which precluded consideration of the full measure during the 95th Congress. As my colleagues will well remember, the Senate was operating throughout the entire 2d session of the 95th Congress under extraordinary time constraints and few legislative matters were taken up by the Senate without time agreements.

Although H.R. 7200 itself was not taken up in the Senate, during the last week of the 95th Congress, the child welfare-foster care-adoption assistance provisions of title I of H.R. 7200 were added by Senator MOYNIHAN and myself, with the support of Senator LONG, as amendments to two other House-passed measures, H.R. 11511, the Tax Revenue Act of 1978, and H.R. 3968, the Wool Tariff Bill. Though the Senate passed both bills with our amendments, the House declined to act favorably on either amendment.

Congressman JAMES CORMAN, then offered provisions similar to the Senate-passed measure as an amendment to the Trade Adjustment Assistance amendments, H.R. 11711, which the House sent to the Senate in literally the last few minutes of the 95th Congress. The Senate, however, adjourned sine die without acting upon H.R. 11711. Thus, each House of Congress has, within the last 2 years, acted favorably twice on legislation to reform the foster care system and establish a program of adoption assistance for special needs children.

RECENT HEARINGS ON INSTITUTIONAL ABUSE

Mr. President, my own commitment to moving forward with reform of the foster care system has been made even stronger as a result of hearings I chaired in January and May of this year before the Child and Human Development Subcommittee of the Labor and Human Resources Committee. These hearings, which focused upon abuse and neglect of children living in various types of institutions, revealed what can truly be described as atrocious examples of brutality and abuse of foster children in institutions in various parts of the country. Let me hasten to note that many foster care institutions provide needed and appropriate care for these children, but the testimony at our hearings indicated numerous instances of abuse of children in institutional care.

Mr. President, I could share with my colleagues many examples of abuse described to our subcommittee. In a number of these cases, State and Federal courts made specific findings of fact documenting these horror stories. Other testimony has shown the lengthy delays and great difficulties public officials have encountered in attempting to close down institutions with repeated and documented instances of abuse and neglect of children.

We heard from parents describing their frustrations in attempting to get public officials even to look into problem institutions and from child care workers who have become concerned about the policies of the institutions where they work, but have had no place to report the abuses they have witnessed.

A number of witnesses at our hearings on institutional abuse, Mr. President, expressed the view that one of the most effective ways to deal with this problem is to reduce the number of children who must reside in institutional settings. The legislation we are introducing today, by seeking to reduce the number of children who must be placed in foster care and the length of their stays, as well as encourage placement in the least restrictive, most family-like setting appropriate for the individual child, will, I believe, provide one remedy for the devastating problem of institutional abuse.

There are, in addition, other steps which are critical to the protection of the rights of children residing in institutions such as passage of S. 10, legislation I have cosponsored with the distinguished Senator from Indiana (Mr. BAYH) and others to continue the authority of the Attorney General of the United States to initiate or intervene in legal actions involving denial of constitutional or Federal statutory rights of children and other persons in institutions. The House has now passed the companion measure, H.R. 10 and I intend to continue to press for passage of the Senate legislation.

FOSTER CARE CHILDREN IN GUYANA

Mr. President, I also want to comment briefly on another aspect of the foster care abuse problem that has recently come to light and has increased my own sense of urgency about the need to enact foster care reform measures during this Congress. Several months ago, reports came to my attention in connection with the hearings the Child and Human Development Subcommittee was conducting in the area of institutional abuse of children that a number of foster children has been placed into foster care facilities operated by the People's Temple, or by members of the People's Temple, and that these children had died in Jonestown.

At that time, I requested the General Accounting Office to conduct an investigation into these reports and advise the subcommittee whether any foster children had died in Jonestown, and if so, under what circumstances they had gone to Guyana, and, if these reports were true, what changes in existing law might prevent similar tragedies from occurring in the future.

On May 31, the GAO testified before the subcommittee on the results of the first stage of its investigation. The GAO reported that 337 children were among the more than 900 members of the People's Temple who emigrated to Guyana, and that, of those, 19 children had previously been in foster care and 12 had been placed in homes or facilities operated by members of the People's Temple; 16 of these children are reported to have perished in Guyana, two survived, and the status of one child is still unresolved.

In one case, foster care payments continued to be sent to the child's foster parent who remained in the United States for some 7 months after the child emigrated—without the foster parent—to Guyana. In two other cases, foster care payments were discontinued after the responsible county reported having "lost contact" with the foster parent. The loss of contact, of course, was the result for their removal from the country.

In addition to the foster care children, the GAO investigators uncovered a pattern, developed by the attorneys for the People's Temple, of securing guardianship orders placing dependent children into the custody of People's Temple members. This practice was apparently designed for the purpose of evading California statutes requiring that children in out-of-home care be placed in licensed foster homes or facilities unless placed in the homes of legal guardians.

The GAO has not completed its investigation into this usage of guardianship arrangements, but has indicated at our hearing that a total of 31 of the 337 children in Guyana were under guardianship arrangements.

Mr. President, the death of these children in Jonestown is perhaps only the most dramatic example of the inadequacies of our foster care system. Foster children in this country are all too frequently lost into the foster care limbo with little or no accountability from the public agencies responsible for their welfare.

Study after study has documented the lack of supervision of foster care placements, the perfunctory reviews of placements and the utter abandonment of many children to permanent foster care, rather than the return to their own families or placement for adoption. The children who died in Guyana were only a tiny fraction of the hundreds of thousands of children across the country who have become "victims" of the system.

NUMEROUS STUDIES AND DOCUMENTATION OF THE NEED FOR FOSTER CARE REFORM

Mr. President, when I introduced the administration's legislative proposal for foster care and adoption reform in 1977, I recited many of the statistics and studies that documented the need for reform of this system, (CONGRESSIONAL RECORD, vol. 123, p. 24861, July 26, 1977). In February of this year, Arabella Martinez, Assistant Secretary for Human Development Services, testified before the Public Assistance and Unemployment Compensation Subcommittee of the House Ways and Means Committee, on the administration's new proposal. In her testimony, she provided a number of facts, derived from the National Study of Social Services for Children and Their Families, a study conducted for HEW's Administration for Children, Youth, and Families. She indicated that this study revealed that—

The number of children in foster care in 1977 was approximately 500,000—nearly three times the number of children in foster care as compared to 1961.

About 80 percent of the children in foster care are in foster family care (almost 400,000 children).

In only one of every five cases does the services plan for these foster children recommend a specific length of placement. In other words, the so-called temporary provision of foster care has no definite target date for ending the placement and for placing the child in a permanent family setting.

Over half the children in foster care have been away from their families for more than 2 years—about 100,000 children have spent more than 6 years of their lives in foster care.

Nearly one-fourth of the children have been in three or more foster family homes.

Nearly half of the children who have spent 2 or more years in foster care have had at least four different caseworkers.

Even in cases where the agency had developed a plan for returning the child to his or her home, in one-third of the cases, there was no plan for visits between the child and the parent or another person who would care for the child if returned home.

There are more than 100,000 children in foster care awaiting adoption.

For more than one-third of the children, financial assistance to the adoptive family would be needed to meet their special needs.

No adoptive homes have been found for 50,000 of the children already legally free for adoption.

Earlier this year, the Children's Defense Fund, a nonprofit children's advocacy and research project based in Washington, D.C., released a report, "Children Without Homes," which documented, once more, the weaknesses in the present foster care system. The Children's Defense Fund report cited the inadequate monitoring of foster care placements, inappropriate institutionalization, the placement of children far from their homes or communities, and the lack of adequate data in the vast majority of States to indicate what children are in foster care, where they are or how long they have been there.

Another citizens group, the National Commission on Children in Need of Parents, also released a report earlier this year entitled "Who Knows? Who Cares? Forgotten Children in Foster Care," reiterating the problems endemic to the foster care system. This National Commission, on the basis of its public hearings throughout the country, listed the abuses—inadequate records, lack of services, and inadequacy of care.

Both the Children's Defense Fund and the National Commission reports stress the fact that few funds or services are available to prevent unnecessary removal of children from their homes, to reunite children with their families, or to assist in finding new families through adoption when appropriate.

In contrast, there exists open-ended funding to pay the costs of foster care—often many times more expensive than the cost of services which would keep a child with his or her own family.

It is time, I am convinced, that we reverse the fiscal incentives in the current system which encourage the placement of children in foster care and provide little support for services to keep families together or for efforts to move foster children into new adoptive homes where necessary. The data and research has been compiled; the time for action is now.

Mr. President, the legislation being introduced today, the proposed "Adoption Assistance, Foster Care and Child Welfare Services Amendments of 1979," is designed to shift the fiscal incentives away from prolonged placement of children in foster-care systems and towards maintaining them with their own families or finding new adoptive families for them. While the proposal may not, in every instance, encompass all the reforms which I personally would like to see achieved, I am confident it represents a critical and much needed step in the right direction.

Before I describe the provisions of legislation in each of the three critical areas—foster care, adoption assistance, and child welfare services—encompassed by this proposal, I would like to describe briefly for my colleagues the present Federal involvement in foster care and child welfare services.

HISTORICAL DEVELOPMENT: THE FEDERAL ROLE IN FOSTER CARE AND CHILD WELFARE SERVICES

Mr. President, in order to understand the present Federal role in the area of foster care and child welfare services, I think it is important to understand how the Federal Government first became involved in foster care.

Robert H. Mnookin, professor of law at the University of California/Berkeley, provided an excellent historical perspective of the Federal role in foster care in his testimony of September 8, 1976, during joint hearings called by the House Education and Labor Committee and the former Senate Committee on Labor and Public Welfare to explore the problems and issues of foster care. The following is an excerpt from Professor Mnookin's testimony:

> The limits of the current Federal role—to provide funds for foster care but not to make or influence policy—can be partially explained by the history of federally supported foster care within the AFDC program of the Social Security Act of 1935. Before passage of the Social Security Act, care of poor, neglected and dependent children was a State, local and private responsibility. Although the Federal Children's Bureau was concerned with children separated from parents and relatives, the Federal Government provided meager financial support for children who were orphaned, abandoned, or removed from their families because of neglect or abuse.

The Federal AFDC program did not initially include foster care. In fact, the program emphasized the importance of supporting poor children within their own homes or in the homes of relatives, and not resorting to out-of-home placement. Giving Federal aid to children not living with their families was seen as undermining the Social Security Act's central policy of encouraging family unity and responsibility. During the 1940's and 1950's, State AFDC plans included provisions for discontinuing support payments if a home were found to be "unsuitable." However, at the same time, the prohibitive costs of caring for a child outside his or her home discouraged States from using juvenile courts to remove children from parental custody, unless a relative or other person offered to care for or support the child. Consequently, a welfare department was likely to find a home "unsuitable", and discontinue AFDC payments but leave a child to live in that "unsuitable" home.

The 1962 amendments to the Social Security Act changed the situation significantly. Children who had been receiving AFDC payments within their own homes became eligible for an even higher Federal reimbursement if they were removed from their homes as "a result of a judicial determination to the effect the continuation therein would be contrary to the welfare of such child" [42 U.S.C. § 608(a) (1)]. The requirement of a court decision was a compromise. It provided a means for the Federal Government to share in State and local foster care, but only in those cases where a court of law as an independent decisionmaker had found that the interests of the child and the duty of the State to protect its children outweighed the interests of family privacy and necessitated removal from parental custody for the child's welfare.

The availability of Federal funds for out-of-home care did not significantly affect the States' behavior, since States were not obligated to include foster care as a regular part of their AFDC program. Most States did not immediately apply for Federal funds because the act required certain changes in the administration of foster care for States to be eligible. Moreover, only a fraction of the children in foster care at that time would have become eligible anyway since many were not removed by courts, and those who had come before the court were not always AFDC recipients at the time they were removed. By June 1965, only 23 States had accepted the AFDC foster care program and were using it to care for 5,779 children.

In 1967, after continuing controversy between HEW and several States over their foster care programs, the AFDC foster care program was made mandatory for all States to begin in 1969. Eligibility for Federal reimbursement was extended to children who were not actually AFDC recipients but who would have been if application had been made when the court removed them from parental custody [42 U.S.C. § 608(a) (4)]. These amendments expanded the AFDC foster care program dramatically.

Thus, Mr. President, today any State which participates in the federally supported Aid to Families with Dependent Children—AFDC—program must provide in its State plan a program of foster care for children removed fom AFDC homes by court order. Under this existing system, the Federal Government shares with the States the cost of maintaining in foster-care homes or institutions those children from AFDC-income eligible homes who have been removed from their homes as a result of a judicial determination that removal is necessary for the child's welfare.

Under the criteria, Mr. President the Federal Government now contributes to the support of approximately 115,000 children in foster-care situations at an annual Federal cost of over $200 million. Federal expenditures for fiscal year 1979 are estimated to be about $240 million. The remaining children in foster care are not funded under title IV–A, although they may receive some Federal maintenance support through title IV–B, Child Welfare Services, of the Social Security Act.

It is estimated that most of the money appropriated under title IV–B currently $56.6 million—is spent on foster care for children not eligible for the title IV–A foster-care program. These children are not included in the existing IV–A program either because they do not meet the AFDC-income eligibility criteria or because they were not placed in foster care as a result of a court order.

Mr. President, under our current system of financing foster care, title IV–A is an open-ended entitlement program. That is, a State may seek Federal financial assistance for any number of children it places in foster care who meet the requirement for IV–A funding—a court order removing them from a AFDC-eligible home. In contrast, the Federal Government's contribution to services aimed at keeping children with their own families has been severely limited. Although appropriations under title IV–B have been authorized above $200 million for several years, actual appropriations have never exceeded $56.5 million. It is a curious situation—and I believe a seriously untenable one—when the Federal Government is willing to pay virtually unlimited amounts of money to keep children in foster care institutions or homes, and yet provides very limited resources for the kinds of services that would keep children in their own homes or assist them in finding permanent, adoptive homes.

OUTLINE OF LEGISLATION

Mr. President, the legislation we are introducing today deals with three basic areas: Reform of the existing IV–A foster-care program, establishment of a program of adoption assistance for children with special needs, and revision and strengthening of the existing child welfare services program under title IV–B of the Social Security Act. The first two—foster care and adoption—would be incorporated into a new title IV–E of the Social Security Act.

Mr. President, let me digress here for a moment to say that the designation of a new part E of title IV of the Social Security Act to encompass the foster-care and adoption-assistance programs, while of minor technical importance, is of tremendous symbolic importance, since it removes foster care from the existing AFDC welfare program under title IV–A. Although many of the components of the new title IV–E foster-care program will resemble the essential ingredients of the old IV–A foster-care program, the transfer of the foster-care program and the placement of the new adoption-assistance program, away from the title IV–A program which is generally regarded as a welfare program, and in a new and distinct title under the Social Security Act is an important symbolic recognition of the differences between the child welfare effort on behalf of foster children and children eligible for adoption, and the existing welfare program under the general AFDC program.

NEW IV–E PROGRAM

Mr. President, let me briefly summarize some of the important changes this legislation would make in the foster-care program under the new title IV–E. First of all, it is explicitly stated in the proposed new section 470(b)(1) that it is the policy of the Federal Government, in providing funds to the States to carry out their foster-care programs, that foster care should not ordinarily be regarded as a desirable form of permanent child care and that foster care should ordinarily be regarded as a temporary status. The various studies I cited earlier have demonstrated all too dramatically the necessity of reiterating the point that foster care ordinarily should be—and originally was—designed as a temporary placement, and is not, in most cases, a desirable way to care for a child for any substantial period of time.

There are, of course, exceptional cases where a child must reside permanently in a foster-care situation. Far too many children, however, enter the foster-care system during an emergency situation for a "temporary" foster care placement which turns into years of lingering in the foster-care system, without any planning or efforts toward finding a permanent home for the child, either with his family or in a new adoptive home.

In an effort to take positive steps toward reducing the number of children in long-term foster care placements, the legislation would provide that each State shall establish on or before October 1, 1981, specific goals for each fiscal year as to the maximum number of children who will remain in foster care for more than 24 months, and provide a description of the steps which will be taken by the State to achieve such goals. This provision is intended to assist the States in focusing upon the problem of unnecessary long-term foster care and to facilitate a planning process at the State level for reducing long-term foster care.

PROVISION OF PREVENTIVE SERVICES AS A CRITERION FOR PARTICIPATION IN THE IV–E PROGRAM

Mr. President, a second major revision of the existing IV–A program under the new IV–E program is the requirement under the proposed section 471(a) (14), effective October 1, 1981, that in each case reasonable efforts are to be made prior to the placement of a child in foster care to prevent the removal of the child from his or her home as well as reasonable efforts to make it possible for the child to return to home after removal. This requirement in the State plan under the proposed section 471(a)(14) would be reinforced by the new requirement under the proposed section 472 that each State with a plan approved under section IV–E may make foster-care maintenance payments only for a child who has been removed from a home as a result of an explicit judicial determination that reasonable efforts to prevent the removal have been made, as well as making the determination required by existing law that continuation in the home would be contrary to the welfare of the child.

Mr. President, these two provisions, I believe, are extremely important to our efforts to both reduce the number of children who are unnecessarily placed in foster care and to reduce the length of time children remain in foster-care situations. These provisions, along with the availability of extra resources for services to help keep families together or to reunite families under the IV–B program, which I will outline shortly, are critical to our efforts to reform the foster-care system.

STRENGTHENING OF CASE PLANS FOR FOSTER-CARE CHILDREN

Mr. President, another important provision in the new IV–E program is the requirement that for each foster child in the IV–E program there be developed a detailed case plan which includes provision for periodic review of the necessity of the child's being in foster care.

Mr. President, existing law under title IV–A requires that each foster child have a plan developed to assure that the child receives proper care while in foster care and that services are provided which are designed to improve the conditions in the home from which he was removed. Unfortunately, the evidence is all too clear that there has been little, if any, compliance with this generalized requirement. The 1977 GAO investigation of foster-care placements found a widespread failure to include vital information in the case plans developed for foster children. Indeed, only one-third of the children reviewed in the GAO investigation had received case reviews. The GAO report noted that current Federal requirements for case plans are "very general and do not require that the plans be documented."

The proposed legislation strengthens the provisions in existing law by describing exactly what factors should be covered in the case plan. The bill provides under the proposed section 472(a)(5) that each child in foster care shall have a case plan. The proposed section 475(1) provides that this case plan must contain a description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement, a plan of services that will be provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, and facilitate return of the child, or bring about the permanent placement of the child, and must address the needs of the child while in foster care, including a discussion of the appropriateness of the plan of services provided to the child.

Hopefully, these specific requirements will assist in providing the kind of focus for case plans that is missing under current law and is needed to reduce unnecessary foster care.

FOSTER-CARE CEILING

Mr. President, before I describe the adoption-assistance and child welfare services provisions of this legislation, I would like to discuss one provision which has, in the past, created some controversy. This legislation, like the bill that passed the Senate last year and the administration's proposed legislation—both in this Congress and during the 95th Congress—contains a prospective ceiling on the existing open-ended funding for foster care. This provision provides that States would be entitled in fiscal year 1980 to receive 120 percent of their 1978 fiscal year entitlement for foster care. For each of the fiscal years 1981, 1982, 1983, and 1984, a State would be entitled to an allotment equal to 110 per centum of its allotment for the preceding fiscal year. This ceiling thus increases 20 percent the first year, and then 10 percent each year until 1985. In 1985, the bill provides that the entire program will need to be reauthorized for any new foster-care placements. This will provide Congress an opportunity to determine whether this ceiling should be continued, eliminated, or modified. The bill also provides that a State may use, for services authorized under title IV–B, any funds allocated under title IV–E which are not utilized for foster-care maintenance or adoption-assistance payments. In other words, a State which does not reach its ceiling for foster care, may utilize title IV–E funds for child welfare services under title IV–B.

Mr. President, I have certain reservations concerning the appropriateness of placing a cap upon a maintenance program of this type. It is sometimes difficult to predict in advance what unforeseen economic factors might increase legitimate program costs over the next few years. The rationale underlying this fiscal limitation is that it will discourage placement of children in foster care. Under existing law, there are virtually no financial constraints on the inappropriate placement of children in foster-care situations. A State is fiscally free to remove any number of AFDC eligible children from their own homes, place them in foster care, and receive Federal financial support. Under the fiscal constraints proposed in the ceiling to be imposed by this legislation, States will be encouraged to place in foster care only those children whose removal from their families is clearly necessary.

There has been concern expressed that a ceiling on the foster-care program will result in children remaining in homes when they should be removed, and that there is no guarantee under this kind of fiscal constraint that the "right" children will be removed or left in their homes. Although these are valid concerns, there is little doubt that under our current system far more children are removed from their families than need be if services were provided to keep families together. The placement of a ceiling on the federally-funded foster-care maintenance payments is an attempt to deal with a very real problem—excessive and unnecessary foster-care placements.

The imposition of a fiscal restraint such as the ceiling is not a substitute for providing the type of services that are necessary to hold families together. Unfortunately, however, our social services programs too often are molded to precipitate the flow of Federal dollars. As long as States can tap into unlimited funds for foster-care maintenance, foster-care placement will continue to offer all too easy a solution.

It is essential that action be taken to create some form of fiscal disincentives that will aid in reducing unnecessary foster-care placements. I do believe, however, that proponents of this ceiling must be prepared to make adjustments, if necessary, to insure that the welfare of foster children is protected. Thus, although the administration's legislative proposal provided that the ceiling become permanently fixed at the 1985 level, the legislation being submitted today would provide that both the ceiling and authorization for new foster-care placements expire in 1985 in order to require that Congress reassess its effects. The bill also provides specific reporting requirements for HEW in order to provide Congress with the data it will need to make a determination whether the foster-care ceiling has been effective in helping to reduce foster care placements.

Additionally, the legislation includes a provision which the Finance Committee, in its work during the last Congress on this proposal, adopted providing for an alternative formula to protect States with low foster-care participation. This provision provides the States with the alternative of a fixed allocation based upon their population under 18, rather than an allocation based upon their present foster-care caseload. The Finance Committee's alternative formula in 1977 would have provided room for program growth to some 19 States with disproportionately small foster-care programs.

Mr. President, I want to make one final comment on the proposed ceiling on the IV–E program. Whatever arguments can be advanced on behalf of a ceiling on the foster-care program, there is clearly no policy justification for placing a ceiling on an adoption-assistance program. Whereas there is legitimate basis for trying to discourage foster-care placements through creation of fiscal disincentives, precisely the opposite is true of adoption assistance. As I indicated in my floor statement on April 10, I was very disappointed that the administration's proposal continued to include a ceiling on the adoption assistance program—a ceiling which the Senate Finance Committee specifically rejected during the last Congress. The legislation submitted today would not include any ceiling on adoption-assistance payments.

Mr. President, before I turn to a discussion of the specific provisions of the adoption-assistance program, I would like to comment upon the provisions of the legislation which relate to the title IV–B child welfare program.

FEDERAL PARTICIPATION IN CHILD WELFARE SERVICES UNDER TITLE IV–B OF THE SOCIAL SECURITY ACT

Mr. President, title IV–B of the Social Security Act provides for a mechanism of funding child welfare services by the Federal Government through State public welfare agencies. The child welfare moneys made available to the States through title IV–B can be utilized by the States for a wide variety of child welfare services, ranging from foster-care programs to child protection systems. One particularly important element of the title IV–B funded programs is the absence of a "means test" for assistance. In other words, State agencies have been able to extend child services, for example, where a child is being physically abused by his family, without the necessity of requiring an income eligibility test.

Moneys that the States have received under the IV–B program have been virtually unrestricted programmatically and States are now free to utilize these funds for whatever child service programs they deem necessary.

Despite the potential for supporting innovative and constructive child services programs, the IV–B program has never been as effective as its promise. First of all, although the authorization level for the IV–B program has exceeded $200 million for the last 4 fiscal years and is currently at a level of $266 million, the appropriations level for title IV–B has never risen beyond $56.6 million. Second, although States have been free to utilize these funds for a wide range of child services, estimates indicate—as I pointed out earlier—that as much as 80 percent of the title IV–B funds received by the States are expended on foster-care maintenance payments for children who are not eligible for the title IV–A foster care maintenance program either because the children are in voluntary placements or are not AFDC eligible.

Thus, the potential for supporting innovative and useful child services programs under title IV–B has not been met. Instead, title IV–B funds, for the most part, have served to support a parallel foster-care maintenance program for children ineligible for the title IV–A program.

It is not surprising, therefore, that many critics of the Federal financial participation in foster care point out that although the Federal Government literally pours about 250 million Federal dollars a year into the maintenance of children in foster-care situations, almost no Federal money is directed either toward providing children and their families with the services that might prevent the initial breakup of the family units or promote the reunification of these families. The failure of the Federal Government to fund title IV–B at its full authorization level combined with the failure of the States to utilize the bulk of the funds received under title IV–B for anything other than foster-care maintenance is a disheartening and unacceptable demonstration of our present low level of commitment to children and families.

NEW TITLE IV–B SERVICES

Mr. President, in an effort to induce States to utilize title IV–B funds in a more productive fashion, the legislation would authorize the earmarking of new title IV–B funds through the appropriations process for specific services designed to protect children from unnecessary and prolonged foster-care placements.

The legislation also would provide that States would not be permitted to spend any of new title IV–B funds on foster-care maintenance payments. States would thus be permitted to utilize their shares of the present $56 million Federal dollars for these programs but no new IV–B funds could be used for foster-care maintenance payments.

Mr. President, in order for a State to be eligible to receive the new funds appropriated under this earmark provision, a State must agree to expend these new funds on specific services, outlined in the proposed section 428, that I will describe.

INVENTORY OF ALL CHILDREN IN FOSTER CARE FOR 6 MONTHS

During the first year a State receives these new funds, it must conduct an inventory of all children who have been in foster care under the responsibility of the State for a period of 6 months. As part of this inventory, the State must determine the appropriateness of and necessity for the current foster-care placement and whether the child can be returned to his or her parents or should be freed for adoption. The State must indicate in this inventory what services are necessary to facilitate either the return of the child or the placement of the child for adoption. The State could carry over funds from its first year's allocation to complete the inventory, if necessary.

Mr. President, I believe that inventories of this nature are essential to our efforts to deal with foster-care problems.

The absence of data on the children now in the foster-care system is one of the most critical problems facing us today. The requirement of a one-time inventory of the 400,000 to 500,000 children now in foster care is designed to find out where these children are and what is happening to them. Until States have taken account of their existing foster-care populations, the reforms hoped for in the foster-care system cannot take place in a meaningful fashion. It is disgraceful that this information is not currently available. The thousands of children who are frequently described as being "lost" in the foster-care system—in some cases, without even a caseworker assigned to them—must be found and helped as we begin our task of protecting the interests of children and families who enter the foster-care system in the future.

DEVELOPMENT OF STATEWIDE INFORMATION SYSTEM

The bill also would provide that during the first year that a State receives these new funds, it must design and develop a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding 12 months can be readily determined.

This requirement is designed to provide a permanent mechanism for the tracking of children in foster care and to prevent the build-up which presently exists of children lost in the foster-care maze. The establishment of such a system is also important as a vehicle to maintain information on how well a State is moving its children into and out of foster care.

Again, Mr. President, the legislation would permit a State to carry over funds from its first year allocation if necessary to complete the design and development of this system.

Mr. President, during our hearings on the Opportunities for Adoption Act during the 95th Congress (now partly enacted as Public Law 96–266), we established that it is impossible to account accurately for the number of children in foster care because of the lack of administrative and recording systems capable of keeping track of these children. The result is that they can linger in foster care for years without having any efforts made to return them to their homes of birth or free them for adoption. In Public Law 95–266, we required the establishment of a national data gathering and analysis system so that, for the country as a whole, we would have the ability to evaluate accurately problem areas in moving children from inappropriate foster-care placements, and have better accountability systems for determining how Federal dollars in this area are being spent.

The State data collection systems developed under the provisions of this legislation would feed data into the national data collection mechanism established under Public Law 95–266. Hopefully, in years to come, it will be possible with these systems in operation to determine where foster children are on both a State and national basis.

A CASE REVIEW SYSTEM

States would also be required to design and develop a case review system to insure that each child receiving foster care under the supervision of the State has a case plan and that the status of each child is reviewed no less frequently than once every 12 months by either a court or administrative body. This review is designed to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

Mr. President, this case review system would also require the establishment of due process procedures designed to protect the rights of parents, foster parents, and children. These procedures must cover such situations as the removal of a child from his or her home, changes in the child's placement, and any determinations affecting visitation privileges of parents.

The case review system must also assure that each foster child is afforded a dispositional hearing, either by a court or administrative body appointed by the court, no later than 24 months after the original placement to determine whether the child should be returned home, requires continued placement for a specified period of time, should be placed for adoption, or should, because of special needs or circumstances, be continued in foster care on a permanent or long-term basis.

Mr. President, the provision for a dispositional hearing after a set period of time is, I believe, of critical importance. One of the prime weaknesses of our existing foster-care system is that, once a child enters the system and remains in it for even a few months, the child is likely to become "lost" in the system. Yearly judicial reviews of the child's placement too often become perfunctory exercises with little or no focus upon the difficult question of what the child's future placement should be. Foster care, with a few exceptions, should be a temporary placement; unfortunately, under our existing system, temporary foster care becomes a permanent solution for far too many children. This provision requiring a dispositional hearing after a child has been in foster care for a specific period of time should assist States in making the difficult, but critical, decisions regarding a foster child's long-term placement.

Mr. President, as I indicated before, these due process provisions must also apply to such aspects of the foster-care process as the removal of the child from the home of his parents, changes in the child's placement, and any determination affecting visitation privileges by parents.

The legislation does not specify the precise mechanism or the specific procedures which a State must follow in establishing due process protections. The procedures, must, however, embody the basic components of due process—providing parents and other interested parties with notice of proceedings, the nature of the proceedings, and the possible consequences. The parties must be provided an opportunity to be heard. Where necessary, counsel must be provided. For example, the U.S. Court of Appeals for the Ninth Circuit has held that the due process clause of the Constitution requires that States must provide counsel for indigent parents in proceedings in which parents cannot properly present their case without counsel and where the parents face a substantial possibility of loss of custody of child or a prolonged separation from the child (*Cleaver* v. *Wilcox*, 499 F. 2d 940, 9th Cir. 1974).

The parties should also receive timely notice as to any determination of their rights and an indication of the basis for the decision. Such proceedings need not, in every case, be a full judicial hearing, but should be presided over by an impartial and disinterested person and comport with the general notion of due process proceedings. Obviously, the more serious the nature of the rights affected the more formal the proceedings must become.

Mr. President, these minimal due process requirements—leaving to the discretion of the States the precise mechanisms for protecting the rights of persons in the foster-care system—are clearly necessary to insure that each person be treated with the fairness and procedural safeguards essential to the operation of a fair and equitable system.

PLACEMENT STANDARDS

Mr. President, the case review system provision also would require that each foster child have a case plan designed to achieve placement in the least restrictive, family-like setting and in close proximity to the parents' home consistent with the best interests and special needs of the child.

The provisions dealing with geographic placement of children are particularly important. The shipments of foster children to distant States where they have been placed in large, barren institutions has given rise to a legitimate outcry and demand for congressional action. These unfortunate children have been cut off from any contact with their families, deprived of the possibility of visitation, and effectively denied the potential for reunification with their families. Litigation by the Children's Defense Fund in Louisiana in the Gary W. case has amply demonstrated the abuses which have arisen in the interstate movement of foster children. However, these problems are not necessarily limited to interstate placements of children. Placement of children in foster homes or institutions hundreds of miles from their homes within the same State also severely limits the ability of the family and child to maintain contact and to become reunited.

It has been found that sometimes not even the child's caseworker maintains contact with the child in these situations. The GAO study of foster care indicated that in many of the States reviewed, there were no regular visits to the institutions by caseworkers. Moreover, almost half of the institutions actually visited by the GAO auditors had serious deficiencies in terms of repairs, cleanliness, and available facilities.

At the hearings on institutional abuse in children's residential facilities which I chaired earlier this year, witnesses made the point that when a child is placed in a distant institution, away from both family and caseworkers, the likelihood of neglect and institutional abuse is often increased.

Mr. President, there is a strong and legitimate concern in our country that foster children should reside in the least restrictive, family-like setting consistent with the child's interests and special needs. There is widespread agreement that many children are inappropriately placed in foster-care institutions and deprived of the benefits of family life as a result of such placements. The proposed legislation addresses this particular problem—the overinstitutionalization of foster children—by requiring that the child be placed in the least restrictive, most family-like setting consistent with the best interests and special needs of the child. Of course, there are some children for whom institutional care is the most appropriate placement. However, it is important that the possibility of placement in a family or family-like setting be explored as a potential placement for every child in need of foster care.

SERVICE PROGRAMS

Mr. President, the proposed legislation also would provide that States which accept these new funds must design and develop a service program designed to help children remain with their families, help children to return to families from which they have been removed, or, where appropriate to place children for adoption or in legal guardianships.

Mr. President, I would like to point out that the omission in the administration's bill this year of a services program designed to help children who should be freed for adoption was a great disappointment to me and was one of the key reasons why I was unable to give my whole-hearted support to S. 966 as introduced. Where we can provide services to keep children with their own families or reunite them, we certainly should do everything possible to achieve that goal. But where foster children cannot, for some reason, ever be returned to their birth families, efforts should be made to remove them from the foster care "limbo," and to find permanent, adoptive homes for them.

Mr. President, the establishment of a service program to prevent the removal of children from their homes, to reunify families, and, where appropriate, to find new adoptive homes for foster children is central to our efforts to reform the foster care system.

The States and Federal Government annually spend millions of dollars on the maintenance of children in foster homes and institutions. Yet, our commitment to provide equivalent support for programs that would prevent or shorten the length of time children remain in foster care has been sadly lacking.

Every study of the existing foster-care system has found a dismal absence of services provided to the family—services which could prevent the removal and long-term placement of children in foster-care. Yet, in recent years there have been demonstration service delivery programs throughout the country which have shown that we can dramatically reduce foster-care placements by providing services to the family and children in their own homes.

For example, in Nashville, Tenn., the comprehensive emergency services program, funded by HEW, dramatically reduced both the number of foster care placements and the time in placement. The statistics are remarkable: A 56-percent reduction in the number of neglect and dependency petitions, 51-percent reduction in the number of children removed from homes, 85-percent reduction in the number of children placed in institutions, 100-percent reduction in the number of children under age 6 placed in institutions, 88-percent reduction in the recidivism rate for neglect and dependency, and finally, a reduction in the percentage of children in long-term care—more than 2 years—from 94 percent to only 34 percent. The net dollar savings under the Nashville program was $68,000.

Similar results can be found in other programs around the country. A Child Welfare League program in New York City—the New York State Preventive Services Demonstration Project—provided an investment of $500,000 for services, an estimated savings of $2 million in 1 year. A project operated in over a dozen cities around the Nation by the National Council of Juvenile Court Judges—the Children-in-Placement project—has sharply reduced the number of children in care and reunited children with their families in every community in which it has been implemented. Judge John P. Steketee of the Grand Rapids, Mich., juvenile court aptly described, in his testimony before a hearing—chaired by Congressman GEORGE MILLER—of the Select Education Subcommittee of the Education and Labor Committee in the House of Representatives 2 years ago, the basic principles upon which such a system is based. Judge Steketee testified:

> If a family has problems, the most humane, effective and economical way to assist is by protective services intervention. If a family is to be separated, this should be only as an emergency or last resort and we must all work together toward reuniting that family. If out-of-home placement continues unduly—weeks and months stretching into years—it is imperative that planning be made for permanency for the child.

The human costs of failing to take whatever steps are available to prevent the removal of a child from his family are beyond calculation. The financial costs of placing a child in long-term foster care—running as high as $30,000 a year for institutional placements—can become enormous, particularly in contrast to the cost of the preventive services which could avert the necessity for removal or continued removal of the child. Our present system provides through its open-ended financing for a dramatic incentive for continuing children in foster care situations and only a tiny fraction of that money for preventive services.

Hence, efforts to reunite families when children are in foster care are minimal in the existing system. The GAO study found, in the cases it reviewed, that in 45 percent of the cases, the families of the children in foster care were not even visited by caseworkers; and case plans frequently provided no planning for reunification of families. The HEW study of foster care in five States—Arizona, California, Iowa, Massachusetts, and Vermont—reached similar conclusions. Efforts must be made both to prevent families from being broken up and to restore children to their families when possible.

Mr. President, I believe that this legislation goes a long way toward promoting the kinds of services that are needed to keep families together—instead of breaking them apart. As I indicated earlier, these provisions for service programs are directly related to the proposed requirement under the new title IV–E foster-care program that a judicial determination be made for each child in the IV–E foster-care program that reasonable efforts have been made prior to the placement of the child in foster care to prevent the removal of the child from his home and to make it possible for the child to return to his home. Once these programs are instituted, unnecessary and prolonged foster-care placements should be greatly reduced—at a substantial savings to the taxpayer and an enormous benefit to the children and families.

VOLUNTARY PLACEMENT IN FOSTER CARE

Mr. President, there is one issue not addressed in the proposed legislation we are introducing today which I would like to comment upon. Under existing law, Federal financial assistance is not available under title IV–A for foster care placement unless the placement is the result of a child's removal from his home by a court order to the effect that continuation of the child in his own home would be contrary to the child's welfare.

The requirement in the existing law limiting Federal financial participation in foster-care replacement to those children removed by a judicial determination was enacted originally as part of the basic policy of the AFDC program; that is, to provide support first for needy children in their own homes. The expansion of this program to support children in foster-care was originally limited to situations where a child was removed by a court order because of the Federal Government's concern that the removal of children from their own homes not be encouraged in any way except in those instances where removal is clearly necessary for the child's protection.

The judicial determination requirement was also enacted to protect against the possibility of children being placed in foster care under the guise of voluntariness when the placement was, in fact, involuntary. There was legitimate concern that families not be coerced into "voluntarily" giving up their children for foster-care placements. The requirement of a judicial determination as a condition for Federal involvement in foster-care maintenance under title IV–A was viewed as a means of limiting the potential for such abuses.

Concern has been growing, however, that the Federal Government has legitimate obligations in the area of maintenance of AFDC-eligible children in certain voluntary placements. A large number of children in voluntary foster placements actually do receive some Federal maintenance support under the title IV–B (Child Welfare Services) of the Social Security Act—there are estimates indicating that as high as 80 percent of the title IV–B total of $56.6 million in Federal funds given to States are spent on foster-care maintenance payments for children who do not qualify for the IV–A funding because they are in voluntary, rather than involuntary, placements.

These children do not now receive any of the protections—however limited—afforded children in the existing title IV–A foster-care program.

Mr. President, in some instances, the requirement of a judicial determination can work counter to the Federal desire to support the integrity of the family. For example, in the case of a mother facing emergency hospitalization with no options for the care of her children other than foster care, the imposition of the judicial determination requirement, carrying with it the stigma of unfitness or failure as a parent, is both unnecessary and unduly harsh.

Similarly, various studies have indicated that those children who are voluntarily placed in foster care are subjected to many of the same problems suffered by involuntarily placed children. For example, existing data suggest that after a certain period of time in the initial placement, voluntarily placed children are likely to stay in the foster-care system as long as the involuntarily placed children.

Indeed in testimony before the Subcommittee on Select Education of the Committee on Education and Labor in the House of Representatives, Prof. Robert H. Mnookin, professor of law, University of California, Berkeley, Calif., observed:

> Because welfare departments are typically not accountable to anyone for what happens to these chidlren, children who are voluntarily placed are quite often the "orphans of the living".

Finally, there is legitimate concern that the requirement for judicial determination as a condition for Federal funds for foster-care maintenance has led to a misuse of the court process simply in order to obtain Federal assistance. In other words, in some areas of the country, all foster children are "run through" the court system simply to meet the Federal requirements for more Federal money. This practice has led, unfortunately, to the overloading of the court systems and superficial court reviews for all children. Thus, by forcing States to channel all foster children through a judicial system in order to generate Federal financial assistance, the meaningful judicial review sought in existing law has, in many cases, been undermined.

Clearly, Mr. President, there is a need to address the welfare of AFDC children who are voluntarily placed in certain foster-care situations.

At the same time, a number of concerned individuals feel that a blanket removal of the judicial protections for foster children would be, in the words of Professor Mnookin, a "serious policy error."

It could, as Professor Mnookin points out:

> Simply create incentives for the continued operation of a system that, if anything, is less accountable than the system where kids go through juvenile court.

The administration's proposal that I introduced in 1977, and the proposal I introduced in April on behalf of the administration, provided for a limited coverage for children voluntarily placed in foster care. Under these proposals, the Federal Government would be authorized to make a contribution to the care of these children for the first 180 days. Then, the existing law's requirement of a judicial determination would come into effect and require court approval of the continued foster-care placement. I felt this was a reasonable middle ground, which would meet some of the need for emergency, short-term foster care on a voluntary basis, while not encouraging the creation of a new group of foster children who would become, as Professor Mnookin stated, "orphans of the living."

The proposal that we are submitting today, however, does not contain this provision principally because the legislation which the Finance Committee considered and reported during the last Congress did not change the provisions of existing law with respect to judicial determination. As I indicated earlier, although there are some areas I would have preferred to address, the legislative proposal we have introduced was the result of negotiations with various parties—and a process in which certain compromises have been reached to achieve a consensus. The legislation which the House has acted upon does contain a modification of the provision of existing law in this area and I am hopeful that some further consideration may be given to this issue when the House and Senate proposals are reconciled.

ADOPTION ASSISTANCE PROVISIONS STATUS

Mr. President, I would like to turn now to the adoption portion of the bill which builds on and provides financing for legislative concepts to promote adoption which I have been advocating for several years now.

GROUNDWORK PROVIDED BY PREVIOUS LAW

During the 93d Congress and again in the 94th, I introduced legislation to assist children who would benefit by adoption. My initial proposal, then entitled the "Opportunities for Adoption Act," would have provided grants to the States to be used to assist financially parents who adopted children with special needs.

I subsequently became convinced, however, that to avoid duplication of effort and to provide for continuity, any adoption assistance program should be tied into the existing foster care and medicaid systems. Thus, during the last Congress, I deleted those provisions in the proposed Opportunities for Adoption Act that dealt with adoption assistance payments, and I worked with the Finance Committee and the administration to develop separate legislative provisions that would better relate to foster care and medicaid. In doing so, I endeavored to assure that the protections for parents and children that I had built into my original legislation would become a part of the new proposals.

ENACTMENT OF PUBLIC LAW 95–266

The proposed Opportunities for Adoption Act, as revised, was signed into law on April 24, 1978 as title II of Public Law 95–266, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978. Implementation of title II is now well underway by the Administration on Children, Youth, and Families in the Department of Health, Education, and Welfare, thanks to the $5 million Congress appropriated for fiscal year 1979. I was also pleased to note that the President requested an additional $5 million for the Adoption Reform Act in his fiscal 1980 budget, and both the House-and Senate-passed fiscal year 1980 Labor-HEW appropriations measures include the full amount requested.

Mr. President, the Adoption Reform Act requires the development of model adoption legislation designed to correct the inconsistencies and contradictions which exist between current State adoption laws and which pose barriers to interstate adoption placements. It calls for the establishment of an administrative arrangement for planning and coordinating Federal activities affecting adoption and foster care, and mandates the development of a tracking and information system to prevent children from being lost in the foster-care system. It calls for the establishment of an administrative arrangement for planning and coordinating Federal activities affecting adoption and foster care, and mandates the development of a tracking information system to prevent children from being lost in the foster-care system. It calls for the provision of a national computerized adoption information exchange system to match waiting children with waiting families, and it includes a requirement for a study of the effects upon children of unlicensed adoption placements. In effect, it lays the groundwork for the reform provisions in the legislation being introduced today.

Although the provisions of the Adoption Reform Act will assist in locating both the children currently in foster care who have no hope of being reunited with their birth parents, and in locating parents wishing to adopt such children, today's legislation would entitle medically needy children to medicaid eligibility under title XIX of the Social Security Act. This legislation would further permit maintenance assistance through title IV–A—proposed to become title IV–E.

PROPOSED SOCIAL SECURITY ACT AMENDMENTS

Mr. President, providing for the financing of adoption assistance through titles IV and XIX of the Social Security Act will truly be a giant step forward for children who would benefit by adoption. I want to point out, too, Mr. President, that such financing not only will be of enormous benefit to children with special needs, but should save taxpayers money in the long run, since the high proportion of the adopted children who these provisions will benefit in many instances will require less assistance in adoptive placements than they would had they been relegated to spend the rest of their childhood in foster care.

Mr. President, I would like now to discuss the specifics of the adoption provisions in the proposal.

ADOPTION MAINTENANCE PAYMENT

Mr. President, section 473 of the new part E—Foster Care and Adoption Assistance—in the amendment would authorize federally supported maintenance payments for adoption assistance when a child with special needs who had been eligible for foster care is adopted by parents whose income at the time of the adoption does not exceed 150 percent of the State median income for a family of four—adjusted for family size, including the size of the family after adoption, or if the State or local agency administering the section 473 program determines that there are special circumstances in the family warranting adoption assistance payments.

In introducing S. 1928 on behalf of the administration 2 years ago, I expressed my philosophic difficulty with the notion of including an absolute means test cutoff—then 115 percent of the median income—in an adoption reform measure. I continue to believe that adoption assistance should be tied to the needs of the child, and not solely to the income level of adoptive parents. If there is a need for some assistance in light of the family's income, it should be provided even if very small. We should not design a program to foster adoptions only in those families with the least financial capacity to care for these special needs children.

Mr. President, let me point out that most of the children we are talking about are not healthy infants. We are talking about assisting parents who want to adopt "special needs children" who would be unable to be placed in adoption without the benefit of assistance.

They are the children like those we heard about during our work on Public Law 95–266—Jenny, who was adopted at age 3 after having been mistakenly diagnosed as mentally retarded, who was legally blind and had deformed hands—she is now a top student in her third grade class; Barbara, adopted at age 6 after having lived her life in a convalescent home for crippled children because of a variety of birth defects; John and William, teenage brothers emotionally scarred by years in and out of foster care.

Although I continue to be opposed philosophically to the income cutoff, I recognize that other Members of Congress and the administration are committed to such a requirement. This legislation has improved the standard markedly from last Congress bill.

Moreover, in this amendment, unlike S. 966 as introduced, the income test would not be applicable to eligibility for continuation of medicaid assistance. There are numerous cases where a family adopting a severely handicapped child might fall above the bill's income test for adoption assistance payments, but be in great need of help with the child's medical costs. In many cases, private medical insurance does not cover pre-existing medical conditions of an adopted child. This is another area where I was particularly disappointed in the administration's proposal this year. The administration's legislation tied medicaid eligibility for special-needs children to eligibility for a cash adoption assistance payment. The linkage would have resulted in the imposition of the means test cut-off upon medicaid coverage—a concept I find to be totally unacceptable in these circumstances where we are trying to find adoptive homes for often severely handicapped children with very costly medical needs.

COST-EFFECTIVENESS

Mr. President, section 473 would limit the adoption assistance payments to no more than the foster-care maintenance payment which the adopted child would have received in a foster family home. I want to highlight this provision, because it is significant in terms of the cost-effectiveness of the adoption assistance concept—the particular financial costs for a given child would never be greater than those associated with retaining the child in the least expensive setting—foster home care versus institutional costs—in the foster-care system.

DEFINITION OF ADOPTION ASSISTANCE AGREEMENT

Mr. President, section 475 of the proposed new part E would define an "adoption assistance agreement" as a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adopting parents of a minor child which, at the minimum, specifies the amounts of the adoption assistance payments and any additional services and assistance which are to be provided as part of such agreement.

Mr. President, this legislation would not specifically deal with the problem which may arise when the adopting family moves from one State to another. This issue was raised at the hearing I chaired on the Opportunities for Adoption Act in the 95th Congress. During our hearings the parents of one adopted child, Jenny, the remarkable child whom I mentioned earlier, testified to their first-hand experience when the obligations of two States involved in an interstate placement are not established at the outset. Jenny's mother testified as follows:

> Let me give you a vivid example of a roadblock we had that scared both Allen and myself tremendously.
>
> Jenny came down here from New York to Virginia; one of her hands was deformed badly, and we had been told that she needed a series of operations, starting right away. This was about 2 months after we had Jenny.
>
> Se we found a doctor, a very capable doctor. He said that he was willing to perform the operations. We told him about our financial situation. He said that did not really matter, that he would go ahead with it anyway.
>
> We wrote to New York State, saying is there any money you could give us to help with Jenny's handicaps, and they wrote back saying no, that we were unfortunately ineligible because she was no longer a ward of New York State.
>
> So then, I started in at Richmond, saying, "Now we are going to live here in Richmond. Could you help us out?" And they said no, that she was the responsibility of New York.
>
> It came down to the morning of Jenny's operation, and the nurse came up to Allen and myself and said, "Would you like to sign the papers?" for the release of Jenny's operation, and we said, "No. She is not ours."
>
> Now, when a child is placed in your home, that is exactly what it is; she is placed. She is not ours. We could not adopt Jenny for a good year after we got her. It took 1 year by the time we adopted her. So we had no legal right to sign any papers for an operation.
>
> But yet, New York State was not going to help us, and Virginia claimed that it was not their responsibility. So we signed the papers, knowing full well that if anything happened to Jenny in that operation, we could be in a lot of trouble.

Mr. President, I would hope that in the implementation of this section, provisions would be made for dealing with instances when adoptive families move from State to State.

MEDICAID ELIGIBILITY FOR SPECIAL NEEDS CHILDREN: A LANDMARK PROVISION

MEDICAL ELIGIBILITY

Mr. President, as I mentioned before, one of the major benefits affecting adoption reform included in this legislation is to vest title XIX medicaid coverage in a child who was eligible for foster care and is later adopted, for medical conditions existing prior to adoption. In addition, a State may provide full eligibility for medical assistance under the State's approved title XIX plan for such a child, if the State so chooses. I cannot overemphasize the importance of this provision. Right now, children in foster care receive Federal medicaid assistance to pay for serious medical and emotional problems. If these children are adopted, however, they automatically lose this medicaid assistance, and adopting parents often find that their own insurance carriers will not cover these preexisting costs for an adopted child. This certainly is a "catch-22" situation—one all too often resolved by leaving the child in foster care so that the medicaid benefit will not be lost.

This bill would amend the law to permit medicaid benefits to follow the child into an adoption placement—limited, if the State so elects, to care for those medical conditions existing prior to adoption. This provision would eliminate one of the worst disincentives to adoption. I want to point out again, Mr. President, how important it is that there is no means test associated with these medicaid eligibility provisions and that the medicaid assistance would extend to the age—18—at which a disabled child can be eligible for medicaid and maintenance support through SSI eligibility.

NON-RECURRING COSTS

Mr. President, this amendment would also authorize States to cover with title IV–B funds the costs of nonrecurring expenses associated with the proceedings related to the adoption of a child with special needs, such as legal and other expenses. This provision was included in my proposed Opportunities for Adoption Act and the Senate-passed legislation last year, and I believe it is important to our goal of encouraging adoption for homeless children.

LEGISLATIVE HISTORY

For purposes of legislative history, in my July 26, 1977, floor remarks on S. 1928, and again in my floor remarks on October 9, 1978, on amendment No. 2032, I discussed in great detail some of the problems we attempted to deal with in my original adoption legislation and the genesis of provisions in both S. 1928 and the legislation the Senate passed last October derived from that original legislation. Those remarks and legislative history apply as well to this legislation, and I hereby incorporate them by reference in this statement—specifically beginning on page 24861 of the CONGRESSIONAL RECORD of July 26, 1977 and beginning on page 34711 of the RECORD of October 9, 1978.

Mr. President, it has been seven years since I first began my work in the area of adoption and foster-care reform, and will now be over 2 years since I introduced the predecessor legislation to this legislation on July 26, 1977 I hope that the children who will benefit by these proposals will not be put off one day longer than is absolutely necessary.

CONCLUSION

Mr. President, the legislation we are introducing today when enacted will, I believe, be a giant step forward in attempting to deal with a system which has failed to respond adequately to the needs of thousands of homeless children throughout our country. Enactment of these reforms into law will give these children a real future and an opportunity to grow and develop into productive and healthy citizens.

Mr. President, I want to express my personal appreciation to the members of the White House domestic policy staff, Bert Carp and Chris Edley, to Margie Siegel, Dick Warden and Sandra Steigen from HEW, and David Kleinberg from the Office of Management and Budget, for their help in working out this accord. I also deeply appreciate the assistance of Michael Stern and Joe Humphreys of the Finance Committee staff, Checker Finn of Senator MOYNIHAN's staff, and the staff on the Child and Human Development Subcommittee. Finally, I must again recognize the leadership of Vice President MONDALE, whose continued commitment to the welfare of children has been instrumental to the success of our efforts.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

S. 966

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Adoption Assistance, Foster Care, and Child Welfare Services Amendments of 1979".

SEC. 2. (a) (1) Title IV of the Social Security Act is amended by adding at the end thereof the following new part:

"PART E—FEDERAL PAYMENTS FOR ADOPTION ASSISTANCE AND FOSTER CARE

"PURPOSE: APPROPRIATION

"SEC. 470. (a) For the purpose of encouraging each State, as far as is practicable under the conditions of that State, to provide, in appropriate cases, foster care and adoption assistance for children who otherwise would be eligible for assistance under the State's plan approved under part A, there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1979) such sums as may be necessary to carry out the provisions of this part.

"(b) The sums made available under this section—

"(1) are made available in recognition of the policy of the Federal Government that the placement of a child in foster care is not ordinarily regarded as a desirable form of permanent child care and that foster care should therefore ordinarily be a temporary status; and

"(2) shall be used for making payments to

States which have submitted, and had approved by the Secretary, State plans under this part.

"STATE PLAN FOR ADOPTION ASSISTANCE AND FOSTER CARE

"SEC. 471. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

"(1) provides, where the plan includes adoption assistance payments, that such payments shall be payable in accordance with section 471, and, where the plan includes foster care maintenance payments, that such payments shall be payable in accordance with section 472;

"(2) provides that the State agency responsible for administering the program authorized by part B of this title shall administer the program authorized by this part;

"(3) provides that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

"(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under title XX of this Act, and under any other appropriate provision of Federal law;

"(5) provides that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

"(6) provides that the State agency referred to in paragraph (1) (hereinafter in this part referred to as the 'State agency') will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

"(7) provides that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

"(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, C, or D of this title or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Island), XIX, or XX or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body (other than the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and any agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

"(9) provides that where any agency of the State has reason to believe that the home or institution in which a child resides whose care is being paid for in whole or in part with funds provided under this part or part B of this title is unsuitable for the child because of the neglect, abuse, or exploitation of such child, it shall bring such condition to the attention of the appropriate court or law enforcement agency;

"(10) provides that the standards referred to in section 2003(d)(1)(F) shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title:

"(11) provides for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance payments to assure their continuing appropriateness;

"(12) provides that any individual who is denied a request for benefits available pursuant to this part or part B of this title (or whose request for benefits is not acted upon within a reasonable time) will be informed of the reasons for the denial or delay and, if he so requests, will be offered an opportunity to meet with a representative of the agency administering the plan to discuss the reasons for the denial or delay;

"(13) provides that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years;

"(14) provides (A) specific goals (which shall be established by State law on or before October 1, 1981) for each fiscal year (commencing with the fiscal year which begins on October 1, 1982) as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care with respect to whom assistance under the plan is provided during such year) who, at any time during such year, will remain in foster care after having been in such care for a period in excess of 24 months, and (B) a description of the steps which will be taken by the State to achieve such goals; and

"(15) effective October 1, 1981, provides that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent the removal of the child from his home, and (B) to make it possible for the child to return to his home.

"(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section. However, in any case in which the Secretary finds, after reasonable notice and opportunity for a hearing, that a State plan which has been approved by the Secretary no longer complies with the provisions of subsection (a), or that in the administration of the plan there is a substantial failure to comply with the provisions of the plan, the Secretary shall notify the State that further payments will not be made to the State under this part, or that such payments will be made to the State but reduced by an amount which the Secretary determines appropriate, until the Secretary is satisfied that there is no longer any such failure to comply, and until he is so satisfied he shall make no further payments to the State, or shall reduce payments by the amount specified in his notification to the State.

"FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

"SEC. 472. (a) Each State with a plan approved under this part may make foster care maintenance payments (as defined in section 475(4)) under this part only with respect to a child who is placed in foster care prior to October 1, 1984 and who would meet the requirements of section 406(a) or of section 407 of this Act but for his removal from the home of a relative (specified in section 406(a)), and only if—

"(1) the removal from the home was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and that reasonable efforts of the type described in section 471(a)(14) have been made;

"(2) such child's placement and care are the responsibility of (A) the State agency administering the State plan approved under section 471, or (B) any other public agency with whom the State agency administering or supervising the administration of the State plan approved under section 471 has made an agreement which is still in effect;

"(3) such child has been placed in a foster family home or child-care institution as a result of such determination;

"(4) such child—

"(A) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home was initiated, or

"(B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made; and

"(5) there is a case plan (as defined in section 475(1) of this part) for such child (including periodic review of the necessity for the child's being in a foster family home or child-care institution).

"(b) Foster care maintenance payments may be made under this part only in behalf of a child described in subsection (a) of this section—

"(1) in the foster family home of any individual, whether the payments therefor are made to such individual or to a public or nonprofit private child-placement or child-care agency, or

"(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or nonprofit private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term 'foster care maintenance payment' (as defined in section 475(4)).

"(c) For the purposes of this part and part B of this title, (1) the term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term 'child-care institution' means a nonprofit private child-care institution, or (subject to the succeeding sentence) a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing; but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent. A public institution which on the effective date of this part accommodates children and which, except for the provisions of this sentence would be a child-care institution (as defined in the preceding sentence), shall not, for purposes of this part, be considered to be a child-care institution (as so defined) with respect to any child who was in such institution on the date of enactment of this part.

"(d) For purposes of title XIX of this Act, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

"ADOPTION ASSISTANCE PROGRAM

"SEC. 473. (a) (1) Each State with a plan approved under this part may, directly or through another public or nonprofit private agency, make adoption assistance payments pursuant to an adoption assistance agreement in amounts determined under paragraph (3) of this subsection to parents who are eligible for such payments pursuant to paragraph (2) of this subsection and who, after the effective date of this section, adopt a child who—

"(A) would, at the time adoption proceedings were initiated, have met the requirements of section 406(a) or section 407 of this Act except for his removal from the home of a relative (specified in section 406 (a)) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child,

"(B) (i) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home were initiated, or

"(ii) (I) would have received such aid in or for such month if application had been made therefore, or (II) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made, and

"(C) the State has determined, pursuant to subsection (c) of this section, is a child with special needs.

"(2) Parents may be eligible for adoption assistance payments under this part only if their income at the time of the adoption does not exceed 150 per centum of the median income of a family of four in the State, adjusted in accordance with regulations of the Secretary to take into account the size of the family after adoption. Notwithstanding the preceding sentence, parents whose income is above the limits specified therein may be eligible for assistance payments under this part if the State or local agency administering the program under this section determines that there are special circumstances (as defined in regulations of the Secretary) in the family which warrant adoption assistance payments.

"(3) The amount of the adoption assistance payments shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

"(4) Notwithstanding the preceding two paragraphs, (A) no payment may be made to parents pursuant to this section with respect to any month in a calendar year following a calendar year in which the income of such parents exceeds the limits specified in paragraph (2), unless the State or local agency administering the program under this section has determined, pursuant to paragraph (2), that there are special circumstances in the family which warrant adoption assistance payments, (B) no payment may be made to parents with respect to any child who has attained the age of eighteen, and (C) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

"(5) For the purposes of this part, individuals with whom a child (who the State determines, pursuant to subsection (c), is a child with special needs) is placed for adoption, pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

"(b) Any child—

"(1) who the State determines meets the requirements of subsection (a) (1); and

"(2) who is placed for adoption or adopted following such determination

shall, with respect to any medical condition which was in existence at the time the child was adopted, retain eligibility under title XIX until the age of eighteen under such plan. However, a State may provide to such a child full eligibility for medical assistance under the State's plan approved under title XIX. For purposes of section 1904 of this Act, the requirement imposed by the first sentence of this subsection shall be deemed to be imposed by a provision of section 1902 (a); and Federal payments on account of expenditures made by a State in compliance with such first sentence, or in accord with the second sentence of this subsection, shall be made in like manner as is provided under such title in the case of medical assistance furnished to a dependent child receiving aid under part A of title IV.

"(c) For purposes of this section, a child shall not be considered a child with special needs unless—

"(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

"(2) the State had first determined (A) that there exists with respect to the child a specified factor or condition because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance, and (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section.

"(d) Notwithstanding any other provision of this part, no adoption assistance payment under a State plan approved under this part shall be made pursuant to any adoption assistance agreement entered into after September 30, 1984.

"PAYMENTS TO STATES; ALLOTMENTS TO STATES

"SEC. 474. (a) For each quarter beginning after September 30, 1979, each State which has a plan approved under this part (subject to the limitations imposed by subsection (b)) shall be entitled to a payment equal to the sum of—

"(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905 (b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 472 for children in foster family homes or child-care institutions who were placed in foster care prior to October 1, 1984; plus

"(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905 (b) of this Act) of the total amount expended during such quarter as adoption assistance payments under section 473 pursuant to adoption assistance agreements entered into prior to October 1, 1984; plus

"(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, and

"(B) one-half of the remainder of such expenditures.

"(b) (1) Notwithstanding the provisions of subsections (a) (1) and (a) (3), with respect to expenditures relating to foster care, the aggregate of the sums payable to any State thereunder, with respect to expenditures relating to foster care, for the calendar quarters in any fiscal year shall not exceed the State's allotment for such year.

"(2) For purposes of this subsection, a State's allotment for the fiscal year ending September 30, 1978, shall be equal to the amount of the Federal funds payable to such State under section 403 on account of expenditures for aid with respect to which Federal financial participation is authorized pursuant to section 408 (including administrative expenditures attributable to the provision of such aid). In the event that there is a dispute between any State and the Secretary as to the amount of such expenditures for such fiscal year, then, until the beginning of the fiscal year immediately following the fiscal year in which the dispute is finally resolved, the amount of the State's allotment for such fiscal year shall be deemed to be the amount of Federal funds which would have been payable under such section 403 if the amount of such expenditures were equal to the amount thereof claimed by the State.

"(3) (A) For the fiscal year 1980, the allotment of each State shall be equal to 120 per centum of its allotment for the fiscal year 1978 or (if greater) the amount provided under subparagraph (B). For the fiscal years 1981, 1982, 1983, and 1984 the allotment of each State shall be equal to 110 per centum of the amount of its allotment for the preceding fiscal year, or (if greater) the amount provided under subparagraph (B). For the fiscal year 1985, the allotment of each State shall be equal to its allotment for the fiscal year 1984, or (if greater) the amount provided under subparagraph (B).

"(B) The amount of any State's allotment, for any fiscal year referred to in subparagraph (A), shall be the amount determined under such paragraph or (if greater) an amount which bears the same ratio to $100,000,000 as the under age eighteen population of such State bears to the under age eighteen population of the fifty States and the District of Columbia. The Secretary shall promulgate the amount of each State's allotment, for the fiscal year 1980, not later than sixty days after the date of enactment of this part, and for any succeeding fiscal year, prior to the first day of the third month of the preceding fiscal year, on the basis of the most recent satisfactory data available from the Department of Commerce.

"(c) For the fiscal year 1980, and each fiscal year thereafter, sums available to a State from its allotment under subsection (b) for carrying out this part, which the State does not claim as reimbursement for expenditures in such year pursuant to subsection (a) of this section, may be claimed by the State as reimbursement for expenditures in such year pursuant to part B of this title, in addition to such sums available pursuant to section 420 for carrying out that part.

"DEFINITIONS

"SEC. 475. As used in this part or part B of this title:

"(1) The term 'case plan' means a written document which includes at least the following information: a description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child in accordance with section 472(a)(1); a plan of services that will be provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

"(2) The term 'parents' means biological or adoptive parents or legal guardians, as determined by applicable State law.

"(3) The term 'adoption assistance agreement' means a written and consensual agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adopting parents of a minor which specifies, at a minimum, the amounts of the adoption assistance payments and any additional services and assistance which are to be provided as part of such agreement.

"(4) The term 'foster care maintenance payments' means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable cost of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

"TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION

"SEC. 476. (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

"(b) Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.".

(2)(A) Effective with respect to expenditures made after September 30, 1979, section 408 of the Social Security Act is, subject to subparagraph (B), repealed.

(B) The repeal made by subparagraph (A) shall not be applicable in the case of any State for any quarter prior to the first quarter, which begins after September 30, 1979, in which such State has in effect a State plan approved under part E of the Social Security Act, or (if earlier), such repeal shall be effective with respect to expenditures made after September 30, 1981. During any period with respect to which the repeal made by subparagraph (A) is not applicable in the case of a State, the aggregate of the sums payable to the State, under the State's plan approved under part A of title IV of the Social Security Act, with respect to expenditures (including administrative expenditures) authorized or incurred by reason of the provisions of section 408 of such Act shall not exceed the amount of the allotment which such State would have had for such period under section 474(b) if such State had had an approved plan under part E of such title IV.

(3) For the first fiscal year with respect to which there is appropriated under section 420 of the Social Security Act a sum which is subject to the restriction authorized under section 428(a) of such Act, Federal payment with respect to expenditures made by a State, under its State plan approved under part E of such Act, for any of the purposes described in section 428(b)(1) of such Act shall not be subject to the limitation imposed by section 474 (b) for such year.

(4) Unless otherwise specified, the amendments made by this section shall be effective on and after October 1, 1979.

(b)(1) Section 423 of the Social Security Act (including the caption thereto) is amended to read as follows:

"FEDERAL SHARE

"SEC. 423. The 'Federal share' for any State shall, effective on and after October 1, 1979, be 75 per centum.".

(2) Section 425 of such Act is amended by adding at the end thereof the following new sentence: "Expenditures made by a State for any calendar quarter which begins after September 30, 1979, for foster care maintenance payments shall be treated for purposes of making Federal payments under this part with respect to expenditures for child welfare services, as if such foster care maintenance payments constituted child welfare services of a type to which the limitation imposed by section 427 does not apply; except that, the amount payable to the State with respect to expenditures made for other child welfare services and for foster care maintenance payments during any such quarter shall not exceed 100 per centum of the amount of the expenditures made for child welfare services for which payment may be made under the limitation imposed by such section 427 as in effect without regard to this sentence.".

(3) Part B of title IV of the Social Security Act is further amended by adding at the end thereof the following new section:

"LIMITATION ON PAYMENTS WITH RESPECT TO FOSTER CARE

"SEC. 427. Notwithstanding any other provision of this part except the last sentence of section 425, if for any fiscal year which begins after September 30, 1979, there is appropriated under section 420 an amount in excess of the amount appropriated for the fiscal year ending on September 30, 1979, the amount payable to any State for expenditures made to provide child welfare services in the form of foster care maintenance payments in foster family homes or other foster care facilities, shall not exceed the amount of its allotment (before application of the provisions of section 424) under this part for the fiscal year ending September 30, 1979. Funds made available to any State pursuant to section 474(c) shall be subject to the limitation imposed by the preceding sentence.".

(4) Section 425 of such Act is amended by inserting "(a)" immediately after "Sec. 425." and by adding at the end thereof the following new subsection:

"(b) Funds expended by a State for any calendar quarter to comply with the statistical report required by section 476(b), and funds expended with respect to nonrecurring costs of adoption proceedings in the case of children placed for adoption with respect to whom assistance is provided under a state plan for adoption assistance approved under part E of this title, shall be deemed to have been expended for child welfare services.".

(c) Part B of title IV of the Social Security Act is amended by adding after section 427 (as added by subsection (b)(3) of this section) the following new sections:

"PORTIONS OF INCREASED ALLOTMENTS TO BE USED FOR CERTAIN SERVICES

"SEC. 428. (a) (1) If, for any fiscal year after 1979 there is appropriated under section 420 a sum in excess of the sum appropriated thereunder for the fiscal year 1979, the appropriation Act by which such sum is appropriated may set aside the amount of such excess necessary for the carrying out of the activities and programs described in subsections (b) and (c).

"(2) Whenever a specified amount of the sum appropriated under section 420 for any fiscal year is set aside pursuant to paragraph (1), the allotment of each State for such fiscal year shall be adjusted accordingly so as to restrict the availability of funds to the carrying out of the activities and programs described in subsections (b) and (c).

"(b) For the first year that any amount of a State's allotment is restricted under subsection (a) (2), the amount so restricted may, except as provided in subsection (c), be expanded only for the following purposes (and amounts so expended shall be conclusively presumed to be expended for child welfare services):

"(1) for the purpose of conducting an inventory of all children who have been in foster care under the responsibility of the State for a period of six months preceding the inventory; for the purpose of determining the appropriateness of, and necessity for, the current foster placement, whether the child can be or should be returned to his parents or should be freed for adoption, and the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship;

"(2) for the purpose of designing and developing to the satisfaction of the Secretary—

"(A) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding twelve months can readily be determined;

"(B) a case review system for each child receiving foster care under the supervision of the State; and

"(C) a service program designed to help children remain with their families and, where appropriate, help children return to families from which they have been removed or be placed for adoption or legal guardianship.

"(c) For any fiscal year (after the first fiscal year) that any amount of a State's allotment is restricted under subsection (a) (2), the amount so restricted may be expended only for the implementation and operation of the systems and programs described in subsection (b)(2) (and amounts for such purposes shall be conclusively presumed to be expended for child welfare services). In the case of any State which has completed an inventory of the type specified in subsection (b)(1) and the design and development of the program and systems referred to in subsection (b)(2) prior to the first fiscal year referred to in subsection (b), or at any time prior to the end of such fiscal year, the amount of such State's allotment which is restricted under subsection (a)(2) shall remain available and may thereafter in such fiscal year or the succeeding fiscal year be used for the purposes specified in the first sentence of this subsection. In the case of any State which, during the first fiscal year referred to in subsection (b), fails to complete an inventory of the type specified in subsection (b)(1) and the design and development of the program and systems referred to in subsection (b)(2) prior to the end of such fiscal year, the amount of such State's allotment which is restricted under subsection (a)(2) for such fiscal year shall remain available for the succeeding fiscal year for the purpose of completing such inventory and the design and development of such program and systems; also, the amount of such State's allotment which is restricted under subsection (a)(2) for the succeeding fiscal year may be expended for such purpose.

"(d) (1) As used in subsection (b) (2) (B), the term 'case review system' means a procedure for assuring that—

"(A) each child has a case plan designed to achieve placement in the least restrictive (most family-like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child,

"(B) the status of each child is reviewed periodically but no less frequently than once every twelve months by either a court or by administrative review (as defined in paragraph (2)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship, and

"(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed by the court, no later than twenty-four months after the original placement (and periodically thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including, but not limited to, whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long-term basis); and procedural safeguards shall also be applied with respect to parental rights to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

"(2) As used in paragraph (1)(B), the term 'administrative review' means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

"PAYMENTS TO INDIAN TRIBAL ORGANIZATIONS

"SEC. 429. (a) The Secretary may, in appropriate cases (as determined by the Secretary) make payments under this part directly to an Indian tribal organization within any State which has a plan for child-welfare services approved under this part. Such payments shall be made in such manner and in such amounts as the Secretary determines to be appropriate.

"(b) Amounts paid under subsection (a) shall be deemed to be a part of the allotment (as determined under section 421) for the State in which such Indian tribal organization is located.

"(c) For purposes of this section—

"(1) the term 'tribal organization' means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body; and

"(2) the term 'Indian tribe' means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92-203; 85 Stat. 688)) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.".

(d) Section 422 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this part, there shall not (subject to paragraph (2)) be paid to any State under the preceding provisions of this section for any fiscal year (commencing with the fiscal year which begins on October 1, 1979) an amount in excess of the amount of such State's allotment for the fiscal year which began on October 1, 1978, unless the States plan for child-welfare services indicates the manner in which the State, in the administration of such plan, will achieve the objectives and carry out the activities specified in paragraphs (1) and (2) of section 428(b).

"(2) The amount payable to a State under the provisions of this part which precede this subsection shall not, because of the provisions of paragraph (1) of this subsection, be reduced for any fiscal year prior to the fiscal year which commences October 1, 1981, if the Secretary finds that such State has initiated the process for having such State's plan for child welfare services indicate the manner in which the State, in the administration of such plan, will achieve the objectives and carry out the activities specified in paragraphs (1) and (2) of section 428(b).".

SEC. 3. (a) The Secretary of Health, Education, and Welfare shall conduct a study of programs of foster care and adoption assistance established under part IV-E of the Social Security Act (as added by this Act) and shall submit to the Congress, not later than October 1, 1983, a full and complete report thereon, together with his recommendations as to (1) whether such part IV-F should be continued, and if so, (2) the changes (if any) which should be made in such part IV-E.

(b) Such report shall include, but not be limited to, the following:

(1) a determination as to (A) the extent of reduction that has occurred in the duration of foster care under such programs, (B) the extent to which such programs of adoption assistance have resulted in an increase in the adoption of children who otherwise would have remained in foster care under State plans approved under title IV-A of the Social Security Act, and (C) the extent to which the availability of Federal funding for adoption assistance under title IV-E of such Act has resulted in States' initiating or expanding programs for adoption assistance,

(2) data concerning the number of instances in which income standards for adoption assistance under section 473(a)(2) of the Social Security Act have resulted in inability to place a child in a adoptive home, and

(3) specific legislative recommendations for ways to bring about further reduction in the duration of foster care for children.

● Mr. MOYNIHAN. Mr. President, the amendment we are submitting today will look familiar to Senators and others who were acquainted with the decisions of the Committee on Finance during the 95th Congress with respect to adoption, foster care, and child welfare services. The Subcommittee on Public Assistance held extensive hearings on H.R. 7200, which were followed by protracted but careful and productive executive sessions and by the reporting of a responsible and progressive bill. Unfortunately, time pressures at the end of the 95th Congress made it impossible for these proposals to receive proper consideration by the Senate.

The present bill is identical in concept to that legislation and virtually identical in its particulars. It would work long-overdue reforms in these important programs, all of them in the direction of encouraging and facilitating sound, permanent arrangements—whether in the home of their natural parents or with adoptive parents—for youngsters who would otherwise spend much of their lives in foster care: a condition that is all too often a necessary, temporary arrangement, but that is seldom a desirable or even satisfactory long-term placement for a child. Insofar as it is within the limited abilities of the Federal Government to encourage the return of youngsters to their homes or their adoption, our policies should be so shaped. It is widely acknowledged that current Federal policy tends to have the opposite effect: it creates stronger incentives for foster care than for more satisfactory ways of meeting the needs of disadvantaged youngsters. Our bill would make urgently needed reforms, and I have high hopes for its passage.

I would also call the Senate's attention to the continuing leadership of our revered majority whip, Senator ALAN CRANSTON, in this field. His steadfast efforts, his great sensitivity to the needs of children, and his superb legislative abilities constitute the principal motive force in the Senate behind this reform movement. I salute, commend, and thank him, and his superb staff, especially Susanne Martinez and Jon Steinberg who, along with Michael Stern and Joe Humphreys of the Finance Committee staff, are some of the best friends the children of this country will ever have.●

● Mr. RIEGLE. Mr. President, today I am pleased to introduce, along with Senator CRANSTON, the Adoption Assistance, Foster Care, and Child Welfare Services Amendments of 1979. These child welfare reforms will go a long way toward removing the antifamily bias from the Federal policy toward children in need of assistance, and I hope they can receive quick approval by the Senate.

I have been working with Senator CRANSTON, the chairman of the Child and Human Development Subcommittee of the Labor and Human Resources

Committee, toward passage of an extensive package of child welfare reforms since I joined the Senate 2½ years ago. I believe that the bill we are introducing today will represent a giant step toward formulating a rational Federal-State partnership that will assure that American children are kept in their families, rejoined with their families, or placed with loving adoptive families whenever possible, rather than being placed indefinitely in institutional or foster-care settings.

The Adoption Assistance, Foster Care, and Child Welfare Services Amendments of 1979 make explicit the Federal policy that "the placement of a child in foster care is not ordinarily regarded as a desirable form of permanent child care and that foster care should therefore ordinarily be a temporary status." This policy should be self-evident, yet, ironically, the Federal payment schedule has in the past included incentives for States to keep children in institutions or in foster care, rather than seeking to promote adoption. This bill will correct that situation.

The bill also calls for improved State systems for case determination and review of foster care and institutional placements. These provisions supplement incentives for States to reunite these children with their families or, where possible, to find them adoptive homes.

The bill in its current form includes a prospective ceiling on payments for foster care. Because I am concerned about the possible effects of such a cap on children who may benefit from foster care, I believe the proposal should be carefully examined through the committee process.

I would also like to comment on related legislation which I am introducing along with my colleague from Michigan, Senator LEVIN, dealing with the adoption subsidy proposal. This bill would extend the adoption subsidy proposal included in the Adoption Assistance, Foster Care, and Child Welfare Services Amendments of 1979 to cover all children with special needs, without limitation based on family income. I strongly support the adoption subsidy approach, which saves the Government money through encouraging adoption rather than continued Government support of these children, and feel that expanding the program to cover all income ranges should be favorably considered by the Finance Committee.●

ENERGY SUPPLY ACT—S. 1308

AMENDMENT NO. 393

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. BELLMON (for himself and Mr. WALLOP) submitted an amendment intended to be proposed by them, jointly, to amendment No. 312 intended to be proposed to S. 1308, a bill to set forth a national program for the full development of energy supply, and for other purposes.

ENERGY MOBILIZATION BOARD

● Mr. BELLMON. Mr. President, today I am submitting an amendment along with Senator WALLOP to title II of S. 1308, the Energy Supply Act, which would broaden the authority of the proposed Energy Mobilization Board and thereby alleviate the need for an Energy Security Corporation. This amendment, if adopted, would empower the Energy Mobilization Board proposed under title II of S. 1308 with responsibility to enter into purchase contract agreements with private companies for the production of synthetic fuels in addition to its responsibility of "fast-tracking" the development of priority energy projects.

It is envisioned, Mr. President, that once the Board has designated a project as a priority energy project, the Board would then advertise for specific proposals from private industry on a competitive basis. After evaluating the proposals, the EMB would select the most cost-effective proposal and enter into price guaranteed purchase contracts over a period of 20 years for the output of these synfuel plants. The Federal Government would have the authority to either place this production in the strategic petroleum reserve, resell it to the Department of Defense, or market the product. Finally, Mr. President, the Board would only be authorized to enter into such agreements for incremental production up to the following levels: 300,000 b/d from oil shale; 300,000 b/d from coal liquefaction; 300,000 b/d from coal gasification; 100,000 b/d from refuge (pipeline quality).

Mr. President, the advantage to this approach is many faceted. To begin, it places the authority for synthetic fuels development in one Board, rather than with a Government corporation. By allowing the EMB to not only cut redtape, but also to contract for the output of synthetic fuels production, we will avoid creating another Government agency. If the EMB is to be the body that will streamline the regulatory procedures for priority projects, it will be in the best position to select those projects that are to be constructed.

By only allowing the EMB to enter into purchase contracts, we will be relying on private industry to do what they do best—produce. Providing guaranteed purchase contracts will allow industry to achieve the necessary financing for the development of these resources, with a minimum of Government intrusion. In addition, this method removes the political pressures associated with guaranteed loans by placing the process on a competitive basis.

Finally, Mr. President, this approach would have little impact upon the Federal Treasury, particularly in the beginning. The cost to the taxpayer at the outset would be zero, and even in later years, the actual cost to the Treasury could be minimal depending upon the price of crude oil. It is conceivable that the Government could actually enhance its position if the contract price was less than the price of oil.

Mr. President, 1 million barrels per day of synthetic fuel production by the year 1990 is a realistic achievement. This amendment will provide for that by allowing the Energy Mobilization Board to contract with industry for synthetic fuels production. This is a streamlined approach intended to encourage industry to proceed with haste. There is no reason why the members of the Energy Mobilization Board cannot perform the functions of the proposed Energy Security Corporation in addition to their redtape cutting responsibility. It would seem that both activities are interrelated and require a centralized location rather two separate entities.

Mr. President, I intend to bring this amendment up during consideration of S. 1308 in the Senate Energy and Natural Resources Committee following the August recess. It is an approach that the committee should consider and I am confident it will be afforded such consideration.

Mr. President, I ask unanimous consent that the text of this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 393

On page 1, after line 4, insert:

2. On page 3, insert the following between lines 16 and 17:

"PART A—ENERGY MOBILIZATION BOARD"

On page 2, line 1, strike "2." and substitute "3.".

On page 2, line 4, strike "4." and substitute "5,".

On page 12, insert the following between lines 8 and 9:

PART B—SYNTHETIC FUELS

PRODUCTION GOALS

SEC. 231. (a) The Energy Mobilization Board (hereinafter in this section referred to as the "Board"), utilizing the provisions of this Act and any other applicable provision of law, shall achieve a national production goal of up to 1,000,000 barrels per day crude oil equivalent of synthetic fuels and synthetic chemical feedstocks not later than ten years after the effective date of this section.

(b) To assist in carrying out the objectives of this section, the Board, subject to subsections (c), (d), and (i) shall—

(1) contract for purchases of or commitments to purchase synthetic fuels and synthetic chemical feedstocks which may be used as fuels and feedstocks for Government use or resale for use conducive to defense needs or for use in the United States, its possessions or territories, or by domestic users; and

(2) encourage the development and production of such synthetic fuels and synthetic chemical feedstocks.

(e) Purchases, commitments to purchase, and resales under subsection (b) may be made without regard to the limitations of existing law, regarding the procurement of goods or services by the Federal Government, for such quantities, and on such terms and conditions, and for such periods as the Board determines necessary, except that—

(1) no contract for purchases or commitments to purchase may be entered into after September 30, 2000, or the achievement of the production goals authorized in subsection (a), whichever occurs first; and

(2) purchases or commitments to purchase involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) or anticipated loss on resale shall not be made unless it is determined that supply of synthetic fuels and synthetic chemical feedstocks could not be effectively increased at lower prices or on terms more favorable to the Government, or that such purchases are necessary to assure the availability of the

United States of supplies overseas for national defense purposes.

(d) (1) Except a provided in paragraph (2), any purchase or commitment to purchase synthetic fuels and synthetic chemical feedstocks under subsection (b) shall be made by sealed competitive bidding.

(2) In any case in which no such bids are submitted to the Board or the Board determines that no such bids have been submitted which are acceptable to the Board, the Board may negotiate contracts for such purchases and commitments to purchase.

(3) Any contract for such purchases or commitments to purchase shall provide that the Board retains the right to refuse delivery of the synthetic fuels and synthetic chemical feedstocks involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuels and synthetic chemical feedstocks are specified in the contract involved exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuels and synthetic chemical feedstocks on the delivery date specified in such contract.

(4) (A) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the Board may not award contracts for the purchase or commitment to purchase more than 100,000 barrels per day equivalent of synthetic fuels and synthetic chemical feedstocks. With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the Board may not award contracts for the purchase or commitment to purchase of more than 75,000 barrels per day equivalent of synthetic fuels and synthetic chemical feedstocks unless both Houses of Congress have been notified in writing of such proposed contracts or commitments and 30 days of continuous session of Congress have expired following the date on which such notice was transmitted to the Congress and neither House of Congress has adopted, within such 30-day period, a resolution disapproving such proposed contracts.

(B) Contracts for the purchase or commitment to purchase synthetic fuels or synthetic chemical feedstocks may be entered into only for synthetic fuels or synthetic chemical feedstocks which are produced in facilities which are located in the United States.

(C) For purposes of this paragraph, the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

(5) In any case in which the Board, under the provisions of this section, accepts delivery of and does not resell any synthetic fuels or synthetic chemical feedstocks, such synthetic fuels or synthetic chemical feedstocks shall be used by the appropriate Federal agency. Such Federal agency shall pay the market price, as determined by the Secretary of Energy, for such synthetic fuels or synthetic chemical feedstocks from sums appropriated to such Federal agency for the purchase of fuels and feedstocks and the Board shall pay, from sums appropriated for such purpose, an amount equal to the amount by which the contract price for such synthetic fuels and synthetic chemical feedstocks as specified in the contract involved exceeds such market price.

(6) In considering any proposed contract under this section, the Board shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the fuel or feedstocks under that contract.

(e) The procurement power granted to the Board by this section shall include the power to transport and store and have processed and refined any products procured under this section.

(f) Each Federal officer and agency having authority to issue any permit for, or to otherwise approve or authorize, the construction or operation of any facility which is to produce any synthetic fuel or synthetic chemical feedstock for which the Board has contracted (or entered into a commitment to contract) under this section shall, to the maximum extent practicable—

(1) expedite all actions necessary for the issuance of such permit, approval, or authorization, and

(2) take steps designed to result in final action thereon not later than 12 months after the date application for such permit, approval, or authorization is made.

After taking any such action, such officer or agency shall publish notification thereof in the Federal Register.

(g) Notwithstanding any other provision of law, products acquired pursuant to the provisions of this section which, in the judgment of the Board, are excess to the needs of programs under this section, shall be transferred to the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.) or to the Strategic Petroleum Reserve, when the Board determines such action to be in the public interest.

(h) For the purposes of this section, the terms "synthetic fuels" and "synthetic chemical feedstocks" means fuels and chemical feedstocks produced by the conversion of renewable and nonrenewable resources, including, but not limited to, products produced from coal gasification, coal liquefaction, shale, tar sands, lignite, peat, solid waste, and other mineral gasification, liquefaction or other conversion, and the conversion of any organic material into fuel. Such term includes fuels and chemical feedstocks produced from tar sands and heavy oils if the hydrocarbon content thereof has a gravity of 15 degrees or less (API). For purposes of applying the preceding sentence, the Board may substitute a higher gravity rating (API) for 15 degrees in any case in which the Board determines that the application of the higher gravity rating would further the purpose of this section.

(i) In no event shall the Board enter into contracts for synthetic fuel which in the aggregate exceed—

(1) 300,000 barrels per day from oil shale,

(2) 300,000 barrels per day from coal liquefaction,

(3) 300,000 barrels per day equivalent from coal gasification, and

(4) 100,000 barrels per day equivalent from refuge.●

AMENDMENT NO. 394

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. BELLMON (for himself and Mr. WALLOP) submitted an amendment intended to be proposed by them, jointly, to S. 1308, a bill to set forth a national program for the development of energy supply, and for other purposes.

AMENDMENT NO. 395

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. HART (for himself, Mr. FORD, Mr. RANDOLPH, Mr. BAUCUS, Mr. BURDICK, Mr. DOMENICI, Mr. GRAVEL, and Mr. MELCHER) submitted an amendment intended to be proposed by them, jointly, to S. 1308, supra.

INLAND ENERGY IMPACT ASSISTANCE ACT

● Mr. HART. Mr. President, I am joining today with Senators FORD, RANDOLPH, BAUCUS, BURDICK, DOMENICI, GRAVEL, and MELCHER to introduce as an amendment, the Inland Energy Impact Assistance Act of 1979.

The act, which we will propose as an amendment to the energy supply legislation now being considered by the Committee on Energy and Natural Resources, will expand and extend an existing energy impact assistance program established by section 601 of the Industrial and Powerplant Fuel Use Act of 1978. Our proposed expansion of that program will turn it into a comprehensive program to help States, local governments, and Indian tribes deal with the serious social, governmental, and economic problems caused by the booming population growth associated with rapid energy development.

This revision of section 601 is patterned very closely after the Hart-Randolph energy impact program, which I first introduced in 1976. Congressional action on that original proposal was deferred until the administration could complete a review of energy impact problems, existing Federal domestic assistance programs, and the need for new legislation to fill in the gaps in the coverage of those programs. Last May, after that review was completed, the President endorsed S. 1493, last year's Hart-Randolph bill. After the President announced his support, favorable committee action was taken in the Senate, but too little time remained to complete legislative action before adjournment.

This year, Senator RANDOLPH and I reintroduced the bill, after revising it in close cooperation with the administration, the National Governors Association, the National Association of Counties, and others. The administration endorsed that bill, and the President included full funding for the program in his fiscal year 1980 budget request—underscoring his support for the program even in this time of budgetary belt-tightening.

We are revising the original Hart-Randolph bill, and introducing a new version, for two reasons. First, we will offer the new version as an amendment to S. 1308, the major energy supply legislation being considered by the Energy Committee. Attaching impact assistance to the legislation that will include major new production incentives is a natural and necessary link. Second, the revised version amends and expands an existing, limited impact assistance program. That program is now getting underway, and it makes more sense to build upon it rather than create a totally new program. Amending the existing section 601 program also makes sense because it is administered by the Farmers Home Administration, which has a proven track record of excellent Federal assistance in the rural areas where energy impact needs are greatest.

Senator FORD is today introducing a similar energy impact bill, which I am cosponsoring. Senator FORD is a primary architect of the program which both his bill and this amendment expand, and is a major supporter of broadened assistance to energy impact areas. Over the recess, he and I will work with other interested Senators in combining his bill and this amendment into a single measure which he will propose during Energy Committee consideration of S. 1308.

The need for this legislation arises from accelerated domestic energy production. Nobody quarrels with the need to produce more energy. Congress has already adopted important new national policies to tap more of our abundant domestic resources, and is actively considering sweeping new proposals to push forward rapidly with synthetic fuels and other replacements for insecure, dwindling, and expensive foreign energy supplies.

While these domestic resources are necessary to meet overriding national needs, their development can cause serious local adverse effects.

Energy resources are mostly in rural areas. Typically, the community nearest the site of the resources is a small town with a constant or declining population, a stable life style, a limited tax base, and almost nonexistent governmental resources.

Energy development drastically changes the community. A sudden influx of new specialized workers arrives to develop the energy resource. The energy workers also bring their families, and create a demand for "secondary" jobs to supply goods and services to the energy workers. Because of this multiplier effect, the actual population growth can be as much as six times the increase in jobs directly related to the energy development. This population surge is most pronounced at the very first stage of energy development, when temporary construction workers are present in great numbers.

This boom growth has already happened in many places. Craig, Colo., which is in the center of a coal boom, grew by almost 50 percent in 3 years, and will likely double again by 1985.

More to the point, the boom growth is likely to happen much more frequently in the future. The President has proposed a program to produce around 2 million barrels a day of synthetic fuels by 1990. Congress is moving rapidly to consider this and other sweeping new proposals. This new, major development of synthetic fuels will cause extensive impact problems around the country, since synthetic fuel plants cause greater impacts than other forms of energy development. The Department of Energy predicts that an average 100,000-barrel-per-day facility, for example, will draw 20,000 new people to the facility site. This population surge will be particularly pronounced because it will happen in rural areas. DOE has identified 41 counties in the country which could support a coal-based synthetic fuel plant; 31 of these have populations of 50,000 or less. Of the 27 western counties in this group, 26 have populations under 20,000.

This sudden population growth causes severe and complex problems, including shortages in public facilities and housing. The new residents rapidly overload existing schools, roads, sewers, hospitals, and other facilities. Commercial facilities and services cannot meet the new surge of demand. Not enough housing is available for the new population. Most new workers and their families end up in mobile homes.

The Department of Energy's best estimate is that the development costs of the facilities and services minimally necessary for each new resident associated with energy development is $7,000. A synthetic fuels plant drawing 20,000 new people, then, would have an impact price tag of $140 million.

The social and economic disruptions are worse than the shortages of facilities and services. The community is overrun by new pressures and new tensions.

The excess demand for limited goods and services, paced by soaring housing prices, creates a high inflation rate. This inflation hits hardest the older residents, whose incomes are generally much lower than the energy workers. Suddenly the community's original residents can no longer afford to live in their town in the way they have for years.

In a very real sense, the community itself does not exist as it did before the energy development. The small, quiet, stable, rural town has vanished to be replaced by a booming community dominated by a new industry and a new population. The social ties of the town are severely strained and often break. The old residents are resentful of the new. Crime, alcoholism, child abuse, and other indications of social breakdown become common. In Craig, Colo., for example, during 3 years of rapid growth caused by coal mining and power generation, crimes against people increased by 900 percent, alcoholism cases increased by 623 percent, family disturbances increased by 352 percent, child abuse and neglect cases increased by 130 percent, and child behavior problems by 1,000 percent.

Together, these problems make up the well-known "boomtown" syndrome. The most extreme examples include Craig and Hayden, Colo., and Rock Springs and Gillette, Wyo. The problems, however, are not confined to the Rocky Mountain West, Appalachia, and other areas of major energy resources.

The same problems arise from rapid population growth associated with any energy development, whether it is a coal mine or a nuclear-generating facility. Virtually every State will experience severe impact problems as our domestic energy production accelerates.

Of course, the local effects of energy development are not all bad. Although local enthusiasm for energy development is waning as people learn more about the adverse effects, some communities still welcome the new jobs and increased local tax bases. Some people point to this additional revenue, and ask why the communities cannot use it to meet their needs. While this seems reasonable at first glance, a closer examination shows why local governments by themselves cannot solve their problems.

The impacted communities' needs far exceed their current and expected resources. As I have pointed out, the towns near energy resources are usually small, with limited revenues and a lack of governmental services. For example, of 179 communities in Federal region VIII with energy-related impacts, only about 25 have planners. The almost total lack of expertise to deal with rapid growth leaves these communities extremely vulnerable.

While revenues from taxes on the energy development and related growth will help, even they will not be adequate. One study—already outdated—identifies the total national energy impact needs as $80 billion by 1985, while the increased State and local revenues would be only $49 billion.

Much more importantly, however, the revenues come in after the local Government must address the impacts.

The greatest need is for expanded facilities and services before the surging population overruns the community's existing resources. Revenues from the new population are limited. Not until the energy is being sold, typically several years later, does the community receive its greatest revenues.

Further, the local government is often unable to borrow against the future revenue to meet its initial needs. Generally, the town has no previous bonding history, and little resources to back any bonds, except from the potential energy development. Private investors are often unwilling to extend credit in these circumstances, because of the risk the energy development might not produce adequate local revenues to repay the loans.

Lack of advance information can also undercut a community's ability to arrange timely financing. Rock Springs, Wyo., for example, had 1-month's notice before construction began on a major powerplant in 1972. With the complicated procedures for municipal borrowing, which usually include a local referendum, this is not adequate time to borrow the necessary money. State constitutional and legislative provisions also often constrain a community's ability to borrow money by limiting the debt to a percentage of the town's current assessed tax base. This limit often is too low to allow the full facilities and services that are needed.

This financing difficulty is particularly acute when the energy resource is in one jurisdiction and the community in another. For example, Highland County, Va., is the residential center for workers at a power facility in neighboring Bath County. Highland County is suffering the impacts of the population growth, but has no opportunity to tax the energy development to fund new facilities and services.

The States have the primary responsibility for helping local governments deal with energy impacts. By using revenues from severance taxes on energy resources to fund impact mitigation measures, States are best able to tie increased revenues from energy development to the needs caused by that development. The States are also closer to the problems and are better able to design programs tailored to local needs.

Finally, State and local governments have a well established partnership experienced in growth problems.

The Federal Government, however, has a clear responsibility to help State and local governments deal with these impacts. The energy is being produced largely on national land. It is being produced in response to national policies. It is being produced to meet national needs. The Federal Government would be irresponsible to accept the benefits of this energy without helping address the damaging local effects of its production.

The Inland Energy Impact Assistance Act of 1979 will meet this national responsibility. It will set up a 5-year program to encourage State and local governments and Indian tribes to establish mechanisms for addressing the effects of energy-related growth.

The program will help reduce the impacts of accelerated energy development in a fiscally conservative fashion. Its most important provisions are for local planning assistance and improved delivery of assistance under existing programs. Other programs by the Farmers Home Administration, the Law Enforcement Assistance Administration, the Environmental Protection Agency, the Department of Housing and Urban Development, the Department of Health, Education, and Welfare, and other departments and agencies will provide the vast majority of the Federal assistance for carrying out impact mitigation plans. To make sure these programs are as effective as possible, the act provides for interagency cooperation in reviewing existing programs to see how they can address better the needs of energy impact areas. To also make sure that the local governments needing these services are able to take advantage of them, FmHA would help communities identify existing domestic assistance programs matched to their needs.

Only when there are gaps in existing programs would mitigation assistance be available directly under this act. That assistance would be available in two ways, both designed to get the maximum return for the Federal dollar.

The first would be State revolving funds for loans and grants to impact areas. These funds would be established with Federal seed money, with a required State match increasing to 50 percent in the last year. A State government would use this revolving fund to make loans to impact areas. Only when loans would not provide anly real assistance—such as when the local government cannot tax an energy development in a neighboring jurisdiction, or when there are legal restrictions blocking the local government's ability to receive loans—could this assistance be through grants. After the 5 years of this program, the State revolving fund would continue operating without Federal assistance.

The Federal seed money for the State programs would be $135 million in fiscal year 1980, and $360 million in each year after that until fiscal year 1984, when the program would end.

The Federal seed money for these revolving funds is in grants, not loans, because loans would not work. Most State constitutions either prohibit or severely limit the State's authority to borrow money. Those States that do allow State borrowing generally have complicated procedures to authorize going in debt. These time-consuming procedures would prevent the State from getting the loans in time to give prompt assistance to communities facing immediate impacts. In short, a loan program would greatly undermine the effectiveness of the program.

This program is a loan program in an important way, however, since the major form of assistance to energy impact areas would be loans by State governments to local governments. Only when loans would be prohibited or ineffective would the assistance to local governments be in the form of grants. Further, when a State has no further impact needs, future payments into the State's revolving fund would be shared with the Federal Government, according to the percentage of Federal contribution in setting up the revolving fund.

The total Federal outlays for impact mitigation under this program would be a very small percentage of the total need for community planning, facilities, and services. The Nation will enjoy the benefits of the energy being produced. Sharing a small part of the local burdens that go with the energy production is not too much to ask in return.

Mr. President, I ask unanimous consent that the text of the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 395

On page 94, line 3, insert the following:

"TITLE XI—INLAND ENERGY IMPACT ASSISTANCE

"SEC. 1101. This title may be cited as the 'Inland Energy Impact Assistance Act of 1979'.

SEC. 1102. The Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95-620) is amended by amending title VI of the table of contents to read as follows:

"TITLE VI—FINANCIAL ASSISTANCE

"Sec. 601. Inland energy impact assistance.

"Sec. 602. Loans to assist powerplant acquisitions of air pollution control equipment."

SEC. 1103. The Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95-620) is amended by amending section 601 to read as follows:

"SEC. 601. INLAND ENERGY IMPACT ASSISTANCE.

"(a) DESIGNATION OF IMPACTED AREAS.—(1) In accordance with such criteria and guidelines as the Secretary of Agriculture shall, by rule, prescribe, the Governor of any State, or in the case of any area under the control of an Indian tribe the governing body of such Indian tribe, may designate a community or geographic area as an energy impact area if—

"(A) there exists or will exist a major energy development in such community or geographic area;

"(B) as a result of the construction or operation of such development either—

"(i) employment in energy development activities in such area has increased by eight percent or more in any year not more than five years before the date of the designation, or

"(ii) employment in such activities will increase by 24 percent or more during the three years following the most recent year;

"(C) such employment increase has required or will require substantial increases in housing or public facilities and services or a combination of both in such area; and

"(D) the State, Indian tribe or local government or governments serving such area lack the financial and other resources to meet any such increases in public facilities and services within a reasonable time.

The Secretary, of Agriculture shall prescribe a rule containing criteria and guidelines for making a designation under this subsection, after consultation with the Secretary of Labor and the Secretary of Energy, not later than 180 days after the effective date of this Act.

"(2) For purposes of paragraph (1)(D), increased revenues, including severance tax revenues, royalties, and similar fees to the State, Indian tribe, or local governments which are associated with the energy development activities and which are not prohibited from being used under provisions of law in effect on the date of the enactment of this Act shall be taken into account in determining if a State, Indian tribe, or local government lacks financial resources.

"(3) The Secretary shall, after consultation with the Secretary of Agriculture, approve any designation of an area under paragraph (1) only if—

"(A) the Governor of the State or governing body of the Indian tribe making the designation provides the Secretary in writing with the data and information on which such designation was made, together with such additional information as the Secretary may require to carry out the purposes of this section; and

"(B) the Secretary determines that the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1) have been met.

"(b) PLANNING GRANTS.—(1) The Secretary of Agriculture shall make a grant to the appropriate State or Indian tribe for each area designated and approved under subsection (a) for the purposes of developing a mitigation plan for such area which shall include determinations of—

"(A) the anticipated level of energy development activities in such area;

"(B) the socio-economic impacts which have occurred or which are reasonably projected to occur as a result of such energy development activities;

"(C) the availability and location of resources within such area to meet the increased needs resulting from socio-economic impacts determined under subparagraph (B) (such as any increased need for housing, or public facilities and services); and

"(D) the nature and expense of measures necessary to meet within a reasonable time the increased needs resulting from such impact for which there are no resources reasonably available other than under this section.

"(2)(A) Any grant for developing a plan under this subsection may be for an amount equal to 100 percent of the costs of such plan, as determined by the Secretary of Agriculture.

"(B) The aggregate amount granted under this subsection in any fiscal year may not exceed 10 percent of the total amount appropriated for purposes of this section for such year.

"(3)(A) The Governor, after consultation with appropriate officials of local government, or the governing body of any Indian tribe, as the case may be, shall designate a local planning unit to prepare for each energy impact area the mitigation plan provided for in paragraph (1). A local planning unit may be a temporary intergovernmental body of State and local officials appointed by the Governor; an agency of a local government or Indian tribe; a consortium of local goverments; a local development district certified under section 301 of the Appalachian Regional Development Act of 1965; an economic development district designated under title IV of the Public Works and Economic Development Act of 1965, as amended; or other appropriate district or entity. Upon request by the Governor or governing body of the Indian tribe, the Secretary of Agriculture and the Secretary of Energy shall appoint, and the heads of other appropriate Federal departments and agencies may appoint, appropriate officials of their respective departments or agencies to provide information and assistance on a regular basis to the local planning unit. The local planning unit shall consult with representatives of the owner or operator of each major energy development in the energy impact area. Such unit also shall, to the extent practicable, seek the active participation of regional, State, and local agencies and instrumentalities and the public through hearings and other appropriate means to insure that the views and proposals of all segments of the public within such are are taken into account in the formulation of the mitigation plan.

"(B) The Governor of a State or the governing body of an Indian tribe receiving grants under this subsection shall make subgrants to the appropriate local planning units to assist in the costs of preparation of mitigation plans.

"(4) To apply for assistance under subsections (c) or (d), a State or an Indian tribe shall submit and revise annually a comprehensive investment strategy describing the intended use within such State or by such Indian tribe of all such assistance requested to implement mitigation plans. The Secretary of Agriculture shall approve a comprehensive investment strategy as soon as possible after receiving it if it—

"(A) is based upon the appropriate mitigation plan or plans;

"(B) identifies priorities among the public facilities and services identified in the appropriate mitigation plan or plans for which assistance will be sought under subsections (c), (d), and (e);

"(C) contains satisfactory assurances that other public or private assistance is not reasonably available on a timely basis for the measures identified in subparagraph (B);

"(D) contains satisfactory assurances that the proceeds from any repayment of loans made by the recipient with funds under this section will be used to meet future energy impact needs; and

"(E) contains sufficient information to allow the Secretary of Agriculture to fulfill his responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other federal laws; and

"(F) contains satisfactory assurances that the procedures of this subsection have been followed.

"(c) Land Acquisition and Development Grants.—(1) In the case of any real property—

"(A) within an area for which a comprehensive investment strategy has been approved under subsection (b);

"(B) which is for housing or public facilities determined in such strategy as necessary due to an increase in employment due to major energy development;

"(C) with respect to which the Secretary of Agriculture has determined that the State and the local governments serving such area do not have the financial resources to acquire or the legal authority to acquire by condemnation; and

"(D) with respect to which there has been an approval in writing by the Governor of such State that the Secretary of Agriculture exercise his authority under this paragraph; the Secretary of Agriculture may acquire such real property or interest therein, by purchase, donation, lease, or exchange. Property so acquired shall be transferred to the State under such terms and conditions as the Secretary of Agriculture deems appropriate. Such terms and conditions shall provide for the reimbursement to the Secretary of Agriculture for the fair market value of the property, as determined by the Secretary of Agriculture. The value of any improvement of such property made after such acquisition shall not be taken into account in determining the fair market value of such property under this subsection. Amounts so received by the Secretary of Agriculture shall be deposited in the Treasury of the United States as miscellaneous receipts.

(2) Any approval by a Governor of a State under paragraph (1)(D) shall constitute a binding commitment of such State to accept the property to be acquired and to provide reimbursement for the amount of the fair market value of such property, as determined under paragraph (1).

(3) The Secretary of Agriculture may acquire property under paragraph (1) by condemnation only if he finds that—

(A) such property is not available by means other than condemnation at a price which does not substantially exceed the fair market value of such property;

(B) other real property is not similarly available which is within the same designated area and which is suitable for the purposes to which the property involved is to be applied; and

(C) the State and the local governments serving such area lack the legal authority to acquire such property by condemnation.

(4)(A) In the case of any real property which meets the requirements of subparagraphs (A), (B), and (C) of paragraph (1), the Secretary of Agriculture may make a grant to the State in which such property is located for the purposes of acquiring such property, and for any site development which is consistent with the comprehensive investment strategy approved under subsection (b).

(B) In the case of property acquired by the Secretary of Agriculture under paragraph (1) and transferred to the State, the Secretary of Agriculture may make a grant to such unit of government for the purposes of site development which is consistent with such plan.

(C) Grants for real property acquisition or site development or both under this paragraph may not exceed 75 percent of the costs thereof, as determined by the Secretary of Agriculture.

(5) In the selection of real property for acquisition and in such acquisition under this subsection, preference shall be given to real property which the Secretary of Agriculture determines at such time to be unoccupied or previously mined and abandoned.

(6)(A) Property held by the United States in trust for Indians or any Indian tribe may not be acquired by condemnation under this section.

(B) No property within the National Forest System (as defined in section 10 of the Forest and Rangeland Renewable Resources Planning Act of 1974) may be exchanged by the Secretary in any acquisition under paragraph (1).

"(d) General Mitigation Assistance.—(1)(A) The Secretary of Agriculture shall make grants to States and to Indian tribes for the funding of public facilities and services identified in an approved comprehensive investment strategy. The recipient may expend such grants directly or redistribute them to local governments, consortia of local governments, or appropriate public entities in the forms of grants, loans, loan guarantees, payments of interest on loans, or other appropriate means. A State may redistribute funds in the form of grants only if—

"(i) constitutional or other legal restrictions prevent the State from redistributing the funds in the form of loans;

"(ii) constitutional or other legal restrictions prevent the recipient from receiving funds distributed in the form of loans;

"(iii) the remaining borrowing capacity of the recipient is inadequate to allow it to use effectively funds distributed in the form of loans;

"(iv) the recipient is unable to amortize reasonably repayment of funds distributed in the form of loans;

"(v) specific local conditions or considerations of equity preclude distribution of funds in the form of loans;

"(vi) the adverse social or economic impacts of the major energy development are occurring in municipal, county, or State jurisdictions which have no existing authority to tax the major enery development and to make that revenue available for repayment of funds distributed in the form of loans or for public facilities and services to mitigate the impacts; or

"(vii) the Secretary of Agriculture determines that grants are otherwise warranted to accomplish the purpose of this title.

"(B) A State receiving funds under subparagraph (A) shall establish a revolving loan fund, or other financing mechanism approved by the Secretary of Agriculture, for the redistribution of such funds. If at any time—

"(i) a State has funded all public facilities and services in approved comprehensive investment strategies; and

"(ii) no additional mitigation plans or comprehensive investment strategies are being prepared in such State,

the State shall pay to the Secretary of Agriculture from future payments into the State's revolving loan fund (or other approved financing mechanism) a percentage equal to the percentage that grants by the Secretary of Agriculture to such State under this subsection and subsection (e) comprise of the total of such grants and the contributaion by such State to funding of public facilities and services in energy impact areas. The State, however, shall not be required to make payments to the Secretary of Agriculture if the Governor of the State notifies such Secretary that the Governor reasonably expects the State to experience a shortage of public facilities and services in energy impact areas within the next five years. The Secretary of Agriculture shall deposit all payments made by States under this paragraph in the Energy Impact Insurance Fund established under subsection (f), or, if that Fund shall have ceased to exist, in the General Treasury of the United States.

"(2) Upon request by a Governor or governing body of an Indian tribe, the Secretary of Agriculture may guarantee the payment of loans by State or local governments and Indian tribes, and may pay interest on such guaranteed loans, for the funding of public facilities and services in an approved comprehensive investment strategy.

"(e) Expedited Assistance.—(1) A local planning unit established pursuant to paragraph (b)(3), upon finding a serious threat to the public health and safety within a designated energy impact area as a result of the appropriate major energy development, may prepare a preliminary mitigation plan identifying and addressing the need for expedited assistance. Such preliminary plan shall be the basis for an application for expedited assistance under this subsection.

"(2) The Secretary of Agriculture may, at any time, make grants or loans to, guarantee the payment of loans by, or pay the interest on such guaranteed loans by, States, Indian tribes, or, with the concurrence of the Governor, local governments, for funding preliminary mitigation plan if such Secretary finds that such expedited assistance is necessary to meet needs which cannot be met with other Federal programs or other assistance in a sufficiently timely manner to avert a serious threat to the public health and safety identified by the local planning unit.

"(3) The Secretary of Agriculture shall approve an application for expedited assistance as soon as possible after receiving it if it contains the information required under paragraphs (b) (4) (A), (b) (4) (B), (b) (4) (C), (b) (4) (D), (b) (4) (E), and (b) (4) (F).

"(f) General Requirements Regarding Assistance.—(1) The Secretary of Agriculture shall by rule prescribe the terms and conditions for loan guarantees, payments of interest, and loans under subsections (d) and (e), which shall be consistent with the statutory requirements for loan guarantees, payments of interest, and loans under the Rural Development Act of 1972 (Public Law 92–419), except that for the purposes of assistance under this title—

"(A) the term 'State' also means an Indian tribe, or any duly authorized public entity acting on behalf of a State or Indian tribe;

"(B) loans shall bear interest at a rate determined by the Secretary of Agriculture, but not less than five percent per annum;

"(C) the restriction on assistance in such Act based on population shall not apply; and

"(D) no loan guarantees shall be made after September 30, 1984.

"(3) There is established in the Treasury of the United States an Energy Impact Insurance Fund, to be available to the Secretary of Agriculture for carrying out the provisions of this section relating to loan guarantees and loans, under the same statutory terms and conditions as apply to the Coastal Energy Impact Fund (16 U.S.C. 1456a(h)).

"(3) The Secretary of Agriculture shall prescribe, by rule, criteria for the allocation of assistance (other than the guarantee of loans) under this section, by a formula based 50 percent on the absolute increase and 50 percent on the percentage increase in employment related to major energy development in energy impact areas. Before allocating funds, such Secretary shall set aside a portion of the funds available for Indian tribes. If such Secretary finds that allocated funds cannot be obligated within a reasonable time by the State or Indian tribe for which the allocation was originally made, such Secretary may make those funds available to other States or Indian tribes.

"(4) (A) Except for grants under subsection (b), no assistance under this section may be for more than five years following the receipt of the first funds for public facilities and services under this section.

"(B) Financial assistance under this section shall not replace other public or private assistance reasonably available on terms that, in the opinion of the Secretary of Agriculture, would permit the accomplishment of the project or program.

"(C) No funds appropriated to carry out this section shall be expended in support of any program, project, or activity which is eligible for Federal financial support under the Coastal Energy Impact Program (16 U.S.C. 1456a) or the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201).

"(5) (A) Except as provided in subparagraph (B), for the second fiscal year of any assistance made pursuant to this section (other than planning grants under subsection (b)) the recipient shall provide funds equal to 12.5 percent of the total costs of implementing the proposal for which such assistance is made. For the third fiscal year, the recipient shall provide 25 percent of such costs. For the fourth fiscal year, the recipient shall provide 37.5 percent of such costs. For the fifth fiscal year, the recipient shall provide 50 percent of such costs.

"(B) Where the Secretary of Agriculture determines after consultation with the Secretary of Interior that an Indian tribe, which is an applicant for assistance under this section, or where the Secretary of Agriculture determines that a local government, which is an applicant for expedited assistance under subsection (e), has exhausted its effective revenue producing and borrowing capacity, such Secretary may waive the requirements of subparagraph (A) with regard to such applicant.

"(6) If the Secretary of Agriculture, after notice and opportunity for a public hearing, finds that a recipient of financial assistance under this section has failed to comply with the provisions of this section or with any regulation issued pursuant to this section, such Secretary shall withhold all or part of further financial assistance under this section from such recipient for so long as such recipient is deemed not to comply.

"(g) Definitions.—For the purpose of this section—

"(1) 'Indian tribe' means any Indian tribe, Alaskan Indian tribe, or Alaskan tribal group, as defined in the Indian Self-Determination and Educational Assistance Act (Public Law 93–638);

"(2) 'Major energy development' means any activity, facility, or installation associated with the production of energy (including exploration, extraction, production, conversion, or processing of any energy resource; the generation of electricity; construction of a major energy transportation facility; construction or operation of a major federally funded energy project, including uranium processing and nuclear spent fuel storage and waste facilities) if a substantial portion of such energy will not be consumed within the area of such activity, facility, or installation.

"(3) 'Public facilities and services' means facilities and services which are financed, in whole or in part, by any State or political subdivision thereof, or any Indian tribe, including highways and secondary roads, parking, mass transit, parks and recreational facilities, housing, governmental administration, fire and police protection, water supply, waste water collection and treatment (including drainage), schools and education, and hospitals and health care and any other facility or service so financed which the Secretary of Agriculture finds is necessary to support increased population.

"(4) 'Site development' means necessary off-site improvements, such as the construction of sewer and water connections, construction of access roads, and appropriate site restoration, but does not include any portion of the construction of housing or public facilities.

"(h) Reports.—Any person regularly engaged in any major energy development activity within an area designated and approved under subsection (a) shall prepare and transmit a report to the Secretary of Energy within 90 days after a written request to such person by the Governor of the State in which such area is located. Such report shall include—

"(1) projected employment levels for such activity by such person within such area during each of the following 3 calendar years;

"(2) the projected increase in employees in such area to engage in such activity during each of such calendar years;

"(3) the projected quantity of energy to be produced, processed, or transported by such person during each of the such calendar years; and

"(4) actions such companies plan to take or are taking to provide needed housing and other facilities for their employees directly or by providing funds to the States and local communities for this purpose.

Copies of the report shall be provided to the Secretary of Energy and the Secretary shall, subject to the provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974, provide the report to the Secretary of Agriculture, the Governor, and the appropriate Indian tribe, county or local officials and make it available for public review.

"(i) Administration.—(1) The Secretary of Agriculture shall designate within the Farmers Home Administration an organizational unit—

"(A) to administer the program established by this section;

"(2) to provide information to State and local officials and Indian tribes about federal assistance from programs other than those authorized by this section to prevent or mitigate adverse impacts from energy resource development;

"(3) to advise other appropriate Federal agencies of the needs and proposals for public facilities and services identified in mitigation plans; and

"(4) to provide information and technical assistance, when requested, to States, local governments, and Indian tribes about energy impact mitigation.

"(2) The Secretary, the Secretary of the Interior, the Secretary of Agriculture, the Federal Energy Regulatory Commission, the Administrator of the Environmental Protection Agency, and the head of any other Federal agency with responsibility for or knowledge of energy resource development shall, to the extent practicable, provide staff and other assistance to appropriate States, Indian tribes, or local planning units to facilitate assessment of community needs and to assist in early or initial energy impact planning efforts.

"(3) The President shall establish an interagency council, to be chaired by the Secretary of Agriculture pursuant to Section 603 of the Rural Development Act of 1972 (Public Law 92–419) to coordinate all Federal programs which may provide assistance to meet needs resulting from major energy developments. Such council shall coordinate the various Federal planning processes related to major energy developments with the preparation of mitigation plans under this section, in order to minimize duplication of effort or activities and to avoid delay in the consideration or carrying forward of such major energy developments. The heads of all Federal departments or agencies shall cooperate with the council in carrying out the purposes of this subsection and shall review the programs which each administers to determine what assistance is or may be made available to areas eligible for assistance under this section.

"(4) No action or failure to act (including the designation of an energy impact area, the designation of a local planning unit, the development or implementation of a mitigation plan or comprehensive investment strategy, or provision of assistance) under this section may be used as a legal basis for delaying or prohibiting the obtaining of any licenses, permits, or other authority necessary for the development, construction, or operation of a major energy development.

"(j) Appropriations Authorization.—(1) There is hereby authorized to be appropriated to the Secretary of Energy for purposes of this section, $60,000,000 for fiscal year 1979, $150,000,000 for fiscal year 1980, and $400,000,000 for each of the fiscal years 1981 through 1985. The Secretary of Energy and the Secretary of Agriculture shall enter into an agreement for the allocation of funds appropriated pursuant to this section for carrying out their respective responsibilities under this section, including the amounts for personnel and administrative costs, and upon such agreement, the Secretary of Energy shall transfer to the Secretary of Agriculture amounts determined under that agreement.

"(2) Not more than 10 percent of the funds appropriated under this section shall be used to provide planning grants under subsection (b). Not more than 15 percent of the funds appropriated under this section shall be used to provide expedited assistance (other than loan guarantees) under subsection (e).

"(3) The total principal amount of loans guaranteed under subsections (d) and (e) shall not exceed $1,500,000,000.

"(k) PROTECTION FROM CERTAIN HAZARDOUS ACTIONS.—Federal agencies having responsibilities concerning the health and safety of any person working in any coal, uranium, metal, or nonmetallic mine regulated by any Federal agency shall interpret and utilize their authorities fully and promptly, including the promulgation of standards and regulations, to protect existing and future housing, property, persons, and public facilities located adjacent to or near active and abandoned coal, uranium, metal, and nonmetallic mines from actions occurring at such activities that pose a hazard to such property or persons.

"(l) REORGANIZATION.—The authority of the Secretary of Energy under this section may not be transferred to any other Secretary of Energy under this section may not be transferred to any other Secretary or to any other Federal agency under chapter 9 of title 5, United States Code, or under any other provision of law, other than under specific provisions of a law enacted after the date of the enactment of this Act. The preceding provisions of this subsection shall not preclude either Secretary from delegating any such authority to any officer, employee, or entity within such Secretary's department." ●

WINDFALL PROFITS TAX—H.R. 3919

AMENDMENT NO. 396

(Ordered to be printed and referred to the Committee on Finance.)

Mr. WALLOP (for himself, Mr. BOREN, Mr. GRAVEL, Mr. CRANSTON, Mr. YOUNG, Mr. TOWER, Mr. SIMPSON, Mr. DOMENICI, Mr. SCHMITT, Mr. HAYAKAWA, and Mr. BELLMON) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, an act to impose a windfall profits tax on domestic crude oil.

● Mr. WALLOP. Mr. President, the windfall profits tax, as passed by the House of Representatives, shortsightedly places an undue burden on State and local governments, Indian tribes and upon the many worthwhile programs sponsored by the funds these governments receive from oil and gas production on publicly owned lands.

The House-passed windfall profits tax bill exempts State and local oil production from the tax only if 100 percent of the proceeds are dedicated to education. The House passed bill would impose a tax on oil funds going to other State or local public programs, and the tax would also fall on crude oil interests held in trust by or for Indians or Indian tribes.

The windfall profits tax places an inequitable burden on local and State governments, and the Indian tribes who depend so heavily on oil production income for maintaining public programs. For this reason, I intend to sponsor an amendment to H.R. 3919 which will exempt from the windfall profits tax oil in which the Federal, State, or local governments own the economic interest, provided that the proceeds from the sale of the oil are used for public purposes. I will also propose an amendment to exempt from the tax oil produced from tribal lands, and oil the proceeds from which are paid into tribal or native trust funds in the U.S. Treasury.

Income received by State or municipal governments should be exempt from the tax, whether or not they utilize the income solely for education. There is little reason to place an arbitrary distinction on the value of one public service provided by the State, such as education, as opposed to other worthwhile State or municipal services. Historically, oil producing States have relied heavily on their public lands as a means of financing education. However, there are numerous government services including health care, hospital funds, penal reform funds, wildlife refuges and others which are financed by income from public lands. I see no logical policy basis for making a distinction for tax policy purposes between various types of State and local government services.

The State and local governments should not be prodded through tax policy to dedicate all of their oil production revenue to education. Many of these States and municipalities are faced with the burden of providing a wide range of public services for energy impacted communities. They face difficult choices in allocating their limited financial resources to address community and State problems. Their decisions should not be distorted by a Federal tax that exempts one type of public service and imposes a heavy tax on income dedicated to other public programs.

I would like to point out that over the past 7 years, these State and local governments have had their oil production income held arbitrarily low, through the imposition of oil price control. Oil is a depletable asset, and once these resources are used, State and municipal governments will be left only with the income derived solely from the interest on oil trust funds.

Exempting State and local oil production from the tax creates no significant detriment to the objective of the windfall profits tax, which is to raise Federal revenues. The total State and local oil production is not more than 500,000 barrels daily. Consequently, the exemption would remove not more than 5 percent of total domestic production from the oil taxable under the President's program. The public lands education exemption provided in H.R. 3919 already covers all but a small percentage of the oil production of State and local governments. Consequently, this proposed amendment would not have significant revenue effects.

The tax is also inequitable and unprecedented where it applies to trust assets received by many federally recognized Indian tribes. Since the tax is an excise tax, not an income tax, Indians and Indian tribes may not be automatically exempt from the windfall profits tax. This is unprecedented because Indian trust resources have, under long-established Federal policies, been exempt from Federal tax. Further inequities are created because Indians and Indian tribes would not qualify for adjustments which lower the tax based on income tax factors, since they are not subject to income tax.

To levy a tax on these people would be contrary to the spirit of the Indian Self-Determination Act and other recently enacted legislation designed to encourage Indians to develop and obtain maximum benefit from their natural resources. Recent court cases and Internal Revenue Service rulings indicate that income from tribal lands is clearly exempt from Federal taxation. Federal legislation has provided that all restricted allotments and undistributed property, or lands held in trust by the United States for Indians must be held free of all encumberances. Federal income taxation has repeatedly been held to be such an encumbrance, and accordingly not applicable to Indian lands.

It is important for the Congress to recognize the tribes' need for this revenue. The Indian tribal governments depend heavily on royalties from mineral development to finance basic services for their people. Royalties received by the tribes from oil production totaled $32.6 million in 1978. All of the major oil producing tribes use their royalties strictly for Government programs. For example, oil and gas revenues account for 90 percent of the Northern Ute tribal government's budget apart from Federal funds.

Tribal governments must rely heavily on this source of revenues, because other sources of funding used by other governments are not available to them. Reservation populations are extremely poor, with annual per capita income well below the national average. This means that there is almost no tax base on Indian reservations. In addition, tribal development bonds are not given tax-exempt status as are State and local bonds, making it difficult to raise money by selling bonds.

An exemption for Indian tribal lands would only address part of the ambiguity posed by H.R. 3919. The House-passed bill fails to clarify the adjustment in the tax which is granted with respect to severance taxes. The language of the bill suggests that the exemption would be granted to State severance taxes. I expect that this was merely an oversight, for to allow a deduction for State severance taxes but not tribal severance taxes would put Indian oil at a competitive disadvantage. Such a development could force the Indian tribes to abandon their severance taxes and lose an important source of income. I propose to clarify this issue by defining the term "severance tax" to include the severance taxes imposed by Indian tribes. This definition would be consistent with the action taken by Congress in the Natural Gas Policy Act, which provided that tribal severance taxes should be given the same status as State severance taxes.

The Senators who join me in offering this amendment to the windfall profits tax bill may not share my concerns over other provisions and effects of H.R. 3919. This is a bipartisan effort to amend provisions that would otherwise create inequities and cause financial hardship for the oil-producing State, local, and tribal governments.

I ask unanimous consent that the

text of my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 396

On page 25, line 18, strike out "educational institution" and insert "entity".

On page 25, line 22, strike out "public education" and insert "a public purpose".

On page 26, lines 5 and 6, strike out "public education" and insert "a public purpose".

On page 26, line 10, strike out "public education" and insert "a public purpose".●

DEPARTMENT OF THE TREASURY APPROPRIATIONS, 1980—H.R. 4493

AMENDMENT NO. 397

(Ordered to be printed and to lie on the table.)

Mr. PRYOR submitted an amendment intended to be proposed by him to H.R. 4393, an act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1980, and for other purposes.

Mr. PRYOR. Mr. President, I am today submitting an amendment, which I hope will be considered after we return from our recess, to the Treasury, Postal Service and General Government Appropriations bill for 1980.

This amendment states that it is the sense of Congress that upon the sale by former President Richard M. Nixon of the estate known as Casa Pacifica and located in San Clemente, Calif., the United States shall be reimbursed the original cost of those items of property procured by the General Service Administration and determined by the Comptroller General of the United States as having a nonprotective benefit.

Mr. President, many people in this country feel that, because of those additions to this estate in California and especially in view of the fact that this estate is either about to be sold or has been sold, former President Nixon has been unjustly enriched at the cost and at the expense of the taxpayers of this country.

So, at the proper time I will attempt to amend the appropriations bill so it will reflect the sense of Congress as it relates to this particular matter.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. PRYOR. I am glad to yield to the Senator from Alaska.

Mr. STEVENS. I am sure the Senator is seeking equity and justice, and it will be in order, I assume, when the amendment comes up to consider the improvements that were made to the Johnson ranch and that are being made to the Carter farm. Maybe we should set some standards for future Presidents at the same time.

So I welcome the opportunity to open the whole subject up, and I hope the Senate is prepared for a lengthy consideration of the use of taxpayers' funds for the convenience of any President not just President Nixon.

I welcome the opportunity to get into some rather deep consideration of the use of taxpayers' funds by Presidents of the United States.

Mr. PRYOR. I thank the Senator for his comments on this matter.

As the Senator knows, the committee on which we serve, the Governmental Affairs Committee, specifically the Subcommittee on Civil Service and General Services, is today looking actively into two statutes which relate to former Presidents, and attempting to come forward with some constructive changes in the statutes to clear some areas of ambiguity which exist at this time.

Like the Senator from Alaska, I look forward at the proper time to a full discussion of this matter and whatever debate might ensue.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 397

At the end of the bill insert the following:

SEC. 616. It is the sense of the Congress that, upon the sale of the estate known as Casa Pacifica located in San Clemente, California, former President Richard M. Nixon should reimburse the United States for the original cost of any item of property procured by the Administrator of General Services which the Comptroller General of the United States determines, to have a nonprotective benefit.

NOTICES OF HEARINGS

SUBCOMMITTEE ON CHILD AND HUMAN DEVELOPMENT

● Mr. CRANSTON. Mr. President, on September 18, from 9:30 to noon, the Subcommittee on Child and Human Development of the Committee on Labor and human Resources will hold oversight hearings on the ACTION Agency's older American volunteer programs—foster grandparents, senior companions, and retired senior volunteer program (RSVP).

Persons wishing to testify should contact the subcommittee in writing at least 3 weeks prior to the hearing.●

SUBCOMMITTEE ON PARKS, RECREATION, AND RENEWABLE RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks, Recreation, and Renewable Resources.

The hearing is scheduled for Thursday, September 13 beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Among those invited to testify are Gov. Jay Hammond of Alaska, Secretary of the Interior Cecil Andrus, Secretary of Agriculture Bob Bergland, and other interested groups. Testimony will be heard on S. 1176, a bill to amend the Act for Preservation of American Antiquities of 1906.

For further information regarding the hearing, you may wish to contact Mr. Thomas Williams at 224-7145.

Those wishing to submit written testimony for the record should write to the Subcommittee on Parks, Recreation, and Renewable Resources, 3106 Dirksen Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

● Mr. CULVER. Mr. President, as chairman of the Subcommittee on Administrative Practice and Procedure, I announce that our subcommittee will hold a hearing in Montpelier, Vt., on proposed regulatory reform legislation (S. 104, S. 262, S. 299, S. 755, and S. 1291). The hearing will be held on August 20, 1979. Senator PATRICK LEAHY will preside.●

SUBCOMMITTEE ON INTERNATIONAL FINANCE

● Mr. STEVENSON. Mr. President, the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs will hold hearings on Monday, September 17 and Tuesday, September 18 on legislation to encourage formation of export trading companies and export trade associations. Three bills have been introduced and referred to the Banking Committee: First, S. 864, a bill introduced by Senator DANFORTH, together with Senators BENTSEN, CHAFEE, JAVITS, and MATHIAS, to establish within the Department of Commerce an office to promote and encourage the formation and utilization of export trade associations and for other purposes; second, S. 1499, a bill introduced by Senator ROTH to promote and encourage the formation and utilization of export trade associations, and for other purposes; and third, S. 1663, a bill I introduced to encourage exports by providing for the licensing of export trading companies by the Secretary of Commerce, and by otherwise facilitating their formation and operation.

The subcommittee will receive testimony on the bills from the the administration and from private citizens.

The hearings will begin each day at 10 a.m. in room 5302 of the Dirksen Senate Office Building. Persons interested in testifying or desiring more information may contact Robert W. Russell, counsel to the International Finance Subcommittee, at 202-224-0819.●

SUBCOMMITTEE ON PARKS, RECREATION, AND RENEWABLE RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks, Recreation, and Renewable Resources.

The hearing is scheduled for Thursday, September 20, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony will be heard on S. 599, a bill relating to the Indiana Dunes National Lakeshore.

Further information regarding the hearing, you may wish to contact Mr. Thomas Williams at 224-7145.

Those wishing to submit a written statement for the record should write to the Subcommittee on Parks, Recreation, and Renewable Resources, room 3106 Dirksen Senate Office Building, Washington, D.C. 20510.●

AUTHORITY FOR A COMMITTEE TO MEET

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, September 5, 1979, beginning at 2 p.m., to hold a hearing on the nomination of Neil Goldschmidt to be Secretary of Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BUS RUNS ON ALCOHOL AFTER 55-CENT ALTERATION

● Mr. LUGAR. Mr. President, our Nation's security and prosperity demand that we quickly develop new sources of energy and new energy technology to keep transportation systems and factories operating, and to provide power to homes and public buildings.

An Associated Press story which was carried in the Chicago Tribune on July 27 tells of an accomplishment by four inventors in New Hampshire, giving hope to those of us who believe that significant energy advances are possible if the Government will get out of the way.

The four young men in New Hampshire spent 30 minutes and 55 cents to develop a small part which allows a conventional bus engine to run on pure alcohol. As one of them said, "the answers are available today, not 20 years from now. All it takes is a realization by the public that it can try to solve the problems without waiting for permission from the Government."

I would only add that it takes Government policy which does not discourage private enterprise from investing in new energy solutions, with fears that new controls, new regulations, or new taxes will destroy their economic plans.

The article holds special interest for those of us who have urged that the abundance of American agriculture be used to supplement scarce petroleum fuels. The experience of thousands of Americans who have used gasohol in their own automobiles provides convincing evidence that gasohol is a practical alternative to gasoline. Now comes a report that a simple part is all that may be needed to convert a conventional engine to use pure alcohol.

This is the kind of breakthrough we can and must achieve. We must turn loose the power of private initiative to find new solutions. This is no time to adopt a defeatist attitude, to accept and to institute energy shortages, and to give Government vast new powers to allocate those shortages.

I ask that that Tribune article be printed in the Record.

The article follows:

[From the Chicago Tribune, July 27, 1979]

Fifty-five Cents Alters Bus To Run on Alcohol

Seabrook, N.H.—Four inventors, irritated by President Carter's contention that energy alternatives are years away, spent 55 cents to fix an old gray school bus so it would run without gasoline.

"We've converted a bus to run on a mixture of water and alcohol. It was no great feat," said Mike Goldberg, one of the inventors who work out of a firm called Self-Propelled, Inc., in Leicester, Mass.

"The answers are available today, not 20 years from now," Goldberg said. "All it takes is a realization by the public that it can try to solve the problems without waiting for permission from the government."

"All we needed to make it work was the desire to do it, 30 minutes, and this 55-cent jet," coinventor Michael McCallum said, proudly displaying the quarter-inch metal tube that is the key to the conversion.

Goldberg, 27; McCallum, 27; Leon Bristow, 29; and Gregg Friedman, 30, said they listened to Carter's energy speech last week and didn't like the "negative tone of the President's predictions."

"The government wants us to save oil," McCallum said. 'The obvious way is by using alcohol. But federal experts say it would take a major retooling by the auto industry to accomplish it.

"That's incorrect. Any home mechanic or the guy at the corner gas station can convert any vehicle to run on alcohol. It's a quick do-it-yourself project for anyone who tinkers with cars."

It was quick indeed for the four inventors. Reacting to the speech the next day, they went right to work on the 20-year-old bus one of them owned.

The concept of alcohol-powered engines is not new. Indianapolis-type race cars have run on various forms of alcohol for a decade.

At the request of the Brazilian government, General Motors Corp. is preparing engines which will run on pure alcohol.

"We should have them on the market in a couple of years," said Edward Lechtzin, a GM spokesman in Detroit. "Brazil is 90 percent dependent on imported oil and they have a real need to find an alternative fuel.

"We have tested several alcohol engines but there is no great demand for it in this country."

Friedman and Bristow explained that they replaced the jet, or value, with a wider one to accommodate the greater volume of alcohol required to burn in the engine.

"But the engine works on alcohol the same way it does with gasoline," Bristow said. "It gets about the same mileage, is cleaner, and smells a lot better. . . ."

"Cheaper quality alcohol works fine in engines and it can probably be produced and sold for half the cost of gasoline," McCallum said.

"As long as the sun shines, alcohol will always be available, and it can be produced in every section of the country. It can be made from trash from the big cities, potatoes and sugar beets from Maine, wheat from Kansas, corn from Iowa, and timber or wood products in dozens of other states."

Goldberg said he hopes "to have a thousand vehicles fueled with the same mixture gathered in Washington to prove the point to the President.

"We have something that works now and doesn't harm the environment at all." ●

S. 1649—AIRPORT AND AIRWAY SYSTEM DEVELOPMENT ACT OF 1979

● Mr. PACKWOOD. Mr. President, I am happy to join with my colleague, the chairman of the Senate Commerce Committee, Senator Cannon, in introducing legislation, the Airport and Airway System Development Act of 1979, and its accompanying revenue bill, which revamp the way the Federal Government currently funds the national airport system. My office, increasingly over the past few years, has received calls and complaints from angry and frustrated airport operators in Oregon who cannot understand why they can't have the money they have helped put in the aviation trust fund. Current estimates project that at the end of fiscal year 1980 that trust fund will show a surplus of some $3.25 billion. This money has not been raised through taxpayer dollars. It is the result of an airline passenger ticket tax, aviation fuel taxes, waybill charges, an international departure fee and an aircraft registration charge. All of these are collected from the aviation industry.

Last year the Federal Aviation Administration estimated that $600 million in high priority projects had gone unfunded. That's not because there was no money to pay for them. It was because the FAA and the Office of Management and Budget refused to permit the expenditures, calling them inflationary. It seems to me that is irresponsible on their part. Last year the growth in air traffic was 17 percent. With deregulation, we are seeing the larger airports becoming more crowded. It is important that Congress act with determination to get that surplus out where it's needed and respond to airport needs. Increasingly, this is a question of safety. Project costs which go unfunded only remain to be funded at a later date, but at the inflated cost.

I commend the chairman on his innovative approach to dealing with the surplus problem. With a reduction in the airline ticket tax from 8 percent to 2 percent, which is proposed, over a period of the next few years we will be reducing the accumulation in the trust fund. Additionally, the bill eliminates, after fiscal year 1981, the eligibility of large and medium hub airports for Federal funds. The feeling is that these airports, proven revenue raisers, will be better able to negotiate directly with the carriers for that 6 percent, avoiding the cost and delay of Federal funding altogether.

Airport operators at these airports ought to be better able to plan projects and avoid bureaucratic redtape. Presently, these airports fund the greatest portion of their capital improvement projects with airport revenues, not Federal funding. While I recognize there is some uncertainty now as to how the airports will be guaranteed the proper assurances from the carriers for this funding, both sides have expressed a willingness to try to work it out, preferring to avoid the Federal middleman.

An important feature contained in the bill is one which significantly increases funding for reliever airports to $150 million over the next 5 years, compared to the approximately $17 million annually they now receive. These airports are very important to the national air transportation system in drawing traffic away from the large hubs.

The bill also permits the Secretary of Transportation, under certain conditions, to fund private airports. This is another way of relieving congestion at the large airports.

State agencies are given a potentially larger role in the administration of Federal funds for the small airports (those enplaning less than 26,000 annually). While there has been some concern expressed that this new responsibility for the State agencies might create more problems than it solves, I think it is an area we ought to explore. It would remove the Federal Government from a direct role when possibly someone else can do a better job. I like that. We are not always the best people to handle these projects.

By taking the large and medium hub airports out of the program while increasing the minimum authorization levels, the bill provides a better chance for the smaller airports to get the funding they need and the attention they deserve.

In general, this legislation is a fresh look at airport financing and redefines a Federal program that clearly is not working. Removing the presence of the Federal Government from direct involvement where it is not necessary is an area in which the commerce committee has been a pioneer and shown leadership. Last year we deregulated the airlines. Maybe soon we can deregulate the airports in those cases where other financing is available.

I am happy to work with the chairman in getting this bill through the Commerce Committee. We have scheduled hearings for the week of September 10 and I know the chairman is anxious to have the Commerce Committee act expeditiously on the legislation. In that effort he will have my support. Additionally, I will provide whatever assistance I can in clearing the revenue bill through the Finance Committee on which I serve. I know the chairman is anxious to avoid any snares there.●

DIVERSE CITIZENS AND BUSINESS GROUPS, FEDERAL AGENCIES SUPPORT TRUCKING DEREGULATION

● Mr. KENNEDY. Mr. President, on Wednesday of this week I inserted in the Record excerpts of comments President Carter and I have received from a number of organizations and individuals in support of the Trucking Competition and Safety Act (S. 1400) which we introduced on June 25. Many of these letters offer more eloquent testimony on the need for enactment of this legislation than either the President or I could hope to offer.

These organizations represent Americans who are vitally affected by the operations of the trucking industry, both its regulated and unregulated segments. They also include Federal agencies and other groups with a breadth of understanding of the importance of marketplace competition to the effective functioning of our economy.

I ask, Mr. President, to insert in the RECORD a few of these letters and statements, as I believe they will be of great interest to Members of Congress and their staffs. The letters and statements are from the following organizations: the Federal Trade Commission, the chairman of the Civil Aeronautics Board, President Borman of Eastern Airlines, the National Cattleman's Association, the National Farmers Organization, the National Association of Manufacturers, the National Federation of Independent Business, the Consumer Federation of America, and the National Agricultural Transportation Alliance.

The material follows:

FEDERAL TRADE COMMISSION,
Washington, D.C., June 20, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The Federal Trade Commission strongly endorses the proposed Trucking Competition Reform and Safety Improvement Act of 1979, sponsored jointly by the Administration and Senator Kennedy. The proposed Act represents significant progress in improving competition and safety in this important industry.

The enclosed statement of the Commission describes the competitive and consumer harms caused by legislative and regulatory restrictions on competition in the trucking industry and the impact of the proposed Act on these problems. For several years, the Commission has vigorously advocated the reduction of restraints on competition in the trucking sector. We applaud you for this effort to eliminate such restraints and to infuse greater competitive vigor into this vital area of the economy.

By direction of the Commission.

MICHAEL PERTSCHUK,
Chairman.

STATEMENT OF FEDERAL TRADE COMMISSION ON "THE TRUCKING COMPETITION REFORM AND SAFETY IMPROVEMENT ACT OF 1979"

The Federal Trade Commission strongly supports the trucking reform bill jointly sponsored by the Administration and Senator Kennedy. This bill is a substantial step toward reducing the mass of government regulation and red tape which currently exist in the trucking industry and toward allowing a free market in truck transportation to function. We believe that competition in the marketplace will do more than regulation to encourage efficient operations, to afford shippers a range of price/service alternatives, and to provide American consumers the variety of goods and services they want at the lowest possible cost.

Since the federal Motor Carrier Act was passed in 1935, the trucking industry has been subject to an extensive scheme of federal regulation, administered by the Interstate Commerce Commission. Even if this pervasive regulation was necessary in 1935—in the midst of the Depression, when trucking was in its infancy and the depressed state of the economy may have made it difficult for competition to function—it no longer meets the needs of the American public. Expert economists have estimated that reducing unnecessary regulation in the trucking industry could save American consumers billions of dollars each year. The ICC has recognized the need for reducing regulation and has taken the lead in eliminating or reducing some of the regulations which no longer serve the public interest. The bill would continue along the same path and further reduce such regulation.

The Federal Trade Commission believes the trucking industry will flourish under competition. Economic regulation should be unnecessary under a competitive regimen. In recognition of this fact, the Commission has for two years advocated reduced regulation before the ICC. For example, we have opposed the applications of the motor carrier rate bureaus for antitrust immunity; we have argued that entry into the industry should be significantly eased; and we have recently petitioned the ICC to institute a "zone of reasonableness" within which proposed motor carrier rates would take effect without ICC approval. We are especially heartened to see similar features in the trucking reform bill.

The bill would substantially eliminate three major regulatory restrictions which have impaired efficiency in the trucking industry and raised prices to consumers. First, it would remove all backhaul, route and commodity restrictions, either immediately or by 1983. These restrictions have required trucks to travel empty, have limited the kinds of freight they can carry and have prohibited them from taking the shortest route between two points and from making stops at small towns between major cities. By removing these restrictions, the bill would save "gas" and diesel fuel, would allow truckers to operate more efficiently, would rationalize the existing route structure and would reduce pollution.

Second, the bill would reduce restrictions on entry into trucking markets. In order to enter a market, a prospective trucker has historically had to convince the ICC that existing service was inadequate. Large, established carriers could "protest" the prospective entrant's application before the ICC and could thus cause him needless legal expenses in defending his application, or could even discourage him from applying in the first place. Among other things, the bill would make it unnecessary for the prospective entrant to prove existing service inadequate. This would allow small businessmen—and, for the first time, minorities, who currently own fewer than one percent of the over 16,000 regulated trucking firms—a realistic opportunity to enter the trucking industry.

Third, the bill would allow truckers to reduce their rates, within certain limits, without prior ICC approval. At present, rates must be filed with the ICC 30 days before they are to take effect. When a rate is filed, competing carriers or shippers can protest it as being too low. The ICC can then suspend the proposed rate reduction for up to seven months, hold a hearing on it, and then hold it unlawful and refuse to allow it to take effect. Many proposed reductions are thus prevented from taking effect, and carriers are discouraged by the likelihood of challenge and the ensuing expense from even proposing lower rates. By allowing carriers to reduce their rates without government approval, the bill should encourage price competition among carriers and lower prices to consumers.

Together with its reduction of regulatory restrictions, the bill would also remove the special statutory exemption which since 1948 has permitted trucking companies to fix their rates through so-called "rate bureaus." This practice, known in the industry as "collective ratemaking," would violate the antitrust laws if undertaken by industries lacking the statutory immunity enjoyed by trucking firms. Collective ratemaking, along with ICC rate regulation, has frustrated price competition in the trucking industry and allowed several of the largest carriers in the industry to reap excessive profits. (The eight largest carriers in the industry have an average return on equity of 28.7 percent, and the return on equity of one of these carriers is 58 percent. The national average for all manufacturing, on the other hand, is 14 percent.) By eliminating both government regulation of rates and industry self-regulation of rates in the form of price-fixing, the bill should assure a more competitive and responsive trucking industry.

The bill would also eliminate certain other regulatory restrictions on the trucking industry. For example, it would exempt all agricultural commodities from all ICC regulations and would allow existing carriers to expand their operations by a limited amount each year without ICC approval.

In addition, the bill takes special pains to ensure that shippers and consumers in America's small communities, who generally have been poorly served by the regulated trucking industry, will receive improved service. For example, the bill would allow any financially sound trucker to serve any community which an authorized carrier no longer serves or which a railroad abandons, and would allow trucks to stop at small towns between major origin and destination points.

The Commission congratulates the Administration and Senator Kennedy for a bill which warrants the support for the trucking industry, of shippers and of the American public. We believe that by greatly reducing government interference in the marketplace and giving competition and the free market a better chance to function, the proposal will benefit us all.

Statement By Marvin S. Cohen, Chairman, Civil Aeronautics Board

I endorse the Trucking Competition and Safety Act of 1979. The objectives of this legislation are very similar to those now incorporated in the Airline Deregulation Act of 1978. As in the ADA, the proposed legislation seeks, among other things, to remove antiquated service restrictions that compel costly and needlessly inefficient operations. The bill also seeks to promote competition by creating a statutory presumption in favor of new entry, by eliminating antitrust immunity for carrier price-setting agreements and by establishing a zone of rate flexibility around the prior existing rates. Finally, and perhaps most importantly, the legislation, through a variety of provisions and incentives seeks to promote new and improved service to small communities that may not have received adequate levels of service under regulation.

The airline industry, like the trucking industry, was virtually unanimous in its opposition to airline deregulation during the time Congress considered the issue. But, our experience to date with airline deregulation is that the industry is profiting from its new found competitive freedom—1978 was the most profitable year in the airline industry. More importantly, the consumer is reaping the benefits of greater travel options. Last year the traveling public saved an estimated $2.5 billion in the cost of air travel. And, despite the escalating price of fuel, lower fares continue to be introduced almost daily in more and more markets. In addition, contrary to the charges made by the trucking industry, small communities have not been harmed by deregulation.

Prior to the Airline Deregulation Act, more than 120 small communities had lost certificated air service over the previous ten years—an average of one per month. Since the Act, no small community has lost all of its air service. Commuter airlines—who are like the independent truckers of the airline indusrty—expand their services to these communities by offering more conveniently timed service to major connecting airports than was previously offered by the certificated and often federally subsidized airlines.

Deregulation of the airlines is working to the benefit of consumers and the industry. I am convinced that enactment of this legislation should lead quickly to similar benefits for the trucking industry, its users and the public at large.

Statement of Col. Frank Borman, Chairman and President, Eastern Airlines

As one who was originally opposed to the deregulation of the airline industry because of my concerns as to the possible adverse impact of unlimited route entry and pricing freedom on Eastern and our industry, I feel I must now go on record as stating that my fears proved groundless.

Deregulation, for the first time, gives us the ability to adjust our services and prices to conform to the needs of the marketplace. Consequently, in the eight months since the "Airline Deregulation Act of 1978" was enacted into law, Eastern has expanded its operations into a number of new cities and states; is providing a better service to the consumer at a lower price and has greatly enhanced its financial position.

The trucking industry is in many ways similar to our own and it is my sincere belief that it and the consumer will realize similar benefits through deregulation.

Statement of National Cattlemen's Association on "The Trucking Competition Reform and Safety Improvement Act of 1979"

At the most recent convention of the National Cattlemen's Association the following resolution was adopted by the members in attendance:

"Deregulation of Surface Transportation—

Whereas, The removal of regulation on rate determination and entry into transportation of processed agricultural products such as feed, feed ingredients, meat, processed food and manufactured goods used in agricultural production would benefit both consumer and producer;

Now, therefore be it resolved, That NCA endorses the principle of freedom of entry into surface transportation and the institution of flexibility in rate making;

Be it further resolved, That NCA endorses the enlargement of "exempted agricultural commodities" to include feed, feed ingredients, meat, processed food and manufactured goods used in agricultural production."

From this resolution, it may be observed that the NCA is in support of the overall concept "The Trucking Competition Reform and Safety Improvement Act of 1979". We feel that the substantial removal of regulations affecting truck transportation will benefit both producers and consumers with the resulting efficiencies and rate flexibilities.

We especially applaud section 105(b) which is a substitute for Section 49 USC 10526(a)6. This expanded commodity exemption can provide for a much greater utilization of trucks involved directly or indirectly in agriculture. It becomes particularly critical during the current energy crisis when fuel savings are so desperately needed. Just the application of this to backhaul ability would be a tremendous energy saver.

The NCA hopes that the legislation when introduced will move quickly through the Congress.

The Trucking Competition and Safety Act of 1979: Benefits for Agriculture and Rural Areas

The Administration Bill to reform regulation of interstate trucking is beneficial for agriculture. It contains several provisions that will ease some of the problems in agricultural and other rural trucking.

The trucking industry is a vital component of the transport system serving agriculture. Trucks haul practically all of the milk, poultry, eggs, and livestock; about 90 percent of the fresh fruits and vegetables; about 85 percent of the meats; and most of the short-haul grain.

Truck movement of unmanufactured products of agriculture, such as fresh fruits and vegetables, now move unhampered by the rate, route, service, and entry restrictions of the Interstate Commerce Act that apply on other trucking. The "agriculture exemption" includes frozen poultry, but not fresh red meats; cooked fish, but not canned vegetables; grain, but not feed; etc.

The "agricultural exemption" has worked very well. Agricultural interests have been firm ever since 1935 in their support of the exemptions. Studies have found that exempt trucking provides efficient and adequate service at reasonable rates and with returns to truckers sufficient to sustain a competitive trucking environment.

We in agriculture therefore expect to benefit from the provisions of the bill that provides exemptions to the trucking of all food products of agriculture and of farm supplies: not only do these exemptions promise direct benefits in the form of readily available and reasonably priced trucking services for these commodities, but also certain problems affecting the transportation of these commodities will be solved. The rapidly shifting markets for regulated agricultural commodities, especially red meats, have often caused shortages of truckers with operating authorities to serve new markets. At times, meat processors have had to cease operations because of truck shortages. In the case of feeds and fertilizers that have moved to local distributors by rail, rail line abandonments have on occasion left voids in for-hire transportation links to these distributors. These supplies could become backhauls for grain truckers who now return empty. Exemptions for food products and farm supplies in this Bill therefore are most welcome.

These provisions for new exemptions promise some savings in direct transportation costs for these commodities. Perhaps equally important, they will make it more feasible for agricultural cooperative and exempt truckers to arrange more nearly profitable loads in both directions and therefore help to lower costs of transportation for currently exempt commodities. The necessity to return empty or to trip lease at low rates for return to origins of currently exempt commodities has been a problem with agricultural trucking up to present. This problem will be partially solved immediately upon enactment of this Bill by the new exemptions provided, and further relief will come in the future when all truck load trucking is exempted.

In addition to the provisions of direct and immediate benefit to agriculture and consumer represented by the provisions on cooperative trucking (removing the 15 percent restriction on nonfarmer, nonmember trucking) and the agricultural exemptions, trucking in rural areas also will improve as a consequence of the following provisions:

Motor Carrier Policy.—The national transportation policy is to be amended to include as a criterion of public interest the encouragement of entry to and additional service for small or isolated communities.

Restriction Removal.—All restrictions on route of travel and intermediate stops, which limit a carrier's opportunity to serve small or out-of-the-way towns, are to be removed.

Entry.—Fitness is to be the only test for entry into the trucking industry for the purpose of serving areas not otherwise served or as a substitute for abandoned rail service. Also, improved service to small communities is specifically included as a criterion of public convenience and necessity where such entry test is to be applied.

Small Package Exemptions.—All items weighing less than 500 pounds are to be exempted from regulation, thus enhancing the opportunities for bus companies to provide increased small-package freight service to small towns.

We in agriculture believe that these several provisions will increase the efficiency of agricultural and rural area trucking to the benefit of farmers and consumers, and relieve some wastes in trucking that contribute to unnecessary energy use.

National Farmers Organization,
Washington, D.C., June 20, 1979.

The President,
The White House,
Washington, D.C.

Dear Mr. President: The trucking industry is a vital component of the transportation system serving agriculture. Practically all our livestock, milk and other perishable products must move to market by this means. Our grain crops first move by truck to reach the railroad and barge points that serve both domestic and export trade.

Today we have NFO livestock and milk shipping points that serve our members, closed down in several states because of inadequate diesel supplies. The effect of escalating prices and uncertainty of supply threatens to immobilize the movement of food from the first processing points. This is backing up our movement of products from the farms.

This movement of raw agricultural commodities and the next customary transportation of food through the chain are rapidly approaching a crisis.

We welcome and support your proposal to reform regulation of interstate trucking. The proposal to expand the agricultural exemption to food products and farm supplies should contribute directly to lower costs for the ultimate consumer. The thrust of the bill should also enable certain elements of the trucking industry, that are now endangered economically, to survive in a fair and competitive market environment.

Specifically, we believe the provisions of the draft bill will permit carriers of exempt commodities to arrange more nearly profitable loads in both directions. Service for small communities in rural areas should be improved by removal of restrictions on route of travel and intermediate stops. Modification of entry requirements should provide relief for those communities suffering the loss of rail branch line service.

We welcome the opportunity to analyze the bill in more detail and urge its early consideration in the Congress. You are to be commended for initiating this action that may lead to remodeling the regulation of the trucking industry. As farmers and ranchers, we are vitally concerned that adequate service be available at reasonable costs. We have a great deal of common interests with the independent truckers and propose to follow the progress of the draft legislation closely in the Congress.

Sincerely,

Charles L. Frazier,
Director, Washington Office.

National Association
of Manufacturers,
June 20, 1979.

The President,
The White House,
Washington, D.C.

Dear Mr. President: The National Association of Manufacturers is pleased that you, along with Senator Edward Kennedy, are proposing legislation which would substantially reform the trucking industry. The Association's members are among the largest users of the freight transportation system. Enactment of legislation to improve the efficiency of the trucking industry is a priority item for NAM.

We believe that effective competition is essential to a strong freight transportation system, and that statutory and administrative regulation should be held to a minimum consistent with operational safety and continuance of service in the public interest.

We believe that the following elements are vital to regulatory reform of the trucking industry:

Remove barriers to entry and competition by existing and new firms

Insure service to small and rural communities

Increase pricing flexibility; and

Reform of antitrust immunity for collective ratemaking activities of carriers

The present draft bill is consistent with these principles, and we wish to emphasize our support for them.

We applaud the efforts of the Administration and Senator Kennedy in taking this important step toward reform of the trucking industry. We look forward to working together on this most crucial regulatory reform proposal.

Sincerely,

R. Heath Larry,
President.

National Federation of
Independent Business,
June 18, 1979.

President Jimmy Carter,
The White House,
Washington, D.C.

Dear Mr. President: NFIB, on behalf of its 580,000 small and independent business members, strongly supports the trucking deregulation legislation your Administration is announcing.

This legislation attacks inflation and strengthens free competitive enterprise. We believe it will reduce trucking costs, provide better trucking service, and create new trucking opportunities for small entrepreneurs. These results are good for small business and good for the public.

NFIB commends you for action to attain trucking deregulation and looks forward to working with your Administration and other proponents in order to achieve it.

With best wishes.

James D. "Mike" McKevitt,
Washington Counsel.

Consumer Federation of America,
Washington, D.C., June 21, 1979.

Consumer Federation of America, the nation's largest consumer organization, consisting of 240 national, state and local organizations which collectively represent over 30 million Americans, today applauded the joint efforts of the White House and Senator Edward M. Kennedy in moving to deregulate the trucking industry and thus reduce a significant component of the current inflation spiral.

"We commend the President and Senator Kennedy for working jointly on a comprehensive program that, as we understand from the summary of the legislation would include the removal of inflationary backhaul restrictions and costly intermediate stop prohibitions," remarked Kathleen F. O'Reilly, CFA's Executive Director.

O'Reilly referred to estimates by the Federal Energy Administration that 26% of the carriers are now returning empty to their destinations and that the American consumers could realize a savings of $300 million each year in food costs alone if ICC regulations were altered to reduce such empty backhauls of trucks carrying farm produce.

O'Reilly pointed out that such estimates can no longer be considered speculative. "The record of increased competition and reduced prices resulting from judicial removal of the anti-trust exemption is dramatic. For example, when the Supreme Court ruled that regulation of the transportation of raw dressed chickens did not come within the Interstate Commerce Commission's jurisdiction, their surface transportation costs were lowered by 35%. When the Supreme Court made a similar ruling with regard to frozen fruits and vegetables, prices were lowered 20–30%."

"CFA intends to work with both the Administration and Senator Kennedy in ensuring the rapid passage of this, a most important bill to all consumers," she stated.

National Agricultural
Transportation Alliance,
June 20, 1979.

President Jimmy Carter,
c/o Mr. Jim Scott, Room 121, Old Executive Office Building, Washington, D.C.

Dear Mr. President: This is to offer our support and encouragement to the Administration's initiative to lessen entry and rate regulation in the trucking industry.

This marks the first major improvement within the trucking industry in over forty-four years and this administration should be particularly congratulated by every consumer for having the courage and foresight to present such a bill at this time. It is estimated that trucking regulation cost the consumer from 500 million to 4 billion dollars per year, and this is a definite step to reduce this exorbitant cost.

We are especially pleased to see expansion of the agricultural exempt sector, including opening up to some extent the much needed backhauls for food carriers.

Movement toward regulatory reform, particularly expanding the ICC-exempt areas, will benefit the owner operator, the farmer, and others engaged in bringing food to America, and ultimately and more importantly the consumer.

We look forward to Congressional hearings, and to having an opportunity to comment further on particulars of the proposal. We hope that Congress will act upon it quickly.

Sincerely yours,

Donald R. Chichilla,
President.

SALT II STATEMENTS OF WITNESSES IN FOURTH WEEK OF HEARINGS BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE

● Mr. CHURCH. Mr. President, I ask that the statements of the witnesses appearing before the Committee on Foreign Relations during its fourth week on the SALT II Treaty be printed in the Record.

The fourth week of witnesses included: Tuesday, July 31, the Honorable Henry A. Kissinger, Former Secretary of State; Wednesday, August 1, the Honorable Stansfield Turner, Director, Central Intelligence Agency. Adm. B. R. Inman, Director, National Security Agency; Gen. Eugene R. Tighe, Jr., Director, Defense Intelligence Agency; Thursday, August 2, the Honorable John J. McCloy, Coordinator of U.S. arms control activities, 1961–63, and former U.S. Military Governor and High Commissioner for Germany; Gen. Alexander Haig, retired, former Supreme Allied Commander, Europe. Some of the above-listed witnesses did not have prepared statements.

The Foreign Relations Committee will begin its second phase of hearings the 4th of September. It is our intention to conduct a series of public hearings with witnesses from various nongovernmental organizations who are interested in the SALT II Treaty. In addition, we will have executive sessions with Government and non-Government witnesses to discuss certain details of the treaty. And, we will recall, in public session, the Secretary of State, Secretary of Defense, and other individuals for public comment on the treaty.

Mr. President, I ask that the statements of the witnesses be printed at this point in the Record.

Statement of the Honorable Henry A. Kissinger, With Respect to the Treaty on Strategic Arms Limitation

THE PROBLEM OF SECURITY

In his essay *Perpetual Peace* the philosopher Immanuel Kant wrote that world peace would come about in one of two ways: after a cycle of wars of ever increasing violence, or by an act of moral insight in which the nations of the world renounced the bitter competition bound to lead to self-destruction.

Our age faces precisely that choice. For the first time in history two nations have the capacity to inflict on each other and on mankind a level of destruction tantamount to ending civilized life; yet they have also before them unprecedented possibilities of cooperation to harness the wonders of technology to improve the human condition.

Both mankind's hopes and fears are bound up with the relationship between the United States and the Soviet Union. These two countries possess huge nuclear arsenals; they also espouse sharply opposing concepts of justice and hold conflicting visions of the future. The ideology of Soviet leaders does not make them content to practice their preferred social system at home; they strive for its victory worldwide. Hence the Soviet Union and America clash in areas that each considers vital. We have allies whose interests we will not sacrifice. Soviet allies such as Vietnam and Cuba are quite capable of generating crises of their own, all too frequently encouraged by Moscow to do so.

The peace we seek therefore must rest on something more tangible than a hope or a fear of holocaust. It must also reflect a military and geopolitical equilibrium. The notion of balance of power has always been unfashionable in America. But it is the precondition of security, and even progress. If the mere avoidance of conflict becomes our overriding objective, and if our own military power is disparaged, the international system will be at the mercy of the most ruthless. If the desire to conciliate becomes the sole operational basis of policy, we run the risk that the threat of war will become a weapon of blackmail; our allies and our moral values will both be permanently in danger. The desire for peace will be transformed into a caricature of itself, and become instead the beginning of appeasement. How to strive for both peace *and* our moral principles: how to avoid nuclear war without succumbing to nuclear blackmail—this is the overwhelming problem of our period.

The United States must proceed simultaneously on three fronts:

First, we must maintain a military balance that does not tempt aggression against our friends or allies, against our vital interests, or in the extreme case against ourselves.

Secondly, beyond resisting naked aggression, we have a stake in the principle that political or economic pressure, or military or terrorist blackmail, not become the arbiter of the world's political disputes. The geopolitical equilibrium must be maintained lest radical forces hostile to the West gain such momentum that they appear as the irresistible wave of the future.

And thirdly, on the basis of a balance thus achieved and preserved, we must be ready to explore routes to genuine peaceful coexistence. The great powers, having learned that they cannot dominate each other, must practice moderation and ultimately cooperation. The creativity of a world of diversity and peaceful competition can be the basis of unparalleled human progress. A stable balance is the most hopeful—perhaps the only—basis for the control and ultimately the reduction of weapon of mass destruction.

Too often these requirements are posed in the alternative. But the quest for security and for peace are inseparable; we cannot achieve one without the other. No democracy can court conflict. Our government will have support in resisting challenges to our vital interests only if confrontation is seen to have been unavoidable. Our people have a right to expect of their government that it will explore all avenues to a genuine peace. And our allies will insist on it.

The new Treaty poses a particularly complex problem for me. When I was a professor, I participated in the academic discussions of military doctrine and strategy that underlay early initiatives in arms control. I helped design the first SALT agreements in 1972. I was involved in the negotiations of the Vladivostok accord of 1974 which marked the first breakthrough of SALT II; I played a major role in the negotiations which came close to completing an agreement in January 1976. I have a long-standing personal commitment to the process of limiting strategic nuclear arms. As an historian I am conscious of the lessons of World War II when a global war resulted because the democracies disdained to maintain the balance of power. But equally we must not forget the tragedy of World War I: when disaster resulted even with an equilibrium of power, when technology and rivalry outran the control of statesmen.

Thus SALT cannot be considered in isolation. It is one element in our overall national security policy. It must be viewed in the context of the global balance that it reflects, or purports to affect.

Thus I regret to have to say that the present Treaty comes up for ratification at a time of grave danger to our national security and to the global equilibrium. The military balance is beginning to tilt ominously against the United States in too many significant categories of weaponry. The unprecedented Soviet use of proxy forces in Africa, the Middle East, and Southeast Asia, and the turmoil caused by radical forces and terrorist organizations sponsored by Moscow's friends, mark ours as a time of profound upheaval. We have learned painfully that we alone cannot be the world's policeman. But neither our moral values nor our safety can tolerate the Soviet Union's increasing tendency toward global intervention. As the United States nurses its wounds after Vietnam, radical forces are threatening regional stability and attempting the violent overthrow of moderate governments friendly to the West. If present trends continue, we face the chilling prospect of a world sliding gradually out of control, with our relative military power declining, with our economic lifeline vulnerable to blackmail, with hostile forces growing more rapidly than our ability to deal with them, and with fewer and fewer nations friendly to us surviving.

In addressing the Treaty before you, I respectfully submit, the Senate has a responsibility to examine the broader condition of our national security. The Senate has an opportunity at least to begin to reverse the unfavorable trends in the military balance and to put the Soviet Union on notice that we consider the constant probing of every regional equilibrium and the encouragement of subversive and terrorist groups as incompatible with any definition of coexistence. Without such an affirmation, SALT will become a soporific, a form of escapism. I shall submit specific proposals to achieve this, later in the statement.

THE SHIFTING STRATEGIC BALANCE

The basic technical facts about the current military balance have been presented in great detail before this and other committees. Let me concentrate first on the serious transformation, adverse to our interests, that has taken place in the overall strategic balance during the last decade and a half.

For about the first twenty-five years of the postwar period, the problem of maintaining the military equilibrium was relatively straightforward. The Soviet Union was always superior in ground forces on the Eurasian continent; we were vastly ahead in strategic striking power as well as in theater nuclear forces. The reach of the Soviet Union was limited to regions accessible to motorized ground transport, generally adjacent territories in Europe and to some extent China. Africa, most of the Middle East, even Southeast Asia were beyond the capacity of major Soviet military intervention. And the areas which were hostage to Soviet ground armies were protected by three factors:

First, by the American preponderance in strategic nuclear striking power capable of disarming the Soviet Union or at least reducing its counterblow to tolerable levels while still retaining large residual forces for attacks on industrial targets;

Second, by a vast American superiority in so-called theater nuclear forces everywhere around the Soviet periphery.

And thirdly, in Europe by substantial American and allied ground forces that posed at least a major probability that Soviet ground attack would trigger the nuclear retaliation of the United States.

Not surprisingly, the major crisis in the first twenty years of the postwar period—whether in Berlin, Korea, or Cuba—were ultimately contained, because the risks of pushing them beyond a certain point always appeared exorbitant to Moscow.

This state of affairs will soon have ceased to exist. Starting in the 1960's, the military balance began to change—almost imperceptibly at first, so great was our superiority—but with growing momentum in recent years. It is imperative that we recognize without illusion the dangerous trends that are emerging. It is crucial that we begin now to rectify them.

The growth of Soviet strategic nuclear forces has been inexorable for a decade and a half. In 1965 the Soviet strategic arsenal comprised about 220 Intercontinental Ballistic Missiles (ICBMs) and 100 Submarine-Launched Ballistic Missiles (SLBMs). By 1968 and number had grown to 860 ICBMs and over 120 SLBMs. We had stopped our build-up at 1,054 ICBMs and 656 SLBMs 1967. By mid-1970 the Soviet had caught up with us in numbers of launchers. Our intelligence estimates of their plans invariably turned out to be too low; contrary to popular mythology the Soviets *did* build on the scale of the "worst case" hypothesis of our intelligence community and not to the level that was defined as "most probable."[1] Instead of stopping when they reached parity with us, as the Johnson Administration expected, the Soviets *continued* their missile build-up—until they were frozen at the levels of the ceilings established by the first SALT agreement in May 1972. Then they switched energetically to qualitative improvements in their missile forces.

Our problem derives not only from the larger number of warheads on Soviet ICBMs but above all from the difference in the types of weaponry emphasized by the two sides. In the Sixties, the United States unilaterally decided to base its strategic forces on light but highly accurate ICBMs, the less vulnerable but also less accurate SLBMs, and the more versatile but more vulnerable manned bombers. The Soviets made the opposite decision, relying on large land-based missiles capable of delivering a far heavier payload. At first the crudeness of their technology and the lack of accuracy deprived these

---

[1] See Albert Wohlstetter, "Is There a Strategic Arms Race?" *Foreign Policy*, No. 15 (Summer 1974), pp. 3–20; "Rivals, But No 'Race,'" *Foreign Policy*, No. 16 (Fall 1974), pp. 48–81.

weapons of effectiveness against military targets. But as Soviet technology improved, its advantage in numbers and missile payload was bound to tell. For the land-based ICBM is always likely to be the most accurate and powerful strategic weapon, and the one most capable of a rapid attack against the military targets of the other side. In short the Soviets have emphasized quick reaction forces by modernizing their ICBMs; we concentrated on slow-reacting forces like air-launched cruise missiles. Thus the asymmetry in the capacity of the two sides to destroy each other's military targets has grown with every passing year.

There is now general agreement that their improvements in missile accuracy and warhead technology will put the Soviets in a position to wipe out our land-based forces of Minuteman ICBMs by 1982. Whether this capability is ever exercised or not—and I consider it improbable—it reverses and hence revolutionizes the strategic equation on which our security and that of our friends have depended through most of the postwar period.

The revolution in the strategic balance is aggravated by a comparable build-up of Soviet aircraft and missiles that threatens to overturn the American advantage in theater-based nuclear forces. The Soviet Union has deployed scores of new missiles of 2000-mile range—the SS-20—which carries a MIRVed warhead of three reentry vehicles. Several hundred supersonic Backfire bombers will threaten all peripheral areas in the Eighties (leaving aside for the moment their utility for intercontinental missions). A Soviet superiority in theater striking forces is therefore upon us. The inequality is demonstrated by the fact that we have had to assign part of our strategic forces—a number of Poseidon boats—to cover targets threatening NATO. Thus in case of war we are likely to be strained either with respect to our strategic or with respect to our theater nuclear coverage.

All this has been accomplished while the Soviet advantage in conventional forces has grown, and while the reach of Soviet power has been extended enormously by the rapid development of the Soviet Navy, an expanding long-range airlift capability, the acquisition of Soviet bases in countries like South Yemen and Vietnam, and the establishment of vast Soviet arms depots in such countries as Libya and Ethiopia, which will enable the Soviet Union to move its own or proxy troops rapidly to their prepositioned weapons. At the same time our Navy declines and our access to overseas bases shrinks.

Rarely in history has a nation so passively accepted such a radical change in the military balance. If we are to remedy it, we must first recognize the fact that we have placed ourselves at a significant disadvantage voluntarily. This is *not* the result of SALT: it is the consequence of unilateral decisions extending over a decade and a half: by a strategic doctrine adopted in the Sixties, by the bitter domestic divisions growing out of the war in Vietnam, and by choices of the present Administration. All these actions were unilateral, hence avoidable. They were not extracted from us by clever Soviet negotiators; we imposed them on ourselves by our choices, theories, and domestic turmoil. It is therefore in our power to alter them.

The prevailing American strategic doctrine of the Sixties went under the modest name of "assured destruction." According to it, deterrence was guaranteed so long as we possessed the ability to destroy a predetermined percentage of Soviet population and industrial capacity. Strategy thereby turned into an engineering problem, an economic analysis essentially independent of the size of the opposing forces. So long as enough of our weapons survived to wreck the theoretically calculated havoc, deterrence would be maintained; our military effectiveness was essentially independent of the threat we faced; the vulnerability of part of our forces—such as our ICBMs—was irrelevant so long as enough warheads would remain to inflict an "unacceptable" amount of damage on the Soviet Union.

This doctrine not only took for granted continued Soviet inferiority in technology; it also ignored the psychological inhibitions in the way of implementing such a strategy. The targeting scenarios developed from this doctrine left a President with no other options in a crisis but the mass extermination of civilians, or capitulation. This strategy was morally questionable even in an era when we had superiority. In an age of strategic equality it would be a formula for mutual suicide.

The emergence of a new strategic nuclear environment should have forced a reconsideration of this targeting doctrine and a renewed attention to regional nuclear and conventional balances. Unfortunately, at the precise moment that such a reexamination became urgently necessary, all our defense programs came under systematic attack as a byproduct of the bitter domestic debate over Vietnam. On the one hand, the Vietnam war reduced funds available for modernization of our military forces; even more important, the wholesale assault on defense spending and programs jeopardized even those major projects for which funds were available and budgeted. New weapons were decried as excessive, as symptoms of a military psychosis, as wasteful and dangerous. "Reordering national priorities" was the slogan of the day; it was the euphemism for cutting the defense budget. The ABM passed by only one vote and was then emasculated in the appropriations process; the C-5A transport aircraft which later saved an ally in the 1973 Middle East war was challenged repeatedly on budgetary grounds; MIRV's, the only strategic system available to us to offset the Soviet numerical superiority in the 1970's, were under constant attack. In the realm of strategic doctrine, paradoxically it was those most alarmed at the arms race who clung to the most bloodthirsty targeting strategies, in the hope that these would obviate the need to strengthen or increase our strategic forces.

In this atmosphere, maintaining even the strategic forces inherited from the Sixties absorbed the energies of the Administrations up to the end of the Vietnam war; obtaining funds for new programs was enormously difficult. The best that could be accomplished in the early 1970's was to alter the older strategic doctrine and shift targeting from civilian to military objectives. (Paradoxically, however, the decline of our capability for a counterforce strategy turned even the more sophisticated targeting into a high-risk tit-for-tat option with no logical stopping place.)

After the end of our involvement in Vietnam, new strategic programs could at last be funded: the B-1 manned strategic bomber, to become operational in 1979; the MX ICBM, to become operational in 1983; the Trident submarine and missile, expected to become operational in 1978; various kinds of cruise missiles for the 1980's—all of which would give the United States greater options and some of which would bring about a new counterforce capability.

Every one of these programs has been cancelled, delayed, or stretched out by the current Administration, so that we are at a point where only the Trident (with only the most limited counterforce capability) can be operational during the period of the projected SALT Treaty. In addition, even the Minuteman production line was closed down, leaving us without an emergency hedge for rapid build-up in unexpected contingencies. We now face the challenge of the early Eighties with forces designed in the Sixties. We have been able to develop new programs in only four years out of the last fifteen, and most of them have been held in abeyance since 1977.

Furthermore, a remedy will be more difficult if the Administration intends to return to the pure "assured destruction" strategic doctrine. In his State of the Union address last January 23, President Carter proclaimed that "just one of our relatively invulnerable Poseidon submarines . . . carries enough warheads to destroy every large and medium-sized city in the Soviet Union."

But this truism demonstrates rather than solves our strategic dilemma. Even under SALT conditions we will have in the early Eighties at best equality in the capacity of our strategic forces to inflict civilian damage, and a clear inferiority in the ability to attack and destroy the land-based missiles of the other side. Our Minuteman missiles do not carry sufficient warheads or possess adequate throwweight for a disarming attack against Soviet ICBMs; our present strategic forces can put at risk less than one-half of Soviet ICBMs. All of our ICBMs will in the Eighties be vulnerable to an attack by the greater numbers of missiles and warheads, and improving accuracy, of Soviet land-based missiles.

Since our modern military doctrine and strategy have depended much more on strategic forces than those of the Soviets, even overall equality revolutionizes the postwar security and geopolitical structure. But in fact the situation is worse. My principal worry is not only the growing vulnerability of our land-based forces—though this must be remedied—but the growing invulnerability of Soviet land-based forces. The deterrent effect of our strategic forces in defense of allies will continually decline; our strategic forces will surely lose their ability to offset the Soviet capacity for regional intervention. And this capacity will be reinforced by the growing edge in Soviet theater nuclear forces, a naval and airlift capability which immeasurably extends the research and preponderance of Soviet conventional power.

I want to reiterate that it is not necessary for present purposes to debate whether the Soviet Union would in fact run a risk of war on the global level; it will be grave enough if the Soviet willingness to run risks in regional conflicts is magnified. And that seems to me the minimum consequence of what is ahead. The side that can defend its interests only by threatening to initiate the mutual mass extermination of civilians will gradually slide towards strategic, and therefore eventually geopolitical, paralysis. The consequence, to put it bluntly, is that in the 1980's regional conflicts—whether deliberately promoted or not—threaten increasingly to grow out of control unless we drastically reverse the trend. We cannot possibly continue to gamble with inferior forces for regional defense, a shifting balance in theater nuclear forces, vulnerable land-based strategic forces, and invulnerable Soviet ICBMs without courting the gravest dangers. The decline in relative power must be dramatically reversed.

Even more important is a strategic doctrine which answers the following questions:

(1) How in the Eighties will we safeguard our national security when we face adverse trends in every significant military category?

(2) How will we fulfill our commitments to our allies in the absence of a significant counterforce capability, when strategic parity is at best tenuous and the theater nuclear balance is turning against us?

(3) How will we protect our vital interests in areas such as the Middle East with our present conventional forces, airlift, and declining naval capability?

(4) How will we prevent global blackmail? Our safety and that of all of those who

depend on us depends on the response. Every day we delay in dealing with the issue magnifies our peril.

The Senate therefore cannot deal with the SALT Treaty in a vacuum; it must simultaneously seek to restore the military and geopolitical balance. No responsible leader can want to face the 1980's with the present military prospects. This, and not SALT in isolation, is the principal problem facing us.

SALT IN THE CONTEXT OF AMERICAN STRATEGY

The idea of arms control developed in the late Fifties and early Sixties. The underlying rationale derived from the indisputable fact that thermonuclear weapons and intercontinental missiles have added a new dimension of peril to the historical problem of military rivalry. In the past it could be argued that weapons were a symptom rather than a cause of tension. Indeed it is difficult to find an historical example for the cliché that arms races cause wars. (What caused World War I was mobilization schedules, not the rate of increase of armaments.) But today, indeed, the nuclear age combines weapons of unprecedented destructive power, extremely rapid modes of delivery of intercontinental range, and high vulnerability to a surprise attack.

In these new and unprecedented circumstances, the conclusion seemed inescapable that the side whose capacity for retaliation was vulnerable must react in crises in ways which would heighten the likelihood of cataclysm; a country whose strategic forces were not secure could be driven, even against its will, to strike first rather than await the opponent's attack which it would know it could not survive. In the late Fifties, one of the most brilliant students of deterrence, Albert Wohlstetter, correctly perceived that what Churchill called the "balance of terror" was perilously delicate. Arms control sought to circumscribe and if possible eliminate this danger by measures that would enhance each side's "second-strike capability," that is, its secure capacity to retaliate, thereby reducing the incentive and capacity for surprise attack.

This analysis was essentially correct. At the same time this novel military doctrine—according to which an adversary's invulnerability was thought to add to stability—was combined with "assured destruction" reasoning to produce a kind of "minimum deterrence" theory by which we allegedly had no need to consider the threat posed by the level of Soviet forces. Even theorists of arms control who valued maintaining the strategic balance only dimly perceived that the strategic stability they sought implied a strategic revolution. For if attained, it would greatly magnify the danger at levels of violence below that of general nuclear exchange. If crises no longer produced fear of escalation to all-out war, they would also grow more likely. Thus even strategic stability (not to speak of a Soviet edge) would require new major military efforts by us on the regional level or else major political weakness would result. Above all it was erroneously assumed the Soviets held a similar view. In fact, there was no evidence that Soviet strategic planners—almost all military men—subscribed to the academic subtleties of American strategic theory. As Secretary Harold Brown has said, our unilateral restraint does not seem to be reciprocated by the Soviets: "We have found that when we build weapons, they build; when we stop, they nevertheless continue to build. . . ."[2]

As one of the architects of SALT, I am conscience-bound to point out that—against all previous hopes—the SALT process does not seem to have slowed down Soviet strategic competition, and in some sense may have accelerated it. The Soviets worked hard and successfully to enhance the first-strike capabilities of their land-based ICBMs despite our restraint and within the framework of SALT. The Administrations of the early 1970's of which I was a member sought to use SALT to demonstrate their commitment to easing tensions and thereby restore a public consensus behind a strong national defense; to some extent we succeeded. But we will not draw the appropriate conclusion if we do not also admit that SALT may have had a perverse effect on the willingness of some in the Congress, key opinion makers, and even Administration officials to face fully the relentless Soviet military build-up.

New weapons systems have long had to overcome the traditional objection of advocates of "minimum deterrence" that they were unnecessary (because we already possessed an "overkill" capability); they were now also attacked by arms control experts as endangering the prospects of SALT. Indeed, many new programs could be put through the Congress less on their merits than as a "bargaining chip"; they were needed, various Administrations argued, so that they could be traded in a negotiation. Whatever the tactical utility of this argument, it tended to reduce the energy which such programs were pursued. The Pentagon found it difficult to muster enthusiasm—or scarce resources—for programs which were ephemeral by definition. After a while the Soviet Union began to play the game deliberately: from ABM to cruise missiles it systematically sought to use SALT to inhibit our military and technological development; it tried to fuel our domestic debate, adding its own propaganda pressures to domestic pressures against new weapons systems.

The theory that new American weapons weakened the prospects of arms control thrived despite all evidence to the contrary. In 1967, before we had an ABM program, when President Johnson suggested to Soviet Premier Kosygin at Glassboro that both sides renounce ABMs, Kosygin contemptuously dismissed the idea as one of the most ridiculous he had ever heard. By 1970, after the Nixon Administration had narrowly won its Congressional battle for funding of an ABM, Soviet SALT negotiators refused to discuss any subject except ABM, and it required the most strenuous negotiating efforts to maintain the crucial linkage between offensive and defensive limitations. Conversely, neither the abandonment of the B-1 by the current Administration, nor its stretch-out of the MX missile, nor the slowdown in the Trident program, speeded up SALT negotiations or improved the terms.

The SALT negotiations have always proceeded against the background of the strategic balance as it existed, and must be considered in this context.

The negotiations for SALT I grew out of the ABM debate of the 1960s: whether the U.S. should follow the Soviet lead and build a defense against ballistic missiles, or try to head off such a new competition by negotiating some limits with the USSR. After considerable Soviet stalling, to see whether Congress might kill the ABM without any need for Soviet reciprocity, the SALT negotiations began in November 1969. Almost from the outset it was apparent that the only system the Soviets were eager to limit by negotiation was the sole system we were building—the ABM. In the 1972 ABM treaty both sides agreed in effect to leave themselves indefinitely vulnerable to missile attacks; ABMs were restricted to a token deployment at one site (which we then unilaterally abandoned for budgetary reasons). In effect we traded our superior ABM technology for a halt to the numerical build-up of Soviet offensive forces.

To restore equality in this critical area—strategic offensive forces—proved to be enormously difficult, largely due to the unilateral decisions of the Sixties that stopped both our ICBM and SLBM programs by 1967. As I have said, in pure numbers of offensive missiles the Soviets passed the United States in 1970; in this category we had no bargaining chips. Our only active program was adding multiple warheads (MIRVs) to our land- and sea-based missiles. The Soviet numerical building program was so considerable, and Congressional opposition to comparable American programs was so unrelenting, that it was the Defense Department which in July 1970 and then again in January 1972 urged a five-year mutual freeze on offensive weapons, primarily to arrest the momentum of the Soviet build-up and to give us an opportunity to catch up.

The first SALT agreement on offensive weapons was thus a photograph of the existing balance, not an alteration of it: it froze the numbers of American and Soviet land- and sea-based missiles for five years. The numerical balance was favorable to the USSR in the same proportion that the previous decade of unrestricted arms competition had produced. Because of our MIRV program, the United States retained a substantial advantage in numbers of warheads for the lifetime of the Interim Agreement and beyond. The criticism later heard, that SALT I "gave" the Soviets unequal numbers, missed the central point: what had produced the Soviet numerical edge was not SALT I but the unilateral American decisions of the Sixties to stop our strategic building programs, and then the Congressional and public attacks on the defense budget growing out of the Vietnam war. The 1972 SALT agreement curtailed no American offensive program; it did halt the numerical growth of the Soviet strategic forces. It gave us an opportunity to catch up—which we sought to do by pushing the development of the B-1 slated to be operational in 1978, the Trident submarine and missile planned for 1979, the MX missile for 1983, and a variety of cruise missiles for the early Eighties.

But the simple Interim Agreement of SALT I could not deal with—nor did it pretend to address—the rapid evolution of technology. Modernization of existing weapons was allowed, and both sides proceeded apace with new programs. The US funded its MIRV program, and the Soviets developed a new generation of ICBMs; in doing so they pushed to its outer limit the SALT I provision restricting conversion of "light" to "heavy" missiles. It was these larger missiles (the SS-17, 18 and 19), soon equipped with MIRVs, and with the potential of greatly improved accuracy, that were bound to give the Soviets for the first time in history a capacity to launch a first strike against our land-based missiles.

These trends, which would eventually put our force of ICBMs into jeopardy, led us first to undertake a complex but eventually fruitless negotiation to set a low, long-term ceiling on Soviet missile capabilities both in numbers and in quality. For a time these negotiations seemed promising; but they fell victim to the collapse of executive authority resulting from Watergate. In the wake of President Nixon's resignation, it seemed prudent to pick up the thread of a simpler agreement that at least consolidated numerical equality, and then to move as quickly as possible in SALT III into the more intricate discussions of the qualitative factors (missile accuracy, throwweight, number of warheads, testing limits and so forth). Thus, in November 1974 in Vladivostok, President Ford pressed for an agreement based on equal aggregate ceilings, and the Soviet Union accepted our proposal. A framework accord was reached specifying strict equality of 2400 missiles and strategic bombers for each side, and an equal limit of 1320 missiles with

---

[2] Statement of Secretary Brown before the Senate Foreign Relations Committee, July 9, 1979.

MIRVs, in an agreement to run through 1985.

The Ford Administration had first hoped that a treaty implementing the Vladivostok accord could be completed in 1975. But two new issues intervened to slow down the talks: first was the Soviet insistence that cruise missiles be entirely banned if they had a range of more than 600 kilometers (350 miles); second was the US counterdemand that the Soviet aircraft called the "Backfire" be counted as a "heavy" bomber and thus be included in the SALT totals. Inevitably the two systems became linked in the talks. Throughout 1975 and into early 1976, the US and the USSR made proposals to resolve the dispute. Basically, the Ford Administration was prepared to limit the range and number of some cruise missiles provided the Soviets would reciprocate by limiting the Backfire bomber in some comparable manner. In January 1976, we were close to a compromise along these lines which also would have lowered the Vladivostok ceilings of 2400 to "below 2300."

Two events prevented the completion of the negotiations. First, the introduction of 25,000 Cuban proxy troops in Angola raised serious doubts about Soviet motives and fueled a whole new debate in this country about US-Soviet relations. And the imminent American Presidential election convinced President Ford that it would be best to keep SALT from turning into a partisan issue and so to wait to conclude an agreement after the election.

The advent of a new Administration brought with it the obligatory new approach. The first proposal to Moscow in March 1977 abandoned the negotiations as they then stood. An entirely new proposal was submitted, immediately rejected, and quickly withdrawn. The parties returned to earlier proposals, and over two more years were spent refining the agreement. Meanwhile the presuppositions of that agreement were daily challenged by technological change, the pace of the Soviet build-up, and the unilateral abandonment or stretching out of major American weapons systems, all of which further tilted the strategic balance dangerously against us.

Three conclusions emerge: The imbalances we now face, and which concern so many, stem in essence from unilateral American decisions rather than from the SALT negotiating process. This is important when we consider the provisions of the SALT Treaty. No negotiation can achieve through diplomacy that for which we have been unwilling to make unilateral efforts.

Second, SALT by itself cannot bring about parity; it can only ratify trends which exist. SALT cannot be a substitute for defense programs. If we fall behind by our own actions, SALT runs the risk of perpetuating an inequality. But whether that comes about is up to us; and to avoid it must be a principal concern of the Senate.

Third, SALT III cannot simply be an extension of the previous process. It must be explicitly related to our long-term strategic program. Its principles must be clearly worked out between the Administration and the Congress and settled with our allies before we launch ourselves into it.

THE VIENNA TREATY: HOW DOES IT AFFECT THE STRATEGIC BALANCE?

We must now ask, how does the SALT II agreement affect the strategic balance? The agreement is composed of three documents:

The Treaty itself, running until the end of 1985, would limit the total numbers of ICBM and SLBM launchers (though the term is not defined); heavy bombers; MIRVed missiles; and land-based MIRVed missles. It also defines counting rules for MIRVed missiles and for heavy bombers equipped with air-launched cruise missiles.

Second is a Protocol that restricts cruise missiles other than on heavy bombers to a range of 600 kilometers (or 350 miles) and bans the testing and deployment of mobile ICBMs. The Protocol is supposed to expire on December 31, 1981.

Third is a set of principles to guide the negotiations for SALT III.

Any fair-minded analysis must recognize the beneficial aspects of the SALT II agreements. The overall ceiling of 2250 will force the Soviets to get rid of 250 strategic systems, including some modern ones, while giving us the right to equalize the numbers. The permitted number of land-based Soviet MIRVs (820) is some 100 below the maximum number that they probably intended to build in the absence of SALT. There are some restrictions on missile testing procedures. There are limits on numbers of missile warheads on ICBMs and a prohibition on more than one "new" ICBM. There is for the first time an agreed baseline of information on the Soviet forces. The counting rules are a useful way of dealing with the MIRV problem.

Regrettably none of these very real achievements affects the grave stratetgic situation which I have described and which must urgently be reversed. The Treaty does not reduce the Soviet first-strike capability against our land-based forces, or improve our ability to survive a first strike. It does not diminish the Soviet residual capability to destroy civilian targets in the United States. And it does not enhance—indeed it may slightly inhibit—the possibility for the United States to catch up in the capacity of our strategic forces to attack military targets.

To be sure, the Soviets will be obligated after 1981 to reduce the total number of their launchers by about 250. But the new ceiling of 2,250 will not limit the Soviets' ability to destroy our ICBM force or to inflict devastating damage upon the United States. The reduction in Soviet numbers is irrelevant to our strategic problem. For the danger to our security derives from warheads, not from launchers, and the Soviet total of ICBM warheads will increase from 3200 at the time of the signing of SALT II to over 6000 even after the reduction in Soviet launchers is supposed to take place; the total number of Soviet warheads (including SLBMs) will approach 12,000 in 1985 as compared to 8,000 at the time of the SALT signing. (In fact, if the Soviets went all out they could get 8,000 MIRVed warheads in the permitted new land-based missiles.) Moreover, the total Soviet missile throwweight will increase from about 6 million pounds at the time of the signing of SALT I, to 7 million pounds at the signing of SALT II, to 9 million pounds (compared to our 2.5 million) in 1985. And improvements in Soviet accuracy will approach ours by 1982; the practical effect of this will be to reduce the number of warheads that need to be aimed at our ICBM silos, freeing a larger number of the ever-increasing Soviet warheads for other targets.

The agreed ceiling, of course, is some 200 above the 2060 operational systems we now possess. We thus have some considerable room for expansion of single-warhead systems. But given the cancellation of the B–1 bomber, the delay in the operational date for MX, and the slow pace of Trident production, there is almost no chance that the United States can reach the permitted total of 2250 except perhaps by keeping in service ten older Polaris submarines (with 160 missiles); this the Navy is likely to oppose because of the heavy cost of operation and relatively short range of its missiles. The result, therefore, is that in practice the overall aggregate numbers will continue to be unequal.

The limitation of land-based MIRVed launchers to 820, which may be some 100 below the probable Soviet program, is equally welcome and similarly without significance to our fundamental problem. The Soviet Union can destroy our land-based ICBMs with about half of the land-based MIRVs permitted by the Treaty; this would leave over 300 Soviet land-based MIRVed launchers, 380 sea-based MIRVed systems, and some 500 single-warhead systems—or well over 5,000 warheads—aimed at our civilian population and industrial potential. (By contrast, if we expended our entire land-based force against the Soviet ICBM silos we could destroy less than half.) [3]

Nor is the threat to our forces and to the overall strategic balance reduced by the provision limiting new missiles during the time of the Treaty. The provision is drafted so as to permit the deployment of the MX for the United States, a comparable new missile for the Soviet Union, and the modernization of existing missiles allowing an increase in in their volume of up to five percent in each direction. Except for setting a precedent for qualitative restraints, these limitations have little operational effect on the Soviet program—all the less so as there seems to be no definition of baselines. The testimony of Administration witnesses seems to confirm that no known Soviet program is effected.

In short, the Vienna Treaty will not diminish the threat to the strategic balance. During the life of the Treaty the Soviets will complete their counterforce capability against our ICBMs. This will coincide exactly with our period of maximum danger. To be sure, a good case can be made for the proposition that in the absence of the Treaty the relative numbers will be even worse. But the analysis here suggests that what is allowed to the Soviets will meet all their foreseeable counterforce and residual needs.

But I must repeat: any SALT treaty is likely to ratify existing strategic trends. SALT negotiators cannot produce what our military programs—for whatever reason—have neglected. The Soviets will never agree to unilaterial reductions. If we want equality, we must build to equality. We must reverse the strategic trends if we are serious about an equitable SALT treaty. Nothing in the Vienna Treaty diminishes the need for a substantial military build-up by the United States. In fact, the situation which SALT reflects makes such a build-up imperative.

In fairness, it must be pointed out that the same was true of the SALT II aggregates worked out in the previous Administration. There are nevertheless three essential differences: first, the rate of advance of Soviet technology which has been unexpectedly rapid (the estimate at Vladivostok was that Minuteman would not become vulnerable to a Soviet counterforce strike until after 1985); second, the unilateral abandonment or stretch-out of almost every American strategic program inherited by the Carter Administration, which makes the Soviet threat even more ominous; and third, the Soviet geopolitical offensive in Africa, the Middle East, and Southeast Asia which has gained momentum since. But to help a bipartisan solution I am willing to concede that the problem we face has origins going back at least 15 years.[4]

---

[3] Though the permitted total of land-based MIRV's is some 300 above what we possess, we cannot expand our land-based MIRVs significantly since the Treaty also contains a subceiling of 1200 permitted MIRVed vehicles. We could thus increase the number of our land-based missiles only by reducing the number of submarine-based missiles. That sublimit will also force us to dismantle either one Poseidon boat (or 14 Minuteman III) when the seventh Trident submarine goes on sea trials, probably by 1983. If the eighth and ninth Trident were to become operational before December 1985, three more Poseidon boats or 48 Minuteman II or some combination of the two would have to be dismantled.

The novel—and to me the most disturbing—feature of the current Treaty is its negative impact on the theater nuclear balance. The Soviet Backfire bomber is limited to production of no more than 30 per year, through an oral agreement outside the Treaty or Protocol. There has been dispute about the utility of the Backfire in carrying out unrefueled attacks against the United States. There is no doubt of its ability to threaten all our allies as well as China and the sea approaches to Eurasia. In addition, the Soviet Union is developing a large number of SS-20 missiles each with a range of 2000 miles and three MIRV warheads. Like the Backfire, the SS-20 is convertible to intercontinental range—in the case of the Backfire by adding fuel tanks, or an aerial refueling capability; in the case of the SS-20 by adding another stage, thereby converting it into the already tested mobile SS-16. These actions are prohibited by SALT II but they are not easily verifiable, and in any event they represent a rapid break-out potential should the Treaty be broken or lapse.

The most immediately available American counter to these weapons has been cruise missiles. In the negotiations conducted by the Ford Administration, proposed restrictions on cruise missiles were made conditional on comparable restrictions on the Backfire. The concept was to limit the number of cruise missiles of more than 600-kilometer range in some relationship to limits on the Backfire. The Protocol, on the other hand, prohibits the deployment of land- and sea-based cruise missiles and of air-launched cruise missiles of more than 600-kilometer range on other than heavy bombers altogether—even when they carry conventional warheads. The same Protocol prohibits the testing and deployment of mobile ICBM launchers, even though the Soviets have already tested a mobile system (the SS-16) and we have neither tested nor developed a comparable weapon.

The provisions of the Protocol with respect to cruise missiles, especially, restrict exclusively American programs; they affect not a single Soviet program. They amount to a unilateral renunciation of an American capability. The Protocol also for the first time limits American weapons relevant primarily to the theater nuclear balance—thus affecting important interests of our allies—in return at best for restrictions relevant primarily to the United States. This is something we have heretofore consistently refused to do as a matter of principle in the decade that SALT negotiations have been taking place. It is a dangerous precedent.

Two arguments are advanced on behalf of the Protocol: First, that it was necessary to induce the Soviet Union to go along with limits in the overall Treaty; second, that since the Protocol will lapse at the end of 1981 and since we will have no cruise missiles of more than 600-kilometer range before then, no real concession is involved. These propositions are mutually inconsistent; if the Protocol restrains nothing we can do before the end of 1981 and will lapse, then why are the Soviets so insistent on it?

The answer is that the Soviets know the history of moratoria and protocols very well; they are aware that such "provisional" agreements almost never end on their expiration date, especially if a negotiation is then taking place. At a minimum the Protocol's terms will be the point of departure for the next round of negotiations. The Soviets will have the option of offering a seeming concession—for example, reducing the SALT totals to 2150 (which we know they can accept since at one stage in the current negotiations they suggested it), or even lower. They can conversely threaten to abandon whatever negotiation is then taking place. Will we then insist on pursuing the development of cruise missiles, without which we have done for nearly three years? And if we do extend the moratorium, we will then have explicitly traded theater capabilities important to our allies in return for marginally reducing the threat against ourselves.

This deficiency of the Protocol would not be cured by a proposed Senate amendment or reservation stating that it may not be extended except with the Senate's approval. Such an amendment, to begin with, implies that the Protocol with its existing one-sided terms might well be extended, albeit with the Senate's consent. This will make it more difficult to appropriate significant sums for cruise missile programs which may at any moment be ended by an extenson of the Protocol.[5] Moreover, if the Protocol comes up for extension independently of a broader consideration of the strategic balance, the temptation to extend it could easily be overwhelming.

To sum up: I have serious reservations about the Protocol. As for the Treaty, I conclude that its terms do not improve our strategic situation but neither do they prevent our remedying it during the remaining six years of its life. Undoubtedly it imposes some inhibitions on us—the prohibition against "heavy" missiles for the United States, for example, as well as the Protocol's ban on mobile missiles through 1981. But I believe that the Senate can deal with these during the ratification process. (The issue of heavy missiles seems to me most relevant to the period after the expiration of the Treaty since we could not build any before 1985 and since MX should take care of immediate needs.)

The crucial question is whether we can unite behind what is clearly necessary. Ratifying SALT—or rejecting SALT—makes sense only if it prompts a renewed dedication to our national defense and security. The Senate's judgment of the Vienna Treaty should hinge, in my view, on what will be done to remedy existing trends and on the international impact of ratification or rejection.

Let me turn, therefore, to the broader political context of this SALT II agreement.

THE GEOPOLITICAL PROBLEM

A. The Soviet Union

The awesomeness of modern weapons, and the aspirations of all peoples for peace, impose the imperative of peaceful coexistence. No democratic leader deserves the public trust if he fails to make a genuine effort to reduce the dangers of nuclear holocaust, and to free national energies for dealing with the many urgent problems of mankind. The temptation is overwhelming to view this common stake in peace as a common bond between us and the Soviet Union. It should be and someday it must be if a cataclysm is to be avoided. But we cannot in good conscience say that current evidence supports the proposition that the time has yet arrived.

For a too brief period in 1972 and 1973, our insistence on restraint in the conduct of international relations seemed to bear fruit. SALT I was accompanied by a declaration of principles signed by the United States and the Soviet Union. It affirmed the necessity of avoiding confrontation, the imperative of mutual restraint, the rejection of attempts to exploit tensions to gain unilateral advantage, the renunciation of claims to special influence in any region of the world. These principles, of course, reflected an aspiration, not a contract; they defined a yardstick by which to assess Soviet behavior. The strategy of detente was to encourage observance of these standards by a combination of positive incentives for constructive behavior and firm responses to block adventurism. The principles agreed in Moscow were a paradigm of conduct which the Soviet Union could violate only to its political cost.

Whether the Soviet Union ever intended to comply with them, or whether it was tempted into an adventurous course by the collapse of our executive authority as a result of Watergate (which deprived us of both incentives and penalties), or whether a combination of all these factors was responsible, will never be known.

Whatever the cause, the fact is that since 1975 there has been an unprecedented Soviet assault on the international equilibrium. 1975 saw the introduction of Cuban combat forces into Angola, eventually reaching 40,000, backed by Soviet financing, airlift, and policy support. By 1977 Soviet planes and pilots were flying air defense missions out of Cuba so that the Cuban airforce could operate in Africa. 1977 witnessed the spread of Cuban forces to Ethiopia. East German military and inteligence advisers have now joined the Cubans all over Africa and the Middle East. There have been two invasions of Zaire—and there may yet be a third; there have been Communist coups in Afghanistan and South Yemen; and the occupation of Cambodia by Vietnam, preceded by a Soviet Friendship Treaty designed to secure Hanoi's rear during its aggression. Soviet arms depots in Libya and Ethiopia fuel insurgencies all over Africa. While the collapse of the Shah of Iran had many causes, one contributing factor surely was the demoralization of a pro-Western leadership group by the gradual and unopposed growth of Soviet power in nearby areas.

Nor is this all. Terrorist organizations supported by Communist funds, armed by Communist weapons, and trained by Communist instructors are becoming a systematic instrument of anti-Western policy threatening countries friendly to us on several continents. They are not, to be sure, all controlled by Moscow; but someone who has started a rockslide cannot avoid responsibility by claiming that the rock he threw was not the one that ultimately killed bystanders. These tactics, reinforced by a Soviet military build-up clearly threatening the strategic, theater, and conventional balances, are incompatible with any notion of detente or coexistence.

Some argue that SALT is necessary lest we risk a return to the Cold War. This is a curious argument. Whatever label we give to recent Soviet conduct—whether "Cold War" or opportunism—it must be ended if there are to be any prospects for East-West coexistence or cooperation. No leader serves his people by pretending that SALT is needed to perpetuate an acceptable state of affairs. It is not an acceptable state of affairs, and it cannot be continued.

---

[4] On at least one occasion I contributed to the existing ambivalence. After an exhausting negotiation in July 1974 I gave an answer to a question at a press conference which I have come to regret: "What in the name of God is strategic superiority?" I asked. "What is the significance of it . . . at these levels of numbers? What do you do with it?" My statement reflected fatigue and exasperation, not analysis. If both sides maintain the balance, then indeed the race becomes futile and SALT has its place in strengthening stability. But if we opt out of the race unilaterally, we will probably be faced eventually with a younger group of Soviet leaders who will figure out what can be done with strategic superiority.

[5] Apparently the Navy has virtually abandoned the development of cruise missiles aimed at land targets—a role still considered important enough in the Ford Administration to cause the Joint Chiefs of Staff in 1976 to withhold their consent to an agreement which did no protect that capability.

The Vienna summit recorded no progress toward a clear understanding with the Soviet Union on the key issue of political restraint. It was not possible, of course, to settle in the space of three days all the outstanding issues of Africa, the Middle East, or Southeast Asia. Nor can the Senate responsibly delay SALT until these vexing matters are settled; they must be dealt with by intelligent and patient diplomacy and firm resistance to pressure. But it would have been important to give at least symbolic expression to what is the overwhelming political challenge of our period: the ultimate test of an improved relationship—the real turning away from the Cold War—must be restrained Soviet international conduct. The refusal of the Soviets even to discuss the subject at Vienna, the reiteration by Brezhnev of the commitment to so-called struggles of liberation, is worrisome indeed.

What is involved here is a profound issue in U.S.-Soviet relations which is both philosophical and practical. Can peace be realized exclusively by restraint in the field of arms? Or does the structure of peace require a geopolitical dimension as well? Is is possible to proceed in separate negotiations on their merits, or must there be some relationship between all the various interactions of two superpowers in the field of foreign policy? In the language of recent controversies, should there be "linkage" or not?

In my view, to seek to separate US-Soviet relations into discrete compartments runs the risk of encouraging Soviet leaders to believe that they can use East-West cooperation in one area as a safety valve while striving for unilateral advantage elsewhere. The Administration, imagining that linkage was a personal idiosyncrasy of previous administrations, decided to "abolish" it. SALT was pursued for its own sake, unaffected by Cuban troops in Ethiopia and East German auxiliaries in Mozambique; by Communist coups in Afghanistan and South Yemen; or by Soviet Friendship Treaties such as the one with Vietnam that was a prelude to the occupation of Cambodia.

This raises several problems. First of all, it is not possible to "abolish" the simple reality that the two superpowers impinge on each other on a broad range of issues and areas. Moreover, the attempt to do so produces an almost compulsive commitment to whatever particular subject seems susceptible to solution, such as SALT, thus permitting the Soviets to dictate the pace of negotiations and to use it to reduce the risks of aggressiveness. And it simultaneously overloads the issue under negotiation. If SALT must bear the whole weight of East-West relations, it runs the risk of turning into escapism; it will eventually crumble under the strain.

No serious person would maintain that nothing should be settled until all issues are settled; nor should SALT become the hostage of every passing political tension of a world in flux. What is needed, however, is a broad recognition that in an interdependent world the actions of the major nuclear powers are inevitably related and have consequences beyond the issue or region immediately concerned. A demonstration of American impotence in one part of the world erodes our credibility and hence the stability of other regions; pressures against our friends, encouraged by the Soviet Union or its proxies, cannot be compensated for by other negotiations such as SALT. If we ignore these facts we paradoxically enhance the attractiveness of such adventures. It surely is not provocative to ask the Soviet Union to accompany restraint in arms with restraint in political conduct. Attention to this kind of linkage ensures that no agreement stands alone vulnerable to the next crisis, or turns into a soporific to lull the West while adventurism runs free.

I am inclined to agree that the failure to ratify an agreement negotiated over seven years by three Administrations would have a disruptive impact on East-West relationships, creating a crisis atmosphere for which we may have little public or allied support. This is undoubtedly one of the telling arguments in favor of ratification. But the Senate will also wish to consider that to deal with SALT in isolation runs the risk of seriously misleading the Soviet Union. Moscow cannot have it both ways: the slogan of detente and the reality of the systematic undermining of the geopolitical equilibrium. We should use the SALT debate to force a decision. The Senate will want to make clear that Soviet expansionism threatens the peace and that coexistence depends above all on restrained international conduct, for which the Senate should define some criteria.

In the long run this is also in the Soviet interest, for current trends will make a confrontation inevitable sooner or later. Our country will not be defeated without noticing it and when it does take notice, it will resist. The course of inadequate defense preparation, gradual reduction of military capacity, and partial accommodation to Soviet expansionism must be reversed—on a bipartisan basis and by cooperation between the Administration and the Congress.

B. The concern of allies

All our allies have expressed support for ratification of the Vienna Treaty. But their endorsement results from a complex of factors of which approval of the provisions of the Treaty is by far the least significant. Each has been urged, if not pressed, by the Administration to express support. In some cases the Soviets have added their entreaties. Refusal to comply would thus risk relations with both superpowers over an issue that is of high technical complexity and has been under negotiation for seven years. If the Treaty failed as a result of their opposition, our allies might find themselves in the uncomfortable position of taking on both superpowers. Some governments are loath to expose themselves to domestic criticism as an "obstacle to detente"—especially over a Treaty which the United States has already declared compatible with Western security. Some allies want to keep open their own individual options for detente and increased East-West trade. Some are afraid lest their objection endanger their essential defense cooperation with the United States (even while worried about the non-circumvention clauses of the Treaty).

Some sense the changing military balance but, unsure of our direction and unwilling to demand domestic sacrifice, seek to mitigate their perils by accommodation with the Soviet Union, staying one step ahead of us on the road to Moscow. All are reluctant to contribute to a further weakening of American executive authority, reasoning correctly that whatever their views on particulars their ultimate security depends on the self-assurance and credibility of the American President. There is no doubt that failure to ratify the Treaty will shake European confidence in an American government that for seven years assured them that it knew what it was doing.

At the same time, allied endorsement should be seen in the context of a pervasive ambivalence. Our allies, especially in NATO, fear an exacerbation of tensions—but they are also deeply worried about the military imbalance on the European continent which the ratification of the present strategic relationship brings to the forefront of concern. The thoughtful leaders among them know that the basis of their security is eroding as our strategic superiority ebbs—but they fear there is not enough domestic support for a really significant defense effort, especially when American attitudes on that score are so ambiguous. They do not want to be perceived as an obstacle to SALT II, but they are highly uneasy about the inevitable SALT III, in which some limitation of theater-based nuclear weapons has already been placed on the agenda.

The United States thus stands in danger of being blamed by our allies at one and the same time for risking detente and for paying inadequate attention to security, for provoking the Soviet colussus and for jeopardizing the defense of the free world. It has ever been thus in the postwar period. The ultimate test of our leadership cannot be a poll of our allies, which will always reflect a mixture of incommensurable motives. The test of our leadership is American willingness to give a clearcut signal of what we understand by Western security and how we intend to maintain it. No other country or group of countries, however, closely associated, can take this burden from our shoulders. None of our allies will forgive us if we fail.

RECOMMENDATIONS

We thus return to our original problem. The Senate is in the anomalous position of being asked to ratify a treaty which is essentially peripheral to our basic security and geopolitical concerns but whose either simple ratification or simple rejection would have a profound and dangerous symbolic impact. Failure to ratify an agreement negotiated over seven years would compromise international confidence in our ability to perceive our own interests or to harmonize the various branches of our government. But it is equally true that if the custodian of free world security neglects its task, sooner or later panic will become inevitable. The Senate in considering ratification needs urgently to address our dangers in a comprehensive way:

First, how the Senate can take concrete steps to begin redressing the military balance;

Second, how to deal with the specific problems in the Treaty and Protocol; and

Third, how the Senate can put the Soviet Union on notice that continued attempts to upset the global equilibrium will not be tolerated.

Some, whose analysis I respect, have urged amendments to the Treaty to accomplish these goals. These amendments are of two kinds. The first category would not require any renegotiation with the Soviet Union. They would either express the Senate's interpretation of the meaning of ambiguous clauses of the Treaty, or instruct our negotiator on criteria to be applied in any follow-on negotiations, or reassure uneasy allies about our intentions in applying SALT provisions, for example, on non-circumvention. The second category of amendments would seek changes in the text. These amendments would require renegotiation of the Vienna agreement and they again fall into two categories: One type would alter the strategic balance during the term of the Treaty, for example, by forcing a reduction of Soviet throwweight or heavy missiles. The second type would represent a claim of equal "entitlement"—such as an American right to possess 308 heavy missiles—which cannot be exercised during the life of the Treaty and would therefore represent an assertion of principle rather than a contribution to the strategic balance.

The only amendments that would make any immediate difference are the kind which go to the heart of the problem: they would remove the Soviet counterforce capability against our ICBMs (by mandating a drastic reduction of throwweight, for example). Such amendments are almost certain to be rejected by the Soviets; they would be accepted, if at all, only after an actual buildup of our forces, which in turn might well be delayed by the very fact that renegotiations were underway. If we maintained current limits while negotiating, the result would be a continuation of the existing deterioration of the strategic balance. We might thus wind up without either SALT or a strengthened defense.

After much reflection I have concluded that I can support ratification only with the following conditions:

First, if it is coupled with a defense program representing an obligatory understanding between the Congress and the President which overcomes on an urgent basis the grave peril posed by the current military balance.

Second, if it is accompanied by amendments—not requiring renegotiation—clearing up ambiguities in the Treaty, defining the status of the Protocol, the meaning of non-circumvention, and setting guidelines for follow-on negotiations.

And third, if it is accompanied by a vigorous expression of the Senate's view of the linkage between SALT and Soviet geopolitical conduct.

This approach would avoid the negative consequences of a collapse of SALT. But ratification must not become an end in itself. In my view it can only be justified if the Administration is prepared to unite our country by demonstrating its determination to restore our military strength and the geopolitical equilibrium. This seems to me the sense of what Senator Nunn among others has proposed, and it points the way to a bipartisan resolution of the issue.

A. To redress the military balance

With respect to the military programs, I respectfully recommend that the Senate give its advice and consent to ratification of the Vienna Treaty only after the Administration has submitted, and the Congress has authorized and begun appropriating, a supplemental defense budget and a revised five-year defense program that will begin rectifying some of the shortcomings I have identified. The Congressional recess provides an opportunity to prepare such a program, on which work should already be far advanced as part of the normal budgetary process. If the Administration is unable to put forward such a program to this session of Congress, I recommend that the Senate delay its advice and consent until a new military program has been submitted to and authorized by the next session of Congress. I would be open-minded about other methods to achieve this end, provided they are unambiguous, and represent an obligatory commitment by both branches of our government.

Assurances that the Executive Branch intends to proceed with individual weapons systems like the MX are not enough, either for the reality of our danger or to reverse the political and psychological trends which will make the immediate future a period of great peril. Nor have the percentage figures of projected increases—such as the three-percent increase agreed with NATO— proved effective, because of ambiguities about the baseline and how to compute rates of inflation. I am worried that if the consideration of defense programs takes place after SALT is ratified, the debate over the proposed defense programs may stifle remedial actions or delay them beyond all relevance—all the more so as the Administration seems to have a far from settled view about the need for a strengthened defense. Witness the cancellation of the B-1, the nuclear carrier, and the neutron bomb; the closing down of the Minuteman III production line; and the stretch-out of the MX, Trident, and cruise missile programs. After ratification, Soviet propaganda pressures can be expected to multiply, particularly against any MX basing system that ensures survivability. Allied doubts about the security situation—especially with respect to theater forces—will grow.

It is not a question of balancing the insistence of conservatives for higher defense with the considerations of liberals for a reduction in our military spending. The issue is what our country needs for its long-term security. The President and the Congress must choose. After fifteen years of giving inadequate priority to defense, it is time for a serious long-term effort to prevent a menacing imbalance against us. The program must include accelerated development of a counterforce capability through the MX and Trident II, air defense against Backfire, immediate steps to restore the theater nuclear balance, and urgent measures to beef up our capacity for regional defense including accelerated modernization and expansion of our Navy. Our current five-year program is deficient in all these categories. My support for ratification is entirely conditional on the development of a new program and doctrine given some binding form by the Congress.

The Joint Chiefs have testified that the rapid improvements required cannot be achieved at expenditures representing less than a five percent real increase over current programs, for at least the next five years. The burden of proof to the contrary should rest with the Administration.

B. Clarifying the treaty and protocol

In addition to these military programs, I recommend that the Senate add the following amendments to its advice-and-consent resolution. None of them requires renegotiation with the Soviet Union:

First, as far as cruise missiles are concerned, that the Protocol may not be extended after 1981. The Senate should stipulate that its particular limitations can be submitted to the Congress again only as part of an equitable arrangement for theater nuclear forces. Specifically, no limitations may be negotiated for American theater weapons—such as cruise missiles—which are not matched by similar limitations on Soviet weapons performing comparable missions. This will bring cruise missiles into some equilibrium with the Backfire and the SS-20.

Second, the Senate should specify that as part of SALT III, the United States be entitled to any weapons system permitted to the Soviets in the new agreement unless the Soviets agree to some compensation by giving up a weapons system of equivalent characteristics allowed to us. This should take care of the heavy missile inequity within the only framework—that of SALT III—which will give us a real option to produce it.

Third, that the non-circumvention clause be interpreted by the Senate as not interrupting cooperative relationships with allies with respect to technology needed to modernize their forces. No technology available to us should be barred for transfer.

I also suggest that the Senate reexamine the SALT Agreement every two years, specifically to determine its verifiability.

C. To address the geopolitical problem

Finally, I respectfully urge the Senate to use the ratification process to put the Soviet Union on notice that this country is prepared, nay eager, for peaceful coexistence that reflects true stability and equality in arms, and also political restraint. We are ready to pursue the control and reduction of arms with dedication. But we will brook no subterfuge, nor can we continue a conciliatory policy if Moscow chooses to exploit that policy as a convenient opening to Soviet predominance. The Senate should attach to its instrument of advicce and consent an expression of the following principles:

That the absence of political restraint will seriously jeopardize-continuation of the SALT process.

That the Senate understands this to include Soviet supply or encouragement of intervention by proxy military forces; the use of Soviet forces on the territory of its allies such as Cuba to free Cuban forces to fight in Africa; the support, financing, or encouragement by any member of the Warsaw Pact of groups and activities seeking to undermine governments friendly to the United States; or the exacerbation of regional conflicts.

That the Administration be required to submit an annual report to the Senate on the degree to which the Soviet Union is living up to these criteria.

That the Senate vote every two years its judgment whether the Soviet Union has lived up to these criteria. If the judgment is negative, the Senate should then vote whether whatever SALT negotiations are taking place should be continued.

Finally, if we thus reassess our strategic position, we must also take another look at the SALT process. Though the strategic conditions I have described result largely from unilateral American decisions, they have been reflected in the SALT process which was essentially a confirmation of them. The fact that I have participated in the process—and must share some of the responsibility—entitles me to warn against continuing it by vote. I urge that its long-term implications be carefully considered. Never in the postwar period has there been more disagreement and intellectual confusion about the requirements of strategic stability and the implications of arms control. A thorough reassessment and the fullest consultation with our allies are crucial before we launch ourselves into SALT III, which will directly affect our allies and hence may jeopardize our alliances.

CONCLUSION

I recommend the approach outlined here because it gives this country an opportunity to address its dangers without abandoning an important negotiation that has already extended over seven years. And it gives us an opportunity to proceed as a united people. If the Administration rejects this approach, the Senate will have no alternative except to go the route of farther-reaching amendments, either holding the Treaty in abeyance or forcing a renegotiation. The result will almost certainly be a diplomatic stalemate until the Soviets are convinced that we are determined to restore the strategic balance; it would be an indirect—and in my view less productive—route which, even if successful, would lead to the same result of a major new effort to meet our imperative security needs.

To be sure, the course I proposed will make SALT II far from the turn in the arms race many of us hoped for when the negotiations were inaugurated. But too much time has been lost, too many weapons systems have been unilaterally abandoned, too many military adventures have been encouraged by the Soviet Union, the geopolitical balance has been too severely strained by Soviet pressures, for SALT to be much more than a base from which, one can hope, a new and serious effort at equitable arms reduction can be made. Concrete steps to rectify the global balance are urgently required. In this context a ratified SALT II Treaty can play a useful role as a signpost to continuing negotiations, as a beacon illuminating the path to genuine coexistence and detente, and as a means to contain current tensions. But SALT must contribute to the world's security, not insecurity.

At this moment our major obligation is to restore the confidence of all those who depend on us; to redress the military balance; to reestablish some effective link between arms control and restrained international conduct. All Americans—of either party—should share these goals.

There are deeply concerned people who want SALT but doubt the need for augmented defense. Others see in SALT an obstacle to augmented defense. Let there be serious effort to reconcile these points of view before we turn to domestic confrontation. I am prepared to do my best in this effort.

Rarely is an opportunity so clearly presented to a legislative body to determine the course of national policy in a direction vital to the future of the democracies. After the 1919 Versailles Treaty, misjudgments by the Senate and the Administration led to a debacle which undermined international security and doomed the world to another bloody holocaust. At this moment, the Senate and the Administration can point us in a different direction—toward a restoration of our national unity, toward the strengthening of the security of this nation and of its allies, and toward a more constructive relationship with our principal adversaries. This is America's responsibility, if we are to remain true to our trust and to the hopes of mankind.

STATEMENT OF JOHN J. McCLOY

I have been asked to appear before this Committee to express my views regarding the pending treaty or draft treaty known as SALT II. In doing so I shall also, with your permission, express certain views on our treaty-making process, particularly as it relates to SALT II and our security and defense interests. I approach this problem from what may be a somewhat different perspective than those who have been actively negotiating the treaty provisions or serving as the immediate back-up groups. I am a private citizen and for a substantial period of time I have not been connected in any way with the SALT negotiations, owing, I imagine, to my past experience with them and with other Soviet contacts I have been asked to give my views regarding the pending treaty. I trust this experience may be of some value to the Senate in arriving at a sound determination of its difficult and very important task.

Perhaps I should first sketch briefly the experience I have had which gives rise to my views. My interest in military matters and foreign affairs dates back to World War I when I held a commission in the so-called Regular Army, serving in France and Germany. I was The Assistant Secretary of War during World War II under Secretary Stimson. My duties in that office were varied; they related, though not exclusively, more to the political-military aspects of the war than to problems of procurement. I had close relations with the Joint Chiefs of Staff and attended a number of conferences with our Allies during and after the War, including the one at Potsdam at the close of the war where we came face to face with the Soviet leaders. Later, following General Lucius Clay, I became the U.S. Military Governor of Germany and after this the U.S. High Commissioner. During this period I had various confrontations with the Soviets and their political and military chiefs, particularly in regard to the defense of the City of Berlin. On a number of occasions I undertook missions or attended conferences with our Allies or our own Government on defense matters, including our force levels in Europe and the establishment of NATO, with whose leaders I often maintained close contact.

Following the inauguration of President Kennedy, I acted as his general advisor on matters of disarmament and helped set up the Arms Control and Disarmament Agency in 1961. At first I was acting director of that Agency, later becoming the first Chairman of its Advisory Committee. I took part in meetings related to disarmament with Messrs. Khrushchev, Brezhnev, Gromyko, Semenov and other Soviet leaders. Though I never was a member of the active negotiating team which represented the United States in the negotiations leading up to SALT I, I kept in close touch with the negotiations and attended some of those negotiations. I dealt directly with the First Deputy Chairman of the Presidium of the Supreme Soviet of the U.S.S.R., Mr. Kuznetsov, as well as with other Soviet officials, including Mr. Zorin, on the matter of the removal of the Soviet strategic missiles from Cuba.

I had considerable experience in connection with the development of our nuclear armament in the early days when I served under Mr. Stimson and later during the period when I was Chairman of the Advisory Committee to which I have referred. I was a member of the Baruch Committee and had close dealings with the Acheson-Lilienthal Committee which gave considerable time and thought to the formulation of our nuclear policy following World War II. At one time I was quite familiar with our national means of intelligence gathering in regard to Soviet nuclear armament. This experience, then, and my reading of the transcripts of the current hearing have shaped my understanding of the issues and my comments to this Committee today.

First, let me say something regarding our treaty-making process, for I am concerned over what I consider to be some of its defects. We are now all familiar with the constitutional process which requires that before the President can make a treaty which becomes effective as the supreme law of the land, it must have been arrived at "by and with the advice and consent of the Senate . . . provided two-thirds of the Senators present concur". (Article II, Section 2 of the Constitution). This is a rather extraordinary and unique provision and I am not aware of any similar provision in any other country. I have heard a good bit of comment on how this provision came to be incorporated into the Constitution of the United States. I have consulted some constitutional historians on the subject and I have conducted some research of my own.

Members of this Committee, or at least some of them, are probably quite as familiar with the history of this provision as I am, but I believe it is pertinent to point out that under the original Articles of Confederation the United States "In Congress assembled" had the full power both to negotiate and approve any treaty, provided 9 of the representatives of the 13 states assented. When the Founding Fathers, with their memories of George the Third, regarded this power, they were sensitive of the danger of concentrating too much power in one person. They intended that the making of treaties (which were not too popular) should be a difficult process. From the beginning of the Constitutional Convention's consideration of the treaty provision, it was contemplated that a fundamental element in the making of a treaty was the participation of a Federal legislative body. At one time, some sought to introduce the House of Representatives into the act—for example, James Wilson of Pennsylvania (3 Records 538) and George Mason of Viriginia (4 J. Elliott, "Debates on the Federal Convention" 331 (1836)) supported such a position. Recognizing that the power of making a treaty could have far-reaching consequences, the Constitutional Convention's first draft of the treaty-making power provided that it would reside completely in the Senate. Due to considerations of expediency and efficiency, however, later drafts introduced the President into the process, giving him the right to "make" a treaty "by and with the advice and consent" of the Senate provided that the consent of two-thirds of the members present was obtained. In a somewhat different form this provision was finally adopted by the Convention. The role of the President, as I read the early history, was conceived of as that of an agent rather than a prime mover. In speaking of the treaty-making power, Alexander Hamilton had this to say:

"The qualities elsewhere detailed, as indispensable in the management of foreign negotiations, point out the executive as the most fit agent in those transactions; while the vast importance of the trust, and the operation of the treaties as laws, plead strongly for the participation of the whole, or a portion, of the legislative body in the office of making them." Federalist Papers no. LXXV.

James Madison said very much the same thing during the debates of the Constitutional Convention. (2 Records of the Federal Convention of 1787 329 (M. Farrand, ed. 1911)).

The Senate was ultimately chosen as the more experienced and elite legislative body to receive this "trust" being, as John Jay pointed out, not elected by the general public, as it is now but appointed by the legislatures of the several states. (Federalist Papers no. LXIV). In any event, and for a combination of these reasons—distrust of the concentration of power, expediency and the need for legislative participation—the provision, as it now stands, was incorporated into the Constitution.

There has been sharp criticism of the provision from time to time. Frequently Secretaries of State, I believe, have not been very happy with it. John Hay, when he was Secretary of State, called the provision "the original mistake in the Constitution". (3 J. Hay, Letters of John Hay and Extracts from Diary 156 (privately printed 1908)). I am not certain that he was right. At any rate, there it is, a part of our basic law of which everyone is on notice, and the wording is very clear. Neither the negotiators, nor the Secretary of State, nor even the President of the United States can create a commitment, in any sense, binding upon the country as "the supreme law of the land", without the vote of two-thirds of the Senators present. I refer to this fact because I believe the concept that the Senate, by its consideration and its vote on the treaty, could somehow be undermining the authority of the President of the United States or his Secretary of State, is not well founded.

I now see the Executive branch sending so-called "task forces" throughout the country urging audiences "to write your senators". I have attended some of these sessions in my neighborhood. They did not help me resolve the very difficult problems I had in making up my mind on the merits of the treaty. Certainly, if my reading of the record as to how this provision came into the Constitution is at all correct, the Founding Fathers would not have taken kindly to the thought that the Executive should bring pressure on the Senate in the course of giving its advice and consent to a treaty, in accordance with the provision of the Constitution.

There are two other aspects of our negotiating procedures which I would like to mention. As I look back on our negotiations with the Soviet Union on disarmament or on the limitation of strategic weapons, I feel that we have been handicapped by the fact that our negotiators seem always to come under pressure when arriving at an agreement in the closing or critical stages of a negotiation. Every administration which sets out to seek a treaty, whether with the Soviet Union or someone else, seems to come under pressure before it is over to achieve what is considered to be the political success attached to an agreement, or at least to avoid the sense of failure if agreement is not reached. On the Soviet side, there is no such public opinion nor administrative pressure. Given the nature of the Soviet system, the Soviet negotiators for all practical purposes have the final power in their own hands. They do not have pressures on them to reach an agreement as do those of the United States. The result has been that the Soviet negotiators could and, I thought, did on occasion in my experience sit back and say "nyet" while waiting for pressure on the U.S. negotiators to build up for an agreement.

The other side of this coin is, I suppose, that with Senate approval necessary the Soviet side could claim it has been at a disadvantage since an agreement between the negotiators, while conclusive for practical purposes so far as the Soviet side was concerned, is not final with us until the Senate approval is forthcoming. This tends, I imagine, to give rise to the present demand on the part of the Soviets that no amendments to the treaty can be entertained. My experience has been, nonetheless, that as the negotiations reach a climax, the United States side tends to contract "agreementitis" so as to achieve the appearance of success or avoid the charge of failure if no agreement transpires.

There is another aspect of our treaty making which, I believe, is unfortunate and it affects the treaty now under consideration as well as some others. In the effort to secure Senate approval we too frequently feel the need to mount an intensive public relations program to bring about approval or rejection. Polls are taken and advertised and claims are made that such and such a percentage of the people are in favor of a treaty and such and such are opposed, without much consideration of how well informed those polled were or how they were questioned. I deplore the fact that our treaty-making process seems so frequently to take on this form. May I add that from reading the transcripts and sitting in some of the hearings I believe this Committee has been hearing a high quality of testimony and an objective presentation of the rather complicated problems involved.

At this stage in our history we cannot and should not change our constitutional treaty-making process, but we ought to be able to arrange our negotiation and ratification procedures in such a way as to minimize the political pressures and maximize serious discussion and debate of treaties related to the security of the country.

Now as to the merits of the treaty. I believe it is indisputable that there has been in recent years a very heavy Soviet buildup of strategic and conventional forces, army, naval and air as well as civilian defenses. For over 10 years this has been going on in terms of appropriations substantially larger than ours and now the consequences of this effort have quite inevitably begun to emerge. Let us face it, these consequences are bad. In view of this, I believe that what this country and this body need and deserve is the most objective analysis available of our present strategic position, particularly in the light of this Soviet buildup.

I have read Secretary Brown's analysis of our position which he submitted to this Committee and, of course, I have read the statement of the Joint Chiefs of Staff though they do not purport to be comprehensive. Secretary Brown has a wide and, indeed, a profound knowledge of our nuclear and conventional potential and I believe the same thing can be said of his knowledge of the potential of the Soviet Union.

He has, at times, been one of our negotiators in the SALT process and to a large degree he has been a proponent of it, as I have been. But I would wish it were possible to have an analysis of our overall strategic position independent of and quite unrelated to the present issue of the merits of SALT II. I do not know of any general board such as we once had which would now be equipped to make an independent analysis of our overall position.

It is probably too late in the day for it and perhaps there would be all sorts of security objections to making it public. But it does seem that somewhere along the line there should be available to the Senate an understanding of what our overall strategic (not only in the sense of nuclear) situation really is in relation to that of the Soviet Union.

It could serve as background to all the determinations this body has to make in considering the merits of this treaty and the ultimate decisions as to what needs to be done to bring about equality as well as to determine whether there is anything in SALT II which would seriously constrain or inhibit our authority to do it.

With such an analysis one might find it easier to come to decisions. We must always bear in mind that not only do we have an obligation to maintain our security, but we must always bear in mind that of our Allies as well. I suggest we do not need more polls or pressures to reach our conclusions. But every effort on the part of the Administration, as well as on the part of the critics of the Treaty, should be devoted to helping this body arrive at an informed and satisfactory determination of these questions.

Before dealing further with the serious security considerations which, I believe, are the main questions before the Senate, I would like to talk for a few minutes about the matter of treaty verification as I appraise it. The President has said that the country could be assured that he would never sign a treaty that could not be adequately verified. Of course, it must depend heavily on what is meant by the term "adequately" or, as it is sometimes expressed, "significantly" verified. I gather the Senate now has the opinion of the Secretary of Defense and the Joint Chiefs of Staff that the treaty is adequately verifiable.

There was a period when, as Chairman of the Advisory Committee of the Disarmament Agency, I was rather well informed about our verification capability in regard to the characteristics and trend of Soviet nuclear weaponry. Our capacities in this respect impressed me very much, but it was quite clear even then that we did not have the whole story. I received from time to time detailed presentations of the intelligence that we had in this area.

The material given us was, of course, most sensitive. It is difficult for the Senate as a whole to satisfy itself as to the efficacy of our so-called national capabilities without seriously risking the security of our information. Valuable information can be imparted to selected members of the Senate, I suppose, but in some degree it will be necessary to take something on faith.

Impressive as this material is, the sum total of our information in regard to the Soviet nuclear and military capabilities, would not, I believe, ever be as complete as the sum total of the information which the Soviet Union has of ours. Once we enter into a treaty with the Soviet Union, with its closed society and almost passionate attachment to secrecy, they will have a better verifiable treaty than we will have simply because of our open society and our almost equally passionate attachment to disclosure and leaks. What with our Freedom of Information Act, our investigative reporters, our open publications, free wheeling commentators, over-staffed staffs and government publications, any espionage or information gathering system as efficient as that of the Soviet Union must certainly have a much easier time gathering information on our weaponry in this country than our CIA or other U.S. intelligence agencies can ever hope to attain on theirs in the Soviet Union.

Having said this I have come to the conclusion that this is a fact of life with which we simply have to live. The Soviet Union with its might and its ideology is not going to go away; we must continue to attempt to find a modus vivendi with them and they with us if we ever hope to advance the cause of peace in a nuclear world and, at the same time, retain our essential security. In short, we have to take some risks. Even so, I must confess I am somewhat skeptical of the extent of our "significant" knowledge with respect to verification. I believe there is much information which we would have great difficulty in obtaining in regard to Soviet weaponry particularly before it gets to the testing stage.

Having been familiar with the sites in Iran, I was most skeptical of the Statement made so shortly after their loss that the verifiability of our treaties with the Soviet Union on strategic weapons was not significantly impaired. In some way, the Senate must be put in a position to reach a reliable judgment on our so-called national intelligence sources and our ability to verify the important treaty provisions.

I have been impressed in the past, as I have said, by what we were able to find out about Soviet weaponry, but I suggest that you do not let the fact that in one of our photographs you can see a small screw head in a Soviet missile mislead you into thinking that this is the measure of our intelligence capacity in the Soviet Union in respect of its strategic weapons. As one of our intelligence officers said to me once, "Do not think that this means we can tell you every time Mr. Brezhnev goes to the bathroom." There is much we do not know but, I repeat, I believe we have to take some risks in the way of trusting the Soviets and they us if we are to hope to lessen the dangers of a nuclear exchange and to arrive at a point where we can bring about a really significant limitation on our respective nuclear and conventional weaponry.

I have dealt with the Soviets on a number of occasions where I have had an opportunity to judge their bona fide. As I have indicated, I had to deal with them in such important areas as the defense of Berlin and West Germany and in the Cuban missile crisis. As to their attitude and negotiating tactics, I would summarize it this way. They are good chess players, as we all know, and on top of this they have a deep-seated or "gut" instinct as to what they want to feel they should have for their security.

After having been the victims of Western European aggression in two successive centuries, they resist all blandishments, the force of good example or bluffing and they operate in terms of size, quantity and power. By and large I have come to the conclusion that once the Soviets make a commitment which is clear cut and incapable of equivocation, they will honor it. I found this to be so in my dealings with Mr. Kuznetsov over the actual removal of the missiles from Cuba. I gained the impression he was meticubus in carrying out our understanding.

On the other hand, if in our verification process we were compelled to rely at any point on the word of the Soviet Foreign Minister, I would have little confidence in it as I cannot forget that he quite blandly stated to Adlai Stevenson among others that there were no Soviet strategic missiles in Cuba when he knew there were.

I rather doubt that the Soviets would have much of a motive to cheat in regard to this treaty. I believe they would very much like to see it in force and have it remain in force. It is clearly favorable to them in that it does ensure them of at least parity with US in strategic strength. We have come a very long way from our position of complete superiority to the present level of relative parity or something less. I believe they would be ill advised, as a matter of their own interest, to risk the consequences of cheating, even though I certainly could not exclude the possibility of it.

One more thought on verification. Although in the past we have been able to rely heavily on our satellite photography of the Soviet ICBM sites, because it was there that the Soviet strategic power was centered, it is now quite apparent that with the whole Soviet buildup we face the need of intelligence on a much wider and penetrating scale than heretofore.

The introduction of MIRVing on top of their civil defense, the threat of killer satellites to our control and command systems, the great superiority in armor and artillery facing West European targets, the presence of new forces, including the Cubans, in the Middle East area, the improvements generally in Soviet anti-European offensive systems (the gray area) will require expanded intelligence capacities on our part.

I would strongly urge that the time for open season on the CIA and our other intelligence gathering services is passed. They will need all the talent, energy, esprit de corps and dedication they can muster if we are to gather the "significant" verification data, as well as the broad intelligence as to Soviet intentions and capabilities which we should have.

In considering this treaty, I believe, the Senate is aware that there are even more serious and wider problems before it than how the constitutional provisions regarding the making of our treaties came to be adopted or even how well the provisions of this particular treaty can be verified.

It is now a fact that by a combination of the Soviet buildup within the treaty and our own laxity in not reacting to it while we had the perfect right to do so, we are now in a position of vulnerability. SALT I really had little to do with it. It is clear now that there has been a continuous series of improvements in their ICBM land-based systems, none of which, while disappointing to us, constitutes a proven violation of any existing SALT provision.

The Soviets acted within their rights under the provisions of the treaty and we acted within ours in choosing not to react, beyond continuing a rather well ordered maintenance of our existing land-based system avoiding obsolescence and coining phrases such as "minimum deterrence" designed to rationalize our failure to do anything more than we were then doing. I gather that very few, if any, now seriously deny that our main land-based nuclear battery has been made increasingly vulnerable and may well become compromised by this continuous improvement of the Soviet ICBM land-based systems. The Department of Defense, including the Joint Chiefs of Staff, I believe, do not contest this vulnerability, and indeed, if I have read them correctly, actually assert it.

There was some objection voiced the other day, according to a transcript I read, to the use of the term "goofed" in describing our inaction over the last ten years. Let us not deal in semantics; let us not waste time in ascribing fault. Let's admit there were a number who could be criticized. There is enough fault to go around. The fact is we did allow our investment in our main ICBM battery to lag just when the Soviet buildup was going along at its greatest pace. This, of course, had consequences and we should not blink them by ignoring the facts or by creating phrases or slogans to rationalize inaction.

The basic scenario is that with an immensely greater throw weight, together with increased accuracy and general quality due in large part to the Soviet Union's buildup aimed at a given time in the mid 1980's, the U.S.S.R. would be in a position to destroy or nearly destroy all our land-based ICBMs on a first strike and still have a reserve of land-based ICBMs to deliver against the United States. To be sure we would have the capacity to inflict some heavy reprisals against the Soviet population and their industrial targets, but the option is not a very satisfying one on the hypothesis that the Soviets would have a considerable remaining potential, after a first strike, in their land-based ICBM reserves as well as in their submarines and bombers.

If we accept the superiority of the Soviet land-based ICBM potential over that of the United States as the Department of Defense does, together with the general superiority of Soviet or Warsaw European-based nuclear and conventional strength over Allied European strength, the credibility of the American deterrent on which so much of the security and confidence of the whole free world depends could be materially impaired.

Our ICBM land-based batteries are probably the most efficient, the most accurate and best controlled and commanded, of all our nuclear weaponry. They are also, I would say, the most symbolic of our strength. We cannot afford inferiority in this area irrespective of where we stand in others. If our Allies and our potential enemies perceive that our main land-based nuclear battery is vulnerable, it could well induce pressures, tensions and tests of will that could lead to dangerous confrontations.

I doubt that the Soviets are looking toward or preparing for a successful nuclear exchange with us or a "bolt out of the blue" as General Jones calls it. Some contend that they are. I think they are too intelligent to risk such a confrontation, but I do believe, without any doubt, that they have been consciously seeking a position in relation to us on which they felt they might be able to apply pressures or leverage which would enable them to extend their influence over our Allies or their so-called hegemony without resorting to the risks of war. The signs, particularly since Cuba, certainly point that way.

Hopefully the scenario to which I referred will never take place. Indeed, we have to do what we can to ensure that, in fact, it does not occur. The Secretary of Defense points to a number of things, some of which are already in effect and some which can be put into effect that would not only deter the Soviet Union from undertaking such a strike but also would restore confidence all along the Allied line, that the credibility of the U.S. deterrent remains firm.

What are these measures? First, it is suggested that there is always the possibility facing the Soviet Commander who is contemplating a first strike that if the first strike were attempted, the targeted ICBMs might not be there. Any such strike is probably not going to occur without some buildup of warning signals; and the United States, with memories of Pearl Harbor in mind, just might fire on warning. It would require a bold decision made within minutes. However you look at it, it is a very narrow ledge on which to stand and who can tell who will be standing on that ledge when the decision must be made.

Next the Secretary of Defense states that by 1985 we will have in our improved submarine force and our bombers a capability of destroying a large number of the Soviet land-based ICMBs, which should deter them from risking a first strike on our land-based ICBMs. The B-52 bombers, though aging, he contends, will still have penetrability and could be put into operation either simultaneously with or before our ALCM's begin to come in.

We also now have the belated decision to start on the MX's with their mobile basing modes.

I am a little confused as to just when the MX and the air cruise missiles are planned to come in. I have the impression there is not a nice time fix on which we can rely. There may well be a time gap within which it might be tempting for the U.S.S.R. to attack our ICBMs. I do not believe that our relations with the Soviet Union are on such a delicate balance that we need to have all our deterrents in place at the right time in order to create constant and full deterrence.

We can strive to do so, but if, in the meantime we show we have measures on the way and we can improvise to a degree with our existing forces, there would still be considerable risks for an attacker to take. Though we may have to go through a nervous period, it is one so relatively short that the U.S.S.R. would have to make some very fine calculations, indeed, to choose the right moment to attack.

But SALT II is not responsible for this. I wish we had accomplished our modernization a little earlier. I wish we had been a little more discerning of what was happening in the way of the Soviet buildup and that we had started to counter it some years ago particularly by starting on the MX program earlier. I wish from what may be incomplete information that we had not scrapped the B-1, but we did. We made some miscalculations of the time it would take for the Soviets to improve the quality of the Soviet ICBMs. However, we should waste no time, as I have said, in assessing blame, but concentrate on restoring the balance. We shall have to play catch up football to a degree in bringing our land-based ICBM force either through survivability or other measures to a point when it is again, both perception wise and in fact, essentially equal in power to the U.S.S.R.

I have difficulty following the argument that the treaty freezes us into a position of inferiority. Secretary Brown and the Joint Chiefs of Staff seem to think we can in time remedy the vulnerability of our ICBMs and that there is nothing in SALT II to prevent our doing so.

If I heard the Secretary of Defense and the Joint Chiefs of Staff right, they said there was nothing in SALT II which would inhibit or seriously impair the United States from taking any steps which they thought were necessary to offset the threats to our land-based ICBMs or indeed any other serious threats or to help our Allies to offset the threats to them in the regional area. This is assuming we and our allies have the will to do so. I place great reliance on their testimony in this respect. I do not know that I know enough about the situation to be as confident about this as they are, but then I do not know what measures they feel we should take in order to regain the essential equivalence, as the phrase goes. I take it that it certainly includes the MX, the Trident II submarine and missile as well as the cruise missile. There may be other items. I also assume that in saying this they mean action, and not merely reservations of options, for I believe we have passed beyond the stage where they will prove effective.

I am quite prepared to accept the contention that what we have done or failed to do thus far has set a bad precedent and that the Soviets can be counted upon to be as obdurate in SALT III as they have been in leading up to SALT II. But is not the answer that for once we can be equally as obdurate? My position is that it should be made perfectly clear that under the treaty we intend to go ahead immediately to restore the balance with respect to our security. It should also be made clear that we intend to help our Allies establish the forces necessary to maintain their security, through the transfer of technology and equipment. The treaty does not insure our security by any means. No one can seriously contend that it does. It requires other determined steps to do that. My belief is that in taking those steps we are, on balance, better off with the treaty in effect than without it.

I wish to add that if I felt the approval of this treaty would recreate an aura of complacency resulting in failure to take action to redress the imbalance caused by the Soviet buildup, the treaty would not have my support.

In considering the favorable aspects of the treaty, I have come to the conclusion that we shall be in a much better position to verify what the Soviets are doing and what they are intending to do under the proposed and existing treaty provisions than we would be without them. Moreover, though the limits set for launchers are so high that they do not have much meaning, they do constitute limits which are now set not only in the overall but in the important subcategories as well. They do restrain unlimited increases in missiles and RVs and hopefully this may encourage further limitations. To put it another way, they are considerably better than no limits at all.

I am also ready to accept the Administration's emphasis on the importance of the next phase, i.e. SALT III although this may be in the realm of hope rather than reality. I believe it is important to continue in spite of our discouragements to strive to bring about really significant and equal reductions of armaments as between ourselves and the Soviet Union. This, I think, we should do as long as we feel there is a reasonable hope of Soviet acceptance of arms reductions. I do not know enough about present Soviet intentions to know whether there is such a hope.

People whose judgment and experience I respect feel there is. I have become convinced we have a better chance of finding this out with the treaty than without it. I am impressed, as is Senator McGovern, with the fact that so many segments of opinion among the military and nonmilitary favor the principle of much larger equalized limitations. General Rowny even seemed to think if we had been a little more persistent about it, we could have had Soviet agreement to greater reductions in 1977.

Larger reductions continue to be highly desirable, both in the cause of peace and in the relief they could give each of our countries from massive financial burdens. I would suggest to Senator McGovern that a convincing demonstration of our willingness to take the steps to redress the present inbalance ought to induce a willingness on the part of the Soviets to agree to significant reductions. Or to put it another way, to discourage them from clinging to the high levels they have been demanding. I am inclined to agree with those who say that if there is no hope of going forward steadily with significant and equal reductions in our armaments, there will be real doubts as to the sense of continuing the SALT process at all.

The size and nature of the Soviet buildup is, of course, related to this treaty as well as the security of ourselves and our Allies. It makes this debate in the Senate take on serious proportions. I would hope that it would introduce a note of objectivity that will despense with some of the name calling which has marked certain phases of the earlier argumentation.

I should like to record that I believe that Paul Nitze, who was one of our early negotiators and who is an expert in security matters and a patriot has done the country a service in pointing out publicly what he sincerely considers to be substantial disadvantages in this treaty. But for him and the work of his Committee, I doubt the country and this Committee would have had as clear a picture of the problems which have resulted from the steady improvements and investments in the Soviet ICBM systems over the last 10 years. I would like also to remind this Committee of the fact that had it not been for the support of the generals, the admirals and the air chiefs, mainly the World War II military leaders from Eisenhower down, there would never have been a disarmament agency or the legislation which gave momentum to arms limitation efforts.

When we look at the priorities, I believe, we must conclude that the greatest issue facing this country, and the human race remains the balance between peace and war. When one thinks of the number of these massive engines of destruction, all targeted, aimed and alerted in their launchers, and what they can do to our civilization if they were to be let go, all other issues such as energy, inflation and the tyranny of the bureaucracy, would have to take second, third or fourth place.

Happily the question of the approval or disapproval of this treaty is not synonymous with the issue of peace and war, but the treaty, as I see it, does give us, at least, one more crack in the future at attempting to reduce this costly pile of armaments with which we are now so heavily and dangerously burdened. If we have the treaty, I repeat, I would hope that it will afford us another chance to talk seriously with the Soviets about the real need for more significant and equal reductions of our respective armaments nuclear and conventional.

I do not place much importance on the argument that if we do not ratify this treaty limiting nuclear arms with the Soviets, others, absent our example, will be disposed to start proliferating on their own. I say this because the example set by SALT II is not all that eloquent.

On the other hand, I do believe, as I have indicated, that we would be better served with this treaty with such clarifications and reservations this body may see fit to make than we would be without it. I place particular emphasis on the opportunity for improved intelligence and the opportunity for going forward which SALT II provides. If we do not go to sleep, and let's not cavil about it, we at least nodded, then we ought to have a better chance of keeping our deterrent capability alert and convincing because of certain provisions in SALT II.

The idea of having a standing consulting organization to which each side can come with its suspicions of cheating is a helpful if not a sure way to test out each other's bona fide. Under the treaty and with SALT III it would seem to me that we could establish a continuing forum within which to press our point of view and in the last analysis to convince the Soviet Union that we intend always to take such action as we feel necessary to resist any attempt on their part to put us to a position of inferiority. One must remember that, with or without SALT, the price of our security will, remain as always in eternal vigilance.

Our progress with SALT III may tell us a good bit about the value of the SALT II treaty. It may prove to be a decisive step. The strong emphasis which the Administration places on the on-going effect of the SALT process seems to indicate to me its own appreciation of the shortcomings of SALT II, as well as its conviction that the opportunity exists for substantial progress in the next phase of the negotiations.

As long as that hope persists and as long as we remain alert to our own security needs and those of our Allies, the more we talk with the Soviets about the limitation of armaments the better. There may be considerable momentum generated toward such progress by reason of the airing of the whole subject of the strategic situation in the world which the announcement of this proposed treaty and these hearings have provoked.

One can be sure that the U.S.S.R., as well as our Allies, will "cover" these hearings and the ensuing debates with deep interest. This is an opportunity of going further. I believe this opportunity for going forward is worth exploring. It might be irretrievably lost were SALT II to fail approval.

Here I wish to emphasize that in negotiations for SALT III, it is essential that we establish a system to obtain the views and meet the requirements of our NATO Allies whose interests will be profoundly affected by that treaty. We must never forget that the unity of the Alliance remains a vital element in our defense and that of the free world. The Soviets never cease their attempts to undermine it. We must constantly preserve it whether we are operating under SALT II or SALT III.

I have said that the consideration of this treaty and its relevance to the Soviet buildup and our general strategic position in the world is worthy of a profound Senate debate. There is much more involved than just arriving at a bareboned conclusion that we are or are not better off with this particular treaty than without it. What clarifications it may need, what is required in the way of bolstering the credibility of our deterrent and the security of Allies in the general strategic situation are all involved.

When it is suggested that there is enthusiastic support for the treaty among our Allies, I must say I fail to discern it and I have long been fairly close to European opinion. One has to realize that the United States and the free world are faced with the reality that this country is no longer in a military class by itself. It is matched, or as many serious analysts here and abroad believe, outmatched by the Soviet Union. Our Allies are very deeply concerned about it. They are close to the division lines between the East and the West and they are anxious to avoid unnecessarily provocative attitudes. Their position, as I read it, is somewhat ambivalent. They are aware of and are deeply concerned about the Soviet buildup; at the same time that they fear what the consequences might be if after all the publicity no treaty should ensure.

My main preoccupation for a number of years has been in the strength of the alliance and the defense unity of Western Europe. I still have a good many contacts among our European Allies. I am aware that the Administration sought and obtained considerable Allied governmental support for this treaty, but make no mistake, deep concern about the perception of the strength of the United States persists. Naturally, I do not purport to have the wide contacts that our Government people have abroad, but from my not inconsiderable ones and from much reading of serious comment I sense a deeper concern today regarding the credibility of the American deterrent than at any time I can recall. I do not believe there is an Allied Chancellory in Western Europe which is not uneasy at the thought that in the future it may not be able to assume, as it has in the past, the U.S. umbrella remains as firmly placed and impervious as ever. I am inclined to think that our Allies would react favorably if the Senate took steps to clarify or even amend the treaty in such a way as to confirm the aspect and power of the U.S. deterrent. This is particularly true in the face of the realization of the loss of American strategic superiority and the concurrent dimensions of the Soviet military buildup.

I am much comforted by the fact that the Senate is squaring away to deal with the difficult problem it faces with the treaty. We all know about some of the great Senate debates in the past—the great slavery debates, the Versailles and League of Nations treaty, etc. They are a stirring part of our history. I had the opportunity once to sit on the floor of the Senate through what might be classed as a great debate. I was then in the War Department, it was the Lend-Lease debate, and I posed as a page to get by the Sergeant-at-Arms. At issue was our old isolation policy against the call for our intervention in critical world affairs. I came away from that debate with great respect for the body you represent.

I knew that legislation like the back of my hand, but I was frequently amazed at how knowledgeable of the issues involved the members, as a whole, were. There was not a weak point that was not detected nor a strong one that was not weighed in the course of debating and concluding the issue. I am confident that in consideration of the SALT II treaty the present Senate will reach a conclusion consistent with the security of the country and preservation of peace. I would remind you of what Alexander Hamilton said: You like no one else are charged with the trust.

STATEMENT OF GEN. ALEXANDER MEIGS HAIG, JR., U.S.A. (RET.)

Mr. Chairman, I welcome the opportunity presented today to take part in your deliberations on the SALT II Treaty. Thoughtful analysis and assimilation of a document of this breadth and complexity is a formidable task. It is clear, however, that the outcome of your efforts will have an indelible effect in shaping the terms and climate of U.S.-Soviet relations and thereby the prospects for peace in the years ahead.

Today, you have asked for my views on the effectiveness of the treaty in meeting the security requirements of the North Atlantic Alliance, our oldest and most compelling defense commitment. In the next few minutes, I will try to characterize for you the significance of SALT to European leaders.

NATO strategy, as you know, calls for defense against conventional attack as far forward as possible. In addition, if necessary to limit penetrations and restore boundaries, the strategy calls for the use of tactical nuclear weapons and ultimately central strategic systems if escalation is not earlier contained. Although a conventional attack would be met in kind, the serious, historical imbalance in conventional forces favoring the Warsaw Pact has led to the common expectation among our allies of early resort to nuclear weapons—both tactical and strategic. Consequently, the reason for their interest in negotiations which affect these systems is very clear.

THEATER NUCLEAR FORCES

In recent years, there has been a dramatic shift in the balance of theater nuclear forces in favor of the Warsaw Pact.

As a result of an extremely vigorous Soviet program of modernization and replacement, the Warsaw Pact has redressed their historical position of inferiority in theater nuclear systems to a position of approximately 3 to 1 advantage. The deployment of the SS–20 IRBM and the Backfire bomber has been especially troubling throughout the alliance.

Within this context, allied concerns over SALT focus on its impact on the existing imbalance; that is, does the treaty provide special benefit to the Soviets or prevent allied efforts to catch up? Viewed in these terms, the exclusion of the Backfire and SS–20 and restricting the range and deployability of cruise missiles has raised serious questions in NATO capitals. From their perspective, both systems have a central influence on their security, and the exclusion of the Backfire and SS–20 contrasted with the inclusion of cruise missiles, was both puzzling and a cause of concern.

With respect to the integration of cruise missiles into NATO units, no precise schedule or mode has been decided. The need, however, is clear. The desirability of having a conventional variant has also been raised. In this regard, I believe the potential of these systems to be enormous, and there is no question that unhindered access by our European Allies to cruise missile technology is vital to restoring the balance.

THE STRATEGIC BALANCE

Our NATO partners have always placed foremost importance upon the secure linkage of U.S. strategic forces to their defense. In this light, the relationship of SALT to European security is very apparent. During the years of unquestioned U.S. superiority, the credibility of the U.S. commitment was high. As that position of superiority eroded toward parity, our reliability became less certain. As it erodes further toward clear Soviet advantage in the next few years, even greater doubts will arise.

Despite the foregoing, European political leaders have expressed support for SALT II. This support is conditioned by the following factors:

First, Europeans—like Americans—are generally supportive of efforts to reduce the levels of nuclear armaments.

Second, there is strong sentiment to avoid any action which might further weaken the United States Presidency.

And third, there is concern that the nonratification of SALT II in its present form would disrupt the overall U.S.-Soviet relationship of detente and lead to increased tension and possible U.S.-Soviet confrontation which might be resolved at the expense of our allies.

Nevertheless, beneath these overarching considerations, there is deep concern in Europe over the very painful realities reflected in SALT II. Consequently, they are seeking and would surely welcome a definite signal of reassurance with respect to the steadily worsening trend in both the theater and nuclear balance. In specific terms, they would welcome actions which confirm unequivocally the U.S. commitment to a program of prompt strategic force modernization and improvement. They have been heartened by the U.S. pledge of unhindered sharing of systems and technologies designed to restore the theater nuclear balance. The obvious corollary, however, is the absolutely imperative termination in 1981 of the Protocol restrictions on ground- and sea-launched cruise missiles.

A firm, unambiguous demonstration of renewed U.S. strength and ability to lead is overdue. The global power balance is viewed in Europe as shifting against us, and we can ignore it no longer. It is in this context that Senate action on the SALT II treaty, as a political expression of national will, takes on special meaning, and I urge you to consider it in those terms. The SALT II treaty is viewed as a benchmark. It can be an instrument which marks the end of a period of drift in United States leadership. Whatever substantive alterations the Senate may wish to consider, it is essential that this debate result in a demonstration of our resolve to redress this imbalance by an immediate and unequivocal commitment of greater resources to our defense needs.

In conclusion, I am not satisfied that the necessary commitments have been made with respect to our strategic needs. I am also concerned that the Administration's budget for the past two years and the President's defense budget projections through FY 1984 are inadequate to meet our conventional needs, to say nothing of our already proffered commitments to NATO. Furthermore, I consider that the SALT II treaty itself contains flaws which should be given serious attention in your deliberations. Beyond that, the necessary consensus between the United States and its European allies has yet to be achieved for the implementation of absolutely essential theater nuclear modernization. This includes determination of systems to be provided, deployment patterns to be pursued, arrangement of funding, and, in the light of SALT II, the provision of necessary technology to our allies. Finally, I believe these programmatic commitments must be based on a two-tiered United States consensus which addresses the fundamental directions of future U.S.-Soviet relations on the one hand and clearly delineates U.S. strategic nuclear policy on the other.

Until such firm commitments and their underlying strategy have been confirmed and resulting programs in the strategic theater nuclear, and conventional areas have been carefully assessed and agreed upon, and until the Senate has assured itself that the flaws in SALT II have been resolved, I urge that ratification of SALT II be held in abeyance.●

INDIA'S CHANGE OF LEADERSHIP

● **Mr. PERCY.** Mr. President, the peaceable, constitutional change in the leadership of India reminds us once again that India is a working democracy which deserves our respect. An excellent editorial in the Washington Post on July 31, 1979, made this point very effectively, and I ask that the editorial be printed in the RECORD.

The editorial follows:

MR. SINGH'S TURN IN DELHI

The United States is not the only democracy suffering summer palpitations. In India, the coalition Morarji Desai assembled to oust Indira Ghandi two years ago, having found no other common purpose, disintegrated in mid-July. A new coalition—India is such a large and disparate country it can only be governed, democratically, by a coalition—has been put together by Charan Singh: It's less sectarian (Hindu) and northern. At 77, Mr. Singh is just six years younger than his predecessor. To become prime minister he accepted crucial support from the still-calculating Mrs. Gandhi. His political base is among peasant proprietors and in ideology he is strongly pro-rural, anti-urban. He is a homebody, having left India only once—for Sri Lanka. Already his foes are trying to bring him down.

Not many Americans—to put it mildly—are close students of Indian party politics. The differences between Mr. Desai and Mr. Singh are not likely to dominate the conversation at a whole lot of dinner tables. For those people who do feel some moral obligation to check into the affairs of the world's most populous democracy from time to time, it is perhaps enough to note that, once again, India has been able to carry off a change in national leadership by orderly, peaceable means. It's no small feat. A country doing it for the first time could expect to be feted in the Rose Garden. India's reward for doing it consistently is to be put down in some quarters for "instability," as though making political changes by the rules were not the very definition of stable democratic procedure. The details of the change in Delhi—who knifed whom—intrigue only connoisseurs. But the fact of the change is worthy of wide respect.

What do we Americans want from India, anyway? For it to be democratic? It is. For it to be making inroads into its poverty? Its recent quiet achievement of agricultural self-sufficiency constitutes major progress by any sober standard, though a serious distribution problem remains. For it to take a positive attitude toward global efforts for peace and stability? India adequately fills this bill. The lone cloud on the horizon lies in the prospect that Indian nationalism, perhaps aggravated by the country's dispute with the United States over nuclear safeguards, may push it toward openly matching China's bomb. The hope—though it seems pretty slim—must be that maintenance of a working democracy may put a check on this troubling ambition.●

ENVIRONMENT AND PUBLIC WORKS WATERSHED WORK PLAN REPORT

● **Mr. RANDOLPH.** Mr. President, the Committee on Environment and Public Works has approved the implementation of nine watershed work plans submitted by the Soil Conservation Service of the Department of Agriculture. The watershed work plans are approved by committee resolution in accordance with the Watershed Protection and Flood Prevention Act, Public Law 83–566, as amended. Similar resolutions have been approved by the House Committee on Public Works and Transportation.

This report to the Senate explaining the views of the committee in adopting these watershed work plans is in accordance with committee procedure. I ask that the report be printed in the RECORD.

The report follows:

REPORT TO THE SENATE ON SEVERAL PUBLIC LAW 83-566 WATERSHED WORK PLANS APPROVED FOR AUTHORIZATION FOR CONSTRUCTION BY RESOLUTION OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

GENERAL STATEMENT

In considering the nine watershed work plans, the Committee on Environment and Public Works found that the plans were economically feasible and environmentally acceptable. The plans have the support of local interests and the Senators from the States in which the projects are located. The plans were adopted because the Committee believes they are needed and in the public interest.

In the last session of the 95th Congress the Committee adopted a group of 21 watershed work plans. In its report to the Senate on September 14, 1978 the Committee listed several concerns it had with those work plans. This group of projects is vastly improved over those reports. However, there are some concerns remaining such as watershed size and delineation, and incremental justification of project purposes. These concerns were detailed in the September 14 report. The Committee is pleased that the Soil Conservation Service is working to address the concerns that were expressed in the September 14 report, and urges the Service to continue to improve the quality of the reports.

DESCRIPTIONS OF WATERSHED WORK PLANS APPROVED

Dynne Creek Watershed, Alabama

This 16,600, acre watershed is located in Cleburne County. The watershed plan will provide for watershed protection, flood prevention, recreation, and municipal and industrial water supply. Principal measures include soil conservation practices on farms, recreation facilities, two floodwater retarding structures and one multiple-purpose reservoir. The three reservoirs will have a total capacity of 6,200 acre-feet. The plan is estimated to cost $1,330,000 of which $730,000 will be a Federal responsibility. The project is economically justified with a primary benefit-cost radio of 1.4.

Factory Creek Watershed, Alabama

The Factory Creek watershed is an area of 51,600 acres located in Sumpter County. The watershed work plan proposes principal measures of three floodwater retarding structures with a capacity of 6,100 acre-feet and soil conservation practices. These measures would facilitate watershed protection and flood prevention. The primary benefit-cost ratio is 1.4. Total cost of the plan is estimated to be about $1,327,000 with a Federal share of $725,000.

Middle Creek Watershed, Kansas

The plan for this 46,765 acre watershed located in Miami and Linn Counties would provide watershed protection, flood prevention, recreation and agricultural, municipal and industrial water supply. Implementation of the plan would require soil conservation practices on farms, seven floodwater retarding structures, one multiple-purpose structure and the removal of log jams from channels. The total capacity of the structures is 12,400 acre-ft. The primary benefit-cost ratio is 1.5. The Federal cost is estimated as $3,200,000 out of a total cost of $5,540,000.

Wet Walnut Creek Subwatershed No. 2, Kansas

This subwatershed of 232,200 acres located in Ness, Rush and Pawnee Counties was cut out of the much larger Wet Walnut Creek Basin to meet the acreage limitation on PL 566 projects. The plan for watershed protection, flood prevention and recreation would require soil conservation practices, 23 floodwater retarding structures and one multiple-purpose structure. The planned storage capacity of the structures is 36,600 acre-feet. The primary benefit-cost ratio is 1.04 with a total cost of $8,460,000. The Federal portion of estimated costs is $5,280,000.

Wet Walnut Creek Subwatershed No. 3, Kansas

This 228,000 acre portion of Wet Walnut Creek Basin is located in Ness County. The purposes for which the work plan was developed are watershed protection, flood prevention and recreation. Facilities to implement the purposes are: soil conservation practices, 11 floodwater retarding structures; and one multiple-purpose structure. The capacity of the structures is 28,100 acre-feet. The primary benefit-cost ratio is 1.02. The total cost is estimated as $6,550,000 of which $4,070,000 is the Federal cost.

Wet Walnut Creek Subwatershed No. 5, Kansas

This 198,000 acre area is located in the headwaters of the Wet Walnut Creek Basin in Scott, Lane and Ness Counties. Soil conservation practices and three floodwater retarding structures with a 10,900 acre-foot capacity will provide watershed protection and flood prevention. The primary benefit cost ratio is 1.1. Total and Federal estimated costs are $2,800,000 and $1,350,000, respectively.

Kickapoo Nations Watershed, Oklahoma

This watershed area of 165,300 acres is located in Lincoln and Oklahoma Counties. The watershed work plan is formulated to provide watershed protection, flood prevention, municipal water supply and recreation. Principal measures include soil conservation practices, 19 floodwater retarding structures, one multiple-purpose structure and 25 acres of wildlife habitat mitigation features. The storage capacity of the structures is 46,800 acre-feet. The primary benefit-cost ratio is 1.7. The Federal cost is estimated to be $7,710,000 which is a part of the total cost of $11,740,000.

Robinson Creek Watershed, Oklahoma

The Robinson Creek watershed of 40,320 acres is located in Lincoln County. Project plan purposes are watershed protection, flood prevention, municipal water supply and recreation practices, 10 floodwater retarding structures, and one multiple-purpose structure. The total capacity of the structures will be about 10,740 acre-feet. The primary benefit-cost ratio is 1.2. Total and Federal costs are estimated at $5,640,000 and $3,760,000, respectively.

Upper San Marcos River Watershed, Texas

This 60,780 acre watershed is located in Comal and Hays Counties. To provide watershed protection, flood prevention and recreation, the plan requires 5 floodwater retarding structures and public water based recreation facilities. The capacity of the structures is 18,900 acre-feet. The primary benefit-cost ratio is 2.2. The Federal cost is estimated to be $4,450,000 out of a total cost of $5,910,000.●

U.S. POLICY IN EUROPE

● Mr. KENNEDY. Mr. President, this has been an important year for Europe. During the past 6 months Pope John Paul II has returned to his homeland, Poland, for a momentous visit; President Carter and Premier Brezhnev have met in Vienna for the historic signing of the SALT II Treaty—a treaty that all the governments of Europe support; the European Community has successfully launched the new European Monetary System and conducted the first democratic elections to ever be held for an international political body, the European Parliament.

George S. Vest, Assistant Secretary of State for European Affairs, explored these recent developments and related their significance to the United States in his recent testimony before the House Foreign Affairs Subcommittee on Europe and the Mideast. Mr. Vest is a longtime observer and participant of European affairs. Among other posts, he has served as Director of the Bureau of Politico-Military Affairs as well as Deputy Coordinator for Security Assistance. In addition, Mr. Vest was assigned as Deputy Chief of Mission to the European Communities and, later, as Deputy Chief of Mission to NATO.

In his testimony, Mr. Vest noted that—

> U.S. relations with Europe are the cornerstone of American foreign policy. Through pursuit of shared aspirations with the nations of Western Europe and Canada, we seek to assure strong defense and fullest possible economic and political opportunity for our citizens. Through promotion of detente with the countries of Eastern Europe and the Soviet Union, we try to curtail dangerous competition and expand constructive cooperation.

I join Mr. Vest in his support for greater cooperation—

> Because the problems are so great and because the need for cooperation is so clear, we have to put primary emphasis on working together.

Whether in such important areas as trade, energy, defense or economic policy, United States-European cooperation must continue to grow.

Mr. President, I ask that the full text of Assistant Secretary Vest's thoughtful testimony before the Foreign Affairs Subcommittee be printed in the RECORD.

The material follows:

REVIEW OF U.S. POLICY IN EUROPE

Mr. Chairman and Members of the Committee, I welcome this opportunity to discuss with you the state of U.S. relations in Europe. I know that your overriding concern is U.S. policy:

What are our main objectives?

What have we achieved?

What remains to be done?

It is with an eye to those central issues that this annual review is addressed. The succinct answer to your questions is that U.S.-European relations are in good shape.

We have reaffirmed and reinforced our commitment to the traditional principles of U.S. policy and to our transatlantic partners.

We continue to stress items of highest priority for the U.S. national interest: Western solidarity, the military defense of the West, economic well-being, the preservation and development of democratic institutions in Western Europe, and the promotion of constructive relations with the diverse countries of Eastern Europe.

We are working together with the governments of Western Europe and Canada on major issues of mutual concern. They have, for example, expressed strong support for SALT II and they recognize the continuing need to cooperate on the economic challenges before us all.

To elaborate on these larger themes that pervade recent and current U.S. policy toward Europe, I will start with a discussion of our role vis-a-vis the major institutions of Europe. I will then move to discussion of our bilateral ties with Western European and non-aligned nations and Canada. I will conclude with a summary of the evolution of our relations in Eastern Europe.

WESTERN MILITARY SECURITY

Concern for the security of our citizens remains fundamental to U.S. foreign policy. In that regard, the American role in the North Atlantic Treaty Organization (NATO) is central. This year we celebrated the thirtieth anniversary of an alliance which, according to President Carter, has "successfully deterred war and maintained stability in Western Europe and North America, thus securing the well-being and prosperity of its fifteen member states."

NATO's main purpose is, in the words of the North Atlantic Treaty, "to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law," and "to promote stability and well-being in the North Atlantic area." NATO's basic means to achieve these goals are to deter war in the North Atlantic Community, and to defend its member states, if deterrence fails, by sustaining the credibility of NATO's strategy of forward defense and flexible response based on a triad of conventional, tactical nuclear, and strategic nuclear forces.

U.S. policies to carry out this strategy center, in the first instance, on the modernization of theater nuclear and conventional forces. These improvements are required in order to maintain the credibility of NATO strategy in the face of Soviet theater nuclear and conventional force improvements over the past decade. U.S. policies toward NATO, in the second instance, aim at restraining arms competition in strategic theater nuclear, and conventional armaments.

We carried out continuous consultations with our NATO partners on the stragetic arms limitations talks and we coordinate closely with them on MBFR and other arms control initiatives. Thus, U.S. policy toward NATO offers the Soviet Union and its allies an alternative to an unrelenting force buildup, while NATO force improvements offer them an incentive to move forward on this option.

Equally important, the U.S. pursues these policies in NATO in a way that preserves political cohesion among members of the Alliance. It is in the interest of NATO solidarity that we consult continuously with our Allies, not only on the issues of arms control, but also on global issues where the national interests of the U.S. and its allies intersect.

The impact of U.S. policy on this institutional cornerstone of Western security is impressive. We held a Ministerial meeting recently at which there was a most useful exchange of views. We are confident that our effort to help shore up NATO's defenses, renewed after long concentration on Southeast Asia, is making headway:

On conventional forces, the NATO summit a year ago approved the Long-Term Defense Program (LTDP). It provides programmatic remedies for such deficiencies in conventional forces as anti-armor, reenforcement, reserve mobilization, maritime, air defense, and logistics. Complementing the LTDP was the NATO Summit's commitment to the goal of three percent real annual increases in members' defense spending. Needed improvements could not have been made on the basis of existing levels of defense expenditure. The summit also approved Alliance cooperation in the development and production of armaments in order to bring about greater standardization and interoperability of NATO arms and greater efficiency in the employment of economic resources.

On theater nuclear forces (TNF), the LTDP gives impetus to consultations with Allies on the need to modernize. The question has taken on particular importance in view of the continuing deployment of Soviet long-range theater nuclear systems targeted on Western Europe, such as the SS–20 missile and the Backfire bomber. These consultations, carried on in the NATO Nuclear Planning Group's High Level Group (which we chair), are moving toward recommendations for TNF modernization. In parallel with this process, we are consulting with our Allies on theater nuclear arms control measures in the Special Group, which the U.S. also chairs

On strategic arms limitations, we have consulted closely with our European Allies and Canada over the course of the recent years to ensure that the SALT II Treaty protects and enhances their security. The consultations have focused on Treaty issues of particular interest to the Allies, such as the Protocol cruise missile restrictions and the non-circumvention provision. European leaders made clear their support for SALT II at the Guadeloupe Summit last January, in individual government statements in the intervening months and, most recently, at the NATO Foreign and Defense Ministers' meetings in May and after the NATO Council reviewed the Treaty on June 29.

I could not give a comprehensive review of our NATO policies without touching on the question of enhanced radiation warheads, the so-called "neutron bomb." This defensive tactical nuclear weapon was designed to counter an enemy tank assault with a nuclear warhead which would cause less collateral damage than existing nuclear weapons. The President decided in April 1978 to defer production of the weapon, but to modernize tactical nuclear forces in such a way as to leave open the option of adding it at some future time, depending on Soviet restraint.

In addition to the defense side of our policy toward NATO, we have, on the political side, sustained the vital consultative process on issues of mutual concern. East-West relations, the Mideast, China, Southeast Asia, and Africa have been prominent among the questions of foreign policy we have addressed in the NATO council, often with special experts sent from Washington for the meetings.

The need to preserve political cohesion in NATO, while a truism, can never be taken for granted, precisely because we are an Alliance of fifteen sovereign equals. And, the greatest single burden in this respect falls on the U.S. It is, in part, for that reason that President Carter has met three times with the North Atlantic Council. Our leadership is an imperative. Further, the manner in which we lead influences NATO's cohesiveness, as well as its effectiveness.

The fact that NATO's basic fabric is strong and resilient in 1979 is a signal achievement. It may be a greater accomplishment now than it was in 1959 or 1969 when we were in the midst of, or were just emerging from, the Cold War. To have preserved the commitment of NATO's fifteen members to the Alliance has been a difficult challenge in an increasingly multipolar world where defense and detente have been our declared policy since 1967. And, it has been all the more difficult for NATO to confront collectively the unprecedented, broad range of divisive issues that face the West today.

Finally, the very success of our efforts to preserve Western security begets new challenges. On the defense side, our success in achieving Alliance agreement on how to respond to the Warsaw Pact conventional and theater nuclear challenge leaves the need to follow-through with implementation of agreed decisions. More particularly:

On the LTDP, the U.S. must lead the effort for vigorous follow-through on the 123 conventional force improvement measures approved at the NATO Summit a year ago.

On improved cooperation in NATO armaments, U.S. leadership will require imagination and face hard choices, given the economic as well as military implications of this issue. The Executive branch intends to work closely with the Congress and with U.S. business and industry.

Similarly, carrying out the goal of a three percent increase in defense expenditures will necessitate equally tough choices. If we fail to fulfill our commitments, our Allies are likely to find it impossible to convince their own publics and parliaments of this need.

On theater nuclear force modernization, we will continue to consult closely with allies, looking to NATO decisions near the end of the year.

Close consultations will be the order of the day for SALT III.

On the political side, the current effectiveness of our intensive consultations in NATO does not relieve us of the task of maintaining that process. It is a primary necessity for NATO, as well as for our own foreign and security policies. And, needless to say, we in the Executive Branch attach comparable importance to the need to continue to consult with the Congress as we move ahead on issues vital to U.S. security.

WESTERN ECONOMIC WELL-BEING

There can be no enduring military security without a sound basis in economic strength. Recession can imperil the defensive underpinnings of the alliance and the political stability of its member states. Concern about economic issues in general and energy in particular ranks uppermost in the minds of Europeans, as much as with most Americans.

How to deal with shared economic problems is thus a major consideration in U.S.-European relations. Because the problems are so great and because the need for cooperation is so clear, we have put primary emphasis on working together. Recognition of the necessity for close consultation on shared challenges to our economic well-being is the basis for holding Economic Summits and it accounts for the special emphasis we place on working with two major multilateral institutions: the Organization for Economic Cooperation and Developmnt (OECD) and the European Community (EC).

We have made a concerted and continuing effort to underscore the role of the OECD as a major forum for cooperation among the industrialized nations. At the June 13–14 OECD Ministerial meeting, Deputy Secretary of State Warren Christopher, Secretary of the Treasury Michael Blumenthal, and Council of Economic Advisers Chairman Charles Schultze headed the U.S. delegation. They focused on the need to grapple collectively with such problems as sustained non-inflationary economic growth, payments imbalances and the International Monetary situation, energy, the North-South dialogue, and structural change brought about by changes in technology and relative prices, as well as shifting patterns of world production and trade.

Using the OECD as the principal forum, we have engaged in extensive consultations with the EC nine and other European countries on North-South issues. We have been successful in building support for U.S. views and in achieving a common position among the OECD member countries in meetings such as the recently concluded UNCTAD V Session in Manila. This time, the industrialized countries had a cohesive approach and we avoided acrimonious disputes with our allies.

The International Energy Agency (IEA),

an independent agency within the OECD framework, is the principal forum for consumer country cooperation on energy matters. As recent price and supply developments illustrate, there is a need to maintain a united consumer country position and for careful management of the situation. The JEA ministerial meeting, May 21–22, reconfirmed the decision for members to adopt measures to reduce their collective demand for oil by two million barrels per day, or by about five percent of anticipated 1979 IEA demand. The ministers decided to continue such efforts in 1980 and agreed on a set of policies and principles for enhancing coal utilization, production and trade. France, although not an IEA member, has adopted parallel conservation measures. The EC is an IEA participant and the EC energy program has reflected IEA recommendations. The Tokyo Summit commitments to limit oil imports are based upon the IEA program.

A substantial package of economic assistance for Turkey has been developed within the OECD framework, with the Federal Republic of Germany and OECD Secretary General Van Lennep playing key lead roles. A pledging session Paris, May 30, resulted in commitments in excess of $900 million over the next year in the form of concessional credits, export credits, and grants. The U.S. share is approximately $250 million, subject to Congressional authorization and appropriation. The pledging of these funds has facilitated the completion of an agreement between the Turkish Government and the IMF on appropriate economic policies. We expect to receive formal IMF approval later this month.

U.S. support for the progress of European integration, exemplified by the evolution of the European community, remains strong. We consider progress toward European unity of primary importance for Europe, for the west and for the world. At the same time, we believe that European unity must be achieved by the Europeans themselves. It is in that spirit that we follow with interest such milestones in the move toward European unity as the establishment of the European monetary system (EMS), the enlargement of the community to include nations of southern Europe, and the holding of direct elections to the European parliament. We view these developments and others as reflections of the growing habit of Europeans to think and act in the European context.

We welcome the EMS, launched on March 13, 1979 by all EC members except the United Kingdom. It is an effort to stabilize intra-EC exchange rates and to provide additional resources to counter exchange speculation. It is a major Franco-German political initiative, designed to stabilize European currencies and, incidentally, to foster European economic integration. Its long-term success will depend on the member states' ability to harmonize their economic policies.

We applaud the signing of a treaty of accession for Greece on May 28, 1979. After ratification by all the national parliaments, Greece is expected to become the tenth EC member on January 1, 1981. Portugal and Spain have also applied for membership and substantive negotiations are expected to begin this fall, with entry into the EC as early as 1982–83. The primary motivation for EC enlargement is political: To bind the newly democratic applicants to the more advanced European democracies and thereby enhance their political and economic stability.

We consider the first elections to the European parliament, June 7–10, a significant step forward for Europe. The shift to direct elections will not increase the limited advisory and oversight powers of the parliament, but the new legislators will adopt a higher profile than their appointed predecessors and will gradually seek to expand their influence. We hope that, in due course, the present ties between the Congress and the European parliament can be strengthened to reflect the significance of the June elections.

In addition to expanding U.S. activity in the OECD and increasing cooperation with the EC, there are other developments in the economic realm that merit mention. We continue to participate in economic summits as one of several means to buttress joint action for economic well-being. The economic summit in Tokyo was a crucial opportunity to focus on such priority issues as energy. In the area of energy, the most important decisions revolved around the commitment to set national ceilings for oil imports for 1980 and 1985 and to ensure adequate resources for the development and commercial application of technologies for alternative sources of energy. Both the OECD, including the International Energy Agency, and the European Community will play a significant role in the follow-up to the commitments made by the Summit participants. Although energy was the key issue discussed at the Tokyo Summit, the participants also made commitments to do more to improve the long-term productive efficiency and flexibility of their economies, to implement the agreements reached in the Tokyo round of the Multilateral Trade Negotiations, to achieve durable external equilibrium, and to pursue constructive North-South relations.

After years of arduous bargaining, we have achieved the successful conclusion of the Multilateral Trade Negotiations (MTN). U.S.-EC negotiations lay at the heart of the MTN because of the community's weight in world trade. We have, in consultation with the Congress, prepared the necessary U.S. implementing legislation. We will be consulting closely with the EC and other European countries to ensure that their implementing regulations and legislative procedures are a comprehensive and accurate reflection of the agreements reached at Geneva. With ratification, we will have to put the new rules into practice through revised GATT procedures and thus be able to deal with trade disputes over the coming decades.

Over the past year, we have been working closely with our European allies to arrive at reasonable solutions which balance proliferation concerns with energy needs. The international nuclear fuel cycle evaluation (INFCE) is part of this process. In addition, as required by the 1978 Nuclear Non-Proliferation Act (NNPA), we are negotiating a new nuclear cooperation agreement with the EC and hope to conclude a new agreement sometime next year after the end of INFCE. We are also working with the EC and the International Atomic Energy Agency (IAEA) in Vienna to accelerate the conclusion of facility inspection arrangements between the EC and the IAEA.

BILATERAL RELATIONS WITH WESTERN EUROPEAN NATIONS, CANADA, AND THE NON-ALIGNED

Although the United States places significant emphasis on using multilateral institutions to help foster western military security and economic well-being, we must, at the same time, deal with our European counterparts and non-aligned nations effectively on a bilateral basis. Here—as with NATO, the OECD and the EC—we are searching together for solutions to problems that affect both Europeans and Americans.

We have deepened mutual understanding on bilateral policy issues with the Federal Republic of Germany through intensified consultation. Of particular note during the last year were the President's highly successful state visit to the FRG in July 1978 and Chancellor Schmidt's visit to Washington last month. The Chancellor has countered reports of a deterioration in U.S.–FRG relations in major speeches in Germany and during his June 1979 visit in the United States. In a speech at the University of South Carolina, for example, he emphasized that firm U.S.-German ties are a reliable feature in today's international affairs, and that "the focus of our relations is no longer on a purely bilateral relationship but on the wider tasks and responsibilities which we share." He has expressed strong support for the President's efforts to achieve lasting peace in the Middle East and for the prompt conclusion and ratification of SALT II. Areas of U.S.-West German relations requiring continued special attention include military-security policy, east-west relations, the coordination of economic measures, and policies on nuclear energy and export.

We continue to have a positive relationship with France, based on mutual respect and exemplified by the recent Washington visit by French Foreign Minister Francois-Poncet and effective consultations with the French during their term in the EC presidency this year. We recognize that, in its role as a major power, France has its own views on such questions as peace in the Middle East, organizing assistance for Africa, conventional disarmament in Europe, oil price ceilings and export credit competition. All of these questions are under extensive discussion, as are such questions as nuclear nonproliferation where there is now a greater identity of view. The important underlying factor in all these questions is that French and U.S. basic objectives in the world are similar, while we sometimes seek their achievement along different but parallel paths.

Since I talked with your committee last year, the conservative party in Great Britain has returned to power. Prime Minister Thatcher's victory, May 3, has given her party a solid working majority in Parliament and a strong mandate to try a Tory approach to dominant domestic economic issues. We expect our close ties with Britain to continue, as we work together on problems of mutual interest, especially those regarding Western security and southern Africa. If differences of view on some specific issues should emerge between us and the new British Government, we are confident that they will be resolved through the close and continuing cooperation that has long existed between our two countries. The Administration's dealings with the new British Government got off to an excellent start when Secretary Vance visited London, May 20–24. The President and Mrs. Thatcher met in Tokyo for the Economic Summit last month.

We remain distressed by the continuing violence in Northern Ireland which, although below the level of several years ago, still claims lives with tragic regularity and disrupts social peace and economic progress. As President Carter has said, our policy on Northern Ireland is one of impartiality and we recognize that the only permanent solution must come from the people who live there. Given a settlement acceptable to both parts of the community, we would be prepared to join with others to see how job-creating investment could be encouraged for the benefit of all in Northern Ireland.

We, of course, continue to enjoy close ties with the Republic of Ireland and are pleased to witness its continuing economic growth. We welcome Ireland's increased activity on the world scene, as evidenced by its contribution of troops to UN peacekeeping efforts in Lebanon and its assumption of the presidency of the European Economic Community for the second half of this year. We look forward to the visit of Prime Minister Lynch this November. That occasion will give us the opportunity to consult with him in his dual capacity as head of government and president of the Council of Ministers of the European Community.

We have continued our traditionally close ties with the nations of the nordic area, an area of growing strategic significance in the light of the steady build-up of Soviet forces on the nearby Kola Peninsula. Vice President Mondale's trip to Northern Europe in April 1979 demonstrated the solidarity of our NATO links to Iceland, Norway and Denmark. On the same journey, he visited Sweden and Finland as visible evidence of our respect for these nations and their policy of neutrality, which also contributes to the stability of the northern region. The Vice President's trip to Northern Europe was the first undertaken of that scope and at that level since Lyndon Johnson visited the area as Vice President in 1963.

Although the Nordic countries have differing security policies, they share common concerns with each other and with the United States on such global issues as human rights, East-West relations, arms control, UN peacekeeping, the Middle East, and economic development of the third world. Vice President Mondale's trip provided an opportunity for high-level consultation on these world issues where the Nordic countries play a leading role, and where their advice and support are important to us. The visit last month to Washington of Norwegian Prime Minister Nordli of Norway was a welcome reaffirmation of this process. Both in our talks and in public statements, Nordli stressed Norway's "close commitment" to NATO and emphasized that "SALT is an important element in the evolution of East-West detente."

Our relations with the Benelux countries continue to be excellent and largely free of bilateral problems. We welcome their contributions to NATO defense and to peaceful solutions to common problems, both political and economic. Examples of these include the Belgian contribution to stability in Zaire and the Dutch contribution of troops for the UN forces in Lebanon. The Vice President's visit to the Netherlands in April underlined the importance we attach to that country and the rest of the Benelux.

U.S. policy goals in Spain remain to support Spanish democracy and Spanish integration with the rest of Western Europe and to maintain our mutually beneficial security relationship. Our cooperation under the 1976 treaty of friendship and cooperation contributes to the security of both nations and makes an important contribution to the defense of Western Europe and the Mediterranean. Spain has made tremendous progress in its transition to democracy in the face of serious political and economic difficulties. Having adopted a new democratic constitution and carried out both national and local elections since December, the country is about to enter a challenging post-transition phase of political life in which fundamental issues, such as economic policy, basic implementing legislation, and regional autonomy, must be addressed. Of particular seriousness is the problem of the continued, brutal terrorist campaign to destabilize Spanish democracy. Our support for Spain, as manifested by the administration and the Congress, and by our close relationship, assists the Spanish people in their efforts to realize the democratic ideals we share. Secretary Brown visited Madrid in mid-May. On June 1, Secretary Vance co-chaired a meeting of the U.S.-Spanish council in Madrid and met with the King and Prime Minister.

U.S. relations with Portugal continue to be excellent. Our governments' shared goals of democratic consolidation and professionalization of the military were recently highlighted and reinforced during visits to Portugal by Secretary of Defense Brown and Senator Edmund Muskie and a meeting between Secretary Vance and the Portuguese foreign minister at The Hague. Secretary Vance stopped in Lisbon, June 18–19, to sign the extension of the Azores base agreement. With the May 30 pasasge of the budget, Portugal can also look forward to resuming negotiations with the IMF on a third credit tranche standby. The fourth constitutional government headed by Prime Minister Mota Pinto submitted its resignation on June 6 but will remain in caretaker status until a new government is formed or elections are held. The debate over the formation of any future government is, however, distinguished by the continued firm commitment to the democratic process and by a common willingness to seek a reasonable compromise to solve present problems.

Our important interests in Italy remain what they have been since the war. Italy's strategic position in Southern Europe and the Mediterranean, her willingness to host American military bases dedicated to NATO, her nearly total support for American foreign policy positions and her status as a major U.S. trading partner underscore the value of good U.S.-Italian relations. Over the past year and a half, we have tried to reinforce our close relationship with Italy by pursuing a "strategy of cooperation" comprising concrete, mutually beneficial projects in such diverse fields as energy, health and the environment. The program stresses medium- to long-range efforts to assist the Italians to solve their serious problems, to solidify our relations for the future, and to take advantage of Italian expertise in areas where they are advanced, like solar energy. We have also encouraged high level visits between our two countries, the latest being that of Secretary Vance less than six weeks ago.

Elsewhere in the eastern Mediterranean, the United States continues to work for stability in the area, including good relations with Greece and Turkey, progress towards a Cyprus solution, and the general strengthening of democracy among the countries of the region. During the past year, there have been significant developments in all of these areas:

With regard to Cyprus, the administration has been actively engaged over the past year in seeking to promote an early and effective resumption of intercommunal negotiations. The centerpiece of this effort was the series of substantive suggestions that we submitted to the two Cypriot parties last November 10, in conjunction with the British and Canadian governments. We are gratified that our efforts and the initiative undertaken by UN Secretary-General Waldheim resulted in an agreement to resume intercommunal negotiations, June 15. Unfortunately, these talks have run into temporary difficulties over the agenda and have now been recessed. We hope, however, that these difficulties will be overcome soon and that we will see sustained and productive negotiations leading to concrete progress towards a mutually-acceptable settlement. As in past months, we will work closely with the United Nations, the Cypriot parties and our Allies to help ensure the success of these talks.

Turkey continues to be plagued by serious economic problems. We have worked to help solve them by proposing a substantial U.S. assistance program, as well as by working with other countries in a multilateral effort led by the Federal Republic of Germany to provide Turkey with needed foreign exchange so that necessary steps can be taken by the Turkish government to start on the road to economic recovery. As I noted earlier, the multilateral effort is proceeding well. Our security relationship with Turkey has also improved. In response to the lifting of the arms embargo, the Turkish government, on October 9, 1978, authorized the resumption of U.S. military activities in Turkey.

The authorization was for a one-year period during which a permanent arrangement for the operations of the activities is to be negotiated. Formal negotiations began on January 18, 1979 and are continuing. They involve several complex issues and much work remains to be done, but we are confident that we will work out a mutually satisfactory agreement.

Discussions are continuing within NATO to develop arrangements for the reintegration of Greek forces into the Alliance's integrated military structure. As you know, Greece withdrew her forces in 1974 at the time of the Cyprus events. In the interim, there have been command changes on the southern flank which make necessary new command and control arrangements in the sensitive Aegean area. The issue has been handled in NATO military channels with General Haig playing a key role in his capacity as SACEUR. The retirement of General Haig will not halt the process. As we have stated repeatedly, we believe it is important to secure the return of Greek forces at the earliest possible time. Greece, in the meantime, is enjoying a continuing period of economic vitality and democratic strength, as demonstrated by her signing a treaty of accession to the European Communities. That development contributes to one of our major policy goals, stability in the vital eastern Mediterranean area.

U.S. relations with Canada are excellent. We enjoyed close working relations with the Trudeau Government and look forward to continuing close cooperation with prime minister Joe Clark. We particularly value the cooperative approaches to the energy challenge which we have effected with the Canadians, as well as cooperation on such global concerns as the Cyprus dispute, Southern Africa, the Mideast peace effort, and assistance for Indochinese refugees. We are gratified by Prime Minister Clark's reaffirmation of Canada's commitment to NATO and the North American Air Defense Command (NORAD) and his indication that Canada should increase defense spending. Finally, we hope that long-standing differences on fisheries and boundary issues in the Gulf of Maine will be resolved by two treaties signed last March, agreements that we hope will be considered and approved promptly by the Senate.

Our good relations with Switzerland have been bolstered in recent months by visits from the Swiss Minister of Defense, Gnaegi, and the Minister of Foreign Affairs, Aubert. Both visits went smoothly. While reaffirming their own stance of armed neutrality, the Swiss have shown support for most aspects of U.S. foreign policy. We have a modest but important defense relationship with them, including co-production arrangements for some US. weaponry.

U.S. relations with Austria are essentially troublefree. We respect Austria's neutrality under the 1955 State Treaty; at the same time, we admire her democratic development and prosperity. We support the Austrian desire to make of Vienna a third UN city and we are grateful for Austrian hospitality in connection with the summit conference held there in June.

U.S. relations with nonaligned Yugoslavia have continued to improve across the board, as both sides have demonstrated a conscious effort to resolve differences and to build a climate of trust for the present and the future. President Tito's state visit to Washington in March, 1978 provided the opportunity for in-depth discussions. This dialogue has continued through a dozen or so letters between the two Presidents and through frequent consultations. Other Yugoslav visitors have included Assembly President Markovic and Defense Secretary Ljubicic. From our side, several cabinet-level officials have visited Yugoslavia or are planning to this year. In the economic area, we have made significant efforts to increase trade and to improve further the climate for U.S. business in Yugoslavia. The U.S. is Yugoslavia's fourth largest trade partner and is first in the value of joint ventures, but we are convinced that both trade and investment can be increased further. In scientific affairs, the two sides recently reviewed the achievements of the

Joint Science and Technology Program over the past five years, but the future of this highly successful program is clouded by the prospect that the U.S. may be forced to cut its contribution to about one-third of the level of the past five years. On the cultural side, Joan Mondale recently opened a major exhibit of American arts in Belgrade. Mrs. Mondale also visited the earthquake-stricken Republic of Montenegro. Following the severe earthquake, April 15, the U.S. mobilized a major disaster relief effort which resulted in the prompt delivery of nearly $1.3 million worth of relief supplies.

We are currently in the process of working out a program of longer-term rehabilitation and reconstruction assistance. All of this activity is in support of a policy which has remained consistent through every Administration since 1948: We support Yugoslavia's independence, territorial integrity, and unity. But, in addition, we are trying to move our relations towards broader interchange, mutual understanding and confidence.

EVOLUTION OF EAST-WEST RELATIONS

Much that the United States pursues with the nations of Western Europe, Canada, and Yugoslavia reflects our shared interest in fostering improved East-West relations. The Carter Administration has devoted substantial high-level attention to this area of concern. Since I understand that you will be holding separate hearings on U.S. relations with the Soviet Union and SALT, I will focus on U.S. policy toward Eastern Europe.

We are grateful to this Subcommittee and to you, Mr. Chairman, for your initiative in convening hearings last year on recent developments and trends in Eastern Europe. The statement which then Deputy Assistant Secretary Luers presented to you, September 7, remains valid as a comprehensive account of U.S. policy and objectives toward the region. As Mr. Luers indicated then, we are mindful of the increased diversity in Eastern Europe and, at the same time, of the importance of contributing to the security of all of Europe in pursuing our policies. Thus, we intend neither to leave our relations with Eastern Europe hostage to relations with the Soviet Union, nor to conduct a policy that is reckless and destabilizing.

In Eastern Europe, we have continued to make progress toward more normal relations with individual countries. We have expanded and intensified human contacts, trade, cultural and scientific exchanges, and discussions of political and security issues. Our approach is designed to recognize and support the sovereignty and individuality of each Eastern European nation in its domestic and foreign affairs.

During the past eighteen months, our relations with Romania, Poland, and Hungary have been particularly active and fruitful. For example, with Romania, which pursues an independent foreign policy in many respects, we have conducted a useful dialogue on a broad range of international political and economic issues. These discussions were given special impetus during President Ceausescu's visit here in April, 1978, and by subsequent visits to Romania by Secretaries Blumenthal and Kreps. With Poland, official and non-governmental exchanges continue to develop, and the level of our two-way trade rose to over $1 billion last year. Earlier this week, Polish Foreign Minister Emil Wojtaszek visited Washington for an extensive review of bilateral and international issues. And, U.S.-Hungarian relations continued to improve, as demonstrated by successful conclusion last year of a bilateral trade agreement extending Most Favored Nation tariff treatment to the exports of both countries.

With Czechoslovakia our first priority continues to be a satisfactory resolution of the nationalization claims of U.S. citizens. Following consultations with the Congress, we hope to be able to initiate new talks on this long-standing problem in the coming months. Our relations with Bulgaria have continued to show gradual improvement, although progress in family reunification has been slower than we had hoped.

The U.S. is continuing to try to develop improved relations with the German Democratic Republic. We recently completed negotiation of a consular convention with the GDR in which, to our satisfaction and that of the FRG, we successfully defended the position that there is a single German nationality. When the convention has been signed, the way will be open for some modest development of our relations with the GDR. For example, the GDR will then be allowed to open two trade offices in New York. We will continue to stress claims, our desire for more action on divided family cases, and the need for a general improvement in their emigration record.

Of course, we continue to have certain fundamental differences with the governments of the Eastern European countries. We are concerned about the lack of democratic institutions, about uneven observance of human rights, and issues such as divided families and denial of freedom of movement which directly affect many American citizens. But, it is also clear that the expansion of U.S. relations with these countries has enhanced our ability to talk candidly with their governments about these and other issues. During the past months, for example, we have had constructive consultations with Eastern European governments concerning further progress in implementing all aspects of the Helsinki Final Act, and we expect to continue to use these bilateral exchanges as we approach the Madrid Review Conference for the Conference on Security and Cooperation in Europe (CSCE).

Indeed, continuing attention to the CSCE process has been an integral part of U.S. policy in the area of East-West relations. Our objective in the CSCE is to achieve full implementation of the Helsinki Final Act and thereby reduce international tensions, improve observance of human rights, and solve some of the human problems caused by the political differences among European states. Progress has been slow and there have been many setbacks. Yet, we have seen some efforts by all signatories to implement the Final Act, and thus believe that sustained attention to carrying out the commitments undertaken in Helsinki will have a positive effect.

The first meeting for review of implementation, held in Belgrade, ended in March 1978. That meeting achieved our major aim of providing a full and complete review of the follow-through on the Helsinki Accords. The time since the Belgrade meeting has been devoted to a series of experts meetings, to prepare a Scientific Forum, to discuss peaceful settlement of disputes, and to consider economic, cultural and scientific cooperation in the Mediterranean.

In addition, the United States, its allies, and the other participating states in the CSCE have now turned their attention fully to the review meeting to be held in Madrid in 1980. The U.S. has held bilateral consultations, using the Final Act as a framework, with Austria, Bulgaria, Finland, the German Democratic Republic, Hungary, Poland, Romania, Spain and Switzerland. Consultations were recently held with Yugoslavia and Sweden. We have also had the first of a long series of discussions on the Madrid meeting in NATO. We anticipate that these consultations will continue throughout the period leading to Madrid. At that meeting, the United States favors seeking a review of implementation of the Final Act and consideration of a limited number of new proposals. Any new proposals should be balanced to reflect the major concerns of the Final Act. We would not favor, for example, adopting new proposals in the military area without including new humanitarian measures.

CONCLUSION

Concern with security and the importance of the individual brings me full circle in this tour d'horizon of U.S.-European relations. Several points of particular import emerge from this summary of Western military security, Western Economic well-being, bilateral relations with individual nations, and the evolution of East-West relations.

First, U.S. objectives in Europe are clear. We have a firm sense of overall direction and priority. We consider U.S. relations with Europe the cornerstone of American foreign policy. Through pursuit of shared aspirations with the nations of Western Europe and Canada, we seek to assure strong defense and fullest possible economic and political opportunity for our citizens. Through promotion of detente with the countries of Eastern Europe and the Soviet Union, we try to curtail dangerous competition and expand constructive cooperation.

Second, active and sustained pursuit of these goals has helped serve important U.S. interests. Relations with the nations of Western Europe and Canada are sound. Although much of the rest of the world is torn by turmoil, there is institutional stability and a sense of communal progress in the west. Since I last met with you for a review of U.S.-European relations, there have been elections in ten European countries. Transitions have been orderly, both in terms of the changing of guard from one government to the next and in terms of continuing American cooperation with new heads of government. For the first time in its history, all members of NATO are democracies. We have resisted retrenchment into national reaction to challenges that transcend borders. We have, instead, reached out to work together on mutual problems for mutual benefit. It is for that reason that NATO is strong and growing stronger, and that we have resisted the worst protectionist pressures in a generation in order to try together to shape a healthier world economy. At the same time, we have achieved continuing success in building more normal relations with Eastern Europe—relations that reflect the diversity of the area, our interest in security, and our concerns with fundamental human rights.

Third, we recognize that, despite some achievements to date, much remains to be done. The problems before us—most notably, those in the area of economics and energy and those in the sphere of East-West relations—are complex. Bilateral frictions persist. Uncertainties exist within some European nations, especially those in the Mediterranean area. We are, however, determined to persist in the pursuit of vital U.S. objectives. And, we feel confident that we can succeed. As Secretary Vance stated in his address on "The U.S.-European Partnership," December 9, 1978:

"We have passed through a particularly difficult period during the 1970's. But we have navigated these turbulent waters. Although the course ahead remains demanding, the progress we have made should give us great confidence in our future." ●

SOME THOUGHTS ON ENVIRONMENTAL QUALITY AND ENERGY LEGISLATION

● Mr. MUSKIE. Mr. President, voices are urging that the goal of energy independence take its place among the symbols that capture our national aspirations and direct our talents. The call to lessen our dependence on foreign oil will affect other important goals. These include international cooperation, reduced inflation, and environmental quality, among others.

The effect on other goals could be positive. But if we make a desperate grab for anything that glimmers as a new domestic energy source, then the effects will surely be negative.

President Carter has proposed sweeping initiatives in energy policy. We need these proposals as a catalyst to stimulate national activity and create a sense of urgency.

The Founding Fathers anticipated the need for a strong President to provide such leadership. They tried the weak Articles of Confederation and found that arrangement wanting.

They also demanded a strong legislature—one that could question Presidential initiatives, examine their strengths and weaknesses, and lead the national debate. That is what is presently occurring in the SALT hearings.

And that must also happen with energy initiatives now pending in Congress.

Before we stampede in any direction, we must ask further questions on energy costs, on environmental and health effects of energy production, on procedures for achieving increased energy production, and on alternative energy sources.

COST CONSIDERATIONS

Have we really come to grips with the costs of producing new energy supplies?

In a decade's time, President Carter would like to spend $142 billion in order to reach energy independence.

Are the monetary priorities of these goals in the proper order?

Are these cost estimates accurate?

Will the synthetic fuels be produced at what we believe to be reasonable prices?

What are the extra costs that will surely surround any massive energy proposal? New systems for coal transportation? New methods to dispose of hazardous wastes? New aid to energy boomtowns? Large amounts of capital and personnel will surely be shifted in the direction of these goals.

Under each program listed, what is the cost of a barrel of oil (or equivalent)? Would it not be useful to rank proposals in this fashion?

Economists know that the amounts of capital we are talking about in these proposals will have a tremendous effect on every aspect of our society. Alan Greenspan has said:

> I'm not saying we shouldn't do it, but it's how we do it that's critical. If we blunder our way into a blank check project, we could find ourselves short of capital in other areas.

COAL USE AND SYNTHETIC FUELS

The expense of synthetic fuels cannot be measured in dollars alone. It must also be measured in terms of its effect on the entire economy and the environment as a whole.

How would the recent energy proposals affect the environment of our land and the health of our citizens?

The task to prevent great environmental and health damage from increased energy production will be formidable.

How large is the pollution potential from these sorts of facilities? A recent report from the Library of Congress indicates that "the concentration of pollutants at the processing site will be large and the potential for contamination of the local environment will be great."

What would it take to cut pollution in half from synthetic fuel plants? Are our national efforts being directed to that purpose?

At a Senate symposium this week, I heard testimony from a panel of scientists from around the world who warned of the drastic environmental impact that the release of carbon monoxide through coal burning could have on the Earth's climate in less than two decades. Should we proceed without better information on such an important point?

What about the pollution which comes from the production of oil from shale?

Both the on-surface production and in situ methods of melting the oil out of the shale produces great amounts of toxic wastes which pose threats to miners and groundwater supplies.

Can the control technology available to the petroleum industries handle these major threats? If not, what do we do with the hazardous waste?

Why have synthetic fuel plants not been built on a commercial scale before?

Should the Nation build a small number of these first to test out the technology, the environmental impact, and the cost?

Will the national interest be harmed if Congress takes a few months to examine the massive alternatives presented? There are many other environmental and health questions which can and must be asked. It is important that this administration, this frugal Congress, and the American public at large, weigh all the environmental and health effects which occur before we undertake such new ventures.

Have new sources of natural gas, both conventional and unconventional, been discovered as a result of the decontrol of natural gas prices?

EXPEDITED PROCEDURES

Many are saying that existing procedures do not allow the Nation to move quickly enough to meet its energy needs. Some say those procedures should either be eliminated or shortened.

Why have we established these procedures in the past? What rights of citizens and values of a nation do they preserve?

If a massive new energy facility is to be placed in a particular county, should those citizens that inhabit that county have a voice in the location of such a facility?

Both Houses of Congress are pushing forward with legislative proposals to put this Nation on a "fast track" to energy independence. How will the Clean Water Act, the Clean Air Act, the National Environmental Policy Act, the Federal Strip Mining Act, the Endangered Species Act, and other substantive laws be affected by an energy mobilization board waiving already established requirements?

What do we gain by altering the normal processes of judicial review, or by supplying individuals with certain irrevokable powers?

What if procedures and regulation had been expedited in the construction of nuclear power plants in the past? How many more Three Mile Island accidents would we now have?

How many energy projects have actually been killed by environmental laws? The list is very small. Most have been modified to be acceptable and have been approved. Of those that have not been approved, how many would use foreign sources of oil?

What can we do to speed up processes without taking away the rights to question projects which can have significant impacts?

One of the rights that has developed in the environmental field is the right to have adequate information before major decisions are made. Do we no longer want to find out the impact of major decisions before we make them? Do we want to return to the days when we found out what the damage would be only after the harm had occurred?

ALTERNATIVE ENERGY SUPPLIES

Are we protecting ourselves by developing a wide variety of energy options? Will some be much less capital-intensive and, therefore, more useful to the Third World countries?

Are we moving with all deliberate speed toward more solar power technology? Will it be worth the investment?

Not all of these questions can be fully answered by the time we must make energy decisions. But they must be raised now, and answered as completely as possible.

Since the gas lines began this summer, there has been a reluctance among many to question any proposal that holds out the hope of supplying more energy. No one wants to appear to be standing in the way of development of further supplies. But questions must be asked. And, legislating must await adequate answers.●

NEVILLE HUNSICKER IS HONORED FOR 47 YEARS AS VOCATIONAL EDUCATOR—FUTURE FARMERS OF AMERICA ARE GRATEFUL

● Mr. RANDOLPH. Mr. President, it is with pleasure that I call attention today for a man who has provided outstanding leadership to millions of young men and women during his 47 years as a vocational agricultural educator.

H. Neville Hunsicker has recently retired after serving as the national adviser of the Future Farmers of America and Chief of Vocational Agriculture, Agribusiness, and Natural Resources Occupations of the U.S. Office of Education.

He began his professional life as a teacher of agriculture in Wayne, W. Va. In 1935 Neville became assistant State supervisor of agricultural education and FFA executive secretary in West Virginia. In 1946 he was named head State supervisor in West Virginia. He began his service to the U.S. Office of Education in 1952 and was named the Chief of Agricultural Education and national adviser of the FFA in 1964.

Neville Hunsicker has had a positive impact on the lives of millions of young men and women who have prepared for careers in agriculture. He was instrumental in founding the State FFA/FHA camp and conference center at Ripley, W. Va., considered to be one of the most outstanding in our country.

During our friend's leadership at the national level, the program has doubled in the number of students and has been broadened to include training for agri. business and natural resources occupations. The national FFA organization, during Hunsicker's tenure as national adviser and chairman of its board of directors, has redirected its contest and award program to recognize student attainment in education and career accomplishments.

Additional national thrusts in agricultural education championed by Mr. Hunsicker include the establishment of program standards for agriculture education; improvement of adult education, establishment of competency based curriculums; and identification and validation of agriculture/agribusiness occupations including the number of employment opportunities therein.

Our leader further assisted in the development of a taxonomy of agriculture/agribusiness occupations; the tripling of support and participation in the national FFA foundation; and was instrumental in starting the FFA alumni association as a support group. Recently, the National Post Secondary Agricultural Student Organization, another of his thrusts in agriculture education, was established.

Mr. Hunsicker, in his Christian spirit, has taught the true meaning of the FFA motto:

Learning To Do
Doing To Learn
Earning To Live
Living To Serve

The good deeds of this man speak louder than our written words. I extend to him my best wishes and the kind regards of many Members of the Congress for his future years of success and service.●

BROAD SUPPORT FOR TRUCKING DEREGULATION

● Mr. KENNEDY. Mr. President, I am submitting today several additional items from newspapers around the country which are representative of editorial opinion on the issue of deregulation of the trucking industry.

The editorials are from newspapers in the States of Tennessee, Texas, Utah, Virginia, and Washington.

I commend them to the attention of my colleagues, and ask that they be printed in the Record.

The editorials follow:

[From the Chattanooga, (Tenn.), News-Free Press, June 24, 1979]

Freedom To Save You Money

President Jimmy Carter and Sen. Teddy Kennedy are often on opposite sides, and when they are together, they are usually both wrong. But we should give thanks that one current issue they are together—and right.

Both have called for deregulation of the trucking industry.

There is absolutely no reason for much of the regulation that has become law. It is wasteful, wrongful and costs you a lot of money.

For example, regulation makes some trucks haul goods one way and return empty, instead of carrying a payload that would reduce the costs of the products you buy. That also wastes fuel. There are other regulations that are plain foolish. Mr. Carter said a truck may carry bananas but not pineapples, but may carry bananas and pineapples mixed. Regulations are costly and hinder free market adjustments to conditions. So who would oppose needed deregulation?

Many big trucking companies will. The Teamsters Union that has most of those companies organized will.

Why? Because the big companies don't want free enterprise competition that would lower their rates and give you a money-saving alternative. Because the Teamsters can have a stranglehold on the nation by dominating a few companies but could not so easily dominate a totally free trucking market.

But why should you and your representatives and senators not insist on deregulation? There is no good reason at all. Anyone who wants to truck and meets normal licensing and safety rules ought to be able to do so and compete in the market. It would assure better service and lower costs.

Deregulation is not without problems, because adjustments must be made. Airline deregulation already has yielded some major benefits along with some temporary local difficulties. Trucking deregulation—and other reduction in controls—ought to be hastened.

Because of the organized opposition, trucking deregulation will have a hard fight in Congress. But the American people ought to demand it so strongly it will pass.

[From the Chattanooga (Tenn.) News-Free Press, Mar. 21, 1979]

Deregulate Trucks Anyhow

With the Carter administration trying to hold a 7 percent rein on inflation, President Jimmy Carter's inflation fighter Alfred Kahn says that if the Teamsters Union is successful in getting a large part of its demand for a 35 percent increase in wages and benefits in national contract negotiations, the administration might push harder for deregulation of trucking.

Whatever the Teamsters do, there should be a push for deregulation of trucking. That would be the right action, and ought to be pursued without having the Teamsters provide a special reason.

With regulation, much trucking business is centralized in a few firms. The Teamsters deal with them—hard. Then the firms simply pass the bill on to consumers, meaning all of us, and we pay.

With deregulation, there would be almost unlimited competition in the trucking business, with more individual truckers getting into the act. There would surely be some changes, some of them meaning better service and lower prices.

Government ought not to regulate. In fact, we ought to deregulate almost everything.

[From the Chattanooga (Tenn.) Times, June 29, 1979]

Put Up or Shut Up

In presenting an sweeping proposal to deregulate the U.S. trucking industry, President Carter and Sen. Edward Kennedy are in effect telling the ardent defenders of free enterprise to "put up or shut up." It is likely we will see unusual alliances being formed as the bill travels through Congress.

The bill will provide an acid test for those who for years have preached against government involvement in the marketplace. But already the proposal has been attracted by some strange bedfellows: The American Trucking Association and the Teamsters union, two organizations that normally have trouble agreeing on the time of day.

ATA President Bennett C. Whitlock Jr., for instance, called the bill a "radical approach" that could lead to waste instead of efficiency. What does he mean, "radical"?

Among other things, the bill would outlaw the now legal price fixing by truckers and remove restrictions that, for instance, prevent them from carrying certain commodities or taking the most direct route to their destinations. In return, the truckers would eventually be allowed to change rates at will as long as they stayed within a reasonable range—thus letting marketplace forces determine rates, in other words.

A key provision would make it easier for new trucking companies to enter the lucrative long-distance market by requiring existing carriers to prove that the newcomer's presence would be harmful to the public interest. Currently, the new applicant has to prove a negative: that his activity won't be harmful, a backward procedure at best.

All of that is "radical"?

The Carter-Kennedy alliance should do much to speed action on the bill but there should be no mistaking the difficulty it faces. The trucking industry is well-organized and there are more trucking companies than airlines, who were unsuccessful in preventing deregulation of their industry—to their relief, incidentally.

The Council on Wage and Price Stability estimates that deregulation of the trucking industry could save consumers upwards of $5 billion a year. Even if that figure is slightly inflated, the savings would be substantial.

More to the point, the proposal, if successful, would add impetus to President Carter's effort to withdraw the government from the marketplace to the greatest extent possible. The opposition from segments of the business community is an ironic commentary on their philosophy.

From the Jackson, (Tenn.) Sun., June 27, 1979]

Truck Strike Sets Stage for Deregulation Push

With truckers on strike demanding higher speed limits, cheaper fuel and heavier, longer trucks, it is time to get serious about the notion of relaxing government regulation of the trucking industry.

Truckers themselves complain that excessive regulation pushes their operating costs up needlessly.

That trucking organizations and Teamsters are the fiercest opponents of the deregulation move indicates that the issue is much more complex than the simple rolling back of a bunch of rules.

It is also a sign that the trucking industry is afflicted with its own version of featherbedding, and that if it is deregulated—albeit carefully and probably only partially—consumers stand to gain, in that shipping by truck will become more competitive.

As it now stands, a complex web of rules governing the industry keep truckers from operating as efficiently as they might. In many cases, for example, trucks make a haul, only to return to their point of origin empty, in effect wasting 50 percent of their travel time and significant amount of fuel.

President Carter, in a message to Congress encouraging deregulation, cited other examples. One rule states that a trucker may haul pineapples only if they are mixed with bananas. Another requires a trucker to drive to Denver from Albuquerque via Salt Lake City, a needless detour of 300 miles.

Carter called rules like these "symbols of government regulation gone wild." He's right. The regulatory process has run amok.

So it is time to overhaul the regulatory system. The current crunch truckers find themselves in—caught between rising fuel prices (rising because their price has been deregulated) and fixed fees—is a solid indication that the web of regulations governing trucking serves only to entangle the industry in inefficiency.

Some power struggles underlie the move toward deregulation, but that may work in favor of a well-drafted law. Sens. Edward Kennedy, D-Mass., and Howard W. Cannon, D-Nev., who teamed up to push airline deregulation through Congress, again share an interest in the idea of abolishing some federal rules.

This time, however, they are split on how extreme the action should be, Cannon backing a more modest proposal than the one Kennedy supports.

Kennedy has been working with the White House on drafting a deregulation bill, but Cannon chairs the committee that will conduct the hearings on the issue. So there is good reason to expect the issue will be aired fully, by persons with a keen interest in reform, yet who bring different perspectives in the issue.

Truckers will need to approach this issue with care. They cannot insist on deregulation of rules that inconvenience them and then demand that rules protecting them at the expense of fair competition be retained.

The industry as a whole is going to have to give up a degree of security for the sake of freer competition. It is a principle that has worked well for this country. It can, if applied carefully, work for truckers.

[From the Knoxville (Tenn.) News-Sentinel, Feb. 27, 1979]

OPEN ROAD FOR TRUCKERS

The Interstate Commerce Commission has taken another step toward encouraging greater competition in the trucking industry.

The ICC has already lowered some of the barriers that restrict competition among intercity truckers and tend to keep out new owner-operators. It now says that, beginning about the middle of March, when considering applications for operating rights, it will give preference to truckers who pledge to provide cut-rate service.

The commission believes the new policy will stimulate innovative pricing and service options by trucking companies, and at the same time promote efficient and well-managed operations.

Predictably, the announcement brought groans from the industry. Some spokesmen called the ICC's action a kind of end run around Congress, which this session is expected to take up the issue of deregulation.

Viewing that prospect, trucking executives have been ringing many of the same alarm bells sounded by the airline executives when deregulation of their industry was first proposed a few years ago.

According to Bennett C. Whitlock, president of the American Trucking Associations, deregulation would "plunge the trucking industry into chaotic rate wars, drastically reducing the number of firms engaged in the business."

This would hurt many small towns, whose only link with the outside economy is truck transport, he says. Moreover, it would be impossible for the shipping public to know with any degree of certainty the transportation charges on the thousands of commodities which the 16,500 ICC carriers regularly transport throughout the country.

In short, regulation has served both the industry and the nation well. Don't mess with it.

Pardon us if we don't buy these arguments. "Chaos and confusion" presently reign among the airlines, but it is a kind we think the flying public rather likes. We know the airlines are enjoying it, for the advent of more open route and fare competition has resulted in the biggest boom in their history.

We agree, of course, that truckers and airlines can't be compared exactly, and certainly don't advocate that all the regulations be wiped out in one fell swoop.

But as for the general concept of deregulation, we say to the trucking industry: Try it. We think you'll like it, too.

[From the Nashville, (Tenn.) Banner, June 23, 1979]

DEREGULATE TRUCKING?

The administration's plan for deregulation of the trucking industry certainly has some compelling arguments going for it. Perhaps the most compelling is that a gradual end to federal regulations that protect the trucking industry from competition will save consumers about $5 billion a year. Along with the fact that airline deregulation has saved over $2.5 billion in reduced air fares, and that the plan would do away with such rules as prohibiting the carrying of cargo on return truck trips—particularly ridiculous today—right away should grab congressional and public support.

Will it? Undoubtedly, it would now find public support. As far as Congress goes, that's something else again. Truckers opposed to deregulation carry clout. Or, as one Senate aide told the Associated Press in comparing the politics of airline vs. trucking deregulation: "There are only 35 airlines but 16,000 truckers and 200,000 Teamsters."

The truckers aren't without argument, of course, saying regulations have avoided cutthroat competition that would have let strong firms drive out competitors and raise prices to new highs. And even some foes of federal regulation think the Carter proposal goes too far. Maybe. But the burden is squarely on opponents of the plan. There is the success of the airlines. And most of all there is that $5 billion in estimated savings under deregulation and free enterprise.

[From the San Antonio, (Tex.) Express, June 25, 1979]

TRUCK DEREGULATION SHOULD BE APPROVED

President Carter has sent a proposed bill to Congress removing most of the federal regulation of the trucking industry.

The proposal would phase out by 1984 all federal restrictions on what commodities truckers may carry and what routes they must follow.

It would allow rate cuts of up to 20 percent per year and some price increases without government approval. It would end legalized price fixing by making truckers liable to the same anti-trust laws as other companies.

It would move toward ending one particularly senseless thing—federal restrictions on "backhauls," the loads truckers carry on return trips. The estimate is that trucks now are empty on 20 percent of all miles traveled.

There are two reasons why Carter's deregulations should be passed by Congress.

The administration forecasts it could save consumers as much as $5 billion a year. This may be high or low but certainly it will save the consumer considerable.

More important is a principle.

We talk a lot about "free enterprise" and "competition ruling the market place." We see no reason why the trucking industry—or any other business—should be free from either.

[From the Houston (Tex.) Chronicle, Mar. 23, 1979]

CLOUDING THE PICTURE FOR DEREGULATION

Circumstances seem to have conspired to create somewhat of a you-can't-win feeling of frustration about governmental deregulation of industries to increase competition and lower costs.

It is an idea whose time has finally appeared to have come. The public and politicians recognize its promise and favor the concept. There is a bright, shining example in the airline industry. Things never looked better for some real progress.

So what happens? Other events intrude to cloud the picture for the two most promising immediate areas: the airlines, already deregulated, and the trucking industry, next up on Washington's probable list.

For the airlines it is the fuel shortage. If present disruptions continue on a long-term basis, they will likely force the airlines themselves to reexamine whether they will have the fuel necessary to fly all those additional services, and competitive flights between the markets, that are a hallmark of deregultion. Not only the additional service and the competition may be affected. So would the lower cost fares. Fares are of course a product of competition. They would also be affected by increases in fuel cost in a shorter supply situation.

Then there is the trucking industry, which was to be the subject of an administration-congressional push for deregulation. Now that may fall victim to the anti-inflation battle. The Teamsters union, which opposes deregulation as do most trucking companies, is negotiating a new contract. The administration is quite worried that the settlement may shatter any chance to maintain the 7 percent wage increase guideline. So the White House is offering to back off from significant deregulation if the union and industry restrain themselves to an acceptable wage increase.

The irony is that effective deregulation, itself a prime anti-inflation weapon, is being junked in the name of anti-inflation.

So it goes. The battle for deregulation has never been easy, but these complications certainly weren't needed just when the tide seems to have turned.

[From the Pama (Tex.) News, Mar. 16, 1979]

DEREGULATING TRUCKING

In his 1979 State of the Union address, President Carter was not able to point to many accomplishments in the domestic area of government. But he did refer to one achievement which few would challenge: the deregulation of the airlines. As a result of legislation enacted in 1978, Governmental controls are being phased out over a period of years from this major industry, to the benefit of both producers and consumers of its services.

The advantages of airline deregulation are already apparent due to the procompetition position followed by the Civil Aeronautics Board since 1976. Fares are substantially lower and more people than ever can now afford to travel by air. Capitalism is accomplishing what its enemies insist it cannot do. Lower airline fares mean little to the rich, but a great deal to the poor.

The Carter administration is now seeking an even more ambitious deregulation goal. It wants to deregulate the trucking industry, which pits it against many truck owners and drivers. Thomas Gale Moore, a senior fellow at the Hoover Institution writes in the current Journal of Law and Economics that three-fourths or more of the cost to shippers, and ultimately to consumers, of ICC trucking regulations takes the form of income transfers to labor and capitol involved in trucking. The magnitude of these benefits obviously makes fashioning a deregulation package difficult notes Moore.

The Hoover fellow presents some examples in his article of the price impact of trucking regulation. In the 1950s, some products that had been transported only by regulated carriers were declared by the courts to be commodities exempt from trucking regulation. As a result of these decisions, prices declined 12 to 59 percent in particular markets. There was an unweighted average 33 percent for frozen poultry shipments. The weighted average decline in shipping costs for frozen fruit and vegetables was 19 percent.

The poultry market offers another illustration. Member firms of the National Broiler Council ship fresh poultry by exempt carriers and cooked poultry by regulated carriers. In comparing rates for the same routes between the same points, the Council found that on the average, unregulated rates were 33 percent less than the rates on regulated carriers. Comparisons of trucking rates between countries—admittedly a difficult process because of the exchange rates—show that rates in countries with little or no regulation were 43 percent lower than those in West Germany (with strict controls), and the United States (also tightly controlled).

The Motor Carrier Act of 1935, which imposed the regulation, was designed to eliminate competition from the trucking industry, and accordingly, the ICC restricts entry into it. Moore observes that the Commission's policy is to authorize new services only where a new shipping need has developed and, in addition, where the new service will not divert traffic from existing carriers.

According to Moore, trucking regulations will tend to increase wages through two effects. First, it will strengthen union power by eliminating or reducing the competition of non-union firms. Regulation automatically prevents a certain number of non-unionized firms from entering the industry, and competing for the traffic carried by unionized firms.

Second, operating ratio regulation, which controls profits on the basis of costs, will either make it more profitable to pay higher wages or, at worst, make it less unprofitable to do so. Moore states that an increase in Teamster wages usually triggers ICC approval of a rate increase. Indications are that the gains for regulated drivers over unregulated ones are about 50 to 55 percent. Thus, Moore concludes, gains to Teamster members as a result of regulation, may have amounted to between $1 billion and $1.3 billion in 1972 alone.

The other major beneficiary of trucking regulation is the original owners of the ICC certificates that are required to conduct business in the regulated portion of the industry. A large number of the trucking firms operating at the time of federal regulations were initially imposed, were issued certificates without cost. Those who have been granted or have purchased certificates and permits from others since then also stand to lose from deregulation.

Because the ICC is very restrictive in authorizing new service, the owner of a certificate has a very valuable asset which would become worthless if entry into the industry were no longer limited. Moore estimates that in 1972 the value of certificates and other permits owned by the larger carriers was between $2.1 and $3 billion.

[From the Salt Lake City, (Utah) Deseret News, June 22, 1979]

EXTEND FREE COMPETITION TO TRUCKING INDUSTRY, TOO

Before Congress de-regulated the airline industry, many firms warned that the results would be disaster.

Indeed, after the lawmakers ignored those warnings and started removing the worst federal restrictions, it initially appeared that the prophets of gloom might be right.

As airlines that once competed with each other only to the extent of seeing which firm could offer the fanciest frills started competing in terms of lowering prices, there was room for entertaining second thoughts. Could the upshot of de-regulation be a ruinous squeeze on profits and eventually fewer airline firms?

Guess again.

In the first year after de-regulation, passenger traffic increased 16.3 percent and profits climbed to $1.2 billion compared to $754 million the year before.

With this success story to inspire and guide it, it's understandable that the White House moved Thursday to extend the deregulation movement from airlines to the trucking industry.

The plan that President Carter sent to Congress amounts only to partial de-regulation and would be phased in over the next three years. That should give the trucking industry a reasonable time in which to make the necessary adjustments.

The basic provisions of the Carter proposal would ease geographic limits on where truckers can go, relax the load restrictions on what they can carry, create a range within which truckers could set their own rates, and provide uniform size and weight requirements for all states.

Because some states now impose size and weight standards below federal regulations, certain drivers are forced to take long, indirect routes.

With 16,000 separate firms involved in trucking, this industry is much less concentrated than the airline business. But that's no justification for not de-regulating trucking, too, even though some firms try to use it as an excuse to preserve a status quo that some find comfortable.

Though there are considerably more truckers than there are airlines, 1 percent of those truckers do 50 percent of the trucking business.

Because of the additional costs created by federal regulations, the U.S. Council on Wage and Price Stability estimates that de-regulation could save consumers $5 billion a year.

That estimate is easy to believe in view of a recent study comparing regulated and non-regulated truckers in New Jersey. The study showed that the absence of regulations lowered costs to shippers by 9 to 15 percent.

Even though President Carter is pushing de-regulation of trucking with the belated support of Sen. Kennedy who initially opposed it, this is not just a Democratic reform. Former President Ford worked to de-regulate trucking, too.

The question should no longer be whether or not trucking should be de-regulated. Rather, the only question for Congress should be how far and fast such de-regulation should go.

TRUCKING DEREGULATION WILL WORK—FOR INDUSTRY, TOO

Now that the U.S. airline industry has been successfully deregulated it is time to do the same for its earthbound counterpart, trucking.

Testimony confirming the success of airline deregulation comes from no less than Frank Borman, the former astronaut now chief executive officer of Eastern Air Lines. In a two-page advertisement in the Wall Street Journal on May 23, Mr. Borman, a vigorous and outspoken opponent of airline deregulation two years ago, said, "we are now convinced that it works—not only for the customer, but for the airlines as well."

President Carter, who announced his plan to have Congress phase out many of the "mindless" rules now pinioning the trucking industry, is similarly convinced.

"The trucking industry today is subject to perhaps more complex, detailed and burdensome federal regulation than any other industry in the nation," he said. Such regulation "subjects one of our nation's most important industries to a mindless scheme of unnecessary government interference and control."

Part of that "mindless scheme" forbids, in some cases, trucks to return to their originating terminal full. The Carter proposal junks this sort of foolishness. It defies reason why any trucking executive, interested in using his equipment to its maximum possible efficiency, would oppose eliminating such counter-productive and senseless regulation.

Yet, the trucking industry has been almost strident in its opposition to deregulation.

Also the Carter plan would include steps to:

—End immediately prohibitions on trucks making intermediate stops between authorized points.

—End by Dec. 31, 1981, all route restrictions, many of which require trucks to use longer, more costly and circuitous routes.

—For two years, allow carriers to lower rates by 20 percent or increase them 3 percent from rates used the previous year without Interstate Commerce Commission approval. After that, carriers could raise their rates by 7 percent a year.

The Carter plan, with the support of long-time deregulation advocate Sen. Edward Kennedy, D-Mass., would set aside those logic-defying restrictions that exempt raisins covered by honey from ICC oversight, but not raisins covered by chocolate, or frozen dinners unless they contain chicken or seafood.

In the long haul, Mr. Carter's proposal for deregulating the trucking industry will give American consumers the break they have long deserved. Also it will permit an unhampered American trucking industry to operate efficiently and competitively.

Closer objective examination by Bennett Whitlock, president of the American Trucking Associations, who now calls the Carter plan a "radical approach to truck deregulation," should convince him, as it did Mr. Borman, that "it works—not only for the customer, but for the (trucker) as well."

[From the Richmond, (Va.) News-Leader, Feb. 27, 1979]

TRUCKING DEREGULATION

Deregulation of the country's transportation system was a cornerstone of Jimmy Carter's campaign. The President earned high marks for deregulating the airlines in partial fulfillment of that promise. But although airline deregulation has been a boon to both passengers and carriers, he appears to be backing away from his commitment to deregulate the trucking industry.

In his State of the Union address Mr. Carter said, "I will send to Congress shortly a surface transportation reform message dealing with the rail, inter-city bus, and transportation industries." White House aides predicted the President would submit his proposal this month. Yet Mr. Carter reportedly has told trucking company executives that he has not studied the Department of Transportation's memo on trucking deregulation, nor has he made up his own mind on the issue.

Mr. Carter seems to be shelving trucking deregulation in return for Teamsters union support of his anti-inflation package. The Teamsters emphatically oppose deregulation because they fear it would encourage non-union independent truckers. Like most federal regulatory programs, trucking regulation benefits large companies and powerful unions while it discourages competition from smaller, owner-operated, and non-union firms.

Trucking deregulation would be in the public interest. Inflexible rates and restrictive services inflate costs. In "Trucking Regulation: Lessons from Europe," Thomas Moore says that trucking rates fell as much as 50 per cent when deregulated in some European countries. He estimates deregulation in the U.S. could shave prices 20 per cent.

A 1950s deregulation experiment showed that regulation encourages high prices. During the mid-'50s, poultry and frozen fruits and vegetables were exempted from government rate regulation for trucks. Prices for shipping poultry dropped 33 per cent; prices for shipping frozen goods fell 19 per cent.

Regulation inflates shipping costs because it limits services. Truckers lack the freedom to tailor services or rates to meet particular shippers' needs. For example, "backhaul" restrictions prevent truckers from returning to their starting points with full loads. A trucker can carry a load of fresh fruit to a cannery, but he cannot return with a load of canned fruit. He must come home empty or return by a circuitous route that jacks up his costs—and those of his customers.

Existing regulations discourage competition because carriers need government certification before they can serve specific routes. Prospective trucking companies must convince the Interstate Commerce Commission that they can provide quality service on the routes in question. Certified carriers participate in the ICC hearings and often argue successfully that further competition would inhibit service. And because certification costs can be high, independents and minority-owned firms lack the capital to enter new markets.

Regulation amounts to nothing less than government protection of certain businesses and certain unions. It runs counter to a proper reliance on the free market. A coalition of Liberals and conservatives—from Edward Kennedy to the American Conservative Union—supports deregulation. President Carter should not let political squabbles with the Teamsters put his trucking deregulation plans behind schedule.

[From the Camas (Wash.) Post-Record, Mar. 21, 1979]

Keep on Truckin'

A transportation expert from Oregon has claimed that deregulation of the trucking industry would weaken the regional economy by causing rate instability and inequity, and would encourage deterioration of existing safety standards.

Dr. Roy J. Sampson, professor of transportation at the University of Eugene, adds that deregulation would also increase driving hazards and require greater safety enforcement efforts at taxpayers expense.

He points out that these conclusions should be of great concern to Pacific Northwest residents, where a large volume of highway and truck traffic already consists of unregulated truckers and exempt commodities.

The good professor also quotes a Harvard professor, Dr. D. Daryl Wyckoff, whose study survey experiences and attitudes of some 10,500 truckers involved in intercity driving.

Wyckoff asserts, in effect, that only regulated common carriers are currently playing by highway safety rules, and that without continued economic regulation there would be many more trucks on the road with bad brakes, bald tires and generally in poor mechanical condition.

This type of generalization is similar to that which preceded the deregulation of the airline industry. The public was warned by special interest groups within the industry that deregulation should be spurned as the plague and that dire consequences would surely follow.

The hole in the argument is that safety is just as important to wildcat or gyppo truckers, as opposed to those aligned with formal, regulated associations.

When a truck suffers from faulty mechanical equipment it is certainly prone to a breakdown, at home or on the highway. In any case, the driver or owner suffers the penalty, which is of course loss of income.

Similar to the airline industry, safety is standard regardless of the status of governmental interference into the field.

Sir Freddy Laker, who ran a British shoestring air operation into a global industrial giant by offering ridiculously low fares to London and back to points of origin, said recently that safety is so important to the industry that whenever his plane is even close to time for safety maintenance checks it is rushed to mechanics sometimes ahead of time so as to insure the plane's availability for flights scheduled. Profit is the bottom line, he reasoned.

We tend to think that organized truckers use the scare of unregulated carriers to protect their own selfish interests as to protected high shipping rates and to discourage small, private truckers who offer competitive rates.

It might be time to try the other path, unregulated trucking. After all, safety standards are the same whether trucks are regulated or not.

[From the Pasco (Wash.) Tri-City Herald, Feb. 18, 1979]

Deregulate the Trucks

About 25 percent of the nation's freight is carried by trucks.

Most trucks are regulated by the federal government. It decides who can carry cargo, who cannot and what price shippers must pay.

Regulation began—and until recently there was little challenge of the idea—as a means of protecting shippers—and consumers.

As time passed, it became more and more apparent, however, that regulation was part of a cartel. The railroads and the truckers fixed prices, and the government stamped the prices official.

Now the Carter Administration, spurred by consumer groups and some shippers, is pushing for deregulation of the trucks.

Opposing the move are some truckers, the Teamsters union and some members of the Interstate Commerce Commission, which regulates the trucks and the railroads.

Frank Fitzsimmons, president of the Teamsters, calls the move to deregulate the trucks "anti-labor and anti-worker." He claims deregulation would "destroy collective bargaining" and dismantle "the finest transportation system in the world."

Some truckers also like the present arrangement, which has protected them from competition and given them great leeway in setting rates.

It follows that with such protection the truckers had little incentive to bargain hard with the union. Labor costs can easily be passed along to the shippers—and the consumers.

The trucking lobby is formidable. And in the face of its political power, deregulation might seem hopeless were it not for the successful deregulation of the airlines last year and the growing recognition that regulation feeds inflation. Also there is a growing revolt among businessmen of all kinds against regulation of any kind.

Estimates are that regulation adds as much as $4 billion a year to the cost of merchandise. This added cost is both a result of rate fixing and of such wasteful ICC rules as the one forcing trucks making deliveries for their companies to return home empty instead of hauling for another firm on the return run.

That rule, along with some others, was recently relaxed by the ICC. But the basic rate-fixing system is unchanged. It is set up so the trucking companies in a region must charge enough to pay expenses and make a profit.

These rates then are almost always approved by the ICC and posted by regional "rate bureaus." None of the 16,000 regulated trucking companies can charge less than the posted rate.

This rate-fixing system has the blessing of Congress, which in 1948 exempt the trucking industry from antitrust laws.

A bill in Congress sponsored by Sen. Edward Kennedy, D-Mass., would remove the exemption, leaving truckers free to ignore the posted rates.

Passage of the Kennedy bill, and of legislation the Carter Administration proposes to introduce later in this session of Congress, would do much to get the trucks back on the right road.

Everyone should pitch in and help clear any roadblocks that the truckers and their allies may erect.

[From the Spokane (Wash.) Spokesman-Review, July 3, 1979]

Deregulation Is Necessary

One must hope the administration is successful in convincing Congress to deregulate the freight railroad and trucking industries.

With the volume and cost of federal regulation mounting almost daily, government should get out of the business of regulating transportation. Federal regulations have shielded both industries from the competitive struggles that have driven down the price of other goods and services.

President Carter and others have the best interests of the public in mind when they advocate deregulation.

One need look no further than the airlines to see that deregulation works. The airline fought deregulation two years ago, but now are convinced that it was the smart thing to do. Ticket prices went down and ridership went up. The public is happy and the airlines are happy.

In the past, airlines flying the same route generally charged the same fare. Under the new law, airlines can raise fares by as much as 5 percent a year without federal approval or lower them by as much as 50 percent. Discount fares have been introduced by most of the major carriers.

The success of airline deregulation would seem a fairly accurate indication of how well regulatory reform can work in other areas of transportation.

Opposition, however, will be intense. Competition is a nasty word in the vocabulary of truckers. Because current regulations limit new entry and keep rates high, existing firms are content with the status quo. Another stumbling block is the powerful Teamsters union, which is strongly opposed to deregulation.

Regulation, in large part, has contributed to the railroads' financial problems. The government will have to resign itself to paying out larger subsidies unless it eases its regulatory grip.

Instead of relying on subsidies, the railroads should be permitted to operate in an environment that allows them to improve their operations and profits.

Railroads must compete as free enterprise companies.

Summary: Excessive regulation in the transportation industry is hamstringing the economy, handcuffing business enterprises and robbing the consumer through inflation.●

DEATH OF HENRY ROBBINS

● Mr. MOYNIHAN. Mr. President, of all the things I might regret of my life as a young man none is more poignant at this moment than the realization that I shall never write a book that will be edited by Henry Robbins, for he has now died.

It almost happened. As a young man, or youngish one, 20 years ago, I wrote for the old Reporter magazine an article entitled "Epidemic on the Highways." It was, I believe, the first general treatment of traffic safety as a public health problem that could be dealt with in scientific terms.

Within a week Henry Robbins had

tracked me down at Syracuse University and proposed that I write a book for Knopf. It was typical of him to see in a technical article on a technical subject the outlines of a social issue—consumerism, if you like—that would play so large a part in the politics of the decade that followed.

I never wrote the book. I went to Washington instead with the Kennedy administration, where I was able to pursue the issue from within the Government.

But if I lost the opportunity to write for him, I won his friendship, an even more precious privilege. A rare man, Henry Robbins; a gift to his age.

Mr. President, I submit for the RECORD a tribute to Henry Robbins that was published in today's Washington Star. May I say the grace and insight of the editorial is a tribute as well to the quiet inspiration of the Star editorial page in general.

The editorial follows:

HENRY ROBBINS

The business of publishing books for the general trade readership is a business indeed; most people who work in publishing are attracted as much by its commercial aspects as by its literary ones, and the truly "literary" publisher or editor—Horace Liveright, Maxwell Perkins, Alfred Knopf, Roger Straus—is something of a rarity. Henry Robbins was such an individual; his early death on July 31 is a sad and shocking loss to the American literary community.

Mr. Robbins worked in publishing for a quarter-century. He began as a junior editor at Knopf, "where my taste and judgment were formed," moved on briefly to Dial, then to Farrar, Straus and Giroux, after that to Simon and Schuster, and finally to E. P. Dutton. In his last assignment, which began four years ago, he was both editor-in-chief of the entire trade-book division and publisher of a smaller line under his own imprint, Henry Robbins Books. By the time of his death he had acquired a vast amount of experience in both the commercial and literary sides of his business, and had managed to strike a singularly happy balance between them.

Mr. Robbins recognized "the reality that the editor must also be to some extent a publisher," so he did not shrink from involving himself in such matters as jacket-design, subsidiary-plants sales, marketing and promotion. In fact he was remarkably successful in all those areas; his vigorous involvement in the advance promotion for *The World According to Garp* was crucial to the success that John Irving's novel eventually enjoyed.

The World According to Garp is, in fact, a perfect illustration of Mr. Robbins' virtues as editor and publisher. In the former capacity, he encouraged Mr. Irving to write a novel that might find a large readership while maintaining the impressive literary standards of his earlier work; this was not a cynical capitulation to commercialism, but an effort to match a serious writer with the audience he deserved. Then, in the latter capacity, he put the full resources of his imprint behind the novel; he believed in it, and he worked to make it a success. The result was a best seller that genuinely deserved to be one.

Over the years Mr. Robbins was editor—and friend—to some of the country's most consequential writers: Walker Percy, Wilfrid Sheed, Joan Didion, John Gregory Dunne, Donald Barthelme. It was a measure of the affection and respect in which he was held that many of them moved along with him as he made his upward progress through five publishing houses. They knew that with Mr. Robbins, as with Maxwell Perkins, the writer came first.

Editing, when it is done as it should be, is a quiet affair. The best editors know that their purpose is to help their writers do the best work they can, and that each writer must be treated with a sensitive appreciation of his unique strengths and weaknesses. The best editors do not seek publicity and their names are not widely known. But inside the business everyone knew that Henry Robbins was as good as they come, a true heir to the Perkins tradition. American literature is richer because of the quiet work he did.●

THE BUREAUCRATIC ESTATE

● Mr. HATCH. Mr. President, I would like to compliment my colleague from New Mexico, Senator HARRISON SCHMITT, for his vigilence in revealing and restraining the abuses of Federal regulatory agencies. An article by James J. Kilpatrick in the Washington Star of July 10, 1979, describes an important amendment that Senator SCHMITT intends to introduce to the Federal Trade Commission authorization bill, giving either House of Congress a legislative veto over any trade rule regulation imposed by the FTC on American businesses. These trade rule regulations are used by the FTC to dictate how American businessmen can run their private operations, and effectively overrule any contrary State statutes or local ordinances. I commend my distinguished colleague for drawing attention to the shocking way in which the FTC has usurped vast Federal and State legislative authority without the proper balances and safeguards of a genuine legislative body.

The oppressive scope and impact of these trade rule regulations are indicative of the frightening trend of runaway Federal regulatory agencies extending their interfering tentacles far beyond the scope of their original authority. For example, by loosely interpreting the phase "affects commerce," the FTC arrogantly presumes to have exclusive control over all business activities in this country, plus anything remotely related to business. It is estimated that Federal regulators devise 18 regulations for every law passed by Congress, imposing an enormous burden on the entire country. We are literally being buried under an avalanche of regulations.

These Federal agencies not only infringe on the rights of businessmen and private citizens, but also trample on the traditional prerogative of State and local governments to regulate local commerce. All-knowing Washington bureaucrats decree that America should be run from Washington, and destroy the vitality and vigor of our private institutions by imposing unreasonable burdens on them. Power-hungry civil servants who think that they know what is best for everyone in America continue to intrude upon private citizens and organizations. Yet, how can an insulated agency rulemaker possibly be sensitive to the special needs of all Americans, or even understand the diverse needs of my constituents in Utah?

These bureaucrats have forgotten that they are the servants of America. not the masters, Our regulatory agencies have never been properly accountable to the very citizens they are supposed to protect. Directed by boards or commissions with fixed term memberships, these agencies have lost touch with the realities of American society and are immune from public evaluation or change. They have failed to recognize that the mood of America has turned against big Government, preferring to rely on the efficiency of traditional market forces and private institutions to restrain unethical or illegal business practices.

Mr. President, this proposal by Senator SCHMITT to allow congressional review into the rulemaking process of the FTC could prove to be a very useful step toward restraining the reckless activities of these super-regulators and turning the regulatory process back to local governments where it properly belongs. Unfortunately, I understand that an effort may be made to delay consideration of the FTC authorization bill so that the Senate will not have an opportunity to consider this proposal. I feel that it is time for each of us as Members of the Senate to assume our constitutional roles as legislators and announce that Congress, not the Federal regulatory agencies, shall be the final voice on national legislative activities. I ask that the article "The Bureaucratic Estate" be printed in the RECORD.

The article follows:

THE BUREAUCRATIC ESTATE

Our government, as every schoolboy knows, theoretically embraces three branches—the executive, the legislative and the judicial. Recent years have produced a fourth branch: the bureaucracy. One of the most troublesome political questions of our time goes to the problem of restraining bureaucratic power.

Sen. Harrison Schmitt has an idea. He wants to provide for a legislative veto over the formal Trade Rule Regulations imposed by the Federal Trade Commission. He makes a convincing case in support of his plan.

Most persons—and certainly most businessmen—are familiar with the general problem. Over the past 15 or 20 years we have witnessed in Washington an explosion of federal regulations. The powers of old agencies, such as the FTC, have been greatly expanded. A dozen new agencies have been created. Upward of 200,000 civil servants now are engaged in regulatory activities.

Some of the agencies. such as the Occupational Safety and Health Administration (OSHA), function as complete little governments. OSHA effectively makes laws, a legislative function; OSHA administers its own laws, an executive function; and OSHA prosecutes, tries and fines those who violate its laws, a judicial function. An aggrieved victim of OSHA's power has but one avenue of relief—the murderously expensive and time-consuming process of appeal to the federal courts.

In the old days, a regulatory agency typically had a limited field of authority. The Maritime Commission dealt with ships, the Federal Communications Commission with radio and television, the Civil Aeronautics Board with air transportation. and so on. The new breed of agency is different. The writ of the FTC, for example, runs clean across the board. Any activity that even remotely "affects commerce" is fair game for the commission.

At the FTC, 1,700 bureaucrats, including 600 lawyers, are actively, eagerly, obsessively engaged in the promulgation of rules and regulations. By Schmitt's count, the FTC is working on 40 public investigations, 120 private investigations, 30 active litigations, and 15 proposed Trade Rule Regulations. The TRR's cover funeral homes, health spas, used cars, hearing aids, mobile homes, children's television advertising and a mind-boggling assortment of other matters.

"The Federal Trade Commission," Schmitt contends, "may be the second most powerful legislature in the country. The FTC claims the power to declare any commercial act to be 'unfair,' regardless of state laws, and thereby to amend all state statutes and reverse all state cases that may be inconsistent with its declaration."

Schmitt's concern goes beyond particular TRR's. The basic question is a question of power: "Who writes the laws in this country—unelected administrators or the elected representatives of the people?" His disturbing answer is that the regulatory agencies are spinning out 18 laws for every one law enacted by the Congress. For all practical purposes, the agencies are untouchable. They are headed by boards or commissions whose members are named for fixed terms, and they are served by bureaucratic staffs with what amounts to life tenure.

Under an amendment proposed by Schmitt to the FTC authorization bill, Congress would have 60 days in which either house could impose a legislative veto upon a TRR. There is nothing especially novel in a legislative veto as such. Since 1932, Schmitt says, Congress has reserved such a power nearly 300 times. At least 34 states have some form of legislative veto over state agencies. The authority appears to be rarely used.

Schmitt's resort amounts to a last resort, and last resorts ought to be seldom invoked. The device troubles some observers who regard the veto as a intrusion upon executive responsibilities, but there seems to be nothing unconstitutional in the approach. My own inclination would be to try the Schmitt plan for a few years and to see how it works with the FTC. If a veto would restrain that power-hungry outfit, the same kind of emergency brakes could be provided for all the rest.●

REFORM GONE AWRY

● Mr. **HATCH.** Mr. President, ever since I arrived in Washington, one question has repeatedly come to mind as I have viewed the problems created by our bloated Federal bureaucracy: Will the Federal Government, including this body, ever learn that imposing Federal "regulatory reforms" on society only creates additional headaches for the people of this country without solving the original problem they were designed to correct? The American people are tired of self-anointed crusaders who promote these half-baked regulatory schemes out of a desire for recognition and publicity. Fortunately, the citizens of this great country are recognizing the waste and inefficiency from solutions dictated by omnipotent Washington bureaucrats and politicians, and they are demanding a halt to this drive to regulate every aspect of American society.

The recent reform of the Presidential election system is an excellent example of how reforms get bogged down in the swamp of bureaucratic mismanagement and create problems we never even dreamed of before the reform. Public financing of Presidential elections was promoted as the ideal solution to eliminate improper influences from Presidential politics and widen citizen participation in these races. However, because the Federal agency handling this reform lacked the ability or vision to achieve these lofty goals, today we must cope with the realities of their regulatory solutions.

The Federal Election Commission has hopelessly confused former candidates by their complicated investigation of the 1976 election, and there is a frightening potential for a chaotic election in 1980 unless something is done. Unfortunately, the only solution Washington ever dreams of for bureaucratic mismanagement is to throw more money and more manpower at the agencies involved, allowing bureaucrats to entrench themselves deeper and deeper in our society. Only when we face reality and acknowledge that another round of Washington regulations only complicates our problems will we ever succeed in finding real solutions to our problems.

I commend the Washington Post for their fine editorial of June 20, 1979, "'Reform' Gone Awry" which emphasizes the inconsistencies of public financing reform. I hope that the FEC's bureaucratic nit-picking will not deter our citizens from participating in the political process, as this article points out could happen. I ask unanimous consent that this article be printed in the RECORD.

The article follows:

Reform Gone Awry

Three years and one week after Rep. Morris K. Udall (D-Ariz.) suspended his 1976 presidential quest, the Federal Election Commission's auditors are still quibbling about how some of his campaign funds were handled. The FEC has pursued the matter so doggedly that you would think millions of dollars had vanished without a trace. Not so. Out of the Udall campaign's total expenditures of $5,166,015.37, the current arguments involve $74,135.69—less than 1.4 percent.

In most fields of government spending—military procurement, for instance, or public welfare—an error of 1.4 percent would be considered very good, if not downright miraculous. But where public campaign subsidies are involved, the nit-picking seems to have no end. In the Udall case, the auditors want more documentation for outlays of $61,741.87, made up of about 280 separate items in 20 states. For almost all of these, Mr. Udall's people have provided canceled checks and an explanatory note such as, "$200 to Jane Smith—field expenses." The auditors won't accept that. They want a detailed bill, voucher or explanation from Jane Smith—who might have been a student volunteer. And what if Jane Smith can't be found to verify that the $200 really went for food, lodging and gas? Well, then, someone will have to reimburse the federal treasury.

The Udall campaign is not the only victim of this ludicrously slow, small-bore auditing. Two weeks ago President Carter's general-election committee was told to repay about $15,000 for poorly documented Election Day expenditures. The wrangling over some of George Wallace's campaign spending has also gone on longer than the campaign did.

Meanwhile, of course, a flock of presidential aspirants has already begun next year's campaigns. Do they have to anticipate having their New Hampshire expenses challenged in 1983? If that occurs, the FEC—which has already worn out everybody's patience—could bring the whole experiment in public financing into disrepute. True, some of the problems do flow from the law. If there were no state-by-state spending ceilings, for example, the Udall team would not be quarreling with the auditors about how much of his radio and television ads on Boston stations were aimed at New Hampshire voters as opposed to Massachusetts one. But the undeniable complexities and quirks and unrealities in the law do not excuse the FEC. It has made a large contribution to the bureaucratizing of federal campaigns—and created a large agenda of difficulties for congressional committees to address.

To see what's gone awry, remember that the point of the "reform" was to open up presidential politics and encourage ordinary citizens to play a larger role. And now the larger role is that of lawyers and accountants—and citizen volunteers are being asked, three years later, to come forward with itemized receipts for every hamburger they bought on the campaign trail.●

SIXTEENTH SUMMIT OF THE ORGANIZATION OF AFRICAN UNITY

● Mr. **KENNEDY.** Mr. President, the 16th summit of the Organization of African Unity (OAU) took place recently in Monrovia, the capital of Liberia. Representatives of 48 countries, representing over 300 million people, met to discuss the central changes that are taking place in Africa, and to formulate policies that will answer collective problems on a collective basis. The formation of the internal settlement in Zimbabwe-Rhodesia, the common horror felt at the atrocities committed by the Amin regime in Uganda, and changing views of military intervention stimulated by Tanzania's role in its downfall, are resulting in an important revitalization of the OAU by its members.

In his keynote address, the host and chairman of the OAU summit, President William R. Tolbert of Liberia, noted how the previously unquestioned rule of noninterference by African states in the internal affairs of one another could serve as an excuse for African leaders to ignore and neglect important cases of human rights violations in the region. In addition, President Tolbert called for revision of the OAU Charter to include provisions for the protection of human rights, a "cohesive policy on refugees," a regional cooperative economic policy, and a pan-African peacekeeping force—manned only by Africans—which would provide a regional response to African problems.

These proposals and the active debate of both the continuing crisis in Southern Africa and the Egyptian-Israeli Peace Treaty highlight the increasing importance of the OAU in African affairs. Unfortunately, the conference fell short of support for the Peace Treaty, and it still remains to be seen how many African governments will restore their diplomatic ties with Israel now that it has made peace with Egypt. Nevertheless, the recent meeting of the OAU demonstrates that the countries of Africa are responding together to the challenges they face together—and there is now the welcome prospect of increased cooperation in the political, economic, peacekeeping, and human rights fields.

As the Christian Science Monitor recently commented on the 16th summit meeting of the OAU:

> The OAU . . . is moving in positive directions . . . the Organization is beginning to

grow in ways that are salutary for the future of the African continent.

Mr. President, I ask that the editorial in the Christian Science Monitor of July 24, 1979, be printed in the RECORD.

The editorial follows:

AFRICA'S OAU: BOISTEROUS BUT BLOOMING

You can look at the just-ended meeting of the Organization of African Unity in two ways. One, as a raucous, indisciplined, disunified conference of leaders bent above all on preserving their political independence of action. Or, two, as a lively, disputatious meeting of heads of state finally beginning to speak out on substantive issues and groping for ways to make the OAU a body capable of resolving regional conflicts and taking collective decisions.

Both views are defensible, perhaps, but we choose to stress the latter.

We in fact think it significant that regional groupings in many parts of the world are slowly gaining in strength and influence. The Organization of American States, for instance, has just played a key role in the overturn of the Somoza dynasty in Nicaragua. Across the Pacific, in Southeast Asia, the 12-year-old ASEAN has grown impressively in confidence and is dealing effectively with many regional problems. In Europe, the European Community continues to stand as a model of economic cooperation and now, with its first directly elected Parliament, starts in earnest striving for the goal of political unity.

Africa comes to its collective endeavors only recently in an historical sense. It lacks tradition and experience. To expect the leaders of 49 relatively new independent states, with such divergent political systems and cultural and tribal backgrounds, to coalesce in a strong, unified organization would be expecting too much too soon. Leaders who only recently were the subjects of colonial powers are not eager to give up national rights even before they have had time to exercise them themselves. They are jealous of noninterference in their internal affairs.

Nationalism is thus likely to remain a potent force n Africa for a long time to come. But if it remains such a robust factor even in Europe, which has centuries of independence and democratic tradition behind it, let us not be too critical of the Africans.

True, the OAU meeting in Monrovia, Liberia, was one of the most acrimonious ever held. There were angry words, irate walkouts, threats of resignation from the OAU. But there was also more forthright, if heated, discussion of controversial issues, with more leaders speaking out for the first time—and no Idi Amin swaggering around with pistols on his hips. Surely such open disputation is healthy for the democratic process.

To touch on some of the resolutions passed, the most encouraging is the one sponsored by Senegal and Gambia calling for "better international cooperation to protect human rights." Not the strongest wording, perhaps, but it represents an unprecedented focus on the subject. Another resolution supports the Patriotic Front leaders in the Rhodesian struggle, but it does not rule out a conference of all the parties to resolve the conflict. Still another condemns Israel and backs the PLO but, significantly, stops short of denouncing Egypt's peace initiatives.

Not least of all, the OAU also took up the idea of a collective peace-keeping force. This remains only in the realm of a concept but it is a concept with enormous potential. The fact is that Africans do not like the presence of Cubans and Russians in their midst any more than the presence of French or any other Western power. The ultimate solution could be an all-Africa force to help preserve the African nations' territorial integrity—a self-policing action in which such countries as Morocco, Ivory Coast, and Gabon already have had useful experience.

The OAU, in short, is moving in positive directions. The most important dealings and decisions may continue to take place in the corridors. But the organization is beginning to grow in ways that are salutary for the future of the African continent. As in all things, a good measure of patience is in order.●

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, preparations for the White House Conference on Small Business to be held in January 1980, are well underway. Small businessmen and women from all parts of the country have been asked to contribute their ideas to the White House organizers of the conference.

As part of that process, White House Small Business Open Forums are being held in cities all across our Nation. One of these recently was held in Billings, Mont. Senator MAX BAUCUS of Montana and a member of the Senate Select Small Business Committee was the keynote speaker at that particular open forum.

His remarks are an important contribution to the national debate on how we can improve the economic health of small businesses. For that reason, I ask that Senator BAUCUS' speech be printed in the RECORD and commend it to my colleagues.

The speech follows:

SPEECH BY SENATOR MAX BAUCUS

I'd like to welcome you to this Open Forum. It's a pleasure to see so many friends and familiar faces in the audience.

I'm excited to see such a good showing, and I hope you will carry your participation one step further by keeping in touch with me. Don't hestitate to call me whenever you have an opinion or problem you feel I should know about, on small business or any other subject.

Today I would like to make a few comments about the state of small business. Then I would like to take a few moments to discuss some of the larger issues we face as a State, and as a Nation.

This Open Forum is one of sixty being held around the country—each one to provide direction for the White House Conference on Small Business which will be held in January.

These meetings, however, are serving an even more important purpose: they are sending a message back to Washington. They are underscoring something we've known all along: the strength of this nation's small businesses is critical to the strength of our economy.

There will not be a healthy national economy unless small business is healthy. And, as we all know, a healthy small business community is doubly important in States like Montana.

But despite that fact, small business too often is taken for granted. Rather than promoting small businesses, too often government stifles and smothers you and your business. Government regulation is excessive; the tax code is growing increasingly complex. Too often government's efforts to help small businesses, end up having exactly the opposite effect.

But it's not all bad news. The situation is beginning to improve. Despite the problems, I sense that the small business community is finally beginning to wake up Washington. It's about time. And this Conference can help wake up Washington more quickly.

Washington is finally learning that there is nothing small about small business.

Nearly one-half of our Gross National Product is the result of independent men and women like you. There's nothing small about that.

Independent businesses are the leading developers of innovative ways to do business. There's nothing small about that.

And there's nothing small about an American tradition which has been the foundation of our economy for over two centuries.

Twice each year I've held small business conferences with members of the small business community and officials from dozens of government agencies. And I've held hundreds of meetings and conversations with you and other small business men and women throughout the State. They've been helpful.

You have urged me to get a handle on how the government can support small business without overburdening it. You expressed concern that the government is removing too many of the incentives for a healthy free enterprise system. And, you and other Montanans told me to get government off your backs. I listened to you. When I got to the Senate I pushed hard for membership on the Senate Small Business Committee; to put me in a better position to act on your concerns.

I had quite a bit of competition for my seat on the Committee. This year, more Senators requested assignment to the Senate Small Business Committee than any other Senate Committee. That's really something when you consider that more Senators requested the Small Business Committee than the prestigious Appropriations, Finance, or Judiciary Committees.

In addition, the SBA is becoming more of an advocate. One of the primary responsibilities of the Small Business Committee is to authorize funds for the Small Business Administration.

Yet, the SBA should be more than just a lending institution. To me it can—and should—serve as your advocate with federal agencies.

One step in this process has already taken place.

The SBA Office of Advocacy now represents small business interests at high levels of government. But there is still a great deal more to be done, and you can be certain that as long as I have a role in this area, I will insure that the SBA is an advocate.

A promising program now developing within the Small Business Administration is its bank certification and lending program. Under this program, the SBA could delegate its lending authority and application procedures for both direct loans and loan guarantees to certified financial institutions.

It will not only improve the cumbersome application process from the SBA, but it will speed up the amount of time it takes to process an SBA loan.

The bank certification and lending program is now in the pilot stage. If the results are as promising as I expect them to be, I expect we will see the SBA get out of the loan processing business.

Initiatives to help small business are also being developed in the other Committees on which I serve. On the Finance Committee, for example, I am working on tax legislation to help small businesses. And, I chair the Subcommittee on Internal Revenue Service Oversight.

Too many times IRS has dealt unfairly with small businessmen. Small businesses contribute more than their share to the Federal Treasury and I want to make certain that they are treated more fairly in the future.

One way to do that would be for the Internal Revenue Service to pay attorneys' fees whenever it loses a court case against a small business owner. Such a plan would protect small businesses from frivolous treatment by IRS officials. I am the chief sponsor of legislation to do just that—and that should help stop these frivolous and oppressive suits.

In the Judiciary Committee, I am dealing with scores of bills affecting government regulation. This Committee deals with everything from antitrust to the criminal code, but one bill I think you might be interested in is the regulatory flexibility bill:

This bill, which I am co-sponsoring, calls for a two-tiered approach to government regulation—one for big business—another for small business. It requires each government agency—before enacting any new regulations—to evaluate the impact on small businesses. If it is determined that a new regulation is inappropriate for small business, then, under my proposal, the agency would be forced either to exempt small business from its rule, or to rewrite its rule in a manner more appropriate to the small business community.

I think this is a good approach. It's just common sense. For when all is said and done, I suspect we will find that most small and medium sized businesses can—and should—be exempted from much of the regulation and paperwork imposed by the federal government.

I'd like to shift gears somewhat, and discuss something that I know has been on your minds the past few weeks.

We live in an era of complicated questions and complex problems. Because of that it's easy for us to ignore the problems most important to the future of our economy and society.

Nothing jarred Montanans from the complacency more than this spring's diesel fuel shortage. Likewise, in Washington, nothing drove home the truth about our energy crisis than waiting in line for two hours for gasoline.

We've known for quite a few years that someday worldwide oil supplies would end. Since the 1973 oil embargo, we've known that the era of cheap, abundant gasoline and diesel fuel is over. And, we've been faced with the reality that this nation's security could be held hostage by a group of oil sheiks in the Middle East.

Today, the three most serious economic problems we must face as a nation are recession, the worldwide energy shortage, and inflation.

These three developments—and the crisis of confidence they have precipitated—will affect all Americans. They require all of us to exercise our imaginations and to utilize our resources more efficiently.

There are no easy answers to these problems. No magic solutions will appear, there is no quick fix.

More important, we must not be fooled or be deceived by simple answers to these problems.

There is an old phrase that says it best: To every complex problem there is a simple solution—and it's probably wrong.

I'm not going to propose my energy program today. Nor am I going to outline elaborate proposals to revitalize the world economy.

My message is more basic: we as a people must realize that there are limits to our consumption of energy.

In 1961, President Kennedy set a goal. The United States would mobilize an effort unlike any other in our history. New technologies—up to then only a dream—were devised, perfected and manufactured. At a time when this nation was suffering an identity crisis in the wake of the Bay of Pigs, and Sputnik, we picked ourselves up, and set out on our path to the Moon.

Ten years ago Friday—we succeeded. We proved to the world we could do it. We were proud, and for good reason.

Today we have that same opportunity. President Carter has set our goal: cut our imports in half by 1990. To reach that goal, though, we must make the same effort. We need cars that use less gas. And although today's challenge is more difficult than placing a man on the Moon, it's a challenge and opportunity we should not avoid.

The small businessmen and women of the United States can play a crucial role in helping our nation achieve that goal.

You have been the entrepreneurs and innovators of our nation, developing new ways to solve our problems.

Our nation's strength lies in its people. That's our best hope. Small business has brought forth ways to deal with our problems in the past—and I fully expect it will do that again in the future. This conference should be most productive.●

THE EFFECT OF THE CAPITAL GAINS TAX

● Mr. **HAYAKAWA**. Mr. President, there has been much talk recently of whether or not large tax cuts will stimulate the economy. From 1969 through 1977 Congress raised the tax on capital gains from 25 percent to 49 percent. Proportionately, over that same time, venture capital tapered off to a trickle by 1977 as the costs of failure increased and the rewards of success diminished. In 1978 Congress realized its error and reduced capital gains taxes to the present 28 percent rate. In an editorial in the July 30, 1979 edition of the Wall Street Journal, the 1978 capital gains cut and its effects are discussed. The benefits to venture capital from the tax reduction cannot be exaggerated and it behooves us to apply the lesson we have learned to the rest of our tax system. The behavior of our economy, since the capital gains tax reduction, indicates the responsiveness of the economy to incentives. I would suggest that the editorial is correct when it states that more encouragement of the economy's "inclinations to grow would no doubt produce further benefits" and I ask that the article, "Snapping Back," be printed in the RECORD.

The article follows:

SNAPPING BACK

Anyone who might be wondering about the effects of last year's reduction in capital gains tax rates would do well to look at the venture capital revival that has since occurred. We particularly urge a look by those who argued then—and still do in some cases—that you can't improve capital formation by lightening the tax burden on it.

Venture capital is money raised by entrepreneurs whose only assets are their new ideas. Even if they turn out to be successful, investors must expect their capital to be locked up for 5 or 6 years. A decade ago venture capital was thriving. But along came the Tax Reform Act of 1969 which together with its subsequent revisions raised the maximum tax on capital gains from 25% to 49%, reduced the write-off of capital losses by 50% and sharply curtailed the deduction of interest expense on borrowed funds used to make an investment. All in all, the rewards for success were cut in half, and the penalties for failure were doubled.

The effect on venture capital was devastating. The ability of small companies to raise equity capital by public stock issues declined drastically, and by 1973 small company issues had practically ceased. In 1977 when the maximum tax on capital gains hit 49%, equity capital from all sources dried up.

The tax reformers who sold this bad bill of goods to the Congress said the purpose of it was "to make the rich pay taxes." Congress expected to score some easy political points, not to dry up important wellsprings of economic progress. New small companies account for a disproportionate amount of new products and technologies, and they contribute substantially to the growth of the economy as a result of their own rapid growth and the productivity gains that they introduce into the economy.

By 1978 Congress realized what it had done, and Rep. Bill Steiger found majority support in both houses for his proposal to reduce the capital gains tax. In November the rate was reduced to 28 percent.

The response from venture capital was instantaneous and began in May before the law was passed when Senator Hansen rounded up 60 Senate cosponsors of the Steiger bill. By the end of the year venture capital raised by firms specializing in the activity rose eleven-fold over the previous year. In 1979 venture capital is back where it was 10 years ago.

The snapback is easy to understand. In 1969 Congress began adding to the costs of failure on risky new ventures, while reducing the rewards of success. With risk taxed at the same rate as corporate salaries, fewer people left comfortable employment to go off on their own with the ideas they couldn't sell to their employers. Those still willing could find few financial backers. In 1978 Congress restored incentives for assuming risk, and people began assuming risk once more.

There is evidence that lowering the capital gains tax rate had wider ripple effects. The Dow Jones Industrial average rose 130 points from March to August last year as it became evident that there were enough votes in Congress to cut the capital gains rate. The market has since lost some of that exuberance but still is well above March 1978 despite rampant inflation and a recession threat.

Equally impressive, in light of recession fears, is the fact that corporate expenditures for new plant and equipment and for research and development are once again showing signs of life after a long period of stagnation. Shareholders can once again look with favor on managers plowing back earnings rather than paying them out in dividends.

These signs that the economy would like to get back on it's growth track are encouraging challenges to the gloomy predictions that the growth era is over. They indicate that the economy responds to incentives, and is not in the clutches of some inexorable process of decline. More encouragement of its inclinations to grow would no doubt produce further benefits.

We have in mind cutting tax rates on personal income in order to lower the high marginal rates on real income that a decade of inflation has brought about, altering taxes on interest and dividend income in ways to lessen the tax bias against saving and passing something like the Jones-Conable Capital Cost Recovery Act so that businesses can recover their investment capital before inflation eats up their depreciation allowances. A little good tax law and the economy as a whole will snap back as rapidly as venture capital.●

THE COUNCIL OF INTERNATIONAL PROGRAMS

● Mr. **GLENN**. Mr. President, I would like to inform you and my colleagues of the upcoming visit to Washington by several hundred participants in the Council of International Programs. These young men and women are professional social workers and special teachers from Africa, Europe, Asia, and Latin America. As individuals of exceptional talent and ability, they were chosen to represent their native countries in this unique exchange program.

I am familiar with the Council of International Programs because it was founded in Ohio 23 years ago by Dr. Henry Ollendorff, an internationally recognized social worker. Dr. Ollendorff served as secretary-general of the organization until his death this year. Today the Council of International Programs is under the direction of a distinguished group with Sidney D. Josephs as president, Paul A. Unger as honorary president, and Wilbur E. Wright as secretary general.

The success of this program is evidenced by the 3,000 participants it has had since 1956. These outstanding people have returned to their countries to fill influential positions; these have included provincial governors, members of parliament or congress, mayors, national ministers of welfare, deans of schools, and directors of all types of social agencies.

About 200 participants come to the United States each April for periods lasting from 4 to 13 months. At the beginning of their stays here, they enjoy hospitality contributed voluntarily by thousands of American families. During that time they participate in seminars to exchange information on policies and programs of their respective nations. At various university campuses throughout the United States, they prepare for individual assignments with an American agency. Then each one goes to work in a capacity similar to the one which they have in their own country. In addition to those in Ohio, CIP participants are now working in Colorado, Georgia, Illinois, Indiana, Iowa, Minnesota, Michigan, North Carolina, Pennsylvania, West Virginia, and the District of Columbia.

Most of the funds for these programs are raised by voluntary contributions from individuals, foundations, and corporations in the host cities. In recognition of the importance of these programs for fostering better international relations, the International Communications Agency provides financial assistance and stipends for participants from less developed countries. The sending country provides most of the travel expense plus some program support.

Because of the tremendous success of the CIP, other nations have begun reverse programs to bring American social service professionals to their countries. The first such program was begun in West Germany, with the full costs paid by the German Government. Similar endeavors are now underway in France, United Kingdom, Sweden and Turkey, with others in formations.

Mr. President, even though the Congress will not be in session when this group arrives, I would like to welcome them to our Nation's Capital and to thank them for the work which they have done in our country. I hope that each of them takes home a better understanding of the United States, just as I am sure they have left a better understanding of their own countries with our Nation.●

DEATH OF THURMAN MUNSON

● Mr. MOYNIHAN. Mr. President, I rise to lament the death of Thurman Munson, the captain of the New York Yankees. He was killed yesterday when his plane crashed short of the runway at the airport near his home in Ohio.

Thurman Munson occupied a giant place in the lives and most especially the hearts of all New Yorkers. The void he leaves will not easily or quickly be filled. I was touched by Yankee owner George Steinbrenner's remarks on Thurman. He said,

> I've lost a dear friend, a pal and one of the greatest competitors I've ever known. We spent many hours together talking baseball, and business. He loved his family. He was our leader.

Thurman's rise in the baseball world was meteoric. He joined the Yankees in 1969 at the age of 22. In 1970 he was named the "Rookie of the Year." For 3 years running he won the Golden Glove Award. In 1976 he won the American League's Most Valuable Player Award and was named the captain of the Yankees. So while still in his 20's Thurman Munson realized every American boy's dream.

The memories of Thurman will be many and will transcend his awesome abilities on the field. We shall remember his spunk, his wit, his frankness. He was a hero to many, a leader to all.

May I offer my deepest sympathy to his wife, Diane, and his three children, Tracy Lynn, Kelly, and Michael.●

THE EFFECTS OF NUCLEAR WAR

● Mr. CHURCH. Mr. President, in 1978 the Committee on Foreign Relations requested the Office of Technology Assessment to conduct a study on the effects of nuclear warfare. A previous OTA study, also commissioned by the committee and published in 1975, investigated the effects of limited nuclear war and concluded that a more comprehensive examination of damage effects and radiation release was needed. The committee asked that these recommendations serve as guidelines for a second study, designed to explore the impact of various levels of attack on the populations and economies of the United States and the Soviet Union.

Unlike most defense analyses, the new study (released in June 1979) concerns itself only with damage to civilian society, bypassing military effects. Within this range, it investigates both direct and indirect effects over the short and long term, as well as an examination of the utility of civil defense measures. Specific case studies include a projected attack on single cities (Detroit and Leningrad) with one weapon, an attack on oil refineries limited to 10 missiles, a counterforce attack, and a full-scale attack on military and economic targets. In this final scenario, deaths in the first 30 days could range from 35 to 77 percent of the entire U.S. population, with additional millions of deaths estimated from long-term effects such as cancer, starvation, and exposure. Such devastation is unthinkable, yet even with a "limited" nuclear war (a counterforce attack) it was estimated that U.S. deaths could reach 20 million.

The OTA found that calculations of the effects of nuclear war are at least equaled by effects that cannot be calculated, such as fire, shortages of medical care, and long-term ecological damage. Such uncalculable effects, in addition to large uncertainties in the actual calculations, contribute to the enormity of even a limited attack.

No one can be certain as to how the survivors of a nuclear war would actually cope with such an unprecedented situation, where prewar patterns of life would be obliterated. Indeed, the one certain prediction resulting from the OTA study asserts that economic conditions after an attack would get worse. This would almost certainly be accompanied by deteriorating social and political conditions as well.

The OTA study serves as an important reference work for future research into the effects of nuclear war. More importantly, however, it brings home the actual human consequences of a nuclear attack. In the context of the SALT II debate it is essential to remember the life-and-death implications of the abstract terms bandied about on both sides. In a recent New York Times editorial, for instance, the import of this aspect of the SALT debate is almost ignored, despite the enormous potential consequences for us all.

Mr. President, I ask that the New York Times editorial of July 16, 1979, be printed in the RECORD.

The editorial follows:

TOWN MEETING ABOUT ARMAGEDDON

America fared well at the first week of televised debate of the SALT II treaty. The Russians, we suspect, stood in awe of the spectacle; they really can't understand letting the public near such dynamite.

Americans with the power to order the devastation of both the Soviet Union and the United States appeared on camera to implore a group of quarrelsome and skeptical Senators to approve the doomsday weapon agreements that the President has already signed. The Secretary of Defense conceded, good-naturedly, that he was mostly a backboard off which Senators played a jumble of opinions. The Joint Chiefs of Staff impressed us not only with their soft-spoken reflections on Armageddon but also with their footwork around the political boobytraps in every question. They plainly would prefer a different treaty, as they would prefer a less contentious Government; but they seemed proud to have mastered, beyond weapons, a politics beyond the ken of any Soviet marshal. As for the Senators on the Foreign Relations Committee, they could not be thrown by talk of throw-weights and missile fractionation. They stepped up to the balance of terror as if the issue were repairing the town bridge.

We're sorry the subject of Judgment Day hasn't drawn more television viewers. They would have been satisfied that our political superiority, at least, remains assured. And the military truth about the pending treaty was, finally, not hard to discern.

Senator Helms aptly called it "not a limitation treaty but an escalation treaty." Everyone agreed that the treaty would let Russia complete the strategic buildup with which it hopes to match or exceed the United States on practically every index. All agreed, too, that the treaty would let the

United States accelerate the redesign of its arsenal to rematch the Russians in most respects and to leapfrog over them in others.

Only two things about this treaty, it turns out, bother the people who would reject it. One is the idea of signing an agreement that allows the Russians to keep much larger missiles than the United States either has or would want. The objection here concerns not the military danger of those missiles but the diplomatic danger of precedent. Some critics fear moving ever deeper into the arms control thicket without having yet established the principle that all quantitative and qualitative limits on weapons shall be equal for both sides. When it comes to nuclear weapons, which no one really expects to use, perception is everything. The fear is that our smaller and leaner weapons, even if adequate or more agile, might one day be misperceived as weaker, with terrible consequences.

The other concern of the treaty's opponents reflects distrust—of Americans. The critics think their fellow citizens will not understand that arms limitation has so far limited very little. Thus the treaty can become a tranqualizer, the critics warn, and put Americans to sleep while the Russians achieve permanent superiority. They acknowledge that SALT II would permit building every new weapon we might want as fast as we could. It's Americans' resolve they doubt, and the money for new missiles that they want to see before they sign on to the treaty.

With or without a treaty, then, our country faces a long debate about what new military power it needs. Build the weapons that President Carter is pledged to build, the Joint Chiefs assert, and the treaty becomes a modest gain: it inhibits the Russians slightly and us in no significant way. Build less than that *because of the treaty* and they say it becomes a net loss. Build even more than the President wants and maybe the Russians will finally agree to some major limitations in SALT III.

The essential failure of arms control so far was clearly revealed in the testimony favoring another arms control agreement. On that paradoxical ground the sponsors and critics of SALT II met last week. It's a largely harmless treaty militarily, they agree, because it achieves so little limitation on arms. Its risks, to the critics, are political, and so, too, are its main benefits to the sponsors. Some say hold out for more arms control in this treaty; some say take this treaty on the way to trying for a better one next time. What once looked like a Great Debate could be turning into a modest spat.●

THE AFFIRMATIVE ACTION NIGHTMARE

● Mr. HAYAKAWA. Mr. President, I submit for the RECORD an article, "A Dream Becomes a Nightmare," which appeared in the May 4 Washington Star.

I hope that my colleagues in the Senate and the House of Representatives will take a minute to read this article. It says many of the things I have tried to say in the last 2 years, since my election to the U.S. Senate.

The purpose of the Civil Rights Act of 1964 was to guarantee equal opportunity to all our citizens. And what does equal opportunity mean? It should mean that each man and woman has the right to strive, to compete, to accomplish and to be rewarded. Affirmative action programs and quotas attempt to replace personal effort with preferential treatment. "Equal" opportunity then becomes "selective opportunity," available only to those whom the bureaucracy has selected for special handling.

Last year I asked the Senate to deny Federal funds for Health, Education and Welfare and Labor Department programs which give preferential treatment to minority groups. My intention was not to destroy opportunities available to people who have suffered from discrimination in the past, but to keep those opportunities from being color-coded handouts. On what basis does the Government decide which group is the most deserving of preferential treatment? Many ethnic and cultural groups can genuinely claim to have been discriminated against. There are also people who have social handicaps. Certainly, if the Government insists on selecting those who should be shoved to the front of the line, the selection should not be based on skin color alone.

The point I want to stress is that I believe that affirmative action programs were begun in good faith, and served to good purpose. But these same programs have long since become outdated. The programs brought the necessary public attention to the problem, which served to solve much of the problem. We have now gone far past insuring equal rights for minorities, however, and forced preferential treatment for minorities on employers. This has not only caused resentment among those who are nonminority, but I think has caused embarrassment among the well-qualified minorities who can get jobs and equal treatment without any special help from the bureaucrats.

The time has come for us to put affirmative action programs behind us and proceed. I hope my colleagues will read this interesting article as it appeared in the Washington Star, and give it the appropriate serious consideration.

The article follows:

A DREAM BECOMES A NIGHTMARE

An unfortunate misconception has been created concerning my request to the federal government to eliminate the "Spanish surnamed" designation from my personnel records. This confusion has been exacerbated by the remarks attributed to an official of the U.S. Office of Personnel Management who, without seeing my request, concluded that I was seeking a reclassification from "Hispanic" to "white."

Contrary to press reports, I have not requested reclassification from "Hispanic" to "white" but declassification in terms of race/ethnic codes and, consequently, removal from affirmative action programs. This decision was not prompted by the "Leon case" in Montgomery County, as reported. It was the result of a protracted deliberation for which there is sufficient documentary evidence.

Discrimination against certain segments of our society is a historical fact. This discrimination should have been both pragmatically and ideologically unacceptable in a democratic society founded on the basis of Judeo-Christian tradition, which asserts that mankind is "created in the image of God," and guided by our Constitution, which declares that "all men (mankind implied) are created equal."

Affirmative action programs have therefore been enacted to redress discrimination. However, these programs have been variously interpreted and often applied on an irrational, arbitrary and sometimes flagranity discriminatory basis. I have viewed affirmative action as a process which guarantees the hiring and promotion of qualified minorities, sometimes even over equally qualified non-minorities. The preferential selection of a qualified minority at the exclusion of an equally qualified non-minority seems to be the only realistic approach to remedy the devastating effects of past discrimination.

But on the way to implementation, this dream of equal opportunities appears to have been transformed into a nightmare of thwarted hopes and contradictions. For the fact is that affirmative action has been tainted with capriciousness, ignorance, mismanagement and pervasive tokenism.

Paradoxically, it has also engendered a new and unusual form of discrimination, i.e., the widespread perception that the hiring and promotion of minorities are exclusively determined by their "preferential" or "numero uno" status, rather than by their qualifications and merits. This misconception has created an environment potentially detrimental to the professional and personal growth of minorities.

Affirmative action has also failed to create genuine and lasting opportunities for those with the greatest need. Among Hispanics, no other group has been more systematically and brutally discriminated against, and for a longer period of time, than Chicanos. Yet the people who appear to have benefited the most are those who, on a competitive basis, could have succeeded without affirmative action.

There is also little doubt that tokenism has been widely practiced. While statistically it shows compliance with the goals of affirmative action, tokenism does nothing for the recipients except guarantee an income and rob them of self-esteem and genuine job opportunities.

Even the determination of minority categories has been so fraught with subjectivity and capriciousness that it has been intrinsically unfair to minorities and non-minorities alike. Is the determination done on the basis of "visual inspection" or by "surnames?" And who does it? How about race? Does a 90 percent "white" and a 10 percent "black" ancestry make one a Caucasian or a Negro? Do multiple-minority labels mean one has a greater advantage over someone with a single label?

Not only is the labeling arbitrary but the secretary shrouding it is an infringement of constitutional rights. It provides no option to accept or decline participation and no thought as to the individual's real need for it.

For example, under present federal guidelines, Muhammad Ali would be secretly cast as a minority in need of protection of affirmative action. Never mind that he, on the basis of talent, great skills and unrelenting determination, surmounted the hurdles of racial and political hate to catapult himself into worldwide recognition. The problem is that the custodians of affirmative action fail to realize that Mr. Ali, like myself, has already overcome discrimination. And if again confronted with this injustice, he could cope with it more effectively alone than in partnership with the federal government.

For a program that ostensibly aims to restore to minorities the opportunities inherent to the American Dream, affirmative action has failed to make an impact on those institutions which provide leadership to the federal government and to the nation. Ironically, this year the Equal Opportunity Commission (EEOC) was found guilty in federal court of discrimination against one of its employees, a Puerto Rican, Aida Berio. By violating the same laws it was charged to enforce, the moral leadership of the EEOC has been seriously weakened.

There is the inherent danger that, if left unchecked, affirmative action may contribute to the further fragmentation and polarization of our society. Thus your editorial of April 14, "A blow against labeling," has rendered a great service by offering an alternative to minority labeling, i.e., a category "for all Americans who would prefer to bear no racial or ethnic label."

My hope is that affirmative action, while creating equal opportunities for hiring and promotion, will also enable minorities to help themselves so that they, in due time, will be "graduated" from this program. Then the only necessary requirements for equal employment opportunity will be competence and achievement.●

SMALL BUSINESS ADMINISTRATION LOAN PROGRAMS

● Mr. NELSON. Mr. President, on March 27, six members of the Senate Small Business Committee joined me in introducing S. 793, the "Small Business Loan Reform Act of 1979." That proposal would shift most of the Small Business Administration's responsibilities for their guaranteed loan program (section 7(a)) to the private banking sector.

It has been estimated that enactment of that legislation could cut from the Federal budget one-half billion dollars and reduce SBA personnel by at least 1,000. As a result of this new concept, if enacted, greater emphasis would be placed on SBA's other highly important but often overlooked nonlending programs. More and more people in the business world are beginning to perceive of these programs, such as the advocacy program, as more important than the loans SBA makes each year.

In this regard, Mr. Dean Treptow, president of the Brown Deer Bank, Brown Deer, Wisc., and president of the Independent Business Association of Wisconsin (IBAW) has written a highly thoughtful paper analyzing the Small Business Administration's direct and guaranteed business loan programs. Mr. Treptow offers some perceptive and constructive suggestions for improving the flow of debt funds to the small business sector.

These personal observations of a businessman who understands the responsibilities and needs of both the financial community specifically, and the small business community generally, will be useful when the Small Business Committee reviews in depth the SBA's programs in an upcoming series of oversight hearings. I am sure my colleagues would benefit from Mr. Treptow's recommendations, as well.

Mr. President, I ask that Mr. Treptow's memorandum be printed in full in the RECORD.

The memorandum follows:

MEMORANDUM

Subject: Small Business Loan Programs.

From: Dean Treptow, President, Independent Business Association of Wisconsin.

An understanding of S.B.A.'s role in direct lending and loan guaranty programs requires some background on the general nature of business lending and unique aspects of financing the entrepreneurial business.

Availability of credit to any business is a function of two different criteria. One is allocation of resources and the other is credit qualification. The manner in which these criteria are applied will vary somewhat with the type of lender. Commercial finance companies, insurance companies, S.B.I.C.'s, the S.B.A. and commercial banks all make direct business loans and each will approach the subject differently. For the purpose of this paper I will take the commercial bank viewpoint as it is the principal source of credit to small business and the S.B.A., whether lending direct or guaranteeing a bank loan, tends to apply standards similar to the banks.

Allocation of resources is a matter of the lender deciding how it will allocate its resources among competing investment opportunities. These alternatives are numerous, consisting of long term versus short term commitments, fixed yields versus floating all within different markets for governmental units, consumers and businesses. Assuming that a bank has the desire to finance small business and the staff expertise to compete in the market, there are other factors that affect the extent to which it will allocate its resources to this market.

A significant factor is cost per unit of investment. It takes the same amount of time to analyze the financial statements of a small business for a $100,000 loan, as it does to analyze the statements of a "Fortune 500" company for a $5 million loan. This is assuming that the small business has accurate financial statements that can in fact be relied upon to accurately reflect the quality of the business venture. In reality this is frequently not the case. In any event, the expense related to investing a given unit of money in small business is significantly greater than in many alternatives available to the bank.

A second important factor is the liquidity needs of the bank. It is well known that the rate of savings and investment in this country has been declining. Simultaneously, the demand for credit from all sectors of our economy has been increasing. During inflationary periods, intense competition exists for each investment dollar in the market, while the government restricts the money supply and at the same time competes for dollars more actively in an effort to place new federal debt. Banks in general have a difficult time maintaining a reliable flow of funds to the borrowers during these inflationary periods. Businesses and consumers alike spend in anticipation of inflation, drawing on their savings in the bank and supplementing it with borrowed dollars. The result is usually strangling of the loan supply to small businesses in inflationary periods. This, of course, is precisely the time it needs its greatest credit because of inflation expanded working capital needs.

By virtue of the sources of funds available to banks, their aggregate availability of funds and cost of those funds will be volatile. The trend of developments in recent years would promise even greater volatility for the future. This circumstances can be assumed to be disadvantageous for the smaller business because of his heavy reliance on the banks. Large business entities and government can shift to other sources, unavailable to the small business. Insurance companies and pension funds have growing pools of investable funds which by their nature are more stable in supply and cost. These institutional investors can't practically invest in loans to small business for reasons which I will explain later. Large businesses and government however, can and do access these funds with ease.

Large corporate borrowers and governmental units can also go directly to the consumer market for funds, in fact competing directly with banks in the markets that are the principal sources to the bank. This is done through issuance of commercial paper, sales of corporate bonds and marketing of small denomination U.S. Treasury Bills and Notes. Theoretically, smaller businesses could also tap these markets, but are precluded in in fact. Sale of commercial paper or corporate bonds to the public requires expensive S.E.C. registration. The marketing costs alone would preclude any issues of less than several million dollars.

Thus far I have spoken only about the allocation of funds. Credit qualification is the other criterion that affects small business funds availability. A credit decision by any lender is based on that lender's level of confidence that it will be repaid as agreed. That perception of confidence is referred to as the risk factor. The level of risk that any lender will accept is directly related to the yield or reward potential of the investment. To illustrate, if a lender desires a return of 9% on a loan, he can choose to buy a U.S. government security with a 9% yield and reasonably expect his stated return because he assumes no possibility of loss of principal. If on the other hand he chooses to lend to a class of borrower that historically, as a class, has had a high rate of failure, the risk is greater. Let's say that lender experience has been that 5% of loans to this class have not been collected. In this situation, our lender desiring the 9% return would require a 14% interest rate to achieve his objective.

It is relevant to point out here that the best earning banks show a net income after tax of about 1.0% of total assets. This means that if bank management made an error in judgment of loan risk that resulted in 1% of its loans being uncollectible, it would forfeit one year's income. Banks also have high leverage ratios of assets to capital. At December 31, 1977, the median ratio of capital to assets of all banks in the U.S. was 7.93%. Thus, an 8% loan loss would destroy the capital structure of the industry. The importance of these relationships is to point out that the banking industry is one with thin margins and little room for errors of judgment in risk assessment.

When a bank evaluates risk, that evaluation is really a function of two variables—people and profits. In an entrepreneurial business, the people variable probably counts for at least 50% of the risk formula. This is a highly subjective valuation. Good managers can overcome weak balance sheets and serious adversity in marketing, production, etc. Weak managers can destroy strong financial positions and mess up great opportunity. A track record of proven success is very important in controlling risks in the perception of a lender.

What has been management's history? Has it encountered adversity? If so, how? Did it play ostrich and ignore the problem until it expanded out of control? Did it seek bankruptcy protection, or did it show energy, guts and tenacity—the survival instinct.

What about the product or service being marketed? Is there a quantifiable existing market for the product or is it a new product seeking a new market?

What is history of this business? Has it produced profits? Has it successfully manufactured and sold its production?

Lenders need identifiable, projected rates of returns on loans. This requires some confidence in ability to assess risk. If the lender is faced with a situation where the borrower is a "start-up" business, owned and managed by someone without previous enterpreneural experience, selling a new product concept into a market that has not previously used this concept; then risk determination is objectively impossible. If such a business is to be started, it must necessarily rely on personal savings and resources of the entrepreneur until some track record, at least in one or more of these areas can be demonstrated.

Successful delivery of adequate loan funds to independent business requires two major prerequisites:

1. The point of loan origination, credit decision and administration must be local, per-

mitting a highly personal relationship to develop between the business person and the lender.

2. Vehicles must be created to permit the independent business access to all the credit sources available to other larger businesses so as to stabilize sources of funds in all phases of the economic cycle.

The close personal relationship is necessitated by the subjective nature of risk assessment in smaller businesses. To the extent that the relationship is depersonalized, the greater the weight that will be placed on pure historical financial statement analysis. The result of this will be depriving exceptionally strong management of credit in some circumstances or exceptional loan losses that may restrict the supply of loan funds to all businesses. Certainly, the depersonalizing of the loan relationship will skew credit availability in favor of larger, more mature and less innovative borrowers.

It is for these reasons that insurance companies and pension funds will never be reliable sources of direct loans for independent business. This conclusion is reinforced by the unit cost of investment decision when an institutional investor has alternatives available with public traded debt instruments of major corporations, already risk scored by rating agencies such as Standard & Poor or Moody. I have already discussed the prohibitive effect of securities laws and marketing costs on direct sale of loans by independent business to the general public. Despite these problems, we do have available to us a means of achieving our two major prerequisites to adequate funding of independent business.

The Small Business Administration has already taken some important steps in the right direction. Before I describe how we can move from the present situation to a solution, however, we must answer some fundamental questions:

1. What emphasis should our solution include on stimulating new business creation?

2. How shall we distribute risk of the program among relevant entities—government, lender and business community?

In my view there is no reason why our society should bear any expense for risk creation simply because a person may decide that it would be personally desirable to start a business as opposed to working for someone else. Entrepreneurship is not a right, it is an opportunity for those who are qualified. On the other hand, I believe it is in the national interest to encourage new business creation for the benefits that accrue from product innovation, competition, job creation and individual self reliance.

Whatever our view, however, I believe it can be proven that availability of loans to the start-up business is *not* a top priority affecting successful business start-up. Management ability, experience and integrity, viability of product or service and competitive factors all are more critical factors in the initial success of a business. The minority business loan programs extended by the S.B.A. have produced more tragedy than success. With the worthy objective of assisting minorities to find opportunity to enter the entrepreneurial sector, S.B.A. under Congressional mandate, invested millions of dollars as an answer to the problem. All too often this turned out to be a cruel hoax on the minority business person. Enticed into business by government encouragement and availability of debt, all too many well intentioned entrepreneurs found themselves helplessly in debt and humiliated by financial and business failure.

A revised program for new business creation should start with management education. I would recommend an educational program leading to certification for all would be entrepreneurs without previous experience and wanting to start a new business. This certification should precede start-up of the business. Properly designed, it would not only develop essential skills for managing the small business, but also enable the prospective entrepreneur to better evaluate the risks inherent in his proposed business and cause re-evaluation of his decisions.

University extension programs already exist in most areas of the country and could be adapted to meet the needs of this certification program. Of special interest to me, however, is the new Small Business Development Center concept within our academic institutions. This could provide the ideal vehicle for preparing and screening prospective entrepreneurs. The education could frequently be undertaken while the student was otherwise employed. Upon completion of this educational program, the graduate should be expected to fit into the same S.B.A. structure that would exist for any other business applicant.

I believe that S.B.A. and the business community have held a wrong perspective on the need for governmental influence on availability of credit to small business. The S.B.A. loan programs have been almost totally focused on the "credit qualification" aspect of lending. No attention was given to the "allocation" factor until the recent advent of a secondary market for S.B.A. loans. It is my judgment that we should focus only on the "allocation" factor.

Our economic cycle, over the last several decades, has been fluctuating with wider swings and shorter cycle periods. When the cycle peaks with high inflation and great business activity, money supply is tight and interest rates high. At the bottom of the cycle, banks are fighting with each other to place money. At this low point in the cycle, small business finds it relatively easier to obtain loans. The reasons for this are obvious. When bank funds are plentiful, bankers will accept increased risk and they have more time available to deal with the unique characteristics of small business loan processing. Then, as the cycle changes and money gets tighter, it is allocated to the best risks and many independent businesses are denied access to credit. This condition is obviously detrimental to many independent businesses.

If the supply of funds available for small business could be smoothed—the cyclical availability removed—the results would be a compound benefit for small business. The business could rely on stable availability and banks would be encouraged to increase activity in small business lending through the economic cycle. If the lenders were so attracted to the independent business market, then market action would allocate credit to those businesses that had a real economic basis for success. Government would not be required to intrude in the "credit qualification" formula.

The means to accomplish this result is by devising a vehicle to make small business debt saleable to every investor in the market place. I mean every investor from the individual saver with $10,000 to the largest pension funds and insurance companies.

Successful implementation of such a credit program for independent business will require special attention to three essential participants in the program—local bankers, a credit quality assurance function and the investors.

The origination, administration and collection of loans to independent business must reside with the local banker. Given the unique characteristics of small business lending already described, especially the need for personal familiarity, the private banking system is the only practical interface between independent business and the entire spectrum of potential credit sources. The banker must be motivated to allocate a greater portion of his resources, particularly manpower, to seeking out independent business loan opportunities and the marketing of these loans to other investors. What I am recommending is that the banker alter his concept of financing small business so that he resembles more of an underwriter of small business financing than an investor.

This will never happen, however, unless the ultimate investor—individual or pension fund—can be assured of a uniform credit quality by some third party. The investor cannot be expected to evaluate credits and he will not trust the banker as the bank has a conflict of interest unless he sold the loan with recourse. Banking law precludes banks from selling loans with recourse. This is the place for government to step in with its S.B.A. guaranty. Any bank loan carrying the S.B.A. guaranty will be perceived by an investor as having acceptable credit quality and the loan will most likely meet pension fund standards for credit quality. True, the secondary market for S.B.A. and Farmers Home Administration guaranteed loans already provides this credit quality assurance. The program doesn't go far enough, however, to meet investor requirements. The secondary market currently deals only in units of whole individual loans. The odd dollar amounts and varying maturity schedules just don't need the portfolio management standards of investors. The essential enhancement is to have a pooling of these loans by S.B.A. or Fm.H.A. with investor certificates in varying denominations issued against the pool. For example, the S.B.A. could purchase from banks, a pool of $100,000,000 of S.B.A. guaranteed loans. The loans within this pool would produce a statistically valid average expected maturity and average yield. Investment certificates could be issued against the pool in various denominations, ranging perhaps from $10,000 to $1,000,000.

Under this proposal the government would have the credit risk equal to the amount of guarantees issued and would be an interim funding source during the time the pool was aggregated and then subsequently sold.

Essentially this same concept for pooling and certificating was embodied within H.R. 11445, vetoed by President Carter. I am advocating going beyond this concept in a way that would reduce government risk, compensate government for any residual risk and motivate and discipline bankers in a way never embodied in H.R. 11445.

My recommendations include the following provisions:

1. Alter the present procedure for issuance of S.B.A./FmH.A. loan guarantees:

Currently, there is a duplicity of effort involved in the issuance of an S.B.A. guarantee that leads to added expense, time delays and frequently an awkward loan structure. All loans submitted for S.B.A. guaranty are reviewed first by a bank. A bank collects all of the relevant information it needs to make its credit decision. Then a totally separate credit application is prepared for the S.B.A. and its personnel go through essentially the same analytical procedures already accomplished by the bank.

This separate analysis is justified by the fact that the S.B.A. usually assumes 90% of the risk versus 10% by the bank. Given the relatively low comparative risk taken by the bank, there have been abuses of the S.B.A. by banks on specific loans. Under present law, a bank pays a fee to the S.B.A. equal to 1% of the amount of the guaranty. This fee is not adequate for the level of risk assumed by the S.B.A. in a majority of situations.

I recommend that individual banks be given authority to commit the S.B.A. guarantee without prior review or prior approval by the S.B.A. I further recommend that S.B.A. guarantees be available on loans to any business that meets defined standards as an "independent business". Bear in mind that our emphasis here is on credit allocation to independent business, not on credit to marginal credit risk businesses. This procedure will result in the most cost efficient processing of guaranteed loans by the parties having the most intimate knowledge of business characteristics.

Obviously, the banks must be disciplined to use sound credit judgment or the bank could pass the risk almost totally to the S.B.A. without its veto. This can be accomplished as described in the next provision.

2. Introduce a proper balance of risk and reward between banks and S.B.A.:

If a program for pooling and certificating loans existed, then banks would have an entirely new source of income, not now available to them. They would be selling knowledge and expertise in finance through a pseudo underwriting function. The potential of this source of revenue as compared to direct investment for the life of a loan and the attendant liquidity problems should be so attractive to banks that they would be induced to abide by some new rules.

It is recommended that a bank be licensed or certified by the S.B.A. as qualified to issue S.B.A. guarantees. Without this certification, a bank would be precluded from any participation with S.B.A. The certification would be based on prior experience in small business lending. Once certified, the bank could lose its certification to participate if loan losses on guaranteed loans exceeded a certain limit.

In addition the bank should be required to pay an insurance premium to the S.B.A. based on the dollar amount of each loan, loan loss history of the borrowers industry and finally the banks' own loan loss history under the program.

The licensing concept has precedent in the S.B.I.C. industry. It has worked reasonably well there for a long time. The opportunity to originate small business loans and pass them through to a pool purchaser should prove to be a powerful enticement to banks to increase activity in financing independent business. The bank should be able to keep a profit shim (borne by the borrower) on sale of the loan to a pool and solve its liquidity needs. Source of funds for independent business will be subject to far less cyclical variation.

3. Provide opportunity for phase out of Government involvement:

If this program is properly structured, in a few years the borrower, banks and investors should achieve a satisfactory balance of risk and reward. When this happens, government risk should be stabilized and become highly predictable. At that time, I predict the advent of private insurers stepping into the role of the S.B.A. These private entities could be expected to issue guarantees or insurance policies on loans and privately pool and certificate loan securities.

Incentive is built into this recommendation to cause banks to lend to as many independent businesses as possible, but restricted by real loss experience. The market place will allocate credit to all independent businesses that have a predictable risk factor.

If our society wishes to extend credit for social or other reasons, to business entities without predictable risk, then that is a separate issue. A decision to do that, however, should not be co-mingled with this program and the public should not be misled by the terminology of a "loan program". More accurately, that social program should be characterized as a societal expense and written off as incurred.●

RATCHETING TO RUIN

● Mr. HAYAKAWA. Mr. President, a recent Wall Street Journal editorial commends the Joint Economic Committee on its current economic policy. We are all indebted to Chairman Bentsen and the entire Joint Economic Committee for their efforts on behalf of this entire Nation. I would like to add my personal thanks to the kind words of the Wall Street Journal and I ask that the July 3, 1979, editorial in the Wall Street Journal, "Ratcheting to Ruin," be printed in the Record. I thank the Chair.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, July 3, 1979]

Ratcheting to Ruin

With the economy bordering on recession, Congress must begin now planning a different kind of recovery. That was the message that Joint Economic Committee Chairman Lloyd Bentsen (D., Texas) and ranking Republican Bud Brown (R., Ohio) gave at their press conference last week.

No more easy money and spending programs to pump up demand while applying the tax brake to production, said the lawmakers. The track record of demand management, shown by the chart below, is just too dismal. The inflation and unemployment rates have ratcheted upward with each successive cycle. Performance previously deemed unacceptable becomes unattainable. The unemployment rate at the peak of the present cycle is as bad as at the trough of the previous cycle. In a word, demand management has stagflated the economy.

This time around the JEC favors a different policy: moderation in spending and money to fight inflation, and tax rate reductions to restore an incentive structure for economic growth. We applaud the JEC for assuming a leadership role rather than continuing to rationalize demand management policies that accommodate Congress's spending priorities while the economy ratchets to ruin.

The JEC's task of persuading the Congress will not be easy. But it will be helped by the fact that the long economic expansion, which shows signs of coming to an end, has been disappointing. On a scale of many indicators the expansion has fallen short in disturbing ways.

For example, after more than four years of economic recovery real spendable average weekly earnings are $6 less than at the peak of the previous cycle in the summer of 1973. Even more disturbing, the average job today provides less buying power than at the peak two cycles back around the first quarter of 1969. We have gone through a recovery during which spendable earnings have fallen all the way back to 1964 levels. All the income gains of the 1960s following the uptrend of the Kennedy tax cuts have been erased for the average job. Furthermore, the current trend is down.

The Labor Department says spendable earnings are falling because the economy has been adding a lot of low quality jobs which drag down the measure; second earners have been taking advantage of the expansion to pick up low productivity part-time jobs. But that doesn't explain why the economy has been adding low productivity, low paying jobs during an expansion. The recovery simply lacked the capital formation necessary to create high productivity jobs. Economies that don't save don't grow, and the low U.S. saving rate and decline in productivity growth are matters of record. The economy is not investing enough of its resources to generate a rising living standard.

The problem, says the JEC, is the trend increase in taxes and regulation. Washington's regulatory binge has added to costs in the same way as the OPEC sheiks and eaten up a sizeable chunk of business investment in addition. Inflation-swollen nominal incomes have pushed average earners into tax brackets once experienced only by relatively few people with high real incomes. The result has been to reduce the after-tax rates of return throughout the economy—to work effort, to risk-takers, to savers and investors.

On top of this, rising energy costs means that it takes more input to produce the same amount of output. The result is that costs are rising faster than investment in cost-saving modern plant and equipment. Without the latter to offset the former, productivity and income growth are impaired.

Earlier this year the JEC, Keynesianism's original home in the government, closed its doors on the Keynesian era by stressing in its annual report that economic policy must focus on the supply side of the economy. In last week's press conference Sen. Bentsen and Rep. Brown made it clear that the committee is serious. The JEC's change of mind is the most hopeful sign on the economic horizon.●

SALUTE NATIONAL HISPANIC HERITAGE WEEK

● Mr. DANFORTH. Mr. President, as we all know, President Carter has proclaimed the week beginning Monday, September 10, 1979, as National Hispanic Heritage Week.

The President has asked all Americans to reflect on the Hispanic heritage of our Nation. In his proclamation designating National Hispanic Heritage Week, the President recalled the central role which Hispanics have played in our country's development—first as explorers, then as settlers, and today as leaders in all segments of society.

President Carter is correct in asking all Americans to recall the tremendous contributions which Hispanic Americans have made to our Nation in the past. However, my purpose today is to call the attention of this body not to the past, but to the present. Our Nation's record has not always been good with respect to the opportunities which have been afforded Hispanic Americans. Yet, I have been fortunate enough to have experienced firsthand the deep pride and commitment of the Hispanic community in Missouri.

In my years in public office, nowhere have I seen more determination by a community than that of the Mexican-American community in Kansas City. Over the past several months I have worked closely with Hispanic leaders in Kansas City and various projects. They are deeply committed to improving their situation in society and leaving a better economic and social environment for their children. The spirit of the Mexican-American community in Kansas City is characteristic of Hispanics throughout our Nation.

The road has not always been easy, as they seek to partake of the full measure of what America has to offer. I, for one, am grateful for the example which they have given, and I believe our Nation is better for their efforts.●

RURAL HEALTH MANPOWER

● Mr. BAUCUS. Mr. President, early next year Congress will begin a comprehensive evaluation of all health manpower assistance programs.

Congress will begin this analysis at a time when many of us agree that there are enough doctors, nurses, nurse practitioners and paramedics—the providers of health care—to fulfill the demand for health care. Some of the experts project a surplus of doctors in the near future.

The problem is not a shortage of doctors and nurses. The latest statistics seem to show that the total number of persons providing health care should be equal to the Nation's demand for health care.

The fundamental problem is that the supply is not distributed fairly. People who live in metropolitan areas get better health care than those who live in sparsely populated areas. Health care facilities are better equipped and larger in cities; there are more doctors and nurses in metropolitan areas, and there are more specialists in cities.

Congress has debated this issue before, and if it is going to act responsibly, must address it again. We have attempted to solve this distribution problem in previous legislation and obviously have failed.

For example, in my State of Montana, there are fewer than 1,000 active physicians today. More than half of these are practicing in the two largest cities in the State. In many Montana towns there are no general practitioners. The family doctor is disappearing and there is no one to replace him. Increasingly, health clinics, nurse practitioners and physician assistants are becoming commonplace.

The seriousness of this problem is magnified by the fact that more and more graduates of medical school are choosing to specialize and not become family doctors.

I feel the immediacy of this crisis every time I travel to eastern Montana. There, the population is sparse, the hospitals are small and ill-equipped technologically, and many people simply do not have access to a general practitioner or hospital.

No matter what Congress decides should be the Federal Government's role in financing the education and training of medical and nursing students, we still will not have solved this basic problem. Over 49 million people in 1,121 medically underserved rural areas will continue to lack basic health care services.

We must ask several fundamental questions during congressional consideration. Should the Federal Government play a larger role in encouraging doctors to locate in medically underserved areas? Should Federal assistance to medical Students be contingent on a commitment to practice in medically underserved areas? Should the National Health Service Corps be strengthened to respond to the health care shortages in rural America? How can other Federal programs, such as the rural health initiative, become a better resource with which to develop a comprehensive coverage of medically underserved areas.

A surplus of doctors and nurses in a metropolitan area does not mean there is a surplus of doctors and nurses in rural Montana. That fact must be recognized when we debate Federal assistance for training medical students. I commend the following two articles to my colleagues on this subject. In my view these articles are a good discussion of some of the issues we should consider.

The articles are as follows:

CARTER, CONGRESS SEEK WAYS TO IMPROVE U.S. HEALTH CARE

(By Elizabeth Wehr)

"I think many physicians don't realize that they get part of the public dole when they go to school. . . . I've been told . . . about 90,000 of the public dollars go into training [each] physician. . . . They are no better than anybody else, and they owe the public. . . ."—Mildred Stubbs, East of the River Health Association, Washington, D.C., 1977 testimony before a House subcommittee

Like Mildred Stubbs, an outspoken board member of a ghetto clinic, President Carter thinks that doctors and other health professionals "owe" the taxpayers who help put them through school.

The administration plans to use that "debt" to try to prod more health professionals into primary care practice, in poor city neighborhoods and remote rural counties where 25 to 50 million Americans live with little or no medical care.

The concept is not new. In 1976 Congress adopted a similar strategy of tying federal aid to conditions that medical schools produce needed "generalist" doctors and that their graduates practice in underserved areas.

Since producing a practicing physician can take seven years or more, it seems too soon to tell how effective this strategy is.

Nevertheless, Carter has decided to tighten the screws on both schools and students. He wants to end most federal aid that is not directly tied to the dual goal of promoting primary care and putting it where it is most needed.

As his fiscal 1980 budget puts it, "Financial aid to learn a lucrative profession should only be extended in exchange for a commitment to work in an underserved area."

Few schools and students think they can get along without the federal aid. Medical school tuitions now run as high as $14,000 a year, and taxpayers' money provides about 60 percent of the cost of educating doctors, according to Edward M. Kennedy, D-Mass., chairman of the Senate Human Resources Subcommittee on Health.

While few dispute the principle of targeting aid where it is most needed, strong objections have been raised to eliminating general support for health professions training. Not only doctors, nurses, medical schools and students object; so do the people from areas with health care shortages, and their representatives in Congress, who see federal funds as the only way for the government to exert leverage to bring adequate health care to all areas.

The battle has been fought repeatedly in the past few years, most recently over appropriations for health professions programs.

The issue will resurface several more times —on the fiscal 1979 supplemental and the fiscal 1980 Labor-HEW appropriations bills—even before the administration sends its comprehensive health manpower policy bill to Capitol Hill, probably some time this summer. Quick action on that bill is unlikely; the last time Congress debated health manpower reauthorizations, it took three years to enact a bill.

THE BASIC ISSUE

The fundamental issue is the question of whether the nation has enough doctors and other health professionals, or not.

The administration believes it does. Health, Education and Welfare (HEW) Secretary Joseph A. Califano, Jr. has said we may have a surplus of 23,000 to 150,000 doctors by 1990, and he sees no reason to keep spending taxpayers' money to produce more. The only problem is that too many of them are the wrong kind of doctors, practicing in the wrong place, the administration believes.

Others, including backers of comprehensive national health insurance, such as Kennedy, oppose cutting health manpower funds. Like President Carter, they also want to target funds on shortage areas, but they see a growing need for more doctors and other health professionals if broad universal health care coverage is adopted.

Some, even in HEW itself, dispute Califano's contention that a doctor surplus is imminent. Dr. John Sherman of the Association of American Medical Colleges (AAMC) calls that a "political" judgment, based on economics, not health. "It's not possible to know how many doctors we're going to need," Sherman says.

In a budget-cutting atmosphere, these critics maintain, the question of how much health care is enough is sometimes reworded to read: How much health care are we willing to pay for?

Without accurate estimates of health care needs, and with heavy lobbying by powerful medical, nursing and hospital groups to continue existing programs, Congress so far has opted to stick with the patchwork of programs as they come up for reauthorization.

But with both Republican and Democratic presidents in recent years calling for less health manpower spending by the federal government, it appears that a critical reexamination of U.S. health care needs is in the offing.

BACKGROUND

The supply of doctors in the United States was deliberately limited for the first six decades of this century, until 1963, when Congress authorized the first direct federal aid to medical education.

Between 1925 and 1965, medical enrollments grew from about 6,500 to 8,500, while the nation's population climbed from 106 million in 1920 to 179 million in 1960.

A pivotal 1910 report by Abraham Flexner for the Carnegie Commission fostered early moves to shrink medical education programs.

Flexner found that many "medical schools" were little more than organized apprenticeships, run by local practitioners for students who had barely finished high school. Students trailed their mentors on daily rounds and rarely saw the inside of a laboratory or an anatomy theater.

His report and public concern with the uneven quality of medical education prompted the closing or absorption of many substandard training programs.

The prime mover was the American Medical Association (AMA), which denied accreditation to unsatisfactory schools and thereby assured that their poorly trained graduates were ineligible for state licensure. Accredited schools were pressured to limit class sizes to ensure adequate teaching and use of facilities.

By 1915, the number of medical students was down to about half the number that had been in training a decade earlier.

Initially, the AMA's goal was to assure the quality of medical care. But as the Depression cut into patient incomes and, accordingly, into demand for medical services, AMA control of medical education helped maintain doctors' earning power, according to a 1978 study by the Council on Wage and Price Stability (COWPS). The study cited evidence that the AMA "sought to limit the supply of new physicians to prevent erosion of income."

Until the late 1950s, the AMA objected strenuously and successfully to any major expansion of medical education, particularly with federal subsidies, although there was some indirect federal funding through research grants.

FIRST FEDERAL AID

By 1963, the AMA had come to support limited federal aid to medical education, and Congress enacted the first Health Professions Education Assistance Act (PL 88–129). That law and subsequent amendments provided federal loans and scholarships for students of medicine, dentistry, osteopathy, optometry, podiatry, pharmacy and veterinary medicine, along with construction funds for medical and nursing schools.

During the 1960s, Congress extended and expanded this act and also authorized aid for training nurses and allied health professionals. The concept of using specially trained nurses, physician assistants and other mid-level practitioners to deliver babies, handle routine complaints and provide basic medical services received considerable attention.

Behind the legislation of the 1960s was a growing sense of concern that the nation's need for medical care was rapidly outstripping the capacity of available health personnel.

Warnings of a doctor shortage began shortly after World War II. They resulted partly from the fact that medical examinations of draftees had revealed "untreated, undiagnosed disease" on a scale not previously suspected, according to Dr. Thomas Kennedy of the AAMC.

In the 1950s, the baby boom and extended life expectancies suggested that more medical care would be needed, both at the beginning and toward the end of life.

Medicare and Medicaid, enacted in 1965, increased pressures on the health system as the elderly and the poor began to use their new access to medical treatment. At the same time, private health insurance plans were expanding rapidly, encouraging more people to seek medical care. And because of medical advances, doctors could do more for patients.

The combination of public and private third-party payers tended to protect physician incomes, and this apparently further softened AMA resistance to growth of the profession, according to the COWPS study.

HEALTH MANPOWER ACT

By 1970, the Carnegie Commission and others were predicting critical shortages of as many as 50,000 doctors.

Congress responded with the Comprehensive Health Manpower Training Act of 1971 (PL 92–157).

A new feature was capitation grants, which amounted to "bonus" per-student payments to medical schools, to encourage expansion. These funds also became a source of needed income for the schools, theoretically more stable than occasional injections of grant money for construction or special projects.

The 1971 act also continued funding for construction and subsidized loans, as well as special help for schools with severe financial problems, one-time grants for new schools and financial aid for U.S. students studying in foreign medical schools.

The 1971 act showed some awareness that the sheer numbers of doctors might be less important than what kind of doctors they were and where they practiced. Loan-forgiveness and scholarship provisions were included to promote service in shortage areas, and there were funds for a new "generalist" specialty, family medicine.

In 1972 Congress authorized the National Health Service Corps, which had already been established administratively. (1972 Almanac p. 949)

PROBLEMS

Between 1971 and 1974, when the Health Manpower Act came up for renewal, suspicion grew that simply increasing the total number of doctors was not curing maldistribution and overspecialization.

Between the late 1960s and 1979, the number of medical schools grew from around 80 to 125, and the annual number of U.S. medical school graduates nearly doubled, from 8,000 in 1963 to 15,000 in 1978.

But the percentage of primary care doctors went in the opposite direction. By 1975, only 38 percent of practicing physicians were involved full-time in primary care, HEW figures showed. (Primary care is generally defined as "first-visit" diagnosis and routine care provided by family and general practitioners, general internists and pediatricians.)

Concentration of doctors showed up on both coasts and in urban centers, while the South and Plains states continued to suffer chronic shortages.

One study cited by the General Accounting Office (GAO) showed that the city of Chicago lost a third of its private doctors between 1950 and 1979, while its suburbs gained nearly the same number of new practitioners.

South Dakota in 1976 had 78 doctors per 100,000 people, while New York had 198. Washington, D.C., and its suburbs had the highest rate—359 doctors per 100,000 residents, the study showed.

In medically underserved areas, the percentage of private doctors in practice actually declined in the decade following 1963, according to Califano.

The number of shortage areas has increased since federal aid to medical education began, but that growth may simply show that the ways of defining shortages have become more sophisticated.

The low percentage of physicians in primary care practice in 1975 compared dramatically with 1931, when more than 90 percent of practicing doctors were in general or primary care practice.

It is also well below the standard set by the AAMC of 50 percent primary care doctors.

REMEDIES

Between 1974 and 1976 the House and Senate separately approved stiff mandatory measures to try to correct maldistribution and overspecialization. But they failed to agree on a bill until members opted for an incentive approach instead.

A 1974 House bill would have required students to repay capitation support paid on their behalf to medical schools if they did not practice in underserved areas. The Senate bill required medical schools receiving federal aid to allot 25 percent of the positions in their incoming classes to students who agreed to practice in underserved areas for a minimum period of time.

The 1976 bill was finally written in conference, and its provisions were considered a victory for medical schools and organized medicine.

Conferees rejected both the student "payback" and scholarship "quota" schemes. Instead, they agreed to boost funds for the scholarships requiring service later, in the belief that students would join an expanded program.

They adopted a modified version of the residency training "quota" for primary care, dropping a stiff Senate plan for national allocation of residencies. Under the bill, schools could get capitation funds only if they ensured that an increasing percentage of first-year residencies in hospitals affiliated with medical schools were in primary care.

A controversial condition for capitation grants added by Congress was that schools expand their third-year classes by accepting American students then studying at foreign medical schools.

The bill also severely restricted the entry of doctors trained abroad who were not U.S. citizens.

The 1976 bill included a new federally guaranteed loan program, but not at low subsidized interest rates. Loans were at high market-level rates, to make the service related ways of financing a medical education more attractive by comparison. The bill expanded the National Health Service Corps and authorized other scholarships only for persons with exceptional financial need.

In 1977 Congress took another step to try to remedy shortages of medical services in rural areas. It authorized Medicare and Medicaid payments for services of nurse practitioners and physician assistants in rural clinics and in certain medically underserved urban areas.

Existing law had allowed reimbursement only for services performed under supervising physicians, but the mid-level practitioners were often the only source of medical attention in shortage areas.

CARTER POLICY

Although most of the authorizations for federal aid to medical, dental and other health professions programs don't expire until 1980, the direction of Carter administration policy is already clear.

Presidential budgets of the past two years and a speech to the AAMC in 1978 by Califano have laid out these key elements:

A basic premise that the nation now has or soon will have enough doctors, nurses and other health professionals, and that federal dollars should only support primary care training and students willing to treat the 25 to 50 million Americans who live where medical care is scarce or nonexistent.

An assumption that doctor surpluses raise total health spending because doctors facing competition tend to keep their incomes up by prescribing more and more treatments.

An end to per-student general purpose (capitation) grants for schools, and elimination of aid for allied health programs, U.S. students studying abroad, and dental residencies, which "do not contribute significantly to the cure of specialty and geographic maldistribution problems," according to the budget.

Other budget cuts include scholarships for exceptionally needy students and projects to rotate medical students and residents through clinics in underserved areas.

Beefed-up spending for programs training primary care and family practitioners, for new urban and rural clinics, and for the National Health Service Corps, a scholarship program that requires graduates to "pay back" aid by practicing in underserved areas.

The only loans continued would be those at regular market interest rates, so that students would be discouraged from using them and choose service-obligation scholarships instead.

Support for training nurse-practitioners would continue.

OBJECTIONS

Drying up federal aid to health care training may delight fiscal conservatives but it has raised sharp objections from educators, students, health practitioners and members of Congress from states where health professionals are scarce.

Medical schools say it is unfair to expect them to solve the most intractable ills of the American medical system: maldistribution of health care personnel and overspecialization.

President Carter is telling them to correct the problems but withholding the money they need to try, and avoiding more difficult, meaningful reforms in fee structures, according to Drs. Kennedy and Sherman of the AAMC.

"If there's a social problem that doctors make too much money, why don't we tackle that problem? The schools don't get those high fees," said Sherman.

The schools complain that flip-flopping federal policy disrupts the long process of training doctors.

Ten years ago, when Congress demanded more doctors, the schools doubled the capacity of the medical education system. Now, they say, they're being left to pay for new tenured faculty, new buildings and other costs of expansion. Without federal help, some may go under, they say.

Particularly painful would be the termination of the general purpose capitation grants. The schools need this sort of "flexible money" to develop new ways of training medical students, recruit minorities and make other improvements, Kennedy said. For schools without large endowments, the funds are critical for survival, he added.

The AMA and AAMC warn that professional training cannot carry the burden of redistributing health personnel. The problems of maldistribution and overspecialization won't respond to a carrot-and-stick approach, they say, because expected earnings are only one of several important factors in career decisions.

"If you can make $60,000 a year in Missoula, which you can, then there must be other reasons for not going there," as one medical lobbyist put it.

"Doctors are not going to places where they're needed. But neither are other people, like teachers and lawyers and accountants, going to places where they're needed," said AMA official Dr. Leonard Fenninger.

Like other highly trained professionals, most doctors prefer to work near colleagues and near clinical and cultural resources of major cities. Many also like the shorter hours and greater prestige of specialty practice, as well as the higher fees.

Medical schools and residencies can't effectively redirect these motivations, Fenninger suggested.

"I've been wrestling with this problem for 20 years. I haven't seen mankind remade yet," said Fenninger, who was the first chief of manpower at HEW in 1967.

Medical students are also appalled at proposed elimination of federal aid. Medical school tuitions now range from under $2,000 a year to $14,000 at one western state school.

Students say their medical education can put them as much as $140,000 in debt as interest payments balloon during the long years of their training. That means a doctor beginning practice could face monthly loan payments of $800—a factor that would surely influence his fees, AAMC officials point out.

PROPOSED SOLUTIONS

Dealing with manpower shortages is "enormously complicated. There are no simple answers," says Kennedy of the AAMC.

Problems of maldistribution and overspecialization are so difficult that even socialist nations, with considerably more control over health personnel, are having trouble resolving them, according to Dr. Julius B. Richmond, HEW assistant secretary for health.

Manpower decisions are difficult because policy makers must deal with several potentially conflicting types of demands. There are demands to:

Improve access to health care in shortage areas.

Hold down medical costs by promoting primary care, which is less expensive than specialty medicine.

Increase the number of black, Indian, Spanish-speaking and other practitioners that are now underrepresented in the health care professions.

Maintain the research and patient-care functions of academic medical centers.

The complex psychology of career choice casts doubt on the effectiveness of the most popular proposed solutions for manpower problems: education subsidies wtih "strings attached," and reform of reimbursement systems.

Other proposed solutions include creating new clinics in shortage areas, promoting the use of non-M.D. health care providers, and allowing uncontrolled growth in the supply of doctors, to create a competitive marketplace.

SUBSIDIES

Some experts suggest that subsidies for training programs don't really change hearts and minds—that dollar incentives are wasted on dedicated individuals who would seek out shortage areas anyway, and the extra pay won't persuade many others to serve.

Califano, in an October 1978 address to the AAMC, contended that the programs Congress enacted to channel more doctors into primary care and into underserved areas had "so far proved unsuccessful."

The requirement that half a medical school's first-year residencies be in primary care wasn't working, *The New England Journal of Medicine* said in 1978, because decisions to specialize came after the first year. Two-thirds of students who began general internal medicine residencies later chose "further subspecialty training," researchers reported.

But there are some promising trends.

HEW figures show that three out of four medical schools now have family practice departments, which were nonexistent before 1969.

A massive HEW report published in August 1978 also showed that the number of primary care doctors has grown at a faster rate than the overall population.

As for the impact of increasing the number of National Health Service Corps scholarships, it won't really be felt until students complete undergraduate and advanced training.

The Corps is a major element in Carter's plan. But an uncomplimentary 1978 GAO report noted that only 42 physicians, out of the 800 who had served in the Corps, had decided to settle permanently in the underserved areas where they had worked.

Corps doctors were not as productive as private-practice counterparts and, as a short-term method of providing merical care, the Corps was extremely expensive, the report added.

The Corps disputed the figures and said that about two-fifths of Corps doctors stay on after their service commitment is completed.

REIMBURSEMENT REFORM

The importance of non-dollar motivations makes Fenninger and others skeptical of another dollar-based strategy currently popular with economists writing about health policy; reimbursement reform.

In 1978, the Institute of Medicine recommended eliminating the powerful fee incentives that encourage doctors to choose an urban specialty practice. It said Medicare, Medicaid and private insurers should pay the same fee for a given procedure, regardless of where it was performed.

City-based doctors now earn more per procedure than rural doctors do.

In one of its most controversial recommendations, the Institute also suggested that the fee be the same "regardless of whether the services are provided by physicians, nurse-practitioners or physician assistants."

Both Califano and HEW Under Secretary Hale Champion have promised reimbursement reform, but HEW does not appear to be pressing this approach, probably because it is very controversial. A massive overhaul of reimbursement would run into the same stiff resistance doctors have always shown to efforts to tinker with their fees. But it would have to be a major component of any national health insurance plan, according to Champion.

A narrower proposal, to put only Medicare reimbursements on a fee schedule basis, is in the "serious talk stage" at HEW, according to Peter D. Fox, HEW director of policy analysis.

But Fox could not say whether a reimbursement bill would reach Capitol Hill this year, because department analysts were still trying to figure out how to change the reimbursement system without further distorting the medical market.

The danger is that if Medicare reimbursements drop much below the market level, doctors will simply refuse to see these patients—as many now reject Medicaid patients.

Preventing this problem by requiring doctors to treat federal beneficiaries is not part of manpower-scarcity policy talks, according to Fox, although so-called "mandatory assignment" for Medicare is a feature of the first phase of Carter's much-delayed national health insurance legislation, according to unofficial documents.

NEW FACILITIES

A third strategy for dealing with medical service shortages is to create new facilities where needed.

Relying on this approach, however, still doesn't ensure uniform availability of health care.

"Poor families living in a neighborhood without a governmentally funded health project may receive no benefits, while needy families in a more fortunate community may receive comprehensive care," note HEW Deputy Assistant Secretary Karen Davis and Cathy Schoen in a recent Brookings Institution study.

Carter's 1980 budget boosted funds for urban and rural clinics but slashed spending for Area Health Education Centers, medical school training and clinical centers located in remote areas. The GAO report had praised this program, suggesting that it had "considerable long-term potential . . . to overcome some of the important professional objections to shortage-area practice."

Authorized in 1971, the centers were intended to decentralize medical education and train medical students and residents in patient care in shortage areas.

OTHER PROPOSALS

Nurse Practitioners, Physicians' Assistants. Mid-level professionals, sometimes called "physician extenders," can perform more than half the procedures usually performed by doctors, and both physicians and consumers appear satisfied with the quality of their services, according to a recent Congressional Budget Office (CBO) study.

They also tend to "settle in rural and urban areas not frequented by physicians," and could therefore improve acccess to health care, the study said.

Services provided by non-M.D.s can be dramatically lower in cost. For instance, salaried nurse anesthetists earn about $19,000 a year, while their M.D. counterparts earn about $75,000 year or more in fees. Their training also costs less—$10,000 to $12,000, compared with more than $60,000 to train a physician, according to CBO estimates.

Competition. "The only hope we have of ensuring that these underserved groups get quality health care is by having substantially more doctors than suburban America can sustain," according to former special presidential assistant Dr. Peter G. Bourne.

The 1978 HEW manpower report also suggested this option, but added that "the cost implications of such an oversupply are not clear."

Many health analysis think there is no saturation level for health services.

THERE MAY BE TOO MANY DOCTORS IN THE HOUSE

(By Linda E. Demkovich)

Yesterday's doctors' "shortage" may become tomorrow's "surplus," and the Carter Administration wants to limit the anticipated oversupply by restricting federal financial support for medical schools—a prospect that has the school lobbyists howling.

Government programs to increase the supply of physicians have "succeeded all too well," Health, Education, and Welfare Secretary Joseph A. Califano, Jr., said in a speech last October.

The nation's medical schools turned out 15,000 graduates last year, nearly double the total in 1963, when the first federal subsidy programs started. By 1990, that number is expected to reach 20,000, swelling the number of practicing physicians to 594,000. That's more than Califano believes will be necessary.

But don't be so sure about that "surplus," the medical schools warn, particularly if national health insurance is enacted in the next few years.

"It takes three years minimum [after graduation] to join the physician pool," said John A. D. Cooper, president of the Association of American Medical Colleges. "So the increase in the number of physicians is just now beginning to make itself apparent. We ought to wait and see what happens before we decide we have too few or too many or just the right number."

For the short term, even Califano concedes, there will be continuing shortage of certain kinds of doctors in certain parts of the country. Primary care physicians are hard to find because more and more graduates are specializing, he said, and a nagging scarcity of doctors in the rural areas and inner cities leaves 25 million people with inadequate health care.

President Carter's fiscal 1980 budget, reflecting Califano's concerns, called for an end to "capitation grants"—payments to medical schools for each student enrolled. It also would curtail loan and scholarship programs, linking the aid that remains available to a commitment by graduates to work in under-served areas.

Later this year, the Administration will send Congress its health manpower legislation, reaffirming its intention to do away with cash incentives designed to stimulate schooling of doctors and other health professionals.

Congress may not be prepared to go as far as the Administration would like. But it, too, is showing its willingness to scale back some of the federal support it has extended over the past 15 years.

Earlier this year, for example, it approved a fiscal 1979 budget rescission that cut the appropriation for capitation grants by 20 percent, from $138.1 million (also the 1978 budget level) to $110.5 million. For 1980, the House Appropriations Committee approved another 20 percent cut, to $88.4 million—although Carter asked that the program be eliminated.

The committee was unwilling to trim other programs at all. While it may agree in principle with an effort to redistribute doctors to under-served areas, it said, Congress "cannot ignore the financial burden that will be imposed upon both the students and the schools if federal assistance is abruptly reduced or withdrawn." It also noted that many of the programs that the Administration marked for extinction—such as scholarships for exceptionally needy students—are the very ones designed to take care of the maldistribution problem.

The medical schools obviously hope that Congress will agree with that line of reasoning. The loss of capitation grants would be a severe blow to the schools. But it's what Cooper calls the Administration's "multiple assault" on loan and scholarship programs and research stipends that represents the real threat.

An the alternatives—raising tuition, reducing faculty and cutting back on research—would not only drive out lower-income students (often also minority students) but also reduce the quality of education for those students who can still afford to go, he said.

"Medical schools are not as whimsical as the federal government. They aren't going to tell students that they can't finish their last year." Cooper said.

But if Congress tampers with the programs, he warned, the schools "are going to be hanging on by their fingernails."

THE PHYSICIAN PIPELINE

Determining the necessary number of physicians is a tricky exercise for one simple reason: the law of supply and demand doesn't seem to apply to doctors. The more doctors there are, the more services people seem to want. Doctors are hardly going out of business or losing money, even in areas that have a high ratio of physicians to population.

No one argues that the number of doctors and other health professionals hasn't grown impressively since 1963, when federal dollars began flowing.

In 1960, there were 144 doctors for every 100,000 people in the United States. That figure has climbed to about 190 today, and HEW expects it to reach 241 by 1990.

That may or may not add up to an oversupply of doctors. Even if it does, it still leaves room for shortages in particular specialties and areas of the country.

One of the major concerns is the perceived shortage of primary care physicians—in general practice, family practice, internal medicine and pediatrics.

In 1931, for example, primary care physicians accounted for nearly 94 percent of all those practicing. But by 1974, according to HEW's Bureau of Health Manpower, the percentage had dropped to 38.3 percent. It is expected to increase to 41.2 percent next year and 46 percent in 1990 as internists and family care physicians become more common.

Even that will be short of the goal—50 per cent—of the Association of American Medical Colleges. And it may be exaggerated anyway, according to outgoing HEW undersecretary Hale Champion, who says it merely reflects new ways of classifying specialists.

By looking at the distribution pattern of first-year residencies from 1968–74, the Bureau of Health Manpower has developed a picture of the future supply of doctors. Of nearly 13,000 first-year residents in 1968, general practitioners made up about 2 per cent of the total. In 1974, the percentage had dropped to 0.9 per cent of 19,000 residents. In the same period, the number of internists—also classified as primary care physicians—increased from 20.1 percent to 24.2 percent.

Among specialties, the biggest gainers were colon and rectal surgery, child psychiatry, orthopedic surgery, plastic surgery, neurological surgery and dermatology.

The geographic distribution of doctors, both regionally and between urban and rural areas, also concerns HEW.

In its August 1978 report to Congress, HEW's Health Resources Administration said that the New England and Mid-Atlantic states have the most favorable supply of health professionals, while the South and parts of the West are lagging. Nationwide in 1977, a total of 1,106 areas, many of them with low population densities, were designated as having critical shortages of medical personnel.

Similarly, the report said, doctors are scarce in many rural areas and inner-city neighborhoods. In 1976, for example, metropolitan areas averaged 203 medical doctors per 100,000 people, while non-metropolitan areas averaged only 88.

Although statistics on suburban areas and inner cities are not available, officials are convinced that shortages exist even within metropolitan areas with an overall abundance of doctors.

Cooper said localized shortages are growing rarer, particularly in rural areas. The development of area health education centers, which are designed to increase and improve medical resources in under-served areas, has made some of those areas more attractive, he said.

MONEY WITH STRINGS

The Administration's strategy for dealing with the doctors' supply issue has a double edge: to deter further expansion by cutting off direct aid to the schools and to encourage more doctors to spend a year or two in the areas that need their services most by offering them a better deal in paying off their educational debts.

"The federal government should not be in the position of supporting the schools any more." Champion said. "What we need to do now is put more into solving the distribution problems."

HEW will address the issues later this year when it submits legislation to extend the expiring 1976 Health Professions Educational Assistance Act (90 Stat 2243). Its Health Resources Administration has proposed to Califano that the legislation combine all existing student aid programs into two new ones—a national service scholarship program, which would demand a year of service in a manpower-short area in return for a year of assistance, and a direct loan program, with the interest rate based on the recipient's potential earning power.

Other programs would be phased out or terminated. In its fiscal 1980 budget, the Administration had already omitted funds for many programs, including exceptional need scholarships, even though this program benefits many minority students who are more likely than others to practice in under-served areas. The House Appropriations Committee rejected most of the proposed cuts; it allotted $7 million for exceptional need scholarships.

The Administration's proposals, Cooper said, would make a medical education something that "only the sons and daughters of rich families can afford." And that, he said, would undoubtedly mean a reduction in the number of minority students the schools are now enrolling—up from 292 in 1968 to 1,446 in 1978 for first-year students.

Students without scholarships or loans face enormous costs at medical schools. California residents have to pay only $756 in annual tuition at the University of California (Los Angeles), but at Georgetown University, a private school in Washington, D.C., medical tuition is going up to $13,500. When other costs are added, average medical school costs will be about $17,000 a year.

Students who borrow money to get through medical school have a lot of repayments to look forward to. Cooper said a student who borrows $8,000 a year for four years at 12 percent interest has to pay back $146,000 over 15 years. That same student also has to meet the enormous costs of medical practice: malpractice insurance (an estimated $10,000 a year), office space and salaries ($50,000) and equipment ($20,000).

"You can imagine what kind of stimulus that is to low-income minority students and what it does to stimulate primary care in low-income areas," Cooper said.

To try to solve this problem, the Administration may propose varying the interest rates on certain federal loans according to the earnings potential of the various specialties. It also may reduce interest rates for medical school graduates who locate in areas with doctor shortages.

Like their students, medical schools would feel the pinch if the Administration's proposals were adopted. Capitation grants, the biggest of the threatened programs, have already shrunk from $2,100 in 1973 to $1,400 in 1978 to $1,000 in 1979 as a result of the recent budget recission. If Congress goes along with the House Appropriations Committee recommendation, the average payment would decrease to $800 in 1980. If HEW has its way, the program would disappear after 1980.

In the wake of recent expansions—under orders from Congress, the schools were forced to increase the size of their third-year classes by 5 percent in 1978, mostly to accommodate foreign students—eliminating capitation would be a "breach of contract," Cooper said.

In its 1980 budget, the Administration also proposed terminating start-up funds for new schools but did not tamper with aid to financially distressed institutions. According to Champion, HEW would be willing to consider aiding the schools in other ways, by providing funds for overhead and grants for research, for example.

"I think that's one of the most useful things you could do for medical schools in terms of their general dollar problems," he said. "The real issue is not giving them unrestricted money."

OUTLOOK

Congressional committees have until next May 15 to report legislation to reauthorize the health manpower programs and unless they opt for a simple extension, they had better get started soon. Debate on the 1976 reauthorization bill started a full two years earlier, and produced what a former House aide called a "terrible" bill.

At this point, aides say, neither authorizing committee has made any decisions about renewing the programs.

In the House, the Interstate and Foreign Commerce Subcommittee on Health and the Environment, under chairman Henry A. Waxman, D-Calif., is tentatively planning to hold oversight hearings on some individual issues—such as capitation—later this year.

In the Senate, the work has already begun. Sen. Edward M. Kennedy, D-Mass., chairman of the Labor and Human Resources Subcommittee on Health and Scientific Research, reviewed the manpower programs earlier this year as part of a broader hearing on the fiscal 1980 budget. He will also convene additional hearings to get a bill ready by the beginning of the next session.

In July, two manpower experts from the Administration—Robert Graham, deputy administrator of the Health Resources Administration, and Robert F. Knouss, deputy director of HEW's manpower bureau, will be joining the Senate subcommittee staff. Knouss on a full-time basis and Graham on detail.

If the action taken by the House Appropriations Committee on the fiscal 1980 budget is any indicator, Congress probably will not go as far as the Administration wants in terminating aid to the health professions. Another clue came in May, when the Senate voted a one-year, $103 million extension of nurse training funds, largely ignoring the Administration's request for a major reduction in program funds.

But the medical schools are still worried that the Administration and Congress, in their drive to balance the federal budget, will eliminate programs that the colleges consider vital not only to their own existence but also to the future health of the nation.●

WHY NOT THE BEST?

● Mr. HAYAKAWA. Mr. President, I wish to call to the attention of my colleagues an editorial by Paul Harvey which urges President Carter to be aware of his responsibilities in the appointment of 152 new trial and appellate judges. The omnibus judgeship bill, which passed during the last session of Congress, granted a power to President Carter unknown by any previous President. He will name more Federal judges than any of his predecessors. During his campaign, Mr. Carter promised that all of the appointments of Federal judges would be made strictly on the basis of merit, without consideration of political influence. Interestingly enough, he has appointed a smaller percentage of judges who are members of the opposition than did either President Ford, Nixon, or Johnson. Is President Carter telling us that he cannot find qualified candidates outside his own political party?

The omnibus judgeship bill has given President Carter a unique opportunity to live up to his campaign promise, as well as to appoint quality judges. It is very important that the President recognize his great responsibility and live up to it. Paul Harvey stated the argument well in his editorial of April 10th, and I know that my colleagues will find it informative.

I submit the following editorial for the RECORD.

WHY NOT THE BEST?

Jimmy Carter might have remained in the Navy.

It was his Navy superior, Admiral H. G. Rickover, who detected a greater potential and advised, "Why not be the best?"

Subsequently Carter wrote a book under that title: "Why Not The Best."

Mister President, Sir, in your selection of federal judges, why not the best?

Much has been said and written about the significance of the selection of the next Supreme Court Justice. He may tilt the now balanced court to the left or right.

Less mentioned but no less important is the selection of the 152 new trial and appellate judges authorized by Congress.

This President, making those selections, will have a bigger impact on the Federal Judiciary below the Supreme Court than any President in history.

He will name more federal judges than has any previous President.

About twenty-five judges retire or resign each year. Add to these the carry-over vacancies plus the 152 new judgeships and President Carter will appoint more than half as many judges as were in place when he became President.

Why is this so important?

Most decisions are made in these lower level courts.

District courts will decide some 126,000 cases.

Eleven Courts of Appeal will decide some 18,000 cases.

The Supreme Court can hear only about 175 cases—about one case in 700.

Jimmy Carter, campaigning, promised, "All federal judges and prosecutors should be appointed strictly on the basis of merit, without any consideration of political aspect or influence."

Yet the record shows that each of Carter's three predecessors, Ford, Nixon and Johnson, appointed a higher percentage of judges from the opposition party.

Of Carter's District judge appointments, so far, only 4.4% have gone to Republicans; Court of Appeals appointments, no Republicans.

Indeed though this President promised "no politics" in the judiciary, 75% of his Court of Appeals nominees were political activists!

Americans can thank God for the American Bar Association's Standing Committee on the Federal Judiciary. For 35 years this committee has fought sporadic efforts by Presidents and Senators to seat on the bench incompetents, alcoholics, unethical political hacks.

As a result, in our Federal Judiciary, scandal is almost non-existent, dishonesty almost unknown.

This Committee ranks most Carter appointees so far as well-qualified, but about one-third rank no higher than simply "qualified."

Mister President, why not the best? ●

WHEAT SET-ASIDE ANNOUNCEMENT

● Mr. BAUCUS. Mr. President, on Wednesday, Secretary of Agriculture Bergland announced that there would be no set-aside for next year's wheat crop. This is the first time in 3 years that the Government has removed acreage restrictions on wheat.

I am disappointed by the administration's decision. I believe the USDA should have established a small set-aside, at least 5 percent.

In its action, the administration has ignored the wishes of the Senate expressed in Senate Resolution 206 which we passed Monday. This resolution, which I supported, called for at least a 5 percent set-aside.

Without the set-aside requirement for wheat, we once again face the prospect of fence row to fence row planting. We will lose protection the set-aside program provides from grain surpluses and falling prices.

Without the set-aside, the target price of wheat will drop from the present level of $3.40 per bushel to $3.07. Thus, farmers will lack income protection if prices drop sharply.

In addition, the set-aside requirement would have prevented the breaking up of marginal land.

On the other hand, the administration has made two decisions I applaud: authorizing the sale of wheat to Russia and raising the wheat loan rate to $2.50 per bushel.

The increase in the loan rate is long overdue. It is a step that should have been taken long ago. The wheat loan rate becomes an effective floor for both domestic and international grain prices when supplies are large. This floor should be no lower than farmers' costs of production.

The decision to sell wheat to the Russians is also good news.

U.S. wheat supplies are adequate, at a time when crop estimates indicate that the Soviet Union badly needs grain. The Soviet sales will not only increase farm income in this country, but also improve our balance of trade deficit.

Finally, Mr. President, while the prospect of added grain exports is good for Montana's wheat farmers, increased sales of U.S. wheat will not benefit farmers in my State unless transportation is available to ship that wheat. Once again, I would urge the Interstate Commerce Commission to take steps to correct the severe grain car shortage and the uncertainty about railroad transportation in Montana.

Recent news reports indicate that there will be 1,000 additional grain hopper cars available on the Burlington Northern Railroad this fall, but there is no guarantee these cars will alleviate Montana's problems. Montana wheat farmers should not be asked to sit on the sidelines while other wheat farmers reap the benefit of export sales of wheat.●

THE DOLLAR'S PERFORMANCE

● Mr. HAYAKAWA. Mr. President, we have all watched the performance of the dollar and of gold since President Carter's announced Cabinet changes. In view of the dollar's rather dismal performance, I found two recent Wall Street Journal articles extremely interesting. I submit the editorials entitled "The Fed's Dilemma" and "The Dollar Abroad" for the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

The Fed's Dilemma

Yesterday's shockingly adverse reaction in world gold and currency markets to the Fed's Friday efforts to slow dollar growth faces U.S. money managers with a serious dilemma:

Should they raise interest rates further and risk domestic political wrath or should they try to ride out the current bout of dollar weakness with further market support operations and other dollar propping measures? Fed Chairman and Treasury Secretary-designate Miller indicated yesterday he is in no hurry to try opinion No. 1. We wish him luck.

The Friday moves, a one-half point increase in the Fed's discount rate and a raising of the federal funds target, were obviously, judging from the market reaction, too little, too late. It was a situation that called for boldness, but there was no boldness to be found. Mr. Blumenthal, who had last winter committed the U.S. to a sound-dollar policy, had just been fired. Chairman Miller, who has made himself highly popular with the White House by keeping the money spigots open, had just been elevated to the administration's top economic policy post, at least putatively. And there was little reason to believe that the next Fed chairman, whoever he might be, will be much firmer in his monetary policies than Mr. Miller has been. Gold responded to all this by shooting up $4.85 an ounce.

It is now abundantly clear—indeed it seemed clear to us months ago—that the Fed has been running a too-liberal monetary policy in the vain hope that it could stave off recession. Once the confusion is sorted out over automatic fund transfer and other new types of "transaction" bank accounts, it becomes evident that basic money growth has been greater than the Fed has originally aimed for.

The New York Fed, to better define money growth, has included in M1 (checking account deposits and currency in circulation) the other kinds of bank accounts that resemble checking. By that measure, money growth in the first quarter this year, at first widely believed to be flat, was actually 10.3% over the 1978 fourth quarter. And in the quarter just ended, the money supply leaped 19.1% from the first quarter.

The early errors were perhaps understandable. Even some highly respected economists, Milton Friedman, for example, cautioned the Fed earlier in the year against too much restraint on the basis of those early and misleading M1 readings. But there is very little excuse for the Fed to have carried on with its easy policies after the error became clear.

The result is that we now have the beginning of a stagflation cycle that could be more serious than the one in 1974–75. The Consumer Price Index is rising at 13% and some forecasters fear it could reach 18% or more before peaking out. Real growth of the economy fell 3.3% in the second quarter. The country remains awash in credit.

The Fed may not know it, but it has only one real choice. That is to try to repair the damage its policies of the last four months have caused, which means getting money growth under control. It has already proved that it can't stall off recession by showering dollars on the economy. It can, in fact, only make matters worse and complicate the difficulties of pulling out of this stagflation cycle.

As to the administration, it can take steps toward restoring confidence by choosing a new Fed chairman as soon as possible. And while extremely difficult under present circumstances, it should try to reassure the world that it has selected a chairman who will run a sound-money policy independent of both White House pressures and the advice of the chairman who is leaving that post to head the Treasury.

That's asking a lot but it will take a lot to repair the mistakes that have been made the last few months.

The Dollar Abroad

With money growth since April higher than prior to the dollar rescue program of last November, it is well to note that things are different in today's international arena from what they were the last time there was a run on the dollar.

During last year's run, the dollar got some much needed support from the Swiss and Germans at the cost to them of importing our inflation. The Germans are still having inflationary problems and are unlikely to take on more just so Jimmy Carter, for domestic political reasons, can hold the gasoline price and the interest rate below market levels.

The new European Monetary System in operation since mid-March will make the Germans less likely to support the dollar. The EMS is committed to holding roughly fixed rates of exchange between member county currencies. That means the German central bank must stand prepared to support the weaker EMS currencies. With this commitment and their limited tolerance for inflation, the Germans are naturally hesitant to pump out many marks in support of the dollar.

The EMS also means that the dollar is likely to fare worse in any future run on it. The last time around the dollar lost ground heavily against the Swiss franc, the German mark and the Japanese yen, but didn't do too badly against the trade-weighted exchange rate average, a basket of currencies of our trading partners. The depreciation of the dollar against the French franc and the Italian lire, for example, was nothing like what the dollar suffered against the stronger currencies.

But if the EMS succeeds in maintaining the exchange rate alignment between member countries, a future run on the dollar would see the French and Italian currencies moving with the German mark against the dollar. A run on the dollar, then, would not be confined to a few major currencies.

An even bigger change since last November is the Saudis' expressed unwillingness to be the holder of last resort of a depreciating dollar. Another run on the dollar like last year's and the Saudis may abandon the dollar as an exclusive settlement mechanism for oil bills and demand payment in a basket of currencies.

The question is afoot whether this administration, preoccupied as it is with political imagery, is aware that the next run on the dollar would be more difficult to arrest than the last and would, therefore, be best avoided. People are also wondering what the administration would do. Would the administration choose an interventionist "solution" of the type it has chosen for every other economic problem and impose exchange controls?

The President already has exchange control authority, and as he has said that the depreciation of the dollar adds to inflation, both rationale and power are in his hands. This itself makes the dollar markets nervous, because reducing the tradeability of the dollar makes it less valuable. The administration could reduce the chance of a run on the dollar by asking Congress to repeal exchange control authority, as the Shadow Open-Market Committee has recommended.

More importantly, the administration can look to its macro-economic policies. With surprising candor the Council of Economic Advisers admitted in its 1979 annual report that the dollar became an uncertain asset and went bad over the summer and fall of 1978 because of concern about the administration's macro-economic policy. Nothing fundamental about that policy has changed. There's still an outpouring of dollars, and the administration has shown itself even more enamored with non-market approaches to economic problems.

With all of these factors working to undermine confidence in the dollar the President staged an unprecedented upheaval in the top level of government, informing the world to exact political expediency rather than leadership.

Now that the President has dealt with the political complexion of his Cabinet maybe the dollar can flag his attention before he gets a crisis that can't be managed with Caddell oils and Rafshoon imagery.●

CONGRESSIONAL SENIOR INTERN PROGRAM

● Mr. PACKWOOD. Mr. President, this is the second year I have sponsored two senior interns in my office under the Congressional Senior Citizen Intern program. I can say without hesitation the experience has been extremely rewarding.

From my viewpoint, I was able to deepen my understanding of the problems which affect senior citizens and to develop long-term relationships with several active and knowledgeable seniors in Oregon. From the interns' viewpoints, they were able to learn better how the Federal Government works and how they as a group can work with government to resolve some of their concerns.

One of my interns this year, Mrs. Lela Humiston of Eugene, Oreg., kept a journal during her stay in Washington. It offers a great deal of insight into the intern program and provides a very sensitive and moving view of our Capital City. Her observations deserve to be shared. Mr. President, I request that the journal of Mrs. Lela Humiston be printed in the Record.

The journal follows:

Journal of Lela Humiston, Senior Intern for Senator Bob Packwood

MAY 5–6

My children and grandchildren view with some amusement and considerable disbelief my taking off across the country and "getting mixed up with the government." And I must say I rather share their apprehension.

My first ventures into senior advocacy on the legislative level have met considerable resistance from some preconceived, traditional notions of the way government functions: mystical, unfathomable, omnipotent and inexorable. What solemn rituals went on in the hallowed halls and behind the imposing doors were not for the likes of us who tiptoed in hoping to catch a glimpse of the great men who kept our nation great. My parents generation and even my own didn't do much demonstrating on the steps. They chose a man whose integrity they trusted and sent him off to the Capitol to perform the necessary miracles. Discontent was usually a lot of private grumbling about what "they" are doing to us, with occasional loud cries to "throw the rascals out." But ordinary citizens didn't really get involved beyond the town hall.

I tell myself firmly that this is all nonsense, but I still hear echoes. It's true the image has cracked a bit since I've been going to the legislature in Salem, but I am still genuinely surprised at how willing legislators are to listen to my opinions.

However, Washington must be even more mystical, more unfathomable etc. After all, they have *big* problems to worry about—the Middle East, Panama Canal, energy, trade deficits. . . . I expect Washington is closer to Russia than it is to Oregon; they seem to talk to it more often. I have an uneasy feeling that it was by some mistake that I was tapped for this mission, that "they" will discover I don't know anything about the "big" problems and may send me home post haste.

On the other hand I have this insatiable curiosity to find out how things work, and why they do or do not succeed. Washington will be a whole new world for me to explore, a whole new challenge to learn. I am heartened by all the seniors who have asked me to speak for them, and to explore some of the mysteries of "what's going on back there." Come to think of it the every day problems of where you live and what you eat and whether you live or die are pretty big problems, too, to the individual people I know. If they want someone to speak for them, and I have some small talents to tell it as it is, I am content.

Certainly the fact that the senior interns were all invited shows there are lots of sympathetic ears listening to senior concerns. Washington can't be too forbidding. Senator Packwood shook my hand and seems perfectly human. I have talked with his Legislative Assistant, Anne Reifenberg, on the phone; she not only sounds nice but even understands mundane things like arranging to pay your hotel bill, and being afraid to arrive in a strange city at night.

As we flew in over Washington just now, all the lights looked like fairyland; I think my spirit of adventure is winning out. If this whole thing is some kind of magic—so be it. Time will tell if I am entering the Land of Oz—or down the Rabbit Hole like Alice.

MONDAY, MAY 7

This was a day of beginnings, a kaleidoscope of faces, of voice patterns, of strong egos trying to set up territorial rights; a day of disorientation while we sought to establish some new bases from which to function in physical surroundings, in personal interrelationships, in our new office careers.

Everything about this city, downtown at least, strikes me as being bigger than life. Space and mass seem to dominate in about equal proportions: vast lawns, massive stone buildings with lots of space between. It is so far from here to there—even far up to my room on the eleventh floor. Inside the buildings the corridors seem interminable, there is always something else around every corner. The little train underground between the Capitol and the House and Senate buildings seems to fit right in.

Entering Senator Packwood's offices is like turning the telescope around and looking through the small end. An incredible number of people and amount of office equipment fit neatly together in a maze-like structure, occupying practically no space. Again the eye moves on and on, detecting rooms within rooms, but I am afraid to move my feet lest I step on somebody. I wonder why nobody has yet moved out and set up shop in that vast empty corridor!

Following Anne's thoughtful guidance, I met my Oregon colleague and his wife, and we took a taxi to the first meeting. Convention registrations and orientations are pretty much alike. We learned something of the history of the program, how Congressman Hillis started it seven years ago with about a dozen interns, and how it has grown to 165 interns from 34 different states.

I liked a statement made by Congressman Hillis, which I will adopt as the keynote of this intern program: it is designed to improve two-way communication between my people back home and their government. All this is not just for my benefit, but for the benefit of the community and of my sponsor as they learn to work better together within the framework of what is necessary and what is possible.

Having coffee with Anne between sessions, and later visiting the offices to get acquainted was fun, but it also had a deeper value. I first began to feel that I was going to be part of something real and very serious. As we talked about what I might do here, I felt a renewed sense of purpose, and such a comfortable feeling of support from the whole staff.

THURSDAY, MAY 10

I attended an extremely informative meeting on Medicare today. The speakers were: Dr. Karen Davis, Deputy Assistant Secretary for Planning and Evaluation, Department of HEW; Patricia Schoeni (Shane), Director, Office of Public Affairs, Health Care Financing Administration; Mary Lehnhard, Professional Staff, House Ways and Means Committee.

This session was constructively conducted. Long lists of complaints and horror stories were neatly forestalled by an early delineation of the scope and purpose of the program. The speakers were very articulate in presenting the problem areas and the methods proposed to alleviate some of them.

The basic theme: Medicare was never intended as a total health care program; there are defects and gaps in the program; let's make it work as well as is possible in its present form; we may consider Comprehensive National Health Care as another alternative for the future.

Medicare was established to help with medical costs at a time when less than one half of the elderly had any health insurance at all. This was an innovative move and was a significant achievement. It was first designed as hospitalization insurance. Later Part B was added to cover a portion of bills from physicians. Basically, half of the physician bill is covered by government and half by the individuals.

Conditions have changed radically in the fourteen years Medicare has been in existence, and the program has grown immensely. Inflation and other factors have increased medical expenses to a point where a Medicare patient today paying the required 20 percent of his bill (the average is $168) spends more than did the patient paying the full bill before Medicare began (the average was $128).

Receiving social security payments is an eligibility requirement for Medicare; new blocks of workers are frequently added to the social security system, upon which they become eligible for Medicare. The total expenditures are exhausting the Social Security Trust Fund. Thus, while the need for broader coverage is widely evident, expansion of the program is not possible, until the program can be financed more soundly.

The gaps in Medicare are significant, and appear in three areas. First, many people do not receive social security and are thus completely ineligible for Medicare. Second, some services are not covered at all, and the extent of all services is limited. For instance, prescription drugs are not covered, yet four out of five elderly must use them. Chronic illnesses are usually not covered because of time limitations in Medicare regulations. One in four elderly persons can expect to spend some time in institutions, yet these costs are poorly covered. For example, care in nursing homes is limited to skilled facilities, which resulted last year in only 3 percent of nursing home costs being paid for eligible Medicare patients.

The third gap is in the coverage of physician costs. Health care for Medicare covered elderly still cost them an average of $600 a year. They still pay about 55 percent of the total bill. This is largely attributed to the charges doctors make above the "reasonable cost" covered by Medicare. The "reasonable cost" is figured on the basis of: (1) the actual charge of the physician, (2) the usual charge for some services, and (3) the prevailing rate of all physicians practicing in the area. These may fluctuate greatly, and usually the figures used by HEW are about a year behind present costs. It is common practice for physicians not to accept Medicare reimbursements as full payment—thus those patients who apply for benefits never know how much beyond their Medicare coverage they might have to pay for a bill. Suggestions are being made to improve this situation by encouraging more doctors to accept Medicare reimbursements as full payment, perhaps by making extra payments to those who do, or by computing the reasonable charge more frequently and in conference with the doctors in each area. Another proposal is to make lists available to the elderly to those doctors who accept Medicare reimbursements as full payment.

FRIDAY, MAY 11

Meeting the President is not a casual thing for most of us, and so it seems right that the process be difficult and all but impossible. And it was. I was so proud to have attained in some way the privilege of being invited. My mood was shaken a little as we waited in line so long outside the iron bars that warm, muggy morning. Some expressed the same uneasiness by saying they guessed he didn't know we were coming, or maybe he didn't really want to see us after all. And how could he? He is the President.

The White House is beautiful and magnificent as the tour guide describes each room—but I have seen other beautiful and magnificent dwellings as a tour guide described them. I cannot relate to these—I only believe I am getting closer to the Rose Garden.

And finally, there he is, not ten feet away, smiling in the morning sun. He has some things to say about our concerns (Social Security) and about his concerns for our country (the SALT agreement). Then he moves among us, shaking hands, asking if we liked the White House (like any proud new home owner), saying it is more beautiful when Rosalyn and Amy are in it (like any lonesome father left in the city to mind the business). After a few minutes he goes up the steps and with a final wave of his hand, disappears into the Oval Office, where we will see him again on TV from time to time.

Only then, with a shock, I realize I have just shaken hands with the President of the United States. As I climb back up the stairs, I have a moment of intense grief that I cannot share this experience with my father and mother. When I was chosen by Senator Packwood as his intern, an old family friend wrote to me, "How proud your father would be." I know this is true. My father was an old-fashioned patriot. He was a volunteer in 1918 and never regretted it. The men in my family have all been, not necessarily warriors—reasonable and peaceable in general—but certainly defenders of what they believed in. My father was proud of his country, of its traditions, and we wanted to be part of making democracy work. After he died my mother received a Certificate of Service to his country, signed by the newly elected President Jimmy Carter. She had it framed and hung on her wall. I have it now. And today I stood in the garden of the White House and shook hands with a President.

SATURDAY, MAY 12

At the midway point of this experience I am becoming more aware of some basic questions and even some doubts about my mission here and the entire role of senior advocacy.

I have been delighted to find that basic needs of the elderly so well recognized, their concerns so sympathetically listened to, and their causes so articulately espoused in our nation's Capitol. It is gratifying to find so many others working on the same proposals we have been campaigning for in Oregon and in our own communities. But I wonder if we are duplicating efforts, if we will simply proliferate programs which will not fit together into a cohensive plan to help our most vulnerable elderly. We know from experience how utterly confusing, and often contradictory are the regulations and eligibility requirements of overlapping programs. For example, seniors do not make much use of home weatherization programs, which exist at both state and national levels. Some programs offer tax credits, some refunds, some require application first, some require forms submitted later, eligibility requirements differ, and one starts out, "Do not apply if you are eligible for any federal programs." But no one can tell you this unless you personally explore all possibilities by contacting a variety of agencies. As a result, valuable programs are underutilized by those who need them most. Additional funds from any source can always be used to fill basic needs, but much thought must be given to coordinating their use, somewhat as funds from the Older American Act and Oregon Project Independence are all funneled through the Area Agencies on Aging to the same top-priority programs in each community.

If local plans seem to better fit local needs, I am not at all sure how much the Federal government can or should do in the "people" area. Planning and regulating the every day lives of millions of people in so broad and diverse a land may lead inevitably to unforeseen results and the disappointment of expectations. Basic human needs are the same: food, shelter, fuel, some income security; but communities have different resources, and different traditions of filling their needs. Only by best using the resources, including the people, in the community, can any program be economical and successful.

My colleague from Eastern Oregon has a running joke about his part of the state seeming to be invisible to those who run the state. But I can see that this is not really such a joke. Areas with sparcer population cannot be served as well by mass oriented programs. The same must be true in trying to apply national programs to less populated states like Oregon. How difficult it must be to balance making a fair division of funds against putting the money where the most people will benefit. As a member of the Citizens Advisory Council on Aging in my county, we are constantly concerned with reaching the isolated elderly out in the country. As a board member of the Legal Aid Service, we see a decrease in funding threatening our circuit riders. How much more difficult it must be to reconcile these problems of the nation as a whole.

MONDAY, MAY 14

I was asked a hard question today. The same question I remember being asked as a child: "What did you learn today?" How could one answer proudly, "I learned the letter 'e'," when the concept of the alphabet as an entity was not yet known; when it was impossible to see that the letter "e" would lead to all the future pleasures of reading. A letter is such a little thing; only experience can prove its value.

"What have I learned in Washington in the past week?" At first, like a child, I searched my mind for some vast store of facts, some treasured bits of wisdom, some newly budding philosophy. Finding none, I nearly answered "Nothing," with a sense of missed opportunity. But now I have enough experience to know that there is a continuity to learning as well as to life. Each bit I learn must fit into some pattern important to me or I'll soon forget it. There will be many things I've learned whose real significance may not be apparent yet, but which will add a new dimension to my work with seniors.

Gaining a different perspective, a change in attitude, a new confidence, a renewed purpose may each be one small thing. But if learning and experience are inseparable, if today is the foundation upon which we build tomorrows, the bits I have learned in Washington may some day turn out to be parts of a whole new alphabet.

TUESDAY, MAY 25

A recent headline in the Washington Post caught my eye and struck a responsive chord. "The gadflies have made their case. Maybe it's time for them to retire," it said.

Some of us at the intern briefings are becoming increasingly annoyed because there are a few interns who waste the question-and-answer periods with diatribes of their own and confrontation tactics which serve no useful purpose, since no one in the room opposes their basic premises.

Although the staff writer for the Post was writing in an entirely different context, some of his remarks seem to me apropos if we substitute for his "professional shareholders," something like "militant senior advocates." With due apologies, I would like to rephrase some of his statements as they might apply to us:

"'They' go from meeting to meeting to play a self-appointed role of assuring that governments deal honestly with seniors and to continually remind officials that seniors have rights. They have made their case. They have raised worthwhile issues and won some battles throughout the years. They have spent more than 40 years taking officials to task for lack of responsiveness to the senior.

"But, today, more often than not their performances add little to either the meeting itself or to the knowledge that seniors gain about their programs. Increasingly the average senior understands his or her rights and is exercising them intelligently. At meetings where 'they' do not appear, insightful questioning is no less in evidence.

"Because 'they' are experts at getting the floor to make their case—attending scores of meetings a year—they often tend to dominate meetings, excluding other seniors less used to asserting themselves. And they take up so much time that new, important issues that they care little about are delayed until late in the meeting when many seniors have left.

"Whether their dedication to democracy is as great as their dedication to their own personal publicity also can be questioned, as several seniors remarked privately after our meetings this week."

I too came to Washington to speak up for my seniors back home. But I am discovering as the days go by that you don't have to yell to be heard. The people who have met with us, those who are at the head of the agencies and those who work day by day with the programs, seem tuned in to the needs of seniors, alert to the problems in administering their programs, and interested in improving the services provided to seniors. They want our advice and our cooperation. They already know that seniors have rights, that they have special problems. They also know that the solutions are not simple. Let's not waste time belaboring the obvious; let's not discourage our chief advocates by carping criticisms and personal vilification. There is work to be done and we can do it together.

WEDNESDAY, MAY 16

Many of the questions and doubts I brought to Washington have already been answered. The briefings we have had from high-level officials have made clearer to me the scope and function of many programs. No one has promised utopia, but a sympathetic attitude and a frank statement of what is possible and what is not, supported by good and sufficient reasons, provides a more solid basis for planning, both community planning and personal planning. This should help allay some of the fears of an uncertain future, and some of the resentments of unfulfilled expectations.

The people who spoke to us invited us to contact them if we had further questions, and outlined for us clearer channels of communication with the departments and agencies responsible for senior legislation and services. Those I later asked to meet with, through the help of the Senator's staff, allowed me time to talk with knowledgeable and sympathetic people about the problems of seniors in Oregon. My impression was that they invariably listened, they explained some of their problems in coping with the situation, and then outlined some of the plans afoot to remedy the gross injustices. I am more sure now that we have not been forgotten, we are not being ignored, and things are moving on the federal level, however slowly it may seem to us.

Knowing the Senator's staff and being initiated into some of the mysteries of a legislative office has done much to lessen and refocus my concerns. Where I had a particular question, I was referred to a particular staff person with special knowledge in that area. Always, this person sat down with me, listened to my concerns, produced relevant bills or information, and explained the Senator's position on the issue. I felt reassured that our needs were being understood and that things were in motion. I was being listened to and someone already knew what I was talking about. When I wanted further information or impact, my special staff person arranged meetings for me with agency personnel, or suggested hearings I might like to attend. I discovered for myself that people's letters are treated seriously, that the Senator is kept up-to-date on what people at home are saying, and that he knows what things are important to us. His office is not a cold, austere bureaucracy, but rather, a small community of warm friendly people who take pride in using their special skills to support the Senator in his hard tasks, and to help the people back home. When I first came to Washington, my immediate future (for two weeks) was very much in their hands. After two weeks of exceptional support in my mission, and of tender loving care for a visitor, I feel that Oregon and the elderly will continue to be in good hands.

FRIDAY, MAY 18

This afternoon seems darker than a few clouds and showers should make it. A strange sense of desolation pervades it and me. I have said goodbye to the staff and broken the close ties with the office. I have taken off the badge that has given me identity for two weeks; it will no longer provide me entry into privileged places. I have said for the last time, "I am a member of Senator Packwood's staff," and been given the help I sought. Now I feel an alien again, even as I walk the familiar streets.

And that is why I am disconsolate; it is the sense of community that I have lost. For two weeks, the senior interns, coming as they did from all parts of the country, had been nonetheless a group, participating in a common experience, sharing themselves with each other in pursuit of similar goals. There had been leadership and purpose in our lives. Now that spell is broken, and they have all gone their separate ways. I am doubly bereft because I was also welcomed into a smaller and more intense community, the Senator's office staff. I was swept up in their enthusiasms, and imbued with their sense of urgency in attacking our common problems. I have been part of these things and now for the moment I walk alone.

But even as I do, the bustling city reaches out to touch me and coax me from my mood. It is good to stand back and be an observer again—to lay aside the great emotional tension of trying to solve people's problems. It is not an easy task to speak for others, to try to express their needs, to find information of value to them, and I have not taken it lightly. Now there is a certain joy in anonymity. Life moves on around me, and I can again view it with curiosity and pleasure. It is no longer strangely restricted to the elderly. For now my sense of mission is in abeyance, and I am just a part of humanity. I can admire the buildings, listen to the history lessons, buy souvenirs for my grandchildren. And as I do, Washington again becomes my city, an important part of my country. Never again will I think of it as a cold and distant place, where inexplicable decisions are made and inflexible policies proliferate. Now I have discovered that the bureaucracy is alive, pulsing, vibrant, concerned—open to suggestion and responsive in its way. This I know because, for a brief time, I was a part of its community.●

BASQUE BRUTALITY

● Mr. CHURCH. Mr. President, in many respects the prospects for the Basque country in Spain look better now than they have for some years. In mid-July, the Spanish Government reached agreement with the Basque Nationalist Party (PNV) leaders on a Basque autonomy statute. Marathon negotiating sessions produced an agreed statute which provides for considerable home rule and a democratic avenue for pursuing Basque aspirations, while maintaining the supremacy of the constitution of the Spanish state. The agreement has been widely hailed as a milestone in Spanish political life and as the beginning of the end of strife between the Basques and Madrid.

The proposed autonomy statute will go to referendum in the Basque country this fall and then to the Cortes for ratification. Afterward the process of gradual transfer of local control—taxation and spending, mass media, education, and public works—to the Basque General Council will begin. For the first time, the police force will recruit among the Basque population, and the Basque language will become an official language of the region.

The statute represents a significant accomplishment and deserves the widespread support which it has attracted. However, in this generally bright horizon, some dark clouds threaten. The extreme political factions of the left and the right have announced their opposition to the statute and will continue to attempt to sabotage the political process of conciliation now in motion. For example, the Basque terrorist group (ETA) has vowed to continue its "armed struggle," and it has delivered: after almost a month of relative quiet, a series of shootings in the Basque country July 28–29 left eight policemen dead or wounded. In addition, the July 29 bombings at the Madrid airport and at 2 train stations left 5 dead and over 100 injured.

At this juncture, it is apparent that the extremists seek to gain through terror what they have failed to accomplish by the ballot box or at the negotiating table. It is also clear that the overwhelming majority of Basques support the autonomy statute, which will provide a peaceful, constitutional channel for addressing regional issues. What remains to be seen is whether moderation will prevail and the majority will exercise its responsibility in isolating those who continue to insist on violence. The democratic process must be allowed to work its will, for the path of violence will surely lead to ruin.

Mr. President, I ask that an August 1 editorial from the Idaho Statesman entitled "Basque Brutality" be printed in the Record.

The article follows:

Basque Brutality

Most Basques, including many in Idaho, support the cause of Basque independence. That is their right, but, however just the cause may be, we hope Idaho's Basques will stop short of supporting ETA, the militant Basque separatist organization.

ETA has legitimate complaints. Basques in Spain have, over the years, unjustly been denied their autonomy. Spanish police have occupied the Basque territory; many Basques have suffered. Basque political prisoners, according to some, have been treated cruelly and forced to endure appalling living conditions. The Suarez regime, by some accounts, is guilty of greater excesses against Basques than those committed during the Franco era.

But ETA's cause does not justify its methods. Editorials on this page have repeatedly condemned ETA killings of Spanish police and government officials. There have been so many ETA murders—some 80 so far this year—that they almost come to seem routine. There is nothing routine about killing, however, and this week the ETA shocked the world with atrocities that revealed new depths in its lust for carnage.

Bombs planted Sunday at two railroad stations and an airport in Madrid killed four people and wounded at least 113 others. It was a new low for ETA, more the sort of thing the world has come to expect from the PLO. Until now, most of the ETA's efforts have at least been directed at specific targets, mostly Spanish police and judicial officials. That doesn't make them right, but they at least appeared to have a specific motive.

Sunday's killings, on the other hand, were the random senseless sort of slaughter that is almost universally deplored. A Dutch woman was killed. Two Americans and a variety of other non-Spanish bystanders were wounded. Anyone in the stations or the airport when the bombs exploded was in danger.

It is beyond us how anyone could commit such acts. To coldly plot to kill innocent human beings—men, women and children, people who have nothing to do with your holy cause—is perhaps the most unspeakable atrocity of all. It is killing for shock value alone, and the mind reels at the type of group or individual capable of such a thing.

The lucky victims are those who died. Many of the others must live the rest of their lives crippled, deformed, in pain. They had nothing to do with the cause of Basque independence, but they'll spend the rest of their lives suffering for it, as will their loved ones.

We ask those Basques who still support the ETA how they would feel if it had happened to them. If it had been the PLO, and if it had been their own families who had been killed or maimed, would the cause still be worth it?

No cause—Nationalistic, religious or otherwise—justifies such butchery.

We have no sympathy for the ETA, or its sympathizers. Any group that does what it did Sunday forfeits the right of support from decent people. It deserves only their contempt.●

THE BUDGET PROCESS

● Mr. HAYAKAWA. Mr. President, for 2 frustrating years, I sat on the Senate Budget Committee. Time and again, I watched measures that would have saved taxpayers billions of dollars go down in defeat before the hallowed figures of the Congressional Budget Office. It was with the greatest pleasure, therefore, that I read Senator Hatch's brilliant article in Barron's. The seven veils have been torn from the budget process and it is exposed for what it truly is—a sham. I doubt that the budget dance is ended, but a lot of the "mumbo-jumbo" is gone. My colleague has been so artful in disrobing the Budget Committee and the CBO, I hate to spoil the effect. I, therefore, ask that Senator Hatch's article, "Congressional Irresolution," be printed in the Record.

The article follows:

Congressional Irresolution

(By Orrin G. Hatch)

"Major Recession Now Forecast by Hill Budget Office," front-paged the Washington Post on Sunday, June 10. The story, by Staff Writer Art Prime, revealed that the "nonpartisan Congressional Budget Office has privately warned Congress to expect a full-fledged recession this year and through most of 1980, with inflation continuing at a double-digit pace and the jobless rate rising to 7.5 percent."

Having dispatched this missile, Pine presumably went back throwing darts at old posters of Richard Nixon, dozing at his typewriter and whatever else they do at the Washington Post during the current lull in American politics. Within the Capitol Hill beehive, furious activity broke out. The worker bees of the Congressional Budget Office and the Senate Budget Committee Staff swarmed around angrily, and even came to communicate their agitation to the elected queen bees of the legislative process.

This was done through memos from Staff Director John T. McEvoy and Congressional Budget Office Director Alice M. Rivlin to those of us who sit on the House and Senate Budget committees. Reading these memos, I became uncomfortably aware that although they repeatedly referred to Pine's "inaccuracies," there were few concrete examples. Indeed, the attached statistical table seemed to support him. The CBO had not finished revising its January forecast, but it had already reduced its estimate of real GNP growth for the next two years from levels which even then had assumed two negative quarters. There will probably be double-digit inflation in the early quarters of 1980, and although average 1980 unemployment was not projected at 7.5% exactly, it seems likely to be pretty close. One might almost think senators are expected to read only the memos' stinging prose, and not their rather stickier figures.

Ms. Rivlin, according to the memos, intended "to complain to Ben Bradlee," the *Post's* Executive Editor. It was hard to imagine the Watergate Warrior being impressed.

(After all, here was an editor who at one point publicly reaffirmed the *Post's* version of Hugh Sloan's grand jury testimony even after his own reporters had told him they'd got it wrong.) Nevertheless, 11 days later, the *Post* ran a groveling apology. It reproached itself for "significant errors" about unemployment's peak, whether the CBO had specifically forecast more than two quarters' decline, and whether Congressional leaders had seen an official forecast. Skilled students of Washington nuance will note that the *Post* had been persuaded to apologize for things its reporter had not originally said. As they say, it's a company town.

REMOTE TARGET

The whole episode was all the more puzzling because a rather negative view of U.S. economic prospects is not uncommon, outside Washington. But that's not what the Carter Administration, which has been consistently more optimistic, wants to hear.

It is hardly surprising that Pine caused trouble with his assertion that "the CBO's calculations were made known privately to Congressional leaders before the final passage of the initial budget resolution last month, but sources said that the two Budget committees decided to shelve them for the moment in what was described as a gamble that the economy might improve." With the budget as currently planned, such an economic performance would lead to a $4–$8 billion increase in expenditures. And that's even before the second budget resolution, due in the fall, starts knee-jerk countercyclical spending. The target of a balanced budget by fiscal 1981, confirmed in May amid much Democratic self-congratulation along with the $23 billion deficit projected out of $532 billion outlay in fiscal 1980, seems more remote than ever.

The fact is that the Congressional Budget process, which seemed like a good idea when enacted in 1974, has simply turned out to be an engine for the relentless expansion of government. The system co-opts those taking part—including some from the minority party and supposedly impartial civil servants—and provides a pseudo-scientific rationale for the continued care and feeding of the spending constituencies that elect the politicians happily presiding over the decline of our Republic. It has not brought greater discipline to Congress' spending. Many authorizing committees habitually miss their deadlines. And it has totally failed to perform what is commonly understood to be the budget process: cutting your coat to suit your cloth. Symbolically, the first thing the Senate Budget Committee did in 1979 was to defeat a motion that would have required them to look first at their cloth—anticipated government revenues—instead of (droolingly) at spending.

INFLATION PUSH

This year's Senate Budget Resolution covered the next three fiscal years, including fiscal 1980 (which begins this October). It projected a small surplus of $0.5 billion for fiscal 1981, and one of $0.7 billion for fiscal 1982. Additionally, there was provision for tax cuts of $55 billion in 1982, and somewhat larger ones thereafter, although this assumes there will also be GNP growth substantially above historic averages.

Total tax revenues, however, will rise as inflation pushes taxpayers into higher brackets. The Senate Budget Resolution was passed after three days of debate in conference committee. The compromise resolution confirmed the strategy, albeit with a smaller 1980 deficit. A surplus of $5.6 billion was predicted for 1981, $4.1 billion in 1982; a smaller tax cut was planned. Over the summer, the various appropriation committees will complete their detailed work, and there will be a final adjustment for current conditions in the second Budget Resolution this fall.

The system's failure can be measured in at least two ways. The most obvious is that in 1979, the fourth and probably final year of economic recovery, the U.S. federal budget is nowhere near coming into balance. And yet this is the time, according to Keynesian theory, when we should be in surplus, in order to balance out over the entire business cycle, so as not to blow the roof off with inflation when we stimulate the economy in the face of recession.

And nominal surpluses, of the sort allegedly expected in 1981 and 1982, aren't good enough. The system has to balance. There has to be a surplus to match the $45 billion deficit of President Carter's first year in office. Needless to say, our born-again budget balancers on the Budget Committee don't mention that.

"SPENDING SHORTFALL"

As a matter of fact, the U.S. has balanced its budget only once since 1960. But its performance over the life of the Budget Committee has been particularly disgraceful. A low point was 1977. Directly after the federal election, the Democrats discovered a "spending shortfall" and introduced an extraordinary third budget resolution, ending all hope of a surplus in this cycle and coincidentally paying off a number of supporters. Moreover, the Budget Committee is now estimating that tax revenues in 1980 will be 20% of gross national product. The average since 1956—except for the 1968–70 Vietnam surcharge—has been 18.6%. Any budget-balancing that is going on is hurting the taxpayer, not the government employee. (The federal government's impact is, of course, also felt in the economy through the $12 billion or so off-budget items and the $150-odd billion loans made or guaranteed each year by government agencies.)

The Senate debate on the budget resounded to talk of hacking, slashing, chopping, and cutting. At times it sounded more like a spree in a slaughterhouse. But little blood was actually shed. Federal Government spending will still grow 9.1% in 1980, and there has been no major cuts in permanent programs. This did not prevent both the Washington Post and the New York Times from congratulating us for what the Times called "self-discipline on Capitol Hill." It pointed out that our spending was "slightly smaller than the President proposed" (well, yes. by $0.3 billion) and that our final deficit figure was $6 billion less than the President's (although it was still $23 billion; the difference was mainly that we figured higher inflation would just force more people into higher tax brackets). However, it seems that no one on Wall Street had the least expectation the budget would ultimately be balanced. The Budget Committee staff's public relations apparently cut little ice there.

Fiscal conservatives thought that the budget process would compel liberals to accept responsibility for their spending programs. But it hasn't worked that way. Instead, it is the conservatives who are constantly being confronted with an unpalatable choice: between deficits and economic dislocation, unemployment and, ultimately, larger deficits. Without the stimulus of government spending, they are told, unemployment will rise. This will cause expenditures on welfare programs to rise and tax receipts to fall. Which will create a larger deficit next year. Hence attempts to balance the budget in reality, as opposed to in rhetoric, are made to seem irresponsible, and an attack on the budget process itself.

This trap is set right at the beginning of the process, when the various spending committees of Congress submit their estimates. These are fairly generous. The appropriations committees always include a little amiable padding, and there are usually some symbolic new programs designed to reassure the constituents of powerful congressmen that they are still loved. The Budget Committee can claim credit for subsequent shrinkage.

Then the Congressional Budget Office's econometric models are consulted to see what level of federal spending is necessary to keep the economy at full employment. By a miracle rather similar to the annual liquefaction of St. Janarius' blood, this turns out to be pretty much what the spending committees had (actually) in mind. At various points in the business cycle, defiits can be justified to stimulate or sustain economic expansion. Or, when there is worry about overheating early in the year, as in 1979, there can be much talk of austerity in the confident expectation that some signs of downturn, perhaps triggered by tight money, will materialize in time for all. Whatever the rationale, the result remains the same: more spending, and more frustrated conservatives.

So frustrated, in fact, that they have had heretical thoughts about the impartiality of the oracles that so consistently prophesy disaster if conservative ideas are implemented: the econometric models favored by the Congressional Budget Office. At close quarters, of course, these are not quite so awe-inspiring. Essentially, they are herds of equations, chivvied along by the arbitrary assumptions of the economists organizing them. In recent years, the CBO began to find itself criticized because the models it relies upon—notably those of Data Resources Inc., and Wharton—tend to neglect the dynamic supply-side effects of cuts in the tax rate.

A tax rate reduction would affect gross national product in three ways. It would stimulate production, because people would not have the fruits of their labors filched from them. It would promote investment, because investing would have become more attractive than immediate consumption, and this would create jobs. And it would increase everyone's disposable income by the amount not taxed from them, stimulating demand. This demand surge is the only result of cutting the tax rate that the models, and consequently the CBO, take seriously. They are still operating in the shadow of Keynes, or, more accurately, Keynesians. Demand still dominates debate. (Oddly enough, one major modeling service, Chase Econometrics, seems to have declined in favor with the CBO precisely when it began to discover and adjust for the supply side.)

JUGGLING MULTIPLIERS

The immediate impact of this is that, for purposes of the budget resolution, a dollar spent by the government is assumed by the CBOE to be more stimulating than a dollar of tax cut, some of the proceeds of which would be saved and not immediately boost demand. So government spending appears to be a cheaper way of keeping the economy at full employment.

When they finally realized what this was doing to them, Senate conservatives began to complain. Last year, for the purpose of the Senate Budget Committee "mark-up"—the preliminary meetings by staffers at which the resolution is roughed out—the government spending and tax cut multipliers were conceded to be equal. This year, however, it emerged in the course of debate on the Senate floor that this principle had been quietly abandoned.

Because budget-making involves so many esoteric technical questions, the Budget Committees are unusually vulnerable to the influence of their staff. But the process has other weaknesses which are endemic in the legislative branch today. The Democrats have controlled Congress for the past three decades. Complaints that they have begun to act as if they owned the joint no doubt owe something to Republican paranoia. But just because you are paranoid doesn't mean someone isn't trying to get you. Largely unnoticed in the country, there has in recent years been a steady erosion of Congressional parliamentary procedures, all designed to make life easier for the majority. Last year's extension of the deadline for states to ratify the Equal Rights Amendment, a rule-change designed solely to rescue a defeated liberal cause at the cost of general derision and possible judicial reversal, was merely one case of manipulation which caught the public eye. On the Hill, it happens all the time.

In 1978, for example, Republican Rep. Marjorie S. Holt of Maryland offered amendments to the budget that would have maintained the current deficit, but lowered spending and taxes in tandem. Speaker Tip O'Neill, forced through rules that will compel Representative Holt to specify how much less each spending program will receive if her lower figures are adopted. This totally contradicts the 1974 Budget Act, which says that the Budget Resolution should set a total spending figure and leave the Appropriations Committee to divide the pie. But it throws the proposers of such amendments very much on to the defensive, and also means that any Congressman voting for one would immediately become the target of all the injured spending lobbies, a distressing prospect.

I tried to deal with another aspect of the institutionalization of majority power this year. I proposed an amendment to prevent certain types of appropriations being passed into law prior to the Second Budget Resolution, so as to preserve the Senate's maneuvering room should the desire to cut taxes suddenly become overwhelming in the fall. Appropriations would be passed, but they would be "held at the desk" and not implemented before the Budget Committee completed its work. There was provision for this in the original 1974 Budget Act. However, the amendment was defeated. It was argued that the provision was a "fail-safe" device, intended as a last resort if Congress got into the habit of irresponsibly appropriating more than the Budget Committee had provisionally agreed. And, of course, this hasn't happened. With a Budget Committee like ours, it wasn't necessary.

The Senate is a profoundly traditional institution. The precise legalities of their situation often matter less to its members than the extension of courtesies between them. The common experience of working together on something like the Budget Committee seems likely to have a chilling—or more accurately, perhaps, a mellowing—effect on the opposition's determination to oppose the Resolution when it reaches the Senate floor. This tendency is actively encouraged by the Majority. Being present at the creation of one of these customs is like watching the Rocky Mountains rising from some primeval sea in a speeded-up tempo—fascinating, but alarming once you realize that it is squarely in the road to fiscal discipline.

In the debate on the Senate floor, the custom takes the form of an attempt to persuade those of us who offered amendments, particularly on matters of detail, that they (a) concerned matters of detail, and should therefore be left to the relevant oversight committee; or else that they (b) should have been offered in the Budget Committee itself, which is somehow slighted by being ignored. If you appeal to the sovereignty of the Senate, the attempt is abandoned. But it is always later renewed.

For example, I proposed cutting federal overtime, travel allowances and film-making, partly because of evidence of waste cited in reports of the General Accounting Office. Ed Muskie, the Senate Budget Committee Chairman, objected.

Mr. Muskie: ". . . Now, you never offered this."

Mr. Hatch: "Is the Senator suggesting that I am not acting within my rights to bring this to the floor of the Senate rather than before the Budget Committee?"

Mr. Muskie: "I never suggested that. Since you played a very active role in the Budget Committee, and the Senator will agree to that, you never offered this amendment and you never offered the evidence to substantiate it. Is that not a statement of fact?"

Mr. Hatch: "That is a statement of fact on this particular amendment."

Mr. Muskie: "That is all I said. . . ."

But it wasn't. The debate became heated, as Senator Muskie made the same point again.

Mr. Hatch: "Mr. President, may I ask who has the floor?"

Mr. Muskie: "And the Senate as a whole is not in as good a position to consider the details of your case as the committee was. So why do you think you could get a better hearing here than you could in the Budget Committee?"

Mr. Hatch: "I know I will get a better hearing here."

Mr. Muskie: "All right."

Mr. Hatch: "I do not have any doubt about it."

Mr. Muskie: "That is your judgment of the Budget Committee."

This may not enlighten readers as to whether or not Budget Committee members are supposed to assume collective responsibility for the Budget Resolution. But it helps explain why Americans typically elect as senators men who are larger than average, at least in lung capacity.

There are two lessons to be drawn from a study of the budget process. The first is that the momentum of federal spending is formidable. Such spending is squarely in the interest of a powerful New Class of bureaucrats, politicians and their academic and journalistic acolytes, as well as the spending constituencies who form their electoral base. This class is tenacious in defense of the status quo. It is currently fighting on two fronts, against the supply-side fiscalists who are advocating a tax cut to stimulate production in the manner popularized by economist Art Laffer, and the more traditionalist budget-balancers, who were stealthily advancing on their goal of a constitutional amendment until loudly joined by Gov. Jerry Brown of California.

THE NEW CLASS CONSOLIDATES

Last year, with Proposition 13 gnashing its teeth, the Budget Committee cut $95 billion from its 1979 fiscal spending. But after the November elections some $7 million snuck back in again. But there is still fear that the tax revolt has not been entirely finessed, which accounts for the talk of some tax cuts sometime, maybe the year after next. The balanced budget movement is a more familiar problem. Eventually, recession will galvanize the spending constituencies and frighten everyone else. Until that happens, the plan seems to be to move towards balance essentially by allowing taxes to rise indirectly, as inflation lifts taxpayers into higher brackets. *That* should teach them to whine about fiscal discipline! Meantime, the New Class consolidates, spending its time whittling away at the concepts like "tax expenditures"—money not extracted from the public because of various loopholes and concessions. These will ultimately be used to raise yet more revenue and further the idea that all property and income actually belongs to the government. And its servants.

The second lesson is equally simple. Financial rectitude cannot be imposed by gimmick. The Budget Committee process is not better than sunset laws or (remember?) zero-based budgeting. There is no substitute for political will. Without it, the Budget Committee can't work, and with it, we would not need a Budget Committee. In its absence, I can only endorse Sen. Edward Muskie's proposal, although he made it rhetorically in debate while irritated at impertinent rebels:

"Why not write the budget on the floor of the Senate in total, and see how you can do it?"

IS THE MAN SERIOUS?

● **Mr. DANFORTH.** Mr. President, I ask that the following editorial from the Columbia Daily Tribune in Columbia, Mo., be printed in the Record. I believe it sums up very well the reaction of my constituents to President Carter's latest energy proposals.

The editorial follows:

Is the Man Serious?

What did you think of President Jimmy Carter's energy speech Sunday night?

Frankly, we think he missed the ball a country mile. It was bad enough that he preached through most of it, but it bordered on insult when he suggested that the American people, through some sort of collective failure of will and spirit, are responsible for the energy crisis.

"In a nation that was proud of hard work . . ." he said, "too many of us now tend to workship self-indulgence and consumption."

"When you get a chance, say something good about our country,' he concluded.

Okay, Mr. President, here goes:

Out here in the hinterland, we don't wallow in splendor and leisure. We spend most of our time at work, and we don't have multi-million-dollar office buildings complete with gymnasiums and restaurants. More typically, we brown bag our lunch, built out of bread that sells for $1.02 a loaf.

On the weekend, we go to a movie—at $6 a couple, plus popcorn—or we eat out at a restaurant. On a particularly good weekend, we eat out and take in a movie. Pretty conspicuous consumption, you see. Sometimes, we just go for a ride in the country, on gas that costs us nearly a buck a gallon. There's a little less riding in the country these days.

Most of us try to put a little aside in a savings account. We earn 5 percent interest, but inflation takes that plus another 5 percent. It's hard to get ahead that way. Our houses may not be quite as fancy as those in Arlington and Alexandria, but they're okay by our standards.

Sometimes it's a little tough making the mortgage payments, but we're not complaining. In the long run, we think it's worth it.

Sometimes we do get a little wild. We admit that. We buy boats and motorcycles purely for fun, and we don't really need such things. But we pay for them on budgets that are tighter than any the federal government has seen for many a decade. Maybe that's why we don't feel too guilty about spending money for enjoyment.

Those tight budgets seem to keep us in line pretty well. That's why some of us are having a hard time understanding some of the proposals you made on television Sunday.

To give an example, why are you putting a quota on imported oil? Out here, we've got quotas on everything we buy—namely, prices. If the price of gasoline goes a little higher, we'll use a little less. Maybe we'll stop taking drives in the country altogether.

So why not take the controls off oil prices, and let the oil companies have a try at producing more domestic oil? After all, our nation owns 24 per cent of the world's oil reserves, or so we're told. The OPEC countries only have 5 per cent. How did they get us over a barrel with only 5 per cent?

And we don't really understand about "windfall profits" taxes. We read that the oil companies are putting more than 90 per cent of their investments into energy production and exploration. Wouldn't they invest more if the government allowed them to earn it by raising prices? It would be pretty bold of you to give that one a try.

You told us in your speech that we've been hearing "more and more about what the government thinks, of what the government should be doing, and less and less about our nation's hopes, our dreams of the future." Well, that's true, Mr. President. We have been hearing a lot about that.

Some of us out here thought we heard more of the same Sunday when you spoke. You talked about government quotas, mandatory conservation, government energy corporations, government energy boards, government gasoline rationing, government spending, taxes—well, you can see how a few of us might have gotten the wrong impression.

We've got some other funny notions out here. We don't understand why we have to swelter in a restaurant or movie theater when the Senate is putting up an office building with gymnasiums and restaurants. With the energy saved by scrapping that building, alone, we could enjoy a cool movie on Saturday night—which is pretty swell stuff to some of us in the Midwest.

Well, you know how things are out here in Columbia, Mr. President. You were here just last year, although it was a pretty quick stop for you. If you really think we worship self-indulgence and consumption, why don't you come back and stay a little longer? Stop by at work and have a sandwich with us, and take in a movie on Saturday night—we'll buy.

We'd be right glad to have you.●

CONFERENCE REPORT TO H.R. 4389, LABOR/HEW APPROPRIATIONS FOR FISCAL YEAR 1980

● Mr. TALMADGE. Mr. President, I am disappointed that the efforts of the Appropriations Committee, Subcommittee on Labor/HEW to keep the WIN at the same level of funding that was authorized for fiscal year 1979 did not prevail in the conference on H.R. 4389, the Labor/HEW appropriations bill for fiscal year 1980. The conferees accepted the House funding level of $365 million rather than the $385 million approved by the Senate. The $20 million reduction in WIN appropriations is a relatively small amount in terms of the overall appropriations in H.R. 4389, but to the WIN program it represents more than a 5-percent reduction in the present level of WIN funding.

Such reduction will be felt greatly by those WIN registrants who prefer work to welfare and in all of the States when the allocation they are now receiving must be cut.

Mr. President, the work incentive (WIN) program is not only cost effective but also reduces or eliminates dependency of both applicants and recipients on the aid to families with dependent children program.

The WIN program accomplishes this in a manner which benefits the welfare family, the taxpayer, and the country—by placing the AFDC recipient in private sector employment. I wish to emphasize, Mr. President, the only way to reduce dependency is by nonsubsidized employment, not by putting people in making-work jobs. Certainly public service employment may reduce the AFDC rolls somewhat but it does not reduce dependency on the Government and is more costly to the taxpayer. It is fallacious to argue that public service employment reduces dependency unless such public service employment is permanent and productive and not merely a temporary job.

Mr. President, I believe all employable persons not only have the right but also the moral obligation to work and be productive, including welfare recipients. In this regard, the work incentive (WIN) program, as modified in 1971, has proven very successful. These changes, which I had proposed, emphasize placement in private sector employment. Previously, the program had been designed for training for jobs most of which turned out to be nonexistent and resulted in discouragement and frustration on the part of the trainee.

The WIN program helps welfare recipients find jobs, and keep them. It encourages, through the use of tax credits, private businesses to hire welfare recipients, which saves taxpayers money.

Present funding levels of $385 million allow full participation in the program by only one-fourth of WIN registrants. Seventy-five percent of the current two million persons registered during a given year receive no services other than registration and appraisal.

In spite of no additional funding, the WIN program placed 234,614 WIN participants in nonsubsidized employment in fiscal year 1978, an increase of 260 percent over fiscal year 1973.

Mr. President, the Labor Department estimates overall savings in fiscal year 1978 amounting to $644,890,672. Total program expenditures were $382,470,032, resulting in a return of $1.69 in grant reductions for each dollar expended. Additional reductions, generated as the result of reductions in medicare, food stamps, housing, and other benefits, are not included in the overall savings. In addition to the grant reductions due to employment of AFDC recipients, there were savings due to 40,040 persons entering employment during AFDC applicant status largely because of the WIN program. Most such persons do not become AFDC recipients.

Mr. President, many people say that welfare recipients are unemployable, that it is unreasonable to attempt to move them into the nonsubsidized labor force. That assessment is wrong, in my opinion.

Mr. President, I would like to thank the members of the Appropriations Committee, particularly the senior Senator from Washington and the staff of the Subcommittee on Labor and HEW for the fine work that they have done on behalf of the WIN program.

Mr. President, I wish to advise the Senate that I plan to offer an amendment authorizing a $20 million increase for the WIN program above the level in H.R. 4389 to the first supplemntal Labor/HEW Appropriations bill for fiscal year 1980. I plan to earmark this $20 million for expenditure in the WIN program only.●

WATER RIGHTS LITIGATION IN MONTANA

● Mr. BAUCUS. Mr. President, I wish to bring to your attention a situation that has occurred in Montana, one in which I have taken a great deal of interest. It concerns the water rights law suits filed by the Department of Justice on behalf of several Indian tribes in Montana against approximately 4,000 individual water users in the State. I have paid careful attention to this situation, to the extent of sending one of my Washington staff to Montana during July to visit all seven Indian reservations and to talk to many of the defendants involved in the lawsuits.

During the last legislative session, the Montana State Legislature passed a measure, which was signed into law, in which the State declared its intent to adjudicate all water claims arising out of Montana river basins, including the water claims reserved to Indian tribes under treaties with the Federal Government. The Department of Justice responded to this measure by filing suit on behalf of the Indian tribes at the request of the Department of the Interior in fulfillment of their trust responsibility to the tribes. The primary issue which must be determined is whether Indian water claims should be adjudicated in State or Federal court.

The lawsuits filed by the Department of Justice have created immense problems for the 4,000 defendant water users. The largest concern which has been generated is that of providing adequate legal representation. Because the Federal lawsuits have already been filed, and because the State of Montana may at some time filed lawsuits for the declaration of water rights, the defendants face the prospect of litigating two lawsuits.

The expenditures the defendants will have to make in terms of court costs and legal fees will be enormous. The expense of the litigation is of particular concern to the defendants, particularly because the Indian tribes will have their costs and attorneys fees paid for by the Federal Government. Moreover the length of time these lawsuits will require before a final determination is reached, will impose great hardships on those who wish to sell their land and transfer the water rights appurtenant to the land. It may take years before any defendant could sell his land in any real estate transaction.

Admittedly, there is a limit to what Congress can or should do in a situation such as this where a lawsuit has already been filed. But allocation of water rights is an issue of critical proportion, gaining increasing importance daily because of our current energy situation and the potential requirement for large amounts of water in meeting our energy demands. Mr. President, it is an issue that will not disappear and Congress cannot ignore it.

In similar situations involving land and water rights in Maine, Arizona, and California, negotiating commissions have been established to resolve the issues in conflict. Congress has established the precedent of providing assistance to these commissions. At some point it may be necessary to determine whether a similar solution can be applied to the water rights lawsuits in Montana.

It is my fervent hope that this issue can be resolved through means other than lengthy and expensive litigation. Mr. President, it may be necessary for Congress at some future time to fashion an appropriate solution to this important issue.●

THE DAY OF SHAME

● Mr. WILLIAMS. Mr. President, we of the free world mark with sorrow and dismay the 11th anniversary of the brutal Soviet invasion of Czechoslovakia. We must not forget these tragic events of August 21, 1968.

The Czechoslovak nation dreamed of removing its oppressive Soviet yoke from its neck. Reformers in this small nation had made many great strides toward implementing a freer and more open society only to be forced by thousands of alien soldiers to accept the repressive standards of Communist rule.

Although the memory of these events fades, 11 years later the Soviet Union continues to oppress the Czechoslovakian people. The ensuing years have not softened the harshness of an invasion which shattered a country's dream of freedom.

And today, this dream has not totally died. The spirit of freedom endures in Czechoslovakia. Workers have joined in protests against oppression, religious leaders have spoken out bravely against religious persecution, and a group which calls itself Charter 77, a group which now has some 1,000 public supporters, cries out for freedom. They petition the Soviet Union to adhere to the Helsinki Agreements and to restore freedom to their oppressed nation.

On the anniversary of oppression, we must do the same. We must stand up and speak for freedom throughout the world. As Americans, we are privileged to be able to promote the cause of freedom by protesting the plight of people who are systematically denied such rights by their own government. Too many countries like Czechoslovakia have reluctantly fallen under totalitarian rule. On this anniversary, therefore, when we pray for the liberty of Czechoslovakia, we must add to our resolve to preserve our own freedom and that of peoples throughout the world.●

MONTANA'S WORSENING FUEL CRISIS

● Mr. BAUCUS. Mr. President, as we near the August recess—a time when all Americans turn their thoughts to vacations and travel—it is appropriate to focus our attention on the availability of fuel to get us to our destination. Secretary Schlesinger of the Department of Energy has reassured us that gasoline supplies are slightly increased in August, and that we should have no major problems in filling our tanks.

Additionally, diesel supplies seem to have increased to the point where the Nation's trucks are rolling again after the abortive truckers' strike. Certainly there seems to be no fuel problem in the Washington, D.C., area. A trip on the Capital Beltway, which rings the Metropolitan Washington area, reveals a great number of the giant vehicles on the highway.

But, Mr. President, not all areas of this Nation are so fortunate. In Montana, for example, where vast distances put strains on our transportation system, the picture is not good. We have suffered through the worst summer in recent years—and there are no prospects of improvement in sight.

Montanans have generally had access to adequate supplies of gasoline, but August promises to be troublesome. Cenex, the petroleum refining and marketing arm of the Farmers Union in Montana and 12 other agricultural States, has been the unintended victim of new DOE gasoline regulations promulgated on July 19. Those regulations redefine the agricultural priority, and add eight other priority categories.

The effect of the regulations, combined with a recent interruption of Canadian crude oil supply to Cenex, will be to prohibit the organization from servicing most of its retail customers. This could be castastrophic in some Montana communities, especially those where the coop pumps are the only ones within miles. I strongly protest the implementation of these regulations. Although there are remedies in theory—application to the oversubscribed State set-aside or to the regional DOE authorities to assign a new supplier—no one believes that relief will be forthcoming except through the Cenex network. I have written to Secretary Schlesinger, but am not optimistic about a successful resolution, given the history of DOE treatment of Montana.

For an example of DOE treatment of my State, one has only to examine the case of diesel fuel. While other States seem to get by on their allotted share, Montanans have suffered a critical shortage of this precious fuel. The situation has gotten so bad that the Department of Transportation has issued bulletins to truckstops in the West advising truckers to bypass Montana.

I am extremely upset at the seeming inability, or the unwillingness, of the Department of Energy to provide some relief. As I stated in a recent letter to President Carter, Montana is not asking for special treatment. Rather it is asking for "equal" treatment. And we have not been getting it.

Montana is an agricultural State. Its farmers need diesel to get its crops planted and harvested. Its truckers need fuel to haul the wheat to distant markets, as well as its logs, livestock, and minerals. We had a late spring, and demands for diesel for planting continued for 2 months longer than usual. A similar situation throughout the country prompted the Department of Energy to promulgate special rule No. 9, establishing agriculture as a diesel priority. Although laudable in intention, the rule barely served the needs of agriculture while badly dislocating the flow of diesel to other users, principally truckers.

We have not survived that initial shortage. Montana truckstops began running out of their June allocation by the 10th of the month. July's allocation lasted a little longer; most stations held out until the 20th or beyond. The August picture shows little improvement. Diesel allocations by company, which generally are tied voluntarily to their mandatory gasoline allocations, are running about the same as those of July. The situation is clouded by the uncertainty surrounding Cenex and by the startup of some harvesting operations, which require diesel.

In attempting to evaluate the diesel problem, I have had a procession of corporate and DOE officials in my office. I have talked to dozens of oil and gas people at other levels of the industry. I find a crazy quilt of distribution patterns and regulations. Montana refineries produce enough diesel to take care of all of the State's needs; yet well over half of it is shipped out of State. It does no good to insist that the three principal refineries operate at 100-percent capacity; the State's needs will still be shorted.

The problem, Mr. President, is in the base allocation for Montana. DOE can claim that it is treating the State fairly because its base remains more or less constant. However, if the base is originally set at a starvation level, the victim is eventually going to die. We need relief, and we need it soon.

Mr. Gene Eidenberg of the Department of Energy was in Montana several weeks ago and proclaimed it the most diesel-deficient State in the Union. The situation has not changed. Yet the Secretary of Energy has the power to make adjustments in nearly every phase of the refining and distribution process. He can order a refinery to increase its production, or change its mix of products, or divert the final product to another destination. Despite repeated calls for help, none of these actions have been taken. For this reason, I have asked Mr. Carter to direct an investigation by a top-level DOE team of Montana's special problem—and effect a solution.

I do not know that continued efforts to work with the energy companies or the Department of Energy will bear fruit. It will take high-level intervention to restore health to the diesel situation in Montana. I urge the President to intervene.

Mr. President, I ask that a copy of my letter to President Carter be printed in the RECORD.

The letter follows:

WASHINGTON, D.C.,
July 30, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Knowing how busy you are, it is with some reluctance that I bring this matter to your attention. However, many fruitless weeks have gone by in dealing with the Department of Energy and the situation has not improved.

I refer to a critical diesel shortage in the State of Montana. The situation has been so bad that a high-ranking Department of Energy official more than one month ago termed Montana's diesel crisis "the worst in the nation." While diesel supplies seem to have expanded elsewhere, easing the plight of the nation's truckers, they remain critically low in Montana.

The Montana Congressional delegation and State officials have gone hat-in-hand to Energy Department people a great many times since the crisis began. Although agency personnel acknowledge that it is within the Secretary's discretion to divert supplies, I am not aware of a single directive to a refinery or oil company to make adjustments aimed at relieving our shortage.

The U.S. Department of Transportation has just issued a bulletin which is being widely circulated in truck stops in the upper Mid-West. That bulletin warns to bypass Montana because of insufficient fuel. Many truck stops are completely out of diesel; others are operating on a part-time basis.

CENEX, the refining division of Farmers Union operating in 13 states, has suffered an interruption in its crude oil supply. The Department of Energy has arranged for enough crude oil for the Laurel, Montana, refinery to operate at nearly 80 per cent of capacity, but the shortfall in a state which is already dangerously low is another serious blow.

Small businesses are being hit. People are being laid off. Truckers are pleading for relief so they can make payments on their vehicles. And yet no directives for relief are forthcoming from the Department of Energy.

Montana is not asking for special treatment. It is asking for equal treatment.

Montanans are willing to make sacrifices in the name of stretching our energy supplies. But those sacrifices ought to be proportionate to the national sacrifice.

Montana truck stops ran out of diesel early in June and early in July. By all accounts, August will be equally difficult.

I therefore urge you to direct the Secretary of Energy to set up a task force to zero in on Montana's special problems and special needs. The task force should be required to specify temporary emergency measures which will bring Montana's supply into line with other states.

Your consideration of this request will be greatly appreciated.

Sincerely,

Max Baucus.●

SALT AS A SOPORIFIC

● Mr. BELLMON. Mr. President. the floor debate on SALT treaties will not begin until after Labor Day. Nevertheless, probably every Member who has not made a decision on the SALT treaty will spend much time mulling over the pros and cons of this difficult question. A concise, lucid editorial which appeared in the Tulsa Tribune, August 1, may be as helpful to others in bringing SALT into focus as it was to me. I ask that the following editorial be printed in the Record.

SALT as a Soporific

The true meaning of the SALT II treaty became a bit clearer Tuesday with former Secretary of State Henry Kissinger's testimony before the Senate Foreign Relations Committee.

Kissinger, who said he would endorse the treaty if the national defense is upgraded and Soviet geopolitical conduct is linked with SALT II, told the committee that because U.S. military capability has deteriorated and Soviet international adventures have continued unchecked, the treaty is little more than "a base from which, one can hope, a new and serious effort at equitable arms reductions can be made."

Kissinger's conditions will add fuel to the debate, but his point shouldn't be missed. It is that the debate may be academic, for SALT II is no longer a strategic arms limitation treaty—if it ever was—but, as he put it, little more than "a base" for a third arms agreement.

In other words, after seven years of talking, the best prospect is for years of still more talking, negotiations conducted in a vacuum apart from the real world. While the SALT II treaty was being hammered out, American military was declining and the Soviets were busily supporting revolutions in Third World nations.

The result is that the final product being debated in the Senate is really not an arms limitation agreement at all but a document that serves best as proof that U.S. and Soviet negotiators could sit together for seven years without dying of boredom.

For military technology doesn't stand still but advances according to the national priority. The Soviets used the seven years to good advantage and now have achieved parity—superiority some military experts would argue. The United States squandered the same time period, throwing away the B-1 bomber, dismantling its air defenses and shrinking the size of its navy.

Kissinger warns that unless the national defense is upgraded, "SALT will become a soporific, form of escapism."

It's a fair warning. There has been too much sleeping already.●

S. 1241: THE NATIONAL WATER RESOURCES POLICY AND DEVELOPMENT ACT OF 1979

● Mr. DURENBERGER. Mr. President, I am pleased to announce my cosponsorship of S. 1241, the National Water Resources Policy and Development Act of 1979, introduced by my distinguished colleagues Pete Domenici and Daniel Moynihan. The bill offers the opportunity to change longstanding traditions in water resources management in the Congress and in State planning agencies throughout the country. The bill is long overdue.

I concur with Mr. Domenici, who stated in introducing the bill:

> If there is anything important to life, it is water. And if there is any policy of the U.S. government that is ineffective, inoperative and disastrous, it is the nonwater policy that exists today. That nonwater policy exists only by way of a series of ad hoc projects dreamed up, promoted, and that now take an average of 26 years from the time they are authorized until they go into construction. There is no prioritizing either by the state or by the nation.
>
> A cost/benefit ratio is developed to indicate their worth, but that is a shambles. To many who have looked at that ratio, it is meaningless today . . . the existing system is really no system at all. Rather, it is a random array of benefits that respond to the vagaries of seniority in the U.S. Congress more than anything else.

By way of illustration, I need look no further than Rochester, Minn., and the South Fork of the Zumbro River flood control project. By conservative estimate, community planning was begun in 1965. Now, 14 years later, with a flood last summer that claimed five lives and $60,000,000 in property damage, the project still has another 4 years of planning before construction can begin in fiscal year 1984.

The soil conservation portion of the project is uncertain because the Department of Agriculture does not obtain a favorable cost/benefit ratio figuring the SCS portion separately. That was never intended. It is one project with two agencies involved. They elected to view it as two projects because two agencies are involved. The Department has become fixated on itself and its administrative procedure. Meanwhile, although construction could begin immediately, it is held in the Secretary's office pending a decision. How long that will be is unknown.

Although both Congressman Erdahl and I have bills to authorize construction funds for Rochester, the Omnibus Water bill, which has been passed by the Congress, it has not been signed by the President for the past 2 years. The impasse between the President and Congress over control of water projects continues while needed projects languish.

The Red River area on the Minnesota/North Dakota border is another striking example. This "flooding" problem has been under consideration and discussion for 40 years. This past spring a flood of monumental proportions cost $100,000 in public funds, millions more in private loss and untold human suffering.

Floods have become an annual event with international implications, for Canada is the recipient of the rapid water runoff due to years of drainage, urbanization, and extensive increasing acreage in cultivation along the Red River of the North and its tributaries. The Corps of Engineers has studied and planned, as have the Soil Conservation Service of the Department of Agriculture, the several local watershed districts, and the Upper Mississippi River Basin Commission. Still, the flooding continues. Coordinated implementation of several proposals that would go far to moderate, if not totally eliminate, flooding is in order. Concerned elected and appointed officials gather endlessly in meetings looking vainly at solutions—solutions that exist, but are not possible to implement under the present federal "system." These are but two of many examples in Minnesota and adjacent states.

S. 1241 seeks to reform present policy by establishing a new investment strategy—one that sets priorities and involves States in a meaningful fashion. The bill is designed to create a fair and equitable distribution of water resource money, and places strong emphasis on improving conservation on Federal projects. The bill that is proposed is a sharp change from the present system of "tedious studies, delays, authorizations, delays, appropriations, delays, and more delays—this is legislation that should free the Federal water resource agencies from the current straitjackets and enable them to go after the priority work, in consultation and full cooperation of the States."

There are five basic provisions in S. 1241:

First, It sets up a method for automatically studying water needs—an annual list of State priorities;

Second. It establishes a system of grants to the States—a block grant system—for their use on priority projects, to be built by Federal agencies;

Third. It establishes a system of loans for some older projects not on the new priority list;

Fourth. It sets up a special national category of regional, interstate projects that will be built by the traditional method at Federal cost;

Fifth. It initiates a program of water conservation on new projects, and requires a study of how to conserve on old projects.

The bill rests heavily on the belief that local and State government must take a more active role in the development of projects. The State governments will determine what is spent, where it is spent and at what speed. Some cost sharing is the price of more local involvement and more local control. It is believed that better priority setting will lead to a more effective program. The bill requires generally a 75 Federal-25 State/local cost-sharing ratio.

I believe, as do the bill's two authors, that we can no longer afford the present crippled program of ad hoc decisions. We need a system that will allow us to set priorities, go after the priority work and make sure that local people who will benefit offer a reasonable commitment to the work—and then move on to its early completion.

It is hoped that when the system is in place, it will not take longer than 3 years from the time a State selects a project until construction can begin. Even if it were to take 5 years, that is a fifth of the time it now takes—26 years.

Under this bill, all of the environmental protection that present law prescribes will apply to the proposed projects.

Now, a word about funding distribution and what this means to Minnesota.

There has been an historic inequity in the distribution of water project funds. From 1950-76, the northeast received slightly more than 6 percent of the national water resource funds spent per capita; the west, 48 percent; the south, 28 percent; and the north central region, 18 percent. Under S. 1241, the northeast per capita share rises to 13 percent; the north central to 21 percent; and that of the south and west decreases to 21 percent and 45 percent respectively. The distribution of the proposed $4 billion annual appropriation for State water projects would be on the basis of State geographical size and population. In Minnesota, this would mean about $80 million annually, or 2 percent of the total. Presently, the State receives about 7/8 of 1 percent, or $19 million, of the annual water project budget.

The present budget allows about $4 million a year for water projects that are not developed according to any priority plan—and America's real water problems may well go unattended in spite of these expenditures. "The projects are the pattern of the randomly acquired influence of the relevant committees of the U.S. Congress and do not reflect a clear policy."

Again, I want to express my pleasure at joining Senators DOMENICI and MOYNIHAN on S. 1241, the National Water Resources Policy and Development Act of 1979.

Certain specifics of the bill may need to be clarified or amended, but the importance of debate on the development of sound national water policy and a strategy for achieving it cannot be overstated. The direction we choose now, the decisions we make, or refuse to address, may well determine the future of the country as surely as the shortage of energy that is now upon us. ●

VENTURE CAPITAL COMPANY ACT OF 1979

● Mr. WEICKER. Mr. President, I am pleased to be a cosponsor of S. 1533, the Venture Capital Company Act of 1979. This legislation would exempt qualified venture capital companies from the Investment Company Act of 1940. I stress that word "qualified" as this bill has been drafted to insure the protection of public investors in venture capital firms while allowing these firms to raise the funds needed to enable them to grow and to contribute capital to new generations of businesses.

The Investment Company Act has its roots in the Public Utility Holding Company Act of 1935. This act directed the SEC to:

> Make a study of the functions and activities of investment trusts and investment companies . . . and *the influence exerted by interests affiliated with the management of such . . . companies upon their investment policies*, and to report the results of its study and its recommendation to the Congress." (Emphasis added.)

Complying with that direction, the SEC made an exhaustive study of the investment company industry, and found that to an alarming extent investment companies had been operated in the interests of their managers and to the detriment of investors.

It was found that:

First. Insiders often viewed investment companies as sources of capital for business ventures of their own;

Second. Reports to shareholders were often misleading and deceptive;

Third. Controlling positions in investment companies—represented by special classes of stock or by advisory contracts—were bought and sold without the consent, or even the knowledge, of public shareholders;

Fourth. Advisory contracts were often long term; and

Fifth. Management fees charged in connection with contractual plans sometimes bore no relationship to any actual managerial services.

As a result of the SEC report, Congress enacted legislation to correct the self-dealing and conflicts of interest which were prevalent among investment companies. In its report on the bill which later became the Investment Company Act, the Senate Committee on Banking and Currency stated that:

> Basically the problems flow from the very nature of the assets of the investment companies. The assets of such companies invariably consist of cash and securities, assets which are completely liquid, mobile and readily negotiable . . . These assets can and have been easily misappropriated and diverted by such types of managements, and have been *employed to foster their personal interests rather than the interests of public security holders*. (Emphasis added.)

Thus, the Investment Company Act was passed with the purpose "to mitigate and, so far as is feasible, to eliminate the conditions (among investment companies) which adversely affect the national public interest and the interests of investors." As the First Circuit Court of Appeals observed in *Alfred Investment Trust* v. *SEC*, 151 F.2d 254, 260, the act "in effect codifies the fiduciary obligations placed upon officers and directors of investment companies."

Mr. President, the Investment Company Act has been effective in cleaning up the abuses prevelant in the investment company industry at the time of its enactment. However, there has been a serious adverse side effect of the Act. It has placed regulatory structures upon venture capital firms which have effectively prevented them from growing to a size where these firms can provide growth capital to struggling young enterprises.

Venture capital companies come within the act's definition of "investment company," even though these companies differ significantly from the mutual funds and closed-end investment companies for which the act was designed. Thus, a venture capital firm with more than 100 shareholders is required to register under the Investment Company Act, and thereby becomes subject to the numerous requirements of the act. They are thus bound by the restrictions in the act which are appropriate for mutual funds, although many of these restrictions are inappropriate for venture capital firms. As a result, venture capital companies avoid acquiring 100 shareholders. Yet, by so limiting their size, venture capital firms are precluded from growing to a size where they can supply capital to the small businesses which so desperately need it.

Mr. President, there are no pure venture capital companies today which operate under this act. Accordingly, the Venture Capital Company Act of 1979 provides for a limited exemption of venture capital companies from the Investment Company Act.

The prerequisites for exemption contained in S. 1533 assure the protection of investors. To qualify for exemptions, the company must:

First. Have been engaged in the venture capital business for at least 5 years. This requirement enables the investor to make an informed investment decision based on the company's past record.

Second. Have on its Board of Directors a majority of "independent directors". This will prevent conflict of interest situations which are ripe for abuse.

Third. Be subject to the requirements of the Securities Act of 1933 and the Securities Exchange Act of 1944.

Fourth. Refrain from certain trading activities which are central to the Investment Company Act.

Fifth. Accept restrictions on the ownership by its officers, directors and controlling persons of securities issued by companies in which it invests.

Mr. President, this bill would facilitate the provision of capital to those small firms which so badly need funds for growth. Congress has taken significant steps to ease the capital formation problem confronting our Nation's small- and medium-sized businesses. However, as C. V. Wood, Jr., chairman of the McCulloch Oil Corp., pointed out in an article which recently appeared in the New York Times, much more must be done. The Venture Capital Company Act of 1979 will benefit emerging companies by providing for healthy venture capital industry. As important, it will help these capital starved enterprises without jeopardizing the protection of investors. I urge my colleagues to give serious consideration to this bill.

Mr. President, I request that the New York Times article I referred to be printed in the Record.

The article follows:

[From the New York Times. July 10, 1979]

Another Look at a Tax Cut

(By C. V. Wood, Jr.)

Last November maximum Federal tax rates on long-term capital gains were rolled back from 49 percent to 28 percent. Advocates of the rollback urged that it would encourage investment in our deteriorating capital plant and productive equipment. Opponents said it was just a device to enrich the wealthy.

The background of the change was that a major weakening of the capital gains investment incentive took place in 1969 when the maximum effective tax rate was increased from 25 percent to 45.5 percent. In large part as a result of this action, 1970 marked the onset of a period characterized by a declining number of shareholders. the drying up of new corporate stock issues, the increase of corporate debt in relation to equity and sharp decline of the market price of stocks as a related to corporate earnings.

Over this same period, the United States has had among the lowest level of capital investment and the lowest savings rate of all major industrialized nations. Japan and West Germany are pre-eminent in both categories. It is noteworthy that in West Germany there is no tax on long-term capital gains in portfolio stock investments, and in Japan capital gains are generally exempt from tax.

Much of our capital plant is outmoded. Investment in research and development has greatly sagged. American productivity has been slumping badly. Productivity gains have averaged only 1.5 percent per year over the past decade, roughly half of the annual increase of 3.1 percent over the two prior decades. The capital shortfall and lagging productivity have weakened our competitive position abroad, eroded our technological leadership and contributed to our growing trade imbalances. At home they have fed the twin bugaboos of inflation and underemployment.

Nonetheless, the capital gains rollback proposal drew heated opposition from many so-called liberal economists and others. Upon close scrutiny, their case against the rollback came down to this: Congress shouldn't enact a measure, however, much it may benefit the nation and all of its people if, at the same time, it would also benefit rich people who would receive a substantial part of the tax reduction.

This reasoning was not persuasive to Congress and the capital gains rollback was enacted into law. Undaunted, its detractors have taken a new tack. They now suggest that the rollback is not working. In support of this proposition, much is made of the fact that the Standard & Poor's 500 stock index has only slightly increased since Nov. 1. This overlooks the fact that Congress, in reducing maximum capital gains rates, was not primarily concerned with the capital formation requirements of America's 500 largest corporations. These companies, fortunately, are able to meet most of their capital needs from internal funds as well as from investments by tax-free pension funds.

On the other hand, thousands of small- and medium-sized companies have languished in recent years as individual investors have retreated to the sidelines. These companies, whose ranks include the I.B.M.s and Xeroxes of the future, depend upon stock purchases of small investors to raise the capital necessary for their growth.

With the sharp increases in the capital gains rates, investment in common stock has been neither attractive nor sensible. Studies have shown that these companies—smaller, younger, often more innovative—have the potential to grow faster and generate more new jobs, technological breakthroughs and tax revenues than the giants of American industry.

However, in reecnt years the equity capital market for small and newer enterprises has been practically non-existent. Regardless of prospects or opportunities, most publicly owned companies have experienced great difficulties in raising equity capital.

It was the critical weakness in our equity capital markets which in 1973 spurred the formation of the Committee of Publicly Owned Companies, a nationwide association of 700 chief executive officers.

And how have the small- and medium-sized companies fared since the capital gains rollback? The American Stock Exchange index has increased by 18 percent so far this year, and the NASDAQ composite index is up 12.5 percent. No less significant, according to *Going Public* magazine, there have been 19 publicly underwritten new issues raising $104.4 million marketed in the first four months this year, compared with only eight issues raising $46.4 million during the same period in 1978. This step-up in investment activity is even more remarkable when viewed in the context of current double-digit inflation and interest rates, both historical stock market depressants.

The nation's backlog of essential capital projects—for energy, plant renovation, retooling, modernization, transportation, research and development—runs into the hundreds of billions of dollars. The rollback of capital gains marks a start, albeit a limited one, of reversing our nation's declining productivity growth by encouraging individuals to invest their savings in America's future.

Other reforms are badly needed. The crushing burden of Government overregulation must be reduced. Simplified forms and procedures for securities registrations must be developed to reduce capital raising costs, especially for smaller companies. Double taxation on corporate dividends should be avoided. Capital recovery allowances should be liberalized. Investment incentives specifically tailored to encourage small investors and smaller companies would be very helpful.

A good example in this regard is the proposal of American Stock Exchange Chairman Arthur Levitt Jr. to give a 10 percent tax credit to individuals who invest in the new equity of companies that have a net worth of less than $25 million. Finally, steps must be taken to impose fiscal restraint, strengthen the dollar and control inflation.

Although it is too early to draw definitive conclusions, the evidence to date shows that the rollback in capital gains tax rates is accomplishing precisely what the Congress intended, which is to aid the deployment of capital to rebuild and refurbish our productive plant and our creative technology. The early results vindicate the prediction of the late Representative William Steiger, that by reducing capital gains taxes, "new companies could start up and existing firms could expand and exploit new technologies to promote American competitiveness in the world market."●

PRODUCTIVITY STANDARD FOR WAGE PRICE GUIDELINES

● Mr. PERCY. Mr. President, I would like to associate myself with the remarks of my distinguished colleague from New York, Senator Javits.

Productivity and the long-run performance of our economy are coming to be more and more appreciated as root causes of this skyrocketing inflation that is plaguing the country. It is no accident that, as inflation climbs, the U.S. productivity growth rate is in an inverse decline. Table 1 of the Council on Wage and Price Stability report, which Senator Javits includes with his statement, makes this all too clear: In the last 30 years, the Consumer Price Index has jumped from a 1.6 percent annual growth rate to an 8 percent rate for the period 1973–78. This year, inflation is running well into double digits, at about a 13 percent rate.

At the same time that inflation was worsening, productivity is shown as deteriorating from 2.6 percent annual increases between 1948 and 1965 down to an infinitesimal 0.8 increase for the years 1973 to 1978. And what has been happening to productivity this year as inflation has soared? It too has dropped. In fact, you could almost say it dropped right off the charts this year. Just 4 days ago the Labor Department announced that the productivity rate for the nonfarm business sector plunged 5.7 percent, following a drop of 3 percent in the first quarter. According to the Labor Department, this is the steepest quarterly decline in the 32 years the Department has been keeping records.

Senator Javits and I—and a good number of our colleagues—are concerned over this decline in productivity and what it reflects about investment in plant and equipment and our preparation for the economic challenges of the 1980's. We are not making the investments we should that will keep us competitive with our foreign trading partners. The United States is no longer the pre-eminent economic power on the globe and we are going to have to redouble our efforts if we want to retain our standard of living.

For these reasons, Senator Javits and I were concerned that the Council on Wage and Price Stability (COWPS) did not have a program as part of the inflation guidelines that would offer an incentive for firms and workers that did increase their productivity above and beyond the inflation rate. We know firms and workers are making the investments and conducting the research and development that will reduce overall costs of production and yet they are hamstrung for their efforts by the present guidelines.

Mr. President, there can be a very real correlation between the Government's actions and the steps taken by the private sector. We are just now getting feedback from economists about the tax cuts we passed last year. It appears that, as many of us expected, the cut in the capital gains tax, the expansion of the investment tax credit and the cut in the corporate tax rate have all contributed to strong capital spending this year, one of the few bright spots in the economy.

Along these lines, a Chase Manhattan Bank newsletter recently reported:

> Business plans for capital investment are clearly a bright spot in the recent flow of rather somber economic news. A government survey of business investment plans indicates an increase this year in capital spending of about 6% in real terms. The growth that these plans imply for the big construction and machinery industries could provide a substantial offset to the weakening trend that has appeared elsewhere in the economy.
>
> It is of course possible that investment plans will be cut back if sales to final customers continue to weaken. As yet, however, there are no clear signs that such a retrenchment has begun. Perhaps some credit for this should be given to the 95th Congress, which enacted tax legislation last year that was specifically aimed at encouraging private investment. The permanent and liberalized investment tax credit, the capital gains tax reduction, and the cut in corporate income tax rates may already be paying dividends to the economy.

The Chase Manhattan Bank is not alone in this evaluation of the 1978 tax cuts. Similar articles have appeared in the Wall Street Journal and Nation's Business. Mr. President, I am submitting a July 30, 1979, Wall Street Journal editorial immediately following my remarks.

Where we find the economy now is in a possible slide into a mild recession. Many firms have launched investment plans, however, because the capital is suddenly available for modernization. This will mean more jobs in the future and will be a strong force in improving the U.S. productivity performance.

I commend the COPWS report on productivity to my colleagues. It is a careful document and it points to two of the greatest disincentives to investment and productivity: tax policy and excessive regulation.

The Governmental Affairs Committee, on which I serve as ranking Republican, has concluded 14 days of hearings on regulatory reform bills before the committee. I expect a full-scale mark-up session will begin in earnest in September and the changes we make in regulatory proceedings will be a major step forward in removing this disincentive from economic activity. We are not going to get rid of regulation; we are going to make it more cost-effective in its approach to problem-solving.

In closing, I would like to compliment Senator Javits for his leadership in the productivity field. He has pointed out for many years the key roles of investment and productivity in the economy. The summary of the Republican Policy Committee's Task Force on Capital Formation and Productivity—which Senator Danforth and I have chaired this spring and summer—provides a guide for action in establishing productivity incentives. I am pleased that Senator Javits included our recommendations with his statement and he can be sure Senator Danforth and I will pursue our tax and regulatory proposals in this Congress.

The editorial follows:

Snapping Back

> Anyone who might be wondering about the effects of last year's reduction in capital gains tax rates would do well to look at the venture capital revival that has since occurred. We particularly urge a look by those who argued then—and still do in some cases—that you can't improve capital formation by lightening the tax burden on it.
>
> Venture capital is money raised by entrepreneurs whose only assets are their new ideas. Even if they turn out to be successful, investors must expect their capital to be locked up for 5 or 6 years. A decade ago venture capital was thriving. But along came the Tax Reform Act of 1969 which together with its subsequent revisions raised the maximum tax on capital gains from 25 percent to 49 percent, reduced the write-off of capital losses by 50 percent, and sharply curtailed the deduction of interest expense on borrowed funds used to make an investment. All in all, the rewards for success were cut in half, and the penalties for failure were doubled.
>
> The effect on venture capital was devastating. The ability of small companies to raise equity capital by public stock issues declined drastically, and by 1973 small company issues had practically ceased. In 1977 when the maximum tax on capital gains hit 49 percent, equity capital from all sources dried up.
>
> The tax reformers who sold this bad bill of goods to the Congress said the purpose of it was "to make the rich pay taxes." Congress expected to score some easy political points, not to dry up important wellsprings of economic progress. New small companies account for a disproportionate amount of new products and technologies, and they contribute substantially to the growth of the economy as a result of their own rapid growth and the productivity gains that they introduce into the economy.
>
> By 1978 Congress realized what it had done, and Rep. Bill Steiger found majority support in both houses for his proposal to reduce the capital gains tax. In November the rate was reduced to 28 percent.
>
> The response from venture capital was instantaneous and began in May before the law was passed when Senator Hansen rounded up 60 Senate cosponsors of the Steiger bill. By the end of the year venture capital raised by firms specializing in the activity rose eleven-fold over the previous year. In 1979 venture capital is back where it was 10 years ago.
>
> The snapback is easy to understand. In 1969 Congress began adding to the costs of failure on risky new ventures, while reducing the rewards of success. With risk taxed at the same rate as corporate salaries, fewer people left comfortable employment to go off on their own with the ideas they couldn't sell to their employers. Those still willing could find few financial backers. In 1978 Congress restored incentives for assuming risk, and people began assuming risk once more.
>
> There is evidence that lowering the capital gains tax rate had wider ripple effects. The Dow Jones Industrial average rose 130 points from March to August last year as it became evident that there were enough votes in Congress to cut the capital gains rate. The market has since lost some of that exuberance but still is well above March 1978 despite rampant inflation and a recession threat.
>
> Equally impressive, in light of recession fears, is the fact that corporate expenditures for new plant and equipment and for research and development are once again showing signs of life after a long period of stagnation. Shareholders can once again look with favor on managers plowing back earnings rather than paying them out in dividends.
>
> These signs that the economy would like to get back on its growth track are encouraging challenges to the gloomy predictions that the growth era is over. They indicate that the economy responds to incentives, and is not in the clutches of some inexorable process of decline. More encouragement of its inclinations to grow would no doubt produce further benefits.
>
> We have in mind cutting tax rates on personal income in order to lower the high marginal rates on real income that a decade of inflation has brought about, altering taxes on interest and dividend income in ways to lessen the tax bias against savings and passing something like the Jones-Conable Capital Cost Recovery Act so that business can recover their investment capital before inflation eats up their depreciation allowances. A little good tax law and the economy as a whole will snap back as rapidly as venture capital.●

ACTS OF COURAGE

● Mr. CHAFEE. Mr. President, American history has been characterized by a certain spirit of its people—an attitude of achievement, a belief that an individual's initiatives are an important contribution to the common good of the country. No better example of this spirit exists than the many individual acts of courage during the Allied invasion at Normandy 35 years ago.

Mr. President, I believe strongly in the value of private endeavors, and feel that such a spirit needs to be encouraged. It is a distinct pleasure for me to be able to join with my colleague from Rhode Island, Mr. Pell, in paying tribute to two people whose personal efforts can serve as inspiration for us all. The couple to whom I refer, Monsieur Henri Frochot and Madame Madeline Frochot-Benoit, are not American citizens, but they have rendered valuable assistance to many Americans.

M. Frochot is 89 and Mme. Frochot-Benoit is 77. They both reside in Burgundy, France. During World War II, they befriended many American soldiers during the fighting in France, including a constituent of mine, Mr. Ralph Messinger.

At a time when helping Americans could have been dangerous, these people opened up their home to American soldiers, provided them with food, and went out of their way to make these American soldiers feel at home during their stay in France.

Since the war. M. Frochot has been active in promoting international understanding. He has been a key figure in a program that specializes in exchanging citizens of French and German towns, again proving that one person can make a difference. Mr. President, it is important for us now to recognize those people who have not only aided America and her citizens, but who have also shown they care about friendship between countries.

M. Frochot and Mme. Frochot-Benoit are clearly two people who believe in progress, and who are willing to pitch in to achieve it. They fully deserve this modest and overdue expression of our appreciation.●

● Mr. PELL. Mr. President, I would like to join my colleague, Senator Chafee, in commending Monsieur Henri Frochot and Madame Madeline Frochot-Benoit for their invaluable assistance to members of the U.S. Armed Forces during

World War II. I know how important their sacrifices were in aiding the American war cause.

The Frochots demonstrated their unselfishness during that time of dire need by opening up their home in the Province of Burgundy, France, to the 15th Air Force and turning their garage into a mess hall. One of the servicemen assisted by the Frochots was a constituent of mine, Ralph Messinger of Tiverton, R.I. For a time at least, the men were reminded of the warmth and giving of a family in the Frochots' "home away from home." I know that Mr. Messinger and the other servicemen who benefited from the Frochots' humanitarian efforts will be eternally grateful.

Monsieur Frochot also extended his contributions to peace even after the war by fostering exchange programs between French and German citizens. His efforts helped ease the antagonisms between those two peoples and helped make peace in Europe a reality. The Frochots are very special people who expanded the fight for world understanding. They should be honored and remembered as such.●

SAVINGS LESSON FROM ILLINOIS

● Mr. PERCY. Mr. President, I was most heartened to read of the successs of the Waisvisz family of Champaign, Ill., a family that emigrated to the United States 10 years ago with more determination and spirit than cash.

The U.S. Chamber of Commerce spotlighted this remarkable family in a June "Voice of Business Column" which I would like to have printed in the Record at the close of my remarks.

The Waisvisz family has worked hard in the past decade and now owns two houses, one of which they rent. What is more, the family's three children have recently purchased a house from their savings. They pay off the taxes and mortgage with the rental payments they receive. As Dick Lesher, president of the chamber of commerce, says in his column on the family:

> And that leaves them free to start saving again for their next anticipated investment—a college education. In the interim, they will have gained a practical education most people don't get until they're 30."

Savings and investment are two of the most crucial elements of a growing economy, yet the average U.S. savings rate is well below that of our major trading partners. What is more, it is our failure to generate savings and make necessary investments that lies at the root of inflation.

Mr. President, we need more families like the Waisviszes who are willing to save and put their money in sound investments. I introduced legislation on July 19 that would move us in that direction by providing a tax exemption on the first $500 of dividend and interest income that is reinvested during the tax year. Senator Danforth joined me in introducing the bill—the Small Savers Incentive Act—and last week all 41 Republican Senators endorsed this concept, noting:

> As an incentive for greater savings and investment, a savings interest exclusion should be provided and the present dividend exclusion from federal personal income taxes should be expanded.

It is time Congress acted to provide the incentives we need to spur productive investments. The Waisvisz family offers all of us an encouraging example of where we should place our priorities and resources.

The material is as follows:

Meet the Waisvisz Family—America's 20th Century Pioneers

Washington.—It's a story that deserves to be told. For our purposes, let us pick it up in 1966 when they arrived in British Columbia as immigrants from the Netherlands. Things seemed bleak at first; they knew no one; he had no prospects for work, and only enough money to afford lodging in a third-rate hotel where they were told they must sleep on the floor. But they did have hope, and each other, and an enthusiasm, spirit and discipline—indeed a total commitment—to realize their shared dream of eventually becoming Americans and living a better life in the United States.

Today, the Waisvisz family, Herman, his wife, Vera and their three sons, Max, 15, Lehman, 13, and David, 12, have already realized that dream and much more. Indeed, they are living proof of Harry Emerson Fosdick's belief that free democratic societies are strong and endure because "there are extraordinary possibilities in ordinary people."

It didn't take Mr. Waisvisz long to locate his first position as a project engineer for the Park and Tilford Company in British Columbia, nor for him and his wife to save enough money to make a down payment on their first, very modest home. By 1969, his engineering abilities earned him a better offer from the Arthur G. McGee Company in Cleveland, and the family jumped at the chance to live in the United States . . . and in a better home. But they only stayed there a year, as Herman's reputation had already caught the attention of the U.S. Industrial Chemicals Company in Tuscola, Illinois.

Today, they live in nearby Champaign, Illinois. Herman now works as group leader of USICC's engineering division. Vera works too, selling jewelry in Robeson's, a downtown department store. Thanks to all their work and sacrifices and promotions, Herman and Vera now own two homes—their present residence in Champaign, and their former home in Cleveland which they rent. That's pretty impressive after starting from scratch just 13 years ago; but it's really just the beginning of this family's amazing story.

You see the Waisvisz sons, Max, Lehman and David, not to be outdone by their parents, bought a home themselves in 1977 for $40,000! How did they do it? Each one saved nearly every cent he earned over a four-year stretch delivering papers; then they combined their savings and pledged the entire amount toward an $8,000 down payment. Of course Dad did have to chip in with the final $1,800, but the boys have already paid half of that back. The brothers now rent the house, make the necessary repairs with a little help from Mom and Dad, and use the money from the monthly rent payments to meet their tax and mortgage obligations. And that leaves them free to start saving again for their next anticipated investment—a college education. In the interim, they will have gained a practical education most people don't get until they're 30.

Our office got a taste of just how businesslike these young landlords are when we called the Waisvisz family. The boys weren't there—probably out delivering the Champaign News-Gazette or fixing a faulty faucet in their house—but they did have their own recording which beeped, and then courteously requested us to leave our message.

When we did talk to the boys, we got a feeling of their responsibility, their motivation, in essence—their character. "You have to always make sure everything is right," said 12-year-old David about his house. Lehman told us that when he's feeling "happy" he can deliver his 49 papers in 15 minutes. (He admitted he takes longer when he knows they're having spinach for dinner.) Max, who first had the idea to invest the brothers' money in something that would appreciate in value, has a room full of stereo equipment bought with a little money and lots of bargaining skill.

Together, the boys have won bikes, and even a trip to Florida, as first prizes in contests run by their local paper to gain new subscribers. Through it all, they find plenty of time to watch television, see friends and play ball. But they sometimes wonder how others their age can accept allowances without doing any work.

Writer George Will recently observed: "For nations, as for individuals, character is destiny . . ." The members of this remarkable family know precisely where they are going: They are going up. And they also know why. They know that to succeed, besides hard work, they basically need only two things: The discipline to live within a budget, to live below their yearnings, and the wisdom to invest well for tomorrow, rather than to spend for today. As young David remarked, "If you looked at my shoes, you might think I was poor, but I'm not!"

Our government insists on the opposite spending approach. Do you think it just a coincidence that our economy is also headed in the opposite direction—down? Could it be, that all our government's greatest minds lack the simple common sense of a 12-year-old boy? ●

FIFTEENTH ANNIVERSARY OF THE ECONOMIC OPPORTUNITY ACT 1964

● Mr. NELSON. Mr. President, while the Congress is away on its August recess a very important and noteworthy anniversary will occur on August 20—the 15th anniversary of the signing of the Economic Opportunity Act of 1964.

It was in March of 1964 that President Lyndon B. Johnson transmitted to the Congress a message on poverty, in which the President proposed to declare a war on poverty. The Congress responded to this message with the enactment of the Economic Opportunity Act. This act, which has served as the primary vehicle for the Nation's antipoverty efforts, states in its declaration of purpose:

> It is therefore the policy of the United States to eliminate the paradox of poverty in the midst of plenty in this Nation by opening to everyone the opportunity for education and training, the opportunity to work, and the opportunity to live in decency and dignity. It is the purpose of this Act to strengthen, supplement and coordinate efforts in furtherance of that policy.

The Office of Economic Opportunity—OEO—was charged with carrying out and coordinating the Nation's antipoverty efforts. Programs such as Community Action, Head Start, Follow Through, the Job Corps, Legal Services and the Weatherization program, to name a few, were conceived of and developed by OEO. These programs have done much to open opportunities for the poor and to develop their capacities so that they might participate more fully and share in the resources and possibilities this Nation offers.

As the antipoverty programs grew and their successes were recognized congressional support increased. Many of these programs are now administered by other agencies of the Federal Government, including HEW, DOL, DOE, and the Legal Services Corporation. In 1974, the Congress created the Community Services Administration—CSA—as an independent agency to replace the OEO. CSA has continued to carry out the OEO mandate and further the Nation's antipoverty effort.

Mr. President, as we approach this 15th anniversary it is important to note some of the accomplishments of our antipoverty efforts.

THE NUMBER OF PEOPLE LIVING IN POVERTY DECLINES

Since 1959 the poverty rate for all persons has declined by approximately 15 million persons from 39 million poor in 1959 to 24 million at the end of 1977.

COMMUNITY ACTION SERVES AS THE FOUNDATION FOR OUR ANTIPOVERTY EFFORTS

At the heart of the Nation's efforts to eliminate poverty is the community action program. The community action concept—a community marshaling its own abilities, tapping State and Federal resources, recruiting professionals, and enlisting volunteers to solve the problems of its low-income citizens—is the basic Federal approach to local assistance programs for the poor.

Community action operates through over 880 community-action agencies—CAA's—located across the Nation. Over 14 million persons participate annually in these locally based and operated programs.

With administrative and other funds from the CSA, along with specific program grants from various Federal agencies, CAA's have combined ingenuity, resourcefulness, and hard work to combat poverty. In fiscal year 1978, the $369 million available for CAA local initiative funds enabled the CAA's to generate some $2 billion from Federal, State, and local sources for human service programs in their local communities.

HEAD START HAS DEVELOPED TO BECOME A MODEL FOR CHILD DEVELOPMENT PROGRAMS

Since its inception in 1965, Head Start has provided health, educational, nutritional, and social services to some 6 million children and their families in every State and territory.

In fiscal year 1979, Head Start served nearly 400,000 children, and it employed nearly 70,000 workers and enlisted the services of some 100,000 volunteers.

For 14 years the Head Start program has played a major role in focusing the attention of the Nation on the importance of early childhood development, especially in the first 5 years of life. In many ways, the program has had a dramatic impact on the child development field nationwide: Serving as a model for many other child development programs, public and private; pioneering in the delivery of health services to disadvantaged preschool children; focusing attention on the importance of parent involvement; and impacting on community efforts for low-income families.

In a recent GAO report, the Head Start program was cited as an example of the type of child development activities which warrant an increased national commitment.

LEGAL SERVICES PROVIDE ACCESS TO THE NATION'S SYSTEM OF JUSTICE

From a relatively small program within OEO, Legal Services has developed into a program which serves nearly three-fourths of the Nation's poor and has been established as a private, nonprofit corporation.

Today, access to legal services is a reality for more poor people than ever before. They now have a chance for justice in many places where none existed before.

During 1978, the funds provided by the Legal Services Corporation to local legal services programs enabled the local programs to provide minimum access to legal services for approximately 21 million of the Nation's poor. These programs handled some 1.4 million matters in 1978 and only about 15 percent resulted in litigation. The others were handled outside the courtroom through counseling, negotiation, and other means.

If Congress appropriates the necessary funds, the corporation's immediate goal of providing all the Nation's poor minimum access to legal services—defined as the equivalent of two attorneys for every 10,000 clients—will soon be met.

ENERGY CONSERVATION AND WEATHERIZATION—ANTI-POVERTY PROGRAMS SPEARHEAD THESE EFFORTS

Upon its own initiative and using previously appropriated funds, OEO/CSA originated a comprehensive weatherization and energy-saving program for the poor at the time of the fuel crisis in 1973. Community action agencies in my home State of Wisconsin were instrumental in the development of the weatherization program. Working through its network of CAA's, homes were weatherized—insulated, and made more energy efficient—using cooperatively purchased materials, as well as volunteers and job trainees. The national CSA Weatherization program proved so successful that the Department of Energy now has a weatherization program based on the concept developed by local community action agencies.

CSA also initiated an energy voucher subsidy program to test this method of providing the poor with money to buy fuel. For the past three winters, a program to provide the poor and the elderly with assistance in paying utility bills has been administered by CSA. In addition, the antipoverty programs have been among the first anywhere in the country to develop appropriate technology, active and passive solar energy-saving devices, revolving loan funds, crisis centers, and emergency fuel depots. The antipoverty programs will continue to play an active and crucial role in the Nation's efforts to cushion the impact of the energy crisis on the poor.

Despite the success of these efforts and programs, the country has not yet conquered poverty. As all of us are well aware, alleviation of the causes of and the problems associated with poverty has been frustrated by many factors: The commitment of vast amounts of the Nation's resources—human and financial—to another war, the war in Vietnam; our country's economic troubles; the attempts of a previous administration to dismantle the antipoverty programs; and, internal problems within the Community Services Administration itself.

All of these factors have left a gap in the goals we set forward 15 years ago and the reality today. But there has been some progress. The Congress again committed the Nation to making more progress in alleviating the problems of poverty when last year it reauthorized programs administered under the Economic Opportunity Act through fiscal year 1981.

Throughout the good times and the bad, we must not permit our Nation to give up in its antipoverty efforts, the pursuit of social justice. We as a nation must keep sight of who and what this effort is all about. In this way, the distance between where we are today and where ideally we wish to go can be narrowed.

As the 15th anniversary of the Economic Opportunity Act approaches, the words of President Johnson in his 1964 "Call to Action" provide wise advice on how to carry our struggle out. His advice should provide us all with a renewed sense of commitment and mission as we move forward into the 16th year of the Nation's antipoverty efforts.

CALL TO ACTION

> The war on poverty is not a struggle simply to support people, to make them dependent on the generosity of others.
>
> It is a struggle to give people a chance.
>
> It is an effort to allow them to develop and use their capacities, as we have been allowed to develop and use ours, so that they can share, as others share, in the promise of this nation.
>
> We are fully aware that this program will not eliminate all the poverty in America in a few months or a few years. Poverty is deeply rooted and its causes are many.
>
> But this program will show the way to new opportunities for millions of our fellow citizens.
>
> It will provide a lever with which we can begin to open the door to our prosperity for those who have been kept outside.
>
> It will also give us the chance to test our weapons, to try our energy and ideas and imagination for the many battles yet to come. As conditions change, and as experience illuminates our difficulties, we will be prepared to modify our strategy.
>
> And this program is much more than a beginning.
>
> Rather it is a commitment. It is a total commitment by the President, and the Congress, and this nation to pursue victory over the most ancient of mankind's enemies.●

SURFACE MINING AND THE PRESIDENT

● Mr. HATFIELD. Mr. President, Tuesday in coal rich Kentucky, President Carter said:

> We can burn twice as much coal in this Nation and not lower our environmental standards.

The President also emphasized the

need to remove duplicative and unnecessary paperwork, regulations, and redtape which hinder the development of coal, and to do this without detracting from high environmental standards.

I couldn't agree more. The Congress should join the President in accomplishing these objectives—in promoting synfuels, in encouraging research toward clean coal-burning technologies, and in reducing unnecessary regulations and redtape.

In fact each of these areas is being pursued: Synfuels fever has hit Capitol Hill and both the House and Senate are working toward fostering the development of shale oil, coal liquids, and coal gas; significant funding for clean, coal-burning technologies has been appropriated; and work is underway, albeit very slowly, to reduce duplicative and unnecessary paperwork and regulations which affect coal development.

I would like to discuss briefly this last aspect—unnecessary paperwork and regulatory overkill.

The Energy and Natural Resources Committee has recommended that the Senate pass three amendments to the Surface Mining Control and Reclamation Act of 1977.

The three amendments, now incorporated in S. 1403 and endorsed by 17 coal State Governors, remove redundant Federal regulations and allow the States to assume the primary role in reclamation programs—as Congress had originally intended. The amendments also extend the time for submission of State reclamation programs because of delays and excesses by the Federal Office of Surface Mining and delays in the appropriations process.

The President also spoke of "the separation between the American people and their government." Speaking to Kentuckians, President Carter said:

> We spend to much time reading Federal Government forms and regulations instead of listening to people like you.

Perhaps the President has seen the 550 pages of small print in the Federal Register which contains the Office of Surface Mining's voluminous rules and regulations.

Perhaps the President realizes that these excesses in regulation are depriving the States from the lead role they were promised.

Perhaps the President recognizes that Federal rules which go well beyond congressional intent, and the resulting breach of faith with the States, tend to separate the American people from their Government.

Perhaps. But I doubt the President has seen the excesses which he so roundly criticized Tuesday. And so I am delivering to the President a bound copy of all those Federal rules and regulations.

Just as importantly, I am excerpting for the President one of the primary goals of the Surface Mining Act—and I quote from section 101(f):

> Because of the diversity in . . . conditions in areas subject to mining operations, the primary governmental responsibility for developing, authorizing, issuing and enforcing regulations for surface mining and reclamation operations subject to this act should rest with the States.

And, I am recommending the President scan, for he certainly will not have time to read, the 115 specific and detailed environmental performance standards and reclamation requirements in the Surface Mining Act. That degree of specificity, uncommon in most Federal legislation, was incorporated with the intent that the environmental protections to be imposed on a national basis were to provide a uniform set of minimum standards for all surface mining operations.

To demonstrate the specific nature of these statutory reclamation requirements, I ask that I may insert at the end of my statement examples of the environmental performance standards found in the act. I am sure my colleagues will agree that exceedingly detailed standards such as these are not only uncommon in Federal law but also insure a consistent, well delineated minimum program from which the States can derive their programs.

In closing, let me reiterate my support for the President's objectives espoused in Kentucky this week. Those objectives call for greatly increased coal usage, retention of our high environmental standards, and action to reduce unnecessary paperwork and regulation. The surface mining amendments recommended by the Energy Committee on July 27 represent one of many actions essential in meeting their objectives.

The examples of standards follow:

EXAMPLES

(Examples of "Environmental Protection Performance Standards" (§ 515) found in the Surface Mining Act:)

Sec. 515(b)(3) except as provided in subsection (c) with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this Act): *Provided, however,* That in surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit, and the thickness of the coal deposits relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region: *And provided further,* That in surface coal mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and is revegetated in accordance with the requirements of this Act;

Sec. 515(b)(5) remove the topsoil from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation;

Sec. 515(b)(10) minimize the disturbances to the prevailing hydrologic balance at the mine-site and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by—

(A) avoiding acid or other toxic mine drainage by such measures as, but not limited to—

(i) preventing or removing water from contact with toxic producing deposits;

(ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;

(iii) casing, sealing, or otherwise managing boreholes, shafts, and wells and keep acid or other toxic drainage from entering ground and surface waters;

(B)(i) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable State or Federal law;

(ii) constructing any siltation structures pursuant to subparagraph (B)(i) of this subsection prior to commencement of surface coal mining operations, such structures to be certified by a qualified registered engineer to be constructed as designed and as approved in the reclamation plan;

(C) cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized; and depositing the silt and debris at a site and in a manner approved by the regulatory authority;

(D) restoring recharge capacity of the mined area to approximate premining conditions;

(E) avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

(F) preserving throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the country; and

(G) such other actions as the regulatory authority may prescribe.●

ADMINISTRATION OF THE DAVIS-BACON ACT MUST BE IMPROVED

• Mr. PERCY. Mr. President, in the last few weeks the Senate has defeated several attempts to reduce the scope of the Davis-Bacon Act. Legislation to repeal the act completely is also pending.

I agree with the principle behind the Davis-Bacon Act: Workers on federally funded construction projects should be paid no more or no less than other workers in the same geographic area doing the same work.

I am not convinced the Davis-Bacon Act should be repealed and I opposed all but one of the specific changes proposed recently in the Senate, including the Garn amendment to the Housing and Community Development Authorization Act and the Tower provision of the Military Construction Authorization Act which, respectively, would have waived Davis-Bacon's applicability to certain kinds of housing rehabilitation and to military construction.

The Senate did agree to change the dollar-cost threshold which triggers Davis-Bacon's applicability to federally financed or assisted construction projects, raising the existing $2,000 minimum to $10,000 for new construction while maintaining the $2,000 level for maintenance and repair work. I voted for this change, which reflects the increase in the Consumer Price Index since 1935 and the resulting necessity to update this aspect of the law.

While I do not support repeal at this time, I cannot support the status quo. Evidence gathered by the General Accounting Office, with which I work closely and for whose staff I have the greatest respect, shows serious problems in the administration of this act by the Department of Labor. No other conclusion can be drawn from the GAO's April 27 report but that implementation of the act must be improved so that it is fair to construction industry employers, employees, and—last but not least—the taxpayers who foot the bill for construction projects covered by the act.

Federally assisted construction is a big business in this country. According to the GAO, $37.8 billion was spent in 1977 on direct Federal or federally assisted construction spent by State and local agencies involving 600,000 prime and subcontracts and an estimated 22 percent of this country's 3.8 million construction workers.

Three separate, but not incompatible, sets of interest must be considered in the allocation of such a substantial amount of taxpayer funds:

The taxpayer's interest must be protected by our making sure that construction work paid for by the Federal Government is of the best quality for the most reasonable price;

The employer's interest must be protected by our making sure that the paperwork and other requirements are not so onerous as to discourage good contractors from bidding on public contracts;

The worker's interest must be protected by our making sure that he or she is fairly paid in comparison to privately employed workers on similar jobs in the area.

Congress can and must require of the Department of Labor, by legislation if necessary, an application of the law that balances these interests.

But Mr. President, the GAO report convinces me that there is a big difference between what Congress intended when it passed the Davis-Bacon Act and how it has turned out after nearly 50 years of administration by Republicans and Democrats alike.

The General Accounting Office has pinpointed for us the major flaw in the implementation of the act: The Department of Labor has yet to develop an effective program to issue and maintain accurate wage determinations. Current procedures provide no assurance that the rates stipulated actually "prevail," as required by law. GAO's review of 30 randomly selected projects covered by Davis-Bacon Act wage requirements and costing an estimated $25.9 million, showed that the majority of the rates issued by Labor were higher than the prevailing rates in 12 of the localities and lower in the other 18. In the 12 determinations where Labor's rates were higher, wage costs paid on the projects averaged 37 percent more than the comparable wage costs at rates prevailing in the localities. The higher wage costs ranged from a low of 5 percent to a high of 123 percent.

The cost to the taxpayer of such mistakes is overwhelming and completely unacceptable. The Secretary of Labor must take immediate and thorough action to remedy this problem. I understand that some work is already being done by the Labor Department and I urge the Secretary to take a personal interest in this matter so that Davis-Bacon will be properly administered as soon as possible.

Finally, Mr. President, I support a thorough review of the act by Congress. I am a great believer in the concept of "sunset" and have been working on behalf of its adoption in the Governmental Affairs Committee. No law is above review, especially when it is almost 50 years old. If the principle of Davis-Bacon can be carried out better by another law, then so be it. We should not hesitate to find out if this law is doing what it is supposed to be doing and whether its scope is still justified. I want to urge my colleagues on the Human Resources Committee to undertake such a review soon, and assure them I would be pleased to cooperate in any way.•

ARMS SALES AND HUMAN RIGHTS IN TAIWAN

• Mr. PELL. Mr. President, yesterday marked the expiration of the time period within which the Congress could have acted to prohibit certain arms sales to Taiwan under the Arms Export Control Act. In the absence of such a congressional prohibition, these arms sales will take place.

I did not object to these sales, because I believe that the United States must, in this delicate period following the normalization of relations with mainland China, demonstrate its determination to help Taiwan defend itself against potential attack from the mainland. At the same time, the government on Taiwan should not interpret the Congress acquiescence in these arms sales as an endorsement of the domestic policies pursued by the governmental authorities on Taiwan, in particular their violations of human rights.

In this connection, I would like to remind my colleagues that the Taiwan Relations Act contains a provision that I authored stating:

> The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

In my view, this provision has direct relevance to the question of arms sales to Taiwan, because we should not be supplying arms to Taiwan for use against its own people.

I am deeply concerned about the deteriorating human rights situation on Taiwan, and I would like to cite a few examples of recent actions that have aroused my concern.

First. Last December, immediately after President Carter announced his decision to recognize mainland China, the Taiwanese Government canceled elections. Those elections have not been rescheduled, and there are no indications that they ever will be.

Second. Shortly after we established relations with mainland China this past January, the Taiwanese Government moved against opposition leaders, particularly native Taiwanese. For example, Yu Teng-fa, a 77-year-old native Taiwanese opposition leader was arrested on sedition charges because he announced that he planned to convene a convention of opposition leaders. Also another opposition leader, Hsu Hsin-liang, was suspended as mayor of a native Taiwanese community; and a third prominent opposition leader, Shi Ming-teh has gone into hiding.

Third. Finally, I have been informed that the Taiwanese Government is actively considering a new law that would seriously infringe on religious rights in Taiwan. Under this proposed law, the Government could control all communications between a religious group and its members and could take action against a religious group engaging in acts considered as against the "public interest"—a term that is not clearly defined in the draft legislation.

I earnestly hope and urge that the Taiwanese Government will correct these actual or prospective abuses of human rights. I, as much as any other Members of the Senate, want to see the United States remain a firm friend of the people on Taiwan so as to help insure that Taiwan is not taken over by Peking. At the same time, I hope we have learned from events in Iran and Nicaragua that our interests are not served by ignoring human rights violations. In my view, the mainland descendants of Chiang Kai-shek will one day relinquish power to the native Taiwanese, and it is in the American interest to demonstrate now that we are the friends of the native Taiwanese.

It is also in the interest of the descendants of the mainland Chinese who came to Taiwan after World War II to forge amicable relations with the native Taiwanese majority. For it would serve no one's interest to further divide the ethnic communities that co-inhabit the island of Taiwan and therefore give Peking a pretext for invading Taiwan to "restore order".●

UNICEF'S FINANCES

● Mr. PERCY. Mr. President, most of us read the June 17 article in the Washington Post claiming that the United Nations had excess funds in reserve at a time when it was claiming it had a deficit. UNICEF was also mentioned in the article which said that it maintains a reserve much larger than is actually necessary. I would like to bring to the attention of my colleagues UNICEF's response to that article, and I ask that it be printed in the Record.

The material is as follows:

United States Committee for UNICEF,
New York, N.Y., June 19, 1979.
Letters to the Editor,
Washington Post,
Washington, D.C.

To the Editor: Obviously Ronald Kessler in his June 17th article misunderstood the facts about how the United Nations Children's Fund works. What he incorrectly designates as "excess money" is in fact a revolving fund of working capital essential to the effective operation of the organization for which the requirements are set by the 30-nation UNICEF Executive Board. The U.S. Government is an active member of that Board.

In fairness to Mr. Kessler, I must acknowledge that his error is one of the most common in dealing with the financial aspect of public issues—confusing temporary cash flow positions with actual surplus.

The fact is that against $131 million on hand on December 31, 1977, UNICEF was faced with outstanding commitments to programs of $304 million, mainly for delivery in 1978 and 1979. Moreover, against the cash on hand figure were $9 million in accounts payable and other unliquidated obligations, $33 million in contractual obligations for supplies and equipment, and $26 million in funds-in-trust which do not belong to UNICEF.

Far from having more money than necessary, UNICEF at the end of 1977 had projects for services to children noted by the Board as suitable for funding in the amount of $55 million. It did not have the resources to fund these projects and was seeking special contributions for them. As of this date UNICEF has a total of over $100 million of such approved projects awaiting funding.

Because UNICEF is financed not by assessments but by voluntary contributions, the amount of future revenues is never assured, nor are the dates of receipt. UNICEF cannot borrow money; neither does it have access to any government treasury.

Nevertheless, since UNICEF's long-term commitments to more than 100 developing countries (often running as long as five years ahead) help support larger programs of those governments to benefit children, the agency must be able to supply its input when needed. To do so, it must be ready to pay promptly for the necessary supplies and equipment. That is why the organization must always have sufficient resources on hand to meet future expenditures; in 1978, UNICEF's monthly expenditures average $14 million. UNICEF each year publishes its annual financial report giving a full disclosure of its financial position, which is available to the public.

In recent years, UNICEF's cooperation with governments for child-assistance programs has expanded, and consequently its expenditures have increased substantially, necessitating a comparable increase in funds-in-hand. These funds are drawn on, among other needs, to meet the excess of expenditures over revenue that usually occurs during the first four months of each year. In 1978, this use amounted to $8 million. During 1979, it amounted to $34 million, which in itself illustrates the range of difference between expenditure and revenue that the UNICEF financial system has to be prepared to meet.

Two-thirds of the world's children, the neediest one billion, live in the developing countries where UNICEF works to improve their health, nutrition and education. The generous contributions of the United States Government and of those millions of Americans who participate in Halloween collections and other fund-raising programs, including the purchase of UNICEF cards, help make the Children's Fund possible.

It would be tragic indeed for those children, and for the future peace of the world, if confusion growing out of Kessler's misreading of UNICEF's financial situation should diminish our contributions by a single dollar.

Sincerely,
Datus C. Smith, Jr.,
President.●

WASHINGTON, CITY OF TREES

● Mr. LEAHY. Mr. President, as chairman of the Appropriations Subcommittee on the District of Columbia and a member of the Committee on Agriculture, Nutrition and Forestry, I was pleased to learn recently that at long last a book is being written that will capture the rich history of the trees of our Nation's Capital.

I was also happy to learn that the authors, Melanie Choukas-Bradley and Polly Alexander, are from my home State of Vermont.

Tentatively entitled "Washington, City of Trees," their forthcoming book will trace a truly important story. The tale of Washington's trees does not end with our famous flowering cherries from Japan. Right here on the Capitol Grounds, alone, are more than 3,000 trees from all over the country and the world. Many of them commemorate important people and events that are central to this Nation's history. The official State trees of 32 States and the District of Columbia, including the sugar maple from my home State of Vermont, are planted here on the Capitol Grounds.

Dozens of trees planted by U.S. Presidents as far back as John Quincy Adams stand on the White House Grounds. And down the Potomac at Mount Vernon several trees survived that were planted by George Washington.

In addition to providing important historical information, this book will also serve as a botanical guide to the cultivated trees of Washington. Apparently, the trees of the District of Columbia are as interesting botanically as they are historically. Several hundred species are present here, including scores of exotics from Asia, Europe, and other parts of the globe.

"Washington, City of Trees" will be published in the fall of 1980 by EPM Publications of McLean, Va., the same publisher responsible for the beautiful bicentennial book, "These United States" by Hugh Sidey and Fred Maroon. Work on the book is being supported by a grant from the American Forest Institute and the project has the enthusiastic support of the president of the U.S. Capitol Historical Society, former Iowa Congressman Fred Schwengel.

I certainly look forward to the publication of this book, which will prove invaluable for both D.C. residents and our many visitors from the 50 States. For the information of my colleagues in the Senate, I submit for the Record a list of the official State trees which are planted on the Capitol Grounds.

There being no objection, the list is ordered to be printed in the Record, as follows:

State Trees

California, Giant Sequoia (*Sequoiadendron Giganteum*).

Colorado, Blue Spruce (*Picea pungens*—on Library of Congress grounds).

Connecticut, White Oak (*Quercus alba*).

Delaware, American Holly (*Ilex opaca*).

District of Columbia, Scarlet Oak (*Quercus coccinea*).

Illinois, White Oak (*Quercus alba*).

Indiana, Tulip Tree (*Liriodendron tulipifera*).

Iowa, Oak (*Quercus species*).

Kentucky, Kentucky Coffee Tree (*Gymnocladus dioicus*).

Louisiana Baldcypress (*Taxodium distichum*).

Maine, White Pine (*Pinus strobus*).

Maryland, White Oak (*Quercus alba*).

Massachusetts, American Elm (*Ulmus americana*).

Michigan, White Pine (*Pinus strobus*).

Minnesota, Red Pine (*Pinus resinosa*).

Mississippi, Southern Magnolia (*Magnolia grandiflora*).

Missouri, Flowering Dogwood (*Cornus florida*).

New Jersey, Northern Red Oak (*Quercus borealis*).

New York, Sugar Maple (*Acer saccharum*).

North Carolina, Pine (*Pinus* species) NOTE: Flowering Dogwood (*Cornus florida*) is North Carolina's state flower.

North Dakota, American Elm (*Ulmus americana*).

Ohio, Ohio Buckeye (*Aesculus glabra*).

Oklahoma, Redbud (*Cercis canadensis*).

Oregon, Douglas-fir (*Pseudotsuga menziesii*).

Pennsylvania, Eastern Hemlock (*Tsuga canadensis*).

Rhode Island, Red Maple (*Acer rubrum*).

Tennessee, Tulip Tree (*Liriodendron tulipifera*).

Texas, Pecan (*Carya illinoensis*).

Utah, Blue Spruce (*Picea pungens*—on Library of Congress grounds).

Vermont, Sugar Maple (*Acer saccharum*).

Virginia, Flowering Dogwood (*Cornus florida*).

West Virginia, Sugar Maple (*Acer saccharum*).

Wyoming, Sugar Maple (*Acer saccharum*).●

50TH ANNIVERSARY OF THE INAUGURATION OF HERBERT HOOVER AS THE 31ST PRESIDENT OF THE UNITED STATES

● Mr. HATFIELD. Mr. President, often in the course of political events we find ourselves so surrounded by critics at home that we forget that foreign opinion can offer useful insights about our struggles. For these outside observers are blessed with the luxury of detachment and frequently the absence of predilection.

In a series of essays I am submitting to commemorate the 50th anniversary of Herbert Hoover's inauguration, we have heard so far from writers who have examined our 31st President from within our borders. Benjamin Rhodes, a professor in the University of Wisconsin's College of Letters and Sciences, offers us a new perspective in his analysis of the commentaries of British diplomats who were Hoover's contemporaries.

While I take exception with much of the negativism in the British view, I know Professor Rhodes' essay provides a helpful slant on the assessment of the Hoover Presidency.

Owing to Hoover's humanitarian success in Europe, Russia, and the United States, British opinion of Hoover was generally favorable prior to 1929. But, according to Professor Rhodes, the tone of British views then began to take an increasingly bitter turn. As one retiring British ambassador theorized, Hoover was confronted with the problem of "how to keep new wine in an old bottle without either damaging the taste of the old wine or bursting the bottle." Unhappily, as we all know, the bottle soon burst.

Because this essay gives us a new foundation for examining the problems confronting the Hoover Presidency, I commend it to my colleagues and other readers of the Record.

Mr. President, I submit the following copy of the essay, along with a biographical summary of Professor Rhodes, for the Record.

There being no objection, the essay was ordered to be printed in the Record, as follows:

Vita Sheet

Benjamine D. Rhodes, Professor of History, University of Wisconsin–Whitewater, Whitewater, Wisconsin.

I. EDUCATION

Degrees, year granted, and institution:
B.A., 1958, University of Colorado.
M.A., 1961, University of Colorado.
Ph.D., 1965, University of Colorado.

II. PUBLICATIONS

Date, title, and journal:

March, 1969, "Reassessing 'Uncle Shylock' " the United States and the French War Debt, 1917–1929," Journal of American History.

January, 1972, "The Origins of Finnish-American Friendship, 1917–1941," Mid-America.

Summer, 1974, "Herbert Hoover and the War Debts," Prologue: The Journal of the National Archives.

Summer, 1977, "Anglophobia in Chicago: Mayor William Hale Thompson's 1927 Campaign against King George V," Illinois Quarterly.

Spring, 1978, "The British Royal Visit of 1939 and the 'Psychological Approach' to the United States," Diplomatic History.

British Diplomacy and "Sir Herbert" Hoover, 1920–1933

When Herbert Hoover was first mentioned as a presidential possibility in 1920, he was widely regarded as a miracle worker due to his achievements as an engineer and humanitarian. But among superpatriots and Anglophobes, "Sir Herbert" was viewed with intense suspicion because he had spent much of his adult life residing in the British Empire. When asked in 1920 to characterize his political views, Hoover replied that he was a "liberal," and as a consequence was denounced for being so anglicized that he did not even know the names of the American political parties. As President, after he was unjustly blamed for the world-wide depression, critics continued to vilify Hoover as a man who was more loyal to England than America. British diplomatic observers of Hoover's career, however, emphatically rejected the notion that Hoover was an uncritical admirer of Britain. During his early rise in American politics, Hoover appeared to the British as a man of intense individualism, energy, and intelligence, but without conspicuous political gifts. However, following the abrupt and unavoidable decline in Hoover's reputation after 1929, British observers concentrated more and more upon his political and temperamental limitations.

Hoover first became a factor in American politics in the spring of 1920. British Chargé d'affaires Ronald Lindsay reported that Hoover was the only prospective candidate to appeal to the imagination of the American people. "The public," Lindsay explained, "is fairly tired of politicians and looks on him as a man who gets things done, and it is generally supposed that his work on relief in Europe during the war has secured him the enthusiastic support of every woman voter in America." Nevertheless, Hoover was not without shortcomings. "Personally," noted Lindsay "he is not of prepossessing appearance, and he has an unpleasant hang-dog manner that really does him injustice. He is a very bad speaker to a crowd and a good talker to a deputation." [1]

With Democratic fortunes at low ebb a Hoover candidacy appeared the only chance for a Democratic victory. But in "an extremely adroit" statement, Hoover announced that he was a Republican and indirectly declared his candidacy for the Republican nomination.

Yet, in spite of the spontaneous appearance of "Hoover Clubs" and his support by "the best elements in the country," Hoover remained a dark horse. "It seems to me very doubtful," concluded Lindsay, "whether the Republican convention will be so susceptible to the influence of public opinion as to select so independent a personality as Mr. Hoover as their candidate, especially in an election whereby present appearances they will not be under the imperative necessity of polling every vote they can." [2] Lindsay's judgment was vindicated when at Chicago the Republican leaders ignored Hoover and engineered the selection of Ohio Senator Warren G. Harding. The result was well summed up by the new British Ambassador, Sir Auckland Geddes: "Heat and funk were the entwined sensation and emotion which at the end nominated Harding and rejected Hoover with apparent contempt." [3]

Eight years as Secretary of Commerce removed Hoover from the day-to-day scrutiny of British officialdom, except when his activities touched upon foreign policy. His efforts to expand American foreign trade and the American merchant marine (at the expense of Britain) were duly, if unenthusiastically, reported.[4]

Moreover, Hoover did not endear himself with the British by sponsoring what were felt in Britain to be less than generous terms for the repayment of the $4.6 billion British war debt to the United States. In 1922 President Harding appointed Hoover to the five-member World War Foreign Debt Commission which had been created by Congress with instructions to collect within 25 years the $10.3 billion in foreign loans made during and after World War 1 at 4¼ per cent interest.

Prior to the arrival of a British debt mission in early 1923, Sir Auckland Geddes prepared for the Foreign Office a confidential analysis of the strengths and weaknesses of the American negotiators. In a highly critical portrait, the ambassador described Hoover as "extremely anti-British and also anti-European." Hoover was characterized as "intensely egotistical and impatient of contradiction," as one who did "not work well as one of a team," and as lacking in "sound" financial views. "He is not," reported the ambassador, "a facile speaker either on the platform or in committee."

Basically Geddes saw Hoover as an opportunist with "his eyes firmly fixed on the White House." Hoover's strategy for achieving his ambition was to ingratiate himself with the business community while awaiting some "dramatic opportunity" for presenting his candidacy to the public.[5]

The apparent explanation for the ambassador's ire was a speech Hoover had delivered at Toledo on October 5, 1922, in which he opposed war debt cancellation and had vaguely suggested that any American concessions on debts should be balanced against the adoption by Europe of favorable economic and armament policies. Actually, the ambassador's hostility was unjustified since Hoover was one of the most farsighted of the American debt commissioners. A few months earlier he had privately suggested to the Debt Commission that the United States cancel the loans made prior to the Armistice (about $7 billion) or alternately cancel all interest on the entire amount of $10.3 billion.

However, his more politically experienced colleagues protested that Congress would never approve such proposals. By the time of the British negotiations, in January 1923, Hoover had modified his position in light of the political realities, and now opposed any cancellation of principal. Instead, he favored reducing the British interest rate from 4¼ per cent to a 3.3 per cent as the only practical method of convincing Congress to approve the settlement.

No doubt Hoover was correct when, in his Memoirs, he observed that the British debt "should have been reduced still further." [6] However, if Hoover was not blameless for having agreed to a debt settlement which soon proved unworkable, British officials such as Sir Auckland Geddes were equally responsible for the blunder by urging the British government to assume an unrealistic burden.

Far more favorable in his assessment of Hoover was Sir Esme Howard who became British Ambassador to the United States in 1924. As early as January 1927, when the political plans of Calvin Coolidge were still unknown, Howard predicted that the most likely Republican prospects were Hoover, former Illinois Governor Frank Lowden (the farmer's candidate), and Speaker of the House of Representatives Nicholas Longworth of Ohio.[7] President Coolidge's "political bombshell" of August 2, 1927, in which he announced: "I do not choose to run for President in 1928," enormously enhanced Hoover's position, since he would not have to challenge an incumbent president. Good fortune assisted Hoover in seeking the nomination as no strong opponent appeared against him. His chances were also indirectly assisted by the dislike demonstrated toward him by Wall Street, which translated paradoxically into support for Hoover in the farm belt. And Hoover's strong showing in the primaries left the reluctant party leaders with little choice but to accept him.[8]

Hoover, thought Ambassador Howard, enjoyed several advantages in his campaign against the Democratic nominee, Governor Alfred E. Smith of New York. One major asset was his national reputation as a master administrator and added to that was his popularity in the South for having efficiently organized a program of relief in the Missis-

---

Footnotes at end of article.

sippi Valley during the spring floods of 1927. His principal weakness as a campaigner was his lack of "personality which plays such a large part in the decisions of the average American voter." Moreover, Hoover was "an exceptionally bad orator" and in this respect was at a severe disadvantage in comparison with his Democrat opponent. It was just possible, thought Howard, that Smith might through his speaking skill capture the imagination of the nation.[9] But in the end, although Smith captured much of the campaign publicity, Hoover got most of the votes.

What sort of man had the nation selected as President? For the most part, Sir Esme Howard was genuinely impressed by Hoover's character and accomplishments and regarded him as a fit representative of American vigor and idealism Hoover was a man shaped by "strong natural traits," by a Quaker upbringing, and by his scientific education. He was a man characterized by "complete self-reliance and belief in himself and his country, an immense power of work and talent for organisation, a hatred of what he terms the 'European frozen strata of classes,' and of tyranny in any form which prevents completely free development of an individual who has merit above his fellows." Another of Hoover's assets was his wife, who possessed "all the qualities which her distinguished husband lacks, social charm, intelligent conversation and direct human sympathy with others, as opposed to the rather mechanical and philosophical sympathy of her husband."

But, because he was mortal, he had human weaknesses, many of which were serious liabilities for a politician:

> His principal limitation is, I am inclined to think, a contempt for what he does not understand and therefore has no sympathy with. His mind runs on definitely concrete lines, he is very sure that he is in the right, and he is therefore inclined to give no consideration to, and to ride roughshod over, imponderabilia which, however, may be of immense importance to others.
>
> Further, he is said to be almost painfully susceptible to personal criticism of his own actions, which is not likely to make the White House a bed of roses for him, nor perhaps for his staff.
>
> Lastly, he is lacking entirely in those lesser graces of life which, in a man in the position of President of the United States, help to make the wheels of the machine around him run more smoothly. These, again, he appears to despise as part and parcel of the European system. He can nevertheless, inspire his immediate followers with an affection which savours of hero worship, and I have heard his wonderful success at the late election attributed to the band known as Hoover's young men, who worked with him in Belgium, Russia and the Mississippi Valley, and would go through fire and water for him. This quality must be remembered in endeavoring to make an estimate of him.

Regarding Hoover's attitude toward Britain, the ambassador could find no solid evidence that he was anti-British. "I think," he added, "that he is without prejudice for or against any particular foreign country, though he has a general prejudice against all foreign countries which he shares with most of his countrymen."[10]

Hoover's administration began auspiciously enough. His inaugural address, although "lacking in the particular gift likely to stir the blood of an audience," left Ambassador Howard "well satisfied." His program and cabinet appeared to be adequate and he established a cordial realtionship with the press by permitting himself, unlike his predecessor, to be quoted verbatim.

Hoover's greatest strength lay in his popularity throughout the country, and he appeared ready "to tackle" problems as they arose "in a bold spirit of statesmanlike efficiency." In foreign affairs Hoover also presented a pleasing prospect as he was likely to demonstrate greater leadership and take a broader view than Calvin Coolidge. The greatest problem confronting Hoover and the country, observed Howard on the eve of his retirement, was "how to keep new wine in an old bottle without either damaging the taste of the old wine or bursting the bottle."[11]

The bright promise of the Hoover administration was quickly shattered by the bursting of the economic bottle only half a year after he took office. At first however, British observers underestimated the seriousness of the economic damage. As 1929 ended the Commercial Secretary of the British Embassy found the economic atmosphere to be "reassuring."

Hoover, as reported by Secretary of Commerce Robert P. Lamont, hoped to confine the period of business recession to three months and there was "a feeling abroad already that the country has weathered the storm, and that industry will proceed steadily towards recovery."[12] Such optimism soon proved ludicrous. Sir Ronald Lindsay, who arrived as the new British Ambassador in January, 1930, having previously served in Washington as Second Secretary and First Secretary, observed that Hoover was experiencing "increasing difficulties." Conceding that it was normal for a president to lose some popularity during his first year in office, Lindsay detected a disastrous collapse in Hoover's prestige as the depression deepened.

Hoover's primary shortcoming, felt Lindsay was a striking lack of political skill, and he found Hoover, when confronted by the "complete and perfect unreason [of] pure American politicians" to be "dumbfounded and struck with impotence."[13] Hoover's political effectiveness was not enhanced by his "ungainly mannerisms and inability to ingratiate himself, nor by his personal distaste toward such necessary but unpleasant tasks as enforcing party discipline."

Nevertheless, Lindsay never questioned Hoover's basic intelligence and administrative ability, noting that the President possessed a "remarkable genius for organization and an immense grasp of detail." What Hoover had to learn was "to hit back and to show his teeth both to his open enemies and to his disloyal friends."[14]

One hopeful example of presidential leadership noted by Lindsay was Hoover's attempt to improve American relations with Latin America through the publication of the J. Reuben Clark Memorandum which denied that America possessed any right to intervene in Latin America under the Monroe Doctrine.[15] A few months later, however, Hoover disappointed Lindsay by signing the protectionist Hawley-Smoot Tariff Act and by so doing "he let slip a splendid opportunity for proving that his relationship with enlightened opinion was not purely platonic."

It was the ambassador's opinion that the extremely inactive role taken by Hoover during the tariff debate would be interpreted in Congress and throughout the country as evidence that he lacked the "fibre necessary for leadership."[16] Nor was Lindsay impressed by Hoover's rather passive role in the 1930 congressional elections in which the Democrats gained almost a tie in both houses of Congress.

The President confined his efforts to making several "long and rather dull speeches," but failed to "appeal to the imagination of the people as a politician." However, Lindsay did not view the Republican setback as necessarily fatal to Hoover's reelection chances in 1932, recognizing that tradition favored the party out of power during midterm elections, and that a revival of the economy might resurrect Hoover's fortunes.[17] But for the moment the economic outlook was bleak. Despite Hoover's predictions of improved business conditions, the economy by the autumn of 1930 remained mired "in a state of depression unrelieved by any tangible indications of a change for the better."[18]

Lindsay's disillusionment with Hoover's leadership progressively deepened during 1931. Hoover, the ambassador conceded, was "capable, hardworking, and efficient," but his personality remained devoid of political "charm." Fundamentally Lindsay lacked confidence that Hoover's program of modest spending upon public works and loans to farmers would succeed in reversing the deflationary cycle and restore public confidence.

Moreover, Lindsay found it difficult to comprehend Hoover's unrelenting opposition to a federal dole to the destitute. Hoover, he believed, was "ignoring practical difficulties" by insisting that the cost of relief must be met by the states and private charity. How, he asked, were poor southern states to contend with the burden of unemployment and natural catastrophes? To the ambassador it was "becoming more and more evident that nothing but a return of prosperity is likely to bring about his re-election."[19]

Then on June 20, 1931, Hoover dramatically proposed a one-year moratorium on war debts and reparations. Initially Lindsay viewed the moratorium, which would postpone approximately $160 million in British war debt payments, as a turning point in the fortunes of the Hoover administration. But within a few months, Lindsay's pessimism had returned as Britain was forced off the gold standard and as American bank failures and unemployment continued their runaway course.[20]

Also discouraging to the ambassador was Hoover's 1931 State of the Union address in which he placed the blame for the depression largely upon European economic dislocations and the Democrats in Congress. It was evident, he concluded, "that even the few who still hoped for inspiration and leadership from Mr. Hoover are disappointed."[21]

Even less enthusiastic about the President's ability was the British Embassy's Counselor F. D. G. Osborne, who regarded Hoover as "embarrassed and irresolute, helpless and unhelpful, inspired with admirable intentions, but otherwise meagrely equipped to deal with the complexities of a situation that would daunt any man alive. He would appear to be patently and pathetically unequal to the responsibilities of his office and his time, even when making due allowance for the handicaps of the American political system."[22]

Lindsay's feeling of despair was further accentuated by the undisciplined performance of Congress when it assembled in December, 1931. An immediate disappointment was the overwhelming congressional hostility to Hoover's statesmanlike request that the World War Foreign Debt Commission be recreated in order to make temporary adjustments in the outdated war debt agreements of the twenties.

Venting his frustration in caustic dispatches to the Foreign Office, Lindsay contended that "Congress has given an exhibition of irresponsibility, buffoonery and ineptitude that could hardly be paralleled in the Haitian legislature." Having "proved unequal to its responsibilities and the needs of the country," Congress offered a prospect that could only be appreciated by "such critics of democracy and representative government as Messrs. Mussolini and Stalin." Should the congressional farce continue, observed Lindsay, "it will achieve the miracle of gaining Mr. Hoover some measure of sympathy." As 1931 ended Lindsay had succumbed to what he described as "an atmosphere of unrelieved gloom, in which the dark and menacing clouds are illuminated only by flashes of panic apprehension."[23]

A brief ray of hope for the Hoover adminis-

Footnotes at end of article.

tration appeared in early 1932 when Congress approved the creation of the Reconstruction Finance Corporation. It was a "bold and constructive" development, reported Lindsay, an indication that Congress had finally "appreciated the seriousness of the situation" and had "temporarily abandoned its exploitation for party purposes."[24] But the ambassador was distinctly unimpressed by Hoover's message to Congress upon the subject of improving law enforcement. He found it to be "not a very inspiring document" and indicative of "Mr. Hoover's hesitancy and evasiveness and his reluctance to face disagreeable facts." Unfortunately for Hoover, it was characteristic of his chronic "ill-luck" that no sooner had he conceded the need for an improvement in law enforcement than the nation was shocked by the brutal Lindbergh kidnapping.[25] By the end of March 1932, Lindsay's hopes for an economic revival were once again disintegrating. Amid continued bank failures, unemployment, and industrial stagnation, he could detect "no signs of business recovery." The nation's economy, he feared, was "incapable of rallying from a condition of physical coma and moral despair."[26] A month later he candidly remarked that he had been expecting "bread riots" for the past three months and warned that such outbreaks were to be considered likely during the presidential campaign.[27] As the economic collapse intensified, Lindsay wrote with alarm of "the national bankruptcy in single-minded, constructive leadership" and predicted that the reelection of President Hoover was "very unlikely."[28]

When the Republican Convention met at Chicago the result was entirely predictable as the party adopted a conservative platform and renominated Hoover for a second term. ("Don't change toboggans in the middle of the slide" could have been his slogan, Lindsay remarked.) The ambassador has expected the Republican convention to be "dull, and this expectation was not disappointed." However, he was tremendously pleased by the absence in the platform of any pledge to collect the war debts thereby implying that Hoover, if reelected, might enjoy a free hand.[29] The Democrats, contrary to Lindsay's predictions, managed to avoid a convention deadlock and in Governor Franklin D. Roosevelt selected an "experienced and skillful campaigner." In Lindsay's judgment, Roosevelt's chances were excellent against the "awkward, undramatic Hoover, whose speeches, even on the wireless, are monotonous and uninspiring." Republican attempts to distract attention from the depression by portraying Roosevelt as a radical who intended to lead the country "down the slippery slope to red ruin," did not strike the ambassador as very convincing. Besides, added Osborne, Roosevelt's birth, training, and political career appeared to the voters as anything but radical. What did interest the electorate argued Lindsay, was the hard fact of the depression which could be expected "to influence the voter irresistibly against the present Administration."[30]

From the viewpoint of the British Embassy little went Hoover's way during the campaign. In the first place he was discredited by ordering the armed eviction from Washington of the Bonus marchers—veterans of World War I who were seeking immediate payment of a government bonus not due until 1945. The action, felt Osborne, gave the impression that Hoover had surrendered to panic. Moreover, the President erred further by "trumping up unconvincing charges of criminality and retailing blood-curdling stories of impending revolution, and broadcasting them through Administration spokesmen." The effect was the opposite of what had been intended, arousing sympathy for the men and creating "suspicion and resentment towards the President."[31]

The President's campaign speeches, in the opinion of the embassy, proved another serious liability. Even Hoover's acceptance speech, it was reported, won only "slight applause" from the Republican delegates, in part because of a malfunctioning loudspeaker system which made the speaker's words difficult to follow. Osborne, who was present, noted Hoover's wooden speaking style and "pathetic insulation from the emotion of his audience and his incapacity to respond in any way." The lack of Republican enthusiasm also seemed attributable "to the dispiriting influence of Mr. Hoover's personality, his unprepossessing exterior, his sour, puckered face of a bilious baby, his dreary, nasal monotone reading interminably, and for the most part inaudibly, from a typescript, without a single inflection or gesture to relieve the tedium."[32] Originally Hoover had planned to campaign over the radio (a decision reflecting his lack of personality) while remaining at the White House "saving the country."[33] However, his advisors persuaded him to take the offensive and, in a fighting and effective series of speeches, the President appeared to be "getting the better of it" toward the end of the campaign.[34] Still, according to the estimate of Sir Ronald Lindsay, it would take a miracle to prevent Hoover's defeat. Personally, Lindsay hoped for a Democratic victory and the passing of Hoover's "American system," which he characterized as "the alliance between the Republican Old Guard and the big bankers and industrialists . . . and the political philosophy and economic structure which derives from this alliance and which has been described as economic feudalism." Unless the country was able "to let off steam" by ousting Hoover, concluded the ambassador, "I should fear some other and more violent and painful explosion in the absence of a highly improbable early amelioration of conditions."[35]

The predicted Democratic victory left the Republican Party "decimated" and placed Hoover in the unenviable position of being a "lame duck" president for a dismal four months.[36] The British focus was now on the President-elect rather than on the White House. Hoover and the discredited Congress, in view of their tenuous status, received cursory and unsympathetic treatment.

Hoover's State of the Union message was dismissed as being of only "academic interest," while Congress, Lindsay wrote in January, 1933, had "unmistakably surpassed its 1932 record for futility and impotence in the face of the national emergency."[37] The final discrediting of Hoover came as he departed from office, "in the tradition of Greek tragedy," amid a collapse of the nation's banking system, an apparent "final visitation of the tribulation of the gods."

Having "imprudently promised a materialistic Arcadia," Hoover retired "with agriculture prostrate, industry paralysed, banking in collapse, unemployment at an unprecedented height, and human distress and disillusionment gripping the country from coast to coast."[38] In British eyes, Hoover left Washington totally discredited and his administration was superciliously dismissed as "the fearful, furtive fumbling of the Great White Feather."[39]

Had times remained prosperous there is no reason to think that Hoover would not have received at least passing marks from British observers. Given the catastrophe of 1929–1933, the collapse of Hoover's reputation in British eyes was simply inevitable. Until the disintegration of the economy, British criticisms of Hoover's performance and personality were at least rational.

Moreover, a great deal of what was reported emphasized his undeniable strengths: his vigor, organizational ability, and his commendable desire to foster American individualism. By 1932, however, any pretext of objectivity was abandoned and the Washington embassy, displaying a notable lack of sporting instinct, maintained an eager watch for signs of failure.

Surely there was much exaggeration, pomposity, and childishness in the British assaults on Hoover after 1932 and the British were hardly fair in assessing the immense political and economic difficulties confronting Hoover as he sought to grapple with the worst economic setback in modern history; but they did demonstrate clearly Hoover's weaknesses as a politician. If the British diplomats failed to produce any profound revelations concerning Hoover's character and career, they at least laid to rest the myth that he was flagrantly pro-British and therefore disloyal.

FOOTNOTES

[1] Lindsay to Lord Curzon of Kedleston, February 19, 1920, FO414/246/A1054, Public Record Office, London, England (hereafter cited as PRO).

[2] Lindsay to Curzon, March 12, 1920, FO414/246/A1638, *ibid.;* Lindsay to Curzon, April 1, 1920, FO414/246/A2150, *ibid.*

[3] Geddes to Curzon, July 13, 1920, FO414/246/A5171, *ibid.*

[4] Geddes to Curzon, June 3, 1921, FO414/247/A4208, *ibid.;* Henry G. Chilton to Curzon, November 9, 1923, FO414/252/A6792, *ibid.*

[5] Geddes to Curzon, October 17, 1922, FO371/7283/A6613, *ibid.* "In view of the confidential nature of this report and the sources from which parts of it have been obtained," noted the ambassador, "I venture to ask that it may not be given any circulation beyond the communication to the British Delegates of the two specially prepared copies enclosed."

[6] Herbert Hoover, *Memoirs of Herbert Hoover* (New York, 1951–52), II, 177–78. For the background of Hoover's changing views on the debts see Benjamin D. Rhodes, "Herbert Hoover and the War Debts, 1919–1933," *Prologue: The Journal of the National Archives* 6 (1974): 130–144.

[7] Howard to Sir Austen Chamberlain, January 27, 1927, FO414/259/A795, PRO.

[8] Howard to Chamberlain, August 5, 1927, FO414/260/A4793, *ibid.;* Howard to Chamberlain, March 20, 1928, FO414/261/A2437, *ibid.;* Howard to Chamberlain, May 8, 1928, FO414/261/A3350, *ibid.*

[9] Chilton to Chamberlain, June 29, 1928, FO414/262/A4691, *ibid.*

[10] Howard to Lord Cushendun, November 16, 1928, FO414/262/A8126, *ibid.*

[11] Howard to Cushendun, November 23, 1928, FO414/262/A8281, *ibid;* Howard to Chamberlain, March 7, 1929, FO414/263/A1969, *ibid.;* Howard to Chamberlain, March 8, 1929, FO414/263/A1973, *ibid.*

[12] Howard to Arthur Henderson, December 20, 1929 (memorandum by Commercial Secretary A. J. Pack, n.d., enclosed), FO414/265/A51, *ibid.*

[13] Lindsay to Henderson, July 10, 1930, FO371/14282/A4976, *ibid.*

[14] Lindsay to Henderson, May 14, 1930, FO371/14282/A3741, *ibid.*

[15] Lindsay to Henderson, March 26, 1930, FO414/265/A2538, *ibid.*

[16] Lindsay to Henderson, July 3, 1930, FO414/266/A4769, *ibid.*

[17] Lindsay to Henderson, November 10, 1930, FO371/14283/A7668, *ibid.*

[18] Lindsay to Henderson, October 24, 1930, FO414/266/A7246, *ibid.*

[19] Lindsay to Henderson, March 10, 1931, FO414/267/A1955, *ibid.*

[20] Lindsay to Sir John Simon, November 20, 1931, FO414/268/C8903, *ibid.*

[21] Lindsay to Simon, December 10, 1931, FO414/268/A7433, *ibid.*

[22] Osborne to the Marquess of Reading, September 18, 1931, FO414/268/A5736, *ibid.*

[23] Lindsay to Simon, December 17, 1931, FO414/268/A7539, *ibid.*; Lindsay to Simon, December 31, 1931, FO414/269/A187, *ibid.*

[24] Lindsay to Simon, January 15, 1932, FO414/269/A488, *ibid.*; Lindsay to Simon, February 5, 1932, FO414/269/A1019, *ibid.*

[25] Lindsay to Simon, March 4, 1932, FO414/269/A1589, *ibid.*

[26] Lindsay to Simon, March 24, 1932, FO414/269/A2014, *ibid.*

[27] Lindsay to Simon, April 27, 1932, E. L. Woodward and Rohan Butler, eds., *Documents on British Foreign Policy*, 1919–1939 (London, 1948), Second Series, III, 131.

[28] Lindsay to Simon, April 27, 1932, *ibid.*, 133.

[29] Lindsay to Simon, June 22, 1932, FO414/270/A3992, PRO.

[30] Lindsay to Simon, July 21, 1932, FO414/270/A4756, *ibid.*

[31] Osborne to Simon, September 15, 1932, FO414/270/A6387, *ibid.*

[32] Osborne to Simon, August 18, 1932, FO414/270/A5556, *ibid.*

[33] Osborne to Simon, September 22, 1932, FO414/270/A6613, *ibid.*

[34] Osborne to Simon, October 27, 1932, FO414/270/A7519, *ibid.*

[35] Lindsay to Simon, November 4, 1932, FO414/270/A7687, *ibid.*

[36] Lindsay to Simon, November 15, 1932, FO414/270/A8010, *ibid.*

[37] Lindsay to Simon, December 8, 1932, FO414/270/A8436, *ibid.*; Lindsay to Simon, January 19, 1933, FO414/271/A733, *ibid.*

[38] Lindsay to Simon, March 9, 1933, FO414/271/A2141, *ibid.*

[39] Lindsay to Simon, March 15, 1933, FO414/271/A2336, *ibid.*●

STUART STATLER: A TRUSTED FRIEND AND COUNSEL DEPARTS THE SENATE

● Mr. PERCY. Mr. President, I was enormously pleased that on July 26, 1979 the Senate confirmed the nomination of Stuart Statler to be a Commissioner of the Consumer Product Safety Commission. Stuart Statler has been a trusted adviser and valuable counselor of mine since March 1971, and has served for the last 6 years as the Chief Counsel to the Minority of the Senate Permanent Subcommittee on Investigations, of which I am the ranking minority member. Mr. President, I can honestly say that in the 12 years since I came to the Senate, and in my previous 28 years of corporate life, I have never felt more deeply about losing any member of my staff. I can think of no one who is more deserving of advancement in public life, and about whom the Senate could be more confident that the President has selected the right person for the right job.

As I testified before the Commerce Committee at its July 10, 1979 hearing on his nomination, Stuart Statler is eminently qualified to serve as a Commissioner of the CPSC. First, it is a rare opportunity for him. A decade ago, working as a staff associate with the National Commission on Product Safety (a 2-year study group which was created by Congress and whose seven members were appointed by President Lyndon Johnson), he helped study and design what is today the CPSC.

Second, it is an extremely fortunate situation when a nominee for Commissioner of the CPSC has had 8 years of practical experience investigating matters of concern to consumers. As chief counsel to the minority of the Senate Permanent Subcommittee on Investigations he has supervised and has been personally involved in countless significant investigations that have benefited the public, including most recently, a major review of the arson-for-profit epidemic in this country. Several of these investigations have been in the health and safety field, such as risks associated with baby cribs, hearing aids, liquid protein diets, and the use of the herbicide paraquat.

The first case Stuart Statler brought to me concerned the babycrib industry. As lumber got more expensive and as costs got higher, the industry kept widening the distance between the slats on the cribs. This action used less lumber and saved the industry money, but it also endangered the life of the infant, who literally could strangle itself in its own bed. Because of the pressure brought by the subcommittee, the CPSC enacted strict standards regulating the distance between slats. Countless infant lives have been saved by this action.

In another case, hearing aids, Stuart Statler initiated constructive subcommittee action to end widespread fraud and abuse in the industry. Salesmen were peddling hearing aids door-to-door, using high-pressure sales techniques to sell their product. Often, these salesmen were unqualified; frequently, they sold hearing aids to people who could not be helped by them. In some cases, two hearing aids were sold when one would have sufficed, and many were sold that had not been adequately tested.

The subcommittee could have sought out a confrontation with the industry to try to end the shoddy practices. Stuart Statler approached the problem from a different perspective. He brought the industry around to working with the Government, not against it, by meeting with industry officials and presenting the problem to them. He did not humiliate or embarrass them. He selected one hearing aid manufacturer that was doing an outstanding job and highlighted its actions. By taking an example from industry, he caused the other manufacturers to change their practices and emulate their competitor. Stuart Statler just used constructive, persuasive action, and got the job done.

These examples indicate Stuart Statler's impressive professional credentials and capabilities. Yet he has many other qualities that are required for a high-level position in the Government. A public official must have unblemished integrity. Stuart Statler has been involved in many highly sensitive matters in his tenure as minority chief counsel. He has never flinched, and he has never deviated from what I would consider to be the strictest standards of professional conduct.

He also has an uncanny ability in the administrative field. I hope I shall not upset too many of my colleagues when I observe that lawyers are not always noted for their administrative talents. It is a pleasant surprise when a lawyer turns out to be a good administrator as well. Stuart Statler's ability to administer a sizeable staff—giving each person a feeling that he or she is important, while at the same time challenging and inspiring each of them—is a tremendous attribute.

In addition, Stuart Statler is instinctively creative. He also has a sense of priorities, and he establishes and carries through on his goals. He has an ability to look out over the whole horizon, to select subjects on which his work can truly have an impact. At the Permanent Subcommittee on Investigations, whose mandate covers such widely diverse areas as organized crime, Government waste, and energy, Stuart Statler has focused his staff on substantive investigations which produce results. I am confident that he will continue this practice at the Consumer Product Safety Commission which also has a wide-ranging charter. Such a focus will prove to be invaluable in producing future Commission successes.

It is with great sadness that I see Stuart Statler leave my staff. His dedicated and able efforts on my behalf, and on behalf of the American public, have been tremendous. I will miss his formidable talents—his excellent judgment, his great intelligence, and his strong and dynamic leadership. Yet, I am excited for the Commission and the staff of the CPSC. The relationship he will have with them will be significant. All will be challenged by him, and will enjoy and benefit from that relationship. The American consumers can also be assured of vigorous and productive efforts on their behalf.

My best wishes go with Stuart as he takes this next step in his career. He will be greatly missed.●

ANTHRACITE COAL FOR HOME USE

● Mr. DURKIN. Mr. President, New England is more dependent on imported oil than any other region of the Nation. Because of New England's extreme dependence on foreign oil, the people of New England are at the forefront of our nation's effort to find acceptable alternatives to increasingly expensive and insecure foreign oil supplies. The ingenuity and dedication of the people of New England in tackling the tough problem of oil dependency is evidenced in the hundreds of grassroots efforts to develop alternative energy technologies to take advantage of New England's indigenous energy supplies.

One such effort that shows considerable promise is the use of prepackaged anthracite coal for domestic heat and hot water production. A recently formed group, the Solid Fuel Advisory Council, is working to introduce to the United States this type of technology which is widely used in England. A recent article from the New Hampshire Times by Hank Nichols describes this promising technology and the efforts to introduce it into American homes. I ask that this article be printed in the RECORD for the benefit of the Senate.

The article follows:

BANKING ON KING COAL: IS ANTHRACITE SOLUTION TO THE ENERGY CRISIS?

Most people in New England were not the least bit sad to see coal exit from the home heating scene. The stuff had a reputation for being dirty and cumbersome and, after all, home heating oil was so cheap and easy to use it made no sense at all to stick with coal.

Today, long after coal has all but disappeared from the New England home heating scene, it may be on the way to a comeback. And, while the road back for coal will not be an easy one, there are a few folks here in New Hampshire who are confident the trip will be made and coal will once again play a major role in keeping New Englanders warm in the winter.

Barry Lukatch of Meredith jumped into the wood stove business about five years ago, ignoring the doubtful glances from those who thought wood heat was an idea whose time had gone for good. Now Lukatch says he is confident that coal will be making a comeback, and he recently met with a group of reporters in Concord to talk about that possibility.

He was joined at the press meeting by Geoffrey Hyde of a new organization called the Solid Fuel (read coal) Council of America and two representatives of a British company that manufactures coal-fired "appliances," as they are called—boilers that can also be adapted to forced hot air heating systems.

Hyde said that, with the coming winter and the anticipated problems with home heating oil, alternatives are going to be in demand and that coal heat is an obvious consideration. The British, Hyde pointed out, have a long history of using coal in their homes and have developed a coal heat technology that is nearly pollution-free.

The key, according to Hyde and Lukatch, is the use of hard coal, anthracite, instead of the softer bituminous coals. Anthracite, they said, is hard enough so that it is relatively clean to handle and it burns cleanly and thoroughly, leaving little residue and producing little smoke and soot. Even bituminous coal can be converted to coke, which has properties similar to anthracite, the two said.

But the big problem with the use of coal will be getting it to the home. This problem is a "chicken and the egg" problem that will be a difficult one to overcome: Persons will be reluctant to install coal heaters without a secure supply, and distributors will not rush into the business until the demand is there.

To help with the distribution of coal, Lukatch says there is a growing market for coal sold in 50-pound bags and he expects to see coal available in New Hampshire soon in this form. There are today only a handful of coal dealers in New England who sell coal in bulk quantities, selling and delivering coal by the ton. Lukatch thinks the day may come when persons who are now selling wood stoves will add coal appliances to their line and start selling coal in 50-pound bags.

It sounds cumbersome, but Lukatch says there are some strong economic incentives for converting to coal heat once more. In terms of energy equivalents, one ton of anthracite produces as much heat as 187 gallons of oil, and a ton of coal equals about one and one-half cords of high-quality, dry hardwood.

Coal, Lukatch said, is selling in the Northeast now for $74 to $85 a ton in bulk quantities, while a ton of bagged coal now sells for $110 to $150. That works out to paying 50 to 60 cents a gallon for heating oil in heat equivalents, and Lukatch says that fact makes coal an attractive alternative heat source that is available now.

Dennis Kenyon from the British compny Trianco was there to talk about the British experience with coal and about the products his company manufactures for the British homeowner.

Kenyon said that, starting with the Arab oil embargo of 1973, Britain has vigorously pursued the home heating use of coal with positive results. Today, Kenyon said, about 20 percent of the homes in England are depending on coal heat and, where the air was once heavy with soot from coal fires, today the air is clean because of emission standards set by the government for coal-burning equipment.

Trianco makes two coal heaters, Kenyon said. One is a standing coal boiler that looks like a refrigerator. Folks in England place these models in their kitchens or in a closet. The second model is a room heater that is smaller, about the size of a dishwasher, and fits in a room much the same as a wood stove.

Both of the models are "hopper" fed and need to be filled up with coal every 12 to 48 hours, depending on the amount of heat the unit is producing. The heaters burn continuously and are controlled by thermostats, so they require little attention.

In both cases, the units heat water, and it is the heated water that heats the home. The units can be attached to forced hot water heating systems or, with a heat exchanger, they can be adapted to forced hot air systems.

The average home, Kenyon said, burns between five and seven tons of coal each winter, and that produces not only heat for the home but also produces the domestic hot water supply.

Kenyon said the heaters are about 75 percent efficient and that a system costs about $1,200 to $2,000 to buy. The conversion to forced hot air adds $120 to $200 to the cost of the units.

According to Kenyon, Trianco has been watching the United States market for several years now, but even as recently as late fall, the company concluded that the American market was not ready for the coal heaters.

All that has changed now, according to Kenyon. The recent price and supply situation in the United States has given the company a clear signal that now is the time to sell their heaters here.

The company is not expecting to make substantial sales this year, but expects to do well next year. Lukatch hopes to start selling coal heaters this fall, but he too is looking to 1980 as the year coal heat starts up in New Hampshire.●

A TRIBUTE TO BARBARA OAKLEY

Mr. WILLIAMS. Mr. President, I would like to call my colleagues' attention today to the fine athletic performance of Barbara Oakley from my home State of New Jersey.

This young woman has lead the softball team from Northern Valley High School to the State Group 3 championship, the Mid-Atlantic Regional championship, and now has set her sights on the national championship. Pitching for the team this year, she had an astounding 1.04 earned run average. She finessed opponents for a season record of 119 strikeouts and only 35 walks, and matched her pitching ability with a .303 batting average. Barbara's extraordinary record of achievement will serve as an example for generations of young women entering high school athletics. This kind of performance on the sports field harbingers dramatic changes in women's athletic competition in this country.

Twenty years ago when I was a freshman Senator, women's athletics were not taken seriously and certainly no dignified woman thought of making sports her career. But things have changed quite a bit since then.

Throughout my career as a Senator I have worked to end this shameful discrimination against women in sports. For example, I cosponsored the original legislation to prohibit discrimination by educational institutions; the Educational Amendments Act of 1972, which cut off funding to any institution that discriminated on the basis of sex.

Barbara Oakley is an excellent example of the significant strides women's athletics have made in the last decade. As we all know, the competition and camaraderie of athletics plays an important part in the development of our youth, and now this too is open to women.

No longer will the challenge and exhilaration of sports be reserved for men. Now young women like Barbara Oakley can join in the game and hopefully go on to lead their teams to victory.

AUTHORITY FOR COMMITTEES TO FILE CONFERENCE REPORTS ON AUGUST 9 AND AUGUST 24, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may be authorized to file conference reports also on August 9 and August 24, under the order previously entered.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR STATEMENTS, BILLS, AND REPORTS TO BE FILED UNTIL 6 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 6 p.m. today to file statements, bills, and reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR OFFICERS OF THE SENATE TO TAKE CERTAIN ACTION DURING RECESS OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess of the Senate over until Wednesday, September 5, 1979, the Secretary of the Senate be authorized to receive messages from the President of the United States and the House of Representatives and that they be appropriately referred.

I further ask unanimous consent that the President of the Senate, or the President pro tempore, or the Acting President pro tempore, be authorized to sign duly enrolled bills and resolutions during that period, and that the Senator from West Virginia (Mr. ROBERT C. BYRD) be designated as an Acting President pro tempore during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR ROBERT C. BYRD'S EXPRESSION OF APPRECIATION FOR COOPERATION RECEIVED

Mr. ROBERT C. BYRD. Mr. President, I wish to take this opportunity to express my appreciation to my colleagues on both sides of the aisle, to the minority leader, to the minority whip and, of course, to the majority whip, and to the Secretary of the Democratic Conference, Messrs. BAKER, STEVENS, CRANSTON, INOUYE, respectively, for the cooperation that has been shown and the courtesies that have been accorded unstintingly and without reservation to the majority leader, and the efforts that have been put forth by all in accumulating what I consider to be a good record that has been made by the Senate thus far this year.

On the day before yesterday I inserted in the Record a statement of the various measures that had been passed by the Senate this year, and I think that statement and the record of the Senate thus far reflect the mood of the country and the mood of the country at this particular time in our Nation's history.

The Senate has acted with care and thoroughness, as it has approached the budgetary matters that have confronted it thus far. Committees have conducted oversight hearings, and the Calendar has been kept in relatively good order, I should think.

Of course, as I also stated earlier, I believe, when the Senate returns from the August holiday, it will take up the remaining authorization bills, which number circa half a dozen, and the remaining appropriation bills, of which there are about seven, conference reports on those measures, the water resources planning bill, which is one of the main authorization bills, the energy legislation, the excess profits tax legislation, and then be ready to debate the SALT II Treaty.

In this connection, I congratulate the Foreign Relations Committee, the Armed Services Committee, and the Committee on Intelligence, chaired by Messrs. Church, Stennis, and Bayh, respectively, on the thoroughness, the comprehensive nature of their work, and the well-organized approach that all of those committees have demonstrated as they have conducted the hearings on the SALT II Treaty.

I anticipate that the treaty should be disposed of, hopefully, certainly by early or mid-November, and I should think that in the main, that measure should perhaps be about the last measure to be disposed of. That is not saying that it will be. I do not foresee what other measures might become necessary, but of course energy legislation will command center stage during a considerable part of the time remaining in this session.

I also want to thank Mary Jane Checchi and Abby Reed of the Democratic Policy Committee for the fine work that they have done and the labor they have performed on behalf of the leadership on this side and on behalf of the Senate. Miss Checchi is chief counsel and staff director for the Democratic Policy Committee, and has certainly acquitted herself and discharged her responsibilities in that regard in a very excellent manner, and I think in a way that is deserving of the plaudits of, certainly myself, and all others in the Senate.

I want to commend the Democratic Policy Committee in its entirety, the members thereof, and also I commend Tom Baker and Charles Kinney of that committee staff for the work they have done on the floor during the session, as well as the secretary for the majority, Joe Stewart, all of whom have certainly given their best in expediting the work of the Senate.

I want to express my appreciation to Bill Hildenbrand and Howard Greene of the minority staff for the unending courtesy they continue to extend to me on this side of the aisle, and for the contributions that they, too, have made toward the expedition of the legislative program. These things should also extend to the officers of the Senate, the Secretary of the Senate, the Sergeant at Arms, the Chaplain; they are the elected officers of the Senate; and certainly I do not want to forget the others in this body who are here from day to day working, sometimes without the expression of thanks, but always with the thanks of the leadership. They include the clerks at the desk, the doorkeepers, and we would not forget the pages, who work for all of us and who help to keep us cheerful by the way they cheerfully approach their duties. I hope that all will have a good rest during the holiday.

I personally intend to go to the iridescent hills of West Virginia and talk with my constituents there, and I will be here from time to time working in my office during the holidays, the Lord willing.

Committees will be meeting and committee staffs will be working to arrange the remaining legislation that is to be disposed of before the Senate adjourns sine die for the year.

Having said that, if I have left out anyone, I want to thank everyone whom I may have inadvertently omitted, because it is not intended. It takes a team to do this work; it takes a lot of people, many unsung heroes, and they all should be congratulated and certainly appreciated, as they are, in the hearts of everybody who has to depend upon them and their efforts.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. TOWER. Keep it short.

Mr. BAKER. Mr. President, I would like to take only the briefest opportunity, in response to the suggestion of my good friends and colleagues behind me——

Mr. TOWER. Mr. President, if the Senator will yield, he was talking about me, and not the distinguished majority leader.

Mr. BAKER. In any event, Mr. President, I want to take just a very brief opportunity to express my pleasure in working with the majority leader and his staff and all the members of his group, who contribute so much to the organization and affairs of the Senate, but more particularly, in my case, to pay equal respect to the diligent and hard-working staff of the minority. I understand that the distinguished Senator from Texas proposes an amendment to delete certain names from the thanks expressed by the distinguished majority leader, but I am sure I would move to table that, so everyone is set.

It has been a good session, Mr. President. We will have a stormy and controversial session, I am sure, after we return from the August break, but I think it will be worthwhile and significant.

Let me conclude by expressing my personal appreciation to the majority leader for his cooperation through the year, and to the distinguished assistant Republican leader, the Senator from Alaska (Mr. Stevens), who has been so cooperative and so helpful in trying to accommodate the wishes and needs of the Members on this side, and to protect the interests of the minority as we proceed with the Senate session.

Mr. President, my good wishes to the Senator from West Virginia as he conducts his visits and returns to West Virginia, and I look forward to working with him after the recess.

Mr. ROBERT C. BYRD. I thank the minority leader.

Mr. President, there is one thing the Senate is never short on, and that is oratory, but I think we sometimes forget to thank the people who make it possible for the Senate to operate as it does. I want to express my appreciation to the chief deputy majority whip, Sparky Matsunaga, for the decorum and skill with which he performs his duties, and for his good disposition and latent smile, which he is exhibiting tonight as always.

I yield to the Senator from Texas.

Mr. TOWER. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. And with thanks also to the Official Reporters of Debates.

RECESS UNTIL 11 A.M. WEDNESDAY, SEPTEMBER 5, 1979

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, pursuant to the provisions of House Concurrent Resolution 168, that the Senate stand in recess until the hour of 11 a.m., Wednesday, September 5, 1979.

The motion was agreed to, and at 4:40 p.m., the Senate recessed until Wednesday, September 5, 1979, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate August 3, 1979:

Federal Trade Commission

Patricia Price Bailey, of the District of Columbia, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1973, vice Mary Elizabeth Hanford, resigned.

Civil Aeronautics Board

George A. Dalley, of the District of Columbia, to be a Member of the Civil Aeronautics Board for the remainder of the term expiring December 31, 1982, vice Alfred Edward Kahn, resigned.

Federal Maritime Commission

James V. Day, of Maine, to be a Federal Maritime Commissioner for the term expiring June 30, 1984 (reappointment).

Securities and Exchange Commission

John R. Evans, of Utah, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 1983 (reappointment).

Philip A. Loomis, Jr., of Maryland, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 1984 (reappointment).

The Judiciary

Jerry L. Buchmeyer, of Texas, to be U.S. district judge for the northern district of Texas, vice William M. Taylor, Jr., retired.

Alan N. Bloch, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania, vice Herbert P. Sorg, retired.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Jean Lande Hennessey, of New Hampshire, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada, vice Kenneth M. Curtis, resigned.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Lawrence F. Simoneaux for permanent appointment to the grade of lieutenant (j.g.) in the National Oceanic and Atmospheric Administration, subject to qualifications provided by law.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 3, 1979:

DEPARTMENT OF ENERGY

John Mark Deutch, of Massachuetts, to be Under Secretary of Energy.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35, 831, and 837, title 10, United States Code:

To be major general

Brig. Gen. Jay G. Benton, [redacted]FG, Air National Guard of the United States.

Brig. Gen. Roger W. Gilbert, [redacted] FG, Air National Guard of the United States.

Brig. Gen. Richard M. Scott, [redacted]FG, Air National Guard of the United States.

To be brigadier general

Col. Jack R. Brasher, [redacted]FG, Air National Guard of the United States.

Col. John G. Brosky, [redacted]FG, Air National Guard of the United States.

Col. Fred W. Cross, [redacted]FG, Air National Guard of the United States.

Col. Wayne C. Gatlin, [redacted]FG, Air National Guard of the United States.

Col. Harold G. Holesinger, [redacted], Air National Guard of the United States.

Col. Robert H. Hormann, [redacted]FG, Air National Guard of the United States.

Col. Charles D. Kelley, [redacted]FG, Air National Guard of the United States.

Col. James D. Montgomery, [redacted]FG, Air National Guard of the United States.

Col. Donald E. Richards, [redacted]FG, Air National Guard of the United States.

Col. Curtis D. Roberts, [redacted]FG, Air National Guard of the United States.

Col. Charles A. Sams, [redacted]FG, Air National Guard of the United States.

Col. Floyd E. Snyder, [redacted]FG, Air National Guard of the United States.

Col. David S. Taylor, [redacted]FG, Air National Guard of the United States.

Col. Robert G. Urquhart, [redacted]FG, Air National Guard of the United States.

Col. Dale E. Wainwright, [redacted]FG, Air National Guard of the United States.

Col. Leslie E. Whitehead, [redacted]FG, Air National Guard of the United States.

Col. Willie L. Whitman, Jr., [redacted]FG, Air National Guard of the United States.

Col. Albert W. Wright, [redacted]FG, Air National Guard of the United States.

Col. James E. Young, [redacted]FG, Air National Guard of the United States.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of Section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Lincoln David Faurer, [redacted], U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Glenn Kay Otis, [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Glenn Kay Otis, [redacted] Army of the United States (colonel, U.S. Army), for appointment as Senior U.S. Army Member of the Military Staff Committee of the United Nations, under the provisions of title 10, United States Code, section 711.

IN THE AIR FORCE

Air Force nominations beginning Helen A. Brainerd, to be captain, and ending George K. Asselanis, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 16, 1979.

Air Force nominations beginning Ralph I. Abravaya, to be captain, and ending Dale A. Young, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 16, 1979.

IN THE ARMY

Army nominations beginning Frank S. Adams, to be colonel, and ending Murray B. Watt, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 27, 1979.

IN THE NAVY

Navy nominations beginning Kenneth C. Malokofsky, Jr., to be lieutenant, and ending Scott H. Burbs, to be ensign, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 16, 1979.

Navy nominations beginning James N. Adkins, Jr., to be captain, and ending Henry G. Russell, to be permanent ensign and temporary lieutenant (j.g.), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 27, 1979.

IN THE MARINE CORPS

Ellen B. Moroney, for reappointment to the grade of lieutenant colonel in the Marine Corps, which nomination was received by the Senate and appeared in the CONGRESSIONAL RECORD on July 16, 1979.

Marine Corps nominations beginning Kathy N. Badzioch, to be second lieutenant, and ending Kevin F. Patterson, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 16, 1979.

EXTENSIONS OF REMARKS

KEYNOTE ADDRESS OF ADMINISTRATOR MAX CLELAND, BEFORE THE VETERANS' ADMINISTRATION REHABILITATION CONFERENCE

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, August 2, 1979

● Mr. RANDOLPH. Mr. President, my colleagues know of Max Cleland's efforts to increase the responsiveness of the Veterans' Administration to the needs of our veterans, particularly with regard to the provision of rehabilitation services. As a part of the planning process in this area, the VA recently sponsored a Rehabilitation Conference which provided a unique opportunity for many individuals to become involved in the policy process at an early stage.

As a member of the Veterans Affairs Committee and as chairman of the Subcommittee on the Handicapped, it was my privilege to participate in this conference and to know of the inspiring keynote address by Administrator Cleland. After summarizing the responses received from a survey of disabled Vietnam era veterans which was conducted last fall as part of an overall evaluation of vocational rehabilitation.

It was demonstrated that the impact of VA education and rehabilitation as well as the need for the development of new strategies to meet the rehabilitation needs of disabled veterans, Administrator Cleland outlined his plans for establishing and implementing an improved, comprehensive and integrated program of rehabilitation services and research, with the basic goal of providing the best possible rehabilitation services for disabled veterans. His energetic and creative approach to the formulation of such a program will come as a further encouragement to those of us who worked with him when he served as a staff member on the Senate Veterans Affairs Committee. Administrator Cleland's remarks are informative. I ask that they be printed in the RECORD.

The remarks follow:

KEYNOTE ADDRESS: THE HONORABLE MAX CLELAND, ADMINISTRATOR OF VETERANS' AFFAIRS

Welcome those of you who are new to Washington, a city that Jack Kennedy described as a blend of Northern hospitality and Southern efficiency. During your stay here you may get exposed to a little bit of both.

Let me just say that I am delighted we are having the conference here today. This is a subject that I personally have been deeply involved with over the last 11 or so years, and I think that it is time we got together and talked about our problems in rehabilitation and combined our expertise and put together the awesome talent that this agency has.

I know that it is so difficult many times to communicate, especially across interdepartmental lines, and across professional lines. But I hope that our conference is a good example of clear communication.

Today I would like to give you some feel for why I am so strongly concerned about the subject this week; I would also like to describe what strides we have made in our rehabilitation efforts and where we can improve—this forms the baseline from which we shall move forward; and finally I would share with you my hopes for this week and the months that follow.

When I returned from Vietnam I had hoped to find a coordinated rehabilitation program which would show me the way back physically, psychologically, mentally and socially. Where war took me and many of you from potentially productive lives to a hospital bed, I looked for something that would bring me from that hospital bed back to a productive life. That coordinated program was not there for me ten years ago. When you have an experience like that you can either criticize the "system" which I did a little bit of or you can turn your energies toward positive change. That is what I have been trying to do for the last few years.

Jim Mayer has already mentioned some of the rehabilitation activities I have been concerned with prior to coming with the VA. But were it not for my own experiences I doubt that I would have had the sensitivity to those issues. It is this same concern that I have brought to the VA with me. As I focused my attention on rehabilitation in this Agency I have seen that many long strides have been made toward a more comprehensive VA Wide rehabilitation effort; yet much remains to be done.

The framework for what we are about this week can be seen in several ways. The VA Vocational Rehabilitation portion of the law—Chapter 31—has not changed substantially since 1943 when VA was a pioneer in the field. The goal enunciated in that chapter is "employability"—not "employment"—"employability." And we have submitted legislation to change that. Medical rehabilitation as defined in Chapter 17 of the law is restoration of physical, mental and psychological *functioning* of an individual. But right now we do not address rehabilitation in the VA code as a comprehensive process.

However, the Rehabilitation Act of 1973, the most cogent Federal concept of rehabilitation, stressed emphasis on the seriously disabled, comprehensive and continuous individual rehabilitation plans, application of new medical and scientific methods, and the need for comprehensive medical and vocational services leading to employment. Congress has challenged VA since 1974 to bring its laws, its procedures and its programs in vocational rehabilitation more in line with these concepts. Earlier this year we responded to that challenge by submitting to Congress our own assessment of how we can move forward and have recently submitted legislation on Chapter 31 which would implement many of our study recommendations. Many of you here today submitted your thoughts which became a part of the final results. Among other things the new legislation would provide for job placement and adjustment services which have been solely Department of Labor responsibility, it would remove time limits on eligibility, lengthen training time, have an expanded scope to better serve the severely disabled and provide for staff development and research.

The Presidential Policy Review Memorandum on the Vietnam Veteran also committed VA to improve upon its rehabilitation efforts.

The base we have to build upon is strong. We have made major contributions to rehabilitation in this country. For example:

We have been forerunners in blind rehabilitation and continue to be leaders today.

We have the largest and most complete spinal cord injury program in the country.

We have made unique contributions in the field of prosthetics.

We have had extensive involvement in the training of physicians in rehabilitation medicine and other medical and areas such as spinal cord injury and prosthetics.

We have an extremely capable medical research program which adds daily to the base of knowledge.

We have prepared a new case manager approach to managing the individual's rehabilitation program.

We have developed expedited administrative and counseling procedures for individuals in Vocational Rehabilitation training.

We have developed an extensive new staff development program in the Counseling and Rehabilitation area of the Department of Veterans Benefits which will add to our skills there.

In short, we have a broad base of experience and expertise to build upon, to expand, to improve upon and to bring together our services in such a way that the veteran receives not only what he needs, but when he needs it and in a coordinated fashion. As of May of this year we have provided Vocational Rehabilitation training for over 827,000 disabled veterans at a cost of over $2.6 billion. Each year over 25,000 disabled veterans, most of them from the Vietnam era, receive this assistance. This is a record to be proud of but we can and will do better.

Over the past three or four years several studies have been conducted both within the VA and by other organizations such as the Paralyzed Veterans of America and the Disabled American Veterans. I have also brought in a special consultant of my own whose commitment, expertise and sound judgment I had come to respect from my previous experience—Nathan Nolan who formerly headed vocational rehabilitation efforts in the State of Georgia. He has been instrumental in providing an impartial view and as a catalyst for change. All of these efforts showed a significant correlation in their findings in pointing to areas where we can do better. Many of you were participants in these studies and as you will see in your materials some of these recommendations have come forth such as:

Improvement in coordination with organizations we are linked to in rehabilitation such as HEW and the Department of Labor.

The need to emphasize an interdisciplinary, team approach with the individual in evaluating, planning and developing the individual's rehabilitation program.

Improvement in job development and job placement assistance.

Both more clearly defined lines of responsibility and improved coordination between the Department of Veterans Benefits and the Department of Medicine and Surgery.

An examination of present built-in disincentives to rehabilitation.

Development of case manager approach.

Improved outreach to the disabled veteran.

A better system of information for management.

A need for sufficient legal and administrative flexibility to best serve the needs of each individual.

A need for additional follow up after employment.

And an earlier identification of veterans at medical facilities who are potentially eligible for rehabilitation.

I am sure each of you can make your own list, as I am sure you will do in your workshops, and in a constructive way point us toward a better effort.

We also wanted to hear from our consumers of these services—primarily disabled Vietnam era veterans—so in the fall of last year we surveyed, as part of an overall evaluation of vocational rehabilitation, a sample of over six thousand of this group. This was an unprecedented survey which for the first time gave us a meaningful handle on the results of our rehabilitation efforts. We were particularly encouraged that over 80% responded. It was designed in such a way that we could accurately estimate results for individuals who had not trained, who had received G.I. Bill training, and who had received Vocational Rehabilitation training. We were also able to look at the impact of the severity and general type of disability, racial and ethnic factors and prior education. As in many areas of life this survey gave us both good news and bad news.

For example, of the disabled veterans who completed training 78% did so under the G.I. Bill while only 20% did so under Vocational Rehabilitation. A substantial number indicated the reason they did not take Vocational Rehabilitation was because they were not aware of it. This concerns me.

In the medical area, 42% of the veterans sampled rated hospital rehabilitation services as excellent or good; 34% rated them poor. This also concerns me.

On the positive side, over 70% of the group surveyed rated VA regional office information and assistance, willingness to listen and promptness of service as excellent or good. And an overwhelming 96% of the veterans who took Vocational Rehabilitation training said they would recommend it to another veteran in similar circumstances.

The area of employment is of course a concern to all of us, particularly in a time of increasing pressures on the economy. As of last fall, veterans with disability ratings of 50–100%—those more seriously disabled—had an unemployment rate of 16.8% while 69% were working full or part time. In the lower disability categories the unemployment rate was 10.4% with 86% working full or part time. We also found that a somewhat high 26% of disabled veterans who completed any VA training subsequently took jobs with Federal, State or local government. The VA presently has 5.8% of its workforce comprised of disabled veterans. Yet I am concerned that the total number of disabled veterans in the VA has been slowly dropping since 1971 even while our total employment has been increasing. We can do better.

Concerning readjustment problems we found substantial confirmation of the need for the psychological readjustment program that recently was enacted by Congress. Forty five percent of all disabled Vietnam era veterans said they experienced readjustment problems. Of these, approximately 60% had trouble making plans for the future, experienced severe depression, and had not yet resolved their problems. And while 31% of those having difficulty did get VA assistance, 58% received absolutely no assistance from anyone. We will be doing better here.

Overall we found about what you might expect across the board: minorities, the seriously disabled—particularly those with neuropsychiatric disabilities—and the lower educated have had the most difficulties with employment, training and readjustment. These are the groups the Presidential Review Memorandum also singled out for attention.

Possibly the most significant results of the survey were those that demonstrated the impact of VA education and rehabilitation training. Those disabled veterans who completed training had a 7.2% unemployment rate. Those who did not had a 16.1% rate. Of those who completed training, 42% experienced readjustment problems; 57% of those who did not complete experienced these problems. Education and rehabilitation can and do make a difference—particularly as a part of a total rehabilitation process.

This brings us to our task this week. I have tried to give you some flavor for why I am so deeply concerned about rehabilitation and some of the background of this conference: the significant efforts that have already taken place, the strong thrust from Congress and the President, and the extensive documentation that already exists both in achievement and in need for improvement. What now are we about?

First, my responsibility is clearly laid out in Title 38—the code governing VA operations. The administrator is specifically directed to ensure that hospital rehabilitation services are coordinated with the G.I. Bill and with Vocational Rehabilitation and that individuals can take maximum advantage of this training.

Earlier this year as I saw the results of several studies on rehabilitation; as I saw the activities we were planning in both DM&S and DVB and as I listened to the thoughts of some knowledgable people, I realized that we needed to pull together a comprehensive approach to rehabilitation in the VA: one which would fully integrate, to the extent possible, the efforts of both the medical and vocational aspects of rehabilitation and provide a unified, coordinated and personalized, systematic process of rehabilitation. We establish an administrative planning structure to develop plans and policies for integrating our present and future efforts. One of the first actions was to develop what our concept of rehabilitation in the VA should be. This document, which I signed on April 9th of this year, is one which each of you has received. It represents the best thinking of many people throughout the VA. This concept is intended to be used as a framework around which the policies and issues which are identified this week can be formed.

This conference is another part of the integrated planning process which was established. This conference is somewhat unique in that we have brought together individuals from the entire spectrum of interests in rehabilitation: the VA—headquarters and the field, medical and vocational—Congress, services organizations, professional groups, other Federal and State government agencies, and private individuals. This is truly an opportunity to be creative and to produce the ideas that may well influence the direction of VA rehabilitation for the benefit of hundreds of thousands of disabled veterans. This is particularly unique in that many individuals are going to be involved in the policy process at an early date. This is somewhat of a new way of doing business but we want and need the diversity and energy that each of you bring to this task.

I also believe very strongly in opportunity having its own particular timing. I believe the climate is right for major improvements in veterans rehabilitation and we can and will act as forcefully as possible.

I am also well aware that in any process of change there are attendant difficulties. Resources are scarce and competition is keen. Communication and coordination between our two departments and between this Agency and others are not nearly as good as they can be. Professional differences do exist, for example, within the medical community and within the discipline of psychology as to the importance and direction of rehabilitation. I am aware of these problems and do not take them lightly.

Nevertheless, in my guidance this year to both the department of Veterans Benefits and to the Department of Medicine and Surgery I have established an improved, comprehensive and integrated program of rehabilitation services and research as a top priority. I am confident this will be taken seriously with the results of this conference weighing heavily on those deliberations.

At the end of the conference, the Chief Benefits Director has been specifically charged to form an agency task force and to take the lead in integrating ongoing efforts, previous studies and your recommendations into a comprehensive plan for agency rehabilitation programs which fully address the concept for rehabilitation. This plan will be one in which agency goals, objectives and priorities are related to proposed activities and to any legislation which shall be developed. The Chief Benefits Director will work closely with the Chief Medical Director and the General Counsel. By the end of this year this comprehensive plan will be submitted to me for final approval.

I am encouraged and excited about what is to occur this week. I would urge you to be creative, open, and energetic. Let us lay aside any individual interests where they may conflict with the basic goal of providing the best possible rehabilitation services for disabled veterans. Above all like Mathew Arnold said of life, "Keep your perspective steady and keep it whole."

Dr. Howard Rusk once said about rehabilitation, it is "neither a purely psychiatric nor purely physical medicine concept. It is a total concept to meet the total needs of a disabled person."

I would also just like to conclude with a little statement that Dr. Rusk once made. He quoted from a tomb in an English graveyard that he had once come across that left a message with him.

It said simply "If every man mend a man, then all the world be mended." That is what we are about this week. I am glad to be here and help kick the conference off. I welcome all of you to Washington and I hope that this will be one of the most significant meetings of this type that you have ever been to, and we are certainly interested in keeping our eye on the total goal of every man mending a man.

I think that is the highest mission we in the VA could possibly have.

Thank you very much. God bless you.●

CONTROL OF FEDERAL PUBLICATIONS

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. LEE. Mr. Speaker, the question of Government information is indeed a very sensitive one. Through my work in the committee on the Health Subcommittee, I have learned that the Government develops vast amounts of information directly and indirectly through its various research programs. We have attempted to foster the dissemination of this information whenever it is in the best interest of our Nation as a whole. Similarly, we have attempted to correct those procedures which have resulted in needless and useless reports and documents which constitute a substantial burden on the taxpayer.

Recently the Congress has been considering a revision to title 44 of the United States Code which governs the production and dissemination of Government documents. Members of the scientific community have expressed a fear that the bill under consideration by the Congress will place unneeded restrictions on valid scientific inquiry. The bill would require the Government Printing Office to approve the publication of research articles in private scholarly journals. The present law does not require the Government Printing Office to approve the printing of governmentally funded research in private journals, and I fail to understand why a new law should give it that authority. The Congress has made major efforts to support research in the area of cancer, heart disease, and child development, those efforts should not be frustrated by a bill which attempts to assert control over all Government printing and information services.

I include a recent editorial dealing with the control of Federal publications in Science, published by the prestigious American Association for the Advancement of Science, for the RECORD:

[From Science, July 20, 1979]

CONTROL OF FEDERAL PUBLICATIONS

Hearings have begun this month on H.R. 4572. In its present form, this bill (designed to revise Title 44 of the U.S. Code) would place government scientific and technical publications under the control of a politically appointed board. The bill should be amended to provide more safeguards for a process that is essential to the free flow of information in our society. Scientists and educators throughout the nation should examine this issue promptly and thoroughly.

Title 44 of the U.S. Code places primary responsibility for developing and administering policy for the printing and distribution of all government publications with the Joint Committee on Printing. The power of this statute has, in fact, been delegated (or relegated) to the staff of the Committee. It also defines the mission of the Government Printing Office (GPO) as that of providing all branches of government with printing, binding, and distribution services. The distribution function is managed by the office of the Superintendent of Documents, which operates 26 bookstores, a subscription and mail-order sales service, and a depository library and free distribution program.

Despite inefficiencies, this system has worked. One reason is that the executive agencies of government, in special situations and with Joint Committee approval, have developed their own printing and distribution mechanisms to serve the needs of their own constituencies.

In hearings that were held quietly in 1978, an Ad Hoc Advisory Committee reviewed the federal government's printing and distribution program. The hearing and the report that ensued were soon followed by the introduction of H.R. 4572 to revise Title 44. If this bill were enacted into law, a powerful government monopoly could control the printing and distribution of all government and public documents. The bill would create a presidentially appointed seven-member board of directors, who would be responsible for developing and implementing a central, comprehensive, and unified policy for printing and distributing government publications. Four voting members would be chosen from the printing and reproduction industries, organized labor, the library community, and the information industries, and three nonvoting members would represent the House, the Senate, and the Office of Management and Budget. No representation from science, education, or the humanities is suggested. The chairman of the board would have total authority to regulate the distribution of all government information, whether in printed, audiovisual, or machine-readable form, and to decide issues that are appealed. The board would control the GPO through its regulations. It would appoint two general managers: a Public Printer and a Superintendent of Documents. The interests of Congress would be protected by having its printing come under the jurisdiction of the House Administration and Senate Rules committees.

The proposed system would place executive agencies at the mercy of the politically appointed board members, whose regulation of the GPO would, in effect, give them control over all government publications. The National Technical Information Service of the Department of Commerce, which distributes government or public technical reports and documents on a self-sustaining basis, would be threatened by the proposed new system.

This control would extend to publications resulting from any research supported by a federal grant or contract. The provisions could be interpreted in such a way that board approval would be required for the use of grant funds to pay page charges. The public interest will not be well served if the executive agencies of government are compelled to seek the approval of a small but powerful board for the printing and distribution of documents and other informational materials related to the agencies' business.—Martin M. Cummings.●

SUGAR LEGISLATION

HON. RUSSELL B. LONG

OF LOUISIANA

IN THE SENATE OF THE UNITED STATES

Thursday, August 2, 1979

● Mr. LONG. Mr. President, sugar producers in Louisiana, and the entire Nation, are in the middle of a life-or-death struggle against low sugar prices, coupled with ever-increasing costs of production.

It is imperative that Congress enact meaningful sugar legislation as soon as possible if the Louisiana sugar industry—or, in fact, the U.S. sugar industry—is to survive.

I was, therefore, especially pleased to note that the House Ways and Means Committee recently reported H.R. 2172, and I was equally gratified by subsequent House Rules Committee action unanimously granting this bill a rule.

It is my fervent hope that this important legislation will be acted on by the full House as early as possible in September, so that the Senate Finance Committee and the full Senate can consider it without the untimely delays which occurred on similar legislation last year.

At this time, I would like to call to the attention of my colleagues a recent television broadcast of "The MacNeil/Lehrer Report." On July 13 that program focused on the sugar situation. Guests included the distinguished chairman of the House Agriculture Committee, Representative THOMAS FOLEY, two sugar industry spokesmen, Mr. Horace Godfrey and Mr. Roger Sullivan, and the executive director of the Consumer Federation of America, Kathleen O'Reilly.

Chairman FOLEY and Mr. Godfrey, in particular, presented a strong case in support of the sugar bill. If any of my colleagues would like to know the real facts about the sugar situation and the disastrous consequences which both the industry and the consumers will face if sugar legislation is not enacted, I suggest that they read the transcript of this broadcast, which follows:

THE MACNEIL/LEHRER REPORT, JULY 13, 1979

Robert MacNeil: Last April 4th, during a hearing on Capitol Hill, an interesting exchange took place between Alfred Kahn, President Carter's chief inflation fighter, and Margaret Heckler, Democratic Congresswoman from Massachusetts.

Rep. Margaret Heckler: How can you stand behind an inflation-fighting program if you are advocating a policy that increases sugar prices across the board and in itself causes inflation? What have you told the President about this bill?

Alfred Kahn: I have fought my fight as vigorously as I possibly could. And I won't tell you whether I won or lost, because that would tell you whether—what . . .

Rep. Heckler: It's quite clear that you lost.

Kahn: . . . I told the President.

But I think that my attitude toward sugar legislation and support for sugar prices is known.

Rep. Heckler: I understand your political situation, Mr. Kahn. But I would like the record, then to show that you stand behind your earlier statements to the Consumer Federation of America that the sugar bill is highly inflationary.

Kahn: Ah, I think—let the record show an embarrassed silence.

[Laughter.]

MacNeil: There may be an embarrassed silence at the White House over proposals to raise support prices for sugar, but there is a lot of noise on Capitol Hill.

Tonight, the politics of sugar.

Jim Lehrer is off. Charlayne Hunter-Gault's in Washington.

Charlayne Hunter-Gault: The battle in Congress, Robin, is over what the price of sugar should be in this country. Like many basic farm products, sugar is supported by the Federal Government through direct payments and loans. Those subsidies insure that the prices farmers get will not fall below a certain amount. That can cost the government as much as one billion dollars a year. The government rationale is that the subsidies are necessary to keep domestic industry alive, since foreign growers, using cheap labor, can sell their sugar at lower prices.

The minimum price of sugar in this country is now 15 cents per pound, twice the world market price. Now there is a move by the sugar growers to raise the domestic price to 15.8 cents per pound, with more increases in 1980 and 1981. That effort is opposed by a coalition of consumer groups and by some members of the sugar industry itself, for the American sugar industry is not monolithic. In one camp, the sugar beet growers, mainly small producers located in the Western states. They supply 30 percent of domestic sugar. Then there are the sugar cane growers, mainly large producers in Florida, Texas, Louisiana, and Hawaii. They supply 25 percent. The remaining 45 percent of our sugar comes from abroad.

In all, sugar growers represent less than one percent of American farmers. But historically, they have been a strong political force in Congress.

Now, to one of the leading congressmen who is heading the fight to increase domestic sugar prices. He is Thomas Foley, Democrat of Washington, and Chairman of the House Agriculture Committee.

Congressman, you coauthored this bill. Why is it necessary?

Rep. Thomas Foley: Well, it's necessary because, first of all, we've seen since 1974–75 a continual drop in world sugar prices. And some people talk about free prices in the world. But nowhere in the world can you produce sugar for the eight cents a pound that it now sells for. What happens is that most countries have some special arrangement, long-term contracting, bilateral arrangements of some kind. And what's left on the market after those arrangements have been utilized is so-called free-traded sugar. When there's a surplus of it—and it's at record heights now—the result is a kind of dump price of eight cents a pound.

We have to remember that in 1970 . . .

Hunter-Gault: A dump price meaning?

Rep. Foley: Meaning you're just getting rid of the extra sugar. And it doesn't mean that any country is likely to be able to produce and sell sugar over a long period of time at eight cents a pound. In fact, most people estimate that almost everywhere in the world the minimum prices of production are 10 to 11, 12 cents a pound. The average world price is estimated by many people to be 12. But it's selling for eight. So people say, "Well, that's the world price."

But if we were to count on that price, if we were to assume that that price will continue in the future, and allow unlimited quantities to come into the United States and compete with sugar that costs about 15½ cents a pound on the average, to produce here, our sugar industry would be destroyed in a few years.

Hunter-Gault: So, in essence, the purpose of your bill is to keep—as you see it, to keep the sugar industry from being destroyed?

Rep. Foley: To keep the sugar industry from being destroyed, first of all. Obviously, to benefit, if we can, the continued livelihood of sugar producers and to protect the investment in the sugar industry. Secondly, to protect consumers against what can happen in the opposite direction.

In 1974, when that so-called free market became short, prices went to 59 cents a pound, raw value. They're eight cents today. They went to 59 cents in 1974–75 at their peak. Because, again, small movements in the sugar market tend to be amplified through this very small international market. Sometimes as much as a one percent difference in that market's supply-and-demand situation can lead to changes in price of 30 to 50 percent. A 10 percent difference can lead to differences in prices of 300 to 500 percent.

Hunter-Gault: I see. So, essentially, to protect consumers and industry.

Rep. Foley: Exactly.

Hunter-Gault: The various interest groups within the industry didn't all want the same things. How did you balance out the sometimes conflicting interests among those groups?

Rep. Foley: Well, of course, that's not always easy. For example, in addition to cane and beet sugar, that you described, there the sugar, or sweetener made from corn called high-fructose sweetener. And that competes directly in the industrial market with sugar.

Hunter-Gault: Well, before we add a whole lot of others that we haven't discussed, let's just talk about the main ones and how you balanced off those interests.

Rep. Foley: Well, first of all, there are some differences between growing groups. Hawaii tends to be a very efficient producer on a fairly large scale. And consequently, they are not as interested in having the additional one-half cent of payment that the bill provides to individual producers.

The bill provides a very modest minimum price, 15.8 cents a pound, which actually we have in effect today. And then it provides a seven percent increase in 1980 and a seven percent increase in 1981—that is, a maximum of seven percent—if costs of production actually go up. That's within the President's guidelines. And so it's very modest.

But there is a disagreement with Hawaii and Louisiana and other places. They are in favor of a one-half cent, a very modest additional payment to sugar growers to get the total income to about 16.3 cents.

Hunter-Gault: Well, just briefly, how do you see the chance for passage?

Rep. Foley: Well, it's going to be difficult to pass, I think, because I think there's a lot of misinformation about the bill. It isn't a rip-off on consumers. It isn't an outrageous thing at all.

Hunter-Gault. All right, we'll get to some of those points in a moment.

MacNeil: First let me apologize to Congresswoman Heckler, who is a Republican and not, as I said a Democrat.

This sugar bill is also supported by Horace Godfrey, sometimes known as the dean of sugar lobbyists in Washington. Mr. Godfrey is a former Administrator of the Department of Agriculture's Stabilization and Conservation Service, which administers sugar and other commodity programs. He currently represents Florida and Texas sugar growers.

Mr. Godfrey, why are you in favor of the bill?

Horace Godfrey: Robin, I'm in favor of it, as Mr. Foley said, to maintain and sustain a domestic industry, and to protect consumers from outrageous prices that they had to pay in 1974 and '75 for sugar. They paid more for those two crops of sugar than they paid for any other five crops.

MacNeil: It's hard for a simple-minded person to grasp the logic of how it protects the consumer if he has to pay twice as much for American sugar as he could pay for sugar on the free international market.

Godfrey: Well, he doesn't do that all the time. You heard Mr. Foley just a moment ago say that the price in 1974 went to 59 cents per pound. And the price is not twice as much. It's a dumping price when you consider the world's sugar. It's the sugar that's left over. Five-sixths of all the sugar that's traded in international trade is traded under special arrangements. The one-sixth that's left over is then dumped on the market. Now, the five-sixths that's traded on special arrangements sometimes go for 30 to 35 cents a pound. For example, Russia pays Cuba 30 cents a pound for more than three million tons of sugar each year. Japan pays Australia better than 25 cents a pound for the sugar they buy from Australia. The British Government pays the ACP countries better than 20 cents a pound. The price support level for all beets in the Common Market is in excess of 20 cents per pound.

So, it is not a world price as such. The House committee bill says in its report that the world price is a misnomer. It's a dumping price.

MacNeil: I see. So you're maintaining it would—the American consumer could not avail himself regularly of sugar cheaper than the 15 or 16 cents a pound.

Godfrey: Well, let's just carry it one step further. Mr. Foley said he was trying to maintain the domestic industry with his sugar bill. Now, the House Ways and Means Committee, in their report, went a little bit further. They said that if the U.S. had produced no sugar last year—and that's where we'll wind up unless we have some assistance in the way of legislation—they said that if the U.S. had produced no sugar last year, the effect on the market would have been dramatic and would have increased world prices several hundred percent.

MacNeil: Why is it important, Mr. Godfrey, to keep a U.S. sugar industry in existence?

Godfrey: I think all we have to do is look at oil, coffee, and some other commodities, and you have the answer.

MacNeil: Which is what? That foreigners.

Godfrey: It is that if you don't produce for yourself some of your requirements, then you can pay double for what you do obtain.

MacNeil: Are you saying, as some do, that if you don't have a sugar industry here, that foreigners would gang up together and form a cartel, like OPEC for oil?

Godfrey: No. No, I am saying that, as the Ways and Means Committee said, that if you drive the American production out, which is about six million tons per year, the sugar stocks are immediately imbalanced for the world. And if they are imbalanced, then you have a bullish market. That's what happened in 1974. The minute the supply stocks drop to 25 million tons carryover, you have a bullish market.

We now have about a 33-million-ton carryover. For you to take our six million tons out, and you have a bullish market, and you could see sugar prices of 50 cents within a year.

MacNeil: I see. Thank you.

Hunter-Gault: As I indicated earlier, not all of the sugar people are of one mind on this bill. And one who is of a different mind from Mr. Godfrey is Roger Sullivan, lobbyist for the Hawaiian Sugar Planters Association.

Mr. Sullivan, what's your problem with the bill?

Roger Sullivan: It's really a very narrow problem. We were—the Hawaiian industry was in favor of the bill right through the early part of the deliberations and until the final day when it was reported out by the House Agriculture Committee. And our sole objection to it is that it contains a one-half-cent payment per pound paid directly to producers, with an overall $50,000 limitation on how much any one producer can receive. Now, that, because of the structure of the industry in Hawaii, causes us a very grave, if not a fatal, problem.

Hunter-Gault: How do you mean?

Sullivan: Hawaii is 2450 miles from the nearest market for its sugar. We're been growing sugar there since 1835 and gradually evolved into a system which, by necessity, involves large producing units. Fourteen corporate plantations produce a million tons a year, or about 95 percent of the sugar that's produced in the entire state.

Therefore, when you have a payment limitation, as far as Hawaii is concerned, you get one million dollars in total payments because each of those 174 producing entities could get only 50,000. And yet the normal expectation on a million tons of production would be $10 million. Half a cent a pound. It turns out to be $10 a ton times one million tons.

Hunter-Gault: But aren't most of those large companies representing the sugar interests also diversified? And shouldn't they, rather than the taxpayers, be doing the subsidizing?

Sullivan: Well, yes, they are diversified. But I don't think you can expect a large diversified corporation to carry on indefinitely a losing proposition. The problem in Hawaii at the moment has been that the companies, while they make money in other enterprises, by and large are not making money in sugar. In 1976 the overall loss in the state was $15 million. In 1977 the overall loss would have been $38 million were it not for a government payment we received that year. The loss in 1978 was 11.5. So over that three-year period we've lost $8.5 million, and we can't keep on doing that indefinitely.

There's one thing I want to add. It's not just that we don't get the full subsidy that others receive, but our sugar is sold in the Western market against beet sugar crop competition. By and large, the $50,000 limitation does not affect the average beet sugar farmer. So if you look at a total crop of three million tons, you can see generally there'll be a $30 million subsidy going each year to our competition, while over the three years of the program it would be $90 million. And we would be losing 27 million at the same time.

Hunter-Gault: So, briefly . . .

Sullivan: We can't compete against that kind of a handicap.

Hunter-Gault: Briefly—you said you didn't oppose the bill per se, just this portion. What would you like to see instead?

Sullivan: Well, I would very much like to see the entire payment provision knocked out of the bill. I think it's always been controversial, it's always caused us problems. It causes difficulties, I think, when we get to the floor. The vote on that issue in the Agriculture Committee was 20-to-1. The vote in the Trade Subcommittee of the Ways and Means Committee was 9-to-7. I'd like to think that that's the beginning of wisdom.

We could support the bill if there were no payment provision.

Hunter-Gault: I see. And what—just again briefly—would happen in Hawaii if this payment situation were not knocked out?

Sullivan: Well, what I think you'd see is that the only money that we make in Hawaii is the money that the California-Hawaiian Sugar Company, our cooperative, which is the sales arm of the industry, the only money we'd get is what they make on the sale of sugar in the Western United States.

Hunter-Gault: And you couldn't survive on that?

Sullivan: If they cannot com—they cannot compete against that kind of a handicap, or not very well. And I think we would steadily lose money.

Hunter-Gault: Thank you.

MacNeil: The opposition from Hawaiian interests on that point has strengthened the coalition of groups that is opposing the bill here, called Consumers Against Sugar Hikes, or CASH. One of the coalition members is the Consumer Federation of America, whose Executive Director is Kathleen O'Reilly.

Ms. O'Reilly, why are you against this bill?

Kathleen O'Reilly: Beyond its obvious inflationary implications, there's the fact that this is a classic rip-off piece of legislation that is really forcing consumers to pick up the tab so that Uncle Sam can, in effect, be sugar daddy and take action that will pump hundreds of millions of dollars into 14,000 sugar producers at a time when there is no economic justification for it whatsoever.

And more offensively than that is the fact that in the first six months of this year alone, the cost of food has been going up at annual rates of 18–20 percent. Consumers are really at the edge of the cliff as to what their budgets will be able to tolerate. And it is inexcusable that they should be asked to tolerate something that is economically unjustifiable and is just a boondoggle.

MacNeil: What will be the impact to consumers of this bill, economic impact?

O'Reilly: There are direct and indirect economic impacts. The price tag put on the present legislation would be in excess of $400 million. We pay for it directly when we purchase a one-pound, five-pound bag of sugar. You also pay for it in the processed foods.

It's very important to understand that about 76 percent of the sugar that we consume is in processed food. And not just the candies, which are so obvious. We're talking about worcestershire sauce and creamed corn, tomato soup, and on and on.

We also pay for this as taxpayers. Because when the cost of sugar goes up, the CPI goes up. And that automatically . . .

MacNeil: Consumer price index.

O'Reilly: That automatically triggers an increase in federal feeding programs: school breakfast, school lunch, food stamps, and so forth.

And it's also important to understand the consumers are already, according to Mr. Kahn's own statistics, paying $2.6 billion to protect what is really less than one percent of the American farmers.

MacNeil: Do you accept the argument that the American sugar industry needs protecting in order to keep it in existence?

O'Reilly: Not at all. It's a very clever, very persuasive type of political scare tactic. But the facts just do not back that up.

The sugar industry is very viable. The sugar estimates in the Department of Agriculture for production this year show that for sugar cane, for example, we can expect an increase of some eight percent. There is a decrease in the beet, but it still represents a very modest decrease from five years ago.

Also, it's important to understand that some of the sugar plants that are going under and some of the losses that we hear about, we cannot gloss over some of the factors that are included, such as mismanagement, heavy settlements that they've been paying for antitrust actions that have been brought against them.

Another factor that we have to take into consideration is the fact of the growing competition from the corn sweetener industry.

MacNeil: Which the Congressman mentioned.

But Mr. Sullivan, representing the Hawaiian interests, whose sugar producers are supposed to be among the most efficient in the world, says they've been losing money by the millions over the last few years.

O'Reilly: Well, the facts just don't bear that out. They're against the legislation because they want even more money, not because the principle is offensive to them.

The statistics that are routinely reported in Sugar Producer magazine, in the Wall Street Journal, and so forth, show that in the 14-to-15-cent range the cost of production plus a profit is there. There is no economic justification for the 15.8.

And we should also understand that we're not just talking about some small mom-and-pop-type family farmer. Not at all. The folks that would reap benefits from this are among the large multinational corporate giants, such as Gulf and Western, U.S. Sugar, and so forth. And it's really hard to shed any tears for these kinds of multionationals that are trying to take advantage of the American taxpayer.

MacNeil: Well, thank you.

Hunter-Kault: A classic rip-off, Congressman?

Rep. Foley: No, not at all. As a matter of fact, I think what Miss O'Reilly fails to say is that sugar prices today are at the point that [what] the 15.8-cent bill would provide for the next year wouldn't cost any additional amount to any of the suppliers or to any of the users of sugar. The fact that there's a half-a-cent payment involved is many times compensated by the fact that there are fees assigned to the sugar imports which bring in about $2 billion over the life of the bill. It makes more money for the taxpayer than the taxpayer ever puts out.

O'Reilly: Well, that just isn't true. And the suggestion that we need to have this to protect the consumers for future problems also belies the track record of the domestic sugar industry. Because back in '74, when those sugar prices spiraled, the domestic sugar producers didn't just double their profits when sugar was doubling, they quadrupled those profits. They also failed to produce, which is supposed to be one part of their end of the bargain. They did not even produce enough for their '74 quotas, which really left shortages which contributed significantly to this spiraling cost.

Hunter-Gault: Well, now, let's get just a moment of response from Mr. Godfrey and the industry on that.

Godfrey: Well, all I can do is laugh at that, because the crops were in the ground before the prices started up. The prices started up in January of 1974, at 15 cents in January of '74. And by November of '74 they had reached a high of 64 cents. The producers had nothing to do with making the crop. The crop was in the ground. Now, the Good Lord may have had something to do with how they made, the producers had nothing to do with it.

Hunter-Gault: Ms. O'Reilly?

O'Reilly: I'm talking about profit, and I'm saying that from 1973 to 1975, when the price of sugar about doubled for consumers, the profits quadrupled.

And I think it's also interesting, when we're talking about the domestic versus the international, that the Chairman of the Holly Sugar Company, Mr. Bunker, recently told his shareholders that it would be very bad to go the route of the European countries, where one of the problems that has really resulted in this kind of depressed market is because those countries have gone along with high support levels. And he talked about the need to really develop more efficient sugar production than to get into this vicious sugar of having the government prop up the industry, inefficient and efficient, big and small, all, again, asking the consumers to pick up the tab for a purely political program.

Hunter-Gault: You want to get in on . . .

Rep. Foley: Can I get in on that?

Hunter-Gault: Sure, Congressman.

Rep. Foley: Obviously, there are some people in the sugar business that would like to keep low sugar prices, imported sugar prices. They are cane refiners, who buy low, who process the cane, and sell it into the domestic market. So the lower the so-called international price is, the more they benefit from the low cost and the higher profits they make, which is legitimate if you're in that end of the business.

But the point has to be made again and again that we're talking about very small amounts of money in terms of the consumer. Even with the secondary impacts, the CBO indicates that a one-cent . . .

Hunter-Gault: The Congressional Budget Office.

Rep. Foley: Yes, Congressional Budget Office—that a one-cent increase in sugar prices would result in about a 90-cent to a dollar increase per person, or somewhere between three and four dollars a year.

Hunter-Gault: Well, what about Ms. O'Reilly's point that the increase applies to products across the board not just sugar, but worcestershire sauce and catsup and . . .

Rep. Foley: Right, there is a secondary impact. I think probably somewhere between three and four dollars a year would include all the things that were purchased in the secondary market of bread and ice cream and so forth. Unless, of course, there was an excuse taken, because of that slight rise, for somebody to raise prices higher than would be justified.

But the fact of the matter is that when prices doubled and tripled in 1974, it had the impact of adding not three or four dollars, not 30 or 40, but about $120 to the average budget per year.

If we get out of the sugar business, if our 5½ million tons a year disappears—and plants are closing in the beet areas all over this country recently because they can't survive at these prices—then we're going to have to call on the world market to supply that 5½ million tons. And that's going to rapidly short that market. We're going to get into an amplified run-up price again. And the consumers, predictably, in the next two or three years, if we don't have some basic stabilization act, are going to pay lots and lots of money.

And I don't think that the CASH, C-A-S-H, Committee Against Sugar Hikes, is going to sound very good when the consumers are going to pay 10 times as much for their sugar or 5 times as much for their sugar as we're talking about now in this very moderate bill.

Hunter-Gault: Does that bother you, Ms. O'Reilly?

O'Reilly: Well, the facts just don't bear that out. If they are crumbling and going under, why is production high, why are profits high? The facts just aren't there to back that up.

Hunter-Gault: Mr. Sullivan, do you have the facts?

Sullivan: Well, production in Hawaii has remained remarkably steady over the years. We always produce between a million and a million-two, and it doesn't change. The crop is in the ground. We have a two-year crop there. We get successive crops by leaving the root structure in the ground, so it's a six-year cycle at the very minimum. So there's certainly no big change in production on that basis.

Hunter-Gault: Well, let me just ask . . .

Rep. Foley: Let me just make a point, because I think—it's different in cane than it is in beet sugar. Beet sugar can not be transported at great distances. It cannot be left in the ground. And this year, the Utah and Idaho Sugar Company closed plants in Toppenish, Washington, Moses Lake, and threatening—other plants have been closed down in Louisiana and many places. And once those plants close, it's very difficult to start the sugar business again in beets.

Hunter-Gault: We've got 30 seconds.

Godfrey: I would like to make one point.

Hunter-Gault: One point, quickly. Is the bill inflationary, and can you . . .

Godfrey: It is not inflationary. And Ms. O'Reilly, since she reads the Wall Street Journal, she should read the one this week about foreign countries converting sugar to alcohol.

Hunter-Gault: Thank you.●

BOARD OF VETERANS' APPEALS TO STAY IN WASHINGTON

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. BARNES. Mr. Speaker, I was greatly relieved by Veterans' Administrator Max Cleland's recent decision not to relocate the Board of Veterans' Appeals from its present downtown location to a site in Baileys Crossroads, Va. The Committee on Veterans' Affairs is to be commended for its timely and effective oversight hearing on this matter, during which veterans service organizations testified unanimously against the proposed move.

Had the relocation occurred, it would have caused a serious hardship for the many dedicated employees of the Board of Veterans' Appeals, who would have had to commute inordinate distances to reach their place of employment. Many would have had to search out new jobs, because of the limitations on their ability to commute to a location well beyond the reach of regular, reliable mass transit.

A larger issue here, however, was the very operation and success of the Board of Veterans' Appeals in carrying out its mission to serve our Nation's veterans. I belive it would have been most unwise, Mr. Speaker, after spending many billions to build a subway system in Washington with total accessibility to the handicapped, to locate this Federal agency that serves great numbers of handicapped persons well beyond the reach of the subway system.

In March of this year, I wrote Veterans' Administrator Max Cleland, urging him to reconsider his decision to move this agency. Upon receiving an unyielding response from Mr. Cleland, I expressed my concerns to the Veterans' Affairs Committee, and urged that it take appropriate action. It goes without saying that I was most pleased to learn that, after a most useful oversight hearing by the Veterans' Affairs Committee, the Veterans' Administration decided to scrap the ill-conceived transfer.

For the record, I would like to submit copies of my correspondence with Veterans' Administrator Max Cleland:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 15, 1979.

HON. MAX CLELAND,
Administrator, Veterans' Administration,
Washington, D.C.

DEAR MR. CLELAND: It has come to my attention that the Veterans Administration is contemplating a move of the Board of Veterans Appeals away from its present location near Lafayette Square. In addition, I am informed that a likely candidate for the Board's relocation is a building near Bailey's Crossroads, Virginia. If that is indeed the case, I would like to express my opinion concerning this matter.

As you know, the METRO subway does not serve the Bailey's Crossroads area, nor will it do so upon completion of the system. The Board's mission of assisting veterans visiting from around the country has been well served in the past by its convenient downtown location, and it seems logical to make every attempt to relocate the Board to an equally accessible site, hopefully within easy reach of our rapid transit system.

In my view, this question is more than just a matter of convenience. Can we be certain that veterans would not be discouraged from availing themselves of the Board because of a trip requiring additional time and transfers? I believe this concern is particularly relevant to unscheduled "walk-in" appellants, who utilize the Board's services while here on other business. If anything, our visiting veterans deserve easy access to the agencies that serve them.

Please understand that the purpose of this letter is not to express a prejudice for a specific site or jurisdiction; I ask only that you do everything possible to relocate the Board of Veterans Appeals to an easily accessible location.

Thank you very much for your consideration of this request.

Sincerely,

MICHAEL D. BARNES.

VETERANS' ADMINISTRATION,
Washington, D.C.

Hon. MICHAEL D. BARNES,
House of Representatives,
Washington, D.C.

DEAR MR. BARNES: Thank you for your letter regarding the move of the Board of Veterans Appeals to Skyline Place in Bailey's Crossroads, Virginia. I appreciate your concern.

The Veterans Administration Central Office Headquarters has an urgent need for additional space in the Washington Metropolitan area. This is causing communication and operational difficulties which is affecting service to veterans. The only solution was to acquire additional space to provide an adequate working environment for all our employees.

To resolve this problem, the VA reviewed the overall use of space and the communications and dependency on personnel in other VA departments and offices. The VA decided, and GSA concurred, that the only solution was to acquire additional space. The Board of Veterans Appeals was chosen, with the approval of the Chairman, because it was the most autonomous organization that could operate independently in another location. The vacated space would then be used to consolidate the scattered offices.

Briefly, the Chairman's requirements were for GSA to acquire 46,440 square feet of space and consider all possible locations within the beltway that were not more than two blocks from a major bus route or Metro Station. GSA responded to the VA request and sent out thirteen solicitations for bid which included locations in the downtown Washington area.

GSA received seven inquiries and only Skyline Place, Bailey's Crossroads, Virginia, submitted an acceptable bid. The site was visited and fulfilled the requirements the VA specified in the request to GSA. The Skyline Place will provide BVA with 9,418 square feet of additional space. There is adequate public transportation so that anyone who wishes does not have to drive an automobile. Should the demand for bus transportation be greater than the current schedule, Metro indicates they will consider additional busses.

After careful consideration and further study, the decision was made to accept Skyline Place and to relocate BVA there. In my judgment, this relocation will provide a more equitable use of VA space, relieve severe overcrowding, and create an environment more conducive to work efficiency for all our VA Central Office employees.

It is my best judgment that the move of the Board of Veterans Appeals to Skyline Place is in the overall best interest of the VA, the Veterans, and the beneficiaries.

Sincerely,

MAX CLELAND,
Administrator.●

QUESTIONNAIRE RESULTS, FIFTH CONGRESSIONAL DISTRICT, NEW YORK

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. WYDLER. Mr. Speaker, I have just received the tabulation of the responses to the questionnaire which I had mailed to every household in the fabulous Fifth Congressional District.

The results of the questionnaire did not surprise me as I am constantly in touch with the people of my district and have a fair idea of what their views may be. I was, of course, concerned by the fact that so many people believe the economy will get worse during 1979. Unfortunately, that appears to be very much the case. This view was held by 83.59 percent.

The strongest support for any proposal was a continuation of the 55-mile-an-hour speed limit. I agree with the wise judgment of my constituents, because it not only saves energy, but it saves lives which is much more important.

I was mildly surprised by the support for the reinstitution of selective service registration on a standby basis. My own position is to oppose this unless and until we actually need a draft, but I will reconsider that position in light of the questionnaire results.

I was gratified by the strong support—72.15 percent—for my commuter tax deduction proposal. This is something long past due and something I hope we will be able to get included in the next tax bill.

The strong support for tuition tax credits also was a clear indication that people in general want tax relief and this is one form that would be most helpful to them.

Finally, of course, there was strong support for giving the President authority to mandate wage and price controls. On this issue I would again want to see some proof of the need for such controls before I would be willing to grant the President a general authority which could amount to a blank check.

I thank each of those who participated by completing and returning the questionnaire. As their Representative in the Federal Government, there is nothing more important to me than an open and free exchange of views with my constituents.

As I continue to try to speak their voice in Washington, I shall certainly consider carefully the views expressed by the questionnaire results.

For the benefit of my colleagues, I am including in the RECORD at this point the complete tabulation of the questionnaire results:

	Yes	No	No opinion
1. Do you believe the economy will improve in 1979?	9.92	83.59	6.49
2. Should the Federal Government subsidize construction of more low-income housing in the 5th Congressional District?	19.56	73.83	6.61
3. Are you in favor of Government controls, such as rationing, to prevent a fuel shortage in America?	54.82	40.12	5.06
4. Do you believe the President's policies with regard to the People's Republic of China and Taiwan have hurt America's standing with other nations of the world?	38.22	51.39	10.39
5. Would you support reinstitution of Selective Service registration on a standby basis to meet unexpected emergencies?	70.27	25.01	4.72
6. Do you believe the present administration is giving Long Island its fair share of Federal aid and Federal contracts?	10.37	64.99	24.64
7. Are you in favor of continuing the 55-mile-an-hour speed limit on all major highways?	87.87	10.86	1.27
8. Should Congress support a constitutional amendment to mandate a balanced Federal budget?	68.27	22.70	9.03
9. Should the outside earnings limit be ended for social security recipients?	67.35	27.75	4.90
10. Should commuters be allowed to deduct the cost of going to and from work from their income taxes, as has been proposed by Congressman Wydler?	72.15	24.40	3.45
11. Do you believe tax dollars should be used to finance congressional election campaigns—in place of private funding of such efforts?	38.59	54.45	6.96
12. Should all education expenses, including those for students in colleges or universities, be allowed as a Federal income tax deduction?	63.13	33.05	3.82
13. Would you favor legislation for an across-the-board majcr income tax cut for all Americans, regardless of their annual income?	53.94	40.75	5.31
14. Do you favor the President's proposal to offer a tax rebate for workers who observe the 7-percent pay increase guideline if the rate of inflation exceeds 7 percent nationally?	56.13	33.14	10.73
15. Should the President be given the authority to mandate wage and price controls if, in his judgment, it becomes necessary as a tool to battle inflation?	62.07	32.32	5.61
16. Do you believe there should be a national minimum hourly wage for teenagers and college students that is lower than the present $2.90 minimum wage, so that employers will be encouraged to hire young people for summer and vacation time jobs?	63.62	32.56	3.82

●

AMERICA LEARNING ALL OVER AGAIN THAT POWER COUNTS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. LAGOMARSINO. Mr. Speaker, the following editorial appeared in the Washington Star on July 22, 1979. It discusses the emerging character of our post-Vietnam foreign policy.

As we know, the Vietnam war has produced a retrenchment in American foreign policy. Events in the last year have painfully illustrated that we must again be aggressive in protecting our own interests, and those of the entire free world, abroad.

As the article points out, our image abroad is crucial to what we can accomplish. It is imperative that others realize the United States is not afraid to use its power. The "lessons of Vietnam" must be replaced by a renewed confidence in the American values that will assure a strong foreign policy.

The article follows:

AMERICA LEARNING ALL OVER AGAIN THAT POWER COUNTS

(By Ben J. Wattenberg)

There is a rhythm to the ideas of men. Thus, for an extended moment—call it from Tet to the ayatollah—there seemed to be a growing sense that America's experience in Vietnam had repealed many of the old precepts of statecraft.

What were these old precepts? Well, why were we in Vietnam in the first place? To defend freedom, said LBJ, and to honor our commitments so that other nations would not acquire an image of America as a paper tiger, and to prevent communist forces from taking over other countries and toppling the dominoes one by one. And just how would we go about accomplishing this? We would do it with raw power—not because we wanted to do it that way but because, as events unfolded in Vietnam, there was no other way.

As Vietnam turned from an agony to tragedy to a debacle, as it seared and shaped the minds of those who opposed the war and ultimately of many who supported it, these old precepts came under challenge. The rhythm of our era took us through a time when a new catechism emerged under the rubric of "The Lessons of Vietnam."

To the early doves and some of the latter-day doves, too, many of these lessons seemed clear. American power, they felt, was not a last resort that got you out of trouble: American power was what in fact, what got into trouble.

And so it seemed to many that the old rules deserved to be challenged, even junked. Just as a "New Politics" formed in reaction to Vietnam, so too did a new foreign policy. It was a policy, said its advocates, that was less muscular, more accommodating, and lower in profile. It was a policy, said its critics, that was weak and retreatist. When Jimmy Carter, a man often in tune with the rhythm of American thought, took over as president, he staffed his foreign-policy agencies with people who accepted these soft-line "lessons" derived from "the trauma of Vietnam."

And then—suddenly—chaos.

Late last year and early this one, a grim sequence of international events seemed to create a sense of what news magazines quickly labeled "America in Retreat." The world was unraveling—or so it seemed. And as this happened, the melody of an already swelling new mood in Washington gained still more volume.

What are the old general rules that are now enjoying a new esteem? And how do they apply to what is clearly a new era in world politics and power? Consider, to begin, four such dictums, all of which are coming out of the closet now with a vengeance.

The first rule is that image counts.

Once upon a time there was an American president named Richard Nixon who said that unless the United States flexed its muscles occasionally, the world would come to regard us as "a pitiful, helpless giant." That notion was greeted with derision.

But recent events suggest that it shouldn't have been. As it is in life, so, too, in statecraft: Image and perception may count as much as reality. In fact, they often become reality.

An example of the consequences of America's image as a helpless giant is what is happening in Saudi Arabia. The Saudis were horrified by what they perceived to be American weakness in Iran. Was it an accident that, following such horror, they made softer sounds to the Soviets, were less willing and able to put a brake on escalating OPEC prices, and didn't lift so much as a finger to help us out with the Egyptian-Israeli peace treaty?

Image counts. If other folks think you're a pitiful, helpless giant (or, in the Ayotollah Khomeini's felicitous phrase, "a defeated and wounded snake"), you're halfway there.

The second resurgent rule is that power counts.

The reassertion of this notion is similar to another great reassertion currently sweeping down the boulevards of Washington. "There's no free lunch," says Milton Friedman in the realm of economics. Everything cost something.

And so, too, in the realm of power and statecraft. Suppose that, for a period of a decade, the United States declares that it has to "reorder priorities." Suppose it decides that the way to do this is to "cut the bloated military-industrial complex." And suppose that this goes on at a time when the Soviet Union, our principal adversary, is reordering its priorities in exactly the opposite direction—beefing up and further bloating its military-industrial complex. If all this happens, the old-fashioned rules say that somebody, somewhere, will end picking up that lunch tab. Specifically, unless these spending trends are reversed either by us or by them, America will in a few years be "No. 2" in military might. We know this. They know this. And the rule of "no free lunch" holds that if they have more power and we have less, the Soviets will use what they have and be able to use it more effectively.

Power counts. And it abhors a vacuum.

The third rule: Dominoes live.

Exactly how the word "discredited" became attached to the phrase "domino theory," during precisely those years when events were bearing it out, will no doubt remain a linguistic mystery for some time. Yet the facts are plain: Almost immediately after the fall of South Vietnam, communist governments or puppets did assume power in neighboring Cambodia and Laos, just as predicted.

So much for literal dominoes. But figurative dominoes were always more important in the diplomatic house built on the old foundations. Simply put, the domino theory was (and is) shorthand for the truism that events in one country influence events in others.

How could anything so obviously correct ever be "discredited"?

Our fourth resurgent rule is: Freedom counts.

The foundation of American post-World War II foreign policy was clear: The Western notion of human freedom was threatened. Unless the United States defended these Western values, they might decline around the world, primarily under Soviet pressure. And if these values eroded around the world, sooner or later they would erode here as well.

It was, to be sure, a noble concept, but one that just as surely got us into trouble at times.

No one would dare use the phrase "communist menace" these days, but there are communists and their footprints are still menacing. Solzhenitsyn has exposed the horrors of the Soviet gulag. The "boat people" are fleeing communism just as the East Germans did a generation earlier—and as they did not flee the "corrupt" General Thieu. And in Cambodia, the Khmer Rouge bloodbath provided, in extremis, the horror that has come to be associated, in one way or the other, with communist takeovers around the world.

WHAT WE CAN DO

So if Western values are still under siege, if the alternatives seem dreadful, and if America's power is diminished, one is pushed to ask a difficult question: Can our values ever really flourish in a world where "the United States is in retreat"?

It is surely true that we do not have the same ability to control events around the world that we once had. There is a new set of "multipolar" circumstances, and friends, foes and neutrals are all more powerful than they used to be.

But that there is a new set of global circumstances, for one example, does not mean that America must remain denuded of an intelligence agency. That there is a new era does not mean that the Soviets must be allowed to become the dominant military power.

Still, we can never go back to our military supremacy of the 1950s. That there is a new era in which our military power is necessarily diminished in a relative sense may well mean that we have to think once again about playing hardball with the Soviets on economic matters. The "discredited" Jackson Amendment linking American trade preferences to Soviet emigration policy is about as "discredited" as the domino theory. The Soviets have recently loosened up their emigration policy in an attempt to gain trade benefits. That is precisely what the Jackson Amendment intended, and the question now is only whether we hang tough and nail down a good bargain.

The Carter foreign-policy team, often still mired in the mentality of the late '60, may well have been the last to know, but under the combined pressures of circumstances and politics, the Carterites, too, are beginning to understand once again the old precepts and to unlearn some of the "lessons of Vietnam."

And so, the pendulum is swinging—for the third time in a third of a century.

Our problem is not too much but too little power. The old chestnut of "peace through strength" makes ever greater sense. The realization has dawned on us again that our culture, our values, our ideas are worth defending. And the nation seems ready to act, moderately, on this proposition.●

RUSSELL JAMES WEST—TORRANCE CITY LIBRARIAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. ANDERSON of California. Mr. Speaker, on August 17, 1979, Russell James West will be honored by his friends and associates for his 12 years of dedicated service as Torrance City librarian. This will be a truly special moment in the city library's history, since it will mark the end of the tenure of a man who was instrumental in creating for Torrance citizens their first city-owned library. In sharing this man's career of accomplishments with my colleagues today, I join in honoring him for his numerous and valued contributions as a public servant and community leader.

Russell West started his career with the city of Torrance as a librarian without a library. He was hired in 1967 to build a municipal library system just as the city's library services contract with the county of Los Angeles was about to expire. Applying his 15 years of experience in library service, he met the challenge well, unveiling a library for the city within months of assuming office. Continuing his drive for improvement, he later made possible the opening of the new Torrance Civic Center Library in 1971. This structure now stands as a great source of pride for the citizens of the Torrance community.

Support for the library and its activities has grown greatly in large part due to the work of Russell West. He was instrumental in convincing the local Lion's Club on making the library a prime beneficiary of its fundraising drives. This made possible the extension of library services to the physically handicapped by the purchase of special equipment.

This man has also generously devoted his time to community betterment concerns. His work was instrumental in the formation of the Torrance historical society and the success of the Torrance bicentennial celebration.

Mr. Speaker, for his many good works as a public servant and community volunteer, Russell West deserves recognition as a citizen of the first class. He is one who on leaving service with the city of Torrance can take credit for many good deeds.

My wife, Lee, joins me in offering our congratulations to Russell West on his outstanding career with the city of Torrance. We send him and his family, his wife, Margaret, their daughters, Karen, Karol, and Kathy, a future of continued success and prosperity.●

THE SCOFFLAW APPROACH?

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. SOLOMON. Mr. Speaker, the New York Times, reports that the U.S. Government is New York City's biggest scofflaw. The Federal Government, according to one report, owes half a million dollars to New York City in unpaid parking violations.

We now have Mr. Hamilton Jordan, a scofflaw himself when it comes to parking violations, at a position of highest authority in the White House. It is poetic justice that the Federal Government should be among the Nation's biggest scofflaws with such a person helping to run it.

But the situation is not a funny one. President Carter, as he has reminded us again and again and again, is the one who is supposed to set a moral tone to government for the rest of us to follow. What has he done about half a million dollars in scofflaw fines in one city? He is the head of government, so the responsibility is his. How much is owed by the government all across the Nation in scofflaw fines? The taxpayer deserves to be told and I am sending a letter to the President requesting that he tell us exactly how much the bureaucrats have been getting away with in parking violations. Yes, I know that previous administrations have owed money in parking violations. But that does not mean the Carter administration can ignore its moral and financial responsibilities.

I enclose the following:

[From the New York Times, Aug. 2, 1979]

U.S. IS SCOFFLAW, LEGISLATOR SAYS

The Federal Government is New York City's biggest scofflaw, owing nearly half a million dollars for unpaid parking fines, but the city has neglected to get the information it needs to do anything about it, a Brooklyn Assemblyman charged yesterday.

The Assemblyman, Charles E. Schumer, chairman of the Assembly's newly created Oversight Investigations Committee, accused the city's Parking Violations Bureau of letting the Federal Government slide by without paying its full due in parking fines—while forcing private drivers to pay—because of lax monitoring procedures.

The issue last came up during the city's fiscal crisis in 1975, when Michael J. Lazar, who was then the Transportation Commissioner, put the total in outstanding summonses and late penalties owed the city by the Government at $6 million.●

REFORMS TO HELP THE ELDERLY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. HORTON. Mr. Speaker, our colleague, Congressman CLAUDE PEPPER, chairman of the House Select Committee on Aging, has introduced a most important piece of legislation, H.R. 2602. This legislation seeks to reform abuses in the sale of health insurance to the elderly. Because the abuses disclosed during the committee's hearings are of a serious nature, and because I believe every protection should be afforded our elderly citizens, I was pleased to cosponsor the measure.

Earlier this year, Mr. Speaker, the Select Committee on Aging conducted several days of hearings on abuses in the sale of health insurance to the elderly in supplementation of medicare. During those hearings, a number of startling abuses were revealed. For example, it was disclosed that one elderly woman was sold over seventy insurance policies when one would have sufficed. In addition, the hearings revealed that a list of vulnerable senior citizens is constantly circulated among agents who refer to these prospective clients as easy marks or "gophers."

While the revelations were shocking, it should be pointed out that the hearings did not show that these abuses are industrywide. Instead, the abuses were limited to the companies which specialize in the sale of individual, not group, insurance policies. In many instances, however, the distinction between a good company and one that is more interested in defrauding its clients is often difficult for elderly clients to determine.

This legislation would help resolve this problem. The bill sets up a program of voluntary certification so that those companies that wish to do so, may submit their policies to the Secretary of Health, Education, and Welfare. Those policies which meet Federal minimum standards, as promulgated by the Secretary, would receive a "seal of approval." This seal could then be used by the company in its advertising.

This legislation is long overdue, and I urge my colleagues on the Interstate and Foreign Commerce Committee to act expeditiously on it.●

WHO IS TO BLAME?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, when the President returned from Camp David to deliver his energy sermon, he blamed the organization of petroleum exporting countries for taking a "tremendous toll on our economy."

Alfred Kahn, President Carter's inflation justifier, explained shortly after the announcement that inflation was 13.2 percent for the first half of the year that we would be controlling inflation if OPEC were not draining away our resources.

Yesterday the Labor Department reported that productivity—output per man hours worked—fell at a 3.8 percent annual rate last quarter. Presumably OPEC is to blame for this as well.

Unquestionably OPEC's price increases have cost us dearly. But OPEC is too often a convenient scapegoat for our economic malaise. OPEC is not as much to blame as our own Government.

In the first place, we would not be dependent upon imports for almost 50 percent of our energy consumption if Government price controls had not shut off the capital and incentive to keep domestic wells flowing. The Government made us dependent on OPEC.

Before assigning guilt, let us look at another indicator. Japan and West Germany both import close to 100 percent of their oil. Yet both have strong economies. Japan's productivity climbed at a 5.6 percent rate throughout the OPEC price increases of 1978. West Germany's productivity has grown at a 4.2 percent rate. They are even more dependent on OPEC, yet have strong economies and no gas lines.

If dependence on OPEC does not explain the difference between Japan's prosperity and our inflationary recession, perhaps we should look elsewhere for a reason. May I suggest such a reason? Japan and West Germany do not have Departments of Energy. In short, they have much less government, where the real blame belongs for shortages, whether shortages of oil or of confidence.

In Japan, the government spends 4 percent of their GNP; in West Germany, 3 percent. For this reason, less is taken from their citizens in taxes and inflation, more is invested in modern plants and machinery. In Japan, gross fixed investment in 1978 equalled 32.9 percent of GNP; in West Germany, 22.4 percent. Investment in the United States is much lower—17.4 percent. How can we expect to be as productive as these nations when taxes and regulations drain away the investment capital necessary for modernization?

Is OPEC to blame for our economic problems? Ask Japan and West Germany.●

ELEVEN YEARS OF OPPRESSION IN CZECHOSLOVAKIA

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. GREEN. Mr. Speaker, almost 11 years ago, on August 21, 1968, Soviet and other Warsaw Pact forces roared into Czechoslovakia to halt its noble efforts to "humanize" the Communist system. Czechoslovakia was making progress in the areas of human rights and basic freedom, and the Soviets felt threatened by the new social order established in that freedom loving country.

The Soviet invasion and subsequent occupation flagrantly violated numerous United Nations resolutions, including article 2, section 4 of the U.N. Charter, which states that—

> All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the Purposes of the United Nations.

In addition, the Soviet action violated the fundamental right of a country to determine its own fate and aspirations—in effect, to strive for a better way of life. As a result of this Soviet occupation, the Czechoslovakian people lost an opportunity for self-determination and as a result basic human rights have also gone ignored.

In their quest for freedom, untold numbers of Czechoslovakians suffered from a loss of their rights to express themselves. It is noteworthy that a courageous group of Czechoslovakian citizens, workers, and intellectuals alike, have banded together to sign Charter 77, petitioning their government to implement the Helsinki Agreements, signed by the Soviet Government in 1975. While I am hopeful that the spirit of human rights is still evident among the people of this country, reports of harassment of Charter 77 signers is very disturbing.

While the shadow of Soviet oppression remains in Czechoslovakia, we must speak out on the need to make such aggression and domination a thing of the past. Our goal is to achieve true freedom for all peoples of the world, and the people of Czechoslovakia who have suffered so much are certainly among those deserving of our support.●

THE ENERGY PRODUCTION INCENTIVE ACT

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. KRAMER. Mr. Speaker, we have seen bill after bill during the past few weeks purporting to deal with the energy problems facing the Nation. Virtually all of the legislation we have seen to date creates more paperwork, more regulations, more taxes, and more controls on energy by the Federal Government.

Almost none of these bills offer any incentives for Americans to create more energy, or to incorporate meaningful conservation measures into their daily lives.

Those energy bills we have seen so far have concentrated on higher taxes, such as the windfall profits tax, which will eventually be passed on to the consumer, and on expanding the already formidable Federal controls over our Nation's energy supplies by creating even more Federal programs and bureaucracies.

I think this is the wrong approach. We need to give incentives for responsible conservation measures, for the use of new and alternative fuels, for bio-conversion processes, not just to the energy companies, but to average Americans and to the large industrial users of energy.

That is what this legislation, the Energy Production Incentive Act, will do. Americans have always responded better to incentives than penalties.

Among the measures included are a tax credit of 10 percent of a new car's purchase price to any American who buys a car which gets 30 miles per gallon or better or who buys an electric or steam powered car.

In addition, any builder who provides a solar powered primary heating system can get a tax credit of up to $8,000 per house so equipped. So can any American who builds his own home with such a system.

Many of the more important inventions in this country have been created by small inventors, but the rewards for inventing have diminished over the years and the difficulties have increased. While it is not meant to be a total solution, the Energy Production Incentive Act would provide up to a $100,000 tax credit which can be applied against the revenues any inventor receives from the use or application of inventions which result in energy conservation or the use of new energy sources or fuels. The credit is limited to two inventions and designed primarily for small inventors, not large corporations or conglomerates.

In addition, one of the biggest incentives to both consumers and producers of energy would be the abolition of the Department of Energy and the programs and regulations which it administers. The act would abolish both DOE and its programs after December 31, 1983. So far, DOE has done nothing which creates new energy supplies or encourages the use of alternative energy sources and little to encourage practical conservation measures.

Thus, the act would basically give DOE 4 years to justify its existence, and at any time before that date Congress could repeal the abolition clause. This is a far more generous treatment than DOE deserves, and frankly gives that bureaucracy, in my opinion, more than enough time.

After 5 years of Federal price controls on petroleum, after 3 years of a full-fledged Department of Energy with a $14.5 billion annual budget, after entitlements programs and allocation programs, after endless debates in Congress, and after domestic and foreign energy summits, what has the Government accomplished? The Federal Government has not created one single drop of oil, nor have we received one additional barrel through the Federal Government.

Finally, the Energy Production Incentive Act would provide incentives for the production of alternative forms of liquid fuels, such as shale oil, tar sands, heavy crude, and gasohol, by providing a $3 barrel tax credit for their production.

In addition, gasohol plants would receive an additional 10 percent investment tax credit, as would other synthetic fuels plants. Utilities and major fuel burning industries could receive up to an additional 5 percent tax credit for power generated through bioconversion or the use of garbage or waste as a power source.

Whether our energy problems have been created by shortsightedness or by excessive Government, or whether they can be laid at the door of OPEC and the boardrooms of big oil is not the question. Nor is it a question of who to blame. It is a question of how to encourage the people of America, to give them incentives, and not to chastize or to shift the responsibility from one group to another while ignoring the problem.

The energy problem is real. The spot market price of gasoline in Rotterdam hit $50 a barrel last month. The CIA has also predicted that the growing Soviet demand for oil will turn the U.S.S.R. from an oil exporter to an oil importer within the next 5 years. Saudi Arabia will not continue to increase production for our benefit.

In the long run, we must rely on our own domestic energy, and we can best do that not by penalizing, but by rewarding Americans who will help solve our energy problems.

Close to 50 percent of our petroleum is imported—more than 8.5 million barrels a day, and only in 1977 did we as a Nation import more.

But what has been the reaction to our dependence on foreign oil? In 1973 and 1974, earlier Congresses enacted the legislation setting up price controls and allocations on domestically produced oil and gas. This had the real impact of rewarding oil producers who had invested overseas, because the price controls did not apply to foreign oil, and penalized oil producers with heavy investments in the United States. The result was predictable. Imports soared and domestic production dropped and stabilized at a lower level. There are wells which could have produced oil in this country which have been capped or not produced—largely because Congress has set a policy where Americans who drilled oil wells before 1972 in the United States are paid less than $6 per barrel for their oil, while Americans who drilled in Kuwait, Saudi Arabia, Qatar, or anywhere outside the United States can receive $15 to $20 a barrel for their oil, sometimes as much as $40 a barrel.

I am not arguing for the oil companies, but if our laws reward those who benefit from the extortionistic policies of OPEC and penalize those who do not, then the extortion will continue.

But that has not been the extent of our shortsightedness.

Through the Clean Air Acts we have required more and more pollution controls on new cars, which has reduced their mileage to the point that a 1978 car which may be 500 pounds lighter than a comparable 1968 car gets the same gas mileage as the heavier 1968 car, and requires scarcer and more expensive unleaded gasoline as well.

We have passed legislation which has the effect of stopping new oil wells in the west at any time snow is on the ground. Why? Because archeological artifacts might be present.

I was told of a case in Wyoming where the stone sheep pens erected by a rancher's grandfather were classified as an archeological artifact.

No single piece of legislation can deal with all these problems, but I submit that the basic premise behind our energy policy is summarized by such examples.

Our policy is negative—don't produce oil here; don't raise your prices even if your costs increase; don't hurt the environment, even if it costs millions of gallons of gasoline annually.

I am not saying that environmental concerns are wrong. I am not saying that all regulations are wrong. What I am saying is that along with all the restrictions, along with all the "don'ts," along with all the negatives, we need positive encouragement for the American people to come up with new energy sources, to buy fuel efficient cars, and to invest in new ways of supplying our future energy.

And that is the purpose of the Energy Production Incentive Act—to set a positive tone, to work with Americans, rather than against them, and to move toward greater energy independence with enthusiasm, not because the Federal Government ordered it.●

TOVA RAY

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. MAVROULES. Mr. Speaker, I would like to take this opportunity to recognize and commend the work of Tova Ray of Gloucester, Mass., a woman who has, in recent years, selflessly devoted herself to assisting the handicapped residents of the Cape Ann area.

When Mrs. Ray and her husband, John, moved to Gloucester in 1973, they perceived a vital need for support and services on behalf of the handicapped of that area. With this recognition, Tova and John made a commitment of their resources—both financial and emotional—to rectify that situation.

With that decision, Tova Ray established Reach (Recreation, Education, Arts and Crafts for the Handicapped), an organization which to this day exists for the purpose of providing opportunities and experiences for the handicapped of all ages.

Over the years, Tova and John have drawn the less fortunate out of their isolation and into an outgoing, loving community. They have taught these people how to bowl, how to swim, they have taught them crafts and they have organized dinners and parties in their honor. But on a deeper and more permanent level, Tova has provided these individuals with an even greater service. She has given the handicapped with whom she has worked a sense of worth, a degree of dignity and a level of independence which many of them never had before.

The success of Reach—which has been well documented—is due, quite simply, to the work and devotion of Tova Ray. She has lent these people her time, her energy and even her home. She has given of herself unselfishly in her determination to improve the quality of life for those less fortunate than herself.

Ill health now mandates that Tova step down from her position as director of Reach. The organization which has run primarily on inkind contributions from the community and donations from the Rays, must now seek someone to fill Tova's shoes. In truth, to replace Tova would be impossible—but it is absolutely essential that her work be continued. As a result, I have lent John Ray my support in his pursuit of financial resources to sustain Reach and in his search for an individual who is capable and willing to assume Tova's role. In this regard, I ask my colleagues for their interest and assistance.

I will close simply with a heartfelt thank you to Tova, not only from myself, but from the handicapped, from their families, and from everyone who has been touched in some way by her energy and love.●

SHARING THE RESPONSIBILITY OF RESTRAINING HEALTH CARE COSTS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. FISHER. Mr. Speaker, the House Ways and Means Committee has voted to report the Hospital Cost Containment Act of 1979, H.R. 2626, to the full House of Representatives. I support this bill as a way of addressing the immediate problem of runaway hospital costs. In an effort to develop necessary long-term goals of overall health care cost control I offered an amendment, which the committee adopted, establishing a cost control task force, directed to explore comprehensive changes in our health care system; changes requiring increased participation by both the consumer and the provider of health care. The following remarks, which appear in the committee report, express my further thoughts on the task force and the bill:

ADDITIONAL VIEWS OF JOSEPH L. FISHER

I joined with the majority of my colleagues on the Ways and Means Committee in reporting the Hospital Cost Containment Act of 1979 (H.R. 2626). I believe this bill is an important first step in addressing the problem of skyrocketing health care costs, and in particular, hospital costs.

I recognize and commend the hospital industry for adopting a voluntary hospital cost control program, known as the Voluntary Effort (VE). This program apparently has had some success in keeping down the annual rates of increase in hospital costs. In my view, H.R. 2626 is consistent with the goal of VE. This bill provides hospitals with incentives to keep costs down while assuring conformity with the Voluntary Effort.

The voluntary program, contained in H.R. 2626, uses the hospital industry's own limit for 1979 (11.6 percent) as a floor for determining whether hospitals across the country have been successful in reducing their expenditures. Should the inflation rate continue to rise, the allowable rate of increase for hospital costs would also increase. The mandatory program is triggered when hospitals across the country have exceeded this voluntary limit. Even then, a majority of hospitals still would be exempt from the program.

I believe that H.R. 2626 is a reasonable, short-term proposal for curtailing the upward spiral of costs in the health care industry. However, I believe that there are broader, long-term issues which should be considered. We must more fully involve the consumers and providers of health care in assuring quality and restraining the costs of medical assistance. The public and private sectors both must contribute to this effort.

To this end, I offered an amendment, which was adopted, that would establish a 2 year task force charged with evaluating and recommending to Congress additional cost control programs.

I offered this amendment because of my deep concern over the lack of clear cost-consciousness by the consumers and the providers of health care. The present payment system is, for the most part, a third-party payor system (Blue Cross, Medicare. commercial insurers). Furthermore, the reimbursement system is heavily oriented toward a cost-plus system; whatever costs are incurred will be paid by the insurer. Often, patients never even see their medical bills; they fill out insurance forms, the hospital or doctor forwards it to the insurer and is reimbursed. There is little opportunity even to monitor the costs incurred in providing the care.

The task force will study alternatives to the present reimbursement system. Among the options which should be analyzed are: increased or sliding scale deductibles, coinsurance, or other cost sharing arrangements designed to focus on the real costs of medical services. I am confident that a more efficient medical payment system will result in cost savings to the consumer.

While I support H.R. 2626, I am not convinced that it will result in the significant consumer savings envisioned by the Administration. There are a number of exemptions that, however worthwhile, will reduce the opportunity for such savings. I am also not persuaded by the arguments of the bill's opponents that H.R. 2626 will thwart the development of new technologies. Again, there are many allowable exceptions and the bill's life is too short for that to happen.

The bill merely is a short-term attempt to break the accelerating pace of high costs for hospital care. Longer range solutions must be developed. I believe that my task force amendment begins to move in that direction. Health care policy is too important to be developed on an ad hoc basis; we must begin to solve these cost problems in the context of consumer awareness.●

BATON, ETC.

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. MATSUI. Mr. Speaker, this week in Norfolk, Va., some very special constituents from Sacramento, Calif., are competing in the 1979 grand national championships of baton twirling. Twelve young students ranging in age from 7 to 14 years will compete against contestants from throughout the United States.

In the summer of 1977, an unknown baton twirling team from the Sacramento area did the next to impossible—they captured the title of grand national juvenile small dance twirl champions on the occasion of their first national competition. The team, California Elite, established itself in the world of twirling.

In the 2 years since that competition, the Sacramento group has grown in size and formed the Parents Club. Currently it has 25 twirling members who compete in several different events against their own age levels and based on their various levels of ability. The organization now calls itself Baton, Etc. The teams of Baton, Etc. are: California Elite, a junior small dance twirl team; California Elite Act II, a junior small twirl team; California Petite Elite, a primary small dance twirl team and a primary small twirl team.

These young people, who are constantly striving to improve their performance, must be dedicated and disciplined. They devote a considerable amount of time to obtain their goals. Sacramento is proud of them, and I take this opportunity to wish them continued success. I hereby extend my congratulations to this year's participants in national competition:

Tanja Anguay, Toni Foster, Jenny and Leslie Hilsinger, Tiffany Mamuyac, Katie Raney, Sondra Richardson, Elisa Rodriguez, Julie Thompson, Tricia Thomson, Jennifer Utter, Jill Westover and to Becky Bianco, USTA champion and professional instructor of the group.●

TWO PROBLEMS OF OLDER AMERICANS: HEALTH INSURANCE AND TRANSPORTATION

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. COLEMAN. Mr. Speaker, older Americans today are faced by a multitude of complex and interrelated problems. Largely living on fixed incomes, most older persons do not receive the wage and salary increases that enable others to keep ahead of inflation. Greater longevity and earlier retirement have further strained the incomes of older citizens because retirement years are thus lengthened, forcing more assets to be drawn down in an effort to get by. Social security has kept many from poverty, yet there are, nevertheless, older Americans who must choose between welfare and financial dependency upon ther children. Reductions in economic circumstances have forced many elderly citizens into substandard housing conditions. Even those able to afford institutionalized care are too often the victims of inadequate health care.

These problems should not exist. Older Americans have contributed immeasurably to the development of our Nation. The quality of life that we currently enjoy is the direct result of their hard work. Our Nation owes our senior citizens the right to enjoy the fruits of their labor. In an effort to alleviate and ultimately remedy the difficulties faced by this group of Americans, I have been working on measures designed to deal with the problems of health insurance abuse and transportation for the rural elderly.

During the past year, the House Select Committee on Aging has been examining abuses in the sale of health care insurance to the elderly. Gaps in the health care coverage provided by medicare have caused many senior citizens to buy more insurance in an effort to protect themselves from rising health care costs. The majority of the companies engaged in the sale of these policies are providing a much needed service for older citizens. Unfortunately, a few companies engaged in the sale of health insurance have sought to prey upon the fears of the elderly.

These companies have deliberately encouraged the purchase of numerous duplicate policies, fully realizing most of the policies contain clauses stating that, in the event of duplication, only one policy would pay. The committee discovered that many agents have presented themselves as representatives of medicare to their elderly customers, that agents have encouraged the cancellation of policies when it was of a financial benefit to themselves, and that agents have purposefully sought to sell older citizens more insurance than necessary. Indeed, it was discovered that some individuals were the holders of 10, 15, or even 30 health care policies.

These practices in the sale of health care insurance have convinced me of the need for reform in this area. Therefore, I am cosponsoring the Senior Citizens Health Insurance Reform Act of 1979.

The purpose of the act is to eliminate abuses in the sale of health care insurance such as those discovered by the committee. The bill seeks to make unlawful the willful overselling of health insurance policies to the elderly, as well as an agent's presentation of himself as a representative of medicare. In addition, the bill would authorize the Secretary of Health, Education, and Welfare to establish a program of voluntary certification of health insurance policies in an effort to provide some guidance to the elderly.

The bill would also eliminate mail order abuses in the sales of health insurance by requiring that all such policies sold through the mails in a particular State first be placed on file with and then approved by the commissioner of insurance of that State.

Another serious problem facing the elderly is rural transportation. The increased availability of gasoline supplies for the month of August will not mark the end of transportation dislocations for all our citizens. Senior citizens living on fixed or limited incomes are finding it more and more difficult to afford increasingly expensive gasoline. In addition, the overall inflation rate in our economy threatens to cause partial and even total curtailments in specialized transportation systems designed exclusively for the elderly.

In rural America, where distances between homes and essential services are often great, the transportation crisis of the elderly is particularly pressing. Only 55 percent of the rural elderly own automobiles, and there is often no alternative means of transportation available. The 61 percent increase in the price of gasoline this year will result in many of these persons being unable to afford this means of transportation.

Public transportation in rural areas is often nonexistent. Of all towns with populations of 50,000 or less, only 31 percent have any public transportation. The vehicles used in such systems are sometimes unsuitable for use by elderly riders and the fares required to ride such systems are sometimes prohibitive.

The lack of adequate transportation services can lead directly to the isolation or forced retirement of older Americans. Job opportunities, social activities, and accessibility to high quality medical services are often dependent upon adequate transportation. Its absence means denying these opportunities to our older citizens.

I believe the Congress has a clear responsibility to assure the availability of adequate transportation services to older Americans. As ranking minority member of the Subcommittee on Human Resources, I am hopeful that our subcommittee, under the chairmanship of Congressman IKE ANDREWS of North Dakota, will hold hearings on transportation services for the elderly. At these hearings I will propose that the adequacy of existing services be investigated, and that means of improving coordination between various Federal programs which fund transportation services, particularly within HEW, be examined.

It is my hope that the growing transportation problems of the elderly can be solved. To achieve this goal, the important role transportation plays in the whole range of social programs must be understood. Close coordination of existing funding sources for such projects must also be made more efficient. Only through such coordination will our Nation's commitment to our senior citizens be truly fulfilled.●

VILLAGE OF SMYRNA, N.Y., IS 150 YEARS OLD

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. HANLEY. Mr. Speaker, I would like to take a moment to bring attention to an historic occasion for some residents of New York's 32d Congressional District. They are celebrating a birthday, the 150th birthday, in fact, of the village of Smyrna.

The area which the village of Smyrna now encompasses was originally a settlement of the Oneida Indians. The first white settlers were the Porter family, who bought 250 acres and blazed their own trail. The first road to the area came in 1805, when the Albany-Ithaca Turnpike was built, opening the region to increased settlement. At one time, the entire site of the present village of Smyrna was purchased by two men, Apollos Allen and Jesse Hutchinson. Smyrna was incorporated in 1829, the third village in the County of Chenango to be incorporated. The village today has a population of about 250 persons, in a rural and dairy farming region. Other major businesses are lumber and logging, including one business that furnishes logs for log cabins and provided the materials for excellent reconstruction of Fort Stanwix in Rome, N.Y. The people of Smyrna made a documentary film of this effort.

The village of Smyrna has planned an extensive 3-day celebration from August 24 through August 26, including a citizens award Friday night to their emergency squad, a program of entertainment, and a busy program Saturday of a parade, games, a horse show, a dance sponsored by the fireman's auxiliary, and a band concert by the 125-member citizens band, which is one of the oldest if not the oldest citizens band in the country. On Sunday, the Baptist Church joins with its celebration of its 175th anniversary with three services by returning Minister Woodrow Brown.

The town historian, Mrs. Mary Fargo, has done considerable research on the buildings of Smyrna, and as a result, walking tours will be available giving the history and interesting facts about many of the buildings in the village. I am certain my colleagues join in sending our congratulations and best wishes to the people of Smyrna for a busy celebration of their sesquicentennial.●

RECOGNITION OF VOLUNTEER WORKERS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Ms. MIKULSKI. Mr. Speaker, I am introducing two bills today of great significance to every American and of enormous personal importance to me. These bills would, through certain changes in our tax laws, give people who volunteer their time to nonprofit organizations a degree of recognition for the outstanding service which they provide.

During my 20 years of work as a social worker and city councilwoman in Baltimore before I came to Congress, I saw each day the outstanding and vital work which volunteers provided. I viewed firsthand how they delivered our meals on wheels; taught the physically and mentally handicapped to become more productive members of our society, and assisted in our alcohol and drug rehabilitation centers. The vital influence of volunteers extends to virtually every aspect of our society—health, education, social services, culture, religion, and the arts. An enormous number of people volunteer their time each year—approximately 40 million Americans last year. The spirit of volunteerism is strong in every economic class. According to a 1974 report, 12 percent of those Americans living below the poverty level were volunteers. For example, many of the most active participants in the meals on wheels program are themselves retired citizens living on fixed incomes.

Yet, despite their critical importance to our society, the work of volunteers has never really been appreciated. At best, their contributions are taken for granted. Too often, the Government actually discourages their efforts. For example, volunteers who use personal automobiles in the course of their service may take a tax credit of 9 cents per mile. If the same people use the same automobiles for business, they can deduct 17 cents per mile. There is no fair explanation for the difference between these figures.

The present surge in gasoline prices is causing a severe strain on volunteers and the social services which rely on them. Recently, I have been contacted by people who tell me that because of the increased cost of driving they will no longer be able to deliver those meals on wheels which are so badly needed.

The first bill I am introducing would begin to rectify this problem. It would grant to volunteers the same mileage credit which is now allowed for business purposes.

My second bill would demonstrate to the American people that the Federal Government official recognizes the importance of volunteerism as an essential positive component of our society. This legislation grants Americans who volunteer a minimum of 50 hours per year a credit for their Federal income tax. The amount of credit would be computed by multiplying the number of hours a person has volunteered by the Federal minimum wage at the particular time, but the total would be limited to a maximum of $750 per year.

The importance of volunteers to our Nation is immeasurable. The passage of these bills would be a way for our Government and our people finally to say, "Thank you" to volunteers. I hope very much that the Congress will act favorably on these two bills.●

MANIPULATING THE AMERICAN PUBLIC

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. ASHBROOK. Mr. Speaker, the brand of imagery we are hearing from the Carter White House is wearing thin on the American people. In the last couple of weeks, President Carter and Mr. Rafshoon have pulled several rabbits out of the Presidential hat in an unrelenting effort to win back the public trust.

First, it was the circus at Camp David, where the President went into hiding with his public relations team and liberal allies from the Congress and big labor and assorted self-described spokesmen for the American people.

Next, it was Mr. Carter pounding the table on national TV, asking Americans to sacrifice, to tighten their belts a little tighter.

Then it was the Cabinet shakeup. The shakeup was to let the American people know that changes were taking place at the White House, that things were going to get better.

Then it was last week's conference when the President blamed everyone from the Washington press to the big oil lobby for his miserable failures.

Mr. Speaker, when is this administration going to come to grips with reality? When will they learn? The American people are not fooled. Inflation still hovers around 13 percent. Taxes are still much too high. Gasoline is still in short supply. Homes will still have to be heated next winter.

We have come a long way from the characterization of our first President as first in war, first in peace and first in the hearts of his countrymen. Now, we have a President who is first in inflation, first in shortages and 23 percent in the hearts of his countrymen.

I suppose that Members on my side of the aisle should be stirring with glee. But we are not. We know that the President needs help and we are willing to give it to him. But first, he is going to have to start listening.●

A FURTHER NOTE ON A CALIFORNIA MATTER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. BROWN of California. Mr. Speaker, ordinarily I would not comment on a matter which seemed limited to the State of California, but recent comments in this body about appointments of the Governor of California deserve some comment. This is especially true since the major purpose of these comments was to discuss the views one held about U.S. military involvement in Vietnam.

A column from today's Los Angeles Times should help clarify this discussion.

The article follows:

[From the Los Angeles Times, Aug. 2, 1979]

Miss Fonda Deserves Arts Post

(By Phil Kerby)

When Jane Fonda served her few days on the California Arts Council, I slept as well as I usually do. I had no fear that she was about to overthrow the state of California. Now that the state Senate has rallied around the flag and knocked her off the council, I feel about the same. The world seems to be continuing along its customary muddled and savage way.

Still, without arguing that her rejection was a pivotal point in human affairs, I think she would have been a nice addition to the state bureaucracy. She had ideas and energy and talent. My artistic friends who know about such things say she is the best actress extant, and they are upset over the way she has been treated by the politicians in Sacramento.

It is offensive to them that "politics" entered the equation. She should have been considered, they say, solely on her qualifications. Her political confidant, Gov. Brown, made the same point. Temporarily abandoning his cool, sardonic style, Brown said the senators who voted against her "lacked guts," and he fumed at the Senate for its "narrow-minded political" bias against the actress.

But politics, narrow-minded or not, is life, and life refuses to be parceled out in neat little rational packages. That's the way it is. Nothing can be done about it.

One state senator, overwhelmed by his own rectitude and speaking from the safety of the Senate chamber, accused Miss Fonda of "treason" during the Vietnam war, while one of her few defenders countered that "people have a right to express their views and not be called traitors."

Both themes were picked up and expressed in the letters column of this newspaper by readers with a robust sense of their own convictions. One wrote that the rejections of Miss Fonda was an "act of treason" by the Legislature "against our Constitution," while another said, "If there was an award for disservice to our country, Jane Fonda would win it hands down." (How easily the word "treason" is tossed about on all sides and applied—as it has been to her in this instance—to people never convicted of any crime.)

There is no doubt that Jane Fonda is an irritating personality. She is a woman and an actress, a double offense apparently to many critics. She is bright, which seems to arouse more antipathy, and she presumes to have opinions on matters of state, which have always been in the province of men to mess up.

But what aroused the most bile against her was the 1972 trip she made to Hanoi, an excursion that demonstrates how emotion in the best of causes can undermine judgment. While I was against the war, I never thought that Hanoi provided quite the fitting democratic platform to appeal to the folks at home to stop the confict. It would have taken someone with even more skill than Miss Fonda possesses to turn that junket into less than a public relations disaster.

Yet I was not so disturbed over the trip as were some of my sulfuric colleagues because I never confused her with either Secretary Kissinger or President Nixon. I assumed that they, not she, wielded power. My opinion at the time was that the President, not she, could send the troops farther into the morass of Vietnam or withdraw them; that the President, not she, could order the bombers to fly or keep them on the ground.

Whatever little niceties of protocol she violated, I never thought her offense compared to the secret bombing in 1969 of a neutral country, Cambodia, or the corruption of the official record to conceal this merciless attack from Congress and the American people. Whatever mistaken sympathies she may have harbored, I never thought she was responsible for the saturation bombing of Cambodia in 1973 when more explosives were dumped on that wretched defenseless land than fell on Japan in all of World War II.

My assumption was that Nixon, with the courtier Kissinger dancing at his side, issued the orders and that Jane Fonda had little influence over them. Too bad. They might come out better in the history books if they had paid some attention to her. Of course, that's easy for me to say. I have no hope ever of being appointed to the California Arts Council.●

LEGISLATION TO PROTECT POTOMAC RIVER SHORELINE IS INTRODUCED

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. BARNES. Mr. Speaker, I am very pleased to join today with my colleague and neighbor, Congressman JOSEPH FISHER, in introducing legislation to protect the shoreline of the Potomac River. The Potomac is one of the most magnificent, least-spoiled major rivers in the eastern part of the country, and this legislation is designed to protect its lovely character for present and future generations.

The bill designates the Interstate Commission on the Potomac River Basin as the agency to take a close look at the river's shoreline in Maryland, Virginia, and the District of Columbia. The Interstate Commission's task will be to work in close cooperation with local officials, private landowners, and other interested and affected parties to identify shoreline areas that are environmentally sensitive, or that hold special wildlife, recreation, or scenic values, and to recommend conservation strategies that would have local public support and are consistent with existing appropriate uses of private land along the shoreline.

The bill is not an effort to create a massive Federal land acquisition project along the Potomac. Rather, it is designed to protect fragile areas by a range of different activities: Increased public awareness of these environmentally sensitive areas; use of local or county zoning ordinances, or purchase of easements and development rights; public purchase for protection or recreational development; and other possible means of protection. In many places, it is likely that the study will find that no changes will be necessary.

I look forward to working with my colleague from Virginia, Mr. FISHER, in bringing the goals of this legislation to fruition.●

FAREWELL TO A DEAR FRIEND

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. GUDGER. Mr. Speaker, as we head into our August recess, I will be returning home with a heavy heart. I have just learned of the death in my district of North Carolina, State Representative Mary C. Nesbitt, with whom I had the privilege of serving in the general assembly before coming to Congress.

I was deeply shocked and dismayed to learn of her passing on August 1. Her untimely death deprives our community of a great leader and us of a dear and important friend. We shall miss Mary Nesbitt deeply.

Perhaps Mary Nesbitt has been the outstanding educator of her generation in western North Carolina and she was western North Carolina's second woman to serve in the general assembly. An inspiring teacher in our public school system, she became a leader in the forces of education before completing her teaching career and she led many community, State, and national efforts to advance the cause of education.

Later, I came to admire her also as a lawmaker while serving with her in the general assembly and more recently had considerable communication with her while she continued to serve in Raleigh and I in Washington. A graduate of the 1931 class of the old Biltmore Junior College, now the University of North Carolina at Asheville, she was a member of that institution's first graduating class, along with my predecessor, in Congress, the Honorable Roy A. Taylor. She also held a master's degree from Western Carolina University where she later received the alumni award for distinguished service in the field of education.

She taught for 28 years in the public schools of her native Buncombe County and was named to Gov. Dan Moore's commission to study the schools of North Carolina. She was the widow of Martin L. Nesbitt, Sr., principal of Oakley School, and was the daughter of Martha J. Cordell of Swannanoa, and the late Joseph Cordell.

In the general assembly, she served on legislative committees for human resources, education, higher education, courts, and judicial districts, constitutional amendments, finance, and local governments.

A participant in numerous other activities, and recipient of many honors, she will be remembered in western North Carolina by many of us as an exemplary educator of education and lofty purpose.●

SMALL BUSINESS CAPITAL FORMATION TAX ACT OF 1979

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. NOWAK. Mr. Speaker, I am introducing legislation to aid small business through the process of capital formation and depreciation reform, H.R. 5096, a bill to amend the Internal Revenue Code of 1954, to allow a deduction as an expense for certain amounts of office equipment and pollution control equipment, and to allow rapid amortization for machinery and equipment and motor vehicles.

WHAT THE BILL WOULD DO

This bill would provide for the simplification of a highly complex area of the Federal tax law. The provisions of this bill allow any business the election to deduct as an expense qualified office equipment and pollution control equipment. Motor vehicles would be permitted to be depreciated over a period of 2 years. In addition, machinery and equipment would be permitted to be depreciated over a period of 5 years. The criteria that a business must meet to qualify for the investment tax credit is unaffected by this bill.

Limitations are placed on the extent to which an election may be made under this bill. An election to expense qualified office and pollution control equipment within the year of purchase has limitations for the taxable year of $5,000 and $25,000 respectively. Further, there are limitations of $15,000 for motor vehicles and $50,000 for machinery and equipment on an election made for the taxable year.

Qualified office equipment is defined as any typewriter, adding machine, calculator, word processor, computer, cash register, telephone equipment, or similar equipment.

BACKGROUND

The crisis in capital formation has had a tremendous effect on small business. It has become apparent that the amount of capital needed to start or remain in business has grown dramatically. This has been occurring at a time when a small business' ability to raise and internally generate capital has been hampered by high interest rates, unfavorable tax laws, and Government regulation.

In order to promote capital formation and economic development, the Federal Government has up to now relied on tax incentive mechanisms such as investment tax credits, depletion allowances, and foreign tax credits. Although these tax laws are written for the benefit of all businesses, large business establishments have consistently reaped the greatest benefits from changes in the tax law. Since most small businesses experience marginal profits, or no profits at all during the early years of operation, their utilization of such incentives are severely limited.

This capital formation crisis has led to the need of permitting businesses to recover more rapidly the capital which it has. Small business have, further, found that they would like to see a massive simplification of the Federal tax law and regulations dealing with depreciation. Simplification would help small business avoid spending an inordinate amount of time and money complying with the depreciation provisions of the Internal Revenue Code.

I am also introducing today a companion bill, entitled the "Small Business Capital Formation and Reinvestment Tax Act of 1979." In my opinion, these two companion bills should be considered a step in the direction of channeling a more equitable share of the tax benefits for small business.●

REAR ADM. JAMES E. MANTEL TWICE A CITIZEN

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. WINN. Mr. Speaker, on November 1, 1979, after more than 34 years of service to our Nation and to the U.S. Naval Reserve Rear Adm. James E. Mantel will retire. He is currently serving as the Commander of the Reserve Naval Construction Force and the Commander of the First Reserve Naval Construction Brigade.

The brigade consists of 8 reserve naval construction regiments and 17 reserve naval mobile construction battalions throughout the United States. With more than 12,000 officers and enlisted reservists the brigade is the largest single command in the Naval Reserve. The units of the brigade are highly trained, hardware equipped, and self-sufficient combat ready units ready to deploy anywhere in the world in response to contingency construction requirements in the early days of any conflict.

In addition, Admiral Mantel commands 10 reserve augment units which will be called to bring existing active duty naval construction units up to wartime strength in an emergency. These augment units, together with the brigade, comprise the Reserve Naval Construction Force.

The Navy Seabees have long been recognized as a highly efficient and exceptionally well-managed asset which have served our Nation with distinction and honor since the earliest days of World War II. Admiral Mantel has continued that tradition and has significantly improved both the readiness and morale of the Reserve Seabees. Recently the Chief of Naval Operations stated that the Reserve Seabees are the most cost-effective use of manpower in the Navy today.

In these days when it is no longer fashionable to take pride in serving our country and contributions are often overlooked I am pleased to call attention to Rear Admiral Mantel's years of dedication to the cause of our national defense. Admiral Mantel first enlisted in the Navy as a seaman and served in both the active and reserve forces from 1945 through 1950. After being commissioned in September 1950 he served in a variety of positions with ever-increasing challenges and responsibilities. In Kansas City he commanded Reserve Seabee Divisions 9–17 and 9–18 before serving as operations and executive officer of Reserve Naval Mobile Construction Battalion 26 from 1964 to 1966. He went on to serve as commander of three Reserve Naval Construction Regiments, the 9th in Dallas, Tex.; the 2d in Great Lakes, Ill.; and the 6th which is also located in the Great Lakes area. He went on to serve as the Assistant Chief of Staff for Administration and Logistics for the commander of the 1st Reserve Naval Construction Brigade from 1973 until 1975.

Following his selection and promotion to rear admiral in 1976 he was appointed as Director of the Naval Reserve facilities engineering program where he served until he assumed command of the brigade in October of 1977.

Under his command there have been remarkable improvements in the Reserve Naval Constructional Force. Organizational changes have made significant improvements in mobilization readiness and have also contributed to marked improvements in the ability of command and control within the organization. In a more remarkable move he directed a 40 percent reduction in paperwork and a 39 percent reduction in the number of instructions with the resulting elimination of thousands of pages of paper and significant savings to the Government.

During the last 2 years Admiral Mantel has taken numerous steps to insure that the focus of training within the Reserve Naval Construction Force has been combat mobilization readiness. To insure that this goal is met he has directed his staff to become involved in mobilization planning and contingency support roles. The result has been much closer cooperation and understanding between Reserve Seabees and Regular Navy, Marine, and Air Force commanders. There is no doubt that this knowledge will pay tremendous dividends if we ever have to mobilize in an emergency.

It has been my privilege to know Jim Mantel and to follow his superb leadership and effective management while he has commanded the Reserve Naval Construction Force. He has worked with boundless energy, good humor, great depths of knowledge and expertise, patience and persistance, in order to achieve the vastly improved readiness posture of the Reserve Seabees within the past few years. He worked equally hard to see that the public was aware of our continuing need for naval construction forces in the Naval Reserve and tremendous asset they represent to all Americans.

Mr. Speaker, I take great pleasure in honoring this great American and in bringing to the attention of the Congress of the United States his substantial contributions to the welfare of our Nation. I am sure that my colleagues join me in wishing Rear Adm. Jim Mantel continued success in all of his endeavors and congratulate him on the completion of a remarkable and highly successful naval career.●

CANCEL PUBLIC TELEVISION

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. PAUL. Mr. Speaker, as the American people are burdened with more and more taxes and inflation, the subsidization of such unnecessary activities as Government television becomes less and less tenable, even to liberals.

Is it morally right to tax working Americans so the well-paid elites of Washington and New York can have the TV programs they want? I say it was never justified, and this is obvious in today's economic climate.

I would like to say Amen to Stephen Chapman's excellent article on the subject, which appeared in Harper's, and was excerpted in the Washington Star. Cable TV, and other new technology which telecommunications deregulation would make possible, can provide diverse programing for all tastes, at no cost to the taxpayers.

CANCEL PUBLIC TELEVISION!

(By Stephen Chapman)

Two years ago the Carnegie Corporation, that bulwark of high-mindedness, felt the urge to issue one of its periodic bulls. The subject this time was public television, which is known to the great bulk of the populace as the station one flips past on the way from "Hawaii Five-0" to "Barney Miller."

One can safely assume that the people at Carnegie knew at the outset pretty much what they thought should be done about public television. More public money should be spent on it. That is what a Carnegie study had proposed a dozen years ago, and now seemed a good time to repeat the thought.

The commission thinks that some changes ought to be made—changes it explains and defends in numbing detail—but that the problems in public television and radio are pretty simple. The simplest and most important is money.

"There is a sense," the commission says, "in which Americans are denied what other societies consider vital: a flourishing public communications service, uncensored by commercial imperatives." President Carter's budget for fiscal 1980 includes $172 million for the Corporation for Public Broadcasting, which is about a fourth of all the money that will be spent on public broadcasting (the rest comes from state and local governments, colleges, foundations, private corporations, and public donations). The commission thinks a minimum of $640 million in federal funds is necessary to guarantee what it calls a "first-class, full-service public broadcasting system." In addition, other contributors should ante up $570 million a year by 1985 (up from $347 million in 1977).

Where will the federal government get the money to more than triple its spending on public broadcasting? The first Carnegie Commission proposed a tax on TV sets; this one recommends that commercial broadcasters be charged a "spectrum fee" for the right to use the nation's airwaves. Since that would raise only about $200 million, the commission suggests the remaining $440 million come out of general revenues.

The ostensible point of this medium has always been to improve programming quality. Here the commission harks back to E. B. White's dictum that "non-commercial television should address itself to the ideal of excellence, not the ideal of acceptability." In layman's terms this means that public television requires government help precisely because not many people watch it. From the point of view of public-television programmers and bureaucrats, the genius of White's rather inexact standard is that excellence, unlike acceptability, cannot be measured. So deciding what constitutes "excellence" must be left to government agencies and individual stations. The determination obviously can't be left to the preferences of the mass viewing audience; in fact, by the commission logic, mass popularity is incompatible with artistic quality.

That incompatibility was the original reason for creating a public system. The commercial networks, driven by the necessity of supporting themselves through advertising, had to appeal to as broad an audience as possible. The first Carnegie Commission thought it highly unfortunate that American viewers apparently preferred "Gilligan's Island" and "The Beverly Hillbillies" to opera, serious drama, or news documentaries. Since the American public wasn't willing to support "excellence" in television programming by watching high-quality shows, then citizens should be forced to support it through their taxes. The second Carnegie Commission doesn't question the logic.

The first commission had grand hopes for public television, which it said "is capable of becoming the clearest expression of American diversity." In practice, the medium has been something less than excellent or diverse. Programming, for the most part, has charted new frontiers of tedium.

At the time the first commission issued its report, one might have been able to argue that Americans didn't watch first-rate shows only because the networks didnt offer any. Unfortunately one can no longer make this argument, because the typical American now has a choice; he can watch the standard network fare, or he can tune in the rarefied offerings of public television. Almost everyone, it turns out, chooses the former. The most popular public-television shows reach no more than about five per cent of American homes. The least popular network shows—those that get cancelled—generally have twice the audience.

When the first Carnegie report was issued, one might credibly have argued that the only way to serve that portion of the television audience that wanted better and more sophisticated programming was through a government-supported noncommercial system. The financial exigencies of providing basic television service through a combination of local stations and national networks effectively made it impossible to aim some programs at small audiences wtih comparatively esoteric tastes.

WHAT TECHNOLOGY OFFERS

That remains true for advertiser-supported commercial television. Since 1967, though, improved technology and relaxed government regulations have opened up a range of ways to channel more diverse and imaginative programs to people who want them. Pay-cable, for example, has grown impressively in the past few years, despite its wrestling matches with the restrictive policies of the FCC, which has been most concerned with protecting existing commercial broadcasters. For years cable served, thanks to federal rules, mainly to provide network reception to relatively isolated parts of the country that had few or no local stations. In areas where cable would have competed with, rather than augmented, commercial broadcasters, the FCC stifled it. But recent court decisions and a new skepticism toward regulation at the FCC have permitted cable to expand into new types of service.

The most successful experiment so far has been Home Box Office, a national cable system owned by Time, Inc., which has grown from 250,000 subscribers in 1975 to more than 2 million today. For an average monthly fee of $8.17 HBO provides a mix of movies (most about six months after they are released to theaters and before they appear on the networks), variety specials (which it produces), and sports—all without commercials.

From the standpoint of those dissatisfied with what's offered by the networks, the primary attraction of cable systems like HBO is that they can appeal profitably to small but enthusiastic audiences. Even more specialized shows can be broadcast through systems that charge for each show through special channels that permit computer billing. One cable system showed a La Scala production of "Cavalleria Rusticana" to any subscribers willing to pay $2.50. There is every reason to expect that freely competing cable systems would offer the sorts of shows currently broadcast on public television—British productions, symphonies, plays, documentaries—if viewers want them.

AUDIENCE DECIDES

Cable is only the most immediate option. More variety can also be offered through satellite-to-home transmissions, video cassettes, and video-discs, to name just a few of the possibilities.

Cable is crucially different from public television, at least from the point of view of programmers. In cable and other forms of pay television, programming decisions have to be based on the preferences of the audience (however small) and not on some vague standard of "excellence" that makes the programmers the sole arbiter of taste, as in public television. Cable and other potential competitors thus threaten the power of people in public broadcasting.

For public television's viewers, such competition also presents a threat. Even if pay television offered exactly the same programming, these viewers would have to pay for it themselves instead of fobbing off the cost on the public at large. But self-interest in Chevy Chase is no basis on which to make public policy. If some viewers want a kind of programming and can afford to pay for it, then what reasonable purpose is served by shifting the cost to those people—generally less affluent—who care little or nothing about it?

The question the commission carefully avoids is the only interesting one: Why have public television at all? There is now no good reason for a government-supported system. Small audiences with tastes different from those of the great mass of Americans can be served by a variety of means ranging from cable to cassettes. And they can be served better since their preferences, and not those of public-broadcasting bureaucrats, determine what is offered. As for existing public television stations, they should either find ways to support themselves through advertising or donations, or go under.

And if they die? Well, they die.●

THE MINIMUM WAGE LAW

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. ERLENBORN. Mr. Speaker, Representative HINSON and I today are introducing a bill to make important and necessary changes in the minimum wage law or, as it is formally known, the Fair Labor Standards Act. A summary and section-by-section of our bill follows for our colleagues' review:

SUMMARY OF THE FAIR LABOR STANDARDS AMENDMENTS OF 1979 (H.R. 5080)

YOUTH OPPORTUNITY

To increase job opportunities for young people, the bill provides a youth opportunity wage of 85 per cent of the current minimum hourly rate. The special youth wage may be paid to anyone less than 19 years old for the first six months on a job and to any full-time student.

Child labor laws would apply but, except for vacation periods, the youth wage could not be paid to students for more than 20 hours a week. Prior certification by the Labor Secretary would not be required, but a student would have to get proof of school enrollment for an employer.

The Secretary can require payment of unpaid wages and overtime compensation from an employer who pays less than the youth opportunity wage or who extends the 180-day limit for youngsters not in school.

Employers who displace workers who must be paid the minimum wage with those eligible for the youth rate will be subject to similar penalties.

The Secretary is to impose similar penalties against employers who hire young people for six months, fire them, and then hire other youngsters.

CHILD LABOR LAWS

Existing government regulations pertaining to child labor are well-intentioned but flawed. Most were written before retail and service industries were covered by the minimum wage law and so ignore recent technology. In many instances, they also fail to distinguish between, for example, equipment used in a wholesale bakery and that used in a neighborhood bakery shop.

Because of a recent court decision, current child labor regulations are, for all practical purposes, unenforceable. The law says that penalties for violations are to be paid to the Secretary of Labor, and the U.S. District Court for the District of Columbia on May 7, 1979, held this provision unconstitutional.

The bill remedies these defects.

Within one year after enactment, the Secretary is to review current child labor regulations and orders which apply to retail or service industries and revise them if he determines they could not be issued under the bill. Briefly, the physical characteristics of the equipment used would have to be considered, as well as the safety instructions and supervision offered, the potential for and severity and frequency of injury, and the economic benefit to the young people involved.

New regulations are to be based on hearings.

The unconstitutional penalties provision in the child labor law is removed by the bill. Thus, future penalties would be payable to the Treasury as is the case for violations of other parts of the minimum wage law.

DEFERRAL OF MINIMUM WAGE INCREASES

Under the 1977 Amendments to the Fair Labor Standards Act, the minimum wage will go from the current $2.90 an hour to $3.10 an hour on January 1, 1980, and to $3.35 on January 1, 1981. If we allow this to happen we will add another notch or more to the inflation spiral. Therefore, the bill defers these increases to 1982 and 1983, respectively.

TIP CREDIT

Under existing law, the tips paid employees may be included in computing their wage, but there is a ceiling on the amount of the tips which may be included in the wage computation.

Due to the 1977 Amendments, the ceiling was reduced from 50 per cent to 45 per cent on January 1, 1979, and is scheduled to go to 40 percent January 1, 1980. With each reduction in the tip credit, many jobs are lost. The bill, therefore, restores the 50 percent tip credit.

The following is a description of the changes made in the Fair Labor Standards Act of 1938 (referred to in the description as the "Act") by H.R. 5080.

Section 1. *Short Title.*—Provides that the bill when enacted may be cited as the "Fair Labor Standards Amendments of 1979."

Section 2. *Youth Opportunity Wage.*—Rewrites Section 14 (b) of the Act to expand job opportunities for youth. Subsection (a) provides that 85 per cent of the applicable minimum wage rate may be paid to (1) any youth under the age of 19 (in compliance with child labor laws) for 180 days by the same employer and (2) any full-time student (regardless of age but in compliance with child labor laws) for not more than 20 hours a week, except during vacation periods. Prior certification by the Secretary of Labor is not required, but a student must present to the employer proof of enrollment from the school he or she attends.

To insure that the youth opportunity wage provisions are not violated, the Secretary has authority to require unpaid wage and overtime compensation from an employer who pays a youth less than the wage rate allowed, pays the allowed rate for more than 180 days in the case of a non-student, or is engaged in a pattern and practice of substituting employees at the youth opportunity rate for those who must be paid the minimum wage or terminates non-student youth employees after 180 days.

Subsection (b) is a conforming amendment.

Section 3. *Child Labor Regulations for Retail and Services Employment.*—Amends section 3 of the Act, relating to oppressive child labor. Subsection (a) sets forth five considerations the Secretary must make in issuing orders or regulations under the child labor laws for employment in retail or service establishments. These deal with the employment opportunities or earning power of youths under the age of 18; the total work environment, including potential for and severity and frequency of injury; the age of other employees in such establishments; the economic well-being of the employees and their dependents, and their attitudes about employment.

Five considerations shall also be made by the Secretary in issuing any order or regulation respecting any equipment used in retail or service establishments. These deal with the physical characteristics of the equipment; the frequency or regularity of use by workers under the age of 18; the likelihood that they would not be employed if not permitted to use the equipment; the saftey instructions and supervision offered, and the potential for and severity and frequency of injury.

An opportunity for hearing must be provided for any order or regulation (or substantive amendment to such order or regulation) promulgated under this section; and such order or amendment is subject to judicial review and shall be held unlawful if not supported by substantial evidence on the record.

In evaluating the frequency and severity of potential injury, the Secreary shall consider available data relating to the number of injuries per total work population, the days of lost work, and the necessity for medical treatment.

Subsection (b) requires that the Secretary, within one year after enactment of these amendments, review existing child labor orders and regulations which apply to employment and equipment used in retail or service establishments to determine if they could be issued under these amendments and make any necessary revisions in compliance with these amendments.

Section 4. *Deferral of Increase in Minimum Wage Rate.*—The Fair Labor Standards Amendments of 1977 amended Section 6 of the Act to provide for an increase in the minimum wage rate to $3.10 per hour, effective January 1, 1980, and for a further increase to $3.35 per hour after December 31, 1980.

The amendment defers the above increases for two years. Effective January 1, 1982, the minimum wage rate is raised to $3.10 per hour, and after December 31, 1982, it is raised to $3.35 per hour.

Section 5. *Tip Credit.*—Under the definition of the term "wage" in section 3(m) of the Act, tips of tipped employees may be included in the computation of the wage of such employees in determining whether their employers have satisfied the minimum wage requirements. There is, however, a ceiling on the minimum wage requirements. There is, however, a ceiling on the amount of tips which may be included in the wage computation. Effective January 1, 1979, the ceiling was reduced from 50 percent to 45 percent of the applicable minimum wage; effective January 1, 1980, the ceiling will be reduced from 45 percent to 40 percent, as provided in the Fair Labor Standards Amendments of 1977.

Subsection (a) of the amendment restores the tip credit ceiling from its current level of 45 percent to 50 percent of the applicable minimum wage. Subsection (b) repeals the provision of the 1977 amendment reducing the tip credit ceiling to 40 percent.

Section 6. *Deposit of Civil Money Penalties in the Treasury.*—Section 16(e) of the Act provides for the imposition of monetary civil penalties against persons who violate the provisions of Section 12, relating to child labor and stipulates that sums collected as penalties shall be paid to the Labor Secretary.

On May 7, 1979, United States District Court for the District of Columbia held that this provision was unconstitutional. *Jerrico, Inc. v. Dept. of Labor, No. 78–0128 (D.D.C. 1979)*.

The amendment cures the defect by removing the unconstitutional provision. Civil money penalties for violation of Section 12 of the Act are paid to the Treasury in conformity with Section 16 of the Act.●

CHARLES T. FENTON PATIENCE REWARDED

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. LEE. Mr. Speaker, I am pleased to bring to your attention today the

United States Department of Defense award of military decoration to Charles T. Fenton, a constituent of my 33d Congressional District of New York, who must surely be one of America's most patient defenders.

The award being presented is the Purple Heart, given Mr. Fenton for wounds he received during combat along the Hindenburg Line in France on September 29, 1918. Today, more than 60 years later, the United States is affording due recognition to one of its most faithful soldiers.

Mr. Fenton was seriously wounded by machine-gun fire and evacuated to the United States during the First World War battle. Yet, because of oversight or administrative error, this Government had not before acknowledged the debt it owed Mr. Fenton. Today, at 81 years of age, I am honored to transmit this military decoration to him as a signal of his Nation's continued thanks for his sacrifice.

I ask today that this House join in observing the award and in offering our apologies for the somewhat tardy performance of its departments in fulfilling the obligation of the Nation to Mr. Fenton.●

FOURTH ANNIVERSARY OF THE HELSINKI AGREEMENT

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. ASHBROOK. Mr. Speaker, on August 1, 1975, the Conference on Security and Cooperation in Europe concluded its business in Helsinki, Finland. The product of the Conference was the Helsinki agreement. This agreement was heralded by many as the beginning of opening the door to improved conditions for the millions held in bondage to the states of Eastern Europe. Unfortunately, on the fourth anniversary of this agreement, I look back on the history of compliance to the principles embodied in the agreement and find it is one more bitter disappointment for those who strive for freedom behind the Iron Curtain.

The two major sections of the Helsinki agreement that address human rights are titles VII and VIII. I would like to reprint these titles for my colleagues' information:

VII. RESPECT FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

They will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development.

Within this framework the participating States will recognize and respect the freedom of the individual to profess and practise, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.

The participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere.

The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation among themselves as among all States.

They will constantly respect these rights and freedoms in their mutual relations and will endeavour jointly and separately, including in co-operation with the United Nations, to promote universal and effective respect for them.

They confirm the right of the individual to know and act upon his rights and duties in this field.

In the field of human rights and fundamental freedoms, the participating States will act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights. They will also fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound.

VIII. EQUAL RIGHTS AND SELF-DETERMINATION OF PEOPLES

The participating States will respect the equal rights of people and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States.

By virtue of the principle of equal rights and self-determination of peoples, all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development.

The participating States reaffirm the universal significance of respect for and effective exercise of equal rights and self-determination of peoples for the development of friendly relations among themselves as among all States; they also recall the importance of the elimination of any form of violation of this principle.

I think it is tragedy for the entire world that the nations of Eastern Europe have so flagrantly violated these provisions. Just last week East Germany issued a new set of severe restrictions on the freedom of its citizens. The Soviet Union still oppresses the Baltic States and leads the world in affronts to humanity. Now the Soviets have issued new citizenship guidelines that even reach to many of the first and second generation immigrants in America. Romania continues to obliterate the heritage of the Hungarian minority in that nation. Poland persists in its actions against religious freedom, despite the efforts of Pope John Paul II. In all of these cases the human rights situation is getting worse, not better in these signatory countries.

Probably the most tragic dissapointment to those enslaved under communism is the way the West has reacted to the escalating moves against freedom in Eastern Europe. Every year many of my colleagues stand up and express sympathy for the captive nations under communism. It is good that we call attention to the existence of captive nations, however, it is frustrating to see many of these same Members turn around and reward Romania with most-favored-nation trade status or send the Crown of St. Stephen back to the leaders of Hungary.

I watch with wonderment as my colleagues on the Senate side disregard those who died facing Soviet tanks in Hungary and Czechoslovakia in order to justify their trust of the Soviets in SALT II. The Carter White House says that its foreign policy is based on human rights and then it sends negotiators to Moscow to hammer out sellouts on trade and allies. Finally, the media does its best to seek out and expose the prisons and secret police of our allies, but bury Alexander Ginzburg's press conference on the Helsinki violations of the U.S.S.R. on the back pages.

Actions speak louder than words, but it seems that America can provide only words to those who suffer under Communist oppression. It is a sad commentary that many prefer to take only a rhetorical stand on such a fundamental issue as the freedom of millions of people in the world. One of these days the hopes of these captive people that have been bouyed by the courageous actions of Pope John Paul II, and by the dedication of many sincere people in this Nation may give way to dispair and surrender in the face of inaction by this Congress and this administration. There is still time to stop this trend. The Helsinki Agreement gave us the mandate, the will of the people of Eastern Europe gives us the inspiration. It is time for us to act by refusing to give into the posturing of Communist regimes and to assert our own set of demands on the Soviets before it really is too late for Eastern Europe and ourselves.●

SMALL SAVERS ACT OF 1979

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. BIAGGI. Mr. Speaker, as New York's ranking member on the Select Committee on Aging, I introduced legislation today to correct one of the great injustices against the elderly, and all other small savers of our Nation. This bill, the Small Savers Act of 1979, would provide for a gradual phaseout of interest rate ceilings over an 8-year period beginning on January 1, 1981.

For over a decade the Federal Government has limited the interest rates that savers can receive on their passbook savings accounts. Certainly, this policy discourages savings, and prevents many Americans from improving their standard of living in the future. This policy is especially unfair to our senior citizens, many of whom depend in part on the income from interest on savings for their livelihood.

While money market interest rates currently stand around 9 to 10 percent, and the inflation rate is over 10 percent, a person who put his or her money in a savings account can only earn about 5¼ or 5½ percent interest. After taxes and adjustment for inflation, the small saver is actually getting a negative return.

The losses to savers from deposit ceilings have been considerable. A recent study by Prof. Edward Kane of Ohio State University estimated that between 1968 and 1979, interest rate ceilings resulted in $42 billion in lost interest, and rate restrictions on all types of financial instruments cost $55 billion in interest. Kane estimated that $19 billion was lost by people over the age of 65.

Adding to this injustice is the fact that financial institutions are authorized to issue so-called money market certificates in denominations of $10,000 or more. While these certificates earn a market rate of interest, the small saver, who cannot afford such a large investment, is restricted by law as to the amount of interest he or she can earn.

At this time, I would like to review the causes of this unfortunate and unjust situation. Financial institutions—commercial banks, savings and loans associations, and savings banks—are required to operate under interest rate controls set by the Federal Reserve, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board. The interest rate control authority exercised by these regulatory agencies has become known as regulation Q. This term denotes, as a convention, the entire body of Federal regulations that limit the interest rates paid on the various classes of deposits at commercial banks and at thrift institutions. Also, under the regulation, thrift institutions, which provide savings and mortgage services, are able to offer their depositors one-quarter of 1 percent more than commercial banks.

Deposit rate ceilings and deposit rate differentials were intended to support thrift institutions, which have a lesser range of powers and services than commercial banks, by encouraging depositors to maintain their savings flows into mutual savings banks and savings and loan associations, thus helping to support the housing industry.

Unfortunately, the current inflation has brought money market interest rates into the 9- to 10-percent range, while regulation Q rates have remained static and substantially lower.

I was most encouraged when the President established an Interagency Task Force on Interest Rates, chaired by the Treasury, to review the fairness, effectiveness, and efficiency of these interest rate controls. The task force concluded that the ceilings are:

Ineffective in preventing sharp changes in the flow of funds to savings institutions and the housing markets;

Unfair to the smaller saver; and

Conducive to inefficiencies in the marketplace.

Based on this study, the President, on May 22, 1979, outlined in a message to the Congress, broad legislative objectives to help correct this unfortunate situation and promote fairness to small savers. Specifically, he asked Congress to "permit an orderly transition to a system where the average depositor can receive market-level interest rates on his or her savings."

It is on the basis of these findings and the request by the President that I am introducing the Small Savers Act of 1979. This bill provides for a gradual phaseout of regulation Q interest rate ceilings over an 8-year period beginning on January 1, 1981. It would appear that at the end of that 8-year period, the regulation Q ceilings would exceed the market rate, thus eliminating the restrictions on the amount of interest paid on savings deposits. Interest rate ceilings would be officially repealed, under this bill, on January 1, 1989.

While I firmly believe that this issue must be dealt with promptly, this legislation takes into account the serious and adverse effect the complete or sudden removal of ceilings might have on our economy. This is due to the imbalance of short-term liabilities and long-term assets in the portfolios of most thrifts, which are vulnerable when interest rates are rising rapidly. The bill gives institutions sufficient time to adjust their portfolios and operating policies in an orderly manner.

Further, the bill provides regulators with emergency power to delay the escalation of interest rate ceilings to avoid a serious economic crisis and sets up conditions for resumption of escalation. In this same regard, regulators are encouraged to accelerate the increases in the maximum rates of interest and dividends if it is determined feasible.

In addition, the legislation authorizes negotiable order of withdrawal (NOW) accounts—an interest-bearing checking account—and share drafts on a nationwide basis.

These NOW accounts and share drafts will enable consumers to earn additional interest income; will offer the consumer a more convenient form of transactions account; and will make it possible to spend less time and effort in managing deposits. Also, by granting NOW accounts to savings and loan associations and mutual savings banks, those institutions will have an additional means to attract deposits, the proceeds of which can be made available to the housing market.

Mr. Chairman, our Nation's small saver has suffered long enough from the regulation Q interest rate ceilings. During this time of increasing inflation and with the talk of a recession in the not-too-distant future, I certainly do agree with the President that "it is particularly unconscionable for the Federal Government to prohibit small savers from receiving the return on their deposits that is available to large and sophisticated investors."

Mr. Chairman, we have labeled inflation as the number one problem facing our nation today. While we have given a great deal of well-deserved attention to this critical problem, the fact remains that very little has been done to ease the increased economic burden borne by those persons on fixed-, low-, and middle-incomes—whose savings are concentrated in passbook accounts. Recognizing this fact, I introduced the Small Savers Act of 1979, and I am hopeful that my colleagues will join me in effectively addressing the problem by giving this legislation prompt and favorable consideration.●

A NATIONAL DAY OF PRAYER FOR ISRAEL

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. McHUGH. Mr. Speaker, it has been called to my attention that the American Board of Missions to the Jews, which is located in Orangeburg, N.Y., has suggested that our Government officially proclaim August 2, 1979, which is Tish b Av on the Jewish calendar, a national day of prayer for Israel.

Although I would support such a proclamation, I also recognize that this information was brought to my attention too late for Congress to act officially to proclaim August 2 a "National Day of Prayer."

Nonetheless, I would like to take this opportunity to urge my colleagues to set aside a few moments today to consider the trials that the children of Abraham have suffered over many centuries, and to call upon the Lord for His continued protection of a people who are struggling to keep this tiny bastion of democracy alive in the Middle East.

Mr. Speaker, the last 30 years have been a period of struggle and suffering for the people of Israel. They have experienced three major wars and the unrelenting hostility of their neighbors. Many have died preserving the independence of Israel, and those who have survived have experienced no real peace.

Having said this, it is also important for us to recognize that the last 30 years have been a period of triumph and fulfillment. The people of Israel have been tested, but they have managed to persevere against the most incredible odds. They have carved a nation from the desert, and in doing so they have given hope to all those who struggle for the survival of freedom and democracy around the world.

Moreover, the resolve of the people of Israel finally appears to be bearing fruit. In the last year major progress has been made toward a just and lasting peace in the Middle East. Egypt, the ancient enemy of Israel, has concluded a treaty of peace which offers new hope to the peoples of both nations. This singular event also gives promise that other nations in that region will eventually follow suit, and that the people of the Middle East will finally turn their energies from war to peace.

Throughout our history, Mr. Speaker, the American people have steadfastly supported and encouraged the people of Israel because we share so much in common. Our traditions and values, our cultures, and our love of liberty have forged a lasting bond between us. Thus, it is only appropriate that all of us devote a few moments today to reaffirming the ties between our two great nations.●

SUBSTANTIAL PROGRESS ON REVISION OF THE FEDERAL CRIMINAL CODE

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. DRINAN. Mr. Speaker, yesterday the House Judiciary Subcommittee on Criminal Justice held a press conference to announce that it has substantially completed its revision of the Federal Criminal Code, and that a general consensus in favor of the bill's approach has been reached with the Senate Judiciary Committee and U.S. Department of Justice.

As chairman of the subcommittee, I would like to praise the individual subcommittee members for their many hours of dedicated work. The ranking minority member, Congressman THOMAS N. KINDNESS, of Ohio, the gentleman from Michigan (Mr. CONYERS), the gentleman from Texas (Mr. HALL), the gentleman from Oklahoma (Mr. SYNAR), the gentleman from Illinois (Mr. MIKVA), the gentleman from Alabama (Mr. SHELBY), the gentleman from Michigan (Mr. SAWYER), and the gentleman from California (Mr. LUNGREN) have spent hundreds of hours laboring at a task which most of their constituents will never read about in the headlines of their local newspapers. Even so, the recodification of the Federal Criminal Code is a vitally important task which will have far-reaching and positive effects on the administration of justice in the United States.

The materials which follow include several of the statements made at yesterday's press conference—an event whose participants included the chairman of the House Judiciary Committee, the gentleman from New Jersey (Mr. RODINO); the ranking minority member of the full committee, the gentleman from Illinois (Mr. MCCLORY); the senior Senator from Massachusetts and chairman of the Senate Judiciary Committee (Mr. KENNEDY); the junior Senator from Utah and member of the Senate Judiciary Committee (Mr. HATCH); and Attorney General-designate Benjamin Civiletti.

STATEMENT OF ROBERT F. DRINAN, CHAIRMAN OF THE HOUSE JUDICIARY SUBCOMMITTEE ON CRIMINAL JUSTICE, AUGUST 1, 1979

Over a decade ago, Congress made a commitment to enact a new federal Criminal Code which would replace confusion with clarity and consistency.

Today, that commitment is nearer to realization than ever before. By patient and persistent cooperation, the Judiciary Committees of the House and the Senate are in substantial agreement on the basic ingredients of a Criminal Code which follows substantially the recommendations of America's most distinguished jurists.

The proposed Criminal Code does not withhold from federal law enforcement officials any power which they need to restrict and hopefully curb the rise in the incidence of serious crime. At the same time, the proposed Criminal Code strictly adheres to the fundamental principle that federal law enforcement should not interfere with the police powers of the local communities or of the states.

The proposed Criminal Code, moreover, does not compromise those rights granted to persons accused of crimes in the Fourth and Sixth Amendments of the Bill of Rights. The Code, furthermore, clarifies and strengthens those rights conferred upon defendants in criminal cases which have evolved over several centuries of Anglo-American criminal jurisprudence.

It should be stressed that there is a broad consensus among attorneys and professional groups within the legal profession on the desirability of codification of our criminal laws. Codification has worked out well in the thirty-five states that have codified their criminal laws.

There is a broad consensus in the legal community that, for example, criminal culpability should be defined by four states of mind, rather than the fifty or more such states of mind now in the federal criminal law. There is also a consensus that sentencing should be streamlined and that punishment for felonies and misdemeanors should be uniform.

The Criminal Code which the Subcommittee on Criminal Justice hopes to report out in September, is characterized by balance. It will not contain anything objectionable to the civil liberties community. Nor will it be opposed by federal law enforcement officials.

Disputes may, of course, occur with regard to a very few provisions, but the overall documents will be looked upon both by those who prosecute and those who defend as substantially fair, just and balanced.

This revision is the work product of nine lawyers who accepted the unique challenge of filling the commitment made by this Congress years ago to bring about a comprehensive, clear and consistent criminal law for the federal government.

It is hoped that the House Judiciary Committee will approve this criminal code revision this fall. With continued collaboration between the Judiciary Committees of the House and Senate, we can hope that a comprehensive Criminal Code can become law in the 96th Congress.

Today we announce a major step toward the culmination of a process of which we can all be proud. A Criminal Code will be a monument to our dedication to the principles of justice and compassion to those accused of crimes and threatened with a loss of their liberty.

Now, finally, is the time when the bench and the bar, prosecutors and defense attorneys, Congress and the country can agree on a Criminal Code that simultaneously punishes crime while defending the civil liberties of those accused of wrongdoing.

Over a decade ago, President Johnson sent a message to Congress urging action a comprehensive revision of the Federal criminal law. President Johnson stated:

"A number of . . . our criminal laws are obsolete. Many are inconsistent in their efforts to make the penalty fit the crime. We are a nation dedicated to the precepts of justice, the rule of law and the dignity of man. Our criminal code should be worthy of these ideals."

President Johnson's mandate is closer to fulfillment today than ever before.

History will not forgive us if we fail. History will not forget us if we succeed.

REMARKS OF SENATOR EDWARD M. KENNEDY

Attorney General-designate Civiletti and Phil Heymann of the Justice Department, my colleagues in the House of Representatives, Pete Rodino and Bob McClory and Bob Drinan and Congressman Kindness and the members of the Judiciary Committee, Senator Hatch, who has taken such interest in this issue, Strom Thurmond, who just left a few moments ago, who was involved in our Conference Committee on the Magistrates and very much involved in the discussion and debate and hopes to be here momentarily: I first of all want to join today in commending the House Judiciary Committee and particularly the work of Bob Drinan and Congressman Kindness and all of the members of the Committee for really an extraordinary effort in the process of legislation. I think the Congress has been well served. I think the whole process has been well served on an issue of enormous complexity; an issue which this country has not addressed since its founding some 200 years ago in the way in which we are addressing at the present time.

It is an issue on which I think we in the federal government can take very considerable inspiration from what has been happening in the states around the country. There are only 3 states that have not addressed the issue of the recodification of their criminal codes or brought about at least some aspects of sentencing reform. In one respect we in the Congress are playing catch-up ball on an issue of incredible significance.

Knowing of the work of Congressman Drinan, and the work of his Committee, those of us on the Senate Judiciary Committee come here today to pay tribute to his diligence, to the tirelessness with which he has approached this issue, and for the very comprehensive way in which he's addressed it. We have over the period of the past months and the early part of last spring worked with members of the Committee, with Congressman Mann and other members of the Judiciary Committee. This is an issue of, as I mentioned, enormous complexity. It's going to be extremely challenging to bring a final product in which all of the members of the House of Representatives or the Senate of the United States would agree on. But nonetheless we're challenged with this opportunity and I agree with Congressman Drinan: We are not going to fail our responsibility in the Senate and quite clearly in the House of Representative in recodification of the criminal code and sentencing reform.

The legislation which we will consider in the Senate Judiciary Committee will be the working draft, a product of the House of Representatives. There will also be an effort, obviously, to benefit from the work of the House Judiciary Committee in this past several months as well as the past Spring when they raised a number of issues.

I commend the House for developing legislation that is comprehensive. It includes the important aspects of sentencing reform. It deals with the issues of culpability which are so widely diversified in the current criminal code. It brings about significant reorganization in a way which I think is commendable, and there are many other features to it which are extremely close to the thinking in the Senate.

I'm absolutely convinced that we can pass legislation in the House and the Senate and in the Conference Committee which will be overwhelmingly accepted by the members of both the Committees. I welcome the opportunity of working closely with the House Judiciary Committee and to join in paying tribute to their monumental achievement here today.

Our full Judiciary Committee will have hearings on September 11, 13, and 18. We have had some 41 days of hearings on related matters which are included in the recodification of criminal code. We have had many days of markup and we believe that these 3 days of hearings and the work that will be done by the members, and has already been done by the members of the Judiciary Committee, will give us an opportunity to work in parallel time frames with the House of Representatives so that we can get an end product of an undertaking which was begun many years ago and which we believe, as Bob Drinan and the other members of the Judiciary believe, is long overdue.

We will not be successful or would not be successful unless we had strong bi-partisan support.

REMARKS OF ATTORNEY GENERAL-DESIGNATE BENJAMIN CIVILETTI

Thank you Chairman Drinan, Chairman Rodino, departing Chairman Kennedy and distinguished and hard working members of this Subcommittee.

I noted in the past that several predecessors in office, whether they be Deputy Attorneys General or Attorneys General believed that a modern federal criminal code preserving the best of the current federal law, making improvements where they are needed and incorporating the product in easily understood format would be a material and substantial benefit to this nation. A vision of such a code was developed by the National Commission on Reform of the Federal Criminal Laws at the beginning of this decade. Since then a great deal of work has been devoted to this project.

Early last year, the Senate passed a comprehensive bill that earned the strong support of the Administration. We are here today to provide a joint recognition to an equally crucial facet of the general effort. The conclusion of a highly concentrated series of intense working sessions as result of which the House Subcommittee on Criminal Justice will soon have prepared a basis for House action on comprehensive criminal codification.

It is appropriate to pause at this time to pay tribute to the effort made by the Subcommittee which is truly remarkable. Too often after legislation is passed, in the congratulations and hubub of the passage, the dedication and diligence and perservance of the Subcommittee work, which is all-important to the passage of important comprehensive legislation, is overlooked. Therefore, I think it is appropriate and rewarding we have this occasion to pay that tribute.

Chairman Drinan and members of his Subcommittee are to be commended and honored for their concentration and for their diligence. That's not to say, of course, as others have remarked, that their initial product will necessarily be perceived as perfect, few products are, or even perhaps desirable by all who are interested in and committed to achieving a fair and effective Code.

I'm sure, however, that the Subcommittee members themselves are the first to recognize that although an important segment of their work has been completed, and completed successfully, in a larger sense there is vital work yet to be done. The inevitable refinements and reconsiderations and debates, will, I am hopeful, result in further improvements of this initial product or draft and will provide the House with a sound basis for reaching a favorable conclusion of this long developing process and of this long needed reform.

I pledge my personal effort and that of the Department of Justice and of the Administration in working to achieve this long-sought goal. Thank you.●

HOME HEATING OIL ISSUES

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. BEDELL. Mr. Speaker, I took the floor yesterday to tell the House about a meeting I had, as chairman of the Small Business Subcommittee on Antitrust, with a group of home heating oil distributors from New York. They were concerned about a recently announced change in Gulf Oil credit terms for dealers.

One consequence of this sudden change in policy is that Gulf dealers are forced to cut back on the amount of home heating oil they would take delivery on from refineries this summer. As a result, national inventory statistics for Gulf may be artificially high, while dealer inventories at the local level plummet.

A report I received today from the staff of the Antitrust Subcommittee confirms that Gulf is not the only oil company that is shipping less product to dealers than is normal at this time of year. Throughout the country, we see dealers' inventory levels significantly below normal and summer fill programs behind schedule. And yet the national statistics on the amount of product in primary storage continues to rise.

I discussed this issue yesterday. Today I would like to discuss another aspect of this apparent slowdown in the distribution of heating oil from refiners' inventory to the local level. The other issue is price.

Just since the beginning of this summer the wholesale price of home heating oil has gone up approximately 12 cents per gallon. There are indications that the total increase may be as much as 20 cents by the end of this summer.

Normally, dealers use the summer months to fill their customers' tanks while demand is low and business is slow. This helps avoid a sudden surge in demand in the fall and it allows both consumers and distributors to level out their purchases of fuel during the year.

If dealers cannot fill their customers' tanks in the summer months, it does not mean that less home heating oil will be needed in the fall. People will still need to heat their homes when the frost comes. The difference is that if customers are forced to buy the fuel in September instead of early in the summer, this year it may cost them 20 cents a gallon more.

Mr. Speaker, this is unconscionable. We all are well aware of the severe strain being placed on the budgets of average Americans by rising energy costs. For senior citizens and others on fixed incomes the situation is becoming critical. So, it distresses me to see some of our major oil companies pursuing policies that appear destined to further aggravate the problem.

The Antitrust Subcommittee held hearings in Washington in May and June, examining various aspects of the supply and distribution of middle distillate fuel—diesel and home heating oil. In August and September we will hold field hearings on this subject in the Midwest and New England.

We got into this issue because it looked like the main victims of the oil companies' policies were the small businesses that serve as their distributors. But it is beginning to look like the harm extends to private citizens and the general public.●

PLO MORE FORTHCOMING ON PEACE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. FINDLEY. Mr. Speaker, I would like to call the attention of my colleagues to a speech made in the United Nations on June 12, 1979 by Abdel Rahman of the Palestine Liberation Organization. As the July 16 Christian Science Monitor editorial states, this speech gives positive indications that the PLO is becoming more forthcoming in the Middle East peace process. In fact, the PLO came "amazingly close to recognizing Resolution 242, which is the basis for the Mideast negotiations," as the Monitor rightly notes.

I would like to point out the following passage, in particular:

> As I have said in previous statements and as has been affirmed and confirmed by my colleagues in the PLO, peace is our goal, our objective; we struggle for it, we want it—for we are not a bunch of masochists. We do not enjoy suffering and we do not enjoy dispersion; we do not enjoy exile either. We are normal people, like any other people in this world. We want to live together as Palestinian people; we want to be allowed the opportunity to build a nation, to reconstruct our national identity, create a culture, put it together and establish normal relations with everyone in this world.
>
> In order for this to be achieved, certain conditions have to be established. Those conditions are: total Israeli withdrawal from the occupied territories; recognition of the national rights of the Palestinian people, which include the right to self-determination and national independence; and a just solution of the Palestinian refugee problem, in accordance with the resolutions of the United Nations pertinent to the refugee problem. When these conditions are met, peace can be established very soon thereafter.

The editorial and Mr. Rahman's speech follow:

AND NOW, MR. ARAFAT?

Only three months ago Yasser Arafat, leader of the Palestine Liberation Organization, was forecasting a revolution against President Sadat and scorning the Egyptian leader as a traitor to the Arab cause. This in reaction to the Egyptian-Israeli treaty. Yet this weekend he sent a PLO delegation to help Turkish officials negotiate a settlement with the four Palestinian gunmen who had seized the Egyptian Embassy in Ankara, killed two guards, and taken about a dozen hostages. The PLO disclaimed any connection with the terrorists and its intervention saved the day. The terrorists gave up and the hostages are safe. All of which suggests that the PLO bark is sometimes worse than its bite.

Divorcing himself in this concrete way from Palestinian extremists could help Mr. Arafat's standing in the world. More than that. He now has an opportunity to continue projecting an image of moderation and reasonableness, a stance that would surely win the Palestinians even more public sympathy, facilitate the Egyptian-U.S. hand in the current Mideast negotiations, and ultimately make it possible to bring the PLO into the negotiations.

Inasmuch as most Palestinians in the disputed West Bank as well as Palestinians elsewhere look to the PLO as their representative body. It is clear the PLO will have to be involved in the autonomy talks if those talks are to go anywhere. The dilemma is how to bring this about. Israel has a legitimate position in arguing it will not sit down at the table with an organization "bent on the destruction of Israel." At issue is the PLO's Palestine National Covenant, which calls for armed struggle against Israel and affirms its strategic goal of destroying Israel. Obviously, as long as that charter is allowed to stand as worded, Israel will always be able to justify its position. Other past PLO statements denying Israel the right to exist as a Jewish state are similarly impediments to serious negotiation.

Yet, as is so often the case in the Arab-Israeli dispute, the "other side" too has logical arguments. The PLO contends that, if it publicly acknowledges Israel's right to exist and alters its charter, it will be giving up its one major bargaining card. It feels that card is all the more crucial in light of the Israeli proposals for the West Bank—a plan the PLO fears, and with justification, would not only deprive the Palestinians of true autonomy but would legitimize Israeli control of the region. The PLO further argues, and again not without logic; why should it recognize Israel's territorial integrity and its rights as a sovereign state if Israel does not in turn recognize the Palestinians' right to exist as a state?

Whatever the merit of its arguments, however, the PLO must realize that its present stance costs it support in the West. The fact is, it has other levers, including a softening international climate, the backing of the major Arab powers, and a United States which for the first time since 1948 has gone to bat for the Palestinian cause in a purposeful way. The PLO will have to be careful not to throw these significant gains away. And it ought to weigh carefully whether a softer official stand on Israel is not more likely to win popular support and help in the US and elsewhere than perpetuating the image of an organization made up of terrorists determined to push Israel into the sea.

There are some positive signs that the PLO is in fact being more forthcoming. In a little-publicized speech before the UN Security Council last month, the PLO came amazingly close to recognizing Resolution 242, which is the basis for the Mideast negotiations. It said it wanted to build a nation and "establish normal relations with everyone in the world" (our emphasis) and the "conditions" for achieving this were total Israeli withdrawal from occupied territories, recognition of the rights of the Palestinian people, and a "just solution of the Palestinian refugee problem." These elements are close to the phrases of 242.

"When these conditions are met, peace can be established very soon thereafter," the PLO statement concluded. Peace, in other words, with Israel.

This strikes us as encouraging. Mr. Arafat's action in the case of the raid on the Egyptian Embassy is still another positive note. If he and the PLO continue along this constructive path—and put down the irresponsible militants in their midst—it will be difficult for Israel to deny them a proper role at the negotiating table, and public support for a settlement in which the rights of both Israel and the Palestinians are safeguarded is bound to grow.

SPEECH OF ABDEL RAHMAN

Mr. Abdel Rahman of the Palestine Liberation Organization (PLO): Mr. President, since this is the first time that I have spoken during your presidency allow me to congratulate you on your assumption to the presidency of this Council for this month. We are confident that under your wise and skillful guidance the business of this Council will be fruitful and productive.

In reference to the situation in Lebanon, the position of the Palestine Liberation Organization is very clear. As has been reiterated time and again before this Council and on every other opportunity that we have had to express ourselves, we are for the territorial integrity of Lebanon, we are for the national unity of Lebanon, and we respect the sovereignty of Lebanon.

So far as the United Nations Interim Force in Lebanon (UNIFIL) is concerned, the recent report of the Secretary-General is as clear in that regard as previous reports of the Secretary-General have been; the position of the PLO is one of full co-operation with UNIFIL in order to allow it to implement its mandate.

The Palestine Liberation Organization and the national Lebanese movement adopted a declaration a week ago wherein they made gestures, reflected in concrete actions, to facilitate the work of UNIFIL and to accommodate the Lebanese Government. Among the essential points made in that declaration is the fact that the Palestine Liberation Organization declared it would withdraw all resistance offices from the city of Tyre and would withdraw all armed forces from villages and towns in southern Lebanon. This is in addition to other elements of that declaration which are directed specifically to alleviating the situation of the people living in south Lebanon.

What was the response of the Israeli Zionists to that declaration? Further brutal and cowardly attacks on concentrations of Lebanese as well as Palestinians. I say "cowardly" because it cannot conceivably be heroic for anyone to fly a plane 10,000 feet above a defenceless civilian population and drop bombs on them to kill them. That is not an act of heroism and therefore it should be described as it really is, an act of cowardly murder against the civilian Palestinian and Lebanese populations.

The Palestine Liberation Organization has part of its headquarters in Lebanon. That is not because the PLO moved into Lebanon and created refugee camps around it. It is logical that people in exile in refugee camps should be able to use men and women who fight for justice. We did not gather the Palestinians around our offices, we grew out of the Palestinian refugee camps. There is no shame in starting a revolution from outside, especially if one is expelled from one's home and property and finds oneself forced to live in exile. General de Gaulle did not fight the Nazis from inside France, he conducted his war of liberation against the Nazis from outside France. Other national liberation movements such as those of our brothers in southern Africa have part of their military and political forces outside their own countries in neighbouring friendly countries which believe in the justice of their cause and which are willing to make sacrifices sometimes to allow them to continue their just struggle, a struggle that is recognized by this august body as well as by other organs of the United Nations.

We have heard a lot about the question of peace. The Zionist representative definitely uses a perverted logic and I think he is a master of that. The perverted logic lies in the fact that he is talking about a peace that will tear the Palestinian people into pieces and not a peace that will secure justice for the Palestinians. The Camp David Accords, with the name of which we have been bombarded so often, clearly deny the Palestinian people their right to self-determination. They legitimize the Israeli foreign occupation of the territories seized in 1967. They do not deal with the question of the settlements nor with the question of Jerusalem. They do not recognize the national integrity of the Palestinian people.

They divide the Palestinian people into several categories. Those who live in the West Bank are separated from those who live in the Gaza Strip, and those who were expelled in 1967 are different from, and in fact have no relationship with, those who were expelled from their homes in 1948. And they have been used, at least in concrete Israeli policies, to aggravate the situation of the Palestinians, to allow the Israeli racist Government of Menachem Begin to expropriate more land, confiscate more property and conduct more and more aggression against the Palestinian people by imprisoning Palestinians and by closing institutions of higher education, such as Bir Zeit University, as a result of which the whole international academic community declared its condemnation of the State of Israel for that act of infringement on the academic freedom of the people of the occupied territories.

Furthermore, there are the extremely dangerous vigilante acts conducted by the settlers against the people in the occupied territories. On 2 May several thousands of Israeli settlers brandishing machine-guns moved into the occupied territories, into the villages and towns, harassing, humiliating and beating our people. And when a "civilized" professor of medicine, who at least should have had some respect for human life, found it proper to take his gun and shoot a student at Bir Zeit University, the man who committed that crime was gaoled for two days only, and he is now free.

On 26 May a gang of settlers from Kiryat Arba entered the city of Hebron, occupying the houses of Palestinians, terrorizing the inhabitants of those houses and beating up women and children, telling them: "These houses belong to the Jews. Get out of here."

The acts of the people who committed those crimes, which are reminiscent of those of the storm troopers of Nazi Germany who used to terrorize innocent Jews, are very threatening and very disturbing, not only to us, the Palestinians, but to public opinion in general. However, there has been not one single statement from those who consider themselves champions of human rights to protest about these crimes against the innocent Palestinian population. On the contrary, they seek to find excuses for them. Not only do they not condemn them, but they excuse them, finding reasons to rationalize those acts, whereas those crimes should be condemned by the international community as a whole.

Why does all this take place? Because we have an illegal occupation—an occupation that denies people their basic human rights, including their right to self-determination. It is an occupation that is directed at the very existence of the Palestinian people as a nation, because the confiscation of land and the establishment of settlements have to be seen in the light of what land means to the Palestinian. Land to the Palestinian is not only the source of his livelihood: land to the Palestinian is the geographic base where he, as an individual and as part of a collectivity, affirms his existence—where he, together with his people, should exercise his national existence. And if this land is taken away from him and ghettos of Palestinians are established in accordance with the plans that are set by the Israeli Government, this is an attack on the very national existence of the Palestinian people; it is an attack to pre-empt the possibility of the emergence of a national existence for the Palestinians and of their exercising that right.

As I have said in previous statements and as has been affirmed and confirmed by my colleagues in the PLO, peace is our goal, our objective; we struggle for it, we want it—for we are not a bunch of masochists. We do not enjoy suffering and we do not enjoy dispersion; we do not enjoy exile either. We are normal people, like any other people in this world. We want to live together as Palestinian people; we want to be allowed the opportunity to build a nation, to reconstruct our national identity, create a culture put it together and establish normal relations with everyone in this world.

In order for this to be achieved, certain conditions have to be established. Those conditions are: total Israeli withdrawal from the occupied territories; recognition of the national rights of the Palestinian people, which include the right to self-determination and national independence; and a just solution of the Palestinian refugee problem, in accordance with the resolutions of the United Nations pertinent to the refugee problem. When these conditions are met, peace can be established very soon thereafter. But if those conditions are not established, I think it is the moral as well as the legal obligation of the international community to stand together with the Palestinian people in their legitimate struggle for the achievement of their legitimate rights.

The Camp David Accords were described by an Israeli, Uri Avneri, not as documents for peace but as "a declaration of war against the Palestinian people, against their right to self-determination and against their right to national independence".

We the Palestinian people want peace—but peace with justice, not peace that will tear us to pieces.●

AMBASSADOR ELLIOT RICHARDSON SPEAKS ON LAW OF THE SEA

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. BINGHAM. Mr. Speaker, on July 14 Ambassador Elliot Richardson, the President's Special Representative for the Law of the Sea negotiations, delivered an address in Bath, Maine, on the occasion of the launching of the U.S.S. *Samuel E. Morison*. The speech points out the advantages to our national security which would be gained if we could achieve a Law of the Sea treaty. Since the House will be dealing with legislation pertaining to Law of the Sea later in the year, I urge my colleagues to give Ambassador Richardson's speech careful attention.

The speech follows:

NATIONAL SECURITY AND THE LAW OF THE SEA

In the waning days of his exciting, productive life, Samuel Eliot Morison urged us to face the future resolutely and to adapt boldly to a world in which unsettling change was an ever-present reality. "Have faith", he exhorted. "Hang on! In human affairs there is no harbor, no rest short of the grave. We are forever sailing forth afresh across new and stormy seas, or into outer space."

Unsettling change, triggered mainly by the burgeoning claims and aspirations of Third World countries, has overtaken the seas Admiral Morison loved so passionately. Next week in New York representatives of more than 150 countries will resume their striving to channel these forces of change in directions which promote world order. They hope to accomplish this high purpose through a treaty negotiated at the Third United Nations Conference on the Law of the Sea.

Morison the historian—his ravenous curiosity aroused—would have been drawn inexorably to this Conference for it represents a landmark effort by the world community to establish the rule of law over every conceivable use of salt water. Morison the sailor would have examined with flaming interest its implications for American naval operations. And Morison the humanist would have applauded its goal of reducing tension and conflict around the globe.

As we launch this warship, the namesake of a gallant naval officer and an indomitable scholar, it seems entirely fitting to speak of national security and the law of the sea.

Beneath the surface noise of contemporary debate on foreign policy rests a broad base of consensus on our most fundamental goals. We seek a world in which we are at peace with other societies, in which we and they are free to pursue our own interests and destinies, and in which the inevitable conflicts are firmly controlled and fairly resolved.

The primary goals of American national security policy are the subject of equally broad agreement. They are to encourage the evolution of the world we seek by building and maintaining a stable military balance among potential adversaries and by discouraging breaches of the peace that could lead to superpower confrontation or prejudice our basic interests. The missions, levels, weapons systems, and deployments of our land, air, and naval forces, both nuclear and conventional, must be so designed as to proclaim to friend and foe alike their evident capacity to play their necessary parts.

Within this framework, the Navy bears a special responsibility for the prevention—the deterrence—of armed conflict. As Admiral S. G. Gorshkov, the chief architect of the formidable expansion of the Soviet Navy, has written:

"Owing to the high mobility and endurance of its combatants, the Navy possesses the capability to vividly demonstrate the economic and military might of a country beyond its borders during peacetime. This quality is normally used by the political leadership of the imperialist states to show their readiness for decisive actions, to deter or suppress the intentions of potential enemies, as well as to support 'friendly states.' Consequently, the role of a navy is not limited to the execution of important missions in armed combat. While representing a formidable force in war, it has always been an instrument of policy of the imperialist states and an important support for diplomacy in peacetime owing to its inherent qualities which permit it to a greater degree than other branches of the armed forces to exert pressure on potential enemies without the direct employment of weaponry."

Admiral Gorshkov's slap at our "imperialism" is, of course, standard Soviet rhetoric. The significant point is strong, if "backhanded," acknowledgment of the peacekeeping contribution of our and our allies' navies.

Nor has the importance of the Navy been affected by the reduction in the number of U.S. overseas bases and military personnel stationed abroad. That is the result of cost constraints, the strong self-reliance of our friends, and the practical lessons of the Viet Nam war, not, as some would have us believe, a contraction in the scope of our vital overseas interests. Indeed, it is hard to imagine where any such contraction is supposed to have occurred. Certainly not in the Middle East, the Persian Gulf, the Indian Ocean, or the Mediterranean. And if our overseas interests in distant parts of the globe have not diminished, the reduction in direct deployment of ground forces does not reduce but adds to the necessity for alternate means of protecting those interests. Our economic well-being, meanwhile, is continually more dependent on overseas trade and vulnerable to distant political developments. The combined result is to compel increased reliance on the strength, mobility, and versatility of the U.S. Navy.

To fulfill its deterrent and protective missions our Navy must have the manifest capacity either to maintain a presence in far-flung areas of the globe or to assemble such a presence rapidly. This capacity must embrace two essential components, one operational and the other political. The first is true global mobility—mobility that is totally credible and impossible to contain. The second is the right to sail and take up station without subjecting the United States to involvement with any other state.

This kind of flexibility makes possible the calibration of our responses precisely to the situation at hand. It draws on the Navy's unique ability to position itself at sea near foreign countries without entering the territory of friend or foe. It permits the movement of forces and supplies past the coasts of other countries irrespective of their view of the mission. In conjunction with the political as well as logistical capacity of our air forces to deliver material rapidly to our friends, we thus preserve the opportunity to persuade them to refrain from steps that would otherwise accelerate localized arms races.

Two accelerating developments in the law of the sea challenge these operational and political premises. First, great seaward expansion in coastal state claims of sovereignty reduces the area in which deployment can remain outside the claimed territory of actual or potential combatants. Second, these claims vastly increase the number of legal chokepoints around the world—mainly straits and archipelagoes—where naval and air transit is essential to the deployment.

These developments, which have not yet run their course, add greatly to the risk and cost of deploying global naval forces. True, once a catastrophic crisis is upon us, the question of risk and cost may be cast aside. It is in our preventive missions and our capacity to deter such a crisis that restraints are most acutely felt.

If deployments to far-flung regions of the world require that we defy the claims of third states along the way, they entail a high risk of political, economic, or even military conflict. What is then left of the credibility of our readiness to move forces into an area if and when necessary? What is left of routine deployments past such states? What political, economic, or military concessions will be demanded of us if we are forced to negotiate bilateral agreements to preserve a right to send warships and military aircraft through other states claimed waters? Most states, be it noted, have no interest in exercising the same rights off our coasts. What new forms of rivalry will face the major maritime powers if they can preserve military and commercial mobility at sea only by gaining influence over strategically located coastal states?

The net effect is to reduce intermediate options, forcing choices more and more in the direction of either inaction or serious conflict. The only way to bring this deteriorating situation under control is by shaping the assumptions of foreign coastal states about their rights and our rights in the oceans. This is not a matter of who has the superior legal argument. Foreign perceptions will continue to dictate the scope of operational risks and costs.

Thus, the ability of the United States to execute its preventive mission depends upon the existence of a consensus—a consensus of geographically significant coastal states—on rules compatible with the routine global deployment of our forces.

Analysis of the law of the sea, particularly by lawyers, tends to focus on legal substance while ignoring the importance of international consensus in maintaining the international environmental needed to support optimum flexibility in global deployments. It is not enough merely to insist that freedom of navigation and overflight beyond a narrow territorial sea and unimpeded transit through, under, and over straits are essential. Nor is it enough to be prepared to assert our rights in the face of challenge. Our strategic objectives cannot be achieved unless the legitimacy of these principles is sufficiently accepted by the world at large that their observance can be carried out on a routine operational basis.

A new element of uncertainty has been added by the recognition that coastal states are entitled to exercise some forms of control far out at sea. Indeed, the United States, with passage of the Fisheries Conservation and Management Act of 1976, established a 200-mile zone in which all fishing activity would come under American jurisdiction. We are thus no longer in a position to base our global mobility on narrow limits of coastal state control for all purposes. Our mobility must be based on accepted distinctions between types of control.

The ocean environment I have described is neither stable nor predictable. The complicating factors stand out starkly:

First, 12-mile territorial seas would affect more than 100 straits around the world narrower than 24 miles. Among these are the Strait of Gibraltar, the Strait of Malacca, connecting the Pacific and Indian Oceans, and the Strait of Hormuz at the entrance to the Persian Gulf. There must be free transit of such straits.

Second, 200-mile fisheries or economic zones cover roughly 40 percent of total ocean area. If these ever come to be regarded by coastal states as their territory, most of our Navy's operational waters will be removed from the exercise of freedom of navigation and overflight. Checking the expansion of coastal state powers in waters that for some purposes are concededly under their jurisdiction becomes more difficult every day. It matters little that it was Soviet overfishing that originally caused a foreign state to declare 200-mile territorial sea if that claim subsequently leads to restraints on navigation either directly, or by encouraging similar claims.

Third, scores of developing states, with their newly asserted nationalism rampant, are in control of the coastlines along which our ships and aircraft must pass. Many of these Third World states have acquired patrol fleets and other craft capable of interdicting naval, commercial, and research ships steaming off their shores. Taken together, this increases the possibility of prejudicial claims, the risk of ignoring them, and the number of situations in which the overt exercise of high-seas rights would be needed to alter perceptions.

Clearly, then, the United States has a major interest in promoting the development of a widely accepted body of international law for the oceans. We must have a legal environment in which our own perception of our rights is unchallenged. This means the right of navigation and overflight free of foreign control, free of substantial military risk, and free of economic or political cost. We know that the old rules are no longer adequate to sustain such a legal environment. We have no choice but to adapt and supplement them. And in the circumstances it is apparent that a universal treaty—if the rules it contains are adequate—would be the most effective basis for maintaining the necessary global legal environment over time.

The negotiating text now before the Third United Nations Conference on the Law of the Sea, if incorporated in a widely ratified Law of the Sea Treaty, would meet this need.

First, by establishing a 12-mile maximum limit for the territorial sea, the text would prohibit further assertions of sovereignty by coastal states beyond 12 miles, and roll back some existing claims.

Second, under the text we would enjoy free and unimpeded passage through, under, and over straits and archipelagic waters. The provisions on these subjects emphasize the obligations of transiting states rather than the right of coastal States to control transit. This approach is designed to protect legitimate coastal state interests without permitting coastal State interference with transit. As you might expect, the only significant exceptions pertain to enforcement of internationally approved maritime safety and pollution measures.

Third, the text provides for an economic zone extending up to 200 miles from the coast. The most important aspect of the economic-zone text is that coastal state rights in the 200-mile zone are not open-ended. They are carefully circumscribed, and relate primarily to control of living and non-living resources. We would continue to enjoy full high seas freedoms in the economic zone for the purposes of navigation, overflight, and related operations.

Fourth, under the text we would be able to bring suit against a state that interferes with navigation or overflight. Compulsory third-party settlement of disputes would give us an important new option in our efforts to control and discourage claims that erode high-seas freedoms. This option would help relieve us of the agonizing choice between acquiescence and costly defiance each time a claim is made. In addition, the possibility of suit would strengthen the advocates of reason and restraint within foreign governments.

Significant though these benefits would be, we will not sacrifice any basic American interests to gain them. A Law of the Sea Treaty would deal with far more than navigation and overflight. Serious deficiencies exist in the current negotiating texts on deep seabed mining and the conduct of marine scientific research. We will insist on what we believe to be the improvements necessary to protect our interests in these matters. We will not accept a treaty unless they are forthcoming. In Samuel Eliot Morison's words, we will "have faith!" we will "hang on!" and do our utmost to bring negotiations to a successful conclusion.

Still, any treaty that has any prospect of widespread acceptance will have costs as well as benefits. Its measure is not whether it is better than the law as we would write it if we could. The measure is whether it is better than the situations most likely to evolve without it. All American interests must be weighed in making this decision. We can expect serious national debate if and when a Law of the Sea Treaty comes before the Senate. It is imperative that those concerned with national security ready themselves to take part in the debate, not just on the adequacy of the navigation articles, but on the overall effect of acceptance or rejection of a treaty on our national security posture well into the next century. Silence and indifference on this basic issue could lead potential adversaries to dangerous—and I trust erroneous—conclusions about the Navy's—and America's—perception of our future role in the maintenance of peace and security.●

REPEAL THE MARRIAGE TAX

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. QUAYLE. Mr. Speaker, there is growing momentum in Congress and across the Nation to correct a serious inequity confronting working married couples who file their Federal income tax reports jointly.

In my own State of Indiana, State Representative Phyllis Pond brought attention to this problem with a unique legislative remedy that would have permitted married couples to dissolve their marriage at 11:59 p.m. on December 31 and reunite 2 minutes later on January 1. This would have meant tax savings for couples enabling them to file returns as single persons.

While Representative Pond's action was in the end unsuccessful, it has underscored the discrimination and inequity for married couples who end up paying higher income taxes.

I have introduced H.R. 3386 which is designed to remedy the situation. My distinguished colleague from New Jersey (Mrs. FENWICK) also is a leader in the fight to remove the tax on marriage.

Under leave to extend my remarks in the RECORD, I include the following editorial from the Madison, Ind., Courier:

MARRIAGE TAX

Now that April 15 has come and gone and Hoosiers have completed their federal tax forms for another year, they have a far deeper appreciation for what Rep. Phyllis Pond, R-New Haven, was trying to do with what was probably the most unusual legislation introduced in the 1979 General Assembly.

Rep. Pond, in addition to being a legislator, is a teacher and a homemaker. She became perplexed over what she perceived to be gross inequities in the federal tax laws that penalized husbands and wives who both work.

She proposed a bill that would have resulted in the automatic dissolution of marriage for all Hoosiers, beginning at 11:59 p.m. Dec. 31 and ending two minutes later at 12:01 a.m. Jan. 1. The intent was to make it possible for married Hoosiers to be able to file returns as single persons at significant tax savings.

The legislation was never passed but it did create a greater awareness of the penalty married couples pay.

For example: This year a married couple without children and with total earnings of $10,000 paid $702 in federal income taxes. If they had been able to file as single taxpayers their total tax would have been $502.

The marriage tax was $200. A couple with total earnings of $25,000 paid $4,057 in federal income taxes filing jointly, but would have paid only $3,522 if they had been able to file as single taxpayers. The marriage tax was $535.

The fly in the ointment is the progressiveness of the nation's federal income tax system. The tax rate for a husband with a net income of $13,000 is 22 percent. Add a wife's income of $10,000, which would normally be taxed at a 19-percent rate, and the combined income is $23,000 and the tax rate is 32 percent, 10 percentage points higher on the husband's salary and 13 percentage points higher on the wife's salary.

Actions like those taken by Rep. Pond are finally awakening the U.S. Congress to the seriousness of the problem.

Rep. Dan Quayle from Indiana's Fouth District is among the leaders in the movement.

What needs to be done, he says, is simply give married couples the option of filing as if they were single, each taking the standard deduction and each using the single rate schedule.

That approach, while logical, may be too simplistic. With 57 percent of American families now having both the husband, wife employed, the impact of such legislation on the federal treasury would be catastrophic.

Adjustments can be made in the tax schedule for a husband and wife filing a joint return that would modify the progressiveness of the tax schedule in this category.

The trend of the future, according to economists, is going to be towards more families with both the husband and wife working. In most instances the action is taken out of economic necessity. The secondary income, whether it be the husband's or the wife's, should not be treated as a luxury by the federal tax laws.

"There are those who believe the federal tax laws are actually discouraging couples from getting married, which serves as a tax disincentive and weakens the fiber of our society," Quayle commented.

Mobilizing the Congress to take any action which would reduce the total tax receipts will be difficult in the wake of the pressure to produce a balanced budget.

Still the inequities of the situation should be obvious.

The "marriage tax" should be removed; but if this is practically impossible, it should at least be modified.●

AMERICA OWES A GREAT DEBT TO GEN. EDWARD ROWNY AS HE TESTIFIES ON SALT BEFORE THE SENATE ARMED SERVICES COMMITTEE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. KEMP. Mr. Speaker, as a member of the congressional delegation to the strategic arms limitation talks, it has been a great privilege to come to know Lt. Gen. Edward Rowny, the Joint Chiefs of Staff's representative to SALT. General Rowny is unique among general officers I have known for his unblemished intellectual integrity and selfless devotion to the national interest. Having participated in some of the SALT II drafting sessions in Geneva, I can attest to his remarkable sense of duty to have withstood more than 6 years of assaults by some of his colleagues on the SALT delegation whose primary interest was in reaching an early agreement with the Soviets to maintain the momentum of détente, rather than protecting American security interests.

During my years of service on the Defense Appropriations Subcommittee, perhaps the most frustrating dimension of the entire process has been the unwillingness of senior military officers to give their professional judgment on defense matters without caving in to political interference. The failure to give their professional advice has undermined the support and esteem for the armed services in many areas of public life. It is therefore a marvelous contrast to work with General Rowny whose personal integrity and sense of professional responsibility demands the kind of honesty that does not brook political dictation.

Today, General Rowny has offered his testimony before the Senate Armed Services Committee that stands as a monument to his exemplary 42 years of service to our country. The Nation could do no better than to encourage the willingness of other military officers to discharge their responsibilities in the manner in which General Rowny has discharged his.

Upon the completion of the SALT II negotiations last month, General Rowny had the courage to tender his resignation from the Army because he could not support the agreement which had been negotiated. He then retired on June 30 after more than four decades of military service in three wars. I hope the Congress will heed the advice General Rowny has offered.

The text of the testimony follows:

PROPOSED TESTIMONY BEFORE THE SENATE ARMED SERVICES COMMITTEE

Mr. Chairman: For more than six years I represented the Joint Chiefs of Staff at the Strategic Arms Limitation Talks. I had been selected for this job because of my experience as Chief of the Mutual and Balanced Force Reductions (MBFR) Working Group in NATO and because I had on numerous occasions expressed my belief in the utility of limiting strategic arms. I continue to hold this belief.

As their representative, I supported the goals of the Joint Chiefs of Staff aimed at achieving limitations on strategic arms provided—and only provided—such limitations were consistent with maintaining our security. If such goals were achieved, our long-term objectives of enhancing deterrence and strengthening global stability would be served. I believe that an agreement which reduces the strategic arms of both sides to equal levels—in numbers as well as in overall capability—is in our nation's interest. I am convinced that such an agreement was—and still is—attainable.

Over the six year period that I was the JCS Representative to SALT, I expressed my views to the Joint Chiefs of Staff in numerous messages and memoranda. At their request I submitted an assessment of SALT in a classified memorandum dated 6 January 1978. I brought that assessment up-to-date on 5 January 1979 and again on 27 March 1979. I mention these assessments to make clear that my final judgments are based upon a long, continuous process of study and evaluation. On 21 May 1979, after the announcement that "agreement in principle" had been reached on the remaining issues of SALT II, I made a final assessment. I concluded that—even though the Joint Chiefs of Staff have made it a considerably better Treaty than it would have otherwise been—this Treaty does not meet minimally acceptable standards. I stated that it was my judgment, based on years of negotiating with the Soviets, that a Treaty meeting the criteria of the Joint Chiefs of Staff was—and is—attainable. However, since negotiations were to be concluded on less than satisfactory terms, I asked to be relieved of my duties and requested retirement. My request was approved and I retired on 30 June 1979.

I would like to state at the outset that in principle there are some positive aspects of the Treaty signed in Vienna on 18 June 1979. The Treaty establishes the principle that there should be equal and lower ceilings of strategic offensive arms. It calls for numerical reductions which, because the Soviets have surged ahead of us, will impact upon the Soviet Union. It seeks to limit the Soviet Union to a maximum of ten warheads per ICBM—and in theory—to one new light ICBM during the life of the Treaty. The Treaty contains certain provisions which are intended as aids to verifiability of missile launchers. Finally the Treaty provides for an exchange of certain data on the numbers of strategic offensive arms.

However, most of these positive features have serious negative aspects. Specifically, the agreement in principle that there be equal ceilings of strategic arms remains an achievement more in theory than in practice. This is so because a significant number of Soviet strategic systems are allowed to go uncounted. Moreover, the ceilings are set at such high levels and the capabilities of these systems are so great that they are militarily virtually meaningless. The reductions agreed upon are extremely modest. Thus, even if the Soviets reduce to the lower ceiling of 2250 by 1982, the United States, having at that time only about 2050 less capable operational systems, would still need to build up actually to achieve equality with the Soviet Union.

Since qualitative improvements are virtually unrestricted by the Treaty, the numerical limitations imposed upon the Soviet Union will not reduce their overall capability. Indeed, that capability will grow enormously during the life of the Treaty. Furthermore, because qualitative improvements are far harder to monitor than mere numbers of systems, the emerging Treaty will afford us less predictability of the capabilities of their systems and hence less stability. The freeze on the number of warheads per MIRVed missile and the limitation to ten warheads per ICBM allows the Soviets a total number of warheads far greater than are required to destroy the hard targets of the United States. This is hardly a stabilizing influence. Moreover, and a point often overlooked, these limits expire with the Treaty at which time our negotiating posture will be much weaker than it is now. While it is commonly assumed that these fractionation limits will be continued beyond the expiration of the Treaty, it is difficult to imagine what leverage the United States will possess for assuring that such fractionation limits can, in fact, be extended.

Given the current throw-weight potential of Soviet missile systems after 1985, it will permit Soviets to deploy even greater numbers of reentry vehicles on their existing ICBMs. While the Treaty in theory limits the Soviets to one new type of light ICBM, in practice the agreed terms of the Treaty permit the Soviets to deploy several new types of missiles. The provisions regarding verifiability are insufficient by a large margin to make the Treaty adequately verfiable. In fact certain aspects are inherently univerifiable unless cooperative measures, steadfastly opposed by the USSR, were to be agreed upon and included in the Treaty.

These positive and negative aspects aside, the Treaty should be tested against objective standards for measuring the worth of a Treaty. A SALT agreement designed to limit strategic offensive arms would be in the interest of our military security and hence in our national interest *if* it were equitable and verifiable, *if* it strengthened European security, and *if* it contributed to allied coherence.

THE TREATY IS UNEQUAL

The Treaty is not an equal one. It grants certain rights to the Soviets and not to us. Two of these inequalities are of cardinal importance: first, the 308 launchers of heavy ICBMs permitted the USSR but not the US, and the second, the exclusion of 375 Soviet Backfire bombers from the Soviet aggregates.

The exclusive right of the Soviet Union to deploy 308 launchers of heavy ICBMs is the most glaring inequity of this Treaty. These heavy missile launchers account for over one-third of the Soviet ICBM destructive potential and for one-half of the ICBM warheads the Soviets are permitted to deploy under the Treaty. The heavy missiles which can be fired from these 308 heavy ICBM launchers contain more destructive potential than all of our US ICBMs and SLBMs combined. The more than 3,000 warheads on these heavy missiles alone could destroy 90 percent of our ICBM force in Soviet first-strike. If it were not for these Soviet heavy missiles we would not need to develop and deploy as extensive or expensive a multiple basing mode for the M–X missile, a program which will cost the US in excess of 30 billions of dollars.

I have heard it asserted that our M–X light missile will be the equal of the SS–18 heavy missile. This assertion is wrong. If two missiles are of equal accuracy (and we no longer hold a monopoly on highly accurate ICBM's), the one with greater yield is more effective because it makes up for near misses. More importantly, an S–18 possesses the potential for carrying two or three times as many warheads as the M–X once the Treaty expires. It is this break-out potential of the SS–18 which is often overlooked when comparisons are made which equate the SS–18 with the M–X. Therefore, instead of bounding the MPS deployment problem, the planned MPS basing scheme will become obsolete and unbounded even before the M–X is deployed.

It is sometimes argued that the U.S. elected not to build heavy missiles and consequently that we should not fault the Treaty for giving the Soviets the sole right to develop them. This argument is wide of the mark. At that time our planners believed that lighter missiles could, given sufficient accuracy, adequately cover Soviet hard targets. Accordingly, the United States, believing that the Soviet Union could not match us in accuracy, and believing it to be consistent with the objective of holding down the number, size, and destructive potential of strategic offensive arms, decided to deploy only lighter missiles.

The Soviets, however, did not follow our example and chose to develop and deploy heavy missiles. Each of these heavy missiles is six times as powerful as our Minuteman missiles and carries three times as many warheads as do our MIRVed missiles. I believe the U.S. should have persisted in its objective of insisting upon a reduction in the Soviet number of launchers of heavy ICBM's (as we did in March 1977). The best way to reduce the threat from these heavy missiles is to cause it to go away.

Failing that, we should insist on being compensated for this glaring and militarily significant asymmetry. Otherwise, we may find ourselves under increasing pressure to invoke in the near future the supreme interest clause. Rather than to risk unraveling SALT completely, we might be better off trying to renegotiate SALT II.

The second unilateral right afforded the USSR is its right to exclude from the Soviet total their 375 Backfire intercontinental bombers. Various U.S. intelligence estimates, although they disagree as to its precise capabilities, all agree that the Backfire is capable of striking targets in the U.S. on unrefueled missions and recover in third countries. This is precisely the way in which B–52's, which are counted in U.S. totals, would perform strikes against the U.S.S.R. The Backfire, two-and-a-half times as large as any medium bomber on either side, and exceeding the capability of many of our B–52's, has the capability of carrying a 20,000 pound bomb load to over 10,000 kilometers. It is seldom appreciated that the 375 Soviet Backfire bombers add an additional one-third in destructive potential to the already formidable total strategic throwweight possessed by the U.S.S.R.

It is sometimes argued that bombers are second-strike or follow-on systems, and therefore that we need not be concerned over this Soviet "add-on" capability. If this argument were accepted, it would follow that the U.S. does not need B–52's. This is obviously a spurious argument. Furthermore, many of our B–52 airbases could be attacked by Soviet sea-launched cruise missiles of less than 600 km range (permitted by the Treaty), whereas Backfire bases cannot be hit by U.S. short-range sea-launched cruise missiles.

Further, while air launched cruise missiles and the B–52's from which they would be launched would suffer severe attrition as a result of extensive Soviet air defenses, the U.S. has virtually no air defenses and it is a near certainty that the Backfire could carry out its missions. As it is, the U.S. may, according to some Pentagon estimates, need to spend upward of 8 billion dollars over the next ten years to improve its air defenses to counter the threat of what some label an "insignificant" Backfire threat.

To argue that the Soviets intend to use these modern long-range penetrating aircraft for theater or naval missions is to overlook the inherent flexibility of heavy bombers. We military persons must deal with capabilities, not mere intentions. Our use of B–52's tactically in Southeast Asia would not have prevented our using them, if the need arose, in a strategic role.

Finally, the negotiating history of the Backfire issue, especially when one considers the conflicting statements the Soviets made concerning its performance at various profiles, to say nothing about the blatant manner in which the Soviets have refused to enter into any serious discussions of the Backfire's capabilities, can only give future Soviet negotiators comfort that the United States will continue to accept Soviet declarations of weapons capabilities as carrying more weight than our intelligence estimates.

In sum, as the Joint Chiefs of Staff have made repeatedly clear, there are no objective reasons why Backfire should not be counted in the Soviet aggregate. If they were properly so counted, the Soviets would be forced to replace 375 first-line central systems from their inventory.

The Treaty allows an initial ceiling, until the end of 1981, of 2,400 strategic systems. It is sometimes argued that the U.S.S.R. since it has 2,550 systems today, is disadvantaged since it will be required to reduce 150 systems, whereas the U.S. will not have to reduce any systems. Implicit in this argument is the notion that the U.S.S.R. should be rewarded for not showing restraint and for having forged ahead of the U.S. while SALT negotiations were in progress.

Furthermore, the fact that the ceilings will be reduced to 2,250 after 1981 will not rectify the asymmetry favoring the Soviets. By that time a number of the "bone-yard" B–52's, now mothballed and only marginally recoverable for use, will have been completely scrapped. At the end of 1981 the U.S. will have only about 2,050 systems in its inventory. Thus the U.S.S.R. will stay ahead of the U.S. in the number of strategic systems throughout the life of the Treaty. One way in which this situation could have been equalized would have been for both sides to make greater reductions, say to reduce to 2,000 systems by 1985. The JCS made repeated recommendations that deeper reductions of this sort should be made. Their recommendations were consistently rejected. A second way in which the large asymmetries between the U.S. and the U.S.S.R. could have been equalized would have been to abide by Public Law 92–448—the Jackson Amendment, which called for equal levels of forces which went beyond mere numbers and would limit, for example, throwweight.

It has been stated by some that we gave the Soviets a unilateral right to heavy missile launchers in a trade for their abandonment of counting our so-called FBS. Others stated that we traded the Soviets not counting Backfire for our not counting FBS Neither of these statements is supportable by the record. What is supportable is that the Soviets abandoned their FPS argument when we insisted that they include their more numerous and more powerful comparable systems. The simple fact is that the Soviets dropped their FBS argument when we insisted that they count their counterpart systems which are twice as numerous and possess at east ten times the destructive potential of ours.

In short, the Soviets dropped their FBS argument because it was in their own self-interest to do so. The number of systems possessed by the two sides is not even a rough measure of their respective strengths. More accurate comparisons must take into account the number of warheads each side will have, the types of systems these warheads will be deployed upon, and the yield of these warheads.

Under the Treaty, the U.S.S.R. is permitted to deploy by 1985 over 6,000 warheads on existing types of ICBM's, the U.S. slightly over 2,000. Since the US has deployed only 3 re-entry vehicles, RVs for short, on each of its 550 MMIII's and the U.S.S.R. has deployed 4 RV's on its SS–17's, 6 RV's on its SS–19's, and 10 RV's on its SS–18's, these obvious inequalities result in the 3 to 1 asymmetry of RV's on ICBM's in the Soviets' favor by 1985. Moreover, each Soviet ICBM warhead will, by the early 1980's, possess accuracies comparable to ours. ICBM's are for a number of reasons the most destructive and most destabilizing of strategic offensive systems.

First, practically all ICBM's can be launched (as opposed to SLBMs where one-half of the force is in port at any one time). Secondly, ICBM's have secure and redundant communications (in contrast to the more tenuous communications available for submarines). And thirdly, only an ICBM warhead possesses the combination of yield and accuracy which gives it the certain capability of destroying hard targets. The 3 to 1 Soviet advantages in ICBM warheads takes on even greater importance when one considers that the U.S. has only one-half the number of hard targets as does the U.S.S.R.

It is sometimes argued that the current U.S. lead in SLBM warheads compensates for the Soviet ICBM asymmetry because it gives the U.S. the greater number of deliverable weapons. This argument is militarily invalid. Today's SLBM warheads cannot destroy Soviet hard targets. SLBM warheads have roughly one-tenth the yield and thus are one-tenth as powerful as ICBM warheads.

Further, SLBM accuracy is generally considered to be roughly one-half that of ICBM's, and since the effect of reduced accuracy is an inverse square function, SLBM's are only one-fourth as effective as ICBM's of equal yield. Thus the average SLBM warhead is only one-fortieth as effective as an ICBM warhead. Furthermore, only one-half of the SLBM's can be expected to be on submarines at sea at any one time. Finally, the full complement of 14 warheads can seldom if ever be effectively employed; the maximum number is closer to ten. When one puts all these factors together it becomes clear that an SLBM possesses one-eightieth to one-hundredth of the potential value of an ICBM. Accordingly, one should not count ICBM and SLBM warheads as though they were equal. Or to be more graphic, weapons the size of grapes should not be thought of as being in the same class as those the size of grapefruits.

There are a host of other inequities in the Treaty. One example becomes immediately discernible from a glance at the history of the negotiating process concerning cruise missiles. Prior to Vladivostok, limitations on cruise missiles were practically never mentioned. Indeed, after the meeting at Vladivostok President Ford reported that cruise missiles had not been mentioned at all and that it was his understanding that only ballistic missile constraints were discussed with the Soviets. Following the Vladivostok meeting the Soviets refused to initial the aide memoire in which the U.S. had insisted that it refer only to ballistic missiles.

After several days the aide memoire was initiated with the understanding that the term "air-launched missile" did not encompass cruise missiles. This point was later countered by the Soviets who argued that if the accord was meant to restrict only ballistic cruise missiles the aide memoire would have explicitly said so.

Thus cruise missiles, which we maintained were not covered by the agreement, were subsequently subjected to an ever-increasing number of restrictions. The JCS, as General Wilson has testified, recommended that no constraints be placed on cruise missiles since to do so would not be in the national interest.

Since the U.S. is ahead in cruise missile technology, and since only the U.S. has a requirement for air-launched cruise missiles to make B-52's capable of penetrating Soviet air defenses, limitations on cruise missiles—for all intents and purposes—constrain only U.S. systems. This is a glaring inequality of the Treaty as drafted.

The second inequality in cruise missile limitations is the cut-off range between systems to be limited from those not to be limited. The Soviets insisted that this distance be 600 km, a cut-off point which greatly favors the U.S.S.R.

Soviet sea-launched cruise missiles of under 600 km range could attack between 50 and 75 percent of the population and industry of the U.S., whereas missiles of the same range launched by the U.S. can reach less than 2 percent of the population and industry of the U.S.S.R.

As is well known, the Soviets have hundreds of cruise missiles which approach this range. Originally, the JCS wanted the cut-off point between tactical and strategic cruise missiles to be set at a more equitable figure, say at 100 or at most 200 km. However, this view did not prevail.

Another inequality in connection with cruise missiles resulted from the inclusion of aircraft equipped for air-launched cruise missiles in the 1,320 aggregate. In January of 1976, in one of the large number of offers made by the United States, we proposed to the Soviets that such aircraft count in the 1,320 aggregate in trade for counting all BACKFIRES over 75 (the number the Soviets were expected to deploy by the time the Treaty was expected to be signed).

The Soviets pocketed our offer to include in the 1,320 aggregate aircraft equipped for cruise missiles, and no more was heard of the BACKFIRE end of the bargain. Worse, the Soviets argued that no BACKFIRFS should be counted at all. In March 1977, the Carter Administration, as an alternative to its Comprehensive Proposal, offered to postpone decisions on Backfire and cruise missiles for three years after the Treaty went into force. The Soviets rejected this proposal, just as they had rejected the Comprehensive Proposal.

Rather than be resolute in our negotiating position, the U.S. hurriedly abandoned this postponement proposal, just as it had abandoned its Comprehensive Proposal. The net result is that Backfire is not counted at all in the Treaty and ALCM carriers count in have since then been subjected to an increased number of restrictions, to include counting conventionally armed air-launched cruise missiles as though they were nuclear armed.●

TRIBUTE TO W. E. WILLIAMSON

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. ROSTENKOWSKI. Mr. Speaker, it is with a sense of great loss and sorrow that I now pay tribute to the late W. E. "Ed" Williamson, the former chief clerk and staff director of the House Committee on Interstate and Foreign Commerce. On July 24, Ed lost his private struggle with cancer.

When I first came to Washington I had the privilege of serving on the Commerce Committee. From my first day of service, Ed Williamson received me warmly. I imagine the best way to describe his character is to say that he had a way of making you feel totally at ease even when your inexperience caused you to ask him a naive or elementary question. When he saw you distressed he had a way of remedying the situation: He would walk to your office and help work out whatever problems with the committee you had had.

Mr. Speaker, I viewed him as the father of the committee. Even today I can vividly remember Ed whispering into Chairman Oren Harris' ear. Judging from the successful tenure of Chairman Harris, it surely seems that Ed's specialty was the "handling" of Members on the lower dais.

Ed Williamson was a man of responsibility. His credentials as a public servant were strong. He was mayor of Magnolia, Ark., at the time Oren Harris appointed him to head the Commerce Committee staff. Prior to this service he had distinguished himself as circuit and chancery court clerk in Magnolia. His military record also brought him distinction: after enlisting in the U.S. Army in 1942, he rose to the rank of captain by the time of his discharge in 1946.

Ed Williamson was a strong believer in the integrity of Congress. He added to the professionalism and honesty which is so crucial to the success of our institution. In particular, his keen mind was well versed in the rules of the House, as well as committee procedures.

But more than being solely a capable counselor, Ed was a good friend. On several occasions Ed shared stories about the time he spent sitting around the campfire on the banks of the White River and narrating the finer points of fishing and hunting. There was nothing better than hearing stories from the old master himself, William E. Williamson.

He was loyal, hard working, and conscientious to the very end. He could not be bothered by his own physical infirmities, but rather he tried to work to his last days.

Ed Williamson—a dedicated public servant, a man of unquestioned integrity, a dear friend—will long be missed by this Member of Congress.●

SMALL BUSINESS CAPITAL FORMATION AND REINVESTMENT TAX ACT OF 1979

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. NOWAK. Mr. Speaker, I am introducing legislation to allow for the nonrecognition of gain on the sale or exchange of stock when such proceeds are reinvested in the stock of a small business corporation. H.R. 5097, a bill to amend the Internal Revenue Code of 1954 to allow nonrecognition of gain on the sale or exchange of stock in small business corporations.

WHAT THE BILL WOULD DO

This bill is, in effect, a "capital gains rollover bill." Gain on the sale or exchange of stock would not be recognized as long as the proceeds from such sale or exchange are reinvested in another small business stock within 1 year. The stock in a small business corporation would, however, have to be held for 18 months before it can be sold. For purposes of the bill, in general a small business corporation is defined as a corporation which has a contribution to capital and paid-in surplus not exceeding $35 million.

BACKGROUND

The crisis in capital formation has had a tremendous effect on small business. It has become apparent that the amount of capital needed to start or remain in business has grown dramatically. This has been occurring at a time when a small business' ability to raise and internally generate capital has been hampered by high interest rates, unfavorable tax laws and Government regulation.

In order to promote capital formation and economic development, the Federal Government has, up to now, relied on tax incentive mechanisms such as investment tax credits, depletion allowances, and foreign tax credits. Although these tax laws are written for the benefit of all businesses, large business establishments have consistently reaped the greatest benefits from changes in the tax law. Since most small businesses experience marginal profits or no profits at all during the early years of operation, their utilization of such incentives are severely limited.

In addition to this capital gains rollover bill, I am also introducing today a companion bill entitled, the Small Business Capital Formation Tax Act of 1979. These two companion bills should be considered a step in the direction of channeling a more equitable share of the tax benefits for small business.●

BULGARIAN HUMAN RIGHTS: AN AMERICAN CONCERN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. BIAGGI. Mr. Speaker, it has come to the attention of this body that members of the Protestant clergy in Bulgaria have been persecuted and arrested for what has been reported as "currency exchange violations" but in reality has been the distribution of Bibles and various other religious publications. The Commission on Security and Cooperation in Europe, chaired by our distinguished colleague DANTE FASCELL, has received numerous reports in recent weeks from Bulgarian-American agencies asking that this matter be brought to the attention of our State Department.

The Helsinki agreement, signed by Bulgaria, protects the rights and insures respect of the religious beliefs of the population. In a country which is predominantly Eastern Orthodox, the minority has been unfairly and unjustly persecuted. I consider this action worthy of immediate attention and urge the Bulgarian Government to recommit itself to the spirit of Helsinki by releasing these religious observers in question.

Human rights is a long-standing concern of captive nations such as Bulgaria. Since 1946, Bulgaria has been one of many harnessed by Soviet domination and subjected to human rights abuses and violations. Let us not believe for 1 minute that this Soviet policy will change unless we diligently and consistently press for international awareness and attention to human rights violations to the people living in captive nations. A major leverage point is the SALT II Treaty which is at present being discussed by the Senate. I would urge my colleagues on the Senate side to be mindful of this problem during the debate on the ratification of the treaty as we have an important opportunity to strengthen our human rights commitment to those nations under Soviet domination.

The scorecard of Eastern Europe is replete with human rights violations such as those reported in Bulgaria. It remains to this Nation, which has time and time again reaffirmed human rights as the "cornerstone" of our Nation's foreign policy, to encourage and apply this policy in a timely and consistent fashion in our relations with Eastern Europe, most especially Bulgaria. In doing so, we not only reassert our commitment to the personal freedom and integrity of all peoples of all nations, but we also demonstrate that we are ready, willing and able to stand up and counter the threat of increasing world domination and oppression by the Soviet Union.●

THE INTRODUCTION OF A RESOLUTION CALLING FOR AN INTERNATIONAL CONFERENCE TO PROTECT INDIVIDUALS IN TIMES OF CIVIL WAR OR OTHER HOSTILITIES

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. FISHER. Mr. Speaker, I am introducing legislation which calls upon the President to take all appropriate steps for the convening of an international conference to strengthen the international laws and agreements in order to protect members of the press, representatives of international organizations and members of peace-keeping forces in times of civil war or other hostilities.

All Americans were shocked by the death of ABC reporter Bill Stewart earlier this year in Nicaragua. He was a respected member of the international press community performing his job under trying circumstances when he was murdered. Unfortunately, Bill Stewart's death is not an uncommon occurance in today's world. Members of United Nations peacekeeping forces have been killed in Zaire and Lebanon. Overservers of UN supervised elections have been endangered in many areas. Terrorism is rampant around the globe.

The United States has always been in the forefront of nations trying to ameliorate the ravages of war and to protect civilians from the impact of conflict. Protection is accorded to many persons under the provisions of the Geneva Conventions of 1949. However, time and events have shown that further protections are needed in order to assure humane treatment of all persons who are endangered by conflicts and hostilities whether within a country or among several nations.

I hope that the Congress will move quickly to enact this resolution.●

FDA DISAGREES WITH CCC

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. MAGUIRE. Mr. Speaker, Dr. Michael Jacobson, director of the Center for Science in the public interest sent to my office a copy of a brochure—"Saccharin—a benefit to millions" widely distributed by the Calorie Control Council (CCC). The scientific, legislative, and regulatory inaccuracies presented by the CCC are disturbing to those of us who have reviewed the saccharin literature with great care. I submit for the RECORD a copy of FDA's criticism of the Calorie Control Council brochure.

DEPARTMENT OF HEALTH, EDUCATION,
WELFARE, PUBLIC HEALTH SERVICE,
FOOD AND DRUG ADMINISTRATION,
Rockville, Md., July 30, 1979.

Hon. ANDREW MAGUIRE,
House of Representatives, Washington, D.C.

DEAR MR. MAGUIRE: The enclosed literature which is being distributed by the Calorie Control Council (CCC), has been brought to our attention. It will undoubtedly generate a great deal of mail to the Congress. In view of the misinformation it contains, we believe some comments are in order.

The CCC document presents a one-sided picture of the saccharin issue supported by selective quotations from the National Academy of Sciences' (NAS) report on saccharin. The impression of the NAS report given by the CCC bears no relationship to the report that the Academy actually issued. Contrary to the CCC, the NAS concludes that:

Saccharin is a carcinogen in animals, albeit of low potency.

It is a potential carcinogen in humans.

Fifty to seventy million Americans consume saccharin with some frequency. One-third of children under ten are among the users and children are at greatest risk. Because of the quantity of saccharin consumed, its use presents a moderate to high risk to consumers.

Saccharin seems to promote the effects of other cancer-causing agents.

There is no objective evidence that saccharin has any health benefits.

The CCC also persists in attacking the design of the animal studies that the NAS (and Congress' Office of Technology Assessment) concluded showed saccharin to cause cancer. These tests are widely accepted and used in the scientific community, by industry, and the Government both to determine the risks from and safety of food additives, pesticides, and industrial chemicals.

Mr. Wayne L. Pines, the Food and Drug Administration's Associate Commissioner for Public Affairs, wrote CCC directly about their brochure. We enclose a copy of his letter for your reference.

We also enclose an article by former Commissioner of Food and Drugs, Donald Kennedy, which recently appeared in the *Washington Post*. It discusses these issues in greater detail.

If we can be of further assistance, please let us know.

Sincerely yours,
ROBERT C. WETHERELL, Jr.,
Associate Commissioner for Legislative Affairs.●

SUPPORT OF RECOMMENDATIONS OF PUBLIC WORKS COMMITTEE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. McCLORY. Mr. Speaker, today when the conference report making appropriations for energy and water development is under review and awaiting approval by this body, I wish to rise in support of the final recommendations and express appreciation to members of the Public Works Committees, and the Appropriations Committees, of both the House and Senate, for their recommendations regarding federally funded projects in the 13th District of Illinois.

The $420,000 allocated for the Fox River Valley Basin will nearly complete the study which I sponsored in the Congress several years ago. This project is vital if the quality of water in the Fox River is to be improved—and flood control and increased domestic and recreational uses of this significant waterway are to be realized.

I am particularly pleased that $100,000 has been recommended for the small boat harbor study of the shoreline from Waukegan to the Wisconsin State line enabling the Corps of Engineers to complete its navigational study and determine the need for new and improved small boat facilities in Lake County, Ill. This was not included in the Army Corps of Engineers budget request when it was submitted to the Congress earlier this year. For this reason, I am most gratified to have funds for this purpose recommended by the conferees.

Likewise, $200,000 is earmarked for the beach erosion study of the Lake Michigan shoreline—which was authorized in a beach erosion resolution requested by myself, former Congressman

Sam Young and Phil Crane in 1974. Serious beach erosion problems exist in the area between Waukegan and Fort Sheridan in my congressional district and in addition, this study is required in the development of Illinois Beach State Park.

Another $100,000 has been earmarked for increasing diversion of Lake Michigan water at Chicago—which is likewise of considerable importance to our district especially northern Illinois communities which can benefit from increased supplies of water from Lake Michigan for domestic purposes. There has been a serious shortage of water during the past 2 years—and the study will help to alleviate the problem.

The sum of $20 million has been recommended for rebuilding Lock and Dam 26 at Alton—a project of much importance to the rural areas in Illinois. Farm communities in Lake, McHenry, and Kane Counties will benefit from this improved water transportation system.

Public works projects have received much criticism of late and have been identified with such terms as "pork barrel" and "boondoggles." Many taxpayers see their tax dollars going into the Government coffers and this is an example to my constituents of the 13th District of Illinois of a return of their money and a wise expenditure of Federal funds which will benefit many Americans for years to come.●

THE LATE HONORABLE JOHN BAYNE BRECKINRIDGE

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. NATCHER. Mr. Speaker, I join with the many friends of John Bayne Breckinridge in expressing my sorrow at his untimely passing. Our former colleague served with distinction in the Commonwealth of Kentucky as Attorney General. He established an outstanding record. His competence as a trial lawyer was recognized by the legal profession throughout this country. He was honored in the year 1968 when he was elected to receive the National Association of Attorney Generals' Wyman Award for State Attorney General.

My friend, John Bayne Breckinridge, was elected to Congress in the year 1972, and during his tenure as a Member, he established an outstanding record as an able legislator and an energetic advocate of his people. He was a long-time public servant, having served in many capacities and with distinction in each assignment. With the highest level of ability and integrity, John Bayne Breckinridge zealously defended the ideas and principles he believed in and upon which this Nation was built. He gave himself fully and unselfishly. No one could question his loyal and dedicated service to the people of the Commonwealth of Kentucky and to the people of the United States of America.

Mr. Speaker, it was a distinct privilege and an honor for me to serve in the House of Representatives with our friend, John Bayne Breckinridge. I would like to extend my deepest sympathy to Mrs. Breckinridge and to the members of his family.●

A TRIBUTE TO TETRA TECH, INC., OF PASADENA, CALIF., ON THE PRESENTATION OF THE JAMES S. COGSWELL INDUSTRIAL SECURITY AWARD

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. ROUSSELOT. Mr. Speaker, for the past several months this Congress has been almost completely absorbed in concern for and discussions about what is termed "the energy crisis." The entire Nation is engrossed in worry and even fear that we will be immobilized by shortages and predictions of gloom and doom have overshadowed the positive side of the picture.

For over 300 hundred years, the American people have been demonstrating a remarkable ability to meet challenges with zeal, grit, and determination. It is with spirit and pride of achievement that individual Americans are always ready to engage in competitive enterprise. Under the constitutionally authorized free market system, the people of America have undertaken that which is difficult, complicated and risky.

The progress of our Nation is marked by an independent energetic spirit. It is this kind of initiative that I wish to pay tribute to today. I believe that this country has a great resource of entrepreneurship which will respond to our Nation's energy demands with competitive interest and a will to maintain America's economic strength and independence.

I commend to my colleague's attention the superior performance of Tetra-Tech, Inc., which is located in Pasadena, Calif., a city in my congressional district which I share with my colleague, Representative Carlos Moorhead.

The tribute follows:

THE PRESENTATION TO TETRA-TECH, INC. OF THE JAMES S. COGSWELL INDUSTRIAL SECURITY AWARD

Tetra Tech, Inc., of Pasadena, California is among the country's most sophisticated companies in the providing of engineering and technical management services in the fields of water and energy resources. The company also develops, manufactures and markets underwater television systems and remote controlled vehicles used primarily in the offshore oil, marine construction and utility industries.

The company's products and services are marketed throughout the world. Its prime resource is its more than 575 employees, of whom 272 have bachelor's degrees. Of these, 86 hold master's degrees and 47 doctoral degrees. The company is publicly held and its shares are traded on the American Stock Exchange.

During Tetra Tech's 1978 fiscal year, 37 percent of its total revenues of almost $31 million were from work for various agencies of the United States government.

In light of the complex and diverse nature of Tetra Tech's operations, it was particularly gratifying to me to learn that this Pasadena based company has been recognized by the Department of Defense for its superior performance in safeguarding classified U.S. government information.

Tetra Tech has been given the James S. Cogswell Industrial Security Award, an honor which in 1978 was given to only 25 defense contractors out of 11,000 industrial firms having Department of Defense facility security clearances to perform work on classified contracts. Winners were chosen on the basis of criteria that included the degree of security consciousness and cooperation by management; effectiveness of employee security education and motivation programs; security practices and procedures, and the ability to sustain progressive security systems.

The award was established 12 years ago in honor of the late Air Force Colonel James S. Cogswell, who was the first chief of a centralized Department of Defense office of industrial security.

The Cogswell Award plaque was presented by Air Force General Joseph H. Connolly to Nicholas D. Boratynski, Tetra Tech's president, Mrs. Lois J. Jenkins, corporate secretary and the company's chief security officer, and Ms. Melody Wilbur, internal security representative at Tetra Tech.

In presenting the award, General Connolly, who is commander of the Defense Administration Agency, Los Angeles, said that the plaque was the Defense Department's "way of officially recognizing superior achievement by contractors throughout the whole range of industrial security requirements."

General Connolly noted the extremely high criteria established for the Cogswell award, saying:

"Your management must give evidence of a high degree of security consciousness. You must have an effective security education and motivation program, and your organization must conduct regular inspections of security practices. Your officials must cooperate fully in the DOD security review procedures governing your publications and advertising.

"And lastly, your security personnel must have successfully kept abreast of new security methods in automatic data processing, in the reproduction and transmission of materials and in the control of employees and visitors within your facility.

"Of the approximately 12,000 facilities in the United States eligible for this award, less than one-half of one percent qualify for nomination. The screening to which your operation is subjected before nomination is most meticulous. Our security representative, Cosmo Perrone, recommended you for the award following a comprehensive inspection of your compliance with the DOD established industrial security practices. Thereafter, at our region headquarters, your organization competed with others whose names had been submitted for the award.

"Once Tetra Tech was chosen by our region, we obtained concurrence from the government buying agencies. Thereafter, our recommendation was sent to our headquarters in Washington to compete with those additional facilities which had been recommended by the other defense contract administration regions located elsewhere in the United States. Final decision was rendered following an intensive weighing of the evidence by our headquarters staff. So you see, the ultimate recipient well deserves the kind of recognition you are receiving today. And finally, may I say the fine security system which your company has, demonstrates how very serious you and your people consider your responsibility as an important segment of the government industry team.

"I take pride, Mr. Boratynski, in commending you, your security officer, Ms. Jenkins, and your entire organization for your outstanding contribution to defense security. This plaque recognizes your superior performance in carrying out your security obligations. It is to your very great honor and credit. My congratulations and good luck in the years ahead."

It is fitting to add the congratulations of the Congress to those of the Department of Defense in recognizing Tetra Tech's outstanding achievement in this vital area of our national security.●

OFFSET PROVISION OF SOCIAL SECURITY ACT

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. MAVROULES. Mr. Speaker, since this country was conceived, every generation of Americans has looked upon our Nation as a land of opportunity and promise, a land where every American can build for the future, reasonably certain that his or her efforts would not be in vain.

Today, however, we are faced with laws that thwart the hope of certain Americans and take a toll on the national spirit. One such law is the offset provision of the Social Security Act, due to take effect December 1982.

Mr. Speaker, I am introducing a bill today that would eliminate the offset provision and play a small but significant part in restoring the faith of many Americans in their future, when they put their working days behind them.

More to the point, I am asking that we eliminate a provision that discriminates against not only retirees but also certain groups of women as well.

The offset provision of the Social Security Act allows the Federal Government to deduct a female public employee's State, county, or local pension from the benefits that have accrued to her as the beneficiary of her husband's social security plan.

My measure views this as unfair as it disrupts a married couple's lifelong timetable leading up to a comfortable, hard-earned retirement. In these economically distressed times, we surely cannot afford to short-change any contributing member of our society.

In my "Dear Colleague" letter, I mention an example of the unfavorable impact the offset provision will have on a married couple, with the woman contributing to a State pension plan and the man to social security.

The developing situation is this. The husband dies at age 50, but the woman must wait for her own retirement to receive any benefits. When that day arrives, she will discover that she is only eligible for the larger of the two benefits—either her own State pension or her husband's social security fund. The other alternative is that she may have her husband's benefits reduced by the amount of her own retirement fund.

The irony is that if she had been working for a private company, she would be able to collect both benefits immediately. But, again, the offset provision cruelly penalizes our hypothetical wife, as it does all women in this class.

Originally enacted as a cost-saving measure to shore up the social security system, this provision has inadvertently singled out these women.

I say to you that this is not what social security is all about.

I say to you that it is not fair to ask this particular group to bear the onerous burden of the Federal Government's failure of judgment.

And I say to you that it is not fair to ask any couple that has worked long and hard in expectation of a comfortable retirement to face the financial uncertainty the offset provision creates.

This provision makes a mockery of Government. It undermines our belief that Government should be the repository of our trust and responsible, ultimately, for our well-being.

More important, the offset provision makes a mockery of one of this Nation's most cherished beliefs: the belief that every American can build toward a bright future.

The arguments against this provision are solid and clear. We must now reconsider and return to a segment of our society the rewards of a lifetime of effort in our Nation's work force.●

CLINCH RIVER PROJECT CRUCIAL FOR PROGRESS

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. BAILEY. Mr. Speaker, I feel it is imperative for our country's leaders to recognize that we currently have no alternate source of energy that can match the unlimited potential of nuclear power in the near future.

In light of our precariously dangerous dependence on foreign oil, I feel the President and many others are wrong in trying to halt the safe development of nuclear power.

By deciding to continue funding for the Clinch River breeder reactor, I feel that we are taking an important step toward progressive development of this extremely vital energy source.

We, as a nation and people, need to develop now this inevitable energy form as a necessary part of any energy policy that will make this country independent of imported oil. It would be foolish for us to ignore the promises of fast breeder technology at such a strategic point in our energy technology.

By supporting the Clinch River breeder reactor project we are one rung closer to helping this Nation achieve control of its energy destiny.

I am very pleased that the crippling amendments intended to drastically reduce the funding for Clinch River were defeated. I'm hopeful that the people will see our funding of this project as a wise movement to support programs necessary to help keep this country strong and free.●

LEGISLATIVE OVERVIEW: THE RECORD OF THE 96TH TO DATE

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. BRADEMAS. Mr. Speaker, over the last few months national attention has been dramatically focused on the issue of energy. And while that attention has produced near-unanimous agreement that the United States must break loose from the energy stranglehold imposed by the oil-producing nations, there has been substantially less agreement on the best way to go about accomplishing this goal.

Over the next few months Congress will be involved in the difficult task of sifting through a variety of energy proposals, weighing their individual costs and benefits, and attempting to forge a comprehensive and effective energy policy that moves the country closer toward energy self-sufficiency in the next decade in a way that spreads the burden evenly among all groups in society.

The House of Representatives has already acted on a number of the ingredients of an energy package. Last month the House passed and sent to the Senate the financial cornerstone of the President's program: The windfall profits tax capable of financing a range of alternative energy initiatives, research, mass transit grants, and aid to low-income groups. Even before the President's announced program of alternative fuel development, the House passed a major bill providing for a joint Government-private industry effort in the production of synthetic fuels, such as fluids from coal, and set a production goal of 2 million barrels a day by 1990.

In addition, Mr. Speaker, the House acted favorably this week on a funding bill that contains $3.5 billion in energy funds, including $1.5 billion for a synthetic fuels program and funds for other key congressional initiatives such as coal liquefaction and gasification, enhanced oil and gas recovery and conservation. The House also had under consideration a bill from conference providing an additional $3 billion for the energy related programs of the Department of Energy including $620 million for solar, $149 million for geothermal and $355 million for fusion energy.

Finally, the House approved a bill giving the President authority to develop a standby rationing plan for use in the event of emergency gas shortages.

Energy is certainly the most visible and perhaps the most crucial issue facing the 96th Congress. But it is not the only one. This Congress has been busy along a number of fronts in this first session. Following is an overview of the major legislative actions taken.

INFLATION

Mr. Speaker, led by soaring energy and housing costs, consumer prices rose again in June at a pace that translates into an annual inflation rate of 13.2 percent. This continued high inflation rate, even in the face of strong evidence that the economy is slowing down into a recessionary period, means that inflation will remain one of the more important and yet difficult problems facing the 96th Congress.

In the area where congressional pressure against inflation can be applied most directly—the size of the Federal budget—this Congress has already shown that it has taken seriously the call for fiscal restraint. The first budget resolution passed this spring, setting budget targets for the next fiscal year, contained the lowest projected Federal deficit in 6 years, a figure lower than the President's original austere proposal and one-half the size of the recession high figure of $66.4 billion under the Ford administration. The budget called for little in the way of new spending programs and as approved in May its projected spending targets fell billions of dollars short of merely funding current services under current law.

In other actions on the anti-inflation front Congress extended the life of the Council on Wage and Price Stability and expanded its staff and budget to administer the President's anti-inflation policies and monitor compliance with the guidelines.

Mr. Speaker, one of the two House committees with jurisdiction over hospital cost containment legislation has reported out a bill proposing to cap hospital cost increases at 11.6 percent a year. The Democratic leadership has joined the President in designating this bill a top priority for this Congress.

Congressional committees continue to focus on oversight responsibilities, applied to authorization and appropriation stages of the legislative cycle. The goal is to focus attention on programs already in place in order to cut waste, improve management, and oversee efficient spending of tax dollars.

Mr. Speaker, the approval of a major international trade agreement can be an important aspect of the fight against inflation. It is expected that it will open up significant new markets abroad for American products, improving our balance of payments, strengthening the value of the dollar and lowering prices consumers pay for foreign products.

Of course inflation should not be considered, and cannot be dealt with, in a vacuum; our national reliance on imported oil drains billions of dollars a year and is a crucial problem in our economy. It will not be solved overnight, but as the Congress and the Nation move to develop proposals for alternative fuel sources and conservation of energy, we move at the same time to reduce that upward pressure on prices that comes with each barrel of imported oil.

MILITARY AND FOREIGN AFFAIRS

Mr. Speaker, Congress has been busy throughout this session on legislation vital to the administration's foreign policy goals—in Panama, the Mideast, and Africa.

PANAMA CANAL

This week the House and Senate went to conference on a bill to implement the canal treaties which take effect October 1, 1979 and provide for the gradual turnover of the operation of the canal to Panama by the year 2000. As passed by the House the bill would establish the Panama Canal Commission as a noncorporate U.S. Government agency subject to the direction of the Secretary of Defense to run the canal during the transfer period; require that all canal revenues be paid into the Treasury and that expenditures be made pursuant to an annual appropriations process; provide for the recovery through tolls of all costs of operation including interest and payments to Panama, capital costs, and employee benefits included in the bill; require congressional authorization of all property transfers including those scheduled for October under the treaty; and provide for U.S. military control of the canal during war.

FOREIGN AID

A bill in conference would authorize $880.3 million for fiscal 1980 and $865.3 million for fiscal 1981 for international security assistance programs, including grant military aid and training, foreign military sales credits, peacekeeping operations and international narcotics control programs. The foreign economic aid bill has been reported from conference and was scheduled for House consideration this week. As agreed to by conferees, the bill would authorize $1.8 billion for economic development assistance, $24 million for an Institute for Scientific and Technological Cooperation (to support research and technological innovation in development countries to reduce obstacles to economic growth), and $105 million for the Peace Corps.

MIDEAST

Mr. Speaker, the fiscal 1980 military foreign aid bill, in conference, provides Israel with $1 billion under the foreign military sales financing program (with repayment of half forgiven). Conferees also transferred into that bill a $1.9 billion economic support fund, most of which is in support of the Middle East peace effort, with $785 million earmarked for Israel and $750 million for Egypt. This is in addition to a bill just signed into law providing for a fiscal 1979 supplemental of almost $1.5 billion to implement the peace treaty between Egypt and Israel. The authorization would support a total program level of $4.8 billion in economic and military assistance for the two countries consisting of loans, grants, and foreign military sales credits.

TAIWAN

A new law continues nongovernmental relations with Taiwan through an American Institute and gives that country assurance of United States concern for its peace and security and arms assistance in a security emergency.

FOREIGN AID REORGANIZATION

Congress gave its approval to the President's plan to reorganize the foreign aid programs by bringing them all under one umbrella organization, the International Development Cooperation Agency. The new agency would be the focal point for setting and coordinating development assistance policy and would take over most of the functions now performed by the Agency for International Development (AID) in the State Department.

In other foreign policy matters, the House passed a bill directing the President to lift sanctions against Zimbabwe-Rhodesia by the fall of this year unless he determines that it would not be in the national interest and so reports to Congress. Reported from conference is a bill lifting prohibitions on economic aid to Uganda in fiscal 1979.

SOUTHEAST ASIA REFUGEES

Mr. Speaker, the Foreign Affairs Committee this week reported out a bill to aid the Southeast Asian refugees by providing additional funds in fiscal 1980 ($207 million) and fiscal 1981 ($204 million) for migration and refugee assistance. A fiscal 1979 supplemental appropriation contained $109 million in additional aid for these refugees. The Speaker this week appointed a bipartisan nine-member committee of House Members to visit the refugee camps in Hong Kong, Malaysia, and Thailand and report to the House in regard to legislation to increase the number of refugees admitted to this country.

DEFENSE

Congress approved a fiscal 1979 supplemental request for funds for the MX missile system, and for the purchase of four destroyers made available due to the cancellation of Iranian orders. The House this week was scheduled to take up a $42.1 billion defense bill for fiscal 1980 that contains funds for the MX, an eighth Trident nuclear submarine, and a nuclear aircraft carrier. The bill would also reinstitute draft registration of 18 year olds beginning in 1981.

TRADE

TRADE PACT

Mr. Speaker, Congress gave final approval this month to the largest single trade agreement in U.S. history—one that will create American jobs, make American goods more competitive abroad, reduce our trade deficit and thus help bolster the dollar and ease inflation. The pact, signed in Geneva in the spring by the United States and 22 other nations after years of intensive multilateral trade negotiations, would reduce tariffs by about a third over 8 years and make substantial reforms in those nontariff barriers that hamper the free flow of goods between countries.

In its action the Congress brought U.S. law into conformity with a new set of international rules agreed upon by treaty signatories to eliminate various trade barriers. These include rules to: Restrict Government subsidies of exports, eliminate the use of special and arbitrary product standards, establish uniform methods for determining the value of imports in trade, and end Government procurement practices that discriminate against foreign suppliers.

TRADE ADJUSTMENT ASSISTANCE

The House passed a bill to broaden assistance for workers and firms that are adversely affected by import competition. The bill would extend assistance now provided workers and firms involved in producing goods competitively injured by imports, to those who produce other parts or services that are essential to the production of such import-impacted end products. The bill would also liberalize employment eligibility periods, extend benefit periods for older workers and trainees, and increase job search and relocation allowances.

Mr. Speaker, scheduled for consideration by the House soon is a bill to extend expiring export control authority under the Export Administration Act. The bill contains a provision to strengthen existing restrictions on the export of Alaskan oil by prohibiting such export for oil swaps (such as with Mexico and Japan) unless it would result in lower oil prices for U.S. consumers.

The House last week passed the fiscal 1980 Maritime Administration authorization for fiscal 1980 that includes $357 million in construction and operating subsidies for the U.S. merchant fleet. A new law strengthening prohibitions against illegal rebating in ocean shipping.

In other trade-related matters, Mr. Speaker, the House voted to approve the President's recommendation to waive the freedom-of-emigration requirements in regard to Romania to allow that country's products to continue to receive most-favored-nation treatment.

EDUCATION, SOCIAL SERVICES, HEALTH

DEPARTMENT OF EDUCATION

A bill in conference approves one of the Presidents major reorganization proposals in creating a Cabinet-level Department of Education. The new Department would take over virtually all of HEWs elementary, secondary, and college-aid programs, vocational rehabilitation programs, and the Defense Department's overseas schools. It would have a budget of approximately $14 billion and a personnel force of about 18,000.

Mr. Speaker, in the field of higher education, the House passed a bill to remove the cap on the special allowance paid to lenders under the guaranteed student loan program in order to keep student loans an attractive investment and thus insure their availability. The bill would make other changes in the higher education laws designed to provide more equitable treatment to independent students and to facilitate the collection of defaulted loans.

FOOD STAMPS

A bill reported from conference would authorize an additional $620 million for the food stamp program to continue benefits for the remainder of the year. The bill also would permit the elderly, blind, and disabled to deduct medical expenses and excess shelter expenses from their income in computing eligibility for food stamps.

SSI DISABILITY

Mr. Speaker, the House passed a bill to remove some of the work disincentives faced by the disabled under the supplemental security income benefits program, by allowing them to have greater earnings than presently allowed and still maintain eligibility, and by permitting those who lose their jobs to requalify for benefits without lengthy waiting periods.

SOCIAL SERVICES AND CHILD WELFARE

The House approved a bill raising title XX broad social services grants to the States from $2.9 to $3.1 billion, increasing Federal matching funds for services provided to abused, neglected, and homeless children to a maximum $141 million in fiscal 1980 and $266 million in fiscal 1981 (from a current level of $56.6 million), and permitting the use of welfare funds to help support adopted children.

HEALTH

Mr. Speaker, a bill passed by both Houses in differing forms would extend health resources and planning development programs for 3 years and authorize a total $1.2 billion, with funds for health systems agency planning grants, and grants for hospital construction, modernization, conversion and closure. Another bill passed by both Houses would authorize $103 million for fiscal 1980 for assistance programs in nurse training, including loans, grants, traineeships and scholarships.

TRANSPORTATION

AMTRAK

The House passed a bill extending Federal assistance for the operation of Amtrak in amounts of $881.5 million for fiscal 1980 and approximately $1.9 billion for the following 2 years. In an effort to preserve those trains with high ridership during an energy crisis the House voted to restore about half the route cutbacks proposed by the administration, and agreed to a provision that would assure each section of the country at least one long-distance train.

The House passed a bill authorizing an additional $1.7 billion in Federal funds to aid the completion of the District of Columbia's 101-mile Metro rapid transit system.

ENVIRONMENT

Mr. Speaker, the House passed a bill extending the Safe Drinking Water Act for 3 years and authorizing a total of $253 million to the Environmental Protection Agency to carry out the programs of the act, including enforcement of pollution control and abatement, and grants to States for water supervision programs and protection of underground water sources.

Both Houses passed in differing forms a bill authorizing $381 million for fiscal 1980, mostly to EPA, for environmental research and demonstration. The House passed a resolution calling for an indefinite moratorium on all commercial killing of whales.

Earlier in the session, Mr. Speaker, the House passed the largest single piece of conservation legislation with approval of the Alaska lands bill, designating over 120 million acres of public land for preservation as wilderness, parks, refuges, and forests.

OTHER BILLS

BANKING; HOUSING; SBA

The House passed a major banking bill, the Monetary Control Act, designed to stem the exodus of banks from the Federal Reserve System and enhance the Fed's ability to control monetary policy and combat inflation. The bill as finally passed would reduce the amount of non-interest-bearing reserves that member banks must keep with the Fed, maintain the current system under which only member banks are required to hold reserves, but specify that if, in the future, the percentage of total bank deposits covered by the Fed Reserve requirement should fall below a certain level, then nonmember banks would also be subject to reserve requirements.

Both Houses passed in differing forms a bill to extend Federal housing and community development programs. As passed by the House the bill provides for fiscal 1980, $1.2 billion for low-income public housing and section 8 housing, $675 million for urban development action grants, $150 million for housing rehabilitation loans, and $644 million for rural housing programs.

A bill in conference authorizes $5.3 billion over 3 years for programs of the Small Business Administration, including low-interest disaster loans.

VETERANS

Mr. Speaker, a bill passed by the House would provide an 8.3-percent cost-of-living increase in service-connected disability compensation and dependency and indemnity compensation (DIC) for veterans and their survivors. The bill would benefit approximately 2.3 million disabled veterans and 345,000 survivors.

A new law establishes a readjustment counseling program for Vietnam veterans and sets up 5-year pilot programs in preventive health care for disabled veterans and in drug and alcohol abuse treatment.

JUDICIAL

The House passed a bill authorizing the Attorney General to initiate civil actions to protect the rights of persons institutionalized due to physical or mental incapacities, of the elderly in nursing homes, detained juveniles, and prisoners. The House also passed a bill to close a current loophole in the law and allow the Coast Guard to make arrests on the high seas for illicit trafficking in drugs by U.S. citizens or aboard vessels under U.S. jurisdiction.

Mr. Speaker, the House defeated a proposed amendment to the Constitution that would have banned the busing of schoolchildren to attain racial integration. The House approved an extension until July 1981 of the current moratorium on any move to ban saccharin.●

AID TO NICARAGUA

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. GRAY. Mr. Speaker, I would like to insert in the RECORD an article from the Christian Science Monitor of July 31, 1979 describing the new and as yet uncertain, relationships between the United States and Nicaragua and Cuba and Nicaragua.

As the author of the article points out, Nicaragua is desperately in need of humanitarian aid and debt relief. Much of this aid must come from the United States, as we are one of the only countries in a position to airlift the food and medical supplies that are needed throughout Nicaragua.

The United States has already contributed about 25 tons of medicines, edible oils, and food to the new government in Managua which has also received supplies from Cuba.

While the legacy of two U.S. interventions in Nicaragua in this century might well be a stumbling block to future United States-Nicaraguan relations, our present humanitarian aid can help to overcome mutual suspicions in Washington and Managua. Furthermore, it can strengthen the position of those Sandinistas who are not eager to embrace Cuba and its radical socialist policies.

I strongly support our present humanitarian efforts in Nicaragua and would like to urge the Carter administration to maintain its present policy of strict noninterference in the internal affairs of Nicaragua and other countries in the Americas.

I commend the following article to the attention of my colleagues:

United States, Cuba Both Move Cautiously in Nicaragua

LONGTIME ANTAGONISTS ARE GOING TO PLAY MAJOR ROLE IN RECONSTRUCTION

(By James Nelson Goodsell)

Managua, Nicaragua.—Washington's cautious overtures to the new Nicaraguan Government, along with Havana's low-key proffer of friendship, suggests that both the United States and Cuba plan to move slowly in developing ties with the new leadership here.

For the U.S., caution is clearly the key word. Washington wants the new government here to know it is ready to spend millions in helping relieve the immediate suffering in this war-ravaged land and in reconstructing the country. But it has many questions about the Sandinistas who now control Nicaragua.

The U.S. knows that the guerrillas are wary of the U.S. and its motives. The legacy of two U.S. interventions in this century and U.S. closeness to the now ousted Somoza dynasty is still very real.

Moreover, many Sandinistas have said sharp things about the U.S. in the past. At the moment, however, the guerrillas are speaking softly about the U.S. now that they are in power.

The Sandinistas seem in no particular rush to fully embrace Cuba, although there were forecasts prior to the change in government here that this would be one of their early moves. For its part, the government of Havana seems to be encouraging the Sandinistas not to move too fast.

Yet the two longtime antagonists—Washington and Havana—are clearly going to play roles of importance with the new government. This was dramatized here July 28 when U.S. Ambassador Lawrence A. Pezzullo returned to take up his duties anew.

The droop-wing U.S. Air Force C–141 cargo jet that brought Mr. Pezzullo pulled up on the Managua Airport tarmac next to a Cubana de Aviación Ilyushin turboprop transport that had arrived earlier in the day.

And while the U.S. Ambassador was telling his Nicaraguan hosts that the U.S. jet brought 25 tons of medicines and edible oils, the Cuban aircraft began taxiing on its return takeoff for Havana—and for another 10-ton load of relief supplies.

Neither Mr. Pezzullo nor his Nicaraguan greeting party, surprisingly headed by Sandinista guerrilla commander Tomás Borge Martinez, made any mention of the Cuban aircraft.

But there was no need to do so.

Cuba's presence here, low-key though it may be, is clearly evident. Moreover, Nicaragua's new government sent a hastily organized delegation to Cuba for the annual July 26 celebrations marking the start of Fidel Castro's revolution. Indeed, the Nicaraguan delegation was the only foreign group officially attending the ceremonies held in the eastern Cuban city of Holguin.

Alfonso Robelo Callejas, a member of the professional governing junta and one of Nicaragua's delegates, said on his return July 27 that Nicaragua expected to expand its ties with Cuba in the months ahead. He added that Cuba had promised a variety of health and educational aid to Nicaragua—"as much as we need."

The presence of the daily Cuban flight on the runway was testimony to that promise. But US aid is expected to be extensive, too. Mr. Pezzullo on arrival said "We're prepared to make a major contribution" to reconstructing Nicaragua, far beyond the $3 million already expended in the past several weeks.

The new government in Managua is aware, and has said so in so many words, that much of the relief it needs is going to have to come from the United States. Past experience here and elsewhere suggests that this relief will not come from the socialist block countries or from countries outside the Western hemisphere. Now that the Sandinistas are in power, they apparently are becoming more realistic about this prospect.

In addition, several Sandinista leaders in the past several days have said that they might even ask the US for arms and ammunition to fend off a rumored offensive by remnants of the one-time strong National Guard that are still loose in Nicaragua and in neighboring Honduras.

It is understood that Col. Anastasio Somoza Portocarrero, son of the deposed dictator, is in Honduras, and it is thought that he may be planning such an offensive.

This threat of a Somoza attack certainly affects the new government's attitude toward the United States.

Mr. Borge, in his airport remarks greeting Mr. Pezzullo, spoke of the "woefully sad" relations between Nicaragua and the US in past years and warned Washington that the new Nicaraguan Government would expect "the most absolute respect" from the US.

The sharpness of this warning could not be mistaken. But at the same time, it was viewed as an important signal to the US that it was Mr. Borge who came to the airport. As the only surviving founder of the Sandinista movement, he has tremendous weight in the new government, and the symbolism of his presence was not lost on observers.

Mr. Pezzullo, in remarks to the press, said his job as the new US ambassador here was one of trying to be helpful and that he was not anticipating trouble. "We realize that this is a new situation," he said.

His comments were clearly part of an overture by Washington to build a new relationship with Nicaragua in the wake of the collapse of the Somoza family dynasty, which the US had helped establish and supported for some 40 years—a dynasty that now is largely discredited here.●

FLAGRANT OIL COMPANY PRICE INCREASES

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. CONYERS. Mr. Speaker, at the June 28 hearing before the House Commerce, Consumer, and Monetary Affairs Subcommittee, chaired by Mr. Rosenthal, Barry Bosworth of the Wage and Price Council conceded that gasoline and home fuel oil No. 2 price increases since the beginning of the year have far exceeded the amount necessary to pass along increased costs and/or "banked" savings. He admitted that the Department of Energy had failed in its responsibility to enforce this basic area in accordance with the anti-inflation guidelines.

I want to bring to the attention of my colleagues Leonard Curry's excellent report on that hearing that appeared in the Washington Star on June 28. This provides yet another example of the arbitrariness and lack of accountability of the oil industry.

The report follows:

House Unit Challenges Gasoline Price Boosts

(By Leonard Curry)

A House subcommittee today asked the Carter administration's top inflation monitors to explain how petroleum refineries are complying with anti-inflation guidelines in light of gasoline price increases that are outstripping the cost of imported crude oil.

The Council on Wage and Price Stability chairman, Alfred E. Kahn, and director Barry P. Bosworth were the scheduled witnesses for the hearings before the House subcommittee on Commerce, Consumer and Monetary Affairs.

Rep. Benjamin S. Rosenthal, D-N.Y., chairs the subcommittee, which has oversight responsibility for the White House office administering the voluntary anti-inflation program.

Rosenthal said in prepared remarks that the 14 percent inflation now racking the country, huge increases in gasoline and food prices are evidence that the voluntary program is ineffective.

In support of Rosenthal's comments, the subcommittee said its investigation of gasoline-price increases indicates that they have been far in excess of the amount necessary to pass along increases by the oil-exporting countries.

The voluntary anti-inflation guidelines allow processors to include higher costs of raw materials in calculating their selling prices. But the final price increase must fall within the guidelines of being lower than the company's price increases of the previous two years.

The subcommittee staff said prices of all types of gasoline have increased this spring three times faster than the average price of a gallon of imported crude oil. While gasoline prices have risen 12 to 15 cents a gallon, the subcommittee said, the average price of a gallon of imported crude has increased about four cents, according to Commerce Department data.

The subcommittee also said the spiral in gasoline prices that began last summer coincided with an actual decline in the price of imported crude, as reported by the Commerce Department and the U.S. Customs Service.

Rosenthal, who is among the House Democratic Caucus' most outspoken critics of the voluntary guidelines said the administration must soon begin serious consideration of stronger alternatives.

"The wage-price guidelines have had no discernible impact on the alarming rate of inflation in the energy, food, housing and health-care sectors of our economy," Rosenthal said before the hearings began.

"The conclusion is inescapable that the guidelines are not working," Rosenthal said, "and that major new anti-inflation initiatives are required if the administration is to win the inflation fight and the confidence of the American people."

Rosenthal said the Bureau of Labor Statistics, which gathers pricing information for the government, has no data to prove the program is working.

In addition, the subcommittee chairman said state governments have shown no interest in implementing anti-inflation programs that the administration has recommended.●

WE MUST RESOLVE TO UTILIZE ALL POSSIBLE RESOURCES AND MEANS IN BEHALF OF THE VIETNAMESE REFUGEES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. KEMP. Mr. Speaker, I would like to address the horror which continues to face Vietnamese citizens and refugees who are desperately trying to leave the oppression of their homeland. While I recognize that some progress has been made pursuant to the recent Geneva Conference, the help which has been pledged, the assurances which have been given, and the meeting of minds at the convention have yet to provide the boat people and Vietnamese people with concrete relief from their dreadful plight.

The Vietnamese Government has proclaimed that it will "make every effort to stop illegal departures" of refugees from Vietnam, ostensibly to ease the burden of those nations of first asylum. While I realize the necessity to provide such relief at this time, I want to make it clear that this can only be sanctioned as a temporary relief measure. Emigration should proceed legally and efficiently, and I am therefore asking the President to vigorously pursue the establishment of a consular office in Vietnam to insure that those who wish to leave the country are provided with assistance in doing so.

More immediately pressing is the need to rescue sea-bound refugees, provide them with medical care, supplies, and food, and airlift those who have been approved for admission to the United States to our country as quickly as possible. We need to process and resettle these people as swiftly as possible and permit the thousands of eager Americans waiting to help them to proceed with their humanitarian efforts. While strides have been made in this regard, much, much more can be done. Our airlifts should include medical teams ready to treat the suffering and disease-ridden refugees to the greatest extent possible. Transit centers should be established, equipped with medical care and coordinators for private sector and volunteer assistance. We must redouble our efforts to end the misery these people have endured for much too long and I support the administrations request for $200 million extra to help relieve this human tragedy.

Finally, I am resolved that the United Nations General Assembly should convene to discuss placing sanctions against Vietnam for ongoing inhumane treatment of its citizens. If we are to be the humanitarian nation we must be, we must take leadership in bringing about an end to oppression and human rights violations wherever they exist with the means we have to combat them.

I ask for the concurrence of my colleagues in the Congress in the following resolution urging President Carter to move with all possible speed and turn his assurances of assistance in behalf of the Vietnamese into action.

Mr. Speaker, in the 1930's this Congress was neutral to the sufferings of the "holocaust"—I say, "never again".

H. CON. RES. 181

Whereas Vietnamese citizens are risking their lives on the high seas to escape intolerable conditions in their homeland and are seeking asylum in nations ill-equipped to shelter them;

Whereas there are over 400,000 Vietnamese refugees living in squalor and privation in refugee camps;

Whereas 30,000 Vietnamese refugees who have been approved for admission into the United States remain in refugee camps; and

Whereas the Vietnamese Government has violated and continues to violate the human rights of the citizens of Vietnam, first by forcing their flight from Vietnam, and now by preventing their flight from Vietnam (to ease the burden on nations which are asked to provide asylum for the Vietnamese refugees): Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the President should—

(1) Take steps to rescue refugees found in distress on the high seas and to encourage the cooperation of other nations in rescuing such refugees;

(2) Initiate immediate airlifts of medical supplies and food to camps for Vietnamese refugees;

(3) Initiate immediate airlifts to bring into the United States all Vietnamese refugees who have been approved for admission into the United States and to provide a medical team to care for such refugees during such airlifts;

(4) Authorize the establishment of centers in the United States for the medical examination and care of Vietnamese refugees upon their arrival in the United States;

(5) Authorize the establishment of centers in the United States to assist Vietnamese refugees in settling in the United States;

(6) Take steps to establish a consular office in Vietnam to insure the orderly departure from Vietnam of those wishing to emigrate; and

(7) Call for a session of the United Nations General Assembly to discuss sanctions against Vietnam for the inhumane treatment of its citizens.●

SHATTER THE SILENCE, VIGIL 1979

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

○ Mr. FISH. Mr. Speaker, as a dedicated participant in the "Shatter the Silence, Vigil 1979" program, I would like to take this opportunity, in view of our upcoming August recess, to report to the House on the current plight of two of my adopted Soviet Prisoners of Conscience.

I have some good news. Isaac Shklonik has finally been released from prison having served the entire term of a 7-year sentence. I think it is important to note that, during his period of incarceration, Soviet officials repeatedly offered Shklonik an early release if he would abandon all plans to join his family in Israel and also persuade them to return to the Soviet Union. Shklonik refused and I have heard that the last months of his imprisonment were excessively harsh. For the present, he has been allowed to return to his apartment and, despite his ordeal, he remains determined to join his family and settle in Israel. I, too, remain committed in helping him achieve this end.

I would also like to bring to the attention of my colleagues the plight of Ida Nudel who remains in prison. Known as the "guardian angel" for her activities on behalf of Soviet Jewish Prisoners of Conscience, she was arrested in June 1978, after years of harassment, for hanging a banner from her window publicizing her request for permission to emigrate to Israel. For this "crime" she was sentenced to 4 years internal exile. I recently met with Ida Nudel's sister here, in Washington, and have promised to continue to work toward Ida's release and her eventual emigration to Israel.

While the Soviet emigration movement, of which I am proud to be a member, has had several recent successes, I believe it is essential that we remain vigilant in our efforts, so that one day all of those who wish to emigrate and join their families elsewhere will be able to do so. In closing, I would like to share with you the following lyrics to a song dedicated to Ida Nudel written by Naomi Shemer, a leading song writer in Israel today, entitled, "Shalom Ida Nudel."

SHALOM IDA NUDEL

(English translation: Aviva Marks)

We both were born in the same year, from one people come,
And though we two have never met
Nor may I bid you welcome yet—
Allow me for all that to call you sister,
And tell you in a tongue ancient as time—
Your people are my people, your G-d, mine.
A tiny woman in a snow-bound desert
A pail of water in her frozen hand
And in her hut, to cold and hunger prey
In solitude she struggles, abandoned to the fray—
And yet against all reason, in some strange and curious way
It may be said that she, she is my only hope today.
I who dwell in comfort and in shelter
With shade in summer and with autumn's stove
And honey with my morning bread and butter,
And she has nothing, save despair and cold.
And all the stubbornness and all the quiet
And all the arid dryness after storm—
A tiny woman, and her cry—a whisper
A stranger to me, yet for all that, sister.
The family tree we both do share is ancient,
The wind that moves it blows beyond the pale,
One is the wind that soars across the borders
Of the Siberian frost—to Eretz Yisrael.

That wind it is that moves your silent lips
 now
And pledges us to seal one with the other
A covenant of sister souls.
And whispers to me as I write to wish you
 well
To wish you all the blue and light of Eretz
 Yisrael—
That I believe the long awaited day is soon
 to come
When I may bid you welcome, and when
 one enormous sun
Will shine upon the two of us, dear sister. ●

QUEENS RESIDENTS ABANDON HOMES IN ANTICIPATION OF HEATING OIL CRISIS

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Ms. FERRARO. Mr. Speaker, I know my colleagues have been following with great interest the crisis situation developing as we try to insure that enough home heating oil gets to consumers this winter. In recent weeks we have seen the oil companies take actions which have exacerbated an already difficult situation. Although many of us are aware of the hardships which a heating oil shortage may cause on our constituents—I think most of us would be surprised to learn of one way in which consumers are reacting to the possibility of a shortage. An article in Newsday on July 31 pointed out that many homeowners in Queens County, part of which I represent, are actually abandoning their homes due to the expectation of increased heating costs and shortages. It is my hope my colleagues will read the article, and that it will renew our determination to prevent the callous policies of the oil companies from causing a serious heating oil shortage this winter.

The article follows:

HOME ABANDONMENTS INCREASE IN QUEENS, AND WORSE FEARED

(By Edmund Newton)

Besieged by rising costs and taxes, more Queens homeowners than ever are packing up and walking away from their one and two-family houses. And borough officials say they are worried that the problem of housing abandonment will be aggravated this winter by increases in the price of home-heating oil.

Community leaders, taking note of the increasing numbers of boarded-up houses, warn that an abandonment on a block often leads to deterioration.

"It leaves a blight," said Assemb. Gerdi Lipschultz (D-Rockaway Park), whose district has been especially hard hit. "It has a detrimental effect on the entire neighborhood. An abandoned house is an open invitation to vandals and arsonists."

With observers predicting that the price of heating oil may rise to $1 a gallon by mid-winter, Borough President Donald Manes has asked ranking borough officials to seek means of providing aid for financially strapped homeowners. "Unfortunately, we can't affect OPEC prices," Manes said the other day, but added that he planned to press the White House for "some new assistance programs for homeowners, as well as meaningful controls." (OPEC members seek an emergency meeting to adjust oil prices; story on the next page.)

There is no actual count of the number of abandoned buildings. But municipal officials cited recent statistics to illustrate the new dimensions of the abandonment problem in Queens, particularly in such "transitional" areas as Jamaica and the Rockaways. Increases have been noted in the number of properties seized for being in tax arrears, in the number of vacant buildings declared "unsafe" by city inspectors, and in the number of federally insured mortgages in default. All of those statistics, officials said, show that homeowners are enduring especially hard times.

The chief inspector for the City Department of Buildings, Marvin Perlmutter, said that during the first half of the year, city inspectors had declared 305 vacant buildings—almost all of them one- and two-family houses—unsafe, as compared to only 228 in the first half of 1978. The Department of Buildings acts on complaints from neighbors, the Community Planning Board or the Fire Department. An official finding that a vacant building is unsafe is necessary before the city can obtain a court order to demolish it.

"The bulk of the people who are abandoning these homes leave just after a fire or else they just walk away, leaving the house wide open," Perlmutter said.

At the same time, the Department of Housing Development and Preservation cited increases in the number of properties in tax default. Part of the increase, officials said, stems from a new law permitting the city to take title after landlords have been in tax arrears for a year. Previously, the city had to wait three years. But housing officials said they suspected that the increasing costs of home-owning had contributed to the defaults.

The borough director of planning for the City Housing Agency, Rubin Wolf, quoted annual figures showing that the number of "vested" properties—those seized for failure to pay real estate taxes—is rising steadily in Queens. The most recent figures show 380 properties vested in the 1975–76 period and 836 in 1976–77. Not all of the vested properties are houses; some are just vacant lots. The city now "owns" 334 houses in Queens.

That figure could double in the next few months, according to the officials. The city plans the next Queens vestment in the early fall. The borough real estate manager for the city, Anthony Quondamatteo, said that more than 2,000 pieces of property are scheduled to be seized. From that pool, the city could end up owning more than 500 houses, he said.

An aide to Manes, Sam Samuels, said that homes seized by the city for failure to pay taxes were often in the worst physical shape. "If the house were of any value, the owner would try to sell first," he said.

"We're going to make a survey of all these buildings to find out why people are abandoning them," Wolf said. He said that the initial findings were that some homes were abandoned when elderly homeowners became seriously ill or died. "Others give up their homes only because of economics," he said. ". . . It could well be that increased fuel costs could panic people into even further abandonments."

Federal officials reported an increase over the past five or six years in defaults on mortgages insured by the Federal Housing Administration. The U.S. Department of Housing and Urban Development has seized 1,400 such properties in the city, with HUD-administered properties concentrated in several Queens neighborhoods. There are, for example, 65 HUD homes in South Ozone Park.

Housing officials said that there are a number of programs to aid homeowners threatened with having to give up their houses. If a homeowner faces default on an FHA-insured mortgage, for instance, he has several options—ranging from an informal "forbearance" agreement, in which he is allowed to put off his payments for a few months, to the refinancing of a mortgage.

"The trouble is that some people are not very well-educated about loans," said Sydelle Knepper, a regional HUD official. "People tend to ignore the notices when they're in default."

For homeowners who don't have the money to finance essential repairs, the Department of Housing Preservation and Development can offer lower-interest loans—3 per cent as opposed to about 11 per cent from most commercial lenders—of up to $27,000 for each dwelling unit. Most city homeowners are eligible for that program. ●

MICHIGAN UNIVERSITY PRESIDENT'S AWARD GOES TO THREE DISTINGUISHED CITIZENS

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. DAVIS of Michigan. Mr. Speaker, Northern Michigan University (NMU) has awarded to three outstanding citizens of the State of Michigan its President's Award for Distinguished Citizenship.

Northern Michigan University initiated this award program in 1974, the institution's 75th anniversary. To date, the President's Award has been given to 28 extraordinary citizens of northern Michigan who have distinguished themselves in the fields of community service, professional achievement, and the humanities in general.

This year, the university is acknowledging the outstanding contributions of Herbert W. Corey, Moira D. Reynolds, and John A. Lemmer. I would like to take this opportunity to bring to my colleagues' attention the conscientious efforts of these citizens.

Herbert W. Corey has been a driving force for over half a century in endeavors affecting the social, economic, and educational life of Stephenson, Mich. A distinguished member of the banking profession, he has been associated with the Bank of Stephenson for 50 years.

Mr. Corey has devoted himself to many areas of community betterment as well, having served as president and mayor of Stephenson since 1936, with the exception of a 5-year period. He also has served with distinction as chairman of the International Bridge Authority, having been appointed by Gov. William Milliken.

Wife, mother, author, research scientist, teacher, volunteer, and civic leader, Moira D. Reynolds has given much to her family, her profession, and her community.

She has been a leader in the fight against cancer, and has worked hard on behalf of public education and screening programs. She has served as a member of the public education committee as well as the Marquette County cancer unit.

Mrs. Reynolds also enjoys a national reputation as a writer of nonfiction articles which have been published in newspapers and magazines throughout the Nation.

John A. Lemmer has devoted most of his life to the education of the youth of Delta County, Mich. He has been a teacher, principal, and superintendent of schools.

During his long and illustrious career, he has earned a statewide reputation as a leader in the field of education, as evidenced by his election as president of the Michigan High School Principals Association and as president of the Michigan Association of School Administrators.

Mr. Lemmer has been involved in numerous civic, community, and church activities over the years, including service as the district governor of Rotary International, as well as work for the Easter Seal Society, March of Dimes, Hi-Y, Red Cross, and the Salvation Army.

Through the work of Herbert W. Corey, Moira D. Reynolds, and John A. Lemmer, the lives of countless citizens of Michigan have been enriched. They are most worthy of the recognition being accorded to them.●

WORLD HUNGER

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. AuCOIN. Mr. Speaker, every day 700 million people go home hungry. For them, a welcome dinner might be a handful of ground cereal or a bit of root scavenged from the parched soil. These are the starving who live in the haunting reality of world hunger.

Like a wartime enemy, world hunger claims lives, devastates land, and halts social progress. Nearly 20 million children under the age of 5 will die this year because of malnutrition. In parts of South Asia, more than 50 percent of the children never reach adulthood because they have never had enough to eat.

How is it in our prosperous world, we lose millions of our fellow men and women each year to the clutches of starvation?

One reason is the absence of a U.S. food policy.

We may not have all the answers to world hunger, but we are making strides where we never took steps before.

I was encouraged that the seven major industrialized nations concluded the recent Tokyo energy summit meeting with a statement on agricultural aid to Third World nations.

"We will place more emphasis on cooperation with developing countries in overcoming hunger and malnutrition," the seven attending heads of state declared.

These governments promise a three-prong initiative to combat world hunger:

To develop effective food policies;

To increase Third World countries' storage capacities; and

To encourage more worldwide cooperation for agricultural research.

That's an ambitious program. But it is the promise for Third World agricultural development we must keep. Achieving development goals among the many countries of the world is difficult. We must overcome cultural barriers besides identifying solutions to world hunger.

Yet the United States is no stranger to successful foreign aid. Ever since the Marshall plan we have pursued a strong tradition of humanitarian aid in developmental assistance. Now is the time to put that tradition into practice as we pledge to end world hunger.

First, look at grain reserves. The President said in Tokyo that the United States would assist in building up the Third World food storage capacities. To do so, we must provide a reliable stockpile when it comes time to fill those bins.

If we hope to foster technical development, it can not be on a starvation diet. Technical and nutritive assistance go together. A starving worker cannot run a machine. Food security means assuring reserves in emergency situations. We can give people of the Third World that assurance by guaranteeing our share of a world food reserve, and that is the opportunity Congress faces right now.

The Congress will consider the final version of the International Development Cooperation Act soon. In that bill are provisions for a food reserve system. Three hundred thousand metric tons will be earmarked for emergency food reserves. This is a substantial commitment. I urge support of that emergency reserve.

Second, this legislation fosters a new concept in foreign aid: Linking guaranteed aid to development incentives. The International Development Cooperation Act, H.R. 3324, requires local workers and institutions of Third World countries to participate in technical programs and planning. This act could be the ground breaker for truly effective assistance—assistance that stimulates self-reliance through participation.

We will never end world hunger if we do not work to change the structural problems that shackle developing countries. I intend to work for that long-term goal when H.R. 3324 comes before Congress. Direct participation in technical programs will give people a livelihood and therefore an escape from poverty—which is the real root of hunger.

Other creative solutions are emerging from the executive branch as well. The President's Commission on World Hunger, founded last October, has identified several crucial objectives for food security.

During the Commission's July 6 meeting, Eduoard Saouma, Director General of the U.N. Food and Agriculture Organization, emphasized, "A solution cannot be found to the problems of poverty and hunger without fuller use of the multilateral institutions." He further stated that Third World countries have barely produced as much in agricultural products over the past 10 years as during the previous 10 years.

Information and concerns such as these help build effective policy. The President's Commission on World Hunger is there to provide that expertise to Congress. We should heed that resource and use it as we legislate.

I urge that we aim to wipe out world hunger by 1990. That is not impossible with the right programs and the right vision.

We must act immediately. Stalling to protect U.S. jobs and prices will only postpone the stand we must take, because we can no longer ignore our part in assuring mankind's most basic right: The right to food.●

THE COST OF TAGGING EXPLOSIVES: A SHOT IN THE DARK

HON. THOMAS F. EAGLETON

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Friday, August 3, 1979

● Mr. EAGLETON. Mr. President, the Omnibus Antiterrorism Act of 1979, S. 333, contains a section that would require the placing of tiny plastic "tags" in all explosive products (section 303). This bill is currently being considered by the Committee on Governmental Affairs, which is awaiting the results of a feasibility study on taggant technology by the Office of Technology Assessment.

Some of my colleagues have expressed their enthusiastic support for this proposed tagging program, maintaining that it would be a relatively inexpensive, cost-effective way to eliminate or at least trace the perpetrators of terrorist bombings in this country. Whether taggants would be effective from a technological or strategical point of view is hotly disputed. Although there is on record one incident where a pilot tagging program helped to trace a suspect, it is quite likely that most sophisticated terrorists would not be so careless as to use explosives traceable to them. This will be debated often and vigorously throughout the life of the bill.

However, the cost of the tagging program has, in my opinion, not been subject to a similarly thorough analysis. The Bureau of Alcohol, Tobacco and Firearms study came up with a cost estimate of $40 million dollars annually to the industry, and thus, to consumers. I do not believe that this figure takes into account the full panoply of expenses that may be incurred due to the broad mandate imposed by S. 333. For instance, it did not consider the costs of tagging 92 percent of the commercial explosives manufactured annually—noncap-sensitive explosives—or the increased recordkeeping costs for tagging cast boosters, black powder detonating cords, blasting caps, and noncap-sensitive-explosives.

The BATF cost analysis is disputed by other industry spokesmen. The Institute of Makers of Explosives has prepared its own analysis, and, I believe that my colleagues should read it before they accept the $40 million price tag as a definitive figure. The IME study disputes the BATF estimates and makes the following analysis:

First. It understates the taggant price that will be charged by 3M—the sole manufacturer of tags—in a monopolistic market.

Second. It assumes, contrary to common sense, that the addition of more elements to a taggant will decrease its cost.

Third. It ignores the cost of tagging noncap-sensitive explosives.

Fourth. It ignores the currently charged code renewal fees.

Fifth. It assumes that the recordkeeping costs consist solely of product marking and recording costs, and that acquiring, storing and retrieving the tags—as well as quality control—will be achieved without incurring any additional costs.

Sixth. It ignores the economic impact of the 15 percent decrease in productivity observed during the experimental program.

IME's estimate is a "little" more than $40 million annually. They project a $703 million price tag to enable the BATF to arrest an estimated 38 more bombing suspects per year. That's $18.5 million per arrest. If this estimate is even in the ballpark of the true cost, it is a bad bargain for the taxpayers.

The IME prepared this analysis in response to a question from my colleague, Senator RIBICOFF, who asked IME to explain the discrepancy between the cost estimates provided by BATF and IME. I am convinced by their answer that the discrepancy raises serious questions about the BATF analysis, and should be dealt with before we try to push ahead with the taggant program.

I urge all of my colleagues to carefully consider the IME analysis which follows. I hope you will find it as compelling as I did, and I hope it raises the same questions about the credibility of the explosives tagging program in your mind as it did in mine.

[Excerpt]

ANALYSIS

8. The cost estimates of using explosive taggants are grossly disparate. For example, in a letter to the Committee, 3M, the manufacturer of the taggants, says it will charge a maximum of $40 per pound of taggants. IME says the cost will go to $200 per pound. Total annual cost of the program is put at $40 million by Aerospace, and $490 million by IME. How do you explain these discrepancies?

RESPONSE

We are acutely aware of the gross disparities in estimated costs, disparities that are great enough to imperil our credibility before the Committee. We are concerned, however, that the only cost estimates prepared for BATF have been done by those who have strongly advocated taggant development for years. We are particularly concerned that these figures not only ignore the current market price for taggants, but are based on estimated prices supplied by 3M—the only BATF-approved supplier of explosive taggants. Of course, we are not suggesting that Aerospace and 3M have falsified or otherwise altered the cost figures in any way. We suggest only that 3M's potential position as a legislatively-sanctioned monopolist raises very serious questions about the future pricing of taggants that have not been satisfactorily answered. We will address the Committee's questions from this perspective.

a. Price per Pound: The disparity in the price per pound of taggants has not resulted from Aerospace's "deflating" the projected prices nor from our "inflating" the figures. It has arisen from two grossly disparate estimates supplied by 3M.

In a letter to Mr. Howard McDanel of the Austin Powder Company dated January 31, 1979,[25] 3M enclosed its current sales brochure for microtaggants. In a section entitled "Price List," 3M quoted a price of $200 per pound for code lots of up to 49 pounds.[26] A recent check with 3M's sales representatives confirmed that these are current market prices. When we prepared our estimate, we made the eminently reasonable assumption that the taggants would be sold to us at a price no less than the current market price. Aerospace, on the other hand, relied on a $25–40 per pound price range quoted by 3M in a letter from L. J. Hesburg to Hon. Glen Anderson dated March 14, 1979.[27]

Thus the real question here is not how IME can explain the disparity in estimated prices, but whether 3M has adequately explained how the price of taggants would be reduced 500–800% below the current market price. We do not believe they have.

This tremendous price reduction is defended by 3M on several grounds. First, 3M tells the Committee that the taggants currently marketed do not have a polyethylene coating, whereas those used in the pilot tagging program were coated. From this 3M attempts to infer that *coated* taggants are *less expensive* to produce than *uncoated* taggants and, therefore, the price for *coated* taggants would be lower than the *uncoated* taggants currently marketed.[28] IME is aware that economics is an imprecise science, but we know of no theory that explains how the *addition* of an item to a product *reduces* its per unit production cost. Thus, regardless of whether coated or uncoated taggants are used in the program, the current market price for *uncoated* taggants ($200) must be the lowest possible price.

Second, 3M asks the Committee to accept its novel economic theory of the "Benevolent Monopolist." It is beyond question that 3M is the only producer of identification taggants that has survived the stiff competition to produce taggants that meet BATF's "stringent" criteria.[29] According to 3M, the supplier of a product who has achieved this monopolistic position will slash the current market price of its product because of economies of scale; however, the opposite is universally true: A monopolist has no such incentive to reduce prices.[30] The Committee has no reason to believe that 3M would behave any differently.[31]

Nevertheless, BATF suggests several reasons why 3M will keep prices reasonable.[32] First, BATF tells the Committee that 3M will keep its prices reasonable because "[t]hey said so in writing."[33] As businessmen or attorneys, we hope the Committee recognizes that unless 3M's "writing" is a signed contract with the buyers of taggants it does not guarantee that prices will, in fact, remain reasonable. BATF then tells the Committee that "natural economic forces" will inspire competition that will, in turn, keep taggant prices reasonable.[34] This, too, is belied by both the facts and textbook economic theory. As BATF acknowledges, the "stiff competition" has already occurred, and 3M has emerged as the sole supplier of the product, *i.e.* it is the only supplier that can meet BATF's "stringent" taggant standards.[35] 3M thus totally controls the expertise, processes, and facilities necessary to manufacture taggants for explosives. As long as taggant standards are stringent barriers to entering the market, other manufacturers (particularly those who have already failed) have little incentive to devote capital, manpower and resources to produce BATF—approved taggants—only to compete with a manufacturer (3M) who is already firmly ensconced in the market.[36]

For those reasons, we are highly skeptical of 3M's Alice in Wonderland economics. Experience and reason both tell us that the only *certain* price for taggants is the current competitive market price of $200 per pound. To argue that $25–40 per pound is an accurate estimate price for the same product in a *monopolistic market* is belied by economic theory and business experience, and common sense.

b. Annual Cost: The annual cost of S. 333 (as currently written) to the explosives industry has been grossly understated by Aerospace. We believe that a more realistic estimate is $703,000,000 each year.[37] The components of this figure are discussed below and are tabulated on page 54.

(1) Cost of Materials: The taggant price per pound discussed at pp. 27–31 supra, will significantly affect the total cost of the raw materials used in producing explosives. Based on all available data, we have calculated that the addition of taggants to explosives will add an additional $392,464,600 in raw material cost to explosive products. The cost estimates for the various types of explosives products are discussed below and are tabulated on page 40.

Cap-sensitive Packaged Explosives: Total annual production of cap-sensitive packaged explosives in the United States is 275 million pounds.[38] During the pilot program, the taggant concentration in the explosives was 0.05 percent by weight. Aerospace now proposes to reduce this concentration to 0.025 percent by removing the polyethelene coating (which accounts for 50 percent of the taggant weight) from the taggants. As discussed in our response to question 2, see pp. 11–13 supra, because uncoated taggants were not used in the pilot program and have not been thoroughly tested; Aerospace's suggestion that they should be used in a national tagging program evinces a cavalier disregard for the inherent hazards of the explosives manufacturing process. Thus, our analysis will assume a coated taggant concentration of 0.05 percent by weight as used in the pilot program.

With a taggant concentration of 0.05 percent by weight, one pound of taggants will be required for every 2000 pounds of explosives.[39] Thus, if taggants are priced at $200 per pound, the cost of the taggants in each pound of explosives will be 10 cents.[40]

This additional cost is frighteningly inflationary. The current cost of raw materials used in producing one pound of cap sensitive explosive is approximately 15 cents. Consequently, tagging cap sensitive explosives will increase raw material costs 66 2/3 percent. With an annual production level of 275 million pounds, the annual increased raw material cost for the taggants will be $27,500,000.

Cast Boosters: Cast boosters are extremely powerful explosives used to detonate non-cap-sensitive packaged explosives and other blasting agents. Tests have shown that taggants in boosters have severe survivability problems.

Moreover, the feasibility of tagging these explosives in conventional production processes has not been tested. Consequently, we believe that both Aerospace's price projection for these taggants (which must be specially manufactured to insure even a modicum of survivability),[41] and the projected tagging level are purely speculative. It is certain, however, that the price of these taggants will be considerably greater than those used in tagging cap-sensitive explosives simply because a more sophisticated taggant

---

Footnotes at end of article.

must be specially manufactured from more expensive materials.[42] Rather than speculate, our analysis uses the artificially low minimum taggant price of $200 per pound.

Aerospace suggests tagging boosters at 0.1 percent by weight. Thus, one pound of taggants will be required for every 1,000 pounds of explosives.[43] Consequently, if taggants are priced at $200 per pound, the cost of taggants in each pound of explosives will be 20 cents.[44] Since the cost of raw materials for boosters is 60 cents per pound, the addition of taggants will increase the cost of raw materials by 33 percent. With an annual production level of 6 million pounds, the annual increased raw material cost for the taggants will be $1,200,000.

Black Powder: As with cast boosters, tagged black powders have not been tested for compatability with the manufacturing process.[45] These taggants, however, must be specially manufactured to prevent a user from magnetically separating the taggants from the powder.[46] Thus, while any cost estimate is speculative, it can be said that the addition of demagnetizing or masking agents to these taggants will make them more expensive than the basic unencapsulated taggant.[47] Consequently, this analysis uses $200 per pound as a conservative minimum taggant price.

With a taggant concentration of 0.05 percent by weight,[48] one pound of taggants will be required for every 2,000 pounds of powder.[49] If taggants are priced at $200 per pound, the cost of the taggants in each pound of powder will be 10 cents.[50] Since the cost of raw materials for black powder is 11 cents per pound, the addition of taggants will increase the cost of raw materials by 91 percent. With an annual production level of 2.5 million pounds,[51] the annual increased raw material cost for the taggants would be $250,000.

Detonating Cord: As with cast boosters and black powder, the feasibility of tagging detonating cord in any conventional production process has not been tested. Moreover, the explosive material used in the core of the detonating cord is the highly sensitive, highly energetic PETN which would vaporize any known taggant.[52] Nevertheless, S. 333 would require detonating cord to contain taggants.[53]

Aerospace grossly understates the annual production of detonating cord. According to Aerospace, 12 million feet of detonating cord are manufactured each year;[54] however, IME members actually produce nearly 500,000,000 feet of commercially-marketed detonating cord annually.[55] Accepting Aerospace's estimate that approximately 2,600 pounds of taggants would be required to tag the 12 million feet of cord, we can calculate that 108,333 pounds of taggants would be required to tag 500 million feet of cord.[56] With taggants priced at $200 per pound, the annual increase in raw materials costs for detonating cord will be $21,666,600, or 4.3 cents per foot. This figure is greater than the value of all explosive products sold by the largest producer of detonating cord in the United States today! Since the cost of raw materials for detonating cord is 2 cents per foot, the addition of taggants will increase the cost of raw materials by 215 percent.

Blasting Caps: Like cast boosters, powders and detonating cord, blasting caps have not been tested for compatability, feasibility or safety.[57] Nevertheless, they are "explosive material" and under section 303(b) of S. 333 they would be subject to mandatory tagging. Even Aerospace reuctantly admits that tagging caps will be very costly.[58]

Aerospace suggests a tagging level of 50 mg of taggants per cap.[59] With taggants priced at $200 per pound, the cost of taggant concentration found adequate by the cost of raw materials for caps is 20–30 cents per cap, the addition of taggants will increase the cost of raw materials by 7–11 percent. With an annual production level of 84 million caps, the annual increased raw material cost for taggants will be $1,848,000.

Noncap-sensitive explosives: Noncap-sensitive explosives are those explosives requiring another explosive to achieve detonation. Despite the fact that 3.4 billion pounds of these explosives are commercially produced each year, Aerospace has opted to recommend taggants only in the booster charge that detonates the explosive because "the tagging of [noncap-sensitive explosives] would be a very expensive undertaking."[61] Unfortunately, S. 333 allows no such latitude, for under section 303(b) it will be unlawful to manufacture, transport, distribute, or receive any untagged explosive material: which definition includes noncap-sensitive explosives. 18 U.S.C. § 841(c). Any valid cost analysis must consider the legislation as written, because by conveniently ignoring the broad scope of the proposed law, Aerospace ignored the admittedly exorbitant cost of tagging the most common commercially-produced explosives. Since Aerospace and BATF have never studied the tagging of noncap-sensitive explosives, we can only guess at the necessary tagging level. A good conservative estimate would be the lowest taggant concentration found adequate by Aerospace: 0.05 percent by weight[62] with this taggant concentration, one pound of taggants will be required for every 2,000 pounds of explosive.[63] With taggants priced at $200 per pound, the cost of the taggants in each pound of explosive will be 10 cents.[64] Since the cost of raw materials for the most common noncap-sensitive explosive, NAFO, is 6.3 cents per pound,[65] the addition of taggants will increase the cost of raw materials by 159 percent. With an annual production level of 3.4 billion pounds, the annual increased raw material cost for the taggants alone will be a whopping $340,000,000.[66]

ANNUAL COST OF RAW MATERIALS FOR TAGGING PROGRAM

Explosive product category	Current cost of explosive raw materials	Cost of taggants per pound	Percent increase in raw materials cost	Total taggant cost
Cap-sensitive explosives	15 cents per pound	10 cents	66⅔	$27, 500, 000
Cast boosters	60 cents per pound	20 cents	33	1, 200, 000
Black powder	11 cents per pound	10 cents	91	250, 000
Detonating cord	2 cents per foot	4.3 cents per foot	215	21, 666, 600
Blasting caps	20 to 30 cents per cap	2.2 cents per cap	7–11	1, 848, 000
Noncap-sensitive explosives	6.3 cents per pound	10 cents	159	340, 000, 000
Total				392, 464, 600

(2) Code Renewal Fees: 3M currently charges users of taggants a $100 annual code renewal fee.[67] According to 3M, with an explosives tagging program the fee will neither be eliminated nor reduced: It will be included in the estimated taggant price of $25–40 per pound.[68] Aerospace did not question this statement, and its Inflation Impact Analysis does not include cost reservation fees.

For several reasons, we believe it is unreasonable to exclude these fees from taggant program cost estimates. First, 3M is again asking the Committee to accept its "Benevolent Monopolist" theory. Again we ask: If the fee applies to current competitive market prices, what assurance do we have that the current renewal fee will be eliminated or reduced once 3M has a guaranteed market in which it is the sole supplier? For the reasons discussed at pp. 28–31 supra, we strongly believe that both economic theory and experience compel a negative answer to our question. In fact, they tell us that we have every reason to believe that the renewal fee will remain at $100 per year.

3M's rationale is even less believable for a second reason: The renewal fee could not possibly have been absorbed in the estimated taggant price.[69] Under its current pricing policy, 3M's taggant price includes the first year's reservation fee; and we do not dispute that this fee could be included in a $25–40 per pound taggant price. We are concerned solely with the $100 annual renewal fee; which, since a code must be reserved for ten years, amounts to an additional $900 per code lot.[70] If 3M charged $25–40 per pound with a taggant lot size of 5 pounds (the maximum size projected by Aerospace),[71] each lot would cost $125–200. 3M is asking the Committee to believe that in this one-time payment, 3M recovers $900-worth of code reservation fees, raw material costs and production costs! We are aware of economies of scale, but the magnitude of alleged savings here makes such an explanation implausible.

For these reasons, we believe that a realistic cost analysis must include the $100 annual renewal fee per code over the 10 year reservation period that is currently charged by 3M in the competitive market. Thus, after the 10th year of the tagging program (the year when all possible lots are being renewed), the explosives industry will be paying 3M $291,131,000 annually in renewal fees alone. The fees for each explosive product category are tabulated below.

ANNUAL COST OF RENEWAL FEES IN 10TH YR OF TAGGING PROGRAM

Explosive product category	Annual production [1]	Tagging level [1]	Total number of codes required annually [2]	Renewal fees in 10th yr [3]
Cap-sensitive explosives	275,000,000 lb [4]	20,000 lb [5]	13, 750	$12, 375, 000
Cast boosters	6,000,000 lb	2,000 lb	3, 000	2, 700, 000
Black powder	2,500,000 lb [4]	5,000 lb	500	450, 000
Detonating cord	500,000,000 ft [4]	5,000 ft	100, 000	90, 000, 000
Blasting caps	84,000,000 units	2,381 caps	35, 279	31, 751, 000
Noncap-sensitive explosives	3,419,000,000 lb [6]	20,000 lb (estimate)	170, 950	153, 855, 000
Total				291, 131, 000

[1] Based on data in the Aerospace Corporation, supra note 15, at 7 (table 3–1).

[2] Derived by dividing "Tagging level" into "Annual production".

[3] Derived by multiplying "Total number of codes required annually" by $900.

[4] IME figure. See notes 37, 51, 55 supra and accompanying text.

[5] Aerospace has also stated that a tagging level as low as 10,000 lb may be necessary. Statement of Dr. Robert Moler, supra note 5, at 7. If this figure was used, 27,500 codes would be required each year and the 10th yr renewal fees would be $24,750,000.

[6] This figure includes: 3,150,000,000 lb ammonium nitrate prills and prill products; 269,000,000 lb noncap-sensitive slurries and water gels.

Footnotes at end of article.

(3) Recordkeeping Costs: Aerospace estimates the annual increased recordkeeping costs associated with tagging as $1,236,000.[72] We believe this number is an unrealistic representation of recordkeeping requirements that will innundate the explosive industry in an ocean of paperwork. Based on past experience, we believe that a realistic figure would be $19,497,500. The basis for this figure will be discussed below according to the type of explosives produced.

Cap-Sensitive Packaged Explosives. Aerospace asserts that the only additional recordkeeping cost from tagging cap-sensitive packaged explosives would be an additional entry on currently-existing records, which would cost $900,000 or .27 cents per pound of explosives.[73] This estimate not only understates the cost of making "additional entries" but it naively characterizes this as the singular component of recordkeeping cost.

The cost of making "additional entries" will be substantially more than .27 cents per pound. The cost of complying with date/shift code regulations has been 1.27 cents per pound of explosive. Aerospace never refutes this figure: it merely asserts that since tagging will only require filling-in an additional blank on the date/shift form, the additional cost will be nominal. The problem with this reasoning is that it assumes an equivalency between the number of code lots used and the production run (which is the basis for the date/shift code). This is simply not true. For example, a 100,000 pound production run with a unique taggant code every 20,000 pounds requires 5 separate markings. As a result, records cannot be kept by production run, but they must be categorized by taggant code because each production run will have a variety of codes. Thus, one form will not have five additional markings. Instead, five separate forms will be required—all of which must be filled-out. For this reason we believe that Aerospace's cost estimates reason from a flatly erroneous premise.

Aerospace's cost estimates are defective for a second reason: they assume that the only costs incurred are in marking the explosive and recording those markings for posterity. This, too, is belied by common sense. Recordkeeping costs include:

"Front End" Costs: i.e. "the explosives manufacturer must acquire the taggant, store, and inventory it." [74] These costs are not incurred under the date/shift code system. They are enumerated in our answer to question 5(b), pp. 22–24, *supra*.

Product-recording and Marketing Costs: These are discussed at p. 45 *supra* and are the only costs even nominally considered by Aerospace.

Storage and Retrieval Costs: As Aerospace notes, the recordkeeping requirements will generate a "substantial" volume of records that must be storeed, catalogued, and monitored.[75] Additionally, if bombing is a substantial problem and if the taggants are recoverable we should expect to be inundated with retrieval requests which, of course, will incur additional costs.

Nevertheless, Aerospace offhandedly assumes these activities require no additional expenditures! This arbitrary and presumptuous dismissal of readily-apparent cost factors typifies Aerospace's treatment of the entire cost issue and raises grave questions about the entire Inflation Impact Analysis.

For these reasons, we believe that the recordkeeping costs for a tagging program must, at a minimum, equal the 1.25 cents per pound incurred under current recordkeeping requirements. In fact, we believe that these costs will realistically approach 2 cents per pound.[76] Thus, annual recordkeeping costs for cap-sensitive explosives should range from $3,440,000 to $5,500,000.

Cast Boosters: Curiously, Aerospace provides no cost estimate of the recordkeeping costs for cast boosters.[77] GOEX, Inc. which is conducting a pilot test of boosters, has estimated a 2 cent per pound recordkeeping cost.[78] Using our 1.25 cent per pound figure as a bottom-line and an annual production level of 6 million pounds, the recordkeeping costs should range from $75,000 to $120,000.

Black Powder: Aerospace estimates the annual recordkeeping costs of tagging black powder at $6,000 (1.5 cents per pound).[79] These figures may be overly conservative; however, for the sake of argument we will assume 1.5 cents per pound as a reasonable bottom line figure. Nevertheless, as discussed at note 51 *supra*, Aerospace's production figures assume that only sporting grade black powder will be tagged. This ignores the remaining 2.1 million pounds of black powder produced and used for commercial purposes. Thus, the recordkeeping cost for tagging all black powder will be $37,500.

Detonating Cord: As with cast boosters, Aerospace provides no cost estimate of the recordkeeping costs for detonating cord.[80] As discussed at pp. 45–46 *supra*, recordkeeping costs for a tagging program will exceed those incurred in the date/shift program due to front end and storage and retrieval costs. Recordkeeping costs for detonating cord will be even greater. Currently, detonating cord production machinery produces hundreds of thousands of feet of detonating cord on each production run. This cord is wound onto large reels, from which it is cut and shipped to millions of customers. Aerospace proposes to change the taggant lot after the ridiculously low level of 5000 feet.[81] Keeping track of the start/end point for each taggant lot as well as the customers who receive the cord when it is unwound from the reels will be a Herculean task. Thus, the costs will grossly exceed costs incurred under the date/shift code.[82]

The current recordkeeping costs for detonating cord are .05 cents per foot. Thus, a very conservative minimum figure of the costs to keep track of the records required for an annual production level of 500 million feet of cord is $250,000.

Blasting Caps: As with cast boosters and detonating cord, Aerospace provides no estimate of the recordkeeping costs for blasting caps; [83] and, as far as the Committee knows, they may never have considered the question.

The current recordkeeping cost for blasting caps is 1 cent per cap. Since, as discussed at pp. 45–46 *supra*, we can reasonably conclude that total recordkeeping costs for the tagging program will at a minimum equal those under the date/shift code program, the recordkeeping costs for tagging 84 million blasting caps should, at a minimum, be $840,000.

Noncap-sensitive Explosives: As it has throughout the Inflation Impact Analysis, Aerospace has ignored the cost impact of tagging what it characterizes as the most common commercially-produced explosive.[84] Most importantly (as shown by the figures) the tagging of noncap-sensitive explosives has substantially increased the estimated costs of the tagging program.[85]

The current recordkeeping costs associated with placing the date/shift code on noncap-sensitive explosives is .375 cents per pound. As discussed at pp. 45–46 supra, this figure represents a conservative estimate of the recordkeeping costs associated with tagging. Since 3.4 billion pounds of noncap-sensitive explosives are produced annually, the recordkeeping costs associated with tagging these explosives are approximately $12,750,000.

(4) Unqualified Manufacturing Process Costs: As with recordkeeping costs, Aerospace glibly assumes that the costs to incorporate taggants into the manufacturing process will be de minimis. The shallowness of their analysis is illustrated by the length of the discussion of manufacturing costs—the equivalent of one full page.[86]

As a practical matter, these costs are impossible to estimate because taggants have never been added to any explosive product in non-experimental conditions; and, as discussed in our answer to question 2, pp. 10–13 supra, the explosives industry at this time does not know of a 100% safe way to add taggants to any explosive product. Consequently, Aerospace's inability to specify the machinery, processes, etc. required to add taggants reduces its "conservative estimates" of manufacturing costs to unfounded speculations. The only conclusion that can be drawn at this time is that expensive retooling and equipment will be necessary.

Only a few of the explosive products in the cap-sensitive explosives category have undergone testing in a pilot production run. The taggants were added by hand during the mixing process. Using this method, which Aerospace apparently assumes,[87] the pilot program encountered a 15% loss in production capability.[88] Such a loss of productivity would have grave consequences for both the price and the supply of explosives, and is precisely the type of "inflation impact" that should be thoroughly discussed in an Inflation Impact Analysis. Nevertheless, Aerospace remained mute on this statistic.

Another consequence of tagging that was mentioned but ignored by Aerospace is the throwaway loss occasioned by taggant use.[89] As part of the manufacturing process, a significant amount of the explosives produced are "reworked," i.e. recycled into the production line and mixed with other batches. Tagging would undoubtedly require some throwaway to prevent mixing codes. This would not only be wasteful: it would decrease productivity and require the purchase of more raw materials, thereby increasing the per unit cost of the raw materials used in an explosives product. See p. 26 supra.

c. Conclusions: The foregoing analysis clearly explains the disparities between the estimated costs proffered by Aerospace and those developed by IME. In preparing its estimates, Aerospace ignored economic theory and business reality by accepting unrealistically price per pound and renewal fee estimates from 3M. Aerospace also understated or ignored significant and substantial portions of the cost equation, notably recordkeeping and retooling costs. It also ignored the 15% loss of productivity encountered in the pilot program, as well as the loss of productivity due to the elimination of rework. Most importantly, by ignoring the mandate of S. 333 that all explosive material be tagged, Aerospace artificially excluded the cost impact of tagging the most common commercially-produced explosives, noncap-sensitive explosives, thereby grossly understating the projected cost estimates.

As illustrated by the table on the following page, we believe a more realistic conservative estimate of the annual cost of the nationwide program envisioned in S. 333 would be $703,093,100. Since the current market value of all explosives sold is $500,000,000, the addition of taggants would more than double the cost of explosives to the consumer, and would have a dramatic economic effect on the domestic explosives industry.

This sobering fact compels us to ask the obvious question: Is it worth it? We think not. Everyone but BATF and its hired contractor, Aerospace Corporation, seems to agree. Bombings are well-planned premeditated acts, not crimes of passion, and identification tagging will not deter the criminal or the terrorist from cold-blooded killing. At very best, tagging provides a confirmatory tool for a solvable crime. In our opinion, this dubious benefit certainly does not justify mandating a costly and untested technology on the explosives industry and the consuming public.

Footnotes at end of article.

ANNUAL COST OF TAGGING PROGRAM TO THE EXPLOSIVES INDUSTRY

Explosive product category	Taggant cost	Renewal fees (10th yr)	Recordkeeping costs (conservative minimum)	Total
Cap-sensitive explosives	$27,500,000	$12,375,000	$5,500,000	$45,375,000
Cast boosters	1,200,000	2,700,000	120,000	4,020,000
Black powder	250,000	450,000	37,500	737,500
Detonating cord	21,666,600	90,000,000	250,000	111,916,600
Blasting caps	1,848,000	31,751,000	840,000	34,439,000
Noncap-sensitive explosives	340,000,000	153,855,000	12,750,000	506,605,000
Total	392,464,000	291,131,000	19,497,500	703,093,100

FOOTNOTES

[25] *Reprinted in* Testimony of David M. Gleason, *supra* note 11, at Attachment B.

[26] The $200 per pound price figure was used instead of the other prices quoted in the sales brochure because it corresponds with the code lot size range (.0016 to 5 lbs.) recommended by Aerospace. The Aerospace Corporation, *Explosive Tagging Inflation Impact Analysis* 7 (April 1979) (under column headed "Taggant Batch Size"), *reprinted in* Statement of Dr. Robert Moler, *supra* note 5, at Attachment I. This is an ultraconservative figure because 3M does not sell taggants in lots *less than 5 pounds* in today's market. Lloyd D. Lea, *supra* note 11, at Enclosure p. 3.

[27] *Reprinted in* Statement of Dr. Robert Moler, *supra* note 5, at Attachment I, Appendix A. *See* the Aerospace Corporation, *supra* note 15, at 6. Although it is not at all clear, Aerospace's price analysis reflects 3M's estimated maximum price of $40 per pound. The price paid by Aerospace for the taggants during the pilot program, $49 per pound, reflects encapsulated taggants, whereas 3M's $25–40 estimate apparently reflects prices for unencapsulated taggants (*i.e.* those currently marketed). On the assumption that encapsulated taggants will not be required by BATF, Aerospace used the latter estimate to compute the final cost figures. *Id.* at 6–8; *see* pp. 11–13 *supra*.

[28] L. J. Hessburg, *supra* note 14, at 1. As discussed *supra* pp. 11–13 and p. 28 n. 27, Aerospace states that polyethelene encapsulation is no longer necessary. Since unencapsulated taggants were not tested in the pilot program, we believe this assumption evinces a cavalier disregard for the potential hazards of the explosives industry, particularly since a polyethelene coating was necessary "to provide an ablative coating and to minimize the absorption of explosives ingredients." The Aerospace Corporation Description of the Pilot Program, Appendix A (undated).

[29] Statement of G. R. Dickerson, *supra* note 4, at 5.

[30] It must be kept in mind that 3M would not be a regulated monopoly such as a public utility. Instead, it would be a sure monopolist. As such it would have pricing powers as unrestrained as those of the OPEC cartel. We are not saying that 3M may never have an incentive to reduce prices: only that as an OPEC-like supplier its pricing policies will be set at a level that will freely exploit its guaranteed market. This in no way assures that the prices will be reasonable. Put simply—3M will charge what the market (which is guaranteed) will bear. *See* C. McConnell, *Economics: Principles, Problems, and Policies* 485–87 (5th ed. 1972).

[31] The fact that 3M "sold" taggants to Aerospace for $49 per pound does not support this theory. There is no economic reason for 3M to "sell" its taggants to Aerospace for $151 per pound *less* than its *advertised competitive market price*. The only plausible reason is that 3M recognized the business advantages of "selling" taggants to Aerospace at an unrealistically low price. Thus, this, "sale" price is an inaccurate guideline for 3M's future monopolistic pricing policies.

[32] Statement of G. R. Dickerson, *supra* note 4, at 5.

[33] *Id.*

[34] *Id.*

[35] *Id.*

[36] BATF also suggests that prices will be kept reasonable by the addition of a requirement to S. 333 similar to section 308 of the Clean Air Act. This statute requires mandatory licensing of *patents*. It does not grant authority to dictate *mandatory price controls* on products sold to ultimate consumers. While price protection would be desirable to the explosives industry, such mandatory price controls are politically impractical.

[37] This cost figure excludes costs associated with tagging smokeless powder. These have been excluded because smokeless powders are not used in commercial blasting—the area in which IME represents the explosives industry.

[38] In its calculations, Aerospace assumes a production level of 325 million pounds. This figure is inaccurate. Our analysis uses the more correct figure of 275 million pounds.

[39] 1 lb. explosives/0.0005 lb. taggants equals 2,000 lb. explosives/1 lb. taggants.

[40] (1 lb. taggants) x ($200) or 10 cents per pound equals (2,000 lb. explosives) x $(x).

[41] Statement of Dr. Robert Moler, *supra* note 5, at 9.

[42] *Id.*

[43] 1 lb. explosives/0.001 lb. taggants equals 1,000 lb. explosives/1 lb. taggants.

[44] (1 lb. taggants) x ($200) or 20 cents per pound equals (1,000 lb. explosives) x ($x).

[45] Statement of Dr. Robert Mohler, *supra* note 5, at 8, 11. The only laboratory tests that have been completed on black powder were done with sporting grade black powder—a small percentage of the total commercial production. Boyars, *Feasibility of Identification Tagging of Black Powder: Progress Report* 21 (March 1979), *reprinted in* Statement of Dr. Robert Moler, *supra* note 5, at Attachment G; *see* note 51 *infra*.

[46] *Id.* at 3; Statement of Dr. Robert Moler, *supra* not 5, at 10.

[47] *See* note 45 *supra*.

[48] The Aerospace Corporation, *supra* note 15, at 10.

[49] *See* note 39 *supra*.

[50] *See* note 40 *supra*.

[51] Aerospace apparently only studied sporting grade black powder, the annual production level of which is 400,000 pounds. However, over seven million pounds of black powder is annually produced for commercial production. This figure is not reflected in the Bureau of Mines reports because black powder is not used in mining and quarrying. Instead it is used to make specialty explosives, *e.g.* jet tappers and perforators for the oil industry. Since these are "explosive materials" by definition, S. 333 would require them to be tagged and the cost estimates should be adjusted accordingly. *See* note 53 and p. 38 *infra*.

[52] Detonating cord is also considered to have a "lower overall threat potential." Statement of Dr. Robert Moler, *supra* note 5, at 13. Of course, this assumes that other explosives have "threat potential"—a premise we have consistently questioned. *See* pp. 3–4 *supra*.

[53] S. 333 applies to "any explosive material." S. 333, 96th Cong., 1st Sess. § 303(b) (1979). The term explosive material means "explosives, blasting agents, and *detonators*." 18 U.S.C. § 841(c).

[54] The Aerospace Corporation, *supra* note 15, at 15.

[55] This number was derived by summing the production levels for the three domestic producers of detonating cord. Those production figures were supplied to IME on a proprietary basis.

[56] (2,600 pounds taggants)/12 million feet equals (x pounds taggants)/500 million feet or 108,333 pounds of taggants.

[57] Statement of Dr. Robert Moler, *supra* note 5, at 13.

[58] *Id.*

[59] The Aerospace Corporation, *supra* note 15, at 11.

[60] (50 mg)/(1 cap) times (.001 gm)/(1 mg) times (1 kg)/(1,000 gm) times (2.2046 lb.)/(1 kg) times ($200)/(1 lb. taggants) equals $.022 per cap or 2.2 cents per cap.

[61] Statement of Dr. Robert Moler, *supra* note 5, at 12.

[62] *Id.*

[63] *See* note 39 *supra*.

[64] *See* note 40 *supra*.

[65] ANFO is a mixture of 6.6 lbs. fuel oil and 100 lbs. ammonium nitrate. The raw materials for this basic mixture cost $6.70. The cost for one pound is calculated accordingly: ($6.70)/(106.6 lb.) equals (x)/(1 lb.) or 6.3 cents per pound.

[66] Even using the Aerospace/3M estimated taggant price of $40 per pound, the cost of tagging noncap-sensitive explosives would be $68,000,000.

[67] Lloyd D. Lea, *supra* note 11, Enclosure at p. 3.

[68] L. J. Hessburg, *supra* note 14, at 2.

[69] *See* notes 30–31 *supra* and accompanying text.

[70] Statement of Dr. Robert Moler, *supra* note 5, at 8. Although the total lot reservation fee would be $1000 ($100 per year x 10 years), $100 is already paid in the price of the tags itself. Thus, the amount of reservation fees would be $1000 —$100 or $900 per lot over a 10 year period.

[71] The Aerospace Corporation, *supra* note 5, at 7 (Table 3–1, column headed "Taggant Batch Size").

[72] This figure was calculated by summing the figures in The Aerospace Corporation, *supra* note 15, at 19–22: $900,000 (cap-sensitive explosives) + $330,000 (smokeless powder) + $6,000 (black powder) = $1,236,000.

[73] ($900,000)/(325,000,000 lbs.) equal $.0027 (or .27 cents) per pound.

[74] The Aerospace Corporation, *supra* note 15, at 14.

[75] *Id.* at 17.

[76] This is due, in part, to the fact that the recordkeeping costs ignored by Aerospace are precisely those costs not incurred in the date/shift code program, *e.g.* the costs of acquiring, storing and keeping invetnory on taggants. *See* pp. 22–24 *supra*.

[77] Instead it assumes an additional manufacturing cost of $400,000 despite its admission that there is no known process to add taggants to boosters. This faith in American know-how is commendable, but faith alone does not provide a sound basis for a cost estimate. *See* The Aerospace Corporation, *supra* note 15, at 19.

[78] Letter from David Levey, President, GOEX, Inc. to Alan B. Mollohan, Esq. 2 (July 11, 1979).

[79] The Aerospace Corporation, *supra* note 15, at 21–22.

[80] The figure supplied by Aerospace represents the annual cost of the estimated manpower necessary to operate a tagging station. *Id.* at 22.

[81] *Id.* at 7 (column headed "Taggant Level"). This will also create a substantial loss of productivity. *See* pp. 50–53 *infra*.

[82] Currently each detonating cord production facility requires three full time employees simply to keep track of the date/

shift code as the cord is unwound from the reels and prepared for shipment.

[83] The cost figures supplied by Aerospace pertain to production machinery and *not* recordkeeping. *See* The Aerospace Corporation, *supra* note 15, at 22.

[84] Statement of Dr. Robert Moler, *supra* note 5, at 12; *see* p. 38 *supra*.

[85] Many of these explosives are inexpensive, bulk products sold to large users of explosives, *e.g.*, surface miners. There is a very real probability the cost increases associated with the addition of taggants to these (as well as other) products will make it cheaper for industrial consumers to prepare their own mixes of these products. This would drive many small manufacturers out of business and would force the remaining manufacturers to escalate the cost of their products to compensate for the loss of business.

[86] The Aerospace Corporation, *supra* note 15, at 22–23.

[87] *Id.* at 22. The assumption that the cost of mechanical taggant dispensing equipment to equal to the labor it replaces is wholly unfounded. It also ignores the safety question. *See* pp. 6–8 *supra*.

[88] C. W. Ello, *Report of Pilot Test Program For Tagging of Explosives: Hercules Incorporated* 8 (Oct. 25, 1978), *reprinted in* Statement of Dr. Robert Moler, *supra* note 5, at Attachment D.

[89] The Aerospace Corporation, *supra* note 15, at 14.●

EPITAPH FOR AN INDEPENDENT NEWSPAPER

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. LAFALCE. Mr. Speaker, in the Wall Street Journal (July 9, 1979), an article recently appeared recounting how Gannett Co., which controls 80 newspapers, is acquiring the Nashville Tennessean. It struck me as especially ironic that John Seigenthaler, the present publisher of the Tennessean who will remain in that position under the Gannett regime, recently testified (May 24, 1979) as a representative from an independent newspaper before the Senate Select Committee on Small Business with respect to the increasing economic concentration within that industry.

While he suggested that the movement toward chain ownership was "inexorable", he proceeded to question where it will lead:

> Is this movement toward chain ownership by public corporations healthy? Let me state the question in another way: is it the best thing—or even a good thing—for large numbers of stockholders of most of America's daily newspapers to have a compelling interest in what is in the dividend check, but no interest in what is in the newshole; to have more of a concern about quarterly earnings than editorial positions; not to be able to read daily, or ever, the newspaper which produces their stock earnings? That is the sort of stockholder this movement toward chains is creating.
>
> In light of that, is it not inevitable at some points for chains to be so pressured by the need to accelerate earnings that there may be years ahead when the chief interest must be the bottom line?

He continued his rhetorical questions by suggesting that the increased emphasis on profitability will ultimately impair local interests:

> When those decisions are made will not the interests of those in the board rooms take substantial precedence over the interests of those in the city rooms?
>
> Won't the more vital decisions be made in the executive suites, relating to business issues not in the editorial board conference where crucial positions are taken on questions that affect our national quality of life?

However, despite all of the foregoing, Mr. Seigenthaler has "not been concerned about the trend toward chain ownership" because he "know(s) and trust(s) most of the people who direct and manage chains and those who publish and edit their chain-owned papers."

As Mr. Seigenthaler and his contemporaries retire, they will likely be replaced with a new breed of managers—professionals who will not remember the "good old independent" days, who will not necessarily act in the best interests of the community, but who will maximize profits.

In all events, if there were to be an epitaph on the tombstone marking the death of the Tennessean's independence, perhaps it should be Mr. Seigenthaler's concluding remarks before the Senate:

> The ultimate question, perhaps not for this decade of newspaper chain owners but for all Americans in the future is: whether a free press, and publicly-held chains may not become a contradiction in terms.

The Wall Street Journal article and Mr. Seigenthaler's prepared remarks before the Senate follow:

STATEMENT OF JOHN SEIGENTHALER

I represent an independent newspaper. It has been owned independently since 1937 by the Evans family who purchased it out of receivership that year. Since that year it has been part of a Joint Operating Agreement with the Nashville Banner, currently owned by the Gannett chain.

The Banner, until 1972, was independently owned by the late James G. Stahlman. The Joint Operating Agreement, which is validated by the Newspaper Preservation Act, has meant that there would be two separate editorial voices in our readership area and that there would be competition for news—even though the business affairs of the newspapers were carried on in the same manner as it is conducted in so-called "one newspaper towns" such as in Memphis, Atlanta, Louisville and Charlotte.

My own first-hand view and my chief impressions of chain-operated newspapers are perceived largely through my focus of the Banner's management by Gannett since 1972. As one who has worked all my professional life for the same Evans family-owned newspaper I have strong, visceral preferences in favor of locally-controlled dailies. Much of that preference has to do with my regard for Amon Evans who controls The Tennessean, and for his father and brother who preceded him in that control. Much of it has to do with the sense that over four decades of their ownership the newspaper has developed a character and established a tradition in the community. I relate those highly positive factors to their independent ownership. They have demonstrated a special pride in their paper; a special concern for those who have worked to make it a newspaper with character.

But beyond that personal preference, I am concerned about the many implications of where concentrated control is taking the American press and where public ownership of chains is taking the American press. At the same time, I think it a mistake, viewing Gannett's ownership of the Banner, to suggest that my concerns about chain ownership have anything to do with what communications school professors are prone to call "quality journalism."

It is a trap, I think, to try to equate local, independent ownership with "quality" or to hint that chain ownership connotes an absence of quality.

The Banner is a different paper under Gannett ownership; by standards acceptable to most news consumers it is a better paper.

It is more attractive with a stylish Six-column Page One image. Because it has standardized its logos and section headings it is a paper that is easier to read. It has stronger Washington coverage, thanks to its ties with Gannett. It now has an opposite editorial page, more features, is involved more in investigative reporting and has an aggressive promotion department which has helped turn some of its recent endeavors into prize-winning journalism. Nor in the executive dealings between Amon Evans and Gannett have they been unwilling to spend money for plant expansion or technological modernization.

As I read other Gannett papers in the chain it does seem to me that there is a sameness about them. I mention that, not in a perjorative sense, but only as an impression. While I hear that the news standards set by Al Neuharth and John Quinn have brought about positive changes in other papers than their Nashville link in the chain, I doubt that anyone would suggest that Gannett control in St. Petersburg, or Louisville, or Boston could sustain or surpass the high quality in those locally-owned papers. Gannett might be able to improve the bottom line on any one of those cities. But I insist that neither Gannett, nor any other chain, could improve news or editorial quality.

If our city has gained a more readable afternoon paper with the coming of the Gannett, it also has lost something perhaps intangible that goes with local independent ownership; something that has to do with the stamp of local before him. He knew his city, loved it and in his own special way (and perhaps at times his perverse way) he dedicated his paper to it.

The roots of his paper were buried deep in the soil of Middle Tennessee. It saddens me that those roots have been taken up and transplanted in Rochester. I would feel the same if the roots that Frank Gannett put down in upstate New York should some day be uprooted and transplanted elsewhere.

It may be too late to question whether the movement toward chain-ownership by publicly-held corporations is inexorable. I think it is too late. It certainly is too late to question whether monopoly ownership in a local community is good or bad. That is reality, with more than 95% of our communities now without competing newspapers. Chain ownership is no longer a drift—it is a tide.

The statistics presented at these sessions are accurate. Perhaps the most disturbing statistic is to be found in the fact that more than 20 chains now sell their stock to the public on the New York and American exchanges.

The continuance of devastating estate tax laws, plus lucrative prices ranging up to 30 or 35% of earnings will increasingly push independent owners toward selling to chains. The highest possible profit motive will drive other papers to public ownership.

Is this movement toward chain ownership by public corporations healthy? Let me state the question in another way: is it the best thing—or even a good thing—for large numbers of stockholders of most of America's daily newspapers to have a compelling interest in what is in the dividend check, but no interest in what is in the newshole; to have more of a concern about quarterly earnings than editorial positions; not to be able to read daily, or ever, the newspaper which produces their stock earnings? That is the sort of stockholder this movement toward chains is creating.

In light of that, is it not inevitable at some points for chains to be so pressured by the need to accelerate earnings that there may be years ahead when the chief interest must be the bottom line?

It is inevitable that our industry will ultimately suffer economic setbacks which will require cutbacks.

Like every other industry, directors and stockholders in the face of that will have to determine whether to effect cutbacks in non-income producing areas—which means, of course, news and editorial expenditures.

When those decisions are made will not the interests of those in the board rooms take substantial precedence over the interests of those in the city rooms?

Won't the more vital decisions be made in the executive suites, relating to business issues not in the editorial board conference where crucial positions are taken on questions that affect our national quality of life?

In a real sense I have not been concerned about the trend toward chain ownership because I know and trust most of the people who direct and manage chains and those who publish and edit their chain-owned papers. They have motives that are good. They know this industry. They want the best for their papers.

But is there any reason to expect that publicly-held corporations in our industry will be protected from corporate raiders who have moved in with grasping hands on other industries?

I fear that the future of our industry will include secret manipulations by those vast conglomerate managers who can see immense profits and unprecedented power in corporate control of the press. I worry that in the next decade we will see the newspaper industry hit by a series of proxy fights and tender offers not uncommon in other free enterprise areas. Who is to say who will control these chains a decade or two from now? It could be the oil and energy conglomerates, the huge banking-insurance holding companies, or shadow operators.

Should Mobil or Gulf own Gannett or Knight-Ritter the integrity of the press would suffer. More than that, it would invite government investigation, regulation and control.

Already some of this industry, with cross-ownership in the electronic media, are being scrutinized by the FCC. Those papers which are publicly-held are subject to regulation by the SEC. The resolution in Congress by Rep. Morris Udall calling for an investigation of the corporate power concentration in this industry, is attractive to many Congress members.

When we ask seriously whether conglomerates and holding companies will be running these publicly-held newspaper chains a few years from now, we cannot ignore the impact of that on First Amendment questions.

Who can trust the conglomerate-holding company view of First Amendment responsibility?

Who can predict how conglomerates and holding companies would respond to a hostile administration or any angry Congress?

Who can say how they may respond to the temptation to forget the constitutional reponsibility to serve as an adversary check on government affairs and those politicians who run the government.

The ultimate question, perhaps not for this decade of newspapers chain owners, but for all Americans in the future is: Whether a free press, in publicly-held chains, may not become a contradiction in terms?

[From the Wall Street Journal, July 9, 1979]

Gannett To Acquire Nashville Tennessean, Sell Afternoon Paper

Nashville, Tenn.—In an unusual move, Gannett Co. announced agreements for the sale of its afternoon daily newspaper here, The Nashville Banner, and the acquisition of the city's morning and Sunday newspaper, The Tennessean. Under antitrust law, the same party can't own both newspapers.

Gannett, based in Rochester, N.Y., said the Banner is being sold for $25 million to a local group, Music City Media Inc., whose principals include John Jay Hooker Jr., a Nashville lawyer and an unsuccessful Democratic Party candidate for governor. Mr. Hooker will become the paper's publisher.

In turn, Gannett said The Tennessean is being acquired for about $50 million from the Silliman Evans family trusts and Amon Carter Evans. The Tennessean has a daily circulation exceeding 130,000 and a Sunday circulation of about 240,000, while the Banner has a daily circulation from Monday through Saturday of about 85,000.

Under still another agreement, Gannett also would acquire a controlling interest in Newspaper Printing Corp., which handles advertising, circulation production and printing functions for both newspapers.

It's believed the Justice Department probably won't raise any objection to the proposed transactions. Noting that the two papers have maintained joint production operations since 1937, one Justice Department official said in Washington that Gannett's transaction "doesn't make the situation any less competitive than it is now."

The transaction also would leave unchanged, at 80, the number of papers that Gannett owns throughout the nation and in the Virgin Islands and Guam.

Mr. Hooker's partners in Music City Media are Brownlee O. Currey, a Nashville investor who will serve as chairman and chief executive officer, and Irby C. Simpkins Jr., a suburban Brentwood banker who will be president.

Allen H. Neuharth, Gannett chairman and president, said that John Seigenthaler would continue to head The Tennessean under Gannett ownership, as its president, publisher and editor. He currently is the publisher. "In keeping with Gannett's policy of local autonomy," Mr. Neuharth said, "he will have full responsibility for all news and editorial matters. . . . We expect the Tennessean to become an even more effective voice throughout Tennessee and the South."

With regard to the sale of the Banner, Mr. Neuharth said: "We are pleased to place The Nashville Banner in the hands of a local group, preserving the mix of group and local ownership in this exciting and competitive newspaper city."

Mr. Neuharth also said that James Jesse, who has been publisher of the Banner, which Gannett acquired in 1972, would become president and general manager of Newspaper Printing Corp.

In addition to its newspapers, Gannett—which recently acquired Combined Communications Corp.—owns seven television and 12 radio stations, plus outdoor advertising, opinion research and national news and advertising services.●

POSTAL SERVICE AT CROSSROADS

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. CORCORAN. Mr. Speaker, an article I wrote regarding the U.S. Postal Service appeared as an op-ed piece in the Chicago Sun-Times on June 1, 1979. In it, I address some of the hard choices facing the Congress and happily produced some interesting responses from readers both agreeing and disagreeing with my viewpoint.

For the benefit of my colleagues, I would like to share with you an exchange of correspondence following publication of my article:

Phoenix-Hecht,
Chicago, Ill., June 27, 1979.

Hon. Tom Corcoran,
Longworth House Office Building,
Washington, D.C.

Dear Mr. Corcoran: I have enclosed a copy of my rebuttal of your June 1 op-ed piece in the Chicago Sun Times.

Your article disturbed me for two reasons. First, you have proposed sweeping changes in the United States Postal Service which you have justified almost solely on the basis of glib and gratuitous generalities; Second, you have proposed legislation broadening the scope of federal government while your back-home political rhetoric, as befits your constituency, has been far more Jeffersonian in its tone.

The facts, by any conceivable measure, show that postal reorganization is working: Unit costs are coming down, productivity is going up, deficits are shrinking, and planning systems have been created to solve the longer range problems of making the United States Postal Service a real competitor in an increasingly heterogeneous and fragmented marketplace. It is axiomatic amongst businessmen that if something works, you don't fix it. That certainly applies to the United States Postal Service and to postal reorganization overall.

I believe the old saw that that which governs least governs best. As a businessman I have had to deal with an increasingly intrusive federal bureaucracy, for which privilege I pay a steep price in time and dollars, and from which I derive little of real value.

Your arguments in the Sun Times notwithstanding, you have proposed legislation which represents a serious step in the wrong direction—toward bigger government and greater political control. Postal independence is hardly a pipe dream; it is an emerging, functioning reality. In nine years, the United States Postal Service has addressed and corrected many of the problems which resulted from 180 years of political control. Now is hardly the time for back pedaling.

I urge you to withdraw your support from the legislation discussed in the Sun Times article, pending a thorough study of its implications. I also urge you in the upcoming campaign to deal frankly and honestly with what appears to be a major shift in your political philosophy away from responsible government.

Respectfully,
Richard J. Poje.

Congress of the United States,
Washington, D.C., August 2, 1979.

Mr. Richard J. Poje,
President, Phoenix-Hecht,
Chicago, Ill.

Dear Mr. Poje: Thank you for your recent letter in response to my editorial on the future of the Postal Service. As I'm sure you can understand, an editorial does not provide sufficient length to engage in extensive statistical analysis; nor would it be printed if it did. It was not, therefore, my intent to be glib and gratuitous, but to make my argument in as brief and readable a form as possible—a short, pithy discussion.

You refer in your cover letter to "the facts". Unfortunately, the facts are only as good as the methodology used in the collection of the data and as the skill of the analyst in drawing out the facts, as well as the bent of the analyst. As you doubtless know, different levels of analysis and different statistical tools and techniques may yield differing results. In the case of the Postal Service, the only data available is usually provided by the Postal Service. In addition, it is often of a very unsophisticated nature . . . so unsophisticated as to be most uninformative as a rule. I point this out now to explain why we may reach different conclusions on the Committee on Post Office and Civil Service than does the Postal Service. I will explicate this as I continue.

Now, to the trust of the article. I will begin at the beginning, by pointing out that this bill is not my legislative package. It was introduced by Congressman Charles Wilson and was supported by the Committee on Post Office and Civil Service. I did, however, offer several amendments to the basic legislation, and these amendments were adopted with bipartisan support.

The legislation provides an increase in the amount of the subsidy received by the Postal Service. I offered an amendment that would require for the first time that the Postal Service delineate by function its expenditure of this money, which is derived from tax revenues. As you refer to businessmen repeatedly in your letter, I would assume that you as a taxpayer would prefer to know exactly how your money is being spent and that you would support this accountability amendment.

In addition, I offered an amendment that stipulated that the amount of the increase in the public service appropriation would be spent on maintaining the lowest possible first-class rates, because first-class is the only class of mail that is subject to the Private Express Statutes and for which mailers have no competitive alternative to which they can turn in the event that rates rise too high. I consider this only fair to avoid a situation in which we say "You must not use any alternative, and we will now charge you as much as we want!". This would be an unconscionable abuse of the right of government monopoly. I might add that over 80 percent of all first-class mail is business mail.

The subsidy to which you are opposed was in the original legislation and was not my proposal. I would like to point out, however, that contrary to your assumption that the Postal Service is in terrific shape, the Postal Service budget for FY 1980 clearly indicates that the Postal Service will have to borrow to meet operating expenses. The also anticipate borrowing in 1981, and for virtually every year thereafter. The logic is that it is a government corporation and should not show a profit at the expense of the public. Therefore, it will generally operate at a deficit. The logic of the Committee in supporting H.R. 79 is that rather than have a government corporation borrowing to meet expenses, thereby fueling inflation and increasing government competition with the private sector in the money market, we should admit that the Postal Service is operating at a loss and directly provide that money. But we do need to know where the money is being spent and if, in fact, it is actually needed. At present, under the system you support, the Postal Service has received a full $920 million per year with no strings attached, to be spent who knows where. In addition, in 1976 and 1977, the Postal Service came before Congress requesting an additional $500 million each year, threatening to reduce services if it wasn't received, on the grounds that they couldn't pay their bills. They received the funds. In 1978, the Postal Service claimed it could only make ends meet by eliminating six-day delivery. This was nipped in the bud by legislation. In fact, it was during this period that the Postal Service created a plan for massive closings of small post offices. The figures to which you refer are a direct result of Congressional intervention to establish a moratorium for two years. The figures do not reflect postal policy.

As you know, the Postal Service claims that productivity has risen. I applauded this in my editorial, but I must say that I'm uncertain of the validity of the Postal Service's conclusion. Unfortunately, the Postal Service measure of productivity is an ultra-simplistic manhours compared to pieces of mail. This measure does not take account of changes resulting from composition changes in the type of mail handled (such as the fact that the Postal Service lost most of the parcel market, which is one of the more difficult and costly to handle), changes in the types of transportation used, increased mechanization, etc. This bivariate analysis of productivity would not be acceptable to most businesses. This would be like measuring a secretary's productivity by the number of words typed per day, with no reference to accuracy, other chores accomplished, ability to operate independently, etc.

In addition, unit cost has in fact increased, by the Postal Service's own admission, if you take personnel as the unit of analysis. The following is a quote from a GAO report on the Postal Service entitled "Comparative for Postal and Other Federal Employees Since 1970" (Feb. 1, 1979).

"Since its establishment in July 1971, the Service's total operating expenses have exceeded its total income each year, with operating losses ranging from $102 million in 1973 to $1,079 million in fiscal year 1976. At the end of fiscal year 1977, the accumulated net loss had exhausted the Service's equity and the Postal Service had incurred a $588 million deficit. The Congress appropriated an additional $1 billion in 1976 to retire some of the Service's indebtedness . . . Since postal reorganization, the Service has endeavored to improve productivity and to cut labor costs by moving toward more mechanization. However, despite the fact that total employment has declined over the last few years, personnel costs, both in terms of dollars and as a percent of total operating costs, have steadily increased . . . the number of employees decreased 12 percent from 1970 to 1977, yet personnel costs increased 101 percent. . ."

Note that this is now considerably higher than 101 per cent, since the Postal Service has a contract including unlimited COLA with the various craft unions.

As you can appreciate, the Postal Service has 86 percent of its annual budget tied up in compensation of personnel. Therefore, the only really effective means of controlling costs is to reduce personnel via mechanization, etc. Unfortunately, the Postal Service's attempts at mechanization have been notoriously unsuccessful, and the current contracts contain a no-layoff clause, which means any reduction must be through attrition.

You may be interested in the GAO report on the bulk mail system, entitled "Grim Outlook for the United States Postal Service's National Bulk Mail System" (May 16, 1978). In the cover letter from the Comptroller General to Congressman Wilson, the General notes that there are "serious problems—noncompetitive parcel post rates and untimely and inconsistent deliveries, which have prevented the system's success, and raised questions as to whether the Service can . . . provide good enough mail service to be continued in the future."

The study further concludes "The National Bulk Mail System . . . has not achieved its goals of reducing costs and improving service. The prospect of it ever doing so is unpromising. Parcel post rates have been noncompetitive and delivery service is untimely and inconsistent. As a result, the Service continues to lose parcel business and the bulk mail system lacks sufficient volume to run as efficiently as planned . . . Because the bulk mail system is highly mechanized, declining parcel post volume results in higher processing costs for each parcel."

The study further concludes that these higher unit costs ultimately result in higher parcel post rates. Likewise, service improvements will increase costs and result in higher rates. They finally conclude that the outlook for the system is "grim".

The Postal Service has invested over $1 billion in the National Bulk Mail System in an attempt to retain its share of the market. However, there are projections that this share will be almost zero by 1985. In addition, this study clearly indicates that in 1976 and 1977, using bulk mail centers, delivery time was higher in every quarter than in previous years before the use of bulk mail centers. Damages are also extraordinarily high, and mail is frequently sent to the wrong destination. All of this is documented in the GAO report. Finally, "The Service recently estimated annual savings to be $40 million, a return of less than 4 percent annually on the $1 billion spent on the system. If parcel volume declines as projected, the system may prove to be more costly to operate than alternative means to move bulk mail." This means it may pay to abandon them altogether. The bulk mail centers are the Postal Service's largest investment in mechanization to date, and they are a notorious failure.

The future of mechanization in the Postal Service will not necessarily follow this trend, but regardless of its success, the Postal Service will have to be labor intensive to offer the types of service it does now. The degree to which it can reduce personnel without reducing service is limited, and I believe we're nearing saturation. This interpretation is supported by the Postal Service's attempts to reduce service in order to cut costs.

The studies of which I am aware that indicate improved delivery are postal studies, which, you might be interested to know, claim 95 per cent success in delivering mail same day or within 24 hours. Unfortunately, no one knows how they compile these statistics, and each year they are a bone of contention as others do not come to the same conclusion. The result is that I have been attending for the last month hearings on the Private Express Statutes, and businesses are vociferous complainers about the quality of service received. In addition, the mail that I receive runs clearly toward the need for improvement in service in the Postal Service. I do not consider my claims of poor service to be unsubstantiated. I consider thousands of letters of complaint to be very solid evidence. I do feel that the Postal Service has a stake in proving improved service since it is reliant on Federal funds to operate.

The question becomes again the question of philosophy that I addressed in my editorial. Do we support self-sufficiency of the Postal Service at any cost, including reductions in service? Or do we conclude that the Postal Service as a means of communication is vital and needs an infusion of funds and a restructuring of top management? I came down on the side of maintaining and improving the Postal Service.

The thrust of the legislation in which I am involved is to improve the Postal Service's ability to continue to improve services. There are basically two focal points. As I mentioned, one is the Postal Service's continuing deficit, which we attempt to handle without indebtedness and with more accountability. The second is the problem that, contrary to your claim, there is considerable evidence of poor service. We do not attempt to legislate standards, but the Postal Service is meant to serve the public, so we do attempt to make it more directly responsible to the public by eliminating the layer of bureaucracy called the Board of Governors. This does not reintroduce politics into the operation of the Postal Service. The Board is politically appointed and they appoint the Postmaster General. We would eliminate the Board and make the Postmaster General a Presidential appointee directly responsible to the President. This would reintroduce public responsibility into the politics that already exist.

Thank you for your letter and your thoughtful appraisal. I hope that showing you some of the underpinnings of my opinion will clarify my position for you. Please let me know if I can be of further assistance to you in the future.

Sincerely,

TOM CORCORAN,
Representative in Congress,
15th District, Illinois.●

LOSS OF PERSONAL INDEPENDENCE IN AMERICA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. DORNAN. Mr. Speaker, how inspiring it is to read the words of young patriotic citizens defending our Nation and its political system with pride and enthusiasm.

These are the leaders of tomorrow, our students who have the courage to speak, and the commitment to act for the preservation of the freedom we so enjoy, and perhaps take for granted.

I was honored to attend the Palos Verdes Peninsula Independence Day celebration, and listen to such essays as the one I insert in the CONGRESSIONAL RECORD today, written by Stephen Hwang.

I am proud to commend to the attention of my colleagues in the House of Representatives, this piece by a young constituent of mine from Rancho Palos Verdes. Stephen effectively addresses the subject of the loss of personal independence in America, and the global conflict which would inevitably arise under a system of world government. His essay follows:

LOSS OF PERSONAL INDEPENDENCE IN AMERICA

(By Stephen Hwang)

America is a nation of independent, freedom-loving people. Since the founding of the United States, Americans have strived to protect their national independence. This national independence and the personal independence associated with it are by their nature incompatible with a world government.

Under a world government, individual nations would have to subordinate their power to the power of the central authority. Just as the states gave up their sovereignty when they ratified the Constitution, America would have to give up its national independence under a world government. However, this would run against the very principles upon which this nation was founded.

The founders of our nation fought for independence and for self-rule, and they formed a government which was meant to be free of outside control. America was brought into being by men who thought that the people of a nation could best govern themselves as an autonomous unit. To put the United States under a world government would eliminate self-rule, the heart of American independence.

Under a world government, not only national independence but also personal independence would suffer. In America, personal independence is based on the dignity and rights of every human being. However, under a massive, soulless, all-encompassing world government, individuals would be subordinate to the state. Personal independence is linked to a belief in the importance of the individual, and a world government would threaten both.

In fact, the basic purpose of a world government is hostile to independence. This purpose is the fusion of individuals and nations into one monolithic structure. This goal involves the elimination of the independent unit and with it, of course, independence. By their very natures, world government and independence are incompatible.

Independence, both national and personal, is something vital to America. A world government would endanger this independence, for the two are irreconcilable. Rather than seeking to create a monolithic government, we should seek to preserve the independent individual.●

SHARP REPORTS QUESTIONNAIRE RESULTS

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. SHARP. Mr. Speaker, several thousand residents of Indiana's 10th District have given me their views on some of the important issues facing the country, and I would like to share them with my colleagues in Congress. These citizens took the time and made the effort to respond to my annual questionnaire, and I personally consider their responses to be a valuable part of the input I regularly receive from the people in my district.

While the questions necessarily simplified some very complex issues, I believe the people's answers are an indication of their general thinking in these important areas. The questions and answers speak for themselves, and I do not want to interpret them in ways that may not have been intended by those who responded. Nevertheless, there are some points that deserve emphasis.

For example, nearly three-fourths of the respondents favor a standby gasoline rationing plan. I have supported such a plan and was pleased to learn that my constituents shared my judgment of the need for such preparedness. If the question were asked today, I think the response would have been even more favorable.

Other energy questions were also included in this questionnaire, and the results are interesting. My district is divided almost evenly, according to these questionnaire results, on the President's decontrol and windfall profits proposal. The people support by a large margin some relaxation of environmental standards in order to allow more use of coal. They also strongly oppose a ban on the construction of new nuclear electric generating plants. The questionnaire was mailed before the gas shortages this summer but after the Three Mile Island incident.

On defense questions, the people of the 10th District favored by moderate margins the President's increase in the defense budget and legislation to allow a military draft.

Concern about inflation is reflected in the 49 percent favoring mandatory wage and price controls. A comparison to last year's responses to the same question shows the number of people willing to take such stringent measures is growing. A year ago, only 43 percent of my constituents favored such controls.

An even more significant shift in opinion occurred on the question of social security financing. In the summer of 1978 only 28 percent of the people responding said they favored the use of general tax revenues to finance part of medicare and disability benefits. This year, after the increase in social security taxes began to go into effect, the number favoring this alternative rose to 55 percent. While the wording of the question was slightly different this year, I think this a clear indication that the people want Congress to consider alternatives to the large increase in social security taxes.

In other areas, two-thirds of the people favored a more flexible standard that would allow consideration of economics and other factors in deciding whether to ban cancer-causing food additives. Three-fourths of my constituents oppose increasing postal subsidies in order to avoid future postal rate increases.

In the two most overwhelming responses on this questionnaire, 77 percent of the people indicated a willingness to make some material and financial sacrifices if necessary to protect the environment, and 82 percent favor prohibiting large corporations from buying U.S. farmland.

The question in this year's questionnaire, and my constituents' responses in percentages, are printed below:

RESULTS OF QUESTIONNAIRE

1. Do you favor President Carter's proposal to phase out controls on oil prices, and to tax the windfall profits to oil companies, as a way of encouraging conservation and the production of more oil?

[In percent]

Yes	50.1
No	49.9

2. Congress voted last year to increase Social Security taxes in order to ensure the financial integrity of the Social Security Trust Funds. As an alternative, some people have proposed using income tax revenues to finance part of Medicare and disability benefits. Would you favor the use of income taxes rather than Social Security taxes to fund these programs?

Yes	55
No	45

3. Do you favor a proposal prohibiting large corporations from buying U.S. farm land?

Yes	82
No	18

4. Do you think Congress should enact a standby gasoline rationing plan to be used if there is a severe shortage or a cutoff of our supply of imported oil?

Yes	72
No	28

5. Current law requires the government to ban any food additive, such as saccharin, which induces cancer in man or test animals. Would you favor a relaxation of that requirement to allow the government to consider other factors, such as economics, in a decision to ban or not to ban an additive?

Yes	66
No	34

6. Some members of Congress and others are calling for a return to the draft. Would you favor legislation allowing 18-year-olds to be drafted into the Army?

Yes	62
No	38

7. Should the government establish mandatory wage and price controls to help stop inflation?

Yes	49
No	51

8. Do you favor relaxation of clean air and strip mining standards if necessary to allow more use of coal?

Yes	75
No	26

9. Do you believe that Congress should increase the taxpayer's subsidy to the U.S. Postal Service in order to prevent future postal rate increases?

Yes	25
No	75

10. Should the defense budget be increased by three percent more than the rate of inflation (from about $115 billion to $126 billion), as proposed by President Carter?

Yes	57
No	43

11. Would you support a ban on the construction of new nuclear electric generating plants?

Yes	28
No	72

12. Do you believe that Americans must sacrifice some material goods and bear some financial burden if necessary to protect and preserve the environment?

Yes	77
No	23

●

THE 1980 OLYMPICS IN MOSCOW

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. DERWINSKI. Mr. Speaker, it is necessary for us to remember that the Soviets utilize sports for propaganda purposes. Therefore, it follows that the Soviets will make every attempt to propagandize the 1980 Olympics being held in Moscow.

I wish to insert an article from the sports section of this morning's August 2, Washington Post, by Barry Lorge, which is an objective look at Soviet policy and attitude toward the forthcoming Olympic games:

MOTHER RUSSIA ALWAYS AWAITS THE NOVICE OLYMPIANS

(By Barry Lorge)

Moscow, Aug. 1.—Kenny Moore, the former U.S. Olympic marathoner and track and field writer extraordinaire, wandered into the dining room of his hotel Sunday afternoon at 2:30, a little bleary-eyed and hungry but psychologically ready to run 26 miles 385 yards.

He had been up much of the previous night writing his story for Sports Illustrated on the first week of Spartakiade, the National Games of the Peoples of the U.S.S.R. Now he wanted a light snack three hours before competing in the marathon, the concluding track and field event of the Spartakiade.

He was optimistic. On a fast, level and smoothly paved course along the Moscow River that he thinks could yield a record time in next summer's Olympic Games, he hoped to run a good enough time to qualify for the U.S. Olympic trials in the marathon next spring in Buffalo.

He sat down with a couple of other Americans, summoned a waiter and tried to order tea and toast. He knew the Russian word for tea, "chigh," but couldn't quite get across the idea of toast.

Eventually, frustrated by the waiter's blank stares, he pointed across the room to a plate of bread and gave a first-rate impersonation of a man putting slices into a toaster, waiting for them to pop up and buttering the results.

The waiter gave a reassuring nod of recognition and disappeared. He returned several minutes later, triumphantly, with a cup of tea, two large pats of butter and a plate of cookies—some chocolate, some jelly, some sugared.

Moore looked at them, shrugged, but decided not to protest. With stoicism, he ate buttered cookies with his tea.

He told a wonderful story about running along the river one day last week and getting hooked by one of the Soviet anglers who regularly fish off the city's bridges. He had not really noticed the man until his long, cane pole snapped back, and the hook at the end of the line attached itself firmly to the leg of his track suit.

"I tried to tell them it was okay, that it was only a track suit, and they should go ahead and rip the prong out. But they held onto me and worked it out very carefully, painstakingly, and smoothed it over to make sure it wasn't ruined. They were very concerned.

"He was very upset, and two other men came running over. They grabbed me firmly but gently. They wanted to make sure that I was all right and that my suit wasn't damaged," Moore said.

"It was an interesting counterpoint to the kind of gruff, unbending proletarian mentality so evident in other ways here."

Moore, a thoughtful, sensitive, uncommonly observant man, had noticed, as others have, the vivid contrast in treatment of foreigners between Soviet officialdom and the man in the street.

Translators, hotel chambermaids and others in similar low-level support positions hardly could be more eager to please, at least until their superiors judge them to be too chummy with foreigners. But officials, especially the middle-level bureaucrats, are quick to say, "No . . . impossible . . . it cannot be done." And so it probably will be at next year's Olympics.

That thought came back in the cool of Sunday evening as European champion Leonid Mozeyev of the U.S.S.R. won the marathon in 2 hours 13 minutes 20 seconds, edging second-place finisher Shigeru Sou of Japan and three other Soviets in a remarkable finish that looked more like the end of a sprint than that of a marathon. The five top men burst into Lenin Central Stadium for the final yards of the race practically on one another's heels, and the finsh was so close that the top three wound up with the same clocking.

Kenny Moore—listed in the official entry list and results as "Kin Mur," the sort of loose phonetic spelling of English names that has boggled the minds of Westerners competing at Spartakiade—staggered home in 2:36:57, more than 20 minutes behind his personal best time. Obviously, writing a story, then lunching on tea and cookies, is no way to prepare for a marathon, even on an invitingly fast course.

American athletes and coaches at Spartakiade have taken note of a number of things that they will pass on to their compatriots before the Moscow Olympics.

They have noticed, for instance, that the food here is rather starchy and monotonous, and takes a long time to get served. That the local mineral water tastes like iodine, and the lemonade smells like perfume. That there is a brisk black market trade in American goods, especially jeans, track suits, sporting equipment and tapes, but that a ruble saved might as well be a ruble burned.

They have noticed that the Soviets are masters of psychology, that they like to televise their athletes when they win but not when they lose. That the man who offers to buy jeans in the middle of Red Square is likely a KGB agent looking for a set-up, but that the one who comes to your room might offer $100 and mean it. And that there seems to be a definite Soviet bias in officiating and judging in the Spartakiade that might not go away at Olympics time.

"I like competing over here because they make it very tough for you," said Stan Vinson. "They don't give you the benefit of any doubt. You come here thinking you're at a disadvantage and that gets you that much more psyched to win."

Vinson, 27, a veteran of five previous trips to the U.S.S.R., has won a gold medal in the 400 meters and in the 4 x 400 relays at Spartakiade.

AN EDGE TO THE HOSTS

"Imagine a track meet where the hosts give their athletes the best lane assignments, the best schedule, the best opportunities to win. That's what the Soviets do here. I always come to the Soviet Union aware that they have given themselves every edge and prepared with something—a little extra conditioning, speed work or something like that—to surprise them."

Vinson and the other American runners who swept the 400-, 800-, and 1,600-meter relays Sunday to give the U.S. an encouraging finale to the Spartakiade track and field program, were invited to a lunch of hamburgers and french fries at the American Embassy Monday. It was "the first square meal we've had since we got here," said one sprinter.

Afterwards, Vinson went on a private excursion along Kalinin Prospekt, a major shopping street, to take photos and search for batteries for his tape casette player, which had exhausted itself blaring out Donna Summers, Earth, Wind and Fire and other disco sounds for hours on end—to the delight of the American team and pop-loving Soviets alike.

("All the Russians have been requesting that type of thing," said Vinson. "They told me, 'Bring a lot of Donna Summers when you come back.' I even heard her on the radio here, which blew my mind.")

OLYMPIC JOB PROGRAM

Vinson, who ran for the D.C. Striders (now the D.C. International Track Club) for a year and married Washingtonian Paula Smith before settling in Chicago, now works for Wilson Sporting Goods under the Olympic Job Opportunities Programs and trains with the University of Chicago track club. He has traveled hundreds of thousands of miles in a U.S.A. track suit and has competed all over Europe, in China, Japan, Australia, the Middle East, the Caribbean and South America.

"I kind of consider myself a citizen of the world because I've lived under all kinds of conditions and maybe can adjust easier than a lot of people," said Vinson.

He is bright, street-wise and fairly self-sufficient, having majored in interior design, business and home economics at Eastern Michigan University, where he also won the NCAA 400 meters in 1974. He can cook, sew and take care of himself practically anywhere, all while keeping his sanity and an engaging sense of good humor.

"I kind of deal with things as they come," he said. "Most places you shouldn't expect much, because that's what you're going to get."

FEW SENT BEST TEAMS

Most of the 87 foreign countries that accepted invitations to Spartakiade—normally a competition among teams representing the 15 Soviet republics and the cities of Moscow and Leningrad, but opened to foreigners this year as a dry run for the Olympics—did not send their best teams.

The scuttlebutt around the U.S. camp was that a number of leading Americans decided not to come when it became evident that their chief Olympic rivals would not be here and that they could make better financial arrangements at other meets in Europe and elsewhere.

The American athletes at Spartakiade are paid a per diem of 24 rubles a week ($5 a day) in addition to their room, board and air fare. They would much prefer the money in dollars, since practically everything a tourist might want to buy in Moscow must be purchased with hard currency. But they have been told by the U.S. Amateur Athletic Union that they must take their allowance in rubles.

Most of the Americans who did come—and the U.S. Olympic men's track and field coach, Jimmy Carnes, estimated that 70 percent of his Spartakiade team would be back next July—never had competed in the U.S.S.R. before. For them, Spartakiade has been a valuable experience.

GET READY TO WAIT

They know that next year they should bring books, playing cards, tapes and stoic attitudes, for they will find little in the way of homestyle amusements in Moscow. They will know what creature comforts cannot be taken for granted. And they will be acclimated to such Soviet idiosyncrasies as a 30-minute waiting period in a designated area before all events, intended to assure that one event follows another with precision timing.

"That is something you can tell athletes about, but until they experience it themselves, they won't really know how it affects them and how they should adjust their warmup," said Carnes. "We are better prepared now. These games have served their purpose in that regard. But I wish we had more athletes here."

The Americans who show up next July without competitive experience in Soviet Union, may live to regret it.

"It's definitely a cultural shock coming here," said Vinson. "They are going to find a lot of things that they are accustomed to missing, and if they don't prepare for them before they leave they'll have problems.

"I hope the coaches have taken notes on the weather. It is supposed to be warm and dry here in July, but it has been chilly and wet. If we have the same weather this time next year, the athletes will practically need fur coats."

Most residents and tourists drink the tap water in Moscow without unpleasant consequences, but Vinson got sick from it on one of his trips and now drinks only mineral water, tea and soft drinks. And although the local Olympic Organizing Committee has promised a wide variety of diets and prompt service in the Olympic Village—and shown films of chefs and waiters being scrupulously trained—Vinson and other old U.S.S.R. hands remain skeptical.

NO LANGUAGE PROBLEM

"We don't have a language problem with meals or taxis or things like that because they understand rubles and dollars perfectly," Vinson went on. "Anything you want to buy, you can make yourself understood. But when you go to the track it's a different story, because we can't even read our names in their alphabet."

Vinson and a number of his conferees expect American, and other unsuspecting foreigners, to get "taken to the cleaners" next year by wily Soviets.

"The Spartakiade proved that we have some potential, but things are going to be kind of hectic when we get here," said Vinson. "It was interesting to note the lane assignments we got: We pretty much knew we were going to be on the extreme outside, either lane 1 or lane 8 every time. And who says they can't control things like that at the Olympics, too.

"They pick the officials, and if you question them it's like saying, 'Okay, this is war.' You don't dictate to a country like the Soviet Union, even though the International Olympic Committee is supposed to be in charge.

"In Montreal, we had eight practice tracks. Here there is only one, and every nation on the face of the earth is going to want to use that. The Soviets will have their own track. They have access to facilities the other athletes won't be able to use. For all we know, they may have a track underground someplace. They know what they are doing and we don't.

"SLICK, SLY TREATMENT

"Think about the political overtones of next year, and they're going to get away with as much as they possibly can, and they'll be as slick and sly as they can. It's not going to be detectable. I do think we'll get taken to the cleaners that way.

"I can hear our coaches now, going on TV and crying, 'Those guys! Everything is wrong. They're putting us in bad lanes, disqualifying our people, robbing us with their judges.' And the Soviets will be laughing.

"The psyche is going to be something else, too," Vinson predicted. "I wouldn't be surprised to see them put some English language shows on radio and TV just so we can understand them, say, 'The Americans are getting beat bad.' It's interesting to see how they handled the television of Spartakiade. They wanted to emphasize the events in which the Soviets figured to do well. They showed their fighters beating up on guys. When there was a fight they expected the Russian to win, and an American started tap dancing on his face, they cut right away to another sport in the middle of a round. "Now let's go to swimming . . ."

For these and other reasons, the Americans next summer will set up pre-Olympic training camps, in track and field and perhaps other sports, in cities outside the Soviet Union. These will be areas where the athletes can be outfitted and complete their training with a minimum of hassle, and they then will fly into Moscow two or three days before their events.

The Soviets resent this attempt to commute, but plans already are underway. Several sites have been considered, with well-equipped facilities in Oslo and Zurich the most likely to be chosen. Two assistant coaches were dispatched this week to examine other possible headquarters in Finland and Sweden.

"The Soviets really don't appreciate the idea, but it's good for the athletes. We'll do our own thing," said Vinson.●

HOME MAINTENANCE FOR THE ELDERLY

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. HARKIN. Mr. Speaker, I am submitting a bill to the Congress which will establish home maintenance assistance programs to enable older persons to continue living independently in a home environment. I developed this legislation with the help of two senior citizen interns who worked in my office here in Washington for 2 weeks in May of this year. Mrs. Alice Jensen, of Harlan, Iowa, and Mrs. Loreah Wilson, of Earlham, Iowa were a valuable addition to my staff, and they are my eyes and ears back in Iowa. They were involved in a number of important activities, one of which was discussing with me the needs of the elderly in their own communities. The problem of home maintenance services was cited as an important need, and together, we discussed the legislation that was needed to address this problem.

The bill which I am introducing directs each State to establish and carry out a program to provide home maintenance assistance to older individuals. It allocates $20 million to this end, and provides guidelines to area agencies on aging in developing needed services for the elderly in each community.

I think this legislation is particularly important, because today's programs in this area are a patchwork of local, State, Federal, and volunteer efforts. My bill will provide the incentive and funds to coordinate these efforts to be sure that these services are available to every older individual who needs them.

In Iowa, as in many States, many elderly people would like to continue living in their homes as long as possible, and could do so if certain services, such as yard maintenance, carpentry repair, plumbing repair, painting, and appliance servicing were available to them at a reduced rate. How much better it is to help provide these services than to see our elderly citizens forced to move to nursing homes before they must, often at taxpayer expense. I believe this is a bill which my colleagues will be glad to support, and I take great pride in submitting it to the Congress, in behalf of my senior interns, Alice Jensen and Loreah Wilson, and the elderly people of Iowa.

A brief discussion of what this bill will and will not accomplish follows:

BRIEF DISCUSSION

What does this legislation do? It amends the Social Security act which will establish home maintenance assistance programs for each state to enable older persons to continue living independently in a home environment.

Why is it needed? Currently, home maintenance services are one of many programs suggested in the Older Americans Act, but there is no specific federal legislative mandate, or earmarked funds for these services. Available services are a hodge podge of state, federal, and volunteer efforts, and the elderly in many communities "fall between the cracks". My bill provides funds and direction to be sure that these services are available in every community.

How is it administered? My bill requires every state to establish and carry out a program of home maintenance services for the elderly. This means that in the state plans which are submitted by all states in order to receive their Older Americans Act funds, the state must describe the way that the services are provided, and the needs of the state's elderly met. The bill does not force States to spend a certain percentage of their funds on the program, however. Realizing that many Area Agencies are already providing these services with existing funds and volunteer help, the bill leaves the actual allocation of funds up to the States, based on assessments of needs of Area Agencies on Aging.

How much will it cost? The bill authorizes 20 million dollars, which will be distributed to the states according to the formula used for distribution of Older Americans funds (based on states' elderly population.) The money is earmarked, however, so that it must be spent on chore maintenance programs, not siphoned off into other programs. The current authorization for the Older Americans program is $480 million. This bill raises the authorization to 500 million.

How does the taxpayer benefit? Even though this bill authorizes an additional 20 million in federal funds, it has the potential of being a money saver in the long run. Although statistics aren't available, hundreds of elderly people in every state have to leave their homes prematurely because they can no longer do home maintenance chores, or afford to have them done. It costs the State $12,000 per year to pay for nursing home care for indigent elderly people. How much better it would be for older people to continue to live in their own homes by providing assistance with appliance servicing and repairs, electrical repairs, yard maintenance, snow removal, carpentry repair work, and other home maintenance services.

What will happen to existing programs? Some communities already have chore services and home maintenance programs in one form or another. (Earlham, for example). This legislation will not eliminate existing programs, or replace volunteer help with paid employees. What is does specify is that the Area agenceis coordinate and report on private and volunteer activities to be sure that the services are indeed being provided where needed. The state will decide which Area Agenceis are in need of additional funds to develop home maintenance programs, but no Area Agency will lose money because they have already provided the service. Our bill adds money to make sure that existing services do not need to be cut back to implement the new requirements of State agencies on aging.

What kinds of home maintenance services may be provided? This legislation leaves up to the area agencies and states to develop the programs that best meet local needs, recognizing the need for flexibility. The legislation does suggest several ways that home maintenance programs may be provided, including 1) support and coordination of volunteer efforts 2) hiring people to provide services to the elderly 3) subsidizing local businesses so that services may be provided at a substantially lower rate for low-income elderly.

Who can receive these subsidized services? This bill specifies that the home maintenance assistance shall be available to "low-income" individuals. In keeping with the Older Americans Act, low-income means any older individual who has a low income (as determined by the Commissioner), and includes any older individual whose income is not more than 125 percent of the poverty guidelines established by the Bureau of Labor Statistics.●

U.S. TANK SALES TO JORDAN

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. DODD. Mr. Speaker, I have long advocated that the United States follow a program of incentives for peace in the Middle East. Very simply, the basis of such a program would be for this country to reward those nations in the Middle East who are sincerely interested in furthering peace in that troubled region. At the same time, we should refrain from giving financial, political, and military aid to nations which have been obstacles to peace in the Middle East.

The United States has already gallantly shouldered its responsibility for providing assistance to the peacemakers of the region: Israel and Egypt. However, it appears that we also prepared to transfer sophisticated military equipment to a nation which has been less than enthusiastic about the peace agreement which Israel and Egypt have painstakingly negotiated. The nation I am referring to is Jordan.

Recently, the administration announced its intention to sell Jordan up to 300 M-60A3 main battle tanks for approximately $300 million. I believe that this sale should be scrutinized very carefully, not only in terms of how it might affect the Arab-Israeli military balance, but also in terms of how the United States uses its influence to promote peace in the Middle East. Considering the fact that Jordan remains committed to a boycott of Egypt and has denounced the Egypt-Israel peace treaty, as well as refusing to negotiate with Israel, I question whether this is the proper time to transfer advanced weaponry to Jordan. It would be unfortunate indeed if our action were seen as a reward for Jordanian behavior.

The M-60A3 tank is the most sophisticated American tank now in production. It is, in fact, the main battle tank of the U.S. Army. The M-60 utilizes a 105-mm main gun and can carry 63 rounds of high-explosive ammunition. With a combat range of 310 miles and a top speed of 30 miles an hour, the M-60 tank is a formidable weapon.

The Jordanian Government has requested up to 300 M-60A3 tanks to replace its older force of American M-48 tanks. While I understand that the Carter administration will request a written guarantee that the M-60 replace the M-48's on a one-for-one basis, this increase in armored capability will pose a greater threat to Israel at a time when our stated policy is to reduce tensions in the region.

Politically, Jordan has consistently sought to frustrate Israeli and Egyptian efforts to achieve peace. At the first Baghdad Arab summit, King Hussein voted for the resolution which called on Egypt "not to sign any reconciliation treaty with the enemy." In March of 1979, Jordan voted for the second Baghdad summit resolutions which accused Egypt of "collusion with the United States" and "standing by the side of the Zionist enemy." The same resolutions "condemned the policy that the United States is practicing, regarding its role in concluding the Camp David agreements and the Israeli-Egyptian treaty." The second summit also demanded that Arab States sever diplomatic and economic relations with Egypt. Jordan quickly complied.

I question whether Jordan should therefore be granted this type of substantial military assistance.

I understand that Mr. Hamilton, chairman of the Subcommittee on Europe and the Middle East of the Foreign Affairs Committee, held hearings yesterday on a number of proposed arms sales, and has requested further information on the sale of M-60 tanks to Jordan. If further hearings on this sale are held, I hope that the subcommittee will carefully weigh the supposed benefits of this sale against Jordan's recent record of opposing United States, Israeli, and Egyptian efforts to bring peace to the Middle East.●

FEDERAL RESEARCH GRANTS

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. PURSELL. Mr. Speaker, earlier this year the distinguished Comptroller General of the United States, Elmer B. Staats, addressed the National Graduate University's 19th Institute on Federal Funding concerning the subject of "Federal Research Grants: Maintaining Public Accountability Without Inhibiting Creative Research." His remarks were the basis for a recent article in Science magazine.

As the congressional representative of one of the Nation's most noted research universities, the University of Michigan, I have been very much interested and involved in the research partnership between the Federal Government and our schools of higher learning. Mr. Staats notes that there "are signs of strain" in the partnership and then he goes on to suggest ways of improving this important relationship. I would like to share his comments, with the hope and expectation that they will help contribute to efforts aimed at maintaining our country's unexcelled capability for basic research.

The comments follow:

FEDERAL RESEARCH GRANTS: MAINTAINING PUBLIC ACCOUNTABILITY WITHOUT INHIBITING CREATIVE RESEARCH

(By Elmer B. Staats)

Finding an appropriate working definition of accountability for public funds used to support basic research at universities is a matter of great importance. This topic currently is eliciting wide interest and kindling very strong reactons in concerned parties. In this article I will describe the necessity for both accountability and the freedom essential to creative research. Although I will focus on university research, many of the same issues arise in relation to other institutions performing research, development, demonstrations, training, or other services under federal grants.

INTRODUCTION

Few people, I believe, would question that science and technology have made basic contributions toward meeting societal needs. In almost every sector of our economy, almost every aspect of our modern lives, science and technology have major impacts. This was appropriately stated by President Carter in his Science and Technology Message to Congress on 27 March:

"We look to the fruits of science and technology to improve our health by curing illness and preventing disease and disability. We expect science and technology to find new sources of energy, to feed the world's growing population, to provide new tools for our national security, and to prevent unwise applications of science and technology. The health of our economy has been especially tied to science and technology; they have been key factors in generating growth, jobs, and productivity through innovation. Indeed, most of the great undertakings we face today as a nation have a scientific or technological component."

Whether short- or long-term in its effects, basic research is the fundamental seed for scientific and technological advancement. The importance of basic research has been recognized by the federal government, as shown by the following three trends:

(1) From 1960 to 1978, federal spending for basic research has almost tripled (in constant 1972 dollars) from around $1 billion to approximately $2.8 billion.

(2) During this time, the importance of the universities as performers of basic research has increased greatly. In 1958, universities performed 32 percent of all U.S. basic research. This figure rose to 52 percent by 1978.

(3) Finally, in 1978 the universities depended on the government for 72 percent of total university support for basic research and, on the other hand, 54 percent of total federal funds spent on basic research was used to support basic research at universities.

It is thus apparent that the federal government and the universities have become very dependent on one another for the performance and support for our nation's basic research. However, there are signs of strain in this partnership. A report entitled *The State of Academic Science* (1) has recently found substantial anxiety in the research community over the future of this relationship. The National Science Board's *Science at the Bicentennial* (2) also revealed the growing tensions. Last November, Jerome Wiesner, president of the Massachusetts Institute of Technology, gave an address in which he expressed "grave concern that the basic federal-academic relationship . . . is floundering. . . . [I]t has begun to deteriorate and come apart so badly that we have reached a point of crisis that could see the effectiveness of this nation's major research universities seriously curtailed at a time when it sorely needs to be enhanced."

In recognition of the importance of these tensions, an independent National Commission on Research created in October 1978 is taking an in-depth look at the issues involved. A major point of contention and area of study of the commission is the determination of an appropriate operating definition of acountability. The fundamental dilemma here is how to achieve adequate accountability for public funds without imposing excessive controls, direction, and administrative burden on research grantees, which would inhibit freedom of intellectual inquiry and efficient performance of research. Although much concern has been expressed about this issue, at this time there is insufficient evidence to determine the magnitude of the problem.

As a first step toward improving the relationship between the federal government and the universities, there must be discussion and understanding between sponsors and performers. Each must recognize how the other operates, the degree of flexibility, the pressures and constraints, and so on. With this in mind, I will now briefly describe important attributes of the research process and then of the need for federal accountability, with particular emphasis on what accountability means in various contexts.

THE NATURE OF ACADEMIC RESEARCH

There are several characteristics of university basic research which are relevant to a discussion of accountability and which I believe need to be understood. I would like to summarize some of those characteristics now to provide context for my remarks.

The pluralism so endemic to the way this country supports and performs science and technology is especially characteristic of research universities. Not only is each university an independent entity, but its research is performed in independent departments, which, in turn, are composed of individual, autonomous researchers. The structure and organization of this environment are generally nonhierarchical and tend to be loose and flexible with much autonomy of the individual parts.

The keystone of the research process, however, is the individual researcher or the generally small group of researchers who perform the work. The process of investigation itself, like the overall "climate," is characterized by a lack of hierarchy. The researcher conceives, directs, performs, and publishes his work, often in conjunction with graduate students, who are essentially practicing apprentices. He is his own director, his own boss. He has a heightened sense of self-reliance and autonomy, and this serves as crucial motivation for his work. As a consequence, a researcher will be particularly sensitive to any externally imposed constraints on his time and investigative effort.

In fact, such autonomy has come to be viewed by many scientists, as well as nonscientists, as necessary to scientific excellence. It has, however, served us well: our science and technology effort has been a prodigious success by any standards.

This situation has been strongly encouraged by the type of financial support the government has provided for basic research. Project grant funding began its development in various private foundations before World War II. After the war, it was adopted as a special type of government contract which recognized the need to avoid detailed and short-term political control of research. I will return to the unique status of grants in a moment. Peer review remains the primary system for selecting proposals to be funded. This system is an outgrowth of a fundamental type of accountability to which all scientific research is subjected: there is an intensive scrutiny that scientists aim at each other's work, a continual testing and retesting of experiments, ideas, and theories that is the rite of passage for all research. This type of scrutiny is the way scientists establish the reliability and supportability of their working methods and results. Peer review represents an institutionalized form of this and is essentially a scientific method of accounting for research, reviewing science on its own terms.

Despite recent criticism, it appears, in principle, to be the best way we know to determine which research most merits support. In general terms, peer review is the method by which the government is accountable to the public for its selection of science to support. However, there are other types of accountability which are integral to federal sponsorship of research.

THE GOVERNMENT'S ROLE IN ACCOUNTABILITY

This brings me to discussing the general characteristics of the government's position with regard to accountability. As we are all aware, the government, as the steward of public monies entrusted to it, acts as sponsor for activities which will enhance our quality of life. It is in the broadest terms accouhtable to the public for engaging high-quality services. Such accountability is very complex and involves several separate facets: the need to be responsible for selection of the performer, and to ensure that the appropriate procedures or methods are used by the performer, that the resulting service is of acceptable quality and meets a recognized need, and that the public funds are spent in accord with the terms of the contract.

I would like to emphasize that the basic intention of a research grant is to support, not to procure in the sense that one procures hardware. It inherently involves a long-term view, in that it supports and encourages effort which is characterized by its perennial and unspecific potential for social benefits, not by its ability to generate specific products or services. In the context of government support, scientific research is a particularly unique and esoteric endeavor. Its primary form of accountability—peer review—reflects this uniqueness. Peer review still appears to be the best method of accounting for the substance of scientific research, as opposed to other aspects, such as the finances.

Most of the controversy focuses primarily on financial accountability. Financial accountability is concerned with monitoring whether funds are spent for their intended, agreed upon purpose. The government carries a strong mandate from the public to ensure that public funds are spent as intended without diversion, waste, or fraud.

Recently, public pressure for accountability in goverment has increased significantly. This pressure can be attributed to several factors.

(1) As continuing inflation makes people more aware of their personal budget limitations, more public attention is given to how tax dollars are spent. This is best reflected in initiatives to limit taxing authority and public expenditures.

(2) There appears to be increasing public mistrust of large institutions. This is due in major part to exposures of carelessness and instances of outright fraud. This mistrust is not diminished by arguments that these instances may represent only a minor percentage of public expenditures.

(3) There also has been increasing tightening of federal spending, which includes certain cuts in the budget. Consequently, there is greater competition for increasingly scarce funds.

(4) Related to this budget tightening and competition over funds is an increasing degree of congressional oversight of federal programs.

This pressure for financial accountability applies to all programs of the government, in all instances where the government has stewardship for public funds. Universities are not different from other institutions that receive public funds—public money must be accounted for. Public pressure for fiscal accountability for university research is especially called for since the public understands little of what the research actually entails. Fiscal controls at least offer some degree of assurance that funds are being used as authorized on research.

In addition, as I previously mentioned in describing the research process, the other major form of accountability, that for the substance of the expenditure, is already taken out of the public domain by the peer review system, which is internal to the research process. It therefore stands to reason that the public requires increased fiscal accountability for university research in order to retain some check on public research expenditures.

This very real, and frankly legitimate, demand for strong accountability presents a major challenge to the university community, as well as to the federal government. Precise, uniformly categorized accounting systems may not be appropriate for university research, with its emphasis on individual autonomy. The key issue is how to ensure appropriate stewardship for funds spent in support of research, without imposing excessive controls, direction, and administrative burden on research grantees. It is in the best interests of both the government and the universities to guard against the imposition of excessive controls, which would restrict the research freedom and autonomy and thus affect the performance of research.

WHAT THE FEDERAL GOVERNMENT AND UNIVERSITIES MUST DO

The federal government must continue to provide major support for basic research in both natural and social sciences and the engineering disciplines. Sponsors must recognize that the very nature of basic research is long-term and exploratory, with little or no assurance of predetermined positive results. While it is necessary to assure wise and accountable expenditure of public funds, we in the government should seek ways to fulfill this need without inhibiting freedom of intellectual inquiry and risk-taking.

I believe that the government should establish a long-term plan for investment in basic research. In addition, I believe that it is important to provide a stable base for funding from year to year. As longer-range plans are developed, Congress should also consider greater use of multiyear and advanced funding methods for basic research and other selected R. & D. efforts which require more than 1 year to complete. I stated these views in my testimony in April before the House Committee on Science and Technology.

I am pleased by the Carter Administration's support of basic research. James McIntyre, director of the Office of Management and Budget, and Frank Press, director of the Office of Science and Technology Policy, wrote a memorandum to the heads of departments and agencies last summer to advise them of the "need for providing an adequate level of basic research support" despite the constraints of budget ceilings. The letter stated, "It is the policy of this Administration to assure effective support of basic or long-term of research, particularly to provide a better basis for decision-making or for dealing with long-term national problems."

We in the federal government, in regard to basic research, must understand that fiscal accountability is only a means of insuring that research is carried out. Such accountability is not an end in itself. With this in mind, the government needs to review how standards for accountability are affecting university research. We need to recognize the unique needs of the universities—that accounting standards developed by the government for nonacademic institutions may not be appropriate for uniform application to universities. Thus, accountability must be achieved in such a way as to minimize controls and time-consuming administrative procedures, which can detract from research. I might add that it may be constructive for the government to treat general health, safety, and equal employment opportunity regulations pertaining to universities in the same perspective—these regulations should be examined in light of their impacts on research and applied so that their adverse effects are minimized, while they meet the needs for which they are intended.

In administering grants for basic research, individual federal agencies must exercise sufficient oversight to ensure that the peer-review system is consistent, well managed, and fair, and that adequate records are kept of the review process. The agencies must also fulfill their responsibility for financial accountability and monitor grant expenditures to ensure that the funds are expended for the purposes intended.

On the university side, it seems that several things are needed. First, although I have to some degree emphasized the unique position of university research and the importance of government officials recognizing this, there is an equal need for university understanding of the government's role with respect to accountability. There must be cognizance of the general need for public accountability in our democracy, as well as the growing pressures for this and how such pressures affect governmental relations. In general, there is a need for adaptability to a changing context: simple advocacy or looking back on former times as a "paradise lost" will not serve this need.

Second, there is a need to sit down with federal officials in the attempt to forge greater mutual understanding. University officials and researchers should explain their own special requirements in light of the fact that they, like other performers under government sponsorship, are not unique to the point of requiring exemption from fiscal accountability. The intention must be mutual cooperation so that acceptable solutions to problems of accountabiliity can be found. An important step in this direction has been taken by the National Commission on Research in its creation of a subcommittee concerned with this subject. This subcommittee is doing an extensive review of both government and university views on accountability, and I, along with members of my staff, have met with them and discussed some of the issues involved.

More specifically, university officials need to thoroughly appraise their present financial procedures to ensure compliance with existing federal requirements, as well as to present university views concerning proposed changes to these requirements.

Also, it might be helpful for university associations and professional societies to promote greater public understanding of the nature and importance of scientific research, and of the central role of autonomy in its continued excellence. Again, rather than stressing the uniqueness of university research, focusing on what it needs to operate optimally is needed.

WHAT THE GENERAL ACCOUNTING OFFICE IS DOING IN THIS AREA

The General Accounting Office has a great interest in the issues related to basic research. Related work currently in progress, or being planned includes the following:

(1) A review, in draft, of the adequacy of Health, Education, and Welfare audits of the 20 academic institutions that received the most federal support during fiscal year 1975, and for which HEW was assigned auditing responsibility. This federal support included funds for R & D as well as for facilities and equipment, fellowships and traineeships, and other general funding. A tentative conclusion is that some of the audits are not as effective and timely as they could be.

(2) A review, in draft, of indirect costs of health research, how they are computed, and why they are increasing as rapidly. Data were obtained from the analysis of questionnaire responses from 444 federal grantees and from interviews at 14 grantee institutions. This review explains why indirect cost rates cannot be meaningfully compared among grantees and demonstrates inconsistencies in the principles and practices used to make indirect cost determinations.

(3) A study, in progress, of research proposal review and monitoring of grants to universities by the National Science Foundation and the National Institutes of Health to determine how well the peer review system assesses scientific accountability and whether grant monitoring by NSF and NIH is effective. For this study, we will examine 75 grants.

(4) A study, being planned, which will examine federal policies and institutional relationships affecting government-industry-university cooperation in the area of basic research. This study will include an examination of foreign experiences in this area.

In conclusion, there is a great challenge to all of us to find a means of ensuring accountability for money spent on research without choking off creativity. This challenge must be met by a collaborative effort between universities and the government to make certain that the U.S. capability for basic research is maintained.

REFERENCES AND NOTES

1. B. L. R. Smith and J. J. Karlesky, *The State of Academic Science*, vol. 1, *Summary of Major Findings* (Change Magazine Press, New Rochelle, N.Y., 1977).

2. National Science Board, *Science at the Bicentennial: A Report from the Research Community* (NSB 76-1, Government Printing Office, Washington, D.C., 1976).●

RETIREMENT OF JOHN M. KUGLITSCH, GREENDALE VILLAGE MANAGER

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. ZABLOCKI. Mr. Speaker, in keeping with the tradition of recognizing outstanding public service wherever we find it, I would like to bring to the attention of the House the long and important role played by Mr. John M. Kuglitsch as the manager of the Village of Greendale, a suburb of Milwaukee.

Mr. Kuglitsch began his distinguished association with Greendale in 1947 as clerk-treasurer. In his job as village manager from 1950 to 1979 he was closely involved in Greendale's transition from Federal Government ownership to a model community of privately-owned homes.

Mr. Kuglitsch has assisted in the molding of a community that is a credit to the metropolitan Milwaukee area, an asset to the State of Wisconsin, and a village with pride.

Mr. Speaker, upon the occasion of his retirement and as further testimony to his outstanding career, I would like to share with my colleagues the following article from the Southwest Post on the subject of the dinner honoring his 32 years of service to Greendale:

KUGLITSCH RETIRES IN STYLE

(By Cynthia Dries)

John Kuglitsch got more than "just dessert" at a testimonial dinner held at the Ramada Inn, 6401 S. 13th St., last Thursday evening. The dinner was in honor of his 32 years tenure with the village of Greendale.

Accolades and admiration were not in short supply as many current and former village officials, as well as family and friends, gathered to praise Kuglitsch upon his retirement from his successful term as village manager from October, 1950, until June 30 of this year.

The evening began much like a "roast" with a contrived slide show depicting Kuglitsch as a hob-nobbing, aggressive village emissary. Nothing, however, could be further from the truth. And as the evening progressed, descriptions like "loyal, honest, diplomatic, professional and friendly" were spoken over and over again.

"John was there to contribute his efforts in turning a government experimental settlement into a strong, well-knit community," said Gerald Schwerm, former Brown Deer Village Manager and recently appointed director of transportation for Milwaukee.

"He talked to the people," Schwerm added, and that statement reflected the feelings of all of the more than 350 people in attendance.

City managers from other communities, village officials, and representatives from Greendale's business community all attested to Kuglitsch's congenial manner and devotion to duty. Some came from out of state and many from communities in Northern Wisconsin. Even the president of the League of Suburban Municipalities called Kuglitsch "an unshakable leaf."

Words, however, were not the only commendations Kuglitsch received. State Sen. Lynn Adelman (D-New Berlin) presented him with a special citation, duly enacted by both houses of the State Legislature, signifying appreciation of his dedication to the village and his courtesy to the people.

Another citation prepared by the Milwaukee County Board of Supervisors and presented by County Supervisor Dan Casey rewarded Kuglitsch's "foresight in managing a fiscally sound and orderly developed community" that had grown 148 percent since its conception 41 years ago.

Bill Little, "Wauwatosa's City Manager, presented Kuglitsch with an honorary life membership in the International City Managers Association. He explained that Kuglitsch rated in the top 1 to 2 percent nationwide as a village manager with such extended tenure.

An oil portrait that pictured Kuglitsch in front of the Village Hall that he had come to know as a second home was the final grandiose presentation of the evening.

"It really flabbergasts me, this overwhelming tribute to someone who just did his job," said Kuglitsch in his personable, unassuming style. He then went on to applaud all those people with whom he worked and who helped to make his job less of a burden.

As one close friend, business associate and golfing buddy put it, "John and someone might not always agree, but he would always listen and say 'show me' if he recognized their point was valid. These are not just flowery phrases here tonight, he's a very dear man and we love him." ●

NATION'S FIRST MINORITY FIRM TO OPERATE RAILROAD LINE

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. SAWYER. Mr. Speaker, efficient and effective transportation of goods is one of the most vital elements required for a healthy and stable business environment. The evidence indicates that without such service it becomes impossible to continue a profitable business, which can have a significant impact on local employment, community growth and economic development.

Recently in my Congressional District of Grand Rapids, Mich., the Kent-Barry-Eaton Connecting Railway Co. (KBE) became the first minority owned business in the Nation to operate a railroad. Without private operation of the important rail line, numerous industries including agriculture, lumber, and automobile, would be affected forcing shippers to use more expensive rates for alternative transportation. This in turn causes the price of products to increase and puts the businesses at a competitive disadvantage with other firms.

I commend the KBE for its determination and dedication in undertaking this project which will serve an important need in our local communities. I also invite my colleagues' attention to this progressive enterprise which represents a first for the Nation.

I submit newspaper articles from the Washington Post and Grand Rapids Press which describes this project in greater detail:

[From the Grand Rapids (Mich.) Press, July 24, 1979]

TRAIN STARTS ROLLING ON NATION'S FIRST BLACK-OWNED RAIL LINE

(By Chris Meehan)

Two years of hard work and ardent lobbying paid off recently when a five-car freight train laden with lumber and grain puled out of Vermontville and headed north for Grand Rapids.

"We had the determination, persistence and the knowledge to get this off the ground. We are very happy," said Calvin Shelton, president of the Kent-Barry-Eaton Connecting Railway (KBE), the only black-owned railroad in the country.

The KBE hauls freight along a 42-mile stretch of track that formerly was owned by Conrail. The railroad's owners got help from the Minority Business Resource Center, a division of the federal Department of Transportation, to get their venture off the ground.

The driving force behind the railroad is Shelton, 55, a former Detroit trolley driver and mass-transit supervisor.

KBE has its headquarters in the old Penn Central freight yards at 6908 Patterson Ave. SE in Dutton. The railroad company is housed in one portion of the building and the construction firm that is doing the major overhaul of the tracks is in the other.

Shelton said Monday he got the inspiration for the railroad company years ago while working in Detroit's transportation department. He still lives in Detroit.

It wasn't until two years ago, with the backing of nine others, including his wife, that he set out to realize a dream of owning and operating his own railroad.

The first step, he said, was to write a proposal, "putting our desires and dreams on paper, trying to see if we could make them work."

The proposal was sent to the state transportation department which approved Shelton's plan earlier this year.

Shelton and his partners put $1,500 apiece together to get the railroad started. That wasn't enough to persuade the state that it should take the line away from Conrail and lease it to the minority businessmen. The tracks were taken over by the state when Penn Central went bankrupt.

It was necessary to get a state and federal subsidy of $574,590, as well as a loan of $86,000 from the Minority Business Resource Center in Washington, D.C., to get things moving. The subsidy was approved last year, and the loan went through last week.

The federal government approved the loan after it got a commitment from area grain dealers that they would do business with the new railroad line.

Part of the state subsidy will be paid directly to a construction firm to do major repair work on the stretch of tracks, a state official said. The rest of the money KBE itself will use to do such minor repair work as fixing crossing signals.

"Even with my background in transportation, I didn't know very much about railroads.

"But the more I got into it, the more I learned, and the more I enjoyed it," said Shelton, who plans to move his family to Vermontville within the next few weeks so that he can more easily oversee railroad operations.

The KBE will make at least three round trips to Grand Rapids every week, stopping along the way in Caledonia, Middleville, Nashville and Hastings to take on and unload grain, lumber, fertilizer and other items.

Right now, Shelton said, four men are working full-time with the railroad. "But we're going to be hiring more people," he said, adding that the company will hire from the Vermontville area.

Shelton hopes the company can eventually work out an agreement to upgrade and then extend the 42-mile line east from Vermontville to Charlotte.

"That would give us better access to other areas for shipping," he said.

Shelton said he expects to add more cars to the train within the next few days. "This is the height of the harvest season. We've got to get the cars so that we can serve our customers," he said.

In a Press story last year, Shelton said, "Conrail doesn't give the service." Shelton said then that he can earn more money than Conrail by using large doses of old-fashioned business enterprise.

Looking ahead, Shelton said the company may branch out into the area of mass transportation. "Passenger service is a definite possibility. That's another thing that we could make happen."

A private railroad consultant will be helping the line during the first months of operation.

Shelton is confident the line will be a success.

"The whole area around Vermontville is growing," he said, "and we want to grow right along with it."

[From the Washington Post, July 24, 1979]

MINORITY-OWNED FIRM RUNNING MICH. RAILROAD

(By Jane Seaberry)

A Grand Rapids company has become the first minority-owned firm to operate a railroad, the Department of Transportation said yesterday.

The Kent-Barry-Eaton Connection Railway Co., began operating a 42-mile stretch of track on July 15 from Grand Rapids to Vermontville, Mich., which was formerly operated by Consolidated Rail Corp.

However, a Michigan Department of Transportation official said that the minority operation will be subsidized by about $750,000 of Michigan taxpayers' funds for the first nine months as opposed to about $95,000 for a year under Conrail's operation.

The stretch of track will service 11 customers, six of whom will be regulars, according to Edward Goodman, administrator for the state Railroad and Port Facility Division. Running the railroad for such a large amount of money to serve those customers "is not worth it," Goodman said, but it is worth keeping the jobs that might be lost if the railroad were not operated.

Goodman said he doesn't know how many jobs would be affected if the railroad were not operated.

In Michigan, "Nine hundred and seventeen miles of track are subsidized to keep people employed," Goodman said. "Otherwise we'd pay more in welfare payments."

The operation by the minority-owned firm is expected to be more efficient than that under Conrail, Goodman said. He added that, under the minority firm, subsidies no longer will be necessary after nine years whereas, "With Conrail, there's no expectation of reaching that point."

The 10-person minority firm has no experience with railroads but it has hired a consultant, Goodman said. The track services shipments of automobile parts, grain and lumber products from rural western Michigan to main railroads, Goodman said.●

ILLEGAL ALIEN CONTROL ACT OF 1979

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. BURGENER. Mr. Speaker, today I have introduced legislation aimed at dealing with the massive influx of illegal aliens which are swarming across our borders every day due to the almost complete lack of enforcement of our immigration laws.

The Comprehensive Illegal Alien Control Act represents an overall effort to deal with this pressing problem, and I am pleased to have a number of cosponsors join me in offering the legislation.

The bill is a tough one which calls for civil penalties on employers who knowingly hire illegal aliens, but a realistic one which recognizes that we often need temporary foreign labor to perform jobs Americans simply will not perform.

The bill calls, first, for a boost in our Border Patrol strength to a level of 3,800, a one-third increase in the current manning levels of the Border Patrol. This increase is necessary, Mr. Speaker, because current Border Patrol manning levels are simply inadequate to cope with the tide of illegals sweeping across our borders. Border Patrol officers admit they are only apprehending one of every three or four illegals who attempt to enter the country, and yet, apprehensions along the San Diego County, Calif., border alone, are averaging 35,000 to 45,000 per month, and on weekend nights, apprehensions sometimes total over 2,000 per night.

The Border Patrol is demoralized and underequipped, trying to fulfill their important mission with inadequate backing from us.

The measure tasks the Commissioner of Social Security to develop a tamper-proof social security card to protect the integrity of the social security account and empowers the Social Security Administration to verify, through State vital statistics agencies, that an applicant is who he says he is. Currently, if an applicant is armed with fraudulent documents which are convincing, he can obtain a social security account number with little danger of detection.

The legislation imposes civil penalties on employers who knowingly hire illegal aliens, but gives the employer a simple mechanism to check on a job applicant's citizenship status through the Social Security System's offices.

Almost important provision of the bill is the establishment of a "guest labor" program which recognizes that various U.S. employers, particularly in the agricultural sector, desparately need foreign labor because Americans will simply not perform the difficult work required. Under the guest labor program, the Secretary of Labor, upon the request of an employer, can admit a certain number of foreign workers for a period not to exceed 1 year if he certifies that sufficient numbers of domestic workers are not available to perform the work needed. The Secretary must conduct the certification in a timely fashion, within a period of 20 days upon request of the employer.

Lastly, the bill calls for stiffer criminal penalties for those who prey upon illegal aliens, often exploiting them for huge profits. Fraudulent document artists and "coyotes," those who deliver illegals to a U.S. destination, often under inhumane conditions and at an exorbitant cost, would receive stiffer fines and sentences if convicted under current statutes.

Mr. Speaker, if current estimates are correct, within 5 or 6 years and perhaps even sooner, illegal aliens will comprise 10 percent of the U.S. population. The total lack of enforcement of our immigration laws has bred an impunity for them which renders them totally unenforceable.

Mr. Speaker, we must either enforce the law or change it where needed, and the Comprehensive Illegal Alien Control Act seeks to do both. I hope many of my colleagues will join me in cosponsoring it, as a well-stated and forceful policy for this country is needed now.●

BIG OIL DISINVESTING IN AMERICAN ENERGY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. CONYERS. Mr. Speaker, the American people's anxiety about oil is rooted in their perception that this basic resource is controlled by distant, arbitrary, and arrogant powers, in particular the small number of oil-producing countries that form the OPEC cartel and the handful of multinational oil companies that dominate world oil markets.

The public's sense of impotence in the face of this reality is reinforced by the glaring inconsistencies and contradictions that surround the pricing and production of petroleum. One day there are abrupt shortages and the next day the shortages disappear. The public is told, on the one hand, that vast, untapped oil reserves exist in the world, and then is told, on the other, that the world is and will always be short of oil. The price of oil continues to soar, while the cost of production remains relatively stable. Given the extraordinary spread between the cost of production of oil put aboard a tanker (which in the case of Saudi oil is about 20 cents per barrel) and the price charged ($18 to $20 per barrel), the public has every right to ask why other firms have not entered the market, which established economic theory dictates should happen.

Of late, the American people have also come to learn that, despite all the hoopla generated by the oil industry about its need for additional incentives to spur new oil production, that the companies have been diverting their capital away from energy production into every other kind of investment—copper mining for Arco; Latin American cosmetic firms for Gulf; retailing such as Montgomery Ward for Mobil; French rubber for Exxon, among others. The cascading acquisitions of American and foreign firms, totally unrelated to energy, by the big American oil companies has been occurring, regardless of the level of incentives available to them. The fact of the matter is that American "big oil" seems more interested in its rate of return on nonenergy investments than it does in its management of the new energy development that America needs.

The United Auto Worker's newspaper, Solidarity, in its April 2 issue, published a highly revealing piece on what American "big oil" is doing in the way of foreign investments and what it is failing to do in the way of the development of American energy. Written by Jeff Stansbury, the article, "Big Oil's Big Lie," lays out a cogent case why the American public is losing badly under the hands of the oil industry and what needs to be done to reverse the trend. I commend the article to my colleagues:

BIG OIL'S BIG LIE

(By Jeff Stansbury)

Two years after the U.S. Constitution was ratified, the residents of London—still agog over the Revolution of their 13 American colonies—began plunking down a few pennies for a new Sunday paper, The Observer. During the next 185 years, the paper's reportage from America and elsewhere made it a prestigious and profitable journal for its British owners.

So profitable was the paper, in fact, that it struck the fancy of a giant U.S. oil company. Three years ago, Atlantic-Richfield (Arco) bought out The Observer. And a newspaper famous for telling a certain kind of truth came under the control of an industry infamous for telling a certain kind of lie.

Ever since the 1973 energy crisis, Big Oil has been solemnly pledging—in newspaper, radio and TV advertising—that it was going all out to boost production from domestic U.S. oilfields to insure long-term supplies of cheap energy.

But the facts, Solidarity finds, are otherwise. Big Oil has used much of its profits to buy up non-energy-related businesses like The Observer at home and abroad, instead of committing full resources to boost domestic energy supplies.

As a result, domestic oil production has shrunk—although to listen to the oil companies' ads, one would never know they are holding back on production. Exxon for example, trumpets its search for domestic oil under the banner, "Energy for a Strong America." Gulf does the same, but calls it "Meeting the Challenge."

And Standard Oil of Indiana (Amoco) sings the following hallelujah to its own patriotism: "All over America, Amoco is working to make our country less dependent on foreign oil . . . In fact Amoco helped open up eight new oil and natural-gas fields and participated in the drilling of over 100 wells in the Overthrust Belt (of Wyoming and Utah) since 1975 . . . And each new discovery helps our country determine its own energy future and maintains the American standard of living by keeping the American dollar strong."

That's the propaganda. What are the facts?

The major U.S. oil companies have been diverting more and more of their investment capital out of oil and out of the United States: Arco's acquisition of The Observer is a symbolic case in point. But Arco had already invested heavily in non-oil or foreign concerns by 1976, and its investment portfolio has grown even broader in the last three years. It includes an Australian coal company (S & M Fox), a Jamaican bauxite producer, a valve manufacturer (Serck), a maker of military airplanes (Northrup), a chemicals plant (Texas Chemicals), a copper-mining firm (Anaconda), a photovoltaic cell manufacturer (Solar Technology International), a trucking firm (Parsons), a nuclear energy supply firm (Nuclear Materials and Equipment), and two plastics manufacturers (Massachusetts Plastics and J. P. Frank Chemical and Plastic).

What about Mobil Oil, whose full-page ads routinely equate big business with God and Motherhood? Mobil Oil is pumping capital out of the U.S. faster than it is pumping oil out of new domestic wells. Through Container Corp., it now has active investments in five foreign nations. Through Pastucol and Aral Italiana, it helps finance and run four Italian companies. Mobil's current subsidiary operations include insurance, paints, coal, shipbuilding, printing, real estate, and chain-store merchandising (Montgomery Ward and Marcor).

What about Exxon? New investments in French rubber; Chilean copper; Canadian lead, coal, and zinc; Australian coal and uranium; and American real estate, telecopying, and cryogenics.

Gulf Oil? New investments in Taiwanese polymers; European and Latin American cosmetics, crystals, electronics, printing inks, and household chemicals; Korean ethylene; Canadian uranium; Dutch and Welsh petrochemicals; and American explosives.

Standard Oil? New investments in Indonesian nickel; Papua-New Guinean copper; Zairean copper and cobalt; Canadian sulfur and gold; and American coal, insurance, and carpet-backing.

Shell Oil? New investments in Brazilian and Surinam bauxite; Canadian, South African, Botswanan and Swaziland coal; Thailand, Indonesian, and Malaysian tin; Arctic lead; Bolivian zinc; Canadian molybdenum and tungsten; Peruvian copper; and American coal, uranium, and polymers.

The key question, of course, is what all this outward-bound oil capital is doing to oil production within the United States.

Domestic oil production is declining: Since—and despite—the energy crisis of 1973, U.S. oil companies have cut down their daily production from about 12 million to 10 million barrels. The 1973 Arab oil embargo supposedly took them by surprise: they had halved their annual drilling of exploratory wells during the preceding 15 years. Despite the shock of that embargo, however, the major U.S. companies continued to drag their feet in the search for new domestic oil. Today their exploration rate is up only a little, and production keeps going down.

Shell Oil, the fourth-ranked U.S. crude oil producer, typifies what's really happening behind the glowing corporate propaganda. Between 1973 and 1977, Shell's domestic production shrank from 547,000 to 419,000 barrels per day—a drop of 23 percent. Company officials quietly predicted further declines in 1978 and 1979.

During the first half of this decade, moreover, the big oil companies fought off strong environmental opposition and won the right to drill new wells on public lands in northern Alaska and in public waters off the East, Alaskan, and California coasts., They got their way on the seeming strength of their "national security" argument that the United States had to shake off its addiction to foreign oil.

Where is the Alaskan oil bonanza now? Some 1.2 million barrels are surging daily southward via pipeline from Prudhoe Bay, but the oil companies are getting cold feet. Gulf has shut down its Alaskan exploration office. Exxon has pared its exploration staff by more than one-quarter. Standard Oil, Sohio, and other big firms may soon retrench. Their excuse is unusually candid: they aren't satisfied with the average $2.91 per barrel after tax profit they've been making from Alaskan oil.

And the offshore boom? It's a bust. Early this March, Interior Secretary Cecil Andrus threatened to cancel the offshore leases of companies that had stalled on drilling exploratory wells. He especially criticized their performance in the Lower Cook Inlet off Alaska, where they had drilled only three such wells on 83 federal tracts in 20 months.

Foreign oil imports are rising: The U.S. now imports 60 percent more oil from the Organization of Petroleum Exporting Countries (OPEC) than it did five years ago.

"In 1977, nearly half the petroleum consumed in the U.S. was imported Gulf's top executives, Jerry McAfee and James E. Lee, wrote in the company's 1977 annual report. "Moreover, foreign oil cost the U.S. $44 billion last year, contributing to the largest trade deficit in the nation's history and a corresponding decline in the value of the dollar."

Were these crocodile tears? Probably. Gulf has been stepping up its investment in foreign oil production since 1976. When it buys high-priced oil abroad, moreover, it passes the stratospheric costs right along to its consumers in the United States. And Gulf's domestic oil output has been sagging steadily.

Daniel A. Dreyfus, staff director of the Senate's Energy and Natural Resources Committee, knows what companies like Gulf are up to. There is, he says, no escape from the "bleak outlook that for the next 30, 40, 50 years, we will be living with a strategic import."

Small wonder that the Carter Administration is rattling its sabers to protect the high-import stategy of Big Oil. On the same winter day (Feb. 25), Energy Secretary James Schlesinger said the United States would protect its "vital interests in the Persian Gulf," while Defense Secretary Harold Brown added: "In protection of those vital interests, we'll take any action that's appropriate, including the use of military force."

Why are the major companies encouraging imports by holding back on domestic exploration and production? Interior Secretary Andrus asked the same question on the day he threatened to cancel the offshore leases. "There's always a question in people's minds," he said. "Why did they drill to 13,000 feet and stop?"

The routine reply of Big Oil is that government controls on the price of domestic oil make exploration and production unprofitable. On March 11, for example, a spokesman for the American Petroleum Institute claimed controls create "a lack of financial incentive to explore and produce." Is this true?

Domestic oil prices have risen rapidly, making domestic production profitable even with price controls: Since 1973, the regulated average price of domestic oil has climbed markedly from $3 to $10.45 per barrel, while the price of newly developed oil is even higher. Alaskan oil sells for nearly $14.

True, the price of Saudi Arabian light crude (benchmark for OPEC oil) has risen even faster—from $3 to about $14—but the fact remains that our own oil can be produced at a more than adequate profit. Total production costs for Alaskan oil, including transportation, taxes, royalties, and depreciation, come to only slightly more than $11. In the contiguous 48 states, costs are usually much lower, but the substantial net earnings are carefully masked in Big Oil's annual reports.

There's no denying that American oil companies are permitted to make even fatter profits by extracting or buying oil overseas. This is why they have held back on domestic exploration and production. If they hold back long enough, they believe they will force Congress to deregulate the price of domestic oil. Domestic oil prices would then rise to the OPEC level, domestic drilling would pick up steam, and more profits would be made all around. Then, as now, workers and consumers would be obliged to carry the oil profiteers around on their backs.

On March 10, the Congressional Office of Technology Assessment warned, in a major study, that deregulation of petroleum prices would cause inflationary effects on the national economy, impose a disproportionate burden on low-income persons, and generally restrict the use of the auto.

Recently, the UAW's International Executive Board called for several steps to curb Big Oil's profiteering. It urged the government to take control of oil imports through sealed bidding and other means. Even more fundamentally, it said the government should begin exploring for oil and gas, producing them, and operating refineries to guarantee adequate domestic supplies and to create a standard by which Big Oil's performance can be judged.

"One of these days, the good people of the U.S. and Canada are going to say to themselves, whose oil is that?" UAW President Douglas A. Fraser declared at the union's recent Skilled Trades Conference in Detroit. "Did anyone manufacture it? Of course not. That oil has been accumulating in the good earth over millions of years."

Indeed, while the diversified, large-scale production of energy is not itself a bad thing, Americans will one day have to settle the question of who is to control this production—multinational corporations accountable mainly to the stockholders or a government accountable to the people.●

HOW SYNTHETIC FUELS COULD STRAIN THE ECONOMY

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Ms. HOLTZMAN. Mr. Speaker, President Carter has proposed a massive synthetic fuel program. There are numerous questions about this program, some of which are outlined in the following

New York Times article. I commend this article to my colleagues:

[From the New York Times, July 15, 1979]

How Synthetic Fuels Could Strain the Economy

(By Peter J. Schuyten)

For almost a decade now Armand Hammer, the chairman of the Occidental Petroleum Corporation, has been telling just about anyone who would listen that America could satisfy its voracious appetite for petroleum by wringing it out of the stratified rock formations known as oil shale.

But just as often engineers and economists have come away from the company's shale oil holdings on the western slopes of the Colorado Rockies shaking their heads skeptically. Estimates of the cost of producing oil from the rock-hard shale, they find, keep climbing in tandem—but always well above—the rising world price of oil.

When it comes to synthetic fuels, the rub isn't the technology, it's the cost. Oil obtained from shale and tar sands and coal has been too expensive for the marketplace—$10 to $15 a barrel above imported crude. But the United States, harassed by seemingly endless increases in the price of foreign crude, seems on the verge of saying hang the cost.

President Carter is scheduled to go on television tonight to talk about energy, and unless he cancels this speech as he did the one he was to make 10 days ago, one of his key recommendations is expected to be urgent development of synthetic fuels. They would become the heart of a program to reduce imports by four or five million barrels a day by 1990.

Yet a weighty question remains: How will society pay for synthetic fuels? The price of the President's program has been estimated at from $50 billion to $300 billion, numbers that beggar the 10-year $25 billion Apollo program effort to put a man on the moon. There are hidden expenses too, such as the cost of beefing up a transportation system to lug the billion or so extra tons of coal that would be required by 1990 to feed the new fuel factories.

The expense of synthetic fuels, moreover, is measured not just in dollars but in terms of its impact on the nation's economy and its environment. An ambitious plan to develop synthetic fuels could mean widespread stripping of the country's mountains and despoiling of vast tracts of wilderness with great air-polluting plants. Then too, there is concern over health and safety; coal liquids, for example, are thought to contain cancer-causing agents, while shale processing would not only create toxic fumes but siphon off scarce Western water supplies.

And the costs of these technologies could have a trickle-through effect on the economy. The demand for coal, for example, if combined with a moratorium on nuclear power could, in the opinion of Stephen Smith, the director of energy services for Data Resources Inc., force the price of coal up so that utilities that burn it would have to charge their customers more for electricity.

Then too, there is no assurance that per-barrel price estimates for the synthetic fuels are anywhere near accurate. In 1972, for example, the cost to produce a barrel of shale oil—and still make a 10 percent profit—was thought to be $4.40, says Malcolm A. Weiss, deputy director of the Massachusetts Institute of Technology's Energy Laboratory. By March 1974 it had risen to $8, while five months later it jumped to $11.50. These increases have, in many ways paralleled the price of oil.

Despite the obstacles, optimists abound in the synthetic-fuel industry. "This is no time for timidity," says Dr. Hammer of Occidental. But many economists, conservative and liberal alike, express reservations. "I'm not saying we shouldn't do it," says Alan Greenspan, chairman of the Council of Economic Advisers under President Gerald R. Ford "but it's how we do it that is critical. If we blunder our way into a blank-check project, we could find ourselves short of capital in other areas."

The economist Gar Alperovitz, co-director of the leftist National Center for Economic Alternatives, adds: "With that kind of capital involved, this is a society-shaping decision." Synthetic-fuel funding is low on his list of priorities, which include home insulation, expanded mass transit, smaller cars and more efficient appliances. "Our penchant for the quick fix could turn into a fast sink," he adds. In a soon-to-be-released study for the Energy Department, the Rand Corporation warns of painful cost overruns in the building of synthetic-fuel plants. "Early estimates aren't worth a damn in this business," says the author, Edward W. Merrow. "I think a target of five million barrels a day by 1980 is simply out of the question."

Even a modest commercial coal liquefaction plant capable of turning out, say, 100,000 barrels of oil a day, is now estimated to cost around $3 billion, and some believe that could be on the low side.

And the fuels themselves are not inexpensive. The current world price for oil averages around $20 a barrel, while the Department of Energy estimates that producing oil from shale would cost around $25 a barrel. Oil produced by either gasification or liquefaction would run to $30 or more.

The methods for obtaining synthetic fuels are for the most part well understood. From the turn of the century into the 1920's, when oil became plentiful, a coal gasification process was used to produce a low-grade fuel called "town gas" that was used to light cities and warm ovens. In World War II Germany fueled its Messerschmitts and Panzer divisions with coal-derived gas. And for the last quarter of a century South Africa has been producing oil from coal—albeit on a small scale—and by the early 1980's expects to generate some 60 percent of its petroleum this way.

The term "synthetic" is actually something of a misnomer. The oil is there. It's just hard to take it out of the shale and tar sands or to convert it from coal, another carbon-based organic material. The four principal technologies each have their own peculiar characteristics and associated problems. They are:

COAL GASIFICATION

Coal is plentiful enough. Some 400 billion tons are considered to be economically recoverable, enough to meet the country's energy needs for 400 years.

The key to both the gasification and liquefaction processes is hydrogen-enriched coal. Whereas ordinary coal has 16 atoms of carbon for every atom of hydrogen, heavy fuel oil, for example, has six carbon atoms to one hydrogen atom. Natural gas, on the other hand, has four hydrogen atoms for every carbon atom. Under temperature and pressure, coal's chemical structure breaks down to admit hydrogen atoms to its molecular structure.

The trick then is in enriching pulverized coal with hydrogen atoms. In coal gasification, steam and oxygen in the presence of high temperatures and under pressure react with coal to form a gaseous mixture of hydrogen and carbon monoxide, which can be used as a low-grade boiler fuel. But if the mixture is also passed over a nickel-based catalyst, methane, the chief constituent of natural gas is the result.

A consortium led by the American Natural Resources Company is ready to start building a gasification plant in Mercer County, N.D., that would produce 125 million cubic feet of gas a day, or enough to heat around 365,000 homes a year, but construction of the $1.5 billion facility is being held up because of regulatory problems.

Conventional gasification technology has a drawback in that it cannot process coal mined east of the Mississippi River, which under those temperatures and pressures tends to cake and clog the gasifier equipment.

Currently the Energy Department hopes to overcome this problem by developing gasifiers that either pretreat or mechanically break up the lumps of coal to prevent caking. Early next year the department, which has already spent close to $1 billion on coal gasification, will select a contractor to build a demonstration plant that can use Eastern coal.

COAL LIQUEFACTION

Coal liquefaction relies on the same chemical principles as gasification, namely the addition of hydrogen to coal, but it differs in that it produces a liquid fuel having a lower carbon-to-hydrogen ratio that can be burned as a substitute for oil or gasoline. There are two approaches to liquefaction, direct and indirect.

Indirect liquefaction is a two-step process in which coal is first converted to a gas, which is then chemically changed into a variety of synthetic liquids, both fuels and chemicals. There is only one commercial-scale indirect liquefaction plant in the world, South Africa's Sasol I, which has been operating since 1960, but the economics of the process are in question.

By far the preferred technique at this point is direct liquefaction. In this process the coal is dissolved under temperature and pressure with a coal-derived solvent, say a light oil—and in some cases a catalyst—that chemically transfers the hydrogen to the coal to form either a heavy oil or a refinable liquid fuel.

Two direct liquefaction pilot plants are in operation. One, in Fort Lewis, Wash., is run by a Gulf Oil subsidiary for the Department of Energy and processes 50 tons of coal a day, to produce 150 barrels of fuel oil while the other, in Wilsonville, Ala., is owned and operated by a subsidiary of the Southern Company and processes six tons daily for an output of 18 barrels of oil.

Satisfied with these efforts the Department is ready to take the next step, which is to build at a cost of $700 million each, full-scale commercial modules that would process up to 6,000 tons a day into the energy equivalent of 20,000 barrels of oil, one for producing liquid in Morgantown, W. Va., and the other in Owensboro, Ky., for a solid clean-burning coal substitute. Construction should begin in 1981 and the two plants should be producing fuel in 1984.

A variation uses a donor solvent to carry the hydrogen to the coal, while yet a third approach includes a catalyst with the solvent to speed up the chemical reaction that transfers the hydrogen to the coal.

The former technique, developed by Exxon, is going into a pilot plant being built near the company's Baytown, Tex., refinery, while the catalyst approach is being utilized in an Ashland Oil pilot plant in Catlettsburg, Ky.

SHALE OIL

Although, as Dr. Hammer points out, there are 1.8 trillion barrels of shale oil in an area bounded by Colorado, Wyoming and Utah, only about 600 billion are considered recoverable. When cooked at 900 degrees Fahrenheit, pulverized shale yields up an organic material called kerogen that recombines chemically into oil.

But shale, too, has its problems. For one thing, a commercial-sized plant producing 100,000 barrels of oil a day, would require daily disposal of 150,000 tons of shale. The shale cannot simply be returned to the earth since crushing it causes the volume to increase by 20 percent or so of its former size.

Shale also requires great amounts of water, a fact that worries not a few conservationists.

A way around these problems is to process the shale underground, without ever bringing it to the surface. The in situ process, as it's called, entails digging down to the shale seam, no more than 200 to 300 feet below ground and in many cases in a mountain, and fracturing it with an explosive charge. Then a slow-burning fire heats the shale, releasing the oil, which flows to the bottom of the explosion chamber cavity and is pumped out. Shale produces a fuel that can be burned in a boiler, and with proper—but expensive—conditioning can be upgraded to a refinery feedstock.

Present estimates put the cost of a full-sized shale plant producing 100,000 barrels a day at well over $1 billion, and, if a preconditioning facility is included, closer to $3 billion.

TAR SANDS

This is a technology where Canada leads, although much of the work in extraction and refining of bitumen, a form of petroleum deposit, is being performed by Canadian subsidiaries of American oil companies.

In operation the gooey sands are mined by a large drag line and moved by conveyor belt into the extraction plant, where they are mixed with hot water and steam to form a slurry. Put into extraction vessels, the material breaks down into sand and bitumin which is then cleaned, cracked and upgraded with hydrogen and a catalyst.

The first plant was opened 10 years ago in Alberta by a Sun Company subsidiary, and is producing 50,000 barrels of oil a day.

Syncrude Canada Ltd., which is jointly owned by Esso Resources Canada Ltd., Canada Cities Service, Gulf Canada Resources, PanCanadian Petroleums Ltd., the Canadian federal government and the province of Alberta, is producing 80,000 to 100,000 barrels of oil a day and ultimately production would run at the rate of nearly 130,000 barrels a day. Over its 25-year life the $2.3 billion facility is expected to produce about 1.1 billion barrels of oil.

It takes energy to produce energy, of course—the energy that is used up producing the steel and other materials that go into constructing a plant, the electricity and oil needed to run the equipment in the plant. This is the so-called "net energy" school of thought and by this measure synthetic fuels are considerably less efficient than, say, domestic oil, which returns about 50 B.T.U.'s of energy for every B.T.U. that is used in producing it. (A. B. T. U. is the amount of heat needed to increase the temperature of a pound of water by one degree Farenheit.) By contrast, the energy yield for synthetic fuels produced from coal, for example, is about 17 to 1, while for shale oil the ratio drops to around 6.5 to 1, says Martha W. Gilliland, executive director of the El Paso, Tex., consulting firm, Energy Policy Studies Inc.

Finally, in view of some economists, the reallocation of capital that surely would occur given a push to develop a synthetic fuels industry, might be spent more profitably, and still afford a measure of energy independence.

"I am convinced that a lot of oil would be forthcoming at $35 per barrel, mostly from secondary and tertiary recovery. It's not at all clear to me that the synthetic fuels offer any advantage over gas oil and coal for direct generation," says Hendrick Houthakker, an economist and former member of the Council of Economic Advisers under President Richard M. Nixon.

Some proponents of synthetic fuels, particularly of the coal-based variety, use the South African model to show its feasibility. But economists don't agree.

"The price at which you can acquire coal in U.S. is a major obstacle to gasification and liquefaction," says Dale W. Jorgenson, a professor of economics at Harvard University. "In the South African program coal costs $5 a ton, whereas in the United States it is around $20. If we had $5 coal we could make a lot of progress in a hurry."

COAL

Technology

Liquefaction: Hydrogen is added to coal in all conversion processes. In so-called "direct" processes, which have attracted the most attention in the United States, coal is dissolved in an organic liquid and exposed to pressurized hydrogen gas. Indirect processes, used in the world's only commercial liquefaction plant in South Africa, heat the coal in the presence of steam and chemically convert the gas to liquid fuels.

Gasification: The production of natural gas is much the same as liquefaction, but simpler. Research has focused on adapting the technologies to various grades of coal.

Companies and facilities

Gulf Oil, Southern Company, Exxon, Dynelectron, Ashland Oil, Mobile. The Energy Department funded two prototype plants, in Washington state and Alabama. Two other plants are under construction, in Texas and Kentucky.

American Natural Resources, Conoco, several utilities. A privately owned plant has been proposed for North Dakota, and designs are being considered for two plants in the eastern United States.

Costs

$2 billion to $3 billion for a plant capable of producing 50,000 to 100,000 barrels of oil a day costing $30 a barrel.

Approximately $1.5 billion for a plant capable of producing 125 million cubic feet of natural gas a day at $5.50 per thousand cubic feet.

Drawbacks

In both liquefaction and gasification most problems are associated with large-scale coal mining. There are also the pollution worries that stem from heating coal in the processes, as well as suspicions that coal liquids may be carcinogenic.

OIL SHALE

Technology

Extraction from Kerogen shale: One method calls for mining the shale, which is located primarily in Wyoming, Colorado and Utah, and heating it to force the oil out of the rock. Another technology, which will not be available for several years, calls for the shale to be heated underground until the liquid seeps out and forms a pool that can be pumped to the surface.

Companies and facilities

Occidental Petroleum, Union Oil, Superior Oil, Colony Oil, Rio Blanco, Development Engineering Inc. One commercial plant is being built in Colorado.

Costs

$1 billion to $3 billion for a plant capable of producing 50,000 to 100,000 barrels of oil a day costing $25 a barrel.

Drawbacks

The biggest problem with current technology is disposal of the spent shale. Large amounts of water—sometimes scarce in the West—are also required. Toxic fumes are associated with both surface and in situ technologies.

TAR SANDS

Technology

Extraction from tar sands: Most commercial deposits of the sands are located in Alberta, Canada. The sands are combined with hot water and steam, and the resulting mixture is refined into coke, a crude oil and natural gas.

Companies and facilities

Exxon, Cities Service, Gulf, Sun Company, Shell, PanCanadian, PetroCanada. Most activity is in Canada where two commercial plants are operating and two others are planned.

Costs

A synthetic crude oil plant refines 129,000 barrels of oil a day at full production at a cost of $15.25 a barrel.

Drawbacks

Only 26 billion barrels of a potential 200 billion barrels are on the surface. The rest is as far as 2,000 feet below ground and no economic technology is believed available to bring it to the surface.●

CONGRESSMAN GREEN CITES ACT ONE AWARDS

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. GREEN. Mr. Speaker, in remarks before the House earlier this year I spoke about a multifaceted program in my congressional district emphasizing citizen efforts to fight crime which is being funded by LEAA and being administered by Lenox Hill Neighborhood Association in association with the East 86th Street area team, the East Mid-Manhattan Chamber of Commerce, Interfaith Neighbors, Marymount Manhattan College, and the Burden Center for the Aging.

The anticrime through organized neighborhood effort, known locally as Act One, has become an effective community project aimed at reducing crime and the fear of crime, and redeveloping a sense of community on Manhattan's Upper East Side from 59th Street to East 96th Street. Tonight, August 2, will be the presentation of the 1979 Act One Community Anti-Crime Awards. I would like to take this opportunity to recognize the efforts of the following recipients: 400 East 80th Street Block Association, 200 East 74th Street Block Association, 400 East 78th Street Block Association, 300 East 87th Street Block Association, 200 East 88th Street Block Association, 300 East 91st Street Block Association, 300 East 92d Street Block Association, and the Inner Circle (a senior citizen group centered at 415 East 93d Street).

Each of these groups resides in targeted crime areas, and on the basis of proposals submitted to Act One will receive monetary awards which they will match in varying proportions. These self-help projects to be initiated by the block associations are broad in scope. They range from: seed money to raise funds for a neighborhood youth center to be staffed by resident volunteers; workshops for self defense, particularly for women and the elderly; painting building numbers on roofs so that neighbors can readily identify buildings when intruders are spotted, and a variety of projects installing crime prevention equipment.

Each recipient deserves strong commendation and each exemplifies not only the most positive aspects of LEAA grant activity, but, as active participants of their neighborhoods, are making an invaluable contribution to the long-term stability of the 18th Congressional District and New York City.●

IN RECOGNITION OF SIDNEY SUNTAG

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. LEVITAS. Mr. Speaker, last January, Sidney Suntag of Atlanta retired after 32 years of distinguished service as executive secreatry of Tau Epsilon Phil Fraternity. This tenure of service is virtually unmatched by any other director in the history of the fraternity system. During his many years as executive secretary, Sid became synonymous with Tau Epsilon Phi and the expansion that has marked our fraternity since he came on the job. Over 70 new chapters were formed under Sid's guidance and numerous ones were revitalized after years of inactivity. His dedicated service to young college men was exemplary.

In August, Tau Epsilon Phi will hold its annual convention in Orlando, Fla. At that time Sidney Suntag will be officially honored for his service to the fraternity. In anticipation of this event, I believe it is proper that the RECORD reflect some of Sid's accomplishments while executive secretary. Therefore, I would like to enter a copy of an article which appeared in the fall, 1978 edition of The Plume, Tau Epsilon Phi's newsletter. I believe this article will clearly show why we are all proud to call this man "brother."

The article follows:

AN ERA COMES TO A CLOSE: SUNTAG RETIRES

(By Alan Karmelin)

When Sid Suntag reaches the mandatory age for retirement in January, a TEP legend will pass into history. Needless to say, no one in TEP's history has served the Fraternity as Executive Secretary more than the 32 years plus that have marked his tenure. As a matter of fact, it is interesting to note that only one other Fraternity Executive in the history of the Fraternity system served his own fraternity approximately as long as Sid has TEP. Although it is general knowledge that Sid has held the post of Executive Secretary since August 1946, little is known generally of his prior TEP activity.

He became a member of TEP just 48 years ago in Epsilon Chapter at Fordham University where he served as Scribe, Vice Chancellor, and Chancellor. Following his graduation from College, and while in his first year at Law School, he was elected Assistant Tribune on the Grand Council. When the Executive Secretary at that time suddenly resigned, Sid was pressed into service as Acting Executive Secretary. So, for a period of two years, while attending N.Y.U. Law School, he spent all of his spare time conducting the affairs of the Fraternity, making chapter visitations as time allowed, until Irving Klepper was appointed full time Executive Secretary. In recognition of this extraordinary service, Sid was elected Tribune on the Grand Council, the youngest TEP to serve in that high office. Sid went on to become an attorney in New York, and practiced law in that City until he was drafted into the U.S. Army several months before Pearl Harbor.

His military career was no less distinguished than his service to TEP. Entering the Army as a Private, he rapidly rose in rank to the grade of Major, during which time he served for 2½ years in the 29th Infanty Division in Europe. He commanded an infantry rifle company in the invasion of Normandy, France on D-Day, and was later seriously wounded in action. He still carries several German shell fragments in his skull and neck as a result of this wound. In recognition of his military exploits, he was awarded a Presidential Citation; the Bronze Star for Valor; the Order of the Purple Heart; and the Combat Infantry Badge, as well as earning two battle stars.

His being prevailed upon by the late Brother A. Harold Frost, who was Consul at the time, to resign his Commission in the U.S. Army, and accept the post of Executive Secretary, is now part of the Suntag legend. As Sid tells it, he was trying to decide between making the Army a career, or returning to civilian life and resuming the practice of law when he was offered the job of Executive Secretary by Brother Frost. Of course, it didn't take much convincing for him to accept the job. His interest and concern for TEP had never flagged despite his long separation from TEP affairs during the war years, and he readily accepted the challenge to rebuild the Fraternity that had suffered severe disruption during the War, when most chapters closed, and the Central organization was in almost total disarray.

The rest is history. While still in uniform (he didn't have time to buy civilian clothes) he immediately embarked on months-long trips from coast to coast reopening war dormant chapters. By the end of the '46-'47 school year, he had succeeded in reactivating all inactive chapters, and had begun an expansion program that eventually led to the establishment of more than 70 new chapters. Based on Central Office vouchers and reports, as well as his own records, Sid estimates that in the 32 years of his stewardship, he has travelled just under a million miles throughout the Continent on Fraternity business. This, too, could well be a record of sorts.

Throughout his career in the Fraternity, Sid has been noted for two things in particular. The first, his being effectionately known as the "Bald Eagle" is not difficult to understand. The second is his uncanny knack of being able to remember names and faces, and what is more important, placing them together even years after meeting those brothers. It has always been a source of amazement at TEP gatherings, when he has been able to remember individuals by name, and even nickname, years after contact with them, even casually.

The regard that TEP has for Sid is equally shared by the general fraternity community. In 1954, "The Fraternity Month," the system's trade magazine, hailed Sid for his outstanding service to the fraternity system in an article under the banner, "We pause to Honor These Fraternity Leaders." As an indication of the respect accorded him by his contemporaries, he was elected President of the Fraternity Executives Association, and continues to serve on its Executive Board.

We all know that for reasons of efficiency and economy, the Central Headquarters of the Fraternity was moved from New York to Atlanta in 1972. This was a particularly difficult disruption for Sid and his family, yet he fully supported the move because he agreed that the move would benefit the Fraternity. So, what are Sid's future plans? His roots are now firmly planted in Atlanta and he will continue to make his home there with his lovely and ever patient wife "Flip" (Sid likes to refer to her as his "English souvenir of World War II"). Incidentally, as an example of how closely entwined his personal life has been with the Fraternity, Sid and "Flip" were married in the Alpha TEP House almost 31 years ago. Sid's daughter Avril, who is married and also resides in Atlanta, recently presented him with his first grandchild—sure to become a future TEP sweetheart.

One thing is certain, Sid is not ready to be put out to pasture. Those of us who know him realize only too well that he is much too active a person to remain idle. For one, he will continue as Consultant to the Fraternity on a part-time basis. His experience and expertise should prove invaluable to the new Executive Secretary, George Mamo, and the Fraternity, in the coming years. Additionally, being a member of the Georgia Bar, as well as the New York Bar, he will join the Law Firm of Jacobs, Jacobs, and Davis in Atlanta, and practice law. He also says that if he can find the time, he may start on a long postponed project—writing a book. Therefore it would seem that Sid isn't really retiring—he will probably be busier than ever before!

And so, as the Suntag era comes to a close, we all wish "Mr. TEP" and his family health, happiness, and long life. He has truly exemplified the Creed of Tau Epsilon Phi: friendship—chivalry—service.●

CONGRESS SHOULD CLOSE THE MEDI-GAP

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. MOFFETT. Mr. Speaker, my friend and colleague, Representative CLAUDE PEPPER, is today reintroducing H.R. 2602, a bill designed to curb abuses in the sale of supplemental health insurance to medicare participants. This legislation could help us deal with a growing problem, and it has my enthusiastic support and cosponsorship.

Senior citizens spend about $1.5 billion a year for supplemental insurance, to cover costs of health care not included in medicare, 15 million of America's 23 million elderly have some form of supplemental insurance.

Tragically, few are getting their money's worth. In certain cases, companies which specialize in this sort of insurance return to the elderly only 20 cents on the average for a premium dollar. Congress has heard shocking reports of senior citizens denying themselves food and heat in order to keep up payments on as many as 30 separate supplemental policies.

Connecticut has taken a leading role in State control of supplemental insurance sales. In its last general assembly session, Connecticut passed a law requiring that individual medicare supplemental policies return 65 percent on premiums collected—and that loss ratios for group supplemental medicare insurance be 70 percent. The legislation also requires adequate disclosure about duplications between medicare and supplemental policies being sold, and requires that the insurance salesperson clearly explain what medicare covers and what it does not.

The vast majority of insurance companies are reputable and reasonable in their sales of supplemental insurance. These firms will welcome the passage of legislation designed to halt abuses by the small number of companies who are presently victimizing senior citizens and offering them no health care cost protection. I strongly support H.R. 2602, and hope to see it speedily enacted.●

THIRTY-FIFTH CONVENTION FOR DELTA SIGMA THETA, INC.

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. GRAY. Mr. Speaker, among the many organizations in our Nation which have labored to preserve human worth and dignity, one stands out for its dedication and its unselfish efforts. That group is Delta Sigma Theta, Inc., a predominantly black public service organization of approximately 95,000 college educated women.

Later this month, I will have the honor of addressing 35th National Convention of Delta Sigma Theta, in New Orleans, La. At that time, I will join the tribute to the organization's outgoing President, Mrs. Thelma Thomas Daley, who has provided inspiring and tremendously competent leadership during her term in office. I know, Mr. Speaker, that my colleagues join me in offering congratulations to Mrs. Daley as she steps down from office, and to Delta Sigma Theta for its untiring labors.

For more than 50 years Delta Sigma Theta, Inc. has undertaken an array of activities designed to carry out its commitment to public service in many facets such as education, economic development, legislation, housing (including the elderly and the handicapped), the arts and letters, et cetera. Annually more than $500,000 is awarded to deserving students to assist them in attending colleges and universities. In 1978 alone, the national office provided assistance to 32 students totaling more than $16,000. Contributions to other groups such as the UNCF, NAACP, YMCA, NCNW, Urban League and numerous agencies and insitutions at the local community level total more than $750,000. Each year Delta Sigma Theta makes a $1,000 contribution to the National Black Achievement Scholarship Committee of the Nation's merit scholarship program. More than 50 of this organization's nearly 700 chapters participate in the reading is fundamental (RIF), a federally matching grant program which provides books for children to own.

Armed with a $134,000 grant from HEW, Delta Sigma Theta has for the past year, engaged in developing a women's educational equity training and assessment program. The goal of this project is to develop and test materials to be used by personnel in public and private institutions and community groups in an effort to combat sex stereotypes and promote educational equity for women.

With a $2.76 million grant from the National Science Foundation, Delta has established a resource center in science and engineering to increase the number of scientists and engineers from minority and low income groups. Its national office has contributed to the Hubert H. Humphrey Institute of Public Affairs to provide a reading shelf in the library on the roles of women in the civil rights movement of the 1960's.

DST telecommunications is the mechanism through which Delta Sigma Theta impacts in the arts and letters arena. To date, this dynamic organization has produced a record and a film representing a courageous statement in the artistic advancement of black people, reversing the traditional Hollywood approach to themes about Africa, black America, and black women.

For the 11th year, Delta has operated its direct search for talent project, which is administered and conducted in Baltimore. With funding of approximately $750,000 from the Office of Education, Delta has endeavored to identify students in selected high schools to present counseling services, tutorial assistance, guidance, career testing and evaluation services, and financial aid services. A second direct search for talent project has been instituted by the North Jersey alumnae chapter with more than 20,000 participants.

Mr. Speaker, many of the accomplishments of Delta are due to the excellent leadership of Mrs. Thelma Daley. Mrs. Daley is a nationally recognized guidance and counseling professional and former national president of both the American Personnel and Guidance Association and the American School Counselor Association. She has served on the faculties of Coppin State College, Western Maryland College, and the University of Wisconsin. Mrs. Daley has also served on the Harvard University College Admission Summer Institute staff.

Employed by the Baltimore City Board of Education, she has just completed a 2-year loan to the Maryland Department of Education as a consultant in career education and as Federal project director.

Thelma Thomas Daley's professional and community involvement is extensive: trustee, educational testing service; former trustee, College Entrance Examination Board: appointed by David Mathews, former Secretary to HEW, to the 14-member National Advisory Council on Career Education; appointed by Joseph Califano, Secretary of HEW, to chair the National Advisory Commission on Career Education; member of the board of directors of the Voluntary Action Center of Central Maryland; cochairperson of the Maryland Foster Care Committee; and chairperson of a statewide special involvement of adoption for Babies Through Conference and Delta.

Thelma Thomas Daley has received numerous citations and awards including a plaque from the NAACP citing her outstanding contribution to the life membership program; the Continental Society, Inc., Outstanding Black American Award; the Governor's Citation; and the Lamda Kappa Mu Outstanding Woman Award. She is listed as one of the 100 most influential black women. Mrs. Daley is also listed in "Personalities in the South" and "Who's Who in Black America." ●

AMERICANS ARE REDISCOVERING AN OLD LOVE: THE TRAIN

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. AuCOIN. Mr. Speaker, the gas crunch is forcing all of us to change our daily habits, form planning shopping excursions to charting cross-country trips with the unpleasant specter of an empty tank in mind.

But it is also reminding us of the pleasant alternatives mass transportation can offer.

This article from the Bulletin, published in Bend, a central Oregon paper, drives home a simple truth: Americans, when they commit themselves to change, have no problem passing up the gaslines for a comfortable seat in an Amtrak coach.

Families such as the one from Bend, mentioned in this article, clearly care more about seeing their country than they do about maintaining their mythical "self reliance" for travel. This is the evidence which justifies the millions of dollars in Amtrak subsidy the House approved last week.

While it is now the Senate's task to uphold this decision and give people the train service they want, I hope other citizens will speak out too—through dollar votes at the Amtrak ticket window—so our national rail system will continue to serve all communities of the country.

The article follows:

MORE DRIVERS NOW OPTING FOR TRAIN TRIPS

(By Ila Grant Hopper)

For most people, the gasoline crunch may be anything from an annoyance to a disaster. But it's the best thing that's ever happened to public transportation.

But companies, railroads and airlines report significant increases in business. Many people who have been in the habit of driving their own cars now are leaving the driving to someone else.

Jerry Fallowfield and family, who live in downtown Bend, are planning to spend their vacation with relatives in Harbor City, Calif. They will travel most of the distance by train.

Jerry, Dawn and their two children—10-year-old Chris and 14-month-old Regina—will make the round trip on Amtrak for a total fare of $186. Friends will accompany them to Klamath Falls to board the train, and will pick them up there in two weeks.

"I figure it would cost around $25 to $35 more to drive the car the whole distance (nearly 1,000 miles)," Jerry said. "We usually drive right through, but with the baby, probably we'd have to make longer and more frequent stops."

Dawn said she is excited about the trip because of the convenience factor. "We can walk around whenever we want to, and in daylight, we can enjoy the scenery. For another $50 we could have had a compartment—but we thought we'd economize and make do with the reclining seats."

Dawn plans to pack a basket of baby food and snacks, but she's looking forward to meals in the train's dining room. It will be her first train trip since she was an infant.

"One nice thing about it," she noted, "you can have a drink in the lounge car and not have to worry. We wouldn't take a chance on drinking and driving—it's too dangerous."

Amtrak's "Starlight," which goes to Davis and other central California points, then down the coast to Los Angeles, is becoming so popular that reservations well in advance are a necessity, according to Barbara McCaige at Cascades Travel Service.

"It's the first time this has happened," McCaige said. "People are re-discovering the train, and loving it. It's a bit of nostalgia."

In Oregon, the train may be boarded at Portland, Salem, Eugene and Klamath Falls.

Bus travel also is increasing in popularity, especially for charter tours, according to Marion Grant at Travelplace Inc.

"We're seeing a new breed of bus travelers—lots of people who used to insist on driving their cars," Grant said. "They're discovering they can relax and have a good time and not have to worry about gasoline. It's no fun to be stranded in your car late at night or on weekends, because the gas stations aren't open."

Lots of first-timers are also opting for plane travel, according to Carmen Cappell of Tour Time.

"The excursion fares and discount coupons that the airlines are offering are very attractive," Cappell said. "We're seeing lots of families making cross-continental vacation trips."

The reduced rates for children in family groups make air travel comparatively economical, Cappell said. Half-rate fares apply for children ages 2–12, and infants under age 2 ride free. As on other public conveyances, however, babies must be held unless unclaimed seats are available.

"We advise booking at least a month in advance for excursions to New York, the Midwest or the Caribbean," Cappell said. "We're already making reservations for next spring vacation. And if you haven't already made arrangements for Christmas vacation flights—you aren't going anywhere!" ●

REDUCTION OF SOCIAL SECURITY BENEFITS

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. MICA. Mr. Speaker, over the past few months, I have been contacted by many of my constituents expressing their opposition to the administration's proposal to cutback social security benefits. I have been quite disturbed by this proposal and am pleased to note that not a single Member of Congress has introduced legislation to cut social security benefits. Additionally, the Subcommittee on Social Security has recommended that any cutbacks in social security are unrealistic and impractical at this time.

It is my strong feeling that our Nation needs to become more aware of the financial burden which many of our elderly living on fixed incomes face. I want to commend and thank my colleagues for deciding not to act on proposals to reduce social security benefits, thereby reaffirming the Congress commitment to our elderly citizens.

As a member of the House Select Committee on Aging and being involved with the elderly, I have had the opportunity to see firsthand what skyrocketing costs are doing to those living on fixed incomes. It is my feeling that the Congress needs to continue expanding their concern for the problems and interests of elder Americans, who represent the fastest growing segment of our national population.

In an effort to help, I have recently sponsored legislation which will provide a tax relief for individuals who have received hikes in their fuel adjustment charges. I have also cosponsored legislation which will increase the housing and medical deductions allowed to the elderly when determining eligibility for food stamp benefits. I was pleased to support today, the conference report on the Food Stamp Act of 1979, which included these provisions.

One of the most important concerns facing our aging is access to quality health care. I do not feel that current medicare and medicaid programs are meeting the necessary health care requirements and feel that the Congress and the President need to take further action on this matter. I will continue my efforts to seek legislation to assure adequate health care and as a member of the Select Committee on Aging, will work to end fraud, abuse, and mismanagement of programs for the elderly.●

LITTLE KNOWN HISTORY OF ATOMIC ACCIDENTS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. DELLUMS. Mr. Speaker, as a participant in the public information project on the little-known history of atomic accidents, I am today introducing the following excerpt from Leo Goodman's catalog of mishaps involving nuclear materials:

[Excerpt]

ATOMIC ACCIDENT, MAY 21, 1946 CRITICALITY ACCIDENT, LOS ALAMOS, N. MEX.

COMPARISON WITH 1946 LOS ALAMOS EXPOSURES

On May 21, 1946, a criticality accident occurred in one of the facilities of the Los Alamos Scientific Laboratories. Eight persons were exposed to the ionizing radiation in amounts comparable to those received during the Y–12 incident. The dosimetry problem was similar in that film badge dosimeters were not worn in either case. The area in Y–12 in which this accident occurred was one in which only insignificant amounts of radiation are normally present. Accordingly, film badge dosimeters were not worn by the employees.

Thus, as in the Y–12 case, the Los Alamos investigating committee used the blood sodium activity in their estimation of the neutron dose received by each of the eight persons exposed. In essence, the technique consisted of using Na^{24} activity to measure the integrated thermal neutron flux and from this to compute the associated fast flux. This flux is then converted into dose units by assuming an average energy for the leakage spectrum. To account for the effect of the higher energy neutrons, a factor of 3 was arbitrarily applied to the estimated doses. This final figure is considered to be the "most probable" dose.

While estimates of the neutron component of the Y–12 doses may be obtained by comparison of the NA^{24} activity of the Y–12 employees to that of the Los Alamos personnel, the estimates so obtained will contain all of the assumptions and inaccuracies inherent in the calculations made 12 years ago.

The technique of comparison consists in averaging the neutron dose per unit blood serum activity for the Los Alamos cases and multiplying this into the blood serum activities found for the Y–12 cases.

The ratio of neutron dose per unit volume activity of NA^{24} for the Los Alamos cases was 0.84 rad per disintegration per second per cc, while for the Y–12 cases the ratio was 2.0. There are several possible reasons for this difference; e.g., (1) the capture cross section used by Los Alamos was 23% higher than the value used for the Y–12 cases; (2) an estimated energy was used for the leakage neutrons for the Los Alamos cases rather than a calculated value.

A gross underestimate of the total dose would be obtained by applying the above technique to the gamma plus neutron dose instead of just the neutron dose since the gamma to neutron dose ratio was considerably different for the two accidents. The difference is due to the fact that the Y–12 incident involved a moderated homogeneous system whereas the Los Alamos incident involved a beryllium reflected metal system.

Source: Excerpt from Y–1234 ("Accidental Radiation Excursion at the Y–12 Plant") Pages 75–76.●

CONGRESSMAN GREEN DECRIES SOVIET INJUSTICE IN THE UKRAINE

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. GREEN. Mr. Speaker, I would like to take this time to inform the Members of the House of yet another alarming report of Soviet injustice to Jews in the Ukraine.

On July 14, a Soviet court of appeals in Donetsk upheld a judicial decision to execute four Soviet Jews for economic crimes. These four men were tried and convicted, in August of 1978, of stealing surplus textiles from a factory in Baku, in the Azerbaidjan Republic. At this time they face a sentence of death for their nonviolent crime of robbery.

Other related facts about the trial proceedings raise questions concerning the outcome of the case. The trial was held in secret. No details of the evidence presented by the prosecutor or rebuttals and/or statements made by the defense were available to the public. More importantly, if these four men were guilty as charged, it seems fair to assume that a reasonable and retributive punishment would be in order in accordance with Soviet law. Yet, how does one legitimize the enactment of the death sentence for a victimless crime such as theft? Rather this case seems to embody anti-Semitic sentiment and maintain world perception of the Soviet Union as a nation suppressing segments of its Jewish population.

In an effort to rectify this flagrant injustice, I have sent letters to Roman Rudenko, and A. P. Lyashko, the Procurator General of the Soviet Union, and the Soviet Supreme of the Ukraine, respectively. In the interest of human decency and compassion, I have requested that these Soviet officials call for a commutation of sentence for these four ill-fated Soviet citizens.

I believe that this sentence of death constitutes a cruel and unusually harsh punishment. I would like to ask my colleagues in the House to join me in expressing their deepest regret and sincere concern for the fate of these four Soviet Jews by writing to Mr. Rudenko and Mr. Lyashko who have the authority to correct this inequity.●

PESHTIGO TIMES EDITOR HAS 50TH ANNIVERSARY

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. ROTH. Mr. Speaker, I believe all of our colleagues would unanimously agree that democracy and good government depend on responsible reporting by the news media. Jefferson once said,

> Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.

Today I would like to recognize Leo J. Pesch, Sr., a newspaper publisher from Peshtigo, Wis., who for 50 years has set as his standard to "report news objectively, honestly, and without fear or favor."

I submit for the RECORD the background of Leo Pesch's career as living proof that the key to success in newspaper publishing is hard work and honest reporting.

Leo Pesch became publisher of the Peshtigo Times on August 1, 1929, with a circulation of 354. Over the past 50 years, the circulation has grown to 14,000, making the Peshtigo Times the largest weekly in Wisconsin.

The awards Leo Pesch has earned are too numerous to list completely, but some deserve mention. In 1976, Leo Pesch was the first non-Legionnaire to receive the "Man of the Year Award" from the Marinette County Council American Legion. The next year he received the National Americanism Award by the Freedom Foundation at Valley Forge for the centennial issue published in August 1977. And during the 50 years that Pesch has published the Peshtigo Times, the paper has won over 50 awards from the Wisconsin Press Association.

One of the high points of Mr. Pesch's career was his 1960 interview with the late John F. Kennedy during his campaign for election to the Presidency. But it is not so much the highlights of Leo Pesch's career that merit attention or proclaim his success. As I mentioned earlier, hard work and honest reporting are the keys to his success. It has been the quality of his daily work over the past 50 years that is responsible for his success. The growth in circulation of his paper is testimony to his diligence and success.

And today I ask my colleagues to join me in thanking Leo Pesch, on his 50th anniversary as publisher of the Peshtigo Times, for a job well done.●

PROPER VENUE IN ENVIRONMENT LITIGATION

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. McKAY. Mr. Speaker, I am pleased to introduce a bill to provide proper venue in environment litigation I am grateful for the cosponsorship of both the majority and minority leaders. Under this bill, the proper venue for litigation of civil actions against the United States involving environmental questions would be restricted to the U.S. district court in which the major impact of the litigation would be felt.

At the present time, plaintiffs seeking to bring actions against Federal administrative agencies have a rather wide latitude in choice of venue. Yet the majority of such actions are brought in the U.S. courts for the District of Columbia. The primary reason for this is that many of the plaintiffs in such actions are national organizations of various types having headquarters in the Nation's Capital, of public-interest law firms having their headquarters there. It is, therefore, easier for plaintiff's counsel to institute the action in the District of Columbia. However, often the matter is more than one of convenience. Plaintiffs, in many cases feel their objectives might best be met by a Federal judge unfamiliar with the economy and culture of the area being affected by the litigation.

To illustrate this, let us consider the case of a judge whose entire experience has been in water-abundant areas. Should that judge be asked to consider a case involving water rights, as so many of these cases do, it would be difficult for him to set in proper perspective the evidence and the law if he has had no exposure to the impact of water and water rights in the water-short areas of our Nation.

In cases of lawsuits having broad public impact there is no doubt ample justification for trying cases in the District of Columbia courts. A different situation entirely exists, however, where the principal impact of a case will be felt only in certain regions of localities within the country or by only a very few of our citizens.

It is hardly equitable that those who are most deeply affected may often have decisions made by the District of Columbia Courts affecting their particular economic or social welfare without even knowing that the litigation is in progress, and if they learn of it, being able to defend their rights only at great inconvenience and expense.

Matters of the type which I am here discussing can best be heard and adequately adjudicated by a judge having knowledge of the area being affected by the litigation. A judge who has a better understanding of the background against which a case arises can better decide the facts and apply the law in a manner to reach justice, than can a judge who does not have such an advantage.

In a nation as large and diverse as ours, there is a danger of too much centralization of governmental action. Specific problems in widely scattered areas require specific rather than generalized approaches. It is not right that peoples' rights be affected by decisions made by counsel or judges unknown to them and in a jurisdiction far distant in both geography and knowledge.

Hopefully this bill can stop this forum shopping for a favorable judge and will help us return to a system which allows a local judge to decide local matters.●

SOLAR ENERGY FACTSHEET

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. UDALL. Mr. Speaker, every Member of Congress is being consumed by the search for ways to meet this Nation's energy needs. All manner and method of energy supply alternatives are being explored and discussed. Some have passed this body already, and more are on the way when we return in September. However, one key component to meeting our energy needs has been overshadowed in the rush to develop expensive and exotic alternatives to oil—it is solar energy.

As our conventional energy resources dwindle and their costs skyrocket and as our national security becomes more vulnerable to the vagaries of the international oil trade, more and more people are looking to renewable resources to fill our needs. All one has to do to get a sense of the public's interest in this is to go to my State of Arizona. Hundreds of individuals have turned to solar to supply home heating and cooling needs. Thousands more, seeking relief from rising fuel bills, are exploring the solar option.

Government can play an essential role at this critical stage.

We are now promoting solar with a variety of Federal programs enacted in recent years, and new, innovative ideas are in the legislative pipeline.

We here in Congress also have an essential role—to spread the word to our friends and neighbors about the promise of solar energy.

And that is where the Environmental Study Conference, with its more than 300 members from the House and Senate, comes in. The conference has just updated and expanded its excellent guide to solar energy programs and information resources. It briefly describes various solar technologies and their applications, Federal tax credits, grants and loans, State and local programs, and information resources.

Like so many of ESC's services, this

guide has been a great help to me and more so to my constituents interested in the promise of solar. I congratulate ESC and its able cochairmen, JOSEPH L. FISHER and JOHN H. CHAFEE, on another job well done, and commend the guide to you.

SOLAR ENERGY: A GUIDE TO FEDERAL AND STATE PROGRAMS AND INFORMATION RESOURCES

(By Mike McCabe)

Solar energy continues to attract growing interest as the nation explores alternatives for meeting its energy needs. Inexhaustible, environmentally sound and available everywhere, solar energy is being pursued with the hope that if only a tiny fraction of the sunlight falling to earth could be tapped, our energy problems would evaporate.

That hope, of course, is far from being realized. At present, less than 1 percent of the U.S. energy demand is met by solar, and the potential for future contributions is a subject of great debate.

Nevertheless, a number of factors combine to make solar a key option for meeting the nation's long-term energy requirements: the promise of a nonpolluting and renewable resource, the uncertain future of conventional energy supplies, escalating fuel prices, and the severe environmental problems with coal, conventional nuclear power and a massive push to develop synthetic fuels.

Here in Congress, support for solar has been growing steadily in recent years. Solar R&D funding has jumped dramatically, and scores of solar initiatives have passed into law in one form or another. Solar got a big boost from tax credits, loan programs and federal grants in the national energy plan passed in the last Congress. In addition, Congress is presently working on a number of measures to promote solar use in response to recent oil price hikes and President Carter's new energy initiatives.

State and local government agencies also are very active. In fact, many state and localities are far out in front of the federal effort.

All of these governmental programs, however, may be lagging behind the public's interest in solar. On May 3, 1978, a national day of celebration for solar energy—Sun Day—was held, swelling the ranks of solar supporters nationwide.

With greater public awareness has come increased demand for good information about solar and the programs that encourage and demonstrate its use. The solar fact sheet was prepared to help Environmental Study Conference members, their staffs and constituents locate this kind of information.

The economic and technical feasibility, as well as the projected contribution of solar, are issues beyond the scope of this fact sheet, but they can be explored with the help of the many individuals and organizations listed.

The information provided can be used by homeowners, businesses, the construction industry, workers in solar-related trades, research firms, local government officials and individuals interested in the development and use of solar energy.

The fact sheet includes:

An index of programs according to user groups

A brief review of solar technologies

A summary of solar-related provisions in the national energy plan.

A review of solar initiatives working their way through Congress

A listing of programs scattered through various federal agencies that assist in the purchase, installation or general development of solar equipment

An overview of state solar programs and

A directory of information sources which can provide material suitable for individuals with no background in solar energy, as well as technical data for those well-versed in the field.

USER INDEX

This index lists programs according to specific groups or individuals who may benefit followed by the programs' sponsor. Many programs are listed more than once.

Homeowners

Solar tax credits, IRS.

Solar energy home loans, HUD.

Federally insured home loans, FHA/HUD.

Secondary financing home improvement loans, HUD.

Small utility loans, DOE, local utilities.

Community development block grants, HUD.

Small-scale and appropriate technology grants, DOE, NCAT.

Hot water initiative, DOE/HUD.

Home improvement loans, FHA/HUD.

Veteran's loans, VA.

Tennessee Valley Authority programs, TVA.

State energy office information.

NSHCIC solar information line, HUD/DOE.

Solar information services, SEINAM, SEIA, SERI, CRR.

Solar publications, GPO.

Building your own system information, ASHRAE, NAHB.

Low-income and elderly

Community development block grants, HUD.

Small-scale appropriate technology grants, DOE, NCAT.

Solar employment training, DOL.

Low-income community grants, CSA.

State energy office importation.

Schools, hospitals and nursing homes

Energy conservation grants, NOE.

Business and industry

Solar tax credits for businesses, IRS.

Small-scale appropriate technology grants, DOE, NCAT.

Small business loans, SBA.

Technology transfer, DOE.

Project proposals and inventions, DOE/NBS.

NSHCIC solar information line, HUD/DOE.

Solar information services, SEINAM, SEIA, SERI.

State and local governments

Community block grants, HUD.

Solar for cities and towns, DOE.

Severe unemployment area assistance, EDA/Commerce.

Solar employment training, DOL/SEIA.

Low-income community grants, CSA.

State wind demonstration project, DOE.

Energy report to the states, NCSL.

Energy project, NACO.

Solar status report, HUD.

Rural and agricultural uses

Solar tax credits for businesses, IRS.

Rural and farm assistance loans and grants, FmHA, USDA.

State energy office information.

NSHCIC solar information line, HUD/DOE.

Builders, architects, and engineers

Solar tax credit for businesses, IRS.

Small-scale appropriate technology grants, DOE, NCAT.

Solar installation correspondence course, DOE, HAWA.

Technology transfer, DOE.

Technical guide, EDA/Commerce.

Project proposals and inventions, DOE, NBS.

TVA passive solar home designs, TVA.

State energy office information.

NSHCIC solar information line, HUD/DOE.

Solar information services, SEINAM, SERI, SEIA, ASHRAE, DOE/TIC, NTIS, HUD.

Solar publications, GPO.

SOLAR TECHNOLOGIES

The term solar energy actually encompasses a broad range of energy sources that convert the sun's rays either directly or indirectly into usable energy. For example, solar electric cells, usually thin silicon slices, convert sunlight into electricity. This category of solar energy is called photovoltaics. The conversion of organic matter, such as solid waste, into liquid fuels, such as methane, for energy use also is considered an application of solar energy—biomass.

In all, there are eight basic solar technology categories. They are:

Passive;

Solar heating and cooling;

Agricultural and industrial process heat;

Wind;

Photovoltaics;

Solar thermal;

Ocean thermal energy conversion; and

Biomass.

In addition, there are a number of different technology designs and appplications within each of the categories. For example, under solar heating and cooling, there are many collector designs that use different heat exchange mediums. Some use water; some forced air. Some use flat plate collectors; others use evacuated tubes.

A number of different systems can be combined to supply a greater and more reliable energy product than when used separately. For example, both electricity and process heat can be provided by using a combination of solar devices. These are usually referred to as hybrid systems.

Some solar technologies are designed to be integrated into centralized power generating systems, while others lend themselves to small-scale, decentralized applications.

Decentralized, small-scale applications include residential heating and cooling and hot water, as well as various agricultural and industrial heat processes. Systems such as photovoltaic cells and wind energy can be used to generate electricity for small-scale use. Several hybrid systems lend themselves to use in homes, businesses and farms.

On other other hand, some solar technologies can only be used in large-scale applications—primarily centralized electrical power generating plants. So-called "power towers," which use mirrors to concentrate the sun's rays on steam boilers that drive an electric generator, and ocean thermal systems, using temperature differences in the ocean, require large generating plants and electric power grid systems.

Some systems, such as photovoltaics, wind and biomass conversion, can be used in small-scale and large-scale applications.

The solar energy picture is changing almost daily. From about $1 million in fiscal year 1971, the federal solar research budget has leaped to more than $800 million for FY 1980. Rapid changes are occurring not only in the technology itself, but also in feasibility, economics and availability.

Below are short explanations of the various categories of solar technologies. Their relative merits, ecnomic feasibility or technical feasibility are not discussed. Information on these aspects of solar energy can usually be obtained by contacting the individuals listed. Contacts listed after each technology are DOE officials familiar with, and, in most cases, responsible for, programs in those areas.

Passive solar: Passive solar takes advantage of the design and siting of a building to maximize the effects of natural processes, such as evaporation and heat flow, as opposed to active systems, which require mechanical devices, such as motors, pumps and valves, to heat or cool a building. It is believed that the early cliff dwellers in the Southwest positioned their structures under cliffs in such a way to receive direct solar radiance which heated thick outer walls during the winter months, yet were shaded by the cliff overhang in hot summer months.

Modern architects are rediscovering these same principles. The orientation of a house, positioning of the walls, windows and baffles to let in the sun during the winter and keep it out in summar can be an effective way of capitalizing on the sun's natural heat. The use of deciduous trees to provide extra shade in the summer, storage ponds, building green houses, and site orientation according to prevailing wind patterns can also passively contribute to the energy needs of a building.

DOE contact: Mike Maybaum, 376-9642.

Heating, cooling and hot water: Air present levels of technology, solar energy systems with the greatest potential for widespread application are those for space heating and domestic hot water—systems which do not require high temperatures. Solar cooling is generally considered to be further away from widespread use.

Standard heating systems include a solar collector panel, a storage unit, an energy exchange and distribution network, a tie-in with a back-up energy supply and a thermostat control unit. Collectors are most often located on a building's rooftop and are simple in design. Relatively efficient operation can be achieved with commercially available panels, now manufactured by dozens of companies. And in many parts of the country, considerable energy and costs savings can be expected over the lifetime of the unit.

For cooling, an additional component must be added, either a standard "absorption" air conditioner or a mechanical motor-driven system.

To be used effectively, all solar systems should be accompanied by stringent conservation measures such as insulation and proper building design. For information on conservation programs see ESC Fact Sheet: Guide to Federal Conservation Programs.

DOE contacts: Karl Konner, 376-9600; Roger Bezdek, 376-9619.

Agricultural and industrial process heat: The use of both direct sunlight and the conversion of solar energy collected by panels to low and medium temperature heat can be applied to many agricultural and industrial processes. Among the potential uses are grain and crop drying, heating of greenhouses and livestock shelters, food processing, low pressure steam operations, and a wide range of processes in the textile, paper and chemical industries. Most applications would replace conventional processes using scarce and expensive propane gas.

DOE contact: Jim Dollard, 376-9633.

Photovoltaics: Solar electric cells—photovoltaics—convert sunlight directly into electricity and have successfully powered electric equipment. * * *

Current the paper and lumber industry have demonstrated considerable energy savings and some degree of energy self-sufficiency through direct burning of forest residues. And some experiments are underway to burn municipal wastes for electrical generation.

DOE contact: Sandy Harris, 376-9425. ●

LAMB IMPORT RESTRICTIONS LEGISLATION

HON. TOM LOEFFLER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. LOEFFLER. Mr. Speaker, over the last several years, sheep producers in this country have suffered a steady and serious decline in their herds. In 1950, for example, domestic sheep numbered some 50 million head. As a result of inflationary production costs, increasing predation of live sheep and lambs, and rising imports, by 1978 this figure had dropped to 11.7 million head. As a result, as foreign imports of lamb have increased, the supply of domestically produced product has severely declined.

Moreover, lamb is now the staple of the American sheep industry, and imported lamb, particularly frozen lamb—usually less fresh than the American product—is currently in direct competition with domestically produced lamb, creating an excess supply in a relatively small market and reducing the ability of the American producer to market the sheep industry's main product.

In addition, unlabeled foreign lamb meat is sold in many stores right alongside fresh domestic lamb; thus the American consumer may not be afforded the opportunity to choose between the imported product and the usually more fresh domestic lamb.

Mr. Speaker, the legislation which I am introducing today for myself, Mr. Rousselot, Mr. Stenholm, and Mr. Symms will correct the oversight created when this important commodity was omitted from current meat import restrictions by providing a modest limit on the quantity of lamb meat which may enter the United States during any year. This legislation will provide protection for both the consumer and the producer of lamb by assuring an adequate supply of domestic lamb meat at a fair price while maintaining the stability our international lamb trade. I urge my colleagues' support. ●

GRASSROPE PROJECT

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. ABDNOR. Mr. Speaker, today I have introduced legislation to authorize construction of the Grassrope irrigation project on the Lower Brule Indian Reservation.

Construction of this 3,500-acre project offers the Lower Brule Sioux Tribe an excellent opportunity to improve the standard of living of its people. The project is expected to cost approximately $9.5 million to construct—January 1978 prices—and, according to benefit-cost analysis, will return $1.10 to $1.40 for every dollar spent. The return to the local tribe would be much greater than this, though.

The Grassrope unit would become an integral part of the Pick-Sloan Missouri Basin program, authorized by the Flood Control Act of December 22, 1944. The principle features of the Grassrope unit would include the pumping plant, pipe distribution system, drainage facilities, and the following on-farm features: pipe laterals booster pumping units, sprinkler systems, and necessary facilities to effect the previously mentioned purposes of the unit.

Repayment of capital costs on Indian trust on alloted lands shall be deferred pursuant to the Leavitt Act, unless the land passes into non-Indian ownership. All annual operation, maintenance and replacement costs of the project are reimbursable and shall be assigned to the irrigators. These costs shall be paid by the water users annually over the life of the unit.

Mr. Speaker, I have introduced this legislation today to provide an opportunity for the Lower Brule Sioux Tribe to better establish an economic base for its people. The Grassrope unit is a very good project; and I urge rapid, favorable consideration of the necessary authorizing legislation.

Congressman Daschle has joined me in cosponsorship of this measure. ●

REVISION OF THE FEDERAL CRIMINAL CODE: A SHORT SUMMARY

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. DRINAN. Mr. Speaker, during yesterday's press conference at which I and the other members of the Criminal Justice Subcommittee announced that we had substantially completed our revision of the Federal Criminal Code, we distributed a short summary of our work on the bill.

I would like to take this opportunity to include that outline in the Congressional Record in order to acquaint other Members of Congress with our progress in this area.

The material follows:

Outline of the Criminal Justice Subcommittee's Draft Recodification Bill

I. BACKGROUND

Over a decade ago President Lyndon B. Johnson sent a message to Congress urging action on a comprehensive revision of the federal criminal law. In that message he stated:

"A number of our criminal laws are obsolete. Many are inconsistent in their efforts to make the penalty fit the crime . . . . We are a nation dedicated to the precepts of justice, the rule of law and the dignity of man. Our criminal code should be worthy of those ideals."

Congress in response established the National Commission on Reform of Federal Criminal Laws, better known as the Brown Commission, "to make recommendations for revision and recodification of the criminal laws of the United States."

The Brown Commission submitted its Final Report in early 1971, and the present recodification effort is a direct outgrowth of the Brown Commission's fine work begun over 12 year ago.

While many states have rewritten their criminal law in recent years, none have faced as difficult a task as that confronting those seeking recodification on the federal level. Current federal criminal law is spread throughout various titles of the United States Code, and its complexity is much greater than that of state criminal regulations. Moreover, the wide range of diverse interests at work at the federal level has necessarily made legislating in this area a delicate and complicated chore.

The difficult task of balancing competing and often conflicting interests has lead some to urge that a comprehensive recodification effort is ill-advised. Admittedly, the reconciliation of the concern for individual rights with the need for an ordely society frequently produces results which cause qualms in one or more interest groups. It is a mistake, however, to conclude that a comprehensive bill protecting both the constitutional liberties of the individual and the integrity of the community cannot be developed.

The Subcommittee on Criminal Justice has now completed the vast majority of its work on a draft bill that recodifies federal criminal laws. I believe that we have developed legislation which is comprehensive and which has the clarity and conciseness essential to a modern criminal code. The benefits of such a comprehensive criminal code are significant.

Consolidation and clarification

The Subcommittee's proposed criminal code assembles all felony offenses in one title of the United States Code, making the job of prosecutors, defense attorneys and judges easier. More significantly, the proposed code makes federal criminal law more readily understandable by consolidating and updating overlapping and inconsistent provisions. For example, the proposed code consolidates the more than 100 present theft and fraud provisions into just 7 basic offenses. Current theft, embezzlement, and fraud statutes have maximum prison terms ranking from 1 to 10 years. Frequently the differences in penalty levels are based on accidents of drafting. The Subcommittee's proposed code grades theft according to the importance and value of the property.

States of mind

A second benefit from the Subcommittee's comprehensive recodification is the use of uniform and clearly-defined standards of culpability. Present federal law contains more than 60 different terms to define the state of mind with which a person must have acted before criminal liability attaches. Following the lead of the American Law Institute's Model Penal Code, the various new state criminal codes, and the Brown Commission, the Subcommittee has brought some order to the area. The proposed code has defined four culpable states of mind, and those four states of mind are used exclusively in defining all of the offenses in the proposed code. Using standard terms with clearly understood meanings will assist the criminal justice system to obtain the type of uniformity which benefits both the community and the defendant.

Federal jurisdiction

By accepting the concept of a comprehensive recodification, the Subcommittee has forced itself to focus on the problems which exist under present federal statutes. Among the most important changes resulting from this scrutiny of current problems are improvements in the treatment of federal jurisdiction to prosecute criminal cases and the development of a clear delineation of the appropriate roles for federal, state and local law enforcement.

In dealing with the matter of federal jurisdiction, the Subcommittee has carefully examined the substantiality of the federal interest involved before recommending any intrusion into the affairs of state and local governments. Thus, under the Subcommittee's approach there is almost no "piggyback" federal jurisdiction for which the Brown Commission was so severely criticized. Further, all crimes which would be of federal interest are included, but the Subcommittee has consciously avoided adding new jurisdiction to federal law enforcement except where a strong showing of need has been made.

Finally, the Subcommittee has codified a long standing policy of the Justice Department to limit to appropriate situations the prosecution of persons in federal court for conduct for which they have previously been tried in state courts.

II. OFFENSES AND DEFENSES

Organized crime

The Subcommittee's proposed criminal code, through the addition of 2 new offenses, has expanded the coverage of the statutes dealing with organized crime. The offense of "Operating a Racketeering Syndicate" will enable prosecutors to obtain convictions of persons who direct large criminal syndicates. The proposed code's expanded coverage of the current loansharking statute will make felonious the loaning of funds at totally exorbitant interest rates under circumstances indicative of illegal activity. Finally, the laundering of money made from organized crime activities is addressed in a more complete fashion.

Civil rights

The proposed code amends the present civil rights offenses to encompass discrimination on the basis of sex. The proposed code also amends them in order to eliminate inconsistencies in coverage and to define with greater specificity the proscribed conduct. As a result, the federal government will be abe to vindicate the civil rights of its citizens more effectively.

Pirating records and movies

The proposed code contains a new offense to deal with the pervasive and serious problem of pirated records and tapes. In addition, the proposed code contains new provisions that will help ease the way for prosecution of the commercial theft of copies of movies.

Sexual offenses

The Subcommittee, recognizing the importance of protecting both men and women from serious sexual assaults, has made some significant changes in the area of sexual crimes. For example, spousal immunity, long a defense to a charge of rape, has been restricted. Under the Subcommittee's approach, which is consistent with recent state enactments, a sexually battered wife will be better able to obtain redress.

Official corruption

The Subcommittee's proposed code contains several new provisions for dealing with official corruption. The offense of "Trading in Special Influence" prohibits the sale of influence over public policy by someone who is not a public official. Thus, the husband of an elected official who, with an evil motive, takes money from a foreign government in exchange for attempting to influence his wife's vote as an elected official, would be punished under this offense.

The Subcommittee has also eased the way for convictions of persons who lie before an official proceeding. The offense of "False Swearing", which does not require that the statement in question be material to the official proceeding, gives prosecutors a greater tool than they currently have in this area.

Conspiracy

In accord with the recommendations of leading legal scholars and the American Bar Association, the Subcommittee has concluded that persons who are part of a conspiracy should not be held responsible for the acts of others when they had no knowledge of the plan of the others—and might even have disapproved of such plans if they had known of them. The Subcommittee has also provided for a defense of renunciation. This defense will give an incentive to repentant conspirators to prevent the accomplishment of the goal of the conspiracy, an incentive that does not presently exist.

Generalized offenses

The proposed code severely limits the use of overly-broad generic offenses, which cover much conduct that should not be punished. The Subcommittee's basic approach has been to recodify existing provisions in such a way as to reach criminal wrongdoing by means of specific offenses which speak directly to the nature of the harm.

Contempt of court

The Subcommittees proposed code contains several provisions that prohibit specific contempts of court. For example, failing to testify when called to the witness stand is, under the appropriate standards, a specified, the Subcommittee has limited the application of the general contempt provision to situations where the other provisions cannot meet the necessary purposes of the court's contempt power. The nonserious nature of contumacious behavior which cannot be dealt with through the specific offenses has led the Subcommittee to limit the general contempt power of the court to a maximum penalty of 5 days in jail.

Defenses to criminal charges

The Subcommittee's proposed code codifies existing case defenses, such as insanity. It delineates the scope of many defenses about which case law is unclear. This codification and delineation will allow greater precision in the practice of criminal law and will add speed and certainty to the criminal process.

III. SENTENCING

The punishment of criminal wrongdoers has frequently been the target of criticism of the criminal process. The practices, procedures, and statutes which govern the sentencing of offenders in federal courts have been criticized for their inconsistency and redundancy. Critics correctly point to the existence of unwarranted sentence disparity. Similarly situated offenders who have committed similar crimes often receive widely dissimilar sentences.

Unfortunately, much of the blame for these difficulties must be on the Congress. Congress has failed to give to the judiciary the policy guidance necessary to create a rational and systematic set of sentencing principles. Whenever Congress has enacted new criminal provisions, it has tended to make ad hoc determinations about the appropriate penalty level. This has produced a federal criminal law with over 20 different maximum prison terms and an almost equal number of fine levels. Moreover, Congress has from time to time enacted specialized sentencing statutes which are either outdated or rarely, if ever, used.

Most importantly, Congress has not given sufficient attention to the important concepts of certainty and clarity of sentencing practices and results. The present federal sentencing structure can best be described as a modified determinant system. If a prison term is imposed upon a convicted defendant, the length of time that that person will actually serve in prison is affected by the "good time" and parole provisions of present law. Through the earning of good time, the person can reduced the maximum term by 1/3. For most people sentenced to prison, the amount of time actually served is materially affected by parole provisions. These factors, coupled with the absence of a requirement that the sentencing judge articulate the reasons for the sentence they imposed, leave the public and the victim of the crime in the dark about the practical effect of a sentence.

The Subcommittee determined to resolve the tough issues of sentencing by taking a straightforward and honest approach to sentencing. Sentences should mean what they say—there should be "truth in sentencing". Sentencing judges are required to state the reasons for the sentence at the time it is imposed. Sentencing guidelines developed by the Judicial Conference of the United States will assist judges to impose the proper sentence. These guidelines will create categories of offenses and offenders and provide judges with detailed and relevant information about the suggested sentence range for offenders convicted of particular crimes when those offenders have similar criminal histories. Finally, any prison term imposed by the judge will be the actual time served.

The Subcommittee's proposed code grants jurisdiction to the United States Circuit Courts of Appeals to hear appeals from allegedly excessive sentences. This should enable the development of a common law of sentencing as well as the development of some limitations upon the inappropriate use of prison terms. This appellate review provision in the proposed code will bring this country into line with the jurisprudence of many other countries.

In structuring its sentencing system, the Subcommittee has attempted to avoid any aggregate increase—or decrease—in the numbers of people sent to prison or in the length of time actually served in prison. Thus, it is the Subcommittee's goal that, while some individual offenders, or types of offenders, may receive longer prison terms, on balance the size of the prison population should not increase.

The Subcommittee concluded that despite dedicated efforts to provide rehabilitation in the prison environment, rehabilitation programs do not sufficiently benefit society or the offender to justify the imposition of a prison term for the purpose of rehabilitation of the individual being sentenced. The uncertain state of the knowledge about how to rehabilitate, and about determining when someone is rehabilitated, makes it patently unfair to deprive someone of liberty based upon the notion that prison will "reform" the person. Under the Subcommittee's proposed code, a prison term may not be imposed solely for the purpose of rehabilitation. This does not mean, however, that educational, vocational, and other such programs in prison will be eliminated. It does mean that, for reasons of honesty and fairness, we should admit that prison sentences are to be imposed for reasons other than rehabilitation.

The sentencing system proposed by the Subcommittee makes, in addition to the changes already mentioned, several other important changes in current law:

(1) Offenses are classified into 5 grades of felonies, 3 grade of misdemeanors, and an infraction. Each grade has a uniform maximum prison term and fine level. This will replace the multiplicity of maximum prison terms and fine levels in present law.

(2) Outdated specialized sentencing provisions are repealed because the factors they involve can better be dealt with in the context of uniform sentencing guidelines.

(3) Additional information, including a statement from the victim of the offense, will be included in the presentence report which the judge uses in sentencing. A sentencing hearing will be required whenever it is necessary to resolve factual disputes concerning a sentence.

(4) Probation is explicitly recognized as a form of sentence and its utility is highlighted. Procedures for the imposition of probation, and for the modification or revocation of the terms and conditions of a sentence of probation, are set forth.

(5) The availability of restitution to the victims of crime is expanded by requiring that such restitution be a mandatory condition of probation, unless such payments are necessarily impractical.

(6) A new sentence of conditional discharge has been developed by the Subcommittee. A sentence of conditional discharge will be impossible on corporation and other organizations. Such entities cannot be sent to prison.) In addition, the sentence will be appropriate for individuals with no need for rehabilitative services.

The Subcommittee's proposed sentencing system draws upon the best thinking of the past decade. It recognizes the current problems with sentence disparity, but acknowledges that there is not magic solution. It takes a cautious approach by giving judges guidance without unnecessarily hampering their discretion to impose a sentence appropriate to the particular offender.

Finally, the modernization of sentencing practices and procedures will bring into the open sentencing decision-making. Both the public and the convicted defendant have a right to know how and why the defendant is being sentenced. Under the Subcommittee's sentencing system, they will.●

NO GAS SHORTAGE

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. ROSENTHAL. Mr. Speaker, I wish to bring to my colleagues attention the following news story relating to certain statements that I have made relating to the supposedly crude oil shortage, the gas prices, and other related petroleum problems. The second item which I wish to bring to my colleagues attention is the fact that on Monday, July 30, 1979, the Wall Street Journal in a lead story entitled "Plentiful Petroleum" essentially agreed with the statements that I have made. An excerpted copy of this item also follows:

THE GAS CRISIS IS A FRAUD CHARGES TOP REPRESENTATIVE

(By Rosa Harris and Patrick Edwards)

There is no gas crisis, says U.S. Representative Benjamin Rosenthal.

It is a fraud being put over by the major oil companies. With the assistance of Federal agencies, says Rosenthal, chairman of the House subcommittee which is looking into the crisis.

Specifically, he charges that:

Oil companies are withholding supplies so they can up prices and reap huge, windfall profits.

Oil supplies in the U.S. are at nearly record highs, despite claims of the Department of Energy (DOE) and the oil companies.

The Justice Department and the DOE have been blocking attempts to investigate the crisis.

The current "artificial shortage" may result in a deep freeze this winter with not enough heating oil to go around.

"If the Federal Government and the oil companies wanted, we could have a million more barrels a day," Rosenthal told Globe this week.

"Our imports of crude are up 10 percent over last year and increasing," he said. The Iranian slowdown has had no effect on import levels.

"But refinery operations—which change crude oil into gasoline—are down approximately seven percent from last year. This is criminal—a scandal!"

Rosenthal charges that the oil companies are holding back on their crude supplies to create a demand for gas products which far exceeds supply.

"That way, prices are pushed up artificially and the profits of the big oil companies will be huge," he explained.

But Rosenthal's most amazing charges concern the behavior of Federal agencies and Government officials.

"The Department of Energy regards the oil industry as a client—not as an industry to be regulated in an arm's length way," he claimed.

"The Justice Department refused to clear an investigation into worldwide production of crude."

R.G. Ensz, a spokesman for the American Petroleum Institute, an umbrella organization for the oil industry, has his own accusations.

"Rosenthal's lying," Ensz told Globe bluntly, "Our crude oil reserves as of June 15 were just under 330 million barrels. Last year, there were 333 million barrels."

Ensz admitted, however, that the rate of refinery production is down compared to last year.

"But the reason it's down is that there is a shortage of crude oil. So we're stockpiling."

PLENTIFUL PETROLEUM—SHORTAGE OF OIL IS OVER FOR NOW, BUT PROBLEMS REMAIN FOR LONG RUN

(By James Tanner)

The world oil shortage is over—at least for a while.

No one is sure when it ended. Indeed, many will argue that it hasn't.

Despite such arguments, petroleum is suddenly plentiful world-wide. Consumption is down. Production is up. Above-ground inventories are moving into the "normal" range. Though still at lofty levels, sky-high spot prices for petroleum are coming down.

"There is no longer a petroleum shortage," says a London-based oilman turned petroleum consultant. "We are back in balance on supply and demand," says Frank G. Zarb, the former federal energy administrator who now is a New York investment banker.

Barring another cutoff of Iranian oil or a similar disruption of oil supplies elsewhere, another petroleum surplus may even be building. A temporary "mini-glut" is anticipated next year, if not sooner, by a small but growing group of oil observers—including oil ministers in several OPEC countries.

OBSCURING THE SURPLUS

Such a surplus may already be here. But, if so, it is obscured by the "gloom-and-doom" headlines on energy, the continued panic buying of fuels and crude oil in parts of the world, and the distortions caused in oil markets by government programs in the major consuming nations, particularly the U.S., that are designed to share the "shortages."

For Americans, an easing of the oil cruch should signal:

An early evaporation of the already-diminished gasoline lines, at least for the rest of 1979, with supplies of motor fuel remaining in the "comfortable" zone for the duration of the so-called driving season.

Probably ample supplies of fuel oil for this year's heating season, barring an extremely severe winter.

Some slowing, but not an end, to the increases in fuel costs. • • •

Even so, many companies are beginning to snub spot markets for petroleum. Some oil speculators have been caught with unsold cargoes purchased at peak prices. A much-preferred grade of Nigerian crude oil, which sold as high as $42 a barrel only a few weeks ago, was down last week to $33 a barrel, delivered to the U.S. Gulf Coast.

It is doubtful, however, that spot petroleum prices will soon drop all the way to the official price range of $18 to $23.50 set by the Organization of Petroleum Exporting Countries, observers say. "These uncertainties (such as Iran) make people nervous and keep spot markets from collapsing, unfortunately," says Walter Levy, the internationally known oil consultant. And some of the

OPEC countries are continuing to divert oil from contract customers to the spot market.

Whatever the outlook for the future, the current oil-supply picture is improving sharply day by day. The main sign of that improvement is in above-ground oil inventories.

According to calculations by E. Anthony Copp, energy-research and development vice president for Salomon Brothers, worldwide petroleum inventories have surged to a near-normal range of 4.4 billion to 4.5 billion barrels and are still rising. That is only slightly below the 4.7 billion to 4.9 billion barrels that inventories are estimated to have reached at the peak of the oil glut last year.

World oil output has begun to outrun demand, meanwhile. Although the North Sea and Mexico are contributing to added supplies, OPEC has also increased production despite real and threatened cutbacks by some of the 13 members. Even with this year's Iranian interruption, OPEC's total output in the first six months was higher than the 28.8 million barrels a day averaged in last year's first half.

Currently, OPEC production is running at what Mr. Schlesinger calls "a very respectable" rate of 31.5 million barrels a day, or about 60 percent of the non-Communist world's output. This month, Saudi Arabia began allowing an extra one million barrels a day of production. But even without that, many observers believe more oil is being produced than is being consumed.

There has been a sharp decline in consumption, particularly in the U.S., the world's biggest oil user. In recent weeks, U.S. motorists have curtailed driving either because they couldn't get gasoline or thought they couldn't get it. Whatever the reason, gasoline consumption in the four weeks ended July 13 was down 9.5 percent to seven million barrels a day from the record 7.7 million barrels a day in the year-earlier weeks.●

UCLA DEBATE TEAM

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. CLAY. Mr. Speaker, I would like to take this opportunity to congratulate the UCLA Debate Team which was offically designated second in the Nation for the 1978–79 season by the Cross Examination Debate Association. The trophy was awarded at the last tournament of the year, the Great Western Invitational, held at the University of Reno.

In addition, to winning the national trophy, the University of California at Los Angeles placed 1st at the tournament, defeating the University of Utah, the University of California at Berkeley, and the University of Southern California to gain the top spot.

Under the direction of Tom Miller, director of forensics the win capped a near perfect year. UCLA broke out of the preliminary rounds into the elimination rounds at every tournament it entered. In addition, UCLA entered 16 tournaments this season, and was in the final round of 11 of them. The final record was impressive; first place at seven tournaments, second place at four, third place at four, and ninth place at one.

UCLA debate team members that contributed to the overall national victory were Paul Carey, Brad Greeley, Stephen A. Jones, Alan Schainwooks, Howard Schneider, John Scardino, and Brad Zerbe.●

SMALL BUSINESS RESEARCH

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. LEWIS. Mr. Speaker, I am introducing today the Small Business Innovation Research Act which will strengthen technological innovation and promote increased productivity in the Nation's economy. This bill is identical to S. 1074 introduced in the Senate by Mr. KENNEDY.

The rate of productivity growth in the United States now lags behind most of our competitors in the world economy. At the same time, we are suffering from unemployment, inflation, and a large negative balance of payments.

Many of these problems result in part from a lack of new innovation to keep our economy abreast, if not ahead, of other industrialized economies. According to a recent Department of Commerce study, both the U.S. share of patents filed worldwide and the number of U.S. patents awarded to U.S. citizens have dramatically decreased in the last decade. That finding, together with the decline in the number of new innovative technology-based companies and the reduction by 50 percent in the United States worldwide lead in productivity, clearly demonstrates that there is a serious decline in innovation in the United States.

This decline in technological innovation poses a major threat to the quality of our lives. It represents a decline in U.S. industrial might, a loss of jobs, and a decrease in our standard of living. Today, we often find foreign technology running circles around our domestic industries. Overseas industries often use more advanced technology, foreign manufacturers are often first to introduce new features, new energy technology is often applied more quickly in other countries.

The low rate of technological innovation and new high technology firm formation in the United States is even more significant in view of the findings of a study by Data Resources, Inc. The study shows high technology companies growing nearly three times as fast as lower technologly firms, while increasing their productivity growth rate nearly twice as fast as the lower technology firms. The rate of inflation in higher technology companies is lower because of this productivity growth rate. Of great significance is the finding supported by many studies that higher technology firms create jobs at a much greater rate than lower technology companies.

Among the innovative or high technology companies, there is mounting evidence that small business firms far surpass large firms in the rate and efficiency of innovation and in job creation. A 1977 OMB report found that "firms of less than 1,000 employees accounted for almost one-half of the major innovations during 1953–73." Numerous other studies have shown similar results. The study also found that "firms of less than 1,000 employees have a ratio of innovations to R. & D. employment which is approximately four times greater compared to firms with more than 1,000 employees." Independent inventors and small business firms have been responsible for inventions such as insulin, titanium, dacron, polyester fiber, automatic transmissions, the ballpoint pen, helicopter, and many others.

The same OMB report found that small firms are far more cost effective, with a cost per scientist or engineer of only half as much as large firms. Numerous other studies substantiate the outstanding contribution of innovative small business firms to our Nation's economy. For example, the House Subcommittee on Antitrust, Consumers and Employment's study "Employment of the Fortune 1,000 top industrial corian Labor Force" indicates that small businesses were responsible for 96 percent of the jobs created in the private sector in the period from 1969 to 1977: the Fortune 1,000 top industrial corporations accounted for only 4 percent of the jobs created in the same period.

Reports released by Department of Commerce and the Small Business Administration within the last 30 days substantiate the role of small Business in innovation and the need for increasing innovation in the United States.

In light of more favorable record of small business in innovation and cost efficiency and in view of the vital need for increased innovation, greater productivity growth and new employment opportunities—it is startling that only 3½ percent of the Federal research and development budget is awarded each year to small business firms.

It is long past time for the Nation to establish programs and incentives to increase the small business share of Federal R. & D. awards. In concluding that small, particularly new, enterprises occupy the critical role in innovation of linking ideas and innovation to the marketplace, a 1978 joint hearing of House and Senate small business committees found that—

> The market linking function of small enterprises, their problems and potentials should be receiving the very highest priority treatment in the Nation's effort to encourage and strengthen technological innovation.

The National Science Foundation has established a program known as small business innovation applied to national needs. This three-phase program has as its main purpose the reserving of a specific amount of money for award to small innovative firms to promote greater utilization of their capabilities in NSF research and development and to convert the results of their research to technological innovation in the private sector.

First phase results from this program are very encouraging in terms of small firm response and quality of research performed.

The bill I am introducing today will amend the Small Business Act to establish small business innovation research programs similar to the NSF program throughout the Federal Government. The bill requires each executive agency having an annual R. & D. budget of more than $100 million to establish a small business innovation research (SBIR) program where one-half of 1 percent of its 1980 R. & D. budget and 1 percent of its subsequent years R. & D. budgets would be reserved for award to small business firms specifically in connection with its small business innovation research program. In fiscal year 1980, approximately $137 million would be channeled to small business. In subsequent fiscal years, the total amount would approximate $275 million.

The money would be spent by each agency for projects suitable to the SBIR program and that would fulfill the agency's R. & D. plans. Therefore, funds beyond the normal R. & D. budgets are not required for the SBIR programs. The SBIR programs would differ from normal small business set-asides in several significant ways.

First, the funds would be specifically reserved for small business on a continuing basis, thereby eliminating the question of whether the contracts awarded with these funds should go to large or small business and giving Federal technical and procurement officials the responsibility and incentive to promote competition among small firms for these R. & D. contracts awards. Second, the continuity of the program will encourage participation by existing small firms and will promote the establishment of additional highly innovative small firms.

Third, the bill calls for a simplified acquisition process for the program with SBIR requests for proposals being standardized throughout the Federal Government. Instead of being faced with a dozen different, highly complex, 100-plus-page, requests for proposals, the small business person will only have to deal with one or two standard forms, simplified, 20-page solicitations. The small businesspersons' initial response likewise will be simple and of a few pages instead of the complex, expensive, several-hundred-page proposal that is now often required.

The SBIR programs will be phased to take a basic idea or concept to the production stage. The first phase solicits small feasibility research proposals to determine the practicability of an idea. These first-phase efforts are funded by the Government for about $25,000 each. Phase II is limited to firms successfully completing phase I and is for the principal research effort to develop a new product or process. The second-phase efforts are also funded by the Government for about $250,000 each. The third and final phase, which is carried out with venture capital or other private funds, is for follow-on development effort to pursue commercial objectives that will justify continued private-sector investment. The SBIR program will provide a major link between the basic idea and the point where it is developed sufficiently to be of interest to venture capitalist and other financing sources. Much has been written about the very real shortage of venture capital, especially for small businesses. Some studies have concluded that a good part of the venture capital problem is the lack of good ideas that are developed into viable proposals. The SBIR program would directly address this problem.

I urge my colleagues to join me in supporting this legislation.●

A TRIBUTE TO MRS. THELMA THOMAS DALEY

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. MITCHELL of Maryland. Mr. Speaker, in just a few weeks, Mrs. Thelma Thomas Daley of Baltimore, Md., will be relinquishing the office of national president of Delta Sigma Theta Sorority, Inc., following a series of momentous public service accomplishments, both by herself and by Delta.

On numerous occasions, I have acknowledged and commended the work of Mrs. Daley and Delta Sigma Theta. At this time, however, I believe that it is most appropriate to share a tribute to her and this organization with my colleagues in the House of Representatives.

For over 50 years, Delta Sigma Theta, Inc. has engaged in activities which are clearly indicative of its unwavering dedication to public service in such areas as education, economic development, legislation, housing, (including the elderly and the handicapped), arts and letters, and scores of other initiatives. The organization awards more than $500,000 annually to deserving students to assist them in attending colleges and universities. Contributions to other groups (such as the United Negro College Fund, NAACP, YMCA, National Council of Negro Women, Urban League and a substantial number of agencies and institutions at the local community level) total more than $750,000. In addition, Delta Sigma Theta, Inc. makes a $1,000 contribution to the National Black Achievement Scholarship Committee of the Nation's merit scholarship program.

With the assistance of a $134,000 grant from the Department of Health, Education, and Welfare, Delta Sigma Theta has, for the past year, engaged in developing a women's educational equity training and assessment program (WEETAP). This project has as its goal, the development and subsequent testing of materials to be used by personnel in public and private institutions and community groups in an effort to combat sex stereotypes and promote educational equity for women.

The Federal City Alumnae Chapter (Washintgon, D.C.) spearheaded an effort in conjunction with the national office to impact on the equal rights amendment and full voting representation for the District of Columbia. During the 1978 regional conferences of Delta, more than 4,000 letters were written from members across the country in support of the ERA. In addition, over 700 letters were written at the Delta eastern regional conference encouraging Congress to pass the bill providing full voting representation for the District of Columbia.

I remain particularly thankful that for the 11th year, Delta has operated its direct search for talent project in my own city of Baltimore, Md. With funding of approximately $750,000 from the Office of Education, Delta has endeavored to identify students in selected high schools to present counseling services, tutorial assistance, guidance, career testing and evaluation services, and financial aid services. A second direct search for talent project has been instituted by the North Jersey alumnae chapter with more than 20,000 participants.

While I could proceed endlessly to identify the many areas of services to which Delta Sigma Theta has dedicated itself, it is imperative to note that many of the accomplishments of this organization have been highlighted by the excellent leadership of Mrs. Thelma Thomas Daley as president.

Mrs. Daley is a nationally recognized guidance and counseling professional and former national president of both the American Personnel and Guidance Association and the American School Counselor Association. She has served on the faculties of Coppin State College, Western Maryland College, and the University of Wisconsin. Mrs. Daley has also served on the Harvard University College admission summer institute staff. Employed by the Baltimore City Board of Education, she has just completed a 2 year loan to the Maryland Department of Education as a consultant in career education and as Federal project director. Thelma Thomas Daley's professional and community involvement is extensive: trustee, Educational Testing Service; former trustee, College Entrance Examination Board; appointed by David Mathews—former Secretary of HEW—to the 14-member National Advisory Council on Career Education; appointed by Joseph Califano, Former Secretary of HEW to chair the National Advisory Commission on Career Education; member of the Board of Directors of the Voluntary Action Center of Central Maryland; cochairperson of the Maryland Foster Care Committee; and chairperson of a statewide special involvement of adoption for babies through conference and Delta. Thelma Thomas Daley has received numerous citations and awards including a plaque from the NAACP citing her outstanding contrbution to the life membership program; the Continental Society, Inc. Outstanding Black American Award; the Governor's Citation; Lamda Kappa Mu Outstanding Woman Award, and listed as one of the 100 most influential black women. Mrs. Daley is also listed in Personalities in the South and Who's Who in Black America.

As Mrs. Daley leaves office I salute her for her strength, leadership and accomplishments as president of Delta Sigma Theta Sorority, Inc. Thelma Thomas Daley represents the epitome of hard work and dedication. Her years of service truly uphold her genuine illustration of unrelentless commitment to human services.●

URBAN GARDENING AND SOLAR ENERGY FEATURED AT NEW YORK CITY GARDENERS HARVEST FAIR

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. RICHMOND. Mr. Speaker, those of us who represent the densely populated inner cities have been witness to an increasing appreciation by urban residents of the vital link between humankind and the environment. Nowhere is this expanded awareness more evident than in the burgeoning urban agriculture movement, in which I am proud to have played a part. Last year, in New York City alone, an estimated 28,000 urban gardeners cultivated over 27 acres of what were once vacant, rubble-strewn lots, yielding not only fresh produce but a renewed sense of community pride.

This year, on Saturday, September 15, New York City gardeners will have a unique opportunity to display that pride at the first annual New York City Gardeners Harvest Fair to be held from 9 a.m. to 6 p.m. at Floyd Bennett Field in Gateway National Park.

The September 15 event, which I am cosponsoring along with the Cornell University Cooperative Extension and other community gardening groups, will feature music, rides, races, and exhibits, and will be highlighted by a competition for the best homegrown vegetables and the best homemade food. There will be 17 classes for vegetable displays and five categories in which homemade jams, jellies, cucumber pickles, and baked goods will be judged. In the tradition of a real country fair, blue, red, and white ribbons will be awarded for each category, and there will be certificates of honorable mention for each participant.

As one who has taken every opportunity to encourage urban agriculture, I will be present to congratulate our city gardeners on their enthusiasm, their skill and their hard but rewarding work, and to assist in handing out the awards.

Mr. Speaker, the sense of well-being a person can feel after successfully preparing a seedbed, sowing a crop, caring for it, and finally harvesting the bounty of the Earth is intensified when it is accomplished in the concrete environs of the inner city. Urban gardeners perform an essential service to our cities, creating a spirit of hope and community cooperation that has eluded generations of city planners and bureaucrats. I look forward with the greatest of pleasure and pride to this celebration of their hard work and commitment.

I might add, Mr. Speaker, that one highlight of the New York City Gardeners Harvest Fair will be an energy resources library, which I am now compiling for my constituents and will have on display on September 15. Obviously, if our fellow Americans are to achieve the critically important goals of energy conservation, we must start with community action and awareness.

The energy resources library, consists of pamphlets, books and bibliographies covering conservation, solar power, wind, and geothermal power, as well as complete curriculum guides for grades 1 through 12 and college-level energy and conservation courses. Materials of interest to small business owners, renters, and homeowners will be included in the display, along with community action plans and hospital and school energy assessment programs.

I am sure that my colleagues will be interested in reviewing the energy resources library and I take this opportunity to inform them that the library will be available for their inspection in my office after September 17.

Again, Mr. Speaker, I urge my colleagues to join me and many thousands of urban gardeners at the New York City Gardener's Harvest Fair on September 15.●

REFORMS FOR ABUSES IN THE SALE OF HEALTH INSURANCE TO THE ELDERLY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. PEPPER. Mr. Speaker, in March of this year I introduced a bill to direct the Secretary of the Department of Health, Education, and Welfare to institute a program of voluntary certification for health insurance policies sold to the elderly in supplementation of medicare. This bill is a result of the detailed investigation conducted over the past year by the staff of the House Select Committee on Aging. We concluded that there were widespread and serious abuses in the sale of health insurance to senior citizens in supplementation of medicare.

Mr. Speaker, I include my bill, H.R. 2602, to be printed in the RECORD at this point and that the bill now reflect cosponsorship of the following Members of the House:

LIST OF COSPONSORS

Mr. Scheuer, Mr. Waxman, Mr. Staggers, Mr. Carter, Mr. Rangel, Mr. Preyer, Mr. Maguire, Mr. Walgren, Ms. Mikulski, Mr. Leland, Mr. Murphy of New York, Mr. Madigan, Mr. Lee, Mr. Van Deerlin, Mr. Eckhardt, Mr. Ottinger, Mr. Wirth, Mr. Florio, Mr. Moffett, Mr. Santini, Mr. Russo, Mr. Markey, Mr. Mottl, Mr. Lent, Mr. Rinaldo, Mr. Roybal, Mr. Biaggi, Mr. Andrews of N.C., Mr. John Burton, Mr. Bonker,

Mr. Downey, Mr. Ford of Tenn., Mr. Hughes, Mr. Drinan, Mr. Lundine, Ms. Oakar, Ms. Holtzman, Mr. Lloyd, Mr. Watkins, Mr. Gudger, Ms. Ferraro, Mr. Ratchford, Mr. Mica, Mr. Stack, Mr. Synar, Mr. Atkinson, Mr. Regula, Mr. Dornan, Mr. Hollenbeck, Mr. Green, Mr. Shumway, Mr. Hopkins, Ms. Snowe, Mr. Lungren, Mr. Whittaker, Mr. Marks, Mr. Addabbo, Mr. Akaka, Mr. Albosta, Mr. Ambro,

Mr. Anderson of Calif., Mr. Anderson of Ill., Mr. Andrews of N. Dak., Mr. Anthony, Mr. Applegate, Mr. Ashley, Mr. AuCoin, Mr. Bailey, Mr. Barnes, Mr. Beard of R.I., Mr. Bedell, Mr. Beilenson, Mr. Bennett, Mr. Bevill, Mr. Bingham, Mr. Blanchard, Ms. Boggs, Mr. Boland, Mr. Bolling, Mr. Bonior, Mr. Bowen, Mr. Brodhead, Mr. Brown of Calif., Mr. Buchanan, Mr. P. Burton, Mr. Butler, Mr. Carr, Mr. Chappell, Ms. Chisholm, Mr. Clay,

Mr. Clinger, Mr. Coelho, Mr. Conable, Mr. Conte, Mr. Conyers, Mr. Corrada, Mr. Cotter, Mr. Courter, Mr. D'Amours, Mr. Danielson, Mr. Davis of Mich., Mr. Davis of S.C., Mr. Dellums, Mr. Derrick, Mr. Diggs, Mr. Dixon, Mr. Dodd, Mr. Donnelly, Mr. Dougherty, Mr. Duncan of Oreg., Mr. Duncan of Tenn., Mr. Edgar, Mr. Edwards of Calif., Mr. Emery, Mr. Erdahl, Mr. Ertel, Mr. Evans of V.I., Mr. Fascell, Mr. Fauntroy, Mr. Fazio.

Ms. Fenwick, Mr. Findley, Mr. Fish, Mr. Fisher, Mr. Fithian, Mr. Flippo, Mr. Flood, Mr. Ford of Mich., Mr. Forsythe, Mr. Fountain, Mr. Fowler, Mr. Fuqua, Mr. Garcia, Mr. Gephardt, Mr. Gilman, Mr. Glickman, Mr. Goldwater, Mr. Gonzalez, Mr. Goodling, Mr. Gore, Mr. Gramm, Mr. Gray, Mr. Grisham, Mr. Guarini, Mr. Guyer, Mr. Hagedorn, Mr. Hall, Mr. Hanley, Mr. Harkin, Mr. Harris,

Mr. Harsha, Mr. Hawkins, Ms. Heckler, Mr. Hefner, Mr. Heftel, Mr. Hillis, Mr. Hinson, Mr. Horton, Mr. Howard, Mr. Hubbard, Mr. Huckaby, Mr. Hutto, Mr. Jenkins, Mr. Jenrette, Mr. Johnson of Calif., Mr. Jones of Tenn., Mr. Kastenmeier, Mr. Kemp, Mr. Kildee, Mr. Kogovsek, Mr. LaFalce, Mr. Lagomarsino, Mr. Leach of Iowa, Mr. Lederer, Mr. Lehman, Mr. Long of La., Mr. Long of Md., Mr. Lott, Mr. Lowry, Mr. McCloskey,

Mr. McCormack, Mr. McDade, Mr. McHugh, Mr. McKay, Mr. McKinney, Mr. Matsui, Mr. Mavroules, Mr. Miller of Calif., Mr. Mineta, Mr. Minish, Mr. Mitchell of Md., Mr. Moakley, Mr. Mollohan, Mr. Montgomery, Mr. Moorhead of Pa., Mr. Murphy of Ill., Mr. Murphy of Pa., Mr. Myers of Pa., Mr. Neal, Mr. Nedzi, Mr. Nolan, Mr. Nowak, Mr. Oberstar, Mr. Panetta, Mr. Pashayan, Mr. Patten, Mr. Patterson, Mr. Pease, Mr. Petri, Mr. Peyser,

Mr. Pickle, Mr. Price, Mr. Pritchard, Mr. Pursell, Mr. Rahall, Mr. Reuss, Mr. Richmond, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Rousselot, Mr. Royer, Mr. Sabo, Mr. St Germain, Ms. Schroeder, Mr. Seiberling, Mr. Shannon, Mr. Simon, Mr. Slack, Mr. Smith, Mr. Solarz, Mr. Solomon, Ms. Spellman, Mr. Stangeland, Mr. Stanton, Mr. Stark, Mr. Steed, Mr. Stenholm, Mr. Stewart, Mr. Stokes,

Mr. Symms, Mr. Thompson, Mr. Traxler, Mr. Udall, Mr. Vander Jagt, Mr. Vento, Mr. Weaver, Mr. Weiss, Mr. Whitehurst, Mr. Williams of Mont., Mr. C. Wilson of Calif., Mr. Wilson of Texas, Mr. Wolff, Mr. Wolpe, Mr. Won Pat, Mr. Yates, Mr. Yatron, Mr. Young of Fla., Mr. Zablocki, Mr. Zeferetti, Mr. Annunzio, Mr. Coleman, Mr. Daschle, and Mr. Coughlin.

H.R. 2602

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE

SECTION 1. This Act may be called the "Senior Citizens Health Insurance Reform Act of 1979".

FINDINGS

SEC. 2. The Congress finds that—

(1) health insurance costs have been increasing at a dramatic rate and now constitute one of thte greatest fears of the elderly;

(2) medicare's coverage has been shrinking from almost 50 per centum at its inception to approximately 37 per centum of the average senior citizen health care costs in 1979;

(3) senior citizens are paying more and more to participate in medicare in the form of copayments and deductibles and are increasingly turning to the purchase of private health insurance policies to fill the gaps in medicare's coverage;

(4) the policies are often sold to the elderly

on the understanding that they will pay for items uncovered by medicare such as out-of-hospital prescription drugs and nursing home care when the reality is that most of these policies provide payment only for medicare's copayment and deductibles;

(5) unethical insurance agents and a small number of insurance companies have sought to capitalize on the fears of the elderly and the general misunderstanding about the nature of medicare supplementary policies by selling the elderly excessive or duplicative insurance with very limited economic value;

(6) recent congressional hearings have established that these abuses are widespread and serious and that only six States have enacted specific laws or regulations to deal with the problem; and

(7) the instances of abuses have reached the point of becoming a national scandal and since these abuses have their roots in the Federal medicare program it is the Federal Government's responsibility to help provide a remedy.

SEC. 3. To assist individuals in dealing with these circumstances, the Secretary of Health, Education, and Welfare shall establish a procedure whereby health insurance policies offered by private insurers in supplementation of medicare may be certified by the Secretary as meeting minimum standards with respect to adequacy of coverage, reasonableness of premium charge, and general economic benefit to the insured.

SEC. 4. (a) Any insurer which desires to have any health insurance policy which it offers in supplementation of medicare certified for use in one or more States specified by the insurer may (in accordance with regulations promulgated by the Secretary) offer any such policy to the Secretary and request his examination and certification thereof.

(b) If the Secretary, after examining any such policy and evaluating any data submitted in connection with such policy determines that such policy meets the standards set forth in section 4, he shall certify such policy for use.

(c) Such certification shall remain in effect provided that the insurer files a notarized statement with the Secretary no later than December 31 of each year stating that the policy continues to meet all Federal minimum standards.

(d) The Secretary shall establish procedures for requiring that additional relevant data be provided to his office in order that he might independently verify if the certified policies continue to meet Federal minimum standards.

SEC. 5. The Secretary shall not certify under this Act any insurance policy offered (or which may be offered) by an insured unless he finds—

(1) that such policy—

(A) supplements both part A and part B of medicare;

(B) is written in simplified language and printed in no less than ten-point type;

(C) does not limit or preclude liability under the policy for a period longer than sixty days because of a health condition existing before the policy is effective;

(D) contains a prominently displayed "no loss cancellation clause" enabling the insured to return the policy within 30 days of the date of sale without financial loss;

(E) provides the insured reasonable economic benefit in relation to the premium paid, including an assurance that, by the end of the second calendar year in which such policy is in effect, at least 75 per centum of the amount of premiums collected from the sale of such health insurance is paid out in the form of benefits provided under the policy; and

(2) that such policy complies with such other regulations as are established by the Secretary pursuant to the purpose of this Act.

SEC. 6. The Secretary shall cause to be designed an appropriate emblem which may be used as an indication that certification on an insurance policy under this Act has been made by the Secretary; and any insurer which has secured certification on an insurance policy by the Secretary under this Act may have such emblem printed thereon and may, in advertising such policy to potential subscribers, display such emblem, and state that such policy has received such a certification.

SEC. 7. The Secretary shall provide each State insurance commissioner with a list of each policy which has received Federal certification. The Secretary shall encourage the commissioners to facilitate the sale of federally approved policies and discourage the sale of policies which fail to meet Federal minimum standards.

SEC. 8. (a) It shall be unlawful for an insurance company to provide false or misleading information to the Secretary for the purpose of obtaining Federal certification for insurance policies sold in supplementation of medicare or for the purpose of attempting to establish that policies which have received certification continue to be in compliance with Federal minimum standards.

(b) Whoever knowingly and willfully makes or causes to be made or induces or seeks to induce the making of any false statement or representaation of a material fact with respect to the compliance of any policy with the standards set forth in provisions of Federal law and regulations as set forth above in this Act or in regulations promulgated by the Secretary pursuant to this Act shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years or both.

SEC. 9. Whoever falsely assumes or pretends to be acting, or misrepresents in any way that he is acting, under the authority of or in association with any program of health insurance established by Federal statute for the purpose of selling or attempting to sell insurance, or in such pretended character demands, or obtains money, paper, documents, or anything of value, shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years or both.

SEC. 10. Whoever knowingly sells a health insurance policy to a person eligible to participate in a program of health insurance established by Federal statute, which policy substantially duplicates insurance protection already owned by said person (unless the policy being sold permits valid claims to be made against the policy without regard to similar claims made on previously owned policies), shall be fined not more than $25,000 or imprisoned not more than three years or both.

SEC. 11. Whoever knowingly advertises, solicits, or offers for sale by mail, or knowingly deposits in the mail or sends or delivers by mail any insurance policy or policies into any State in which said policy or policies have not been approved by the State commissioner or superintendent of insurance shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years or both.

SEC. 12. The Secretary shall promulgate regulations to implement this Act not later than eighteen months from the date of enactment.

Mr. Speaker, I also include to have entered in the RECORD at this point the Miami News story of June 14 which describes testimony about the bill before the Subcommittee on Health and the Environment of the House Interstate and Foreign Commerce Committee. In addition, I include a letter from the Congressional Budget Office to be entered in the RECORD pointing out that H.R. 2602 will not result in significant new costs to the Government as well as a statement by Florida's insurance commissioner, the Honorable William Gunter, in support of my bill. I hope the bill can be enacted soon.

The articles follow:

[From the Miami News, June 14, 1979]

MEDI-SCARE ALERT SOUNDED—INSURANCE AGENTS ADMIT CHEATING ELDERLY IN FLORIDA

(By Bud Newman)

WASHINGTON.—Wearing a ski mask to disguise himself, a Florida insurance agent told a House subcommittee yesterday that three quarters of all agents selling Medicare supplemental policies lie to, cheat and steal from their elderly customers.

"Seventy-five per cent of the agents involved in the business today do this," said the man, identified only as "Agent Y."

He said the turnover among agents in the Medicare supplemental insurance business is so great that "if they don't practice this, they won't be in the business next year."

"Agent Y" and another disguised colleague from Florida, dubbed "Agent X," both told the House health and environmental subcommittee about fraudulent practices they have used to sell old people duplicate, unnecessary or worthless health and life insurance policies.

Subcommittee chairman Henry Waxman (D-Calif.) called the 75 per cent figure "astonishing."

Both said they still are selling insurance today under a Florida license, but said they have reformed and no longer cheat their customers.

An investigator for the House Select Committee on Aging, which has looked into so-called "Medi-Scare" insurance fraud and abuses, said both hooded agents became born-again Christians in recent years.

Agent X told the subcommittee he is a reformed alcoholic who had a bad drinking problem when he used fraudulent sales pitches to sell Medicare supplemental policies in Florida in the 1960s.

"I didn't have a conscience in those days," Agent X said. "I was a thief."

Agent X said he now has "a new way of life" and works as a volunteer in an alcohol abuse prevention program.

Many of the techniques described by the two agents have come out in earlier congressional testimony. But the allegation by Agent Y that the great majority of agents selling Medicare supplemental policies do so fraudulently is new.

Committee chairman Rep. Claude Pepper (D-Miami), whose committee convinced the two mystery agents to testify, yesterday released a report on his investigation into the problem. He called it "a collossal racket" and "a national scandal of staggering dimensions."

The Aging Committee report repeated an earlier charge that senior citizens who buy these policies are being taken for about $1 billion a year in useless insurance.

"The situation is a national outrage," Pepper said, adding that "major scandals" have erupted in 23 states. He said a few states, including Florida, New York and Virginia, have good records in cracking down on unscrupulous agents and firms and in revoking licenses.

As a result of his committee's investigation, 79-year-old Pepper filed a bill calling for voluntary certification by the federal government of Medicare supplemental policies. Policies meeting federal criteria would get what Pepper called the government's "Good Housekeeping seal of approval," giving them a competitive edge over companies unwilling to have their policies submitted for federal certification.

Pepper's bill already has been co-sponsored by more than a majority of the members of the House.

During testimony yesterday, Agent Y said he collected $200 a month in insurance premiums from one old lady, all the while suggesting additional coverage for her.

"This went on for months, until one day we found that we had only hit the tip of the iceberg because a dance instructor took her for $40,000 in dance lessons," the agent said.

Both agents claimed the senior citizens who become suckers for phony sale pitches often do so because they are lonely and just want the agent's company, or they are afraid of not being able to afford proper treatment in case of illness.

"If the agent could establish a friendship with the older person, they could do just about anything they wanted to do to them," Agent Y said. "They did not buy the company, they bought the agent. They would buy a friend."

Agent X said it was his experience that old people "may not have had the money for food, clothing or a trip, but most older people still had the money for health insurance."

He said he regularly loses customers to unscrupulous agents who will "lie and tell any story whatsoever" to move in on a customer.

"An agent will tell one of my customers that my license has been revoked, that I am out of the business or was kicked out or even that I am dead in order to replace existing coverage and switch to the plans they represent," Agent X said.

A frequent danger in switching policies, he said, is that new policies often carry a waiting period of 30 days to a year before benefits take effect. The more times someone's policy is changed, the longer they go without coverage—and the higher the agent's commission would be because new policies carry higher commissions than renewals.

STATEMENT BY WILLIAM GUNTER, FLORIDA STATE INSURANCE COMMISSIONER

JUNE 12, 1979.

Mr. Chairman, distinguished members of the House Interstate and Foreign Commerce Subcommitee on Health and the Environment.

Chairman Pepper and his Committee are to be commended for their continued efforts to aid state insurance commissioners in a crack down on fraud and misrepresentation in the sale of Medicare supplemental insurance policies.

In Florida, we have had to lift the licenses of 325 agents in the past six years, the vast majority for abuses in the sale of health insurance.

But lifting licenses and aggressive policing of agents and companies is not enough.

Too much of the so-called medi-gap supplemental insurance market is being solicited through the mails, insulated from state regulations.

Chairman Pepper's bill gives me and other insurance commissioners the power to police the sales. I urge each member of the subcommittee to act favorably on the bill and end what the distinguished Mr. Pepper so accurately described as a national scandal.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C. May 31, 1979.

Hon. CLAUDE PEPPER,
Chairman, Select Committee on Aging, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 2602, the Senior Citizens Health Insurance Reform Act of 1979, as introduced by the House Select Committee on Aging, March 5, 1979.

The bill directs the Secretary of the Department of Health, Education, and Welfare (DHEW) to establish a procedure whereby health insurance policies offered by private insurers in supplementation of medicare may be certified by the Secretary as meeting minimum standards with respect to adequacy of coverage, reasonableness of premium charge, and general economic benefit to the insured.

Because the additional DHEW administrative costs required to carry out the provisions in the bill are expected to be minimal, it is expected that no significant additional cost to the government will be incurred as a result of enactment of this legislation.

Sincerely,

ALICE M. RIVLIN,
Director.●

SENATOR WILLIAMS AND METROPARK STATION, ISELIN, N.J.

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. PATTEN. Mr. Speaker, I rise today in praise of one of New Jersey's finest legislators, Senator HARRISON A. (PETE) WILLIAMS, JR. Some of my colleagues in this Chamber who had the privilege of serving with PETE WILLIAMS in this body during the 1950's will be able to bear out my remarks.

Since being elected to the Senate in 1958, Senator HARRISON WILLIAMS has become New Jersey's shining star in various fields of important legislation. But in no area has that star shined as brightly as in the field of mass transit legislation.

A decade before this Nation heard of an energy crisis and gas lines, Senator WILLIAMS led the battle to fund America's first mass transit program. While gasoline sold for 30 cents a gallon, Senator WILLIAMS had the foresight to seek increased funding for bus and rail facilities. These programs were not enacted for the parochial concerns of New Jersey, but for this Nation's welfare as a whole. Indeed, had we all adopted PETE WILLIAMS' vigor for mass transit, our bitter energy pill would be a little easier to swallow today.

And so it is fitting that the State of New Jersey has decided to honor this great man by dedicating the Metropark in my district as the HARRISON A. WILLIAMS, JR., Metropark Station.

Metropark has the largest park-and-ride facility and is one of the busiest rail stations in New Jersey. It therefore serves as a just tribute to this great advocate of public transportation.

Mr. Speaker, I am also enclosing a copy of the remarks of Jeanette Williams, the Senator's wife, as she introduced her husband during the dedication ceremony at the Metropark in Iselin, N.J. Mrs. Williams' words provide a personal insight into the man all citizens of New Jersey and all Members of this body can be proud of—PETE WILLIAMS.

The following is Jeanette Williams' introduction of our great Senator and her fine husband:

REMARKS BY JEANETTE WILLIAMS

Thank you, Governor Byrne.

It frequently falls upon the least of us to do the most difficult tasks, and this morning, I am faced with one of the most awesome of all: using a few simple words to introduce a man of uncommon gentleness and wisdom.

I know our guest of honor so well that I could write an entire book about the many things he has done to help the people of this state and this nation.

Perhaps it's wiser to rely on the eloquence of a great author, George Bernard Shaw, who once said: "People do not become great by doing great things; they do great things because they are great."

The great struggles in this country—the battle for civil rights in the 1960's, the fight for equal opportunity for women, the young, the old, the handicapped, the effort to resurrect our cities, and the campaign to safeguard the rights of our workers, have required men and women of great vision determination and wisdom.

It is such a person that we honor today.

The real leaders of our country are the ones who make important things happen, who make people act, and who make life better for us all.

And greatness comes from knowing when and how to pursue the issues that will change for the better the way we all lead our lives.

When my husband was first elected to the Senate over two decades ago, he asked the right question about our nation's commitment to public transportation and he knew the answer was to pursue a massive drive for mass transit.

In 1960, he introduced the first mass transportation bill which passed Congress.

In 1962, he convinced President Kennedy to recommend passage of another major urban mass transportation bill that Senator Williams authored.

In 1964, he stood next to President Johnson as that vital piece of legislation was signed into law.

And since then, Senator Williams has been the shepherd of every major increase in funding for the mass transportation assistance program that he created.

It has taken decisive leadership and greatness to convince the naysayers that mass transit makes sense for a nation that is suffering an accute energy shortage.

And now, because of Senator Williams' leadership, all of America is awakening to the realization that he was right over twenty years age when he began his lonely crusade for a mass transportation program.

We all know so well that the American taxpayer is critical of excessive spending by government, but a recent poll shows that over two-thirds of the men and women in this nation believe that we must continue to increase spending for the public transportation program that Senator Williams started.

And the thing that amazes me so much about Senator Williams is that he has duplicated this impressive record in so many other fields, in so many other causes that have improved the quality of life in our nation.

But rather than reciting this long list of achievements, I will simply make one other observation—one which the humorist Will Rogers first voiced:

"It's great to be great, but it's greater to be human."

Knowing Senator Williams so well makes me appreciate more the fact that his greatest greatness is his wonderful concern for humanity and his work to help those in need.

It is a special honor and privilege for me to present to you the Honorable Senator Harrison "Pete" Williams.●

STATE AND LOCAL INVOLVEMENT IN SOLAR ENERGY INFORMATION SERVICES

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. UDALL. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

STATE AND LOCAL INVOLVEMENT

More than half the states have enacted legislation aimed at promoting solar development. In addition to various financial incentive programs designed to encourage purchase and installation of home solar units, state actions have included the financing and research and development, modification of state building codes to ease the introduction of solar devices, establishment of informational and promotional activities, promulgation of solar energy product standards and the legal recognition of "sun rights."

The number of state solar bills adopted doubled from 1975 to 1976, and then again in 1977. Several types of financial incentives have been implemented: property tax credits, which allow an owner to deduct part or all of the cost of a solar unit from a property tax payment; property tax deductions, which allow the exemption from increased property assessment of all or part of a solar unit's value; income tax credits, which operate similarly to property tax credits; direct loans for the purchase of solar equipment, some at low interest and/or with extended payback periods; and exemption of solar energy vendors from sales tax on their recepits.

NSHCIC keeps an up-to-date run-down of state solar developments and can direct interested parties to the proper state offices. The National Conference of State Legislatures also monitors state actions and reports on them in its "Energy Report to the States."

NCSL contact: Bill Mitchell, 303–623–6600. DOE contact: Lynda Connor, State Programs, 376–9674.

Incentive Information for Local Governments: Officials in local governments interested in methods of encouraging solar commercialization will find helpful an information packet prepared by the National Association of Counties. The packet offers advice on local demonstration projects, consumer protection for solar users, utility rate restructuring and direct and indirect financial incentives. It is available free by writing the NACO Energy Project, 1735 New York Ave., N.W., Washington, D.C. 20006.

State Energy Offices: Every state has a state energy office in one form or another. Citizens interested in identifying programs and incentives for solar and conservation in their state should contact their state government and ask for the energy office. These offices can put individuals directly in touch with local builders, architects and firms specializing in solar and conservation.

INFORMATION SERVICES

A number of government agencies, trade associations and nonprofit organizations provide a full range of information on solar energy, and general background for the uninitiated to detailed professional advice for the solar technician.

National Solar Heating and Cooling Information Center: NSHCIC was established by the federal government to serve as the primary source of solar information for the public. By calling the center's toll-free number, individuals can request basic information in layman's terms, the names of architects and builders in their areas specializing in solar design, detailed technical findings, listings of books and periodicals on specific subjects and the latest information on available government services.

ESC has found NSHCIC to be the quickest and most broad-based information resource available.

Also, NSHCIC can help arrange for exhibits and speakers for community groups, professional conferences and trade shows. In most cases, the center can answer questions immediately, forward information directly in a few days or refer inquiries to the proper sources. NSHCIC can be reached by writing: Solar Heating, P.O. Box Box 1607, Rockville, Maryland 20850. Their toll-free number is 800–523–2929, in Pennsylvania, 800–462–4983, in Alaska and Hawaii, 800–523–4700.

Solar Energy Institute of America: Similar services are provided by the nonprofit SEINAM, which offers information through exhibits, seminars, publications and a public information telephone line. The institute maintains regional listings of architects and builders and a nationwide speakers' bureau. Although SEINAM is a membership organization (membership entitles one to a solar energy products catalog and a monthly newsletter), inquiries from anyone are welcome.

SEINAM also will check out consumer complaints about faulty products, installations or service. The institute can be reached at: SEINAM, 1110 Sixth St., N.W., Washington, D.C. 20001, 202–667–6611.

Solar Energy Research Institute: SERI is the nation's first solar laboratory, created by Congress to promote the use of solar energy and support DOE's solar energy program. Located in Golden, Colorado, SERI employs the largest and most impressive group of solar experts in the country. Among its many responsibilities, SERI is charged with analyzing and distributing technical information, conducting educational programs, providing technical assistance and supporting international cooperative programs.

SERI has compiled the National Solar Energy Educational Directory with information on over 1200 solar-related courses being offered by about 700 universities, colleges and technical-vocational trade schools. Copies of the directory may be obtained for $4.75 each from the Government Printing Office, Washington, D.C. 20402 (stock no. 061–000–00210–3).

SERI is currently developing a Solar Energy Information Data Bank to serve the technical community. It answers technical inquiries, conducts seminars, provides library and computer services, including modeling and simulation.

SERI also publishes a bimonthly review called Solar Law Reporter for those interested in legal incentives and barriers to solar, wind and biomass development.

For further information on SERI and its public information services, call Hank Raze. 303–234–7171.

Regional Solar Centers: DOE is in the process of establishing a network of four regional solar energy centers to provide general information and to assist in the commercialization of solar technologies on a regional basis. Information on the four regional centers (Mid-American Solar Energy Complex, Northeast Solar Energy Center, Western Sun, and Southern Solar Energy Center Planning Project) may be obtained from NSHCIC.

Solar Energy Industries Association: SEIA, a trade group organized to promote the interests of the solar industry, provides a number of services for its members. Of interest to the public may be SEIA's Solar Industry Index, which contains a nationwide listing of solar product suppliers and manufacturers as well as general information on solar home units. To order the index or for membership information, contact: Luana Moore, SEIA, 1001 Connecticut Ave., N.W., Washington, D.C. 20036, 202–293–2981.

Government Printing Office: The federal government's printing office has several solar-related publications available to the public. A free pamphlet "Solar Energy, Subject Bibliography No. 9," lists those materials available through GPO. Inquiries should be directed to: Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, 202–783–3238.

Technical Guide: The Economic Development Administration of the Commerce Department, together with the Colorado State University, has prepared a two-volume manual which serves as the basis for a technical training course or as a reference guide for solar technicians. Designed for use by architects, builders, contractors and design engineers, the volumes are the result of an EDA-assisted training program developed and field tested at Colorado State.

Entitled "Solar Heating and Cooling of Residential Buildings," volume one is "Design of Systems" and volume two is "Sizing, Installation and Operations of Systems." They can be obtained from the General Printing Office (see information section).

EDA contact: Glenn Fatzinger, 377–4637.

Building and Installing Your Own System: Persons interested in designing their own solar installations can get assistance from the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) or the National Association of Home Builders (NAHB). Professional engineers and architects and individuals in the building industry interested in expanding into the solar market can also contact these groups, which offer direct advice and refer inquiries to individuals in their region.

They can be reached through: ASHRAE, Director of Research and Technical Services, 345 East 47th Street, New York, N.Y. 10017, 212–644–7953; NAHB Research Foundation, P.O. Box 1627, Rockville, Md., 20850, 301–762–4200.

Simple solar hot water systems that can be integrated into an existing water heating system can be built by a skilled "do-it-yourselfer." One set of instructions on how to build a system is available for $2.50 from Environmental Information Center, 935 Orange Ave., Suite E, Winter Park, Fla., 32789.

The State of Massachusetts also offers a book entitled "Solar Water Heater Installation Guidelines: A Manual for Homeowners and Professionals." It explains in general terms how to install a liquid solar water heater. Single copies can be obtained free by writing: Commonwealth of Massachusetts, Executive Office of Consumer Affairs. Solar Action Office, 1 Ashburn Place, Boston, Mass., 02108.

Center for Renewable Resources: The Center for Renewable Resources grew out of the Sun Day celebration of May 3, 1978. It works with local, state and national groups to promote the development of renewable energy sources. The Center supplies governments, institutions and consumers with reliable information and analyses on solar and other renewable energy forms.

Information is available by writing: Center for Renewable Resources, 1001 Connecticut Ave., NW., Suite 530, Washington, D.C. 20036.

Center contact: Richard Munson, 466–6880.

Technical Information Center: DOE maintains the Technical Information Center for the dissemination of scientific and technical data compiled from all the research conducted by DOE and its contractors. This information is of great use to planners and builders of solar installations, but is generally too detailed for the average homeowner. TIC operates an extensive computerized data base and offers microfiche service.

The center can be reached at: DOE Technical Information Center, P.O. Box 62, Oak Ridge, Tenn. 37830, 615–483–8611.

National Technical Information Service: Similar information is available from the Commerce Department's National Technical Information Service, which includes solar data within its wide range of detailed materials. NTIS offers a free General Information Catalog which can be obtained from NTIS, 5285 Port Royal Road, Springfield, Va. 22161, 703–557–4600.

HUD Solar Status: HSHCIC distributes a monthly report providing useful information on federal and state solar programs. To be placed on the mailing list, write: National Solar Heating and Cooling Information Center, Status Mail, Box 1607, Rockville, Md. 20850.

Solar Energy Research and Development Report: DOE offers a monthly publication on developments within its solar division that highlights individuals, conferences and funding opportunities in the field of solar energy.

To get on the mailing list, send your request to: Technology Transfer Branch, Office of Conservation and Solar Applications, Department of Energy, Washington, D.C. 20545.

Additional Information: Listed below are individuals and organizations which can help provide more information on solar energy.

American Institute of Architects, 1735 New York Ave., N.W., Washington, D.C. 20006, 785–7300.

Friends of the Earth, 620 C St., S.E., Washington, D.C. 20003, 543–4312.

Environmental Action Reprint Service, Box 545, La Veta, Colo. 81055, 303–742–3221.

Citizen's Energy Project, 783–0452.

Institute for Local Self-Reliance, 1717 18th St., N.W., Washington, D.C. 20009.

Environmental Action, 1346 Connecticut Ave., N.W., Washington, D.C. 200036, 833–1845.

Sierra Club, 330 Penn. Ave., S.E., Washington, D.C. 20003, 547–1144.

Environmental Policy Center, 317 Penn. Ave., S.E., Washington, D.C. 20003, 547–6500.

American Wind Energy Association, 1621 Conn. Ave., N.W., Washington, D.C. 20009, 667–9137.

Zomeworks, Box 712, Albuquerque, N. Mex., 87103, 505–242–3552.

Total Environmental Action, 1 Church Hill, Harrisville, N.H. 03450, 603–827–3374.

DOE Regional Offices: The Department of Energy operates regional offices which can provide citizens with information on solar, conservation and other energy issues. They are listed below:

Region I: Harold Keohane, Analex Building, Room 700, 150 Causeway St., Boston, Mass., 02114. 617–223–3701. Covers Connecticut, Maine, New Hampshire, Massachusetts, Rhode Island, Vermont.

Region II: Robert Low, 26 Federal Plaza, Room 3206, New York, N.Y., 10007. 212–264–1021. New York, New Jersey, Puerto Rico, Virgin Islands.

Region III: Bernard Snyder, 1421 Cherry St., 10th Floor, Philadelphia, Pa., 19102. 215–597–3890. Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.

Region IV: Roy Pettit, 1655 Peachtree St., N.E., 8th Floor, Atlanta Ga., 30309. 404–881–2838. Alabama, Florida, Georgia, Kentucky, Mississippi,, North Carolina, South Carolina, Tennessee.

Region V: Robert Bauer, 175 West Jackson Blvd., Room A–333, Chicago, Ill., 60604. 312–353–0540. Illinois, Indiana, Minnesota, Michigan, Wisconsin, Ohio.

Region VI: Curtis Carlson, Jr., P.O. Box 35228, 2626 W. Mockingbird Lane, Dallas, Tex., 75235. 214–749–7345. Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Region VII: Mary O'Halloran, 324 East 11th St., Kansas City, Mo., 64106. 816–374–2061. Iowa, Kansas, Missouri, Nebraska.

Region VIII: Charles Metzger, P. O. Box 26247 Belmar Branch, 1075 South Yukon St., Lakewood, Colo., 80226. 303–234–2420. Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Region IX: William Arntz, 111 Pine St., Third Floor, San Francisco, Calif., 94111. 415–566–7216. Arizona, California, Hawaii, Guam, American Samoa, Nevada.

Region X: Jack Robertson, 1992 Federal Building, 915 Second Ave., Seattle, Wash. 98174. 206–442–7280. Alaska, Idaho, Oregon, Washington.

If you find that your program or organization is not listed in this fact sheet, or if you know about other solar programs or information resources, please let us know by writing: Solar Fact Sheet, Environmental Study Conference, U.S. Congress, 3334 House Annex No. 2, Washington, D.C. 20515.

Printed copies of this fact sheet can be obtained by writing your Senator or Congressman.●

OLYMPIC RULES AND IDEALS MUST TAKE PRECEDENCE OVER SOVIET POLICIES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. KEMP. Mr. Speaker, as the 1980 summer Olympic games draw near, I think it vital that we monitor developments in the Soviet Union which would affect international partcipation in the games.

I would like to share some information with the House and Senate, and ask for the concurrence of my colleagues in a resolution which calls for the Soviet Government to uphold the principles of the Helsinki accords and the Olympic spirit of mutual respect and fair play in hosting the Olympics next summer on behalf of all those whose voices are not heard.

In the Soviet Union the Spartakiade determines the composition of the Soviet Olympic teams. This year is unique in that more than 100 countries have joined the Soviets in this competition by invitation. Yet Israel was not invited to participate. It surely would have been an important event for them in light of the Soviet assurances given to Yitzhok Caspi, secretary of the Israel Olympic team, and Yitzhok Ofek, president of the Israel Olympic Committee, that Israel will be permitted equal participation in the Olympics.

Why, then, was Alex Giladi, a senior Israeli television official, denied a visa to cover the Spartakiade? Is this an example of the equal participation which the Soviet Union has planned for Israel or the rest of the world?

As our colleague from Pennsylvania, Don Ritter, pointed out recently, the Soviet Government has passed a new law subjecting all former Soviet citizens, regardless of current citizenship, to Soviet law.

I agree with the gentleman from Pennsylvania that this law is pointed at Soviet emigres as a direct threat and hangs over their heads as they wonder whether to chance going to the Olympics as participants, spectators, or in any other capacity, considering the problems they might face when once again subject to the Soviet discrimination which caused them to flee that country in the first place.

Mr. Speaker, the third fundamental principle of the Olympic rules states in part that—

> "No discrimination is allowed against any country or person on the grounds of race, religion, or politics."

In light of the fact that such discrimination is commonplace in the Soviet Union, and in light of this Soviet reassertion of its intention to subject former citizens to this discrimination, I feel that it is especially important for us to express our concern that the Soviet Government treat all individuals who wish to participate in the Olympic games without discrimination.

This would include athletes, spectators, journalists, and other participants, regardless of native country, citizenship, relationship to any Soviet citizen, religious or political affiliation, or ethnic background. It would encompass such activities as issuing visas, distributing admission tickets, allocating hotel and airline reservations, and providing other services in connection with the Olympic games.

Mr. Speaker, I believe it is imperative that we elicit these guarantees from the Soviet Government and that they should provide them in keeping with their responsibility to the international community to uphold the spirit of mutual respect and fair play inherent in hosting the Olympic games. Too much has happened in the past for us to sit by and assume that they will do this given their less than sterling record in the area of human rights. It is in response to Soviet actions during former President Nixon's visit, during which many Soviet citizens were detained to prevent them from communicating with anyone in the American entourage, that I have included in this resolution provisions expressing the sense of the House that the Soviet Government should not detain, threaten, harass, or punish its citizens to prevent them from communicating or as a result of having communicated with any of the participants in the summer Olympic games.

Mr. Speaker, we have been asked to endure exorbitant deposits placed on tickets more than a year in advance, along with compulsory tours of the Soviet Union, in order to attend 1 out of 5 weeks of events next summer. Those who can afford to do so and want to do so should be able to enjoy the games without fear of harassment and discrimination, without endangering Soviet citizens, and without regard to Soviet internal policy which is reprehensible to any freedom-loving person.

We are dealing with a basic incompatability between Soviet law and Olympic rules, and I believe it is the responsibility of the Soviet Union to bow to Olympic rules despite its own internal policies as host to the international community. My resolution follows and I urge all Members to join in this expression of concern that the 1980 Olympics live up to its high ideals:

H. CON. RES. 180

Concurrent resolution expressing the sense of the Congress that, in hosting the 1980 Olympic Games, the Soviet Government should adhere to the Helsinki Accords and the Olympic spirit of fair play and equality of opportunity

Whereas the 1980 summer Olympic games are to be held in Moscow, Union of Soviet Socialist Republics;

Whereas the Soviet Government, in violation of the Helsinki Accords and the Olympic spirit of fair play and equality of opportunity, harasses individuals on the basis of their religious, national, or political affiliation or ethnic background;

Whereas the Soviet Government, in violation of the Helsinki Accords and the Olympic spirit of fair play and equality of opportunity, discriminates against individuals on the basis of their religious, national, or pofiliation or ethnic background;

Whereas the Soviet Government, in violation of the Helsinki Accords and the Olympic spirit of fair play and equality of opportunity, prevents individuals from freely entering and leaving the Union of Soviet Socialist Republics; and

Whereas the Soviet Government, in violation of the Helsinki Accords and the Olympic spirit of fair play and equality of opportunity, discourages the communication of news and ideas: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the Soviet Government should permit full participation in the 1980 summer Olympics by athletes, spectators, and journalists, regardless of their native country, citizenship, relationship to any Soviet citizen, religious or political affiliation, or ethnic background;

(2) the Soviet Government should issue visas, distribute admission tickets, allocate hotel and airline reservations, and provide other services with respect to the 1980 summer Olympics in a nondiscriminatory manner;

(3) the Soviet Government should not interfere with news coverage of the 1980 summer Olympics;

(4) the Soviet Government should not detain any of its citizens to prevent them from communicating with any of the participants in the 1980 summer Olympics; and

(5) the Soviet Government should not threaten, harass, or punish its citizens for communicating with any of the participants in the 1980 summer Olympics.●

THE REFUGEES

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. SAWYER. Mr. Speaker, under the current United Nations definition there are over 14 million refugees worldwide. Understandably, many of these refugees are seeking admission to the United States.

The United States has throughout its history maintained a significant concern for the plight of refugees worldwide. In the case of Indochinese refugees the United States assumed a special responsibility for the first wave of refugees going back to 1975, due to U.S. involvement in the Indochinese war. The United States, itself a land of immigrants, has continued to assume a major share of the burden of the worsening refugee problem as more Indochinese and other groups flee their homelands, including some of whom are former Viet Cong and Khmer Rouge.

The U.S. Government cannot, however, continue to deal effectively with the refugee problem on a criteria basis. Over the next 3 years, anywhere from 100,000 to 600,000 Indochinese may become refugees. It is essential now that the United States adopt a long-range refugee policy. We must realize that the United States cannot hope to solve the world refugee problem with immigration alone.

The Congress is now considering the Refugee Act of 1979. This measure affords us the opportunity to begin to answer the difficult questions which, no matter how painful and sensitive, must be addressed.

As a start, I commend to my colleagues' attention excerpts from a recent editorial in the Grand Rapids Press which comments on our refugee situation and more specifically highlights the recommendations of the Federation for American Immigration Reform (FAIR), a valuable organization established to promote a rational and sound U.S. immigration policy.

THE REFUGEES

At last Indochina's boat people have caught the attention of the rest of the world. A special two-day conference was held last week in Geneva to adopt humanitarian measures for the refugees.

Even before the session was called to order Friday by U.N. Secretary-General Kurt Waldheim, the Western nations had agreed to provide homes for 250,000 of the displaced persons. This figure was double their original offer. The United States will allow 14,000 to enter monthly, Canada's monthly quota was raised to 3,000 and Britain announced it will admit a total of 10,000 refugees.

Since mid-1975, U.N. officials say 202,485 Indochinese have been resettled. That number, however, does not include 250,000 Vietnamese of Chinese ancestry who escaped overland into China. Another 260,000 boat people are believed to have perished at sea.

The plight of the boat people is, for the United States, just a part of a much larger concern; the flow of immigrants to this country. Faced with a long-term energy crisis, resource scarcity, inflation and unemployment, continuous population increases may not be in the nation's interest.

The United States already is accepting 400,000 legal immigrants a year. In addition, hundreds of thousands of illegal immigrants gain entry each year. At least one organization—the Federation for American Immigration Reform—(FAIR) wants to do something about the problem.

One recommendation FAIR has made is to deduct any additional refugee admissions from the overall 400,000 limitation. Under this approach, the president could be authorized to increase refugee admissions in emergency situations by reallocating admissions within the current overall ceiling. This way, countries which would send correspondingly fewer emigrants to the United States would be thus enabled to share the burden of responding to the refugee crisis.

This idea is certain to be discussed as Congress debates the Refugee Act of 1979 proposed by the Carter administration. Unquestionably the FAIR proposal has merit.

As the bill is debated, however, members of Congress and others would do well to keep in mind the events in Indochina which preceded the flight of the boat people. Like this nation's intolerable inflation rate and its crowded veterans' hospitals, the refugee problem is part of the price we must pay for our misadventure in Southeast Asia.●

AN ANTI-INFLATIONARY TAX CUT

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. GEPHARDT. Mr. Speaker, on Monday, July 23, I joined with my distinguished colleagues Congressmen DODD, DOWNEY, GLICKMAN, HEFTEL, HOLLAND, JENKINS, MATTOX, MINETA, OBEY, and WIRTH in introducing H.R. 4990, a bill to amend the Internal Revenue Code of 1954, to provide an income-tax credit for social security taxes paid in 1980 and 1981. We did this because the administration's current economic forecast predicts a recession that has already brought on the hue and cry for a tax cut to stimulate the economy one again. We are not at all sure whether a stimulative tax cut is appropriate or necessary in this period of high inflation and given our commitment to balance the Federal budget, but if we do anything in this regard, it should be a payroll tax cut. Thus, I am pleased to note that the renowned economist, Walter Heller, agrees. An article by Mr. Heller on this timely and important subject that appeared in today's Wall Street Journal here follows:

AN ANTI-INFLATIONARY TAX CUT

(By Walter W. Heller)

With an eye cocked on the dollar, the Federal Reserve recently tightened credit and President Carter appointed the internationally respected Paul Volcker to head the Federal Reserve System. These moves confirm the historic November 1 commitment to defend the dollar, even at some expense to the domestic economy. They confirm further that actions to keep the OPEC "oil tax" from dragging us into too deep and too long a recession will have to come primarily from the fiscal rather than the monetary side. And with the country, the Congress and Mr. Carter firmly determined to hold federal spending in check, it becomes ever clearer that tax cuts are the way to go.

But not any old tax cuts. They have to be carefully contoured to fit the shape of today's economy. The purchasing power lost to OPEC must be restored in ways that will reduce the cost and price bulges in today's economy and provide incentives to boost productivity in tomorrow's. Can it be done? Yes.

A tax cut to neutralized the $25 billion to $30 billion OPEC oil drag can be so structured that every dollar of tax relief will ease cost and prices pressures and/or boost productive incentives. The centerpiece would be a $15 billion to $20 billion cut in Social Security payroll taxes on employers and employees.

Consider the advantages:

Every dollar lopped off the employers' net payroll tax would be a dollar cut in business costs. Given the prevalence of mark-up pricing, this should quickly pass through to consumer prices. It is widely agreed that through this process most of the employer-paid payroll tax eventually ends up on the backs of employes. The same process should work in reverse.

Every dollar lopped off the employes' payroll tax is an increase in take-home pay that government can offer workers, as part of the price for accepting more restrained wage increases. In the face of what will be predominately a cost-push inflation in the period ahead, this potential easing of wage-push pressure has particular relevance.

Payroll tax cuts are an especially fitting response to OPEC price increases that have been pummeling lower income groups with skyrocketing gasoline and heating oil prices. The payroll tax, like the "OPEC tax," makes no concessions for small incomes or big families, a bane when the tax rises, but a boon when it drops.

INTEGRITY OF SOCIAL SECURITY

So payroll tax cuts are tailor-made to fit the needs of an economy badgered by both inflation and recession. But what of the integrity of the Social Security system? That integrity can be readily protected by shifting Medicare health insurance from payroll tax to general revenue financing. Unlike old age and survivors insurance and unemployment compensation, there is no particular link between wages and health benefits. The shift to general revenue financing would be a good short-run fiscal policy, good long-run social policy, and good for the consumer price index.

What would it cost? A payroll tax cut of $21.5 billion (the projected 1980 tax revenues for the hospital insurance program) could be enacted at a net revenue cost of $17.7 billion to the overall federal budget. Because payroll taxes are a deductible business expense, the $10 billion-plus of employers' payroll tax savings would boost business income-tax liabilities by $3.7 billion.

If the health insurance transfer proves too controversial, there is an easy alternative: Simply grant a refundable credit against income taxes for a specified percentage of payroll taxes paid. Congressman Gephardt, for example, has introduced a bill pegging the cut at 20 percent for both employers and employes. This would do the trick, but since it operates through the income tax in a more roundabout way, it might blur the favorable impact of the tax cut on costs and prices.

A second, closely related component of the anti-inflationary tax cut would be a revised form of real wage insurance. This year's proposal wilted under the heat of price run-ups in oil, food and home building. In contrast, 1980 should be a year of receding inflation, a much more reassuring context in which to consider wage insurance.

Changes in the plan would have to be geared to any change in the base line of the White House wage-price standards. Instead of calling for income tax credits for complying wage earners if the consumer price index rises by more than 7 percent, as in this year's proposal, the benchmark might be raised to 8 percent.

BOARD OF CONTRIBUTORS

At an inflation rate half a percent above the norm, the 1979 proposal would have cost $2.5 billion. If legislation for 1980 were to allow $5 billion for the wage-insurance plan, it would cover reasonable contingencies. To assure that it would not bust the budget in case of a new inflationary breakout, one could apply the co-insurance principle and also put a cap on tax credits at three percentage points above the inflation base line. But such limits would correspondingly dilute the inducement to comply with the wage restraints.

Some observers consider wage insurance a first step towards income-tax indexing, a view that attracts some and repels others. But both sides are missing the point. Unlike indexing, which would try to accommodate inflation by indexing taxpayers against it, wage insurance would serve as an incentive to unions and workers to comply with the wage guidelines and thereby join the battle against inflation. The point is to fight inflation, not adjust to it.

One should note that most of the revenue impact on any wage insurance plan would be delayed until 1981. But with a scheduled payroll tax increase of $15 billion coming up in 1981, the White House and Congress need to take a two-year perspective on tax cuts in any event.

A third major piece of the anti-inflationary tax cut would be a significant easing of depreciation allowances. It is clear that the time has come for such action partly as a response to high inflation rates and partly as an incentive for the increases in business investment and productivity that can help curb inflation in the longer run.

Last year, Congress enacted a major cut in the capital gains tax, thereby improving the general atmosphere for investment. Next year, it should focus more directly on decisions to invest in plant, machinery and equipment by allowing more rapid write-offs that would cut the effective cost of every capital outlay by business. This measure could also add clout to the wage-price restraint program if, as Arthur Okun has suggested, companies would have to certify compliance with the wage-price guidelines in order to qualify for accelerated depreciation.

A first-year cut of about $5 billion in business tax liabilities would be an appropriate target for the easing of depreciation allowances. A careful appraisal of revenue impacts in future years will be essential.

Even as modest a tax cut as the one here proposed—only slightly more than 1 percent of next year's $2.5 trillion GNP—has to be tested for its impact not just on the cost and supply side of inflation but also on the demand side. In this connection, one should take into account that we are at a curious dual turning point on inflation, downward in the overall rate but upward in the underlying rate:

The overall rate should drop from its torrid 13.3 percent in the first six months of this year to less than 10 percent by year-end as the economy softens, beef and other food prices ease, the fuel price explosion slows down and mortgage interest rates taper off. In other words, there's a downturn in "demand-pull" and "external shock" inflation just ahead.

But at the same time, we are on the verge of an upturn in the underlying "cost-push" or "wage-push" inflation rate.

There is no reason to believe that the proposed tax cuts would reverse the easing of demand inflation. The tax cut is designed not to pump up the economy but to control the damage done by OPEC's rapacious price increases. True, tax cuts cannot restore the real income that the 1979 price explosion is leeching out of the consumers' pockets. But without tax cuts to offset the OPEC drag on purchasing power, recession will lengthen and deepen. To the insult of lost output, jobs, investment and productivity would be added the injury of lost real income. On inflation's demand side, then, an OPEC-offsetting tax cut poses no threat.

What of the cost and supply side? Thus far, thanks in large part to the much-maligned but not ineffective wage-price guidelines, zooming food, fuel and home building costs have not been built into wage increases. Contrary to widespread impressions, the rise in the average hourly earnings index actually tapered down during the 12 months ending in May and average pay increases from June 1978 to June 1979 were lower than in the preceding 12 months.

THE HONEYMOON IS OVER

But the honeymoon seems to be just about over. The game of wage catch-up is about to begin—catch-up with soaring food and fuel prices and non-union catch-up with unions. With little or no productivity gains to absorb the wage increases, the great bulk of wage boosts will pass through to price boosts. The present bedrock or basic inflation rate of around 7 percent could well be boosted to 8 percent or more, thus making the winding down of inflation vastly more difficult.

To forestall or at least minimize the imbedding of the food-fuel-home price bulge into the wage price structure and into the hardcore inflation rate requires that the wage-price guidelines be revised, reaffirmed and revitalized. A carefully crafted tax cut could go a long way in putting new life and starch into the guidelines and slowing down the price-wage-price merry-go-round.

If the government could strike a wage-moderating bargain with labor by offering a meaningful menu of tax actions to boost take-home pay and provide real wage insurance, prospects for curbing cost-push inflation would brighten overnight. Even if a formal endorsement is out of reach, such tax actions will strengthen the appeal of the wage-price restraint program to millions of workers and to the public in general.

While it is too early to push the panic button on a tax cut, it is none too early to push the planning button. Given the realities of the political process and in particular the budget process, Jan. 1, 1980, is probably the earliest practical effective date for a tax cut. Even that date will require prompt planning, firm proposals by fall and hearings late in the year as a prelude to rapid action after Congress convenes next January. But the earlier the tax cut is announced, the more support it can provide for the wage-price restraint program.

Recently, Vice President Mondale aptly noted that most of the tough economic problems we face involve "solutions that inevitably front-load pain and back-load pleasure." Surely, that is true of the energy problem and the use of economic slack and slowdown to cope with the inflation problem. But a tax cut, properly structured, can be both front-loaded and back-loaded with pleasure.

Mr. Heller is Regents' Professor of Economics at the University of Minnesota, former chairman of the Council of Economic Advisers under Presidents Kennedy and Johnson and a member of the Journal's Board of Contributors.●

SOUTHEAST ASIA'S REFUGEES

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. RATCHFORD. Mr. Speaker,, I rise today to bring your attention to the crisis of the Southeast Asian refugees.

Ever since the Japanese imperial expansion of the 1930's and 1940's, the men and women of Southeast Asia have suffered at the hands of one repressive regime after another. Today, that repression has reached a new zenith, and the incredible flow of refugees from the nations of Southeast Asia speaks far more forcefully than words.

During the last few months, the number of refugees attempting to exit Vietnam, Laos, and Cambodia have hovered at 152,000 people per month. Of this group, 43 percent or 87,000 have lost their lives in attempting to safely escape.

Certainly these figures are horrifying but the prospects for the future are further dimmed by two factors. First, Indochina is presently entering the monsoon season with its high winds and torrential rains. Monsoons spell almost assured death for those "boat people" still left at sea. Second, the war this past spring severely curtailed crop planting, and present indicators point to a critical food shortage in the coming months.

Mr. Speaker, there is no need to enumerate the human rights violations which compel so many people to leave Indochinese regimes. The refugee figures speak all too clearly for themselves. The point which I wish to underline here is that the United States has a moral obligation to help rectify the tragedy of the "boat people" with every reasonable resource at our disposal.

In a welcome display of sound leadership and initiative, the President has already taken the lead in organizing refugee assistance. Our monthly refugee quotas have temporarily been doubled and the 7th Fleet is now rescuing "boat people" at sea. I applaud these actions, but the harsh reality of the situation is that these are merely short-term solutions to a long-term problem.

Mr. Speaker, it is my firm belief that we must take a direct and decisive course of action. Our refugee assistance appropriations must reflect the enormous magnitude of the refugee problem, and our immigration legislation must be reexamined to insure that refugee admission policy is both responsive and just.

Mr. Speaker, the world community looks to the United States to take the lead in meeting with the critical needs of these beleaguered peoples. I trust that the Congress will be sensible to this Nation's high moral responsibility and act quickly and decisively to secure safe passage for all those attempting to flee the repressive regimes of Southeast Asia.●

TRIBUTE TO DR. CARL L. HUBBS

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. BURGENER. Mr. Speaker, I take this opportunity to reflect upon the life's work of a San Diego neighbor and world-renowned marine biologist, Dr. Carl L. Hubbs, who passed away earlier this month. To those of us fortunate enough to know him, Carl Hubbs was an educator and scholar par excellence. But more than that, he was a person who shared in his job a daily commitment to a better world.

Carl Hubbs earned his bachelor's and master's degrees in 1916 and 1917 at Stanford University, and then his doctoral degree at the University of Michigan in 1927. After 3 years as a curator of the Field Museum of Natural History in Chicago, he spent 24 years as a teacher and curator of vertebrates at the University of Michigan. He organized, and for 5 years directed, the Instiute for Fisheries Research during that period. In 1939, he assisted the Interior Department in improving the administration of wildlife in Alaska.

In 1944, he joined the Scripps Institute in La Jolla, Calif., as a professor. Although he was named professor emeritus in 1962, he continued teaching actively until 1969, when he resumed emeritus status. Even after his retirement from teaching, Carl Hubbs continued to research and advise on a host of projects from his office at Scripps.

One of Carl Hubbs' larger contributions to his profession was as a practical conservationist. He possessed a keenly balanced awarness of man and his environment. He was instrumental in preserving the Torrey pine trees, tule elk, fur seals, and the Pacific gray whales. He brought consevation to the international level as well, working with the Mexican Government to protect the seal population and designating the Scammons lagoon as a calving resort for the California gray whale. Yet in 1977, when he examined the Government's stringent restrictions on porpoise deaths associated with tuna fishing, Dr. Hubbs spoke spoke out for their relaxation because he thought the country was in danger of losing a great industry and a wonderful source of food. Carl Hubbs was acutely aware that man and his environment must coexist, and we would all do well to adopt his model of the practical conservationist.

Throughout all his teachings, writing, and research he was ably assisted by his wife Laura, a woman certainly equal to the tasks in every respect. A mathematician by training, they met at Stanford in 1918. She frequently accompanied him on trips, coauthored some of his works and was his indispensable companion for 60 years.

The greatest gift of an educator such as Carl Hubbs is the perpetuation of his ideas and knowledge for future generations. We would do well to accept his gift graciously.●

SOLAR INITIATIVES IN THE NATIONAL ENERGY ACT AND FEDERAL ASSISTANCE PROGRAMS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. UDALL. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

NATIONAL ENERGY ACT

A number of programs designed to give solar and energy conservation a big push were enacted as part of the National Energy Act passed last year. These include tax credits for homeowners and businesses, residential loans and grant programs.

Solar tax credit for homeowners: Taxpayers can take a credit of 30 percent of the first $2,000 and 20 percent of the next $8,000 spent on qualifying solar equipment. The maximum credit would be $2,200. Although the incentive is available through 1985, any credit in excess of tax liability can be carried over to taxable years ending in 1987. The credit is retroactive to cover systems installed after April 20, 1977. Equipment qualifying for the credit includes heating, cooling, and hot water systems, as well as wind and photovoltaic ssytems providing space heating and cooling. A 15 percent credit on expenditures up to $2,000 is available for investments in insulation, weather stripping, storm windows or doors, and other conservation equipment.

IRS contact: Regional IRS office or Mo Schuldinger, 566–2929.

Solar tax credits for businesses: Credits are available to businesses for solar equipment of all types installed between October 1, 1978, and January 1, 1983, on both new and existing buildings. For solar systems designed to generate electricity, provide hot water, or heat or cool a building, a business could receive the 10 percent investment tax credit. For solar systems designed to produce industrial process heat or hot water or for equipment to use, process, or store biomass materials, a business could receive the existing 10 percent investment tax credit, plus an additional 10 percent energy credit for a total 20 percent. The credit is refundable.

IRS contact: Regional IRS office or Mo Schuldinger, 566–2929.

Solar energy home loans: Although no funding has been appropriated for this program, the National Energy Conservation Policy Act (part of the National Energy Act) authorized the Government National Mortgage Association (GNMA) to make low interest loans available to all income levels for the purchase and installation of solar heating and cooling systems (both active and passive), solar hot water equipment and wind machines. Under the program, conventional banks make loans for up to $8,000 at interest rates ranging from 7 to 12 percent (determined by HUD) for periods of up to 15 years. These loans would then be purchased by GNMA. Solar consumers can take advantage of both the tax credit and the loans for the same system.

GNMA contact: James Kozuch, 755–5593.

Federally insured home loans: The National Energy Act increases from $60,000 to $72,000 the ceiling on basic Federal Housing Home Administration (FmHA) insured mortgages for single and multi-family dwellings to cover the additional cost of passive or active solar or wind energy equipment.

FHA contact. Diana Meyer, 757–7380.

Secondary Financing of Solar Home Improvement Loans: In a move to make more money available for solar home improvements, the National Energy Act authorized the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association to purchase Title I FHA home improvement loans or conventional home improvement loans for qualified solar and conservation systems. However, the program was not appropriated and never was initiated. Similar loans are available through FHA (see Home Improvement Loan section).

HUD contact: Mike Stamper, 755–5593.

Small Utility Loans: Under the National Energy Act utilities are required to inform customers of potential conservation and solar improvements and provide cost estimates. Upon request, utilities must inspect customers' residences to determine which improvements would be cost-effective. They must provide a list of lenders, suppliers and contractors and must act as a "project manager" arranging installation and financing. Utilities may bill the customer on a monthly basis so that the repayment for the service may be spread out.

In addition, utilities can make loans of up to $300 for purchase or installation of specified conservation measures, including solar equipment. Contact your local utility for information.

DOE contact: Bill Methea, 376-1964.

Grants to Schools and Hospitals for Energy Conserving Improvements: Energy conservation renovation grants to public and private non-profit schools and hospitals are authorized under the National Energy Conservation Policy Act. When fully funded, the program would pay up to 50 percent of the cost of each energy conservation project (or 90 percent in severe hardship cases), with state or private sources paying the remainder. Energy conservation projects may include solar heating and cooling, water heating and electric generating systems.

DOE contact. Michael Willingham, 376-4149.

NEW PROPOSALS BY THE PRESIDENT AND CONGRESS

Under the president's $142 billion plan to reduce U.S. dependency on imported oil, solar and other renewable energy sources will get a piece of the pie. However, many solar proponents say it is a tiny sliver compared to what fossil fuels will receive. Whatever the funding levels, they will have to come from revenues derived from the windfall profits tax on oil companies.

Several weeks earlier the president announced a new solar strategy to insure that solar supplies 20 percent of the nation's energy needs by the year 2000. The key components of this program, now part of the larger import reduction strategy, were being developed in Congress at the time of his announcement and are expected to be enacted before the 1980 elections. They include:

A National Solar Bank located within the Department of Housing and Urban Development. The Bank would lend millions of dollars to consumers to purchase and install solar equipment.

An additional 15 percent investment tax credit for solar systems to provide heat for industry. This is added to the 10 percent investment credit under the National Energy Act.

A 20 percent tax credit, up to $2,000 per reisdency for new homes using a passive solar design. Credits also will be proposed for commercial passive design buildings.

A 15 percent tax credit for the purchase and installation of airtight woodburning stoves in principal residences.

A permanent exemption from the 4-cent-a-gallon federal tax for gasohol—gasoline that contains 10 percent alcohol which can be derived from biomass conversion.

Additional federally sponsored solar research and development programs also will be initiated.

Individuals interested in finding out the status of these programs should write their Senator or Representative.

OTHER FEDERAL ASSISTANCE PROGRAMS

Many federal agencies offer programs and services which can be of assistance to persons interested in solar energy. While a few of these programs are specifically intended to promote solar energy, most are general programs with eligibility requirements that solar projects can meet.

The contact listed in each section is a person in the energy administering the particular program. They are offered as an aid to Congressional staff and are usually not the persons whom individuals outside Congress should contact. However, they can provide the names of those to contact.

Community Block Grant Program: HUD administers a community block grant program which is available for a wide range of projects aimed at conservation and building rehabilitation in urban centers. If desired, a community could use some of this grant money for funding solar systems.

HUD contact: Don Patch, 755-6587.

Small-Scale Technology Grants: This year DOE's Office of Small Scale Technology funded $8 million in grants for small scale energy projects. The purpose of the program was to reach out to people who normally don't have access to government energy contracts. Applications for the grants are no longer being received, but a new larger program is expected to get underway in December of this year. Proposals will be accepted for projects costing $50,000 for two years. The projects have to demonstrate an efficient use of renewable energy resources, such as solar, but that includes a wide range of possibilities.

The program is very popular and highly competitive. Over 13,000 proposals were received this year and if all had been funded it would have cost $343 million.

DOE contact: Webb Otis, 376-4480.

As part if its charge to pursue alternative energy resource development, like solar, the National Center for Appropriate Technology develops and supports locally oriented technologies geared to the needs and resources of low-income people and communities. Its research and small grants program supports community experiments and demonstrations. NCAT regionally based field representatives are the point of contact for communities.

NCAT contact: Scott Sklar, 347-9193.

Hot Water Initiative: HUD and DOE have run a "hot water initiative" aimed at stimulating the use of solar hot water units in residential and commercial buildings. Block grants were allocated to ten states where homeowners paid high electric heating bills in 1976, allowing rebates of up to $400 toward the costs of a residential unit.

Originally scheduled to have ended August 31, 1977, the program has been extended in states where allocated funds have yet to be depleted. HUD is currently exploring ways to redirect some of the unused money to states where demand for the program is exceptionally high.

The program is administered through state agencies. For the name and phone number of the agency in your state, call NSHCIC, 800-523-2929.

Residential and Commercial Demonstration Program: During the past five years the Departments of Energy and Housing and Urban Development have sponsored demonstration programs designed to encourage solar heating and cooling projects in buildings. The programs, which distributed federal grants, are now closed to new applicants and many of the systems which received funding have been installed.

The fate of future demonstration programs is uncertain. The Carter administration decided that it would be better to stimulate solar use through tax credits and loans rather than giving out federal funds. However, there may be a new category of "commercialization" programs which develop in the next few years, which could include grants.

For new developments in this area contact the National Solar Heating and Cooling Information Center at their toll free number, 800-523-2929 or write to the Department of Energy, Office of Conservation and Solar Application, 20 Massachusetts Ave., Washington D.C. 20545.

Home Improvement Loans: Homeowners may qualify for government-guaranteed loans to install solar heating, cooling and hot water units under the Federal Housing Administration's Insured Home Improvement Loan Program. A maximum of $15,000 is available for up to 15 years, at a 12 percent interest rate. A similar provision is in the national energy act (see NEA section).

To qualify, an individual must own or have a long-term lease on the property, have a satisfactory credit rating and be able to pay back the loan over its term. Before approving a loan, FHA must be satisfied that the solar system to be installed has proven to be reliable. Field offices have been issued guidelines for evaluating the acceptability of a proposed system.

FHA's willingness to guarantee loans for solar equipment may vary regionally. Applications should contact the local HUD/FHA offices or any FHA-approved lender.

FHA contact: Stanley Pohutsky, 755-6880.

Loans to Veterans: The Veterans Administration will consider solar energy systems under VA home acquisition and home improvement loan guarantee programs at interest rates of 10 percent for up to 30 years. Solar equipment must meet HUD-FHA standards. Eligible veterans and active-duty personnel should apply for VA loans through regular lending institutions. VA must appraise the property and assess the credit worthiness of the veteran.

VA contact: Walter Burke, 389-2249.

Rural and Farm Assistance: The Farmers' Home Administration (FmHA) operates several loan and grant programs to aid farmers and residents of rural areas unable to obtain financial assistance through other means. Though none of the FmHA programs are directed specifically at solar development, proposals will be considered under any of the agency's programs which offer credit for home improvement and acquisition of farm equipment. Systems must meet HUD minimum property standards and be cost-effective (available from NSHCIC; see information section).

FmHA also finances solar greenhouses in conjunction with local community action projects.

Applicants should contact the architect in their state FmHA office or the county supervisor for their area.

FmHA contact: Richard Slater, 447-3394.

Solar for Cities and Towns: DOE is developing an informal initiative to assist municipalities in the planning, design and use of solar and conservation in currently programmed local building projects. Pilot projects under this program, both public and private, would be aimed at improving the energy self-sufficiency and quality of life of participating communities. If successful the program could provide the model for an expanded national program.

City and town planners interested in having their area considered for a pilot project should contact the Office of Conservation and Solar Applications, DOE.

DOE contact: Frank deSerio, 376-9642.

Severe Unemployment Area Assistance: The Economic Development Administration is authorized to make grants to communities with severe unemployment problems which might be used for solar projects.

The objective of the grant program, authorized by the Public Works and Economic Development Act of 1965, is to stimulate employment. Solar energy projects that meet the goals of the program may qualify, but each project will be considered on a case-by-case basis.

EDA contact: Charles Coss, 377-5265.

Solar Employment Training: Under a one-year program, the Department of Labor will train about 120 Jobs Corps enrollees for entry level positions with firms engaged in various aspects of solar energy use. The program, under a contract with the Solar Energy Industries Association, will be open to all Job Corps members. Current members with prior experience in a Jobs Corps construction trades program will receive preferential consideration for the specialized training.

DOL contact: Josie Gomez, 376-3200.

SEIA contact: Les Dennis, 547-8600.

DOE, in cooperation with the solar industry, has developed a correspondence course in the installation and maintenance of solar space heating and domestic hot water systems. For details write: North American

Heating and Airconditioning Wholesalers Association Home Study Institute, 1661 West Henderson Rd., Columbus, Ohio, 43220, 614-459-2100.

Low-Income Community Grants: Community Action Projects across the country funded through the Community Services Administration are engaged in building, designing and installing solar energy systems for low-income homes. Greenhouses, supplementary heat for the elderly, and low-cost hot water systems are some of the projects under way.

Grants of $25,000 per project are available.

CSA contact: Dick Saul, 632-6503.

Small Business Loans: Individuals interested in starting or expanding small solar or energy conservation businesses can apply for loans and loan guarantees under the Small Business Energy Loan Program enacted last year. SBA will fund direct loans up to $350,000 and will guarantee loans up to $500,0000. Interest on the loans is set at a maximum of 12 percent, but direct loans can be as low as $7\frac{3}{8}$ percent.

Interested persons should first contact a local bank or lending institution or the nearest SBA field office.

SBA contact: Mark Johnson, 653-6546.

Technology Transfer: A variety of services is offered by the Technology Transfer Program of DOE's Solar Division. The program attempts to boost the commercialization of "early impact technologies" by promoting information exchange between groups involved in the development of solar.

Technical training programs form a major part of the office's activities and include classroom and in-home courses. Emphasis is placed on "add-on" training, offering education in solar technologies to workers already skilled in relevant trades. Also available are materials for use in primary and secondary schools and exhibits and displays designed to stimulate public interest in solar energy.

Persons interested in any of these programs should contact the Washington office, which may then refer them to one of DOE's regional offices. The address is: Solar Technology Transfer Branch, Division of Solar Energy, Department of Energy, Washington, D.C. 20545.

DOE contact: Lawnie Taylor, 376-9138.

Project Proposals and Inventions: DOE has funding available for solicited and unsolicited proposals. Any unsolicited project will be reviewed, provided it does not fall within the scope of planned competitive solicitations.

When DOE wishes to fund a specific project, a Request for Proposal is issued. All RFPs are listed in Commerce Business Daily, which is available by subscription from the Government Printing Office ($75 annual, see address in information section) and is kept on hand by many public libraries. Anyone wishing to find out if an RFP in a particular area has been released may contact DOE at the address below.

Persons wishing to submit unsolicited proposals are encouraged to contact the DOE beforehand for any advice they may be able to offer. These projects are sent by DOE to the National Bureau of Standards' Office of Energy-Related Inventions for evaluation. Reportedly, the review process often can be very lengthy.

All inquiries should be addressed to: Division of Business Programs, Intergovernmental Relations, Department of Energy, 86-031, Washington, D.C. 20585.

DOE contact: Patrick Donohoe, 252-6260.

State Wind Energy Demonstrations: Every state soon may have at lease one wind energy generator in an ambitious demonstration program headed by DOE. Two sites will be chosen in each state where wind energy systems can best provide information on performance and interconnection with local utilities. These sites will be choosen by state energy offices and wind systems will be selected from commercially available units of all sizes and types.

For more information about the program write: Ron Kerschner, DOE, Rocky Flats Area Office, Box 928, Golden, Colo., 80401, 303-441-1305.

Tennessee Valley Authority: This year President Carter directed the Tennessee Valley Authority to become the nation's solar showcase. The states in the TVA service area are Tennessee, Virginia, North Carolina, Alabama, Georgia, Kentucky and Mississippi. A number of programs are already underway and many more are planned.

TVA provides low-interest loans to residents of Memphis to install solar water heating in their homes. The homeowner repays the loans on the utility bill in payments unaffected by rising fuel costs. Sixty new installations are being completed every month.

In another demonstration project seven north Georgia counties are eligible for interest-free loans for energy-efficient, Airtight wood stoves.

TVA also has developed 11 different passive solar home designs and 44 homes using these plans will be built and sold on the open market. Conventional building techniques are used and private contractors will do the building.

In addition, TVA offers a variety of energy conservation programs to the homeowner and businessman.

TVA contact: Bob Hemphill, 615-755-2061.●

"WE HAVE MET THE ENEMY . . ."

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. VANDER JAGT. Mr. Speaker, our current energy problems have given rise to what might become, unfortunately, a dominant political exercise in this city—finger pointing. We have all heard a great deal of rhetoric casting the blame on "Big Oil" and the massive conspiracy to withhold supplies from the market. We have heard the blame for our energy and inflation problems conveniently thrown upon the shoulders of our OPEC friends. We have listened to the blame being thrown right back upon Americans who commit the seemingly sinful act of filling up their automobiles with gasoline. And we have cursed both the Ayatollah and the Shah as the root of our problem.

But a more thoughtful analysis puts the blame closer to home. The often quoted statement of the legendary Pogo that "We have met the enemy, and he is us" could not be more applicable to the energy situation and the gas lines in particular.

I want to bring to the attention of my colleagues a particularly relevant article written by Jay VanAndel and Richard M. DeVos entitled "The Gas Lines: 'Made in Washington.'" Jay VanAndel is chairman of the Board of Amway Corp., Ada, Mich., and now is serving as chairman of the board of the Chamber of Commerce of the United States. Richard M. DeVos is president and cofounder of Amway. Both are outstanding spokesmen on behalf of the free enterprise system, and offer an excellent commentary in this article:

THE GAS LINES: "MADE IN WASHINGTON"

(By Jay VanAndel and Richard M. DeVos)

As the gas lines proliferate across our nation, the reaction of most Americans ranges from a mixture of anger and frustration to confusion and disbelief. For the first time since the Arab oil embargo, the energy crisis has hit home, and with a vengeance.

Americans treasure their mobility, and the sudden deprivation of gasoline is seen as nothing less than a direct assault on their personal freedom. Such perceptions of the current shortage have led, understandably, to a search for the cause or, lacking that, for a scapegoat. Demagoging politicians, instant "experts," and self-proclaimed consumer advocates have been more than willing to provide the public with a convenient target for their anger: "Big Oil." The only trouble is that it is not the oil companies who are to blame, and the rather hysterical level of rhetoric only serves to obscure the real culprit: the federal government.

The history of government intervention in the energy market is a long and unhappy one, dating to a Supreme Court devision in 1954 which allowed the Federal Power Commission to regulate the interstate market for natural gas. This decision led to the curious but predictable situation of a shortage of natural gas on the price-controlled interstate market and a surplus of natural gas on the uncontrolled intrastate market. It was a virtual textbook example of the shortages which inevitably result when the government attempts to place ceilings on prices. Nor is this the only example of government interference with energy markets.

If it strikes you as odd that North Carolina has gasoline, but Virginia doesn't, don't blame it on a conspiracy by the oil companies. The fact is that the federal government, through the Department of Energy, allocates fuel supplies. Now it might be obvious to the average citizen that burdening a supply system with a cumbersome bureaucracy will inevitably lead to a loss of responsiveness within that system, but the message hasn't yet penetrated Washington. Instead, their answer is to ask for coupon rationing, to spread the shortage. One of the many problems with rationing, and no one seems willing to admit this, is that implementing a coupon rationing program would take anywhere from twelve to eighteen months. So much for taking care of the immediate problem.

What about the entitlements program? Under this program, every refiner using price-controlled domestic crude oil pays a $3 tax on each barrel to the federal government, which the government then transfers to refiners using uncontrolled foreign oil. In effect, this means that we are subsidizing OPEC to the tune of $3 per barrel or somewhere in the neighborhood of $9 billion. Imagine what would happen if that subsidy were going to Houston for more exploration and development of domestic energy resources.

And what about the controls on oil prices themselves? If we are to produce domestic oil, then there must be incentives for domestic oil exploration and development. In spite of this, price controls, which have existed since 1971, continue to exist on a significant amount of our domestic reserves. It should be obvious that, without financial incentives, companies will not invest in risky and expensive ventures.

Yet another area of government restraint on our ability to produce energy domestically can be found in federal leasing policies. Many of our most potentially fertile areas of exploration lie on federal lands or in offshore areas controlled by the federal government. In spite of the obvious national need for intensive development of these areas, federal leasing policies remain intransigent. It took nearly twenty years to open up the Baltimore Canyon deposit, and numerous other areas may never be opened up. This is the case in vast areas to be preserved under the Alaskan Lands Bill. In its current form, it would lock out exploration on deposits in much of that state. It has been estimated that the equivalent of as many as seven Prudhoe Bays may lie under the lands the bill would close.

It should be noted that federal leasing policies not only lock up oil deposits, but also affect coal, shale, and geothermal deposits. In fact, almost all of the most promising geothermal sites are found on federal land. The same is true of most of our Western coal reserves.

With regard to coal, our most abundant fuel, a former Federal Power Commissioner said, "While coal is a wonderful fuel, under current law, you can't mine it, can't transport it, and can't burn it." All of this results in increasing our dependence on foreign oil with all of the problems that have become so familiar.

Most of the blame for today's gas lines can be laid to the Department of Energy. When Iran shut down production, the federal government told oil refiners not to enter the "spot market" to offset the interrupted supply. This mandate remained in effect until the end of May. The rationale was that, by staying out of the spot market, U.S. refiners would create a slack in the market and prices would not rise. Someone in the Department of Energy couldn't count. There was a 5.6 million barrel per day shortage created at first, and there was no way the market had enough slack to make up for it. The result was that our refiners had to draw down their stocks, while the rest of the world bid up the price of crude. At the same time, the Department told refiners to make more heating oil and less gasoline, further worsening the shortage. Then, they began to expand the list of priority users of gasoline.

The idea behind the priority use categories is to insure that essential services are not disrupted by supply interruptions. Priority users are allowed as much gasoline as they want, so there is no restriction on their growth of demand regardless of supplies. The trouble is, as more categories are allowed a priority, the amount of gasoline left for the average motorist shrinks dramatically. In some areas, as much as 15 percent of the total allocation is now going to a wide range of priority users—including delivery services and taxicab companies. The result is that a 5 to 7 percent real shortage results in a 22 to 25 percent shortage at the gasoline pump.

Other examples of federal regulations restricting all types of supplies of energy abound. Among them, the environmental regulations which limit refinery construction—creating a surplus of Alaskan crude oil and insufficient refinery capacity on the West Coast to handle it. At the same time, other environmental regulations blocks construction of the Sohio pipeline which might have carried the Alaskan crude to refiners in the Midwest. And yet another is found in the block of a coal-fired power plant on the grounds that it would generate too much dust: even though it was located in the middle of a desert, an area not noted for its lack of dust!

The examples are endless, but they all point to the same fact. When you look for a scapegoat to blame for the energy crisis, you don't have to search for some insidious conspiracy or smoke-filled room. You only need to look to the shores of the Potomac, because those gas lines are unquestionably "Made in Washington." ●

TRADE REORGANIZATION ACT UNDER STUDY

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. LONG of Louisiana. Mr. Speaker, last Friday, I introduced the Trade Reorganization Act of 1979. Because my bill and a variety of other proposals will be under active consideration during the August recess, I want to place into the RECORD a terse, section-by-section analysis of the key provisions of my bill:

TRADE REORGANIZATION ACT OF 1979

SECTION-BY-SECTION ANALYSIS

TITLE I

Congressional findings with regard to America's recent international trade performance are set forth. Findings include the need to establish a small cabinet-level agency that directs the formulation of U.S. trade policy and negotiations, enforcement of U.S. laws against unfair trade practices and development of a U.S. export policy.

Section 201(c): The President shall provide that the Special Trade Representative shall be a member of the National Advisory Committee on International Monetary and Financial Policies.

TITLE II

Section, 201: The Trade Reorganization Act of 1979 (TRA–79) expands and strengthens the existing office of the Special Trade Representative by creating the Special Trade Agency (STA). The STA will be an independent agency of the executive branch that will not be part of the Executive Office of the President.

The STA will be directed by the Special Trade Representative and three Deputy Special Trade Representatives. Thus the TRA–79 creates only one additional executive level position.

Section. 202: The STA will have three permanent Offices—one for trade policy and negotiations, one for trade administration and enforcement, and a third for export policy. Each Office will be headed by a Deputy Special Trade Representative.

Section. 203: The STA will have authority for all multilateral and bilateral trade negotiations with regard to manufactured goods, commodities and services.

In addition to the existing powers of the Office of the Special Trade Representative, the STA will acquire the State Department's current responsibilities for negotiating East-West trade agreements, other bilateral trade pacts and commodity agreements.

The STA's powers will include the existing responsibility of the Office of Special Trade Representative:

For action against foreign import restrictions and foreign subsidies that affect U.S. exports to third country markets (Sec. 301 of the Trade Act of 1974);

For prevention of disruption of the U.S. domestic market by the exports of nonmarket economies.

In addition, the STA will have responsibility for seeking redress under the General Agreement on Tariffs and Trade for violations of the GATT, including the new codes that emerged from the latest round of trade negotiations.

The STA will acquire from the Treasury responsibility for enforcement of the countervailing duty law and the antidumping law.

(3) At present, there is no single agency or department charged with the development of overall U.S. export policy. The STA would be specifically charged with that responsibility.

Personnel

Section 204: The STA is designed to be small enough to avoid the dangers of rapid bureaucratization and still large enough to be an effective voice for U.S. trade policy. To meet both goals, the Trade Reorganization Act of 1979 places a ceiling of 400 on total STA personnel. The figure of 400 will include all transfers from other agencies.

Among the 400, there will be only one new Executive Level Appointee, the third Deputy Special Trade Representative.

As head of the STA, the Special Trade Representative will be able to appoint up to twenty broad gauge trade specialists to help spur exports. These trade specialists may be appointed without regard to civil service requirements governing competitive appointments.

TITLE III: TRADE COORDINATION COUNCIL

Section 301: The TRA–79 also creates a Trade Coordination Council to succeed the existing Trade Policy Council. The new TCC will be housed in the Executive Office of the President and will provide the President with advice over a wide range of trade and trade related matters.

In addition to the existing powers of the Trade Policy Council, the TCC will have the responsibility to coordinate:

Tax policy that affects international trade and investment;

Foreign investment policy;

Antitrust policy that affects international trade;

International energy trade; and

Other issues that affect international trade.

The TCC will be chaired by the Special Trade Representative and directed by an executive director at the GS–18 level. Membership in the TCC will be made up of current members of the TPC (The Secretaries of State, Treasury, Defense, Interior, Agriculture, Commerce and Labor, and the Attorney General) and two new members (The Presidential Assistants for National Security Affairs and for Domestic Affair and Policy).

TITLE IV: TRANSFER OF FUNCTIONS

Section 401: This section transfers the Office of the Special Trade Representative to the Special Trade Agency.

Section 402: This section transfers from the Secretary of State to the Special Trade Agency all functions with regard to bilateral trade agreements, East-West trade and commodity agreements.

Section 403: This section transfers from the Secretary of the Treasury to the Special Trade Agency responsibility for the investigation of complaints with regard to countervailing duty and antidumping laws and certain other trade functions.

Section 404: This section transfers from the Secretary of State to the Department of Commerce the commercial activities of the Department of State including the commercial attaches.

TITLE V: MISCELLANEOUS PROVISIONS

Section 510: The Special Trade Representative is made chairman of the Board of the Export-Import Bank.●

FAREWELL AMERICA

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. RHODES. Mr. Speaker, the distinguished Washington correspondent for the Melbourne Herald has just completed his tour of service in the United States for one of the great Australian newspapers. John Hamilton, who came to America in 1975, is moving to a new post as The Melbourne Herald's bureau chief in London. He has been an incisive observer of the American scene for the last 4 years. His readers in Australia have been fortunate to receive from the United States dispatches that catch the rhythm and the flow of American life. Mr. Hamilton's final article from the United States is entitled, "Farewell, America." It is a remarkable document in that it captures the vitality and positive spirit of the American people at the same time as it expresses the deep political dilemmas which we confront in 1979. I believe it worthy of the attention of the Members of this body and I wish to introduce, "Farewell, America" into the RECORD.

The article follows:

FAREWELL AMERICA

(By John Hamilton)

Once a year the President of the United States goes to Capitol Hill, walks down the crowded rows of Representatives and Senators and delivers the state of the Union address.

The speech is supposed to be a thermometer reading of the state of health of the republic.

Presidents, of course, have a healthy self-interest in reporting that the state of the Union is sound.

But with no self-interest as a foreign correspondent, I can report that the state of the union is confusion.

America today is confused over two things—why it ever elected Jimmy Carter to be its president and why on earth the country should be running out of gas.

There is an uneasy shifting and murmuring across the land. Something indefinable seems to be happening, something akin to the stillness and the nervous gusts of wind that precede a violent thunderstorm.

Things have been going wrong in America, things that just should not be going wrong.

The near disaster at Three Mile Island, the real disaster with the DC–10's, the possible disaster that only God averted when Skylab fell back to earth—all are deeply unsettling. America's pride has taken a severe beating.

But there is something else wrong.

Its name is Jimmy Carter.

America today is rudderless because it elected a good man to the wrong job.

President James Earl Carter, Jr., is a good man, but he is no leader.

So the Nation is waiting, because it has to, until next year and the political storms that will rage across the land.

The storms will be violent—already one senior White House aide has warned his staff to get out if they haven't got the stomach for what he sees as the "dirtiest Presidential campaign in U.S. history."

But despite this unease and confusion, America remains fundamentally strong today. The danger is for its friends and allies to believe that the country is going down the drain economically and spiritually—because the man at the top is in trouble.

Nothing is farther from the truth. America is marking time until next year.

Its enormous industrial power is still there. Its enormous resources are still there. Its mercurial spirit and great optimism is still there.

Yet, the President of the United States would have you believe differently.

In a remarkable series of events last month (July), Jimmy Carter took himself off into the seclusion of Camp David and summoned 150 Americans to give him counsel. That event triggered the extraordinary Cabinet reshuffling, the "evaluation forms," the desperate President trying to put a disintegrating house in order with personnel shuffles and dismissals.

Up on the mountain there were Senators, Governors, legislators, union leaders, public officials, religious leaders—even the president of the biggest bird watching group in America.

Jimmy Carter distilled what they had to say to him and went on national television to deliver an extraordinary sermon to America.

He spoke of the "erosion of confidence in our future that is threatening to destroy the social and political fabric of America."

It was almost as though he had some sort of miraculous vision of a plague sweeping America, sapping its public morale and traditional enthusiasm.

It was an ominous and foolhardy message. Sixty years ago Woodrow Wilson followed the same path by blaming the Nation for mistakes of Government.

Wilson regarded the American people as "the most generous, the best, the most idealistic of all the world." But when his policies failed, Wilson blamed the same people after "our enemies have . . . poisoned the wells of public opinion."

Any discussion of America today and where it is heading has to inevitably come back like a swinging compass needle to one man—James Earl Carter, Jr., President of the United States.

This is a personal view of how the Carter phenomenon arose.

When I arrived in Washington in the winter of 1976, there were two things you did not talk about. The first was Vietnam, the second Watergate. The wounds of both were still too fresh on the American psyche.

The bitterness of the Vietnam debacle was summed up by one T-shirt gathering dust in a souvenir shop.

It read, "Asian war games—U.S. second place." People did not want to talk about Vietnam. Nobody likes to lose.

Particularly if you are raised in a country where patriotism is next to godliness, where the pledge of allegiance is recited by rote in kindergartens and the stars and stripes are known in front yards and from apartment balconies.

A country where you are taught that the might of the mighty eagle of the United States is invincible. It was this patriotism, this love of brass bands and marchings, parades and rifle twirlings that first struck me as a foreigner in the United States.

But Vietnam had given patrotism a beating.

And patriotism is one of the things that binds this vast country with its 250 million disparate people together.

"I see an America on the move again, united, a diverse and vital and tolerant Nation, entering our third century with pride and confidence," Jimmy Carter told the cheering delegates to the Democratic convention.

He promised to "make our country large and driving and generous in spirit again."

That spirit was already abroad that July as America celebrated its 200th birthday. The bicentennial celebrations were a huge success. Despite dire warnings of disruptions and demonstrations as the Nation basked in a perfectly beautiful day when America was at peace at last.

The Republicans chose Gerald Ford as their nominee after a rowdy convention in Kansas City and Ronald Reagan headed back into the western Sunset to try again another day.

The remainder of the Presidential campaign was a bore with the much touted Presidential debates between Ford and Carter revealing to the public just how unremarkable the candidates and how difficult the choice.

Carter made it because America did want a change and for a few brief honeymoon months, it looked as though the United States was on the move again.

Carter borrowed unashamedly from his predecessors.

The famous "Buck Stops Here" sign from Harry Truman's days was put on the desk in the oval office.

The desk itself was removed from the storeroom where it had gathered dust since last being used by President John F. Kennedy.

A crackling fire was set so that Carter, in an old pullover, could deliver a fireside chat to the Nation—a la Franklin Delano Roosevelt.

There were town meetings and talk back shows as the White House image makers tried to get across a new "man of the people" Presidency.

They went a little too far.

After selling the Presidential yacht and getting rid of most of the ceremonial trappings that usually greet a VIP when he arrives at the White House, Carter scrapped the playing of the traditional tune that marks the arrival of the President—Hail to the Chief.

And then he started carrying his own suit bag.

That suit bag might well mark the turning point in Carter's fortunes.

Americans realised they did not want a man who carried his own suit bag as their President. They wanted somebody with style.

They also wanted somebody who was not blindly loyal to his friends—so blind that he could not see the political dangers of defending people like Bert Lance or keeping a tight circle of good old boys from Georgia around him, shielding him from the real world outside Washington, instead of reaching out for the best brains in the country to help him.

Up on Capitol Hill the Representatives and Senators closed ranks against the administration and proposal after proposal was rejected.

The one great achievement of Jimmy Carter, the Camp David meeting that led to the signing of the Middle East Peace Treaty—pulled him out of trouble briefly.

But symbolic signing ceremonies on the lawn of the White House are soon forgotten when you are a sweating motorist in a gas line hoping for a gallon of petrol.

The queues for petrol quickly eclipsed the signing of the SALT Treaty with the Soviet Union and the economic summitry of Tokyo.

As somebody remarked wryly, Americans believe in the right to carry a gun and drive a big car. Take away even one of those rights and you've got trouble.

Many Americans simply could not believe what was going on. Their whole lifestyle—being able to drive as many cars as they liked, as big as they like, with as much cheap petrol as they liked on the best road system in the world—had suddenly vanished.

The gas line was the catalyst which forced Jimmy Carter into doing something to try and save his presidency.

Whether the soul searching and the Cabinet reshuffle works whether he will survive politically to run again as President and win next year remains to be seen.

A football team of Republican candidates are already out on the national political playing field. Senator Ted Kennedy keeps declaring that he won't run—but can he resist a clarion call from his countrymen to come to the aid of the party? And when the polls tell him the public has forgiven him for Chappaquiddick?

Will it be a Carter-Reagan fight for the Presidency? A Connally-Kennedy match?

I don't know. Nobody knows. It is anybody's guess. It's going to be a boots-and-all election.

But I am convinced that some things will remain certain about America, regardless of who wins.

Its people will remain the most generous, open hearted, kind and hospitable people on Earth.

They will still be motivated by the work ethic, to rise early and retire late and seek goals which they know they can achieve, only in America.

They will still be God fearing and go to church on Sundays.

They will run things on time.

They will continue to enjoy a musical heritage that flows through every level of society—from the banjo pluckers of the mountain tops to the symphony concerts of the cities and omnipresent blare of the high school bands.

They will continue to enjoy dressing up on the slightest excuse and holding a parade or a convention.

They will enjoy turkey for Thanksgiving and trimming the trees at Christmas.

They will remain a polite society, the only one in the world that wishes "have a nice day" on every stranger, and asks him to come back and see them soon.

Their telephone system will continue to be the best in the world, their martinis the strongest.

Even if the present state of the union is confusion—beneath the surface, the immense technological and industrial heartbeat of America continues to beat as strongly as ever.

And its people are sound—that is the most important thing.

Remember that there are 250 million Americans of every race, color and persuasion somehow welded together enjoying "certain inalienable rights" in the immortal words of the Constitution.

Rights including "Life, Liberty and the Pursuit of Happiness."

Two hundred and fifty million people guaranteed the right to happiness.

That is why America will remain great—and why I will miss her.●

GEN. ROBERT L. DENIG, SR., DIES

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. BEARD of Tennessee. Mr. Speaker, it is with deep regret that I report to the House the passing of a fellow Marine Brig. Gen. Robert Livingston Denig, Sr., U.S. Marine Corps, retired, founder of Marine Corps public relations during World War II and considered the "father of Marine Corps combat correspondents, who died on July 25, at Los Altos, Calif., at the age of 94. Funeral service, with full military honors, will be held at the chapel, Arlington Cemetery at 1 p.m. on August 3.

General Denig, was born September 29, 1884, in Clinton, N.Y. The son of a naval officer, he became acquainted with the naval service early in life, and attended grade school for several years in Japan while his father was serving with the U.S. Asiatic Fleet.

After attending high school in Sandusky, Ohio, where in 1900 he was a member of the Sixth Ohio Regiment of the National Guard, he attended the University of Pennsylvania.

On his 21st birthday in 1905, he was commissioned a second lieutenant in the Marine Corps. After attending the School of Application at Annapolis, Md., he was ordered, in September 1906, to a provisional marine battalion being assembled at Norfolk, Va., for duty with the Army in the Cuban pacification. In November 1907 he was ordered to Washington, D.C., and was assigned to the Marine detachment U.S.S. *Missouri*, abroad which he participated in the 1907–09 cruise around the world. This assignment was followed by a tour at the Marine Barracks, Annapolis, Md., as officer in charge of recruiting, St. Paul, Minn., and with the 1st Marine Brigade in the Philippines from which he was transferred to the Marine Barracks, Olongapo, Philippine Islands. At the beginning of World War I he was attached to the Marine Barracks, Philadelphia, Pa.

In July 1917 after duty at St. Nazaire and Bordeaux, he attended U.S. Army schools at Gondrecourt and Langes. In May 1918, he was ordered to the 3d Infantry Division for duty as the commanding officer, 1st Battalion, 30th Infantry. With this battalion he participated in the Aisne-Marne offensive. Following this engagement he was transferred to the 2d Infantry Division to command the 2d Battalion, 6th Marines with which he saw action at Soissons. Then on July 30 he was again assigned to duty with the Army, this time to command the 3d Battalion, 9th Infantry, 2d Infantry Division. He lead this unit in the Pont-a-Mousson, St. Mihiel, and Meuse-Argonne offensives. While leading his men in cleaning out enemy machineguns and snipers from the area around Medeah Farm, he was wounded on October 3, 1918. For remaining in action until the mission was completed he was awarded the Army Distinguished Service Cross and the Navy Cross, the Nation's second highest decorations. For his distinguished duty and heroism, the Government of France presented him with the Legion of Honor, the Croix de Guerre with Palm and Bronze Star and the Fourragere.

After World War I he served at various posts in the United States, and in Santo Domingo with the 2d Marine Brigade. Later in Nicaragua with that country's National Guard, he first saw duty as the Northern District Commander in antiguerrilla operations and later as the Guard's Chief of Staff. He was injured in the 1931 Managua earthquake and returned to the United States for hospitalization. For outstanding performance of duty with the Guard, he was awarded that country's Presidential Medal of Merit.

Recovering from his injuries, he was ordered to headquarters, U.S. Marine Corps for duty with the Division of Operations and Training, then with the newly organized Fleet Marine Force at Quantico, Va., at the U.S. Naval Prison, Portsmouth, N.H., and at the Marine Barracks, Pearl Harbor, Hawaiian Islands. From there he was ordered to the Marine Barracks, Bremerton, Wash., where, in June 1941, he was placed on the retired list and promoted to the rank of brigadier general in recognition of his distinguished war service.

He was immediately recalled to active duty and assigned the task of organizing the Division of Public Relations at Headquarters, U.S. Marine Corps, Washington, D.C. It was during this period of service that General Denig is credited with "fathering" the idea of the combat correspondent in the American Armed Forces. Under this plan uniformed reporters related the exploits of their comrades-in-arms during and since World War II. For his work as director of this division throughout World War II, he received the Legion of Merit.

General Denig also is credited with having the foresight to equip his combat cameraman with color motion picture film, an innovation at the time, to document such momentous battles as Iwo Jima.

Following World War II, General Denig organized the Marine Corps Combat Correspondents Association. The organization grew from a few dozen eligible members to over 3,000 today of which about 500 actively participate. General Denig stayed active in the association until 2 years ago when his health prevented him from traveling to the conventions. His last byline was filed with the Marine Corps Gazette just a year ago.

Survivors include the general's son, Brig. Gen. Robert L. Denig, Jr., U.S. Marine Corps, retired, two grandchildren, and five great grandchildren.●

RECOMMENDS MAJOR TAX REDUCTION

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. MATTOX. Mr. Speaker, in view of the recession we are already in, I propose that the Congress enact a major tax reduction to relieve the inflationary pressure and stimulate the economy. My proposal affects the productive American—both the businessman and the worker—people who build the cars, construct the homes, and provide the services all of us need.

Specifically, I recommend effective January 1, 1980:

A $24.4 billion cut in payroll taxes primarily by transferring health insurance out of the social security fund and financing it through general revenues;

A $1.1 billion reduction in business taxes resulting from an expansion in the asset depreciation range from 20 to 30 percent, thereby providing accelerated depreciation allowances; and,

A $3.1 billion business investment tax credit program resulting from an increase from the present 10 percent to 12 percent for eligible investments.

It is obvious to all of us that the recession is not just a mild interruption in economic growth caused by a rise in prices for energy; it is much deeper than that. Unemployment is now expected to reach over 8 percent in 1980. Inflation is expected to average 11 percent during 1979 and 9 percent in 1980. Economic growth is expected to decline by 1.4 percent more than was forecast by the administration on July 12. All of these factors combined will create a heavy drag on the economy and will result in increasing the deficit, unless we take intelligent and swift action now.

A cut in the payroll taxes is especially important because of the crucial link it provides in providing a sounder base for the economy while reducing inflationary pressure. A social security roll back would help both the employer and the employee. As Walter Heller, former Chairman of the Council of Economic Advisers, has said before the Budget Committee—a payroll tax reduction would relieve the pressure to increase prices, provide more net, take-home pay for the worker and abate the need for higher wage demands.

As Alice Rivlin, Director of the Congressional Budget Office, pointed out:

> A cut in payroll taxes does not imply a cut in benefits. . . . To assure the solvency of the system (it would be necessary) to replace the health insurance portion of the payroll tax with general revenues. . . . And, indeed, the hospital insurance portion is a logical candidate for being financed out of general revenues, rather than a payroll tax, for the simple reason that hospital benefits under medicare, are not tied to the beneficiary's previous earnings.

Tax reduction in the form of accelerated depreciation and investment tax credits would have the double effect of stimulating corporate cash flow and capital investment, and at the same time, provide incentive for conversion to more efficient energy sources.

We can balance the budget in the future, but only if we have a healthy economy. We can reduce unemployment and inflation through appropriate and targeted tax reductions. It is imperative to act now to protect this Nation from a severe recession and increase the incentive for the productive American.●

LEV BLITSHTEIN'S TRAGIC WEDDING ANNIVERSARY

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. LENT. Mr. Speaker, I want to call to the attention of my colleagues a truly sad and tragic violation of human rights by the heartless rulers of the Soviet Union.

It is the case of Lev Blitshtein, one of the many Soviet Jews who is seeking to leave Russia to be able to practice their religion free of the official criticism and oppression so often accorded those of the Jewish faith in the Soviet Union.

With the inhuman cruelty which seems to be inbred in the Communist officials who rule Russia, permission was given 4 years ago for Mr. Blitshtein's wife, son, and daughter to leave Russia. For the past 4 years they have been living in New York. But the Communist officialdom has refused to give Mr. Blitshtein a visa because he is "aware of a State secret."

Mr. Speaker, do you know what that "State secret" is? The secret possessed by Mr. Blitshtein is the knowledge of how to make meatless sausages.

Such a ruling would be laughable if it were not for the human travail it has brought to the Blitshtein family, which now has been separated for 4 long years by this inane and cruel order. I have talked personally with Lev's son Boris, and I know of the agony the family is undergoing. On August 8, 1979, Mr. Speaker, the Blitshtein family will undergo even further travail. August 8 marks the 25th wedding anniversary of Mr. and Mrs. Blitshtein. For most families such a momentous occasion is marked by great rejoicing and warm family reunions. Alas, such will not be possible for the Blitshtein family. Separated by thousands of miles and by the heartless edict of the Kremlin, Mr. and Mrs. Blitshtein and their children can only turn to us and ask for our help in relieving their misery.

Mr. Speaker, I call upon my colleagues to offer their assistance to this unfortunate family. Please join me in a renewed appeal to Soviet officials to reverse their inhuman ruling and issue permission for Mr. Blitshtein to join his family in New York. Denial of such permission is a blatant violation of the Helsinki accords which Russia signed 4 years ago. The Soviets must be brought to correct this grievous error.

I assure my colleagues that any effort they may make on behalf of Lev Blitshtein will be deeply appreciated by the Blitshtein family, and will be of great service to the cause of human rights.●

RELIGIOUS FREEDOMS JEOPARDIZED ON TAIWAN

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. LEACH of Iowa. Mr. Speaker, I have from time to time brought before the House a number of current concerns with respect to the future of the people of Taiwan.

It is with increasing alarm that I have followed a series of events, which have taken place on Taiwan since the announcement, last December, of the full normalization of relations between the United States and the People's Republic of China.

Most recently, I met with the Honorable David Dean, chairman of the board and managing director of the American Institute in Taiwan, as well as representatives of the National Council of Churches, to discuss several proposed revisions to regulations pertaining to religious organizations in Taiwan. Although I have been informed that these revisions are simply proposals at this point, they have been placed, I understand, on the agenda of the Legislative Yuan in Taiwan, and have caused widespread concern with respect to the future exercise of constitutional religious liberties on the island.

The revisions, if enacted, would permit the governing authorities in Taiwan to "abolish" certain decisions of churches and religious organizations and to make changes in personnel or confiscate property and assets if the Government finds that the organization has acted against the public interest. What specifically constitutes public interest is apparently open for broad interpretation by the ruling authorities.

This threat to the fundamental civil and religious freedom of the Taiwanese people deserves special note from this body. As my colleagues will recall, section 2(c) of the Taiwan Relations Act (Public Law 96-8), declares:

> The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

The efforts of some in the ruling minority in Taiwan to potentially deprive the vast majority of religious freedoms spelled out in article 13 of their Constitution warrants the special attention of the Congress and all Americans who share our interest in the protection of human rigths for all peoples.

I would urge my colleagues to join me in expressing my deep concern to the ruling authorities in Taiwan with respect to these proposals. The suspension and denial of basic and fundamental freedoms of the Taiwanese people can only serve to impair—not improve—the future relationship between Taiwan and the United States. It is my hope that good judgment will prevail and that these proposed changes with respect to religious freedom will be overwhelmingly rejected.●

H.R. 4833—TO ELIMINATE DOUBLE TAX ON DIVIDENDS

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. SAWYER. Mr. Speaker, on Tuesday, July 17, 1979, I introduced H.R. 4833, which will eliminate the double taxation of corporate dividends as a method to spur business investment and increase domestic employment.

At that same time I introduced separate legislation, the Small Savers Protection Act of 1979, to make personal savings attractive again and moderate the "buy now" philosophy which is contributing to our present high rate of inflation.

Due to a printing error, the measure that would permit domestic corporations to deduct all dividend distributions in the same manner as interest payments on debts was omitted.

I therefore include a copy of H.R. 4833 with a listing of its cosponsors:

List of Cosponsors

Mr. Badham, Mr. Barnard, Mr. Buchanan, Mr. Burgener, Mr. Carter, Mr. Cleveland, Mr. Coelho, Mr. Derwinski, Mr. Dornan, Mr. Edgar, Mr. Erlenborn, Mr. Goodling, Mr. Grisham, Mr. Hyde, Mr. Jeffries.

Mr. Johnson of Colorado, Mr. Kindness, Mr. Lagomarsino, Mr. Leach of Louisiana, Mr. Lee, Mr. Lent, Mr. McEwen, Mr. Marriott, Mr. Regula, Mr. Sensenbrenner, Mr. Vander Jagt, Mr. Winn, Mr. Broomfield, Mr. Guyer and Mr. Kemp.

H.R. 4833

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Allowance of Deduction for Dividends Paid by Domestic Corporations.

(a) General Rule.—Section 243 of the Internal Revenue Code of 1954 (relating to dividends received by corporations) is amended to read as follows:

"Sec. 243. Dividends Paid by Domestic Corporations.

"(a) General Rule.—In the case of a domestic corporation which is subject to taxation under this chapter, there shall be allowed as a deduction for the taxable year an amount equal to the dividends paid by such corporation during the taxable year.

"(b) Dividends.—For purposes of this section, the term 'dividend' means any dividend (as defined in section 316) to which section 301 applies.

"(c) Certain Corporations Not Eligible.—No deduction shall be allowed under this section with respect to dividends paid by any corporation which is—

"(1) an electing small business corporation (as defined in section 1371(b));

"(2) a regulated investment company (as defined in section 856(a));

"(3) a real estate investment trust (as defined in section 856(a)); or

"(4) a personal holding company (as defined in section 542).

"(d) Special Rules for Certain Distributions.—

"(1) Mutual savings banks, etc.—For purposes of this section, any amount allowed as a deduction under section 591 (relating to deduction for dividends paid by mutual savings banks, etc.) shall not be treated as a dividend.

"(2) Dividends from a disc or former disc.—No deduction shall be allowed under subsection (a) for any dividend paid by a corporation which is a DISC or a former DISC (as defined in section 992(a)) to the extent that such dividend is paid out of the corporation's accumulated DISC income or previously taxed income, or is a deemed distribution pursuant to section 995(b)(1)."

(b) Dividends Received From Certain Foreign Corporations.—

(1) Subsection (a) of section 245 of such Code (relating to dividends received from certain foreign corporations) is amended by striking out "the percent (specified in section 243 for the taxable year)" each place it appears and inserting in lieu thereof "85 percent (100 percent in the case of a small business investment company operating under the Small Business Investment Act of 1958 (15 U.S.C. 661 and following))".

(2) Section 2345 of such Code is amended by adding at the end thereof the following new subsection:

"(d) Limitation and Special Rules.—

"(1) Limitation on aggregate amount of deduction.—

"(A) In general.—Except as provided by subparagraph (B), the aggregate amount of the deductions allowed by subsections (a) and (b) shall not exceed 85 percent of the taxable income computed without regard to the deductions allowed by subsection (a) and (b) and sections 172 and 243, and without regard to any capital loss carryback to the taxable year under 1212(a)(1).

"(B) Effect of net operating loss.—Subparagraph (A) shall not apply for any taxable year for which there is a net operating loss (as determined under section 172).

"(2) Exclusion of certain dividends.—

"(A) In general.—No deduction shall be allowed under subsection (a) or (b) in respect of any dividend on any share of stock—

"(i) which is sold or otherwise disposed of in any case in which the taxpayer has held such share for 15 days or less, or

"(ii) to the extent that the taxpayer is under an obligation (whether pursuant to a short sale or otherwise) to make corresponding payments with respect to substantially identical stock or securities.

"(B) 90-day rule in the case of certain preference dividends.—In the case of any stock having preference in dividends, the holding period specified in paragraph (A)(i) shall be 90 days in lieu of 15 days if the taxpayer receives dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days.

"(C) Determination of holding periods.—For purposes of this subsection, in determining the period for which the taxpayer has held any share of stock—

"(i) the day of disposition, but not the day of acquisition, shall be taken into account,

"(ii) there shall not be taken into account any day which is more than 15 days (or 90 days in the case of stock to which subparagraph (B) applies) after the date on which such sare becomes ex-dividend, and

"(iii) paragraph (4) of section 1223 shall not apply.

The holding periods determined under the preceding provisions of his subparagraph shall be appropriately reduced (in the manner provided in regulations prescribed by the Secretary) for any period (during such holding periods) in which the taxpayer has an option to sell, is under a contractual obligation to sell, or has made (and not closed) a short sale of, substantially identical stock or securities.

"(3) Cross reference.—

"For special rule relating to mutual savings banks, etc., to which section 593 applies, see section 596."

(c) Repeal of Certain Provisions.—Sections 244 (relating to dividends received on certain preferred stock), 246 (relating to rules applying to deductions for dividends received), and 247 (relating to dividends paid on certain preferred stock of public utilities) of such Code are hereby repealed.

(d) Net Operating Loss Deduction.—Paragraph (6) of section 172(d) of such Code is amended to read as follows:

"(6) Computation of deduction for dividends received from certain foreign corporations.—The deduction allowed by section 245 (relating to deduction for dividends received from certain foreign corporations) shall be computed without regard to section 245(d)(1)."

(e) Mutual Savings Banks.—Section 596 of such Code (relating to limitation on dividends received deduction) is amended by striking out "sections 243, 244, and 245" and inserting in lieu thereof "section 245".

(f) Clerical Amendments.—The table of sections for part VIII of subchapter B of chapter 1 is amended by striking out the items relating to sections 243, 244, 246, and 247 and by inserting after the item relating to section 241 the following:

"Sec. 243. Dividends paid by domestic corporations."

(g) Effective Date.—The amendments made by this section shall apply to distributions made after December 31, 1980.●

AMERICA IN RETREAT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, with the SALT II Treaty now before the Senate, with the aftershocks of the Iranian revolution still being felt around the globe, and with summer gas lines vividly depicting this Nation's extreme degree of dependence upon the foreign OPEC oil cartel, the question of America's political and military position in world affairs has become a prominent question indeed. Enemies, allies, and Americans alike have all been reflecting upon the global status of the United States, and their inescapable conclusion is always the same: America is in retreat.

One analyst who has been examining both the causes and some of the possible solutions to this retreat is Mr. Ben J. Wattenberg, a senior fellow at the American Enterprise Institute and chairman of the Coalition for a Democratic Majority. In an article which appeared in the New York Times magazine on July 22, 1979, Mr. Wattenberg assessed the shifting tides of public opinion as we approach the end of nearly a decade of retreat.

Though Mr. Wattenberg displays a thorough knowledge of the numbers involved in defense spending and nuclear weaponry, as well as an acute awareness of the intricacies of international politics in the late 1970's, the thrust of his argument is that America's retreat can only be fully understood in light of the past trends and events which have led us into that retreat. As a professor of history myself, I could not agree more.

I would like to share the full text of Mr. Wattenberg's recent remarks with all of my colleagues. I highly commend this thoughtful article to your attention:

It's Time To Stop America's Retreat—As the World Seems To Unravel, Some Old-Fashioned Ideas About Foreign Policy Are Making Sense Again

(By Ben J. Wattenberg)

There is a rhythm to the ideas of men. Thus, for an extended moment—call it from Tet to the Ayatollah—there seemed to be a growing sense that America's experience in Vietnam had repealed many of the old precepts of statecraft.

What were these old precepts? Well, why were we in Vietnam in the first place? To defend freedom, said L. B. J., *and* to honor our commitments so that other nations would not acquire an image of America as a paper tiger, *and* to prevent Communist forces from taking over other countries and toppling the dominoes one by one. And just how would we go about accomplishing this? We would do it with raw power—not because we wanted to do it that way but because, as events unfolded in Vietnam, there was no other way.

As Vietnam turned from an agony to a tragedy to a debacle, as it seared and shaped the minds of those who opposed the war and ultimately of many who supported it, these old precepts came under challenge. The rhythm of our era took us through a time when a new catechism emerged under the rubric of "The Lessons of Vietnam."

To the early doves and some of the latter-day doves, too, many of these lessons seemed clear. American power, they felt, was not a last resort that got you out of trouble; American power was, in fact, what got you into trouble. We suffered, they said, from an "arrogance of power." We were "overextended." That "domino theory," of course, was "discredited." What had taken the shine off America's international image was our belief that human blood should be shed in the defense of something as intangible as that image. And freedom? Well, was the "corrupt" Thieu Government an exemplar of "freedom"?

And so it seemed to many that the old rules deserved to be challenged, even junked. Just as a "New Politics" formed in reaction to Vietnam, so too did a new foreign policy. It was a policy, said its advocates, that was less muscular, more accommodating, and lower in profile. It was a policy, said its critics, that was weak and retreatist. When Jimmy Carter, a man often in tune with the rhythm of American thought, took over as President, he staffed his foreign-policy agencies with people who accepted these soft-line "lessons" derived from "the trauma of Vietnam."

And then—suddenly—chaos.

Late last year and early this one, a grim sequence of events seemed to create a sense of what newsmagazines quickly labeled "America in Retreat." Revolution in Iran, withdrawal from Taiwan, war in the Yemens, war (once again) in Vietnam, a Communist coup and then assassination in Afghanistan, near anarchy in Turkey, price buccaneering by OPEC, mercenary militarism on Cuba's part on Africa, and, perhaps most symbolic, gaucherie and rebuke in Mexico.

The world was unraveling—or so it seemed. And as this happened, the melody of an already swelling new mood in Washington gained still more volume. The metronome was swinging again to the rhythm of our time. The crux of this new mood, I would suggest, can be defined as "the dawn of old ideas in a new era." And as one listens to the talk here these days, a feeling grows that if the President's State of the Union message had been delivered today instead of in January, the contest for a snappy slogan might have properly been won not by "New Foundation" but, perhaps, by "Old Foundation."

What are these old general rules that are now enjoying a new esteem? And now do they apply to what is clearly a new era in world politics and power? Consider, to begin, four such dictums, all of which are coming out of the closet now with a vengence.

The first rule is that image counts.

Once upon a time there was an American President named Richard Nixon who said that unless the United States flexed its muscles occasionally, the world would come to regard us as "a pitiful, helpless giant." That notion was greeted with derision.

But recent events suggest that it shouldn't have been. As it is in life, so, too, in statecraft: Image and perception may count as much as reality. In fact, they often become reality.

Late last year, just a moment before the world seemed to start shuddering before our very eyes, Zbigniew Brzezinski, Assistant to the President for National Security Affairs, spoke from a podium in an elegant hotel ballroom to a crowd of about 500 card-carrying members of the foreign-policy establishment. In his clipped, precise manner, he delivered a coherent and official view of the Administration's foreign policy.

When this Administration came into office, Dr. Brezezinski informed us, it identified a series of major problem areas facing America and the world: rich nations versus poor nations, East-West problems, military security, economic and trade problems, disarmament, human rights and so on. He was pleased to report that progress had been made on all these fronts. Such was the message that consumed roughly 44 of the speech's 45 minutes.

During the final minute of his address, however, Dr. Brzezinski acknowledged that, of course, the world was not a perfect place and some problems remained. He named two: The Russians were continuing a massive military buildup, and, he noted further, "an arc of crisis" now stretched "along the shores of the Indian Ocean." End of speech. Polite applause.

I left the hall and a few minutes later was at a small luncheon at the American Enterprise Institute with a man I will identify only as "Diplomat X," who happened to come from one of those nations in "the arc of crisis." His message differed considerably from Dr. Brzezinski's.

What on earth is going on? he thundered. The word is out around the world. Your great country, on which we all relied, is retreating from the world arena. We allied ourselves to you, antagonizing the Soviet superpower, and suddenly we find ourselves out at the end of the plank. And so we may have to cut a deal with the Soviets. We do not like this, because cutting deals with the Soviets is hazardous—and often the Soviets end up holding all the cards. But we now have little choice.

"Diplomat X" concluded by saying that he was sure that one day America would regain its senses—sooner, he hoped, rather than later. But in truth, he did not know whether the damage done by then would be reversible.

Now, the purpose of this exercise in the "Rashomon" of foreign policy is not to determine whether Dr. Brzezinski or "Diplomat X" is right about the state of American power. We already know the answer. "Diplomat X" is right. His nation has perceived America as weak. The sources of this perception are many: our lack of effective response in Angola, the Horn of Africa and Iran, our lack of response to, or alarm over, a Russian-surrogate takeover in Afghanistan, our inability to deal with a Cuban expeditionary force in Africa, our planned withdrawal of troops from South Korea, the demoralization of our C.I.A., our decisions to shelve the B–1 bomber and the neutron bomb, the feeling that we have been siding with our adversaries instead of bolstering our friends—and so on and so forth.

Of course, "Diplomat X" may well be objectively wrong about any or each of these cases or conditions. But that is not the point. When "X" and his diplomatic colleagues talk privately over drinks late at night, they are thinking and saying that the United States is in retreat. And then they, and their governments, act accordingly. Soon thereafter, one picks up the newspaper and finds a pro-American government acting neutral, or a neutral government acting pro-Soviet, or another batch of Cubans popping up in yet another African country, or another oil price hike that we didn't expect.

An example of the consequences of Americas' image as a helpless giant is what is happening in Saudi Arabia. The Saudis were horrified by what they perceived to be American weakness in Iran. Was it an accident that, following such horror, they made softer sounds to the Soviets, were less willing and able to put a brake on escalating OPEC prices, and didn't lift so much as a finger to help us out with the Egyptian-Israeli peace treaty?

Image counts. If other folks think you're a pitiful, helpless giant (or, in the Ayatollah Khomeini's felicitous phrase, "a defeated and wounded snake"), you're halfway there.

The second resurgent rule is that power counts.

The reassertion of this notion is similar to another great reassertion currently sweeping down the boulevards of Washington. "There's no free lunch," says Milton Friedman in the realm of economics. Everything costs something.

And so, too, in the realm of power and statecraft. Thus it is not very difficult to run a domestic three-ring circus around the Central Intelligence Agency. That's a free lunch. Senators can fondle poison-dart guns in front of television cameras. The agency can be denounced as a "rogue elephant." A battalion of legislators can be empowered to provide oversight. (Today a C.I.A. "secret" must be shared with eight Congressional committees and scores of typically tight-lipped legislators.)

All that is free and easy. What is not easy is to do this and still expect the C.I.A. to be able to do its job. The chutzpah award of the decade goes to those legislators who beat up on the C.I.A. with great glee and then demanded, How come we didn't know what was going on in Iran?"

"No free lunch" means that a demoralized intelligence agency, oversighted to death and scared of its own political shadow, is not likely to come up with coherent and tough-minded plans to squeeze Cuba in the right places so that Castro might decide that maybe his African adventure isn't such a good idea after all. Does anyone believe that such active planning is going on? I don't believe it because if it were so, given the current state of leakage, I would already have read about it in the newspapers.

Further, "no free lunch" also applies to more conventional modes of power. Suppose that, for a period of a decade, the United States declares that it has to reorder priorities." Suppose it decides that the way to do this is to "cut the bloated military-industrial complex." And suppose that this goes on at a time when the Soviet Union, our principal adversary, is reordering its priorities in exactly the opposite direction—beefing up and further bloating its military-industrial complex. If all this happens, the old-fashioned rules say that somebody, somewhere, will end picking up that lunch tab.

In the 1960's, the United States spent about 9 percent of its gross national product on military expenditures and about 10 percent for social welfare. Today, the military portion of our G.N.P. has fallen to 5 percent, while social-welfare spending has risen to 21 percent—a rather successful-reordering indeed.

Moreover, during this same period, spending by the Soviets on defense has soared. (Modest estimates say 15 percent of the Soviet G.N.P. goes for defense.) The common phrase for it is that the Soviets have undertaken the largest peacetime military buildup in history." A few years ago, such a phrase was the exclusive province of hawkish types like me, but today it is no longer seriously contested at any point on the ideological spectrum. Simply put, the Soviet Union has at least caught up with the United States in military power—and, as the current wisdom has it, unless the spending trends are reversed either by us or by them, America will in a few years be "No. 2" in military might.

We know this. They know this. And the rule of "no free lunch" holds that if they have more power and we have less, the Soviets will use what they have and be able to use it more effectively. If they want to back Cuban troops in Angola with massive economic resources, a wide array of military supplies and a resupply capability based on a newly developed blue-water navy, why, they will do it. And if, because of what we have done to our C.I.A., to our military power and to our own heads, we don't back UNITA, the still viable, still pro-Western Angolan guerrillas, it makes it just that much easier for the Soviets.

Power counts. And, in the language of the really old foundations, it abhors a vacuum.

The third rule: *Dominoes live.*

Exactly how the word "discredited" became attached to the phrase "domino theory," during precisely those years when events were bearing it out, will no doubt remain a linguistic mystery for some time. Yet the facts are plain: Almost immediately after the fall of South Vietnam, Communist governments or puppets did assume power in neighboring Cambodia and Laos, just as predicted. For good measure, and in an ironic twist, when Communist Vietnam didn't like the behavior of Communist Cambodia, it simply marched in, toppled the new domino and installed its own surrogate government.

So much for liberal dominoes. But figurative dominoes were always more important in the diplomatic house built on the old foundations. Simply put, the domino theory was (and is) shorthand for the truism that events in one country influence events in others.

How could anything so obviously correct ever be "discredited"?

The validity of the figurative aspect of the domino theory was underscored in our newspapers during the recent days of tumult. Some months ago, doves laughed when "cold warriors" got hot and bothered about the pro-Soviet coup in Afghanistan. A backward, out-of-the-way country, they giggled. Makes no difference. But when the Shah experienced his recent unpleasantness in Iran, it wasn't so funny when reports came through that pro-Communist infiltrators were passing from that same Afghanistan into Iran in a continuing attempt to turn Khomeini's revolution into the Kremlin's.

And so it goes. Dominoes.

We will come to our fourth rule in a moment, but consider first a challenging question often raised over the past dozen years about the aforementioned three: *So what?*

So what if North Vietnam takes over South Vietnam? *So what* if the Soviets float a massive new navy and surpass us in nuclear firepower? *So what* if Cuba sends troops to Africa? What do any of these remote things have to do with us? Will the Soviets land in Montauk and march west?

This question is asked less frequently these days as the old foundations reappear. Partly, as I sense it, this is because some international events have had such a powerful impact on our domestic situation. "So what?" is an unrefined question at a moment when international conditions have driven the dollar down and gasoline and inflation up—phenomena felt on every street corner, in every supermarket and on every gas line. But in addition to these domestic implications, there is another old brick of an answer to "So what?"

The answer is our fourth resurgent rule: Freedom counts.

The foundation of American post-World War II foreign policy was clear: The Western notion of human freedom was threatened. Unless the United States defended these Western values, they might decline around the world, primarily under Soviet pressure. And if these values eroded around the world, sooner or later they would erode here as well.

It was, to be sure, a noble concept, but one that just as surely got us into trouble at times. Under such a policy it was easy enough to support other Western industrial democracies. But it also meant supporting other nations that were allied with us in resisting Soviet advances—even if those nations were not themselves democratic. At its most convoluted, the policy occasionally resulted in Americans' using covert, undemocratic means to support undemocratic governments threatened by internal forces that at least professed democratic beliefs.

Still, for all its complexity, there was a consistent purpose—and a moral one, at that—behind the sometimes rococo curlicues of who was friend and who was foe. As John Kennedy said, we were the "watchmen on the walls of freedom." That old brick, of course, was kicked aside during Vietnam. J.F.K.'s idealistic language was held up to mockery. (Cold Warrior!) Our allies in Vietnam put people in tiger cages and we weren't any better, what with napalm and My Lai.

But it was Dr. Johnson who said, "Depend upon it, sir, when a man knows he is to be hanged in a fortnight, it concentrates his mind wonderfully." Something like that seems to be happening to us now. As we end up on the short side of the operative principles of power, image and dominoes, our minds, too, are concentrating, and we are being forced to look squarely at that earlier guiding principal of our foreign policy, the defense of Western values.

No one would dare use the phrase "Communist menace" these days, but there are Communists and their footprints are still menacing. Solzhenitsyn has exposed the horrors of the Soviet gulag, and the Chinese version was denounced by none other than Deng Xiaoping. One can assume that Mr. Deng has a more accurate notion of the Chinese paradise than a generation of Western liberals who saw "a human symphony" (in Shirley MacClaine's immortal phrase).

Another bubble has burst in Indochina. The "boat people" are fleeing Communism just as the East Germans did a generation earlier—and as they did not flee the "corrupt" General Thieu. And in Combodia, the Khmer Rouge blood bath provided, *in extremis,* the horror that has come to be associated, in one way or the other, with Communist takeovers around the world.

So if Western values are still under siege, if the alternatives seem dreadful, and if America's power is diminished, one is pushed to ask yet another difficult question: Can our values ever really flourish in a world where "the United States is in retreat"? And the answer ones gets in Washington these days is a gloomy "maybe."

Now, in normal parlance, an answer of "maybe" carries little thought of imperative action. But consider "maybe" when it is used in this sentence: "Well, it's true we don't really understand the tides of history, but *maybe* the nature of Western civilization will be undermined if America doesn't turn things around. . . ." Now, that's a pretty big "maybe" to try to get to sleep with in the quiet, still hours when even harried diplomats must think about the long range effects of what they're doing.

Let us note that 10 minutes before the Dark Ages began, people were not sitting around their parlors saying, "Tut, tut, in 10 minutes the Dark Ages will begin." But recently, as I sense it, much of official and semiofficial Washington—in the Administration and Congress, in the think tanks and the plush law offices where outsiders wait to become insiders again—has been musing in this cosmic way. So far, our Western freedoms have represented a mere blip in history. There is no guarantee they will survive in any event, but the odds go down if we predicate that our children will live in a world where the Soviet Union is the most powerful military force on earth, and if we and our Western friends are perceived internationally as either "in retreat" or impotent. Fourth rule resurgent: Freedom counts.

And so there is a clammy feeling in Washington. Accordingly, foreign policy has rather suddenly become recognized as a key Presidential issue for 1980.

As President Carter and his spokesman watched the great unraveling earlier this year, they pursued two lines of public defense of their positions. "Restraint" was their policy, they said, and anyway, they asked, "What can we do about it?"

These arguments are less than robust on the campaign trail. Americans believe that a President is paid his salary not to ask what can we do about it, but to do something about it. Recent public-opinion polls, in fact, show the nation turning steadily to a more hawkish, prodefense posture. If President Carter hasn't sensed this, his Republican opponents certainly have. From Senator Howard H. Baker's call for an end to bipartisanship in foreign policy to John B. Connally's more vigorous call ("We have to make up our mind that the United States is the leader of the free world, and if we are not the leader, there will be no leader"), the Republican political sharks smell blood in the water. Nor are they above explaining that gas lines and high prices have some of their roots in foreign circumstances.

So politics, too, are conspiring to a move toward a reassessment and reassertion of America's international position. If Archimedes didn't say it, he ought to have: "Give me the lever of domestic political advantage and I can move the world."

What, then, can we do, besides saying, "What can we do about it?"

The first step toward an answer involves acknowledging that there is merit in the Carter Administration's oft-proclaimed view that we live in a new era. It is surely true that we do not have the same ability to control events around the world that we once had. There is a new set of "multipolar" circumstances, and friends, foes and neutrals are all more powerful than they used to be.

But that there is a new set of global circumstances, for one example, does not mean that America must remain denuded of an intelligence agency. That can be changed, quickly and unilaterally, while still allowing for some form of reasonable oversight.

That there is a new era does not mean that the Soviets must be allowed to become the dominant military power. It is an ugly fact but a fact nonetheless that America's defense spending must be determined by the Kremlin, not by the poor condition of our cities. The United States and its allies still make up by far the mightiest assembly of technological and economic resources known to history. The idea that we cannot afford a given amount of defense to meet Soviet activity is, simply, hokum.

Still, we can never go back to our military supremacy of the 1950's. That there is a new era in which our military power is necessarily diminished in a relative sense may well mean that we have to think once again about playing hardball with the Soviets on economic matters. The "discredited" Jackson Amendment linking American trade preferences to Soviet emigration policy is about as "discredited" as the domino theory. The Soviets have recently loosened up their emigration policy in an attempt to gain trade benefits. That is precisely what the Jackson Amendment intended, and the question now is only whether we hang tough and nail down a good bargain.

There are other economic linkages, admittedly complicated, that deserve consideration. The Soviets need Western technology, grain and so on. In the new era, they may well have to expect to pay a political price for what they need. The phrase for such a policy is "the wealth weapon," and it is an instrument that can be wielded only as a scalpel, not as a blunderbuss. If the Soviets want wheat, for example, we might be able to design a sales and licensing procedure that would key such trade, perhaps subtly, perhaps publicly, to a lessening of the rate of increase of the Soviet military buildup.

In the new era in which American raw power is diminished, there is all the more reason to look at our sources of refined power. The campaign for human rights, brilliantly begun and sadly executed by President Carter, is such a power source. Our human-rights policy, originally designed to deal with strong adversaries, has become a switch with which to whip weak allies. It is, after all, easier to berate Chile and South Korea than the U.S.S.R. This should change. Poised as it is on a potential powder keg of restless nationalities within its borders, challenged in Eastern Europe by the galvanized divisions of the Pope, scorned now even in leftist intellectual salons around the world, the Soviet Union will be a much less dangerous force in the world if we make sure that it remains on the ideological defensive by renewing our campaign for human rights.

Now, it's all true, all these suggestions do not tell vou what to do on the day when the gunmen take over your embassy or when the Cubans arrive in yet another African country or when another neutral state acquiesces to Soviet pressure. All that a change in American foreign policy along the lines suggested here will do is make it somewhat less likely that such events will plague us in the future, less likely that a future American administration will have to say, quite so often or quite so plaintively, "But what can we do?"

The Carter foreign-policy team, often still mired in the mentality of the late 60's, may well have been the last to know, but under the combined pressures of circumstances and politics, the Carterites, too, are beginning to understand once again the old precepts and to unlearn some of the "lessons of Vietnam." I think, for example, that a case can be made that the final and successful push for the Egyptian-Israeli peace treaty came only after the Iranian collapse, after the tumbling-house-of-cards sensation, after the newsmagazines asked if "America was in retreat." Aside from all the other valid reasons for such a treaty, suddenly America needed the treaty to send a message to the world that our writ had not run out. And we were able to make it happen by letting both Egyptians and Israelis know that, at least in this one area of the globe, America was still the world's policeman.

Our decision to send arms to Yemen was also of major symbolic significance. Just about every official I spoke to at the State Department volunteered the thought that such a situation would not have engendered such a response only a few months earlier. One assistant secretary said to me, "I was against sending the aircraft carrier to the Yemen area. What the hell can a carrier really do there anyway, besides get sunk? But once we did it—by God—it did make sense. Everyone—us and them—suddenly knew we were playing for keeps. And that becomes a big fat fact." Now, for good measure, there is talk about establishing a new U.S. fleet, the Fifth, to patrol the littoral of the Indian Ocean.

Recently, too, the President has finally approved plans to go ahead with some aspects of the MX missile system—to applause from the Pentagon—in an effort to help passage in the Senate of the SALT treaty.

Indeed, it is likely that the SALT debate, too, will deal with the dawn of old ideas. It is fair to guess that more than one senator will speculate out loud that he could find it easier to vote for SALT if the Russians sent their Cuban mercenaries back from Africa to their island cane fields. Quite properly, the SALT debate will address the big issue of whether the policy of détente, which was designed to end the cold war, has turned into a policy whereby we are losing the cold war because of our neglect of the old rules of statecraft. Simply put, it is doubtful that the President will be able to obtain solid endorsement of the SALT treaty if Americans believe that "the United States is in retreat."

And so, the pendulum is swinging—for the third time in a third of a century.

After World War II, the United States filled a massive power vacuum while the European nations and Japan, with our assistance, rebuilt themselves. Our mood was expansive and internationalist. In a brief moment, our technology and culture spread across the world; our military might was unparalleled. The American century had arrived.

But the view of American power began changing in the late 1960's and early 1970's, at least among a good portion of American elites. Our power had gotten us into trouble. We identified our adversary; a generation of activists paraphrased Pogo's words: "The enemy is us."

So the pendulum swung back. The Presidential candidate of the largest and oldest political party of the free world in 1972 was described as a "neoisolationist." George McGovern was a big loser in the election, but his plea, "Come home, America." surely represented a new view held by many influential Americans.

Now the pendulum is swinging once again. Our problem is not too much but too little power. The old chestnut of "peace through strength" makes ever greater sense. The realization has dawned on us again that our culture, our values, our ideas are worth defending. And the nation seems ready to act, moderately, on this proposition.●

MARGUERITE G. WOOD: PIONEER AVIATOR OF HAWAII

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. HEFTEL. Mr. Speaker, I am proud to join Congresswoman SCHROEDER in honoring American women's contributions to American history, by calling to your attention Marguerite G. Wood, pioneer aviator of Hawaii.

Marguerite G. Wood turned to flying in the early 1930's for a unique reason; her grandmother thought surfing was too dangerous for her. She received her pilot's license in 1936, and in 1939 joined the Gambo Flying School at John Rodgers Field. She was Hawaii's first female commercial pilot, flight instructor, and flight school operator.

Wood's most memorable flight was on December 7, 1941, when the Japanese attacked Pearl Harbor. She was in the air at the time, and saw the attack from above. She barely escaped strafing by Japanese pilots when she landed at John Rodgers Field, the present Honolulu Airport: An exciting beginning to her military service. The incident was later portrayed in the movie "Tora, Tora, Tora."

In the male-dominated field of aviation, she was the only commercial pilot allowed to continue flying after the December 7 attack. When her flying service in Hawaii was closed later in the war, she moved to Arizona to become the chief flight instructor for a school to train combat pilots.

Wood has continued her interest in aviation, through Hawaii's Country Club of the Air, a flight instruction school, and through scholarships to Civil Air Patrol cadets and others. She was recently honored at the 10th anniversary of the Ninety-Nines, an organization of women fliers. A plaque bearing her name will be installed at the International Fores of Friendship's Memory Lane in Atchison, Kans. Atchison is Amelia Earhart's birthplace, and for Wood, who often cites Earhart as her inspiration, this gives the honor a special significance.

In Hawaii, an island State, the advent of commercial air travel has played an especially important role in the development of our present economy and lifestyle. Marguerite G. Wood, 65 years old, still flying and still managing her flight instruction school, is deserving of our respect and admiration. She epitomizes the pioneering, and enduring spirit of Hawaii's aviators.●

EXPANSION OF TARGETED JOBS TAX CREDIT

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. GUARINI. Mr. Speaker, today I am introducing legislation to expand the targeted jobs tax credit contained in the Revenue Act of 1978 to include unemployed workers in designated redevelopment areas.

The Revenue Act of 1978 (Public Law 95-600) included a tax credit for wages paid to certain target groups—vocational rehabilitation referrals, economically disadvantaged youth, economically disadvantaged Vietnam veterans, economically disadvantaged convicts, supplemental security income recipients, recipients of general assistance, and cooperative education students.

However, this list of targeted groups failed to include workers in areas of chronic unemployment. Since the last recession, there has been a considerable lag in the recovery rates of certain communities around the country. Particularly in the Northeast and Midwest, unemployment has continued at levels significantly higher than in the rest of the Nation as a whole.

In order to address the compelling needs of these workers, I have added a new category, "qualified redevelopment area workers" to the targeted groups in Public Law 95-600. The employer of a qualified redevelopment area worker would be eligible for a tax credit equal to one-half of the worker's first year wages and one-quarter of the worker's second year wages up to a maximum of $6,000. This would work out to a maximum tax credit of $3,000 the first year and $1,500 in the second year.

To qualify for the credit, the worker must be first certified as unemployed for 60 days prior to employment by a local agency designated by the Department of Labor or the Treasury pursuant to provisions of Public Law 95-600.

Second, the worker must be employed and work within a redevelopment area as described by the Public Works and Economic Development Act of 1965 (Public Law 89-136, 42 U.S.C. § 3161). Under the provisions of that law, the Secretary of Commerce may designate certain areas as redevelopment areas if there has existed "substantial and persistent unemployment for an extended period of time" or in which there has been a "substantial loss of population due to lack of employment opportunity." The designated areas also include those localities in which the Secretary of Labor finds that the unemployment rate is at least 6 percent and in which the unemployment rate is substantially above the national average.

Third, the services performed must be within the redevelopment area. This provision is designed to attract employers to areas of high unemployment and to maximize utilization of unemployed workers in those areas.

The tax credit would apply to wages paid after December 31, 1978, to qualified workers who were not hired before that date by the employer.

In summary, this bill would serve two purposes: It would assist unemployed workers in areas of chronic high unemployment; and would provide a further inducement to employers to locate in depressed areas in order to utilize unemployed workers in those areas.●

PITTMAN-ROBERTSON FUNDING: AN ENDANGERED SPECIES?

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. SOLOMON. Mr. Speaker, ever since 1937, Federal funds have been made available to our States and territories for the use on fish and wildlife restoration and hunter safety programs under provisions of the Pittman-Robertson Act. Pittman-Robertson has been a highly successful and popular Federal-aid program among States and local officials, sportsmen and outdoor enthusiasts across this country. It was therefore distressing to learn of a recent court suit pending here in Washington against the U.S. Fish and Wildlife Service which threatened the future of this program.

When Congress passed the Pittman-Robertson Act, Federal tax was placed on the sale of all sporting arms and ammunition, hand guns and some archery equipment. Each year, the Fish and Wildlife Service returns this money to the 50 States, Guam, Puerto Rico, and the Virgin Islands, for use on a variety of fish and wildlife programs. Currently, over 600 projects nationwide receive some Pittman-Robertson funding. Yet just recently, the smooth continuation of this program was jeopardized because a substantial portion of this aid was tied up in litigation. An attempt was made to block funding for a total of 182 Pittman-Robertson projects nationwide until environmental impact statements were filed on each one of them as required under the National Environmental Policy Act (NEPA). At least one project in every State was affected by this action.

As my colleagues are no doubt aware, environmental impact statements are required whenever a Federal action may have a "significant impact on the quality of the human environment." A close examination of the projects under challenge however, reveals that most of them did not meet this criterion. They were only challenged as a way of ensnarling a program with which the plaintiffs disagreed.

While this suit was eventually dismissed, it created a climate of grave uncertainty about the future of the projects involved in this litigation. A severe and unnecessary burden was placed on the States which rely on this money for the successful operation and maintenance of their Pittman-Robertson projects. If the suit had been successful, millions of dollars in Pittman-Robertson aid to the States could have been delayed for months or even years. This could have meant significant cutbacks in some of these projects and the eventual elimination of others.

Mr. Speaker, the Pittman-Robertson program is one Federal program which actually does work. This money has helped the States establish fish and wildlife refuges. Sportsmen have been provided with areas in which to hunt and fish, and adequate stocks of game species have been maintained for this purpose. While much of the Federal money directly benefits the hunters, trappers, and fishermen in our country, this program is not limited to these uses alone. For example:

In Illinois, extensive farming operations are being done on a portion of a 14,300-acre wildlife management area to provide food for Canada geese and to provide an appropriate setting for viewing this wildlife.

In Maryland, the Southeastern Cooperative Wildlife Disease Study Center is surveying diseased wildlife to determine the cause of wildlife disease and devise methods for its control.

In New Mexico, attempts are underway to identify and determine the status of endangered and threatened fish and wildlife species in that State and to initiate activities aimed at their preservation.

In Oregon, portions of the Sauvie Island Wildlife Area are being protected from excessive public use in order to enhance this area to benefit wildlife.

In California, the natural habitat of the Grizzly Island Wildlife Area is being improved to the advantage of wildlife through water level management and some farming.

In Florida, the movements of deer, quail, turkey, bear, and rare and endangered wildlife are being studied. Study is also taking place on the parasites and diseases of wildlife in this region, to develop a means of controlling them.

In short, Pittman-Robertson funding is being used in a variety of ways which benefit not only sportsmen, but individuals of all types who enjoy exploring the outdoors and observing wildlife species in their natural habitat.

Those who wish to hunt or fish are given that right, but in controlled areas carefully maintained by the States. Hunter safety training programs are available to insure adequate safeguards for those participating in this form of recreation.

Those who simply wish to view the natural beauty of Canada geese quietly lounging in a marshland or mountain elk strolling across the slopes of Alaska can also do so, thanks to Pittman-Robertson funds provided to maintain natural wildlife habitats for this purpose.

Mr. Speaker, because this Federal aid is vital if these opportunities are to remain, I have introduced legislation to prevent future court challenges to Pittman-Robertson funding by groups or individuals who are merely promoting their own narrow self-interests. Federal aid (like Pittman-Robertson funding) which benefits so many Americans should not become an "endangered species" of its own, simply because some people disagree with its purpose.

My bill, H.R. 4497, has two simple provisions. Section 1 permanently exempts eight categories of Pittman-Robertson projects from compliance with NEPA because they do not significantly affect the human environment. Among these exemptions are routine maintenance projects; surveys and inventories to determine the numbers and conditions of fish and wildlife in their habitats; hunter education programs (including classroom and target range instruction); and migratory bird banding operations.

Section 2 stipulates that no funding for a Pittman-Robertson project can be held up by a court injunction while any legal challenge to its relationship with NEPA is pending. This section also provides time (up to 1 year) for the Fish and Wildlife Service to comply with any court ruling involving these projects before funding can be affected.

My legislation will not cost the taxpayers any additional money. Rather, it will help insure that money already provided for fish and wildlife programs under the Pittman-Robertson Act is actually spent for that purpose, not fighting legal actions against it. If this bill is enacted, each State will be able to proceed with its share of Pittman-Robertson projects without the threat of an interruption in Federal reimbursement. This will make advance State planning and budgeting much easier.

Mr. Speaker, several of my colleagues have already joined me in sponsoring this legislation. This is not an issue which breaks down along partisan, geographical, or ideological lines. On the contrary, broad-based support has already developed for this measure because Pittman-Robertson funding affects every State in this Nation. In fiscal year 1979, over $100 million will have been spent on this program nationwide. Similar amounts are expected to be spent next year. I urge my colleagues who share the tremendous concern about the future of this program as expressed by sportsmen and outdoor enthusiasts throughout America, to add their names as cosponsors of this legislation. Now is the time to act. Fish and wildlife programs must continue to flourish, not die. Exploitable technicalities designed to harass worthwhile Federal programs such as Pittman-Robertson must be eliminated.●

WHY NOT THE BEST?

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. WINN. Mr. Speaker, a few weeks ago, President Carter spoke to the Nation about confidence. In a strident tone, he made several points about what he felt was wrong with the country and what he felt could be done to restore confidence. I believe he neglected one of the most important points.

People are not suffering from a lack of confidence in our country, its goals and its future. More importantly, people are suffering from a lack of confidence in the leadership of this country. Not only are they dissatisfied with the way they see this body act, but they are deeply perturbed by the lack of leadership displayed by President Carter.

This message has been conveyed to me in many ways, and today I am submitting for the RECORD the "Saturday Column" from the Lawrence (Kans.) Daily Journal-World, of July 28. In a very profound and thought-provoking way, the editor and publisher, Dolph Simons, Jr., has hit the nail on the head, as far as the people in the Third District of Kansas are concerned.

I urge my colleagues to read these remarks and to consider the points raised with great care:

SATURDAY COLUMN

(By Dolph C. Simons Jr.)

President Carter is facing some extremely tough days in the months to come and it is difficult to predict which of his concerns will receive top priority and the most massive efforts to correct.

Included in his worries are his own popularity among both the general citizenry and within his Democratic Party; approval of the SALT II agreement with the Soviet Union; the energy situation in the U.S., and the nation's economy which presents to Carter the question of how to meet growing inflation without bringing about higher unemployment, which would be damaging to his chances for re-nomination and possible re-election, along with the question of how to moderate a possible recession.

Aside from the president's worries about how to maintain his popularity and how to fight off possible challenges by Ted Kennedy, Jerry Brown, and maybe even more Demo hopefuls, the president has the heavy responsibility of trying to guide this country over a tough and highly dangerous obstacle course. Lately, Carter has appealed to the public for unity and support and has suggested that anyone who is critical of the presidency, or his efforts, is weakening the country and/or is offering proof they do not believe in the future of America. He wants a "unified team", he suggests that a great many in the U.S. have "lost confidence" in the country and he wants "team players.

This all is well and good, but it is highly questionable if the public's spirit is as low as the president suggests, and it is completely wrong for Carter to imply or label anyone who is critical of the president as not being patriotic or as an individual who doesn't believe in this country.

The fact is that the vast majority of Americans still believe the U.S. is the greatest country on earth, offering more freedoms and more opportunities than any other nation—but, they are fed up with the caliber of leadership of a high percent of our elected officials.

Carter sought the presidency, he promised voters he could do a better job than his predecessor, he had quick, easy and great-sounding solutions to most all concerns and worries and he presented himself as just about the greatest thing to ever hit the political scene. He made promise after promise, and he kept saying whatever his pollsters told him the voters wanted to hear.

It is natural for many citizens to feel sorry for Carter and his worries and responsibilities, but no one should forget he worked for two or three years to get the job and from all indications he wants to have another four years in the White House after his first term is completed. Carter, his wife Rosalynn, and all the other members of the Georgia contingent which has moved to Washington seem to like their jobs, so no one should feel too sorry for these individuals.

What should be worrying more Americans is what will happen to the country with a continuation of the Carter presidency. It is obvious there is a loss of public confidence in Carter, not a loss of confidence in this country, its potential and its future. There is serious and legitimate doubt about SALT II and whether Uncle Sam is being a chump and is backing down in face of the superior military strength of the Soviet Union.

Carter talks out of both sides of his mouth about how to fight the energy matter, and there is justification to worry about how he intends to fight inflation, recession and unemployment. It should be remembered that just a year from now Democratic delegates will be gathering to select their nominee for the 1980 presidential election. And Carter wants to make sure he doesn't offend too many delegates or voters.

Republicans have no reason to gloat, however. At this stage of the political battle no one has emerged from within the GOP ranks as a truly superior candidate for the White House. And, if Carter should get knocked off within his own party, what would happen to the nation with either Kennedy or Brown sitting in the Oval Office?

It is not a question of there not being many topflight individuals who could ably serve as president of this country, but rather a case of these types of individuals either not wanting to seek the presidency, or else believing the chances of their ever getting elected are highly doubtful.

Consequently, the nation gets people who find it easy to make promises, present flashy smiles, make the deals to win the necessary political support and, when and if they make it to the White House, they suddenly discover that it was far easier to get applause and support on the campaign trail by promising this and promising that, than it is to face the tough issues head on and come up with realistic, sound solutions in the best interests of the country.

Jimmy Carter asked, "Why not the best?" and at this time, it seems like an even more appropriate question.●

MELANIE DELIANIDES

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. REGULA. Mr. Speaker, today marks the last day of the service of Melanie Delianides as a congressional page. Although Melanie is a resident of Norwalk, Ohio, in the 17th District, many members of her family live in the 16th Congressional District. Therefore I feel as if she represents my congressional district as well as that of her sponsor, Congressman JOHN ASHBROOK.

Quite often I have introduced Melanie to residents of the 16th District who are visiting the House of Representatives Chamber. I have been grateful for this privilege; because our visitors, especially the young members of the visiting families, are quite excited to meet a page with many relatives in the Canton area and to hear firsthand from Melanie about her experiences.

She has charmed my constituents with her candor and thoughtfulness as she shares with them her insights and experiences as a page during the past 10 months.

Melanie is a shining example of the attractive, thoughtful young people who serve as pages in the House of Representatives. In her conversations with our visitors, she presents the positive image of the young people and the Government they serve that is vital to our Nation's future. The privilege of meeting Melanie has been an inspiration to our visitors from the 16th District, and I am grateful to her for her part in enhancing the visits of 16th District residents to the Nation's Capitol.●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent from the House of Representatives on Tuesday, July 31, 1979. Had I been present, I would have voted: "aye" on rollcall No. 405 authorizing a bust or statute of Martin Luther King, Jr. to be placed in the U.S. Capitol; "aye" on rollcall No. 406 on final passage of S. 961, amending the Speedy Trial Act of 1974; "yes" on rollcall No. 408 amending S. 1030, the Emergency Energy Conservation Act of 1979, to provide for a legislative veto of any gasoline-rationing plan at the time it is submitted by the President to the Congress rather than at the time of the implementation of the plan; "aye" on rollcall No. 409, amending S. 1030, to require the President to describe how any gasoline-rationing plan will affect the handicapped, rural and suburban areas, and to require that the appropriate congressional committees hold hearings on any gasoline-rationing plan and issue findings within 120 days after the President has submitted the rationing plan; "no" on rollcall No. 410, amending S. 1030, to strike the provisions requiring a gas-shortage of 20 percent for 30 days before the President may put the gasoline-rationing plan into affect; "no" on rollcall No. 412, amending S. 1030, to provide for the expiration of the President's authority to implement gasoline-rationing on September

30, 1980; "aye" on rollcall No. 413, amending S. 1030 to provide exemptions from the 78° building temperature restrictions for buildings which achieve an equivalent reduction in energy consumption by other means.●

REGULATING POWERS OF FEDERAL AGENCIES

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. DANNEMEYER. Mr. Speaker, today it is my privilege to submit legislation for the consideration of the House that would assist it in retaining its constitutionally mandated role of making the laws by which the citizens will live. Our position as the lawmakers of this country is being threatened by the massive bureaucracy in the executive branch that legislates through the labyrinth of rules and regulations that they force upon an already overregulated populace. The legislation that I have submitted today is designed to cut through this Gordian knot of regulation that strangles business, commerce and the personal lives of all of our constituents.

This bill would prohibit any agency from promulgating rules or regulations that would have the same legal effect as any provision of a bill rejected by vote of either House of Congress or any committee or subcommittee of either House. This prohibition on rulemaking would remain in effect for 3 years following the date of disapproval of the bill. This prohibition may be overridden by concurrent resolution of the House and Senate or by enactment of a law that specifically provides for the prohibited rule to be promulgated.

Allow me, if you will, to relate to you an incident that was brought to my attention by one of my constituents that illustrates the degree to which our legislative prerogative has been preempted by the executive branch and its superagencies. In the two preceding Congresses, legislation was introduced that would have closely regulated the standards and certification industry. This regulation would have had profound effects upon every American due to the pervasive nature of the certification and standardization of the many products that we use every day.

At present this self-regulation that industries impose upon themselves has served well to insure high product quality over a broad variety of goods used in our homes on a daily basis. Over the course of consideration of these pieces of legislation the Senate twice declined to enact them into law. Two consecutive attempts to make these proposals into law were rejected by the duly elected lawmakers of this country.

In the wake of this double rejection of regulation of the standards and certification efforts of private industry one would expect that the question had been resolved. But no, the FTC has seen fit to step into the picture and impose rules specifically rejected by the Senate.

An analysis done by my staff comparing the FTC rules to the previously rejected Senate bills reveals that the rules do much that the bills intended for domestic standards and certification labs. But the FTC rules attempt to go beyond the earlier proposals by mandating stricter adherence to standards and guidelines for certifiers and regulating the way certifiers may use standards in the course of their evaluations of products. These represent clear steps toward further regulation of the industry beyond the scope of the proposed legislation.

I perceive this as a dangerous trend away from regulation with representation and toward regulation without representation. The faceless bureaucracies of Washington, insulated from the desires of the people in their granite monuments, are becoming the most pervasive lawmaking body of this land. They impose rules and regulations conceived by individuals who have not been elected by the citizens of this land and who do not answer to anyone but another hidden authority.

The real costs of this sort of over regulation are borne by all of us as consumers. The excessive work and paperwork necessitated by these hidden lawmakers contributes to the inflation that robs every member of society and is an acute burden for the poor and elderly. The curtailment of excessive regulation that has been rejected by Congress will not only return to us our duty as the exclusive lawmakers of this country, but it will also be a strong first step toward solving some of the Nation's gravest problems, inflation and overregulation.

I submit to you that this subtle encroachment of executive agencies into the legislative arena portends a bleak future for personal freedom in this land once built upon principles of personal freedom. This trend must be arrested before it grows so prevalent that its control will be impossible. I sincerely urge you to consider this legislation here introduced as an impetus to consideration and discussion of this grave matter and that out of this simple beginning may come swift and decisive action to preserve the freedom and integrity not only of the people of this great land, but also the delicate balance of power that this body has fought to preserve.●

TRIBUTE TO BOWLING ASSOCIATION

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. YATRON. Mr. Speaker, on Sunday, August 26, the Greater Reading and Berks County Bowling Proprietors Association begin their all-American family bowling expo with a roll-off dinner and sports celebrity roast to raise money for muscular dystrophy research.

I ask my colleagues to join me in commending, Mr. Daniel E. Diefenderfer, secretary of this fine organization and all the members of the Reading and Berks County Bowling Association for their outstanding efforts to help those in great need. Muscular dystrophy is certainly a most destructive disease and I am hopeful that the public spirit exhibited by this fine organization will be echoed throughout our country until a cure is found.●

SOCIAL SECURITY LUMP-SUM DEATH BENEFITS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. GUARINI. Mr. Speaker, today I am introducing legislation which will assist many poor and lower income families in coping with rising funeral expenses.

A death in any family is a time of trouble and hardship. Unfortunately, it is even more difficult for a family with limited resources. Along with the sadness over the loss of a loved one, the family must face the problem of paying for a funeral at a time when any additional expense is burdensome.

The National Funeral Director's Association has noted that while the average adult funeral in 1967 cost $850, it cost $1,285 in 1975 and in 1976 the Federal Funeral Director's Association estimated costs of $2,002. The average American funeral in 1978 was reported to cost between $2,200 and $2,400.

The legislation I am proposing will increase the social security lump-sum death benefit to a maximum of $750 for those individuals covered by social security who leave small estates. At present, this benefit is limited to a maximum of $255 for everyone under social security.

In 1965 and again in 1971, the HEW Advisory Council on Social Security commented that the lump-sum payment "should not be subject to a dollar limit that is allowed to remain stationary when other provisions of the law are changed, but rather * * * the dollar limit should be adjusted with other provisions of the law as earnings levels rise." At the present, the cost of increasing the death benefit to $750 for everyone would be prohibitively expensive. However, it would seem appropriate to provide some relief to those most in need.

The bill which I am introducing would increase the amount of the lump-sum payment to $750 if the value of the decedent's estate is determined to be $5,000 or less. The additional $495 would be added to the base level of $255 for the purpose of providing additional funds to help finance the funeral of the decedent.

The value of the decedent's estate would be the net worth of the estate as determined by regulations to be promulgated by the Secretary of Health, Education, and Welfare. It is my intention that the additional $495 not be received until the final settlement of the estate, at which time the exact value of the estate would be known. In no way, however, would the base payment of $255 be affected.

Funds for this increased benefit would be taken from the social security trust fund with all amounts in excess of the base payment of $255 refunded from general revenues.

In conclusion, I would urge my colleagues to support this simple, compassionate measure which would alleviate some of the burdens placed upon our neediest individuals and their families.

Thank you.•

MURRAE FEINGOLD—DISTINGUISHED SENIOR CITIZEN

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

• Mr. WYDLER. Mr. Speaker, in the passing of Murrae Feingold last night, the Fifth Congressional District of New York lost one of its most outstanding senior citizens.

Murrae Feingold was a human being who cared. Born on June 3, 1894, he pursued a long and successful career with the Hall of Records in New York City. He retired from that responsible position in 1960.

For Murrae Feingold, however, retirement was not an end. It was a new beginning. His concern for others led him directly into full involvement with the affairs of the senior citizens of our area. His activities and leadership directly touched the lives of hundreds of senior citizens in our area and made significant improvements in the lives of thousands of others.

At the time of his death, Murrae Feingold was serving actively as chairman of the Older Americans Volunteer Committee of the town of Hempstead—a position which he held for a number of years.

Other activities which enabled him to play such a significant role in the affairs of all senior citizens of New York's Fifth Congressional District were his work as consultant to the town board of the town of Hempstead, his service as vice president of chapter 59 of the American Association of Retired People; and his role as a founder of the Nassau Senior Forum. In 1971, he was appointed to the White House Conference on Aging, and for many years, he also served on the executive committee of the advisory board for Nassau County Older Americans.

In addition to his work directly involving senior citizens, Mr. Feingold was very active in consumer health affairs with the town of Hempstead. His dedicated and untiring efforts in community affairs directly resulted in improving the quality of life for many residents in the Fifth Congressional District.

When I instituted my senior citizens intern program in 1974, I made the decision that the interns participating in the program each year would be selected by a committee of their peers. At that time, I asked Murrae Feingold to serve as a member of that selection committee. His judgment, particularly on matters involving the interests of the aged, was so highly valued and respected that his involvement in the selection of the senior citizen interns who come to Washington each year from the Fifth Congressional District has done a great deal to make my senior citizen intern program a success.

Murrae Feingold was my valued friend and adviser. We will miss him greatly in the days to come.•

TREATY IN NO WAY BRINGS MORE SECURITY TO EUROPE: AN INTERVIEW WITH MANFRED WÖRNER, CHAIRMAN, ARMED SERVICES COMMITTEE, OF THE GERMAN BUNDESTAG

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

• Mr. BEARD of Tennessee. Mr. Speaker, Dr. Manfred Wörner, the chairman of the Armed Services Committee of the West German Parliament, recently gave an extremely interesting interview on SALT II. Dr. Wörner identifies many of the European concerns that I have heard regarding SALT II. I would like my colleagues to have the benefit of the views of a very able, well respected, and distinguished parliamentarian of one of our major allies and most important friends. I insert the interview in the RECORD at this time:

"TREATY IN NO WAY BRINGS MORE SECURITY TO EUROPE: AN INTERVIEW WITH MANFRED WÖRNER, CHAIRMAN, ARMED SERVICES COMMITTEE, OF THE GERMAN BUNDESTAG"

DIE WELT, MAY 11, 1979

Welt: Does the SALT II bring more or less security for Western Europe and does this treaty influence the conventional components of defense?

Wörner: The SALT II Treaty in no way brings more security for Western Europe. European security depends on the balance of power at all levels. Of decisive importance is the credibility of the U.S. nuclear deterrent. The massive Soviet buildup in the area of intercontinental weapons will lead by the beginning of the 80s to the vulnerability of the land-based American intercontinental missiles and through it to a threatening imbalance in favor of the Soviet Union. The SALT agreements do not change anything here. It is indispensable for European security that the United States reestablish the invulnerability of its land-based strategic missiles and that the SALT provisions not prevent it from doing this.

In the area of medium-range weapons, the protocol of the SALT II Treaty creates an imbalance at the expense of Europe, which would be unbearable in the long run. The Soviet medium-range weapons (SS–20 missiles and the Backfire Bomber) are unrestricted towards Western Europe, whereas the cruise missiles, one of the possible counter weapons of the West, are subjected to limitations. Europe can live under these provisions only if it is made clear that the protocol expires after three years and will not be made a basis for the SALT III negotiations.

It is also important to European security that the non-circumvention clause be so unequivocally defined and so understood that it does not hamper the defense efforts of NATO in the nuclear and conventional area.

The establishment of nuclear parity in the strategic area increases the necessity of reducing the superiority of the USSR at the other threshhold levels, including the conventional one.

Welt: Is the NATO doctrine that rests on the total system of flexible deterrence not put in jeopardy?

Wörner: The NATO doctrine of flexible deterrence grows out of the linkage between conventional, tactical-nuclear and strategic nuclear levels, and thus imposes unacceptable risks for the potential attacker. A Soviet superiority in the strategic area, or in the field of theater nuclear weapons, would cut this connection and would practically detach Europe from the United States' nuclear protection, with all of its political and military consequences. The SALT Treaties should not sanction such a situation and they should not close the road to a balancing of power.

Welt: How can SALT II constitute the basis for the negotiations intended by the West on the so-called gray area weapons?

Wörner: This question cannot be answered definitely either without the knowledge of exact treaty texts. However, it is important that for the gray area weapons the principle of parity be established. The continuing expansion of the Soviet medium-range potential undermines the strategic equilibrium and makes Europe a hostage of the Soviet Union against the United States. Counter measures by NATO are urgently needed.•

CAPTIVE NATIONS COMMITTEE OF WESTERN NEW YORK

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

Mr. KEMP. Mr. Speaker, the Captive Nations Committee of Western New York is one of the most active chapters in the country that is concerned with the freedom of the Captive Nations and the establishment of human rights behind the Iron Curtain. On July 21, this committee adopted the following resolution which was proposed by Mrs. Dasha Procyk, a dedicated leader of the Ukrainian community in New York State. I urge my colleagues in the Congress to take note of this important statement.

RESOLUTION OF THE CAPTIVE NATIONS COMMITTEE OF WESTERN NEW YORK

Whereas, two decades ago, the legislators of our land passed Public Law 86–90 whereby requesting the President to proclaim the third week of July of each year as Captive Nations Week, and;

Whereas, the intent of this law is to render moral support to all captive nations craving to regain their lost freedom and independence; and

Whereas, the past twenty years have seen a steady and disturbing erosion of national and human rights in different parts of our shrinking world; and

Whereas, political prosperity can only be guaranteed when supported by morality in all endeavours of public life; and

Whereas, true freedom and liberty cannot be established without adherence to the fundamental tenets that national and human right is a basic pre-requisite to world peace; and

Whereas, universal freedom is still not attained and the quest for same is daily challenged by subversive forces that flagrantly abuse basic national and human rights; and

Whereas, only a strong United States can be a deterrent to further encroachments of Communist Russian expansionist designs and a bipartisan alliance of our political leaders is most urgently needed to adopt a national strategy of peace through strength; and

Whereas, a viable society is achieved by not those who talk but by those who do—the achievers and individual excellence paves the road to national prominence; and

Whereas, America has demonstrated a traditional regard for excellence and has shown in times of national crises that it can draw on this fountain for sustenance; and

Whereas, by recognizing that we are now being challenged by multiple problems at home and abroad exacerbated by the same worldwide conspiracy that toppled the once free nations;

Now, therefore, be it resolved, that we, gathered here tonight to observe the twentieth anniversary of the Captive Nations Week will individually exercize our utmost efforts to work toward the realization of the ideals of freedom and sovereignty for all nations and shall endeavour to urge our elected officials on all levels of public office to re-dedicate their efforts to the ideals that made our country great and by doing so give a new dimension to efforts of other nations to attain freedom and sovereignty.

CONFERENCE REPORT ON H.R. 4389, DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE, APPROPRIATIONS

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. PHILLIP BURTON. Mr. Speaker, the House and Senate conferees, in the fiscal 1980 Labor-HEW appropriations conference report, approved $5 million for the insular areas: $3 million, under section 1524 of Public Law 95–561, for general assistance to the Virgin Islands; and $2 million, under section 1525 of the same public law, to be used for teacher training assistance in American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

Since no formula for allocating the $2 million was included by the conferees in the conference report, I would like to insert in the CONGRESSIONAL RECORD the following breakdown for the distribution of the funds:

Direct grants of $400,000 each to the Virgin Islands, Guam, and American Samoa. The balance of $800,000 to be utilized on a regional basis between Guam, the Northern Marianas, and the Trust Territory of the Pacific Islands.

This formula was worked out by Representative TONY WON PAT and me, in consultation with various representatives from the insular areas. We believe this arrangement is equitable, given each area's needs and population, and we hope it will be implemented accordingly.●

THE WAR AGAINST HIGH BLOOD PRESSURE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. PEPPER. Mr. Speaker, hypertension is a major health problem which is directly related to cardiovascular disease, heart attack, stroke, kidney failure, and blindness. An estimated 60 million Americans suffer from this condition. High blood pressure generally does not have any symptoms, so unless an individual is tested, he or she may not be aware of this condition until more serious consequences appear.

Because so many of our people have hypertension, especially the elderly, the Select Committee on Aging and its Subcommittee on Health and Long-Term Care, both of which I have the privilege to chair, have undertaken a major initiative in this area.

Last fall, I appointed a blue ribbon advisory panel on the treatment of high blood pressure in America, composed of Americans distinguished in the fields of medicine, business, labor, and philanthropy, to advise the committee on steps we might take to combat this serious national health problem. The panel met with our committee in January of this year and provided us with their report which recommended legislative and administrative initiatives. I have incorporated many of these recommendations in a legislative package on hypertension.

This spring, Reader's Digest published two most informative articles on high blood pressure entitled, "The War Against Stroke" and "To Control Your High Blood Pressure." These articles clearly point out the seriousness of hypertension and describe some dramatic advances in the control of hypertension. I recommend these articles to the attention of my colleagues and ask unanimous consent that they be included in the RECORD at this point.

The articles follow:

THE WAR AGAINST STROKE

(By James H. Winchester)

The charming old Georgia seaport of Savannah has long been infamous as the stroke capital of the world. In 1969-70, in the city and surrounding Chatham County, there were 256 stroke-related deaths for every 100,000 people—nearly 2.5 times the national average that year. Today, however, thanks to an intensive education effort, stroke deaths in Savannah have been cut by half.

Similar efforts in other U.S. communities are achieving striking successes. Milwaukee has reduced stroke deaths by 38 percent in the past 4½ years. And, since a statewide campaign began in Connecticut in 1973, stroke deaths have declined by 21 percent in males and 22 percent in females. Nationwide, stroke deaths have declined a solid 13.5 percent in the last ten years.

Improved diet, new drugs, more sophisticated diagnostic procedures and innovative surgery have all played a role in the reduction. But the remarkable decline, accelerated since 1972, signals a vital message which doctors have long recognized: Conquest of stroke—which even now afflicts more than 300,000 Americans each year and kills 180,000—begins with control of high blood pressure.

Chief communicator of the message has been the National High Blood Pressure Education Program (NHBPEP). Conceived in 1972 and coordinated by the National Heart, Lung and Blood Institute, this effort has recruited more than 2300 national, state and local health agencies, lay and professional groups—including medical associations, the Red Cross, pharmaceutical companies and labor unions—in a unique partnership. The goal: to alert physicians and lay people to the dangers of high blood pressure and to establish programs—or encourage existing ones—for screening and treatment.

When the first of these programs began, only 3 million Americans with high blood pressure had it under effective control. Today the number is 7.5 million, and the NHBPEP is considered one of the most successful disease-prevention efforts ever undertaken in this country—a major contributing factor to the recently accelerated decline in the national death rate from high-blood-pressure-related disease.*

Savannah's program, called S.O.S. for Strike Out Strokes, began in 1972—even before the national program was fully activated. Actress Patrica Neal, then recovering from a paralyzing stroke, came to help launch the drive. The Community Cardiovascular Council, representing virtually all the physicians, and government, civic and consumer-health organizations in the area, coordinated the effort. Doctors, nurses and volunteers—from firefighters to homemakers—manned screening posts countrywide. Within a few weekends, more than 25,000 adults came for blood-pressure readings. Since then, 75,000 Savannah citizens, over half the adult population, have been examined, and 14 permanent blood-pressure-reading stations, nine of them in city firehouses, continue to provide free checkups.

More than one-third of the Savannahians screened had elevated blood-pressure readings. The majority had been unaware of their condition.

Surprising? No, for usually the person with high blood pressure experiences no obvious symptoms until heart and blood vessels are damaged. Often the first outward sign is a devastating stroke, heart attack or kidney disease. "You can't wait for symptoms to appear," comments Dr. James C. Metts, Jr., prime mover of the Savannah crusade. "Undetected and untreated, high blood pressure will get you. It's a sneaky, silent killer!"

Persons whose elevated blood pressure is confirmed by more than one reading are strongly urged to go to their own physician or to public sources for treatment. The S.O.S. program maintains an inexpensive Risk Factor Center at Savannah's Candler General Hospital for persons with low incomes who do not qualify for public assistance. Doctors are available at scheduled times to examine and prescribe, and nurses are there for follow-up treatment. Prescribed medicine is free or low-cost, and nominal fees of $5 or less are charged for visits.

The continuing response of Savannahians to the program indicates that the city may indeed "strike out" stroke. Latest statistics show that 55 percent of the people diagnosed as having high blood pressure are now taking medication for it, and 85 percent of those have their blood pressure under control.

---

*In recognition of the NHBPEP's outstanding success, Elliot L. Richardson, who authorized the effort while Secretary of the Department of Health, Education and Welfare, and Dr. Theodore Cooper, former director of the National Heart, Lung and Blood Institute, who coordinated it, received an Albert Lasker Special Public Service Award in 1978.

Before Milwaukee's attack on high blood pressure was launched in 1974, Dr. Constantine Panagis, city health commissioner, and Dr. Harold Itskovitz, chief of the hypertension section at the Medical College of Wisconsin, spent a year organizing a network of people from government-, medical- and community-health groups, and from business and industry to provide free screening for adults. In addition to permanent blood-pressure-reading stations, the Milwaukee program provides mobile screening booths at shopping centers and neighborhood events, and screening services to businesses and industrial plants.

To date, the program has made blood-pressure readings on 200,000 adults in Milwaukee County. More than 25 percent have been found to have elevated pressure. Half of these people were unaware of their condition. And more than half of those whose elevated blood pressure was confirmed by a second reading went on to receive treatment.

Commenting on Milwaukee's dramatic 38-percent reduction in stroke deaths, Dr. Panagis says, "The community blood-pressure-screening program is the major factor responsible." Adds Dr. Itskovitz, "We had a magnificent product to sell—a longer and happier life—but we had to get it out to the people."

In all programs to control high blood pressure, success depends on follow-up treatment. In Connecticut, where 15 percent of the population has been screened, the name and medical data of anyone found to have elevated pressure are entered in a computerized registry maintained by the American Health Association's Connecticut affiliate at Yale University. At the same time, the individual is advised to seek care and is given a card to be presented to his physician, who completes and returns it to the centralized registry. If, in six weeks, the card has not been returned, the patient receives a written reminder. If there's still no response, a Heart Association volunteer makes a personal call.

As a result, nearly 90 percent of persons identified with high blood pressure in Connecticut have entered the medical-care system. Dr. David D'Atri, assistant professor of epidemiology and public health at Yale, who directs the state's pioneering effort, says, "We are seeing a big pay-off. Since 1974, the proportion of persons unaware they have high blod pressure has decreased by 50 percent; the proportion who are under adequate treatment has doubled; and the proportion who are not under any treatment at all has been reduced by 25 percent."

Impressive gains, these. But before the war against high-blood-pressure-related disease is won, all experts agree, every potential victim must join the fight. The first step is a blood-pressure checkup by a physician or other health profesional and, if pressure is high, following the doctor's advice to control it. Dr. Marvin Moser, nationally known White Plains, N.Y., cardiologist and senior consultant to the NHBPEP, observes: "Controlling your high blood pressure to prevent its catastrophic effects is a prime example of effective preventive medicine."

To Control Your High Blood Pressure

(By Susan W. Thompson)

Although more Americans than ever before have their high blood pressure under medical control, at least 15 million who have been diagnosed as having this disorder are not getting adequate treatment. Many begin treatment, then drop out.

The consequences are tragic and needless. Hardly more than 20 years ago, little could be done to interrupt high blood pressure's dead-end course. Today, modern medical advances make it possible to control more than 80 percent of cases.

Then why do millions of Americans choose to neglect treatment and seemingly opt for stroke, heart attack, progressive kidney disease and premature death? From National High Blood Pressure Education Program research and from physicians across the country comes one important answer: Failure of communication between doctor and patient is a major roadblock to adequate high-blood-pressure treatment.

In a national health-interview study, people with high blood pressure who had stopped taking their medicine were asked why. One-third replied that their doctors had advised them to stop. But the fact is that high blood pressure, with few exceptions, requires continuous medication—often only a a pill a day, but usually a lifetime regimen—to keep it under control. Rarely does a physician tell a patient to stop taking medicine.

Dr. Donald G. Vidt, head of the clinical section of the Cleveland Clinic's department of hypertension and nephrology, says, "We physicians just don't spend enough time educating our patients about the importance of their disease and lifetime treatment." Dr. Harold Itskovitz, co-organizer of Milwaukee's screening program, adds, "Without doubt, better and more personal communication between doctor and patient is the key to continuing treatment."

If your doctor has told you that you have high blood pressure, it may help you to communicate better with the physician if you do some background reading on this dangerous condition. Dr. Marvin Moser, chairman of a national committee of physicians that recently established guidelines for long-term treatment of hypertension, suggests some booklets about high blood pressure written in lay language. Many professional organizations, pharmaceutical houses and the NHB PEP* sponsor such pamphlets.

Ask questions of your doctor. Ask the purpose of the medicine you must take. If you're not sure of the instructions for taking it, ask for clarification. Ask if you're to have the prescription refilled and why you must continue taking it. Ask when you are to check back with the doctor (it may be every month initially; then, at longer intervals—perhaps two to three times a year). Communicate with your doctor between regular visits if you have questions. On each visit, ask the doctor what the numbers in your reading mean, and keep a record of each reading.

Most physicians begin treatment with a diuretic—an agent that increases urine excretion of salt and excess body fluid. Roughly half of all high blood pressure can be controlled by one or two tablets a day.

But, physicians say, no two cases are exactly alike. Your doctor may add medication, adjust the dosage, or change the medicine altogether to get the best results for your particular case.

Tell the doctor if you experience side effects. Millions of high-blood-pressure patients experience none, and usually such effects are temporary. Moreover, new drugs and modifications of older ones that produce effective control in smaller dosage and minimize side effects are constantly becoming available.

If you are concerned about how high blood pressure will affect your life or your work, tell your doctor. The facts should reassure you. Only five percent of Americans with known high blood pressure surveyed in 1973 had given up their jobs because of it. (Even airline pilots with elevated blood pressure that can be controlled by a mild diuretic are not grounded.) In contrast, the complications of uncontrolled high blood pressure are a leading cause of disability in the American work force.

NHBPEP research pinpoints four widespread misconceptions that can cause people with high blood pressure to neglect treatment. Don't let these dangerous fallacies trap you.

"High-Strung" Fallacy. Millions of Americans believe that hypertension— the medical term for high blood pressure—means that one is high-strung and nervous. Because of this mistaken idea, many people with high blood pressure take their medicine only if they feel tense or nervous. As Graham H. Ward, coordinator of the NHBPEP, explains, they "treat their medicine as if it were an aspirin to be taken for an occasional headache."

The fact is: High blood pressure is not usually related to nervousness. Many persons with elevated blood pressure are calm and placid. *Hyper* means excessive. *Tension* refers to the pressure of your blood against the walls of the arteries. If excessive pressure is not controlled, it will shorten your life.

Symptoms Fallacy. Many people falsely believe that high blood pressure has symptoms. Because they experience none, they don't take their medicine. But in high blood pressure the effects of neglect are usually symptomless until the cumulative build-up causes an enlarged heart, or other dangerous or fatal complications.

"Choose Your Own Treatment" Fallacy. According to the NHBPEP, when a physician advises weight reduction, more exercise, or not salting your food at the table—in addition to daily blood-pressure tablets—many people falsely assume that they may ignore the medicine and pick an alternative from the other measures. But in most cases such measures only assist medical treatment and are not substitutes for it.

Cure Fallacy. Many people stop the daily tablets when their elevated blood pressure is lowered to the "normal" goal set by the physician, because they assume that they are "cured" and no longer need it. Actually, with few exceptions, high blood pressure cannot be cured. It is a physiological condition that must be continuously controlled to prevent the diseases that it causes.

It's not difficult to establish the routines that the doctor prescribes to control your high pressure, and the returns are immeasurable—a longer and healthier life. Perhaps you think it's tough living with daily medication, especially when you don't feel ill. If so, remember that up to 15 percent of the people who have to live with dialysis machines started out with moderate, uncontrolled high blood pressure, as did the hundreds of thousands who must live with the aftermath of stroke, and most of the millions for whom all living has ended prematurely in heart death.●

TRIBUTE TO HON. JOHN B. BRECKINRIDGE

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. CLAUSEN. Mr. Speaker, I would like to join in paying tribute to our late friend the Honorable John B. Breckinridge of Kentucky.

I had the great privilege of serving with him during his tenure in the Congress. Our former colleague was not only a gentleman of great ability, he was also a man of dedication and integrity.

---

* For information, write to: High Blood Pressure Information Center, 120/80 National Institutes of Health, Bethesda, Md. 20014.

He started his distinguished career of public service at the State level. With a vote of confidence, the people of central Kentucky sent him to Washington to represent them in the Congress. He was a dedicated public servant in every sense of the world, giving of his time and efforts for the betterment of all.

I will most remember him as the driving force behind the organization of the Coalition for the Common Defense. As its first chairman, he stimulated the exchange of thoughts and ideas—keeping the lines of communication open.

His life was one of service to his fellow man with outstanding success and I wish to extend my heartfelt sympathies to his family. He will be greatly missed.●

MARAT AND KLAUDIA OSNIS, SHATTER THE SILENCE, VIGIL 1979

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. ARCHER. Mr. Speaker, I am again privileged to join with many of my colleagues in participating in the "Shatter the Silence, Vigil 1979" project sponsored by the Union of Councils for Soviet Jewry—an effort by those of us who are able to speak out freely on behalf of those others, less fortunate, who cannot.

Through our participation in this important vigil, we seek fulfillment of a promise made 5 years ago by 35 nations who offered both their signatures and their oaths in the name of fundamental human rights. My comments today are directed toward one of the signatory nations, the Soviet Union, which has flagrantly and repeatedly ignored its own pledge to this cause through its continuing policy of detainment of Soviet Jews who long for freedom of thought, speech, and action.

Emigration out of the Soviet Union is the only path to freedom for all of these "prisoners of conscience," and this path continues to be obstructed by constant harassment, tactics resulting in social ostracism, and neglect on the part of Soviet emigration authorities. Because of these tragic realities, the Soviets have defaulted on their promise embedded in the Helsinki Final Act of 1975, and it is time for us to act as "creditors for freedom," and collect on this overdue note.

The victims for whom we must fight have themselves been fighting for many years on their own. Such is the case of Marat Osnis and his wife, Klaudia. In early 1972, Marat was a hard working mathematician-engineer, and Klaudia was finishing her third year at the university in the Ukraine. The couple, along with the parents of Marat, applied for permission to emigrate to Israel. Shortly afterward, Marat's mother and father received their visas with assurances that visas for their son and daughter-in-law would also follow shortly. It was with great hesitancy and trepidation that Marat's parents left their son and his wife behind to face an uncertain future.

The news soon reached Marat's parents that their son had been exposed to a series of "state secrets" in his work and could not be allowed to leave the Soviet Union for fear of revealing these so-called "secrets." Klaudia Osnis was expelled from the university and Marat and his spouse have since been the victims of unannounced interrogations, searches, and intrusions upon their almost nonexistent privacy. I have been in contact with Marat's mother, who has since journeyed to the United States on behalf of her tormented son and his plight. The Soviet Embassy in this country has been made aware of this case, yet it remains untouched along with thousands of other equally well-documented cases of human beings who long for the richness of freedom, a richness that we Americans often take for granted.

Because of our long standing dedication to the protection of fundamental human rights, both within our own boundaries and abroad, we must push on to seek vindication and relief for those who have suffered. This is the aim of this year's vigil, and I urge continuing support from my colleagues in this task.

The initial step in the emigration process is receipt of a vysov, a formal invitation by the State of Israel for the emigrants to journey to Israel to live. I stand before you today to ask that we, as free citizens of the world, extend a verbal "vysov" to Marat Osnis and others like him through our support of "Shatter the Silence." ●

OCEANIC POLICY

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. WHITEHURST. Mr. Speaker, Mr. Gilven Slonim, president of the Oceanic Educational Foundation, has kindly provided me with a copy of his paper entitled "Oceanic Policy: Prelude to Opportunity." Because I think that he has raised a number of excellent points which we would all do well to consider carefully, I am pleased to take this opportunity to share it with my colleagues at this point in the RECORD.

I have the privilege of being a member of the board of directors of the foundation, and I am pleased that there is a growing interest in this country in programs in oceanic studies; I hope that this positive trend will continue.

The article follows:

OCEANIC POLICY: PRELUDE TO OPPORTUNITY

Policy became a watchword for Americans in the Persian Gulf in 1979. Heretofore, it was largely a matter of indifference to the people of the United States and, unfortunately, their leaders alike. With the collapse of the Shahs regime, preservation of peace and stability within the Indian Ocean region gained recognition as crucial to U.S. security and, at the same time, as an avenue to restoring the credibility of American commitments worldwide.

THE SIGNIFICANCE OF COMPREHENSIVE OCEANIC POLICY

The policy challenge

If America's third century is to be a global century, then the United States must lead the way to fuller, yet enlightened, oceanic use—for the compelling trend is toward an oceanic frontier of the future. How well the Nation rises to the challenge of a future inextricably tied to the oceanic realm ultimately hinges on the perspective, the determination, and the direction of its policy drive. The crux reposes in the formulation of far-reaching oceanic policy demonstrably in the national interest that illustrates the significance of the role played by the world ocean in the affairs of nations and in human fulfillment and survival, and outlines the challenges posed and the opportunities to be seized through oceanic enterprise. The policy needed would demonstrate in clear pragmatic terms the human stake in the advancement of knowledge of the sea and optimum, global utilization of the ocean.

Despite congressional initiatives spanning the last quarter of a century, the importance of the untapped potential of the world ocean to sustain human betterment, to strenghten the Nation's economy, and to foster new oceanic solutions to pressing problems failed to permeate the mainstream of American thought. The development of policy at the national level is a process that eludes the Country. Its failure to do so came into clear focus with the Iranian crisis and the irresolute conduct of the United States in response thereto.

Turn to the sea

In America's turn to the sea in the 1960s, the national policy thrust was recognized as central to the realization of the potential of the world ocean. A moment of maritime euphoria was achieved with the passage of the Marine Resources and Engineering Development Act in 1966. Conceivably, a consensus about the national scene considered that comprehensive, long-range, national oceanic policy actually had been formulated. But the regrettable fact is: America, to this day, remains without oceanic policy.

With the unanimous passage of Resolution 222 in February 1974, the U.S. Senate clearly signaled its concern as to this critical policy deficiency. Sponsored by 60 senators from both sides of the aisle and every geographic area of the Nation, S. Res. 222 called for a complete investigation and study of the elements of, and the eventual establishment of, a long-range, comprehensive oceanic policy. Beyond this first step, the comprehension and support of the administration, industry, academia, and the public sector would be required to formulate national policy and to guide its implementation.

The definition of policy

What, then, is this policy that has remained elusive to the American view through these many years? American citizens must answer this question in moving to chart the future of the Nation. Simply stated, policy may be defined as the process whereby a nation establishes long-term goals and provides incentives to accomplish those aims, seeking what it envisions as long-range potential and moving toward what it perceives as its national objectives framed in the public interest. The formulation and implementation of national oceanic policy entails an orchestrated effort of the executive, congressional, and public sectors of the Nation. This becomes the iron triangle which fosters the dynamics of the national policy process.

As a departure point, oceanic policy encompasses a national commitment calling for:

Fuller, comprehensive, and enlightened utilization of the world ocean to reinforce the national economy, encourage investment, stimulate U.S. productivity, and elevate the American standard of life.

The cardinal elements of long-term policy span the full spectrum of oceanic endeavor:

Competitive posture on the seas. Regain a competitive, flag-conscious, trade-carrying posture on the global sea to spearhead a vibrant seafaring industry based in the United States, whose fleets are built and manned by competent, able-bodied American citizens;

World stability and preservation of peace. Exploit the strategic potential of oceanic space as a matrix toward ensuring optimum national security, gaining international stability, cooperation, and the preservation of world peace through optimum uses of the world ocean;

Law of the sea * * * a new oceanic regime. Provide leadership and direction within the on-going negotiations at the U.N. Conference on Law of the Sea, based upon the principles provided in the comprehensive policy formulated at the national level;

Geoeconomic potential of the world ocean. Probe the total "geoeconomic" potential of the world ocean to provide long-term prosperity and the betterment of mankind. Investment in oceanic enterprise affords critically needed stimuli for a viable economy—a stabilized U.S. dollar. Potential economic benefits portended encompass the full range of global oceanic use and resources;

Coastal oceanic planning. Establish, as integral to the policy process, comprehensive coastal oceanic planning guided by the principles and incentives within the national policy. As the "spring board" to the world ocean, wise and sound coastal planning and development advance the full-scale negotiation of the oceanic frontier;

The environment * * * enhancement. Encourage enlightened uses of the oceanic environment which provide positive incentives for the protection, preservation and, indeed, enhancement of the world ocean as vital to the survival of mankind;

Resolute oceanic research. Ensure, through resolute oceanic research, the Nation's capability to effectively realize the oceanic opportunities afforded for solving crucial national and international problems and engender the knowledge base to gain the full portent of the oceanic frontier of the future;

Seacreation * * * wave of the future. Accentuate the economic and societal significance of the "seacreational" attraction of the oceanic environment, providing new leisure patterns and new, dynamic lifestyles that encourage ever increasing quality of future life and that stimulate the human endeavor toward realization of individual potential;

Oceanic education to undergird policy. Launch a comprehensive, multidisciplinary, public oceanic education program throughout the continuum of U.S. schools to achieve citizen understanding of the human stake in oceanic advancement and to stimulate and undergird the emerging oceanic policy process;

Oceanic legislation * * * gaining the total potential of the global ocean. Examine existing legislation to assess relevance and sufficiency and need for updating and amendment so as to serve the national interest and provide incentives to invest and compete in the arena of oceanic enterprise. Future oceanic legislation should transcend past if resource management and environmental regulation. Such legislation, conceived through a national oceanic policy drive toward total use of the global ocean, serves as the dynamo for orchestration of long-range, comprehensive policy implementation.

Timeliness of long-range policy

Interest mounts within the public sector, as well as Government, concerning the contribution of the world ocean in economic development, human welfare and societal development, and quality of life. Comprehensive knowledge and policy provision for fuller use of the global sea afford new oceanic solutions to pressing problems and to the fulfillment of mounting human needs: water for human use, energy from sources invulnerable to threats of arbitrary interruption and price manipulation, medicines, food, raw materials, living space, and "seacreational" enjoyment. Dynamic policy can counter a burgeoning adverse balance of trade, mounting welfare rolls, and reinforce a faltering, inflated economy and a downward spiraling dollar.

The oceanic destiny of the United States

The concept of an American assumption of oceanic leadership entails first and foremost a public educational imperative; for the sea remains distant to the thinking of most people. Without an established, public educational base to counter the knowledge gap, public policy formulation encouraging comprehensive use of the world ocean as a new frontier is inhibited. Only a cadre of professional educators, dedicated, confident, knowledgeable, stimulated, and sensitive to the ocean's potential contribution to human betterment in the years ahead—encompassing not only the scientific dimension but a dimension of the humanities as well—can engender a strong oceanic educational base of support that derives a solid, "grass roots," oceanic constituency.

The finest American minds, honed through the centuries-long vigil of seafaring experience, must mold this enlightened policy—a policy that enhances the posture, prowess, and prestige of the United States while shaping the future destiny of the Nation, which manifestly remains oceanic.●

PRESERVING THE POTOMAC

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. FISHER. Mr. Speaker, I am introducing today a bill to authorize Interstate Commission on the Potomac River Basin (ICPRB) to develop a plan for the protection and wise use of the Potomac River shoreline in Maryland and Virginia upstream from the District of Columbia. This bill is a considerably altered version of bills I have introduced in the past two Congresses.

The present version calls on an existing organization, the ICPRB, to prepare a suitable plan and program for management of the plan. The area covered by this bill is the Virginia shoreline from Key Bridge upstream to the confluence of the Potomac and the Shendanoah Rivers and the District of Columbia and Maryland shoreline from Key Bridge upstream to Cumberland.

The ICPRB is also authorized to consider the advisability of undertaking a planning effort for the downstream portion of the Potomac, including the estuary and the balance of the river down to its opening to the Chesapeake Bay. Upstream portions could also be considered for future planning. Congress would have to approve any recommendations for planning that included more area than that specifically covered in this bill.

The plan called for in this bill will have to be submitted to Virginia, Maryland, the District of Columbia, and the affected county governments for their comments and recommendations and then submitted to Congress for approval.

Neither the plan nor the way it is to be prepared will in any way place the Federal Government in the driver's seat with regard to control over the land abutting the shoreline. State and local units of government will predominate The ICPRB was established in 1941 by a compact among the States of Maryland, Pennsylvania, Virginia, and West Virginia, and the District of Columbia, and the Federal Government. Each signatory government appoints members to the commission.

In addition, the bill authorizes the establishment of an advisory committee. The advisory committee will consist of citizens from each county along the affected portion of the river and the District of Columbia; citizens concerned with conservation, river, historic, and fish and wildlife or recreational matters; as well as certain governmental agencies with a responsibility for the Potomac River.

Earlier this year, I expressed my concern about the need for a careful plan for the use of land along the Potomac in an article which appeared in the EPA Journal. The article outlines the major components of the bill I am introducing today, with certain changes. The major change is the deletion of West Virginia from the area covered by the bill. Also the ICPRB will be the planning organization, rather than a special commission.

The text of the article follows:

PRESERVING THE POTOMAC

The owner is moving away. Such land does not come on the market very often and many interests are intrigued by the prospect of obtaining a choice Potomac River lot.

Who should buy the property? What use should be made of this site?

A developer wants to build a condominium high rise and some recreational facilities. The county government would like to buy the land, but because there is not enough potential for intensive recreational use, does not believe the expenditure can be justified. The regional park authority could use the land but has no acquisition funds. The Federal Government is interested, but because budget and program planning requires a lead time of eighteen months, cannot act quickly enough. A local farmer would be happy to enlarge his holdings but cannot match the price offered by the developer.

What will happen to this property? What should happen?

The answer, unfortunately, is that there is no consensus on what should be done with the shores of the Potomac River. Much of the attraction of the shoreline is found in the diversity of its uses. Farming and other private land uses contribute greatly to the character of the area. Boating, hiking, fishing, and other kinds of recreation are among the activities the public can enjoy along the Potomac.

To ensure that this diversity continues and that both public and private interests are respected, some kind of forum is needed to bring these interests together to formulate goals for the protection and appropriate use of the river area. If a forum existed and if it had agreed upon goals, then sellers and purchasers of land along the river would have guidance. They would know what land was needed to be kept open for public access, what land was intended for private development, and what land was expected to be maintained as farmland.

The Potomac River is one of the most interesting and beautiful rivers in the eastern United States. I have canoed along much of its upper reaches from West Virginia to Washington including the exciting white water in the stretch where the Shenandoah joins the Potomac, at Little Falls, and many other spots. As the main stem of the river runs between Maryland and West Virginia and Virginia, it changes from a wide and bucolic stretch of water to dramatic falls channeled through high palisades. The shores of the river and the surrounding area are as compellingly beautiful and beguilingly changeable as the river itself. The Potomac flows through territory that changes from rural woodland to historical Harpers Ferry at the confluence with that other fabled river, the Shenandoah, to Great Falls, and finally to Washington, the Nation's capital.

But this scenic and historic setting is fragile. The pressures for development and recreation use of the river shore are coming to the Potomac as they have come to many parts of the countryside within reach of urban areas. The problem inherent in these pressures is not so much in the changes they engender as in the possibility that a lack of forethought and planning will result in unattractive and inefficient development and needless loss of access to the river.

What can be done? I think that the first step must be for landowners and residents of the river area, outdoor enthusiasts, naturalists, and representatives of government at all levels to get together to discuss their common interests. No one group with an interest in the Potomac, and certainly not the Federal Government, should dictate to the others how the river shore should be used in the future. What is needed and what will work is a cooperative study and planning process involving local, State and Federal Governments and private interests, with each contributing equally what it does best. The result would be a collection of recommendations on the appropriate use of each section of the river which would be supported by all interested parties.

This forum of citizens and governmental representatives would have an important agenda. It would identify locations along the river which are either ecologically fragile or important because of their potential for wildlife, recreation, and scenic beauty. Land management techniques such as easements, public access agreements with private landowners, and other methods can be employed to enable the goals of the area people to be carried out. It should make plans to provide for the protection and promotion of such existing uses of the area as farming and forestry and those industries and other developments which are consistent with acceptable goals. The forum should also provide standards for recreational use of the river, which will indicate, for instance, the kinds of uses that are appropriate for various sections of the river.

The forum would also have a more general agenda for planning. Among the elements to be included in a plan would be a statement of the values that the plan would be intended to protect and which would guide future planning and development; a proposed boundary map of the area to be covered by the plan; a description of the role of local officials and citizens in the planning and management of the area; recommendations for land use and conservation; recommendations for the coordination of local, State, and Federal programs and policies with each other and with private interests; recommendations for places where public use will be allowed; recommendations for financing the plan; and recommendations for the way the plan for the area should be managed.

This would not be planning imposed by outsiders, but a cooperative effort by the people most affected by decisions about land use along the river and the governmental bodies responsible for enforcing any legally binding decisions. Furthermore, none of the recommendations would be effective unless they were ratified by the appropriate level of government and the necessary ordinances and laws adopted.

A whole range of steps to guide future land use could be recommended, encompassing local or county zoning ordinances for some areas; purchase of easements and development rights in order to keep certain lands in their existing use; public purchase for protection or recreational development in another type of area; and no change in other sections of the river. These recommendations would be made only after a careful study of the needs and character of the Potomac shore area and after public hearings. Such a process would result in a plan that would have local public support and would assist in decision-making for land use along the Potomac River.

In the last Congress I introduced a bill embodying these concepts. It called for the establishment of a 30-member commission to prepare the kind of plan I have described. The majority of members of the commission were to be residents of the area along the river. Citizens would be represented by members with an interest in outdoor activities and conservation. The commission would also include representatives from State government and Federal agencies. The recommendation of the commission would be advisory with no official standing until the appropriate governing bodies had acted on the recommendations. I expect to introduce a bill along these lines again in the 96th Congress.

But the cooperative effort that I think is necessary does not have to wait for Federal legislation to go forward. If the people and the governments in the Potomac Valley want to plan ahead for the changes that inevitably come to any area, then they can work together voluntarily. Because local efforts and support are vital to the process that I have described, I think that a voluntary planning group might be successful. The Interstate Commission on the Potomac River Basin could be the agency through which a voluntary effort is begun. The opportunity should not be lost to give the citizens of the Potomac River area a voice in the future of their land.●

HOUSING FOR THE ELDERLY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. PEPPER. Mr. Speaker, I introduce for appropriate reference a bill to transfer to the District of Columbia a piece of property located between 2d and 3d Streets and D and E Streets SE.

The purpose of this transfer would be to facilitate the construction of a modern low-rise housing complex for senior citizens under the sponsorship of 24 churches in the District of Columbia, generally known as the Capitol Hill Group Ministries, Inc. Member churches include: Capitol Hill Presbyterian Church, Capitol Hill United Methodist, Christ Church Episcopal, Church of the Brethren-Washington City, Ebenezer United Methodist, Four Gospel Baptist, Holy Comforter/St. Cyprian's Catholic, Holy Temple Church of Christ, Lincoln Park United Methodist, Lutheran Church of the Reformation, Mount Joy Baptist, Mount Paran Baptist, Prayer Temple, St. James Episcopal, St. Mark's Episcopal, St. Monica's Episcopal, St. Peter's Catholic, St. Peter's School, Trinidad Baptist, and William Penn House.

Originally, the Congress took possession of this land with the intent of constructing the John W. McCormack Residential Page School. This project has since been abandoned and the land is being maintained at congressional expense by the Architect of the Capitol. In the recent past, there have been a number of other suggestions for use of this property including a parking lot, a high rise condominium, and a new headquarters for the Capitol Police. All these uses have been found unacceptable by either the Architect of the Capitol, the National Capitol Planning Commission, or the residents of the area.

Informal inquiries with these offices by our staff have indicated that there are no immediate or long-range plans for use of this property by the Congress or the Federal Government. It strikes me that a housing project for senior citizens, close to the Capitol, would be an excellent use of this property. It is no secret that the Congress has displaced hundreds of senior citizens' housing as it has grown over the past few years. More and more senior citizens are being forced from their homes and neighborhoods. Those senior citizens who live in apartments are also being forced out by the phenomenon known as condominium conversion.

The project would include 156 1-bedroom units and 6 2-bedroom units. An effort will be made to make the building conform to the surrounding neighborhood. A central dining room would be included as well as other public spaces such as a library, recreation room, lounges, laundry room, hobby room, exercise room, and others. Many of these facilities would be available to neighborhood elderly not living in the building.

There may be objections to this project that are not apparent to me at this time, however, I feel that it is important to introduce this bill to start the discussion process. Specifically, the bill would transfer the title of the property to the District of Columbia with the proviso that it be utilized for this purpose within a 3-year period of time or the land would revert back to the Congress.●

MEDIA COVERAGE OF POPE PAUL'S VISIT TO POLAND

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. DERWINSKI. Mr. Speaker, as further evidence of the suppression of information the U.S.S.R. and the captive East European countries, I wish to insert into the RECORD a dissertation by Mr. Walter Zachariasiewicz, a noted observer of the international scene, who analyzes the limited media coverage in Communist-controlled countries of the recent visit by Pope John Paul II to his Polish homeland.

The article follows:

EAST EUROPEAN, SOVIET AND RFE/RL COVERAGE OF THE POPE'S VISIT TO POLAND, JUNE 2–10

The dramatic visit of the Polish Pope John Paul II to his Catholic homeland was a unique event in the history of Poland and East Europe. The pontiff, describing himself as "this Slav, this Pole," and preaching Christian morality, the rights of man and national independence, produced a massive, spontaneous popular response in Poland not accorded the secular leaders of the Warsaw Pact countries. In this painful situation East European media either tried to ignore the issue or where this was impossible afforded tendentious and inadequate coverage. On the other hand the RFE/RL Services drawing on the rich and abundant coverage by Western media presented complete coverage in depth employing a variety of resources and program formats which resulted in programming far surpassing the timid East European offerings.

With the exception of Poland East European media coverage of the pope's visit to his native country was threadbare and a grudgingly factual, being heavily edited to include what the regimes could find congenial and to excise any elements which the leaderships might deem objectionable. In those countries—Bulgaria, Romania, and the USSR—where the Roman Catholic population is miniscule the event was almost totally ignored. Reports by Bulgarian media were limited to terse mentions of John Paul II's arrival stressing his meeting with Gierek, his visit to Auschwitz-Birkenau reporting his references to the role played by the Russian people in World War II and his statements condemning war, and his departure, noting that speeches were made at Balice Airport near Krakow by the pope, by Cardinal Wyszynski, and by State Council Chairman Jablonski.

The same minimal approach was adopted by Romanian media which confined itself to announcing the pope's arrival on June 2 and to a reporting on the next day that he had had talks with Jablonski and party leader Gierek. On June 6 the Romanian media noted John Paul II's departure for Krakow mentioning that his visit was the first made by a pope to a socialist country. The pilgrimage to Auschwitz-Birkenau was reported and a passage from the papal homage to the martyrs, clearly acceptable to the Romanian leadership, was excerpted, in which the pope stated that "no nation has the right to develop at the expense of another one by occupying, enslaving, exploiting, and killing." This was repeated by Radio Bucharest on June 8 at the end of a commentary on the statute of limitations on war crimes. Romanian media briefly reported the pope's departure.

Soviet media coverage considered to a few short factual reports with three minor exceptions. TASS in Russian carried only six items—twenty-three lines in all—noting the pontiff's activities. Several of these were reproduced in the central press: Pravda and Izvestia on June 3 and Pravda on June 11. Radio Moscow's domestic service announced the pope's arrival on June 2 and his meeting with Gierek and Jablonski—each item only two and a half lines long. Nine lines were devoted to the visit to Auschwitz stressing John Paul II's recognition of the Russian role in World War II. The following day, June 9, Izvestia devoted 31 lines to the Auchwitz visit again stressing the pope's remarks on the Russian contribution but noting also that six-million Poles died during the war. In neither case was there a mention of Jews who had perished. The only commentary on the visit was provided by Soviet television on June 3.

Radio Minsk's "Sovetskaya Belorussia" station for listeners abroad carried a few factual items on different phases of the pope's visit, and Radio Kiev in its transmissions for listeners abroad also broadcast a few reports. The total Soviet Russian, Ukrainian, and Belorussian radio and wire service coverage of the entire visit amounted to some 50 lines.

Two countries with relatively large Catholic populations—Czechoslovakia, about 77 per cent and Hungary, about 67 per cent—carried only factual reporting with no commentary; the great difference being that Czechoslovak mass media carried nothing but brief notices of John Paul's arrival, his meeting with Gierek and Jablonski and his departure while the Hungarian radio and central press contained factual items almost every day so that the interested Hungarian could determine what the pope did and where he was, though these items were not accorded any prominence.

Czechoslovak media previewed the visit with an article in the CPCS ideological weekly Tribuna (May 30) which was devoted to the role of the Roman Catholic Church in Europe in which the task of St. Stanislaw in carrying out Pope Gregory VII's objective of achieving "Church supremacy over the state" was asserted. In this connection the author viewed Pope John Paul's visit on the anniversary of St. Stanislaw with suspicion questioning the celebrating of the martyred St. Stanislaw "who intended to implement . . . demands for total world rule by the Pope and the Church expressed by Gregory VII."

The author found it even more surprising since "John Paul II himself has proclaimed that the Church should abstain from politics." As if to emphasize its studied indifference of the pontificial visit a special correspondent of Rude Pravo was dispatched to Poland shortly before the pope's arrival. On May 29 he filed an article written in celebration of the 35th anniversary of socialist Poland remarking on the growing popularity of agricultural collectivization and the gradual abandonment of "antiquated ideas" such as religion.

The Slovak edition of the Catholic weekly, Katolicke Noviny, of 10 June described the papal visit as an apostolic pilgrimage to on the 900th anniversary of the martyrdom of St. Stanislaw and noted the itinerary John Paul had followed in Poland. The pope was not quoted but it was noted that official Polish sources expressed the conviction that the visit would help unite the Polish people and contribute to better Church-state relations and to peace.

Hungarian radio and newspapers carried factual items on the pope's activities every day except the day of his arrival. On June 2 he was upstaged in Hungarian media by the departure of Brezhnev from Hungary. Even on that day the evening paper Esti Hirlap managed 17 lines on its first page, though subsequent press coverage was relegated to pages two and three among other international items and was not as prominently positioned as such items as the Nicaraguan events. The youth magazine Magyar Ifjusag (June 1) previewed the visit criticizing the conservative nature of the Polish Church but crediting priests who had contributed to preserving Polish culture and the nation through the ages to 1945.

The article was critical of the Church's anticommunism in the post-World War II period, noted that the Church is flourishing in Poland today and asserted that Church and state have arrived at an agreement about building their "common socialist homeland." The article admonished the Vatican to use its influence to promote just international settlements and quoted Jablonski's remark that the Polish people will greet John Paul "as an outstanding son and a Polish patriot" and will give him a "cordial welcome."

Uj Ember (June 3) noted that John Paul's visit was in connection with the anniversary of St. Stanislaw's martyrdom and listed members of the Hungarian Church delegation who would take part in ceremonies at Czestochowa and Krakow. Only once was the pope quoted and that was his stress on the importance of peace to mankind upon his arrival at Warsaw Airport. Hungarian media also reported on the arrival and departure of the delegation led by Cardinal Lekai. Thus, though hardly according the event the extensive media treatment it merited, the Hungarian authorities did make obeisances to popular interest and provided the minimum factual coverage while the Czechoslovak media responded to the pilgrimage with a virtual news blackout.

Polish media had the unenviable task of minimizing the importance of the apostolic pilgrimage of the first "Polish pope" undertaken during Pentacost in commemoration of the martyrdom of St. Stanislaw, the patron saint of a country which is 90–95 per cent Roman Catholic and identifies Catholicism with its national identify. In such circumstances the media were clearly instructed to avoid describing or, in the case of TV, showing the enormous and enthusiastic crowds which welcomed the pope, to play down the religious aspect of the pilgrimage and to stress whatever secular sides of the visit it could find that were noncontroversial and to confine itself to factual reportage without commentary. Thus, on the first day of the visit the pontiff's arrival at Warsaw's Okecie Military Airport, the official reception at the Belvedere Palace and the wreath laying ceremony at the Tomb of the Unknown Soldier in Victory Square in Warsaw were adequately treated by Radio and TV on a live nationwide basis.

Radio Warsaw covered the papal visit mainly on regular newscasts and in brief reports. Polish TV accorded 15 minutes per day to covering the papal visit, with longer periods accorded for special occasions but important events such as the ceremonies at Gniezno and Czestochowa were covered only on local channels and were tailored to eliminate showing large crowds and young people. At Nowy Targ a gathering of about a million was made to appear one of the smallest. At Auschwitz during the pope's departure for Birkenau the TV cameraman erred and panned an enormous crowd of pilgrims.

The audio-visual media also quoted as far as possible and often out of context those papal pronouncements acceptable to the regime such as his remarks on the need for national unity, hard work, and sobriety, the struggle for peace and international solidarity, and even his thanks to the security services for their part in maintaining order. Expunged were his pleas for more religious freedom and respect for human rights, his assertion of man's right to own land, his criticism of viewing man as only a means of production, his identification of Poland's nationhood with its Christian baptism, his warnings against materialism and conformism, etc. There is also some question as to whether potential viewers in eastern and north-eastern Poland had the benefit of seeing the holy father on nationwide TV at all as some reports assert that Bialystok regional TV became inoperative a few days before the visit started.

As far as Polish press coverage was concerned the central press (*Trybuna Ludu* and *Zycie Warszawy*) covered the first day of the pilgrimage adequately but again dealt with the secular more extensively than the religious aspects of the occasion. No editorial comment was tendered and only a factual report by PAP and the speeches of John Paul II, Cardinal Wyszynski, Chairman Jablonski, and First Secretary Gierek were offered. Subsequent issues contained only laconic PAP bulletins with the briefest of information on the pope's doings concentrating largely on the politically acceptable elements of his speeches and sermons.

His pilgrimage to Auschwitz-Birkenau on June 7 was reported by PAP in somewhat more detail and some of his remarks, though not his most pointed ones, were included. The PAX daily Slowo Powszechne, however, gave the pope's homily in full. The next two days (June 8–9) were reported briefly and factually with quotes from papal addresses being published only if they could be taken if not in support of at least as understanding for Polish realities. The last day of the visit was covered somewhat more extensively as it included the formal aspects of his departure from the Krakow-Balice Airport.

The efforts of the press to detract from the importance of the visit were no more evident than in the local Czestochowa paper. The pontiff stayed in Czestochowa for the better part of three days yet this publication did not manage to publish one word by its staff reporters, or one photograph of the colorful proceedings or even give information on the traffic rerouting ordered for the visit. The best Zycie Czestochowy could do was republish PAP bulletins.

Once the Polish leadership accepted the visit of John Paul II to Poland it could only attempt to mitigate its effects by diminishing its nationwide media exposure as much as possible. The dramatic impact of a pontiff who spoke to a total of perhaps as many as six-million people could be only marginally reduced by manipulation of the media. The Polish media did its transparent best to report on and simultaneously to minimize the effects of the visit and the regime made the best of an impossible situation in which it had to retain credibility. While media coverage was extensive it was incomplete and its potential audience far from being satisfied.

RFE/RL programming on the visit by contrast was extensive and diverse. The papal mission was covered in newscasts and in addition received the following first-run feature treatment from June 2 through June 10.

As might be anticipated the smaller services and those services transmitting to countries containing insignificant minorities of Roman Catholic believers devoted less time to the papal visit while those services broadcasting to areas of a substantial number of believers would accord the event a corresponding greater amount of time. All services previewed the visit with the Czechoslovak and Hungarian Services devoting a number of programs to backgrounding while the Polish Service provided background in an increasing crescendo starting several weeks before the pope's arrival in Poland. All RFE/RL Services continued follow-up feature programming after the pope had left Poland. Newscasts on all services were updated to include the latest developments in the papal pilgrimage.

RFE/RL's Polish Service transmissions were beamed to the entire Polish nation while much of Polish domestic coverage was local or regional. In such circumstances the Polish Service clearly enjoyed an enormous advantage which it exploited fully.

All of the major events of the trip, many of which were covered only locally or regionally by Polish media, were dealt with in full by the Polish Service, as were a number of lesser occurrances. Not only the editorial opinions and reportages of the more prestigeous Western Press organs were reviewed but the Service noted positive comment in l'Unita and l'Humanite, reported on the coverage of Yugoslav media, and cited favorable reactions from the Polish Western press unofficial publications inside Poland, US Senators and prominent Polish-Americans. Color stories about the size of the crowds, their orderly behavior and enthusiastic response to John Paul II, the pageantry of the various events of the trip and reactions to the pope by the Polish man on the street were provided from the vast number of vignettes appearing in West European and American press and wire service reports.

Descriptions of the papal route and the political-religious histories of the famous shrines and monuments visited by the pontiff were transmitted. Backgrounders on the symbolism and meaning of many of the pope's activities were provided along with views of the places in Polish and Catholic history occupied by the early Piasts, Paul VI, Father Kolbe, St. Wojciech (Adelbert), St. Stanislaw, and others. St. Stanislaw was the subject of a three part biographical presentation culminating on the day of the mass at Blonie Krakowskie in commemoration of his martyrdom. Western assessments of the significance of the pope's journey for Poland, for East Europe and for the common heritage of East and West Europe were presented.

The papal visit was covered extensively by the Hungarian Service which reported on all its significant aspects using press reviews and commentaries to assess its importance. The Service reported on the presence of Hungarian Cardinal Lekai at Czestochowa and on the importance of his and other East European churchman's presence at the demonstrations in the pope's honor. Human interest stories were carried and the maneuvering by the Polish media to deemphasize the popular impact of the pilgrimage were noted. The Service reported the incident in Czestochowa in which the police roughed up several newsmen and discussed the situation of foreign correspondents covering the trip.

Major efforts on the part of the Hungarian Service involved four live programs encompassing 465 minutes of air time on the reception of the pope at Warsaw's Airport, the report of the mass and sermon at Auschwitz-Birkenau, the commemorative mass for St. Stanislaw at Blonie Krakowskie, and the farewell for the pontiff at Balice Airport near Krakow. These programs were based on direct viewing of transmissions by German and Austrian TV using sound transmitted live by the RAI international sound line. Another program worthy of note was an 80 minute Czestochowa Special which covered John Paul II's visit to the Jasna Gora shrine of the Black Madonna, highlighted his sermon and described his enthusiastic reception by pilgrims. The program was based mainly on live broadcasts by Radio Vatican's international service and Austrian TV transmissions.

Because of the Czechoslovak media's almost complete blackout of John Paul II's visit to Poland RFE/RL's Czechoslovak Service was a clear winner in the news and information field by default as the information gap was almost all gap and no information. The Czechoslovak Service covered all papal sermons, homilies and statements and used international press reviews to reflect positive world reaction to the visit. Four live programs encompassing 480 minutes were aired on the pontiff's arrival, the ceremonies at Auschwitz-Birkenau, the mass in honor of St. Stanislaw at Blonie Krakowskie and the pope's departure from Balice Airport.

These programs were based largely on West German and Austrian transmissions and Radio Vatican relays. There were also special Czechoslovak aspects to the pope's activities which went unreported by Czechoslovak domestic media but which were duly registered by RFE/RL's Czechoslovak Service. In his mass at Gniezno the pontiff stressed the historic bonds between Slavs and noting a placard in the crowd admonishing him to "Remember, Father, your Czech Children" responded: "This pope cannot forget the Czech children . . ." The Service also reported on the presence of Czech Archbishop Tomasek and the pope's mention at Novy Targ of Czechoslovak Catholics and his prayer for those who could not cross the border.

Against a background of almost complete lack of reporting on the visit by domestic media RFE's Bulgarian Service filled in the total information gap. News and feature materials informed listeners daily of the latest developments calling attention to the enthusiastic reception which the pope received from millions of devout Polish Catholics, noting the manipulation of the Polish media to dimish the impact of the visit and the scanty coverage the visit received in other Warsaw Pact countries.

The Romanian Service had scarcely less of an open field in which to run than did RFE's Bulgarian Service. The Romanian Service updated its news and features daily to include the latest happenings in the papal itinerary. The Service drew on German and Austrian TV coverage to comment on the first day of the visit and reported on the heavy coverage given by Italian media.

RL's Russian Service included updating of news and almost daily news features covering events of the previous 24 hours dealing with the main political and religious aspects of the event. Press reviews were used extensively to record the almost universally positive assessment of the pontiff's activities and statements. Human interest stories in connection with the trip were carried in the Service's Kaleidoscope program and the visit's implications for the USSR in the pope's reference to the spiritual brotherhood of Slavic peoples were noted. The Russian Service also broadcast the schedule of planned Polish national network TV coverage for potential listeners in the Western parts of the USSR who could receive the Polish first TV channel.

The Ukrainian and Belorussian Services also paid major attention to the visit, covering all its stages and noting John Paul II's observations on the spiritual unity of Slavic peoples and the common Christian tradition of all of Europe.

It is difficult to determine the extent of Lithuanian domestic media's coverage of the trip, but it may be assumed that such coverage was no less abbreviated than that of the treatment by Soviet Russian media and that the Lithuanian Service had to cover an information gap which was almost total. The Service broadcasting to an area which is predominantly Roman Catholic and has an active Catholic dissident group, transmitted the formal statements and informal remarks of the pope, reported the enthusiastic responses of the multitudes of pilgrims which attended his appearances, and reviewed the Western press extensively on the significance of the visit for Poland, Eastern Europe, and internationally.

The Service especially noted those papal remarks addressed to "our brothers, the Lithuanians." On the two Saturdays and Sundays of the visit the Lithuanian Service doubled its normal program from 30 to 60 minutes three-quarters of which was devoted to papal activities and on its normal weekday program half of the 30 minutes was given over to reporting on the pontiff's activities. With the additional programming time available the Service was able to cover all the major events of the visit, including Western reactions.

The Latvian Service carried at least one item a day on the visit and the weekly Latgallian program assessed the meaning of the trip for Latvian Catholics. Latgallian is an archaic form of Latvian spoken in eastern Latvia where most of Latvia's Catholics are situated. The Estonian, Armenian, and Georgian Services also carried at least one item a day on the holy father's activities.●

THE HEALTH CARE FOR ALL AMERICANS ACT: CONTROLLING HEALTH COSTS

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. WAXMAN. Mr. Speaker, on May 14, 1979, I announced my decision to sponsor the Health Care for All Americans Act in the House of Representatives. As chairman of the House Subcommittee on Health and the Environment, I am working with Senator KENNEDY, chairman of the Senate Human Resources Health Subcommittee, in a mutual endeavor to get both Houses of Congress moving simultaneously toward enactment of a universal, comprehensive, national health insurance system—a promise first held out to Americans over a generation ago. I plan to begin hearings on national health insurance before the Subcommittee on Health and the Environment in the fall.

Many Members of Congress have expressed interest in learning the details of the Kennedy-Waxman national health insurance proposal, and how it differs from the administration and so-called catastrophic health insurance proposals.

This is my second in a series of articles on how the Health Care for All Americans Act can improve the quality of, and access to, health care services at a reasonable cost. This article will illustrate how national health insurance can be an effective mechanism for holding down health costs.

Poll after poll tells us inflation is the public's greatest concern today. Uncontrolled health costs are a leading cause of inflation in our economy and of increased spending by Federal, State, and local governments. They drive up the prices of the goods and services we buy and take ever larger chunks of our disposable incomes for uncovered health services and higher insurance premiums. Insurance premiums nationwide have doubled in just 5 years.

Medical costs are hidden in just about every single thing we buy. For example, they add about $162 to the cost of every General Motors car, because GM pays more than $1 billion a year for its workers' health insurance, and this cost is spread out across every line of cars GM sells.

The issue is not whether the Nation can afford national health insurance—but rather whether we can afford not to have it. In the past decade we have witnessed an explosion in medical costs, while each Federal dollar spent on health care buys less and less.

It is ironic that although each of us uses the health care system, very few Americans realize how gargantuan that system has become. Today health care is the Nation's third largest industry, representing $182 billion in expenditures in fiscal year 1978. Six percent of our labor force—5.8 million persons—are employed in the health industry. This includes 400,000 physicians, 1.6 million nurses, and 3.2 million hospital workers. The United States today has 7,100 hospitals, and 18,000 nursing homes. Health expenditures account for about 9 percent of the gross national product and are rising rapidly. Health costs are doubling about every 5 years.

There are many aspects of our present health care delivery system that make it inefficient and unnecessarily costly. First, health services are unevenly distributed; 51 million people live in underserved areas while in the rest of the Nation, hospital beds cannot be kept filled. Overhead costs at overbedded hospitals are soaring. Second, our cost-plus, third-party, reimbursement system rewards inefficiency and provides little incentive for frugality. Third, there is limited competition between providers: only 4 percent of our population is enrolled in health maintenace organizations, which provide necessary services to subscribers to a prepaid plan. Fourth, health insurance policies are geared toward expensive inpatient care; most preventive services are not covered.

We all are subsidizing explosive inflation in our health care system. The Nation's health bill is paid for four ways. Private health insurance premiums pay $51 billion; Federal, State, and local taxes pay $76 billion; and philanthropy and company health services pay $7 billion. Individuals' out-of-pocket expenses for medical care amounted to a startling $48 billion in fiscal year 1978.

What this last figure tells us is that despite how much our Nation spends on health care today there remain egregious gaps in health coverage. People who cannot afford to pay their medical bills out of pocket cannot be sure they will ever get the care they need.

National health insurance is not a luxury; 50,000 Americans will be bankrupted this year by heavy medical expenses. Seven million families this year will incur medical expenses that will exceed 15 percent of their total income; 24 million Americans have no health insurance whatsoever; 60 million have inadequate coverage. And 83 million Americans—36 percent of our population—have no insurance against very large medical bills.

In the last fiscal year, $1,000 was spent in the United States on medical care for every man, woman, and child in our country. Yet, when one looks at key indexes of public health, we are still far behind nations that spend less per capita. Fourteen other countries have lower infant mortality rates, and 10 countries have longer life expectancy.

I made my decisions to be the House sponsor of the Health Care for All Americans Act because I decided the alternative was less desirable. The alternative is to let our present disjointed system of health care run into higher inflation rates, with the potential of bankrupting middle-income Americans and stripping our older retirees of their life savings.

HOW NATIONAL HEALTH INSURANCE CAN CONTROL HEALTH COSTS

The thrust of the Kennedy-Waxman Health Care for All Americans Act is to reform our present system, make it more efficient, and save dollars now wasted on unnecessary surgery, unnecessary hospitalization, and underused facilities. This proposal retains what works best in our present system, and adds incentives for competition in the delivery of quality care.

The economic goal of the Kennedy-Waxman Health Care for All Americans Act is the consolidation of the way health care charges are now paid. Under today's nonsystem, the individual or his family pays the doctor, the hospital, the insurance company or companies, and frequently others separately. There are frequently deductibles, coinsurance, and limitations in the insurance, and these have to be paid too. Under national health insurance, the costs are paid in full on the basis of a national premium.

What we need in health care, and what our legislative proposal provides, is prospective budgeting. Our Nation already applies this budgeting principle to national defense, education, and law enforcement. Every family is familiar with it in planning how to allocate expendable income.

The Health Care for All Americans Act proposes a national health budget ceiling.

The total annual increase in health expenditures will be limited under the Health Care for All Americans Act to a maximum of the average rate of increase in the gross national product (GNP) over the preceding 3 years.

Hospitals and doctors will be paid on the basis of prenegotiated amounts. They will not be permitted to charge patients more than the insurance plan pays. National, areawide and State budgets for health services will be set by negotiations between providers on the one hand and insurers, the public and national and State health boards on the other hand.

There is not a proposal before the Congress this year that has cost controls more comprehensive or more effective than the containment mechanisms in the Health Care for All Americans Act.

If Congress does nothing at all, and this comprehensive national health insurance proposal is not enacted, Americans will end up spending $323 billion for medical care in 1983. This is a 1,000-percent increase in spending in a 20-year period. Does it make sense to spend nearly 10-percent of our GNP on medical care without reforming the health care system or the existing gaps in current insurance coverage?

Four years after implementation of needed reforms under the Health Care for All Americans Act, there is a crossover period after which our national health insurance program would actually save consumers and taxpayers money. The Nation could save at least $73 billion of its projected health bill in 1990 by adopting this comprehensive national health insurance plan with incentives for economy.

In conclusion, to do nothing at all is more expensive than implementing a national health insurance program with effective cost controls.

The notion that a comprehensive benefits program can actually slow inflation is not hypothetical. Canada, the last country to implement national health insurance, has a standard of living similar to our own. In 1968, Canada was spending 6.8 percent of its gross national product on health care. Ten years later, after enactment of national health insurance, it was only 7 percent. Americans were spending 6.3 percent of our GNP on health care in 1968. But by 1978, health costs were devouring almost 9 percent of our GNP. Without national health insurance, we are spending more of our GNP on health than Canada does with national health insurance.

The success of national health insurance in Canada should make us less timid about launching a comprehensive health care program in our own country. Canada's health insurance system is today the most popular governmental program in that country.

The Canadian system is a comprehensive national health program which consisted, in its introduction in 1958, of two major components: Hospital insurance and diagnostic services. Insurance for physicians' services and other benefits were added in 1968 under the Medical Care Act.

Health in Canada has improved. The life expectancy of Canadians is higher than that of U.S. citizens. The infant and maternal mortality rates were reduced considerably after adoption of maternal health insurance.

Canada has done a better job of controlling costs. Administrative costs of national health insurance in Canada are only 2.3 percent of benefits—only one-sixth as great as the 13.8 percent for administrative costs of all private health insurance plans in the United States.

In human terms, no Canadian must undergo the trauma of bankruptcy because of heavy medical expenses that threaten millions of American neighbors.

Without the cost controls the Kennedy-Waxman Health Care for All Americans Act proposes, present health benefits will be eroded and health coverage will actually shrink rather than expand. By the year 2000, at the present rate of inflation, U.S. health care costs will reach $1 trillion. Yet it is likely if present trends continue and reforms are not enacted that Americans' insurance will give them less coverage in the year 2000 than they now enjoy.

The Health Care for all Americans Act can slow the rise in costs of medical care and insurance premiums. Putting the brakes on health care inflation will benefit everyone—employers, Government and taxpayers.

There are three ways the Health Care for all Americans Act can reduce the explosive inflation we see in the health sector today:

By increasing competition;

By negotiating fee schedules and hospital charges; and

By setting a national health budget ceiling.

COMPETITIVE INCENTIVES FOR INSURERS AND HMO'S UNDER THE HEALTH CARE FOR ALL AMERICANS ACT

Insurers and HMO's are given competitive incentives to operate efficiently, to assure provider fee schedules and budgets are complied with, and to offer health care in more cost-effective ways. First, they are free to market their plans to everyone in the Nation, and the more people who enroll because of the advantages of their plan, the more the insurer stands to benefit. This creates an incentive to control costs in order to offer broader benefits at the negotiated community rates, or the standard benefits at a reduced rate. The plan allows insurers to do both by permitting rebates or dividends to be paid to enrollees when the plan's costs are lower than the community rate.

Second, insurers and HMO's would have to absorb any financial losses incurred if their negotiated community rate fails to cover the costs of health care services to their enrollees, that is, they are "at risk." This creates a further incentive for efficiency and careful monitoring of claims, fee schedules and budgets.

Third, insurers and HMO's would be able to buy certain medical services at lower cost. They would then offer such special arrangements to everyone who enrolls with them, with any savings from the community-rated premiums converted into more benefits or premium rebates.

Finally, incentives for insurers to compete by experience rating or risk selection—which aggravate the overall costs of care problem by increasing costs to the ill—are eliminated by careful Government regulation of open enrollment, how plans are priced and advertised, and by the insurers and HMO's self-regulating efforts within consortia.

INCENTIVES FOR PROVIDERS

Providers of health care would be given incentives to keep health care costs at the levels they negotiated for their State. This is accomplished by putting providers at risk for any cost overrun. That is, doctors would have to renegotiate or prorate fees for the remainder of the year if, based on reports to the Government by the insurers, fee payments were being made at rates that would exceed the State's prospective health budget. Hospitals also would be required to absorb any such overruns.

Negotiation of fee schedules, hospital and other provider budgets, and national and State community-rate premiums are critical to the plan's approach to cost control. Under the plan, providers of health care negotiate with those who ultimately pay for health care; namely, employers, unions, consumers, and Government, to agree on what payment rates and budgets are fair and reasonable. In turn, based on these fee schedules and budgets, the Government negotiates with insurers and HMO's to establish fair and reasonable community-rated premiums to cover services in every State, and to set national wage- and income-related premiums adequate to pay these community-rated premiums.

INCENTIVES FOR EMPLOYERS, EMPLOYEES, AND STATE GOVERNMENTS

Employers, unions, Government, and consumers are given incentives to negotiate to keep costs down by a provision that allows the actual wage-related premiums for a State to be reduced below the national rate if the State spends less on health care than its budget limit allows.

BUDGET LIMITS

The overall national and State budget limits in the plan are designed to slow cost increases.

In the rest of the economy. They are not designed to stop all increases in health care costs, and they are generous enough to allow improvements in the quality and accessibility of care.

HOW NATIONAL HEALTH INSURANCE WILL BE PAID FOR

The principal source of funding will be employers who will pay a premium related to total wages. The premium will cover the full costs of the covered benefits. Employees may pay up to 35 percent of premium costs.

Contributions from general revenues will relieve marginal employers of too excessive an increase in what they pay for health insurance. Migrant workers, part-time employees, and other low-income working people and their families will be covered by the Health Care for All Americans Act.

Federal and State tax funds will continue to be used for coverage of the poor and the unemployed.

Funds for an improved medicare program will be obtained from part B (physician) premium payments, payroll taxes, general revenues, and interest on trust fund assets.

Hospitals and doctors will be paid on the basis of prenegotiated amounts. They will not be permitted to charge patients more than the insurance plan pays. National, areawide and State budgets for health services will be set and any increases will be tightly controlled. The program will be administered by a National Health Insurance Board whose members will be appointed by the President, subject to Senate confirmation. A majority will be consumer representatives. A National Health Insurance Advisory Council and State councils with consumer majorities will advise Federal and State authorities.

Some Members of Congress have asked me what their constituents can expect to pay for comprehensive national health insurance. The average American will spend the same for national health insurance as he now pays for medical care each year—somewhere between $850 and $1,000. Those with above-average earnings will spend more; those with below-average earnings or no earnings will spend less, or nothing at all.

Older Americans will be getting broader coverage at less cost. Current out-of-pocket expenditures for physician services will be eliminated because there will be no deductibles or copayments. There will also be coverage for prescription drugs for certain chronic illnesses on an outpatient basis which medicare does not now cover.

And because cost controls in the Kennedy-Waxman proposal can arrest the current inflationary spiral, over time each of us will spend less for health care under national health insurance than we spend without it. Yet, we will benefit from more complete coverage.

Some have a preconceived notion that a comprehensive national health insurance bill with strong cost controls has no grassroots constituency. This is not so. In 1977, almost half of all the medical costs in this country were paid for out of tax dollars. American taxpayers constitute the broadest possible constituency to support cost controls and consolidation in our present health care payment system. American consumers and taxpayers are the constituency better served by the Health Care for all Americans Act.

I believe Americans want Congress to do something about inflation. We know inflation in our economy as a whole is fanned by inflation in health costs. Congress does have a responsibility to weigh what alternatives there are to this runaway inflation and our piecemeal health care system.

That is why I am introducing the Kennedy-Waxman Health Care for All Americans Act in the House of Representatives this year.

Health care is a human need. We cannot, as the generous and good people I believe us to be forever defer serving this need. We can never know the suffering, pain or fear that might have been alleviated had this legislation been acted on sooner.●

SURPLUS BEGINS AT HOME

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. LONG of Louisiana. Mr. Speaker, trade is becoming an increasingly important activity for the United States. Dr. Robert A. Flammang, a distinguished professor of economics at Louisiana State University has recently published a compelling short article in the Executive, a journal of the Graduate School of Business and Public Administration at Cornell University, in which he describes unique restraints to U.S. penetration of Japanese markets.

Dr. Flammang has testified before my Subcommittee on International Economics of the Joint Economic Committee on two separate occasions—once to address the problems of American export policy and once to discuss the subject of Latin American economic relationships. His article describes, in a cogent fashion, some of the difficulties imposed upon American exporters to Japan as a result of vast cultural differences between our two countries. I commend it to the attention of my colleagues.

The article follows:

SURPLUS BEGINS AT HOME

(By Robert A. Flammang)

Both Democratic and Republican administrations have been officially committed to a policy of freer trade since 1934. As a result, tariff levels for the United States and for its trading partners have been dramatically lowered, and world trade has mushroomed. True, the movement toward trade liberalization has not been without its ups and downs, but no country has displayed its faith in freer markets more vigorously than the United States.

Japan, too, appears committed to freer trade. It joined the General Agreement on Tariffs and Trade in 1955, and the International Monetary Fund and the Organization for Economic Cooperation and Development in 1964. It has eliminated or reduced many of its special export incentives, trimmed back its import restraints, and opened its economy to more outside investment. It has granted import preferences to products from the less developed countries, adopted the Brussels Tariff Nomenclature, and abolished many controls on foreign exchange transactions. Japan has made it easier for nationals to import foreign technology and has even conducted seminars abroad on how to sell successfully in Japan.

Yet the seemingly parallel policies of the two countries have had far from parallel results. Last year Japan had a trade surplus of $26 billion, of which $12 billion was with the United States. Even the falling dollar has not helped U.S. exporters much in the Japanese market. Some observers point out that cheaper imports mean lower production costs in both domestic and foreign markets. Hence Japanese producers have a greater competitive advantage than might be expected simply from observing changes in exchange rates. Moreover, Japan mostly purchases U.S. goods for which demand is relatively insensitive to price changes. Consequently, cheaper dollars do little to expand U.S. sales.

Still, the roots of Japan's persistent trade surplus go much deeper than demand insensitivity or cost advantages. They lie in the nature of Japanese society.

Japan is a communal rather than an individualistic culture; group welfare takes precedence over the welfare of the individual. Individuals are expected to cooperate rather than compete, because cooperation cements the group while competition fractures it. Economic security is ranked much higher in the Japanese value system than economic abundance, and communal cooperation is perceived as the road to security. In Edward T. Hall's *The Hidden Dimension*, an old priest notes that "to really know the Japanese you have to spend some cold winter evenings snuggled together around the *hibachi*. Everybody sits together. A common quilt covers not only the *hibachi* but everyone's lap as well. In this way the heat is held in. It's when your hands touch and you feel the warmth of their bodies and everyone feels together—that's when you get to know the Japanese. That is the real Japan!"

This communality is reflected throughout Japanese life. Business decision making is communal: proposals are made formally at the middle management level, discussed politely and widely up the management hierarchy, and finally articulated by the chief executive. Everyone feels involved, everyone shares in the successes and jointly bears the risks of failure.

Communality is mirrored in the Japanese financial structure. Most Japanese enterprises operate with high ratios of debt to equity. In the West, equity is usually a cushion to protect the enterprise, to enable it to survive during hard times. But in Japan the position of a firm as part of a "family" of firms mitigates the importance of equity. Enterprises can count on their banks for bail-out loans, even if equity should evaporate. This thin margin of equity, coupled with the lifetime employment commitment that characterizes so many Japanese enterprises, translates into a high ratio of fixed-to-variable costs and leads to frequent "dumping" by Japanese producers. In the individualistic West, of course, every firm must take care of itself; equity margins must be higher, employment is much less stable, and dumping is much less common.

The Japanese are notorious for their suspicion of outsiders. They have historically placed all sorts of restrictions on foreign ownership within Japan. They make little use of foreign managers and are reluctant to let foreign workers into the country. Foreign cartels are prevented from getting a toehold, while domestic cartels are not only tolerated but often actively encouraged—especially in the export sector.

Japan has also traditionally been reluctant to export its capital. In contrast to U.S. or European firms, Japanese multinationals have generally accepted minority positions in overseas ventures. When they have invested abroad, they have shown a distinct preference for activities that stimulate either Japanese exports or needed imports. They are less interested in maximizing returns on their overseas investments. They are almost inevitably committed to home production, home employment—to national unity.

Communality also explains the unique partnership between the government and the private sector in Japan. The adversary relationship that particularly characterizes the United States simply does not exist in Japan. The term "Japan, Inc.," so often used to describe this symbiotic relationship, is very accurate. The Ministry for International Trade and Industry, for example, not only promotes trade but also conducts market research and performs quality control services for Japanese exporters. And the ministry normally consults with industry associations before it makes any notable policy changes.

Perhaps communality shows up most vividly in the general trading company. These companies are often owned by a constellation of related banking, commercial, and manufacturing enterprises and perform nearly any function related to the distribution of goods and services. They pack, store, insure, finance, and ship products, conduct market research, and even engage in research and development activities for their clients. They hire the very best Japanese talent available. They have officers all over the world and handle import as well as export trade; in fact, trading companies altogether handle an estimated 80 percent of Japan's total trade. As befits a truly communal organization, associated firms can get almost any service they need "in-house."

The upshot of all this is that the Japanese prefer to deal with other Japanese. If they must deal with foreigners, they try to do so from a position of strength (most of Japan's joint-venture partners are either individuals or closely held, relatively small, family corporations). They have a strong preference for buying Japanese goods; and when none are available, they favor long-term contracts from many sources. On the other hand their love for security prompts them to sell products or technology to anyone—East or West, rich or poor, with or without credit.

Given this communal system, the Japanese are incredibly sensitive to foreign reactions to their sales efforts. Japan is one of the few countries which limits its exports, particularly textiles, steel, and—increasingly—television sets and automobiles. When foreigners begin to bristle at the onslaught of Japanese competition, the Japanese try to salve their feelings by undertaking production in those countries. (Sony, Honda, and Kawasaki have, for instance, put up factories in the U.S.)

But the power of Japanese communality is still very apparent. American exporters of diammonium phosphates recently complained that the Ministry of International Trade and Industry had established an "administrative guideline" limiting imports to 20 percent of demand, with the net result that exports to Japan dropped 30 percent while they continued to rise in other market areas. Government tobacco and grain enterprises sell import items at prices far higher than their local counterparts. The government requires that Japanese testing be performed before products can be approved for internal sale, while most countries accept foreign test results. (Even minor modifications such as color changes require new approvals.) Government purchases are almost entirely from Japanese sources, and since the government controls many industries from railroads to telephones, the restrictions have an enormous impact upon imports.

One of the most frustrating characteristics of these nontariff barriers is that they are often informal; their existence cannot be firmly established for negotiating purposes. So tariffs may be formally lowered at negotiations like those in Geneva, import quotas may be pruned away, and there may still be little improvement in trade balances. This is why it is so important to understand that the roots of the problem lie deep in Japanese society. Things will obviously not change until either Japanese communality broadens to include more non-Japanese elements or Japan's trading partners begin behaving as the Japanese do.

Some of this is already beginning to happen. Kawasaki Steel recently broke ranks with its fellow steel makers and bid independently for an Iraqi steel pipe contract—normally, Japanese steel producers pool their bids in a consortium—and won the bid. Also, many business executives are trying to move away from lifetime employment commitments in their ranks. Labor unions are becoming increasingly independent and behaving more like adversaries than family members. Business firms are increasing their overseas investments at a rapid rate. Foreign managers are becoming more common, both inside and outside Japan. The "enlightened self-interest" of Adam Smith appears to be breaking out—but slowly.

On the other side of the coin, Japan's trading partners are also beginning to act somewhat more communally. The notion of establishing general trading corporations in other countries has surfaced again. Governments seem more willing to support their private producers and investors in their Japanese export efforts. The European Economic Community has taken steps to deal with Japanese competition in a number of areas. As may be expected in societies where communal action is neither as common nor as desired as it is in Japan, however, these steps have been slight and relatively ineffective.

The prospects for more balanced trade between the United States and Japan in the future are, then, not particularly bright. The two societies are structured very differently, and societal change is a relatively slow process. But the long-run solution may come through vastly increased Japanese overseas investment; someday there may be as much Japanese capital and labor abroad as there is at home. When that day comes, there may be a redefinition of what it means to be really Japanese; the society will feel safe in opening itself up, and we will all find ourselves—socially, psychologically, and economically—on more common ground.●

FISHING INDUSTRY AND UNDER-UTILIZED SPECIES

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. CORRADA. Mr. Speaker, today I am introducing legislation which will lead to the development of an advanced technology American fishing industry in certain underutilized species. The legislation is especially designed to encourage this new fishing industry to locate in areas of high unemployment, such as Puerto Rico and other economically depressed areas.

American fishermen are currently harvesting less than one-third of the available catch of species such as squid, butterfish, and croaker. These species of fish are abundant in American waters and can be sold for high prices in overseas markets such as Japan and Western Europe. Although most of these species are not in high demand among American consumers, they represent an export potential of over $200 million a year.

But these valuable fishing resources are currently being left unharvested because American fishermen do not have the technologically advanced factory ships which are needed in order to process and quick-freeze these species soon after they are caught. The existing Federal programs designed to encourage the construction of more American-built fishing vessels have not led to the construction of any technologically advanced fishing vessels comparable to those now used by Japan and various European countries.

The legislation which I am introducing will allow American companies to use foreign-built fishing vessels of advanced design to harvest certain underutilized species for a limited number of years, subject to the condition that at least 10 percent of the gross revenues from the operation of the vessel must be set aside and used for the construction of an American-built advanced technology fishing vessel.

This will permit Americans to begin harvesting these underutilized species immediately, and will establish the nucleus of an ultramodern fishing fleet composed of American-built vessels. Each fishing vessel will employ approximately 50 American crew members, and several thousand additional jobs will be created in shoreside operations such as processing, canning, ship repair and indirect jobs.

However, the total number of fishing vessels involved will be limited to a harvest of 50 percent of the total allowable level of foreign fishing ("TALFF") which is established for any given species, to insure that American fishermen who currently harvest these species will not be affected. The legislation is designed to make it possible for American companies to harvest valuable fishing resources which are now going to waste and which represent a potential supply of high protein food for large numbers of people.

The legislation which I am introducing is fundamentally similar to H.R. 4360 which limits the catch that can be harvested by any one company and its affiliates to 20 percent of the TALFF established for a given species. My bill will permit this amount to be increased by an additional 10 percent whenever all of a company's vessels which are participating in this program have their home port in a State, Territory, District or possession of the United States with an unemployment rate equal to or in excess of 8.5 percent. This provides a special incentive for companies participating in the program to base their technologically advanced fishing vessels in an economically depressed area such as Puerto Rico and the Virgin Islands.

Several companies have already expressed a particular interest in training Puerto Ricans to be crew members on these ultramodern vessels, and they expect that 1,000 additional jobs for Puerto Rico would be created in shoreside industries and support operations. Puerto Rico currently has a shockingly high unemployment rate of 16.2 percent. The additional jobs created by a modern fishing industry are desperately needed and will have a significant impact on the island's economy.

The legislation that I am introducing will be good for Puerto Rico because of the new jobs it will create. It will be good for our country as a whole because large-scale exports of squid, butterfish, and croaker will significantly improve the U.S. balance of trade. And it will add a valuable supply of high protein food to the world's diet, based on species of fish which are currently left unharvested.●

IMMIGRATION AND NATURALIZATION SERVICE

HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. PREYER. Mr. Speaker, on several occasions, I addressed the House on records management difficulties at the Immigration and Naturalization Service. I pointed out serious problems and irregularities with INS plans to automate some of its recordkeeping operations. Although I recognize the need to deal with the tremendous paperwork backlogs at INS, I am concerned about the failure of the agency to demonstrate that the benefits from the planned computerization justify the costs.

My earlier comments were based on a Department of Justice internal audit report about INS operations and on investigative work done by the staff of the Subcommittee on Government Information and Individual Rights. We have now heard the same criticism from yet another source. At a hearing on July 23, the subcommittee received testimony from Walter Anderson, the top computer specialist at the General Accounting Office.

Mr. Anderson described the INS approach to computerization as "management by crisis." He confirmed that INS has not complied with the Federal Property Management Regulations, the Federal Procurement Regulations, OMB Guidelines, and Federal Information Processing Standards. GAO also found that the INS computer concept was incomplete; that the procurement of equipment was premature; and that INS had failed to get required approvals from the Department of Justice.

INS Commissioner Leonel Castillo justified agency actions as necessary to deal with pressing paper problems. In his view, formal planning, testing, and evaluation would have taken several years. However, Mr. Anderson testified that proper ADP planning would take months and not years to complete. Anderson also indicated that planning could well result in a better and cheaper system in the long run.

Despite all of the shortcomings, I still believe that Commissioner Castillo deserves credit for recognizing and attempting to deal the severe records management problems at his agency. His decision to introduce computers at INS was correct. However, more attention must be paid to the way in which that decision is being implemented. As a relative neophyte in automation, INS needs more rather than less planning.

GAO outlined a comprehensive approach to developing computer capacity, and I think that INS would do well to consider it. Specifically, GAO recommended that INS first, prepare an ADP plan that supports the agency's long-range plan; second, established a high level steering committee chaired by the Commissioner or his Deputy; third, comply with existing regulations and standards; fourth, carefully analyze the Houston experiment and prepare a system design concept based on these results, together with considerations of alternatives; fifth, defer any large scale procurement until the system design concept is firm; and sixth, conduct an analysis of the various lease and purchase alternatives to determine the method most favorable to the Government.

The Subcommittee on Government Information and Individual Rights will continue its oversight of INS computer operations after the August recess.●

CONGRESSIONAL SALUTE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. ROE. Mr. Speaker, on Friday, August 24, the Veterans of Foreign Wars of the United States will gather in convention at New Orleans, La., for the installation of their new commander in chief, the Honorable Howard E. Vander Clute, Jr., of New Jersey, whose lifetime of exemplary service on behalf of our veterans and their families has truly enriched our community, State and Nation. I know you will want to join with me in extending our heartiest congratulations to Howard Vander Clute and share the pride of his wife Mary (past president of the VFW Ladies Auxiliary); his daughters, Mrs. James Whitney and Mrs. John Higgins; and sons, Marine veteran Robert and Army veteran Richard on this great milestone in their family record of achievements.

Mr. Speaker, Howard Vander Clute has served his country with distinction—in Army service in Germany and as a highly respected citizen and community leader in dedicated service to the VFW organization and its most prestigious membership of veterans. He joined VFW Post 8946 in 1953 and has attained elective office at every level of the VFW—in his post, county council, State department and national council. He was commander of Post 8946, a past all-American district and department commander. He was New Jersey department commander in 1974–75 and recently completed a term on the national council of administration. He has also served as a member of the general resolutions committee and the national budget and finance committee. He is presently serving as senior vice commander in chief of the Veterans of Foreign Wars of the United States.

In our State of New Jersey, Howard was appointed by the Governor in 1972 as the State Veterans Day chairman and in 1975 was appointed and reappointed in 1979 by the Governor and confirmed by the senate for two 4-year terms as a member of the State veterans services council where he serves as chairman of this vitally important State veterans advisory board.

Mr. Speaker, the quality of Howard Vander Clute's leadership in national veterans affairs has truly warranted his fellow veterans' deepest of admiration and respect. During his term of office as Junior Vice Commander-in-Chief he participated in several fact-finding missions to NATO countries and the Far East. We are most appreciative and grateful for his representation of our veterans on his visits to the Mideast, Panama (Guantanamo Bay), Cuba, SAC, MAC, TAC and NORAD with the U.S. Air Force.

Howard's lifetime of dynamic and energetic endeavors in veterans, civic and business endeavors is an inspiration to all of us. For 16 years until 1969, he operated his own masonry contracting company and is currently a territory manager for the Celotex Corp., a national manufacturer of building products.

Mr. Speaker, there is so much that can be said about Howard Vander Clute's exemplary record of performance and the love of our country has been strongly intertwined within the story of his life. It is with deep personal pride and pleasure that I take this opportunity to call your attention to the forthcoming installation of Howard Vander Clute as the VFW's National Commander-in-Chief, a highly esteemed office of trust among our veterans and, for that matter, all of our people, which brings great pride and prestige to the State of New Jersey and to our Nation.

Howard's lifetime of dedication, devotion and personal commitment to our Nation's veterans has surely contributed to the quality of life and way of life here in America. We do indeed salute a good friend, respected community leader, esteemed businessman, distinguished citizen and great American—The Honorable Howard E. Vander Clute, Jr. of New Jersey, Commander-in-Chief of the Veterans of Foreign Wars of the United States.●

STATEMENT ON WORK-STUDY PROGRAM AMENDMENTS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. WEISS. Mr. Speaker, the college work-study program (CWSP) was created in 1964 with three objectives in mind. With the same Federal dollars, it was hoped that the work-study student would not only earn the needed funds for his or her education, but also enhance educational experience and improve the delivery of services within the community.

In the 15 years since its inception, the CWSP has become almost devoid of any educational interest. The extent to which work study is used as a work-learning experience or as a means of community service is almost coincidental. At many institutions, work study has become little more than federally subsidized labor for the institution.

Today I am introducing legislation to improve this situation. I do not mean to deemphasize the financial aid aspect of the CWSP, nor prescribe the nature of the work-study experience. Rather by offering incentives to institutions, students, and prospective employers, this legislation will enable them to make efficient use of the multiple resources which are available in the program and meet the original objectives of the program.

However, few institutions can devote the time or energy necessary to develop educationally valid work-study opportunities. My bill helps to ease the constraint and to encourage work-learning placement. Institutions which place students in work learning will be eligible for administrative allowance increases. This measure would serve as a strong inducement for institutions to actively seek work-learning opportunities for their work study students.

This bill would not force, but encourage the efforts of institutions to place students in work-learning experiences. The program will remain flexible and at the determination of the institution. Individual institutions will decide what constitutes a work-learning experience as well as any credit which would be granted. In addition, the number of work-study jobs necessary for the performance of campus services would also be determined by the institution.

Work-learning experiences better serve the interests of the student, institution, and community. This Congress has already recognized the value of bringing together the worlds of education and work through its establishment of the Office of Career Education with the Office of Education and its continuing support of the cooperative education program. We know that students need to experience the real world in addition to their classroom studies; college work-study provides this opportunity for valuable career-related experiences.

I am particularly proud that the foremost example of the successful use of the college work-study program to support meaningful work-learning experiences is the Urban Corps in New York City. The first of more than a score of similar programs in cities throughout the Nation, the New York City Urban Corps this year alone will provide more than 5,000 students from 125 colleges and universities with work-learning opportunities in over 100 city agencies and departments. These students are performing valuable services for the people of New York, and are gaining an education experience quite beyond the limits of their campuses. Since the Urban Corps was founded in New York City in 1965, many alumni of that program have upon graduation entered careers in public service. This is yet another valuable benefit of the college work-study program.

The success of the New York City Urban Corps, carried out in coordination with certain work-learning components of CETA and cooperative education, proves conclusively that work-study jobs do not have to be menial. Work-study funds are better spent if they can provide students not only with needed financial assistance but also with educational enhancement and vocational and career guidance, and provide our hardpressed communities with much-needed skills and motivated manpower, and do all this with the same Federal dollars.

It is time for the original objectives and the great potential of the college work-study program to be realized. I urge my colleagues to join me in sponsoring this legislation, a copy of which is printed below:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part C of title IV of the Higher Education Act of 1965 is amended—

(1) in section 441(a), by inserting immediately before the period at the end thereof the following: ", but also particularly where such employment will provide work-learning opportunities supportive of the students' educational and vocational program and goals and serve the public interest";

(2) in section 444(a)(7), by inserting "(A)" immediately after "provisions", and by inserting immediately before the semicolon at the end thereof the following: ", and (B) to insure that in the assignment of students to employment under this part the institution will make a reasonable effort to provide a work-learning opportunity consistent with the educational or vocational program or goals of the student, except that no otherwise eligible student shall be denied employment under this part solely because of the unavailability of such work-learning opportunities or because the student does not wish to undertake a work-learning position";

(3) in section 444(c), by inserting at the end thereof the following new sentence: "Determination of the amount of a student's work-study award allocable toward non-education related living expenses during a period of non-regular enrollment shall be established by the institution at which the student is enrolled and shall take into account the needs of the student and customary living costs in the area where the student is residing during such period.";

(4) in section 444, by adding at the end thereof the following new subsections:

"(d) Nothing in this part shall restrict or limit the right of an institution to award to students employed under this part credit for academic achievement or learning attained or earned as a part of or incidental to such employment.

"(e) In carrying out the provisions of this part, the institution shall have the sole and exclusive right to determine the character and nature of employment under this part which bears a direct relationship to the academic or vocational program or goals of the participating student or which provides work-learning opportunities consistent with such program or goals.";

(5) in section 445—

(A) by inserting "including other sources of Federal funds to the extent that such funds may be used for the purpose of this part," immediately after "agreement under this part,"; and

(B) by adding at the end thereof the following new sentence: "The Commissioner shall encourage the use of work-study funds in conjunction with other work-training and work-education activities, particularly where such other activities are supported in whole or in part with Federal funds."; and

(6) in section 447—

(A) by striking out "develops jobs" in subsection (a) and inserting in lieu thereof "develops work experience opportunities (whether or not supported with funds allocated under section 446)"; and

(B) by adding at the end of such section the following new subsections:

"(c)(1) Agreements under subsection (a) may provide that—

"(A) for fiscal year 1981 not less than 30 per centum of the funds allocated under section 446, exclusive of funds allocated under this section, will be used in accordance with paragraph (2);

"(B) for fiscal year 1982 not less than 35 per centum of such funds will be so used;

"(C) for fiscal year 1983 not less than 40 per centum of such funds will be so used; and

"(D) for fiscal year 1984 not less than 50 per centum of such funds will be so used.

"(2) Funds reserved pursuant to paragraph (1) of this subsection shall be used for the support of employment, other than for the institution involved, which bears a direct relationship to the academic or vocational program or goals of the participating student.

"(d) An eligible institution whose agreement with the Commissioner includes a provision for the reservation of funds under subsection (c) may, notwithstanding subsection (a) of this section, use not more than 20 per centum or $30,000 of its allotment under section 446, whichever is less, for the purposes of this section.

"(e) Notwithstanding any other provision of this section or of section 493, an institution which has entered into an agreement pursuant to section 443 may, from its allotment under section 446, allocate up to 3 per centum of the amount paid from such allotment for the employment of eligible students, other than in the service of that institution, and may utilize such amount in such manner as it deems appropriate for the administration, supervision, evaluation, or management of such employment.".

SEC. 2. Section 493A(a)(1)(A) of the Higher Education Act of 1965 is amended by inserting at the end thereof the following: "including off-campus employment opportunities supported under part C of this title,".●

S. 1030, THE EMERGENCY ENERGY CONSERVATION ACT OF 1979

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. DODD. Mr. Speaker, on August 1, I voted in favor of S. 1030, the Emergency Energy Conservation Act of 1979. The bill would give the President standby gasoline rationing authority in the event of a 20-percent shortage as well as the power to impose conservation plans when States do not submit their own during a 10-percent shortfall.

It was obvious after the House's defeat of the first rationing proposal in May that the parochial wranglings among Members of Congress would continue to prevent passage of a gasoline rationing program until we found ourselves in the midst of a national crisis. Granting the President the authority to implement a rationing plan, subject to a one-House veto within 15 days of the plan's submittal to Congress, would insure that available supplies of fuel would be equitably distributed during an energy emergency.

Only a month ago, our country was still weathering long lines at the gas stations, panic buying, and often violent outbursts during only a 3–5 percent shortfall in fuel supplies. Considering the chaos caused by the last gasoline shortage, imagine the kind of dangerous situation a 10-percent or 15-percent cutback in supplies will create. During consideration of the rationing bill, I supported an amendment to lower the trigger for implementation of national gas rationing from a 20-percent to 15-percent shortfall in supplies. That amendment was, unfortunately, defeated. As a result, gasoline supplies will have to drop by 20 percent nationwide before the President can take decisive action.

To insure that some conservation programs are already in place before such a severe shortage, the bill triggers mandatory State conservation plans at the time of a 10-percent shortfall. States would be able to impose plans that adequately reflect local needs, and the President could only step in when a State fails to submit a plan that will achieve conservation goals.

This bill represents only a first step toward insuring that this country can have an effective gas rationing plan in place should a supply emergency arise. As passed, S. 1030 would constrain the President from imposing a rationing system unless a 20-percent shortage lasts for 30 days, after which another 15 days for congressional approval or disapproval of the plan must pass before a plan can be put into place. Thirty days of a 20-percent shortfall plus the added time for submittal and congressional review could prove disastrous. Congress must recognize that a gasoline rationing plan should be dealt with expeditiously if we are to have any measure of success in handling an energy emergency.

S. 1030 stipulates that any plan drafted by the administration must distribute gasoline fairly among all States so that the burden of the shortage is shared equally while also assuring that priority users—emergency vehicles, farmers, mail carriers—have a sufficient supply of gasoline. Under these circumstances, coupon rationing should make gasoline available on the basis of need rather than on the accident of geographical location or individual affluence.

It would be both irresponsible and shortsighted of Congress not to give the President this standby authority, especially in light of the continuing instability in Iran which could result in another shutoff of OPEC supplies. We must be properly prepared for a severe shortfall, and although S. 1030 addresses this problem in part, the 6 week or more lag before a rationing plan can be instituted, undermines the President's effort to deal with a potentially explosive situation.

I sincerely hope that the occasion will never arise when we will have to implement a gasoline rationing plan, but should the time come when we need such a plan, then the President should not be hampered by unproductive delays in Congress.●

FOREIGN ASSISTANCE ACT

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. BONKER. Mr. Speaker, section 116(e) of the Foreign Assistance Act created a fund for fiscal 1979 and 1980 of $1,500,000 "for studies to identify and for openly carrying out, programs and activities which will encourage or promote increased adherence to civil and political rights as set forth in the Universal Declaration of Human Rights in countries eligible for U.S. bilateral assistance."

The purpose of this fund is to help countries to strengthen local guarantees of human rights or to improve legal assistance programs as well as sponsoring workshops and conferences on human rights and economic development.

For the first three quarters of fiscal 1979, AID has provided me with a brief summary of the individual activities funded under section 116(e). I would like to bring this program to the attention of my colleagues.

FISCAL YEAR 1979 SECTION 116(e) ACTIVITIES

I. FUNDED (AS OF 15 JUNE 1979)

Regional Human Rights Arrangements for Africa.—$24,325.

The Commission to Study the Organization of the Peace in making a study of regional arrangements to protect and promote human rights. The effort, which follows up on an African initiative in the UN will deal with the particular needs and circumstances of that continent in the light of the experience of the Inter-American and the European Human Rights Commissions.

Sponsored by the State Department's Bureau of African Affairs, a group of leading African jurists will observe the functioning of the Inter-American and the European Human Rights Commissions.—$17,000.

Human Rights Fund for Africa.—$100,000.

This fund is available to U.S. Ambassadors in Africa to respond on a timely basis to request for assistance that will promote or support political and civil rights initiatives on that continent.

Human Rights Perspectives in Africa.

The Council for Policy and Social Research, with support from AID, the International Communications Agency, and State's Bureau for Intelligence and Research, is making a survey of African support for and concern about civil and political rights. The study will be of direct use to African governments and others in Africa who wish to promote human rights, and should also help the U.S. Government and international agencies to carry out policy in support of human rights. The total cost is $15,000, of which AID's contribution under Section 116(e) is $5,000.

Inter-American Seminar on Regional Human Rights Protection.—$20,000.

A seminar was held in San Jose, Costa Rica, in February, under the sponsorship of the InterAmerican Bar Association to review regional arrangements for the protection of human rights, including the American Convention on Human Rights, which came into force in July 1978.

Legal Services for Rural Women: Paraguay.—$80,000.

The Liga Paraguaya de los Derechos de la Mujer, the Paraguayan League for Women's Rights, conducts a program to inform rural women of their legal rights and to provide legal services. A three year grant of $136,435, of which $80,000 is obligated in FY 1979.

Legal Services for Urban Women: Peru.—$50,000.

A Peruvian organization, Movimento Derechos de la Mujer, Movement for the Rights of Women, will carry out a 9 to 12 month program in that country, using public media as well as direct contact with women's groups, to educate women and men on their legal rights and the resources available to assist them in exercising those rights. The Overseas Education Fund of the League of Women Voters will provide technical assistance.

Use of Legal Processes for Social and Economic Reform.—$24,000.

Leaders from developing countries participated in a series of conferences and seminars on the use of legal processes to achieve social and economic reform which were held in the United States in May to mark the 25th anniversary of the Supreme Court's school desegregation decisions. The project was sponsored by Columbia University and the Legal Defense and Education Fund of the NAACP.

Human Rights Organizations in Developing Countries.—$81,000.

Under sponsorship of the State Department's Bureau for Human Rights, the Human Rights Internet will collect, publish, and disseminate data on human rights organizations in developing countries. The purpose is to encourage and support contact among people in developed and developing countries who share an interest in problems of political and civil rights in the context of economic development.

II. PENDING (AS OF 15 JUNE)

States of Emergency and Administrative Detention.—$100,000.

The International Commission of Jurists will conduct a worldwide study of law and practice relating to states of emergency and administrative detention. The study will lead to an increased understanding of how governments can deal with internal security problems and promote and protect political and civil rights.

Asia Regional Program.—$351,000.

The Asia Foundation will carry out a program of support for activities that encourage and promote programs for political and civil rights in Asia. The activities include legal services for the poor, protection of minority rights, administration of justice, and research and educational programs. This will be a three year program, with a total estimated cost of $945,000, of which $351,000 will be obligated in FY 1979.

Indonesian Legal Services.—$260,000.

The Asia Foundation will assist programs in Indonesia intended to help people who are poor and live in rural areas to know about and to protect their legal rights. The total estimated cost of this program is $517,000, of which $260,000 will be obligated in FY 1979.

Inter-American Legal Services Association.—$147,616.

The Inter-American Legal Services Association is made up of lawyers and organizations in Latin America involved in local legal aid and law reform work aimed at the encouragement of political and civil rights. A three year grant was made in FY 1978 (through the American Society of International Law) to assist in its establishment and its initial program. The total grant was for $380,580, of which $152,414 was obligated in FY 1978 and $147,616 will be obligated in FY 1979.●

MOORHEAD ON SYNFUELS: THE PHILADELPHIA BULLETIN

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. LEDERER. Mr. Speaker, 2 days before the House voted overwhelmingly for H.R. 3930, a bill to develop a domestic synthetic fuel industry in the United States, our colleague, the gentleman from Pennsylvania (Mr. MOORHEAD) eloquently argued for the prompt passage of this bill, in an article which appeared in the Philadelphia Bulletin.

The House responded to the Moorhead call, by a vote of 368 to 25, and sent this important bill to the Senate where it now sits under the scrutiny of two Senate committees.

The urgency which existed on June 26 still is present. The other body would do well to heed the words of our good friend and quickly report this bill so that the Nation can move ahead toward that highly desired position of energy independence.

I would like to include in the RECORD at this time for my colleagues—and for those Members of the other body—that article by Mr. MOORHEAD.

SYNTHETIC FUEL, HERE WE COME . . .

(By William S. Moorhead)

In a little noticed action on May 8, the House Banking, Finance and Urban Affairs Committee passed, by a vote of 39 to 1, H.R. 3930, my legislation, "to amend the Defense Production Act of 1950."

With that thumping vote, the Committee paved the way for the development in the United States of a large domestic synthetic fuel industry and took a major step toward breaking the OPEC cartel which has used our nation's voracious appetite for oil and OPEC's plentiful oil reserves to manipulate prices and plunge not only this country but many others into a spiraling inflation that threatens the very foundation of democratic government.

The Moorhead legislation would establish a 500,000 barrel per day synthetic fuel target and authorize the President to purchase that amount for use by the Defense Department. The bill contains funds for the purchase of the fuels as well as loans and loan guarantee authority to assist with the construction of synthetic fuel plants.

Synthetic fuel, or synfuel, is any fuel not made from petroleum or conventional natural gas. Synthetic fuels are made from coal, oil shale, peat, tar sands, surplus grain and even garbage, just to name a few. Most of these would be converted into liquid fuels because that's what our big need is now. However, gaseous and solid fuels also are contemplated in my legislation.

The bill is designed so that private industry would build the plants and pay for them, but permits government to do the job if necessary.

Plant cost is tremendous. For example, one 50,000 barrel-a-day coal-to-gasoline plant would cost between $1.5 billion and $2 billion.

Yet that too has its advantages since any money spent to develop a synthetic fuel plant and to purchase the product would be dollars that all stay in the United States. Thus synfuel development represents a valuable weapon in our balance of payments fight.

Each new plant would provide about 20,000 jobs on site and in various support industries—all in America. In addition, of importance to Pennsylvanians and other Appalachian residents, many of these plants—of necessity—will be built where ready coal deposits are.

So synfuels represents new domestic industry, a way to keep money that normally would flow overseas to OPEC here in the United States, and a strong hope for energy independence.

Frankly, I see only two situations where the Government, not private industry, might be forced to build synthetic fuel plants. The first would be if private industry fails to respond to the challenge and opportunity presented by the legislation, and I think that's quite unlikely. The second is what I call the "worst case" situation.

If one or more of our major oil suppliers—say in the Middle East or Africa—cut off or drastically reduced our oil imports, the Government might have to build many of these plants very quickly. We had to do this once before during World War II to develop and produce synthetic rubber. Even so, the Government got back almost 97 percent of its investment when it sold the plants to private industry.

It's important to point out that the synfuel plants I envision in this bill already exist in South Africa and I've sent my subcommittee investigators there last December to inspect those plants. The plants work and the plant sites are not environmental disaster areas.

The chemical engineers who design synfuel plants have taken the criticisms and fears of environmentalists to heart. Plants now on the drawing board feature both closed water and gaseous emission systems. The water is recycled and as it evaporates is replenished from time to time. The gases also are recycled in the processing system. Those gases not used are subjected to more complete combustion reducing pollutants or made into useful by-products. Sulphur, a coal residue, is an important and necessary element for many of our fertilizers to grow needed farm products.

As for the end product, the synthetic fuel, it is environmentally superior to natural fuels because so many contaminants such as sulphur and lead have been removed.

I am optimistic about the speed with which this new domestic industry can evolve.

I think we will see results coming in a few short years. Alcohol will probably come on first and quite rapidly because of the smaller capital investments needed. Many small plants should be built all over the country. Look for more gasohol with better mileage for your car, better engine performance from the higher octane and much less harmful hydrocarbon emissions.

The fuels from coal and shale will start to enter the marketplace in four to five years. All of the first 500,000 barrels of synthetics a day will be earmarked for defense needs, but this will create an immediate offset in the domestic civilian market because that's where the military now gets its fuel. The armed services draw fuel from the same supply you and I do.

Synthetic fuels under our bill will free greater supplies over time for everyone. Someday, I truly believe that those who supported this legislation will be able to look back and say we helped to attain America's energy independence. And I believe it's quite appropriate that the House vote on this bill will come just before the Fourth of July, our national Independence Day.●

STRATTON SPEAKS OUT ON SYNFUELS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1979

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, on June 26, when the House overwhelmingly approved H.R. 3930, a bill to create a domestic synthetic fuels industry in the United States, one of the most eloquent spokesmen on the floor that day was the gentleman from New York (Mr. STRATTON).

With his long experience in military matters, the gentleman perceived the national security threat posed by our dependence on unsure foreign sources for so much of our daily supply of oil and urged the House to approve the bill.

With great emphasis and reason, the gentleman helped make the case that the sooner we begin developing synthetic fuel from domestic supplies of coal and other materials the quicker we insure that the basic military mission of our Armed Forces will not be curtailed.

On Thursday, August 2, the gentleman from New York wrote to the Washington Post with regard to an editorial on synthetic fuels which the gentleman believes—and I agree—misstates the importance of promptly moving on with the development of a domestic synthetic fuel industry.

I would like to thank the gentleman once again for his help on June 26 and include in the RECORD at this time his letter to the Washington Post.

LETTER TO THE EDITOR

Your July 17 editorial on President Carter's new energy program ["The Right Commitment"] can't avoid working up a healthy sneer at Congress for being "seized with a fit of enthusiam for manufacturing synthetic oil and gas from coal." Indulgently you concede that "building pilot plants as an experiment is certainly worth doing to discover precisely how well it works." But you condescend to instruct us that "the complexity of the process is enormous," "synthetics cannot contribute much within the next decade," and "much surer, and cheaper, alternatives are at hand."

This is precisely the kind of interminable, argumentative nit-picking which has so far stymied the country from moving boldly and effectively to deal with energy, and which President Carter's comprehensive speech was designed to eliminate. The longer we keep arguing learnedly about complexity, length of time, and "surer and cheaper" alternatives, the further away is the hour when we stop writing editorials, roll up our sleeves and set out on one clearly defined course.

By the way, when did you switch writers? A June 15 editorial entitled "Oil From Coal—in a Hurry," had this to say: "One endeavor on which [the administration] can embark immediately, visibly and most usefully, is to demonstrate the promise of coal technology."

I don't pretend to be an energy expert, but as one who had the privilege of accompanying House Majority Leader Jim Wright to Europe over the July 4th recess to inspect the current state of coal conversion technology abroad, I can say, on the basis of what we saw and learned, that the facts are quite different from your latest editorial exhortations.

For example, no pilot plants are needed "to discover precisely how well" this technology works. Experimental plants are already in operation in Germany and England, and a successful commercial plant has been producing for some 20 years in South Africa. Those in charge of these plants told us that a crash program on our part could cost a bit more and might involve an occasional misstep. But Franklin Roosevelt didn't wait for perfected technology or complain about production "complexities" when he ordered 50,000 airplanes in early 1942. We had no time to lose then. And we have even less today.

As for "surer, cheaper, alternatives," significantly, your editorial writer could identify none. In an emergency cost estimates are at best wild guesses—as we discovered in World War II—and in any event performance always takes precedence over cost. What price freedom? What price oil independence?

So instead of being sneered at by dilettantish commenators, the House leadership, I would say, deserves great praise for its initiative. While others were wringing their hands, they have come up with a solution that taps the most abundant single energy resource in our land. Apparently the House membership, and the millions of Americans for whom they speak, agreed—by a whopping 368-to-25 vote!

SAMUEL S. STATTON,
U.S. Representative.

WASHINGTON.●